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Rules and Regulations

Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Parts 713 and 722

Farm Marketing Quotas, Acreage Allotments, and Production; Feed Grain, Rice, Upland Cotton, and Wheat; Cotton

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Interim rule.

SUMMARY: This interim rule amends the regulations at 7 CFR Part 713 to incorporate the provisions of the Extra Long Staple Cotton Act of 1983 and to remove obsolete regulations at 7 CFR Part 722 relating to Extra Long Staple (ELS) cotton acreage allotments and marketing quotas. The regulations at 7 CFR Part 713 are also amended to provide that producers may participate in the commodity programs authorized by the regulations only by contracting with CCC to comply with the requirements of these programs. In addition, the regulations have been amended to set forth additional requirements with respect to acreage which is eligible to be designated as acreage conservation reserve (ACR) acreage. The changes made in this interim rule will improve the effectiveness of the programs authorized by the regulations found at 7 CFR Part 713 in obtaining conservation benefits and in reducing production of program crops.

EFFECTIVE DATE: September 27, 1984. Comments must be received on or before November 26, 1984 in order to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: William Harshaw, ASCS, P.O. Box 2145, Washington, D.C. 20013, (202) 382-9878.

SUPPLEMENTARY INFORMATION: This interim rule has been reviewed under USDA procedures implementing Executive Order 12291 and Departmental Regulation 1512-1 and has been classified "not major." It has been determined that this rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local governments, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The titles and numbers of the Federal assistance programs to which this interim rule applies are: Cotton Production Stabilization, 10.052; Feed Grain Production Stabilization, 10.055; Rice Production Stabilization, 10.065; and Wheat Production Stabilization, 10.058; as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this interim rule since the Agricultural Stabilization and Conservation Service (ASCS) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment.

Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

The Office of Management and Budget has approved the information collection requirements contained in these regulations under the provisions of 44 U.S.C. Chapter 35 and OMB Numbers 0560-0092, 0560-0050, 0560-0091, 0560-0030, and 0560-0071 have been assigned.

Statutory Background—ELS Cotton

The Extra Long Staple Cotton Act of 1983 (the "Act") (Pub. L. 98-88) repealed section 347 of the Agricultural Adjustment Act of 1938, as amended, and section 101(f) of the Agricultural Act of 1949, as amended, effective beginning with the 1984 crop of ELS cotton. In addition, the Act made inapplicable, effective beginning with the 1984 crop of ELS cotton, those sections of the Agricultural Adjustment Act of 1938, as amended, which authorize a program of marketing quotas and acreage allotments for ELS cotton. The Act amended section 103 of the Agricultural Act of 1949 to provide for the following beginning with the 1984 crop of ELS cotton:

(1) *Definition of ELS cotton.* The Act provides the same definition as was previously incorporated in section 347 of the Agricultural Adjustment Act of 1938, as amended.

(2) *Loans.* The Act provides for making available nonrecourse loans to producers of ELS cotton. The loan rate is determined by the Secretary and shall be not less than 50 percent in excess of the loan rate for Strict Low Middling one and one-sixteenth inch upland cotton (micronaire 3.5 through 4.9) at average location in the United States.

(3) *Deficiency (target price) payments.* The Act provides that deficiency payments shall be made available to producers of ELS cotton, computed by multiplying the payment rate by the farm program acreage for the crop by the farm program payment yield for ELS cotton. The payment rate is the amount by which the higher of the average market price received by producers during the first eight months of the marketing year for such crop or the national average price support loan level is less than the established (target) price. The established (target) price shall be 120 percent of the loan rate.

(4) *Advance deficiency payments.* If an acreage limitation program is established for a crop of ELS cotton and it is likely that deficiency payments will be made for such crop, the Act authorizes the Secretary to make advance deficiency payments available to producers who participate in the program.

(5) *National program acreage and program allocation factor.* The Act provides that the Secretary shall establish and announce by November 1 of each ELS cotton crop year a national program acreage for the next year's crop which shall be the number of harvested acres the Secretary determines will be utilized domestically and for export during the marketing year for such crop. The Secretary is also required to determine a program allocation factor for each crop year. In general, such factor is determined by dividing the

national program acreage by the number of acres that the Secretary estimates will be harvested for such crop year. The Act also provides that the individual farm program acreage shall be determined by multiplying the allocation factor by the acreage of the crop planted for harvest on the farm. However, the national program acreage, the allocation factor, and the method of determining individual farm program acreages are not applicable if an acreage limitation program is in effect for the crop year.

(6) *Farm program payment yield.* The Act provides that the yield established for the farm shall be determined on the basis of the actual yields per harvested acre for the 3 preceding years. Adjustments shall be made for abnormal yields caused by natural disasters or other conditions beyond the control of the producer.

(7) *Acreage limitation (reduction) program.* The Act authorizes the Secretary to establish an acreage limitation program for a crop year if the Secretary determines that the total supply of ELS cotton will be excessive in the absence of such a program. The limitation shall be achieved by applying a uniform percentage reduction to the ELS cotton acreage base established for the farm. Producers who knowingly produce ELS cotton in excess of the permitted acreage are ineligible for loans and payments with respect to that farm. The ELS cotton acreage base established for the farm is the average of the acreage planted to ELS cotton for the 3 crop years immediately preceding the year prior to the current crop year, with adjustments to reflect established crop-rotation practices and to achieve a fair and equitable base. Further, a reserve is established for the 1984, 1985 and 1986 crops equal to 5 percent of the total acreage bases for those years. The reserve is to be used for making adjustments of farm acreage bases to correct inequities, prevent hardship, and to establish acreage bases on farms on which no ELS cotton was grown during the preceding four years. The acreage which is reduced under the acreage limitation program is required to be devoted to conservation uses. Under this program, the individual farm program acreage is the acreage on the farm planted to ELS cotton within the permitted acreage.

(8) *Land diversion program.* The Act authorizes the Secretary to make land diversion payments to ELS cotton producers if a land diversion program is determined to be necessary in order to adjust the total national acreage of a crop of ELS cotton to desirable goals. The acreage diverted must be devoted to conservation uses. The extent of the diversion and the manner in which diversion contracts are made shall be determined by the Secretary.

(9) *Acreage devoted to conservation uses.* The Act generally authorizes the Secretary to issue regulations with respect to the conservation uses to which reduced or diverted acreage must be devoted. These regulations are required to assure that the acreage is protected from weeds and from wind and water erosion. The Secretary may permit the acreage to be devoted to certain crops and uses if the production is needed to provide an adequate supply of the commodity, is not likely to increase the cost of the price support program, and will not affect farm income adversely. This acreage may also be devoted to wildlife food plots or wildlife habitat. The Secretary may pay a share of the cost of these practices or make additional payments if the producer agrees to permit public access to the land for hunting, fishing, trapping, and hiking.

(10) *Cross compliance.* The Act prohibits any requirement that a producer comply with the provisions of the program for another commodity as a prerequisite to be eligible for benefits for ELS cotton.

(11) *Payment limitation.* The Agriculture and Food Act of 1981 (the "1981 Act") provides that the total amount of payments which a person shall be entitled to receive annually under one or more of the feed grain, rice, upland cotton, and wheat programs shall not exceed $50,000. The Act amends the 1981 Act to include ELS cotton payments.

Changes for ELS Cotton

In most respects, the provisions of the Act as summarized above are similar to the satutory provisions which are applicable to feed grain, rice, upland cotton, and wheat. Accordingly, this interim rule amends the applicable sections of 7 CFR Part 713 to include ELS cotton on the same basis as the other commodities, except as follows:

(1) The authority for an ELS cotton program provided by the Act does not expire with the 1985 crop, unlike the statutory authority which authorizes feed grain, rice, upland cotton, and wheat programs only for the 4 years, 1982–1985. Accordingly, this interim rule amends the title of the subpart of 7 CFR Part 713 and provides that these regulations shall be applicable for 1984 and subsequent crops.

(2) This interim rule amends § 713.3 to provide for a definition of ELS cotton which is similar to the definition previoulsy found at 7 CFR Part 722.

(3) The Act specifies that ELS cotton acreage base established for a farm shall be the average of the acreage of ELS cotton planted for harvest on such farm for the 3 crop years immediately preceding the year prior to the current crop year. It also provides for establishment of an acreage base reserve for the 1984 through 1986 crops equal to 5 percent of the total acreage base acreage which shall be used to correct inequities and prevent hardship and to establish ELS cotton acreage bases for farms on which no ELS cotton was planted during the preceding 4 years. Section 713.7 has been revised to include these special requirements for ELS cotton.

Use of a Contract Instead of an Intention to Participate

In recent years, producers who wished to participate in the acreage reduction or similar production adjustment programs for one or more commodities were required to sign an intention to participate during a signup period specified by the Secretary. The signup period usually ended in March or April. The intention to participate was not, however, binding upon the producers. Producers who desired to withdraw from the program could do so before the final date for reporting crop acreages to the county ASCS office which was normally in June or July. There were no adverse consequences for withdrawing from the program, other than loss of eligibility for program benefits (i.e., price support loans and purchases, and applicable deficiency, diversion or disaster payments) for the commodity for the crop year.

As a result, many producers signed intentions to participate without committing themselves to comply with program requirements. Producers often would plan to plant in excess of the permitted acreage for the farm. If a disaster or other condition beyond the producer's control occurred between the time producer signed the intention and the final date for reporting crop acreages and the production expected from the producer's farm was thereby reduced, the producer would comply with program requirements by destroying the necessary amount of the disaster-affected acreage. If conditions were good, the producer would withdraw from the program and harvest the entire acreage. By signing an intention to participate, a producer would also be protected against declines in prices. If prices increased between the time the producer signed the intention to

participate and the final date for reporting crop acreages, the producer would withdraw from the program. If prices declined, the prospect of higher deficiency payments would lead producers to comply with requirements of the program.

This use of the production adjustment program in the manner described tended to impair its effectiveness. The program offers participating producers program benefits in return for a reduction in the acreage of the commodity that is planted for harvest. When a producer is able to participate because adverse weather conditions have reduced production, program benefits are paid and the Federal government incurs expenses as compensation for a reduction in production which would have been achieved even if the program was not available. Not only does such "accidental compliance" impair the cost-effectiveness of the program, it also impairs the credibility of the program among producers and the general public.

As an example of the magnitude of this problem, intentions to participate in the 1982 acreage reduction program for corn had been signed by producers for 75 percent of the base acreage. After the deadline for filing acreage reports, producers were in compliance with the 1982 program requirements for only 29 percent of the base acreage.

While an intention to participate was used for the 1983 acreage reduction and cash land diversion programs, a different approach was employed for the Payment-In-Kind (PIK) Program. Under the PIK Program, producers entered into a contract which was effective as of March 18, 1983. This meant that producers were committed to participate in the PIK Program some 3 to 4 months earlier than would have been the case if the intention to participate had been used. The PIK contract provided for the assessment of liquidated damages if the producer failed to comply with the contract. While final figures are not available, only a small number of producers withdrew from the PIK Program. Because of this favorable experience with the use of contracts in the 1983 PIK Program, notices of proposed determinations were published with respect to the 1984 price support and production adjustment programs for the commodity programs proposing the use of binding contracts for those programs. See 48 FR 29451, 48 FR 29025, 49 FR 35678, 48 FR 43966 and 48 FR 50599. On August 9, September 28, October 28, and December 16, 1983, the Secretary announced the details of those programs, including the use of binding contracts. See also 49 FR 1256, 49 FR 4404, 49 FR 7918, and 49 FR 9582 for a further discussion of this issue.

CCC will offer to enter into contracts with the operator and other producers on a farm for a specific crop year and commodity. The contract will require the operator and other producers to comply with the provisions of the commodity program as announced by the Secretary. The contract will require CCC to make program benefits for the commodity available to the operator and other producers if there is compliance with the contract. The contract will include a provision for liquidated damages if there is a failure to comply with the terms and conditions of the contract. To be eligible to offer to enter into a contract with CCC, the producer must be a person who either shares in the risk of producing the program commodity in the current year (or shares in the proceeds therefrom) on the farm for which the contract is submitted or would have shared in the commodity if it had been produced.

Accordingly, this interim rule adds § 713.49 and revises §§ 713.8, 713.50, and 713.105 in order to reorganize and revise requirements with respect to the use of contracts for participation in the commodity programs for the 1984 and subsequent crops.

Conservation Use Acreage and the Acreage Conservation Preserve

Experience with the 1983 acreage reduction, cash land diversion and PIK programs revealed some areas where improvements could be made in order to achieve greater conservation benefits in 1984 and subsequent years. In order to achieve this objective, this interim rule makes the following changes in 7 CFR Part 713:

(1) Under the provisions of the 1982 and 1983 programs, land devoted to approved conservation uses was designated as "conservation use acreage" (CUA). To emphasize the importance of conservation, acreage devoted to conservation uses in 1984 and subsequent years will be designated as "acreage conservation reserve" (ACR).

(2) Section 713.61 permitted land which was not cropped in the last 3 years to be designated as ACR acreage provided an equal acreage of eligible cropland was seeded to a replacement hay crop. Experience in 1983 has shown that producers normally see a replacement acreage before tilling old grassland. The provisions with respect to when the replacement crop must be seeded are amended by this interim rule to conform to this practice. Producers are also permitted to designate the replacement acreage as ACR acreage.

(3) There was extensive flooding in many parts of the country in 1983 which occurred after the provisions of the 1983 acreage reduction and cash diversion programs were announced. It became apparent that some producers would designate flooded land as ACR acreage, even though it would be impossible for the land to be planted to a crop for harvest in 1983. This was permissible under the announced rules for ACR acreage. However, the requirements for ACR acreage designated under the 1983 Payment-in-Kind Program prohibited flooded land from being designated if the land was Federally-owned or subject to a flooding easement. A provision of the Supplemental Appropriation Act for FY 1983 (Pub. L. 98-63, approved July 30, 1983) resulted in a change of this requirement so that the same requirements applied to all acreage designated as ACR in 1983, regardless of the program under which it was designated.

This interim rule adds a provision to § 713.61(c) which limits the eligibility of land which is flooded or under water. The provision will be effective for 1984 and subsequent years. The Department does not intend, however, to charge liquidated damages for a violation of the contract if flooding prevents a producer from having sufficient eligible land available for designation as ACR acreage. In such cases, contract requirements and benefits would be reduced or producers would be released from their contractual obligations.

(4) Section 713.61 has been rewritten for greater clarity.

(5) The notices of determination for the 1984 Wheat and Feed Grain Programs published in the Federal Register on January 10, 1984 (49 FR 1256) and February 6, 1984 (49 FR 4404), respectively, included a new requirement for acreage which is in a summer fallow rotation. In order to be eligible to be designated as ACR acreage, such acreage was required to be land that would have been planted in 1984 to small grains or row crops in the absence of the programs.

As signup for the 1984 programs progressed, it became evident that implementing this requirement would have reduced participation to the point that the 1984 programs would be ineffective. Therefore, the Secretary announced on February 18, 1984 that this requirement with respect to summer fallow rotation was being changed so that the requirements would be the same as those applicable to the previous acreage reduction programs. In view of this announcement, § 713.61 is amended to require that land which is in a

summer fallow rotation must have been devoted to small grains, row crops, or other crops planted annually in 1 of the 2 immediately preceding years, or considered as having been so cropped.

(6) This interim rule amends § 713.62 to include a general requirement that an approved cover crop or conservation practice shall be established on acreage designated as ACR acreage by the end of the spring planting season and shall be maintained through the end of the calendar year. While this requirement has been applicable under previous production adjustment programs, it has been determined that a revision of this provision in more specificity is desirable.

(7) This interim rule amends § 713.72 to provide that land devoted to small grains may be designated as ACR acreage and still be harvested or grazed. This provision shall apply to specific small grains growing before a specific date as announced by the Secretary. The Agricultural Programs Adjustment Act of 1984 (Pub. L. 98–258, approved April 10, 1984) amended the Agricultural Act of 1949 to provide that this provision shall be implemented for wheat for the 1984 crop year. Section 713.72, as amended, provides that such a provision may be implemented with respect to subsequent production adjustment programs.

Mixtures. This interim rule amends section 713.4 to provide that mixtures of small grains shall be considered to be the crop that is predominant in the mixture and will eliminate on difference between small grain producers, e.g., oats and wheat, and coarse grain producers, e.g., corn, when acreage is planted to more than one commodity during the same crop year. For example, currently a wheat producer whose acreage failed may replant the acreage to oats. If the producer has complied with the requirements of § 713.4(b), the acreage would be considered as only planted to wheat. The amendment to this section will provide that, if the producer complies with § 713.4(b), the acreage would be considered as planted to wheat and to oats in the same crop year. Since many of the changes in the regulations which are made by this interim rule are technical in nature and not significant and since producers are already planting their crops and must be aware of the revised program provisions, it has been determined that this interim rule shall become effective on September 27, 1984. However, comments from interested persons are requested. Comments must be received by November 26, 1984 in order to be assured of consideration. After the comments have been received and reviewed, a final rule will be published setting forth any changes which may be necessary in these regulations.

List of Subjects in 7 CFR Part 713

Acreage allotments, Cotton, Feed grains, Price support programs, Wheat, Rice

Interim Rule

Accordingly, the regulations at Chapter VII of Title 7 of the Code of Federal Regulations are amended by:

PART 722—[REMOVED]

A. Removing Part 722 from Subchapter B.

B. Amending Part 713 as follows:

1. The title of the part and subpart are revised to read as follows:

PART 713—FEED GRAIN, RICE, UPLAND AND EXTRA LONG STAPLE COTTON, AND WHEAT

Subpart—Feed Grain, Rice, Cotton, and Wheat Programs for 1984 and Subsequent Crop Years.

2. The authority citation for Part 713 is revised to read as follows:

Authority: Secs. 101(i), 103(g), 103(h), 105B, 107B, 107C, 109, 113, 401, 403, 1001, 95 Stat. 1242, as amended, 95 Stat. 1234, as amended, 97 Stat. 494, 95 Stat. 1227, as amended, 95 Stat. 1221, as amended, 96 Stat. 766, 91 Stat. 950, as amended, 94 Stat. 2573, as amended, 63 Stat. 1054, as amended, 91 Stat. 950, as amended; 7 U.S.C. 1441(i), 1444(g), 1444(h), 1444d, 1445b–1, 1445b–2, 1445d, 1445h, 1421, 1423, 1309.

3. Section 713.1 is amended by revising paragraphs (a) and (b)(1) to read as follows:

§ 713.1 Applicability.

(a) The regulations in this subpart, which are applicable to the feed grain, rice, cotton, and wheat programs for the 1984 and subsequent year crops, set forth the terms and conditions under which producers of these commodities who enter into contracts with Commodity Credit Corporation (CCC) and comply with the contracts and the provisions of this subpart may qualify for program benefits.

(b) In accordance with section 1101 of the Agriculture and Food Act of 1981, as amended, and the regulations in Part 795 of this Chapter, as amended, the total amount of:

(1) Payments (excluding disaster payments) which a person shall be entitled to receive annually under the feed grain, rice, upland and ELS cotton, and wheat programs shall not exceed $50,000.

* * * * *

4. Section 713.3 is amended by redesignating the existing paragraphs (g) through (m) as paragraphs (h) through (n), adding a new paragraph (g), and revising newly redesignated paragraph (o) to read as follows:

§ 713.3 Definitions.

* * * * *

(g) *Extra Long Staple (ELS) cotton* means any of the following varieties of cotton which is ginned on a roller gin and is grown in counties specified by the Secretary: American-Pima; Sea Island; Sealand; all other varieties of the Bardadense species of cotton and any hybrid thereof; and any other cotton in which one or more of these varieties predominate.

* * * * *

(o) *Upland cotton* means planted cotton and stub cotton other than ELS cotton.

5. Section 713.4 is amended by revising paragraph (c) to read as follows:

§ 713.4 Determining crop acreages.

* * * * *

(c) The county committee shall consider mixtures of crops to be the crop that is predominant in the mixture, except that when corn or grain sorghum is mixed with another crop in the same row, the mixture shall be cosidered to be corn or grain sorghum, as applicable.

6. Section 713.6 is amended by revising the introductory text of paragraph (b) and adding paragraph (d) to read as follows:

§ 713.6 Farm yields.

* * * * *

(b) *Cotton and rice yields.* The yield in pounds per acre for the current year shall be the average of the actual yields per harvested acre for the farm for the 3 preceding years, adjusted as follows:

* * * * *

(d) *Reports of production and supporting evidence.* A report of production is required to determine the actual yield per acre in accordance with paragraphs (a)(2) and (b) of this section. Such report shall be made in accordance with instructions issued by the Deputy Administrator and on forms prescribed by the Deputy Administrator. When production has been disposed of through commercial channels, the county committee may require the operator or other producers to furnish documentary evidence in order to verify the information provided on the report. Acceptable evidence may also include

such items as the original or a copy of commercial receipts, gin records, CCC loan documents, settlement sheets, warehouse ledger sheets, elevator receipts or load summaries. The county committee may also verify the evidence submitted by the producer with the warehouse, gin, or other entity which received production. If the evidence is not furnished or the information provided on the report cannot be verified, the county committee may disapprove the report of production.

7. Section 713.7 is revised to read as follows:

§ 713.7 Crop acreage bases.

(a) An acreage base shall be established for a farm for each year beginning with 1984 for barley, corn, grain sorghum, oats, rice, upland and ELS cotton, and wheat.

(b) The acreage base established for a crop of barley, corn, grain sorghum, oats, rice, upland cotton, or wheat for a farm shall be the average of the planted and considered planted acreages for the crop for 1 or more years as announced by the Secretary.

(c) The acreage base established for a crop of ELS cotton on a farm shall be the average of the planted and considered planted acreages for ELS cotton for the 3 years immediately preceding the year prior to the current year.

(d) If the county committee determines that a crop is grown on a farm in a clearly established crop-rotation pattern for 2 or more years, the acreage base established for such crop will be determined by using the years in the rotation cycle that correspond to the previous year or the 2 previous years.

(e) The acreage base established for a crop of a commodity on the farm may be adjusted as follows:

(1) The operator must show, and the county committee must determine, that the acreage base previously established for a crop of a commodity on the farm is not representative of the current operator's normal operations of the farm; and

(2) The county committee may approve a recomputation of the acreage base for the crop of a commodity on the farm in an amount not to exceed the planted and considered planted acreages for the farm for 1 or more previous years in accordance with instructions issued by the Deputy Administrator.

(f) The operator of a farm may request that the acreage base for a crop of a commodity on a farm be determined in acordance with either paragraph (d) or (e) of this section. Such a request shall not increase the acreage base for such crop in the current year. The county or State committee may approve an increase in the acreage base for such crop in future years in accordance with instructions issued by the Deputy Administrator.

(g) For each of the 1984, 1985, and 1986 crops of ELS cotton, an acreage base reserve is established that shall equal 5 percent of the total of the farm acreage bases established for such crop in accordance with paragraph (h) of this section. Such reserve shall be in addition to the total of the farm acreage bases and shall be used by the county committee, after approval by and in accordance with instructions issued by the Deputy Administrator, for the purpose of adjusting the 1984, 1985, and 1986 acreage bases established for the farm to correct for inequities and prevent hardship, and for the purpose of establishing acreage bases for farms on which no ELS cotton was planted during the period 1980 through 1983. The operator shall file a written request, in such form as is prescribed by the Deputy Administrator, for an adjustment using the reserve. Such adjustments shall be in addition to and not in lieu of adjustments approved under paragraphs (e) and (f) of this section.

8. Section 713.49 is added and § 713.50 is revised to read as follows:

§ 713.49 Nature of contract.

(a) The contract shall provide that the operator and each producer on the farm shall agree to limit the acreage of the crop planted for harvest and devote an eligible acreage of land to approved conservation uses as may be required by the commodity program for the crop as announced by the Secretary and as provided for in this subpart. The contract shall provide for recording the shares for division of deficiency payments for the crop. The operator shall also agree to timely file a report of acreage on Form ASCS–578 accurately listing the ACR acreage and the planted acreage of the crop(s) planted for harvest on the farm.

(b) CCC shall agree that harvested production of the crop shall be eligible for loans and purchases in accordance with 7 CFR Part 1421 and 7 CFR Part 1427. CCC shall also agree that deficiency payments, if it is determined that a final deficiency payment will be greater than zero, and any applicable diversion payments, disaster payments, or wheat grazing and hay payments shall be made to such operator and producers.

(c) The contract shall contain such other provisions as CCC determines appropriate to carry out programs established by this subpart.

(d) The contract shall provide for the payment of liquidated damages in the event that the operator or any other producers fail to comply with their obligations under the contract. The purpose of an acreage reduction, set-aside, cash land diversion, payment-in-kind or wheat grazing and hay program is to obain a reduction of acreage from the production of the applicable crops of commodities in order to adjust the total national acreage of such commodities to desirable goals. Once a contract has been entered into between CCC and producers, the Department and other segments of the agricultural community act based upon the assumption that the contract will be fulfilled and the reduction in acreage will be obtained. The actions of CCC include budgeting and planning for programs in subsequent crop years. A producer's failure to comply with a contract undermines the basis for these actions, damages the credibility of the Department's programs with other segments of the agricultural community, and requires additional expenditures in subsequent crop years to offset the effect of the increased production in the current crop year. The adverse effects on CCC of the producer's failure to comply with a contract are obvious; however, it would be impossible to compute the actual damages suffered by CCC.

§ 713.50 Contracting procedures.

(a) *Signup.* Eligible producers may offer to enter into a contract with CCC by executing a contract and submitting it to the county ASCS office not later than a date specified by the Secretary.

(b) *Producer eligibility.*

(1) The producer must be a person who shares in the risk of producing the program crop produced in the current year (or shares in the proceeds therefrom) on the farm for which the contract is submitted, or would have shared in the crop if it had been produced on such farm in the current year.

(2) A minor will be eligible to participate in the program only if one of the following conditions exists:

(i) The right of majority has been conferred on the minor by court proceedings;

(ii) A guardian has been appointed to manage the minor's property and the applicable documents are signed by the guardian; or

(iii) A bond is furnished under which a surety guarantees to protect CCC from any loss incurred for which the minor would be liable had the minor been an adult.

9. Section 713.61 is revised to read as follows:

§ 713.61 Eligible land.

(a) For 1984 and subsequent years, land designated as acreage conservation reserve (ACR) acreage must:

(1) Meet one of the provisions of paragraph (b) of this section, and

(2) Meet all provisions of paragraph (c) of this section.

(b) ACR acreage must be cropland that:

(1) Is not in a summer fallow rotation and was devoted to small grains, row crops, or other crops planted annually in 2 of the 3 immediately preceding years. Land that was designated as ACR acreage or conservation use acreage under a production adjustment program will be considered as planted acreage in the year designated, except that land which is designated in accordance with paragraph (b)(3) of this section and which was not devoted to small grains or row crops in the immediately preceding year or land on which water storage systems are installed may not be so designated;

(2) Is in a summer fallow rotation as shown by the past history of crops on the farm if the land was devoted to small grains, row crops, or other crops planted annually in 1 of the 2 immediately preceding years, or was considered to have been so cropped;

(3) Is currently devoted to and in at least 2 of the 3 immediately preceding years was devoted to grasses or legumes for the production of hay, seed, or pasture in rotation with small grains or row crops if the acreage devoted to such grasses or legumes and designated as ACR equals exceed acreage newly seeded to such grasses or legumes;

(i) In the summer or fall of the preceding year or seeded in the spring of the current year; and

(ii) On cropland that would have been eligible for designation as ACR acreage under paragraph (b)(1) of this section.

(4) Is devoted to perennial grasses or legumes or other vegetative cover, excluding nursery stock and orchards or vineyards, if:

(i) The land had previously been eligible to be designated as conservation use acreage of ACR acreage, as applicable, in 1982 or a subsequent year; and

(ii) Such grasses or legumes were planted either in the spring of the year in which the land was eligible to be designated as ACR acreage or in the fall of the preceding year; or

(5) Does not meet the requirements of paragraph (b)(1) of this section if the ACR acreage requirement exceeds the total of all of the cropland, including the cropland planted in the current year which is eligible to be designated according to paragraph (b)(1) of this section, and such cropland is designated as ACR acreage in the following order:

(i) All cropland eligible under paragraph (b)(1) of this section even though such cropland may already have been planted in the current year;

(ii) All cropland was devoted to small grains or row crops in 1 of the last 3 years; and

(iii) All cropland that was not devoted to small grains or row crops in the last 3 years.

(c) Land designated as ACR acreage may not be land:

(1) That is designated:

(i) Under the Water Bank Program in accordance with 7 CFR Part 752;

(ii) Under the Great Plains Conservation Program in accordance with 7 CFR Part 631;

(iii) Or as ACR acreage for another program crop;

(2) For which a deficiency payment is or could be made for the program crop;

(3) Used as turn areas, except that these areas may be designated if both of the following apply:

(i) Minimum size requirements as specified in 7 CFR Part 718 are met; and

(ii) The county committee determines that the areas are normally planted to a crop; or

(4) That the producer does not have authority to use for program crops (e.g., highways, railroads, and other right of ways, airport buffer strips, and other similar areas); or

(5) That is flooded or under water at any time during the year unless one of the following applies:

(i) Before any flooding occurred, the land was planted or could have been planted to a crop for harvest in the current crop year;

(ii) After being flooded, such land could be planted in the current year, by no later than the final reporting date for spring-seeded crops.

10. Section 713.62 is revised to read as follows:

§ 713.62 Approved cover crops and practices.

(a) *Establishing and maintaining cover crops or practices.*

(1) An approved cover crop or practice shall be established on acreage which is designated as ACR acreage by the end of the planting season for spring-seeded crops. Such cover crop or practice shall be maintained through the end of the calendar year except as follows:

(i) The ACR acreage may be seeded in the fall to crops which are of a type that when seeded in the fall in the county in which the farm is located normally attain maturity in the next calendar year;

(ii) The ACR acreage may be tilled in the fall for spring planting and left bare only if approved in accordance with paragraph (c) of this section; and

(iii) If the ACR acreage is used for nonagricultural purposes, the cover crop or practice must be maintained through the end of the nongrazing period established for ACR acreage.

(b) *Nationally approved cover crops and practices.* The following are nationally approved cover crops and practices for ACR acreage:

(1) Annual, biennial, or perennial grasses and legumes, excluding soybeans, corn, popcorn, sweet corn, grain sorghum, cotton, and vegetables.

(2) Barley, oats, rice, wheat, and other small grains planted and disposed in accordance with instructions issued by the Deputy Administrator.

(3) Crop residue from using "no till" or "minimum till" practices.

(c) *Locally approved cover crops.* Cover crops and practices that will protect the ACR acreage from wind and water erosion throughout the calendar year may be approved on a State or local basis as follows:

(1) The county committee, in consultation with the district conservationist of the Soil Conservation Service (SCS), may recommend the cover crop or practice. The State committee shall consult with appropriate wildlife agencies and organizations and other interested groups to determine whether additional practices that further the goals of such organizations and groups can be developed.

(2) The cover crops of practices recommended shall not include:

(i) The growing of soybeans, corn, popcorn, sweet corn, grain sorghum, cotton, and vegetables.

(ii) Control measures which are more costly to the producer than other similar alternatives normally accepted for the area.

(iii) Control measures which are inconsistent with erosion control measures normally used on other cropland in the area.

(3) Residue and stubble of destroyed program crops may be recommended, provided that the crop residue, as opposed to regrowth, shall not be grazed after the end of the nongrazing period announced by the county committee in accordance with § 713.63(b).

(4) The State committee shall approve the cover crops or practices after obtaining the written concurrence of the SCS State Conservationist, that the

practices will sufficiently protect the land from wind and water erosion.

11. Section 713.72 is amended by revising paragraph (a) to read as follows:

§ 713.72 Provisions applicable to certain small grains.

(a) Acreage that was devoted to wheat or another small grain may be designated as ACR acreage and be harvested or grazed in accordance with the provisions of this section. This provision shall be applicable only as provided in an announcement by the Secretary.

* * * * *

12. Section 713.103 is amended by revising paragraph (a) to read as follows:

§ 713.103 General payment provisions.

(a) *Issuance.* Payment of any amount due the operator or other producers on a farm shall be made only after the producers are determined to be in compliance with the contract and these regulations.

* * * * *

13. Section 713.104 is amended by revising paragraph (a) to read as follows:

§ 713.104 Advance payments.

(a) *General.* In order to receive an advance deficiency or diversion payment authorized for a crop:

(1) The operator and other producers on a farm must:

(i) Enter into a contract with CCC to participate in the acreage limitation, set-aside, and land diversion program, if applicable, and

(ii) Request the advance payment; and

(2) The farm must not have been determined to be out of compliance with any of the requirements of the contract or the program at the time of payment.

* * * * *

14. Section 713.105 is amended by removing the introductory paragraph, redesignating existing paragraphs (a) through (c) as paragraphs (b) through (d), and adding new paragraphs (a) and (e) to read as follows:

§ 713.105 Disaster provisions.

(a) *Eligibility for disaster payments.* Except as provided in paragraph (b) of this section, prevented planting and low yield disaster payments are authorized to be made to producers of wheat, feed grain, upland cotton, and rice only if:

(1) Crop insurance offered in accordance with the Federal Crop Insurance Act, as amended, is not available with respect to the producer's acreage of such commodity;

(2) The operator and other producers on the farm have entered into a contract with CCC for the applicable crop of the commodity, and have been determined to be in compliance with such contract;

(3) The operator submits an Application for Disaster Credit (herein called "Form 574") in accordance with instructions issued by the Deputy Administrator;

(4) The operator submits a report of production and disposition in accordance with § 713.6(d); and

(5) The county committee determines that the operator and other producers were prevented from planting an eligible commodity or that the production of an eligible commodity on an acreage resulted in a low yield of such commodity as hereinafter described in this section because of a drought, flood, other natural disaster or other condition beyond the control of the operator or other producer.

* * * * *

(e) Disaster payments shall be made as soon as practicable after the disaster is reported, the extent of the crop loss is determined, and payment is approved.

15. Section 713.108 is amended by revising paragraph (a) and adding paragraph (d)(4) to read as follows:

§ 713.108 Deficiency payments.

(a) *Basis for payment rate.* The deficiency payment rate shall be the amount by which the established (target) price exceeds the higher of:

(1) The national average loan rate established for the crop; or

(2) The national weighted average market price received by producers for the crop during:

(i) The first 5 months of the marketing year for wheat, feed grain, and rice;

(ii) The calendar year for upland cotton; and

(iii) The first 8 months of the marketing year for ELS cotton.

* * * * *

(d) * * *

* * * * *

(4) *ELS cotton.* May 15 following the current year.

16. Section 713.109 is amended by revising paragraph (a) to read as follows:

§ 713.109 Division of program payments.

(a) *General.* Each person on a participating farm shall be given the opportunity to participate in the program for a crop in proportion to such person's interest in the program crop or the interest such person would have had if the crop had been produced. The name of such person shall be listed on the contract. Federal agencies can earn no program payments, but any shares to which such agencies would otherwise be entitled shall also be shown on the contract as though the agencies were earning them. The sum of the percentage shares of the program payment shall equal 100 percent.

* * * * *

17. Section 713.111 is amended by revising paragraph (b) to read as follows:

§ 713.111 Successors-in-interest.

* * * * *

(b) When any person who had an interest as producer of the crop or would have had an interest in the crop as a producer if the crop had been planted (herein called "predecessor") is succeeded on the farm by another producer (herein called "successor") after a contract has been executed, any payment which is due and owing shall be divided between the predecessor and successor on such basis as the predecessor, successor, and the county committee agree is fair and equitable, the contract shall be revised accordingly, and the successor shall sign the revised contract. If the predecessor and successor fail to agree on a revised contract and the predecessor has become unable to carry out the producer's responsibilities under the contract and this appendix, CCC may terminate the contract with respect to the predecessor and enter into a new contract with the successor.

18. Section 713.112 is amended by revising paragraphs (a), (b) and (c) to read as follows:

§ 713.112 Misrepresentation and scheme or device.

(a) A producer who is determined by the county committee or the State committee to have erroneously represented any fact affecting a program determination shall not be entitled to payments under the crop program with respect to which the representation was made and shall refund to CCC all payments received by such producer with respect to such farm and such crop program and shall be liable for liquidated damages in accordance with the contract.

(b) A producer who is determined by the State committee, or the county committee with the approval of the State committee, to have knowingly (1) adopted any scheme or device which tends to defeat the purpose of the program, (2) made any fraudulent representation, or (3) misrepresented any fact affecting a program determination shall refund to CCC all payments received by such producer

with respect to the farm and shall be liable for liquidated damages in accordance with the contract.

(c) Refunds determined to be due CCC under the provisions of this section shall bear interest at the rate specified in 7 CFR Part 1403. Such interest shall accrue from the date of disbursement to the date refunded.

* * * * *

19. In addition to the amendments set forth above, 7 CFR Part 713 is amended by striking the phrase "upland cotton" and inserting in lieu thereof "upland and ELS cotton" each place the phrase appears in the following sections:

(a) 7 CFR 713.3(b)(2);
(b) 7 CFR 713.5(d);
(c) 7 CFR 713.6(b);
(d) 7 CFR 713.10(c);
(e) 7 CFR 713.50(b)(1) (two times);
(f) 7 CFR 713.50(b)(3);
(g) 7 CFR 713.55(a);
(h) 7 CFR 713.55(b);
(i) 7 CFR 713.100(a) (two times); and
(j) 7 CFR 713.101(a).

20. In addition to the amendments set forth above, 7 CFR Part 713 is amended by changing all references to the phrase "conservation use acreage" to "ACR acreage" each place it appears except the reference in § 713.61(d) as amended by this interim rule.

Signed at Washington, D.C. on September 20, 1984.

Everett Rank,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 84-25001 Filed 9-26-84; 8:45 am]

BILLING CODE 3410-05-M

Agricultural Marketing Service

7 CFR Part 905

[Orange, Grapefruit, Tangerine, and Tangelo Regulation 6, Amdt. 32]

Oranges, Grapefruit, Tangerines and Tangelos Grown in Florida; Amendment of Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action lowers the minimum diameter requirement for domestic shipments of Florida pink seedless grapefruit and imports of pink seedless grapefruit from 3⁹⁄₁₆ inches (size 48) to 3⁵⁄₁₆ inches (size 56). This action recognizes a change in demand conditions for smaller size pink seedless grapefruit in different market outlets and is necessary to promote the interests of growers and consumers.

EFFECTIVE DATE: September 24, 1984–August 18, 1985.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

The amendment is issued under the marketing agreement and Order No. 905 (7 CFR Part 905), both as amended, regulating the handling of oranges, grapefruit, tangerines and tangelos grown in Florida. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendation and information submitted by the Citrus Administrative Committee, and upon other available information. It is hereby found that the regulation of Florida pink seedless grapefruit, as hereinafter provided, will tend to effectuate the declared policy of the act.

Florida Citrus Regulation 6 was issued on a continuing basis subject to modification, suspension, or termination upon recommendation by the committee and approval by the Secretary. The committee meets prior to and during each season to consider recommendations for modification, suspension or termination of the regulatory requirements for Florida oranges, grapefruit, tangerines and tangelos. Prior to making any such recommendations, the committee submits to the Secretary a marketing policy for the season including an analysis of supply and demand factors having a bearing on the marketing of the crop. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department reviews committee recommendations and information submitted by the committee and other available information, and determines whether modification, suspension, or termination of the regulatory requirements would tend to effectuate the declared policy of the act.

Florida seedless grapefruit production is expected to total 35 million boxes in 1984–85 compared to 36.4 million boxes last season. However, domestic shipments of pink seedless grapefruit are expected in increase 11.5 percent from last year. The increase in anticipated fresh shipments is partly attributed to the freeze-reduced crop in Texas and the increased demand for smaller sizes of pink seedless grapefruit in certain markets, particularly Canada.

The minimum size requirements, specified herein, reflect the committee's and the Department's appraisal of the need to revise the size requirements applicable to Florida pink seedless grapefruit due to current to prospective crop and demand conditions.

Under Section 8e of the act (7 U.S.C. 608e–1), whenever specified commodities, including grapefruit, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality or maturity requirements as those in effect for the domestically produced commodity. Thus, the size requirements for imported pink seedless grapefruit will also change to conform to the size requirements for domestic shipments of Florida pink seedless grapefruit.

It is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this amendment is based and the effective date necessary to effectuate the declared purposes of the act. This amendment relieves restrictions on shipments of Florida pink seedless grapefruit. Handlers have been apprised of such provisions and the effective dates.

List of Subjects in 7 CFR Part 905

Marketing agreements and orders, Florida, Grapefruit, Oranges, Tangelos, Tangerines.

PART 905—[AMENDED]

Accordingly, the provisions of § 905.306 are amended by revising the following entries in Table I, paragraph (a), applicable to domestic shipments, to read as follows:

§ 905.306 Orange, Grapefruit, Tangerine and Tangelo Regulation 6.

(a) * * *

TABLE I

Variety	Regulation period	Minimum grade	Minimum diameter (inches)
(1)	(2)	(3)	(4)
Grapefruit:			
Seedless, pink	Sept. 24, 1984 to Aug. 18, 1985	Improved No. 2 (External) U.S. No. 1 (Internal).	3 1/16
	On and after Aug. 19, 1985	Improved No. 2 (External) U.S. No. 1 (Internal).	3 1/16

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: September 24, 1984.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 84-25700 Filed 9-26-84; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Parts 906, 910, 911, 919, 926, 927, 929, 930, 931, and 981

Expenses and Rates of Assessment for Specified Marketing Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenditures and establishes assessment rates under Marketing Orders 906, 910, 919, 926, 927, 929, 930, 931, and 981 for the 1984–85 fiscal periods. In addition, this regulation corrects an error in the assessment rate for Florida limes (M.O. 911) for the fiscal year ending March 31, 1985. Funds to administer these programs are derived from assessments on handlers.

EFFECTIVE DATES: April 1, 1984–March 31, 1985 (§§ 911.223, 926.224); May 1, 1984–April 30, 1985 (§ 930.214); July 1, 1984–June 30, 1985 (§§ 919.223, 927.224, 931.219, 981.334); August 1, 1984–July 31, 1985 (§§ 906.224, 910.222); September 1, 1984–August 31, 1985 (§ 929.225).

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone (202) 447–5975.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that these actions will not have a significant economic impact on a substantial number of small entities because they would not measurably affect costs for the directly regulated handlers.

These marketing orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). These actions are based upon recommendations and information submitted by each committee, established under the respective marketing orders, and upon other information, It is found that the expenses and rates of assessment, as hereinafter provided, will tend to effectuate the declared policy of the Act.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice and engage in public rulemaking, and good cause exists for not postponing the effective dates until 30 days after publication in the **Federal Register** (5 U.S.C. 553). Each order requires that the rate of assessment for a particular fiscal period shall apply to all assessable commodities handled from the beginning of such period. To enable the committees to meet current fiscal obligations, approval of the expenses and rates of assessment is necessary without delay. It is necessary to effectuate the declared policy of the Act to make these provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Parts 906, 910, 911, 919, 926, 927, 929, 930, 931, 981

Marketing Agreements and Orders, Oranges, Grapefruit, Texas, Lemons, California and Arizona, Limes, Florida, Peaches, Colorado, Tokay Grapes, California, Pears, Washington, Oregon, and California, Cranberries, Red Tart Cherries, Almonds.

Therefore, new §§ 906.224, 910.222, 919.223, 926.224, 927.224, 929.225, 930.214, 931.219, 981.334 are added, and § 911.223 is revised to read as follows (the following sections prescribe annual expenses and assessment rates and will not be published in the Code of Federal Regulations):

PART 906—ORANGES AND GRAPEFRUIT GROWN IN LOWER RIO GRANDE VALLEY IN TEXAS

§ 906.224 Expenses.

Expenses of $144,779 by the Texas Valley Citrus Committee are authorized for the fiscal year ending July 31, 1985. Unexpended funds may be carried over as a reserve.

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

§ 910.222 Expenses and assessment rate.

Expenses of $633,325 by the Lemon Administrative Committee are authorized, and an assessment rate of $0.047 per carton of lemons is established for the fiscal year ending July 31, 1985. Unexpended funds may be carried over as a reserve.

PART 911—LIMES GROWN IN FLORIDA

§ 911.223 [Amended]

§ 911.223 (49 FR 32323) is revised by changing the assessment rate "$0.14 per bushel" to "$0.15 per bushel".

PART 919—PEACHES GROWN IN MESA COUNTY, COLORADO

§ 919.223 Expenses and assessment rate.

Expenses of $1,000 by the Administrative Committee are authorized, and an assessment rate of $0.01 per bushel of peaches is established for the fiscal year ending June 30, 1985.

PART 926—TOKAY GRAPES GROWN IN SAN JOAQUIN COUNTY, CALIFORNIA

§ 926.224 Expenses and assessment rate.

Expenses of $191,690 by the Industry Committee are authorized, and an assessment rate of $0.14 per 23 pound lug of grapes is established for the fiscal year ending March 31, 1985. Unexpended funds may be carried over as a reserve.

PART 927—BEURRE D'ANJOU, BEURRE BOSC, WINTER NELIS, DOYENNE DU COMICE, BEURRE EASTER, AND BEURRE CLAIRGEAU VARIETIES OF PEARS GROWN IN OREGON, WASHINGTON, AND CALIFORNIA

§ 927.224 Expenses and assessment rate.

Expenses of $267,500 by the Control Committee are authorized, and an assessment rate of $0.0275 per Western Standard pear box of pears is established for the fiscal year ending

June 30, 1985. Unexpended funds can be carried over as a reserve.

PART 929—CRANBERRIES GROWN IN STATES OF MASSACHUSETTS, RHODE ISLAND, CONNECTICUT, NEW JERSEY, WISCONSIN, MICHIGAN, MINNESOTA, OREGON, WASHINGTON, AND LONG ISLAND IN THE STATE OF NEW YORK

§ 929.225 Expenses and assessment rate.

Expenses of $111,805 by the Cranberry Marketing Committee are authorized, and an assessment rate of $0.035 per 100-pound barrel of cranberries is established for the fiscal year ending August 31, 1985. Unexpended funds may be carried over as a reserve.

PART 930—CHERRIES GROWN IN MICHIGAN, NEW YORK, WISCONSIN, PENNSYLVANIA, OHIO, VIRGINIA, WEST VIRGINIA, AND MARYLAND

§ 930.214 Expenses and assessment rate.

Expenses of $124,800 by the Cherry Administrative Board are authorized, and an assessment rate of $1.10 per ton of cherries delivered for processing is established for the fiscal year ending April 30, 1985. Unexpended funds can be carried over as a reserve.

PART 931—FRESH BARTLETT PEARS GROWN IN OREGON AND WASHINGTON

§ 931.219 Expenses and assessment rate.

Expenses of $51,102 by the Northwest Fresh Bartlett Pear Marketing Committee are authorized and an assessment rate of $0.0175 per Western Standard pear box of pears is established for the fiscal year ending June 30, 1985. Unexpended funds may be carried over as a reserve.

PART 981—ALMONDS GROWN IN CALIFORNIA

§ 981.334 Expenses and assessment rate.

Expenses of $13,617,946 by the Almond Board of California are authorized for the crop year ending June 30, 1985. An assessment rate for that crop year payable by each handler in accordance with § 981.81 is fixed at $0.0278 per pound of almonds (kernelweight basis) less any amount credited pursuant to § 981.41 but not to exceed $0.025 per pound of almonds (kernelweight basis).

(Secs. 1–19, 48 Stat. 31, as amended, 7 U.S.C. 601–674)

Dated: September 21, 1984.

Thomas R. Clark,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 84-25454 Filed 9-26-84; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 928

[Hawaiian Papaya Regulation 13, Amdt. 1]

Papayas Grown in Hawaii; Grade Requirement Amendment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment of interim final rule with request for comments.

SUMMARY: This amended interim final rule revises the current grade requirements for Hawaiian papayas to provide an immature fruit tolerance level of 5 percent rather than the 3 percent currently provided. The amendment is necessary to promote orderly marketing in the interest of producers and consumers.

DATES: To become effective September 21, 1984 Comments due: October 29, 1984.

ADDRESS: Send two copies of comments to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This amended rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a signficant economic impact on a substantial number of small entities.

This amended interim final rule is issued under the marketing agreement and Order No. 928 (7 CFR Part 928), regulating the handling of papayas grown in Hawaii. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

Hawaiian papayas are currently regulated by grade under § 928.313 Hawaiian Papaya Regulation 13, which became effective as an interim final rule on July 1, 1984. It was never finalized at the close of the comment period. Under this regulation Hawaiian papayas shipped out of the State are required to grade Hawaii No. 1, with a tolerance of 3 percent for immature fruit. This amendment increases such tolerance to 5 percent. The amendment is based on information submitted by the Papaya Administrative Committee established under this marketing order, and upon other available information.

The Papaya Administrative Committee recommended relaxation of the current quality requirements applicable to fresh shipments of papayas. The committee reports that such requirements are resulting in unusually high cullage of fruit. Relaxing the grade regulation is designed to mitigate the problem while assuring an adequate supply of acceptable quality fruit for consumers. The committee reports that papaya production is up sharply this year with total production and export shipments running about double those of last year. The committee estimated in its marketing policy that total papaya production in 1984 would amount to 90 million pounds, compared with 54 million in 1983, 52.2 million in 1982, 65.7 million in 1981, and 48.1 million in 1980. Shipments to export markets in the continental United States, Canada, and Japan are estimated at a record 65 million pounds, compared with 35 million in 1983, 33.3 million in 1982, 44.8 million in 1981, and 33.4 million in 1980.

Accordingly, the Secretary finds that upon good cause shown it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in other public procedures, and postpone the effective date of this amendment to the interim final rule 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this rule is based and the effective date necessary to effectuate the declared policy of the act. Shipments of Hawaiian papayas are currently in progress and this action relieves restrictions on such shipments. Hawaiian papaya handlers have been apprised of the provisions and effective date of the amendment. The amended interim final rule provides a 30-day comment period. All comments received will be considered prior to finalization of this amended rule. It is found that this rule will tend to effectuate the declared policy of the act.

List of subjects in 7 CFR Part 928

Marketing agreements and orders, Papayas, Hawaii.

PART 928—[AMENDED]

Therefore, § 928.313 (49 FR 24109, June 12, 1984) is amended by revising paragraph (a) to read as follows:

§ 928.313 Hawaiian Papaya Regulation 12, Amendment 1.

(a) On and after September 21, 1984, no handler shall ship any container of papayas to any export destination (except immature papayas handled pursuant to § 928.152) unless such papayas grade at least Hawaii No. 1: *Provided*, That not more than 5 percent shall be immature fruit: *Provided further*, That the weight requirements specified in this grade shall not apply to such shipments.

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: September 21, 1984.

Thomas R. Clark,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 84-25705 Filed 9-26-84; 8:45 am]

BILLING CODE 3410-02-M

CIVIL AERONAUTICS BOARD

14 CFR Part 293

[ER-1348; Economic Regulations Amdt. No. 1 to Part 293 Docket 39990]

Operations by Air Taxis in Alaskan Bush Routes Pursuant to Subcontract Agreements With Certificated Air Carriers

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB eliminates the current filing requirements governing air services performed by an air taxi on an Alaska bush route under a subcontract agreement with a certificated carrier. It also terminates a proposal to require that the certificated carrier file a notice when it intends to subcontract with a different air taxi or when the incumbent air taxi intends to terminate or reduce its service on the route.

DATES: Effective: October 29, 1984. Adopted: September 21, 1984.

FOR FURTHER INFORMATION CONTACT: Arthur Barnes, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202–673–5405.

SUPPLEMENTARY INFORMATION: Air service to small communities in Alaska (known as bush points) is often provided by small air taxis under an arrangement (subcontract agreement) with a large certificated carrier that is authorized to serve that point. These subcontract agreements are governed by 14 CFR Part 293. Part 293 was adopted to make these subcontract agreements subject to prior Board approval and to establish guidelines to be followed by the Board in deciding whether to approve them. It also established reporting requirements.

By PDR–76/EDR–431 (48 FR 40582, September 21, 1981), the Board proposed to revoke the filing requirement under Part 293 (14 CFR Part 293) and replace the required reports under that part with less burdensome ones. The Board also proposed to place subcontracts under the notice requirements of Part 323, which governs terminations and reductions in service.

Comments were filed by Alaska Airlines, Wien Air Alaska, Kodiak Western Alaska Airlines, Gifford Aviation, and the U.S. Postal Service (USPS). The airline comments were primarily concerned about the continuation of reporting requirements and the imposition of notice requirements. The USPS generally supported the proposals.

The Board has decided to revoke Part 293, and not to adopt the other proposals.

The authority for Part 293 is section 412 of the Federal Aviation Act (49 U.S.C. 1382). In 1978, when Part 293 was adopted, section 412 required air carriers to file a copy of every agreement affecting air transportation that they entered into with another carrier. Under section 412, the filing of Alaskan subcontract agreements was explicitly mandatory. The Airline Deregulation Act of 1978 (Pub. L. 95–504) amended section 412 to eliminate this requirement, making the filing of these agreements discretionary with the carriers.

Under the proposal, the Board would also have required subcontract carriers to file the revenue and traffic data provided by commuters on CAB Form 298–C. There is no longer a need for that special requirement. Almost all subcontract carriers are now either registered as commuters or certificated, and as such must file that report. For the few cases where the carrier is not filing the report, the Board can require it on an *ad hoc* basis if needed.

The Board had also proposed to require certificated carriers or their subcontractors to file the notices required by Part 323 when terminating or reducing service at communities eligible for subsidized service under section 419 of the Act. That proposal was made to address the problem of unclear responsibility for filing the notice in a subcontract arrangement. Since that time, the problem has been resolved. The Board and communities are receiving proper notice, so the Board will not make the proposed change final.

Currently, § 293.5 grants an exemption from section 408(a)(5) of the Act to Alaskan air carriers to implement their subcontract agreements. Although we are revoking Part 293, we are continuing this exemption. It will be added to § 298.11(g) of 14 CFR Part 298. The language has been changed from the proposal to reflect subsequent changes to § 298.11(g).

Final Regulatory Flexibility Analysis

The Regulatory Flexibility Act, Pub. L. 96–354, took effect on January 1, 1981. The Act is designed to ensure that agencies consider flexible approaches to the regulation of small businesses and other small entities. It requires regulatory flexibility analyses for rules that, if adopted, will have a "significant economic impact on a substantial number of small entities." The proposal may have had a significant economic impact on small communities in Alaska that are now or will be designated eligible points (more than 200). The benefit from the clarification of the carrier's reporting obligation, the Board's improved capability to monitor air service there, and the added assurance that the carrier providing that service is fit, willing, and able would have been beneficial. The Board has found, however, that those benefits are being achieved without the need for any additional regulation.

The need, objectives, and legal basis for this rule are described above. Possible alternatives to this rule require imposition of burdensome requirements without any increase in benefit.

The discussion above constitutes the Board's regulatory flexibility analysis of this rule under 5 U.S.C. 604. Copies of this document can be obtained from the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428 (202) 673–5432, by referring to the "ER" number at the top of this document.

List of Subjects in 14 CFR Part 293

Alaska, Air taxis, Antitrust, Reporting and recordkeeping requirements.

Accordingly, the Civil Aeronautics Board amends Chapter II of 14 CFR as follows:

1. The authority for Part 293 is:

Authority: Secs. 204, 401, 407, 412, 416, 1001, Pub. L. 85–726, as amended, 72 Stat. 743, 754, 766, 770, 771, 788; 49 U.S.C. 1324, 1371, 1377, 1382, 1386, 1481.

PART 293—[REMOVED AND RESERVED]

2. Part 293, *Operations by Air Taxis in Alaskan Bush Routes Pursuant to Subcontract Agreements with*

Certificated Air Carriers, is removed and reserved.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-25712 Filed 9-26-84; 8:45 am]

BILLING CODE 6320-01-M

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14 CFR Part 298

[Economic Regulation 1389; Amdt. No. 29; Docket No. 39990]

Classification and Exemption of Air Taxi Operators

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB is moving into this part of its rules the exemption of Alaskan bush route subcontract agreements from the approval requirement for air carrier control relationships. The exemption had been in a part of the rules that have been revoked. The change is at the CAB's initiative.

DATES: *Effective:* October 27, 1984. *Adopted:* September 21, 1984.

FOR FURTHER INFORMATION CONTACT: Arthur Barnes, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202-673-5405.

SUPPLEMENTARY INFORMATION: The reasons for this change are fully stated in ER-1388, issued contemporaneously.[1]

List of Subjects in 14 CFR Part 298

Air taxis, Alaska, Antitrust, Consumer protection, Insurance and reporting requirements.

PART 298—[AMENDED]

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 298, *Classification and Exemption of Air Taxi Operators*, as follows:

1. The authority for Part 298 is:

Authority: Secs. 101(3), 204, 401, 404, 407, 416, 418, 419, Pub. L. 85-726, as amended, 72 Stat. 737, 743, 754, 760, 766, 771; 91 Stat. 1284; 92 Stat. 1732; 49 U.S.C. 1301, 1324, 1371, 1374, 1377, 1386, 1388, 1389.

2. Paragraph (g) of § 298.11 is revised to read:

§ 298.11 Exemption authority.

* * * * *

(g) Sections 408(a) and 409, for transactions and relationships to which those sections apply only because of the involvement of operators under this part, subcontract agreements involving the operation of air services by an air taxi operator over Alaskan bush routes of a certificated air carrier.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-25711 Filed 9-26-84; 8:45 am]

BILLING CODE 6320-01-M

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[1] **Editorial Note:** ER-1388 is published elsewhere in this issue of the **Federal Register** (FR Doc. 84-25712).

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release Nos. 34-21339; IC-14169; File No. S7-954]

Facilitating Shareholder Communications

AGENCY: Securities and Exchange Commission.

ACTION: Deferral of effective date.

SUMMARY: To allow time for the most advantageous development of systems and procedures to implement Rule 14b-1(c), which requires brokers to provide issuers with the identity of nonobjecting beneficial owners, the Commission is deferring the effective date of the Rule until January 1, 1986. The Rule will improve the process by which issuers communicate with the beneficial owners of securities registered in the name of a broker by allowing issuers to communicate directly with these shareholders. The effective date of the relevant provision in Rule 17a-3(a)(9), requiring brokers to maintain records indicating whether beneficial owners object to disclosure of their identity to issuers, also is being deferred until January 1, 1986.

EFFECTIVE DATE: January 1, 1986.

FOR FURTHER INFORMATION CONTACT: Betsy Callicott Goodell, (202) 272-2589, Office of Disclosure Policy, Division of Corporation Finance, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: In July 1983, the Commission adopted new paragraph (c) of Rule 14b-1[1] under the Securities Exchange Act of 1934 (the "Exchange Act") to improve the process whereby issuers communicate with shareholders whose securities are held in street name.[2] New paragraph (c) requires brokers to provide issuers, upon request and assurance of reimbursement of reasonable expenses (direct and indirect), with the names, addresses and securities positions of customers who are beneficial owners of the issuers' securities and who have not objected to such disclosure. The Commission also adopted a corresponding amendment to Rule 17a-3(a)(9)[3] under the Exchange Act to ensure that the customer records maintained by brokers for street name holders include whether the beneficial owner has objected to the disclosure to issuers of his or her identity, address, and securities positions. To provide time for the determination of reasonable costs by self-regulatory organizations and to minimize costs, the Commission specified January 1, 1985, as the effective date for both provisions.

In adopting Rule 14b-1(c), the Commission left the determination of reasonable costs to the self-regulatory organizations, because, as representatives of both issuers and brokers, they are in the best position to make a fair allocation of costs. The New York Stock Exchange formed an Ad Hoc Committee on Identification of Beneficial Owners ("Ad Hoc Committee"), composed of issuers, brokers-dealers, banks, transfer agents, and proxy solicitors, to provide guidance on this issue. Recently the Ad Hoc Committee and other representatives from the private sector indicated that additional time was necessary to determine the reasonable costs of implementing the Rule and to put in place the systems and procedures necessary to implement the Rule most advantageously.

On July 25, the staff met with representatives from the self-regulatory organizations, the securities industry and the issuer community to discuss their progress in the determination of reasonable costs. Following the meeting, the participating representatives decided to request a one-year delay of the effective date of the Rule.[4] As part of that agreement, the representatives from the securities industry and the issuer community agreed to participate in a number of actions including sponsoring the development of an efficient means of furnishing beneficial owner information to issuers and establishing an

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[1] 17 CFR 240.14b-1(c).

[2] Release No. 34-20021 (July 28, 1983) [48 FR 35082].

[3] 17 CFR 240.17a-3(a)(9).

[4] The terms of the agreement are detailed in letters from the Securities Industry Association (the "SIA") to the American Society of Corporate Secretaries (the "ASCS") and the National Investor Relations Institute ("NIRI"), dated August 3, 1984, from the ASCS to the SIA, dated August 10, 1984, and from NIRI to the SIA, dated August 20, 1984. The letters are part of File No. S7-954.

appropriate schedule of reimbursement. They also requested that the following implications of Rule 14b–1(c) be clarified by no action letter, interpretation or amendment: (1) The obligation of issuers requesting the beneficial owner information to assume the responsibility of mailing the annual report; (2) the obligation of issuers to request names from all brokers; (3) the availability of lists other than on the annual meeting record date; and (4) the confidentiality of such lists. The representatives also agreed to support legislation that would extend the Commission's authority in this area to banks and other associations exercising fiduciary powers,[5] and that the implementation of the Rule on January 1, 1986, is not contingent upon the adoption of such legislation.

At a meeting with the Commission on August 17, 1984, representatives from the Advisory Committee on Shareholder Communications (the "Advisory Committee"), the Securities Industry Association (the "SIA"), the American Society of Corporate Secretaries (the "ASCS"), and the American Bankers Association (the "ABA") unanimously recommended deferring the effective date of Rule 14b–1(c) until January 1, 1986.

At the meeting, the Commission considered the importance of including banking institutions within the coverage of the Rule, as well as the need for cooperative support from the issuer and brokerage communities. The Commission noted that a majority of the shares held in nominee name are held by banking institutions.[6] The Commission also heard discussion about the extent to which customer confidentiality requests might reduce the percentage of shareholders about whom information is provided.

The representatives from the SIA and ASCS agreed to conduct regular meetings to facilitate the determination and allocation of reasonable costs and the development of systems that will provide cost effective implementation of the Rule, and to make periodic reports to the Commission staff on their progress. Because the parties affected by the Rule jointly recommended the deferral, the Commission believes it will result in a cooperative effort on the part of brokers and issuers to make the information provided pursuant to the Rule available in an efficient and timely manner. That information, in turn, will provide a means for issuers to communicate directly with their beneficial owners in an efficient and timely manner. Such direct communication will benefit shareholders by maintaining the system of nominee registration, while enhancing the effectiveness of the communications process.

Although implementation of the Rule is not contingent upon passage of legislation extending the Commission's authority in the proxy area to banking institutions, the Commission believes that the one year extension should provide sufficient time and incentive for the passage of such legislation. The Commission also believes that passage of the legislation would greatly increase the benefits of the rule for both issuers and shareholders. The additional time period also will be sufficient to design an efficient system that will not need major subsequent revisions. The SIA, the ASCS and the National Investor Relations Institute agreed to do their part to facilitate implementation of the Rule on January 1, 1986, without seeking any further delays of the effective date.

Administrative Procedure Act

On August 3, 1984, the Commission published in the **Federal Register** a notice of the public Commission meeting to consider deferral of the effective date of Rule 14b–1(c) and invited public comment on the issue. Of the three comment letters received, two supported deferral of the effective date and one opposed it. After hearing the discussion at the meeting on August 17, the Commission authorized the staff to prepare a release announcing the deferral of the effective date. Therefore, the Commission finds that there is no need for additional public comment at this time.

Because issuers and brokers need to know immediately that the effective date has been deferred in order to allocate financial and staff resources, and because the deferral relieves a compliance burden, the Commission finds good cause for making the deferral effective immediately, pursuant to the exemption to the Administrative Procedure Act provided in 5 U.S.C. 553(d).

Statutory Authority

Pursuant to its statutory authority under Sections 12, 14, 17 and 23(a) of the Exchange Act, the Commission hereby defers until January 1, 1986, the effective date of paragraph (c) of § 240.14b–1 and the corresponding amendment to § 240.17a–3(a)(9) of Title 17 of the Code of Federal Regulations. As required by section 23(a) of the Exchange Act the Commission has considered the impact that this action would have on competition and has concluded that it would impose no significant burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.

By the Commission.

Dated: September 21, 1984.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-25717 Filed 9-26-84; 8:45 am]

BILLING CODE 8010-01-M

[5] On April 23, 1984, the Commission sent to the Congress proposed legislation to extend the Commission's authority with respect to certain proxy activities to banks and other associations exercising fiduciary powers. The legislation was introduced in the House of Representatives by Congressman Wirth (H.R. 5698) and in the Senate by Senator D'Amato (S. 2786). The House bill was attached to the tender offer legislation (H.R. 5693) and reported out of the House Energy and Commerce Committee on August 2, 1984.

[6] As of February 29, 1984. See July 18, 1984, letter from the Securities Industry Association to Chairman Shad. File No. S7–954.

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 901

Approval of Permanent Program Amendment From the State of Alabama Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: OSM is announcing the approval of a program amendment submitted by Alabama as an amendment to the State's permanent regulatory program (hereinafter referred to as the Alabama program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment establishes a program for blaster training and certification.

Alabama submitted the proposed program amendment on January 9, 1984. OSM published a notice in the **Federal Register** on February 6, 1984, announcing receipt of the amendment and inviting public comment on the adequacy of the proposed amendment (49 FR 4384). The public comment period ended March 7, 1984.

A review of the proposed amendment by OSM identified several concerns. OSM notified Alabama of its concerns and on May 3, 1984, Alabama responded by submitting modifications to its proposed amendment. OSM reopened the comment period in a June 4, 1984 **Federal Register** notice to allow opportunity for public comment on the additional information (49 FR 23074).

After considering public comments and conducting a thorough review of the program amendment including modifications to the amendment, the Director has determined that the amendment meets the requirements of SMCRA and the Federal regulations and is approving the program amendment. The Federal rules at 30 CFR Part 901 codifying decisions concerning the Alabama program are being amended to implement the action.

EFFECTIVE DATE: September 27, 1984.

FOR FURTHER INFORMATION CONTACT: John T. Davis, Director, Birmingham Field Office, Office of Surface Mining Reclamation and Enforcement, 228 West Valley Avenue, 3rd Floor, Homewood, Alabama 35209; Telephone: (205) 254–0890.

SUPPLEMENTARY INFORMATION:

I. Background on the Alabama Program

Information regarding the general background on the Alabama State program, including the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Alabama program can be found at 47 FR 22020–22038 (May 20, 1982) and 48 FR 34026 (July 27, 1983).

II. Proposed Amendment

On January 9, 1984, Alabama submitted a proposed program for the training and certification of blasters working in surface coal mining operations. The amendment consisted of regulations, blaster records, certification course outline and course notes. The proposed regulations are set forth under Chapter 880–X–12—Training, Examination and Certification of Blasters.

At the time of the Secretary's approval of the Alabama program, OSM had not yet promulgated Federal rules governing the training and certification of blasters. Therefore, the State was not required to include such requirements in its program. However, in the notice announcing conditional approval of the Alabama program, the Secretary specified that Alabama would be required to adopt such provisions following promulgation of the Federal standards (47 FR 22020, May 20, 1982).

On March 4, 1983, OSM issued final rules effective April 14, 1983, establishing the Federal standards for the training and certification of blasters at 30 CFR Chapter M (48 FR 9486). The Federal rules require each State to design and implement its own blaster certification program. Under the Federal rules, each State must develop the method of training, examination and certifying blasters which best meets local needs within the Federal regulatory framework. The federal rules require training, field experience, and written examination, and specify certain other requirements.

The Federal rules at 30 CFR 850.12 require the State regulatory authority to develop a program and submit it to OSM within 12 months after publication of the Federal rules. The Federal rules at 30 CFR 816.61(c) further provide that no later than 12 months after the State blaster certification program has been approved by OSM, all blasting operations in the State shall be conducted under the direction of a certified blaster.

On February 6, 1984, OSM published a notice in the **Federal Register** announcing receipt of the amendment and inviting public comment. The public comment period ended on March 7, 1984. The opportunity to request a public hearing was provided, but no hearing was requested. The public comment period was reopened on June 4, 1984, for fifteen days, to allow opportunity to comment on additional information and amendment modifications submitted by the State in response to OSM concerns.

III. Director's Findings

A. General Findings

During its review of the January 9, 1984, amendment, OSM identified several concerns which were relayed to Alabama in a letter dated April 9, 1984. In a May 3, 1984, response to OSM, Alabama submitted modifications which included draft proposed revisions to the Alabama Surface Mining Commission (ASMC) blaster certification program. The Director finds, in accordance with 30 CFR 732.17, that the program amendment submitted by Alabama on January 9, 1984, and modifications thereto submitted May 3, 1984, meet the requirements of SMCRA and the Federal regulations. Only those areas of particular interest are discussed in the specific findings which follow. Discussion of only those provisions for which findings are made does not imply any deficiency in any provision not discussed. All provisions are found to be consistent with SMCRA and no less effective than the Federal regulations. The amended provisions are cited at the end of this notice in the amendatory language for Section 901.15.

B. Findings on the Regulations

1. The amendments as submitted to OSM on January 9, 1984, did not contain a requirement similar to Federal rule 30 CFR 816.61(c)(3) and 817.61(c) (3) which require that a blaster and at least one other person be present during blasting. In a letter dated April 9, 1984 OSM notified Alabama of this deficiency. On May 3, 1984, Alabama responded by submitting draft proposed modifications to ASMC rules 880–X–10C–.30(c) and 880–X–10D–.28(3) to require that a certified blaster and at least one other person shall be present during the firing of all blasts. The Director finds that these proposed changes render the Alabama provisions concerning personnel present during firing of a blast, no less effective than the Federal provisions.

2. Proposed rule 880–X–12A–.06(2) lists five broad categories that the Alabama blaster training program will cover. Federal rule 30 CFR 850.13(b) lists topics to be covered in greater detail. Therefore, OSM examined the Alabama blaster training program itself to determine whether all topics specified in 30 CFR 850.13(b) are in fact included in the Alabama program. OSM found that all topics are covered in course outlines and examination and finds the Alabama program to be no less effective than the Federal rule in assuring that proper blaster training is available and that the written examination covers all required topics.

3. Proposed Alabama rule 880–X–12A–.07(2)(c) requires candidates for certification to have one year of "creditable blasting experience." Since Federal rule 30 CFR 850.14(a)(2) requires practical field experience that demonstrates certain knowledge and pattern of conduct, OSM requested further information from Alabama which would clarify what is meant by "creditable blasting experience." In its May 3, 1984 letter to OSM, Alabama enclosed a memorandum providing clarification concerning the amount and type of experience that would be necessary. The Director finds that this memorandum provides policy guidance which renders the Alabama rule requirement no less effective than Federal requirements.

4. Alabama proposed rules at 880–X–12Ap.07 to establish required elements of certification. In its April 9, 1984, letter to the State, OSM expressed concern that proposed ASMC rule 880–X–12A–.07(7) did not contain reasons for the regulatory authority to revoke or suspend a certification as does Federal rule 30 CFR 850.15(b)(1). Alabama responded by adding proposed revisions to the amendment that made it similar to the Federal rule. The Director finds the modified language at ASMC rule 880–X–12A.07 to be no less effective than the Federal rule.

5. OSM also expressed concern to Alabama that its proposed amendment did not contain a requirement that a blaster surrender a revoked certificate as in 30 CFR 850.15(b)(3), and that the certified blaster "take every reasonable precaution to protect" his certificate from loss, theft or unauthorized duplication, as required by 30 CFR 850.15(d). In response, Alabama has submitted draft proposed rules at 880–X–12A.07(9)(c) and 880–X–12A–.07(e) which address these concerns by adding language that is similar to the Federal language. The Director finds that these modifications render the Alabama requirements no less effective than Federal requirements.

6. Proposed rule 880–X–12A–.07 would allow individuals certified before January 1, 1982 to be recertified under the proposed new program without re-examination if certain criteria are met. In its April 9, 1984, letter to Alabama, OSM expressed concern that blasters would be certified under the new program without taking a written exam covering the required material. In its response to OSM, the State pointed out that the existing Alabama blaster certification program contains the same requirements as the proposed program and that blasters who are certified under the existing program should not be required to be re-examined and recertified "because of the technicality of the effective date for the new regulations." OSM has since examined the Alabama training program and the previous and new examinations and found them to cover the subject areas outlined in 30 CFR 850.13(b). Further, ASMC rule 880–X–12A.07(8)(b) requires re-examination every three years for all certified blasters. The Director finds, therefore, that Alabama's requirements are no less effective than the Federal requirements in assuring that certified blasters are trained and examined in accordance with the new Federal requirements.

7. Alabama has proposed provisions at 880–X–12A.08 enumerating responsibilities of a certified blaster. Although there is no Federal section which parallels this Alabama section, the Alabama provisions are consistent with responsibilities of a certified blaster that are contained or implied in the Federal rules at 30 CFR 816.61 and 817.61 and at 30 CFR Part 850. The Director finds the provisions to be no less effective than the Federal rules.

IV. Public Comments

OSM received two responses to its request for comment during the extended comment period. Both responses dealt with the issue of recertification under the proposed new program without re-examination for those certified prior to January 1, 1982. Both commenters felt that OSM should allow such recertification. One commenter stated that OSM was misreading the program and its application. The commenter said that under the proposed program all persons seeking recertification would be re-examined every three years. The other commenter said that the proposed Alabama rule would not allow "grandfathering" but rather would recognize certifications granted prior to promulgation of the new OSM regulations. The commenter stated that Alabama has had a "model Blaster Certification Program," and that the program has changed very little since it was initiated in 1978. This commenter also mentioned that Alabama requires re-examination every three years.

OSM has carefully considered these comments as well as additional information and explanation provided by the State and has concluded that the proposed Alabama blaster certification, including re-certification provisions, is no less effective than the Federal requirements. Allowing re-certification of blasters certified before January 1, 1982, without re-examination, will not render the program less effective because the Alabama program since 1978 has required examination of blasters in the topics included in the new Federal rules. Moreover, all blasters are re-examined every three years. Blasters qualifying for the January 1, 1982 exemption will soon be re-examined under the three-year requirement.

V. Director's Decision

The Director, based on the above findings, is approving the January 9, 1984, amendment to the Alabama program as modified on May 3, 1984. This approval is contingent upon the ASMC adopting this amendment and proposed revisions as submitted to OSM on January 9, and May 3, 1984. The Director is amending Part 901 of 30 CFR Chapter VII to reflect approval of the above State program modification.

IV. Additional Determinations

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 901

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: September 24, 1984.

William B. Schmidt,

Acting Director, Office of Surface Mining.

PART 901—ALABAMA

30 CFR 901.15 is amended by adding a new paragraph (d) as follows:

§ 901.15 Approval of regulatory program amendments.

* * * * *

(d) The following amendment submitted to OSM on January 9, 1984 as modified on May 3, 1984 is approved effective September 27, 1984: Alabama's blaster certification program, as contained in the Alabama regulations at: 880–X–10C–.30(c), 880–X–10D–.28(3) and 880–X–12A–.01 through 880–X–12A–.08, and all other items as submitted by Alabama on January 9, 1984, and May 3, 1984.

(Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*))

[FR Doc. 84–25687 Filed 9–26–84; 8:45 am]
BILLING CODE 4310–05–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD2 84–44]

Special Local Regulations; River Rally

AGENCY: Coast Guard, DOT.

VOL 49 ISS 189 SE 27 1984 UMI

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for Miles 469.4 to 470.4, Ohio River. Power boat races, sternwheeler races, tow boat pushoffs, an "Anything That Floats Parade" and a boat parade will be held at Cincinnati, Ohio. These special local regulations are needed to provide for the safety of life and property on navigable waters during the events.

EFFECTIVE DATE: These regulations will be effective on the following days: October 5 and 6, 1984.

FOR FURTHER INFORMATION CONTACT: Lt. B.J. Willis, Chief, Boating Technical Branch Second Coast Guard District, 1430 Olive St., St. Louis, MO 63103, (314) 425–5971.

SUPPLEMENTARY INFORMATION: These special local regulations are issued pursuant to 33 U.S.C. 1233 and 33 CFR 100.35, for the purpose of promoting the safety of life and property on the Ohio River between miles 469.4 and 470.4 during the "River Rally", October 5 and 6, 1984. This event will consist of power boat races, sternwheeler races, tow boat pushoffs, an "Anything That Floats Parade" and a boat parade which could pose hazards to navigation in the area.

Therefore, these special local regulations are deemed necessary for the promotion of safety of life and property in the area during this event. A notice of proposed rule making has not been published for these regulations and they are being made effective less than 30 days from the date of publication. Following normal rule making procedures would have been contrary to the public interests under 5 U.S.C. 553(b)(3)(B) immediate action is necessary to guard against the hazards associated with this event. Therefore the Coast Guard has determined that good cause exists under 5 U.S.C 553(d)(3) to make this rule effective in less than 30 days after publication in the **Federal Register**.

These regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. This conclusion follows from the fact that the duration of the regulated area is short. In addition, these regulations are considered to be nonsignificant in accordance with guidelines set forth in the Policies and Procedures for Simplification Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80). An economic evaluation has not been conducted since, for the reasons discussed above, its impact is expected to be minimal. In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), it is also certified that these rules will not have a significant economic impact on a substantial number of small entities. This rule is necessary to insure the protection of life and property in the area during the event.

Drafting Information

The drafters of this regulation are BMCM W.L. Giessman, USCGR, Project Officer, Boating Technical Branch, and LCDR W.A. Cassels, USCG, Project Attorney, Second Coast Guard District Legal Office.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Final Regulations

PART 100—[AMENDED]

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended by adding a temporary § 100.35–0243 to read as follows:

§ 100.35–0243 Ohio River, miles 469.4 through 470.4.

(a) *Regulated Area:* The area between Mile 469.4 and 470.4 Ohio River is designated the regatta area, and may be closed to commercial navigation or mooring during the following days and (local) times:

October 5, 10:00 a.m. to 7:00 p.m.
October 6, 11:00 a.m. to 7:00 p.m.

The above times represent a guideline for possible intermittent river closures not to exceed FOUR (4) hours in duration each. Mariners will be afforded enough time between such closure periods to transit the area in a timely manner.

(b) *Special Local Regulations:* Vessels desiring to transit the regulated area may do so only with prior approval of the Patrol Commander and when so directed by that officer. Vessels will be operated at a no wake speed to reduce the wake to a minimum and in a manner which will not endanger participants in the event or any other craft. The rules contained in the above two sentences shall not apply to participants in the event of vessels of the patrol, while they are operating in the performance of their assigned duties.

(1) The Patrol Commander may be reached on Channel 16 (156.8MHZ) when necessary, by the call sign "COAST GUARD PATROL COMMANDER".

(c) A succession of sharp, short signals by whistle or horn from vessels patrolling the areas under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Vessels so signalled shall stop and shall comply with the orders of the Patrol Vessel. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(d) The Patrol Commander may establish vessel size and speed limitations and operating conditions.

(e) The Patrol Commander may restrict vessel operation within the regatta area to vessels having particular operating characteristics.

(f) The Patrol Commander may terminate the marine event or the operation of any vessel at any time it is deemed necessary for the protection of life and property.

(g) This § 100.35–0243 will be effective on the following days and times:

October 5, 10:00 a.m. to 7:00 p.m.
October 6, 11:00 a.m. to 7:00 p.m.
ALL TIMES LISTED ARE LOCAL TIME.

(33 U.S.C. 1233–1235; 46 U.S.C 4308; 49 U.S.C. 108; 33 CFR 100.35, 100.40; 49 CFR 1.46(b), 1.46(n)(1))

Dated: September 14, 1984.

B.F. Hollingsworth,

Rear Admiral, U.S. Coast Guard Commander, Second Coast Guard District.

[FR Doc. 84–25882 Filed 9–26–84; 8:45 am]
BILLING CODE 4910–14–M

33 CFR Part 165

[COTP San Francisco Regulation 84–4]

Safety Zone Regulations; San Francisco Bay

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing three temporary safety zones in San Francisco Bay on 12 and 13 October 1984. These zones are needed to provide for safety of life on navigable waters during U.S. Navy activities for the annual Navy Fleet Week. Entry into these zones is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATES: These regulations are effective on 12 October 1984 between 12:30 p.m. and 2:30 p.m. PDT and on 13 October 1984 between 10:00 a.m and 1:30 p.m. PDT.

FOR FURTHER INFORMATION CONTACT: LTJG S.J. Boyle, Marine Safety Office, San Francisco Bay, (415) 437–3073.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking was not published for this regulation and it is being made effective in less than 30 days after **Federal Register** publication.

Following normal rulemaking procedures would be contrary to the public's interest under 5 U.S.C. 553(b)(B) since immediate action is necessary to

protect persons and property during this event. Therefore, the Coast Guard has determined that good cause exists under 5 U.S.C. 553(d)(3) to make this rule effective in less than 30 days after publication in the Federal Register.

Drafting Information

The drafters of this regulation are LTJG S.J. Boyle, project officer for the Captain of the Port, and CDR W.K. Bissell, project attorney, Twelfth Coast Guard District Legal Office.

Discussion of Regulation

The events requiring this regulation will begin at 10:00 a.m. PDT, 13 October 1984 with a parade of 21 U.S. Navy ships proceeding inbound the main bar channel led by the U.S.S. *San Francisco*, U.S.S. *Long Beach*, and U.S.S. *Constellation* in a single line followed by two parallel columns of nine ships each. The vessels will be spaced at 1000 yards intervals with 500 yards separating the two parallel columns. The vessels will proceed at a speed of 12 knots under the Golden Gate Bridge, along the San Francisco city front to a point south of the San Francisco-Oakland Bay Bridge. The column will then disperse to individual berths. The parade of ships will be followed by a U.S. Navy Blue Angels aerial demonstration beginning at 11:00 a.m. PDT and lasting until 1:30 p.m. PDT. The demonstration will center on a flight line between Fort Point and Pier 39, San Francisco with the aircraft flying as low as 100' above the water. The Blue Angels will stage a practice demonstration on 12 October 1984 between 12:30 p.m. and 2:30 p.m. PDT in the same area.

The Safety Zones established by this regulation are necessary to ensure that vessels remain safely away from the naval activities. The Blue Angels require a clear area along their flight line for navigational reference. Two Coast Guard vessels will be stationed within that clear area to serve as navigational reference points. The aircraft will fly at extremely low altitudes above the water, necessitating that vessels be kept clear for their own safety. The Navy ships proceeding through the Bay in column formation are large, relatively unmaneuverable vessels, requiring unobstructed waters for safe navigation and to maintain a column formation.

The Safety Zone established for the Blue Angels demonstration will restrict access to marinas and commercial docks. This restriction may result in some inconvenience to vessels berthed within the safety zones. All efforts have been made to minimize this inconvenience by limiting the duration and size of the zones as much as possible, consistent with safety requirements. Additionally, Captain of the Port permission has been written into the regulation to allow vessels berthed within the zones to depart their berths during the existence of the zones. Such vessels are nonetheless strongly advised to depart their berths prior to the effective times to avoid transitting the zones.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Vessels, Waterways.

Regulation

PART 165—[AMENDED]

In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations is amended by adding a new § 165.T12–4 to read as follows:

§ 165.T12–4 Safety zones: San Francisco Bay Fleet Week Activities.

(a) *Locations.* The following areas are safety zones: (1) The waters of San Francisco Bay between Fort Point and Pier 39, San Francisco, from the shoreline out to 1,000 yards, on 12 October 1984 from 12:30 p.m. to 2:30 p.m. PDT and on 13 October 1984 from 11:00 a.m. to 1:30 p.m. PDT.

(2) The waters surrounding the columns of U.S. Navy ships proceeding inbound at a speed of 12 knots from the Golden Gate Bridge along the San Francisco city front to the Oakland Bay Bridge, on 13 October 1984 from 10:00 a.m. to 1:00 p.m. PDT. This moving Safety Zone extends out 200 yards on either side of a line running from a point 200 yards in front of the lead ship, through each succeeding vessel, to a point 200 yards astern of the last ships in the columns, including all waters between the vessels.

(b) *Regulations:* (1) In accordance with the general regulations in § 165.23 of this part, entry into these zones is prohibited unless authorized by the Captain of the Port.

(2) Vessels berthed in the stationary zones established in paragraph (a)(1) of this section are authorized to navigate within 50 yards of the San Francisco city front in order to exit the zone towards the east.

(3) All vessels are prohibited from passing between the U.S. Navy ships in formation or otherwise entering the safety zone established in paragraph (a)(2) of this section.

(33 U.S.C. 1225 and 1231; 49 CFR 1.46; 33 CFR 165.3)

Dated: September 12, 1984.

D. Zawadzki,

Commander, U.S. Coast Guard, Alternate Captain of the Port, San Francisco Bay.

[FR Doc. 84-25364 Filed 9-26-84; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Docket No. NH 84–1030; A–1–FRL–2682–4]

Approval and Promulgation of Implementation Plans; New Hampshire—Markem Corporation Compliance Schedule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving State Implementation Plan revisions submitted by the State of New Hampshire. These revisions provide a compliance schedule for Markem Corporation which will enable the source to comply with the VOC emissions regulations required by the SIP. The intended effect of this action is to reduce VOC emissions from the source to less than 100 tons per year after July 1, 1985. The revisions are approved under Section 110 of the Clean Air Act.

EFFECTIVE DATE: October 29, 1984.

ADDRESSES: Copies of the submittal are available for public inspection at Room 2313, JFK Federal Building, Boston, MA 02203; Public Information Reference Unit, EPA Library, 401 M Street, SW, Washington, D.C. 20460; Office of the Federal Register, 1100 L Street, NW, Room 8401, Washington, D.C. 20408; and the New Hampshire Air Resources Agency, Health and Welfare Building, Hazen Drive, Concord, New Hampshire 03301.

FOR FURTHER INFORMATION CONTACT: Bridget E. McGuiness at (617) 223–4572.

SUPPLEMENTARY INFORMATION: In the May 31, 1984 Federal Register (49 FR 22668), EPA published a Notice of Proposed Rulemaking (NPR) for Markem Corporation's Compliance Schedule. There were no public comments on the NPR. The revisions and the rationale for EPA's proposed action are explained in that NPR and will not be restated here.

Final Action

EPA is approving Markem Corporation's Compliance Schedule to install an incinerator by July 1, 1985.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations, and Incorporation by reference.

Authority: Sec. 110(a) and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410(a) and 7601(a)).

Note: Incorporation by reference of the State Implementation Plan for the State of New Hampshire was approved by the Director of the **Federal Register** on July 1, 1982.

Dated: September 21, 1984.

William D. Ruckelshaus,

Administrator.

PART 52—[AMENDED]

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart EE—New Hampshire

1. Section 52.1520, paragraph (c) is amended by adding paragraph (32) as follows:

§ 52.1520 Identification of plan.

* * * * *

(c)

(32) A revision submitted on December 22, 1983 which requires Markem Corporation to install an incinerator. The installation of the incinerator must be completed by July 1, 1985.

2. Section 52.1524 paragraph (a) is amended by adding the following:

§ 52.1524 Compliance schedules.

* * * * *

(a)

Source: Markem Corporation.
Location: Keene, NH.
Regulation involved: No. 1204.05.
Date of adoption: February 10, 1984.
Effective Date: February 19, 1981.
Final Compliance Date: July 1, 1985.

[FR Doc. 84-25647 Filed 9-26-84; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 52

[Region II, Docket No. 38; A-2-FRL-2681-7]

Approval and Promulgation of Implementation Plans; Revision to the Commonwealth of Puerto Rico Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice announces that the Environmental Protection Agency is approving under the provisions of the Clean Air Act a request from the Commonwealth of Puerto Rico to revise its Implementation Plan. This approval has the effect of allowing either of two boilers operated by Bristol Alpha Corporation to burn fuel oil with a sulfur content of 2.50 percent, by weight.

EFFECTIVE DATE: This action is effective on November 26, 1984 unless notice is received within 30 days of today that someone wishes to submit adverse or critical comments.

ADDRESSES: A copy of the Commonwealth of Puerto Rico's submittal, EPA's review of this material and comments received during EPA's public comment period are available for public inspection during normal business hours at the following locations:

Environmental Protection Agency, Air Programs Branch, Room 1005, Region II Office, 26 Federal Plaza, New York, New York 10278
Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, D.C. 20460
Office of Federal Register, Room 8401, 1100 L Street, NW., Washington, D.C. 20408
Environmental Quality Board, P.O. Box 11488, Santurce, Puerto Rico 00902-0792

All comments dealing with the sulfur assignment for the Bristol Alpha Corporation should be addressed to: Richard T. Dewling, Acting Regional Administrator, Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278.

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278 (212) 264-2517.

SUPPLEMENTARY INFORMATION:

Background

On October 20, 1983 (48 FR 48665) the Environmental Protection Agency (EPA) approved a revision to the Puerto Rico Implementation Plan concerning fuel oil sulfur content limitations (known as "sulfur assignments") applicable to 78 sources.

This action approved sulfur assignments of 2.50 and 1.94 percent, by weight, at two identical boilers at the Bristol Alpha Corporation. On May 30, 1984, the Puerto Rico Environmental Quality Board (EQB) wrote to request a further revision to its Implementation Plan to allow 2.50 percent sulfur content fuel to be burned in either (but not both) of Bristol Alpha's boilers. EQB pointed out that, on December 28, 1981, it had approved an amendment to Bristol Alpha's permit reflecting this change and prohibiting Bristol Alpha from operating both boilers simultaneously. A copy of the current permit was included with EQB's May 30, 1984 plan revision request.

As a result of EQB's original plan revision request, it was demonstrated that the operation of both boilers at Bristol Alpha using 2.50 and 1.94 percent sulfur content fuel oil would not violate ambient air quality standards or Prevention of Significant Deterioration increments. Since Puerto Rico's May 30, 1984 request would permit the use of 2.50 percent sulfur content fuel oil at only one boiler at a time, its impact on air quality would be less than the impact already found by EPA to be approvable. Therefore, EPA is approving Puerto Rico's current Implementation Plan revision request.

This notice is issued as required by Section 110 of the Clean Air Act, as amended. The Administrator's decision regarding approval of this proposed SIP revision was based on its meeting the requirements of Section 110 of the Clean Air Act and 40 CFR 51.

EPA is approving this SIP revision request without prior proposal because it is viewed as noncontroversial and no adverse comments are anticipated. The public should be advised that this action will be effective 60 days from today's date. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and the other will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of the Executive Order 12291.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this action is available only by the filing of a petition

for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities (46 FR 8709). The attached rule constitutes a SIP approval under Section 110 within the terms of the January 27 certification. This action only approves an action by the Commonwealth of Puerto Rico. It imposes no new requirements.

List of Subjects in 40 CFR Part 52

Intergovernmental relations, Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Sec. 110 and 301, Clean Air Act, as amended (42 U.S. 7410 and 7601))

Dated: September 21, 1984

William D. Ruckelshaus,

Administrator, Environmental Protection Agency.

Note.—Incorporation by reference of the Implementation Plan for the Commonwealth of Puerto Rico was approved by the Director of the Federal Register on July 1, 1982.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40, Chapter I, Subchapter C, Part 52, Code of Federal Regulations is amended as follows:

Subpart BBB—Puerto Rico

1. Section 52.2720 is amended by adding new paragraph (c)(31) as follows:

§ 52.2720 Identification of plan.

* * * * *

(c) * * *

(31) Revision submitted on May 30, 1984 by the Commonwealth of Puerto Rico's Environmental Quality Board which establishes fuel oil sulfur content limitations (known as "sulfur assignments") applicable to the Bristol Alpha Corporation.

[FR Doc. 84-25648 Filed 9-26-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[EPA Action MO 1598; A-7-FRL-2682-5]

Approval and Promulgation of the Missouri State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: The Missouri Department of Natural Resources submitted their Air Quality Monitoring Plan and requested that it be approved as part of the Missouri State Implementation Plan (SIP) in a letter dated June 6, 1984. The monitoring plan describes the methods used to measure levels of air pollution and reporting procedures for their air quality surveillance network. EPA has determined that the Missouri Air Quality Monitoring Plan meets all of EPA's requirements.

At this time, EPA is publishing a correction and clarification of a notice published on May 22, 1981 (46 FR 27933), pertaining to the Missouri SIP. The section of the notice that amends Title 40 of the Code of Federal Regulations 52.1320(C)(27) was in error. The sentence, "Definitions and amended start-up, shutdown and malfunction provisions in Rules 10 CSR 10–2.030, 10–3.050, 10–3.060, 10–3.080, 10–4.030, 10–4.040 and 10–4.050," should read as "Definitions and amended start-up, shutdown and malfunction provisions in Rules 10 CSR 10–2.030, 10–3.050, 10–3.060, 10–3.080, 10–4.030, 10–4.040 and 10–5.050."

EFFECTIVE DATE: This action will be effective November 26, 1984 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: A copy of the State's submission is available for review at the following addresses:

Environmental Protection Agency, Region VII, Air Branch, 324 East 11th Street, Kansas City, Missouri 64106

Missouri Department of Natural Resources, 1101 Rear Southwest Blvd., Jefferson City, Missouri 65102

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, D.C. 20460

Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20460.

Written comments should be sent to: Jane C. Johnson, Environmental Protection Agency, Region VII, Air Branch, 324 East 11th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Jane C. Johnson at the above address or call (816) 374–3791, (FTS) 758–3791.

SUPPLEMENTARY INFORMATION: Federal regulations concerning ambient air quality surveillance require states to submit plans providing for the establishment and operation of ambient air monitors. The Missouri Air Quality Monitoring Plan provides for a monitoring network that uses acceptable monitoring methods, provides for quality assurance, and provides for location of monitors according to EPA siting criteria. The Plan specifies the monitoring stations to be operated during emergency air pollution episodes, provides for annual review of the system, and provides for availability of the network description and procedures upon request. The Missouri Air Quality Monitoring Plan satisfies the requirements of 40 CFR 58.20, Air Quality Surveillance: Plan Content.

Action

EPA approves this submission as a revision to the Missouri SIP. EPA believes this action is noncontroversial and is approving it without prior proposal. The public is advised that this action is effective November 26, 1984 unless we receive written notice within 30 days from the date of publication that someone wishes to submit adverse or critical comments. In such case, this action will be withdrawn and rulemaking will commence again by announcing a proposal of this action and establishing a comment period.

Under section 307(b)(1) of the Clean Air Act, as amended, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. This action may not be challenged later in proceedings to enforce its requirements.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under 5 U.S.C. 605(b), I have certified that SIP approvals do not have a significant economic impact on a substantial number of small entities.

Incorporation by reference of the State Implementation Plan for the State of Missouri was approved by the Director of the Office of the Federal Register on July 1, 1982.

This notice of final rulemaking is issued under the authority of section 110 of the Clean Air Act, as amended, August 1977 (42 U.S.C. 410).

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen oxides, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Dated: September 21, 1984.

William D. Ruckelshaus,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter 1, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart AA—Missouri

1. Section 52.1320 is amended by revising paragraph (c)(27) and adding a new paragraph (c)(46) as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(27) Definitions and amended start-up, shutdown and malfunction provisions in Rules 10 CSR 10–2.030, 10–3.050, 10–3.060, 10–3.080, 10–4.030, 10–4.040 and 10–5.050.

* * * * *

(46) On June 6, 1984, the Missouri Department of Natural Resources submitted the Air Quality Monitoring State Implementation Plan.

[FR Doc. 84-25648 Filed 9-26-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[Docket No. A-1-FRL 2682-6]

Approval and Promulgation of Implementation Plans; New Hampshire; Berlin TSP Attainment Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving State Implementation Plan revisions submitted by the State of New Hampshire. These revisions will reduce Total Suspended Particulate (TSP) emissions from an unpaved roadway and adjacent areas. The intended effect of this action is to attain the primary TSP National Ambient Air Quality Standards (NAAQS) as required under section 110 of the Clean Air Act.

EFFECTIVE DATE: This action will be effective October 29, 1984.

ADDRESSES: Copies of the submittal are available for public inspection at the Air Management Division, Room 2313, JFK Federal Building, Boston, MA 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M Street SW, Washington, D.C. 20460; Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20408; and the Air Resources Agency, Health and Welfare Building, Hazen Drive, Concord, NH 03301.

FOR FURTHER INFORMATION CONTACT: Susan Hager at (617) 223–4873.

SUPPLEMENTARY INFORMATION: On April 27, 1984 (49 FR 18128), EPA published a Notice of Proposed Rulemaking (NPR) for the Berlin, New Hampshire TSP Attainment Plan.

The proposed attainment plan demonstrated a 66% reduction in TSP emissions which is 12% greater than the State calculated as necessary to attain standards. Based on that demonstration, EPA proposed approval with the understanding that the State include with the final submittal a copy of its administrative order issued to the James River Corporation. The order makes enforceable those measures described in the plan which will be used to achieve the emissions reduction.

On May 9, 1984, New Hampshire submitted a final TSP Attainment Plan for Berlin which includes the administrative order to the James River Corporation. The order, dated May 2, 1984, requires James River to:

1. Pave .55 miles of unpaved roadway in its woodyard and seed bare areas of the woodyard by August 31, 1984.

2. Conduct investigations and submit reports on any elevated TSP concentrations occurring during the period September 1, 1984 through August 31, 1985. If exceedences of the primary TSP standards are recorded during the period, the program will be extended until standards are attained. The Air Resources Agency, after analysis, may require the James River Corporation to pave an additional .1 mile of roadway.

3. Maintain the paved and unpaved roadways and seeded areas in accordance with procedures accepted by the Air Resources Agency.

As discussed in the NPR, EPA has reviewed the New Hampshire submittal and finds it acceptable.

Final Action

EPA is approving the final TSP Plan to attain primary standards in Berlin, New Hampshire and the administrative order issued May 2, 1984 to the James River Corporation which were submitted by the State on May 9, 1984.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations, and Incorporation by reference.

Authority: Sections 110(a) and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410(a) and 7601(a)).

Note.—Incorporation by reference of the State Implementation Plan for the State of New Hampshire was approved by the Director of the **Federal Register** on July 1, 1982.

Dated: September 21, 1984.

William D. Ruckelshaus,

Administrator.

PART 52—[AMENDED]

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart EE—New Hampshire

1. Section 52.1520, paragraph (c) is revised by adding subparagraph (33) as follows:

§ 52.1520 Identification of plan.

* * * * *

(c)* * *

(33) The TSP plan to attain primary standards in Berlin, New Hampshire and the administrative order issued May 2, 1984 to the James River Corporation which were submitted by the Air Resources Agency on May 9, 1984.

[FR Doc. 84-25649 Filed 9-26-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 60

[A-9-FRL-2682-2]

Delegation of New Source Performance Standards (NSPS); State of California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Delegation of authority.

SUMMARY: The EPA hereby places the public on notice of its delegation of NSPA authority to the California Air Resources Board (CARB) on behalf of the Bay Area Air Quality Management District (BAAQMD). This action is necessary to bring the NSPS program delegations up to date with recent EPA promulgations and amendments of these categories. This action does not create

any new regulatory requirements affecting the public. The effect of the delegation is to shift the primary program responsibility for the affected NSPS categories from EPA to State and local governments.

EFFECTIVE DATE: August 20, 1984.

ADDRESS: Bay Area Air Quality Management District, 939 Ellis Street, San Francisco, CA 94109.

FOR FURTHER INFORMATION CONTACT: Julie A. Rose, New Source Section (A–3–1), Air Operations Branch, Air Management Division, EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105, Tel: (415) 974–8236, FTS 454–8236.

SUPPLEMENTARY INFORMATION: The CARB has requested authority for delegation of certain NSPS categories on behalf of the BAAQMD. Delegation of authority was granted by a letter dated August 7, 1984 and is reproduced in its entirety as follows:

Mr. James D. Boyd
Executive Officer, California Air Resources Board, 1102 Q Street, P.O. Box 2815, Sacramento, CA 95812

Dear Mr. Boyd: In response to your request of June 6, 1984, I am pleased to inform you that we are delegating to your agency authority to implement and enforce the New Source Performance Standard (NSPS) Categories in 40 CFR Part 60 listed below on behalf of the Bay Area Air Quality Management District (BAAQMD). We have reviewed your request for delegation and have found the BAAQMD's programs and procedures to be acceptable.

NSPS category	40 CFR 60 subpart
Surface coating of metal furniture	EE.
Graphic arts: publication rotogravure printing	QQ.
Pressure sensitive tape and label surface coating	RR.
Industrial surface coating—large appliances	SS.
Metal coil surface coating operations	TT.
Beverage can surface coating	WW.

Acceptance of this delegation constitutes your agreement to follow all applicable provisions of 40 CFR Part 60, including use of EPA's test methods and procedures. The delegation is effective upon the date of this letter unless the USEPA receives written notice from you or the District of any objections within 10 days of receipt of this letter. A notice of this delegated authority will be published in the **Federal Register** in the near future.

Sincerely,

Judith E. Ayres,
Regional Administrator.

cc: Bay Area Air Quality Management District

With respect to the areas under the jurisdiction of the BAAQMD, all reports, applications, submittals, and other communications pertaining to the above listed NSPS source categories should be directed to the BAAQMD at the address shown in the ADDRESS section of this notice.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

I certify that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act.

This Notice is issued under the authority of section 111 of the Clean Air Act, as amended (42 U.S.C. 1857, *et seq.*).

Dated: September 17, 1984.

John Wise,
Acting Regional Administrator.

[FR Doc. 84–25583 Filed 9–26–84; 8:45 am]
BILLING CODE 6560–50–M

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40 CFR Parts 60 and 61

[A–9–FRL–2681–8]

Delegation of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP); State of Arizona

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of delegation of authority.

SUMMARY: The EPA hereby places the public on notice of its delegation of NSPS and NESHAP authority to the Arizona Department of Health Services (ADHS). This action is necessary to bring the NSPS and NESHAP program delegations up to date with recent EPA promulgations and amendments of these categories. This action does not create any new regulatory requirements affecting the public. The effect of the delegation is to shift the primary program responsibility for the affected NSPS and NESHAP categories from EPA to State and local governments.

EFFECTIVE DATE: August 12, 1984.

FOR FURTHER INFORMATION CONTACT: Julie A. Rose, New Source Section (A–3–1), Air Operations Branch, Air Management Division, EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105, Tel: (415) 974–8236, FTS 454–8236.

SUPPLEMENTARY INFORMATION: The ADHS has requested authority for delegation of certain NSPS and NESHAP categories. Delegation of authority was granted by a letter dated July 31, 1984 and is reproduced in its entirety as follows:

Mr. Charles Anders,
Assistant Director for Environmental Health Services, Division of Environmental Health, Arizona Department of Health Services, State Health Building, 1740 West Adams Street, Phoenix, AZ 85007.

Dear Mr. Anders: In response to your request of June 26, 1984, I am pleased to inform you that we are delegating to your agency authority to implement and enforce certain categories of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP). We have reviewed your request for delegation and have found your present programs and procedures to be acceptable with the exception of Subpart A, General Provisions. This delegation includes authority for the following source categories:

	40 CFR Part 60 subpart
NSPS:	
Storage vessels for petroleum liquids	Ka.
Glass manufacturing plants	CC.
NESHAP:	
General provisions	A.

With regard to your Rule R9–3–801, paragraphs (1) and (3), for Subpart A, General Provisions, EPA cannot approve the substitution of "Director, Arizona Department of Health Services, for (EPA)" "Administrator." This is because EPA cannot delegate certain sections of 40 CFR Part 60; namely, §§ 60.8(b)(2), 60.8(b)(3), and 60.11(e) of Subpart A. Section 60.8 applies to the approval of alternate and equivalent test methods. EPA must retain the authority to approve alternate and equivalent methods which effectively replace a reference test method. This restriction on delegation does not apply to § 60.8(b)(1) which allows for approval of minor modifications to reference methods on a case-by-case basis. This authority allows a field engineer to approve deviations to methods that are necessary due to site-specific problems or circumstances. The Administrator also cannot delegate the authority to grant an alternative opacity standard under § 60.11(e). Therefore, Rule No. R9–3–801 of the Arizona rules and regulations cannot be approved to be delegated.

Acceptance of this delegation constitutes your agreement to follow all applicable provisions of 40 CFR Parts 60 and 61, including use of EPA approved test methods and procedures. The delegation is effective upon the date of this letter unless the USEPA receives written notice from you of any objections within 10 days of receipt of this letter. A notice of this delegated authority will be published in the **Federal Register** in the near future.

Sincerely,

Judith E. Ayres,
Regional Administrator.

With respect to the areas under the jurisdiction of the ADHS, all reports, applications, submittals, and other communications pertaining to the above listed NSPS and NESHAP source categories should be directed to the address shown in the letter of delegation.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

I certify that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act.

This Notice is issued under the authority of section 111 of the Clean Air Act, as amended (42 U.S.C. 1857, *et seq.*).

Dated: September 17, 1984.

John Wise,

Acting Regional Administrator.

[FR Doc. 84-25581 Filed 9-26-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Parts 60 and 61

[A-9-FRL-2682-1]

Delegation of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP); State of Arizona

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Delegation of Authority.

SUMMARY: The EPA hereby places the public on notice of its delegation on NSPS and NESHAP authority to the Maricopa County Health Department (MCHD) in the State of Arizona. This action is necessary to bring the NSPS and NESHAP program delegations up to date with recent EPA promulgations and amendments of these categories. This action does not create any new regulatory requirements affecting the public. The effect of the delegation is to shift the primary program responsibility for the affected NSPS and NESHAP categories from EPA to State and local governments.

EFFECTIVE DATE: August 13, 1984.

FOR FURTHER INFORMATION CONTACT: Julie A. Rose, New Source Section (A-3-1), Air Operations Branch, Air Management Division, EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105, Tel: (415) 974-8236, FTS 454-8236.

SUPPLEMENTARY INFORMATION: The MCHD has requested authority for delegation of certain NSPS and NESHAP categories. Delegation of authority was granted by a letter dated July 31, 1984 and is reproduced in its entirety as follows:

Mr. Robert W. Evans,
Chief Bureau of Air Pollution Control,
Maricopa County Health Department,
1825 E. Roosevelt Street, Phoenix, AZ 85006

Dear Mr. Evans: In response to your request of July 12, 1984, I am pleased to inform you that we are delegating to your agency authority to implement and enforce certain categories of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS). We have reviewed your request for delegation and have found your present programs and procedures to be acceptable. This delegation includes authority for the following source categories:

	40 CFR part 60 subpart
NSPS:	
Surface coating of metal furniture	EE.
Lime manufacturing plants	HH.
Metallic mineral processing plants	LL.
Graphic arts industry: publication rotogravure printing.	QQ.
Pressure sensitive tape & label surface coating operations.	RR.
Industrial surface coating: large appliances	SS.
Metal coil surface coating	TT.
Asphalt processing and asphalt roofing manufacture.	UU.
Synthetic organic chemical manufacturing industry: equipment leaks of VOC.	VV.
Beverage can surface coating industry	WW.
Bulk gasoline terminals	XX.
Equipment leaks of VOC, petroleum refineries and synthetic organic chemical manufacturing industry.	GGG.
Synthetic fiber production facilities	HHH.
NESHAP:	
Equipment Leaks (Fugitive Emission Sources) of Benzene.	J.
Asbestos	M.
Equipment Leaks (Fugitive Emission Sources) Benzene.	V.

I wish to take this opportunity to clarify the effect of EPA's delegation of Subpart A, General Provisions to your agency on April 6, 1983. EPA's delegation does not authorize your agency to approve alternate and equivalent methods which effectively replace a reference test method, unless the modification is minor and the deviation is necessary because of site-specific problems or circumstances (see § 60.8(b)(1)). The Administrator also cannot delegate the authority to grant an alternative opacity standard under § 60.11(e). Therefore, we request that you amend paragraphs (A)(2)(a) and (A)(2)(c) of your Rule 38 to indicate that EPA, rather than the District, maintains authorities identified in §§ 60.8(b)(2), 60.8(b)(3), and 60.11(e).

Acceptance of this delegation constitutes your agreement to follow all applicable provisions of 40 CFR Parts 60 and 61, including use of EPA's test methods and procedures. The delegation is effective upon the date of this letter unless the USEPA receives written notice from you of any objections within 10 days of receipt of this letter. A notice of this delegated authority will be published in the **Federal Register** in the near future.

Sincerely,

Judity E. Ayres,

Regional Administrator.

With respect to the areas under the jurisdiction of the MCHD, all reports, applications, submittals, and other communications pertaining to the above listed NSPS and NESHAP source categories should be directed to the NCHD at the address shown in the letter of delegation.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

I certify that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act.

This Notice is issued under the authority of section 111 of the Clean air Act, as amended (42 U.S.C 1857, *et seq.*).

Dated: September 17, 1984.

John Wise,

Acting, Regional Administrator.

[FR Doc. 84-25582 Filed 9-26-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Parts 60 and 61

[A-9-FRL-2682-3]

Delegation of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP); State of Nevada

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Delegation of authority.

SUMMARY: The EPA hereby places the public on notice of its delegation of NSPS and NESHAP authority to the Nevada Department of Conservation and Natural Resources (NDCNR). This action is necessary to bring the NSPS and NESHAP program delegations up to date with recent EPA promulgations and amendments of these categories. This action does not create any new regulatory requirements affecting the public. The effect of the delegation is to shift the primary program responsibility for the affected NSPS and NESHAP categories from EPA to State and local governments.

EFFECTIVE DATE: September 24, 1984.

FOR FURTHER INFORMATION CONTACT: Julie A. Rose, New Source Section (A-3-1), Air Operations Branch, Air Management Division, EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105, Tel: (415) 974-8236, FTS 454-8236.

SUPPLEMENTARY INFORMATION: The NDCNR has requested authority for delegation of certain NSPS and NESHAP categories. Delegation of authority was granted by letters dated June 14, 1984, July 19, 1984, and September 7, 1984 and are reproduced in their entirety as follows:

June 14, 1984.

Mr. Richard Serdoz
Air Quality Officer, Division of Environmental Protection, Nevada Department of Conservation & Natural Resources, Capitol Complex, Carson City, NV 89710

Dear Mr. Serdoz: In response to your request of May 21, 1984, I am pleased to inform you that we are delegating to your agency authority to implement and enforce the New Source Performance Standard (NSPS) category in 40 CFR Part 60: Subpart HH—Standards of Performance for Lime Manufacturing Plants. We have reviewed your request for delegation and have found your present programs and procedures to be acceptable.

Acceptance of this delegation constitutes your agreement to follow all applicable provisions of 40 CFR Part 60, including use of EPA approved test methods and procedures. The delegation is effective upon the date of this letter unless the USEPA receives written notice from you of any objections within 10 days of receipt of this letter. A notice of this delegated authority will be published in the **Federal Register** in the near future.

Sincerely,

Judith E. Ayres,
Regional Administrator.

July 19, 1984.

Mr. Richard Serdoz
Air Quality Officer, Division of Environmental Protection, Nevada Department of Conservation & Natural Resources, Capitol Complex, Carson City, NV 89710

Dear Mr. Serdoz: In response to your request of June 29, 1984, I am pleased to inform you that we are delegating to your agency authority to implement and enforce the New Source Performance Standard (NSPS) category in 40 CFR Part 60: Subpart GGG—Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries and National Emission Standards for Hazardous Air Pollutants Categories in 40 CFR Part 61: Subparts J and V—National Emission Standard for Equipment Leaks/ Fugitive Emission Sources of Benzene. We have reviewed your request for delegation and have found your present programs and procedures to be acceptable.

Acceptance of this delegation constitutes your agreement to follow all applicable provisions of 40 CFR Parts 60 and 61, including use of EPA approved test methods and procedures. The delegation is effective upon the date of this letter unless the USEPA receives written notice from you of any objections within 10 days of receipt of this letter. A notice of this delegated authority will be published in the **Federal Register** in the near future.

Sincerely,

Judith E. Ayres,
Regional Administrator.

September 7, 1984.

Mr. Richard Serdoz,
Air Quality Officer, Division of Environmental Protection, Nevada Department of Conservation and Natural Resources, Capitol Complex, Carson City, Nevada 89710

Dear Mr. Serdoz: In response to your request of August 22, 1984, I am pleased to inform you that we are delegating to your agency authority to implement and enforce the New Source Performance Standard (NSPS) category in 40 CFR Part 60: Subpart FFF—Standards of Performance for Flexible Vinyl and Urethane Coating and Printing. We have reviewed your request for delegation and have found your present programs and procedures to be acceptable.

Acceptance of this delegation constitutes your agreement to follow all applicable provisions of 40 CFR Part 60, including use of EPA approved test methods and procedures. The delegation is effective upon the date of this letter unless the USEPA receives written notice from you of any objections within 10 days of receipt of this letter. A notice of this delegated authority will be published in the **Federal Register** in the near future.

Sincerely,

Judith E. Ayres,
Regional Administrator.

With respect to the areas under the jurisdiction of the NDCNR, all reports, applications, submittals, and other communications pertaining to the above listed NSPS and NESHAP source categories should be directed to the address shown in the letter of delegation.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

I certify that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act.

This Notice is issued under the authority of section 111 of the Clean Air Act, as amended (42 U.S.C. 1957, *et seq.*).

Dated: September 17, 1984.

John Wise,
Acting Regional Administrator.

[FR Doc. 84-25584 Filed 9-26-84; 8:45 am]
BILLING CODE 6560-50-M

DEPARTMENT OF LABOR

41 CFR Part 29-70

Application of Amended Office of Management and Budget Circulars to Cost Principles for Grants and Agreements

AGENCY: Department of Labor.

ACTION: Final rule.

SUMMARY: The Department of Labor is amending its cost principles for grants and agreements, to make clear that they include subsequent amendments to cited Office of Management and Budget Circulars.

EFFECTIVE DATE: September 27, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Theodore Goldberg, Director, Office of Procurement and Grant Policy, Office of the Assistant Secretary for Administration and Management, U.S. Department of Labor, Room C-4311, 200 Constitution Avenue, NW., Washington, D.C. 20210. Telephone: 202-523-6174.

SUPPLEMENTARY INFORMATION: At 41 CFR 29-70.103, the Department of Labor (DOL) has published cost principles for determining allowable costs for grants and agreements. DOL has interpreted and applied that regulation to include the requirements of subsequent amendments to applicable cited Office of Management and Budget (OMB) Circulars.

On July 9, 1984, OMB, in its coordinating role for agency implementation of its recent "lobbying" revision to Circular A-122 ("Cost Principles for Nonprofit Organizations"), notified DOL that other agencies' cost principles state specifically that subsequent amendments to OMB Circulars apply, and has suggested that DOL amend its regulation to so specify. OMB's recommendation would clarify DOL's regulation and DOL is adopting it by this document. It would make no change in DOL's current interpretation and application of the existing regulation.

This clarifying amendment is effective on the date of publication in the **Federal Register**. After full consideration of all the relevant factors, and for good cause found, DOL has determined that it would be impracticable, unnecessary, and contrary to the public interest to delay the effective date of the amendment. 5 U.S.C. 553(d)(3). The rule clarifies existing language and specifies existing practice and application of DOL. It serves no public purpose to delay the effective date.

Regulatory Impact: The rule clarifies existing language, specifying existing practice and application by DOL. The rule does not have the financial or other impact to make it a major rule, and, therefore, the preparation of a regulatory impact analysis is not necessary. Executive Order 12291.

This document was not preceded by a general notice of proposed rulemaking, and therefore, is not a rule as defined in the Regulatory Flexibility Act. 5 U.S.C. 601(2) and 604(a).

List of Subjects in 20 CFR Part 29-70

Government contracts, Government procurement, Government property management, Grant programs—labor, Grants administration, reporting and recordkeeping requirements.

Promulgation of Final Rule

PART 29-70 [AMENDED]

§ 29-70.103 [Amended]

Accordingly, the introductory paragraph in § 29-70.103 of Part 29-70 of Chapter 29 of Title 41, Code of Federal Regulations, is amended as follows:

The phrase "Federal cost principles referenced in this section" is amended to read "Federal cost principles referenced in this section, including any subsequent amendments to the OMB Circulars cited,".

(5 U.S.C. 301; 28 U.S.C. 49 *et seq.*; 29 U.S.C. 651 *et seq.*; 29 U.S.C. 795; 29 U.S.C. 801 *et seq.*; 30 U.S.C. 801 *et seq.*; 42 U.S.C. 501 *et seq.*; 1101 *et seq.*, and 1321 *et seq.*; 42 U.S.C. 3011 *et seq.*; OMB Circular A-102; OMB Circular A-110)

Signed at Washington, D.C., this 19th day of September 1984.

Thomas C. Komarek,

Assistant Secretary for Administration and Management.

[FR Doc. 84-25416 Filed 9-25-84; 8:45 am]

BILLING CODE 4510-23-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Parts 23, 38, 50, 51b, 51d, 51f, 51g, 52, 52b, 52c, 52d, 52e, 52h, 57, 58, 59, 66, 74, 86, 87, and 110

Public Health; Update of Text; Technical amendments

AGENCY: Public Health Service, HHS.

ACTION: Final rule.

SUMMARY: The Department is making technical amendments to the regulatory text of Public Health Service (PHS) regulations in Title 42 of the Code of Federal Regulations. This action is taken to update PHS organizational references and addresses of PHS offices, and to correct and update cross-references to provisions of the Code of Federal Regulations.

EFFECTIVE DATE: September 27, 1984.

FOR FURTHER INFORMATION CONTACT: Robert L. Spencer, PHS Regulations Officer, Office of the Assistant Secretary for Health, Room 745-G, HHH Building, 200 Independence Avenue, SW., Washington, D.C. 20201, 202-755-4884.

SUPPLEMENTARY INFORMATION: This rule makes technical amendments to correct and update organizational titles, addresses, and cross-references in PHS regulations in Title 42. In 1981, the Public Health Service reorganized several of its agencies and staff offices. As a result, several of the organizational components cited in Title 42 of the Code of Federal Regulations are obsolete. In addition, addresses cited for many of the offices have changed because of relocations.

Further, several of the cross-references within Title 42 and to Title 45 contain minor errors. Finally, cross-references to 45 CFR Part 90, Nondiscrimination on the basis of age in programs or activities receiving Federal financial assistance, became obsolete upon the Department's publication in the **Federal Register** on December 28, 1982 (47 FR 57858) of 45 CFR Part 91, Nondiscrimination on the basis of age in HHS programs or activities receiving Federal financial asistance.

Because these amendments merely update and correct technical information and are not substantive, the Department finds that notice and comment procedures and a delayed effective date are unnecessary. Accordingly, the Department finds good cause for waiving the notive and comment and delayed effective date requirements of the Administrative Procedure Act (5 U.S.C. 553 (b) and (d)(3)).

This rule has no economic impact. Hence, in accordance with section 605(b) of the Regulatory Flexibility Act, the Secretary certifies that the rule will not have a significant economic impact on a substantial number of small entities. The rule is not correct technical information and, therefore, is exempt from Executive Order 12291.

List of Subjects

42 CFR Part 23

Government employees, Health professions, Manpower.

42 CFR Part 38

Disaster Assistance, Government contracts, Grant programs—health, Mental health programs.

42 CFR Part 50

Administration practice and procedure, American Samoa, Drugs, Family planning, Grant programs—health, Guam, Northern Mariana Islands, Pacific Islands Trust Territory, Virgin Islands.

42 CFR Part 51b

Communicable diseases, Grant programs—health, Immunization, Maternal and child health, Sexually transmitted diseases, Tuberculosis, Vaccine preventable diseases, Venereal diseases.

42 CFR Part 51d

Blood diseases, Genetic diseases, Grant programs—health, Health care, Health facilities.

42 CFR Part 51f

Genetic diseases, Grant programs—health.

42 CFR Part 51g

Alcoholism, Education, Grant programs—education, Grant programs—health, Health care, Smoking.

42 CFR Part 52

Grant programs—health, Medical research.

42 CFR Part 52b

Cancer, Grant Programs—health, Heath facilities, Medical research.

42 CFR Part 52c

Educational study programs, Grant programs—health, Medical research.

42 CFR Part 52d

Cancer, Education study programs, Grant programs—health, Health professions.

42 CFR Part 52e

Blood diseases, Grant programs—health, Health care, Health professions, Heart diseases, Lung diseases, Medical research.

42 CFR Part 52h

Government contracts, Grant programs—health, Medical research.

42 CFR Part 57

Dental health, Education of disadvantaged, Educational facilities, Education study programs, Emergency medical services, Grant programs—education, Grant programs—health, Health facilities, Health professions, Loan programs—health, Medical and dental schools, Scholarships and fellowships, Student aid.

42 CFR Part 58

Education study programs, Grant programs—education, Grant programs—health, Health professions, Public health, Student aid.

42 CFR Part 59

Education study programs, Family planning, Grant programs—health, Grant programs—social programs, Health professions, Youth.

42 CFR Part 66

Grant programs—health, Health professions, Medical research.

42 CFR Part 74

Administrative practice and procedure, Health, Laboratories.

42 CFR Part 86

Education study programs, Grant programs—health, Health professions, Occupational safety and health.

42 CFR Part 87

Grant programs—health, Medical research, Occupational safety and health.

42 CFR Part 110

Grant programs—health, Health care, Health facilities, Health insurance, Health maintenance organizations (HMO), Loan programs—health.

Therefore, Title 42 of the Code of Federal Regulations is amended as follows:

Dated: August 20, 1984.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

Approved: September 13, 1984.

Margaret M. Heckler,

Secretary.

Title 42 of the Code of Federal Regulations is amended as follows:

PART 23—NATIONAL HEALTH SERVICE CORPS

1. Part 23 is amendead in § 23.13 by revising paragraph (c) to read as follows:

§ 23.13 What nondiscrimination requirements apply to National Health Service Corp sites?

* * * * *

(c) The Age Discrimination Act of 1975 (42 U.S.C. 6101 *et seq.)* and its implementing regulations, 45 CFR Part 91 (prohibiting nondiscrimination on the basis of age in HHS programs or activities receiving Federal financial assistance). (Sec. 215, Public Health Service Act, 58 Stat. 690 as amended, 63 Stat. 35 (42 U.S.C. 216); sec. 333 *et seq.*, Public Health Service Act, 90 Stat. 2272 (42 U.S.C 254(f))

PART 38—DISASTER ASSISTANCE FOR CRISIS COUNSELING AND TRAINING

2. Part 38 is amended in § 38.5 by revising paragraph (d) to read as follows:

§ 38.5 Grant assistance.

* * * * *

(d) *Other HHS regulations that apply.* Several other regulations apply to grants under this grant. These include, but are not limited to:

42 CFR Part 50, Subpart D—Public Health Service grant appeals procedure
45 CFR Part 16—Procedures of the Departmental Grant Appeals Board
45 CFR Part 74—Administration of grants
45 CFR Part 75—Informal grant appeals procedures
45 CFR Part 80—Nondiscrimination under programs receiving Federal assistance through the Department of Health and Human Services effectuation of Title VI of the Civil Rights Act of 1964
45 CFR Part 81—Practice and procedure for hearings under Part 80 of this Title
45 CFR Part 84—Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance
45 CFR Part 86—Nondiscrimination on the basis of sex in education programs and activities receiving or benefiting from Federal financial assistance
45 CFR Part 91—Nondiscrimination on the basis of age in HHS programs or activities receiving Federal financial assistance

* * * * *

(Sec. 413, Pub. L. 93–288. The Disaster Relief Act of 1974, 88 Stat. 157 (42 U.S.C. 5183) EO 11795, 39 FR 25939, as amended by EO 11910, 41 FR 15681)

PART 50—POLICIES OF GENERAL APPLICABILITY

3. Part 50 is amended as follows:

a. The authority cited at the end of the table of contents of Part 50 is removed.

b. Subpart B is amended by adding the authority for Subpart B as follows:

Subpart B—Sterilization of Persons in Federally Assisted Family Planning Projects

Authority: Sec. 215, Public Health Service Act, 58 Stat. 690 (42 U.S.C. 216); Sec. 1008, Public Health Service Act, 84 Stat. 1507 (42 U.S.C. 300a–4).

* * * * *

c. Section 50.202 is amended by revising the definition of "Public Health Service" to read as follows:

§ 50.202 Definitions.

* * * * *

"Public Health Service" means the Office of the Assistant Secretary for Health, Health Resources and Services Administration, National Institutes of Health, Centers for Disease Control, Alcohol, Drug Abuse and Mental Health Administration and all of their constituent agencies.

* * * * *

d. Subpart D is amended by adding the authority for Subpart D as follows:

Subpart D—Public Health Service Grant Appeals Procedure

Authority: Sec. 215, Public Health Service Act, 58 Stat. 690 (42 U.S.C. 216); 45 CFR 16.3(a)).

* * * * *

e. Section 50.402 is revised to read as follows:

§ 50.402 Applicability.

This subpart is applicable to all grant programs which are subject to 45 CFR Part 16 ("Procedures of the Departmental Grant Appeals Board") and which are administered by the Office of the Assistant Secretary for Health, the National Institutes of Health, the Health Resources and Services Administration, the Centers for Disease Control, Alcohol, Drug Abuse and Mental Health Administration, or the Food and Drug Administration, or by the Public Health Service Regional Offices. For the scope of 45 CFR Part 16, see Appendix A to such part.

f. Subpart E is amended by revising the authority to read as follows:

Subpart E—Maximum Allowable Cost for Drugs

Authority: Sec. 215, Public Health Service Act, 58 Stat. 690 (42 U.S.C. 216).

* * * * *

g. Section 50.502 is amended by revising paragraph (a) to read as follows:

§ 50.502 Definitions.

* * * * *

(a) "Public Health Service" means the Office of the Assistant Secretary for Health, Health Resources and Services Administration, National Institutes of Health, Centers for Disease Control, Alcohol, Drug Abuse and Mental Health Administration, Food and Drug Administration, and all of their constituent agencies.

* * * * *

PART 51b—PROJECT GRANTS FOR PREVENTIVE HEALTH SERVICE

4. Part 51b is amended by revising § 51b.105 to read as follows:

§ 51b.105 Which other HHS Regulations apply to these grants?

Several other HHS regulations apply to grants under this part. These include, but are not limited to:

42 CFR Part 50, Subpart D—Public Health Service grant appeals procedure
45 CFR Part 16—Procedures of the Departmental Grant Appeals Board
45 CFR Part 46—Protection of human subjects

45 CFR Part 74—Administration of grants
45 CFR Part 75—Informal grant appeals procedures
45 CFR Part 76—Debarment and suspension from eligibility for financial assistance
45 CFR Part 80—Nondiscrimination under programs receiving Federal assistance through the Department of Health and Human Services effectuation of Title VI of the Civil Rights Act of 1964
45 CFR Part 81—Practice and procedure for hearings under Part 80 of this Title
45 CFR Part 84—Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance
45 CFR Part 86—Nondiscrimination on the basis of sex in education programs and activities receiving or benefiting from Federal financial assistance
45 CFR Part 91—Nondiscrimination on the basis of age in HHS programs or activities receiving Federal financial assistance

(Secs. 317 and 318, Public Health Service Act, 92 Stat. 3574 and 3582 (42 U.S.C. 247b, 247c); sec. 1743 Pub. L. 97–35, 95 Stat. 763 (31 U.S.C. 1243 note))

PART 51d—GRANTS FOR SERVICE PROJECTS FOR GENETIC AND OTHER DISEASES

5. Part 51d is amended in § 51d.104 by revising paragraph (q) to read as follows:

§ 51d.104 Application for a grant.

* * * * *

(q) Evidence that all applicable requirements for review and approval under title XV of the Act have been met.

* * * * *

(Secs. 215, 1131, Public Health Service Act (42 U.S.C. 216, 300c–21); sec. 502(a), Social Security Act, as amended, 95 Stat. 819–20 (42 U.S.C. 702(a)))

PART 51f—[AMENDED]

6. Part 51f is amended in § 51f.110 by revising paragraph (a) to read as follows:

§ 51f.110 What additional information should an applicant or grantee have about a genetic disease testing or counseling grant?

(a) *Applicability of HHS Department-wide regulations.* Attention is drawn to the following HHS Department-wide regulations which apply to grants under this part:

45 CFR Part 16—Procedures of the Departmental Grant Appeals Board
45 CFR Part 74—Administration of grants
45 CFR Part 80—Nondiscrimination under programs receiving Federal assistance through the Department of Health and Human Services effectuation of Title VI of the Civil Rights Act of 1964
45 CFR Part 81—Practice and procedure for hearings under Part 80 of this title
45 CFR Part 84—Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance
45 CFR Part 91—Nondiscrimination on the basis of age in HHS programs or activities receiving Federal financial assistance

* * * * *

(Sec. 215, Public Health Service Act (42 U.S.C. 216); sec. 1101(a)(1), Public Health Service Act (42 U.S.C. 300b), as amended by Title II of Pub. L. 95–626, 92 Stat. 3570–3590; sec. 502(a) of the Social Security Act, as amended, 95 Stat. 819–20 (42 U.S.C. 702(a)))

7. Part 51g is amended by revising § 51g.8 to read as follows:

§ 51g.8 Which other HHS regulations apply to these grants?

Several other HHS regulations apply to grants under this part. These include, but are not limited to:

42 CFR Part 50, Subpart D—Public Health Service grant appeals procedure
42 CFR Part 122, Subpart E—Health Systems Agency reviews of certain proposed uses of Federal health funds
45 CFR Part 16—Procedures of the Departmental Grant Appeals Board
45 CFR Part 74—Administration of grants
45 CFR Part 75—Informal grant appeals procedures
45 CFR Part 80—Nondiscrimination under programs receiving Federal assistance through the Department of Health and Human Services effectuation of Title VI of the Civil Rights Act of 1964
45 CFR Part 81—Practice and procedure for hearings under Part 80 of this Title
45 CFR Part 84—Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance
45 CFR Part 86—Nondiscrimination on the basis of sex in education programs and activities receiving or benefiting from Federal financial assistance
45 CFR Part 91—Nondiscrimination on the basis of age in HHS programs or activities receiving Federal financial assistance

(Sec. 215, Public Health Service Act, 58 Stat. 690 (42 U.S.C. 216); sec. 1703(a), Public Health Service Act, 90 Stat. 897 (42 U.S.C. 300u–2(a)))

PART 52—GRANTS FOR RESEARCH PROJECTS

8. Part 52 is amended by revising § 52.8 to read as follows:

§ 52.8 Other HHS regulations that apply.

Several other HHS regulations apply to grants under this part. These include, but are not limited to:

42 CFR Part 50, Subpart D—Public Health Service grant appeals procedure
45 CFR Parts 6 and 8—Inventions and patents
45 CFR Part 16—Procedures of the Departmental Grant Appeals Board
45 CFR Part 46—Protection of human subjects
45 CFR Part 74—Administration of grants
45 CFR Part 75—Informal grant appeals procedures
45 CFR Part 80—Nondiscrimination under programs receiving Federal assistance through the Department of Health and Human Services effectuation of Title VI of the Civil Rights Act of 1964
45 CFR Part 81—Practice and procedure for hearings under Part 80 of this Title
45 CFR Part 84—Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance
45 CFR Part 86—Nondiscrimination on the basis of sex in education programs and activities receiving or benefiting from Federal financial assistance
45 CFR Part 91—Nondiscrimination on the basis of age in HHS programs or activities receiving Federal financial assistance
48 FR 24556—Guidelines for Research involving Recombinant DNA Molecules, published by the National Institutes of Health

(Sec. 215, 58 Stat. 690, as amended, 63 Stat. 835 (42 U.S.C. 216); sec. 301, 58 Stat. 691, as amended, 60 Stat. 423, 62 Stat. 467, 601, 1017, 70 Stat. 490, 74 Stat. 1053, 85 Stat. 785, 86 Stat. 687, 88 Stat. 348, 360 (42 U.S.C. 241); sec. 303, 70 Stat. 929, as amended, 84 Stat. 1241, 88 Stat. 132, 346 (42 U.S.C. 242a); sec. 356, 82 Stat. 1174 (42 U.S.C. 263d); sec. 394, 79 Stat. 1062, as amended, 84 Stat. 63, 64, 66, 67, 87 Stat. 92, 88 Stat. 372 (42 U.S.C. 280b–5); sec. 1004, 89 Stat. 306, 352, as amended, 91 Stat. 389 (42 U.S.C. 300a–2); sec. 1006, 89 Stat. 308 (42 U.S.C. 300a–4); sec. 501, 90 Stat. 1038 (42 U.S.C. 4585); sec. 1205, 87 Stat. 597 (42 U.S.C. 300d–4); sec. 410, 68 Stat. 84, as amended, 90 Stat. 247, 90 Stat. 1040 (21 U.S.C. 1177); sec. 309(b), 92 Stat. 3447 (42 U.S.C. 242n); sec. 955(a), Pub. L. 97–35, 95 Stat. 589 (42 U.S.C. 300z–7(a)(1))

PART 52b—NATIONAL CANCER INSTITUTE CONSTRUCTION GRANTS

9. Part 52b is amended by revising § 52b.6 to read as follows:

§ 52b.6 Other HHS regulations that apply.

Several other regulations apply to grants under this subpart. These include, but are not limited to:

42 CFR Part 50, Subpart D—Public Health Service grant appeals procedure
45 CFR Part 16—Procedures of the Departmental Grant Appeals Board
45 CFR Part 74—Administration of grants
45 CFR Part 75—Informal grant appeals procedures
45 CFR Part 80—Nondiscrimination under programs receiving Federal assistance through the Department of Health and Human Services effectuation of Title VI of the Civil Rights Act of 1964
45 CFR Part 81—Practice and procedure for hearings under Part 80 of this Title
45 CFR Part 84—Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance
45 CFR Part 91—Nondiscrimination on the basis of age in HHS programs or activities receiving Federal financial assistance

(Sec. 215, Public Health Service Act, 58 Stat. 690, as amended (42 U.S.C. 216); sec. 408(b), Public Health Service Act, 92 Stat. 3428 (42 U.S.C. 286a); sec. 404(b)(9), Public Health Service Act, 92 Stat. 3427 (42 U.S.C. 285), unless otherwise noted)

PART 52c—MINORITY BIOMEDICAL SUPPORT PROGRAM

10. Part 52c is amended by revising § 52c.7 to read as follows:

§ 52c.7 Other HHS regulations that apply.

Several other regulations apply to grants under this subpart. These include, but are not limited to:

45 CFR Part 50, Subpart D—Public Health Service grant appeals procedure
45 CFR Part 16—Procedures of the Departmental Grant Appeals Board
45 CFR Part 46—Protection of human subjects
45 CFR Part 74—Administration of grants
45 CFR Part 75—Informal grant appeals procedures
45 CFR Part 80—Nondiscrimination under programs receiving Federal assistance through the Department of Health and Human Services effectuation of Title VI of the Civil Rights Act of 1964
45 CFR Part 81—Practice and procedure for hearings under Part 80 of this Title
45 CFR Part 84—Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance
45 CFR Part 86—Nondiscrimination on the basis of sex in education programs and activities receiving or benefiting from Federal financial assistance
45 CFR Part 91—Nondiscrimination on the basis of age in HHS programs or activities receiving Federal financial assistance
48 FR 24556—Guidelines for Research Involving Recombinant DNA Molecules published by the National Institutes of Health

(Sec. 215, Public Health Service Act, 58 Stat. 690, as amended (42 U.S.C. 216); sec. 301(c), Public Health Service Act, 74 Stat. 1053 (42 U.S.C. 241(c)))

PART 52d—NATIONAL CANCER INSTITUTE CLINICAL CANCER EDUCATION PROGRAM

11. Part 52d is amended by revising § 52d.8 to read as follows:

§ 52d.8 Other HHS regulations that apply.

Several other regulations apply to grants under this subpart. These include, but are not limited to:

42 CFR Part 50, Subpart D—Public Health Service grant appeals procedure
45 CFR Part 16—Procedures of the Departmental Grant Appeals Board
45 CFR Part 74—Administration of grants
45 CFR Part 75—Informal grant appeals procedures
45 CFR Part 80—Nondiscrimination under programs receiving Federal assistance through the Department of Health and Human Services effectuation of Title VI of the Civil Rights Act of 1964
45 CFR Part 81—Practice and procedure for hearings under Part 80 of this Title
45 CFR Part 84—Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance
45 CFR Part 86—Nondiscrimination on the basis of sex in education programs and activities receiving or benefiting from Federal financial assistance
45 CFR Part 91—Nondiscrimination on the basis of age in HHS programs or activities receiving Federal financial assistance

(Sec. 215, Public Health Service Act, 58 Stat. 690, as amended (42 U.S.C. 216); sec. 404(a)(4), Public Health Service Act, 92 Stat. 3426 (42 U.S.C. 285))

PART 52e—NATIONAL HEART, LUNG, AND BLOOD INSTITUTE GRANTS FOR PREVENTION AND CONTROL PROJECTS

12. Part 52e is amended by revising § 52e.8 to read as follows:

§ 52e.8 Other HHS regulations that apply.

Several other regulations apply to grants under this subpart. These include, but are not limited to:

42 CFR Part 50, Subpart D—Public Health Service grant appeals procedure
45 CFR Part 16—Procedures of the Departmental Grant Appeals Board
45 CFR Part 46—Protection of human subjects
45 CFR Part 74—Administration of grants
45 CFR Part 75—Informal grant appeals procedures
45 CFR Part 80—Nondiscrimination under programs receiving Federal assistance through the Department of Health and Human Services effectuation of Title VI of the Civil Rights Act of 1964
45 CFR Part 81—Practice and procedure for hearings under Part 80 of this Title
45 CFR Part 84—Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance
45 CFR Part 86—Nondiscrimination on the basis of sex in education programs and activities receiving or benefiting from Federal financial assistance
45 CFR Part 91—Nondiscrimination on the basis of age in HHS programs or activities receiving Federal financial assistance

(Sec. 215, Public Health Service Act, 58 Stat. 690, as amended (42 U.S.C. 216); sec. 414, Public Health Service Act, 88 Stat. 662 (42 U.S.C. 287c))

PART 52h—SCIENTIFIC PEER REVIEW OF RESEARCH GRANT APPLICATIONS AND RESEARCH AND DEVELOPMENT CONTRACT PROJECTS

13. Part 52h is amended as follows:

a. Section 52h.1 is amended by revising paragraph (a) introductory text and paragraph (b) to read as follows:

§ 52h.1 Applicability.

* * * * *

(a) Applications for grants for biomedical and behavorial research, under the Act to the National Institutes of Health; the Alcohol, Drug Abuse, and Mental Health Administration; or any of their components; or the Division of Nursing, Bureau of Health Professions, Health Resources and Services Administration. These regulations do not apply to applications for:

* * * * *

(b) Biomedical and behavorial research and development contract projects administered by the National Institutes of Health; the Alcohol, Drug Abuse, and Mental Health Administration; or any of their components; or the Division of Nursing, Bureau of Health Professions, Health Resources and Services Administration.

* * * * *

b. Section 52h.3 is amended by revising paragraph (b) to read as follows:

§ 52h.3 Establishment and operation of peer review groups.

* * * * *

(b) Subject to § 52h.5 and paragraph (a) of this section, the Director of the National Institutes of Health, the Administrator of the Alcohol, Drug Abuse and Mental Health Administration, and the Administrator of the Health Resources and Services Administration will adopt procedures for the conduct of reviews and the formulation of recommendations under §§ 52h.7, 52h.9 and 52h.10 within their respective agencies.

c. Section 52h.5 is amended by revising paragraph (c) to read as follows:

§ 52h.5 Conflict of interest.

* * * * *

(c) Where permissible under the statutes, standards, and order cited in paragraph (a) of this section, the Director of the National Institutes of Health, the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, the Administrator of the Health Resources and Services Administration, or their designees may waive the requirements in paragraph (b) of this section if he or she determines that there is no other practical means for securing appropriate expert advice on a particular grant application, contract project, or contract proposal.

d. Section 52h.10 is amended by revising paragraph (c) to read as follows:

§ 52h.10 Contract projects involving solicited contract proposals; matters to be reviewed.

* * * * *

(c) The Director of the National Institutes of Health, the Administrator of the Alcohol, Drug Abuse and Mental Health Administration, the

Administrator of the Health Resources and Service Administration, or their designees may identify individual contracts or classes of contracts which may not be awarded unless all pertinent contract proposals have been reviewed by a peer review group in accordance with the provisions of this part and that group has made recommendations concerning the scientific merit of the proposals.

* * * * *

(Sec. 215, Public Health Service Act, 58 Stat. 690, as amended (42 U.S.C. 216); sec. 475, Public Health Service Act, 88 Stat. 360, 89 Stat. 351, 92 Stat. 3436 (42 U.S.C. 2891–4); sec. 955(a), Pub. L. 97–35, 95 Stat. 590 (42 U.S.C. 300z–7(e)), unless otherwise noted)

PART 57—GRANTS FOR CONSTRUCTION OF TEACHING FACILITIES, EDUCATIONAL IMPROVEMENTS, SCHOLARSHIPS AND STUDENT LOANS

14. Part 57 is amended as follows:

Subpart B—Grants for Construction of Teaching Facilities for Health Professions Personnel

The authority for Subpart B continues to read:

Authority: (Sec. 727, Public Health Service Act, 77 Stat. 170 (42 U.S.C. 293g).

a. Section 57.106 is amended by revising paragraph (c) to read as follows:

§ 57.106 Nondiscrimination.

* * * * *

(c) *Discrimination on the basis of sex prohibited.* Attention is called to the requirements of section 704 of the Act, and to 45 CFR Part 83 which together provide that the Secretary may not make a grant, loan guarantee, or interest subsidy payment under title VII of the Act to, or for the benefit of, any school of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, or public health, or any training center for allied health personnel or to any other entity unless the application for the grant, loan guarantee, or interest subsidy payment contains assurances satisfactory to the Secretary that the school, training center or other entity will not discriminate on the basis of sex in the admission of individuals to its training programs.

Subpart C—Health Professions Student Loans

The authority for subpart C continues to read:

Authority: Sec. 215, Public Health Service Act, 58 Stat. 690, as amended, 63 Stat. 35 (42 U.S.C. 216); secs. 740–744, Public Health Service Act, 77 Stat. 170–173, 90 Stat. 2268–2268, 91 Stat. 390–391 (42 U.S.C. 294m–q).

b. Footnote 1 to paragraph (a) of § 57.203 is revised to read as follows:

§ 57.203 Application by school.

* * * * *

[1] Application and instructions are available from the Division of Student Assistance, Bureau of Health Professions, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

c. Section 57.206 is amended by revising paragraph (b)(1) to read as follows:

§ 57.206 Eligibility and selection of health professions student loan applicants.

* * * * *

(b) * * *

(1) The financial resources available to the student by using one of the national need analysis systems or any other procedure approved by the Secretary of Education and published under 34 CFR 674.13 in combination with other information which the school has regarding the student's financial status. The school must take into account, regardless of the tax status of the student, the expected contribution from parents, spouse, self or other family members; and

* * * * *

d. Footnote 1 to paragraph (a) (2) of § 57.210 is revised to read as follows:

§ 57.210 Repayment and collection of health professions student loans.

* * * * *

[1] Individuals who received health professions student loans prior to July 1, 1969, remain subject to the repayment provisions of 42 CFR 57.214(a)(2) (1976) as adopted on February 7, 1974. These provisions can be found at 39 FR 4773 (Feb. 7, 1974) and a copy can be obtained by writing the Division of Student Assistance, Bureau of Health Professions, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

e. Section 57.213 is revised to read as follows:

§ 57.213 Continuation of provisions for cancellation of loans made prior to November 18, 1971.

Individuals who received health professions student loans as students of medicine, osteopathy, dentistry or optometry prior to November 18, 1971, may still receive cancellation of these loans for practicing in a shortage area or for practicing in a rural shortage area characterized by low family income. The regulations set forth in 42 CFR 57.215(b) (1976), as adopted on February 7, 1974 remain applicable to cancellation on this basis. The provisions can be found at 39 FR 4774 (February 7, 1974) and a copy can be obtained by writing to the Division of Student Assistance, Bureau of Health Professions, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Subpart H—Grants for Physician Assistant Training Programs

The authority for subpart H continues to read:

Authority: Sec. 215, Public Health Service Act, 58 Stat. 690, as amended, 63 Stat. 35 (42 U.S.C. 216); sec. 783(a)(1), Public Health Service Act, 90 Stat. 214 (42 U.S.C. 295g–3(a)(1)).

f. Footnote 1 to paragraph (a) of § 57.704 is revised to read as follows:

§ 57.704 Application.

* * * * *

[1] Applications and instructions may be obtained from the Grants Management Officer, Bureau of Health Professions, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Subpart K—Grants to Schools of Nursing for the Support of Their Educational Programs

The authority for Subpart K continues to read:

Authority: Sec. 215, Public Health Service Act, 58 Stat. 690, as amended (42 U.S.C. 216); sec. 810, Public Health Service Act, 89 Stat. 356 (42 U.S.C. 296e).

g. Footnote 1 to paragraph (a) of § 57.1004 is revised to read as follows:

§ 57.1004 Application.

* * * * *

[1] Applications and instructions may be obtained from the Grants Management Officer, Bureau of Health Professions, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Subpart L—Grants for Residency Training in the General Practice of Dentistry

The authority for Subpart L continues to read:

Authority: Sec. 215, Public Health Service Act, 58 Stat. 690, as amended, 63 Stat. 35 (42 U.S.C. 216); sec. 786(b), Public Health Service Act, 90 Stat. 2315 (42 U.S.C. 295g–6(b)).

h. Footnote 1 to paragraph (a) of § 57.1104 is revised to read as follows:

§ 57/1104 How must an entity apply for a grant?

* * * * *

[1] Applications and instructions may be obtained from the Grants Management Officer, Bureau of Health Professions, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Subpart M—Financial Distress Grants to Health Professions Schools

The authority for Subpart M continues to read:

Authority: Sec. 215, Public Health Service Act, 58 Stat. 690, as amended, 63 Stat. 35 (42 U.S.C. 216); sec. 788(b), Public Health Service Act, 90 Stat. 2319 (42 U.S.C. 295g–8(b)).

i. Section 57.1211 is amended by revising paragraph (a) to read as follows:

§ 57.1211 What additional Department regulations apply to grantees?

(a) Several other regulations apply to grants under this subpart. These include, but are not limited to:

42 CFR Part 50, Subpart D—Public Health Service grant appeals procedure
45 CFR Part 16—Procedures of the Departmental Grant Appeals Board
45 CFR Part 46—Protection of human subjects
45 CFR Part 80—Nondiscrimination under programs receiving Federal assistance through the Department of Health and Human Services effectuation of Title VI of the Civil Rights Act of 1964
45 CFR Part 81—Practice and procedure for hearings under Part 80 of this Title
45 CFR Part 83—Regulation for the administration and enforcement of Sections 799A and 845 of the Public Health Service Act [1]
45 CFR Part 84—Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance
45 CFR Part 86—Nondiscrimination on the basis of sex in education programs and activities receiving or benefiting from Federal financial assistance
45 CFR Part 91—Nondiscrimination on the basis of age in HHS programs or activities receiving Federal financial assistance

* * * * *

Subpart O—Grants To Assist New Schools of Medicine, Osteopathy, and Dentistry

The authority for Subpart O continues to read:

Authority: Sec. 215, Public Health Service Act, 58 Stat. 690, as amended (42 U.S.C. 216); sec. 771(a), Public Health Service Act, 85 Stat. 443 (42 U.S.C. 295f–1).

j. Footnote 1 to paragraph (a) of § 57.1404 is revised to read as follows:

§ 57.1404 Application.

* * * * *

[1] Applications and instructions are available from the Grants Management Officer, Bureau of Health Professions, Parklands Building, 5600 Fishers Lane, Rockville, Maryland 20857.

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[1] Section 799A of the Public Health Service Act was redesignated as Section 704 by Pub. L. 94–484; Section 845 of the Public Health Service Act was redesignated as Section 855 by Pub. L. 94–63.

k. Section 57.1409 is amended by revising paragraph (a) to read as follows:

§ 57.1409 Nondiscrimination.

(a) Attention is called to the requirements of section 704 of the Act and 45 CFR Part 83 which together provide that the Secretary may not make a grant, loan guarantee, or interest subsidy payment under title VII of the Act to, or for the benefit of, any school of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, or public health or any training center for allied health personnel or any other entity unless the application for the grant, loan guarantee, or interest subsidy payment contains assurances satisfactory to the Secretary that the school, training center, or other entity will not discriminate on the basis of sex in the admission of individuals to its training programs.

* * * * *

Subpart P—Loan Guarantees and Interest Subsidies To Assist in Construction of Teaching Facilities for Health Profession Personnel

The authority for Subpart P continues to read:

Authority: Sec. 727, Public Health Service Act, 77 Stat. 170, as amended (42 U.S.C. 293g), unless otherwise noted.

l. Footnote 1 to the introductory paragraph of § 57.1504 is revised to read as follows.

§ 57.1504 Application.

* * * * *

[1] Applications and instructions are available from the Division of Facilities Conversion and Utilization, Bureau of Health Maintenance Organizations and Resources Development, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

m. Section 57.1514 is amended by revising paragraph (b)(6) to read as follows:

§ 57.1514 Loan Guarantee and interest subsidy agreements.

* * * * *

(b) * * *

(6) Where during the life of the loan with respect to which interest subsidies are to be paid, it is determined, after an opportunity for a hearing pursuant to 45 CFR Part 83, that the Assurance executed by the applicant under section 704 (or its predecessor, section 799A) of the Act, is no longer satisfactory, the Secretary's obligation with respect to the payment of interest subsidies shall cease: *Provided, however,* That the Secretary shall resume making interest subsidy payments if he determines that a subsequent Assurance submitted by the applicant is satisfactory.

* * * * *

Subpart Q—Grants for Predoctoral, Graduate, and Faculty Development Education Programs in Family Medicine

The authority for Subpart Q continues to read:

Authority: Sec. 215, Public Health Service Act, 58 Stat. 690, as amended, 63 Stat. 35 (42 U.S.C. 216); sec. 786(a), Public Health Service Act, 90 Stat. 2316 (42 U.S.C. 295g–6(a)).

n. Section 57.1609 is revised to read as follows:

§ 57.1609 What additional Department regulations apply to grantees?

Several other regulations apply to these grants. They include, but are not limited to:

42 CFR Part 50, Subpart D—Public Health Service grant appeals procedure
45 CFR Part 16—Procedures of the Departmental Grant Appeals Board
45 CFR Part 46—Protection of human subjects
45 CFR Part 74—Administration of grants
45 CFR Part 75—Informal grant appeals procedures
45 CFR Part 80—Nondiscrimination under programs receiving Federal assistance through the Department of Health and Human Services effectuation of Title VI of the Civil Rights Act of 1964
45 CFR Part 81—Practice and procedure for hearings under Part 80 of this Title
45 CFR Part 83—Regulation for the administration and enforcement of Sections 799A and 845 of the Public Health Service Act [1]
45 CFR Part 84—Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance
45 CFR Part 86—Nondiscrimination on the basis of sex in education programs and activities receiving or benefiting from Federal financial assistance
45 CFR Part 91—Nondiscrimination on the basis of age in HHS programs or activities receiving Federal financial assistance

Subpart R—Grants for the Establishment of Departments of Family Medicine

The authority for Subpart R continues to read:

Authority: Sec. 215, Public Health Service Act, 58 Stat. 690, as amended, 63 Stat. 35 (42 U.S.C. 216); sec. 780, Public Health Service Act, 90 Stat. 2311 (42 U.S.C. 295g), as amended, 95 Stat. 221 (42 U.S.C. 295g).

o. Section 57.1708 is revised to read as follows:

§ 57.1709 What additional Department regulations apply to grantees?

Several other regulations apply to grants under the subpart. These include, but are not limited to:

42 CFR Part 50, Subpart D—Public Health Service grant appeals procedure.
45 CFR Part 16—Procedures of the Departmental Grant Appeals Board
45 CFR Part 46—Protection of human subjects
45 CFR Part 74—Administration of grants
45 CFR Part 75—Informal grant appeals procedures
45 CFR Part 80—Nondiscrimination under programs receiving Federal assistance through the Department of Health and Human Services effectuation of Title VI of the Civil Rights Act of 1964
45 CFR Part 81—Practice and procedure for hearings under Part 80 of this Title
45 CFR Part 83—Regulation for the administration and enforcement of Sections 799A and 845 of the Public Health Service Act [1]
45 CFR Part 84—Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance
45 CFR Part 86—Nondiscrimination on the basis of sex in education programs and activities receiving or benefiting from Federal financial assistance
45 CFR Part 91—Nondiscrimination on the basis of age in HHS programs or activities receiving Federal financial assistance

Subpart S—Educational Assistance to Individuals from Disadvantaged Backgrounds

The authority for Subpart S continues to read:

Authority: Sec. 215, Public Health Service Act, 58 Stat. 690, as amended, 63 Stat. 35 (42 U.S.C. 216); sec. 787, Public Health Service Act, 90 Stat. 2317, as amended, 95 Stat. 923 (42 U.S.C. 295g–7).

p. Section 57.1809 is revised to read as follows:

§ 57.1809 What additional Department regulations apply to grantees?

Several other Department regulations apply to grantees. They include but are not limited to:

45 CFR Part 50, Subpart D—Public Health Service grant appeals procedure
45 CFR Part 16—Procedures of the Departmental Grant Appeals Board
45 CFR Part 46—Protection of human subjects
45 CFR Part 74—Administration of grants
45 CFR Part 75—Informal grant appeals procedures
45 CFR Part 80—Nondiscrimination under programs receiving Federal assistance through the Department of Health and Human Services effectuation of Title VI of the Civil Rights Act of 1964
45 CFR Part 81—Practice and procedure for hearings under Part 80 of this Title
45 CFR Part 83—Regulation for the administration and enforcement of Sections 799A and 845 of the Public Health Service Act [1]
45 CFR Part 84—Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance
45 CFR Part 86—Nondiscrimination on the basis of sex in education programs and activities receiving or benefiting from Federal financial assistance
45 CFR Part 91—Nondiscrimination on the basis of age in HHS programs or activities receiving Federal financial assistance

Subpart T—Nursing Special Project Grants

The authority for Subpart continues to read:

Authority: Sec. 215, Public Health Service Act, 58 Stat. 690, as amended, 63 Stat. 35 (42 U.S.C. 216); sec. 820, Public Health Service Act, 89 Stat. 350, as amended, 95 Stat. 929 (42 U.S.C. 298k).

q. Footnote 1 to paragraph (a) of § 57.1904 is revised to read as follows:

§ 57.1904 Application.

* * * * *

[1] Applications and instructions may be obtained from the Grants Management Officer, Bureau of Health Professions, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Subpart V—Grants for Training in Emergency Medical Services

The authority for Subpart V continues to read:

Authority: Sec. 215, Public Health Service Act, 58 Stat. 690, as amended, 63 Stat. 35 (42 U.S.C. 216); sec. 789, Public Health Service Act, 90 Stat. 2243, as amended, 90 Stat. 2709 (42 U.S.C. 295g–9).

r. Section 57.2112 is revised to read as follows:

§ 57.2112 What additional Department regulations apply to grantees?

Several other regulations apply to grants under this subpart. These include, but are not limited to:

42 CFR Part 50, Subpart D—Public Health Service grant appeals procedure
45 CFR Part 16—Procedures of the Department Grant Appeals Board
45 CFR Part 46—Protection of human subjects
45 CFR Part 74—Administration of grants
45 CFR Part 75—Informal grant appeals procedures
45 CFR Part 80—Nondiscrimination under programs receiving Federal assistance through the Department of Health and Human Services effectuation of Title VI of the Civil Rights Act of 1964
45 CFR Part 81—Practice and procedure for hearings under Part 80 of this Title
45 CFR Part 83—Regulation for the administration and enforcement of Sections 799A and 845 of the Public Health Service Act [1]
45 CFR Part 84—Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance
45 CFR Part 86—Nondiscrimination on the basis of sex in education programs and activities receiving or benefiting from Federal financial assistance
45 CFR Part 91—Nondiscrimination on the basis of age in HHS programs or activities receiving Federal financial assistance

Subpart Y—Grants for Nurse Practitioner Training Programs

The authority for Subpart Y continues to read:

Authority: Sec. 215, Public Health Service Act, 58 Stat. 690, as amended, 63 Stat. 35 (42 U.S.C. 216); sec. 822, Public Health Service Act, 89 Stat. 361 (42 U.S.C. 298m).

s. Footnote 1 to paragraph (a) of § 57.2404 is revised to read as follows:

§ 57.2404 Application.

* * * * *

[1] Applications and instructions may be obtained from the Grants Management Officer, Bureau of Health Professions, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Subpart CC—Scholarships for First Year Students of Exceptional Financial Need

The authority for Subpart CC continues to read:

Authority: Sec. 215, Public Health Service Act, 58 Stat. 690, as amended, 63 Stat. 35 (42 U.S.C. 216); sec. 758, Public Health Service Act, 90 Stat. 2289 (42 U.S.C. 294z).

t. Section 57.2808 is revised to read as follows:

§ 57.2808 What additional Departmental regulations apply to grantees?

Several other regulations apply to these grants. They include, but are not limited to:

42 CFR Part 50, Subpart D—Public Health Service grant appeals procedure
45 CFR Part 16—Procedures of the Departmental Grant Appeals Board
45 CFR Part 74—Administration of grants
45 CFR Part 80—Nondiscrimination under programs receiving Federal assistance through the Department of Health and Human Services effectuation of Title VI of the Civil Rights Act of 1964
45 CFR Part 81—Practice and procedure for hearings under Part 80 of this Title
45 CFR Part 83—Regulation for the administration and enforcement of Sections 799A and 845 of the Public Health Service Act [1]
45 CFR Part 84—Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance
45 CFR Part 86—Nondiscrimination on the basis of sex in education programs and activities receiving or benefiting from Federal financial assistance
45 CFR Part 91—Nondiscrimination on the basis of age in HHS programs or activities receiving Federal financial assistance

Subpart FF—Grants for Residency Training in General Internal Medicine or General Pediatrics

The authority of Subpart FF continues to read:

Authority: Sec. 215, Public Health Service Act, 58 Stat. 690, as amended, 63 Stat. 35 (42 U.S.C. 216); sec. 784, Public Health Service Act, 90 Stat. 2315 (42 U.S.C. 295g–4).

u. Section 57.3110 is revised to read as follows:

§ 57.3110 What additional department regulations apply to grantees?

Several other regulations apply to grants under this subpart. These include, but are not limited to:

42 CFR Part 50, Subpart D—Public Health Service grant appeals procedure
45 CFR Part 16—Procedures of the Departmental Grant Appeals Board
45 CFR Part 46—Protection of human subjects
45 CFR Part 74—Administration of grants
45 CFR 75—Informal grant appeals procedures
45 CFR Part 80—Nondiscrimination under programs receiving Federal assistance through the Department of Health and Human Services effectuation of Title VI of the Civil Rights Act of 1964
45 CFR Part 81—Practice and procedure for hearings under Part 80 of this Title
45 CFR Part 83—Regulation for the administration and enforcement of Sections 799A and 845 of the Public Health Service Act [1]
45 CFR Part 84—Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance
45 CFR Part 86—Nondiscrimination on the basis of sex in education programs and activities receiving or benefiting from Federal financial assistance
45 CFR Part 91—Nondiscrimination on the basis of age in HHS programs or activities receiving Federal financial assistance

Subpart JJ—Grants to Schools of Medicine, Osteopathy, Dentistry, Public Health, Veterinary Medicine, Optometry, Pharmacy, and Podiatry for the Support of Their Educational Programs

The authority for Subpart JJ continues to read:

Authority: Sec. 215, Public Health Service Act, 58 Stat. 690, as amended, 63 Stat. 35 (42 U.S.C. 216), secs. 770–772, Public Health Service Act, 90 Stat. 2290, as amended, 91 Stat. 391 and 1503, 92 Stat. 3456 and 3457 (42 U.S.C. 295f).

v. Section 57.3516 is revised to read as follows:

§ 57.3516 What Additional Department regulations apply to grantees?

Several other regulations apply to these grants. They include, but are not limited to:

45 CFR Part 46—Protection of human subjects
45 CFR Part 74—Administration of grants
45 CFR Part 80—Nondiscrimination under programs receiving Federal assistance through the Department of Health and Human Services effectuation of Title VI of the Civil Rights Act of 1964
45 CFR Part 81—Practice and procedure for hearings under Part 80 of this Title
45 CFR Part 83—Regulation for the administration and enforcement of Sections 799A and 845 of the Public Health Service Act [1]
45 CFR Part 84—Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance
45 CFR Part 86—Nondiscrimination on the basis of sex in education programs and activities receiving or benefiting from Federal financial assistance
45 CFR Part 91—Nondiscrimination on the basis of age in HHS programs or activities receiving Federal financial assistance

Subpart MM—Area Health Education Center Program

The authority of Subpart MM continues to read:

Authority: (Sec. 215, Public Health Service Act, 58 Stat. 690, as amended, 63 Stat. 35 (42 U.S.C. 216); sec. 781, Public Health Service Act, 90 Stat. 2312 (42 U.S.C. 295g–1), as amended).

w. Section 57.3811 is revised to read as follows:

§ 57.3811 What additional Department regulations apply to awardees?

Several other regulations apply to cooperative agreements under this subpart. These include, but are not limited to:

42 CFR Part 50, Subpart D—Public Health Service grant appeals procedure
45 CFR Part 16—Procedures of the Departmental Grant Appeals Board
45 CFR Part 46—Protection of human subjects
45 CFR Part 74—Administration of grants
45 CFR Part 75—Informal grant appeals procedures
45 CFR Part 76—Debarment and suspension from eligibility for financial assistance
45 CFR Part 80—Nondiscrimination under programs receiving Federal assistance through the Department of Health and Human Services effectuation of Title VI of the Civil Rights Act of 1964
45 CFR Part 81—Practice and procedure for hearings under Part 80 of this Title
45 CFR Part 83—Regulation for the administration and enforcement of Sections 799A and 845 of the Public Health Service Act [1]
45 CFR Part 84—Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance
45 CFR Part 86—Nondiscrimination on the basis of sex in education programs and activities receiving or benefiting from Federal financial assistance
45 CFR Part 91—Nondiscrimination on the basis of age in HHS programs or activities receiving Federal financial assistance

Subpart NN—Grants for Various Health Professions Projects

The authority of Subpart NN continues to read:

Authority: Sec. 215, Public Health Service Act, 58 Stat. 690, as amended, 67 Stat. 631 (42 U.S.C. 216); sec. 788(b), Public Health Service Act, 95 Stat. 924 (42 U.S.C. 295g–8).

x. Section 57.3906 is revised to read as follows:

§ 57.3906 What additional Departmental regulations apply to grantees?

42 CFR Part 50, Subpart D—Public Health Service grant appeals procedure
45 CFR Part 16—Procedures of the Departmental Grant Appeals Board
45 CFR Part 46—Protection of human subjects
45 CFR Part 74—Administration of grants
45 CFR Part 75—Informal grant appeals procedures
45 CFR Part 80—Nondiscrimination under programs receiving Federal assistance through the Department of Health and Human Services effectuation of Title VI of the Civil Rights Act of 1964
45 CFR Part 81—Practice and procedure for hearings under Part 80 of this Title
45 CFR Part 83—Regulation for the administration and enforcement of Sections 799A and 845 of the Public Health Service Act [1]
45 CFR Part 84—Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance
45 CFR Part 86—Nondiscrimination on the basis of sex in education programs and activities receiving or benefiting from Federal financial assistance
45 CFR Part 91—Nondiscrimination on the basis of age in HHS programs or activities receiving Federal financial assistance

PART 58—GRANTS FOR TRAINING OF PUBLIC HEALTH AND ALLIED HEALTH PERSONNEL

15. Part 58 is amended as follows:

a. Section 58.9 is revised to read as follows:

§ 58.9 What additional Department regulations apply to grantees?

Several other regulations apply to grantees. They include, but are not limited to:

42 CFR Part 50, Subpart D—Public Health Service grant appeals procedure
45 CFR Part 16—Procedures of the Departmental Grant Appeals Board
45 CFR Part 46—Protection of human subjects
45 CFR Part 74—Administration of grants
45 CFR Part 75—Informal grant appeals procedures
45 CFR Part 80—Nondiscrimination under programs receiving Federal assistance through the Department of Health and Human Services effectuation of Title VI of the Civil Rights Act of 1964
45 CFR Part 81—Practice and procedure for hearings under Part 80 of this Title

45 CFR Part 83—Regulation for the administration and enforcement of Sections 799A and 845 of the Public Health Service Act[1]
45 CFR Part 84—Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance
45 CFR Part 86—Nondiscrimination on the basis of sex in education programs and activities receiving or benefiting from Federal financial assistance
45 CFR Part 91—Nondiscrimination on the basis of age in HHS programs or activities receiving or benefiting from Federal financial assistance

b. Section 58.213 is revised to read as follows:

§ 58.213 What additional Department regulations apply to grantees?

Several other regulations apply to grantees. They include, but are not limited to:

42 CFR Part 50—Subpart D—Public Health Service grant appeals procedure
45 CFR Part 16—Procedures of the Departmental Grant Appeals Board
45 CFR Part 46—Protection of human subjects
45 CFR Part 74—Administration of grants
45 CFR Part 80—Nondiscrimination under programs receiving Federal financial assistance through the Department of Health and Human Services effectuation of Title VI of the Civil Rights Act of 1964
45 CFR Part 81—Practice and procedure for hearings under Part 80 of this Title
45 CFR Part 83—Regulation for the administration and enforcement of Sections 799A and 845 of the Public Health Service Act[1]
45 CFR Part 84—Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance
45 CFR Part 86—Nondiscrimination on the basis of sex in education programs and activities receiving or benefiting from Federal financial assistance
45 CFR Part 91—Nondiscrimination on the basis of age in HHS programs or activities receiving or benefiting from Federal financial assistance

c. Section 58.233 is revised to read as follows:

§ 58.233 What additional Department regulations apply to grantees?

Several other Department regulations apply to grantees. They include, but are not limited to:

42 CFR Part 50, Subpart D—Public Health Service grant appeals procedure
45 CFR Part 16—Procedures of the Departmental Grant Appeals Board
45 CFR Part 46—Protection of human subjects
45 CFR Part 74—Administration of grants
45 CFR Part 80—Nondiscrimination under programs receiving Federal assistance through the Department of Health and Human Services effectuation of Title VI of the Civil Rights Act of 1964
45 CFR Part 81—Practice and procedure for hearings under Part 80 of this Title
45 CFR Part 83—Regulation for the administration and enforcement of Sections 799A and 845 of the Public Health Service Act [1]
45 CFR Part 84—Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance
45 CFR Part 86—Nondiscrimination on the basis of sex in education programs and activities receiving or benefiting from Federal financial assistance
45 CFR Part 91—Nondiscrimination on the basis of age in HHS programs or activities receiving Federal financial assistance

(Sec. 215, Public Health Service Act, 58 Stat. 690, as amended, 63 Stat. 35 (42 U.S.C. 216); secs. 748, 749, and 791, Public Health Service Act, 90 Stat. 2279, as amended by 91 Stat. 1505; as amended and redesignated sec. 792, Public Health Service Act by 96 Stat. 927; 2280, and 2303 (42 U.S.C. 294a, 295h, and h-1b))

PART 59—GRANTS FOR FAMILY PLANNING SERVICES

16. Part 59 is amended as follows:

a. Section 59.10 is revised to read as follows:

§ 59.10 What other HHS regulations apply to grants under this subpart?

Attention is drawn to the following HHS Department-wide regulations which apply to grants under this subpart: These include:

42 CFR Part 50, Subpart D—Public Health Service grant appeals procedure
42 CFR Part 122, Subpart E—Health Systems Agency review of certain proposed uses of Federal health funds
45 CFR Part 16—Procedures of the Departmental Grant Appeals Board
45 CFR Part 19—Limitations on payment or reimbursement for drugs
45 CFR Part 74—Administration of grants
45 CFR Part 80—Nondiscrimination under programs receiving Federal assistance through the Department of Health and Human Services effectuation of Title VI of the Civil Rights Act of 1964
45 CFR Part 81—Practice and procedure for hearings under Part 80 of this Title
45 CFR Part 84—Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance
45 CFR Part 91—Nondiscrimination on the basis of age in HHS programs or activities receiving Federal financial assistance

b. Footnote 1 to paragraph (a) in § 59.204 is revised to read as follows:

§ 59.204 Application for a grant.

* * * * *

[1] Applications and instructions may be obtained from the Program Director, Family Planning Services, at the Regional Office of the Department of Health and Human Services for the region in which the project is to be conducted, or the Office of Family Planning, Office of the Assistant Secretary for Health, Washington, D.C. 20201.

(Sec. 6(c), Public Health Service Act, 84 Stat. 1508 and 1507 (42 U.S.C. 300, 300a-1, and 300a-4))

PART 66—NATIONAL RESEARCH SERVICE AWARDS

17. Part 66 is amended as follows:

a. Section 66.112 is revised to read as follows:

§ 66.112 Other HHS regulations that apply.

Several other regulations and policies may apply to individuals and institutions receiving payments under this subpart. These include, but are not limited to:

45 CFR Parts 6 and 8—Inventions and patents
45 CFR Part 46—Protection of human subjects
45 CFR Part 76—Debarment and suspension from eligibility for financial assistance
45 CFR Part 80—Nondiscrimination under programs receiving Federal assistance through the Department of Health and Human Services effectuation of Title VI of the Civil Rights Act of 1964
45 CFR Part 81—Practice and procedure for hearings under Part 80 of this Title
45 CFR Part 84—Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance
45 CFR Part 86—Nondiscrimination on the basis of sex in education programs and activities receiving or benefiting from Federal financial assistance
45 CFR Part 91—Nondiscrimination on the basis of age in HHS programs or activities receiving Federal financial assistance
48 FR 24556—Guidelines for Research Involving Recombinant DNA Molecules published by the National Institutes of Health

b. Section § 66.207 is revised to read as follows:

§ 66.207 Other HHS regulations and policies that apply.

Several other regulations and policies apply to grants under this subpart. These include, but are not limited to:

42 CFR Part 50, Subpart D—Public Health Service grant appeals procedure
45 CFR Part 16—Procedures of the Departmental Grant Appeals Board
45 CFR Part 46—Protection of human subjects
45 CFR Part 74—Administration of grants
45 CFR Part 75—Informal grant appeals procedures
45 CFR Part 76—Debarment and suspension from eligibility for financial assistance
45 CFR Part 80—Nondiscrimination under programs receiving Federal assistance through the Department of Health and Human Services effectuation of Title VI of the Civil Rights Act of 1964
45 CFR Part 81—Practice and procedure for hearings under Part 80 of this Title

[1] Section 799A of the Public Health Service Act was redesignated as Section 706 by Pub. L. 96-484; Section 845 of the Public Health Service Act was redesignated as Section 855 by Pub. L. 96-83.

45 CFR Part 84—Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance
45 CFR Part 86—Nondiscrimination on the basis of sex in education programs and activities receiving or benefiting from Federal financial assistance
45 CFR Part 91—Nondiscrimination on the basis of age in HHS programs or activities receiving Federal financial assistance
46 FR 24556—Guidelines for Research Involving Recombinant DNA Molecules published by the National Institutes of Health

(Sec. 215, Public Health Service Act, 58 Stat. 690, as amended, (42 U.S.C. 216); sec. 472, Public Health Service Act, 86 Stat. 342 (42 U.S.C. 2891–1))

PART 74—CLINICAL LABORATORIES

18. Part 74 is amended as follows:

a. Section 74.1 is amended by revising paragraphs (f), (g), and (l) to read as follows:

§ 74.1 Definitions.

* * * * *

(f) "Director" means the Director of the Centers for Disease Control, Public Health Service, Department of Health and Human Services.

(g) "Health insurance program" means the program created under Title XVIII of the Social Security Act, pursuant to which individuals are entitled to have payments made on their behalf for services performed by independent laboratories as provided in 42 CFR Part 405, Subpart M.

* * * * *

(l) "Secretary" means the Secretary of Health and Human Services or the Secretary's designee.

* * * * *

b. Section 74.2 is amended by revising paragraph (b)(1) to read as follows:

§ 74.2 Applicability.

* * * * *

(b) * * *

(1) Any laboratory with respect to any category in which it accepts no more than 100 specimens during any calendar year: *Provided*, That the laboratory holds an unrevoked and unsuspended letter of exemption for such category issued upon application submitted by such laboratory to the Director, Centers for Disease Control, 1600 Clifton Road, NE., Atlanta, GA 30333, and upon its agreement to maintain and make available such accession and other records, submit such information and reports, and comply with such provisions of this part as the Secretary may reasonably find necessary to determine its initial and continuing eligibility for exemption under this paragraph. For purposes of this paragraph, a category shall be one of the following: (i) Microbiology and serology; (ii) clinical chemistry; (iii) immunohematology; (iv) hematology; (v) pathology; (vi) radiobioassay.

* * * * *

(Sec. 215, Public Health Service Act, 58 Stat. 690 (42 U.S.C. 216))

PART 86—GRANTS FOR EDUCATION PROGRAMS IN OCCUPATIONAL SAFETY AND HEALTH

19. Part 86 is amended as follows:

a. Footnote 1 to paragraph (a) in § 86.12 is revised to read as follows:

§ 86.12 Application for a grant.

* * * * *

[1] Applications and instructions may be obtained from the Procurement and Grants Office, Centers for Disease Control, Atlanta, GA 30333.

b. Footnote 1 to § 86.32 is revised to read as follows:

§ 86.32 Applications for direct traineeships.

* * * * *

[1] Applications and instructions may be obtained from the Procurement and Grants Office, Centers for Disease Control, Atlanta, GA 30333.

(Sec. 8(g), Public Health Service Act, 84 Stat. 1600 (29 U.S.C. 657(g)); sec. 21(a), Public Health Service Act, 84 Stat. 1612 (29 U.S.C. 670(a)))

PART 87—NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY AND HEALTH RESEARCH AND DEMONSTRATION GRANTS

20. Part 87 is amended by revising § 87.9 to read as follows:

§ 87.9 Which other HHS regulations apply?

Several other regulations apply to grants under this part. These include, but are not limited to:

42 CFR Part 50, Subpart D—Public Health Service grant appeals procedure
45 CFR Part 16—Procedures of the Departmental Grant Appeals Board
45 CFR Part 46—Protection of human subjects
45 CFR Part 74—Administration of grants
45 CFR Part 75—Informal grant appeals procedures
45 CFR Part 80—Nondiscrimination under programs receiving Federal assistance through the Department of Health and Human Services effectuation of Title VI of the Civil Rights Act of 1964
45 CFR Part 81—Practice and procedure for hearing under Part 80 of this Title
45 CFR Part 84—Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance
45 CFR Part 91—Nondiscrimination on the basis of age in HHS programs or activities receiving Federal financial assistance

(Sec. 8(g), Public Health Service Act, 84 Stat. 1600 (29 U.S.C. 657(g)); sec. 508, Public Health Service Act, 83 Stat. 803 (30 U.S.C. 957))

PART 110—HEALTH MAINTENANCE ORGANIZATIONS

21. Part 110 is amended by revising footnote 1 to § 110.604 as follows:

§ 110.604 Application requirements.

* * * * *

[1] Application forms and instructions may be obtained by writing the Office of Health Maintenance Organizations, Division of Qualifications, 5600 Fishers Lane, Rockville, MD 20857.

(Sec. 215, Public Health Service Act, 58 Stat. 690 (42 U.S.C. 216); secs. 1301–1318, Public Health Service Act, as amended, 95 Stat. 572–578 (42 U.S.C. 300e-300e-17))

[FR Doc. 84-25395 Filed 9-26-84; 8:45 am]
BILLING CODE 4160-17-M

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42 CFR Part 59

Grants for Family Planning Projects; Parental Notification Requirement

AGENCY: Public Health Service, DHHS.

ACTION: Final rule.

SUMMARY: In 1983, the Department of Health and Human Services published regulations requiring, among other things, parental notification for the provision of prescription contraceptives to minors seeking services from family planning providers funded under Title X of the Public Health Service Act. The implementation of those regulations was subsequently enjoined by Federal District Courts. This rule removes those regulations from the Code of Federal Regulations.

EFFECTIVE DATE: This rule is effective on September 27, 1984.

FOR FURTHER INFORMATION CONTACT: Donald Underwood, (202) 245–0146.

SUPPLEMENTARY INFORMATION: On January 26, 1983, the Secretary of Health and Human Services published regulations amending the regulations applicable to the program for family planning services, Title X of the Public Health Service Act, 42 U.S.C. 300, *et seq.* 48 FR 3600. The regulations, codified at 42 CFR 59.5(a)(12), required parental notification for the provision of prescription contraceptives to minors. They also amended 42 CFR 59.2 by revoking the last sentence of the definition of "low income family."

The rules were scheduled to become effective on February 25, 1983. However, in mid-February, they were enjoined by two Federal District Courts, and both District Court decisions were upheld on appeal. *See State of New York* v.

Schweiker, Civil No. 83 CIV 0726 (S.D.N.Y., 1983), *aff'd, State of New York* v. *Heckler*, 719 F.2d 1191 (2nd Cir., 1983); *Planned Parenthood Federation of America, Inc.* v. *Schweiker*, 559 F. Supp. 658 (D.D.C., 1983), *aff'd, Planned Parenthood Federation of America, Inc.* v. *Heckler*, 712 F.2d 650 (D.C. Cir., 1983). The decisions of the Courts of Appeal were not appealed further. Consequently, the parental notification regulations never went into effect.

In order to remove the parental notification regulations from Part 59 of 42 Code of Federal Regulations, it is necessary to issue a rule removing them. Accordingly, the rule below removes 42 CFR 59.5(a)(12). Furthermore, the revocation of the last sentence of the definition of "low income family" in 42 CFR 59.2 effected by the January 26, 1983 amendment was likewise ineffective, for the reasons set out above. Thus, the rule below restores the definition of that term, as it will appear in the Code of Federal Regulations, to the one in effect prior to January 26, 1983:

"Low income family" means a family whose total annual income does not exceed 100 percent of the most recent Community Services Administration Income Poverty Guidelines (45 CFR 1060.2). "Low-income family" also includes members of families whose annual family income exceeds this amount, but who, as determined by the project director, are unable, for good reasons, to pay for family planning services. For example, unemancipated minors who wish to receive services on a confidential basis must be considered on the basis of their own resources.

Regulatory Procedures

Regulatory Flexibility Act

Because this provision is issued as a final rule without being preceded by a general notice of proposed rulemaking, a final regulatory analysis under section 604 of the Regulatory Flexibility Act (94 Stat. 1167) is not required. In any event, the rule will not have a significant impact on a substantial number of small entities, as the recipients of most of the funds under Title X are state agencies. Further, the primary effect of the amendments below is to remove, rather than add, regulatory requirements. Accordingly, the Secretary certifies that a regulatory flexibility analysis is not required.

Executive Order 12291

There are *no* cost impacts resulting from the revocation of these regulations since the regulations have never been implemented. This is simply a technical change, intended to bring the Code of Federal Regulations into conformance with current practice. Accordingly, the Secretary certifies that there is no impact on small entities, and a regulatory flexibility analysis is not required under the Regulatory Flexibility Act of 1980. Further, this action does not constitute a major rule and a regulatory impact analysis is not required under Executive Order 12291.

Paperwork Reductions

These amendments to the Title X regulations do not require review by the Office of Management and Budget under the Paperwork Reduction Act of 1980, as they impose no information collection requests or requirements. The sole effect of the amendments is to revoke previously approved information collection requirements.

In view of the fact that the amendments below simply make the provisions of the Code of Federal Regulations consistent with the court orders previously entered against the Department, the Secretary has determined that notice and public comment on the amendments would be impractical, unnecessary and contrary to the public interest.

List of Subjects in 42 CFR Part 59

Family planning, Grant programs—health, Youth.

PART 59—[AMENDED]

Accordingly, 42 CFR Part 59 Subpart A is hereby amended as set forth below.

1. The authority citation for Part 59 Subpart A continues to read as follows:

Authority: Sec. 6(c), 84 Stat. 1507, 42 U.S.C. 300 a–4; sec. 6(c), 84 Stat. 1508, 42 U.S.C. 300.

§ 59.5 [Amended]

2. 42 CFR 59.5(a)(12) is removed.

§ 59.2 [Amended]

3. The definition of "low income family" at 42 CFR 59.2 is amended by adding at the end thereof the following words: "For example, unemancipated minors who wish to receive services on a confidential basis must be considered on the basis of their own resources."

Dated: August 20, 1984.

Edward N. Brandt, Jr., M.D.,

Assistant Secretary for Health.

Dated: September 14, 1984.

Approved:

Margaret M. Heckler,

Secretary.

[FR Doc. 84-25898 Filed 9-24-84; 9:29 am]
BILLING CODE 4160-17-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Parts 1, 8, 59 and 151

Technical Amendments to Federal Emergency Management Regulations

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This document makes technical amendments to sundry FEMA regulations. These technical amendments change inaccuracies in the present regulations.

EFFECTIVE DATE: September 27, 1984.

FOR FURTHER INFORMATION CONTACT: William L. Harding, Office of General Counsel, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, Telephone (202) 289–0377.

SUPPLEMENTARY INFORMATION: The regulation makes technical amendments to FEMA regulations and is not substantive in nature. It is routine. Therefore, it is not subject to any of the requirements of 5 U.S.C. 553, Executive Order 12291, the Regulatory Flexibility Act, 44 CFR Part 10 relating to environmental matters, or the Paperwork Reduction Act.

List of Subjects

44 CFR Part 1

Administrative practice and procedure.

44 CFR Part 8

National security information.

44 CFR Part 59

General provisions.

44 CFR Part 151

Government property, fire prevention, Reimbusement for costs of firefighting on Federal property.

Authority: The amendments to Parts 1, 8, 59, and 151 issued under Reorganization Plan No. 3 of 1978, and E.O. 12127, 44 FR 19367, April 3, 1979, E.O. 12148, 44 FR 43239, July 24, 1979 and E.O. 12356, 44 FR 14874, April 6, 1982, and corrected at 44 FR 15557, April 12, 1982.

Accordingly, Chapter I of Title 44, Code of Federal Regulations, is amended as follows:

PART 1—RULEMAKING; POLICY AND PROCEDURES

§ 1.2 [AMENDED]

1. § 1.2(a)(2) is amended by removing the words "of allowances" and adding "or allowances" in place thereof.

§ 1.4 [Amended]

2. § 1.4(d) is amended by removing the words "forums of panels" and adding "forums or panels" in place thereof.

3. The first sentence of paragraph (f)(3) of § 1.12 is revised to read:

§ 1.12 Notice of Proposed rulemaking.

* * * * *

(f) * * *

(3) The initial regulatory flexibility analysis or a summary thereof as required by the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*), or a certification that the rule, if promulgated, will not have a significant economic impact on a significant number of small entities pursuant to 5 U.S.C. 605. Such certification may be made by any FEMA official with rulemaking authority. * * *

* * * * *

PART 8—NATIONAL SECURITY INFORMATION

§ 8.1 [Amended]

4. § 8.1(b) is amended by removing the word "notice" and adding the word "regulation" in place thereof.

§ 8.4 [Amended]

5. § 8.4(g)(1) is amended by adding "/her" after "his".

PART 59—GENERAL PROVISIONS

§ 59.1 [Amended]

6. § 59.1 is amended by adding, in alphabetical sequence, after the definition of *"eligible community"* the following definition:

Elevated Building for insurance purposes, means a non-basement building which was initially designed or built to have the bottom of the lowest floor beam (or equivalent floor support) above the ground level by extended wall foundations, shear walls, posts, piers, pilings or columns such that there would be air space between the lowest floor beam and the ground.

And by deleting the last sentence of the definition of *"Start of construction"*.

PART 151—REIMBURSEMENT FOR COSTS OF FIREFIGHTING ON FEDERAL PROPERTY

§ 151.12 [Amended]

7. Section 151.12(a)(2) is amended by making the second and third sentences as separate, flush, undesignated paragraph to follow paragraph (a)(2).

Dated: September 24, 1984.

George Jett,

General Counsel.

[FR Doc. 84-25535 Filed 9-26-84; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Ch. I

OMB Control Numbers

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Paperwork Reduction Act of 1980 (Pub. L. 96-511; 44 U.S.C. 3501 et seq.), requires, generally, that all regulations which contain recordkeeping or reporting requirements must be approved by the Director, Office of Management and Budget (OMB). Once approved, these regulations are assigned an OMB Control Number. This rule amends Title 46 Ch. I, Code of Federal Regulations to display OMB Control Numbers which have been assigned to Coast Guard regulations contained therein.

EFFECTIVE DATE: This rule is effective September 27, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Bruce Novak, (202) 426-1477.

SUPPLEMENTARY INFORMATION: This final rule was not preceded by a notice of proposed rulemaking and is being made effective in less than 30 days after publication in the Federal Register. This rule merely displays existing OMB Control Numbers pertaining to specific Coast Guard regulations for the public's information. Therefore, the Coast Guard has determined that notice and public procedure thereon are unnecessary under 5 U.S.C. 553(b)(B). Since this rule has no substantive effect, good cause exists for making it effective in less than 30 days after publication, under 5 U.S.C. 553(d).

Drafting Information

The regulation was drafted by LT Dave Shippert, Project Attorney, Office of the Chief Counsel.

Discussion

The purpose of the Paperwork Reduction Act of 1980 (Pub. L. 96-511; 44 U.S.C. 3501 et seq.) is to reduce the burden placed upon the public by recordkeeping and reporting requirements imposed by federal agencies. To achieve this goal, the Act requires that agencies must, generally, obtain approval from the Director, Office of Management and Budget (OMB), before promulgating regulations which impose a recordkeeping or reporting requirement. Once approved an OMB Control Number is assigned to the regulations.

While the Coast Guard has continually strived to minimize the burden imposed upon the public, certain recordkeeping and reporting requirements have been imposed through many of the regulations contained in Title 46 of the Code of Federal Regulations (CFR). These paperwork requirements have been approved as necessary to fulfill the Coast Guard's roles and missions and have been assigned OMB Control Numbers. The Coast Guard has compiled a list of OMB Control Numbers which pertain to regulations within Title 46 of the CFR. This rule revises Title 46 by displaying the OMB Control Numbers in table format for each Subchapter which contains recordkeeping or reporting requirements.

The display of OMB Control Numbers in the CFR will provide assurance to the public that the paperwork requirements have been carefully reviewed and determined to be necessary. Moreover, publication in the CFR is an efficient method of displaying OMB Control Numbers as required by the Paperwork Reduction Act. (44 U.S.C. 3512.)

This display of 46 CFR cites and relevant OMB Control Numbers does not provide an exclusive list of all recordkeeping and reporting requirements within the Title. The regulatory process is an ongoing one and changes are frequent in response to current conditions. Therefore, recently assigned OMB Control Numbers may not be included in this rule. The Coast Guard also utilizes other methods to display applicable OMB Control Numbers to affected parties and many may not have been included in this compilation. As a service to the public and in an effort to achieve the goals of the Paperwork Reduction Act, the Coast Guard will revise and update the tables and individual rules when additional OMB Control Numbers are assigned and compiled.

Regulatory Analysis

This regulation is considered to be non-Major under Executive Order 12291 and non-significant under the DOT Regulatory Policies and Procedures (44 FR 11304; February 26, 1979. The economic impact of this proposal has been found to be so minimal that further evaluation is unnecessary. This rule merely displays existing OMB Control Numbers for the public's information and imposes no new requirement. Since

the impact of this rule is expected to be minimal, the Coast Guard certifies that it will not have a significant economic impact on a substantial number of small entities.

PART 1—[AMENDED]

Accordingly, Title 46, Code of Federal Regulations is revised as follows:

(1) By amending Part 1 to add a new § 1.30 to read as follows:

§ 1.30 OMB Control Numbers assigned pursuant to the Paperwork Reduction Act.

(a) *Purpose.* This section collects and displays the control numbers assigned to information collection and recordkeeping requirements in this subchapter by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). The Coast Guard intends that this section comply with the requirements of 44 U.S.C. 3507(f) which requires that agencies display a current control number assigned by the Director of the OMB for each approved agency information collection requirement.

(b) *Display.*

46 CFR part or section where identified or described	Current OMB control No.
§ 2.01	2115-0007
§ 2.95-10	2115-0141
§ 3.10	2115-0053
Part 4	2115-0003
Part 5	2115-0005

PART 10—[AMENDED]

(2) By amending Part 10 to add a new § 10.01-6 to read as follows:

§ 10.01-6 OMB Control Numbers assigned pursuant to the Paperwork Reduction Act.

(a) *Purpose.* This section collects and displays the control numbers assigned to information collection and recordkeeping requirements in this subchapter by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1980. (44 U.S.C. 3501 et seq.). The Coast Guard intends that this section comply with the requirements of 44 U.S.C. 3507(f) which requires that agencies display a current control number assigned by the Director of the OMB for each approved agency information collection requirement.

(b) *Display.*

46 CFR part or section where identified or described	Current OMB control No.
§ 10.25-7(3)(6)	2115-0083
§ 12.02-1	2115-0514
Part 12	2115-0083
§ 12.02-4	2115-0502
§ 12.02-5(6)	2115-0069
§ 12.02-7(a)(6)	2115-0069
§ 12.02-9	2115-0006
§ 12.02-10	2115-0502
§ 12.02-13	2115-0087
§ 12.02-14	2115-0087
§ 14.05-2	2115-0081
§ 14.05-10(6)	2115-0066
§ 14.05-20	2115-0015
§ 14.20	2115-0053

PART 30—[AMENDED]

(3) By amending Part 30 to add a new § 30.01-2 to read as follows:

§ 30.01-2 OMB Control Numbers assigned pursuant to the Paperwork Reduction Act.

(a) *Purpose.* This section collects and displays the control numbers assigned to information collection and recordkeeping requirements in this subchapter by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). The Coast Guard intends that this section comply with the requirements of 44 U.S.C. 3507(f) which requires that agencies display a current control number assigned by the Director of the OMB for each approved agency information collection requirement.

(b) *Display.*

46 CFR part or section where identified or described	Current OMB control No.
§ 31.10-5(a)	2115-0131
§ 31.10-32	2115-0131
§ 31.10-33	2115-0131
§ 31.37-15	2115-0131
§ 31.40-35	2115-0131

PART 42—[AMENDED]

(4) By amending Part 42 to add a new § 42.01-5 to read as follows:

§ 42.01-5 OMB Control Numbers assigned pursuant to the Paperwork Reduction Act.

(a) *Purpose.* This section collects and displays the control numbers assigned to information collection and recordkeeping requirements in this subchapter by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). The Coast Guard intends that this section comply with the requirements of 44 U.S.C. 3507(f) which requires that agencies display a current control number assigned by the Director of the OMB for each approved agency information collection requirement.

(b) *Display.*

46 CFR part or section where identified or described	Current OMB control No.
Part 42	2115-0043
Part 44	2115-0043
Part 45	2115-0043
Part 46	2115-0043

PART 50—[AMENDED]

(5) By amending Part 50 to add a new § 50.01-20 to read as follows:

§ 50.01-20 OMB Control Numbers assigned pursuant to the Paperwork Reduction Act.

(a) *Purpose.* This section collects and displays the control numbers assigned to information collection and recordkeeping requirements in this subchapter by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). The Coast Guard intends that this section comply with the requirements of 44 U.S.C. 3507(f) which requires that agencies display a current control number assigned by the Director of the OMB for each approved agency information collection requirement.

(b) *Display.*

46 CFR part or section where identified or described	Current OMB control No.
Part 61	2115-0142
Part 63	2115-0142

PART 70—[AMENDED]

(6) By amending Part 70 to add a new § 70.01-15 to read as follows:

§ 70.01-15 OMB Control Numbers assigned pursuant to the Paperwork Reduction Act.

(a) *Purpose.* This section collects and displays the control numbers assigned to information collection and recordkeeping requirements in this subchapter by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). The Coast Guard intends that this section comply with the requirements of 44 U.S.C. 3507(f) which requires that agencies display a current control number assigned by the Director of the OMB for each approved agency information collection requirement.

(b) *Display.*

46 CFR part or section where identified or described	Current OMB control No.
§ 70.01-15	2115-0136

PART 107—[AMENDED]

(7) By amending Part 107 to add a new § 107.05 to read as follows:

§ 107.05 OMB Control Numbers assigned pursuant to the Paperwork Reduction Act.

(a) *Purpose.* This section collects and displays the control numbers assigned to information collection and recordkeeping requirements in this subchapter by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). The Coast Guard intends that this section comply with the requirements of 44 U.S.C. 3507(f) which requires that agencies display a current control number assigned by the Director of the OMB for each approved agency information collection requirement.

(b) *Display.*

46 CFR part or section where identified or described	Current OMB control No.
§ 107.305	2115-0505
§ 107.309	2115-0505

PART 110—[AMENDED]

(8) By amending Part 110 to add a new § 110.01–2 to read as follows:

§ 110.01–2 OMB Control Numbers assigned pursuant to the Paperwork Reduction Act.

(a) *Purpose.* This section collects and displays the control numbers assigned to information collection and recordkeeping requirements in this subchapter by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). The Coast Guard intends that this section comply with the requirements of 44 U.S.C. 3507(f) which requires that agencies display a current control number assigned by the Director of the OMB for each approved agency information collection requirement.

(b) *Display.*

46 CFR part or section where identified or described	Current OMB control No.
§ 110.25	2115-0115

PART 146—[AMENDED]

(9) By amending Part 146 to add a new § 146.01–5 to read as follows:

§ 146.01–5 OMB Control Numbers assigned pursuant to the Paperwork Reduction Act.

(a) *Purpose.* This section collects and displays the control numbers assigned to information collection and recordkeeping requirements in this subchapter by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). The Coast Guard intends that this section comply with the requirements of 44 U.S.C. 3507(f) which requires that agencies display a current control number assigned by the Director of the OMB for each approved agency information collection requirement.

(b) *Display.*

46 CFR part or section where identified or described	Current OMB control No.
§ 146.02–20	2115-0054
§ 146.29–13	2115-0013

PART 150—[AMENDED]

(10) By amending Part 150 to add a new § 150.105 to read as follows:

§ 150.105 OMB Control Numbers assigned pursuant to the Paperwork Reduction Act.

(a) *Purpose.* This section collects and displays the control numbers assigned to information collection and recordkeeping requirements in this subchapter by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). The Coast Guard intends that this section comply with the requirements of 44 U.S.C. 3507(f) which requires that agencies display a current control number assigned by the Director of the OMB for each approved agency information collection requirement.

(b) *Display.*

46 CFR part or section where identified or described	Current OMB control No.
§ 150.01–15	2115-0016
§ 153.5	2115-0016
§ 153.905	2115-0089
§ 153.910	2115-0089
§ 153.999	2115-0089
§ 154.12	2115-0016

PART 157—[AMENDED]

(11) By amending Part 157 to add a new § 157.01–15 to read as follows:

§ 157.01–15 OMB Control Numbers assigned pursuant to the Paperwork Reduction Act.

(a) *Purpose.* This section collects and displays the control numbers assigned to information collection and recordkeeping requirements in this subchapter by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1980, (44 U.S.C. 3501 et seq.). The Coast Guard intends that this section comply with the requirements of 44 U.S.C. 3507(f) which requires that agencies display a current control number assigned by the Director of the OMB for each approved agency information collection requirement.

(b) *Display.*

46 CFR part or section where identified or described	Current OMB control No.
§ 157.15	2115-0514

(12) By amending Part 159 to add a new § 159.001–9 to read as follows:

§ 159.001–9 OMB Control Numbers assigned pursuant to the Paperwork Reduction Act.

(a) *Purpose.* This section collects and displays the control numbers assigned to information collection and recordkeeping requirements in this subchapter by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1980, (44 U.S.C. 3501 et seq.). The Coast Guard intends that this section comply with the requirements of 44 U.S.C. 3507(f) which requires that agencies display a current control number assigned by the Director of the OMB for each approved agency information collection requirement.

(b) *Display.*

46 CFR part or section where identified or described	Current OMB control No.
§ 159.007–11.13	
§ 2115–0090	
§ 160.002–5	2115-0090
§ 160.047–5	2115-0090
§ 160.048–5	2115-0090
§ 160.050–5	2115-0090
§ 160.052–7	2115-0090
§ 160.053–4	2115-0090
§ 160.055–4	2115-0090
§ 160.064–6	2115-0090
§§ 161.001 through 161.010	2115-0121
§§ 162.001 through 161.018	2115-0525
§ 162.041	2115-0525
§ 162.043	2115-0525
§ 164.012–13	2115-0121

PART 175—[AMENDED]

(13) By amending Part 175 to add a new § 175.01–3 to read as follows:

§ 175.01–3 OMB Control Numbers assigned pursuant to the Paperwork Reduction Act.

(a) *Purpose.* This section collects and displays the control numbers assigned to information collection and recordkeeping requirements in this subchapter by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). The Coast Guard intends that this section comply with the requirements of 44 U.S.C. 3507(f) which requires that agencies display a current control number assigned by the Director

of the OMB for each approved agency information collection requirement.

(b) *Display.*

46 CFR part or section where identified or described	Current OMB control No.
§ 178.01-30	2115-0138
§ 177.05	2115-0085
§ 178.10-3	2115-0085
§ 178.20-1	2115-0085
§ 188.10	2115-0514

PART 401—[AMENDED]

(14) By amending Part 401 to add a new § 401.105 to read as follows:

§ 401.105 OMB Control Numbers assigned pursuant to the Paperwork Reduction Act.

(a) *Purpose.* This section collects and displays the control numbers assigned to information collection and recordkeeping requirements in this subchapter by the Office of Management and Budget (OMB) pusuant to the Paperwork Reduction Act of 1980, (44 U.S.C. 3501 et seq.). The Coast Guard intends that this section comply with the requirements of 44 U.S.C. 3507(f) which requires that agencies display a current control number assigned by the Director of the OMB for each approved agency information collection requirement.

(b) *Display.*

46 CFR part or section where identified or described	Current OMB control No.
Part 401	2115-0022

Authorization: 44 U.S.C. 3507; 49 CFR 1.45.

Dated: September 24, 1984.

R.H. Daniels,

Rear Admiral, U.S. Coast Guard, Chairman, Marine Safety Council.

[FR Doc. 84-25869 Filed 9-26-84; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

Amendment To Update Regulations Dealing With the Freedom of Information Act and the Privacy Act; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: This document corrects an erroneous authority citation in the Order in this proceeding concerning regulations dealing with the Freedom of Information Act and Privacy Act, published in the Federal Register on April 4, 1984 (49 FR 13368).

FOR FURTHER INFORMATION CONTACT: Kathleen Fagan, (202) 632-6390.

SUPPLEMENTARY INFORMATION:

Erratum

In the Matter of Amendment of Part 0 of the Commission's Rules to Update Regulations dealing with the Freedom of Information Act and the Privacy Act.

Released: September 18, 1984.

On March 29, 1984, the Commission, by its Managing Director, released an Order (Mimeo #3172) in the captioned proceeding. The authority citation given for the amended rules contained several errors. The correct language should be inserted on page 13367, column one, lines 4–6 to read as follows:

"Authority for this action is contained in sections 4(i) and 303(n) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(n) and Section 0.231(d) of the Commission's rules and regulations. [47 CFR 0.231(d)]."

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84-25871 Filed 9-26-84; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 31

[Docket No. 82-681]

Letter Regarding Declaratory Ruling To Clarify Questions Concerning Certain Amendments to the Uniform System of Accounts

AGENCY: Federal Communications Commission.

ACTION: Declaratory Ruling.

SUMMARY: In response to a request by the New York Department of Public Service, the Common Carrier Bureau under delegated authority is issuing a declaratory ruling to clarify several questions which have been raised in reference to CC Docket No. 82-681. These questions concern the amendments to the Uniform System of Accounts which relate to the installation costs associated with public telephone equipment, the costs of replacing a public telephone with an operating spare, and the costs associated with company official business equipment.

FOR FURTHER INFORMATION CONTACT: Gerald P. Vaughan, Accounting and Audits Division, Common Carrier Bureau, (202) 634-1861.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 31

Communications common carriers, Telephone, Uniform system of accounts.

William J. Tricarico,

Secretary, Federal Communications Commission.

September 20, 1984.

State of New York Department of Public Service,

Three Empire State Plaza, Albany, New York

Attention: David E. Blabey, Counsel.

Gentlemen: This is in reply to your letter of July 23, 1984, in which you request clarification of certain accounting changes ordered in the Report and Order of CC Docket No. 82-681 (Order), published in the Federal Register of November 2, 1983, Volume 48, No. 213. The Order amended the Uniform System of Accounts, Part 31, for telephone companies to make the accounting rules consistent with previous Commission decisions concerning the detariffing of customer premises equipment and the expensing of inside wiring. These amendments were necessary to separate certain regulated and nonregulated costs currently recorded in the same accounts and to clarify certain accounting instructions. The Order established, among other things, new account classifications and accounting instructions for coin-operated and credit card telephones (public telephone equipment), company-used station apparatus, key systems, and large private branch exchanges.

Your first question requests clarification of paragraphs 42 and 46 of the Order. You state that paragraph 42 required the investment in public telephones to be transferred to the new account 235, "Public telephone equipment," but did not specify whether both the embedded station apparatus costs in account 231, "Station apparatus," as well as the embedded installation costs recorded in account 232, "Station connections-inside wiring," are to be transferred. You further state that, on the other hand paragraph 46 required all costs of installing new public telephone equipment including premise wiring to be capitalized in account 235. You believe that the Order was unclear as to whether the installation costs associated with pay telephones and booths recorded in account 232 are to be transferred to account 235 along with the embedded public telephone equipment recorded in account 231.

In paragraph 42 of the Order, the Commission stated that since the effort to separately identify the new and embedded telephone equipment would cause extreme hardship on the carriers, the public telephone equipment transferred (reclassified) to account 235 should not be limited to only the new equipment but should include the embedded equipment. The Commission also required this reclassification to be on a flash-cut basis. Additionally, paragraph 46 of the Order stated that since the costs of installing new public telephones are recovered in future revenues from users of public telephones, it is appropriate to capitalize the costs of installing public telephones and to depreciate

these costs with the future revenues. This requires that all new public telephone investment in enclosures, mountings, directory stands or shelves, and telephone sets and the installation labor costs associated with new public telephone equipment to be capitalized to account 235. Therefore, in response to your question, the Order required the carriers to reclassify the embedded public telephone equipment in account 231 to account 235. However, the embedded inside wiring cost associated with public telephone equipment in account 232 is not to be reclassified but is to be amortized over the authorized period as ordered in CC Docket No. 79–105, *Expensing of Inside Wiring*, 85 FCC 2d 818 (1981).

Your second question requests clarification of paragraph 47 of the Order which required expensing the cost of replacing a public telephone with an operating spare. You ask what accounting treatment is to be provided the original cost of the pay station which is removed; what costs are to be included in the "cost of replacing"; and whether the "cost of replacing" includes both the cost of removing the existing pay station and the cost of installing the new one, or whether the cost of removal is to be charged to the depreciation reserve.

The Order stated that the Commission's primary objective for capitalizing operating spares was to establish the accounting that would provide carriers the ability to maintain a continuity of service for public telephones without incurring retirement accounting to cover this activity. Moreover, the Commission felt that the operating spares concept would not cause any additional hardships on the carriers since the Commission envisioned the capitalized operating spares to be located in specific locations not to exceed six months supply in terms of turnover and available to installers from locations in reasonable proximity to the location of the installed equipment. The accounting for operating spares was established so that the costs for replacing equipment which is normal maintenance would be charged to expense. The Commission also believed this action to be consistent with good accounting principles in that it provides for capitalizing the initial spare equipment purchased to support operated plant.

The disposition of the original cost of the pay station which is removed is dependent upon whether the plant is disposed of or kept as an operating spare. Should a piece of equipment be removed from service and disposed of, § 31.2–25, "Telephone plant retired," of the Commission's Rules and Regulations requires the original cost to be credited to the plant account and charged to account 171, "Depreciation reserve." Account 171 also requires a charge for cost of removal and credits for salvage value. However, if the pay station is removed for repair and replaced by an operating spare, the original cost remains in account 235 while the repair cost and labor cost of removing existing defective public telephone equipment along with the labor cost of installing the operating spare are expensed to account 607, "Repairs of public telephone equipment." Therefore, the costs of replacing defective public telephone equipment with an operating spare which are chargeable to account 607 include the cost of removing the existing equipment and the cost of installing the operating spare. If, however, a repair encompasses the replacement of a retirement unit, the original cost of the equipment will be retired while the replacement will be booked at its new cost to account 235.

An additional accounting situation may arise when a public telephone location is abandoned but the public telephone equipment is retained as an operating spare. Under this circumstance, the original costs will remain in account 235 with the exception of its embedded labor costs. The embedded labor costs associated with the public telephone equipment at this abandoned location is to be retired using § 31.2–25 accounting. However, if returning public telephone equipment to the operating spare supply would exceed the six month supply level, the original costs must be retired, but the salvaged portions of the materials would be transferred to account 122, "Material and supplies."

Your third question concerns account 262, "Other communication equipment," which is the new account for recording the investment in company official business equipment along with its installation costs (including the associated inside wiring). You state that paragraph 52 of the Order appears to require the transfer to account 262 of the company official business equipment installation costs previously recorded in account 232 which are currently being amortized over ten years by CC Docket No. 79–105. You ask if your interpretation is correct, what procedures are to be used to break out the original cost of that investment from the total balance of account 232 and to determine the unamortized balance to be transferred.

The Order established the new account 262 in order to avoid additional recordkeeping which would have been required if account 261, "Furniture and office equipment," were used as originally proposed. This approach will permit carriers to continue to maintain records for this equipment on an average unit basis. Retirement units for account 262 were also established to require all retirements of this equipment to conform with our Rules covering normal retirement accounting as prescribed in § 31.2–25.

The Commission has not altered its decision in CC Docket No. 79–105 regarding the amortization of inside wiring. Your interpretation is therefore not correct. The installation costs associated with inside wiring previously recorded in account 232 are not to be transferred out of account 232 but will continue to be amortized as ordered by this Commission. Account 262 is to be charged with only the new costs associated with installation of inside wiring of company official business equipment.

Your fourth concern relates to the Commission's decision, as stated in paragraphs 54 and 55 of our Order, to allow the amortization of certain company official station equipment having an original cost of $200 or less. You state that there appears to be some incongruity between the decision as expressed in the Order and the revised accounting instructions of account 231. You believe that the language of the revised account 231 appears to drop the qualification that the $200 limit will apply only to embedded used equipment that was not part of the initial installation of the intrasystem.

As stated previously, the Commission established in paragraph 52 of the Order a new account 262 to record the costs associated with the investment and installation of the new and embedded company official business equipment. Since all of the intrasystem equipment would be transferred to account 262, the remaining company-used telephones costing $200 or less in account 231 would be the stand along units and the spares used for replacement of repairs or intrasystems. The language for account 231 would therefore not need to indicate that amortization should apply to that equipment not part of an intrasystem since the intrasystem equipment now resides in account 262.

You also request our concurrence with your interpretation of an "intrasystem" which you define as a self-contained communication system capable of signaling and switching without passing through a central office. You state that this would exclude terminating equipment utilized with a centrex central office installation. You also define "stand alone" equipment as units possessing switching and signaling capabilities. We agree with your definitions of intrasystem and stand alone equipment.

Sincerely,

Stephen Steckler,

Chief, Accounting Branch, Accounting and Audits Division, Common Carrier Bureau.

[FR Doc. 84–25070 Filed 9–26–84; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Parts 73 and 74

Oversight of the Radio and TV Broadcast Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Order adopts corrective additions and updating revisions of the Alphabetical Indices to Parts 73 and 74 of the FCC's Rules.

EFFECTIVE DATE: September 27, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Steve Crane, Mass Media Bureau, (202) 632-5414.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Parts 73 and 74

Radio and TV broadcasting.

Order

In the Matter of Oversight of the Radio and TV Broadcast Rules.

Adopted: September 13, 1984.
Released: September 19, 1984.

By the Chief, Mass Media Bureau.

1. In this *Order*, the Commission corrects, updates and adds listings to the Alphabetical Indices to Parts 73 and 74 of its rules. 47 CFR Parts 73 and 74.

2. Our experience in alphabetically indexing the broadcast rules in Parts 73 and 74 clearly indicates that this data makes possible the location of regulations quickly and easily. This fast access has brought about a better understanding of our rules by broadcasters and practitioners as a result of the rules' ready availability. We also perceive that providing easy access to the rules has reduced considerably the number of letters and phone calls to the FCC requesting help in rule location, thereby minimizing paperwork and administrative workload on the FCC staff, broadcasters and their legal and engineering advisors.

3. No substantive changes are made herein which impose additional burdens or remove provisions relied upon by licensees or the public. We conclude, for the reasons set forth above, that these revisions to Parts 73 and 74 will serve the public interest.

4. These amendments are implemented by authority designated by the Commission to the Chief, Mass Media Bureau. Inasmuch as these amendments impose no additional burdens and raise no issue upon which comments would serve any useful purpose, prior notice of rule making, effective date provisions and public procedure thereon are unnecessary pursuant to the Administrative Procedure and Judicial Review Act provisions of 5 U.S.C. 553(b)(3)(B).

5. Since general notice of proposed rule making is not required, the Regulatory Flexibility Act does not apply.

6. Therefore, it is ordered, That pursuant to sections 4(i), 303(r) and 5(c)(1) of the Communications Act of 1934, as amended, and §§ 0.61 and 0.283 of the Commission's Rules, Parts 73 and 74 of the FCC Rules and Regulations are amended as set forth in the attached appendix, effective on the date of publication in the **Federal Register**.

7. For further information on this *Order*, contact Steve Crane, Mass Media Bureau, (202) 632-5414.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

James C. McKinney,

Chief, Mass Media Bureau.

PART 73—[AMENDED]

Appendix A

The alphabetical index appearing at the beginning of Part 73 is revised and updated to read as follows:

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PART 74—[AMENDED]

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V-W-X-Y-Z

[FR Doc. 84-25678 Filed 9-26-84; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Parts 73 and 74

Oversight of the Radio and TV Broadcast Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Order amends broadcast station regulations in Parts 73 and 74 of the rules of the FCC. Amendments are made to delete regulations that are no longer necessary, correct inaccurate rule texts, contemporize certain requirements and to execute editorial revisions as needed for purposes of clarity and ease of understanding.

EFFECTIVE DATE: September 27, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Steve Crane, (202) 632-5414, Mass Media Bureau.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Parts 73 and 74

Radio and TV Broadcasting.

Order

In the matter of oversight of the radio and TV broadcast rules.

Adopted: September 13, 1984.
By the Chief, **Mass Media Bureau.**

Released: September 18, 1984.

1. In this *Order*, the Commission focuses its attention on the oversight of its radio and TV braodcast rules. Modifications are made herein to update, delete, clarify or correct broadcast regulations as described in the following amendment summaries:

(a) With the adoption of the Report and Order eliminating operating and maintenance logs, § 73.69, Antenna monitors, was revised (BC Docket 82-537, 48 FR 38473, August 24, 1983.) In paragraph (b), several inapt or incorrect terms are used: "derivations" should be "deviations"; "must be determined" should be "are determined." Corrections are made herein. (See appendix item 1.)

(b) For some time the FCC has been converting its standards to the metric system. Some rule sections direct parties to use non-metric figures to certain date and after such date to use metric units. Such a "before and after date" directive is found in § 73.181(f)(1). Since the effective date to use metric data as stated in that subparagraph is long past, reference to use of non-metric in a pre-date period is excised from the rule. (See appendix item 2.)

(c) In paragraph (a) § 73.315, the symbol for microvolts (as in uV/m) is incorrectly used in place of the correct designated of millivolts (mV/m). Correction is made via this Order. (See appendix item 3.)

(d) In the Report and Order amending the FM rules concerning use of Subsidiary Communications Authorizations, § 73.319 was entirely revised and retitled FM multiplex subcarrier technical standards. BC Docket 82-536, 48 FR 28445, June 22, 1983. In subparagraph (d)(1) of § 73.319, extra, meaningless text was introduced. In pertinent part it stated ". . . . arithmetic sum of all subcarriers above 75 kHz may not exceed the *the carrier by more than* 10%, ...". The underlined is the incorrect text, and is excised from the rule herein. (See appendix item 4.)

(e) In the 2nd Report and Order adopted in Docket No. 21323, Use of Subcarrier Frequencies in the Aural Baseband on TV Transmitters, a new definition, Multichannel Television Sound was added to § 73.681. The definition is incorrectly stated in part by failing to use the word "signal" in the term". . . . video portion of the television signal. . . .". It is added herein. (See appendix item 5.)

(f) Permittees of non-directional AM and FM stations (and either directional or non-directional TV stations) may begin program tests after completion of construction upon notification to the FCC in Washington (followed, within 10 days, by filing application for license).

Permittees of AM and FM stations with directional antenna systems must file application for license requesting program test authority at least 10 days prior to the start of such tests.

The program test rule, § 73.1620, states that a proof of performance must also be filed with the program test request from an AM applicant with directional antenna. So must the directionalized FM applicant, the directive to file such proofs being part of the terms and conditions of the construction permit. Via this Order, the requirement to file the FM proof of performance is, for

purposes of clarity, stated in the rule. (See appendix item 6.)

(g) With the adoption of the Report and Order pretaining to hours of operation of daytime-only AM stations, § 73.99 was completely revised, including changing the section title to "Pre-sunrise service authorization (PSRA) and Post-Sunset service authorization (PSSA)". Report and Order in BC Docket 82–536. 48 FR 42944, September 20, 1983. Reference is made to § 73.99 in Subpart H, § 73.1735, using the old section title, and the old text which reflects the terms of § 73.99 prior to the above mentioned revisions. The section title and text of § 73.1735 are revised herein to conform to the changes in § 73.99 adopted in the Report and Order in BC Docket 82–536. (See appendix item 7.)

(h) There is a typographical error in the section title of § 73.3533. The last three words read ". . . .by construction permit." It is corrected to read ". . . . of construction permit." (See appendix item 8.)

(i) The statement "when an application for renewal of license is "designed" for hearing. . . .", is found in paragraph (e) of § 73.3594. The verb should, of course, be "designated" and is corrected herein. (See appendix item 9.)

(j) The following FCC Policy listings are added or revised in Subpart H of Part 73:

(i) Memorandum Opinion and Order regarding loud commercials.

(ii) Commission Policy Regarding the Advancement of Minority Ownership in Broadcasting.

(iii) Report and Order regarding FCC Interpretation of 47 U.S.C. 315(a). (See appendix items 10, 11 and 12.)

(k) A requirement as stated in § 74.467, Posting of licenses [at remote broadcast pickup stations] has raised a few smiles as well as sober questions. In paragraph (c) of the rule, a required display (giving call sign, associated, etc.) must be affixed to the transmitter housing or antenna supporting structure in such a way as to be visible to a person standing on the *group* at the transmitter. We terminate such questions as, "how many must be in the *group*?"; "may it be a mixed *group*", etc., by correcting "group" to read "ground" in this Order. (See appendix item 13.)

(l) Subpart F of Part 74 pertains to TV auxiliary stations such as pickup stations; studio-transmitter links (STL's); TV relay stations and translator relay stations. Such stations are variously described as either TV Auxiliary Broadcast Stations or TV Broadcast Auxiliary Stations, the latter being correct. Some time in the past it was decided, since the stations are not broadcast stations but auxiliaries to broadcast stations, to denominate the service accurately as TV Broadcast Auxiliary Stations. Correction changes have been made within the Subpart; correcting the Subpart title has been overlooked. Such correction is effected in this Order. (See appendix item 14.)

2. No substantive changes are made herein which impose additional burdens or remove provisions relied upon by licensees or the public. We conclude, for the reasons set forth above, that these revisions will serve the public interest.

3. These amendments are implemented by authority designated by the Commission to the Chief, Mass Media Bureau. Inasmuch as these amendments impose no additional burdens and raise no issue upon which comments would serve any useful purpose, prior notice of rule making, effecive date provisions and public procedure thereon are unnecessary pursuant to the Administrative Procedure and Judicial Review Act provisions of 5 U.S.C. 553(b)(3)(B).

4. Since a general notice of proposed rulemaking is not required, the Regulatory Flexibility Act does not apply.

5. Therefore, it is ordered, That pursuant to sections 4(i), 303(r) and 5(c)(1) of the Communications Act of 1934, as amended, and §§ 0.61 and 0.283 of the Commission's Rules, Parts 73 and 74 of the FCC Rules and Regulations are amended as set forth in the attached appendix, effective on the date of publication in the **Federal Register**.

6. For further information on this *Order*, contact Steve Crane, (202) 632–5414, Mass Media Bureau.

Federal Communications Commission.

James C. McKinney,

Chief, Mass Media Bureau.

Appendix

PART 73—[AMENDED]

1. 47 CFR 73.69 is amended by revising paragraph (b) to read as follows:

§ 73.69 Antenna monitors.

* * * * *

(b) In the event an antenna monitor becomes defective, the station may be operated without the monitor pending its repair or replacement for a period not in excess of 60 days without further authority from the FCC, if the base currents, their ratios, and the deviations of those ratios, in percent, from the values specified in the station authorization are determined for each radiation pattern used.

* * * * *

2. 47 CFR 73.181 is amended by revising paragraph (f)(1) to read as follows.

§ 73.181 Introduction to AM technical standards.

* * * * *

(f) * * *

(1) Parties submitting directional antenna patterns pursuant to §§ 73.150 and 73.152 (standard patterns and modified standard patterns) must submit patterns which are tabulated and plotted using units of millivolts per meter at one kilometer.

* * * * *

3. 47 CFR 73.315 is amended by revising paragraph (a) to read as follows:

§ 73.315 Transmitter location.

(a) The transmitter location shall be chosen so that, on the basis of the effective radiated power and antenna height above average terrain employed, a minimum field strength of 70 dB above one uV/m (dBu), or 3.16 mV/m, will be provided over the entire principal community to be served.

* * * * *

4. 47 CFR 73.319 is amended by revising paragraph (d)(1) to read as follows:

§ 73.319 FM multiplex subcarrier technical standards.

* * * * *

(d) * * *

(1) During monophonic program transmissions, modulation of the carrier by the arithmetic sum of all subcarriers above 75 kHz may not exceed 10%, and modulation of the carrier by the arithmetic sum of all subcarriers may not exceed 30%, referenced to 75 kHz deviation.

* * * * *

5. 47 CFR 73.681 is amended by revising the definition *Multichannel Television Sound (MTS)* to read as follows:

§ 73.681 Definitions.

* * * * *

Multichannel Television Sound (MTS). Any system of aural transmission that utilizes aural baseband operation between 15 kHz and 120 kHz to convey information or that encodes digital information in the video portion of the television signal that is intended to be decoded as audio information.

* * * * *

6. 47 CFR 73.1620 is amended by revising paragraph (a)(2) to read as follows:

§ 73.1620 Program tests.

(a) * * *

(2) The permittee of an AM or FM station with a directional antenna system must file an application for license requesting program test authority with the FCC in Washington, D.C. at least 10 days prior to the date on which it desires to begin program tests. Also, an antenna proof of performance must be filed with the request by an AM or FM station with a directional antenna.

* * * * *

7. 47 CFR 73.1735 is revised to read as follows:

§ 73.1735 Pre-sunrise service authorization (PSRA) and Post-Sunset service authorization (PSSA).

Licensees of certain classes of AM stations are eligible to request pre-sunrise service authorization and post-sunset service authorization pursuant to the requirements of § 73.99.

8. 47 CFR 73.3533 is amended by revising the section title to read as follows:

§ 73.3533 Application for construction permit or modification of construction permit.

9. 47 CFR 73.3594 is amended by revising paragraph (e) introductory text to read as follows:

§ 73.3594 Local public notice of designation for hearing.

* * * * *

(e) When an application for renewal of license is designated for hearing, the notice shall contain the following additional statements:

* * * * *

10. 47 CFR 73.4075 is revised to read as follows:

§ 73.4075 Commercials, loud.

See Memorandum Opinion and Order, BC Docket 79-168, FCC 84-300, adopted June 27, 1984. 49 FR 28077, July 10, 1984.

11. 47 CFR 73.4140 is amended by adding new paragraph (c) to read as follows:

§ 73.4140 Minority ownership; tax certificates and distress sales.

* * * * *

(c) See Policy Statement, FCC 82-523, adopted December 2, 1982. 48 FR 5943, February 9, 1983.

12. 47 CFR 73.4185 is amended by designating the present text as paragraph (a) and by adding new paragraph (b) to read as follows:

§ 73.4185 Political broadcasting and telecasting, the law of.

* * * * *

(b) See Report and Order, BC Docket 82-564, FCC 83-529 adopted November 8, 1983. 95 FCC 2d 1236; 48 FR 53166, November 25, 1983.

13. 47 CFR 74.467 is amended by revising paragraph (c) to read as follows:

§ 74.467 Posting of licenses.

* * * * *

(c) If the station is authorized to operate as an automatic relay station, and is operated at an unattended site, the call sign and location of the associated broadcast station or stations or network, together with the legend "Automatic Relay Station," shall be displayed at the relay transmitter site. The required display shall be affixed to the transmitter housing or antenna supporting structure so as to be visible to a person standing on the ground at the transmitter site, or if the transmitting facilities are installed on the roof of a building the required display must be visible to a person standing on the roof. The display shall be prepared by the licensee so as to withstand normal weathering and be legible at all times.

PART 74—[AMENDED]

14. 47 CFR Subpart F, Part 74 is amended by revising the subpart heading to read as follows:

Subpart F—Television Broadcast Auxiliary Stations

[FR Doc. 84-25080 Filed 9-26-84; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 90

[PR Docket No. 83-991; FCC 84-414]

Elimination of Outdated or Unnecessary Rules in the Private Land Mobile Radio Services

Correction

In FR Doc. 84-24398 beginning on page 36373 in the issue of Monday, September 17, 1984, make the following correction:

On page 36377, third column, item 20., fifth entry under *Sections*, "90.63(a)(2)" should read "90.63(f)(2)".

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171, 172, 173, 175 and 178

[Docket No. HM-189B; Amdt. Nos. 171-79, 172-94, 173-178, 175-31, 178-80]

Editorial Corrections, and Clarifications

AGENCY: Materials Transportation Bureau (MTB), Research and Special Programs Administration, DOT.

ACTION: Final rule

SUMMARY: The purpose of these amendments to the Hazardous Materials Regulations (HMR) is to correct certain editorial errors, and to make minor regulatory changes which will not impose any new requirements on persons subject to the HMR.

EFFECTIVE DATE: September 30, 1984.

FOR FURTHER INFORMATION CONTACT: Thomas G. Allan, Exemptions and Regulations Termination Branch, Materials Transportation Bureau, 400 Seventh Street, SW., Washington, D.C. 20590 (202) 426-2075.

SUPPLEMENTARY INFORMATION: In its maintenance of the HMR, MTB performs an annual review of the regulations to detect errors which may be causing confusion to users. Inaccuracies detected in Title 49, Code of Federal Regulations (CFR), Parts 100-199, Revised as of November 1, 1983, include incorrect references to other rules and regulations in the CFR, and misstatements of certain regulatory requirements. Also, in response to inquiries which MTB received concerning the clarity of particular requirements specified in the HMR, changes are made which should reduce uncertainties.

Since these amendments do not impose new requirements, notice and public procedure thereon are unnecessary. For the same reason, these amendments are effective without the customary 30 day delay following publication.

The MTB has determined that this rule, as promulgated, is not a major rule under terms of Executive Order 12291 or significant under DOT implementing procedures (44 FR 11034). A final regulatory evaluation and environmental assessment was not prepared as these amendments are not substantive changes to the HMR.

Based on limited information available concerning size and nature of entities likely to be affected by these

amendments, I certify that these amendments will not, as promulgated, have a significant economic impact on a substantial number of small entities.

The following is a section-by-section summary of the amendments.

Section 171.7 is amended in paragraph (c)(23) to show the current address of the International Maritime Organization.

Section 172.101 is amended in paragraph (c)(12)(iii) to correct a reference to § 173.84(e)(1); and certain entries in the Hazardous Materials Table are amended as follows:

"*1-Bromo-2-nitrobenzene (unstable at 56°C)*" is corrected to read "*1-Bromo-3-nitrobenzene (unstable at 56°C)*".

"Cement, adhesive, n.o.s. *See* Cement, liquid, n.o.s." is corrected to indicate that the referred entry is simply "Cement".

"Coal, ground bituminous, sea coal, coal facings, *etc.*," is corrected by adding the section reference "173.165" to column (5)(b).

Section 172.102 is amended in the Optional Hazardous Materials Table to correct the following errors:

"*Chlorotrifluoroethane. See* Trifluorochloroethane" has the order of the descriptions transposed. "Chlorotrifluorethane" should appear in Roman type and follow the italicized entry "*Trifluorochloroethane*".

"Diactone alchohol" has the word "alcohol" misspelled.

"Dicetyl peroxydicarbonate *maximum concentration 42%, stable dispersion in water*" has two digits in the identification number transposed. The correct number is "UN 2895".

"Diisotridecyl peroxidicarbonate *technical pure*" is misspelled. The entry should read "Diisotridecyl peroxydicarbonate, *technical pure*".

Appendix A to Subpart B of Part 172 is amended as follows:

At "UN 1146" (102) the word "alchohol" is a misspelling.

At "UN 2889" (102) the word "peroxidicarbonate" is a misspelling.

At "UN 2985" the identification number is transposed. The correct number is "UN 2986".

Section 172.202 is amended at paragraph (c)(1) to show the current proper shipping name for "cement".

Section 172.401 is amended, at paragraph (c)(1), to remove the reference to an old edition of the "Transport of Dangerous Goods".

Section 173.182 is amended, at paragraph (a), by adding "zinc nitrate" as a specifically identified material. Until 1980, this material was described as "nitrates, n.o.s.".

Section 173.304 is amended, at paragraph (a)(2), to remove the table entry "Ethylene (36.8%)". It is a composite of the entries "Ethane (36.8%)" and "Ethylene (31.0%)" that developed through typographical errors.

Section 173.306 is amended, at paragraph (c)(5), by stating that retest requirements for fire extinguishers are specified in 29 CFR 1910.157 (e) rather than paragraph (d).

Section 173.314 is amended to make the following corrections to the table in paragraph (c):

"Chloropentafluoroethane (R–115)" and "Chlorotrifluoromethane (R–13)". Reference to "Note 23" following the DOT–105A300W tank car is erroneous. That note is applicable to tank cars used to transport a flammable gas. Each of these materials is a nonflammable gas.

"Monomethylamine, anhydrous". The prefix "Mono" is removed so that this description corresponds with the proper shipping name in the Hazardous Materials Table.

"Note 25". Reference to § 176.200 is erroneous. The correct reference is § 176.200.

Section 173.388 is amended to specify that the subject regulations are issued by the Department of Health and Human Services.

Section 173.425 is amended, in paragraph (c)(1)(iv), to specify the correct activity limits for objects of nonradioactive material externally contaminated with radioactive material. As indicated in Docket HM–169 (48 FR 10223, March 10, 1983; and 48 FR 31218, July 7, 1983), the maximum permitted activity for radionuclides for which the A_2 value is less than 0.05 is "0.0001", and "0.001" for other radionuclides.

Section 175.700 is amended, in paragraph (a)(4), to remove the reference to "§ 175.85(d)". Paragraph (d) was removed in Docket HM–184 (47 FR 54817, December 6, 1982).

Section 178.47–10 is amended, in paragraph (c), to show the correct algebraic expression for the wall stress formula.

List of Subjects

49 CFR Part 171

Exports, Hazardous materials transportation, Imports.

49 CFR Part 172

Hazardous materials transportation.

49 CFR Part 173

Hazardous materials transportation, Packaging and containers.

49 CFR Part 175

Hazardous materials transportation, Air carriers.

49 CFR Part 178

Hazardous materials transportation, Packaging and containers.

In consideration of the foregoing, Parts 171, 172, 173, 175 and 178 of Title 49, Code of Federal Regulations are amended as follows:

PART 171–GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

1. In § 171.7, paragraph (c)(23) is revised to read as follows:

§ 171.7 Matter incorporated by reference.

* * * * *

(c) * * *

(23) International Maritime Organization, #4 Albert Embankment, London, SE 17SR, United Kingdom.

* * * * *

PART 172—HAZARDOUS MATERIALS TABLES AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

§ 172.101 [Amended]

2. In § 172.101, paragraph (c)(12)(iii) is amended by removing the section reference "178.86(e)(1)" and inserting, in its place, the section reference "173.86(e)(1)"; and the Hazardous Materials Table is amended by: Removing the entry "*1-Bromo-2-nitrobenzene (unstable at 56°C)*" and inserting in its place, the entry "*1-Bromo-3-nitrobenzene (unstable at 56°C)*"; removing the entry "Cement, adhesive n.o.s. *See* Cement, liquid, n.o.s." and inserting, in its place, the entry "Cement, adhesive n.o.s. *See* Cement"; and adding to the entry "Coal, ground bituminous, sea coal, coal facings, *etc.*" the section reference "173.165" at column (5)(b).

§ 172.102 [Amended]

3. In § 172.102, the Optional Hazardous Materials Table is amended by: Removing the entry "*Chlorotrifluoroethane. See* Trifluorochloroethane", removing the entry "Diacetone alchohol" and inserting, in its place, the entry "Diacetone alcohol"; removing identification number "UN 2985" from column (4) for the entry "Dicetyl peroxydicarbonate *maximum concentration 42%, stable dispersion in water*" and inserting in its place, identification number "UN 2895"; removing the entry "Diisotridecyl peroxidicarbonate, *technical pure*"; and inserting, in its place, the entry "Diisotridecyl peroxydicarbonate, *technical pure*"; and adding the entry

"Trifluorochloroethane. See Chlorotrifluoroethane".

4. Part 172, Subpart B, Appendix A is amended by removing and adding certain entries as follows:

Appendix A—Identification Number Cross Reference to Proper Shipping Names in § 172.101 and § 172.102:

This listing is provided for information purposes only.

(1) Identification No.	(2) Source 172.***	(3) Description
REMOVE		
UN 1148	102	Diacetone alchohol.
UN 2689	102	Diisotridecyl peroxidicarbonate.
UN 2985	102	Dicetyl peroxydicarbonate.
ADD		
UN 1148	102	Diacetone alcohol.
UN 2689	102	Diisotridecyl peroxydicarbonate.
UN 2985	102	Dicetyl peroxydicarbonate.

§ 172.202 [Amended]

5. In § 172.202, paragraph (c)(1) is amended by removing the words "Cement, liquid n.o.s." and inserting, in their place, the word "Cement".

§ 172.401 [Amended]

6. In § 172.401, paragraph (c)(1) is amended by removing the reference "(1970)".

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

§ 173.182 [Amended]

7. In § 173.182, the introductory text of paragraph (a) is amended by adding the material "zinc nitrate" immediately following the material "strontium nitrate".

7a. In § 173.304, paragraph (a)(2) is amended by removing an entry for Ethylene as follows:

§ 173.304 Charging of cylinders with liquefied compressed gas.

(a) * * *

(2) * * *

Kind of gas	Maximum permitted filling density (percent) (see Note 1)	Containers marked as shown in this column or of the same type with higher service pressure must be used except as provided in § 173.34(a), (b), § 173.301(j) (see notes following table)

* * * * *

(Remove)

Ethylene (see Notes 6 and 9).	36.8	DOT-3A300; DOT-3AX2000; DOT-3AA2000; DOT-3AAX1800; DOT-3; DOT-3E1800; 3T1800; DOT-39; DOT-3AL1800.

* * * * *

§ 173.306 [Amended]

8. In § 173.306, paragraph (c)(5) is amended by removing the reference "29 CFR 1910.157(d)" and inserting, in its place, the reference "29 CFR 1910.157 (e)".

§ 173.314 [Amended]

9. In § 173.314, the table in paragraph (c) is amended by: removing the reference "Note 23" associated with the materials "Chloropentafluoroethane (R–115)" and "Chlorotrifluoromethane (R–13)"; removing the prefix "Mono" from the material "Monomethylamine, anhydrous"; and removing the reference "175.200" from "Note 25" and inserting, in its place, the reference "176.200".

§ 173.388 [Amended]

10. In § 173.388, paragraph (a) is amended by removing the name "Department of Health, Education and Welfare" and inserting, in its place, the name "Department of Health and Human Services".

11. In § 173.425, paragraph (c)(1)(iv) is revised to read as follows:

§ 173.425 Transport requirements for low specific activity (LSA) radioactive materials.

* * * * *

(c) * * *

(1) * * *

(iv) Objects of nonradioactive material externally contaminated with radioactive material, if the radioactive material is not readily dispersible and the surface contamination, when averaged over one square meter, does not exceed 0.0001 millicurie per square centimeter of radionuclides for which the A_2 value is less than 0.05 or 0.001 millicurie per square centimeter of other radionuclides. Such objects must be suitably wrapped or enclosed.

* * * * *

PART 175—CARRIAGE BY AIRCRAFT

§ 175.700 [Amended]

12. In § 175.700, paragraph (a)(4) is amended by removing the section reference "175.85(d)".

PART 178—SHIPPING CONTAINER SPECIFICATIONS

§ 178.47–10 [Amended]

13. In § 178.47–10, paragraph (c) is amended by removing the formula "$S=P((1.3D^2+0.4d^2))/(D^2-d^2)$" and inserting, in its place, the formula "$S=(P(1.3D^2+0.4d^2))/(D^2-d^2)$".

(49 U.S.C. 1803, 1804, 1806; 49 CFR 1.53, App. A to Part 1)

Issued in Washington, D.C., on September 21, 1984.

L. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 84–25831 Filed 9–26–84; 8:45 am]

BILLING CODE 4910–60–M

Federal Highway Administration

49 CFR Part 350

[BMCS Docket No. MC–106; Amdt. No. 83–9]

Motor Carrier Safety Assistance Program

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: The FHWA is amending the Federal Motor Carrier Safety Regulations (FMCSR) to include provisions related to the FHWA issuance of grants to qualified States for the development or implementation of State programs for the enforcement of Federal rules, regulations, standards, and orders applicable to commercial motor vehicle safety and hazardous materials transportation by highway and compatible State rules, regulations, standards and orders. This program, hereinafter referred to as the "Motor Carrier Safety Assistance Program" (MCSAP) has been established pursuant to sections 401–404 of the Surface Transportation Assistance Act of 1982 (STAA) (Pub. L. 97–424). This final rule is based on a review of comments received in response to an interim final rule (August 31, 1983) (48 FR 39455) which was issued to temporarily implement sections 401 to 404.

EFFECTIVE DATE: September 27, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Gary Curtis, Bureau of Motor Carrier Safety, (202) 426–1724; or Mr. Thomas P. Holian, Office of the Chief Counsel, (202) 426–0346, Federal Highway Administration, 400 Seventh St., SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: On August 31, 1983, a Notice of Program Implementation, interim final rule, was published in the **Federal Register** (48 FR 39455). Its purpose was to establish interim procedures for MCSAP until the final rule was promulgated and to seek public comments. The interim final rule

related the rationale of the program, selected a formula allocation as a method of distributing funds, established requirement dates for the fiscal year 1984 program and solicited public response to the interim procedure.

On January 27, 1984, an amendment to the interim final rule was published in the Federal Register (49 FR 3476). Its purpose was to provide for discretionary redistribution, by the Federal Highway Administrator, of appropriated funds unallocated in the first year of the MCSAP for State enforcement plans that demonstrated a particular need and to request public comments. The FHWA published a second amendment in the Federal Register (29 FR 10671) on March 22, 1984. This amendment provided for a waver, upon request, of the State matching share which would otherwise be required to be provided by the Virgin Islands, American Samoa, Guam, or the Commonwealth of the Northern Marianas as a condition of their participation in the MCSAP and requested public comments.

A total of 20 commenters responded. All comments support the MCSAP and were received from: 2 State Governors, 11 State agencies, 3 industry associations, and 4 motor carriers.

The Governor of the State of California supports MCSAP with no further comment on any element of the interim final rule. The other 2 commenters in total support of MCSAP are Allied Van Lines, Inc., and United Parcel Service. These commenters believe that MCSAP provides one of the best opportunites to enhance highway safety and supports the endeavor of motor carriers to place safe vehicles and professional drivers on the highway.

The 17 other commenters support MCSAP with some modifications. Of those commenters, 5 question the validity of requiring registrants to declare knowledge of the regulations. For example, the North Carolina Department of Motor Vehicles believes that the "declaration of knowledge" adds unnecessary regulatory burdens on the States and is redundant to what is already required. The State of Idaho comments that a single signature is no indication of anyone understanding the regulations. Section 402(b)(1)(G) of the STAA (Pub. L. 97-424) mandates this "declaration of knowledge" requirement. Therefore, legislative action is necessary to eliminate this requirement.

Seven of the commenters expressed concerns regarding the allocation formula. Various alternatives are given to the allocation formula. The South Dakota Department of Transportation proposes that the allocation formula be based on: road mileage (all highways), number of commercial vehicles over 10,000 lbs., and special fuel consumption. It also recommends that no State be allocated less than three-fourth of 1 percent of total funds available for implementation. A number of commenters felt that $50,000 was not sufficient to fully develop a program, and the maximum development grant should be increased to $100,000 or an amount equal to a State's adjusted allocation, whichever is less. Based on prior experience of the FHWA, a $50,000 maximum development grant is deemed reasonable.

The implementation allocation formula found in Section 350.21, Distribution of funds, has been refined. Representatives from a considerable number of States have made known to FHWA their serious concerns that State agencies could be placed in a position whereby they hire manpower and staff in one fiscal year based on an allocation of funds only to be faced with a possible forced reduction in the staff in succeeding years due to a reduction in allocations. To respond to this concern, and subject to the annual appropriation of funds, implementation allocations shall be adjusted so that no State shall receive for Fiscal Year 1985 less than the total funds the State received in the first year (Fiscal Year 1984) of the program. For all other fiscal years, no State shall receive less than the basic allocation of funds of the prior year or the minimum amount set for each year, whichever is greater, provided the State Enforcement Plan continues to support that level of funding.

Three commenters suggest reviewing the Essential Elements Examination (EEE) inspection procedures to improve the efficiency of inspections or using the Commerical Vehicles Safety Alliance's (CVSA) Critical Item Inspection in lieu of the Bureau of Motor Carrier Safety's EEE procedure. The FHWA and the CVSA are taking the initial steps to develop a national driver-vehicle inspection procedure and out-of-service criteria, the target date for which is the beginning of Fiscal Year 1985.

The Vermont Department of Motor Vehicles recommends that the NCSAP should be a permanent program. It believes this would preclude a State from either eliminating an entire program or raising additional monies for the program by imposing heavier taxes on the trucking industry. It also believes that the MCSAP would lead to good safety practices with uniform procedures throughout the United States. The program is currently authorized for five years by statute. FHWA plans to review the effectiveness of the program before taking a position on any proposed extension.

Considering the comments received, the FHWA is revising Part 350 of the FMCSR entitled, Commercial Motor Carrier Safety Assistance Program. The revisions made are minimal. In addition to the revision of § 350.21, discussed above, § 350.9, Conditions for development grant approval, has been added to condense and clarify the qualifications a State must meet for development grant approval.

Another revision is a clarification of eligible costs, § 350.29. The cost of acquisition of real property, land and buildings, is not eligible as a participating cost in MCSAP.

Thus, this rule establishes the requirements for a grant program whereby States can apply for funding to develop or implement a motor carrier safety program. It specifies the type of information applications must contain and the procedures that must be followed in submitting the application and carrying out the program. The rule provides a breakdown of the funding distribution and examples of the types of costs incurred which will eligible for proportionate reimbursement.

Additional information concerning grant application forms, administrative requirements for the Federal grants, technical advisories on program activities, payment procedures, and other procedural counselling is available at the FHWA division office located in each State.

The FHWA has determined that this document contains neither a major rule under Executive Order 12291 nor a significant regulation under the regulatory policies and procedures of the Department of Transportation. It is anticipated that the economic impact of this rulemaking action will be minimal, since such economic impact as will occur is primarily mandated by the cited statutory provisions themselves, and not the rulemaking action. Accordingly, a full regulatory evaluation is not required. For the foregoing reasons, under the criteria of the Regulatory Flexibility Act, the FHWA certifies that this action will not have a significant economic impact on a substantial number of small entities.

The collection of information requirements contained in this rule have been approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq., and have been assigned OMB Control number 2125-0536 (approved through May 31, 1987).

List of Subjects in 49 CFR Part 350

Highways and roads, Motor carriers, Motor vehicle safety, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Program No. 20.217 Motor Carrier Safety)

Issued on: September 20, 1984.

L. P. Lamm,

Deputy Federal Highway Administrator, Federal Highway Administration.

In consideration of the foregoing, the FHWA is revising 49 CFR Part 350 to read as follows:

PART 350—COMMERCIAL MOTOR CARRIER SAFETY ASSISTANCE PROGRAM

Sec.

350.1 Purpose.
350.3 Definitions.
350.5 Policy.
350.7 Objective.
350.9 Conditions for development grant approval.
350.11 Conditions for implementation grant approval.
350.13 State Enforcement Plan (SEP) for an implementation grant.
350.15 Certification of Compliance by State.
350.17 Maintenance of effort.
350.19 Grant application submission.
350.21 Distribution of funds.
350.23 Acceptance of State plan.
350.25 Effect of failure to submit a satisfactory State plan.
350.27 Procedure for withdrawal of approval.
350.29 Eligible costs.
Appendix A—Guidelines To Be Used in Preparing State Enforcement Plan
Appendix B—Form of State Certification

Authority: Secs. 401–404, Surface Transportation Assistance Act of 1982, Pub. L. 97–424, 96 Stat. 2154, 49 U.S.C. 2301–2304; 49 CFR 1.48, and 301.60.

§ 350.1 Purpose.

To prescribe requirements for Federal assistance to States for the development or implementation of programs for the enforcement of Federal rules, regulations, standards and orders applicable to commercial motor vehicle safety or compatible State rules, regulations, standards and orders.

§ 350.3 Definitions.

As used in this part:

Administrator means the Federal Highway Administrator.

Commercial motor vehicle means any self-propelled or towed vehicle used on the highways in commerce principally to transport passengers or cargo—

(a) If such vehicle has a gross vehicle weight rating of ten thousand or more pounds;

(b) If such vehicle is designed to transport more than ten passengers, including the driver; or

(c) If such vehicle is used in the transportation of materials found by the Secretary of Transportation to be hazardous for the purposes of the Hazardous Material Transportation Act, as amended (49 U.S.C. 1801 et seq.).

Development means the acts of a State in preparing to qualify for or make application for an implementation grant, which acts include, but are not limited to: (a) Planning the program; (b) initiating any legislative or regulatory action necessary to comply with the requirements of this part; (c) formulating a budget for a program under this part; (d) designating the State agency responsible for administering the program; and (e) preparing a State Enforcement Plan (SEP).

Implementation means the acts of a State in carrying out an approved SEP, which acts include, but are not limited to: (a) Recruiting and training of personnel, payment of salaries and fringe benefits, the acquisition and maintenance of equipment, and reasonable overhead costs needed to operate the program; (b) commencement and conduct of new or expanded systems of inspection; (c) establishment of an effective "out-of-service" and compliance enforcement system; and (d) retraining and replacing staff and equipment.

Motor carrier means a for-hire carrier of passengers or property by motor vehicle and a private carrier by motor vehicle.

State means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, or the Commonwealth of the Northern Marianas.

Basic allocation means only those Federal funds specified in the allocation formula, or the minimum funding level specified in this part.

§ 350.5 Policy.

The Federal Highway Administration (FHWA) policy is to encourage each State to enforce uniform motor carrier safety and hazardous materials regulations for both interstate and intrastate motor carriers and drivers. The requirements for compliance with safety standards in one State should be reasonably consistent with the requirements in another State. A coordinated program of inspection and enforcement activities is needed to avoid duplication of effort, to promote compliance with uniform safety requirements by all types of motor carriers, and to provide a basis for sanctioning carriers for poor safety performance.

§ 350.7 Objective.

The objective of the Motor Carrier Safety Assistance Program (MCSAP) is to reduce the number and severity of accidents and hazardous materials incidents involving commercial motor vehicles by substantially increasing the level of enforcement activity and the likelihood that safety defects, driver deficiencies and unsafe carrier practices will be detected and corrected.

§ 350.9 Conditions for development grant approval.

(a) The State shall submit its proposed development plan or update thereof to the FHWA division office. States will be permitted to apply for and receive an annual development grant for a maximum of 3 years.

(b) The development plan shall:

(1) Outline the State's plan of action to qualify it for implementation funds;

(2) Itemize the total program cost by functional categories and dedicate adequate State funds for this program;

(3) Include an estimate of when the State will meet the minimum criteria for an implementation grant;

(4) Designate the State motor carrier safety agency responsible for administering the program for the State; and

(5) Include an agreement to initiate any legislative, administrative, or regulatory action necessary to qualify for an implementation grant.

§ 350.11 Conditions for implementation grant approval.

(a) The State shall agree to adopt, and to assume responsibility for enforcing the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR Parts 390 through 399 except as may be determined by the Administrator to be inapplicable to a State enforcement program) including highway related portions of the Federal Hazardous Materials Regulations (FHMR) (49 CFR Parts 107, 171–173, 177 and 178) or compatible State rules, regulations, standards and orders applicable to motor carrier safety, including highway transportation of hazardous materials. To support a State's contention of compatibility, the State may submit opinions from the State's Attorney General or other chief legal officer as to whether existing or proposed State laws, rules, regulations, standards, or orders are compatible with the FMCSR and FHMR.

(b) The State shall submit a State Enforcement Plan (SEP) for the conduct of an effective safety program. Such plan, upon acceptance by the FHWA, will serve as the basis for monitoring

and evaluating performance of the State under the grant, and will be resubmitted, with revisions as necessary, in applications for reapproval in following years.

(c) The SEP shall designate the State motor carrier safety agency responsible for administering the plan for the State.

(d) The designated motor carrier safety agency and other agencies named to perform functions under the plan shall have the legal authority, resources, and qualified personnel necessary to enforce the FMCSR and FHMR or compatible State rules at the time the State implements the approved SEP.

(e) The State shall allocate adequate funds for the administration of the SEP and the enforcement of the FMCSR and FHMR or compatible State rules.

(f) State laws shall provide for right of entry and inspection by State personnel sufficient to enforce the FMCSR and FHMR or compatible State rules and to perform the activities set forth in the SEP.

(g) The designated State agency shall agree to prepare and submit all reports required in connection with the SEP or other conditions of the grant to the FHWA upon request.

(h) The designated State agency shall agree to adopt such uniform reporting requirements and use such uniform forms to record work activities performed under the SEP as may be established and required by the FHWA.

(i) The State shall require registrants of commercial motor vehicles to declare, at the time of registration, knowledge of the FMCSR and FHMR or compatible State rules, as applicable.

(j) The statutory authority of the State to regulate motor carriers shall extend to private motor carriers of property as well as for-hire motor carriers.

§ 350.13 State Enforcement Plan (SEP) for an implementation grant.

(a) The State shall submit its proposed SEP or update thereof to the FHWA division office.

(b) The SEP shall:

(1) Provide an assessment of the commercial motor carrier and highway hazardous materials safety problems within the State;

(2) Determine the aggregate costs of the motor carrier safety enforcement efforts incurred by the State and political subdivisions during the two full fiscal years prior to January 6, 1983, exclusive of Federal funds and State participating shares on which such funds were conditioned;

(3) Demonstrate that the State has authority to regulate and plans to enforce its regulations with respect to private carriers of property as well as for-hire motor carriers; and

(4) Describe in detail the objectives sought to be achieved, the resources to be employed, the work items to be performed, the unit costs where feasible and the methods to be used to measure effectiveness. Specifically, the SEP shall:

(i) Identify other agencies participating in the plan and describe the roles of each;

(ii) Identify the number and category of personnel employed and the specialized training provided; and

(iii) Include roadside inspection activity at such times and locations as will assure comprehensive enforcement.

(c) Guidelines for the preparation of the SEP are provided in Appendix A to this part.

(Approved by the Office of Management and Budget under OBM Control No. 2125-0536)

§ 350.15 Certification of Compliance by State.

(a) The FHWA will accept a certification, executed by the Governor, the State's Attorney General or other State official specifically designated by the Governor, in the form provided in Appendix B to this part. The certification shall accompany the SEP and be made part thereof.

(b) In the first year of the State's program, the certification shall be supplemented by the following documentation:

(1) A copy of the State law or regulation adopting the FMCSR and FHMR, or a copy of the compatible State rules, including current amendments and any State exceptions or exemptions to those rules;

(2) A copy of the State law relied upon by the State to provide right of entry and inspection sufficient to enforce the FMCSR and FHMR, or compatible State rules; and

(3) A copy of the registration form or other document used by the State to secure from commercial motor vehicle registrants a declaration of knowledge of the FMCSR and FHMR, or compatible State rules.

(c) In subsequent years, the certification shall be supplemented by a copy of any State law, regulation or forms pertaining to commercial motor carrier safety adopted since the State's last certification (if any) which bear on the items listed in the certification.

§ 350.17 Maintenance of effort.

No SEP shall be approved or grant awarded in the absence of a commitment by the State to maintain the aggregate expenditure of funds by the State and political subdivisions thereof for motor carrier and highway hazardous materials vehicle safety programs. The funds shall be maintained at a level which does not fall below the average of such expenditure during the State's last two full fiscal years preceding January 6, 1983. The aggregate expenditure of funds by the State in those preceding fiscal years shall be exclusive of Federal funds authorized and expended for motor carrier and highway hazardous materials safety purposes and any State funds required as the State's share to match such Federal funds.

§ 350.19 Grant application submission.

A State shall submit its application to the FHWA division office on or before August 1 of each year. The time for submitting a plan may be extended for a period not to exceed 30 calendar days for good cause shown. Grants are approved for the fiscal year for which application is made. Failure of a State to submit a plan for any given fiscal year will preclude consideration of grant approval for that State for that year.

§ 350.21 Distribution of funds.

(a) The Federal share payable to reimburse States for eligible costs incurred in the development or implementation of a commercial motor carrier safety program shall not exceed 80 percent.

(b) The FHWA will, upon request, waive the requirement for matching funds to be provided by the Virgin Islands, American Samoa, Guam, or the Commonwealth of the Northern Marianas.

(c) The funds available to any State in any one year for development purposes shall not exceed $50,000 notwithstanding the amount available through application of the allocation formula provided in paragraph (d) of this section.

(d) The funds available to any State for implementation purposes in any one year shall be distributed according to an allocation formula based on the following factors in equal proportion:

(1) Road mileage (all highways);

(2) Vehicle miles travelled (all vehicles);

(3) Number of commercial vehicles over 10,000 lbs. (Gross Vehicle Weight Rating);

(4) Population (1980 census); and

(5) Special fuel consumption (net after reciprocity adjustment).

(e) Subject to the availability of funds, the individual allocations for implementation purposes shall be adjusted so that no State qualifying for an award shall be allocated more than a ceiling amount to be determined by

FHWA on a fiscal year basis as funds are appropriated by Congress, and not:

(1) Less than the basic allocation of funds received in the prior year, provided the SEP continues to support that level of funding; or

(2) Less than $150,000 for Fiscal Year 1985 and $225,000 for Fiscal Years 1986, 1987, and 1988, provided the SEP supports that level of funding.

(f) Notwithstanding any other provisions of this section, funds for implementation purposes which have not been awarded to States, under application of the allocation formula and the provisions for increased allocations contained in this section, may be redistributed, at the discretion of the Administrator for purposes consistent with any of the following:

(1) Innovative commercial motor carrier safety measures in addition to those involving basic roadside inspections;

(2) Increased concentration on activities identified by the Department of Transportation (DOT) as emphasis areas;

(3) Indicated ability to effectively utilize increased funding; or

(4) SEPs which include requests for allocated prior year funds not used by the State.

§ 350.23 Acceptance of State plan.

(a) Each plan will be reviewed for content, after which the State will be notified of its acceptance or rejection.

(b) The time for submitting a plan may be extended by the division office for a period not to exceed 30 calendar days for good cause shown.

(c) Except in the first year, a State's application shall include a report on the effectiveness of its prior year's plan in reaching the stated objectives. The State will be advised whether any changes are needed in the plan or in its intended objectives.

§ 350.25 Effect of failure to submit a satisfactory State plan.

(a) A State will be notified in writing that approval of the plan is being withheld along with the reasons for such action, if:

(1) It is determined that a development plan is not adequate to prepare a State for an implementation program; or

(2) It is determined that an SEP is not adequate to ensure effective enforcement of the FMCSR and FHMR, or compatible State rules.

(b) The State shall have 30 calendar days from the date of the notice to modify the plan and resubmit it for approval.

§ 350.27 Procedure for withdrawal of approval.

(a) If a State is not performing according to an approved plan or a State is not adequately enforcing the FMCSR and FHMR, or compatible State rules, the Administrator shall issue a written notice of proposed determination of nonconformity to the Governor of the State or the official designated in the plan. The notice shall state the reasons for the proposed determination and inform the State that it may reply in writing within 30 calendar days from the date of the notice. The reply should address the deficiencies cited in the notice and provide documentation as necessary.

(b) The Administrator's decision, after notice and opportunity for comment, will constitute the final decision of the FHWA. An adverse decision will result in immediate cessation of Federal participation in the plan.

(c) If the State does not respond to a notice of proposed determination of nonconformity as provided in paragraph (a) of this section, the proposed determination shall become the Administrator's final decision with the same effect as paragraph (b) of this section.

(d) Any State aggrieved by an adverse decision issued under this part may seek judicial review pursuant to Chapter 7 of Title 5 of the United States Code.

§ 350.29 Eligible costs.

(a) Work must be performed pursuant to an acceptable State plan in order for the cost of that work to be eligible for reimbursement. The eligible costs under the grant program are comprised of the allowable direct costs incident to the State's performance and its allocable portion of allowable indirect costs, less applicable credits.

(b) The primary functions to be performed under a development grant or an implementation grant are uniform roadside inspections, investigations, and terminal safety audits with follow-up enforcement actions or compliance measures. Consequently, the major cost will be compensation and expenses of the personnel required to perform these functions. Eligible personnel costs include, but are not limited to:

(1) Recruitment and screening;

(2) Training;

(3) Salaries and fringe benefits; and

(4) Supervision.

(c) Equipment and travel costs directly related to the primary functions are also eligible for proportionate reimbursement. These costs include, but are not limited to:

(1) Vehicles;

(2) Uniforms;

(3) Communications equipment;

(4) Special inspection equipment;

(5) Vehicle maintenance;

(6) Motor fuel and oil; and

(7) Travel and per diem expenses.

(d) Indirect expenses related to facilities used to conduct inspections or to house enforcement personnel, support staff, and equipment may also be eligible to the extent they are measurable and recurring, such as rent and overhead.

(e) A secondary function of the MCSAP is to develop a data base on which to coordinate resources and improve efficiency. Therefore, costs related to data acquisition, storage, and analysis that are discretely identifiable as program expenses may be eligible for reimbursement.

(f) Clerical and administrative expenses, to the extent they are necessary and directly attributable to the MCSAP, are eligible for reimbursement.

(g) The cost of acquisition of real property, land and buildings, is not eligible as a participating cost in the MCSAP. Real property does not include, for example, the installation of lights for the inspection of vehicles at night or minor modifications to existing structures.

(h) The eligibility of specific costs is subject to review, and such costs must be necessary, reasonable, allocable to the approved SEP, and allowable under this and related Federal regulations.

Appendix A—Guidelines To Be Used in Preparing State Enforcement Plan

1. *Designate the motor carrier safety agency:* The plan should include the agency responsible for administering the plan.

2. *Define the problem:* In assessing the level of commitment to be made to the enforcement of commercial motor carrier and highway hazardous materials safety regulations, the following factors should be considered:

(a) Volume of commercial motor vehicle traffic;

(b) Type of commercial motor vehicle traffic;

(c) Volume of commercial motor vehicle traffic transporting hazardous materials;

(d) Number and frequency (rate) of commercial motor carrier accidents;

(e) Severity of accidents involving commercial motor carriers:

(1) Fatalities;

(2) Injuries; and

(3) Property damage.

(f) Seasonal commercial motor carrier operational patterns within the State;

(g) Projected impact of increased enforcement (economic and operational);

(h) Ability to prevent and/or discourage commercial motor vehicle operators from circumventing inspection sites;

(i) Costs related to the elements of each State's plan.

(This information may or may not be available to the States at present. To be able to measure program effectiveness, however, States will need to compile this type of data.)

3. *Determine current enforcement efforts:* The plan should identify the activities currently engaged in by the State to address the commercial motor carrier and hazardous materials safety problems. This should include a description of existing laws, regulations and compliance activities, as well as the agencies within the State with enforcement responsibilities, the resources devoted by these agencies, and the cost to the State or local government of these efforts.

4. *Establish the objectives:* A key element in each plan is the establishment of the objectives sought to be achieved through the use of Federal funds. The objectives should be stated in terms of quantifiable measurements of results, where possible, or at least of effort. Ideally, the objectives should include a measurable reduction in highway accidents or hazardous materials incidents involving commercial motor vehicles, but may also refer to quantifiable improvements in legislative or regulatory authorities, problem identification, enforcement strategies and resource allocations. Goals should be identified as:

(a) *Short term*—the year beginning October 1 following submission of a MCSAP enforcement plan.

(b) *Medium term*—two to four years after submission of the enforcement plan.

(c) *Long term*—five years beyond the submission of the enforcement plan.

(d) Provision for review and update of the MCSAP enforcement plan.

5. *Identify the resources:* The plan should detail the resources to be used in accomplishing the objectives, and should include:

(a) State agencies involved:
(1) Lead agency; and
(2) Cooperating agencies.
(b) Personnel (from each agency involved):
(1) Line functions;
(2) Staff and supervision; and
(3) Administrative, technical and clerical.
(c) Facilities:
(1) Inspection sites regularly maintained; and
(2) Building space required.
(d) Equipment:
(1) Vehicles;
(2) Communication and ADP; and
(3) Other specialized tools.
(e) Itemization of Costs:
(1) Personnel (salaries, benefits, etc.):
(2) Equipment (purchase, rental, fuel, maintenance, depreciation, salvage, etc.); and
(3) Facilities (rent and overhead).

6. *Describe the practices:* The plan should describe how the resources are to be employed to achieve the objectives, and should discuss:

(a) Schedules of operation of inspection sites and units;
(b) Tactics for placing vehicles out of service;
(c) Projected number of annual:
(1) Roadside vehicle inspections; and
(2) Safety management audits;
(d) Methods to inspect all types of carriage;
(e) Strategy for preventing circumvention or avoidance of inspections;
(f) Procedures for handling hazardous materials carriers; and
(g) Supervision and recordkeeping.

7. *Provide for evaluation:* Each plan should include a provision for self-evaluation of its effectiveness. It is not practicable to establish objective minimums, as each State has unique characteristics and varying levels of existing enforcement activity. The FHWA will cooperate with State regulatory and enforcement agencies by gathering useful information and experience on elements of enforcement practices that produce positive results.

The bottom line objective in any safety program is a decrease in the number and severity of accidents. Motor carrier safety regulations should be designed to prescribe methods to eliminate the risks of accidents. Compliance with such regulations should, therefore, reduce accidents. The States are encouraged to design their programs to link their enforcement efforts to causes of accidents, whenever possible, and to develop the data necessary to demonstrate the results.

In assessing State Enforcement Plans, the FHWA will be particularly attentive to the methods by which effectiveness is to be evaluated, and will provide whatever assistance is feasible in developing measurement factors.

Appendix B—Form of State Certification

State certification

I (name), (title), on behalf of the State of , as requested by the Federal Highway Administrator as a condition of approval of a grant under the authority of Sec. 402 of the Surface Transportation Assistance Act of 1982 (Pub. L. 97-424), do hereby certify as follows:

1. The State (has adopted) (will adopt) commercial motor carrier and highway hazardous materials safety rules and regulations, which (are) (will be) substantially similar to and consistent with the Federal Motor Carrier Safety Regulations and the Federal Hazardous Materials Regulations (a copy of the existing or proposed State rules and regulations to be attached in the first year of the program).

2. The State has designated (name of State commercial motor carrier safety agency) as the lead agency to administer the enforcement plan for which the grant is being awarded, and (name of agencies) to perform functions under the plan. These agencies (have) (will have) the legal authority, resources and qualified personnel necessary for the enforcement of the State's commercial motor carrier and highway hazardous materials safety rules and regulations.

3. The State will devote such of its own funds as may be necessary to provide its matching share to the Federal assistance provided in the grant to administer the plan it is herewith submitting, and to enforce the State's commercial motor carrier safety rules and regulations in a manner to be consistent with the approved plan.

4. The laws of the State provide the State's enforcement officers right of entry and inspection sufficient to carry out the purposes of the enforcement plan as approved (a copy of the applicable State law to be attached in the first year of the program).

5. The State shall require that all reports relating to the program be submitted to the appropriate State agency or agencies; and such reports will be made available to the Federal Highway Administration upon request.

6. The State will adopt such uniform reporting requirements and use such uniform forms for recordkeeping, inspection, and other enforcement activities as may be established by the Federal Highway Administration.

7. The State (has) (will have) in effect a requirement that registrants of commercial motor vehicles declare knowledge of the applicable Federal or State commercial motor carrier safety rules and regulations (a copy of the State form used for such purposes to be attached in the first year of the program).

8. The State will maintain the level of its expenditures for motor carrier safety programs, exclusive of Federal assistance, at least at the level of its expenditures for these purposes during the last two full fiscal years immediately prior to January 6, 1983.

Date: _____
Location: _____
(Signature) _____

[FR Doc. 84-25830 Filed 9-26-84; 8:45 am]
BILLING CODE 4910-22-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

Modification to the Pee Dee Migratory Bird Closed Area, North Carolina, and Revocation of the Lake St. Clair Migratory Waterfowl Closed Area, Michigan

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule modifies the boundaries of an area closed to migratory bird hunting near the Pee Dee National Wildlife Refuge, North Carolina. The action removes the present administrative restrictions prohibiting the taking of migratory game birds on approximately five acres of water that are located outside of the adjusted refuge acquisition boundary. This rule also rescinds Presidential Proclamation No. 2593, thereby removing the Lake St. Clair Migratory Waterfowl Closed Area, Michigan, from the list of areas closed to migratory bird hunting. This action is being taken because this closed area has been subject to reductions in waterfowl usage due to habitat deterioration and increased recreational activities, and its

maintenance as a closed area requires Fish and Wildlife Service attention that could be used in projects more beneficial to wildlife. This rulemaking will remove Federal restrictions on migratory hunting in the lands and waters under consideration.

EFFECTIVE DATE: September 27, 1984.

FOR FURTHER INFORMATION CONTACT: James F. Gillett, Division of Refuge Management, U.S. Fish and Wildlife Service, 18th and C Streets, NW, Washington, D.C. 20240; Telephone (202) 343–4311.

SUPPLEMENTARY INFORMATION: The Migratory Bird Treaty Act and the National Wildlife Refuge System Administration Act authorize the closure of refuges and other areas to migratory bird hunting where necessary to conserve, protect, and manage migratory birds. Designation of areas as closed to hunting is generally made on the basis of their suitability as breeding habitat. Designation of closed areas was originally made by Presidential Proclamation or Executive Order; however, Executive Order 10250 (June 7, 1951; 16 FR 5385) delegated this power to the Department of the Interior.

On September 16, 1937, certain lands and waters within and adjacent to Pee Dee National Wildlife Refuge, North Carolina, were designated as a closed area, in and on which pursuing, hunting, taking, capturing, or killing of migratory birds, or attempting to take, capture, or kill migratory birds is not permitted (32 FR 13384). Subsequently, the acquisition boundary of the refuge was adjusted. On July 10, 1984, a rule was published (49 FR 28079) that proposed the removal of the present administrative restrictions on approximately five acres of water northeast of Leak Island that are now located outside of the adjusted refuge boundary. Restrictions prohibiting the taking of migratory game birds would continue on the remaining 215 acres of the closed area. No comments were received on this proposal.

Presidential Proclamation No. 2593 (September 21, 1943) established the Lake St. Clair Migratory Waterfowl Closed Area, consisting of two discrete areas within Anchor Bay, Lake St. Clair, Michigan, in or on which pursuing, hunting, taking, capturing, or killing of migratory birds, or attempting to take, capture, or kill migratory birds is not permitted (8 FR 12921). Since that time, waterfowl use of these areas has decreased as the amount and duration of recreational boating and fishing have increased. Further, large areas of waterfowl habitat within these closed areas have been lost through sustained increases in Great Lakes water levels and growing pleasure boat traffic. These changes have resulted in a level of waterfowl use that does not justify continuation of the closure. In the absence of substantial waterfowl use, Service resources could be more beneficially used elsewhere. On July 10, 1984, a rule was published (49 FR 28079) that proposed revocation of the Lake St. Clair Closed Area, thereby removing Federal restrictions on migratory bird hunting therein. This action was proposed on the recommendation of the Michigan Department of Natural Resources for the reasons given above. The State will have the authority to establish the units as State refuges should conditions change and habitat improve to the point that waterfowl begin using the area again. No comments were received on this proposal.

Conformance With Statutory and Regulatory Authorities

This action is taken by virtue of and pursuant to sections 2 and 3 of the Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755, as amended; 16 U.S.C. 703, 704). Neither the modification of the Pee Dee Closed Area nor the revocation of the Lake St. Clair Closed Area will have any appreciable effect on the distribution or abundance of migratory waterfowl. At Pee Dee National Wildlife Refuge, the action will eliminate a prohibition of hunting on certain private lands, but will not result in any additional hunting opportunities on the refuge. Accordingly, this action is taken after having due regard to the zones of temperature and to the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory birds included in the terms of this country's migratory bird treaties with Canada, Mexico, Japan and the Soviet Union. The implementation of these changes will be consistent with all applicable laws and compatible with the principles of sound wildlife management and will otherwise be in the public interest. These determinations are based on a consideration of, among other things, the Service's "Final Environmental Impact Statement on the Operation of the National Wildlife Refuge System," published in November 1976, and environmental assessments that have been prepared for each of the proposed actions.

This substantive rule relieves restrictions on the Pee Dee National Wildlife Refuge and Lake St. Clair Closed Area, as noted above. Additionally, the opening dates for the Michigan and North Carolina hunting seasons are rapidly approaching and the public interest would not be served by delaying this action unnecessarily. Therefore, the Service, in accordance with 5 U.S.C. 553 (d)(1) and (d)(3), has determined that good cause exists for making this rule effective upon publication.

Economic Effect

Executive Order 12291, "Federal Regulation," of February 17, 1981, requires the preparation of regulatory impact analyses for major rules. A major rule is one likely to result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, government agencies or geographic regions; or significant adverse effects on the ability of United States-based enterprises to compete with foreign-based enterprises. The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) further requires the preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations, or governmental jurisdictions.

This rule will impose no costs on small entities. While the number of small entities affected by this rule is unknown, the number is judged to be small. When the Lake St. Clair action is accomplished, the Service will not have to spend effort and monies to maintain and enforce the closed area. Approximately $2,500 are spent annually to replace lost and stolen buoys that mark the boundaries of the closed area.

Accordingly, the Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act.

Paperwork Reduction Act

This rule does not contain information collection requirements which require approval of the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Environmental Considerations

The "Final Environmental Impact Statement for the Operation of the National Wildlife Refuge System" [FES 76–59] was filed with the Council on Environmental Quality on November 12, 1976; a notice of availability was published in the **Federal Register** on November 19, 1976 (41 FR 51131). Pursuant to the requirements of section 102(2)(c) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C), environmental assessments and

Findings of No Significant Impact were prepared for each of these actions.

Stephen J. Lewis, Division of Refuge Management, U.S. Fish and Wildlife Service, Washington, D.C. 20240, is the primary author of this rulemaking document.

List of Subjects in 50 CFR Part 32

Hunting, National Wildlife Refuge System, Wildlife, Wildlife refuges.

For the reasons set out in the preamble, 50 CFR 32.4 is amended by inserting a new citation revising the boundary of the Pee Dee Migratory Bird Closed Area, in or on which the pursuing, hunting, taking, capturing, or killing of migratory birds or attempting to take, capture, or kill migratory birds is not permitted. The Pee Dee Migratory Bird Closed Area boundary description reads as follows: "All the area of the bed of the Pee Dee River, bank to bank, submerged or exposed, including the water thereof, from the confluence of Pressley Creek and the Pee Dee River to approximately 5 miles downstream to the confluence of Brown Creek and the Pee Dee River. Included also are the waters surrounding Buzzard Island, and containing, in all, a total of 215 acres."

Further, 50 CFR 32.4 is amended by removing the Lake St. Clair Migratory Waterfowl Closed Area, Michigan, from the list of closed areas in 50 CFR 32.4.

PART 32— [AMENDED]

1. The authority citation of Part 32 is revised to read as follows:

Authority: Sec. 2, 33 Stat. 614, as amended, sec. 5, 43 Stat. 651, sec. 5, 45 Stat. 448, sec. 10, 45 Stat. 1224, sec 4, 48 Stat. 402, as amended, sec. 4, 48 Stat. 451, as amended, sec. 2, 48 Stat. 1270, sec. 4, 76 Stat. 654, as amended, sec. 4, 80 Stat. 927; 5 U.S.C. 301, 16 U.S.C. 685, 725, 690d, 715i, 664, 718d, 703, 704, 43 U.S.C. 315a, 16 U.S.C. 460k, 668dd; sec. 2 80 Stat. 926; 16 U.S.C. 668bb, unless otherwise noted.

§ 32.4 [Amended]

2. 50 CFR 32.4 is amended as follows:

a. For the State of North Carolina, enter the date under the column headed "Date" and enter the Federal Register Citation under the column headed "Citation" of the description of the Pee Dee National Wildlife Refuge Closed Area as published in the Federal Register in final form.

b. Remove the entry for "Michigan" in its entirety.

Dated: September 6, 1984.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 84-25632 Filed 9-26-84; 8:45 am]

BILLING CODE 4310-55-M

Proposed Rules

Federal Register
Vol. 49, No. 189
Thursday, September 27, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

7 CFR Part 800

Supervision, Monitoring, and Equipment Testing

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: In compliance with the requirements for the periodic review of existing regulations, the Federal Grain Inspection Service (FGIS or Service) reviewed and proposes to revise the regulations under the United States Grain Standards Act (Act), as amended, concerning Supervision, Monitoring, and Equipment Testing to change the requirements for the monitoring of grain transfers by the Service into export elevators and to remove the requirements for monitoring inventories at export elevators so as to update and clarify these sections.

DATES: Comments must be submitted on or before November 26, 1984.

ADDRESS: Comments must be submitted in writing to Lewis Lebakken, Jr., Information Resources Management Branch (RM), FGIS, USDA, Room 0667 South Building, 14th and Independence Avenue, SW., Washington, D.C. 20250, telephone (202) 382–1738. All comments received will be made available for public inspection at the above address during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., address as above, telephone (202) 382–1738.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This proposed rule has been issued in conformance with Executive Order 12291 and Departmental Regulation 1512–1. The action has been classified as nonmajor because it does not meet the criteria for a major regulation established in the Order.

Regulatory Flexibility Act Certification

Dr. Kenneth A. Gilles, Administrator, FGIS, has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because most users of the official inspection and weighing services and those entities that perform these services do not meet the requirements for small entities, and this action poses no new or additional duties or obligations to business entities involved in the loading, weighing, handling, or sampling of grain.

Regulatory Review

The review of the regulations concerning Supervision, Monitoring, and Equipment Testing (7 CFR 800.215–800.219) included a determination of the continued need for and consequences of the regulations. An objective of the review was to ensure that the regulations are serving their intended purpose, the language is clear, and the regulations are consistent with FGIS policy and authority. FGIS has determined that, in general, these regulations are serving their intended purpose, are consistent with FGIS policy and authority, and should remain in effect. FGIS, however, proposes to amend § 800.216 for the following reasons:

1. On October 13, 1980, section 5 of the Act was amended by Pub. L. 96–437 (the Dole-Ashley Bill) which exempted from mandatory official weighing the transfer of grain into or out of export elevators at export locations for the following type shipments: (1) Intracompany shipments of grain into an export elevator by any mode of transportation, (2) intercompany shipments of grain transferred into an export elevator by transportation modes other than barges, and (3) grain transferred out of an export elevator by any mode of transportation to destinations within the United States.

2. By interim final rule dated June 5, 1981 (46 FR 30322) and final rule dated January 14, 1982 (47 FR 2254), § 800.15(b)(2) was revised to limit export elevator operators responsibility for complying with Class X weighing requirements for all grain, other than export grain, transferred into and transferred out of the export elevator to intercompany grain shipments received by barge. Additionally, having been made impracticable by the 1980 amendment to section 5 of the Act, the Grain Inventory Monitoring Program was ended in the October, 1981 FGIS reorganization.

3. Presently, § 800.216(c)(2) describes grain handling activities to be monitored as including transferring grain into and out of an export elevator at an export port location without Class X weighing. In § 800.216(e) provision is made for monitoring inventories at export elevators under the Grain Inventory Monitoring Program. Based upon the above, so as to update the regulations and delete obsolete references, it is proposed that § 800.216(c)(2) be amended by changing scope of grain transfer activities to be monitored by the Service to intercompany barge shipments into an export elevator at export. Further, § 800.216(e) is proposed to be amended by deleting the provision for monitoring export inventory and by renumbering the subsequent subparagraph as appropriate. These proposed changes will not in anyway adversely effect the overall monitoring program for compliance with the Act.

List of Subjects in 7 CFR Part 800

Administrative practices and procedures, Export, Grain.

PART 800—SUPERVISION, MONITORING, AND EQUIPMENT TESTING

Accordingly 7 CFR Part 800 of the regulations is proposed to be amended as follows:

§ 800.216 [Amended]

1. Section 800.216(c)(2) is revised to read as follows:

* * * * *

(c) *Grain handling activities.* * * *

(2) transferring grain from intercompany barges into an export elevator at an export port location without Class X weighing: * * *

2. Section 800.216 is amended by removing paragraph (e), and redesignating paragraph (f) as paragraph (e).

(Secs. 8 and 18, Pub. L. 90–487, 82 Stat. 761; Pub. L. 94–582, 90 Stat. 2867; Pub. L. 95–113, 91 Stat. 1024; Pub. L. 95–582, 90 Stat. 2870 and 2884 (7 U.S.C. 79b and 87e))

Dated: September 13, 1984.
Kenneth A. Gilles,
Administrator.
[FR Doc. 84-25630 Filed 9-26-84; 8:45 am]
BILLING CODE 3610-28-M

RAILROAD RETIREMENT BOARD

20 CFR Parts 209, 210, 211, and 212

Railroad Retirement Annuities

AGENCY: Railroad Retirement Board.
ACTION: Proposed rule.

SUMMARY: The Railroad Retirement Board hereby proposes to revise its regulations concerning the reporting requirements for railroad employers, the creditability of compensation, the creditability of service, and the creditability of military service. Regulations concerning these subjects are contained in several sections of the Board's regulations and this proposed action would reorganize the rules concerning these subjects in a manner that should make them easier to use and understand. In addition, the proposed rules contain provisions implementing recent amendments to the Railroad Retirement Act.

DATE: Comments must be received on or before October 29, 1984.

ADDRESS: Secretary to the Board, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: George Traynere, Director of Compensation and Certification, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, (312) 751-4876 (FTS 387-4876).

SUPPLEMENTARY INFORMATION: Benefits under the Railroad Retirement Act are computed, in part, based on an individual's creditable railroad service and compensation and the Board is authorized by the Act to require railroad employers to furnish compensation and service records for their employees. The Board currently has regulations with respect to the information to be provided by employers which are found in Part 250 of the Board's regulations. In addition, the Board has issued Instructions to Employers which provide more detail concerning the reporting requirements. The proposed regulation on employer reports would be moved to Part 209 of the regulations and would incorporate revisions of the existing regulation and include certain items from the Instructions to Employers which should be adopted as rules. The proposed Part 209 provides the basic reporting requirements for employers and contains information which explains when and how reports are to be made. In addition, the proposed Part 209 explains the penalties that may be imposed for failure to comply with the reporting requirements.

The Board proposes to replace current Part 220, Definition and Creditability of Service, with a new Part 210, Creditable Railroad Service. The proposed Part 210 provides a better explanation of the circumstances under which service will be credited under the Railroad Retirement Act and should be easier to use than the current Part 220.

The proposed Part 211, Creditable Railroad Compensation, would replace the current Part 222, Definition and Creditability of Compensation. The proposed Part 211 explains the various types of payments that may be credited as compensation under the Railroad Retirement Act and how and when they are to be credited.

Finally, the proposed Part 212, Military Service, would replace the current part 209, Military Service. The proposed Part 212 explains the conditions under which military service may be credited as service under the Railroad Retirement Act and used in determining eligibility for and the railroad retirement benefits.

The Board has determined that this is not a major rule under Executive Order 12291. Therefore, no regulatory analysis is required. The information collections associated with this rule have been approved by the Office of Managment and Budget.

List of Subjects

20 CFR Part 209

Railroad employees, Railroad retirement, Railroads.

20 CFR Part 210

Railroad employees, Railroad retirement.

20 CFR Part 211

Railroad employees, Railroad retirement.

20 CFR Part 212

Railroad employees, Railroad retirement.

Title 20 CFR Chapter II, is amended as follows:

1. The table of contents for Title 20, Chapter II, Railroad Retirement Board, Subchapter B, is amended as follows:

(a) The title of Part 209, Military Service, is revised to read "Railroad Employers Reports and Responsibilities".

(b) The title of new Part 210 is "Creditable Railroad Service".

(c) The title of new Part 211 is "Creditable Railroad Compensation".

(d) The title of new Part 212 is "Military Service".

(e) Part 220 is [Reserved].

(f) Part 222 is [Reserved].

(g) Part 250 is [Reserved].

2. Part 209, Military Service is redesignated as Part 212.

3. Part 250, Reports and Information to be filed by Employers, is redesignated as Part 209, and is revised as follows:

PART 209—RAILROAD EMPLOYERS REPORTS AND RESPONSIBILITIES

Sec.
209.1 General.
209.2 Duty to furnish information and records.
209.3 Information regarding change in status.
209.4 Employers' notices of death of employees.
209.5 Employers' supplemental reports of service and compensation.
209.6 Employers' annual reports of creditable service and compensation.
209.7 Employers' adjustment reports.
209.8 Employers' quarterly summary reports of compensation adjustments.
209.9 Terminated employers' reports.
209.10 Employee representative reports.
209.11 Certificates of service months and compensation.
209.12 Employers' gross earnings reports.

Authority: Sec. 7(b) (5) and (6), Pub. L. 93-445, 88 Stat. 1339, 1340 (45 U.S.C. 231f(b) (5) and (6)); Sec. 9, Pub. L. 93-445, 88 Stat. 1343, (45 U.S.C. 231h); Sec. 13(a), Pub. L. 93-445, 88 Stat. 1345 (45 U.S.C. 2311).

§ 209.1 General.

Benefits under the Railroad Retirement Act are based in part upon an individual's years of service and amount of compensation credited to the individual under the Act. It is the duty of the Board to gather, keep and compile such records and data as may be necessary to assure proper administration of the Act. This part sets forth the types of reports employers are required to make to the Board and states the penalties that the Board may impose upon employers and employees who fail or refuse to make required reports.

§ 209.2 Duty to furnish information and records.

In the administration of the Railroad Retirement Act of 1974, the Board may require any employer or employee to furnish or submit any information, records, contracts, documents, reports or other materials within their possession or control, that, in the judgment of the Board, may have any bearing upon:

(a) The employer status of any individual, person or company,

(b) The employee or pension status of any individual,

(c) The amount and creditability of service and compensation, or

(d) Any other matter arising which involves the administration of the Railroad Retirement Act. Any person who knowingly fails or refuses to make any report or furnish any information required by the Board, may be punished by a fine of not more than $10,000 or by imprisonment not exceeding one year, or both.

§ 209.3 Information regarding change in status.

It is the duty of each employer to promptly notify the Board of:

(a) Any change in the employer's operations, ownership or control of the employer which affects its status as an employer under the Railroad Retirement Act and the Railroad Unemployment Insurance Act;

(b) Any change in the ownership or control by the employer in any company which may affect the status of the company as an employer under the Railroad Retirement Act or Railroad Unemployment Insurance Act; and

(c) The gain of ownership or control by the employer of any company which may give that company status as an employer under the Railroad Retirement Act and Railroad Unemployment Insurance Act. The notice must fully advise the Board of the type of change in ownership, the date of the change, the number of employees affected by the change and any other information pertinent to the change.

§ 209.4 Employers' notices of death of employees.

Each employer shall notify the Board immediately of the death of an employee who, prior to the employee's death, performed compensated service which has not been reported to the Board. The notice of death shall be made on the form prescribed by the Board and mailed to the Director of Compensation and Certification.

§ 209.5 Employers' supplemental reports of service and compensation.

Each employer shall furnish the Board a report of the current year service and compensation of each employee who ceases work for the purpose of retiring under the provisions of the Railroad Retirement Act. The reports are to be made on the form prescribed by the Board and mailed to the address shown on the reverse side of the form.

§ 209.6 Employers' annual reports of creditable service and compensation.

(a) Each year, on or before the last day of February, each employer is required to make an annual report of the creditable service and compensation of employees who performed compensated service in the preceding calendar year. The annual report shall include service and compensation previously furnished in supplemental reports and notices of death. Annual reports are to be prepared in accordance with the instructions issued by the Director of Compensation and Certification mailed directly to that office. The reports may be made on magnetic tape, punchcards or the form prescribed by the Board as described in § 200.2 of this chapter. The reports must be accompanied by a report indication/specification sheet prescribed by the Board as described in § 200.2 of this chapter.

(b) Employers who do not have creditable service and compensation to report shall advise the Director of Compensation and Certification in writing, that they have no creditable service and compensation to report for the previous calendar year.

§ 209.7 Employers' adjustment reports.

(a) The Board may request employers to submit adjustments to correct employee accounts when:

(1) Errors are detected in processing employers' annual report;

(2) An employee shows that the amount of service or compensation reported by the employer to the employee's account was not correct; or

(3) An employee shows that he or she should have been credited with service and compensation for a period for which the employer reported no service and compensation.

(b) Employers may submit adjustment reports to:

(1) Correct service and compensation previously reported; and

(2) Report service and compensation that was omitted from a previous report.

(c) Employers submitting adjustment reports covering pay for time lost as an employee shall report this compensation as provided for in § 211.3 of this chapter. Adjustment reports are to be prepared in accordance with the instructions issued by the Director of Compensation and Certification and mailed directly to that office. The reports may be made on magnetic tape, punchcards or the form prescribed by the Board as described in § 200.2 of this chapter. Adjustment reports may be submitted to the Board each month but shall be summarized quarterly on the form prescribed by the Board as provided for in § 209.8.

§ 209.8 Employers' quarterly summary reports of compensation adjustments.

Each employer submitting compensation adjustment reports shall, on or by the last day of each quarter in which a compensation adjustment report is made, submit a summary report of the adjustments on the form prescribed by the Board as described in § 200.2 of this chapter. Employers who do not make any adjustment reports in any month of a quarter shall not submit a summary report for that quarter.

§ 209.9 Terminated employers' reports.

When an employer's status as an employer is terminated, a final report of creditable service and compensation shall be made. The final report shall be submitted to the Director of Compensation and Certification on or before the last day of the month following the final month for which there was compensated service. The report shall be completed as prescribed in § 209.6 for annual reports and shall be marked Final Compensation Report.

§ 209.10 Employee representatives' reports.

Individuals claiming status as an employee representative shall describe their duties as an employee representative on the form prescribed by the Board and submit the form to the Director of Compensation and Certification. If the duties described in the status report are approved by the Director of Compensation and Certification status as an employee representative is granted. The individual is then advised that he or she is required to make an annual report of creditable Railroad Retirement Act compensation. The compensation report shall be made on the form prescribed by the Board and is to be mailed to the Director of Compensation and Certification each year, on or before the last day of February. When the employee representative's status is terminated, the last report of service and compensation shall be marked Final Compensation Report.

§ 209.11 Certificates of service months and compensation.

(a) Each year the Board prepares certificates of service months and compensation, as described in § 200.2 of this chapter, for employees who performed compensated service in the preceding calendar year. This certificate is the employee's record of the service and compensation credited to his or her account. The certificates are either mailed directly to employees or forwarded to employers for delivery to their employees. Certificates mailed directly to employees and returned to the Board as undeliverable, are forwarded to employers for distribution to emloyees. Employers are to distribute

the certificates within 30 days after they are received, and those certificates which are undeliverable within 30 days are to be returned to the Board. Employees who for any reason do not receive a certificate may obtain one from the nearest Board district office or may write to the Director of Compensation and Certification requesting one. Employers may also obtain certificates from the Director of Compensation and Certification for their employees.

(b) Employers currently receiving certificates for distribution to their employees, but who wish the Board to mail the certificates directly to the employees, shall each year, before May 1, submit the current addresses of all employees to the Director of Compensation and Certification. The address reports shall be submitted on magnetic tape or punchcards only, prepared in accordance with the instructions issued by the Director of Compensation and Certification.

§ 209.12 Employers' gross earnings reports.

(a) Each employer is required to report the gross earnings of a one-percent sample group of railroad employees. The gross earnings sample is based on the earnings of employees whose social security numbers end with the digits 30. This report is used to determine:

(1) Tax and benefit amounts involved in the Financial Interchange with the Social Security Administration; and

(2) Estimated tax income accruing to the railroad retirement system in future periods.

(b) Employers shall report as gross earnings the employee's earnings up to $100,000 a year which includes both taxable and non-taxable compensation for the year. All employers shall submit reports annually, or they may submit such reports more frequently if they desire. Employers with 5,000 or more employees shall provide a monthly or quarterly breakdown of the year's earnings. Employers with less than 5,000 employees may submit an annual amount only, although a monthly or quarterly breakdown is preferable. Gross earnings are to be counted for the same time period as used in determining the employer's annual report of creditable compensation. The reports are to be prepared in accordance with prescribed instructions and mailed to: U.S. Railroad Retirement Board, Bureau of Research, Division of Labor Studies.

4. Part 220, Definition and Creditability of Service, is redesignated as Part 210, and is revised as follows:

PART 210—CREDITABLE RAILROAD SERVICE

Sec.
210.1 General.
210.2 Definition of service.
210.3 Month of service.
210.4 Year of service.
210.5 Creditability of service.
210.6 Service credited for creditable military service.
210.7 Verification of service claimed.

Authority: Sec. 1 (d), (e) and (f), Pub. L. 93-445, 88 Stat. 1307 and 1308 (45 U.S.C. 231 (d), (e) and (f); Sec. 3(i), Pub. L. 93-445, 88 Stat. 1325 and 1326 (45 U.S.C. 231(i)); Sec. 7(b)(5), Pub. L. 93-445, 88 Stat. 1339 (45 U.S.C. 231f(b)(5)).

§ 210.1 General.

An individual's entitlement to benefits and the amount of benefits payable under the Railroad Retirement Act are determined based, in part, on the individual's years of service. This part defines what the term service means under the Railroad Retirement Act and sets forth what types of service are creditable under the Act.

§ 210.2 Definition of service.

Service means a period of time for which an employee receives payment from a railroad employer for the performance of work; or a period of time for which an employee receives compensation which is paid for time lost as an employee; or a period of time credited to an employee for creditable military service as defined in Part 212 of this chapter. Service shall also include the month in which an employee is credited with compensation under § 211.12 of this chapter based on benefits paid under Title VII of the Regional Rail Reorganization Act of 1973.

§ 210.3 Month of service.

A month of service is any calendar month or any part of a calendar month for which an employee receives compensation for services performed for an employer; or receives pay for time lost as an employee; or is credited with compensation for a period of creditable military service; or is credited with compensation under § 211.12 of this chapter based on benefits paid under Title VI of the Regional Rail Reorganization Act of 1973.

§ 210.4 Year of service.

(a) A year of service is twelve months of service consecutive or not consecutive. A fraction of a year of service is taken at its actual value.

(b) The term years of service means the total number of years an employee is credited with service as defined in § 210.2.

§ 210.5 Creditability of service.

(a) *Service before January 1, 1937.*

(1) Service performed before January 1, 1937, is called prior service. Prior service is creditable under the Railroad Retirement Act if the employee had an employment relation with a railroad employer on August 29, 1935. Prior service may be combined with creditable service performed after December 31, 1936, to make the employee's total years of service equal, but not exceed, 30 years (360 months).

(2) An employee is considered to have an employment relation on August 29, 1935, if;

(i) The employee was on that date in active railroad service for an employer; or

(ii) The employee was on that date on a leave of absence expressly granted by the employer or the employer's authorized representative, but only if such leave of absence was established to the satisfaction of the Board before July 1947; or

(iii) The employee had 6 months of active railroad service for an employer during the period August 29, 1935, through December 31, 1945; or

(iv) The employee was not in the service of an employer by reason of a mental or physical disability from which the employee was continuously disabled until the employee attained age 65 or until August 1945; or

(v) Solely for the reason stated in subsection (a)(2)(iv) of this section the employee was not recalled to active service before August 1945; or

(vi) If the employee was recalled, the employee was unable to perform 6 months of service during the period August 29, 1935, through December 31, 1945, solely for the reason stated in subsection (a)(2)(iv) of this section.

(b) *Service after December 31, 1936.* All service performed after December 31, 1936, is creditable. If an employee has service both before January 1, 1937, and after December 31, 1936, all service after December 31, 1936, is first credited; if this service totals less than 30 years (360 months), then the service before January 1, 1937, is included but only up to the amount sufficient to make the total years of service equal 30. Where the years of service include only part of the service performed before January 1, 1937, the part included is taken in reverse order beginning with the last calendar month of the service.

(c) *Service after December 31, 1936, to a local lodge or division.* Services performed for a local lodge or division of a railway labor organization is creditable if the employee is credited

with compensation as defined in § 211.2 of this chapter.

(d) *Service based on time lost.* Any month or any part of a month during which an employee performed no active service but received pay for time lost as an employee is counted as a month of service. Service for time lost as an employee shall be credited as provided for in § 211.3 of this chapter.

(e) *Place of performance of service.*

(1) Service performed for an employer who conducts the principal part of its business within the United States is creditable. However, service performed for an employer who conducts the principal part of its business outside the United States is creditable only when the service is performed in the United States. If an employer, other than a local lodge or division or a general committee of a railway labor organization, does not conduct the principal part of its business within the United States, the service performed outside the United States for that employer is not creditable.

(2) Service performed outside the United States by an employee who is not a citizen or resident of the United States is not creditable if the employer is required under the laws of that place to hire, in whole or in part, only citizens or residents of that place.

(f) *Service as employee representative.* Service performed as an employee representative is creditable in the same manner and to the same extent as though the organization by which the employee representative was employed were an employer.

(g) *Service performed after the beginning date of an annuity.* Service performed after the beginning date of an annuity shall be used in the annuity recomputation.

§ 210.6 Service credited for creditable military service.

Any calendar month in which an employee performed creditable military service, as defined in Part 212 of this chapter, shall be counted as a month of service and shall be included in the employee's years of service, as provided for in § 210.4, provided that the employee has not been credited for services performed to an employer for the same month(s).

§ 210.7 Verification of service claimed.

Service claimed by an employee, which is not credited in the records of the Board, must be verified to the satisfaction of the Board before it may be credited. Verification of the service claimed shall be as follows:

(a) Service claimed will be verified from the payroll or other detailed records of the employer.

(b) If the payroll or other detailed records are incomplete or missing, the service claimed and not established by these records will be verified from the personnel records of the employer.

(c) If the payroll, personnel and detailed records are incomplete or missing, the service claimed and not established by these records will be verified from any other books and records of the employer.

(d) If the employer's records do not establish the service claimed, the employee may submit affidavits and other evidence in support of the service claimed in either of the following instances:

(1) When there are no employer records available to show whether or not the service claimed was performed; or

(2) When there are employer records available which do not verify the service claimed and do not establish that the service claimed was not performed.

(e) When service is verified as to over-all dates, but is not supported in detail by employer records, and when there are no employer records showing in detail absences from service, a deduction shall be made to cover an average amount of the absences. The deduction shall be the absences shown by the applicant or 5 percent of the total period in question, whichever is greater. However, where the employee submits detailed records of the service claimed, properly identified and established as having been made at the time the employee performed the service for which detailed records of the employer are not available, full credit may be allowed for the service as may be verified from the records. Also, the employee may be permitted to establish in any other manner satisfactory to the Board the actual amount of his or her absences.

(f) For the purpose of verifying service before 1937, employers shall preserve through 1986, in accessible form, the original records of the service and compensation.

(g) For the purpose of verifying service after 1936, employers shall preserve in accessible form the original records of service and compensation for a period of five calendar years after the due date of the report.

5. Part 222, Definition and Creditability of Compensation, is redesignated as Part 211, and is revised as follows:

PART 211—CREDITABLE RAILROAD COMPENSATION

Sec.

211.1 General.
211.2 Definition of compensation.
211.3 Compensation paid for time lost.
211.4 Vacation pay.
211.5 Employee representative compensation.
211.6 Compensation based on waiver or refund of organization dues.
211.7 Compensation credited for creditable military service.
211.8 Displacement allowance.
211.9 Dismissal allowance.
211.10 Separation allowance.
211.11 Back pay.
211.12 Compensation credited for Title VII benefits.
211.13 Monthly maximum creditable compensation.
211.14 Verification of compensation claimed.

Authority: Sec. 1(h), Pub. L. 93–445, 88 Stat. 1310 (45 U.S.C. 231(h)); Sec. 7(b)(5), Pub. L. 93–445, 88 Stat. 1339 (45 U.S.C. 231f(b)(5)).

§ 211.1 General.

Benefits under the Railroad Retirement Act are based in part on the individual's years of service and amount of compensation credited to the individual under the Act. This part defines what the term compensation means and sets forth the criteria applied in determining what payments are creditable as compensation under the Railroad Retirement Act.

§ 211.2 Definition of compensation.

(a) The term compensation means any form of payment made to an individual for services rendered as an employee for an employer; services performed as an employee representative; and any separation or subsistence allowance paid under any benefit schedule provided in conformance with Title VII of the Regional Rail Reorganization Act of 1973 and any termination allowance paid under section 702 of that Act. Compensation may be paid as money, a commodity, a service or a privilege. However, if an employee is to be paid in any form other than money, the employer and employee must agree before the service is perfomed upon the following:

(1) The value of the commodity, service or privilege; and

(2) That the amount agreed upon to be paid may be paid in the form of the commodity, service or privilege.

(b) Compensation includes, but is not limited to, the following:

(1) Salary, wages and bonuses;

(2) Pay for time lost as an employee;

(3) Cash tips of $20 or more received in a calendar month;

(4) Vacation pay;

(5) Military pay as determined in § 211.7;

(6) Displacement allowances as provided for in § 211.8;

(7) Dismissal allowances as provided for in § 211.9;

(8) Separation allowances as provided for in § 211.10;

(9) Back pay as provided for in § 211.11;

(10) Payments made under Title VII of the Regional Rail Reorganization Act of 1973 as provided for in § 211.12.

(c) Compensation does not include:

(1) Tips, except as provided in paragraph (b)(3) of this section;

(2) Amounts voluntarily paid by an employer without deducting from the employee's salary the taxes imposed by law;

(3) Payments for services performed by a nonresident alien individual for the period the individual is temporarily present in the United States as a nonimmigrant under subparagraph (F) or (J) of section 1101(a)(15) of Title 8, U.S.C. and which is performed to carry out the purpose specified in subparagraph (F) or (J), as the case may be;

(4) Remuneration paid in certain cases, as described below, for services performed for a local lodge or division of a railway labor organization.

(i) Remuneration for services rendered for a local lodge or division of a railway labor organization which was earned after 1936 and prior to April 1, 1940, shall not be creditable as compensation in a month unless taxes with respect to such remuneration were paid under the Railroad Retirement Tax Act prior to July 1, 1940.

(ii) Remuneration for services rendered for a local lodge or division of a railway labor organization which was earned after March 31, 1940, and prior to January 1, 1975, shall not be creditable as compensation in a month if the amount of such remuneration earned in the month is less than $3.00.

(iii) Remuneration for services rendered for a local lodge or division of a railway labor organization which was earned after December 31, 1974, shall not be creditable as compensation in a month if the amount of such remuneration earned in the month is less than $25.00.

(5) Payments for service as a delegate to a national or international convention of a railway-labor-organization employer if the individual rendering the service has not previously rendered service, other than as a delegate, which may be included in the individual's years of service;

(6) The amount of any payment (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) made to, or on behalf of, an employee or any of the employee's dependents under a plan or system established by an employer which makes provisions for employees generally (or for employees generally and their dependents), or for a class or classes of employees (or for a class or classes of employees and their dependents), on account of sickness or accident disability, or medical, or hospitalization expenses in connection with sickness or accident disability; and

(7) Any amount paid specifically—either as an advance, as reimbursement or allowance—for traveling or other bona fide and necessary expenses incurred, or reasonably expected to be incurred in the business of the employer, provided the payment is identified by the employer either by a separate payment or by specifically indicating the separate amounts where both wages and expense reimbursement or allowance are combined in a single payment.

§ 211.3 Compensation paid for time lost.

(a) A payment made to an employee for a period during which the employee was absent from the active service of the employer is considered to be pay for time lost and is, therefore, creditable compensation. Pay for time lost as an employee includes:

(1) Pay received for a crrtain period of time due to personal injury, or

(2) Pay received for loss of earnings for a certain period of time, resulting from the employee being placed in a position or occupation paying less money. In reporting compensation which represents pay for time lost, employers shall allocate the amount paid to the employee to the month(s) in which the time was actually lost. The entire amount of any payment made to an employee for personal injury is considered pay for time lost unless, at the time of payment, the employer states that a particular amount of the payment was for reasons other than pay for time lost.

(b) Where pay for time lost is allocated to the month(s) in which the time was actually lost, the Board will accept the allocation made by the parties involved if it relates to the employee's normal monthly pay. A reasonable relationship to an employee's normal monthly pay is ordinarily no less than ten times the employee's daily pay rate.

§ 211.4 Vacation pay.

(a) *Employee deceased or retired.* Where an employee has died, or ceased work for the purpose of retiring, the vacation pay due the employee shall be reported as compensation for the last day of service or as compensation for a period immediately after the last day of service, and during the employee's life, depending on whether the vacation pay is intended to make the employee's termination date effective on or after the last day of service. Vacation pay shall not be reported for a period after the date of death or date of termination.

(b) *Employee terminated.* Where an employee resigns his or her position or is discharged by the employer, any vacation pay due the employee shall be reported as compensation for the period prior to the effective date of the resignation or discharge. Vacation pay shall not be reported for a period after the date of termination.

(c) *Employee takes vacation.* Where an employee takes a vacation, the vacation pay shall be reported as compensation for the period the vacation is taken regardless of when the payment is made.

(d) *Employee does not take vacation.* Where an employee receives pay for vacation but does not take the vacation, the vacation pay shall be reported as compensation for the period it is covered by the employer's payroll except for payments made in December of the vacation year, or thereafter. Vacation payments made in the month of December of the year, or thereafter, shall be reported as compensation for December of the vacation year.

§ 211.5 Employee representative compensation.

All payments made to an individual who occupies the position or office of employee representative are creditable compensation, including compensation paid for services not connected with the representation of employees provided the payments do not exceed the monthly amounts shown in § 211.13.

§ 211.6 Compensation based on waiver or refund of organization dues.

A waiver or refund of organization dues which were based solely on consideration for membership in the organization is considered creditable compensation if there is proof that the waiver or refund was intended to be, and was accepted as, a dismissal of an obligation of the organization to compensate the employee for services rendered.

§ 211.7 Compensation credited for creditable military service.

In determining the monthly maximum creditable compensation of an employee, the following amounts shall be credited for each month of military service, provided the employee's combined monthly railroad and military compensation does not exceed the limits shown in § 211.13:

(a) $160 for each calendar month before 1968;

(b) $260 for each calendar month after 1967 and before 1975;

(c) For years after 1974, the amount to be credited, up to the monthly maximum creditable amount, is the actual earnings reported as wages under the Social Security Act.

§ 211.8 Displacement allowance.

A displacement allowance paid to an employee is creditable as compensation and shall be added to the employee's regular earned compensation for the month(s) the allowance is payable, regardless of when the actual payment is made.

§ 211.9 Dismissal allowance.

Dismissal allowance paid to an employee under a protective labor agreement that covers the amounts paid for a specific period of time are creditable as compensation under the Railroad Retirement Act, provided the employee has not severed his or her employee-employer relationship. Subject to the proviso in the preceding sentence, dismissal allowances are to be reported as compensation in the month(s) for which the employee is paid the allowance.

§ 211.10 Separation allowance.

A lump sum separation allowance paid to an employee is creditable as compensation under the Railroad Retirement Act. A separation allowance is to be reported as compensation for the month last worked or as compensation for the month the employee-employer relationship terminated.

§ 211.11 Back pay.

Employers may report back pay as creditable compensation for the month the compensation is paid or for the period earned. If the back pay is reported as creditable to the month paid, the employee may, within the four year period defined in § 211.14(b), request that the back pay be allocated to the month(s) in which earned. The employer will submit the necessary adjustment giving the employee the proper credits.

§ 211.12 Compensation credited for Title VII benefits.

Payments made to an employee under Title VII of the Regional Rail Reorganization Act of 1973 are creditable as compensation only for the month in which the employee first filed for benefits under that Act. The compensation to be credited cannot exceed the monthly creditable amounts shown in § 211.13.

§ 211.13 Monthly maximum creditable compensation.

The amount of compensation that may be creditable under the Railroad Retirement Act with respect to an employee's service is subject to monthly limits. The monthly maximum for any month is one-twelfth of the maximum annual taxable wage base as defined in section 3121 of the Internal Revenue Code of 1954 that would be applicable to the period which includes the month. The maximum annual taxable wage base is defined in section 3121 of the Internal Revenue Code of 1954 as the amount of the contribution and benefit base determined under section 230 of the Social Security Act. Section 230(c) of the Social Security Act provides, with respect to the computation of annuities under the Railroad Retirement Act, for two separate annual maximum amounts for years beginning with 1979. For purposes of computing the amount of an annuity under the Railroad Retirement Act, except the Tier I annuity component provided by section 3(a), 4(a), or 4(f) of the Railroad Retirement Act or in computing the social security guaranty amount under section 3(f)(3) of the Railroad Retirement Act, the annual maximum wage base is determind without regard to the increases in the annual amounts specified in clause (2) of subsection (c) of section 230. Those increases are, however, applicable in computing the Tier I component of an annuity or in computing the social security guaranty amount under section 3(f)(3) of the Railroad Retirement Act. The table below lists the maximum monthly creditable amounts beginning with 1937. The maximum monthly creditable amounts for purposes of computing the Tier I annuity component and the social security guaranty amount is, for the years beginning with 1979, shown in parentheses.

January 1937 through June 1954	$300
July 1954 through May1959	350
June 1959 through October 1963	400
November 1963 through December 1965	450
January 1966 through December 1967	550
January 1968 through December 1971	650
January 1972 through December 1972	750
January 1973 through December 1973	900
January 1974 through December 1974	1,100
January 1975 through December 1975	1,175
January 1976 through December 1976	1,275
January 1977 through December 1977	1,375
January 1978 through December 1978	1,475
January 1979 through December 1979	1,575 (1,908 33)
January 1980 through December 1980	1,700 (2,158 33)
January 1981 through December 1981	1,850 (2,475 00)
January 1982 through December 1982	2,025 (2,700 00)
January 1983 through December 1983	2,225 (2,975 00)

§ 211.14 Verification of compensation claimed.

Compensation claimed by an employee, which is not credited in the records of the Board, must be verified to the satisfaction of the Board before it may be credited. An employee's claim to compensation not credited shall be processed as follows:

(a) If the compensation claimed is in excess of the monthly maximum creditable amounts shown in § 211.13, the Director of Compensation and Certification shall inform the employee that the compensation claimed is not creditable.

(b) If the compensation is claimed within four years from the date the compensation was required to be reported to the Board as prescribed in § 209.6 of this chapter, the Director of Compensation and Certification shall contact the employer requesting a review of their records, and if the employee's claim is correct, the employer will submit an adjustment crediting the employee with the compensation claimed. If the employer states that the employee's claim is incorrect, the employee will be requested to submit check stubs that show railroad retiremenet taxes withheld from the compensation claimed. Upon receipt of the check stubs, the proof will be sent to the employer along with a request for the employer to submit an adjustment crediting the employee with the compensation claimed.

6. The former Part 209, Military Service, is redesignated as Part 212, and is revised as follows:

PART 212—MILITARY SERVICE

Sec.

212.1 General.
212.2 Military service defined.
212.3 Crediting of military service.
212.4 Periods of creditable military service.
212.5 Verification of military service.
212.6 Board's determination for use of military service.

Authority: Sec. 1(g), Pub. L. 93–445, 88 Stat. 1309 (45 U.S.C.231(g)); Sec. 3(i)(2), Pub. L. 93–445, 88 Stat. 1325 (45 U.S.C. 231b(i)(2)); Sec. 7(b)(5), Pub. L. 93–445, 88 Stat. 1339 (45 U.S.C. 231f(b)(5)).

§ 212.1 General.

In determining an individual's entitlement and amount of benefits under the Railroad Retirement Act, an individual's military service creditable under the Railroad Retirement Act is used. This part defines military services as used under this Act and sets forth the criteria to determine the creditability of military service.

§ 212.2 Military service defined.

Military service is the performance of active service by an individual in the armed forces of the United States. An individual is considered to be in active military service when commissioned or enrolled in the land, naval or air forces of the United States until resignation or discharge therefrom. The service of an individual in any reserve component of the land, naval or air forces of the United States, during any period in which ordered to active duty, even though less than thirty days, is also considered active service. However, service in the Army Specialist Corps and the Merchant Marine is not creditable under the Railroad Retirement Act.

§ 212.3 Crediting of military service.

In determining an individual's entitlement to an annuity and the amount of annuity to be paid under the Railroad Retirement Act, a calendar month or part of a calendar month during which the individual was in the active military service of the United States in a war service period, or period of national emergency, as determined in § 212.4, may be included in the individual's years of service. Military service is credited as though the individual had performed service for a railroad employer as provided for in Part 210 of this chapter, provided that the individual is credited with railroad service in the year of or the year before entrance into active military service. Compensation for creditable military service shall be credited as provided for in § 211.7 of this chapter.

§ 212.4 Periods of creditable military service.

In order for military service to be considered to be creditable under the Railroad Retirement Act, it must have been performed during one of the following periods:

(a) April 21, 1898 through August 13, 1898—Spanish American War;

(b) February 4, 1899 through April 27, 1902—Philippine Insurrection;

(c) May 9, 1916 through February 5, 1917—Mexican Border Disturbances;

(d) April 6, 1917 through November 11, 1918—World War I;

(e) September 8, 1939 through June 14, 1948—National Emergency and World War II. Individuals required to continue in service after this period may be credited with the service if:

(1) They were in military service on December 31, 1946, or

(2) They were required to remain in military service involuntarily after December 31, 1946;

(f) June 24, 1948 through December 15, 1950. This service is creditable only if entered into involuntarily;

(g) December 16, 1950 through September 14, 1978—National Emergency.

§ 212.5 Verification of military service.

Military service may be verified by the following proof:

(a) The original certificate of discharge or release to inactive duty from a branch of the armed forces that shows the beginning and ending dates of the individual's active military service; or a certified copy of the original certificate made by the Federal, State, county or municipal agency or department in which the original certificate is recorded; or

(b) A certificate from a branch of the armed forces that shows the beginning and ending dates of the individual's active military service; or

(c) A photocopy of the document described in (a) or (b) of this section.

§ 212.6 Board's determination for use of military service.

(a) Military service may be creditable under both the Railroad Retirement and Social Security Acts, but there are provisions under those Acts to prevent duplicate use of the service. The Railroad Retirement Board will determine whether an employee's military service should be used as railroad service or as social security service. The Board's determination is intended to be to the employee's advantage; however, if the employee does not agree with the Board's determination for use of the employee's military service, the employee may request that it be changed.

(b) Generally, it is to the employee's advantage for the employee's military service to be creditable as railroad service where any of the following conditions may be met with the use of the employee's military service as railroad service:

(1) It gives the employee 10 years of service (120 months), which is the minimum needed to qualify for an annuity based on age and service or total disability, as provided for in Part 216, Subpart B; or

(2) It gives the employee 20 years of service (240 months), which is the minimum needed to qualify for an occupational disability annuity, as provided for in § 216.6 of this chapter; or

(3) It gives the employee 25 years of service (300 months), which is the minimum needed to qualify for a supplemental annuity, as provided for in Part 216, Subpart C; or

(4) It gives the employee 30 years of service (360 months), which would allow the employee to retire at age 60 with a full annuity and will also provide a full annuity to a qualified spouse at age 60, as provided for in Part 216, Subpart B and D; or

(5) It gives the employee sufficient railroad service to entitle the employee to vested dual benefit payments, as provided for in Part 216, Subpart H.

(c) In certain cases it may be to the employee's advantage for the employee's military service to be credited under the Social Security Act. This is generally true under the following conditions:

(1) Crediting the military service under the Social Security Act would entitle the employee and any eligible children to social security benefits, since direct benefits are not payable to children of retired employees under the Railroad Retirement Act; or

(2) Crediting the military service under the Social Security Act would entitle the employee to vested dual benefit payments.

PART 220—[RESERVED]

7. Part 220, Definition and Creditability of Service is redesignated as Part 210, Creditable Railroad Service; therefore, Part 220 is reserved.

PART 222—[RESERVED]

8. Part 222, Definition and Creditability of Compensation, is redesignated as Part 211, Creditable Railroad Service; therefore, Part 222 is reserved.

PART 250—[RESERVED]

9. Part 250, Reports and Information to be Filed by Employers, is redesignated as Part 209, Railroad Employers Reports and Responsibilities; therefore, Part 250 is reserved.

10. In order to enable users to check the completeness, accuracy, and reasoning behind these revised regulations, a Derivation Table follows:

DERIVATION TABLE

New section and name	Current section and name
Part 209—Railroad Employers Reports and Responsibilities.	Part 250—Reports and information to be filed by employers.
209.1 General—New	
209.2 Duty to furnish information and records.	250.1(a) Duty to furnish information and records.—General.
209.3 Information regarding change in status.	250.1(b) Duty to furnish information and records—information concerning change of status.
209.4 Employers' notices of death of employees.	250.2 Employer to notify of death of employee.
209.5 Employer's supplemental reports of service and compensation.—New.	
209.6 Employers' annual reports of creditable service and compensation.	250.3 Employers' reports of compensation of employees.
(a)	(a)(i)
(b)	(b).
209.7 Employers' adjustment reports.	250.3 Employers' reports of compensation of employees.
(a) New	(a)(1)
(b)	
(c) New	
209.8 Employers' quarterly summary reports of compensation adjustments.	250.3(a)(2) Employers' reports of compensation of employees.
209.9 Terminated employers' reports.	250.3(c) Employers' reports of compensation of employees.
209.10 Employee representative's reports.	250.6 Reports of employee representatives.
209.11 Certificates of service months and compensation.	250.5 Employers to transmit annual statements of compensation.
(b) New	
209.12 Employers' "gross earnings" reports.—New.	

NOTE.—Section 250.4, Registration of Employees, was deleted due to the discontinuance of Form CER-1.

Section 250.3(b), Intermittent or Seasonal Employers Reports, was deleted. These employers' reports are now covered in § 250.4(b).

Part 210—Creditable Railroad Service.	Part 220—Definition and Creditability of Service.
210.1 General—New	
210.2 Definition of service. (Title VII service added).	220.1 Meaning of service.
210.3 Month of service. (Title VII service added).	220.2 What constitutes a month and a year of service.
210.4 Year of service	220.2 What constitutes a month and a year of service.
210.5 Creditability of service.	220.3 Creditability of service.
(a)	(d) Service prior to Jan. 1, 1937
(i)	(e) Service prior to Jan. 1, 1937, where individual was employee on Aug. 29, 1935.
(ii)—New	
(iii)—New	
(iv)—New	
(v)—New	
(vi)—New	
(b)	(f) Service subsequent to Dec. 31, 1936
(c)	(g), (i) Service after Dec. 31, 1936, to a local lodge or division.
(d)	(c) Service based on time lost.
(e)	(h) Place of performance of service.
(f)	(h) Service as employee representative.
(g)	(g) Service performed subsequent to the beginning date of an annuity.

NOTE.—Use of service after ABD furnished by BRC in revised Part 216.16.

210.6 Service credited for creditable military service.	209.4 Crediting of military service

NOTE.—Use of military service in annuity computation will be furnished by BRC in revised Part 225.

210.7 Verification of service claimed.	220.4 Verification of service claimed.
(g)—New	

DERIVATION TABLE—Continued

New section and name	Current section and name
NOTE.—Section 220.3(a) was omitted as the term "employer" is defined in Part 202.	
Part 211—Creditable Railroad Compensation.	Part 222—Definition and Creditability of Compensation.
211.1 General—New	
211.2 Definition of compensation.	222.2 Definition of compensation.
(a) (plus additions)	222.2(a)(1)(2).
(b) (plus additions)	222.1 Statutory provisions.
(c) (plus additions)	222.1 Statutory provisions.
211.3 Compensation paid for time lost.	222.2(b) Renumeration paid for time lost.
211.4 Vacation pay	222.3(h) Allowances in lieu of vacation.
(c)—New	
(d)—New	
211.5 Employee representative compensation.	222.3 Employee representative compensation.
211.6 Compensation based on waiver or refund of organization dues.	222.2(c) Waiver and refund of organization dues.
211.7 Compensation credited for creditable military service	222.4 Amount of compensation attributable to each month of military service creditable.
(b)—New	
(c)—New	
211.8 Displacement allowance.	222.2(b)(2) Renumeration paid for time lost.
211.9 Dismissal allowance.—New.	
211.10 Separation allowance.—New.	
211.11 Back pay.—New	
211.12 Compensation credited for title VII benefits.—New.	
211.13 Monthly maximum creditable compensation.	222.3(a) Maximum creditable compensation for one month.
211.14 Verification of compensation claimed.	222.5 Verification of compensation claimed.
(a)—New	
(b)—New	

NOTE.—Section 222.3(b), Use of compensation after the ABD is furnished by BRC in revised Part 216.16 and § 222.3(f) was deleted.

Part 212—Military Service	Part 209—Military Service.
212.1 General	209.1(a) Statutory provisions.
	(b) Statutory provisions.
212.2 Military service defined.	
212.3 Crediting of military service.	209.4(a) Crediting of military service.
	(b) Covered by BRC in revised Part 226.
	(c).
212.4 Periods of creditable military service.	209.13 War period.
(a)	(a)
(b)	(b).
(c)—New	(c).
(d)	(d).
(e)	
(f)—New	
(g)—New	
212.5 Verification of military service.	209.14 Verification of military service claimed.
212.6 The Board's determination for use of military service.—New	

NOTE.—Use of military service in the annuity computation and Notices to SSA to be furnished by BRC in revised Part 226.

Date: September 21, 1984.

By Authority of the Board.

For the Board.

Beatrice Ezerski,

Secretary of the Board.

[FR Doc. 84-25609 Filed 9-26-84; 8:45 am]

BILLING CODE 7905-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 915

Reopening and Extension of Public Comment Period on Proposed Amendment to the Iowa Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Reopening and extension of public comment period.

SUMMARY: On May 8, 1984, the Iowa Department of Soil Conservation (DSC) submitted to OSM proposed amendments consisting of changes to the Iowa regulations concerning subsidence notification, performance bond amounts, and special permit application requirements for prime farmland. OSM published a notice in the **Federal Register** on June 8, 1984, announcing receipt of the amendments and inviting public comment on the adequacy of the proposed amendments (49 FR 23872). The public comment period ended July 9, 1984.

OSM's review of Iowa's proposed amendments identified concerns relating to the methodology for determining bond amounts and a proposed maximum bond amount. OSM notified DSC about its concerns on July 24, 1984, and on August 30, 1984, DSC responded by submitting an explanation regarding its methodology and the reasons for the maximum bond amount.

Accordingly, OSM is reopening and extending the comment period on Iowa's May 8, 1984 proposed amendment as modified on August 30, 1984. This action is being taken to provide the public an opportunity to reconsider the adequacy of the proposed amendments.

DATE: Written comments, data or other relevant information relating to this rulemaking not received on or before 4:00 p.m. October 15, 1984 will not necessarily be considered in the Director's decision.

ADDRESSES: Written comments should be mailed or hand delivered to: Richard Rieke, Director, Kansas City Field Office, Office of Surface Mining, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106.

Copies of the Iowa program, the proposed modifications to the program, and all written comments received in response to this notice will be available for public review at the OSM Field Office listed above and at the OSM Headquarters office and the office of the

State regulatory authority listed below, during normal business hours Monday through Friday, excluding holidays.

Office of Surface Mining, Administrative Record, Room 5124, 1100 "L" Street, NW., Washington, D.C. 20240.

Iowa Department of Soil Conservation, Mines and Minerals Division, Wallace State Office Building, Des Moines, Iowa 50319.

FOR FURTHER INFORMATION CONTACT: Richard Rieke, Director, Kansas City Field Office, Office of Surface Mining, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106; Telephone: (816) 374–5527.

SUPPLEMENTARY INFORMATION: The Iowa program was conditionally approved by the Secretary of the Interior on January 21, 1981 (46 FR 5885). The approval was made effective April 10, 1981. Information pertinent to the general background, revisions, modifications, and amendments to the Iowa program submission, as well as the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Iowa program can be found in January 21, 1981 Federal Register.

By letter dated May 8, 1984, Iowa submitted proposed amendments consisting of:

(1) An amendment to Iowa subrule 4.523(63), *subsidence control; public notice,* to adopt by reference 30 CFR 817.122, as promulgated June 1, 1983. The rule concerns notice to surface owners of underground mining activities;

(2) An amendment to Iowa subrules 4.41(1), 4.42, 4.322(3), and 4.332(3), to provide revised provisions on the amount and duration of performance bonds including a methodology for determining bond amounts; and

(3) An amendment to Iowa subrule 4.322(14) to delete the 10-acre prime farmland exemption which was inadvertently retained when the Iowa program was approved in 1981.

OSM announced receipt of the amendments and initiated a public comment period on June 8, 1984 (49 FR 23872). The comment period ended July 9, 1984.

During review of the amendments, OSM identified two concerns:

(1) Iowa's proposed methodology for determining bond amounts does not explicitly demonstrate that it represents a good approximation of actual reclamation costs; and

(2) Iowa's proposed maximum bond amount of $10,000 per acre might not be sufficient to assure completion of reclamation in the event of bond forfeiture.

OSM notified Iowa about these concerns by letter dated July 24, 1984, and Iowa responded by submitting clarifying information on August 30, 1984. The clarifying information identifies the reasons why the specific methodology was chosen for Iowa and explains why the maximum bond amount will be sufficient.

The full text of the proposed program amendments and of the subsequent material is available for review at the locations listed above under **ADDRESSES.** Accordingly, OSM is now seeking public comment on the adequacy of Iowa's May 8, 1984 amendments in light of the State's August 30, 1984 modification.

(Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*)

Dated: September 21, 1984.

William B. Schmidt,

Assistant Director, Program Operations and Inspection.

[FR Doc. 84–25866 Filed 9–26–84; 8:45 am]

BILLING CODE 4310–05–M

GENERAL SERVICES ADMINISTRATION

41 CFR Ch. 201

Federal Information Resources Management Regulation (FIRMR); Publication of Integrated Provisions

AGENCY: Office of Information Resources Management, GSA.

ACTION: Notice of proposed rulemaking and availability of drafts of Block "D" segment.

SUMMARY: This notice announces the availability of the Block D portion of the proposed integrated text to be published as Amendment 1 to the FIRMR. No changes will be made in authorities, policies, or procedures from those contained in codified portions of the Federal Procurement Regulations (FPR) and Federal Property Management Regulations (FPMR) from which the provisions are derived. Nevertheless, users may desire to become acquainted with the manner in which the integration is made. While comment and review is not solicited, all comments and suggestions received will be considered.

DATES: Any comments on the proposed provisions should be submitted in writing to the Policy Branch, OIRM at the address shown below on or before October 29, 1984. FIRMR Block D and the applicable FIRMR Part number must be cited in all correspondence related to this notice.

ADDRESS: Comments should be submitted to the General Services Administration, KMPP, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Ms. Leticia Boddie, Policy Branch, Office of Information Resources Management, telephone 202 566–0194 or FTS, 566–0194. A single copy of any of the parts comprising Block D is available upon request; please specify the part(s) desired.

SUPPLEMENTARY INFORMATION: GSA has established (49 FR 20994, May 17, 1984) the FIRMR to provide a single regulation for use by Federal agencies governing certain of their information activities. Text was published for only Part 201–1. An amendment to the FIRMR is under development to publish an integrated FIRMR text for codified Federal Procurement Regulations (41 CFR Subparts 1–4.11, 1–4.12, and 1–4.13) and Federal Property Management Regulations (41 CFR Parts 101–35, 101–36, 101–37). The fourth and final block of integrated FIRMR text has been drafted. Block D consists of five FIRMR parts. Derivation and distribution tables relating FIRMR sections to FPR/FPMR sources are included. Block D also includes the last of eight temporary regulation drafts which present existing temporary provisions changed to be consistent with the integrated text.

The parts in Block D are—

Part 201–23—Delegations of Authority
Part 201–26—Reporting Requirements
Part 201–31—Sharing of ADP Resources
Part 201–33—Reuse of ADP Equipment
Part 201–34—Supporting ADP Activities

The proposed temporary regulation in Block D is—

Proposed Temp. Reg. *5CITE* (Reissue of FPMR Temp. Reg. 64 provisions)

List of Subjects in 41 CFR Ch. 201

Goverment information resources activities, Government procurement.

Authority: 201(c), 63 Stat. 390; 40 U.S.C. 486(c).

Dated: September 14, 1984.

Francis A. McDonough,

Deputy Assistant Administrator for Federal Information Resources Management.

[FR Doc. 84–25815 Filed 9–26–84; 8:45 am]

BILLING CODE 6820–25–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 159 and 160

[CGD 83–030]

Lifesaving Equipment

AGENCY: Coast Guard, DOT.

ACTION: Proposed rules.

SUMMARY: This proposal would substitute independent laboratory inspection for Coast Guard factory inspection of approved inflatable liferafts, lifeboats including disengaging apparatus and hand propelling gear, lifeboat davits and winches. The Coast Guard's marine inspection responsibilities have steadily increased. Independent laboratory inspection is a way for the Coast Guard to determine that approved equipment meets Coast Guard requirements, while reducing the commitment of Coast Guard resources to these functions. This substitution would free Coast Guard inspectors for other duties that the Coast Guard is obligated by law to perform.

DATES: Comments must be submitted on or before December 26, 1984.

ADDRESSES: (1) Comments should be mailed to the Commandant (G–CMC/44) (CGD 83–030), U.S. Coast Guard, 2100 Second St., SW., Washington, DC 20593. Between the hours of 7:00 A.M. and 4:00 P.M. Monday through Friday, except holidays, comments may be delivered to, and are available for inspection and copying at, the Marine Safety Council (G–CMC/44) Room 2110 U.S. Coast Guard Headquarters, 2100 Second St., SW., Washington, DC, (202) 426–1477.

(2) The Draft Evaluation has been included in the public docket for this rulemaking and may be examined at the Marine Safety Council (G–CMC/44) at the address listed above.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Markle, Office of Merchant Marine Safety (G–MVI–3/24), Room 2412, U.S. Coast Guard Headquarters, 2100 Second St., SW., Washington, DC 20593, (202) 426–1444. Normal office hours are between 7 a.m. and 5 p.m., Monday through Friday, except holidays.

SUPPLEMENTARY INFORMATION: On October 23, 1978, the Coast Guard published a notice of proposed rulemaking (NPRM) in the **Federal Register** (43 FR 49440) that proposed a new Part 159 that would contain procedures for approval of equipment, for production inspections and tests of approved equipment, and for acceptance of independent laboratories that would conduct certain inspections and tests for approved equipment. The final rules were published on December 17, 1979 in the **Federal Register** (44 FR 73038). The proposals in this notice would apply Part 159 to approved inflatable liferafts, lifeboats including disengaging apparatus and hand propelling gear, lifeboat davits, and winches.

Interested persons are invited to participate in this rulemaking by submitting written views, data or arguments. Comments should include the name and address of the person making them, identify this Notice (CGD 83–030) and the specific section to which each comment applies, and give reasons for the comments. If an acknowledgement is desired, a stamped, self-addressed postcard should be enclosed. The proposal may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal.

No public hearing is planned, but one may be held if a written request for a hearing is received from an interested person raising a relevant issue and it is determined that the opportunity to comment orally at a public hearing will aid in the rulemaking process.

Drafting Information

The principal persons involved in drafting these regulations are: Mr. Robert Markle, Project Manager, Office of Merchant Marine Safety, and Mr. Stanley M. Colby, Project Counsel, Office of Chief Counsel.

Discussion of the Proposed Regulations and Major Issues

This proposal would amend the specification regulations for Coast Guard approved inflatable liferafts, lifeboats, lifeboat disengaging apparatus, lifeboat hand propelling gear, lifeboat davits, and lifeboat winches by applying the approval and inspection rules of Part 159 to this equipment. These changes would remove Coast Guard marine inspectors and Coast guard District Commanders from the approval and production process by substituting inspectors from accepted independent laboratories as the supervisors of required inspections and tests.

Over the years, the Coast Guard's marine inspection responsibilities have increased. Among the many demands on Coast Guard marine inspection personnel were tests and inspections for approval of equipment and materials and production inspection and testing of approved equipment and materials. While the number of man-hours devoted to each individual inspection was not great, these approval and production tests and inspections created a significant drain on the Coast Guard's limited personnel resources. The rules published in Part 159 provided a procedure for determining that approved equipment met Coast Guard requirements and continued to meet the requirements as it was produced, while reducing the commitment of Coast Guard resources to these functions.

Since Part 159 was published, inspection and test procedures in Part 160 have been gradually converted to incorporate the Part 159 procedures. The preamble to the October 23, 1978 NPRM stated, "The procedures under this program would eventually affect all the lifesaving equipment specifications in Part 160 except those for lifeboats, including disengaging apparatus and hand propelling gear, inflatable liferafts, winches, and davits, which may be considered by the Coast Guard at a later date." Since the conversion to Part 159 procedures for all equipment in Part 160 which require Coast Guard factory inspection is complete or is now underway, the Coast Guard is now considering extending those procedures to the lifeboats, liferafts, and launching equipment, as referred to in the October 23, 1978 NPRM.

The Coast Guard had planned to effectuate the independent laboratory procedures for the equipment under this NPRM by direct notification allowed under § 159.001–7. Following this plan, the Coast Guard advised each affected manufacturer by letter in 1982 that the independent laboratory procedures under Part 159 would become mandatory over a period of time between October 1982 and October 1983 for inflatable liferafts, and between October 1983 and October 1984 for the other equipment. A number of the manufacturers objected to this change claiming that the wording of the October 23, 1978 NPRM required the Coast Guard to proceed with another rulemaking before manufacturers could be required to use independent laboratories. As a result, the Coast Guard notified affected manufacturers that the earlier notifications was suspended and has undertaken this rulemaking.

Coast Guard inspectors have not been available for factory inspections of lifesaving equipment produced outside of the United States, because of a limited number of inspectors. This has resulted in a *de facto* prohibition on the approval of foreign produced equipment. This prohibition is not consistent with the objectives of Title IV of the Trade Agreements Act of 1979 (93 Stat 242, 19 U.S.C. 2531) which implemented the Agreement on Technical Barriers to Trade (also known as the "Standards Code"), done in Geneva, April 12, 1979; entered into force for the United States on January 1, 1980 (TIAS 9616). The Standards Code is an international agreement related to the General Agreement on Tariffs and Trade. The

U.S. strongly supported adoption of the Standards Code as a way to eliminate non-tariff trade barriers in other countries which effectively excluded certain U.S.-made equipment from some foreign markets. In order to comply with the objectives of the Standards Code, the Coast Guard has begun inspections of certain inflatable liferafts produced in Canada, Denmark and the United Kingdom. Other foreign manufacturers are also interested in Coast Guard approval of their liferafts, lifeboats, and launching equipment. The increasing number of requests makes timely response to the inspection needs of these manufacturers very difficult, and adversely affects the ability of the Coast Guard to perform other marine safety inspections. Adoption of these proposed rules would relieve these problems.

Some U.S. manufacturers of Coast Guard approved liferafts, lifeboats and launching equipment have expressed the opinion that Part 159 is not adequate to ensure that foreign-manufactured equipment inspected by foreign independent laboratories fully complies with the Coast Guard approval requirements. The Coast Guard has accepted 11 foreign organizations for inspection of certain Coast Guard approved equipment under Subpart 159.010 of Part 159 and marine sanitation devices under the criteria for recognition of facilities in 33 CFR 159.205. The Coast Guard has found these recognized foreign organizations to be just as effective as U.S.-based organizations or Coast Guard inspectors in fulfilling their inspection duties.

The rules proposed in this notice would not change any of the technical requirements of the specification regulations in Part 160. For the most part, the changes in this notice would result in the independent laboratory witnessing tests and inspections in place of Coast Guard marine inspectors. Functions formerly performed by the Commander of the Coast Guard District would now be performed by the Commandant (G–MVI–3). Certain discretionary authorities of the Coast Guard marine inspector would now be exercised by the Commandant (G–MVI–3). A number of other incidental changes are being proposed as well. Other than editorial changes, these are:

a. New sections 159.005–9(b) and 159.007–9(d) are being proposed to provide for any inspections or tests that may be necessary to resolve questions about an unusual design, the suitability of materials and arrangements, or to resolve problems that arise during approval inspections and tests. Since Part 159 is generally applicable to all approved equipment, the effect of these sections would not be limited to liferafts, lifeboats and launching equipment.

b. Responsibilities of the manufacturer are listed in §§ 160.015–5(a) (1) and (2), 160.015–6(a), 160.032–5(a) (1) and (2), 160.032—6(a), 160.033–4(a) (1) and (2), 160.033–5(a), 160.034–3a (a) and (b), 160.035–11(a) (1) and (2), 160.035–11(e), 160.035–13(a). 160.051–5(a) (1) and (2), and 160.051–9(a).

c. Inspections or tests that must be done by the independent laboratory inspector are listed in §§ 160.015–5(a) (3) and (4), 160.015–6(b), 160.032–5(a) (3) and (4), 160.032–6(b), 160.033–4(a) (3) and (4), 160.033–5(b), 160.034–3a (c) and (d), 160.034–5(b), 160.035–11(a) (3) and (4), 160.035–13(b), 160.051–5(a) (3) and (4), and 160.051–9(b).

d. Under present production inspection practice, Coast Guard inspectors periodically visit the manufacturer to inspect the device during fabrication. The present regulations do not reflect the frequency of these inspections because Coast Guard inspectors are regulated by internal instructions. In the rules proposed in this notice, the inspector from the independent laboratory would be required to inspect the device during each fabrication stage. The proposed requirement is intended to ensure that the frequency of these inspections now conducted by the Coast Guard would be continued by the independent laboratory.

e. Sections 160.033–1, 160.034–1, and 160.035–1(b) would be revoked to eliminate obsolete information and addresses.

Regulatory Evaluation

These proposed regulations are considered to be non-major under Executive Order 12291 and non-significant under "Department of Transportation Policies and Procedures for Simplification, Analysis, and Review of Regulations", (DOT Order 100.5 of May 22, 1980). A draft evaluation has been prepared and placed in the docket and may be inspected or copied at the Office of the Marine Safety Council, Room 2110, U.S. Coast Guard Headquarters, 2100 Second St., SW., Washington, DC 20593.

The costs to equipment manufacturers would be those fees charged by an independent laboratory to witness or perform approval tests as well as periodic production tests. As discussed in the draft evaluation, the total annual cost to manufacturers of the equipment affected by this notice would be approximately $614,750.

The cost burden of these rules would be approximately the same per unit produced for both large and small entities. Five small entities that are small businesses as defined by the Small Business Administration were identified that now hold Coast Guard approvals for the affected equipment. Nine other manufacturers that are not small entities also hold approvals for the affected equipment. Under the Regulatory Flexibility Act, Pub. L. 96–354, September 19, 1980 (5 U.S.C. 609), it is certified that this rule will not have a significant economic impact on a substantial number of small entities. An Environmental Assessment has been prepared and a Finding of No Significant Impact has been placed in the public file.

The Coast Guard anticipates that manufacturers would pass the cost of inspections on to the purchasers of the equipment, and that these costs would ultimately be borne by consumers and recipients of marine products and services. The Coast Guard is presently performing inspections and tests at public expense. One of the effects of this change in procedure is that the manufacturer of the equipment and ultimately the users of marine products and services would bear the expense of performing these inspections and tests rather than the general taxpayer. This is one of the principal benefits of these proposals.

Another principal benefit is that Coast Guard inspectors would be available for other duties. The Coast Guard's inspection responsibilities have increased in recent years because of new laws and regulations concerned with environmental protection and occupational safety. The use of independent laboratories for some of the inspection functions would enable the Coast Guard to avoid some of the increases in budget and personnel that would otherwise be necessary. There is no effect on federal state, and local governments except in their capacities as consumers of maritime services.

Effective Date

If these rules are adopted as final rules, the Coast Guard anticipates that manufacturers of the affected equipment could begin using the independent laboratory procedures immediately. It is proposed that all manufacturers should be required to convert their inspection and test procedures to the independent laboratory system within 180 days after publication of the final rules.

Recordkeeping Requirements

This proposed rulemaking contains information collection and recordkeeping requirements. These items have been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act (Pub. L. 96-511, 44 U.S.C. 3501 et seq.) and have been approved by OMB. The section numbers and the corresponding OMB approval numbers are as follows:

a. § 160.015-5(a)(2)(ii)	2115-0141
b. § 160.015-6(a)	2115-0141
c. § 160.032-5(a)(2)(ii)	2115-0141
d. § 160.032-5(a)(2)(iii)	2115-0141
e. § 160.032-6(a)	2115-0141
f. § 160.033-4(a)(2)(ii)	2115-0141
g. § 160.033-5(a)	2115-0141
h. § 160.035-11(a)(2)(ii)	2115-0141
i. § 160.035-11(a)(2)(iv)	2115-0141
j. § 160.035-13(a)(1)	2115-0141
k. § 160.035-13(a)(2)	2115-0141
l. § 160.051-5(a)(2)(ii)	2115-0141
m. § 160.051-9(a)(1)	2115-0141

List of Subjects

46 CFR Part 159

Business and industry laboratories, Marine safety.

46 CFR Part 160

Marine safety.

In consideration of the foregoing, it is proposed to amend Title 46 of the Code of Federal Regulations as follows.

PART 159—APPROVAL OF EQUIPMENT AND MATERIALS

1. By revising the authority citation for Part 159 to read as follows:

Authority: R.S. 46 U.S.C. 3306(a); 49 CFR 1.46(b).

Subpart 159.005—Approval Procedures

2. By adding paragraph (b) to § 159.005-9 to read as follows:

§ 159.005-9 Approval inspections and tests.

* * * * *

(b) The manufacturer must conduct any additional inspections and tests that the Commandant may request to resolve questions about an unusual design, the suitability of materials and arrangements, or to resolve problems that arise during approval inspections and tests.

3. By adding paragraph (d) to § 159.007-9 to read as follows:

§ 159.007-9 Production inspections and tests.

* * * * *

(d) The manufacturer must conduct any additional inspections and tests that the Commandant may request to resolve questions about the suitability of materials or to resolve problems that arise during production inspections and tests.

PART 160—LIFESAVING EQUIPMENT

4. By revising the Authority citation for Subparts 160.015, 160.032, 160.033, 160.034, 160.035, and 160.051 to read as follows:

Authority: 46 U.S.C. 3306(a); 49 CFR 1.46(b).

Subpart 160.015—Lifeboat Winches for Merchant Vessels

5. By amending § 160.015-5 by revising the title of the section, by removing the title of the paragraph and adding introductory text to paragraph (b), by removing and reserving paragraph (b)(1), by removing paragraphs (c) and (d), and by revising paragraphs (a) and (b)(10) to read as follows:

§ 160.015-5 Approval procedure.

(a) In conjunction with the procedure in § 159.005 of this subchapter, the procedure for approving a lifeboat winch is as follows:

(1) As required in § 159.005-5(a)(2), the manufacturer must submit two sets of general plans and specifications including—

(i) The bill of materials with identification of the materials used; and

(ii) The strength calculations for each load carrying part.

(2) After receiving the Coast Guard acceptance under §159.005-7(a)(1), the manufacturer must—

(i) Produce a prototype winch; and

(ii) Have certifications of the physical and chemical properties of the materials used in construction of the winch that are provided by the foundry or mill supplying the materials.

(3) During each fabrication stage, an inspector from an independent laboratory accepted by the Coast Guard must be present and must determine whether or not the—

(i) Materials meet the requirements of this subpart and the plans stamped "EXAMINED" by the Commandant, as verified by the certifications required in paragraph (a)(2)(ii) of this section; and

(ii) Welders and electrodes meet § 160.015-3(o).

(4) After the assembly of the prototype winch is complete, the independent laboratory inspector must determine that the prototype winch—

(i) Meets this subpart and the plans and specifications marked "EXAMINED" by the Commandant; and

(ii) Is tested under paragraph (b) of this section.

(b) Each of the following tests must be conducted by or under the supervision of the independent laboratory with the prototype winch arranged to simulate its intended shipboard installation. If the winch has non-grooved drums, each drum must be built-up or filled with wire to simulate the maximum number of wraps for which the winch is intended. If an arrangement of the falls differing from a shipboard installation is used to facilitate testing, the test weights and arrangements must compensate for the differences so that the velocities and breaking distances can be compared to the shipboard installation.

(1) [Reserved]

* * * * *

(10) After the tests in paragraphs (b)(2)(10) of this section have been completed, the winch must be completely disassembled and the parts examined by the inspector from the independent laboratory. There must be no evidence of damaging stress or wear of any part.

6. By revising § 160.015-6 to read as follows:

§ 160.015-6 Production inspections and tests.

In conjunction with the procedures in Subpart 159.007 of this subchapter, the following is the procedure for determining whether or not each production winch is approved:

(a) The manufacturer must have certifications of the physical and chemical properties of the materials used in construction of the winch that are provided by the foundry or mill supplying the materials.

(b) During each fabrication state and test, an inspector from an independent laboratory accepted by the Coast Guard must be present and must determine whether or not—

(1) Materials meet the requirements of this subpart and the plans approved under § 159.005-13(a), as verified by the certifications required in paragraph (a) of this section;

(2) Each production winch meets the applicable requirements of this subpart and the plans and specifications approved under § 159.005-13(a);

(3) Welders and electrodes meet § 160.015-3(o);

(4) Each production winch passes the test in paragraph (c) of this section; and

(5) Each production winch has a nameplate that meets § 160.015-9.

(c) Each production winch must be tested in accordance with § 160.015-5(b)(2), except that the pull must equal 1.1 times the working load.

7. By adding a new § 160.015-9 to read as follows:

§ 160.015–9 Nameplate.

(a) The manufacturer must permanently affix to each production winch a corrosion-resistant nameplate permanently marked with the—

(1) Name of the manufacturer;

(2) Serial number;

(3) Type or model number;

(4) The words "Coast Guard approved (insert approval number)" or "USCG approved (insert approval number)";

(5) Maximum working load at the drums, in pounds;

(6) Maxium working load for each fall, in pounds; and

(7) Date of manufacture.

(b) After the inspector from the independent laboratory accepted by the Coast Guard determines that the production winch meets the inspection requirements under § 160.015–6(b) and passes the test in § 160.015–6(c), the inspector permanently affixes the identification or inspection mark of the independent laboratory to the nameplate to indicate that the winch is Coast Guard approved and meets the requirements of this subpart.

Subpart 160.032—Davits for Merchant Vessels

8. By amending § 160.032–5 by revising the title of this section, by removing the title of this paragraph and adding introductory text to paragraph (b), by removing and reserving paragraphs (b)(1) and (b)(5), by removing paragraphs (c) and (d), and by revising paragraph (a) to read as follows:

§ 160.032–5 Approval procedure.

(a) In conjunction with the procedure in § 159.005 of this subchapter, the procedure for approving a davit is as follows:

(1) As required in § 159.005–5(a)(2), the manufacturer must submit two sets of general plans and specifications including—

(i) The bill of materials with identification of the materials used;

(ii) The strength calculations for each load carrying part; and

(iii) Stress diagrams for each load carrying part.

(2) After receiving the Coast Guard acceptance under § 159.005–7(a)(1), the manufacturer must—

(i) Produce a prototype davit;

(ii) Have certifications from the foundry showing whether or not the steel casting material complies with the requirements of the ASTM specification in § 160.032–3(c)(2) or § 160.032–3(c)(3); and

(iii) Have certifications from the mill showing whether or not the structural steel complies with the requirements of the ASTM specification in § 160.032–3(c)(1).

(3) An inspector from an independent laboratory accepted by the Coast Guard must—

(i) Be present during the fabrication of each steel casting for arms or frames of the prototype davit;

(ii) Be present during the testing required by ASTM A 27 or A 216;

(iii) Stamp each casting that meets ASTM A 27 or A 216 with the identification of the independent laboratory, the letters "F.T.", and the date of the inspection;

(iv) Determine whether or not the materials meet the requirements of this subpart and the plans stamped "EXAMINED" by the Commandant, as verified by the certifications required in paragraphs (a)(2)(ii) and (a)(2)(iii) of this section;

(v) Determine whether or not the welders and electrodes meet § 160.032–3(f); and

(vi) Be present during each fabrication stage and determine whether or not the prototype davit meets this subpart and the plans and specifications marked "EXAMINED" by the Commandant.

(4) After the assembly of the prototype davit is complete, the independent laboratory inspector must ensure that the prototype davit is tested under paragraph (b) of this section.

(b) Each prototype mechanical davit must pass the tests and inspections under paragraphs (b)(2) through (b)(4) of this section. Each prototype gravity davit must pass the tests and inspections under paragraphs (b)(6) through (b)(8) of this section. Each test must be conducted by or under the supervision of the independent laboratory with the prototype davit arranged to simulate its indended shipboard installation.

(1) [Reserved]

* * * * *

(5) [Reserved]

* * * * *

9. By revising § 160.032–6 to read as follows:

§ 160.032–6 Production inspections and tests.

In conjunction with the procedures in Subpart 159.007 of this subchapter, the following is the procedure for determining whether or not each production davit is approved:

(a) The manufacturer must have certifications from—

(1) The foundry showing whether or not the steel casting material complies with the requirements of the ASTM specification in § 160.032–3(c)(2) or § 160.032–3(c)(3); and

(2) The mill showing whether or not the structural steel complies with the requirements of the ASTM specification in § 160.032–3(c)(1).

(b) During each fabrication stage and test, an inspector from an independent laboratory accepted by the Coast Guard must be present and must determine whether or not—

(1) Materials meet the requirements of this subpart and the plans approved under § 159.005–13(a), as verified by the certifications required in paragraph (a) of this section;

(2) Each production davit meets the applicable requirements of this subpart and the plans and specifications approved under § 159.005–13(a);

(3) Welders and electrodes meet § 160.032–3(f);

(4) Each production davit passes the test in paragraph (c) of this section; and

(5) Each production davit has a nameplate that meets § 160.015–9.

(c) Each mechanical davit must pass the test under § 160.032–5(b)(2). Each gravity davit must pass the test under § 160.032–5(b)(7), except that the swing test may be eliminated if the Commandant finds it to be impracticable.

10. By adding a new § 160.032–9 to read as follows:

§ 160.032–9 Nameplate.

(a) The manufacturer must permanently affix to each production davit arm and frame a corrosion-resistant nameplate permanently marked with the—

(1) Name of the manufacturer;

(2) Serial number;

(3) Type;

(4) The words "Coast Guard approved (insert approval number)" or "USCG approved (insert approval number)";

(5) Maximum working load for each arm, in pounds; and

(6) Date of manufacture.

(b) After the inspector from the independent laboratory accepted by the Coast Guard determines that the production davit meets the inspection requirements under § 160.032–6(b) and passes the test in § 160.032–6(c), the inspector permanently affixes the identification or inspection mark of the independent laboratory to the nameplate to indicate that the davit is Coast Guard approved and meets the requirements of this subpart.

Subpart 160.033—Mechanical Disengaging Apparatus, Lifeboat, for Merchant Vessels

§ 160.033–1 [Removed]

11. By removing § 160.033–1.

12. By amending § 160.033–4 by revising the title of the section, by removing the title of the paragraph and adding introductory text to paragraph (b), by revising paragraph (b)(1), by removing paragraphs (c), (d) and (e), and by revising paragraph (a) to read as follows:

§ 160.033–4 Approval procedure.

(a) In conjunction with the procedure in § 159.005 of this subchapter, the procedure for approving a lifeboat disengaging apparatus is as follows:

(1) As required in § 159.005–5(a)(2), the manufacturer must submit—

(i) Two sets of general plans and specifications including—

(A) The bill of materials with identification of the materials used;

(B) The strength calculations for each load carrying part; and

(C) Stress diagrams for each load carrying part; and

(ii) Two sets of plans for the test jig required in paragraph (b)(1) of this section.

(2) After receiving the Coast Guard acceptance under § 159.005–7(a)(1), the manufacturer must—

(i) Produce a prototype disengaging apparatus; and

(ii) Have certifications of the physical and chemical properties of the materials used in construction of the disengaging apparatus that are provided by the foundry or mill supplying the materials.

(3) During each fabrication stage, an inspector from an independent laboratory accepted by the Coast Guard must be present and must determine whether or not the—

(i) Materials meet the requirements of this subpart and the plans stamped "EXAMINED" by the Commandant, as verified by the certifications required in paragraph (a)(2)(ii) of this section; and

(ii) Welders and electrodes meet § 160.033–3(e).

(4) After the assembly of the prototype disengaging apparatus is complete, the independent laboratory inspector must determine that the prototype disengaging apparatus—

(i) Meets this subpart and the plans and specifications marked "EXAMINED" by the Commandant; and

(ii) Is tested under paragraph (b) of this section.

(b) Each of the following tests must be conducted by or under the supervision of the independent laboratory:

(1) The prototype mechanical disengaging apparatus must be tested to destruction by using a test jig that duplicates the load vectors on the apparatus when it is installed in a lifeboat.

* * * * *

13. By revising § 160.033–5 to read as follows:

§ 160.033–5 Production inspections.

In conjunction with the procedures in Subpart 159.007 of this subchapter, the following is the procedure for determining whether or not each production disengaging apparatus is approved:

(a) The manufacturer must have certifications of the physical and chemical properties of the materials used in construction of the disengaging apparatus that are provided by the foundry or mill supplying the materials.

(b) During each fabrication stage, an inspector from an independent laboratory accepted by the Coast Guard must be present and must determine whether or not—

(1) Materials meet the requirements of this subpart and the plans approved under § 159.005–13(a), as verified by the certifications required in paragraph (a) of this section;

(2) Each production disengaging apparatus meets the applicable requirements of this subpart and the plans and specifications approved under § 159.005–13(a);

(3) Welders and electrodes meet § 160.033–3(e); and

(4) Each production disengaging apparatus has a nameplate that meets § 160.033–9.

14. By adding a new § 160.033–9 to read as follows:

§ 160.033–9 Nameplate.

(a) The manufacturer must permanently affix to each production disengaging apparatus a corrosion-resistant nameplate permanently marked with the—

(1) Name of the manufacturer;

(2) Type of model number;

(3) The words "Coast Guard approved (insert approval number)" or "USCG approved (insert approval number)"; and

(4) Working load.

(b) After the inspector from the independent laboratory accepted by the Coast Guard determines that the production disengaging apparatus meets the inspection requirements under § 160.033–5(b), the inspector permanently affixes the identification or inspection mark of the independent laboratory to the nameplate to indicate that the disengaging apparatus is Coast Guard approved and meets the requirements of this subpart.

Subpart 160.034—Hand Propelling Gear, Lifeboats, for Merchant Vessels

§ 160.034–1 [Removed]

15. By removing § 160.034–1.

16. By adding a new § 160.034–3a to read as follows:

§ 160.034–3a Approval procedure.

In conjunction with the procedures in § 159.005 of this subchapter, the procedure for approving hand propelling gear is as follows:

(a) As required in § 159.005–5(a)(2), the manufacturer must submit two sets of general plans and specifications including the bill of materials with identification of the materials used.

(b) After receiving the Coast Guard acceptance under § 159.005–7(a)(1), the manufacturer must produce a prototype hand propelling gear.

(c) During each fabrication stage, an inspector from an independent laboratory accepted by the Coast Guard must be present and must determine whether or not the materials meet the requirements of this subpart and the plans stamped "EXAMINED" by the Commandant.

(d) After the assembly of the prototype hand propelling gear is complete, the independent laboratory inspector must determine that the prototype hand propelling gear—

(1) Meets this subpart and the plans and specifications marked "EXAMINED" by the Commandant; and

(2) Is tested under § 160.034–4.

17. By amending § 160.034–4 by revising the title of the section, by removing and reserving paragraph (a)(1) and (b), by removing paragraph (c), and by removing the title and adding introductory language paragraph (a) to read as follows:

§ 160.034–4 Approval testing.

(a) Each of the following tests must be conducted by or under the supervision of the independent laboratory with the prototype hand propelling gear installed in a lifeboat:

(1) [Reserved]

* * * * *

(b) [Reserved]

18. By revising § 160.034–5 to read as follows:

§ 160.034–5 Production inspections and tests.

In conjunction with the procedures in Subpart 159.007 of this subchapter, the following is the procedure for determining whether or not each production hand propelling gear is approved:

(a) During each fabrication stage and test, an inspector from an independent laboratory accepted by the Coast Guard must be present and must determine whether or not—

(1) Materials meet the requirements of this subpart and the plans approved under § 159.005–13(a);

(2) Each production hand propelling gear meets the applicable requirements of this subpart and the plans and specifications approved under § 159.005–13(a);

(3) Each production hand propelling gear passes the test in paragraph (b) of this section; and

(4) Each production hand propelling gear has a nameplate that meets § 160.034–9.

(b) Each production hand propelling gear must operate in the "ahead", "neutral", and "astern" positions.

19. By adding a new § 160.034–9 to read as follows:

§ 160.034–9 Nameplate.

(a) The manufacturer must permanently affix to each production hand propelling gear a corrosion-resistant nameplate permanently marked with the—

(1) Name of the manufacturer;

(2) Serial number;

(3) Type or model number;

(4) The words "Coast Guard approved (insert approval number)" or "USCG approved (insert approval number)"; and

(5) Date of manufacture.

(b) After the inspector from the independent laboratory accepted by the Coast Guard determines that the production hand propelling gear meets the inspection requirements under § 160.034–5(a) and passes the test in § 160.034–5(b), the inspector permanently affixes the identification or inspection mark of the independent laboratory to the nameplate to indicate that the hand propelling gear is Coast Guard approved and meets the requirements of this subpart.

20. By adding a new § 160.034–10 to read as follows:

§ 160.034–10 Lubrication data plate.

The manufacturer must permanently affix to the gearbox of each production hand propelling gear a corrosion-resistant plate permanently marked with the recommended lubricant.

Subpart 160.035—Lifeboats for Merchant Vessels

§ 160.035–1 [Amended]

21. By removing and reserving § 160.035–1(b).

22. By amending § 160.035–3 by removing and reserving paragraph (u)(7)(iii) and revising paragraph (u)(7)(iv) to read as follows:

§ 160.035–3 Construction of steel oar-propelled lifeboats.

* * * * *

(u) * * *

(7) * * *

(iii) [Reserved]

(iv) Each independent buoyancy unit must have nameplate that is—

(A) Corrosion-resistant;

(B) Permanently affixed in a location that allows it to be read from inside the lifeboat; and

(C) Permanently marked with the following words and the appropriate entries in the indicated spaces:

Lifeboat Buoyancy Unit
for U.S. Coast Guard Approved
Lifeboats
(insert type or model)
(insert type of buoyancy material)
Cu. Ft. *(insert cu. ft.)*, Weight *(insert weight), Date (insert date)*
Inspected by *(insert identification of independent laboratory)*
(insert name and address of manufacturer)

* * * * *

23. By amending § 160.035–5 by revising paragraphs (a)(2) and revising paragraphs (a)(3)(ii)(A) through (a)(3)(ii)(D) and adding paragraphs (a)(3)(ii)(E) and (a)(3)(ii)(F) to read as follows:

§ 160.035–5 Construction of steel motor-propelled lifeboats with and without radio cabin.

(a) * * *

(2) The engine must be enclosed in an engine box that—

(i) Is made of steel, aluminum, or other fire retardant material;

(ii) Is watertight on the bottom and sides;

(iii) Has a top with a screw-down mushroom vent or other means to admit air and to prevent spray from entering the engine box;

(iv) Has a drain;

(v) Has sufficient space for maintenance and removal of engine accessories, but an access plate may be provided to allow for removal of accessories; and

(vi) Has a plate that is—

(A) Corrosion-resistant;

(B) Permanently marked with the engine starting and operating instructions; and

(C) Permanently affixed in a location that allows it to be read by a person operating the engine.

(3) * * *

(ii) * * *

(A) Manufacturer's name and address.

(B) Date of construction.

(C) Name or inspection mark of the independent laboratory.

(D) Wall thickness that is stated in decimals of one inch.

(E) Capacity that is stated in U.S. gallons.

(F) The following words: "Material of construction: Polyester-Glass".

* * * * *

24. By revising the title of the section, revising paragraph (a), revising the introductory text of paragraph (b), adding a new paragraph (b)(6), and adding a new paragraph (e) to § 160.035–11 to read as follows:

§ 160.035–11 Approval procedure.

(a) In conjunction with the procedure in § 159.005 of this subchapter, the procedure for approving a lifeboat is as follows:

(1) As required in § 159.005–5(a)(2), the manufacturer must submit two sets of general plans and specifications including—

(i) General arrangement drawings;

(ii) Construction details for each major component, including construction of F.R.P. laminates;

(iii) Identification of materials used;

(iv) Lines drawing;

(v) Equipment stowage arrangement; and

(vi) Seating arrangement.

(2) After receiving the Coast Guard acceptance under § 159.005–7(a)(1), the manufacturer must—

(i) Produce a protype lifeboat;

(ii) Have certifications for steel and aluminum components;

(iii) Inspect aluminum welds in accordance with § 160.035–6(e)(1);

(iv) Have certifications for fibrous glass reinforcement used in F.R.P. construction;

(v) Use polyester resin meeting MIL–R–21607 that is accepted by the Commandant; and

(vi) Use polyurethane buoyancy material meeting MIL–P–21929 that is accepted by the Commandant.

(3) During each fabrication stage, an inspector from an independent laboratory accepted by the Coast Guard must be present and must determine whether or not the—

(i) Materials meet the requirements of this subpart and the plans stamped "EXAMINED" by the Commandant, as verified by the certifications and acceptances required in paragraphs (a)(2)(ii) through (a)(2)(v) of this section; and

(ii) Welders and electrodes meet §§ 160.035–3(e)(1) and 160.035–6(3)(1).

(4) After the assembly of the prototype lifeboat is complete, the independent laboratory inspector must determine that the prototype lifeboat—

(i) Meets this subpart and the plans and specifications marked "EXAMINED" by the Commandant;

(ii) Is tested under paragraph (b) of this section, except lifeboats made of F.R.P. are not required to be tested under paragraph (b)(1);

(iii) If motor propelled, also passes the test in paragraph (c) of this section;

(iv) If hand propelled, also passes the test in paragraph (d) of this section; and

(v) If made of F.R.P., also is tested under § 160.035–12(b).

(b) Each of the following tests and inspections must be conducted by or under the supervision of the independent laboratory:

* * * * *

(6) *Engine box inspection.* The engine box is inspected to determine if it complies with § 160.035–5(a)(2). Each accessory in a restricted location must be removed using any access plates provided for this purpose.

* * * * *

(e) After passing the approval tests, the manufacturer must submit the following:

(1) The final plans submitted under paragraph (a)(1) of this section that meet § 159.005–12 of this subchapter. Minor details are not required, but the plans must include:

(i) Hydrostatics curves.

(ii) Construction plans of each hydraulic, pneumatic, electrical, or fire-protecting sprinkler system.

(iii) Construction plans of the propulsion system of a motor-propelled lifeboat, including identification of engine and transmission, complete fuel system plans, details of engine mounting, and details of propeller, shafting and seals.

(iv) Equipment and provision lockers and tanks.

(v) Steering system for a lifeboat with an auxiliary remote steering station.

(2) Any other plans that show compliance with this subpart.

25. By removing and reserving paragraph (a), and by deleting the title of the paragraph, and adding introductory text to paragraph (b) of § 160.035–12(a) to read as follows:

§ 160.035–12 Additional approval test required for F.R.P. lifeboats.

(a) [Reserved]

(b) The following tests are additional approval tests for F.R.P. lifeboats:

* * * * *

26. By revising § 160.035–13 to read as follows:

§ 160.035–13 Production inspections and tests.

In conjunction with the procedures in Subpart 159.007 of this subchapter, the following is the procedure for determining whether or not each production lifeboat is approved:

(a) The manufacutrer must—

(1) Have certifications from the mill or foundry of the physical and chemical properties of the steel and aluminum components;

(2) Have certifications from the producer of fibrous glass reinforcement stating what specification the reinforcement meets;

(3) Inspect aluminum welds in accordance with § 160.035–6(e)(1);

(4) Use polyester resin meeting MIL–R–21607 that is accepted by the Commandant;

(5) Use polyurethane buoyancy material meeting MIL–P–21929 that is accepted by the Commandant;

(6) Test samples of F.R.P. hulls, inner hulls, canopies, and other load-carrying laminates to ensure that they meet the mechanical property requirements for the appropriate grade, in MIL–P–17549;

(7) Inspect each major component of the hull, canopy, inner hull, or buoyancy unit that is constructed of F.R.P. to determine that—

(i) Thicknesses are in accordance with the approved plans and specifications;

(ii) Laminate appearance and workmanship meets § 160.035–8(b)(3); and

(iii) Weights meet § 160.035–8(b)(4);

(8) Determine that the pre-formed buoyancy material meets the approved plans;

(9) Determine that foam-in-place buoyancy material meets the approved plans by verifying the amount used in the lifeboat and by determining its density by testing a sample foamed outside the lifeboat;

(10) Leak test each hydraulic engine cranking system by pressurizing it to its operating pressure; and

(11) Determine that the scantlings meet the approved plans.

(b) During each fabrication stage and test, an inspector from an independent laboratory accepted by the Coast Guard must be present and must determine whether or not—

(1) Materials meet the requirements of this subpart and the plans approved under § 159.005–13(a), as verified by the certifications and acceptances required in paragraph (a) of this section;

(2) Each production lifeboat meets the applicable requirements of this subpart and the plans and specifications approved under § 159.005–13(a);

(3) Welders and electrodes meet § 160.035–3(e)(1) and § 160.035–6(e)(1);

(4) Each production lifeboat passes the tests in paragraph (c) of this section; and

(5) Each production lifeboat has a nameplate that meets § 160.035–14.

(c) Each production lifeboat must be tested as follows:

(1) Each motor-propelled and each hand-propelled lifeboat must operate in the "ahead," "neutral," and "astern" positions.

(2) Each lifeboat equipped with mechanical disengaging apparatus must be—

(i) Suspended with the lifeboat clear of the ground or water;

(ii) Loaded so that the suspended weight of the lifeboat is 110% of the condition "B" weight as determined under § 160.035–14(a)(9);

(iii) Released by one person who operates the disengaging apparatus and any additional means of activation, such as semi-automatic operation or hydrostatic lock, to determine whether or not it operates freely without the use of any additional equipment or assistance; and

(iv) After the release test, if an F.R.P. lifeboat tested under paragraph (c)(3)(ii) of this section, undamaged where the lifeboat is connected to the disengaging apparatus.

(3) Each lifeboat with an F.R.P. hull must pass one of the following tests:

(i) The lifeboat must be suspended by the disengaging apparatus and filled with water until the suspended load is 50 percent greater than the weight of the fully equipped and loaded lifeboat. The hull must not leak or have any damage. After the lifeboat is drained, the area where the lifeboat is connected to the disengaging apparatus and the interior and exterior of the hull must not be damaged.

(ii) The lifeboat must be floated in water for at least two hours and the motor or hand-propelling gear operated. While the lifeboat is in the water, the hull must not leak or have any damage. After the lifeboat is out of the water, the hull must not have any damage.

(4) Each fuel tank must be pressurized to a static head of ten feet of water above the tank top without leaking or being permanently deformed.

(5) Each F.R.P. provision tank must be pressurized to a static head of two feet of water above the tank without leaking or being permanently deformed.

27. By revising § 160.035–14 to read as follows:

§ 160.035–14 Nameplate.

(a) The manufacturer must permanently affix to the bow of each production lifeboat a corrosion-resistant nameplate permanently marked with the—

(1) Name of the manufacturer;

(2) Serial number;

(3) Words "Coast Guard approved (insert approval number)" or "USCG approved (insert approval number)";
(4) Dimensions of the lifeboat;
(5) Cubic capacity;
(6) Buoyancy volume;
(7) Number of persons the lifeboat is intended to accommodate, which must not be greater than the number determined under § 160.035–10;
(8) Date of manufacture; and
(9) Net weight of the lifeboat in condition "A" and condition "B". Condition "A" is the weight of the lifeboat without equipment, provisions, water, or persons. Condition "B" is the weight of the lifeboat fully loaded with the number of persons marked on the nameplate, assuming a weight of 165 lb. per person, and all the equipment under § 94.20–10 of this chapter for ocean and coastwise service, other than seagoing barges.

(b) After the inspector from the independent laboratory accepted by the Coast Guard determines that the production lifeboat meets the inspection requirements under § 160.035–13(b) and passes the tests in §160.035–13(c), the inspector permanently affixes the identification or inspection mark of the independent laboratory to the nameplate to indicate that the lifeboat is Coast Guard approved and meets the requirements of this subpart.

Subpart 160.051—Inflatable Liferafts

28. By amending § 160.051–5 by revising the title of the section, by revising paragraph (a), and by deleting the title of the paragraphs and revising the introductory text of paragraphs (c) and (e), to read as follows:

§ 160.051–5 Approval procedure.

(a) In conjunction with the procedure in § 159.005 of this subchapter, the procedure for approving an inflatable liferaft is as follows:
(1) As required in § 159.005–5(a)(2), the manufacturer must submit two sets of general plans and specifications including the bill of materials with identification of the materials used.
(2) After receiving the Coast Guard acceptance under § 159.005–7(a)(1), the manufacturer must—
(i) Produce a prototype inflatable liferaft; and
(ii) Have certifications and invoices provided by the supplier for the materials used in construction of the inflatable liferaft.
(3) During each fabrication stage, an inspector from an independent laboratory accepted by the Coast Guard must be present and must determine whether or not the materials meet the requirements of this subpart and the plans stamped "EXAMINED" by the Commandant, as verified by the certifications and invoices required in paragraph (a)(2)(ii) of this section.
(4) After the assembly of the prototype inflatable liferaft is complete, the independent laboratory inspector must determine that the prototype inflatable liferaft—
(i) Meets this subpart and the plans and specifications marked "EXAMINED" by the Commandant; and
(ii) Is tested under paragraphs (c) and (e) of this section.
* * * * *

(c) Each of the following inspections and tests must be conducted by or under the supervision of the independent laboratory on each inflatable liferaft:
* * * * *

(e) In addition to the inspections and tests in paragraph (c) of this section, each of the following inspections and tests must be conducted by or under the supervision of the independent laboratory on each prototype inflatable liferaft:
* * * * *

29. By revising § 160.051–8 to read as follows:

§ 160.051–8 Nameplate, inspection plate, and marking.

(a) The manufacturer must permanently mark on the inflatable liferaft in colors that contrast with the background, the—
(1) Instructions for righting the inflatable liferaft if it inflates in an inverted position;
(2) Instructions for boarding; and
(3) Location and use of items stowed outside the equipment containers.
(b) The manufacturer must permanently mark on the inflatable liferaft container in colors that contrast with the background—
(1) The instructions for inflating the inflatable liferaft;
(2) The instructions for righting the inflatable liferaft that inflates in an inverted position;
(3) The instructions for boarding;
(4) The location and use of items stowed outside the equipment containers; and
(5) A warning against tampering with the inflatable liferaft.
(c) The manufacturer must permanently mark on the hull or buoyancy tubes of each production inflatable liferaft the—
(1) Name of the manufacturer;
(2) Serial number;
(3) Type or model number;
(4) The words "Coast Guard approved (insert approval number)" or "USCG approved (insert approval number)";
(5) Lot number;
(6) Number of persons for which the liferaft is approved; and
(7) Date of manufacture.
(d) The manufacturer must permanently affix a corrosion resistant nameplate to the inflatable liferaft container permanently marked with the information required under paragraph (b) of this section and the words "Ocean Service Equipment", or "Limited Service Equipment", as applicable.
(e) After the inspector from the independent laboratory accepted by the Coast Guard determines that the production inflatable liferaft meets the inspection and test requirements under § 160.051–9(b), the inspector permanently affixes the identification or inspection mark of the independent laboratory to the labeling required in paragraphs (c) and (d) of this section to indicate that the inflatable liferaft is Coast Guard approved and meets the requirements of this subpart.

30. By revising § 160.051–9 to read as follows:

§ 160.051–9 Production inspections and tests.

In conjunction with the procedures in Subpart 159.007 of this subchapter, the following is the procedure for determining whether or not each production inflatable liferaft is approved:
(a) The manufacturer must—
(1) Have certifications and invoices provided by the supplier for the materials used in construction of the inflatable liferaft;
(2) Record the number of each lot of inflatable liferafts with—
(i) Identification of the material used;
(ii) Supplier of the material;
(iii) Supplier's lot number; and
(iv) Manufacturer's order number; and
(3) Ensure that production inflatable liferafts meet the approved plans and specifications and the requirements of § 160.051–4 by a quality control program of inspections and tests.
(b) During each fabrication stage and test, an inspector from an independent laboratory accepted by the Coast Guard must be present and must determine whether or not—
(1) Materials meet the requirements of this subpart and the plans approved under § 159.005–13(a), as verified by the certifications and invoices required in paragraph (a)(1) of this section;
(2) Each production inflatable liferaft meets the applicable requirements of this subpart and the plans and

specifications approved under § 159.005–13(a):

(3) Each production inflatable liferaft passes the tests in § 160.051–5(c) of this section; and

(4) Each production inflatable liferaft has nameplates, inspection plate, and markings that meet § 160.051–6.

Dated: September 24, 1984.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 84–25865 Filed 9–26–84; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 84–752]

Changes in AM Technical Rules To Reflect New International Agreements; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comment/reply comment period.

SUMMARY: This action extends the time for filing comments and reply comments in response to the Notice of Proposed Rule Making concerning Changes in AM Technical Rules to Reflect New International Agreements. The Association of Federal Communications Consulting Engineers sought the additional time so that they could provide technical information on the important topics raised in this proceeding.

DATE: Comments in the above noted proceeding must be filed on or before October 4, 1984, and reply comments must be filed on or before October 19, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Jonathan David, Mass Media Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

Order Extending the Time for Filing Comments and Reply Comments in Response to Notice of Proposed Rule Making

In the Matter of Changes in AM Technical Rules to Reflect New International Agreements; MM Docket No. 84–752 (8–17–84; 49 FR 32878).

Adopted: September 18, 1984.
Released: September 19, 1984.

By the Chief, Policy and Rules Division.

1. Comments were invited on a series of rule making proposals which are an outgrowth of new international AM agreements which have been or are being negotiated. Comments are due on September 20, 1984, and reply comments on October 5, 1984.

2. On September 17, 1984, the Association of Federal Communications Consulting Engineers ("AFCCE") filed a request for extension of the filing dates in this proceeding. According to AFCCE, several of the technical matters raised in the proceeding are of such importance as to require detailed consideration by the AFCCE membership before comments could be filed. On this basis it seeks a two-week extension.

3. As indicated in the *Notice*, members of AFCCE played a key role in providing support for the ongoing AM negotiations. Operating through the technical subgroup of the Industry Advisory Committee, AFCCE members did engineering studies and provided extensive data which importantly advanced the process of developing new AM agreements. Similar asistance was expected in regard to the issues raised in this proceeding. Moreover, the comments of AFCCE can be expected to provide a useful focus for other parties to use in developing their reply comments. AFCCE is prepared to continue its supportive role but apparently needs a brief extension in order to complete its work.

4. The Commission has received no objection from any other interested party to AFCCE's request. It appears that the circumstances noted justify the extension, especially since no other party would be adversely affected by the extension.

5. Accordingly, it is orderded, that the dates for filing comments and reply comments in response to the Notice of Proposed Rule-Making are extended, respectively, to and including October 4, 1984, and October 19, 1984.

6. This action is taken pursuant to authority found in sections (i), 5(d)(1), 303 (g) and (r) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules.

Federal Communications Commission.

Charles G. Schott, III,

Chief, Policy and Rules Division Mass Media Bureau.

[FR Doc. 84–25879 Filed 9–26–84; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 78

[MM Docket No. 84–866; RM–4328; FCC 84–432]

Amendment of the Commission's Rules Concerning Licensing Procedures and Reporting Requirements in the Cable Television Relay Service

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes to consolidate the current construction permit and license application requirement into a single-step process and to eliminate several reporting requirements for CARS licensees. Single-step licensing has been adopted for remote pickups, aural studio-to-transmitter links, intercity relays, TV auxiliary stations, and ITFS facilities. Adopting a similar process for CARS and eliminating unnecessary reporting requirements is intended to increase processing efficiency and reduce burdens for CARS licensees and the Commission.

DATES: Comments must be filed on or before November 13, 1984, and reply comments on or before November 28, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Sharon Briley, Mass Media Bureau, (202) 632–6302.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 78

Cable television.

Proposed Rule Making

In the matter of amendment of Part 78 of the Commission's rules concerning licensing procedures and reporting requirements in the cable television relay service (MM Docket No. 84–866; RM 4328).

Adopted: September 13, 1984.
Released: September 20, 1984.

By the Commission: Commissoners Rivera and Patrick absent.

1. In this *Notice of Proposed Rule Making*, we propose to modify our rules to institute a combined construction permit-license application process and eliminate certain reporting requirements for stations in the Cable Television Relay Service (CARS).

Background

2. On January 7, 1983, Westinghouse Broadcasting and Cable, Inc. (Westinghouse) filed a "Petition for Rulemaking" to modify the current

licensing procedures and reporting requirements for CARS fixed and mobile facilities. In addition, Westinghouse requested that the following matters be addressed: (1) The assignment of additional spectrum to CARS, (2) the necessity of certain technical and operational regulations, and (3) the eligibility of master antenna television (MATV) systems for CARS licenses. Westinghouse contends that its proposed licensing and reporting requirement changes will reduce the administrative and procedural burdens associated with the current rules. A number of cable operators and other parties filed comments in support of the petition.[1] The National Association of Broadcasters and M/A-COM, Inc. filed comments suggesting that the frequency and other related technical and operational issues be addressed in General Docket No. 82-334.

Licensing and Reporting Requirements

3. *Consolidation of application procedures.* In its petition, Westinghouse requests several rule modifications to streamline the CARS application process. The petitioner suggests combining the present construction permit (CP) and station license procedures into a one-step process. Specifically, Westinghouse proposes that the present requirement for separate CP and station license applications be replaced with a requirement for a single application followed by written notification that authorized construction has been completed. Westinghouse notes that the information requested on the CP and station license application forms is unnecessarily duplicative and burdensome. Westinghouse states that the streamlined procedure it proposes would reduce processing delays and decrease the number of CARS applications requiring processing by almost one-half.

4. We agree with the petitioner that the current CARS licensing process may be unnecessarily duplicative and burdensome. We note that section 319(d) of the Communications Act has been amended to eliminate the requirement for construction permits for certain types of stations (including privately owned fixed microwave stations such as CARS) if the grant of a separate CP does not serve the public interest.[2] At present, we use a combined CP-license process for a number of different types of stations including remote pickups, aural studio-to-transmitter links, intercity relays, and TV auxiliary stations.[3] We now believe that a similar combined CP-license process for CARS would be in the public interest. We propose that under this one-step licensing process licensees are required to be operational within one-year from the date of the license grant.[4] In addition, we propose that if construction is not completed within this period of time, and if no request for extension of time is filed, the license is invalid and will be deleted from the Commission's records. Comment is requested on whether this period of time is sufficient to complete construction. Comments are also requested on whether Commission notification should be required upon completion of station construction as Westinghouse suggests. If notification is required, what form should it take?

5. *Transfer of control procedure modifications.* Westinghouse proposes certain changes in the filing of consent to transfer control applications. At the present time, an FCC Form 327 must be filed for each consent to transfer control of a CARS authorization held by an entity. Westinghouse proposes that the processing procedure require only one schedule for all affected authorizations as is the practice for earth station transfers and assignments. Westinghouse further urges that applications for consent to transfer control of CARS authorizations be required only where there is a change in the identity of the licensee or the ultimate controlling entity of the licensee. These changes, the petitioner claims, would further reduce processing delays and the number of applications filed.

6. We agree with the petitioner that our procedures for CARS should be streamlined. Thus, we propose to permit an entity to file one form which will list each CARS authorization affected by the transfer of control. We request, however, that the entity file duplicate copies of the form and its accompanying information for the total number of CARS licenses affected. Second, we are interested in exploring the suggestion that the filing requirements can be eliminated when there are changes in intermediate corporate entities controlling a licensee but no change in either the licensee itself or the ultimate corporate parent. The definitions and guidelines contained in § 76.501 of the Rules shall be used in determining the final controlling entity. Comments on this approach are requested. Specifically, we invite comments to address any implication this may have with regard to the requirements of section 310(d) of the Communications Act. In addition, we question whether notification should be required for any other type of change, for example, a change in the name of the licensee. If so, in what manner should this information be submitted?

7. *Identification of communities served.* Westinghouse also requests that the information required by Schedule E of FCC Form 327 be modified to eliminate the requirement that applicants for CARS station authorizations identify all cable television community units to be served from each receive site of the proposed CARS station. Westinghouse believes that this requirement is unnecessarily broad to show compliance with § 78.11 of the Commission's rules. Accordingly, the petitioner proposes that CARS applicants be required to identify only one cable television community unit to be served on each Schedule E.[5]

8. We agree with the petitioner that the listing of each community is unnecessary to indicate compliance with Section 78.11 of the Commission's rules. Section 78.11 provides that CARS stations are authorized to relay signals "intended for use by one or more cable television systems." We believe that the listing of one cable television community is sufficient to show compliance with this rule. We are concerned, however, that situations could arise that require specific community information. Accordingly, comments are requested on this proposal particularly as they relate to the burden of requiring more detailed information. In addition, if the proposal to list a specific community is chosen, what cable community should be designated on the application? For example, should the largest community served, the community serving the most subscribers, or some other community be listed?

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[1] Colony Communications, Inc.; U.S. Cablevision Corp.; Dynamic Cablevision of Florida, Inc.; Simmons Communications, Inc.; Televents, Inc.; Newchannels Corp.; Metrovision, Inc. and Cox Cable Communications, Inc. filed joint comments. American Television and Communications Corp. and the National Cable Television Association each filed in support. Hughes Aircraft Co. (Microwave Communications Products) and the Society for Private and Commercial Earth Stations filed in partial support.

[2] 47 U.S.C. 319(d), as amended by Pub. L. 97-259.

[3] Recently, we also instituted one-step licensing for stations in the Instructional Television Fixed Service (ITFS). *See Report and Order,* MM Docket No. 83-523, 49 FR 32560 (1984).

[4] It should be noted that this proposal would not alter the present license term of five years and that the construction period would be contained within this term.

[5] The petitioner notes that there are cases where as many as 10 to 15 communities are served on a single CARS path.

9. *Annual reporting requirement.* The petitioner also proposes that the Commission eliminate the requirement of § 78.11(f) that annual reports be filed for all facilities shared by CARS operators with other users. Petitioner states that the filing of annual reports is not necessary for the Commission to determine whether licensees are acting in conformance with § 78.11(d)(2), which provides that a CARS licensee may provide program material to a cable television system or translator station on a not-for-profit basis only.

10. We agree with the petitioner that this reporting requirement is not necessary for the Commission to determine that CARS licensees act in conformance with § 78.11(d)(2) of our Rules. In particular, we note that our rules currently require CARS licensees to maintain records showing that CARS service costs are on a nonprofit, cost-sharing basis and to make these records available for inspection by the Commission. We believe that this record keeping requirement adeqately meets our needs and thus we propose to eliminate § 78.11(f). The rules, § 78.11(e), also require advance notice to the Commission when program matrial delivered over a CARS facility is to be provided to other cable television system operators or other systems. We no longer believe it is necessary to have advance notice of this type of information and would propose to delete the 30-day waiting period. Moreover, some of the information formerly required, e.g., a copy of the contract between parties, may no longer be required.

Additional Matters

11. *Frequency allocation and other technical matters.* Westinghouse requests that the Commission assign additional frequencies for CARS use. The petitioner also suggests that CARS licensees be permitted to share excess capacity with other users. Westinghouse cites increasing congestion of microwave frequencies and growing complexities of CARS systems as the rationale for its requests. Westinghouse also requests that several technical and operational rules applicable to CARS stations be modified.

12. The Commission has recently undertaken a comprehensive review of its spectrum utilization policies for all fixed and mobile operations in the bands between 947 MHz and 40 GHz.[6] We believe that many of the petitioner's concerns have been addressed or are currently under consideration in the proceeding in General Docket No. 82–334. For example, we allocated additional CARS channels in the 18 GHz band.[7] In addition, many of the tenchical and operational aspects of the microwave services are being addressed. Accordingly, we believe that the spectrum allocation and technical issues are more appropriately evaluated as part of a comprehensive spectrum utilization policy for terrestrial microwave services. Changes in the internal administrative processes covering this service (i.e. whether processing should be merged with other microwave services) is also appropriately considered at the conclusion of General Docket 82–334.

13. *Eligibility for CARS license.* The CARS rules provide that only cable television operators may become licensees of CARS facilities.[8] Westinghouse requests that we address the question of whether a series of MATV systems may qualify as a cable television system, and consequently qualify as a CARS licensee. Petitioner believes that such a system should not qualify. The petitioner claims that the use of CARS frequencies by MATV adds to congestion in the CARS frequency band. Moreover, MATV systems, unlike cable, do not need microwave to pick up distant signals, do not offer local origination or access programming, and do not use public rights of way. Westinghouse requests clarification, particularly regarding interconnection as a qualification for CARS licenses.

14. Although raised as a microwave frequencey use issue, Group W is essentially seeking revisions in the cable system definition. We addressed the general question of the cable system definition in our *Report and Order in Docket 20561*, 63 FCC 2d 956 (1977), and its specific application to microwave served systems in *Cable Dallas, Inc.*[9] In *Cable Dallas Inc.*, the system operator was eligible for a CARS license because it qualified as a cable television system within the meaning of § 76.5(a) of the Commission's rules. In particular, the system operator served several clusters of apartment buildings, each of which was composed of buildings not under common ownership, control or management. Thus, the system met the definition of a cable television system and was thereby eligible to be a CARS licensee. We believe that our prior opinion sufficiently addresses this issue. In any case we do not believe that these types of systems should be regulated as cable systems but refused access to microwave service frequencies nor do we believe a case has been made here for generally changing the definition.

Conclusion

15. By this *Notice*, we propose to institute a combined CP-license process for CARS applications, streamline the filing requirements for transfer of control, eliminate the requirement of Schedule E of FCC Form 327 to list all community units served, and delete the annual reporting requirements for CARS licensees. We believe that the changes we are proposing here will lessen the present burdens on the public and permit more efficient processing of CARS applications.

Regulatory Flexibility Act Initial Analysis

I. *Reason for Action.* The Commission seeks by this action to increase processing efficiency, decrease costs, and reduce delays associated with CARS licensing. The proposed changes are expected to reduce burdens for both licensees and the Commission staff.

II. *The Objective.* The Commission proposes to combine the separate construction permit and station license application process for the Cable Television Relay Service into a combined CP-station license process. The Commission also proposes to reduce the filing requirements for transfer of control applicants, eliminate the requirement to list all cable community units served, and delete the annual reporting requirements for CARS licensees.

III. *Legal Basis.* The legal basis for changing the CP and licensing process as proposed is contained in section 319(d) of the Communications Act of 1934, as amended. This section states that construction permits are no longer required for certain stations, including privately owned fixed microwave stations. General authority for licensing of radio stations is contained in section 303(1) of the Communications Act.

IV. *Description, Potential Impact and Number of Small Entities Affected.* The proposal would require a single application to be filed for a CARS license. The grant of a license would imply the grant of a construction permit for a period of one year.

All CARS licensees would benefit from the proposed modifications. We would expect, however, that small cable

[6] *See First Report and Order*, General Docket No. 82–334, 48 FR 50722 (1983).

[7] *Id.* at para. 53 *et seq.*, and Appendix B.

[8] 47 CFR 78.13. Cooperative enterprises wholly owned by cable television owners or operators may also, upon certain showing, receive licenses.

[9] Cable Dallas, Inc., CAR 19082–01, adopted May 18, 1982, *review denied*, FCC 83–86, 53 RR 2d 651 (1983).

operators and other CARS licensees would derive even greater benefit than larger systems from reduced delay and cost.

V. *Recording, Record Keeping the Other Compliance Requirements.* None.

VI. *Federal Rules which Overlap, Duplicate or Conflict with this Rule.* None.

VII. *Any Significant Alternatives Minimizing Impact on Small Entities and Consistent with Stated Objective.* The alternative, to maintain the two-step licensing process and current reporting requirements, would not accomplish any of the benefits described in this notice.

16. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the time a public notice is issued stating that substantial disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments, pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission's offical receiving the oral presentation. Each *ex parte* presentation described above must state on its fact that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, § 1.1201 of the Commission's Rules.

17. Pursuant to procedures set out in § 1.415 of the Commission's Rules, interested parties may file comments on or before November 13, 1984, and reply comments on or before November 28, 1984. All relevent and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

18. In accordance with the provisions of § 1.419 of the Commission's Rules and Regulations, an original and 5 copies of all comments, replies, or other documents filed in this proceeding shall be furnished to the Commission. Participants filing the required copies who also wish each Commissioner to have a personal copy of the comments may file an additional 6 copies. Members of the general public who wish to express their interest by participating informally in the rule making proceeding may do so by submitting one copy of the comments, without regard to form, provided only that the Docket Number is specified in the heading. Responses will be available for public inspection during regular business hours in the Commission's Dockets Reference Room (Room 239) at its headquarters in Washington, D.C. (1919 M Street, Northwest).

19. For further information concerning this proceeding, contact Sharon Briley, Mass Media Bureau, (202) 632-6302.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

PART 78—[AMENDED]

Appendix

It is proposed that Part 78 of Title 47 of the Code of Federal Regulations be amended as follows:

1. 47 CFR 78.11 would be amended by revising the introductory text of paragraph (e) and paragraph (e)(6), and by removing paragraph (f) in its entirety and marking it reserved as follows:

§ 78.11 Permissible service.

* * * * *

(e) A CARS licensee shall file a notification with the Commission prior to supplying program material to any cable television system or any television translator that has not been specified in its license application or in prior notification to the Commission containing the following information:

* * * * *

(6) Name of at least one community to be served;

* * * * *

(f) [Reserved].

* * * * *

2. 47 CFR 78.15 would be amended by revising paragraphs (b) and (c) as follows:

§ 78.15 Contents of applications.

* * * * *

(b) An application for a CARS studio to headend link or LDS station license shall contain a statement that the applicant has investigated the possibility of using cable rather than microwave and the reasons why it was decided to use microwave rather than cable.

Note: * * *

(c) CARS applicants must follow the procedures prescribed in Subpart I of Part 1 of this chapter (§§ 1.1301 through 1.1319) regarding the filing of environmental impact narrative statements, unless Commission action authorizing construction of a CARS station would be a minor action within the meaning of Subpart I of Part 1 of this chapter.

3. 47 CFR 78.20 would be amended by revising paragraph (a) as follows:

§ 78.20 Acceptance of applications; public notice.

(a) Applications which are tendered for filing in Washington, D.C., are dated upon receipt and then forwarded to the Mass Media Bureau, where an administrative examination is made to ascertain whether the applications are complete. Applications found to be complete or substantially complete are accepted for filing and are given a file number. In case of minor defects as to completeness, the applicant will be required to supply the missing information. Applications which are not substantially complete will be returned to the applicant.

* * * * *

4. 47 CFR 78.22 would be amended by revising paragraph (c) as follows:

§ 78.22 Objections to applications.

* * * * *

(c) Notwithstanding the provisions of paragraph (a) of this section, before Commission action on any application for an instrument of authorization, any person may file informal objections to the grant. Such objections may be submitted in letter form (without extra copies) and shall be signed by the objector. The limitation on pleadings and time for filing pleadings provided for in § 1.45 of this chapter shall not be applicable to any objections duly filed pursuant to this paragraph.

5. 47 CFR 78.23 would be amended by revising paragraphs (a), (b), and (d), and by removing paragraph (c) in its entirety and marking it reserved as follows:

§ 78.23 Equipment tests.

(a) Following the grant of a license, the license may, without further authority of the Commission, conduct equipment tests for the purpose of such adjustments and measurements as may be necessary to assure compliance with the terms of the authorization, the technical provisions of the application therefore, the rules and regulations, and the applicable engineering standards.

(b) The Commission may notify the licensee to conduct no tests or may cancel, suspend, or change the date for the beginning of equipment tests as and when such action may appear to be in the public interest, convenience, and necessity.

(c) [Reserved]

(d) The tests authorized in this section shall be conducted only as a necessary part of construction.

§ 78.25 [Removed]

6. 47 CFR 78.25 would be removed in its entirety.

7. 47 CFR 78.27 would be revised by marking the existing paragraph as (a) and adding new paragraph (b) as follows:

§ 78.27 License conditions.

(a) Authorizations (including initial grants, modifications, assignments or transfers of control, and renewals) in the Cable Television Relay Service to construct or operate fixed or mobile stations to relay television and related audio signals, signals of standard and FM broadcast stations, signals of instructional television fixed stations, and cablecasting to cable television systems, either directly or indirectly, shall contain the condition that such cable television systems shall operate in compliance with the provisions of Part 76 (Cable Television Service) of this chapter.

(b) In case of failure to commence operation of a CARS station licensed under this subpart within one year from the date of the license grant, authority to operate is forfeited and the licensee shall forward the station license to the Commission.

8. 47 CFR 78.35 would be amended by revising paragraph (a) as follows:

§ 78.35 Assignment or transfer of control.

(a) No assignment of the license of a cable television relay station or transfer of control of a CARS licensee shall occur without prior Commission authorization.

* * * * *

9. 47 CFR 78.51 would be amended by revising paragraph (c) as follows:

§ 78.51 Remote control operation.

* * * * *

(c) The Commission may notify the licensee not to commence remote control operation, or to cancel, suspend, or change the date of the beginning of such operation as and when such action may appear to be in the public interest, convenience, or necessary.

10. 47 CFR 78.53 would be amended by revising paragraph (c) as follows:

§ 78.53 Unattended operation.

* * * * *

(c) The Commission may notify the licensee not to commence unattended operation, or to cancel, suspend, or change the date of the beginning of such operation as and when such action may appear to be in the public interest, convenience, or necessity.

11. 47 CFR 78.63 would be amended by revising the introductory text as follows:

§ 78.63 Inspection and maintenance of tower marking and associated control equipment.

The licensee of any CARS station which has an antenna structure required to be painted or illuminated pursuant to the provisions of section 303(q) of the Communications Act of 1934, as amended, and/or Part 17 of this chapter, shall operate and maintain the tower marking and associated control equipment in accordance with the following:

* * * * *

12. 47 CFR 78.69 would be amended by revising the introductory text as follows:

§ 78.69 Station records.

Each licensee of a CARS station shall maintain records showing the following:

* * * * *

13. 47 CFR 78.113 would be amended by revising paragrah (a) as follows:

§ 78.113 Frequency monitors and measurements.

(a) The licensee of each CARS station shall employ a suitable procedure to determine that the carrier frequency of each transmitter is maintained within the tolerance prescribed in § 78.111 at all times. This determination shall be made, and the results thereof entered in the station records: When a transmitter is initially installed; when any change is made in a transmitter which may affect the carrier frequency or the stability thereof; or in any case at intervals not exceeding one year.

* * * * *

[FR Doc. 84-25089 Filed 9-26-84; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171, 172, and 173

[Docket HM-126D; Notice No. 84-11]

Odorization of LPG, and Miscellaneous Proposals

AGENCY: Materials Transportation Bureau (MTB), Research and Special Programs Administration, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice consists of three main elements.

First: The Hazardous Materials Regulations contain requirements, and exceptions, for the odorization of liquefied petroleum gas (LPG) offered for transportation in a portable tank and a cargo tank. However, there are no requirements for communicating the lack of odorization of LPG during transportation. Since LPG is odorless, it is proposed to require communication of this fact in those instances where odorization has not been added.

Second: Five minor revisions pertaining to marking are necessary to correct, clarify and enhance compliance with the communication regulations.

Third: The regulations do not contain marking requirements for bulk packagings and bulk transport vehicles that are not portable tanks, cargo tanks or tank cars because they have not been defined. Definitions and marking requirments for these bulk packagings and bulk transport vehicles are proposed.

DATE: Comments must be received no later than December 28, 1984.

ADDRESSES: Comments to: Dockets Branch, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590. It is requested that the docket number be identified and that five copies be submitted. The Dockets Branch is located in room 8426 of the Nassif Building, 400 Seventh Street, SW., Washington, D.C. Public Dockets may be reviewed between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday, except holidays. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT:
Lee E. Metcalfe, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Washington, D.C. 20590, (202) 426–2075.

SUPPLEMENTARY INFORMATION:

Problem A

Odorization of LPG. In January 1980, a petition (P–769 was received from the National LP-Gas Association for updating the LPG odorization requirements as contained in 49 CFR 173.315. As stated in Note 2 to § 173.315(b)(1), 1.0 pound of ethyl mercaptan, 1.0 pound of thiophane, or 1.4 pounds of amyl mercaptan are considered sufficient to effectively odorize 10,000 gallons of LPG. Petition P–769 states that the level of thiophane should be increased to 6.4 pounds and that amyl mercaptan is no longer in production.

A petition received from a Denver, Colorado fire chief on January 31, 1979, and another petition, P–804, received from a New Jersey firemen's association on January 26, 1981, requested LPG either be odorized in transportation or the lack of odorization be visually communicated.

The term "LPG" is defined as any hydrocarbon gas or gas mixture which has a vapor pressure of less than 155 psig at 70 °F. Included in this group are gases composed predominantly of the following either by themselves or as mixtures: propane, propylene, butane (normal butane or iso-butane) and butylenes.

In addition to the petitions MTB has received pertaining to LPG odorization or warnings about the absence of odorization, the General Accounting Office of the Controller General of the United States (GAO) made a recommendation concerning the odorization of LPG in it's July 1978 Report to Congress on *Liquefied Energy Gases Safety.* The GAO Report recommended that vehicles transporting LPG display a sign indicating whether or not the LPG being transported is odorized. MTB believes that if odorization or a warning sign is required, the warning should be used only to indicate that the LPG is not odorized.

MTB contacted LPG carrier representatives and National LP-Gas Association representatives and determined that there are between 250 and 300 cargo tanks being used nationwide to deliver LPG that is not odorized. It was also determined that between 500 and 800 tank cars, approximately 3600 cylinders, and approximately 100 portable tanks are being used to deliver nonodorized LPG. Information provided by LPG carrier representatives and a National LP-Gas Association member indicates that less than 1 percent of the LPG transported by motor vehicle is not odorized, and approximately 94 percent of the LPG transported is transported by motor vehicle.

Available information indicates that odorization processes currently in use leave residual odorization (contamination) on the interior walls of the packagings. Under MTB's proposal, packagings used exclusively for nonodorized LPG would be marked NON-ODORIZED, and the assumption could be made that any packaging displaying only the LPG proper shipping name (or common name), as required by §§ 172.328 and 172.330, contains odorized LPG. Therefore, MTB concludes that the cost for marking NON-ODORIZED on cylinders, portable tanks, cargo tanks, and tank cars used to transport LPG that is not odorized will provide the least expensive, positive warning to emergency service personnel or anyone who approaches an LPG package that is leaking.

MTB believes that markings with ½-inch letters on cylinders and 2-inch letters on portable tanks will be adequate, while 4-inch markings on cargo tanks and tank cars will provide the needed warning.

A cost evaluation for marking the cylinders, portable tanks, cargo tanks, tank cars and multi-unit tank car tanks, used for transporting unodorized LPG indicates the annual cost would approximate $5,500.

These cost estimates are for "permanent", pressure sensitive, vinyl markings that have a 5 to 7 year life expectancy, but do not include a cost estimate for affixing the markings to the packagings.

There is a requirement in § 173.315(b)(1) for LPG to be odorized in portable tanks and cargo tanks, unless odorization would be harmful to any further processing of the LPG; however, there are no requirements for marking a portable tank or cargo tank to indicate that the LPG is not odorized. Also, there is no odorization requirement for LPG in cylinders or tank cars. MTB believes the petitions from the National LP-Gas Association and the firefighters have merit and MTB proposes to amend the odorization provisions and to establish odorization requirements by amending §§ 172.325; 172.328; 172.328; 172.330; 173.304; 173.314, and 173.315 accordingly.

Problem B

Source of markings for portable tank not visible in transportation. Section 172.328 contains the marking requirements for portable tanks and paragraph (d) of that section contains a requirement for marking a transport vehicle or a freight container on each side and each end with the identification number of any portable tank being transported in such a manner that the markings are not visible. Under § 174.3 and § 177.823, a carrier may not move a transport vehicle unless it is properly marked for the hazardous materials being transported. There is, however, no requirement in the regulations for the person offering a portable tank for transportation to provide to the carrier the required identification number display if the numbers on the portable tank will not be visible in transportation. On October 15, 1981, the American Trucking Associations petitioned MTB (P–836) to correct this inconsistency. MTB is proposing such a requirement in paragraph (d)(1) of § 172.328.

Problem C

Inconsistency between § 172.328(e) and § 172.336(c). Section 172.328(e) specifies that an identification number must be removed, or changed to identify the hazardous materials loaded in a cargo tank that had previously contained another material. However, paragraphs (c)(4) and (c)(5) of § 172.336 contain special provisions for transporting different liquid distillate fuels under one identification number. This inconsistency had lead to requests for clarification. MTB is proposing to revise § 172.328(e) to recognize the special provisions in § 172.336(c).

Problem D

Identification numbers prohibited on certain placards. Section 172.334(a) prohibits the display of an identification number on a POISON GAS, RADIOACTIVE and an EXPLOSIVES A and EXPLOSIVES B placard. This listing is incomplete and, therefore, misleading because it does not include the DANGEROUS and BLASTING AGENTS placards. MTB is proposing to revise § 172.334(a) to add the names of these two placards for clarification. Also, MTB is proposing to add paragraph (g) to § 172.334 which would prohibit the addition of any color, number, letter or word to an identification number display. This prohibition is needed to assure standardization and readability of the display.

Problem E

Alternative identification number display method. Paragraph (b) of § 172.336 authorizes, under certain

conditions, the display of identification numbers on a plain white square-on-point configuration. As written, some persons subject to the regulations have interpreted the word "may" to mean that identification numbers may be displayed but the display is not required. Numerous requests for interpretation of this requirement have been received. The regulations (§ 172.300(a), § 172.326, § 172.328 and § 172.330) require the display of identification numbers on portable tanks, cargo tanks and tank cars. Section 172.332 specifies the procedure for displaying identification numbers on orange panels and placards. Section 172.336(b) authorizes the display on the white square-on-point configuration as an alternative to the orange panel when display on a placard is not authorized. MTB proposes to revise § 172.336(b) to clarify the requirement for display of identification numbers.

Problem F

Replacing lost, damaged or destroyed identification number displays. Section 172.338 contains a requirement for replacing lost, damaged or destroyed identification number displays. The requirement does not include the plain white square-on-point display as one that must be replaced. MTB is proposing a correction and a revision of the section to require replacement if any of the identification numbers is lost, damaged or destroyed. This would improve the hazard communication system and would make the placarding and marking requirements consistent. Replacement identification numbers may be entered by hand within the white rectangle on appropriate placards, white square-on-configurations or orange panels.

Problem G

Defintion of liquefied petroleum gas. Liquefied petroleum gas (LPG) is not defined in the Hazardous Materials Regulations. MTB proposed to define LPG as any petroleum gas that is liquid at 70°F, having a vapor pressure of less than 155 psia and composed predominantly of the following hydrocarbons: propane, propylene, butane, (normal butane or iso-butane) and butylenes, either by themselves or as mixtures.

Problem H

Hazardous warning markings on bulk packagings. Soon after the May 22, 1980, and November 10, 1980, dockets (45 FR 34560 and 45 FR 74640) were published MTB discovered that several vehicles and packagings were not covered by the identification number marking regulations. This resulted from the fact that EPA established the hazardous waste manifest system in February 1980 an MTB supporting hazardous waste regulations were published in the May 22, 1980 docket. Much of the EPA regulated hazardous waste consists of materials in the ORM–E category which can be transported in non-DOT specification packagings and transport vehicles. Some of these are identified as dump trucks, hopper cars, roll-on-roll-off containers, open top freight containers, and hopper type motor vehicles.

On September 30, 1983, petition number P–921 was received from the Louisiana State Department of Public Safety requesting these bulk hazardous waste transporters be made subject to the regulations pertaining to the display of the hazardous materials identification number.

MTB believes this petition has merit and proposes to define bulk packagings to include transport vehicles and exclude vessels and barges. MTB also proposes to prescribe marking requirements.

Problem I

Placarding of rail car transporting class A explosives containing poison A. Section 174.25(a) contains a placarding requirement in the placard notation table for displaying the EXPLOSIVES A and POISON GAS placards on a rail car transporting ammunition containing a class A explosive and a poison A. Through an oversight this placarding requirement was not put in § 172.510 when the regulations were consolidated in the May 22, 1980, rulemaking (45 FR 34560). MTB proposes to correct this omission.

Classification of Rule; Reporting Requirements; and Impact on Small Entities.

A. *Non-Major Rule.* MTB has determined that this document will not result in a major rule under terms of Executive Order 12291 or a significant regulation under DOT's regulatory policy and procedures (44 FR 11034), or require an environmental impact statement under the National Environmental Policy Act. This determination is made on the basis that a final rule consistent with this proposal: (1) Will have an annual effect on the economy that will not exceed $100 million, (2) will cause no major increase in costs or prices for consumers, individual industries, Federal, State, or Local governmental agencies, or geogrphic regions, (3) will not result in significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets, and (4) it is not anticipated to have a significant environmental impact. A regulatory analysis is available for review in the docket.

B. *Paperwork Reduction Act.* There are no information collection requirements in this proposed rulemaking.

C. *Impact on Small Entities.* Based on the limited information available concerning size and nature of entities likely to be affected, I certify that this proposal will not, if promulgated, have a significant economic impact on a substantial number of small entities. This determination is based on the fact that the estimated cost of implementation would be relatively insignificant.

List of Subjects

49 CFR Part 171

Hazardous materials transportation, Definitions, Labeling, and Packaging.

49 CFR Part 172

Hazardous materials transportation, Labeling, Marking, and Placarding.

49 CFR Part 173

Hazardous materials transportation, Packaging, and Containers.

In consideration of the foregoing, 49 CFR Parts 171, 172 and 173 would be amended as follows:

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

1. In § 171.8 the definitions for "bulk packaging", "liquefied petroleum gas" and "non-bulk packaging" would be added in the appropriate sequence to read as follows:

§ 171.8 Definition and abbreviations.

* * * * *

"Bulk packaging" means a packaging, other than a vessel or barge, but including a transport vehicle, (1) having an internal volume greater than 118.88 gallons (450 liters) as a containment unit for a liquid, (2) having a capacity greater than 881.84 pounds (400 kilograms) as a containment unit or a solid, or (3) having a water capacity greater than 1000 pounds (453.59 kilograms) as a containment unit for a compressed gas.

* * * * *

"Liquefied petroleum gas" is any hydrocarbon gas that has a vapor pressure of less than 155 psia at 70°F, and is composed predominantly of propane, propylene, butane (normal and

iso-butane) and butylene, separately or as a mixture.

* * * * *

"Non-bulk packing" means a packaging (1) having an internal volume of 118.88 gallons (450 liters) or less as a containment unit for a liquid; (2) having a capacity of 881.84 pounds (400 kilograms) or less as a containment unit for a solid, or (3) having a water capacity of 1000 pounds (453.59 kilograms) or less as a containment unit for a compressed gas.

* * * * *

PART 172—HAZARDOUS MATERIALS TABLES AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

2. Section 172.325 would be added to read as follows:

§ 172.325 Cylinders.

Each specification cylinder, except a Specification 2P, 2Q and 39, that contains a nonodorized liquefied petroleum gas as authorized in § 173.304(d)(5) of this subchapter shall be legibly marked NON-ODORIZED in letters not less than ½-inch in height on a contrasting background near the marked proper shipping name.

3. In § 172.326, paragraph (d) would be amended by changing the comma at the end of the existing text to a period and adding a sentence to follow it as set forth below. Paragraphs (d)(1) and (f) would also be added to read as follows:

§ 172.326 Portable tanks.

* * * * *

(d) * * * Also, if the marking required in paragraph (f) of this section is not visible, a transport vehicle or freight container used to transport a portable tank containing nonodorized liquefied petroleum gas must be marked on each side and each end near the identification number display with the NON-ODORIZED marking prescribed in § 172.328(c)(3).

(1) A person who offers a motor carrier a properly marked portable tank for transportation in a transport vehicle or freight container in such a manner that the markings will not be visible must provide the motor carrier the required identification numbers on placards or the white square-on-point configuration, as appropriate, and the NON-ODORIZED marking disaply, if required.

* * * * *

(f) Each portable tank that contains a nonodorized liquefied petroleum gas as authorized in § 173.315(b)(1) of this subchapter shall be legibly marked NON-ODORIZED in letters not less than 2-inches in height on a contrasting background near the marked proper shipping name.

4. In § 172.328, paragraphs (c)(3) would be added and paragraph (e) would be revised to read as follows:

§ 172.328 Cargo tanks.

* * * * *

(c) * * *

(3) The word NON-ODORIZED in black letters not less than 4-inches in height on a white display panel near the proper shipping name or identification numbers whenever liquefied petroleum gas is shipped in a cargo tank without odorizatin as authroized in § 173.315(b)(1) of this subchapter. The white display panel shall be 6-⅜-inches in height and 22-½-inches wide with a ¾-inch black border included in the measurements.

* * * * *

(e) A cargo tank marked with the name or identification number of a hazardous material may not be used to transport material rquiring any other marking unless that marking is: (1) removed, (2) changed to identify the hazardous material in the cargo tank or cargo tank compartments, or (3) in conformance with § 172.336 (c)(4) or (c)(5) of this subchapter, whichever is appropriate.

5. In § 172.330, paragraphs (a)(1)(iii) and (c)(3) would be added to read as follows:

§ 172.330 Tank cars.

(a) * * *

(1) * * *

(iii) The word NON-ODORIZED in letters not less than 4-inches in height on a contrasting background near the marked name of contents whenever liquefied petroleum gas is transported in a tank car without odorization as authorized in § 173.314(f)(3) of this subchapter.

* * * * *

(c) * * *

(3) The word NON-ODORIZED in letters not less than 2-inches in height near the marked name of contents whenever liquefied petroleum gas is transported in a multi-unit tank car tank without odorization as authorized in § 173.314(f)(3) of this subchapter.

* * * * *

6. Section 172.331 would be added to read as follows:

§ 172.331 Bulk packagings.

(a) No person may offer for transportation or transport a bulk packaging containing a hazardous material unless the bulk packaging is marked as required by § 172.332 on each side and each end with the identification number specified for the material in §172.101 or § 172.102 (when authorized).

(1) A person who offers a motor carrier a hazardous material for transportation in a bulk packaging shall provide the motor carrier the required identification numbers on placards or plain white square-on-point configurations, as appropriate, or shall affix orange panels containing the required identification numbers, prior to or at the time the material is offered for transportation unless the bulk packaging is already marked with the identification number required by this subpart in accordance with paragraph (c) of this section and § 173.29(e) of this subchapter.

(2) A person who offers a bulk packaging containing a hazardous material for transportation shall affix the required identification numbers on panels, square-on-point configurations or placards prior to or at the time the bulk packaging is offered for transportation unless it is already marked with identification numbers as required by this subpart.

(b) A bulk packaging marked with the name or identification number of a hazardous material may not be used to transport any other material unless the marking is removed, or changed to identify the hazardous materials in the bulk packaging, whichever is appropriate.

(c) A bulk packaging that is required to be marked with the name or identification number of a hazardous material must remain marked when empty unless it is—

(1) Reloaded with a material that requires another marking or no marking, or

(2) Sufficiently cleaned of residue and purged of vapor to remove any potential hazard.

7. Section 172.334 would be amended by revising paragraph (a) and adding paragraphs (g) and (h) to read as follows:

§ 172.334 Identification numbers; prohibited display.

(a) An identification number may not be displayed on a POISON GAS, RADIOACTIVE, EXPLOSIVES A, EXPLOSIVES B, BLASTING AGENTS or DANGEROUS placard.

* * * * *

(g) No identification number may be displayed on a placard, orange panel or white square-on-point configuration unless—

(1) The identification number displayed is associated with the proper shipping name to which it is assigned in

§ 172.101 or 172.102 (when authorized), and

(2) The identification number on a placard is displayed on the placard assigned to the material or the hazard class of the material in § 172.504 and is an authorized display.

(h) No identification number marking display which is required, authorized, or specified in this subchapter may contain any color, number, letter, symbol or word other than that authorized or specified in this subchapter.

8. In § 172.336, the introductory text of paragraph (b) would be revised to read as follows:

§ 172.336 Identification numbers; special provisions and exceptions.

* * * * *

(b) For hazardous materials in hazard classes for which placards are not specified (e.g., ORM–A, B, C, D, or E), identification numbers, when required, must be displayed on either orange panels (see § 172.332(b)) or on plain white square-on-point configurations having the same outside dimensions as placards. For materials in hazard classes for which placards are specified and identification number displays are required, but for which identification numbers may not be displayed on the placards authorized for the material (e.g., Irritating materials or Poison A), identification numbers must be displayed on orange panels in association with the required placards. An identification number displayed as authorized or required by this paragraph is not considered to be a placard.

* * * * *

9. Section 172.338 would be revised to read as follows:

§ 172.338 Replacement of identification numbers.

If any of the identification number markings on a placard, orange panel, or white square-on-point configuration that is required to be displayed are lost, damaged or destroyed during transportation, the carrier shall replace all the missing identification number(s) as soon as practicable. However, in such a case, the numerals may be entered by hand on the appropriate placard, white square-on-point configuration or orange panel providing the correct identification numbers are entered legibly using an indelible marking material. When entered by hand, the identification numbers must be located in the white display area as shown in § 172.332. This section does not preclude required compliance with the placarding requirements of this subchapter.

10. Section 172.510 would be amended by adding paragraph (e) to read as follows:

§ 172.510 Special placarding provisions: Rail

* * * * *

(e) *Placarding of rail car transporting an Explosive A containing Poison A.*

Each rail car used for transporting class A explosive ammunition and having an additional hazard of Poison A must be placarded EXPLOSIVES A and POISON GAS.

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

11. In § 173.29 the section title would be revised and paragraph (e) would be added to read as follows:

§ 173.29 Empty packagings, portable tanks, cargo tanks, tank cars, and bulk packagings.

* * * * *

(e) No person may offer for transportation and no carrier may transport an empty bulk packaging containing the residue of a hazardous material unless each opening is securely closed and free from leaks.

12. In § 173.304 paragraph (d)(5) would be added to read as follows:

§ 173.304 Charging of cylinders with liquefied compressed gas.

* * * * *

(d) * * *

(5) All liquefied petroleum gas offered for transportation in cylinders, except Specifications 2P, 2Q and 39, must be odorized as indicated in Note 1 by the addition of a warning agent of such character as to be detectable, by a distinct odor, down to a concentration in air of not over one-fifth the lower limit of flammability as indicated in Note 2: Provided, however—

(i) That odorization is not required if harmful in the use or further processing of the liquefied petroleum gas, or if odorization will serve no useful purpose as a warning agent in such use or further processing.

(ii) That if odorization is not used, each cylinder containing liquefied petroleum gas shall be marked as specified in § 172.325 of this subchapter.

Note 1: Odorants must be determined to be in conformance with § 173.304(d)(5) by tests or experience. The use of 1.0 pound ethyl mercaptan, or 6.4 pounds of thiophane per 10,000 gallons of liquefied pertoleum gas shall be considered sufficient to meet the requirements of § 173.304(d)(5). This note does not exclude the use of any other odorant (or mixture of odorants) in sufficient quantity to meet the requirements of § 173.304(d)(5).

Note 2: The lower limits of flammability of the more commonly used liquefied petroleum gases are: Propane, 2.1 percent; Butane, 1.5 percent; Propylene, 2.0; Butylene, 1.6. These figures represent volumetric percentages of gas-air mixture in each case.

* * * * *

13. In § 173.314, paragraph (f)(3) would be added to read as follows:

§ 173.314 Requirements for compressed gases in tank cars.

* * * * *

(f) * * *

(3) *Odorization.* When offered for transportation by tank cars or multi-unit tank car tanks, all liquefied petroleum gas must be odorized as indicated in Note 1 by the addition of a warning agent of such character as to be detectale, by a distinct odor, down to a concentration in air of not over one-fifth the lower limit of flammability as indicated in Note 2:

Provided, however—

(i) That odorization is not required if harmful in the use or further processing of the liquefied petroleum gas, or if odorization will serve no useful purpose as a warning agent in such use of further processing.

(ii) That if odorization is not used, each tank car and mult-unit tank car tank containing liquefied petroleum gas shall be marked as specified in § 172.330 (a) and (c) respectively of this subchapter.

Note 1: Odorants must be determined to be in conformance with § 173.314(f)(3) by test or experience. The use of 1.0 pound of ethyl mercaptan, or 6.4 pounds of thiophane per 10,000 gallons of liquefied petroleum gas shall be considered sufficient to meet the requirements of § 173.314(f)(3). This note does not exclude the use of any other odorant (or mixture of odorants) in sufficient quantity to meet the requirements of § 173.314(f)(3).

Note 2: The lower limits of flammability of the commonly used liquefied petroleum gases are: Propane, 2.1 percent; Butane, 1.5 percent; Propylene, 2.0; Butylene, 1.6 These figures represent volumetric percentages of gas-air mixture in each case.

* * * * *

14. In § 173.315, the heading and paragraph (b)(1) would be revised to read as follows:

§ 173.315 Compressed gases in cargo tanks and portable tanks.

* * * * *

(b) * * *

(1) *Odorization.* All liquefied petroleum gas offered for transportation in cargo tanks or portable tanks must be odorized as indicated in Note 1 by the addition of a warning agent of such character as to be detectable, by a distinct odor, down to a concentration in air of not over one-fifth the lower limit

of flammability as indicated in Note 2: Provided, however—

(i) That odorization is not required if harmful in the use or further processing of the liquified petroleum gas, or if odorization will serve no useful purpose as a warning agent in such use or futher processing.

(ii) That if odorization is not used, each portable tank and cargo tank containing liquefied petroleum gas shall be marked as specified in § 172.326(f) and 172.328(c) respectively of this subchapter.

Note 1: Odorants must be determined to be in conformance with § 173.315(b)(1) by tests or experience. The use of 1.0 pound of ethyl mercaptan, or 6.4 pounds of thiophane per 10,000 gallons of liquefied petroleum gas shall be considered sufficient to meet the requirements of § 173.315(b)(1). This note does not exclude the use of any other odorant (or mixture of odorants) in sufficient quantity to meet the requirements of § 173.315(b)(1).

Note 2: The lower limit of flammability of the commonly used liquefied petroleum gases are: Propane, 2.1 percent; Butane, 1.5 percent; Propylene, 2.0; Butylene, 1.6. These figures represent volumetric percentages of gas-air mixture in each case.

* * * * *

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53, App. A to Part 1, and Paragraph (a)(3) of App. A to Part 106.)

Issued in Washington, D.C., on September 21, 1984.

Thomas J. Charlton,

Acting Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 84-25644 Filed 9-26-84; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF COMMERCE

National Oceanic Atmospheric Administration

50 CFR Part 628

[Docket No. 40781-4081]

Bluefish Fishery

AGENCY: National Marine Fisheries Service (NMFS) NOAA, Commerce.

ACTION: Withdrawal of proposed rulemaking.

SUMMARY: NOAA withdraws the proposed rule to implement the fishery management plan (FMP) for the bluefish fishery which addressed problems that could occur if the commercial fishery in the fishery conservation zone were to expand significantly. The proposed rule appeared in the **Federal Register** of Wednesday, July 11, 1984 (49 FR 28276). The FMP was disapproved by the Regional Director, Northeast Region, National Marine Fisheries Service, under section 304(b)(3) of the Magnuson Fishery Conservation and Management Act on September 7, 1984, because it is not consistent with the national standards for fishery conservation and management of the Magnuson Act, and fails to meet the requirements of Executive Order 12291 and the Regulatory Flexibility Act.

FOR FURTHER INFORMATION CONTACT: Peter Colosi, Bluefish Management Coordinator, 617-281-3600, ext. 272.

(16 U.S.C. 1801 *et seq.*)

William G. Gordon,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

NOAA by this document withdraws the proposed rule that appeared at page 28276 in the **Federal Register** Wednesday, July 11, 1984 (49 FR 28276).

Dated: September 20, 1984.

[FR Doc. 84-25731 Filed 9-26-84; 8:45 am]

BILLING CODE 3510-22

Notices

Federal Register
Vol. 49, No. 189
Thursday, September 27, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Pacific Crest National Scenic Trail Advisory Council, Northern California Sub-Committee; Meeting

The Southern California Sub-Committee of the Pacific Crest National Scenic Trail Advisory Council will meet on November 29, 1984, at the Angeles National Forest Headquarters, 150 Lost Robles Street, Pasadena, California. The meeting will begin at 9:30 a.m. in the 2nd floor conference room.

The purpose of the meeting is to discuss and develop recommendations for the Advisory Council and Secretary of Agriculture on broad questions policy, programs, and procedures affecting the northern California portion of the Pacific Crest Trail. The Sub-Committee will discuss rights-of-way acquisition status and needs to complete the trail as well as other matters relating to completion of the trail.

The meeting will be open to the public. Persons who wish additional information, should contact Dick Benjamin, Recreation Staff Director, Pacific Southwest Region, Forest Service, 630 Sansome Street, San Franciso, California 94111, phone (415) 556–8988.

Dated: September 20, 1984.

Zane G. Smith, Jr.,

Chairman, Pacific Crest National Scenic Trail Advisory Council.

[FR Doc. 84–25080 Filed 9–26–84; 8:45 am]
BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–357–007]

Carbon Steel Wire Rod From Argentina: Final Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice.

SUMMARY: We have determined that carbon steel wire rod from Argentina is being, or is likely to be, sold in the United States at less than fair value, and that "critical circumstances" exist with respect to the merchandise under investigation. We have notified the U.S. International Trade Commission (ITC) of our determinations, and the ITC will determine, within 45 days of publication of this notice, whether a U.S. industry is materially injured, or is threatened with material injury, by imports of this mechandise. We have directed the U.S. Customs Service to continue to suspend liquidation on all entries of the subject merchandise as described in the "Suspension of Liquidation" section of this notice.

EFFECTIVE DATE: September 27, 1984.

FOR FURTHER INFORMATION CONTACT: Gary Taverman, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377–0161.

SUPPLEMENTARY INFORMATION:

Final Determination

We have determined that carbon steel wire rod from Argentina is being, or is likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (19 U.S.C. 1673d) (the Act) and that "critical circumstances" exist with respect to exports of carbon steel wire rod from Argentina.

We have found that the foreign market value of carbon steel wire rod exceeded the United States price on all sales compared. These margins ranged from 24.85 percent to 151.66 percent, The overall weighted-average margin on all carbon steel wire rod sales compared is 119.11 percent.

Case History

On November 23, 1983, we received a petition from counsel for Atlantic Steel Company, Continental Steel Company, Georgetown Steel Corporation, North Star Steel Co.—Texas, and Raritan River Steel Company on behalf of the domestic producers of carbon steel wire rod. In accordance with the filing requirements of § 353.36 of our regulations (19 CFR 353.36), the petition alleged that imports of carbon steel wire rod from Argentina are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act and that these imports are materially injuring, or are threatening material injury to, a United States industry. Petitioners also alleged that "critical circumstances" exist, as defined in section 733(e) of the Act.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping duty investigation. We notified the ITC of our action and initiated the investigation on December 13, 1983 (48 FR 57578). On January 3, 1984, the ITC found that there is a reasonable indication that imports of carbon steel wire rod are materially injuring, or are threatening material injury to, a United States industry.

We presented a questionnaire to Acindar Industria Argentina de Aceros S.A. (Acindar) on January 13, 1984. In accordance with our normal practice, we requested a response within 30 days. Due to the large number of sales transactions, we instructed Acindar to report its home market sales transactions in hard copy and on computer tape in the format outlined in our questionnaire. At respondent's request, we agreed to extend the response period until March 5, 1984. On April 2, 1984, in a letter to counsel for Acindar, we outlined several deficiencies in the response, and requested that the company submit an amended response in proper format no later than April 10, 1984. We received Acindar's amended response, including a new computer tape, on April 12, 1984. We determined that Acindar's new computer tape was in an incorrect format and therefore was unusable. In view of the respondent's failure to compy with our request for a computerized response in proper format, and the lack of time available to obtain and analyze a new computer tape, we used the best information available for purposes of our preliminary determination, in accordance with section 776(b) of the Act (19 U.S.C. 1677e(b)). In this case, the best information available was certain information submitted by respondent. On May 1, 1984, we preliminarily

determined that carbon steel wire rod from Argentina was being sold at less than fair value (49 FR 19542). We also preliminarily determined that "critical circumstances" did not exist.

On March 13, 1984, counsel for the respondent requested an extension of our final determination date of July 10, 1984. We granted an extension until September 20, 1984 (49 FR 22121). Also at the request of counsel for the respondent, we held a hearing on August 1, 1984, to allow the parties an opportunity to address the issues arising in this investigation.

Scope of Investigation

The merchandise covered by this investigation is carbon steel wire rod. Carbon steel wire rod is classified under item number 607.17 of the *Tariff Schedules of the United States* (TSUS), which covers wire rods of iron or steel; other than alloy iron or steel, not tempered, not treated, and not partly manufactured; valued over 4 cents per pound.

This investigation covers the period from June 1 to November 30, 1983.

Fair Value Comparisons

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value, as explained below.

United States Price

As provided for in section 772 of the Act, we used purchase price of the subject merchandise to represent the United States price because the merchandise was sold to unrelated purchasers prior to its importation into the United States.

We calculated the purchase price on the basis of the F.O.B. or C&F packed price to unrelated U.S. customers. We made deductions, where appropriate, for ocean freight and stowing costs. We made an addition to purchase price for import duties assessed upon the importation of raw materials used in the manufacture of carbon steel wire rod, and for indirect taxes, which were later rebated by reason of exportation of the merchandise under investigation to the United States, pursuant to sections 772(d)(1) (B) and (C) of the Act.

Foreign Market Value

We based foreign market value on the delivered packed prices of Acindar's home market sales. Since we found that the Argentine home market prices were constantly adjusted upward to reflect the high rate of inflation in Argentina during the period of investigation, we calculated foreign market values for each month within the period of investigation. We then made our fair value comparisons using the appropriate foreign market value.

We made comparisons of "such or similar" merchandise based on AISI grade categories selected by Commerce Department industry experts, in accordance with section 771(16)(B) of the Act. In calculating foreign market value, we made currency conversions from Argentine pesos to U.S. dollars in accordance with § 353.56(a)(1) of our regulations using the revised certified daily exchange rates. We made deductions, where appropriate, for foreign inland freight, standard and supplemental discounts, and stowing costs. Since wire rod sold in both the United States and the home market was sold in the identical packed conditions, no adjustments were made for packing.

The following adjustments claimed by Acindar were disallowed. The company claimed an adjustment to foreign market value for commissions paid on home market sales. While we allowed the adjustment in our preliminary determination, information obtained subsequently indicates that the commissions were paid to company employees, and as such are considered intra-company transfers of funds which do not qualify as the basis for a circumstance of sale adjustment. Acindar also claimed a level of trade adjustment to compensate for differences in levels of trade existing between the United States market and the home market for sales of wire rod. Pursuant to § 353.19 of our regulations, we disallowed this adjustment because Acindar did not establish that the pricing differentials are due to differences in selling costs associated with sales at different levels of trade in the home market. In addition, Acindar claimed an adjustment for bad debt expenses. This adjustment was disallowed because we consider bad debt expenses to be indirect in nature, not bearing a direct relationship to the sales under investigation, as required by § 353.15 of our regulations. Finally, we disallowed Acindar's claimed cash discount adjustment because there was insufficient information on the record establishing the basis for the claim.

Final Affirmative Determination of Critical Circumstances

Counsel for the petitioners alleged that imports of carbon steel wire rod from Argentina present "critical circumstances." Under section 735(a)(3) of the Act, critical circumstances exist if we determine (1) there is a history of dumping in the United States or elsewhere of the class or kind of the merchandise which is the subject of the investigation; or the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value; and (2) there have been massive imports of the class or kind of merchandise that is the subject of the investigation over a relatively short period.

In determining whether there is a history of dumping of carbon steel wire rod from Argentina in the United States or elsewhere, we reviewed past antidumping findings of the Department of the Treasury as well as past Department of Commerce antidumping duty orders. We also reviewed the antidumping actions of other countries, and found no past antidumping determinations on carbon steel wire rod from Argentina.

We then considered whether the person by whom, or for whose account, this product was imported knew or should have known that the exporter was selling this product at less than its fair value. It is the Department's position that this test is met where margins calculated on the basis of responses to the Department's questionnaire are sufficiently large that the importer knew or should have known that prices for sales to the United States (as adjusted according to the antidumping law) were significantly below home market sales prices. In this case, the margins calculated on the basis of the response to the Department's questionnaire are sufficiently large, even though there is no corporate relationship between the exporters and importers, that the importer knew or should have known that the merchandise was being sold in the United States at less than fair value. Therefore, we determine that this test is met.

We generally consider the following concerning massive imports: (1) Recent trends in import penetration levels, (2) whether imports have surged recently, (3) whether the recent imports are significantly above the average calculated over the last three years; and (4) whether the pattern of imports over

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that three year period may be explained by seasonal swings.

In considering this question, we analyzed recent trade statistics on imports from Argentina, and all countries combined for the periods immediately preceding and subsequent to the petition filing. The analysis indicates that while imports from all countries increased 5.55 percent, imports from Argentina increased 110.08 percent. In addition, import penetration (calculated as the ratio of imports to total U.S. shipments) increased 104.05 percent for Argentina, but only 2.72 percent for all countries combined.

Normally, we would also analyze imports from prior years in order to determine whether increased imports over a short period could be attributable to factors such as seasonal flows and, therefore, may not constitute massive imports over a short period of time for the purposes of section 735(a)(3) of the Act. In this case, we have not done so because Argentina is a comparatively new entrant in the U.S. market with consequently low levels of exports of carbon steel wire rod to the United States in 1981 and 1982.

Based on our comparison of the data for the periods set forth above, we find that there have been massive imports of carbon steel wire rod from Argentina over a relatively short period of time.

Therefore, for the reasons described above, we determine that critical circumstances exist with respect to carbon steel wire rod from Argentina.

Petitioners' Comments

Comment 1: Acindar's terms of sale to its U.S. customers are F.O.B. stowed. Accordingly, counsel for petitioners contend that deductions should be made to purchase price for costs incurred by Acindar in: (a) moving the wire rod from the factory to the dock, and (b) in stowing the wire rod on ship. If information on these costs is not provided in a timely manner, they submit the Department should use information developed in the antidumping investigation of *Carbon Steel Wire Rod from Trinidad and Tobago* (48 FR 43206), where they claim a comparable situation exists.

In reply, counsel for Acindar states that what petitioners are suggesting is for the Department to calculate Acindar's internal costs for handling the product between the time it comes off the production line and the time it is taken off the dock. That, counsel claims, would be contrary to the Department's normal practice of not requiring internal cost calculations. If the Department does consider these costs, however, Acindar's counsel asserts that we must compare the handling costs on both export and domestic sales, and then adjust for differences.

DOC Position: When determining United States price, we deduct the amounts included in those prices attributable to any costs, charges and expenses incident to bringing the merchandise from the place of shipment to the place of delivery in order to arrive at the ex-factory price.

(a) With respect to the costs incurred in moving wire rod from the mill to the dock, the factual situations in the Trinidad and Tobago case and the instant case are not comparable. In the Trinidad and Tobago case, ISCOTT (the wire rod producer) transported the wire rod from its production facility to a dock it did not own, and therefore, making deductions from purchase price for those inland freight costs was warranted. In this case, Acindar's dock is part of the mill and constitutes the place of shipment. Therefore, we do not consider the cost of moving the merchandise within the mill to be a cost, charge or expense incident to bringing the merchandise from the place of shipment to the place of delivery.

(b) Acindar submitted data on labor costs incurred in stowing wire rod onto ships for export, and onto trucks for domestic sales. These charges were deducted from both purchase price and foreign market value, in accordance with the Commerce Regulations.

Comment 2: Using the criteria established by the Department in its final affirmative determination of critical circumstances in *Certain Carbon Steel Products From Brazil* (49 FR 17988), imports of wire rod from Argentina have been massive over a relatively short period of time. In addition, the level of dumping margins of 176.10 percent found in the preliminary determination indicates knowledge on the part of the importers that the wire rod was being sold at less than fair value. As such, the Department should find that critical circumstances exist in this case.

DOC Position: We agree. See the section of this notice entitled "Final Affirmative Determination of Critical Circumstances".

Comment 3: Counsel for petitioners assert that the upward adjustment to U.S. price on sales of high carbon wire rod for the reembolso rebate be limited to that amount of the rebate which covers taxes directly imposed on inputs which are physically incorporated in the exported product. Specifically, the Department should not allow the 10 percent adjustment claimed by Acindar, but should only allow an adjustment of 7.6 percent, the non-countervailable amount established in *Carbon Steel Wire Rod from Argentina, Suspension of Investigation* (47 FR 42393). To support their assertion, counsel references section 772(d)(1)(C) of the Act, which allows an addition to the U.S. price for "the amount of any taxes imposed in the country of exportation direclty upon the exported merchandise or components thereof, which have been rebated, or which have not been collected, by reason of exportation of the merchandise to the United States". This section of the Act, they claim, is merely the "flip side" of section 771(5)(A) and paragraph (h) in Annex A to the Subsidies Code, which allows as non-counter-vailable the rebates of indirect taxes imposed on components physically incorporated in the exported product.

In its post-hearing brief, counsel for respondent rebuts petitoners' argument by referencing *Senate Report No. 96-249 96th Cong., 1st Sess. 94 (1979),* which states that "the principle behind adjustments to U.S. price and FMV is to achieve comparability between the prices which are being compared." In this case, the price that Acindar receives on export sales to the U.S. includes an addition of 10 percent for the high carbon wire rod reembolso rebate, which the home market price does not. Accordingly, to achieve price comparability, the Department should allow the full 10 percent rebate as an addition to U.S. price.

DOC Position: In deciding this issue, the Department was guided by the legislative history of this provision. In *House Report No. 93-571 93rd Cong., 1st Sess. 69 (1973),* The House Ways and Means Committee recomended an amendment dealing with the treatment of certain types of tax rebates in computing purchase price which would "conform the standard in the Antidumping Act to the standard under the countervailing duty law, thereby harmonizing tax treatment under the two statutes." In *Senate Report No. 93-1298 93rd Cong., 2nd Sess. 172 (1974),* the Senate Finance Committee addressed the same issue and recommended an amendment, the standard of which "parallels that standard employed by the Treasury Department under the countervailing duty law in determining whether tax rebates and remissions constitute bounties or grants."

It is our determination that the intent of Congress generally was to provide comparable treatment of indirect tax rebates in both antidumping and countervailing duty investigations. Therefore, for purposes of this case, we have limited the addition to purchase

price on sales of high carbon wire rod to 7.6 percent, the amount established in the countervailing duty investigation as representing the tax incidence on components physically incorporated in the exported product.

Respondent's Comments

Comment 1: The Department should use the revised currency rates certified by the Federal Reserve Bank when converting Argentine pesos to U.S. dollars.

DOC Position: We agree and have used the revised rates.

Comment 2: The Department's methodology used for the preliminary determination did not result in the calculation of foreign market values (FMV) which were sufficiently correlated in product type and time with the U.S. sales to afford proper price to price comparisons. Counsel for respondent suggests that FMV be calculated based upon sales of identical merchandise in the home market which are close in time to the sale made in the U.S., and that the Department adjust for the differential in the value of the Argentine peso between the day of the home market sale and the day of the U.S. sale.

DOC Position: At the time of preliminary determination, Acindar's computer tape listing home market sales transactions was found to be in an improper format, and unusable. As a result, we were unable to perform discrete price to price comparisons. Subsequent to the preliminary determination, a tape in proper format was submitted. For the final determination, whenever possible, we compared U.S. sales with sales in the home market of wire rod having identical steel grade. If there were no sales of such merchandise, we used sales of the next most similar merchandise to determine foreign market value. In those instances, no adjustments for differences in merchandise were made because: (a) Our analysis reveals no differences in price between the such and next most similar steel grade used for comparison, and (b) there is know information on the record to support differences in merchandise adjustments based on differences in costs. We made currency conversions from Argentine pesos to U.S. dollars using the revised exchange rate in effect on the date of the U.S. sale, in accordance with Commerce Regulations.

Comment 3: Counsel for respondent contends that supplemental data provided by Acindar now supports the basis for its claimed cash discount adjustment. Accordingly, the Department should make an adjustment to foreign market value to reflect the discount.

DOC Position: At verification, company officials were asked to compile information on the amount of the cash discount and the number of days payment was outstanding for each home market sale. Based on the data subsequently provided by Acindar, we were unable to link the information to specific home market sales of the products under investigation. While we understand the mechanism of Acindar's cash discount system, information on the record does not support the claimed adjustment, and therefore the adjustment was not made.

Verification

In accordance with section 776(a) of the Act, we verified all data used in reaching this determination by using standard verification procedures, including on-site inspection of the manufacturer's operations and examination of accounting records and selected documents containing relevent information.

Suspension of Liquidation

In accordance with section 733(d) of the Act, on May 1, 1984, we directed the U.S. Customs Service to suspend liquidation of all entries of carbon steel wire rod from Argentina. As of the date of publication of this notice in the Federal Register, the liquidation of all entries, or withdrawals from warehouse, for consumption will continue to be suspended, and is ordered retroactively to February 8, 1984. The U.S. Customs Service will continue to require a cash deposit or the posting of a bond equal to the estimated weighted-average margin of 119.11 percent. The security amount established in our preliminary determination of May 1, 1984 is no longer in effect. The suspension of liquidation will remain in effect until further notice.

ITC Notification

In accordance with section 735(d) of the Act, we will notify the ITC of our determination. In addition, we are making availble to the ITC all non-privileged and non-confidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

The ITC will make its determination whether these imports are materially injuring or threaten material injury to a U.S. industry, within 45 days of the publication of this notice. If the ITC determines that material injury or the threat of material injury does not exist, this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. If, however, the ITC determines that such injury does exist, we will issue an antidumping order, directing Customs officers to assess an antidumping duty on carbon steel wire rod from Argentina equal to the amount by which the foreign market value of the merchandise exceeds the U.S. prices.

This determination is being published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)).

William T. Archey,

Acting Assistant Secretary for Trade Administration.

[FR Doc. 84-25715 Filed 9-26-84; 8:45 am]

BILLING CODE 3510-DS-M

[A-489-008]

Carbon Steel Wire Rod From Spain; Final Determination of Sales at Less Than Fair Value

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice of Final Determination of Sales at Less Than Fair Value.

SUMMARY: We have determined that carbon steel wire rod from Spain is being, or is likely to be, sold in the United States at less than fair value, and that "critical circumstances" exist with respect to the merchandise under investigation. We have notified the U.S. International Trade Commission (ITC) of our determinations, and the ITC will determine, within 45 days of publication of this notice, whether a U.S. industry is materially injured, or is threatened with material injury, by imports of this merchandise. We have directed the U.S. Customs Service to continue to suspend liquidation on all entries of the subject merchandise as described in the "Suspension of Liquidation" section of this notice.

EFFECTIVE DATE: September 27, 1984.

FOR FURTHER INFORMATION CONTACT: Raymond Busen, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW.,

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Washington, D.C. 20230; Telephone: (202) 377–2830.

SUPPLEMENTARY INFORMATION:

Final Determination

We have determined that wire rod from Spain is being, or is likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (19 U.S.C. 1673d) (the Act). The concerned firms are indicated in the "Suspension of Liquidation" section of this notice.

We have found that the foreign market value of wire rod exceeded the United States price on 96.28 percent of the sales compared. These margins ranged from 4.59 percent to 69.68 percent. The overall weighted-average margin on all sales compared is 34.05 percent. The weighted-average margins for individual companies investigated are listed in the "Suspension of Liquidation" section of this notice. We also found that critical circumstances exist with respect to exports of wire rod from Spain.

Case History

On November 23, 1983, we received a petition from Atlantic Steel Company, Continental Steel Co., Georgetown Steel Corp., North Star Steel Co.—Texas, and Raritan River Steel Company, on behalf of the domestic producers of wire rod. In compliance with the filing requirements of § 353.36 of our regulations (19 CFR 353.36(b)), the petition alleged that imports of wire rod from Spain are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports are causing material injury, or threaten material injury, to a United States industry. Petitioners also alleged that critical circumstances exist, as defined in section 735(a)(3) of the Act.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping duty investigation. We notified the ITC of our action and initiated such an investigation on December 13, 1983 (48 FR 57580). On January 9, 1984, the ITC determined that there is a reasonable indication that imports of wire rod are materially injuring a U.S. industry.

On February 11, 1984, questionnaires were received by NMQ, ENSIDESA, and FASA. On March 21, 26, and 28, 1984, we received NMQ's response. ENSIDESA's response was received on March 23, 26, and 28, 1984, and FASA's response was received on March 23 and 30, 1984.

On May 1, 1984, we preliminarily determined that wire rod from Spain is being sold in the United States at less than fair value (49 FR 19547).

On May 10, 1984, we received a letter from respondents requesting that our final determination be extended until not later than September 20, 1984. In accordance with section 735(a)(2) of the Act, we extended our final determination until that date (49 FR 23208).

On June 5–12, 1984, we verified the responses of NMQ, ENSIDESA, and FASA at the offices of the Spanish Iron and Steel Federation in Madrid, Spain. On August 13, 1984, we held a hearing to address the issues arising in the investigation.

Scope of Investigation

The merchandise covered by this investigation is carbon steel wire rod. The term "carbon steel wire rod" covers wire rods of iron or steel other than alloy iron or steel, not tempered, not treated and not partly manufactured, and valued over 4 cents per pound, as currently provided for in item 607.17 of the *Tariff Schedules of the United States*.

Because NMQ, ENSIDESA, and FASA accounted for virtually all exports of this merchandise to the United States, we limited our investigation to these firms. We investigated all sales of wire rod by the three firms during the period June 1 through November 30, 1983.

Fair Value Comparisons

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

As provided in section 772 of the Act, we used the purchase price of wire rod to represent the United States price for sales by NMQ, ENSIDESA, and FASA because the merchandise was sold to unrelated purchasers prior to its importation into the United States. We calculated the purchase price based on the c.&f., c.i.f., or f.o.b. packed price to unrelated purchasers. We made deductions, where appropriate, for foreign inland freight, foreign inland insurance, customs brokerage, ocean freight, and marine insurance.

Foreign Market Value

In accordance with section 773 of the Act, we calculated foreign market value based on home market sales. We compared identical merchandise where possible. Where no identical merchandise was sold in the home market, in accordance with section 771(16) of the Act, we made comparisons based on quality and dimensional categories selected by a Commerce Department industry expert.

We calculated the home market prices on the basis of delivered, packed prices to unrelated purchasers. Where appropriate, we made deductions for inland freight, discounts and rebates. We made adjustments for differences between United States and home market credit costs, and where appropriate, for commissions. We disallowed NMQ's claim for an adjustment for bad debt because we consider bad debt expenses to be indirect in nature, not bearing a direct relationship to the sales under consideration, as required by § 353.15 of our regulations.

We disallowed FASA's claimed circumstance of sale adjustments for interest costs related to warehousing inventory and their claimed adjustments to United States and home market prices for indirect selling expenses because they are not directly related to the sales under consideration as required by § 353.15 of our regulations.

Final Affirmative Determination of Critical Circumstances

Counsel for the petitioners alleged that imports of carbon steel wire rod from Spain present "critical circumstances." Under section 735(a)(3) of the Act, critical circumstances exist if we determine (1) there is a history of dumping in the United States or elsewhere of the class or kind of the merchandise which is the subject of the investigation; or the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value; and (2) there have been massive imports of the class or kind of merchandise that is the subject of the investigation over a relatively short period.

In determining whether there is a history of dumping of carbon steel wire rod from Spain in the United States or elsewhere, we reviewed past antidumping findings of the Department of the Treasury as well as past Department of Commerce antidumping duty orders. We also reviewed the antidumping actions of other countries, and found no past antidumping determinations on carbon steel wire rod from Spain.

We then considered whether the person by whom, or for whose account, this product was imported knew or should have known that the exporter was selling this product at less than its fair value. It is the Department's position that this test is met where margins

calculated on the basis of responses to the Department's questionnaire are sufficiently large that the importer knew or should have known that prices for sales to the United States (as adjusted according to the antidumping law) were significantly below home market sales prices. In this case, the margins calculated on the basis of the response to the Department's questionnaire are sufficiently large, except with respect to FASA, even though there is no corporate relationship between the exporters and importers, that the importer knew or should have known that the merchandise was being sold in the United Sates at less than fair value. Therefore, we determine that this test is met, except with respect to FASA.

We generally consider the following concerning massive imports: (1) Recent trends in import penetration levels, (2) whether imports have surged recently, (3) whether the recent imports are significantly above the average calculated over the last three years; and (4) whether the pattern of imports over that three year period may be explained by seasonal swings.

In considering this question, we analyzed recent trade statistics on imports from Spain, and all countries combined for the periods immediately preceding and subsequent to the petition filing. The analysis indicates that while imports from all countries increased 5.55 percent, imports from Spain increased 50.41 percent. In addition, import penetration (calculated as the ratio of imports to total U.S. shipments) increased 46.59 percent for Spain, but only 2.72 percent for all countries combined.

Based on our comparison of the data for the periods set forth above, we find that there have been massive imports of carbon steel wire rod from Spain over a relatively short period of time.

Therefore, for the reasons described above, we determine that critical circumstances exist with respect to carbon steel wire rod from Spain, except with respect to FASA.

Verification

In accordance with section 776(a) of the Act, we verified the information used in making this determination by using standard verification procedures, including examination of records and selection of original source documentation containing relevant information.

Petitioners' Comments

Comment 1: Petitioners state that the 4.3 percent Impuesto General de Trafico de Emprese (IGTE) tax collected on home market sales but not on export sales does not appear to be reflected in the home market prices reported in the questionnaire responses. Therefore, if the home market prices that are used to determine foreign market value do not include the IGTE tax, then no adjustment to U.S. prices for the amount of that tax is permitted.

DOC Position: We agree. We found that home market gross prices as shown on respondents' invoices correspond to the gross prices as shown on respondents' questionnaire responses. However, these prices do not include the 4.3 percent IGTE tax and, therefore, no adjustment to U.S. price is warranted under section 772(d)(1)(C) of the Act.

Comment 2: Petitioners state that the 14.5 percent Desgravacion Fiscal a la Exportacion (DFE) is a program under which indirect taxes are rebated upon exportation of goods, and that section 772(d)(1)(C) of the Act limits the adjustment for rebated taxes to those levied directly on the merchandise or components thereof. Petitioners state that there is no evidence that the DFE rebate covers taxes on components used in the production of wire rod and that no substantiation of the actual incidence of the indirect taxes that are alleged to be rebated has been made.

Respondents state that the DFE is clearly a rebate of taxes imposed in the country of exportation by reason of the exportation of wire rod to the U.S. and has been recognized as such by the Department in prior determinations. Respondents further state that the taxes rebated under the DFE are included in the home market price and have, therefore, been appropriately included in the U.S. value.

DOC Position: In a recent countervailing duty finding on the same product (49 FR 19551), we determined on the basis of best information available that the entire export rebate constitutes a subsidy. Therefore, we are unable to conclude, on the basis of information presently available, that the DFE payment constitutes a rebate of taxes which were directly imposed upon this product or its components. However, as explained in the "Suspension of Liquidation" section of this notice, since the DFE rebate has already been determined to be an export subsidy in the final countervailing duty determination referenced above, the amount of the export subsidy has been subtracted from the dumping margin for deposit or bonding purposes.

Respondents' Comments

Comment 1: Respondents state that the Department should calculate foreign market value for NMQ and ENSIDESA based on sales to its largest customers if the quantities involved are to be considered comparable. Sales to the largest home market customers receive substantial discounts and are about one-half the size of the sales to its smallest U.S. customer. Davis Walker Corporation, an interested party to the investigation, made a similar comment in regard to sales by NMQ.

Petitioners state that there is no clear dividing line between NMQ and ENSIDESA's large and small volume home market purchases. Further, respondents have made no showing that the magnitude of the discounts received were directly related to the volume of specific sales.

DOC Position: It is clear that sales volume to the U.S. is much greater than Spanish home market sales. Respondents have not demonstrated, however, that the standards for allowance of a quantity discount under § 353.14(b)(1) of the Commerce Regulations have been met, nor have they shown that the discounts provided to home market customers are warranted on the basis of savings specifically attributable to the production of the different quantities involved, in accordance with § 353.14(b)(2) of those regulations. Therefore, no adjustments are warranted and foreign market value is based on all sales during the period of investigation.

Comment 2: Respondents state that the Department should calculate the fair value margins for ENSIDESA on the basis of appropriate comparisons on the quality and dimensions of wire rod sold in the home market and to the U.S. rather than "best information available" as was done for the preliminary determination.

DOC Position: Using information provided by the respondent and subsequently verified, we made comparisons based on quality and dimensional categories as selected by a Commerce Department industry expert.

Comment 3: Respondents state that we should adjust our product groupings for NMQ so as to avoid distortions resulting from certain products not being sold to the U.S. but being included in the foreign market value calculation.

Petitioners state that the product groupings were made on the advice of a Department commodity expert and that any alteration would skew the comparison.

DOC Position: We reviewed the comparison groups and deleted similar groups where identical merchandise existed. Where comparisons were based on similar merchandise, all similar home market merchandise was included.

Comment 4: Respondents state that NMQ's credit expenses on U.S. sales should be reduced by an amount equivalent to 30 days credit in order to account for the fact that home market prices reflected 30 days net terms, while export prices to the U.S. did not.

DOC Position: During verification we verified that credit expenses for NMQ's home market sales were overstated by an amount equivalent to 30 days of such expenses. Therefore, we made an adjustment to foreign market value to reflect accurate credit expenses.

Suspension of Liquidation

In accordance with section 733(d) of the Act, the suspension of liquidation is ordered retroactively for all manufacturers/producers/ exporters with the exception of FASA of all entries of wire rod from Spain that are entered, or withdrawn from warehouse, for consumption, on or after February 8, 1984. With regard to entries of wire rod from FASA, we are directing the Customs Service to suspend liquidation of all entries of wire rod which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**. The Customs Service shall require a cash deposit or the posting of a bond equal to the estimated wieghted-average margin amount by which the foreign market value of the merchandise subject to this investigation exceeded the United States prices. This suspension of liquidation will remain in effect until further notice. The weighted-average margins are as follows:

	Weighted-average margin percentage
NMQ	37.45
ENSIDESA	34.62
FASA	0.73
All Other Manufacturers/Producers/Exporters	34.05

Articles VI.5 of the General Agreement on Tariffs and Trade provides that "(n)o product * * * shall be subject to both antidumping and countervailing duties to compensate for the same situation of dumping or export subsidization." This provision is implemented by section 772(d)(1)(D) of the Act. Since dumping duties cannot be assessed on the portion of the margin attributable to export subsidies, there is no reason to require a cash deposit or bond for that amount. Accordingly, the level of export subsidies (as determined in the final affirmative countervailing duty determination on carbon steel wire rod from Spain (49 FR 19551)) has been substracted from the dumping margin for deposit or bonding purposes.

ITC Notification

In accordance with section 735(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

The ITC will determine whether these imports are causing material injury, or threaten material injury, to a U.S. industry within 45 days of the publication of this notice.

If the ITC determines that material injury does not exist, this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. If, however, the ITC determines that such injury does exist, we will issue an antidumping order, directing Customs officers to assess an antidumping duty on wire rod from Spain entered, or withdrawn, for consumption after the suspension of liquidation, equal to the amount by which the foreign market value of the merchandise exceeds the U.S. prices.

This determination is being published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)).

Dated: September 20, 1984.

William T. Archey,

Acting Assistant Secretary for Trade Administration.

[FR Doc. 84-25714 Filed 9-26-84; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Marine Mammal Permits; Issuance of Permit; Marineland Cote d'Azur

On July 26, 1984, Notice was published in the **Federal Register** (49 FR 30087) that an application had been filed with the National Marine Fisheries Service by Marine Cote d'Azur, Avenue Mozart, 06600 Antibes, France, for a Permit to take five (5) Atlantic bottlenose dolphins *(Tursiops truncatus)* for public display.

Notice is hereby given that on September 17, 1984, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a Public Display Permit for the above taking to Marineland Cote d'Azur subject to certain conditions set forth therein.

The Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, Duval Building, St. Petersburg, Florida 33702.

Dated: September 17, 1984.

Richard B. Roe,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 84-25633 Filed 9-26-84; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Notice of Intent To Grant Exclusive Patent License; Calcol, Inc.

The National Technical Information Service (NTIS), a U.S. Department of Commerce, intends to grant to Calcol, Inc., having an office in Shaker Heights, Ohio 44122, an exclusive right to practice the invention embodied in U.S. Patent 3,734,930, "Direct Synthesis of (−) Trans-Δ^8-Tetrahydrocannabinol from Olivetol and (+)-Trans-Δ^3-Carene Oxide." The patent rights in this invention are being assigned to the United States of America, as represented by the Secretary of Commerce.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 41 CFR 101-4.1. The proposed license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed licenses would not serve the public interest.

Inquiries, comments and other materials relating to the proposed license must be submitted to the Office of Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

Douglas J. Campion,

Office of Federal Patent Licensing, U.S. Department of Commerce, National Technical Information Service.

[FR Doc. 84-25659 Filed 9-26-84; 8:45 am]

BILLING CODE 3510-04-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS); Proposed Flood Control Project for Kingfisher and Uncle John's Creeks, Kingfisher, OK

AGENCY: U.S. Army Corps of Engineers, DOD, Tulsa District.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. The primary purpose of this project is to provide local flood protection for Kingfisher and Uncle John's Creeks, Kingfisher, Oklahoma.

2. Reasonable Alternative: The alternatives evaluated included no action, overflow diversion channel, channel modifications, upstream lakes, and levee.

3. Scoping Process: Public Involvement. A comprehensive public involvement program was developed as a means of disseminating information and soliciting public views. A variety of techiques including formal public meetings, meetings with local interest, and local news media were employed to involve Federal, State, and local agencies, citizen committees, organizations, and the interested public in the planning studies.

a. *Significant Issue Requiring In-Depth Analysis:* None.

b. Assignments: U.S. Fish and Wildlife Service is preparing a Fish and Wildlife Coordination Act Report.

c. *Environmental Review and Consultation Requirements:* The draft environmental impact statement will be circulated for review and all comments will be incorporated into the final environmental impact statement.

4. A separate scoping meeting will not be held.

5. Estimated date when the DEIS will be available: March 1985.

ADDRESS: Mr. Buell O. Atkins, Chief, Environmental Resources Branch, U.S. Army Corps of Engineers, Tulsa District, P.O. Box 61, Tulsa, OK 74121–0061, (918) 581–7857, FTS 745–7857.

Dated: September 19, 1984.

Franklin T. Tilton,

Colonel, CE, District Engineer.

[FR Doc. 84-25854 Filed 9-26-84; 8:45 am]

BILLING CODE 3710-39-M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Collection Requests.

SUMMARY: The Deputy Under Secretary for Management invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before October 29, 1984.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., Room 3208, New Executive Office Building, Washington, D.C. 20503. Request for copies of the proposed information collection requests should be addressed to Margaret B. Webster, Department of Education, 400 Maryland Avenue, SW., Room 4074, Switzer Building, Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Margaret B. Webster, (202) 426–7304.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that the public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Deputy Under Secretary for Management publishes this notice containing proposed information requests prior to the submission of these requests to the OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Agency form number (if any); (4) Frequency of the collection; (5) The affected public; (6) Reporting Burden; and/or (7) Recordkeeping Burden; and (8) Abstract.

OMB invites public comment at the address specified above. Copies of the requests are available from Margaret Webster at the address specified above.

Dated: September 24, 1984.

Ralph J. Olmo,

Acting Deputy Under Secretary for Management.

Office of Elementary and Secondary Education

Type of Review Requested: New
Title: Chapter 1 of the Education Consolidation and Improvement Act of 1981, Section 554(a) Migrant Education Interstate and Intrastate Coordination Progam Financial Status and Performance Report
Agency Form Number: ED 362–3
Frequency: Annually
Affected Public: State or Local Governments
Reporting Burden: Responses: 15; Burden Hours: 75
Recordkeeping Burden: Recordkeepers: 15; Burden Hours: 15

Abstract: State educational agencies are required to file financial status and performance report under the provisions of the Education Department General Administrative Regulations (EDGAR). The information will be used for future program decisions regarding program planning or management.

Type of Review Requested: New
Title: Chapter 1 of the Education Consolidation and Improvement Act of 1981 Recognition Nomination Form
Agency Form Number: ED 2474
Frequency: Annually
Affected Public: State and Local Governments
Reporting Burden: Responses: 255; Burden Hours: 1,275
Recordkeeping Burden: Recordkeepers: 0; Burden Hours: 0

Abstract: Information will be used to select outstanding Chapter 1 projects to receive a national award. Each State educational agency may nominate up to five projects. The submission of nominations is voluntary and does not affect program funding or eligibility.

Type of Review Requested: Extension
Title: Application for Law-Related Education Program
Agency Form Number: ED 740
Frequency: Annually
Affected Public: State and Local Governments; Institutions of Higher Education; Other Public and Private, Non-Profit Agencies, Organization, and Institutions.
Reporting Burden: Responses: 120; Burden Hours: 4800
Recordkeeping Burden: Recordkeepers: 10; Burden Hours: 0

Abstract: This package is used by applicants to apply for Law-Related Education grant awards. The Department uses the information

collected to determine grant eligibility and amount of awards.

Type of Review Requested: Reinstatement
Title: Financial and Performance Reports for Follow-Through Program CFDA 84-014
Agency Form Number: ED 4473-1 (OE 376)
Frequency: Annually
Affected Public: Local Educational Agencies; Other Public and Private, Non-Profit Agencies, Organizations, and Institutions
Reporting Burden: Responses: 93; Burden Hours: 2,790
Recordkeeping Burden: Recordkeepers: 93; Burden Hours: 1,116

Abstract: Grantees are required under the Education Department General Administrative Regulations (EDGAR) to submit financial and performance reports on project expenditures and the extent to which project objectives are achieved as described in the application.

Type of Review Requested: New
Title: Financial and Performance Reports for Law-Related Education
Agency Form Number: ED 740-1;-2
Frequency: Annually
Affected Public: State and Local Governments; Institutions of Higher Education; Other Public and Private, Non-Profit Agencies, Organizations, and Institutions
Reporting Burden: Responses: 12; Burden Hours: 72
Recordkeeping Burden: Recordkeepers: 12; Burden Hours: 48

Abstract: Grantees are required under the Education Department General Administrative Regulations (EDGAR) to report on project expenditures and the extent to which project objectives are achieved as described in the application.

Type of Review Requested: Extension
Title: Preapplication for Federal Assistance (Construction) Under Pub. L. 81-815 (ED 355); Application for Federal Assistance (Construction) Under Pub. L. 81-815 (ED 355-1)
Agency Form Number: ED 355-1
Frequency: (Determined by Applicant)
Affected Public: State or Local Governments
Reporting Burden: Responses: 38; Burden Hours: 380
Recordkeeping Burden: Recordkeepers: 0; Burden Hours: 0

Abstract: Local educational agencies in federally impacted areas use the preapplication to provide data needed for departmental evaluation and determinations as to eligibility, extent of need, and amount of entitlement.

Type of Review Requested: Extension
Title: Application for grants for the Migrant Education Interstate and Intrastate Coordination Program under Chapter 1 of the Education Consolidation and Improvement Act of 1981.
Agency Form Number: ED 362-2
Frequency: Annually
Affected Public: State and Local Governments
Reporting Burden: Responses: 40; Burden Hours: 1600
Recordkeeping Burden: Recordkeepers: 0; Burden Hours: 0

Abstract: State educational agencies may apply individually or cooperatively for grants to plan and implement special projects designed to improve the interstate and intrastate coordination activities of migrant education program. Information on the projects and application packages will be distributed to all states serving migrant children, the District of Columbia, and Puerto Rico.

Office of Special Education and Rehabilitation Services

Type of Review Requested: New
Title: Report of Handicapped Children and Youth Receiving: (a) Special Education and Related Services and (b) Related Services
Agency Form Number: ED 869-5
Frequency: Annually
Affected Public: State and Local Governments
Reporting Burden: Responses: 58; Burden Hours: 638
Recordkeeping Burden: Recordkeepers: 0; Burden Hours: 0

Abstract: This package provides instructions and forms necessary for States and local educational agencies to report the number of handicapped children and youth receiving services and serves as the basis for allocating Federal funds; and for monitoring, implementation, and reporting information.

[FR Doc. 84-25694 Filed 9-26-84; 8:45 am]
BILLING CODE 4000-01-M

National Advisory Council on Vocational Education; Meeting

AGENCY: National Advisory Council on Vocational Education.

ACTION: Notice of Public Meeting of the Council.

SUMMARY: This notice sets forth the proposed agenda of a forthcoming meeting of the National Advisory Council on Vocational Education. It also describes the functions of the Council. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act, and is intended to notify the general public of its opportunity to attend.

DATE: October 9, 1984.

ADDRESS: National Advisory Council on Vocational Education, 425 13th Street, NW., Suite 412, Washington, D.C. 20004.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Vocational Education is established under section 104 of the Vocational Education Amendments of 1968, Pub. L. 90-576. The Council is established to:

(A) Advise the President, the Congress, and the Secretary of Education concerning the administration of, preparation of general regulations for, and operation of, vocational education programs supported with assistance under this title;

(B) Review the administration and operation of vocational education programs under this title, including the effectiveness of such programs in meeting the purposes for which they are established and operated, make recommendations with respect thereto, and make annual reports of its findings and recommendations (including recommendations for changes in the provisions of this title) to the Secretary for transmittal to Congress; and

(C) Conduct independent evaluations of programs carried out under this title and published and distribute the results thereof.

The meeting of the National Advisory Council on Vocational Education, as announced, is open to the public, and the proposed Agenda will include: Briefing on new vocational education legislation; Review and Discussion of new Council mandate; Finalize program of work for coming year.

Records are kept of the Council's proceedings, and are available for public inspection at the office of the National Advisory Council on Vocational Education from 9:00 am to 5:00 pm, 425 13th Street, NW., Suite 412, Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Carolyn J. Edwards, NACVE Staff at above address. Telephone (202) 376-8873.

Signed at Washington, D.C., on September 24, 1984.

George Wallrodt,

Deputy Executive Director, National Advisory Council on Vocational Education.

[FR Doc. 84-25707 Filed 9-26-84; 8:45 am]
BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER84-673-000]

Alabama Power Co.; Filing

September 24, 1984.

The filing Company submits the following:

Take notice that on September 10, 1984, Alabama Power Company (Alabama) tendered for filing a Notice of Cancellation. Alabama states that at the request of Wiregrass Electric Cooperative, it is terminating service to their Bay Springs delivery point. The termination of this service becomes effective on August 29, 1984. From that date service will be provided to this delivery point directly from the electric system of Alabama Electric Cooperative.

Copies of this filing were served upon Wiregrass Electric Cooperative.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 9, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-25082 Filed 9-26-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-671-000]

Boston Edison Co.; Filing

September 24, 1984.

The filing Company submits the following:

Take notice that on September 10, 1984, Boston Edison Company (Boston) tendered for filing a supplemental Exhibit A to a Service Agreement for Cambridge Electric Light Company (CEL), under its FERC Electric Tariff, Original volume III, Non-Firm Transmission Service (the Tariff). The Exhibit A specifies the amount and duration of transmission service required by CEL under the Tariff.

Edison requests an effective date of June 1, 1984, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon Cambridge Electric Light Company and the Massachusetts Department of Public Utilities.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 9, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-25083 Filed 9-26-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-674-000]

Central Vermont Public Service Corp.; Filing

September 24, 1984.

The filing Company submits the following:

Take notice that on September 10, 1984, Central Vermont Public Service Corporation (Central Vermont tendered for filing a proposed contract applicable to the Vermont Electric Generation and Transmission Cooperative, Inc. (the G&T). Pursuant to the contract, Central Vermont constructed facilities to connect a G&T hydro electric project at North Hartland, Vermont to Central Vermont's transmission system. The Company has asked that the contract be allowed to become effective as a rate schedule on November 7, 1984 although the contract charges, which relate to the facilities especially constructed for the North Hartland service and to a transformer which will be jointed use by the G&T and Central Vermont, will not commence until the first day of the month during which the G&T commences utilization of the facilities. That date is currently estimated to be December 1, 1984.

Central Vermont states that it has served copies of the filing on the G&T and on the Vermont Public Service Board.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 9, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-25084 Filed 9-26-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-676-000]

Empire District Electric Co.; Filing

September 24, 1984.

The filing Company submits the following:

Take notice that on September 13, 1984, Empire District Electric Company (EDE) tendered for filing a proposed change in its FPC Electric Service Tariff, Volume 1. The proposed changes would increase revenues from jurisdictional sales and service by $44,520 based on the 12 month period ending December 31, 1984.

EDE states that the changes are proposed in order that the rates better reflect the Cost of Service. The charge for transmission shall be changed from $0.927 to $0.960 per KW of contract demand and the energy charge shall remain $0.85 per Mwh.

Copies of this filing were served upon the Kansas Corporation Commission, the Missouri Public Service Commission, the Oklahoma Corporation Commission, the Public Service Commission of Arkansas, and Kansas Electric Power Cooperative.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 9, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will

not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-25686 Filed 9-26-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-676-000]

Florida Power Corp.; Filing

September 24, 1984.

The filing Company submits the following:

Take notice that on September 14, 1984, Florida Power Corporation (Florida Power) tendered for filing rate schedule revisions to its FERC Electric Tariff and partial-requirements service contracts which would increase its revenues from wholesale service in two steps. The first step, reflecting the cost of service after commercial operation of the 171 megawatt Crystal River No. 5 generating unit now under construction, is in the amount of $10.5 million or 9.78%. Florida Power requests that the first step increase be permitted to become effective on November 15, 1984. The second step, reflecting only the inclusion of 50% of construction work in progress (CWIP) in rate base in accordance with the Commission's CWIP regulations, involves a further increase of $1.1 million, for a total increase of $11.6 million or 10.61%. Florida Power requests that the second step increase be permitted to become effective on January 1, 1985, in accordance with the terms of the settlement agreement in Florida Power's last wholesale rate case. Florida Power states that it will inform the Commission and the affected customers if there is any change in that date.

Florida Power states that the filing also contains provisions for changes in the surcharge for spent nuclear fuel disposal costs, the recovery of the Florida Gross Receipts Tax, the fuel cost adjustment clause, and several terms and conditions of service in the tariff and contract rate schedules.

Florida Power states that it has served copies of its filing on the affected customers and the Florida Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 9, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-25688 Filed 9-26-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-675-000]

Idaho Power Co.; Filing

September 24, 1984.

The filing Company submits the following:

Take notice that on September 11, 1984, Idaho Power Company (Idaho) tendered for filing in compliance with the Federal Energy Regulatory Commission's Order of October 7, 1978, a summary of sales made under the Company's 1st Revised FERC Electric Tariff, Volume No. 1 (Supersedes Original Volume No. 1) during July, 1984, along with the cost justification for the rate charged. This filing includes the following supplements:

Utah Power & Light Company—Supplement 33
Sierra Pacific Power Company—Supplement 31
Montana Power Company—Supplement 30
Portland General Electric Company—Supplement 26
Southern California Edison Company—Supplement 20
San Diego Gas & Electric Company—Supplement 16
Washington Water Power Company—Supplement 21
Pacific Gas & Electric—Supplement 14

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 9, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-25687 Filed 9-26-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-670-000]

Iowa Electric Light and Power Co.; Filing

September 24, 1984.

The filing company submits the following:

Take notice that on September 7, 1984, Iowa Electric Light and Power Company (Iowa Electric) tendered for filing an executed Resale Contract with the City of Maquoketa to provide wholesale electric power to serve loads previously served at retail by Iowa Electric. This filing is made pursuant to 18 CFR 35.13 (a)(2)(ii) for rate schedule changes other than rate increases and is in addition to the currently filed resale agreement with the City of Maquoketa.

Iowa Electric has been serving various customers in Maquoketa under retail rates subject to state jurisdiction and has sold its retail facilities and related property to the City of Maquoketa. The related portion of the load will be transferred from retail to wholesale service under the Resale Contract tendered for filing and served under Iowa Electric's effective RES-1 Rate Schedule. The Resale Contract is for a 20 year term and contains termination and minimum purchase provisions unique to the sale agreement with Maquoketa.

Iowa Electric requests an effective date of October 1, 1984, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon the City of Maquoketa and the Iowa State Commerce Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 5, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to

the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-25686 Filed 9-26-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-677-000]

Kansas Gas and Electric Co.; Filing

September 24, 1984.

The filing Company submits the following:

Take notice that on September 13, 1984, Kansas Gas and Electric Company (KG&E) tendered for filing proposed changes in its FERC Electric Service Tariff No. 133.

KG&E states that the filing assures continued full requirements service to the City of Erie, Kansas (City).

KG&E further states that this filing is necessary because the City desires to cancel its existing Agreement for Wholesale Electric Service but has not yet decided how it will supply its customers with electric service. This filing will assure continuity of service to Erie until such decision is made.

KG&E requests an effective date of November 10, 1984, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon the City of Erie, Kansas and the Utilities Division of the Kansas Corporation Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 9, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-25760 Filed 9-26-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-359-002]

Montana Power Co.; Order Accepting for Filing and Suspending Rates, Granting Requests for Making Rate Increase Effective in Stages, Granting Interventions, Denying Requests for Rejection, Summary Judgment and Expedited Procedures, and Establishing Procedures

Issued: September 21, 1984.

Before Commissioners: Raymond J. O'Connor, Chairman; Georgiana Sheldon, A.G. Sousa, Oliver G. Richard III and Charles G. Stalon.

On March 30, 1984, as completed on July 24, 1984,[1] Montana Power Company (MPC) tendered for filing proposed Rate Schedule REC–84 applicable to sales to Bighorn County Electric Cooperative, Inc. (Bighorn) and Central Montana Electric Generation and Transmission Cooperative, Inc. (Central Montana).[2] The proposed rates would increase revenues by about $10.5 million (16%) based on the calendar 1984 test period. MPC's cost of service study reflects two new 700 MW coal-fired generating units and the installation of additional 500 kV transmission lines.[3]

Notice of the original filing was published in the Federal Register with responses due on or before May 19, 1984. By letter dated April 16, 1984, Senator Max Baucus requested that the time for filing comments be extended for at least thirty days and that hearings be held in Montana to allow direct comment by those affected by the proposed rates. By notice dated April 19, 1984, the comment period was extended to and including May 4, 1984.

On May 7, 1984, Senator John Melcher and the Northern Plains Resource Council (Northern Plains) filed untimely motions to intervene but raised no specific issues for investigation. In a second motion filed on May 16, 1984, Senator Melcher specifically requested late intervenor status and wavier of the May 4, 1984 comment deadline.

On May 4, 1984, as supplemented on June 22, and August 15, 1984, Central Montana filed a timely motion to intervene alleging that the proposed rates are unjust, unreasonable, and unduly discriminatory. Central Montana has sought rejection of the filing or issuance of a further deficiency letter on the grounds that MPC has failed to satisfy the filing requirements of Part 35 of the Commission's regulations. The intervenor contends that the data supplied are insufficient and that the Period I data are stale and require updating. Absent rejection, Central Montana requests that the Commission order summary disposition with respect to MPC's proposal to incorporate a penalty charge clause (a 500% penalty charge applied to each kW taken in excess of contract demand) on the basis that: (1) MPC has provided no cost support; (2) no such charge is included in the rates of retail or other wholesale customers; (3) the charge will prohibit the cooperative customers from competing with MPC for new large loads; and (4) the charge is unnecessary for planning in light of MPC's reserve situation. If the filing is not rejected, Central Montana also requests a five month suspension and local hearings, citing numerous cost of service issues, including: (1) the requested return on common equity; (2) the appropriate date on which to include Colstrip Unit No. 3 in rate base; (3) introduction of a rate tilt and seasonal rate design; (4) the support for deferred tax amounts related to unfunded tax liability; (5) amortization of investment tax credits; (6) recovery of fuel costs incurred under a contract with a coal subsidiary; (7) the stated level of off-system sales; (8) calculation of cash working capital; (9) subtraction of deferred tax balances from rate base; (10) inclusion of CWIP in rate base; and (11) the possible effects of state commission disallowance of Colstrip No. 3 costs on MPC's operational decisions and test period costs.[4]

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[1] By letters dated May 4, and June 25, 1984, the Director of the Commission's Office of Electric Power Regulation advised the company that its submittal was deficient. The deficiency letters indicated that a new subdocket would be assigned upon completion of the filing.

[2] *See* Attachment for rate schedule designations.

[3] MPC owns a 30 percent interest in the new generating units, Colstrip Unit Nos. 3 and 4. Colstrip Unit No. 3 began commercial operation in January, 1984, and has been included in the company's rate base for Period II. MPC has also included in its rate base a portion of the construction work in progress associated with Colstrip Unit No. 4, in accordance with our regulations. 18 CFR 35.26.

[4] According to Central Montana, in a decision issued on August 3, 1984, the Montana Public Service Commission disallowed the costs of Colstrip No. 3 in MPC's retail rates. As a result of that decision, Central Montana's August 15 supplemental motion suggests the possibility that a price squeeze may exist, although the intervenor has not requested that price squeeze procedures be initiated at this time. Central Montana also postulates that the retail rate decision may have other effects on MPC's costs as projected for wholesale rate purposes, asserting that: (1) MPC has announced plans to defer construction of various facilities which are allegedly reflected in MPC's Period II projections; and (2) MPC is considering selling all of its interest in Colstrip No. 3. In an August 30, 1984 response, MPC notes that it is appealing the state commission decision, that the possibility of a sale of Colstrip No. 3 is entirely speculative, that these contingencies should have no bearing on our suspension decision, and that, in any event, the state commission's decision has had a substantial detrimental effect on MPC's cost of capital.

On April 26, 1984, as supplemented on July 2, 1984, Bates Ranch, Inc. (Bates), a retail customer served by Central Montana, moved to intervene. In its July 2 pleading, Bates adopted substantial portions of Central Montana's stated position. Bates also requests that all hearings and preliminary proceedings be held in Montana. On May 3, 1984, the Montana Consumer Counsel (MCC) filed a timely motion to intervene expressing its concern that MPC has included the Colstrip Unit 3 and related transmission facilities in its rate base. In addition, numerous protests have been filed by individual rural electric consumers.

On May 21, July 9, and August 30, 1984, MPC filed responses to Central Montana's motions. Specificaly, MPC stated that it would respond to the Commission's deficiency letter in a timely and appropriate manner, that a five month suspension is not warranted, that summary rejection of the proposed penalty for excessive demand is inappropriate, that requests for field hearings should be denied, and that recent actions of the Montana Public Service Commission should not affect the suspension period in this docket.[5]

On September 11, 1984, MPC filed a motion requesting that the Commission order that the proposed rates be implemented in stages, subject to refund, and that an expedited procedural schedule be ordered which would result in the issuance of an Initial Decision by February 24, 1985. MPC proposes to implement the proposed rates on the following dates: Phase I, an increase of $5,011,098 (86%) or 50% of the proposed rate increase effective, after a one month suspension, on October 24, 1984; Phase II, effective upon the issuance of an Initial Decision, not later than February 24, 1985, and incorporating rates, terms and conditions of service found by the Administrative Law Judge to be lawful; and Phase III, effective upon issuance of a Commission decision and incorporating rates, terms and conditions of service found by the Commission to be lawful.

With regard to Central Montana's claim that the proposed rates should be rejected or that a third deficiency letter should be issued, we find that MPC's submittal, as completed on July 24, substantially complies with our filing regulations (18 CFR Part 35),[6] and that no other basis for rejection has been shown.[7] Therefore, we shall deny the request for rejection.

The proposed Phase I rate is based on an equal percentage increase in each component of the currently effective rate schedule and thus retains the existing rate design. MPC also agrees to defer, during Phase I, implementation of the 500% penalty charge for excess demand.

Also on September 11, 1984, Central Montana filed a statement of position stating its approval of MPC's motion with the following "clarifying points": First, Central Montana states that it had only seen a draft of the motion; second, Central Montana reserves the right to object to the proposed Phase I rates and revenue calculations if found to be inaccurate; third, Central Montana still asserts that the original filing, as amended, should be rejected or that a third deficiency letter should be issued; fourth, the proposed rates are subject to refund, with interest, if the rate level determined to be just and reasonable is lower than the Phase I or Phase II rates; and fifth, Central Montana may need to request additional time to prepare testimony if problems arise in the discovery phase of the case.

Discussion

Pursuant to rule 214(c)(1) of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the timely motions to intervene of Bates, MCC, and Central Montana serve to make them parties to this proceeding. Also, given the fact that MPC's filing was not completed until well after the original comment deadlines, and in light of the early stage of this proceeding, we find that the late interventions should result in no undue delay or prejudice. We shall therefore grant the interventions of Senator Melcher and Northern Plains.

We shall also deny Central Montana's request for summary disposition with respect to the proposed penalty charge for demands in excess of those specified in the customers' contract. We note that MPC has agreed not to implement the proposed penalty provision during Phase I. In any event, however, while we question the appropriateness of so substantial a charge as a load planning tool, we cannot conclude that it is *per se* unlawful. Thus, the matter should be pursued during the hearing which we shall order below. Central Montana has requested an expedited hearing on this issue, given the potential anticompetitive consequences. It may be appropriate to phase such a question if the customers can demonstrate that refund protection will not suffice; on the other hand, the company's voluntary deferral of the penalty provision may mitigate the intervenor's perception of urgency. We leave this question to the discretion of the presiding judge.

As to the requests that hearings and preliminary proceedings be held in Montana, we note that the administrative law judge assigned to this proceeding is empowered to order such field hearings if they are deemed necessary and in the public interest.

Our preliminary review of MPC's filing and the pleadings indicates that the rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept MPC's rates for filing and suspend the phase-in rates as ordered below.

Under our *West Texas* suspension rationale,[8] our preliminary review indicates that MPC's originally filed rates may not be substantially excessive and would normally be suspended for one day (or one month because of the settlement provision, below). Although we might otherwise consider whether the relative size of the 168% rate increase which would result from MPC's originally proposed rates would constitute extraordinary circumstances justifying a longer suspension, MPC's motion eliminates the need to consider that question. We shall grant the motion insofar as it requests three different effective dates, and, pursuant to terms that MPC agreed to in a settlement reached in a prior docket,[9] we shall suspend the proposed Phase I rates, to become effective on October 24, 1984, subject to refund.

As noted by MPC, the Chief Administrative Law Judge has recently adopted expedited procedural schedules in other proceedings. We are reluctant, for both administrative and due process reasons, to bargain with utilities over procedural schedules and to interfere

[5] *See* footnote 4, *supra*.

[6] *See Municipal Light Boards of Reading and Wakefield, Mass. v. FPC*, 450 F.2d 1341 (D.C. Cir. 1971), *cert. denied*, 405 U.S. 989 (1972).

[7] Central Montana challenges MPC's Period I data as being stale, given the length of time that has passed since MPC's original tender in March of this year. The intervenor acknowledges that, under our regulations, Period I data are tied to the tender date rather than the date on which a filing is completed.

However, the intervenor attempts to distinguish the instant docket because of the alleged inordinate amount of time taken by MPC to cure the various deficiencies. Central Montana further states that historic 1983 data are now readily available. We are not persuaded by these attempts to distinguish the current filing and find no reason to require MPC to substitute entirely new Period I data.

[8] *West Texas Utilities Company*, 18 FERC ¶ 61,189 (1982).

[9] The settlement agreement (Docket No. ER83-438-000) provided that MPC would request a one month suspension from the proposed effective date and that such date would be at least sixty days after the filing date.

with the schedules found to be appropriate by the Chief Judge. Instead, we hereby direct the Chief Judge to order a procedural schedule in this docket which will result in the issuance of an initial decision as close to the requested February 24, 1985 date as is deemed appropriate while meeting both discovery and resource allocation requirements.[10] If, because of this directive, MPC chooses to withdraw its motion, MPC must notify the Commission of such requested withdrawal within five days of the issuance of the procedural schedule in this docket. In the event that MPC files such a withdrawal request, we will at that time reconsider our suspension decision.

The Commission Orders

(A) Central Montana's motion to reject MPC's filing and its request for summary disposition of the proposed penalty charge are hereby denied.

(B) MPC's rates are hereby accepted for filing and suspended so that the Phase I rates become effective, subject to refund, on October 24, 1984. Upon the issuance of an initial decision in this proceeding, the rate level and terms and conditions of service approved by the presiding administrative law judge shall become effective, subject to refund. Upon issuance of a Commission decision, the rates, terms and conditions of service found lawful by the Commission shall become effective.

(C) The motions to intervene of Senator Melcher and Northern Plains are hereby granted, subject to the Commission's Rules of Practice and Procedure.

(D) MPC's request for an expedited procedural schedule is hereby denied.

(E) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR Chapter I), a public hearing shall be held concerning the justness and reasonableness of MPC's rates.

(F) The Commission staff shall serve top sheets in this proceeding within ten (10) days of the date of this order.

(G) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days after service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in Commission's Rules of Practice and Procedure.

(H) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-25701 Filed 9-26-84; 8:45 am]

BILLING CODE 6717-01-M

[10] We note that Counsel for MPC has advised our staff by telephone that a one or two month departure from the February 24, 1985 date would be considered as being within the parameters of MPC's request.

[Docket No. ER84-668-000]

Niagara Mohawk Power Corp.; Filing

September 24, 1984.

The filing Company submits the following:

Take notice that on September 7, 1984, Niagara Mohawk Power Corporation (Niagara) tendered for filing as a supplement to an existing rate schedule, an agreement between Niagara, the Connecticut Light and Power Company (CL&P) and Western Massachusetts Electric Company (WMECO) dated May 23, 1984.

Niagara presently has on file an agreement with CL&P and WMECO dated January 19, 1981 last amended May 17, 1983. This amendment is designated as Niagara Power Corporation Rate Schedule FERC No. 115. This new agreement is being transmitted as a supplement to the existing agreement.

Niagara states that this supplement revises the transmission rate as provided for in the terms of the original agreement.

Niagara requests an effective date of September 1, 1984, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing have been served upon Connecticut Light and Power Company, Western Massachusetts Electric Company and the Public Service Commission of the State of New York.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 5, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-25702 Filed 9-26-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-669-000]

Niagara Mohawk Power Corp.; Filing

September 24, 1984.

The filing Company submits the following:

Take notice that on September 7, 1984, Niagara Mohawk Power Corporation (Niagara) tendered for filing as a supplement to an existing rate schedule, an agreement between Niagara, the Connecticut Light and Power Company (CL&P) and Western Massachusetts Electric Company (WMECO), collectively called the NU Companies, dated May 23, 1984.

Niagara presently has on file an agreement with CL&P and WMECO dated October 1, 1981, last amended May 17, 1983. This agreement is designated as Niagara Mohawk Power Corporation Rate Schedule FERC No. 117. This new agreement is being transmitted as a supplement to the existing agreement.

Niagara requests an effective date of September 1, 1984, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon the Connecticut Light and Power Company, Western Massachusetts Electric Company, and the Public Service Commission of the State of New York.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 5, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to

intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-25709 Filed 9-26-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-678-000]

Niagara Mohawk Power Corp.; Filing

September 24, 1984.

The filing Company submits the following:

Take notice that on September 14, 1984, Niagara Mohawk Power Corporation (Niagara) tendered for filing as a rate schedule, an agreement between Niagara and the Power Authority of the State of New York (PASNY) dated June 15, 1984.

Niagara presently has on file an agreement with PASNY dated January 15, 1963. This agreement is designated as Niagara Mohawk Power Corporation Rate Schedule FERC No. 22. This new agreement is being transmitted as a supplement to the existing agreement.

Niagara states that the original January 15, 1963 agreement states that Niagara will provide backup power when requested by PASNY so that PASNY can maintain an uninterrupted supply of interruptible power and energy to its aluminum reduction customers in the St. Lawrence Area. Niagara will supply the energy at a power rate not to exceed 80,000 kilowatts at any time prior to January 1, 1993 and at the rate of 40,000 kilowatts for the remainder of the agreement when and if Niagara can supply the power and energy from its generating facilities, contract resources or its interconnection without necessitating an interruption to its customers. This supplement revises the rate for emergency power as provided for in terms of the original agreement.

Niagara requests an effective date of September 1, 1984, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon the Power Authority of the State of New York and the Public Service Commission of the State of New York.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in acordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 9, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-25704 Filed 9-26-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-672-000]

Public Service Company of Indiana, Inc.; Filing

September 24, 1984.

The filing Company submits the following:

Take notice that on September 10, 1984, Public Service Company of Indiana, Inc. (PSCI) tendered for filing pursuant to the Interconnection Agreement between PSCI and Northern Indiana Public Service Company (Northern Company) an Eighth Supplemental Agreement, to become effective November 6, 1984.

Said Supplemental Agreement provides for the following:

(1) Amends Service Schedule A—Emergency Service and Service Schedule C—Coordination of Scheduled Maintenance of Generating Facilities to incorporate the parties' Order 84 language.

(2) Inserts a new Service Schedule B—Interchange Power, which supersedes the existing Service Schedule B, as amended.

(3) Inserts a new Service Schedule E—Short Term Power, which supersedes the existing Service Schedule E, as amended.

Copies of the filing were served upon Northern Indiana Public Service Company and the Public Service Commission of Indiana.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 9, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-25705 Filed 9-26-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-681-000]

Puget Sound Power & Light Co.; Filing

September 24, 1984.

The filing Company submits the following:

Take notice that on September 17, 1984, Puget Sound Power & Light Company (Puget) tendered for filing a change in rates applicable to electric service rendered to nine wholesale customers under its existing Wholesale for Resale power Contracts. Puget's filing would change both of its wholesale rate schedules, one for large customers and the other for small customers. Puget Power states that the proposed changes would increase revenues from the nine wholesale customers by $216,430 based on the twelve-month period ending June 30, 1983.

Puget states that the proposed rate increase is necessary in order to recover a portion of the $657,570 overall revenue deficiency which exists at the present revenue level authorized in ER84-170-000.

Puget requests an effective date of November 16, 1984.

Copies of the filing were served upon Puget's wholesale customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 9, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-25708 Filed 9-26-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-472-000]

John G. Pless, Sr.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

September 24, 1984.

On August 28, 1984, John G. Pless, Sr., (Applicant), Post Office Box 517, Galax, Virginia 24333 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The 550 kW Stewarts Creek Hydropower Project (P. 7465) will be located at the confluence of the North and South Fork Creeks in Carroll County, Virginia. The facility will consist of: two concrete box intake structures; two 2500-foot penstocks; a powerhouse with two turbine-generator sets; two trailraces; a 1500-foot transmission line that will connect to an existing Duke Power Company powerline; and appurtenant facilities. No other small power production facilities owned by the Applicant and using water power as an energy source are located within one mile of the facility. No electric utility or electric utility holding company has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-25699 Filed 9-26-84; 8:45 am]

BILLING CODE 6717-01-M

Southwestern Power Administration

Extension of Integrated System Power Rates; Order Confirming and Approving Extension of Integrated System Power Rates on an Interim Basis

Correction

In FR Doc. 84-24345, beginning on page 36146 in the issue of Friday, September 14, 1984, make the following corrections:

(1) On page 36148, in column three, line four, the last word should read "capabilities".

(2) On page 36151, column one, in the last paragraph the issue date should read "29th day of August 1984".

BILLING CODE 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

[A-9-FRL-2681-4]

Reconsideration of EPA's Approval of the Nevada SIP for the Lake Tahoe Air Basin

AGENCY: Environmental Protection Agency (EPA).

ACTION: Denial of Petition for Reconsideration.

SUMMARY: This notice denies the State of California's petition for reconsideraton of EPA's approval of the Nevada State Implementation Plan (SIP) for carbon monoxide for the Lake Tahoe Air Basin.

EFFECTIVE DATE: This action is effective September 27, 1984.

ADDRESS: Copies of the technical support document and the State of California's comments are located at the EPA Region 9 office. The address for Region 9 office is listed under the caption "For Further Information Contact".

FOR FURTHER INFORMATION CONTACT: Wallace Woo, Chief, State Liaison Section, Air Management Division, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105, (415) 974-7634; FTS 454-7634.

SUPPLEMENTARY INFORMATION:

Background

In response to the requirements specified in Part D of the Clean Air Act Amendments of 1977, the states of California and Nevada submitted nonattainment area plans designed to demonstrate attainment of the carbon monoxide (CO) standard in the Lake Tahoe Interstate Air Basin. EPA conditionally approved these plans on June 23, 1982 (47 FR 27065).

Because the Nevada SIP was conditionally approved, EPA allowed Nevada to rescind its Indirect Source Review (ISR) Regulations. Rescission of ISR rules is permitted if a state can satisfactorily demonstrate attainment and maintenance of the federal standards without such programs.

The June 23, 1982 final rulemaking required California and Nevada to correct certain plan deficiencies no later than December 20, 1982. For California, these deficiencies involved emission reduction estimates for the control strategies, evidence of legally adopted measures and further analysis of transportation controls. California requested and received an extension until 1987 for attaining the CO standard. Nevada was required to correct deficiencies relating to its 1982 attainment demonstration, including emission reduction estimates, documentation for the modeling analysis and evidence of adoption and implementation of the required control strategies.

SIP revisions for both states were submitted by the December deadline. Nevada submitted additional plan revisions on January 30 and May 5, 1983. EPA proposed approval of the California plan on February 3, 1983 (48 FR 5047) and the Nevada plan revisions on November 16, 1983 (48 FR 52093). For detailed evaluations of these plans, please refer to those Federal Register notices and their technical support documents.

On December 30, 1983 (9 days after the public comment period closed), the California Air Resources Board (CARB) commented that approval of the Nevada plan would have an adverse impact on California air quality and that Nevada had not met the conditions of approval. More detailed comments explaining this general concern were to be submitted later. EPA proceeded to final rulemaking approving both the California and Nevada Lake Tahoe SIPs without having received or considered California's supplemental comments. That notice, published on February 24, 1984 (49 FR 6897), specified that if California submitted any additional information to

document its concern, its comments would be treated as a petition for reconsideration. The CARB submitted supplementary comments on January 24, 1984. These comments have been evaluated by EPA and are the subject of this notice.

EPA Evaluation of California's Supplementary Comments

Most of the arguments raised in the CARB's January 24, 1984 comments were addressed in EPA's proposed or final rulemaking notices on the Nevada plan, particularly in the responses to comments received from the League to Save Lake Tahoe. The main points of both the League and the CARB are three-fold:

1. The Nevada plan did not adequately demonstrate attainment and maintenance of the CO standard.

Assumptions included in the plan's modeling analysis underestimated CO emissions in the area of predicted highest concentration.

2. EPA's approval of the Nevada plan was inconsistent with similar federal action taken on the California SIP for Lake Tahoe. The California SIP did not demonstrate attainment of the CO standard until 1987.

3. EPA did not consider the impact of emissions generated in Nevada on the attainment of the CO standard in California.

EPA believes the Nevada plan adequately demonstrates attainment and maintenance of the CO standard. The Nevada 1982 attainment demonstration contained in the May 5, 1983 submittal to EPA is based on the EPA approved Caline 3 model. It was verified by an ambient air and traffic monitoring study conducted during the winter season when the highest concentrations of carbon monoxide are expected. This monitoring provided the most recent data available for validating the model.

The CARB contends that Nevada's inputs to the model (involving stability classes, mobile source emission factors, roadway widths and conversion factors for 8 hour values) severely underestimate the CO values. EPA's analysis indicates that the CARB's contentions are not correct. Nevada employed stability classes which were determined by the EPA approved Pasquill method. Use of the meteorological data recorded during the 1983 special monitoring study for determining stability classes and a mixing zone for roadways would have resulted in lower expected concentrations. EPA also found that the May 5, 1983 conversion factors were consistent with monitored data from the 1983 special study and were appropriate (California critiqued factors included in an earlier modeling analysis). Nevada's use of low altitude emission factors did not invalidate the 1982 attainment demonstration and the technical support document to this notice describes in more detail EPA's analysis of these model inputs.

Maintenance of the CO standard was addressed by Nevada through the inclusion of control strategies in the SIP beyond those needed to show attainment. Nevada has also committed to a regular assessment of both growth and the effectiveness of the adopted strategies to ensure continued maintenance of the standards.

With respect to California's second point challenging the approval of the Nevada SIP because it is inconsistent with action taken on the California SIP for Lake Tahoe, EPA approved the California plan as it pertained only to that portion of the Lake Tahoe Basin. California employed different modeling inputs than Nevada. In its final rulemaking action, EPA noted that it would not find fault with California's interpretation of what are worst case conditions for the California portion of the nonattainment area. The use of conservative factors in estimating the required emission reductions would only result in attainment earlier than expected. While Nevada's modeling assumptions are different than California's, EPA approved their use since they are based on 1983 monitoring data.

The February 24, 1984 final rulemaking notice further discusses how violations of the CO standard on the California side do not discredit Nevada's attainment demonstration. Differences in source characteristics and traffic configurations can well account for the differences in CO emissions. Nevada employed a higher average traffic speed than did California. The figure was adequately documented by a traffic survey during the period of expected high concentrations. In summary, because carbon monoxide is the most localized of all criteria pollutants and because of the difference in traffic conditions in the Basin, EPA believes that its actions on the California and Nevada plans are not inconsistent.

With respect to California's third point regarding the impact of Nevada's emissions on attainment in California, EPA has taken into account interstate pollution effects to the extent required by section 110(a)(2)(E) and the regulations and case law interpreting and implementing that subsection, including *Connecticut* v. *EPA*, 696 F.2d 147 (2d Cir. 1982). Section 110(a)(2)(E) requires that a SIP submission contain adequate provisions prohibiting any *stationary source* within a state from emitting any air pollutant in amounts which interfere with the attainment or maintenance of ambient standards, prevention of significant deterioration, or visibility requirements in a neighboring state. The SIP must also insure compliance with section 126, which requires notification to neighboring states of new and existing major *stationary sources* which will have a significant effect on the air quality in neighboring states, and establishes additional permitting procedures for such major stationary sources.

There are no major stationary sources of carbon monoxide located in the Nevada portion of the Tahoe Basin. Nevada's New Source Review rules, approved by EPA on April 14, 1981 (46 FR 21758), ensure that new stationary sources will meet the section 110(a)(2)(E) requirements. In any event, the emissions that appear to concern the CARB are emissions from mobile sources, some of which do not even occur in Nevada. As stated above, the coverage of section 110(a)(2)(E) is limited to stationary sources. Under applicable EPA regulations, emissions from mobile sources that indirectly result from a facility are not counted in determining the emissions of the facility.

California also objected to EPA's original conditional approval of the Nevada SIP for Lake Tahoe. While EPA believes that it satisfactorily addressed these concerns in the June 23, 1982 final rulemaking notice, the fact that Nevada has since submitted SIP Revisions which were fully approved as meeting the requirements of the Act negates this California argument.

EPA Action

Based on a review of the CARB's supplementary public comments on February 24, 1984 (49 FR 6897) approval of the Nevada carbon monoxide SIP for Lake Tahoe, EPA finds that there is no justification to reverse its decision of approval. California's petition for reconsideration is denied.

Regulatory Process

The Administrator has certified that SIP approvals do not have a significant impact on a substantial number of small entities (See 46 FR 8709). The Office of Management and Budget has exempted this revision from the requirements of section 3 of Executive Order 12291.

Under section 307(b)(1) of the Clean Air Act, judicial review of this action is

available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

(Sec. 110, 171 to 178 and 301(a) of the Clean Air Act as amended (42 U.S.C. 7410, 7501 to 7506 and 7601(a)))

Dated: September 19, 1984.

William D. Ruckelshaus,

Administrator.

[FR Doc. 84-25518 Filed 9-26-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

September 20, 1984.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511.

Copies of the submission are available from Doris Peacock, Agency Clearance Officer, (202) 632-7513. Persons wishing to comment on this information collection should contact Marty Wagner, Office of Management and Budget, Room 3235 NEOB, Washington, D.C. 20503, (202) 395-4814.

Title: Certification by Competent Engineer of Part 18 Devices

Action: Approval for existing collection in use without an OMB control number

Respondents: Businesses (including small businesses)

Estimated Annual Burden: 650 Recordkeepers; 1,950 Hours

Descriptions: Sections 18.80, 18.105(c)-(d), 18.141(d), 18.142(b), 18.182, and 18.183 of the Commission's Rules require certification by a competent engineer of compliance with established technical standards for certain industrial, scientific, or medical equipment. Technical data is gathered and a certification of compliance is posted or a log entry is made for each device operated under the applicable rule section.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84-25573 Filed 9-26-84; 8:45 am]

BILLING CODE 6712-01-M

Advisory Committee for the 1985 ITU World Administrative Radio Conference on the Use of the Geostationary Satellite Orbit and the Planning of the Space Services Utilizing It (Space WARC Advisory Committee); Working Group Meeting; SWAC-DBS

September 19, 1984.

Chairman: E. E. Reinhart (202) 863-4398
Date: Wednesday, September 26, 1984
Time: 11:00 A.M.—5:00 P.M.
Location: Satellite Television Corporation 955 L'Enfant Plaza, SW. 5th Floor A-V Conference Room
Agenda: Brief Organizational Meeting of Full Working Group with Sub-group Meetings to follow:

Sub-group A: Approval of RARC-83 Decisions
Sub-group B: Feeder Links for Regions 1 and 3
Sub-group C: Other BSS Bands for Planning
Sub-group D: DBS for Portable and Automobile Radios

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84-25577 Filed 9-26-84; 8:45 am]

BILLING CODE 6712-01-M

[PR Docket Nos. 84-887 et al. (File Nos. 195-M-L-14, et al.)]

Applications; Murray Cohen, et al. Coast Stations, Local Services; Hearing Designation Order

In the matter of application of Murray Cohen for a new local service (VHF) coast station at Bethany Beach, Delaware (PR Docket No. 84-887; File No. 195-M-L-14); application of Niagara Communications, Inc. for a new local service (VHF) coast station at Avalon, New Jersey (PR Docket No. 84-888; File No. 290-M-L-113); application of Murray Cohen for a new local service (VHF) coast station at Ventnor City, New Jersey (PR Docket No. 84-889; File No. 137-M-L-83); application of Niagara Communications, Inc. for a new local service (VHF) coast station at Salisbury, Maryland (PR Docket No. 84-890; File No. 292-M-L-113).

Adopted: September 13, 1984.
Released: September 17, 1984.

1. The application of Murray Cohen (Cohen) to serve Ventnor City cleared public notice December 19, 1983. The application of Niagara Communications, Inc. (Niagara) to serve Salisbury cleared public notice February 27, 1984. Analysis of the coverage areas of the proposed stations by the Licensing Division of the Private Radio Bureau indicated the applications were mutually exclusive because of electrical interference in accordance with § 81.303 of the rules as computed under Subpart R of Part 81 of the rules. The applications were placed on public notice as mutually exclusive on March 9, 1984. Since no other frequencies were available, the licensing staff attempted to resolve the frequency conflict by an exchange of correspondence in April of 1984. Because the conflict could not be resolved these applications must be designated for comparative hearing.

2. The application of Cohen to serve Bethany Beach cleared public notice February 27, 1984. The application of Niagara to serve Avalon cleared public notice January 16, 1984. These applications are also mutually exclusive for the same reason the Salisbury and Ventnor City applications are mutually exclusive. Accordingly, they were put on public notice as mutually exclusive on January 27, 1984.

3. No petitions to deny were filed against any of the four applications. Because of the commonality of applicants and issues, all four of these applications are being consolidated for comparative hearing in a single proceeding pursuant to § 1.227 of the rules.

4. The four captioned applications propose to establish new local service (VHF) public coast stations on the mid-Atlantic coast of the United States. These stations provide ship/shore VHF radiotelephone service which is primarily of a local nature rather than of a regional or high seas nature.[1]

5. The Cohen and Niagara applications raise conflicting claims regarding the best way to serve the public interest, convenience and necessity. Based on filings associated with the applications, it appears that Cohen proposes a continuous service from "New York to the Virginia area."[2] Niagara, on the other hand, emphasizes local, toll-free coast station locations which would minimize land line charges for the service. Consequently, it is necessary to determine which applications will provide the best service option to mid-Atlantic users in this service.

[1] *See* § 81.3 (i), (k) and (l) of the rules. 47 CFR 81.3 (i), (k) and (l).

[2] *See* Cohen letter dated February 23, 1984, File No. 137-M-L-83 (file).

6. In view of the foregoing, it is ordered, That pursuant to the provisions of section 309(e) of the Communications Act of 1934, as amended, and § 0.331 of the Commission's rules, the above-captioned applications are hereby designated for hearing in a consolidated proceeding at a time and place to be specified in a subsequent Order on the following comparative issues:

a. To determine the facts with respect to the facilities, rates, practices, interconnection with land line facilities and services of each applicant, including the geographical area proposed to be served by each.

b. To determine the nature and amount of traffic to be handled by each of the proposed stations, and from what sources such traffic will be derived.

c. To determine the proposed methods of operating local service public coast stations by Cohen and Niagara.

d. To determine, in light of the evidence adduced on issues (a), (b) and (c) above in light of existing service available which applications or combination of applications should be granted in the public interest, convenience and necessity.

7. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to §1.221(c) of the Commission's rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

Federal Communications Commission.

Robert S. Foosaner,

Chief, Private Radio Bureau.

[FR Doc. 84-25682 Filed 9-26-84; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 84-896; (File No. BPCT-840426KH) and MM Docket No. 84-897; (File No. BPCT-840523KJ)]

Ralph W. Gabbard and Hobart C. Johnson for Construction Permit for New TV Station Pikeville, KY; Hearing Designation Order

Adopted: September 14, 1984.
Released: September 20, 1984.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications of Ralph W. Gabbard (Gabbard) and Hobart C. Johnson for authority to construct a new commercial television station on Channel 51, Pikeville, Kentucky.

2. Section II, Page 3, Item 7(d), FCC Form 301, inquires whether an applicant or any party to the application had any interest in a broadcast application in any Commission proceeding which left unresolved character issues against that applicant. Gabbard has not answered Item 7(d). Gabbard will be required to submit his response to Item 7(d) to the presiding Administrative Law Judge within 20 days of the date of the release of this Order.

3. No determination has been made that the tower heights and locations proposed by the applicants would not constitute a hazard to air navigation. Accordingly, an appropriate issue will be specified.

4. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

5. Accordingly, it is ordered, That pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

a. To determine whether there is a reasonable possibility that the tower height and location proposed by each applicant would constitute a hazard to air navigation.

b. To determine which of the proposals would, on a comparative basis, better serve the public interest.

c. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

6. It is further ordered, That Gabbard shall submit a response to Section II, Page 3, Item 7(d), FCC Form 301, to the presiding Administrative Law Judge within 20 days of the date of the release of this Order.

7. It is further ordered, That the Federal Aviation Administration is made a party respondent to this proceeding with respect to Issue 1.

8. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

9. It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 84-25681 Filed 9-26-84; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

Inter Community Bancorp, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than October 18, 1984.

A. Federal Reserve Bank of New York (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Inter Community Bancorp,* Springfield, New Jersey; to become a bank holding company by acquiring 100 percent of the voting shares of Inter

Community Bank, Springfield, New Jersey.

B. Federal Reserve Bank of Cleveland (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *First Paintsville Bancshares, Inc.*, Paintsville, Kentucky; to become a bank holding company by acquiring 83 percent of the voting shares of The First National Bank of Paintsville, Paintsville, Kentucky.

2. *Northern Kentucky Trust Corp., Inc.*, Alexandria, Kentucky; to become a bank holding company by acquiring 80 percent of the voting shares of Northern Kentucky Bank & Trust, Inc., Alexandria, Kentucky.

C. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Elmore County Banchares, Inc.*, Tallassee, Alabama; to become a bank holding company by acquiring 100 percent of the voting shares of The Bank of Tallassee, Tallassee, Alabama.

2. *The Mildred Weedon Blount Educational & Charitable Foundation, Inc.*, Tallassee, Alabama; to become a bank holding company by acquiring 41.11 percent of the voting shares of Elmore County Bancshares, Inc., Tallassee, Alabama, thereby indirectly acquiring The Bank of Tallassee, Tallassee, Alabama.

D. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Mid-Illinois Bancshares, Inc.*, Mattoon, Illinois; to acquire 100 percent of the voting shares of State Bank of Sullivan, Sullivan, Illinois.

E. Federal Reserve Bank of St. Louis (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *First Sheridan Bancshares, Inc.*, Sheridan, Arkansas; to become a bank holding company by acquiring at least 56 percent of the voting shares of First National Bank of Sheridan, Sheridan, Arkansas.

2. *Marshall Financial Corporation*, Byhalia, Mississippi; to become a bank holding company by acquiring 80 percent or more of the voting shares of Citizens Bank, Byhalia, Mississippi. Comments on this application must be received not later than October 12, 1984.

F. Federal Reserve Bank of Minneapolis (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Carlos Bancshares, Inc.*, Carlos, Minnesota; to become a bank holding company by acquiring 100 percent of the voting shares of First State Bank of Carlos, Carlos, Minnesota. Comments on this application must be received not later than October 12, 1984.

G. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Congress National Bancshares, Inc.*, Austin Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Congress National Bank, Austin, Texas.

2. *Hodge Bancshares, Inc.*, Hodge, Louisiana; to become a bank holding company by acquiring 80 percent of the voting shares of Hodge Bank & Trust Company, Hodge, Louisiana.

Board of Governors of the Federal Reserve System, September 21, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-25610 Filed 9-26-84; 8:45 am]

BILLING CODE 6210-01-M

Norstar Bancorp Inc. et al., Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23 (a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8) and section 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 18, 1984.

A. Federal Reserve Bank of New York (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Norstar Bancorp Inc.*, Albany, New York, and *Northeast Bancshares Corporation*, Portland, Maine; to acquire 21.6 percent of Maine Information Systems, Inc., Bangor, Maine, thereby engaging in data processing activities for financial institutions.

Board of Governors of the Federal Reserve System, September 21, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-25611 Filed 9-26-84; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Report on New System of Records Under the Privacy Act of 1974

AGENCY: General Services Administration.

ACTION: Notification of new system of records.

SUMMARY: The purpose of this document is to give notice, under the provisions of the Privacy Act of 1974, 5 U.S.C. 552a, of intent to set up a new system of records that will be kept by GSA. The system of records, Debarred, Suspended, and Ineligible Contractors, GSA/OAP–1, is being established to assemble information on ineligible firms and individuals. Information regarding such contractors is presently available in GSA's Consolidate List of Debarred, Suspended, and Ineligible Contractors. This consolidated list was not previously reported as a system of records as individuals on the list were considered acting in the capacity of an entrepreneur or a sole proprietorship. However, this consolidated list is being computerized, allowing access to current information through a data search. Access can be obtained to information on either a company or an individual or to a cross-reference to individuals associated with a company. Because of this type of access, we are now considering this system subject to the provisions of the Privacy Act. A new system report was filed with the President of the Senate, the Speaker of

the House, and the Office of Management and Budget on September 17, 1984. A waiver of the 60-day advance notice requirements of OMB Circular A-108 has been requested from the Office of Management and Budget.

DATES: Any interested party may submit written comments about this proposed system. Comments must be received on or before October 29, 1984. The new system of records shall become effective without further notice on October 29, 1984 unless comments are received that would result in a contrary decision.

ADDRESS: Address comments to General Services Administration (ATRAI), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Mr. William Hiebert, GSA Privacy Act Officer, telephone (202) 535-7647.

Background

The purpose of this system is to assemble information to ensure that Federal contracts are awarded to responsible firms and individuals.

The purposed new system of records is as follows:

GSA/OAP-1

SYSTEM NAME:

Debarred, Suspended, and Ineligible Contractors.

SYSTEM LOCATION:

This system of records is located in the Office of GSA Acquisition Policy and Regulations at 18th and F Streets, NW, Washington, DC.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

a. Individuals and firms excluded from the Federal procurement process by any Federal executive agency.

b. Individuals and firms referred to the Office of GSA Acquisition Policy and Regulations by GSA offices for consideration to debar or suspend under current procedures.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include lists of individuals and firms who have been excluded from the Federal procurement process; correspondence from Federal agencies identifying excluded individuals and firms and the cause for exclusion from the Federal procurement process; and case files on individuals and firms referred to the Office of GSA Acquisition Policy and Regulations for consideration to suspend and/or debar.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Property and Administrative Services Act of 1949, as amended, 41 U.S.C. 253(b); Federal Acquisition Regulation (FAR) 9.4; Office of Federal Procurement Policy letter 82-1, June 24, 1982.

PURPOSE(S):

To assemble information to ensure that Federal contracts are awarded to responsible firms and individuals.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The routine use statements C and E described in the appendix following the GSA notices apply to this system of records. In addition, the following statements apply:

a. To disclose information to contracting officers and other Federal, State, and local employees involved in procuring goods and service with Federal funds.

b. To disclose information to a Federal, State, or local agency responsible for investigating, prosecuting enforcing, or carrying out a statute, rule, regulation, or order, where the General Services Administration becomes aware of a violation or potential violation of civil or criminal law or regulation.

c. To disclose information to another Federal agency or a court when the Government is party to a judicial proceeding.

d. To disclose information to an expert, consultant, or contractor in the performance of a Federal duty.

e. To disclose information to an appeal or hearing examiner, equal employment opportunity investigator, arbitrator, or other official engaged in investigating or settling a grievance, complaint, or appeal filed by a contractor.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and machine listings in file folders; disc storage in automated electronic system.

RETRIEVABILITY:

File by case number, then name of firm and/or individual.

SAFEGUARDS:

When not in use by an authorized person, these records are stored in lockable file cabinets or in secured rooms. Access to electronic records is controlled through an I.D./password security system.

RETENTION AND DISPOSAL:

Disposal of records is described in the HB, GSA Records Maintenance and Disposition System (OAD P 1820.2).

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of GSA Acquisition Policy and Regulations, General Services Administration (VP), 18th and F Streets, NW, Washington, DC 20405.

NOTIFICATION PROCEDURE:

Firms and individuals may obtain information by contacting the system manager at the above address.

RECORD ACCESS PROCEDURE:

Requests from firms and individuals for access to records should be addressed to the system manager as noted above. For identification requirements see the agency regulations outlined in 41 CFR 105-64.

CONTESTING RECORD PROCEDURES:

GSA rules for contesting the contents and appealing initial decisions are issued in 41 CFR 105-64.

RECORD SOURCE CATEGORIES:

Federal agencies and State and local law enforcement officials.

Dated: September 19, 1984.

William W. Hiebert,

Acting Director, Information Management Division.

[FR Doc. 84-25620 Filed 9-26-84; 8:45 am]

BILLING CODE 6820-34-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 84D-0313]

Prescription Drugs Marketed Without Approved New Drug Applications; Revised Compliance Policy

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of revised FDA Compliance Policy Guide (CPG) 7132c.02. This CPG, as revised, establishes FDA enforcement priorities and policies with respect to all marketed unapproved prescription drug products. FDA has revised this CPG to improve public health protection in light of recent infant deaths that appear to have been associated with the use of E-Ferol, a previously marketed, unapproved prescription vitamin E drug product.

DATE: The revisions to CPG 7132c.02 will become effective after November 13, 1984.

ADDRESSES: Written comments on or requests for single copies of revised CPG 7132c.02 should be identified with

Docket No. 84D-0313 and directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

Requests for an opinion of the applicability of revised CPG 7132.c02 to a specific product should be addressed to the Division of Drug Labeling Compliance (HFN-310), Center for Drugs and Biologics, Food and Drug Administration, Rm. 216, 5640 Nicholson Lane, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Douglas I. Ellsworth, Center for Drugs and Biologics (HFN-368), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION:

I. Background

A. FDA's Compliance Policy For Unapproved Prescription Drug Products Under the Federal Food, Drug, and Cosmetic Act

FDA's compliance policy regarding unapproved prescription drug products reflects various legislative changes in the statutory authority for the Federal regulation of drugs and the agency's implementation of these changes. The Food and Drugs Act of 1906 first brought drug regulation under Federal law. Under that statute, the government did not have authority to evaluate a drug before it could be marketed. Instead, the government had to initiate court proceedings to remove a drug product from the market if it was adulterated or misbranded.

In 1938, the Federal Food, Drug, and Cosmetic Act was enacted. This act established a premarket review procedure for new drugs. The act defined a new drug as one not generally recognized as safe for its intended uses, or, if so recognized on the basis of investigations, one that had not been marketed to a material extent or for a material time for such uses. The act required a manufacturer to obtain an effective new drug application (NDA) before marketing a new drug. The NDA was required to contain data to show that the drug was safe for its intended uses and it became effective if, after a certain period of time, FDA did not issue a finding that the safety of the drug had not been demonstrated. However, the 1938 act exempted certain drug products from the new drug definition if they were marketed under the 1906 act and their conditions of use remained unchanged (1938 grandfather exemption; section 201(p)(1) of the act (21 U.S.C. 321(p)(1))).

Under the 1938 act, FDA originally required all new products to be cleared for marketing through the NDA procedures. This policy led to a growing number of NDA's requiring agency review. To deal with this problem, which was aggravated by wartime staff shortages, the agency developed a policy of providing advice on the need for NDA's for certain products. Consequently, many products were introduced to the market without effective NDA's because FDA advised the manufacturers that the products were generally recognized as safe (i.e., not new drugs). Such advice was often based on a determination that the products were identical, similar, or related to one or more drug products with effective NDA's. Many other products were marketed without effective NDA's because their manufacturers concluded, without FDA advice, that the products were generally recognized as safe or subject to the grandfather exemption.

In 1962, the new drug provisions of the 1938 act were amended in several important ways. First, the 1962 amendments required that new drugs be shown to be effective, as well as safe, for their intended uses. Under the 1962 amendments, a new drug was defined as one not generally recognized as both safe and effective for its intended uses, or, if so recognized on the basis of investigations, one that had not been marketed to a material extent or for a material time for such uses. However, the 1962 amendments exempted certain previously marketed products from the new effectiveness provisions of the new drug definition (1962 grandfather exemption; section 107(c)(4) of the act, see note following 21 U.S.C.A. 321).

Second, the 1962 amendments required that the manufacturer of a new drug obtain affirmative approval of an NDA before marketing. Approval was required to be supported by substantial evidence of the drug's effectiveness for its intended uses, as well as evidence of the drug's safety for its intended uses. NDA's that became effective solely on the basis of safety between 1938 and 1962 were "deemed approved" for at least 2-year transitional period, after which FDA was required to withdraw approval of those NDA's for drug products that the agency found lacking substantial evidence of effectiveness.

Under the definition of a new drug as established by the 1962 amendments, most marketed unapproved drug products were required to be regarded as new drugs because these products were not generally recognized as effective. For this reason, FDA in 1966 revoked all of its prior opinions that certain drug products were not new drugs.

The 1962 amendments required that FDA evaluate the effectiveness of drug products cleared for marketing through the NDA procedures prior to 1962. With respect to prescription drugs, this review became known as the Drug Efficacy Study Implementation (DESI) project. Under DESI, the agency has been evaluating approximately 3,500 pre-1962 prescription drug products with NDA's. In addition, the DESI review has addressed an even larger number of unapproved prescription drug products that are considered identical, similar, or related to the pre-1962 products with NDA's. The DESI review is nearing completion. Once completed, all prescription drug products first marketed between 1938 and 1962 on the basis of effective NDA's, including identical, similar, or related unapproved prescription drug products, will either be approved as safe and effective, or removed from the marketplace.

FDA's compliance policy regarding the marketing of unapproved prescription drug products that are covered by the DESI review was set forth in CPG 7132c.02. FDA announced the availability of this CPG in the Federal Register of September 23, 1976 (41 FR 41770). This CPG recognized that all unapproved prescription drug products covered by the DESI review are new drugs. This CPG established priorities for regulatory action on these products once final determinations were made regarding their effectiveness. Enforcement action was generally deferred on these products until the relevant final determinations were made. However, the CPG provided for immediate enforcement action under exceptional circumstances, as, for example, when FDA received significant new information questioning the safety or efficacy of a drug.

With respect to marketed pre-1962 unapproved prescription drugs not covered by the DESI review, FDA has evaluated particular products in this class on an as needed basis (e.g., when significant new information raises questions about the safety or effectiveness of such a drug). In the future, FDA intends to develop a DESI-like program, consistent with its resources, to evaluate these products to ensure their compliance with the new drug provisions of the act.

Although not covered by CPG 7132c.02, FDA has followed a similar compliance policy for marketed unapproved pre-1962 prescription drugs not covered by the DESI review. These products were scheduled for regulatory action, if appropriate, once a determination was made regarding their

effectiveness, new drug status, or grandfather status. Enforcement action was generally deferred on these products until the relevant determinations were made, unless new information indicated that particular products should be immediately removed from the market or more closely regulated.

With respect to new drug products first marketed after 1962 and not identical, similar, or related to a pre-1962 drug product, FDA has required that these products have approved NDA's before being marketed. Therefore, FDA has initiated immediate enforcement action against such products marketed without approved NDA's. FDA has also initiated immediate enforcement action against any unapproved product that is identical or related to a product approved on the basis of safety and efficacy after 1962.

These compliance policies have permitted manufacturers to market new unapproved products or to change existing unapproved products after 1962 as long as the new or changed products were identical, similar, or related to a pre-1962 drug product of unresolved regulatory status. These policies were designed to provide equitable treatment among competing firms and were believed to be adequate, as interim policies, because the new or changed products were presumed to be safe by virtue of their similarity to known products without reported safety problems. These policies, however, when formulated some years ago, did not anticipate the significant technological changes the drug industry is now undergoing in regard to drugs being used in significantly different doses, different routes of administration, and in very high risk patients, such as neonates. Based on the recent E-Ferol incident, described below, it no longer appears reasonable to presume the safety of a new drug product simply on the basis of its being related to an unapproved pre-1962 prescription drug currently on the market.

B. The E-Ferol Incident

E-Ferol, a single active ingredient vitamin E aqueous solution intended for intravenous use, was first marketed in November 1983. The distributor labeled and promoted the product for use in premature infants to help prevent blindness that could result from excess oxygen adminstration and to prevent any conditions associated with vitamin E deficiencies. Neither the manufacturer nor the distributor of E-Ferol sought FDA approval before marketing the product.

FDA first learned of E-Ferol's existence in November 1983 due to outside inquiries concerning the drug product's regulatory status. At that time FDA concluded that the product, although different, was related to other pre-1962 vitamin drug products of unresolved regulatory status and, thus, not yet scheduled for enforcement action under current compliance policies (described above). The agency, therefore, responded to inquiries by stating that E-Ferol had not been approved by FDA and that the distributor was marketing the product under its own responsibility. At the time of these inquiries, FDA had not received any reports of adverse reactions associated with the use of E-Ferol.

On April 2, 1984, the Centers for Disease Control of the Department of Health and Human Services informed FDA that it had recently received reports from hospitals in Ohio and Tennessee suggesting a possible association between the use of E-Ferol and the deaths of premature infants. FDA promptly investigated this matter and, within days, obtained the distributor's agreement to recall all stocks of E-Ferol. The recall, in turn, was conducted expeditiously with 100 percent accountability of the recalled product.

Because of this incident, FDA has reevaluated its policies for regulating unapproved pre-1962 drugs. Based upon this reevaluation, the agency has concluded that its previous policy of deferring regulatory action on new or changed versions of unapproved prescription drug products that are similar or related to, but different from, a pre-1962 product whose regulatory status is unresolved, is not adequate to protect the public health. Accordingly, the agency is revising its compliance policy to indicate that FDA may take immediate enforcement action against such products.

II. Revised Compliance Policy

The agency has revised CPG 7132c.02 by adding statements specifying that the guide applies to all marketed unapproved prescription drug products (not just those covered by DESI) and by adding two new exceptions to permit FDA to take enforcement action ahead of established priorities.

Under the two new exceptions, the agency may immediately initiate regulatory action against any marketed unapproved prescription drug product as an unapproved new drug, and against those persons who cause the marketing of such a product, if:

(1) The drug product is first marketed after November 13, 1984, (new product) or the drug product is changed after November 13, 1984, (changed product); and

(2) The new product or changed product differs, as described below, from a prescription drug product that is marketed on or before November 13, 1984, and for which FDA has deferred enforcement action pending a determination regarding its effectiveness, new drug status, or grandfather status (existing product of unresolved regulatory status); and

(3) The differences in the new product or the changed product are not the result of complying with a compendial standard or a requirement of FDA.

The new product or changed product will be considered different if the new product or changed product differs from an existing product of unresolved regulatory status in: (1) Formulation (as described below); (2) dosage or strength; (3) dosage form; (4) route of administration; (5) indications for use; or (6) intended patient population.

A formulation will be considered different if:

(1) The product contains a different active ingredient;

(2) The product contains a different quantity of an active ingredient;

(3) The product is a nonoral dosage form other than a topical preparation and it contains one or more different inactive ingredients, different amounts of inactive ingredients, or different proportions of inactive ingredients to the extent that the names, amounts, or proportions of inactive ingredients are required by regulation to be disclosed in labeling (see 21 CFR 201.100(b)(5)); or

(4) The product is an oral dosage form or a topical preparation and it contains one or more inactive ingredients not customarily used in such a product.

Dosage or strength will be considered different if the individual recommended dose is different or if the frequency of administration of each individual dose is different. Examples of different dosage forms include, but are not limited to, capsules, tablets, syrups, oral suspensions, solutions for intramuscular injections, suspensions for intramuscular injections, solutions for intravenous injections, suppositories, ointments, creams, and aerosols. Examples of product types that use different routes of administration include, but are not limited to, oral products, topical products, inhalation products, suppositories, intramuscular injectables, and intravenous injectables.

Differences in indications for use or intended patient population may arise from statements made in any section of the labeling. For example, statements

made in the ACTIONS or CLINICAL PHARMACOLOGY sections may render the drug different if these statements suggest use for a different purpose or a different patient population, even if the specific use or patient population is not identified in the INDICATIONS section. Similarly, statements made in the DOSAGE AND ADMINISTRATION section can render the drug different if they recommend a particular dosage for a different purpose or a different patient population.

The agency has also made several technical revisions to the CPG. These technical revisions update the CPG and clarify existing enforcement policy.

Revised CPG 7132c.02 is available for public examination in the Dockets Management Branch (address given above) between 9 a.m. and 4 p.m., Monday through Friday. Single copies of revised CPG 7132c.02 may also be obtained from the Dockets Management Branch.

Interested persons may submit written comments on the revised CPG to the Dockets Management Branch. Comments will be considered in determining the need for amending the CPG. Comments should be in two copies except that individuals may submit single copies. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under 21 CFR 10.85 (d)(3) and (g).

Dated: September 19, 1984.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 84-25612 Filed 9-26-84; 8:45 am]
BILLING CODE 4160-01-M

[Docket No. 82D-0164]

New Animal Drugs for Use in Poultry Feeds for Pigmentation; Availability of Revised Guidelines

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of revised guidelines prepared by the Center for Veterinary Medicine (CVM). The guidelines, revised March 1984, describe the type of data required to establish effectiveness of drugs used in poultry feed for pigmentation. Comments submitted in response to the notice of availability of the March 1982 draft revised guidelines were considered in the development of the March 1984 revision.

ADDRESS: The March 1984 revised guidelines and related materials are available for public examination at, additional written comments may be submitted to, and requests for single copies may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV-128), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4317.

SUPPLEMENTARY INFORMATION: The Federal Food, Drug, and Cosmetic Act (the act) requires that a new animal drug be the subject of an approved new animal drug application (NADA) before it may be marketed in interstate commerce. Section 512(b)(1) of the act (21 U.S.C. 360b(b)(1)) requires that each NADA include full reports of investigations that show that the drug is safe and effective for use. Section 512(d) of the act (21 U.S.C. 360b(d)) describes the criteria that must be met before a new animal drug may be approved, including that it be safe and effective for use as labeled. Section 514.1(b)(8) of the animal drug regulations (21 CFR 514.1(b)(8)) describes the effectiveness requirements for an NADA.

In the **Federal Register** of July 20, 1982 (47 FR 31429), FDA published a notice of availability of the March 1982 draft revised guidelines for effectiveness evaluation of new animal drugs used in poultry feeds for pigmentation. Comments were received from three persons. Following evaluation of the comments, the guidelines were revised. CVM's responses to the comments have been filed with the Dockets Management Branch. The revised guidelines (dated March 1984) supersede the 1975 Preclearance Guidelines for Production Drugs as regards uses for new animal drugs in poultry feeds to enhance carcass or egg yolk pigmentation.

The notice of availability is issued under § 10.90(b) (21 CFR 10.90(b)), which provides for use of guidelines to establish procedures of general applicability that are not legal requirements but are acceptable to the agency. If an applicant believes that alternative procedures also apply, a guideline does not preclude the applicant from pursuing those alternative procedures. Under such circumstances, however, the agency encourages applicants to discuss the alternative procedures in advance with CVM to prevent the expenditure of money and effort for work that may later be found to be unacceptable.

The guidelines are available for public examination at, and requests for single copies may be sent to, the Dockets Management Branch (HFA-305) (address above).

Interested persons may, at any time, submit additional written comments on the guidelines to the Dockets Management Branch. Such comments will be considered in determining if further revisions of the guidelines are required. Respondents should submit two copies (except that individuals may submit single copies) identified with Docket No. 82D-0164. Comments and all related materials may be seen in the Dockets Management Branch from 9 a.m. to 4 p.m., Monday through Friday.

Dated: September 20, 1984.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-25613 Filed 9-26-84; 8:45 am]
BILLING CODE 4160-01-M

Health Care Financing Administration

Medicaid Program; Hearing: Reconsideration of the Disapproval of an Illinois State Plan Amendment

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of Hearing.

SUMMARY: This notice announces an administrative hearing on November 6, 1984, in Chicago, Illinois, to reconsider our decision to disapprove Illinois State Plan Amendment 83-26.

Closing Date: Requests to participate in the hearing as a party must be received by October 12, 1984.

FOR FURTHER INFORMATION CONTACT: Docket Clerk, Hearings Staff, Bureau of Eligibility, Reimbursement and Coverage, 365 East High Rise, 6325 Security Boulevard, Baltimore, Maryland 21207, Telephone: (301) 594-8261.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider our decision to disapprove Illinois State Plan Amendment 83-26.

Section 1116 of the Social Security Act and 45 CFR Parts 201 and 213 establish Department procedures that provide an administrative hearing for reconsideration of a disapproval of a State plan or plan amendment. HCFA is required to publish a copy of the notice to a State Medicaid Agency that informs the agency of the time and place of the hearing and the issues to be considered. (If we subsequently notify the agency of additional issues which will be considered at the hearing, we will also publish that notice.)

Any individual or group that wants to participate in the hearing as a party must petition the Hearing Officer within 15 days after publication of this notice, in accordance with the requirements contained in 45 CFR 213.15(b)(2). Any interested person or organization that wants to participate as amicus curiae must petition the Hearing Officer before the hearing begins, in accordance with the requirements contained in 45 CFR 213.15(c)(1).

If the hearing is later rescheduled, the Hearing Officer will notify all participants.

The issue in this matter is whether Illinois's proposal to limit medical bills which an individual is permitted to apply toward his spenddown violates section 1902(a)(17) and 1902(f) of the Social Security Act and Federal regulations at 42 CFR 435.831 and 435.732(c).

HCFA has interpreted regulations at 42 CFR 435.831 and 435.732 which implement Federal law at sections 1902(a)(17) and 1902(f) of the Social Security Act as requiring States to apply any incurred medical expenses which are a current liability of the individual and which have not previously been used in meeting a spenddown liability toward spenddown. Under this interpretation, this is regardless of when the expenses were incurred. Thus, a medical bill that is a current liability cannot be excluded from spenddown strictly because it was incurred more than 6 months prior to the month of application of Medicaid. Illinois' proposal would apply a strict cutoff period for the application of medical expenses. Therefore, HCFA has determined preliminarily that Illinois SPA 83–28 violates Federal statute at sections 1902(a)(17) and 1902(f) of the Social Security Act and Medicaid regulations at 42 CFR 435.831 and 435.73(d).

The notice to Illinois announcing an administrative hearing to reconsider our disapproval of the State Plan Amendment reads as follows:

Mr. Gregory L. Coler,
Director, Department of Public Aid 316, South Second Street, Springfield, Illinois 62726

Dear Mr. Coler: This is to advise you that your request for reconsideration of the decision to disapprove the Illinois State Plan Amendment 83–28 was received on August 23, 1984. You have requested a reconsideration of the disapproval of whether this plan amendment, which would change the budget period from 6 months to 1 month and would also limit medical bills which an individual is permitted to apply toward his spenddown, conforms to the requirements for approval under the Social Security Act and pertinent Federal requirements.

I am scheduling a hearing on your request to be held on November 6, 1984, at 10 a.m., in the 8th Floor Conference Room, 175 West Jackson Boulevard, Chicago, Illinois. If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties.

I am designating Mr. Albert Miller as the presiding official. If these arrangements present any problems, please contact the Docket Clerk. In order to facilitate any communication which may be necessary between the parties to the hearing, please notify the Docket Clerk of the names of the individuals who will represent the State at the hearing. The Docket Clerk can be reached at (301) 594–8261.

Sincerely yours,

Carolyne K. Davis, Ph.D.

(Sec. 1116 of the Social Security Act (42 U.S.C. 1316))

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program)

Dated: September 20, 1984.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

[FR Doc. 84-25710 Filed 9-26-84; 8:45 am]

BILLING CODE 4120-03-M

Social Security Administration

Statement of Organization, Functions and Delegations of Authority

Part S of the Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services covers the Social Security Administration (SSA). Section SW of the SSA statements, as published in the **Federal Register** on August 9, 1984, describe the organization and functions of SSA's Office of Supplemental Security Income.

Notice is given that section SW.20, Item D. 3. is amended to remove the word "disability."

The revised material reads as follows:

D. The Division of Program Requirements Policy ( ):

3. Develops, evaluates and maintains the eligibility requirements for other eligibility factors including citizenship and residency, dependents, other resources and programs to achieve self-support.

Dated: September 18, 1984.

Nelson J. Sabatini,

Acting Deputy Commissioner for Management and Assessment.

[FR Doc. 84-25688 Filed 9-26-84; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Privacy Act of 1974—Revision of Notices of Systems of Records

Pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a), notice is hereby given that the Department of the Interior proposes to revise three notices describing systems of records maintained by the Bureau of Reclamation. Except as noted below, all changes being published are editorial in nature, and reflect organization changes and other minor administrative revisions which have occurred since the publication of the material in the **Federal Register** on May 2, 1979 (44 FR 25703) and September 29, 1983 (48 FR 44662). The three revised notices are published in their entirety below.

New compatible routine disclosures are being added to the system notices. Disclosures relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant or other benefit to Federal agencies that have requested such information, or to Federal, State, or local agencies to obtain such information have been added to system notices numbered WBR–2 and WBR–36. Disclosures to Federal agencies to collect, through administrative or salary offset, debts owed the Federal government are added to system notices numbered WBR–2 and WBR–36. A new routine disclosure to the General Services Administration to document problems with contract movers is being added to system notice number WBR–5.

5 U.S.C. 552a(e)(11) requires that the public be provided a 30-day period in which to comment. Therefore, written comments on these proposed changes can be addressed to the Department Privacy Act Officer, Office of the Secretary (PIR), U.S. Department of the Interior, Washington, D.C. 20240. Comments received within 30 days of publication in the **Federal Register** will be considered. The notices shall be effective as proposed without further notice at the end of the comment period, unless comments are received which would require a contrary determination.

Dated: September 20, 1984.

Oscar W. Mueller, Jr.,

Director, Office of Information Resources Management.

INTERIOR/WBR–2

SYSTEM NAME:

Accounts Receivable—Interior, Reclamation–2.

SYSTEM LOCATION:

Bureau of Reclamation Headquarters Offices, Engineering and Research Center, Regional Offices: Pacific Northwest, Mid-Pacific, Lower Colorado, Upper Colorado, Southwest, Upper Missouri, Lower Missouri. See appendix for addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals owing monies to the Bureau. Records in this system pertaining to individuals contain principally proprietary information concerning sole proprietorships, but may also reflect personal information. System also maintains records concerning corporations and other business entities, which may contain personal information. Only those records reflecting personal information are subject to the Privacy Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

Statements of account, bills for collection, and records related to amounts owed to the Bureau.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 3701, et. seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is to document Bureau accounts receivable. Disclosures outside the Department of the Interior may be made: (1) To the Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a congressional office made at the request of that individual; (4) to non-Federal auditors under contract with the Department of Interior or Energy or water user and other organizations with which the Bureau of Reclamation has written agreements permitting access to financial records to perform financial audits; (5) where relevant or necessary to the hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant, or other benefit, information may be disclosed: (a) To a Federal agency that has requested the information, or (b) to a Federal, State, or local agency to enable the Department of the Interior to obtain information from such agency; (6) to a Federal agency for the purpose of collecting a debt owed the Federal Government through administrative or salary offset.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

By individual name.

SAFEGUARDS:

In accordance with requirements of 43 CFR 2.51 for manual records.

RETENTION AND DISPOSAL:

The records are maintained for 6 years and 3 months after close of the fiscal year, unless involved in litigation. Disposal is in accordance with approved retention and disposal schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Finance Officers. Bureau of Reclamation Headquarters Offices, Engineering and Research Center, Regional Offices: Pacific Northwest, Mid-Pacific, Lower Colorado, Upper Colorado, Southwest, Upper Missiour, Lower Missouri. See appendix for addresses.

NOTIFICATION PROCEDURE:

Written inquiries regarding the existence of a record(s) should be sent to the System Manager at the appropriate address listed in the appendix. See 43 CFR 2.60.

RECORD ACCESS PROCEDURE:

Same as Notification above. See 43 CFR 2.63.

CONTESTING RECORD PROCEDURE:

Written petitions for amendment should be addressed to the System Manager at the appropriate office listed in the appendix. See 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individuals having contracts or agreements with the Bureau to repay monies owed the Bureau.

INTERIOR/WBR-5

SYSTEM NAME:

Claims—Interior, Reclamation—5.

SYSTEM LOCATION:

Bureau of Reclamation Headquarters Offices, Engineering and Research Center, Regional Offices: Pacific Northwest, Mid-Pacific, Lower Colorado, Upper Colorado, Southwest, Upper Missouri, Lower Missouri. See appendix for addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have filed tort, employee, or appropriation act claims,and claims under the Teton Dam Disaster Assistance Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include claims and supporting documents submitted, information developed during investigations of claims, and final disposition.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Tort Claims Act, 28 U.S.C. 2671–2680; Military Personnel and Civilian Employees' Claims Act, 31 U.S.C. 3701, 3721; Public Works for Water and Power Development and Energy Research Appropriation Act, 1977, Pub. L. 94–355, 90 Stat. 880; Teton Dam Disaster Assistance Act, Pub. L. 94–400, 90 Stat. 1211; Supplemental Appropriation Act, 1977, Pub. L. 94–436, 90 Stat. 1415; and annual Energy and Water Development Appropriation Acts.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are to establish the facts and circumstances of each claim, compile statistical data, and evaluate claims. Disclosures outside the Department of the Interior may be made: (1) To Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a congressional office made at the request of that individual; (4) where relevant or necessary to the hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant, or other benefit, information may be disclosed: (a) To a Federal agency that has requested the information, or (b) to a Federal, State, or local agency to enable the Department of the Interior to obtain information

from such agency; (5) to the Soil Conservation Service, Farmers Home Administration, and Agricultural Stabilization and Conservation Service of the Department of Agriculture; Federal Emergency Management Agency, Army Corps of Engineers, and Department of Housing and Urban Development to assure that benefits to claimants have not been duplicated by the several agencies involved in disaster programs; (6) to the Department of Treasury (IRS) and State revenue and taxation departments relative to compensation for loss of salary or income; (7) to the Small Business Administration, Farmers Home Administration (USDA), and Department of Housing and Urban Development regarding loans secured through those agencies; (8) to GSA to document problems with GSA contract movers which result in claims against Reclamation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

By claimant's name.

SAFEGUARDS:

In accordance with requirements of 43 CFR 2.51 for manual records.

RETENTION AND DISPOSAL:

In accordance with approved retention and disposal schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Claims Officers. Bureau of Reclamation Headquarters Offices, Engineering and Research Center, Regional Offices: Pacific Northwest, Mid-Pacific, Lower Colorado, Upper Colorado, Southwest, Upper Missouri, Lower Missouri. See appendix for addresses.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of a record(s) should be written to the System Manager at the appropriate address listed in the appendix. See 43 CFR 2.60.

RECORD ACCESS PROCEDURE:

Same as Notification above. See 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

Written petitions for amendment should be sent to the System Manager at the appropriate address listed in the appendix. See 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Claimants. Investigations conducted by Reclamation officials and contractors, officials of the Department of the Interior, and State and local governments.

INTERIOR/WBR-36

SYSTEM NAME:

Travel Vouchers—Interior, Reclamation—36

SYSTEM LOCATION:

Bureau of Reclamation Headquarters Offices, Engineering and Research Center, Regional Offices: Pacific Northwest, Mid-Pacific, Lower Colorado, Upper Colorado, Southwest, Upper Missouri, Lower Missouri. See appendix for addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individual Reclamation employees who have traveled on official business.

CATEGORIES OF RECORDS IN THE SYSTEM:

Payment data for official travel performed.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5701, et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is for payment of travel and transportation expenses. Disclosures outside the Department of the Interior may be made: (1) To the Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order, or license to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a congressional office made at the request of that individual; (4) where relevant or necessary to the hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant, or other benefit, information may be disclosed: (a) To a Federal agency that has requested the information, or (b) to a Federal, State, or local agency to enable the Department of the Interior to obtain information from such agency; (5) to a Federal agency for the purpose of collecting a debt owed the Federal Government through administrative or salary offset.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

By individual name.

SAFEGUARDS:

In accordance with requirements of 43 CFR 2.51 for manual records.

RETENTION AND DISPOSAL:

Records are maintained for 6 years and 3 months after the close of the fiscal year, unless involved in litigation. Disposal is in accordance with approved retention and disposal schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Finance Officers. Bureau of Reclamation Headquarters Offices, Engineering and Research Center, Regional Office: Pacific Northwest, Mid-Pacific, Lower Colorado, Upper Colorado, Southwest, Upper Missouri, Lower Missouri. See appendix for addresses

NOTIFICATION PROCEDURE:

Written inquiries regarding the existence of a record(s) should be sent to the System Manager at the appropriate address listed in the appendix. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

Same as Notification above. See 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

Written petitions for amendment should be addressed to the appropriate office listed in the appendix. See 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individuals on whom records are maintained.

[FR Doc. 84-25815 Filed 9-26-84; 8:45 am]
BILLING CODE 4310-09-M

Preliminary Determination To Extend Certification of No Adverse Impact on Theodore Roosevelt National Park and Lostwood National Wildlife Refuge Under Section 165(d)(2)(C)(iii) of the Clean Air Act

AGENCY: Office of the Secretary, Interior.

ACTION: Request for comments regarding the preliminary determination to extend the Federal Land Manager's September 1982 certification of no adverse impact under section 165(d)(2)(C)(iii) of the Clean Air Act with respect to two Prevention of Significant Deterioration permits under consideration for extension by the North Dakota State Department of Health.

SUMMARY: On September 20, 1982 (47 FR 41480), the Department of the Interior announced the final determination made by the Federal Land Manager of Theodore Roosevelt National Park and Lostwood National Wildlife Refuge that five proposed sources in North Dakota subject to Prevention of Significant Deterioration of air quality requirements (PSD) would not adversely affect the resources of the park and refuge (wilderness portion). The Federal Land Manager made the final determination after full consideration of the best available information and the public comments received on the issues involved. On January 12, 1983, the North Dakota State Department of Health (NDSDH) issued Air Pollution Control Permits to Construct to the five sources. The Nokota Company (Nokota) and Basin Electric Power Cooperative (Basin Electric), two of the sources, have recently requested that the NDSDH grant an eighteen-month extension of the permits issued for their respective proposed coal-to-methanol plant in Dunn County, North Dakota and electric generating unit in Mercer County, North Dakota. The purpose of this notice is to notify the interested public of the Federal Land Manager's preliminary determination to extend the certification of no adverse impact with respect to these two sources and to request public comments regarding this preliminary determination.

DATE: Comments must be received on or before October 29, 1984.

ADDRESSES: Comments should be submitted (in duplicate, if possible) to: Chief, Permit Review and Technical Support Branch, National Park Service-AIR, P.O. Box 25287, Denver, CO 80225.

FOR FURTHER INFORMATION CONTACT: Mark A. Scruggs, Air and Water Quality Division, National Park Service-AIR, P.O. Box 25287, Denver, CO 80225, telephone number (303) 234-6620.

SUPPLEMENTARY INFORMATION: The Federal Land Manager (FLM) has the affirmative responsibility under section 165(d)(2)(B) of the Clean Air Act (CAA) to protect the air quality related values of any lands within an area designated as a PSD class I area. A review by the FLM in 1982 of Nokota's proposed coal-to-methanol project and Basin Electric's generating unit indicated that the projects would not adversely affect the air quality related values of Theodore Roosevelt National Park or Lostwood National Wildlife Refuge (wilderness portion), which are both designated as PSD class I areas. Therefore, based on this review, on September 15, 1982, the FLM certified under section 165(d)(2)(C)(iii) of the CAA that the Nokota and Basin Electric projects would not adversely affect the class I areas (47 FR 41480 (September 20, 1982)). The NDSDH issued PSD permits to Nokota and Basin Electric on January 12, 1983. The permits were to expire on July 11, 1984, if construction of the projects did not commence on or before that date. Nokota and Basin Electric informed the NDSDH that, due to circumstances beyond their control, they could not commence construction of the projects by July 1984. Subsequently, on March 16, 1984, and June 1, 1984, respectively, Nokota and Basin Electric formally requested an eighteen-month extension of their PSD permits.

Under the North Dakota air regulations, the NDSDH may extend a PSD permit upon a satisfactory showing that the extension is justified. The NDSDH has developed a policy paper entitled "Procedures and Requirements for the Consideration of Time Extensions to PSD Permits," which states that the permittee must submit a written request that makes such a showing and must include specific supporting information so the NDSDH can make its decision. Among other things, the supporting documentation should include information documenting that there will be no change in the determination that there will be no adverse impacts on class I air quality related values if the extension is granted. Nokota and Basin Electric informed the NDSDH that they are not aware of any changes relating to the FLM's 1982 certification of no adverse impact.

Nokota and Basin Electric as well as the NDSDH have requested the FLM to comment on the permit extension requests and the permittees' assertion that the previous certification of no adverse impact is still valid.

The FLM concurs preliminarily (subject to public comment) with Nokota and Basin Electric that no new technical information has become available that would alter the conclusions of the FLM's original review of the Nokota and Basin Electric projects. Assuming the Nokota and Basin Electric projects are constructed and operated in accordance with the conditions of the original permits, the conclusions of the FLM's previous review are still valid. This assessment is supported by the FLM's more recent preliminary certification of no adverse impact on Theodore Roosevelt National Park. On May 23, 1984, the Department of the Interior pulished a notice in the Federal Register announcing its preliminary determination that Northern Gas Products' proposed natural gas processing facility, in conjunction with all other sources in the area including the proposed Nokota and Basin sources, will not cause an unacceptable, adverse impact on the park (47 FR 21802).

Because no new information has become available since May 1984 that would alter the FLM's previous conclusions regarding the Nokota and Basin Electric projects, and because recent analyses support the FLM's original determination, the Department of the Interior does not object to the proposed eighteen-month extension of the Nokota and Basin Electric PSD permits and proposes to extend the certification of no adverse impact for the same time period. Public comments are requested on this preliminary decision to extend the original FLM certification of no adverse impact for the Nokota and Basin Electric projects.

Dated: September 18, 1984.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks, Federal Land Manager of Theodore Roosevelt National Park and Lostwood Wildlife Refuge.

[FR Doc. 84-25080 Filed 9-26-84; 8:45 am]

BILLING CODE 4310-70-M

Final Certification of No Adverse Impact on Theodore Roosevelt National Park Under Section 165(d)(2)(C)(iii) of the Clean Air Act

AGENCY: Office of the Secretary, Interior.

ACTION: Notice of final determination under section 165(d)(2)(C)(iii) of the Clean Air Act.

SUMMARY: This notice announces the final determination by the Federal Land Manager of Theodore Roosevelt National Park that a proposed source in North Dakota, subject to Prevention of Significant Deterioration (PSD) of air quality requirements under the Clean Air Act, will not adversely affect the

resources of the park. The Department of the Interior has made the final determination after full consideration of the best available information and the public comments received on the issues involved. The intent of this notice is to announce the final determination of no adverse impact, provide a statement of reasons supporting it, and inform interested persons of the availability of supporting documentation, including a detailed "Response to Public Comments," for inspection and copying.

DATE: The certification of no adverse impact is effective as of September 18, 1984.

ADDRESSES: Copies of the supporting documentation and response to public comments are available for public inspection and copying between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, at the following locations: National Park Service, Main Interior Building, Room 3031, 18th and C Streets NW., Washington, D.C.; Air and Water Quality Division, 11011 W. Sixth Avenue, Room 306, Denver, CO; and Theodore Roosevelt National Park Headquarters, Medora, ND. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mark A. Scruggs, Air and Water Quality Division, National Park Service—AIR, P.O. Box 25287, Denver, CO 80225, telephone number (303) 234–6620.

SUPPLEMENTARY INFORMATION: The PSD section of the Clean Air Act (CAA) deals with a complex problem. It concerns major new facilities which wish to locate in relatively unpolluted areas of the country ("clean air regions"), where the new pollution might affect certain federal conservation areas ("class I areas") which were set aside for their pristine air quality or other natural, scenic, recreational, or historic values and which are vulnerable to air pollution. In this situation, the CAA imposes special requirements on the proposed facilities to insure that the pollution from them will be minimal. In addition, the CAA imposes special responsibilities on the managers of the federal class I areas to insure that no new facility will have an unacceptable impact on the areas' protected resources.

The Clean Air Act establishes several "standards" or "tests" for analyzing a proposed facility's impact on the clean air regions in general, and on the class I areas in particular. These standards or tests include, among others, National Ambient Air Quality Standards (NAAQS); PSD classes I, II, and III air pollution increments; and the "adverse impact" determination for class I areas. An explanation of the relationship among these standards or tests is particularly relevant to the action which is the subject of this notice.

In brief, NAAQS, which a proposed facility must not violate under any circumstances, are standards applicable to the entire country. These standards represent those pollution levels acceptable for protecting the public health and national welfare. Attainment and maintenance of these NAAQS constitute one of the fundamental purposes of the CAA. All areas presently not in compliance with the standards must improve their air quality to meet them, and all areas cleaner than the standards must not deteroriate so as to violate them.

The two remaining standards or tests—classes I, II, and III increments and adverse impact determinations—are the primary tools of the PSD provisions which govern the permitting of proposed major new sources of pollution in clean air regions. The class I increments apply to clean air regions of the country containing areas such as national parks and wilderness areas. Under the CAA, Congress designated 158 natural, scenic, or historic areas of special national significance as class I. The class I increments represent the extremely small amount of additional pollution that Congress thought, as a general rule, should be allowed in class I areas. The class I increments also represent the restriction on additional pollution which Congress thought necessary in most cases for protection of the resources in federal class I areas. Typically, therefore, a proposed facility must not violate the class I increment.

The "adverse impact" determination, however, provides the possible exception to the general rule that a proposed facility must not violate the class I increment described above. The adverse impact determination, which is the subject of this notice, is a site specific test which examines whether a proposed facility will in fact, unacceptably affect the resources of a class I area. If the manager of the federal class I area determines that a proposed facility will not adversely affect the class I area, then the permitting authority may authorize the facility even though the facility's emissions may cause or contribute to a violation of the class I increment. In this situation, the facility must nevertheless not exceed a revised set of class I increments established by the Act. Conversely, if the Federal Land Manager (FLM) determines and convinces the permitting authority that a proposed facility will adversely affect the class I area, even though it will not cause a violation of the class I increment, then the permitting authority may not authorize the facility. Thus, the adverse impact determination is a critical test for a proposed facility desiring to located near a class I area.

The action which is the subject of today's notice concerns Theodore Roosevelt National Park (NP), a mandatory class I area. Northern Gas Products Company is proposing to locate a source in the vicinity of the class I area. The source would meet the NAAQS, but would apparently significantly contribute to violations of the class I 24-hr increment for sulfur dioxide (SO_2). Therefore, the adverse impact determination of the FLM may be the determining factor in the State of North Dakota's pending permit decision of the proposed facility.

Prevention of Significant Deterioration New Source Application

A PSD permit application has been submitted to the State of North Dakota by Northern Gas Products Company. The application is for a natural gas processing facility to be located two miles south of Rawson, McKenzie County, North Dakota. This location is approximately 20 kilometers northwest of the North Unit of Theodore Roosevelt NP.

The State of North Dakota, which has been delegated complete PSD authority, has performed regional scale modeling to determine the cumulative air pollution concentrations in Theodore Roosevelt NP resulting from all sources subject to PSD. The results indicate the proposed source would significantly contribute to total SO_2 concentrations higher than the allowed class I 24-hour increment in only the North Unit of Theodore Roosevelt NP. A significant contribution in this case is defined as 1.0 micrograms per cubic meter (ug/m^3) 3-hour average, 0.2 ug/m^3 24-hour average, and 0.1 ug/m^3 annual average. The estimates show concentrations as high as 1.4 times the 24-hour SO_2 increment (when the proposed source makes a significant contribution). The proposed source would no significantly contribute to exceedances of the 3-hour or annual allowable SO_2 increments in any unit of the park. Also, the proposed source would not significantly impact the wilderness portion of Lostwood National Wildlife Refuge, the only other class I area in the vicinity of the proposed project. Northern Gas Products has several options available for obtaining a permit. One option is requesting certification from the Federal Land Manager under section 165(d)(2)(C)(iii) of the Clean Air Act that

the project will have no adverse impact on the resources of Theodore Roosevelt NP even though the maximum allowable 24-hour class I SO_2 increment will be exceeded. Other options include reducing emissions or choosing a site more distant from the park, such that the source would not significantly contribute to the 24-hour increment exceedance. Northern Gas Products has chosen to request FLM certification from the Department of the Interior.

Discussion of Public Comments

On May 23, 1984 (47 FR 21802), the FLM announced the preliminary determination that the source proposed by Northern Gas Products would not adversely affect the resources of the class I area and provided for a 30-day public comment period. Because the technical analysis supporting the preliminary determination was not readily available from the beginning of the comment period, the Department of the Interior reopened the public comment period on July 12, 1984 (47 FR 28468), to allow interested parties additional time to review the technical analysis on which the preliminary determination was based.

One public response was received during the comment period and one additional response was received after the comment period ended. The letters contained a total of nine comments. These comments and the FLM's responses are summarized below. A document entitled "Response to Public Comments on the Federal Land Manager's Determination of No Adverse Impact on Theodore Roosevelt National Park for Northern Gas Products" which contains detailed responses to the comments is available for inspection and copying (see **ADDRESS** section above).

Objection to Proposed Decision.

One commenter objected to the proposed certification decision, alleging that the administrative record does not contain an adequate demonstration of no adverse impact. The commenter added that the analysis should err on the side of protecting the resources of the park, not in favor of the development.

The FLM disagrees with the opinion that the FLM's analysis has not erred on the side of protecting the park resources. We cannot find, nor has anyone else discovered, any evidence to show that the emissions from the proposed source would harm the values of Theodore Roosevelt NP. The analysis employed conservative assumptions at every level, so that actual impacts on sources will probably be even less than the impacts estimated. The final analysis concludes, with confidence, that the proposed source will not cause or contribute to, an adverse impact on the air quality related values (AQRv's) of the park.

Visibility Impairment

The Technical Assessment document states that the proposed source could result in a seven percent reduction in visual range from 318 km to 297 km and that this could occur as frequently as 0.3 percent of the time. One commenter stated that the FLM is agreeing to potentially preclude Theodore Roosevelt NP from experiencing days when visual range is 318 km, and the top of the scale for determining visual range in subsequent analyses becomes 297 km rather than 318 km, thereby holding each new applicant to a lesser standard.

The commenter apparently has misinterpreted the results of the visibility analysis. The FLM is not stating that every time the visual range of 318 km would occur it will be reduced by seven percent. Our assertion is that the probability of occurrence of a concentration sufficient to cause a perceptible change in the visual range when the visual range is 318 km or greater (1 percent of the time) is 0.003 (0.3 percent). Therefore, the probability of these two events not occurring at the same time is 0.997 and, hence, the seven percent reduction is not likely to ever occur. Also, the visibility degradation will not impair the preception of the features of this particular park and therefore is not adverse. In addition, the estimated maximum possible reduction (seven percent) is very near the human perceptibility threshold for reduction in visual range (five percent).

As a final point of clarification, the FLM does not allow the background distribution of SVR to which incremetal changes are added to "shift" with succeeding permit reviews. Any available visibility data from the first permit application in the area or from any other available monitoring data provides the benchmark from which to calulate subsequent reduction in SVR. First, all increment consuming sources are analyzed with each new applicant. Second, insofar as possible, the contribution of all increment consuming sources is added to observed background conditions that do not contain contributions of any of the increment consuming sources.

Adverse Impact Discussion

One commenter stated that the FLM's proposed definition of adverse impact is too ambiguous and subjective. The commenter recommended that the FLM develop a precise standard for certifications which details at what level the FLM believes adverse effects will occur.

The FLM considers that any effects on resources in class I areas caused by air pollution that:

—Diminish the national significance of the area; and/or
—Impair the structure and functioning of ecosystems; and/or
—Impair the quality of the visitor experience;

constitute an unacceptable, adverse impact. Admittedly, this definition contains an element of subjectivity, but an element of subjectivity cannot be avoided when placing a value on park resources and experience. The FLM has not found "numerical level" adverse impact criteria capable of protecting the resources of all the parks. Therefore, the FLM has felt most confident basing each determination on a case-by-case approach using the most current information available on the sensitivities of the particular park resources, the importance of park features, and the concentration of pollutants expected to occur in the park. However, the FLM recognizes the desirability of eliciting comments from all interested persons on the significant philosophical, legal, and factual questions inherent in defining what impacts are adverse with respect to park resources. Consequently, the FLM is preparing an Advance Notice of Proposed Rulemaking to initiate a separate interpretive rulemaking on the definition and determination of "adverse impact."

Reversibility

One commenter stated that it is inappropriate for the FLM to consider the potential reversibility of possible effects. Each visitor to the park has as much right to enjoy the park's wonders unimpaired as do future generations.

The FLM would not accept an impact as nonadverse which would create an impairment to present day visitor enjoyment just because it could be reversed in the future. The reason for including the discussion of reversibility was to point out the resiliency of some ecosystems under low level stress.

Certainty

One commenter stated that since none of the several research studies identified in the July 1982, Technical Review concerning Theodore Roosevelt NP has been completed, it is improbable that the FLM can state with any certainty that there will be no adverse impact.

The status of the referenced studies is detailed in the FLM's "Response to

Public Comments" document mentioned above. The results of the studies which have been completed indicate that the resources of Theodore Roosevelt NP are not presently under sulfur dioxide stress. This fact, coupled with worst-case estimates of sulfur dioxide levels, and analysis of the most sensitive park resources, support our determination of no adverse impact on park biological resources.

Best Available Control Technology (BACT)

One commenter supported the FLM's recommendation of Shell Claus Off-gas Treating (SCOT) technology or equivalent as BACT. The commenter pointed out that all efforts should be made to avoid adverse impact on Theodore Roosevelt NP and the use of SCOT would be a strong step in that direction.

The FLM agrees that SCOT or equivalent technology is BACT, and has so recommended to the North Dakota State Department of Health (NDSDH). The NDSDH, as the permitting agency, has the responsibility of specifying BACT for the proposed project.

Flaring Wells

One commenter was concerned with the FLM's failure to mention the use of flaring wells. The commenter contends that flaring wells should be used as a product source for the proposed plant.

The FLM agrees that flared gas in the area contributes to the relatively high sulfur dioxide concentrations and that processing this gas would eliminate a large portion of this contribution. Northern Gas Products, as indicated in their application, does intend to process some of the gas that is presently being flared.

The FLM includes impacts of the flaring wells in the background ambient monitoring data used as a basis for the FLM certification. Since the technical analysis does not assume any reductions in flaring well emissions, and still shows no adverse effects on Theodore Roosevelt NP, any consideration of reductions in flaring emissions would make impacts on the park all the more unlikely.

Certification Expiration

One commenter stated that the certification of no adverse impact should have a set time table with a specific closing date. The closing date should be tied to the permit closing date, with each permit extension requiring a new certification.

Although no specific expiratio date exists for a certification of no adverse impact, the FLM certification is tied to the State permit. Since the certification is source specific, if the State permit expires and the project is not constructed, the certification would be void. For permit extensions, the FLM would have an opportunity to re-evaluate the no adverse impact certification. If the FLM, based on new information, determines that the previous certification is not valid, the State would deny the extension request.

Findings and Determination

The findings of the Federal Land Manager's review of Northern Gas Products Company's proposed facility are as follows:

1. Emissions from the proposed project alone should not cause a perceptible plume in the class I area. An estimate of the effect of the proposed emissions on visibility indicates that there would be no perceptible change in visual air quality in the South Unit and, that in the North Unit a seven percent reduction in standard visual range could occur, but infrequently (about once in 100 Years).

2. Plant and animal species known to be sensitive to low levels of SO_2, ozone, and particulate matter, i.e., air quality related values (AQRVs), are present in Theodore Roosevelt NP. Pollutant levels perdicted to occur from all increment consuming sources when added to highest observed concentrations appear to be below the threshold values for adverse effects

3. Soils in the park are buffered and are therefore unlikely to be affected by acidic rainfall events. Similarly, the streams, ponds, and rivers are also unlikely to be affected.

4. A field evaluation of sensitive species in the park found no symptoms of visible injury due to ambient air pollution.

5. Many factors exist in this analysis that tend to overpredict effects on AQRVs (i.e., the actual impact on the resources from the proposed sources will probably be even less than the analysis assumes).

6. The only effects predicted in Theodore Roosevelt NP are a potential increase in sulfur content in lichens and the potential for very infrequent, marginally perceptible visibility impairment.

7. The review indicates that predicted SO_2 concentrations are not of sufficient magnitude to diminish the rules of lichens in the park. Thus, it does not appear that the structure and functioning of ecosystems would be impaired, nor would there be any impairment to the visitor experience, or diminution of the national significance of the park.

Based on the above findings, and the overall analysis, the Federal Land Manager concludes that the proposed Northern Gas Products Company source would not cause an unacceptable, adverse impact on the natural resources of Theodore Roosevelt NP.

These findings and review are based on emissions as proposed by the applicant. However, we do not consider the proposed emission control technology as best available control technology (BACT). The Federal Land Manager has recommended to the permitting agency, the North Dakota State Department of Health, that a Claus sulfur recovery unit (Claus) with treatment of tail gas by a Shell Claus off-gas treating (SCOT) unit, or equivalent, be utilized on this project as BACT. This recommendation is made for the following reasons:

1. The use of SCOT, or equivalent, would reduce SO_2 emissions by 939 tons per year, or 86 percent over the SO_2 control technology proposed by Northern Gas Products Company.

2. SCOT, or equivalent, is proven technology and is required by permitting authorities in other areas of the country.

3. We believe the cost of employing SCOT (an additional $1579/ton of additional SO_2 removed), or equivalent, should be weighed against the project's proximity to Theodore Roosevelt National Park, a mandatory class I area. One of the primary purposes of the PSD requirements established by Congress is to preserve, protect, and enhance the air quality in national parks. Because we are approaching threshold limits for adverse effects in the park, as much of the increment as possible should be preserved or recovered, so that there will be opportunities for future growth and certification requests.

4. The proposed project would significantly contribute to class I increment violations in Theodore Roosevelt National Park. Use of SCOT would reduce Northern Gas Products contributions in the park below the significance level.

5. Minimizing emissions will reduce the potential for cumulative effects of acid deposition thereby minimizing the potential for future adverse impacts.

The conclusion reached in this review should not be extrapolated to any future permit applications in the vicinity of Theodore Roosevelt NP. Each future appliation must be revised on a case-by-case basis, because a source's emission parameters, such as stack height, gas temperature, and geogriphic location, determine its interaction with other sources and hence, the potential for effects. New applicants must

demonstrate to the Federal Land Manager's satisfaction that the proposed source will not cause or contribute to an adverse impact on the resources of Theodore Roosevelt NP.

This certification is based on, and therefore is limited to, concentrations at or below those specified in the State of North Dakota's pollution modeling and used in the Federal Land Manager's Technical Review. This certification specifically does not apply to any higher concentrations, such as the alternate concentrations set forth in section 165(d)(2)(C)(iv) of the Clean Air Act.

Dated: September 18, 1984.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks, Federal Land Manger of Theodore Roosevelt National Park.

[FR Doc. 84-25686 Filed 9-26-84; 8:45 am]

BILLING CODE 4310-70-M

Fish and Wildlife Service

Issuance of Permit for Marine Mammals

On August 1, 1984, a notice was published in the **Federal Register** (Vol. 49, No. 149 FR 30805) that applications had been filed with the Fish and Wildlife Service by (1) Matsushima Aquarium APP #2248BM for a permit (PRT 682207) to take 4 Northern sea otters (*Enhydra lutris*) from Prince William Sound or Green Island, Alaska, for public display and (2) Sunshine International Aquarium APP #2250BM for a permit (PRT 682196) to take 4 Northern sea otters (*Enhydra lutris*) from Prince William Sound or Green Island, Alaska, for public display.

Notice is hereby given that on September 4, 1984, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the Fish and Wildlife Service issued the requested permits subject to certain conditions set forth therein.

The permits are available for public inspection during normal business hours at the Fish and Wildlife Service's office in Room 605, 1000 N. Glebe Road, Arlington, VA

Dated: September 19, 1984.

R.K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 84-25594 Filed 9-26-84; 8:45 am]

BILLING CODE 4310-55-M

Issuance of Permit for Marine Mammals

On August 17, 1984, a notice was published in the **Federal Register** (Vol. 49, No. 161) that an application had been filed with the Fish and Wildlife Service by Detroit Zoological Parks Department (APP# 2956BM and 2794BM) for permits to import one captive-born female bear *(Ursus maritimus)* from Kolmarden Zoo, Sweden and one captive-born female polar bear *(Ursus maritimus)* from Ruhr Zoo, West Germany for public display and enhancement of propagation.

Notice is hereby given that on September 17, 1984, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the Fish and Wildlife Service issued the requested permits subject to certain conditions set forth therein.

The permit is available for public inspection during normal business hours at the Fish and Wildlife Service's office in Room 605, 1000 N. Glebe Road, Arlington, VA.

Dated: September 21, 1984.

R.K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 84-25593 Filed 9-26-84; 8:45 am]

BILLING CODE 4310-55-M

Alaska Peninsula National Wildlife Refuge Comprehensive Conservation Plan; Environmental Impact Statement and Wilderness Review, Alaska; Availability and Public Hearings; Correction

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability and public hearings; correction.

SUMMARY: This document corrects a notice of availability and public hearings that appeared on page 31778 in the **Federal Register** of Wednesday, August 8, 1984 (49 FR 31778). This action is necessary to correct the date by which comments should be submitted.

FOR FURTHER INFORMATION CONTACT: William Knauer, Wildlife Resources, U.S. Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, Alaska 99503, Telephone (907) 786–3399.

The following correction is made in FR Doc. 84–20607 appearing on 31778 in the issue of August 8, 1984.

1. On page 31778 column one, second paragraph, first sentence, **DATES** is corrected to read "Comments on the draft CCP/EIS must be submitted on or before December 3, 1984 to receive consideration in the preparation of the final CCP/EIS.

Dated: September 20, 1984.

Robert Jacobsen,

Acting Regional Director.

[FR Doc. 84-25629 Filed 9-26-84; 8:45 am]

BILLING CODE 4310-55-M

Bureau of Land Management

[Serial No. I-18302]

Idaho; Exchange of Public and Private Lands Bannock and Caribou Counties

The United States has issued an exchange conveyance document to Kent L. and Emilee M. Yost, Pocatello, Idaho; Gordon R. and Sherry A. Yost and Gladys Call, Bancroft, Idaho, for the following-described lands under Section 206 of the Federal Land Policy and Management Act of 1976:

Boise Meridian, Idaho

T. 6 S., R. 35 E.,
Sec. 7, SE¼SE¼;
Sec. 8, W½W½SW¼SW¼;
Sec. 17, W½W½NW¼NW¼;
Sec. ,18, NE¼NE¼.
Comprising 100.00 acres of public land.

In exchange for these lands, the United States acquired the following described lands:

Boise Meridian, Idaho

T. 8 S., R. 38 E.,
Sec. 23, SW¼NE¼, S½NW¼, NW¼SE¼;
Sec. 24, SE¼SW¼;
Sec. 25, N½NW¼;
Sec. 26, NE¼NE¼.
T. 9 S., R. 39 E.,
Sec. 17, E½SW¼.
Comprising 400.00 acres of public land.

The purpose of this exchange was to acquire the non-Federal land which will provide wildlife habitat and recreational values. The public interest was well served through completion of the exchange.

Dated: September 21, 1984.

Louis B. Bellesi,

Deputy State Director for Operations.

[FR Doc. 84-25600 Filed 9-26-84; 8:45 am]

BILLING CODE 4310-GG-M

[Serial No. I-18932]

Idaho; Exchange of Public and Private Lands, Elmore and Owyhee Counties

The United States has issued an exchange conveyance document to Robert S. and Myra L. Rich, 458 Grape Street, Denver, CO 80220, for the following-described lands under Section 206 of the Federal Land Policy and Management Act of 1976:

Boise Meridian, Idaho

T. 6S., R. 6 E.,
Sec. 4, W½SW¼, SE¼SW¼, SW¼SE¼;
Sec. 5, lot 4, S½NW¼, S½;
Sec. 6, lot 1, SE¼NE¼;
Sec. 7, S½NE¼, SE¼, E½SW¼;
Sec. 8, all;
Sec. 9, all;
Sec. 10, SW¼NW¼, SW¼, W½SE¼;
Sec. 15, W½;
Sec. 16, all;
Sec. 17, E½, N½NW¼, SE¼NW¼, SW¼.

Comprising 4,127.99 acres of public land.

In exchange for these lands, the United States acquired the following-described lands:

Boise Meridian, Idaho

T. 1 S., R. 6 E.,
Sec. 8, lots 4 to 8 inclusive;
Sec. 15, lots 7 and 8;
Sec. 17, lots 1 to 6 inclusive, lots 9 and 10, SE¼NW¼, NW¼SE¼;
Sec. 18, lot 7;
Sec. 20, NE¼NE¼;
Sec. 21, NE¼NE¼, NW¼NW¼.

Comprising 640.66 acres of private land.

The purpose of this exchange was to acquire the non-Federal land which has high public value for recreational use. The public interest was well served through completion of the exchange.

Dated: September 21, 1984.

Louis B. Bellesi,

Deputy State Director for Operations.

[FR Doc. 84-25601 Filed 9-26-84; 8:45 am]

BILLING CODE 4310-GG-M

[S 581, S 582, S 1263, S 1353, and S 2185]

California; Partial Termination of Classifications for Multiple use Management

September 19, 1984.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This action terminates five classifications of public land for multiple use management insofar as they affect approximately 29,693 acres located in areas of the Ukiah District of the Bureau of Land Management.

FOR FURTHER INFORMATION CONTACT: Dianna Storey, California State Office (916) 484-4431.

SUPPLEMENTARY INFORMATION: Pursuant to the authority delegated by Appendix 1 of Bureau of Land Management Manual 1203 dated January 3, 1983, the following Bureau of Land Management classifications for multiple use management are hereby terminated insofar as they affect the following described lands:

Mount Diablo Meridian

S 581 dated December 27, 1967.
33 FR 156 ((Jan 5, 1968) FR Doc. 68-143), as amended October 2, 1970 (35 FR 16058 (Oct. 13, 1970, FR Doc. 70-13708)].

T. 33 N., R. 6 W.,
Sec. 32, all.
T. 34 N., R. 6 W.,
Sec. 31, lots 5 to 16, inclusive.

The areas described aggregate 1,000.55 acres of public land in Shasta County.

S 582 dated December 27, 1967.
33 FR 156 ((Jan. 5, 1968) FR Doc. 68-143)
T. 30 N., R. 1 W.,
Sec. 12, NE¼, SE¼NW¼, and S½.

The area described contains 520 acres of public land in Shasta County.

S 1263 dated April 23, 1968.
33 FR 6870 ((May 1, 1968) FR Doc. 68-5193).
T. 25 N., R. 1 E.,
Sec. 14, NW¼NE¼ and NW¼.

The area described contains 200 acres of public land in Tehama County.

S 1353 dated June 12, 1968.
33 FR 9119 ((June 20, 1968) FR Doc. 68-7259).
All public lands in:
T. 16 N., R. 5 W.,
Secs. 3 to 10, inclusive, partly unsurveyed;
Secs. 16 and 17.
T. 17 N., R. 5 W.,
Secs. 5 to 8, inclusive;
Secs. 17 to 20, inclusive;
Secs. 28 to 33, inclusive.
T. 18 N., R. 5 W.,
Sec. 29, S½;
Sec. 30, S½;
Sec. 31, all;
Sec. 32, all.
T. 16 N., R. 6 W.,
Secs. 3, 4, 9, 10, 15, and 16.
T. 17 N., R. 6 W.,
Secs. 5, 6, 8, 17, 21, 24, 25, 28, and 33.
T. 18 N., R. 6 W.,
Sec. 25, S½;

The areas described aggregate approximately 28,553 acres of both public and nonpublic land in Colusa County.

S 2185 dated December 16, 1968.
33 FR 19201 ((Dec. 24, 1968) FR Doc. 68-15279).
All public lands in:
T. 32 N., R. 9 W.,
Sec. 6, lot 3, lots 15 and 16 (formerly S½ lot 4), lot 5, lot 19 (formerly lot 8), lots 20, 21, 22, 24 and SE¼NE¼SW¼ (formerly SW¼ lot 11 and lot 12);
Sec. 18, lot 6 (formerly lot 4);
Sec. 28, SW¼SW¼;
Sec. 30, E½ lot 2;
Sec. 32, lots 1, 2, 3, 16, 17, 18, SW¼NW¼NE¼NE¼, and NW¼SW¼NE¼NE¼ (formerly E½NE¼);
Sec. 33, lots 6 and 7 (formerly W½NW¼).
T. 33 N., R. 9 W.,
Sec. 20, all.
T. 33 N., R. 10 W.,
Sec. 18, lot 12;
Sec. 28, E½SW¼ and W½SE¼.
T. 34 N., R. 11 W.,
Sec. 25, NE¼NE¼;
Sec. 26, NE¼NW¼ and NW¼NE¼.

The areas described aggregate approximately 1,419 acres of public and nonpublic land in Trinity County.

The above-referenced classifications segregated the described public lands from appropriation under the agricultural land laws (43 U.S.C. Chs. 7 and 9; 25 U.S.C. 334) and from sale under section 2455 of the Revised Statutes (43 U.S.C. 1171), including approximately 3,125 acres from mining (affecting S 581, S 582, S 1263, and S 2185). The lands have been and remain open to mineral leasing.

At 10:00 a.m. on November 1, 1984, the segregative effect imposed by the classifications will terminate insofar as they affect the above described public lands.

Inquiries concerning the land should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, California State Office, Room E-2841, 2800 Cottage Way, Sacramento, California 95825.

Ron Hoffman,

Acting State Director.

[FR Doc. 84-25604 Filed 9-25-84; 8:45 am]

BILLING CODE 4310-40-M

[CA-15903]

Leasing of Public Lands in Imperial County, CA; Notice of Realty Action

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action, Proposed Leasing of Public Lands in Imperial County, California.

SUMMARY: This Notice of Realty Action involves a proposed long term lease of public lands administered by the BLM in Imperial County, California. This proposed lease is to Gold Fields Mining Corporation, 200 Union Boulevard, Suite 500, Lakewood, Colorado 80228. The lease, if approved, is intended to authorize construction and operation of leach pads for gold extraction and storage of waste piles in conjunction with their Mesquite mining operation.

The site proposed for leasing under the provisions of Section 302 of the Federal Land Policy and Management Act of 1976 (Pub. L. 94-579), and 43 CFR Part 2920, is about 5 miles east of the townsite of Glamis, California. The general legal description of the proposed site is as follows:

T. 13 S., R. 19 E., SBM
Sec. 7, S½
Sec. 8, SW¼
Sec. 17, W½
Sec. 18, E½
Sec. 19, E½

The above described lands total approximately 1445 acres. These lands are part of an area which was

segregated from appropriation under the General Mining Laws by BLM order R–702, dated September 28, 1967. This order was issued under the authority of the Classification and Multiple Use Act of September 19, 1964 (78 Stat. 986; 43 U.S.C. 1411–18).

A more detailed description of the lands will be provided at the time of lease issuance. These lands will be leased on a non-competitive basis to Gold Fields Mining Corporation, and other applications will not be accepted. The decision to authorize a non-Federal use of this land is made after evaluation of the application in accordance with BLM Manual Section 2063—Land Report. Rental will be based upon the appraised value in accordance with the provisions of 43 CFR 2920.8. In addition, Gold Fields Mining Corporation shall reimburse the United States for reasonable administrative and other costs incurred by the United States in processing this lease and for monitoring construction, operation, maintenance, and rehabilitation of the facilities authorized. The reimbursement of costs shall be in accordance with the provisions of 43 CFR 2920.6.

FOR FURTHER INFORMATION CONTACT: For information concerning this proposed lease contact Peter G.D. Ertman at the BLM El Centro Resource Area Office, 333 South Waterman Avenue, El Centro, California 92243 or call (619) 352–5842.

For a period of 30 days from the date of publication of this notice, interested parties may submit comments to the District Manager, Bureau of Land Management, 1695 Spruce Street, Riverside, California 92507.

Any adverse comments will be evaluated in the Land Report and the decision to issue a land use authorization affirmed, modified, or the proposed lease rejected.

Dated: September 19, 1984.

Gerald E. Hillier,

District Manager.

[FR Doc. 84–25606 Filed 9–26–84; 8:45 am]

BILLING CODE 4310–40–M

[INT Final MFP Amendment/EIS 83]

Roswell Resource Area; Final Management Framework Plan Amendment; Environmental Impact Statement

AGENCY: Bureau of Land Management (BLM), Roswell District, Interior.

ACTION: Notice of availability.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the BLM has prepared a Final Management Framework Plan Amendment/Environmental Impact Statement (MFPA/EIS) for the Roswell Resource Area in east central New Mexico. The MFPA/EIS proposes to implement a rangeland management program for the seven County Area (Quay, Guadalupe, Curry, DeBaca, Roosevelt, Lincoln, and most of Chaves County). The Final MFPA/EIS contains the Proposed Plan for the Roswell Resource Area. The Proposed Plan was drafted following public input on the draft document, using most of the preferred alternative with additional portions of the industry preferred alternative, the maximization alternative and the decreased livestock grazing alternative as they were presented in the draft MFPA/EIS published in April 1984. The Proposed Plan is BLM's proposed action. All parts of the Proposed Plan may be protested. The protest should include the following information: (1) The name, mailing address, telephone number, and interest of the person filing the protest; (2) a statement of the issue or issues being protested; (3) a statement of the part or parts being protested; (4) a copy of all documents addressing the issue or issues that were submitted during the planning process by the protesting party or an indication of the date the issue or issues were discussed for the records; and (5) a concise statement explaining why the BLM New Mexico State Director's decision is wrong. At the end of the 30-day protest period, the Proposed Plan, excluding any portions under protest, shall become final. Approval shall be withheld on any portion of the plan under protest until final action has been completed on such protest. The approval process and the final plan will be published with the Record of Decision in January 1985.

DATE: Protests on the Proposed Plan must be received no later than 30 days from this notice.

ADDRESS: Protests should be sent to the Director, Bureau of Land Management, 18th and C Streets NW, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Linda Rundell MFPA/EIS Team Leader, BLM Roswell District Office, P.O. Drawer 1857, Roswell, New Mexico 88201, (505) 624–1790 or FTS 476–9204.

SUPPLEMENTARY INFORMATION: Copies of the Final MFPA/EIS have been distributed to a mailing list of identified interested parties. A limited number of copies are available at the Roswell District Office, 317 N. Main, P.O. Drawer 1857, Roswell, New Mexico 88201. Public reading copies are available for review at the BLM State Office, Office of Public Affairs, Joseph M. Montoya Federal Building and U.S. Post Office, Santa Fe, New Mexico. A short Final was prepared for this statement; therefore, the Draft and the short Final constitute the Final MFPA/EIS.

Charles W. Luscher,

State Director.

[FR Doc. 84–25628 Filed 9–26–84; 8:45 am]

BILLING CODE 4310–84–M

[Oregon 22545B]

Oil and Gas Leases; Proposed Reinstatement, Oregon

Notice is hereby given that a petition for reinstatement of oil and gas lease OR 22545B for lands in Wheeler County, Oregon, was timely filed and was accompanied by all the required rentals and royalties accruing from May 1, 1984, the date of termination.

The lessee has agreed to new lease terms for rentals and royalties at rates of $5.00 and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee for the lease and has reimbursed the Bureau of Land Management for the estimated cost of this **Federal Register** notice.

Having met all the requirements for reinstatement of the lease as set out in Section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920, as amended (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective May 1, 1984, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Questions concerning this notice may be directed to David E. Sinclair of the Oregon State Office at (503) 231–6911.

Dated: September 17, 1984.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84–25609 Filed 9–26–84; 8:45 am]

BILLING CODE 4310–33–M

[Oregon 22545J]

Oil and Gas Leases; Proposed Reinstatement, Oregon

Notice is hereby given that a petition for reinstatement of oil and gas lease OR 22545J for lands in Wheeler County, Oregon, was timely filed and was accompanied by all the required rentals and royalties accuring from May 1, 1984, the date of termination.

The lessee has agreed to new lease terms for rentals and royalties at rates of $5.00 and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee for the lease and has reimbursed the Bureau of Land Management for the estimated cost of this Federal Register notice.

Having met all the requirements for reinstatement of the lease as set out in Section 31(d) and (e) of the Mineral Lands Leasing Act of 1920, as amended (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective May 1, 1984, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Questions concerning this notice may be directed to David E. Sinclair of the Oregon State Office at (503) 231–6911.

Dated: September 17, 1984.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84-25602 Filed 9-26-84; 8:45 am]

BILLING CODE 4310-33-M

[OR-36068 (WASH)]

Washington; Conveyance of Public Land; Order Providing for Opening of Land

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This action informs the public of the conveyance of 159.90 acres of public land out of Federal ownership. This action will also open 203.63 acres of reconveyed land to surface entry, mining, and mineral leasing.

EFFECTIVE DATE: November 6, 1984.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr. (Telephone 503–231–6905), Oregon State Office, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

SUPPLEMENTARY INFORMATION: 1. Notice is hereby given that in an exchange of lands made pursuant to Section 206 of the Act of October 21, 1976, 90 Stat. 2756, 43 U.S.C. 1716, a patent has been issued transferring 159.90 acres of land in Benton County, Washington from Federal to private ownership.

2. In the exchange, the following land has been reconveyed to the United States:

Willamette Meridian

T. 9 N., R. 26 E.,
Sec. 30 lots 1 and 2, N½NE¼, and NE¼NW¼

The area described contains 203.63 acres in Benton County, Washington.

3. At 8:30 a.m., on November 6, 1984, the land described in paragraph 2 will be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 8:30 a.m., on November 6, 1984, will be considered as simultaneously filed at that time. Those received therafter will be considered in the order of filing.

4. At 8:30 a.m., on November 6, 1984, the land described in paragraph 2 will be open to location under the United States mining laws. Appropriation of land under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Sec. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not interevene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

5. At 8:30 a.m., on November 6, 1984, the land described in paragraph 2 will be open to application and offers under the mineral leasing laws.

Dated: September 20, 1984.

Champ C. Vaughan, Jr.,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84-25607 Filed 9-26-84; 8:45 am]

BILLING CODE 4310-33-M

[OR-23995]

Oregon; Conveyance of Public Lands; Order Providing for Opening of Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This action informs the public of the conveyance of 460.16 acres of public lands out of Federal ownership. This action will also open 400.00 acres of reconveyed land to surface entry and 280.00 acres to mining and mineral leasing.

EFFECTIVE DATE: November 5, 1984.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr. (Telephone 503–231–6905), Oregon State Office, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

SUPPLEMENTARY INFORMATION: 1. Notice is hereby given that in an exchange of lands made pursuant to Section 206 of the Act of October 21, 1976, 90 Stat. 2756, 43 U.S.C. 1716, a patent has been issued transferring 400.00 acres of lands in Harney County, Oregon from Federal to private ownership. All minerals in the following described land have been reserved to the United States:

Willamette Meridian

T. 26 S., R. 31 E.,
Sec. 31, SE¼SE¼.

The area described contains 40.00 acres in Harney County, Oregon.

2. In the exchange, the following described lands have been reconveyed to the United States:

Willamette Meridian

T. 29 S., R. 29 3/4 E.,
Sec. 35, NE¼SW¼ and NW¼SE¼.
T. 27 S., R. 31 E.,
Sec. 5, S½SW¼ and SW¼SE¼;
Sec. 8, NE¼ and NE¼SE¼.

The areas described aggregate 400.00 acres in Harney County, Oregon.

3. The mineral estate in the following described land has been and continues to be in United States ownership. The land has been and continues to be open to operation of the United States minining laws and mineral leasing laws:

Willamette Meridian

T. 27 S., R. 31 E.,
Sec. 5, S½SW¼ and SW¼SE¼.
The area described contains 120.00 acres in Harney County, Oregon.

4. At 8:30 a.m., on November 5, 1984, the lands described in paragraph 2 will be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 8:30 a.m., on November 5, 1984, will be considered as simultaneoulsly filed at that time. Those received thereafter will be considered in the order of filing.

5. At 8:30 a.m., on November 5, 1984, the lands described in paragraph 2, except as provided in paragraph 3, will be open to location under the United States mining laws. Appropriation of land under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Sec. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

6. At 8:30 a.m., on November 5, 1984, the lands described in paragraph 2, except as provided in paragraph 3, will

be open to applications and offers under the mineral leasing laws.

Dated: September 19, 1984.

Champ C. Vaughan, Jr.,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84-25599 Filed 9-26-84; 8:45 am]

BILLING CODE 4310-33-M

Road Closure; Fergus County, MT

AGENCY: Bureau of Land Management, Lewistown District, Interior.

ACTION: Road Closure in Fergus County, Montana.

SUMMARY: Notice is hereby given that the Judith Peak Road is closed to motor vehicle travel in T. 17 N., R. 20 E., Sec. 30, PMM. The closure is required to protect the public from safety hazards created by the demolition of abandoned military facilities on Judith Peak and Red Mountain. The closure will remain in effect until demolition work is complete and safety hazards no longer exist. Revocation of the closure will be announced in the **Federal Register**.

Persons holding valid land use permits may be exempted from this closure by contacting BLM at the address below.

FOR FURTHER INFORMATION CONTACT: Roy Montgomery, Area Manager, Judith Resource Area, Airport Road, Lewistown, Montana 59457.

SUPPLEMENTARY INFORMATION: This closure is in accordance with and will be enforced under the provisions of 43 CFR 8364.01.

Dated: September 20, 1984.

David E. Little,

Acting District Manager.

[FR Doc. 84-25597 Filed 9-26-84; 8:45 am]

BILLING CODE 4310-84-M

[N-39383]

Nevada; Cancellation of Realty Action; Competitive Sale of Public Land in Nye County

The Notice of Realty Action—Competitive Sale—lands in Nye County, Nevada, published in the **Federal Register**, Volume 49, No. 131 on July 6, 1984, at page 27828 is hereby canceled in its entirely by the decision of the Ely District Manager.

The decision was based on comments to the Notice of Realty Action from local residents and the limited interest in the purchase of the land. Other factors considered were the truck stops at Lund and Crystal Springs, economic impact on a new business trying to get started, and the fact that a small store and campground exist in the area.

Merrill L. DeSpain,

District Manager.

[FR Doc. 84-25605 Filed 9-26-84; 8:45 am]

BILLING CODE 4310-HC-M

New Mexico; Filing of Plat of Survey

September 18, 1984.

The plat of survey described below was officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, effective at 10 a.m. on August 22, 1984.

New Mexico Principal Meridian

The survey of lots 50 through 57 and 59 in section 1, lots 69, 70, 72 and 73 in section 2, and lot 48 in section 11, T. 2 S., R. 1 W., NMPM, NM, under Group 768, was accepted August 24, 1984.

The survey of lots 34 through 40 in section 6, T. 4 S., R. 1 E., NMPM, NM, under Group 768, was accepted August 31, 1984.

The supplemental plat of section 24, T. 1 S., R. 1 W., NMPM, NM, was accepted August 31, 1984.

This survey was executed to meet certain administrative needs of this Bureau.

The plat will be placed in the open files of the New Mexico State Office, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501. Copies of the plat may be obtained from that office upon payment of $2.50 per sheet.

Gary S. Speight,

Chief, Branch of Cadastral Survey.

[FR Doc. 84-25606 Filed 9-26-84; 8:45 am]

BILLING CODE 4310-FB-M

[A-17382]

Arizona; Conveyance of Public Land; Reconveyed Land Opened to entry

September 19, 1984.

Notice is hereby given that pursuant to section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716, the following described lands were transferred out of Federal ownership in exchange for privately-owned land. The lands transferred into private ownership are described as follows:

Gila and Salt River Meridian, Arizona

T. 27 N., R. 20 W.,
Sec. 16, SW¼NE¼, NW¼, S½;
Sec. 20, N½, NW¼SW¼, S½SW¼, SE¼.

Comprising 1,120.00 acres in Mohave County.

Lands acquired by the United States are described as:

Gila and Salt River Meridian, Arizona

T. 28 N., R. 16 W.,
Sec. 1, lots 1 thru 4, incl., S½N½, S½;
Sec. 11, E½, NW¼, NE¼SW¼, S½SW¼;
Sec. 15, all;
Sec. 19, lots 1 to 4, incl., E½, E½W½;
Sec. 21, all.

Comprising 3,157.48 acres in Mohave County.

The exchange was made based on approximately equal values.

The purpose of this notice is to inform the public and interested State and local government officials of the transfer of public land and the acquisition of private land by the Federal Government.

The surface of the land acquired by the Federal Government in this exchange will be open to entry under the public land laws, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, at 10:00 a.m. on October 30, 1984. The mineral estate is owned by the Santa Fe Railroad Company and, therefore, will not be subject to entry under the United States Mining or Mineral Leasing Laws.

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84-25653 Filed 9-26-84; 8:45 am]

BILLING CODE 4310-32-M

[N-39040]

Nevada; Exchange of Public Lands; Realty Action; Correction

Exchange of public and private lands in Humboldt County, State of Nevada. The September 6, 1984, Notice of Realty Action pertaining to the above referenced land exchange is hereby corrected in respect to the following: Lands to be transferred from the United States will be subject to the following reservations, terms, and conditions:

1. A right-or-way for ditches and canals constructed by the Authority of the United States, Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

2. Those portions of the selected lands in the vicinity of Martin Creek and Charlie Young Canyon that have established roads and trails, specifically located:

Mount Diablo Base & Meridian

T. 44 N., R. 41 E.,
Sec. 33, E½SW¼, NE¼SE¼.
T. 43 N., R. 41 E.,
Sec. 9, W½NE¼.

An easement 80 feet in width along

the above mentioned road or trail for public utilities and to insure continued ingress and egress to the adjacent lands.

3. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove the minerals. A more detailed description of this reservation, which will be incorporated in the patent document, is available for review at this BLM office.

4. Upon publication of this notice, the public lands described therein are hereby segregated from entry under the public land laws, including location under the mining laws.

Dated: September 18, 1984.

Frank C. Shields,

District Manager.

[FR Doc. 84-25658 Filed 9-26-84; 8:45 am]

BILLING CODE 4310-HC-M

Susanville District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Wild Horse and Burro Open House.

SUMMARY: Notice is hereby given in accordance with the Pub. L. 94-579 (FLPMA) that a special meeting and Wild Horse and Burro Open House will be hosted by the Susanville District Advisory Council on October 17, 1984. The purpose of the event will be to explain and demonstrate to interested individuals all dimensions of the Wild Horse and Burro Program as managed by the Susanville District. The Wild Horse and Burro Open House will begin at 9:30 a.m. in the Susanville District Office, located at 705 Hall Street, Susanville, California 96130. The group in attendence will be given a presentation outlining the population status, how horses and burros are gathered from public lands, how the crews handle animals while they are being processed, how the adoption program is conducted and how the compliance and title transfer tasks are performed. In the afternoon, the group will travel to the Wild Horse and Burro Corrals in Litchfield California, near Susanville, for a demonstration of the facilities, the animals being cared for, and processing techniques used.

The Open House is open to the public. More information on the event can be obtained by contacting the Susanville District Office at 705 Hall Street, Susanville, California 96130, (916) 257-5381, or District Advisory Council Chairman, John Laxague, P.O. Box 10 Cedarville, California 96104.

C. Rex Cleary,

District Manager, Susanville.

[FR Doc. 84-25652 Filed 9-26-84; 8:45 am]

BILLING CODE 4310-40-M

Winnemucca District Advisory Council; Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Winnemucca District Advisory Council will be held on November 29, 1984. The meeting will be from 10:00 a.m. to 4:30 p.m. in the Conference Room of the Winnemucca District Office, 705 East Fourth Street, Winnemucca, Nevada 89445.

The agenda for the meeting will include: (1) Western Shoshone land claims—discussion; (2) 1984 fire season and rehabilitation—BLM update; (3) Livestock grazing issues (project maintenance responsibility, grazing fee study, cooperative management agreements)—BLM update; (4) Update of wild horse numbers established through CRMP (numbers gathered during FY84 and proposed gatherings for FY85); (5) Desert Peak proposed geothermal plant construction, recent mineral discoveries, and development plans; (6) Soldier Meadows desert dace proposed listing as endangered species.

The meeting is open to the public. Interested persons may make oral statements to the Council at 1:30 P.M. or file written statements for the Council's consideration. Anyone wishing to make an oral statement must notify the District Manager, 705 East Fourth Street, Winnemucca, Nevada 89445, by November 13, 1984. Depending on the number of persons wishing to make oral statements, a per-person time limit may be established by the District Manager.

Summary minutes of the Council meeting will be maintained in the District Office and available for public inspection (during regular business hours) within 30 days following the meeting.

Dated: September 21, 1984.

Frank C. Shields,

District Manager.

[FR Doc. 84-25657 Filed 9-26-84; 8:45 am]

BILLING CODE 4310-HC-M

[OR-19646 (WASH)]

Order Providing for Opening of Lands; Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This order will correct an error in the land description of the order providing for opening of lands published in the Federal Register on January 17, 1984.

EFFECTIVE DATE: September 20, 1984.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr. (Telephone 503-231-6905), Oregon State Office, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

SUPPLEMENTARY INFORMATION: In FR Doc. 84-1186 published at page 2027, in the issue of Tuesday, January 17, 1984, make the following correction: On page 2027, in Column 2, paragraph 4, under T. 25 N., R. 10 W., add sec. 32, SW¼NW¼.

Dated: September 20, 1984.

Champ C. Vaughan, Jr.,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84-25661 Filed 9-26-84; 8:45 am]

BILLING CODE 4310-84-M

[OR 20640 (WA); OR 35345 (WA)]

Realty Action; Sale of Public Land in Walla Walla and Franklin Counties, WA

The following described land has been identified as suitable for sale under section 203 of the Federal Land Policy and Management Act of 1976, (90 Stat. 2750; 43 U.S.C. 1713), at no less than the appraised fair market value: The lands have been reappraised to better reflect the current local market values, and are being reoffered for sale.

OR 20640 (WA)

WILLAMETTE MERIDIAN, WALLA WALLA COUNTY, WASHINGTON

Parcel No.	Legal description	Average	Value
1	T. 7 N., R. 31 E., Sec. 14, Lot 1.	25.69	$26,000
2	T. 7 N., R. 31 E., Sec. 14, Lot 6.	28.02	$28,000

OR 35345 (WA)

WILLAMETTE MERIDIAN, FRANKLIN COUNTY, WASHINGTON

Parcel No.	Legal Description	Average	Value
1	T. 9 N., R. 31 E., Sec. 20, NE¼ SW¼, N½SE¼.	120.00	$84,000

Except for the provisions of section 203 of the Federal Land Policy and Management Act of 1976, (90 stat. 2750; 43 U.S.C. 1713), the above described lands are hereby segregated from

appropriation under the public land laws, including the mining laws.

The sale will be held on December 5, 1984, at the Bureau of Land Management, Spokane District Office, East 4217 Main Avenue, Spokane, Washington 99202.

These isolated parcels are difficult and uneconomic to manage as part of the public lands and are not suitable for management by another federal agency. There are no significant resource values which will be affected by this disposal. Legal access is available to these parcels by county road. The sale is consistent with the BLM's planning for the land involved and the public interest would be served by offering this land for sale.

The patent issued will be subject to:

1. A reservation to the United States for ditches and canals (43 U.S.C. 945).

2. A reservation to the United States for all mineral rights (43 U.S.C. 1719).

3. All other easements, encumbrances, reservation, and restrictions of record.

Parcel No. 1 (OR 35345 WA), will also be subject to (1) the powerline right-of-way OR 34587 (WA) granted to Franklin County PUD No. 2.; and (2) the oil and gas lease OR 25833 (WA) issued to Tyrex Oil Company.

Patent to Parcel No. 2 (Lot 6, OR 20640 WA), will be issued subject to: (1) Transmission line right-of-way OR 12602 (WA) to Pacific Power and Light, (2) road right-of-way OR 14682 (WA) to Washington State Department of Natural Resources, and (3) pipeline right-of-way OR 13203 (WA) to Wallula Water District No. 1.

Parcels will be offered for sale by sealed bids only, using competitive bidding procedures (43 CFR 2711.3–1). No bid will be accepted for less than the appraised value, and bids for a parcel must include all the land in the parcel. Federal law requires that individuals be 18 years of age or over and U.S. citizens, and corporations be subject to the laws of any State or of the United States.

Bids must be made by the principal or his duly qualified agent. Bids delivered or sent by mail must be received at the BLM, at the above address, before 10:00 a.m., December 5, 1984, to be considered. Each sealed bid must be accompanied by a deposit in the form of a postal money order, bank draft, or cashier's check, made payable to the Bureau of Land Management for 20 percent of the amount of each bid. The sealed envelope must be marked in the lower left-hand corner as follows: "Public Sale Bid Parcel No. ——, Serial No. OR ———— (WA). Sale held December 5, 1984."

The highest qualifying sealed bid on each parcel will be declared by the Authorized Officer, and will be the sale price for that parcel. If two or more sealed bids of the same amount are received for the same parcel, the tied high bidders will be immediately notified and given 20 days to submit a new bid. The successful bidder will be required to pay the remainder of the sale price within 180 days. Failure to submit the full sale price within 180 days shall cancel sale of the specific parcel and the bidder's deposit shall be forfeited. All unsuccessful bids will be returned.

If any of the parcels are not sold on December 5, 1984, they will remain available for sale on a continuing basis until removed from market. Bids will be solicited on these parcels at the BLM, Spokane District Office during regular business hours. All bids received will be opened the first Wednesday of each month, beginning on January 2, 1985. To be considered, bids must be received by 10:00 a.m. on the day of the bid opening.

Detailed information concerning the sale, including the planning documents, environmental assessment, land report, and fair market appraisal, is available for review at the BLM, at the above address.

For a period of 45 days after the date of issuance of this notice, the public and interested parties may submit comments to the Spokane District Manager, at the above address. Any adverse comments received as a result of the Notice of Realty Action or notificaton to the Congressional committees and delegations pursuant to P.L. 97–394 will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become a final determination of the Department of the Interior. Interested parties should continue to check with the District Office to keep themselves advised of changes.

Date of Issue: September 17, 1984.

Joseph K. Buesing,

District Manager.

[FR Doc. 25851 Filed 9-26-84; 8:45 am]

BILLING CODE 4310-33-M

Wyoming; Filing of Plats of Survey

AGENCY: Bureau of Land Management, Interior.

ACTION: Filing of Plats of Survey.

SUMMARY: The plats of survey of the following described lands were officially filed in the Wyoming State Office, Bureau of Land Management, Cheyenne, Wyoming, effective 10:00 A.M., September 19, 1984.

Sixth Principal Meridian

T. 14 N., R. 83 W.

The plat, in two sheets, representing the dependent resurvey of a portion of the south and north boundaries, a portion of the subdivisional lines, a portion of Mineral Survey No. 555, and the subdivision of certain sections, T. 14 N., R. 83 W., Sixth Principal Meridian, Wyoming, Group No. 408, was accepted September 6, 1984.

T. 20 N., R. 89 W.

The plat representing the dependent resurvey of a portion of the Fifth Standard Parallel North, through R. 88 W., a portion of the Eleventh Guide Meridian West, through T. 20 N., between Rs. 88 and 89 W., portions of the south and west boundaries, and the subdivisional lines, T. 20 N., R. 89 W., Sixth Principal Meridian, Wyoming, Group No. 411, was accepted September 6, 1984.

T. 21 N., R. 89 W.

The plat representing the dependent resurvey of the Fifth Standard Parallel North, through R. 89 W., Portions of the west and north boundaries, and the subdivisional lines, T. 21 N., R. 89 W., Sixth Principal Meridian, Wyoming, Group No. 411, was accepted September 6, 1984.

T. 19 N., R. 90 W..

The plat representing the dependent resurvey of the south boundary, a portion of the east boundary, and the subdivisional lines, T. 19 N., R. 90 W., Sixth Principal Meridian, Wyoming, Group No. 411, was accepted September 6, 1984.

T. 20N., R. 90 W.

The plat representing the dependent resurvey of the Fifth Standard Parallel North, through R. 90 W., portions of the south and west boundaries, and the subdivisional lines, T. 20 N., R. 90 W., Sixth Principal Meridian, Wyoming, Group No. 411, was accepted September 6, 1984.

T. 19N., R. 91 W.

The plat representing the dependent resurvey of portions of the south and north boundaries, the east boundary, and the subdivisional lines, T. 19 N., R. 91 W., 91 Sixth Principal Meridian, Wyoming, Group No. 411, was accepted September 6, 1984.

These surveys were executed to meet certain administrative needs of this Bureau.

ADDRESS: All inquiries concerning these lands should be sent to the Wyoming State Office, Bureau of Land Management, P.O. Box 1828, 2515

Warren Avenue, Cheyenne, Wyoming 82003.

Dated: September 20, 1984.

Richard L. Oakes,

Chief Cadastral Surveyor for Wyoming.

[FR Doc. 84-25656 Filed 9-26-84; 8:45 am]

BILLING CODE 4310-22-M

Minerals Management Service

Development Operations Coordination Document; CNG Producing Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that CNG Producing Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 5391, Block 299, East Cameron Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Cameron, Louisiana.

DATE: The subject DOCD was deemed submitted on September 21, 1984. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the DOCD from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, *Attention OCS Plans*, Post Office Box 44396, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Mr. Michael J. Tolbert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838–0875.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to Sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to Section 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: September 20, 1984.

John L. Rankin,

Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 84-25655 Filed 9-26-84; 8:45 am]

BILLING CODE 4310-MR-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 2613 (Sub-1)]

Control of Central Pacific by Southern Pacific

AGENCY: Interstate Commerce Commission.

ACTION: Proceeding reopened and modified procedure scheduled.

SUMMARY: Pursuant to a petition filed June 4, 1984, by Southern Pacific Transportation Company (SP) this proceeding is reopened for the purpose of reconsidering the removal of conditions imposed in connection with the Commission's approval of the acquisition of control by SP's predecessor, the Southern Pacific Company, of the Central Pacific Railway Company in *Control of Central Pacific by Southern Pacific*, 76 I.C.C. 508 (1923), *modified*, 328 I.C.C. 345 (1966). The proceeding has been given a new sub-number to distinguish it from the old proceeding.

DATES: Notices of intent to participate are due on October 12, 1984. Service of the petition on all parties filling notices of intent to participate shall be effected by October 17, 1984. Statements in support of the removal of the conditions are due on November 19, 1984. Replies are due on December 19, 1984. Rebuttal is due on January 8, 1985.

A copy of the December, 1982, agreement between SP and the Denver and Rio Grande Western Railroad Company establishing an interline relationship between Ogden, UT, and St. Louis, MO, shall be filed with the Commission by October 9, 1984 and served on all parties who request a copy in their notice of intent by October 17, 1984.

ADDRESSES: Send an original plus 1 copy of each notice of intent to participate and an original plus 10 copies of all other pleadings referring to Finance Docket No. 2613 (Sub-1) to: (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

Send one copy of each notice of intent to participate and any supporting or reply statement to: Michael A. Smith, Southern Pacific Transportation Company, Southern Pacific Building, One Market Plaza, San Francisco, CA 94105.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision in Finance Docket No. 2613 (Sub-1). To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (DC Metropolitan area) or toll free (800) 424–5403.

Decided: September 20, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett, Gradison, Simmons, Lamboley, and Strenio. Commissioners Lamboley and Strenio did not participate.

James H. Bayne,

Secretary.

[FR Doc. 84-25674 Filed 9-26-84; 8:45 a.m.]

BILLING CODE 7035-01-M

[Docket No. AB-43 (Sub-117X)]

Illinois Central Gulf Railroad Company—Abandonment and Discontinuance Exemption—In Louisville, KY

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of prior approval under 49 U.S.C. 10903 *et seq.*, the abandonment by Illinois Central Gulf Railroad Company of a segment of its own line from milepost 0.24 to milepost 0.37, and the discontinuance of its service

(through trackage rights) over Consolidated Rail Corporation's line from milepost 0.37 to milepost 1.49, a total of 1.25 miles, in Louisville, KY, subject to standard labor protection.

DATES: This exemption will be effective on October 29, 1984. Petitions for reconsideration must be filed by October 17, 1984. Petitions for stay must be filed by October 9, 1984.

ADDRESSES: Send pleadings referring to Docket No. AB-43 (Sub-117X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423
(2) Petitioner's representative: Richard M. Kamowski, 233 North Michigan Avenue, Chicago, Illinois 60601.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

Decided: September 20, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett, Gradison, Simmons, Lamboley, and Strenio. Commissioners Lamboley and Strenio did not participate.

James H. Bayne,

Secretary.

[FR Doc. 84-25675 Filed 9-26-84; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 388 (Sub-25)]

Intrastate Rail Rate Authority—Ohio

AGENCY: Interstate Commerce Commission.

ACTION: Assumption of Commission Jurisdiction over Ohio Intrastate Rail Transportation.

SUMMARY: Pursuant to a request from the Ohio Public Utilities Commission (OPUC), the Commission will assert jurisdiction over intrastate freight rates in Ohio and vacate the provisional certification of OPUC.

EFFECTIVE DATE: October 29, 1984.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: In Ex Parte No. 388 (Sub-No. 25), *Intrastate Rail Rate Authority-Ohio* (not printed), served October 21, 1983, the Commission extended the provisional certification, pursuant to 49 U.S.C. 11501, of Ohio in order to allow the State time to make necessary statutory amendments, in conformance with Federal law, as set forth in that decision.

In a letter filed July 23, 1984, Ohio states that it will not seek final certification to regulate intrastate freight rates. Ohio also has expressed its desire that this Commission exercise jurisdiction over Ohio's intrastate railroad freight rates.

We are assuming jurisdiction over Ohio intrastate rail rates. At the same time, Ohio's provisional certification to regulate intrastate rates is terminated. Rail carriers in Ohio shall comply with Commission regulations including the filing of intrastate tariffs with the Commission. Parties that wish to continue litigating cases that were pending before OPUC shall so advise Deputy Director Louis E. Gitomer, Rail Section, Office of Proceedings. In the case of any remaining pending State section 229 cases, parties shall consult immediately with Chief Administrative Law Judge David Allard. In this way, we will develop, with the parties, appropriate steps in each case to transfer the records and establish procedural schedules.

This decision does not significantly affect either the quality of the human environment or conservation of energy resources.

Authority: 49 U.S.C. 11501.

Decided: September 20, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett, Gradison, Simmons, Lamboley, and Strenio. Commissioners Lamboley and Strenio did not participate.

James H. Bayne,

Secretary.

[FR Doc. 84-25676 Filed 9-26-84; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Proposed Consent Decree in an Action Under the Clean Water Act; Hilo Coast Processing Co.

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on August 28, 1984, a proposed consent decree in *United States* v. *Hilo Coast Processing Company* was lodged with the United States District Court for the District of Hawaii. The decree requires Hilo Coast to take remedial actions so as to come into immediate compliance with its NPDES permit, to pay a civil penalty of $35,000 for past violations, to pay stipulated penalties for future violations and to file monthly reports with the Environmental Protection Agency until the Decree terminates.

The Department of Justice will receive for thirty (30) days from the date of publication of this notice, written comments relating to the proposed decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and refer to *United States* v. *Hilo Coast Processing Company*, D.J. 90-5-1-1-2070.

The proposed consent decree may be examined at the office of the United States Attorney, Room C-242, 300 Ala Moana Blvd. Honolulu, Hawaii, at the Region IX office of the Environmental Protection Agency, Office of Regional Counsel, 215 Fremont Street, San Francisco, California and at the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice (Room 1515), Ninth and Pennsylvania Avenues, NW., Washington, D.C. 20530. A copy of the proposed consent decree can be obtained in person or by mail from the Environmental Enforcement Section at the above address.

F. Henry Habicht, II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 84-25617 Filed 9-26-84; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Biophysics; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, The National Science Foundation announces the following meeting:

Name: Advisory Panel for Biophysics.

Date and time: Monday and Tuesday, October 15 and 16, 1984 from 8:30 am to 5:00 pm.

Place: Room 338, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Arthur Kowalsky, Program Director, Biophysics Program, Room 329, Telephone: 202/357-7777.

Purpose of advisory panel: To provide advice and recommendations concerning support for research instrumentation.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and

(6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Dated: September 24, 1984.

Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 84-25724 Filed 9-26-84; 8:45 am]

BILLING CODE 7555-01-M

DOE/NSF Nuclear Science Advisory Committee; Open Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: DOE/NSF Nuclear Science Advisory Committee, Subcommittee on Computers and Computing.

Date, time and place: October 15, 1984, 9:00 am–5:00 pm, October 16, 1984, 9:00 am–5:00 pm, Venus Room, Continuing Education Center, University of Houston, Houston, Texas 77074.

Type of meeting: Open.

Contract person: Dr. Harvey B. Willard, Head, Nuclear Science Section, National Science Foundation, Washington, D.C. 20550, 202/357–7993.

Summary minutes: May be obtained from: Mrs. Shirley Coulart, Physics Division, National Science Foundation, Washington, D.C. 20550.

Purpose of subcommittee: Examination of the needs of the United States basic nuclear research program for computers and computing over the next decade.

Agenda: Oral presentations; committee discussions and workshop.

Dated: September 24, 1984.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 84-25725 Filed 9-26-84; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee on Emergency Core Cooling Systems; Meeting

The ACRS Subcommittee on Emergency Core Cooling Systems will hold a meeting on October 16 and 17, 1984, in Room 1046, 1717 H Street, NW, Washington, DC.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Tuesday, October 16, 1984—1:00 p.m. until the conclusion of business

Wednesday, October 17, 1984—8:30 a.m. until the conclusion of business

The Subcommittee will continue its review of the joint NRC/Babcock and Wilcox Owners Group/B&W/EPRI integral test program.

Oral statements may be presented by members of the public with concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their respective consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Paul Boehnert (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., EDT. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: September 21, 1984.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 84-25730 Filed 9-26-84; 8:45 am]

BILLING CODE 7590-01-M

Advisory Panel for the Decontamination of Three Mile Island, Unit 2

Notice is hereby given pursuant to the Federal Advisory Committee Act that the Advisory Panel for the Decontamination of Three Mile Island Unit 2 (TMI–2) will be meeting on October 11, 1984, from 7:00 p.m. to 10:00 p.m. at the Holiday Inn, 23 South Second Street, Harrisburg Pennsylvania 17101. The meeting will be open to the public.

At this meeting the Panel will report on any issues relative to the TMI–2 cleanup effort contained in specific TMI–1 restart NRC Commission Meeting transcripts. The Panel will receive a briefing by the licensee on removal of the reactor pressure vessel plenum and other activities to be accomplished prior to commencement of fuel removal. The Panel will also discuss the appropriateness of receiving the results of specific field radiation measurements taken by State and Federal officials at the request of the public.

Further information on the meeting may be obtained from Dr. Michael T. Masnik, Three Mile Island Program Office, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone 301/492–7466.

Dated September 24, 1984.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 84-25729 Filed 9-26-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50–348 and 50–364]

Alabama Power Co., Joseph M. Farley Nuclear Plant; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of Appendix R to 10 CFR 50.48 to Alabama Power Company (the licensee), for the Joseph M. Farley Nuclear Plant, Unit Nos. 1 and 2, located at the licensee's site near the city of Dothan, Alabama.

Environmental Assessment

Identification of proposed action: The exemption would extend the deadlines for installation of certain portions of the alternate shutdown systems for Unit 1 and 2 from the end of the 1985 refueling outages to the end of the 1986 refueling outages. The proposed exemption is in accordance with the licensee's request for exemptions dated June 18, 1982, supplemented by letters dated July 1 and November 3, 1982, September 28, 1983, and May 15, July 27, and August 6, 1984.

The need for the proposed action: 10 CFR 50.48(c)(4) requires a licensee to complete installation of alternative shutdown capability before startup after the earliest of three kinds of outages commencing six months or more after issuance of the NRC Fire Protection Safety Evaluation Report dated August

26, 1983. The refueling outage of April 1985 is the earliest such outage for Unit 1 and the outage of January 1985 is the earliest such outage for Unit 2. 10 CFR 50.48(c)(4) requires completion of the alternative shutdown capability before startup from these refueling outages.

The licensee has indicated that the installation and verification of the alternative shutdown system cannot be completed on the schedule stated in 10 CFR 50.48(c)(4) for the following reasons:

(1) Final design and procurement activities were initiated upon receipt of NRC approval of the alternate shutdown system design on August 26, 1983.

(2) Procurement lead times for some needed equipment (e.g. signal converter cards) is about 48 weeks.

(3) Installation work inside containment requiring plant shutdown would take about four weeks, barring field problems, out of the five weeks outage schedule. Thus, two outages are needed for system completion and verification.

Taking all of these factors into consideration the licensee has committed to complete installation by the end of the 1986 refueling outages.

Environmental impacts of the proposed action: The proposed alternative shutdown capability is to provide the controls to allow the reactor to be safely shut down and maintained shutdown in the unlikely event that fire damages certain cables in the cable spreading room (an area outside of the alternative shutdown panel). The environmental impact of delaying completion of this capability is the slightly increased risk of the radiological releases which could be associated with such an event during the next year (approximately one year) of power operation for each plant. To minimize this risk, the licensee will institute interim procedures for alternate shutdown as compensatory measures until installation is complete. This incremental risk is quite low and the releases if they did occur would be bounded by releases which have been previously determined as possible consequences for other accidents at the Farley Nuclear Plant. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed exemption.

The proposed exemption involves only systems located entirely within the restricted area as defined in 10 CFR Part 20. Also, the proposed exemption does not affect non-radiological plant effluents or other non-radiological environmental impacts. Therefore, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed exemption.

The principal alternative to the proposed action would be to deny the exemption and not allow reactor startup after the refueling outages stated above until installation of the alternative shutdown capability was complete. Such an action would negate the insignificant incremental risk described above. However, such an action would result in the loss of a significant amount of generated electricity for each unit, a large adverse impact.

Alternative use of resources: This action involves no use of resources not previously considered in the Final Environmental Statement for the Joseph M. Farley Nuclear Plant Unit Nos. 1 and 2.

Agencies and persons consulted: The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption.

Based upon the environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the request for exemption dated June 18, 1982, supplemented July 1, and November 3, 1982, September 28, 1983, and May 15, July 27 and August 6, 1984, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36301.

Dated at Bethesda, Maryland, this 18th day of September 1984.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 84-25727 Filed 9-26-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-250 and 50-251]

Florida Power and Light Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of Appendix E to 10 CFR Part 50 to Florida Power and Light Company (the licensee), for the Turkey Point Plant, Units Nos. 3 and 4, located in Dade County, Florida.

Environmental Assessment

Identification of proposed action: The exemption would permit the extension of the time for performance of the emergency preparedness exercise at the Turkey Point Plant, Units 3 and 4, from June to November for the 1984 exercise and permit all subsequent annual exercises to be performed in November of each year. The proposed action is responsive to the licensee's request for exemption dated July 26, 1984.

The need for the proposed action: 10 CFR 50.54(q) requires a licensee authorized to operate a nuclear power reactor to follow and maintain in effect emergency plans which meet the standards of § 50.47(b) and the requirements of Appendix E to 10 CFR Part 50. Section IV.F of Appendix E requires each licensee to conduct emergency preparedness exercises at each site at least annually.

Exercises for the Turkey Point Plant were conducted in the fall time period during the years of 1975 through 1981. Under the upgraded emergency planning regulation, the first full scale exercise of State and local plans for the Turkey Point Plant was in March 1982 and a full scale local exercise with participation of all major State agencies was conducted in June 1983. The licensee has requested a return to a fall time of year for the annual exercises to avoid conflict with the summer hurricane season which impact the emergency organizations of Dade and Monroe Counties which participate in the annual Turkey Point Plant exercises. In addition, the State of Florida emergency preparedness program will benefit by a more even distribution of its exercise related work, especially this year due to the impact of the Federal Field Exercise conducted in March. Since a delay in the next full scale exercise until November 1984 would constitute 17 months between exercises, an exemption from the annual exercises requirement of 10 CFR Part 50, Appendix E is needed.

Environmental impacts of the proposed action: The proposed exemption affects only scheduling of the annual emergency preparedness exercise and does not affect the risk of facility accidents. Thus, post-accident radiological releases will not differ from those determined previously, and the proposed relief does not otherwise

affect facility radiological effluents, or any significant occupational exposures. Likewise, the relief does not affect facility nonradiological effluents and has no other environmental impact. Therefore, the Commission concludes there are no measurable radiological or nonradiological environmental impacts associated with the proposed exemption.

Since the Commission has concluded there is no measurable environmental impact associated with the proposed exemption, any alternatives either will have no environmental impact or will have a greater environmental impact. The principal alternative to the exemption would be to require literal compliance with Section IV.F of Appendix E to 10 CFR Part 50. Such an action would not enhance the protection of the environment and could result in unnecessary conflicts with the summer hurricane season in Florida and other exercise related work the local and State participating agencies are involved in.

Alternative use of resources: This action involves no use of resources not previously considered in the Final Environmental Statement (operating licenses) for the Turkey Point Plant, Unit Nos. 3 and 4.

Agencies and persons consulted: The Commission's staff reviewed the licensee's request, the FEMA Final Report of the 1983 exercise at the Turkey Point Plant and a letter from the Federal Emergency Management Agency (FEMA) to the NRC dated February 15, 1984, which indicates that the State and local plans and preparedness for the Turkey Point Plant are adequate to protect the health and safety of the public. The NRC staff did not consult other agencies or persons.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment. The Commission has, therefore, determined not to prepare an environmental impact statement for the proposed exemption.

For further details with respect to this action, see the application for exemption dated July 26, 1984, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

Dated at Bethesda, Maryland, this 20th day of September 1984.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 84-25720 Filed 9-26-84; 8:45 am]

BILLING CODE 7590-01-M

Revised NRC Form 3, Notice to Employees; Standards for Protection Against Radiation (Part 20); Notices, Instructions and Reports to Workers (Part 19); Employee Protection; Availability

The Nuclear Regulatory Commission (NRC) has published a revised NRC Form 3, "Notice to Employees." 10 CFR 19.11(c) requires posting of NRC Form 3 by employers who are NRC licensees, permittees, and applicants. The Notice describes the responsibilities of the employer, employee, the NRC, and the Department of Labor (DOL) regarding matters of public health and safety and employee discrimination. The Notice identifies when, where, and who to contact in the NRC and DOL regarding safety concerns and employee discrimination.

The revised NRC Form 3 is written in the form of simple questions and answers which paraphrase relevant statutes and regulations. The purpose of this change in format is to make the form more readable and understandable. The various protections and prohibitions are described in a straightforward, general way. The NRC believes the revised Form 3 will help employees to clearly understand their responsibilities and the steps they may take to bring safety concerns and employee discrimination complaints to the attention of NRC and DOL.

Free copies of the revised Form 3 may be requested by members of the public, NRC licensees, permittees and applicants, their contractors or subcontractors, and vendors, by writing the Publication Services Section, Document Management Branch, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Dated at Washington, DC, this 14th day of September, 1984.

For the Nuclear Regulatory Commission.

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

[FR Doc. 84-25723 Filed 9-26-84; 8:45 am]

BILLING CODE 7590-01-M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s):

(1) Collection title: Medical Reports
(2) Form(s) submitted: G-3EMP, G-250, RL-11b and RL-11d
(3) Type of request: Revision of a Currently Approved Collection
(4) Frequency of use: On occasion
(5) Respondents: State or Local Governments, Businesses or Other For-Profit, Non-Profit Institutions, Small Businesses or Organizations
(6) Annual responses: 28,050
(7) Annual reporting hours: 11,050
(8) Collection description: The Railroad Retirement Act provides disability annuities for qualified railroad employees whose physical or mental condition renders them incapable of working in their regular occupation (occupational disability) or any occupation (total disability). The medical reports will obtain information needed for determining the nature and severity of the impairment.

Additional Information or Comments

Copies of the proposed forms and supporting documents may be obtained from Pauline Lohens, the agency clearance officer (312-751-4692). Comments regarding the information collection should be addressed to Pauline Lohens, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Robert Fishman (202-395-6880), Office of Management and Budget, Room 3201, New Executive Office Building, Washington, D.C. 20503.

Paulina Lohens

Director of Information and Data Management.

[FR Doc. 84-25619 Filed 9-26-84; 8:45 am]

BILLING CODE 7905-01-M

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Board has submitted the following proposal(s) for

the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) Collection title: Statement of authority of Act for employee
(2) Form(s) submitted: SI–10
(3) Type of request: Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection
(4) Frequency of use: On occasion
(5) Respondents: Individuals or households, Businesses or other for-profit
(6) Annual response: 500
(7) Annual reporting hours: 42
(8) Collection description: Under 20 CFR 335.102, the RRB accepts claims for sickness benefits executed by other than the sick or injured employee provided the RRB has the information needed to satisfy itself that the delegation should be made.

Additional Information or Comments

Copies of the proposed forms and supporting documents may be obtained from Pauline Lohens, the agency clearance officer (312–751–4692). Comments regarding the information collection should be addressed to Pauline Lohens, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Robert Fishman (202–395–6880), Office of Management and Budget, Room 3201, New Executive Office Building, Washington, D.C. 20503

Pauline Lohens,

Director of Information and Data Management.

[FR Doc. 84-25618 Filed 9-26-84; 8:45 am]
BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review of Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272–2142.

Upon Written Request Copy Available From: Securities and Exchange Commission, Office of Consumer Affairs, Washington, D.C. 20549.

Extension of Approval
Form 3
No. 270–125

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), the Securities and Exchange Commission has submitted for extension of clearance Form 3. Form 3 is an initial statement of beneficial ownership of securities by officers, directors and ten percent shareholders of certain companies subject to the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935 and the Investment Company Act of 1940. A copy of the submission is available for inspection and copying at the Commission's Public Reference Room, 450 5th St. N.W., Washington, D.C. 20549. Interested parties should refer to File No. 270–125.

Submit comments to OMB Desk Officer: Ms. Katie Lewin, (202) 395–7231, Office of Information and Regulatory Affairs, Room 3235 NEOB, Washington, D.C. 20503.

Dated: September 21, 1984.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-25710 Filed 9-26-84; 8:45 am]
BILLING CODE 8010-01-M

Forms Under Review of Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272–2142.

Upon Written Request Copy Available From: Securities and Exchange Commission, Office of Consumer Affairs, Washington, D.C. 20549.

Extension of Approval
Regulation F and Form 1–F
No. 270–117

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), the Securities and Exchange Commission has submitted for extension of clearance Regulation F under the Securities Act of 1933 (17 CFR 230.651 through 17 CFR 230.656) and Form 1–F. Regulation F and Form 1–F provide a basis for the exemption from registration under the 1933 Act for assessments and for securities sold at delinquent assessment sales. A copy of the submission is available for inspection and copying at the Commission's Public Reference Room, 450 5th St. N.W., Washington, D.C. 20549. Interested parties should refer to File No. 270–117.

Submit comments to OMB Desk Officer: Ms. Katie Lewin, (202) 395–7231, Office of Information and Regulatory Affairs, Room 3235 NEOB, Washington, D.C. 20503.

Dated: September 21, 1984.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-25719 Filed 9-26-84; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 34-21342; File No. SR-AMEX-84-28]

Self-Regulatory Organizations; Proposed Rule Change by American Stock Exchange, Inc. Relating to AUTOAMOS

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on August 29, 1984, the American Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The American Stock Exchange, Inc., has determined to establish as a permanent floor-wide enhancement to the Amex Options Switching (AMOS) system the AUTOAMOS program, which enables specialists to enter AMOS execution data using touch-screen terminals.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

(1) *Purpose.* In November 1983, the Exchange implemented a pilot program called AUTOAMOS, which enables participating specialists to enter Amex Options Switching (AMOS) system execution data using touch-screen terminals. The pilot program provides more efficient and accurate execution and reporting of small routine orders, thus improving AMOS processing and turnaround time. AUTOAMOS virtually eliminates price errors and significantly reduces other errors compared to the

existing method of card reporting. Given the success both of the pilot and its sister program for equities, AUTOPER, the Exchange has determined to establish AUTOAMOS as a permanent floor-wide enhancement to the AMOS system.

Under AUTOAMOS, eligible orders are automatically routed to the specialist for display on a touch-screen. The specialist may either execute the trade as principal or agent using the touch-screen, or cause the order to be removed from the screen and printed if the order cannot be executed immediately. The specialist may also "stop" the order [1] using the touch-screen.

A total of five touch-screens are being used in the pilot, with order size limited to up to five contracts (the present AMOS parameter) in ten classes of options. The proposed floor-wide expansion will include market orders and marketable limit orders of up to five contracts in all classes of options and provide specialists with the ability to capture contra broker identification numbers (*i.e.*, the badge numbers of members representing the opposite sides of transactions). These numbers are also captured by Exchange reporters as part of the trade-reporting process, and each side of a trade reports its "executing broker" to the Exchange through the trade comparison process.

(2) *Basis.* The expansion of AUTOAMOS is consistent with section 6(b) of the Act in general and furthers the objectives of section 6(b)(5) in particular in that it is designed to facilitate transactions in securities and perfect the mechanism of a free and open market. Further, the expanded us of touch-screen technology will afford quicker and more accurate execution and reporting of small routine orders and will thus result in more efficient and effective market operations, consistent with section 11A(a)(1)(B) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rules changes will create no burden on competition and in fact will enhance the Exchange's competitive status by providing an efficient, fast and accurate order-handling system.

[1] Pursuant to Exchange Rule 109, a specialist "stops" an order when he guarantees a specific price or better price at which an order will be executed.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 5th Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

All submissions should refer to the file number in the caption above and should be submitted by October 18, 1984.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: September 21, 1984.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-25721 Filed 9-26-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21340; File No. SR-PSE-84-17]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by Pacific Stock Exchange

September 21, 1984.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on September 13, 1984, the Pacific Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

Presently Rule I, section 2(a) of PSE's rules provides that the Exchange will not be open for business on nine days, the majority of which are national holidays. One of these nine days is referred to as a General Election Day and has by custom and usage been defined as an election day on which the electorate is asked to vote for the Office of President of the United States. The proposed amendment would allow PSE's Board of Governors the discretion to decide whether the Exchange will be open for business on Presidential Election Days. PSE cites section 6 of the Act as the statutory basis for the proposed rule change.

The foregoing change has become effective, pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register.** Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR-PSE-84-17.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission

and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 522, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments will also be available at the principal office of the CBOE.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-25722 Filed 9-26-84; 8:45 am]

BILLING CODE 8010-01-M

[File No. 81-702]

Midland American Capital Corp., Midland Bank plc; Application and Opportunity for Hearing

September 24, 1984.

Notice is hereby given that Midland American Capital Corporation ("MACC") and Midland Bank plc (the "Bank") have filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934 (the "1934 Act") for an order granting MACC an exemption from the periodic reporting requirements of sections 13 and 15(d) of the 1934 Act.

The Applicants state in part that:

(1) MACC has issued and intends to issue in the future debt securities (the "Securities") in the United States, the proceeds of which will be advanced to the Bank. MACC is a wholly-owned subsidiary of the Bank.

(2) The Securities to be issued by MACC will be unconditionally guaranteed as to payment of interest and principal by the Bank on a subordinated basis.

(3) The Securities have been and will be sold based upon the business and financial condition of the Bank, and subsequent investment decisions concerning such securities can reasonably be expected to be based upon such information which will be contained in the Bank's periodic reports required under the 1934 Act.

The Applicants contend that the granting of the exemption would not be inconsistent with the public interest or the protection of investors.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 450 5th Street, NW., Washington, D.C. 20549.

Notice is further given that any interested person no later than October 19, 1984 may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary,

[FR Doc. 84-25720 Filed 9-26-84; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Public Notice 916]

The Secretary's Advisory Panel on Overseas Security; Meeting

The Secretary's Advisory Panel on Overseas Security will hold a meeting on Friday, October 5, 1984, from 9:00 a.m. until 12:00 noon at Room 706, 1825 Connecticut Avenue, NW., Washington, D.C. 20009.

Due to the national security information that will be discussed, this meeting will be closed to the public.

For further information, please contact the Advisory Panel staff on 202-673-5544.

Dated: September 20, 1984.

Victor H. Dikeos,

Executive Secretary, the Secretary's Advisory Panel on Overseas Security.

[FR Doc. 84-25614 Filed 9-26-84; 8:45 am]

BILLING CODE 4710-24-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Cities of Cedar Falls and Waterloo, IA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for a proposed roadway project in Cedar Falls and Waterloo, Iowa.

FOR FURTHER INFORMATION CONTACT: H.A. Willard, Division Administrator, Federal Highway Administration, Ames, Iowa 50010, Telephone: (515) 233-1664.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Iowa Department of Transportation and the city of Cedar Falls, will prepare an Environmetal Impact Statement (EIS) for a proposed highway improvement known as Greenhill Road within the city limits of Cedar Falls and Waterloo, Iowa. If constructed, this project would involve a two- to four-lane, undivided roadway running east-west approximately 4.5 miles between Iowa Highway 57 in Cedar Falls and the proposed Hackett Road Bypass in Waterloo. The general corridor is along Greenhill Road/Sager Avenue extended westerly.

The project is intended to provide for projected traffic demand and to reduce congestion on existing east-west streets to the north. Several alternatives are under consideration including the no build and widening the existing streets in the area. Incorporated into and studied with the various build alternatives will be design variations of grade and alignment.

Requests for early coordination comments will be sent to appropriate Federal, state, and local agencies, and to private organizations and citizens who have previously expressed interest in this improvement. No need for a public multi-agency scoping meeting is anticipated at this time.

Public meetings will be held in Cedar Falls and Waterloo during development of the EIS. A public hearing will be held. Public notice will be given of the time and place of the meetings and hearing. The Draft EIS will be available for public and agency review and comment.

To ensure that issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

Issued on: September 21, 1984.

H.A. Willard,

Division Administrator, Federal Highway Administration, Ames, Iowa 50010

[FR Doc. 84-25621 Filed 9-26-84; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement; Smyth County, VA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Smyth County, Virginia.

FOR FURTHER INFORMATION CONTACT: Robert B. Welton, District Engineer, Federal Highway Administration, P.O. Box 10045, Richmond, Virginia 23240–0045, telephone (804) 771–2682.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Virginia Department of Highways and Transportation (VDH&T), will prepare an environmental impact statement (EIS) on a proposal to construct a new two-lane facility from the intersection of Room 603 to the intersection of Route 762 in Smyth County, Virginia.

The construction will involve the use of existing Route 600 alignment and new location for various segments of the project. The environmental study limits of the project are from 0.3 mile west of the intersection of Route 600 and Route 603 to the intersection of Route 600 and Route 762, for a total length of approximately seven miles.

The proposed project will improve access to the western portion of the Mount Rogers National Recreation Area as well as improving local service to the area.

Alternatives under consideration include (1) taking no action; (2) upgrading existing two-lane highway; (3) utilizing existing highway and new location on certain segments. Incorporated into and studied with the various build alternatives will be design variations of grade and alignment.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State and local agencies and to organizations and/or citizens who have previously expressed interest in this proposal. No formal scoping meeting is planned at this time. The Draft EIS will be available for public and agency review and comment. Following the publication of the Draft EIS, a location public hearing will be held. Public notice will be given of the time and place of the hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments and suggestions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of Executive Order 13372 regarding State and local review of Federal and Federally assisted programs and projects apply to this program.

Issued: September 21, 1984.

Robert B. Welton,

District Engineer, Richmond, Virginia.

[FR Doc. 84-25622 Filed 9-26-84; 8:45 am]

BILLING CODE 4910-22-M

National Highway Traffic Safety Administration Rulemaking, Research and Enforcement Programs; Public Meetings

The National Highway Traffic Safety Administration (NHTSA) will hold a meeting on November 14, 1984, to answer questions from the public and industry regarding the agency's rulemaking, research and enforcement programs. The meeting will begin at 10:30 a.m., run until 1:00 p.m., and reconvene at 2:00 p.m., if necessary. It will be held in the Conference Room of the Environmental Protection Agency's Laboratory Facility, 2565 Plymouth Road, Ann Arbor, Michigan.

At the November meeting, representatives of DOT will answer questions received from the industry and public relating to NHTSA's rulemaking, research and enforcement programs (including defects). The purpose of this is to focus on those phases of these NHTSA activities which are technical, interpretative or procedural in nature.

Questions for the November meeting should be submitted in writing by October 19, 1984, to Barry Felrice, Associate Administrator for Rulemaking, Room 5401, 400 Seventh Street, SW., Washington, D.C. 20590. If sufficient time is available, questions received after the October 19 date may be answered at the meeting. The individual, group, or company submitting a question does not have to be present for the question to be answered. A consolidated list of the questions submitted by October 19 and the issues to be discussed will be mailed to interested persons on or before November 2, 1984, and will be available at the meeting. This list will serve as the agenda.

A transcript of the meeting will be available for public inspection in the NHTSA Technical Reference Section in Washington, D.C., within four weeks after the meeting. Copies of the transcript will then be available at twenty-five cents for the first page and five cents for each additional page (length has varied from 100 to 150 pages) upon request to NHTSA Technical Reference Section, Room 5108, 400 Seventh Street, SW., Washington, D.C. 20590.

Issued in Washington, D.C. on September 24, 1984.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 84-25623 Filed 9-26-84; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Dated: September 21, 1984.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB (listed by submitting bureau(s)), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of these submissions may be obtained by calling the Treasury Bureau Clearance Officer listed under each bureau. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 7225, 1201 Constitution Avenue, NW., Washington, D.C. 20220.

Internal Revenue Service

OMB Number: 1545–0171
Form Number: IRS Form 4469
Type of Review: Revision
Title: Computation of Excess Hospital Insurance Benefits Tax Credit

OMB Number: 1545–0035
Form Number: IRS Form 943
Type of Review: Revision
Title: Employer's Annual Tax Return for Agricultural Employees

OMB Number: 1545–0233
Form Number: IRS Form 7004
Type of Review: Revision
Title: Application for Automatic Extension of Time to File Corporation Income Tax Return

OMB Number: 1545–0177
Form Number: IRS Form 4684
Type of Review: Revision
Title: Casualties and Thefts

OMB Number: 1545–0023
Form Number: IRS Form 720
Type of Review: Revision
Title: Quarterly Federal Excise Tax Return

Clearance Officer: Garrick Shear (202) 566–6254, Room 5571, 1111 Constitution Avenue, N.W., Washington, D.C. 20224
OMB Reviewer: Norman Frumkin, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive

Office Building, Washington, D.C. 20503.

Joseph F. Maty,

Departmental Reports Management Office.

[FR Doc. 84-25640 Filed 9-26-84; 8:45 am]

BILLING CODE 4810-25-M

Office of Foreign Assets Control

Issuance by Government of Japan of Certificates Verifying Non-Cuban Origin of Nickel-Bearing Materials Manufactured by Certain Japanese Steel Corporations

Certificates of origin are now available for importation into the United States from Japan of nickel-bearing materials produced by the Shunan Works of Nisshin Steel Corporation and by the Hikari Works of Nippon Steel Corporation. These certificates are issued pursuant to an arrangement between the Government of Japan and the Government of the United States. The certificates, which are issued by the Japanese Ministry of International Trade and Industry, attest that the materials with respect to which they are issued do not contain nickel of Cuban origin. Each certificate will bear the following statement:

"The Ministry of International Trade and Industry (MITI) hereby certifies that the nickel-bearing products described herein do not contain nickel of Cuban origin and that this certificate has been issued in accordance with procedures administered by MITI to which prior consent was given by the Government of the United States on June 27, 1983."

Each certificate shall bear as a footnote the statement: "Issued in connection with the United States Cuban Assets Control Regulations."

Nickel-bearing material produced by the Shunan Works of the Nisshin Steel Corporation and by the Hikari Works of Nippon Steel Corporation may be imported under the general license in § 515.536(c) of the Cuban Assets Control Regulations (31 CFR Part 515) in accordance with the provisions of that section and of § 515.808 of the Regulations. Such merchandise will be permitted entry through United States Customs if accompanied by a certificate of origin as described above and issued by MITI is presented to the U.S. Customs authorities at the point of entry.

(Sec. 5, 40 Stat. 415, as amended, 50 U.S.C. App 5; Sec. 620(a), 75 Stat. 445, 22 U.S.C. 2370(a); Proc. 3447, 27 FR 1085, 3 CFR 1959–1963 Comp.; E.O. 9193, 7 FR 5205, 3 CFR Comp. Supp. p. 1174; E.O. 9989, 13 FR 4891, 3 CFR 1943–1948 Comp., p. 748)

Dated: September 24, 1984.

Dennis M. O'Connell,

Director, Office of Foreign Assets Control.

Approved:

John M. Walker, Jr.,

Assistant Secretary (Enforcement & Operations).

[FR Doc. 84-25638 Filed 9-26-84; 8:45 am]

BILLING CODE 4810-25-M

UNITED STATES INFORMATION AGENCY

Performance Review Board Members

AGENCY: United States Information Agency.

ACTION: Notice.

SUMMARY: This Notice is issued to revise the membership of the United States Information Agency (USIA) Performance Review Board.

DATE: September 27, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Harlan Rosacker (Co-Executive Secretary), Chief, Domestic Personnel Division, Office of Personnel, U.S. Information Agency, 301 4th Street, S.W., Washington, D.C. 20547, Tel: (202) 485–2617.

or

Ms. Johnnie Manzo (Co-Executive Secretary), Chief, Special Staffing Programs, Office of Personnel, Voice of America, U.S. Information Agency, 301 C Street, S.W., Washington, D.C. 20547, Tel: (202) 485–8095.

SUPPLEMENTARY INFORMATION: In accordance with section 4314(c) (1) through (5) of the Civil Service Reform Act of 1978 (Pub. L. 95454), the following list supersedes the U.S. Information Agency Notice (48 FR 49571, October 26, 1983).

Chairperson: Associate Director for Management—Woodward Kingman (Presidential Appointee).

Career SES Members

Deputy Chairperson: Acting Associate Director for Voice of America—Ernest E. Pell.

Deputy for Operations, Office of Engineering and Technical Operations, Voice of America—Walter La Fleur.

Director, Office of Contracts, Bureau of Management—Philip Rogers.

Deputy Associate Director, Bureau of Programs—Michael Schneider.

Director, Television & Film Service—Alvin Snyder.

Non Career SES Member

Director, Office of Private Sector Programs, Bureau of Educational & Cultural Affairs—Mark Blitz.

Alternates

Senior Foreign Service Officer: Deputy Director (Modernization), Voice of America—Morton Smith.

Career SES Member: Inspector General—Jerry Bridges.

This supersedes the previous U.S. Information Agency Notice (48 FR 49571), October 26, 1983.

Woodward Kingman,

Associate Director for Management, U.S. Information Agency.

[FR Doc. 84-25713 Filed 9-26-84; 8:45 am]

BILLING CODE 8230-01-M

VETERANS ADMINISTRATION

Agency Form Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

The Veterans Administration has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document contains a reinstatement and lists the following information: (1) The Department or Staff Office issuing the form; (2) the title of the form; (3) the agency form number, if applicable; (4) how often the form must be filled out; (5) who will be required or asked to report; (6) an estimate of the number of responses; (7) an estimate of the total number of hours needed to fill out the form; and (8) an indication of whether section 3504(h) of Pub. L. 96–511 applies.

ADDRESSES: Copies of the forms and supporting documents may be obtained from Patricia Viers, Agency Clearance Officer (732), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420 (202) 289–2146. Comments and questions about the items on this list should be directed to the VA's OMB Desk Officer, Dick Eisinger, Officer of Management and Budget, 726 Jackson Place, NW, Washington DC 20503 (202) 395–7316.

DATES: Comments on the information collections should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: September 21, 1984.

By direction of the Administrator.

Dominick Onorato,

Associate Deputy Administrator for Information Resources Management

Reinstatement

1. Department of Medicine and Surgery
2. Shop Data Sheet (Artificial Limbs)
3. VA Form 10–2793
4. On occasion
5. Businesses or other for profit; Small businesses or organizations
6. 30 responses
7. 10 hours
8. Not applicable

[FR Doc. 84-25027 Filed 9-26-84; 8:45 am]

BILLING CODE 8320-01-M

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Sunshine Act Meetings

Federal Register
Vol. 49, No. 189
Thursday, September 27, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Meeting

DATE AND TIME: 9:30 AM (Eastern Time), Tuesday, October 2, 1984.

PLACE: Clarence M. Mitchell, Jr., Conference Room No. 200–C on the 2nd Floor of the Columbia Plaza Office Building, 2401 "E" Street NW., Washington, D.C. 20507.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Announcement of Notation Votes.
2. A Report on Commission Operations (Optional).
3. Freedom of Information Act Appeal No. 84–8–FOIA–170–CL, concerning a request for documents from a charge file.
4. Freedom of Information Act Apeal No. 84–07–FOIA–088–CT, concerning a request for a confidential affidavit from an ADEA charge file.
5. Freedom of Information Act Appeal No. 84–75–FOIA–55–NO, concerning a request for documents from a concurrent Title VII/ADEA charge file.
6. Freedom of Information Act Appeal No. 84–7–FOIA–88–DA, concerning a request for the contents of a charge file.
7. Freedom of Information Act Appeal No. 84–06–FOIA–045–IN, concerning a request for copies of all materials related to a age discrimination charge.
8. Freedom of Information Act Appeal No. 84–6–FOIA–81–DA, concerning a request for documents in an Age Discrimination file.
9. Freedom of Information Act Appeal No. 84–5–FOIA–66–DA, concerning a confidential witness statements.
10. Early Retirement Incentives.
11. Opinion Letter (on Early Retirement Plan).

Closed

1. Litigation Authorization; General Counsel Recommendations.
2. Proposed Decisions, Settlements, and Subpoenas.

Note.—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the **Federal Register**, the Commission also provides a recorded announcement a full week in advance on future Commission sessions. Please telephone (202) 634–6748 at all times for information on these meetings).

CONTACT PERSON FOR MORE INFORMATION: Treva McCall, Executive Secretary to the Commission at (202) 634–6748.

This Notice Issued September 25, 1984.

Dated: September 25, 1984.

Treva McCall,

Executive Secretary.

[FR Doc. 84–25785 Filed 9–25–84; 2:28 pm]

BILLING CODE 6750–06–M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

[38386]

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, September 24, 1984, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C.T. Conover (Comptroller of the Currency), that Corporation business required the withdrawal from the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matter:

Memorandum re: Amendments to the Corporation's General Travel Regulations (GTR's).

By the same majority vote, the Board further determined that Corporation business required the addition to the agenda for consideration at this meeting, on less than seven days' notice to the public, of the following matters:

Application for capital assistance under section 13(i) of the Federal Deposit Insurance Act: Name and location of bank authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(4), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(4), (c)(8), and (c)(9)(A)(ii)).

Recommendation regarding the Corporation's assistance agreement involving an insured bank pursuant to Section 13 of the Federal Deposit Insurance Act.

Recommendation regarding a proposal for financial assistance to facilitate a voluntary merger of savings banks: Names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(4), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(4), (c)(8), and (c)(9)(A)(ii)).

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 46,113–L: International City Bank and Trust Company, New Orleans, Louisiana

The Board further determined, by the same majority vote, that no earlier notice of these changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters added to the agenda in a meeting open to public observation; and that the matters added to the agenda could be considered in a closed meeting by authority of subsections (c)(4), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(4), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: September 25, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84–25782 Filed 9–25–84; 3:03 pm]

BILLING CODE 6714–01–M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

[38387]

Change in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Monday, September 24, 1984, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C.T. Conover (Comptroller of the

Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matter:

Application of Midlantic National Bank/North, West Paterson, New Jersey, for consent to purchase certain assets of and assume the liability to pay deposits made in the Mahwah Branch of Carteret Savings and Loan Association, F.A., Newark, New Jersey, a non-FDIC-insured institution.

By the same majority vote, the Board further determined that no earlier notice of this change in the subject matter of the meeting was practicable.

Dated: September 25, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84-25788 Filed 9-25-84; 2:04 pm]

BILLING CODE 6714-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

[38382]

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 7:30 p.m. on Friday, September 21, 1984, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to:

(A) consider an application for financial assistance pursuant to section 13(c) of the Federal Deposit Insurance Act: Name and location of bank authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)); and

(B)(1) receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Security State Bank, Weatherford, Oklahoma, which was closed by the Oklahoma Bank Commissioner on Friday, September 21, 1984; (2) accept the bid for the transaction submitted by United Community Bank, Weatherford, Oklahoma, a newly-chartered State nonmember bank; (3) approve the applications of United Community Bank, Weatherford, Oklahoma, for Federal deposit insurance, and for consent to purchase certain assets of and to assume the liability to pay deposits made in Security State Bank, Weatherford, Oklahoma; and (4) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. Michael A. Mancusi, acting in the place and stead of Director C.T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: September 24, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84-25794 Filed 9-25-84; 3:05 pm]

BILLING CODE 6714-01-M

5

FEDERAL ELECTION COMMISSION

DATE AND TIME: Thursday, September 27, 1984, at the conclusion of the open meeting.

PLACE: 1325 K Street, NW., Washington, D.C.

STATUS: This meeting will be closed to the public—Pursuant to 11 CFR 3.5(d), the Commission determined that Commission business so required, and that no earlier announcement of this meeting was possible, and accordingly voted to hold an Executive Session to consider an expedited compliance matter.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, 202–523–4065.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 84-25790 Filed 9-25-84; 3:00 pm]

BILLING CODE 6715-01-M

6

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, October 2, 1984, 10:00 a.m.

PLACE: 1325 K Street, NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED: Compliance. Litigation. Audits. Personnel.

DATE AND TIME: Thursday, October 4, 1984, 10:00 a.m.

PLACE: 1325 K Street, NW., Washington, D.C. (Fifth Floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates of future meetings
Correction and approval of minutes
Eligibility for Candidates to receive Presidential Primary Matching Funds
Draft Advisory Opinion #1984–41
  J. Curtis Herge, on behalf of the National Conservative Foundation and National Conservative Foundation Endowment Fund
Draft Advisory Opinion #1984–45
  Loren D. McManus, on behalf of R.J. Reynolds Industries, Inc.
Draft Advisory Opinion #1984–48
  John R. Wallace, on behalf of Governor James B. Hunt, Jr. and the Jim Hunt Committee
Standards of Conduct for FEC employees: Notice of Proposed Rulemaking
Finance Committee Report
Routine administrative matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, 202–523–4065.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 84-25791 Filed 9-25-84; 3:00 pm]

BILLING CODE 6715-01-M

federal register

Thursday
September 27, 1984

Part II

Federal Mine Safety and Health Review Commission

29 CFR Part 2706

Enforcement of Nondiscrimination on the Basis of Handicap in Federally Conducted Programs; Proposed Rule

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

29 CFR Part 2706

Enforcement of Nondiscrimination on the Basis of Handicap in Federally Conducted Programs

AGENCY: Federal Mine Safety and Health Review Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed regulation provides for the enforcement of section 504 of the Rehabilitation Act of 1973, as amended which prohibits discrimination on the basis of handicap, as it applies to program or activities conducted by the Federal Mine Safety and Health Review Commission.

DATE: To be assured of consideration comments must be in writing and must be received on or before November 26, 1984. Comments should refer to specific sections in the regulation.

ADDRESSES: Send comments to Ann Rosenthal, Counsel to the Chairman, Federal Mine Safety and Health Review Commission, 1730 K Street, NW., Room 610, Washington, D.C. 20006. Comments received will be available for public inspection at the Federal Mine Safety and Health Review Commission, 1730 K Street, NW., 6th Floor, Washington, D.C. 20006.

FOR FURTHER INFORMATION CONTACT: Ann Rosenthal, (202) 653–5625 or TDD (202) 724–7678.

SUPPLEMENTARY INFORMATION: The Federal Mine Safety and Health Review Commission conducts all adjudicative proceedings and hearings required by the Federal Mine Safety and Health Act of 1977, as amended (30 U.S.C. 801 et seq.). When determining where hearings will be held, the Commission must consider both the convenience of the public or parties to a proceeding, and the extent to which delay or expense can be minimized. (30 U.S.C. 823(a) and the regulation promulgated thereunder, 29 CFR 2700.51). This usually means that hearings are conducted in relatively rural areas at sites near the mining operation involved. Often it is impossible to locate accessible facilities near the mining operation. The Commission will therefore include in the announcement of any hearing a notice that persons desiring to attend should inform the agency in advance of any accessibility features they may require. The announcement will be sent to parties who will attend the hearing and/or their representatives. The Commission will also include such a notice in any public announcement of a hearing. If the Commission receives a request for an accessible hearing site in response to a hearing notice, the Commission will move the hearing to an accessible hearing site, even though this site is farther from the mining operation.

The notice will also require handicapped persons to inform the agency in advance of any auxiliary aids, such as sign language interpreters, that may be necessary. Thus, the Commission will, subject to the limitations of 29 CFR 2706.150(a)(3) and 2706.160(e), ensure access for any handicapped person who gives reasonable advance notice.

Background

The purpose of this proposed rule is to provide for the enforcement of section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), as it applies to programs and activities conducted by the Federal Mine Safety and Health Review Commission.

As amended by the Rehabilitation Comprehensive Services and Developmental Disabilities Amendments of 1978 (Sec. 119, Pub. L. 95–602, 92 Stat. 2982), section 504 of the Rehabilitation Act of 1973 states that

> No otherwise qualified handicapped individual in the United States * * * shall solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service. The head of each such agency shall promulgate such regulations as may be necessary to carry out the amendments to this section made by the Rehabilitation, Comprehensive Services, and Development Disabilities Act of 1978. Copies of any proposed regulation shall be submitted to appropriate authorizing committees of the Congress, and such regulation may take effect no earlier than the thirtieth day after the date on which such regulation is so submitted to such committees.

The substantive nondiscrimination obligations of the agency, as set forth in this proposed rule, are identical, for the most part, to those established by Federal regulations for programs or activities receiving Federal financial assistance. See 28 CFR Part 41 (section 504 coordination regulation for federally assisted programs). This general parallelism is in accord with the intent expressed by supporters of the 1978 amendment in floor debate, including its sponsor, Rep. James M. Jeffords, that the Federal Government should have the same section 504 obligations as recipients of Federal financial assistance. 124 Cong. Rec. 13,901 (1978) (remarks of Rep. Jeffords); 124 Cong. Rec. E2668, E2670 (daily ed. May 17, 1978) id.; 124 Cong. Rec. 13,897 (remarks of Rep. Brademas); id. at 38,552 (remarks of Rep. Sarasin.)

This regulation has been reviewed by the Department of Justice. It is an adaptation of a prototype prepared by the Department of Justice under Executive Order 12250 (45 FR 72995, 3 CFR, 1980 Comp., p. 298) and distributed to Executive agencies.

This regulation has also been reviewed by the Equal Employment Opportunity Commission under Executive Order 12067 (43 FR 28967, 3 CFR, 1978 Comp., p. 206).

It is not a major rule within the meaning of Excutive Order 12291 (46 FR 13193, 3 CFR, 1981 Comp., p. 127) and, therefore, a regulatory impact analysis has not been prepared.

This regulation does not have an impact on small entities. It is not, therefore, subject to the Regulatory Flexibility Act (5 U.S.C. 601–612).

Section-by-Section Analysis

Section 2706.101 Purpose.

Section 2706.101 states the purpose of the proposed rule, which is to effectuate section 119 of the Rehabilitation, Comprehensive Services, and Development Disabilities Amendments of 1978, which amended section 504 of the Rehabilitation Act of 1973 to prohibit discrimination on the basis of handicap in programs or activities conducted by Executive agencies or the United States Postal Service.

Section 2706.102 Application.

The proposed regulation applies to all programs or activities conducted by the agency.

Section 2706.103 Definitions.

"Assistant Attorney General." "Assistant Attorney General" refers to the Assistant Attorney General, Civil Rights Division, United States Department of Justice.

"Auxiliary aids." "Auxiliary aids" means services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in and enjoy the benefits of the agency's programs or activities. The definition provides examples of commonly used auxiliary aids. Although auxiliary aids are required explicitly only by § 2706.160(a)(1), they may also be necessary to meet other requirements of the regulation.

"Complete complaint." The definition of "complete complaint" enables the ageny to determine the beginning of its

obligations to investigate a complaint (*see* § 2706.170(d)).

"Facility." The definition of "facility" is similar to that in the section 504 coordination regulation for federally assisted programs, 28 CFR 41.3(f), except that the term "rolling stock or other conveyances" has been added and the phrase "or interest in such property" has been deleted to clarify its coverage. The phrase, "or interest in such property," is deleted, because the term "facility," as used in this regulation, refers to structures and not to intangible property rights. It should, however, be noted that the regulation applies to all programs and activities conducted by the agency regardless of whether the facility in which they are conducted is owned, leased, or used on some other basis by the agency. The term "facility" is used in §§ 2706.149, 2706.150, and 2706.170(f).

"Handicapped person." The definition of "handicapped person" is identical to the definition appearing in the section 504 coordination regulation for federally assisted programs (28 CFR 41.31).

"Historic preservation programs," "Historic properties," and "Substantial impairment." These terms are defined in order to aid in the interpretation of § 2706.150(a)(2) and (b)(2), which relate to accessibility of historic preservation programs.

"Qualified handicapped person." The definition of "qualified handicapped person" is a revised version of the definition appearing in the section 504 coordination regulation for federally assisted programs (28 CFR 41.32).

Paragraph (1) is an adaptation of existing definitions of "qualified handicapped person" for purposes of federally assisted preschool, elementary, and secondary education programs (*see, e.g.*, 45 CFR 84.3(k)(2)). It provides that a handicapped person is qualified for preschool, elementary, or secondary education programs conducted by the agency, if he or she is a member of a class of persons otherwise entitled by statute, regulation, or agency policy to receive these services from the agency. In other words, a handicapped person is qualified if, considering all factors other than the handicapping condition, he or she is entitled to receive education services from the agency.

Paragraph (2) deviates from existing regulations for federally assisted programs because of intervening court decisions. It defines "qualified handicapped person" with regard to any program other than those covered by paragraph (1) under which a person is required to perform services or to achieve a level of accomplishment. In such programs a qualified handicapped person is one who can achieve the purpose of the program without modifications in the program that would result in a fundamental alteration in its nature. This definition reflects the decision of the Supreme Court in *Southeastern Community College* v. *Davis*, 442 U.S. 397 (1979). In that case, the Court ruled that a hearing-impaired applicant to a nursing school was not a "qualified handicapped person" because her hearing impairment would prevent her from participating in the clinical training portion of the program. The Court found that, if the program were modified so as to enable the respondent to participate (by exempting her from the clinical training requirements), "she would not receive even a rough equivalent of the training a nursing program normally gives." *Id.* at 410. It also found that "the purpose of [the] program was to train persons who could serve the nursing profession in all customary ways," *Id.* at 413, and that the respondent would be unable, because of her hearing impairment, to perform some functions expected of a registered nurse. It therefore concluded that the school was not required by section 504 to make such modifications that would result in "a fundamental alteration in the nature of the program." *Id.* at 410.

We have incorporated the Court's language in the definition of "qualified handicapped person" in order to make clear that such a person must be able to participate in the program offered by the agency. The agency is required to make modifications in order to enable a handicapped applicant to participate, but is not required to offer a program of a fundamentally different nature. The test is whether, with appropriate modifications, the applicant can achieve the purpose of the program offered; not whether the applicant could benefit or obtain results from some other program that the agency does not offer. Although the revised definition allows exclusion of some handicapped people from some programs, it requires that a handicapped person who is capable of achieving the purpose of the program must be accommodated, provided that the modifications do not fundamentally alter the nature of the program.

We encourage comment on paragraph (2). The language we have proposed comes directly from the Supreme Court's interpertation of section 504. However, so long as the definition of "qualified handicapped person" remains faithful to the statute and current case law, we are receptive to alternative language.

For programs or activities that do not fall under either of the first two paragraphs, paragraph (3) adopts the existing definition of "qualified handicaped person" with respect to services (28 CFR 41.32(b)) in the coordination regulation for programs receiving Federal financial assistance. Under this definition, a qualified handicapped person is a handicapped person who meets the essential eligibility requirements for participation in the program or activity.

"Section 504." this definition makes clear that, as used in this regulation, "section 504" applies only to progams or activities conducted by the agency and not to programs or activities to which it provides Federal financial assistance.

Section 2706.110 Self-evaluation.

The agency shall conduct a self-evaluation of its compliance with section 504 within one year of the effective date of this regulation. The process shall include consultation with interested persons, including consultation with handicapped persons or organizations representing handicapped persons. The Department of Justice is considering whether and to what degree the Federal Advisory Committee Act (5 U.S.C. app.) is applicable to the proposed consultation requirement. The self-evaluation requirement is present in the existing section 504 coordination regulation for programs or activities receiving Federal financial assistance (28 CFR 41.5(b)(2)). Experience has demonstrated the self-evaluation process to be a valuable means of establishing a working relationship with handicapped persons that promotes both effective and efficient implementation of section 504.

Section 2706.111 Notice.

Section 2706.111 requires the agency to disseminate sufficient information to employees, applicants, participants, beneficiaries, and other interested persons to apprise them of rights and protctions afforded by section 504 and this regulation. Methods of providing this information include, for example, the publication of information in handbooks, manuals, and pamphlets that are distributed to the public to describe the agency's progams and activities; the display of informative posters in service centers and other public places; or the broadcast of information by television or radio.

Section 2706.130 General prohibitions against discrimination.

Section 2706.130 is an adaptation of the corresponding section of the section 504 coordination regulation for programs

or activities receiving Federal financial assistance (28 CFR 41.51).

Paragraph (a) restates the nondiscrimination mandate of section 504. The remaining paragraphs in § 2706.130 establish the general principles for analyzing whether any particular action of the agency violates this mandate. These principles serve as the analytical foundation for the remaining sections of the regulation. Whenever the agency has violated a provision in any of the subsequent sections, it has also violated one of the general prohibitions found in § 2706.130. When there is no applicable subsequent provision, the general prohibitions stated in this section apply.

Paragraph (b) prohibits overt denials of equal treatment of handicapped persons. The agency may not refuse to provide a handicapped person with an equal opportunity to participate in or benefit from its program simply because the person is handicapped. Such blatantly exclusionary practices often result from the use of irrebuttable presumptions that absolutely exclude certain classes of disabled persons (*e.g.*, epileptics, hearing-impaired persons, persons with heart ailments) from participation in programs or activities without regard to an individual's actual ability to participate. Use of an irrebuttable presumption is permissible only when in all cases a physical condition by its very nature would prevent an individual from meeting the essential eligibility requirements for participation in the activity in question. It would be permissible, therefore, to exclude without an individual evaluation all persons who are blind in both eyes from eligibility for a license to operate a commercial vehicle in interstate commerce; but it may not be permissible to automatically disqualify all those who are blind in just one eye.

Section 504, however, prohibits more than just the most obvious denials of equal treatment. It is not enough to admit persons in wheelchairs to a program if the facilities in which the program is conducted are inaccessible. Paragraph (b)(1)(iii), therefore, requires that the opportunity to participate or benefit afforded to a handicapped person be as effective as that afforded to others. The later sections on program accessibility (§§ 2706.150–2706.151) and communications (§ 2706.160) are specific applications of this principle.

Despite the mandate of paragraph (d) that the agency administer its programs and activities in the most integrated setting appropriate to the needs of qualified handicapped persons, paragraph (b)(1)(iv), in conjunction with paragraph (d), permits the agency to develop separate or different aids, benefits, or services when necessary to provide handicapped persons with an equal opportunity to participate in or benefit from the agency's programs or activities. Paragraph (b)(1)(iv) requires that different or separate aids, benefits, or services be provided only when necessary to ensure that the aids, benefits, or services are as effective as those provided to others. Even when separate or different aids, benefits, or services would be more effective, paragraph (b)(2) provides that a qualified handicapped person still has the right to choose to participate in the program that is not designed to accommodate handicapped persons.

Paragraph (b)(1)(v) prohibits the agency from denying a qualified handicapped person the opportunity to participate as a member of a planning or advisory board.

Paragraph (b)(1)(vi) prohibits the agency from limiting a qualifed handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving any aid, benefit, or service.

Paragraph (b)(3) prohibits the agency from utilizing criteria or methods of administration that deny handicapped persons access to the agency's programs or activities. The phrase "criteria or methods of administration" refers to official written agency policies and the actual practices of the agency. This subparagraph prohibits both blatantly exclusionary policies or practices and nonessential policies and practices that are neutral on their face, but deny handicapped persons an effective opportunity to participate.

Paragraph (b)(4) specifically applies the prohibition enunciated in § 2706.130(b)(3) to the process of selecting sites for construction of new facilities or existing facilities to be used by the agency. Paragraph (b)(4) does not apply to construction of additional buildings at an existing site.

Paragraph (b)(5) prohibits the agency in the selection of procurement contractors, from using criteria that subject qualified handicapped persons to discrimination on the basis of handicap.

Paragraph (b)(6) prohibits the agency from discriminating against qualified handicapped persons on the basis of handicap in the granting of licenses or certification. A person is a "qualified handicapped person" with respect to licensing or certification, if he or she can meet the essential eligibility requirements for receiving the license or certification (*see* § 2706.103).

In addition, the agency may not establish requirements for the programs or activities of licensees or certified entities that subject qualified handicapped persons to discrimination on the basis of handicap. For example, the agency must comply with this requirement when establishing safety standards for the operations of licensees. In that case the agency must ensure that standards that it promulgates do not discriminate against the employment of qualified handicapped persons in an impermissible manner.

Paragraph (b)(6) does not extend section 504 directly to the programs or activities of licensees or certified entities themselves. The program or activities of Federal licensees or certified entities are not themselves federally conducted programs or activities nor are they programs or activities receiving Federal financial assistance merely by virtue of the Federal license or certificate. However, as noted above, section 504 may affect the content of the rules established by the agency for the operation of the program or activity of the licensee or certified entity, and thereby indirectly affect limited aspects of their operations.

Paragraph (c) provides that programs conducted pursuant to Federal statute or Executive order that are designated to benefit only handicapped persons or a given class handicapped persons may be limited to those handicapped persons.

Section 2706.140 Employment.

Section 2706.140 prohibits discrimination on the basis of handicap in employment by Executive agencies. This regulation is in accord with a decision of the Fifth Circuit that holds that, despite the resulting overlap of coverage with section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791), Congress intended section 504 to cover the employment practices of Executive agencies. The court also held that in order to give effect to both section 504 and section 501, the administrative procedures of section 501 must be followed in processing section 504 complaints. *Prewitt* v. *United States Postal Service*, 662, F.2d 292 (5th Cir. 1981). Consistent with that decision, this section provides that the standards, requirements, and procedures of section 501 of the Rehabilitation Act, as established in regulations of the Equal Employment Opportunity Commission (EEOC) at 29 CFR Part 1613, shall be those applicable to employment in federally conducted programs or activities. In addition to this section, § 2706.170(b) of this regulation specifies that the agency will use the existing

EEOC procedures to resolve allegations of employment discrimination. Responsibility for coordinating enforcement of Federal laws prohibiting discrimination in employment is assigned to the EEOC by Executive Order 12067 (43 FR 28967, 3 CFR, 1978 Comp., p. 206). Under this authority, the EEOC establishes government-wide standards on nondiscrimination in employment on the basis of handicap.

Section 2706.149 Program accessibility: Discrimination prohibited.

Section 2706.149 states the general nondiscrimination principle underlying the program accessibility requirements of §§ 2706.150 and 2706.151.

Section 2706.150 Program accessibility: Existing facilities.

This regulation adopts the program accessibility concept found in the existing section 504 coordination regulation for programs or activities receiving Federal financial assistance (28 CFR 41.56–.58), with certain modifications. Thus, § 2706.150 requires that the agency's program or activity, when viewed in its entirety, be readily accessible to and usable by handicapped persons. The regualtion also makes clear that the agency is not required to make each of its existing facilities accessible (§ 2706.150(a)(1)). However, § 2706.150, unlike 28 CFR 41.56–41.57, places explicit limits on the agency's obligation to ensure program accessibility (§ 2706.150(a)(2), (a)(3)).

Paragraph (a)(2), which establishes a special limitation on the obligation to ensure program accessibility in historic preservation programs, is discussed below in connection with paragraph (b).

Paragraph (a)(3) generally codifies recent case law that defines the scope of the agency's obligation to ensure program accessibility. This subparagraph provides that in meeting the program accessibility requirement the agency is not required to take any action that would result in a fundamental alteration in the nature of its program or activity or in undue financial and administrative burdens. A similar limitation is provided in § 2706.160(e). This provision is based on the Supreme Court's holding in *Southeastern Community College* v. *Davis*, 442 U.S. 397 (1979), that section 504 does not require program modifications that result in a fundamental alteration in the nature of a program, and on the Court's statement that section 504 does not require modifications that would result in "undue financial and administrative burdens." 442 U.S. at 412. Since *Davis*, circuit courts have applied this limitation on a showing that only one of the two "undue burdens" would be created as a result of the modification sought to be imposed under section 504. *See, e.g., Dopico* v. *Goldschmidt*, 687 F.2d 644 (2d Cir. 1982); *American Public Transit Association* v. *Lewis (APTA)*, 655 F.2d 1272 (D.C. Cir. 1981). Thus, in *APTA* the United States Court of Appeals for the District of Columbia Circuit applied the *Davis* language and invalidated the section 504 regulations of the Department of Transportation (DOT). The court in *APTA* noted "that at some point at transit system's refusal to take modest, affirmative steps to accommodate handicapped persons might well violate section 504. But DOT's rules do not mandate only modest expenditures. The regulations require extensive modifications of existing systems and impose extremely heavy financial burdens on local transit authorities." 655 F.2d at 1278.

The inclusion of paragraph (a)(3) is an effort to conform the agency's regulation implementing section 504 to the Supreme Court's interpretation of the statute in *Davis* as well as to the decisions of lower courts following the *Davis* opinion. This paragraph acknowledges, in light of recent case law, that in some situations, certain accommodations for a handicapped person may so alter an agency's program or activity, or entail such extensive costs and administrative burdens that the refusal to undertake the accommodations is not discriminatory. The failure to include such a provision could lead to judicial invalidation of the regulation or reversal of a particular enforcement action taken pursuant to the regulation.

This paragraph, however, does not establish an absolute defense; it does not relieve the agency of all obligations to handicapped persons. Although the agency is not required to take actions that would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens, it nevertheless must take any other steps necessary to ensure that handicapped persons receive the benefits and services of the federally conducted program or activity.

It is our view that compliance with § 2706.150(a) would in most cases not result in undue financial and administrative burdens on the agency. In determining whether financial and administrative burdens are undue, all agency resources available for use in the funding and operation of the conducted program or activity should be considered. The burden of proving that compliance with § 2706.150(a) would fundamentally alter the nature of a program of activity or would result in undue financial and administrative burdens rests with the agency. The decision that compliance would result in such alteration or burdens must be made by the agency head and must be accompanied by a written statement of the reasons for reaching that conclusion. Any person who believes that he or she or any specific class of persons has been injured by the agency head's decision or failure to make a decision may file a complaint under the compliance procedures established in § 2706.170.

Paragraph (b)(1) sets forth a number of means by which program accessibility may be achieved, including redesign of equipment, reassignment of services to accessible buildings, and provision of aides. In choosing among methods, the agency shall give priority consideration to those that will be consistent with provision of services in the most integrated setting appropriate to the needs of handicapped persons. Structural changes in existing facilities are required only when there is no other feasible way to make the agency's program accessible. The agency may comply with the program accessibility requirement by delivering services at alternate accessible sites or making home visits as appropriate.

Section 2706.150(a)(2) provides an additional limitation on the obligation to ensure program accessibility that is applicable only to historic preservation programs. In order to avoid possible conflict between the congressional mandates to preserve historic properties on the one hand and to eliminate discrimination against handicapped persons on the other, § 2706.150(a)(2) provides that in historic preservation programs the agency is not required to take any action that would result in a substantial impairment of significant historic features of an historic property.

Nevertheless, because the primary benefit of an historic preservation program is uniquely the experience of the historic property itself, § 2706.150(b)(2) requires the agency to give priority to methods of providing program accessibility that permit handicapped persons to have physical access to the historic property. This priority on physical access may also be viewed as a specific application of the general requirement that the agency administer programs in the most integrated setting appropriate to the needs of qualified handicapped persons (§ 2706.130(d)). Only when providing physical access would result in a substantial impairment of significant historic features, a fundamental alteration in the nature of the program

or in undue financial and administrative burdens, may the agency adopt alternative methods for providing program accessibility that do not ensure physical access. Examples of some alternative methods are provided in § 2706.150(b)(2).

The special limitation on program accessibility set forth in § 2706.150(a)(2) is applicable only to programs that have preservation of historic properties as a primary purpose (*see supra* definition of "historic preservation program," § 2706.103). Narrow application of the special limitation is justified because of the inherent flexibility of the program accessibility requirement. Where historic preservation is not a primary purpose of the program the agency is not bound to a particular facility. It can relocate all or part of its program to an accessible facility, make home visits, or use other standard methods of achieving program accessibility without making structural alterations that might impair significant historic features of the historic property.

Paragraphs (c) and (d) establish time periods for complying with the program accessibility requirement. As currently required for federally assisted programs by 28 CFR 41.57(b), the agency must make any necessary structural changes in facilities as soon as practicable, but in no event later than three years after the effective date of this regulation. Where structural modifications are required, a transition plan shall be developed within six months of the effective date of this regulation. Aside froms structural changes, all other necessary steps to achieve compliance shall be taken within sixty days. The Department of Justice is considering whether and to what degree the Federal Advisory Committee Act (5 U.S.C. app.) is applicable to the proposed consultation requirement included in § 2706.150(d).

Section 2706.151 Program accessibility: New construction and alterations.

Overlapping coverage exists with respect to new construction under section 504, section 502 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 792), and the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–4157). Section 2706 151 provides that those buildings that are constructed or altered by, on behalf of or for the use of the agency shall be designed, constructed, or altered to be readily accessible to and usable by handicapped persons in accordance with 41 CFR 101–19.600 to 101–19.607. This standard was promulgated pursuant to the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–4157). We believe that it is appropriate to adopt the existing Architectural Barriers Act standard for section 504 compliance because new and altered buildings subject to this regulation are also subject to the Architectural Barriers Act and because adoption of the standard will avoid duplicative and possibly inconsistent standards.

Existing buildings leased by the agency after the effective date of this regulation are not required to meet the new construction standard. They are subject, however, to the requirements of § 2706.150.

Section 2706.160 Communications.

Section 2706.160 requires the agency to take appropriate steps to ensure effective communication with personnel of other Federal entities, applicants participants, and members of the public. These steps shall include procedures for determining when auxiliary aids are necessary under § 2706.160(a)(1) to afford a handicapped person an equal opportunity to participate in, and enjoy the benefits of, the agency's program or activity. They shall also include an opportunity for handicapped persons to request the auxiliary aids of their choice. This expressed choice shall be given primary consideration by the agency (§ 2706.160(a)(1)(i)). The agency shall honor the choice unless it can demonstrate that another effective means of communication exists or that use of the means chosen would not be required under § 2706.160(e). That paragraph limits the obligation of the agency to ensure effective communication in accordance with *Davis* and the circuit court opinions intepreting it (*see supra* preamble § 2706.150(a)(3)). Unless not required by § 2706.160(e), the agency shall provide auxiliary aids at no cost to the handicapped person.

It is our view that compliance with § 2706.160 would in most cases not result in undue financial and administrative burdens on the agency. In determining whether financial and administrative burden are undue, all agency resources available for use in the funding and operation of the conducted program or activity should be considered. The burden of proving that compliance with § 2706.160 would fundamentally alter the nature of a program or activity or would result in undue financial and administrative burdens rests with the agency. The decision that compliance would result in such alteration or burdens must be made by the agency head and must be accompanied by a written statement of the reasons for reaching that conclusion. Any person who believes that he or she or any specific class of persons has been injured by the agency head's decision or failure to make a decision may file a compliant under the compliance procedures established in § 2706.170.

In some circumstances, a notepad and written materials may be sufficient to permit effective communication with a hearing-impaired person. In many circumstances, however, they may not be, particularly where the hearing-impaired applicant or participant is not skilled in spoken or written language. Then, a sign language interpreter may be appropriate. For vision-impaired persons, effective communication might be achieved by several means, including readers and audio recordings. In general, the agency intends to make clear to the public (1) the communications services it offers to afford handicapped persons an equal opportunity to participate in or benefit from its programs or activities, (2) the opportunity to request a particular mode of communication, and (3) the agency's preferences regarding auxiliary aids if it can demonstrate that several different modes are effective.

The agency shall ensure effective communication with vision-impaired and hearing-impaired persons involved in hearings conducted by the agency. Auxiliary aids must be afforded where necessary to ensure effective communication at the proceedings. If sign language interpretes are necessary, the agency may require that it be given reasonable notice prior to the proceeding of the need for an interpreter. Moreover, the agency need not provide individually prescribed devices, readers for personal use or study, or other devices of a personal nature (§ 2706.160(a)(1)(ii)). For example, the agency need not provide eye glasses or hearing aids to applicants or participants in its programs. Similarly, the regulation does not require the agency to provide wheelchairs to persons with mobility impairments.

Paragraph (b) requires the agency to provide information to handicapped persons concerning accessible services, activities, and facilities. Paragraph (c) requires the agency to provide signage at inaccessible facilities that directs users to locations with information about accessible facilities.

Paragraph (d) requires the agency to take appropriate steps to ensure that information regarding section 504 rights and protections that is supplied to employees, applicants, participants, beneficiaries, and other interested

persons under § 2706.111 is effectively communicated to handicapped persons.

Section 2706.170 Compliance procedures.

Paragraph (a) specifies that paragraphs (c) through (l) of this section establish the procedures for processing complaints other than employment complaints. Paragraph (b) provides that the agency will process employment complaints according to procedures established in existing regulations of the EEOC (29 CFR Part 1613) pursuant to section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791).

The agency will designate an official responsible for coordinating implementation of this section (§ 2706.170(c)).

The agency is required to accept and investigate all complete complaints (§ 2706.170(d)). If it determines that it does not have jurisdiction over a complaint, it shall promptly notify the complainant and make reasonable efforts to refer the complaint to the appropriate entity of the Federal government (§ 2706.170(e)).

Paragraph (f) requires the agency to notify the Architectural and Transportation Barriers Compliance Board upon receipt of a complaint Board upon receipt of a complaint alleging that a building or facility subject to the Architectural Barriers Act or section 502 was designed, constructed, or altered in a manner that does not provide ready access and use to handicapped persons.

Paragraph (g) requires the agency to provide to the complainant, in writing, findings of fact and conclusions of law, the relief granted if noncompliance is found, and notice of the right to appeal (§ 2706.170(g)). One appeal within the agency shall be provided (§ 2706.170(i)). The appeal will not be heard by the same person who made the initial determination of compliance or noncompliance (§ 2706.170(i)).

Paragraph (l) permits the agency to delegate its authority for investigating complaints to other Federal agencies. However, the statutory obligation of the agency to make a final determination of compliance or noncompliance may not be delegated.

List of Subjects in 29 CFR Part 2706

Blind, Civil rights, Deaf, Disabled, Discrimination against handicapped, Equal employment opportunity, Federal buildings and facilities, Handicapped, Nondiscrimination, Physically handicapped.

It is proposed that Title 29 of the Code of Federal Regulations be amended by adding Part 2706 as set forth at the end of this document.

Signed this 18th day of September, 1984.

Catherine Sands Hiler,

Executive Director.

PART 2706—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sec.

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Authority: 29 U.S.C. 794.

§ 2706.101 Purpose.

The purpose of this part is to effectuate section 119 of the Rehabilitation, Comprehensive Services, and Development Disabilities Amendments of 1978, which amended section 504 of the Rehabilitation Act of 1973 to prohibit discrimination on the basis of handicap in programs or activities conducted by Executive agencies of the United States Postal Service.

§ 2706.102 Application.

This part applies to all programs or activities conducted by the agency

§ 2706.103 Definitions.

For purposes of the part, the term—

"Assistant Attorney General" means the Assistant Attorney General, Civil Rights Division, United States Department of Justice.

"Auxiliary aids" means services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities conducted by the agency. For example, auxiliary aids useful for persons with impaired vision include readers, Brailled materials, audio recordings, and other similar services and devices. Auxiliary aids useful for persons with impaired hearing include telephone handset amplifiers, telephones compatible with hearing aids, telecommunication devices for deaf persons, (TDD's), interpreters, notetakers, written materials, and other similar services and devices.

"Complete complaint" means a written statement that contains the complainant's name and address and describes the agency's actions in sufficient detail to inform the agency of the nature and date of the alleged violation of section 504. It shall be signed by the complainant or by someone authorized to do so on his or her behalf. Complaints filed on behalf of classes or third parties shall describe or identify (by name, if possible) the alleged victims of discrimination.

"Facility" means all or any portion of buildings, structures, equipment roads, walks, parking lots, rolling stock or other conveyances, or other real or personal property.

"Handicapped person" means any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.

As used in this definition, the phrase:

(1) "Physical or mental impairment" includes—

(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin and endocrine; or

(ii) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness and drug addiction and alcoholism.

(2) "Major life activities" includes functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(3) "Has a record of such an impairment" means has a history of, or has been misclassified as having a

mental or physical impairment that substantially limits one or more major life activities.

(4) "Is regarded as having an impairment" means—

(i) Has a physical or mental impairment that does not substantially limit major life activities but is treated by the agancy as constituting such a limitation;

(ii) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or

(iii) Has none of the impairments defined in subparagraph (1) of this definition but is treated by the agency as having such an impairment.

"Historic preservation programs" means program conducted by the agency that have preservation of historic properties as a primary purpose.

"Historic properties" means those properties that are listed or eligible for listing in the National Register of Historic Places.

"Qualified handicapped person" means—

(1) With respect to preschool, elementary, or secondary education services provided by the agency, a handicapped person who is a member of a class of persons otherwise entitled by statute, regulation, or agency policy to receive education services from the agency.

(2) With respect to any other agency program or activity under which a person is required to perform services or to achieve a level of accomplishment, a handicapped person who meets the essential eligibility requirements and who can achieve the purpose of the program or activity without modifications in the program or activity that would result in a fundamental alteration in its nature; and

(3) With respect to any other program or activity, a handicapped person who meets the essential eligibility requirements for participation in, or receipt of benefits from, that program or activity.

"Section 504" means section 504 of the rehabilitation Act of 1973 [Pub. L. 93–112, 87 Stat. 394 (29 U.S.C. 794)], as amended by the Rehabilitation Act Amendments of 1974 (Pub. L. 93–516, 88 Stat. 1617), and the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 (Pub. L. 95–602, 92 Stat. 2955). As used in this part, section 504 applies only to programs or activities conducted by Executive agencies and not to federally assisted programs.

"Substantial impairment" means a significant loss of the integrity of finished materials, design quality, or special character resulting from a permanent alteration.

§§2706.104–2706.108 [Reserved]

§ 2706.110 Self-evaluation.

(a) The agency shall, within one year of the effective date of this part, evaluate, with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons, its current policies and practices, and the effects thereof, that do not or may not meet the requirements of this part, and, to the extent modification of any such policies and practices is required, the agency shall proceed to make the necessary modifications.

(b) The agency shall, for at least three years following completion of the evaluation required under paragraph (a) of this section, maintain on file and make available for public inspection:

(1) a list of the interested persons consulted,

(2) a description of areas examined and any problems identified, and

(3) a description of any modifications made.

§ 2706.111 Notice.

The agency shall make available to employees, applicants, participants, beneficiaries, and other interested persons such information regarding the provisions of this part and its applicability to the programs or activities conducted by the agency, and make such information available to them in such manner as the agency head finds necessary to apprise such persons of the protections against discrimination assured them by section 504 and this regulation.

§§ 2706.112–2706.129 [Reserved]

§ 2706.130 General prohibitions against discrimination.

(a) No qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity conducted by the agency.

(b)(1) The agency, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of handicap—

(i) Deny a qualified handicapped person the opportunity to participate in or benefit from the aid, benefit, or service;

(ii) Afford a qualified handicapped person an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;

(iii) Provide a qualified handicapped person with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;

(iv) Provide different or separate aid, benefits or services to handicapped persons or to any class of handicapped persons than is provided to others unless such action is necessary to provide qualified handicapped persons with aid, benefits, or services that are as effective as those provided to others;

(v) Deny a qualified handicapped person the opportunity to participate as a member of planning or advisory boards; or

(vi) Otherwise limit a qualified handicapped person in the enjoyment of any right privilege, advantage, or opportunity enjoyed by others receiving the aid, benefit, or service.

(2) The agency may not deny a qualified handicapped person the opportunity to participate in programs or activities that are not separate or different, despite the existence of permissibly separate or different programs or activities.

(3) The agency may not, directly or through contractual or other arrangements, utilize criteria or methods of administration the purpose or effect of which would—

(i) Subject qualified handicapped persons to discrimination on the basis of handicap; or

(ii) Defeat or substantially impair accomplishment of the objectives of a program or activity with respect to handicapped persons.

(4) The agency may not, in determining the site or location of a facility, make selections the purpose or effect of which would—

(i) Exclude handicapped persons from, deny them the benefits of, or otherwise subject them to discrimination under any program or activity conducted by the agency; or

(ii) Defeat or substantially impair the accomplishment of the objectives of a program or activity with respect to handicapped persons.

(5) The agency, in the selection of procurement contractors, may not use criteria that subject qualified handicapped persons to discrimination on the basis of handicap.

(6) The agency may not administer a licensing or certification program in a

manner that subjects qualified handicapped persons to discrimination on the basis of handicap, nor may the agency establish requirements for the programs or activities of licensees or certified entities that subject qualified handicapped persons to discrimination on the basis of handicap. However, the programs or activities of entities that are licensed or certified by the agency are not, themselves covered by this part.

(c) The exclusion of nonhandicapped persons from the benefits of a program limited by Federal statute or Executive order to handicapped persons or the exclusion of a specific class of handicapped persons from a program limited by Federal statue or Executive order to a different class of handicapped persons is not prohibited by this part.

(d) The agency shall administer programs and activities in the most integrated setting appropriate to the needs of qualified handicapped persons.

§§ 2706.131—2706.139 [Reserved]

§ 2706.140 Employment.

No qualified handicapped person shall, on the basis of handicap, be subjected to discrimination in employment under any program or activity conducted by the agency. The definitions, requirements, and procedures of section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791), as established in 29 CFR Part 1613, shall apply to employment in federally conducted programs or activities.

§ 2706.141—2706.148 [Reserved]

§ 2706.149 Program accessibility: Discrimination prohibited.

Except as otherwise provided in §§ 2706.150 and 2706.151, no qualified handicapped person shall, because the agency's facilities are inaccessible to or unusable by handicapped persons, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity conducted by the agency.

§ 2706.150 Program accessibility: Existing facilities.

(a) *General.* The agency shall operate each program or activity so that the program or activity, when viewed in its entirety, is readily accessible to and usable by handicapped persons. This paragraph does not—

(1) Necessarily require the agency to make each of its existing facilities accessible to and usable by handicapped persons;

(2) In the case of historic preservation programs, require the agency to take any action that would result in a substantial impairment of significant historic features of an historic property; or

(3) Require the agency to take any action that it can demonstrate would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens. In those circumstances where agency personnel believe that the proposed action would fundamentally alter the program or activity or would result in undue financial and administrative burdens, the agency has the burden of proving that compliance with § 2706.150(a) would result in such alterations or burdens. The decision that compliance would result in such alteration or burdens must be made by the agency head after considering all agency resources available for use in the funding and operation of the conducted program or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action would result in such an alteration or such burdens, the agency shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that handicapped persons receive the benefits and services of the program or activity.

(b) *Methods.*

(1) *General.* The agency may comply with the requirements of this section through such means as redesign of equipment, reassignment of services to accessible buildings, assignment of aids to beneficiaries, home visits, delivery of services at alternate accessible sites, alteration of existing facilities and construction of new facilites, use of accessible rolling stock, or any other methods that result in making its programs or activities readily accessible to and usable by handicapped persons. The agency is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with this section. The agency, in making alterations to existing buildings, shall meet accessibility requirements to the extent compelled by the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–4157), and any regulations implementing it. In choosing among available methods for meeting the requirements of this section, the agency shall give priority to those methods that offer programs and activities to qualified handicapped persons in the most integrated setting appropriate.

(2) *Historic preservation programs.* In meeting the requirements of § 2706.150(a) in historic preservation programs, the agency shall give priority to methods that provide physical access to handicapped persons. In cases where a physical alteration to an historic property is not required because of § 2706.150(a)(2) or (a)(3), alternative methods of achieving program accessibility include—

(i) Using audio-visual materials and devices to depict those portions of an historic property that cannot otherwise be made accessible;

(ii) Assigning persons to guide handicapped persons into or through portions of historic properties that cannot otherwise be made accessible; or

(iii) Adopting other innovative methods.

(c) *Time period for compliance.* The agency shall comply with the obligation established under this section within sixty days of the effective date of this part except that where structural changes in facilities are undertaken, such changes shall be made within three years of the effective date of this part, but in any event as expeditiously as possible.

(d) *Transition plan.* In the event that structural changes to facilities will be undertaken to achieve program accessibility, the agency shall develop, within six months of the effective date of this part, a transition plan setting forth the steps necessary to complete such changes. The plan shall be developed with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons. A copy of the transition plan shall be made available for public inspection. The plan shall, at a minimum—

(1) Identify physical obstacles in the agency's facilities that limit the accessibility of its programs or activities to handicapped persons;

(2) Describe in detail the methods that will be used to make the facilities accessible;

(3) Specify the schedule for taking the steps necessary to achieve compliance with this section and, if the time period of the transition plan is longer than one year, identify steps that will be taken during each year of the transition period;

(4) Indicate the official responsible for implementation of the plan; and

(5) Identify the persons or groups with whose assistance the plan was prepared.

§ 2706.151 Program accessibility: New construction and alterations.

Each building or part of a building that is constructed or altered by, on behalf of, or for the use of the agency shall be designed, constructed, or altered so as to be readily accessible to and usable by handicapped persons.

The definitions, requirements, and standards of the Architectural Barriers Act (42 U.S.C. 4151–4157), as established in 41 CFR 101–19.600 to 101–19.607, apply to buildings covered by this section.

§§ 2706.152–2706.159 [Reserved]

§ 2706.160 Communications.

(a) The agency shall take appropriate steps to ensure effective communication with applicants, participants, personnel of other Federal entities, and members of the public.

(1) The agency shall furnish appropriate auxiliary aids where necessary to afford a handicapped person an equal opportunity to participate in, and enjoy the benefits of, a program or activity conducted by the agency.

(i) In determining what type of auxiliary aid is necessary, the agency shall give primary consideration to the requests of the handicapped person.

(ii) The agency need not provide individually prescribed devices, readers for personal use or study, or other devices of a personal nature.

(2) Where the agency communicates with applicants and beneficiaries by telephone, telecommunication devices for deaf persons (TDD's) or equally effective telecommunication systems shall be used.

(b) The agency shall ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of accessible service, activities, and facilities.

(c) The agency shall provide signage at a primary entrance to each of its inaccessible facilities, directing users to a location at which they can obtain information about accessible facilities. The international symbol for accessibility shall be used at each primary entrance of an accessible facility.

(d) The agency shall take appropriate steps to provide handicapped persons with information regarding their section 504 rights under the agency's programs or activities.

(e) This section does not require the agency to take any action that it can demonstrate would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens. In those circumstances where agency personnel believe that the proposed action would fundamentally alter the program or activity or would result in undue financial and administrative burdens, the agency has the burden of proving that compliance with § 2706.160 would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the agency head after considering all agency resources available for use in the funding and operation of the conducted program or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action required to comply with this section would result in such an alteration or such burdens, the agency shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that, to the maximum extent possible, handicapped persons receive the benefits and services of the program or activity.

§§ 2706.161—2706.169 [Reserved]

§§ 2706.170 Compliance procedures

(a) Except as provided in paragraph (b) of this section, this section applies to all allegations of discrimination on the basis of handicap in programs or activities conducted by the agency.

(b) The agency shall process complaint alleging violations of section 504 with respect to employment according to the procedures established in 29 CFR Part 1613 pursuant to section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791).

(c) The head of the agency shall designate an official to be responsible for coordinating implementation of this section

(d) The agency shall accept and investigate all complete complaints for which it has jurisdiction. All complete complaints must be filed within 180 days of the alleged act of discrimination. The agency may extend this time period for good cause.

(e) If the agency receives a complaint over which it does not have jurisdiction, it shall promptly notify the complainant and shall make reasonable efforts to refer the complaint to the appropriate government entity.

(f) The agency shall notify the Architectural and Transportation Barriers Compliance Board upon receipt of any complaint alleging that a building or facility that is subject to the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–4157), or section 502 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 792), is not readily accessible to and usable by handicapped persons.

(g) Within 180 days of the receipt of a complete complaint for which it has jurisdiction, the agency shall notify the complainant of the results of the investigation in a letter containing—

(1) Findings of fact and conclusions of law;

(2) A description of a remedy for each violation found; and

(3) A notice of the right to appeal.

(h) Appeals of the findings of fact and conclusions of law or remedies must be filed by the complainant within 90 days of receipt from the agency of the letter required by § 2706.170(g). The agency may extend this time for good cause.

(i) Timely appeals shall be accepted and processed by the head of the agency.

(j) The head of the agency shall notify the complainant of the results of the appeal within 60 days of the receipt of the request. If the head of the agency determines that additional information is needed for the complainant, he or she shall have 60 days from the date of receipt of the additional information to make his or her determination on the appeal.

(k) The time limits cited in (g) and (j) above may be extended with the permission of the Assistant Attorney General.

(l) The agency may delegate its authority for conducting complaint investigations to other Federal agencies, except that the authority for making the final determination may not be delegated to another agency.

§ 2706.171—2706.999 [Reserved]

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federal register

Thursday
September 27, 1984

Part III

Environmental Protection Agency

40 CFR Part 60

Standards of Performance for New Stationary Sources; Reference Methods; Alternative Methods for Nitrogen Oxide Emissions; Final Rule

VOL 49 ISS 189 SE 27 1984 UMI

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-2655-6]

Standards of Performance for New Stationary Sources; Reference Methods; Alternative Methods for Nitrogen Oxide Emissions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The purpose of this action is to promulgate as alternative methods to Method 7, "Method 7C, Determination of Nitrogen Oxide Emissions from Stationary Sources—Alkaline Permanganate/Colorimetric Procedure," and "Method 7D, Determination of Nitrogen Oxide Emissions from Stationary Sources—Alkaline Permanganate/Ion Chromatography Procedure," which are to be added to Appendix A of 40 CFR Part 60. The methods provide integrated samples rather than grab samples as in Method 7. These methods were proposed in the **Federal Register** on October 12, 1983 (48 FR 46472).

These methods would, at present, apply to fossil-fuel fired steam generators (Subpart D), electric utility steam generating units (Subpart Da), and nitric acid plants (Subpart G).

EFFECTIVE DATE: September 27, 1984.

Under section 307(b)(1) of the Clean Air Act, judicial review of this new source performance standard is available *only* by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia within 60 days of today's publication of this rule. Under section 307(b)(2) of the Clean Air Act, the requirements that are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Docket. Docket No. A–82–42, containing supporting information relevant to this rulemaking, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section (LE–131), West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Foston Curtis or Roger Shigehara, Emission Measurement Branch (MD–19), Emission Standards and Engineering Division, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–2237.

SUPPLEMENTARY INFORMATION: Methods 7C and 7D will serve as alternative methods to Method 7. Both methods utilize impingers to provide time integrated samples instead of evacuated flask grab samples. The alternative methods use colorimetric or ion chromatographic analysis.

Public Participation

Methods 7C and 7D were proposed and published in the **Federal Register** on October 12, 1983 (48 FR 46472). The opportunity to request a public hearing was presented to provide interested persons the opportunity for oral presentation of data, views, or arguments concerning the proposed test methods, but no person desired to make an oral presentation. The public comment period was from October 12, 1983, to December 15, 1983. Six comment letters were received concerning issues relative to the proposed test methods. The comments have been carefully considered and, where determined to be appropriate by the Administrator, changes have been made.

Significant Comments and Changes to the Proposed Test Methods

Six comment letters were received on the proposed test methods. The major comments and responses are summarized in this preamble. Some of the comment letters contained multiple comments. The significant comments and subsequent changes to the proposed test methods are listed here.

1. One commenter requested a clarification in the definition of the test duration and number of repetitions constituting a valid test run for Methods 7C and 7D. It was noted that a discrepancy exists between the duration specified in the methods and that specified in the proposed amendments to Subparts D, Da, and G.

The proposed amendments to Subparts D, Da, and G that generate confusion over the test duration and frequency for a run have been deleted. A statement has been added to applicable subparts specifying a 1-hour sample to constitute a run.

2. The same commenter suggested that Section 7.1.2 of Performance Specification 2 in Appendix B be revised to allow the use of Methods 7C and 7D for relative accuracy testing, and a description of a minimum acceptable sampling duration, other than 60 minutes as specified in the methods, be given.

Section 7.4 currently allows the use of Methods 7C and 7D since they are approved alternatives to Method 7. Sampling strategy for Methods 7C and 7D is defined in Section 7.1.1, not 7.1.2, since both methods take integrated samples. A 1-hour sampling period is best for increased precision with the methods. Therefore, for relative accuracy testing, the minimum sampling time is 1 hour, sampling 20 minutes at each traverse point. This requirement will be noted in the methods.

3. Another commenter questioned whether Greenburg-Smith impingers may be used in place of the impingers in the proposed methods without creating a bias. Table 1 of Citation 1 in the bibliography shows that the use of Greenburg-Smith impingers would create a bias because the NO_x collection efficiency would only be 94 percent. However, this does not preclude the use of Greenburg-Smith impingers if one can demonstrate the bias can be eliminated.

4. A commenter wondered why it is essential in preparing the cadmium reduction column to cut off the burette at a certain height and have a funnel attached by a glassblower. The funnel is not an essential item but is used to ensure quantitative transfer of the sample. This transfer would be difficult without the funnel. Other means may be used to attach the funnel to the burette (e.g. plastic tubing).

5. A commenter asked if it were possible to use a Method 7C or 7D train at a lower flow rate for the backup monitoring required by Subpart Da [40 CFR 60.47a(f)]. The Agency cannot recommend use of the methods at lower flow rates for long-term sampling because method evaluations under these conditions have not been fully conducted. A method similar to Methods 7C and 7D employing a single sampling train is currently under investigation by the Agency and may become available in the future for long-term monitoring of NO_x and SO_2 emissions.

6. One commenter asked if the Fyrite analyzer of Method 3 is sufficiently accurate, or must the Orsat analyzer be used to measure CO_2. The methods now state that the Fyrite analyzer may be used to measure CO_2.

7. It was desired that the frequency of the rotameter accuracy check be specified in the methods. A recommendation to check the rotameter accuracy before each test has been added to the methods.

8. One commenter wondered what method of testing should be used in Method 7D to ensure that no NO_2 is present in the sample after the 48- to 60-hour standing period.

Recent research has shown that a 36-hour standing time is sufficient to oxidize all NO_2– to NO_3–. Therefore, no test for NO_2– remaining after this

standing time is necessary. Section 4.3 (Sample Preparation for Analysis) has been changed to require a 36-hour standing period.

9. A commenter asked if the 10-minute period for color development in section 4.4 of Method 7C is critical. The commenter also asked if there is a recommended number of calibration points for spectrophotometer calibration curve.

The 10-minute color development period is critical only as a minimum time. Longer times have no effect on color intensity. For the spectrophotometer calibration curve, a minimum of three points each will be specified for the linear and slightly nonlinear (above 1.2 absorbance) ranges.

10. The need for achieving the accuracy implied by a pH of 12.0 required in section 4.3 of Method 7C was questioned by a commenter. The pH adjustment step need not be as accurate as the number indicates. The adjustment is necessary to maintain the pH above 11 as the solution is diluted in the cadmium column. EDTA chelates Cd^{++} to prevent $Cd(OH)_2$ from precipitating on the column and restricting the flow. EDTA chelation of metals is optimum at pH 11 and higher. Therefore, the pH specification in the methods has been revised to cover the range of 11.7 to 12.0.

A few commenters cited the lack of clarity in certain sections of the methods. Where warranted, changes have been made to these sections to add clarity. The various typographical printing errors mentioned in the comment letters have also been corrected.

Docket

The docket is an organized and complete file of the information considered by EPA in the development of this rulemaking. The docket is a dynamic file, since material is added throughout the rulemaking development. The docketing system is intended to allow members of the public and industries involved to identify readily and locate documents so that they can intelligently and effectively participate in the rulemaking process. Along with the statement of basis and purposes of the proposed and promulgated rule and EPA responses to significant comments, the comments of the docket will serve as the record in case of judicial review [section 307(d)(7)(A)].

Miscellaneous

This rulemaking would not impose any additional emission measurement requirements on any facilities. Rather, the rulemaking would simply add alternative test methods associated with emission measurement requirements that would apply irrespective of this rulemaking.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore subject to the requirement of a regulatory impact analysis. This regulation is not major because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices; and there will be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rule does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act of 1980 U.S.C. 3501 *et seq.*

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the attached rule will not have any economic impact on a substantial number of small entities because the rulemaking simply adds alternative test methods.

List of Subjects in 40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Asphalt, Cement industry, Coal, Copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Metallic minerals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel sulfuric acid plants, Waste treatment and disposal, Zinc, Tires, Incorporation by reference, Can surface coating, Sulfuric acid plants, Industrial organic chemicals, Organic solvent cleaners, Fossil fuel-fired steam generators, Fiberglass insulation, Synthetic fibers.

Dated: September 19, 1984.

William D. Ruckelshaus,

Administrator.

PART 60—[AMENDED]

40 CFR Part 60 is amended as follows:

1. The authority citation for this amendment is as follows:

Authority: Secs. 111, 114, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7411, 7414, and 7601(a)).

2. By revising § 60.17(a)(22) as follows:

§ 60.17 Incorporation by reference.

* * * * *

(a) * * *

(22) ASTM D 1192–77, Standard Specification for Reagent Water, Incorporated by Reference approved January 27, 1983, for Appendix A to Part 60, Method 6, par. 3.1.1; Method 7, par. 3.2.2; Method 7C, par. 3.1.1; Method 7D, par. 3.1.1; Method 8, par. 3.1.3; Method 12, par. 4.1.3.

* * * * *

3. By amending §§ 60.45, 60.46, 60.47a, 60.73, and 60.74 as follows:

§ 60.45 [Amended]

a. In 60.45(c)(1) and 60.46(a)(2) by removing the word "Reference" and by removing "7 or 7A" and replacing with "7, 7A, 7C, or 7D".

§ 60.46 [Amended]

b. In 60.46(a)(5) and 60.46(c) by removing "7 or 7A" and replacing with "7, 7A, 7C, or 7D".

c. In 60.46(c), in the last sentence by removing "Method 6" and replacing with "Method 6, 7C, and 7D".

d. In 60.46(e) by adding the following sentence: "For Method 7C or 7D, each run shall consist of a 1-hour sample."

e. In 60.46(f)(2) by removing "or 7" and replacing with "7, 7A, 7C, or 7D".

f. In 60.46(f)(3)(i) by removing "7 or 7A" and replacing with "7, 7A, 7C, or 7D" in the first sentence only.

§ 60.47a [Amended]

g. In 60.47a(h)(1) by removing the word "Reference" and by removing "7 or 7A" and replacing with "7, 7A, 7C, or 7D".

h. In 60.47a(h)(3) by adding the following sentence: "For Method 7C or 7D, each run shall consist of a 1-hour sample."

i. In 60.47a(h)(4) by removing "7 or 7A" and replacing with "7, 7A, 7C, or 7D".

j. In 60.47a(h)(5)(i)(1) by removing the word "Reference" and by removing "7 or 7A" and replacing with "7, 7A, 7C, or 7D".

§ 60.73 [Amended]

k. In 60.73(a) by removing the word "Reference" and by removing "7, 7A, or 7B" and replacing with "7, 7A, 7B, 7C, or 7D".

§ 60.74 [Amended]

l. In 60.74(a)(1) by removing "7, 7A, or 7B" and replacing with "7, 7A, 7B, 7C, or 7D".

m. In 60.74(b) by adding the following sentence: "For Method 7C or 7D, each run shall consist of a 1-hour sample."

4. By adding Methods 7C and 7D to Appendix A as follows:

Appendix A—Reference Methods

* * * * *

Method 7C—Determination of Nitrogen Oxide Emissions From Stationary Sources

Alkaline-Permanganate/Colorimetric Method

1. *Applicability, Principle, Interferences, Precision, Bias, and Stability.*

1.1 Applicability. The method is applicable to the determination of NO_x emissions from fossil-fuel fired steam generators, electric utility plants, nitric acid plants, or other sources as specified in the regulations. The lower detectable limit is 13 mg NO_x/m^3, as NO_2 (7 ppm NO_x) when sampling at 500 cc/min for 1 hour. No upper limit has been established; however, when using the recommended sampling conditions, the method has been found to collect NO_x emissions quantitatively up to 1,782 mg NO_x/m^3, as NO_2 (932 ppm NO_x).

1.2 Principle. An integrated gas sample is extracted from the stack and collected in alkaline-potassium permanganate solution; NO_x ($NO + NO_2$) emissions are oxidized to NO_3^- and NO_2^-. The NO_3^- is reduced to NO_2^- with cadmium, and the NO_2^- is analyzed colorimetrically.

1.3 Interferences. Possible interferences are SO_2 and NH_3. High concentrations of SO_2 could interfere because SO_2 consumes MnO_4^- (as does NO_x) and, therefore, could reduce the NO_x collection efficiency. However, when sampling emissions from a coal-fired electric utility plant burning 2.1-percent sulfur coal with no control of SO_2 emissions, collection efficiency was not reduced. In fact, calculations show that sampling 3000 ppm SO_2 will reduce the MnO_4^- concentration by only 5 percent if all the SO_2 is consumed in the first impinger.

NH_3 is slowly oxidized to NO_3^- by the absorbing solution. At 160 ppm NH_3 in the gas stream, an interference of 6 ppm NO_x (11 mg NO_x/m^3) was observed when the sample was analyzed 10 days after collection. Therefore, the method may not be applicable to plants using NH_3 injection to control NO_x emissions unless means are taken to correct the results. An equation has been developed to allow quantitation of the interference and is discussed in Citation 5 of the bibliography.

1.4 Precision and Bias. The method does not exhibit any bias relative to Method 7. The within-laboratory relative standard deviation for a single measurement is 2.8 and 2.9 percent at 201 and 268 ppm NO_x, respectively.

1.5 Stability. Collected samples are stable for at least 4 weeks.

2. *Apparatus.*

2.1 Sampling and Sample Recovery. The Sampling train is shown in Figure 7C-1, and component parts are discussed below. Alternative apparatus and procedures are allowed provided acceptable accuracy and precision can be demonstrated.

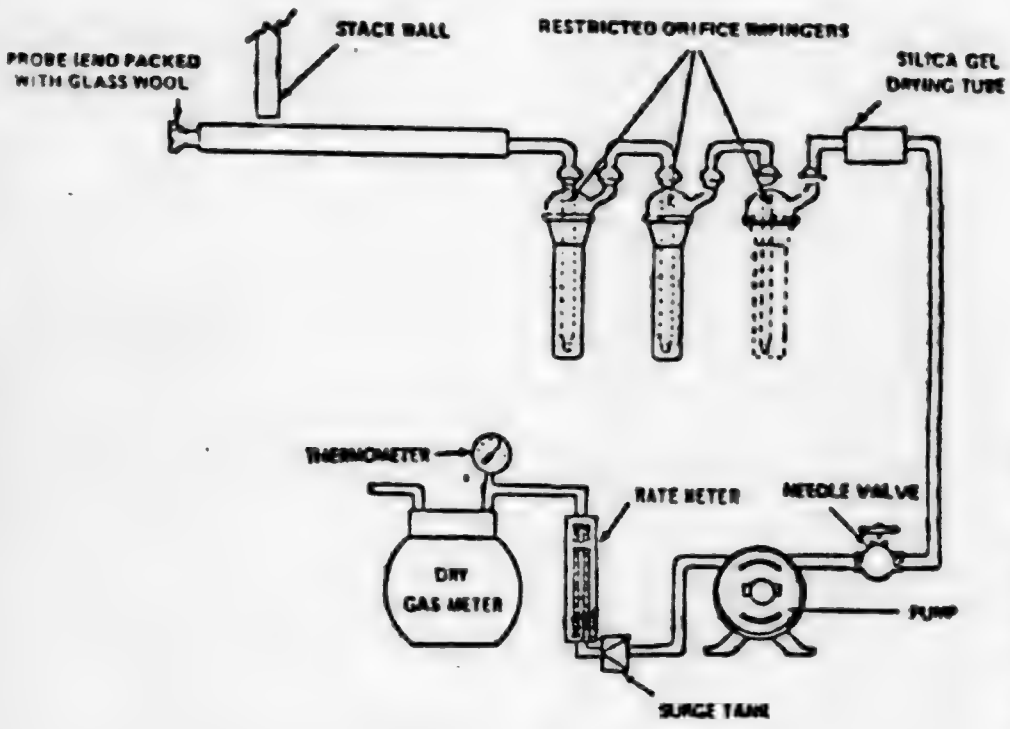

Figure 7C-1. NO_x sampling train

2.1.1 Probe. Borosilicate glass tubing, sufficiently heated to prevent water condensation and equipped with an in-stack or out-stack filter to remove particulate matter (a plug of glass wool is satisfactory for this purpose). Stainless steel or Teflon tubing may also be used for the probe. (Note: Mention of trade names or specific products does not constitute endorsement by the U.S. Environmental Protection Agency.)

2.1.2 Impingers. Three restricted-orifice glass impingers, having the specifications given in Figure 7C-2, are required for each sampling train. The impingers must be connected in series with leak-free glass connectors. Stopcock grease may be used, if necessary, to prevent leakage. (The impingers can be fabricated by a glass blower until they become available commercially.)

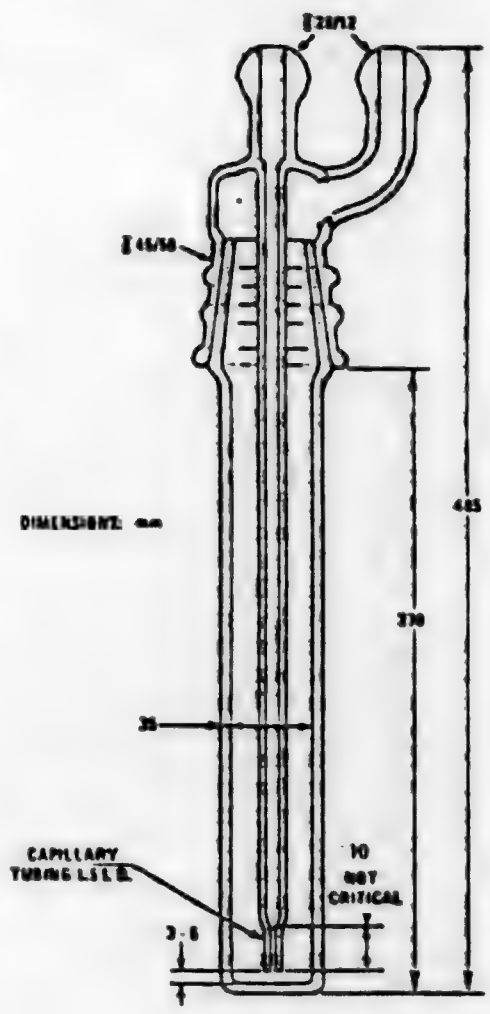

Figure 7C-2. Restricted orifice impinger

2.1.3 Glass Wool, Stopcock Grease, Drying Tube, Valve, Pump, Barometer, and Vacuum Gauge and Rotameter. Same as in Method 6, Sections 2.1.3, 2.1.4, 2.1.6, 2.1.7, 2.1.8, 2.1.11, and 2.1.12, respectively.

2.1.4 Rate Meter. Rotameter, or equivalent, accurate to within 2 percent at the selected flow rate between 400 and 500 cc/min. For rotameters, a range of 0 to 1 liter/min is recommended.

2.1.5 Volume Meter. Dry gas meter capable of measuring the sample volume, under the sampling conditions of 400 to 500 cc/min for 60 minutes within an accuracy of 2 percent.

2.1.6 Filter. To remove NO_x from ambient air, prepared by adding 20 g of a 5-angstrom molecular sieve to a cylindrical tube, e.g., a polyethylene drying tube.

2.1.7 Polyethylene Bottles. 1-liter, for sample recovery.

2.1.8 Funnel and Stirring Rods. For sample recovery.

2.2 *Sample Preparation and Analysis.*

2.2.1 Hot Plate. Stirring type with 50- by 10-mm Teflon-coated stirring bars.

2.2.2 Beakers. 400-, 600-, and 1000-ml capacities.

2.2.3 Filtering Flask. 500-ml capacity with side arm.

2.2.4 Buchner Funnel. 75-mm ID, with spout equipped with a 13-mm ID by 90-mm long piece of Teflon tubing to minimize possibility of aspirating sample solution during filtration.

2.2.5 Filter Paper. Whatman GF/C, 7.0-cm diameter.

2.2.6 Stirring Rods.

2.2.7 Volumetric Flasks. 100-, 200- or 250-, 500-, and 1000-ml capacity.

2.2.8 Watch Glasses. To cover 600- and 1,000-ml beakers.

2.2.9 Graduated Cylinders. 50- and 250-ml capacities.

2.2.10 Pipettes. Class A

2.2.11 pH Meter. To measure pH from 0.5 to 12.0

2.2.12 Burette. 50-ml with a micrometer type stopcock. (The stopcock is Catalogue No. 8225–t–05, Ace Glass, Inc., Post Office Box 996, Louisville, Kentucky 50201.) Place a glass wool plug in bottom of burette. Cut off burette at a height of 43 cm from the top of plug, and have a glass blower attach a glass funnel to top of burette such that the diameter of the burette remains essentially unchanged. Other means of attaching the funnel are acceptable.

2.2.13 Glass Funnel. 75-mm ID at the top.

2.2.14 Spectrophotometer. Capable of measuring absorbance at 540 nm. One-cm cells are adequate.

2.2.15 Metal Thermometers. Bimetallic thermometers, range 0 to 150 °C.

2.2.16 Culture Tubes. 20- by 150-mm, Kimax No. 45048.

2.2.17 Parafilm "M." Obtained from American Can Company, Greenwich, Connecticut 06830.

2.2.18 CO_2 Measurement Equipment. Same as in Method 3.

3. *Reagents.*

Unless otherwise indicated, all reagents should conform to the specifications established by the Committee on Analytical Reagents of the American Chemical Society, where such specifications are available; otherwise, use the best available grade.

3.1 Sampling.

3.1.1 Water. Deionized distilled to conform to ASTM specification D 1193–74, Type 3 (incorporated by reference—see § 60.17).

3.1.2 Potassium Permanganate, 4.0 percent (w/w), Sodium Hydroxide, 2.0 percent (w/w). Dissolve 40.0 g of $KMnO_4$ and 20.0 g of NaOH in 940 ml of water.

3.2 Sample Preparation and Analysis.

3.2.1 Water. Same as in Section 3.1.1.

3.2.2 Sulfuric Acid. Concentrated H_2SO_4.

3.2.3 Oxalic Acid Solution. Dissolve 48 g of oxalic acid [$(COOH)_2 \cdot 2H_2O$] in water, and dilute to 500 ml. Do not heat the solution.

3.2.4 Sodium Hydroxide, 0.5 N. Dissolve 20 g of NaOH in water, and dilute to 1 liter.

3.2.5 Sodium Hydroxide, 10 N. Dissolve 40 g of NaOH in water and dilute to 100 ml.

3.2.6 Ethylenediamine Tetraacetic Acid (EDTA) Solution, 6.5 Percent. Dissolve 6.5 g of EDTA (disodium salt) in water, and dilute to 100 ml. Solution is best accomplished by using a magnetic stirrer.

3.2.7 Column Rinse Solution. Add 20 ml of 6.5 percent EDTA solution to 980 ml of water, and adjust the pH to 11.7 to 12.0 with 0.5 N NaOH.

3.2.8 Hydrochloric Acid (HCl), 2 N. Add 86 ml of concentrated HCl to a 500-ml volumetric flask containing water, dilute to volume, and mix well. Store in a glass-stoppered bottle.

3.2.9 Sulfanilamide Solution. Add 20 g of sulfanilamide (melting point 165 to 167 °C) to 700 ml of water. Add, with mixing, 50 ml concentrated phosphoric acid (85 percent), and dilute to 1000 ml. This solution is stable for at least 1 month, if refrigerated.

3.2.10 N-(1-Naphthyl)-Ethylenediamine Dihydrochloride (NEDA) Solution. Dissolve 0.5 g of NEDA in 500 ml of water. An aqueous solution should have one absorption peak at 320 nm over the range of 280 to 400 nm. NEDA, showing more than one absorption peak over this range, is impure and should not be used. This solution is stable for at least 1 month if protected from light and refrigerated.

3.2.11 Cadmium. Obtained from Matheson Coleman and Bell, 2909 Highland Avenue, Norwood, Ohio 45212, as EM Laboratories Catalogue No. 2001. Prepare by rinsing in 2 N HCl for 5 minutes until the color is silver-grey. Then rinse the cadmium with water until the rinsings are neutral when tested with pH paper. CAUTION: H_2 is liberated during preparation. Prepare in an exhaust hood away from any flame.

3.2.12 $NaNO_2$ Standard Solution, Nominal Concentration, 100 μ g NO_2^-/ml. Desiccate $NaNO_2$ overnight. Accurately weigh 1.4 to 1.8 g of $NaNO_2$ (assay of 97 percent $NaNO_2$ or greater), dissolve in water, and dilute to 1 liter. Calculate the exact NO_2^- concentration from the following relationship:

$$\mu g\ NO_2^-/ml = g\ of\ NaNO_2 \times \frac{purity,\ \%}{100} \times 10^3 \times \frac{46.01}{69.01}$$

This solution is stable for at least 6 months under laboratory conditions.

3.2.13 KNO_3 Standard Solution. Dry KNO_3 at 110 °C for 2 hours, and cool in a desiccator. Accurately weigh 9 to 10 g of KNO_3 to within 0.1 mg, dissolve in water, and dilute to 1 liter. Calculate the exact NO_2^- concentration from the following relationship:

$$\mu g\ NO_2^-/ml = g\ of\ KNO_3 \times 10^3 \times \frac{62.01}{101.10}$$

This solution is stable for 2 months without preservative under laboratory conditions.

3.2.14 Spiking Solution. Pipette 7 ml of the KNO_3 standard into a 100-ml volumetric flask, and dilute to volume.

3.2.15 Blank Solution. Dissolve 2.4 g of $KMnO_4$ and 1.2 g of NaOH in 98 ml of water. Alternatively, dilute 60 ml of $KMnO_4$/NaOH solution to 100 ml.

3.2.16 Quality Assurance Audit Samples. Same as in Method 7, Section 3.3.9. When requesting audit samples, specify that they be in the appropriate concentration range for Method 7C.

4. *Procedure.*

4.1 Sampling.

4.1.1 Preparation of Collection Train. Add 200 ml of $KMnO_4$/NaOH solution (3.1.2) to each of three impingers, and assemble the train as shown in Figure 7C–1. Adjust probe heater to a temperature sufficient to prevent water condensation.

4.1.2 Leak-Check Procedure. A leak-check prior to the sampling run should be carried out; a leak-check after the sampling run is mandatory. Carry out the leak-check(s) according to Method 6, Section 4.1.2.

4.1.3 Check of Rotameter Calibration Accuracy (Optional). Disconnect the probe from the first impinger, and connect the filter (2.1.6). Start the pump, and adjust the rotameter to read between 400 and 500 cc/min. After the flow rate has stabilized, start measuring the volume sampled, as recorded by the dry gas meter (DGM), and the sampling time. Collect enough volume to measure accurately the flow rate, and calculate the flow rate. This average flow rate must be less than 500 cc/min for the sample to be valid; therefore, it is recommended that the flow rate be checked as above prior to each test.

4.1.4 Sample Collection. Record the initial DGM reading and barometric pressure. Determine the sampling point or points according to the appropriate regulations, e.g., Section 60.46(c) of 40 CFR Part 60. Position the tip of the probe at the sampling point, connect the probe to the first impinger, and start the pump. Adjust the sample flow to a value between 400 and 500 cc/min. CAUTION: HIGHER FLOW RATES WILL PRODUCE LOW RESULTS. Once adjusted, maintain a constant flow rate during the entire sampling run. Sample for 60 minutes. For relative accuracy (RA) testing of continuous emission monitors, the minimum sampling time is 1 hour, sampling 20 minutes at each traverse point. [Note.—When the SO_2 concentration is greater than 1200 ppm, the sampling time may have to be reduced to 30 minutes to eliminate plugging of the impinger orifice with MnO_2. For RA tests with SO_2 greater than 1200 ppm, sample for 30 minutes (10 minutes at each point)]. Record the DGM temperature, and check the flow rate at least every 5 minutes. At the conclusion of each

run, turn off the pump, remove probe from the stack, and record the final readings. Divide the sample volume by the sampling time to determine the average flow rate. Conduct a leak-check as in Section 4.1.2. If a leak is found, void the test run, or use procedures acceptable to the Administrator to adjust the sample volume for the leakage.

4.1.5 CO_2 Measurement. During sampling, measure the CO_2 content of the stack gas near the sampling point using Method 3. The single-point grab sampling procedure is adequate, provided the measurements are made at least three times—near the start, midway, and before the end of a run and the average CO_2 concentration is computed. The Orsat or Fyrite analyzer may be used for this analysis.

4.2 Sample Recovery. Disconnect the impingers. Pour the contents of the impingers into a 1-liter polyethylene bottle using a funnel and a stirring rod (or other means) to prevent spillage. Complete the quantitative transfer by rinsing the impingers and connecting tubes with water until the rinsings that are clear to light pink, and add the rinsings to the bottle. Mix the sample, and mark the solution level. Seal and identify the sample container.

4.3 Sample Preparation for Analysis. Prepare a cadmium reduction column as follows: Fill the burette (2.2.12) with water. Add freshly prepared cadmium slowly with tapping until no further settling occurs. The height of the cadmium column should be 30 cm. When not in use, store the column under rinse solution (3.2.7). (Note.—The column should not contain any bands of cadmium fines. This may occur if regenerated column is used and will greatly reduce the column lifetime.)

Note the level of liquid in the sample container, and determine whether any sample was lost during shipment. If a noticeable amount of leakage has occurred, the volume lost can be determined from the difference between initial and final solution levels, and this value can then be used to correct the analytical result. Quantitatively transfer the contents to a 1-liter volumetric flask, and dilute to volume.

Take a 100-ml aliquot of the sample and blank (unexposed $KMnO_4$/NaOH) solutions, and transfer to 400-ml beakers containing magnetic stirring bars. Using a pH meter, add concentrated H_2SO_4 with stirring until a pH of 0.7 is obtained. Allow the solutions to stand for 15 minutes. Cover the beakers with watch glasses, and bring the temperature of the solutions to 50 °C. Keep the temperature below 60 °C. Dissolve 4.8 g of oxalic acid in a minimum volume of water, approximately 50 ml, at room temperature. Do not heat the solution. Add this solution slowly, in increments, until the $KMnO_4$ solution becomes colorless. If the color is not completely removed, prepare some more of the above oxalic acid solution, and add until a colorless solution is obtained. Add an excess of oxalic acid by dissolving 1.6 g of oxalic acid in 50 ml of water, and add 6 ml of this solution to the colorless solution. If suspended matter is present, add concentrated H_2SO_4, until a clear solution is obtained.

Allow the samples to cool to near room temperature, being sure that the samples are still clear. Adjust the pH to 11.7 to 12.0 with 10 N NaOH. Quantitatively transfer the mixture to a Buchner funnel containing GF/C filter paper, and filter the precipitate. Filter the mixture into a 500-ml filtering flask. Wash the solid material four times with water. When filtration is complete, wash the Teflon tubing, quantitatively transfer the filtrate to a 500-ml volumetric flask, and dilute to volume. The samples are now ready for cadmium reduction. Pipette a 50-ml aliquot of the sample into a 150-ml beaker, and add a magnetic stirring bar. Pipette in 1.0 ml of 8.5 percent EDTA solution, and mix.

Determine the correct stopcock setting to establish a flow rate of 7 to 9 ml/min of column rinse solution through the cadmium reduction column. Use a 50-ml graduated cylinder to collect and measure the solution volume. After the last of the rinse solution has passed from the funnel into the burette, but before air entrapment can occur, start adding the sample, and collect it in a 250-ml graduated cylinder. Complete the quantitative transfer of the sample to the column as the sample passes through the column. After the last of the sample has passed from the funnel into the burette, start adding 60 ml of column rinse solution, and collect the rinse solution until the solution just disappears from the funnel. Quantitatively transfer the sample to a 200-ml volumetric flask (250-ml may be required), and dilute to volume. The samples are now ready for NO_3–4- analysis. (Note.— Both the sample and blank should go through this procedure. Additionally, two spiked samples should be run with every group of samples passed through the column. To do this, prepare two additional 50–ml aliquots of the sample suspected to have the highest NO_3– concentration, and add 1 ml of the spiking solution to these aliquots. If the spike recovery or column efficiency (see 6.2.1) is below 95 percent, prepare a new column, and repeat the cadmium reduction).

4.4 Sample Analysis. Pipette 10 ml of sample into a culture tube. (Note.—Some test tubes give a high blank NO_2– value but culture tubes do not.) Pipette in 10 ml of sulfanilamide solution and 1.4 ml of NEDA solution. Cover the culture tube with parafilm, and mix the solution. Prepare a blank in the same manner using the sample from treatment of the unexposed $KMnO_4$/NaOH solution (3.1.2). Also, prepare a calibration standard to check the slope of the calibration curve. After a 10-minute color development interval, measure the absorbance at 540 nm against water. Read µg NO_2–/ml from the calibration curve. If the absorbance is greater than that of the highest calibration standard, pipette less than 10 ml of sample and enough water to make the total sample volume 10 ml, and repeat the analysis. Determine the No_2 concentration using the calibration curve obtained in Section 5.3.

4.5 Audit Analysis. This is the same as in Method 7, Section 4.4.

5. *Calibration.*

5.1 Dry Gas Metering System (DGM).

5.1.1 Initial Calibration. Same as in Method 6, Section 5.1.1. For detailed instructions on carrying out this calibration, it is suggested that Section 3.5.2 of Citation 4 in the bibiography be consulted.

5.1.2 Post-Test Calibration Check. Same as in Method 6, Section 5.1.2.

5.2 Thermometers for DGM and Barometer. Same as in Method 6, Sections 5.2 and 5.4, respectively.

5.3 Calibration Curve for Spectrophotometer. Dilute 5.0 ml of the $NaNO_2$ standard solution to 200 ml with water. This solution nominally contains 25 µg NO_2–/ml. Use this solution to prepare calibration standards to cover the range of 0.25 to 3.00 µg NO_2–/ml. Prepare a minimum of three standards each for the linear and slightly nonlinear (described below) range of the curve. Use pipettes for all additions.

Run standards and a water blank as instructed in Section 4.4. Plot the net absorbance vs µg NO_2–/ml. Draw a smooth curve through the points. The curve should be linear up to an absorbance of approximately 1.2 with a slope of approximately 0.53 absorbance units/µg NO_2–/ml. The curve should pass through the origin. The curve is slightly nonlinear from an absorbance of 1.2 to 1.8.

6. *Calculations.*

Carry out calculations, retaining at least one extra decimal figure beyond that of the acquired data. Round off figures after final calculation.

6.1 Sample volume, dry basis, corrected to standard conditions.

$$V_{m(std)} = V_m Y \frac{T_{std}}{T_m} \frac{P_{bar}}{P_{std}} = K_1 Y \frac{V_m P_{bar}}{T_m} \qquad \text{(Eq. 7C–1)}$$

Where:

$V_{m(std)}$ = Dry gas volume measured by the dry gas meter, corrected to standard conditions, dscm.

V_m = Dry gas volume as measured by the dry gas meter, dcm.

Y = Dry gas meter calibration factor.

X = Correction factor for CO_2 collection.

$$= \frac{100}{100 - \%CO_2(v/v)}$$

P_{bar} = Barometric pressure, mm Hg.

P_{std} = Standard absolute pressure, 760 mm Hg.

T_m = Average dry gas meter absolute temperature, °K.

T_{std} = Standard absolute temperature, 293 °K.

K_1 = 0.3858 °K/mm Hg.

6.2 Total µg NO_2 Per Sample.

6.2.1 Efficiency of Cadmium Reduction Column. Calculate this value as follows:

$$E = \frac{(x - y)\ 200}{s \times 1.0 \times \frac{46.01}{62.01}} = \frac{269.6\ (x - y)}{s} \qquad \text{(Eq. 7C-2)}$$

Where:
E = Column efficiency, unitless.
x = Analysis of spiked sample, μg NO_2^-/ml.
y = Analysis of unspiked sample, μg NO_2^-/ml.
200 = Final volume of sample and blank after passing through the column, ml
s = Concentration of spiking solution, μg NO_2/ml.
1.0 = Volume of spiking solution added, ml.
46.01 = μg NO_2^-/μmole.
62.01 = μg NO_3^-/μmole.

6.2.2 Total μg NO_2.

$$m = \frac{(S-B)}{E} \times 200 \times \frac{500}{50} \times \frac{1000}{100} = \frac{(2\times10^4)\ (S-B)}{E} \qquad \text{(Eq. 7C-3)}$$

Where:
m = Mass of NO_2, as NO_2, in sample, μg.
S = Analysis of sample, μg NO_2^-/ml.
B = Analysis of blank, μg NO_2^-/ml.
500 = Total volume of prepared sample, ml.
50 = Aliquot of prepared sample processed through cadmium column, ml.
100 = Aliquot of $KMnO_4$/NaOH solution, ml.
1000 = Total volume of $KMnO_4$/NaOH solution ml.

6.3 Sample Concentration.

$$C = K_2 \frac{m}{V_{m(std)}}$$

Where:
C = Concentration of NO_x as NO_2, dry basis, mg/dscm.
$K_2 = 10^{-3}$ mg/μg.

6.4 Conversion Factors.
1.0 ppm NO = 1.247 mg NO/m^3 at STP.
1.0 ppm NO_2 = 1.912 mg NO_2/m^3 at STP.
1 $ft^3 = 2.832 \times 10^{-2}\ m^3$.

7. *Quality Control.*

Quality control procedures are specified in Sections 4.1.3 (flow rate accuracy); 4.3 (cadmium column efficiency); 4.4 (calibration curve accuracy); and 4.5 (audit analysis accuracy).

8. *Bibliography.*

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Method 7D—Determination of Nitrogen Oxide Emissions From Stationary Sources

Alkaline-Permanganate/Ion Chromatographic Method

1. *Applicability, Principle, Interferences, Precision, Bias, and Stability.*

1.1 Applicability. The method is applicable to the determination of NO_x emissions from fossil-fuel fired steam generators, electric utility plants, nitric acid plants, or other sources as specified in the regulations. The lower detectable limit is similar to that for Method 7C. No upper limit has been established; however, when using the recommended sampling conditions, the method has been found to collect NO_x emissions quantitatively up to 1782 mg/NO_x/m^3, as NO_2 (932 ppm NO_x).

1.2 Principle. An integrated gas sample is extracted from the stack and collected in alkaline-potassium permanganate solution; NO_x ($NO + NO_2$) emissions are oxidized to NO_3^-. Then NO_3^- is analyzed by ion chromatography.

1.3 Interferences. Possible interferences are SO_2 and NH_3. High concentrations of SO_2 could interfere because SO_2 consumes MnO_4^- (as does NO_x) and, therefore, could reduce the NO_x collection efficiency. However, when sampling emissions from a coal-fired electric utility plant burning 2.1-percent sulfur coal with no control of SO_2 emissions, collection efficiency was not reduced. In fact, calculations show that sampling 3000 ppm SO_2 will reduce the MnO_4^- concentration by only 5 percent if all the SO_2 is consumed in the first impinger.

NH_3 is slowly oxidized to NO_3^- by the absorbing solution. At 100 ppm NH_3 in the gas stream, an interference of 6 ppm NO_x [11 mg NO_2/m^3) was observed when the sample was analyzed 10 days after collection. Therefore, the method may not be applicable to plants using NH_3 injection to control NO_x emissions unless means are taken to correct the results. An equation has been developed to allow quantitation of the interference and is discussed in Citation 4 of the bibliography.

1.4 Precision and Bias. The method does not exhibit any bias relative to Method 7. The within-laboratory relative standard deviation for a single measurement was approximately 6 percent at 280 to 270 ppm NO_x.

1.5 Stability. Collected samples are stable for at least 4 weeks.

2. *Apparatus.*

2.1 Sampling and Sample Recovery. The sampling train is the same as in Figure 7C-1 of Method 7C. Component parts are the same as in Method 7C, Section 2.1.

2.2 Sample Preparation and Analysis.

2.2.1 Magnetic Stirrer. With 25- by 10-mm Teflon-coated stirring bars.

2.2.2 Filtering Flask. 500-ml capacity with sidearm.

2.2.3 Buchner Funnel. 75-mm ID. The spout equipped with a 13-mm ID by 80-mm long piece of Teflon tubing to minimize possibility of aspirating sample solution during filtration.

2.2.4 Filter Paper. Whatman GF/C, 7.0-cm diameter.

2.2.5 Stirring Rods.

2.2.6 Volumetric Flask. 250-ml.

2.2.7 Pipettes. Class A.

2.2.8 Erlenmeyer Flasks. 250-ml.

2.2.9 Ion Chromatograph. Equipped with an anion separator column to separate NO_3^-, a H^+ suppressor, and necessary auxiliary equipment. Nonsuppressed and other forms of ion chromatography may also be used provided that adequate resolution of NO_3^- is obtained. The system must also be able to resolve and detect NO_2^-.

3. *Reagents.*

Unless otherwise indicated, all reagents should conform to the specifications established by the Committee on Analytical Reagents of the American Chemical Society, where such specifications are available; otherwise, use the best available grade.

3.1 Sampling.

3.1.1 Water. Deionized distilled to conform to ASTM specification D 1193–74, Type 3 (incorporated by reference—see § 60.17).

3.1.2 Potassium Permanganate, 4.0 Percent (w/w), Sodium Hydroxide, 2.0 Percent (w/w). Dissolve 40.0 g of $KMnO_4$ and 20.0 g of NaOH in 940 ml of water.

3.2 Sample Preparation and Analysis.

3.2.1 Water. Same as in Section 3.1.1.

3.2.2 Hydrogen Peroxide, 5 Percent. Dilute 30 percent H_2O_2 1:5 (v/v) with water.

3.2.3 Blank Solution. Dissolve 2.4 g of $KMnO_4$ and 1.2 g of NaOH in 98 ml of water. Alternatively, dilute 80 ml of $KMnO_4$/NaOH solution to 100 ml.

3.2.4 KNO_3 Standard Solution. Dry KNO_3 at 110 ° C for 2 hours, and cool in a desiccator. Accurately weigh 9 to 10 g of KNO_3 to within 0.1 mg, dissolve in water, and dilute to 1 liter. Calculate the exact NO_3^- concentration from the following relationship:

$$\mu g\ NO_3^-/ml = g\ of\ KNO_3 \times 10^3 \times \frac{62.01}{101.10}$$

This solution is stable for 2 months without preservative under laboratory conditions.

3.2.5 Eluent, 0.003 M $NaHCO_3$/0.0024 M Na_2CO_3. Dissolve 1.008 g $NaHCO_3$ and 1.018 g Na_2CO_3 in water, and dilute to 4 liters. Other eluents capable of resolving nitrate ion from sulfate and other species present may be used.

3.2.6 Quality Assurance Audit Samples. This is the same as in Method 7, section 3.3.9. When requesting audit samples, specify that they be in the appropriate concentration range for Method 7D.

4. *Procedure.*

4.1 Sampling. This is the same as in Method 7C, Section 4.1.

4.2 Sample Recovery. This is the same as in Method 7C, Section 4.2.

4.3 Sample Preparation for Analysis. Note the level of liquid in the sample container, and determine whether any sample was lost during shipment. If a noticeable amount of leakage has occurred, the volume lost can be determined from the difference between initial and final solution levels, and this value can then be used to correct the analytical result. Quantitatively transfer the contents to a 1-liter volumetric flask, and dilute to volume.

Sample preparation can be started 36 hours after collection. This time is necessary to ensure that all NO_2^- is converted to NO_3^-. Take a 50-ml aliquot of the sample and blank, and transfer to 250-ml Erlenmeyer flasks. Add a magnetic stirring bar. Adjust the stirring rate to as fast a rate as possible without loss of solution. Add 5 percent H_2O_2 in increments of approximately 5 ml using a 5-ml pipette. When the $KMnO_4$ color appears to have been removed, allow the precipitate to settle, and examine the supernatant liquid. If the liquid is clear, the H_2O_2 addition is complete. If the $KMnO_4$ color persists, add more H_2O_2, with stirring, until the supernatant liquid is clear. Note.—The faster the stirring rate, the less volume of H_2O_2 that will be required to remove the $KMnO_4$.) Quantitatively transfer the mixture to a Buchner funnel contaiing GF/C filter paper, and filter the precipitate. The spout of the Buchner funnel should be equipped with a 13-mm ID by 90-mm long piece of Teflon tubing. This modification minimizes the possibility of aspirating sample solution during filtration. Filter the mixture into a 500-ml filtering flask. Wash the solid material four times with water. When filtration is complete, wash the Teflon tubing, quantitatively transfer the filtrate to a 250-ml volumetric flask, and dilute to volume. The sample and blank are now ready for NO_3^- analysis.

4.4 Sample Analysis. The following chromatographic conditions are recommended: 0.003 M $NaHCO_3$/0.0024 M Na_2CO_3 eluent solution. (3.2.5), full scale range 3 μMHO; sample loop, 0.5 ml; flow rate, 2.5 ml/min. These conditions should give a NO_3^- retention time of approximately 15 minutes (Figure 7D–1).

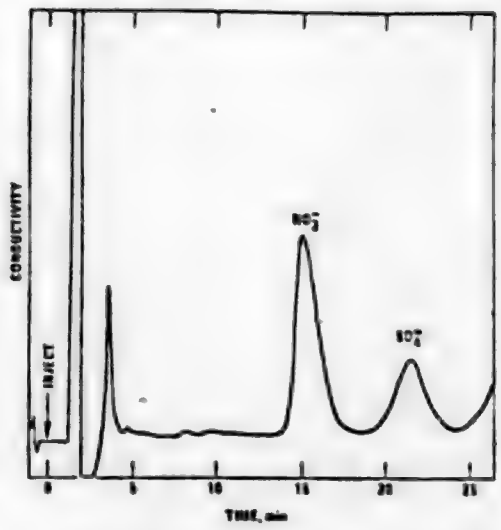

Figure 7D–1. Ion chromatograph of a prepared sample

Establish a stable baseline. Inject a sample of water, and determine if any NO_3^- appears in the chromatogram. If NO_3^- is present, repeat the water load/injection procedure approximately five times; then re-inject a water sample, and observe the chromatogram. When no NO_3^- is present, the instrument is ready for use. Inject calibration standards. Then inject samples and a blank. Repeat the injection of the calibration standards (to compensate for any drift in response of the instrument). Measure the NO_3 peak height or peak area, and determine the sample concentration from the calibration curve.

4.5 Audit analysis. This is the same as in Method 7, Section 4.4

5. *Calibration.*

5.1 Dry Gas Metering System (DGM).

5.1.1 Initial Calibration. Same as in Method 6, Section 5.1.1. For detailed instructions on carrying out this calibration, it is suggested that Section 3.5.2 of Citation 3 in the bibliography be consulted.

5.1.2 Post-Test Calibration Check. Same as in Method 6, Section 5.1.2.

5.2 Thermometers for DGM and Barometer. Same as in Method 6, Section 5.2 and 5.4, respectively.

5.3 Calibration Curve for Ion Chromatograph. Dilute a given volume (1.0 ml or greater) of the KNO_3 standard solution to a convenient volume with water, and use this solution to prepare calibration standards. Prepare at least four standards to cover the range of the samples being analyzed. Use pipettes for all additions. Run standards as instructed in Section 4.4. Determine peak height or area, and plot the individual values versus concentration in μg NO_3^-/ml. Do not force the curve through zero. Draw a smooth curve through the points. The curve should be linear. With the linear curve, use linear regression to determine the calibration equation.

6. *Calculations.*

Carry out calculations, retaining at least one extra decimal figure beyond that of the acquired data. Round off figures after final calculation.

6.1 Sample Volume, Dry Basis, Corrected to Standard Conditions. Same as in Method 7C, Section 6.1.

6.2 Total μg NO_2 Per Sample.

$$m = (S-B) \times 250 \times \frac{1000}{50} \times \frac{46.01}{62.01} = 3710\ (S-B) \qquad \text{(Eq. 7D-1)}$$

Where:

m = Mass of NO_x, as NO_2, in sample, μg.
S = Analysis of sample, μg NO_3^-/ml.
B = Analysis of blank, μg NO_3^-/ml.
250 = Volume of prepared sample, ml.
46.01 = Molecular weight of NO_2^-.
62.01 = Molecular weight of NO_3^-.
1000 = Total volume of $KMnO_4$ solution, ml.
50 = Aliquot $KMnO_4$/NaOH solution, ml.

6.3 Sample Concentration.

$$C = K_2 \frac{m}{V_{m(std)}}$$

Where:

C = Concentration of NO_x as NO_2, dry basis, mg/dscm.
$K_2 = 10^{-3}$ mg/μg.
$V_{m(std)}$ = Dry gas volume measured by the dry gas meter, corrected to standard conditions, dscm.

6.4 Conversion Factors.

1.0 ppm NO = 1.247 mg NO/m^3 at STP.
1.0 ppm NO_2 = 1.912 mg NO_2/m^3 at STP.
1 ft^3 = 2.832 × 10^{-2} m^3.

7. *Quality Control.*

Quality control procedures are specified in Sections 4.1.3 (flow rate accuracy) and 4.5 (audit analysis accuracy) of Method 7C.

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H.J. Res. 545/Pub. L. 98–414

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S.J. Res. 333/Pub. L. 98–415

To designate September 21, 1984, as "World War I Aces and Aviators Day". (Sept. 24,1984; 98 Stat. 1583) Price: $1.00

S.J. Res. 340/Pub. L. 98–416

To designate the week of September 23, 1984, as "National Historically Black Colleges Week". (Sept. 24, 1984; 98 Stat. 1584) Price: $1.00

S. 1538/Pub. L. 98–417

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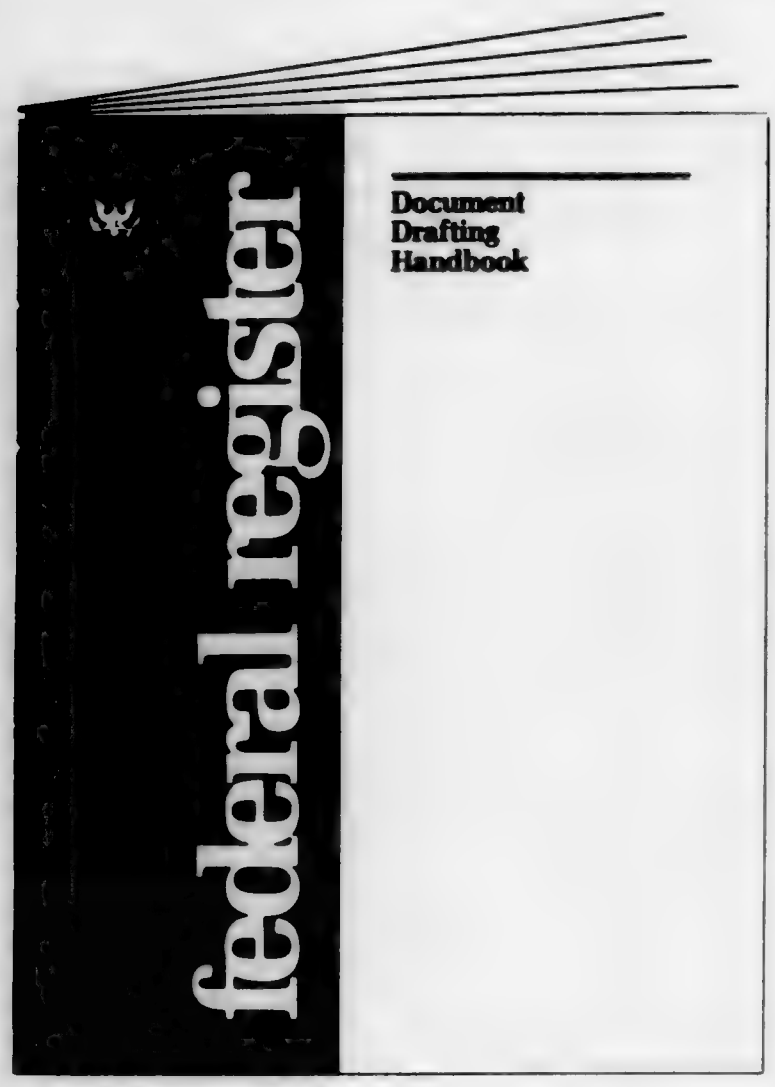

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

Prevailing Rate Systems

Correction

In FR Doc. 84-25170 appearing on page 37055 in the issue of Friday, September 21, 1984, make the following correction: In column one the **EFFECTIVE DATE** should read "October 22, 1984".

BILLING CODE 1505-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 711

Marketing Quota Review Regulations

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the regulations at 7 CFR Part 711 to delete obsolete references with respect to marketing quotas review requirements for peanuts and extra long staple cotton. In addition, this final rule implements certain provisions of the No Net Cost Tobacco Program Act of 1982 and the Dairy and Tobacco Adjustment Act of 1983 with respect to matters involving tobacco which are subject to review by a marketing quota review committee. This final rule also provides that the areas of venue of these committees will no longer be published in the Federal Register and codified.

DATES: Effective September 28, 1984.

FOR FURTHER INFORMATION CONTACT: Jay S. Poole, Agricultural Program Specialist, Tobacco and Peanuts Division, USDA-ASCS, P.O. Box 2415, Washington, D.C. 20013, (202) 447-2715.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Departmental Regulation 1512-1 and has been classified as "not major." It has been determined that this rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local governments, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Information collection requirements contained in this regulation (7 CFR Part 711) have been approved by the Office of Management and Budget (OMB) in accordance with the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB numbers 0560-0088.

The title and number of the Federal Assistance Program to which this rule applies are: Commodity Loan and Purchases; 10.051, as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since the Agricultural Stabilization and Conservation Service (ASCS) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115 (June 24, 1983).

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

The major provisions of this final rules are a follows:

(1) *Elimination of references to peanuts and extra long staple cotton.* Section 701 of the Agriculture and Food Act of 1981, with respect to peanuts, and Section 2 of the Extra Long Staple Cotton Act of 1983, with respect to extra long staple (ELS) cotton, amended the Agricultural Adjustment Act of 1938 (hereinafter referred to as "the 1938 Act") to provide that marketing quotas are not applicable to the 1982 through 1985 crops of peanuts or the 1984 and succeeding crops of ELS cotton. Accordingly, all specific references to these commodities have been removed from 7 CFR Part 711.

(2) *Removal of the listing of areas of venue.* Producers may administratively appeal certain determinations made by county Agricultural Stabilization and Conservation (ASC) committees with respect to farm acreage allotments and farm marketing quotas. These appeals are heard by local statutory review committees in accordance with section 363 of the 1938 Act. The areas of venue for these committees are established by State ASC committees and may consist of all or part of a county, or more than one county in the State. Currently a listing of areas of venue for each State is published in the Federal Register and maintained in the applicable State ASCS office and by the Deputy Administrator, ASCS. The practice of publishing areas of venue and any revisions thereto in the Federal Register annually is both costly and time consuming and does not provide a significant benefit to producers. Therefore, 7 CFR 711.29 is amended by removing the listing of areas of venue. In addition, 7 CFR 711.13 is amended to provide that the listing of areas of venue within a State may be obtained from State ASCS offices or the Deputy Administrator, ASCS.

(3) *Expansion of matters subject to review to include provisions of the No Net Cost Tobacco Program Act of 1982 and the Dairy and Tobacco Adjustment Act of 1983.* Section 363 of the 1938 Act provides that any producer who is dissatisfied with the farm marketing quota established for the farm may have such quota reviewed by a local review committee. As a result of amendments made to the 1938 Act by the No Net Cost Tobacco Program Act of 1982 and the Dairy and Tobacco Adjustment Act of 1983, additional factors must be considered by the county ASC committee to establish a tobacco acreage allotment and farm marketing quota and to determine whether such allotment and quota may be retained by

the producer. Accordingly, the regulations of 7 CFR 711.3 have been amended to expand the list of factors which are used to established a quota for a farm and crop year to include: (a) The forfeiture, reallocation, sale and purchase of allotment or quota, (b) a determination of land constituting a farm, including: (i) Land devoted to nonagricultural usage, (ii) land used for agricultural purposes, (iii) cropland acreage, and (iv) tillable cropland.

(4) *Inclusion of OMB Control Numbers.* A new section (§ 711.29) has been added to regulations to identify the control numbers assigned to this part by the Office of Management and Budget (OMB) as required by the Paperwork Reduction Act.

Since these changes are either specifically required by statutory amendments or are administrative in nature, it has been determined that no further public rulemaking is required. Accordingly, this rule shall become effective upon date of publication in the **Federal Register.**

List of Subjects in 7 CFR Part 711

Administrative practice and procedures, Marketing quotas.

Final Rule

PART 711—[AMENDED]

1. The table of contents is amended by revising the undesignated center heading preceding § 711.29 and by revising the entry for § 711.29 as follows:

Sec.

* * * * *

OMB Control Numbers

711.29 OMB Control Numbers assigned pursuant to the Paperwork Reduction Act.

2. The authority citation for Part 711 is revised to read as follows:

Authority: Secs. 301, 363–368, 371, 374, 375, 379, 52 Stat. 38, as amended, 63–66, amended, 79 Stat. 1211, as amended; 7 U.S.C. 1301, 1363–1368, 1371, 1374, 1375, 1379.

3. In § 711.3, the introductory text of paragraph (f) and paragraphs (f) 1), (3), and (7) are revised to read as follows:

§ 711.3 Definitions.

* * * * *

(f) *Quota.* Quota means the farm marketing quota established under the Act for a farm during a year in which quotas are approved in the national referendum for a commodity, including any of the following factors:

(1) Farm acreage allotment, farm marketing quota, and any adjustments in such allotment and quota resulting from: (i) Program violations; (ii) lease and transfer; (iii) sale and purchase; (iv) overmarketing and undermarketing; (v) release and reapportionment; (vi) eminent domain transactions; and (vii) forfeiture and reallocation.

* * * * *

(3) A determination of the land constituting a farm for which a farm acreage allotment or farm marketing quota is established, including the following: (i) Land devoted to nonagricultural use, (ii) land used for agricultural purposes, (iii) cropland acreage; and (iv) tillable cropland.

* * * * *

(7) Marketing quota penalties, including but not limited to, assessments for marketing quota violations involving: (i) False identification, (ii) failure to account for production and disposition, (iii) failure to file a report, and (iv) the filing of a false report.

4. In § 711.13, a new paragraph (c) is added to read as follows:

§ 711.13 Areas of venue and jurisdiction.

* * * * *

(c) A listing of the areas of venue within a State shall be available from the State ASCS office and the Deputy Administrator.

5. Section 711.15 is revised to read as follows:

§ 711.15 Matters subject to review.

In all cases, the review committee shall consider only such factors as, under applicable provisions of law and regulations, are required or permitted to be considered by the county committee in the establishment of the quota being reviewed. The establishment of national marketing quotas and apportionment of national acreage allotments and marketing quotas among States and counties and the establishment of reserve acreages and quotas at the national level and apportionment of such reserves among States and counties are not subject to review by a review committee. Review of a quota may include any of the factors which enter into the establishment of such quota for the farm and crop year as set forth in § 711.3(f): *Provided, however,* That any factor of such quota considered by a review committee in a prior determination for the farm and crop year shall not be considered in a subsequent review proceeding. For example, a determination of the farm acreage allotment by the review committee would not be reconsidered upon any application for review of the farm marketing excess for the same farm and crop year.

6. The third sentence in § 711.16 is revised to read as follows:

§ 711.16 County committee answer.

* * * In the event the applicant is satisfied with the proposed determination, the county committee shall, upon the withdrawal of the application, take the necessary action to revise the quota within the limits of the Act and applicable commodity regulations if the required amount of acreage allotment or marketing quota is available in the county. * * *

7. The undesignated center heading preceding § 711.29 is revised to read as follows:

OMB Control Numbers

8. Section 711.29 is revised to read as follows:

§ 711.29 OMB Control numbers assigned pursuant to the Paperwork Reduction Act.

The information collection requirements contained in these regulations (7 CFR Part 711) have been approved by the Office of Management and Budget (OMB) in accordance with the provisions of the 44 U.S.C. Chapter 35 and have been assigned OMB Control Number 0560–0068.

Signed at Washington, D.C., on September 24, 1984.

Everett Rank,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 84–25080 Filed 9–27–84; 8:45 am]

BILLING CODE 3410–05–M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 483; Lemon Reg. 482, Amdt. 1]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona lemons that may be shipped to the fresh market during the period September 30–October 6, 1984, and increases the quantity of lemons that may be shipped during the period September 23–29, 1984. Such action is needed to provide for orderly marketing of fresh lemons for the period due to the marketing situation confronting the lemon industry.

DATES: This regulation becomes effective September 30, 1984, and the amendment is effective for the period September 23–29, 1984.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch,

F&V, AMS, USDA, Washington, D.C. 20250, telephone 202-447-5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512-1 and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

This final rule is issued under Marketing Order No. 910, as amended (7 CFR Part 910) regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy currently in effect. The committee met publicly on September 25, 1984, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified weeks. The committee reports that lemon demand is steady.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of lemons. It is necessary to effectuate the declared purposes of the Act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

PART 910—[AMENDED]

1. Section 910.783 is added as follows:

§ 910.783 Lemon Regulation 483.

The quantity of lemons grown in California and Arizona which may be handled during the period September 30, 1984, through October 6, 1984, is established at 250,000 cartons.

2. Section 910.782 Lemon Regulation 482 is revised to read as follows:

§ 910.782 Lemon Regulation 482.

The quantity of lemons grown in California and Arizona which may be handled during the period September 23, 1984, through September 29, 1984, is established at 240,598 cartons.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: September 26, 1984.

Thomas R. Clark,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 84-25660 Filed 9-27-84; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 24249; Amdt. No. 1278]

Air Traffic and General Operating Rules; Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA-430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures Standards Branch (AFO-230), Air Transportation Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4 and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the Federal Register expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies

the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

List of Subjects in 14 CFR Part 97

Approaches, Standard instrument.

Adoption of the Amendment

PART 97—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.M.T. on the dates specified, as follows:

1. By Amending § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN SIAPs identified as follows:

. . . Effective November 8, 1984

Jasper, AL—Walker County-Bevill Field, VOR/DME-A, Amdt. 1
Atlanta, GA—DeKalb-Peachtree, VOR RWY 27, Amdt. 15
Swainsboro, GA—Emanuel County, VOR-A, Amdt. 4
Olathe, KS—Johnson County Industrial, VOR-A, Amdt. 3
Fayetteville, NC—Fayetteville Muni/Grannis Fld, VOR RWY 4, Amdt. 14
Winston Salem, NC—Smith Reynolds, VOR/DME-A, Amdt. 1
Painesville, OH—Concord Airpark, VOR-A, Amdt. 8
Philip, SD—Philip, VOR-A, Amdt. 9
Humboldt, TN—Humboldt Muni, VOR/DME-A, Amdt. 4
Portland, TN—Portland Muni, VOR/DME RWY 19, Amdt. 1
Trenton, TN—Gibson County, VOR/DME-A, Amdt. 4
Madison, WI—Dane County Regional/Truax Field, VOR RWY 13, Amdt. 17
Madison, WI—Dane County Regional/Truax Field, VOR RWY 31, Amdt. 18
Douglas, WY—Converse County, VOR-A Orig., Cancelled

. . . Effective October 25, 1984

Peoria, IL—Greater Peoria, VOR RWY 13 (TAC), Amdt. 20
Peoria, IL—Greater Peoria, VOR/DME or TACAN RWY 31 Amdt. 6

. . . Effective September 14, 1984

Victoria, TX—Victoria Regional, VOR RWY 12L, Amdt. 11
Victoria, TX—Victoria Regional, VOR/DME RWY 30R, Amdt. 3

. . . Effective September 12, 1984

West Palm Beach, FL—Palm Beach County Park, VOR RWY 15, Amdt. 1

. . . Effective September 11, 1984

Big Spring, TX—Big Spring McMahon-Wrinkle, VOR RWY 17L, Amdt. 3
Big Spring, TX—Big Spring McMahon-Wrinkle, VOR RWY 35R, Amdt. 3

2. By amending § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, and SDF/DME SIAPs identified as follows:

. . . Effective November 8, 1984

Sturgeon Bay, WI—Door County Cherryland, SDF RWY 1, Amdt. 1

. . . Effective October 25, 1984

Lebanon, MO—Floyd W. Jones Lebanon, SDF RWY 36, Orig.

3. By amending § 97.27 NDB and NDB/DME SIAPs identified as follows:

. . . Effective December 20, 1984

Baton Rouge, LA—Baton Rouge Metropolitan Ryan Field, NDB RWY 31, Orig.

. . . Effective November 8, 1984

Blytheville, AR—Blytheville Muni, NDB-A, Amdt. 4
Malvern, AR—Malvern Muni, NDB RWY 21, Amdt. 1
Waynesboro, GA—Burke County, NDB RWY 7, Orig.
Storm Lake, IA—Storm Lake Muni, NDB RWY 35, Amdt. 2
Great Bend, KS—Great Bend Muni, NDB-A, Amdt. 3
Olathe, KS—Johnson County Industrial, NDB RWY 35, Amdt. 3
Beaufort, NC—Beaufort-Morehead City, NDB RWY 14, Amdt. 4
Beaufort, NC—Beaufort-Morehead City, NDB RWY 21, Amdt. 3
Fayetteville, NC—Fayetteville Muni/Grannis Fld, NDB RWY 4, Amdt. 13
Winston Salem, NC—Smith Reynolds, NDB RWY 33, Amdt. 20
Dillon, SC—Dillon County, NDB RWY 6, Amdt. 3
Pickens, SC—Pickens County, NDB RWY 4, Amdt. 4
Springfield, TN—Springfield Muni, NDB RWY 21, Amdt. 1
Black River Falls, WI-Black River Falls Area, NDB RWY 8, Amdt. 1
Sturgeon Bay, WI—Door County Cherryland, NDB RWY 1, Amdt. 5

. . . Effective October 25, 1984

Chicago, IL—Chicago-O Hare Intl, NDB RWY 14L, Amdt. 22
Peoria, IL—Greater Peoria, NDB RWY 31, Amdt. 12
Lebanon, MO—Floyd W. Jones Lebanon, NDB RWY 36, Amdt. 3, Cancelled
Lebanon, MO—Floyd W. Jones Lebanon, NDB RWY 36, Orig.

. . . Effective September 14, 1984

Victoria, TX—Victoria Regional, NDB RWY 12L, Amdt. 2

4. By amending § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME and MLS/RNAV SIAPs identified as follows:

. . . Effective November 8, 1984

Atlanta, GA—DeKalb-Peachtree, ILS RWY 20L, Amdt. 2
Quincy, IL—Quincy Muni-Baldwin Field, ILS RWY 4, Amdt. 14
Olathe, KS—Johnson County Industrial, ILS RWY 35, Amdt. 3
Carlsbad, NM—Cavern City Air Terminal, ILS RWY 3, Amdt. 1
Fayetteville, NC—Fayetteville Muni/Grannis Fld, ILS RWY 4, Amdt. 13
Winston Salem, NC—Smith Reynolds, ILS RWY 33, Amdt. 21

. . . Effective October 25, 1984

Chicago, IL—Chicago-O'Hara Intl, ILS RWY 14L, Amdt. 27
Peoria, IL—Greater Peoria, ILS RWY 13, Amdt. 3
Peoria, IL—Greater Peoria, ILS RWY 31, Amdt. 3

. . . Effective September 14, 1984

Victoria, TX—Victoria Regional, ILS RWY 12L, Amdt. 6

5. By amending § 97.31 RADAR SIAPS identified as follows:

. . . Effective November 8, 1984

Beaufort, NC—Beaufort-Morehead City, RADAR-1, Amdt. 2
Chapel Hill, NC—Horace Williams, RADAR-1, Amdt. 4
Madison, WI—Dane County Regional-Truax Field, RADAR-1, Amdt. 11

. . . Effective October 25, 1984

Peoria, IL—Greater Peoria, RADAR-1, Amdt. 10

. . . Effective September 17, 1984

Baton Rouge, LA—Baton Rouge Metropolitan Ryan Field, RADAR-1, Amdt. 7

6. By amending § 97.33 RNAV SIAPs identified as follows:

. . . *Effective October 25, 1984*

Peoria, IL—Greater Peoria, RNAV RWY 4, Amdt. 5
Peoria, IL—Greater Peoria, RNAV RWY 22 Amdt. 7

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, and 1510); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.49(b)(3))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Note.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

Issued in Washington, D.C., on September 21, 1984.

Kenneth S. Hunt,

Director of Flight Operations.

[FR Doc. 84-25745 Filed 9-27-84; 8:45 am]
BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Parts 385, 390, and 399

[Docket No. 40919-4119]

Foreign Policy Controls on Exports to Iran of Aircraft, Helicopters and Marine Outboard Engines

AGENCY: Office of Export Administration, Commerce.

ACTION: Interim rule with request for comments.

SUMMARY: The Office of Export Administration maintains controls on exports to countries that have repeatedly provided support for acts of international terrorism, including Iran. This rule modifies anti-terrorism controls on certain exports to Iran. In light of the continuing policies of support for international terrorism maintained by the government of Iran, the U.S. government has determined that further restriction of U.S. exports to Iran is warranted.

DATES: This rule is effective September 28, 1984. Comments must be received by November 27, 1984.

ADDRESS: Written comments (six copies) should be sent to: Betty Ferrell, Exporter Services Division, Office of Export Administration, U.S. Department of Commerce, P.O. Box 273, Washington, D.C. 20044 .

FOR FURTHER INFORMATION CONTACT: Vincent Greenwald, Exporter Services Division, Office of Export Administration, Telephone: (202) 377-3856.

SUPPLEMENTARY INFORMATION:

Export controls on Iran have been maintained on aircraft valued at $3 million each or more and on helicopters over 10,000 pounds empty weight. This rule modifies the controls to apply to all aircraft regardless of value and helicopters regardless of weight, including related parts and components.

Export controls have also been maintained on goods and technical data subject to national security controls and valued at over $7 million, if the export were destined to a military end-user or for military end-use. The modified controls apply to all such goods and technical data, regardless of value.

In addition, this rule imposes controls on marine outboard motors of 45 horsepower or more.

The licensing policy on exports to Iran under these controls, as modified, is one of general denial. However, limited exceptions are possible since licensing decisions will take into account the existence of export obligations under contracts in effect prior to the imposition of controls. In addition, licensing decisions will take into account whether items had been exported from the United States prior to the imposition of controls, or whether the U.S. content of foreign-produced commodities is 20% or less by value.

Following consultation with the Department of State, it has been determined that this rule is necessary to further significantly the foreign policy of the United States. Members of the Congress have been consulted, and the criteria described in section 6(b) of the Export Administration Act have been considered. The compelling need to impose controls on these sensitive exports renders industry consultation, prior to the imposition of these controls, inappropriate. Industry comments, however, on these controls are solicited and will be considered before regulations become final.

Failure to take action would be detrimental to the foreign policy of the United States, notwithstanding any foreign availability.

It has been determined that there are no feasible alternative means of achieving the purpose of this action and efforts are being made to obtain cooperation of countries that produce comparable items.

Saving Clause

Shipments of commodities and technical data removed from General License authorizations as a result of these changes that were on dock for lading, on lighter, laden aboard an exporting carrier, or en route aboard a carrier to a port of export pursuant to actual orders for export prior to (date of publication) may be exported under the previous general license provisions up to and including (two weeks after publication). Any such commodity not actually exported before midnight (two weeks after publication) requires a validated export license.

Rulemaking Requirements and Invitation To Comment

In connection with various rulemaking requirements, the Office of Export Administration has determined that:

1. Since this regulation involves a foreign affairs function, the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring a notice of proposed rulemaking, an opportunity for public participation and a delay in effective date are inapplicable.

However, because of the importance of the issues raised by these regulations, this rule is issued in interim form and comments will be considered in developing final regulations. These regulations may be revised before the end of the comment period. Accordingly, the Department encourages interested persons who desire to comment to do so at the earliest possible time to permit the fullest consideration of their views.

2. Applicants for the validated export license required by this rule will use Form ITA-622P. This Form has been approved by the Office of Management and Budget under control number 0625-0001.

3. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

4. Because this interim rule is being issued with respect to a foreign affairs function, it is not subject to Executive Order No. 12291 (46 FR 13193, February 19, 1981), "Federal Regulation."

The period for submission of comments will close November 27, 1984. The Department will consider all comments received before the close of the comment period in developing final regulations. Comments received after the end of the comment period will be

considered if possible, but their consideration cannot be assured. The Department will not accept public comments accompanied by a request that part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. The Department will return such comments and materials to the person submitting the comments and will not consider them in the development of final regulations.

All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, the Department requires comments in written form. Oral comments must be followed by written memoranda, which will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public record concerning these regulations will be maintained in the International Trade Administration Freedom of Information Records Inspection Facility, Room 4001, U.S. Department of Commerce, 14th street and Pennsylvania Avenue, N.W., Washington, D.C. 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Patricia L. Mann, International Trade Administration Freedom of Information Officer, at the above address or by calling (202) 377–3031.

List of Subjects in 15 CFR Parts 385, 390 and 399

Advisory committees, Communist countries, Exports.

Accordingly, the Export Administration Regulations (15 CFR Parts 368–399) are amended as follows:

PART 385—[AMENDED]

1. Section 385.4 is amended by revising paragraph (d) to read as follows:

§ 385.4 Country groups T & V.

* * * * *

(d) *People's Democratic Republic of Yemen, Syria, and Iran.* (1) A validated license is required for foreign policy purposes for the export to the People's Democratic Republic of Yemen, Syria, or Iran (countries that have repeatedly provided support for acts of international terrorism) of crime control and detection equipment (see § 376.14), military vehicles and items specially designed to produce military equipment as defined in CCL entries 2018A, 1118A, 2406A, and 2603A (see § 376.16), and certain other commodities as specified below.

(2) For the People's Democratic Republic of Yemen and Syria, a validated license is required for the export of aircraft valued at $3 million each or more and helicopters over 10,000 pounds empty weight as defined in CCL entries 1460A(a), 1460A(b) and 5460F, except aircraft and helicopters for use by regularly scheduled airlines based in the People's Democratic Republic of Yemen and Syria for which assurances have been submitted to OEA against military use, and of goods or technology subject to national security controls if the export is destined to military end-users or for military end-use and is valued at $7 million or more. In the case of the use abroad of U.S.-origin parts, components or materials in foreign-origin products, the dollar limits set forth above apply to the U.S. content. Applications for validated licenses will be considered on a case-by-case basis to determine whether issuance of a license would be consistent with the provisions of section 6 and the applicable policies set forth in section 3 of the Act (exports subject to national security controls must also meet the national security provisions of the Act). When the request for authorization involves use of U.S.-origin parts, components, or materials in foreign-origin products destined for the People's Republic of Yemen or Syria, licensing decisions will take into account whether the U.S. content is 20% or less by value.

(3)(i) For Iran, a validated license is required for the export of all aircraft and helicopters, and related parts and components, and of marine outboard engines with a horsepower of 45 or more, as defined in CCL entries 1460A, 4460B, 5460F, 6460F, 1485A, 6494F, and 1501A (a), (b)(1) and (c)(1); and of all goods and technical data subject to national security controls if the export is destined to a military end-user or for military end-use. Applications for export to Iran of commodities and technology subject to these controls will generally be denied. However, applications may be considered on a case-by-case basis, if:

(A) The transaction involves the export or reexport of goods or technical data under a contract that was in effect before:

(*1*) January 23, 1984, in the case of helicopters over 10,000 lbs. empty-weight, aircraft valued at $3 million or more each, or national security controlled items valued at $7 million or more; or

(*2*) September 28, 1984, in the case of all other commodities or technical data.

(B) The commodities or technical data had been exported from the United States before January 23, 1984 or September 28, 1984 as appropriate.

(C) The U.S. content of foreign-produced commodities is 20% or less by value.

(ii) Applicants who wish such factors to be considered in reviewing their license applications must submit adequate documentation demonstrating the value of the U.S. content, the existence of the pre-existing contract, or the date of export from the U.S.

(4) The appropriate Congressional Committee identified in subsection 6(i) of the Act will be notified 30 days before any application falling under this subsection valued at $7 million or more is approved.

PART 390—[AMENDED]

2. A new § 390.6 is added reading as follows:

§ 390.6 General order preventing the use of special licensing procedures for aircraft controlled by Iran.

Effective September 28, 1984, special licensing procedures described in Part 373 may not be used to provide aircraft parts and accessories (Export Control Commodity Number 1460, 4460, 1485, 1501(a), (b)(1) and (c)(1) intended for aircraft (wherever located) owned, operated, or controlled by, or under charter or lease to Iran, or any of its nationals.

PART 399—[AMENDED]

3. In Supplement No. 1 to §399.1 (the Commodity Control List), Commodity Group 4, Transportation Equipment, is amended by adding a new entry (in numerical order, disregarding the first digit) reading as follows:

6494F Marine Outboard Engines With a Horsepower of 45 or More

Controls for ECCN 6494F

Unit: Report in "number."

Validated License Required: Country Groups SZ and Iran.

GLV $ Value Limit: General License *GLV* is not applicable; however, another general license may apply.

Processing Code: TE.

Reason for Control: Foreign policy.

Special Licenses Available: None.

Authority: Secs. 208, 208, Pub. L. 95–223, Title II, 91 Stat. 1626, 1628 (50 U.S.C. 1702, 1704), Executive Order No. 12470 of March 30, 1984 (49 FR 13099, April 3, 1984).

Dated: September 25, 1984.

John K. Boidock,

Director, Office of Export Administration, International Trade Administration.

[FR Doc. 84-25886 Filed 9-28-84; 8:45 am]

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DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 18 and 146

[T.D. 84-207]

Customs Regulations Amendments Relating to Textiles and Textile Products; In-Bond Movements; Foreign-Trade Zones

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Interim regulations, solicitation of comments, extension of comment period.

SUMMARY: Section 204 of the Agricultural Act of 1956 grants authority to the President to negotiate agreements with foreign governments limiting exports of textiles and textile products from such countries into the U.S. The Act also grants authority to issue regulations governing the entry into the U.S. of articles covered by the agreements. Executive Order 12475 of May 9, 1984, delegated that authority to the Secretary of the Treasury and directed that the regulations be promulgated within 120 days of the May 11, 1984, effective date of the Executive Order. On August 3, 1984, interim Customs Regulations were published in the **Federal Register** (49 FR 31248) as T.D. 84–171. The regulations amended the Customs Regulations to prevent circumvention or frustration of visa or export license requirements contained in multilateral and bilateral agreements to which the U.S. is a party in order to facilitate the efficient an equitable administration of the U.S. Textile Import Program. Based upon public comments received in response to the solicitation of comments provision of the interim regulations, it has been decided to modify them to eliminate the requirement of presentation of the visa or export license before an in-bond movement is approved and include a listing of specific information which will assist district directors in making their determination of whether or not to approve an in-bond movement or examine the merchandise. It has also been decided to modify the foreign-trade zones provisions of the interim regulations to include a phrase which recognizes the existing statutory authority of the Foreign-Trade Zones Board.

DATES: Effective date: These interim regulations are effective for all textiles and textile products subject to section 204, Agricultural Act of 1956, as amended, exported from the country of origin, as defined by § 12.130, Customs Regulations (19 CFR 12.130), on or after September 7, 1984.

Comments: Written comments received on or before November 1, 1984, will be considered in determining whether any further changes to the interim regulations are required before a final rule is published. Based upon numerous requests for additional time to comment on the interim regulations published in the **Federal Register** on August 3, 1984 (49 FR 31248), as T.D. 84–171, it has been decided to extend the close of the comment period for that document from October 2, 1984, to November 1, 1984.

ADDRESS: Written comments may be submitted to and inspected at the Regulations Control Branch, U.S. Customs Service Headquarters, Room 2426, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT:

Part 18: Kent Parsell, Inspection and Control Division (202–566–5354);

Part 146: John Holl, Office of Cargo Enforcement Facilitation (202–566–8151);

U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

SUPPLEMENTARY INFORMATION

Background

In order to implement import policies with respect to textiles and textile products, Congress provided authority to the President to negotiate textile restraint agreements in section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and authority to carry out such agreements by issuing regulations governing the entry of merchandise covered by the agreements into the U.S.

In December, 1973, representatives of 50 nations meeting under the General Agreement on Tariff and Trade (GATT) aegis, negotiated the Multi-Fiber Arrangement Regarding International Trade in Textiles. The arrangement is usually known as the Multi-Fiber Arrangement, or MFA, and came in force on January 1, 1974. It was subsequently renewed and next expires on July 31, 1986.

Under the MFA, the U.S. has negotiated bilateral restraint agreements with 28 countries. The U.S. also has bilateral agreements with 8 MFA non-signatories. The Committee for the Implementation of Textile Agreements (CITA) was established by Executive Order 11651 on March 3, 1972, to supervise the implementation of textile agreements.

In recent months the U.S. Customs Service has been faced with an ever increasing number and variety of instances where attempts have been made to circumvent the Textile Import Program. Many of these attempts to circumvent the Textile Import Program have involved the use of the in-bond movement procedures set forth in Part 18, Customs Regulations (19 CFR Part 18).

In part, because of these problems, to prevent circumvention or frustration of the various multilateral and bilateral agreements to which the U.S. is a party, and to facilitate efficient and equitable administration of the U.S. Textile Import Program, the President signed Executive Order 12475 on May 9, 1984. Under the Executive Order the Secretary of the Treasury was required to promulgate regulations governing the entry of textiles and textile products subject to section 204 of the Agricultural Act of 1956 within 120 days of the May 11, 1984, effective date of the Executive Order. On August 3, 1984, a document was published as T.D. 84–171 in the **Federal Register** (49 FR 31248), which promulgated interim Customs Regulations amendments pursuant to the Executive Order. The document invited public comments on the interim regulations until October 2, 1984. That comment period is now being extended by this document to November 1, 1984. During the comment period, Customs has been and will continue to review comments as they are received to determine if any problem arises which requires immediate action.

Accordingly, in order to alleviate unnecessary hardships to persons (individuals, partnerships, or corporations) in the U.S. who had made binding commitments for a fixed quantity of merchandise prior to publication of the interim regulations, the effective date as it relates to the provisions of § 12.130 was modified, by a document published in the **Federal Register** on August 29, 1984 (49 FR 34199) as T.D. 84–190, subject to the terms and conditions as set forth in the document, to October 31, 1984.

Another area which has been looked at closely by Customs has been the in-bond procedures set forth in § 18.11 of

the interim regulations. In the August 3, 1984, Federal Register document it was indicated that because of the numerous instances identified by Customs in which the provisions of the regulations relating to in-bond transportations have been used to frustrate and circumvent the textile and textile products visa or export license requirements, district directors have been advised to strictly enforce the provisions of § 18.11(h), Customs Regulations (19 CFR 18.11(h)). To insure the applicability of these requirements, § 18.11(e) was amended by the interim regulations to incorporate the provisions of § 18.11(h). In addition, § 18.11(e) was amended to require the visa or export license, if applicable, to be presented with the entry. Section 6.18, Customs Regulations (19 CFR 6.18), relating to documentation for transit air cargo, was amended to cross-reference the requirements of § 18.11 (e) and (h).

Customs has received numerous comments in response to the solicitation of comments provision of the interim regulations regarding the presentation of the visa or export license prior to movement of textiles and textile products under the in-bond procedures. Based upon a review of these comments, it has been concluded that compliance with the requirement would be difficult. Accordingly, Customs has decided to delete this requirement.

Further, the commenters expressed concern about the example of the rated invoice used in the interim regulations to indicate the type of evidence the district director could use to satisfy himself of the approximate correctness of the value and quantity stated in the in-bond entry. The rated invoice was chosen as an example not because of a need for this particular document but because it contained most of the information necessary for Customs to accurately assess the risk of possible diversion during the in-bond movement. Because the example has generated so much adverse comment and concern, it has been decided to delete it and specifically list, by way of example, the information which Customs will use in making the determination of whether or not to examine the merchandise and whether or not to approve the in-bond movement. This information includes:

(a) Detailed quantity description (e.g., 14 cartons, 2 dozen per carton),

(b) Detailed description of the textiles or textile products including type of commodity and chief fiber content (e.g., men's cotton jeans or women's wool sweaters),

(c) Net weight of the textiles or textile products (including immediate packing but excluding pallets),

(d) Total value of the textiles or textile products,

(e) Manufacturer or supplier,

(f) Country of origin,

(g) Name(s) and address(es) of the person(s) to whom the textiles and textile products are consigned, and

(h) Harmonized code tariff number (when available).

The harmonized code tariff number, if provided, will greatly assist Customs in determining the proper classification of the merchandise and the visa requirements. Not providing any one or all of the foregoing will not in and of itself result in a denial of the in-bond movement or examination of the merchandise. It will, however, be a factor considered by the district director along with all other facts and circumstances available as to the risk to the revenue, potential for diversion of the merchandise, and proper enforcement of the Textile Import Program.

The information may be provided to Customs by the carrier or his agent or the importer. If this information is available on existing documentation such as an invoice, a bill of lading, etc., providing a copy of that document, will assist Customs in the consideration of whether or not to approve the movement or to examine the merchandise. In lieu of the foregoing, the information could be included on the in-bond document itself or a plain piece of paper. This flexible approach will allow the importer to determine the manner in which the information will be supplied.

Further, Customs has also decided that to effectively enforce these interim regulations and ensure that shipments of textiles or textile products arrive intact, no diversion from the destination, as shown on the in-bond document, will be allowed without the permission of the district director at the port of origin of the in-bond movement. This requirement provides Customs with the administrative control over shipments of textiles and textile products necessary to effectively ensure that those products subject to quota are not diverted into the commerce of the U.S. in violation of such quota. While the privilege of in-bond movement provided under 19 U.S.C. 1552 is statutorily denied for prohibited merchandise, textiles or textile products imported in excess of quota are not deemed to be prohibited until they arrive at the port at which entry is to be filed. As a result, such textile shipments, which will become prohibited merchandise at the port where the entry is filed, are, in fact, allowed to transit through the U.S. where they may be diverted into the commerce of the U.S. Although, historically, the bonding mechanism protected the government from such diversion, because the bond protected against a loss of revenue, with respect to quota merchandise the bond provides an inadequate remedy under the law. This is because the quota agreements are not concerned with revenue but, rather, with prohibiting introduction of those textiles and textile products into the commerce of the U.S. This new requirement is designed to ensure that the diversion of such merchandise does not occur. This change is set forth as an amendment to § 18.5, Customs Regulations (19 CFR 18.5) and is included in this document.

The interim regulations published on August 3, 1984, also contained an amendment to the foreign-trade zones regulations found in Part 146, Customs Regulations (19 CFR Part 146), to prevent use of foreign-trade zones to frustrate or circumvent quota or visa or export license requirements. The provision set forth in § 146.49 specifically provided that textiles and textile products admitted into a foreign-trade zone, regardless of whether the merchandise has privileged or nonprivileged foreign status, which would have been subject to quota or visa or export license requirements in their condition at the time of importation if entered for consumption rather than admitted to a foreign-trade zone, may not be subsequently transferred into the customs territory for consumption if during the time the merchandise is in the foreign-trade zone there has been a change by manipulation, manufacture, or other means:

(a) in the country of origin of the merchandise as defined by § 12.130 of the interim regulations,

(b) to exempt from quota or visa or export license requirements other than a change brought about by statute, treaty, executive order or Presidential proclamation, or

(c) from one textile category to another textile category.

Based upon public comment and after consultation with the Foreign-Trade Zones Board, it has been decided to modify the foreign-trade zones provisions of the interim regulations to include a phrase which recognizes the existing statutory authority of the Foreign-Trade Zones Board. The change is set forth as an amendment to § 146.49 of the interim regulations.

Comments

Before adopting these interim regulations as a final rule, consideration will be given to any written comments timely submitted to the Commissioner of Customs. Comments submitted will be

available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), and § 1.6 Treasury Department Regulations (31 CFR 1.6), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on normal business days between the hours of 9:00 a.m. to 4:30 p.m. at the Regulations Control Branch, U.S. Customs Service Headquarters, Room 2426, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Inapplicability of Notice

Public notice is inapplicable to these regulations because they are promulgated pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and are thus within the foreign affairs function of the U.S. and the foreign affairs exemption of 5 U.S.C. 553(a)(1). These regulations are necessary to prevent circumvention or frustration of multilateral and bilateral agreements to which the U.S. is a party and to facilitate efficient and equitable administration of the U.S. Textile Import Program as authorized in section 204. For the above reasons it is also believed that pursuant to 5 U.S.C. 553(b)(B), notice and public procedures are impracticable, unnecessary and contrary to the public interest. The authority to promulgate these regulations was delegated by the President to the Secretary of the Treasury by Executive Order 12475.

Executive Order 12291

This interim regulation is not a "major rule" as defined by section 1(b) of Executive Order 12291. Accordingly, a regulatory impact analysis is not required under E.O. 12291.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this document because it is believed the regulation will not have a significant economic impact on a substantial number of small entities. However, public comment is requested on the effects, with numerical estimates, of the amendments on costs, profitability, competitiveness, and employment in small entities. Subsequent to the receipt of public comments, it will be decided whether the preparation of a final regulatory flexibility analysis is warranted. In light of the above, it is certified under the provisions of section 3, Regulatory Flexibility Act (5 U.S.C. 605(b)) that the interim regulations will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The interim regulation is subject to the Paperwork Reduction Act of 1980, Pub. L. 96-511. Accordingly, applicable sections of the interim regulation have been cleared by the Office of Management and Budget and assigned control number 1515-0140.

Drafting Information

The principal author of this document was John Elkins, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects

19 CFR Part 18

Common carriers, Customs duties and inspection, Freight forwarders, Imports.

19 CFR Part 146

Customs duties and inspections, Foreign-trade zones, Imports.

Amendments to the Regulations

Parts 18 and 146, Customs Regulations (19 CFR Parts 18, 146), are amended as set forth below.

William von Raab,
Commissioner of Customs.

Approved: September 7, 1984.

John M. Walker, Jr.,
Assistant Secretary of the Treasury.

PART 18—TRANSPORTATION IN-BOND AND MERCHANDISE IN-TRANSIT

1. Section 18.5(a) is amended by removing the words "and (e)" in the second sentence and inserting, in their place, the words "(e) and (f)".

2. Section 18.5 is further amended by adding a paragraph (f) to read as follows:

§ 18.5 Diversion.

* * * * *

(f) The diversion of in-bond shipments, which contain textiles or textile products subject to section 204, Agricultural Act of 1956, as amended (7 U.S.C. 1854), during the in-bond movement shall be allowed only upon the prior written permission of the district director at the port of origin.

3. Section 18.11(e) is amended by removing the last three sentences, as added by T.D. 84-171, and inserting, in their place, the following:

§ 18.11 Entry, classes of goods for which entry is authorized; form used.

* * * * *

(e) * * *

Entries for immediate transportation without appraisement covering textiles and textile products subject to section 204, Agricultural Act of 1956, as amended (7 U.S.C. 1854), shall be described in such detail as to enable the district director to estimate the duties and taxes, if any, due. The district director may require evidence to satisfy him of the approximate correctness of the value and quantity stated in the entry (e.g. Detailed quantity description (e.g., 14 cartons, 2 dozen per carton); Detailed description of the textiles or textile products including type of commodity and chief fiber content (e.g., men's cotton jeans or women's wool sweaters); Net weight of the textiles or textile products (including immediate packing but excluding pallet); Total value of the textiles or textile products; Manufacturer or supplier; Country of orgin; Name(s) and address(es) of the person(s) to whom the textiles and textile products are consigned; Harmonized code tariff number (when available)).

(R.S. 251, as amended, sec. 484, 46 Stat. 722, as amended, sec. 624, 46 Stat. 759, sec. 204, 70 Stat. 200, as amended (19 U.S.C. 66, 1484, 1624, 7 U.S.C. 1854))

PART 146—FOREIGN TRADE ZONES

§ 146.49 [Amended]

Section 146.49, as added by T.D. 84-171, is amended by removing the word "Textiles" and inserting, in its place, the words "Subject to the existing statutory authority of the Foreign-Trade Zones Board, textiles".

(R.S. 251, as amended, sec. 8, 48 Stat. 1000, sec. 484, 46 Stat. 722, as amended, sec. 624, 46 Stat. 759, sec. 204, 70 Stat. 200, as amended (19 U.S.C. 66, 81h, 1484, 1624, 7 U.S.C. 1854))

[FR Doc. 84-25089 Filed 9-27-84; 8:45 am]
BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

Supplemental Security Income for the Aged, Blind, and Disabled; State Supplementation Provisions; Agreements; Payments; Termination of Federal Fiscal Liability

AGENCY: Social Security Administration, HHS.

ACTION: Final rule.

SUMMARY: These final regulations remove § 416.2086 of the current regulations. This section contains our

policies on: Determining the error rate used to calculate the Federal fiscal liability (FFL) amount for States (including the District of Columbia) with which we have agreements to administer both their mandatory and the optional State supplementary payment programs; calculating the FFL amount; making the FFL payments; and exclusions and adjustments to the FFL amount. Our new policy precludes determinations and payment of FFL for any Federal fiscal year (FY) beginning on or after October 1, 1984.

EFFECTIVE DATE: These regulations are effective on September 28, 1984 for periods beginning October 1, 1984.

FOR FURTHER INFORMATION CONTACT: Duane Heaton, Office of Regulations, 3–B–4 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 594–7951.

SUPPLEMENTARY INFORMATION: In order to obtain the public's views and comments before proceeding with this amendment, we published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** on April 23, 1984 (49 FR 17016). The public was invited to submit comments pertaining to the proposed amendment within a period of 60 days of publication of the notice. We have carefully considered all the comments we received during the comment period. Some of the comments received were not germane to these particular regulations. However, these comments did address regulations that the Social Security Administration (SSA) and Health Care Financing Administration (HCFA) are currently preparing or the comments addressed SSA's internal personnel issues that are important to efficient administration. The comments that addressed Medicaid were referred to HCFA, and those on the Aid to Families with Dependent Children (AFDC) were referred to the Office of Family Assistance for consideration. The comment regarding SSA's internal personnel issues was referred to our Office of Management, Budget, and Personnel for consideration. The comments addressing food stamps were referred to the Department of Agriculture. The remaining substantive comments are organized by the issues raised. While comments on all programs will be considered, only those issues pertaining to FFL under the SSI program are addressed below.

These final regulations remove section 416.2086, effective October 1, 1984. This section contains our policies on making FFL determinations and payments for those States with which we have agreements to administer both their mandatory and optional supplementary payment programs. (FFL is the money we pay to States as compensation for payment errors we make in administering the States' supplementation programs.) Our new policy is to terminate FFL under the SSI program effective with Federal FY 1985, beginning October 1, 1984. Although the provisions of section 416.2086 are removed, they are not repealed and continue to apply to periods prior to October 1, 1984, the date that FFL terminates.

History and Rule

Section 1616 of the Social Security Act (the Act) and section 212 of Pub. L. 93–66 provide respectively for optional and mandatory supplementation of Federal Supplemental Security Income (SSI) benefits. These statutory provisions also gave the States the option of Federal administration of the State supplementary payment program on the States' behalf pursuant to an agreement.

Neither title XVI of the Act nor Pub. L. 93–66 requires us to accept liability for erroneous payments made as a result of Federal administration of State supplementary payments. We adopted a policy of FFL at our administrative discretion because at the beginning of the SSI program we recognized the equity of affording some protection to the States from the full burden of errors that might initially occur from our inexperience in administering a new kind of program. We therefore decided to assume liability for a share of our errors and provided for FFL in Federal/State agreements.

In 1979 we published regulations on FFL that limited payment to the 17 States for which we administer both optional and mandatory State supplementary payments (44 FR 12579, March 7, 1979). We eliminated FFL for the 10 States for which we administered only mandatory State supplementary payments.

As we gained experience in the SSI program, we made fewer errors. Our national payment error rate in administering the SSI program, including both optional and mandatory State supplementation programs, has decreased 69 percent from a high of 11.5 percent in the January through June 1975 sample period to a low of 3.6 percent in the April through September 1983 period. (We have updated the payment error rate and FFL payments since more current figures are now available than we had for the NPRM. The NPRM reflected a 4.9 percent error rate for the April through September 1981 period and FFL payment for FY 1981.)

States received little or no FFL in FY 1982, with the exception of California and Massachusetts which accrued FFL credits of $13.0 million and $1.7 million respectively. None of the remaining 15 States had FFL credits in excess of $.4 million; in fact, 9 States accrued no FFL and 1 State received less than $3,000.

Since we have reduced the payment error rate significantly from the beginning of the program and have maintained it at a relatively low level for the past several years, we believe FFL has served the purpose for which it was intended and now should be eliminated.

The elimination of FFL will in no way affect our diligence in pursuing our goal of correctly paying all Federal SSI benefits as well as State supplementary payments. The purpose of FFL was to reimburse the States for a share of our incorrect payments rather than impose a sanction on the Federal Government. We fully recognize and accept our responsibility to administer efficiently both the Federal SSI and State supplementary programs and to make correct payments. Accordingly, we will continue to sample cases to assure the accuracy of Federal SSI and State supplementary payments.

Public Comments

We published a Notice of Proposed Rulemaking in the **Federal Register** on April 23, 1984 (49 FR 17016). We asked for public comments within a period of 60 days. The comment period closed on June 22, 1984.

We received 19 comments. These comments consisted of 1 petition from 28 Members of the House of Representatives representing 1 State, 2 comments from associations, 14 comments from States, 1 comment from a county's Department of Human Resources, and 1 comment from a union.

To facilitate our response, the comments have not been addressed individually but rather by issues raised.

Comment: One respondent questioned the legality of our proposed regulatory change because we did not provide a citation to a statutory change in the Federal law. Another commenter argued that elimination of FFL was inconsistent with what the commenter saw as congressional intent to encourage Federal administration of State supplementary payments.

Response: The payment of FFL is not required by Federal law. The law, however, does give SSA discretion to establish policies that will facilitate Federal administration of the State supplementation program. When we began making State supplementation payments in January 1974, we recognized that we had no experience in

administering a multi-State welfare program and that numerous payment errors might occur. So that the States would not need to bear the full burden of these errors, we agreed to share with them liability for our errors. We now believe that the circumstances that prompted FFL no longer exist; consequently, our policy is to discontinue these payments.

Comment: Several commenters stated that the elimination of FFL would establish a double standard in that the States would be held fiscally responsible for misspending Federal funds in the AFDC program while we would not be held responsible for State funds misspent in the SSI program.

Response: FFL was never intended to serve as a fiscal sanction. We voluntarily agreed to pay FFL to States because we recognized the need to protect States from excessive errors that were likely to result from our inexperience in administering a new kind of program. Unlike fiscal sanctions in the AFDC program, FFL is not required by law. Moreover, States are not required to request Federal administration of their State supplementation payments but may administer their own programs.

Comment: Several commenters stated that the elimination of FFL would not be a true savings for the SSI program but rather a transfer of costs to the States.

Response: There will be a true savings of $5 million per year beginning in FY 1985 since this is our projected cost for administration associated with FFL, exclusive of FFL payments. It is true that States will not be reimbursed for any erroneous State supplementary payments we make and to that extent will incur some costs. However, we have demonstrated very significant improvement in performance (69 percent error rate reduction from a high of 11.5 percent for the January through June, 1975 period to 3.6 percent in the April through September, 1983 period.) Moreover, we are committed to continuing our efforts to reduce errors and improve performance so as to minimize error costs to us and to the States.

Comment: Three commenters pointed out that with the tight budgetary constraints that face State governments today, any loss of FFL represents a significant amount.

Response: We can appreciate this comment for the Federal Government also faces similar budgetary constraints. Data available since the NPRM was published reveals that our FFL payments decreased from $20.9 million in FY 1981 to $15.7 million in FY 1982, a decrease of 25 percent. We also anticipate a further drop for FY 1983. Consequently, the potential loss to the States will not be as great as previously anticipated. In FY 1982, of the 17 federally administered State supplementation programs eligible for FFL, 9 States received no FFL and 1 State received less than $3,000.

Comment: Another commenter questioned the statement that our cost of administering State supplementation programs and conducting the quality assurance sample is considerably more than FFL payments made to the States.

Response: In FY 1981 our FFL payments were $20.9 million and declined to $15.7 million in FY 1982. The respondent apparently confused the $5 million administrative cost savings with the cost of administering all of the various State supplementation programs. The $5 million represents only the projected costs of carrying out the quality assurance function related to calculating FFL.

Comment: Some respondents also questioned the 5.0 percent payment error rate we quoted for the 1980–1981 period as being indicative of our current performance. The commenters said that the payment error rate for October 1980 through March 1981 was 6.2 percent.

Response: The 5.0 percent error rate was used as a measure of our improvement in administering the SSI program in general and reflects our overall performance in making both Federal and State SSI payments. The 6.2 percent payment error rate measured the performance that is associated with federally administered supplementary payments. This rate also has continued to improve and, for the 6-month period ending September 1982, had declined to 4.8 percent.

Comment: It was argued that SSA had a fiduciary and contractural relationship with the States by virtue of the supplementation agreements in which the States gave up control over their funds when they requested Federal administration and that FFL has served as the chief means to safeguard proper administration of the States' funds.

Response: We fully recognize and accept our responsibility for administering Federal benefits and State supplementary payments correctly, but do not agree that FFL has been the chief means for assuring that we make correct payments. It has always been our policy to make correct payments no matter whose funds are involved. We plan to continue, and where possible, improve our quality assurance program to minimize errors. Other safeguards the States have to assure the proper administration of their money include review of our performance by the Departmental Audit Agency and the General Accounting Office. States also have the right to audit our records.

Executive Order 12291

These regulations have been reviewed under Executive Order 12291 and do not meet any of the criteria for a major regulation. The projected savings will be less than $100 million. Therefore, a regulatory impact analysis is not required.

Paperwork Reduction Act

These regulations impose no reporting/recordkeeping requirements requiring Office of Management and Budget clearance.

Regulatory Flexibility Act

We certify that these regulations will not have a significant economic impact on a substantial number of small entities because these regulations affect only States. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96–354, the Regulatory Flexibility Act of 1980, is not required.

Accordingly, this regulation is adopted without change as set forth below.

(These regulations are issued under the authority contained in secs. 1102 and 1631 of the Social Security Act, as amended; 49 Stat. 647, as amended; 86 Stat. 1465; 42 U.S.C. 1302 and 1383)

(Catalog of Federal Domestic Assistance Program No. 13.807—Supplemental Security Income)

List of Subjects in 20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Supplemental Security Income (SSI).

Dated: August 30, 1984.

Martha A. McSteen,

Acting Commissioner of Social Security.

Approved: September 14, 1984.

Margaret M. Heckler,

Secretary of Health and Human Services.

PART 416—[AMENDED]

Part 416 of Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 416, Subpart T reads as follows:

Authority: Secs. 1102, 1601, 1616, 1631, and 1634, Social Security Act, as amended, sec. 401 of Pub. L. 92–603, sec. 212 of Pub. L. 93–66, sec. 8 of Pub. L. 93–233, secs. 1 and 2 of Pub. L. 93–335, 49 Stat. 647, as amended, 86 Stat. 1465, 1474, 1475, 1476, and 1485, 87 Stat. 155 and 956, 88 Stat. 291; 42 U.S.C. 1302, 1381, 1382e, 1383, 1383c, 1383e nte, 1382 nt [7 U.S.C. 2012 nts), unless otherwise noted.

§ 416.2086 [Removed]

2. Section 416.2086 is removed and reserved.

[FR Doc. 84-25877 Filed 9-27-84; 8:45 am]
BILLING CODE 4160-01-M

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Oxfendazole Paste and Suspension

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of two new animal drug applications (NADA's) filed by Syntex Agribusiness, Inc., providing for use of oxfendazole paste and suspension as anthelmintics in horses.

EFFECTIVE DATE: September 28, 1984.

FOR FURTHER INFORMATION CONTACT: Sandra K. Woods, Center for Veterinary Medicine (HFV-114), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3420.

SUPPLEMENTARY INFORMATION: Syntex Agribusiness, Inc., 3401 Hillview Ave., Palo Alto, CA 94304, submitted NADA 132-105 for oxfendazole paste and NADA 133-841 for oxfendazole suspension. The NADA's provide for oral use of the drug as equine anthelmintics to treat certain gastrointestinal infections of horses, specifically large roundworm, pinworm, and large and small strongyles. The drug has been previously approved in other oral dosage forms for equine use. The NADA's are approved and the regulations are amended to reflect the approvals.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Center for Veterinary Medicine has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement therefore will not be prepared. The Center's finding of no significant impact and the evidence supporting these findings, contained in an environmental assessment (pursuant to 21 CFR 25.31, proposed December 11, 1979; 44 FR 71742) may be seen in the Dockets Management Branch (address above), between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 520

Animal drugs, Oral use.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.83), Part 520 is amended by adding new §§ 520.1629 and 520.1630 to read as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§ 520.1629 Oxfendazole paste.

(a) *Specifications.* Each gram of paste contains 0.375 gram oxfendazole (37.5 percent).

(b) *Sponsor.* See No. 000033 in §510.600(c) of this chapter.

(c) *Conditions of use*—(1) *Amount.* 10 milligrams per kilogram (2.2 pounds) of body weight.

(2) *Indications for use.* The drug is used in horses for removal of the following gastrointestinal worms: Large roundworms (*Parascaris equorum*), mature and 4th stage larvae pinworms (*Oxyuris equi*), large strongyles (*Strongylus edentatus, S. vulgaris,* and *S. equinus*), and small strongyles.

(3) *Limitations.* Horses maintained on premises where reinfection is likely to occur should be retreated in 6 to 8 weeks. Withholding feed or water prior to use is unnecessary. Administer drug with caution to sick or debilitated horses. Not for use in horses intended for food. Consult your veterinarian for assistance in the diagnosis, treatment, and control of parasitism.

§ 520.1630 Oxfendazole suspension.

(a) *Specifications.* Each milliliter contains 90.6 milligrams oxfendazole (9.06 percent).

(b) *Sponsor.* See No. 000033 in § 510.600(c) of this chapter.

(c) *Conditions of use*—(1) *Amount.* 10 milligrams per kilogram (2.2 pounds) of body weight.

(2) *Indications for use.* The drug is used in horses for removal of the following gastrointestinal worms: Large roundworms (*Parascaris equorum*), mature and 4th stage larvae pinworms (*Oxyuris equi*), large strongyles (*Strongylus edentatus, S. vulagris,* and *S. equinus*), and small strongyles.

(3) *Limitations.* Administer by stomach tube or dose syringe. Horses maintained on premises where reinfection is likely to occur should be retreated in 6 to 8 weeks. Withholding feed or water prior to use is unnecessary. Administer drug with caution to sick or debilitated horses. Not for use in horses intended for food. If for use by stomach tube: Federal law restricts this drug to use by or on the order of a licensed veterinarian. If for use by dose syringe only: Consult your veterinarian for assistance in the diagnosis, treatment, and control of parasitism.

Effective date. September 28, 1984.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: September 20, 1984.

Lester M. Crawford,

Director, Center for Veterinary Medicine.

[FR Doc. 84-25740 Filed 9-27-84; 8:45 am]
BILLING CODE 4160-01-M

21 CFR Part 524

Ophthalmic and Topical Dosage Form New Animal Drugs Not Subject to Certification; Prednisolone Acetate, Sodium Sulfacetamide, Neomycin Ointment

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to remove that section which reflects approval of a new animal drug application (NADA) held by Schering Corp. providing for use of METIMYD® (prednisolone, sulfacetamide, neomycin) Ointment for treating eye and ear infections in dogs and cats. In a notice published elsewhere in this issue of the **Federal Register**, FDA is withdrawing approval of this NADA.

EFFECTIVE DATE: October 9, 1984.

FOR FURTHER INFORMATION CONTACT: John K. Augsburg, Center for Veterinary Medicine (HFV-216), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4093.

SUPPLEMENTARY INFORMATION: In a notice published elsewhere in this issue of the **Federal Register**, FDA is withdrawing approval of Schering's NADA 10-471 for METIMYD® Ointment. This document removes the regulation that reflects approval of this NADA.

List of Subjects in 21 CFR Part 524

Animal drugs, Topical.

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§ 524.1881a [Removed]

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345–347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director of the Center for Veterinary Medicine (21 CFR 5.84), Part 524 is amended by removing § 524.1881a *Prednisolone acetate, sodium sulfacetamide, and neomycin ointment* and marking it "[Reserved]."

Effective date. October 9, 1984.

(Sec. 512(e), 82 Stat. 345–347 (21 U.S.C. 360b(e)))

Dated: September 20, 1984.

Lester M. Crawford,

Director, Center for Veterinary Medicine.

[FR Doc. 84-25738 Filed 9-27-84; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 540

Penicillin Antibiotic Drugs for Animal Use; Ticarcillin; Correction

AGENCY: Food and Drug Administration.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration is correcting a document that amended the animal drug regulations to reflect approval of a new animal drug application filed by Beecham Laboratories providing for intrauterine use of a ticarcillin infusion for treating mares for endometritis caused by beta-hemolytic streptococci. This document corrects an editorial error.

EFFECTIVE DATE: August 30, 1984.

FOR FURTHER INFORMATION CONTACT: David L. Gordon, Center for Veterinary Medicine (HFV–238), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–6243.

SUPPLEMENTARY INFORMATION: In FR Doc. 84–22996 appearing on page 34352 in the issue of Thursday, August 30, 1984, in the third column, the following corrections are made:

1. In the amendatory language paragraph, next-to-last line, "Subpart I" is corrected to read "Subpart F".

2. The heading "Subpart I—Certain Other Dosage Forms" is corrected to read "Subpart F—Intrauterine Dosage Forms".

Dated: September 20, 1984.

Lester M. Crawford,

Director, Center for Veterinary Medicine.

[FR Doc. 84-25742 Filed 9-27-84; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed for Custom Feed Services Corp., providing for manufacturing a 40-gram-per-pound tylosin premix. The premix is used to make finished feeds for swine, beef cattle, and chickens.

EFFECTIVE DATE: September 28, 1984.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Center for Veterinary Medicine (HFV–130), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3410.

SUPPLEMENTARY INFORMATION: Custom Feed Services Corp., 2100 North 13th St., Norfolk, NE 68701, is sponsor of a supplement to NADA 121–200 submitted on its behalf by Elanco Products Co. This supplement provides for the manufacture of a 40-gram-per-pound premix for the subsequent making of finished feeds for swine, beef cattle, and chickens for use as in 21 CFR 558.625(f)(1) (i) through (vi). The supplement is approved and the regulations are amended to reflect the approval. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Center for Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.83), Part 558 is amended in § 558.625 by revising paragraph (b)(68) to read as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 558.625 Tylosin.

* * * * *

(b) * * *

(68) To 017473: 10 and 40 grams per pound, paragraphs (f)(1) (i) through (vi) of this section.

* * * * *

Effective date. September 28, 1984.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: September 21, 1984.

Marvin A. Norcross,

Acting Associate Director for Scientific Evaluation.

[FR Doc. 84-25741 Filed 9-27-84; 8:45 am]

BILLING CODE 4160-01-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1601

Certified Designated 706 Agencies

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule; amendment.

SUMMARY: The Equal Employment Opportunity Commission amends its regulations on certified designated 706 agencies. Publication of this amendment effectuates the designation of the South Carolina Human Affairs Commission as a certified 706 Agency.

EFFECTIVE DATE: September 28, 1984.

FOR FURTHER INFORMATION CONTACT: Hollis Larkins, Equal Employment Opportunity Commission, Office of Program Operations, Special Services Staff, 2401 E Street, NW., Washington, D.C. 20507, telephone 202/634–6806.

SUPPLEMENTARY INFORMATION: The Commission has determined that the South Carolina Human Affairs Commission meets the eligibility criteria of certification of a designated 706 agency as established in 29 CFR 1601.75(b). In accordance with 29 CFR

1601.75(c) the Commission hereby amends the list of certified designated 706 agencies to include the South Carolina Human Affairs Commission. Publication of this amendment of § 1601.80 effectuates the designation of the following agency as a certified 706 agency: South Carolina Human Affairs Commission.

List of Subjects in 29 CFR Part 1601

Administrative practice and procedure, Equal employment opportunity, Intergovernmental relations.

PART 1601—[AMENDED]

§ 1601.80 [Amended]

Accordingly, 29 CFR Part 1601 is amended in § 1601.80 by adding the South Carolina Human Affairs Commission in alphabetical order.

(42 U.S.C. 2000e–12(a))

Signed at Washington, D.C. this 25th day of September, 1984.

For the Commission.

Clarence Thomas,

Chairman, Equal Employment Opportunity Commission.

[FR Doc. 84-25852 Filed 9-27-84; 8:45 am]
BILLING CODE 6570-06-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1952

Alaska State Plan; Final Approval Determination

AGENCY: Department of Labor, Occupational Safety and Health Administration (OSHA).

ACTION: Final State Plan Approval.

SUMMARY: This document amends Subpart R of 29 CFR Part 1952 to reflect the Assistant Secretary's decision granting final approval to the Alaska State plan. As a result of this affirmative determination under section 18(e) of the Occupational Safety and Health Act of 1970, Federal OSHA standards and enforcement authority no longer apply to occupational safety and health issues covered by the Alaska plan, and authority for Federal concurrent jurisdiction is relinquished. Federal enforcement jurisdiction is retained over maritime employment in the private sector including artificial islands, at private sector worksites located on the navigable waters, and within the Metlakatla Indian Community on the Annette Islands. Federal jurisdiction remains in effect with respect to Federal government employers and employees.

EFFECTIVE DATE: September 28, 1984.

FOR FURTHER INFORMATION CONTACT: James Foster, Director, Office of Information and Public Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3637, 200 Constitution Avenue, NW., Washington, D.C. 20210. Telephone: (202) 523–8148.

SUPPLEMENTARY INFORMATION:

Introduction

Section 18 of the Occupational Safety and Health Act of 1970 (the "Act") provides that States which desire to assume responsibility for the development and enforcement of occupational safety and health standards may do so by submitting, and obtaining Federal approval of, a State plan. Procedures for State plan submission and approval are set forth in regulations at 29 CFR Part 1902. If the Assistant Secretary, applying the criteria set forth in Section 18(c) of the Act and 29 CFR Part 1902.3 and 1902.4, finds that the plan provides or will provide for State standards and enforcement which are "at least as effective" as Federal standards and enforcement, initial approval is granted. A State may commence operations under its plan after this determination is made, but the Assistant Secretary retains discretionary Federal enforcement authority during the initial approval period as provided by section 18(e) of the Act. A State plan may receive initial approval even though, upon submission, it does not fully meet the criteria set forth in §§ 1902.3 and 1902.4 if it includes satisfactory assurances by the State that it will take the necessary "developmental steps" to meet the criteria within a 3-year period. 29 CFR 1902.2(b). The Assistant Secretary publishes a notice of "certification of completion of developmental steps" when all of a State's developmental commitments have been satisfactorily met. 29 CFR 1902.34.

When a State plan that has been granted initial approval is developed sufficiently to warrant a suspension of concurrent Federal enforcement activity, it becomes eligible to enter into an "operational status agreement" with OSHA. 29 CFR 1954.3(f). A State must have enacted its enabling legislation, promulgated State standards, achieved an adequate level of qualified personnel, and established a system for review of contested enforcement actions. Under these voluntary agreements, concurrent Federel enforcement will not be initiated with regard to Federal occupational safety and health standards in those issues covered by the State plan, where the State program is providing an acceptable level of protection.

Following the initial approval of a complete plan, or the certification of a developmental plan, the Assistant Secretary must monitor and evaluate actual operations under the plan for a period of at least one year to determine, on the basis of actual operations under the plan, whether the criteria set forth in section 18(c) of the Act and 29 CFR 1902.3, 1902.4 and 1902.37 are being applied. An affirmative determination under Section 18(e) of the Act (usually referred to as "final approval" of the State plan) results in the relinquishment of authority for Federal concurrent jurisdiction in the State with respect to occupational safety and health issues covered by the plan. 29 U.S.C. 667(e).

History of the Alaska Plan

On February 5, 1973, Alaska submitted an occupational safety and health plan in accordance with the above procedures, and on February 20, 1973, a notice was published in the **Federal Register** (38 FR 4695) concerning the submission of the plan, announcing that initial Federal approval of the plan was at issue and offering interested persons an opportunity to submit data, views and arguments concerning the plan. No comments were received.

On August 10, 1973, the Assistant Secretary published a notice (38 FR 21628) granting initial approval of the Alaska plan as a developmental plan under section 18(b) of the Act. The plan provides for a program patterned in most respects after that of the Federal Occupational Safety and Health Administration.

The Alaska Department of Labor, which is headed by a Commissioner, is designated as having responsibility for administering the plan throughout the State. The day-to-day administration of the plan is directed by the Deputy Director of the Division of Labor Standards and Safety in the Department of Labor. The plan provides for the adoption by Alaska of standards which are at least as effective as Federal occupational safety and health standards, including emergency temporary standards. The plan requires employers to do everything necessary to protect the life, safety and health of employees and to comply with all occupational safety and health standards promulgated by the agency. Employees are likewise required to comply with standards applicable to their conduct. The plan contains

provisions similar to Federal procedures for, among others, imminent danger proceedings, variances, safeguards to protect trade secrets, and employer and employee rights to participate in inspection and review proceedings. Appeals of citations, penalties and abatement periods are heard by the Occupational Safety and Health Review Board within the Department of Labor. Decisions of the Review Board may be appealed to the State Superior Court.

The notice of initial approval noted a few distinctions between the Federal and Alaska programs. The State plan does not cover safety and health in private sector maritime employment. The State's procedures for emergency rulemaking are incorporated in the Alaska Administrative Procedure Act. Unlike OSHA's six month effective period for emergency standards, Alaska's emergency standards are effective for 120 days, during which time the State must begin adoption of a permanent standard to replace the temporary requirements. The Alaska legislation specifically requires that employees receive compensation from employers for time spent aiding in an inspection and for loss of wages resulting from employee appearance at contest hearings at the employer's request or subpoena. Employees appearing at the request or subpoena of the State or Review Board are compensated by the State. The Alaska legislation also contains a parallel but more extensive provision to the Act's general duty clause which requires employers to provide protective equipment and other safeguards, technological control of hazards and monitoring of employee exposure to hazards.

The Assistant Secretary's initial approval of the developmental plan for Alaska, a general description of the plan, a schedule of required developmental steps, and a provision for discretionary concurrent Federal enforcement during the period of initial approval were codified in the Code of Federal Regulations (29 CFR Part 1952, Subpart R; 38 FR 21629 (August 10, 1973)).

In accordance with the State's developmental schedule, all major structural components of the plan were put in place and appropriate documentation submitted for OSHA approval during the three year period following commencement of State operations which ended October 1, 1976. These "developmental steps" included promulgation of State occupational safety and health standards and program regulations, completion of a compliance manual, implementation of an occupational health program, and the development of a management information system. In completing these developmental steps, the State developed and submitted for Federal approval all components of its enforcement program including, among other things, a field operations manual, management information system, agency organizational chart, merit staffing system, training program and a safety and health poster for private and public employees. These submissions were carefully reviewed by OSHA; after opportunity for public comment and modification of State submissions, where appropriate, the major plan elements were approved by the Assistant Secretary as meeting the criteria of Section 18 of the Act and 29 CFR 1902.3 and 1902.4. The Alaska subpart of Title 29 was amended to reflect each of these approval determinations (see 29 CFR 1952.244).

During 1975, the Alaska plan had met the OSHA requirements for an operational status agreement. A **Federal Register** notice was published on September 2, 1975 (40 FR 40157), announcing that an operational status agreement had been signed on August 27, 1975 for Alaska. Under the terms of that agreement, OSHA voluntarily suspended the application of concurrent Federal enforcement authority with regard to Federal occupational safety and health standards in all issues covered by the Alaska plan.

On September 13, 1977, in accordance with procedures at 29 CFR 1902.34 and 1902.35, the Assistant Secretary certified that Alaska had satisfactorily completed all developmental steps (42 FR 45905). In certifying the plan, the Assistant Secretary found the structural features of the program—the statute, standards, regulations, and written procedures for administering the plan—to be at least as effective as corresponding Federal provisions. Certification does not entail findings or conclusions by OSHA concerning adequancy of performance. As has already been noted, OSHA regulations provide that certification initiates a period of evaluation and monitoring of State activity to determine, in accordance with section 18(e) of the Act, whether the statutory and regulatory criteria for State plans are being applied in actual operations under the plan and whether final approval should be granted.

History of the Present Proceeding

Procedures for final approval of State plans are set forth at 29 CFR Part 1902, Subpart D. On April 20, 1984 the Occupational Safety and Health Administration published notice of the eligibility of the Alaska State plan for a determination under section 18(e) of the Act as to whether final approval of the plan should be granted (49 FR 16813). The determination of eligibility was based on monitoring of State operations for at least one year following certification, State participation in the Federal-State Unified Management Information System, and staffing which meets the compliance staffing benchmarks established under a court order in *AFL–CIO* v. *Marshall* (CA 74–406).

The April 20 **Federal Register** notice set forth a general description of the Alaska plan and summarized the results of Federal OSHA monitoring of State operations during Fiscal Year 1983. In addition to the information set forth in the notice itself, OSHA submitted, as part of the record in this rulemaking proceeding, extensive and detailed exhibits documenting the plan, including copies of the State legislation, administrative regulations and procedural manuals under which Alaska operates its plan, and copies of all previous **Federal Register** notices regarding the plan.

A copy of the February 8, 1984 Annual Evaluation Report of the Alaska plan ("FY 1983 Evaluation Report" or "18(e) Evaluation Report"), which was extensively summarized in the April 20 proposal and which provided the principal factual basis for the proposed 18(e) determination, was included in the record (Ex. 2–8). Available data on Fiscal Year 1984 State performance through March 1984 was submitted into the record ("FY 1984 data," Ex. 2–31k) and was fully considered in the final approval process. The FY 1984 data is generally comparable to that covering FY 1983. In addition, copies of all OSHA evaluation reports on the plan since its certification as having completed all developmental steps were made part of the record. To assist and encourage public participation in the 18(e) determination, copies of the complete record were maintained in the OSHA Docket Office in Washington, D.C., in the OSHA Region X Office in Seattle, Washington, in the OSHA Area office in Anchorage, Alaska and at the office of the Alaska Department of Labor in Juneau. Summaries of the April 20 proposal, with an invitation for public comments and testimony, were published in Alaska on April 27, 28, and 30, 1984 (Ex. 1).

The April 20 proposal invited interested persons to submit, by May 22, 1984, written comments and views regarding the Alaska plan and whether

final approval should be granted. Eighteen comments were received in response to this notice. Fourteen comments were received from organized labor, one from an employer group in Alaska, one from another State with an occupational safety and health plan, and two from private employers.

Public participation was also invited at an informal public hearing which was held on June 7, 1984 at the Old Federal Building in Anchorage. Appearing at the hearing were a panel of Federal officials responsible for evaluating and monitoring the plan including James W. Lake, OSHA Region X Regional Administrator, and Barbara Bryant, OSHA's Director of the Office of State Programs in Washington, DC. Alaska Commissioner of Labor Jim Robison gave testimony regarding the Alaska plan. Two representatives of organized labor, three individuals representing businesses or business organizations, one representative of a professional safety group, and one representative from a State government agency participated in the hearing by presenting oral and, in some cases, written testimony (Ex. 4–2 through 4–6).

At the close of that hearing OSHA requested, and the presiding Administrative Law Judge granted, a 30-day posthearing comment period for the submission of any additional written testimony and comments. Comments were received from the State of Alaska (Ex. 7), a local union representative (Ex. 5), and the U.S. Congressman for Alaska (Ex. 6).

The record for this 18(e) proceeding was certified as closed on July 9, 1984 by the Chief Administrative Law Judge, who presided at the June 7, 1984 hearing.

Summary and Evaluation of Comments Received

At numerous times during this rulemaking, OSHA has encouraged interested members of the public to provide information and views regarding operations under the Alaska plan, to supplement the information already gathered during OSHA monitoring and evaluation of plan administration.

In response to the April 20 Federal Register notice, OSHA received comments from the American Federation of Labor and Congress of Industrial Organizations (AFL–CIO), James N. Ellenberger, Specialist, Department of Occupational Safety, Health and Social Security (Ex. 3–1); Cominco American Inc., M.J. Klein, Vice President, Human Resources and Administration (Ex. 3–2); Michigan Department of Labor, Douglas Earle, Director, Bureau of Safety and Regulation (Ex. 3–3); Associated General Contractors of America, Inc., William F. Reeves, General Counsel (Ex. 3–4); Alaska Public Employees Association, Cherie Shelley, Executive Director (Ex. 3–5); Inland Boatmen's Union of the Pacific, Mike Wilson, Assistant to the Regional Director (Ex. 3–6); International Longshoremen's & Warehousemen's Union, Larry Cotter, President, Local 200 (Ex. 3–9); United Union of Roofers, Waterproofers and Allied Workers, Ray M. Brown, Business Representative, Local 190 (Ex. 3–10); International Brotherhood of Painters and Allied Trades, Rudy J. Trosciair, Business Manager, Local 1140 (Ex. 3–11); International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers, & Helpers, David E. Chess, Business Manager/Secretary-Treasurer, Local 498 (Ex. 3–12); International Union of Operating Engineers, James D. Johnson, District Representative, Local #302-District #6 (Ex. 3–13); International Association of Bridge, Structural and Ornamental Iron Workers, John A. Abshire, Business Manager, Local 751 (Ex. 3–15); Alaska Fishermen's Union, Walter J. Smith, Secretary-Treasurer (Ex. 3–16); Association of Western Pulp and Paper Workers, Wayne Weihing, Chairman, Local 783 (Ex. 3–17); Anchorage Building & Construction Trades Council, Russell J. Anderson, Project Director, Apprentice Outreach Program (Ex. 3–18); International Association of Heat and Frost Insulators & Asbestos Workers, Kenneth M. Don, Vice-President, Local 197 (Ex. 3–19); United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry, G.L. Metcalf, Business Manager, Local 367 (Ex. 3–20); and Parker Drilling Company, John Haynes, Safety Director (Ex. 3–22).

Several of the comments of the AFL–CIO (Ex. 3–1) did not discuss actual State performance but rather were directed toward OSHA's system for monitoring and evaluation of State plans and the requirements that a State must meet to be eligible for final approval.

As stated at the hearing, the evaluation of the Alaska plan was conducted in accordance with OSHA's new State plan monitoring and evaluation system. This system uses statistical data to compare Federal and State performance on a number of criteria, or measures. Significant differences between the two are evaluated to determine whether these differences, viewed within the framework of overall State plan administration, detract from the State's effectiveness and potentially render it less effective than the Federal program (Ex. 4–2).

Some of the AFL–CIO's comments on the proposed determination addressed the methods OSHA currently uses to evaluate the performance of State plan operations as well as specific State performance. The AFL–CIO expressed concern that Federal OSHA through its monitoring system will try to limit these areas of State performance which exceed OSHA's enforcement efforts in several areas. However, OSHA never intended that superior performance would result in any negative action. Statistical outliers display differences, not necessarily deficiencies. If further review related to an outlier determines stronger State performance, clearly no negative determination will be made.

The AFL–CIO's comments also expressed concern over OSHA procedures for treating Complaints About State Program Administration (CASPA's), which now provide States the first opportunity to investigate allegations internally. The concern was that after final approval, these procedures would apply in Alaska. Actually, the procedures apply for all States regardless of 18(e) status. Even so, OSHA does not consider that State investigation will result in unfair disposition of complaints, because Federal review of State conclusions is required, and Federal investigation of complaints not satisfactorily addressed by the State will be conducted.

One of the concerns expressed in the comment received from Wayne Weihing, chairman of Local 783 of the Association of Western Pulp and Paper workers alleged that a State representative at an Alaska Loggers Safety Conference recommended that employers should contest all citations. In its post hearing comments, the State explained that its representative was responding directly to an employer's question as to his rights if he disagreed with a citation, and that Mr. Weihing misconstrued the response.

A comment from Douglas R. Earle, Director of Michigan's Bureau of Safety and Regulation supported final approval of the Alaska plan, citing exemplary administration of its program. Mr. Earle also included a general objection ot OSHA's requirement of State participation in the United Federal/State Management Information System (Uni-MIS) in order to receive final approval consideration (Ex. 3–3). (Alaska had been a participant since June 1982.) As discussed above, OSHA's evaluation of State performance is based on a comparison of Federal and State statistical data. Since the majority of this data is provided through State participation in the Uni-MIS, such

participation is appropriate and essential to OSHA's ability to make substantiated determinations under section 18(e) of the Act as to whether a State's actual operation is "at least as effective" as the Federal program. Thus, OSHA believes that the Uni-MIS is a reasonable and highly useful exercise by OSHA of its statutory authority to obtain from States "information in such form as the Secretary may from time to time require," 29 U.S.C. 667(c)(8).

The remaining fifteen prehearing comments expressed general support for final approval on the grounds of State competence, responsiveness, and specific knowledge of local conditions.

Seven public witnesses presented oral testimony at the June 7 hearing; two of the witnesses presented written statements for the record. The testimony unanimously supported final approval of the Alaska plan.

Raymond A. Elleven, president of Alaska's chapter of the American Society of Safety Engineers, indicated his organization's support for final plan approval because the State has demonstrated its capability to meet or exceed Federal safety and health requirements and procedures over the course of its plan operation (Ex. 4–6).

Clifford B. Hustead appeared on behalf of the Alaska Loggers' Association for which he is safety advisor, and the Alaska Timber Insurance Exchange, for which he is safety director, and expressed those organizations' support for final approval. Mr. Hustead felt that State personnel were well-informed and that inspections were thorough, and that the agency maintained good communication with his organizations to promote safety (Ex. 4–4 and 4–6).

Al Baffone, business manager and secretary/treasurer with the Laborers' International Local #71 (AFL–CIO) which represents public employees in Alaska, appeared in support of final approval. Mr. Baffone testified that the State has been providing competent enforcement and education in safety and health and that the State is capable of operating independently. Mr. Baffone also indicated that the continued Federal authority to monitor and, if necessary, reconsider final approval will provide ample safeguards of continued effectiveness (Ex. 4–6).

Warren Gore, who is president of the Alaska State AFL–CIO, indicated his organization's support for final approval. Mr. Gore described the Alaska program and personnel as very responsive to the safety and health needs of his membership, and knowledgable of local working conditions and practices. Mr. Gore considered the State deserving of the recognition of effectiveness conferred by an affirmative 18(e) decision (Ex. 4–5, and 4–6).

Duane Taylor, safety director for Frontier Companies of Alaska, which are engaged in construction and oil field related industry, expressed his favorable opinion of the State's operations, citing the State's cooperative attitude and its commitment to considering local needs in drafting policies and regulations (Ex. 4–6).

Sandy Stark, who works in the area of safety and health for the J.B. Gottstein Company, a wholesale grocery firm, appeared in support of final approval. Ms. Stark characterized State compliance efforts as extremely thorough, professional, and helpful, with follow through communication after the inspection to provide help in attaining abatement of hazards. Ms. Stark also commended the State education and training efforts, and its non-adversarial relations with employers, employees, and the public (Ex. 4–6).

Major Vern Watts appeared as a representative of the Department of Military and Veterans' Affairs, and supported final approval. Mr. Watts' agency is composed of a cross section of Federal civilian and military employees and State employees. In his capacity as safety officer, Mr. Watts lauded the assistance provided to his in coming to terms with technical requirements of the standards (Ex. 4–6).

Three post hearing comments were submitted to the record. Jim Robison, Commissioner of the Alaska Department of Labor, submitted comments which addressed in detail the issues raised concerning the State's program by the National AFL–CIO and Local 783 of the Association of Western Pulp and Paper workers in their comments (Ex. 4–6). Ralph Mingo, security/safety coordinator for Local 959 of the International Brotherhood of Teamsters, Chauffeurs, Warehousemen, and Helpers and America, expressed support based on the helpful, highly professional service by the State (Ex. 5). U.S. Congressman Don Young of Alaska also expressed support for final approval, citing Alaska's outstanding efforts in program development and operation (Ex. 6).

Some of the comments and testimony discussed above also addressed OSHA's findings on areas of State performance as described in the FY 1983 Evaluation Report. All of these comments relate to specific indices or factors for determination in making a decision on final approval of a State plan (see 29 CFR 1902.3, 1902.4 and 1902.37) and are therefore addressed in the Findings and Conclusions section of this notice.

Findings and Conclusions

As required by 29 CFR 1902.41, in considering the granting of final approval to a State plan OSHA has carefully and thoroughly reviewed all information available to it on the actual operation of the Alaska State plan. This information has included all previous evaluation findings since certification of completion of the State plan's developmental steps, especially those for Fiscal Year 1983, data for Fiscal Year 1984 from October 1983 through March 1984, and information presented in written submissions and at the informal public hearing held on June 7, 1984. Findings and conclusions in each of the areas of performance are as follows.

(1) Standards

Section 18(c)(2) of the Act requires State plans to provide for occupational safety and health standards which are at least as effective as Federal standards. Such standards where not identical to the Federal must be promulgated through a procedure allowing for consideration of all pertinent factual informaton and participation of all interested persons (29 CFR 1902.4(b)(2)(iii)); must, where dealing with toxic materials or harmful physical agents, assure employee protection throughout his or her working life (29 CFR 1902.4(b)(2)(i)); must provide for furnishing employees appropriate information regarding hazards in the workplace through labels, posting, medical examinations, etc. (29 CFR 1902.4(b)(2)(vi)); must require suitable protective equipment, technological control, monitoring, etc. (29 CFR 1902.4(b)(2(vii)); and where applicable to a product must be required by compelling local conditions and not pose an undue burden on interstate commerce (29 CFR 1902.3(c)(2)).

As documented in the approved Alaska State plan and OSHA's evaluation findings made a part of the record in this 18(e) determination proceeding, and as discussed in the April 20 notice, the Alaska plan provides for the adoption of standards and amendments thereto which are identical to or at least as effective as Federal standards. The State's law and regulations, previously approved by OSHA and made a part of the record in this proceeding (Ex. 2–4 and 2–5), include provisions addressing all of the structural requirements for State standards set out in 29 CFR Part 1902.

In order to qualify for final State approval, a State program must be found

to have adhered to its approved procedures (29 CFR 1902.37(b)(2)); to have timely adopted identical or at least as effective standards, including emergency temporary standards and standards amendments (29 CFR 1902.37(b)(3)); to have interpreted its standards in a manner consistent with Federal interpretations and thus to demonstrate that in actual operation State standards are at least as effective as the Federal (29 CFR 1902.37(b)(4)); and to correct any deficiencies resulting from administrative or judicial challenge of State standards (29 CFR 1902.37(b)(5)).

As noted in OSHA's FY 1983 Evaluation Report and summarized in the April 20, 1984 **Federal Register** notice, Alaska had for several years experienced difficulty in complying with the six-month time frame for responding to Federal standards changes required by 29 CFR Part 1953. This was primarily the result of delays in the State Attorney General's Office, which is responsible for review and concurrence with all standards actions, and for filing as official with the Lieutenant Governor. In June 1983 the State obtained assurance from the Attorney General's Office that it would assign sufficient priority to this process to ensure timely adoption and promulgated all previously delayed standards changes. At the time of the June 7 public hearing Alaska had subsequently adopted all standards changes in a timely manner, with exception for standards actions for which the State properly requested and received extensions. (These were for two technically complex standards, the Hearing Conservation Amendment and the Hazard Communication Standard.)

The prehearing comments from the ALF–CIO expressed concern that Alaska's actions with respect to Federal standards changes were not completed in a timely manner (Ex. 3–1). As pointed out in Alaska's posthearing comments (Ex. 7), however, the State had brought its standards to current status in June 1983, and continued to maintain that status. The State also took steps to ensure standards promulgation received priority within the Department and from the Attorney General's Office.

Comment at the hearing on the quality of State standards was favorable. One witness testified that State standards are often more stringent than Federal standards and are adapted to local needs, citing the State's blasting code as an example (Testimony of Duane Taylor, Frontier Companies of Alaska, Ex. 4–6).

As already noted, the Alaska plan likewise adopts standards interpretations which are as effective as the Federal. OSHA monitoring has found that the State's application of its standards is comparable to Federal standards application. No challenges to State standards have occurred in Alaska.

Therefore, in accordance with section 18(c)(2) of the Act and the pertinent provisions of 29 CFR 1902.3, 1902.4 and 1902.37, OSHA finds the Alaska program in actual operation to provide for standards adoption, correction when found deficient, interpretation and application, in a manner at least as effective as the Federal program.

(2) Variances

A State plan is expected to have the authority and procedures for the granting of variances comparable to those in the Federal program (29 CFR 1902.4(b)(2)(iv)). The Alaska State plan contains such provisions in both law and regulations which have been previously approved by OSHA. In order to qualify for final State plan approval permanent variances granted must assure employment equally as safe and healthful as would be provided by compliance with the standard (29 CFR 1902.37(b)(6)); temporary variances granted must assure compliance as early as possible and provide appropriate interim employee protection (29 CFR 1902.37(b)(7)). As noted in the FY 1983 Evaluation Report and the April 20 notice, four permanent variances were granted in FY 1983. The action on these requests were in accordance with the State's procedure and the granted variances provided protection equivalent to that provided under the standard. No temporary variances were requested (18(e) Evaluation Report, pp. 6–7). No variances were granted during the first six months of FY 1984. Accordingly, OSHA finds that the Alaska program effectively grants variances from its occupational safety and health standards.

(3) Enforcement

Section 18(c)(2) of the Act and 29 CFR 1902.3(d)(1) require a State program to provide a program for enforcement of State standards which is and will continue to be at least as effective in providing safe and healthful employment and places of employment as the Federal program. The State must require employer and employee compliance with all applicable standards, rules and orders (29 CFR 1902.3(d)(2)) and must have legal authority for standards enforcement including compulsory process (29 CFR 1902.4(c)(2)). The Alaska law (Alaska Statutes 18.60.010 through 18.60.105) and implementing regulations previously approved by OSHA establish employer and employee compliance responsibility and contain legal authority for standards enforcement in terms virtually identical to those in the Federal Act. In order to be qualified for final approval, the State must have adhered to all approved procedures adopted to ensure an at least as effective compliance program (29 CFR 1902.37(b)(2)). Both the FY 1983 Evaluation Report and FY 1984 data show no lack of adherence to such procedures.

(a) *Inspections.* A plan must provide for inspection of covered workplaces, including in response to complaints, where there are reasonable grounds to believe a hazard exist (29 CFR 1902.4(c)(2)(i)). As noted in the April 20, 1984 **Federal Register** notice Alaska follows a similar policy to Federal, i.e. promptly responding to all employee complaints by either inspection or letter to employer. In FY 1983 59.1% of complaints and in the first six months of FY 1984 51% of complaints resulted in an inspection (FY 1983 Evaluation Report, p. 53, and Ex. 2–31 k). At the hearing the president of the Alaska State AFL–CIO, Warren Gore, praised the State's responsiveness to serious complaints (Ex. 4–5).

The AFL–CIO's letter (Ex. 3–1) voiced concern that Alaska adopted OSHA's policy of responding to informal complaints with a letter to the employer rather than an inspection. OSHA feels that this policy does not reduce protections against the more serious hazards, but rather frees up resources otherwise devoted to inspections of non-high risk employers. Additionally, in its post-hearing statement (Ex. 7), Alaska explained that most nonformal complainants have been satisfied that abatement has been obtained, when a letter was used to pursue abatement. For employees who are not satisfied with the employers' actions, an inspection is scheduled. The State asserts that employees are strongly encouraged to make their complaints formally, and that the majority of complaints are filed formally.

In order to qualify for final approval, the State program, as implemented, must allocate sufficient resources toward high-hazard workplaces while providing adequate attention to other covered workplaces (29 CFR 1902.37(b)(8)). The FY 1983 Evaluation Report indicates that 98.6% of State programmed (general schedule) inspections in FY 1983 were conducted in high-hazard industries, and 98.3% in the first six months of FY 1983, which exceeds the Federal average and therefore compares favorably with Federal performance (Ex. 2–31 k).

Alaska utilizes a high hazard list to schedule programmed inspections, as does OSHA. It should be noted that Alaska concentrated its programmed safety inspections in the construction industry and has supplemented its safety and health lists with local emphasis lists (Evaluation Report, p. 49).

To ensure that sufficient compliance efforts are conducted on the North Slope of the State, where large scale oil exploration and development is ongoing, the AFL–CIO suggested that Alaska permanently station compliance officers there (Ex. 3–1). However, in Alaska's posthearing statement for the record (Ex. 7), the State explains that the North Slope is readily accessible from its Fairbanks and Anchorage offices by a short plane trip, and that it has indeed performed a volume of inspections since operations began there. According to the State, all major construction and drilling operations in that area have been inspected. In stationing a permanent inspector on the North Slope the State would encounter problems with procuring limited office space, paying the additional expense of housing the inspector (which would almost double the cost of an Anchorage-based inspector), and complying with the practice on the North Slope of giving an employee a week off for each week worked. The State concluded that the expense and administrative problems far outweigh any practical benefit of stationing an inspector on the North Slope.

(b) *Employee Notice and Participation in Inspections.* In conducting inspections the State plan must provide an opportunity for employees and their representatives to point out possible violations through such means as employee accompaniment or interviews with employees (29 CFR 1902.4(c)(2)(ii)). The State's procedures require compliance officers to provide this opportunity. In FY 1983, employee representatives exercised the right to accompany inspectors on 34.7% of all initial inspections, and 31.1% during the first six months of FY 1984. From this data OSHA concluded that employee representation was properly provided in State inspections (Evaluation Report, p. 63; Ex. 2–31 k).

In addition, the State plan must provide that employees be informed of their protections and obligations under the Act by such means as the posting of notices (29 CFR 1902.4(c)(2)(iv)) and provide that employees have access to information on their exposure to regulated agents and access to records of the monitoring of their exposure to such agents (29 CFR 1902.4(c)(vi)).

To inform employees and employers of their protections and obligations, Alaska requires that a poster, which was previously approved by OSHA (41 FR 43405), be displayed in all covered workplaces. Requirements for the posting of the poster and other notices such as citations, contests, hearings and variance applications are set forth in the previously approved State law and regulations which are substantially identical to Federal requirements. Information on employee exposure to regulated agents and access to medical and monitoring records is provided through State standards, including the Access to Employee Exposure and Medical Records standard.

During FY 1983 61 posting violations were cited, and during the first six months of FY 1984, the State cited 11 instances of posting violations.

(c) *Nondiscrimination.* A State is expected to provide appropriate protection to employees against discharge or discrimination for exercising their rights under the State's program including provision for employer sanctions and employee confidentiality (29 CFR 1902.4(c)(2)(v)). The Alaska law and regulations provide for discrimination protection which is at least as effective as the Federal. The State received and satisfactorily investigated fourteen discrimination complaints during FY 1983; three discrimination complaints were received and investigated in the first six months of FY 1984 and were determined to be non-merit cases. Federal evaluation of the FY 1983 cases indicates that the State action was satisfactory (Evaluation Report p. 98).

(d) *Restraint of Imminent Danger; Protection of Trade Secrets.* A State plan is required to provide for the prompt restraint of imminent danger situations (29 CFR 1902.4(c)(2)(vii)) and to provide adequate safeguards for the protection of trade secrets (29 CFR 1902.4(c)(2)(viii)). The State has provisions concerning imminent danger and protection of trade secrets in its law, regulations and field operations manual which are similar to the Federal. The FY 1983 Evaluation Report indicate that there were 12 imminent danger situations identified; data for the first six months of FY 1984 indicate that no imminent danger situations were identified. The Evaluation Report indicated that the imminent danger situations were handled properly (Evaluation Report, p. 71). No Complaints About State Program Administration (CASPA's) have been received concerning trade secrets during either time period.

(e) *Right of Entry; Advance Notice.* A State program is expected to have authority for right of entry to inspect and compulsory process to enforce such right equivalent to the Federal program (section 18(c)(3) of the Act and 29 CFR 1902.3(e)). Likewise, a State is expected to prohibit advance notice of inspection, allowing exception thereto no broader than in the Federal program (29 CFR 1902.3(f)). Section 83 of the Alaska Law authorizes the Commissioner to enter and inspect all covered workplaces in terms substantially identical to those in the Federal Act. In addition, the Commissioner is authorized to petition the appropriate superior court for a search warrant permitting entry to inspect any workplace where entry has been refused; such orders are enforceable through contempt proceedings. The Alaska Law likewise prohibits advance notice, and implementing procedures for exceptions to this prohibition are substantially identical to the Federal.

In order to be found qualified for final approval, a State is expected to take action to enforce its right of entry when denied (29 CFR 1902.37(b)(9)) and to adhere to its advance notice procedures. During the FY 1983 evaluation period, Alaska received four refusals of entry. The State successfully obtained warrants in all of these cases (18(e) Evaluation Report, p. 58). The first six months of FY 1984 data showed that warrants were obtained for all five refusals of entry which occurred. Advance notice of inspection procedures were used once in FY 1983 and twice in the first six months of FY 1984. The 18(e) Evaluation Report indicated proper use of the procedures.

(f) *Citations, Penalties, and Abatement.* A State plan is expected to have authority and procedures for promptly notifying employers and employees of violations identified during inspection, for the proposal of effective first-instance sanctions against employers found in violation of standards and for prompt employer notification of such penalties (29 CFR 1902.4(c)(2) (x) and (xi)). The Alaska plan through its law, regulations and field operations manual, which have all been previously approved by OSHA, has established a system similar to the Federal for prompt issuance of citations to employers delineating violations and establishing reasonable abatement periods, requiring posting of such citations for employee information and proposing penalties.

In order to be qualified for final approval, the State, in actual operation, must be found to conduct competent

inspections in accordance with approved procedures and to obtain adequate information to support resulting citations (29 CFR 1902.37(b)(10)), to issue citations, proposed penalties and failure-to-abate notifications in a timely manner (29 CFR 1902.37(b)(11)), to propose penalties for first instance violations that are at least as effective as those under the Federal program (29 CFR 1902.37(b)(12)), and to ensure abatement of hazards including issuance of failure to abate notices and appropriate penalties (29 CFR 1902.37(b)(13)). Comparison of Federal and State data, as discussed in the FY 1983 Evaluation Report and data for the first six months of FY 1984, shows the State finds more violations per initial inspection (2.2 in FY 1983; 2.1 in FY 1984). Additionally, data show closely similar State percentages of not-in-compliance programmed inspections (63.8% in FY 1983; 65.6% in FY 1984) to those of Federal OSHA. In FY 1983, the State did find a somewhat lower percentage of serious safety violations (16.5%), and found a somewhat lower percentage of serious health violations in FY 1984 (10%).

The AFL-CIO in its written comments (Ex. 3–1) asserted that the level of serious citations is low in comparison with further review levels. However, the State in its response (Ex. 7) contended that since Alaska has inspected most of its high-hazard employers at least once, the rate of serious hazards should be expected to be lower upon reinspection. The State also contended that its serious citation average are actually not much lower than Federal.

As noted in the 18(e) Evaluation Report, (p. 17), monitoring has indicated that the State does effectively identify and cite violations, and that inspectors recognize and properly classify violations.

Notices of citations, penalties, and abatement periods take somewhat longer to issue than Federally (20.3 days from inspection to issuance of citation and proposed penalty in FY 1983 and 21 days in the FY 1984 data). However, the FY 1983 Evaluation Report noted that factors such as mail delay from remote locations within the State, and the practice of scheduling a series of inspections to be completed before the compliance officer returns to the office when out-of-town travel is required, unavoidably add to citation processing time.

Neither the data nor any comments suggest that the State has any problem in adequately documenting inspections to support citations.

During the evaluation period and for six months of FY 1984, penalty levels for serious violations were closely comparable to or slightly higher than Federal ($200 safety, $338 health in FY 1983; $229 safety, $225 health in first six months of FY 1984.)

The AFL–CIO commented (Ex. 3–1) that Alaska's penalties are considerably lower than the Federal averages, and that penalties are an important enforcement mechanism. The AFL–CIO noted that appropriate penalties are especially important in the case of repeat, willful and failure to abate violations. However, the State explained that the majority of employers cited are entitled to the same reduction for small establishment size as is present in Federal procedures. The State acknowledged that the average penalty for health repeat and willful violations in FY '83 was somewhat lower than Federal (the safety average was similar to Federal). However, since no willful violations were cited the State did not consider the AFL–CIO's criticism to be pertinent. (Willful penalties and repeat penalties are combined in one activity measure; willful penalties tend to be much larger than repeat and thus raise the average significantly). The State pointed out that during the first six months of FY 1984 the average State penalty for safety repeat and willful violations was almost twice the Federal average (no repeat or willful health violations were cited during that time), and that the penalty for serious violations also was above the Federal (Ex. 7). (Data on average failure to correct citations are not available for either Federal OSHA or Alaska.)

Alaska conducts a similar proportion of follow-up inspections as does Federal OSHA (5.5% of not-in-compliance inspections in FY 1983, 2.2% in FY 1984). Abatement periods are generally shorter than Federal (7.5 days for safety, 10.7 days for health in FY 1983 and 7.3 days safety, 16.4 days health in FY 1984 data).

Alaska attempts to document abatement within 30 days for all serious, willful and repeat violations. The 18(e) Evaluation Report indicates acceptable performance (p. 72).

Wayne Weihing, Chairman of Local 783 of the Association of Western Pulp and Paper Workers expressed concern (Ex. 3–17) over inadequate follow-through to ensure abatement of health violations cited at his workplace, the Louisiana Ketchikan Pulp Mill. Mr. Weihing had filed a CASPA in 1983 alleging the continued nonabatement of a violation cited by Alaska. OSHA investigated, found the complaint to be valid, and recommended State action to correct the situation. The State in its post-hearing comments described its immediate corrective actions, and mentioned that a subsequent comprehensive complaint inspection was completed to the satisfaction of the worksite's employee representatives (Ex. 7). No monitoring information or other testimony indicate this problem to be more than an isolated incident.

(g) *Contested Cases.* In order to be considered for initial approval and certification, a State plan must have authority and procedures for employer contest of citations, penalties and abatement requirements at full administrative or judicial hearings. Employees must also have the right to contest abatement periods and the opportunity to participate as parties in all proceedings resulting from an employer's contest (29 CFR 1902.4(c)(2)(xii)). Alaska's procedures for employer contest of citations, penalties and abatement requirements and for ensuring employee rights are contained in the law, regulations and field operations manual made a part of the record in this proceeding and are substantially identical to the Federal procedures. Appeals of citations, penalties and abatement periods are heard by the Occupational Safety and Health Review Board and may be further appealed to the State Superior Court. Twenty-four cases in FY 1983 and 9 cases in the first six months of FY 1984 resulted in contests. OSHA evaluation of these cases supported the conclusion that the State's enforcement actions are adequately supported.

To qualify for final approval, the State must seek review of any adverse adjudications and take action to correct any enforcement program deficiencies resulting from adverse administrative or judicial determinations (29 CFR 1902.37(b)(14)). The State had no adverse decisions which would require review or corrective action. Accordingly, OSHA finds that the Alaska plan effectively reviews contested cases.

(h) *Enforcement Conclusion.* In summary, the Assistant Secretary finds that enforcement operations provided under the Alaska plan are appropriate to the special needs of the State, competently planned and conducted, and are overall at least as effective as Federal OSHA enforcement.

(4) Public Employee Program

Section 18(c)(6) of the Act requires that a State which has an approved plan must maintain an effective and comprehensive occupational safety and health program applicable to all employees of public agencies of the State and its political subdivisions, which program must be as effective as

the standards contained in an approved plan. 29 CFR 1902.3(j) requires that a State's program for public employees be as effective as the State's program for private employees covered by the plan.

Alaska's plan provides a program in the public sector which is identical to that in the private sector, including the proposal of penalties. During FY 1983, the State conducted 41 inspections in the public sector and cited 132 violations. Proposed penalties for serious violations were comparable to those in the private sector ($224 in FY 1983, and $240 in FY 1984).

Injury and illness rates in the public sector in Alaska are much lower than those in the private sector (6.7 combined State and local government all case rate; 2.6 combined State and local government lost workday case rate in 1982). Thus, the proportion of inspections dedicated to the public sector (5.1% of total inspections in FY 1983) were considered appropriate to the needs of public employees.

Because the State treats the public sector in the same manner as the private sector, as evidenced by its written procedures, which are applicable to all covered employees, public or private, and since monitoring indicates similar performance in the public and private sectors, OSHA concludes that the Alaska program meets the criterion in 29 CFR 1902.3(j).

(5) Staffing and Resources

Section 18(c)(4) of the Act requires State plans to provide the qualified personnel necessary for the enforcement of standards. In accordance with 29 CFR 1902.37(b)(1), one factor which OSHA must consider in evaluating a plan for final approval is whether the State has a sufficient number of adequately trained and competent personnel to discharge its responsibilities under the plan.

In 1978, the Assistant Secretary was directed by the U.S. District Court for the District of Columbia (*AFL–CIO* v. *Marshall*, CA 74–406) to calculate for each plan State the number of enforcement personnel needed to assure a "fully effective" enforcement program; States must allocate sufficient staff to meet these levels or "benchmarks" in order to qualify for final approval. In 1980, OSHA submitted a Report to the Court containing the benchmarks and requiring Alaska to allocate four safety compliance officers and five health compliance officers to conduct inspections under the plan. Alaska has allocated these positions, as evidenced by the FY 1983 and 1984 Applications for Federal Assistance (Ex. 2–31 h, i, and j) in which the State has committed itself to funding the State share of salaries for eight safety inspectors and five health enforcement officers.

As noted in the **Federal Register** notice announcing certification of the completion of developmental steps for Alaska (42 FR 45905) all personnel under the plan meet civil service requirements under the State merit system, which was found to be in substantial conformity with the Standards for a Merit System of Personnel Administration by the U.S. Civil Service Commission.

The State provides continuing training for its staff. The FY 1983 Evaluation Report (p. 34) noted that the State provided an average of two weeks of formal training for all professional employees.

Because Alaska has allocated sufficient enforcement staff to meet the benchmarks currently in effect for that State, and personnel are trained and competent, the requirements for final approval set forth in 29 CFR 1902.37(b)(1), and in the 1978 Court Order and 1980 Report to the Court in *AFL–CIO* v. *Marshall, supra*, are being met by the Alaska plan.

Section 18(c)(5) of the Act requires that the State devote adequate funds to administration and enforcement of its standards. The Alaska plan was funded at $1,901,270 in Fy 1983 and $2,111,364 in FY 1984. (For each year, 50% of the funds were provided by Federal OSHA and 50% were provided by the State.)

As noted in the FY 1983 Evaluation Report, Alaska's funding appears sufficient in absolute terms; moreover, the State allocates funds at a higher rate than Federal OSHA with respect to expenditures per covered employee and provides greater compliance officer coverage (18(e) Evaluation Report, p. 112). On this basis, OSHA finds that Alaska has provided sufficient funding for the various activities carried out under the plan.

(6) Records and Reports

State plans must assure that employers in the State submit reports to the Secretary in the same manner as if the plan were not in effect (secton 18(c)(7) of the Act and 29 CFR 1902.3(k)). The plan must also provide assurances that the designated agency will make such reports to the Secretary in such form and containing such information as he may from time to time require (section 118(c)(8) of the Act and 29 CFR 19092.3(1)).

Alaska's employer recordkeeping requirements are substantially identical to those of Federal OSHA, and the State participates in the BLS Annual Survey of Occupational Illnesses and Injuries. As noted in the April 20 proposal, the State participates and has assured its continuing participation with OSHA in the combined Federal-State computerized Management Information System as a means of providing reports on its activities to OSHA.

For the foregoing reasons, OSHA finds that Alaska has met the requirements of sections 18(c)(7) and (8) of the Act on employer and State reports to the Secretary.

(7) Voluntary Compliance Program

A State plan is required to undertake programs to encourage voluntary compliance by employers by such means as conducting training and consultation with employers and employees (29 CFR 1902.4(c)(2)(xiii)).

During the FY 1983 evaluation period, Alaska provided training to 381 employers and supervisors and 1011 employees. Of the employees trained, 76% were in high hazard industries.

In the private sector, Alaska provides on-site consultative services to employers under a cooperative agreement with OSHA made pursuant to section 7(c)(1) of the Act and 29 CFR Part 1908. On-site consultation for the public sector is provided through the Alaska State plan. During the FY 1983 evaluation period, 59 on-site consultative visits were conducted in the public sector.

Accordingly, OSHA finds that Alaska has established and is administering an effective voluntary compliance program.

(8) Injury and Illness Statistics

As a factor in its 18(e) determination, OSHA must consider the Bureau of Labor Statistics annual occupational safety and health survey and other available Federal and State measurements of program impact on worker safety and health (29 CFR 1902.37(b)(15)). As noted in the 18(e) Evaluation Report, Alaska reportable injury and illness rates in absolute terms are higher than the Federal averages. It should be noted, however, that this comparative difference existed at the time of the inception of the Alaska plan in 1973. The overall trend in worker safety and health injury and illness rates since the State began enforcement of its plan compares favorably to that under the Federal program. For example, for the period 1973–1982, the all case rate for all industry declined 30% in Alaska, and the lost workday case rate for all industry in Alaska declined 12.5%.

The AFL–CIO's comments (Ex. 3–1) expressed concern over Alaska's higher injury rates and the general, if slight, increase in Alaska's rates over the last several years. In its posthearing statement (Ex. 7) the State explained

that the composition of Alaska's private sector includes proportionately more high rate employment that the National average, that its manufacturing employment is concentrated in logging and food processing, both extremely hazardous industries, and that the mandatory inclusion of statistics which reflect injuries sustained during non-work hours for employees stationed in remote areas under the State "bunkhouse" rule contributes significantly to high rates. The State also explained that the incidence rates rose slightly between 1979 and 1982 because employment levels increased substantially in Alaska in comparison to a small decrease in the National average. As has been observed by the Bureau of Labor Statistics, rising employment levels tend to coincide with higher injury levels, because of the effect of hiring new or relatively inexperienced workers who are considered more prone to be injured on the job.

Duane Taylor, representing Frontier Companies of Alaska, who testified at the June 7 hearing, also offered the theory that the State's high injury rates were significantly increased by the requirement that injuries occurring at residential facilities provided by employers in remote locations must be reported whether or not the employee was injured while working or off duty (Ex. 4–8).

As noted in the April 20 Federal Register notice, the 18(e) Evaluation Report concluded that although the rates exceeded Federal rates, these are explained in terms of local employment conditions. Considering the State's overall substantial decline in injury and illness rates, OSHA finds a favorable comparison between Alaska's trends in injury and illness statistics and those in States with Federal enforcement.

Decision

OSHA has carefully reviewed the record developed during the above described proceedings, including all comments and testimony received thereon. The present Federal Register document sets forth the findings and conclusions resulting from this review. In light of all the facts presented on the record, the Assistant Secretary has determined that the Alaska State plan for occupational safety and health in actual operation, which has been monitored for at least one year subsequent to certification, is at least as effective as the Federal program and meets the statutory criteria for State plans in section 18(e) of the Act and implementing regulations at 29 CFR Part 1902. The Alaska State plan is hereby granted final approval under Section 18(e) of the Act and implementing regulations at 29 CFR Part 1902, effective September 28, 1984.

Under this 18(e) determination, Alaska will be expected to maintain a State program which will continue to be at least as effective as operations under the Federal program in providing employee safety and health at covered workplaces. This requirement includes submitting all required reports to the Assistant Secretary as well as submitting plan supplements documenting State initiated program changes, changes required in response to adverse evaluation findings, and responses to mandatory Federal program changes. In addition, Alaska must continue to allocate sufficient safety and health enforcement staff to meet the benchmarks for State staffing established by the Department of Labor, or any revision to those benchmarks.

Effects of Decision

The determination that the criteria set forth in section 18(c) of the Act and 29 CFR Part 1902 are being applied in actual operations under the Alaska plan terminates OSHA authority for Federal enforcement of its standards in Alaska, in accordance with section 18(e) of the Act, in issues covered under the State plan. Section 18(e) provides that upon making this determination "the provisions of sections 5(a)(2), 8 (except for the purpose of carrying out subsection (f) of this section), 9, 10, 13, and 17, and standards promulgated under section 6 of this Act, shall not apply with respect to any occupational safety or health issues covered under the plan, but the Secretary may retain jurisdiction under the above provisions in any proceeding commenced under section 9 or 10 before the date of determination."

Accordingly, Federal authority to issue citations for violation of OSHA standards (sections 5(a)(2) and 9); to conduct inspections (except those necessary to conduct evaluations of the plan under section 18(f), and other inspections, investigations or proceedings necessary to carry out Federal responsibilities which are not specifically preempted by section 18(e)) (section 8); to conduct enforcement proceedings in contested cases (section 10); to institute proceedings to correct imminent dangers (section 13); and to propose civil penalties or initiate criminal proceedings for violations of the Federal Act (section 17) is relinquished as of the effective date of this determination. (Because of the effectiveness of the Alaska plan, there has been no exercise of concurrent Federal enforcement authority in issues covered by the plan since the signing of the Operational Status Agreement in June 1975.)

Federal Authority under provisions of the Act not listed in section 18(e) are unaffected by this determination. Thus, for example, the Assistant Secretary retains his authority under section 11(c) of the Act with regard to complaints alleging discrimination against employees because of the exercise of any right afforded to the employee by the Act although such complaints may be initially referred to the State for investigation. The Assistant Secretary also retains his authority under section 6 of the Act to promulgate, modify or revoke occupational safety and health standards which address the working conditions of all employees, including those in States which have received an affirmative 18(e) determination. In the event that a State's 18(e) status is subsequently withdrawn and Federal authority reinstated, all Federal standards, including any standards promulgated or modified during the 18(e) period, would be Federally enforceable in the State.

In accordance with section 18(e), this determination relinquishes Federal OSHA authority only with regard to occupational safety and health issues covered by the Alaska plan, and OSHA retains full authority over issues which are not subject to State enforcement under the plan. Thus, for example, Federal OSHA retains its authority to enforce all provisions of the Act, and all Federal standards, rules or orders which relate to safety or health in private sector maritime employment, since the issues of maritime safety and health are excluded from coverage under the Alaska plan, as well as worksites located on the navigable waters including artificial islands and on the Metlakatla Indian Community on the Annette Islands.

As provided by section 18(f) of the Act, the Assistant Secretary will continue to evaluate the manner in which the State is carrying out its plan. Section 18(f) and regulations at 29 CFR Part 1955 provide procedures for the withdrawal of Federal approval should the Assistant Secretary find that the State has substantially failed to comply with any provision or assurance contained in its plan. Additionally, the Assistant Secretary is required to initiate proceedings to revoke an 18(e) determination and reinstate concurrent Federal authority under procedures set forth in 29 CFR 1902.47, *et seq.*, if his evaluations show that the State has substantially failed to maintain a

program which is at least as effective as operations under the Federal program, or if the State does not submit program change supplements to the Assistant Secretary as required by 29 CFR Part 1953.

Explanation of Changes to 29 CFR Part 1952

29 CFR Part 1952 contains, for each State having an approved plan, a subpart generally describing the plan and setting forth the Federal approval status of the plan. 29 CFR 1902.43(a)(3) requires that notices of affirmative 18(e) determinations be accompanied by changes to Part 1952 reflecting the final approval decision. This notice makes several changes to Subpart R of Part 1952 to reflect the final approval of the Alaska plan.

A new paragraph § 1952.244 has been added to reflect the determination granting final approval of the plan. The new paragraph contains a more accurate description of the scope of the plan than the one contained in the initial approval decision.

A new § 1952.245, Level of Federal Enforcement, has been added to reflect the State's 18(e) status. The new paragraph replaces former § 1952.242, which described the relationship of State and Federal enforcement under an Operational Status Agreement which was entered into on June 5, 1975. Federal concurrent enforcement authority has been relinquished as part of the present 18(e) determination for Alaska, and the Operational Status Agreement is no longer in effect. Section 1952.245 describes the issues where Federal authority has been terminated and the issues where it has been retained in accordance with the discussion of the effects of the 18(e) determination set forth earlier in the present Federal Register notice.

While most of the existing Subpart R has been retained, paragraphs within the subpart have been rearranged and renumbered so that the major steps in the development of the plan (initial approval, developmental steps, certification of completion of developmental steps and final plan approval) are set forth in chronological order. Related editorial changes to the subpart include modification of the heading of § 1952.240, to clearly identify the 1973 initial plan approval decision to which it relates, and deletion of former § 1952.245, which pertained to approval of miscellaneous, unrelated plan changes. The addresses of locations where State plan documents may be inspected have been updated and are found in § 1952.241.

Regulatory Flexibility Act

OSHA certifies pursuant to the Regulatory Act of 1980 (5 U.S.C. 601, *et seq.*) that this rulemaking will not have a significant economic impact on a substantial number of small entities. Final approval will not place small employers in Alaska under any new or different requirements nor would any additional burden be placed upon the State government beyond the responsibilities already assumed as part of the approved plan. A copy of this certification has been forwarded to the Chief Counsel for Advocacy, Small Business Administration.

List of Subjects in 29 CFR Part 1952

Intergovernmental relations, Law enforcement, Occupational safety and health.

(Sec. 18, 84 Stat. 1608 (29 U.S.C. 667); 29 CFR Part 1902, Secretary of Labor's Order No. 9–83 (48 FR 35736))

Robert A. Rowland,

Assistant Secretary.

PART 1952—[AMENDED]

Accordingly, Subpart R of 29 CFR Part 1952 is hereby amended as follows:

1. Section 1952.240 is amended by revising the heading to read:

§ 1952.240 Description of the plan as initially approved.

§ 1952.243 [Redesignated as § 1952.241]

§ 1952.244 [Redesignated as § 1952.242]

2. The following paragraphs of Subpart R are redesignated as follows:

§§ 1952.241–1952.244 [Redesignated as §§ 1952.245, 1952.244, 1952.241, 1952.242 respectively]

A. section 1952.241 Where the plan may be inspected is redesignated as § 1952.245.

B. section 1952.242 Level of Federal Enforcement is redesignated as § 1952.244.

C. section 1952.243 Developmental schedule is redesignated as § 1952.241.

D. section 1952.244 Completed developmental steps is redesignated as § 1952.242.

3. New § 1952.243 is added and newly redesignated §§ 1952.244 and 1952.245 are revised as follows:

§ 1952.243 Final approval determination.

(a) In accordance with section 18(e) of the Act and procedures in 29 CFR Part 1902, and after a determination that the State met the "fully effective" compliance staffing benchmarks as established in 1980 in response to a Court Order in *AFL–CIO* v. *Marshall*, (CA 74–406), and was satisfactorily providing reports to OSHA through participation in the Federal-State Unified Management Information, System, the Assistant Secretary evaluated actual operations under the Alaska State plan for a period of at least one year following certification of completion of developmental steps (September 9, 1977, 42 FR 54905). Based on the Evaluation Report for FY 1983 and available FY 1984 data, and after opportunity for public comment and an informal public hearing held on June 7, 1984 in Anchorage, Alaska, the Assistant Secretary determined that in actual operations, the State of Alaska occupational safety and health program is at least as effective as the Federal program in providing safe and healthful employment and places of employment and meets the criteria for final States plan approval in section 18(e) of the Act and implementing regulations at 29 CFR Part 1902. Accordingly, the Alaska plan was granted final approval and concurrent Federal enforcement authority was relinquised under section 18(e) of the Act effective September 26, 1984.

(b) The plan which has received final approval covers all activities of employers and all places of employment in Alaska except: the issue of private sector maritime employment, operations of private sector employers within the Metlakatla Indian Community on the Annette Islands, and worksites located on the navigable waters including artificial islands.

(c) Alaska is required: to maintain a State program which is at least as effective as operations under the Federal program; to submit plan supplements in accordance with 29 CFR Part 1953; to allocate sufficient safety and health enforcement staff to meet the benchmarks for State staffing established by the U.S. Department of Labor, or any revisions to those benchmarks; and, to furnish such reports in such form as the Assistant Secretary may from time to time require.

§ 1952.244 Level of Federal enforcement.

(a) As a result of the Assistant Secretary's determination granting final approval to the Alaska plan under section 18(e) of the Act, effective September 26, 1984, occupational safety and health standards which have been promulgated under section 6 of the Act do not apply with respect to issues covered under the Alaska plan. This determination also relinquishes concurrent Federal OSHA authority to issue citations for violation of such standards under sections 5(a)(2) and 9 of the Act; to conduct inspections and

investigations under section 8 (except those necessary to conduct evaluation of the plan under section 18(b) and other inspections, investigations, or proceedings necessary to carry out Federal responsibilities not specifically preempted by section 18(e)); to conduct enforcement proceedings in contested cases under section 10; to institute proceedings to correct imminent dangers under section 13; and to propose civil penalties or institute criminal proceedings for violations of the Federal Act under section 17. The Assistant Secretary may retain jurisdiction under the above provisions in any proceeding commenced under section 9 or 10 before the effective date of the 18(e) determination.

(b) In accordance with section 18(e), final approval relinquishes Federal OSHA authority only with regard to occupational safety and health issues covered by the Alaska plan. OSHA retains full authority over issues which are not subject to State enforcement under the plan. Thus, Federal OSHA retains its authority relative to safety and health in private sector maritime activities and will continue to enforce all provisions of the Act, rules or orders, and all Federal standards, current or future, specifically directed to maritime employment (29 CFR Part 1915, shipyard employment; Part 1917, marine terminals; Part 1918, longshoring; Part 1919, gear certification) as well as provisions of general industry standards (29 CFR Part 1910) appropriate to hazards found in these employments. Federal jurisdiction will also be retained over marine-related private sector employment at worksites on the navigable waters such as floating seafood processing plants, marine construction, employments on artificial islands and diving operations in accordance with section 4(b)(1) of the Act. Federal jurisdiction is also retained for private sector worksites located within the Annette Islands Reserve of the Metlakatla Indian Community and with respect to Federal government employers and employees.

(c) Federal authority under provisions of the Act not listed in section 18(e) is unaffected by final approval of the plan. Thus, for example, the Assistant Secretary retains his authority under section 11(c) of the Act with regard to complaints alleging discrimination against employees because of the exercise of any right afforded to the employee by the Act, although such complaints may be referred to the State for investigation. The Assistant Secretary also retains his authority under section 6 of the Act to promulgate, modify or revoke occupational safety and health standards which address the working conditions of all employees, including those in States which have received an affirmative 18(e) determination, although such standards may not be Federally applied. In the event that the State's 18(e) status is subsequently withdrawn and Federal authority reinstated, all Federal standards, including any standards promulgated or modified during the 18(e) period, would be Federally enforceable in that State.

(d) As required by section 18(f) of the Act, OSHA will continue to monitor the operations of the Alaska State program to assure that the provisions of the State plan are substantially complied with and that the program remains at least as effective as the Federal program. Failure by the State to comply with its obligations may result in the revocation of the final determination under Section 18(e), resumption of Federal enforcement, and/or proceedings for withdrawal of plan approval.

§ 1952.245 Where the plan may be inspected.

A copy of the principal documents comprising the plan may be inspected and copied during normal business hours at the following locations: Office of State Programs, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N3476, Washington, D.C. 20210; Regional Administrator, Occupational Safety and Health Administration, U.S. Department of Labor, Federal Office Building, Room 6003, 909 First Avenue, Seattle, Washington 98174; and Office of the Commissioner, Alaska Department of Labor, 1111 W. 8th Street, Room 306, Juneau, Alaska 99802.

[FR Doc. 84-25040 Filed 9-27-84; 8:45 am]
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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 913

Approval of Permanent Program Amendment From the State of Illinois Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: OSM is announcing the approval of a program amendment submitted by Illinois as an amendment to the State's permanent regulatory program (hereinafter referred to as the Illinois program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the ACT). The amendment consists of changes to the Illinois regulations concerning the exemption from prime farmland permitting requirements and performance standards.

The Illinois Department of Mines and Minerals (IDMM) submitted the proposed program amendment on March 16, 1984. OSM published a notice in the Federal Register on April 4, 1984, announcing receipt of the amendment and inviting public comment on the adequacy of the proposed amendment (49 FR 13380). The public comment period ended May 4, 1984.

By letter dated July 19, 1984, IDMM submitted a revised proposed rule which included a new provision concerning integration of the exemption decision with the permit application process. OSM reopened the comment period from August 7, 1984, to September 6, 1984, in order to provide the public an opportunity to reconsider the adequacy of the proposed amendment in light of the July 19, 1984 modification.

After providing opportunity for public comment and conducting a thorough review of the program amendment, the Director has determined that the amendment, as modified on July 19, 1984, meets the requirements of SMCRA and the Federal regulations, and is approving it. The Federal rules codifying decisions concerning the Illinois program are being amended to implement this action.

EFFECTIVE DATE: September 28, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. James Fulton, Director, Springfield Field Office, Office of Surface Mining, Room 20, 600 E. Monroe Street, Springfield, Illinois 62701; Telephone: (217) 492-4495.

SUPPLEMENTARY INFORMATION:

I. Background

The Illinois program was conditionally approved by the Secretary of the Interior on June 1, 1982 (47 FR 23858). Information pertinent to the general background, revisions, modifications, and amendments to the Illinois program submission, as well as the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Illinois program can be found in the June 1, 1982 Federal Register.

When the Secretary approved the Illinois program he noted in response to

a comment that the Illinois program did not contain the specific criteria of 30 CFR 785.17(a), which implements section 510(d) (2) of SMCRA. Section 510(d) (2) is commonly referred to as the "grandfather clause" because it exempts certain surface coal mining operations from the applicability of SMCRA's special prime farmland permitting requirements and performance standards. The Secretary stated that because of the extensive litigation over the grandfather clause, Illinois could not have anticipated the adoption of the final Federal rule on September 29, 1981. The Secretary added that Illinois would be afforded an opportunity to amend its regulations as appropriate if necessary to make its program consistent with the September 29, 1981 rule.

In a related rulemaking, the Secretary recently announced his decision on remand of the issues involved in the *Illinois South Project, Inc.* v. *Watt* litigation (49 FR 13494, April 5, 1984). The Illinois South Project and nine other Illinois organizations challenged the Secretary's June 1, 1982 decision approving the Illinois program. The United States District Court for the Central District of Illinois remanded the case to the Secretary at his request to review the issues in light of legal developments since June 1, 1982. In his April 5, 1984 decision, the Secretary determined that the Illinois program is not fully consistent with the current Federal permanent regulatory program in several areas. The Director of OSM notified the State that certain required program amendments would be necessary as a result of the Secretary's decision. One of the program amendments required of Illinois is to revise the criteria used to determine exemptions from prime farmland requirements to be no less effective than the Federal criteria at 30 CFR 785.17(a).

The Secretary noted in his April 5, 1984 decision that Illinois had proposed such a regulation change on May 20, 1983, and had submitted the proposed regulation to OSM as a program amendment on March 16, 1984. It is that program amendment which is the subject of this rulemaking.

II. Submission of Revisions

By letter dated March 16, 1984, Illinois submitted regulatory amendments to revise the exemption from the prime farmland permitting requirements and performance standards. Specifically, Illinois revised rule 1785.17(a) which sets forth the applicability of prime farmland requirements. The rule implements section 2.08 of the Illinois statute which corresponds to section 510(d)(2) of SMCRA.

On April 4, 1984, OSM published a notice in the Federal Register announcing receipt of the amendment and inviting public comment on whether the proposed amendment was no less effective than the Federal regulations (49 FR 13380). The public comment period ended May 4, 1984. A public hearing scheduled for April 25, 1984, was not held because no one expressed a desire to present testimony.

During the public comment period, it was brought to OSM's attention that the proposed Illinois rule OSM had published in the April 4, 1984 Federal Register was different from the rule that IDMM was promulgating through its State rulemaking process. IDMM apparently submitted the proposed rule to OSM and later amended the rule as a result of comments received during the State rulemaking process. Those changes were not submitted to OSM. OSM was subsequently notified that the Joint Committee on Administrative Rules had published in the *Illinois Register* a notice of withdrawal of the proposed rulemaking because IDMM had not responded to certain objections within the statutory 90-day period. OSM discussed this matter with IDMM and by letter dated July 19, 1984, IDMM resubmitted the proposed rule in the form in which it should have been printed in the Federal Register for public comment.

On August 7, 1984, OSM published a notice in the Federal Register reopening and extending the public comment period on Illinois' proposed amendment as modified on July 19, 1984 (49 FR 31448). That comment period ended on September 6, 1984.

III. Director's Findings

The Director finds, in accordance with SMCRA and 30 CFR 732.17 and 732.15, that the program amendment submitted by Illinois on March 16, 1984, meets the requirements of SMCRA and 30 CFR Chapter VII, as discussed below.

Finding 1

Section 510(d)(2) of SMCRA provides that the Act's special prime farmland requirements shall not apply (1) "to any permit issued prior to the date of enactment of this Act, or (2) to any revisons or renewals thereof or (3) to any existing surface mining operations for which a permit was issued prior to the date of enactment of this Act." The Federal rules at 30 CFR 785.17(a) implement section 510(d)(2) and set forth the three statutory exemptions. The third statutory exemption is the one which gave rise to much of the litigation over the Federal grandfather clause.

The Federal rule at 30 CFR 785.17(a) defines the third exemption as follows:

(3) Lands included in any existing surface coal mining operations for which a permit was issued for all or any part thereof prior to August 3, 1977, provided that:

(i) Such lands are part of a single continuous surface coal mining operation begun under a permit issued before August 3, 1977; and

(ii) The permittee had a legal right to mine the lands prior to August 3, 1977, through ownership, contract, or lease but not including an option to buy, lease, or contract; and

(iii) The lands contain part of a continuous recoverable coal seam that was being mined in a single continuous mining pit (or multiple pits if the lands are proven to be part of a single continuous surface coal mining operation) begun under a permit issued prior to August 3, 1977.

The Illinois rule, § 1785.17(a), contains two sets of standards for determining exemptions. For determinations made by IDMM prior to September 29, 1981, the date of the final Federal rule, the Illinois rule repeats verbatim the statutory language of section 510(d)(2). For determinations made or to be made after September 29, 1981, the Illinois rule contains language identical to 30 CFR 785.17(a)(1)–(4). The purpose of distinguishing between decisions made before or after September 29, 1981, is to ensure that IDMM decisions made prior to adoption of the revised Federal criteria are considered valid and not subject to review under the revised standards. The Director finds that the distinction is not inconsistent with SMCRA and the Federal rules and that the criteria established for making determinations after September 29, 1981, are no less effective than the Federal rules.

Finding 2

The Illinois rule contains several provisions in addition to those in the Federal rule. Subparagraph (5) limits the full applicability of the exemptions in subparagraphs (1)–(3) to lands permitted and exempted by an IDMM decision on applications made prior to August 1, 1982. Persons applying for exemption after July 30, 1982, may obtain such an exemption but the lands subject to the applications must comply with the prime farmland productivity standards of § 1823.15, and will be subject to the acreage limitation of subparagraph (6). Illinois has established a limitation of 13,000 acres statewide which may be grandfathered. Subparagraph (6) implements the acreage limitation and

provides that once that cumulative total has been reached,the exemption shall become unavailable to future applicants. The July 19, 1984 modification to the amendment redesignated subparagraph (7) as (7)(i) and added a new subparagraph (7)(ii). Subparagraph (7)(i) requires all applicants for an exemption to supply the IDMM with a scale map of the area proposed to be exempted, delineating all prime farmland soils, the total number of acres proposed to be exempted and the number of acres of each prime farmland soil type. Subparagraph (7)(ii) provides that IDMM will prepare a preliminary review of all requests for grandfather exemptions, and that both the request and the preliminary review will be subject to public review and comment along with the permit application to which the grandfathering request applies. IDMM's decision on the grandfather request will be included with the decision on the permit application.

The Director finds that these additional provisions are not inconsistent with the Federal rules, and are therefore no less effective than the Federal rules in meeting the requirements of the Act.

IV. Public Comments

The responses to public comments received are set forth below.

1. The Illinois South Project, Inc. [ISP] commented that the proposed amendment represents an improvement over the earlier proposal which appeared in the April 4, 1984 **Federal Register**. However, ISP believes that the amendment should not be approved because it contains a deficiency which renders it less effective than the Federal rules. ISP stated that the proposed amendment would incorporate Illinois' policy of "once grandfathered, always grandfathered" by not subjecting grandfather decisions made during the interim program to the standards contained in the permanent program rules. ISP stated that while Illinois has maintained that grandfather decisions made during the interim program included the "legal right to mine" criterion, ISP's review of IDMM's decisions shows that such was not the case. ISP contends that IDMM must re-grandfather lands originally grandfathered during the interim program. In addition, ISP questioned whether the final grandfather decision, included with the decision on the permit application, would be subject to administrative and judicial review under Part 1787 of the Illinois rules.

In responding to a public comment, the Secretary addressed the issue of "once grandfathered, always grandfathered" in his April 5, 1984 decision on remand in the *Illinois South* v. *Watt* litigation. The Secretary stated that he could not find support in the Federal rules for the proposal that all past grandfather decisions should be remade under revised rules (49 FR 13507, Issue IV.C.10).

Furthermore, IDMM has not contended in this rulemaking that it used the "legal right to mine" criterion for interim program decisions. Rather, IDMM has stated that it has used the criterion in all grandfather decisions since September 29, 1981, when the revised Federal rules were promulgated.

In response to ISP's concern about administrative and judicial review of grandfather decisions, the Secretary noted in his decision on remand (Issue IV.C.9., 49 FR 13507) that the permit applicant's claim that certain lands have been properly grandfathered will be subject to public comment during the permit application review period. As with any other aspect of the permit application decision, the grandfather decision will be subject to administrative and judicial review under Part 1787.

2. An acknowledgment was received from the following Federal agency.

Department of Agriculture

This agency's comments were not substantive. The disclosure of Federal agency comments is made pursuant to section 503(b)(1) of SMCRA and 30 CFR 732.17(h)(10)(i).

V. Director's Decision

The Director, based on the above findings, is approving the March 16, 1984 amendment to the Illinois program, as modified on July 19, 1984. The Director is amending § 913.15 of 30 CFR Chapter VII to reflect approval of the above State program modification and § 913.16 to remove the related requirement, imposed on April 5, 1984, that Illinois amend its program.

VI. Procedural Requirements

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 913

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: September 24, 1984.

William B. Schmidt,

Acting Director, Office of Surface Mining.

PART 913—ILLINOIS

1. 30 CFR 913.15 is amended by adding a new paragraph (e) as follows:

§ 935.15 Approval of regulatory program amendments.

* * * * *

(e) The following amendment submitted to OSM on March 16, 1984, and modified on July 19, 1984, is approved effective upon promulgation of the revised rule by the State, provided the rule adopted is identical to the rule submitted to and reviewed by OSM: Illinois revised rule 1785.17(a).

2. 30 CFR 913.16 is amended by removing and reserving paragraph (b).

§ 935.16 Required program amendments.

* * * * *

(b) [Reserved]

Authority: Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

[FR Doc. 84–25802 Filed 9–27–84; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 240

Indorsement and Payment of Checks Drawn on the United States Treasury

AGENCY: Bureau of Government Financial Operations, Treasury.

ACTION: Final rule.

SUMMARY: The Bureau of Government Financial Operations is amending 31 CFR 240.8(a)(1), formerly 31 CFR 240.6(a)(1), to delete the procedure whereby Federal Reserve Banks may verify the balances in the accounts of Government disbursing officers before cashing checks drawn by such disbursing officers to their own order. This action is being taken because the provision is obsolete and has caused unnecessary delays in the cashing of disbursing officers' checks. Deletion of this provision is intended to eliminate such delays, and to remove an unneeded regulation from the Code of Federal Regulations. The public will not be affected by this change.

EFFECTIVE DATE: September 28, 1984.

FOR FURTHER INFORMATION CONTACT: Gary Spittle, Funds Flow Division, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226, (202) 634–5745.

SUPPLEMENTARY INFORMATION:

Background

Section 240.8(a)(1) presently contains the following sentence:

Federal Reserve Banks may ascertain from the Treasury that the balances to the credit of the disbursing officers are sufficient and thereafter payment on such checks shall not be refused except for alteration or forged signature of the drawer. (Emphasis added.)

This amendment will delete the italicized portion above.

This provision originated in Section 28 of Treasury Department Circular No. 176, issued December 31, 1919. At that time, the Treasury Department carried funded checking accounts in the name of each Government disbursing officer. Thus, each disbursing officer had an individual balance which could be verified. The above provision was apparently intended to protect Federal Reserve Banks from loss in case a disbursing officer's account was overdrawn.

However, pursuant to authority contained in section 114 of the Budget and Accounting Procedures Act of 1950, 31 U.S.C. 3513 (1982), funded checking accounts for disbursing officers were discontinued during the 1950s. Treasury Department-General Accounting Office Joint Regulation No. 4—Revised (April 29, 1955) and *id.*, Supplement No. 1 (January 10, 1957). Accordingly, the portion of the regulation which pertains to verifying the balances in the checking accounts of Government disbursing officers is obsolete and no longer serves any useful purpose. On the contrary, it has led to needless delays, often amounting to several days, in the cashing of disbursing officers' checks. Since funds are often needed for immediate disbursement in order to carry on an agency's daily activities such delays have a harmful effect on Government operations.

Therefore, this amended rule is being promulgated in order to delete the obsolete provision. This will permit Federal Reserve Banks to cash checks of Government disbursing officers upon presentation, after verification that such checks have not been altered and that they bear authorized signatures. The public will not be affected by this change.

Additional Determinations

Because the amendment relates to Treasury Department practice, relieves a restriction, and does not affect the public, the Bureau finds, pursuant to 5 U.S.C. 553(b), that notice and public comment and a delayed effective date are unnecessary.

Because this rule relates to agency management, it is not subject to the provisions of Executive Order 12291. Because no Notice of Proposed Rulemaking is required for this rule, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable.

List of Subjects in 31 CFR Part 240

Banks, Banking, Forgery, Treasury checks.

PART 240—INDORSEMENT AND PAYMENT OF CHECKS DRAWN ON THE UNITED STATES TREASURY

For the reasons set forth in the preamble, 31 CFR Part 240 is amended as follows:

1. The authority citations continue to read as follows:

Authority:—5 U.S.C. 301; 12 U.S.C. 391; 31 U.S.C. 3331; 31 U.S.C. 3343; 31 U.S.C. 3711; 31 U.S.C. 3716; 31 U.S.C. 3717; 332 U.S. 234 (1947); 318 U.S. 363 (1943).

2. By revising paragraph (a) of § 240.8 to read as follows:

§ 40.8 Processing of checks.

(a) *Federal Reserve Banks.* (1) Federal Reserve Banks shall cash checks for Government disbursing officers when such checks are drawn by the disbursing officers to their own order. Payment of such checks shall not be refused except for alteration or forged signature of the drawer.

* * * * *

Dated: September 13, 1984.

W.E. Douglas,

Commissioner.

[FR Doc. 84-25697 Filed 9-27-84; 8:45 am]

BILLING CODE 4810-35-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DoD Regulation 6010.8–R]

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Postmastectomy Reconstructive Breast Surgery

AGENCY: Office of the Secretary, DoD.

ACTION: Amendment of final rule.

SUMMARY: This final rule amends the comprehensive CHAMPUS Regulation, DoD 6010.8–R (32 CFR Part 199), pertaining to the three year limitation for CHAMPUS coverage of postmastectomy reconstructive breast surgery. CHAMPUS provisions requiring a three year limitation between mastectomy and reconstruction automatically denied reconstruction benefits to those individuals who had had a medically necessary mastectomy three years prior to October 1, 1980, the effective date for CHAMPUS coverage of reconstructive breast surgery. This amendment would delete any requirement for a time limitation for reconstructive breast surgery.

EFFECTIVE DATE: This amendment is retroactively effective to October 1, 1980.

FOR FURTHER INFORMATION CONTACT: Charles E. Guidice, Policy Branch, OCHAMPUS, telephone (303) 361–3586.

SUPPLEMENTARY INFORMATION: In FR Doc. 77–7834, appearing in the Federal Register on April 4, 1977 (42 FR 17972), the Office of the Secretary of Defense published its regulation, DoD 6010.8–R, "Implementation of the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)," as Part 199 of this title.

Amendment No. 9, published in the Federal Register on November 10, 1981 (46 FR 55515), authorized benefits for postmastectomy reconstructive breast surgery when the mastectomy was performed as a result of carcinoma, fibrocystic disease, other nonmalignant tumors, or traumatic injuries, up to three years postmastectomy, retroactively effective for services rendered on and after October 1, 1980.

The time limit of three years for reconstruction of the breast following a mastectomy was based on opinions of experts who indicated no need for a delay period between mastectomy and reconstruction. Research showed, that while there are not concrete rules concerning a specific time limitation on postmastectomy reconstructive breast surgery, very few experts still advocate obligatory intervals such as 2, 3, or 5 years before starting reconstruction and indicated that it is cruel to ask a patient to wait until there is no doubt that they are cured before proceeding with reconstruction. Such a determination cannot be made with certainty in the case of breast cancer for 10 or even 20 years.

Current CHAMPUS policy does allow for an exception to the three year limit between mastectomy and reconstruction when medical indications justify the delay, however, the issue has again been raised and concerns those individuals who had a mastectomy prior to the date of the amendment which allowed for reconstructive breast surgery. The amendment is viewed as inequitable to those beneficiaries who had a mastectomy performed when reconstruction was still considered an unsafe procedure, or those, who, for economic reasons delayed the procedure, unaware of a time limitation being imposed once reconstructive benefits were established.

Accordingly, this amendment is the result of an administative reevaluation and the consideration of public comments concerning the application of a time limitation between an established benefit (a medically necessary mastectomy) and a new benefit (reconstruction of the breast) effective on October 1, 1980; that is, an inequity to those beneficiaries who had a mastectomy more than three years prior to the effective date for authorized reconstructive breast surgery without prior knowledge of a forthcoming time limitation. Therefore, it is felt that this change should be published as a final amendment, as a time delay to publish as a proposed amendment would not be in the best interest of anyone concerned.

This final amendment will allow benefits for reconstructive breast surgery, without a time limitation between mastectomy and reconstruction.

List of Subjects in 32 CFR Part 199

Health insurance, Military personnel, Handicapped.

PART 199—IMPLEMENTATION OF THE CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES

Accordingly, 32 CFR, Chapter I is amended as follows:

1. Section 199.10 is amended by revising paragraph (e)(8)(i)(*e*) to read as follows:

§ 199.10 Basic program benefits.

* * * * *

(e) * * *
(8) * * *
(i) * * *

(*e*) Generally benefits are limited to those cosmetic, reconstructive and/or plastic surgery procedures performed no later than December 31 of the year following the year in which the related accidental injury occurred, except for authorized postmastectomy breast reconstruction for which there is no time limitation between mastectomy and reconstruction. Also, special consideration for exception will be given to cases involving children who may require a growth period.

* * * * *

(10 U.S.C. 1079, 1086; 5 U.S.C. 301)

Patricia H. Means,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

[FR Doc. 84-25832 Filed 9-27-84; 8:45 am]

BILLING CODE 3810-01-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

41 CFR Part 51-5

Procurement Requirements and Procedures; Change of Address

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Final rule.

SUMMARY: This action changes the addresses of the central nonprofit agencies which the Committee for Purchase from the Blind and Other Severely Handicapped has designed to represent blind and other severely handicapped workshops participating in the Committee's program.

EFFECTIVE DATE: September 21, 1984.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C.W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: The National Industries for the Blind has moved from 3530 Moncure Avenue, Falls Church, Virginia 22041 to 1901 North Beauregard Street, Suite 200, Alexandria, Virginia 22311.

The National Industries for the Severely Handicapped has moved from 4350 East-West Highway, Suite 1120, Washington, D.C. 20014 to 2235 Cedar Lane, Vienna, Virginia 22080.

PART 51-5—[AMENDED]

Therefore, the addresses of the above agencies shown in 41 CFR 51-5.1-2(b) should be changed.

§ 51-5.1-2 [Amended]

Accordingly, the addresses of the two central nonprofit agencies listed in 41 CFR 51-5.1-2(b) are changed to read as follows:

Agency	Agency symbol
National Industries for the Blind, 1901 North Beauregard Street, Suite 200, Alexandria, Virginia 22311	IB
National Industries for the Severely Handicapped, 2235 Cedar Lane, Vienna, Virginia 22080	SH

(41 U.S.C. 46-48c)

C.W. Fletcher,

Executive Director.

[FR Doc. 84-25779 Filed 9-27-84; 8:45 am]

BILLING CODE 6820-33-M

41 CFR Parts 51-7 and 51-8

Public Availability of Agency Materials and Privacy Act Rules; Change of Address

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Final rule.

SUMMARY: This action changes the address of the Committee for Purchase from the Blind and Other Severely Handicapped shown in Chapter 51, Title 41, Code of Federal Regulations.

EFFECTIVE DATE: September 21, 1984.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C.W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: The Committee for Purchase from the Blind and Other Severely Handicapped has moved from 2009 14th Street North, Suite 610, Arlington, Virginia 22201 to Crystal

Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

PART 51-7—[AMENDED]

Accordingly, the Committee amends 41 CFR Chapter 51 as follows:

§ 51-7.4 [Amended]

1. Section 51-7.4 (a) and (b) are amended by removing "2009 Fourteenth Street North, Suite 610, Arlington, Virginia 22201", and inserting in lieu thereof "Crystal Square 5, Suite 1107, 1155 Jefferson Davis Highway, Arlington, Virginia 22202".

(5 U.S.C. 552)

§ 51-8.401 [Amended]

2. In § 51-8.401(a) change "2009 14th Street N., Arlington, Virginia 22201" to read "Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202".

PART 51-8—[AMENDED]

§ 51-8.405 [Amended]

3. In § 51-8.405(a), change "2009 14th Street N., Suite 610, Arlington, Virginia 22201" to read "Crystal Square 5, Suite 1107, 1155 Jefferson Davis Highway, Arlington, Virginia 22202".

(5 U.S.C. 552a)

C.W. Fletcher,

Executive Director.

[FR Doc. 84-25780 Filed 9-27-84; 8:45 am]
BILLING CODE 6820-33-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 11

Collection of Debts by the Government Under the Debt Collection Acts

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: The regulation in this subpart sets forth policies and procedures by which FEMA collects debts due the United States under programs administered by the Agency. It also establishes standards for the compromise of such debts. The regulation implements the provisions of the Debt Collection Act of 1982 (Pub. L. 97-365) and previous Federal debt collection legislation (31 U.S.C. 3711 *et seq.*). The regulation is being republished to implement guidance provided by the General Accounting Office, Department of Justice, and the Office of Personnel Management since prior publication. The present version of the regulation also changes the wording of the existing rule to describe a "debt collection" rather than a "claims collection" process.

DATE: This regulation takes effect October 29, 1984.

FOR FURTHER INFORMATION CONTACT: Lt. Col. Richard S. Buck, Attorney-Advisor, Office of General Counsel, Telephone (202) 287-0385.

SUPPLEMENTARY INFORMATION: This final rule updates a prior final rule published by FEMA on September 29, 1983 to implement Federal Claims Collection Standards promulgated jointly by the General Accounting Office and the Department of Justice on March 9, 1984. It also implements a proposed rule by the Office of Personnel Management published on September 28, 1983 on the use of salary offset from pay due Federal employees, military personnel, and retirees. The proposed rule changes the wording of the present regulation to describe a "debt collection" program rather than one for "claims collection."

Throughout the regulation, the process of collecting monies due the United States under programs administered by FEMA is referred to as "debt collection" rather than "claims collection" in order to avoid confusion with the claims made under the Federal Tort Claims Act (28 U.S.C. 267 *et seq.*) and Subpart B of this Part. Most of the present regulation's references to "claims" have been changed to "debt" or "debts."

The chief of FEMA's efforts to collect monies owed the United States under FEMA-administered programs is the "Agency Collections Officer" rather than the "Agency Claims Officer." This change is used to avoid the connotation that this official has responsibilities under the Federal Tort Claims Act. Each office now has a "Debt Collections Officer" under the proposed rule rather than a "Claims Collections Officer" as is used in the present regulation.

Section 11.45 (Collection by Salary Offset) has been extensively changed to implement recent guidance provided in a new office of Personnel Management regulation, 5 CFR which outlines procedural safeguards for debtors who are being subjected to offset procedures from pay due them as Federal employees, military personnel, and retirees. The form of the notice to the debtor concerning a proposed offset (§ 11.45(b)(7) was changed to require that such debtors be advised of any potential waivers or remissions of the debt available under the statute giving rise to the debt. Debtors are granted 20 calendar days rather than 15 days in which to request a hearing (see § 11.45(c).). A new § 11.45(e) has been added which provides that the informal hearing procedure available under § 11.45(c) is not available in cases involving changes in coverage under a Federal benefits program of where there are ministerial adjustments in pay which cannot be effectuated immediately.

Sections 11.50 and 11.51 relating to standards for compromise, suspension or termination of debt collection actions have been revised in accordance with recently issued guidelines from the General Accounting Office and the Department of Justice (see 4 CFR Parts 101 through 105 published at 49 FR 8889 through 8905 on March 9, 1984).

Since this rule makes minor changes to the existing rule which implements rules of other agencies, which had been subject to public comment; therefore, notice and public procedure are necessary and the changes are being promulgated as a final rule rather than as a proposed rule.

List of Subjects in 44 CFR Part 11

Administrative practices and procedures, Claims.

Accordingly, Title 44 CFR Chapter 1, Subpart C is amended by revising the Table of Contents for Subpart C and by revising Subpart C to read as follows:

PART 11—CLAIMS

Subpart C—Collection of debts by the Government Under the Debt Collection Act of 1982

Sec.

11.30 Scope of regulations.
11.31 Adoption of joint standards.
11.32 Subdivision and joining of debts.
11.33 Authority of offices to attempt collection of debts.
11.34 Referral of debts to the Comptroller, Federal Emergency Management Agency.
11.35 Authority of offices to compromise debts or suspend or terminate collection action.
11.36 Debt collection files.
11.37 Quarterly report of debt collection action.
11.38 Annual reports to the Director, Office of Management and Budget and the Secretary of the Treasury.
11.39 Accounting control.
11.40 Records retention.
11.41 Suspension or revocation of eligibility.
11.42 Demand for payment of debts.
11.43 Collection from non-Government entities by administrative offset.
11.44 Collection of debts from Federal agencies or State or local government by administrative offset.
11.45 Collection by salary offset.
11.46 Liquidation of collateral.
11.47 Collection in installments.
11.48 Interest and penalties.
11.49 Omission not a defense.

Sec.
11.50 Standards for compromise of debts.
11.51 Standards for suspension or termination of collection action.
11.52 Referral of delinquent debtors to consumer reporting agencies.
11.53 Securing debtor addresses from the Department of Treasury.
11.54 Contracts with debt collection agencies.
11.55 Referral to GAO or Justice Department.
11.56 Analysis of costs.
11.57 Automation.
11.58 Prevention of overpayments, delinquencies and defaults.
11.59 Office of General Counsel.
11.60 Sale of debts due in the United States arising under programs administered by the Agency.

Authority: 31 U.S.C. 3711 *et seq.*

Subpart C—Collection of Debts by the Governments Under the Debt Collection Act of 1982

§ 11.30 Scope of regulations.

(a) *Scope.* This regulation implements policies and procedures used by the Director of the Federal Emergency Management Agency (the Agency or FEMA) to effectuate collections under the Debt Collection Act of 1982 (31 U.S.C. 3711 *et seq.*) (the Act). The Act requires the Director or his designee to: (1) Attempt collection of all debts of the United States for money or property arising out of activities of the Agency and (2) authorizes the Director or his designee, for debts not exceeding $20,000 exclusive or interest, to compromise such debts or to suspend or terminate collection action where it appears that no person is liable on such debt or has the present or prospective financial ability to pay a significant sum thereon or that the cost of collecting such debt is likely to exceed the amount of recovery.

(b) *Definitions.* For purposes of this subpart, "office" means one of the following: (1) Training & Fire Programs Directorate/National Emergency Training Center, (2) Emergency Operations Directorate, (3) Federal Insurance Administration, (4) National Preparedness Programs Directorate, (5) State & Local Programs & Support Directorate, (6) Executive Administrator's Office, (7) Office of Regional Operations, and (8) Office of Comptroller.

§ 11.31 Adoption of joint standards.

All administrative actions to collect debts arising out of activities of the Agency shall be performed in accordance with the applicable standards prescribed either in 4 CFR Parts 101 through 105 or any standards promulgated jointly by the Attorney General and the Comptroller General. Such standards are adopted as a part of this subpart and are supplemented in this subpart. Additional guidance will be found in the GAO Policy & Procedures Manual for Guidance of Federal Agencies and in the Treasury Fiscal Requirements Manual.

§ 11.32 Subdivision and joining of debts.

(a) A debtor's liability arising from a particular transaction or contract shall be considered as a single debt in determining whether the debt is one not exceeding $20,000 exclusive of interest for the purpose of compromise or termination of collection action. Such a debt may not be subdivided to avoid the monetary ceiling established by the Act.

(b) Joining of two or more single debts in a demand upon a particular debtor for payment totaling more than $20,000 does not preclude compromise or termination of collection action with respect to any one of such debts that do not exceed $20,000, exclusive of interest.

§ 11.33 Authority of offices to attempt collection of debts.

The head of each office and each regional director shall designate a debt collections officer (DCO) who shall attempt to collect in full all debts of the Agency for money or property arising out of the activities of such office. Each DCO shall establish and currently maintain a file with regard to each debt for which collection activities are undertaken. Insofar as it is feasible, debt collection personnel shall have personal interviews or telephone contact with the debtor.

§ 11.34 Referral of Debts to the Comptroller, Federal Emergency Management Agency.

(a) Authority of the Comptroller, Federal Emergency Management Agency.

(1) The Comptroller, Federal Emergency Management Agency, is designated the Agency Collections Officer (ACO) and shall exercise the power and perform the duties of the Director to compromise, or to suspend or terminate collection action, after consultation with the Office of General Counsel, on all Agency claims not exceeding $20,000 exclusive of interest, except as provided in § 11.35 and paragraph (b) of this section. In addition, the Comptroller is delegated all authority which may be exercised by the Director, Federal Emergency Management Agency, in relation to:

(i) Disclosure to a consumer reporting agency in accordance with 31 U.S.C. 3711(f),

(ii) Instituting salary offset procedures in accordance with 5 U.S.C. 5514(a),

(iii) Instituting administrative offset procedures in accordance with 31 U.S.C. 3716,

(iv) Charging of interest and penalties in accordance with 31 U.S.C. 3717,

(v) Entering into contracts for collection of debts in accordance with 31 U.S.C. 3718, except that the execution and administration of such contracts is delegated to Federal Emergency Management Agency contracting officers appointed under provisions of 41 CFR Subpart 1–1.4,

(vi) Prescribe debt collection procedures and manage debt collection activities within the Agency.

(2) When initial attempts at collection by the office originating such debt have not been fully successful, the debt file shall be forwarded to the ACO for further administrative collection procedures. Debts shall be referred to the ACO well within the applicable statute of limitations (28 U.S.C. 2415 and 2416).

(b) *Exclusions.* There shall be no compromised or terminated collection action with respect to any debt: (1) As to which there is an indication of fraud, the presentation of a false claim, or misrepresentation on the part of the debtor or any other party having an interest in the claim; (2) based in whole or in part on conduct in violation of the anti-trust laws; (3) based on tax statutes; or (4) arising from an exception made by the General Accounting Office in the account of an accountable officer. Such a debt shall be promptly referred to the Justice Department, or GAO, as appropriate, after CO has consulted with the Inspector General and the Office of General Counsel.

§ 11.35 Authority of offices to compromise debts or suspend or terminate collection action

Where it appears that the cost of collecting a debt of less than $600 will exceed the amount of recovery, the DCO is authorized to compromise the debt or to terminate collection action. Further, DCO's are authorized to compromise a debt or terminate or suspend collection action for debts of less than $600 where:

(a) Debtor cannot be located despite vigorous efforts, including but not limited to, use of skip tracing services, have failed to ascertain the debtor's current address.

(b) Debtor is financially unable to pay in full or in part. DCO's must obtain a financial statement from the debtor in such cases.

(c) The debt is without merit or cannot be substantiated by evidence. In such cases, debt collection officers should secure the advice of counsel. DCO's

must document the debt file to show all evidence and reasons for compromise or termination of such debts. The DCO must prepare a narrative report and forward a copy of the report to the ACO.

§ 11.36 Debt collection files.

Each DCO is responsible for obtaining current credit data about each person against whom a debt is pending in his office. The files shall be kept up-to-date by the ACO for claims referred to his/her office for collection. Such credit data may take the form of: (a) A commercial credit report, showing the debtor's assets and liabilities and his income and expenses, (b) the individual debtor's own financial statement, executed under penalty for false claim, reflecting his assets and liabilities and his income and expenses, or (c) an audited balance sheet of a corporate debtor. The file should also contain a checklist or brief summary of action taken to collect or compromise a debt. All debts files relating to debts owed by individuals are to be safeguarded in accordance with 5 U.S.C. 552a, popularly known as the "Privacy Act of 1974"; 31 U.S.C. 3711 *et seq.*, popularly known at the "Debt Collection Act of 1982"; 44 CFR Part 6 and this subpart. Each DCO is responsible for maintaining files on debtors with information sufficient to enable the Government to effectuate administrative or judicial collection.

(Approved by the Office of Management and Budget under Control No. 3067–0122)

§ 11.37 Quarterly report of collection action.

The ACO shall make a quarterly report to the Director and to all offices that have referred debts for collection. The report should contain the following information as a minimum:

(a) All outstanding debts referred to the ACO for administrative collection, including the name and address of the debtor, the amount of the debt, the date the debt accrued, the basis of the debt, the office referring the debt, and the current program of collection activities.

(b) All debts referred to the Office of General Counsel for legal guidance.

(c) All debts compromised or on which collection has been suspended or terminated or referred to the General Accounting Office of the Department of Justice for further collection action during the quarter. The collection action taken and the basis for the action should be indicated.

(d) All debts referred to the Department of Justice under § 11.55 of this part.

(e) Debts returned to this Agency by the Justice Department for further collection action because handling by the Department of Justice was not warranted.

§ 11.38 Annual reports to the Director, Office of Management and Budget, and the Secretary of the Treasury.

(a) The ACO shall gather data on loans, accounts receivable, and debts which are required by 31 U.S.C. 3719 and shall transmit them to the Director, Federal Emergency Management Agency. Such data shall include:

(1) The total amount of loans and accounts receivable owed to the Agency and when the funds owed to the Agency are due to be repaid;

(2) The total amount of receivables and number of debts that are at least thirty days past due;

(3) Total amount written off as uncollectable, actual, and allowed for;

(4) The rate of interest charged for overdue debts and the amount of interest charged and collected on debts;

(5) The total number of debts and total amount collected;

(6) The number of debts and the total amount of debts referred to the Department of Justice for settlement or collection and the total number of debts and the total amount of debts settled or collected by that Department;

(7) For each program or activity administered by the Agency, the data described in paragraphs (a) (1) through (6) of this section; and

(8) Such other data as the Director, Office of Management and Budget, shall prescribe by regulations issued under authority of 31 U.S.C. 3719.

(b) Data described in paragraph (a) of this section shall be collected on a calendar year basis and transmitted to the Director, FEMA not later than the end of January of the year following the year for which the data described in paragraph (a) of this section, were collected. The Director, FEMA, shall report these data to the Secretary of the Treasury and the Director, Office of Management and Budget in accordance with 31 U.S.C. 3719. If the Secretary of the Treasury and the Director, Office of Management and Budget prescribe, by regulation, a different annual reporting cycle, the Agency's reporting cycle, described in the first sentence of this subsection shall be changed to conform with the cycle prescribed by the Department of the Treasury and Office of Management and Budget regulation.

§ 11.39 Accounting control.

Each office shall process all debt collections through the ACO and report the collection, compromise, suspension, and termination of all debts to that Officer for recording.

§ 11.40 Records retention.

The file of each debt on which administrative collection action has been completed shall be retained by the appropriate officer not less than 1 year after the applicable statute of limitations has run.

§ 11.41 Suspension or revocation of eligibility.

(a) Where a contractor, grantee, or other participant in programs sponsored by the Agency fails to pay his debts to the Agency within a reasonable time after demand, the fact shall be reported by the ACO to the Inspector General and to the Office of Acquisition Management, which shall place such defaulting participant's name on the Agency's list of debarred, suspended and ineligible contractors and grantees. The participant will be so advised. Suspension or revocation of eligibility may be waived in whole or in part in the case of grants for disaster programs administered by FEMA, if the Director FEMA, so directs.

(b) The failure of any surety to honor its obligations in accordance with 6 U.S.C. 11 is to be reported at once to the ACO, who shall so advise the Treasury Department. That Department will notify this Agency when a surety's certificate of authority to do business with the Government has been revoked or forfeited.

§ 11.42 Demand for payment of debts.

(a) *Initial demand.* An initial demand shall be made in writing and sent by certified mail, return receipt requested, to the debtor identifying the debt, and advising that the full amount due should be paid by a specified due date, not less than 30 days from mailing of the demand. If the debtor is other than a State or local government or an agency of the United States, the initial demand notice shall also advise the debtor that interest, calculated at rates provided by 31 U.S.C. 3717(a), shall be assessed if the debt is not paid in full by the due date. Interest shall be charged on the outstanding balance due at the rate prescribed by the Secretary of the Treasury in accordance with 31 U.S.C. 3717(a), beginning on the date that the first notice was mailed to the debtor. The debtor shall also be advised that if any portion of the debt remains unpaid or if a repayment schedule, satisfactory to the Agency, has not been arranged 90 days after the due date, then additional penalties prescribed in 31 U.S.C. 3717(e)(2) of 6 per centum per annum shall be charged on the unpaid balance.

(b) *Subsequent demands.* If the debt is not paid by the due date or if a

repayment program, acceptable to the ACO, has not been arranged with the debtor, then an initial demand shall be made followed by two progressively stronger written demands at not more than 30-day intervals, will be made unless a response to the initial or subsequent demands indicates that further demands would be futile and that the debtor's response does not require rebuttal.

(c) *Debts arising from contracts executed on or before October 25, 1982.* If the claim arises from a contract executed before October 25, 1982, then the initial and subsequent demands shall mention nothing about the imposition of penalties or interest, prior to rendering of judgment by a court of competent jurisdiction.

(d) *Waiver of Subsequent Written Demands.* If there is valid reason, the sending of second and third demand letters may be waived. Such reasons may include, but are not be limited to, statute of limitations being about to run.

§ 11.43 Collection from non-Government entities by administrative offset.

(a) *General.* The Agency Collections Officer may effectuate collection of debts owed by persons or entities, other than Federal agencies or State or local governments, by means of offsets against monies due from the United States under provisions of 31 U.S.C. 3716 and the procedures set forth below. The procedures, prescribed by this subsection, shall not be used if the debtor has executed a written agreement, satisfactory to the ACO, for the payment of the debt so long as the debtor adheres to the provisions of the agreement. Before utilizing the procedures of this section, the ACO, or his designee, shall examine the debt to see whether the likelihood of collecting such a debt and the best interests of the United States justify the use of administrative offset. If the debt is over 6 years old but is not 10 years old, the ACO shall examine the debt and decide whether utilizing these procedures is cost effective. Further, administrative offset procedures shall not be used on debts over six years after they arise unless the facts material to the debt were not previously known to the Government and could not have been reasonably discovered by the person responsible for collecting the debt.

(b) *Written notice.* After the ACO or his designee has examined the debt under procedures set forth in paragraph (a) of this section, a notice shall be sent by certified mail, return receipt requested, to the debtor advising him of:

(1) Nature and amount of the debt determined by the Agency to be due, and of intention to collect by administrative offset,

(2) Rights available under this section,

(3) Opportunity to inspect and copy the records relating to the debt,

(4) Opportunity for review within the Agency with respect to the debt, and

(5) Opportunity to enter into an agreement with the ACO with respect to the debt. Such agreement may include voluntary but nonrevocable withholding of monies due from the United States to the debtor.

(c) *Review within the Agency.* The debtor may request, within fifteen calendar days after receipt of the written notice specified in paragraph (b) of this section, review within the Agency as to the existence or amount of the debt or terms of repayment. The review shall be conducted by a member of the staff of the Office of General Counsel not involved in collection of debts under the Agency program which gave rise to the debt. The staff member, with the concurrence of the ACO, may determine that no debt is due, the amount of the debts should be reduced, that terms of repayment should be set, or that the demanded amount should be paid in full. The staff member may negotiate with the debtor concerning a written agreement for the repayment of the debt. However, such agreement shall be subject to approval by the ACO.

(d) If no written agreement is executed, if the debtor does not request review within the Agency, or if the review within the Agency determines that a debt is due, then administrative offset against monies payable by the United States shall be effectuated in accordance with appropriate regulations. Efforts shall be made to coordinate offset collections with other agencies, including use of the Army Holdup List. However, if a statute either prohibits or explicitly provides for collection through administrative offset of the debt or the type of debt involved then the provisions of that statute rather than the provisions of this section shall be used for such offset.

(e) If the debtor has a judgment against the United States, then notice shall be provided to the General Accounting Office for offset in accordance with 31 U.S.C. 3728.

§ 11.44 Collection of debts from Federal agencies or State or local government by administrative offset.

Claims for debts against Federal agencies and against State or local governments may be collected from monies due from the United States to the agency or government utilizing offset principles of common law. See *U.S.* v. *Munsey Trust Co.*, 332 U.S. 234 (1947). Prior to utilizing this procedure for collection, the Agency Collections Officer shall notify the debtor agency or State or local government of the nature of the debt, the amount due and of the Agency's intent to collect interest on unpaid balances due. Interest shall accumulate at rates prescribed by the Department of the Treasury pursuant to 31 U.S.C. 3717(a). The notice shall also advise the debtor Federal agency or State or local government of the right to inspect and copy records relating to the debt and shall give the name, business address and telephone number of the official having cognizance over the debt. A bill for collection shall be sent to the Federal agency or to the State or local government.

§ 11.45 Collection by salary offset.

(a) *General.* Where an individual is an employee of the Federal Government or a member of the Armed Forces or a reserve component of the Armed Forces or is receiving retired or retainer pay for service as a Federal employee and where the individual is indebted to the United States and where the individual fails to satisfy his indebtedness voluntarily after the Agency has made demands in accordance with § 11.42 of this part, the ACO may institute collection action by salary or pay offset procedures in accordance with 5 U.S.C. 5514, 5 CFR 550.1101 through 550.1106 and the procedures described below.

(b) *Notice to debtor.* At least 30 days prior to initiating salary offset, the ACO or his designee shall send notice by certified mail, return receipt requested, to the debtor advising him of:

(1) Nature, origin and amount of indebtedness determined by the Agency to be due, the date that the debt was due, and a statement that FEMA has complied with applicable statutes, regulations and procedures,

(2) Agency intention to initiate proceedings to collect the debt by deductions from pay,

(3) Rights available under 5 U.S.C. 5514(a),

(4) Debtor's opportunity to inspect and copy Government records relating to the debt,

(5) Opportunity to enter into a written agreement, under terms satisfactory to the ACO, to establish terms for the repayment of the debt, and

(6) Opportunity for a hearing, described in paragraph (c) of this section, concerning the existence or the amount of the debt or, if no repayment schedule has been established (in accordance with paragraph (b)(1) of this section) concerning the terms of the repayment schedule.

(7) If there is a statutory provision authorizing waiver, remission, or forgiveness of the debt due the United States; the individual will be notified as to:

(i) Nature of the provision

(ii) Explanation of the conditions under which the waiver shall be granted

(iii) Reasonable opportunity to request a waiver

(iv) If waiver is requested, then a written response will be given to the request.

(c) *Hearing.* The debtor shall file a written petition for hearing or for a waiver (if applicable) on or before the twentieth calendar day after receipt of notice, referred to in paragraph (b) of this section, addressed to the Agency Collections Officer, Federal Emergency Management Agency, Washington, D.C. 20472. The postmark or receipt date, if mail is not used, shall establish the date of petition.

(1) The hearing official shall be an Administrative Law Judge or a person of grade GM–14 or higher, not under the supervision or control of the Director, FEMA. The Director may enter into interagency support agreements with other Federal agencies or departments for providing hearing officials.

(2) The hearing shall be informal but the debtor shall be given the basic safeguards of due process. The debtor shall have the right to be represented by an attorney. A summary record shall be made of the proceedings at the hearing. The hearing shall, insofar as possible, be conducted at a location and time convenient to the debtor.

(3) As soon as practicable, but in no event later than 60 days after the filing of the petition for hearing, the hearing official shall render a final decision. If a hearing is requested, no further action shall be taken to collect the debt until the final decision is rendered.

(d) *Amount deducted.* The amount deducted from pay for any period shall not exceed 15 percent of disposable pay. However, the debtor may voluntarily agree to the deduction of a greater amount of pay. Disposable pay means that part of pay of any individual remaining after the deduction from those earnings of any amounts required by law to be withheld. However, installment payments of less than $25.00 will be accepted only in the most unusual circumstances.

(e) Procedural requirements specified in paragraph (c) of this section shall not be used in cases of collections of such obligations as changes in coverage under a Federal benefits program or resulting from ministerial adjustments pay and allowances which cannot be placed in effect immediately because of normal processing delays.

(f) When an employee, who is subject to salary offset in accordance with this section and who is making repayment in installments, finds that total repayment of the debt is about to be made, then the employee must notify the employee's payroll office, at least two pay periods before the final payment, that final payment is being made.

§ 11.46 Liquidation of collateral.

Where FEMA holds security or collateral that may be liquidated and the proceeds applied on debts due it through the exercise of a power of sale in the security instrument or a nonjudicial foreclosure, such procedures should be followed if the debtor fails to pay his debt within a reasonable time after demand, unless the cost of disposing of the collateral will be disproportionate to its value or special circumstances require judicial foreclosure.

§ 11.47 Collection in installments.

Debts with accrued interest and penalties should be collected in full in one lump sum whenever this is possible. However, if the debtor is financially unable to pay the indebtedness in one lump sum, payment with applicable interest may be accepted in regular installments in accordance with a written agreement approved by the ACO or his designee. If possible, installment payments shall be sufficiently larger to complete collection in the three years. Installment payments should not be less than $50.00 per month unless there are most unusual circumstances. The Agency may require the debtor to execute a confess-judgment, negotiable note for the amount of the indebtedness. The ACO or DCO may require the debtor to provide a statement as to financial condition.

§ 11.48 Interest and penalties.

(a) *Interest.* Interest shall be charged on the outstanding balance due on debts due the United States at the rate published by the Secretary of the Treasury under provisions of 31 U.S.C. 3717(a). The interest rate in effect at the time that the debt becomes due shall be the rate charged throughout the duration of the debt until the debt is paid in full. The interest shall run from following dates:

(1) If the initial demand for the debt was mailed on or after October 25, 1982, then the date of mailing to the debtor (using the most current address available to the ACO), or

(2) If the initial demand for the debt was mailed before October 25, 1982, then from the date that a demand letter was mailed after October 25, 1982.

(b) *Exceptions to interest charges.* However, no interest, described in paragraph (a) of this section, shall be charged if:

(1) the amount due is paid within 30 days of the mailing of the demand. However, the ACO for good cause shown, as documented by a memorandum in the debt collection file, may extend this 30 day period, or

(2) the applciable statute, regulation required by statute, loan agreement or contract either prohibit the charging of interest or explicitly fix interest or charges which apply to the debt involved.

(c) *Penalty charges.* Except in the situations described in paragraph (b) of this section, a penalty charge of 6 per centum per annum shall be charged on the unpaid portion of the principal amount of the debt which remains unpaid 90 days after the date described in subparagraph (a) of this section, if no repayment schedule, satisfactory to the ACO or the DCO, has been agreed upon.

(d) *Processing and handling costs for delinquent debts.* The debtor shall also pay the extraordinary costs of processing delinquent debts. Extraordinary costs are deemed to include, but not be limited to, costs of employing commercial firms to locate debtor; costs, not to exceed one-third of the debt due, of employing contractors for collection services, costs of selling collateral or property to satisfy the debt, etc.

(e) *Standards for waiver of interest, penalties and charges.* (1) Interest, penalties and delinquent debts charges may be waived, either in whole or in part, if the ACO or his designee finds that: (i) The debtor is financially unable to pay, (ii) the Agency's enforcement policy will be adequately served if there is a waiver in whole or in part or (iii) the debtor has shown good cause, satisfactory to the ACO, that the claim was not timely paid. If waiver is granted, the administrative claims file shall be adequately documented.

(2) The ACO, with the concurrence of the General Counsel, may waive interest, penalties and administrative costs based on criteria set forth in paragraphs (e) (3) through (5) of this section. When such charges are waived, the Agency Collections Officer shall prepare a memorandum for the file stating the reasons for not collecting such charges.

(3) If the costs of collection exceed the projected recovery then interest, penalties and administrative costs may be waived.

(4) If the debtor has a *bona fide* dispute as to facts or has raised valid legal issues, then charges may be waived.

(5) If it is determined that debtor is unable to pay, as shown by complete and sworn statements as to his assets and projected income, then charges may be waived. Such a determination shall be made by ACO if the debt (excluding of interest and penalties) is $600, or more. If the debt (exclusive of interest and penalties) is less than $600.00, then such a determination shall be made by the DCO.

(f) *Nonapplicability.* The provisions of this section do not apply to debts owned by Federal agencies and State and local governments. Interest on such debts owed by such entities shall be charged in accordance with applicable statute or, if nonexistent, then in accordance with principles of common law.

(g) *Installment collections.* When a debt is paid in installments, the payments shall first be applied to collection charges and penalty charges, second to accrued interest and third to outstanding principal.

(h) *Collection of interest while an appeal is pending.* If the debtor notes an appeal either as to the existence of or the amount of the debt, interest may be waived or suspended by the ACO under the following circumstances.

(1) In the case of a state or local government, interest shall be charged only on those amounts found due after the appeal process is completed and shall run from the time that the bill for collection was issued. However, if the State or local government can show that its taxes and revenues will not be sufficient to meet essential governmental expenses, then the ACO may waive the imposition of interest during the pendency of the appeal. However, the State or local government must submit to the ACO such financial and accounting data which will establish governmental hardship as the ACO determines to be necessary to arrive at a decision concerning such waiver of interest.

(2) In the case of an individual or a non-governmental entity which is noting an appeal which is *mandated* by law, then the imposition of interest and penalties is waived while the appeal is pending from the time that the appeal is noted until the Agency has taken final action on the appeal.

(3) When an individual or a non-governmental entity notes an appeal which is *permissive* under statute or regulation, then interest and penalties may be waived under the following circumstances:

(i) If the amount of the debt, exclusive of interest and penalties, is less than $5,000, then interest and penalties shall be waived from the time that the appeal is noted until the Agency takes final action on the appeal.

(ii) If the amount of the debt, exclusive of interest and penalties, is $5,000 or more then the imposition of penalties and interest may be waived if there is no fault or lack of good faith on the part of the debtor and if the amount of interest is so high, in relation to affordable installments repayments that the debt would never be repaid. In determining whether interest and penalties should be waived, the ACO or DCO may demand that the debtor provide such financial data as he or she may demand.

§ 11.49 Omission not a defense.

Failure to comply with any standard prescribed in 4 CFR Chapter 11, or in this subpart shall not be available as a defense to any debtor.

§ 11.50 Standards for compromise of debts.

(a) *Compromise.* (1) A debt may be compromised if: (i) the debtor is not able to pay the full amount within a reasonable period of time; (ii) if the debtor refuses to pay the debt in full and the Agency is unable to enforce collection within a reasonable time by enforced collection proceeding; (iii) if there is real doubt concerning the Agency's ability to prove its case in court for the full amount claimed; (iv) if the cost of collecting the debt does not justify the enforced collection of the full amount; (v) if, in connection with statutory penalties or forfeitures established as an aid to enforcement and to compel compliance, the Agency's enforcement policy will be adequately served by acceptance of the sum to be agreed upon; or (vi) for other reasons deemed valid by the ACO after consultation with the General Counsel. The Standards set forth in 4 CFR 103.3 through 103.9 should be used.

(2) Inability to pay. If a debtor is unable to pay the full amont of the debt within a reasonable time or if the debtor refuses to pay and the Government is unable to collect the amount of the debt through enforced proceedings then the Agency may compromise the claim either in whole or in part. The ACO may require that the debtor provide sworn information as to assets, actual or potential sources of income, liabilities and other financial data. The standards set forth in the GAO, Department of Justice guidelines prescribed in 4 CFR 103.2 should be used.

(3) Compromises payable in installments will not normally be permitted by the Agency only if the debtor shows that full, immediate payment is impossible.

(4) Litigative probabilities. If there is a *bona fide* dispute as to facts or if there is a valid legal defense raised which may limit or eliminate the possibility of recovery, then the Agency Collections Officer may, after receiving a legal analysis from the General Counsel, compromise the action in whole or in part.

(b) *Documentary evidence of compromise.* No compromise of a debt shall be final or binding on the Agency unless it is in writing and signed by the appropriate officer who has authority to compromise the claim pursuant to this subpart.

(c) *Authority:* Only the ACO may compromise debits of $600.00 or more. Debts of less than $600.00 may be compromised by the DCO. Debts exceeding $20,000 may be compromised only after approval by the Department of Justice in accordance with 4 CFR 101.4(a).

§ 11.51 Standards for suspension or termination of collection action.

(a) *Suspension of collection action.* (1) Collection action shall be suspended temporarily on a debt when the debtor cannot be located after diligent effort but there is reason to believe that future collection action may be sufficently productive to justify periodic review and action on the claim, making consideration for its size and the amount which may be realized. Collection action may be suspended temporarily on a debt when the debtor owns no subsantial equity in realty and is presently unable to make payment on the Agency's debt or effect a compromise, but his future prospects justify retention of the claim for periodic review and action, and, (i) the applicable statute of limitations has been tolled or started anew, or (ii) future collection can be effected by offset notwithstanding the statute of limitations. Suspension as to a particular debtor should not defer the early liquidation of security for the debt. Standards prescribed in 4 CFR Part 104 shall be used in making determinations as to suspension as termination of collection efforts.

(2) No substantial recovery possible. If, at the time that collection is attempted, debtor is without assets or actual or potential income or if the debtor may have exemptions under the bankruptcy laws which make enforced collection of the debt not cost-effective,

then collection action may be suspended. However, interest and other charges will accumulate unless waived.

(3) Debtor cannot be located. If the debtor cannot be located or is outside the United States, then collection action may be suspended until the debtor is located. The statute of limitations will be tolled during those periods that the debtor is outside the United States.

(b) *Termination of collection action.* (1) Collection action may be terminated and the Agency file closed for the following reasons: (i) No substantial amount can be collected; (ii) the debtor cannot be located; (iii) the cost will exceed recovery; (iv) the claim is legally without merit; or (v) the claim cannot be substantiated by evidence.

(2) No substantial recovery possible. If there is little likelihood that collection efforts will result in any substantial recovery, then collection efforts may be terminated. Costs of recovery may be a factor in determining whether any recovery would be substantial. Normally, costs of recovery would be more important in cases of small debts than in cases of large ones.

(3) Debtor cannot be located. Every effort, including, but not limited to, use of governmental records, Internal Revenue Service taxpayer information, private contractor skip tracer and credit agencies, shall be made to locate debtors in advance of the runnning of the statute of limitations. If the debtor cannot be located, then the Agency Collections Officer may determine, with the concurrence of the General Counsel, that collection efforts may be terminated.

(4) Litigative possibilities. The criteria and procedures of § 11.50(a)(3) of this subpart may be used to terminate collection efforts if it appears unlikely that the Government would prevail if it were to litigate collection of the debt.

(c) *Debts exceeding $20,000.* No debt exceeding $20,000 (exclusive of interest and penalties) shall be compromised by FEMA unless the proposed compromise has been referred to the Department of Justice in accordance with 4 CFR 101.4(a). Such proposed compromises shall be referred to the Office of General Counsel, which shall review the proposal before being forwarded to the Department of Justice. However, where a debt claim is of no legal merit, the ACO may compromise such a debt without referral to the Department of Justice but only with the concurrence of the Office of General Counsel.

(d) *Enforcement Policy.* Statutory penalties and forfeitures are used as an aid to secure compliance with FEMA requirements and to compel payment. These may be waived if the Agency's enforcement policy in terms of securing payment and securing compliance with FEMA regulations would be sreved by accepting a sum agreed upon. Mere accidental or technical violations will be dealt with less severly than willful or substantial violations.

§ 11.52 Referral of delinquent debtors to consumer reporting agencies.

(a) *General.* This section implements 31 U.S.C. 3711(f) concerning reporting of debtors having overdue debts to consumer reporting agencies.

(b) *Procedures.* When a debt is unpaid for 120 days after the initial demand letter has been sent and where the debtor has not repaid the amount due nor has the debtor entered into an agreement for repayment satisfactory to the ACO or his designee, or the debt is not subject to administrative offset (as described in § 11.43], the ACO may report the claim to consumer reporting agencies if:

(1) The Agency Collections Officer or his designee has determined that the debt is overdue,

(2) Notice has been sent certified mail, return receipt requested, to debtor informing him that:

(i) Payment of the debt is overdue,

(ii) The Agency intends to disclose the debtor's debt records to a consumer reporting agency within a stated period, not less than 60 days after the mailing of such debt,

(iii) Specified items of information being released shall be listed in the notice. Such items will normally include the debtor's name, taxpayer account number, last known address, other information necessary to establish the identity of the individual, the nature, amount and status of the outstanding claim, and programs under which the claim arose, and

(iv) The debtor has a right to a full explanation of the debt, to dispute any information in the records concerning the debt, and to have an administrative review. If the debtor petitions for administrative review, then no further action or. referring debtor information to consumer reporting agencies shall be undertaken until the administrative review is completed.

(c) *Administrative review.* The debtor shall send with his petition arguments in writing and documentary evidence to the Agency Collection Officer, Office of the Comproller, Federal Emergency Management Agency, Washington, D.C. 20472. These shall be reviewed by the ACO or an official designated by him. The reviewing official shall prepare a reply, within 60 days after receipt of the petition, either accepting the debtor's assertions in whole or is part or rejecting them. If the debtor's assertions are rejected in whole or in part, then the debt data, described in paragraph (b)(2)(iii) of this section (with correction made as indicated by the reviewing official) shall be sent to consumer reporting agencies.

(d) *Information released.* Information released to consumer reporting agencies shall be limited to the following items:

(1) Name of debtor, address, taxpayer identification number, and other information necessary to establish the identity of the debtor,

(2) Amount, status and history of the debt and

(3) Program under which the debt arose.

§ 11.35 Securing debtor addresses from the Department of Treasury.

(a) If the ACO is unable to obtain a current address for the debtor, then a written request shall be sent to the Secretary of the Treasury asking for the debtor's most current mailing address from the Department of the Treasury taxpayer identity information files for Agency use in collecting claims. Any information so received from the Secretary of the Treausury shall be safeguarded in accordance with provisions of 26 U.S.C. 6103(p)(4) and 26 CFR Parts 301 and 601.

(b) Taxpayer identity information (which includes IRS current address and social security number) shall be released to consumer reporting agencies only for the purpose of preparation of commercial credit reports for use by Federal agencies in accordance with section 3 of the Debt Collection Act (31 U.S.C. 3711(f)). A notice to this effect shall be placed on each page containing taxpayer identitiy information which is sent to consumer reporting agencies.

§ 11.54 Contracts with debt collection agencies.

(a) *General.* The ACO may request the Agency's Office of Acquisition Managment Division to enter into contracts for the recovery of indebtedness owed to the United States arising under programs administered by Agency. Such contracts may be entered into with persons or organizations and shall be handled in accordance with the Federal Procurment Regulations (41 CFR Part 1) and the Agency's procurement regulation (41 CFR Part 44).

(b) *Debt Collection Contract Provisions.* Contracts entered into under authority of this secion shall have provisions relating to:

(1) Protection of data relating to individuals which shall not be less than

that provided under the terms of the Privacy Act (5 U.S.C. 552a).

(2) Protection of data derived from Department of the Treasury taxpayer identity information files shall in accordance with 26 U.S.C. 6103(p)(4) and 26 CFR Parts 301 and 601.

(3) Authority to terminate collection action, settle or compromise claims shall remain with the Director of the Agency or the ACO rather than with the Contracting Officer.

(4) Resolution of disputes relating to the claim shall remain with the ACO or the Agency Director. Resolution of disputes arising under the contract or with the contractor shall remain with the Agency Contracting Officer who shall handle such disputes in accordance with the Contract Disputes Act (Pub. L. 95–563).

(5) Judicial enforcement of the claim shall be handled by the U.S. Department of Justice.

(6) The contractor shall adhere to Federal and State laws and regulations pertaining to debt collection practices including the Fair Debt Collection Practices Act (15 U.S.C. 1692 *et seq.*)

(7) Contracts, entered into under provisions of this section, shall be subject to competition to the maximum practicable extent.

(8) The contractor shall be required to strictly account for all amounts collected.

(c) *Collection Fees.* Contracts entered into under this section may provide that fees payable to the contractor may be paid only from the amounts collected from the debtor as determined by the Contracting Officer. However, such contracts shall be funded only from funds available for the time period in which the contract is executed.

[Approved by the Office of Management and Budget under Control No. 3067–0122]

§ 11.55 Referral to GAO or Justice Department.

(a) *Referral to the Department of Justice.* With the exception of debts described in paragraph (b), of this section, those debts which cannot be collected or compromised or terminated in accordance with 3 CFR Parts 103 and 104 and §§ 11.50 and 11.51, shall be referred to the Department of Justice for collection action. All such referrals shall be done by the ACO, who shall consult with the FEMA Office of General Counsel. The referral shall be accompanied by a copy of the complete debt collection file. In addition, the following information shall be provided:

(1) Current address of debtor. Effort shall be made to locate the debtor if he is missing. If the debtor is a corporation, then the name and address of the agent upon whom service of process may be made, shall be provided.

(2) Credit data which may be in the form of a credit report or a statement, under oath, of the debtor's assets and liabilities.

(3) History of prior collection actions.

(4) Data required by the GAO Claims Collection Litigation Report form. If the debt is less than $600, exclusive of interest, then referral shall not be made to the Department of Justice, except in unusual cases.

(b) *Referral to the General Accounting Office.* Debts arising from audits exceptions taken by the General Accounting Office (GAO) shall be referred to GAO before referring such debts to the Department of Justice. If the merits of the debt or the propriety of a proposed compromise, suspension or termination are in doubt, then the matter should be referred to GAO prior to referral to the Department of Justice.

(c) *Prompt referral.* Such referrals shall be made as early as possible consistent with aggressive collection action, and, in any event, well within the statute of limitation for bringing suit against the debtor. Ordinarily, debt collection referrals will be made to the Department of Justice within six months after FEMA has determined that a debt is owing in an amount certain.

§ 11.56 Analysis of costs.

The ACO shall provide for periodic comparison of costs incurred and amounts collected. Data on costs and corresponding recovery rates for debts of different types and in various dollar ranges should be used to compare the cost effectiveness of alternative collection techniques, establish guidelines with respect to the points at which costs of further collection efforts are likely to exceed recoveries, assist in evaluating offers in compromise, and establish minimum debt amounts below which collection efforts need not be taken. Cost and recovery data should also be useful in justifying adequate resources for an effective collection action.

§ 11.57 Automation.

The ACO shall work to automate the Agency's debt collection operations to the extent that it is cost effective and feasible.

§ 11.58 Prevention of overpayments, delinquencies, and defaults.

The ACO shall establish procedures to identify the causes of overpayments, delinquencies, and defaults and the corrective actions needed. All debts or loans, when first established, may be reported to commercial credit bureaus.

§ 11.59 Office of General Counsel.

The Office of General Counsel shall provide legal advice on claims collection matters to all debt collection officers and the Agency Collection Officer, as needed.

§ 11.60 Sale of debts due the United States arising under programs administered by the Agency.

Where debts due the United States arising under programs administered by the Agency prove to be uncollectable or unresolvable through procedures described in §§ 11.33 through 11.35, 11.41 through 11.48, and 11.50 through 11.55 and where the stated value of the debt is less than $20,000, excluding penalties and interest, then the Agency may contract to sell or assign such debts under competitive sales procedures. The Agency may sell or assign debts valued at $600, or less, excluding penalties and interest, after decision by the ACO. Where the debt exceeds $600, but is less than $20,000, exclusive of interest and penalties, the Agency may sell or assign such debts only after the ACO has coordinated such action with the Department of Justice and the General Accounting Office.

Dated: September 21, 1984.

Louis O. Giuffrida,

Director.

[FR Doc. 84–25750 Filed 9–27–84; 8:45 am]

BILLING CODE 6718–01–M

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44 CFR Part 64

[Docket No. FEMA 6623]

Suspension of Community Eligibility Under the National Flood Insurance Program; Florida

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This document makes a correction to a final rule, Suspension of Community Eligibility under the National Flood Insurance Program, published August 13, 1984, 49 FR 32191. The City of Sopchoppy, Florida's sanctions date in the sixth column should be corrected to August 15, 1985. The Flood Insurance Rate Map (FIRM) dated August 15, 1984, is the initial hazard identification for the city, thus, the sanctions do not go into effect until August 15, 1985, in accordance with section 202(a) of the National Flood Insurance Act of 1968, as amended. Please amend records accordingly.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 287–0878, 500 C Street, Southwest, FEMA, Room 416, Washington, DC 20472.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Administrator, Federal Insurance Administration)

Issued: September 21, 1984.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 84-25780 Filed 9-27-84; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 64

[Docket No. FEMA 6825]

Suspension of Community Eligibility Under the National Flood Insurance Program; Maryland, et al.

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the flood plain management requirements of the program. If FEMA receives documentation that the community has adopted the required flood plain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register.**

EFFECTIVE DATE: The third date ("Susp.") listed in the fourth column.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 287-0222, 500 C Street, Southwest, FEMA—Room 509, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP) enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022), prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities are suspended on the effective date in the fourth column, so that as of that date flood insurance is no longer available in the community. However, those communities which, prior to the suspension date, adopt and submit documentation of legally enforceable flood plain management measures required by the program, will continue their eligibility for the sale of insurance. Where adequate documentation is received by FEMA, a notice withdrawing the suspension will be published in the **Federal Register.**

In addition, the Director of Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fifth column of the table. No direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having floodprone areas. (Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended.) This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Director finds that notice and public procedure under 5 U.S.C. 533(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified. Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required flood plain management measures are met prior to the effective suspension date. For the same reasons, this final rule may take effect within less than 30 days.

Pursuant to the provision of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As stated in section 2 of the Flood Disaster Protection Act of 1973, the establishment of local flood plain management together with the availability of flood insurance decreases the economic impact of future flood losses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to (adopt) (enforce) adequate flood plain management, thus placing itself in noncompliance with the Federal standards required for community participation. In each entry, a complete chronology of effective dates appears for each listed community.

List of Subjects in 44 CFR Part 64

Flood insurance, Flood plains.

PART 64—[AMENDED]

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of Eligible Communities.

Code for Reading 4th Column:

Emerg.—Emergency
Reg.—Regular
Susp.—Suspension

State and county	Location	Community Number	Effective dates of authorization/cancellation of sale of Flood Insurance in community	Special flood hazard area identified	Date certain Federal assistance no longer available in special flood hazard areas
Region III					
Maryland:					
Calvert	Unincorporated areas	240011B	July 5, 1973, Emerg.; Sept. 28, 1984, Reg.; Sept. 28, 1984, Susp.	Oct. 18, 1974 and July 15, 1977.	Sept. 28, 1984.
Talbot	Easton, town of	240057B	Oct. 9, 1974, Emerg.; Sept. 28, 1984, Reg.; Sept. 28, 1984, Susp.	Aug. 9, 1974 and Jan. 16, 1976.	Do.
St. Mary's	Leonardtown, town of	240055B	Apr. 14, 1975, Emerg.; Sept. 28, 1984, Reg.; Sept. 28, 1984, Susp.	July 19, 1974 and Jan. 16, 1976.	Do.
Talbot	Oxford, town of	240056A	March 27, 1974, Emerg.; Sept. 28, 1984, Reg.; Sept. 28, 1984, Susp.	Aug. 9, 1974	Do.

State and county	Location	Community Number	Effective dates of authorization/cancellation of sale of Flood Insurance in community	Special flood hazard area identified	Date certain Federal assistance no longer available in special flood hazard areas
Queen Annes	Queenstown, town of	240120B	May 1, 1975, Emerg.; Sept. 28, 1984, Reg.; Sept. 28, 1984, Susp.	Dec. 20, 1974 and June 18, 1976.	Do.
Pennsylvania:					
Blair	Duncansville, borough of	420161B	Aug. 22, 1974, Emerg.; Sept. 28, 1984, Reg.; Sept. 28, 1984, Susp.	June 28, 1974 and Apr. 30, 1976.	Do.
Do	Logan, township of	421391A	Nov. 24, 1975, Emerg., Sept. 28, 1984, Reg., Sept. 28, 1984, Susp.	Jan. 3, 1975	Do.
Region IV					
Florida: Alachua	Unincorporated areas	120001A	Aug. 29, 1975, Emerg.; Sept. 28, 1984, Reg.; Sept. 28, 1984, Susp.	Sept. 28, 1984	Sept. 28, 1985
Region VIII					
North Dakota: Barnes	Valley City, city of	380002D	Apr. 11, 1974, Emerg., Sept. 28, 1984, Reg.; Sept. 28, 1984, Susp.	Feb. 8, 1974, and Jan. 31, 1978, and Nov. 13, 1979.	Sept. 28, 1984.
Utah: Cache	Logan, city of	490019B	Nov. 26, 1974, Emerg.; Sept. 28, 1984, Reg., Sept. 28, 1984, Susp.	Jan. 16, 1974 and Apr. 8, 1977.	Do.
Region IX					
California: San Diego	Santee, city of	0907003B	May 18, 1981, Emerg., Sept. 28, 1984, Reg., Sept. 28, 1984, Susp.	Sept. 7, 1972	Do.
Region X					
Idaho: Canyon	Nampa, city of	160038C	May 20, 1975, Emerg., Sept. 28, 1984, Reg., Sept. 28, 1984, Susp.	May 31, 1974, and Aug. 13, 1976 and July 19, 1977.	Do.
Kootenai	Rathdrum, city of	160187A	Apr. 23, 1975, Emerg.; Sept. 28, 1984, Reg., Sept. 28, 1984, Susp.	July 11, 1975	Do.
Canyon	Unincorporated areas	160208B	June 17, 1975, Emerg., Sept. 28, 1984, Reg., Sept. 28, 1984, Susp.	May 24, 1977	Do.
Oregon: Washington	Beaverton, city of	410240B	Oct. 30, 1974, Emerg.; Sept. 28, 1984, Reg.; Sept. 28, 1984, Susp.	Feb. 1, 1974 and June 25, 1976.	Do.
Do	Burns-Paiute Indian Reservation.	410281B	July 2, 1976, Emerg.; Sept. 28, 1984, Reg.; Sept. 28, 1984, Susp.	July 16, 1976	Do.
Coos	Coquille, city of	410045B	Apr. 29, 1975, Emerg.; Sept. 28, 1984, Reg., Sept. 28, 1984, Susp.	Nov. 3, 1973 and Oct. 10, 1975.	Do.
Harney	Hines, city of	410065B	Jan. 17, 1975, Emerg.; Sept. 28, 1984, Reg., Sept. 28, 1984, Susp.	Nov. 30, 1983 and May 21, 1976.	Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Administrator, Federal Insurance Administration)

Issued: September 23, 1984.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 84-25761 Filed 9-27-84; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

45 CFR Part 205

General Administration—Public Assistance Programs; Quality Control Requirements

AGENCY: Social Security Administration, HHS.

ACTION: Final rules.

SUMMARY: These final rules amend the procedures for the quality control (QC) review of sample cases under the Aid to Families with Dependent Children (AFDC) and adult assistance programs to—

1. Implement the changes required by the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), Pub. L. 97–248;

2. Require State agencies administering the AFDC and adult assistance programs to conduct monthly QC sampling during each 12-month sample period;

3. Allow States to reduce their sample size to a minimally acceptable sample size below the Federally prescribed standard sample size when the State accepts the reliability of the reduced sample;

4. Change the method and timing for submission of sample review findings and access to State and local records;

5. Modify and clarify the good faith waiver criteria;

6. Change the time limits for States to submit waiver requests;

7. Establish thresholds for States to request waivers on the basis that they took actions to meet the error standard which were unsuccessful; and

8. Revise the appeal provisions to conform to the time frame under 45 CFR Part 16.

On May 10, 1984, a notice of proposed rulemaking was published in the **Federal Register** (49 FR 19856). Comments were received from 25 States and local welfare departments, two private agencies and one private firm. All comments were considered in preparing the final rule. These comments and responses are discussed below. Changes from the proposed rule resulting from comments received are indicated in the discussion.

DATES: *Effective Date:* September 28, 1984.

Applicability dates:

1. The three percent standard contained in 45 CFR 205.42 applies to all States, excluding Guam, Puerto Rico and the Virgin Islands, beginning with the sample period October 1983–September 1984.

2. Incentive payment provisions at § 205.43 apply only to Puerto Rico, Guam and the Virgin Islands beginning April 1, 1983.

3. All other provisions of these regulations begin with the October 1984 sample period and thereafter.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Levering, Room B–442, Transpoint Building, 2100 Second Street, SW., Washington, D.C. 20201, telephone (202) 245–2637.

SUPPLEMENTARY INFORMATION: These rules amend the regulations on the quality control (QC) system in the "Aid to Families With Dependent Children"

(AFDC) and the adult assistance programs under titles I, IV–A, X, XIV, and XVI (Aid to the Aged, Blind, and Disabled (AABD)) of the Social Security Act. The QC system is the Social Security Administration's (SSA) and the States' major management tool for determining whether the State agencies are properly spending the Federal funds that Congress appropriates for financial aid to recipients. These aims are accomplished by a continuous review of a statistically valid and reliable sample of AFDC and adult assistance cases. In addition, data from the QC system has been used under the AFDC program to compute incentive payments to a State which has a combined ineligible, overpayment, underpayment and incorrect denial or termination error rate below four percent.

Under the previous AFDC program rules, all States are subject to a reduction of Federal financial participation (FFP) for incorrect payments that exceed established levels for State performance based on the QC sample data. The Michel Amendment (section 201 of the Labor-HEW Appropriation Bill for fiscal year 1980 (H.R. 4389) as referenced in the Continuing Resolution for fiscal year 1980 (section 101(g) of Pub. L. 96–123) set a series of target payment error rates for States to reach with an ultimate goal of a national standard of four percent that was to be met by September 30, 1982 and was to be maintained for all fiscal years thereafter. For this purpose a State's level of performance is reviewed during an annual assessment period, October 1–September 30, to measure attainment of each preceding September 30th error target. If a State fails to meet the prescribed error rate, it is subject to a loss in FFP unless it can demonstrate it has made a good faith effort to comply.

Section 156 of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) amended title IV–A of the Social Security Act (the AFDC program) by adding a new section, section 403(i), governing reductions in FFP where State error rates exceed certain levels and amending section 403(j) to limit the incentive payment provisions for low error rates to the Territories. This legislation requires us to modify the existing AFDC–QC regulations. The major provisions of this legislation:

1. Establish the allowable error rates at four percent for fiscal year (FY) 1983 and three percent for FY 1984 and thereafter, and require a reduction in FFP equal to the amount of erroneous excess payments;

2. Provide for a waiver of reductions in FFP in certain limited cases in which a State has made a good faith effort to reach the allowable error rate;

3. Require States to provide error rate data to the Secretary;

4. Authorize the Secretary to establish a State's error rate through appropriate techniques, including contractual arrangements, when a State fails to provide error rate data;

5. Provide for the recoupment of costs to the Department for establishing a State's error rate;

6. Do not apply to Puerto Rico, Guam, or the Virgin Islands;

7. Repeal the provisions for incentive payments to States with low error rates under section 403(j) of the Social Security Act for periods after March 31, 1983, except for Puerto Rico, Guam, and the Virgin Islands; and

8. Provide for the continuation of the existing disallowance regulations at 45 CFR 205.42 until new regulations are promulgated and in effect.

These rules do not include any provisions for offsetting disallowances by recoupment. We will issue a separate Notice of Proposed Rulemaking setting forth the procedures we propose to use in crediting recoveries from overpaid and ineligible recipients against disallowances.

In addition to the changes in the AFDC program regulations required by TEFRA, we are changing the rules which set forth the general QC system requirements. These rules apply to both the AFDC and adult assistance programs.

The existing QC regulations do not apply across the board to the AFDC and adult public assistance programs. While the rules at 45 CFR 205.40, which require States to provide for quality control systems are applicable to the adult assistance program as well as the AFDC program, the provisions for reducing FFP for excess error rates (§ 205.42) and for increasing FFP for low error rates (§ 205.43) apply only to the AFDC program.

We have included the changes in the disallowance provisions that are only applicable to the AFDC program in one new section, § 205.44, which are in effect after September 1984. This continues the precedent established in former rulemaking, and as part of this package we have deleted § 205.41 (the pre-Michel rule) as it no longer applies. The regulations at § 205.42 will continue to apply to sample periods through September 1984.

1. Major Provisons of These Rules—AFDC Program

a. *National Standard*—The national error rate standard is set at three percent. Commencing with FY 1984 States are required to meet this three percent national standard and maintain this standard for subsequent fiscal years. States which have error rates in excess of the National standard will be subject to a disallowance of FFP equal to the amount of their erroneous payments in excess of the standard. TEFRA specifically exempts Puerto Rico, Guam and the Virgin Islands from the three percent standard. We have interpreted this to mean that the Michel four percent standard continues to be applicable to the Territories.

b. *Measurement Period*—We will measure States' performance under these new rules in the same fiscal year that the national standard is to be achieved. Under TEFRA the three percent national standard is associated with a total fiscal year and not with an end of fiscal year date of September 30th as had been the case under the Michel provisions. Thus, the determination whether a State has met the three percent standard for a given fiscal year is based on sample reviews conducted during that year, and the national standard, the measurement, and any potential reductions in FFP, as well as "good faith" considerations, are all concurrently examined in, or for, the same time period. While we have also changed this for the Territories under the Michel provision, it makes no substantive difference in the computation of the error rate.

c. *Data Used to Measure a State's Performance*—These regulations provide that we will determine a State's error rate using data from the Federal/State QC system. States are required to submit to the Department, in such form and at such times as the Department prescribes, the information needed to establish: the statistical validity and reliability of their sample results; their rates of erroneous excess payments; and their corrective action plans.

We are making three changes in the existing rules contained in § 205.40 which govern the method and timing of data submission and Federal access to state and local records. We are making these changes in response to States' request for a more timely issuance of error rate data as well as for greater uniformity among the respective QC systems. The changes will also assist the Health Care Financing Administration (HCFA) and the States to develop more timely error rate data to

be used in accordance with HCFA regulations at 42 CFR 431.803 to timely determine the likely Medicaid error rate. Similar requirements were recently promulgated by the Department of Agriculture, Food and Nutrition Service (49 FR 6292 published February 17, 1984).

The Food and Nutrition Service (FNS) requires all cases in the active and negative sample to be submitted on a monthly schedule. We have reviewed the FNS standard and have determined that both agencies require completion and submittal of 90 percent of all but five cases of the sample cases within 75 days after the end of each sample month. FNS requires that 100 percent of the cases be submitted within 95 days of the end of the sample month. We believe that 95 days is sufficient time to complete the vast majority of cases. We have decided to require that 95 percent or all but five cases be submitted within 95 days of the end of the sample month. However, to allow leeway for the resolution of problem cases and to allow states to input their Food Stamp and AFDC cases on different schedules when necessary, we extend the time frame beyond this and require that 100 percent of the cases be submitted within 120 days of the end of each sample month. These time frames are established to assure more timely completion of the Federal sample and calculation of national error rates.

States have been provided FNS-furnished computer terminals through which to transmit edited review findings to a host computer for use by the Federal agencies. The Food and Nutrition Service has specified in final regulations that States are required to submit edited Food Stamp review findings via the FNS-supplied computer terminal or, for States that do not have a FNS-supplied computer terminal, in a format specified by FNS. We are establishing a similar requirement. States that have an FNS-supplied computer terminal will input edited review findings into the computer terminal provided by the Federal government and transmit data to a designated host computer. State agencies that do not have a terminal provided by the Federal government shall submit the review findings in a format specified by the Department.

In order to validate the States' sample findings, it is necessary to conduct a Federal rereview of the States' sample. So that this can be accomplished, States are required to mail, at Federal expense, case records or legible copies to Federal regional offices, within ten days of receipt of such request. We believe the ten day time frame for locating and mailing case records is attainable in most situations. We will consider allowing States and local areas to deviate from this policy when greater efficiency will be attained through the use of a different procedure, such as when the case records are located in the same city as the regional office.

d. *Failure to Complete a Sample*—Each State must complete a proper sample in accordance with Federally prescribed instructions and procedures; the results of this sample must be reported timely; and payment/eligibility records must be provided timely when required for the Federal rereview. If a State does not follow the Federally prescribed instructions and procedures, or if the State does not conduct its sample in accordance with its approved sampling plan, the sample may be considered invalid, unreliable, or both. Similarly, if a State does not complete its sample and submit the review data in a timely manner, the available sample results may be considered to be unreliable. The extent of the deviations from prescribed standards and the scope of remedial action taken by the State will be used to determine whether a State has failed to cooperate in completing a valid, reliable and timely sample. Furthermore, State records must be timely supplied for the Federal rereview to enable the Department to determine the State error rate.

If a State is failing to submit proper and timely data, we will advise the State as soon as we believe there is a problem, and give the State the opportunity to negotiate a reasonable solution with the Department. If we are unable to negotiate a solution or if the State, having negotiated a solution, fails to carry out the solution, we will use the best information reasonably available to us to determine a State's error rate, derived from any one or more of the following:

(1) Error rate information for past sample periods;

(2) A partial State sample;

(3) A Federal subsample of completed State cases;

(4) A supplemental Federal sample (de novo review);

(5) The results of a Federal audit;

(6) The results of an audit conducted through a contractual agreement with a third party.

The Secretary has considerable flexibility in determining the method(s) to be used to determine the State's error rate. Thus, the actual method we use to establish a State's error rate will depend on the particular circumstances involved. Some of the circumstances we will consider include the timing and extent of a State's non-cooperation, whether the State experiences chronic problems, and the time and resources available to the Secretary. For example: From the beginning of the sample period, a State completed a valid but less than reliable sample because the sample contained fewer than the prescribed number of reviews. We may combine this State sample with the Federal subsample of this State sample and add an additional Federal sample (de novo review) to determine the State's error rate, if there is no question of the validity of the reviews conducted by the State. In this context, the cost to the Federal government of conducting the additional Federal sample, whether performed by Federal staff or through a contractual agreement with a third party, will be borne by the State.

Similarly, if we have reason to question the validity of the reviews being conducted by the State because the State does not conduct its reviews in accordance with Federally prescribed procedures or improperly excludes cases from its sample, and the State fails to timely take the remedial action that is indicated, it may become necessary for us to complete these reviews. In such cases, the State will be charged for any additional Federal efforts to properly review these cases, as provided in the paragraphs below.

e. *Assessment of Costs*—In any case in which it is necessary for the Secretary to determine a State's error rate because the State failed to cooperate by providing, in a timely manner, the required valid and reliable information necessary to compute its error rate, the full administrative costs incurred (directly or otherwise) by the Secretary in making the error rate determination shall be deducted from the State's grant award, generally no later than the second quarter following the quarter in which the costs of compiling the data for determining the State's error rate are available. The statute does not provide for an appeals procedure or waiver mechanism of the cost assessment determination. The offset against a State's grant award does not constitute a "disallowance," and because the Department has already expended its own funds to determine the State's error rate, the cost assessment determination is not appealable nor subject to waiver under the provisions of these regulations.

The full costs, rather than 50 percent of the costs, incurred by the Secretary shall be passed on to the State. These reductions in administrative costs are separate from and in addition to any

reductions in FFP for erroneous assistance payments that may be required because a State's error rate is in excess of the national standard. The assessment of costs will be accomplished by reducing the amount that would otherwise be payable to the State for administrative expenses, generally no later than the second quarter following the quarter in which the costs of compiling the data for determining the State's error rate are available. TEFRA excludes the Territories from assessment of costs.

f. *Waiver of Reductions in FFP*—If a State does not meet the national standard for any assessment period, we will reduce FFP to the State for that period unless the State is granted a waiver of this reduction, in whole or in part, by the Commissioner of Social Security. The regulations contain some examples of the limited circumstances under which the Commissioner of Social Security may find that a good faith effort existed. The burden of proof rests entirely with the State.

These provisions are similar to the existing regulations for good faith waivers under the Michel Amendment. However, to address the emphasis that TEFRA places on the timely completion of a valid and reliable sample, we are separately identifying factor (E), in § 205.44(g)(2)(iv), which states that "a State must have operated its QC system in accordance with Federally prescribed policies, procedures and time limits for sampling, conducting case reviews, and submitting QC data and reports." Also, in 45 CFR 205.44(g)(1), we are requiring a State to submit a good faith waiver request within 30 days after the receipt of notice of intent to disallow or within 15 months after the end of each fiscal year, whichever is first. Finally, we are implementing more objective criteria for determining when a State's good faith effort may qualify it for consideration of a waiver under the limited circumstances provision of 45 CFR 205.44(g)(2)(iv).

In order to be eligible to apply for a waiver under 45 CFR 205.44(g)(2)(iv), we require a State to demonstrate one of the following: the State has achieved some error rate reduction from the last measurement period; or, despite an increase in error rate, the State has achieved an error rate for the measurement period that does not exceed the target error rate by more than one-third of the target error rate. For example, States must meet a three percent target; therefore, they cannot exceed an error rate of four percent to meet the one-third threshold. The Territories must meet a four percent target; therefore, they cannot exceed an error rate of 5.3 percent to meet the one-third threshold.

Also, we have deleted from the circumstances under which a State could previously request a good faith waiver, situations where a State was given an incorrect written Federal policy interpretation. Errors associated with incorrect Federal policy interpretations are currently excluded from State error rates at the time the problems are identified.

g. *Exclusion of Territories*—TEFRA specifically provided that the new requirements contained in § 403(i) of the Social Security Act are inapplicable to Puerto Rico, Guam, and the Virgin Islands. These Territories will, however, continue to be subject to reductions in FFP for erroneous assistance expenditures if they fail to meet the QC error standard of four percent established in § 205.42 and continued in § 205.44

Section 403(i) and its legislative history are silent as to what Congress intended should apply to Puerto Rico, Guam, and the Virgin Islands with respect to disallowances of FFP in erroneous assistance expenditures after the QC TEFRA regulations are in effect. However, we believe that the Secretary continues to have the authority to take disallowances in Puerto Rico, Guam, and the Virgin Islands pursuant to the discretionary authority under section 403(a)(1) of the Act, even though, by statute, TEFRA provisions do not apply to the State plans from these jurisdictions. Thus, in requiring the application of TEFRA QC provisions to the States, section 403(i)(1)(A) begins with "notwithstanding subsection (a)(1)." The effect of this language is twofold. In jurisdictions where TEFRA QC provisions are to be implemented, the provisions of section 403(i) supersede those in section 403(a)(1). However, where section 403(i) cannot be implemented, such as in the Territories, the implication is that section 403(a)(1) is applicable since it is not superseded. Accordingly, the Secretary, pursuant to her authority under section 403(a)(1), could continue to take disallowances of erroneous assistance expenditures in the Territories.

There is legal support, even if not expressly provided for in TEFRA, under section 403(a)(1) for continuing to apply the basic provisions of 45 CFR 205.42, as incorporated in § 205.44, to Puerto Rico, Guam, and the Virgin Islands. This was the authority first used by the Department in 1975 to establish three and five percent error rate tolerance levels. While the court, in *Maryland* v. *Mathews*, 415 F. Supp. 1206 (1976), struck down these particular tolerance levels as arbitrary, the establishment of tolerance levels themselves was upheld under the law as within the Secretary's authority. Further, the Department subsequently published revised error rate tolerance regulations on March 7, 1979 which were in effect prior to the enactment of the Michel Amendment requirements. These earlier regulations were in concept very similar to the Michel regulations. Accordingly, there is ample precedent under section 403(a)(1) to issue regulations like those at 45 CFR 205.42. Moreover, we do not believe that maintaining a four percent tolerance for error rates in the Territories would be inconsistent with section 403(i) which also establishes a four percent tolerance for the first year for the States. The major thrust of section 403(i) is to lower the error rate tolerance to three percent. The use of four percent for the first year was merely an expedient measure to integrate the new provisions with the Michel Amendment regulations during a transitionary period so as not to disrupt the QC process. In light of this, the continuation of the Michel tolerance level in the Territories would not appear to be inconsistent with the spirit of the TEFRA QC provisions.

Finally, as a matter of policy, continuing the existing QC system for taking disallowances in the Territories would seem to be reasonable. The sampling and review methodologies used for calculating disallowances under the new 45 CFR 205.44 are also used for determining eligibility for incentive payments under section 403(j) of the Act. Quality control reviews in the Territories will, therefore, continue to be done under the current process for purposes of computing incentives. Moreover, the Territories have had considerable experience in conducting reviews and making determinations under this system.

Thus, the continuation of the QC system for error rate tolerance purposes as now in effect would not be administratively disruptive. In light of this, it would seem duplicative and inefficient to create a totally new system for taking disallowances when the present system appears adequate.

h. *Appeals*—The regulations provide that a State will have 30 days after receipt of the disallowance letter to request a Commissioner's review of the decision. The time period for a State's request for the Commissioner's review of a disallowance is consistent with the time period allowed for a subsequent appeal to the Departmental Grant Appeals Board.

In this regard, it is important to note the distinction between the Commissioner's decision on a good faith waiver request and a disallowance letter. The Commissioner's decision on a good faith waiver request is not appealable to the Commissioner or to the Grant Appeals Board under Part 16 of Title 45 of the Code of Federal Regulations. The Congress has given the Secretary (and, by delegation, the Commissioner) discretion to determine whether any waivers should be granted. Because the granting or not granting of a waiver is a discretionary action on the part of the Commissioner, it is not appealable.

Once the State is formally notified of a disallowance, separate and apart from receiving the Commissioner's decision on its waiver request, the regular appeal procedures are applicable to appealable issues unrelated to the State's good faith claim or the Commissioner's waiver decision.

i. *Incentive Payments*—The incentive provisions a section 403(j) of the Social Security Act and the regulations at § 205.43 apply only to Puerto Rico, Guam, and the Virgin Islands beginning April 1, 1983. TEFRA requires that the applicability of the incentive payment provisions be limited to Puerto Rico, Guam, and the Virgin Islands, and we have so modified these regulations.

2. Major Provisions of the Rules—AFDC and the Adult Assistance Programs

In addition to the changes required by the new statutory requirements, we are making several changes in the QC sample requirements contained in § 205.40. These changes affect both the AFDC and the adult assistance programs. A few of these changes are discussed in the preceding section in the context of data that will be used to measure a State's performance.

a. *Annual Sample*—The rules provide that States will conduct monthly sampling during a 12-month sample period. The length of the sample period is the same as the assessment period used to determine disallowances under the AFDC program. However, we will still have the necessary data to make six-month incentive payment determinations for the Territories, and States will continue to have error rate data available for timely corrective action planning.

This annual sample period permits us to reevaluate our existing prescribed sample sizes in terms of establishing standard and minimum sample sizes within a Federally acceptable range of reliability. States may increase their sample beyond the standard to increase reliability, but they may not reduce their sample below the minimum. For example, a State whose caseload places it in a standard sample size of 1,200 cases for a six-month period will have a standard sample size of 2,400 cases for an annual period. The State will be permitted, where it meets the conditions below, to reduce its standard annual sample size of 2,400 cases to the Federally acceptable minimum sample size of 1,200 cases annually. The standard and minimum sample sizes depend on State caseloads and will be specified in the AFDC Quality Control Manual, Section 2.

We believe that each State shares in the responsibility for operating the QC system in an efficient and effective manner and, therefore, should be allowed flexibility in the management of the system. Consequently, we are providing States the option of reducing their samples as indicated above. States that select this option, however, must agree to accept the reliability of this reduced sample size and provide as part of their sampling plan, a signed statement that they will not challenge the reliability of the error rates based on sample size. Since the AFDC error rate data is used in the calculation of the Medicaid error rate, HCFA has requested that these rules require States to also agree to accept the reliability of their own Medicaid error rate estimate based on the reduction of the AFDC sample size. States, on the other hand, may select larger samples than the standard if they are not willing to accept the error rate that may result from the Federally prescribed standard State sample size. FFP will be available for the administrative costs associated with additional State sampling and reviews where a State elects to increase its sample size.

b. *Submission of Reports*—The regulations change the date for submitting corrective action plans from August 15 to February 15 and submitting progress reports from February 15 to August 15 of each year.

We are clarifying the areas a progress report should cover. The progress report is intended to provide an evaluation of corrective action activities identified in the last annual corrective action plan, the status of the implementation of corrective actions, a discussion of error rate changes, and, based on the latest available data, a discussion of any new corrective actions initiated.

c. *Other Changes*—We have deleted references to error analyses and profiles of errors and non-error cases in § 205.40(b)(2)(iv)(A) because we believe States may erroneously interpret these references to mean that error analysis and profiles of error and non-error cases are the only factors we expect to be discussed in a corrective action plan. The corrective action plan requirements continue to be specified in the QC Manual, section 5.

3. Changes From the May 10, 1984 Notice of Proposed Rulemaking (NPRM)

In the NPRM we proposed to require a State to notify us within 30 days of a sudden and unexpected event that would affect its ability to meet the error rate standard. We were convinced by States' comments that this requirement would impose an unnecessary burden on States and that it is often very difficult to determine when a situation becomes a disaster which will have a subsequent inpact on the error rate. We, therefore, have eliminated the requirement in these final regulations.

States were concerned that the requirement that they request a waiver of disallowances within nine months after the end of a fiscal year did not allow enough time for States to obtain final error rate data. We have decided to modify the time limit to 15 months or 30 days after receipt of a notice of intent to disallow, whichever is earlier.

In the NPRM we required States to complete 100 percent of their QC samples within 95 days of the end of each sample month. We feel this does not allow enough leeway for States to deal with difficult cases. We are amending this provision to require that 90 percent or all but five cases be completed in 75 days, 95 percent or all but five cases be completed in 95 days, and 100 percent be completed within 120 days of the end of each sample month. The 120 day time frame applies to alternate sample plans as well.

The NPRM required States reducing their sample size to accept the reliability of the smaller sample. This final rule also requires States to accept the reliability of the Medicaid error rate to the extent that the reliability is affected by a reduced AFDC sample size. HCFA requested that this new language be added.

The NPRM proposed thresholds for States to apply for a waiver of disallowances on the basis that actions were taken to meet the standard but the standard was not met. We have decided to modify the thresholds to allow a State to apply if its error rate decreased, or even increased as long as the increase is not above the established limits.

The NPRM included in the preamble the requirement that States mail case records to regional offices for Federal rereviews. The regulation on this is modified to specify the ten-day mail-in requirement and to permit the

Department to allow exceptions to these requirements in situations where an alternate method is more practical.

Also, language in the regulation has been added to clarify that the provision which allows the Department to determine a State's error rate and charge the State for such determination will only be exercised after the State has been given the opportunity to negotiate a solution with the Department and has failed to reach or implement an agreed upon solution.

HHS Response to Public Comments on Notice of Proposed Rulemaking Issues

Inadequacies of the QC System

Comment: Several commenters objected to the fact that the TEFRA regulation did not address the definition of the errors for which they are fiscally liable, such as "technical errors."

Response: Although some States believe that errors such as those for WIN registration and enumeration are procedural and should not be included in the payment error rate, these requirements are basic statutory conditions of eligibilty. We must ensure that all conditions of eligibility are met. In addition, these requirements may indeed lead to information which would result in ineligibility for other reasons; therefore, they will continue to be measured for payment error rate purposes.

Comment: Commenters objected to the counting of client errors in the payment error calculation.

Response: The QC system makes the distinction between client and agency errors solely for corrective action planning purposes. Since the classification of client versus agency errors is often a matter of subjective judgement by State and Federal reviewers, significant bias would be introduced if we were to use this classification in the determination of State error rates. Moreover, we continue to believe that client errors are controllable, as they have been largely controlled by States which have already achieved error rates below the targets, and we want to maintain an incentive for States to control them.

Comment: Some commenters expressed concern that the QC system disregards the impact on errors caused by demographics, program differences, and program complexities.

Response: There have been several studies which compared payment error rates with geographic and socio-economic differences among States. While some studies have shown that error rates may differ slightly due to socio-economic and administrative variables, these variables are frequently offsetting and there is no procedure for equitably adjusting error rates to take account of these small differences. Further, many important variables like worker and management attitudes cannot be measured. In addition, the targets have been set by statute and the statute does not provide for any adjustments.

Three Percent National Error Rate Standard

Comment: One State objected to the use of a uniform national error rate standard because external circumstances and the complexity of a State's program increase the likelihood of payment errors and these factors are not reflected in the national average. Also, for many of the same reasons and because the national average error rate has not fallen below seven percent, several States commented that the three percent error rate standard is too low.

Response: TEFRA mandates a three percent national error tolerance; under this legislation the Secretary has no authority to raise the national standard or to establish error tolerance levels on a State-by-State basis.

Although we recognize that States operate under different socio-economic and administrative circumstances, we do not believe that equity would be served by attempting to establish and justify a system of tolerance which holds some States more accountable for managing their program than other States. Although States with different types of caseloads must use different solutions to control errors, we believe that all States can achieve a three percent error rate with proper management, as some States have already demonstrated.

Statistical Issues

Comment: Several commenters raised a variety of statistical issues concerning the impact of annual sampling and the reliability of reduced sample sizes on error rates. Some suggested we use the lower limit of the confidence interval or other methodologies to validate the error rates.

Response: While the regulations provide States the option of reducing their QC sample down to a Federally acceptable minimum, the size of the Federal subsample will remain unchanged. Since any sampling reduction will not reduce the annual sample below the prior six-month sample, the sample precision for the annual period will be the same as it was for a six-month period. We have taken this action to allow States flexibility in targeting resources. When a State does not reduce its sample, the reliability (precision) of the State's error rate estimate will increase. Also, a State can increase its sample above the Federal standard to increase sample reliability, where a State is not satisfied with the Federal standard and administrative matching is available for such enhanced samples.

Annual sampling does not conflict with the Medicaid Quality Control (MQC) requirements for six-month data. We recognize MQC uses AFDC error rate data in computing MQC error rates. The revised section 2 of the AFDC–QC Manual will require States to reevaluate their sample interval and adjust for "under sampling" at the end of each six months. The methodology to be used will be specified in the Manual. Thus, the MQC six-month data requirement can be met.

We use the point estimate of the error rate as it is most likely to be closer to the true value of the error rate than any other value within the confidence interval. There are two other reasons we do not use the lower limit of the confidence interval of the payment error rate as some respondents have suggested. It would be a disincentive for states to do a thorough QC review since a large number of Federal differences would result in a large confidence interval, thus a lower "lower limit." Also, since the payment error rate is greatly influenced by the distribution of the dollar amounts of error in a State, it is possible for two States with the same payment error rate and same sample size to have a different lower limit. This would be inequitable.

The Three Percent Standard Imposed Retroactively

Comment: Commenters were opposed to retroactively imposing the three percent tolerance standard.

Response: Public Law 97–248, the Tax Equity and Fiscal Responsibility Act, section 156 (enacted September 3, 1982), amended Title IV–A of the Social Security Act to require States to meet a three percent error rate tolerance for FY 1984 and thereafter. States were aware of this provision in the statute and should have been planning for the three percent target. We made this clear in discussions with States and the American Public Welfare Association. For example, at a meeting of the National Council of Public Welfare Administrators, State agency administrators were advised on September 21, 1983 of the three percent error tolerance for FY 1984. States were repeatedly advised of this provision at conferences held throughout FY 1983

and 1984 for States in each region. Thus, we believe that States' actions to achieve error reduction would not have been different if this regulation were issued earlier.

Incentive Payments

Comment: Commenters believe that incentive payments should not be eliminated for the States, particularly if they are continued for the U.S. Territories. The comment was also made that, at least, incentives should continue to be available to States until the publication of final regulations under TEFRA.

Response: Amendments to the Social Security Act contained in TEFRA specifically limit the applicability of the incentive provisions found in section 403(j) to Puerto Rico, Guam, and the Virgin Islands. TEFRA also provides that the changes to the incentive provisions shall be effective after April 1983 without regard to publication of final rules. In order to conform to the intent of Congress, we are implementing this change effective April 1, 1983.

Michel Amendment Remains in Effect for the U.S. Territories

Comment: The comment was made that the Secretary does not have the authority under TEFRA to continue imposing the Michel requirement on the U.S. Territories.

Response: TEFRA, in section 156(a)(4), provides that the changes made in section 156(a) "shall not apply with respect to Puerto Rico, Guam, or the Virgin Islands." In the NPRM we indicated that the Michel Amendment remains in effect for the Territories, and we still believe that legal basis exists for the application of the Michel Amendment to the Territories. Provisions of the Michel Amendment have been incorporated into the new § 205.44 and will continue to apply to the Territories. (See earlier discussion on this issue.)

Effective Date of Sample Completion Requirements

Comment: Several commenters pointed out that changes in the sample completion time frames cannot be met retroactively for FY 1984.

Response: These final regulations are amended to clarify that such time frame requirements are effective October 1, 1984. It was never our intent to impose these changes retroactively.

Failure To Complete a Sample

Comment: Section 403(i) of the Social Security Act provides that where a State fails to cooperate with the Secretary in providing information necessary to establish the error rate for the State, the Secretary shall establish an error rate on the basis of the best information available. Several States opposed the broad application of the Secretary's authority. Those States commented that the proposed regulations failed to distinguish between States which fail to follow Federal requirements versus those which, due to unusual circumstances, were unable to complete their sample in a timely fashion. They disagreed with the definition of "cooperation" and expressed the opinion that failure to cooperate should only occur if a State fails to do a quality control sample or refuses access to State records.

Response: The TEFRA statute requires us to determine States' error rates annually. If a State is unable for whatever reason to complete a valid, reliable and timely sample, we are obliged to determine the State's error rate using the best information available. To limit the definition of cooperation to instances where a State refused to complete its sample or provide necessary information would seriously impair our ability to determine a State's error rate.

Assessment of Costs of Error Rate Determination

Comment: Several States objected to charging a State for the cost incurred by the Department in making an error rate determination on the basis that together with the imposition of a sanction this placed a substantial financial burden on States during a time of fiscal constraints. They also opposed the provision that did not allow for an appeal of the costs assessed on a State.

Response: As previously indicated, States will be advised when it appears that they will not meet the Department's requirement to complete a valid and reliable quality control sample in a timely manner. Where they fail to remedy the problem, the Department clearly has the authority to gather the necessary data for an error rate determination while at the same time assessing States for costs involved. We realize that costs will be incurred by States. Therefore, the Federal government will give the States every reasonable opportunity to work out a solution. If States fail to negotiate a solution or implement a negotiated solution, the Federal government will have to expend funds which must be recovered. The reasons for not allowing States to appeal the assessment of costs for determining the error rate by the Federal government are fully explained earlier in the preamble at section 1.e. in the discussion of the "Major Provisions of these Rules."

Reduction of Annual Sample Size

Comment: Several States opposed the elimination of a State's ability to challenge the reliability of the error rate based on sample size when a State chooses to reduce its annual sample size. They indicated that this proposal would force States to spend additional resources unnecessarily to increase their sample size or lose their right to challenge the resulting error rate.

Response: The Department believes that each State agency shares in the responsibility for operating the QC system in an efficient and effective manner and should therefore be allowed the flexibility to manage the system in the manner most suited to its own particular needs. States' acceptance of the reliability of the error rate when selecting a reduced sample size is a means of assuring that the State will consider what degree of reliability they need. We do not believe this proposal forces a State to spend additional resources because the standard annual sample size will be no greater than the existing sample size required for two six-month periods.

Comment: One commenter expressed concern about what effect a reduction in the AFDC quality control sample size would have on the Medicaid AFDC categorically eligible sample.

Response: We recognize that precision is also reduced for the Medicaid sample if a State elects a reduced AFDC sample size. The Department requires in this final regulation that where a State elects to reduce its sample size for AFDC, it must also accept the reliability of the error rate. At HCFA's request, this regulation requires that States accept the reliability of the Medicaid error rate to the extent that the reliability is affected by a reduced AFDC sample size.

Comment: A commenter expressed concern that when a State elects the option of reducing its sample size, staff resources may also be reduced.

Response: Error reduction activities in a State encompass many facets, only one of which is the completion of a quality control sample. When a State selects the option of reducing its sample size, it has the ability to target those staff resources to work on other critical error reduction activities. We believe that each State is in the best position to decide how to target its resources for error reduction. It is up to each State to make sufficient resources available for error reduction to meet the error rate targets set by the statute.

Case Record Mail-in Procedures

Comment: A few comments were received concerning the requirement to have States mail the QC and local office case records to the Federal staff. One State believed the requirement to mail local records was unreasonable because there was a potential for lost records and delayed actions.

Response: The Department believes that the request to have case records mailed to the regional offices is both reasonable and necessary. Many States have had extensive experience with case record mail-in procedures without difficulty. In addition, the Social Security Administration has had many years of experience with case record mail-in procedures between Social Security District Offices and Program Service Centers without problems. The regional offices can work with the States to establish procedures to expedite the return of cases when they are needed for case actions, such as redeterminations.

Comment: Commenters indicated that there may be a few isolated instances when the mail-in procedures may not be the quickest method for assuring the case records are available for Federal review.

Response: The Department may permit an alternate method for receiving case records in those situations when an alternate method is warranted, such as when the case records are located in the same city as the regional office. These regulations have been amended accordingly.

Comment: Some commenters were concerned that they would not be able to meet the ten-day time frame because the same case record might have already been sent to another Federal agency. They also wanted a similar time constraint placed on the Federal staff for returning records.

Response: We believe the ten-day time frame for locating and mailing case records is attainable in most situations. The short time frame is necessary to assure the timely completion of Federal rereviews. We are willing to work with the State, in limited situations, to arrange an alternate time frame. We are emphasizing that Federal staffs should review and return cases as quickly as possible. However, the ten-day time frame is not appropriate for Federal response because the Federal staff must actually review the case record. In addition, particularly where States batch and send many cases together, review of all such cases is not possible within ten days. We believe States and regional QC offices should work together to develop schedules for structured State mailing of case records which will permit more timely return of the records to the State agencies.

Comment: Several commenters pointed out that we only addressed paying for the mailing costs but did not allow for the cost of photocopying.

Response: Photocopying costs are reimbursable as an administrative cost at a 50 percent FFP rate. The reason we paid for mailing cost was because we provided franked envelopes. We are recommending that States submit the required QC case records, including review schedules, worksheets and supporting documentation, as photocopies. However, the actual Income Maintenance record should be submitted to the regional office since we agree that it is impractical to photocopy the local office record.

Sample Completion Deadlines

Comment: Many comments were received concerning the more restrictive sample completion deadlines. Commenters recognized that most cases could be completed within the time limits set; however, they felt we were stressing timeliness to the exclusion of quality. For example, they stress that some cases will take longer to complete because the State is awaiting critical evidence necessary to determine the true facts of the case. Although States recognized we were attempting to achieve more uniformity by adopting the Food Stamp completion rates, they stated that the same time frames were not appropriate for AFDC, since the AFDC program was more complex and the QC verification was more extensive and time consuming. In addition, having the same due dates for data transmission of both AFDC and Food Stamp cases created workload problems. Commenters also indicated that similar sample completion requirements should be placed on the Federal government.

Response: We have decided to modify the requirements slightly in view of the very persuasive arguments advanced by the commenters. More restrictive time frames are necessary in order to ensure an even flow of cases to the Federal staff. Therefore, we are maintaining monthly sample completion requirements. In keeping with both the State and Federal concerns that the quality of cases not be compromised, we have decided to modify the time frames to require that 90 percent or all but five cases be submitted within 75 days, 95 percent or all but five cases within 95 days, and 100 percent within 120 days after the end of each sample month. The Department has imposed similar constraints on the Federal rereview process to ensure timely completion, and is closely monitoring each region's progress. We believe that timely Federal completion will become easier as States complete their samples in a more timely fashion and transmit these cases for Federal rereview in a more phased manner.

Comment: Several commenters were concerned about their ability to meet the time frames due to the continuing hardware and software problems that impede their ability to submit edited review findings to the Washington Computer Center.

Response: The Department recognizes that there have been problems, but we have made significant progress toward correcting the problems and believe that all States can now use the hardware and software to submit the findings. Upgrades of the equipment and modifications of the transmission software are planned which will permit the State to provide the edited review findings in a timely fashion with less transmission workload. Where problems are identified, we will be reasonable in considering the submission dates of edited review findings.

Corrective Action Plans and Progress Reports

Comment: Three States objected to the change in due dates for submission of corrective action plans and progress reports on the basis that moving the due date for corrective action plans from August 15 to February 15 reduces the time needed for analysis, planning corrective actions and preparation of the corrective action plan. Several alternative due dates were recommended.

Response: We did not change the amount of time alloted for the preparation and submission of State corrective action plans and progress reports. The current regulation requires States to submit corrective action plans for the preceding April–September and October–March sample periods by August 15. This time frame allows States 135 days after the close of the October–March sample period to prepare their plans. These regulations change the length of the sample period to agree with the October 1–September 30 annual assessment period which is used to determine disallowances under TEFRA. Corrective action plans will cover this period and are due February 15 or 135 days after the close of the annual sample period. The progress report is due August 15, six months after submission of the corrective action plan. States have, for the most part, been able to develop their corrective action plans

in this 135 day time period without difficulty.

Comment: One State objected to the requirement that States submit a progress report on the annual sample by August 15 because there is no useful purpose in a six-month report.

Response: The progress report provides the status of implemented corrective actions, an evaluation of their effectiveness and any new initiatives based on current error rate data. We believe that such information must be developed by each State in order to have an effective corrective action system. Thus, the requirement does not place an extra burden on States. Further it is useful to OFA in monitoring and assisting States in error reduction.

Waiver Procedures

Comment: All commenters objected to changes in the waiver procedures, especially the 30-day notice requirement in unusual circumstance claims. States commented that this requirement would impose increased record keeping and reporting burdens on States. Furthermore, many States pointed out that the exact date when a circumstance had become a crisis (e.g., an increase in caseload) was sometimes difficult to pinpoint.

Response: We accepted the States' argument that a notice of unusual circumstance would increase their reporting burden and that it would be difficult to identify at what point an event has such an impact that it will serve as the basis for requesting a waiver. The final regulations do not require a notice requirement in unusual circumstance waiver claims.

Comment: Several States objected to the imposition of any time limit for application for a waiver which might pre-date the release of the final national error rate figures. They expressed concern that they cannot reasonably be expected to know that they have failed to meet their target error rate or that they are subject to a disallowance for that failure if final error rate figures are not available.

Response: The Department is taking steps to assure a more timely release of national error rate figures which will, in part, negate States' concerns. We recognize that the timeliness of the calculation of national error rates depends on the timeliness of State reviews, Federal rereviews and resolution of State/Federal differences. More stringent time frames for each of these steps will help expedite the release of national error rates. The Department is taking action to assure more responsive Federal processing at all levels. However, at the same time, it is clear that States in most circumstances are able to calculate their approximate error rate considerably before national Federal rates are released. Often Federal release of error rates is delayed by resolution of a few appealed difference cases in a few States.

Comment: Several commenters indicated that the existing 65 day period to prepare a waiver request was adequate and they expressed concern about the 30 day limit after the FY 1984 rates were released to prepare their waiver requests.

Response: Since the waiver request documents activities States performed in the prior year to reduce errors, the actual compilation of the waiver request should not be time consuming. Moreover, in most cases, States know well before the national error rates are released whether they will meet their targets and preparation of the waiver request should start as soon as States are aware they missed their target. The final rule modifies the threshold criteria for situations where States took necessary actions but failed to meet their targets. States now must demonstrate some reduction in error rate rather than demonstrate an error reduction equal to the median reduction, and thus States do not have to wait until the Federal error rates are released to know if they qualify to apply for a waiver. This final rule provides that States have 30 days after receipt of a notice of intent to disallow or 15 months after the end of the fiscal year, whichever is earlier, to apply for a waiver.

Comment: Several States expressed concerns over proposed changes to the conditions under which States may seek a waiver based on a good faith effort. They argue that the reduction in time to nine months after the fiscal year to file an application for a good faith waiver, and the inclusion of thresholds for determining whether an application for waiver is appropriate, are designed to limit States' rights to apply for good faith waivers.

Response: We have accepted the suggestion that time frames for applying for a good faith waiver should be modified and have revised the regulations to require that applications must be filed within 30 days of the receipt of a notice of intent to disallow or no later than 15 months after the close of the fiscal year, whichever is earlier. This is consistent with State and Federal timetables for completion of the sample, timely resolution of differences and calculation of resulting error rates.

Consistent with the intent of Congress that waivers be granted only in "limited circumstancers" the Department is compelled to make a careful examination of those requests for waivers based solely on the fact that a State took actions to meet the national standard, but these actions were unsuccessful.

It is critical that there be objective criteria for such waivers. At the same time, any objective criteria should not favor high error rate States or low error rate States—thus, the development of dual thresholds. To achieve these purposes, the threshold requirement for application for a good faith waiver based on the fact that the State had taken the action needed to meet the national standard but the national standard was not met, has been revised to require that only those States which have demonstrated one of the following may apply:

a. The State has achieved some reduction in error rate over the prior sample period, or

b. The State has achieved an error rate for the measurement period that does not exceed the target error rate by more than one-third despite an increase in error rate.

There may be circumstances which would prevent a State which has taken corrective action activity reasonably designed to meet the target error rate from actually meeting it; however, it is hard to imagine a properly designed and implemented set of error reduction activities which would not produce at least some reduction in a State's error rate, absent the type of circumstance covered by § 205.44(g)(2)(i–iii). Such unexpected circumstances are not covered by the thresholds.

Comment: Several States took issue with the basis on which the proposed thresholds would be measured, maintaining that the median test is unfair because it favored high error rate States.

Response: We accept the States' suggestion that all States with a reduction in error could possibly demonstrate some level of effort, and we have revised the threshold requirement to eliminate the median test as a basis. The regulation now requires that a State achieve a reduction in error rate over the prior period or have achieved an error rate that does not exceed the target rate by more than one-third despite an increase, to apply for a good faith waiver under the provisions of § 205.44(g)(2)(iv).

Comment: Several commenters opposed the elimination of the consideration of incorrect Federal policy interpretations as a factor upon which a State may request a waiver based on circumstances outside the State's control.

Response: AFDC quality control procedures require that when a State takes action resulting from an incorrect Federal policy interpretation which results in QC errors, those cases are not counted as errors in the final error rate calculation for that State. That "corrected" error rate figure is the basis for calculating any disallowance for failure to meet a target error rate. Incorrect Federal policy interpretations were not excluded as basis for requesting waivers in 45 CFR 205.42(g)(2)(iv) because that regulation will expire September 30, 1984.

Comment: Some States object to the expansion of the criteria for evaluating actions taken to meet the national standard to include whether a State has operated its QC system in accordance with Federally prescribed policies, procedures and time limits for sampling, conducting case reviews, and submitting QC data and reports. Some States contended that a fully functioning QC system has little to do with a good faith effort but rather measures procedural and compliance issues.

Response: A State cannot have made the appropriate effort without completing all of the necessary steps to effectively manage the operation of the program. For example, a reasonably designed corrective action planning process cannot be developed without a fully operating quality control system, for without a quality control system, a State cannot develop the data and analysis in a timely fashion to determine appropriate corrective actions. This factor was previously measured; the addition of subparagraph (g)(2)(iv)(E) is only to make the requirement more explicit. This is only one factor to be measured with all other factors to demonstrate a State's good faith effort.

Comment: A few States expressed concern over the reduction of time from 45 to 30 days for making an appeal to the Commissioner for reconsideration of a disallowance.

Response: The time frame for requesting a review of a disallowance by the Commissioner is being set at 30 days to be consistent with other appeal procedures such as the time for appeal to the Grant Appeals Board.

Appeal of Waiver Decisions

Comment: Many States recommended that the Department reconsider its position that the decisions on waivers should not be subject to review by the Grant Appeals Board (GAB).

Response: The Federal government has already matched the expenditures in question and uses disallowances to recoup such erroneous expenditures through the reduction of subsequent grant awards. Thus, States have administrative appeal procedures available to them should any disallowance be imposed. The Congress has given the Department discretionary authority to determine whether any waivers should be granted. Because waivers are discretionary actions, which in effect permit greater Federal matching than normally authorized by law, the Commissioner's decision not to grant a waiver is not appealable to the GAB.

Executive Order 12291—These regulations do not meet any of the criteria for a major regulation. Further, although levels of funding through FFP may be reduced, the reduction results from legislation, not from the terms of these regulations. Therefore, a regulatory impact analysis is not required.

Paperwork Reduction Act—These regulations impose no new reporting/recordkeeping requirements requiring OMB clearance.

Regulatory Flexibility Act—We certify that these regulations will not have a significant economic impact on a substantial number of "small entities" because the rules involve minor changes in State agency procedures. "Small entities" are defined by the Regulatory Flexibility Act to include small businesses, small non-profit organizations and small governmental entities. These regulations amend the existing Federal quality control system as it applies to the States' use of Federal funds in administering the AFDC program. A regulatory flexibility analysis as provided in Pub. L. 96-354, the Regulatory Flexibility Act, is not required because the Federal government will only be recouping monies that were incorrectly paid by the States.

(Catalog of Federal Domestic Assistance Programs No. 13.808 Public Assistance Maintenance Assistance (State Aid))

List of Subjects in 45 CFR Part 205

Administrative practice and procedure, Aid to families with dependent children, Family assistance office, Grant programs—social programs, Public assistance programs, Reporting and recordkeeping requirements.

Dated: August 31, 1984.

Martha A. McSteen,

Acting Commissioner of Social Security.

Approved: September 14, 1984.

Margaret M. Heckler,

Secretary of Health and Human Services.

Chapter II, Title 45 of the Code of Federal Regulations is amended as set forth below:

PART 205—GENERAL ADMINISTRATION—PUBLIC ASSISTANCE PROGRAMS

1. The authority citation for Part 205 reads as follows:

Authority: Sec. 1102, 49 Stat. 647; 42 U.S.C. 1302, unless otherwise noted.

§ 205.40 [Amended]

2. Section 205.40 is amended as follows:

a. Amend paragraph (b)(2)(i), by removing "6-month sampling" and inserting "sample" in its place and adding the following:

"Where the State choose to reduce its active case sample below the standard sample size but not below the minimum sample size specified in the Quality Control Manual, the State must provide the Department with a statement, as part of its sampling plan, accepting the reliability of the reduced sample size and agreeing not to challenge the resulting AFDC and Medicaid error rates based on the size of the sample."

b. Revise the introductory text of paragraph (b)(2)(ii) to read as follows:

"Edited review findings for the State agency's disposed of active case and negative case actions. The State shall input these findings into the computer terminal provided by the Federal government, and transmit the data to a designated host computer. For State agencies that do not have a terminal provided by the Federal government, the State agency shall submit the review findings in a format specified by the Department. The State agency shall dispose of and submit review findings in the following time frames:"

c. Revise paragraph (b)(2)(ii)(B) as follows:

"Ninety-five percent or all but five cases selected in the active and negative case samples within 95 days after the end of each sample month; and"

d. Revise paragraph (b)(2)(ii)(C) as follows:

"One hundred percent of the cases selected in the active and negative case samples within 120 days after the end of each sample month."

e. Paragraphs (b)(2) (iv) and (v) are redesignated as (b)(2) (v) and (vi) respectively.

f. Add new paragraph (b)(2)(iv) as follows:

"Original case record, i.e., the local agency record and the State QC file, legible copies of case records, or specified information contained in case records, by mail, within ten days of the State's receipt of a request for such information. The Department may grant exceptions to these requirements in limited cases."

g. Revised newly redesignated paragraph (b)(2)(v)(A) to read as follows:

"Corrective action plans for reducing case error rates for ineligibility, overpayments, underpayments, improper denials and terminations by February 15 of each year."

h. Revised newly redesignated paragraph (b)(2)(v)(B) to read as follows:

"A progress report on the status of implemented corrective actions, an evaluation of their effectiveness and any new initiatives based on current error rate data since the last annual corrective action plan by August 15 of each year."

i. In paragraph (b)(3)(i)(C), last sentence, remove "6-month sampling" and insert "sample" in its place.

j. Revise paragraph (b)(3)(i)(D) to read as follows:

"Even if the alternate plan is approved, the agency must submit edited review findings on all cases selected in the sample period within 120 days after the end of each sample month in the period."

§ 205.41 [Removed]

3. Remove § 205.41 in its entirety.

§ 205.42 [Amended]

4. Section 205.42 is amended as follows:

a. Revise the heading of § 205.42 to read as follows:

§ 205.42 Reduction in Federal financial participation (FFP) for incorrect payments made by States from October 1980 through September 1984.

b. In paragraph (a), first sentence, remove "beginning with the October 1980" and insert "from October 1980 through September 1984."

c. In paragraph (b), revise the definition of "National standard" to read as follows: "National standard" means a four percent payment error rate for the period October 1982 through September 1983 for all States; a four percent payment error rate for Guam, Puerto Rico and the Virgin Islands and a three percent payment error rate for the other States for the period October 1983 through September 1984."

d. In paragraph (c), second sentence, remove "beginning with the October 1980–September 1981 period" and insert "from October 1980 through September 1984."

e. Amend paragraph (d)(1)(i) by adding the following: "Each State other than Guam, Puerto Rico and the Virgin Islands must meet a three percent standard for the annual assessment period October 1983–September 1984."

f. In paragraph (d)(1)(ii), the last sentence of the paragraph and the last sentence of the Example which follows the paragraph, remove the words "all" and "four percent."

g. Revise paragraph (d)(2) to read as follows:

"(2) *States that have achieved the national standard.* States that achieved the four percent national standard in the base period must maintain that standard during the October 1980–September 1981 and the October 1981–September 1982 assessment periods and must meet the appropriate national standard thereafter."

§ 205.43 [Amended]

5. Section 205.43 is amended as follows:

a. In paragraph (a)(1), revise the last sentence to read as follows:

"These rules apply to all States which have an AFDC program through March 31, 1983; however, these rules will only apply to the Commonwealth of Puerto Rico, the Virgin Islands, and Guam thereafter."

b. In paragraph (a)(2), last sentence, remove "6-month" and insert "sample" in its place.

c. Amend paragraph (b) *Definitions* by adding a definition for "Sample period" immediately after the definition for "Nonpayment error rate" as follows:

"Sample period" means the 6-month periods, October–March and April–September.

d. Remove the second and third sentences in paragraph (c).

e. In paragraph (d)(1), last sentence, remove "for every 6-month period" and insert a period after "denials".

f. In paragraph (d)(2)(i), (d)(2)(ii)(A), (d)(2)(ii)(B), (d)(2)(iii), and both places in the Example following paragraph (d)(2)(iii), remove "6-month" and insert "sample" in its place.

6. A new § 205.44 is added to read as follows:

§ 205.44 Reduction in Federal financial participation (FFP) for incorrect payments made by States after September 1984.

(a) *Purpose and applicability.* This section provides the rules we will use beginning with October 1984 to determine whether we will reduce the amount of Federal matching funds (Federal financial participation or FFP) we give to a State, and, if so, the amount of the reduction. We will reduce the amount of our matching funds if a State makes more incorrect payments in its AFDC program than allowed under the rules in this section. These rules apply to all States which have AFDC programs.

(b) *Definitions.* For the purposes of this section—"Annual assessment period" means the 12-month period October 1–September 30.

"Incorrect assistance payments" means payments to people who are ineligible for a payment and overpayments to eligible people.

"National standard" means a four percent payment error rate for Guam, Puerto Rico and the Virgin Islands and a three percent payment error rate for all other States.

"Payment error rate" means the dollar amount of incorrect assistance payments a State has made expressed as a percentage of the State's total assistance payments.

"We," "us" or "our" mean the Department of Health and Human Services or the Social Security Administration.

(c) *General.* In these rules we are establishing national standards of four percent for Guam, Puerto Rico and the Virgin Islands and three percent for all other States for incorrect payments in the AFDC program. These standards will be used to measure performance of the states in each annual assessment period.

(d) *How we will measure a State's performance.* We will use the information provided by the Federal/State quality control system.

(1) This system measures the dollar amount of incorrect payments in each annual assessment period by reviewing a statistically valid sample of cases selected during each month of the assessment period. The sample results are then projected to the universe of all cases.

(2) If a State fails to complete a valid and reliable sample in accordance with the prescribed QC procedures and deadlines, as required by § 205.40, for any assessment period, we will notify the State of its failure and provide the State the opportunity to negotiate a solution regarding the timely completior

of its sample. Where a State is unable to negotiate a solution or fails to carry out a negotiated solution, we will assign to the State an error rate based on the best data reasonably available, including data obtained from any one or more of the following methods: error rate information for past sample periods, a partially completed State sample, a Federal subsample of completed State cases, a supplemental Federal sample, a Federal audit, and an audit conducted through a contractual agreement with a third party.

(e) *Cost of determining an error rate for States other than Guam, Puerto Rico and the Virgin Islands.* In any case where it is necessary for us to determine a State's error rate for a fiscal year because the State fails to cooperate with us by not providing the information required of the State in accordance with § 205.40 of these rules, the following procedure will apply. Pursuant to section 403(i)(3)(A) of the Act, notwithstanding any other provision of this chapter, total payments to a State under section 403(a)(3) for the proper and efficient administration of the State plan shall be reduced by the amount necessary (deducted without regard to any other reduction under this section) to offset all expenditures the Federal government has incurred in order to determine the State's error rate for any fiscal year in which that State has failed to provide the necessary error rate data. All amounts, both direct and indirect expenditures, shall be deducted generally no later than the second quarter following the quarter in which the costs of compiling the data for determining the State's error rate are available.

(f) *If a State fails to meet the established error rate.* If a State does not meet the national standard for any assessment period, we will reduce our matching funds to the State for that period, unless a State can show that it made a good faith effort to meet the national standard. If a State uses the regular Federal percentage in § 403(a)(1) of the Act for FFP and has an average monthly payment per recipient of more than $32 in an assessment period, an adjustment will be made to the State's error rate for purposes of determining the amount of reduction in our matching funds.

Example.—In fiscal year 1985, the applicable national standard for a particular State is three percent. The State's payment error rate for the assessment period, October 1, 1984 through September 30, 1985, was 4.4 percent. Because the 4.4 percent error rate exceeds the national standard by 1.4 percentage points, we will reduce our Federal matching funds by 1.4 percent of the Federal share of the dollars the State paid to recipients in the form of assistance payments under its AFDC program during that year.

(g) *When we will reduce a disallowance because a State has made a good faith effort.* (1) A State will have 30 days after receipt of a notice of intent to disallow or 15 months after the end of each fiscal year, which ever comes first, to show that it made a good faith effort to meet the national standard. If we find that the State did not meet the national standard despite a good faith effort, we will reduce the funds being disallowed in whole or in part as we find appropriate under the circumstances shown by the State. A finding may be made that a State did not meet the national standard despite a good faith effort under certain limited circumstances. The burden of proof for showing that a good faith effort was made rests entirely with the State.

(2) Some examples of the limited circumstances under which we may find that a State did not meet the national standard despite a good faith effort are—

(i) Disasters such as fire, flood or civil disorders, that require the diversion of significant personnel normally assigned to AFDC eligibility administration, or destroyed or delayed access to significant records needed to make or maintain accurate eligibility determinations.

(ii) Strikes of State staff or other government or private personnel necessary to the determination of eligibility or processing of case changes.

(iii) Sudden and unanticipated workload changes which result from changes in Federal law and regulations, or rapid, unpredictable caseload growth in excess of, for example, 15 percent for any consecutive six-month period in an assessment period;

(iv) The State has taken the action needed to meet the national standard, but the national standard was not met, and the State has demonstrated why these actions were not successful in meeting the standard. Request for a waiver under this criterion will not be considered unless a State has demonstrated some error reduction from the last assessment period or has achieved an error rate for the measurement period that does not exceed its target error rate by more than one-third despite an increase in error rate. If a State has met the error reduction requirement above, we will evaluate requests for a good faith waiver based on the following factors:

(A) Demonstrated commitment by top management to the error reduction program, e.g., priorities and goals clearly enunciated to staff and acted upon, accountability for performance, acquisition of necessary resources, implementation of statutory and regulatory provisions intended to reduce errors, e.g., monthly reporting, retrospective budgeting, direct involvement of top management in activities related to error reduction;

(B) Sufficiency and quality of manual and automated systems and the effective use of such systems, designed to reduce errors, that are operational in the State, e.g., BENDEX, FAMIS, interjurisdictional matches, account number validation, computer matches, local agency case monitoring systems, supervisory reviews, verification procedures;

(C) Use of effective systems and procedures for the statistical and program analysis of QC and related data, e.g., statistical analyses by error element, tests of significance, augmented samples, tabulations and cross-tabulations, geographic breakdown of QC and related data, error prone profiles, special studies;

(D) Effective planning, management, execution and evaluation of the corrective action process, e.g., corrective action committees, assignment of responsibilities, milestones for completing tasks, monitoring of progress in completing tasks, completion of tasks, implementation of corrective actions; and

(E) Operation of a quality control system in accordance with Federally prescribed policies, procedures, and time limits for sampling, conducting case reviews, and submitting QC data and reports.

(3) The failure of a State to act upon necessary legislative changes or to obtain budget authorization for needed resources is not a basis for finding that a State failed to meet the national standard despite a good faith effort.

(h) *Disallowances subject to appeal.* If a State does not agree with our decision to reduce (disallow) FFP, it can appeal to us within 30 days from the date of our notice. The regular procedures for appeal of a disallowance will apply, including review by the Commissioner and by the Grant Appeals Board (see 45 CFR Part 16). This appeal provision, as it applies to AFDC Quality Control disallowances, is not applicable to the Commissioner's decision on a State's "good faith" waiver request.

[FR Doc. 84-25083 Filed 9-27-84; 8:45 am]
BILLING CODE 4150-11-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 67

Letter Regarding Interpretation of Separations Manual

AGENCY: Federal Communications Commission.

ACTION: Interpretation letter regarding Separations Manual.

SUMMARY: Under delegated authority the Common Carrier Bureau, as the result of an audit and survey of carriers, has initiated an interpretation of the *FCC–NARUC Jurisdictional Separations Manual*, Part 67 of the FCC Rules and Regulations. The issue concerns the frozen balances of Customer Premises Equipment Categories 1, 3, 4 and 5, and the interpretation is intended to clarify the apportionment procedures in § 67.153 of the *Manual*, Phase Out and Termination of Interstate Apportionment of Customer Premises Equipment in Accounts 231, and 234. This letter has been sent to the Regional Bell Operating Companies, to major independent telephone companies, to the United States Telephone Association, and to the National Exchange Carriers Association.

FOR FURTHER INFORMATION CONTACT: Hugh L. Boyle, Audits Branch, Common Carrier Bureau, Federal Communications Commission, Washington, D.C. 20554, Telephone No. (202) 634–1742.

William J. Tricarico,

Secretary, Federal Communications Commission.

FEDERAL COMMUNICATIONS COMMISSION

Washington, D.C. 20554

September 12, 1984.

As the result of a recent audit of an operating telephone company and subsequent survey of additional companies, we have found a problem in the state/interstate apportionment of the frozen balances of customer premises equipment (CPE) Categories 1, 3, 4 and 5. This letter is to clarify the procedures for apportioning the frozen balances and is intended as an interpretation under delegated authority of the *Separations Manual (Manual)*, Part 67 of the Commission's Rules, § 67.153, Phase Out and Termination of Interstate Apportionment of Customer Premises Equipment in Accounts 231 and 234.

We have found that carriers are properly reducing the December 31, 1982, base amounts by one-sixtieth each month as required in the *Manual*, but there is a problem with the amount used for apportionment. Each month carriers are apportioning an investment amount determined by averaging the balance before the one-sixtieth reduction and the balance after the reduction. The procedure required in § 67.153, however, is as follows:

The amount of plant investment . . ., reduced by one-sixtieth, shall be apportioned between state and interstate operations in accordance with the procedures prescribed for each category under § 67.152 for the month of January 1983. Each month thereafter, the base December 31, 1982 amount shall be reduced by one-sixtieth of the base amount in each category, and the apportionment between state and interstate operations shall be made in a similar manner.

These requirements call for the apportionment each month of the actual balance after the base amount has been reduced by one-sixtieth for every month up to and including the month of apportionment, beginning with January 1983. The difference between averaging and using the actual balance is that the investment in CPE subject to apportionment each month is higher under the averaging method by $\frac{1}{120}$ of the December 31, 1982, frozen balance.

We are aware that normal capital recovery procedures provide for a return on an average investment for any given period. However, as stated in a relevant part of the discussion of the Federal State Joint Board in their *Recommended Decision and Order* (Docket No. 80–286, FCC 81–566, Paragraphs 23–28), the focus here "is on an equitable reduction of the revenues that separations allocations of CPE contribute to other aspects of interstate operations." Further, in their discussion the Joint Board noted that the issue of removal of CPE from separations procedures and the issue of capital recovery are separate. We believe that the procedures developed to remove CPE from separations are likewise separate from those of capital recovery and should not therefore be glossed by accepted theories of depreciation. Accordingly, it is our interpretation that the requirements in the *Manual* as stated preclude averaging, and we are requiring that all carriers discontinue this practice. Further, any apportionment of the frozen CPE balances for months in 1984 based on average monthly balances should be restated to reflect apportionment of actual balances after the required reductions.

If you have any questions concerning this interpretation, please contact Hugh L. Boyle, Audits Branch, on (202) 634–1742.

Sincerely,

Jack D. Smith,

Chief, Common Carrier Bureau.

[FR Doc. 84–25740 Filed 9–27–84; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Parts 81 and 87

Posting of Photocopy of Operator Licenses in the Aviation and Maritime Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This order editorially amends the Aviation and Marine rules to permit a photocopy of an operator license or permit under certain conditions to satisfy posting requirements. This action results from the elimination of an FCC form used to verify an operator license. The use of photocopies is expected to be more convenient for the public.

EFFECTIVE DATE: October 29, 1984.

FOR FURTHER INFORMATION CONTACT: Robert DeYoung, Private Radio Bureau, (202) 632–7175.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 81

Coast stations, Radio.

47 CFR Part 87

Aeronautical stations, Radio.

Order

In the matter of editorial amendment of §§ 81.159 and 87.97 of the rules.

Adopted: September 17, 1984.

Released: September 21, 1984.

1. The Commission is eliminating FCC Form 759, *Verification of Radio Operator License or Permit for Additional Posting.* In lieu of a Form 759, a photocopy of the original license or permit must be posted pursuant to § 13.74(b) of the rules. This order editorially amends §§ 81.159 and 87.97 of the rules to reflect this change.

2. Authority for this action is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r) and by § 0.231(d) of the rules, 47 CFR 0.231(d). Since the amendments are editorial in nature, the public notice, procedure, and effective date provisions of 5 U.S.C. do not apply.

3. Accordingly, It is ordered, that §§ 81.159 and 87.97 are amended as set forth in the attached appendix effective October 29, 1984.

4. Regarding questions on matters covered in this document contact Robert DeYoung, (202) 632–7175.

Federal Communications Commission.

Edward J. Minkel,

Managing Director.

Appendix

Parts 81 and 87 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA FIXED SERVICE

Section 81.159 is revised to read as follows:

§ 81.159. Posting of operator licenses.

The original license of each station operator must be conspicuously posted at the place where the operator is on duty. When an operator is employed at more than one station at different locations, the original license must be posted at one location and a photocopy of the license at the other(s). In the case of mobile units either the operator license or a photocopy of it must be kept in the personal possession of the operator. A Restricted Radiotelephone Operator Permit (RP) must be kept in the personal possession of the operator.

PART 87—AVIATION SERVICES

Section 87.97 is revised to read as follows:

§ 87.97 Posting of operator licenses.

The original license of each station operator must be conspicuously posted at the place where the operator is on duty. In the case of mobile units either the operator license or a photocopy of it must be kept in the personal possession of the operator. A Restricted Radiotelephone Operator permit must be kept in the personal possession of the operator.

[FR Doc. 84-25749 Filed 9-27-84; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Parts 386, 387, 390, 392, 393, 395, 396 and 397

[BMCS Amdt. No. 83-11]

Federal Motor Carrier Safety Regulations, Miscellaneous Amendments

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: The FHWA is amending the Federal Motor Carrier Safety Regulations (FMCSR) to (1) correct spelling; (2) update regional office addresses; (3) remove obsolete references; (4) correct references in the schedule of limits for financial responsibility; (5) make technical corrections in §§ 395.8, 396.9 and 397.7; (6) correct the language in § 397.3, and clarify the intent of § 397.19(c); and (7) update the definition of special agent in Appendix B to include recent changes to titles due to organizational changes. While the revisions are nonsubstantive in nature, they will serve to update and clarify the existing regulations.

EFFECTIVE DATE: September 28, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Neill L. Thomas, Bureau of Motor Carrier Safety, (202) 426-0767, or Mr. Thomas P. Holian, Office of the Chief Counsel, (202) 426-0346, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: The FHWA is making a number of revisions to the FMCSR. The amendments will update certain Regional office addresses; clarify the intent of the parking rule for Class A and B explosives; update the list of employees defined as "special agents" charged with enforcing the FMCSR; clarify the intent of the certification requirement on fuel tanks; clarify the intent of the routing requirements for vehicles transporting Class A or Class B explosives; correct the reference in § 395.8 Exemptions; and make several other miscellaneous corrections, as described below.

1. Section 386.21, Consent order, is being revised by correcting the spelling of "content" in the first sentence "When a respondent has filed an election not to content . . ." to read "contest".

2. Section 387.3, Applicability of financial responsibility is being corrected by amending the word "large" as used in paragraphs (c)(1) and (c)(2) to read "highway route controlled". This makes the regulation and schedule of limits compatible.

3. Section 387.9, Financial responsibility, minimum levels, and Section 387.15, Forms, are being amended to correct the references in the Schedule of Limits charts, the column titled "Commodity Transported", the second and last sentences ending with 49 CFR "173.455" are being changed to read "173.403", and to remove the expiration date on the forms.

4. Section 390.40, is being revised to reflect the correct name for the regional offices and the current address of Regions 4, 8, 9 and 10. The Regional Motor Carrier Safety Office is now designated as the "Office of Motor Carrier and Highway Safety."

5. Section 392.8, Emergency equipment, inspection and use, is being revised by eliminating the words "and 393.96." Section 393.96 is no longer a section in the FMCSR.

6. Section 395.8(1) Exemptions is being amended to correct the reference in paragraph (1)(v)(D) that reads "paragraph (i) of this section" to read "paragraph (j)(2) of this section" and add the word "or" between the words "time" and "intermittently" to read "time or intermittently".

7. Section 396.9 is being revised to be compatible with the current Form MCS-63, Driver—Vehicle Examination Report. Therefore, § 396.9(c)(4) is being eliminated and paragraph (d)(3)(i) is being revised to reflect the current certification requirements of Form MCS-63.

8. Section 397.7 paragraph (a) is being amended to clarify the intent of the parking requirement as set forth in the current published interpretation which states "The word 'or' between § 397.7(a)(2) and § 397.7(a)(3) requires that both subparagraphs be fully complied with". The intent was to prohibit parking of motor vehicles laden with Class A or B explosives within 300 feet of any place where people congregate or assemble except when necessities of operation require otherwise. Therefore the words "under any of the following circumstances" are being added at the end of paragraph (a).

9. Section 397.19(c) is being amended to clarify the intent of the written route plan requirement for drivers transporting Explosives A or Explosives B to make certain those drivers comply with the written route plan in addition to having possession of a copy while driving.

10. Appendix B, Special agents, is being amended to reflect changes in the organizational structure of the Bureau of Motor Carrier Safety since the last update in 1980.

The FHWA has determined that this document does not contain a major rule under Executive Order 12291 or a significant regulation under the regulatory policies and procedures of the Department of Transportation. Since the changes being adopted in this document are technical in nature and make no substantive changes in the regulations, the FHWA finds good cause to make this amendment final without prior notice and opportunity for comment and without a 30-day delay in the effective date required by the Administrative Procedures Act. Notice and opportunity for comment are not required under the regulatory policies and procedures of the Department of Transportation because it is not anticipated that such action would result in the receipt of useful information. Accordingly, the amendments are effective upon issuance.

It is anticipated that the economic impact of this rulemaking action, if any, will result in minimal cost savings to the motor carrier industry. Accordingly, a full regulatory evaluation is not required.

For the foregoing reasons, under the criteria of the Regulatory Flexibility Act, it is certified that this action will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 49 CFR Parts 386, 387, 390, 392, 393, 395, 396, and 397

Motor carriers, Financial responsibility, Highway safety, Parts and accessories, Hours of service, Hazardous materials, and Motor vehicle safety.

In consideration of the foregoing, Title 49 Code of Federal Regulations, Subtitle B, Chapter III is amended as set forth below.

PART 386—RULES OF PRACTICE FOR MOTOR CARRIER SAFETY PROCEEDINGS

1. Section 386.21 is corrected by changing the word "content" to "contest" as follows:

§ 396.21 Consent order.

When a respondent has filed an election not to contest under . . . .

* * * * *

PART 387—MINIMUM LEVELS OF FINANCIAL RESPONSIBILITY FOR MOTOR CARRIERS

2. Sections 387.3 (c)(1) and (c)(2) are amended by changing the word "large" to read "highway route controlled" as follows:

§ 387.3 Applicability.

* * * * *

(c) *Exception.* (1) The rules in this part do not apply to a motor vehicle that has a gross vehicle weight rating (GVWR) of less than 10,000 pounds. This exception does not apply if the vehicle is used to transport any quantity of Class A or Class B explosives, any quantity of poison gas, or highway route controlled quantity of radioactive materials, as defined in 49 CFR 173.403, in interstate or foreign commerce.

(2) The rules in this part do not apply to the transportation of nonbulk oil, nonbulk hazardous materials, substances, or wastes in intrastate commerce except highway route controlled quantity radioactive materials, as defined in 49 CFR 173.403.

§§ 387.9 and 387.15 [Amended]

3. Sections 387.9 and 387.15 are amended by correcting the CFR references in the Schedule of Limits charts set forth therein and the expiration date in Illustration I in § 387.15 is removed as follows:

In the "Schedule of Limits" charts, second column titled "Commodity transported" the references at 4 locations reading 49 CFR 173.455, are changed to read 49 CFR 173.403. The words "Expiration Date: 06/30/83" between the words "Form MCS–90 (3/82)" and "Form Approved" immediately following "Illustration I" in Section 387.15, are removed.

* * * * *

PART 390—FEDERAL MOTOR CARRIER SAFETY REGULATIONS—GENERAL

4. Section 390.40 is amended by changing the name of the regional offices and updating the addresses for Regions 4, 8, 9 and 10 as follows:

§ 390.40 Locations for filing accident reports and notifications.

Motor carriers shall file the reports required by §§ 394.9 and 394.11 of this subchapter by personal service upon, or mailing by first-class mail to the Director, Office of Motor Carrier and Highway Safety, for the Federal Highway Administration Region in which the carrier's principal place of business is located as shown in the following table:

* * * * *

Region No.	Territory included	Location of regional office
	* * *	* * * * *
4	* * *	1720 Peachtree, NW., Atlanta, GA 30367.
	* * *	* * * * *
8	* * *	555 Zang St., Room 400, Lakewood, CO 80228.
9	* * *	211 Main Street, Room 1108, San Francisco, CA, 94105.
10	* * *	Mohawk Building, Room 412, 708 SW. Third Ave., Portland, OR 97204.

* * * * *

PART 392—DRIVING OF MOTOR VEHICLES

5. Section 392.8 is amended by removing the words "and § 393.96" as follows:

§ 392.8 Emergency equipment, inspection and use.

No motor vehicle shall be driven unless the driver thereof is satisfied that the emergency equipment required by § 393.95 of this subchapter is in place and ready for use; nor shall any driver fail to use or make use of such equipment when and as needed.

* * * * *

PART 395—HOURS OF SERVICE OF DRIVERS

6. Section 395.8(l)(1)(v) *Exemptions,* is amended to correct the reference to paragraph (i) in subparagraph (D) to read (j)(2) and to add "or" between the words "time" and "intermittently" as follows:

§ 395.8 Driver's record of duty status.

* * * * *

(1) Exemptions—(1) * * *

(V) * * *

(D) The total time for the preceding 7 days in accordance with paragraph (j)(2) of this section for drivers used for the first time or intermittently.

* * * * *

PART 396—INSPECTION, REPAIR AND MAINTENANCE

7. Section 396.9(c)(4) is removed and subparagraph (d)(3)(i) is revised to read as follows:

§ 396.9 Inspection of motor vehicles in operation.

* * * * *

(c) * * *

(4) [Reserved]

(d) *Motor carrier disposition.*

* * * * *

(3) * * *

(i) Certify that all violations noted have been corrected by completing the "Signature of Carrier Official, Title, and Date Signed" portions of the form; and

* * * * *

PART 397—TRANSPORTATION OF HAZARDOUS MATERIALS; DRIVING AND PARKING RULES

8. Section 397.7(a) introductory text is amended by adding the words "under any of the following circumstances", to read as follows:

§ 397.7 Parking.

(a) A motor vehicle which contains Class A or Class B explosives must not be parked under any of the following circumstances—

* * * * *

9. Section 397.19(c) introductory text is amended by adding the words "be in compliance with" to read as follows:

§ 397.19 Instruction and documents.

* * * * *

(c) A driver of a motor vehicle which contains Class A or Class B explosives must be in possession of, be familiar with, and be in compliance with—

* * * * *

Appendix B to Subchapter B—Special Agents

10. Appendix B, paragraph 3 is revised to read as follows:

* * * * *

3. *Definition of special agent.* Federal Highway Administration (FHWA) employees

charged with enforcing 49 U.S.C. 3101 *et seq;* 49 U.S.C. 1801 *et seq;* section 30 of the Motor Carrier Act of 1980, Pub. L. 96–296, 94 Stat. 793, 820, and section 18 of the Bus Regulatory Reform Act of 1980, Pub. L. 97–261, 96 Stat. 1102, 1120; section 414 of the STAA of 1982, Pub. L. 97–424, 96 Stat. 2097, 2161; and 42 U.S.C. 4917, including employees within the Bureau of Motor Carrier Safety (BMCS) and such other persons as the Federal Highway Administrator or Director of the BMCS may specify in writing, in possession of credentials issued by the FHWA, are special agents. They are hereby authorized to inspect and copy records and to inspect and examine lands, buildings, and equipment to the manner and extent provided by law.

* * * * *

(49 U.S.C. 3102; 49 CFR 1.48(b))

(Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety)

Issued on: September 24, 1984.

Kenneth L. Pierson,

Director, Bureau of Motor Carrier Safety.

[FR Doc. 84–25752 Filed 9–27–84; 8:45 am]

BILLING CODE 4910–22–M

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49 CFR Part 391

[BMCS Docket No. MC–92; Amdt. No. 83–10]

Handicapped Driver Waiver Program; Revisions

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule; technical corrections and clarification.

SUMMARY: Three technical corrections and one clarification are being made to the final rule pertaining to the FHWA's Handicapped Driver Waiver Program which was published in the **Federal Register** on Wednesday, August 24, 1983. Three petitioners proposed several technical corrections. This document responds to each proposed technical change. Also, the FHWA has taken this opportunity to correct an incorrect reference note in the rule. Lastly, clarification is made about the waiver form itself and the information contained thereon.

EFFECTIVE DATE: September 28, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Neill L. Thomas, Bureau of Motor Carrier Safety, (202) 426–9767; or Mrs. Kathleen S. Markman, Office of the Chief Counsel, (202) 426–0346, Federal Highway Administration, Department of Transportation, 400 Seventh St., SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: The final rule pertaining to the application and granting of waivers to limb-handicapped commercial drivers operating motor vehicles in interstate or foreign commerce was published in the **Federal Register** on Wednesday, August 24, 1983, at 48 FR 38483. Subsequently, three petitions were received requesting reconsideration and clarification of the final rule. The petitioners are the American Trucking Associations, Inc. (ATA), the American Bus Association (ABA), and the National Tank Truck Carriers, Inc. (NTTC). Because of the similarity and commonality of points raised in each petition, the FHWA has prepared a single response. Further, this action corrects an incorrect reference note in the rule. Lastly, clarification of new information which is to be printed on the waiver form is given.

Discussion

All three petitioners petition for the Skill Performance Evaluation (SPE) to be mandated in the revised rule. The SPE is a demonstration of ability test given to Handicapped Driver Waiver Program (hereafter called the Waiver Program) applicants by specially trained Regional Handicapped Driver Waiver Program Specialists (RHDWPS). The SPE evaluates the performance of normal commercial driver driving and operational functions.

At present, the SPE is not mandated. The rule states that the Regional Federal Highway Administrator (RFHWA) may require the test. It was not mandated so that the RFHWA may have a degree of program flexibility. For example, some limb-handicapped drivers leave and then return to the Waiver Program. The RFHWA may not consider another SPE to be necessary. Under the present rule, the RFHWA may elect to forego the SPE in this instance. The FHWA policy concerning whether the SPE is performed is that all first time Waiver Program applicants are always given an SPE.

The petitioners believe the SPE to be a critical evaluative step in the Waiver Program. They are concerned because the decision of whether the SPE is performed is governed by a policy and not a regulation. They argue that policy can be changed without public notice, as an example, budgetary constraints or manpower requirements could cause the RFHWA to forego the SPE for some applicants.

The FHWA does not believe the issue has merit. The agency must have operational latitude when carrying out its mission or a singular program. If the state of the art changes, we must be able to change too, without necessitating a rule change. For example, recently a person applied for a waiver who previously had a waiver three year ago. The application stated the applicant was to operate a motor vehicle of the same type and specifications as previously tested in a SPE. The RFHWA did not require the SPE to be repeated. The medical appraisal and other application requirements were carried out.

Related to the request to mandate the SPE in the rule, is a proposal to mandate that the RHDWPS give the SPE. The NTTC and the ABA believe the road test certificate cited in paragraph (d) of § 391.49 permits any competent person to give the road test defined in paragraph (g) of § 391.49 (i.e., the SPE). This is incorrect. The certificate of road test in paragraph (d) is an application requirement which along with seven other application requirements demonstrates that the applicant is otherwise qualified under the driver qualifications of Part 391. This road test must be given in accordance with § 391.31. The demonstration of ability test (i.e., the SPE) in paragraph (g) of § 391.49 is always given by the RHDWPS. Our reason for not mandating the SPE be given by the RHDWPS is the same as that previously stated about mandating the SPE.

The second point, of which all three petitioners ask reconsideration, is that the rule should specifically state that the SPE be done on the type of vehicle listed in the waiver application. The ATA recommended the following language be added to § 391.49 as paragraph (g)(1).

> The skill performance evaluation shall be conducted on a truck or tractor which has all of the features and characteristics listed in the letter of application as required by § 391.49(c)(3). Testing on combination vehicles must be with loaded trailer(s) coupled to the truck or tractor. Such trailer(s) must be of the type specified in the letter of application.

If this statement is made a part of the rule, it would make the rule too rigid and would not permit the necessary degree of program discretion, that through the years we have found is required by the RHDWPS. On rare occasions, applicants who have applied for a waiver to drive a manual transmission vehicle have taken the SPE with a motor vehicle with automatic transmission. The established procedure in this case is to note the discrepancy to the applicant and inform the driver that if the waiver is granted, it will state that it is granted only for a similar type motor vehicle and transmission type that was used in the SPE.

Another example is where the initial application letter states the motor vehicle has a thirteen-speed transmission and the driver brings a nine-speed transmission equipped motor vehicle to the SPE. With the present

discretion capability in the rule, the RHDWPS may elect to give the SPE. If the RHDWPS judges that the negative points accumulated during the SPE do not reflect problems due to transmission manipulation and, the applicant passes the SPE, the RHDWPS has the discretion to not limit the waiver to a specific type of manual transmission. The training of the RHDWPS by driver training experts and rehabilitation experts have prepared them to make this type of judgment. Finally, the waiver is granted only for the vehicle type and its modifications that was utilized in the SPE.

The third point for reconsideration was proposed solely by the ATA. It proposed the rule be revised to expressly prohibit using a driver who cannot adequately perform nondriving functions. The ATA recommends that § 391.49(e)(2) be revised as follows:

> Use the driver only if s/he is evaluated and approved by the motor carrier for those non-driving safety-related job tasks associated with whatever type of trailer(s) will be used and any other nondriving safety-related or job-related tasks unique to the operations of the employing motor carrier; and.

The ATA believes that it is essential that Waiver Program drivers be able to perform nondriving safety-related job tasks. The ATA believes it is implicit in the rule that if a prospective employee is unable to adequately demonstrate the requisite ability, that person cannot be qualified as a driver.

We believe the present rule does more than imply that a driver with a waiver be able to perform nondriving safety-related job tasks associated with whatever type of trailer(s) will be used and any other nondriving safety-related or job-related tasks unique to the operations of the employing motor carrier. It is required under § 391.49(e)(3). Paragraph (e)(3) of § 391.49 allows the use of a driver with a waiver only when the driver is in compliance with the conditions and limitations of the waiver. A condition of the waiver is the aforementioned evaluation by a motor carrier. Obviously, a motor carrier who obtained evaluative results which demonstrate a driver with a waiver cannot adequately perform nondriving tasks, would not use the driver. Also, due to the fact that some job-related tasks requiring evaluation may not be entirely under the authority of the FHWA to regulate, we believe the present wording is adequate.

Point four was proposed by all petitioners. The ATA proposes to add to § 391.49 as paragraph (h)(1):

> If a waiver is granted, it will list the terms, conditions and limitations imposed by the RFHWA. It will provide a detailed description of the vehicle(s) which the waiver holder is authorized to drive. Such description shall include all the information required in the letter of application by the provisions of § 391.49(c)(3).

The waiver form presently in use lists the conditions, limitations, and vehicle type for which the waiver is granted. Stating these limitations and conditions of the waiver only on the waiver form provides for a necessary amount of administrative flexibility which permits program changes (i.e., more or different types of information on the waiver form) without resorting to formal rulemaking. The present waiver form lists vehicle type, vehicle modifications, prosthetic or orthotic device description, and other limitations and conditions. The operational guidelines for RHDWPS in filling out these areas of the waiver form are:

Limitations:

(1) Vehicle Type—Be descriptive. Do not say tractor, instead say, "truck-tractor" or "Conventional tractor" (if the driver cannot climb into a cab-over-engine tractor).

"Small gasoline powered truck-tractor modified for transporting mobile homes."

"Bus," state seating capacity of vehicle.

(2) Vehicle Modifications—Be sure to fully describe all of the vehicle modifications that are necessary, such as:

A. "Fully automatic transmission."

B. "Semiautomatic transmission—requiring no clutch pedal."

C. "Dash mounted, hand operated headlight dimmer switch."

D. "Power steering."

E. "Headlight, windshield wiper and body light cutout switches to be of the toggle type with the toggle levers not less than one and one-half inches in length."

F. "Gear shift lever shall be extended so that the lever knob is not less than 40 inches off the cab floor when in any given gear, except reverse."

G. "Tractor to be equipped with standard westcoast mirrors and 6 inch convex mirrors mounted below both mirrors."

(3) Prosthetic or orthotic device(s) that must be worn while driving (specify—Name of manufacturer, model name, and description number).

(4) Additional Provisions—List anything that is necessary such as:

A. "Must submit a doctor's report of blood pressure reading every 90 days."

B. "All driving is limited to day light hours."

C. "No driving permitted during ice or snow conditions."

D. "Driver may not make trips requiring him to be away from home overnight."

It was the intent of the FHWA through the Waiver Program final rule to grant a waiver solely for the operation of a truck, bus, or truck-tractor. Any trailer(s) attached to a truck, bus, or truck-tractor is not a part of the waiver. However, the SPE is conducted with the type of bus, truck, or truck-tractor and the trailer(s) named in the application. It was not intended to impart on the waiver form the trailer type used in the SPE, but it appears that it makes practical sense to give this information to the employing motor carrier.

We believe a revised waiver form with the additional information on trailer-type(s) utilized in the SPE fulfills the petitioners' informational needs. No point is served by specifically stating in the rule what are administrative procedures of the program. Finally, not stating the parameters of each item in the rule permits faster updating and modification of the waiver form.

In point five, the ATA, the NTTC, and the ABA propose the rule require the driver to provide the motor carrier with a copy of the waiver form and the application information required under § 391.49(d) (1) through (4)

In this point, the petitioners would have the waiver rule require that the driver provide the employing motor carrier with all medical information initially supplied the FHWA in the waiver application. This information is required by the FHWA to determine if an SPE is feasible.

It is our belief that motor carriers do not need, nor are they trained to evaluate, the medical information in § 391.49(d) (1) through (4). A motor carrier must evaluate a driver's ability for such tasks as climbing up a ladder or a cargo tank or securing the manhole cover or opening and closing valves. None of the medical information addresses these tasks. Nor can the medical information answer whether a prospective employee can provide adequate assistance during emergency evacuation of a bus. The driver demonstrates the ability to accomplish these tasks through individual testing by the employing motor carrier. The fact that the driver has been granted waiver demonstrates that the driver can perform certain manual tasks such as hooking up air lines, climbing into a cab-over-engine (COE) configured vehicle, pulling the COE body open for engine work, and in some cases putting snow chains on tires. The motor carrier's responsibilty is to evaluate a prospective employee on its specific

trailer(s) or bus. We find no merit to this proposal.

In point six, the ABA proposes the waiver rule require information on vehicle characteristics of passenger-carrying motor vehicles. We agree that an applicant who applies for a waiver to drive a bus should list its characteristics. The omission of a requirement for specific information on passenger-carrying vehicles in the rule was an oversight. Language will be added to the rule requiring the applicant to provide the information proposed by the ABA relating to a bus: (1) Make, model, and year; (2) transmission type; (3) steering type; (4) seating capacity; and (5) vehicle modifications.

The seventh point for consideration concerns a proposal by the NTTC to require the waiver to be granted for both the power unit and the trailer unit. Under the August 1983 rule change, the waiver is granted for the power unit only. The NTTC would like the FHWA to return the waiver rule to the time prior to the final rule change of August 24, 1983 (i.e., when the waiver included both the tractor and the trailer).

In the final rule of August 1983, the reason this change was made was fully discussed. The trailer unit was held to be a significant part of a commercial motor vehicle unit, but because of the diversity of trailers and trailer related job tasks, the FHWA believed the prospective motor carrier was best suited to evaluate a driver with respect to its specific trailer types. This evaluation included road testing of the driver using the trailer type the employer intends the driver to transport, an evaluation of all nondriving safety-related job tasks associated with whatever trailer(s) will be used and any other nondriving safety-related or job-related tasks unique to the operations of the employing motor carrier.

Although it is implied in the final rule's preamble that the employing motor carrier must evaluate a driver with a road test using its specific type of trailer(s), it was not stated in the rule. Therefore, the FHWA will specifically state in the rule that the employing motor carrier must road test the driver with a waiver utilizing the trailer type the driver will be employed to transport. A motor carrier may accept a certificate of trailer road test in lieu of its trailer road test from another motor carrier, if trailer types are similar. The format of the certificate should be similar to the certificate of road test found in § 391.31(f). Also, the trailer type utilized in the SPE will be stated on the waiver form. If the trailer type utilized in the SPE is similar to the trailer type of the employing motor carrier, the motor carrier need not road test the driver. Some examples of distinct trailers types are van, flat bed, cargo tank, and pole trailers.

We do not believe trailer road testing increases the burden on the employing motor carrier. We do not believe that a motor carrier would employ a new driver who has never operated a trailer-type-combination of the motor carrier's particular type without a road test, whether the driver was handicapped or not. In summary, concerning the trailer road test, the employing motor carrier must evaluate a driver itself or accept the trailer road test certificate of another motor carrier or accept the trailer road test done during the SPE. This assumes that the trailer type in the latter two cases is similar to the trailer type of the prospective motor carrier. In all three cases, the motor carrier is still responsible for the evaluation in paragraph (e)(3) of § 391.49. It is the responsiblity of the employing motor carrier to develop the parameters of the trailer road test.

Paragraph (i)(8) of the waiver rule is followed by a "Note" for the reader to "Refer to paragraph (c)(3)(iii) of § 391.49 for conditions under § 391.41(b)(2) which may be considered medically stable." The citation of paragraph (c)(3)(iii) is incorrect. The correct citation is paragraph (d)(3)(ii) of § 391.49.

The FHWA has determined that this document does not contain a major rule under Executive Order 12291 or a significant regulation under the regulatory policies and procedures of the Department of Transportation. The changes being adopted in this document are primarily technical in nature and provide language clarifications. For these reasons and since the final rule imposes no additional burdens on the States or other Federal agencies, the FHWA finds good cause to make this regulation final without prior notice and opportunity for comments and without a 30-day delay in effective date under the Administrative Procedure Act. For the same reasons, notice and opportunity for comment are not required under the regulatory policies and procedures of the Department of Transportation because it is not anticipated that such action would result in the receipt of useful information. Accordingly, this final rule is effective upon issuance.

Since the changes being adopted in this document are primarily nonsubstantive in nature and merely clarify the existing regulation, the anticipated economic impact, if any, is minimal. Therefore, a full regulatory evaluation is not required.

PART 391—[AMENDED]

In consideration of the foregoing, the FHWA is amending 49 CFR 391.49 by revising paragraphs (c)(3), (e) (2) and (3), (g), and (i)(8), and adding (e)(4) as follows:

§ 391.49 Waiver of certain physical defects.

* * * * *

(c) * * *

(3) Description of the vehicle(s) the driver applicant intends to drive:

(i) Truck, truck-tractor, or bus make, model, and year (if known);

(ii) Drive train;

(A) Transmission type (automatic or manual—if manual, designate number of forward speeds);

(B) Auxiliary transmission (if any) and number of forward speeds; and

(C) Rear axle (designate single speed, 2 speed, or 3 speed).

(iii) Type of brake system;

(iv) Steering, manual or power assisted;

(v) Description of type of trailer(s) (i.e., van, flat bed, cargo tank, drop frame, lowboy, or pole);

(vi) Number of semitrailers or full trailers to be towed at one time;

(vii) For passenger-carrying vehicles, indicate seating capacity of vehicle; and

(viii) Description of any vehicle modification(s) made for the driver applicant; attach photograph(s) where applicable.

* * * * *

(e) * * *

(2) Evaluate the driver with a road test using the trailer the motor carrier intends the driver to transport or, in lieu of, accept a certificate of a trailer road test from another motor carrier if the trailer type(s) is similar or accept the trailer road test done during the Skill Performance Evaluation if it is a similar trailer type(s) to that of the prospective motor carrier;

Note.—Job tasks, as stated in paragraph (e)(3) of this section, are not evaluated in the Skill Performance Evalulation.

(3) Evaluate the driver for those nondriving safety-related job tasks associated with whatever type of trailer(s) will be used and any other nondriving safety-related or job-related tasks unique to the operations of the employing motor carrier; and

(4) Use the driver to operate the type of motor vehicle defined in the waiver only when the driver is in compliance with the conditions and limitations of the waiver.

* * * * *

(g) The Regional Federal Highway Administrator may require the driver applicant to demonstrate his or her ability to to safely operate the motor vehicle(s) the driver intends to drive to an agent of the Regional Federal Highway Administrator. The waiver form will identify the power unit (bus, truck, truck-tractor) for which the waiver has been granted. The waiver forms will also identify the trailer type used in the Skill Performance Evaluation; however, the waiver is not limited to that specific trailer type. A driver may use the waiver with other trailer types if a successful trailer road test is completed in accordance with paragraph (e)(2) of this section. Job tasks, as stated in paragraph (e)(3) of this section, are not evaluated during the Skill Performance Evaluation.

* * * * *

(i) * * *

(8) A medical evaluation summary pursuant to paragraph (d)(3) of this section if an unstable medical condition exists. All handicapped conditions classified under § 391.41(b)(1) are considered unstable.

Note.—Refer to paragraph (d)(3)(ii) of this section for the condition under § 391.41(b)(2) which may be considered medically stable.

* * * * *

(Catalog of Federal Domestic Assistance Number 20.217, Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

(49 U.S.C. 3102; 49 CFR 1.48 and 301.60)

List of Subjects in 49 CFR Part 391

Highways and roads, Highway safety, Motor carriers, Motor vehicle safety—driver qualifications, Motor carriers—handicapped driver waiver.

Issued on: September 24, 1984.

Kenneth L. Pierson,

Director, Bureau of Motor Carrier Safety.

[FR Doc. 84-25751 Filed 9-27-84; 8:45 am]

BILLING CODE 4910-22-M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1039 and 1300

[Ex Parte No. 387]

Railroad Transportation Contracts

AGENCY: Interstate Commerce Commission.

ACTION: Final rules; correction.

SUMMARY: At 47 FR 50261, November 5, 1982, the Commission published final rules which implemented provisions of the Staggers Rail Act of 1980 which provide for filing contract rates and for filing complaints related to these contracts. In setting out the final rules, an error was made in the heading for Part 1039. This notice corrects that error.

FOR FURTHER INFORMATION CONTACT: Mont Burrup, (202) 275-6447.

SUPPLEMENTARY INFORMATION: At 47 FR 50262, November 5, 1982, the heading "PART 1039—CONTRACTS" is corrected to read as follows:

PART 1039—CONTRACTS AND EXEMPTIONS

James H. Bayne,

Secretary.

[FR Doc. 84-25804 Filed 9-27-84; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 49, No. 190
Friday, September 28, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 93

[Docket No. 24255; Notice 84-18]

Temporary Suspension of Subpart L of Part 93

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: The FAA proposes to issue a Special Federal Aviation Regulation (SFAR) which would temporarily suspend the special air traffic rules and communication requirements at Airpark-Dallas Airport, in order to conduct an evaluation of the continued need for those procedures. Affected operations, during the effective period of this rule, would be covered by the appropriate provisions of Federal Aviation Regulations (FAR) Part 91, General Operating Rules. Should a determination be made that there is a need to retain the special rules for Airpark-Dallas Airport, the proposed SFAR would be allowed to expire. On the other hand, if revocation of the special rules is indicated by the evaluation, the proposed SFAR would be extended until appropriate general rulemaking action to revoke the rules can be completed.

DATES: Comments must be received on or before November 27, 1984.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of Chief Counsel, Attention: Rules Docket (AGC-204), 800 Independence Avenue, SW., Washington, D.C. 20591, or deliver comments in triplicate to FAA, Rules Docket, Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

An informal docket may also be examined during normal business hours at the office of the regional air traffic division.

FOR FURTHER INFORMATION CONTACT: Mr. Brent A. Fernald, Airspace and Air Traffic Rules Branch (AAT-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8626.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the docket and be submitted in duplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 24255." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Current Rule

Section 91.87 provides, in part, that no person may, within an airport traffic area (ATA), operate an aircraft to, from, or on an airport having a control tower operated by the United States unless two-way radio communications are maintained between that aircraft and the control tower. This provision does not apply, however, to aircraft operations under visual flight rules (VFR) to or from a satellite airport in the ATA. Section 91.85 provides, in part, that unless authorized or required by Air Traffic Control (ATC), no person may operate an aircraft within an ATA except for the purpose of landing at, or taking off from, an airport within that area. While this situation can be acceptable where traffic volume is light at the satellite airport and only light to moderate at the primary airport, it becomes unacceptable where there is a high volume of traffic to or from the primary airport. Historically, in unacceptable cases the FAA has resorted to special rulemaking under FAR Part 93 in order to maintain safety and efficient utilization of airspace.

One of these cases is Part 93, Subpart L, which requires each person operating an aircraft to or from the Airpark-Dallas Airport, Texas, to establish and maintain two-way radio communications with Addison, Texas, Airport Traffic Control Tower (ATCT). The rule requires aircraft landing at Airpark-Dallas to enter the Airpark-Dallas traffic pattern east of the airport, at or below 500 feet above ground level (AGL), and execute a left traffic pattern for a south landing or a right traffic pattern for a north landing. Aircraft departing Airpark-Dallas Airport must exit the traffic pattern to the east. In this manner segregation is accomplished between Airpark-Dallas traffic and the traffic operating to or from the Addison Airport.

Historical Background

On December 6, 1965, the FAA circularized a Notice of Proposed Establishment of a New Airport at Hebron, Texas. The proposed airport

was to be designated as a private airport, but would have limited public use. An airport airspace Notice of Determination, 65–FTW–30NR, dated April 15, 1966, was issued for Airpark-Dallas Airport. The determination stated that the FAA had no objections to the establishment of that airport provided:

1. All traffic patterns were east of the airport;

2. Two-way radio communications must be established with Addison ATCT by each aircraft prior to operating to or from the airport; and,

3. The sponsor of Airpark-Dallas Airport contact Addison ATCT Chief for the purpose of establishing traffic patterns and radio procedures.

On June 22, 1966, the airport manager implemented the provisions of 65–FTW–30NR determination.

An addison ATCT report dated May 18, 1971, indicated that more than 30 percent of the Airpark-Dallas operations did not comply with the airspace determination requirements. An Addison ATCT report dated August 2, 1976, indicated that during the period of July 1–31, 1971, 236 aircraft out of a total 786 aircraft did not comply with the airspace determination requirements.

On December 12, 1971, the FAA's Southwest Region, Air Traffic Division (ASW–500), requested an amendment to Part 93 to specify communication and traffic pattern requirements to Airpark-Dallas Airport. Part 93, Subpart L, became effective February 13, 1973.

On October 5, 1982, ASW–500 requested action be initiated for the revocation of subpart L. The request stated that in keeping with the Administrator's regulatory review, the rule is not warranted, that similar situations exist at other airports which do not require a special rule, and that the rule serves no useful purpose at the Addison Airport.

In a recent survey of activity at these airports, both the air traffic facility (Addison ATCT) and the responsible Flight Standards District Office reported that no significant problems existed. In this case, the FAA is sufficiently confident that the provisions of the present Part 157 airspace determination can safely accommodate the Airpark-Dallas traffic patterns in the Addison Airport ATA. Further, it is the FAA's policy that a Part 93 rule will be issued only in cases when noncompliance with any Part 157 airport determination will cause a safety problem. Since Subpart L procedures have been in effect for over 10 years, the FAA believes it is necessary to precede revocation with this evaluation. During the evaluation, the FAA proposes to update the Airport Facility Directory as necessary to reflect the Part 157 determination provisions.

A Request for Information

In order to evaluate the proposed revocation the following specific information is requested of pilots using Airpark-Dallas:

1. What is the traffic volume at Airpark-Dallas and how does it compare with the volume that precipitated the rule or the volume during July 1971?

2. How many aircraft based at Airpark-Dallas are not radio equipped?

3. At what airport do you operate?

4. What type of operation do you conduct, i.e., air taxi, charter, instruction, commercial, pleasure?

5. What types of aircraft do you operate?

6. How many hours per week, month, or year do you fly?

7. How long have you based your operation at your present airport?

8. How do you operate into and out of Airpark-Dallas when Addison is closed?

The FAA has determined that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 93

Air traffic control; airports; navigation (air).

The Proposed Amendment

PART 93—[AMENDED]

Accordingly, the Federal Aviation Administration proposes to amend Part 93 of the Federal Aviation Regulations (14 CFR Part 93). By adding a Special Federal Aviation Regulation as follows:

SFAR No.————————

Subpart L, Part 93, Addison (Texas) Airport Traffic Area, which governs Airpark-Dallas Airport, is suspended. This Special Federal Aviation Regulation terminates (1 year after its effective date) unless extended, superseded or rescinded.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983)); and 14 CFR 11.65)

Issued in Washington, D.C., on August 14, 1984.

R.J. Van Vuren,

Associate Administrator for Air Traffic.

(FR Doc. 25747 Filed 9–27–84; 8:45 am)

BILLING CODE 4910–13–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1, 3, 4, and 21

Regulation of Foreign Futures Transactions in the United States

AGENCY: Commodity Futures Trading Commission.

ACTION: Advance notice of proposed rulemaking; extension of comment time.

SUMMARY: On July 25, 1984, the Commodity Futures Trading Commission ("Commission") published in the **Federal Register** an advance notice of proposed rulemaking on the regulation of foreign futures transactions in the United States. 49 FR 29903. Specifically, the Commission is seeking public comment to assist in determining the need for a more formal regulatory program with respect to foreign futures activities in the United States and to assess whether rules governing such activities need to be promulgated at the present time. The comment period on the advance notice of proposed rulemaking is to expire on September 24, 1984.

By letter dated August 29, 1984, the Futures Industry Association, a national trade association representing over 100 futures commission merchants, requested that the comment period be extended for a six week period so that it may fully address the issues raised in the advance notice of proposed rulemaking. In order to ensure that all interested parties have an opportunity to submit comments, the Commission has determined to grant the request for an extension of the comment period.

DATES: Accordingly, notice is hereby given that all comments on the Commission's advance notice of proposed rulemaking on the regulation of foreign futures transactions in the United States (49 FR 29963, July 25, 1984) must be submitted by November 5, 1984.

FOR FURTHER INFORMATION CONTACT: Robert H. Rosenfeld, Attorney, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581. Telephone: (202) 254–8955.

Issued in Washington, D.C., on September 25, 1984, by the Commission.

Jean A. Webb,

Deputy Secretary of the Commission.

[FR Doc. 84-25099 Filed 9-27-84; 8:45 am]

BILLING CODE 6351-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL-2681-5]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Notice of reproposal.

SUMMARY: The State of Indiana on August 19, 1983, submitted a draft State Implementation Plan (SIP) for lead. USEPA parallel processed this submittal in order to meet the schedule provided in the USEPA and Natural Resources Defense Council (NRDC) Court Order dated July 26, 1983. This previously proposed SIP revision was designed to provide for the attainment and maintenance of the National Ambient Air Quality Standards (NAAQS) for lead.

USEPA noted several deficiencies in the draft SIP. Specifically, these deficiences were the lack of an adequate ambent lead monitoring network in the vicinity of several stationary lead sources; the failure of the State to demonstrate attainment of the standard in areas where violations of the lead standard were measured since January 1, 1974; and the failure of the State to include process fugitive emissions and verify certain aspects of the emission inventory. Indiana committed itself on November 21, 1983, to correct these deficienoies and submit a plan which would meet all requirements for an approvable lead SIP.

Based on USEPA's review and analysis of the draft SIP submittal before it, USEPA proposed disapproval of the entire Indiana Lead Plan, with the exception of the lead New Source Review Program which was proposed for approval, in the December 29, 1983 (48 FR 57318) Federal Register. Since publication of this Notice of Proposed Rulemaking, the State of Indiana has submitted additional information to satisfy the major deficiencies in the Lead Plan. These additional State submittals and technical information were submitted to USEPA on these dates: October 18, 1983, February 20, 1984; March 1, 1984; April 13, 1984; May 4, 1984, May 7, 1984; May 21, 1984; and June 8, 1984.

The purpose of today's notice is to announce receipt of the additional information for the Indiana Lead SIP, discuss the results of USEPA's review and repropose rulemaking action on the Plan. Today, USEPA is proposing to approve the entire Indiana Lead Plan based on the additional technical information submitted by the State, with the understanding that operating permits containing emission limits and operating requirements for these companies, enforceable by the State and consistent with the SIP inventory, will be submitted prior to the close of the public comment period.

USEPA will not be addressing in today's Federal Register any of the public comments received in response to USEPA's December 29, 1983, notice of proposed rulemaking. All of the public comments received before today's notice of reproposal and after will be addressed in the final rulemaking.

DATE: Comments on these revisions to the Indiana Lead Plan and on the reproposed USEPA action must be received on or before November 27, 1984.

ADDRESSES: Copies of the SIP revision are available at the following addresses for review. (It is recommended that you telephone Anne E. Tenner, at (312) 886-6036, before visiting the Region V office.)

U.S. Environmental Protection Agency, Air and Radiation Branch, Region V (5AR-26), 230 South Dearborn Street, Chicago, Illinois 60604.

Indiana Air Pollution Control Division, Indiana State Board of Health, 1330 West Michigan Street, Indianapolis, Indiana 46206.

Comments on this proposed rule should be addressed to: (Please submit an original and five copies if possible.) Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR-26), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Anne E. Tenner, (312) 886-6036.

SUPPLEMENTARY INFORMATION:

I. Background

On October 5, 1978, USEPA promulgated National Ambient Air Quality Standards (NAAQS) for lead (43 FR 46258). Both the primary and secondary standards were set at a level of 1.5 micrograms of lead per cubic meter of air ($\mu g/m^3$) maximum arithmetic mean as averaged over a calendar quarter. Section 110(a)(1) of the Clean Air Act (Act) requires each State to submit a SIP which provides for the attainment and maintenance of the primary and secondary NAAQS.

The general requirements for a SIP are outlined in section 110(a)(2) of the Act and USEPA regulations at 40 CFR Part 51, Subpart B. Specific requirements for developing a lead SIP are set forth in 40 CFR Part 51 Subpart E and the Supplementary Guidelines for Lead SIPs. These provisions require the submission of air quality data, emission data, air quality modeling, a control strategy, demonstration that the NAAQS will be attained within the time frame specified by the Act, and provisions for insuring maintenance of the NAAQS.

An attainment demonstration is required: (1) in the vicinity of the following sources which emit 5 or more tons of lead per year—primary lead smelters, secondary lead smelters, primary copper smelters, lead gasoline additive plants, and lead-acid storage battery manufacturing plants that produce 2,000 or more batteries per day; (2) in the vicinity of any other stationary source that emits 25 or more tons of lead per year, or (3) in any other area that has had measured lead concentrations in excess of the NAAQS for lead since January 1, 1974.

In addition, USEPA established lead monitoring and data handling requirements in a September 3, 1981, notice (46 FR 44159), which was codified at 40 CFR Part 58. Indiana's response to all of these requirements is addressed in today's notice.

II. Indiana's Lead SIP

The State of Indiana submitted a draft SIP for the attainment and maintenance of the lead NAAQS on August 19, 1983. This plan included a discussion of air quality data measured since 1980, an emission inventory of lead sources, and a rollback modeling analysis for one area. Indiana believed at that time that there were no lead sources in Indiana large enough to require an attainment demonstration and stated that there were no violations of the ambient lead standard recorded since 1980 in Indiana.

Air Quality Monitoring Data

There were 14 lead monitoring sites operating in the State of Indiana as of December 31, 1982. The State submitted all available lead monitoring data for the period of 1980-1983, (including only first quarter 1983 data). Although these data show no violations of the lead standard, USEPA was not convinced that the standard was being met in all areas of the State and noted that Indiana had not submitted all relevant

data. Following the requirements for developing a lead SIP (40 CFR Part 51, Subpart E), USEPA considered all lead air quality data measured in Indiana since January 1974. These data showed violations of the ambient lead standard at two sites in East Chicago (near the Inland Steel and J&L Steel plants) in 1976, 1977, and 1978; at one site in Jeffersonville in 1978; at the Hessville Fire Station site in Hammond in 1977; and at one site in New Albany in 1978.

Indiana Lead Sources

The Indiana Plan also addresses areas of the State where there are lead sources having significant lead emission levels. According to the Plan, these geographic areas are:

A. Mobile Source Related Sites

1. Borman Expressway (I–80/94) east of Cline Avenue (Indiana 912) to a point west of Indianapolis Boulevard (Indiana 152/US–20).

2. Jeffersonville monitoring site at junction of I–65/U.S. 62 (Clark County).

B. Stationary Source Related Sites

1. Quemetco (Indianapolis in Marion County), a secondary lead smelter.

2. G.M. Delco Remy (Muncie in Delaware County), a lead acid battery manufacturing plant.

3. Hammond Lead Product (Hammond in Lake County), a lead oxide manufacturing plant.

4. Inland Steel (East Chicago in Lake County), iron and steel manufacturing plant.

5. J&L Steel (East Chicago in Lake County), iron and steel manufacturing plant.

6. U.S. Steel Corporation (Gary in Lake County), iron and steel manufacturing plant.

7. Bethlehem Steel (Burns Harbor in Porter County), iron and steel manufacturing plant.

8. Corning Glass (Bluffton in Wells County), a lead glass manufacturing plant.

Each of these areas are addressed separately below.

Mobile Source Related Sites

The Frank Borman Expressway was included as a study area due to the high volume of vehicular traffic. The geographic area was not considered to be impacted by lead emissions from any industrial source. To demonstrate that this area is attaining the NAAQS, Indiana submitted a rollback analysis for this site. The analysis demonstrated that using the highest recorded ambient quarterly lead level of 0.80 $\mu g/m^3$ (third quarter, 1982), the projected ambient lead concentration for 1985 is calculated to be 0.78 $\mu g/m^3$. This shows that the lead standard was attained in this study area in 1982 and will be maintained through continuation of the Federal program to phase down lead in leaded gasoline. Therefore, USEPA proposes approval of this portion of the plan.

USEPA has also identified the Jeffersonville monitor in Clark County at the junction of I–65 and U.S. 62 as being a mobile source related site. There are no significant lead emitting point sources in the vicinity of this monitor. The major sources of lead are highway vehicle related. A rollback analysis was conducted previously by a contractor for USEPA. The analysis demonstrated that using the highest recorded ambient quarterly average of 1.74 $\mu g/m^3$ (fourth quarter, 1978), the estimated quarterly average in 1982 would be 0.67 $\mu g/m^3$. The recent ambient air quality data verify that the standard for lead was attained at the Jeffersonville lead monitor in 1982 and will be maintained through continuation of the Federal program to phase down lead in leaded gasoline. Therefore, USEPA proposes approval of this portion of the plan.

Stationary Source Related Sites

The Bluffton study area in the vicinity of Corning Glass Company, was identified as a major significant lead source. However, no air quality impact analysis was conducted because the State indicated that this source is permanently shut down. Indiana confirmed this in a November 21, 1983, letter to USEPA. If the source will operate in the future, then Indiana confirmed it will be subject to New Source Review. Consequently, no control strategy is necessary for this source. Therefore, USEPA proposes approval of this portion of the plan.

Concerning the remaining lead stationary source areas listed, the State of Indiana in a letter to USEPA dated November 21, 1983, committed to addressing those technical deficiences identified in the December 29, 1983, **Federal Register** notice, and to provide the supplemental information needed by USEPA to complete its evaluation.

Since this additional technical information to satisfy the major deficiencies in the Lead Plan was not provided by the time the Notice of Proposed Rulemaking was published, USEPA proposed disapproval of the entire Indiana Lead Plan, with the exception of the New Source Review portion.

As a result of these actions, the State of Indiana submitted additional information to USEPA to satisfy the above mentioned deficiencies. On February 20, 1984, additional information was submitted to USEPA which consisted of revised emission estimates for Quemetco, Delco Remy, and Hammond Lead, in addition to an update on the State's progress in establishing monitors near Hammond Lead, Quemetco, Delco Remy, and Bethlehem Steel.

On March 1, 1984, the State submitted to USEPA their Lead SIP (as adopted by the Indiana Air Pollution Control Board), which consisted of a lead emission inventory, ambient lead data from 16 monitors located in East Chicago, Gary, Hammond, and Indianapolis for the period 1980–1983 (First Quarter only for 1983) and the State's Permits and New Source Review Regulations, 325 IAC 2–1, 2–2, and 2–3.

On April 13, 1984, the State submitted to USEPA additional technical support for their lead plan, which consisted of (1) a modified rollback analysis for New Albany and (2) revised emission inventories and dispersion modeling both for Quemetco and for sources in the East Chicago/Hammond area.

On May 4, 1984, the State submitted to USEPA further technical support, which consisted of (1) revised emission inventories and revised modeling both for Quemetco and for sources in the East Chicago and Hammond areas, (2) documentation of improvements to the State's ambient lead monitoring networks and (3) updated ambient data from 23 monitors located around the State for the period 1980–1983, and (4) operating permits for Quemetco.

On May 7, 1984, the State informed USEPA that its lead plan was promulgated by the State of Indiana on April 24, 1984.

Additionally, on May 21, 1984, maps showing the locations of the new monitors near Bethlehem Steel, Delco Remy, Hammond Lead and Quemetco were submitted to USEPA. On June 8, 1984, an additional operating permit for Quemetco was submitted to USEPA, and USEPA's technical review and analysis of the new information submitted by the State are discussed below for each area.

Indianapolis—Marion County (Quemetco)

a. *State's November 21, 1983, Commitment:* The State committed to re-examine the emission inventory of this facility including fugitive emissions from the lead tapping operation and casting operation. If the revised emission inventory indicates that this secondary smelter is a "point source" (a secondary smelter that has potential to emit lead to the atmosphere greater than 5 tons/year), then the State committed to model

the source and, if necessary, develop a control strategy.

State Action: The May 4, 1984, State submittal contained a revised emission inventory for Quemetco which includes all stack and process fugitive emissions. This inventory shows Quemetco emits less than 5 T./yr. of lead. USEPA reviewed and determined that the State's inventory is acceptable. The revised inventory includes emissions from two newly installed capture hoods which are vented to a baghouse on casting operations and on Reverbatory Furnace tapping. Additional information on these controls is contained in the May 4, 1984, State submittal and technical support document located at Region V's office. A permit reflecting these controls was submitted to USEPA on June 8, 1984. An Attorney General opinion on the enforceability of these controls is needed. Furthermore, the complete set of operating permits must be approved to insure that the emission level and associated controls in the Lead SIP are enforceable.

Although no lead violations have been measured in the vicinity of Quemetco and although Quemetco now emits less than 5 T./yr. of lead, 40 CFR 51.80 requires a demonstration of attainment in the vicinity of secondary lead smelters such as Quemetco, which would emit 5 or more tons of lead per year without the new control equipment. Prior to the installment of the capture hoods discussed above, emission estimates for Quemetco exceeded 5 tons/year. As a result, a demonstration of attainment is still required to ensure that control measures are adequate to protect the lead NAAQS.

On May 4, 1984, the State of Indiana submitted a dispersion modeling analysis based on the Climatological Dispersion Model (CDM). The State used CDM instead of the Industrial Source Complex Model (ISC), which is considered to be the reference model for lead SIPs. This was determined to be acceptable because the inventory did not contain the detailed information needed to take advantage of a sophisticated model like ISC (i.e., for the inventory at hand, CDM and ISC will give similar results).

The results of the modeling analysis indicated that the lead emissions from Quemetco will not result in a violation or interfere with attainment of the lead NAAQS. The maximum predicted total quarterly average was 0.65 $\mu g/m^3$. These results demonstrate attainment of the lead NAAQS in the vicinity of Quemetco.

b. *State's November 21, 1983, Commitment:* The State committed to investigate the existing monitoring site for consistency with USEPA lead siting criteria. If found to be unacceptable, then Indiana committed to move the monitor to a site acceptable to both USEPA and the State in order to measure the impact of the lead emissions from Quemetco.

State Action: In the May 4, 1984, submittal, the State of Indiana stated that a new lead monitor (located at 0.6 km NE of the plant) started operating on January 25, 1984. The location meets USEPA monitoring requirements. As a result, the new monitor satisfies the ambient monitoring requirement.

c. *State's November 21, 1983, Commitment:* The State committed to confirm that the lead blast furnace at Quemetco is permanently shut down. If it were, then the State committed to treat this furnace as a new source subject to Indiana's New Source Review procedures and requirements, if this furnace is ever reactivated.

State Action: In an October 18, 1983 submittal, the State of Indiana included a letter dated September 20, 1983, from the City of Indianapolis which stated that (1) the blast furnace last operated in February 1976, (2) the last permit for the blast furnace expired in October 1980, and (3) in order to re-operate the blast furnace, an installation permit and New Source Review would be required. The latter statement reconfirms the State's commitment in its November 21, 1983, letter.

Finally, in both the April 13, 1984, and May 4, 1984, submittals, the State indicated that the blast furnace has been deleted from the emission inventory because the State has designated it as a "process shutdown".

This deletion confirms the permanent shutdown of this source. In order for this source to re-operate, it must first satisfy all the applicable New Source Review requirements. This review will assure that NAAQS for lead will not be violated.

USEPA Finding: USEPA proposes to approve the Indiana lead SIP for the Quemetco area.

Muncie—Delaware County (Delco Remy)

a. *State's November 21, 1983, Commitment:* The State committed to investigate the adequacy of the existing control on the reverbatory furnace and determine if the roof vent above the charging door has been permanently closed. If this vent no longer has a purpose, then the State committed to ask Delco Remy to seal it permanently. The State committed to inform USEPA of the results of its investigation and request, and to take any appropriate action required by USEPA.

State Action: In the February 20, 1984 submittal, the State of Indiana Stated that (1) the existing controls on the reverbatory furnace (two baghouses) are adequate for this operation and (2) the roof vent above the charging door has been shut with steel channels, electric power to the vent has been removed, the reclaim furnace has been shutdown since July 1, 1983, and the vent will not be used when the reclaim furnace starts up again. These facts were based on a State on-site inspection report dated November 29, 1983. USEPA accepts the State's evaluation and considers this issue to be resolved.

b. *State's November 21, 1983, Commitment:* The State committed to evaluate further the adequacy of the existing monitors near Delco Remy. If the monitors operated by Delco Remy are determined to be adequately located, then Indiana committed to assure the quality of these data. If the monitors are found to be improperly located for lead monitoring, then the State committed to insure that a monitor be installed or relocated and properly operated at a mutually acceptable site to measure the impact of lead emissions from Delco Remy.

State Action: In an earlier submittal dated October 18, 1983, the State submitted lead concentrations measured at two monitors operated by Delco Remy at the Anderson and Muncie Gas Company sites from 1981 (third quarter) to 1983 (second quarter). Although these data show no violations of the NAAQS, neither of these sites are representative of the expected maximum impacts from Delco Remy (i.e., the Muncie site is about 1.8 km away and the Anderson site is over 20 km away).

In the May 4, 1984 and May 21, 1984 submittals, the State of Indiana stated that a new lead monitor (which is located at the Federal Credit Union Building across the facility's parking lot) started operating in May 1984. This location comports with EPA monitoring requirements.

As a result, the new monitor and the Muncie Gas site monitor (identified in the State's May 21, 1984, submittal (and the October 18, 1983, letter)) together provide an adequate network, which will satisfy the ambient monitoring requirement.

USEPA Finding: USEPA proposes to approve the Indiana lead SIP for the Delco Remy area.

Hammond—Lake County (Hammond Lead Products)

a. *State's November 21, 1983, Commitment:* The State committed to review and revise, as necessary, the emission inventory for Hammond Lead including the facility's fugitive emissions and the lead emissions from the new plant. Based on this revised emission inventory, the State committed to take any action required by 40 CFR Part 51, Subpart E.

State Action: In the February 20, 1984 submittal, the State of Indiana stated that no fugitive dust sources were found during a December 1, 1983, inspection. Additionally, the State noted that they had reviewed the emission estimates provided by Hammond Lead (which had been previously reviewed by the local agency) and determined that the inventory was complete and accurate.

The May 4, 1984 submittal, included a more detailed discussion of emission sources of Hammond Lead's existing (Halox/Lead Division) and new operations at the Halsted Division. As a result, USEPA has determined that the State's review and evaluation of the emission inventory is acceptable.

However, since the inventory emission limits appear to derive from the existing operating permits for Hammond Lead, it will be necessary for the State to submit and USEPA to approve as SIP requirements these permits before this portion of the strategy is fully approvable. An opinion from the Indiana Attorney General as to the enforceability of these permit conditions is also required.

Under 40 CFR 51.85, rollback at a minimum, must be performed in the vicinity of a monitor that has recorded a lead violation since January 1, 1974. During the first quarter of 1977, a concentration of 1.64 $\mu g/m^3$ was measured at the Hessville Fire Station located 2 km east of Hammond Lead (Halox/Lead Division), the largest source of lead emissions in the area. Since the Hessville monitor is not point source oriented and 2 km from Hammond Lead, it cannot be expected to measure the maximum ambient impact from Hammond Lead. As a result, rollback is not appropriate for this monitor; and dispersion modeling was required for this stationary lead source.

On May 4, 1984, the State of Indiana submitted a dispersion modeling analysis based on the CDM model. The State used the CDM instead of the ISC which is considered to be reference model for lead SIPs. This was determined to be acceptable because the inventory did not contain the detailed information needed to take advantage of a sophisticated model like ISC (i.e., for the inventory at hand, CDM and ISC will give similar results.)

The results of the modeling analysis indicate that the lead emissions from Hammond Lead will not result in a violation or interfere with attainment of the lead NAAQS. The highest predicted concentrations occurred around the Halox/Lead Division. The maximum predicted quarterly average around the Halox/Lead Division was 1.25 $\mu g/m^3$. The maximum predicted quarterly average around the Halsted Division was 0.65 $\mu g/m^3$. These results demonstrate attainment of the lead NAAQS in the vicinity of Hammond lead.

b. *State's November 21, 1983, Commitment:* The State committed to select a monitoring site consistent with USEPA's lead siting criteria and committed to install and operate a monitor at a mutually agreed upon site to measure the impact of lead emission from Hammond Lead Products. This commitment was based on the understanding that USEPA would loan Indiana APCD a Hi-Vol monitor for this purpose.

State Action: In the May 4, 1984 submittal, the State of Indiana stated that a new lead monitor which is located 0.4 km south of Hammond Lead started operating of February 12, 1984. The installation/operation of this new monitor satisfies the ambient monitoring requirement.

USEPA Finding: USEPA proposes to approve the Indiana lead SIP for the Hammond Lead area provided the State submits operating permits for Hammond Lead plants prior to the close of the public comment period. If these permits contain the individual emission limitations, operating restrictions and/or controls assumed in the Lead SIP submittal, then USEPA will approve these permits as part of the SIP, provided an opinion from the Indiana Attorney General advises that these permits are legally enforceable.

Burns Harbor—Porter County (Bethlehem Steel)

a. *State's November 21, 1983, Commitment:* The State committed to determine a monitoring site consistent with USEPA lead siting criteria, to install a monitor at a mutually agreed upon site and properly operate it to measure the impact of the lead emissions from Bethlehem Steel.

State Action: In the May 4, 1984, submittal, the State of Indiana stated that Bethlehem Steel began to analyze/report for lead in May 1983 at two sites. The installation/operation of these monitors satisfies the ambient monitoring requirement.

USEPA Finding: USEPA proposes to approve the Indiana Lead SIP for the Bethlehem Steel area.

East Chicago—Lake County (Inland and J&L Steel)

a. *State's November 21, 1983, Commitment:* Indiana committed to submit all ambient lead monitoring data collected in Lake County, as well as the rest of the State, since the State began its analysis for lead in January 1977.

State Action: The State of Indiana submitted all ambient lead monitoring data on April 13, 1984, and May 4, 1984.

b. *State's November 21, 1983, Commitment:* Indiana committed to evaluate all ambient lead data for its reliability and representativeness.

State Action: In its April 13, 1984, submittal, Indiana listed all monitoring sites having quarterly means greater than 1.5 $\mu g/m^3$ according to USEPA data. The listed violations occurred during the period from 1975 to 1979. (Although Indiana contended that all lead data collected prior to mid-1979 is highly questionable, USEPA is not persuaded that these previously measured violations can be dismissed.)

c. *State's November 21, 1983, Commitment:* Indiana committed to provide a demonstration of attainment in any area that has had valid quarterly lead air concentrations in excess of the lead standard since January 1, 1974. This demonstration of attainment, if needed, would be based on the use of dispersion modeling.

State Action: 40 CFR 51.85 requires that rollback as a minimum must be applied in the vicinity of a monitor that has recorded a violation since January 1, 1974. Violations have been measured at two sites in East Chicago: Central Fire Station—1.91 in the third quarter of 1976, 2.09 in the second quarter of 1977, 1.87 in the third quarter of 1987; and 2.19 in the third quarter of 1979; and at Field School—1.67 in the first quarter of 1979. The largest sources of lead emissions in the East Chicago area are Inland Steel and J&L Steel. The sites of the two monitors are not located so as to measure the maximum lead impact from these two sources; therefore, rollback is not appropriate and dispersion modeling is required.

On May 4, 1984, the State of Indiana submitted a dispersion modeling analysis based on the CDM model. The State used the CDM instead of ISC, which is considered to be the reference model for lead SIPs. This was determined to be acceptable because the inventory did not contain the

detailed information needed to take advantage of a sophisticated model like ISC and, under these circumstances, CDM and ISC will give similar results.

The results of the modeling analysis indicate that the lead emissions from East Chicago sources will not result in a violation or prevent attainment of the lead NAAQS. The maximum predicted quarterly average in the East Chicago area was 0.65 $\mu g/m^3$. These results demonstrate attainment of the lead NAAQS in the East Chicago area.

However, in its May 4, 1984, submittal, the State noted that major revisions for both Inland Steel and J&L Steel were made to the emissions inventory used in the modeling. The revisions appear to derive from the existing inventory for these companies. Accordingly, it will be necessary for the State to submit and USEPA to approve the emissions levels contained in the permits as SIP requirements before this portion of the strategy is fully approvable.

USEPA Finding: USEPA proposes approval of the Indiana SIP for the East Chicago area provided the State, prior to the close of the public comment period, submits as a part of its lead plan State enforceable individual emission limitations, operating restrictions, and/or controls for Inland Steel and J&L Steel reflective of the emission inventory. If such requirements are submitted, then USEPA will approve them as part of the SIP.

New Albany—Floyd County

In its review of all ambient monitoring data collected since 1974, USEPA discovered that a violation of the standard occurred during the fourth quarter of 1978 at a site in New Albany in Floyd County. This area was not included in any of the mobile source or stationary source related sites listed above because of insufficient emission data.

USEPA proposed disapproval of the New Albany plan in Floyd County in the December 29, 1983, **Federal Register** (48 FR 57318), because the State had vailed to submit information addressing this previously measured violation or to make a demonstration that the current plan would assure attainment and maintenance of the lead standard in Floyd County.

State Action: 40 CFR 51.85 requires that rollback, at a minimum, must be applied in the vicinity of a monitor that has recorded a lead violation since 1974. During the fourth quarter of 1978, a concentration of 1.78 $\mu g/m^3$ was measured at the New Albany monitor. The April 13, 1984, submittal contained a rollback analysis using a 1978 base year and a 1984 projection year. This analysis, demonstrating attainment of the lead NAAQS well before the projection year, is consistent with the general rollback procedures for lead SIPs and is considered to be acceptable.

The maximum measured quarterly average during the most recent year (1981) of available data (0.52 $\mu g/m^3$) is consistent with the projected maximum quarterly average of 0.52 $\mu g/m^3$.

USEPA Finding: USEPA proposes to approve the lead SIP for the New Albany area.

III. New Source Review (NRS)

The State indicated that the NRS requirement for the lead SIP is satisfied by its revised permit Rule 325 IAC 2-1.1, which requires that sources with potential emissions of 1 ton or more per year of lead must obtain a permit for the construction of new sources and modifications of existing sources. This regulations was submitted to USEPA as a revision to the SIP on May 7, 1984. In addition to changes from the SIP NSR regulation (1979 APC 19) in relation to lead, this revised NRS regulation contains changes in the definition of "source". USEPA will propose rulemaking on this revised regulation in a future **Federal Register** notice.

A lead SIP need only require review of any new source that has the potential to emit 5 (or more) tons of lead per year and of any modification to a point source, i.e., actual emissions greater than 5 tons per year, if the modification will result in a net increase of potential emissions of 0.6 (or more) tons per year. Therefore, provided 325 IAC 2-1.1 is otherwise approvable, Indiana has an adequate NSR plan for lead. Although USEPA proposed approval of this part of the SIP in the December 29, 1983, **Federal Register** (48 FR 57318), and it is re-proposing approval again here, it will not take final rulemaking action on this part of the lead SIP until it rulemakes on 325 IAC 2-1.1 as a whole.

IV. Monitoring Plans

On September 3, 1981 (46 FR 44159), USEPA published its final rules pertaining to Ambient Lead Monitoring and Data Handling, codified at 40 CFR Part 58. The rules call for the development of a State monitoring plan for lead and its inclusion into the surveillance and ambient monitoring program. These plans must meet USEPA's monitoring requirements, including scheduling requirements, requirements concerning the establishment of a monitoring network, and data handling and reporting procedures.

On November 30, 1981, the State of Indiana submitted to USEPA a revision to its SIP which provides for the establishment of an air quality surveillance network for lead. The submittal included a description of the proposed network and committed the State to the implementation of statewide State and Local Air Monitoring Sites Stations (SLAMS) and National Monitoring Sites Stations (NAMS), operated in accordance with the criteria given in Subpart B of 40 CFR Part 58. Each SLAMS lead monitor will meet the lead siting criteria given in 40 CFR Part 58, Appendix E, Section 7. Ambient air quality monitoring methodologies used in the SLAMS network will either follow those in 40 CFR Part 58, Appendix E, or will be equivalent. The quality assurance procedures of Appendix A to 40 CFR Part 58 will be followed while operating SLAMS sites and processing air quality data.

The lead monitoring stations will be reviewed on an annual basis and modified as needed, to eliminate unnecessary sites or to correct inadequacies indicated by the annual review. No changes will be made to the network unless prior approval is given by USEPA. The annual SLAMS summary report will be submitted to USEPA by July 1 of each year.

On July 8, 1983, USEPA approved the proposed NAMS lead network (consisting of four monitoring sites) for the State of Indiana. It should also be noted that a SLAMS network consisting of nine monitoring sites was approved, in addition to the eight new sites discussed in this notice.

USEPA's original review of the Indiana lead monitoring plan revealed that it met all applicable requirements with the exception of 40 CFR Part 58, Appendix D, Section 2.7, which requires lead monitoring in the vicinity of significant lead sources. In an October 19, 1983, letter, USEPA informed the State that they were required to install lead monitors in these areas. Per the discussion above, the State of Indiana has installed lead monitors in certain identified areas as documented in the May 4, 1984, submittal, and May 21, 1984, letter (which included maps showing locations of monitors near stationary sources). Therefore, USEPA is proposing approval of the revised Indiana Air Quality Surveillance Plan in today's **Federal Register** notice.

V. Summary

Because the State of Indiana has corrected all the major deficiencies in the lead plan, USEPA is proposing to approve the entire lead plan in today's

Federal Register notice, provided State enforceable individual emission limitations, operating restrictions, and/or controls for specified sources are submitted as plan provisions prior to final USEPA action.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 49 FR 8709).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 52

Intergovernmental relations, Air pollution control, Ozone, Sulfur oxides, Lead, Particulate matter, Carbon monoxides, Hydrocarbons.

(Secs. 110, 301, and 319, Clean Air Act, as amended (42 U.S.C. 7410, 7601 and 7619))

Date: August 27, 1984.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 84-25010 Filed 9-27-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 271

[OSW-FRL 2683-5]

North Carolina; Final Authorization of State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of Tentative Determination on Application of North Carolina for Final Authorization, Public Hearing, and Public Comment Period.

SUMMARY: North Carolina has applied for Final authorization under the Resource Conservation and Recovery Act (RCRA). The Environmental Protection Agency (EPA) has reviewed North Carolina's application and has made the tentative decision that North Carolina's hazardous waste program satisfies all of the requirements necessary to qualify for Final authorization. Thus, EPA intends to grant Final authorization to the State to operate its program in lieu of the federal program. North Carolina's application for Final authorization is available for public review and comment, and a public hearing will be held to solicit comments on the application if significant public interest is expressed.

DATE: If significant public interest is expressed in holding a hearing, a public hearing is scheduled for 7:00 p.m., Tuesday, November 13, 1984. EPA reserves the right to cancel the public hearing if significant public interest in holding a hearing is not communicated to EPA by telephone or in writing by November 7, 1984. EPA will determine by November 9, 1984, whether there is significant interest to hold the public hearing. North Carolina will participate in the public hearing held by EPA on this subject if a hearing is to be held. All written comments on the North Carolina Final authorization application must be received by the close of business on November 13, 1984.

ADDRESSES: Copies of North Carolina's Final authorization application are available from 8:00 a.m. to 4:30 p.m. at the following addresses for inspection and copying:

Department of Human Resources, Division of Health Services, Solid & Hazardous Waste Management Branch, 306 N. Wilmington Street, P.O. Box 2091, Raleigh, North Carolina 27602–2091, Contact: O.W. Strickland, (919) 733–2178

Environmental Protection Agency, Regional Office Library, Room 121, 345 Courtland Street, NE., Atlanta, Georgia 30365, Contact: Carolyn Mitchell, (404) 881–4216

U.S. Environmental Protection Agency, Headquarters Library, PM–211A, 401 M Street, SW., Washington, DC 20460, (202) 382–5926.

Written comments on the application and written or telephoned communication of interest in EPA's holding a public hearing on the North Carolina application must be sent to: Allan E. Antley, Chief, Waste Planning Section, U.S. EPA, 345 Courtland Street NE., Atlanta, Georgia 30365, (404) 881–3016.

If you wish to find out whether or not EPA will hold a public hearing on the North Carolina application based upon EPA's decision that there was significant public interest in such a hearing, write or telephone after November 9, 1984, the EPA contact person listed below, or telephone Mr. O.W. Strickland, Head, Solid and Hazardous Waste Management Branch, Environmental Health Section, Department of Human Resources, Division of Health Services, P.O. Box 2091, Raleigh, North Carolina 27602.

If significant public interest is expressed, EPA will hold a public hearing on North Carolina's application for Final authorization on Tuesday, November 13, 1984, at 7:00 p.m. at McKimmon Center, Western Boulevard, Raleigh, North Carolina.

FOR FURTHER INFORMATION CONTACT: Allan E. Antley, Chief, Waste Planning Section, Environmental Protection Agency, 345 Courtland Steet, NE., Atlanta, Georgia 30365, (404) 881–3016.

SUPPLEMENTARY INFORMATION:

A. Background

Section 3006 of the Resource Conservation and Recovery Act (RCRA) allows EPA to authorize the State hazardous waste programs to operate in the State in lieu of the federal hazardous waste program. Two types of authorization may be granted. The first type, known as "interim authorization," is a temporary authorization which is granted if EPA determines that the State program is "substantially equivalent" to the federal program (Section 3006(c), 42 U.S.C. 6226(c)). EPA's implementing regulations at 40 CFR 271.121–271.137 established a phased approach to interim authorization: Phase I, covering the EPA regulations in 40 CFR Parts 260–263, and 265 (universe of hazardous wastes, generator standards, transporter standards, and standards for interim status facilities), and Phase II, covering the EPA regulations in 40 CFR Parts 124, 264, and 270 (procedures and standards for permitting hazardous waste management facilities).

Phase II, in turn, has three components. Phase II A covers general permitting procedures and technical standards for containers and tanks. Phase II B covers permitting of incinerator facilities, and Phase II C addresses permitting of landfills, surface impoundments, wastepiles, and land treatment facilities. By statute, all interim authorizations expire on January 26, 1985. Responsibility for the hazardous waste program returns (reverts) to EPA on that date if the State has not received Final authorization, as described below.

The second type of authorization is a "Final" (permanent) authorization that is granted by EPA if the Agency finds that the State program (1) is "equivalent" to the federal program, (2) is consistent with the federal program and other State programs, and (3) provides for adequate enforcement (section 3006(b), 42 U.S.C. 6226(b)). States need not have obtained interim authorization in order to qualify for Final authorization. EPA regulations for Final authorization appear at 40 CFR 271.1–271.23.

B. North Carolina

The State received interim authorization for Phase I on December 18, 1981, interim authorization for Phase II, Components A and B, on March 26, 1982, and Component C on February 7, 1984. On January 3, 1984, the State submitted a draft application for Final

authorization. The complete application for Final authorization was submitted on July 10, 1984. Prior to submission of the application to EPA, North Carolina solicited public comments and held a public hearing on June 28, 1984. The State received no written comments. Two attendees made oral comments reflecting their interest in complying with the State's rules and regulations. EPA's comments on the Final application were forwarded to the State on August 16, 1984.

The comments requested North Carolina demonstrate that naturally-occurring and accelerator-produced radioactive wastes which are also RCRA hazardous wastes are regulated under the North Carolina Radiation Protection Act in a manner equivalent to RCRA. The State was also requested to clarify in the Program Description that the Memorandum of Understanding (MOU) between the Department of Human Resources (DHR) and the Department of Natural Resources and Community Development (NRCD) does not abrogate DHR's permitting or enforcement authority. EPA requested that the State agree in the MOA not to oppose citizen intervention in enforcement actions.

North Carolina law does not extend the full range of RCRA control over naturally-occurring and accelerator-produced radioactive wastes. However, EPA has determined, through consultation with the regulated community and research organizations, that no such wastes which would also be RCRA hazardous wastes are known to exist. Therefore, EPA has concluded that it is inappropriate to require North Carolina to demonstrate control over this hypothetical category of wastes to obtain final authorization. The State has provided an addendum to the Program Description which assured EPA that the MOU between NRCD and DHR merely provided consistency between permits and in no way abrogated DHR's authority. By letter dated August 24, 1984, the State agreed in the MOA not to oppose citizen intervention in enforcement actions.

The Solid and Hazardous Waste Management Branch of the North Carolina Department of Human Resources has been evaluated to determine its capability to conduct a quality hazardous waste program. North Carolina has met or exceeded all grant commitments for permits, inspections, enforcement actions, and compliance. The North Carolina permitting program has shown initiative, aggressiveness and a high degree of quality. The State has all the enforcement mechanisms necessary for conducting an effective compliance program. The State's management practices reflect sound planning and execution. The program staff has the technical expertise, the training, and the will to control hazardous waste in North Carolina. To date, the State has operated an exemplary hazardous waste management program.

EPA has reviewed North Carolina's application, and has tentatively determined that the State's program meets all of the requirements necessary to qualify for Final authorization. Consequently, EPA intends to grant Final authorization to North Carolina. Copies of North Carolina's application are available for inspection and copying at the locations indicated in the "ADDRESSES" section of this notice.

EPA will consider all public comments on its tentative determination. Issues raised by those comments may be the basis for a decision to deny Final authorization to North Carolina. EPA expects to make a final decision on whether or not to approve North Carolina's program by January 8, 1984, and will give notice of it in the Federal Register. The notice will include a summary of the reasons for the final determination and a response to all major comments.

Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(B), I hereby certify that this authorization will not have significant economic impact on a substantial number of small entities. The authorization suspends the applicability of certain Federal regulations in favor of the State program, thereby eliminating duplicative requirements for handlers of hazardous wastes in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory Flexibility analysis.

Executive Order 12291

The Office of Management and Budget (OMB) has exempted this rule from the requirements of section 3 Executive Order 12291.

List of Subjects in 40 CFR Part 271

Hazardous materials, Indians-lands, Reporting and record keeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Intergovernmental relations, Penalties, Confidential business information.

(Authority: This notice is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b), EPA Delegation 8-7.

Dated: September 5, 1984.

Charles R. Jeter,

Regional Administrator.

[FR Doc. 84-25705 Filed 9-27-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 721

[OPTS-50513; FRL-2675-6]

Certain Chemicals; Proposed Determination of Significant New Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing significant new use rules (SNURs) under section 5(a)(2) of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2604(a)(2), for four chemical substances which were the subject of premanufacture notices (PMNs) and a TSCA section 5(e) consent order. The Agency is concerned that the substance may present an unreasonable risk to human health if the significant new uses occur.

DATE: Written comments should be submitted by November 27, 1984.

ADDRESS: Since some comments are expected to contain confidential business information (CBI), all comments should be sent in triplicate to: Document Control Officer (TS-793), Office of Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, DC 20460.

Comments should include the docket control number OPTS-50513. Non-confidential versions of comments received on this proposal will be available for reviewing and copying from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays, in Rm. E-107, at the address given above. For further information regarding the submission of comments containing CBI, see Unit XIV of the preamble.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St., SW., Washington, DC 20460, Toll free: (800-424-9065), In Washington, DC: (554-1404), Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION: OMB control number 2070-0012.

I. Authority

Section 5(a)(2) of TSCA authorizes EPA to determine that a use of a

chemical substance is a significant new use. EPA must make this determination by rule, after considering all relevant factors, including those listed in section 5(a)(2). Once a use is determined to be a significant new use, persons must, under section 5(a)(1)(B), submit a notice to EPA at least 90 days before they manufacture, import, or process the substance for that use. Such a notice is subject to the same requirements and procedures as a PMN submitted under section 5(a)(1)(A) of TSCA which are interpreted at 40 CFR Part 720. In particular, these include the information submission requirements of section 5 (b) and (d), certain exemptions authorized by section 5(h), and the regulatory authorities of section 5 (e) and (f) of TSCA. If EPA does not take regulatory action under section 5, 6, or 7 to control a substance on which it has received a SNUR notice, section 5(g) of TSCA requires the Agency to explain its reasons for not taking action in the **Federal Register**.

Substances covered by proposed or final SNURs are subject to the export reporting requirements of TSCA section 12(b). EPA regulations interpreting section 12(b) requirements appear at 40 CFR Part 707. Substances subject to final SNURs are covered by TSCA section 13 import certification requirements at 19 CFR 12.18 through 12.127 and 127.28 published in the **Federal Register** of August 1, 1983 (48 FR 34734). The EPA policy in support of these requirements appears at 40 CFR Part 707 published in the **Federal Register** of December 13, 1983 (48 FR 55462).

II. Applicability of General Provisions

EPA has promulgated general provisions under 40 CFR Part 721, Subpart A which are applicable to SNURs and were published in the **Federal Register** of September 5, 1984 (49 FR 35011). These general provisions will apply to these SNURs without change except as discussed in this preamble. Interested persons should refer to that document for a detailed discussion of the general provisions.

III. Summary of This Proposal

EPA is proposing that manufacture or processing without the use of certain personal protective equipment and certain packaging be designated as significant new uses of the four substances identified in these proposals. The substances, which are identified by their generic chemical names, were the subjects of PMNs P–83–906 (brominated aryl alkyl ether), P–83–908 (ethylated amino phenol), P–83–909 (amino phenol), and P–83–910 (anilino ether) and a TSCA section 5(e) consent order issued by EPA. The Agency is concerned that these substances may present unreasonable risks of injury to human health if the defined significant new uses occur. These uses were not allotted under the section 5(e) consent order. These four substances are being considered together because they were the subject of one section 5(e) consent order, and because they are similar in chemical structure. For purposes of clarity, these substances will be referred to by their PMN numbers throughout this preamble.

IV. Background

On July 5, 1983, EPA received the four PMN submissions which the Agency designated P–83–906, P–83–908, P–83–909, and P–83–910. EPA announced receipt of the PMNs in the **Federal Register** of July 15, 1983 (48 FR 32381). The notice submitter stated that these substances would be used as site-limited intermediates.

In each of the PMN submissions the PMN submitter claimed the following as CBI: company identity, chemical identity, production volume, and use. Under section 14(a)(4) of TSCA, the Agency may disclose confidential information relevant in any proceeding. "[D]isclosure in such a proceeding shall be made in such manner as to preserve confidentiality to the extent practicable without impairing the proceeding." EPA is not convinced that this rulemaking will be so impaired by these claims as to justify disclosure of CBI. Therefore, EPA has decided not to disclose any of the CBI at this time. The Agency specifically request comment on this approach for this SNUR rulemaking.

In the PMN submissions, no data were provided on the health effects of any of the four substances, and EPA's general literature searches provided no additional toxicity data on the substances themselves. However, EPA found toxicity information on chemical analogues to the four substances, which indicates that, by structural analogy, the substances may cause reproductive effects and centrolobular and diffuse hepatotoxicity in humans. These effects are presented in more detail below.

Based upon the physical/chemical characteristics of the four substances as described in the PMN submissions, EPA believes all four of these substances will be readily absorbed by all routes into the body. Based upon analogy to another substituted aminobenzene, the Agency believes that P–83–908, P–83–909, and P–83–910 may cause reproductive effects in humans. The analogue has been shown to cause reproductive effects in rats when administered in the diet for 100 days at 250–500 mg/kg/day. The no observed effect level (NOEL) for this analogue for these effects is 125–250 mg/kg/day. By analogy to a brominated aryl compound similar in structure to P–83–906, the Agency believes that this substance may be a hepatotoxic agent in humans. The analogue has been shown to cause centrolobular and diffuse hepatotoxicity in rats after acute and chronic administration, respectively.

V. Reasons for Proposing These Rules

The Agency evaluated available data and information which indicate that the four substances may present risks to human health. However, because the Agency had to rely heavily on analogue data, it concluded that there is insufficient information to perform a reasoned evaluation of the health effects of these substances at this time. The Agency determined that the substances may present unreasonable risks to human health if manufactured, processed, and distributed in commerce without restriction. The Agency concluded, however, that with certain protective equipment, exposure can be reduced sufficiently to mitigate health concerns. Based on these findings, EPA did not ban these chemical substances, but instead, chose to restrict their manufacture, processing, and distribution in commerce thereby encouraging innovation and allowing potential benefits to society while continuing to protect human health. The Agency and the PMN submitter negotiated a section 5(e) consent order which requires the use of specific personal protection equipment during manufacture and processing of each of the substances and prohibits distribution to others until appropriate data are developed to allow a reasoned evaluation of the substances. The order became effective on November 23, 1983.

The section 5(e) order applies only to the PMN submitter. The four substances will be added to the TSCA Chemical Substance Inventory when EPA received a notice of commencement of manufacture from the PMN submitter. Once the substances are added to the Inventory, other persons could begin to manufacture or process the substances without notice to EPA and without use of the protective equipment required by the section 5(e) order. This manufacturing or processing could allow exposures to occure. Therefore, EPA is proposing to designate manufacture and processing of the substances without certain protective equipment and packaging restrictions as significant new

uses so that the Agency can review those uses before they occur.

Through these SNURs, the Agency would ensure that all manufacturers, importers, and processors are subject to similar reporting requirements and that EPA has an opportunity to review exposure and toxicity information on the substances to that, if necessary, action can be taken to ensure that persons will not be exposed to potentially hazardous levels of these substances. To assist EPA in making a reasoned evaluation of the potential of P–83–906 to elicit hepatotoxic effects in humans, the Agency recommends that notices submitted under the SNUR contain appropriate test data. Notices should contain data that would allow a reasoned evaluation of the potential for P–83–908, P–83–909, and P–83–910 to produce reproductive effects in humans. Studies that would produce the data necessary to evaluate the potential effects of the substances are discussed below. In addition, the Agency would want to see exposure information and any available data to aid in assessing whether exposure can be adequately controlled by means other than those stated in the proposed significant new uses for these substances.

Because of the CBI claims by the PMN submitted, EPA is unable to discuss in greater detail its reasons for proposing these SNURs. The Agency informally spoke with the PMN submitter to see if additional information could be disclosed in connection with these proposed rules without damaging the competitive position of the submitter. The PMN submitter believes that release of any additional information could endanger its competitive position.

VI. Alternatives

EPA will consider other possible approaches to ensuring protection of human health.

1. One alternative would be to promulgate a section 8(a) reporting rule for the substances. Under such a rule, EPA could require any person to report to EPA before manufacturing or processing the substances without the protective equipment and packaging requirements. Because the substances are subject to a section 5(e) order, the normal small business exemption of section 8(a) would not apply. However, the use of section 8(a) rather than SNUR authority has drawbacks in this particular instance. If EPA received a report under section 8(a) indicating that a person intended to manufacture or process any of the subject substances without protective equipment or packaging, the Agency could not take immediate action under section 5(e), as it can under a SNUR, and therefore would not be able to regulate the substances pending development of information. Rather, in a situation such as this, EPA would have to consider regulating the substance under TSCA section 6 which would require a separate rulemaking. Moreover, in view of the current lack of data on the health effects of these substances, EPA would likely have to obtain test data on the substances under section 4 of TSCA to support an action under section 6. This approach could allow unnecessary risks to human health during the time needed for data development. In addition, the original PMN submitter would be at a competitive disadvantage because the section 5(e) consent order places restrictions only on that company.

2. The Agency has the authority to regulate substances under section 6 of TSCA. However, section 6(a) specifies that the Agency may regulate only if there is a reasonable basis to conclude that the manufacture, processing, distribution in commerce, use, or disposal of the chemical substance or mixture "present or will present" an unreasonable risk of injury to health or the environment. As stated previously, at this time, there is insufficient information to perform a reasoned evaluation of the health effects of these substances. Therefore, the Agency cannot state that these substances "present or will present" unreasonable risks, but only that they "may present" unreasonable risks of injury to health. Therefore, the Agency cannot presently use section 6 to regulate these substances.

3. As another alternative, the Agency is considering defining as a significant new use (in addition to the packaging requirements in this proposal) the failure to establish a program whereby the substances are treated as a hazardous chemical substance under the Occupational Safety and Health Administration (OSHA) Hazard Communication Standards (29 CFR 1900.1200). In all labels, material safety data sheets, and employee training programs, P–83–908, P–83–909, and P–83–910 would have to be identified as substances which may cause reproductive effects in humans. P–83–906 would be identified as a potential hepatotoxic agent in humans. In addition, employers would have to indicate that the use of impervious gloves by employees who may be exposed to the substances would be required.

4. The Agency is also considering creating an abbreviated review for persons who propose to employ alternative exposure controls or worker protection equipment which may provide equivalent protection. Under this approach, the significant new use would be defined (in addition to the packaging and labeling requirements of the substances) as the failure to establish a program whereby persons who may be exposed to the substances are required to use gloves which are determined to be impervious to the substances or requiring the use of exposure controls or protective equipment which provide the "equivalent" protection. Persons would be required to notify EPA of the alternative controls to receive (in a specified time period shorter than 90 days) confirmation from the Agency that the protection provided by the equipment is "equivalent." If EPA determined that the protection was not "equivalent," significant new use reporting would be required.

EPA invites comment on these alternatives.

VII. Proposed Significant New Uses

To determine what would constitute a significant new use of these chemical substances, EPA considered relevant information about the toxicity of the substances and potential exposures associated with possible uses (such as uses other than those allowed under the section 5(e) order) and the four factors listed in section 5(a)(2) of TSCA. In particular, EPA considered the reasonably anticipated manner and methods of manufacturing and processing the substances and the extent to which these methods would affect the magnitude and duration of human exposures. In defining the proposed significant new uses, EPA drew directly from the restrictions outlined in the section 5(e) order. Based on these considerations, EPA proposes to define the following as significant new uses of P–83–906, P–83–908, P–83–909, and P–83–910:

1. Manufacture or processing of any of the four substances without requiring persons (employed by or under the control of the manufacturer or processor) who may be exposed to the substance(s) to wear gloves determined to be impervious to the particular substance under the conditions of exposure. The gloves would be determined to be impervious to the substance either by testing the equipment under the conditions of exposure, including the duration of exposure, or be evaluating the specifications supplied by the glove supplier which indicate that the gloves will be impervious to chemical substances in the class containing the

substances under the conditions of exposure, including the associated compounds, mechanical and chemical stresses, and potential durations of exposure. The gloves would be worn during all stages of manufacturing or processing where workers may potentially make dermal contact with the substance(s), including operations such as sampling, packaging, cleaning and maintenance, material handling, or transfer operations.

2. Between manufacture and processing operations the failure to package any of the substances in packaging that is designed such that the potential for spills or leaks will be minimized. For example, packaging in sealed, polyethelene-lined fiber drums or bulk containerizing will limit the potential for spills and resultant human exposure while paper bagging of dry materials would represent the potential for leaks as a result of torn bags and difficulty in closing after opening.

3. Failure to label the outside of a package to indicate that the substance should be handled only while using elbow length impervious gloves.

VIII. Recordkeeping

To ensure compliance with these proposed rules and to assist enforcement efforts, EPA is proposing under its authority in sections 5 and 8 of TSCA that certain records be maintained for five years after the date of their creation, by persons who manufacture and process any of the substances subject to this proposed rule. These records would be in addition to those required under § 721.17 of Subpart A. Persons would make the records available for inspection and copying by EPA in accordance with section 11 of TSCA. These records would include the names and addresses of persons required to wear the elbow length gloves specified in the rule, determinations that the gloves are impervious to the substances, and the names and addresses of persons to whom the substances are sold.

As an alternative, the Agency is considering requiring manufacturers and processors of the substances who do not trigger the SNUR reporting requirement to maintain "records demonstrating their compliance" with the SNUR. Therefore, manufacturers and processors would have the discretion to determine which records are needed to show compliance. In the preamble to such a rule, the Agency would provide guidance (with examples) for determining what records would adequately demonstrate compliance.

Recordkeeping requirements are expected to encourage compliance with these rules when promulgated and to support EPA's enforcement efforts. The Agency considered omitting recordkeeping requirements, but believes compliance monitoring for this proposed SNUR would be made more difficult.

Section 5(a)(2) of TSCA does not explicitly provide for recordkeeping of the type in paragraph (b)(1) of the proposed rules. However, EPA believes that such recordkeeping is necessary to implement and enforce the requirements of the SNURs effectively. EPA believes that two TSCA authorities support the recordkeeping in the proposed rules. First, EPA believes there is inherent authority in section 5 of TSCA to require the keeping of records reasonably necessary to implement the mandate of section 5. EPA has already exercised this authority in the PMN rule recordkeeping requirements (see 40 CFR 720.78) and in § 721.17 of the general SNUR provisions. Clearly, there is no way to determine whether a manufacturer or processor is undertaking a significant new use of the type in this proposed rule unless the manufacturer or processor is required to keep records of its activities to show that the significant new use has not occurred. Otherwise, EPA would not be able to determine whether a violation has occurred unless the manufacturer or processor was observed in violation.

Second, section 8(a) of TSCA provides broad authority for EPA to require manufacturers and processors of chemical substances to keep records. Generally, a section 8(a) recordkeeping requirement does not apply to small manufacturers and processors, but in this case a section 5(e) order is in effect for the chemical substances in question. Thus, under section 8(a)(3)(A)(ii) of TSCA, EPA can require recordkeeping by small manufacturers and processors as well and is proposing to do so.

EPA invites comment on this recordkeeping requirement and the alternative.

IX. Applicability of Proposal to Uses Occurring Before Promulgation of Final Rule

To establish a significant new use rule, the Agency must, among other things, determine that the use is not ongoing. In this case, the chemical substances in question have undergone premanufacture review. When the notice submitter begins manufacture of the substances, the submitter will send EPA a notice of commencement of manufacture, and the substances will be added to the Inventory. The notice submitter is prohibited by the section 5(e) order from undertaking any of the activities which the Agency is proposing be defined as significant new uses. Thus, at this time, the Agency can conclude that these uses are significant new uses. However, EPA recognizes that when the chemical substances proposed to be subject to this SNUR have been added to the Inventory, they may be manufactured, imported or processed for the significant new uses defined in this proposal by other persons before promulgation of the final rule.

If, after publication of this proposal, someone were to undertake for the first time the designated significant new uses, they could argue that the uses are no longer "new" uses at the time the rule is promulgated as final and therefore not significant new uses. EPA finds that the intent of section 5(a)(1)(B) can best be served by determining whether a use is a significant new use as of the proposal date of the SNUR. If EPA did not consider uses begun during the proposal period to be significant new uses, it would be almost impossible for the Agency to establish SNUR notice requirements, since any person could defeat the SNUR by initiating a proposed significant new use before the rule becomes final. This is contrary to the general intent of section 5(a)(1)(B).

Thus, if the substances are manufactured, imported, or processed for the first time between proposal and promulgation for a proposed significant new use, the Agency will still consider such use to be a significant new use if the definition is retained in the final rule. EPA recognizes that this interpretation may disrupt commercial activities of persons who begin manufacture, import, or processing for a significant new use during the proposal period. However, this proposal constitutes notice of that potential disruption, and persons who commence a proposed significant new use do so at their own risk.

Because the identity of the substances subject to this proposal are CBI, any person intending to manufacture or import these substances is unlikely to know whether they have been placed on the Inventory. Therefore, they are likely to submit a *bona fide* request under either 40 CFR 710.7(e) or 720.85(b) to determine whether the substances are on the Inventory. If EPA determines that the person has a *bona fide* intent to manufacture or import the substances, EPA will inform the person that the substances are subject to this proposal. This will give the person adequate notice of this proposal, will give the person an adequate chance to comment on this proposal, and will help prevent potential disruption.

X. Procedures for Informing Persons of the Existence of This Significant New Use Rule

The final rules will be published in the **Federal Register** and codified in the Code of Federal Regulations (CFR). While this will provide legal notice of the rules, EPA also intends to publish information concerning final SNURs in the TSCA Chemicals-in-Progress Bulletin, published by the TSCA Assistance Office of EPA's Office of Toxic Substances. EPA may also use the TSCA Chemical Substance Inventory to inform persons of the existence of final SNURs through footnotes to the chemical identities of substances subject to SNURs. The footnotes would refer to an Inventory Appendix which would give a **Federal Register** or CFR citation for the SNUR. As a variation of this approach, the Agency is considering publishing a list of substances subject to SNURs as an Inventory Appendix.

Any person who intends to manufacture or process a substance for the first time would check the Inventory to determine if the substance is listed. If the person found that the substance is on the Inventory, but subject to a SNUR, that person could determine whether they would be subject to reporting by contacting EPA or reviewing the rule. Because an updated Inventory is published only periodically, manufacturers and processors would also reply on the **Federal Register** and the TSCA Chemicals-in-Progress Bulletin. Since EPA maintains a current copy of the Inventory, any questions could be resolved by consulting EPA.

Determining whether a chemical substance is subject to a SNUR is more difficult when the identity of the chemical substance involved is confidential. In this case, the chemical identity of each of the four substances was claimed confidential in the PMNs. EPA is proposing to keep the specific identities of these four substances confidential in the final rules. The substances would be referred to by their generic chemical names. In printed versions of the Inventory, there would be a footnote indicating that some chemical substances masked by these generic names are subject to a SNUR.

Section 721.6 of the general SNUR provisions allows manufacturers, importers, and processors to determine whether they are subject to SNURs while protecting CBI from unnecessary disclosure. EPA has proposed several SNURs in which the specific chemical identities of the substances involved were claimed as confidential by the submitters of the PMNs for those substances. Like the publication, in those proposals EPA has identified the substances involved by generic chemical names and PMN numbers. On a case-by-case basis, EPA will determine whether it will be necessary to reveal the specific chemical identities of such substances during the rulemaking process or in the promulgation of the final rules.

Under § 721.6 any person intending to manufacture, import, or process a chemical substance within one of these generic names would be able to ask EPA whether its chemical substance is subject to the SNUR. To make such a request, the person would have to show EPA that the person has a *bona fide* intent to manufacture, import, or process the substance in question. The process for doing so is very similar to that for manufacturers and importers to show a *bona fide* intent to manufacture or import under 40 CFR 710.7(g) (2) of the Inventory Reporting Rules and 40 CFR 720.25(b) (2) of the Premanufacture Notification Rules as published in the **Federal Register** of May 13, 1983 (48 FR 21722). EPA would evaluate the SNUR inquiry under the same criteria and would answer the inquiry by either informing the requester that the substance is or is not subject to the SNUR or informing the requester that the requester has not furnished enough information to show a *bona fide* intent to manufacture, import, or process the substance in question. If a manufacturer or importer makes an inquiry under either § 710.7(g) of the Inventory Reporting Rules or § 720.25(b) of the Premanufacture Notification Rules and EPA informs the manufacturer or importer that the substance is on the Inventory, EPA will also inform the manufacturer or importer whether the substance is subject to a SNUR.

This procedure allows manufacturers, importers, and processors to determine whether they are subject to the rule while protecting CBI from unnecessary disclosure.

XI. Required Information

A. General

Section 721.10 of the general SNUR provisions requires submitters to use the premanufacture notice form and follow the premanufacture notice rules which were published in the **Federal Register** of May 13, 1983 (48 FR 21722), except as otherwise specified in a given SNUR.

EPA urges SNUR notice submitters to provide detailed information on human exposure that will result from the significant new use. In addition, EPA urges persons to submit information on potential benefits of the substances and information on risks posed by the substances compared to risks posed by their substitutes.

B. Test Data

Persons required to submit a SNUR notice must decide what test data, if any, to develop. EPA recognizes that under TSCA section 5, a person is not required to develop any particular test data before submitting a notice. Rather, persons are required only to submit test data in their possession or control and to describe any other data known to or reasonably ascertainable by them. However, in view of the potential health risk that may be posed by a significant new use of P-83-906, P-83-909, and P-83-910, EPA encourages possible SNUR notice submitters to conduct tests that would allow a more reasoned evaluation of P-83-906, P-83-909, and P-83-910's potential to elicit reproductive toxicity in humans and, for P-83-906, hepatotoxic effects in humans. A more reasoned evaluation of such data could be made using data generated in rodent 2-generation reproduction studies with P-83-906, P-83-909, and P-83-910. A more reasoned evaluation could also be made using data generated in long-term feeding studies in rodents for hepatotoxic effects with P-83-906. Depending on EPA's calculations of the risks involved, if SNUR notice is submitted for any of the subject substances without such test data, or other information to demonstrate that exposure is adequately controlled by means other than those specified in these proposed significant new uses, EPA could take action under section 5(e) similar to that already taken for the PMN submitter.

As part of an optional prenotice consultation, EPA will discuss the test data it believes necessary to evaluate a significant new use of the substances. Test data should be developed and submitted according to the TSCA good laboratory practices (GLPs) regulation at 40 CFR Part 792 published in the **Federal Register** of November 29, 1983 (48 FR 53922). EPA encourages persons to consult with the Agency before selecting a protocol for testing the substances.

XII. EPA Review of Notice

EPA proposes to review SNUR notices the same way it reviews PMNs and to subject such notices to the procedures outlined in the final premanufacture notice rules. Under section 5(d)(2) of TSCA, EPA will issue a summary of each notice in the **Federal Register**. The review period for the notice will run 90 days from EPA's receipt of the notice. Under TSCA section 5(c), this period may be extended up to an additional 90

days for good cause. The submitter may not manufacture, import, or process the substance for the significant new use until the review period, including extensions, has expired.

The Agency may regulate the substance during the review period. If a significant new use notice is submitted for the chemical substance without information sufficient to judge the toxicity and exposure potential of that substance, EPA may issue a section 5(e) order limiting or prohibiting the new use until sufficient information is developed. In addition, section 5(f) authorizes EPA to prohibit the significant new use if it presents or will present an unreasonable risk to health or the environment. EPA may also refer information in a SNUR notice to other EPA offices and other Federal agencies. If EPA does not take action under section 5, 6, or 7 of TSCA to control, the significant new use of the substance, section 5(g) of TSCA requires that the Agency to explain in the **Federal Register** its reasons for not taking action.

XIII. Economic Analysis

The Agency has evaluated the potential costs of establishing significant new use reporting requirements for these substances. The economic analysis of the possible outcomes as a result of the promulgation of these SNURs is summarized below. The Agency's complete economic analysis is available in the public file.

After promulgation of the SNURs, the Agency believes there are four possible courses of action a company could take: (1) Produce and ship the substances with the protective equipment in place (and therefore not trigger the SNUR); (2) file a SNUR notice with information showing other methods of controlling exposures that would mitigate EPA's health concerns; (3) file a SNUR notice with the results of recommended testing already complete or be prepared to respond to a section 5(e) order requiring testing; or (4) not manufacture or process the substances. The costs of these outcomes are summarized below.

If a company decides to produce the substances using the protective equipment specified in the SNUR, it will not incur the cost of submitting a SNUR notice. The cost to the company will be the cost of the protective equipment and recordkeeping.

The present value of the costs of providing protective equipment (elbow length gloves) could be $2,228 per substance. In addition, the net present value of the annual cost of maintaining the records required in this proposed rule for 5 years could be $1,460. Furthermore, an impermeability test could cost $850 per substance for each glove material tested.

In some circumstances it could be cost effective for a company to file a SNUR notice with data which show that other means of controlling exposures could mitigate EPA's concerns. In this case the company incurs the cost of filing the SNUR notice ($1,375 to $7,950) and possibly the cost of some exposure controls which ordinarily would not be used without the existence of the SNUR. In addition, a company choosing this course of action could experience a 3.2 percent reduction in profits due to delays in manufacture or processing.

It is theoretically possible that a company could file a SNUR notice which would include the test results of the recommended testing (hepatotoxic effects testing for P–83–906 and reproductive effects testing for P–83–908, P–83–909, and P–83– 910). A company would incur the cost of filing a notice ($1,375 to $7,950), performing the test (at least $164,000 for each substance) for the four substances, and the cost of delay (probably a delay in profits of 2.5 to 3.0 years). The total cost of this option is expected to be prohibitive.

Some companies could find the cost of controlling exposures too expensive to justify beginning production or processing. Under this outcome a company would not incur any direct costs as a result of the SNUR.

EPA has not attempted to quantify the benefits of the proposed rules or of the outcomes. In general, benefits will accrue if the proposed action leads to the identification and control of unreasonable risks before significant health effects can occur. The issuance and promulgation of the SNURs provides the benefits of reduced health risks until production or processing ceases. Furthermore, these benefits would continue regardless of the outcome chosen by industry in response to the SNURs.

Given the relative cost of the recommended testing versus the required protective equipment and recordkeeping it is unlikely that testing will be performed. Some potential exists for the cost of protective equipment and recordkeeping to cause some companies to decide to forego production or processing. However, the fact that the original PMN submitter intends to produce under these restrictions indicates that at least one use of these substances could still return an acceptable profit.

XIV. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore requires a Regulatory Impact Analysis. EPA has determined that these proposed rules are not "Major Rules" because they do not have an effect on the economy of $100 million or more, and will not have a significant effect on competition, costs, or prices. While there is no precise way to calculate the annual cost of these rules, EPA believes that the cost will be low. Even if EPA received 50 SNUR notices, the direct cost of the rules would be under $1 million. In addition, because of the nature of the rules and the substances subject to it, EPA believes that there will be few significant new use notices submitted. Further, while the expense of a notice and the uncertainty of possible EPA regulation may discourage certain innovation, that impact will be limited because such factors are unlikely to discourage an innovation which has high potential value.

These regulations were submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 605(b), EPA certifies that these proposed rules, if promulgated, will not have a significant impact on a substantial number of small businesses. EPA is unable to predict realistically whether parties affected by this proposal will be small businesses. However, the Agency believes that few manufacturers or processors will submit SNUR notices. Therefore, although the costs of preparing a notice under the rules might be significant for some small businesses, the number of such businesses affected would not be substantial.

C. Paperwork Reduction Act

OMB has approved the information collection requirements contained in the proposed rules under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2070–0012.

XV. Confidential Business Information

Any person who submits comments which the person claims as CBI must mark the comments as "confidential," "trade secret," or other appropriate designation. Any comments not claimed as confidential at the time of submission

will be placed in the public file. Any comments marked as confidential will be treated in accordance with the procedures in 40 CFR Part 2. EPA requests that any person submitting confidential comments prepare and submit a sanitized version of the comments which EPA can place in the public file.

XVI. Judicial Review

When this proposal is promulgated, judicial review may be available under section 19 of TSCA in the United States Court of Appeals for the District of Columbia Circuit or for the circuit in which the person seeking review resides or has its principal place of business. To provide all interested persons an equal opportunity to file a timely petition for judicial review and to avoid so called "races to the courthouse," EPA intends to promulgate these rules for purposes of judicial review two weeks after publishing the final rules in the **Federal Register**. The effective date will be calculated from the promulgation date.

XVII. Rulemaking Record

EPA has established a record for this rulemaking (docket control number OPTS—50513). The record includes basic information considered by the Agency in developing this proposed rule. EPA will supplement the record with additional information as it is received. The record now includes the following:

1. The PMNs for these four substances.
2. The **Federal Register** notices of receipt of the PMNs.
3. A copy of the section 5(e) consent order.
4. The toxicity support document for the section 5(e) consent order.
5. The proposed SNURs for these four substances.
6. The economic support document for the proposed SNUR.

A public version of this record from which CBI has been deleted is available to the public in the OTS Public Information Office, from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays. The Public Information Office is located in Rm E–107, 401 M St., SW., Washington, D.C.

EPA will identify the complete rulemaking record by the date of promulgation. The Agency will accept additional materials for inclusion in the record at any time between this proposed rule and designation of the complete record.

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous materials, Recordkeeping and reporting requirements, Significant new uses.

Dated: September 12, 1984.

Marcia E. Williams,

Acting Assistant Administrator for Pesticides and Toxic Substances.

PART 721—[AMENDED]

Therefore, it is proposed that Part 721 of Chapter I of Title 40 be amended as follows:

1. By adding and alphabetically inserting the following definitions to § 721.3 to read as follows:

§ 721.3 Definitions.

* * * * *

"Package" means a container, mobile or otherwise, to hold chemical substances or mixtures.

* * * * *

"Site" means a contiguous property unit. Property divided only by a public right-of-way is one site. There may be more than one manufacturing plant on a single site.

"Site-limited intermediate" means an intermediate manufactured, processed, and used only within a site and not distributed in commerce other than as an impurity or for disposal. Imported intermediates cannot be "site-limited."

* * * * *

2. By adding §§ 721.100, 721.104, 721.125, and 721.140 to Subpart B to read as follows:

§ 721.100 Aminophenol.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The following chemical substance, identified by premanufacture notice number and generic name, is subject to reporting under this section for the significant new uses defined in paragraph (a)(2) of this section: (P–83–909) aminophenol.

(2) The significant new uses are:

(i) Manufacture or processing, without establishing a program whereby during all stages of manufacture and processing workers (employed by or under the control of the manufacturer or processor) who may be dermally exposed to the substance (including during sampling, packaging, cleaning and maintenance, and material handling operations), must wear elbow length gloves which have been determined to be impervious to the substance under conditions of exposure. Gloves must be determined to be impervious to the substance either by testing the equipment under the conditions of exposure, including the duration of exposure, or by evaluating the data and specifications supplied by the glove manufacturer or others in context of the conditions of exposure including the associated chemicals, mechanical and chemical stresses, and potential durations of exposure.

(ii) Between manufacture and processing operations, failure to store the substance in packaging that is designed such that the potential for spills or leaks will be minimized.

(iii) Between manufacture and processing operations, failure to label packages of the substance on the exterior to indicate that the substance should be handled only while using elbow length impervious gloves.

(b) *Specific requirements.* The provisions of Subpart A of this Part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* In addition to the requirements of § 721.17, manufacturers and processors of the chemical substance identified in paragraph (a)(1) of this section must maintain records of: (i) The names and addresses of persons required to wear gloves specified in paragraph (a)(2)(i) of this section, (ii) determinations that the gloves are impervious to the substance under the conditions of exposure, and (iii) the names and addresses of persons to whom the substance is sold or transferred and the date(s) of such sale or transfer. Records must be maintained for five years from the date of their creation and shall be made available for inspection and copying by EPA in accordance with section 11 of TSCA.

(2) [Reserved].

§ 721.104 Ethylated aminophenol.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The following chemical substance, identified by premanufacture notice number and generic name, is subject to reporting under this section for the significant new uses defined in paragraph (a)(2) of this section: (P–83–908) ethylated aminophenol.

(2) The significant new uses are:

(i) Manufacture or processing, without establishing a program whereby during all stages of manufacture and processing workers (employed by or under the control of the manufacturer or processor) who may be dermally exposed to the substance (including during sampling, packaging, cleaning and maintenance, and material handling operations), must wear elbow length gloves which have been determined to be impervious to the substance under conditions of exposure. Gloves must be determined to be impervious to the substance either by testing the equipment under the conditions of exposure, including the duration of

exposure, or by evaluating the data and specifications supplied by the glove manufacturer or others in context of the conditions of exposure including the associated chemicals, mechanical and chemical stresses, and potential durations of exposure.

(ii) Between manufacture and processing operations, failure to store the substance in packaging that is designed such that the potential for spills or leaks will be minimized.

(iii) Between manufacture and processing operations, failure to label packages of the substance on the exterior to indicate that the substance should be handled only while using elbow length impervious gloves.

(b) *Specific requirements.* The provisions of Subpart A of this Part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* In addition to the requirements of § 721.17, manufacturers and processors of the chemical substance identified in paragraph (a)(1) of this section must maintain records of: (i) The names and addresses of persons required to wear gloves specified in paragraph (a)(2)(i) of this section, (ii) determinations that the gloves are impervious to the substance under the conditions of exposure, and (iii) the names and addresses of persons to whom the substance is sold or transferred and the date(s) of such sale or transfer. Records must be maintained for five years from the date of their creation and shall be made available for inspection and copying by EPA in accordance with section 11 of TSCA.

(2) [Reserved].

§ 721.140 Brominated aryl alkyl ether.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The following chemical substance, identified by premanufacture notice number and generic name, is subject to reporting under this section for the significant new uses defined in paragraph (a)(2) of this section: (P–83–906) brominated aryl alkyl ether.

(2) The significant new uses are:

(i) Manufacture or processing, without establishing a program whereby during all stages of manufacture and processing workers (employed by or under the control of the manufacturer or processor) who may be dermally exposed to the substance (including during sampling, packaging, cleaning and maintenance, and material handling operations), must wear elbow length gloves which have been determined to be impervious to the substance under conditions of exposure. Gloves must be determined to be impervious to the substance either by testing the equipment under the conditions of exposure, including the duration of exposure, or by evaluating the data and specifications supplied by the glove manufacturer or others in context of the conditions of exposure including the associated chemicals, mechanical and chemical stresses, and potential durations of exposure.

(ii) Between manufacture and processing operations, failure to store the substance in packaging that is designed such that the potential for spills or leaks will be minimized.

(iii) Between manufacture and processing operations, failure to label packages of the substance on the exterior to indicate that the substance should be handled only while using elbow length impervious gloves.

(b) *Specific requirements.* The provisions of Subpart A of this Part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* In addition to the requirements of § 721.17, manufacturers and processors of the chemical substance identified in paragraph (a)(1) of this section must maintain records of: (i) The names and addresses of persons required to wear gloves specified in paragraph (a)(2)(i) of this section, (ii) determinations that the gloves are impervious to the substance under the conditions of exposure, and (iii) the names and addresses of persons to whom the substance is sold or transferred and the date(s) of such sale or transfer. Records must be maintained for five years from the date of their creation and shall be made available for inspection and copying by EPA in accordance with section 11 of TSCA.

(2) [Reserved].

§ 721.125 Anilino ether.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The following chemical substance, identified by premanufacture notice number and generic name, is subject to reporting under this section for the significant new uses defined in paragraph (a)(2) of this section: (P–83–910) anilino ether.

(2) The significant new uses are: (i) Manufacture or processing, without establishing a program whereby during all stages of manufacture and processing workers (employed by or under the control of the manufacturer or processor) who may be dermally exposed to the substance (including during sampling, packaging, cleaning and maintenance, and material handling operations), must wear elbow length gloves which have been determined to be impervious to the substance under conditions of exposure. Gloves must be determined to be impervious to the substance either by testing the equipment under the conditions of exposure, including the duration of exposure, or by evaluating the data and specifications supplied by the glove manufacturer or others in context of the conditions of exposure including the associated chemicals, mechanical and chemical stresses, and potential durations of exposure.

(ii) Between manufacturer and processing operations, failure to store the substance in packaging that is designed such that the potential for spills or leaks will be minimized.

(iii) Between manufacture and processing operations, failure to label packages of the substance on the exterior to indicate that the substance should be handled only while using elbow length impervious gloves.

(b) *Specific requirements.* The provisions of Subpart A of this Part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* In addition to the requirements of § 721.17, manufacturers and processors of the chemical substance identified in paragraph (a)(1) of this section must maintain records of: (i) The names and addresses of persons required to wear gloves specified in paragraph (a)(2)(i) of this section, (ii) determinations that the gloves are impervious to the substance under the conditions of exposure, and (iii) the names and addresses of persons to whom the substance is sold or transferred and the date(s) of such sale or transfer. Records must be maintained for five years from the date of their creation and shall be made available for inspection and copying by EPA in accordance with seciton 11 of TSCA.

(2) [Reserved].

(Sec. 5, 8, Pub. L. 94–469, 90 Stat. 2012, (15 U.S.C. 2604, 2607))

[FR Doc. 84–24921 Filed 9–27–84; 8:45 am]
BILLING CODE 6560–50–M

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40 CFR Part 721

[OPTS–50514; FRL–2674–4]

Substituted Bromothiophene Proposed Determination of Significant New Use

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a significant new use rule (SNUR) under section 5(a)(2) of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2604(a)(2) for a substance which were the subject of

premanufacture notice (PMN) P–83–769 and a TSCA section 5(e) consent order. The Agency is concerned that the substance may present an unreasonable risk to human health if the significant new uses occur.

DATE: Written comments should be submitted by November 27, 1984.

ADDRESS: Since some comments are expected to contain confidential business information, all comments should be sent in triplicate to: Document Control Officer (TS–793), Office of Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M St., SW., Washington, D.C. 20460.

Comments should include the docket control number OPTS–50514. Non-confidential comments and sanitized versions of confidential comments received on this proposal will be available for reviewing and copying from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays, in Rm. E–107, at the address given above. For further information regarding the submission of confidential business information (CBI), see Unit XIV of this preamble.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460, Toll free: (800–424–9065), In Washington, D.C.: (554–1404), Outside the USA: (Operator–202–554–1404).

SUPPLEMENTARY INFORMATION: OMB control number: 2070–0012.

I. Authority

Section 5(a)(2) of TSCA authorizes EPA to determine that a use of a chemical substance is a significant new use. EPA must make this determination by rule, after considering all relevant factors, including those listed in section 5(a)(2). Once a use is determined to be a significant new use, persons must, under section 5(a)(1)(B), submit a notice to EPA at least 90 days before they manufacture, import, or process the substance for that use. Such a notice is generally subject to the same statutory requirements and procedures as a PMN submitted under section 5(a)(1)(A). In particular, these include the information submission requirements of section 5 (b) and (d)(1), certain exemptions authorized by section 5 (h), and the regulatory authorities of section 5 (e) and (f) of TSCA. If EPA does not take regulatory action under section 5, 6, or 7 to control a substance on which it has received a SNUR notice, section 5(g) requires the Agency to explain its reasons for not taking action in the Federal Register.

Substances covered by proposed or final SNURs are subject to the export reporting requirements of TSCA section 12(b). EPA regulations interpreting section 12(b) requirements appear at 40 CFR Part 707. Substances subject to final SNURs are covered by TSCA section 13 import certification requirements at 19 CFR 12.118 through 12.127 and 127.28 published in the Federal Register of August 1, 1983 (48 FR 34734). The EPA policy in support of these requirements appears at 40 CFR Part 707.

II. Applicability of General Provisions

EPA promulgated general provisions applicable to SNURs under 40 CFR Part 721, Subpart A, published in the Federal Register of September 5, 1984 (49 FR 35011). EPA is proposing that these general provisions apply to this SNUR without change except as discussed in this preamble. Interested persons should refer to that document for a detailed discussion of the general provisions.

III. Summary of This Proposed Rule

EPA is proposing that manufacture, import, or processing without certain protective equipment, engineering controls, and packaging requirements be designated as a "significant new use" of the substance identified generically as substituted bromothiophene. The substance was the subject of premanufacture notice (PMN) P–83–769 and a TSCA section 5(e) consent order. EPA believes that the significant new use defined in this proposed rule may present a risk to health. This use was not permitted under the section 5(e) order.

IV. PMN Background

On May 24, 1983, EPA received a PMN which the Agency designated as P–83–769. EPA announced receipt of the PMN in the Federal Register of May 30, 1983 (48 FR 24987).

The notice submitter claimed its identity, the specific chemical identity, specific use, and projected production volume as CBI. The submitter requested that the intended use be generically described as "intermediate." The PMN submitter originally requested that the substance be identified generically as disubstituted heterocycle. The submitter later agreed to a more specific generic chemical identity, substituted bromothiophene. In this preamble and § 721.240 the substance will be referred to by this generic name and PMN number.

In the PMN submission, the notice submitter included test data on P–83–769 which are summarized below.

LD_{50}, rat oral—>1 g/kg
LD_{50}, rat dermal—>1 g/kg
Eye irritation, rabbit—moderate
Skin irritation, rabbit—slight

EPA's general literature search provided no additional information on the toxicity of the substance. However, the Agency identified structural analogues of the substance. Based upon the analogy of the chemical structure of P–83–769 to a substance for which there are data in the published literature, EPA believes that P–83–769 may be a potential carcinogen/mutagen. The analogous substance has been shown to cause benign hepatocellular adenomas in rats when administered in drinking water. EPA cannot disclose the identity of the analogue because to do so might reveal the identity of P–83–769. Based upon information submitted with the dermal toxicity studies, the Agency believes the substance is not likely to be dermally absorbed. However, the Agency believes that absorption may occur in the lung and gut. The Agency concluded that the uncontrolled manufacture, processing, and distribution in commerce of the substance may present an unreasonable risk of injury to human health. Therefore, EPA regulated the substance under section 5(e) of TSCA, pending the development of information sufficient to make a reasoned evaluation of its health effects.

EPA believes that use of appropriate protective equipment and engineering control during manufacture and processing will protect persons exposed to P–83–769 from any unreasonable risk. The Agency negotiated a section 5(e) consent order with the notice submitter to require such protective equipment and engineering controls, as well as packaging, labeling, and distribution restrictions until data are available to determine the risks associated with exposure to this substance more accurately. The order became effective November 8, 1983.

To protect workers from inhalation exposure to airborne quantities of the substance as a result of manufacturing and processing the substance in a dry form for use as an intermediate, the consent order requires the use of a National Institute for Occupational Safety and Health (NIOSH) approved half or full-face piece respirator, excluding "single use" or disposable-type respirators, during manufacture and processing of P–83–769. The order places certain packaging and

distribution restrictions on the submitter of P–83–769. In addition, the order imposes certain recordkeeping requirements.

The Agency believes that a section 5(e) consent order which allows controlled commercial production and distribution of the substance, pending the development of further data, is appreciably less burdensome than a section 5(e) order which prohibits manufacture or import of the substance until adequate data are submitted to EPA. In addition, such an approach protects human health by requiring adequate exposure controls pending the development of data.

EPA issued a section 5(e) consent order to limit manufacture, processing, and distribution of P–83–769 pending the development of further information on the substance's potential health effects. However, as a negotiated agreement with the PMN submitter, the order applies only to the notice submitter. When the notice submitter commences commercial manufacture of the substance and submits a notice of commencement of manufacture to EPA, the Agency will add the substance to the TSCA Chemical Substances Inventory. When P–83–769 is on the Inventory, another person may manufacture or process the substance without the controls imposed by the order which may present different or increased exposures to the substance. Therefore, EPA is proposing to designate manufacture, import, or processing of the substance without specified controls, packaging, and labeling a significant new use. This will ensure that the Agency can review this use before it occurs.

The notice submitter claimed the specific chemical identity of P–83–769 as CBI. The notice submitter has agreed to the use of a more descriptive generic chemical identity. Identification of the analogue EPA relied on in its analysis could reveal the specific identity of P–83–769. Therefore, EPA is unable to discuss in detail its basis for toxicity concerns for P–83–769. Under section 14(a)(4) of TSCA, the Agency may disclose CBI relevant in any proceeding. "[D]isclosure in such a proceeding shall be made in such manner as to preserve confidentiality to the extent practicable without impairing the proceeding." EPA is not convinced that this rulemaking will be so impaired as to justify disclosure of CBI. Therefore, EPA has decided not to disclose any such information at this time. The Agency specifically requests comments on SNUR rulemakings involving CBI.

V. Determination of Proposed Significant New Use

To determine what would constitute a significant new use of this chemical substance, EPA considered relevant information about the toxicity of the substance and likely exposures associated with possible uses (such as uses other than those permitted under the section 5(e) order), including the four factors listed in section 5(a)(2) of TSCA. In particular, EPA considered the extent to which potential uses may change the magnitude and duration of exposure of humans to P–83–769.

Based on these considerations, EPA proposes to define the significant new uses as they appear in § 721.240 below. The Agency is proposing that a significant new use of substituted bromothiophene would occur if manufacturers, importers, and processors of the substance fail to establish and enforce a program whereby: (1) Workers who may be exposed to P–83–769 in its dry form wear a NIOSH-approved half or full-face piece respirator (excluding "single use" or disposable respirators) as approved by NIOSH under Occupational Safety and Health Administration (OSHA) standards at 29 CFR 1910.134; (2) during manufacture, import, and processing of P–83–769, when workers may potentially be exposed to P–83–769 in its dry form, including collection of samples and sample preparation, such activities are conducted in areas with local exhaust ventilation; and (3) during the stages between import, manufacture, and processing, and for distribution in commerce, P–83–769 is packaged so as to minimize leakage of the substance to the environment (for example, packaged in sealed, polyethylene-lined, fiber drums or bulk containers) and is labeled conspicuously so as to indicate that the dry form of P–83–769 should be handled only while wearing a NIOSH-approved half or full-face piece respirator (excluding "single use" or disposable-type respirators) as specified in OSHA regulations at 29 CFR 1910.134.

Manufacture, import, or processing without use of the specified protective equipment is expected to increase inhalation exposure to P–83–769. Worker protections and safe handling of the substance in properly ventilated areas are expected to substantially mitigate the risk of inhalation of the substance. The labeling requirement of the rule is intended to reduce the likelihood of exposures among workers who may be exposed to P–83–769 by promoting responsible procedures for the handling and use of the substance. Proper packaging will protect against risk between manufacture and processing, included during distribution in commerce.

EPA has already determined in the section 5(e) consent order that unrestricted manufacture, processing, and distribution in commerce, of the substance may present an unreasonable risk. While such a finding is not necessary to promulgate a SNUR, it strongly supports a determination that the new use of the substance would be significant. EPA invites comments on its proposed significant new use definition and suggestions for other methods of handling these issues.

VI. Alternatives

EPA considered regulatory alternatives to a SNUR to ensure protection of human health.

1. One alternative is to promulgate a section 8(a) reporting rule for the substance. Under such a rule, EPA could require any person to report to EPA before manufacturing, importing, or processing the substance. Because the substance is subject to a section 5(e) order, the normal small business exemption of section 8(a) would not apply. A section 8(a) rule would allow the Agency to require reporting of specific information such as increases in the production volume of P–83–769. However, if EPA received a report under section 8(a) indicating that a person intended to manufacture, import, or process the substance without appropriate controls, the Agency could not take action under section 5(e) as it can under a SNUR and therefore would not be able to regulate the substance pending development of information. Rather, EPA would likely want to obtain test data under section 4 and then, if necessary, regulate the substance under section 6. This approach would allow unnecessary risks to human health during the time needed for data development. In addition, the PMN submitter would be at a competitive disadvantage because the section 5(e) order applies only to that company.

2. The Agency also has the authority to regulate substances under section 6 of TSCA. However, section 6(a) specifies that the Agency may regulate only if there is a reasonable basis to conclude that the manufacture, import, processing, distribution in commerce, use, or disposal of the chemical substance "presents or will present" an unreasonable risk of injury to health. As stated previously, there is insufficient information to perform a reasoned evaluation of the health effects of this substance. Therefore, the Agency cannot

state at this time that this substance "presents or will present" an unreasonable risk, but only that it "may present" an unreasonable risk of injury to health. Therefore, the Agency cannot presently use section 8 to regulate this substance.

3. As an alternative to the proposed significant new use definitions, the Agency is considering defining as a significant new use the failure to establish a program whereby the substance is treated as a hazardous chemical substance under the Occupational Safety and Health Administration (OSHA) Hazard Communication Standards (29 CFR 1900.1200). In all labels, material safety data sheets, and employee training programs, the substance would be required to be identified as a suspect carcinogen/mutagen. In addition, employees who may be exposed to the dry form of the substance would be required to wear the respirators specified in this proposed rule, and all activities during which workers could be exposed to the substance in its dry form must be conducted in areas with local exhaust ventilation.

4. The Agency is also considering creating an abbreviated review for persons who propose to employ alternative exposure controls or worker protection equipment which may provide equivalent protection. Under this approach, the significant new use would be defined as the failure to establish a program whereby persons who may be exposed to the dry form of the substance are required to use the respirators specified in this proposed rule and work in areas with local exhaust ventilation or employ alternative exposure controls and/or protective equipment which provide the "equivalent" protection. Before commencement of these operations, persons would be required to notify EPA of the alternative controls to receive (in a specified time period which is shorter than 90 days) confirmation from the Agency that the protection provided by the equipment is "equivalent." If EPA determined that the protection was not "equivalent," significant new use reporting would be required.

EPA invites comment on these alternatives.

VII. Recordkeeping

To ensure compliance with this SNUR and to assist enforcement efforts, EPA is proposing under its authority in sections 5 and 8(a) of TSCA that, in addition to the requirements of § 721.17, the following records be maintained for five year after the date of their creation by persons who import, manufacture, or process P-83-769:

1. The names and addresses of persons required to use respirators, the date(s) on which they were informed of that requirement, and the means by which they were informed.

2. The names and addresses of persons to whom the substance is sold or transferred and the dates of any sale or transfer.

As an alternative, the Agency is considering requiring manufacturers and processors of the substance who do not trigger the SNUR reporting requirement to "maintain records demonstrating their compliance" with the SNUR. Therefore, manufacturers and processors would have the discretion to determine which records are needed to show compliance. To provide guidance, the Agency would identify examples of those types of records which would adequately demonstrate compliance.

Recordkeeping requirements are expected to encourage compliance with this proposed rule when promulgated and to support EPA's enforcement efforts. The Agency considered omitting recordkeeping requirements, but believes compliance monitoring for this proposed SNUR would be made more difficult if the recordkeeping requirement were omitted.

Section 5(a)(2) of TSCA does not explicitly provide for recordkeeping of the type in paragraph (b) of § 721.240. However, as discussed above, EPA believes that such recordkeeping is necessary to implement and enforce effectively the requirements of the SNUR. EPA believes that two TSCA authorities support the recordkeeping in this proposed rule. First, EPA believes there is inherent authority in section 5 of TSCA to require the keeping of records reasonably necessary to implement the mandate of section 5. EPA has already exercised this authority in the PMN recordkeeping requirements (see 40 CFR 720.78) and in § 721.17 of the general SNUR provisions. Clearly, there is no way to determine whether an importer, manufacturer, or processor is undertaking a new use of the type in this proposed rule unless the importer, manufacturer, or processor is required to keep records of its activities to show that the new use has not occurred. Otherwise, EPA would not be able to determine whether a violation has occurred unless the manufacturer, importer, or processor was observed in violation.

Second, section 8(a) of TSCA provides broad authority for EPA to require manufacturers, importers, or processors of chemical substances to keep records. Generally, a section 8(a) recordkeeping requirement does not apply to small manufacturers, importers, and processors, but in this case a section 5(e) order is in effect for the chemical substance in question. Thus, under section 8(a)(3)(A)(ii) of TSCA, EPA can require recordkeeping by small manufacturers, importers, and processors as well and is proposing to do so.

EPA invites comments on these proposed recordkeeping requirements.

VIII. Applicability of Proposed Rule to Uses Occurring Before Promulgation of Final Rule

To establish a significant new use rule, the Agency must, among other things, determine that the use is not ongoing. In this case, the chemical substance in question has just undergone premanufacture review. When the notice submitter begins manufacture of the substance, the submitter will send EPA a notice of commencement of manufacture, and the substance will be added to the Inventory. The notice submitter is prohibited by the section 5(e) order from undertaking any of the activities which the Agency is proposing be designated as a significant new use. Therefore, at this time, the Agency has concluded that this use is not ongoing.

EPA recognizes that when chemical substances proposed to be subject to a SNUR are added to the Inventory they may be manufactured, imported, or processed for a significant new use as defined in the proposal before promulgation of the final rule. If, after publication of this proposal, someone were to undertake the designated significant new use, they could argue that the use is not "new" at the time the rule is promulgated as final, and therefore not a significant new use. EPA finds that the intent of section 5(a)(1)(B) is best served by determining whether a use is a significant new use as of the proposal date of the SNUR. If uses begun during the proposal period were not considered to be significant new uses, it would be almost impossible for the Agency to establish SNUR notice requirements, since any person could defeat the SNUR by initiating the proposed significant new uses before the rule becomes final. This is contrary to the general intent of section 5(a)(1)(B).

Thus, if substances are manufactured, imported, or processed between proposal and promulgation for the proposed significant new use, the Agency will still consider such use to be "new" if that particular significant new use is included in the final rule. EPA recognizes that this interpretation may disrupt commercial activities of persons who commence manufacture, import, or processing for a significant new use

during the proposal period. However, this proposal puts those persons on notice of that potential disruption, and they commence that use at their own risk.

Because the identity of P–83–769 is CBI, any person who intends to manufacture or import the substance is unlikely to know whether or not the substance is on the Inventory and, therefore, is likely to submit a *bona fide* request under either 40 CFR 710.10(e) or 720.85(b) to determine whether the substance is on the Inventory. If EPA determines that the person has a *bona fide* intent to manufacture or import the substance, EPA will inform the person that the substance is subject to this proposal. This will give the person adequate notice of this proposal, will give the person an opportunity to comment, and will help prevent potential disruption.

IX. Informing Persons of the Existence of This Significant New Use Rule

The final rule will be published in the **Federal Register** and codified in the Code of Federal Regulations (CFR). While this will provide legal notice of the rule, EPA is exploring additional ways of informing potential SNUR notice submitters of the existence of the rule.

EPA intends to publish information concerning final SNURs in the TSCA Chemicals-in-Progress Bulletin, published by the TSCA Assistance Office of EPA's Office of Toxic Substances. EPA may also use the TSCA Chemical Substance Inventory to inform persons of the existence of final SNURs through footnotes to the chemical identities of substances subject to SNURs. The footnotes would refer to an Inventory Appendix which would give a **Federal Register** or CFR citation for the SNUR. As a variation of this approach, the Agency is considering publishing a list of substances subject to SNURs as an Inventory Appendix.

Any person who intends to manufacture, import, or process a substance for the first time should check the Inventory to determine if the substance is on the Inventory, but subject to a SNUR; that person can determine whether they would be subject to reporting by contacting EPA or reviewing the rule. Because an updated Inventory is published only periodically, manufacturers, importers, and processors would also rely on the **Federal Register** and the TSCA Chemicals-in-Progress Bulletin. Since EPA maintains a current copy of the Inventory, any questions could be resolved by consulting EPA.

Determining whether a chemical substance is subject to a SNUR is more difficult when the identity of the chemical substance involved is confidential. In this case, the chemical identity of the substance was claimed confidential in the PMN. EPA is proposing to keep the specific identity of the substance confidential in the final rule. The substance would be referred to by a generic chemical name. In printed versions of the Inventory, there would be a footnote indicating that a chemical substance masked by the generic name is subject to a SNUR.

EPA has promulgated procedures at § 721.6 of the general SNUR provisions under which any person intending to manufacture, import, or process a chemical substance within a generic name listed on the Inventory would be able to ask EPA whether its chemical substance is subject to the SNUR. To make such a request, the person would have to show EPA that the person has *bona fide* intent to manufacture, import, or process the substance in question. The process for doing so is very similar to that for manfacturers and importers to show a *bona fide* intent to manufacture or import under 40 CFR 710.7(g)(2) of the Inventory Reporting Rules and 40 CFR 720.25(b)(2) of the Premanufacture Notification Rules which were published in the **Federal Register** of May 13, 1983 (48 FR 21722). EPA will evaluate the SNUR inquiry under the same criteria and answer the inquiry by either informing the requester that the substance is or is not subject to the SNUR or informing the requester that sufficient information has not been furnished to show a *bona fide* intent to manufacture, import, or process the substance in question. If a manufacturer or importer makes an inquiry under either § 710.7(g) of the Inventory Reporting Rules or § 720.25(b) of the Premanufacture Notification Rules and EPA informs the requester that the substance is on the Inventory, EPA will also inform the manufacturer or importer whether the substance is subject to a SNUR. Substances which do not appear on the Inventory are subject to EPA's premanufacture notification rules.

This procedure will allow manufacturers, importers, and processors to determine whether they are subject to the rule while protecting CBI from unnecessary disclosure.

X. Required Information

The Agency has determined that notice submitters must use the premanufacture notification form and follow the PMN regulations (40 CFR Part 720) published in the **Federal Register** of May 13, 1983 (48 FR 21722) unless otherwise indicated in a specific SNUR or the general provisions. EPA urges SNUR notice submitters to provide detailed information on human exposure that will result from the significant new use. In addition, EPA urges persons to submit information on potential benefits of the substance and information on risks posed by the substance compared to risks posed by substitutes.

XI. Test Data

EPA recognizes that under TSCA section 5 a person is not required to develop any particular test data before submitting a notice. Rather, a person is required only to submit test data in his possession or control and to describe any other data known to him or reasonably ascertainable by him. However, in view of the potential health risks that may be posed by a significant new use of P–83–769, a more reasoned evaluation on of the risks posed by this substance would require additional data on carcinogenic effects. These data might be generated by a two-year bioassay. While this study may not be the only means of addressing the potential risks, the Agency believes that data from short-term mutagenicity studies would not be sufficient to evaluate the potential risks.

EPA encourages potential SNUR notice submitters to test the substance for these concerns or to submit other data, such as workplace exposure information, which indicate the potential risk presented to workers. SNUR notices submitted for significant new uses without test data may be subject to EPA action under section 5(e).

As part of an optional prenotice consultation, EPA will discuss the test data it believes necessary to evaluate a significant new use of the substance. EPA encourages persons to consult with the Agency before selecting a protocol for testing the substance.

Test data should be developed according to TSCA good laboratory practices regulations at 40 CFR Part 792 published in the **Federal Register** of November 29, 1983 (48 FR 53923). Failure to do so may lead the Agency to find the data to be insufficient to evaluate reasonably the health effects of the substance.

XII. Economic Analysis

The Agency has evaluated the potential costs of establishing significant new use reporting requirements for P–83–769. The economic analysis of the possible outcomes as a result of the promulgation is summarized below. The Agency's

complete analysis is in the public record.

After promulgation of this SNUR, the Agency believes there are four courses of action a company could take: (1) Import, manufacture, or process the substance using the protective equipment, labels, and packaging procedures and therefore not trigger the SNUR; (2) file a SNUR notice with information showing other methods of controlling exposures that will mitigate EPA's concern for exposure to the substance; (3) file a SNUR notice with the results of the recommended testing completed (or be prepared to respond to a section 5(e) order controlling use of the substance pending development of additional information); or (4) not import, manufacture, or process the substance for any use. The costs of these outcomes are summarized below.

Should a company decide to manufacture or process the substance using the protective equipment, that company would not incur the cost of filing a SNUR notification. The only costs to the company would be the costs of purchasing and using the personal protective equipment, recordkeeping costs, labeling, and packaging. The unit costs for respiratory protective equipment is estimated to be $31.55 per worker per year. Assuming a 10 percent interest rate, the costs over a 10-year period for 5 workers for protective equipment would be approximately $1,066. Creating and maintaining records under the SNUR proposal for a 10-year period have been estimated to cost $1,460. Assuming 5 workers were issued protective equipment, the net present value respiratory fit testing ranges from $2,100 to $2,500.

A company that wishes to manufacture or process P–83–769 for a significant new use may decide to submit a SNUR notification with sufficient information showing that it will employ other means to control exposures and mitigate EPA's concerns. Due to the large variety of potential means of controlling exposures, EPA cannot estimate their costs. Such persons would still incur the cost of filing a NSUR notification; estimated to range between $1,375 and $7,950. That person would probably incur costs associated with the delay resulting from the review process. The length of delay has been estimated by EPA to be about four months, one month for the company to prepare and file notification and three months for the EPA review process. While the cost of this delay cannot be measured in specific figures, EPA does estimate that a 3.2 percent reduction in profits could occur because of this delay. Finally, after review of a SNUR notice which contains alternative means of controlling exposures to P–83–769, EPA could take further action under TSCA. Depending on the alternatives described in the SNUR notification, and their adequacy for controlling exposure to the substance, a section 5(e) order may be an appropriate Agency action. However, estimating the costs of such an order would be speculative at this time.

A company may wish to perform the test recommended by EPA, or other tests, to demonstrate that the substance does not present the risks EPA believes it does. The cost of a two-year bioassay is approximately $850,000. The costs of delay and regulatory follow up (if any) would also be incurred.

Finally, some companies may find the cost of controlling exposure to the substance to be too expensive to justify manufacturing or processing P–83–769. There may be some lost profits and lost benefits to society as a result of this outcome. EPA's costs of promulgating and enforcing the SNUR and the benefits of reduced health risks would continue.

The Agency anticipates that companies wishing to manufacture or process the substance will either comply with the controls identified in the proposed rule or file SNUR notices which indicate other methods of controlling exposures to the substance. Given the relative cost of the recommended testing versus the protective equipment, EPA does not believe that it is likely that testing will be performed. However, the costs of the equipment and recordkeeping requirements are low and probably will not cause companies to decide not to manufacture or process P–83–769. The fact that the PMN submitter intends to comply with the protective equipment and recordkeeping requirements indicates that some uses of the substance would return an acceptable profit.

XIII. Confidential Business Information

Any person who submits comments which the person claims as CBI must mark the comments as "confidential," "trade secret," or other appropriate designation. Any comments not claimed as confidential at the time of submission will be placed in the public file. Any comments marked as confidential will be treated in accordance with the procedures in 40 CFR Part 2. EPA requests that any party submitting confidential comments prepare and submit a sanitized version of the comments which EPA can place in the public file.

XIV. Judicial Review

When this proposed rule is promulgated, judicial review may be available under section 19 of TSCA in the United States Court of Appeals for the District of Columbia Circuit or for the circuit in which the person seeking review resides or has its principle place of business. To provide all interested persons an equal opportunity to file a timely petition for judicial review and to avoid so called "races to the courthouse," EPA intends to promulgate this rule for purposes of judicial review two weeks after publication in the **Federal Register**. The effective date will be calculated from the promulgation date.

XV. Rulemaking Record

EPA has established a record for this rulemaking (docket control number OPTS—50514). The record includes basic information considered by the Agency in developing this proposed rule. EPA will supplement the record with additional information as it is received. The record now includes the following:

1. The PMN for this substance.
2. The **Federal Register** notice of receipt of the PMN.
3. A copy of the section 5(e) consent order.
4. The economic analysis of this proposed rule.
5. The proposed SNUR for this substance.

A public version of this record from which CBI is deleted is available to the public from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays in the OTS Public Information Office, Rm. E–107, 401 M St., SW., Washington, D.C.

EPA will identify the complete rulemaking record by the date of promulgation. The Agency will accept additional materials for inclusion in the record at any time between publication of this proposed rule and designation of the complete record.

XVI. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore, requires a Regulatory Impact Analysis. EPA has determined that this proposed rule is not a "Major Rule" because it does not have an effect on the economy of $100 million or more and it will not have a significant effect on competition, costs or prices. While there is no precise way to calculate the annual cost of this proposed rule, EPA believes that the

cost will be low. In addition, because of the nature of the proposed rule and the substance subject to it, EPA believes that there will be few significant new use notices submitted. Further, while the expense of a notice, the suggested testing, and the uncertainty of possible EPA regulation may discourage certain innovation, that impact may be limited because such factors are unlikely to discourage an innovation which has high potential value. Finally, this SNUR may enourage innovation in safe . chemical substances or highly beneficial uses.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 605(b), EPA certifies that this proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small businesses. The Agency has not determined whether parties affected by this proposed rule are likely to be small businesses. However, EPA believes that the number of small businesses affected by this proposed rule would not be substantial even of all the potential new uses were developed by small companies. EPA expects to receive few SNUR notices for the substance.

C. Paperwork Reduction Act

The information reporting requirements contained in this proposed rule have been approved by OMB under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and have been assigned OMB control number 2070–0012.

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous materials, Recordkeeping and reporting requirements, Significant new uses.

Dated: September 12, 1984.

Marcia E. Williams,

Acting Assistant Administrator, for Pesticides and Toxic Substances.

PART 721—[AMENDED]

Therefore, it is proposed that Part 721 of Chapter I of Title 40 be amended as follows:

1. By adding and alphabetically inserting the following definitions to § 721.3 to read as follows:

§ 721.3 Definitions.

* * * * *

"Dry form" means a state where the chemical substance is free of moisture and has a potential to become airborne as dust or aerosol when handled.

"Local exhaust ventilation" means the removal of contaminated air through a hood, eductor, or large diameter hose from the immediate vicinity of a worker and work station where exposure to the chemical substance, either vapor or dust, may occur.

"Packaged so as to minimize leakage" means packaging in such a manner that leaks and spills from handling will not occur.

* * * * *

2. By adding a new § 721.240 to Subpart B to read as follows:

§ 721.240 Substituted bromothiophene.

(a) *Chemical substance and significant new use subject to reporting.* (1) The following chemical substance, referred to by its premanufacture notice number and generic chemical name, is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section: P–83–769, substituted bromothiophene.

(2) The significant new use is manufacture, import, or processing without establishing a program whereby:

(i) During all stages of manufacture, import, and processing of the chemical substance, any person who may be exposed to the dry form of the substance wears a National Institute for Occupational Safety and Health (NIOSH) approved half- or full-face respirator (excluding "single use" or disposable-type respirators) as approved by NIOSH in the Occupational Safety and Health Administration standards at 29 CFR 1910.134.

(ii) During manufacture, import, and processing of the chemical substance, when workers may potentially be exposed to the substance in the dry form, including the collection of samples and sample preparation, such activity is conducted in areas with local exhaust ventilation.

(iii) During the periods between import, manufacture, and processing, and for distribution in commerce, the chemical substance is packaged so as to minimize leakage of the substance to the environment.

(iv) Packages containing the chemical substance are conspicuously labeled on the exterior of each package and such labeling indicates that the dry form of the substance should be handled only while using a respirator of the kind described in paragraph (a)(2)(i) of this section.

(b) *Specific requirements.* The provisions of Subpart A of this part apply to this secton except as modified by this paragraph.

(1) *Recordkeeping.* Manufacturers, importers, and processors of the chemical substance identified in paragraph (a)(1) of this section must maintain the following records for five years from their creation:

(i) The names and addresses of persons required to wear protective equipment in accordance with paragraph (a)(2)(i) of this section, the date(s) on which they were informed of that requirement, and the means by which they were informed.

(ii) The names and addresses of any persons to whom the substance is sold or transferred and the date(s) of any such sale or transfer.

(2) [Reserved]

(Sec. 5, 8, Pub. L. 94–469, 90 Stat. 2012 (15 U.S.C. 2604, 2607))

[FR Doc. 84-25014 Filed 9-27-84; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

46 CFR Parts 502, 512 and 531

[General Orders 11, 16 and 38; Docket No. 84-2]

Amendment of Certain Regulations Governing Common Carriers by Water in the Domestic Offshore Commerce of the United States

AGENCY: Federal Maritime Commission.

ACTION: Notice of discontinuance.

SUMMARY: The Federal Martime Commission discontinues this rulemaking proceeding on the basis that the proposed regulation amendments cannot be adopted given existing statutory requirements. This discontinuance will result in no modifications to current regultory requirements.

DATE: This action is effective September 28, 1984.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, Federal Maritme Commission, 1100 L Street, NW., Washington, D.C. 20573, (202) 523–5725.

SUPPLEMENTARY INFORMATION:

Proceeding

On January 26, 1984, the Federal Maritime Commission [1] (Commission or FMC) issued a notice of proposed rulemaking (January Notice) in the above-captioned proceeding proposing amendments to its regulations

[1] Commissioner Moakley dissented to the issuance of the Notice of Proposed Rulemaking on the basis that the releif sought is beyond the Commission's statutory authority to grant.

implementing the Intercoastal Shipping Act, 1933 (ISA) (46 U.S.C. app. 843 *et seq.*). Essentially, these amendments would exempt carriers serving the Puerto Rico/Virgin Islands domestic offshore trade from the otherwise applicable financial data reporting requirements and 60-day advance notice requirement for the implementation of general rate increases and decreases.

The January Notice was issued in response to a Petition for Rulemaking filed by Sea-Land Service, Inc. (Sea-Land Petition) on September 12, 1983, requesting the same relief. A notice of filing of the Sea-Land Petition was published in the **Federal Register**, 48 FR 44091 of September 27, 1983, and comments of interested parties were solicited.

Although twenty-two parties responded to the Sea-Land Petition, the responses failed to provide sufficient information for assessing the impact of the proposal on Commission programs. This rulemaking was instituted to provide interested parties with that opportunity.

The January Notice requested commentators to specifically address the following matters:

1. If no financial data are submitted by carrriers in the Puerto Rico/Virgin Islands trade, how can the Commission effectively review the reasonableness of a general rate increase prior to its effective date?

a. If this proposed rule is adopted, how will interested persons effectively exercise their statutory right to protest general rate increases?

2. If the proposed rule were adopted, can an adequate system of general rate increase review operate within 60 days as required by the statute?

a. Assuming authority exists to establish a thirty-day review period as Sea-Land has proposed, can the requisite rate review be accomplished within thrity days?

3. If the Commission should order an investigation of a proposed general rate increase, can such an investigation be completed within 180 days as required by the statute in the absence of pre-filed financial data and supporting evidentiary materials by the carrier?

4. To what extent is port-to-port service competitive with intermodal service by carriers in the Puerto Rico/Virgin Islands trades?

a. What the regulatory requirements imposed on carriers subject to ICC jurisdiction in these trades?

b. What specific differences between ICC and FMC regulatory requirements impose a competitive disadvantage on FMC regulated carriers?

c. Can the needs of shippers in this trade be adequately served if carriers offer only intermodal service subject to ICC jurisdication.

This request, however, was without prejudice to the commentators addressing any other matters which they viewed as warranting consideration. The Commission's Bureau of Hearing Counsel was directed to participate in the proceeding.

Sixteen parties filed comments in response to the January Notice. Ten parties generally supported the rulemaking proposal,[2] while seven opposed it.[3]

The threshold issue addressed by most parties is whether section 35 of the Shipping Act, 1916 (46 U.S.C. app. 833a) gives the Commission the authority to grant the relief requested by Sea-Land. Those supporting the proposal argue an interpretation of section 35 that would allow the Commission substantial authority, while those opposing the proposal argue an interpretation which would allow exemptions that have only a *de minimis* effect on commerce. While Hearing Counsel states that section 35 gives the Commission sufficient authority to implement the proposed amendments, it also is of the opinion that such amendments are "contrary to the intent of Congress" and "would leave the Commission in a position of being unable to meaningfully review the propriety of rate increase applications within the required statutory time frame." DOT urges an *ad hoc* carrier-by-carrier approach rather than a trade-wide approach.

With regard to the Commission's specific questions concerning pre-effective date review and the 180-day investigation limitation, opinions were divided along similar lines. Parties supporting the proposed amendments argue that there should be no problem in meeting the deadlines or that the deadlines are irrelevant because competition the trade supplemented by shipper complaint proceedings are sufficient in themselves to regulate rates. Those opposing the amendments argue that adequate review would be impossible, that competition in the trade is inadequate to regulate rates and that the statutory right to protest rate increases would be effectively abrogated by this rulemaking. Hearing Counsel takes the position that the Commission's staff could not properly evaluate rate increases under the proposed amendments, but did not express an opinion on the general need for rate of return regulation in the domestic offshore trades.

The Commission's questions in the January Notice concerning the relationship between port-to-port and intermodal services in these trades also prompted a similar division of opinions. Those supporting the rulemaking are generally of the opinion that Interstate Commerce Commission (ICC) regulatory requirements are very minimal, that Sea-Land as the only port-to-port service offeror in the trade is at a competitive disadvantage, and that the Commission should reduce its regulatory requirements to the level of the ICC. Those opposing the rulemaking generally argue that the services are not directly in competition with each other, that while there are differences between ICC and FMC regulation, they impose no competitive disadvantage on any one carrier in the trade, and that rather than reduce its regulatory requirements, the FMC should seek none effective jurisdiction in the trade to strengthen its regulatory control over rates. The only matter the parties agree upon here is that there is a clear and continuing need for port-to-port service in the trade.

Few alternatives to the proposed amendments were offered. One suggestion advanced is that the Commission should utilize a data-base computer model to establish reasonable rate levels in the trade on the basis of industry-average cost, revenue and financial data. Hearing Counsel proposed that, in lieu of the proposed amendments, consideration should be given to alternative avenues of regulatory relief including: (1) Increasing the threshold level of trade revenue for financial data filing requirements; (2) increasing the threshold level of individual and annual aggregate general rate increases for financial data filing requirements from 3% and 9% to 15% and 25%, respectively; and (3) eliminating the requirement that carriers file historical data with general rate increases.

Discussion

The Commission has determined that it could not adopt the amendments proposed in this rulemaking and still carry out the statutory duties and responsibilities imposed by sections 3 and 4 of the Intercoastal Shipping Act,

[2] Comments in support of the rulemaking proposal were filed by Sea-Land Service, Inc., the U.S. Department of Transportation, The Transportation Institute, Houston Port Bureau, Inc., Jacksonville Port Authority, Delaware River Port Authority, E.I. DuPont DeNemours & Co., R.J. Reynolds Tobacco Co., Lubrizol Corporation and PPG Industries, Inc.

[3] Comments in opposition to the rulemaking proposal were filed by the Government of the Virgin Islands, the Legislature of the Virgin Islands, Hawaii Department of Commerce and Consumer Affairs, U.S. Military Sealift Command, Puerto Rico Manufacturers Association, IBP, Inc., and Hearing Counsel.

1933, particularly as amended in 1978 by Pub. L. 95-475.[4]

Contrary to the assertions of the parties supporting this proposal, the effect of this rulemaking would not be the removal of "unnecessary regulations." Obtaining financial data from a carrier and giving interested parties as well as the Commission adequate time to review such materials prior to the effective date of a general rate increase would, in the context of other requirements and limitations of the Act, appear necessary to determining "what constitutes a just and reasonable rate of return or profit for common carriers" serving this trade. 46 U.S.C. 845(a). *See* S. Rep. No. 1240, 95th Cong., 2d Sess. 9–10 (1978).

In this regard, we agree with the position taken by Hearing counsel and others that both elements of the Commission's regulatory activity which Sea-Land wishes abandoned, *i.e.* advance 60-day notice and financial information reporting requirements, are critical and complementary to the statutory scheme contemplated by the ISA. It does not appear economically or practically possible for the Commission's staff and interested third parties to review and respond to a proposed general revenue rate increase prior to its effective date without the benefit of some advance on-going carrier financial data of the kind provided in the periodic reports and without an adequate notice period. Without the data and the time to analyze it, the Commission would be without the means to make an assessment to the reasonableness of the rate increase as contemplated by the statute.

Nor does the suggested "investigate and refund" alternative advanced by Sea-Land appear viable under the circumstances. Section 3 of the ISA imposes certain statutory conditions and requirements on the initiation and conduct of rate investigations instituted pursuant to that section. One of these mandates that:

> The commission shall not order a hearing . . . unless the Commission publishes in the **Federal Register** *the reasons, in detail, why it considers such a hearing to be necessary and the specific issues to be resolved by such hearing.* (Emphasis added).

The lack of advance carrier supplied financial data would, in our opinion, render the Commission unable to meet this threshold statutory requirement that the Commission indicate up front the scope of any rate investigation. Without the necessary data, the Commission would not be in a position to give reasons for the investigation, specify "in detail" the issues to be investigated, or fashion an appropriate hearing order. Accordingly, Sea-Land's recommendation that the Commission in lieu of requiring advance notice and pre-filed financial data, could investigate all general rate increases and utilize the refund authority of the Act to compensate shippers if the rates are found too high is not an acceptable alternative.

Moreover, even if the Commission were somehow able to specify the investigation issues without the benefit of pre-filed carrier data, it is not likely that the Commission could obtain the data during the course of the investigation and complete that investigation within the 180-day limit imposed by the statute.

Therefore, the proposed amendments to the advance notice and reporting requirements taken together would, if adopted, generally render section 3 of the ISA unenforceable as it applies to the Puerto Rico/Virgin Islands trades. The ultimate effect would be to discontinue FMC review functions and shift the burden of proof in all general revenue rate proceedings to shippers and the domestic offshore governments in complaint cases. This would be contrary to the regulatory scheme contemplated by the ISA and the legislative determinations made in connection with the 1978 amendments to the ISA *See.* S. Rep. No. 1240, 95th Cong., 2d Sess. 6–7 (1978).

To the extent the Intercoastal Shipping Act, 1933 prescribes a clear and definite statutory scheme of regulation which the Commission is charged with enforcing, neither the exemption provision of section 35 nor the rulemaking provision of section 43 of the Shipping Act, 1916 (46 U.S.C. app. 841a) provides the authority to repeal or substantially amend that scheme. The legislative history of section 35 indicates that the exemption authority was to be used to exempt requirements "which are *not of significance* in the overall design of regulation contemplated" (emphasis added). *See* H. Rep. No. 2248, 89th Cong., 2d Sess. 1, 4 (1966). Therefore, any "deregulation" initiatives must still comport with the legislative intent underlying the Act, be harmonized with the statutory scheme, and rely upon a rational factual basis. *See generally, Motor vehicle Man. Assn. of U.S. Inc.* v. *State Farm Mut. Automobile Ins. Co.*, 103 S. Ct. 2856, 51 U.S.L.W. 4945, 4956–4957 (1983); *U.S.* v. *Vogel Fertilizer Co.*, 455 U.S. 16, 26 (1982). That standard could not be met on the basis of the record established in this proceeding.

The major focus of many of the comments submitted in support of the proposed amendments has been to argue the virtues of deregulation generally, or specifically in the U.S./Puerto Rico-Virgin Islands trades,[5] and the alleged disadvantage that Sea-Land's FMC regulated services are experiencing vis-a-vis those regulated by the ICC. Whatever the merits of these arguments, and the commentators offer differing and opposing views, they do not address the central issue raised by the rulemaking or the more critical questions posed by the Commission in its January Notice. The issue here is not whether existing rate regulation is good or bad or having an adverse impact on carriers subject to it, but rather *whether the "deregulation" contemplated by the Sea-Land proposals can properly be effected within the framework of the current statutorily mandated scheme.* It is on this point that the record in this proceeding fails to provide critical information. The comments favoring the rulemaking generally consist of little more than broad conclusory statements of position on the desirability of the Sea-Land proposals. None of these comments is informative or responsive to the January Notice to the extent that they explain how the Commission could adopt the Sea-Land proposals and still make a meaningful assessment of general rate increases consistent with statutory requirements. *See generally, Farmers Union Cent. Exchange.* v. *F.E.R.C.*, 734 F.2d 1486 (D.C. Cir 1984); *Cross-Sound Ferry Services, Inc.* v. *I.C.C.* No. 83–2155 (D.C. Cir. July 6, 1984).

The Commission, notwithstanding its efforts to give interested parties every opportunity to do so, has simply not been provided with the manner or method by which it can accommodate

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[4] The 1978 amendments to the ISA are the source of many of the Commission regulations which Sea-Land and this rulemaking proposed to change or eliminate. The features of the 1978 amendments most relevant here are those which: (1) Require that the Commission, "by regulation," prescribe guidelines for the determination of what constitutes a just and reasonable rate of return; (2) require the Commission to give reasons for any rate hearing instituted and strictly delineate the issues to be resolved in that hearing; and (3) impose restrictive time limits on the completion of the various phases of the hearing. Many of the specific regulations put at issue in this rulemaking were promulgated in direct fulfillment of these amendments; most as a means of enabling the Commission to meet the strict statutory scheduling deadlines established.

[5] The level of competition in the U.S.-Puerto Rico/Virgin Islands trades is offered as a reason for reducing or eliminating existing rate regulation. While the Commission recognizes the competitive realities of this trade it must also be recognized that Congress was aware of the extent of such competition when it formulated the 1978 amendments to the ISA which established the substance of the present regulatory approach. *See* S. Rep. No. 1240, 95th Cong., 2d Sess. 3–8 (1978).

Sea-Land's proposals and at the same time carry out its statutory duty to oversee the validity of general rate increases. The proposals would simply leave the Commission in the position of being unable to review, and make reasoned decisions with respect to, these rate increases within the required statutory time frame.

Conclusion

The record of this proceeding does not demonstrate any legal or factual basis upon which the Commission could properly adopt the proposals under consideration.

Therefore, it is ordered, that this proceeding is discontinued.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 84-25796 Filed 9-27-84; 8:45 am]
BILLING CODE 6730-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1102

[Ex Parte No. 290 (Sub-4)]

Railroad Cost Recovery Procedures; Productivity Adjustment

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: In an Advance Notice of Proposed Rulemaking published at 47 FR 32176 (July 26, 1982) we instituted this proceeding, and requested comments on the use of a productivity adjustment factor in the determination of the quarterly Rail Cost Adjustment Factor (RCAF), proposals for measuring productivity, and proposals for the implementation of a productivity adjustment. Comments were due October 15, 1982 (extended to October 25, 1984 at 47 FR 38946, September 3, 1982).

The Commission is seeking additional comments on the use of a productivity adjustment in the quarterly Rail Cost Adjustment Factor because the record is not adequate for an informed judgment to be made at this time. The Commission is also seeking comments on the time period to be used in measuring productivity and whether a productivity adjustment should be made at all.

DATES: Comments are due by November 13, 1984. Replies are due 30 days after the filing of comments.

ADDRESSES: To obtain copies of the full decision contact: Office of the Secretary, Interstate Commerce Commission, 12th & Constitution Avenue, NW., Washington, D.C. 20423, (202) 275-7428.

Comments (original and 15 copies) should be sent to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, 12th and Constitution Ave., NW., Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:
William T. Bono (202) 275-7354
or
Robert C. Hasek (202) 275-0938.

SUPPLEMENTARY INFORMATION:
Comments on the use of a productivity factor in the determination of the quarterly Rail Cost Adjustment Factor (RCAF) were initially solicited through an Advance Notice of Proposed Rulemaking. Responding to that notice were the Association of American Railroads (AAR), the U.S. Department of Transportation (USDOT), the New York State Department of Transportation individual shippers, shipper associations, groups of shippers, and various trade associations.

AAR opposes the concept of a productivity adjustment believing that such an adjustment is unsound economic policy, accurate measurement of railroad productivity is impossible and overestimation of productivity gains could inflict heavy losses on the railroad industry. USDOT supports the development of a methodology but opposes the adoption of a productivity adjustment at this time because it believes that existing methologies are not reliable.

Shipper and trade association parties generally but not unaminously support the inclusion of a productivity adjustment. They note that there are other provisions in the Staggers Rail Act of 1980 which permit profit enhancement and that adequate measurement of productivity exist today.

Three specific proposals are made for the measurement of productivity. Harris and Fauth each submitted a proposal based on Rail Form A. Both attempt to use Rail Form A to measure the productivity changes of the railroad industry. The third proposal was submitted by Caves and Christensen. It relies on a ratio of change in output to change in input which they define as productivity. There methodology is presented on both a forecasted and a historic basis.

Although the method proposed by Douglas Caves and Laurtis Christensen (Caves and Christensen) may have merit no determination can be made from the existing record. The methodologies proposed by Frank Harris (Harris) and Gerald Fauth (Fauth) appear to be inappropriate because they measure a composite of factors rather than productivity alone.

Comments should address the timeliness, accuracy, feasibility and verifiability of the Caves and Christensen methodology and any other methodology that may be proposed. Any party favoring the Harris or Fauth methodologies may submit further comments addressing our concern that they measure more than productivity and thus are inappropriate for determining proper productivity adjustments.

In a Notice of Proposed Rulemaking in Ex Parte No. 290 (Sub-No. 2), *Railroad Cost Recovery Procedures*, the Commission stated that comments concerning the discounting of the index for a profit element would be handled in this proceeding.

Comments are requested on the propriety of adjusting or discounting the index for a profit element. Parties favoring this concept are invited to submit specific proposals together with supporting data.

We certify that the inclusion of a productivity adjustment in the index will not have a significant adverse impact on a substantial number of small entities because only Class I railroads and their trade association, AAR, participate in the construction of index data, and because a productivity adjustment would generally tend to reduce the level of rate increases railroads are permitted to take under the cost recovery index.

This decision will not significantly affect the quality of the human environment or the conservation of energy resources.

Authority: 49 U.S.C. 10321 and 10707a, and 5 U.S.C. 553 and 559.

List of Subjects in 49 CFR Part 1102

Railroads, Freight.

Decided: September 18, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett, Gradison, Simmons, Lamboley, and Strenio. Commissioner Simmons, Lamboley, and Strenio did not participate.

James H. Bayne,

Secretary.

[FR Doc. 84-25806 Filed 9-27-84; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Public Hearing and Extension of Comment Period on Proposed Endangered Status and Critical Habitat for the Amber Darter, Trispot Darter, and Conasauga Logperch

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of public hearing and extension of comment period.

SUMMARY: The Service has received a request, as provided for by section 4(b)(5) of the Endangered Species Act, for a public hearing on the Service's proposal to list the amber darter (*Percina antesella*), trispot darter (*Etheostoma trisella*), and Conasauga logperch (*Percina* sp.) as endangered, with critical habitat. This notice announces a public hearing for the proposal and extends the comment period until 10 days after the date of the public hearing.

DATES: Comments on this proposal must be received by October 26, 1984. A public hearing on the proposal will be held October 16, 1984, from 7:30 p.m. to 10:00 p.m.

ADDRESSES: Comments should be sent to the Supervisor, Endangered Species Field Station, U.S. Fish and Wildlife Service, 100 Otis Street, Room 224, Asheville, North Carolina 28801. The public hearing will be held at the Dalton Utilities Building Auditorium, 1200 South Harris Street, Dalton, Georgia.

FOR FURTHER INFORMATION CONTACT: Mr. Richard G. Biggins at the above Field Station address (704/259–0321 or FTS 672–0321).

SUPPLEMENTARY INFORMATION:

Background

The amber darter (*Percina antesella*), trispot darter (*Etheostoma trisella*), and the Conasauga logperch (*Percina* sp.) are small fish known only for the upper Conasauga River basin in Georgia and Tennessee. The continued existence of these fishes could be threatened if a flood control and water development project now being considered for the Conasauga River is implemented without adequately considering the requirements of the species. Due to the limited distribution of these three fishes, any factor that degrades habitat and water quality in the short river reach they inhabit, i.e., chemical spills, land use changes, and increases in agricultural or urban runoff, could threaten the survival of these species. On July 13, 1984, the Service proposed all three species as endangered, with critical habitat, in the **Federal Register** (49 FR 28572). Section 4(b)(5) of the Endangered Species Act provides for a public hearing on such proposed listings, if requested. On September 4, 1984, the Service received a letter requesting a hearing from Mr. Larry Vanden Bosch of the North Georgia Area Planning and Development Commission.

The Service has scheduled a public hearing on the proposal to list the amber darter, trispot darter, and Conasauga logperch as endangered, with critical habitat. The hearing will be held at the Dalton Utilities Building Auditorium, 1200 South Harris Street, Dalton, Georgia, on October 16, 1984, from 7:30 p.m. to 10:00 p.m.

Those parties wishing to make statements for the record should have available a copy of their statements to be presented to the Service at the start of the hearing.

Author

The primary author of this notice is Mr. Richard G. Biggins, U.S. Fish and Wildlife Service, Endangered Species Field Station, 100 Otis Street, Room 224, Asheville, North Carolina 28801.

Dated: September 21, 1984.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 84–25754 Filed 9–27–84; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 49, No. 190
Friday, September 28, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Meat Import Limitations; Fourth Quarterly Estimate

Public Law 88–482, enacted August 22, 1964, as amended by Pub. L. 96–177 (hereinafter referred to as the "Act"), provides for limiting the quantity of fresh, chilled, or frozen meat of cattle, sheep except lamb, and goats (TSUS 106.10, 106.22, and 106.25), and certain prepared or preserved beef and veal products (TSUS 107.55, 107.61, and 107.62), which may be imported into the United States in any calendar year. Such limitations are to be imposed when the Secretary of Agriculture estimates that imports of articles provided for in TSUS 106.10, 106.22, 106.25, 107.55 and 107.62 (hereinafter referred to as "meat articles"), in the absence of limitations under the Act during such calendar year, would equal or exceed 110 percent of the estimated aggregate quantity of meat articles prescribed for calendar year 1984 by subsection 2(c) as adjusted under subsection 2(d) of the Act.

As published on December 30, 1983 (48 FR 57576), the estimated aggregate quantity of meat articles prescribed by subsection 2(c), as adjusted by subsection 2(d) of the Act for calendar year 1984, is 1,117 million pounds.

In accordance with the requirements of the Act, I have determined that the fourth quarterly estimate for 1984 of the aggregate quantity of meat articles which would, in the absence of limitations under the Act, be imported during calendar year 1984, is 1,190 million pounds.

Done at Washington, D.C., this 25th day of September, 1984.

John R. Block,
Secretary.

[FR Doc. 84–25680 Filed 9–27–84; 8:45 am]
BILLING CODE 3410–01–M

Statistical Reporting Service

Proposed Change in Date of Fall Potato Production Estimate

The only forecast of fall potto production currently prepared by the Statistical Reporting Service is from data collected around October 1 and published in the Crop Production report about October 10. The preliminary end-of-season estimate is prepared from data collected around December 1, after harvest is complete, and published in the Potato Stocks report about December 14. The estimate published around December 14 is repeated in the Annual Crop Summary released around January 13.

The National Potato Council has requested that the Statistical Reporting Service discontinue the October estimate and publish the season's only forecast of production around November 10. This estimate would be based on data collected around November 1. The December estimate would remain as it currently exists. If this new program of reports is adopted, it would become effective in the fall of 1985. Comments from data users regarding this proposed change in the fall potato production forecasting schedule are invited.

Done at Washington, D.C., this 25th day of September 1984.

W. E. Kibler,
Administrator.

[FR Doc. 84–25831 Filed 9–27–84; 8:45 am]
BILLING CODE 3410–25–M

CIVIL RIGHTS COMMISSION

Pennsylvania Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Pennsylvania Advisory Committee to the Commission will convene at 1:00 p.m. and will end at 4:30 p.m., on October 26, 1984, at the Federal Building, Room 200, 1000 Liberty Avenue, Pittsburgh, Pennsylvania 15222. The purpose of the meeting is to discuss a briefing on proceedings of Mid-Atlantic Regional Conference, briefing on proceedings of National Conference of Advisory Committee Chairpersons, and the status of a proposed project on violence and bigotry in Southwestern Pennsylvania.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Mid-Atlantic Regional Office at (202) 254–6670.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 25, 1984.

John I. Binkley,
Advisory Committee Management Officer.

[FR Doc. 84–25770 Filed 9–27–84; 8:45 am]
BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Economic Analysis
Title: Initial Report on a Foreign Person's Direct or Indirect Acquisition, Establishment or Purchase of the Operating Assets, of a U.S. Business Enterprise, Including Real Estate
Form Number: Agency—BE–13 and BE–14; OMB—0608–0035
Type of Request: Revision of a currently approved collection
Burden: 1,300 respondents; 1,300 reporting hours
Needs and Uses: Secures information and data on U.S. companies at the time they are established or acquired by foreign persons, and information on the foreign parent. The information consists of data on assets and income, amount of the investment, acres of land owned and number of employees. This information is required for the preparation of the international investment accounts of the U.S.
Affected Public: Businesses or other for-profit institutions; small businesses or organizations
Frequency: On occasion
Respondent's Burden: Mandatory
OMB Desk Officer: Timothy Sprehe, 395–4814

Agency: International Trade Administration
Title: Application for License to Enter Watches and Watch Movements into the Customs Territory of the U.S.
Form Numbers: Agency—ITA 334P; OMB—0625-0040
Type of Request: Extension of the expiration date of a currently approved collection
Burden: 7 respondents; 7 reporting hours
Needs and Use: Public Law 97-446 requires that the Department of Commerce and the Department of the Interior administer the distribution of duty-exemption and duty-refunds involving up to 5 million annually to watch-producers in the U.S. territories. The information collected is used to administer the program.
Affected Public: Businesses or other for-profit institutions; small businesses or organizations
Frequency: Annually
Respondent's Obligation: Required to obtain or retain a benefit
OMB Desk Officer: Sheri Fox, 395-3785

Agency: National Oceanic and Atmospheric Administration
Title: Report of Radio Transmitting Antenna Construction, Alteration, or Removal
Form Number: Agency—NOAA 76-10; OMB—0648-0096
Type of Request: Extension of the expiration date of a currently approved collection.
Burden: 780 respondents; 195 reporting hours
Needs and Uses: The National Ocean Survey (NOS) of the Department of Commerce is charged with the collection, verification, compilation, printing, and distribution of aeronautical charts. Any construction, alteration, or removal of a radio transmitting antenna must be reported. The information is used to produce accurate aeronautical charts.
Affected Public: Businesses or other for-profit institutions; small businesses or organizations
Frequency: On occasion
Respondent's Obligation: Mandatory
OMB Desk Officer: Sheri Fox, 395-3785

Agency: National Oceanic and Atmospheric Administration
Title: Fish Tagging Report
Form Number: Agency—NOAA 88-162; OMB—0648-0009
Type of Request: Reinstatement of a previously approved collection for which approval has expired
Burden: 2,833 respondents; 85 reporting hours
Needs and uses: Data is used to determine growth rates and migratory patterns of billfish. The information is used in developing fishery management plans.
Affected Public: Individuals and households
Frequency: On occasion
Respondent's Obligation: Voluntary
OMB Desk Officer: Sheri Fox, 395-3785

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals (202) 377-4217, Department of Commerce, Room 6622, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collection should be sent to the respective OMB Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20203.

Dated: September 21, 1984.

Edward Michals,

Departmental Clearance Officer.

[FR Doc. 84-25771 Filed 9-27-84; 8:45 am]

BILLING CODE 3510-CW-M

International Trade Administration

Computer Systems Technical Advisory Committee; Partially Closed Meeting

A meeting of the Computer Systems Technical Advisory Committee will be held October 16, 1984, 3:00 p.m., Herbert C. Hoover Building, Room 1851, 14th Street and Constitution Avenue, NW., Washington, D.C. The Committee advises the Office of Export Administration with respect to technical questions which affect the level of export controls applicable to computer systems or technology.

General Session:

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Review of progress on Committee's 1984 annual plan.
4. Report on current work program of the subcommittees:
   a. Foreign Availability.
   b. Licensing Procedures.
5. Input for 1985 Plan.
6. Nomination and election of Committee Chairman.
7. New Business.
8. Action items underway.
9. Action items due at next meeting.

Executive Session:

10. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on Feberary 6, 1984, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government In The Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12356.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the General Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Telephone: 202-377-4217. For further information or copies of the minutes contact Margaret A. Cornejo 202-377-2583.

Dated: September 24, 1984.

Milton M. Baltas,

Director, Technical Programs Staff, Office of Export Administration.

[FR Doc. 84-25733 Filed 9-27-84; 8:45 am]

BILLING CODE 3510-DT-M

Foreign Availability Subcommittee of the Computer Systems Technical Advisory Committee; Partially Closed Meeting

A meeting of the Foreign Availability Subcommittee of the Computer Systems Technical Advisory Committee will be held October 16, 1984, 9:30 a.m., Herbert C. Hoover Building, Room 1851, 14th Street and Constitution Avenue, NW., Washington, D.C. The Foreign Availability Subcommittee was formed to ascertain if certain kinds of equipment are available in non-COCOM and Communist countries, and if such equipment is available, then to ascertain if it is technically the same or similar to that available elsewhere.

Agenda:

1. Introduction of members and guests.
2. Opening remarks by the Chairman.
3. Presentation of papers or comments by the public.
4. Update from DOC on the establishment of the Foreign Availability Division.
5. Discussion of the FAAD questions to DOC General Counsel.
6. Review of DOC written response to the Subcommittee's letter dated July 25, 1984 concerning deregulation of West-West trade based on foreign availability.
7. Discussion of the 1985 annual plan.
8. New Business.
9. Action items underway.
10. Action items due at next meeting.

Executive Session:

11. Discussion of matters properly classified under Executive Order 12356.

dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on February 6, 1984, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government In The Sunshine Act, Pub. L. 94–409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meeting and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12356.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, telephone: 202–377–4217. For further information or copies of the minutes contact Margaret A. Cornejo 202–377–2583.

Dated: September 24, 1984.

Milton M. Baltas,

Director, Technical Programs Staff, Office of Export Administration.

[FR Doc. 84–25736 Filed 9–27–84; 8:45 am]

BILLING CODE 3510–DT–M

Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee; Open Meeting

A meeting of the Licensing Procedures Subcommittee of the Computer systems Technical Advisory Committee will be held October 16, 1984, 1:00 p.m., Herbert C. Hoover Building, Conference Room D, 14th Street and Constitution Avenue, NW., Washington, D.C. The Licensing Procedures Subcommittee was formed to review the procedural aspects of export licensing and recommend areas where improvements can be made.

Agenda

1. Opening remarks by the Subcommittee Chairman.
2. Presentation of papers or comments by the public.
3. Discussion of:
   a. Distribution license rule.
   b. Public rule-making recommendations, and
   c. Discussion with GAO.
4. Submission of 1984 annual report.
5. 1985 Plan.
6. Action items underway.
7. Action items due at next meeting.

The meeting will be open to the public with a limited number of seats available. For further information or copies of the minutes contact Margaret A. Cornejo, (202) 377–2583.

Dated: September 24, 1984.

Milton M. Baltas,

Director, Technical Programs Staff, Office of Export Administration.

[FR Doc. 84–25734 Filed 9–27–84; 8:45 am]

BILLING CODE 3510–DT–M

[A–122–005]

Carbon Steel Bars and Structural Shapes From Canada; Preliminary Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Antidumping Finding.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on carbon steel bars and structural shapes from Canada. The review covers carbon steel bars and structural shapes manufactured by Western Canada Steel Limited, its subsidiary, Vancouver Rolling Mills Ltd., the six other known exporters of this merchandise to the United States and the period September 1, 1982 through August 31, 1983.

Where company-supplied information provided in response to our questionnaire was inadequate, we used the best information available for assessment and estimated antidumping duties cash deposit purposes.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: September 28, 1984.

FOR FURTHER INFORMATION CONTACT: Sheila Forbes or Robert J. Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377–2923/5255.

SUPPLEMENTARY INFORMATION:

Background

On April 5, 1984, the Department of Commerce ("the Department") published in the **Federal Register** (49 FR 13567) the final results of its last administrative review of the antidumping finding on carbon steel bars and structural shapes from Canada (29 FR 13319, September 25, 1984) and announced its intent to conduct the next administrative review. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act") the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of carbon steel bars, bar-shapes under 3 inches, and structural shapes 3 inches and over, currently classifiable under items 606.8300 and 609.8000 of the Tariff Schedules of the United States Annotated, manufactured by Western Canada Steel Limited and/or its subsidiary, the Vancouver Rolling Mills Limited of Vancouver, Canada.

The review covers Western Canada Steel Limited, its subsidiary, Vancouver Rolling Mills Limited, the six other known exporters of this merchandise to the United States and the period September 1, 1982 through August 31, 1983.

Five firms did not ship such Canadian carbon steel bars and structural shapes to the United States during the period. The estimated antidumping duties cash deposit rates for those firms will be the most recent rate for each firm. Western Canada Steel Ltd./Cam Chain Co. Ltd. and Western Canada Steel Ltd./Chatham Steel Ltd. failed to provide adequate responses to our questionnaire. For those non-responsive firms we used the best information available to determine the assessment and estimated antidumping duties cash deposit rates. The best information available is the most recent rate for each firm.

Preliminary Results of the Review

As a result of our review we preliminarily determine that the following margins exist for the period September 1, 1982 through August 31, 1983:

Manufacturer/exporter	Margin (percent)
Western Canada Steel Ltd.	[1] 40.64
Western Canada/A.J. Forsyth Co., Ltd.	[1] 0.01
Western Canada/Mitsubishi Canada Ltd.	[1] 0.01
Western Canada/Mitsui & Co. (Canada) Ltd.	[1] 0.01
Western Canada/Tudor Sales Ltd.	[1] 0.01
Western Canada/Cam Chain Co., Ltd.	[1] 3.20
Western Canada/Chatham Steel Ltd.	3.20

[1] No shipments during the period.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing with 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must

be made within 5 days of the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the Customs Service shall assess, dumping duties on all appropriate entries. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Further, as provided for in § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based on the above margins shall be required for those firms. Since the margins for A.J. Forsyth Co., Ltd., Mitsubishi Canada Ltd., Mitsui & Co. (Canada) Ltd., and Tudor Sales Ltd. are less than 0.5 percent and, therefore, *de minimis* for cash deposit purposes, the Department shall waive the deposit requirement for shipments of carbon steel bars and structural shapes from those firms. For any future entries from a new exporter not covered in this or prior administrative reviews, whose first shipments of carbon steel bars and structural shapes manufactured by Western Canada Steel, Ltd., or its subsidiary, Vancouver Rolling Mills Ltd., occurred after August 31, 1983, and who is unrelated to any reviewed firm, a cash deposit of 3.20 percent shall be required. These deposit requirements and waivers are effective for all shipments of carbon steel bars and structural shapes manufactured by Western Canada Steel Ltd. or its subsidiary, Vancouver Rolling Mills Ltd., entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Dated: September 18, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-25813 Filed 9-27-84; 8:45 am]

BILLING CODE 3510-DS-M

Advisory Committee on East-West Trade; Termination

Having accomplished its mission, the Advisory Committee on East-West Trade will be terminated effective September 30, 1984. For additional information, please contact JeNelle Matheson, International Trade Administration, 377-3462.

Roger Severance,

Acting Deputy Assistant Secretary for East Asia and Pacific.

[FR Doc. 84-25812 Filed 9-27-84; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

National Marine Fisheries Service; Marine Mammals; Fish Import Certification From Sweden

Regulations established in accordance with the Marine Mammal Protection Act of 1972, 16 U.S.C. 1361 *et seq* (45 FR 72178-72196, October 31, 1980) provide that a nation may certify that vessels fishing under its flag are: (1) Fishing in conformance with U.S. regulations, or (2) if not in conformance, were not fishing in a manner prohibited for U.S. fishermen under these regulations. This certification is necessary in order to permit the importation into the United States of certain of its fish and fish products.

The Assistant Administrator for Fisheries, National Marine Fisheries Service, has received and accepted a certification from the Government of Sweden that vessels fishing for salmon under Swedish flag are fishing in conformance with U.S. regulations in regard to the taking of marine mammals incidental to commercial fishing operations. Therefore, salmon from Sweden are hereby exempt to the United States without an accompanying Standard Form 369-1 (Fisheries Certificate of Origin).

Copies of the certification are on file and available for review in the Office of the Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.

Dated: September 19, 1984.

Richard B. Roe,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 84-25851 Filed 9-27-84; 8:45 am]

BILLING CODE 3510-22-M

National Marine Fisheries Service; Receipt of Application for Permit; Belfast Zoological Gardens

Notice is hereby given that an Applicant has applied in due from for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name Belfast Zoological Gardens (P344).

b. Address Antrim Road, Belfast Northern Ireland BT36 7PN.

2. Type of Permit Public Display.

3. Name and Number of Animals: California sea lions *(Zalophus californianus)*, 4.

4. Type of Take: Rehabilitated beached and stranded animals for captive maintenance.

5. Location of Activity: Rehabilitation facilities in California.

6. Period of Activity: 2 years.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the Federal Register, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

As a request for a permit to take living marine mammals to be maintained in areas outside the jurisdiction of the United States, this application has been submitted in accordance with National Marine Fisheries Service policy concering such applications (40 FR 11619, March 12, 1975). In this regard, no application will be considered unless:

(a) It is submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, through the appropriate agency of the foreign government;

(b) It includes;

i. A Certification from such appropriate government agency

verifying the information set forth in the application;

ii. A certification from such government agency that the laws and regulations of the government involved permit enforcement of the terms of the conditions of the permit, and that the government will enforce such terms;

iii. A statement that the government concerned will afford comity to a National Marine Fisheries Service decision to amend, suspend or revoke a permit.

In accordance with the above cited policy, the certification and statements of the Department of Agriculture for Northern Ireland have been found appropriate and sufficient to allow consideration of this permit application.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: September 21, 1984.

Richard B. Roe,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 84-25800 Filed 9-27-84; 8:45 am]
BILLING CODE 3510-22-M

National Marine Fisheries Service; Notice of Receipt of Application for Permit; Kolmardens Djurpark

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–14007), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name: Kolmardens Djurpark (P205B).

b. Address: SA–618 00, Kolmarden, Sweden.

2. Type of Permit: Public Display.

3. Name and Number of Animals: bottlenose dolphin (*Tursiops truncatus*), 4.

4. Type of Take: Captive Maintanance.

5. Location of Activity: Waters of Gulf of Mexico, Florida.

6. Period of Activity: 2 Years.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

As a request for a permit to take living marine mammals to be maintained in areas outside the jurisdiction of the United States, this application has been submitted in accordance with National Marine Fisheries Service policy concerning such applications (40 FR 11619, March 12, 1975). In this regard, no application will be considered unless:

(a) It is submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, through the appropriate agency of the foreign government;

(b) It includes:

i. A certification from such appropriate government agency verifying the information set forth in the application;

ii. A certification from such government agency that the laws and regulations of the government involved permit enforcement of the terms of the conditions of the permit, and that the government will enforce such terms;

iii. A statement that the government concerned will afford comity to a National Marine Fisheries Service decision to amend, suspend or revoke a permit.

In accordance with the above cited policy, the certification and statements of the Head of Division for Contagious Animal Diseases of Sweden have been found appropriate and sufficient to allow consideration of this permit application.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: September 21, 1984.

Richard B. Roe,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 84-25801 Filed 9-27-84; 8:45 am]
BILLING CODE 3510-22-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1984; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to Procurement List 1984 commodities to be produced by and services to be provided by workshops for the blind and other severely handicapped.

DATE: Comments must be received on or before: October 31, 1984.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C.W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities and services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and services to Procurement List 1984, October 18, 1983 (48 FR 48415):

Class 1015

Staff Section: 1015–00–099–0633

Class 1025

Staff Section: 1025–01–044–2587, 1025–00–583–7232

Class 8340

Cover, Tent, General Purpose: 8340–00–282–2397

SIC 7349

Janitorial/Custodial: Scotia Depot Complex, Buildings 2, 3, 12, 13, 14 & 22, Scotia, New York

Janitorial/Custodial: Phillip J. Philbin Federal Building, 695 Main Street, Fitchburg, Massachusetts.

E.R. Alley, Jr.,

Acting Executive Director.

[FR Doc. 84-25778 Filed 9-27-84; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1984; Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to Procurement List.

SUMMARY: This action adds to Procurement List 1984 commodities to be produced by and services to be provided by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: September 28, 1984.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C.W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: On June 8, June 22, June 29, July 9, July 13, July 20, and August 3, 1984, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (49 FR 23908, 49 FR 25664, 49 FR 26790, 49 FR 27969, 49 FR 28596, 49 FR 29441 and 49 FR 31126) of proposed additions to Procurement List 1984, October 18, 1983 (48 FR 48415).

Additions

After consideration of the relevant matter presented, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. The actions will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The actions will not have a serious economic impact on any contractors for the commodities and services listed.

c. The actions will result in authorizing small entities to produce or provide the commodities and services procured by the Government.

Accordingly, the following commodities and services are hereby added to Procurement List 1984:

Class 5140

Belt, Tool, Repairman's: 5140-00-529-2517, 5140-00-529-2894, 5140-00-529-2891

Class 8105

Bag, Currency: 8105-00-NIB-0006
(Requirements of the Bureau of Engraving and Printing, Washington, D.C. only)

SIC 0782

Grounds Maintenance: DOT/FAA, Airway Facilities Sector, 1100 South Service Road, Atlanta, Georgia

SIC 7349

Janitorial Service: John E. Moss Federal Building, 650 Capitol Mall, Sacramento, California

Janitorial Service: Federal Building-U.S. Courthouse, 401 S.E. First Avenue, Gainesville, Florida

Janitorial Service: Federal Building, 20 Washington Place, Newark, New Jersey

Janitorial Service: Federal Building and Courthouse, 228 Walnut Street, Harrisburg, Pennsylvania

Janitorial Service: U.S. Courthouse, 10th and Main Streets, Richmond, Virginia

SIC 7363

Commissary Shelf Stocking and Custodial, Cannon Air Force Base, New Mexico.

E.R. Alley, Jr.,

Acting Executive Director.

[FR Doc. 84-25777 Filed 9-27-84; 8:45 am]

BILLING CODE 6820-33-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing the Intention To Provide Proper Category Coverage for All Garments Classified in Schedule 3, Part 6, Subpart f, to the Tariff Schedules of the United States, Annotated

September 25, 1984.

The purpose of this notice is to announce that, effective on January 1, 1985, new statistical annotations to the Tariff Schedules of the United States, Annotated (T.S.U.S.A.), will be created which will provide for the proper category placement of all garments classified in Schedule 3, part 6, subpart f. For example, an ornamented woman's jacket, of a fabric blend of linen and polyester, in which the polyester is 50 percent or more by weight of the fabric, currently is classified in Textile Category 659 because no proper statistical annotation exists for such jackets in the current T.S.U.S.A. Effective January 1, 1985, a new annotation will be created which will provide for proper placement of this jacket in Textile Category 635. Similarly, all other garments, for which proper textile category annotations do not currently exist at this time, will be provided for statistically in the T.S.U.S.A. on January 1, 1985. These annotations will be effective for all garments classified in Schedule 3, Part 6, Subpart f, to the T.S.U.S.A. entered for consumption, withdrawn from warehouse for consumption, or entered into warehouse on or after January 1, 1985. No waivers of the proper category requirement will be made by CITA.

A listing and description of the new T.S.U.S.A. annotations will be published in the **Federal Register** as soon as they are available from the International Trade Commission.

Effective Date: January 1, 1985.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-25841 Filed 9-27-84; 8:45 am]

BILLING CODE 3510-DR-M

COMMODITY FUTURES TRADING COMMISSION

Exchange Proposal To Trade Commodity Options; New York Mercantile Exchange

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions for trading commodity options on the New York Mercantile Exchange heating oil futures contract.

SUMMARY: The New York Mercantile Exchange ("NYMEX") has submitted an application to trade options on commodity futures contracts for heating oil under the three-year pilot program adopted by the Commodity Futures Trading Commission ("Commission"). The Commission believes that public comment on the proposal is in the public interest and is consistent with its option regulations and with the purposes of the Commodity Exchange Act.

DATE: Comments must be received on or before October 29, 1984.

ADDRESS: Interested persons should submit their views and comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Reference should be made to the NYMEX Heating Oil options contract.

FOR FURTHER INFORMATION CONTACT: Richard Shilts, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, (202) 254-7303.

SUPPLEMENTARY INFORMATION: The Commission has previously adopted

regulations to govern a three-year pilot program under which options on certain commodity futures contracts are permitted to be traded on domestic boards of trade designated by the Commission as contract markets for options trading (46 FR 54500 (November 3, 1981)). Initially, the pilot program provided that each board of trade would be approved for trading in no more than one futures option contract. These regulations were subsequently amended to allow the approval of two options on certain futures contracts for each domestic board of trade (48 FR 41575 (September 16, 1983)).[1] The New York Mercantile Exchange ("NYMEX") previously submitted an application for designation as a contract market in options on crude oil futures contracts which currently is pending before the Commission. (49 FR 31935 (August 9, 1984)).

NYMEX has applied for contract market designation, pursuant to Section 6 of the Commodity Exchange Act, 7 U.S.C. 8 (1982), ("Act") and Commission Regulation 33.5, to trade options on heating oil futures contracts.

A copy of the terms and conditions of the proposed NYMEX option on heating oil futures contracts will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254–6314.

Other materials submitted by NYMEX in support of its application for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1983)). Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the terms and conditions of the proposed futures contract, or with respect to other materials submitted by NYMEX in support of its application, should send such comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, by October 29, 1984. Such comment letters will be publicly available except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9.

Issued in Washington, D.C., on September 24, 1984.

Jean A. Webb,

Deputy Secretary of the Commission.

[FR Doc. 84-25899 Filed 9-27-84; 8:45 am]

BILLING CODE 6351-01-M

[1] The Commission has further amended the regulations governing the option pilot program to permit boards of trade to be designated for up to five options on certain futures contracts (49 FR 33841 (August 24, 1984)). The rule amendment was transmitted to Congress on August 29, 1984 and will become effective upon the expiration of 30 calendar days of continuous session of Congress but not before further notice of the effective date is published in the Federal Register. In addition, the Commission has amended its regulations to permit each board of trade to be designated in up to two options on domestic agricultural futures contracts in addition to the five permissible designations noted above (49 FR 2782 (January 23, 1984)).

CONSUMER PRODUCT SAFETY COMMISSION

All-Terrain Vehicles (ATVs); Meeting With Manufacturers/Importers

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of meeting.

SUMMARY: The Commission has scheduled a public meeting with manufacturers and importers of three-wheeled all-terrain vehicles and the Specialty Vehicle Institute of America (SVIA). Participation by interested manufacturers is invited.

DATES: (1) The meeting will begin at 10:00 a.m. on October 23, 1984. (2) Requests from manufacturers to participate, and copies of their presentations, should be received by the Office of the Secretary no later than October 11, 1984.

ADDRESSES: The meeting will be in the third floor conference room at 1111 18th Street, NW., Washington, D.C.

Requests from manufacturers to participate, and copies of their presentations, should be submitted to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 492–6800.

FOR FURTHER INFORMATION CONTACT: Elizabeth Haught, Corrective Actions Division, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 492–6608.

SUPPLEMENTARY INFORMATION: Three-wheeled all-terrain vehicles, often called "ATVs", are small motorcycles with three large, soft tires and are designed for off-road use on a variety of terrains. In recent years, the popularity and sales of these vehicles have greatly expanded. Information from the Commission's National Electronic Injury Surveillance System (NEISS) indicates that the estimated number of ATV-related injuries treated in hospital emergency rooms jumped from 8,500 in 1982 to 27,500 in 1983. The Commission estimates that there have been 30,000 injuries during the first half of 1984.

The Commission is interested in receiving information and views from industry about the safe use of these 3-wheeled vehicles and the ways in which these injuries can be reduced. The Commission is specifically interested in learning more about and discussing the following areas:

- Rider Training Programs
- Minimum Age Recommendations
- Development of a Model Code for ATV Use in Recreational Areas and for State and Local Jurisdictions
- Development of Voluntary Standards for Vehicle Labeling and Instructions and Design and Performance Standards
- Consumer Education
- Future Research to Make ATVs Safer

An additional purpose of this meeting is to obtain information from the ATV industry as to the actions they will take to address the hazards associated with ATVs.

The Commission is contacting manufacturers of ATVs and the Specialty Vehicle Institute of America, an industry trade association, concerning participation in the meeting. Representatives of manufacturers who want to participate should call or write Sadye E. Dunn, Secretary, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 492–6800, not later than October 11, 1984. Copies of the participants' presentations should be provided to the Secretary by that date. The Commission reserves the right to impose time limitations on the presentations of the participants and to limit duplicative or irrelevant comments. The meeting will consist of presentations by the participants, followed by questions by the Commissioners.

Dated: September 25, 1984.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 84-25894 Filed 9-27-84; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Advisory Committee on Women in the Services (DACOWITS) Meeting

September 25, 1984.

Pursuant to Pub. L. 92-463, notice is hereby given that a meeting of the Defense Advisory Committee on Women in the Services (DACOWITS) will be held 13-17 November 1984 at the Pensacola Hilton, Pensacola, FL.

The purpose of the DACOWITS Committee is to assist and advise the Secretary of Defense on matters relating to women in the Services. The Committee meets semiannually.

Sessions will be conducted daily as indicated and will be open to the public. The agenda will include the following meetings and discussions:

Tuesday, 13 November 1984—Pensacola Hilton

11:00 a.m.-4:00 p.m.—Registration
12:00 Noon-1:00 p.m.—Executive Committee Meeting
1:00 p.m.-2:30 a.m.-"Get Acquainted" Luncheon (DACOWITS Members Only) MILREP Luncheon (MILREPS and Liaison Officers Only)
2:30 p.m.-3:00 p.m.—Chair's Procedural Session
3:00 p.m.-4:00 a.m.—OSD/Service Briefings
4:00 p.m.- 6:00 p.m.—Subcommittee Meetings
7:00 p.m.-8:30 p.m.—"No-Host" Social buffet

Wednesday, 14 November 1984—Pensacola Hilton

7:45 a.m.-8:15 a.m.—Official Coffee
8:15 a.m.-8:45 a.m.—Official Opening
9:00 a.m.-11:45 a.m.-OSD/Service Briefings
12:00 noon-1:30 p.m.—Official Department of Defense Luncheon (By invitation only)
1:45 p.m.-3:15 p.m.—OSD/Service Briefings
3:30 p.m.-6:00 a.m.—Subcommittee Meetings
7:00 p.m-10:30 p.m.—Official Department of Defense Reception and Dinner (By invitation only)

Thursday, 15 November 1984

7:45 a.m.-6:30 p.m.—Field Trip to the Pensacola Naval Air Station (By invitation only)

Friday, 16 November 1984—Pensacola Hilton

8:00 a.m.-10:15 a.m.—OSD/Service Briefings
10:15 a.m.-10:45 a.m.—Presentations by Members of the Public
11:00 a.m.-1:00 p.m.—"No-Host" Luncheon
1:15 p.m.-6:00 p.m.—Subcommittee Meetings

Saturday, 17 November 1984—Pensacola Hilton

7:30 a.m.-10:30 a.m.—General Business Session—Adjourn
10:30 a.m.-11:30 a.m.—Executive Committee Meeting
12:00 noon-2:00 p.m.—Blue Angels Air Show

The following rules and regulations will govern the participation by members of the public at the meeting:

(1) Members of the public will not be permitted to attend the Official Department of Defense Luncheon or Dinner.

(2) All business sessions, to include the Executive Committee Meetings, will be open to the public.

(3) Interested persons may submit a written statement and/or make an oral presentation for consideration by the Committee during the meeting.

(4) Persons desiring to make an oral presentation or submit a written statement to the Committee must notify Captain Marilla J. Brown, USA, DACOWITS Executive Secretary, OASD (Manpower, Installations and Logistics), Room 3D769, the Pentagon, Washington, D.C. 20301-4000, (202) 697-2122 by 30 October 1984.

(5) Length and number of oral presentations to be made will depend on the number of requests received from the members of the public.

(6) Oral presentations by members of the public will be permitted only from 10:15 a.m. to 10:45 a.m. on Friday, 16 November 1984, before the full Committee.

(7) Each person desiring to make an oral presentation or submit a written statement must provide the DACOWITS Secretariat with a copy of the presentation or 60 copies of the statement by 30 October 1984.

(8) Persons submitting a written statement only for inclusion in the minutes of the meeting must submit one (1) copy either before or during the meeting or within five (5) days after the close of the meeting.

(9) Other new items from members of the public may be presented in writing to any ADCOWITS member for transmittal to the DACOWITS Chair or Executive Secretary to consider, as feasible.

(10) Members of the public will not be permitted to enter into oral discussion conducted by the Committee members at any of the sessions; however, they will be permitted to reply to questions directed to them by the members of the Committee.

(11) Members of the public will be permitted to orally question the scheduled speakers if recognized by the Chair and if time allows after the official participants have asked questions and/or made comments.

(12) Questions from the public will not be accepted during the Subcommittee Sessions, the Executive Committee Meetings, or the Business Session on Saturday, 17 November 1984.

Additional information regarding the Committee and/or this meeting may be obtained by contracting the DACOWITS Executive Secretary, OASD (MI&L), the Pentagon, Room 3D769, Washington, D.C. 20301-4000, (202) 697-2122.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 84-25833 Filed 9-27-84; 8:45 am]

BILLING CODE 3810-01-M

Privacy Act of 1974, Amendments to Systems of Records Notice

AGENCY: Office of the Secretary, Defense.

ACTION: Notice of amendments to system of records.

SUMMARY: The Office of the Secretary of Defense proposes to amend a notice for system of records subject to the Privacy Act of 1974. The specific changes to the notice being amended are set forth below, followed by the system notice, as amended, published in its entirety.

DATE: This shall be effective without further notice October 29, 1984, unless comments are received which would result in a contrary determination.

ADDRESS: Send any comments to the System Manager identified in the system notice.

FOR FURTHER INFORMATION CONTACT: Norma Cook, Privacy Act Officer, ODASD(A), Room 5C-315, Pentagon, Washington, D.C. 20301-1155, Telephone: 202/695-0970.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense (OSD) systems of records notices are prescribed by the Privacy Act of 1974, Title 5, United States Code Section 552a (Pub. L. 93-579; 44 Stat. 1896. *et seq.*) have been published in the **Federal Register** at:

FR Doc. 83-12048 (48 FR 25827) June 6, 1983
FR Doc. 84-4418 (49 FR 6145) February 17, 1984
FR Doc. 84-17736 (49 FR 27602) July 5, 1984
FR Doc. 84-20096 (49 FR 30560) July 31, 1984
FR Doc. 84-22569 (49 FR 33700) August 24, 1984
FR Doc. 84-24410 (49 FR 36133) September 14, 1984

The proposed amendments are not within the purview of the provisions of 5 U.S.C. 552a(o) of the Act which requires

the submission of an altered system report.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

AMENDMENTS

DGC 05

System Name

Administrative Files on Active Psychiatric Consultants to Department of Defense (DOD) (48 FR 25830, June 6, 1983).

Changes

Delete Paragraph under heading *"System Location"* and add "Directorate for Industrial Security Clearance Review (DISCR), Defense Legal Services Agency (DLSA), DoD."

Delete eighteenth through twenty-fourth words under heading *"Authority for Maintenance of the system"* and add"and Deputy Secretary of Defense Memorandum dated October 20, 1965, Subject: Employment of Psychiatric Consultants for Industrial Security Program."

Add the following heading *"PURPOSES(S)"* before the heading *"Routine Uses of Records Maintained in the System, Including Categories of Users and Purposes of Such Uses."*

Add the following paragraph under the above heading.

"To be used by psychiatric consultants having active professional service agreement with and having been granted security clearance by the Department of Defense (DOD) are used by DISCR, and Defense Industrial Security Clearance Office (DISCO), Defense Investigative Service (DIS), in processing requests for industrial personnel clearance of individuals.

Delete the heading *"Routine Uses of Records Maintained in the System, Including Categories of Users and Purposes of Such Uses."*

Delete the paragraph under the above heading.

Delete the heading *"Internal Users, Uses, and Purposes."*

Delete the paragraphs under the above heading.

Delete the heading *"External Users, Uses, and Purposes"* and add the heading "Routine uses of Records Maintained in the System, Including Categories of Users and Purposes of Such Uses."

Delete paragraph under *"System Manger(s) and Address"* and add "Director, Directorate for Industrial Security Clearance Review, 4019 Wilson Boulevard, Suite 101, Arlington, VA. 22203–1995."

Delete Paragraph under *"Notification Procedure"* and add "Information may be obtained from the State Manager, DISCR, at the above address, Telephone number: 202–696–4598."

Delete last eight words of first paragraph under *"Record Access Procedures"* and add "DISCR, at the above address."

Delete last three lines of the last paragraph and add "above address."

System DGC reads as follows:

DCG 05

SYSTEM NAME:

Administrative Files on Active Psychiatric Consultants to Department of Defense (DoD).

SYSTEM LOCATION:

Directorate for Industrial Security Clearance Review (DISCR), Defense Legal Services Agency (DLSA), DoD.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Psychiatric consultants who have entered into agreement with the Department of Defense to conduct psychiatric examination of individuals applying for industrial security clearance for access to classified information required in the performance of their work for classified Government contractors.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records filed alphabetically by last name of psychiatrist, consisting of correspondence concerning agreement to conduct psychiatric examinations requested by the Government; and initiation and confirmation of security clearance is issued to psychiatrists.

Current list of active DoD psychiatric consultants.

Alphabetical card index file for identification and address of active psychiatric consultants.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

DoD Directive 5220.6, "Industrial Personnel Security Clearance Program," December 20, 1976; Executive Order 10865, February 20, 1960, and Deputy Secretary of Defense Memorandum dated October 20, 1965, Subject: Employment of psychiatric consultants for Industrial Security Program.

PURPOSES(S):

To be used by Psychiatric consultants having active professional service agreements with and having been granted security clearance by the Department of Defense (DoD) are used by DISCR, and Defense Industrial Security Clearance Office (DISCO), Defense Investigative Service (DIS), in processing requests for industrial personnel security clearance of individuals.

ROUTINE USES OF RECORD MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSE OF SUCH USES:

See Office of the Secretary of Defense (OSD) Blanket Routine Uses at the head of this Component's published system notices.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders, vertical file cards.

RETRIEVABILITY:

Alphabetically by surname.

SAFEGUARDS:

Records are stored in security combination locked file cabinets accessible only to DISCR authorized personnel.

RETENTION AND DISPOSAL:

Destroy six months after agreement between consultant and DoD has been terminated.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Directorate for Industrial Security Clearance Review, 4019 Wilson Boulevard, Suite 101, Arlington, VA 22203–1995.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager, DISCR, at above address, Telephone: 202–696–4598.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to DISCR, at above address.

Written requests should include the individual's full name, date and place of birth, and notarized signature.

The records requested may be made available to individuals for review at the above address.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR Part 286b and OSD Administrative Instructions No. 81.

RECORD SOURCE CATEGORIES:

Copy of Letter of Conset (for Security clearance), DISCO Form 560, and correspondence with individual psychiatrists.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 84-25633 Filed 9-27-84; 8:45 am]
BILLING CODE 3810-01-M

Public Information Collection Requirement Submitted to OMB for Review

September 25, 1984.

Summary: The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; and (8) The point of contact from whom a copy of the information proposal may be obtained.

New

- 1985 DOD Survey of Military Spouses

This will be the first large-scale canvass of the spouses of active-duty military personnel ever conducted. The purpose of this effort is to fulfill needs for information on the total population directly involved in the military way of life. The information obtained will aid the Department of Defense and the individual Services to assess the status and usefulness of their family-related programs and policies; requirements for new or modified policies and programs; need for shifts in resources allocated among the various programs; the composition of the total population involved in the military way of life; the impact of families on readiness and retention of active-duty personnel; the situations of dual-service couples and single parents; and information relevant to the formulation and justification of programs and budgets.

Respondents: Spouses of active-duty military members
Responses: 70,100
Burden: 35,050 hours

ADDRESSES: Comments are to be forwarded to Mr. Edward Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503, and Mr. Daniel J. Vitiello, DOD Clearance Officer, WHS/DIOR, Room 1C535, The Pentagon, Washington, DC 20301-1155, telephone (202) 694-0187.

SUPPLEMENTARY INFORMATION: A copy of the information collection proposal may be obtained from Mr. Robert L. Newhart, OASD MI&L(PI), Room 3C800, Pentagon, Washington, DC 20301, telephone (202) 695-0643.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 84-25634 Filed 9-27-84; 8:45 am]
BILLING CODE 3810-01-M

Department of the Army

Filing and Availability of Final Environmental Impact Statement; Proposed Stationing of a Seventeenth Active Component Division

AGENCY: Department of the Army, DOD.

ACTION: Notice of filing and availability of final environmental impact statement.

SUMMARY: The Department of the Army has filed with the Environmental Protection Agency a Final Environmental Impact Statement on the stationing of a seventeenth Active Component division.

SUPPLEMENTARY INFORMATION: On April 6, 1984 (49 FR 13738), the Department of the Army announced its intent to prepare an Environmental Impact Statement on stationing its seventeenth Active Component division, now designated as the 10th Infantry Division. Availability of the draft statement was announced on May 25, 1984 (49 FR 22133). The Final Environmental Impact Statement is now available for public and interagency review. Eight army installations (Fort Benning, Georgia; Fort Campbell, Kentucky; Fort Drum, New York; Fort Lewis, Washington; Fort Ord, California; and Forts Wainwright, Richardson, and Greely, Alaska) are being considered as sites for stationing all or part of the new light infantry division. The new division will begin organizing during Fiscal Year 1985. As part of the Final Environmental Impact Statement, the preferred alternative for stationing the 10th Infantry Division has been identified as Fort Drum, NY, with temporary stationing of an infantry brigade with associated support units at Fort Benning, GA until facilities at Fort Drum become available.

The final decision on stationing the division will be made after public and interagency review of the Final EIS and consideration of all operational, economic and environmental factors. Copies of the FEIS have been forwarded to concerned federal, state, and local agencies in accordance with 40 CFR 1502.19. Interested organizations or individuals may obtain copies of the FEIS from: U.S. Army Engineer District, Mobile ATTN: James B. Hildreth, (SAMPD-EE), P.O. Box 2288, Mobile, Alabama 36628, Telephone (205) 694-4141.

Comments concerning this action should be directed to the above on or before 28 October 1984.

Lewis D. Walker,

Deputy for Environment, Safety and Occupational Health, OASA (I&L).

[FR Doc. 84-25445 Filed 9-27-84; 8:45 am]
BILLING CODE 3710-08-M

Adoption of Final Environmental Impact Statement; Proposed Stationing of an Eighteenth Active Component Division

AGENCY: Department of the Army, DOD.

ACTION: Adoption of final environmental impact statement.

SUMMARY: Notice is given that the Department of the Army adopts the Final Environmental Impact Statement (FEIS) prepared for stationing of a seventeenth Active Component division as the FEIS for and stationing of an eighteenth Active Component division.

SUPPLEMENTARY INFORMATION: The Department of the Army proposes the stationing of an eighteenth Active Component division (designated as the 6th Infantry Division). The proposed 6th Infantry Division would be designed as a light Infantry Division consisting of three (3) infantry brigades, one (1) artillery brigade, one (1) combat aviation brigade, and associated support units. Total troop strength of the division would be approximately 10,000 military personnel. This new division would be "rounded out" with one of its infantry brigades and some associated support units drawn from the Army Reserve Component which will train and participate in division exercises. The remainder of the 6th Infantry Division would be built incrementally from the Active Component, as spaces become available from other force structure actions. The division's light design is intended to permit its use quickly as threats arise, and it may also be employed on a sustained basis when augmented and employed as part of a larger force. The 6th Infantry Division would be considerably smaller than traditional divisions, which range in size from 14,000 to 18,00 soldiers. It would also be less dependent upon heavy equipment such as tanks and armored weaponry, relying instead upon

specialized forces and quick response troops.

Pursuant to the National Environmental Policy Act (NEPA), the Department of the Army has previously prepared a Final Environmental Impact Statement (FEIS) for stationing of a seventeenth Active Component division (designated as the 10th Infantry Division). The Army published its Notice of Intent to prepare this FEIS on April 6, 1984 (49 FR 13738), and filed the draft statement with the Environmental Protection Agency, as announced on May 25, 1984 (49 FR 22133). In a separate notice in today's issue of the **Federal Register**, the Army announces the filing and availability of the FEIS for stationing of the 10th Infantry Division, the Army's seventeenth Active Component division.

Pursuant to the Council on Environmenmtal Quality regulations (40 CFR 1506.3) implementing NEPA, the Department of the Army adopts the FEIS prepared for the 10th Infantry Division, the Army's seventeenth Active Component division, as the FEIS for the 6th Infantry Division, the Army's eighteenth Active Component division. Stationing alternatives for the 6th Infantry Division are the same as those considered for the 10th Infantry Division; and the 10th Infantry Division FEIS adequately describes environmental effects which may be anticipated from the proposed stationing of the 6th Infantry Division. The preferred alternative for stationing the 6th Infantry Division is at Forts Wainwright and Richardson, AK.

A final decision on stationing of the 6th Infantry Division will not be made until after public circulation of the adopted FEIS. Copies of the FEIS have been circulated to concerned federal, state, and local agencies in accordance with 40 CFR 1502.19. Interested organizations or individuals may obtain copies of the FEIS and Record of Environmental Consideration (32 CFR 651.7) explaining its adoption and considering the no action alternative, by contacting: U.S. Army Engineer, District, Mobile Attn: James B. Hildreth, (SAMPD–EE), P.O. Box 2288, Mobile, AL 36628, Telephone (205) 694–4141. Comments concerning this action should be directed to the above on or before 28 October 1984.

Lewis D. Walker,

Deputy for Environment, Safety and Occupational Health, OASA (I&L).

[FR Doc. 84–25469 Filed 9–27–84; 8:45 am]

BILLING CODE 3710-08-M

Department of the Navy

Public Information Collection Requirement Submitted to OMB for Review

September 25, 1984.

Summary: The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

Extension

• Employment in Private Shipyards under Cognizance of Supervisors of Shipbuilding, Conversion and Repair (SUPSHIPS) NAVSEA 4350–2, NAVSEA 4350/2.

To collect information on employment in private shipyards to make a determination of the capabilities of the shipbuilding industry and its ability to meet the shipbuilding, conversion and repair needs for Navy and Merchant ships. It is collected from firms that build, convert or repair ships.

Businesses or other for profit
Responses 115
Burden hours 11,040

ADDRESSES: Comments are to be forwarded to Mr. Edward Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20503 and Mr. Daniel J. Vitiello, DOD Clearance Officer, WHS/DIOR, Room 1C535, The Pentagon, Washington, DC. 20301–1155, telephone (202) 694–0187.

SUPPLEMENTARY INFORMATION: A copy of the information collection proposal may be obtained from Mr. Kenneth C. Harris, Commander, Naval Sea Systems Command, National Center #3, Washington, D.C. 20360, telephone (202) 692–8198.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 84–25830 Filed 9–27–84; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

Strengthening Program, Special Needs Program, Endowment Grant Program; Closing Date for Transmittal of Requests for Designation as an Eligible Institution for Fiscal Year 1985

Institutions of higher education that wish to apply for a grant under the Strengthening, Special Needs, or Endowment Grant Programs in Fiscal Year 1985 are invited to apply for designation as an "eligible institution" under one or more of these programs by submitting a "Request for Designation as an Eligible Institution" form (ED Form 1049–6). The Strengthening Program, Special Needs Program, and Endowment Grant Programs, are authorized under sections 301–347 of Title III of the Higher Education Act of 1965, as amended (HEA).

(20 U.S.C. 1051–1069c)

The above programs help eligible institutions of higher education to become self-sufficient by providing Federal grant funds to improve their academic quality; strengthen their planning, management, and fiscal capabilities; and establish or expand their endowment funds.

To apply for a grant under one or more of the above programs, an institution must first be designated as an eligible institution under the applicable regulations for each program.

Closing Date for Transmittal of Requests

A "Request for Designation as an Eligible Institution" must be mailed or hand-delivered to the U.S. Department of Education by October 29, 1984.

Requests Delivered by Mail

A request sent by mail must be addressed to the U.S. Department of Eduation, Application Control Center, Attention: 84.031 H (Title III—Designation), Washington, D.C. 20202.

A request must show proof of mailing, consisting of one of the following:

1. A legibly dated U.S. Postal Service postmark;
2. A legible mail receipt with the date of mailing stamped by the U.S. Postal Service;
3. A dated shipping label, invoice, or receipt from a commercial carrier;
4. Any other proof of mailing acceptable to the U.S. Secretary of Education.

If a request is sent through the U.S. Postal Service, the Secretary does *not* accept a private metered postmark or a private mail receipt as proof of mailing.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified by the Application Control Center that its request for designation as an eligible institution will not be considered.

Requests Delivered by Hand

A request that is hand-delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered request between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

A request that is hand-delivered will not be accepted after 4:30 p.m. on the closing date.

Request Forms

A copy of the "Request for Designation as an Eligible Institution" form (ED Form 1049–6) will be mailed to all institutions of postsecondary education on or about October 1, 1984. Copies of the request form may be obtained by writing to the Division of Eligibility and Agency Evaluation, Attention: 84.031H (Title III—Designation), Room 3522, Regional Office Building 3, 400 Maryland Avenue, SW., Washington, D.C. 20202. (Approved by the Office of Management and Budget under Control Number 1840–0103.)

Program Information

Under the Strengthening and Special Needs Programs, the Secretary determines an institution's eligibility based, in part, upon an institution's education and general (E&G) expenditures, together with the amount of Pell Grants (for the Strengthening Program) and the amount of Title IV, HEA, student financial assistance (for the Special Needs Program) that was awarded to students attending that institution during a particular award year. In order to qualify for a grant under the Endowment Grant Program, an applicant institution must in effect qualify as an "eligible institution" under the eligibility requirements of the Strengthening Program or the Special Needs Program.

For Fiscal Year (FY) 1985 grant awards, the Secretary will use award year 1981–1982 (July 1, 1981–June 30, 1982) as the base year for calculating an institution's eligibility to apply for a grant under the Strengthening Program (34 CFR 625.2(a) (2), (3), and (4)); the Special Needs Program (34 CFR 626.2(a) (2), (3), and (4)); and the Endowment Grant Program (34 CFR 628.2). This is the same base year that was used to establish eligibility for the FY 1984 Endowment Program. Accordingly, if an institution applied for designation as an "eligible institution" under the Strengthening Program or Special Needs Program in connection with the FY 1984 Endowment Grant Program funding competition, it does not need to re-apply for that designation. The decisions that were made for the FY 1984 Endowment Grant Program regarding an institution's eligibility to apply (based on 1981–1982 award data) for Strengthening, Special Needs, and Endowment Program grants will apply to the FY 1985 funding competitions for these programs.

If an institution was declared ineligible for the Strengthening or Special Needs Program in connection with the FY 1984 Endowment Grant Program funding competition, it is suggested that the institution review the 1981–1982 base-year data that it submitted for that competition. If any of the data have changed, the institution may re-apply under this notice.

If an institution did not apply for designation as an "eligible institution" under the Strengthening Program or Special Needs Program in connection with the FY 1984 Endowment Grant Program funding competition, it may apply for that designation under this notice.

In completing the "Request for Designation as an Eligible Institution" form (ED Form 1049–6), an institution must submit its E&G expenditure data for the same 12-month period (July 1, 1981–June 30, 1982) as is covered by the "Higher Education General Information Survey (HEGIS XVI), Financial Statistics of Institutions of Higher Education for Fiscal Year Ending 1982."

The Secretary will use Pell grant award data which are currently on file in the Department for base year 1981–82 to make determinations under the financial aid eligibility criteria, as set forth in 34 CFR 625.2 and 626.2.

Conversion tables and eligibility thresholds on which, in part, the Secretary will make a determination of an institution's eligibility are published as an appendix to this notice. These are the same conversion tables and eligibility thresholds that were published in the Federal Register on June 20, 1984 for the FY 1984 Endowment Program.

Any institution that plans to request designation as an eligible institution is urged to apply by submitting ED Form 1049–6 well in advance of the October 29, 1984 closing date. After the closing date, the Secretary will not accept any new information or adjustments to the information that has been submitted on the "Request for Designation as an Eligible Institution" form.

Applicable Regulations

Regulations applicable to the eligibility process include the Institutional Aid Programs—General Provisions Regulations (34 CFR 624.2, 624.3 and 624.20); the Strengthening Program Regulations (34 CFR 625.2 and 625.3); the Special Needs Program Regulations (34 CFR 626.2 and 626.3); and the Endowment Grant Program Regulations (34 CFR 628.2). These regulations were published in the Federal Register of January 5, 1982, 47 FR 540–557, and of July 12, 1984, 49 FR 28520–28536.

Further Information: For further information, contact the Division of Eligibility and Agency Evaluation, Room 3030, Regional Office Building 3, Washington, D.C. 20202. Telephone (202) 245–8873.

(20 U.S.C. 1051–1066c)

(Catalog of Federal Domestic Assistance Number: 84.031 Institutional Aid Programs)

Dated: September 21, 1984.

Edward M. Elmendorf,

Assistant Secretary for Postsecondary Education.

BILLING CODE 4000-01-M

POINT TABLES

The Secretary of Education uses the following tables to determine Title III Institutional Eligibility for the Strengthening Program, Special Needs Program, and Endowment Grant Program for Fiscal Year 1985 (based on 1981-1982 data).

PART-A : STRENGTHENING

2 YR PUBLIC

POINT	PELL PERCENT	PELL DOLLAR	E AND G
1	0.0001 - 0.0615	0.01 - 368.04	12826.90+
2	0.0616 - 0.0829	368.05 - 400.42	12826.89 - 9957.15
3	0.0830 - 0.0991	400.43 - 415.11	9957.14 - 8861.19
4	0.0992 - 0.1090	415.12 - 427.86	8861.18 - 7606.61
5	0.1091 - 0.1127	427.87 - 440.05	7606.60 - 7321.91
6	0.1128 - 0.1163	440.06 - 446.50	7321.89 - 7153.44
7	0.1164 - 0.1225	446.51 - 449.29	7153.43 - 6755.29
8	0.1226 - 0.1299	449.30 - 459.75	6755.28 - 6382.41
9	0.1300 - 0.1366	459.76 - 463.89	6382.39 - 6238.02
10	0.1367 - 0.1419	463.90 - 467.86	6238.01 - 6060.24
11	0.1420 - 0.1454	467.87 - 471.12	6060.23 - 5839.29
12	0.1455 - 0.1501	471.13 - 476.21	5839.28 - 5776.19
13	0.1502 - 0.1566	476.22 - 481.97	5776.18 - 5619.09
14	0.1567 - 0.1626	481.98 - 484.64	5619.08 - 5523.21
15	0.1627 - 0.1697	484.65 - 490.02	5523.20 - 5364.95
16	0.1698 - 0.1768	490.03 - 493.56	5364.94 - 5260.52
17	0.1769 - 0.1833	493.57 - 495.94	5260.51 - 5219.23
18	0.1834 - 0.1875	495.95 - 499.77	5219.21 - 5056.63
19	0.1876 - 0.1963	499.78 - 503.11	5056.62 - 4989.19
20	0.1964 - 0.1984	503.12 - 509.36	4989.18 - 4931.50
21	0.1985 - 0.2072	509.37 - 515.35	4931.49 - 4898.99
22	0.2073 - 0.2120	515.36 - 517.45	4898.98 - 4832.35
23	0.2121 - 0.2173	517.46 - 520.73	4832.34 - 4766.30
24	0.2174 - 0.2235	520.74 - 524.29	4766.29 - 4689.61
25	0.2236 - 0.2295	524.30 - 529.44	4689.60 - 4615.10
26	0.2296 - 0.2358	529.45 - 532.38	4615.09 - 4576.72
27	0.2359 - 0.2424	532.39 - 535.16	4576.71 - 4534.21
28	0.2425 - 0.2481	535.17 - 537.99	4534.20 - 4496.61
29	0.2482 - 0.2565	538.00 - 543.39	4496.60 - 4446.84
30	0.2566 - 0.2617	543.40 - 545.79	4446.83 - 4426.86
31	0.2618 - 0.2660	545.80 - 551.14	4426.85 - 4366.07
32	0.2661 - 0.2687	551.15 - 554.83	4366.05 - 4321.45
33	0.2688 - 0.2735	554.84 - 559.27	4321.44 - 4278.71
34	0.2736 - 0.2778	559.28 - 561.82	4278.70 - 4209.76
35	0.2779 - 0.2813	561.83 - 565.14	4209.75 - 4160.49
36	0.2814 - 0.2839	565.15 - 568.64	4160.48 - 4136.48
37	0.2840 - 0.2875	568.65 - 571.56	4136.46 - 4078.06
38	0.2876 - 0.2912	571.57 - 573.89	4078.05 - 4023.56
39	0.2913 - 0.2940	573.90 - 576.92	4023.55 - 3973.27
40	0.2941 - 0.2985	576.93 - 578.42	3973.26 - 3949.22
41	0.2986 - 0.3011	578.43 - 580.69	3949.21 - 3907.57
42	0.3012 - 0.3053	580.70 - 583.52	3907.56 - 3860.54
43	0.3054 - 0.3076	583.53 - 584.59	3860.53 - 3824.30
44	0.3077 - 0.3106	584.60 - 588.53	3824.29 - 3799.70
45	0.3107 - 0.3170	588.54 - 589.91	3799.69 - 3769.37
46	0.3171 - 0.3207	589.92 - 594.64	3769.36 - 3759.32
47	0.3208 - 0.3289	594.65 - 596.53	3759.31 - 3732.35
48	0.3290 - 0.3338	596.54 - 598.74	3732.34 - 3708.53
49	0.3339 - 0.3367	598.75 - 599.98	3708.52 - 3687.74
50	0.3368 - 0.3407	599.99 - 602.48	3687.73 - 3631.23

PART-A : CONTINUE

2 YR PUBLIC

POINT	PELL PERCENT	PELL DOLLAR	E AND G
51	0.3408 - 0.3439	602.49 - 604.96	3631.22 - 3590.61
52	0.3440 - 0.3485	604.97 - 606.19	3590.60 - 3570.10
53	0.3486 - 0.3554	606.20 - 608.77	3570.09 - 3538.79
54	0.3555 - 0.3601	608.78 - 611.75	3538.78 - 3509.44
55	0.3602 - 0.3650	611.76 - 614.07	3509.43 - 3476.22
56	0.3651 - 0.3679	614.08 - 616.03	3476.21 - 3447.90
57	0.3680 - 0.3740	616.04 - 618.57	3447.79 - 3409.89
58	0.3741 - 0.3788	618.58 - 619.29	3409.88 - 3400.70
59	0.3789 - 0.3832	619.30 - 620.18	3400.69 - 3371.08
60	0.3833 - 0.3877	620.19 - 623.20	3371.07 - 3333.41
61	0.3878 - 0.3916	623.21 - 626.75	3333.40 - 3289.25
62	0.3917 - 0.3953	626.76 - 634.02	3289.24 - 3264.32
63	0.3954 - 0.3987	634.03 - 638.60	3264.31 - 3233.12
64	0.3988 - 0.4018	638.61 - 640.70	3233.11 - 3212.84
65	0.4019 - 0.4052	640.71 - 643.10	3212.83 - 3185.09
66	0.4053 - 0.4117	643.11 - 647.54	3185.08 - 3149.68
67	0.4118 - 0.4174	647.55 - 651.65	3149.67 - 3138.24
68	0.4175 - 0.4246	651.66 - 653.06	3138.23 - 3116.24
69	0.4247 - 0.4291	653.07 - 654.20	3116.23 - 3097.86
70	0.4292 - 0.4357	654.21 - 657.42	3097.85 - 3059.72
71	0.4358 - 0.4404	657.43 - 660.25	3059.71 - 3018.07
72	0.4405 - 0.4462	660.26 - 664.09	3018.06 - 3003.71
73	0.4463 - 0.4530	664.10 - 665.87	3003.70 - 2991.19
74	0.4531 - 0.4595	665.88 - 671.16	2991.18 - 2942.65
75	0.4596 - 0.4636	671.17 - 673.55	2942.64 - 2902.00
76	0.4637 - 0.4746	673.56 - 675.78	2901.99 - 2878.91
77	0.4747 - 0.4836	675.79 - 677.89	2878.90 - 2864.57
78	0.4837 - 0.4962	677.90 - 682.52	2864.56 - 2813.61
79	0.4963 - 0.5021	682.53 - 685.72	2813.60 - 2787.36
80	0.5022 - 0.5112	685.73 - 690.28	2787.35 - 2754.49
81	0.5113 - 0.5168	690.29 - 693.46	2754.48 - 2737.91
82	0.5169 - 0.5289	693.47 - 698.17	2737.90 - 2722.29
83	0.5290 - 0.5340	698.18 - 702.56	2722.28 - 2683.10
84	0.5341 - 0.5480	702.57 - 707.54	2683.09 - 2662.00
85	0.5481 - 0.5598	707.55 - 713.14	2661.99 - 2640.26
86	0.5599 - 0.5713	713.15 - 720.59	2640.25 - 2625.91
87	0.5714 - 0.5874	720.60 - 725.53	2625.90 - 2576.94
88	0.5875 - 0.6030	725.54 - 729.37	2576.93 - 2547.06
89	0.6031 - 0.6260	729.38 - 733.48	2547.05 - 2523.46
90	0.6261 - 0.6425	733.49 - 740.97	2523.45 - 2499.34
91	0.6426 - 0.6693	740.98 - 748.39	2499.33 - 2432.26
92	0.6694 - 0.6884	748.40 - 756.74	2432.25 - 2390.07
93	0.6885 - 0.7302	756.75 - 764.67	2390.06 - 2345.09
94	0.7303 - 0.7520	764.68 - 774.90	2345.08 - 2292.83
95	0.7521 - 0.8106	774.91 - 787.19	2292.82 - 2271.01
96	0.8107 - 0.8809	787.20 - 794.80	2271.00 - 2224.39
97	0.8810 - 0.9526	794.81 - 808.93	2224.38 - 2098.02
98	0.9527 - 1.0530	808.94 - 840.65	2098.01 - 2041.67
99	1.0531 - 1.4319	840.66 - 887.99	2041.66 - 1900.13
100	1.4320+	888.00+	1900.12 - 1.00

PART-B : SPECIAL NEEDS

2 YR PUBLIC

POINT	NEED PERCENT	NEED DOLLAR	E AND G
1	0.0001 - 0.0576	0.01 - 418.19	9957.15+
2	0.0577 - 0.0683	418.20 - 457.27	9957.14 - 7606.61
3	0.0684 - 0.0740	457.28 - 478.80	7606.60 - 7153.44
4	0.0741 - 0.0816	478.81 - 490.90	7153.43 - 6382.41
5	0.0817 - 0.0868	490.91 - 506.58	6382.39 - 6060.24
6	0.0869 - 0.0944	506.59 - 520.84	6060.23 - 5776.19
7	0.0945 - 0.0993	520.85 - 530.67	5776.18 - 5523.21
8	0.0994 - 0.1124	530.68 - 541.02	5523.20 - 5260.52
9	0.1125 - 0.1223	541.03 - 548.25	5260.51 - 5056.63
10	0.1224 - 0.1281	548.26 - 553.12	5056.62 - 4931.50
11	0.1282 - 0.1364	553.13 - 560.21	4931.49 - 4832.35
12	0.1365 - 0.1440	560.22 - 565.83	4832.34 - 4689.61
13	0.1441 - 0.1535	565.84 - 574.49	4689.60 - 4576.72
14	0.1536 - 0.1567	574.50 - 583.94	4576.71 - 4496.61
15	0.1568 - 0.1613	583.95 - 590.08	4496.60 - 4426.86
16	0.1614 - 0.1652	590.09 - 593.26	4426.85 - 4321.45
17	0.1653 - 0.1725	593.27 - 598.99	4321.44 - 4209.76
18	0.1726 - 0.1766	599.00 - 603.83	4209.75 - 4136.48
19	0.1767 - 0.1808	603.84 - 609.98	4136.46 - 4023.56
20	0.1809 - 0.1863	609.99 - 616.83	4023.55 - 3949.22
21	0.1864 - 0.1925	616.84 - 623.02	3949.21 - 3860.54
22	0.1926 - 0.1972	623.03 - 630.45	3860.53 - 3799.70
23	0.1973 - 0.2027	630.46 - 635.29	3799.69 - 3759.32
24	0.2028 - 0.2059	635.30 - 643.16	3759.31 - 3708.53
25	0.2060 - 0.2133	643.17 - 648.40	3708.52 - 3631.23
26	0.2134 - 0.2172	648.41 - 652.36	3631.22 - 3570.10
27	0.2173 - 0.2235	652.37 - 657.14	3570.09 - 3509.44
28	0.2236 - 0.2276	657.15 - 662.09	3509.43 - 3447.80
29	0.2277 - 0.2328	662.10 - 667.62	3447.79 - 3400.70
30	0.2329 - 0.2395	667.63 - 675.70	3400.69 - 3333.41
31	0.2396 - 0.2472	675.71 - 679.36	3333.40 - 3264.32
32	0.2473 - 0.2548	679.37 - 684.97	3264.31 - 3212.84
33	0.2549 - 0.2641	684.98 - 687.63	3212.83 - 3149.68
34	0.2642 - 0.2723	687.64 - 692.47	3149.67 - 3116.24
35	0.2724 - 0.2820	692.48 - 701.34	3116.23 - 3059.72
36	0.2821 - 0.2890	701.35 - 708.64	3059.71 - 3003.71
37	0.2891 - 0.2996	708.65 - 714.00	3003.70 - 2942.65
38	0.2997 - 0.3102	714.01 - 724.49	2942.64 - 2878.91
39	0.3103 - 0.3236	724.50 - 730.73	2878.90 - 2813.61
40	0.3237 - 0.3341	730.74 - 737.97	2813.60 - 2754.49
41	0.3342 - 0.3482	737.98 - 746.75	2754.48 - 2722.29
42	0.3483 - 0.3583	746.76 - 752.19	2722.28 - 2662.00
43	0.3584 - 0.3735	752.20 - 762.81	2661.99 - 2625.91
44	0.3736 - 0.3906	762.82 - 772.20	2625.90 - 2547.06
45	0.3907 - 0.4207	772.21 - 787.30	2547.05 - 2499.34
46	0.4208 - 0.4642	787.31 - 806.21	2499.33 - 2390.07
47	0.4643 - 0.5051	806.22 - 835.07	2390.06 - 2292.83
48	0.5052 - 0.5606	835.08 - 885.98	2292.82 - 2224.39
49	0.5607 - 0.7103	885.99 - 941.43	2224.38 - 2041.67
50	0.7104+	941.44+	2041.66 - 1.00

PART-A : STRENGTHENING

2 YR PRIVATE

POINT	PELL PERCENT	PELL DOLLAR	E AND G
1	0.0001 - 0.1145	0.01 - 603.47	17341.83+
2	0.1146 - 0.1160	603.48 - 625.34	17341.82 -14175.57
3	0.1161 - 0.1697	625.35 - 648.14	14175.55 -11153.14
4	0.1698 - 0.1791	648.15 - 696.77	11153.13 - 9234.77
5	0.1792 - 0.1890	696.78 - 715.20	9234.76 - 8704.02
6	0.1891 - 0.2047	715.21 - 723.53	8704.01 - 8335.66
7	0.2048 - 0.2221	723.54 - 750.53	8335.64 - 8097.48
8	0.2222 - 0.2307	750.54 - 759.69	8097.46 - 7923.25
9	0.2308 - 0.2358	759.70 - 764.35	7923.24 - 7567.53
10	0.2359 - 0.2443	764.36 - 769.29	7567.52 - 7183.89
11	0.2444 - 0.2536	769.30 - 785.17	7183.88 - 6907.50
12	0.2537 - 0.2646	785.18 - 793.02	6907.49 - 6481.62
13	0.2647 - 0.2723	793.03 - 795.74	6481.61 - 6403.98
14	0.2724 - 0.2780	795.75 - 798.05	6403.96 - 6208.09
15	0.2781 - 0.2856	798.06 - 806.15	6208.08 - 5993.69
16	0.2857 - 0.2891	806.16 - 808.47	5993.68 - 5913.12
17	0.2892 - 0.3011	808.48 - 810.46	5913.11 - 5785.20
18	0.3012 - 0.3050	810.47 - 818.67	5785.19 - 5652.44
19	0.3051 - 0.3084	818.68 - 822.05	5652.43 - 5539.07
20	0.3085 - 0.3164	822.06 - 828.25	5539.05 - 5225.32
21	0.3165 - 0.3219	828.26 - 830.97	5225.30 - 5193.42
22	0.3220 - 0.3260	830.98 - 838.93	5193.41 - 5111.98
23	0.3261 - 0.3290	838.94 - 849.11	5111.96 - 5074.24
24	0.3291 - 0.3332	849.12 - 857.74	5074.23 - 5046.27
25	0.3333 - 0.3385	857.75 - 864.26	5046.26 - 4972.50
26	0.3386 - 0.3444	864.27 - 866.03	4972.49 - 4941.55
27	0.3445 - 0.3541	866.04 - 871.10	4941.54 - 4865.97
28	0.3542 - 0.3703	871.11 - 874.25	4865.96 - 4775.70
29	0.3704 - 0.3760	874.26 - 875.33	4775.69 - 4659.55
30	0.3761 - 0.3792	875.34 - 876.95	4659.54 - 4653.02
31	0.3793 - 0.3849	876.96 - 880.34	4653.01 - 4641.16
32	0.3850 - 0.3922	880.35 - 882.07	4641.14 - 4411.79
33	0.3923 - 0.3945	882.08 - 883.41	4411.78 - 4384.00
34	0.3946 - 0.4012	883.42 - 886.50	4383.99 - 4348.14
35	0.4013 - 0.4076	886.51 - 888.90	4348.13 - 4324.23
36	0.4077 - 0.4143	888.91 - 891.87	4324.21 - 4286.21
37	0.4144 - 0.4166	891.88 - 892.91	4286.20 - 4267.52
38	0.4167 - 0.4187	892.92 - 895.66	4267.51 - 4226.27
39	0.4188 - 0.4206	895.67 - 898.12	4226.26 - 4177.36
40	0.4207 - 0.4309	898.13 - 901.40	4177.35 - 4146.02
41	0.4310 - 0.4453	901.41 - 903.88	4146.01 - 4094.33
42	0.4454 - 0.4612	903.89 - 909.34	4094.32 - 4049.68
43	0.4613 - 0.4680	909.35 - 913.50	4049.67 - 3988.36
44	0.4681 - 0.4731	913.51 - 914.99	3988.35 - 3953.84
45	0.4732 - 0.4761	915.00 - 920.66	3953.83 - 3849.56
46	0.4762 - 0.4800	920.67 - 923.15	3849.55 - 3767.77
47	0.4801 - 0.4859	923.16 - 927.50	3767.76 - 3710.23
48	0.4860 - 0.4892	927.51 - 929.75	3710.22 - 3685.69
49	0.4893 - 0.4960	929.76 - 930.90	3685.68 - 3535.52
50	0.4961 - 0.5020	930.91 - 934.16	3535.51 - 3456.81

PART-A : CONTINUE

2 YR PRIVATE

POINT	PELL PERCENT	PELL DOLLAR	E AND G
51	0.5021 - 0.5058	934.17 - 936.60	3456.80 - 3397.16
52	0.5059 - 0.5120	936.61 - 939.02	3397.15 - 3322.68
53	0.5121 - 0.5271	939.03 - 944.37	3322.67 - 3306.27
54	0.5272 - 0.5344	944.38 - 948.43	3306.26 - 3289.45
55	0.5345 - 0.5483	948.44 - 951.75	3289.44 - 3252.96
56	0.5484 - 0.5612	951.76 - 955.73	3252.95 - 3239.81
57	0.5613 - 0.5637	955.74 - 961.99	3239.80 - 3228.12
58	0.5638 - 0.5753	962.00 - 969.31	3228.11 - 3167.07
59	0.5754 - 0.5829	969.32 - 970.93	3167.06 - 3112.96
60	0.5830 - 0.5901	970.94 - 973.89	3112.95 - 3015.97
61	0.5902 - 0.5931	973.90 - 975.93	3015.96 - 3007.76
62	0.5932 - 0.5999	975.94 - 978.67	3007.75 - 2917.90
63	0.6000 - 0.6213	978.68 - 982.63	2917.89 - 2877.93
64	0.6214 - 0.6377	982.64 - 984.62	2877.92 - 2824.46
65	0.6378 - 0.6421	984.63 - 986.59	2824.45 - 2800.12
66	0.6422 - 0.6643	986.60 - 990.45	2800.11 - 2776.17
67	0.6644 - 0.6877	990.46 - 994.82	2776.16 - 2750.58
68	0.6878 - 0.6919	994.83 - 995.29	2750.57 - 2709.42
69	0.6920 - 0.6942	995.30 - 999.02	2709.41 - 2643.99
70	0.6943 - 0.7254	999.03 -1002.65	2643.98 - 2628.94
71	0.7255 - 0.7316	1002.66 -1006.10	2628.93 - 2567.53
72	0.7317 - 0.7515	1006.11 -1010.08	2567.52 - 2532.26
73	0.7516 - 0.7766	1010.09 -1011.22	2532.25 - 2459.68
74	0.7767 - 0.7934	1011.23 -1014.29	2459.67 - 2428.28
75	0.7935 - 0.8020	1014.30 -1018.73	2428.27 - 2424.44
76	0.8021 - 0.8175	1018.74 -1024.46	2424.43 - 2342.15
77	0.8176 - 0.8325	1024.47 -1025.37	2342.14 - 2320.02
78	0.8326 - 0.8489	1025.38 -1029.16	2320.01 - 2282.39
79	0.8490 - 0.8570	1029.17 -1043.82	2282.38 - 2218.12
80	0.8571 - 0.8696	1043.83 -1049.36	2218.11 - 2136.58
81	0.8697 - 0.8921	1049.37 -1054.28	2136.57 - 2105.07
82	0.8922 - 0.9108	1054.29 -1057.85	2105.06 - 2068.95
83	0.9109 - 0.9350	1057.86 -1061.48	2068.94 - 2034.49
84	0.9351 - 0.9847	1061.49 -1062.16	2034.48 - 2014.33
85	0.9848 - 1.0045	1062.17 -1064.89	2014.32 - 1987.21
86	1.0046 - 1.0507	1064.90 -1073.48	1987.20 - 1938.79
87	1.0508 - 1.0778	1073.49 -1081.49	1938.78 - 1910.38
88	1.0779 - 1.0896	1081.50 -1083.86	1910.37 - 1889.79
89	1.0897 - 1.1285	1083.87 -1093.10	1889.78 - 1791.28
90	1.1286 - 1.1621	1093.11 -1099.05	1791.27 - 1733.02
91	1.1622 - 1.2013	1099.06 -1107.98	1733.01 - 1664.15
92	1.2014 - 1.2478	1107.99 -1113.53	1664.14 - 1629.05
93	1.2480 - 1.3749	1113.54 -1125.46	1629.04 - 1505.72
94	1.3750 - 1.4670	1125.47 -1138.10	1505.71 - 1361.07
95	1.4671 - 1.5129	1138.11 -1148.27	1361.06 - 1169.11
96	1.5130 - 1.6181	1148.28 -1175.35	1169.10 - 1133.29
97	1.6182 - 1.6499	1175.36 -1212.43	1133.28 - 1046.43
98	1.6500 - 1.6500	1212.44 -1240.05	1046.42 - 940.53
99	1.6500 - 1.6500	1240.06 -1275.35	940.52 - 799.16
100	1.6500+	1275.36+	799.15 - 1.00

PART-B : SPECIAL NEEDS

2 YR PRIVATE

POINT	NEED PERCENT	NEED DOLLAR	E AND G
1	0.0001 - 0.0786	0.01 - 549.93	14175.57+
2	0.0787 - 0.1245	549.94 - 622.78	14175.55 - 9234.77
3	0.1246 - 0.1414	622.79 - 660.02	9234.76 - 8335.66
4	0.1415 - 0.1629	660.03 - 692.77	8335.64 - 7923.25
5	0.1630 - 0.1738	692.78 - 707.91	7923.24 - 7183.89
6	0.1739 - 0.1871	707.92 - 715.95	7183.88 - 6481.62
7	0.1872 - 0.1971	715.96 - 723.51	6481.61 - 6208.09
8	0.1972 - 0.2053	723.52 - 738.32	6208.08 - 5913.12
9	0.2054 - 0.2142	738.33 - 749.49	5913.11 - 5652.44
10	0.2143 - 0.2275	749.50 - 758.97	5652.43 - 5225.32
11	0.2276 - 0.2380	758.98 - 773.14	5225.30 - 5111.98
12	0.2381 - 0.2456	773.15 - 785.61	5111.96 - 5046.27
13	0.2457 - 0.2486	785.62 - 789.41	5046.26 - 4941.55
14	0.2487 - 0.2529	789.42 - 798.73	4941.54 - 4775.70
15	0.2530 - 0.2741	798.74 - 806.18	4775.69 - 4653.02
16	0.2742 - 0.2800	806.19 - 815.61	4653.01 - 4411.79
17	0.2801 - 0.2875	815.62 - 825.82	4411.78 - 4348.14
18	0.2876 - 0.2943	825.83 - 840.22	4348.13 - 4286.21
19	0.2944 - 0.2987	840.23 - 846.47	4286.20 - 4226.27
20	0.2988 - 0.3121	846.48 - 850.61	4226.26 - 4146.02
21	0.3122 - 0.3188	850.62 - 860.87	4146.01 - 4049.68
22	0.3189 - 0.3282	860.88 - 866.03	4049.67 - 3953.84
23	0.3283 - 0.3405	866.04 - 880.79	3953.83 - 3767.77
24	0.3406 - 0.3499	880.80 - 888.67	3767.76 - 3685.69
25	0.3500 - 0.3570	888.68 - 891.48	3685.68 - 3456.81
26	0.3571 - 0.3787	891.49 - 901.59	3456.80 - 3322.68
27	0.3788 - 0.3837	901.60 - 906.68	3322.67 - 3289.45
28	0.3838 - 0.4020	906.69 - 914.03	3289.44 - 3239.81
29	0.4021 - 0.4081	914.04 - 918.71	3239.80 - 3167.07
30	0.4082 - 0.4281	918.72 - 925.13	3167.06 - 3015.97
31	0.4282 - 0.4354	925.14 - 930.31	3015.96 - 2917.90
32	0.4355 - 0.4524	930.32 - 937.40	2917.89 - 2824.46
33	0.4525 - 0.4684	937.41 - 942.26	2824.45 - 2776.17
34	0.4685 - 0.4841	942.27 - 945.19	2776.16 - 2709.42
35	0.4842 - 0.5096	945.20 - 961.89	2709.41 - 2628.94
36	0.5097 - 0.5358	961.90 - 976.42	2628.93 - 2532.26
37	0.5359 - 0.5545	976.43 - 994.98	2532.25 - 2428.28
38	0.5546 - 0.5935	994.99 -1005.11	2428.27 - 2342.15
39	0.5936 - 0.6072	1005.12 -1016.67	2342.14 - 2282.39
40	0.6073 - 0.6465	1016.68 -1030.45	2282.38 - 2136.58
41	0.6466 - 0.6677	1030.46 -1040.55	2136.57 - 2068.95
42	0.6678 - 0.7123	1040.56 -1060.72	2068.94 - 2014.33
43	0.7124 - 0.7474	1060.73 -1081.48	2014.32 - 1938.79
44	0.7475 - 0.8181	1081.49 -1104.23	1938.78 - 1889.79
45	0.8182 - 0.8723	1104.24 -1137.32	1889.78 - 1733.02
46	0.8724 - 0.9725	1137.33 -1164.38	1733.01 - 1629.05
47	0.9726 - 1.1174	1164.39 -1191.24	1629.04 - 1361.07
48	1.1175 - 1.3231	1191.25 -1264.32	1361.06 - 1133.29
49	1.3232 - 1.6499	1264.33 -1471.51	1133.28 - 940.53
50	1.6500+	1471.52+	940.52 - 1.00

PART-A : STRENGTHENING

4 YR PUBLIC

POINT	PELL PERCENT	PELL DOLLAR	E AND G
1	0.0001 - 0.0938	0.01 - 538.24	26103.34+
2	0.0940 - 0.1260	538.25 - 607.09	26103.33 -20855.06
3	0.1261 - 0.1345	607.10 - 620.21	20855.05 -17768.36
4	0.1346 - 0.1432	620.22 - 629.21	17768.35 -13151.79
5	0.1433 - 0.1528	629.22 - 646.97	13151.78 -11143.16
6	0.1529 - 0.1632	646.98 - 660.26	11143.14 -10509.04
7	0.1633 - 0.1684	660.27 - 666.76	10509.03 -10326.05
8	0.1685 - 0.1744	666.77 - 674.54	10326.04 - 8674.21
9	0.1745 - 0.1774	674.55 - 681.46	8674.20 - 8464.98
10	0.1775 - 0.1803	681.47 - 688.18	8464.96 - 8325.39
11	0.1804 - 0.1867	688.19 - 692.86	8325.38 - 8074.47
12	0.1868 - 0.1925	692.87 - 698.95	8074.46 - 7710.76
13	0.1926 - 0.1932	698.96 - 701.26	7710.75 - 7411.33
14	0.1933 - 0.1985	701.27 - 703.39	7411.32 - 7141.99
15	0.1986 - 0.2008	703.40 - 710.34	7141.98 - 7039.90
16	0.2009 - 0.2051	710.35 - 713.87	7039.89 - 6835.25
17	0.2052 - 0.2091	713.88 - 722.62	6835.24 - 6747.85
18	0.2092 - 0.2155	722.63 - 726.04	6747.84 - 6594.07
19	0.2156 - 0.2201	726.05 - 730.95	6594.05 - 6500.36
20	0.2202 - 0.2226	730.96 - 737.42	6500.35 - 6349.40
21	0.2227 - 0.2258	737.43 - 742.67	6349.39 - 6273.22
22	0.2259 - 0.2277	742.68 - 745.49	6273.21 - 6174.54
23	0.2278 - 0.2324	745.50 - 754.87	6174.53 - 6025.75
24	0.2325 - 0.2355	754.88 - 757.34	6025.74 - 5910.54
25	0.2356 - 0.2375	757.35 - 764.06	5910.53 - 5841.65
26	0.2376 - 0.2396	764.07 - 768.99	5841.64 - 5619.45
27	0.2397 - 0.2410	769.00 - 772.78	5619.44 - 5580.54
28	0.2411 - 0.2477	772.79 - 775.95	5580.53 - 5475.40
29	0.2478 - 0.2513	775.96 - 778.46	5475.39 - 5382.95
30	0.2514 - 0.2527	778.47 - 784.29	5382.94 - 5350.45
31	0.2528 - 0.2561	784.30 - 787.11	5350.44 - 5307.20
32	0.2562 - 0.2592	787.12 - 789.91	5307.19 - 5272.98
33	0.2593 - 0.2612	789.92 - 790.56	5272.96 - 5143.76
34	0.2613 - 0.2668	790.57 - 794.49	5143.75 - 5052.06
35	0.2669 - 0.2710	794.50 - 797.99	5052.05 - 4984.24
36	0.2711 - 0.2733	798.00 - 798.90	4984.23 - 4970.58
37	0.2734 - 0.2785	798.91 - 801.23	4970.57 - 4907.09
38	0.2786 - 0.2802	801.24 - 803.19	4907.08 - 4828.87
39	0.2803 - 0.2831	803.20 - 803.97	4828.86 - 4800.98
40	0.2832 - 0.2854	803.98 - 805.46	4800.96 - 4759.69
41	0.2855 - 0.2879	805.47 - 808.97	4759.68 - 4673.50
42	0.2880 - 0.2899	808.98 - 810.95	4673.49 - 4652.00
43	0.2900 - 0.2921	810.96 - 813.99	4651.99 - 4612.53
44	0.2922 - 0.2953	814.00 - 814.62	4612.52 - 4561.15
45	0.2954 - 0.2988	814.63 - 816.44	4561.14 - 4520.18
46	0.2989 - 0.3005	816.45 - 821.94	4520.17 - 4490.61
47	0.3006 - 0.3039	821.95 - 825.11	4490.60 - 4453.80
48	0.3040 - 0.3059	825.12 - 827.09	4453.79 - 4403.72
49	0.3060 - 0.3079	827.10 - 827.66	4403.71 - 4383.87
50	0.3080 - 0.3100	827.67 - 830.65	4383.86 - 4338.86

PART-A : CONTINUE

4 YR PUBLIC

POINT	PELL PERCENT	PELL DOLLAR	E AND G
51	0.3101 - 0.3135	830.66 - 831.68	4338.85 - 4317.64
52	0.3136 - 0.3140	831.69 - 833.65	4317.63 - 4304.37
53	0.3141 - 0.3164	833.66 - 835.65	4304.36 - 4273.67
54	0.3165 - 0.3179	835.66 - 836.87	4273.66 - 4241.81
55	0.3180 - 0.3193	836.88 - 840.35	4241.80 - 4202.61
56	0.3194 - 0.3205	840.36 - 841.09	4202.60 - 4164.98
57	0.3206 - 0.3279	841.10 - 844.16	4164.96 - 4022.91
58	0.3280 - 0.3297	844.17 - 846.37	4022.90 - 3985.47
59	0.3298 - 0.3304	846.38 - 847.87	3985.46 - 3969.92
60	0.3305 - 0.3325	847.88 - 852.09	3969.91 - 3930.62
61	0.3326 - 0.3345	852.10 - 852.63	3930.61 - 3875.61
62	0.3346 - 0.3375	852.64 - 855.02	3875.60 - 3838.91
63	0.3376 - 0.3438	855.03 - 859.02	3838.90 - 3808.48
64	0.3439 - 0.3461	859.03 - 862.33	3808.47 - 3775.92
65	0.3462 - 0.3479	862.34 - 864.68	3775.91 - 3756.35
66	0.3480 - 0.3523	864.69 - 866.07	3756.34 - 3738.02
67	0.3524 - 0.3601	866.08 - 867.68	3738.01 - 3726.95
68	0.3602 - 0.3664	867.69 - 868.16	3726.94 - 3714.73
69	0.3665 - 0.3743	868.17 - 874.39	3714.72 - 3679.20
70	0.3744 - 0.3800	874.40 - 877.36	3679.19 - 3649.10
71	0.3801 - 0.3880	877.37 - 879.42	3649.09 - 3618.91
72	0.3881 - 0.3967	879.43 - 883.52	3618.90 - 3601.65
73	0.3968 - 0.4012	883.53 - 886.91	3601.64 - 3577.04
74	0.4013 - 0.4083	886.92 - 888.20	3577.03 - 3526.79
75	0.4084 - 0.4125	888.21 - 891.51	3526.78 - 3472.81
76	0.4126 - 0.4204	891.52 - 894.22	3472.80 - 3411.82
77	0.4205 - 0.4282	894.23 - 896.23	3411.81 - 3394.44
78	0.4283 - 0.4367	896.24 - 900.57	3394.43 - 3378.48
79	0.4368 - 0.4419	900.58 - 902.76	3378.47 - 3340.15
80	0.4420 - 0.4511	902.77 - 908.31	3340.14 - 3296.89
81	0.4512 - 0.4641	908.32 - 913.56	3296.88 - 3254.01
82	0.4642 - 0.4806	913.57 - 917.25	3254.00 - 3209.33
83	0.4807 - 0.4905	917.26 - 921.77	3209.32 - 3179.35
84	0.4906 - 0.4982	921.78 - 926.81	3179.34 - 3094.70
85	0.4983 - 0.5081	926.82 - 931.72	3094.69 - 3013.87
86	0.5082 - 0.5261	931.73 - 933.55	3013.86 - 2975.51
87	0.5262 - 0.5537	933.56 - 944.88	2975.50 - 2901.89
88	0.5538 - 0.5601	944.89 - 952.59	2901.88 - 2850.12
89	0.5602 - 0.5988	952.60 - 957.96	2850.11 - 2829.72
90	0.5989 - 0.6265	957.97 - 968.08	2829.71 - 2742.87
91	0.6266 - 0.6700	968.09 - 976.60	2742.86 - 2709.33
92	0.6701 - 0.6903	976.61 - 986.27	2709.32 - 2668.29
93	0.6904 - 0.7403	986.28 - 992.93	2668.28 - 2625.96
94	0.7404 - 0.7857	992.94 -1006.21	2625.95 - 2573.02
95	0.7858 - 0.7716	1006.22 -1024.05	2573.01 - 2557.19
96	0.7717 - 0.8065	1024.06 -1045.97	2557.18 - 2500.10
97	0.8066 - 0.8439	1045.98 -1062.99	2500.09 - 2444.41
98	0.8440 - 0.9079	1063.00 -1074.30	2444.40 - 2377.48
99	0.9080 - 1.0112	1074.31 -1126.64	2377.47 - 2135.41
100	1.0113+	1126.65+	2135.40 - 1.00

PART-B : SPECIAL NEEDS

4 YR PUBLIC

POINT	NEED PERCENT	NEED DOLLAR	E AND G
1	0.0001 - 0.0885	0.01 - 672.41	20855.06+
2	0.0886 - 0.1106	672.42 - 697.35	20855.05 -13151.79
3	0.1107 - 0.1199	697.36 - 726.89	13151.78 -10509.04
4	0.1200 - 0.1230	726.90 - 734.53	10509.03 - 8674.21
5	0.1231 - 0.1265	734.54 - 750.26	8674.20 - 8325.39
6	0.1266 - 0.1330	750.27 - 766.84	8325.38 - 7710.76
7	0.1331 - 0.1450	766.85 - 776.04	7710.75 - 7141.99
8	0.1451 - 0.1518	776.05 - 781.96	7141.98 - 6835.25
9	0.1519 - 0.1607	781.97 - 787.35	6835.24 - 6594.07
10	0.1608 - 0.1670	787.36 - 794.40	6594.05 - 6349.40
11	0.1671 - 0.1736	794.41 - 798.13	6349.39 - 6174.54
12	0.1737 - 0.1774	798.14 - 805.95	6174.53 - 5910.54
13	0.1775 - 0.1816	805.96 - 813.62	5910.53 - 5619.45
14	0.1817 - 0.1834	813.63 - 819.71	5619.44 - 5475.40
15	0.1835 - 0.1863	819.72 - 823.31	5475.39 - 5350.45
16	0.1864 - 0.1909	823.32 - 833.17	5350.44 - 5272.98
17	0.1910 - 0.1944	833.18 - 842.22	5272.96 - 5052.06
18	0.1945 - 0.1980	842.23 - 847.87	5052.05 - 4970.58
19	0.1981 - 0.2016	847.88 - 854.33	4970.57 - 4828.87
20	0.2017 - 0.2073	854.34 - 857.99	4823.86 - 4759.69
21	0.2074 - 0.2104	858.00 - 864.74	4759.68 - 4652.00
22	0.2105 - 0.2134	864.75 - 871.44	4651.99 - 4561.15
23	0.2135 - 0.2182	871.45 - 876.94	4561.14 - 4490.61
24	0.2183 - 0.2239	876.95 - 882.44	4490.60 - 4403.72
25	0.2240 - 0.2307	882.45 - 888.24	4403.71 - 4338.86
26	0.2308 - 0.2341	888.25 - 893.05	4338.85 - 4304.37
27	0.2342 - 0.2402	893.06 - 898.87	4304.36 - 4241.81
28	0.2403 - 0.2429	898.88 - 902.98	4241.80 - 4164.98
29	0.2430 - 0.2463	902.99 - 915.95	4164.96 - 3985.47
30	0.2464 - 0.2504	915.96 - 926.10	3985.46 - 3930.62
31	0.2505 - 0.2577	926.11 - 929.93	3932.61 - 3838.91
32	0.2578 - 0.2672	929.94 - 937.10	3838.90 - 3775.92
33	0.2673 - 0.2747	937.11 - 947.77	3775.91 - 3738.02
34	0.2748 - 0.2808	947.78 - 955.95	3738.01 - 3714.73
35	0.2809 - 0.2956	955.96 - 971.61	3714.72 - 3649.10
36	0.2957 - 0.3026	971.62 - 981.36	3649.09 - 3601.45
37	0.3027 - 0.3113	981.37 - 984.46	3601.64 - 3526.79
38	0.3114 - 0.3305	984.47 - 994.26	3526.78 - 3411.82
39	0.3306 - 0.3396	994.27 -1005.43	3411.81 - 3378.48
40	0.3397 - 0.3554	1005.44 -1016.53	3378.47 - 3296.89
41	0.3555 - 0.3736	1016.54 -1034.23	3296.88 - 3209.33
42	0.3737 - 0.3969	1034.24 -1044.54	3209.32 - 3094.70
43	0.3970 - 0.4305	1044.55 -1056.84	3094.69 - 2975.51
44	0.4306 - 0.4525	1056.85 -1065.52	2975.50 - 2850.12
45	0.4526 - 0.4880	1065.53 -1075.80	2850.11 - 2742.87
46	0.4881 - 0.5544	1075.81 -1105.73	2742.86 - 2668.29
47	0.5545 - 0.6263	1105.74 -1132.80	2668.28 - 2573.02
48	0.6264 - 0.6699	1132.81 -1156.43	2573.01 - 2500.10
49	0.6700 - 0.7792	1156.44 -1229.61	2500.09 - 2377.48
50	0.7793+	1229.62+	2377.47 - 1.00

PART-A : STRENGTHENING

4 YR PRIVATE

POINT	PELL PERCENT	PELL DOLLAR	E AND G
1	0.0001 - 0.0569	0.01 - 698.17	21317.37+
2	0.0570 - 0.0897	698.18 - 760.33	21317.36 -15038.08
3	0.0898 - 0.1051	760.34 - 784.50	15038.07 -13594.30
4	0.1052 - 0.1250	784.51 - 810.64	13594.29 -12102.52
5	0.1251 - 0.1363	810.65 - 818.63	12102.51 -11115.52
6	0.1364 - 0.1431	818.64 - 827.63	11115.51 -10642.75
7	0.1432 - 0.1474	827.64 - 836.09	10642.74 -10276.52
8	0.1475 - 0.1526	836.10 - 841.98	10276.51 -10186.97
9	0.1527 - 0.1601	841.99 - 847.80	10186.96 - 9681.36
10	0.1602 - 0.1659	847.81 - 852.54	9681.35 - 9418.54
11	0.1660 - 0.1711	852.55 - 856.43	9418.53 - 9160.14
12	0.1712 - 0.1782	856.44 - 860.69	9160.13 - 8833.39
13	0.1783 - 0.1821	860.70 - 863.70	8833.38 - 8703.32
14	0.1822 - 0.1901	863.71 - 868.72	8703.30 - 8294.02
15	0.1902 - 0.1937	868.73 - 871.57	8294.01 - 8160.92
16	0.1938 - 0.1991	871.58 - 876.43	8160.91 - 8074.15
17	0.1992 - 0.2033	876.44 - 879.19	8074.14 - 7952.78
18	0.2034 - 0.2077	879.20 - 884.02	7952.77 - 7765.44
19	0.2078 - 0.2131	884.03 - 886.77	7766.43 - 7636.25
20	0.2132 - 0.2175	886.78 - 891.40	7636.24 - 7522.10
21	0.2176 - 0.2231	891.41 - 894.66	7522.09 - 7389.64
22	0.2232 - 0.2270	894.67 - 898.74	7389.63 - 7289.51
23	0.2271 - 0.2297	898.75 - 902.26	7289.50 - 7160.73
24	0.2298 - 0.2336	902.27 - 906.02	7160.71 - 7070.71
25	0.2337 - 0.2390	906.03 - 908.33	7070.70 - 6998.64
26	0.2391 - 0.2427	908.34 - 911.16	6998.63 - 6897.70
27	0.2428 - 0.2487	911.17 - 913.49	6897.69 - 6791.72
28	0.2488 - 0.2528	913.50 - 917.12	6791.71 - 6705.99
29	0.2529 - 0.2571	917.13 - 919.46	6705.98 - 6602.59
30	0.2572 - 0.2617	919.47 - 922.29	6602.58 - 6500.73
31	0.2618 - 0.2656	922.30 - 925.58	6500.71 - 6421.55
32	0.2657 - 0.2684	925.59 - 928.18	6421.54 - 6367.62
33	0.2685 - 0.2741	928.19 - 932.11	6367.61 - 6292.60
34	0.2742 - 0.2803	932.12 - 935.72	6292.59 - 6224.40
35	0.2804 - 0.2860	935.73 - 938.24	6224.39 - 6162.72
36	0.2861 - 0.2894	938.25 - 941.17	6162.71 - 6108.21
37	0.2895 - 0.2938	941.18 - 943.96	6108.20 - 6019.20
38	0.2939 - 0.2979	943.97 - 946.36	6019.19 - 5934.93
39	0.2980 - 0.3026	946.37 - 947.55	5934.92 - 5879.34
40	0.3027 - 0.3058	947.56 - 949.27	5879.33 - 5815.29
41	0.3059 - 0.3095	949.28 - 951.95	5815.28 - 5757.80
42	0.3096 - 0.3136	951.96 - 954.30	5757.79 - 5707.27
43	0.3137 - 0.3179	954.31 - 957.19	5707.26 - 5635.34
44	0.3180 - 0.3220	957.20 - 960.58	5635.33 - 5587.76
45	0.3221 - 0.3256	960.59 - 962.46	5587.75 - 5509.07
46	0.3257 - 0.3288	962.47 - 964.54	5509.05 - 5435.68
47	0.3289 - 0.3354	964.55 - 966.56	5435.67 - 5367.75
48	0.3355 - 0.3403	966.57 - 968.76	5367.74 - 5322.77
49	0.3404 - 0.3454	968.77 - 972.50	5322.76 - 5288.41
50	0.3455 - 0.3492	972.51 - 975.29	5288.39 - 5235.43

PART-A : CONTINUE

4 YR PRIVATE

POINT	PELL PERCENT	PELL DOLLAR	E AND G
51	0.3493 - 0.3543	975.30 - 976.93	5235.42 - 5185.90
52	0.3544 - 0.3595	976.94 - 979.86	5185.89 - 5137.48
53	0.3596 - 0.3640	979.87 - 981.94	5137.46 - 5093.57
54	0.3641 - 0.3666	981.95 - 984.17	5093.55 - 5043.03
55	0.3667 - 0.3706	984.18 - 987.55	5043.02 - 4998.78
56	0.3707 - 0.3764	987.56 - 991.16	4998.77 - 4948.31
57	0.3765 - 0.3830	991.17 - 993.87	4949.30 - 4895.10
58	0.3831 - 0.3850	993.88 - 997.60	4895.09 - 4867.81
59	0.3851 - 0.3899	997.61 -1000.18	4867.80 - 4835.55
60	0.3900 - 0.3946	1000.19 -1003.24	4835.54 - 4798.70
61	0.3947 - 0.3999	1003.25 -1005.35	4799.69 - 4735.62
62	0.4000 - 0.4046	1005.36 -1008.00	4735.61 - 4684.24
63	0.4047 - 0.4097	1008.01 -1010.55	4684.23 - 4616.48
64	0.4098 - 0.4131	1010.56 -1013.55	4616.46 - 4578.07
65	0.4132 - 0.4172	1013.56 -1015.55	4578.05 - 4532.66
66	0.4173 - 0.4209	1015.56 -1019.23	4532.64 - 4495.82
67	0.4210 - 0.4301	1019.24 -1025.77	4495.80 - 4421.48
68	0.4302 - 0.4351	1025.78 -1029.31	4421.46 - 4354.18
69	0.4352 - 0.4420	1029.32 -1033.93	4354.17 - 4298.42
70	0.4421 - 0.4508	1033.94 -1038.28	4298.41 - 4230.77
71	0.4509 - 0.4569	1038.29 -1042.70	4230.76 - 4180.80
72	0.4570 - 0.4604	1042.71 -1045.19	4180.79 - 4137.60
73	0.4605 - 0.4669	1045.20 -1049.92	4137.59 - 4091.83
74	0.4670 - 0.4721	1049.93 -1052.92	4091.82 - 4041.84
75	0.4722 - 0.4775	1052.93 -1057.60	4041.83 - 3998.01
76	0.4776 - 0.4870	1057.61 -1063.49	3998.00 - 3941.60
77	0.4871 - 0.4924	1063.50 -1068.15	3941.59 - 3900.75
78	0.4925 - 0.5022	1068.16 -1074.88	3900.74 - 3824.10
79	0.5023 - 0.5092	1074.89 -1080.07	3824.09 - 3775.62
80	0.5093 - 0.5262	1080.08 -1083.18	3775.61 - 3708.14
81	0.5263 - 0.5347	1083.19 -1087.87	3708.13 - 3633.77
82	0.5348 - 0.5462	1087.88 -1095.59	3633.76 - 3593.12
83	0.5463 - 0.5555	1095.60 -1100.45	3593.11 - 3523.54
84	0.5556 - 0.5690	1100.46 -1110.48	3523.53 - 3471.47
85	0.5691 - 0.5832	1110.49 -1119.17	3471.46 - 3401.47
86	0.5833 - 0.6058	1119.18 -1129.29	3401.46 - 3331.50
87	0.6059 - 0.6249	1129.30 -1138.17	3331.49 - 3228.58
88	0.6250 - 0.6474	1138.18 -1152.87	3228.57 - 3165.26
89	0.6475 - 0.6737	1152.88 -1171.10	3165.25 - 3088.15
90	0.6738 - 0.6957	1171.11 -1188.30	3088.14 - 3010.37
91	0.6958 - 0.7185	1188.31 -1208.41	3010.36 - 2890.30
92	0.7186 - 0.7537	1208.42 -1221.25	2890.29 - 2770.60
93	0.7538 - 0.8025	1221.26 -1241.51	2770.59 - 2655.30
94	0.8026 - 0.8497	1241.52 -1262.74	2655.29 - 2499.82
95	0.8498 - 0.9006	1262.75 -1288.81	2499.81 - 2362.56
96	0.9007 - 0.9389	1288.82 -1313.17	2362.55 - 2103.40
97	0.9390 - 0.9882	1313.18 -1354.31	2103.39 - 1902.16
98	0.9883 - 1.0662	1354.32 -1419.30	1902.15 - 1669.07
99	1.0663 - 1.2827	1419.31 -1525.66	1669.06 - 1435.75
100	1.2828+	1525.67+	1435.74 - 1.00

PART-B : SPECIAL NEEDS

4 YR PRIVATE

POINT	NEED PERCENT	NEED DOLLAR	E AND S
1	0.0001 - 0.0787	0.01 - 710.86	15038.08+
2	0.0788 - 0.1102	710.87 - 747.49	15038.07 -12102.52
3	0.1103 - 0.1285	747.50 - 781.80	12102.51 -10642.75
4	0.1286 - 0.1434	781.81 - 811.30	10642.74 -10186.97
5	0.1435 - 0.1613	811.31 - 836.72	10186.96 - 9418.54
6	0.1614 - 0.1729	836.73 - 858.86	9418.53 - 8833.39
7	0.1730 - 0.1849	858.87 - 872.75	8833.38 - 8294.02
8	0.1850 - 0.1932	872.76 - 893.98	8294.01 - 8074.15
9	0.1933 - 0.2048	893.99 - 906.57	8074.14 - 7766.44
10	0.2049 - 0.2117	906.58 - 918.81	7766.43 - 7522.30
11	0.2118 - 0.2202	918.82 - 926.81	7522.09 - 7289.51
12	0.2203 - 0.2282	926.82 - 942.52	7289.50 - 7070.71
13	0.2283 - 0.2340	942.53 - 952.46	7070.70 - 6897.70
14	0.2341 - 0.2402	952.47 - 958.18	6897.69 - 6705.99
15	0.2403 - 0.2471	958.19 - 965.37	6705.98 - 6500.73
16	0.2472 - 0.2537	965.38 - 977.71	6500.71 - 6367.62
17	0.2538 - 0.2611	977.72 - 986.23	6367.61 - 6224.40
18	0.2612 - 0.2653	986.24 - 996.71	6224.39 - 6108.21
19	0.2654 - 0.2713	996.72 -1008.41	6108.20 - 5934.93
20	0.2714 - 0.2787	1008.42 -1017.71	5934.92 - 5815.29
21	0.2788 - 0.2864	1017.72 -1027.85	5815.28 - 5707.27
22	0.2865 - 0.2963	1027.86 -1035.14	5707.26 - 5587.76
23	0.2964 - 0.3049	1035.15 -1043.20	5587.75 - 5435.68
24	0.3050 - 0.3124	1043.21 -1054.51	5435.67 - 5322.77
25	0.3125 - 0.3207	1054.52 -1065.47	5322.76 - 5235.43
26	0.3208 - 0.3293	1065.48 -1075.85	5235.42 - 5137.48
27	0.3294 - 0.3373	1075.86 -1084.42	5137.46 - 5043.03
28	0.3374 - 0.3469	1084.43 -1094.79	5043.02 - 4948.31
29	0.3470 - 0.3549	1094.80 -1109.66	4948.30 - 4867.81
30	0.3550 - 0.3649	1109.67 -1120.25	4867.80 - 4798.70
31	0.3650 - 0.3713	1120.26 -1134.01	4798.69 - 4684.24
32	0.3714 - 0.3806	1134.02 -1144.11	4684.23 - 4578.07
33	0.3807 - 0.3895	1144.12 -1154.23	4578.05 - 4495.82
34	0.3896 - 0.4004	1154.24 -1164.77	4495.80 - 4354.18
35	0.4005 - 0.4070	1164.78 -1182.91	4354.17 - 4230.77
36	0.4071 - 0.4193	1182.92 -1195.00	4230.76 - 4137.60
37	0.4194 - 0.4297	1195.01 -1212.65	4137.59 - 4041.84
38	0.4298 - 0.4400	1212.66 -1228.48	4041.83 - 3941.60
39	0.4401 - 0.4541	1228.49 -1246.34	3941.59 - 3824.10
40	0.4542 - 0.4621	1246.35 -1262.22	3824.09 - 3708.14
41	0.4622 - 0.4753	1262.23 -1296.73	3708.13 - 3593.12
42	0.4754 - 0.4950	1296.74 -1317.78	3593.11 - 3471.47
43	0.4951 - 0.5140	1317.79 -1343.19	3471.46 - 3331.50
44	0.5141 - 0.5445	1343.20 -1374.29	3331.49 - 3155.26
45	0.5446 - 0.5793	1374.30 -1410.88	3155.25 - 3010.37
46	0.5794 - 0.6127	1410.89 -1446.60	3010.36 - 2770.60
47	0.6128 - 0.7043	1446.61 -1517.31	2770.59 - 2499.82
48	0.7044 - 0.8032	1517.32 -1603.72	2499.81 - 2103.40
49	0.8033 - 0.9521	1603.73 -1763.08	2103.39 - 1669.07
50	0.9520+	1763.09+	1669.06 - 1.00

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BILLING CODE 4000-01-C

PART B: SPECIAL NEEDS

GRADUATE PUBLIC

POINTS	NEED PERCENT	NEED DOLLARS
1	0.0001 - 0.0942	0.01 - 545.59
7	0.0943 - 0.1869	545.60 - 1380.94
19	0.1870 - 0.3619	1380.95 - 1408.23
32	0.3620 - 0.3785	1408.24 - 1675.49
50	0.3786+	1675.50+

PART B: SPECIAL NEEDS

GRADUATE PRIVATE

POINT	NEED PERCENT	NEED DOLLAR
1	0.0001 - 0.0176	0.01 - 449.61
2	0.0177 - 0.0248	449.62 - 577.11
3	0.0249 - 0.0315	577.12 - 595.20
4	0.0316 - 0.0401	595.21 - 618.31
5	0.0402 - 0.0567	618.32 - 669.46
6	0.0568 - 0.0618	669.47 - 728.18
7	0.0619 - 0.0635	728.19 - 783.84
8	0.0636 - 0.0650	783.85 - 813.56
9	0.0651 - 0.0863	813.57 - 848.67
10	0.0864 - 0.0994	848.68 - 873.85
11	0.0995 - 0.1018	873.86 - 881.80
12	0.1019 - 0.1028	881.81 - 897.93
13	0.1029 - 0.1113	897.94 - 949.89
14	0.1114 - 0.1170	949.90 - 968.59
15	0.1171 - 0.1299	968.60 - 969.71
16	0.1300 - 0.1419	969.72 -1011.31
17	0.1420 - 0.1461	1011.32 -1018.04
18	0.1462 - 0.1478	1018.05 -1024.48
19	0.1479 - 0.1605	1024.49 -1030.75
20	0.1606 - 0.1629	1030.76 -1071.02
21	0.1630 - 0.1737	1071.03 -1100.22
22	0.1738 - 0.1777	1100.23 -1112.27
23	0.1778 - 0.1785	1112.28 -1127.49
24	0.1786 - 0.1816	1127.50 -1301.17
25	0.1817 - 0.1855	1301.18 -1360.01
26	0.1856 - 0.1913	1360.02 -1369.27
27	0.1914 - 0.1977	1369.28 -1415.09
28	0.1978 - 0.2021	1415.10 -1444.43
29	0.2022 - 0.2044	1444.44 -1448.95
30	0.2045 - 0.2062	1448.96 -1512.23
31	0.2063 - 0.2098	1512.24 -1517.85
32	0.2099 - 0.2130	1517.86 -1543.44
33	0.2131 - 0.2307	1543.45 -1584.03
34	0.2308 - 0.2367	1584.04 -1589.99
35	0.2368 - 0.2400	1590.00 -1604.72
36	0.2401 - 0.2618	1604.73 -1635.81
37	0.2619 - 0.2625	1635.82 -1643.40
38	0.2626 - 0.2736	1643.41 -1664.07
39	0.2737 - 0.2833	1664.08 -1766.45
40	0.2834 - 0.2858	1766.46 -1802.77
41	0.2859 - 0.2954	1802.78 -1945.64
42	0.2955 - 0.3064	1945.65 -1955.76
43	0.3065 - 0.3174	1955.77 -2028.77
44	0.3175 - 0.3203	2028.78 -2258.91
45	0.3204 - 0.3520	2258.92 -2275.66
46	0.3521 - 0.3717	2275.67 -2580.90
47	0.3718 - 0.4614	2580.91 -2772.57
48	0.4615 - 0.5237	2772.58 -3400.06
49	0.5238 - 0.6939	3400.07 -3563.35
50	0.6940+	3563.36+

Grants for Secretary's Discretionary Program—Improving Education Through the Application of Technology

AGENCY: Department of Education.

ACTION: Application Notice for Continuation Awards for Fiscal Year 1985.

Applications are invited for continuation awards under the Secretary's Discretionary Program—Improving Education through the Application of Technology.

The authority for this program is contained in section 583(a) of Chapter 2 of the Education Consolidation and Improvement Act of 1981 (20 U.S.C. 3851, Pub. L. 97–35).

This notice solicits applications from only those State and local education agencies; institutions of higher education; or other public and private agencies, organizations, and institutions that received grants from fiscal year 1983 funds for multi-year projects under this program.

The purpose of the continuation awards is to continue to support projects—

(a) That develop and demonstrate—

(1) How educational technology can be used effectively in elementary and secondary school improvement;

(2) How students can increase their competence in science, mathematics, reading, and writing, or combinations thereof, through the use of technology in the classroom; and

(3) How relevant teacher training can enable teachers to enhance their programs of instruction by using computers and other technologies; and

(b) That provide for dissemination of the results of this experience to other schools, districts, and education decision makers.

Closing Date for Transmittal of Applications

To be assured of consideration for funding, an application for a grant should be mailed or hand-delivered by October 31, 1984.

If an application is late, the Department of Education may lack sufficient time to review it with other noncompeting continuations and may decline to accept it.

Applications Delivered by Mail

An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.122E, Washington D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept a private metered postmark or a mail receipt that is not dated by the U.S. Postal Service as proof of mailing.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications Delivered by Hand

An application that is hand-delivered must be taken to the Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays. An application that is hand-delivered will not be accepted after 4:30 p.m. on October 31, 1984.

Length of Awards

The proposed budget period for the second year may not exceed 12 months.

Available Funds

It is expected that approximately $1,200,000 will be available for 12 continuation grants in fiscal year 1985 under the Secretary's Discretionary Program—Improving Education through the Application of Technology.

These estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations. Applicants should be aware that Congress has not acted on the Education Department appropriation for fiscal year 1985.

Application Forms

Application forms and program information packages are available. They may be obtained by writing to the Educational Technology Branch, Office of Educational Research and Improvement, U.S. Department of Education (Room 711, Brown Building), 400 Maryland Avenue, SW., Washington, D.C. 20202–1604.

Applications must be prepared and submitted in accordance with the regulations, instruction, and forms included in the program information package. However, nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those specifically imposed under the statute and regulations governing this program.

The Secretary strongly urges that the narrative portion of the application not exceed 20 pages in length.

(Approved by the Office of Management and Budget under Control Number 1880–0505)

Applicable Regulations

Regulation applicable to this program are the Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, and 78.

FOR FURTHER INFORMATION CONTACT: Ann Erdman, Education Program Specialist, Educational Technology Branch, Office of Educational Research and Improvement, U.S. Department of Education (Room 711, Brown Building), 400 Maryland Avenue, SW., Washington, D.C. 20202–1604. Telephone (202) 254–5856.

(Catalog of Federal Domestic Assistance No. 84.122E, Secretary's Discretionary Program—Improving Education Through the Application of Technology)

(20 U.S.C. 3851)

Dated: September 25, 1984.

Donald J. Senese,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 84-25709 Filed 9-27-84; 8:45 am]

BILLING CODE 4000-01-M

Federal Education Data Acquisition Council; Meeting

AGENCY: Department of Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and agenda of a forthcoming meeting of the Federal Education Data Acquisition Council. This notice also describes the functions of the council. Notice of this meeting is required under section 10(a)(2) of the Federal advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES: October 15 and 16, 1984.

ADDRESS: Federal Office Building No. 6, Room 3000, 400 Maryland Avenue, SW., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: Margaret B. Webster, Executive Director, Federal Education Data Acquisition Council, 400 Maryland Avenue, SW., Room 4074, Switzer Building, Washington, D.C. 20202, (202) 426-7304.

SUPPLEMENTARY INFORMATION: The Federal Education Data Acquisition Council is established under section 400A of the General Education Provisions Act (Pub. L. 95-561; 20 U.S.C. 1221-3). The council is established to advise and assist the Secretary with respect to the improvement, development and coordination of Federal education information and data acquisition activities, and to review the policies, practices and procedures established by the Secretary.

The meeting of the Council is open to the public. The agenda includes:

FEDAC Interim Review Procedures
Discussion of the Food and Nutrition Service as a Major Data Collection Agency
Council Business

Records are kept of all Council proceedings, and are available for public inspection at the Division of Education Information Management, 330 C Street, SW., Washington, D.C. 20202 from the hours of 8:00 a.m. to 5:00 p.m.

Dated: September 24, 1984.

Ralph J. Olmo,

Acting Deputy Under Secretary for Management.

[FR Doc. 84-25806 Filed 9-27-84; 8:45 am]

BILLING CODE 4000-01-M

Office of Special Education and Rehabilitative Services

Secondary Education and Transitional Services for Handicapped Youth

AGENCY: Department of Education.

ACTION: Application Notice Establishing Closing Dates for Transmittal of Fiscal Year 1985 New Awards.

Applications are invited for new projects under the Secondary Education and Transitional Services for Handicapped Youth Program.

Authorization for this program is contained in section 626 of Part C of the Education of the Handicapped Act.

(20 U.S.C. 1425)

Applications may be submitted by institutions of higher education, State educational agencies, local educational agencies, or other public and private non-profit institutions or agencies (including the State job training coordinating councils and service delivery area administrative entities established under the Job Training Partnership Act).

(29 U.S.C. 1501 *et seq.*)

The purpose of this program is to support research, development, demonstration, evaluation, and other types of projects that improve secondary education and other services for handicapped youth in order to assist them in the transition from secondary school to postsecondary environments such as competitive or supported employment.

Intergovernmental Review

On June 24, 1983, the Secretary published in the **Federal Register** final regulations (34 CFR Part 79, published at 48 FR 29158-29168) implementing Executive Order 12372 entitled "Intergovernmental Review of Federal Programs." The regulations took effect September 30, 1983.

This program is subject to the requirements of the Executive Order and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

The Executive Order—

- Allows States, after consultation with local officials, to establish their own process for review and comment on proposed Federal financial assistance;
- Increases Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why not; and
- Revokes OMB Circular A-95.

Transactions with nongovernmental entities, including State postsecondary educational institutions and federally recognized Indian tribal governments, are not covered by Executive Order 12372. Also excluded from coverage are research, development, or demonstration projects which do not have a unique geographic focus and are not directly relevant to the governmental responsibilities of a State or local government within that geographic area.

The Secondary Education and Transitional Services for Handicapped Youth Program is a new program, and States have not made a determination as to whether it will be included or excluded from review under the State review process. Therefore, immediately upon receipt of this notice, an applicant should contact the appropriate State single point of contact to see if this assistance will be included under its State's review process and to comply with the State's process under Executive Order 12372. A list containing the single point of contact for each State will be included in the application package for this program.

In States that have not established a process or chosen this program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

All comments from State single points of contact and all comments from State, areawide, regional, and local entities must be mailed or hand delivered by February 7, 1985 to the following address:

The Secretary, U.S. Department of Education, Room 4181 (84.158), 400 Maryland Avenue, SW., Washington, D.C. 20202. (Proof of mailing will be determined on the same basis as applications.)

Please Note That the Above address is Not the Same Address as the One to Which the Applicant Submits its Application. Do Not Send Applications to the Above Address.

Organization of notice: This notice contains two parts. Part I is a list of all application closing dates covered by this notice. Part II contains individual application announcements for each priority area.

Transmittal of applications: An application for a new project must be mailed or hand delivered on or before the closing date given in the individual program announcements included in this document.

Applications delivered by mail: An application sent by mail must be addressed to the Department of Education, Application Control Center, Attention: CFDA Number 84.158, 400 Maryland Avenue, SW., Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered

postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must be taken to the Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application for a new project that is hand delivered will not be accepted by the Application Control Center after 4:30 p.m. on the closing date.

Part I—List of Program Application Announcements Published in This Notice

CFDA No.	Priority area	Closing date
84.158G	Research Projects in Secondary Education.	December 7, 1984
84.158C	Cooperative Models for Planning and Developing Transitional Services.	December 7, 1984.

Part II—Application Notices

84.158G—Research Projects in Secondary Education

Closing Date: December 7, 1984.

Applications are invited for new research projects under the Research Projects in Secondary Education priority at 34 CFR 326.30(h).

This priority supports research projects which focus on secondary level programs for handicapped youth. These projects will have as their major objective the development and improvement of replicable programs and will focus on the evaluation of the program or the components of the program, such as curricula design, program organization, employer involvement, and instructional methods.

Available funds: It is estimated that approximately $1,900,000 will be available for support of 20 new research projects under this priority in fiscal year 1985. This estimate of funding level does not bind the U.S. Department of Education to a specific number of awards or to the amount of any award, unless that amount is otherwise specified by statute or regulations. Award approval is for a period of up to 36 months. *See* 34 CFR 75.253.

84.158C—Cooperative Models for Planning and Developing Transitional Services

Closing Date: December 7, 1984.

Applications are invited for new cooperative models under the Cooperative Models for Planning and Developing Transitional Services priority at 34 CFR 326.30(e).

This priority supports projects designed to plan and develop cooperative models for activities among State or local educational agencies, developmental disabilities councils, and adult service agencies, including vocational rehabilitation, mental health, mental retardation, public employment, and private employers, which will facilitate effective planning for services to meet the employment needs of handicapped youth as they leave school.

Available funds: It is estimated that approximately $900,000 will be available for support of 13 new cooperative models under this priority in fiscal year 1985. This estimate of funding level does not bind the U.S. Department of Education to a specific number of awards or to the amount of any award, unless that amount is otherwise specified by statute or regulations. Award approval is for a period of up to 36 months. *See* 34 CFR 75.253.

Application forms: Application forms and program information packages are expected to be available on October 12, 1984, and may be obtained by writing to the Research Projects Branch, Office of Special Education Programs, Department of Education, 400 Maryland Avenue, SW. (Switzer Building, Room 3511), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 20 pages in length. The Secretary further urges that applicants not submit information that is not requested.

(Approved by the Office of Management and Budget under Control Number 1820-0028)

Applicable regulations: Regulations applicable to this program announcement include the following:

(a) Regulations governing the Secondary Education and Transitional Services for Handicapped Youth program. (34 CFR Part 326).

(b) The Education Department, General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, 78, and 79).

For further information contact: Dr. William Halloran, Research Projects Branch, Office of Special Education Programs, Department of Education, 400 Maryland Avenue, SW. (Switzer Building, Room 3521), Washington D.C. 20202. Telephone: (202) 732-1064.

(Catalog of Federal Domestic Assistance Number 84.158; Secondary Education and Transitional Services for Handicapped Youth)

(20 U.S.C. 1425)

Dated: September 24, 1984.

T.H. Bell,

Secretary of Education.

[FR Doc. 84-25788 Filed 9-27-84; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Office of the Secretary

Proposed Contract Award to NUS Corporation

AGENCY: Department of Energy.

ACTION: Notice of contract award to NUS Corporation.

SUMMARY: In accordance with Department of Energy (DOE) Acquisition Regulations, 48 CFR Chapter 9 (49 FR 11922, March 29, 1984), DOE gives public notice that a contract is being awarded to NUS Corporation despite the existence of potential organizational conflicts of interest because it has been determined that the award is in the best interest of the United States.

FOR FURTHER INFORMATION CONTACT:

Thomas G. Frangos, U.S. Department of Energy, Office of Operational Safety, Environmental Protection Division, PE-243, Washington, DC 20585, (301) 353-4717

Shirley Moore, U.S. Department of Energy, Office of Procurement Operations, MA-453.1, Washington, DC 20585

Findings, Mitigation and Determination

Upon the basis of the following findings, mitigation and determination, the proposed contract described below is being awarded, recognizing the

existence of potential organizational conflicts of interest pursuant to the authority of 48 CFR 909.570–9(a)(3).

Findings

1. The U.S. Department of Energy, Office of Operational Safety (OOS) has a continuing need for specialized technical assistance and management support to develop its policies and standards that independently assure and confirm the effectiveness of environmental protection at DOE field operations and facilities. This contract, which will provide this support, will include evaluation of: (a) Laboratory and field data, (b) compliance with environmental regulation, (c) design of field monitoring strategies, (d) environmental transport and fate of hazardous and radioactive mix chemicals, and (e) impact of chemicals on man and the environment.

2. Using the data and analyses delivered under this contract, the OOS staff will develop various alternative strategies available to accomplish a given requirement or solve a particular problem. In addition to the contract-developed data and analysis, OOS considers other factors in the development of these strategies, such as budget and schedule considerations and potential environmental impacts. Subsequently, the alternatives are further assessed and compared by OOS staff members in order to permit OOS and Department of Energy management to make decisions regarding trends and alternatives.

3. In accordance with 48 CFR 909.570–5, NUS Corporation has provided information concerning business activities related to the work to be performed for DOE, which bear on whether it has possible conflicts of interest: (a) With respect to being able to render impartial, technically sound, and objective assistance or advice or (b) which may give it an unfair competitive advantage.

4. Based on an evaluation of the information provided by NUS Corporation, I find that the work to be performed under the proposed contract could create a potential conflict of interest because of the nature of the proposed support services contract, and thereby influence DOE decisions so as to benefit the contractor's other Government and DOE business activities. In addition, there may be the appearance that, through this support contract, NUS Corporation could potentially influence DOE decisions in such a way as to benefit their other organizational entities.

NUS is affiliated with the Halliburton Company, Dallas, Texas, and their subsidiary, Brown & Root, Inc., Houston, Texas. The Halliburton Company and Brown & Root, Inc., own stock in NUS Corporation. The Halliburton Company business may be generally divided into four principal categories of operations: oil field services and products, industrial engineering/construction services, marine engineering/construction services, and insurance services. Brown & Root, Inc., is engaged in performing a broad range of engineering and construction services in Government, industrial and marine areas.

NUS is affiliated with NUS Training Corporation, NUS Process Services Corporation, NUS Operating Services Corporation and EQEX Corporation. The NUS Training Corporation provides personnel training programs and services primarily to the fossil and nuclear power industry. The NUS Process Services Corporation provides on-site, low-level radwaste processing services to the nuclear utility industry. The NUS Operating Services Corporation provides a variety of services to assist electric utility firms in the operation of nuclear and coal fired power plants. The Equipment Exchange Company (EQEX) provides equipment brokerage services primarily to the nuclear utility industry. These affiliates are wholly-owned subsidiaries of NUS Corporation.

NUS has three international affiliates: (1) Japan NUS Company, Ltd., Tokyo, Japan; (2) Nuklear-Ingenieur-Service GmbH, Hanau, West Germany; and (3) Arabian Environmental Services, Ltd., Jeddah, Kingdom of Saudi Arabia. These three affiliates provide engineering and consulting services similar to those of NUS within the geographical areas where they are located.

5. Because no other offeror in the competitive range was found to have little or no likelihood of organizational conflicts of interest and based on the needs of the Agency and the fact that NUS had the higher technical rating, it is neither feasible nor desirable to disqualify NUS from contract award in accordance with 48 CFR 909.570–9(a)(1). Furthermore, it is not possible to totally avoid the organizational conflicts of interest by inclusion of appropriate conditions in the resulting contract, pursuant to 48 CFR 909.570–9(a)(2).

6. The technical support required for OOS could be obtained only through an organization having a broad engineering and consulting service for Government and private industry. Because of this fact, the potential for conflicts of interest would have ocurred to some extent with any of the qualifying firms.

7. The work NUS Corporation will preform under the OOS contract will not benefit the contractor or provide any advantage in its performance of other DOE contracts. Under the OOS contract, NUS Corporation will not be required to evaluate services it provides under contract to other DOE organizational elements.

Mitigation

Mitigation, to the extent feasible, under 48 CFR 909.570–9(a)(3) will be obtained by OOS staff review of contract deliverables to insure objectivity and independence on the part of the contractor. Furthermore, as this would be a level-of-effort type contract in which specific work directives would be given to the contractor by task assignment, the Contracting Officer's technical representative, who prepares such assignments, and the Contracting Officer would insure that the assigned Statement of Work does not present a direct conflict of interest. In addition, the special clause "Organizational Conflicts of Interest," 48 CFR 952.209–72, will be included in the contract.

Determination

In light of the above findings and mitigation, and in accordance with 48 CFR 909.570–9(a)(3), I have detemined that the proposed contract award to NUS Corporation is in the best interests of the United States.

Issued in Washington, D.C., on September 26, 1984.

R.E. Tiller,

Acting Assistant Secretary for Policy, Safety, and Environment.

[FR Doc. 84-25888 Filed 9-27-84; 8:45 am]
BILLING CODE 6450-01-M

United Engineers & Constructors; Proposed Contract Award

SUMMARY: In accordance with Department of Energy (DOE) Acquisition Regulations (DEAR), 48 CFR Chapter 9, Subpart 909.570–9, published in the **Federal Register** on March 28, 1984, DOE gives public notice that a contract is being awarded, recognizing the existence of potential organizational conflicts of interest, because it has been determined to be in the best interest of the United States.

FOR FURTHER INFORMATION CONTACT:

Wanda L. Simpson, Office of Procurement Operations, Room 1J–059, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone (202) 252–1077.

Richard G. Oehl, Office of Nuclear Energy, Room E–462, Germantown,

Washington, DC 20545, Telephone Number (301) 353-2948.

Findings

1. The Department of Energy (DOE), Office of the Assistant Secretary for Nuclear Energy has a continuing requirement for technical analyses and data development relating to nuclear powerplant technologies, including comparisons to the competitive alternative technologies. This contract effort will include design studies of a conceptual and preliminary nature, engineering studies, analysis of contruction techniques and methods, economic analysis and systems analysis of nuclear systems and competing technologies and their applications to meet both electrical and thermal energy needs.

2. In response to the solicitation for a contractor to perform this type of effort, two offerors were deemed to fall into the competitive range. Of the two, United Engineers and Constructors, Inc. (UE&C) received the higher technical rating and had the lower cost proposal.

3. In accordance with 48 CFR 909.570-5, UE&C provided statements disclosing relevant information concerning its interest related to the work performed for the agency and bearing on whether it has possible organizational conflicts of interest: (1) With respect to being able to render impartial, technically sound and objective assistance or advice, or (2) which may give it an unfair competitive advantage.

4. Based on an evaluation of the information provided, it has been determined that there could be potential or perceived conflicts of interest with regard to the work under this contract. The clientele and energy interests of Raytheon Company and its wholly owned subsidiary UE&C, could potentially have organizational conflicts of interest with regard to the work required by the Office of Nuclear Energy (NE), in accordance with 48 CFR 909.570-9(a). In particular, UE&C derives a substantial portion of its annual income from arrangements with entities that could be affected by the work under this proposed contract.

5. Because no other offeror in the competitive range was found to have little or no likelihood of organizational conflicts of interest and based on the needs of the agency and the fact that UE&C had the higher technical rating and lowest cost, it is neither feasible nor desirable to disqualify UE&C from contract award in accordance with 48 CFR 909-570(a)(1). Furthermore, it is not possible to totally avoid the organizational conflicts of interest by inclusion of appropriate conditions in the resulting contract, pursuant to 48 CFR 909.570-9(a)(2).

Mitigation

Mitigation to the extent feasible under 48 CFR 909.570-9(a)(3) will be obtained by NE staff review of contract deliverables to insure objectivity and independence on the part of the contractor. Furthermore, as this will be a level-of-effort type contract in which specific work directives would be given to the contractor by task assignment, the Contracting Officer's technical representative, who prepares such assignments, and the Contracting Officer would insure that the assigned statement of work does not present a direct conflict of interest. In addition, the Organizational Conflicts of Interest Special Clause entitled "Organizational Conflicts of Interest—Special Clause (DEAR 952.209.72)," shall be included in the contract.

Determination

In light of the above findings and mitigation, and in accordance with 48 CFR 909.570-9(a)(3), the proposed contract award is in the best interests of the United States.

Dated: September 24, 1984.

James W. Vaughan, Jr.,

Acting Assistant Secretary for Nuclear Energy.

[FR Doc. 84-25939 Filed 9-27-84; 8:45 am]
BILLING CODE 6450-01-M

Inventions Available for License

The Department of Energy hereby announces a number of inventions available for license, in accordance with 35 U.S.C 207-209, in order to achieve expeditious commercialization of results of federally funded research and development. For further information concerning licensing of the inventions, please contact Robert J. Marchick, Office of the Assistant General Counsel for Patents, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Copies of specifications of the listed U.S. patent applications may be obtained, for a modest fee, from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161.

Signed at Washington, D.C., on this 18th day of September, 1984.

United States Department of Energy.

Theodore J. Garrish,

General Counsel.

U.S. DEPARTMENT OF ENERGY

Patent Applications

Serial No. and Title of Invention

403,219—Direct Metal Brazing to Cermet Feedthroughs
393,285—Device for Identifying a Circumfeeential Position
488,311—Process for the Production of ^{18}F-2-Deoxy-2-Fluoro-D-Glucose
494,485—Process for Forming Pure Silver Ohmic Contacts to N- and P-Type Gallium Arsenide, Materials
521,496—Kiln for Hot-Pressing Compacts in a Continuous Manner
526,762—In-Vivo Measurement of Lithium in the Brain and Other Organs
541,176—Solid Oxide Fuel Cell Having Compound Cross Flow Gas Patterns
541,177—Solid Oxide Fuel Cell Having Monolithic Cross Flow Core and Manifolding
541,178—Integral Manifolding Structuring for Fuel Cell Core Having Parallel Gas Flow
541,184—Method of Fabricating a Monolithic Core for a Solid Oxide Fuel Cell
541,185—Fuel Cell Stack With Internal Manifolds for Reactant Gases
541,186—Disposable Rabbit
541,187—System for Maintaining the Alignment of Mandrels in Filament Winding Operations
541,188—Preparation of Silicon Carbide Fibers
541,196—Method for Forming Fibrous Silicon Carbide Insulating Material
541,213—Solid Oxide Fuel Cell Having Monolithic Core
541,808—Acoustic Resonator and Method of Making Same
542,955—Flow Cytometric Measurement of Total DNA and Incorporated Halodeoxyuridine
542,956—Ion Plated Electronic Tube Device
542,957—Method and Apparatus for Measuring Shear Modulus and Viscosity of a Monomolecular Film
542,958—Optical Pin Apparatus for Measuring the Arrival Time and Velocity of Shock Waves and Particles
542,968—Laser Utilizing a Gaseous Lasing Medium and Method for Operating the Same
543,686—Fabrication of Metallic Glass Structures
544,930—Method and Apparatus for Enhancing Microchannel Plate Data
545,338—Photothermal Method for In Situ Microanalysis of the Chemical Composition of Coal Samples

545,411—Peizoelectric Shear Wave Resonator and Method of Making Same
545,426—Acoustic Emission Linear Pulse Holography
547,266—Ion-Exchange Material and Method of Storing Radioactive Wastes
547,278—Precision Zero-Home Locator
547,279—Autogenerator of Beams of Charged Particles
547,280—Ultratrace Analysis of Transuranic Actinides by Laser-Induced Fluorescence
547,681—Non-Destructive Method for Determining Neutron Exposure
547,682—Clad Cast Steel Strip
548,277—Sidetone Generator Flowmeter
548,278—Thermoluminescence Dosimeter
548,279—Support Arrangement for Core Modules of Nuclear Reactors
548,280—Flow Metering Valve
548,811—Stable Mirror Mount
549,379—Method and Apparatus for Making Superconductive Magnet Coils
549,380—Pore-Forming Fillers for Molten Carbonate Matrices
549,382—Electrode-Active Material for Electrochemical Batteries and Method of Preparation
550,429—Automated Apparatus for Producing Gradient Gels
550,697—Electronically Conductive Ceramics for High Temperature Oxidizing Environments
550,701—Three Chamber Negative Ion Source
551,528—Fluorinated Diamond Particles Bonded in a Filled Fluorocarbon Resin Matrix
552,532—Use of $^{3}He^{++}$ ICRF Minority Heating to Simulate Alpha Particle Heating.
554,413—Low Frequency AC Waveform Generator
554,414—Hot Hollow Cathode Gun Assembly
554,415—Field Emission Chemical Sensor
554,487—Method for Improving the Mechanical Properties of Uranium-1 to 3 wt.% Zirconium Alloy
554,851—Nuclear Diagnostic for Fast Alpha Particles
554,867—Method and Apparatus for Removing Silicon from a High Temperature Sodium Coolant
554,868—Parabolic Tapers for Overmoded Waveguides
555,915—DC Switching Regulated Power Supply for Driving an Inductive Load
557,517—Monochromator for Continuous Spectrum X-Ray Radiation
559,502—Electrially Conductive Rigid Polyurethane Foam
559,504—Liquid Cooled, Linear Focus Solar Cell Receiver
559,505—Heat Exchanger
559,506—Collapsable Seal Member
559,558—Liquid Suspensions of Reversible Metal Hydrides
562,146—Fuel Pin Cladding
562,147—Ion Source with Improved Primary Arc Collimation
562,148—Decontamination Apparatus and Method
562,150—Method and Apparatus for Determining Pressure-Induced Frequency-Shifts in Shock-Compressed Materials
562,243—Soluble Polyacetylenic and Polyaromatic Polymers and Method of Making the Same
564,103—High Temperature Adhesive Silicone Foam Composition, Foam Generating System and Method of Generating Foam
564,107—Reusable Fast Opening Switch
564,108—Ductile Aluminide Alloys for High Temperature Applications
564,112—Self-Pumping Impurity Control
564,125—Method & Apparatus for Determining Content & Distribution of a Thermal Neutron Absorbing Material in an Object
564,127—Fuel Injection Device and Method
564,129—Induction Voidmeter
566,621—Method of Gas Purification and System Therefor
566,757—Electro-Optical Switching and Memory Display Device
566,759—Microminiature Coaxial Cable and Method of Manufacture
566,760—Noise Isolation System for High-Speed Circuits
566,761—High Power Microwave Generator
566,849—Magnetic Fluorescent Lamp
566,924—Preparation of Certain M-Aminophenols and the Use Thereof for Preparation of Laser Dyes

U.S. Patents

4,285,782—Method for Providing Uranium with a Protective Copper Coating
4,308,460—Storage Containers for Radioactive Material
4,326,417—Nondestructive Acoustic Electric Field Probe Apparatus and Method
4,343,496—Split Gland
4,344,914—Retrievable Fuel Pin End Member for a Nuclear Reactor
4,361,889—Grating Tuned Unstable Resonator Laser Cavity

[FR Doc. 84-25762 Filed 9-27-84; 8:45 am]
BILLING CODE 6450-01-M

PLT Engineering, Inc.; Proposed Contract Award

SUMMARY: In accordance with Department of Energy (DOE) Acquisition Regulations, 48 CFR Chapter 9, published in the **Federal Register** on March 28, 1984, DOE gives public notice that a contract is being awarded, recognizing the existence of potential organizational conflicts of interest, because this is determined to be in the best interest of the United States.

FOR FURTHER INFORMATION CONTACT:

Ralph LaMonda, U.S. Department of Energy, Strategic Petroleum Reserve Office, FE-421, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-4728

Judith A. Willis, U.S. Department of Energy, Office of Procurement Operations, MA-453.1, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-9518

Findings, Mitigation and Determination

Upon the basis of the following findings, mitigation, and determination, the proposed contract described below is being awarded following a competitive solicitation and evaluation, recognizing the existence of potential organizational conflicts of interest pursuant to the authority of 48 CFR 909.570-9(a)(3)

Findings

1. The U.S. Department of Energy, Stretegic Petroleum Reserve (SPR) Program Office has a continuing need for specialized technical support in facilities planning and engineering analysis. This contract, which will provide this support, will include (a) conceptual engineering and cost analyses of potential enhancements to, or expansion of SPR storage facilities and oil distribution systems, and (b) technical and cost analyses of modifications to the SPR's various programmatic, technical, and performance criteria.

2. Using the data and analyses delivered under this contract, the SPR Program Office staff will develop various alternative strategies available to accomplish a given requirement or solve a particular problem. In addition to the contract-developed data and analyses, the SPR considers other factors in the development of these strategies, such as budget and schedule considerations and potential environmental impacts. Subsequently, the alternatives are further assessed and compared by SPR staff members in order to permit SPR and Department of Energy management to make decisions regarding implementation.

3. In accordance with 48 CFR 909.570.5, PLT Engineering, Inc., provided statements disclosing relevant information concerning its interests

related to the work to be performed for the agency and bearing on whether it has possible conflicts of interest (a) with respect to being able to render impartial, technically sound, and objective assistance or advice or (b) which may give it an unfair competitive advantage.

4. Based on an evaluation of facts contained in the disclosure, it has been found that there could be potential or perceived conflicts of interest with regard to the work under this contract. The technical and cost analyses to be delivered by the contractor could, after being further studied by SPR engineers, result in the modification and/or expansion of SPR facilities which might ultimately result in increased operations and maintenance requirements for the SPR. At the present time, the operations and maintenance of SPR facilities is being accomplished through a contract with Petroleum Operations and Support Services, Inc. (POSSI). Both PLT Engineering and POSSI are owned by Kaneb Services, Inc. Thus, there may be the appearance that, through this support contract, PLT Engineering could potentially influence SPR Program Office decisions in such a way as to benefit an affiliated firm, i.e., POSSI.

Furthermore, Kaneb Services, Inc., is a holding company which, through a number of subsidiary firms, has financial interests in various other petroleum-related facilities and engineering work, either by ownership or by clientele. These firms conduct contracting and service activities in the areas of drilling, pipelines, oil field products, energy storage terminals, and petroleum operations. Any expansion of the SPR system, which could include the acquisition of additional storage sites, construction of pipelines or connections to existing commercial oil distribution facilities, could benefit Kaneb Services.

5. Because the nature and scope of the SPR program work requires that the contractor have extensive corporate experience and capabilities in various aspects of the petroleum industry, a perceived conflict of interest would have occurred to some extent with any of the four qualify firms.

6. Notwithstanding the fact that, in this case, the proposed contractor (PLT Engineering, Inc.) is affiliated with the SPR on-site operations and maintenance contractor (POSSI), the scopes of their respective contracts would not result in any cause-effect relationship which would allow one firm to directly or purposely benefit the other.

Mitigation

Mitigation, to the extent feasible, under 48 CFR 909.570-9(a)(3) will be obtained by SPR staff review of contract deliverables to insure objectivity and independence on the part of the contractor. Furthermore, as this would be a level-of-effort-type contract in which specific work directives would be given to the contractor by task assignment, the Contracting Officer's technical representative, who prepares such assignments, and the Contracting Officer would insure that the assigned statement of work does not present a direct conflict of interest. In addition, the special clause "Organizational Conflicts of Interest", 48 CFR 952.209-72, will be included in the contract.

Determination

In light of the above findings and mitigation, and in accordance with 48 CFR 909.570-9(a)(3), the proposed contract award is in the best interests of the United States.

Dated: September 21, 1984.

Donald L. Bauer,

Acting Assistant Secretary for Fossil Energy.

[FR Doc. 84-25982 Filed 9-27-84; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Agency Forms Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of submission of request for clearance to the Office of Management and Budget.

SUMMARY: Under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), Department of Energy (DOE) notices of proposed collections under review will be published in the **Federal Register** on the Thursday of the week following their submission to the Office of Management and Budget (OMB). Following this notice is a list of the DOE proposals sent to OMB for approval. The listing does not contain information collection requirements contained in regulations which are to be submitted under 3504(h) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by DOE.

Each entry contains the following information and is listed by the DOE sponsoring office:

(1) The form number;

(2) Form title;

(3) Type of request, e.g., new, revision, or extension;

(4) Frequency of collection;

(5) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit;

(6) Type of respondent;

(7) An estimate of the number of respondents;

(8) Annual respondent burden, i.e., an estimate of the total number of hours needed to fill out the form; and

(9) A brief abstract describing the proposed collection.

DATES: Last Notice published Friday, September 14, 1984, (49 FR 36138).

FOR FURTHER INFORMATION CONTACT:

John Gross, Director, Forms Clearance and Burden Control Division, Energy Information Administration, M.S. 1H-023, Forrestal Building, 1000 Independence Ave., SW., Washington, DC 20585, (202) 252-2308

Vartkes Broussalian, Department of Energy, Desk Officer, Office of Management and Budget, 726 Jackson, Place, NW., Washington, DC 20503, (202) 395-7313

SUPPLEMENTARY INFORMATION: Copies of proposed collections and supporting documents may be obtained from Mr. Gross. Comments and questions about the items on this list should be directed to the OMB reviewer for the appropriate agency as shown above.

If you anticipate commenting on a form, but find that time to prepare these comments will prevent you from submitting comments promptly, you should advise the OMB reviewer of your intent as early as possible.

Issued in Washington, D.C., September 25, 1984.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

DOE Forms Under Review by OMB

Form No.	Form title	Type of request	Response frequency	Response obligation	Respondent description	Estimated number of respondents	Annual respondent burden	Abstract
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
EIA-857	Monthly Report of Natural Gas Purchases and Deliveries to Consumers.	New Collection.	Monthly	Mandatory	Businesses	390	25,080	EIA-857 collects volume and cost of revenue data on natural gas delivered to distributors and sales to residential, commercial, and industrial consumers. Aggregated data are published by EIA in various publications and used to make analyses and projections. Respondents are a sample of natural gas companies delivering to consumers.
FERC-15	Interstate Pipeline's Annual Report of Gas Supply.	Extension	Annual	Mandatory	Businesses	93	56,637	The data collected will be used by the Commission in performing its regulatory functions in gas supply certificate and deficiency cases, depreciation analyses, in rate cases and making determinations about new or increased sales of natural gas, the extension of facilities, or the abandonment of facilities and service.
FERC-530	Gas Producer Certificate: Abandonment/ Termination.	Extension	On occasion	Required to obtain or retain a benefit.	Businesses	120	2,400	Producers must file this information to secure abandonment authorization. No sale subject to the NGA may be abandoned or terminated unless the continuance of service is unwarranted, or that the present or future public convenience or necessity permit such abandonment.

[FR Doc. 84-25656 Filed 9-27-84; 8:45 am]
BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

Columbia Gas Transmission Corp.; Request Under Blanket Authorization

[Docket No. CP84-678-000]

September 25, 1984.

Take notice that on August 31, 1984, Columbia Gas Transmission Corporation (Columbia Transmission), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, filed in Docket No. CP84-678-000, a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for permission and approval to abandon certain facilities and points of delivery under the authorization issued in Docket No. CP83-76-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Columbia Transmission requests permission and approval to abandon approximately 19.3 miles of pipeline ranging in size from 2-inch to 16-inch, 8 points of delivery to existing wholesale customers and certain related measuring and regulating facilities. Columbia Transmission states the facilities and points of delivery proposed to be abandoned are no longer used or useful in its operations and would not result in the loss of any gas supply or the termination of service to any existing wholesale customer. Columbia Transmission asserts that it has been advised by its wholesale customers that the proposed abandonments would not result in the termination of service to any existing retail consumers. Columbia Transmission proposes the following:

(1) Abandon approximately 1.1 miles of 12-inch pipeline in Greene County, Pennsylvania. Sole utilization of the pipeline is said to have been to supply certain mainline customers who have converted to alternative fuels.

(2) Abandon approximately 2.0 miles of 12-inch pipeline in Menifee County, Kentucky. The market area supplied by this segment of pipeline is now said to be supplied from another Columbia Transmission pipeline.

(3) Abandon approximately 1.2 miles of 8-inch pipeline in Union County, Ohio, by sale to Columbia Gas of Ohio, Inc. (COH). Sole utilization of the pipeline is said to have been to supply a point of delivery to COH through which COH serves the Marysville, Ohio, area. Due to industrial growth the point of delivery is being relocated north of its present location. COH is said to have agreed to acquire the segment of pipeline south of the relocated point of delivery at its net depreciated cost of approximately $16,400.

(4) Abandon approximately 0.4 mile of 10-inch pipeline in Clarion County, Pennsylvania. Sole utilization of the Pipeline is said to have been to supply a single mainline customer who has converted to alternative fuel.

(5) Abandon a point of delivery to COH in Jackson County, Ohio, which is said to have served A.P. Green Refractories Company, which has closed.

(6) Abandon point of delivery to Mountaineer Gas Company (MGC) and approximately 6.4 miles of 10-inch pipeline in Kanawha and Putnam Counties, West Virginia, which is said to be used to supply one point of delivery to MGC through which MGC serves nine consumers. It is said that MGC intends to serve these consumers from an extension of its distribution system. MGC acquired and commenced operation of the properties of Columbia Gas of West Virginia, Inc., on June 21, 1984.

(7) Abandon approximately 0.9 mile of 10-inch pipeline in Kanawha County, West Virginia. Due to operational changes in this area, an existing pipeline, which parallels the pipeline segment proposed for abandonment, is said to have adequate capacity to meet all operational requirements

(8) Abandon 2.9 miles of 10-inch pipeline in two segments in Washington County, Pennsylvania. Columbia Transmission is said to be constructing 1.3 miles of 4-inch pipeline under its blanket authority in Docket No. CP83-76-000, which will supply the market area currently supplied by the segments to be abandoned.

(9) Abandon approximately 0.4 mile of 6-inch pipeline in two segments in Rockland County, New York, by sale to Orange and Rockland Utilities (O and R). The two parallel pipeline segments to be abandoned are located between an existing measuring and regulating station and an existing point of delivery to O and R. Columbia Transmission's gas sales to O and R are currently measured at the existing measuring and regulating facility and then transported through the pipeline segments to be abandoned for delivery to O and R at the existing point of delivery. Columbia Transmission proposes to relocate the

point of delivery to the outlet of the existing measuring and regulating facility and sell the pipeline facilities downstream of the relocated point of delivery to O and R for $1.00.

(10) Abandon approximately 1.4 miles of 8, 10, and 12-inch pipeline in Greene and Fayette Counties, Pennsylvania. The market area previously supplied by this segment of pipeline is said now to be supplied by another Columbia Transmission pipeline.

(11) Abandon point of delivery to COH, 0.2 mile of 6-inch pipeline and related facilities in Jefferson County, Ohio. These facilities are said to have been utilized by COH to serve an installation of the Weirton Steel Company which has been closed and dismantled.

(12) Abandon approximately 0.7 mile of 8-inch pipeline in Jackson County, West Virginia. This pipeline segment is said to have been utilized to transport locally produced and purchased gas volumes. Other Columbia Transmission pipelines located in this area are said to have adequate capacity to meet all anticipated operational requirements.

(13) Abandon approximately 0.4 mile of 2-inch pipeline in Greene and Washington Counties, Pennsylvania, which is said to have been used to supply one mainline consumer. The Wheeling Creek Watershed Commission is said to have purchased the property and removed this residence.

(14) Abandon three points of delivery and approximately 1.3 miles of 2, 3, 4, 10, and 12-inch pipeline in Ashland County, Ohio, which is said to have been used to serve three points of delivery to COH. One of the points of delivery was utilized to Supplement the supply to the Red Haw market area and the other two points of delivery served main line customers. It is said that the main line customers will be served from an extension of COH's Red Haw distribution system and that COH has advised that the point of delivery providing a supplemental supply to the Red Haw market area is no longer required.

(15) Abandon a point of delivery to COH in Medina County, Ohio, which is said to have been used by COH to serve Famco, Inc., which has closed.

(16) Abandon a point of delivery to COH in Jackson County, Ohio, which is said to have been used by COH to serve the Davis Firebrick Company, which has closed.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-25814 Filed 9-27-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-702-000]

Columbia Gas Transmission Corp.; Request Under Blanket Authorization

September 24, 1984.

Take notice that on September 10, 1984, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP84-702-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of PPG Industries, Inc. (PPG), through June 30, 1985, under the certificate issued in Docket No. CP83-76-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Columbia indicates that PPG has entered into a June 1, 1984, gas purchase agreement with Kepco, Inc. (Kepco), in order to acquire gas which would be used by PPG as process gas at its Carlisle, Pennsylvania, plant. Columbia further indicates that the gas to be purchased by PPG from Kepco is not gas released by Columbia. In order for PPG to obtain its gas, Columbia proposes to receive 9,400 MMBtu equivalent on a peak and average day and 3,431,000 MMBtu equivalent per year on behalf of PPG at three existing points of interconnection between the facilities of Columbia and Kentucky West Virginia Gas Company near Maytown and Dwale in Floyd County, Kentucky, and near Tomahawk in Martin County, Kentucky. Columbia would redeliver the gas, less retainage, to UGI Corporation (UGI) near Carlisle, it is indicated. UGI is the distributor serving PPG, it is further indicated. Columbia explains that depending upon whether its gathering facilities are involved, it would charge one of the rates set forth in Rate Schedule TS-1 of its FFRC Gas Tariff for the service proposed herein. Columbia further explains that its currently effective storage and transmission charge is 40.11 cents per dt and that its currently effective storage, transmission and gathering charge is 44.93 cents per dt. It is stated that Columbia also retains for company-use and unaccounted-for gas a percentage, as reflected in Rate Schedule TS-1, of the total quantity of natural gas delivered into its system; this percentage is currently 2.85 percent. In addition, Columbia indicates that PPG would be charged the current General R and D Funding Unit of the Gas Research Institute.

Finally, Columbia indicates that it would undertake certain filing requirements to implement the "flexible authority" provision of its transportation agreement as to sources of gas and/or receipt/delivery points. Specifically, Columbia proposes to file, within 30 days of the addition or deletion of any gas suppliers and/or any receipt/delivery points, the following information.

(1) A copy of the gas purchase contract between the seller and the end-user;

(2) A statement as to whether the supply is attributable to gas under contract to and released by a pipeline or distributor, and if so, identification of the parties and specification of the current contract price;

(3) A statement of the Natural Gas Policy Act of 1978 (NGPA) pricing categories of the added supply, if released gas, and the volumes attributable to each category;

(4) A statement that the gas is not committed or dedicated within the meaning of the NGPA section 2(18);

(5) Location of the receipt/delivery points being added or deleted. For deletions, provide the name of the producer/supplier;

(6) Where an intermediary participates in the transaction between the seller and end-user, the information required by § 157.209(c)(1)(ix); and

(7) Identity of any other pipeline involved in the transportation.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be

authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-25815 Filed 9-27-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CI84-530-000]

Jay Kornfeld; Application for Abandonment

September 25, 1984.

Take notice that on August 10, 1984, Jay Kornfeld of 206 Bitting Bldg., Wichita, Kansas 67202, filed with the Commission an application for abandonment of a gas sale to Colorado Interstate Gas Company from his Garden City Unit, Finney County, Kansas, on the ground that the sale is uneconomical to continue. Applicant states that he is suffering a loss each year in operating the well.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 10, 1984, file with the Federal Energy Regulatory Commission, Washington D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed by the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to the proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-25817 Filed 9-27-84; 8:45 am]
BILLING CODE 6716-01-M

[Docket No. ER83-665-001]

Kansas City Power & Light Co.; Compliance Filing

September 25, 1984.

Take notice that by letter dated September 14, 1984, Kansas City Power & Light Company (KCPL) submitted for filing its compliance report in compliance with the Commission's Order of August 17, 1984.

Copies of this filing are being sent to all parties of record.

Any person desiring to be heard or to make any protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington D.C. 20426, on or before October 10, 1984. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-25817 Filed 9-27-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP84-638-000]

Kentucky West Virginia Gas Co.; Request Under Blanket Authorization

September 24, 1984.

Take notice that on August 9, 1984, as supplemented on September 20, 1984, Kentucky West Virginia Gas Company (Applicant), 420 Boulevard of the Allies, Pittsburgh, Pennsylvania 15219, filed in Docket No. CP84-638-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of PPG Industries, Inc. (PPG), through June 30, 1985, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Applicant indicates that PPG has entered into a June 1, 1984, gas purchase contract with Kepco, Inc. (Kepco), in order to acquire gas which would be used by PPG as process gas at its Carlisle, Pennsylvania, plant. Applicant further indicates that the gas to be purchased from Kepco is not gas previously under contract to a pipeline company or distributor. In order for PPG to obtain its gas, Applicant proposes to receive 9,400 dt equivalent of gas on an average and peak day and 3,431,000 dt equivalent of gas per year on behalf of PPG at existing delivery points from Kepco. Applicant indicates that it would redeliver the gas for further transportation to Columbia Gas Transmission Corporation (Columbia). Any or all of the previously certificated interconnections between Applicant and Columbia would be utilized, it is stated. Further, it is indicated that Applicant and Columbia would use such other interconnections as may be established from time to time between Applicant and Columbia to enable Applicant to redeliver gas to Columbia. It is indicated that PPG would pay Applicant 36.2 cents per dt for all gas delivered to Applicant for PPG's account; it is also indicated that Applicant would render service to PPG under Applicant's Rate Schedule ITS. Applicant avers that there is an intermediary, Industrial Energy Services Company, Inc., between Kepco and PPG.

Finally, Applicant indicates that it would undertake certain filing requirements to implement the "flexible authority" provision of its transportation agreement as to the receipt and delivery points of the gas to be transported under the subject agreement. Specifically, Applicant proposes to file, within 30 days of the addition or deletion of receipt and deliver points, the following information, where applicable:

(1) A copy of the gas purchase contract between the seller and the end-user;

(2) A statement as to whether the supply is attributable to gas under contract to and released by a pipeline or distributor, and if so, identification of the parties and specification of the current contract price;

(3) A statement of the Natural Gas Policy Act of 1978 (NGPA) pricing categories of the added supply, if released gas, and the volumes attributable to each category;

(4) A statement that the gas is not committed or dedicated within the meaning of the NGPA section 2(18);

(5) Location of the receipt/delivery points being added or deleted;

(6) Where an intermediary participates in the transaction between the seller and end-user, the information required by § 157.209(c)(1)(ix); and

(7) Identity of any other pipeline involved in transportation.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for

authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-25818 Filed 9-27-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-683-000]

New York State Electric & Gas Corp.; Filing

September 25, 1984.

The filing Company submits the following:

Take notice that on September 17, 1984, New York State Electric & Gas Corporation (NYSEG) tendered for filing, a rate schedule, an agreement with the New York Power Authority. The agreement provides that NYSEG shall sell electric energy on an interruptible basis to the New York Power Authority and that the agreement will continue until terminated by either party upon not less than 30 days prior written notice.

NYSEG requests that the 60-day filing requirement be waived and that December 1, 1983 be allowed as the effective date of the filing.

NYSEG has filed a copy of this filing with the New York Power Authority and with the Public Service Commission of the State of New York.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 9, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-25819 Filed 9-27-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-684-000]

New York State Electric & Gas Corp.; Filing

September 25, 1984.

The filing Company submits the following:

Take notice that on September 17, 1984, New York State Electric & Gas Corporation (NYSEG) tendered for filing, a rate schedule, a revision to Supplement No. 1 to its Purchase Agreement with the Connecticut Light and Power Company. Supplement No. 1 to the agreement provides that NYSEG shall sell electric energy on an interruptible basis to the Connecticut Light & Power Company for a negotiated price which includes a reservation charge of up to $10/MWH. This revision to Supplement No. 1 would increase the ceiling on the reservation charge to $15/MWH. Service under this agreement commenced on August 9, 1984 and is to continue until terminated by either party upon no less than 30 days prior written notice.

NYSEG requests that the 60-day filing requirement be waived and that August 9, 1984 be allowed as the effective date of the filing.

NYSEG has filed a copy of this filing with the Connecticut Light and Power Company and with the Public Service Commission of the State of New York.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 9, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-25820 Filed 9-27-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-685-000]

Northwestern Public Service Co.; Filing

September 25, 1984.

The filing company submits the following:

Take notice that on September 17, 1984, Northwestern Public service company (Northwestern) tendered for filing a Notice of cancellation of the following filed schedules:

FPC Rate No. 8 —Coordination agreement with City of Watertown, South Dakota

FPC Rate No. 18—Transmission agreement with City of Miller, South Dakota

FPC Rate No. 22—Partial requirements agreement with Northern States Power Company

Northwestern requests an effective date of November 13, 1984.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 9, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-25821 Filed 9-27-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-687-000]

PacifiCorp, Doing Business as Pacific Power & Light Co.; Filing

September 25, 1984.

The filing Company submits the following:

Take notice that on September 18, 1984, PacifiCorp, doing business as Pacific Power & Light Company (Pacific) tendered for filing Pacific's Revised Appendix 1 for the state of Montana. The Revised Appendix 1 calculates an average system cost for the state of Montana applicable to the exchange of power between Bonneville Power Administration and Pacific.

Pacific requests waiver of the Commission's notice requirements to permit this rate schedule to become effective February 24, 1984, which it claims is the date of commencement of service.

Copies of the filing were supplied to Bonneville, the Public Service Commission of the State of Montana, and Bonneville's Direct Service Industrial Customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of

Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 9, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-25822 Filed 9-27-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-689-000]

Panhandle Eastern Pipe Line Co.; Application

September 25, 1984.

Take notice that on September 4, 1984, Panhandle Eastern Pipe Line Company (Applicant), 3444 Broadway, Kansas City, Missouri, Filed in Docket No. CP84-689-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing it to construct and operate facilities required to institute a direct sale of natural gas to three end-use customer in Hutchinson and Hansford Counties Texas, for irrigation purposes, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant alleges that pursuant to contractural obligations contained in the right-of-way agreements with the three end-users, it has an obligations to provide natural gas service to the property subject to the right-of-way agreement. Applicant estimates that the total cost associated with the new delivery points and the facilities for the direct sales to these end-users for irrigation purposes will be $18,900.

Applicant estimates that it would deliver up to 20,000 Mcf per year of natural gas to each of the grantors.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 15, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any persons wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 25823 Filed 9-27-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-682-000]

South Carolina Electric & Gas Co.; Filing

September 25, 1984.

The filing Company submits the following:

Take notice that on September 17, 1984, South Carolina Electric & Gas Company (SCE&G) tendered for filing a Capacity Sale Contract dated June 28, 1984, between SCE&G and Savannah Electric Power Company ("SEPCO"). This Contract provides for SCE&G to furnish to SEPCO fifty (50) megawatts of system capacity and associated energy. SCE&G requests an effective date of July 1, 1984, for this Contract. SCE&G requests waiver of the Commission's notice requirements and waiver of certain requirements under Part 35 of the Commission's Regulations.

A copy of the filing has been mailed to SEPCO, according to SCE&G.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20480, in accordance with Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 10, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-25824 Filed 9-27-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-606-002]

Southwestern Electric Power Co.; Compliance Filing

September 25, 1984.

Take notice that on August 31, 1984, Southwestern Electric Power Company (SWEPCO) submitted for filing its compliance report pursuant to a Commission's Letter Order dated August 20, 1984.

The Letter Order noted that the Commission, by order of May 31, 1984, had permitted SWEPCO to collect the proposed settlement rates, subject to refund, in billings for service rendered as of March 12, 1984.

SWEPCO was also directed to refund any amounts collected in excess of the settlement rates prior to their implementation. SWEPCO states that it did not collect any amounts in excess of the settlement rates and consequently, there are no refunds due Siloam Springs.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before October 10, 1984. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-25825 Filed 9-27-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-688-000]

Tampa Electric Co.; Filing

September 25, 1984.

The filing Company submits the following:

Take notice on September 18, 1984, Tampa Electric Company (Tampa) tendered for filing its Service Schedule X providing for extended economy

interchange service between Tampa and Seminole Electric Cooperative (Seminole). Tampa states that Service Schedule X is submitted for inclusion as a supplement under the existing agreement for interchange service between Tampa and Seminole, designated at Tampa's Rate Schedule FERC No. 22.

Tampa proposes an effective date of September 1, 1984, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing have been served on Seminole and the Florida Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 9, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-25828 Filed 9-27-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-689-000]

Tampa Electric Co.; Filing

September 25, 1984.

The filing Company submits the following:

Take notice that on September 18, 1984, Tampa Electric Company (Tampa) tendered for filing Service Schedule X providing for extended economy interchange service between Tampa and the Utilities Commission of the City of New Smyrna Beach, Florida (New Smyrna Beach). Tampa states that Service Schedule X is submitted for inclusion as a supplement under the existing agreement for interchange service between Tampa and New Smyrna Beach, designated as Tampa's Rate Schedule FERC No. 13.

Tampa requests an effective date of September 1, 1984, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing have been served on New Smyrna Beach and the Florida Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214) All such motions or protests should be filed on or before October 9, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-25827 Filed 9-27-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP84-53-000]

Transcontinental Gas Pipe Line Corp.; Petition of Transcontinental Gas Pipe Line Corp. for Partial Waiver of Regulations

Issued: September 25, 1984.

On September 7, 1984, Transcontinental Gas Pipe Line Corporation (Transco) petitioned, pursuant to Rule 207 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (Commission), 18 CFR 385.207 (1983), for a partial waiver of paragraph (e) of § 271.1104 of the Commission's regulations, 18 CFR 271.1104(e), which was issued as part of Order No. 94-A[1] on January 24, 1983. This waiver is requested in order that Transco may make retroactive payments after December 31, 1984 for delivery and compression costs incurred by producers from the earlier of July 25, 1980 or the date of their application to recover such costs until March 7, 1983.[2]

Transco asserts that § 271.1104(e) of the Commission's regulations provides, among other things, that a seller may collect certain past costs incurred to deliver or compress gas, if expressly authorized to do so under the terms of the contract governing the first sale. Such amounts are to be collected through installments over a period of time commencing with March 3, 1983 and ending December 31, 1984; and such installments should, to the maximum extent practicable, be of equal amounts. First sellers that seek to collect delivery and compression costs must also provide a description stating, on a well-by-well or completion location basis: (i) The amount per MMBtu to be charged; (ii) the specified production-related service for which the charge is to be made; and (iii) the contractual provisions expressly authorizing the charge. *See* 18 CFR 271.1104 (e) and (f) (1983).

Transco further asserts that because the regulations do not provide a deadline for submission of such descriptions other than December 31, 1984, for past costs, and because Transco must verify the data in each seller's descriptions of production-related allowances to which the seller claims it is entitled, this has had an effect on the payment of allowances for production-related costs incurred since March 7, 1983, and costs incurred prior to that date.[3]

Transco's specific petition is that the Commission waive § 271.1104(e)(3) to the extent necessary to allow Transco to pay retroactive costs for which a description has been received by December 31, 1984, in twelve equal monthly installments beginning after verification of the information in the descriptions and ending no later than June 30, 1986.[4]

Any person desiring to be heard or to protest Transco's filing should file within 15 days after notice is published in the **Federal Register** with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of Rule 211 or 214 of the Commission's Rules of Practice and Procedure. All protests filed will be

[1] 22 FERC ¶ 61,055 (1983).

[2] Transco requests a waiver of paragraph (e) of § 271.1104 only to the extent necessary to allow a purchaser to make retroactive payments after December 31, 1984; it is not requesting a waiver of such provision that would allow producers to submit descriptions for retroactive costs after such date.

[3] Transco states that with respect to costs incurred since March 7, 1983, these costs are being paid in lump sums once the verification procedure has been completed. The lump sum payments being paid in September 1984 include eighteen months of accrued costs. The payments for costs incurred from the earlier date of application of July 25, 1980, until March 7, 1983, which the Commission intended to be paid in equal installments over a twenty-two month period ending December 31, 1984, have been compressed into a decreasing number of installments.

[4] Under Transco's proposal installment payments will begin as the information in each description is verified. If the verification of a description is completed after July 1985, the payments pertaining to such description will be paid in approximately equal installments over the number of months remaining until June 30, 1986.

considered but will not make the protestants parties to the proceeding.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-25828 Filed 9-27-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-686-000]

Wisconsin Public Service Corp.; Filing

September 25, 1984.

The filing Company submits the following:

Take notice that on September 17, 1984, Wisconsin Public Service Corporation (Wisconsin) tendered for filing an executed service agreement for all requirements service to the City of Wisconsin Rapids, Wisconsin. The executed agreement replaces the unexecuted service agreement which is on file with the Commission, and also applies to Wisconsin Rapids a three year notice period for terminating service instead of the notice periods of two years and five years contained in the tariff and a modification of the provisions governing assignment of the service agreement and other minor clarifying changes. The filing makes no other changes in terms and conditions of service and has no rate effects. The Company has requested an effective date of November 12, 1984 for the executed agreement.

According to Wisconsin copies of the filing were sent to Wisconsin Rapids and the Public Service Commission of Wisconsin.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 9, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-25829 Filed 9-27-84; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-59171; TSH-FRL 12676-8]

Alkali Metal Salt of an Unsaturated Carboxylic Acid Premanufacture Exemption Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5 (a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722. This notice, issued under section 5(h)(6) of TSCA, announces receipt of one application for exemption, provides a summary, and requests comments on the appropriateness of granting of exemption.

DATE: Written comments by: October 15, 1984.

ADDRESS: Written comments, identified by the document control number "[OPTS-59171]" and the specific TME number should be sent to: Document Control Officer (TS-793), Chemical Information Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Room E-216, 401 M Street SW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the TME received by EPA. The complete non-confidential document is available in the Public Reading Room E-107 at the above address.

TME 84-82

Close of Review Period. September 11, 1984.

Manufacturer. Confidential.

Chemical. (G) Alkali metal salt of an unsaturated carboxylic acid.

Use/Production. (G) Coatings. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 8 workers, up to 1.0 hrs/da, up to 48 da/yr.

Environmental Release/Disposal. 0.5 to 1 kg/batch released to land. Disposal by recycle drum.

Dated: September 14, 1984.

Linda A. Travers,

Acting Director, Information Management Division.

[FR Doc. 84-25219 Filed 9-27-84; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-2583-2]

Availability of Environmental Impact Statements Filed September 17, 1984 Through September 21, 1984 Pursuant to 40 CFR 1506.9

Responsible Agency: Office of Federal Activities, General Information (202) 382-5073 or (202) 382-5075.

EIS No. 840417, Draft, COE, WA, Milwaukee Waterway Fill and Container Terminal Facility, Dredge/Fill, Permit, Port of Takoma, Pierce County, Due: November 13, 1984, Contact: John Malek (206) 764-3625.

EIS No. 840418, Draft, FHW, IN, Keystone-Rural Corridor Improvement, Pleasant Run Parkway North Drive to IN-37, Marion Co., Due: November 13, 1984, Contact: L. D. Tucker 1 (317) 269-7481.

EIS No. 840419, Draft, AFS, ID, WY, UT, Caribou National Forest Land and Resource Management Plan, Due: December 19, 1984, Contact: Charles Hendricks (208) 236-6741.

EIS No. 840420, Draft, FHW, AR, US 71 Construction, I-40 to Fayetteville Bypass, Crawford and Washington Counties, Due: November 13, 1984, Contact: Paul Pool (501) 378-5625.

EIS No. 840421, Draft, BLM, ID, Medicine Lodge Resource Area, Management Plan, Due: December 27, 1984, Contact: O'dell Frandsen (208) 529-1020.

EIS No. 840423, Draft, BLM, NV, Caliente Resource Area, Wilderness Study Areas, Designation, Clark and Lincoln Counties, Due: November 13, 1984, Contact: Frank Maxwell (702) 388-6463.

EIS No. 840424, Final, BLM, CA, Coast/Valley Planning Area, Resource Management Plan, Due: October 29, 1984, Contact: Bob Barney (916) 484-4701.

EIS No. 840425, Final, AFS, CO, White River National Forest Land and Resource Management Plan, Due:

October 29, 1984. Contact: Richard Woodrow (303) 945–2521.

EIS No. 840426, Final, COE, NC, SC, Sugar Creek Drainage Basin Open Flood Plain Areas, Flood Control and Conservation Plans, Due: October 29, 1984, Contact: John Carothers (803) 724–4258.

EIS No. 840427, Final, NOA, AK, Bering See/Aleutian Islands King Crab Fishery Management Plan, Due: October 29, 1984, Contact: Robert McVey (907) 586–7221.

EIS No. 840428, Draft, NPS, AK, Squirrel River Wild and Scenic River Study, Designaion, Due: December 14, 1984, Contact: Linda Nebel (907) 271–4196.

EIS No. 840429, Draft, NPS, AK, Lower Sheenjek River Wild and Scenic River Study, Designaion, Due: December 14, 1984, Contact: Linda Nebel (907) 271–4196.

EIS No. 840430, Final, COE, AL, AK, CA, GA, KY, NY, TN, WA, New Army Light Infantry Division, Stationing, Seventeenth Active Component, Due: October 29, 1984, Contact: James Hildreth (205) 694–4141.

EIS No. 840431, COE, Adopted Final, AL, AK, CA, GA, KY, NY, TN, WA, New Army Light Infantry Division, Stationing, Eighteenth Active Component, Due: October 29, 1984, Contact: James Hildreth (205) 694–4141.

EIS No. 840432, FSuppl, NOA, PAC, CA, WA, OR, 1985 Salmon Commercial and Recreational Fishery Management Plan, Off the Coast of Washington, Oregon and California, Due: October 29, 1984, Contact: Thomas Kruse (206) 526–6150.

EIS No. 840433, Final, EPA, FL, South Escambia and Santa Rosa Wastewater Management Facilities, Grant, South Escambia and Santa Rosa Counties, Due: October 29, 1984, Contact: Robert Cooper (404) 881–3776.

EIS No. 840434, Final, NOA, NC, Masonboro Island designation to the North Carolina National Estuarine Sanctuary, Due: October 29, 1984, Contact: Nancy Forester (202) 634–4236

Dated: September 25, 1984.

Allan Hirsch,

Director, Office of Federal Activities.

[FR Doc. 84-25784 Filed 9-27-84; 8:45 am]

BILLING CODE 6560-50-M

[OA-FRL-2663-4]

Chesapeake Bay Executive Council (Proposed); Open Meeting

Pursuant to the Federal Advisory Committee Act, notice is hereby given that a meeting of the (proposed) Chesapeake Bay Executive Council will be held on October 18, 1984. The meeting will begin at 10 a.m., at Accamac Inn, P.O. Box 127, Route 30, Wrightsville, Pennsylvania 17368.

The Agenda will include discussions on public participation, status of Federal activities, annual report to Congress, and Pennsylvania Bay initiatives.

The meeting is open to the public. For additional information contact Mr. William Horne, Director, Chesapeake Bay Program at (301) 224–2740.

Dated: September 20, 1984.

Greene A. Jones,

Director, Water Management Division, Region III.

[FR Doc. 84-25786 Filed 9-27-84; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51538; TSH-FRL-2662-8]

Certain Chemicals; Premanufacture Notices; Hercules, Inc., et al.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the Federal Register of May 13, 1983 (48 FR 21722). This notice announces receipt of thirty PMNs and provides a summary of each.

DATES: Close of Review Period:

PMN 84–1175, 84–1176, 84–1177, 84–1178, 84–1179, 84–1180, 84–1181, 84–1182, 84–1183, and 84–1184: December 11, 1984

PMN 84–1185, 84–1186, 84–1187, 84–1188, 84–1189, 84–1190, and 84–1191: December 15, 1984

PMN 84–1192, 84–1193, 84–1194, 84–1195, 84–1196, 84–1197, 84–1198, 84–1199, 84–1200, and 84–1201: December 16, 1984

PMN 84–1202, 84–1203, and 84–1204: December 17, 1984

Written comments by:

PMN 84–1175, 84–1176, 84–1177, 84–1178, 84–1179, 84–1180, 84–1181, 84–1182, 84–1183, and 84–1184: November 11, 1984

PMN 84–1185, 84–1186, 84–1187, 84–1188, 84–1189, 84–1190, and 84–1191: November 15, 1984

PMN 84–1192, 84–1193, 84–1194, 84–1195, 84–1196, 84–1197, 84–1198, 84–1199, 84–1200, and 84–1201: November 16, 1984

PMN 84–1202, 84–1203, and 84–1204: November 17, 1984

ADDRESS: Written comments, identified by the document control number "[OPTS–51538]" and the specific PMN number should be sent to: Document Control Officer (TS–793), Chemical Information Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E–203, 401 M St., SW., Washington, DC 20460, (202–382–3734).

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–611, 401 M St., SW., Washington, DC 20460, (202–382–3725).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E–107 at the above address.

PMN 84–1175

Manufacturer. Hercules Incorporated.

Chemical. (G) Polyester polyol.

Use/Production. (G) Destructive use, chemical intermediate, polymer manufacture. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: Dermal, a total of 2 workers, up to 2 hrs/da, up to 300 da/yr.

Environmental Release/Disposal. 2 to 20 kg/batch released to land. Disposal by incineration and landfill.

PMN 84–1176

Importer. Confidential.

Chemical. (G) Alkyl alicyclic alcohol.

Use/Import. (G) Ingredients for use in consumer products: Highly dispersive use. Import range: 100–1,000 kg/yr.

Toxicity Data. Acute oral: >5.0 g/kg; Acute dermal: >2.0 g/kg; Irritation: Skin—Not a primary irritant; Eye—Not a primary irritant; Repeated insult patch test/photosensitization: Negative.

Exposure. Use: Dermal, a total of 6 workers, up to 2 hrs/da, up to 20 da/yr.

Environmental Release/Disposal. No release.

PMN 84–1177

Manufacturer. Confidential.

Chemical. (G) Metal salt of azonaphthoic acid.

Use/Production. (G) Open, non-dispersive use. Prod. range: 48–100 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: Dermal and inhalation, a total of 6 workers.

Environmental Release/Disposal. No release.

PMN 84–1178

Manufacturer. Hercules Incorporated.
Chemical. (G) Phenolic modified rosin ester.
Use/Import. Contained use—vehicle resin. Import range: Confidential.
Toxicity Data. No data submitted.
Exposure. Processing: Dermal and inhalation, a total of 2–10 workers.
Environmental Release/Disposal. Disposal by municipal waste disposal facilities.

PMN 84–1179

Manufacturer. Hercules Incorporated.
Chemical. (G) Phenolic modified rosin ester.
Use/Import. (G) Contained use—vehicle resin. Import range: Confidential.
Toxicity Data. No data submitted.
Exposure. Processing: Dermal and inhalation, a total of 2–10 workers.
Environmental Release/Disposal. Disposal by municipal waste disposal facilities.

PMN 84–1180

Importer. Hercules Incorporated.
Chemical. (G) Aminopolyamide resin.
Use/Production. (G) Polymer intermediate. Prod. range: Confidential.
Toxicity Data. Irritation: Eye—Non-irritant.
Exposure. Manufacture and use: Dermal, a total of 16 workers, up to 4 hrs/da, up to 240 da/yr.
Environmental Release/Disposal. Negligible release to air with 1 to 2 kg/batch to water. Disposal by publicly owned treatment works (POTW).

PMN 84–1181

Manufacturer. Hercules Incorporated.
Chemical. (G) Aminopolyamide resin.
Use/Production. (G) Polymer intermediate. Prod. range: Confidential.
Toxicity Data. Irritation: Eye—Non-irritant.
Exposure. Manufacture and use: Dermal, a total of 20 workers, up to 5 hrs/da, up to 240 da/yr.
Environmental Release/Disposal. Negligible release to air with 1 to 19 kg/batch released to water. Disposal by POTW.

PMN 84–1182

Manufacturer. Hercules Incorporated.
Chemical. (G) Aminopolyamide-epichlorohydrin resin.
Use/Production. (g) Papermaking chemical. Prod. range: Confidential.
Toxicity Data. Acute oral: < 10 ml/kg; Irritation: Skin—Minimal/mild, Eye—Irritant; Skin sensitization: Non-sensitizer; Human repeated insult patch test: Non-irritant/Nonsensitizer; LC_{50} 24 hr (Rainbow trout); > 1.8 parts per million (ppm); LC_{50} 48 hr (Rainbow trout): 1.3 ppm; LC_{50} 96 hr (Rainbow trout): 1.3 ppm; 96 hr No observed effect (NOEL) (Rainbow trout): 0.56 ppm; LC_{50} 24 hr (Bluegill sunfish): 2.4 ppm; LC_{50} 48 hr (Bluegill sunfish): 1.6 ppm; LC_{50} 96 hr (Bluegill fish): 1.3 ppm; 96 hr NOEL (Bluegill sunfish): 0.56 ppm.
Exposure. Manufacture: Dermal, a total of 16 workers, up to 8 hrs/da, up to 220 da/yr.
Environmental Release/Disposal. 0.9 to 1.9 kg/batch released to water. Disposal by POTW.

PMN 84–1183

Manufacturer. Hercules Incorporated.
Chemical. (G) Aminopolyamide-epichlorohydrin polymer.
Use/Production. (G) Papermaking chemical. Prod. range: Confidential.
Toxicity Data. Acute oral: > 10 ml/kg; Irritation: Skin—Minimal, Eye—Mild; Human repeated insult patch test: Non-irritant/Non-sensitizer; Skin sensitization: Non-sensitizer; LC_{50} 24 hr (Rainbow trout): 3.2 ppm; LC_{50} 48 hr (Rainbow trout): 2.3 ppm; LC_{50} 96 hr (Rainbow trout): 1.6 ppm; 96 hr NOEL (Rainbow trout): 3.2 ppm; LC_{50} 24 hr (Bluegill sunfish): 4.2 ppm; LC_{50} 48 (Bluegill sunfish): 3.0 ppm; LC_{50} 96 hr (Bluegill sunfish): 2.8 ppm; 96 hr NOEL (Bluegill sunfish): 1.0 ppm.
Exposure. Manufacture: Dermal, a total of 16 workers, up to 8 hrs/da, up to 240 da/yr.
Environmental Release/Disposal. Negligible release to air with 0.9 to 1.9 kg/batch to water, land. Disposal by POTW.

PMN 84–1184

Manufacturer. Confidential.
Chemical. (G) Polychlorofluoro aromatic alkylated hydrocarbon.
Use/Production. (S) Chemical intremediate. Prod. range: Confidential.
Toxicity Data. Acute oral: 1,864 mg/kg; Acute dermal: >2g/kg; Irritation: Skin—Mild, Eye—Moderate; Inhalation: LC_{50}: 3.70 mg/l; Skin sensitization: Non-sensitizer.
Exposure. Manufacture: Dermal and inhalation, a total of 8 workers, up to 3 hrs/da, up to 230 da/yr.
Environmental Release/Disposal. Confidential. Disposal by POTW and incineration.

PMN 84–1185

Manufacturer. Confidential.
Chemical. (G) Alkali metal salt of an unsaturated carboxylic acid.
Use/Production. (S) Industrial monomer used in the production of manufactured articles. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: Dermal, a total of 8 workers, up to 1.0 hr/da, up to 48 da/yr.
Environmental Release/Disposal. 0.5 to 1 kg/batch released to land. Disposal by recycle drum.

PMN 84–1186

Manufacturer. Confidential.
Chemical. (G) Polyester of carbomoncyclic ester and alkylene glycols.
Use/Production. (S) Industrial binder fiber for nonwoven fabrics. Prod. range: Confidential.
Toxicity Data. Acute oral: Males and females >5,000 mg/kg; Irritation: Skin—Slight, Eye—Slight; Skin sensitization: Low potential.
Exposure. Manufacture and processing: Dermal.
Environmental Release/Disposal. Confidential. Disposal by incineration.

PMN 84–1187

Manufacturer. Confidential.
Chemical. (G) Polyester of carbomoncyclic acid and alkylene glycols.
Use/Production. (S) Industrial binder fiber for nonwoven fabrics. Prod. range: Confidential.
Toxicity Data. Acute oral: Males and females >5,000 mg/kg; Irritation: Skin—Slight, Eye—Slight; Skin sensitization: Low potential.
Exposure. Manufacture and processing: Dermal.
Environmental Release/Disposal. Confidential. Disposal by incineration.

PMN 84–1188

Manufacturer. Monsanto Company.
Chemical. (G) Modified acrylamide polymer.
Use/Production. (G) Bonding resin. Prod. range: Confidential.
Toxicity Data. Acute oral: > 5,000 mg/kg; Acute dermal: > 5,000 mg/kg; Irritation: Skin—Slight, Eye—Essentially non-irritating; Repeated insult patch test: No irritant/Non-sensitizer; LC_{50} 24 hr (Bluegill sunfish): 97 mg/l; LC_{50} 48 and 96 hr (Bluegill sunfish): 83 mg/l; LC_{50} 96 hr (Rainbow trout): 13 mg/l; LC_{50} 48 hr and 24 hr (Daphnia magna): > 1,000 mg/l; LC_{50} 24 hr (Rainbowl trout): 35 mg/l; LC_{50} 48 hr (Rainbow trout): 18 mg/l.
Exposure. Manufacture: Dermal a total of 3 workers, up to 1 hr/da, up to 300 da/yr.
Environmental Release/Disposal. No release.

PMN 84–1189

Manufacturer. Monsanto Company.

Chemical. (G) Modified acrylamide polymer.

Use/Production. (G) Bonding resin. Prod. range: Confidential.

Toxicity Data. Acute oral: > 5,000 mg/kg; Acute dermal: >5,000 mg/kg; Irritation: Skin—Slight, Eye—Essentially non-irritating; Repeated insult patch test: No irritant/Non-sensitizer; LC_{50} 24 hr (Bluegill sunfish): 97 mg/l; LC_{50} 48 and 96 hr (Bluegill sunfish): 83 mg/l; LC_{50} 96 hr (Rainbor trout): 13 mg/l; LC_{50} 48 hr and 24 hr (Daphnia magna): > 1,000 mg/l; LC_{50} 24 hr (Rainbowl trout): 35 mg/l; LC_{50} 48 hr (Rainbow trout): 18 mg/l.

Exposure. Manufacture: Dermal a total of 3 workers, up to 1 hr/da, up to 300 da/yr.

Environmental Release/Disposal. No release.

PMN 84–1190

Manufacturer. Monsanto Company.

Chemical. (G) Modified acrylamide polymer.

Use/Production. (G) Bonding resin. Prod. range: Confidential.

Toxicity Data. Acute oral: > 5,000 mg/kg; Acute dermal: >5,000 mg/kg; Irritation: Skin—Slight, Eye—Essentially non-irritating; Repeated insult patch test: Non-irritant/Non-sensitizer; LC_{50} 24 hr (Bluegill sunfish): 97 mg/l; LC_{50} 48 hr (Bluegill sunfish): 83 mg/l; LC_{50} 96 hr (Bluegill sunfish): 83 mg/l; LC_{50} 24 hr (Rainbow trout): 35 mg/l; LC_{50} 48 hr (Rainbow trout): 18 mg/l; LC_{50} 96 hr (Rainbow trout): 13 mg/l; LC_{50} 24 hr (Daphnia magna): > 1,000 mg/l; LC_{50} 48 hr (Daphnia Magna): > 1,000 mg/l.

Exposure. Manufacture: Dermal, a total of 3 workers, up to 1 hr/da, up to 300 da/yr.

Environmental Release/Disposal. No release.

PMN 84–1191

Manufacturer. Confidential.

Chemical. (S) 1,4-pentadiene-3-one, 1,5-bis[4-(dimethylamino)phenyl]-.

Use/Production. (G) A componenbt of a coating sloution. Prod. range: Confidential.

Toxicity Data. Acute oral: > 5,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Mild; Ames Test: Mutagenic; Yeast assay: Non-recombinogenic.

Exposure. Manufacture and processing: Dermal, a total of 19 workers, up to 3 hrs/da, up to 15 da/yr.

Environmental Release/Disposal. 0.04 to 0.10 kg/batch released. Disposal by incineration.

PMN 84–1192

Manufacturer. Confidential.

Chemical. (G) Functional aromatic polyether.

Use/Production. (G) Industrial coating having an open use. Prod. range: 10,000–100,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: Dermal, a total of 26 workers, up to 8 hrs/da, up to 20 da/yr.

Environmental Release/Disposal. 3 to 25 kg/batch released to land. Disposal by incineration and landfill.

PMN 84–1193

Manufacturer. Confidential.

Chemical. (G) Functional ployester.

Use/Production. (G) Intermediate for industrial coatings. Prod. range: 2,000–21,800 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: Dermal, a total of 14 workers, up to 3 hrs/da, up to 40 da/yr.

Environmental Release/Disposal. 1 to 10 kg/batch released to land. Disposal by incineration and landfill.

PMN 84–1194

Manufacturer. Confidential.

Chemical. (G) Acrylated polyester.

Use/Production. (G) Industrial coating having an open use. Prod. range: 3,100–34,400 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: Dermal, a total of 17 workers, up to 6 hrs/da, up to 49 da/yr.

Environmental Release/Disposal. 5 to 15 kg/batch released to land. Disposal by incineration and landfill.

PMN 84–1195

Manufacturer. The Dow Chemical Company.

Chemical. (G) Type I anion exchange resin, sulfate form.

Use/Production. (S) Industrial water demineralization. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture: Dermal.

Environmental Release/Disposal. None expected. Disposal by industrial waste treatment plant and navigable waterway after treatment.

PMN 84–1196

Manufacturer. The Dow Chemical Company.

Chemical. (G) Type II anion exchange resin, sulfate form.

Use/Production. (S) Industrial water demineralization. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture: Dermal.

Environmental Release/Disposal. None expected. Disposal by industrial waste treatment plant and navigable waterway after treatment.

PMN 84–1197

Manufacturer. The Dow Chemical Company.

Chemical. (G) Type II anion exchange resin, bicarbonate/carbonate form.

Use/Production. (S) Industrial water demineralization. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture: Dermal.

Environmental Release/Disposal. None expected. Disposal by industrial waste treatment plant and navigable waterway after treatment.

PMN 84–1198

Manufacturer. The Minnesota Mining and Manufacturing Company.

Chemical. (G) Substituted phenol/formaldehyde resin.

Use/Production. (G) Surface treatment-non-dispersive use. Prod. range: Confidential.

Toxicity Data. Acute oral: Between 2,000 and 5,000 mg/kg; Irritation: Skin—Mild/moderate, Eye—Mild/moderate; Ames Test: Non-mutagenic; Skin sensitization: Non-sensitizer; Yeast assay: Non-recombinogenic; BOD 20 day: None; COD: 1,200,000 mg/kg; LC_{50} 96 hr (Fathead minnow): 3.5 mg/1 and 2.9 mg/1; LC_{50} 96 hr (Fathead minnow): Combined—3.2 mg/1.

Exposure. Manufacture: Dermal.

Environmental Release/Disposal. No release. Disposal by incineration.

PMN 84–1199

Manufacturer. Confidential.

Chemical. (G) Polyester urethane polymer.

Use/Production. (S) Industrial magnetic tape binder. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 84–1200

Manufacturer. Confidential.

Chemical. (G) Hydrocarbon rosin phenolic resin.

Use/Production. (G) Printing inks. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 84–1201

Manufacturer. Confidential.

Chemical. (G) Polyamine amide imide.

Use/Production. (G) Fuel additive. Prod. range: Confidential.

Toxicity Data. Acute oral: >5g/kg; Acute dermal: >2 g/kg; Irritation: Skin—Moderate, Eye—Moderate; Ames Test: Nonmutagenic.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 84–1282

Manufacturer. Confidential.

Chemical. (G) Modified cellulosic.

Use/Production. (S) Functional additive for personal care formulations. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: Dermal and inhalation, a total of 10 workers, up to 4 hrs/da, up to 20 da/yr.

Environmental Release/Disposal. Confidential. Disposal by industrial wastewater treatment facility.

PMN 84–1283

Manufacturer. Confidential.

Chemical. (G) Substituted amino benzoic acid derivative.

Use/Production. (G) Chemical intermediate. Prod. range: 1,600–2,800 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: A total of 6 workers, up to 0.1 hr/da, up to 3 da/yr.

Environmental Release/Disposal. No release.

PMN 84–1284

Importer. Confidential.

Chemical. (G) Substituted, sulfonated naphthylazo sodium salt.

Use/Import. (S) Industrial fiber reactive dye for cotton and rayon. Import range: Confidential.

Toxicity Data. Acute oral: >5,000 mg/kg; Irritation: Skin—Non-irritant, Eye—irritant.

Exposure. Processing: Dermal and inhalation, a total of 1 person/plant/shift, 1 hr/da.

Environmental Release/Disposal. 100 kg/yr unfixed PMN substance. Disposal by on-site biological treatment.

Dated: September 24, 1984.

Linda A. Travers,

Acting Director, Information Management Division.

[FR Doc. 84-25081 Filed 9-27-84; 8:45 am]

BILLING CODE 6560-50-M

[OPP–100013; FRL 2683–6]

Dynamac Corp.; Transfer of Data to Contractor

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA plans to transfer information submitted under sections 3, 6, and 7 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) to Dynamac Corporation, 11140 Rockville Pike, Rockville, Maryland 20852, under Contract No. 68–01–6804. This contractor shall perform services for the Office of Pesticide Programs (OPP) of EPA. Some of the information that will be made available to the contractor has been claimed to be confidential business information (CBI). Information will be transferred to the contractor consistent with the requirements of 40 CFR 2.301(h). This action will enable the contractor to fulfill the obligations of the contract, and this notice serves to notify affected persons.

DATE: Dynamac Corporation will be given access to these documents no sooner than October 3, 1984.

FOR FURTHER INFORMATION CONTACT:

By mail:

William C. Grosse, Program Management and Support Division (TS–757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 222, CM#2, 1921 Jefferson Davis Highway, Arlington, Virginia, (703–557–2613).

SUPPLEMENTARY INFORMATION: Under this contract, Dynamac Corporation shall use the data to evaluate the health and environmental effects of chemical substances that occur in industrial waste streams.

Section 10(e) of FIFRA provides that information that is considered by the submitter to be trade secret or commercial of financial as described by FIFRA section 10(d) may be disclosed to an authorized contractor when such disclosure is necessary for the performance of the contract. EPA routinely receives such CBI as part of the data that are submitted by pesticide registrants and others as provided for in FIFRA section 3, 6, and 7.

Contractors are authorized to receive such data if the EPA program office managing the contract makes the determinations specified in 40 CFR 2.301(h)(2) as referenced in § 2.307. Such determinations have been made concerning the contract with Dynamac Corporation.

FIFRA section 10(f) provides a criminal penalty for wrongful disclosure of confidential information, whether such disclosure is made by an EPA employee or an EPA contractor.

The contract with Dynamac Corporation specifically prohibits disclosure of confidential business information to any third party in any form without written authorization from EPA, and personnel of this contractor will be required to sign a nondisclosure agreement before they are permitted access to such information.

Dated: September 19, 1984.

Louis P. True,

Acting Director, Office of Pesticide Programs

[FR Doc. 84-25082 Filed 9-27-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–724–DR]

North Carolina; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of North Carolina (FEMA–724–DR), dated September 21, 1984, and related determinations.

DATED: September 21, 1984.

FOR FURTHER INFORMATION CONTACT: Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287–0501.

Notice: Notice is hereby given that, in a letter of September 21, 1984, the President declared a major disaster under the authority of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 *et seq.*, Pub. L. 93–288), as follows:

I have determined that the damage in certain areas of the State of North Carolina, resulting from Hurricane Diana, beginning on or about September 12, 1984, is of sufficient severity and magnitude to warrant a major-disaster declaration under Pub. L. 93–288. I therefore declare that such a major disaster exists in the State of North Carolina.

In order to provide Federal assistance, you are hereby authorized to allocate, from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under Pub. L. 93–288 for Public Assistance will be limited to 75 percent of total eligible costs in the designated area.

Pursuant to section 408(b) of Pub. L. 93–288, you are authorized to advance to the State its 25 percent share of the Individual and Family Grant program, to be repaid to the United States by the State when it is able to do so.

The time period prescribed for the implementation of section 313(a), priority to certain applications for public facility and public housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, and redelegated to me, I hereby appoint Mr. Paul E. Hall of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of North Carolina to have been affected adversely by this declared major disaster:

Brunswick, New Hanover and Pender Counties for Individual Assistance and Public Assistance.

Bladen and Columbus Counties for Public Assistance only.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 84-25730 Filed 9-27-84; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Michigan-Wisconsin Transportation Co., et al.; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provision of section 3, Pub. L. 89-777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540): Michigan-Wisconsin Transportation Company, Michconsin, Inc. and Land & Lake Transportation Company, c/o Michigan-Wisconsin Ferry Service, P.O. Box 0279, Ludington, Michigan 49431.

Dated: September 25, 1984.

Francis C. Hurney,

Secretary

[FR Doc. 84-25795 Filed 9-27-84; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

First City Bancorp. of Texas; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 18, 1984.

A. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President), 400 South Akard Street, Dallas, Texas 75222:

1. *First City Bancorporation of Texas,* Houston, Texas; to merge through its wholly-owned subsidiary, First Security National Corporation, Houston, Texas, with Cullen/Frost Bankers, Inc., San Antonio, Texas, thereby indirectly acquiring Chase National Bank, Austin, Texas; Parkdale Bank, Corpus Christi, Texas; Cullen/Frost Bank of Dallas, N.A., Dallas, Texas; United States National Bank, Galveston, Texas; Cullen Center Bank and Trust, Houston, Texas; Cullen Bank/City West, N.A., Houston, Texas; Cullen Bank Northfield, N.A., Houston, Texas; Citizens Frost Bank, N.A., San Antonio, Texas; Colonial Frost Bank, N.A., San Antonio, Texas; Frost National Bank of San Antonio, San Antonio, Texas; Liberty Frost Bank, N.A., San Antonio, Texas; North Frost Bank, N.A., San Antonio, Texas; and Cullen Bank Sugar Land, Sugar Land, Texas. First City Bancorporation of Texas, through its wholly-owned subsidiary First Security National Corporation, has also applied to engage in various nonbanking activities through the acquisition of the following nonbanking subsidiaries of Cullen/Frost Bankers, Inc.: Main Plaza Corporation, Inc., San Antonio, Texas (making and servicing loans, and lending and leasing activities); Daltex General Agency, Inc., San Antonio, Texas (administrative services in connection with underwriting of credit life insurance); and C/F Life Insurance Company, San Antonio, Texas (credit life, health, and accident insurance underwriting).

Board of Governors of the Federal Reserve System, September 24, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-25787 Filed 9-27-84; 8:45 am]

BILLING CODE 6210-01-M

First State Bancshares, Inc.; Formation of; Acquisition by; or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.24) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors.

Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than October 19, 1984.

A Federal Reserve Bank of St. Louis (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *First State Bancshares, Inc.*, Somerville, Tennessee; to become a bank holding company be acquiring 80 percent of the voting shares of First State Bank of Fayette County, Somerville, Tennessee.

Board of Governors of the Federal Reserve System, September 24, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-25709 Filed 9-27-84; 8:45 am]

BILLING CODE 6210-01-M

Marine Midland Banks, Inc., et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweight possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Boad of Governors not later than October 18, 1984.

A. Federal Reserve Bank of New York (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Marine Midland Banks, Inc.*, Buffalo, New York; *The Hongkong and Shanghai Banking Corporation*, Hong Kong; *Kellett N.V.*, Curacao, Netherlands; and *HSBC Holdings, B.V.*, Amsterdam, The Netherlands; to engage *de novo* through their subsidiary, CM&M Asset Management Company, Inc., New York, New York, in investment and financial advisory activities.

B. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *First Valley Corporation*, Bethlehem, Pennsylvania; to engage *de novo* through its subsidiary, First Valley Life Insurance Company, Bethlehem, Pennsylvania, in underwriting, as reinsurer, credit life and disability insurance directly related to extensions of credit by First Valley Bank, Bethlehem, Pennsylvania. These activities would be conducted in the Commonwealth of Pennsylvania.

Board of Governors of the Federal Reserve System, September 24, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-25708 Filed 9-27-84; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on September 21.

Public Health Service

National Institutes of Health

Subject: The Cancer Construction Program, Program Instruction (0925-0128)—Extension/No Change
Respondents: State or local governments, non-profit institutions
OMB Desk Officer: Fay S. Iudicello

Food and Drug Administration

Subject: Survey of Manufacturers of Cordless Telephones
Respondents: Manufacturers of Cordless Telephones
OMB Desk Officer: Bruce Artim.

Health Resources and Services Administration

Subject: Health Maintenance Organizations Qualification Application, HMO Expansion Application, Competitive Medical Plan Application—Revision (0915-0085)
Respondents: Businesses, Non-Profit Institutions, Small Businesses or Orgranizations
OMB Desk Officer: Fay S. Iudicello.

Health Care Financing Administration

Subject: Contractor's Information Collections Claims Development Data from a Mixture of Providers, Suppliers and Beneficiaries (HCFA-0027)—Revision (0938-0205)
Respondents: Mixture of Providers, Suppliers and Beneficiaries
Subject: Intermediary's Request to Hospitals for Medical Information on Inpatient Claims for Statutorily Excluded Services (HCFA-0028)—Revision (0938-0224)
Respondents: Hospitals
Subject: Hospice Cost and Data Report, (HCFA-1984)
Respondents: Hospices
Subject: Home Health Agency Cost Report, (HCFA-1728) (0938-0022)
Respondents: Home Health Agencies
Subject: Hospital and Health Care Complex Cost Report, (HCFA-2552) (0938-0050)
Respondents: Hospitals and Skilled Nursing Facilities
OMB Desk Officer: Fay S. Iudicello

Social Security Administration

Subject: State's Report of Wages Paid (0960-0321)
Respondents: Certain State and local Governments
Subject: SSI Outreach Mail Survey—NEW COLLECTION

Respondents: Certain Individuals age 65 and over
Subject: MEDDIC Data Collection Form
Respondents: Disability Determination Services Agencies in the various States.
OMB Desk Officer: Robert J. Fishman.

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202–245–6511.

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the follow address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503, ATTN: (name of OMB Desk Officer).

Dated: September 20, 1984.

Wallace O. Keene,

Acting Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 84-25304 Filed 9-27-84; 8:45 am]
BILLING CODE 4150-04-M

Food and Drug Administration

Oncologic Drugs Advisory Committee; Renewal

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: The Food and Drug Administration announces the renewal of the Oncologic Drugs Advisory Committee by the Secretary of Health and Human Services. This notice is issued under the Federal Advisory Committee Act.

DATE: Authority for this commitee will expire on September 1, 1986, unless the Secretary formally determines that renewal is in the public interest.

FOR FURTHER INFORMATION CONTACT: Richard L. Schmidt, Committee Management Office (HFA–306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2765.

Dated: September 24, 1984.

William F. Randolph,

Acting Associate Commissioner, for Regulatory Affairs.

[FR Doc. 84-25743 Filed 9-27-84; 8:45 am]
BILLING CODE 4160-01-M

[Docket No. 84F–0315]

Toyobo Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a petition has been filed on behalf of Toyobo Co. proposing that the food additive regulations be amended to provide for the safe use of hexanedioic acid polymer with 1,3-benzenedimethenamine as a modifier for polyethylene phthalate polymers intended for use in contact with food.

FOR FURTHER INFORMATION CONTACT: Patricia J. McLaughlin, Center for Food Safety and Applied Nutrition (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 4B3818) has been filed on behalf of Toyobo Co., Ltd., c/o 2347 Paddock Lane, Reston, VA 22091, proposing that the food additive regulations be amended to provide for the safe use of hexanedioic acid polymer with 1,3-benezenedimethanamine as a modifier for polyethylene phthalate polymers in 21 CFR 177.1630 intended for use in contact with food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: September 19, 1984.

Sanford A. Miller,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 84-25739 Filed 9-27-84; 8:45 am]
BILLING CODE 4160-01-M

[FDA 225–84–8400]

Memorandum of Understanding With the National Institute of Environmental Health Sciences' National Toxicology Program

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has executed a memorandum or understanding (MOU) with the National Toxicology Program (NTP) to formalize an agreement by which the parties will cooperate and share information to assure the quality and integrity of safety data. The agreement also promotes mutual cooperation towards ensuring that laboratories engaged in nonclinical testing are in compliance with good laboratory practice regulations.

DATE: The agreement became effective August 1, 1984.

FOR FURTHER INFORMATION CONTACT: Paul D. Lepore, Office of Regulatory Affairs (HFC–30), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2390.

SUPPLEMENTARY INFORMATION: In accordance with § 20.108(c) (21 CFR 20.108(c)) which states that all agreements and memoranda of understanding between FDA and others shall be published in the **Federal Register**, the agency is publishing the following memorandum of understanding:

Memorandum of Understanding Between the National Toxicology Program—National Institute of Environmental Health Sciences and the Food and Drug Administration

I. Purpose

The National Toxicology Program (NTP) and the Food and Drug Administration (FDA) have a common objective of promoting the quality and integrity of safety evaluation data resulting from nonclinical laboratory studies. These data are ultimately used to support the approval of applications for research and marketing permits for products regulated by FDA or for health hazard assessment in the public sector. NTP and FDA have established an informal liaison which allows the exchange of information resulting from audits of toxicology laboratories. Both parties recognize the need to further this endeavor. This agreement will identify specific responsibilities of each party to foster communication and to promote mutual cooperation towards ensuring that nonclinical studies are performed in accordance with good laboratory practices.

II. Background

FDA became concerned with the quality of toxicology testing as a result of laboratory inspections that were conducted in 1975. Based on these findings, Congress provided resources to establish a program that would assure that safety studies are conducted using scientifically sound protocols and in a manner that does not adversely affect the validity of a study. FDA subsequently promulgated good laboratory practice regulations (GLP's) (21 CFR Part 58) that prescribe good laboratory practice for conducting

nonclinical laboratory studies and instituted a laboratory inspection program. The inspection program provides for the biennial assessment of current laboratory operations, as well as audits of final reports of nonclinical laboratory studies which have been submitted to FDA.

NTP, as a sponsor of contract research, adopted a policy that requires that new or existing NTP testing contracts include compliance with the FDA GLP's. NTP monitors their contractors by performing site visits to inspect the laboratory's operations and to review the records and reports associated with a nonclinical study.

III. Substance of Agreement

A. *FDA's Responsibilities:* 1. FDA will provide NTP with a list of NTP contract laboratories that FDA intends to inspect during a given fiscal quarter.

2. FDA will provide to NTP copies of GLP inspection reports and agency reviews of laboratories performing studies under NTP contracts.

3. FDA will immediately advise NTP of any serious violative findings resulting from investigations of laboratories that perform contract studies for NTP, and will provide copies of inspection reports and reviews including correspondence associated with any regulatory action as they become available.

4. FDA will provide to NTP on a quarterly basis a listing of laboratories engaged in toxicology testing that have been inspected by FDA.

5. FDA will maintain the confidentiality of any confidential information provided by NTP, and will refer to NTP any requests for disclosure of information that may be confidential.

B. *NTP's Responsibilities:* 1. NTP will advise FDA of planned audits of any contract laboratory that FDA has previously inspected for compliance with the GLP's.

2. NTP will make available to FDA copies of the GLP audit and GLP site visit reports resulting from an NTP site visit.

3. NTP will immediately advise FDA of any serious violative findings resulting from investigations at the contract laboratories.

4. NTP will provide to FDA a copy of their annual inventory of laboratories that are performing contract studies for NTP.

5. NTP will maintain the confidentiality of any confidential information provided by FDA and will refer to FDA any requests for disclosure of information that may be confidential.

IV. Participating Agencies

A. National Toxicology Program, National Institute of Environmental Health Sciences, P.O. Box 12233, Research Triangle Park, NC 27709.

B. Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

V. Liaison Officers

A. National Toxicology Program, Director, Toxicology Research and Testing Program, National Institute of Environmental Health Sciences (currently Dr. Ernest E. McConnell), P.O. Box 12233, Research Triangle Park, NC 27709, 919–541–3267.

B. Food and Drug Administration: Bioresearch Monitoring Staff, Office of Regulatory Affairs (currently Dr. Paul D. Lepore), 5600 Fishers Lane, Rockville, MD 20857, 301–443–2390.

VI. Duration of Agreement

This agreement will become effective upon acceptance by both parties and will continue indefinitely. It may be modified by mutual consent or may be terminated by either party upon a 30-day written notice to the other.

Approved and Accepted for the National Toxicology Program.

Ernest E. McConnell,

Acting Director, Toxicology Research and Testing Program.

Dated: August 1, 1984.

Approved and Accepted for the Food and Drug Administration.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

Dated: June 28, 1984.

Effective date. This agreement became effective August 1, 1984.

Dated: September 24, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-25744 Filed 9-27-84; 8:45 am]

BILLING CODE 4160-01-M

METIMYD® (Prednisolone, Sulfacetamide, Neomycin) Ointment; Withdrawal of Approval of NADA

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of a new animal drug application (NADA) sponsored by Schering Corp. providing for use of METIMYD® (prednisolone, sulfacetamide, neomycin) Ointment for treating eye and ear infections in dogs and cats. The sponsor requested the withdrawal of approval.

EFFECTIVE DATE: October 9, 1984.

FOR FURTHER INFORMATION CONTACT: John K. Augsburg, Center for Veterinary Medicine (HFV–216), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4093.

SUPPLEMENTARY INFORMATION: Schering Corp., Galloping Hill Rd., Kenilworth, NJ 07033, is sponsor of NADA 10–471 for METIMYD® (prednisolone, sulfacetamide, neomycin) Ointment which originally became effective May 25, 1956. The drug is used to treat dogs and cats for external eye and ear infections and accompanying inflammation, caused by sulfacetamide and neomycin sensitive bacteria.

By letter of April 30, 1984, the sponsor requested withdrawal of approval of NADA 10–471 because the drug is no longer being manufactured or marketed, and waived an opportunity for hearing.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345–347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director of the Center for Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.155 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA 10–471 for Schering's METIMYD® (prednisolone, sulfacetamide, neomycin) Ointment and all supplements is hereby withdrawn, effective October 9, 1984.

In a final rule published elsewhere in this issue of the **Federal Register**, FDA is removing the regulation that reflects this approval.

Dated: September 20, 1984.

Lester M. Crawford,

Director, Center for Veterinary Medicine.

[FR Doc. 84-25737 Filed 9-27-84; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 84N–0167 (DESI 6403); Formerly Docket No. 79N–0001]

Isoxsuprine Hydrochloride; Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Commissioner of Food and Drugs is granting a hearing on a proposal to withdraw approval of the new drug application for Vasodilan Injection and Tablets containing isoxsuprine hydrochloride. The drugs are intended for certain peripheral and cerebral indications. Other indications for the drugs will not be included in the hearing.

DATES: Notices of participation shall be filed with the Dockets Management Branch no later than October 29, 1984. Disclosure of data and information and submission of narrative statements by all participants other than FDA's Center for Drugs and Biologics by November 27, 1984. Prehearing conference on December 5, 1984, at 10:00 a.m.

ADDRESSES: Written notices of participation, disclosures, and statements to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857. (Submissions should be identified with docket number 84N–0167 and clearly labeled "Vasodilan Hearing.") Prehearing conference in the FDA Hearing Room, Rm. 4A–35, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Robert J. Rice, Jr., Regulations Policy Staff (HFC–10), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3480.

SUPPLEMENTARY INFORMATION:

Background of This Proceeding

In a notice (formerly docket number 79N–0001) published in the Federal Register of May 25, 1979 (44 FR 30443), the Director of the Bureau of Drugs (now the Center for Drugs and Biologics, referred to hereafter as "the Center") issued a notice of opportunity for hearing on a proposal to withdraw approval of the new drug application for Vasodilan Injection and Tablets (NDA 11–832; Mead Johnson and Co., 2404 W. Pennsylvania St., Evansville, IN 47721). The Director found that there were no adequate and well-controlled clinical investigations, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111(a)(5) which provide substantial evidence of effectiveness of Vasodilan for its labeled indications.

Hearing Requests

In response to the 1979 notice, Mead Johnson, the sponsor of Vasodilan, requested a hearing and submitted data and information pertaining to the following indications:

(1) Relief of symptoms associated with senile dementia of the Alzheimer's type (SDAT) and/or multiple infarct dementia;

(2) Relief of symptoms associated with peripheral vascular disease of arteriosclerosis obliterans, thromboangiitis obliterans (Buerger's disease), and Raynand's disease; and

(3) Relief of symptoms of uterine motility, including premature labor, dysmenorrhea, and threatened abortion.

The following companies, marketers of identical, similar, or related products, also requested a hearing in response to the 1979 notice, as did a trade association:

Cord Laboratories, Inc., 2555 West Midway Blvd., Broomfield, CO 80020

Philips Roxane Laboratories, Inc., P.O. Box 16532, Columbus, OH 43216

Premo Pharmaceutical Laboratories, Inc. (now Lemmon Pharmaceuticals, Inc.), 111 Leuning St., South Hackensack, NJ 07606

National Association of Pharmaceutical Manufacturers (NAPM), 747 Third Ave., New York, NY 10017

None of these entities submitted data with its hearing request. Philips Roxane submitted a printout of literature citations and abstracts on isoxsuprine. Cord submitted a general discussion of the literature on isoxsuprine. Premo and NAPM submitted legal arguments.

Review of the Hearing Requests by the Director of the Center for Drugs and Biologics

The Director of the Center evaluated the hearing requests on the issue of whether there is substantial evidence (21 U.S.C. 355(d)) of the effectiveness of Vasodilan and recommended to the Commissioner that a hearing be granted for two indications (numbers (1) and (2) above). The Director also recommended that a hearing be denied for one indication (number (3) above). The basis of the Director's denial recommendation is set forth below.

The Director's Recommendation Concerning Certain Indications

The Director recommended that, for the following reasons, Mead Johnson is not entitled to a hearing involving certain indications for Vasodilan.

Although it requested a hearing on the issue of Vasodilan's effectiveness in treating the symptoms of uterine motility, including premature labor, dysmenorrhea, and threatened abortion ("the OB–GYN indication"), in 1976 Mead Johnson abandoned this indication and consented to withdrawal of Vasodilan's approval for it.

The following facts constitute the basis for the Director's conclusion that Mead Johnson has consented to the withdrawal of approval of Vasodilan for the OB–GYN indication. In 1950, Vasodilan was initially approved as to safety only for, among other things, threatened abortion and premature labor. In 1975, the Food and Drug Administration (FDA) notified Mead Johnson by letter that there was no substantial evidence of effectiveness of Vasodilan for threatened abortion. By telephone, the firm notified FDA that it would withdraw the OB–GYN indication. FDA confirmed this by letter to Mead Johnson dated January 27, 1976. On April 8, 1976, Mead Johnson submitted a revised package insert in which the indication for threatened abortion was deleted. On July 14, 1976, Mead Johnson submitted a revised label dated December 1976 that also omitted all reference to the OB–GYN indication. Mead Johnson's annual reports to the Vasodilan new drug application have omitted this indication since 1977.

The Physicians' Desk Reference (PDR), an annual compilation of product information and FDA-approved labeling indications, included the "threatened abortion" indication starting in 1973 but ceased to do so as of 1977. In 1983 and 1984, the PDR entries for Vasodilan contained the following language under the heading "Adverse Reactions": "Vasodilan is neither approved nor recommended for use in the treatment of premature labor." Thus, not since 1976 has Mead Johnson, in labeling, in annual reports, or in PDR references, that Vasodilan was approved for the OB–GYN indication. Recently, in PDR references, the company has actively repudiated any such contention.

Copies of the aforementioned items are on file with the Dockets Management Branch as part of the administrative record of this proceeding.

The Director also has concluded that there is no genuine and substantial issue of fact as to Vasodilan's effectiveness for the OB–GYN indication. See *Weinberger* v. *Hynson, Westcott, & Dunning, Inc.*, 412 U.S. 609 (1973); *Cooper Laboratories* v. *Commissioner*, 501 F.2d 772 (D.C. Cir. 1974). The basis of this conclusion is set forth in the Center's medical review of the evidence submitted by Mead Johnson on the OB–GYN indication, which is contained in a memorandum dated March 1, 1983, and which is filed with the Dockets Management Branch as part of the administrative record of this proceeding.

The Commissioner's Ruling on the Hearing Requests

Under 21 CFR 314.200(f) the Commissioner shall not evaluate or rule upon a Director's recommendation that a hearing be denied as to some (but not all) issues. Further, the regulation provides that those issues as to which the Director has recommended a denial shall not be included in the notice of hearing. Accordingly, the OB–GYN indication is not included in this notice.

The Commissioner is, however now granting Mead Johnson's hearing request concerning the use of Vasodilan in treating symptoms relating to: (1) SDAT and multiple infarct dementia and (2) peripheral vascular disease. Approval of the new drug application will be withdrawn unless at the hearing the sponsor demonstrates the existence of substantial evidence that Vasodilan has the clinical effects(s) it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling (21 U.S.C. 355(d)).

Legal Argument

In its submission requesting a hearing, Mead Johnson also requested that the agency reinstate the temporary exemption for continued marketing, known as the "paragraph XIV" exemption, of Vasodilan, which was revoked on May 25, 1979 (44 FR 30436). Paragraph XIV of the court's order implementing its decision in *American Public Health Ass'n* v. *Veneman*, 349 F. Supp. 1311 (D.D.C. 1972), allowed FDA administrative enforcement discretion pending completion of scientific studies, with respect to continued marketing of less-than-effective drugs that were part of the DESI program. *See* 37 FR 26623. Mead Johnson argued that the agency's revocation of the exemption for Vasodilan without notice and comment violated the procedural requirements for rulemaking under the Administrative Procedure Act (APA), 5 U.S.C. 553.

The revocation of paragraph XIV status is not the promulgation of a rule within the meaning of the APA, 5 U.S.C. 551(A). The Supreme Court has distinguished "substantive rules" from other agency decisions, describing substantive rules as "binding" and as "affecting individual rights and obligations." *Chrysler Corp.* v. *Brown*, 441, U.S. 281, 301–02 (1979). Paragraph XIV, however, conferred no new rights on the products affected by it, but merely preserved FDA's flexibility and discretion in implementing the court's order. A "paragraph XIV" exemption grants no right to market a drug product, and its revocation does not remove a drug product from the market. Exemptions and revocations under paragraph XIV are not substantive norms enforceable in court but are expressions of agency enforcement discretion. Thus, as neither the exemption nor the revocation affecting Vasodilan was a rulemaking in violation of the APA, the Commissioner rejects both Mead Johnson's argument and, for the reasons stated in the 1979 notice, its request to reinstate the exemption.

Issues in This Proceeding

In light of the Director's recommendation and the requirements of 21 CFR 314.200, two questions will be addressed at this hearing:

1. Whether there are adequate and well-controlled investigations, including clinical investigations, on Vasodilan for the labeled indications (not including those related to the OB–GYN indication); and

2. Whether on the basis of any such adequate and well controlled investigations it could fairly and responsibly be concluded by experts qualified by scientific training and experience to evaluate the effectiveness of drugs that Vasodilan is effective in the treatment of SDAT or multiple infarct dementia and of peripheral vascular disease.

Parties to the Hearing

The parties to the hearing will be FDA's Center for Drugs and biologics, Mead Johnson, Cord, Lemmon, and Philips Roxane. NAPM and any other interested person may participate as nonparty participants (see 21 CFR 12.89), provided that they file a notice of participation pursuant to 21 CFR 12.45(a). The presiding officer will be Administrative Law Judge Daniel J. Davidson.

Hearing Procedures

In accordance with 21 CFR 12.85(a)(4), the Center has filed with the Dockets Management Branch a narrative statement setting forth its position on the hearing issues and a summary of the types of evidence to be introduced in support of its position, together with copies of factual data from the Center's files relating to the issues raised herein. Interested persons may obtain a copy of the narrative statement from the Dockets Management Branch (address above). They may also examine the data on Vasodilan (with the exception of any data identified as confidential pursuant to 21 CFR 10.20(j)) at the Dockets Management Branch from 9:00 a.m. to 4:00 p.m., Monday through Friday.

The prehearing conference will be held at 10:00 a.m., on December 5, 1984, in the FDA Hearing Room, Rm. 4A–35, 5600 Fishers Lane, Rockville, MD 20857. The hearing itself will also be held in the FDA the hearing room on a date to be set at the prehearing conference. Written notices of participation shall be filed with the Dockets Management Branch no later than October 29, 1984. All participants are required both to attend the prehearing conference and to be prepared to comply with the provisions of 21 CFR 12.92.

The hearing will be open to the public. Any participant may appear in person, or by or with counsel, or with other qualified representatives and may be heard on matters relevant to the issues under consideration. Participants other than the Center shall disclose data and information and submit narrative statements pursuant to 21 CFR 12.85 on or before November 27, 1984.

Because this is a public hearing, it is subject to FDA's guideline concerning the policy and procedures for electronic media coverage of public agency administrative proceedings. This guideline was published in the **Federal Register** of April 13, 1984 (49 FR 14723). These procedures are primarily intended to expedite media access to FDA's public proceedings, including formal evidentiary hearings conducted pursuant to Part 12 of the agency's regulations. Under this guideline, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including the testimony of witnesses in the proceeding. Accordingly, the parties and nonparty participants to this hearing, and all other interested persons, are directed to the guideline, as well as the **Federal Register** notice announcing issuance of the guideline, for a more complete explanation of the guideline's effect on this hearing.

Therefore, under the Federal Food, Drug and Cosmetic Act (sec. 505, 52 Stat. 1052 as amended (21 U.S.C. 355)) and under authority delegated to me (21 CFR 5.10), I order that a public hearing be held on the issues set out in this notice.

Dated: September 25, 1984.

Mark Novitch,

Deputy Commissioner of Food and Drugs.

[FR Doc. 84–25886 Filed 9–27–84; 8:45 am]

BILLING CODE 4160–01–M

Health Resources and Services Administration Advisory Committee Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory bodies scheduled to meet during the month of October 1984:

Name: Joint meeting of the National Advisory Council on the National Health Service Corps and the National Advisory Council on Migrant Health.

Date and time: October 29, 1984, 9:00 a.m.–5:00 p.m., October 30, 1984, 9:00 a.m.–12:00 p.m., October 31, 1984, 10:30 a.m.–12:00 p.m.

Place: Valley and Grandee Rooms, Holiday Inn, 1901 West Tyler, Harlingen, Texas 78551.

Site visits will be made in and around Harlingen on Monday afternoon (October 28).

All meetings are open to the public. Transportation will NOT be provided for the public on Monday, October 28.

Purpose: The Councils will advise and make appropriate recommendations to the Secretary concerning issues that impact on the National Health Service Corps and the Migrant Health Centers.

Agenda: The Councils will concentrate on and address issues of common concern to both the National Health Service Corps and the Migrant Health Programs; and will site visit Hidalgo County Health Care Corporation, Hidalgo; Brownsville Community Health Center, Brownsville; and Su Clinica Familiar, Harlingen.

Name: National Advisory Council on the National Health Service Corps.

Date and Time: October 30, 1984, 1:30 p.m.–4:30 p.m., October 31, 1984, 9:00 a.m.–10:30 a.m.

Place: Grandee Room, Holiday Inn, 1901 West Tyler, Harlingen, Texas 78551.

The entire meeting is open to the public.

Purpose: The Council will advise and make appropriate recommendations on the National Health Service Corps (NHSC) program as mandated by legislation. It will also review and comment on proposed regulations promulgated by the Secretary under provisions of the legislation.

Agenda: The agenda will include discussions of: The Bureau of Health Care Delivery and Assistance program review; current NHSC program activities.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should write to or contact Dr. Kenneth P. Moritsugu, Director, National Health Service Corps, Bureau of Health Care Delivery and Assistance, Health Resources and Services Administration, Room 6–40, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone: 301 443–14470.

Name: National Advisory Council of Migrant Health.

Date and Time: October 30, 1984, 1:30 p.m.–4:30 p.m., October 31, 1984, 9:00 a.m.–10:30 a.m.

Place: Valley Room, Holiday Inn, 1901 West Tyler, Harlingen, Texas 78551.

The entire meeting is open to the public.

Purpose: The Council is charged with advising, consulting with, and making recommendations to the Secretary and the Administrator, Health Resources and Services Administration, concerning the organization, operation, selection, and funding of Migrant Health Centers and other entities under grants and contracts under section 329 of the Public Health Service Act.

Agenda: The agenda will cover opening remarks, an overview and current status of the Migrant Health Program by the Director, Status of Recommendations of 1983 Council and 1984 Program Review; and Interagency Coordination Activities.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should write to or contact Mr. Billy Sandlin, Executive Secretary, National Advisory Council on Migrant Health, Bureau of Health Care Delivery and Assistance, Health Resources and Services Administration, Room 7A–55, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–1153.

Agenda items are subject to change as priorities dictate.

Dated: September 24, 1984.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 84-25736 Filed 9-27-84; 8:45 am]
BILLING CODE 4160-15-M

Public Health Service

National Toxicology Program; Proposal To Sponsor Studies on the Significance of Increased Acinar Cell Lesions of the Pancreas in Rats Given Oil Gavage and Their Relevance in the Interpretation of These Studies; Request for Comments

Summary

In May 1983 a science workshop bringing together experts in rodent pancreatic cancer and morphologic pathology was held by the National Toxicology Program (NTP) to review exocrine pancreatic lesions from recent long-term oil gavage studies in rats and to discuss their significance. The attendees agreed that the proliferative lesions were more common in male Fischer 344 (F344) rats receiving the oil vehicle than in untreated controls but that their significance for the interpretation of the NTP studies was unknown. The NTP Board of Scientific Counselors has recommended that the NTP sponsor studies on the significance of increased acinar cell proliferative lesions of the pancreas in oil vehicle studies and their relevance in the interpretation of these studies.

In responding to the Board and developing a research plan, two areas of most need became apparent: one that research should be stimulated and supported in the general area of dietary oil and the pancreas. This is being accomplished under a cooperative agreement mechanism (RFA Number NIEHS 84–3). The second area of need was a research effort targeted to be directly relevant to NTP studies.

The NTP proposes to address these questions by awarding a contract to conduct the studies described below. Written suggestions on the need, scope, adequacy, and design of the studies are solicited. If sufficient interest is expressed, a one day meeting will be held at the National Institute of Environmental Health Sciences (NIEHS) to discuss this issue. Comments should be sent to Dr. Gary A. Boorman, Acting Chief, Chemical Pathology Branch, NIEHS, P.O. Box 12233, Research Triangle Park, North Carolina 27709.

Background

Since inception of the Toxicology and Carcinogenesis Studies Program (transferred from the National Cancer Institute (NCI) to the NIEHS in 1981) over 300 chemicals have been studied mostly in two species of rodents. While many of the chemicals were administered by routes of exposure simulating primary human exposure (e.g., inhalation studies of vapors), approximately 75 chemicals have been given by gavage in oil because more precise doses could be quantified and because of limited chemical solubility and/or stability. Two recent chemicals given by oil gavage were found to be associated with pancreatic acinar cell adenomas and acinar cell hyperplasias. However, the vehicle control (corn oil) male rats in these studies also had a high incidence of proliferative acinar cell lesions of the pancreas.

Examination of the pancreata from 992 male F344 vehicle control rats receiving corn oil as the vehicle in two-year NCI/NTP studies revealed an incidence of 12.6 percent pancreatic acinar cell hyperplasias, 4.9 percent acinar cell adenomas and 0.2 percent carcinomas while 2.6 percent acinar cell hyperplasias, 0.9 percent acinar cell adenomas, and no carcinomas were found in the 1041 untreated control male rats examined. The exocrine pancreatic lesions appear to be restricted to male F344 rats and are uncommon in female F344 rats or B6C3F1 mice whether or not they have received an oil vehicle as control.

Proposed Studies

The proposed studies will attempt to evaluate the effects of oil in toxicology and carcinogenesis experiments and will not duplicate the cooperative agreements in place which address in a more general manner dietary oil and the pancreas. A second objective will be to determine the biological nature of the induced lesions. It is expected that the studies will be conducted in male F344/N rats. The contractor must have expertise in conducting two-year gavage studies in rats. The study plan will focus on five areas identified in the May 1983 workshop:

a. *Determining effect of various levels of corn oil in gavage studies*—Currently NTP utilizes 5 ml of corn oil/kg body weight although higher and lower levels have been used depending on the study design. Groups of 50 male F344/N rats

will be given 1, 5 or 10 ml/kg body weight of corn oil 5 times a week for 104 weeks. A group of 70 male rats will receive no corn oil and serve as controls. An additional group of 70 male rats will be given 10 ml/kg body weight of corn oil for 15 months at which time 20 will be sacrificed along with 20 animals from the control group, and pancreatic lesions will be examined and identified. The remaining rats will be held without further treatment until the end of the experiment at 2 years.

b. *Suitability of other vehicles for water insoluble chemicals*—The contractor shall propose to study at least two other vehicles at levels equal to the highest level of corn oil. In the proposal the offeror shall include relevant literature (if available), possible advantages and disadvantages. The study shall be for two years and while the main endpoint will be the pancreas, the studies must be able to detect other possible toxicologic and carcinogenic effects.

c. *Mechanism of restriction of the lesions to the male F344 rat*—The contractor shall test at least two other rat strains (male only) at 10 ml/kg body weight of corn oil 5 times a week for 104 weeks. A third group will include castrated male F344/N rats. The contractor may propose to test female F344/N rats treated with appropriate levels of male gonadal hormones; however the rationale for the choice of hormones, levels of hormones, and routes of administration must be carefully delineated.

d. *Interaction of oil vehicle with chemicals associated with proliferative exocrine pancreatic lesions*—In two recent oil gavage studies, benzyl acetate and methylene chloride appear to be associated with an increase in exocrine pancreatic lesions in male F344/N rats. Groups of 50 male F344/N rats will be given 500 mg/kg benzyl acetate using 5 ml/kg body weight of corn oil as vehicle 5 times a week for 104 weeks. A second group will receive the same level of benzyl acetate in another vehicle. Similarly, groups of 50 male F344/N rats will be given 500 or 1000 mg/kg methylene chloride in corn oil and another 50 male rats will receive methylene chloride by oral gavage using a second vehicle. Groups of 50 male F344/N rats receiving corn oil alone will serve as controls.

e. *Determining the biological nature of the induced pancreatic lesions*—A group of 60 male F344/N rats will receive 10 ml of corn oil/kg body weight for 104 weeks. At 15 months 10 rats will be killed and examined for the presence of pancreatic acinar nodules. Lesions will be selected for transplantation into 6–8 week old male F344/N recipients, and selected lesions will be examined histologically. The contractor shall propose a route and method of transplantation but suggested sites are in mammary fat pads or beneath the kidney capsule. Sixteen weeks post-transplantation the recipients shall be examined for progressive growth of the transplants. Groups of 10 donor rats will be similarly killed, examined and lesions transplanted at 17, 19, and 21 months. The remainder will be killed, examined and the lesions transplanted at 23 months. If the contractor has expertise in tissue culture, the ability of these pancreatic lesions to grow in culture may be proposed as a supplement to the transplantation studies. The contractor needs to provide rationale, detailed methodology, and evidence of expertise for studies relating to determination of the biological nature of the pancreatic lesions.

The studies are proposed to be conducted in a laboratory that has similar facilities and standards as current NTP contract laboratories. Also proposed, the pancreas, spleen and liver (for mononuclear cell leukemia) and mammary neoplasms will be the main pathology endpoints since these are the only tissues that appear to be altered in NTP studies using corn oil gavage.

Please submit all comments and suggestions in writing to Dr. Boorman within 30 days of publication of this notice. Any submissions received after the above date will be accepted and utilized if possible. If there is sufficient interest for holding a meeting, this will be announced in the **Federal Register**.

Dated: September 21, 1984.

David P. Rall,

Director, National Toxicology Program.

[FR Doc. 84-25788 Filed 9-27-84; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Proposed Designation of Four Areas of Critical Environmental Concern and Two Research Natural Areas; Bakersfield District, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Initiation of 60-day public comment period on the proposed designation of public land within Elkhorn Plain (portions of), Goose Lake, Point Sal, and Soda Lake as Areas of Critical Environmental Concern; and public land within Reef Ridge and the San Andreas Fault Scarp (portions of) as Research Natural Areas.

SUMMARY: Pursuant to the authorities in the Federal Land Policy and Management Act (FLPMA) of October 21, 1976 (section 202 (c)(3)) and in 43 CFR 1601.6–7, a 60-day public comment period is initiated on the following land proposed to be designated as: (A) Elkhorn Plain Area of Critical Environmental Concern (ACEC); (B) Goose Lake ACEC; (C) Point Sal ACEC; (D) Soda Lake ACEC; (E) Reef Ridge Research Natural Area; and (F) San Andreas Fault Scarp Research Natural Area.

(A) Elkhorn Plain ACEC

Mt. Diablo Meridian

T. 31S., R. 21E.,
- Sec. 7, NE¼;
- Sec. 8, All;
- Sec. 17, N½; SW¼;
- Sec. 18, N½NE¼, SE¼NE¼, NE¼SE¼;
- Sec. 21, E½;
- Sec. 22, SW¼;
- Sec. 27, E½;
- Sec. 35, N½;

T. 32S., R. 22E.,
- Sec. 7, W½NE¼, SE¼NE¼, Lot 1, S½ Lot 2, Lots 6, 7, 8, 9, SE¼;
- Sec. 17, All;
- Sec. 18, All;
- Sec. 19, NE¼NE¼, Lots 1, 2, 3, 4;
- Sec. 20, E½NE¼, W½;
- Sec. 28, All;
- Sec. 27, S½NE¼,S½;
- Sec. 28, W½NE¼, SE¼NE¼, S½NW¼, SW¼, SE¼;
- Sec. 29, NE¼, N½NW¼, SE¼NW¼, NE¼SW¼, N½SE¼, SE¼SE¼;
- Sec. 33, N½, N½SE¼;
- Sec. 34, All;
- Sec. 35, W½.

The Elkhorn Plain ACEC contains approximately 9,190 acres of public land.

(B) Goose Lake ACEC

T. 27S., R. 22E.,
- Sec. 14, NE¼NE¼ Mt. Diablo Meridian (40 acres of public land).

(C) Point Sal ACEC

T. 10N., R. 36W.,
- Sec. 34 (all public land within) San Bernardino Meridian (approximately 50 acres of public land).

(D) Soda Lake ACEC

Mt. Diablo Meridian

T. 31S., R. 19E.,
- Sec. 1, W½SW¼, SE¼SW¼;
- Sec. 2, W½ Lot 2 of NE¼, Lot 1 of NE¼; Lots 1 and 2 of NW¼, NE¼SW¼, SE¼;
- Sec. 11, N½NE¼, SE¼NE¼, E½SE¼;
- Sec. 12, W½, SE¼;
- Sec. 13, All;
- Sec. 14, NE¼NE¼;

T. 31S., R. 20E.,
- Sec. 17, W½SW¼;

Sec. 18, All;
Sec. 19, N½NE¼, SE¼NE¼, N½ Lot 1 of NW¼, N½ Lot 2 of NW¼;
Sec. 20, W½NW¼.

The Soda Lake ACEC contains approximately 2,970 acreas of public land.

(E) Reef Ridge Research Natural Area

Mt. Diablo Meridian

T. 29S., R. 20E.,
Sec. 4, Lot 8, E½SW¼, SW¼SW¼;
Sec. 7, Lots 3, 4, 7, 8, 9, 14, 15, 16, 17;
Sec. 9, NW¼NE¼, E½SE¼;
Sec. 10, NE¼, E½NW¼, SW¼NW¼, SW¼, S½SE¼.

The Reef Ridge Research Natural Area contains approximately 1,430 acres of public land.

(F) San Andreas Fault Scarp Research Natural Area

Mt. Diablo Meridian

T. 32S., R. 22E.,
Sec. 19, Lots 1, 2, 3, W½SE¼, SE¼SE¼;
Sec. 29, NW¼NW¼, SE¼NW¼, NE¼SW¼, NW¼SE¼, SE¼SE¼;
Sec. 33, W½NW¼, SE¼NW¼, N½SE¼;
Sec. 34, SW¼SW¼.

San Bernadino Meridian

T. 11N., R. 25W.,
Sec. 6, Lot 5, SW¼SE¼;
Sec. 7, NE¼NE¼;
Sec. 8, SW¼NW¼, N½SW¼, SE¼SW¼, S½SE¼;
Sec. 17, NE¼NE¼;
Sec. 22, NE¼SE¼;
Sec. 23, W½SW¼;
Sec. 26, S½NE¼.

The San Andreas Fault Scarp Research Natural Area contains approximately 1,350 acres of public land.

SUPPLEMENTARY INFORMATION:

(A) Elkhorn Plain ACEC

Elkhorn Plain lies between the Temblor and Caliente Ranges in San Luis Obispo County, California.

Elkhorn Plain is highly significant as habitat for federally listed threatened or endangered as well as state listed rare or endangered species (e.g., San Joaquin kit fox, blunt-nosed leopard lizard, California condor, and giant kangaroo rat). Although resource conflicts exist in this area, they are less significant here than in many other locations yet studies from the area provide considerable information regarding these species. This area has also received the least amount of alteration of native habitat in an area where so many of the species coexist. Population studies have been underway in the area for several years also. ACEC designation is consistent with the appropriate recovery plans, the Endangered Species Act, and subsequent regulations which identify the need for BLM to take positive actions toward enhancement of the species. Management of this ACEC will be directed toward this enhancement.

Management as an ACEC will include the following:

1. Limit ORV use to existing roads, ways, and trails;
2. Modified fire suppression plan for the public land;
3. Reestablishment of the native vegetation;
4. Study of impacts to habitat as a result of livestock grazing;
5. Establishment of intensive vegetation transects;
6. Continue managing as open to scientific study.

(B) Goose Lake ACEC

The Goose Lake ACEC borders Goose Lake Bed in the San Joaquin Valley, California.

Goose Lake is one of the few remaining alkali sink habitat areas within the valley. This area is habitat for numerous species of shorebirds and raptors. It is also unique in that it supports the alkali sink vegetation which is now rare in the valley. The area also includes an aboriginal archaeological site which is rare due to the continued conversion of most land along shorelines of dry lakes to agriculture.

Presently, the area is surrounded by private land used for agricultural purposes. Due to the isolated location of the parcel and the agricultural uses nearby, there exists a constant threat of unauthorized uses (e.g., dumping and burning of dead trees) to occur within this area. Any unauthorized use without proper mitigation measures controlling the amount and location of the disturbance may cause irreversible damage to this rare habitat area.

Management of the ACEC will be directed towards protecting the existing resource values at current levels. Management as an ACEC will include the following:

1. Maintenance of an existing fence around entire area;
2. Interpretive signing for public information purposes;
3. Approval of any surface disturbing activity within the ACEC will be at the discretion of the authorized officer;
4. Limit ORV use to existing roads, ways, and trails only.

(C) Point Sal ACEC

Point Sal is a rocky point which juts out in the Pacific Ocean along the northern Santa Barbara County coastline, California.

The point has several characteristics which are rare and unique. These include: (1) Several federally listed plants and animals inhabiting the area as well as many species of marine invertebrates and mammals nearby; (2) two archaeological sies which have National Register of Historic Places potential for listing; and (3) a nationally significant ophiolite sequence of crustal rocks which is unique because of its completeness which can lead to an increased understanding of the plate tectonic theory and the geologic history of the Coast Ranges.

Management of the ACEC will be directed at maintaining the existing resource values at current levels. Management as an ACEC will include the following:

1. Allow mineral leasing and mineral material exploration permits with no surface occupancy;
2. Segregate area from the operation of the mining laws;
3. Close area to ORV use;
4. Close area from entry/appropriation and leasing for realty actions only;
5. Continue managing as open to scientific study.

(D) Soda Lake ACEC

The Soda Lake ACEC is located in the Carrizo Plain between the Temblor and Caliente Ranges, in San Luis Obispo County, California.

Soda Lake is one of the largest remaining natural alkali wetlands in lower California. This area includes habitat for several federally and state listed animals as well as one candidate plant species. By far, the most abundant fauna utilizing the area is birds. During the winter and early spring, an abundance of waterbirds use Soda Lake for roosting, resting, and feeding. Approximately 5,000 lesser sandhill cranes or one-quarter of the total California wintering population stay at Soda Lake from December to March. Thirteen species of raptors have also been observed on public land at Soda Lake.

Management of the ACEC will be directed at maintaining the existing resource values at current levels. Management as an ACEC will include the following:

1. Allow mineral leasing and mineral material exploration permits with no surface occupancy;
2. Segregate area from the operation of the mining laws;
3. Limit ORV use to existing roads, ways, and trails only;
4. Withdraw area from entry/appropriation and leasing for realty actions only;

5. No authorization of livestock grazing.

(E) Reef Ridge Research Natural Area

Reef Ridge is located in the Temblor Range in Kern County, California. In this area, well known type localities of significant geologic rock units (paleontology) of West Coast sedimentary geology have been exposed. This area has been under study by the scientific and academic communities for several years because the area contains a unique stratigraphic continuum of marine middle Tertiary strata as well as invertebrate fossils.

Management of the Research Natural Area will be directed at maintaining the existing resource values at current levels. Management as a Research Natural Area will include the following:

1. Limit ORV use to existing roads, ways, and trails only;
2. Development of a transportation plan so parcels may be available for research studies;
3. Interpretive signing for public information purposes;
4. Continue managing as open to scientific and academic study.

(F) San Andreas Fault Scarp Research Natural Area

This area is located within the Elkhorn Plain between the Temblor and Caliente Ranges in San Luis Obispo County, California.

This portion of the San Andreas Fault has been the subject of international attention and found referenced and photographed in numerous works discussing earthquakes and plate tectonics. This topographic expression of the San Andreas Fault is extremely important to regional and statewide earthquake hazard studies and information studies including measurements and observation of strike-slip and dip-slip movement.

Management of the Research Natural Area will be directed at maintaining the existing resource values at current levels. Management as a Research Natural Area will include the following:

1. Limit ORV use to existing roads, ways, and trails only;
2. Interpretive signing for public information purposes;
3. Continue managing as open to scientific research studies;
4. Maintain area available to seismic study facilities at the discretion of the authorized officer.

Specific details of the resource values and special management attention required to maintain these values for all of the above proposed areas have been included in the Draft and Final Resource Management Plan (RMP) for the Coast/Valley Planning Area. The areas and the management criteria were developed through the planning process which included several stages of public participation. Opportunities for public participation were provided during the following planning steps: Preplanning; development of the planning creteria; review of the Draft RMP/EIS (Environmental Impact Statement); and presently, review of the Final RMP/EIS. An EIS was prepared analyzing the impacts resulting from designation of each of the areas as well as the following alternatives: (1) Present Management (No Action)—the area would remain undesignated; however, management would maintain the area in its natural state and; (2) Emphasize Production—the area would not be designated; however, future management would protect within legal constraints those sensitive and unique values which currently exist in the area. All documents cited above are on file in the Bakersfield District Office, and the Caliente Resource Area Office.

DATES: Written comments on the proposed designations for the four ACECs and two Research Natural Areas must be received by November 27, 1984.

ADDRESSES: Written comments should be sent to: Caliente Area Manager, Bureau of Land Management, 520 Butte Street, Bakersfield, California 93305.

FOR FURTHER INFORMATION CONTACT: Glenn Carpenter, Area Manager, Bureau of Land Management, Caliente Resource Area, 520 Butte Street, Bakersfield, California 93305, (805) 861–4236.

Dated: September 14, 1984.

Robert D. Rheiner, Jr.,

District Manager.

[FR Doc. 84–24982 Filed 9–27–84; 8:45 am]

BILLING CODE 4310–40–M

Montana; North Dakota Grazing Environmental Impact Statement

AGENCY: Bureau of Land Management, Montana State Office, Interior.

ACTION: Notice of Availability of Final Grazing Environmental Impact Statement.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of Land Management (BLM) has prepared a Final Environmental Impact Statement (EIS) for livestock grazing upon the public lands in North Dakota. The EIS details four alternative livestock grazing levels on nearly 68,000 acres of public land within BLM's Dickinson District. The alternatives examined are: (1) Rangeland improvement; (2) no action, continue present management levels; (3) reduced livestock use; (4) no grazing. The Final EIS completes the environmental analysis of the overall grazing program on BLM managed lands in North Dakota.

Public participation: Copies of the Final Grazing EIS are available from the Dickinson District Office, P.O. Box 1229, 204 Sims Street, Dickinson, North Dakota 58602, phone (701) 225–9148. Public reading copies will be available for review at the following locations:

Bureau of Land Management, Office of Public Affairs, Location Building, 18th and C Street, NW, Washington, DC 20240

Montana State Office, 222 North 32nd Street, PO Box 36800, Billings, Montana 59107.

FOR FURTHER INFORMATION CONTACT: Craig Altop, Project Manager, Dickinson District Office, BLM, PO Box 1229, Dickinson, North Dakota 58602, Telephone: (701) 225–9148.

Dated: September 18, 1984.

Edwin Zaidlicz,

State Director.

[FR Doc. 84–25482 Filed 9–27–84; 8:45 am]

BILLING CODE 4310–DN–M

[OR36857A, OR36857B, OR36857D]

Realty Action Direct/Modified Competitive Sale in Lake County, OR

The following described parcels of land have been examined and identified as suitable for disposal by sale under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713) at no less than the appraised fair market value shown:

Sale and parcel No.	Legal Description	Acreage	Fair Market value
OR36857A—1	T. 27 S., R. 17 E., Willamette Meridian, Oregon, Section 28: NE¼ SE¼	40	$4,000
OR36857B—2	T. 27 S., R. 17 E., Willamette Meridian, Oregon, Section 27: SW¼ SW¼, Section 28: SE¼ SE¼.	80	$8,000
OR36857D—3	T. 26 S., R. 17 E., Willamette Meridian, Oregon, Section 32: W½ NW¼	80	$5,400

The sale will be held on Wednesday, December 5, 1984, at 10:00 a.m., in the Bureau of Land Management, Lakeview District conference room, 1000 South Ninth Street, Lakeview, Oregon.

Sale bidding will be limited to sealed

bids and must be for at least the appraised value. Individuals with a preference right to purchase a parcel must be present at the sale and must submit a sealed bid, appraised value or higher, in order to qualify to meet the high sealed bid. Direct sale candidate(s) need not be present at the sale, however, a sealed bid, for the appraised value or higher and the required ten percent (10%) deposit must be submitted by the designated purchaser, to the Lakeview District Office, prior to the sale date and time specified.

Sale parcel OR 36857A will be offered through direct sale procedures with Mr. and Mrs. Dave Seibel being the designated purchasers. Sale parcels OR 36857B and D, will be offered for sale at public auction through modified competitive bidding with Mr. and Mrs. Dave Seibel and Tim and Bonnie Puckett, respectively, given preference to meet the high selling bid. Refusal or failure by the preference holders to meet the high selling bid immediately after the close of bidding shall constitute a waiver of such right.

Direct and modified competitive sale procedures are being used to recognize the needs of adjoining landowners and historical use by these landowners. Direct and modified competitive sale procedures are authorized under section 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713; 43 CFR 2711.3–2(a)(2) and 2711.3–3(a)(5).

This sale is consistent with the existing land use plan developed in accordance with the Department's planning regulations, public participation and in coordination with local governmental entities.

The sale involves isolated land that is difficult and uneconomical to manage as part of the public lands, and is not suitable for management by another federal department or agency. The public interest will be served by offering this land for sale.

Federal law requires that all bidders be U.S. citizens, 18 years of age or more, a state or state instrumentality authorized to hold property, or in the case of corporations, be authorized to own real estate in the state in which the sale land is offered.

Sealed written bids will be considered only if received by the Bureau of Land Management, Lakeview District Office, 1000 South Ninth Stree, P.O. Box 151, Lakeview, Oregon 97630, prior to 10:00 a.m., Wednesday, December 5, 1984. A separate written bid should be submitted for each sale parcel desired. Each written sealed bid must be accompanied by a certified check, postal money order, bank draft or cashiers check, made payable to the Department of the Interior-BLM for at least ten percent (10%) of the amount bid and shall be enclosed in a sealed envelope clearly marked, "Bid for Public Land Sale OR 36857A, B or D, Sale Parcel Number , Lake County, Oregon, December 5, 1984". The written sealed bids will be opened and publicly declared at the beginning of each sale. If 2 or more envelopes containing valid bids of the same amount are received, the determination of which is to be considered the highest bid, shall be by supplemental biddings.

The terms and conditions applicable to the sale are:

1. The apparent nigh bidder or designated purchaser, shall submit the remainder of the full bid price within 180 days from the date of sale. Failure to submit the full bid price within 180 days from the date of sale shall result in sale cancellation of the specific parcel and the ten percent (10%) deposit shall be forefeited.

2. The authorized officer may reject the highest qualified bid and release the bidder from his/her obligation and withdraw any tract from the sale, if he determines that consummation of the sale would be inconsistent with the provisions of any existing law, or collusive or other activities have hindered or restrained free and open bidding, or consummation of the sale would encourage or promote speculation in public lands.

3. The patents will contain a reservation to the United States for ditches and canals.

4. The sale is for surface estate only. The patents will contain a reservation to the United States for all minerals.

5. The sale will be subject to all valid existing rights.

Parcels not sold on the day of the sale will remain available for sale until sold or withdrawn. Sealed bids will be solicited on these parcels at the Lakeview Distreict Office during regular business hours, (7:45 a.m. to 4:30 p.m.). The sealed bids will be opened January 2, 1985 and every first Wednesday of each subsequent month until the land is either sold, or withdrawn.

Upon publication of this Notice of Realty Action in the Federal Register, the land described above will be segregated from all forms of appropriation under the public land laws, including the mining laws. The segregative effect of this notice shall terminate upon issuance of patent or other document of conveyance to such lands, upon publication in the Federal Register of a termination of the segregation or 270 days from the date of publication whichever occurs first.

Detailed information concerning the sale, including the planning documents, appraisals, environmental assessment and the record of public involvement, is available for review at the Lakeview District Office, Bureau of Land Management, 1000 South Ninth Street, Lakeview, Oregon.

For a period of 45 days from the date of issuance of this notice, interested parties may submit comments to the District Manager, Lakeview District Office, Bureau of Land Management, P.O. Box 151, 1000 South Ninth Street, Lakeview, Oregon 97630. Any adverse comments received as a result of the Notice of Realty Action or notification to the congressional committees and delegations pursuant to Pub. L. 96–146, will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. In the absence of any action by the Distric Manager, this realty action will become a final determination of the Department of the Interior. Interested parties should continue to check with the District Office to keep themselves advised of any changes.

Dated: September 15, 1984.

Jerry Asher,

District Manager.

[FR Doc. 84-25753 Filed 9-27-84; 8:45 am]

BILLING CODE 4310-33-M

[M-60334]

Montana; Realty Action, Exchange of Public and Private Lands

AGENCY: Bureau of Land Management, Miles City District Office, Interior.

ACTION: Notice of Realty Action M–60334, Exchange of Public and Private Lands in Fallon and Wibaux Counties, Montana.

SUMMARY: The following described public lands have been determined to be suitable for exchange under section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Principal Meridian, Montana

T. 10 N., R. 57 E;
Sec. 6: Lots 3–7, SE¼NW¼, E½SW¼.
T. 11 N., R. 57 E.,
Sec. 30: NE¼, E½NW¼, NE¼SW¼, NW¼SE¼;
Sec. 31: Lots 1–4, E½, E½W½.
Aggregating 1,259.49 acres of public land.

In exchange for these public lands, the United States Government will acquire the surface estate in the following

described lands from Willi Gabriel of Ismay, Montana:

Principal Meridian, Montana

T. 11 N., R. 57 E.,
Sec. 7: Lots 1–4, E½, E½W½;
Sec. 18: Lots 1–r, E½W½,
Sec. 19: Lots 1–2, NE¼, E½NW¼.

Aggregating 1, 248.89 acres of public land.

DATES: For a period of 45 days from the date of this notice, interested parties may submit comments to the Bureau of Land Management, P.O. Box 940, Miles City, Montana 59301. Any adverse comments will be evaluated by the BLM, Montana State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of this department.

FOR FURTHER INFORMATION CONTACT: Information related to the exchange is available at the Miles Cty District Office, Garryowen Road, Miles City, Montana.

SUPPLEMENTARY INFORMATION: The purpose of this proposal is to provide management enhancement and it would attach the acquired lands to an existing tract of public land over 30,000 acres in size. The exchange is consistent with the Bureau's planning for the lands involved and has been discussed with State and county officials. The Wibaux and Fallon County Commissioners were consulted on September 6, 1984, and concurred there is no need to hold a public meeting. The public interest will be well served by making the exchange.

The publication of this notice segregates the public land described above from settlement, sale, location and entry under the public land laws, including the mining laws, but not from exchange pursuant to section 206 of the Federal Land Policy and Management Act of 1976.

The exchange will be subject to:

1. A reservation to the United States of a right-of-way for ditches or canals in accordance with 43 U.S.C 945, for lands being transferred out of Federal ownership.

2. The reservation to the United States of all minerals on the public lands being exchanged. The present mineral status of the private lands being exchanged will remain status quo also.

3. All valid existing rights of record.

4. The exchange will be based on an equal value basis as determined by a formal appraisal on both the public and private lands involved.

5. The exchange must meet the requirements of the applicable parts of the Code of Federal Regulations.

Dated: September 20, 1984.

Robert A. Teegarden,
Acting District Manager.

[FR Doc. 84-25807 Filed 9-27-84; 8:45 am]
BILLING CODE 4310-DN-M

Minerals Management Service

Scientific Committee of the Outer Continental Shelf (OCS) Advisory Board; Cancellation of Meeting

This notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Pub. L. 92–463, 5 U.S.C. App. I and the Office of Management and Budget's Circular A–63 Revised.

The meeting of the Scientific Committee of the Outer Continental Shelf Advisory Board, scheduled to meet on October 2 and 3, 1984, in the Onyx Room of The Brown Palace Hotel, Denver, Colorado, is hereby cancelled. Plans are underway to reschedule this meeting.

All inquiries concerning this meeting should be addressed to: Dr. Piet deWitt, Chief, Offshore Environmental Assessment Division (644), Minerals Management Service, Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240; telephone: (202) 343–2097.

Dated: September 26, 1984.

John B. Rigg,
Associate Director for Offshore Minerals Management.

[FR Doc. 84-25871 Filed 9-27-84; 8:45 am]
BILLING CODE 4310-MR-M

INTERSTATE COMMERCE COMMISSION

Forms Under Review by Office of Management and Budget

The following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) is being submitted to the Office of Management and Budget for review and approval. Copies of the forms and supporting documents may be obtained from the Agency Clearance Officer, Lee Campbell, (202) 275–7238. Comments regarding this information collection should be addressed to Lee Campbell, Interstate Commerce Commission, Room 1325, 12th and Constitution Ave., NW., Washington, DC 20423 and to Gary Waxman, Office of Management and Budget, Room 3228 NEOB, Washington, DC 20503, (202) 395–7340.

Type of Clearance: Revision
Bureau/Office: Small Business Assistance Office
Title of Form: Profile of Minority and Female-Owned Motor Carrier
OMB Form No.: 3120–0089
Agency Form No.: None
Frequency: Biennially
Respondents: Minorities & Women
No. of Respondents: 2,080
Total Burden Hrs.: 453

James H. Bayne,
Secretary.

[FR Doc. 84-25701 Filed 9-27-84; 8:45 am]
BILLING CODE 7035-01-M

[Ex Parte No. 393]

Cost Recovery Percentage

AGENCY: Interstate Commerce Commission.

ACTION: Further Notice of Proposed Costing Standards and adoption of preliminary 1984 Cost Recovery Percentage.

SUMMARY: The Commission has decided to adopt a preliminary 1984 Cost Recovery Percentage (CRP) of 344.5 percent. The preliminary 1984 CRP has been computed using movement data from the 1982 ICC Waybill Study and actual 1982 Rail Form A unit costs. Since the Commission calculated CRP is above the maximum statutory threshold of 180 percent, 180 percent will be used for the period beginning October 1, 1984.

ADDRESSES: To obtain copies of the full decision contact: Office of the Secretary, Room 2215, Interstate Commerce Commission, 12th Street and Constitution Avenue, NW., Washington, D.C. 20423, (202) 275–7428.

DATES: Comments are due by November 13, 1984.

FOR FURTHER INFORMATION CONTACT: William T. Bono (202) 275–7354, or Robert C. Hasek (202) 275–0938.

SUPPLEMENTARY INFORMATION: Section 202 of the Staggers Rail Act of 1980 requires the Commission to calculate an annual CRP. The CRP is a revenue to variable cost ratio computed using railroad unit costs and a statistical sample of railroad traffic. It is to be set at such a level that if all traffic moving at rates above the CRP were held at the CRP level, the railroad industry, in total, would earn revenues sufficient to cover industry-wide variable plus fixed costs. The calculated preliminary 1984 CRP is to be used as a jurisdictional threshold for rate regulation of market dominant railroad traffic for the period beginning October 1, 1984 only if it falls within a range of 170 percent to 180 percent. If the calculated CRP falls below 170

percent, the statutory 170 percent figure will govern. If the calculated CRP falls above 180 percent, the statutory 180 percent will govern. Since the preliminary 1984 CRP as calculated (344.5 percent) is above the statutory maximum threshold of 180 percent, the statutory maximum threshold of 180 percent will be used as a regulatory threshold.

The preliminary 1984 CRP was calculated using movement data from the 1982 ICC Waybill Sample and actual 1982 Rail Form A unit costs. Both the 1982 waybill data and the 1982 Rail Form A costs are the latest available.

The computation of the CRP is a three step process. The first step is the expansion of the waybill sample. Since the 1982 waybill sample was reported at several different sampling rates, each sampled movement was expanded by its proper expansion factor to insure that each movement received its proper weight in the array of movements used for the calculation of the CRP.

The second step in computing the CRP is a revenue contribution or "burden" study. In such a study railroad unit costs are applied individual movements and a revenue to variable cost ratio is calculated for each movement.

Rail Form A unit costs developed for the year 1982 were applied to each of the approximately 200,000 movements contained on the 1982 waybill tape. Costs developed for individual railroads were used for movements over those railroads whenever possible. Appropriate regional Rail Form A unit costs were used for other movements. Actual mileage allowances were used in lieu of car ownership costs for all private car movements except for private car coal movements. No car costs or mileage allowances have been included for private car movements of coal.

The unit costs of volume movements (multiple car movements 6 through 49 cars, trainload movements 50 or move cars) were reduced to simulate actual operating economies of those movements. Since Rail Form A unit costs are average costs encompassing the costs of all movements and reductions were made to the costs of volume movements, corresponding cost increases were made in the cost of other movements.

The revenue reduction process is the third step in computing the CRP. It uses an iterative process which reduces the revenues of all movements above the CRP until the total revenue equals the total fixed plus variable cost which is the CRP level.

Authority: 49 U.S.C. 10321, 10709, 5 U.S.C. 553.

Dated: September 18, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett, Gradison, Simmons, Lamboley and Strenio. Commissioners Lamboley and Strenio did not participate.

James H. Bayne,

Secretary.

[FR Doc. 84-25708 Filed 9-27-84; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: Alumax Inc., 400 South El Camino Real, San Mateo, CA 94402.

2. Wholly-owned subsidiaries which will participate in the operations, and states of incorporation:

(a) Alumax Aluminum Corporation, Incorporated in Delaware

(b) Alumax Aluminum Sales Corporation, Incorporated in Delaware

(c) Alumax Building Specialities Corporation, Incorporated in Delaware

(d) Alumax Extrusions, Inc., Incorporated in Delaware

(e) Alumax Extrusions, Inc., Incorporated in New York

(f) Alumax Fabricated Products, Inc., Incorporated in Delaware

(g) Alumax Foils, Inc., Incorporated in Delaware

(h) Alumax of Maryland, Inc., Incorporated in Delaware

(i) Alumax Mill Products, Inc., Incorporated in Delaware

(j) Alumax Mobile Home of Florida, Inc., Incorporated in Delaware

(k) Alumax Recycling Group, Inc., Incorporated in Delaware

(l) Alumax Remelt Corporation, Incorporated in Delaware

(m) Alumax of South Carolina, Inc., Incorporated in Delaware

(n) Alumax Warehouse Corporation, Incorporated in Delaware

(o) Alumax of Washington, Inc., Incorporated in Delaware

(p) Alumet Corporation, Incorporated in Delaware

(q) Alumet Holding Corporation, Incorporated in Delaware

(r) Eastalco Aluminum Company, Incorporated in Delaware

(s) Eastalco Share, Inc., Incorporated in Delaware

(t) Intalco Aluminum Corporation, Incorporated in Delaware

(u) K & S Products, Inc., Incorporated in Indiana

(v) Kawneer Company, Inc., Incorporated in Delaware

(w) Quaker State Manufacturing Company, Incorporated in Pennsylvania

(x) Resource Products Corporation, Incorporated in Texas

(y) Sailor Manufacturing, Inc., Incorporated in Indiana

1. Parent corporation and address of principal office: Hoover Universal, Inc., 825 Victors Way, Ann Arbor, Michigan 48104.

2. Wholly owned subsidiary which will participate in the operations, and state(s) of incorporation:

(a) Ultraspherics, Incorporated, 1390 Industrial Park Drive, Sault Ste. Marie, Michigan 49783, State of Incorporation: Michigan

(b) Hoover Superior Ball Company, Inc., 100 Wellington Street, Hartford, Connecticut 06106, State of Incorporation: Michigan

1. Parent corporation and address of principal office: SOLVAY & CIE, S.A., 33 Rue Du Prince Albert, Brussels 5554, Belgium 1050.

2. Wholly owned subsidiaries which will participate in the operation, and state(s) of incorporation:

(a) SOLTEX Polymer Corporation, a Delaware corporation.

(b) Salsbury Laboratories, Inc., a Delaware corporation.

(c) Shippers Service, Inc., an Iowa corporation.

(d) Duphar Nutrition, Inc., a Delaware corporation.

James H. Bayne,

Secretary.

[FR Doc. 84-25703 Filed 9-27-84; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-19 (Sub—No. 85X)]

Railroad Services; The Baltimore and Ohio Railroad Co.; Abandonment in Scioto County, OH; Exemption

The Baltimore and Ohio Railroad Company (B&O) has filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt abandonments*, as amended by Ex Parte No. 274 (Sub-No. 8A), *Exemption of Out of Service Lines, (Discontinuance of Service and Trackage Rights)* (not printed), served April 20, 1984, to be printed at 1 I.C.C. 2d 55. B&O will abandon its line of railroad

known as the Portsmouth Branch extending between milepost 48.68 near Sciotoville Junction and milepost 46.75 at the end of the line near Dillard, a distance of approximately 1.93 miles, in Scioto County, OH.

B&O has certified that (1) no local traffic has moved over the line for at least 2 years, (2) the line does not handle overhead traffic, and (3) that no formal complaint, filed by a user of rail service on the line, or by a state or local government entity acting on behalf of a user, regarding cessation of service over the line, either is pending with the Commission or has been decided in favor of a complainant within the 2-year period preceding this notice. The Public Service Commission (or equivalent agency) in Ohio has been notified in writing at least 10 days prior to the filing of this notice. See *Exemption of Out of Service Rail Lines*, 366 I.C.C. 885 (1983).

As a condition to use of this exemption, any employees affected by the abandonment or discontinuance of service shall be protected pursuant to *Oregon Short Line R. Co.—Abandonment—Goshen*, 366 I.C.C. 91 (1979).

The exemption shall be effective on October 28, 1984 (unless stayed pending reconsideration). Petition to stay the effective date of the exemption must be filed by October 8, 1984, and petitions for reconsideration, including envirinmental, energy, and public use concerns, must be filed by October 18, 1984, with:

Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to B&O's representative:

Rene J. Gunning, Suite 2204, 100 North Charles Street, Baltimore, MD 21201

Peter J. Shudtz, P.O. Box 6419, Cleveland, OH 44101

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio*.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: September 21, 1984.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 84-25795 Filed 9-27-84; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Application

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on July 27, 1984, Upjohn Company, 7171 Portage Road, Kalamazoo, Michigan 49001, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Methamphetamine (1105)	II
2,5-Dimethoxyamphetamine (7396)	I

Any other such applicant and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW., Washington, D.C. 20537. Attention: DEA Federal Register Representative (Room 1112), and must be filed no later than October 29, 1984.

Dated: September 21, 1984.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 84-25796 Filed 9-27-84; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Office of the Secretary

The Steering Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463 as amended), notice is hereby given of a meeting of the Steering Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy.

Date, time and place: October 9, 1984, 9:30 a.m., Rm. S4215 A & B Frances Perkins, Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Purpose: To discuss trade negotiations and trade policy of the United States.

This meeting will be closed under the authority of section 10(d) of the Federal Advisory Committee Act. The Committee will hear and discuss sensitive and confidential matters concerning U.S. trade negotiations and trade policy.

For further information contact: Fernand Lavallee, Executive Secretary, Labor Advisory Committee, Phone: (202) 523–6565.

Signed at Washington, D.C., this 14th day of September 1984.

Robert W. Searby,

Deputy Under Secretary, International Affairs.

September 14, 1984.

[FR Doc. 84-25757 Filed 9-27-84; 8:45 am]

BILLING CODE 4510-28-M

Agency Forms Under Review by the Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out its responsibility under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the proposed forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency forms under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of any particular revision they are interested in.

Each entry will contain the following information:

The Agency of the Department issuing this form.

The title of the form.

The OMB and Agency form numbers, if applicable.

How often the form must be filled out.

Who will be required to or asked to report.

Whether small businesses or organizations are affected.

An estimate of the number of responses.

An estimate of the total number of hours needed to fill out the form.

The number of forms in the request for approval.

An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, Telephone 202-523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S-5526, Washington, D.C. 20210. Comments should also be sent to the OMB reviewer, Arnold Strasser, Telephone 202-395-6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, NEOB, Washington, D.C. 20503.

Any member of the public who wants to comment on a form which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

New

Employment and Training Administration

Survey to Determine Data Availability for Benefits Quality Control Program
None; no form number
Other (one time response)
State or local governments
52 responses; 208 hours; no form

Employment Security Data Processing Administrators are being surveyed this one time only to identify Quality Control (QC) elements currently maintained on their computer files so that manual entries to QC data base can be minimized. Data retention information will determine the feasibility of obtaining historical data for QC.

Employment and Training Administration

Disaster Payment Activities Under the Disaster Relief Act of 1974
ETA 90-2
Monthly
State and local governments
600 responses; 150 hours; 1 form

Data on disaster unemployment assistance (DUA) activity are needed for timely program evaluation necessary for competent administration of Section 407 of the Act. Workload items are also used with fiscal reports to estimate the cost of administering the Act. This report was previously cleared by the Federal Emergency Management Agency under FEMA Form 90-2, OMB 3067-0015.

Extension

Employment and Training Administration

WIN Status Change Notice (ETA-597)
1205-0155; ETA 597
On Occasion
State or local governments
838,400 responses; 39,119 hours; 1 form

The local WIN Staff use the ETA 597 to record registrant status and activity in the WIN program from entry into employment to deregistration and follow-through. It enters WIN E&T client activity into the ADS and ESARS; it also transmits information for the use of IMU, SAU, and E&T agencies.

Employment and Training Administratiuon

WIN Employability Plan and Certification Record (ETA-596)
1205-0156; ETA 596
On Occasion
Individuals or households; State or local governments
387,000 responses; 30,690 hours; 1 form

Local WIN staff use this form to summarize appraisal and employability plan information, and obtain registrants' signatures, indicating agreement with the employability plan; SAU assures that registrants are certified for social services. It is used by SUA and E&T agencies to exchange information.

Employment and Training Administration

Annual State WIN Plans
1205-0214; ETA RC 16
Annually
State or local governments
33 respondents; 2,541 hours; 1 form

The State WIN Plan is the basic planning and management tool utilized by the national and regional offices to ensure State compliance with legislation, regulations, and national office goals. It is the vehicle for providing allocation levels to State agencies. Respondents are State staff.

Employment and Training Administration

Notice of Intended Deregistration for CFR 56.63 Title 29
1205-0175; no form
On occasion
Individuals or households
16,200 responses; 20,250 hours

The Notice of Intended Deregistration is needed for consistency with due process as expressed by U.S. Supreme Court in Goldberg vs. Kelly. The law requires that when a certified WIN registrant refuses to participate in WIN, either (1) notify the welfare agency to remove AFDC benefits or (2) allow the registrant to request a hearing.

Mine Safety and Health Administration

Identification of Independent Contractors
1219-0043
On occasion
Businesses or other for profit; small businesses or organizations
652 responses; 85 hours

Standard 45.3 provides that independent contractors may voluntarily obtain an identification number from MSHA. If the independent contractor does not have an MSHA identification number, they will be assigned one the first time they are cited for a violation of the Federal Mine Safety and Health Act.

Mine Safety and Health Administration

Maintenance of Independent Contractor Register
1219-0040
On occasion
Businesses or other for profit; small businesses or Organizations
19,497 respondents; 16,027 hours

Requires mine operators to maintain a written summary of information concerning each independent contractor performing work at the mine. The information is used during inspections to determine proper responsibility for compliance with safety and health standards.

Signed at Washington, D.C., this 25th day of September 1984.

Paul E. Larson,
Departmental Clearance Officer.

[FR Doc. 84-25842 Filed 9-27-84; 8:45 am]
BILLING CODE 4510-30-M

[Order 7-84]

Organization, Functions, and Authority Delegations; Office of Labor-Management Relations Services

September 20, 1984.

1. *Purpose.* To change the name of the Office of Labor-Management Relations Services and to redelegate authority.

2. *Background.* Secretary's Order 3-84 established the Office of Labor-Management Relations Services headed by a Deputy Under Secretary for Labor-Management Relations and Cooperative Program with delegatd authority, who reports directly to the Under Secretary.

3. *Bureau of Labor-Management Relations and Cooperative Programs:*

a. It is hereby ordered that the Office of Labor-Management Relations

Services be redesignated the Bureau of Labor-Management Relations and Cooperative Programs. The authorities and program responsibilities delegated to the Deputy Under Secretary for Labor-Management Relations and Cooperative Programs in Secretary's Order 3–84 are hereby delegated to the Under Secretary. All authorities previously delegated to the Office of Labor-Management Relations Services shall remain in full force and effect until modified or canceled, and all actions taken pursuant to such previously delegated authority shall remain in full force and effect until specifically modified or canceled.

b. All employees of the Office of Labor-Management Relations Services are designated employees of the Bureau of Labor-Management Relations and Cooperative Programs.

c. All programs, activities, functions, and responsibilities previously delegated to the Office of Labor-Management Relations Services are redesignated programs, activities, functions, and responsibilities of the Bureau of Labor-Management Relations and Cooperative Programs.

4. *Solicitor of Labor.* The Solicitor of Labor is responsible for providing legal advice and assistance to all officers of the Department relating to the administration of this Order.

5. *Authority and Directive Affected:*

a. *Authority.* This Order is issued pursuant to the Act of March 4, 1913 (37 Stat 736), and Reorganization Plan No. 6 of 1950.

b. *Directive Affected.* Secretary's Order 3–84 remains in effect for section 3–b as hereby delegated.

6. *Redelegation of Authority.* The authority and responsibilities delegated to the Under Secretary by this Order may be redelegated.

7. *Effective Date.* This Order is effective immediately.

Raymond J. Donovan,

Secretary of Labor.

[FR Doc. 84–25859 Filed 9–27–84; 8:45 am]

BILLING CODE 4510–23–M

Employment and Training Administration

Carbon and Certain Alloy Steel Products

On June 11, 1984, the U.S. International Trade Commission (ITC) determined that increased imports of certain carbon and alloy steel products are a substantial cause of serious injury or a threat thereof to the domestic industry for purposes of the import relief provisions of the Trade Act of 1974. (49 FR 30807).

Section 224 of the Trade Act directs the Secretary of Labor to initiate an industry study whenever ITC begins an investigation under the import relief provisions of the Act. The purpose of the study is to determine the number of workers in the domestic industry petitioning for relief who have been or are likely to be certified as eligible for adjustment assistance, and the extent to which existing programs can facilitate the adjustment of such workers to import competition. The Secretary is required to make a report of this study to the President and also make the report public (with the exception of information which the Secretary determines to be confidential).

The U.S. Department of Labor has concluded its report on carbon and certain alloy steel products. The report found as follows:

1. Average employment of production and production-related workers in the carbon and alloy steel products industry generally declined from 1979 through 1983. Permanent layoffs are expected at 25 establishments during 1984–1985. Industrywide temporary layoffs are also expected.

2. The Department of Labor (DOL) has received and processed 1,216 petitions for trade adjustment assistance involving workers in the carbon and alloy steel industry since April 3, 1975, the effective date of the adjustment assistance program, including 720 received during the January 1979–June 1984 period. Three-hundred and forty-nine petitions were certified covering 165,842 workers, and 799 petitions were denied involving 179,480 workers. Sixty-eight petitions were terminated or withdrawn. An additional seven petitions covering industry workers were in process as of the report date.

As of June 30, 1984, DOL had paid $383.3 million in trade readjustment allowances (TRA) to 157,414 workers formerly employed in plants producing carbon and alloy steel products. Approximately $253.0 million of these payments were made in the 1978–1980 period, the peak years for such payments. Job search allowances of $342.0 thousand were paid to 976 industry workers, job relocation allowances of $1,347.0 thousand were paid to 768 industry workers, and 8,930 workers had entered training as of June 30, 1984.

For the January 1982–June 1984 period, a total of 297 cases involved workers manufacturing the covered product. One-hundred and forty-nine were certified, covering 32,193 workers. One-hundred and forty-eight were denied or terminated, covering 33,320 workers. In June 1984, an estimated 104,958 workers were covered by existing certifications and were thus eligible to apply for program benefits.

3. Most of the production worker occupations in the carbon and alloy steel products industry are considered skilled or semiskilled. Skilled and highly skilled workers predominate in continuous casting operations. The open hearth and electric furnace departments also have relatively high proportions of skilled workers. Blast furnace operations have a higher share of unskilled workers than any other department. Well over half of the production-related workers, especially those in maintenance departments, are considered skilled or highly skilled.

The carbon and alloy steel products industry reported a much lower share of their production workers in the unskilled category, 15.3 percent, than did the copper smelting and refining industry, with 34.7 and 31.8 percent, respectively.

4. Unemployment rates for 45 of 65 areas with facilities producing carbon and alloy steel products were above the national unemployment rate of 7.8 percent (unadjusted) for April 1984. Reemployment prospects for present and potentially separated workers in the industry appear to be poor-to-fair.

5. A total of $29.7 million is available in Fiscal Year 1984 to provide training, job search and relocation allowances to eligible carbon and alloy steel industry workers as well as all other eligible workers of industries adversely affected by import competition under the trade adjustment assistance program. In the 1985 Budget, the Administration proposed that TAA be incorporated into and covered by funding for the dislocated worker program (Title III) of the Job Training Partnership Act (JTPA). The FY 1985 Labor-HHS-Education Appropriations Bill passed by the House and reported by the Senate each provide separate funding for the TAA program.

All worker trade adjustment assistance program benefits and allowances, including TRA which are entitlements funded separately from the Federal Unemployment Benefit and Allowances (FUBA) account, will expire on September 30, 1985, unless the legislative authority is extended. Dislocated workers, includng import impacted workers, should benefit from $427.2 million which has been set aside for the administration and delivery by the States of dislocated worker benefits under Title III of JTPA for the October 1983–June 30, 1985 period, and an additional $223.0 million requested for the July 1, 1985–June 30, 1986 period.

Copies of the Department report containing nonconfidential information developed in the course of the 6-month investigation may be purchased by contacting Larry Ludwig, Office of Trade Adjustment Assistance, U.S. Department of Labor, 601 D Street, NW., Room 6020, Washington, D.C. 20213 (phone 202-376-7163).

Signed at Washington, D.C., this 19th day of September 1984.

Patrick J. O'Keefe,

Deputy Assistant Secretary of Labor.

[FR Doc. 84-25758 Filed 9-27-84; 8:45 am]

BILLING CODE 4510-30-M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance; Cathy Anne, Inc., et al.

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period September 17, 1984–September 21, 1984.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligiblity requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the worker's firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations; or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-15,303; Cathy Anna, Inc., East Newark, NJ

TA-W-15,223; Ohio Knife Co., Cinncinnati, OH

In the following cases the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to workers separations at the firm.

TA-W-15,332; Turbine and Compressor Div., Transamerica Delaval, Inc., Trenton, NJ

TA-W-15,285; White Packing Co., North Bergen, NJ

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA-W-15,245; Inspiration consolidated Copper Co., Claypool, AZ

Aggregate U.S. imports of blister copper did not increase as required for certification.

TA-W-15,233; Phoenix Forging Co., Catasaqua, PA

Aggregate U.S. imports of carbon steel flanges and steel forgings did not increase as required for certification.

TA-W-15,265; Harley-Davidson Motor Co., Milwaukee, WI

The investigation revealed that criterion (2) has not been met. Sales and production, or both, did not decline as required for certification.

TA-W-15,266; Harley-Davidson Motor Co., Wauwatosa, WI

The investigation revealed that criterion (2) has not been met. Sales and production, or both, did not decline as required for certification.

TA-W-15,267; Harley-Davidson Motor Co., Tomahawk, WI

The investigation revealed that criterion (2) has not been met. Sales and production, or both, did not decline as required for certification.

TA-W-15,298; Eimco Mining Machinery International, Salt Lake City, UT

The investigation revealed that criterion (3) has not been met. The subject firm primarily produced for the export market.

TA-W-15,289; Florian Sewing Co., Cleveland, OH

The investigation revealed that manufacturers for which the subject firm produced under contract increased their contracts with other domestic firms.

Affirmative Determinations

TA-W-15,335; Borg and Beck-Clutch, Chicago, IL

A certification was issued covering all workers separated on or after February 1, 1984.

TA-W-15,361; Sacaton Unit, ASARCO, Inc., Casa Grande, AZ

A certification was issued covering all workers separated on or after May 23, 1983.

TA-W-15,356; Foundation Equipment Corp., Dover, OH

A certification was issued covering all workers separated on or after May 23, 1983.

TA-W-15,273; Sylvania Shoe Manufacturing Corp., Waynesboro, Pa

A certification was issued covering all workers separated on or after March 17, 1983 and before December 30, 1983.

TA-W-15,274; Sylvania Shoe Manufacturing Corp., Greencastle, PA

A certification was issued covering all workers separated on or after March 17, 1983 and before March 29, 1984.

TA-W-15,277; East Coast Molding Operation, Standard Plastic Products Div., Mattel Toys, North Brunswick, NJ

A certification was issued covering all workers separated on or after March 21, 1983 and before January 1, 1984.

TA-W-15,293; East Coast Molding Operation, Standard Plastic Products Div., Mattel Toys, Edison, NJ

A certification was issued covering all workers separated on or after March 21, 1983 and before January 1, 1984.

I hereby certify that the aforementioned determinations were issued during the period September 17, 1984–September 21, 1984. Copies of these determinations are available for inspection in Room 6434, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: September 25, 1984.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 84-25857 Filed 9-27-84; 8:45 am]

BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 9, 1984.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 9, 1984.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213.

Signed at Washington, D.C., this 24th day of September 1984.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
A.E. Nettleton Shoe Co., Inc. (ACTWU)	Syracuse, NY	9/18/84	8/28/84	TA-W-15,453	Shoes, men's.
Acme Boot Co., Inc. (workers)	Cocke Co., TN	9/13/84	9/5/84	TA-W-15,454	Boots—children's & men's.
Barry of Chattanooga (company)	Chattanooga, TN	9/14/84	9/7/84	TA-W-15,455	Footwear—houseslippers.
Barry of Columbus (company)	Columbus, OH	9/14/84	9/7/84	TA-W-15,456	Footwear—houseslippers.
Brown Shoe Co. (United Food & Commercial Workers)	Humboldt, TN	9/14/84	8/31/84	TA-W-15,457	Shoes—women's, dress.
Brown Shoe Co. (United Food & Commercial workers)	Selmer, TN	9/14/84	8/31/84	TA-W-15,458	Shoes—men's, dress.
Dresser Industries, Whitney Chain Operation of Jeffrey Chain Division (UAW).	Hartford, CT	9/4/84	8/31/84	TA-W-15,459	Chain, roller, industrial.
E.I. du Pont de Nemours & Co., Inc., Textile Fibers Dept. (company).	Camden, SC	8/31/84	8/27/84	TA-W-15,460	Yarn, filament, staple & tow.
Fender Musical Instruments (workers)	Hoopeston, IL	9/13/84	8/8/84	TA-W-15,461	Amplifiers & organs.
Kellwood Co., Dresden Plant (company)	Dresden, TN	9/4/84	8/27/84	TA-W-15,462	Coats—women, rainwear—women's.
(The) Lima Electric Co., Inc. (company)	Greenville, AL	8/22/84	8/20/84	TA-W-15,463	Generators, AC, commercial.
Lorraine Manufacturing (workers)	Bristol, VA	8/31/84	8/28/84	TA-W-15,464	Blouses—women's.
LTV Steel Company (workers)	Pittsburgh, PA	8/31/84	8/27/84	TA-W-15,465	Office workers.
Mayr Brothers Logging Co., Inc., Willapa Division (IWA)	Hoquiam, WA	9/17/84	9/6/84	TA-W-15,466	2x4 lumber.
Pathfinder Mines Corp. (workers)	Riverton, WY	9/17/84	9/11/84	TA-W-15,467	Uranium—mining.
RCA, Inc. (workers)	Indianapolis, IN	9/12/84	9/7/84	TA-W-15,468	Video disc, style cartridge.
Rest Right Slipper Co. (workers)	New York, NY	7/18/84	7/11/84	TA-W-15,469	Slippers—men's & ladies'.
Trojan Industries, Inc. (Boilermakers)	Batavia, NY	9/13/84	9/10/84	TA-W-15,470	Rubber-tired front end loaders.
Wayne City Mfg. Co., Inc. (workers)	Wayne City, IL	8/31/84	8/24/84	TA-W-15,471	Sportswear, women's.
The Hanover Shoe, Inc., Hanover Plant (company)	Hanover, PA	9/17/84	9/14/84	TA-W-15,472	Shoes, dress, casual, men's.

[FR Doc. 84-25656 Filed 9-27-84; 8:45 am]

BILLING CODE 4510-30-M

Occupational Safety and Health Administration

Alaska State Standards; Approval

1. *Background:* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On August 10, 1973, notice was published in the Federal Register (38 FR 21628) of the approval of the Alaska plan and the adoption of Subpart R to Part 1952 containing the decision.

The Alaska plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act. Section 1953.20 provides that "where any alteration in the Federal program could have an adverse impact on the at least as effective as status of the State program, a program change supplement to a State plan shall be required."

In response to Federal standards changes, the State has submitted by letter dated May 5, 1982 from Edmund N. Orbeck, Commissioner, to James W. Lake, Regional Administrator, and incorporated as part of the plan, State standards comparable to 29 CFR 1926.500(g), Subpart M, Guarding of Low-Pitched-Roof Perimeters During the Performance of Built-Up Roofing Work, and 29 CFR 1926.502(p), Subpart M, Definitions, as published in the Federal Register (44 FR 75625) dated November 14, 1980.

These State standards, which are contained in AAC 05.240(d) and 05.240(h) of the Construction Code, were promulgated after a public meeting on July 8, 1981 and publication in the Statewide media on June 18, 1981. The public comment period was open for thirty days by Edmund N. Orbeck, Commissioner, under authority vested by AS 18.60.020.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are at least as effective as the comparable Federal standards and accordingly should be approved. Apart from editorial changes to accommodate the State standard format, the standards are substantially identical with the exception that the State sets more stringent requirements on roofer's ladders and specifies that personal protective equipment must be used when working with tar. The standards have been in effect since May 30, 1982. During this time OSHA has received no indication of significant objection to these State standards either as to their effectiveness in comparison to the Federal standards or as to their conformance with the product clause requirements to section 18(c)(2) of the Act. (A different State standard applicable to a product which is distributed or used in interstate commerce must be required by compelling local conditions and not unduly burden interstate commerce.) OSHA, therefore, approves these standards. However, the right to reconsider this approval is reserved should substantial objections be submitted to the Assistant Secretary.

3. *Location of supplement for inspection and copying.* A copy of the

standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; State of Alaska, Department of Labor, Office of the Commissioner, Juneau, Alaska 99801; and the Office of State Programs, Room N3613, 200 Constitution Avenue, NW., Washington, D.C. 20210.

4. *Public participation.* Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Alaska State plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards were adopted in accordance with the procedural requirement of State law which included public comments and further public participation would be repetitious.

This decision is effective this September 28, 1984.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Seattle, Washington, this 11th day of March 1983.

R.L. Beaton,

Acting Regional Administrator.

[FR Doc. 84-25848 Filed 9-27-84; 8:45 am]

BILLING CODE 4510-26-M

California State Standards; Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety & Health (hereinafter called Regional Administrator—OSHA), under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety & Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(e) of the Act and 29 CFR Part 902. On May 1, 1983, notice was published in the **Federal Register** (38 FR 10717) of the approval of the California plan and the adoption of Subpart K to Part 1952 containing the decision.

The California plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act. A State standard has been revised in accordance with Part 1953 to meet the requirements of adopting a Federal standard revision. Accordingly, California has revised the Acrylonitrile standard and promulgated it in accordance with applicable State procedures. The Acrylonitrile standard is equivalent to the Federal standard 29 CFR 1910.1045.

2. *Decision.* This standard has been in effect since June, 1979. During this time OSHA has received no indication of significant objection to the State's different standard either as to its effectiveness in comparison to the Federal standard or as to its conformance with the product clause requirements of section 18(c)(2) of the Act. (A different State standard applicable to a product which is distributed or used in interstate commerce must be required by compelling local conditions and not unduly burden interstate commerce). OSHA, therefore, approves this standard. However, the right to reconsider this approval is reserved should substantial objections be submitted to the Assistant Secretary.

The standard was adopted by California on March 29, 1979 and has been revised twice, once on March 20, 1981 and again on May 29, 1981. California has satisfied the requirement to provide a clarification of the standard incorporating a reference to the State labor code and providing additional information.

The detailed standards comparison is available at the locations specified below.

3. *Location of Supplement for Inspection and Copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, 450 Golden Gate Avenue, Room 11349, San Francisco, California, 94102; and California Occupational Safety and Health Administration, Room 701, 525 Golden Gate Avenue, San Francisco, California 94102; and Directorate of Federal Compliance and State Programs, Room N3700, 200 Constitution Avenue, NW., Washington, D.C. 20210.

4. *Public Participation.* Under § 1953.2(c) of this chapter, the Assistant Secretary may prescribe alternative procedures for the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the California plan as a proposed change and making the OSHA Regional Administrator's approval effective upon publication for the following reasons.

The standard was adopted in accordance with the procedural requirements of State law which included public comment, and further public participation would be repetitious.

This decision is effective September 28, 1984.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 [29 U.S.C. 667])

Signed at San Francisco, California, this 16th day of July, 1984.

Russell B. Swanson,

Regional Administrator.

[FR Doc. 84-25844 Filed 9-27-84; 8:45 am]

BILLING CODE 4510-26-M

Maryland State Standards; Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary), (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On July 5, 1973, notice was published in the **Federal Register** (38 FR 17834) of the approval of the Maryland State plan and the adoption of Subpart O to Part 1952 containing the decision.

The Maryland State plan provides for the adoption of Federal standards as State standards after comments and public hearing. Section 1952.210-214 of Subpart O sets forth the State's schedule for the adoption of Federal standards. By letters dated June 14, 1984 from Commissioner Dominic N. Fornaro, Maryland Division of Labor and Industry, to Linda R. Anku, Regional Administrator, and incorporated as part of the plan, the State submitted State standards comparable to: (1) Amendments, corrections and revisions to 29 CFR 1910.95(c)-(p) and Appendices A-1 as published in the **Federal Register** dated June 28, 1983 (48 FR 29687) pertaining to Occupational Exposure to Noise: Hearing Conservation

Amendment and (2) amendments, corrections and revisions to 29 CFR 1910.411 as published in the Federal Register dated January 6, 1984 (49 FR 881) pertaining to Subpart T, Commercial Diving Operations. These standards, which are contained in COMAR 09.12.31 Maryland Occupational Safety and Health Standards, were promulgated after public hearings on February 17 and April 13, 1983, pursuant to Article 89, sections 30(a), 31(i), 31(l) and 31(m), Annotated Code of Maryland, and effective June 18, 1984.

2. *Decision.* Having reviewed the State submissions in comparison with the Federal standards, it has been determined that the State standards are identical to the Federal standards and accordingly are approved.

3. *Location of supplements for inspection and copying.* A copy of the standards supplements, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, 3535 Market Street, Suite 2100, Philadelphia, PA 19104; and, Office of the Commissioner of Labor and Industry, 501 St. Paul Place, Baltimore, Maryland 21202.

4. *Public Participation.* Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Maryland State plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The Standards are identical to the Federal standards which were promulgated in accordance with Federal law including meeting requirements for public participation.

2. The standards were adopted in accordance with the procedural requirements of State law and further participation would be unnecessary.

This decision is effective September 28, 1984.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Philadelphia, PA, this 30th day of July 1984.

Linda R. Anku,

Regional Administrator.

[FR Doc. 84-25845 Filed 9-27-84; 8:45 am]

BILLING CODE 4510-26-M

Oregon State Standards; Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On December 28, 1972, notice was published in the Federal Register (37 FR 28628) of the approval of the Oregon plan and the adoption of Subpart D to Part 1952 containing the decision.

The Oregon plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act. By letter dated December 27, 1983, from William J. Brown, Director, Workers' Compensation Department, to James W. Lake, Regional Administrator, and incorporated as part of the plan, the State submitted standards as effective as 29 CFR Part 1910 Subpart S, Electrical Standards, as published in the Federal Register (46 FR 4034) on January 16, 1981 and subsequent corrections appearing in the Federal Register (46 FR 40183) on August 7, 1981.

These standards, which are contained in OAR 437, Division 67, Oregon Occupational Safety and Health Code, were originally promulgated by the State after a notice was published in the Secretary State's Administrative Rules Bulletin on July 15, 1983 pursuant to ORS Chapter 183.335. No written comments or requests for a public hearing were received. The Oregon electrical Standards were adopted September 14, 1983, and became effective September 15, 1983.

2. *Decision.* Having reviewed the State submissions in comparison with the Federal standard, it has been determined that the requirements of the State standards are substantially identical to the Federal standards. The only significant difference is that the State retained previously approved rules not present in the Federal standards, for lockout/tagout of electrical circuits.

3. *Location of supplement for inspection and copying.* A copy of the standards supplements, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; Workers' Compensation Department, Labor and Industries Building, Salem, Oregon 97310; and the Office of State Programs, Room N-3476, Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C. 20210.

4. *Public Participation.* Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Oregon plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are as effective as the Federal standards which were promulgated in accordance with Federal law including meeting requirements for public participation.

2. The standards were adopted in accordance with the procedureal requirements of State law and further participation would be unnecessary.

This decision is effective September 28, 1984.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Seattle, Washington, this 11th day of June 1984.

James W. Lake,

Regional Administrator.

[FR Doc. 84-25843 Filed 9-27-84; 8:45 am]

BILLING CODE 4510-26-M

Puerto Rico State Standards; Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary), (29 CFR 19953.4) will review and approve standards promulgated pursuant to a State Plan which has been approved in accordance with section 18 (c) of the Act and 29 CFR Part 1902. On August 30, 1977, notice was published in the Federal Register (42 FR 43628) of the approval of the Puerto Rico plan and the adoption of Subpart FF to Part 1952 containing the decision.

The Puerto Rico plan provides for the adoption of Federal standards as State standards by reference. Section 1953.20, 29 CFR, provides that "where any

alteration in the Federal program could have an adverse impact on the 'at least as effective as' status of the State program, a program change supplement to a State plan shall be required."

In response to Federal standards changes, the State has submitted by letter dated June 11, 1984, from the Acting Assistant Secretary for Occupational Safety and Health Artemio Andujar Pabon to Regional Administrator Gerald P. Reidy, and incorporated as part of the plan, State standards comparable to the Occupational Safety and Health Administration Standards for Hazard Communication, as published in the **Federal Register** (48 FR 53280) dated November 25, 1983, and Revocation of Advisory and Repetitive Standards, as published in the **Federal Register** (49 FR 5318) dated February 10, 1984. These standards which are contained in the Puerto Rico Regulations, Number Four (equivalent to 29 CFR Part 1910) were promulgated by resolutions adopted by the Puerto Rico Department of Labor and Human Resources on May 11, 1984, pursuant to the Puerto Rico Act Number 16 and Chapter 52 of the Puerto Rico Rules and Regulations Act of 1958.

The State has submitted by letter dated June 21, 1984, and incorporated as part of the plan, standards comparable to the Occupational Safety and Health Administration standards for Servicing of Single Piece and Multi-piece Rim Wheels, as published in the **Federal Register** (49 FR 4338) dated February 4, 1984. These standards which are contained in the Puerto Rico Rules and Regulations, Number Four (equivalent to 29 CFR Part 1910) were promulgated by resolution adopted by the Puerto Rico Department of Labor and Human Resources on March 29, 1984, pursuant to the Puerto Rico Act Number 16 and Chapter 52 of the Puerto Rico Rules and Regulations Act of 1958.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards it has been determined that the State standards are identical to the Federal standards and accordingly are hereby approved.

3. *Location of supplement for inspection and copying* . A copy of the standard supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 3445, 1515 Broadway, New York, New York 10036; Puerto Rico Department of Labor and Human Resources, Prudencio Rivera Martinez Bldg., Munoz Rivera Avenue 505, Hato Rey, Puerto Rico 00917; and the Office of the Director, Federal-State Operations, Room N3476, 200 Constitution Avenue, NW., Washington, D.C. 20210.

4. *Public Participation.* Under 29 CFR 1953.2 (c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Puerto Rico State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are identical to the Federal standards which were promulgated in accordance with Federal law meeting requirements for public participation.

2. The standards were adopted in accordance with the procedural requirement of State Law and further participation would be unnecessary.

This decision is effective September 28, 1984.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at New York City, New York, this 24th day of August 1984.

George Reidy,

Regional Administrator.

[FR Doc. 84-25048 Filed 9-27-84; 8:45 am]
BILLING CODE 4510-26-M

Virginia State Standards; Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary), (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On September 28, 1976, notice was published in the **Federal Register** (41 FR 42655) of the approval of the Virginia State plan and adoption of Subpart EE to Part 1952 containing the decision.

The Virginia State plan provides for the adoption of all Federal standards as State standards after comments and public hearings except for those standards found in 29 CFR Parts 1915, and 1918 (ship repairing, and longshoring). A notice of approval was published in the **Federal Register** dated March 17, 1978 (43 FR 11274). Section 1952.370 of Subpart EE sets forth the State's schedule for the adoption of Federal standards. By a letter dated April 12, 1984, from Commissioner Eva S. Teig, Virginia Department of Labor and Industry, to Linda R. Anku, Regional Administrator, and incorporated as part of the plan, the State submitted State standards comparable to: 29 CFR 1910.20; 1910.440 (b)(2) and (b)(4); 1910.1001 (i)(2) and (j)(6)(ii); 1910.1003(g)(2)(ii); 1910.1004(g)(2)(ii); 1910.1006(g)(2)(ii); 1910.1007(g)(2)(ii); 1910.1008(g)(2)(ii); 1910.1009(g)(2)(ii) 1910.1010(g)(2)(ii); 1910.1011(g)(2)(ii); 1910.1012(g)(2)(ii); 1910.1013(g)(2)(ii); 1910.1014(g)(2)(ii); 1910.1015(g)(2)(ii); 1910.1016(g)(2)(ii); 1910.1017 (m)(2), (m)(3), (m)(4), (m)(5) and (m)(6); 1910.1018 (q)(3)(ii), (q)(3)(iii), (q)(4)(iv) and Appendix A, Section VIII; 1910.1025 (n)(4)(ii), (n)(4)(iii) and (n)(5)(iv); 1910.1028 (i)(3)(ii), (i)(3)(iii), (i)(3)(iv), (i)(4)(iv) and Appendix A, Section VII; 1910.1029 (m)(3)(ii), (m)(3)(iii), (m)(3)(iv) and (m)(4)(iv); 1910.1043 (k)(3)(ii), (k)(3)(iii), (k)(3)(iv) and (k)(4)(iv); 1910.1044 (p)(3)(ii), (p)(3)(iii), (p)(3)(iv) and (p)(4)(iv); 1910.1045 (q)(4)(ii), (q)(4)(iii), (q)(5)(iv) and Appendix A, Section IV, Subsection D; 1910.1046 (h)(2)(ii) and (h)(3)(iv) pertaining to Access to Employee Exposure and Medical Records as published in the **Federal Register** dated May 23, 1980 (45 FR 35281). These standards, which are contained in the Virginia Occupational Safety and Health Standards, were promulgated after public hearings conducted on January 15, 1981, and Resolution adopted by the Virginia Codes Commission effective June 30, 1981, pursuant to section 40.1-22 and the Administrative Process Act, Code of Virginia.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are identical to the Federal standards and accordingly should be approved.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Offfice of the Regional Administrator, 3535 Market Street, Suite 2100, Philadelphia, Pennsylvania 19104; and the Office of the Commissioner of Labor and Industry, 205 North Fourth Street, Richmond, Virginia 23241.

4. *Public participation.* Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent

with applicable law. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Virginia State plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are identical to the Federal standards which were promulgated in accordance with Federal law including meeting requirements for public participation.

2. The standards were adopted in accordance with the procedural requirements of State law and further participation would be unnecessary.

This decision is effective September 28, 1984.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Philadelphia, PA, this 27th day of July 1984.

Linda R. Anku,

Regional Administrator.

[FR Doc. 84-25847 Filed 9-27-84; 8:45 am]

BILLING CODE 4510-30-M

Office of Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 84-142; Exemption Application No. D-4379 et al.]

Grant of Individual Exemptions; Bell System Pension Plan Trust et al.

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transactions restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedures 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Bell System Pension Plan Trust; Bell System Management Pension Plan; Bell System Trust (the Trust), Located in New York, New York

[Prohibited Transaction Exemption 84-142; Exemption Application Nos. D-4379, D-4380 and D-4381]

Exemption

(a) *General Exemption.* The restrictions of section 406(a)(1) (A) through (D) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply to any transaction arising in connection with the acquisition, ownership, management, development, leasing or sale of real property (including the acquisition, ownership or sale of any joint venture or partnership interest in such property) and the borrowing or lending of money in connection therewith, between a party in interest with respect to the Trust, or any successor trust (Successor Trusts), a described in the notice of pendency, in which American Telephone and Telegraph Company (AT&T) serves as the named fiduciary, and the Trust or such Successor Trusts, provided that the following conditions are satisfied:

(1) The decision to invest the assets of the Trusts, directly or indirectly, in such transaction is made by AT&T or the Senior Vice President—Finance of AT&T or her successor as a fiduciary of the Trusts;

(2) Any such party in interest is not—

(i) AT&T, any person directly or indirectly controlling, controlled by, or under common control with AT&T, any officer, director, or employee of AT&T or of any of its subsidiary or affiliated companies, or any partnership in which AT&T is a 10 percent or more (directly or indirectly in capital or profits) partner; or

(ii) A person who exercises discretionary authority, responsibility or control or who provides investment advice with respect to the investment of Trust assets involved in the particular transaction;

(3) At the time the transaction is entered into, and at the time of any subsequent renewal or modification thereof that requires the consent of the Senior Vice President—Finance of AT&T or any person to whom such responsibility has been delegated, the terms of the transaction are at least as favorable to the Trusts as the terms generally available in arm's-length transactions between unrelated parties.

(4) AT&T shall maintain for a period of six years from the date of each transaction mentioned above the records necessary to enable the persons described in subparagraph (5) of this section (a) to determine whether the conditions of this exemption have been met, except that: (i) A prohibited transaction will not be deemed to have occurred if, due to circumstances beyond the control of AT&T, the records are lost or destroyed prior to the end of the six-year period, and (ii) no party in interest shall be subject to the civil penalty which may be assessed under section 502(i) or the Act, or to the taxes imposed by section 4975 (a) and (b) of the Code, if the records are not maintained, or are not available for examination as required by subparagraph (5) below; and

(5)(i) Except as provided in subdivision (ii) of this subparagraph (5) and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in subparagraph (4) of this section (a) are unconditionally available at AT&T's headquarter's offices, or, upon prior arrangement with AT&T, at any other customary location for the maintenance and/or retention of such records, for examination during normal business hours by:

(A) Any duly authorized employee or representative of the Department of Labor or the Internal Revenue Service,

(B) Any fiduciary of a plan which is funded, in whole or part, by the Trust or

any Successor Trust with respect to which AT&T is a named fiduciary or any duly authorized employee or representative of such fiduciary.

(C) Any participant or beneficiary of any plan which is funded, in whole or part, by the Trust or any Successsor Trust with respect to which AT&T is a named fiduciary or any duly authorized representative of such participant or beneficiary.

(ii) None of the persons described in subdivisions (i)(B) and (i)(C) of this subparagraph (5) shall be authorized to examine AT&T's trade secrets or commercial or financial information which is privileged, confidential or of a proprietary nature.

(b) *Specific Exemption.* The restrictions of sections 406(a)(1) (A) through (D) and 406(b) (1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to:

Transactions Involving Places of Public Accommodation. The furnishing of services, facilities and any goods incidental thereto by a place of public accommodation which is or may be considered an asset of the Trusts to a party in interest with respect to the Trusts if the services, facilities or incidental goods are furnished on a comparable basis to the general public, and if the requirements of subparagraphs (a) (4) and (5) of this proposed exemption are met.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on May 11, 1984 at 49 FR 20080.

Effective Date: If granted, this exemption will be effective December 1, 1982.

Written Comments: The applicant represents that it provided notice of the proposed exemption to all interested persons in the manner agreed upon with the Department. Because of the large number of participants and beneficiaries who were notified and the complexity involved in providing such notice notification was not provided to all interested persons within 15 days from the date of publication of the notice. In this regard each interested person was informed that he or she had 30 days from the date they received the notice to comment on and/or request a hearing with regard to the proposed exemption. The applicant represents that notice was provided to all interested persons by AT&T and every newly created regional holding company by no later than June 14, 1984.

The Department received sixteen written comments with respect to the proposed exemption. No commentator requested a hearing with regard to the proposed exemption. Many of the commentators expressed opinions either in support of or in opposition to the proposed exemption but did not set forth specific reasons for their opinions. Other commentators requested assistance from the Department to explain to them the terms and conditions of the exemption. The Department contacted by telephone as many commentators as it could locate and verbally addressed their inquiries.

Three commentators raised specific issues which relate to the merits of the exemption. In general, these comments stated that real estate investments by the Trusts may not be appropriate and that if such investments are appropriate, they should only be made after various investment analysis techniques relating specifically to real property are employed. The Department forwarded these comments to AT&T for response. AT&T stated, as the overall administrator and named fiduciary of the trusts to be covered by the exemption, that a portion of the overall Trust assets should include real estate. AT&T represents that such a decision is consistent with the requirement to diversify Trust assets and is specifically warranted in light of the favorable rates of return on real estate investments. AT&T represents that real estate investments on behalf of the Trusts are limited to those of an institutional quality and a superior investment grade. AT&T states that it selects managers or general partners who are financially stable entities with proven records of leasing, management, construction and development services.

With respect to a commentator's statement that specific investment analysis techniques be performed, namely value analysis or value engineering, before the Trust invests in real estate, AT&T represents that such detailed analyses are performed for every potential investment, and are rigorous and consistent with those performed by other expert investors involved in similar types of real estate investments. AT&T represents that before any investment decision is made the detailed analyses are reviewed for accuracy and reasonableness. AT&T states that these analyses assure the prudent investment of Trust assets in seclected appropriate real estate vehicles.

The Department also requested the applicant to supply two additional representations with regard to the proposed exemption. In response to the Department's inquiries AT&T represented that: (1) All recommendations made by the Committee on Special Investments of the Investment Management Division to Ms. Virginia A. Dwyer, the Senior Vice President—Finance of AT&T (her former title was Vice President and Treasurer of AT&T) are made in writing; and (2) in addition to the language stated in paragraph 5 of the notice of proposed exemption, any parties in interest involved or to be involved in transactions with the Trusts have not and will have no *actual* authority over the transactions.

Accordingly, after receipt of the additional representations and a consideration of the entire record including the comments submitted and the response thereto by AT&T, the Department has concluded that the exemption be granted as proposed.

For Further Information Contact: Mr. David Stander of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Mark A. Levine, M.D., and Thomas G. Swanson, M.D., P.C. Money Purchase Pension and Profit Sharing Plans et al. (the Plans), Located in Englewood, Colorado

[Prohibited Transaction Exemption 84–143; Exemption Application Nos. D–4855 and D–4856]

Exemption

The restrictions of section 406 (a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale of a limited partnership interest (the Interest) by the Plans to Dr. Mark A. Levine, a party in interest with respect to the Plans, provided the sale price is not less than the fair market value of the Interest at the time the sale is consummated.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on June 29, 1984 at 49 FR 26841.

For Further Information Contact: Ms. Linda Hamilton of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a

fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 25th day of September 1984.

Elliot I. Daniel,

Acting Assistant Administrator for Regulations and Interpretations, Office of Pension and Welfare Benefit Programs, U.S. Department of Labor.

[FR Doc. 84-25884 Filed 9-27-84; 8:45 am]
BILLING CODE 4510-29-M

[Application No. D-4657 et al.]

Proposed Exemptions; Gettel and Company Profit Sharing Plan (the Plan), Located in Pigeon, Michigan et. al.

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemptions, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Gettel and Company Profit Sharing Plan (the Plan), Located in Pigeon, Michigan

[Application No. D-4657]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and n accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the loans by the Plan of an amount not to exceed 25% of the total assets of the Plan, periodically over the next 5 years, to GMBA, a partnership, which is a party in interest with respect to the Plan, and the guarantee of the repayment of the loans by Messrs. Clarence, Herb and Loren Gettel, parties in interest with respect to the Plan, provided the terms of the loans are not less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated party.

Temporary Nature of the Exemption

If granted, this exemption will be effective for five years from the date a grant of an individual exemption is published in the **Federal Register**. Subsequent to the expiration of the exemption, the Plan may hold the loans provided they were made during the five year period.

Summary of Facts and Representations

1. The Plan is a profit sharing plan with 63 participants. As of July 28, 1983, and Plan had total assets of $414,000. The trustees of the Plan are Messrs. Barry C. Bolger, Herbert J. Gettel and Clarence Gettel.

2. The Employer is a Michigan corporation which is engaged in manufacturing.

3. The applicant requests an exemption to permit the loans of an amount not to exceed 25% of the total assets (the Loans) of the Plan periodically over the next five years to GMBA (the Partnership). The Partnership is comprised of three limited partnerships, namely Hedges Investments, C&P Partnership and L&M Investments. The Partnership is engaged in the business of leasing real property, and will use the proceeds of the Loans to refinance the construction of a building (the Building), located at 951 S. Unionville Road, Sebewaing, Michigan. Messrs. Clarence, Herb and Loren Gettel

(the Gettels) are general partners in the partnerships which comprise the Partnership. The Gettels are also owners of the Plan sponsor.

4. In 1977, the Partnership constructed the Building at a total cost of $235,000. The mortgage for the Building is to be refinanced on or before February 15, 1986. The monthly payments are currently $2,700. The interest rate on the mortgage in 13½%.

5. Each Loan will be repaid in monthly installments of principal and interest over a 15 year period. The interest rate for the Loans will be 13½ percent. Every three years from the date of the closing until the Loans are repaid in full, the interest rate charged to the Partnership will be adjusted to a rate equal to the prevailing rate then charged by the Thumb National bank of Pigeon on similar loans.

6. The Loans will be recourse loans secured by a second mortgage on the Building. The Building is currently encumbered by a first mortgage in the amount of approximately $195,000. The Farmers & Merchant State Bank of Sebewaing holds the first mortgage. The applicant represents that although the Plan's second mortgage is subordinate to the first mortgage, the value of the Building remaining subject to the Plan's mortgage will be at least 150 percent of the outstanding balance of all loans on the Building. An independent appraisal of the Building, performed by Bud Leigh Realty, established the fair market value of the Building at $546,259 as of June 22, 1983. The Loans will be further secured by the guarantees of the Gettels whose collective net worth exceeds $546,000.

7. The Thumb National Bank of Pigeon (the Independent Fiduciary), will serve as the independent fiduciary for the Loans. The Independent Fiduciary has made the following representations:

(1) The Independent Fiduciary is unrelated to the Employer and the Gettels. The Partnership is a depositor with the Independent Fiduciary. However, the total deposits of the Partnership are less than one-tenth (1/10) of one (1%) percent of the total deposits of the Independent Fiduciary.

(2) The Independent Fiduciary has broad experience in pension and profit sharing plan administration, and has general investment and management expertise. It is currently the trustee of 13 pension and profit sharing plans with a total approximate value of $3,387,500.

(3) The Independent Fiduciary has reviewed the proposed Loans and the current investments of the Plan, and has determined that the Loans are an appropriate investment for the Plan, and in the best interests of the Plan and its participants and beneficiaries. In making this determination, it examined the overall investment portfolio and investment funding policy of the Plan. The Independent Fiduciary also considered the fact that the cash flow and liquidity needs of the Plan would not be impaired by the Loans, the Plan has sufficient liquid assets to fund the Loans, and no long term investments will have to be liquidated. The assets which will be liquidated consist of short-term certificates of deposit. Another significant factor considered by the Independent Fiduciary was that the Plan assets will remain diversified after the Loans are made inasmuch as the Loans represent only 25% of the assets of the Plan.

(4) The Independent Fiduciary has closely reviewed the Loans' proposed interest rate, the proposed security for the Loans, and the terms of the Loans, and has determined that the provisions are appropriate, suitable, and in the best interest of the Plan and its participants and beneficiaries. It represents that the proposed 13½% interest rate is the current fair market value rate for second mortgages.

(5) The Independent Fiduciary will assure that the collateral for the Loans remains at least 150% of the outstanding balance of all loans on the Building. In the event the Independent Fiduciary determines additional collateral is needed because the total value of the collateral falls below 150% of the outstanding balance of all loans on the Building, the Loan agreement provides that the Independent Fiduciary has the right to demand that additional collateral be provided. In addition, it has been empowered to enforce the terms of the Loans, including making demand for timely payment, bringing suit, or other appropriate process against the Partnership in the event of default.

(6) Prior to the disbursement of each of the Loans, the Independent Fiduciary will review the then current Plan investments and the Loan disbursement. If it is not then satisfied that the particular Loan disbursement is an appropriate investment for the Plan, and in the best interest of the Plan and its participants and beneficiaries, then such Loan disbursement will not be consummated.

(7) The Independent Fiduciary represents the provisions of the Loan are not less favorable to the Plan than those obtainable in a similar transaction with an unrelated party.

7. In summary, the applicant represents that the proposed transactions meet the statutory criteria of section 408(a) of the Act because:

(1) The Loans will be secured with adequate collateral;

(2) The Loans will be monitored by the Independent Fiduciary; and

(3) The Independent Fiduciary has reviewed all of the terms of the Loans, including the interest rate and collateral, and has determined that the Loans are in the interests of and protective of the Plan and its participants and beneficiaries.

For Further Information Contact: Ms. Linda M. Hamilton of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Lehndorff & Babson Property Fund (the Fund), Located in Dallas, Texas

[Application No. D-4941]

Proposed Exemption

Section I. Exemption for Certain Transactions Involving the Fund

(a) The restrictions of sections 406(a), 406(b)(2) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply to the transactions described below if the applicable conditions set forth in Section III are met.

(1) *Transactions Between Parties-In-interest and the Fund: General.* Any transaction between a party-in-interest with respect to a plan which has an interest in the Fund (a Participating Plan) and the Fund, or any acquisition or holding by the Fund of employer securities or employer real property, if the party in interest is not Lehndorff & Babson Real Estate Counsel, Inc. (Lehndorff) or one of its affiliates, any other Fund maintained by Lehndorff or one of its affiliates, and if, at the time of the transaction, acquisition or holding, the interest of the Participating Plan, together with the interests of any other Participating Plans maintained by the same employer or employee organization in the Fund, does not exceed 10 percent of the total of all assets in the Fund.

(2) *Special Transactions Not Meeting the Criteria of Section I(a)(1) Between Employers of Employees Covered by a Multiemployer Plan and the Fund.* Any transaction between an employer (or an affiliate of an employer) of employees covered by a multiemployer plan (as defined in section 3(37)(A) of the Act and section 414(f)(1) of the Code) that is a Participating Plan, and the Fund, or any acquisition or holding by the Fund of employer securities or employer real property, if at the time of the transaction, acquisition or holding—

The interest of the multiemployer plan in the Fund exceeds 10 percent of the

total assets in the Fund, but the employer is not a "substantial employer" with respect to the plan and would not be a "substantial employer" if "5 percent" were substituted for "10 percent" in the definition of "substantial employer."

(3) *Acquisitions, Sales, or Holdings of Employer Securities and Employer Real Property.* (A) Except as provided in subsection (B) of this section (3), any acquisition, sale or holding of employer securities or employer real property by the Fund which does not meet the requirements of paragraphs (a)(1) and (a)(2) of this Section I, if no commission is paid to Lehndorff or to the employer, or any affiliate of Lehndorff or the employer in connection with the acquisition or sale of employer securities or the acquisition, sale or lease of employer real property; and

(i) In the case of employer real property—

(aa) Each parcel of employer real property and the improvements thereon held by the Fund are suitable (or adaptable without excessive cost) for use by different tenants, and

(bb) The property of the Fund that is leased or held for lease to others, in the aggregate, is dispersed geographically.

(ii) In the case of employer securities—

(aa) Neither Lehndorff nor any of its affiliates is an affiliate of the issuer of the security, and

(bb) If the security is an obligation of the issuer, either:

1. The Fund owns the obligation at the time the plan acquires an interest in the Fund, and interests in the fund are offered and redeemed in accordance with valuation procedures of the Fund applied on a uniform or consistent basis, or

2. Immediately after acquisition of the obligation by the Fund, not more than 25 percent of the aggregate amount of obligations issued in the issue and outstanding at the time of acquisition is held by such plan, and at least 50 percent of the aggregate amount of obligations issued in the issue and outstanding at the time of acquisition is held by persons independent of the issuer. Lehndorff, its affiliates and any collective investment fund maintained by Lehndorff or its affiliates shall be considered to be persons independent of the issuer if Lehndorff is not an affiliate of the issuer.

(B) In the case of a Participating Plan that is not an eligible individual account plan (as defined in section 407(d)(3) of the Act), the exemption provided in subsection (A) of this section (3) shall be available only if, immediately after the acquisition of the securities or real property, the aggregate fair market value of employer securities and employer real property with respect to which Lehndorff or its affiliate has investment discretion does not exceed 10 percent of the fair market value of all the assets of the Participating Plan with respect to which Lehndorff or its affiliate has such investment discretion.

(C) For purposes of the exemption contained in subsection (A) of this section (3), the term "employer securities" shall include securities issued by, and the term "employer real property" shall include real property leased to, a person who is a party-in-interest with respect to a Participating Plan by reason of a relationship to the employer described in section 3(14) (E), (G), (H) or (I) of the Act.

(b) The restrictions of section 406(a)(1) (A) through (D) and section 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the transactions described below, if the conditions of Section III are met.

(1) *Certain Leases and Goods.* The furnishing of goods to the Fund by a party-in-interest with respect to a Participating Plan or the leasing of real property owned by the Fund to such party-in-interest and the incidental furnishing of goods to such party-in-interest by the Fund, if—

(A) In the case of goods, they are furnished to or by the Fund in connection with real property owned by the Fund;

(B) The party-in-interest is not Lehndorff, any affiliate of Lehndorff, or one of the other Funds; and

(C) The amount involved in the furnishing of goods or leasing of real property in any calendar year (including the amount under any other lease or arrangement for the furnishing of goods in connection with the real property investments of the Funds with the same party-in-interest, or any affiliate thereof) does not exceed the greater of $25,000 or 0.5 percent of the fair market value of the assets of the Fund on the most recent valuation date of the Fund prior to the transaction.

(2) *Transactions Involving Places of Public Accommodation.* The furnishing of services, facilities and any goods incidental to such services and facilities by a place of public accommodation owned by the Fund to a party-in-interest with respect to a Participating Plan, if the services, facilities and incidental goods are furnished on a comparable basis to the general public.

(c) The restrictions of section 406(a)(1) (A) through (D) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to the following transaction if the conditions of Section III are met:

Any transaction between the Fund and a person who is a party in interest with respect to a Participating Plan, if—

(1) The person is a party in interest (including a fiduciary) solely by reason of providing services to the Participating Plan, or solely by reason of a relationship to a service provider described in section 3(14) (F), (G), (H) or (I) of the Act, or both, and the person neither exercised nor has any discretionary authority, control, responsibility or influence with respect to the investment of the Participating Plan's assets in, or held by, the Fund;

(2) At the time of the transaction, the interest of the Participating Plan, together with the interests of any other Participating Plan maintained by the same employer or employee organization in the Fund, does not exceed 20 percent of the total of all assets in the Fund; and

(3) The person is not Lehndorff or an affiliate of Lehndorff.

(d) The restrictions of section 406(a)(1) (A) through (D) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to the purchase and sale of units of beneficial interest in the Fund if no more than reasonable compensation is paid therefor, each purchase and sale is authorized in writing by a fiduciary of the Participating Plan who is independent of Lehndorff and any of its affiliates, and the applicable conditions of Section III are met.

Section II. Excess Holdings Exemption for Employee Benefit Plans

(a) The restrictions of sections 406(a) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to any acquisition or holding of qualifying employer securities or qualifying employer real property (other than through the Fund) by a Participating Plan if: (1) The acquisition or holding constitutes a prohibited transaction solely by reason of being aggregated with employer securities or employer real property held by the Fund; (2) the requirements of either paragraph (a)(1) or paragraph (a)(2) of Section I of this exemption are met; and (3) the applicable conditions set forth in Section III of this exemption are met.

Section III. General Conditions

(a) At the time the transaction is entered into, and at the time of any subsequent renewal thereof that requires the consent of Lehndorff or its affiliate, the terms of the transaction are not less favorable to the Fund than the terms generally available in arm's-length transactions between unrelated parties.

(b) Lehndorff or its affiliates maintain for a period of six years from the date of the transaction the records necessary to enable the persons described in paragraph (c) of this Section III to determine whether the conditions of this exemption have been met, except that: (1) A prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of Lehndorff or its affiliates, the records are lost or destroyed prior to the end of the six-year period, and (2) no party in interest shall be subject to the civil penalty that may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975 (a) and (b) of the Code, if the records are not maintained, or are not available for examination as required by paragraph (c) below.

(c)(1) Except as provided in section 2 of this paragraph (c) and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (b) of this Section III are unconditionally available at their customary location for examination during normal business hours by:

(A) Any duly authorized employee or representative of the Department or the Internal Revenue Service,

(B) Any fiduciary of a Participating Plan who has authority to acquire or dispose of the interests in the Fund of the Participating Plan or any duly authorized employee or representative of such fiduciary,

(C) Any contributing employer to any Participating Plan or any duly authorized employee or represenative of such employer, and

(D) Any participant or beneficiary of any Participating Plan, or any duly authorized employee or representative or such participating or beneficiary.

(2) None of the persons described in subparagraphs (B) through (D) of this paragraph (c) shall be authorized to examine trade secrets of Lehndorff or its affiliate, or commercial or financial information which is privileged or confidential.

Section IV. Definitions and General Rules

For the purposes of this exemption,

(a) The term "the Fund" shall include any collective investment fund that may hereafter be established, operated and managed by Lehndorff or its affiliate in essentially the same manner as the Lehndorff & Babson Property Fund.

(b) An "affiliate" of a person includes—

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person,

(2) Any officer, director, employee, relative of, of partner in any such person, and

(3) Any corporation or partnership of which such person is an officer, director, partner or employee.

(c) The term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(d) The term "relative" means a "relative" as that term is defined in section 3(15) of the Act (or a "member of the family" as that term is defined in section 4975(e)(6) of the Code), or a brother, a sister, or a spouse of a brother or sister.

(e) The term "substantial employer" means for any plan year an employer (treating employers who are members of the same affiliated group, within the meaning of section 1563(a) of the Code, determined without regard to section 1563 (a)(4) and (e)(3)(c) of the Code, as one employer) who has made contributions to or under a multiemployer plan for each of—

(1) The two immediately preceding plan years, or

(2) The second and third preceding plan years, equaling or exceeding 10 percent of all employer contributions paid to or under that plan for each such year.

(f) The time as of which any transaction, acquisition or holding occurs is the date upon which the transaction is entered into, the acquisition is made or the holding commences. In addition, in the case of a transaction that is continuing, the transaction shall be deemed to occur until it is terminated. If any transaction is entered into, or an acquistion is made, on or after the effective date of this exemption, or a renewal that requires the consent of the Fund occurs on or after the effective date of this exemption, and the requirements of this exemption are satisfied at the time the transaction is entered into or renewed, respectively, or at the time the acquisition is made, the requirements will continue to be satisified thereafter with respect to the transaction or acquisition and the exemption shall apply thereafter to the continued holding of the property so acquired. Notwithstanding the foregoing, this exemption shall cease to apply to transactions exempt by virture of subsections I(a)(1) and (I)(c) at such time as the interest of the Participating Plan exceeds the percentage interest limitations set forth in those subsections, unless no portion of such excess results from an increase in the assets allocated to the Fund by the Participating Plan. For this purpose, assets allocated do not include the investment of Fund earnings. Nothing in this paragraph (f) shall be construed as exempting a transaction entered into by the Fund which becomes a transaction described in section 406 of the Act or section 4975 of the Code while the transaction is continuing, unless the conditions of the exemption were met either at the time the transaction was entered into or at the time the transaction would have become prohibited but for this exemption.

(g) Each Participating Plan shall be considered to own the same proportionate undivided interest in each asset of the Fund as its proportionate interest in the total assets of the Fund as calculated on the most recent preceding valuation date of the Fund.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to this proposed exemption.

Preamble

On July 25, 1980, the Department published a class exemption, Prohibited Transaction Exemption 80–51 (PTE 80–51, 45 FR 49709), which permits collective investment funds that are maintained by banks and in which employee benefit plans participate to engage in certain transactions provided that specified conditions are met. The transactions for which the applicants have requested relief are those which, in part, are the subject of PTE 80–51.

The Department stated in PTE 80–51 that a comment had been received to the proposed class exemption requesting that it be amended to apply to collective investment funds that are not maintained by banks. Relief was granted for bank collective investment funds because, among other reasons, such funds are regulated by other governmental agencies and constitute a well-defined class of funds. In the case of collective investment funds that are not maintained by banks, the Department found that the record was

insufficient to determine the nature of the funds and the entities managing the funds that would comprise the class covered by such broad relief. As a result, the Department stated that it could not make the required statutory findings for such relief, and that relief for non-bank maintained collective investment funds should be dealth with on an individual rather than a class basis.

To date the Department has proposed and granted various individual exemptions on behalf of collective investment funds which have not qualified for relief under PTE 80–51 or Prohibited Transaction Exemption 78–19 (PTE 78–19, 43 FR 59915, December 22, 1978; class relief on behalf of pooled separate accounts sponsored by insurance companies). Such individual exemptions have provided relief for similar transactions subject to, in most instances, similar terms and conditions as those contained in the class exemptions.

Summary of Facts and Representations

1. The Fund was organized on April 21, 1983, as a group trust described in Rev. Rul. 81–100, 1981–1 C.B. 326. The Fund will provide qualified employee benefit plans and certain governmental plans with a medium for pooling portions of their funds for investment primarily in income-producing real property. The Fund is intended to be exempt from Federal income taxes under section 501(a) of the Code as a qualified trust under section 401(a) of the Code.

2. Pursuant to a written investment management agreement entered into with the trustees of the Fund, Lehndorff serves as the investment manager for the Fund. Lehndorff is a Texas corporation wholly-owned by Lehndorff U.S. Equities, Inc. (Lehndorff Equities) and David L. Babson & Co. (Babson), and its officers are experienced officers and employees of the above corporations. Lehndorff Equities has been engaged in the real estate investment advisory service since 1965, and has assets under management with an estimated market value of $2.5 billion. Babson is an investment counsel firm supervising a wide range of accounts with assets totalling approximately $3.5 billion. Lehndorff Expects to manage several group trusts structured similar to the Fund in the future. Pursuant to the investment management agreement, Lehndorff will be vested with exclusive authority to acquire, manage, and dispose of Fund investments. Lehndorff intends to qualify as a registered investment adviser under the Investment Advisers Act of 1940.

Messrs. G. Andrews Smith, M. Thomas Lardner, and James S. White serve as the trustees (the Trustees) of the Fund. The Trustees are officers of Lehndorff and/or Lehndorff Equities and Babson. The Trustees will not be compensated by the Fund.

3. Interests in the Fund are being offered pursuant to an offering memorandum (the Memorandum) which describes the investment objectives, operations, and management of the Fund. Attached to the Memorandum are copies of the group trust agreement, investment management agreement, and participation agreement which further describe the management and operations of the Fund, and describe the respective rights and obligations of the participating parties. Units of beneficial interest in the Fund (Units) are offered for a price of $100,000. The offering for units has been extended by the Trustees beyond its original closing date of December 31, 1983, through December 31, 1984. The maximum number of Units which will be sold by the Fund is 500 ($50,000,000). However, the Trustees, in their sole discretion, may increase the maximum to not more than 1,000 Units ($100,000,000).

The Units will be privately offered and will not be registered under the Securities Act of 1933. Neither the Units nor any interest therein may be resold, transferred, assigned, or otherwise disposed of or encumbered by Participating Plans, as required by Rev. Rul. 81–100.

4. The decision of any plan to invest in the Fund will be made by fiduciaries of that plan. The Trustees may reject a subscription for any reason. The applicant represents that both Babson and Lehndorff Equities act as an investment managers or investment advisers with respect to Participating Plans. Specifically, Babson and/or its affiliates have traditionally acted as investment managers for plans with respect to securities and have also been retained by plans to provide services with respect to specific real estate investments made by the plans. With respect to its investment management duties, Babson exercises discretion only with respect to a discrete portion of a plan's assets as defined in the investment management agreement. Lehndorff Equities and its affiliates act as both investment advisers and investment managers with respect to plan assets and, like Babson, provide services with regard to specific real estate investments made by the plans. The applicant represents that none of the individual Trustees of the Fund, nor any of the employees, officers, directors, or shareholders of Lehndorff, Lehndorff Equities, Babson or their affiliates will exercise any discretionary authority over or otherwise participate in the decision of any plan to invest in the Fund. Specifically, in this regard, assets of Participating Plans subject to the investment discretion of Babson or its affiliates will not be invested in the Fund, and assets for which Lehndorff Equities or any affiliate act as an investment manager or investment adviser will not be eligible for investment inthe Funds.[1] Similarly, none of the individual Trustees of the Fund, nor any of the employees, officers, directors, or shareholders of Lehndorff, Lehndorff Equities, Babson or their affiliates, will serve as a director or officer of any sponsor of any Participating Plan.

5. Although the Memorandum advises fiduciaries of Participating Plans that investment in the Fund should be considered on a long-term basis only, if a Participating Plan desires to dispose of its investment, it may apply to the Trustees for redemption of its Units. At the option of the Trustees, the remaining Participating Plans will be given an opportunity to purchase all or part of the withdrawing Plan's Units.

6. The Trustees, in their sole discretion, may terminate the Fund at any time. Pursuant to the group trust agreement, the Fund may be terminated during the calendar year of the tenth anniversary of full subscription by the vote of Participating Plans holding at least fifty percent of the number of Units then outstanding. If not so terminated, the Fund shall continue for three years during which time properties must be sold to satisfy any requests for redemption. At the end of such three years, the Fund will terminate. Upon termination for any other reason, the Trustees shall have five years to liquidate the Fund properties in an

[1] To the extent that, in the ordinary course of business, Lehndorff, Lehndorff Equities, Babson or their affiliates provide "investment advice" to a Participating Plan within the meaning of regulation 29 CFR 2510.3–21(c)(1)(ii)(B) and recommends an investment of the plan's assets in the Fund, the presence of an unrelated second fiduciary acting on the consultant/investment adviser's recommendations on behalf of the plan is not sufficient to insulate the advisers from fiduciary liability under 406(b) of the Act. *(See* Advisory Opinions 84–03A and 84–04A, issued by the Department on January 4, 1984.) The Department is unable to conclude that fiduciary self-dealing of this type (if present) is in the interests or protective of plans and their participants and beneficiaries and, accordingly, has limited exemptive relief for the acquisition or sales of units of beneficial interest in the Fund to section 406(a) violations only.

orderly fashion and to distribute, *pro rata*, all Fund assets (less reasonable reserves for unpaid expenses and contingencies), to the Participating Plans.

7. The Fund will maintain such reserves as Lehndorff deems appropriate. These reserves, along with any subscription proceeds not immediately used to acquire real estate, will be temporarily invested in liquid investments, including short-term United States government securities, interest-bearing deposits, bankers' acceptances, or other short-term money market instruments, including short term debt and commercial paper issued by major corporations some of which may be sponsors of Participating Plans. Selection of such short-term investments will be within the discretion of Lehndorff.

8. Pursuant to the applicable Fund documents, Lehndorff, as investment manager, will receive no fee based on any particular transaction, but will receive a single fee for its services. This fee is based in part on the value of the investments of the Fund and in part on rentals received from each property. If Lehndorff or any affiliate provide additional or different services than those effected by Lehndorff in connection with the receipt of its investment management fee, Lehndorff or any affiliate will not be paid any fees or commission, other than reimbursement for direct costs, for the provision of such services.[1]

9. Because each Participating Plan will incorporate as part of such plan the terms, provisions, and conditions of the group trust agreement, the Fund will occupy a position equivalent to the trust created under such Participating Plan. Accordingly, pursuant to Revenue Ruling 81–100, it is the position of the Department that a "party in interest" or "disqualified person" as defined in the Act with respect to a Participating Plan may be viewed as a party in interest with respect to the Fund. Accordingly, a transaction between such party and the Fund may be viewed as a prohibited transaction as described in section 406(a) of the Act, section 4975(c) of the Code, or both. As described in the Preamble, the applicant represents that if the Fund is unable to enter into transactions with certain persons because such persons are parties in interest with respect to Participating Plans, the Fund's ability to prudently make its investments and conduct its operations solely for the benefit of the Participating Plans will be unduly restricted. In addition, the purchase and sale of units of participation in the Fund may be considered a prohibited sale or transfer of assets between a Participating Plan and the Trustees that is not exempted by operation of the statutory exemption provided in section 408(b)(8) of the Code because the Fund is not maintained by a bank or an insurance company.

10. As mentioned in the Preamble, the applicant requests prospective exemptive relief for many of those classes of transactions between the Fund and certain parties in interest which were afforded exemptive relief in PTE 80–51. The applicant proposes that such classes of transactions be subject to similar conditions, limitations, and restrictions as those delineated with respect to those transactions afforded exemptive relief in PTE 80–51.

11. The books and records of the Fund will be audited by an independent public accountant each fiscal year. A copy of such reports, along with any other pertinent information, will be forwarded to the fiduciaries and sponsors of each Participating Plan. At the end of each of the first three quarters of each fiscal year, Lehndorff will prepare and send a detailed report of the business transacted by the Fund during such quarter. Such quarterly reports will not be audited.

12. In summary, the applicant represents that the proposed exemption for certain transactions between the Fund and certain parties in interest satisfies the criteria of section 408(a) of the Act because: (a) The proposed exemption would allow the Fund to enter into transactions which, although prohibited, are necessary for the Fund to prudently make its investments and conduct its operations solely for the benefit of its Participating Plans and their participants and beneficiaries; (b) the proposed exemption would only apply to various classes of prohibited transactions which were afforded relief in PTE 80–51 and would be subject to similar conditions, limitations, and restrictions as those delineated with respect to those transactions afforded exemptive relief in PTE 80–51; and (c) independent fiduciaries, unrelated to the Fund, the Trustees, the Investment Manager or any other related party will maintain complete discretion with respect to investment of the Participating Plans' assets in the Fund.

For Further Information Contact: Mr. David Stander of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 25th day of September 1984.

Elliot I. Daniel,

Acting Assistant Administrator for Regulations and Interpretations, Office of Pension and Welfare Benefit Programs, U.S. Department of Labor.

[FR Doc. 84-25555 Filed 9-27-84; 8:45 am]

BILLING CODE 4510-29-M

[1] The Department is not proposing an exemption for the receipt investment management fees beyond that provided by section 408(b)(8) of the Act.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Institute of Museum Services; Meeting

AGENCY: Institute of Museum Services, NFAH.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the agenda of a forthcoming meeting of the National Museum Services Board. This notice also describes the functions of the Board. Notice of this meeting is required under the Government in the Sunshine Act (Pub. L. 94-409) and regulations of the Institute of Museum Services, 45 CFR 1180.84.

DATE: November 9, 1984.

ADDRESS: California Museum of Science and Industry, 700 State Drive, Los Angeles, California 90037.

FOR FURTHER INFORMATION CONTACT: Michele N. Rossi, Executive Assistant to the National Museum Services Board, Institute of Museum Services, 1100 Pennsylvania Avenue, NW., Washington, D.C. 20506, (202) 786-0536.

SUPPLEMENTARY INFORMATION: The National Museum Services Board is established under the Museum Services Act which is the Arts, Humanities, and Cultural Affairs Act of 1976, Pub. L. 94-462. The Board has the responsibility for general policies with respect to the powers, duties and authority vested by the Institute under this title. Grants are awarded by the Institute of Museum Services after review by the Board

The meeting of the Board is open to the public on November 9, 1984 from 10:00 a.m. to 5:00 p.m. The agenda for the meeting on November 9, 1984 will be as follows:

I. Approval of the July 20-21, 1984 minutes
II. Director's Report
III. Program Reports
IV. IMS Staff Activities
V. Regulations Review
VI. Reauthorization Update
VII. Other Business

Susan E. Phillips,

Director.

[FR Doc. 84-25843 Filed 9-27-84; 8:45 am]
BILLING CODE 7036-01-M

NATIONAL SCIENCE FOUNDATION

Extension of Deadline for Comments on Adoption of New Policies on Copyrightable Material and Income and Draft Implementing Material

AGENCY: National Science Foundation.

ACTION: Notice of Extension of Deadline for Comments on Adoption of New Policies on Copyrightable Material and Income and Draft Implementing Material.

SUMMARY: This notice extends the deadline for commenting on the National Science Foundation's new policies on rights to and income from copyrightable material created under NSF grants and contracts and on draft award clauses and internal procedures implementing those policies from September 17, 1984 to October 31, 1984.

DATE: Comments received before October 31, 1984 will be considered in preparation of final implementation material.

ADDRESS: Requests for copies of background and implementation materials and comments on the newly-adopted policies or the proposed implementation of them should be sent to: John Chester, Intellectual Property Attorney, Office of the General Counsel National Science Foundation, Washington, DC 20550, 202-357-9447 (this is not a toll-free number).

FOR FURTHER INFORMATION CONTACT: John Chester, Intellectual Property Attorney, Office of the General Counsel National Science Foundation, Washington, DC 20550, 202-357-9447 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: By notice published on July 18, 1984 (49 FR 29169), the National Science Foundation requested comments on its new policies on rights to and income from copyrightable material created under NSF grants and contracts and on draft award clauses and internal procedures implementing those policies. That notice said that comments received before September 17, 1984, would be considered in the preparation of final implementation material.

By letter dated September 17, 1984, the Council on Governmental Relations has requested that the Foundation extend the comment period to October 31, 1984. To give all interested persons and organizations the fullest opportunity to comments on the new policies and draft implementation material, the Foundation agrees that it will consider all comments received before October 31, 1984 in the preparation of final implementation material.

Copies of background materials, draft award clauses, and draft internal procedures implementing these principles still may be obtained from the address above.

Dated: September 21, 1984.

John Chester,

Intellectual Property Attorney.

[FR Doc. 84-25810 Filed 9-27-84; 8:45 am]
BILLING CODE 7555-01-M

Permit Applications Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of Permit Applications Received Under Antarctic Conservation Act of 1978, Pub. L. 95-541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act of 1978 at Title 45 Part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATE: Interested parties are invited to submit written data, comments, or views with respect to these permit applications by October 29, 1984. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESS: Comments should be addressed to Permit Office, Room 627, Division of Polar Programs, National Science Foundation, Washington, D.C. 20550.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers at the above address or (202) 357-7934.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95-541), has developed regulations that implement the "Agreed Measures for the Conservation of Antarctic Fauna and Flora" for all United States citizens. The Agreed Measures, developed in 1964 by the Antarctic Treaty Consultative Parties, recommended establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas as requiring special protection. The regulations establish such a permit system to designate Specially Protected Areas and Sites of Special Scientific Interest. Additional information was published in the 30 July 1984 Federal Register, page 30377.

The applications received are as follows:

1. *Applicant:* Jeanette A. Thomas, Hubbs Sea World Research Institute, San Diego, California 92109.

Activity for Which Permit is Requested

Import into U.S.A.: In early 1985 the New Zealand Antarctic Program will kill up to 30 Weddell seals. The applicant proposes to collect the earbones of these animals. Specimens will be preserved, imported into the U.S.A. and examined

for hearing damage. No seals will be killed by the applicant.

Location: McMurdo Sound, Antarctica.

Dates: December 1, 1984 through December 31, 1985.

2. *Applicant:* Ann Parks Hawthorne, Box 372, Burnsville, North Carolina 28714.

Activity for Which Permit is Requested

Taking; Enter Site of Special Scientific Interest; Enter Specially Protected Area.

The applicant is a photographer assigned to the U.S. Antarctic Program and may need to be in close proximity to birds, mammals and protected areas. The applicant requests permission to enter protected areas and approach antarctic birds and mammals for photograph purposes only. No birds or mammals will be physically handled or taken.

Location: McMurdo Sound area, Antarctic Peninsula area.

Dates: November 1, 1984 through March 31, 1985.

3. *Applicant:* William M. Hamner, Department of Biology, University of California, Los Angeles, California 90024.

Activity for Which Permit is Requested

Taking; Import into U.S.A.; Enter Specially Protected Area.

The applicant is conducting a field investigation of both krill and its predators. Occurrences of predation will be documented photographically in order to analyze behavioral patterns used by krill predators to catch their prey. The use of krill to feed young will also be photographed in bird rookeries. Stomach samples will be collected from adult birds captured at breeding colonies by forcing the birds to regurgitate ingested food. Some bird specimens must be collected because at sea the birds cannot be caught by hand and because careful examination of entire gut contents is necessary to calibrate data collected from regurgitated samples.

The applicant also requests permission to enter Litchfield Island to continue observations of penguin groups at sea which were begun in early 1983.

The species to be taken are:

Birds	Killed	Captured/released
Giant petrel	20	
Southern fulmar	20	
Cape petrel	20	
Black-bellied storm petrel	10	
So. black-backed gull	30	25
Wilson's petrel	70	25
South polar skua	15	25
Antarctic tern	30	
Arctic tern	5	
Blue-eyed shag	20	25
Adelie penguin	20	25
Chinstrap penguin	10	25
Gentoo penguin	10	25

Location: Drake Passage; Bransfield Strait; Gerlache Strait; Arthur Harbor and waters adjacent to Anvers Island; Litchfield Island Specially Protected Area.

Dates: December 1, 1984 to April 1, 1985.

Authority to publish this notice has been delegated by the Director, NSF to the Director, Division of Polar Programs.

A. N. Fowler,

Acting Division Director, Division of Polar Programs.

[FR Doc. 84-25611 Filed 9-27-84; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations; Monthly Notice

I. Background

Pursuant to Public Law (Pub. L.) 97-415, the Nuclear Regulatory Commission (the Commission) is publishing its regular monthly notice. Pub. L. 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This monthly notice includes all amendments issued, or proposed to be issued, since the date of publication of the last monthly notice which was published on August 22, 1984 (49 FR 33353) through September 17, 1984.

NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commisison, Washington, D.C. 20555, Attention: Docketing and Service Branch.

By October 29, 1984, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's

property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conderence scheduled in the proceeding, a petitioner shall file a supplement to the petiiton to intervene which must include a list of the contentions which are sought to be litigataed in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (*Branch Chief*): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the local public document room for the particular facility involved.

Arkansas Power and Light Company, Docket No. 50-313, Arkansas Nuclear One, Unit No. 1, Pope County, Arkansas

Date of amendment request: August 13, 1984.

Description of amendment request: The amendment would revise the Technical Specifications (TSs) for Steam Generator Surveillance to (1) provide clarity, (2) modify the designation of those areas identified as special areas in the steam generator where imperfections have been previously found and (3) allow the sleeving of ten steam generator tubes as part of a demonstration program. Only the portion of the proposed amendment dealing with (3) above is considered in this notice. Portions (1) and (2) above will be considered in a separate notice.

Specifically the portion of the proposed amendment considered in this notice would add a new footnote to Table 4.18-2 to allow for sleeving of ten defective tubes during the ANO-1 sixth refueling as part of a demonstration program. Currently the TSs allow repair of defective steam generators by plugging defective tubes. In the proposed change, the licensee intends to repair up to ten (10) selective steam generator tubes by installing sleeves (sensitized Inconel alloy 600) inside the original tubes to bridge the degraded areas, thus permitting the tubes to remain in service. The sleeves would be roll expanded into the tubes at both ends of the sleeves to provide a leak proof boundary and structural integrity of the sleeves. The method to be used is similar to that which has been employed at utilities in large scale projects since the 1950's. The licensee has indicated that the tube sleeves have been qualified for use in degraded Once Through Steam Generator (OTSG) tubes by a series of tests and analysis and that the sleeves are strong enough, sufficiently leak free and corrosion resistant to be used as a permanent remedy to keep the degraded tubes in service. Also, the licensee has indicated that up to 5000 sleeves could be installed in each steam generator with minimal effect upon plant operation. The effect of installing ten sleeves as proposed by the licensee would be insignificant. Further, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated or a significant reduction in a margin of safety. The NRC staff agrees with the preliminary results provided in the licensee's application.

Basis for proposed no significant hazards consideration determination:

The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). None of the examples, relating to whether significant hazards considerations are likely or unlikely, appear to be directly applicable to this amendment. The Commission, however, proposes to determine that the application does not involve a significant hazards consideration because the proposed method of repairing the degraded tubes will restore their original capabilities and provide a level of safety in operation commensurate with that anticipated of the facility had it not experienced the need to repair steam generators. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

Local Public Document Room Location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801.

Attorney for licensee: Nicholas S. Reynolds, Bishop, Liberman, Cook, Purcell & Reynolds, 1200 Seventeenth Street, N.W., Suite 700, Washington, DC 20036.

NRC Branch Chief: John F. Stolz.

Arkansas Powes and Light Company, Docket No. 50–313, Arkansas Nuclear One, Unit No. 1, Pope County, Arkansas

Date of amendment request: August 13, 1984.

Description of amendment request: The amendment would revise the Technical Specifications (TSs) for Steam Generator Surveillance to (1) provide clarity, (2) modify the designation of those areas identified as special areas in the steam generator where imperfections have been previously found and (3) allow the sleeving of ten steam generator tubes as part of a demonstration program. Only the portions of the proposed amendment dealing with (1) and (2) above are considered in this notice. Portion (3) dealing with the sleeving of the steam generator tubes will be considered in a separate notice.

Specifically, the portions of the proposed amendment considered in this notice would:

1. Clarify Specification 4.18.3.a.2,

The first sample inspection during each inservice inspection * * * shall include:

1. * * *

2. At least 50% of the tubes inspected shall be in those areas where experience has indicated potential problems.

The following phrase would be added: "except where specific groups are inspected per Specification 4.18.3.a.3."

The proposed change does not change the intent of the TS but rather makes it clear that if the licensee chooses the option of fully inspecting a special group (which indeed is a potential problem area), then that group does not need to be considered in the first random inspection and, more specifically, would not be considerd in the 50% of the first random inspection (Specificaion 4.18.3.a.2).

2. Change Specification 4.18.3.a.2 which defines the groups that may, at the licensee's option, be excluded from the first random inspection if the group is fully inspected. The change would define the group as "potential problem areas to the portion of tubes (i.e., over the tubes' height) where imperfections have previously been found" in contrast to the current TS which implies that the group include the complete length of the tubes in the group.

3. Delete Specification 4.18.3.a.3.(2) which defines a special group that the licensee may, at the licensee's option, fully inspect and thus not be part of the first random inspection. This group consists of those tubes which are supported in the 15 support plate by drilled holes rather than broached holes.

4. Add Specificaion 4.18.3.a.3.(3) which defines a special group that the licensee may, at the licensee's option, fully inspect and thus not be a part of the first random inspection. This group consists of those portions of tubes where previous imperfections have been found and is bounded by a large wedge (consisting of ⅓ of the tube bundle) originating at the center of the bundle and fanning out on either side of the lane region.

5. Correct a typographical error in Note 2 of Table 4.18–2. Reference to Specification 4.18.3.a.4 should be "4.18.3.a.3."

Basis for proposed no significant hazards consideration determination: The Commission has provded guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870) of amendments that are considered not likely to involve significant hazards considerations.

The proposed change discussed in (1) above is most like example (i) which constitutes a purely administrative change to the technical specifications: for example, a change to achieve consistency throughout the TSs. Since this portion of the proposed change more clearly describes what was intended, the Commission's staff proposes to determine that this portion of the application does not involve a significant hazards consideration.

For the proposed change discussed in (2) above, the three factors discussed in 10 CFR 50.92 are discussed as follows: The current TS implies that special groups include the full length of the tubes in the groups. The existence of special groups in the TS is the result of data from the operation of ANO–1 and, therefore, at the licensee's option, would be fully inspected. Since the implementation of the current TS, more operating data has been collected at ANO–1 and it indicates that imperfections in the current defined special groups are more likely in certain portions of the tubing (i.e., over the tube's length). Therefore, the licensee proposes to provide 100% inspection of the potential problem areas of the current defined special groups. Accordingly, the results of an inspection of the proposed defined special groups would yield results equivalent to the inspection results of the current defined special groups. In addition, the portion of tubes of the current defined special groups which would not be inspected under the proposed definition of the special groups would be included in the inspection of the first random inspection sample. Therefore, the proposed change would not (1) increase the probability or consequences of an accident previously evaluated, (2) create the possibility of a new or different kind of accident from any previously evaluated, or (3) involve a significant reduction a margin of safety. Therefore, the Commission's staff proposes to determine that this portion of the application does not involve a significant hazards consideration.

With regard to (3) above, due to the fact that this proposed amendment to the TSs merely eliminates an option that the licensee would exercise without limitation, the proposed change would not (1) increase the probability or consequences of an accident previously evaluated, (2) create the possibility of a new or different kind of accident from any previously evaluated, or (3) involve a significant reduction of a margin of safety. Therefore, the Commission's staff proposes to determine that this portion of the application does not involve a significant hazards consideration.

The proposed change discussed in (4) above is most like example (ii) which constitutes an added limitation, restriction or control not presently included in the TS. The proposed special group is quite a large group to be fully inspected and would constitute a much larger surveillance of tubes if the licensee chooses the option of fully inspecting this group. Therefore, the Commission's staff proposes to determine that this portion of the application does not involve a significant hazards consideration.

The proposed change discussed in (5) above is most like example (i) which constitutes a purely administrative change to the technical specifications: for example, a correction of an error. The proposed change would correct the reference to Specification 4.18.3.a.4 in Table 4.18–2. Therefore, the Commission's staff proposes to determine that this portion of the application does not involve a significant hazards consideration.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801.

Attorney for licensee: Nicholas S. Reynolds, Bishop, Liberman, Cook, Purcell & Reynolds, 1200 Seventeenth Street, N.W., Suite 700, Washington, DC 20036.

NRC Branch Chief: John F. Stolz.

Arkansas Power and Light Company, Docket No. 50–313, Arkansas Nuclear One, Unit No. 1, Pope County, Arkansas

Date of amendment request: August 15, 1984.

Description of amendment request: The amendment would add Technical Specification Limiting Conditions for Operation and Surveillance Requirements to protect the reactor coolant system against an event of overpressurization during low temperatures where the reactor vessel material toughness, i.e., resistance to brittle fracture, is reduced from that which exists at normal operating temperature. Specifically, the proposed amendment would require (1) the core flood tank discharge valves be closed with power removed from the valves during plant cooldown, (2) the high pressure injection motor-operated valves be closed with their control circuits disabled when the reactor coolant temperature is less than 280 degrees F, (3) the plant not be operated in a water-solid condition with the reactor coolant system pressure boundary intact except as allowed by the emergency operating procedures, (4) surveillance of the low temperature overpressure protection alarm logic every 18 months, and (5) the exercise of the Power Operated Relief Valve (PORV) at the end of each refueling period.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). An example of actions involving no significant hazards considerations is an amendment involving a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications. The proposed Technical Specification modifications impose additional limitations, restrictions and controls and, therefore, fall within this example. Therefore, since the application for amendment involves proposed changes that are similar to the example for which no significant hazards considerations exist, the Commission has made a proposed determination that the application for amendment involves no significant hazards considerations.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801.

Attorney for licensee: Nicholas S. Reynolds, Bishop, Liberman, Cook, Purcell & Reynolds, 1200 Seventeenth Street, N.W., Suite 700, Washington, DC 20036.

NRC Branch Chief: John F. Stolz.

Arkansas Power and Light Company, Dockets Nos. 50–313 and 50–368, Arkansas Nuclear One, Units Nos. 1 and 2, Pope County, Arkansas

Date of amendment request: July 11, 1984.

Description of amendment request: This submittal is a revision to the request for amendments dated August 23, 1983, which was noticed in the Monthly **Federal Register** Notice on November 22, 1983 (48 FR 52805). The amendments would revise the Technical Specifications to incorporate hydrogen/oxygen concentration limitations and hydrogen/oxygen monitoring requirements in the radioactive waste gas systems. The proposed Technical Specifications would establish limits of hydrogen/oxygen concentrations in the Waste Gas Surge Tank and Waste Gas Decay Tank such that a flammable or explosive mixture would not be possible. This is an added limitation to the current Technical Specifications. The application was submitted in response to an NRC request to incorporate the applicable current staff positions, presented in NUREG–0472, "Radiological Effluent Technical Specifications for PWRs," to ensure compliance with 10 CFR 50, Appendix I. The revision proposes the additional requirement of continuous monitoring of the waste gas to the waste gas decay tanks by redundant waste gas analyzers. These analyzers will detect the formation of a potentially flammable mixture of hydrogen and oxygen in the Waste Gas System before it becomes flammable. The implementation of the proposed changes is expected to reduce significantly the likelihood of hydrogen explosions in the radioactive waste gas systems.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). The examples of actions involving no significant hazards include changes that constitute additional limitations not presently included in the Technical Specifications and that make the license conform to changes in the regulations. Since the proposed changes add requirements and ensure compliance with the regulations in accordance with the staff positions, the staff proposes to determine that the application does not involve a significant hazards consideration.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801.

Attorney for licensee: Nicholas S. Reynolds, Bishop, Liberman, Cook, Purcell & Reynolds, 1200 Seventeenth Street, N.W., Suite 700, Washington, D.C. 20036.

NRC Branch Chiefs: James R. Miller, John F. Stolz.

Baltimore Gas and Electric Company, Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of application for amendment: April 9, 1984 and June 29, 1984.

Description of amendment request: The proposed amendments would change the Unit 1 and Unit 2 Technical Specifications (TS) to reflect: (1) a change to the surveillance requirements for fire pumps to allow an alternate test method, (2) correction of a typographical error in a Unit 1 fire pump surveillance test, (3) clarification and correction of a typographical error concerning fire hose stations (4) clarification of operability requirements for the component cooling water system, (5) clarification of valve surveillance for component cooling, service water and salt water systems, and (6) provision for backup

instrumentation for the remote shutdown, wide range neutron flux instrumentation.

These changes to the TS are in partial response to the applications dated April 9, 1984 and June 29, 1984. The remaining issues addressed in these applications will be addressed in future correspondence.

Basis for proposed no significant hazards consideration determination: Calvert Cliffs Units 1 and 2 TS 3/4.7.11, "Fire Suppression Systems," includes operability and surveillance requirements for the electric and diesel powered fire pumps. One such surveillance requirement, applicable to both diesel and electric powered pumps, requires a monthly test by operating these pumps ". . . on recirculation flow." The term "recirculation" means the establishment of a flow path by which a quantity of fluid discharged from the pump is routed back to the suction side of the pump. BG&E has proposed a change to TS 3/4.7.11 to delete the phrase ". . . on recirculation flow" to allow for use of an alternate test method for the diesel and electric powered fire pumps.

The National Fire Codes, Volume 2, Chapter 20, Section 2–6, 1983 requires each fire pump to have a circulation relief valve. The code states that "Each pump shall be provided with an automatic relief valve set below the shutoff pressure at minimum expected suction pressure. It shall provide circulation of sufficient water to prevent the pump from overheating when operating with no discharge."

BG&E has proposed that these valves be utilized to provide a flow path in lieu of a recirculation flow path.

Our review of the alternate test method, involving the establishment of a fire pump flow path via the circulation relief valve, indicates that it provides an acceptable monthly demonstration of fire pump operability. Since the alternate test method is acceptable, use of this test will continue to demonstrate the reliability of the fire pumps.

On April 6, 1983 the NRC published guidance in the **Federal Register** (48 FR 14870) concerning examples of amendments that are not likely to involve significant hazards considerations. One such example (vi) involves changes ". . . where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan . . .". We conclude that the proposed change to TS 3/4.7.11 is consistent with this example and thus the Commission proposes to determine that this change involves no significant hazards considerations.

An additional change to Unit 1 TS 3/4.7.11 has been proposed to correct a typographical error. The word "fluch" in TS 4.7.11.1.1.d should actually be "flush." The correction of a typographical error was given as an example, (i) in 48 FR 14870, of an amendment which is not likely to involve significant hazards considerations. Accordingly, the Commission proposes to determine that the change to Unit 1 TS 4.7.11.1.1d involves no significant hazards considerations.

BG&E has proposed to correct a typographical error in TS Table 3.7–6, "Fire Hose Stations." Entry number 3 in Table 3.7–6 contains the words ". . . Aux Feeder Water Pipe Rooms" which should actually be "Aux Feedwater Pump Rooms." As indicated previously, correction of a typographical error is unlikely to involve a significant hazards consideration. Accordingly, the Commission proposes to determine that the proposed change to TS Table 3.7–6, which involves the correction of a typographical error, involves no significant hazards considerations.

BG&E has proposed a second change to TS Table 3.7–6. This change involves entry number 2 which describes hose station on to –10′ and –15′ levels of the auxiliary buildings. Since these hose stations are common to Units 1 and 2 (the hose stations are situated such that equipment from both units can be reached by the water spray) BG&E has proposed a clarifying footnote to indicate this commonality. The TS entry, as presently worded, could be misinterpreted to mean that these hose stations are located at *both* Units 1 and 2 and thus would represent 6 hose stations rather than the 3 hose stations actually installed. One example given in 48 FR 14870 of an amendment which is not likely to involve significant hazards considerations is "(1) A purely administrative change to technical specifications: for example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature."

We conclude that the addition of the clarifying footnote to TS Table 3.7–6 represents an administrative change. Accordingly, the Commission proposes to determine that the proposed change to TS Table 3.7–6, to add a clarifying footnote, involves no significant hazards considerations.

BG&E has proposed a change to Unit 1 and 2 TS 3.7.3.1, "Component Cooling Water System." At the present time, TS 3.7.3.1 requires that "At least two component cooling water loops shall be OPERABLE." The licensee has proposed that the following be added to the operability requirements for the component cooling water (CCW) system; "At least one component cooling water heat exchanger shall be operating and the remaining component cooling water heat exchanger may be in standby." The proposed change to TS 3.7.3.1 has been requested in order to reflect actual operating practices associated with the CCW system.

The CCW system for each Calvert Cliffs Unit consists of 3 motor driven pumps, 2 heat exchangers, a head tank, and associated valves, piping, instrumentation, and controls. Cooling water for the CCW heat exchangers is supplied by the salt water system which discharges its water directly to the ultimat heat sink (Chesapeake Bay). During normal operation, the CCW system supplies cooling water to a number of safety-related components. The Calvert Cliffs FSAR, Section 9.5.2, states that, "During normal plant operation, one of the pumps and one of the heat exhangers are required for cooling service." The remaining CCW heat exchanger is normally maintained in "standby" status with its discharge valve closed. In the event of a Loss of Coolant Accident (LOCA), the CCW system services important safety-related components; however, the CCW system is designed so as not to supply cooling water immediately following a LOCA. During this period, the salt water system supply to the CCW heat exchangers is isolated. After a minimum of 36 minutes, salt water flow to the CCW heat exchangers is automatically reinitiated and CCW cooling begins. Existing emergency procedures instruct the reactor operators to open the outlet valve in the CCW heat exchanger. A time of 36 minutes is judged to the adequate for operators to take manual action in this regard.

The proposed change TS 3.7.3.1 serves to further document an operating mode, involving use of a single CCW heat exchanger during normal operation, that has been previously used and is described in the FSAR. In the event of LOCA, starting from operation with one CCW heat exchanger, a combination of manual actions and automatic features assure proper postaccident functioning of the CCW system. For the reason, accidents which require operation of the CCW system for mitigation will not be worse nor will any other new or different kind of accident be created. In addition, since no changes have been proposed to the designed or operation of the CCW system, no safety margins will be reduced. Accordingly, the Commission proposes to determine that the proposed change to TS 3.7.3.1, which

clarifies operability requirements for the CCW system, involves no significant hazards considerations.

BG&E has proposed a change to Unit 1 and 2 TS 4.7.3.1, 4.7.4.1, and 4.7.5.1 which provide Surveillance Requirements for the component cooling water, service water, and salt water systems, respectively . At the present time each of the TS contains a surveillance requiring that, "At least once per 31 days by verifying that each valve (manual, power operated or automatic) servicing safety related equipment that is not locked, sealed, or otherwise secured in position, is in its correct position."

BG&E has proposed replacing the phrase "* * * Servicing safety related equipment * * *" with the phrase "* * * in the flow path * * *" This proposed change would clearly identify the class of valves which require monthly verification.

Systems such a the component colling water, service water, and salt water systems contain a considerable number of valves. Not all of these valves have the same safety significance and thus need be subjected to the same type or frequency of surveillance. One class of valves performs functions which are very minor from a safety standpoint. These functions include: drains, vents, and instrument isolation (root) valves. Mispositioning of these valves would either be obvious during routine operation (i.e. a closed instrument root valve would cause the associated instrument to be inoperable) or perform functions which are minor with regard to the completion of the safety function of the system. These types of valves are typically quite numerous and monthly surveillance, with regard to position, is unnecessary.

At the present time Unit 1 and 2 TS 4.5.2 requires the following monthly test of valves in the emergency core cooling system (ECCS): "Verifying that each valve (manual, power operated or automatic) in the flow path that is not locked, sealed, or otherwise secured in position, is in its correct position."

The above wording appropriately excludes valves outside the flow path (valves with minor safety significance) from this routine surveillance. BG&E has proposed adopting this same surveillance requirement for the component cooling water, service water, and salt water cooling systems (TS 4.7.3.1, 4.7.4.1. and 4.7.5.1); thus, the valve surveillance requirements of these systems would be consistent with similar requirements for the ECCS. Moreover unsecured valves in the main flow paths of these systems, whose misposition would prevent these systems from completing their safety function, would still require periodic surveillance. For this reason, a high degree of assurance is maintained that these systems wilal be capable of performing their safety functions; therefore, no change in the probability or consequences of accidents previously considered will result nor will accidents of a new or different kind be created. Since no design changes or changes in the level of operability of these systems will result herein, no decrease in margins of safety will occur. Accordingly, the Commission proposes to determine that the proposed changes to TS 4.7.3.1, 4.7.4.1 and 4.7.5.1 involve no significant hazards considerations.

BG&E has requested a change to Unit 1 and 2 TS 3/4.3.3.5, "Remote Shutdown Instrumentation," to allow the use of alternate wide range neutron flux instrumentation. BG&E has installed new remote shutdown panels in the Unit 1 and 2 switch gear rooms (1C43 and 2C43.) The remote shutdown panels had been located in the Unit 1 and 2 auxiliary feedwater pump (AFWP) rooms. The use of the new wide range neutron flux instrumentation, incorporated into the new remote shutdown panels, was approved by changes to TS 3/4.3.3.5 issued on June 6, 1984 (Unit 2, Amendment No. 75) and November 17, 1983 (Unit 1, Amendment No. 88).

On March 19, 1984, the new Unit 1 wide range neutron flux instrumentation began showing evidence of possible impending failure and was subsequently declared inoperable. On April 19, 1984 the NRC issued a change to TS 3/4.3.3.5 (Unit 1, Amendment No. 91) to allow the use of the wide range neutron flux instrumentation, still located in the Unit 1 AFWP room, until such time as the new instrumentation could be repaired. BG&E subseqluently requested, by application dated June 29, 1984, a change to the Unit 1 and 2 TS 3/4.3.3.5 to allow use of the wide range neutron flux instrumentation, located in the Unit 1 and 2 AFWP rooms, at any time when the wide range neutron flux instrumentation at the new remote shutdown panels becomes inoperable.

The wide range neutron flux instrumentation located in the AFWP rooms has been shown by prior service to be reliable equipment. During the period when they would be required, when the primary wide range neutron flux instrumentation (located at 1C43 and 2C43) are inoperable, the instrumentation in the AFWP would be required to undergo routine surveillance. In addition, in the event that the wide range neutron flux instrumentation in the AFWP rooms are required to be operable under emergency conditions, communications can be established between the AFWP rooms and the remainder of the remote shutdown instrumentation located at 1(2)C43.

The Wide Range Neutron Flux instrumentation is provided for monitoring purposes and does not provide inputs for automatically actuated equipment; therefore, the changes as reflected in the proposed Limiting Conditions for Operation do not change the course or severity of any analyzed accidents nor the probability of such accidents occurring. Moreover, the usefulness of this instrumentation to provide postaccident information has not been degraded. The proposed change thus would not decrease any margin of safety. Since this change involves only monitoring and provides no input for automatic actuation of safety equipment or functions, the change will not create the possibility of an accident not previously evaluated. On these bases, the staff proposes to determine that the proposed change to TS 3/4.3.3.5 for the remote shutdown instrumentation does not involve significant hazards considerations.

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland.

Attorney for licensee: George F. Trowbridge, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: James R. Miller.

Boston Edison Company, Docket No. 50-293, Pilgrim Nuclear Power Station, Plymouth, Massachusetts

Date of amendment request: August 9, 1984.

Description of amendment request: The proposed amendment would replace the carbon dioxide (CO_2) system Technical Specifications with similar specifications for a Halon fire suppression system recently installed in the cable spreading room. References to the CO_2 system relative to switchgear rooms at the 23-foot and 37-foot elevations would be deleted since the CO_2 hose stations at those locations have been replaced by water hose stations.

Basis for proposed no significant hazards consideration determination: The licensee states in its application that a Halon system has been installed to replace the "CO_2 system which was used as the main source of fire suppression in the cable spreading room (CSR) until it failed a dump test on October 24, 1981. Since that time, the CSR has been monitored by fire watch patrol." On January 18, 1982, the

licensee informed the NRC that the CO_2 discharge test referred to above, made the CSR so cold that electrical equipment in the room might not operate correctly. Halon would not have that effect since it would not make the room cold and it does not adversely affect electrical equipment in other ways.

NRC has previously evaluated Halon systems and has found that they provide fire suppression capability at least equivalent to that of CO_2 systems. Furthermore, the licensee states that the Halon system in the Pilgrim CSR was successfully tested on May 3, 1984, in accordance with standard test criteria prescribed by the National Fire Protection Association. On this basis, the NRC staff concluded that operation of the Pilgrim Station in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, (2) create the possibility of an accident of a type different from any evaluated previously, or (3) involve a significant reduction in a margin of safety. Therefore, the staff has made a proposed determination that this application for amendment involves no significant hazards consideration.

Local Public Document Room location: Plymouth Public Library, North Street, Plymouth, Massachusetts 02360.

Attorney for licensee: W. S. Stowe, Esq., Boston Edison Company, 800 Boylston Street, 36th Floor, Boston, Massachusetts 02199.

NRC Branch Chief: Domenic B. Vassallo.

Commonwealth Edison Company, Docket Nos. 50–373 and 50–374, La Salle County Station, Units 1 and 2, La Salle County, Illinois

Date of amendment request: July 25, 1984.

Description of amendment request: The proposed amendments to Operating Licenses NPF–11 and NPF–18 would revise the La Salle, Units 1 and 2 Technical Specifications to somewhat reduce limits on monitors in accordance with guidance in Generic Letter No. 83–36, "NUREG–0737 Technical Specifications." The action statements for the accident monitoring instrumentation for (1) Drywell Hydrogen Concentration Monitor, (2) Primary Containment Gross Gamma Radiation, and (3) Noble Gas Monitors are modified as provided Generic Letter 83–36.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of standards for a no significant hazards consideration determination by providing certain examples (48 FR 14870). One of the examples (vi) of actions involving no significant hazards considerations relates to a change which may reduce in some way a safety margin but where the results of the change are clearly within all acceptable criteria with respect to the system of component specified in the standard review plan. The La Salle Technical Specifications for operability of plant monitors would be changed to reflect operability restrictions according to Generic Letter 83–36.

Therefore, since the application for amendments involves proposed changes that are similar to an example for which no significant hazards consideration exists, the staff has made a proposed determination that the application for amendments involves no significant hazards consideration.

Local Public Document Room location: Public Library of Illinois Valley Community College, Rural Route No. 1, Oglesby, Illinois 61348.

Attorney for licensee: Isham, Lincoln and Burke, Suite 840, 1120 Connecticut Avenue N.W., Washington, D.C. 20036.

NRC Branch Chief: A. Schwencer.

Consolidated Edison Company of New York, Docket Nos. 50–003 and 50–247, Indian Point Nuclear Generating Units 1 and 2, Westchester County, New York

Date of amendments request: June 20, 1984.

Description of amendments request: By NRC Generic Letter 83–43 to all licensees model Technical Specifications were forwarded which showed the revisions to reporting requirements as necessitated by Section 50.72 and 50.73 of Title 10 of the Code of Federal Regulations. Section 50.72 revises the immediate notification requirements for operating nuclear power plants. Section 50.73 provides for a revised Licensee Event Report System.

By letter dated June 20, 1984 the Consolidated Edison Company submitted proposed license amendments for NRC review and approval which reflects changes to reporting requirements.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870). One of the examples (ii) of actions not likely to involve a significant hazards consideration is a change to make the licenses conform to changes in the regulations where the change results in very minor changes to facility operations clearly in keeping with the regulations. The NRC initial review of the licensee's submittal indicates that this is the case. Accordingly, the Commission proposes to determine that this change does not involve a significant hazards consideration.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Attorney for licensee: Thomas J. Farrelly, Esq., 4 Irving Place, New York, New York 10003.

NRC Branch Chief: Steven A. Varga.

Consolidated Edison Company of New York, Docket No. 50–247, Indian Point Nuclear Generating Unit 2, Westchester County, New York

Date of amendments request: June 29, 1984.

Description of amendments request: An amendment to the Technical Specifications to modify the definition of the term "Operable" as it applies to the single-failure criterion for safety systems: certain editorial and format changes would also be necessary. The proposed change was initiated in response to an NRC request to revise the definition consistent with guidance issued by NRC. The proposed amendment conforms to the NRC request and provides for a revised definition that is more restrictive in that it extends the definition to include systems that are associated with the system in question. This amendment request supercedes the licensee's prior request dated February 14, 1984.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870). The examples of actions involving no significant hazards consideration include actions which are purely administrative changes to the Technical Specifications, and changes that constitute an additional limitation, restriction, or control not presently included in the Technical Specifications.

The changes proposed in the application for amendment are encompassed by these examples in that: (1) the guidance provided by NRC and proposed in the amendment for the revised definition of the term "Operable" is more restrictive in that the operability of systems associated with the system must also now be considered; and (2) the resulting format and editorial changes are purely administrative changes. Therefore, since the application for amendment involves proposed changes that are similar to the

example for which no significant hazards consideration exists, the staff has made a proposed determination that the application involves no significant hazards consideration.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York, 10610.

Attorney for licensee: Thomas J. Farrelly, Esq., 4 Irving Place, New York, New York 10003.

NRC Branch Chief: Steven A. Varga.

Consumers Power Company, Docket No. 50–155, Big Rock Point Plant, Charlevoix County, Michigan

Date of amendment request: July 30, 1984 and August 6, 1984.

Description of amendment request: The amendment would (1) make the reporting requirements in the Technical Specifications (TS) consistent with 10 CFR 50.72 and 50.73 and (2) allow Plant Review Committee (PRC) review and approval of documents by document routing. The changes to the reporting requirements were proposed in response to Generic Letter No. 83–43, "Reporting Requirements of 10 CFR Part 50, Sections 50.72 and 50.73, and Standard Technical Specifications," dated December 19, 1983.

Currently, the TS require a PRC meeting to approve documents which are reviewed by the PRC. The proposed change would allow PRC review and approval of documents by document routing. A meeting would still be required for review and approval of issues related to reportable events and changes to limiting safety system settings and limiting conditions for operation. Also, for the approval by routing of procedures, tests, experiments, TS changes, and safety system modifications additional controls would be instituted to ensure proper consideration of these issues by the PRC.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870, April 6, 1983). One of the examples (vii) of actions not likely to involve a significant hazards consideration relates to changes to make a license conform to changes in the regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulations. The proposed changes to conform to 10 CFR 50.72 and 50.73 affect only reporting requirements and do not affect facility operations.

Another example (i) of actions not likely to involve a significant hazards consideration relates to purely administrative changes to the Technical Specifications. The proposed changes (1) affect only the procedure by which the PRC approves documents (a change from approval by meeting to approval by document routing) and (2) still require PRC approval of the same types of documents. The proposed changes also limit the document routing approval method to issues not related to reportable events and issues not involving changes to limiting safety system settings or limiting conditions for operation. Approval by routing of procedures, tests, experiments, TS changes, and safety system modifications would be subject to special controls to assure proper consideration of these issues.

Therefore, since the changes make the license conform to changes in the regulations and do not affect plant operations or are purely administrative, the staff proposes to determine that the proposed changes would not involve a significant hazards consideration determination in that they: (1) do not involve a significant increase in the probability or consequences of a previously evaluated accident; (2) do not create the possibility of a new or different kind of accident from any accident previously evaluated; and (3) do not involve a significant reduction in a margin of safety.

Local Public Document Room location: Charlevoix Public Library, 107 Clinton Street, Charlevoix, Michigan 49720.

Attorney for licensee: Judd L. Bacon, Esquire, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

NRC Branch Chief: Walter A. Paulson, Acting Chief.

Consumers Power Company, Docket No. 50–255, Palisades Plant, Van Buren County, Michigan

Date of amendment request: July 30, 1984 and August 6, 1984.

Description of amendment request: The amendment would (1) make the reporting requirements in the Technical Specifications (TS) consistent with 10 CFR 50.72 and 50.73 and (2) allow Plant Review Committee (PRC) review and approval of documents by document routing. The changes to the reporting requirements were proposed in response to Generic Letter No. 83–43, "Reporting Requirements of 10 CFR Part 50, Sections 50.72 and 50.73, and Standard Technical Specifications," dated December 19, 1983.

Currently, the TS require a PRC meeting to approve documents which are reviewed by the PRC. The proposed change would allow PRC review and approval of documents by document routing. A meeting would still be required for review and approval of issues related to reportable events and changes to limiting safety system settings and limiting conditions for operation. Also, for the approval by routing of procedures, tests, experiments, TS changes, and safety system modifications additional controls would be instituted to ensure proper consideration of these issues by the PRC.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870, April 6, 1983). One of the examples (vii) of actions not likely to involve a significant hazards consideration relates to changes to make a license conform to changes in the regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulations. The proposed changes to conform to 10 CFR 50.72 and 50.73 affect only reporting requirements and do not affect facility operations.

Another example (i) of actions not likely to involve a significant hazards consideration relates to purely administrative changes to the Technical Specifications. The proposed changes (1) affect only the procedure by which the PRC approves documents (a change from approval by meeting to approval by document routing) and (2) still require PRC approval of the same types of documents. The proposed changes also limit the document routing approval method to issues not related to reportable events and issues not involving changes to limiting safety system settings or limiting conditions for operation. Approval by routing of procedures, tests, experiments, TS changes, and safety system modifications would be subject to special controls to assure proper consideration of these issues.

Therefore, since the changes make the license conform to changes in the regulations and do not affect plant operations or are purely administrative, the staff proposes to determine that the proposed changes would not involve a significant hazards consideration determination in that they: (1) do not involve a significant increase in the probability or consequences of a previously evaluated accident; (2) do not

create the possibility of a new or different kind of accident from any accident previously evaluated; and (3) do not involve a significant reduction in a margin of safety.

Local Public Document Room location: Kalamazoo Public Library, 315 South Rose Street, Kalamazoo, Michigan 49007.

Attorney for licensee: Judd L. Bacon, Esquire, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

NCR Branch Chief: Walter A. Paulson, Acting Chief.

Duke Power Company, Dockets Nos. 50-269, 50-270 and 50-287, Oconee Nuclear Station, Units Nos. 1, 2 and 3, Oconee County, South Carolina

Date of amendment request: June 26, 1984.

Description of amendment request: The amendments would authorize changes to the Technical Specifications (TSs) by delineating the need for administrative controls to limit the working hours for station staff performing safety-related functions. The proposed changes to the Oconee TSs are in response to a June 12, 1984, NRC letter regarding Duke's December 28, 1982, response to Generic Letter 82-16. The licensee states that the proposed revision to TS 6.4.3 is in accordance with Generic Letter 82-16.

Basis for proposed no significant hazards consideration determination: Duke Power Company's submittal of June 26, 1984, included a discussion of the proposed action with respect to the no significant hazards consideration standards.

The Commission has provided, at 48 FR 14870, guidance concerning the application of these standards by providing certain examples. The proposed amendment of the TSs delineating the need for administrative controls to limit the working hours for station staff has been determined to be a change that constitutes additional limitations and controls not presently included in the TSs. Example (ii) of the types of amendments considered not likely to involve significant hazards considerations is applicable to this amendment request. This specific example involves amendment requests that are considered to be a change that constitutes an additional limitation, restriction, or control not presently included in the TSs. The Commission's staff has determined, based on the above consideration, that the revision does not involve a significant increase in the probability or consequences of accidents previously considered, nor create the possibility of a new or different kind of accident, and will not involve a significant decrease in a safety margin. Therefore, the Commission proposes to determine that there is no significant hazards consideration involved in this amendment request.

Local Public Document Room location: Oconee County Library, 501 West Southbroad Street, Walhalla, South Carolina.

Attorney for licensee: J. Michael McGarry, III, Bishop, Liberman, Cook, Purcell and Reynolds, 1200 17th Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: John F. Stolz.

Duquesne Light Company, Docket No. 50-334, Beaver Valley Power Station, Unit No. 1, Shippingport, Pennsylvania

Date of amendment request: November 3, 1983, as revised July 31, 1984

Description of amendment request: This is an application for and amendment to Operating License DPR-66, eliminating Appendix B in its entirety. All Technical Specifications in Appendix B refer to non-radiological requirements such as soil sampling, areial infra-red photography, etc. The purpose of such required surveillance is to determine if operation of the unit would adversely affect the environment. The licensee believes that sufficient surveillance has been performed to enable him to conclude that the environment has not been adversely affected, and therefore proposes to eliminate all such requirements from the license.

Basis for proposed no significant hazards consideration determination: The Technical Specifications in Appendix B are not involved with Unit 1 hardware or operation. Thus elimination of these specifications does not increase the probability of occurance or the consequence of an accident. In addition, no accident or malfunction of a different type from any previously analyzed would be created by the proposed amendment. Since Appendix B specifications are not concerned with safety, and do not impose any operating restriction, their elimination would not reduce any margin of safety.

Therefore, on this basis, the staff proposes to characterize the licensee's requested change as involving no significant hazards consideration.

Local Public Document Room location: B.F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Attorney for licensee: Gerald Charnoff, Esquire, Jay E. Silberg, Esquire, Shaw, Pittman, Potts, and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036.

NRC Branch chief: Steven A. Varga.

Duquesne Light Company, Docket No. 50-334, Beaver Valley Power Station, Unit No. 1, Shippingport, Pennsylvania

Date of amendment request: June 28, 1984.

Description of amendment request: This is an application for an amendment to Operating License DPR-66, revising a number of Tables in the Technical Specifications as follows:

(1) Table 4.3-13 would be revised to indicate that the Noble Gas Activity Monitor and Radiation Monitor provide control room alarm communication only; they do not initiate any automatic actuation, as is currently and erroneously indicated in the Specifications.

(2) Table 3.4-4 would be revised to specify the applicable time constant for the functional unit High Negative Steam Pressure Rate to be 50+ 5 seconds. This time constant is currently not specified in the specifications.

(3) Table 3.3-3, 3.3-4, 3.3-5 and 4.3-2 would be revised to add the list of signals that initiate the start of the Auxiliary Feedwater Systems. These signals are currently not included in the Specifications.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870). One of these, Example (ii), involving no significant hazards considerations is "A change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications: for example, a more stringent surveillance requirement." Items (2) and (3) above match the example and the staff, therefore, proposes to characterize them as involving no significant hazards consideration.

The Commission also provided Example (i) which is "A purely administrative change to technical specifications for example, * * * correction of an error * * * " Item (1) above matches the example and the staff, therefore, also proposes to characterize it as involving no significant hazards consideration.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Attorney for licensee: Gerald Charnoff, Esquire, Jay E. Silberg, Esquire, Shaw, Pittman, Potts, and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: Steven A. Varga.

Florida Power and Light Company, et al. Docket No. 50-389, St. Lucie Plant Unit No. 2, St. Lucie County, Florida

Date of amendment request: August 31, 1984.

Description of amendment request: The proposed amendment would make changes in the technical specifications of St. Lucie Plant, Unit No. 2, to allow continuous operation of the 8-inch containment purge supply and exhaust isolation valves. At present, the technical specifications allow the 8-inch containment purge supply and exhaust isolation valves to be open for less than or equal to 1000 hours per calendar year. As identified in the bases for the Technical Specifications, use of the 8-inch purge valves during plant operations is allowed since, in the event of a LOCA or steam line break, these valves will close and, therefore, the site boundary dose guidelines of 10 CFR Part 100 would not be exceeded in the event of an accident during purging operations.

The licensee requests that the restriction that allows the 8-inch containment purge valves to be open only for less than or equal to 1000 hours per year be deleted, thus allowing continuous operation of the system.

Basis for proposed no significant hazards consideration determination: Under the provisions of 10 CFR 50.92 the Commission may make a final determination pursuant to the procedures in 50.91, that a proposed amendment to an operating license for a facility licensed under 50.21(b) or 50.22 or for a testing facility involves no significant hazards considerations, if operation of the facility in accordance with a proposed amendment would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated; or;

2. Create the possibility of a new or different kind of accident from any accident previously evaluated; or;

3. Involve a significant reduction in a margin of safety.

A discussion of these standards as they relate to this amendment follows:

Standard 1. Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated.

The proposed Technical Specification will allow continuous operation of the 8-inch containment purge system. This represents an increase in operating time from 1000 hours to 8760 hours per year. Continuous operation of this system will not increase the probability of an accident since this system cannot in itself cause an accident. This system does serve to mitigate the consequences of a potential release to the public following a Loss of Coolant Accident (LOCA). In the evaluation of these isolation valves, they were assumed to be open when a LOCA occurred. These valves are designed to close within 5 seconds of the start of a Containment Isolation Actuation Signal. This meets NRC Branch Technical Position CSB 6-4. Further, this system has been designed to accommodate a single failure. In the event of an accident, offsite doses will not exceed the limits specified in 10 CFR Part 100.

Standard 2. Create the Possibility of a New or Different Kind of Accident from Any Accident Previously Evaluated

The proposed Technical Specification will allow the 8-inch purge valves to remain open continuously. Extending the number of allowable purge hours per year does not involve any evolution that is not currently performed, thus does not lead to the possibility of a new or different kind of accident from any previously evaluated.

Standard 3. Involve a Significant Reduction in a Margin of Safety

The Continuous Containment/Hydrogen Purge System has been designed for continuous operation. In the event of a LOCA, with a failure of a single 8-inch purge valve, the remaining valves will close within 5 seconds. Offsite doses due to a LOCA and one 8-inch purge valve failure will not exceed 10 CFR Part 100 limits. Extending the number of allowable purge hours per year does not place the plant in a different configuration than that which is currently utilized routinely. Therefore, continuous operation of the 8-inch purge system does not involve a significant reduction in a margin of safety.

The Commission has also provided guidance concerning the application of these standards by providing examples of amendments considered likely, and not likely, to involve a significant hazards consideration. These were published in the **Federal Register** on April 6, 1983 (48 FR 14870). One of the examples of actions involving no significant hazards consideration (iv) relates to a relief granted upon demonstration of acceptable operation from an operating restriction that was imposed because acceptable operation was not yet demonstrated. This assumes that the operating restriction and the criteria to be applied to a request for relief have been established in a prior review and that it is justified in a satisfactory way that the criteria have been met. This proposed amendment is considered to be similar to example (iv) in that it involves relief from an operating restriction that was imposed prior to licensing because justification for the relief requested in this amendment, based on plant operating experience, did not exist at that time.

Based on the above, the staff proposes to determine that the proposed change does not involve a significant hazards consideration.

Local Public Document Room location: Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 33450.

Attorney for licensee: Harold F. Reis, Esq., Newman and Holtzinger P.C., 1615 L Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: James R. Miller.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket No. 50-366, Edwin I. Hatch Nuclear Plant, Unit No. 2, Appling County, Georgia

Date of amendment request: December 21, 1983, as supplemented April 16, 1984, and May 2, 1984.

Description of amendment request: The amendment would modify the Technical Specification Limiting Conditions for Operation (LCO) to increase the number of movable detectors in the Traveling Incore Probe (TIP) system that are required to be operable from three to four.

The amendment would also modify the Technical Specification Action Statement for this LCO to allow operation of the TIP system with one or more inoperable detectors. It would allow the functioning portions of the TIP system to be used for monitoring and calibration purposes for 31 effective full power days following the last normalization of the detectors. The current Technical Specification does not allow the TIP system to be used if all required detectors (currently three) cannot be normalized. The purpose of this change is to increase the accurcy of monitoring of core parameters by the local power range monitors (LPRMs) when portions of the TIP system are inoperable.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance for the application of the criteria in 10 CFR 50.92 by providing examples of amendments that are considered not likely to involve a significant hazards consideration (48 FR 14870). One such example is (ii), a change that constitutes an additional limitation, restriction or control not presently included in the Technical Specifications. The increase in the number of movable detectors

required to be operable is similar to this example.

The Commission has also provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The current Technical Specfication allows plant operation to continue for up to 31 effective full power days with less than three TIP detectors operable. LPRM drift during plant operation tends to be in a nonconservative direction (due to burnup of fissionable material in the ionization chambers). Thus, the current Technical Specification, in effect, prevents conservative corrections to the LPRM readings from being made during the period (up to 31 effective full power days) in which the plant is allowed to operate with less than three operable TIP detectors.

The modified Technical Specification will allow corrections to the LPRM readings for those LPRM strings that can be reached by the remaining operable TIP detectors when less than four detectors are operable. This will allow updating and more conservative monitoring of the core parameters and adjustment of Average Power Range Monitor setpoints. It thereby provides for more conservative operation with respect to core thermal limits.

While under certain conditions the modification will make it possible, when using a manual calculation to determine parameters, to operate at a higher power level than is currently allowed with less than three TIP detectors operable, the opeating guidelines that the plant follows for usage of the manual calculation are designed to prevent use of ths calculation in a nonconservative manner.

On the basis of the above, the Commission has determined that the requested modification meets the three criteria and therefore has made a proposed determination that the amendment application does not involve a significant hazards consideration.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia.

Attorney for licensee: G.F. Trowbridge, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: John F. Stolz.

GPU Nuclear Corporation, Docket No. 50-219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of amendment request: August 28, 1984.

Description of amendment request: The proposed amendment requests approval of a Technical Specification Change to section 5.3.1.E to remove the weight limitation of the spent fuel shipping cask.

Basis for proposed no significant hazards consideration determination: On October 14, 1983, a U.S. District Court, Western District of New York, issued a Partial Settlement Agreement and Order which requires GPU Nuclear Corporation (GPUN) to return 224 spent fuel assemblies from the Nuclear Service Center in West Valley, New York to Oyster Creek. Accordingly, in preparation for receiving these fuel assemblies GPUN is contracting for the use of two TN-8 spent fuel shipping casks each having a full load weight of 40.5 tons. The use of these casks would reduce the number of shipments from West Valley to 32 instead of the 114 required if the NLI ⅛ cask were utilized.

On March 30, 1977, the NRC issued Amendment No. 22 to the Oyster Creek Technical Specifications (TS). This amendment addressed the increased spent fuel pool storage capacity and the requirements that go with it. One of these requirements had to do with limiting the weight of a spent fuel shipping cask, which could be raised over the top plate of the cask drop protection system (CDPS), to a maximum weight of 30 tons. Although the analysis for the CDPS had been performed by GPUN using a 100-ton cask, and had been found acceptable by the NRC as discussed in the March 30, 1977 SER of Amendment 22, the NRC imposed the 30-ton limitation until the details of the means used to limit the height to which the cask can be raised over the operating deck have been submitted by GPUN and approved by the NRC staff.

The proposed amendment change request would remove the 30-ton limitation so that GPUN can utilize the TN-8 shipping casks. GPUN is developing and will use specific procedures for handling the TN-8 casks. To ensure that the cask will not be raised more than 6 inches above the top plate of the CDPS, limit switches on the crane will be set to limit the crane's upward travel to a level such that the bottom surface of the cask base plate will be limited to a maximum height of 6 inches above the top plate. In addition, a "GO, NO-GO" gauge will be used to ensure the cask is at the correct height prior to movement.

The Commission has provided guidance concerning the application of standards for a no significant hazards consideration determination by providing certain examples (April 6, 1983, 48 FR 14870). One of the examples (iv) of action not likely to involve a significant hazards consideration relates to a relief granted upon demonstration of acceptable operation from an operating restriction that was imposed because acceptable operation was not yet demonstrated. This assumes that the operating restriction and the criteria to be applied to a request for relief have been established in a prior review and that it is justified in a satisfactory way that the criteria have been met. The changes proposed in the application for amendment are encompassed by this example and the requested action fulfills the requirements set forth in the SER supporting Amendment 22 of the Oyster Creek license. On this basis, the staff proposes to determine that the proposed amendment involves no significant hazards considerations.

Local Public Document Room location: 101 Washington Street, Toms River, New Jersey 08753.

Attorney for licensee: G.F. Trowbridge, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: Walter A. Paulson, Acting Chief.

GPU Nuclear Corporation, et al., Docket No. 50-289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of amendment request: February 17, 1984.

Description of amendment request: This amendment request supersedes the request dated June 8, 1981, which was published in the Federal Register on July 21, 1983 (48 FR 33383). The proposed amendment includes the recommended Technical Specification (TS) changes of our Generic Letter 84-13.

The proposed amendment would provide operability requirements and surveillance requirements for snubbers. The operability requirements would require an inoperable snubber to be restored to operable within 72 hours or the associated system would be declared inoperable and the required action for the inoperable system would be initiated. The surveillance requirements would include: visual inspections, refueling outage

inspections, visual inspection acceptance criteria, functional tests, functional test criteria, functional test failure analysis, functional testing of repaired or replaced snubbers, and snubbers seal replacement program.

Basis for proposed no significant hazards consideration determination: The Commission has provided examples (48 FR 14870) of the type of amendments not likely to involve a significant hazards consideration. One example of this type (ii) is a change that constitutes an additional limitation, restriction or control not presently included in the Technical Specifications. The proposed change regarding operability requirements falls into this category in that a time limitation (72 hours) would be placed on the restoration of inoperable snubbers. If the inoperable snubbers are not restored to an operable condition within the proposed time limitation, then the licensee would be required to declare the associated system inoperable which would result in a plant shutdown. Similarly, the surveillance requirements impose additional restrictions related to mandatory periodic testing of the snubber assemblies to assure operability. Such restrictions do not currently exist in the TSs. Therefore, the Commission proposes to determine that the proposed amendment does not involve a significant hazards consideration.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

Attorney for Licensee: Shaw, Pittman, Potts & Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: John F. Stolz.

Indiana and Michigan Electric Company, Docket No. 50-315, Donald C. Cook Nuclear Plant, Unit No. 1, Berrien County, Michigan

Date of amendment request: August 23, 1984, supported by Exxon Nuclear letters dated August 22 and 23, 1984.

Description of amendment request: The proposed amendment would change the Technical Specifications to revise the burnup dependent core physics parameters for Exxon fuel left in Unit 1 and to increase the heat flux hot channel factor, F_Q, for Westinghouse fuel in Unit 1.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870, April 6, 1983). One of the examples (vi) of action not likely to involve a significant hazards consideration is a change which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan. The first proposed change to revise the burnup dependent core physics parameters for Exxon fuel left in Unit 1 is directly related to this example. Westinghouse fuel is replacing the Exxon fuel in Unit 1 and due to the approved power increase, highly enriched Westinghouse fuel with extended burnup, the Exxon fuel remaining in the core will also be exposed to higher burnups. The proposed changes and effects on the fuel and plant operation to account for this higher burnup is based on analyses and methods used previously and found acceptable. The results of the change are clearly within all acceptable criteria with respect to the fuel design and operational capability.

The second proposed change to the heat flux hot channel factor, F_Q, is also like this example in that the licensee proposes to incorporate the BART computer code analysis in the currently approved large break analysis. The Commission has previously reviewed the use of the BART code in this fashion and has found it acceptable and the results clearly within all acceptance criteria. On the basis of the above, the Commission proposes to conclude that the proposed changes described above involve a no significant hazards consideration.

Local Public Document Room location: Maude Reston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Attorney for licensee: Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: Steven A. Varga.

Indiana and Michigan Electric Company, Docket No. 50-316, Donald C. Cook Nuclear Plant, Unit No. 2, Berrien County, Michigan

Date of amendment request: August 28, 1984, supported by Exxon Nuclear letters dated July 7, 1984 and August 7, 1984.

Description of amendment request: The proposed amendment would revise the Technical Specification values of the total heat flux hot channel factor, F_Q^T, and the nuclear enthalpy rise hot channel factor as a result of new loss-of-coolant-accident/emergency core cooling system (LOCA/ECCS) calculations.

Basis for proposed no significant hazards consideration determination: The new LOCA/ECCS calculations have been performed with adjustments to FLECHT based heat transfer correlations to account for the difference in axial power distribution between that used in the Unit 2-Cycle 5 analysis and that used in the FLECHT tests where the correlations were first developed. The adjustments in the heat transfer correlation will make the resulting LOCA/ECCS calculations more representative of the D.C. Cook, Unit 2, core configuration and do not otherwise change the previous analyses or findings in the safety evaluation report supporting the Cycle 5 operation. As such, operation with the revised F_Q and $F_{delta\ H}$ will not involve a significant increase in the probability or consequences of an accident previously evaluated; or create the possibility of a new or different kind of accident from any accident previously evaluated; or involve a significant reduction in a margin of safety. Therefore, the Commission has made a proposed determination that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Maude Reston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Attorney for licensee: Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: Steven A. Varga.

Iowa Electric Light and Power Company, Docket No. 50-331, Duane Arnold Energy Center, Linn County, Iowa

Date of amendment request: August 17, 1984.

Description of amendment request: The proposed amendment would correct an error in the instrument setpoint dealing with the bypass of the direct scram signals, at low reactor power, on turbine stop valve or turbine control valve closure generated during turbine trip or generator load rejection event, respectively.

The licensee states that during a review of the engineering designs related to the Duane Arnold Energy Center (DAEC) power uprate program, a discrepancy in a pressure instrument setpoint was discovered. The instrument setpoint was set at a turbine first stage pressure corresponding to 30% of the turbine power, instead of 30% of the core power as shown in the Final Safety

Analysis Report. Since 30% of the turbine power corresponds to approximately 35% of the core power, the instrument was erroneously set in a non-conservative manner. The licensee, therefore, required a change in the Technical Specifications to correct the value of the turbine first stage setpoint pressure to correspond to 30% of the core power instead of 30% of turbine power.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance for the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870). The examples involving no significant hazards consideration include "(i) a purely administrative change to Technical Specifications: for example, a change to achieve consistency throughout the Technical Specifications, correction of an error, or a change in nomenclature. The proposed change is intended to correct an error in an instrument setpoint and is encompassed by the cited Commission example.

Therefore, since the application for amendment involves a proposed change similar to an example for which no significant hazards consideration exists, the staff has made a proposed determination that the application involves no significant hazards consideration.

Local Public Document Room location: Cedar Rapids Public Library, 426 Third Avenue, S.E., Cedar Rapids, Iowa 52401.

Attorney for licensee: Jack Newman, Esquire, Harold F. Reis, Esquire, Newman and Holtzinger, 1025 Connecticut Avenue, N.W., Washington, D.C. 20036.

NRC Branch Chief: Domenic B. Vassallo.

Nebraska Public Power District, Docket No. 50-298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: February 29, 1984, as supplemented by submittal dated July 18, 1984.

Description of amendment request: The original amendment request of February 29, 1984 was initially noticed on May 23, 1984 (49 FR 21831). The original request, in part, changed the Technical Specifications to implement the following TMI Action Plan Items set forth in NUREG-0737, "Clarification of TMI Action Plan Requirements" and as requested by the staff's Generic Letter 83-36:

II.B.3—Post Accident Sampling
II.F.1.1—Noble Gas Monitor
II.F.1.2—Iodine Particulate Sampling
II.F.1.3—Containment High-Range Monitor
II.F.1.4—Containment Pressure Monitor
II.F.1.5—Containment Water Level Monitor

By letter dated July 18, 1984, the licensee submitted a revision to the February 29, 1984 application to change the following two areas of the Technical Specifications relative to the above TMI Action Plan Items:

(1) The action statements for inoperable channels of the Containment Pressure Monitor (Item II.F.1.4) and Containment Water Level Monitor (Item II. F.1.5) are revised to be more stringent than the action statements proposed in the February 29, 1984 application.

(2) Requirements and references to Drywell Level Instrumentation, erroneously proposed in the February 29, 1984 application in response to TMI Action Plan Item II.F.1.5, are deleted.

In addition, the July 18, 1984 letter proposed a change to the Technical Specifications that was not addressed in the February 29, 1984 application and was not noticed in 49 FR 21831. In preparing the Technical Specifications for items (1) and (2) above, the licensee noted that the identification number and range of a Suppression Chamber/Torus Water Temperature instrument were incorrectly identified. The third item for which a Technical Specification revision is proposed by the licensee's July 18, 1984 letter is a correction to the Suppression Chamber/Torus Water Temperature instrument designation.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance for the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870) of actions likely to involve no significant hazards considerations. One of the examples relates to: "(i) a purely administrative change to Technical Specifications: for example, a change to achieve consistency throughout the Technical Specifications, correction of an error, or a change in nomenclature." Another example (ii) of actions involving no significant hazards consideration is a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications.

(1) The proposed revision to the Technical Specifications relative to TMI Action Plan Items II.F.1.4, Containment Pressure Monitor, and II.F.1.5, Containment Water Level Monitor, impose more stringent action statements for inoperable equipment than originally proposed by the February 29, 1984 application. These revisions constitute additional limitations, restrictions, or controls not presently included in the Cooper Nuclear Station (CNS) Technical Specifications. Therefore, the proposed changes are similar to the Commission's example (ii) above. Also, as noted, the proposed revision represents a more stringent limitation than that originally noticed in 49 FR 21831. Therefore, the proposed revision does not change our originally proposed determination that the requested change will not involve significant hazards considerations.

(2) The licensee proposes to revise the original Technical Specifications amendment application to delete requirements and references to the Drywell Level instrumentation. Technical Specification changes to add the Drywell Level instrumentation were erroneously proposed by the February 29, 1984 submittal, along with proposed changes to include Suppression Chamber/Torus Water Level instrumentation, in response to TMI Action Plan Item II.F.1.5. Because this TMI Action Plan Item only addresses Suppression Chamber/Torus Water Level instrumentation, Drywell Level Instrumentation need not be included in the Technical Specifications. Therefore, this correction does not change our proposed determination in 49 FR 21831 that the requested change will not involve significant hazards considerations.

(3) The licensee proposes to change the Technical Specifications to correct the identification number and range of a Suppression Chamber/Torus Water Temperature instrument. The correction is an administrative change similar to the Commission's example (i). Therefore, we propose to determine that the requested change will not involve significant hazards considerations.

Local Public Document Room location: Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305.

Attorney for licensee: Mr. G.D. Watson, Nebraska Public Power District, Post Office Box 499, Columbus, Nebraska 68601.

NRC Branch Chief: Domenic B. Vassallo.

Niagara Mohawk Power Corporation, Docket No. 50-330, Nine Mile Point Nuclear Station, Unit No. 1, Oswego County, New York

Date of amendment request: July 11, 1984.

Description of amendment request: The proposed amendment would modify the definition section, the limiting conditions for operations, surveillance requirements and bases section of the Technical Specifications with regard to

the reactor coolant leakage limits. More specifically, initiation of inspection and corrective actions are required when identified leakage increases at a rate of two gallons per minute within a twenty-four hour period or less; the frequency of reactor coolant leakage checks is increased; and operability and surveillance requirements are imposed on the leakage detection systems.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning determination of significant hazards by providing certain examples (48 FR 14870) of amendments considered not likely to involve significant hazards consideration. One of the examples relates to a change which is (ii) an additional limitation, restriction, or control not presently included in the Technical Specifications. The proposed change imposes additional more restrictive requirements on the reactor coolant leakage limits. Therefore, the change is similar to example (ii) described above.

Therefore, since the application for amendment involves changes similar to examples for which a no significant hazards consideration exists, the staff has made a proposed determination that the application for amendment involves no significant hazards considerations.

Local Public Document Room location: State University College at Oswego, Penfield, Library—Documents, Oswego, New York 13126.

Attorney for licensee: Troy B. Conner, Jr., Esquire, Conner & Wetterhahn, Suite 1050, 1747 Pennsylvania Avenue, N.W., Washington, D.C. 20006.

NRC Branch Chief: Domenic B. Vassallo.

Niagara Mohawk Power Corporation, Docket No. 50–220, Nine Mile Point Nuclear Station, Unit No. 1, Oswego County, New York

Date of amendment request: July 19, 1984.

Description of amendment request: The proposed amendment changes the Technical Specifications to reflect a management organization change in which the Senior Vice President, Nuclear Operations' function is assumed by the Executive Director of Nuclear Operations and the Vice President of Quality Assurance's function is assumed by the Director of Quality Assurance.

Basis for proposed no significant hazards consideration determination: The licensee has presented its determination of significant hazards considerations as follows:

The proposed Technical Specification amendment regarding management reorganization involves no significant hazards considerations. Therefore, the operation of Nine Mile Point, Unit No. 1 in accordance with the proposed amendment will not (1) involve a significant increase in the possibility or consequences of an accident previously evaluated, (2) create the possibility of a new or different kind of accident from any accident preivously evaluated, or (3) involve a significant reduction in a margin of safety. This determination is based on the following analysis.

The proposed amendment incorporates management organizational changes to improve the overall performance of Nine Mile Point, Unit No. 1 and construction and operation of Nine Mile Point, Unit No. 2. The positions of Executive Director of Nuclear Operation and Director of Quality Assurance were created to utilize the skills of Messrs. B. G. Hooten and J.A. Perry to accomplish this goal. As a result of the delegation of authority and responsibility by the Board of Directors, these positions possess the authority of officers of the Corporation.

The proposed amendment, therefore, involves no significant hazards consideration. This proposed determination is supported by the fact that the requested action corresponds with example (i) of the Sholly Rule published in the **Federal Register** on April 6, 1983, which involves a purely administrative change in the Technical Specifications.

The staff has reviewed the licensee's significant hazards consideration determinations and based on this review concurs that the proposed change is administrative in nature since the function and independence of the previous organization appears to be maintained. The staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: State University College at Oswego, Penfield Library—Documents, Oswego, New York 13126.

Attorney for licensee: Troy B. Conner, Jr., Esquire, Conner & Wetterhahn, Suite 1050, 1747 Pennsylvania Avenue, N.W., Washington, D.C. 20006.

NRC Branch Chief: Domenic B. Vassallo.

Niagara Mohawk Power Corporation, Docket No. 50–220, Nine Mile Point Nuclear Station, Unit No. 1, Oswego County, New York

Date of amendment request: August 3, 1984, superseding in part the request of April 13, 1984.

Description of amendment request: This submittal supersedes in part the request for amendment dated April 13, 1984 which was noticed in the Monthly **Federal Register** Notice on June 20, 1984 (49 FR 25365). This request for Technical Specification (TS) changes is to incorporate limiting conditions for operation, action statement, and surveillance requirements for the instrumentation that initiates the diesel generators. The proposed changes provided in the August 3, 1984 submittal are in response to telephone conferences of May 17, July 23, and July 30, 1984.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the determination of significant hazards by providing certain examples (48 FR 14870) of amendments considered not likely to involve significant hazards consideration. One of the examples (ii), relates to a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications: for example, a more stringent surveillance requirement. The proposed Technical Specification amendment imposes more stringent controls on the diesel generator initiation logic. This is accomplished by increased surveillance and operational requirements. This proposed determination is similar to example (ii) in that the changes constitute an additional control not presently included in the Technical Specifications.

Therefore, since the application for amendment involves changes similar to examples for which a no significant hazards consideration exists, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Document location: State University College at Oswego, Penfield Library—Documents, Oswego, New York 13126.

Attorney for licensee: Troy B. Conner, Jr., Esquire, Conner & Wetterhahn, Suite 1050, 1747 Pennsylvania Avenue, N.W., Washington, D.C. 20006.

NRC Branch Chief: Domenic B. Vassallo.

Niagara Mohawk Power Corporation, Docket No. 50–220, Nine Mile Point Nuclear Station, Unit No. 1, Oswego County, New York

Date of amendment request: August 7, 1984.

Description of amendment request: The proposed amendment would change section 6.0, Administrative Controls of the Technical Specifications relating to Safety Review and Audit Board (SRAB) audits of actions taken to correct deficiencies occurring in facility equipment, structures, systems or methods of operation that affect nuclear safety. In particular, the word "all" is being deleted as a modifier to "actions."

Basis for proposed no significant hazards consideration determination: The proposed Technical Specification change to section 6.5 *Review and Audit*

of the Nine Mile Point Unit 1 Administrative Controls involves a reduction in the required scope of review by SRAB of results of actions taken to correct deficiencies in facility equipment or methods of operation. The change proposed by the licensee is identical in scope to that found in the Administrative Controls section of BWR Standard Technical Specifications, NUREG–0123, Rev. 3, endorsed by Chapter 16 (NUREG–0800) of the Standard Review Plan. Further, significant events and their respective corrective actions are reported to the NRC by Licensee Event Reports. Therefore, the operation of the plant in accordance with the proposed amendment will not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety. Therefore, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: State University College at Oswego, Penfield Library—Documents, Oswego, New York 13126.

Attorney for licensee: Troy B. Conner, Jr., Esquire, Conner & Wetterhahn, Suite 1050, 1747 Pennsylvania Avenue, N.W., Washington, D.C. 20006.

NRC Branch Chief: Domenic B. Vassallo.

Northern States Power Company, Docket No. 50–263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of application for amendment: April 3, 1984, as revised August 17, 1984.

Description of amendment request: The August 17, 1984 submittal replaces the request for amendment dated April 3, 1984 which was noticed in the Monthly **Federal Register** Notice on May 23, 1984 (49 FR 21833). The proposed amendment would modify the Technical Specifications to add a number of specifications by the Commission in NUREG–0737 following the Three Mile Island accident and following certain system changes made at the Monticello site. The proposed changes to the Technical Specifications provide Limiting Conditions of Operation and Surveillance Requirements for post-accident sampling equipment and control room habitability equipment.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for making a no significant hazards consideration determination by providing certain examples (48 FR 14870).

One of these examples (ii), is a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications: for example, a more stringent surveillance requirement. The proposed amendment matches this example in that the only changes are additional restrictions, imposed by NUREG–0737, not presently included in the Technical Specifications.

Therefore, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: Domenic B. Vassallo.

Northern States Power Company, Docket No. 50–263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of application for amendment: May 29, 1984 and August 16, 1984.

Description of amendment request: The proposed amendment would modify the Technical Specifications as follows:

1. A new intertie line has been installed at the Monticello plant between the Residual Heat Removal (RHR) suction line and RHR return line for the purpose of reducing the potential for water hammer. There are three motor-operated valves in the new line. The proposed change adds limiting conditions for operation (LCOs) and surveillance requirements for the new valves.

2. A recirculation system cross-tie line has been removed from the Monticello plant during the current pipe replacement outage. The cross-tie line is valved closed during reactor operation, and its use during reactor operation is prohibited by Technical Specifications. Because the cross-tie line has now been physically removed, the proposed change deletes, from the Technical Specifications, limiting conditions for operation prohibiting the use of the cross-tie line during reactor operation.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the determination of significant hazards by providing certain examples (48 FR 14870) of amendments considered not likely to involve significant hazards consideration. One of the examples, (iv), is a change which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan: for example, a change resulting from the application of a small refinement of a previously used calculational model or design model.

This example is applicable to the first item in the proposed amendment which adds Technical Specification requirements pertaining to the new intertie line in that the change may reduce in some way a safety margin with respect to LOCA analyses or suppression pool loading. The new intertie line has been analyzed by the licensee to determine any possible adverse effects resulting from its presence, including effects on LOCA analyses and containment suppression pool loadings. Adverse effects have been found negligible compared to the positive benefits from reducing the potential for water hammer. The results of the change are clearly within all acceptable criteria for the system or component as specified in the Standard Review Plan, Section 15.65, "LOCA Resulting from Spectrum of Postulated Piping Breaks Within the Reactor Coolant Pressure Boundary" and Section 6.2.1.1.C, "Pressure-Suppression Type BWR Containments."

Another example provided by the Commission, (i), is a purely administrative change to Technical Specifications: for example, a change to achieve consistency throughout the Technical Specifications, correction of an error, or a change in nomenclature.

This example is applicable to the second item in the proposed amendment because the change deletes, from the Technical Specifications, restrictions pertaining to the operation of a line which has now been physically removed.

Therefore, since all of the changes are encompassed by examples of changes which the Commission has determined are not likely to pose a significant hazards consideration, the staff proposes to determine that the amendment does not involve a significant hazards consideration.

Local Public Document Room location: Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and

Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: Domenic B. Vassallo.

Northern States Power Company, Docket No. 50-263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of application for amendment: July 27, 1984.

Description of amendment request: The proposed amendment would provide a higher limiting setpoint for degraded grid voltage protection than now exists in the Technical Specifications, and would specify time delay and deviations from the setpoint for the degraded voltage trip and reset functions which are presently unspecified.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the determination of significant hazards by providing certain examples (48 FR 1470) of amendments considered not likely to involve significant hazards consideration. One of the examples (ii) is a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications.

A higher degraded voltage setpoint is more restrictive, and specification of the permissible time delay and deviation from setpoint for the trip and reset functional provide limitations which do not presently exist in the Technical Specifications.

Therefore, since the application for amendment involves proposed changes that are similar to the examples for which no significant hazards consideration exists, the Commission has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: Domenic B. Vassallo.

Northern States Power Company, Docket No. 50-263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of application for amendment: August 17, 1984.

Description of amendment request: The proposed amendment would revise section 5.2 of the Technical Specifications (TSs) to reflect the use of hybrid design hafnium control rod assemblies. These assemblies will be used to replace standard control rod assemblies during the current Monticello refueling outage

The other change proposed in the August 17, 1984 application is being handled by separate action.

The changes made to section 5.2 of the Monticello TSs reflect the use of hybrid design hafnium control rod assemblies to replace existing control rod assemblies. The Hybrid I Control Rod (HICR) Assembly has been designed by General Electric (GE) to be used as direct replacement for the present control rod assemblies. The original control rods contained only boron carbide, B_4C, as the absorbing material. The new assembly design use B_4C absorber cubes and three solid hafnium rods in the outside edge of each wing. This new design will lengthen control rod lifetime.

The description of these control rods was submitted to the NRC by General Electric in topical report NEDE-22290. Based on the staff's evaluation of the information provided in (a) NEDE-22290, (b) a meeting with GE representatives, and (c) responses to NRC staff questions, the staff concluded that there is reasonable assurance that the substitution of Type I HICRs for other approved GE control blades will not result in unacceptable hazards to the public and should, in fact, result in improved control blade performance and a positive contribution to reactor safety. Therefore, NEDE-22290, as amended to incorporate this safety evaluation, is approved as a referenced document for the GE Type I HICR by NRC letter dated August 22, 1983.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The staff has reviewed the proposed amendment and the related topical report. The licensee concludes that the proposed amendment does not involve a significant hazards consideration and based on the following discussion the staff concurs with this conclusion.

The materials evaluation, which includes the chemical, physical, mechanical and irradiation properties, indicates that data and experience demonstrate acceptable corrosion resistance in high temperature water and steam exists for hafnium in BWR control rods. The physical properties expected to be germane to control applications indicate acceptable performance in the BWR environment.

The mechanical evaluation indicates that the thermal expansion and irradiation growth of hafnium will not interfere with handle and velocity limiter.

A nuclear evaluation indicates that the HICR will have no significant impact on core and fuel operation when used as a replacement for the current B_4C control rod assemblies. Experiments provide critical benchmarks for calculations and illustrate a minimum impact on local power and flux distributions with all hafnium rods. An even smaller impact is expected for HICR which is a mixture of hafnium and B_4C. Therefore, the HICR can be used without change in the current lattice physics treatment of control rod assemblies and current design procedures.

Thermal-hydraulic evaluation shows that the maximum temperature of the new rods is not significantly different from the currently used control rod assemblies.

An accident evaluation shows that the HICR weight and envelope are identical to the current assemblies. The mechanical and nuclear properties of the HICR do not differ from the current assemblies in any measures that might be significant during normal or accident conditions. The HICR is, except for minor differences, mechanically identical to the BWR assemblies for which many reactor years of safe operating experience are available. Accordingly the mechanical safety analysis for the HICR is enveloped by the mechanical safety analyses for the current assemblies.

The reactor core response for the HICR design has been evaluated against the current control rod design for comparison with linear heat generation, minimum critical power ratio and maximum average planer heat generation limits. The HICR weight and rod worth are the same as the current control rod design, therefore the scram speed and scram reactivity are the same and the above limits are not affected by the change.

Based on the above, the staff has determined that: (1) the probability or occurrence or the consequences of an

accident would not be increased above those analyzed in the Final Safety Analysis Report (FSAR) because the weight and envelope of the HICR are identical to those of the currently used assemblies, and the nuclear and mechanical properties of the HICR do not differ from currently used assemblies in a significant way; (2) the possibility of an accident different from those analyzed in the FSAR would not result from these changes because, in addition to the above, these systems would not be operated in a manner new or different from that described in the FSAR; and (3) the margin of safety as analyzed in Technical Specifications would not be reduced because the proposed amendment involves no significant relaxation of the criteria used to establish safety limits, no significant relaxation of the bases for limiting safety system settings, and no significant relaxation in limiting conditions for operation. Therefore, the staff finds that operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident; or (3) involve a significant reduction in a margin of safety.

Therefore, for the reasons discussed above, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: Domenic B. Vassallo.

Northern States Power Company, Docket No. 50–263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of application for amendment: September 7, 1984.

Description of amendment request: The proposed amendment would modify the Technical Specifications to add Limiting Conditions of Operation and Surveillance Requirements for the low low setpoint logic modification. The low low setpoint logic modification is designed to ensure a minimum water leg clearing time between any safety relief valve (SRV) closure and subsequent actuation to minimize thrust loads as part of the generic Mark I containment modification program. The review and approval of the low low setpoint logic modification was issued by the NRC to the licensee by letter dated March 19, 1984.

The proposed amendment also reduces the Limiting Condition of Operation for the maximum suppression pool water volume, so that the water volume is consistent with the analysis supporting the Mark I containment modification program.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the determination of significant hazards by providing certain examples (48 FR 14870) of amendments considered not likely to involve significant hazards consideration. One of the examples (ii), relates to change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications.

The present Monticello Technical Specifications do not contain Limiting Conditions of Operation and Surveillance Requirements for the low low setpoint logic modification. Also the present Monticello Technical Specifications contain a less restrictive value for the maximum suppression pool water volume.

Therefore, since this change is more restrictive than the current Technical Specification limit, the change is similar to example (ii). The staff proposes to determine that the proposed change does not involve a significant hazards consideration since it is similar to the examples of actions involving no significant hazards consideration cited by the Commission.

Local Public Document Room location: Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: Domenic B. Vassallo.

Northeast Nuclear Energy Company, Docket No. 50–245, Millstone Nuclear Generating Station, Unit No. 1, New London County, Connecticut

Date of amendment request: July 17, 1984.

Description to amendment request: The Technical Specification change proposed by the amendment request would modify the Appendix A Technical Specifications to lower the primary containment oxygen concentration from five (5) percent to four (4) percent. The change would further limit the amount of oxygen in the containment drywell and wetwell to assure sufficient inerting (nitrogen inerted) to prevent combustible gas mixtures due to hydrogen generation following postulated loss-of-coolant accidents (LOCAs). The reduced oxygen limit is in accord with Northeast Nuclear Energy Company's (NNECO's) calculations that show an inerted containment with less then four (4) percent oxygen during normal plant operation will not support combustion of hydrogen formed in the post LOCA recovery period considering water radiolysis, metal/water reactions and other potential sources of oxygen.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of standards for a no significant hazards consideration determination by providing certain examples (April 6, 1983, 48 FR 14870). One of the examples (ii) of actions not likely to involve a significant hazards consideration relates to a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications. The change proposed by the licensee involves a new more restrictive requirement for containment oxygen concentration and satisfies the four (4) percent oxygen concentration operating limit requirement of NRC Generic Letter 84–09 dated May 8, 1984. Thus, the proposal is encompassed within example (ii) since the requested action would result in additional limitation. On this basis the staff proposes to determine that the requested action would involve a no significant hazards consideration determination.

Local Public Document Room location: Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut 06385.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry, & Howard, Counselors at Law, City Place, Hartford, Connecticut 06103–3499.

NRC Branch Chief: Walter A. Paulson, Acting Chief.

Pennsylvania Power & Light Company, Docket Nos. 50–387 and 50–388, Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of amendment request: May 3, 1984.

Description of amendment request: The proposed amendment would: (1) allow for contractor personnel who have been awarded a temporary 180-day clearance and have requested a PP&L–C full clearance to be granted an extension of the temporary clearance when unforeseeable and lengthy delays in the

background investigation are encountered, or when the time necessary to complete the work project is beyond the projected completion date; and (2) provide the Director-Corporate Security a reasonable degree of flexibility during the clearance process to grant a contractor clearance when certain minor information has not been received, as otherwise required.

Basis for proposed no significant hazards consideration determination: PP&L's screening program for contractors is only to grant unescorted access for a limited duration—180 days. Due to the transient nature of work performed by contractors, frequently workers are initially processed for a temporary clearance and are subsequently laid off prior to the expiration of their 180-day limitation under temporary clearance provisions. In many cases only several weeks later, the same workers may be rehired to perform another function; however, their temporary clearance is nearing expiration or has recently expired. As a result, these workers must be escorted in order to gain entrance to the protected area.

The implementation of the interim PP&L–C clearance would allow these previously cleared personnel to return to work in an expeditious manner without the need for escorting.

In addition, unforeseeable and uncontrolled delays in the conduct of the background investigation occur from time to time. The interim PP&L–C clearance would bridge the gap between the expiration of the temporary and the completion of the full contractor clearance in such instances.

The proposed interim PP&L–C clearance would not simply be an extension of the temporary clearance because (1) a prerequisite will be that a full PP&L–C clearance must be in progress (in many cases the full clearance is submitted); (2) all case information available at the time of the request for the interim clearance will be considered in the decision to grant an interim PP&L–C clearance; (3) psychological evaluations are required for all interim clearances (which may not be the case for temporary clearances); (4) the immediate supervisor for each individual requesting an interim clearance must submit a completed questionnaire which addresses alcohol/drug usage, credit, mental or nervous problems, reliability and trustworthiness; and (5) the supervisor must provide a statement of opinion as to whether or not he recommends the employee for unescorted access based upon his association and observation of the employee's behavior.

The scope of PP&L's background investigation includes most aspects of a clearance candidate's life including checks into credit history, character references, employment and unemployment and local law enforcement agencies records. Occasionally, due to a backlog in similar requests for information, some agencies do not respond in a prompt fashion. In this situation, all other components of the background investigation are usually completed with favorable results; however, the clearance, in such instances, cannot be awarded until all information is available for review.

This unduly punishes an otherwise acceptable candidate for failings beyond his control. Also, it should be noted that the information requested from a non-responsive agency has usually been verified indirectly through other sources such as references. In most instances, a complete picture of the individual's character, reliability and trustworthiness has already been established. In such cases, PP&L would actively pursue attempts to acquire the information even when previous attempts are ignored.

This option would provide PP&L with optimum flexibility during the clearance process and would yield a more cost-effective worker-responsive program without diminishing program goals and intent.

Therefore, since the application for amendment involves a proposed change which meets the standards for concluding that the operation of the facility in accordance with the proposed amendment would not, involve a significant increase in the probability or consequences of an accident previously evaluated; or create the possibility of a new or different kind of accident from any accident previously evaluated; or involve a significant reduction in a margin of safety, the Commission proposes to determine that the proposed change involves no significant hazards consideration.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Attorney for licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, N.W., Washington, DC 20036.

NRC Branch Chief: A. Schwencer.

Portland General Electric Company, Docket No. 50–344, Trojan Nuclear Plant, Columbia County Oregon

Date of amendment request: January 28, 1983, as supplemented and amended March 27, 1984. These requests supersede an earlier application for amendment dated March 15, 1979.

Description of amendment request: The amendment would make changes to the Radiological Effluent Technical Specifications that bring them in to compliance with Appendix I of 10 CFR Part 50. It would provide new Technical Specification sections defining limiting conditions for operation and surveillance requirements for radioactive liquid and gaseous effluent monitoring; concentration, dose and treatment of liquid, gaseous and solid wastes; total dose; radiological environmental monitoring that consists of a monitoring program, land use census, and an interlaboratory comparison program. The change would also incorporate into the Technical Specifications the bases that support the operation and surveillance requirements. In addition, some changes would be made in administrative controls, specifically dealing with the process control program and the offsite dose calculation manual.

Basis for proposed no significant hazards consideration determination: The Commission had provided guidance concerning the application of these standards by providing certain examples (48 FR 14870). One of the examples of actions not likely to involve a significant hazards consideration relates to changes that constitute additional restrictions or controls not presently included in the technical specifications.

The Commission, in a revision to Appendix I to 10 CFR Part 50, required licensees to improve and modify their radiological effluent systems in a manner than would keep releases of radioactive material to unrestricted areas during normal operation as low as is reasonably achievable. In complying with this requirement it became necessary to add additional restrictions and controls to the Technical Specifications to assure compliance. This caused the proposed addition of Technical Specifications described above. The staff proposes to determine that the application does not involve a significant hazards consideration since the change constitutes additional restrictions and controls that are not currently included in the Technical Specifications in order to meet the Commission mandated "as low as is

reasonable achievable" effluent objectives.

Local Public Document Room location: Multnomah County Library, 801 S.W. 10th Avenue, Portland, Oregon.

Attorney for licensee: J.W. Durham, Senior Vice President, Portland General Electric Company, 121 S.W. Salmon Street, Portland, Oregon 97204.

NRC Branch Chief: James R. Miller.

Public Service Co. of Colorado, Docket No. 50-267, Fort St. Vrain Nuclear Generating Station, Platteville, Colorado

Date of amendment request: August 23, 1984.

Description of amendment request: The proposed change to the Technical Specifications adds a surveillance requirement for steam generator tube examinations and evaluations following a tube leak. The proposed change was requested by the NRC to formalize the commitment to perform these examinations and evaluations as stated in our June 22, 1984 letter. Prior to the issuance of this proposal, a typographical error will require correction and the Basis will require elaboration to be more meaningful.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870). The examples of actions that are considered not likely to involve significant hazards considerations include a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications: for example, a more stringent surveillance requirement.

Since the proposed change involves the addition of a new surveillance requirement, the above example applies and the staff proposes to determine that this action does not involve a significant hazards consideration.

Local Public Document Room location: Greeley Public Library, City Complex Building, Greeley, Colorado.

Attorney for licensee: Bryant O'Donnell, Public Service Company of Colorado, P.O. Box 840, Denver, Colorado 80201.

NRC Branch Chief: Eric H. Johnson.

Rochester Gas and Electric Corporation, Docket No. 50-244, R.E. Ginna Nuclear Power Plant, Wayne County, New York

Date of amendment request: July 17, 1984.

Description of amendment request: The proposed amendment would delete information pertaining to the definition of hot channel factors which is no longer relevant.

Basis for proposed no significant hazards consideration determination: By letter dated December 20, 1983, the licensee requested changes to the Ginna Technical Specifications (TS) to permit the use of the Westinghouse Optimized Fuel Assembly (WOFA). Included in the proposed TS revision were new definitions of the nuclear hot channel factors which were applicable to the use of the WOFA at Ginna. The licensee did not request removal of the old hot channel factor definitions and they were not deleted with the approval for the use of WOFA which was granted by the staff on May 1, 1984. Since the new factors are included in the TS and are governing, the old factor definitions are inoperative and should be removed in the interest of clarity.

The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870, April 6, 1983). One of the examples (i) of actions not likely to involve a significant hazards consideration is a purely administrative change to technical specifications: for example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature. The staff proposes that the proposed changes are administrative in nature and fall within example (i). Therefore, the staff proposes to determine that the request involves no significant hazards consideration, in that: (1) it does not involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

Local Public Document Room location: Rochester Public Library, 115 South Avenue, Rochester, New York 14604.

Attorney for licensee: Harry H. Voight, Esquire, LeBoeuf, Lamb, Leiby and MacRae, 1333 New Hampshire Avenue, N.W., Suite 1100, Washington, D.C. 20036.

NRC Branch Chief: Walter A. Paulson.

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50-395, Virgil C. Summer Nuclear Station, Unit 1, Fairfield County, South Carolina

Date of amendment request: February 22, 1984

Description of amendment request: The amendment would change the Technical Specification reporting requirements to be in accordance with new regulation 10 CFR 50.73. The new § 50.73 provides for a revised Licensee Event Report System and replaces all existing requirements for licensees to report "Reportable Occurrences" as defined in individual plant Technical Specifications.

Basis for proposed no significant hazards consideration determination: The Commission has provided certain examples (48 FR 14870) of actions likely to involve no significant hazards considerations. One of the examples relates to a change to make a license conform to changes in the regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulations. The amendment involved here is similar in that it changes the reporting requirements contained in Technical Specifications to be in accordance with new regulation 10 CFR 50.73. Accordingly, the Commission proposes to determine that this change does not involve a significant hazards consideration.

Local Public Document Room Location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29810.

Attorney for licensee: Randolph R. Mahan, P.O. Box 764, Columbia, South Carolina 29218.

NRC Branch Chief: Elinor G. Adensam.

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50-395, Virgil C. Summer Nuclear Station, Unit 1, Fairfield County, South Carolina

Date of amendment request: July 19, 1984.

Description of amendment request: The amendment would revise Technical Specification 6.3, "Unit Staff Qualifications," to clarify educational requirements of candidates for Senior Reactor Operator's (SRO) Licenses. The revision consists of a reference to NUREG-0737, "Clarification of TMI Action Plan Requirement," section I.A.2.1, and NUREG-1021, "Operator Licensing Examiner Standards," ES-109D.

Basis for proposed no significant hazards consideration determination: The current Technical Specification 6.3 requirement for SROs is that they shall meet or exceed the minimum qualifications of ANSI N18.1-1971 for comparable positions and the supplemental requirements specified in Sections A and C of Enclosure 1 of the March 28, 1980, letter to all licensees. The amendment would add the following: "as clarified in NUREG-0737,

section I.A.2.1, and NUREG–1021, ES–109D.

The Commission has provided certain examples (48 FR 14870) of actions likely to involve no significant hazards considerations. The request involved in this case does not match any of those examples. However, the staff has reviewed the licensee's request for the above amendment and has determined that should this request be implemented, it will not (1) involve a significant increase in the probability or consequences of an accident previously evaluated because the referenced documents are NRC aproved recommendations for SRO qualifications, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated because the plant design is not changed, or (3) involve a significant reduction in a margin of safety because the referenced documents are NRC approved recommendations for SRO qualifications. Accordingly, the Commission proposes to determine that this change does not involve a significant hazards consideration.

Local Public Document Room location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180.

Attorney for licensee: Randolph R. Mahan, P.O. Box 764, Columbia, South Carolina 29180.

NRC Branch Chief: Elinor G. Adensam.

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50–395, Virgil C. Summer Nuclear Station, Unit 1, Fairfield County, South Carolina

Date of amendment request: July 24, 1984.

Description of amendment request: The amendment would revise Technical Specification Table 3.3–7, "Seismic Monitoring Instrumentation," and Technical Specification Table 4.3–4, "Seismic Monitoring Instrumentation Requirements" to allow an installed triaxial peak accelerograph to be moved to an accumulator safety injection line from the pressurizer surge line. A typographical error would also be corrected in Technical Specification Table 3.3–7.

Basis for proposed no significant hazards consideration determination: The Commission has provided certain examples (48 FR 14870) of actions likely to involve no significant hazards considerations. One of the examples relates to a purely administrative change to Technical Specifications such as correction of an error in Technical Specifications. The correction of the typographical error in Technical Specification Table 3.3–7 is similar to this example. However, the request to move the triaxial peak accelerograph does not match any of the examples. The staff has reviewed the licensee's request for the above amendment and has determined that should this request be implemented, it will not (1) involve a significant increase in the probability or consequences of an accident previously evaluated because the accelerograph will still be available to determine if a seismic event exceeding the operating basis earthquake (OBE) occurs, which requires plant shutdown by 10 CFR 100, Appendix A. Also, it will not (2) create the possibility of a new or different kind of accident from any accident previously evaluated because the accelerograph function of recording seismic events is not being changed and it will not (3) involve a significant reduction in a margin of safety because the new location is an analyzed location away from restraints which produces relatively large accelerations under OBE conditions. Accordingly, the Commission proposes to determine that this change does not involve a significant hazards consideration.

Local Public Document Room Location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180.

Attorney for licensee: Randolph R. Mahan, P.O. Box 764, Columbia, South Carolina 29180.

NRC Branch Chief: Elinor G. Adensam.

Southern California Edison Company, et al, Docket Nos. 50–361 and 50–362, San Onofre Nuclear Generating Station, Units 2 and 3, San Diego County, California

Date of amendment request: April 6, 1984, April 27, 1984 and September 11, 1984 (reference PCN–135).

Description of amendment request: Technical Specification 3/4.3.2 requires that the Engineered Safety Features Actuation System (ESFAS) instrumentation channels be operable, and defines a number of functional tests and response time tests that must be periodically conducted in order to assure operability. Table 3.3–4 of this Technical Specification defines the ESFAS instrumentation trip values for the Toxic Gas Isolation System (TGIS). The TGIS is actuated by greater than allowable concentration of toxic gas (i.e., chlorine, ammonia, butane/propane, or carbon dioxide) in the normal control room air supply duct. Upon receipt of a TGIS signal, the control room heating, ventilation, and air conditioning (HVAC) system is automatically isolated. The FSAR analysis indicates that adequate protection for the control room operators will be provided if the toxic gas concentration in the control room during the first two (2) minutes after the detector responds is less than the protective action limit for toxic gas concentration. The proposed change would make the following revisions to Table 3.3–4:

(1) The allowable values for chlorine concentration would be increased from less than or equal to 6.2 ppm to less than or equal to 15.0 ppm. With an allowable value for chlorine limited to less than or equal to 15.0 ppm, the high chlorine trip value would be increased from less than or equal to 6.0 ppm to less than or equal to 14.3 ppm.

(2) The allowable values for ammonia concentration would be increased from less than or equal to 44.7 ppm to less than or equal to 100 ppm. With an allowable value for ammonia limited to less than or equal to 100 ppm; the high ammonia trip value would be increased from less than or equal to 42.4 ppm to less than or equal to 97 ppm.

(3) The allowable values for butane/propane concentration would be increased from less than or equal to 89.3 ppm to less than or equal to 200 ppm. With an allowable value for butane/propane limited to less than or equal to 200 ppm, the high butane/propane trip value would be increased from less than or equal to 84.8 ppm to less than or equal to 193 ppm.

(4) The allowable value for carbon dioxide concentration would be deleted (the present value is less than or equal to 4275.0 ppm). Therefore the high carbon dioxide trip value would also be deleted (the present value is less than or equal to 4061.3 ppm).

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether a significant hazard consideration exists by providing certain examples (48 FR 14870) of amendments that are considered not likely to involve significant hazards considerations. Example (vi) relates to a change which may result in some increase in the probability or consequences of a previously analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptance criteria with respect to the system or component specified in the Standard Review Plan (SRP). The proposed change is similar to this example in that the proposed allowable toxic gas concentrations,

while larger than those presently used, nevertheless meet the requirements of Section 6.4 of the Standard Review Plan by ensuring that during the first two (2) minutes after the detector responds, the control room will not exceed the protective action limit for toxic gas concentration.

Specifically, the license has recently revised the flow model in the previously used method for calculating toxic gas concentration in the control room. Analysis using the revised model has shown that the revised TGIS allowable values and trip setpoints will still provide the plant operators with the required two (2) minutes of warning time before the protective action limit for toxic gas concentration in the control room is exceeded.

In the case of item (4), above, the licensees' analysis shows that even with no control room isolation, the maximum control room concentration of carbon dioxide at any time is 11,000 ppm. Since the two (2) minute protective action limit for carbon dioxide is 50,000 ppm, this monitor can be deleted from the Technical Specifications and the plant will still meet the toxic gas criteria of the SRP. Therefore, based on the above considerations, the Commission proposes to determine that these changes do not involve a significant hazards consideration.

Local Public Document Room location: San Clemente Library, 242 Avenida Del Mar, San Clemente, California 92672.

Attorney for licensee: Charles R. Kocher, Esq., Southern California Edison Company, 2244 Walnut Grove Avenue, P.O. Box 800, Rosemead, California 91770 and Orrick, Herrington & Sutcliffe, Attn.: David R. Pigott, Esq., 600 Montgomery Street, San Francisco, California 94111.

NRC Branch Chief: Geroge W. Knighton.

Tennessee Valley Authority, Docket No. 50-296, Browns Ferry Nuclear Plant Unit 3, Limestone County, Alabama

Date of amendment request: May 10, 1984.

Description of amendment request: The amendment would delete operability and test requirements for valves 74-77 and 74-78 which previously served as primary containment isolation valves for the residual heat removal (RHR) head spray piping located at containment penetration X-17. The amendment would also change the name of containment penetration X-17 from "RHR head spray line" to "blank."

Basis for proposed no significant hazards consideration determination: The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from an accident previously evaluated; or (3) involve a significant reduction in a margin of safety for the following reasons:

1. Valves 74-77 and 74-78 will be replaced by permanent pipe cap. Valves are subject to leakage and failure-to-close; however, since a welded-in pipe cap is not, there will be no significant increase in the probability or consequences of an accident previously evaluated.

2. The capped-off piping will not be physically or functionally connected to any other system, component, or equipment in a manner which could create a new different kind of accident. Because of the cap, the piping is dead-ended to flow.

3. The piping penetration will continue to be testable and subject to Appendix J, Type B leakage tests. Therefore, there will be no significant reduction in the margin of safety.

On the above basis, the starff has made a proposed determination that the application involves no significant hazards consideration.

Local Public Document Room location: Athens Public Library, South and Forrest, Athens, Alabama 35611.

Attorney for licensee: H. S. Sanger, Jr., Esquire, General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, E 11B 33C, Knoxville, Tennessee 37902.

NRC Branch Chief: Domenic B. Vassallo.

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee.

Date of amendment request: (1) January 25, 1984 (2) September 17, 1982 (3) December 10, 1981 (4) December 29, 1983 (5) June 13, 1984 (6) May 25, 1984 (7) April 20, 1984.

Description of amendment request: (1) On January 25, 1984, the licensee requested changes to the Technical Specifications for Units 1 & 2 to incorporate operating conditions and surveillance requirements for newly installed instrumentation and the reactor coolant vent system. Plant modifications were made to comply with the operating license conditions and conformance with NUREG-0737. The additional accident monitoring instrumentation provides continuous indication in the control room of containment conditions during the course of an accident. Instruments are also installed to provide an indication of inadequate core cooling. The reactor coolant system will permit the venting of noncondensible gases from the top of the reactor vessel, in the unlikely event an excessive amount of gases accumulate in this part of the reactor collant system. During normal operations noncondensible gases are removed through the pressurizer vessel, thereby eliminating the accumulation of gases in the reactor coolant system. Also, the licensee requested changes in the requirements for diesel generator surveillance testing to conform with the NRC July 25, 1983, letter to "All Holders of Operating Licenses." This change deletes a specific diesel surveillance requirement since it was not consistent with NRC General Design Criteria No. 17. (2) On September 17, 1982, the licensee requested that the primary containment average air temperature for Unit 1 be lowered from 110°F to 105°F in the upper compartment and raised from 120°F to 125°F in the lower compartment. These values are consistent with the current loss-of-coolant analysis for the Sequoyah containments. This revision is identical to the change recently made for Unit 2 (Amendment No. 25). (3) On December 10, 1981, the licensee requested changes to the surveillance requirements for fire hose testing for Units 1 & 2. The revision was made on Unit 1 (Amendment No. 13) but inadvertently omitted for Unit 2. Fire hose hydrostatic testing is to be conducted at a pressure of 150 psig, instead of 300 psig, or at least 50 psig above maximum fire main operating pressure, whichever is greater. (4) On December 29, 1983, the licensee requested an extension for Unit 2 of the visual inspection requirements of certain protective fuses instead of destructive testing of fuses until NRC completes a review of this matter on a generic basis. This request was previously granted on Unit 1 (Amendment No. 34). (5) On June 13, 1984, the licensee proposed changing the isolation signal to the phase B signal rather than phase A for certain radiation monitors in containment in order to eliminate conflicting Technical Specification requirements when a containment isolation signal occurs. Phase A signal occurs at 1.54 psig containment pressure and certain valves and systems are isolated. Phase B signal occurs at 2.81 psig containment pressure and full containment isolation occurs.

(6) On May 25, 1984, the licensee proposed changes in the Technical Specification requirements on the time period for performing the pressure decay test for containment air lock door seals. The method for meeting the surveillance test requirements would be changed to a quicker but more accurate measurement of the integrity of the air door seals. (7) On April 20, 1984, the licensee proposed changes to the Technical Specifications to make the reporting requirements for licensee event reports in accorcance with the NRC letter of December 19, 1984.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these stanards by providing certain examples (48 FR 14870). One of the examples of actions likely to involve no significant hazards consideration relates to a change which either may result in some increase to the propability or consequences of previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan. The proposed changes (1–6) involved here are similar to this example in that there is some increase to the probability or consequences of previously analyzed accident, but the results of the change are within acceptable criteria. A second example provided in the **Federal Register** is a purely administrative change to the Technical Specifications. The proposed change (No. 7) involved here is similar in that reporting requirements would be made to be consistent with NRC general guidance in this area. A third example is a change that constitutes an additional limitation, restriction or control not presently included in the technical specifications. Parts for the proposed change (No. 1) which add requirements involved here is similar to the example. Accordingly, the Commission has made an initial determination that the above changes do not involve a significant hazards considration.

Local Public Document Room location: Chattanooga-Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee 37401.

Attorney for licensee: Herbert S. Sanger, Jr., Esquire, General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, E11B33, Knoxville, Tennessee 37902.

NRC Branch Chief: Elinor G. Adensam.

The Toledo Edison Company and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County Ohio

Date of application for amendment: November 21, 1983 (Item 1 only supplemental information on May 2, 1984.

Description of amendment request: The proposed amendment considers only Item 1 of the application for amendment. The proposed amendment would change the Technical Specifications to permit the removal of power to the operators of valves DH–11 and DH–12 while the plant is operating in Modes 1, 2 or 3. These valves are in series in the decay heat removal system suction line from the reactor coolant system and serve as pressure isolation valves at the high presure/low pressure interface. Interlocks are installed to close valves DH–11 and DH–12, if open, if reactor coolant pressure exceeds a predetermined trip level. The requirement for the valve interlock is to protect against the possibility of overpressurizing the Decay Heat Removal System while it is in use and the reactor vessel head is in place.

The proposed amendment is to remove the requirement to have the interlock on DH–11 and/or DH–12 operable if the valves are closed and 480 VAC power to the valve operator is disconnected.

Basis for proposed no significant hazards consideration determination: The Safety Evaluation Report issued by the Commission (September 23, 1983) supporting the decision to permit restart of the Davis-Besse Nuclear Power Station identified the potential for a fire in the control room to disable the pressure interlock and open valves DH–11 and DH–12. If this were to occur a loss-of-coolant accident outside of containment could result. By removal of operator power when the valves are closed and the reactor coolant system pressure is above the interlock trip setting, the potential for inadvertent opening of the valves due to a control room fire is removed.

The function of the valve interlock is to close valves DH–11 and DH–12 if they are open. If power is removed, disabling automatic valve actuation, when the valve is closed the interlock is not required since the valves are already in a closed position. The valves could be opened locally by manual manipulation of the valve hand wheel. This is not likely, however, because the valves are inaccessible when the plant is operating. Therefore, the proposed amendment would not: (1) involve a significant increase in the probability or consequence of on accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a safety margin.

Therefore, the Commission proposed to determine that the proposed amendment does not involve a significant hazards consideration.

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Attorney for Licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts, and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: John F. Stolz.

The Toledo Edison Company and The Cleveland Electric Illuminating Company Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of amendment request: February 28, 1984.

Description of amendment request: The proposed amendment would delete from the tabulation of post-accident monitoring instrumentation the requirement for at least one operable channel of instrumentation to provide Containment Air Recirculating Fan status. The associated Surveillance Requirement would also be deleted.

Basis for proposed no significant hazards consideration determination: Amendment No. 66, dated January 20, 1984, deleted Technical Specification Section 3.6.4.2 which required two independent containment recirculation systems to be operable. With the requirement for these systems to be operable deleted, all other operability and surveillance requirements associated with them should have been deleted also. Amendment No. 66 failed to delete the post-accident monitoring requirement in Tables 3.3–10 and 4.3–10.

The Commission has provided examples (48 FR 14870) of amendments considered not likely to involve a significant hazards consideration. One example is a purely administrative change to the technical specifications such as a change to achieve consistency throughout the technical specifications or to correct an error. The proposed amendment fits this example. Therefore, the Commission proposes to determine that the application does not invovle a significant hazards consideration.

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Attorney for Licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts, and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036.
NRC Branch Chief: John F. Stolz.

The Toledo Edison Company and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of amendment request: July 20, 1984.

Description of amendment request: The amendment would permit operation of the Davis-Besse Nuclear Power Station for Cycle 5. The design cycle length would be 390 effective full power days (EFPD). The amendment would revise the Appendix A Technical Specifications to account for changes in power peaking and control rod worths and would consist of revised Reactor Protection System trip setpoints, regulating rod group insertion limits, axial power shaping rod insertion limits, axial power imbalance limits, and control rod group assignments.

Basis of proposed no significant hazards consideration: The Cycle 5 core design would require the loading of 64 new fuel assemblies and the reinsertion of one fuel assembly previously discharged from an earlier refueling. The cycle design lifetime is 390 EFPD resulting in an extension of the nominal operating cycle to 18 months from the 12-month nominal cycle which characterized the previous core designs.

To control the increased core reactivity required for the longer cycle, burnable poison rod assemblies (BPRAs) will be located in each of the 64 new fuel assemblies. The new fuel assemblies (Mark B–5 design) will be identical in mechanical design to the other fuel assemblies (Mark B–4 design) except for a redesigned upper end fitting which avoids the need for a BPRA hold-down mechanism.

The only significant changes in the Cycle 5 design from Cycle 4 are the increase in cycle life to 390 EFPD and the accompanying BPRAs to provide additional reactivity control. The Cycle 5 design allows for withdrawal of the Axial Power Shaping Rods (APSRs) to permit power coastdown near the end of the cycle. APSR withdrawal and power coastdown has been utilized for previous cycles.

There have been no significant changes to the analytical methods used and previously accepted for Cycle 4 to demonstrate conformance with acceptance criteria and NRC regulations. Previous fuel cycle evaluations included a rod bow penalty for each fuel batch based on the highest burnup fuel rod in the batch. No departure from nucleate boiling ratio (DNBR) reduction due to fuel rod bowing has been considered for Cycle 5. A topical report, which as been reviewed and approved by the NRC, has concluded that the rod bow penalty is insignificant and is offset by other effects.

The changes requested result from a core reloading. No fuel assemblies differ significantly from those found acceptable to the NRC for a previous core at this facility and there have been no significant changes to the acceptance criteria and analytical methods used to demonstrate conformance with regulations.

The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). One of the examples (Example (iii)) of actions involving no significant hazards considerations relates to reload amendments involving no fual assemblies significantly different from those found previously acceptable to the NRC for a previous core at the facility in question. This assumes that no significant changes are made to the acceptance criteria for the Technical Specifications, that the analytical methods used to demonstrate conformance with the Technical Specifications and regulations are not significantly changed, and that NRC has previously found such methods acceptable.

As shown in the above discussion, the proposed amendment is similar to this example; therefore, the Commission proposes to determine that the proposed amendment does not involve a significant hazards consideration.

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts, and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: John F. Stolz.

The Toledo Edison Company and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of amendment request: August 4, 1984.

Description of amendment request: The amendment would add a condition to the license that would require the licensee to follow the approved plan for integrated scheduling of plant improvements and modifications. This includes improvements and modifications identified by the licensee, the NRC, or other regulatory agencies. The license condition would require the licensee to periodically update the schedule to maintain it current and to provide reports as specified in the approved plan. The license condition, which would be effective for a two-year period only but subject to renewal upon application, also provides a framework for changing project schedules when necessary.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). One of the examples (ii) of actions not likely to involve a significant hazards consideration relates to changes that constitute additional restrictions or controls not presently included in the Technical Specifications.

The incorporation of a license condition requiring the use of a plan to provide for scheduling plant modifications and to provide a framework for making necessary schedule alterations is a change that constitutes an additional control not presently included in the operating license for the facility. Therefore, the proposed license condition matches example (ii) of the Commission's examples of amendments that are considered not likely to involve a significant hazards consideration. On the basis, the Commission's staff proposes to determine that the application involves no significant hazards considerations.

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts, and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: John F. Stolz.

The Toledo Edison Company and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of amendment request: August 27, 1984, Item 1 only.

Description of amendment request: The proposed amendment would modify Technical Specification Table 4.4–5 by deleting specific irradiation surveillance capsule locations and by revising the capsule removal schedule. The amendment also would change Surveillance requirement 4.4.9.1.2 to clarify that the surveillance specimens

are representative of the Davis-Besse reactor vessel materials and would change Basis Section 3/4.4.9 to delete redundant information relating to the general guidelines for the capsule removal schedule. The proposed amendment is in response to Item 1 of the Licensee's application. Item 2 will be the subject of a separate notice.

Basis for proposed no significant hazards consideration determination: The withdrawal schedule in the proposed amendment was developed in accordance with the 1982 edition of ASTM E 185 and provides a better defined removal secheule for the surveillance capsules based on accumulated neutron fluence rather than on the basis of refueling cycle. Thus, any change in the nominal cycle time will not greatly influence the characterization of reactor vessel material condition as a function of accumulated neutron fluence. The original removal schedule was developed in accordance with the 1973 edition of ASTM E 185. Appendix H to 10 CFR 50 provides for the use of ASTM E 185–82 in the material surveillance program.

The deletion of specific locations in the reactor vessel for the surveillance capsules permits the use of a revised capsule management program which would decrease the time required for capsule handling and eliminate the need for all but one dummy capsule. Thus, personnel radiation exposure is reduced and less radioactive waste is generated. The revised capsule management program will not reduce the effectiveness of the reactor vessel material surveillance program.

The Commission has provided guidance concerning the application of the standards of 10 CFR 50.92 by providing certain examples (48 FR 14870). None of these examples are applicable to the proposed amendment. The proposed amendment relates only to a materials surveillance program and does not involve any change in the facility or its operation. Furthermore, neither the quantity nor the quality of the information obtained from the surveillance program is reduced. The change also is within all acceptable criteria with respect to the program specified in the Standard Review Plan. The proposed amendment, therefore, meets the requirements specified in 10 CFR 50.92(c) for an amendment which does not involve a significant hazards consideration.

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts, and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: John F. Stolz.

Union Electric Company, Docket 50–483, Callaway Plant, Unit No. 1, Callaway County, Missouri

Date of amendment request: August 1, 1984.

Description of amendment request: The purpose of the proposed amendment request is to modify Technical Specification Table 3.3–1 by revising one action statement (Action 4) and adding an additional action statement (Action 12) for the source range neutron flux monitors during shutdown conditions. The source range monitors provide in part, protection for a boron dilution accident during Modes 2, 3, 4 and 5. These monitors initiate, upon doubling of neutron flux within 10 minutes, a switchover of the suction for the charging pumps from the Volume Control Tank (VCT) to the Refueling Water Storage Tank (RWST). The addition of Action 12 specifies appropriate compensatory actions, when two channels are out of service, to maintain the plant in a safe condition. The revision to Action 4 provides for a limited time, a block of both flux doubling channels in order to perform a reactor startup. Initial criticality is not achievable without this change. This situation occurred through an oversight because the Callaway Plant is the first to receive an operating license with the Westinghouse Boron Dilution Mitigation System. During development of the Callaway Technical Specifications, greater consideration was given to assuring that the system fulfilled its intended safety function than was given to possible operational limitations. Recent surveillances of the system have identified that the technical specifications do not allow both channels to be blocked as designed to permit a planned reactor startup.

Basis for proposed no significant hazards consideration determination: The licensee, in his letter of August 1, 1984, stated that the proposed change does not involve a significant increase in the probability or consequences of an accident or other adverse condition over previous evaluations; nor create the possibility of a new or different kind of accident or condition over previous evaluations; nor involve a significant reduction in a margin of safety. Based on the foregoing, the requested amendment does not present a significant hazard. The Commission has prrovided guidance concerning the application of the Standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). For the addition of Action 12, the request is similar to the example of a change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications. The change to Action 4 is similar to the example of an administrative change to technical specifications for correction of an error. In this case, the Technical Specifications are not consistent with the plant design and would not allow plant startup.

Local Public Document Room locations: Fulton City Library, 709 Market Street, Fulton, Missouri 65251 and the Olin Library of Washington University, Skinker and Lindell Boulevards, St. Louis, Missouri 63130.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts & Trowbridge, 1800 M Street, NW., Washington. D.C. 20036.

NRC Branch Chief: B.J. Youngblood.

Wisconsin Electric Power Company, Docket Nos. 50–266 and 50–301, Point Beach Nuclear Plant, Unit Nos. 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of amendment request: February 29 as modified June 7, 1984.

Description of amendment request: The proposed amendments would revise an earlier submittal which provided limiting conditions for operation and surveillance requirements for new systems installed in accordance with NUREG–0737, TMI Action Plan. Specifically, a correction was made to the sample calibration gas hydrogen concentrations for surveillance of the hydrogen gas monitor. The calibration frequency is also revised to show that electronic calibration is done each refueling interval and the gas calibration is done quarterly (the previous submittal listed the calibration frequency as once per refueling interval).

The revised submittal also corrects errors in the previous submittal concerning the Reactor Coolant Gas Vent System limiting conditions for operation and provides clarification regarding actual system operation. Notice of Consideration of Issuance of Amendments and Proposed No Sigificant Hazards Determination relating to the licensee's February 29, 1984 submittal was published in the **Federal Register** (49 FR 25350 at 25381).

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870). One of the examples of actions likely to involve no

significant hazards considerations is example (i), purely administrative changes to the technical specifications, for example, a change to achieve consistency throughout the technical specifications, correction of an error or a change in nomenclature. The licensee's submittal corrects errors in the surveillance of the hydrogen monitor and clarifies the system operation and corresponding limiting conditions for operation for the reactor coolant gas vents systems from an earlier submittal. Therefore, the staff finds that these changes are administrative in nature and proposes to determine that the proposed amendments involve no significant hazards considerations.

Local Public Document Room location: Joseph P. Mann Public Library, 1516 Sixteenth Street, Two Rivers, Wisconsin.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts & Trowbridge, 1800 M Street NW., Washington, D.C. 20036.

NRC Branch Chief: James R. Miller.

Wisconsin Electric Power Company, Docket Nos. 50-266 and 50-301, Point Beach Nuclear Plant, Unit Nos. 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of amendment request: June 8, 1984.

Description of amendment request: The proposed amendments would revise Technical Specification 15.3.10 for Point Beach Units 1 and 2 to redefine the "fully withdrawn" term for control rods as equal to or greater than 225 steps. Previously "fully withdrawn" was equal to 228 steps.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidelines concerning the application of these standards (48 FR 14870). Several categories of license amendments are considered as likely not to involve a significant hazards consideration. One of these categories (vi) involves changes which may reduce in some way a safety margin, but the results of the change are clearly within all acceptable criteria.

The licensee performed an evaluation of inserting the control rod to a parked elevation of 225 steps of the core and the effects were shown to be minimal. Redefinition of "fully withdrawn" as being 225 steps or greater does not alter the conclusions of the reload safety evaluations performed for the existing Unit 1 and 2 cycles. At 225 steps withdrawn, the control rods are only 0.3 inches into the active fuel. Because of the low rod worth in the top region of the core, the power distribution perturbations resulting from the shallow rod insertion are very small. FQ(Z) is expected to increase in the bottom of the core by less than 1%; and the axial offset is expected to be more negative by less than 1%. Sufficient peaking factors and DNB margin are available to accommodate this small perturbation in power distribution. The minimal reduction in shutdown margin for an insertion of 3 steps can be easily accommodated by the substantial excess shutdown margin. The impact on other key safety parameters is negligible.

As discussed above, the proposed change has a minimal effect on the power distributions and related safety parameters for Point Beach Units 1 and 2; however, the evaluated results are well within the parameters outlined in the Technical Specifications and do not invalidate the conclusions of the current cycle reload safety evaluations for Units 1 and 2. Therefore, while the proposed change may reduce a safety margin, the results of the change are clearly within all acceptable criteria. Accordingly, the staff proposes to determine that the proposed amendments do not involve a significant hazards consideration.

Local Public Document Room location: Joseph P. Mann Public Library, 1516 Sixteeneth Street, Two Rivers, Wisconsin.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts & Trowbridge, 1800 M Street N.W., Washington, D.C. 20036.

NRC Branch Chief: James R. Miller.

Wisconsin Public Service Corporation, Docket No. 50-305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of amendment request: July 27, 1984.

Description of amendment request: This proposed amendment would revise the Kewaunee Nuclear Power Plant Technical Specifications to be consistent with the new reporting requirements of 10 CFR 50.73, "Licensee Event Report System".

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870). One of these, Example (vii) involving a no significant hazards consideration, is "a change to make a licensee conform to changes in the regulations, where the change results in very minor changes to facility operations clearly in keeping with the regulations." The requested amendment matches the example and the staff, therefore, proposes to determine that the amendment does not involve a significant hazards consideration.

Local Public Document Room location: University of Wisconsin Library Learning Center, 2420 Nicolet Drive, Green Bay, Wisconsin 54301.

Attorney for licensee: Steven E. Keane, Esquire, Foley and Lardner, 777 East Wisconsin Avenue, Milwaukee, Wisconsin 53202.

NRC Branch Chief: Steven A. Varga.

PREVIOUSLY PUBLISHED NOTICES OF CONSIDERATION OF ISSUANCE OF AMENDMENTS TO OPERATING LICENSES AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices because time did not allow the Commission to wait for this regular monthly notice. They are repeated here because the monthly notice lists all amendments proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the Federal Register on the day and page cited. This notice does not extend the notice period of the original notice.

Duke Power Company, et al., Docket No. 50-413, Catawba Nuclear Station, Unit 1, York County, South Carolina

Date of amendment request: July 31, 1984.

Brief description of amendment: The amendment would change the surveillance requirement acceptance criteria for the Auxiliary Feedwater pumps. The new surveillance requirements specify lower flows at slightly higher pressures. These changes would make the Technical Specifications consistent with the values assumed in the accident analysis.

Date of publication of individual notice in Federal Register: August 20, 1984 (49 FR 33068).

Expiration date of individual notice: September 19, 1984.

Local Public Document Room Location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730.

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Docket No. 50-278, Peach Bottom Atomic Power Station, Unit No. 3, York County, Pennsylvania

Date of amendment request: May 30, 1984.

Brief description of amendment: The amendment would change the Technical Specifications (TSs) to permit continued operation of Peach Bottom Unit 3 after reaching End of Cycle 6 (EOC-6) exposure in the region of the operating map bounded by the constant recirculation pump speed line between 100% power, 105% core flow (100,105) and 70% power, 110% core flow (70,110) with or without the last stage feedwater heaters valved out-of-service. The change would specifically involve increasing the TS values on Table 3.5.K.3 for the Minimum Critical Power Ratio (MCPR) of P8X8R and PTA fuel by 0.01 during the period from 2000 MWD/t before EOC to EOC-6.

Date of publication of individual notice in **Federal Register:** August 10, 1984, 49 FR 32136, as corrected August 30, 1984, 49 FR 34434.

Expiration date of individual notice: September 10, 1984.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Buliding, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE

During the 30-day period since publication of the last monthly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions was published in the **Federal Register** as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendments, (2) the amendments, and (3) the Commission's related letters, Safety Evaluations and/or Environmental Assessments as indicated. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Alabama Power Company, Docket Nos. 50-348 and 50-364, Joseph M. Farley Nuclear Plant, Unit Nos. 1 and 2, Houston County, Alabama

Date of application for amendments: December 12, 1983.

Brief description of amendments: Technical Specifications are modified to add: (1) reactor vessel head vents, (2) noble gas effluent monitors, (3) containment water level monitors, and (4) instrumentation for detection of inadequate core cooling required by the Commission in NUREG-0737 dated November 1, 1983.

Date of issuance: September 12, 1984.

Effective date: September 12, 1984.

Amendment Nos.: 47 and 38.

Facilities Operating License Nos. NPF-2 and NPF-8: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 22, 1984 (49 FR 10731).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 12, 1984.

No significant hazards consideration comments received.

Local Public Document Room location: George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303.

Arkansas Power & Light Company, Docket No. 50-368, Arkansas Nuclear One, Unit 2, Pope County, Arkansas

Date of amendment request: March 28, 1984.

Description of amendment request: The amendment revised the Technical Specifications (TS) pertaining to the Surveillance Requirements for diesel generator testing.

Date of issuance: September 7, 1984.

Effective date: September 7, 1984.

Amendment No.: 56.

Date of initial notice in **Federal Register:** June 20, 1984 (48 FR 25352).

The Commission's related evaluation of the amendment is contained in a letter dated September 7, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801.

Boston Edison Company, Docket No. 50-293, Pilgrim Nuclear Power Station, Plymouth, Massachusetts

Date of application for amendment: March 27, 1984.

Brief description of amendment: The changes revise the fire protection Technical Specifications to reflect changes made to the station in accordance with the requirements of Appendix R to 10 CFR Part 50. Only the changes relative to penetration fire barriers are included in this amendment. The other requested changes in the fire protection specifications are being reviewed and will be addressed in a future action.

Date of issuance: August 22, 1984.

Effective date: August 22, 1984.

Amendment No.: 78.

Facility Operating License No. DPR-35. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 23, 1984, 49 FR 21826.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 22, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Plymouth Public Library, North Street, Plymouth, Massachusetts 02360.

Boston Edison Company, Docket No. 50-293, Pilgrim Nuclear Power Station, Plymouth, Massachusetts

Date of application for amendment: March 20, 1984.

Brief description of amendment: This amendment changes the Technical Specifications by extending the Power/Flow Map; requiring the rod block

monitor maximum trip level to be set at 107% power for core flows of 100% rated or greater; and correcting a typographical error (from "REM" to "RBM"). These changes do not permit continuous operation at power levels greater than 100% of the present rating.

Date of issuance: August 28, 1984.

Effective date: August 28, 1984.

Amendment No.: 77.

Facility Operating License No. DPR-35. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 20, 1984, 49 FR 25353.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 28, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Plymouth Public Library, North Street, Plymouth, Massachusetts 02360.

Boston Edison Company, Docket No. 50-293, Pilgrim Nuclear Power Station, Plymouth, Massachusetts

Date of application for amendment: December 28, 1983, as supplemented February 21, 1984 and July 12, 1984.

Brief description of amendment: The amendment authorizes Cycle 7 operation of the reactor with 160 new fuel bundles identical to some of the partially used fuel from Cycle 6 and with 32 new fuel bundles with barrier type fuel. The latter is similar to the other new fuel except that a thin Zirconium liner has been added to the inner surface of the cladding to reduce cladding failures due to pellet-clad interaction.

Date of issuance: September 4, 1984.

Effective date: September 4, 1984.

Amendment No.: 78.

Facility Operating License No. DPR-35. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 25, 1984, 49 FR 17855.

Subsequent to the initial notice in the **Federal Register**, the Boston Edison Company, by letter dated July 12, 1984, provided a revision to an identification number in the reload report. This revision is within the scope of the original notice.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 4, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Plymouth Public Library, North Street, Plymouth, Massachusetts 02360.

Boston Edison Company, Docket No. 50-293, Pilgrim Nuclear Power Station, Plymouth, Massachusetts

Date of application for amendment: June 26, 1984.

Brief description of amendment: These changes to the Technical Specifications apply to the new scram discharge instrument volumes with redundant and diverse instrumentation which have been installed in response to an NRC Confirmatory Order dated June 24, 1983.

Date of issuance: September 6, 1984.

Effective date: September 6, 1984.

Amendment No.: 79.

Facility Operating License No. DPR-35. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 6, 1984 (49 FR 31349).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 6, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Plymouth Public Library, North Street, Plymouth, Massachusetts 02360.

Carolina Power & Light Company, Docket Nos. 50-325 and 50-324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of application for amendment: May 7, 1984.

Brief description of amendment: The proposed amendments would revise section 3/4.7.5 of the Technical Specifications to eliminate Table 3.7.5-1 (Safety-Related Hydraulic Snubbers) and conform with guidance provided by the Commission in its letter dated May 3, 1984 (Generic Letter No. 84-13) and to incorporate miscellaneous administrative changes to sections 3/4.7.6 and 3/4.7.7.

Date of issuance: September 10, 1984.

Effective date: September 10, 1984.

Amendment Nos.: 74 and 100.

Facility Operating License Nos. DPR-71 and DPR-62. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 24, 1984 (49 FR 29904).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 10, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Southport, Brunswick County Library, 109 W. Moore Street, Southport, North Carolina 28461.

Carolina Power and Light Company, Docket No. 50-261, H.B. Robinson Steam Electric Plant, Unit No. 2, Darlington, South Carolina

Date of application for amendment: October 14, 1983.

Brief description of amendment: The amendment would revise the Technical Specification to incorporate new heatup and cooldown limitation curves.

Date of issuance: September 4, 1984.

Effective date: September 4, 1984.

Amendment No.: 82.

Facility Operating License No. DPR-23. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 26, 1984 (49 FR 3346).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 4, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29535.

Carolina Power and Light Company, Docket No. 50-261, H.B. Robinson Steam Electric Plant, Unit No. 2, Darlington, South Carolina

Date of application for amendment: October 24, 1983 as clarified by letters dated December 12, 1983 and March 28, 1984.

Brief description of amendment: Would revised the Technical Specifications to add the Standard Westinghouse Specification Section 4.05.

Date of issuance: September 10, 1984.

Effective date: September 10, 1984.

Amendment No.: 83.

Facility Operating License No. DPR-23. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 21, 1983 (48 FR 52658).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 4, 1984.

Significant hazards consideration comments received: No.

Local Public Document Room location: Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29535.

Commonwealth Edison Company, Docket Nos. 50-237/249, Dresden Nuclear Power Station, Units 2 and 3, Grundy County, Illinois

Date of application for amendment: June 11, 1984.

Brief description of amendment: The amendments approve Technical Specifications which revise the present Technical Specifications, without changing the technical content, into a format which has improved legibility and versatility.

Date of issuance: August 8, 1984.

Effective date: August 8, 1984.

Amendment Nos.: 82, 75.

Provisional Operating License No. DPR–19, and Facility Operating License No. DPR–25. The amendments revised the Technical Specifications.

Date of initial notice in Federal Register: July 3, 1984 (49 FR 27385). The Commission's related evaluation of the amendments is contained in a letter dated August 8, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Morris Public Library, 604 Liberty Street, Morris, Illinois 60451.

Commonwealth Edison Company, Docket No. 50–249, Dresden Nuclear Power Station, Unit No. 3, Grundy County, Illinois

Date of application for amendment: March 19, 1984 as supplemented by letters dated April 9, 1984 and August 2, 1984. The latter submittal transmitted a copy of the proposed Technical Specification (TS) page in the recently approved reformatted TS style with no change in the technical content from the earlier submittals.

Brief description of amendment: The amendment authorizes an extension of the MAPLHGR limits for two fuel types in the Dresden 3 core to 40 000 MWd/STU and also approves slightly higher MAPLHGR limits for one of the fuel types in the range 1250–25 000 MWd/STU.

Date of issuance: September 14, 1984.

Effective date: September 14, 1984.

Amendment No. 78.

Facility Operating License No. DPR–25. The amendment revised the Technical Specifications.

Date of initial notice in Federal Register: May 23, 1984 (49 FR 21827).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 14, 1984. No significant hazards consideration comments received: No.

Local Public Document Room location: Morris Public Library, 604 Liberty Street, Morris, Illinois 60451.

Duke Power Company, Dockets Nos. 50–269, 50–270, and 50–287 Oconee Nuclear Station, Units Nos. 1, 2, and 3, Oconee County, South Carolina

Date of application for amendments: February 10, 1983.

Brief description of amendments: These amendments revise the Technical Specifications (TSs) to make the surveillance frequencies of certain pumps and valves consistent with the requirements of Section XI of the ASME Boiler and Pressure Vessel Code and applicable Addenda, as required by 10 CFR 50.55a(g)(4).

Date of issuance: August 27, 1984.

Effective date: August 27, 1984.

Amendment Nos. 130, 130 and 127.

Facility Operating Licenses Nos. DPR–38, DPR–47 and DPR–55. Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: December 21, 1983, 48 FR 56502.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 27, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Oconee County Library, 501 West Southbroad Street, Walhalla, South Carolina.

Duke Power Company, Dockets Nos. 50–269, 50–270, and 50–287 Oconee Nuclear Station, Units Nos. 1, 2, and 3, Oconee County, South Carolina

Date of application for amendments: February 10, 1983.

Brief description of amendments: These amendments revised the Technical Specifications (TSs) to reflect that Penetrations 24 and 42 are to be used as part of the Reactor Building Hydrogen Analyzer, in lieu of their being spare penetrations into the reactor building. Other changes requested in the February 10, 1983, submittal are still under staff review and will be addressed by separate safety evaluation and license amendment.

Date of issuance: September 13, 1984.

Effective date: September 13, 1984.

Amendment Nos. 131, 131 and 128.

Facility Operating Licenses Nos. DPR–38, DPR–47 and DPR–55. Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: December 21, 1983, 48 FR 56502.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 13, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Oconee County Library, 501 West Southbroad Street, Walhalla, South Carolina.

Florida Power and Light Company, Docket No. 50–335, St. Lucie Plant, Unit No. 1, St. Lucie County, Florida

Date of application of amendment: May 21, 1984.

Brief description of amendment: The amendment changes the Technical Specifications to add technical specifications dealing with the reactor coolant system vents.

Date of issuance: September 5, 1984.

Effective date: September 5, 1984.

Amendment No.: 68.

Facility Operating License No. DPR–67. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: July 24, 1984 (49 FR 29902 at 29908).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 27, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Indian River Junior College Library, 3209 Virginia Avenue, Ft. Pierce, Florida.

Florida Power and Light Company, Docket Nos. 50–250 and 50–251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Date of application for amendments: August 6, 1982, as modified September 1, 1982, January 3, 1983, April 25, 1983, January 31, 1984 and April 23, 1984.

Brief description of amendments: These amendments provide requirements in the Technical Specifications for protection of safety-related equipment subjected to sustained degraded voltage conditions at the offsite power source and interactions between the onsite and offsite power systems.

Date of issuance: August 14, 1984.

Effective date: August 14, 1984.

Amendment Nos.: 104 and 98.

Facility Operating Licenses Nos. DPR–31 and DPR–41: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: August 23, 1983 (48 FR 38403) and renoticed June 20, 1984 (49 FR 25359).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 14, 1984.

No significant hazards consideration comments have been received.

Local Public Document Room location: Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

Florida Power and Light Company, Docket Nos. 50-250 and 50-251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Date of application for amendments: September 12, 1983, as supplemented on October 26, 1983.

Brief description of amendments: These amendments delete non-radiological Environmental Technical Specifications in Appendix B which address the groundwater monitoring program and environmental protection limits.

Date of issuance: August 24, 1984.

Effective date: August 24, 1984.

Amendment Nos.: 105 and 99.

Facility Operating Licenses Nos. DPR-31 and DPR-41: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 21, 1983 (48 FR 56503) and renoticed March 28, 1983 (49 FR 18898).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 24, 1984.

No significant hazards consideration comments have been received.

An Environmental Assessment has been prepared in accordance with 10 CFR 50.12(b) and a finding of No Significant Impact made dated August 20, 1984 (49 FR 33069).

Local Public Document Room location: Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

Florida Power and Light Company, Docket Nos. 50-250 and 50-251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Date of application for amendments: December 29, 1982.

Brief description of amendments: These amendments revise the Technical Specifications by adding additional Limiting Conditions of Operation for Purge Isolation; setpoints for high containment radioactivity; surveillance requirements for turbine trip including basis; and requirements for reporting power operated relief valve and safety valve challenges and failures

Date of issuance: August 27, 1984

Effective date: August 27, 1984.

Amendments Nos. 106 and 100.

Facility Operating Licenses Nos. DPR-31 and DPR-41: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 23, 1983 (48 FR 38404).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 27, 1984.

No significant hazards consideration comments have been received.

Local Public Document Room location: Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

Florida Power and Light Company, Docket Nos. 50-250 and 50-251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Date of application for amendments: May 21, 1984.

Brief description of amendments: These amendments revise and expand the Table of Safety-Related Snubbers in section 3.13 in Appendix A of the Technical Specifications.

Date of issuance: August 27, 1984.

Effective date: August 27, 1984.

Amendments Nos.: 107 and 101.

Facility Operating Licenses Nos. DPR-31 and DPR-41: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 24, 1984 (49 FR 29914).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 27, 1984.

No significant hazards consideration comments have been received.

Local Public Document Room location: Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

Florida Power and Light Company, Docket Nos. 50-250 and 50-251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Date of application for amendments: April 27, 1984.

Brief description of amendments: These amendments prohibit the travel of heavy loads over irradiated fuel assemblies in the spent fuel pools with the exception of a temporary crane for use during proposed reracking of the spent fuel pools.

Date of issuance: August 29, 1984.

Effective date: August 29, 1984.

Amendment Nos.: 108 and 102.

Facility Operating Licenses Nos. DPR-31 and DPR-41: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 24, 1984 (49 FR 29913).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 29, 1984.

No significant hazards consideration comments have been received.

Local Public Document Room location: Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

GPU Nuclear Corporation, Docket No. 50-219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of application for amendment: April 21, 1980 as supplemented March 9, 1981, August 31, 1982, July 22 and October 26, 1983, and May 1, 1984.

Brief description of amendment: The proposed Technical Specification (TS) changes would revise cycle dependent parameters in support of Core 10 operations following refueling.

Date of Issuance: August 27, 1984.

Effective date: August 27, 1984.

Amendment No.: 75.

Provisional Operating License No. DPR-16. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 20, 1983 (48 FR 33081) and July 20, 1984 (49 FR 29495).

The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated August 27, 1984.

No significant hazards consideration comments have been received: No.

Local Public Document Room: 101 Washington Street, Toms River, New Jersey 08753.

GPU Nuclear Corporation, et al., Docket No. 50-289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of amendment request: March 28, 1984, revised May 11, 1984.

Brief description of amendment: This amendment revises the definition of OPERABLE or OPERABILITY to assure that the single failure criterion for safety system is preserved. Existing requirements are extended to include multiple outages of redundant components and to include the effects of outages support systems. The amendment includes limiting conditions for operation and ACTION statements.

Date of Issuance: August 7, 1984.

Effective date: 45 days after the date of issuance.

Amendment No.: 98.

Facility Operating License No. DPR-50. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 20, 1984, 49 FR 25362.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 7, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and

Walnut Streets, Harrisburg, Pennsylvania 17126.

GPU Nuclear Corporation, et al., Docket No. 50-289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of application for amendment: July 11, 1983, as supplemented November 8, 1983.

Brief description of amendment: This amendment adds general requirements on the applicability of surveillance TSs, section 4, so that surveillance requirements do not have to be performed on systems/components during operational conditions for which the systems/components are not required to be operable. Surveillance interval tolerances are removed from section 4 because they are provided in Table 1.2. In section 6.5.4, this amendment requires members of the Independent Onsite Safety Review Group (IOSRG) to have experience in nuclear power plant engineering, operations and/or technology. Also, changes have been made on the TS format in section 6.5.4.

Date of Issuance: August 8, 1984.

Effective date: August 8, 1984.

Amendment No.: 99.

Facility Operating License No. DPR-50. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: April 25, 1984, 49 FR 17862. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 8, 1984.

No significant hazards consideration comments have been received: No.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

Indiana and Michigan Electric Company, Docket Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of application for amendments: January 20, 1984, as supplemented March 15, 1984.

Brief description of amendments: The amendments modify the Technical Specifications to add a specification required by the Commission in NUREG-0737 following the Three Miles Island accident. The change adds Technical Specifications on the reactor vessel head vents and on the pressurizer steam space vents.

Date of issuance: August 24, 1984.

Effective date: August 24, 1984.

Amendment Nos.: 81 and 65.

Facilities Operating License Nos. DPR-58 and DPR-74. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: April 25, 1984 (49 FR 17863).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 24, 1984.

No Significant hazards consideration comments received: No.

Local Public Document Room location: Maude Reston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Iowa Electric Light and Power Company, Docket No. 50-331, Duane Arnold Energy Center, Linn County, Iowa

Date of application for amendment: January 27, 1984.

Brief description of amendment: The January 27, 1984 application requested several changes related to NUREG-0737 requirements described in the NRC Generic Letter 83-36, and other miscellaneous items. This amendment relates only to Item II.B.3—Post Accident Sampling and also corrects two typographical errors on page 3.2-23b of your Technical Specifications. Other items in the January 27, 1984 application will be handled in separate actions.

Date of issuance: August 22, 1984.

Effective date: August 22, 1984.

Amendment No.: 104.

Facilities Operating License No. DPR-49. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: March 22, 1984 (49 FR 10736).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 22, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Cedar Rapids Public Library, 426 Third Avenue, S.E., Cedar Rapids, Iowa 52401.

Iowa Electric Light and Power Company, Docket No. 50-331, Duane Arnold Energy Center, Linn County, Iowa

Date of application for amendment: April 12, 1984.

Brief description of amendment: This amendment revises the Technical Specifications to meet a new rule on reporting requirements and to make some administrative changes.

Date of issuance: August 24, 1984.

Effective date: August 24, 1984.

Amendment No.: 105.

Facilities Operating License No. DPR-49. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: June 20, 1984 (49 FR 25362).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 24, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Cedar Rapids Public Library, 426 Third Avenue, S.E., Cedar Rapids, Iowa 52401.

Iowa Electric Light and Power Company, Docket No. 50-331, Duane Arnold Energy Center, Linn County, Iowa

Date of application for amendment: August 29, 1978, as supplemented November 5, 1981 and March 16, 1984.

Brief description of amendment: This amendment revises the Technical Specifications to incorporate changes resulting from compliance with those 10 CFR 50, Appendix J requirements which do not require future plant modifications.

Date of issuance: August 24, 1984.

Effective date: August 24, 1984.

Amendment No.: 106.

Facilities Operating License No. DPR-49. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: October 26, 1983 (48 FR 49588) and May 23, 1984 (49 FR 21831).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 24, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Cedar Rapids Public Library, 426 Third Avenue, S. E., Cedar Rapids, Iowa 52401.

Iowa Electric Light and Power Company, Docket No. 50-331, Duane Arnold Energy Center, Linn County, Iowa

Date of application for amendment: January 27, 1984.

Brief description of amendment: The amendment revises the Technical Specifications pertaining to NUREG-0737 TMI Action Plan Item II.F.1.3 related to containment high-range radiation monitors only. Other items in the January 27, 1984 application will be handled in separate actions.

Date of issuance: September 4, 1984.

Effective date: September 4, 1984.

Amendment No. 107.

Facility Operating License No. DPR-49. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: March 22, 1984 (49 FR 10736).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 4, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: **Cedar Rapids Public Library, 426 Third Avenue, S. E., Cedar Rapids, Iowa 52401.**

Northeast Nuclear Energy Company (NNECO), Docket No. 50-245, Millstone Nuclear Generating Station, Unit No. 1, New London County, Connecticut

Date of application for amendment: February 1, 1984.

Brief description of amendment: The Technical Specification changes proposed by the amendment request modify the Appendix A Technical Specifications to include provisions for the new steam tunnel ventilation radiation monitoring system.

Date of issuance: September 14, 1984.

Effective date: September 14, 1984.

Amendment No. 100.

Provisional Operating License No. DPR-21. The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 25, 1984 (49 FR 17867).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 14, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: **Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut 06358.**

Northeast Nuclear Energy Company, et al., Docket No. 50-336, Millstone Nuclear Power Station, Unit No. 2, Town of Waterford, Connecticut

Date of application for amendment: October 12, 1983 as supplemented May 16, 1984.

Brief description of amendment: This amendment modified the Technical Specifications as follows: (1) Revised the pressurizer level band to a wider range during periods of normal operation; and (2) Imposed more restrictive operability requirements for the pressurizer heaters.

Date of issuance: September 5, 1984.

Effective date: September 5, 1984.

Amendment No.: 97.

Facility Operating License No. DPR-65. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 22, 1983 (48 FR 52804 at 52817). The May 16, 1984 letter provided clarifying information for each transient and accident analysis affected by the proposed amendment and did not revise the initial noticing action.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 5, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: **Waterford Public Library, Rope Ferry Road, Waterford, Connecticut.**

Northern States Power Company, Docket No. 50-263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of application for amendment: March 30, 1984.

Brief description of amendment: Revises the Technical Specifications to extend the allowable interval between integrated containment leakage rate tests, add requirements pertaining to the recently-installed intake structure sprinkler system, and make various non-safety related changes to the Technical Specifications.

Date of issuance: August 15, 1984.

Effective date: August 15, 1984.

Amendment No. 25.

Facility Operating License No. DPR-22. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 23, 1984 (49 FR 21832).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 15, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota.

Northern States Power Company, Docket Nos. 50-282 and 50-306, Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2, Goodhue County, Minnesota

Date of application for amendment: April 10, 1984 as supplemented July 9, 1984.

Brief description of amendment: The amendments revised the TS to implement the requirements of NUREG-0737 Items II.B.3, II.F.1.2, and III.D.3.4 and correct typographical errors.

Date of issuance: September 12, 1984.

Effective date: September 12, 1984.

Amendment Nos.: 70 and 64.

Facility Operating License Nos. DPR-42 and DPR-60. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 20, 1984 (49 FR 25350 at 25367).

The licensee's letter of July 9, 1984 provided information on new methodology for estimation of incapacitation times following exposures to toxic gases which was utilized during performance of a control room habitability study and resulted in a significant reduction in the number of toxic chemicals that would have to be monitored to assure an adequate habitability of the control room. Use of the new methodology concludes that only the chlorine detection is necessary to meet the requirements of NUREG-0737 Item III.D.3.4. The new methodology would affect our conclusion of the safety evaluation issued by letter dated April 9, 1982. Therefore our initial safety evaluation on NUREG-0737 Item III.D.3.4 related to the toxic gases originating from off-site sources will be revised to reflect the results of the new methodology before putting TSs in place. The license withdrew from consideration the proposed Toxic Gas Monitoring System TS requested in the April 10, 1984 application.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 12, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota.

Omaha Public Power District, Docket No. 50-285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska.

Date of application for amendment: October 3, 1983 as supplemented June 22, 1984.

Brief description of amendment: The amendment updated the surveillance capsule removal schedule (Table 3-7).

Date of issuance: September 7, 1984.

Effective date: September 7, 1984.

Amendment No.: 83.

Facility Operating License No. DPR-40. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 22, 1983 (48 FR 52819). Supplemental information was received from the licensee after the initial notice was published in the **Federal Register.** This supplemental information did not affect the discussion which was contained in the original notice. On this basis, we did not renotice the application.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 7, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102.

Omaha Public Power District, Docket No. 50–285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of application for amendment: June 8, 1984.

Brief description of amendment: The amendment changed the administrative controls section of the technical specifications to reflect changes to the plant support and plant organizations.

Date of issuance: September 7, 1984.

Effective date: September 7, 1984.

Amendment No.: 84.

Facility Operating License No. DPR–40. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 24, 1984 (49 FR 29902 at 29915).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 7, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102.

Portland General Electric Company, et al., Docket No. 50–344, Trojan Nuclear Plant, Columbia County, Oregon

Date of application for amendment: April 27, 1984.

Brief description of amendment: The amendment makes miscellaneous changes involving fire protection and administrative controls.

Date of issuance: August 17, 1984.

Effective date: August 17, 1984.

Amendment No.: 92.

Facility Operating License No. NPF–1. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 20, 1984 (49 FR 25350 at 25370).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 17, 1984.

No significant hazards consideration comments received: No comments received.

Location of Local Public Document Room: Multnomah County Library, 801 S.W. 10th Avenue, Portland, Oregon.

Portland General Electric Company, et al., Docket No. 50–344, Trojan Nuclear Plant, Columbia County, Oregon

Date of application for amendment: April 24, 1984 as supplemented June 1, 1984.

Brief description of amendment: The amendment incorporated technical specifications for some equipment added or modified as a result of post-TMI safety improvements approved by the Commission in NUREG–0737. The amendment request was submitted in response to NRC Generic Letter 83–37. Items included in this amendment are: reactor coolant system vents (II.B.1), auxiliary feedwater pumps (II.E.1.1), containment pressure monitor (II.F.1.4), containment hydrogen monitor (II.F.1.6), and control room habitability (III.D.3.4) (chlorine detectors).

Date of issuance: September 5, 1984.

Effective date: September 5, 1984.

Amendment No.: 93

Facility Operating License No. NPF–1. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 20, 1984 (49 FR 25350 at 25369) and July 24, 1984 (49 FR 29902 at 29918).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 5, 1984.

No significant hazards consideration comments received: No comments received.

Location of Local Public Document Room: Multnomah County Library, 801 S.W. 10th Avenue, Portland, Oregon.

Power Authority of the State of New York, Docket No. 50–333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of application for amendment: February 20, 1981.

Brief description of amendment: The revision of the Technical Specifications adds the use of the term "operable" as it applies to safety systems in power reactors. The change includes a definition of "operable" as well as a section on operability requirements in the Limiting Conditions for Operation and surveillance section of the Technical Specifications.

Date of issuance: August 28, 1984.

Effective date: August 28, 1984.

Amendment No.: 83.

Facility Operating License No. DPR–59. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 20, 1983, 48 FR 33085.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 28, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Penfield Library, State University College of Oswego, Oswego, New York.

Public Service Electric and Gas Company, Docket No. 50–311, Salem Nuclear Generating Station, Unit 2, Salem County, New Jersey

Date of application for amendment: June 30, 1983.

Brief description of amendment: The amendment adds License Conditions which ensure the implementation of fire protection modifications on Unit 2.

Date of issuance: August 30, 1984.

Effective date: August 30, 1984.

Amendment No.: 25.

Facility Operating License No. DPR–75: Amendment revised the Salem Unit 2 license.

Date of initial notice in **Federal Register:** November 22, 1983 (48 FR 52822).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 30, 1984.

No significant hazards consideration comments have been received.

Local Public Document Room location: Salem Free Library, 112 West Broadway, Salem, New Jersey 08079.

Rochester Gas and Electric Corporation, Docket No. 50–244, R. E. Ginna Nuclear Power Plant, Wayne County, New York

Date of amendment requests: August 1, 1983 and January 20, 1984.

Description of amendment request: The amendment approves changes to the Technical Specifications (TS) which: (1) consolidate the positions of Superintendent of Nuclear Production and Superintendent of Ginna; and (2) recognize certain organizational title changes within the Rochester Gas and Electric Corporation.

Date of issuance: August 14, 1984.

Effective date: August 14, 1984.

Amendment No.: 63.

Provisional Operating License No. DPR–18. Amendment revised the Technical Specifications.

Date of initial notices in **Federal Register:** May 23, 1984 (49 FR 21836 and 21837).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 14, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Rochester Public Library, 155 South Avenue, Rochester, New York 14604.

Southern California Edison Company et al., Docket Nos. 50-206/361/362, San Onofre Nuclear Generating Station, Unit Nos. 1/2/3, San Diego County, California

Date of application for amendment: December 16, 1983 as modified April 2, 1984.

Brief description of amendment: The amendment approves changes to the Physical Security Plan which (1) consolidate several adjacent vital areas into a single vital area; (2) reduce the size of several large vital areas by compression of the boundaries; and (3) move certain equipment not required for safety outside of the vital boundary.

Date of issuance: August 7, 1984.

Effective date: Amendment is effective upon issuance and shall be fully implemented upon completion of modifications but no later than January 1, 1985.

Amendments Nos.: 78, 23, and 12.

Operating License Nos. DPR-13, NPF-10 and NPF-15 respectively: Amendments revised the licenses.

Date of initial notice in Federal Register: May 23, 1984 (49 FR 21839).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 7, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: San Clemente Branch Library, 242 Avenida Del Mar, San Clemente, California 92672.

Southern California Edison Company, Docket No. 50-206, San Onofre Nuclear Generating Station, Unit No. 1, San Diego County, California

Date of application for amendment: December 12, 1983 as supplemented March 20, 1984.

Brief description of amendment: The amendment approves changes to the Technical Specifications to add the radiological effluent technical specifications necessary to implement the requirements of 10 CFR Part 50, Appendix I. The amendment provides new Technical Specification sections defining limiting conditions for operation and surveillance requirements for radioactive liquid and gaseous effluent monitoring, concentration, dose and treatment of liquid, gaseous and solid wastes and total dose.

Date of issuance: August 27, 1984.

Effective date: January 1, 1985.

Amendment No. 79

Provisional Operating License No. DPR-13. The amendment revised the Technical Specifications.

Date of initial notice in Federal Register: May 23, 1984 (49 FR 21839).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 27, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: San Clemente Branch Library, 242 Avenida Del Mar, San Clemente, California 92672.

Southern California Edison Company, Docket No. 50-206, San Onofre Nuclear Generating Station, Unit No. 1, San Diego County, California

Date of application for amendment: May 17, 1984.

Brief description of amendment: The amendment incorporates a license condition requiring (1) plant shutdown for steam generator inspection within 6 equivalent months of operation after the start of operation from the backfitting outage that began on February 27, 1982, (2) the inspection program be submitted to the Commission at least 45 days prior to scheduled, and (3) Commission approval must be obtained before resuming power operation following this inspection. The license condition requiring a shutdown within 6 equivalent months of operation after the start of Cycle 6 operation is deleted.

Date of issuance: September 4, 1984.

Effective date: September 4, 1984.

Amendment No. 80.

Provisional Operating License No. DPR-13. The amendment modifies the license.

Date of initial notice in Federal Register: July 24, 1984 (49 FR 29920).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 4, 1984. No significant hazards consideration comments received: No.

Local Public Document Room location: San Clemente Branch Library, 242 Avenida Del Mar, San Clemente, California 92672.

Tennessee Valley Authority, Docket Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama

Date of application for amendment: December 17, 1982.

Brief description of amendment: The amendments change the Technical Specifications to permit the main steam line high temperature isolation function to be made inoperable for up for four hours for testing and maintenance purposes.

Date of issuance: August 15, 1984.

Effective date: August 15, 1984.

Amendment Nos. 110, 103 and 76.

Facility Operating License Nos. DPR-33, DPR-52 and DPR-68. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: November 22, 1983 (48 FR 52832).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 15, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Athens Public Library, South and Forrest, Athens, Alabama 35611.

Tennessee Valley Authority, Docket Nos. 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 2 and 3, Limestone County, Alabama

Date of application for amendment: September 21, 1981, as supplemented June 3, 1982.

Brief description of amendment: The amendments revise the Technical Specifications to change the neutron flux trip setting adjustment factor from a limiting safety system setting to a limiting condition for operation with a six hour action statement.

Date of issuance: August 17, 1984.

Effective date: August 17, 1984.

Amendment Nos. 104 and 77.

Facility Operating License Nos. DPR-52 and DPR-68. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: November 22, 1983 (48 FR 52828).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 17, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Athens Public Library, South and Forrest, Athens, Alabama 35611.

Tennessee Valley Authority, Docket No. 50-296, Browns Ferry Nuclear Plant, Unit 3, Limestone County, Alabama

Date of application for amendment: January 23 and June 6, 1984.

Brief description of amendment: The amendment revises the Technical Specifications to reflect changes in instrumentation requirements, testing and surveillance requirements as well as in administrative changes resulting from modifications made during the current refueling outage. Changes related to the reload were issued in Amendment No. 70.

Date of issuance: August 27, 1984.

Effective date: August 27, 1984.

Amendment No. 78.

Facility Operating License No. DPR-68. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: May 23, 1984 (49 FR 21841).

The June 8, 1984 letter did not add or modify any of the January 23, 1984 change requests; it only withdrew some of them, therefore no additional notice was issued subsequent to May 23, 1984.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 27, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Athens Public Library, South and Forrest, Athens, Alabama 35611.

Tennessee Valley Authority, Docket Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama

Date of application for amendment: November 5, 1982.

Brief description of amendment: The amendments change the Technical Specifications to increase the Main Steam Isolation Valve (MSIV) surveillance test interval.

Date of issuance: September 4, 1984.

Effctive date: September 4, 1984.

Amendment Nos.: 111, 105 and 79.

Facility Operating License Nos. DPR-33, DPR-52 and DPR-68. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: January 26, 1984 (49 FR 3356).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 4, 1984.

No significant hazards consideration commnets received: No.

Local Public Document Room location: Athens Public Library, South and Forrest, Athens, Alabama 35611.

The Toledo Edison Company and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of applications for amendment: July 10, 1981 as revised May 2, February 22, and August 18, 1983.

Brief description of amendment: The amendment modifies Technical Specifications (TSs) 4.8.1.1.2 and 4.8.1.2 to correct errors concerning surveillance testing of the diesel generators to demonstrate operability. The amendment also corrects typographical errors in TS 6.9.1.5.b and TS Table 3.6-2.

Date of issuance: August 27, 1984.

Effective date: August 27, 1984.

Amendment No. 75.

Facility Operating License No. NPF-3. Amendment revised the Technical Specifications.

Date of initial notices in Federal Register: December 21, 1983 (48 FR 56514) and January 26, 1984 (49 FR 3357).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 27, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND FINAL DETERMINATION OF NO SIGNIFICANT HAZARDS CONSIDERATION AND OPPORTUNITY FOR HEARING (EXIGENT OR EMERGENCY CIRCUMSTANCES)

During the 30-day period since publication of the last monthly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing. For exigent circumstances, a press release seeking public comment as to the proposed no significant hazards consideration determination was used, and the State was consulted by telephone. In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant, a shorter public comment period (less than 30 days) has been offered and the State consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the local public document room for the particular facility involved.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendments. By October 29, 1984, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how

that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (*Branch Chief*): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertined absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)–(v) and 2.714(d).

Duke Power Company, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of application for amendments: June 14, 1984.

Brief description of amendments: The amendments expand the Power Distribution Limits section of the Unit 1 Technical Specifications to include Base Load Operation in addition to the currently approved Relaxed Axial Offset Control operation.

Date of issuance: September 13, 1984.

Effective date: June 21, 1984.

Amendment Nos.: 34 and 15.

Facility Operating License Nos. NPF–9 and NPF–17. Amendments revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: No.

The Commission's related evaluation is contained in a Safety Evaluation dated September 13, 1984.

Attorney for licensee: Mr. Albert Carr, Duke Power Company, P.O. Box 33189, 422 South Church Street, Charlotte, North Carolina 28242.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28242.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket No. 50–366, Edwin I. Hatch Nuclear Plant, Unit No. 2, Appling County, Georgia

Date of application for amendment: August 6, 1984, as supplemented August 10, 14 and 16, 1984.

Brief description of amendment: The amendment revises Technical Specification Table 3.6.3–1 to require certain containment isolation valves to automatically close upon receipt of a low-low-low reactor water level signal rather than upon receipt of a low reactor water level signal as currently required.

Date of issuance: August 22, 1984.

Effective date: August 22, 1984.

Amendment No.: 40.

Facility Operating License No. DPF–5. Amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: No.

The Commission's related evaluation of the amendment and final determination of no significant hazards consideration are contained in a Safety Evaluation dated August 22, 1984.

Attorney for licensee: G.F. Trowbridge, Shaw, Pittman, Potts and Trowbridge, 1800 M Street NW., Washington, D.C. 20036.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia.

Tennessee Valley Authority, Docket No. 50–259, Browns Ferry Nuclear Plant, Unit 1, Limestone County, Alabama

Date of application for amendment: July 31, 1984.

Brief description of amendment: The amendment changes the Technical Specifications to temporarily permit Train A of the Containment Air Dilution System to be considered operable with valve FCV–84–8B inoperable.

Date of issuance: August 15, 1984.

Effective date: August 15, 1984.

Amendment No.: 109.

Facility Operating License No. DPR–33. Amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: No.

The Commission's related evaluation of the amendment and final determination of no significant hazards consideration are contained in a Safety Evaluation dated August 15, 1984.

Attorney for licensee: H.S. Sanger, Jr., Esquire, General Counsel, Tennessee Valley Authority, 400 Commerce

Avenue, E. 11B 33C, Knoxville, Tennessee 37902.

Local Public Document Room location: Athens Public Library, South and Forrest, Athens, Alabama 35611.

Tennessee Valley Authority, Docket No. 50-328, Sequoyah Nuclear Plant, Unit 2, Hamilton County, Tennessee

Date of application for amendment: July 11, 1984.

Brief description of amendment: The amendment authorizes a one-time 36-hour extension of the time allowed for ECCS operability with one centrifugal charging pump inoperable.

Date of issuance: August 23, 1984.

Effective date: July 11, 1984.

Amendment No.: 27.

Facility Operating License No. DPR-79. Amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: No.

The Commission's related evaluation is contained in a Safety Evaluation dated August 23, 1984.

Attorney for licensee: Herbert S. Sanger, Jr., Esq., General Counsel, Tennessee Valley Authority, 400 Commerce Avenue (E11B 33), Knoxville, Tennessee 37902.

Local Public Document Room location: Chattanooga-Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee 37401.

Dated at Bethesda, Maryland this 20th day of September 1984.

For the Nuclear Regulatory Commission.

Donald E. Sells,

Acting Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 84-25539 Filed 9-27-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-369 and 50-370]

Duke Power Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of Appendix J to 10 CFR Part 50 to the Duke Power Company (the licensee) for the McGuire Nuclear Station, Units 1 and 2, located at the licensee's site in Mecklenburg County, North Carolina.

Environmental Assessment

Identification of Proposed Action

The exemption would relieve the licensee from meeting the requirements of 10 CFR Part 50, Appendix J, paragraph III.D.2(b)(ii) of the Commission's regulations which states "Airlocks opened during periods when containment integrity is not required by the plant's Technical Specifications shall be tested at the end of such periods at no less than Pa", as reflected in the McGuire Technical Specification 4.6.1.3.b. The accompanying amendment would exempt the requirement for an overall airlock leakage test except when maintenance has been performed on the airlock that could affect the airlock sealing capability. The proposed technical specification amendment change and the concomitant exemption request is in accordance with the licensee's request dated August 2, 1983.

The Need for the Proposed Action

By letter dated August 2, 1983, the licensee requested a change in the McGuire Nuclear Station Technical Specification 4.6.1.3.b which currently requires overall containment airlock leakage tests to be performed "* * * if opened when CONTAINMENT INTEGRITY was not required * * * *". The proposed change would be to require the overall airlock leakage test to be performed "* * * when maintenance has been performed on the airlock that could affect the airlock sealing capability." This change requires an exemption from the requirements of Appendix J, to 10 CFR Part 50.

The existing airlock doors are so designed that a full pressure, i.e., (14.8 psig), test of an entire airlock can only be performed after strong backs (structural bracing) have been installed on the inner door. Strong backs are needed since the pressure exerted on the inner door during the test is in a direction opposite to that of the accident pressure direction. Installing strong backs, performing the test, and removing strong backs requires at least 6 hours per airlock (there are 2 airlocks) during which access through the airlock is prohibited. Implementation of this procedure then entails additional periods of time during which the reactor must remain in a shutdown condition.

If the periodic 6-month test of paragraph III.D.2(b)(i) of Appendix J and the test required by paragraph III.D.2.(b)(iii) of Appendix J are current, no maintenance has bee performed on the airlock, and the airlock is properly sealed, there should be no reason to expect the airlock to leak excessively just because it has been opened in Mode 5 or Mode 6. Accordingly, the staff finds that the licensee's proposed approach of relying on the seal leakage test of paragraph III.D.2(b)(iii) of Appendix J is acceptable when no maintenance has been performed on an airlock, and will not adversely affect maintaining containment integrity. Whenever maintenance has been performed on an airlock, the testing requirement of paragraph III.D.2(b)(ii) of Appendix J must still be met.

Environmental Impacts of the Proposed Action

The proposed exemption only relies on requirement of the seal leakage test of paragraph III.D.2(b)(iii) of Appendix J. 10 CFR Part 50, for a similar requirement of III.D.2(b)(ii). If the tests required by III.D.2(b) (i) and (iii) are current, no maintenance having been performed on the airlock and with it properly sealed, this exemption will not affect containment integrity and does not affect the risk of facility accidents. Thus, post-accident radiological releases will not be greater than previously determined nor does the proposed relief otherwise affect radiological plant effluents, nor any significant occupational exposure. Likewise, the relief does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there is no significant radiological or non-radiological environmental impacts associated with the proposed exemption.

Since we have concluded that there is no measurable environmental impact associated with the proposed exemption, any alternative will either have no environmental impact or greater environmental impact. The principal alternative to the exemption would be to require literal compliance with paragraph III.D.2(b)(ii) of Appendix J to 10 CFR Part 50. Such action would not enhance the protection of the environment and would result in unnecessary power station downtime.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in connection with the Nuclear Regulatory Commission's Final Environmental Statement dated May 1974 relating to this facility.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption.

Based upon the environmental assessment, we conclude that the proposed action will not have a

significant effect on the quality of the human environment.

For further details with respect to this action, see the licensee's request dated August 2, 1983, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28242.

Dated at Bethesda, Maryland, this 24th day of September 1984.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 84-25808 Filed 9-27-84; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-155]

Consumers Power Co., Big Rock Point Plant; Request for Action Under 10 CFR 2.206

Notice is hereby given that, by a Motion for Show Cause Order dated August 15, 1984, John O'Neill II, sought action to require the licensee to demonstrate that it is financially qualified to modify and operate the spent fuel pool of its Big Rock Point facility. The request is being treated pursuant to 10 CFR 2.206 of the Commission's regulations and, accordingly, appropriate action will be taken on the request within a reasonable time. A copy of the petition is available for inspection in the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the local public document room for the Big Rock Point facility, located at the Charlevoix Public Library, 107 Clinton Street, Charlevoix, Michigan 49720.

Dated at Bethesda, Maryland, this 7th day of September 1984.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 84-25809 Filed 9-27-84; 8:45 am]
BILLING CODE 7590-01-M

PENSION BENEFIT GUARANTY CORPORATION

Privacy Act of 1974; System of Records, Amendment

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Amendment to System PBGC-9.

SUMMARY: This document amends Privacy Act System PBGC-9 to permit disclosure of the name and social security number of unlocatable participants and beneficiaries of certain pension plans to the Social Security Administration as a routine use.

EFFECTIVE DATE: September 28, 1984.

FOR FURTHER INFORMATION CONTACT: Stuart E. Bernsen, Attorney, Legal Department, Code 250, Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, D.C. 20006, (202) 254-4895. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The Pension Benefit Guaranty Corporation ("PBGC") published a proposed amendment to Privacy Act System PBGC-9 on pages 31018-31019 of the **Federal Register** of August 2, 1984, and invited comments for 30 days ending September 4, 1984. The amendment establishes a new routine use of System PBGC-9 to allow disclosure to the Social Security Administration of names and social security numbers of participants and beneficiaries of pension plans covered by Title IV of the Employee Retirement Income Security Act of 1974 ("ERISA") including PBGC-trusteed plans and non-trusteed and other plans for which PBGC receives a specific request for assistance. No comments have been received regarding the proposed amendment.

Based on the foregoing, PBGC hereby amends System PBGC-9 as follows:

PBGC-9

SYSTEM NAME:

Plan Participant and Beneficiary Address Identification File—PBGC.

SYSTEM LOCATION:

Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Certain plan participants and beneficiaries in pension plans covered by Title IV of ERISA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records contain name, social security number, name of pension plan, and address received from the Internal Revenue Service.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 U.S.C. 1302, 1322 and 1341, 26 U.S.C. 6103.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made only to the extent permitted by 26 U.S.C. 6103 and 26 CFR 404.6103, except that names and social security numbers of plan participants and beneficiaries may be disclosed to the Social Security Administration in order to utilize the Social Security Administration's Letter Forwarding Service.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained manually in file folders.

RETRIEVABILITY:

Indexed by participant or beneficiary name and social security number.

SAFEGUARDS:

Records are kept in locked file cabinets in areas of restricted access under procedures that meet Internal Revenue Service safeguarding standards, except that records of the name and social security number of the participant or beneficiary may be released to the Social Security Administration pursuant to the routine uses of this system.

RETENTION AND DISPOSAL:

Records for participants in PBGC trusteed plans for which the address is verified are transferred to PBGC-6 on verification or on further verification through the Social Security Administration's Letter Forwarding Service. Record for which IRS has no address, for which the address was not verified or was not further verified through the Social Security Administration's Letter Forwarding Service, and records for participants in sufficient plans or plans with a third-party trustee will be retained for two years from the date the request was sent to the Internal Revenue Service and then will be sent to Internal Revenue Service for disposal or destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Benefit Payments Department, Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006.

NOTIFICATION PROCEDURE:

Procedures are detailed in PBGC regulations: 29 CFR Part 2607.

RECORD ACCESS PROCEDURES:

Same as notification procedure.

CONTESTING RECORD PROCEDURES:
Same as notification procedure.

RECORD SOURCE CATEGORIES:
Information is received from the Internal Revenue Service.

Charles C. Tharp,
Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 84-25 732 Filed 9-27-84; 8:45 am]
BILLING CODE 7708-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Notice 84-14]

Inventory of Commercial Activities

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: Under Office of Management and Budget Circular A-76, DOT publishes an inventory of commercial activities, with schedules for their review, that it currently performs in-house but that might be more efficiently and economically performed by commercial enterprises.

FOR FURTHER INFORMATION CONTACT: Philip Rockmaker, Office of Installations and Logistics, M-60, Department of Transportation, Washington, DC (202) 426-4243.

SUPPLEMENTARY INFORMATION: OMB Circular A-76, revised, Performance of Commercial Activities, establishes the policy that the Government will rely on private sources to supply the products and services it needs whenever it is economical to do so. The Circular also requires that studies be performed to compare the cost of contracting and the cost of in-house performance to determine who will do the work. It is also required that the schedules for these studies be published periodically by Federal agencies. Accordingly, DOT herewith publishes an inventory of such activities and their review schedules as of September 10, 1984. Information about the activities and schedules, as well as any other relevant information, can be obtained at the address and telephone number given above.

Issued in Washington, DC, on September 18, 1984.

Barnett M. Anceleitz,
Director of Installations and Logistics.

DEPARTMENT OF TRANSPORTATION

[Inventory of existing in-house commercial activities with 10 FTE's or less—fiscal year 1984]

Activity description	Activity location	Number of FTE's	Date of next review[1]	Reason for continued in-house performance[2]
Warehouse	Washington, DC	2	Underway	H.
U.S. Coast Guard				
Food Service	Base Southwest Harbor, ME	3	Underway (NC)	
Security	Base South Portland, ME	3	do	
Food Service	do	4	do	
Do	Station Point Allerton, MA	2	do	
Do	Base Woods Hole, MA	4	do	
Do	Air Station Cape Cod, MA	9	do	
Buildings/Grounds Maintenance	Hyde Park Housing, MA	3	do	
Food Service	Base St. Louis, MO	4	do	
Parade Ground	Support Center New York, NY	2	do	
Housing Maintenance	do	10	do	
Sanitation Service	do	5	do	
Housing Maintenance	Group New York, NY	2	do	
Do	Group Shinnecock, NY	4	do	
Food Service	Air Station Brooklyn, NY	3	do	
Grounds Maintenance	do	3	do	
Housing Maintenance	Group Long Island Sound, NY	2	do	
Custodial Service	Group Cape May, NJ	4	do	
Food Service	Station New Haven, CT	3	do	
Do	Station Manasquan, NJ	2	do	
Do	Station New London, CT	4	do	
Food Service	Station Sandy Hook, NJ	3	do	
Housing Maintenance	do	3	do	
Food Service	Station Atlantic City, NJ	3	do	
Security	Group Cape Hatteras, NC	6	do	
Steam Plant Operation & Maintenance	Support Center Elizabeth City, NC	9	do	
Food Service	do	6	do	
Do	Support Center Portsmouth, VA	6	do	
Grounds Maintenance	do	10	do	
Boiler Plant Operations & Maintenance	do	8	do	
Utility System Maintenance	do	8	do	
Grounds Maintenance	Communication Station, Portsmouth, VA	2	do	
Custodial Service	Air Station Elizabeth City, NC	3	do	
Janitorial Service	Group Baltimore, MD	2	do	
Utility Service	Group/Base Fort Macon, NC	4	do	
Grounds Maintenance & Janitorial Service	Group Eastern Shore, MD	2	do	
Grounds Maintenance	Air Station Borinquen, PR	5	do	
Do	Group/Station, St. Petersburg, FL	2	do	
Food Service	Air Station Miami, FL	5	do	
Janitorial Service	Group/Base Charleston, SC	2	do	
Food Service	do	2	do	
Do	Section/Base San Juan, PR	5	do	
Do	Base Galveston, TX	4	do	
Security	do	4	do	
Food Service	Base New Orleans, LA	5	do	
Security	do	4	do	
Food Service	Port Safety Station, Houston, TX	3	do	
Grounds Maintenance	do	2	do	
Security	do	4	do	
Janitorial Service	Air Station New Orleans, LA	2	do	
Grounds Maintenance	do	2	do	
Do	Air Station Traverse City, MI	3	do	
Food Service	do	6	do	

DEPARTMENT OF TRANSPORTATION—Continued

[Inventory of existing in-house commercial activities with 10 FTE's or less—fiscal year 1984]

Activity description	Activity location	Number of FTE's	Date of next review[1]	Reason for continued in-house performance[2]
Do	Group Buffalo, NY	3	do	
Grounds Maintenance	do	2	do	
Food Service	Group Detroit, MI	2	do	
Do	Station Marblehead, OH	2	do	
Do	Group Duluth, MN	2	do	
Do	Group Milwaukee, MI	3	do	
Do	Group Sault Ste. Marie, MI	4	do	
Grounds Maintenance	Base Detroit, MI	2	do	
Food Service	Station Channel Island, CA	5	do	
Do	Base Terminal Island, CA	7	do	
Security	do	7	do	
Grounds Maintenance	do	4	do	
Fire Fighting Service	Support Center Alameda, CA	5	do	
Custodial Service	Base Treasure Island, CA	6	do	
Do	Air Station San Francisco, CA	3	do	
Food Service	Air Station/Group Humboldt Bay Arcata, CA	7	do	
Custodial Service	do	3	do	
Food Service	Group Monterey, CA	5	do	
Custodial Service	do	2	do	
Food Service	Communications Station, San Francisco, CA	4	do	
Do	Station Quillayute River, WA	2	do	
Do	Station Chetco River, OR	2	do	
Do	Station Coos Bay, OR	3	do	
Do	Group Portland, OR	6	do	
Do	Station Umpqua River, OR	2	do	
Do	Station Yaquina Bay, OR	2	do	
Grounds Maintenance	Support Center Seattle, WA	2	do	
Security	do	5	do	
Food Service	do	10	do	
Do	Station Grays Harbor, WA	3	do	
Do	Station Cape Disappointment, WA	4	do	
Do	Station Tillamook Bay, OR	3	do	
Do	Station Neah Bay, WA	2	do	
Do	Air Station Barbers Point, HI	5	do	
Security	Base Honolulu, HI	5	do	
Food Service	do	8	do	
Do	Marine Safety Office, Valdez, AK	4	do	
Do	Base Ketchikan, AK	5	do	
Family Housing Maintenance	Support Center Kodiak, AK	7	do	
Janitorial Service	do	6	do	
Grounds Maintenance	do	2	do	
Utility Operations & Maintenance	do	5	do	
Waste Water Treatment	do	3	do	
Food Service	do	10	do	
Security	Academy, New London, CT	6	do	
Boiler Plant Operations	do	10	do	
Custodial Service	do	10	do	
BOQ/BEQ Cleaning Service	Aviation Training Center, Mobile, AL	1	do	
Food Service	do	9	do	
Grounds Maintenance	do	8	do	
Food Preparation	do	9	do	
Firefighting Service	Training center Petaluma, CA	10	do	
Grounds Maintenance	do	4	do	
Food Service	do	9	do	
Powerhouse Operations	Coast Guard Yard, Baltimore, MD	8	do	
Food Service	Station Alexandria, VA	5	do	
Federal Aviation Administration				
Fabrication Shops	Various offices—New York, NY; Ft. Worth, TX	4	Underway	H.
Telephone Switchboard Services	Various offices—Atlantic City, NJ; Oklahoma City, OK	5	do	H.
Aircraft Maintenance and Ramp Services	Various locations	8	do	H.
Aeronautical Mobile Services	Anchorage, AK	5	do	G.
Packing Crate Fabrication Repack Material	Oklahoma City, OK	7	do	H.
Environment and Noise Training Course	do	1	do	H.
Police and Fire Dispatching	Washington National and Dulles Airports	10	do	H.
Nursing Services	do	5	do	H.
Upholstering and Carpet Repair	do	2	do	H.
Industrial Waste Treatment Operations	do	1	do	H.
Federal Highway Administration				
ADP Support Services	Eastern, Central and Western Direct Federal Divisions (Arlington, VA; Denver, CO; and Vancouver, WA).	9	Underway	F.
Property and Supply Support (warehousing, equipment inspection, etc.).	Central Direct Federal Division, Denver, CO	5	do	F.
Maritime Administration				
Painting of Buildings	United States Merchant Marine Academy, Kings Point, New York	4	Underway	F.
Grounds Maintenance	do	5	do	F.

See footnotes at end of last table.

DEPARTMENT OF TRANSPORTATION

[Inventory of existing in-house commercial activities with more than 10 FTE's—fiscal year 1984]

Activity description	Activity location	Number of FTE's	Date of next review [1]	Reason for continued in-house performance [2]
Office of the Secretary				
ADP Services	Washington, D.C	40	Underway	F.
U.S. Coast Guard				
Ferryboard Operation & Maintenance	Support Center, New York, NY	75	Underway	F.
Food Services	Support Center, Alameda, CA	12	....do	
Power Plant Operation	Support Center, Kodiak, AK	13	....do	
Federal Aviation Administration				
ADP Operations	Mike Monroney Aeronautical Center, Oklahoma City, OK	35	Underway	F.
Industrial Shops (Exchange/Repair)	....do	87	Underway (NC)	
Electrical Services	Technical Center, Atlantic City, NJ	11	Underway	F.
Maintenance of Structures, Grounds, Roads & Runways	National and Dulles Airports, Washington, DC	63	Underway (NC)	
Operation and Maintenance of Utility Systems	....do	116	....do	
Operation and Maintenance of Automotive and Other Equipment (including mobile lounges at Dulles).	....do	94	....do	
Word Processing Centers, Clerical, Secretarial	Various FAA offices—Atlanta, Chicago, Anchorage, Boston, New York, Kansas City, Forth Worth, Los Angeles, Seattle, Atlantic City, Washington, D.C.	115	Underway	H.
Maintenance, Modification and Repair of Buildings, Structures, Grounds, Roads and Other Surfaced Areas.	Approximately 7,500 facility locations in all 50 States	94	....do	H.
ADP Operations	Various FAA offices—Atlanta, New York, Atlantic City, Kansas City, Ft. Worth, Los Angeles, and Anchorage.	38	....do	H.
Mail/Messenger/Delivery Services	Various FAA offices—Atlanta, New York, Atlantic City, Chicago, Kansas City, Ft. Worth, Los Angeles, Seattle, Anchorage, Boston, Oklahoma City.	28	....do	H.
Warehousing/Supply Services	Various FAA locations—New York, Atlantic City, Chicago, Kansas City, Oklahoma City, Los Angeles, Anchorage, Ft. Worth, Washington, DC (National and Dulles Airports).	69	....do	H.
Engineering Drafting Services	Various FAA offices—Boston, Kansas City, Ft. Worth, Seattle, Oklahoma City, Anchorage.	14	....do	H.
Printing Services	Various FAA offices—Ft. Worth, Oklahoma City, Atlantic City	15	....do	H.
NAS Documentation—editing, graphics, production of microfilm and microfiche.	Atlantic City, NJ	21	....do	H.
Data Transcription, Data Entry	Oklahoma City, OK	17	....do	H.
Maritime Administration				
Security/Fire Protection	United States Merchant Marine Academy, Kings Point, NY	11	Underway	F.

See footnotes at end of last table.

DEPARTMENT OF TRANSPORTATION

[Inventory of new requirements and expansions with 10 FTE's or less—fiscal year 1984]

Activity description	Activity location	Number of FTE's	Date of next review [1]	Reason for continued in-house performance [2]
New Requirements / *Expansions*				
U.S. Coast Guard				
New Shops & Blast/Paint Facility	Base Charleston, SC	9	Underway (NC)	

See footnotes at end of last table.

DEPARTMENT OF TRANSPORTATION

[Inventory of New Requirements and Expansions With More Than 10 FTE's—Fiscal Year 1984]

Activity description	Activity location	Number of FTE's	Date of next review [1]	Reason for continued in-house performance [2]
New Requirements / *Expansions*				
U.S. Coast Guard				
Replace Industrial Facility	Base Galveston, TX	28	Underway (NC)	

See footnotes at end of last table.

Department of Transportation

[Inventory of existing in-house commercial activities with 10 FTE's or less—fiscal year 1985]

Activity description	Activity location	Number of FTE's	Date of next review [1]	Reason for continued in-house performance [2]
Office of the Secretary				
Accounting Functions	Washington, DC	5	May 1985	F
Library Operations	....do	9	October 1984	F.
U.S. Coast Guard				
Electronic Maintenance	Base Southwest Harbor, ME	4	NC	
Do	Base South Portland, Me	9	NC	
Do	Group Boston, MA	5	NC	
Do	Station Chatham, MA	6	NC	
Do	Station Castle Hill, RI	7	NC	
Telephone/Teletype Overhaul, Pole Line Maintenance & Cable Overhaul	Electronics Shop Major (Telephone) Portsmouth, NH	3	NC	
Telephone/Teletype Overhaul, Pole Line & Antenna Maintenance	Electronic Shop Major (Telephone) Cape Code, MA	2	NC	
Data Processing	District Office, Boston, MA	7	NC	
Do	District Office St. Louis, MO	2	NC	
Electronic Maintenance	Group Lower Mississippi River, Memphis, TN	6	NC	
Do	Base St. Louis, MO	6	NC	
Do	Support Center New York, NY	7	NC	
Teletype/Telephone Maintenance	....do	4	NC	
Vehicle Maintenance	....do	9	NC	
Electronics Maintenance	Group Rockaway, NY	10	NC	
Do	Group Shinnecock, NY	10	NC	
Do	Group Sandy Hook, NJ	8	NC	
Data Processing	District Office, New York, NY	6	NC	
Electronics Maintenance	Station New London, CT	7	NC	
Do	Electronic Shop Major (telephone), Cape Hatteras, NC	8	NC	
Do	Support Center Elizabeth City, NC	3	NC	
Equipment Maintenance & Motor Pool Operations	Support Center Portsmouth, VA	6	NC	
Electronics Maintenance	....do	4	NC	
Telephone/Teletype Overhaul & Repairs	....do	7	NC	
Electronics Maintenance	Air Station Elizabeth City, NC	3	NC	
Vehicle Maintenance	Group/Base Fort Macon, NC	2	NC	
Electronics Maintenance	....do	6	NC	
Do	Group Chincoteague, VA	8	NC	
Data Processing	District Office, Portsmouth, VA	3	NC	
Electronics Maintenance	Group/Station St. Petersburg, FL	7	NC	
Do	Group/Base Charleston, SC	5	NC	
Do	Section/Base San Juan, PR	7	NC	
Do	Group/Base Mayport, FL	4	NC	
Do	Group/Station Key West, FL	3	NC	
Data Processing	District Office, Miami, Fl	4	NC	
Vehicle Maintenance	Air Station New Orleans, LA	2	NC	
Electronics Maintenance	Base Mobile, AL	8	NC	
Data Processing	District Office New Orleans, LA	4	NC	
Electronics Maintenance	Group Corpus Christi, TX	2	NC	
Do	Station Destin, FL	2	NC	
Electronic Maintenance	Station Grand Isle, LA	2	NC	
Do	Group Buffalo, NY	10	NC	
Do	Group Duluth, MN	3	NC	
Data Processing	District Office, Cleveland, Ohio	6	NC	
Vehicle Operation & Maintenance	Base Yerba Buena Island,m CA	2	NC	
Electronics Maintenance	Air Station/Group Humboldt Bay, Arcata, CA	5	NC	
Data Processing	District Office, Long Beach, CA	4	NC	
Electronic Maintenance	Group San Diego, CA	3	NC	
Do	Station Channel Island, CA	2	NC	
Data Processing	District Office, Alameda, Ca	4	NC	
Vehicle Operation & Maintenance	Support Center Alameda, Ca	4	NC	
Electronics Maintenance	Group Portland, OR	2	NC	
Data Processing	District Office, Seattle, WA	2	NC	
Electronics Maintenance	Group Port Angeles, WA	7	NC	
Do	Station Yaquina Bay, OR	2	NC	
Do	Electronics Shop Major (Telephone), Port Angeles	8	NC	
Do	Station Grays Harbor, WA	2	NC	
Do	Station Cape disappointment, WA	3	NC	
Do	Group North Bend, OR	8	NC	
Do	Electronics Shop Major Telephone), Empire, OR	8	NC	
Data Processing	District Office, Honolulu, Hawaii	6	NC	
Electronics Maintenance	Base Honolulu, HI	5	NC	
Data Processing	District Office Juneau, AK	5	NC	
Electronics Maintenance	Marine Safety Office, Valdez, AK	2	NC	
Do	Marine Safety Office, Juneau, AK	4	NC	

DEPARTMENT OF TRANSPORTATION—Continued

(Inventory of existing in-house commercial activities with 10 FTE's or less—fiscal year 1985)

Activity description	Activity location	Number of FTE's	Date of next review[1]	Reason for continued in-house performance[2]
Do	Base Ketchikan, AK	9	NC	
Garage & Vehicle Maintenance	Support Center Kodiak, Ak	8	NC	
Vehicle Operation & Maintenance	Training Center, Cape May, NJ	5	NC	
Vehicle Maintenance	Academy, New London, CT	6	NC	
Administative Computing Service	do	8	NC	
Vehicle/Equipment Maintenance	Aviation Training Center, Mobile, AL	4	NC	
Motor Pool & Vehicle Maintenance	Training Center Petaluma, CA	3	NC	
Data Processing	Yard Baltimore, MD	9	NC	
Motor Pool	Reserve Training Center, Yorktown, VA	6	NC	
Electronics Maintenance	do	5	NC	
Data Processing	Supply Center Brooklyn, NY	7	NC	
Federal Aviation Administration				
Carpentry/Painting Services	FAA Technical Center, Atlantic City, NJ	9		E
Research and Special Programs Administration				
Logistics Support: Mailroom	TSC, Cambridge, MA	2		E
Maritime Administration				
Utility Systems Operation & Repair	United States Merchant Marine Academy, Kings Point, New York	5	November 1984	F

DEPARTMENT OF TRANSPORTATION

[Inventory of existing in-house commercial activities with more than 10 FTE's—fiscal year 1985]

Activity description	Activity location	Number of FTE's	Date of next review[1]	Reason for continued in-house performance[2]
Office of the Secretary				
Initial and subsequent distribution	Washington, DC	28	May 1985	F.
U.S. Coast Guard				
Electronics maintenance	Base, Woods Hole, MA	13	NC	
Security	Support Center, Boston, MA	14	NC	
Food services	do	11	NC	
Electronic maintenance	Group, Cape May, NJ	17	NC	
Fire fighting service	Support Center, New York, NY	20	NC	
Grounds maintenance	do	20	NC	
Electronics maintenance	Group, Long Island Sound, NY	18	NC	
Security	Support Center, Elizabeth City, NC	13	NC	
Grounds, runways, taxiways & roadways maintenance	do	12	NC	
Vehicle maintenance	do	12	NC	
Electronics maintenance	Group/Base, Miami, FL	20	NC	
Do	Base, New Orleans, LA	14	NC	
Do	Group, Milwaukee, WI	15	NC	
Do	Group, Muskegon, MI	12	NC	
Do	Group, Detroit, MI	18	NC	
Food services	Air Station, San Diego, CA	11	NC	
Electronics maintenance	Base, Terminal Island, CA	12	NC	
Security	Support Center, Alameda, CA	12	NC	
Food service	Base, Yerba Buena Island, CA	16	NC	
Electronic maintenance	do	24	NC	
Do	Communications Station, San Francisco, CA	18	NC	
Do	Group, Seattle, WA	11	NC	
Do	Group, Astoria, OR	18	NC	
Family housing maintenance	Base, Honolulu, HI	18	NC	
Security	Support Center, Kodiak, AK	31	NC	
Fire fighting services	Do	36	NC	
Electronic maintenance	Do	18	NC	
Security	Training Center, Cape May, NJ	12	NC	
Fire fighting services	Do	13	NC	
Grounds maintenance	Station, Alexandria, VA	11	NC	
Security	Training Center, Petaluma, CA	13	NC	
Data processing	Aircraft Repair & Supply Center, Elizabeth City, NC	24	NC	
Grounds maintenance	Reserve Training Center, Yorktown, VA	12	NC	
Fire fighting services	Do	15	NC	
Security	Do	12	NC	
Utility maintenance	U.S. Coast Guard Academy, New London, CT	30	NC	
Grounds maintenance	Do	11	NC	
Federal Aviation Administration				
Level I VFR Air Traffic Control Towers—Operation and Administration.	Various locations throughout the 50 states	135	(NC)	

DEPARTMENT OF TRANSPORTATION—Continued

[Inventory of existing in-house commercial activities with more than 10 FTE's—fiscal year 1985]

Activity description	Activity location	Number of FTE's	Date of next review [1]	Reason for continued in-house performance [2]
Maritime Administration				
General facilities maintenance	United States Merchant Marine Academy, Kings Point, NY	19		F.
Ship preservation and maintenance	James River Reserve Fleet, Fort Eustis, VA	100	November 1984	F.
Do	Beaumont Reserve Fleet, Beaumont, Texas	47	Do	F.
Do	Suisun Bay Reserve Fleet, Benecia, CA	87	Do	F.

See footnotes at end of last table.

DEPARTMENT OF TRANSPORTATION

Inventory of existing in-house commercial activities with 10 FTE'S or less—fiscal year 1986

Activity description	Activity location	Number of FTE'S	Date of next review [1]	Reason for Continued in-house performance [2]
U.S. Coast guard				
Shore station maintenance	Base, Southwest Harbor, ME	9	NC	
Repair, preparation and transport of buoys	Buoy Depot, South Weymouth MA	10	NC	
Building maintenance	Group, Sandy Hook, NJ	4	NC	
Industrial support	Base, Gloucester City, NJ	9	NC	
Building maintenance	Support Center, Portsmouth, VA	7	NC	
Shore unit renovation	do	2	NC	
Building maintenance	Communication Station, Portsmouth, VA	2	NC	
Facility maintenance	Group Baltimore, MD	2	NC	
ATON support	do	7	NC	
Building and structure maintenance	Group/Base Fort Macon, NC	9	NC	
Public Works	Group/Station, St. Petersburg, FL	8	NC	
Do	Group/Base, Mayport, FL	4	NC	
Industrial Support	do	5	NC	
Building maintenance	Base, Mobile, AL	7	NC	
Do	Group, Corpus Christi, TX	3	NC	
Do	Station, Destin, FL	2	NC	
Do	Air Station, New Orleans, LA	3	NC	
Buoy maintenance	Base, Yerba Buena Island, CA	8	NC	
Facility maintenance	Air Station, San Francisco, CA	10	NC	
Building maintenance	Air Station/Group, Humboldt Bay, Arcata, CA	7	NC	
Building maintenance	Group, Monterey, CA	4	NC	
Building/grounds maintenance	Station, Quillayute River, WA	2	NC	
Do	Station, Seattle, WA	2	NC	
Do	Station, Coos Bay, OR	3	NC	
Do	Group, Portland, OR	6	NC	
Do	Station, Umpqua River, OR	2	NC	
Do	Station, Yaquina Bay, OR	2	NC	
Do	Station, Grays Harbor, WA	8	NC	
Do	Station, Cape Disappointment, WA	4	NC	
Do	Station, Tillamook Bay, OR	5	NC	
Do	Group, North Bend, OR	8	NC	
Do	Station, Neah Bay, WA	2	NC	
Equipment/grounds maintenance	Communication Station, Honolulu, HI	7	NC	
Buildings/grounds maintenance	Air Station, Barbers Point, HI	5	NC	
Facility maintenance	Communication Station, Kodiak, AK	5	NC	
Do	Marine Safety Office, Valdez, AK	5	NC	
Building maintenance	Base, Ketchikan, AK	8	NC	
Do	Station, Alexandria, VA	8	NC	
Federal Aviation Administration				
Metal/mechanical services	FAA Technical Center, Atlantic City, NJ	5		E.

See footnotes at end of last table.

DEPARTMENT OF TRANSPORTATION

[Inventory of existing in-house commercial activities with more than 10 FTE's—fiscal year 1986]

Activity description	Activity location	Number of FTE's	Date of next review [1]	Reason for continued in-house performance [2]
U.S. Coast Guard				
Buildings/grounds maintenance	Air Station, Cape Cod, MA	72	NC	—
Do	Support Center, Boston, MA	52	NC	—
Industrial support	Base, St. Louis, MO	14	NC	—
Buoy maintenance	Support Center, New York, NY	13	NC	—
Warehousing	do	11	NC	—
ATON maintenance and fabrication	Support Center, Portsmouth, VA	11	NC	—
Boat overhaul	do	19	NC	—

DEPARTMENT OF TRANSPORTATION—Continued

[Inventory of existing in-house commercial activities with more than 10 FTE's—fiscal year 1985]

Activity description	Activity location	Number of FTE's	Date of next review [1]	Reason for continued in-house performance [2]
Industrial support	Section/Base, San Juan, PR	27	NC	—
Do	Group/Base, Miami, FL	31	NC	—
Do	Base, Mobile, AL	20	NC	—
Do	Base, New Orleans, LA	59	NC	—
Do	Depot, Corpus, Christi, TX	12	NC	—
Do	Base, Terminal Island, CA	19	NC	—
Component maintenance	...do	12	NC	—
Facility maintenance	Support Center, Alameda, CA	35	NC	—
Do	Base, Yerba Buena Island, CA	30	NC	—
Do	Communications Station, San Francisco, CA	12	NC	—
Building/grounds maintenance	Group, Astoria, OR	11	NC	—
Do	Group, Port Angeles, WA	12	NC	—
Industrial support	Base, Honolulu, HI	27	NC	—
Building maintenance	Air Station, Sitka, AK	14	NC	—
Do	Air Station, Kodiak, AK	13	NC	—
Industrial support	Base, Ketchikan, AK	34	NC	—
Cutter renovation support	Yard, Baltimore, MD	24	NC	—
Building and utilities maintenance	...do	16	NC	—
Utility operation	Training Center, Cape May, NJ	13	NC	—
Food services	...do	20	NC	—
Facility maintenance	Training Center, Petaluma, CA	14	NC	—
Aircraft and aircraft component maintenance overhaul, repair, and testing.	Aircraft Repair and Supply Center, Elizabeth City, NC	846	NC	—
Food services	Reserve Training Center, Yorktown, VA	24	NC	—
Building maintenance	...do	24	NC	—
Warehousing	Supply Center, Brooklyn, NY	58	NC	—
Electronic maintenance	...do	53	NC	—
Building maintenance	U.S. Coast Guard Academy, New London, CT	17	NC	—
Food services	...do	44	NC	—
Federal Aviation Administration				
Audiovisual products and services	Mike Monroney Aeronautical Center, Oklahoma City, OK	26		E.
Maintenance of special purpose vehicles	...do	17		E.

See footnotes at end of last table.

DEPARTMENT OF TRANSPORTATION

[Inventory of existing in-house commercial activities with 10 FTE's or less, fiscal year 1987]

Activity description	Activity location	Number of FTE's	Date of next review [1]	Reason for continued in-house performance [2]
Office of the Secretary				
Motor pool	Washington, DC	4		E.
Self service copy centers	...do	5		F.
U.S. Coast Guard				
Print shop	Support Center, New York, NY	3	NC	—
Heavy equipment/vehicle operations	...do	2	NC	—
Servmart warehousing operation	...do	4	NC	—
Clothing locker operation	...do	2	NC	—
Island bus service	...do	2	NC	—
Library	...do	2	NC	—
Architect engineering services	District Office, New York, NY	4	NC	—
Special Services	Support Center, Elizabeth City, NC	7	NC	—
Do	Support Center, Portsmouth, VA	8	NC	—
Architect-engineering services	District Office, Portsmouth, VA	2	NC	—
Architect-engineering	District Office, Miami, FL	1	NC	—
Photographic processing	...do	1	NC	—
Photo processing	District Office, New Orleans, LA	2	NC	—
Court reporting	...do	1	NC	—
Do	District Office, Cleveland, OH	1	NC	—
Photo processing	...do	1	NC	—
Architect-engineering services	...do	4	NC	—
Architect-engineering service	District Office, Long Beach, CA	1	NC	—
Court reporting	Marine Safety Office, Los Angeles/Long Beach, CA	1	NC	—
Public works	Group, San Diego, CA	2	NC	—
Do	Base, Terminal Island, CA	10	NC	—
Photographic processing	District Office, Alameda, CA	1	NC	—
Court reporting	...do	4	NC	—
Housing referral and management	...do	3	NC	—
Motor pool	Support Center, Alameda, CA	4	NC	—
Mail/messenger service	...do	2	NC	—
Recreational service	...do	4	NC	—
Bus service	...do	2	NC	—
Family housing management	District Office, Seattle, WA	4	NC	—
Photographic processing	...do	1	NC	—

DEPARTMENT OF TRANSPORTATION—Continued

[Inventory of existing in-house commercial activities with 10 FTE's or less, fiscal year 1987]

Activity description	Activity location	Number of FTE's	Date of next review [1]	Reason for continued in-house performance [2]
Court reporting	...do	3	NC	—
Do	Marine Safety Office, Seattle, WA	1	NC	—
Do	Marine Safety Office, Portland, OR	1	NC	—
Warehousing	Support Center, Seattle, WA	2	NC	—
Architect-engineering service	District Office, Honolulu, HI	5	NC	—
Recreation service	Base, Honolulu, HI	5	NC	—
BEQ maintenance	...do	3	NC	—
Shipping and receiving	...do	10	NC	—
Graphics service	Support Center, Kodiak, AK	1	NC	—
Mail handling	...do	6	NC	—
Recreation and morale service	...do	3	NC	—
Bowling alley and ceramic shop	...do	3	NC	—
Movie theater	...do	2	NC	—
Auto and wood hobby shop	...do	4	NC	—
Warehousing, packing and crating	...do	8	NC	—
Servmart	...do	3	NC	—
Clothing and small stores	...do	1	NC	—
Laundry service	...do	2	NC	—
Fuel farm	...do	6	NC	—
Trash removal	...do	1	NC	—
Heavy equipment repair	...do	4	NC	—
Barracks maintenance	...do	4	NC	—
Architectural engineering services	Training Center, Cape May, NJ	3	NC	—
Photographic processing	...do	3	NC	—
Family housing administration	Academy, New London, CT	4	NC	—
Architectural-engineering service	...do	8	NC	—
Maintenance and safety service	...do	4	NC	—
Logistics support	...do	9	NC	—
Property and clothing administration	...do	9	NC	—
Athletic trainers	...do	3	NC	—
Cadet social activities	...do	3	NC	—
Educational media service	...do	1	NC	—
Library	...do	1	NC	—
Fuel farm operation	Aviation Training Center, Mobile, AL	9	NC	—
Graphic service	Yard, Baltimore, MD	5	NC	—
Requisitions processing	Supply Center, Brooklyn, NY	7	NC	—
Customer service	...do	10	NC	—
Small arms repair	...do	6	NC	—
Depot level repair support (DLRS)	Station, Alexandria, VA	9	NC	—
Test equipment repair and calibration	...do	2	NC	—
Graphics service	...do	3	NC	—

See footnotes at end of last table.

DEPARTMENT OF TRANSPORTATION

[Inventory of existing in-house commercial activities with more than 10 FTE's—fiscal year 1987]

Activity description	Activity location	Number of FTE's	Date of next review [1]	Reason for continued in-house performance [2]
U.S. Coast Guard				
Shore station maintenance	Base, South Portland, ME	18	NC	–
Shore station and vessel maintenance	Base, Woods Hole, MA	19	NC	–
Industrial support	Support Center, Boston, MA	47	NC	–
Public works	Support Center, New York, NY	118	NC	–
Industrial support	...do	51	NC	–
Buildings and utility systems maintenance	Support Center, Elizabeth City, NC	41	NC	–
Public works	Air Station, Miami, FL	11	NC	–
Do	Air Station, Clearwater, FL	15	NC	–
Do	Air Station, Borinquen, PR	13	NC	–
Do	Group/Base, Miami, FL	13	NC	–
Facility maintenance	Port Safety Station, Houston, TX	11	NC	–
Building maintenance	Base, Galveston, TX	11	NC	–
Architect engineering services	District Office, New Orleans, LA	20	NC	–
Industrial support	Base, Yerba Buena Island, CA	30	NC	–
Architect engineering service	District Office, Alameda, CA	16	NC	–
Building maintenance	Support Center, Seattle, WA	17	NC	–
Buoy maintenance	Base, Astoria, OR	19	NC	–
Facility maintenance	Base, Honolulu, HI	18	NC	–
Architect engineering services	District Office, Juneau, AK	13	NC	–
Facility maintenance	Support Center, Kodiak, AK	64	NC	–
Ship construction and repair—structural, mechanical, electrical, electronic, ordnance, and materials handling work	Yard, Baltimore, MD	530	NC	–
Building/grounds maintenance	Training Center, Cape May, NJ	48	NC	–
Building and vehicle maintenance	Aviation Training Center, Mobile, AL	13	NC	–

See footnotes at end of last table.

DEPARTMENT OF TRANSPORTATION

[Inventory of existing in-house commercial activities with 10 FTE's or less—fiscal year 1985]

Activity description	Activity location	Number of FTE's	Date of next review [1]	Reason for continued in-house performance [2]
Research and Special Programs Administration				
Facilities (MFOF)	TSC, Cambridge, MA	10		E

[1] Indicates noncost review will be conducted to determine: (1) If in-house performance will be continued, based on national defense, no commercial sources available or program disruption, (2) if a cost study will be performed, or (3) if activity will be converted directly to contract. Where no schedule date of next review is provided it is to be established at a latter time.

[2] A indicates that the activity has been exempted by the Secretary of Defense for national defense reasons.
B indicates that there is no satisfactory commercial source capable of providing the product or service needed.
C indicates procurement of a product or service from a commercial source would cause an unacceptable delay or disruption of an essential program.
D indicates activity is performed at Government hospital and, in the best interests of direct patient care, is being retained in-house.
E indicates that based on a cost study the Government is providing the product or service at a lower total cost than if it were acquired from a commercial source.
F indicates function is being performed in-house now, but decision to continue in-house or contract is pending the results of a scheduled cost comparison analysis. Where no schedule date of next review is provided it is to be established at a latter time.
G indicates function is being performed in-house now, but will be converted to contract because of cost comparison analysis results.
H indicates function is being performed in-house now, but a decision has been made to convert to contract under a non-competitive source preferential procurement program, or in accordance with procedures for 10 or less FTE's, or under waiver of cost study for more than 10 FTE's

[FR Doc. 84-25635 Filed 9-27-84; 8:45 am]
BILLING CODE 4910-62-M

Federal Aviation Administration

Solicitation of Comment on the National Airspace System, (NAS) Requirements Document

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Draft National Airspace System (NAS) Operational Requirements Document availability and request for comments.

SUMMARY: A draft NAS Operational Requirements Document has been prepared by the FAA which contains the operational requirements to be satisfied by the National Airspace System Plan. The Opreational Requirements Document is one of several documents designed to guide the FAA in their efforts to accomplish a major upgrade of the NAS which satisfies the needs of the users and the FAA.

The FAA will hold a public meeting to introduce the Operational Requirements Document, to provide insight into its background, purpose, and scope, and to answer any questions presented by attendees. Attendees will be provided a copy of the document at the meeting and will be requested to forward their initial comments to the FAA by November 16, 1984.

DATE: The meeting will be held on October 18, 1984, starting promptly at 1:00 pm. until 4:00 pm.

ADDRESS: The meeting is to be held in the Federal Aviation Administration Building, 800 Independence Avenue, SW, Washington, D.C., in the Third Floor Auditorium. Comments on the draft should be sent to: Federal Aviation Administration, ATTN: AES-210, 800 Independence Avenue, SW, Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Mr. John M. Fugett, Requirements Identification & Analysis Program, AES-210, 800 Independence Avenue, SW, Washington, D.C. 20591. Commercial telephone (202) 755-9397 or FTS 755-9397.

Issued in Washington, D.C., September 20, 1984.

Lee Page,

Director, Systems Engineering Service.

[FR Doc. 84-25746 Filed 9-27-84; 8:45 am]
BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Dated: September 24, 1984.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB (listed by submitting bureau(s)), for review and clearance under the Paperwork Reduction Act of 1980. Pub. L. 96-511. Copies of these submissions may be obtained by calling the Treasury Bureau Clearance Officer listed under each bureau. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 7225, 1201 Constitution Avenue, NW., Washington, D.C. 20220.

Bureau of Alcohol, Tobacco and Firearms

OMB Number: 1512-0030
Form Number: ATF F 4483A (5300.11)
Type of Review: Extension
Title: Quarterly Firearms Manufacturing and Exportation Report

OMB Number: 1512-0105
Form Number: ATF F 2052 (5120.37)
Type of Review: Existing Regulation
Title: Pre-payment Wine Tax Return

Clearance Officer: Howard Hood (202) 566-7077 Bureau of Alcohol, Tobacco and Firearms Room 2228, Federal Building 1200 Pennsylvania Avenue, NW. Washington, D.C. 20226

OMB Reviewer: Milo Sunderhauf (202) 395-6880 Office of Management and Budget Room 3208, New Executive Office Building Washington, D.C. 20503

Joseph F. Maty,

Departmental Reports, Management Office.

[FR Doc. 84-25782 Filed 9-27-84; 8:45 am]
BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

Dated: September 25, 1984.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB (listed by submitting bureau(s)), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained by calling the Treasury Bureau Clearance Officer listed under each bureau. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 7225, 1201 Constitution Avenue, NW., Washington, D.C. 20220.

Internal Revenue Service

OMB Number: 1545-0228
Form Number: IRS Form 6252
Type of Review: Revision

Title: Computation of Installment Sale Income
OMB Number: 1545–0165
Form Number: IRS Form 4224
Type of Review: Extension
Title: Exemption from Withholding of Tax on Income Effectively Connected with the Conduct of a Trade or Business in the United States.
OMB Number: 1545–0092
Form Number: IRS Form and Related Schedules—Schedules D, J, K–1
Type of Review: Revision
Title: U.S. Fiduciary Income Tax Return, Capital Gains and Losses, Trust Allocation of an Accumulation Distribution, Beneficiary's Share of Income, Deductions, Credits, Etc.
OMB Number: New
Form Number: IRS Form 8281
Type of Review: New Collection
Title: Information Return for Publicly Offered Original Issue Discount Obligations

Clearance Officer: Garrick Shear (202) 566–6254, Room 5571, 1111 Constitution Avenue, NW. Washington, D.C. 20224

OMB Reviewer: Norman Frumkin (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Joseph F. Maty,

Departmental Reports, Management Officer.

[FR Doc. 84-25783 Filed 9-27-84; 8:45 am]

BILLING CODE 4810-25-M

VOL 49 ISS 190 SE 28 1984 UMI

Sunshine Act Meetings

Federal Register
Vol. 49, No. 190
Friday, September 28, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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National Mediation Board	2

1

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9:00 a.m.—October 3, 1984.

PLACE: Hearing Room One—1100 L Street, NW., Washington, D.C. 20573.

STATUS: Closed.

MATTERS TO BE CONSIDERED: 1. Agreement No. 203–010633: Establishment of a corporation between Flota Mercante Grancolombiana and Andino Chemical Shipping Co. to transport liquid bulk cargoes between the United States and Colombia.

2. Agreements Nos. 202–005850–041, et al.: Merger of Westbound Conferences and Eastbound Conferences in the North Atlantic trades.

3. Petition of Ivaran Lines for relief under section 19 of the Merchant Marine Act of 1920 concerning conditions in the United States/Argentina trades.

4. Docket No. 83–50: Jacksonville Maritime Associations, Inc, Amoco Transport Company, and McGiffin and Company, Inc. v. The City of Jacksonville—Consideration of the record.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523–5725.

Francis C. Hurney,

Secretary.

[FR Doc. 84-25920 Filed 9-26-84; 11:44 am]

BILLING CODE 6730-01-M

2

NATIONAL MEDIATION BOARD

TIME AND DATE: 2:00 p.m., Tuesday, October 9, 1984.

PLACE: Board Hearing Room 8th Floor, 1425 K Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Ratification of the Board actions taken by notation voting during the month of September, 1984.

2. Other priority matters which may come before the Board for which notice will be given at the earliest practicable time.

SUPPLEMENTARY INFORMATION: Copies of the monthly report of the Board's notation voting actions will be available from the Executive Secretary's office following the meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Rowland K. Quinn, Jr., Executive Secretary, Tel: (202) 523–5920.

DATE OF NOTICE: September 25, 1984.

Rowland K. Quinn, Jr.,

Executive Secretary, National Mediation Board.

[FR Doc. 84-25987 Filed 9-26-84; 9:33 am]

BILLING CODE 7550-01-M

VOL
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federal register

Friday
September 28, 1984

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions; Notice

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 5.1 (including the statutes listed at 36 FR 306 (1970) following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, 48 FR 19533 (1983) and of Secretary of Labor's Orders 9–83, 48 FR 35736 (1983), and 6–84, 49 FR 32473 (1984). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 5.1 (including the statutes listed at 36 FR 306 (1970) following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, 48 FR 19533 (1983) and of Secretary of Labor's Order 6–84, 49 FR 32473 (1984). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Program Operations, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Arkansas:	
AR84–4090	Jan. 13, 1984.
AR84–4091	Do.
AR84–4092	Do.
AR84–4093	Do.
California:	
CA84–5001	Mar. 30, 1984.
CA84–5007	May 18, 1984.
Kansas:	
KS84–4052	Aug. 24, 1984.
KS84–4051	Do.
Massachusetts: MA84–3007	Apr. 6, 1984.
Michigan:	
MI83–2020	Mar. 18, 1983.
MI83–2015	Mar. 11, 1983.
North Dakota: ND81–5131	July 6, 1981.
Oklahoma:	
OK84–4049	Sept. 7, 1984.
OK84–4050	Do.
Tennessee: TN83–1087	Nov. 25, 1983.
Utah: UT83–5120	Sept. 30, 1983.
Wisconsin: WI83–2078	Oct. 7, 1983.
West Virginia WV83–3022	Nov. 18, 1983.

Supersedeas Decision to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the number of the decisions being superseded.

Florida: FL83–1021 (FL84–3038)	Apr. 15, 1983.
Louisiana: LA84–4010 (LA84–4055)	Mar. 9, 1984.
Vermont: VT82–3003 (VT84–3029)	Jan. 22, 1982.
Wisconsin: WI83–2085 (WI84–5037)	Oct. 28, 1983.

Signed at Washington, D.C., this 21st day of September 1984.

James L. Valin,

Assistant Administrator.

BILLING CODE 4510-27-M

MODIFICATIONS P. 1

	Basic Hourly Rates	Fringe Benefits
DECISION NO. AR84-4090 - MOD. #6 (49 FR 1844 - January 13, 1984) Garland, Clark and Hot Spring Counties, Arkansas		
CHANGE:		
Lineman	$16.00	$3-3/4%
Cable Splicer	16.125	3-3/4%
Truck Drivers with winch	80%JR	3-3/4%
Groundman, Truck Drivers (flat bed)	64%JR	3-3/4%
Boilermakers	16.125	2.95
DECISION NO. AR84-4091 - MOD. #6 (49 FR 1845 - January 13, 1984) Union and Ouachita Counties, Arkansas		
CHANGE:		
Boilermakers	$16.125	$2.95
DECISION NO. AR84-4092 - MOD. #8 (49 FR 1846 - January 13, 1984) Sebastian, Crawford, & Washington Counties, Arkansas		
CHANGE:		
Sebastian and Crawford Counties:		
Boilermakers	$16.125	$2.95
DECISION NO. AR84-4093 - MOD. #7 (49 FR 1847 - January 13, 1984) Pulaski and Jefferson Counties, Arkansas		
CHANGE:		
Boilermakers	$16.125	$2.95
DECISION NO. KS84-4052 - MOD. #1 (49 FR 33780 - August 24, 1984) Sedgwick County, Kansas		
CHANGE:		
Elevator Constructors	$13.845	$4.00
Elevator Constructors' Helpers	9.69	
DECISION NO. KS84-4051 - MOD. #1 (49 FR 33782 - August 24, 1984) Shawnee County, Kansas		
CHANGE:		
SHEET METAL WORKERS	$14.68	$3.10+ 3%

MODIFICATIONS P. 2

	Basic Hourly Rates	Fringe Benefits
DECISION #CA84-5001 - Mod. #6 (49 FR 12873 - March 30, 1984) Alameda, Alpine, Amador, Butte, Calaveras Counties, California		
Change:		
Steamfitters:		
Area 1	$29.16	$4.92
DECISION #CA84-5007 - - Mod. #6 (49 FR 21245 - May 18, 1984) Imperial, Inyo, Kern, etc., Counties, California		
Change:		
Plumbers; Steamfitters:		
Area 1	$21.24	$8.42
DECISION NO. MA84-3007 MOD. NO. 3 (49 FR 13804 - April 6, 1984) Berkshire, Franklin, Hampden, and Hampshire Counties, Massachusetts		
CHANGE:		
Boilermakers	$18.16	3.691
Carpenter, Soft floor layers; Drywall Carpenters:		
Area 2	15.91	4.25
Electricians		
Area 3	16.33	3%+3.78
Elevator Constructors	16.56	3.29+ a+h
Elevator Constructors Helpers	11.59	3.29+ a+h
Elevator Constructors Helpers (Prob)	8.28	
Ironworkers		
Area 1	15.75	5.82
Area 2:		
Building, Heavy and Highway	14.90	3.99
Residential (4 stories or less)	11.18	3.99
DECISION NO. WV83-3022 - MOD. #12 (48 FR 52547 - November 18, 1983) Statewide West Virginia excluding the counties of Berkley, Jefferson and Morgan		
CHANGE:		
AREA 3:		
Carpenters	$15.76	3.53 + 3%
Piledrivers	16.14	28%

DECISION NO. MI83-2020 - Mod. 14
(48 FR 11615 - March 18, 1983)
Genesee, Huron, Lapeer, Saginaw, St. Clair, Sanilac, and Shiawassee Counties, Michigan

Change:
Carpenters & Soft Floor Layers:
St. Clair County, & Sanilac County (Remainder of County):
Carpenters — $15.50 — $5.11
Soft Floor Layers — 15.07 — 1.80+8%
Huron and Saginaw Counties, & Sanilac County (West 5 mile portion of County):
Carpenters — 10.41 — 1.90
Soft Floor Layer — 10.42 — 2.11

DECISION NO. MI83-2015 - Mod. 14
(48 FR 10579 - March 11, 1983)
Allegan, Barry, Berrien, etc., Counties, Michigan

Change:
Carpenters, Piledrivermen, & Soft Floor Layers:
Jackson & Lenawee Counties — $12.99 — $2.15

DECISION NO. ND81-5111 - Mod. 10
(46 FR 35008 - July 6, 1981)
Burleigh, Cass, Grand Forks, Morton, Richland, Steele, Traill, Walsh and Ward Counties, North Dakota

Change:
Ironworkers:
Structural, Ornamental and Reinforcing — $14.63 — $ 3.16

DECISION NO. UT83-5120 - Mod. 8
(48 FR 44992 - September 30, 1983)
Statewide, Utah

Change:
ELECTRICIANS:
Cable Splicers in Modification No.4, published in the Federal Register dated 3-23-84, Vol. 49, No. 58, Page 11061 to read:
ELECTRICIANS:
Area 1:
Zone 4:
Cable Splicers — $20.30 — $2.00+ 3-8/10%

DECISION #OK84-4049 - MOD. #2
(49 FR 35473 - September 7, 1984
Adair, Atoka, Bryan, Coal, Cherokee, Craig, Creek, Delaware, Haskell, Hughes, Leflore, Latimer, McIntosh, Mayes, Muskogee, Nowata, Okfuskee, Okmulgee, Osage, Ottawa, Pawnee, Pittsburg, Pushmataha, rogers, Tulsa, Sequoyah, Wagoner, and Washington Cos., Oklahoma

CHANGE:
Carpenters Area VI — $12.19 — 1.72
Millwrights and Piledrivers — 12.69 — 1.72
Elevator Constructors:
Area II
Journeymen — 15.43 — 3.00
Helpers — 10.80 — 3.00
Prob. Helpers — 7.715

DECISION NO. OK84-4050 - (49 FR 35477 - Sept. 7, 1984)
Alfalfa, Beckham, Blaine, Caddo, Canadian, Carter, Cleveland, Comanche, Cotton, Custer, Dewey, Ellis, Garfield, Garvin, Grady, Grant, Greer, Harmon, Harper, Jackson, Jefferson, Johnston, Kay, Kingfisher, Kiowa, Lincoln, Logan, Love, McClain, Major, Marshall, Murray, Noble, Oklahoma, Payne, Pontotoc, Roger Mills, Pottawatomie, Seminole, Stephens, Tillman, Washita, Woods, & Wood ward Cos., Oklahoma

CHANGE:
Area VII
Carpenters — 12.40 — 1.67
Millwrights — 12.90 — 1.67

DECISION NO. OK84-4050 (CONT'D)
Area VII (Cont'd)
Piledrivers — 12.90 — 1.67
Power Saw Operator — 12.75 — 1.67
Elevator Constructors:
Journeymen-Mechanic — 15.43 — 3.00
Helpers — 10.80 — 3.00
Probationary Helpers — 7.715

DECISION NO. TN83-1087 Mod # 7 (48 FR 53270 - November 25, 1983) Hamilton, Marion, Polk & Rhea Counties, Tennessee	Basic Hourly Rates	Fringe Benefits
CHANGE:		
IRONWORKERS:		
Commercial *(See scope of work):		
Ironworker/Rodman	$ 12.00	2.45
Light Steel Buildings * (See scope of work):		
Metal Building Erector	10.50	2.45
Maintenance Work (Any work performed of a renovation, replacement, repair or maintenance character within the limits of plant property or other locations related therein.:		
Ironworker	11.20	2.45
All Other Building Work & Heavy Construction - Hamilton County	13.05	2.45

*SCOPE OF WORK
IRONWORKERS:
Commercial - All work on two story or less structures as listed below: Service Stations, Thrift Stores, Convenience Stores, State Parks, Car Washes, Two Story Office Bldgs., School Work (except new schools), Restaurants, Branch Banks, Storage Warehouses, Churches.
Light Steel Buildings - All work involved in handling assembly erection & installation required to construct & erect all mass produced, specially designed pre-engineered &/or pre-fabricated light steel buildings and their component parts.
1) All work in connection with wire mesh
2) Unloading, handling, placing & tying of all rebar.

DECISION NO. TN83-1087 Mod # 7 (Cont'd)	Basic Hourly Rates	Fringe Benefits
*SCOPE OF WORK IRONWORKERS: Light Steel Buildings (Cont'd) -		

DECISION #WI83-2078-MOD #6 (48 FR 45919-October 7, 1983) Columbia, Dane, Iowa, and Sauk Counties, Wisconsin	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Boilermakers	$17.345	3.25
Elevator Constructor:		
Constructors	15.88	3.00
Helpers	11.12	3.00
Helpers (Prob)	7.94	-
Ironworkers	14.08	3.00
Line Construction:		
Lineman	16.09	1.00+ 9½%
Heavy Equipment Op.	14.48	1.00 + 9½%
Light Equipment Op.	12.87	1.00 + 9½%
Heavy Groundman Truck-driver	11.26	1.00 + 9½%
Light Groundman Truck-driver	10.46	1.00 + 9½%
Groundman	8.85	1.00 + 9½%
Sheet metal workers Columbia Dane and Iowa Counties	17.47	3.24
Power Equipment Operators:		
Group 1	15.72	3.42
Group 2	15.22	3.42
Group 3	14.44	3.42
Group 4	13.88	3.42
Group 5	13.40	3.42

	Basic Hourly Rates	Fringe Benefits

MODIFICATIONS P. 7

DECISION NO. WI83-2078
(Cont'd)

POWER EQUIPMENT OPERATORS (Classifications)

Group 1: Cranes,shovels, draglines, backhoes, clamshells, derricks, caisson rigs, pile driver, skid rigs, dredge operator and traveling crane (bridge type), concrete paver (over 27E), concrete spreader and distributor.

Group 2: Concrete and grout pumps, material hoists, stack hoists, tractor or truck mounted hydraulic backhoe, tractor or truck mounted hydraulic crane (10 tons or under), manhoists, tractor (over 40 h.p.), bulldozer (over 40 h.p.), endloader (over 40 h.p.), motor patrol, scraper operator, sideboom, straddle carrier, mechanic and welder, bituminous plant and paver operator, roller (over 5 tons), rail level-machine (railroad), tie placer, tie extractor, tie tamper, stone leveler, rotary drill operator and blaster, percussion drilling machine, trencher (wheel type or chain type having over 8-inch bucket), elevator.

Group 3: Backfiller, concrete auto breaker (large), concrete finishing machines (road type), roller (rubber tire), concrete batch hopper, concrete mixers (14S or over), screw type pumps, and gypsum pumps, tractor, bulldozer, endloader (under 40 h.p.), pumps (well points), trencher (chain type having bucket 8- inch and under), industrial locomotives, roller (under 5 tons) and fireman (pile drivers and derricks), hoists (automatic), forklift (over 12'), tampers-compactors (riding type), assistant engineer, "A" frames and winch trucks, concrete auto breaker, hydrohammers (small), brooms and sweeper, hoists (tuggers), stump chipper (large), boats (tug, safety, work barges and launch).

Group 4: Shouldering machine operator, screed operator, farm or industrial tractor mounted equipment, post hole digger, stone crushers and screening plants, fireman (asphalt plants), air compressor (400 CFM or over), augers (vertical and horizontal), air, electric, hydraulic jacks (slip form), prestress machines, skid steer loader, boiler operators (temporary heat), forklift (12' and under).

Group 5: Generators over 150 KW, pumps over 3" combination small equipment operator; compressors (under 400 CFM), welding machines, heaters (mechanical), generators (under 150 KW), pumps (3" and under), winches (small electric), oiler and greaser, conveyor.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: FLORIDA
DECISION NO.: FL84-3038
Supersedes Decision No.: FL83-1021 dated April 15, 1983 in 48 FR 16402.
DESCRIPTION OF WORK: BUILDING CONSTRUCTION PROJECTS (does not include single family homes or apartments of four stories or less).

COUNTIES: MARTIN & PALM BEACH
DATE: DATE OF PUBLICATION

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	17.73	3.11
BOILERMAKERS	17.70	3.315
BRICKLAYERS: Bricklayers, Cement Masons, Marble Setters, Plasterers, Stonemasons, Tile and Terrazzo Workers	14.95	1.39
CARPENTERS & SOFT FLOOR LAYERS	13.55	1.53
ELECTRICIANS:		
Wireman	15.63	21%
Cable Splicers	17.19	21%
ELEVATOR CONSTRUCTORS:		
Mechanics	17.20	3.00+a
Helpers	12.04	3.00+a
Probationary Helpers	8.60	
GLAZIERS	15.42	1.75
IRONWORKERS	13.80	2.03
LABORERS:		
a. Permit Value $500,000 & over:		
Air Tool Oper., Mason Tenders, Mortar Mixers, & Pipelayers	10.20	2.01
Plasterers Tenders	10.38	2.01
Unskilled Laborers	10.10	2.01
b. Permit Value up to $500,000		
Air Tool Oper., Mason Tenders, Mortar Mixers, Pipelayers	8.50	2.01
Plasterers Tenders	8.48	2.01
Unskilled Laborers	8.40	2.01
LATHERS	9.73	.125
LINEMEN:		
Heavy Equipment Operators & Linemen	16.04	.45+ 9.78%
Winch Truck Operator	12.76	.45+ 9.78%
Cable Splicers	16.34	.45+ 9.75%
Truck Drivers	10.31	.45+ 9.75%
Groundmen	8.52	.45+ 9.78%
MILLWRIGHTS	14.02	2.10
PAINTERS:		
Brush	10.53	1.55
Paperhanger, Roller	10.78	1.55
Spray, Taper	11.03	1.55
PILEDRIVERS	14.10	2.60
PLUMBERS:		
a. Commercial-51 or more plbg. fixtures, w/41 or more tons	13.97	3.31
b. Commercial-50 or less plbg. fixtures, w/40 or less tons A/C.	12.63	3.31
c. Industrial-All manufacturing & processing plants	18.61	3.46
ROOFERS	11.00	1.10
SHEET METAL WORKERS	13.95	1.68
SPRINKLER FITTERS	16.15	3.33
WELDERS - Rate for craft to which the welding is incidental.		
POWER EQUIPMENT OPERATORS:		
Group I	15.00	1.96
Group II	14.85	1.96
Group III	14.35	1.96
Group IV	13.90	1.96
Group V	13.75	1.96
Group VI	13.40	1.96
Group VII	13.15	1.96
Group VIII	13.05	1.96
Group IX	12.10	1.96

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

FOOTNOTE: a. Employer contributes 8% of regular hourly rate to Vacation Pay Credit for Employees who has worked in business more than 5 years. Employer contributes 6% of regular hourly rate to Vacation Pay Credit for Employee who has worked in business less than 5 years.

POWER EQUIPMENT OPERATORS--Classification Definitions:

Group I-All tower cranes(must have 2 operators;mobile,rail,climbers, static mount),cranes with boom length 250 ft. & over(with or without jib), derricks, helicopters, all types of flying cranes & all nuclear powered equipment, single station hydro cranes over 18 tons, but not more than 50 tons, finish grader.

Group II-All cranes with boom length 150 ft and over (with or without jib; friction, hydro, electric, or otherwise), cranes 150 tons & over with boom length less than 250 ft., gantry & overhead cranes.

Group III-Cranes with boom length less than 150 ft (with or without jib), single station hydro cranes 18 tons & under, single station hydro cranes over 50 tons, dual station hydro cranes,clam shell, shovel, backhoe, gradall, dragline, piledriver,drilling of piling, tugger (all types), mechanic, sideboom, or tractor boom, concrete mixer, cableway.

Group IV-Boring & Drilling Machine,concrete pumping machine (all types), batching plant (on job sites), inside elevator, forklift(with vertical lift of over 20 ft).

Group V-Locomotive operator,motor mixing pump (all types),winch truck, A-frame truck, grease truck operator, front end loader, bulldozer, pan, motor grader, forklift

Group VI-Trenching & ditching machine, roller, fireman, distributor, (bituminous), finish machine (paving), wellpoint system(installation & or operation), siphon, vacuum pump, tractor,conveyor.

Group VII-Utility Operator (any combination of equipment up to and including 4 pieces of equipment listed in Group VIII), welding machines (3-4).

Group VIII-Pump(s) or any combination over 2 1/2 inch, compressors or any combination over 125 CFM, generator (s) or any combination over 5 KW.

Group IX-Oiler, fuel truck driver, mechanical helper, boom hauling truck driver, lowboy truck driver.

SUPERSEDEAS DECISION

STATE: Louisiana PARISH: Statewide
DECISION NO.: LA84-4055 DATE: Date of Publication
Supersedes Decision No. LA84-4010, dated March 9, 1984 in 49 FR 9064.
DESCRIPTION OF WORK: Building projects (does not include single family homes & apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS:		
ZONE 1	19.145	2.335
ZONE 2	16.71	2.94
ZONE 3	16.10	3.02
ZONE 4	14.34	1.95
BOILERMAKERS	16.125	3.85
BRICKLAYERS & STONEMASONS:		
ZONE 1	12.50	2.26
ZONE 2	13.22	1.90
ZONE 3	13.67	2.32
ZONE 4	14.50	2.04
ZONE 5	13.75	
ZONE 6	12.30	1.70
ZONE 7	14.10	.30
ZONE 8	14.15	.75
ZONE 9	14.50	
ZONE 10	13.00	
CARPENTERS:		
ZONE 1:		
Carpenters	13.25	.60
Millwrights	13.97	.60
Piledrivermen	14.15	.60
ZONE 2:		
Carpenters, Piledrivermen & Soft Floor Layers	13.19	1.60
Millwrights	15.46	.07
ZONE 3:		
Carpenters & Drywall	13.25	2.50
Millwrights	13.95	2.50
Piledrivermen	13.65	2.50
ZONE 4:		
Carpenters & Piledrivermen	13.50	1.96
Millwrights	19.775	1%
ZONE 5:		
Carpenters & Soft Floor Layers	14.76	2.80
Millwrights	15.15	2.60
Piledrivermen	14.84	2.60
ZONE 6:		
Carpenters & Soft Floor Layers	14.60	2.60
Millwrights	15.15	2.60
Piledrivermen	14.84	2.60
CARPENTERS (CONT'D):		
ZONE 7:		
Carpenters & Soft Floor Layers	13.35	
Millwrights	14.10	
Piledrivermen	13.85	
ZONE 8:		
Carpenters & Soft Floor Layers	12.00	1.78
Millwrights	12.75	1.78
Piledrivermen	12.25	1.78
ZONE 9:		
Carpenters & Soft Floor Layers	12.30	1.85
Millwrights	13.20	1.85
Piledrivermen	12.80	1.85
ZONE 10:		
Carpenters, Piledrivermen, Soft Floor Layers	9.90	1.60
Millwrights	15.46	.07
CEMENT MASONS:		
ZONE 1	15.07	.05
ZONE 2	13.42	
ZONE 3	12.65	1.70
ZONE 4	14.21	1.68
ZONE 5	13.75	
ZONE 6	10.50	
ZONE 7	12.10	.85
ZONE 8	12.65	.75
ZONE 9	11.90	.30
ELECTRICIANS:		
ZONE 1: Electricians	17.64	13.30% +5/10% *
Cable Splicers	17.89	*
ZONE 2: Electricians	15.90	1.02+ +3% *
Cable Splicers	16.40	*
ZONE 3: Electricians	17.70	2.00+ 3-5/10% *
Cable Splicers	18.20	*
ZONE 4: Electricians	18.10	.70+ 3-2/10% *
Cable Splicers	18.35	*
ZONE 5: Electricians	16.15	1.65+3% *
Cable Splicers	16.15	*

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	Basic Hourly Rates	Fringe Benefits
ELECTRICIANS (CONT'D):		
ZONE 6: Electricians	16.15	1.15+ 3.5%
Cable Splicers	16.65	1.15+ 3.5%
ZONE 7: Electricians	15.25	2.40+4%
Cable Splicers	15.75	2.40+4%
ZONE 8: Electricians	15.28	.80+ 3.5%
Cable Splicers	15.53	*
ELEVATOR CONSTRUCTORS:		
ZONE 1: Mechanics	14.82	3.00+a
Helpers	70%JR	3.00+a
Helpers (Prob.)	50%JR	
ZONE 2: Mechanics	13.03	3.00+a
Helpers	70%JR	3.00+a
Helpers (Prob.)	50%JR	
GLAZIERS:		
ZONE 1	15.25	.02+b
ZONE 2	13.25	.01
ZONE 3	16.62	1.41
ZONE 4	9.88	.34
ZONE 5	10.99	
IRONWORKERS:		
ZONE 1	15.00	2.43
ZONE 2:		
Rodmen	11.04	2.55
All other classifications	12.29	2.55
ZONE 3:		
Rodmen	9.94	2.55
All other classifications	11.04	2.55
ZONE 4:		
Rodmen	10.75	2.55
All other classifications	12.25	2.55
ZONE 5:		
Rodmen	10.79	2.51
All other classifications	12.29	2.51
ZONE 6:		
Rodmen	9.00	2.29
All other classifications	12.51	2.29
ZONE 7:		
Ironworkers erecting structural steel on bldgs. 6 stories & over	14.82	2.42
All other work	13.10	2.42
LABORERS:		
ZONE 1:		
Group 1	7.20	.30
Group 2	7.40	.30
Group 3	7.45	.30
LABORERS (CONT'D):		
ZONE 2:		
Group 1	8.92	.80
Group 2	9.12	.80
ZONE 3	9.85	1.04
ZONE 4	7.40	1.04
ZONE 5:		
Group 1	11.67	.85
Group 2	11.77	.85
Group 3	11.82	.85
ZONE 6:		
Group 1	11.27	.85
Group 2	11.37	.85
Group 3	11.42	.85
ZONE 7:		
Group 1	10.89	1.08
Group 2	10.99	1.08
Group 3	11.09	1.08
Group 4	11.05	1.08
Group 5	11.15	1.08
ZONE 8:		
Group 1	10.57	1.08
Group 2	10.72	1.08
Group 3	10.77	1.08
ZONE 9:		
Projects $2,000,000.00 & less:		
Group 1	6.78	.80
Group 2	6.98	.80
Group 3	7.03	.80
Group 4	7.08	.80
Group 5	7.43	.80
Projects over $2,000,000.00:		
Group 1	8.11	.80
Group 2	8.31	.80
Group 3	8.36	.80
Group 4	8.41	.80
Group 5	8.76	.80
ZONE 10:		
Group 1	8.90	.80
Group 2	9.00	.80
Group 3	9.05	.80
Group 4	9.10	.80
ZONE 11:		
Group 1	8.45	.80
Group 2	8.60	.80
Group 3	8.75	.80

DECISION NO.: LA84-4055

	Basic Hourly Rates	Fringe Benefits
LATHERS:		
ZONE 1	14.78	2.30
ZONE 2	15.70	1.86
ZONE 3	13.25	.60
ZONE 4	13.19	1.60
ZONE 5	9.90	1.60
ZONE 6	12.50	1.78
ZONE 7	13.35	
ZONE 8	12.30	1.85
LINE CONSTRUCTION:		
ZONE 1:		
Linemen	16.15	1.68+9%
Hole digging equip.; tractor w/winch & derrick; line truck w/winch & derrick working hot lines	75%JR	1.68+9%
Pole truck & trailer or pole hauling & setting truck (not energized lines)	65%JR	1.68+9%
Truck w/o winch	45%JR	1.68+9%
Groundmen	50%JR	1.68+9%
ZONE 2:		
Linemen	17.64	13.30% +5/10%
Cable Splicers	17.89	13.30% +5/10%
Heavy equipment ops.	75%JR	13.30% +5/10%
Truck Drivers & Groundmen	45%JR	13.30% +5/10%
ZONE 3:		
Linemen, equipment opr.	17.70	2.00+ 3-1/10%
Cable Splicers	18.20	2.00+ 3-1/10%
Groundmen	15.70	2.00+ 3-1/10%
ZONE 4:		
Linemen, equipment opr.	14.60	.70+3%
Cable Splicers	14.85	.70+3%
Groundmen	50%JR	.70+3%
ZONE 5:		
Linemen, equipment opr.	15.36	3.5%
Cable Splicers	15.61	3.5%
Groundmen	40%JR	3.5%
ZONE 6:		
Linemen, equipment oprs.	16.15	1.15+ 3.5%
Cable Splicers	16.65	1.15+ 3.5%
Groundmen	4.19	1.15+ 3.5%
LINE CONSTRUCTION (CONT'D)		
ZONE 7		
Linemen, Operators	15.25	2.40+ 3-3/4%
Cable Splicers	15.75	2.40+ 3-3/4%
Groundmen	12.65	2.40+ 3-3/4%
MARBLE, TILE & TERRAZZO WORKERS & FINISHERS:		
ZONE 1:		
Marble Setters	14.50	2.04
Tile & Terrazzo Workers	14.65	.70
Marble, Tile & Terrazzo Finishers	10.60	1.15
ZONE 2:		
Marble & Terrazzo Workers	13.67	2.32
Tile Setters	15.07	1.70
ZONE 3:		
Marble Setters	14.50	
Terrazzo Workers	11.65	
ZONE 4:		
Marble, Tile & Terrazzo Workers	12.85	.75
ZONE 5:		
Marble, Tile & Terrazzo Workers	10.95	.85
ZONE 6:		
Marble,Tile & Terrazzo Workers	17.25	
Marble, Tile & Terrazzo Finishers	10.60	1.15
ZONE 7:		
Tile Setters	13.75	
Tile Finishers	10.60	1.15
PAINTERS:		
ZONE 1:		
Work on apartments over 4 stories	11.70	.60
All other work	14.00	.60
ZONE 2:		
Group 1	10.75	1.38
Group 2	11.00	1.38
Group 3	10.00	1.38
ZONE 3:		
Group 1	13.235	2.115
Group 2	13.61	2.115
Group 3	15.535	2.115

	Basic Hourly Rates	Fringe Benefits
PAINTERS (CONT'D):		
ZONE 4:		
Group 1	10.99	
Group 2	11.43	
Group 3	11.12	
Group 4	12.25	
Group 5	12.59	
Group 6	11.09	
Group 7	11.33	
ZONE 5:		
Painters, tape & pointing, drywall & paperhanger	10.50	1.10
ZONE 6:		
Group 1	10.05	
Group 2	10.55	
Group 3	11.05	
ZONE 7:		
Painters	10.85	.83
Industrial	11.00	1.38
PLASTERS:		
ZONE 1	13.20	
ZONE 2	14.25	.01
ZONE 3	14.20	
ZONE 4	16.40	.01
ZONE 5	12.08	1.58
ZONE 6	11.00	.01
ZONE 7	12.10	.85
ZONE 8	14.15	.75
ZONE 9	14.10	.30
PLUMBERS & PIPEFITTERS:		
ZONE 1	16.80	2.43
ZONE 2	13.42	2.58
ZONE 3:		
Journeymen: Contracts containing $75,000.00 or less of plumbing work & 50 tons of air conditioning/refrigeration or less (excluding chilled water systems & all work on industrial jobsites	10.00	2.70
All other work	15.25	2.70
Helpers (exterior sewer & all related work including bell holding & cramming, cutting holes,unloading & loading of materials, equipment & tools to & from jobsites & distribution & stock piling of same, dismantling, erecting & dismembering scaffold, general clean up of site: Contracts containing $75,000.00 or less plumbing work & 50 tons of air conditioning/refrigeration or less (excluding chilled water systems & all work on industrial jobsites	4.50	
All other work	4.575	.03
ZONE 4	15.19	3.14
ZONE 5	17.98	3.00
ZONE 6:		
Journeymen	15.05	2.15
Helpers (exterior sewer & all related work including bell holding & cramming, cutting holes unloading & loading of materials, equipment & tools to & from jobsite & distribution & stock piling of same, dismantling, erecting & dismembering scaffold, general clean up of site	4.515	.03
POWER EQUIPMENT OPERATORS:		
ZONE 1 - GROUP 1	13.25	2.20
GROUP 2	11.42	2.20
GROUP 3	10.07	2.20
GROUP 4	9.57	2.20
GROUP 5	10.81	2.20
GROUP 6	12.00	2.20
ZONES 2,3 & 4-GROUP 1	9.55	2.20
GROUP 2	10.58	2.20
GROUP 3	10.68	2.20
GROUP 4	11.15	2.20
GROUP 5	13.32	2.20
GROUP 6	12.32	2.20

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS (CONT'D):		
ZONE 5 - GROUP 1	13.36	2.50
GROUP 2	9.25	2.50
GROUP 3	13.61	2.50
GROUP 4	13.86	2.50
GROUP 5	14.11	2.50
GROUP 6	14.36	2.50
GROUP 7	14.86	2.50
GROUP 8	8.59	2.50
ZONE 6 - GROUP 1	16.11	2.50
GROUP 2	16.36	2.50
GROUP 3	16.61	2.50
GROUP 4	16.86	2.50
GROUP 5	17.36	2.50
GROUP 6	17.11	2.50
GROUP 7	15.86	2.50
GROUP 8	13.18	2.50
GROUP 9	11.61	2.50
GROUP 10	9.45	2.50
GROUP 11	10.78	2.50
ZONE 7 - GROUP 1	15.23	2.50
GROUP 2	12.49	2.50
GROUP 3	12.68	2.50
GROUP 4	15.73	2.50
GROUP 5	10.79	2.50
GROUP 6	9.08	2.50
GROUP 7	15.48	2.50
GROUP 8	15.73	2.50
GROUP 9	15.98	2.50
GROUP 10	16.23	2.50
GROUP 11	16.73	2.50
GROUP 12	17.23	2.50
ROOFERS:		
ZONE 1:		
Roofers	15.70	.20
Roofers helpers remove old roofing, hustle material & cleanup under supervision of a journeymen	12.30	.20
ZONE 2:		
Roofers	10.11	3.20
Preparers remove old roofing, place, stock or move materials, tools or equipment for journeymen	4.90	1.50
ZONE 3:		
Roofers	12.78	1.94
Preparers remove old roofing, place, stock or move materials, tools or equipment for journeymen	5.00	
ROOFERS (CONT'D):		
ZONE 4:		
Roofers	11.50	.30
Kettlemen	9.20	.30
ZONE 5 - Roofers	12.86	.24
SHEET METAL WORKERS:		
ZONE 1	17.28	3.12+ 3%
ZONE 2	15.47	3.03+ 3%
ZONE 3	16.26	1.86+ 3%+c
ZONE 4	13.92	1.83+ 3%
SPRINKLER FITTERS	15.07	3.23
SOUND INSTALLERS: The installation (except the installation of conduit, the wiring of light circuits & the wiring of power circuits up to the final distribution panel), operation, maintenance & repair of video sound or audio & associated signal equip. & apparatus by means of which electricity is applied in the transmission or transference, production or reproduction of voice or sound with or without ethereal aid, including all types of signal systems that may be required: JEFFERSON, ORLEANS, PLAQUEMINES, ST. BERNARD & ST. CHARLES PARS.	11.82	1.86+ 3%+d
TRUCK DRIVERS:		
ZONE 1:		
Pickups, stake bodies; dumps; trailer trucks; winch truck; Mississippi wagon	11.24	1.10

	Basic Hourly Rate	Fringe Benefits
TRUCK DRIVERS (CONT'D):		
ZONE 2:		
GROUP 1	9.05	.60
GROUP 2	9.30	.60
GROUP 3	9.85	.60
GROUP 4	9.70	.60
GROUP 5	10.15	.60
GROUP 6	10.25	.60
GROUP 7	10.55	.60
GROUP 8	10.70	.60
ZONE 3:		
GROUP 1	9.87	
GROUP 2	9.95	
GROUP 3	10.20	
GROUP 4	10.35	
GROUP 5	10.50	
GROUP 6	10.70	
GROUP 7	11.05	
ZONE 4:		
GROUP 1	13.18	
GROUP 2	13.48	
GROUP 3	13.63	
GROUP 4	13.83	
GROUP 5	13.98	
GROUP 6	13.78	
ZONE 5:		
GROUP 1	10.89	1.20
GROUP 2	11.50	1.20
GROUP 3	11.55	1.20
GROUP 4	11.81	1.20
ZONE 6:		
Pickups, stake bodies, dumps; trailer trucks; winch truck; Mississippi wagon	8.50	1.10

FOOTNOTES:
a - 1st 6 mos.-none; 6 mos. to 5 yrs.-6%; over 5 yrs.-8% of basic hourly rate & 7 paid holidays A thru G
b - 5 days paid vacation and 6 paid holidays A thru F
c - Labor Day shall be apaid holiday at the straight time rate only for employees who have been on the payroll at least 2 weeks & who have worked the 5 full working days prior to Labor Day unless no work was available, employee was excused from attendance by employer or can provide a statement from his physician that he was ill & unable to work
d - Paid Holidays A,C,D,E,G, Mardi Gras Day & Christmas Eve

PAID HOLIDAYS
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-the Friday after Thanksgiving Day; G-Christmas Day

ZONE DEFINITIONS FOR ASBESTOS WORKERS
ZONE 1 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Evangeline, Jefferson Davis, Rapides, Vermilion & Vernon Parishes
ZONE 2 - Bienville, Bossier, Caddo, Caldwell, Claiborne, DeSoto, Grant, Jackson, Lincoln, Natchitoches, Ouachita, Red River, Sabine, Union, Webster & Winn Parishes
ZONE 3 - Ascension, Assumption, Avoyelles, Catahoula, Concordia, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafayette, Lafourche, LaSalle, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge & West Feliciana Parishes
ZONE 4 - East Carroll, Franklin, Madison, Morehouse, Richland, Tensas & West Carroll Parishes

ZONE DEFINITIONS FOR BRICKLAYERS AND STONEMASONS
ZONE 1 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Pars.
ZONE 2 - Avoyelles, Catahoula, Concordia, Grant, LaSalle & Rapides Parishes
ZONE 3 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 4 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Tammany (extending northward to that part of St. Tammany Par. from Tangipahoa Par. on the west along U.S. Hwy. 190 through the lower limits of Covington, along State Hwy. 58, through the lower limits of Abita Springs & Talisheek & on a line due east from Talisheek to the Mississippi State Line) & Terrebonne Parishes
ZONE 5 - St. Tammany (north half including Covington north of Hwy. 90) & Washington Parishes
ZONE 6 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River, & Webster Parishes
ZONE 7 - Natchitoches & Sabine Parishes
ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn
ZONE 9 - Iberia, Lafayette, St. Martin, St. Mary & Vermilion Pars.
ZONE 10- Evangeline, Pointe Coupee & St. Landry Parishes

ZONE DEFINITIONS FOR CARPENTERS:
ZONE 1 - All of Acadia, Evangeline, Lafayette, St. Landry & Vermilion Pars.; Parts of Iberia, St. Martin & St. Mary Pars. (west of the Atchafalaya River)
ZONE 2 - Calcasieu Parish & Fort Polk in Vernon Parish
ZONE 3 - Parts of St. Tammany & Tangipahoa (north of I-12 from the Mississippi State Line to the western boundary of Tangipahoa Par.) & Washington Parishes
ZONE 4 - Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James (north of the Mississippi River), West Baton Rouge & West Feliciana Pars.
ZONE 5 - All of Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles & St. John the Baptist Pars.; Parts of St. Tammany & Tangipahoa (south of I-12 from the Mississippi State Line to the western boundary of Tangipahoa Par.) Parishes
ZONE 6 - Assumption, Iberia (east of the Atchafalaya River), Lafourche, St. James (south of the Miss. River), St. Martin (eastern segment of the Atchafalaya River), St. Mary (east of the Atchafalaya River) & Terrebonne Parishes

ZONE DEFINITIONS FOR CARPENTERS (Cont'd)
ZONE 7 - Avoyelles, Grant, LaSalle, Natchitoches, Rapides & Sabine
ZONE 8 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River, Webster Parishes
ZONE 9 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 10 - Allen, Beauregard, Cameron, Jefferson Davis & Vernon (excluding Fort Polk)

ZONE DEFINITIONS FOR CEMENT MASONS

ZONE 1 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James, Tangipahoa, West Baton Rouge & West Feliciana Parishes
ZONE 2 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 3 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermilion Parishes
ZONE 4 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany (north to Interstate Hwy. 12) & Terrebonne Parishes
ZONE 5 - St. Tammany (northern half including Covington north of Hwy 190) & Washington Parishes
ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle & Rapides Parishes
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn
ZONE 9 - Natchitoches & Sabine Parishes

ZONE DEFINITIONS FOR ELECTRICIANS

ZONE 1 - Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. Landry, West Baton Rouge & West Feliciana Parishes
ZONE 2 - St. Tammany, Tangipahoa & Washington Parishes
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron & Jefferson Davis Pars.
ZONE 4 - Acadia, Iberia, Lafayette, St. Martin (northern segment), St. Mary (that portion southwest of the Atchafalaya River) & Vermilion Parishes
ZONE 5 - Assumption, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Martin (southern segment), St. Mary (that portion northeast of the Atchafalaya River) & Terrebonne Parishes
ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Natchitoches (that portion southwest of the Red River), Rapides, Sabine, Vernon & Winn Parishes
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches (that portion northeast of the Red River), Red River & Webster Pars.
ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Pars.

ZONE DEFINITIONS FOR ELEVATOR CONSTRUCTORS:

ZONE 1 - Acadia, Allen, Ascension, Assumption, Beauregard, Calcasieu, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Washington, West Baton Rouge & West Feliciana Parishes

ZONE DEFINITIONS FOR ELEVATOR CONSTRUCTORS (Cont'd):
ZONE 2 - Avoyelles, Bienville, Bossier, Caddo, Caldwell, Catahoula, Claiborne, Concordia, DeSoto, East Carroll, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Ouachita, Rapides, Red River, Richland, Sabine, Tensas, Union, Vernon, Webster, West Carroll & Winn Parishes

ZONE DEFINITIONS FOR GLAZIERS:
ZONE 1 - Allen (except northeast corner), Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 2 - Acadia, Ascension (north of Hwy. 22), Assumption (north of Hwy. 22), East Baton Rouge, East Feliciana, Iberia, Iberville, Lafayette, Livingston (north of Hwy. 22), Pointe Coupee, St. Helena, St. Landry (south half), St. Martin, St. Mary (except Morgan City Area), Tangipahoa (west of Hwy. 51), Vermilion, West Baton Rouge & West Feliciana Pars.
ZONE 3 - Ascension (south of Hwy. 22), Assumption (south of Hwy. 22), Jefferson, Lafourche, Livingston (south of Hwy. 22), Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Mary (Morgan City Area), St. Tammany (southern portion) & Terrebonne Parishes
ZONE 4 - Bienville (western half), Bossier, Caddo, Claiborne, DeSoto, Natchitoches (to city of Natchitoches), Red River, Sabine & Webster
ZONE 5 - St. Tammany (northern 2/3 everything north of a straight line running east & west from Pearl River to Mandeville), Tangipahoa (everything east of Rt. 51 & everything north ofa straight line running east & west from Madisonville through Ponchatoula) & Washington Parishes

ZONE DEFINITIONS FOR INSULATORS:
ZONE 1 - All of Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist & St. Tammany Pars.; Parts of Lafourche, Livingston, St. James, Tangipahoa, Terrebonne & Washington Pars. (west of a straight line drawn from the La. - Miss. border, east of the city limits of Warrenton, southwest through Hammond to the Gulf of Mexico)
ZONE 2 - Ascension, East BatonRouge, East Feliciana, Iberville, Pointe Coupee, West Baton Rouge & West Feliciana Pars. Parts of Livingston & St. James Pars. (west of a straight line drawn from the La. - Miss. border, west ofthe city limits of Warrenton, southwest through Hammond to the Gulf of Mexico)
ZONE 3 - Assumption, Avoyelles, Iberia, St. Helena, St. Martin, St. Mary; Parts of Acadia, Evangeline, Lafayette, St. Landry & Vermilion Pars. (east of a line drawn from the meeting point of the boundaries of the Pars. of Rapides, Avoyelles & Evangeline, southeast along the western city limitsof Abbeville to the Gulf of Mexico); Parts of Lafourche, Tangipahoa, Terrebonne & Washington Pars. (west of a straight line drawn from the La. - Miss. border, west of the city limits of Warrenton, southwest through Hammond to the Gulf of Mexico); Parts of Catahoula, Concordia & LaSalle Pars. (south of a line drawn from Watches through the city of Cottonport to the Rapides Par. line, then west along the southern border of Rapides Par.)

ZONE DEFINITIONS FOR IRONWORKERS (Cont'd):

ZONE 4 - All of Bossier, Caddo, DeSoto, Red River & Webster Pars.; Parts of Bienville, Claiborne, Natchitoches & Winn Pars. (west of a line drawn directly south from the Ark-La. border through the cities of Arcadia & Cloutierville); Part of Sabine Par. (north of a line drawn from the Natchitoches Par. boundary west through the city of Peason to the Tex.-La. border)
ZONE 5 - All of Caldwell, East Carroll, Franklin, Grant, Jackson, Lincoln, Morehouse, Ouachita, Rapides, Richland, Tensas, Union & West Carroll Pars.; Parts of Bienville, Claiborne, Natchitoches & Winn Pars. (east of a line drawn directly south from the Ark.-La. border through the cities of Arcadia & Cloutierville); Part of Madison Par. (except the cities of Mound, Delta & adjacent areas); Parts of Catahoula, Concordia & LaSalle Pars. (north of a line drawn from Natchez through the city of Cottonport to the Rapides Par. line)
ZONE 6 - That part of Madison Par. (including the cities of Mound, Delta & adjacent areas)
ZONE 7 - All of Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Pars.; Parts of Acadia, Evangeline, Lafayette, St. Landry & Vermilion Pars. (southwest of Rapides Par. & west of a line south of the western most border between Rapides & Evangeline)

LABORERS - ZONE 1 (CLASSIFICATION DEFINITIONS)

GROUP 1 - Building and labor construction
GROUP 2 - Stone mason tenders, mechanical tool operators, sewermen (bottom men, caulkers, tenders, joint wipers, hot pot, grade carriers, layers & ditchers 4 ft. or over); tender of all crafts; sandblaster (nozzlemen); sandblaster (pot tender); laying non-metallic pipe over 4 ft. deep, including sewer, drain & underground tile; septic tank diggers & installers, over 4 ft. deep; gas & oil pipeline laborers & wrappers
GROUP 3 - Gunite tool operators

LABORERS - ZONE 2

GROUP 1 - Building laborer; rotary drill laborers; foundation drill crewman
GROUP 2 - Mason mixer; plaster mixer; mechanical tool op. (jackhammer, vibrator, tamper, chipping gun, soil tillers); sandblaster; laying concrete, clay, plastic, asbestos cement, casing & corrugated metal pipe, as sewer, drain & underground tile (caulkers, joint wrappers hot pot & pipe layers); gas & oil pipeline laborers wrappers & dopers

LABORERS (CLASSIFICATION DEFINITIONS)(Cont'd):

LABORERS - ZONES 5 & 6

GROUP 1 - Building and general laborers, carpenter tenders
GROUP 2 - Power tool ops. (hammer men, tamper, vibrator, power buggies, concrete chippers & cutters, chain saw ops.,etc.); pipelayers (non-metallic)
GROUP 3 - Mason tenders, plaster tenders, cement mix (wet or dry) tenders, hod carrier tender; mortar mixers & cement maxers (wet or dry)

LABORERS - ZONE 7

GROUP 1 - Laborers
GROUP 2 - Laborers handling pans, stone mason tenders, mechanical tool ops., sewermen, sandblaster; laying non-metallic pipe over 4' deep, including sewer pipe, drain pipe, & underground tile; septic tank diggers & installers over 4' deep; gas & oil pipeline laborers & wrappers; scalers using boatswain's chair, safety belt or power tool; scaler & cleaners
GROUP 3 - Gunnite tool operators
GROUP 4 - Bricklayer & mason tender
GROUP 5 - Hod carrier using a prime mover to serve a bricklayer; mortar mixer, either hand or machine

LABORERS - ZONE 8

GROUP 1 - Common laborers
GROUP 2 - Jackhammermen, sewermen, mason tenders, plaster tenders, stone mason tenders, vibratormen
GROUP 3 - Mortar mixers

LABORERS - ZONE 9

GROUP 1 - Common laborers; carpenter tenders; mason tenders (other than cement); plasterers tenders; stone mason tenders; concrete workers; scaffold builders
GROUP 2 - Air tool ops. (jackhammer, vibrator & tamper); sewer pipe joiners & setters; concrete cutters; hod carriers; creosote materials handler; acid worker; mason tenders (cement); Mortar mixer (wet or dry); motorized buggy op.; water proofers (mastic); form setters (steel paving forms)
GROUP 3 - Chain saw operator
GROUP 4 - Asphalt raker, tamper, smoother & shovelers; sewer pipelayers; blaster tenders
GROUP 5 - Powderman

LABORERS - ZONE 10

GROUP 1 - Laborers, Plasterer tenders, asphalt rakers & smoothers
GROUP 2 - Mason tenders
GROUP 3 - Mortar mixers
GROUP 4 - Sewer pipe layers & wipers, burners on demolition, mechanical tool ops. (including but not limited to jackhammer, tamper, vibrator chipping hammer)

LABORERS - ZONE 11

GROUP 1 - Laborers, tenders (brickmasons, stonemasons, cement masons, carpenters, plasterers), stripping & dismantling; concrete form work; loading, unloading, carrying & handling steel & steel mesh; assisting to the setting of cut stone, granite or artificial stone; building scaffolds; shoring
GROUP 2 - Mechanical tool op. (air, electric, motor, engine, etc.); sewer pipelayers; mortar mixers (hand or machine); gunnite op., tile, terrazzo & marble setter finishers
GROUP 3 - Pipe dopers & burners

ZONE DEFINITIONS FOR LABORERS:
ZONE 1 - St. Tammany (as far south as Bayou Lacombe & east to the Miss. State Line at Pearlington), Tangipahoa (all butsouthwestern corner) & Washington Parishes
ZONE 2 - Acadia, Iberia, Lafayette, St. Lanry, St. Martin, St. Mary (excluding that part of Par. to the Calumet Locks west) & Vermilion
ZONE 3 - Calcasieu Parish & Ft. Polk in Vernon Parish
ZONE 4 - Allen, Beauregard, Cameron, Jefferson Davis & Vernon (excluding Ft. Polk) Parishes
ZONE 5 - All of Ascension, East Baton Rouge, East Feliciana, Iberville, Pointe Coupee, West Baton Rouge & West Feliciana Pars.; Parts of Assumption, St. James, St. John the Baptist Pars. (north of a line drawn from the southern limits of the town of St. James in St. James Par. to the northern limits of the town of Napoleonville in Assumption Par. & then directly west to the Par. Line, all of St. James Par. except that part which is east of a line drawn from Lutcher to U.S. Hwy. 61 (Airline Hwy.) then west on U.S. 61 to Blind River & on a direct line to Manchac)
ZONE 6 - Livingston, St. Helena & Tangipahoa (south & west of a line running from the western Par. line to a point directly east which touches the northern limits of the town of Independence, then directly south to Lake Pontchartrain) Parishes
ZONE 7 - Jefferson (except Grand Isle), Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist (on the west bank of the Miss. River & the portion of St. John the Baptist on the east bank of the Miss. River as far as the Sycamore Inn at Lutcher & north to Blind River & Manchac) & St. Tammany (north as far as Bayou Lacombe, east to the Miss. State Line at Pearlington) Pars.
ZONE 8 - Assumption (north of Napoleonville), Jefferson (Grand Isle), Lafourche, St. James (on the west bank & including the town of Vacherie), St. Mary (that part of Parish to the Calumet Locks west) & Terrebonne Parishes
ZONE 9 - Avoyelles, Evangeline, Grant, LaSalle, Natchitoches, Rapides & Winn Parishes
ZONE 10 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River, Sabine & Webster Parishes
ZONE 11 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes

ZONE DEFINITIONS FOR LATHERS:
ZONE 1 - Assumption, Iberia (east of the Atchafalaya River), Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James (south of the Miss. River), St. John the Baptist, St. Martin (eastern segment of the Atchafalaya River), St. Mary (east of the Atchafalaya River), St. Tammany, Tangipahoa, Terrebonne and Washington Parishes
ZONE 2 - Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James (north of the Mississippi River), West Baton Rouge & West Feliciana Parishes
ZONE 3 - All of Acadia, Evangeline, Lafayette, St. Landry, & Vermilion Pars.; Parts of Iberia, St. Martin & St. Mary Pars. (west of the Atchafayala River)

ZONE DEFINITIONS FOR LATHERS (Cont'd):
ZONE 4 - Calcasieu Parish
ZONE 5 - Allen, Beauregard, Cameron, Jefferson Davis & Vernon Parishes
ZONE 6 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 7 - Avoyelles, Grant, LaSalle, Natchitoches, Rapides & Sabine Parishes
ZONE 8 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes

ZONE DEFINITIONS FOR LINE CONSTRUCTION
ZONE 1 - Assumption, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Martin (southern segment), St. Mary (that portion northeast of the Atchafalaya River) & Terrebonne Parishes
ZONE 2 - Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. Landry, West Baton Rouge & West Feliciana Parishes
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron & Jefferson Davis Pars.
ZONE 4 - Acadia, Iberia, Lafayette, St. Martin (northern segment), St. Mary (that portion southwest of the Atchafalaya River) & Vermilion Parishes
ZONE 5 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Pars.
ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Natchitoches (that portion southwest of the Red River), Rapides, Sabine, Vernon & Winn Parishes
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches (that portion northeast of the Red River), Red River & Webster Pars.

ZONE DEFINITIONS FOR MARBLE, TILE & TERRAZZO WORKERS AND FINISHERS
ZONE 1 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Tammany (extending northward to that part of St. Tammany Par. from the Tangipahoa Par. Line on the west along U.S. Hwy. 190 through the lower limits of Covington, along State Hwy. 58 through the lower limits of Covington, along State Hwy. 58 through the lower limits of Abita Springs & Talisheek & on a line due east from Talisheek to the Miss. State Line) & Terrebonne Parishes
ZONE 2 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 3 - Iberia, Lafayette, St. Martin, St. Mary & Vermilion Pars.
ZONE 4 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn
ZONE 5 - Bienville, Bossier, Caddo, Claiborne, De Soto, Red River & Webster Parishes
ZONE 6 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Parishes
ZONE 7 - St. Tammany (northern half including Covington north of Hwy. 190) & Washington Parishes

PAINTERS CLASSIFICATION DEFINITIONS

ZONE 1
GROUP 1 - Painters brush, roller & buffer
GROUP 2 - Paperhanging, taping & floating
GROUP 3 - Spray, sandblasting, hydroblasting, spider op., rubberizing & pyroflexing, steam jennies, taping & floating machine
GROUP 4 - Water towers, radio & TV towers

ZONE 2
GROUP 1 - Brush; drywall, taping & floating, sheetrock, texture
GROUP 2 - Sandblasting, industrial & steel, spray
GROUP 3 - Maintenance repaint

ZONE 3
GROUP 1 - Painters, paperhangers & sheetrock tapers & floaters
GROUP 2 - Structural steel painters of new building under construction; the following overall of 30 ft.; tanks, air conditioning, towers, smoke stacks, sprinkler systems, wharves & structural steel in old buildings; spray painters, swing stage painter
GROUP 3 - Industrial

ZONE 4
GROUP 1 - Brush
GROUP 2 - Brush swing stage
GROUP 3 - Brush industrial
GROUP 4 - Spray; spray steel, sandblasting
GROUP 5 - Spray swing stage
GROUP 6 - Paperhanger
GROUP 7 - Sheetrock finishers

ZONE 6
GROUP 1 - Painters, paperhangers, tapers & floaters
GROUP 2 - Stage,window jacks,bosun chairs,structural steel,rollers,equipment painting;sandblasting, spray. stack sign,tank painting,steeple jack
GROUP 3 - Structural steel brush

PAINTERS ZONE DEFINITIONS

ZONE 1 - Allen, Beauregard, Calcasieu, Cameron, & Jefferson Davis Parishes
ZONE 2 - Ascension (north of Hwy. 22), Assumption (north of Hwy.22), Concordia, East Baton Rouge, East Feliciana, Iberville, Livingston (north of Hwy. 22), Pointe Coupee, St. Helena, Tangipahoa (west of Hwy. 51), West Baton Rouge & West Feliciana Parishes
ZONE 3 - Ascension (south of Hwy. 22), Assumption (south of Hwy. 22), Lafourche, Livingston (south of Hwy. 22), Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Mary (Morgan City Area), St. Tammany (southern portion) & Terrebonne
ZONE 4 - St. Tammany (northern 2/3, everything north of a straight line running east & west from Pearl River to Mandeville), Tangipahoa (everything east of Rt. 51 & everything north of a straight line running east & west from Madisonvillethrough Ponchatoula) & Washington Pars.
ZONE 5 - Avoyelles, Bienville (western half), Bossier, Caddo, Catahoula, Claiborne, DeSoto, Evangeline, Grant, LaSalle, Natchitoches (except northeast corner) Rapides, Red River, Sabine, St. Landry (northern portion), Vernon, Webster & Winn (southern half from a line running east & west through the intersection of Rts. 84 & 71 including the town of Winnfield at that intersection) Pars.

PAINTERS ZONE DEFINITIONS (Cont'd):
ZONE 6 - Bienville (eastern portion, everything east of Rt. 9 inclusive), Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Natchitoches (northeast corner), Ouachita, Richland, Tensas, Union, West Carroll & Winn (northern half, everything north of a line running east & west through Winnfield, excluding Winnfield) Parishes
ZONE 7 - Acadia, Iberia, Lafayette, St. Landry (south half), St. Martin, St. Mary (except Morgan City Area) & Vermilion Parishes

PLASTERERS ZONE DEFINITIONS
ZONE 1 - St. Tammany (northern half including Covington north of Hwy. 190) & Washington Parishes
ZONE 2 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermilion Parishes
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 4 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. James, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Parishes
ZONE 5 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany (Par. line on the west along U.S. Hwy. 190 through the lower limits of Covington & Abita Springs along State Hwy. 435 to Talisheek & on a line due east from Talisheek to the Miss. State Line) & Terrebonne Parishes
ZONE 6 - Avoyelles, Catahoula, Concordia, Evangline, Grant, LaSalle & Rapides Parishes
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn
ZONE 9 - Natchitoches & Sabine Parishes

PLUMBERS & PIPEFITTERS ZONE DEFINITIONS

ZONE 1 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James (northern 2/3 of Par.), St. John the Baptist, St. Tammany, Tangipahoa, Terrebonne & Washington Parishes
ZONE 2 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia (eastern 1/2 of Par.), Iberville, Livingston, Pointe Coupee, St. Helena, St. James (western 1/3 of Par.), St. Martin (southern part of eastern 1/2 of Par.),St. Mary, West Baton Rouge & West Feliciana Parishes
ZONE 3 - Avoyelles, Catahoula, Concordia,Evangeline, Grant, LaSalle, Natchitoches (south of Hwy. 84 & 86 from Winnfield to Natchitoches & southeast from Natchitoches to Anacoco through Bellwood), Rapides, Vernon (northeast of Hwy. 10 & Winn (south of Hwy. 84) Parishes
ZONE 4 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River, Sabine & Webster Pars.; Parts of Natchitoches & Vernon Pars. (northwest from a line drawn from Natchitoches to Anacoco through Bellwood & north of Hwy. 111 between Anacoco & Haddens) Parishes
ZONE 5 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Iberia (western 1/2 of Par.), Jefferson Davis, Lafayette, St. Landry, St. Martin (west of Hwy. 31) & Vermilion Parishes
ZONE 6 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn north of Hwy. 84) Parishes

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POWER EQUIPMENT OPERATORS - ZONE 1 - CLASSIFICATION DEFINITIONS

GROUP 1 - Asphalt spreader;backhoes,track mounted,over 1 CY;backhoe,rubber tired;crawler tractors,bulldozers & front end loaders (over D-4 & equivalent);cableways;concrete mixers,over 16-S;Cranes w/lattice boom;cranes w/hydraulic boom;clamshells;derricks;draglines;forklifts,over 10,000 lbs. capacity;grease serviceman;hoist,material,2 drums & over;hoist,1 drum 4 stories or more or 40 ft.;heavy duty mechanic and/or welder;hydraulifts & boom trucks;motor patrols;piledrivers;pump,concrete (6" & over);road pavers;rollers on asphalt or brick;scoopmobiles;scrapers;sideboom cats; shovels;trenching & ditching machines,over 66" digging depth;tractorvators; winch cats (hoisting)

GROUP 2 - Air compressors,over 500 CFM;asphalt plant op.;bull floats;crane, hydraulic,7½ tons & less;crawlertractors,bulldozers & front end loaders (D-4 & equivalent & under);concrete spreader;finish machines;forklifts to 10,000 lbs.;distributor (Bitum surface));dowel bar machine;elevator op. riding inside cab;rubber tire tractor with all attachments (excluding backhoe); fireman;hoist,1 drum,less than 4 stories or 40 ft.;kolum buff machine;pull cats;pump,concrete (under 6");rollers,except on asphalt or brick; straddle buggies;motorized sweepers on streets & roads;winch trucks,A-frame;water pumps,gasoline or diesel (over 6")

GROUP 3 - Unit operator

GROUP 4 - Oiler

GROUP 5 - Oiler/driver

GROUP 6 - Well point operator

POWER EQUIPMENT OPERATORS - ZONE 2 - CLASSIFICATION DEFINITIONS

GROUP 1 - Oiler

GROUP 2 - Oiler-Driver

GROUP 3 - Scaleman

GROUP 4 - Air compressor; Asphalt plant op.; Bulldozer, D-4 equivalent & under; Bullfloats; Concrete spreader; Finishing machines; Concrete mixer (16-s or less); Concrete saw; Distributors (bitum surface); Dowell bar machine; Farm-type tractor (with all attachments except backhoe); Fireman; Fork lifts (other than setting steel, machinery or pipe); Hoist, 1 drum less than 4 stories; Kolum buff machine; Pull cats; Pump (3" & over); Pump, concrete (under 6"); Rollers, except on asphalt or brick; Straddle buggies; Sweepers on streets & roads (motorized); Winch truck, A-frame (other than handling steel or pipe)

GROUP 5 - Asphalt spreader, Backhoe, Bulldozer, over D-4 & equivalent; Cableways; Concrete mixer, over 16-s; Cranes, Derricks; Ditching or trenching machines; Draglines; Fork lifts (setting steel, machinery or pipe); Front end loaders (except farm-type tractors); Grease serviceman; Hoist, 1 drum, 4 stories or more or 40 ft. (on structures other than buildings); Hoist, 2 drums & over; Hydrolifts; Heavy duty mechanic; Motor patrols; Piledrivers; Pump, concrete (6" & over); Road pavers; Rollers on asphalt or brick; Scoopmobiles; Scrapers; Sideboom cats; Shovels; Tractorvators; Welder, journeyman; Winch cats (hoisting); Winch truck, A-frame (handling steel or pipe)

GROUP 6 - Well point system & unit operator

POWER EQUIPMENT OPERATORS - ZONE 3 - CLASSIFICATION DEFINITIONS

GROUP 1 - Oiler

GROUP 2 - Oiler-Driver

GROUP 3 - Scaleman

POWER EQUIPMENT OPERATORS - ZONE 3 - CLASSIFICATION DEFINITIONS (Cont'd)

GROUP 4 - Air compressor; Asphalt plant; Bulldozer, D-4 equivalent & under; Bullfloats; Concrete spreader; Finishing machines; Concrete mixer (16-s or less); Concrete saw; Distributors (bitum surface); Dowell bar machine; Farm-type tractor (with all attachments except backhoe); Fireman; Fork lifts (other than setting steel, machinery or pipe); Hoist, 1 drum less than 4 stories; Kolum buff machine; Pull cats; Pump (3" & over); Pump, concrete (under 6"); Rollers, except on asphalt or brick; Straddle buggies; Sweepers on streets & roads (motorized); Winch truck, A-frame (other than handling steel or pipe)

GROUP 5 - Asphalt spreader; Backhoe; Bulldozer, over D-4 & equivalent; Cableways; Concrete mixer, over 16-s; Cranes; Derricks; Ditching or trenching machines; Draglines; Fork lifts (setting steel, machinery or pipe); Front end loaders (except farm-type tractors); Grease serviceman; Hoist, 1 drum, 4 stories or more or 40 ft. (on structures other than buildings); Hoist, 2 drums & over; Hydrolifts; Heavy duty mechanic; Motor patrols; Piledrivers; Pump, concrete (6" & over); Road pavers; Rollers on asphalt or brick; Scoopmobiles; Scrapers; Sideboom cats; Shovels; Tractorvators; Welder, journeyman; Winch cats (hoisting); Winch truck, A-frame (handling steel or pipe)

GROUP 6 - Unit operator

POWER EQUIPMENT OPERATORS: ZONE 4

GROUP 1 - Crane,all types;derricks;deck winches (2);Hi-Ho & similar type equipment;three drum (or more) stabilizers;pulls,all types;concrete mixer 1 yd. & over;all pavers; ditching or trenching machines (track type);mechanics & equipment welders;wellpoint systems;hoist,2 drums or more;hoist,1 drum, 40 vertical ft. or more;scrapers;bulldozers,rubber-tired or track,other than farm-type;scoopmobiles;motor patrol;gradeall;rollers on hot mix;asphalt paving machines;front-end loaders,other than farm-type,one cubic yard or over;shovels & backhoes,all types, & equivalent equipment;piledriver operator;side-boom cats;boom trucks;bush hog;cableways;cherry pickers (all types);dredges;foundation drill locomotives (all types);motorized street sweepers (self-propelled); rush cat;test pump (internal combustion engine powered)

POWER EQUIPMENT OPERATORS (CONT'D: ZONE 5

GROUP 2 - 2 drum & single drum stabilizers;frontend loaders under 1 cubic yard; A-frame truck when handling steel or pipe;finishing machines (concrete));power subgraders;2 tractors (crawler type));1 drum hoist under 40 vertical ft.;fireman;concrete spreader;pugmill op.;bituminous distributor on surface treatment & equivalent equipment;bull floats & equivalent equipment;job greaseman;work boats,not requiring licensed ops.;inboard & outboard motored crew boats;concrete mixer under 1 yd.;spray curing machines;rollers on subgrade;1 air compressor over 125 cu. ft.;form graders;asphalt finisher screedman;pump over 4 inches;scale ops.;crusher ops.;concrete jointing machines;concrete saw;tack machines & equivalent equipment;pumpcrete;electric elevator (inside);oiler drivers;farm-type,rubber-tired tractor,with attachments,except backhoes;Folum buff & similar equipment;fork lifts,10-ton capacity & under; batch plant op.;oiler on crane using air to drive piles,fireman operating steam valve,unit ops.;fireman;mixers (1 sack under));oiler;oiler-compressor op. oiler-driver on motor crane;oiler-fireman;pump (under 3" suction));scale op.; water blast pump;welding machine

GROUP 3 - Op. on crane 60 to 99 tons;crane w/boom 100 ft. to 149 ft.

GROUP 4 - Op. on crane 100 to 125 tons;crane w/boom 150 ft. to 224 ft.

GROUP 5 - Op. on crane 126 to 200 tons

GROUP 6 - Op. on crane 201 to 300 tons;crane w/boom 225 ft. to 299 ft.

GROUP 7 - Op. on crane over 300 tons;crane w/boom 300 ft. & over

GROUP 8 - Oiler

POWER EQUIPMENT OPERATORS - ZONE 6 - CLASSIFICATION DEFINITIONS

GROUP 1 - Crane op. 60 tons & over; Crane op boom 100 ft. & over but less than 150 ft.; Piledriver op. leads 100 ft. & over but less than 150 ft.

GROUP 2 - Crane op. 100 tons up to 125 tons; Crane op. boom 150 ft. & over but less than 225 ft.; Piledriver op. leads 150 ft. & over but less than 225 ft.

GROUP 3 - Crane op. 125 tons up to 200 tons; Crane op. boom 225 ft. & over but less than 300 ft.; Piledriver op. leads 225 ft. & over but less than 300 ft.

GROUP 4 - Crane op. 200 tons up to 300 tons

GROUP 5 - Crane op. 300 tons

GROUP 6 - Crane op. boom 300 ft. & over;Piledriver Op. 300 ft. & Over

GROUP 7 - Crane; Backhoe; Cableway; Concrete mixer, 16S & up; Derrick; Dragline; Dredge; Hoist-2 drums; Locomotvie crane; Paving mixer; Piledriver; Road paver; Roller on asphalt or brick (5 tons or over); Shovel; Sideboom cat; Bulldozer; Motor patrol; Scraper; Hydrolift crane; Hydrolift truck, yard crane, cherry picker, etc.; Foundation, boring & reaming machine; Cement stabilizer; Trenching machine; Asphalt spreader; Traxcavator & similar front end loading equipment with scoop or bucket of 1 cu. yd. or more capacity; Tug boat op.; Turnapull, euclid, DW-10 & other similar self-loading earth moving equipment; Concrete pump (not pumpcrete);Computer Batch Plant

GROUP 8 - A-frame truck; Crew boat op.; Fireman; Fork lift; Straddle buggy; Traxcavator, scoopmobile & similar front end loading equipment with scoop or bucket under 1 cu. yd. capacity; Locomotive; Well point system; Unit operator; Hoist-1 drum, 4 stories & over

GROUP 9 - Air compressor; Asphalt plant engineer; Blade grader; Distributor (bitum surface)); Finishing machine (concrete, paving); Hoist-1 drum, less than 4 stories; Concrete mixer under 16-S; Oiler driver; Pump crete; Street & road sweeper; Roller (except on asphalt or brick)); Roller, asphalt or brick (under 5 tons)); Post-hole digger; Tractor operator bush hog & similar grass or bush cutting equipment; Batch Plant Op.

GROUP 10 - Oiler

GROUP 11 - Pumps, over 3 inch suction; Shatch cat

POWER EQUIPMENT OPERATORS - ZONE 7 - CLASSIFICATION DEFINITIONS

GROUP 1 - A-Frame truck when working with ironworkers, pipefitters, boilermakers & electricians; Bulldozers & tractors; Cableways; Concrete mixer (over 16S) paving machines, crane, derricks, draglines & clamshells; Concrete pump/boom combinations; Deck winches (2); Economobile model 8620B or equivalent or heavier equipment; Gradealls; Hi-Ho & similar type equipment; Hoist, 1 drum, 4 stories & over; Hoist, 2 drums or more; Hydro cranes; Mechanics; Motor patrols; Piledrivers; Rollers on brick & asphalt; Rubber-tired front end loader, with or without blade attachment, 1 cu. yd. capacity or more; Scraper; Shovels, Backhoes (all types)); Side boom cats; Stabilizers, 3 drums or more; Traxcavators; Trenching machines; Welder, journeyman; Firemen, when firing more than one boiler mounted on one machine

GROUP 2 - A-frame truck except when working with ironworkers or pipefitters; Air compressor; Asphalt plant engineer; Asphalt finisher, screed men; Blade graders; Small boat op.; Bullfloats; Concrete joining machines; Concrete mixer, 16S & under; Concrete spreader; Crusher op.; Deck winch (1)); Distributors, asphalt; "Ditch witch" & similar equipment; Electric elevator (inside)); Finishing machine; Firemen; Form graders; Fork lifts; Hoist, 1 drum, under 4 stories; Power subgraders; Pug mill; Pull tractors; Pump; Pump crete; Rollers except on brick & asphalt; Rubber-tired front end loader (with or without attachments) less than 1 cu. yd. capacity; Scale op.; Scoopmobile; Snatch cats; Spray machines; Stabilizers, less than 3 drums; Straddle buggy; Track machines & equivalent machine; Outside Electric Elevator Operator

GROUP 3 - Unit and well point operator

GROUP 4 - Work Boat requiring license

GROUP 5 - Batch plant operator, oilers(driver)

GROUP 6 - Oiler

GROUP 7 - Crane op. 60 tons & above; Crane op. boom 100 ft. & over but less than 150 ft.; Tower crane op. boom height 100 ft. & over but less than 150 ft.

GROUP 8 - Crane op. 100 tons & up to 125 tons; Crane op. boom 150 ft. & over but less than 225 ft.; Tower crane op. boom height 150 ft. & over but less than 225 ft.

GROUP 9 - Crane op. 125 tons & up to 200 tons

GROUP 10 - Crane op. 200 tons & up to 300 tons; Crane op. boom 225 ft. & over but less than 300 ft.; Tower crane op. boom height 225 ft. & over up to 30 fl ors

GROUP 11 - Crane op. 30u tons & up to 400 tons; Crane op. boom 300 ft. & over but less than 400 ft.; Tower crane over 30 floors

GROUP 12 - Crane op. over 400 tons; Crane op boom 400 ft & over

POWER EQUIPMENT OPERATORS ZONE DEFINITIONS

ZONE 1 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes

ZONE 2 - Avoyelles, Evangeline, Grant, LaSalle, Natchitoches, Rapides, Sabine, St. Landry & Winn Parishes

ZONE 3 - All of Acadia, Lafayette & Vermilion Parishes; Parts of Iberia, St. Martin & St. Mary Parishes (west of a line drawn from the City of Berwick to the junction of Iberville-St. Landry Pars. border)

ZONE 4 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes

ZONE 5 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes

POWER EQUIPMENT OPERATORS ZONE DEFINITIONS (Cont'd):

ZONE 6 - All of Ascension, East Baton Rouge, East Feliciana, Iberville, Pointe Coupee, St. Helena, West Baton Rouge & West Feliciana Pars.; Parts of Assumption & St. James Pars. (northwest of a straight line drawn from the City of Berwick to the City of Lutcher); Parts of Iberia & southern & northern St. Martin Pars. (east & west of a line from the City of Berwick north to the eastern boundary of the City of Krotz Springs); Parts of Livingston, Tangipahoa & Washington Pars. (west of a line drawn north from the City of Lutcher to the east side of the City of Hammond to the Louisiana-Mississippi border)

ZONE 7 - All of Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany & Terrebonne Pars.; Parts of Assumption, Livingston, St. James, St. Martin, St. Mary, Tangipahoa & Washington Pars. (that portion of southeastern Louisiana bounded on the north by the State of Mississippi, on the east by the State of Mississippi & the Mississippi Sound, on the south by the Gulf of Mexico & on the west by a line drawn as follows: beginning at a point on the Louisiana-Mississippi boundary in Washington Par., due north of the town of Hackley, then southwesterly in a straight line to a point on the east bank of the Mississippi River at the southernmost point of Lutcher (including Gramercy in the area), thence in a more southwesterly direction in a straight line to midstream of the Atchafalaya River at Morgan City-Berwick (including Morgan City in this area), thence southerly on a line following midstream of the Atchafalaya River to the Atchafalaya Bay & in a line due south to the Gulf of Mexico

ZONE DEFINITIONS FOR ROOFERS:

ZONE 1 - Allen, Beauregard, Calcasieu, Cameron, Evangeline, Jefferson Davis, Vermilion & Vernon Parishes

ZONE 2 - Assumption, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, South St. Martin, St. Mary, St. Tammany, Terrebonne & Washington Parishes

ZONE 3 - Acadia, Ascension, East Baton Rouge, East Feliciana, Iberia, Iberville, Lafayette, Livingston, Pointe Coupee, St. Helena, St. Landry, North St. Martin, Tangipahoa, West Baton Rouge & West Feliciana Parishes

ZONE 4 - Avoyelles, Caldwell, Catahoula, Concordia, East Carroll, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Ouachita, Rapides, Richland, Tensas, Union, West Carroll & Winn Parishes

ZONE 5 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Red River, Sabine & Webster Parishes

ZONE DEFINITIONS FOR SHEET METAL WORKERS:

ZONE 1 - Allen, Beauregard, Calcasieu, Cameron & Jefferson Davis Pars.

ZONE 2 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Tammany, Terrebonne & Washington Parishes

ZONE 3 - Acadia, Ascension, Assumption, East Baton Rouge, East Feliciana, Evangline, Iberia, Iberville, Lafayette, Livingston, Pointe Coupee, St. Helena, St. Landry, St. Martin, St. Mary, Tangipahoa, Vermilion, West Baton Rouge & West Feliciana Parishes

ZONE 4 - Avoyelles, Bienville, Bossier, Caddo, Caldwell, Catahoula, Claiborne, Concordia, De Soto, East Carroll, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Ouachita, Rapides, Red River, Richland, Sabine, Tensas, Union, Vernon, Webster, West Carroll & Winn Parishes

ZONE DEFINITIONS FOR TRUCK DRIVERS

ZONE 1 - Calcasieu Parish & Ft. Polk in Vernon Parish
ZONE 2 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermilion Parishes
ZONE 3 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster
ZONE 4 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James, Tangipahoa, Washington, West Baton Rouge & West Feliciana Parishes
ZONE 5 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist & St. Tammany Parishes
ZONE 6 - Allen, Beauregard, Cameron, Jefferson Davis & Vernon (excluding Ft. Polk) Parishes

TRUCK DRIVER CLASSIFICATION DEFINITIONS:

ZONE 2 -
GROUP 1 - Teamsters, pick-up drivers
GROUP 2 - Stake bodies (all sizes); platform dump
GROUP 3 - Truck & trailer; dump
GROUP 4 - Mixers on trucks up to & including 3 yds.
GROUP 5 - Mixers over 3 yds.
GROUP 6 - Winch trucks
GROUP 7 - Miss. wagons & Koehring dumpster, tandem dumps & similar dirt moving equip, up to & including 8 yds.
GROUP 8 - Miss. wagons, Koehring dumpsters, tandem dumps & similar dirt moving equipment over 8 yds.

ZONE 3 -
GROUP 1 - Pick-ups, spotters & dumpers of dirt, gravel, etc.
GROUP 2 - Stake bodies; flat beds (all sizes)
GROUP 3 - Single axle dumps & water trucks; transit mix, up to & including 3 yds.
GROUP 4 - Tandem axle dump, batch & water trucks over 3 tons, pickups with trailer
GROUP 5 - Miss. wagons, floats, tractor trailers; rubber tired tractors & wobble wheels
GROUP 6 - Euclids, lowboys, dempsey dumpster, Koehring dumps, 5 axle trucks, transit mix over 3 yds.
GROUP 7 - Fork lift

ZONE 4 -
GROUP 1 - Pick-ups
GROUP 2 - Over 1 ton up to but not including 3 tons
GROUP 3 - 3 tons up to but not including 5 tons
GROUP 4 - 5 tons & over including but not limited to: winch, dempsey dumpster, lowboy, semi-trailer, euclid, tournapull & similar equipment when used for transporting material
GROUP 5 - Larger trucks, carrying capacity rear axles 50,000 lbs. & over
GROUP 6 - Winch truck with A-frame when used for transporting

ZONE 5 -
GROUP 1 - Up to but not including 1-1/2 tons
GROUP 2 - 1-1/2 tons up to but not including 3 tons
GROUP 3 - 3 tons up to but not including 5 tons
GROUP 4 - 5 tons & over

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: VERMONT
DECISION NO.: VT84-3029
COUNTIES: STATEWIDE
DATE: Date of Publication
Supersedes Decision No.: VT82-3003, dated January 22, 1982 in 47 FR 3275.
Description of Work: Highway Construction Projects (excluding tunnels, building structures in rest area projects and railroad construction; bascule, suspension and spandrel arch bridges designed for commercial navigation; bridges involving marine construction; and other major bridges).

	Basic Hourly Rates	Fringe Benefits
ADDISON COUNTY:		
CARPENTERS	7.88	
CEMENT MASONS	7.30	
ELECTRICIANS	7.58	
IRONWORKERS:		
Structural	8.45	
Reinforcing	6.75	
LABORERS:		
Blasters	7.25	a
Drillers	6.75	a
Pipelayers	6.53	a
Laborers	6.28	a
PAINTERS	7.50	
TRUCK DRIVERS:		
2-Axle	5.84	
3-Axle	5.84	
POWER EQUIPMENT OPERATORS:		
Earth Auger/Post Driver	6.00	
Backhoe	10.00	b
Backend/Screedman	7.36	
Broom	2.20	.90+b
Bulldozer	9.65	b
Compactor	7.59	b
Compressor	7.95	.05+b
Crane	10.00	b
Gradall	8.20	.85+b
Grader	7.52	b
Loader	8.83	b
Mechanic	7.75	.90+b
Pavers	7.75	.90+b
Rollers	7.75	.90+b
Backhoe/Loader Combination (Farm Type)	7.00	b
Specialized Earth/Rock Haulers	6.50	
Spreader (Material)	7.75	.90+b
BENNINGTON COUNTY:		
CARPENTERS	7.30	
CEMENT MASONS	9.02	
ELECTRICIANS	8.25	
IRONWORKERS:		
Structural	9.72	
Reinforcing	6.78	
LABORERS:		
Blasters	7.25	a
Drillers	7.30	a
Pipelayers	7.09	a
Asphalt Rakers	9.50	
Air Tool Operators	6.30	
Laborers	6.84	a
PAINTERS	10.70	
TRUCK DRIVERS:		
2-Axle	5.77	
3-Axle	5.77	
POWER EQUIPMENT OPERATORS:		
Earth Auger/Post Driver	6.00	
Backhoe	11.06	b
Backend/Screedman	7.05	b
Broom	5.93	b
Bulldozer	10.46	b
Compactor	8.70	b
Compressor	8.57	
Crane	11.46	b
Gradall	9.73	b
Grader	8.15	b
Loader	7.75	.90+b
Mechanic	7.75	.90+b
Pavers	8.36	
Rollers	7.92	
Chainsaw	6.00	
Backhoe/Loader Combination (Farm type)	7.00	b
Specialized Earth/Rock Haulers	6.50	
Pile Driver	7.65	b
Bituminous Planer	8.55	b
Spreader (Material)	8.00	b
CALEDONIA COUNTY:		
CARPENTERS	7.62	
CEMENT MASONS	7.30	
ELECTRICIANS	7.58	
IRONWORKERS:		
Structural	8.10	
Reinforcing	7.73	
LABORERS:		
Blasters	7.25	a
Drillers	7.50	a
Pipelayers	6.28	a
Laborers	6.03	a
PAINTERS	7.00	
TRUCK DRIVERS:		
2-Axle	6.29	
3-Axle	6.29	

DECISION NO. VT84-3029

	Basic Hourly Rates	Fringe Benefits
CALEDONIA COUNTY (CONT'D)		
POWER EQUIPMENT OPERATORS:		
Earth Auger/Post Driver	6.00	
Backhoe	9.33	b
Backend/Screedman	7.75	.90+b
Broom	7.20	.90+b
Bulldozer	9.68	b
Compactor	8.65	b
Compressor	7.95	.05+b
Crane	10.37	b
Gradall	8.65	.90+b
Grader	8.61	b
Loader	8.33	b
Mechanic	7.75	.90+b
Pavers	8.20	1.30+b
Rollers	8.20	.90+b
Shovel	11.44	
Line Striper	9.00	
Backhoe/Loader Combination (Farm Type)	7.00	b
Specialized Earth/Rock Haulers	6.50	
Bituminous Planer	7.75	.90+b
Spreader (Material)	8.20	1.30+b
Groundman	7.75	.90+b
Roto Mill	7.75	.90+b
Scraper	10.90	b
Trencher	7.76	b
CHITTENDEN COUNTY:		
CARPENTERS	8.33	
CEMENT MASONS	7.30	
ELECTRICIANS	8.80	
IRONWORKERS		
Structural	8.45	
Reinforcing	5.84	
LABORERS:		
Blasters	8.50	a
Drillers	7.50	a
Pipelayers	5.72	a
Laborers	5.84	a
PAINTERS	7.50	
TRUCK DRIVERS:		
2-Axle	5.01	
3-Axle	5.50	
POWER EQUIPMENT OPERATORS:		
Earth Auger/Post Dirver	7.75	.90+b
Backhoe	8.20	.90+b
Backend/Screedman	7.75	.90+b
Broom	6.35	b
Bulldozer	9.07	b
Compactor	9.33	b
Compressor	7.95	.05+b
Crane	8.39	.56+b
Gradall	7.75	.90+b
Grader	7.95	.85+b
Loader	8.65	b
Mechanic	7.75	.90+b

	Basic Hourly Rates	Fringe Benefits
CHITTENDEN COUNTY (CONT'D)		
POWER EQUIPMENT OPERATORS (CONTINUED)		
Oilers	9.79	
Pavers	7.75	.90+b
Rollers	7.75	.90+b
Shovel	10.48	b
Backhoe/Loader Combination (Farm Type)	7.00	b
Specialized Earth/Rock Haulers	6.50	
Bituminous Planer	8.20	1.30+b
Spreader (Material)	7.75	.90+b
ESSEX COUNTY:		
CARPENTERS	7.72	
CEMENT MASONS	7.30	
ELECTRICIANS	7.58	
IRONWORKERS:		
Structural	8.10	
Reinforcing	7.73	
LABORERS:		
Blasters	7.25	a
Drillers	7.50	a
Pipelayers	6.28	a
Laborers	6.03	b
PAINTERS	7.00	
TRUCK DRIVERS:		
2-Axle	6.29	
3-Axle	6.29	
POWER EQUIPMENT OPERATORS:		
Earth Auger/Post Driver	6.00	
Backhoe	9.33	b
Backend/Screedman	7.75	.90+b
Broom	7.20	.90+b
Bulldozer	9.68	b
Compactor	7.75	.85+b
Compressor	7.95	.05+b
Crane	10.37	b
Gradall	8.65	.90+b
Grader	8.61	b
Loader	8.33	b
Mechanic	7.75	.90+b
Pavers	8.20	1.30+b
Rollers	8.20	1.30+b
Shovel	11.44	b
Line Striper	9.00	
Backhoe/Loader Combination (Farm Type)	7.00	b
Specialized Earth/Rock Haulers	6.50	
Bituminous Planer	7.75	.90+b
Spreader (Material)	8.20	1.30+b
Groundman	7.75	.90+b
Roto Mill	7.75	.90+b
Scraper	10.90	
Trencher	7.65	

DECISION NO. VT84-3029

	Basic Hourly Rates	Fringe Benefits
FRANKLIN COUNTY:		
CARPENTERS	7.30	
CEMASONS	7.30	
ELECTRICIANS	8.33	
IRONWORKERS:		
Structural	8.45	
Reinforcing	7.75	
LABORERS:		
Blasters	7.25	a
Drillers	6.88	a
Pipelayers	6.39	a
Laborers	6.14	a
PAINTERS	7.00	
DRIVERS:		
2-Axle	6.06	
3-Axle	6.06	
POWER EQUIPMENT OPERATORS:		
Earth Auger/Post Driver	6.00	
Backhoe	9.10	b
Backend/Screedman	7.75	.90+b
Broom	6.35	.90+b
Bulldozer	7.75	.90+b
Compactor	7.75	.85+b
Compressor	7.95	.90+b
Crane	8.20	.90+b
Gradall	8.20	.90+b
Grader	7.95	.85+b
Loader	7.75	.90+b
Mechanic	7.75	.90+b
Pavers	7.75	.90+b
Rollers	7.76	b
Chainsaw	7.95	
Backhoe/Loader Combination (Farm Type)	7.00	b
Specialized Earth/Rock Haulers	6.50	
Bituminous Planer	8.20	.90+b
Spreader (Material)	7.75	.90+b
Groundman	8.20	.90+b
Grand Isle County:		
CARPENTERS	8.33	
CEMENT MASONS	7.30	
ELECTRICIANS	7.58	
IRONWORKERS:		
Structural	8.45	
Reinforcing	5.84	
LABORERS:		
Blasters	8.50	a
Drillers	7.50	a
Pipelayers	6.09	a
Laborers	5.84	a
PAINTERS	7.50	
DRIVERS:		
2-Axle	5.81	
3-Axle	5.50	
EQUIPMENT OPERATORS:		
Auger/Post Driver	7.75	.90+b
Backhoe	8.20	.90+b

	Basic Hourly Rates	Fringe Benefits
GRAND ISLE COUNTY (CONT'D)		
POWER EQUIPMENT OPERATORS: (CONTINUED)		
Backend/Screedman	7.75	.90+b
Broom	6.35	b
Bulldozer	9.07	b
Compactor	9.33	b
Compressor	7.95	.05+b
Crane	8.59	.56+b
Gradall	7.75	.90+b
Grader	7.95	.85+b
Loader	8.65	b
Mechanic	7.75	.90+b
Oilers	9.79	
Pavers	7.75	.90+b
Rollers	7.75	.90+b
Shovel	10.48	b
Backhoe/Loader Combination (Farm Type)	7.00	b
Specialized Earth/Rock Haulers	6.50	
Bituminous Planer	8.20	1.30+b
Spreader (Material)	7.75	.90+b
LAMOILLE COUNTY:		
CARPENTERS	7.72	
CEMENT MASONS	7.30	
ELECTRICIANS	7.58	
IRONWORKERS:		
Structural	8.10	
Reinforcing	7.73	
LABORERS:		
Blasters	7.25	a
Drillers	7.50	a
Pipelayers	6.28	a
Laborers	6.03	a
PAINTERS	7.00	
TRUCK DRIVERS:		
2-Axle	6.29	
3-Axle	6.29	
POWER EQUIPMENT OPERATORS:		
Earth Auger/Post Driver	6.00	
Backhoe	9.33	b
Backend/Screedman	7.75	.90+b
Broom	7.20	.90+b
Bulldozer	9.68	b
Compactor	8.65	b
Compressor	7.95	.05+b
Crane	10.37	b
Gradall	8.65	.90+b
Grader	8.61	b
Loader	8.33	b
Mechanic	7.75	.90+b
Pavers	8.20	1.30+b
Rollers	8.20	.90+b
Shovel	11.44	
Line Striper	9.00	
Backhoe/Loader Combination (Farm Type)	7.00	b

DECISION NO. VT84-3029

	Basic Hourly Rates	Fringe Benefits
LAMOILLE COUNTY (CONT'D)		
POWER EQUIPMENT OPERATORS: (CONTINUED)		
Specialized Earth/Rock Haulers	6.50	
Bituminous Planer	7.75	.90+b
Spreader (Material)	8.20	1.30+b
Groundman	7.75	.90+b
Roto Mill	7.75	.90+b
Scraper	10.90	
Trencher	7.65	
ORANGE COUNTY:		
CARPENTERS	9.00	
CEMENT MASONS	7.30	
ELECTRICIANS	7.58	
IRONWORKERS:		
Structural	8.45	
Reinforcing	6.75	
LABORERS:		
Blasters	7.35	a
Drillers	7.30	a
Pipelayers	6.55	a
Laborers	6.30	a
PAINTERS	7.00	
TRUCK DRIVERS:		
2-Axle	6.53	
3-Axle	6.53	
POWER EQUIPMENT OPERATORS:		
Earth Auger/Post Driver	6.00	
Backhoe	11.00	b
Backend/Screedman	7.75	.90+b
Broom	6.35	.90+b
Bulldozer	8.20	.85+b
Compactor	7.20	.85+b
Compressor	7.17	.90+b
Crane	8.20	.85+b
Gradall	8.11	b
Grader	8.50	b
Loader	7.75	.90+b
Mechanic	8.20	.90+b
Pavers	7.75	.90+b
Rollers	8.20	1.30+b
Line Striper	9.82	
Backhoe/Loader Combination (Farm Type)	7.00	b
Specialized Earth/Rock Haulers	6.50	
Bituminous Planer	9.10	b
Spreader (Material)	7.75	.90+b
ORLEANS COUNTY:		
CARPENTERS	7.72	
CEMENT MASONS	7.30	
ELECTRICIANS	7.58	
IRONWORKERS:		
Structural	8.10	
Reinforcing	7.73	

	Basic Hourly Rates	Fringe Benefits
ORLEANS COUNTY CONT'D)		
LABORERS:		
Blasters	7.25	a
Drillers	7.50	a
Pipelayers	6.28	a
Laborers	6.03	
PAINTERS	7.00	a
TRUCK DRIVERS:		
2-Axle	6.29	
3-Axle	6.29	
POWER EQUIPMENT OPERATORS:		
Earth Auger/Post Driver	6.00	
Backhoe	9.33	b
Backend/Screedman	7.75	.90+b
Broom	7.20	.90+b
Bulldozer	9.68	b
Compactor	7.75	.85+b
Compressor	7.95	.05+b
Crane	10.37	b
Gradall	8.65	.90+b
Grader	8.61	b
Loader	8.33	b
Mechanic	7.75	.90+b
Pavers	8.20	1.30+b
Rollers	8.20	.90+b
Shovel	11.44	
Line Striper	9.00	
Backhoe/Loader Combination (Farm Type)	7.00	b
Specialized Earth/Rock Haulers	6.50	
Bituminous Planer	7.75	.90+b
Spreader (material)	8.20	1.30+b
Groundman	7.75	.90+b
Roto Mill	7.75	.90+b
Scraper	10.90	
Trencher	7.65	
RUTLAND COUNTY:		
CARPENTERS	7.30	a
CEMENT MASONS	9.02	
ELECTRICIANS	7.58	
IRONWORKERS:		
Structural	9.72	
Reinforcing	6.78	
LABORERS:		
Air Tool Operators	6.30	
Asphalt Rakers	5.50	
Blasters	7.25	a
Drillers	7.00	a
Pipelayers	7.09	a
Laborers	6.84	a
PAINTERS	10.70	
TRUCK DRIVERS:		
2-Axle	5.77	
3-Axle	5.80	

DECISION NO. VT84-3029 RUTLAND COUNTY (CONT'D)	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS		
Earth Auger/Post Driver	6.00	
Backhoe	11.06	
Backend/Screedman	7.05	
Broom	5.93	b
Bulldozer	10.46	b
Compactor	5.25	
Compressor	7.95	.05+b
Crane	11.46	
Gradall	9.73	
Grader	8.15	
Loader	7.75	.90+b
Mechanic	7.75	.90+b
Pavers	8.36	
Rollers	7.92	
Chainsaw	6.00	
Backhoe/Loader Combination (Farm Type)	7.00	b
Specialized Earth/Rock Haulers	6.50	
Pile Drivers	7.65	
Bituminous Planer	8.55	
Spreader (Material)	8.00	
WASHINGTON COUNTY:		
CARPENTERS	7.30	
CEMENT MASONS	7.30	
ELECTRICIANS	8.25	
IRONWORKERS:		
Structural	7.30	
Reinforcing	8.45	
LABORERS:		
Blasters	7.25	a
Drillers	7.30	a
Pipelayers	6.73	a
Asphalt Rakers	5.00	
Laborers	5.80	a
PAINTERS	7.50	
TRUCK DRIVERS:		
2-Axle	6.38	
3-Axle	6.38	
POWER EQUIPMENT OPERATORS:		
Earth Auger/Post Driver	6.00	
Backhoe	8.20	.90+b
Backend/Screedman	7.75	.90+b
Broom	7.51	b
Bulldozer	9.08	b
Compactor	9.00	b
Compressor	7.95	.05+b
Crane	9.83	b
Gradall	7.82	.90+b
Grader	8.55	.90+b
Loader	7.75	.90+b
Mechanic	7.75	.90+b
Pavers	7.75	.90+b
Rollers	7.75	.90+b
Shovel	9.15	1.90+b
Line Striper	9.00	

WASHINGTON COUNTY CONT'D	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS: (CONTINUED)		
Backhoe/Loader Combination (Farm Type)	7.00	b
Specialized Earth/Rock Haulers	6.50	
Bituminous Planer	7.75	.85+b
Spreader (Material)	7.75	.90+b
WINDHAM COUNTY:		
CARPENTERS	7.30	
CEMENT MASONS	9.02	
ELECTRICIANS	7.58	
IRONWORKERS:		
Structural	9.72	
Reinforcing	6.78	
LABORERS:		
Blasters	7.25	a
Drillers	7.30	a
Pipelayers	7.09	a
Asphalt Rakers	5.50	
Air Tool Operators	6.30	
Laborers	6.84	a
PAINTERS	10.70	
TRUCK DRIVERS:		
2-Axle	5.77	
3-Axle	6.00	
POWER EQUIPMENT OPERATORS:		
Earth Auger/Post Driver	6.00	
Backhoe	11.06	b
Backend/Screedman	7.05	
Broom	5.93	b
Bulldozer	10.46	b
Compactor	8.65	.85+b
Compressor	7.95	.05+b
Crane	11.46	b
Gradall	9.73	b
Grader	8.15	b
Loader	7.75	.90+b
Mechanic	7.75	.90+b
Pavers	8.36	
Rollers	7.92	
Chainsaw	6.00	
Backhoe/Loader Combination (Farm Type)	7.00	b
Specialized Earth/Rock Haulers	6.50	
Pile Drivers	7.65	
Bituminous Planer	8.55	b
Spreader (Material)	8.00	b
WINDSOR COUNTY:		
CARPENTERS	7.63	
CEMENT MASONS	6.17	
ELECTRICIANS	7.58	
IRONWORKERS:		
Structural	8.45	
Reinforcing	6.75	

DECISION NO. VT84-3029 WINDSOR COUNTY (CONT'D)	Basic Hourly Rates	Fringe Benefits
LABORERS:		
Blasters	7.25	a
Drillers	5.70	a
Pipelayers	9.00	a
Asphalt Rakers	6.03	
Laborers	6.04	a
PAINTERS	7.50	
TRUCK DRIVERS:		
2-Axle	6.29	
3-Axle	6.29	
POWER EQUIPMENT OPERATORS:		
Earth Auger/Post Driver	6.44	
Backhoe	8.20	.90+b
Backend/Screedman	7.75	.90+b
Broom	6.89	
Bulldozer	8.34	
Compactor	7.59	b
Compressor	7.70	
Crane	7.64	b
Gradall	8.40	
Grader	8.67	
Loader	7.76	
Mechanic	7.76	
Pavers	7.76	
Rollers	8.09	
Chainsaw	5.00	
Line Striper	9.00	
Backhoe/Loader Combination (Farm Type)	7.00	b
Specialized Earth/Rock Haulers	6.50	
Pile Drivers	9.90	
Spreader (Material)	7.76	

Basic Hourly Rates	Fringe Benefits

FOOTNOTE:

a. Two (2) paid holidays: Memorial Day & Independence Day, providing the employee has been employed the schedule workday prior to the holiday and the schedule workday after the holiday.

b. Nine (9) paid holidays: New Year's Day, Memorial day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Columbus Day and Veteran's Day, provided the employee has been employed at least 7 days or more prior to the holiday and has worked the day before and the day after the holiday.

"Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii))."

SUPERSEDAS DECISION

STATE: Wisconsin

COUNTIES: Langlade, Lincoln, & Marathon

DECISION NO. WI 84-5037

DATE: Date of Publication

Supersedes Decision No.WI 83-2085, dated October 28, 1983 in 48 FR 50002

DESCRIPTION OF WORK: Building construction (excluding single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$17.65	2.01
BOILERMAKERS	17.345	3.25
BRICKLAYERS & STONEMASONS	13.22	2.19
CARPENTERS: Soft Floor LAYERS & LATHERS	13.66	2.11
CEMENT MASONS	12.72	2.19
ELECTRICIANS	15.13	.75+ 11%
ELEVATOR CONSTRUCTORS:		
Mechanic	16.43	2.69
Helpers	8.50	2.69
Helpers (Prob.)	8.215	
IRONWORKERS:		
Structural, Ornamental and Reinforcing	14.08	3.00
LABORERS:		
General & Air Spade Operator	11.03	1.43
Mason Tender	11.28	1.43
Jackhammer Operator, & Mortar Mixer	11.28	1.43
PAINTERS:		
Brush	13.85	.50
Spray	14.60	.50
PLASTERERS	13.22	2.20
PLUMBERS & STEAMFITTERS	15.45	2.25
ROOFERS	13.50	a
SHEET METAL WORKERS	14.86	3%+3.00
TERRAZZO MECHANIC & TILE SETTER	12.97	2.20
POWER EQUIPMENT OPERATORS:		
Group 1	$15.72	3.42
Group 2	15.22	3.42
Group 3	14.44	3.42
Group 4	13.88	3.42
Group 5	13.41	3.42

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

FOOTNOTES:

a. Employed for 1 year- 1 week vacation at Regular Pay, Employed for 7 years- 2 weeks Vacation at Regular Pay, Employed for 10 years-3week Vacation at Regular Pay

[FR Doc. 84-25574 Filed 9-27-84; 8:45 am]

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POWER EQUIPMENT OPERATORS (Classifications)

Group 1: Cranes,shovels, draglines, backhoes, clamshells, derricks, caisson rigs, pile driver, skid rigs, dredge operator and traveling crane (bridge type), concrete paver (over 27E), concrete spreader and distributor.

Group 2: Concrete and grout pumps, material hoists, stack hoists, tractor or truck mounted hydraulic backhoe, tractor or truck mounted hydraulic crane (10 tons or under), manhoists, tractor (over 40 h.p.), bulldozer (over 40 h.p.), endloader (over 40 h.p.), motor patrol, scraper operator, sideboom, straddle carrier, mechanic and welder, bituminous plant and paver operator, roller (over 5 tons), rail level-machine (railroad), tie placer, tie extractor, tie tamper, stone leveler, rotary drill operator and blaster, percussion drilling machine, trencher (wheel type or chain type having over 8-inch bucket), elevator.

Group 3: Backfiller, concrete auto breaker (large), concrete finishing machines (road type), roller (rubber tire), concrete batch hopper, concrete mixers (14S or over), screw type pumps, and gypsum pumps, tractor, bulldozer, endloader (under 40 h.p.), pumps (well points), trencher (chain type having bucket 8- inch and under), industrial locomotives, roller (under 5 tons) and fireman (pile drivers and derricks), hoists (automatic), forklift (over 12'), tampers-compactors (riding type), assistant engineer, "A" frames and winch trucks, concrete auto breaker, hydrohammers (small), brooms and sweeper, hoists (tuggers), stump chipper (large), boats (tug, safety, work barges and launch).

Group 4: Shouldering machine,operator, screed operator, farm or industrial tractor mounted equipment, post hole digger, stone crushers and screening plants, fireman (asphalt plants), air compressor (400 CFM or over), augers (vertical and horizontal), air, electric, hydraulic jacks (slip form), prestress machines, skid steer loader, boiler operators (temporary heat), forklift (12' and under).

Group 5: Generators over 150 KW, pumps over 3" combination small equipment operator: compressors (under 400 CFM), welding machines, heaters (mechanical), generators (under 150 KW), pumps (3" and under), winches (small electric), oiler and greaser, conveyor.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

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Part III

Department of the Interior

Bureau of Indian Affairs
Office of Surface Mining Reclamation and Enforcement

25 CFR Part 216
30 CFR Parts 700, 701, 710, 750, and 755
Surface Mining and Reclamation Operations; Federal Program for Indian Lands and Tribal-Federal Intergovernmental Agreements; Final Rule

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DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Office of Surface Mining Reclamation and Enforcement

25 CFR Part 216

30 CFR Parts 700, 701, 710, 750, and 755

Surface Mining and Reclamation Operations; Federal Program for Indian Lands and Tribal-Federal Intergovernmental Agreements

AGENCY: Bureau of Indian Affairs, Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) promulgates a final rule which sets forth the requirements for surface coal mining and reclamation operations on Indian lands and which describes the roles of the various Federal agencies involved in the regulation of surface coal mining and reclamation operations on Indian lands. A new subchapter, Subchapter E, is added to 30 CFR, Chapter VII, to include the Federal Program for Indian Lands. Part 750 is added to include requirements for mining operations on Indian lands. A new Part 755, covering Tribal-Federal Intergovernmental Agreements, is added to provide for the training of Indian tribes so that if and when Congress authorizes Indian regulation of surface mining through Indian programs, the tribes will be able to develop tribal regulatory programs.

EFFECTIVE DATE: September 28, 1984.

FOR FURTHER INFORMATION CONTACT: James M. Kress, Office of Surface Mining, U.S. Department of the Interior, Room 222, 1951 Constitution Avenue, NW., Washington, D.C. 20240. Telephone: (202) 343–5361 or Willis Gainer, Office of Surface Mining, Western Technical Center, 1020 15th Street, Denver, Colorado, 80202. Telephone: (303) 837–5421.

SUPPLEMENTARY INFORMATION:

This preamble is arranged as follows:

I. Background
II. Rules Adopted and Responses to Comments on Proposed Rules
III. Procedural Matters

I. Background

The Surface Mining Control and Reclamation Act of 1977 (the Act), Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*, provides statutory authority for the development of regulations for surface coal mining operations. Mining on lands within the States is subject to a two-phase regulatory scheme: First an interim regulatory program, then a permanent regulatory program in which primary regulatory authority is vested in the States, or in OSM if the State does not seek or obtain primary regulatory authority ("primacy").

Section 710 of the Act also provides for a two-phase program for the regulation by the Secretary of the Interior ("Secretary") of surface coal mining operations on Indian lands. Section 710(c) of the Act describes the first phase and states: "on and after one hundred and thirty-five days from the enactment of this Act [August 3, 1977], all surface coal mining operations on Indian lands shall comply with requirements at least as stringent as those imposed by subsections 515(b)(2), 515(b)(3), 515(b)(5), 515(b)(10), 515(b)(13), 515(b)(19), and 515(d) of this Act." The Department of the Interior issued regulations implementing these interim performance standards on December 15, 1977. They are codified at 25 CFR Part 216, Subpart B (42 FR 63395, December 16, 1977 and 47 FR 13327, March 30, 1982) and are similar to the interim program performance standards for non-Indian and non-Federal lands found in 30 CFR Part 715 (42 FR 62639). While the interim standards applicable to Indian lands differ little from those applicable to non-Indian lands, they necessarily recognize certain procedures and considerations which apply only to Indian lands. Specifically, the inspection and enforcement procedures in 25 CFR 216.112 through 216.114 differ from those in 30 CFR Parts 720 through 723 in that they provide for tribal involvement in the process.

Section 710(d) describes the second phase for regulating mining on Indian lands. Section 710(d) requires compliance with sections 507, 508, 509, 510, 515, 516, 517 and 519 of the Act, "on and after 30 months from the enactment of the Act [February 1980]." It also requires the Secretary to incorporate the requirements of such provisions in all existing and new leases issued for coal on Indian lands.

On October 24, 1983, OSM published a proposed rule implementing the requirements of section 710(d) for mining on Indian lands (48 FR 49174–49183). The notice announced a 60-day comment period ending on December 23, 1983, and scheduled public hearings for Washington, D.C., and Denver, Colorado, on December 14, 1983. No one asked to testify at the public hearing in Washington, D.C.; therefore, the hearing was canceled. At the public hearing held in Denver, five persons testified.

Shortly before the comment period closed, OSM received several requests to extend the comment period from December 23, 1983, to January 31, 1984, and to hold a public hearing in Gallup, New Mexico. OSM extended the comment period on December 20, 1983 (48 FR 56244) to January 31, 1984, and scheduled the public hearing for January 25, 1984, in Gallup, New Mexico. Seven persons testified at the January 25th public hearing.

OSM sought to provide an opportunity for early and meaningful public participation during its regulatory review. To this end, OSM met with or reviewed comments and recommendations from the Indian tribes, representatives of coal mining States containing Indian lands, industry representatives and representatives of environmental organizations. All substantive comments were carefully considered in the rulemaking process and are addressed in this preamble.

The Federal program for Indian lands is similar to the Federal programs OSM implemented under section 504 of the Act for States not seeking primacy in that it cross-references provisions of the permanent regulatory program in 30 CFR Chapter VII. The final rule also resembles the Federal lands program (30 CFR Chapter VII, Subchapter D) in that it outlines responsibilities of agencies within the Department of the Interior, other than OSM, and takes into account the trust responsibilities the Department has to tribes regarding lands subject to regulation by the Act.

The regulations adopted today implement the sections of the Act specified in section 710(d) of the Act. In addition, the regulations implement other sections of the Act which are otherwise applicable either by necessary implication from one or more of the listed sections or because the sections are applicable to all mining.

The content and organization of the Federal program for Indian lands follows the permanent program regulations which implement the procedures and performance standards of the Act. But, as mentioned above, instead of the full text appearing, each section includes only a reference to the pertinent part in the permanent program regulations. Separate paragraphs were added for sections in which differences exist between the Federal permanent program regulations and the Federal program for Indian Lands. One effect of this cross-referencing to the permanent program regulations is that when the permanent program regulations are revised, the Federal program for Indian lands will be similarly revised.

The content and organization of the Federal program for Indian lands are based on the following provisions of the Federal permanent program regulations, 30 CFR Chapter VII:

Subchapter A—General
Subchapter F—Areas Unsuitable for Mining
Subchapter G—Surface Coal Mining and Reclamation Operations Permits and Coal Exploration Systems Under Regulatory Programs
Subchapter H—Small Operator Assistance
Subchapter J—Bond and Insurance Requirements for Bonding of Surface Coal Mining and Reclamation Operations
Subchapter K—Permanent Program Performance Standards
Subchapter L—Permanent Program Inspection and Enforcement Procedures
Subchapter M—Training Program for Blasters and Members of Blasting Crews, and Certification Program for Blasters

Technical literature cited by OSM in the preamble to the permanent regulatory program (44 FR 14901–15309, March 13, 1979), or in subsequent rulemaking notices revising those rules was relied upon in developing the Federal program for Indian lands. The reader is referred to those preambles for a discussion of the basis and purpose of permanent program rules referenced without substantive change in the Indian lands program.

II. Rules Adopted and Responses to Comments on the Proposed Rules

A. General Comments

A number of commenters suggested that OSM withdraw the proposed regulations which govern surface mining and reclamation activities on Indian lands because they believe that OSM lacks authority to promulgate the regulations at this time. The commenters argued that Congress envisioned in section 710 of the Act a three-part scheme for the regulation of surface coal mining on Indian lands. First, a study of the question of regulation of surface mining on Indian lands was to be completed taking into consideration the special jurisdictional status of these lands. Second, a report was to be made to Congress to include proposed legislation designed to allow Indian tribes to elect to assume full regulatory authority over the administration and enforcement of regulation of surface coal mining on Indian lands. And third, following enactment of Indian lands legislation by Congress, a permanent regulatory program for the regulation of surface coal mining on Indian lands was to be developed by OSM that provided an opportunity for the Indian tribes to administer the program in appropriate circumstances. The commenters recognized, however, that section 710 provided for certain provisions of the Act to be applicable to coal mining operations on Indian lands pending adoption of a final regulatory program. In the alternative, they urged OSM to limit the scope and effect of the regulations to those provisions of the Act cited in sections 710 (c) and (d) therein.

OSM disagrees with the commenters' assertions that OSM lacks the authority to promulgate regulations governing surface coal mining and reclamation operations on Indian lands. Sections 710 (c) and (d) clearly require the Secretary to regulate mining on Indian lands. The rules adopted today implement the sections of the Act identified in section 710(d) or which are needed by necessary implication. They also cover sections of the Act pertaining to all surface coal mining operations, such as section 522(e). Section 102(a) of the Act states that "It is the purpose of this Act to establish a *nationwide* program to protect society and the environment from the adverse effects of surface coal mining operations (emphasis supplied)." Section 201(c)(2) provides that "the Secretary, acting through [OSM], shall publish and promulgate such rules and regulations as may be necessary to carry out the purposes and provisions of this Act." Therefore, the Act provides OSM with ample authority to promulgate these rules. This action is consistent with the opinions of the District Court for the District of Columbia, *In Re Surface Mining Regulation Litigation*, 456 F. Supp. 1302, 1324 (1978) and of the Court of Appeals for the District of Columbia, *In Re Surface Mining Regulation Litigation*, Civ. No. 78–2109, *et seq.*, 32 (D.C. Cir. 1980).

One commenter objected to the promulgation of the regulations in final form until after they are redrafted and republished in the Federal Register as proposed rules.

OSM rejects the commenter's suggestion. The rules adopted today are well within the scope of the proposal on which OSM has provided the public ample opportunity to comment.

One commenter contended that the preamble to the proposed rule inadequately explained the basis and purpose for many aspects of the proposal.

OSM does not agree, but has nevertheless amplified these matters in the preamble published today both in general and in response to specific comments.

One commenter urged OSM to make it clear in the preamble what regulations, as revised, are part of the program and to include the full text of the relevant regulations.

OSM rejects the comment. The use of cross-referencing offers considerable advantages in convenience and cost. It also results in administrative simplicity in that there is one basic set of regulations for all Indian lands and Federal program States. The permanent program rules, besides being directly applicable on Indian lands and in Federal program States, provide the measure for State program approval. Thus, all regulatory programs are ultimately based on OSM's permanent program rules. If those rules are changed, then it automatically effects a change in programs using cross-referencing. The public may comment once, rather than reiterating comments each time a program is revised which embodies the changed requirements.

Numerous commenters contended that the definition of the term "Indian lands" is inadequately explained in these regulations. Therefore, they asserted, the applicability of the rules is unclear.

It is not the intent of these regulations to amend the definition of Indian lands in the Act nor to resolve the various disputes between and among tribes and States. Rather, OSM is responsible for enforcing the law as it exists. Congress provided a definition of "Indian lands" in section 701(9) of the Act, which definition appears verbatim in 30 CFR 700.5. The Federal program promulgated here today applies to all "Indian lands" as that term is defined in the Act. Thus, OSM will continue to regulate as Indian lands all lands within the exterior boundaries of Indian reservations, allotted lands, and all lands where either the surface or minerals are held in trust for or supervised by an Indian tribe or individual Indians.

One commenter recommended that OSM replace 25 CFR Part 216, Subpart B, with a new 30 CFR Part 750 administered by OSM. The commenter also asserted that 30 CFR Part 750 should replace as well 25 CFR Part 216, Subpart A, which concerns coal exploration, surface coal mining permits, and mining plans on Indian lands. The commenter contended that centralizing all such responsibilities in OSM would streamline the regulations and simplify the process. In addition, the commenter suggested that 25 CFR Part 216, Subpart A, should be made applicable to severed mineral estates.

Under the rule adopted today, after OSM makes an initial administrative decision approving or disapproving a permit application for a surface coal mining operation as required by Part 750, then 25 CFR Part 216, Subpart B will

cease to be applicable to that operation. The October 1983 notice did not propose to amend 25 CFR Part 216, Subpart A. That Subpart, which contains procedures for approval of exploration and mining plans, does not implement the Act or specify OSM's functions. It remains unchanged by this rulemaking.

One commenter stated that the tribes are independent and that they are distinguishable from States. In addition, the commenter contended that the regulations are a direct infringement on the tribes' rights to be recognized as legal entities.

OSM recognizes the difference between Indian tribes and States and the special relationship between the U.S. Government and the Indian tribes. All of this is evidenced by the inclusion of section 710 in the Act and OSM's promulgation of the Federal program for Indian lands to fulfill that congressional mandate. These rules do not diminish the tribes' rights to be recognized as legal entities. The rules merely implement the requirements of the Act that OSM regulate surface coal mining operations on Indian lands. Moreover, OSM submitted legislation to Congress on February 17, 1984, as required by sections 710(a) and 710(b) of the Act. When and if the legislation is enacted, it would give the tribes the opportunity to become the regulatory authorities on Indian lands.

Several commenters requested that OSM clarify the somewhat confused role of the States in the regulation of coal mining on Indian lands. A commenter contended that the preamble to the proposed rules is inconsistent in stating that the proposed regulations would not grant, endorse, or revoke any State or tribal jurisdiction (48 FR 49175) and then proposing to make § 843.14(c) inapplicable to Indian lands (48 FR 49178) because no State regulatory authority would have jurisdiction over Indian lands. The commenters argued that OSM should assume exclusive jurisdiction within reservation boundaries and that jurisdiction should remain with the States outside reservation boundaries. The commenters believed that adoption of this suggestion would avoid jurisdictional conflicts and duality of regulation.

The issue of jurisdiction and the role of the States is not easily resolved. Section 710(h) expressly provides that the Act does not change the jurisdictional status of Indian Lands. The Act makes no provision for tribes to become regulatory authorities. The most reasonable inference, then, is that the Secretary (through OSM) is charged with regulating surface coal mining operations on all Indian lands. The definition of Indian lands in § 701(9) of the Act provides jurisdiction to OSM to regulate surface coal mining operations on lands outside the reservation that are held in trust for or supervised by an Indian Tribe. Accordingly, OSM must regulate these off-reservation lands and may not be constrained by any State from doing so.

Several commenters argued that the proposed Indian lands regulations are out of keeping with the Congressional intent of § 710 of the Act. They alleged that the Congressional purpose is to allow tribes to assume full regulatory authority over surface mining. Commenters maintained that OSM failed to satisfy § 710 by failing to submit the required reports and recommendations to Congress regarding development and implementation of legislation which would allow tribes to obtain primacy. One commenter asserted that the proposed rules appear to preempt the role of Congress under § 710 and that the Federal program for Indian lands is contrary to prevailing Federal policy decisions of the Supreme Court upholding the sovereign powers of Indian Tribes.

The promulgation of a Federal regulatory program for surface coal mining and reclamation operations on Indian lands is consistent with Congressional intent of § 710 of the Act. Promulgation of these rules has no bearing on the Indian lands legislative report presented to Congress. The Congress declined, when passing the Act, to give primacy to Indian tribes. Instead, the Secretary was charged with the responsibility to promulgate and administer the regulatory program on Indian lands. Congress knew that a period of time would elapse between the passage of the Act and the enactment of any subsequent legislation providing additional authority to Indian tribes. During this period, OSM is the regulatory authority. Promulgation of the Federal program for Indian lands will neither delay nor impede tribes from obtaining primacy; it will ensure that all mining operations on Indian lands are conducted in accordance with permanent program standards until tribes are given the authority to seek and obtain primacy.

B. Specific Regulatory Changes and Comments

25 CFR Part 216, Subpart B

In the October notice, OSM proposed to delete Subpart B of 25 CFR Part 216, the interim Indian lands program, in its entirety. Upon review, OSM has decided not to do so. Rather, OSM has amended the applicability provision of Subpart B so that the performance standards contained therein remain applicable to each surface coal mining operation on Indian lands until OSM issues or denies the permit in accordance with the requirements of 30 CFR Part 750. Under the proposal, the performance standards of Part 750 would have been applicable to all operations on Indian lands as soon as the program became effective. By requiring the performance standards of Part 216, Subpart B to govern until OSM issues or denies a permit as required by 30 CFR Part 750, OSM intends to minimize abrupt dislocations associated with the immediate implementation of a new regulatory program. Of course, continued authority to operate under the Federal program for Indian lands requires a permit application to be filed with OSM within two months.

Although the performance standards of 25 CFR Part 216, Subpart B will remain in place, the inspection, enforcement, and civil penalty provisions in §§ 216.112, 216.113, and 216.114 are removed as proposed. They are superseded by the provisions of 30 CFR Parts 842, 843, and 845. Because existing operations will continue to comply with the Part 216, Subpart B performance standards rather than with those in 30 CFR Part 816, or 817, until a permit decision is made, use of the permanent program inspection and enforcement regulations will cause no undue hardship on non-complying operators. As is the case for other cross-referenced rules, having one set of uniform rules in place makes administration of the Act simpler and more efficient.

Section 700.1 Scope. OSM amends the "Scope" section of the introductory subchapter in 30 CFR Chapter VII to show that the Federal program for Indian lands is included in Subchapter E, and that the Federal program for Indian lands cross-references other parts of the permanent regulatory program.

Section 700.1(e) One commenter requested that § 700.1(e) be revised to read "Subchapter E of this chapter contains regulations that apply to surface coal mining and reclamation operations conducted on Indian lands." The commenter reasoned that this suggested change would avoid the wholesale incorporation of existing regulations and would limit the scope of the proposed regulations to those provisions of the Act specifically set forth in sections 710 (c) and (d).

OSM has accepted the commenter's suggested language in the interest of simplifying the regulations. The change

does not, however, lessen the incorporation of permanent program regulations into the Federal program for Indian lands, since Part 750 makes most of those regulations applicable to Indian lands.

Section 700.11 Applicability. Section 700.11 describes the applicability of the permanent regulatory program. OMS, as proposed, has amended § 700.11 to delete paragraph (a)(5) thereby making 30 CFR Chapter VII applicable to surface coal mining operations on Indian lands. OSM received no comments on the proposed deletion of § 700.11(a)(5).

Section 701.1 Scope. Part 701 of the permanent regulatory program provides introductory material for the permanent regulatory program rules. OSM amends § 701.1 to redesignate paragraphs (b)(3) through (b)(8) as paragraphs (b)(4) through (b)(9) and to add a new paragraph (b)(3) showing Subchapter E, the Federal program for Indian lands, as the program applicable to such lands. OSM received no comments on the proposed adoption of paragraph (b)(3).

Section 701.3 Authority. Section 701.3 describes the authority of the Secretary to promulgate regulations establishing the permanent regulatory program. OSM amends it to include the Secretary's responsibilities on Indian lands.

A commenter suggested that OSM has authority only to impose permanent environmental protection standards (performance standards) upon operations on Indian lands.

OSM disagrees. The clear intent of § 710(d) of the Act is to impose most of the programmatic aspects of a permanent regulatory program upon surface coal mining and reclamation operations on Indian lands. These aspects include permit application requirements, reclamation plan requirements, performance bonds, permit approval or denial, environmeatal protection performance standards, surface effects of underground coal mining operations, inspections and monitoring, and release of performance bonds or deposits. Until such time as the Congress enacts legislation allowing the most reasonable and efficient means for Tribes to assume the role of regulation authority, implementation of these regulatory aspects on Indian lands is through the establishment of a comprehensive Federal regulatory program.

Section 701.4 Responsibility. Existing § 701.4 outlines the responsibilities of the Secretary and OSM. OSM has adopted a new paragraph (h) which states that Subchapter E contains the Secretary's, the Director's, and other Federal agencies' responsibilities on Indian lands.

Two commenters pointed out that proposed § 701.4(h) failed to ascribe any responsibility to the affected Indian tribes in the administration of the Federal program for Indian lands.

A discussion of the role of affected tribes is included in the response to comments for § 750.6, below. Specific responsiblities of the Bureau of Indian Affairs (BIA) and other Federal authorities are enumerated in § 750.6.

Section 701.11 Applicability. OSM amends § 701.11 by adding a new paragraph (c). Proposed paragraph (c) paralleled the requirements for lands within a State and for Federal lands in § 701.11(a) and (b). OSM has made two changes from the proposal in the final rule by changing the proposed first word "each" to "any," and by deleting the reference to Part 750 in § 701.11(c) (2).

As mandated by § 701.11 and 750.11, all persons expecting to conduct surface coal mining and reclamation operations on Indian lands eight months after the effective date of Subchapter E (today) are required to apply within two months of the effective date for a permit pursuant to the requirements of the Federal program for Indian lands. OSM will then make the necessary findings to determine whether the permit application is in compliance with the requirements of the Federal program for Indian lands and issue or deny a permit based upon those findings.

A commenter requested that § 701.11 expressly state that operators must comply with applicable statutory provisions, lease terms, etc., even during the eight-month period granted for obtaining a permit.

Taken in conjunction with the requirements of 25 CFR Part 216, Subpart B, which remains applicable until OSM makes an initial administrative decision on a permit application, § 701.11(c) (2) defines the terms and conditions under which existing operations can continue to mine during the period between program implementation and issuance or denial of the permit. As stated in this section, those operations authorized to continue during and beyond the eight month period must comply with all terms and conditions of the existing authorization to mine, the requirements of the Act, 25 CFR Part 216, and the requirements of all applicable mineral lease agreements, leases, or licenses. Because 25 CFR Part 216, Subpart B will apply until a permit decision is made, the proposed reference to Part 750 is unnecessary.

A commenter suggested that OSM not adopt § 701.11(c) because section 710 of the Act does not specifically authorize the Secretary to issue permits pursuant to a Federal program for Indian lands. The commenter suggested that Indian tribes may not recognize the validity of a permitting program and that the scope of the proposed regulations should be limited to the sections of the Act specified in section 710.

OSM has authority to require permits on Indian lands. Although section 710(d) of the Act does not list section 506 (permits) of the Act as an applicable provision on Indian lands, the authority to require permits is necessarily inferred from the explicit citation in section 710(d) of the Act of sections 507 (application requirements), 508 (reclamation plan requirements) and 510 (permit approval or denial). Sections 507 and 508 of the Act contain all the basic requirements for permit applications and reclamation plans. More specifically, section 510(a) of the Act requires that "upon the basis of a complete mining application and reclamation plan * * * pursuant to an approved State program or Federal program under the provisions of this Act * * * the regulatory authority shall grant, require modification of, or deny the application for a permit in a reasonable time set by the regulatory authority and notify the applicant in writing." The most reasonable and logical means to implement the provisions of sections 507, 508, and 510 of the Act for surface coal mining and reclamation operations on Indian lands is through the permitting process as set forth in a Federal program for Indian lands.

One commenter stated that the proposed rules do not recognize that most operations on Indian lands are already subject to the requirements of section 710(d) of the Act and that requiring permit applications for those operations would be only a paperwork exercise. The commenter suggested language to modify § 701.11(c) which would eliminate the permit application requirement. The commenter maintained that the permitting effort would be meaningless and impractical because most operations on Indian lands hold authorizations requiring compliance with permanent program requirements. The commenter stated that the existing authorizations already address all of the provisions of sections 710 (c) and (d) of the Act and "re-permitting" would be costly and excessive to operators. The commenter suggested that OSM incorporate a mechanism whereby an operator could simply reference his existing approval.

OSM disagrees with the assertion that most existing operations on Indian lands

currrently hold authorizations or approvals issued under permanent regulatory program requirements. Effectively, what the commenter is asserting is that operators are satisfying the performance standards of sections 515 and 516. Many surface coal mining and reclamation operations on Indian lands may well be complying with most aspects of the proposed Federal program for Indian lands. However, section 710(d) of the Act also references the requirements of sections 507, 508, 509 and 510 of the Act. Permitting of existing operations is far from meaningless. It is necessary to ensure that operators have undertaken proper planning efforts and will continue to comply with applicable performance standards. OSM's actions in reviewing and scrutinizing permit applications and making permit findings provide the extra level of environmental protection that the Act requires. Thus, OSM disagrees with the commenter's suggestion that the re-application process is merely a paperwork exercise for those operations now in compliance with most of the permanent regulatory program requirements.

Although a formal application is required for each existing operation OSM will determine the type and extent of application necessary on a case-by-case basis. For example, for those permit applications which are filed with, and are being reviewed by, OSM, an application under the permanent program may take the form of a letter from the operator requesting that the application already on file be reviewed for compliance with the Federal program for Indian lands. In those instances in which the application already on file is fairly complete in meeting permanent program requirements, OSM anticipates only minor resubmissions or modifications of the application. On the other hand, if the application on file has not been prepared on accordance with the permanent regulatory program requirements, and if it has not been reviewed by OSM pursuant to these requirements, then OSM anticipates requiring a complete resubmission of the application for a permit under the Federal program for Indian lands.

Two commenters suggested that the language in § 701.11(c) be changed from "shall have" to "shall be required to obtain."

OSM disagrees with the commenters' suggestion. Section 701.11(c) retains the proposed language. It tracks the other paragraphs of § 701.11 and requires that authorization to mine be dependent upon a permit having been issued.

Another commenter suggested that the language in § 701.11(c) be changed from "on Indian lands on or after eight months" to "on Indian lands on and after eight months."

OSM rejects the proposed change. The requirement to have a permit applies to all surface coal mining and reclamation operations conducted on or after eight months from this date. It is irrelevant when the operation begins or whether it is conducted on a date eight months in the future.

Two commenters requested that OSM change § 701.11(c) (1) to state that all permit applications must have prior approval by the affected Indian tribes before they are approved by the Director of OSM.

OSM disagrees with the proposed change. The Act makes no provision for approval by an affected Indian tribe. However, § 750.6(a)(2) provides for consultation with BIA during the permit application review process. BIA, in turn, is required to consult with the affected Tribes by § 750.6(d)(1).

A commenter suggested deleting the requirement of § 701.11(c)(1) to submit an application within two months of the effective date of the Federal program for Indian lands.

OSM disagrees with the suggested deletion. This requirement applies only to those operators who wish to continue to conduct existing surface coal mining operations beyond eight months from the effective date of this program. It is important that such operations quickly come within the purview of the permanent program. The timely filing of applications will allow OSM to examine the operators' plans and act on applications in a manner ensuring maximum protection to the environment. No unreasonable burden is imposed upon operators by this requirement which is similar to a requirement imposed at the outset of Federal and State programs.

Section 710.11 Applicability. In the final rules adopted today, OSM has made a conforming change in 30 CFR 710.11(b), the applicability section of the Initial Program Regulations. The change reflects OSM's decision to retain 25 CFR Part 216, Subpart B, and allow the provisions contained therein to remain applicable to surface coal mining operations conducted on Indian lands until OSM makes an initial administrative decision on a permit application pursuant to Part 750.

Part 750—Requirements for Surface Coal Mining and Reclamation Operations on Indian Lands

Part 750 contains the substantive requirements for surface coal mining and reclamation operations on Indian lands.

Section 750.1 Scope. Section 750.1 provides a "Scope" section for the Indian lands subchapter.

Section 750.5 Definitions. Section 750.5 includes several definitions which are applicable only to operations on Indian lands. The new definitions are applicable when used in Subchapter E or for regulating mining on Indian lands when used in a part that has been cross-referenced in Subchapter E.

A definition for the term "local governmental agencies" has been added to show that references to local government agencies include tribal governments on Indian lands.

A commenter questioned whether the term "Indian mineral owner," as defined in § 750.5, included Alaskan native—Aleuts, Indians, and Eskimos—regional and village corporations. The commenter pointed out that BIA has no trust responsibilities over the regional and village corporation lands, and questioned whether the State or OSM would regulate coal mining activities thereon if the lands fall outside the scope of these rules.

The only lands in Alaska which are governed by the Federal program for Indian lands are those lands within Indian reservations, such as the Metlakatla Reservation, and those lands held in trust for or supervised by an Indian tribe. Lands patented to a village corporation pursuant to the Alaska Native Claims Settlement Act, Pub. L. 92–203, 43 U.S.C. 1601 (ANCSA), in which the ANCSA corporation conveyed the land to a corporation formed under the Indian Reorganization Act, are outside the definition of Indian lands. Surface coal mining and reclamation operations on ANCSA village and regional corporation lands are therefore subject to regulation by the State of Alaska.

OSM has amended the definition of Indian mineral owner at § 750.5 to indicate that lands patented to a village or regional corporation pursuant to the ANCSA are not "Indian lands" within the meaning of section 701(9) of the Act.

A commenter suggested that the rules do not recognize the role of Indian tribal governments. The commenter believed that the phrase "local government agencies with jurisdiction over an area or an interest in the area of proposed operations" inadequately describes the role of tribal governments. The commenter suggested amending the definitions by adding that "local government agencies" means Indian tribal governments, in addition to any county, city or township government.

OSM agrees with the commenter's suggestion that for Indian lands the term

"local government agencies" should be expanded to include Indian tribal governments. OSM has added the suggested phrasing in § 750.5.

Section 750.6 Responsibilities. The section sets out the responsibilities of OSM, BIA, the Bureau of Land Management (BLM), and the Minerals Management Service (MMS) regarding coal mining activities on Indian lands. The intent of the section is to outline coordination obligations for agencies having specific responsibilities for coal mining and reclamation activities on Indian lands. It does not establish, nor is it intended to establish the roles of agencies other than OSM. It merely enumerates the responsibilities in one place for the readers' convenience.

Several corrections and clarifications were made in § 750.6 to ensure consistency in agency responsibility. The section clarifies several issues: (1) The responsibilities of BLM for coal exploration on Indian lands; (2) the role of BIA for consulting with the affected Indian tribes in the permitting process; (3) the role of BLM in monitoring and administering contract, lease, or mineral agreements, and (4) the role of OSM and BIA with respect to bonding responsibilities.

General Comments Concerning § 750.6. A commenter contended that the description of the roles of BIA, OSM, and BLM failed to recognize the tribes' role as lessors. The commenter also stated that Secretarial approval and tribal consent are required before any lease on Indian Trust lands can be negotiated.

The Commenter's concern over the rule is unfounded. The section describes a procedural arrangement by which the BIA, OSM, and BLM, coordinate and execute their respective functions and responsibilities for coal operations on Indian lands. The section does not delineate in detail the relationship of the tribes to the BIA, BLM, and OSM. It recognizes the lead role of the BIA in the Federal-Indian trust relationship and in securing consultation with the tribes. It neither impedes nor interferes with the tribes' role as lessors. Nothing in the rule adopted today vitiates the role of the tribes as lessors or alters other statutory and regulatory prerogatives of the Secretary with respect to Indian lands.

Several commenters believed that proposed § 750.6 excluded tribal involvement in the decisionmaking process for the regulation of surface coal mining operations on Indian lands. The commenters argued that the proposed regulations reflect a significant retreat from current OSM practices with respect to tribal involvement. One commenter requested that OSM discuss the cooperative role of tribes. Other commenters requested that explicit provisions be made for a tribal right to participate in the regulatory process. Commenters suggested that OSM consult with and defer to the affected tribes prior to approval of any permit. Other commenters stated that the Secretary, as part of his trust responsibilities to the tribes, must include them in his decisionmaking regarding the mining of coal on Indian lands.

One commenter recommended providing tribes the same level of participation as allowed the States under a permanent Federal program. Commenters asserted that if OSM merely consulted with BIA on issues involving tribal resources, then OSM would not be giving tribes the special consideration Congress intended.

OSM did not intend to diminish the tribes' participation and will continue to encourage tribal involvement regarding surface coal mining and reclamation operations on Indian lands. During the permit application review process, OSM ensures that the affected tribes receive a complete copy of the application and all revisions and amendments thereto. OSM encourages and actively seeks comments from the tribes during this process. OSM has also fostered this cooperative role through implementation of tribal-Federal cooperative agreements funded by OSM on an annual basis. Under these agreements OSM has: (1) Solicited input from designated tribal officials and staff concerning all phases of permit application review for operations on Indian lands; (2) assisted tribes in the establishment of tribal commissions or agencies with responsibilities for providing meaningful participation in surface coal mining regulatory activities; (3) provided cooperative funding for staffing of these entities; (4) provided technical training to tribal staff to assist in their understanding of surface coal mining regulatory issues and processes; and (5) provided tribal representatives with an opportunity to participate in inspection activities on all existing surface coal mines on Indian lands.

Further, OSM, with full approval and participation from the tribes, has developed and is implementing detailed technical training programs which will enhance tribal staff development and expertise in the permit application review process. OSM supports the efforts of tribal governments to develop tribal codes and regulations leading toward eventual assumption of regulatory authority by tribes for surface coal mining activities on Indian lands if and when authorized by Congress. OSM field offices invite tribal participation in inspection of each existing mine on Indian lands. OSM regularly encourages tribal input concerning technical issues and policy issues for surface coal mining regulatory activities on Indian lands.

OSM also recognizes the lead role of the BIA in the Federal-Indian trust relationship and in securing formal consultation with the tribes. OSM makes no attempt to change those policies. Under the Surface Mining Act, however, OSM is the sole regulatory authority on Indian lands and may not delegate decisionmaking authority to the tribes.

One commenter asserted that § 750.6 provides for too many Federal agencies to become involved in the permitting process and recommends that OSM assume all of the functions of MMS and BLM; provide for tribal responsibility for collecting and accounting for royalties and other income from mineral agreements; and minimize BIA involvement by limiting BIA's responsibilities. Another commenter suggested revising § 750.6 to read in its entirety, "OSM shall be the regulatory authority on Indian lands" because the Act contains no authority for division of these responsibilities among agencies.

OSM disagrees with the commenter's suggestions to reduce or eliminate the responsibilities of other Federal agencies. The involvement of other Federal agencies as specified in § 750.6 is necessary to ensure that the responsibilities of these agencies are carried out on Indian lands as mandated by the Act and other applicable laws. With respect to the commenters' other suggestions, neither the Act nor these regulations provide any authority for tribes to assume responsibilities, such as royalty collection, which are delegated to Federal agencies.

One commenter objected that proposed § 750.6 failed to set limits which govern the amount of time reviewing agencies can take to review permit applications and mining plans. The commenter believed that without the imposition of time limits reviewing agencies could substantially delay the development of coal resources on Indian lands.

OSM rejects the commenter's suggestion to specify time limitations in § 750.6 for reviewing permit applications. The time limits established in Subchapter G of 30 CFR Chapter VII are applicable on Indian lands and are sufficient. OSM processes applications as expeditiously as possible and generally notifies applicants of the typical review time frames far enough in

advance to avoid unnecessary delays in the permit application review process.

Section 750.6(a)(1). Section 750.6(a)(1) states that OSM shall be the regulatory authority on Indian lands. As discussed above, a number of commenters inferred that OSM's assumption of the role of regulatory authority operated to diminish the rights of tribal governments. OSM disagrees. OSM neither intends nor believes that these rules diminish the rights of tribal governments.

Section 750.6(a)(2). Proposed § 750.6(a)(2) provided that after consulting with BIA, OSM would approve, conditionally approve, or disapprove permit applications for surface coal mining and reclamation operations on Indian lands or revisions or renewals thereto, and applications for the transfer, sale or assignment of such permit rights. Final § 750.6(a)(2) is adopted essentially as proposed, with the change described below.

A commenter suggested the inclusion of the BLM in the consultation process described in § 750.6(a)(2) for the review, approval, or disapproval of permit applications because of BLM's role in coal operations on Indian lands and familiarity with the operator and the land involved. The commenter pointed out that BLM has the responsibility for exploration plans and for approving or disapproving mining plans under 25 CFR 216.7.

OSM agrees with the commenter, and has changed § 750.6(a)(2) to read, "After consultation with the Bureau of Indian Affairs, and, as applicable, the Bureau of Land Management * * *." To the extent practicable, OSM expects to take into account the recommendations of the other agencies within the Department.

Section 750.6(a)(3). Proposed § 750.6(a)(3) is adopted as proposed. It provides that OSM shall conduct inspection and enforcement activities with respect to surface coal mining and reclamation operations on Indian lands.

One commenter asserted that the proposed regulations wrongly assume that Federal inspection of Indian lands is lawful under all circumstances, and cited two cases, *Donovan* v. *Navajo Forest Products Industries*, 692 F.2d 709 (10th Cir. 1982) and *DeCoteau* v. *District County Court*, 420 U.S. 425, n.2 (1975), to support the objection.

OSM disagrees with the objection for several reasons. Section 517(b)(3) of the Act provides that authorized representatives of the regulatory authority, without advance notice and upon presentation of appropriate credentials:

(A) shall have the right of entry to, upon or through any surface mining and reclamation operations or any premises in which records required to be maintained under paragraph (1) of this subsection are located; and

(B) may at reasonable times, and without delay, have access to and copy any records, inspect any monitoring equipment or method of operation required under this Act.

The Act, therefore, expressly authorizes warrantless entries. Also, the court in the *In Re Surface Mining Regulation Litigation, supra*, held that the warrantless search provisions of the Act and the regulations are reasonable, as limited by the Secretary. More recently, the U.S. Supreme Court reaffirmed the right of government agents to enter upon open fields for the purpose of carrying out government business and stated that the government's intrusion upon open fields is not an "unreasonable" search proscribed by the Fourth Amendment. *Oliver* v. *United States*, No. 82-15, Slip Op. (April 17, 1984).

Section 750.6(a)(4). Proposed § 750.6(a)(4) required that OSM consult with the BIA with respect to special requirements relating to the protection of non-coal resources of the area affected by surface coal mining and reclamation operations, and assure operator compliance with such special requirements. OSM, in response to numerous comments criticizing the apparent lack of tribal involvement in the regulation of surface coal mining activities, has added language to this section to provide that OSM will consult also with the affected tribes.

Section 750.6(a)(5). Final § 750.6(a)(5) provides that OSM shall consult with the BLM concerning requirements relating to the development, production and recovery of mineral resources on Indian Lands. It is adopted unchanged from the proposal.

Section 750.6(a)(6). Final § 750.6(a)(6), which is adopted as proposed, provides that OSM shall approve environmental protection performance bonds and liability insurance required for surface coal mining and reclamation operations on Indian lands, but not the production royalty bond. The provision is intended to implement OSM's statutory responsibility under section 509 of the Act. This section has no effect on the responsibilities of other agencies in the Interior Department under 25 CFR 216.8, which concerns the filing of performance bonds upon approval of an exploration or mining plan in accordance with the provisions of 25 CFR Part 216 Subpart A. However, if the performance bond filed with OSM adequately covers the costs of reclamation, the amount of the bond required under 25 CFR 216.8(b) may be reduced appropriately.

Section 750.6(a)(7). Final § 750.6(a)(7) provides that OSM shall ensure compliance with the requirements of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, with respect to permitting actions for surface coal mining and reclamation operations on Indian lands. It is adopted unchanged from the proposal.

Section 750.6(b). Final § 750.6(b) enumerates BLM's responsibilities. Under § 750.6(b)(1) BLM is responsible for receiving, reviewing and conditionally approving, approving, or disapproving exploration plans and mining plans as provided in 25 CFR Chapter I, or specific Indian mineral agreements. Final § 750.6(b)(2) is identical to the proposed section. It establishes that BLM is responsible for administering and conducting inspection and enforcement for coal exploration operations on Indian lands.

Surface coal mining operations on Indian lands may be subject to one of two types of mining plan approval requirements. The rule at 25 CFR 216.7 requires operators to obtain mining plan approvals if their leases for mining Indian coal were issued after January 18, 1969. Leases issued prior to that date may expressly require operators to comply with provisions of 30 CFR Part 211 "now or hereafter in force," or comparable provisions. Because 30 CFR Part 211, which has been redesignated as 43 CFR Part 3480, requires operators to obtain mining plan approvals prior to conducting operations, the requirements of 43 CFR Part 3480 may be applicable to some operators under certain mineral agreements.

BLM has primary responsibility under 25 CFR Part 216, Subpart A for regulating coal exploration on Indian lands. BLM is responsible for receiving, reviewing and approving or disapproving coal exploration plans; administering and conducting inspection and enforcement with regard to requirements for coal exploration on Indian lands; and administering and conducting inspection and enforcement of minerals agreements, contracts, or lease terms and conditions. These responsibilities are recognized in 30 CFR 750.6(b)(1) and 750.6(b)(2).

The content of proposed § 750.6(b)(3) has been adopted in two sections, §§ 750.6(b)(3) and (b)(4). Section 750.6(b)(3) provides that BLM is responsible for administering mining contract, lease or mineral agreement terms and conditions, as provided for in 25 CFR Chapter I or in specific Indian mineral agreements; § 750.6(b)(4) states

that BLM is responsible for administering and conducting inspections and enforcement of terms and conditions of contracts, leases, or mineral agreements for coal mining operations, including production verification and inspection of operations for that purpose. In making these changes, OSM has incorporated the suggestions of a commenter who stated that the proposed phrase "if allowed" produced confusion about BLM's enforcement responsibilities. To achieve greater clarity, OSM adopted the commenter's suggested language.

Section 750.6(c). Final § 750.6(c) is identical to the language contained in the proposed rulemaking. It provides that MMS is responsible for collecting and accounting for royalties and other income on Indian mineral agreements except for annual rentals.

Two commenters requested that copies of all payments and other records be sent to the tribes at the same time they are submitted to the MMS under § 750.6(c). Interested individuals may contact their respective district offices of MMS to obtain copies of royalty payments and other records requested. OSM neither collects nor maintains this information.

Section 750.6(d). Section 750.6(d) outlines the principal responsibilities of BIA regarding the regulation of surface coal mining operations on Indian lands. Final §§ 750.6(d)(1), 750.6(d)(2), and 750.6(d)(3) of the final rules set forth BIA's responsibility as the lead agency within the Interior Department to consult with the tribes.

Final § 750.6(d)(1) provides that BIA is responsible for consulting directly with and providing representation for Indian mineral owners and other Indian land owners in matters relating to surface coal mining and reclamation operations on Indian lands.

Final § 750.6(d)(2) provides that after consultation with the affected tribe, BIA is responsible for reviewing and making recommendations to OSM concerning permit applications, renewals, revisions or transfers of permits, sales or assignments of permits, permit rights or performance bonds.

Final § 750.6(d)(3) provides that after consultation with the affected tribe, BIA is responsible for reviewing mining plans and making recommendations to the BLM pursuant to 25 CFR 216.7.

OSM has added language to both (d)(2) and (d)(3) clarifying that OSM expects recommendations from BIA only after BIA has consulted with the affected tribes. The language is intended to ensure that affected tribes have an opportunity to participate in the process.

A commenter asserted that the proposed rules relegated BIA to an advisory role with no decisionmaking authority. However, the Act does not give BIA decisionmaking authority with respect to surface coal mining operations on Indian lands. BIA remains responsible for the Federal-Indian Trust obligations and for representing the tribes after consulting with them. In addition, tribes also continue to have the opportunity to consult with any agency on an informal basis.

A commenter stated that the proposed role of BIA of representing the tribes in matters relating to surface coal mining and reclamation is too vague and must be clarified to allow for direct consultation with tribal governments.

OSM agrees that the role of BIA can be further clarified and accordingly has changed § 750.6(d)(1) from the proposed phrase "assisting in the representation of" to the final language "consulting directly with and providing representation of."

A commenter questioned whether BIA has adequate technical staff to make the proper evaluations needed under § 750.6(d). The commenter suggested that some tribes might be better staffed to make these evaluations and recommendations to OSM. Two commenters recommended the delegation of the responsibilities outlined under § 750.6(d) to the tribes under cooperative agreements.

The Secretary lacks the authority to transfer the responsibilities listed under § 750.6(d) to the tribes at this time. The Federal-Indian Trust responsibilities for land use decisions and other matters relating to surface coal mining and reclamation operations on Indian lands remain with BIA. OSM agrees that tribal staffs are gaining expertise that will better enable them to participate in the evaluations required by § 750.6(d). All recommendations and comments of the affected tribes will be considered during review of permit applications.

Section 750.10 Information collection. OSM received no comments on this section.

Section 750.11 Permits. Section 750.11 sets out the permit requirements for conducting surface coal mining operations on Indian lands.

Section 750.11(a) provides that no person may conduct surface coal mining operations on Indian lands after eight months following the effective date of the Federal program for Indian lands in Subchapter E unless that person has first obtained a permit under Part 750. The permitting requirements implement a permitting requirement on Indian lands comparable to those implemented on Federal lands and on lands within a State.

Under final § 750.11(b), all persons conducting surface coal mining and reclamation operations on Indian lands are required to comply with terms of the permit, the requirements of Subchapter E, and the Act.

One commenter stated that the inclusion of mineral agreements, leases and licenses in proposed § 750.11(b) should not be covered in these regulations since these are covered by other acts and regulations, and that therefore OSM has no justification for including them here.

OSM accepts the commenter's suggestion and has not adopted the terms "mineral agreements, leases, and licenses" in final § 750.11(b). OSM does not intend to assume any enforcement responsibilities for requirements of mining contracts, leases, or mineral agreements that are authorized and enforced exclusively under other statutes.

Final § 750.11(c) authorizes existing operations to continue to operate beyond eight months from this date if (1) a permit application is filed with OSM within two months; (2) OSM has not yet rendered an initial administrative decision approving or disapproving the application; and (3) the operations are conducted in accordance with applicable standards.

One commenter suggested adding a new section to § 750.11 which would provide for cooperative review of applications for proposed operations that contain both Indian lands and non-Indian lands. The commenter maintained that the new section is needed to ensure that any resulting dual permit reviews are as similar and concurrent as possible.

In response to the comment, OSM has included a new paragraph (d) in the final rules which provides for a cooperative review of permit applications whenever proposed surface coal mining operations will encompass both Indian lands and non-Indian lands. If the non-Indian lands are subject to the jurisdiction of a State regulatory authority, OSM expects that this joint effort with the State will substantially reduce potential dual permitting burdens on applicants. In every case OSM will make an independent decision whether to issue a permit for the Indian lands.

A commenter stated that the proposed regulations give no recognition or validity to permits for operations on Indian lands previously issued by OSM under the Act. The commenter believed that OSM should recognize valid permits and require no further

permitting for the duration of the permit's term.

All operations on Indian lands will have to obtain a permit pursuant to § 750.11. Although some existing surface coal mining and reclamation operations on Indian lands were reviewed under standards similar to those in OSM's permanent regulatory program, it is not clear that any were approved using precisely those standards. OSM will evaluate each application on an individual basis. At a minimum, an operator currently mining coal will have to submit an application for this evaluation. OSM will then determine whether the existing approval was based upon standards equivalent to those of the Federal Program for Indian lands and determine the extent to which additional materials and proceedings are necessary.

Two commenters suggested that the second "after" be deleted from proposed § 750.11(a) as unnecessary. OSM concurs that the proposed language may have been confusing and has changed § 750.11(a) from "after eight months after" to "after eight months following."

Section 750.12 Permit Applications. Section 750.12 specifies the requirements for applications for permits, permit revisions, and permit renewals for surface coal mining operations on Indian lands.

One commenter suggested the deletion of proposed § 750.12 in its entirety because the Secretary lacks authority to issue regulations beyond the scope of section 710 of the Act; the permitting requirements would expose operators on Indian lands to duplicative permitting and mining plan approval requirements which could render operations on Indian lands non-competitive; and the incorporation by reference of regulations being developed or subject to litigation without analysis or discussion for Indian lands makes meaningful comment impossible.

As discussed earlier, OSM has ample authority under the Act to promulgate these rules. Although there may be some overlap, the permitting requirement and mining plan approval requirements have separate statutory bases which must be satisfied. Hopefully, duplicative submissions can be minimized. If a permit applicant addresses all the requirements of 30 CFR Chapter VII, Subchapter G, many of the mining plan approval requirements of 25 CFR 216.7 can also be met using the same information. The mining plan requires approval from the BLM which will determine the sufficiency of the information provided.

The public has had an opportunity to provide comments on all regulations applicable to surface coal mining and reclamation operations on Indian lands. All of the rules cross-referenced were adopted in final form prior to the publication of the proposed Indian Lands Program. The bases and purposes for the regulations which are incorporated by reference in the Federal program on Indian lands are set forth by OSM in preambles to those regulations. Although such regulations may at any time be subject to change, the public will be given the opportunity to comment on the effects of future changes.

Section 750.12(a). Under § 750.12(a), each application must be accompanied by a fee. OSM is currently drafting a proposed rule on permit fees that will apply to Indian lands and to all other areas where OSM is the regulatory authority, including Federal Program States and Federal lands. Until the other rule is proposed and adopted, § 750.12(a) will provide the authority for the collection of permit fees.

Two commenters questioned how the permit application fee is to be calculated. The commenters asserted that it is difficult to comment constructively on the proposed rule unless the calculation factors are known. Another commenter stated that placing a fee on coal mine operators on Indian lands would lessen his competitive position since similar fees are not presently being required for State and for Federal applications. The commenter recommended the permit fee rule not be adopted unless similar provisions are included for State programs, Federal lands, and Federal programs for States.

As noted above, permit fee regulations are currently under development by OSM. The regulations for permit fees, when proposed, will apply to Indian lands, and to all other lands for which OSM is the regulatory authority. An opportunity for comment on the proposed rules will be provided. OSM does not intend to collect permit fees for Indian lands until OSM promulgates the new rules. The issue of whether fees should be collected for permit application review performed prior to the promulgation of the permit fee rule will be addressed in that rulemaking. Final § 750.12(a) differs from the proposal in order to recognize that OSM's proposed permit fee rule may include either amounts or methods of calculating permit fees.

One commenter recommended that the permit fee also cover costs of tribal involvement in the permit review process, including funds for tribes to conduct their own cultural resource and socio-economic impact investigations.

The question raised by the commenter is more appropriately addressed in the pending permit fees regulation. That rule will identify and solicit comments on which costs should be recovered through the permit fee.

Two commenters argued that the fee requirements in proposed § 750.12(a) go beyond the authorization of section 507(a) of the Act. The commenters stated that fees for revisions and renewals of permit applications are unauthorized.

OSM disagrees. The intent of section 507(a) of the Act is to collect a fee for processing applications. Revisions and renewal are types of applications imposing processing costs. The authority for collecting such fees will be further addressed when OSM promulgates rules for the collection of permit fees.

Section 750.12(b). Under § 750.12(b), unless OSM specifies otherwise, no less than seven copies of the application are required. The final rule differs from the proposal in clarifying that the application is to be filed with OSM; the proposal said only "with the regulatory authority." Operators who seek authorization to conduct operations on Indian lands should contact OSM in advance to determine the number of copies to file.

Two commenters requested that tribes be specified as recipients of copies of the permit application under § 750.12(b). One commenter requested that the tribes receive three copies of the application.

OSM, as the regulatory authority, is responsible for the receipt and distribution of all copies of the application and will provide the affected tribes, BIA, and other agencies with responsibilities for Indian lands with copies of the application. OSM has modified § 750.12(b) to show this.

Section 750.12(c). Section 750.12(c)(1) makes most of the substantive permitting requirements of 30 CFR Chapter VII, Subchapter G applicable on Indian lands.

Section 750.12(c)(2) identifies provisions of the permit processing rules that are inapplicable on Indian lands. The final rule uses section numbers redesignated as a result of the revision to the permitting rules (48 FR 44344, September 28, 1983). The specific permitting provisions of Subchapter G that are inapplicable on Indian lands include Part 772 and §§ 773.11, 773.15(c)(3), 777.17, 778.16 (a) and (b), 785.11, and 785.12.

Part 772 pertains to coal exploration, which OSM does not regulate on Indian lands. Section 773.11 contains the general requirement to obtain a permit

for lands within a State. Its counterpart in the Indian lands program is § 780.11.

The rules do not require OSM to make the permit finding of § 773.15(c)(3) or the permit application to contain information supporting the finding (as required by §§ 778.16 (a) and (b)) that the area is not within an area designated, or under study or petition for designation as unsuitable for surface mining. These are inapplicable to Indian lands because the Act contains no provisions for either unsuitability petitions or planning processes for unsuitability on Indian lands.

Section 777.17, pertaining to permit fees is unnecessary in view of § 750.12(a). Likewise, §§ 785.11 and 785.12 relate to special situations in Pennsylvania and Wyoming that are not relevant to mining on Indian lands.

Section 750.12(c)(3) implements two special permit processing provisions applicable on Indian lands. First, when permits on Indian lands are proposed to be transferred, sold or assigned, § 511(b) of the Act requires the regulatory authority to approve the sale or assignment of permit rights.

The second special provision specifies the procedures to be followed for revisions of permits and provide guidance for the determination of whether a proposed permit revision is significant. Final § 750.12(c)(3)(ii)(A) requires applications for revisions to contain the same information on the proposed revised operation as if it had been proposed as part of the initial, already permitted operation. Because revisions differ widely, it is not possible to specify precisely the information needed for each permit, and there is no need to limit the required information to that in the operation and reclamation plan.

Among the factors OSM will examine in determining the significance of a revision are: (1) Changes in production or recoverability of the coal; (2) environmental effects; (3) public interest in the operation or change; and (4) possible adverse impacts upon fish or wildlife, endangered species, bald or golden eagles or cultural resources. Minor editorial changes have been made from the proposal in final § 750.12(c)(3)(ii)(B).

A commenter suggested adding previous §§ 770.12 and 776.12 to proposed § 750.12(c)(1). Previous § 770.12 is incorporated as revised in § 773.12. However, previous § 776.12 (now § 772.12), setting forth approval requirements for coal exploration removing more than 250 tons, is inapplicable on Indian lands. Coal exploration on Indian lands is BLM's responsibility.

One commenter asked if the proposed § 750.12(c)(1) is in conflict with 25 CFR 216.6. OSM finds no conflict because 25 CFR 216.6 sets forth requirements for approval of exploration plans, a responsibility that is retained by the BLM.

Section 750.12(d). Section 750.12(d) requires additional information in permit applications for mining on Indian lands to allow the Department to fulfill statutory obligations under other Federal laws. The requirements are comparable to those required for mining plans or permit applications for Federal lands. See the discussion of "permit application packages" in the Federal Register preamble to the Federal lands rules, 48 FR 6912 (February 16, 1983). OSM includes information required for compliance with the American Indian Religious Freedom Act in subparagraph (v).

One commenter asserted that proposed § 750.12 relates to operator compliance with Federal and State laws, specifically air quality regulations and other environmental regulations, but fails to recognize tribal regulations. The commenter is concerned that this could preclude or even eliminate current and proposed programs designed to establish tribal environmental regulatory programs.

The purpose of § 750.12(d) is to ensure that the permit application package contains enough information for OSM to determine that the proposed operation will be in compliance with applicable Federal law. It is not intended to preclude the separate applicability of authorized tribal rules.

A provision has been included as § 750.18(e) to make explicit that 30 CFR Chapter VII does not replace or supersede any remedy of the Indian mineral owner or other Indian owner that is set forth in the contract or otherwise available at law. This provision emphasizes that the Federal Program for Indian lands is not intended to interfere with existing rights of Indians. It is carried over from previous 25 CFR 210.113(h).

A commenter requested that a clause be inserted in § 750.12(c)(3)(i) to give tribes the first right of refusal to purchase the operator's interest in case of assignment. OSM disagrees. The regulations in 30 CFR Part 750 are not a means for assigning rights of a permit to a tribe; the Act fails to provide such authority.

One commenter believed that 30 CFR Chapter VII Subchapters G, K, L and M do not provide to tribal governments substantive roles which are equal to that afforded to State and local governments. The commenter identified fifty-eight provisions in the rules in which tribal governments may be accorded a role, and incorporating the terms "tribe, tribal, or tribal government," whenever appropriate.

The commenter pointed out that tribal environmental codes are already governed by 25 CFR Part 216 and should be preserved.

In response to the commenter's suggestion, OSM has added a provision under the special requirements for permits at § 750.12(c)(3)(iii) to require notification of and consultation with tribal governments to the same extent as State and local governments. This provision reflects the role of tribal governments in the permit application process.

A commenter suggested that OSM solicit the affected tribes' input when reviewing revisions of mining and reclamation plans under § 750.12(c)(3)(ii)(B). Tribes will be notified and given the opportunity to comment on significant permit revisions. Under § 750.12(c)(3)(iii), tribes will be notified and given the opportunity to consult with OSM in the same manner and to the same extent as State and local governments.

The U.S. Fish and Wildlife Service (FWS) requested assurance that it could review and provide input into permit application review on Indian lands. The commenter also suggested that OSM and BLM jointly develop permit conditions to ensure protection of fish and wildlife values.

The U.S. Fish and Wildlife Service will have adequate opportunity to provide input into permit application review and ensure protection under the cross-referenced regulations, such as 30 CFR 773.12, 773.13 and 816.97. If needed and requested by the U.S. Fish and Wildlife Service, special conditions for protection of fish and wildlife values can be added under the existing regulations.

The FWS also expressed concern that by superseding 25 CFR 216.104(3), 216.108, and 216.110, the proposed rules weaken fish and wildlife protection measures. The commenter recommended the inclusion of a clear and more positive rule which would ensure that fish and wildlife protection measures are incorporated in the Federal Program.

All fish and wildlife protection requirements of the permanent regulatory program are now applicable to Indian lands by cross-referencing. Requirements such as §§ 773.12, 773.13, 773.15(c)(10), and 816.97 have been incorporated for Indian lands and

provide the necessary level of protection for fish and wildlife values.

A commenter questioned the status of those portions of the regulations that are neither listed under § 750.12(c)(1) as applicable to Indian lands nor listed under § 750.12(c)(2) as inapplicable, such as § 770.1.

The intent of OSM in § 750.12(c)(1) is to list those requirements of Subchapter G that specifically apply to Indian lands and in paragraph (c)(2) to list those specific requirements that do not apply. Section 770.1 was removed from Subchapter G in the course of OSM's recent revision of the permanent program rules. Every remaining requirement of Subchapter G is encompassed by § 750.12 (c)(1) or (c)(2).

Two commenters recommended that § 778.15(b) be made applicable to Indian lands. OSM agrees with the commenter. Section 778.15(b) and the corresponding permit finding, § 773.15(c)(4), are made applicable to surface coal mining conducted on Indian lands because the mineral and surface estates on Indian lands may be held by different owners.

One commenter suggested adding a new paragraph to § 750.12(c) which would give an operator the option of processing his permit application under the rules referenced in paragraphs (c)(1) and (c)(3), or under equivalent rules applicable to adjacent lands.

OSM disagrees with the suggestion to allow an operator the option of selecting which regulatory program should apply to the review of the application. Although OSM generally agrees that equivalent standards should apply to similar environmental conditions within a geographic area, this may not be possible where different regulatory programs apply.

One commenter questioned the proposed listing of previous §771.11 (since redesignated as § 773.11) as inapplicable to Indian lands since this section provided for the continuation of mining operations under an existing lease until such time as OSM approves the new application.

The continuation of operations under existing approvals for Indian lands is addressed by the requirements of § 750.11. Thus, OSM includes redesignated § 773.11 (successor to § 771.11) as inapplicable on Indian lands. Existing operations with approvals will be allowed to continue operating if the requirements of § 750.11(c) are met.

A commenter sought a provision to keep permitting information under § 750.12(c)(2) confidential and not of public record. Under § 773.13(d)(3), which is cross-referenced, OSM provides procedures to ensure confidentiality of information as authorized by the Act. OSM expects to implement the confidentiality provisions of § 773.13 on a case-by-case basis.

A commenter was concerned that the proposed rules at § 750.12 do not include the same unsuitability criteria as exist under BLM's planning process for Federal lands. The commenter stated that, since there is a need to protect critical resources on Indian lands, the same protection should be provided for fish and wildlife resources on Indian lands as is provided on Federal lands.

The unsuitability criteria for leasing of Federal coal do not apply to Indian lands. OSM lacks the authority to extend these requirements to the permitting process for surface coal mining and reclamation operations on Indian lands. However, as mentioned previously, protection of the critical fish and wildlife resource values are ensured through cross-referencing of the applicable regulations to Indian lands. Also, before issuing a permit, OSM must find that reclamation can be accomplished, including the requirements of 30 CFR 816.97.

Several commenters objected to the exclusion of the American Indian Religious Freedom Act and other Federal laws protecting cultural resources on Indian lands. The commenters believed that OSM should determine whether sites of religious value would be adversely affected by the granting of a permit application. The commenter believes that § 780.31 is inadequate to ensure protection of cultural resources on Indian lands. One commenter suggested that a proposed operation must show compliance with all Federal laws, including compliance with 25 CFR Part 216, and tribal laws regarding resource protection.

OSM agrees with the commenters' contentions that cultural resources on Indian lands are protected under the American Indian Religious Freedom Act and other Federal laws. OSM has added as § 750.12(d)(2)(v) a requirement for documentation of compliance with such laws as part of the permit application package. Proposed §§ 750.12(d)(2) (v)–(viii) have been redesignated §§ 750.12(d)(2) (vi)–(ix) in the rule promulgated here today.

The FWS requested that proposed § 750.12(d)(2)(viii) require documentation of appropriate studies and progress of informal and formal consultation with the U.S. Fish and Wildlife Service. The requirement for coordination with the Endangered Species Act of 1973 is included by incorporation of §§ 773.12 and 816.97 (see above discussion). However, OSM added language to § 750.12(d)(2)(ix) to require special studies if needed.

Finally the FWS stated that it is unclear whether a programmatic section 7 consultation under the Endangered Species Act will be initiated by OSM for the Indian lands program and whether the draft environmental assessment of these proposed rules addresses the endangered species issue.

Consultation under the Endangered Species Act will be initiated by OSM for each permit application on Indian lands, as required. These rules provide the same level of protection to threatened or endangered species as OSM's permanent program rules. Because the promulgation of these rules is in compliance with the Endangered Species Act, no formal consultation is necessary. Regarding the NEPA issue, an evaluation of coordination under the Endangered Species Act was included in the final environmental impact statement OSM–EIS–1 (OSM, 1979) and in the Final Environmental Impact Statement, OSM–EIS–1: Supplement (OSM, 1983) published in January 1983 for revision of the permanent program rules.

A commenter pointed out that States do not have jurisdiction to enforce compliance with the Clean Air Act on Indian lands as implied under proposed § 750.12(d)(2)(v). OSM agrees with the comment and final § 750.12(d)(2)(vi) (proposed § 750.12(d)(2)(v)) does not require data showing compliance with State laws.

Two commenters stated that the informational requirements of § 750.12(d)(2) should be eliminated as unnecessary, as unauthorized by the statute, and as appearing to go beyond the requirements of other permanent program applications. The commenters stated that OSM has failed to set forth authority for these requirements in the preamble, that it will be extremely difficult to gather this information within two months of the effective date of these rules, and finally that the accumulation of this information is a responsibility of OSM.

The authority and basis for OSM to require the information listed under § 750.12(d)(2) for operations on Indian lands is comparable to the requirements for mining on Federal lands. This discussion is provided in the **Federal Register** preamble to the Federal lands rules, 48 FR 6912 (February 16, 1983).

OSM recognizes the potential difficulty in providing all of the necessary information in two months' time. Submission of an application within two months will be sufficient to qualify an applicant to continue mining

until OSM makes a decision on the application. The application will have to be augmented if necessary to completely fulfill the regulatory requirements. If an applicant has made a good faith effort to provide all of the permit application information necessary for an existing operation, OSM will exercise reason in determining whether an operator may continue to operate under § 750.11(c).

One commenter suggested the modification of § 750.12(d)(1) to reflect that 30 CFR Part 211 has been redesignated as 43 CFR Part 3480, effective September 16, 1983. OSM agrees and makes the redesignation at § 750.12(d)(1).

Two commenters stated that Native American grave sites should be accorded as much protection as cemeteries under the regulations for unsuitability.

Section 522(e) of the Act is specific with regard to protection of cemeteries. Under OSM's revised definition in 30 CFR 761.5, 48 FR 41348 (September 14, 1983), a cemetery includes any land where human bodies are interred, except private family burial grounds. Whether Native American grave sites qualify depends upon specific facts. However, through the consultation process which includes OSM, BIA, and the tribes, and during development of the cultural resources protection plan required by § 750.12(d)(2)(iv), Native American grave sites not qualifying under the definition of a cemetery may be identified and afforded protection as recommended by the tribe and BIA. Also, under the requirements of § 773.15(c)(11), OSM must make a finding that proposed operations will not adversely affect a private family burial ground.

One commenter suggested that provisions be made to include the interim unsuitability criteria developed between the Navajo and BIA for proposed coal, gas, and oil leases on the Navajo area. OSM does not consider the suggested criteria to be applicable to these rules; as discussed above, they are more appropriate to the leasing process.

A commenter stated that the proposed incorporation of previous Part 786, adopted in final form in Part 773, reinforces the appearance that tribes have been entirely excluded by the regulations from any responsible role in the permitting process. The commenter further argued that tribes have extensive jurisdiction to regulate the activities of non-Indians, with only certain exceptions. The commenter reasoned that there is no legal impediment to tribal participation in the permitting and regulatory program under the Act and stated his inability to understand omission of such participation.

OSM disagrees. The tribes have not been excluded from the permitting process. To the contrary, their extensive role is described above. However, until such time as Congress enacts legislation to allow tribes to assume the role of a regulatory authority, and regardless of the extensive jurisdiction of the tribes to regulate other activities of non-Indians, tribes lack authority under the Surface Mining Act to regulate surface coal mining and reclamation operations on Indian lands. The Secretary concludes that these rules give tribes as much voice in the permitting process as is possible under the Act.

A commenter requested that previous Part 786 (redesignated as Part 773 and cross-referenced in § 750.12(c)) include native language requirements for notices, conferences, and hearings, and for copies of permit applications to be made available at places on Indian lands designated by the tribe.

OSM has not accepted this request. No requirement exists in the Act for posting notices in the native language. However, OSM will work with BIA to assure tribal involvement. Under § 773.13, a copy of the complete permit application is made available for public inspection. This location usually is the nearest county seat or other governmental office that is open to the public within the vicinity of the mine. OSM will consult with the tribe to determine where the application is to be filed. In addition, copies of the application are provided to the tribe and local BIA offices.

A commenter requested that under previous Part 786 permit approval should be conditioned on whether all lease terms and tribal laws have been met and should give due consideration to tribal recommendations. The BIA is responsible for reviewing the application and providing BLM with recommendations on approval or disapproval of the mining plan, which will include a review to determine if lease terms and tribal laws have been met. BIA recommendations are also given to OSM on the permit application. In addition, OSM will give full consideration to tribal recommendations during the review process.

A commenter requested that previous § 786.25 specify that nothing in the regulations may be construed as enlarging any rights or diminishing any duties established under tribal leases or tribal laws, and that previous § 786.25(c) provide for permit suspension for violation of lease terms or tribal laws.

The Indian Lands Program does not diminish any tribal rights. In addition, § 773.17, requires the permittee to comply with the terms and conditions of the approved permit. Tribes and the BIA have the opportunity to recommend inclusion in the permit of any lease terms and conditions which are not inconsistent with the Act. Violations of any permit conditions are subject to Federal enforcement under Part 843. In addition, the BIA is primarily responsible for the monitoring of lease terms.

A commenter requested that a right of entry for authorized tribal representatives should be specified in previous § 786.27. Right of entry under § 773.17 is allowed for the "authorized representative of the Secretary" on Indian lands. However, under § 773.18(d)(2) the authorized representative may be accompanied by private persons in accordance with Part 842. Representation for tribes during inspections is also provided for under § 750.18(d).

A commenter requested that previous Part 787 should specify that the tribe may participate as a party in administrative review proceedings (for review of permit decisions) through intervention as a matter of right.

Part 775 is the successor to Part 787, and is cross-referenced in § 750.12(c)(1). In accordance with § 775.11, any person with an interest which is or may be adversely affected by a decision on a permit may request an administrative hearing. The tribe clearly has such an interest and would therefore have the right to (1) request an administrative review hearing, (2) be notified and given the opportunity to be heard at administrative hearings, and (3) appeal for judicial review of the decision under § 775.13.

A commenter requested that formal tribal consultation be provided for during the review process of outstanding permits, permit renewals, and transfer, assignment or sale of permit rights under previous § 788. The commenter added that permit revisions should include formal tribal consultation as well as greater protection of cultural resource values. Tribes may be involved to the extent authorized by the Act. OSM previously discussed the role of tribal involvement in the permit review process at § 750.6 of the preamble, above.

A commenter recommended that it be the right of the tribal government to enter into contractual agreements which remove the Department of the Interior from the direct administration of programs on the reservations and that language be included to preserve and allow for tribal governments to request

and receive such contracts under the legal authority of Pub. L. 93–638, specifically § 102. The commenter stated that inclusion of these rights is mandatory, and the ability to exercise the right must be explicit.

Neither the Act nor these rules authorize tribes to regulate surface coal mining operations on Indian lands. For the present, that is OSM's responsibility. Such authority may result if Congress amends the Act. On the other hand, these rules do not affect or diminish rights of tribes under other laws.

Section 750.13 Small Operator Assistance. This section implements the small operator assistance program contained in 30 CFR Part 795 as applicable on Indian lands. *See* 48 FR 2266 (January 18, 1983). OSM received no comments on this section.

Section 750.14 Lands designated unsuitable for mining by Act of Congress. Because section 522(e) of the Act generally prohibits mining in specified areas designated by Congress, those prohibitions are applicable on Indian lands. Thus, § 750.14 makes 30 CFR Part 761, which implements section 522(e) of the Act, applicable on Indian lands. In addition, the Secretary in the exercise of his discretionary powers, may decline to approve minerals agreements in areas which are unsuitable for mining.

One commenter recommended that OSM reconsider its interpretation of the Act regarding the applicability of section 522 on Indian lands. The commenter reasoned that Congress intended that, unless specifically prohibited, all provisions of the Act are to apply to all lands underlain by coal.

OSM disagrees with the commenter's interpretation of the intent of Congress regarding the application of section 522 of the Act to Indian lands. The Act contains no provisions for either unsuitability petitions or planning processes for unsuitability on Indian lands. Tribal governments, in cooperation with the Department, can decline to lease lands which they determine are unsuitable for mining.

One commenter stated that tribes should be allowed to establish their own processes and develop their own criteria for making unsuitability designations. The tribe could then make decisions on the classes of individuals, i.e. members, non-members, or resident-members, who can file petitions of unsuitability.

OSM has rejected this comment. As previously discussed, the Act does not provide such authority.

Another commenter suggested that proposed § 750.14 not be adopted because the Secretary lacks authority to promulgate regulations under section 522 of the Act on Indian lands. OSM disagrees because section 522(e) applies to all surface coal mining operations.

Section 750.15 Coal exploration. Section 710 of the Act excludes compliance with section 512 of the Act, concerning coal exploration operations. Accordingly, OSM provides in § 750.15 that coal exploration on Indian lands is governed by 25 CFR Part 216 or 43 CFR Part 3480, whichever is applicable.

A commenter suggested that, to be consistent, the cross-reference in § 750.15 should include a reference to 43 CFR Part 3480, where applicable. OSM concurs and incorporates the suggested change in § 750.15.

A commenter suggested that all data relating to exploration such as plans, drill logs, geophysical and geological interpretation of data, etc., should also be filed with the tribe under § 750.15.

OSM has not accepted this comment. No requirement to transfer the listed information is authorized by the Act.

Section 750.16 Performance Standards. OSM cross-references for Indian lands the applicable permanent program performance standards in 30 CFR Chapter VII, Subchapter K. The final rule cross-references nearly all of the performance standards of the permanent program, which includes Parts 816, 817, 819, 822, 823, 824, 827 and 828. These provisions apply to all new operations and to existing operations after OSM makes an initial administrative decision on a permit application. Prior to that decision, the performance standards in 25 CFR Part 216, Subpart B continue to apply. The proposed cross-reference to Part 826 has not been adopted because that part has been removed from the permanent program rules.

A commenter suggested that the words "or the equivalent rules applicable to adjacent lands under an approved program or a Federal-State cooperative agreement" be added to the end of proposed § 750.16. The commenter stated that regulations are to take into account the "diversity in terrain, climate, biology, chemical and other physical conditions * * *," within a regional area as well as to implement national standards. The commenter argued that approved program standards should be allowed to apply to Indian lands in the same area.

The comment implied that approved State programs could be applied to operations on Indian lands. OSM cannot apply State program standards to Indian lands. However, OSM will consider local environmental factors within a given geographical area in its permitting decisions. OSM does not anticipate the application of technical standards to operations on Indian lands significantly different from those applied on non-Indian lands in similar areas.

One commenter contended that rules implementing section 515(b)(1) of the Act should be deleted because maximum economic recovery is a requirement of the Federal Coal Leasing Amendments Act of 1976 (90 Stat. 1085), not the Surface Mining Control and Reclamation Act, and has no bearing on Indian lands.

OSM disagrees with the position of the commenter. Section 710(d) of the Act expressly incorporates the requirements of section 515, including section 515(b)(1) which pertains to the maximum recovery of the solid fuel resource in a manner that minimizes reaffecting the land.

Section 750.17 Bonding. OSM cross-references all of the permanent program bonding regulations, contained in 30 CFR Chapter VII, Subchapter J, to make them applicable on Indian lands. The bonding regulations set out requirements for the types, duration and amounts of bonds, conditions of bonds, and procedures and criteria for bond forfeiture or release. OSM, as the regulatory authority, will issue, adjust and release bonds.

Section 750.18 Inspection and enforcement. Under § 750.18(a), inspection and enforcement must be conducted in accordance with 30 CFR Parts 842, 843 and 845, which comprise the requirements for inspection and enforcement under the permanent regulatory program. In addition, a reference to 43 CFR Part 4 is included to clarify that administrative reviews and appeals are governed by the rules of the Department's Office of Hearings and Appeals.

Final § 750.18(b) requires OSM to furnish copies of notices and orders to mineral or surface owners on whose land a surface coal mining operation is conducted. It also allows OSM to furnish copies to others with an interest in the operation or the permit area. The final rule does not require OSM to furnish notices regarding exploration on Indian lands, as was proposed, because the regulation of exploration activities on Indian lands is a BLM responsibility.

Four commenters pointed out that tribal participation and consultation is necessary with respect to inspections as specified in 25 CFR 216.112(e)(1); proposed § 750.18(b) stated that tribal representatives would be invited to accompany Federal inspectors "if time and circumstances permit."

OSM concurs with the comments. Under previous 25 CFR 216.112(e)(1) the effected tribes had to be notified and

involved in the inspection and enforcement operations of surface coal mining operations on Indian lands. OSM incorporates language similar to that contained in previous 25 CFR 216.112(e) into the final rule. Thus, final § 750.18(d) requires that tribal representatives be invited to participate in all inspections on Indian lands.

One commenter contended that 25 CFR 216.112(e)(1) and 216.114(k) are not necessarily Indian rights protection provisions as was stated in the proposal, and should not be included in a final rule. OSM disagrees with the commenter's position and, as proposed, has incorporated the provisions in Part 750.

BLM recommended that the following phrasing be added to § 750.18(c): "and pursuant to 25 CFR 216.7 and 43 CFR 3480, where applicable, to any mineral owner or surface owner, or to any person having an interest in the coal mining operation." OSM has accepted the recommendation and modified § 750.18(c) accordingly in the final rule.

One commenter expressed concern about whether Part 843 clearly refers to 43 CFR Part 4. To resolve this concern and as noted above, the final rule includes a reference to 43 CFR Part 4.

Section 750.19 Blaster Certification. OSM has amended final § 750.19 to recognize that blasters certified in accordance with a Federally-administered blaster certification program may conduct blasting on Indian lands. OSM expects to promulgate such a program soon. During the interim, the standards found in 30 CFR 816.61(c) and 817.61(c) are applicable.

One commenter recommends that because of differences among the cultural, religious, socio-economic, and environmental interests that must be protected, a separate Indian lands blaster certification program should be included in this section.

OSM disagrees. OSM is now in the process of promulgating rules which will establish an OSM-administered blaster certification program for Federal Programs, including Indian lands. OSM believes that that program will be adequate to ensure the protection of the interests cited by the commenter.

Section 750.20 Adoption of Indian coal lease terms. Section 750.20 requires the Secretary to incorporate certain terms and conditions in leases of coal on Indian lands. Section 710(d) of the Act requires the Secretary to incorporate into all existing and new leases the requirements cited in that section as applicable to mining on Indian lands. Final § 750.20(a) requires that all new leases and lease renewals incorporate the cited provisions.

Section 750.20(b) requires the Secretary to include and enforce terms requested by the tribes into leases issued after August 3, 1977. This provision is required by section 710(e) of the Oct. Coal-owning tribes are required to make any such request in writing to OSM. Final § 750.20(b) differs slightly in phrasing from the proposal; no change in substance is intended.

Two commenters suggested the deletion of proposed § 750.20 in its entirety. The commenters reasoned that since the proposed regulation purports to unilaterally amend negotiated contracts having more than one party the regulation is not legally defensible. The commenters stated that (1) Congress charged the Secretary to incorporate certain requirements of the Act into exisiting and new leases and (2) Congress could only have intended that the specified provisions be incorporated into leases in a legally permissible manner (e.g., as part of a negotiated lease amendment, or upon lease renewal, or as a part of a lease amendment or upon lease renewal or as a part of a lease requirement) and not by administrative fiat. The commenters urged OSM to restrict its rulemaking to section 710 (c) and (d) and argued that it is inappropriate for OSM to incorporate terms and conditions other than those specified.

OSM disagrees. Congress passed the Act to protect valuable natural resources. OSM is obliged to comply with the Congressional mandate to incorporate the requirements of section 710(d) into new and existing Indian coal leases.

Two commenters asked how the Secretary proposes to incorporate the requirements of section 710(d) into new and existing Indian coal leases. Sections 750.20 (a) and (b) are the means for incorporating applicable requirements of Indian coal lease terms. Additionally, the rules impose the same requirements through the permit issued to each operator.

One commenter contended that § 750.20(b) should specify that the lease terms and conditions which must be requested by tribes are in addition to those guaranteed by law and covered by subsection (a). OSM agrees that the wording in proposed § 750.20(b) needed clarification and has amended the language to include the word "also."

Part 755—Tribal-Federal Intergovernmental Agreements

Part 755 provides for the development, approval, and administration of Tribal-Federal Intergovernmental Agreements. This part provides for cooperative agreements between OSM and Indian tribes under which OSM can provide technical and financial assistance to allow for the training of Indian tribes and/or tribal members. This training would be in anticipation of tribal participation as a regulatory authority. Authority for cooperative agreements is found in the Surface Mining Act. The final rule is amended to clarify that funding provisions are provided for all items listed under § 755.12.

Two commenters raised questions about what types of activities would be funded pursuant to § 755.12. OSM provides support to fund tribal employee training; to work with OSM in the review of permit applications and to recommend appropriate action on permits, permit applications, inspection and enforcement, bond release or forfeiture; and to attend and testify at hearings.

Several commenters contended that the proposed provisions for Tribal-Federal Intergovernmental Agreements provided funding only to attend and testify at Federal hearings.

OSM did not intend to create the impression that funding for Tribal-Federal Intergovernmental Agreements is limited only to attending and testifying at Federal hearings. OSM has revised § 755.12 to show that funding may cover other functions under the Agreement. Of course, specific funding for any agreement is subject to availability of appropriations.

Two commenters contended that Part 755 allows tribes to request a cooperative agreement under which the tribe may only "work with" OSM on regulatory functions, which is not enough. The commenters stated that a commitment should be made to enter into cooperative agreements with tribes which will ensure meaningful and formal tribal participation in the regulatory process.

OSM rejects the commenters' statement that tribes will not have an opportunity to have meaningful involvement in the regulatory process. OSM designed the Tribal-Federal Intergovernmental Agreements to allow the maximum tribal participation possible until such time as Congress enacts legislation to allow tribes to assume primacy over the regulation of surface mining on Indian lands. Three coal-producing tribes (Crow, Hopi, and Navajo) have cooperative agreements which afford each tribe the opportunity to have a training program for tribal employees. OSM expects future agreements under Part 755 to function similarly to these existing agreements.

Four commenters contended that section 755, Tribal-Federal

Intergovernmental Agreements, lacks a statutory basis under the Act.

Section 710(c) of the Act shows the intent of Congress that Indian tribes be able to become regulatory authorities as soon as legislation is enacted by Congress. Thus, a tribal program to train Indian employees to assume the role of regulatory authorities at some time in the future is within the Secretary's authority. It should be emphasized that agreements under Part 755 cannot and will not transfer OSM's nondelegable responsibilities to the tribes.

One commenter recommended that the tribes have concurrence authority on all agreements and that tribal authorities should have a direct and supportive activity in all monitoring, inspecting and enforcement of laws, codes, and regulations on Indian lands.

OSM declines to accept the commenter's recommendation. Tribal-Federal Intergovernmental Agreements are not intended to authorize primacy for Indian tribes. They instead only provide training for tribal employees until Congress enacts legislation giving the tribe authority to seek primacy. OSM has no authority at this time to implement the commenter's suggestion.

III. Procedural Matters

Executive Order 12291 and the Regulatory Flexibility Act

The Department of the Interior (DOI) concludes that this rule is not a major rule requiring a regulatory impact analysis under Executive Order 12291. Also, DOI certifies that this rule will not have a significant economic effect on a substantial number of small entities and, therefore, does not require a regulatory flexibility analysis under Pub. L. 96-354.

The reasons underlying these determinations are as follows: The Indian Lands Program will not result in significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or foreign markets; nor will it increase costs of prices for consumers, individual industries, Federal, State, tribal or local governmental agencies or geographic regions. There will be no significant demographic effects, direct costs, indirect costs, nonquantifiable costs, competitive effects, enforcement costs, or aggregate effects on small entities.

National Environmental Policy Act

OSM has prepared an environmental assessment (EA) on these rules and has made a finding that they will not significantly affect the quality of the human environment. The EA and finding of no significant impact are available in OSM's Administrative Record in Room 5124, 1100 L Street, NW., Washington, D.C.

Paperwork Reduction Act of 1980

Section 750.10 codifies OSM's conclusion that the information collection requirements contained in Part 750 and the remainder of these rules do not require approval of the Office of Management and Budget under 44 U.S.C. 3507 because there are expected to be less than ten respondents annually.

Effective Date

The final rule is effective September 28, 1984. Under 5 U.S.C. 553(d), a rule may not be made effective less than 30 days after publication unless, among other things, good cause exists and is published with the rule. Good cause exists to make the final rule immediately effective because OSM needs to begin the processing of permit applications for new and existing operations, including those which seek to enter new areas on Indian lands in the near future. Because (1) 25 CFR Part 216, Subpart B will continue to apply to existing operations until they receive a new permit and (2) existing operations will be able to continue to operate for eight months and beyond that time if a permit application is filed within two months, no person will be adversely affected by the immediate applicability of 30 CFR Parts 750 and 755.

List of Subjects

25 CFR Part 216

Environmental protection, Indian lands, Mineral resources, Mines.

30 CFR Part 700

Administrative practices and procedure, Coal mining, Surface mining, Underground mining, Reporting and recordkeeping requirements.

30 CFR Part 701

Coal mining, Law enforcement, Surface mining, Underground mining.

30 CFR Part 710

Coal mining, Law enforcement, Public health, Safety, Surface mining, Underground mining.

30 CFR Part 750

Indian land mineral resources, Surface mining, Underground mining, Coal mining Reporting and recordkeeping requirements.

30 CFR Part 755

Intergovernmental relations reporting and recordkeeping requirements, Indian lands mineral resources.

Drafting Information

These regulations were drafted by Beverly M. M. Charles, Office of the Solicitor; Willis Gainer, Western Technical Center, Office of Surface Mining, Denver, Colorado; and Murray Newton, Branch of Regulatory Programs, Office of Surface Mining.

For the reasons stated, 25 CFR Part 216 and 30 CFR Parts 700, 701, 710, 750, and 755 are amended as set out herein.

Dated: August 8, 1984.

J. Steven Griles,

Assistant Secretary, Land and Minerals Management

Dated: August 30, 1984.

Ken Smith,

Assistant Secretary, Indian Affairs.

25 CFR Part 216—SURFACE EXPLORATION, MINING, AND RECLAMATION OF LANDS

1. The authority for 25 CFR Part 216 reads as follows:

Authority: 34 Stat. 539, 35 Stat. 312; 25 U.S.C. 355 NT; 35 Stat 781; 25 U.S.C. 396; Sec. 1, 49 Stat. 1250; 25 U.S.C. 473a; 49 Stat. 1967, 25 U.S.C. 501, 502; 52 Stat. 347, 25 U.S.C. 396a–f; 5 U.S.C. 301.

2. Section 216.100 is amended by revising paragraph (a) to read as follows:

§ 216.100 Applicability.

(a) The performance standards in this subpart shall apply to each coal mining operation on Indian lands on or after December 16, 1977, and shall remain applicable to each operation until OSM issues or denies a permit in accordance with 30 CFR Part 750.

* * * * *

§§ 216.112-216.114 [Removed]

3. Sections 216.112, 216.113 and 216.114 are removed.

PART 700—GENERAL

4. The authority for 30 CFR Part 700 reads as follows:

Authority: Secs. 102, 201, 304, 405, 407, 412, 501, 510, 512, 515, 516, 517, 520, 523, 527, 528, 529, 701, 706, 719 Pub. L. 95-87, 91 Stat. 448, 449, 454, 459, 462, 466, 467, 480, 483, 486, 495, 498, 503, 510, 513, 514, 515, 516, 521, 526 (30 U.S.C. 1202, 1211, 1224, 1235, 1237, 1242, 1251, 1260, 1262, 1265, 1268, 1267, 1270, 1273, 1277, 1278, 1279, 1291, 1298, 1309), unless otherwise noted.

5. 30 CFR 700.1 is amended by redesignating existing paragraphs (e)–

(m) as paragraphs (f)–(n) and adding a new paragraph (e) as follows:

§ 700.1 Scope.

* * * * *

(e) Subchapter E of this chapter contains regulations that apply to surface coal mining and reclamation operations conducted on Indian lands.

* * * * *

§ 700.11 [Amended]

6. 30 CFR 700.11 is amended by removing paragraph (a)(5) and redesignating paragraph (a)(6) as paragraph (a)(5).

PART 701—PERMANENT REGULATORY PROGRAM

7. The authority for 30 CFR Part 701 reads as follows:

Authority: Secs. 102, 201, 501–529, 701, 702, 705, 708, 711, 713, 714, 715, 716, 717, 719, Pub. L. 95–87, 91 Stat. 448, 449, 467–515, 516, 519, 520, 521, 523, 524, 525, and 526 (30 U.S.C. 1202, 1211, 1251–1279, 1291, 1292, 1295, 1298, 1301, 1303, 1304, 1305, 1306, 1307, and 1309), unless otherwise noted.

8. Section 701.1 is amended by redesignating paragraphs (b)(3) through (b)(8) as (b)(4) through (b)(9) and by adding a new paragraph (b)(3) as follows:

§ 701.1 Scope.

* * * * *

(b) * * *

(3) Subchapter E on surface coal mining and reclamation operations on Indian lands.

* * * * *

9. 30 CFR 701.3 is revised to read as follows:

§ 701.3 Authority.

The Secretary is required by section 501(b) of the Act to promulgate regulations which establish the permanent regulatory program; by section 523 of the Act to promulgate regulations which establish the Federal lands programs; and is authorized by section 710 of the Act to promulgate regulations which establish a Federal program for Indian lands.

10. 30 CFR 701.4 is amended by adding paragraph (h) to read as follows:

§ 701.4 Responsibility.

* * * * *

(h) The Secretary shall have the responsibility for the administration of the Federal program for Indian lands, as provided for under Subchapter E of this chapter. The Director and other Federal authorities have the responsibilities under the Indian lands program as are provided for under Subchapter E of this chapter.

11. 30 CFR 701.11 is amended by redesignating paragraphs (c) through (e) as (d) through (f) and adding a new paragraph (c) to read as follows:

§ 701.11 Applicability.

* * * * *

(c) Any person who conducts surface coal mining and reclamation operations on Indian lands on or after eight months from the effective date of the Federal program for Indian lands shall have a permit issued pursuant to Part 750 of this chapter. However, a person who is authorized to conduct surface coal mining and reclamation operations may continue to conduct those operations beyond eight months from the effective date of the Federal program for Indian lands if the following conditions are met:

(1) An application for a permit to conduct those operations has been made to the Director within two months after the effective date of the Federal program for Indian lands and the initial administrative decision on that application has not been issued; and

(2) Those operations are conducted in compliance with all terms and conditions of the existing authorization to mine, the requirements of the Act, 25 CFR Part 216, and the requirements of all applicable mineral agreements, leases or licenses.

* * * * *

PART 710—INITIAL REGULATORY PROGRAM

12. The authority for 30 CFR Part 710 reads as follows:

Authority: Secs. 201, 501, and 502, Pub. L. 95–87, 91 Stat. 445 (30 U.S.C. 1201), unless otherwise noted.

13. Section 710.11 is amended by revising paragraph (b) to read as follows:

§ 710.11 Applicability.

* * * * *

(b) *Operations on Indian lands.* Until OSM makes an initial administrative decision on a permit application under Part 750 of this chapter, a person conducting coal mining operations on Indian lands shall comply with the performance standards of this chapter insofar as they are incorporated in 25 CFR Part 216, Subpart B.

* * * * *

14. Subchapter E, consisting of Parts 750 and 755, is added to Title 30 as follows:

Subchapter E—Indian Lands Program

PART 750—REQUIREMENTS FOR SURFACE COAL MINING AND RECLAMATION OPERATIONS ON INDIAN LANDS

Sec.

750.1 Scope.
750.5 Definitions.
750.6 Responsibilities.
750.10 Information collection.
750.11 Permits.
750.12 Permit applications.
750.13 Small operator assistance.
750.14 Lands designated unsuitable for mining by Act of Congress.
750.15 Coal exploration.
750.16 Performance standards.
750.17 Bonding.
750.18 Inspection and enforcement.
750.19 Blaster certification.
750.20 Adoption of Indian coal lease terms.

Authority: 30 U.S.C. 1201–1328; 5 U.S.C. 301.

§ 750.1 Scope.

This subchapter provides for the regulation of surface coal mining and reclamation operations on Indian lands and constitutes the Federal program for Indian lands.

§ 750.5 Definitions.

For purposes of regulating surface coal mining operations on Indian lands, the following terms, when used in this subchapter or in parts referenced by this subchapter, have the following meanings:

BIA means the Bureau of Indian Affairs of the U.S. Department of the Interior.

BLM means the Bureau of Land Management of the U.S. Department of the Interior.

Federal program means the Federal program for Indian lands.

Indian mineral owner means (1) any individual Indian or Alaska native who owns land or mineral interests in land the title to which is held in trust by the United States or is subject to a restriction against alienation imposed by the United States, or (2) any Indian tribe, band, native, pueblo, community, rancheria, colony, or other group which owns land or mineral interest in land the title to which is held in trust by the United States or is subject to a restriction against alienation imposed by the United States. This definition does not include owners of lands patented to a village or regional corporation pursuant to the Alaska Native Claims Settlement Act, Pub. L. 92–203.

Local government agencies means, in addition to county, city or township governments, Indian tribal governments.

Minerals agreement means any joint venture, operating, production sharing, service, managerial, lease or other agreements, or any amendment, supplement to or modification of such agreement, providing for the exploration for, or extraction, processing, or the development of coal, or providing for the sale or other disposition of the production or products of such coal resources.

MMS means the Minerals Management Service of the U.S. Department of the Interior.

Regulatory authority means the Office of Surface Mining.

§ 750.6 Responsibilities.

(a) OSM shall: (1) Be the regulatory authority on Indian lands;

(2) After consultation with the Bureau of Indian Affairs and, as applicable, with the Bureau of Land Management, conditionally approve, approve, or disapprove applications for permits, permit renewals, or permit revisions for surface coal mining operations on Indian lands, and applications for the transfer, sale or assignment of such permit rights on Indian lands;

(3) Conduct inspection and enforcement activities with respect to surface coal mining and reclamation operations on Indian lands;

(4) Consult with the BIA and the affected tribe with respect to special requirements relating to the protection of non-coal resources of the area affected by surface coal mining and reclamation operations, and assure operator compliance with such special requirements;

(5) Consult with the Bureau of Land Management concerning requirements relating to the development, production and recovery of mineral resources on Indian lands;

(6) Approve environmental protection performance bonds and liability insurance required for surface coal mining and reclamation operations on Indian lands but not the production royalty bond; and

(7) Ensure compliance with the requirements of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, with respect to permitting actions for surface coal mining and reclamation operations on Indian lands.

(b) The Bureau of Land Management is responsible for: (1) Receiving, reviewing, and conditionally approving, approving or disapproving coal exploration plans and mining plans, as provided in 25 CFR Chapter I or in specific Indian mineral agreements;

(2) Administering, and conducting inspection and enforcement for, coal exploration operations on Indian lands;

(3) Administering mining contract, lease or mineral agreement terms and conditions, as provided for in 25 CFR Chapter I or in specific Indian mineral agreements; and

(4) Administering and conducting inspections and enforcement of terms and conditions of contracts, leases or mineral agreements for coal mining operations, including production verification and inspection of operations for that purpose.

(c) The Minerals Management Service is responsible for collecting and accounting for royalties and other income from Indian mineral agreements except for annual rentals.

(d) The Bureau of Indian Affairs is responsible for: (1) Consulting directly with and providing representation for Indian mineral owners and other Indian land owners in matters relating to surface coal mining and reclamation operations on Indian lands;

(2) After consultation with the affected tribe, reviewing and making recommendations to OSM concerning permit applications, renewals, revisions or transfers of permits, permit rights or performance bonds; and

(3) After consultation with the affected tribe, reviewing mining plans and making recommendations to the Bureau of Land Management pursuant to 25 CFR 216.7.

§ 750.10 Information collection.

The information collection requirements of this part do not require approval from the Office of Management and Budget under 44 U.S.C. 3507 because there are expected to be less than 10 respondents annually.

§ 750.11 Permits.

(a) No person shall conduct surface coal mining and reclamation operations on Indian lands after eight months following the effective date of this subchapter unless that person has first obtained a permit pursuant to this part.

(b) Any person conducting surface coal mining and reclamation operations on lands subject to this part shall comply with the terms and conditions of the permit, the requirements of this subchapter, and the Act.

(c) Surface coal mining and reclamation operations authorized prior to the effective date of this subchapter may be conducted beyond the eight-month period specified in paragraph (a) of this section if the following conditions are present: (1) An application for a permit to conduct those operations under this part has been made within two months of the implementation of the Federal program for Indian lands;

(2) OSM has not yet rendered an initial administrative decision approving or disapproving the permit application; and

(3) Those operations are conducted in compliance with all terms and conditions of the lease or minerals agreement, the existing authorization to mine, the requirements of the Act, and the requirements of 25 CFR Chapter I.

(d) Whenever surface coal mining and reclamation operations are proposed to include both Indian lands and non-Indian lands, OSM will use reasonable efforts to ensure that reviews of the permit applications will be conducted cooperatively and concurrently by OSM and the regulatory authority responsible for the non-Indian lands.

§ 750.12 Permit applications.

(a) Each application for a permit, permit revision, or permit renewal to conduct surface coal mining and reclamation operations on land subject to this part shall be accompanied by a fee made payable to the United States. The amount or method of calculation of the fees shall be determined by the Director.

(b) Unless specified otherwise by the regulatory authority, each person submitting a permit application shall file no less than seven copies of the complete permit application package with OSM. OSM will ensure that the affected tribes, the Bureau of Indian Affairs, and when applicable, the Bureau of Land Management receive copies of the application.

(c)(1) The following requirements of Subchapter G of this chapter shall govern the processing of permit applications on Indian lands except as specified in paragraph (c)(2) or (c)(3) of this section.

(i) Part 773;
(ii) Part 774;
(iii) Part 775;
(iv) Part 777;
(v) Part 778;
(vi) Part 779;
(vii) Part 780;
(viii) Part 783;
(ix) Part 784; and
(x) Part 785;

(2) The following provisions of Subchapter G are not applicable to permitting on Indian lands:

(i) Part 772;
(ii) Sections 773.11, 773.15(c)(3), 777.17;
(iii) Section 778.16 (a) and (b); and
(iv) Sections 785.11, 785.12;

(3) *Special requirements.* (i) Approval of a transfer, assignment, or sale of rights granted under a permit shall not

be construed as approval of a transfer or assignment of a leasehold interest. Leasehold interests may be transferred or assigned only in accordance with 25 CFR Parts 211 and 212.

(ii) The following additional requirements are applicable to permit revisions:

(A) Applications for revisions pursuant to § 774.13(b) of this chapter shall contain the same information on the proposed revised operation as if the revised operation had been proposed as part of the initial operation permitted under this part.

(B) OSM shall determine if the application for revision is complete and if the proposed revision is significant. OSM shall consider the following factors as well as other relevant factors in determining the significance of a proposed revision: (*1*) Changes in production or recoverability of the coal resource; (*2*) the environmental effects; (*3*) the public interest in the operation, or likely interest in the proposed revision; and (*4*) possible adverse impacts from the proposed revision on fish or wildlife, endangered species, bald or golden eagles or cultural resources.

(C) Significant revisions shall be processed as if they are new applications in accordance with Parts 773 and 775 of this chapter. Other revisions shall be reviewed to determine if the findings which were made in issuing the original permit are still valid.

(iii) Any section in this chapter which provides for consultation with, or notification to, State and local governments shall be interpreted as requiring in like manner consultation with, or notification to, tribal governments.

(d) The permit application package shall also contain:

(1) The mining plan required to be submitted by 25 CFR 216.7 or 43 CFR Part 3480, as applicable.

(2) The following information to assure compliance with Federal laws other than the Act:

(i) The description of the proposed surface coal mining and reclamation operation with respect to: (A) Increases in employment, population, and revenues to public and private entities; and (B) the ability of public and private entities to provide goods and services necessary to support surface coal mining and reclamation operations.

(ii) An evaluation of impacts to the scenic and aesthetic resources, including noise on the surrounding area, due to the proposed surface coal mining and reclamation operation.

(iii) A statement, including maps and ownership data as appropriate, of any cultural or historical site listed on the National Register of Historic Places within the permit and adjacent areas of the proposed surface coal mining and reclamation operation.

(iv) A statement of the classes of properties of potential significance within the disturbed area, and a plan for the identification and treatment, in accordance with 36 CFR Part 800, of properties significant and listed, or eligible for listing, on the National Register of Historic Places within the permit area of the proposed surface coal mining and reclamation operation.

(v) A description of compliance with the American Indian Religious Freedom Act, and other Federal laws aimed at protecting cultural resources on Indian lands.

(vi) A description of the probable changes in air quality resulting from the surface coal mining operation and any necessary measures to comply with prevention of significant deterioration limitations, or other Federal laws for air quality protection.

(vii) A description of the location, acreage and condition of important habitats of selected indicator species located within the permit and adjacent areas of the proposed surface coal mining and reclamation operation.

(viii) A description of active and inactive nests and prey areas of any bald or golden eagles located within the permit and adjacent areas of the proposed surface coal mining and reclamation operations.

(ix) A description and special studies, if required, of all threatened and endangered species and their critical habitats located within the permit and adjacent areas of the proposed surface coal mining and reclamation operations.

§ 750.13 Small operator assistance.

Part 795 of this chapter is applicable on Indian lands.

§ 750.14 Lands designated unsuitable for mining by Act of Congress.

Part 761 of this chapter is applicable on Indian lands.

§ 750.15 Coal exploration.

Coal exploration operations on Indian lands shall be conducted in accordance with 25 CFR Part 216 and 43 CFR Part 3480, whichever is applicable.

§ 750.16 Performance standards.

After OSM issues a permit under this part, a person conducting surface coal mining operations on Indian lands shall do so in accordance with Parts 816, 817, 819, 822, 823, 824, 827, and 828 of this chapter. Prior to that time, the person conducting surface coal mining operations shall adhere to the performance standards of 25 CFR Part 216, Subpart B.

§ 750.17 Bonding.

Subchapter J of this title is applicable on Indian lands.

§ 750.18 Inspection and enforcement.

(a) Parts 842, 843 and 845 of this chapter and the hearings and appeals procedures of 43 CFR Part 4 are applicable on Indian lands.

(b) OSM shall furnish copies of notices and orders to mineral owners or surface owners on whose land the surface coal mining operation takes place. OSM may furnish copies of notices and orders to any other person having an interest in the surface coal mining and reclamation operation or the permit area.

(c) BLM shall furnish copies of notices and orders to mineral owners or surface owners on whose land coal exploration operations take place and pursuant to 25 CFR 216.7 and 43 CFR Part 3480, where applicable, to any mineral owner or surface owner, or to any person having an interest in the coal mining operation.

(d) Whenever an authorized representative of the Secretary decides to conduct an inspection of any coal mining operations or any premises in which any records to be maintained are located, the appropriate representative of the local governing Indian tribe shall be notified and be invited to accompany the Secretary's representative on such an inspection.

(e) No provision in this chapter shall be interpreted as replacing or superseding any other remedies of the Indian mineral owners, as set forth in a contract or otherwise available at law.

(f) Appropriate officials of the local governing Indian tribe shall be notified of any hearings or conferences conducted regarding civil penalties and shall be invited to attend.

§ 750.19 Blaster certification

A person seeking to conduct blasting operations on Indian lands shall comply with the requirements of 30 CFR 816.61(c) and 817.61(c) and, upon promulgation of a Federally-administered blaster certification programs shall comply with the requirements contained therein.

§ 750.20 Adoption of Indian coal lease terms.

(a) All leases of coal on Indian lands are amended to include the following:

The Lessee shall comply with all applicable requirements of the Surface Mining Control and Reclamation Act of 1977, and all regulations promulgated thereunder, including those codified at 30 CFR Part 750.

(b) With respect to leases issued after August 3, 1977, the Secretary shall also include and enforce in such leases terms and conditions which are requested in writing by the Indian tribe whose interest is affected by such leases.

PART 755—TRIBAL-FEDERAL INTERGOVERNMENTAL AGREEMENTS

Sec.
755.1 Scope.
755.10 Information collection.
755.11 Application and agreement.
755.12 Terms.
755.13 Authority reserved by the Secretary.
755.14 Amendments.
755.15 Termination.

Authority: Pub. L. 95–87 30 U.S.C. 1201–1328.

§ 755.1 Scope.

This part sets forth requirements for the development, approval and administration of Tribal-Federal Intergovernmental Agreements.

§ 755.10 Information collection.

The information collection requirements contained in this part do not require approval from the Office of Management and Budget under 44 U.S.C. 3507 because there are expected to be less than 10 respondents annually.

§ 755.11 Application and agreement.

(a) An Indian tribe may request that the Secretary enter into a Tribal-Federal intergovernmental agreement with the tribe.

(b) A request for a Tribal-Federal intergovernmental agreement shall be submitted in writing and shall include proposed terms of the agreement consistent with the requirements of this part.

§ 755.12 Terms.

The terms in each Tribal-Federal intergovernmental agreement may include:

(a) Provisions to allow the tribe to work with and assist OSM in the review of permit applications, and to recommend appropriate action on permits, permit applications, inspection and enforcement, and bond release or forfeiture; and

(b) Provisions to provide funding for tribal employees to attend and testify at hearings and to perform other functions under the agreement.

§ 755.13 Authority reserved by the Secretary.

The Secretary shall not delegate to any Indian tribe, nor shall any Tribal-Federal Intergovernmental Agreement be construed to delegate to any tribe, the nondelegable authority exercised by or reserved to the Secretary on Indian lands.

§ 755.14 Amendments.

An agreement that has been approved pursuant to this part may be amended by mutual agreement of the Secretary and the officers of the tribe.

§ 755.15 Termination.

An agreement may be terminated by either party upon written notice to the other specifying the date upon which the agreement will be terminated. The date of termination shall be no less than 30 days from the date of the notice.

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Friday
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Part IV

Department of Commerce

National Telecommunications and Information Administration

Public Telecommunications Facilities Program; Closing Date for Applications

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Public Telecommunications Facilities Program: Closing Date for Applications

AGENCY: National Telecommunications and Information Administration, Commerce.

ACTION: Public Telecommunucations Facilities Program: Notice of closing date for applications.

SUMMARY: The National Telecommunications and Information Administration (NTIA), U.S. Department of Commerce, is inviting applications for planning and construction grants for public telecommunications facilities under the Pubic Telecommunications Facilities Program of NTIA. Congress has appropriated an amount not to exceed $24 million for fiscal year 1985, but the authorized level for the Public Telecommunications Facilities Program has not yet been established at this date. Applicants for grants under PTFP must file their applications on or before January 16, 1985. NTIA anticipates making grant awards in early August 1985.

Authority: The Public Telecommunications Financing Act of 1978, 47 U.S.C. 390, et seq. (Act), as amended by the Pulic Broadcasting Amendments of 1981, Pub. L. No. 97-35 (1981 Amendments).

FOR FURTHER INFORMATION CONTACT: Persons desiring further information should contact Dennis R. Connors, Acting Program Director, PTFP/NTIA/DOC, Room 4625, Washington, D.C. 20230. Telephone (202) 377-5802.

SUPPLEMENTARY INFORMATION:

I. Program Goals

The Goals of this program, as stated in section 390 of the Act are:

To assist through matching grants, in the planning and construction of public telecommunications facilities in order to achieve the following objectives: (1) Extend delivery of public telecommunications services to as many citizens of the United States as possible by the most efficient and economical means, including the use of broadcast and nonbroadcast technologies: (2) increase public telecommunications services and facilities available to, operated by, and owned by minorities and women; and (3) strengthen the capability of existing public television and radio stations to provide public telecommunications services to the public.

To accomplish these goals NTIA has adopted a list of priorities which appear in Appendix A to the PTFP Interim Rules. (**Federal Register**, Vol. 49, No. 182, September 18, 1984)

II. Closing Date

Pursuant to § 2301.10 of the PTFP Interim Rules, (**Federal Register**, Vol. 49, No. 182, September 18, 1984) the Administrator of NTIA hereby established the closing date for the filing of applications for grants under the PTFP. The closing date selected for the submission of applications is January 16, 1985.

III. Eligibility

To be eligible to apply for or receive a grant under the PTFP, an applicant must be: (A) A public or noncommercial educational broadcast station; (B) a noncommercial telecommunications entity; (C) a system of public telecommunications entities; (D) a nonprofit foundation, corporation, institution, or association organized primarily for educational or cultural purposes; (E) a nonprofit foundation, corporation, institution, or association organized for any purpose except primarily religious to plan for the provision of public telecommunications services or (F) a State or local government or agency or a political or special purpose subdivision of a State.

IV. Applications Forms and Regulations

To apply for a PTFP grant, an applicant must file a timely and complete application on a current form approved by the agency.* All persons and organizations on the PTFP's mailing list will receive a copy of the current application form and the Interim Rules shortly. Those not on the mailing list may obtain copies by contacting the PTFP at the address above. Prospective applicants should read the Interim Rules carefully before submitting applications. Applicants whose applications had been deferred, will receive pertinent PTFP materials and instructions for requesting reactivation.

Applicants should note that they must comply with the provisions of Executive Order 12372, "Intergovernmental Review of Federal Programs." The Executive Order requires applicants for financial assistance under this program to file a copy of their application with the appropriate State's Single Point of Contact (SPOC). Applicants are required to serve a copy of their completed application on the appropriate single point of contact on or before January 16, 1985. Applicants are encouraged to contact the appropriate SPOC as early as possible before the NTIA closing date.

V. Funding Criteria

In determining whether to approve a construction grant application, in whole or in part, and the amount of such grant, or whether to defer action on such an application, the Agency will evaluate all the information in the application file and consider the following factors (the order of listing implies no priority):

The funding criteria for construction applications are as follows:

(a) How well the applicant has satisfied the assurances required in § 2301.5; (b) the program purposes set forth in § 2301.20 as well as the specific program priorities set forth in the Appendix of these Rules; (c) the adequacy and continuity of financial resources for long-term operational support, which assures the applicant's continual service to the communities within the service area; and the availability of necessary funds for capital expenditures; (d) the extent to which non-Federal funds will be used to meet the total cost of the project; (e) The extent to which the applicant has: (1) Assessed specific educational, informational, and cultural needs of the community(ies) to be served by the proposed public telecommunications service; (2) evaluated alternate technologies, the bases upon which decisions were made as to the technology to be utilized and the extent to which the proposed service will not duplicate service already available; (3) provided meaningful documentation of applicant's equipment requirements; (4) provided meaningful documentation of community support for the service to be provided (such as letters from key elected/appointed policy-making officials, from agencies for whom the applicant produces or will produce programs or other materials); (f) the extent to which the evidence supplied in the application reasonably assures an increase in public telecommunications services and facilities available to, operated by, and owned (or controlled) by minorities and women; (g) the extent to which various items of eligible apparatus proposed are necessary to, and capable of, achieving the objectives of the project and will permit the most efficient use of the grant funds; (h) the extent to which the eligible equipment requested meets current broadcast industry performance standards; (i) the

*The Office of Management and Budget (OMB) has approved the information collection and reporting requirements contained in NTIA's application as required under the Paperwork Reduction Act of 1980 (OMB Approval No. 0660-0003).

extent to which the applicant will have available sufficient qualified staff to operate and maintain the facility and provide services of professional quality; (j) the extent to which the applicant has planned and coordinated the proposed services with other telecommunications entities in the service area; (k) the extent to which the project implements local, statewide or regional public telecommunications systems plans, if any; (l) the extent to which the applicant's proposed five (5) year facilities plan required by section 392(a) of the Act is practical, financially affordable and consistent with the intent of the Act and Regulations; (m) the readiness of the Commission to grant any necessary authorization; (n) the urgency for funding based on justification of needs.

In determining whether to approve a planning grant application, in whole or in part, and the amount of such grant, or whether to defer action on such an application, the Agency will evaluate all the information in the application file and consider the following factors (the order of listing implies no priority);

The funding criteria for planning applications are as follows:

(a) How well the applicant has satisfied the assurances required in § 2301.5; (b) the extent to which the applicant's interests and purposes are consistent with the purposes of the Act and the priorities of the Agency; (c) the qualifications of the proposed planner to provide a public telecommunications facilities plan; (d) the extent to which the planning project's proposed procedural design assures that the applicant would obtain adequate: (1) Financial, human and support resources necessary to conduct the plan, (2) coordination with other telecommunications entities at the local, state, regional and national levels, (3) evaluation of alternate technologies and existing services, and (4) participation by the public to be served (and by minorities and women in particular) in the planning of the project; (e) the extent to which the applicant has engaged in pre-planning studies to determine the technical feasibility of the proposed planning project (such as the availability of a frequency assignment, if necessary for the project); (f) the extent to which the proposed procedure and timetable are feasible and can achieve the expected results.

VI. Filing Applications

Applications delivered by mail must be *RECEIVED* no later than close of business, January 16, 1985, and must be addressed to: Public Telecommunications Facilities Program, NTIA/DOC, Room 4625, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Applications *delivered by hand must be delivered* to the above address between 8:30 a.m. and 5:00 p.m. on or before close of business January 16, 1985. Applicants whose applications are not received by close of business January 16, 1985 will be notified that their applications will not be considered in the current competition and will be returned.

NTIA requires that all applicants whose proposed projects need authorization from the Federal Communications Commission (FCC), must tender an application to the FCC for such authority on or before January 16, 1985. However, you are urged to submit it with as much lead time before the PTFP closing date as possible. The greater the lead time the better chance your FCC application will be properly processed to coincide with our grant cycle. (An application is tendered to the FCC when it has been received by the Secretary of the FCC). NTIA will return the applications of any applicant which fails to tender an application to the FCC for any necessary authority on or before January 16, 1985.

(Catalog of Federal Domestic Assistance No. 11.550)

Scott Mason,

Chief, Management Division.

[FR Doc. 84-25775 Filed 9-27-84; 8:45 am]

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Part V

Department of Education

Office of Bilingual Education and Minority Languages Affairs

Discretionary Grant Programs; Application Notice Establishing Closing Dates for Transmittal of Certain Fiscal Year 1985 Applications and Requests

VOL 49 ISS 190 SEP 28 1984 UMI

DEPARTMENT OF EDUCATION

Office of Bilingual Education and Minority Languages Affairs

Discretionary Grant Programs, Application Notice Establishing Closing Dates for Transmittal of Certain Fiscal Year 1985 Applications and Requests

AGENCY: Office of Bilingual Education and Minority Languages Affairs, Education.

ACTION: Application notice establishing closing dates for transmittal of certain Fiscal Year 1985 Applications and Requests.

SUMMARY: The purpose of these application notices is to inform potential applicants of fiscal and programmatic information and closing dates for transmittal of applications and requests for awards under certain programs administered by the Department of Education.

Organization of Notice

This notice contains four parts. Part I includes, in chronological order, a list of all closing dates for new awards covered by this notice. Part II consists of individual application announcements for each program inviting new applications. Part III includes, in chronological order, a list of all closing dates for noncompeting continuation awards covered by this notice, and Part IV consists of individual announcements for each program inviting noncompeting continuation requests.

The budget estimates in the individual application notices are based on the President's budget request for Fiscal Year 1985 and are subject to enactment by the Congress.

Instructions for Transmittal of Applications

Applicants should note specifically the instructions for the transmittal of applications included below. Applicants transmitting requests for noncompeting continuation awards also must follow the instructions included below.

Transmittal of Applications

Applications for new projects must be mailed or hand delivered on or before the closing date given in the individual program announcements included in this document. Each late applicant for a new project will be notified that its application will not be considered.

To be assured of consideration for funding, requests for noncompeting continuation awards should be mailed or hand delivered on or before the closing date given in the individual program announcements included in this document. If a request for a noncompeting cintinuation is late, the Department of Education may lack sufficient time to review it with other noncompeting continuation requests and may decline to accept it.

Applications Delivered by Mail

Applications must be addressed to the Department of Education, Application Control Center, *Attention:* (Insert appropriate CFDA Number), Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other evidence of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, lthe Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Each late applicant for a new project will be notified that its application will not be considered.

Applications Delivered by Hand

Hand-delivered applications must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application for a new project that is hand delivered will not be accepted by the Application Control Center after 4:30 p.m. on the closing date.

Intergovernmental Review

The Education Department General Administrative Regulations (EDGAR), 34 CFR Part 79, pertaining to intergovernmental review of Federal programs, apply to all programs included in this Notice except 84.003H—Bilingual Education Act—School of Education Projects Program.

Applications and requests for grants under the covered programs are subject to the requirement for intergovernmental review, except for applications submitted by non-governmental entities, including State postsecondary educational institutions and Federally recognized Indian tribal governments. Applicants for grants under the covered programs should give special attention to the instructions for Intergovernmental review that are provided in the individual program announcements.

PART I—PROGRAMS WITH CLOSING DATES FOR NEW AWARDS LISTED IN CHRONOLOGICAL ORDER

CFDA	Program	Closing date
84.077A	Bilingual vocational training—new projects.	Nov. 28, 1984.
84.099A	Bilingual vocational instructor training—new projects.	Do.
84.003S	Bilingual Educational Act—State educational agency projects for coordinating technical assistance—new projects.	Nov. 30, 1984.
84.003B	Bilingual Education Act—basic projects program—new projects.	Dec. 7, 1984.
84.003J	Bilingual Education Act—training projects program (activities A, B, and C)—training—new projects.	Dec. 28, 1984.

PART II—INDIVIDUAL ANNOUNCEMENTS FOR PROGRAMS WITH NEW AWARDS LISTED UNDER PART I

84.077A—Bilingual Vocational Training Program

Closing Date

November 28, 1984.

Applications are invited for new projects under the Bilingual Vocational Training Program.

Authority for this program is contained in sections 181–189B of the Vocational Education Act of 1963, as amended by the Education Amendments of 1976 (Pub. L. 94–482). (20 U.S.C. 2411–2421)

This program issues awards to local educational agencies, State agencies, postsecondary educational institutions, private nonprofit vocational training institutions, and nonprofit organizations especially created to serve a group whose language as normally used is other than English.

The purpose of the awards is to provide bilingual vocational training to persons who are from environments where the dominant language is other than English and who are unemployed or underemployed because of their limited English speaking ability.

Closing Date for Transmittal of Applications

An application for a grant must be mailed or hand delivered by November 28, 1984.

Applications Delivered by Mail

An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.077A, Washington, D.C. 20202.

Program Information

An application will be approved for a project period of from one to three years.

Priorities

The Education Department General Administrative Regulations (34 CFR 75.105) permit the Secretary to establish annual priorities for the selection of applications in a particular Fiscal Year. For Fiscal Year 1985, the Secretary invites the submission of applications that propose bilingual vocational training in occupations which have unique opportunities for advancement in salary or which lead to entrepreneurship or ownership of small businesses. An application that meets the invitational priority does not receive competitive or absolute preference over applications that do not meet the priority.

Special Procedures

An applicant must provide a copy of its application to the State Board for Vocational Education for comment, as required under 34 CFR 525.604(a), to give the State Board an opportunity to comment on the application.

Intergovernmental Review

On June 24, 1983, the Secretary published in the **Federal Register** final regulations (34 CFR Part 79, published at 48 FR 29158 *et seq.*) implementing Executive Order 12372 entitled "Intergovernmental Review of Federal Programs." The regulations took effect September 30, 1983.

This program is subject to the requirements of the Executive Order and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

The Executive Order—

- Allows States, after consultation with local officals, to establish their own process for review and comment on proposed Federal financial assistance;
- Increases Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why those views will not be accommodated; and
- Revokes OMB Circular A–95.

Transactions with nongovernmental entities, including State postsecondary educational institutions and federally recognized Indian tribal governments, are not covered by Executive Order 12372. Also excluded from coverage are research, development, or demonstration projects that do not have a unique geographic focus and are not directly relevant to the governmental responsibilities of a State or local government within that geographic area.

The following is the current list of States that have established a process, designated a single point of contact, and have selected this program for review:

State	
Alabama	New York
Arizona	North Dakota
Arkansas	Ohio
California	Oklahoma
Connecticut	Oregon
Delaware	Pennsylvania
Florida	Rhode Island
Hawaii	South Carolina
Indiana	South Dakota
Kansas	Tennessee
Louisiana	Texas
Maine	Utah
Massachusetts	Vermont
Michigan	Virginia
Missouri	Washington
Montana	Wisconsin
Nebraska	Wyoming
Nevada	Guam
New Hampshire	Northern Mariana Islands
New Jersey	
New Mexico	Puerto Rico

Immediately upon receipt of this notice, applicants that are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should contact, immediately upon receipt of this notice, the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

In States not listed above, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State process recommendation and other comments submitted by a State single point of contact and any comments from State, areawide, regional, and local entities must be mailed or hand delivered by January 28, 1985 to the following address:

The Secretary, U.S. Department of Education, Room 4161, 84.077A, 400 Maryland Avenue, SW., Washington, D.C. 20202. (Proof of mailing will be determined on the same basis as applications.)

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION. *DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.*

Available Funds

It is expected that approximately $700,000 will be available for the Bilingual Vocational Training Program in Fiscal Year 1985.

It is estimated that these funds could support 3 projects.

However, these estimates do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application Forms

Applications are expected to be ready for mailing in October 1984. They will be mailed to individuals on the mailing list for the Bilingual Vocational Training Program. A copy of the application package may be obtained by writing to the Bilingual Vocational Training Program, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue, SW. (Reporters Building, Room 421), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 25 pages in length. The Secretary further urges that applicants not submit information that is not requested.

(Approved by the Office of Management and Budget under control number 1885–0002)

Applicable Regulations

Regulations applicable to this program include the following:

(1) The regulations governing the Bilingual Vocational Training Program, 34 CFR Part 525.

(2) The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, 78, and 79.

(3) The Department of Labor regulations (29 CFR 95.34) as in effect on September 30, 1979, governing training allowances for participants in the Bilingual Vocational Training Program.

Further Information

For further information contact the Bilingual Vocational Training Projects Application Coordinator, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue, SW. (Reporters Building, Room 421), Washington, D.C. 20202. Telephone (202) 732–1752 or 447–9227.

(20 U.S.C. 2411–2421)

84.099A—Bilingual Vocational Instructor Training Program

Closing Date

November 28, 1984.

Applications are invited for new projects under the Bilingual Vocational Instructor Training Program.

Authority for this program is contained in sections 181–189B of the Vocational Education Act of 1963, as amended by the Education Amendments of 1976 (Pub. L. 94–482). (20 U.S.C. 2411–2421)

This program issues awards to State agencies and public or private nonprofit educational institutions.

The purpose of the awards is to provide training programs for persons seeking to improve their skills and qualifications as instructors in bilingual vocational training programs for persons of limited English speaking ability.

Closing Date for Transmittal of Applications

An application for a grant must be mailed or hand delivered by November 28, 1984.

Applications Delivered by Mail

An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.099A, Washington, D.C. 20202.

Program Information

An application will be approved for a project period of from one to three years.

Intergovernmental Review

On June 24, 1983, the Secretary published in the **Federal Register** final regulations (34 CFR Part 79, published at 48 FR 29158 *et seq.*) implementing Executive Order 12372 entitled "Intergovernmental Review of Federal Programs." The regulations took effect September 30, 1983.

This program is subject to the requirements of the Executive Order and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

The Executive Order—

- Allows States, after consultation with local officials, to establish their own process for review and comment on proposed Federal financial assistance;
- Increases Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why those views will not be accommodated; and
- Revokes OMB Circular A–95.

Transactions with nongovernmental entities, including State postsecondary educational institutions and federally recognized Indian tribal governments are not covered by Executive Order 12372. Also excluded from coverage are research, development, or demonstration projects that do not have a unique geographic focus and are not directly relevant to the governmental responsibilities of a State or local government within that geographic area.

The following is the current list of States that have established a process, designated a single point of contact, and have selected this program for review:

State	
Alabama	New Mexico
Arizona	New York
Arkansas	North Dakota
California	Ohio
Connecticut	Oklahoma
Delaware	Oregon
Florida	Pennsylvania
Hawaii	South Carolina
Indiana	South Dakota
Kansas	Tennessee
Louisiana	Texas
Maine	Utah
Massachusetts	Vermont
Michigan	Virginia
Missouri	Washington
Montana	Wisconsin
Nebraska	Wyoming
Nevada	Guam
New Hampshire	Northern Mariana Islands
New Jersey	

Immediately upon receipt of this notice, applicants that are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should contact, immediately upon receipt of this notice, the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

In States not listed above, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State process recommendation and other comments submitted by a State single point of contact and any comments from State, areawide, regional, and local entities must be mailed or hand delivered by January 28, 1985 to the following address:

The Secretary, U.S. Department of Education, Room 4181, 84.099A, 400 Maryland Avenue, SW., Washington, D.C. 20202. (Proof of mailing will be determined on the same basis as applications.)

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION. *DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.*

Available Funds

It is expected that approximately $118,000 will be available for the Bilingual Vocational Instructor Training Program in Fiscal Year 1985.

It is estimated that these funds could support one new project.

However, these estimates do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application Forms

Application packages are expected to be ready for mailing in October 1984. They will be mailed to individuals on the mailing list for the Bilingual Vocational Training Program. A copy of the application package may be obtained by writing to the Bilingual Vocational Training Program, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue, SW. (Reporters Building, Room 421), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. However, the program information is only intented to aid applicants in applying for assistance.

Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 25 pages in length. The Secretary further urges that applicants not submit information that is not requested.

(Approved by the Office of Management and Budget under control number 1885–0002)

Applicable Regulations

Regulations applicable to this program include the following:

(1) The regulations governing the Bilingual Vocational Instructor Training Program, 34 CFR Part 526.

(2) The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, 78, and 79.

Further Information

For further information contact the Bilingual Vocational Training Projects Application Coordinator, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue, SW. (Reporters Building, Room 421), Washington, D.C. 20202. Telephone (202) 732–1840 or 447–9227. (20 U.S.C. 2411–2421)

84.003S—Bilingual Education Act—State Educational Agency Projects for Coordinating Technical Assistance

Closing Date

November 30, 1984.

Applications are invited for new projects under the Bilingual Education Act—State Educational Agency Projects for Coordinating Technical Assistance Program.

Authority for this program is contained in section 721 of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (Pub. L. 95–561) (20 U.S.C. 3231).

This program issues awards to State educational agencies (SEAs) to assist SEAs in the coordination of technical assistance to programs of bilingual education assisted under the Bilingual Education Act within their States.

Closing Date for Transmittal of Applications

An application must be mailed or hand delivered by November 30, 1984.

Applications Delivered by Mail

An application sent by mail should be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.003S, Washington, D.C. 20202.

Program Information

An application will be approved for a project period of from one to three years.

Intergovernmental Review

On June 24, 1983, the Secretary published in the Federal Register final regulations (34 CFR Part 79, published at 48 FR 29158 *et seq.*) implementing Executive Order 12372 entitled "Intergovernmental Review of Federal Programs." The regulations took effect September 30, 1983.

This program is subject to the requirements of the Executive Order and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

The Executive Order—

- Allows States, after consultation with local officials, to establish their own process for review and comment on proposed Federal financial assistance;
- Increases Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why those views will not be accommodated; and
- Revokes OMB Circular A–95.

Transactions with nongovernmental entities, including State postsecondary educational institutions and federally recognized Indiana tribal governments, are not covered by Executive Order 12372. Also excluded from coverage are research, development, or demonstration projects that do not have a unique geographic focus and are not directly relevant to the governmental responsibilities of a State or local government within that geographic area.

The following is the current list of States that have established a process, designated a single point of contact, and have selected this program for review:

State	
Alabama	Missouri
Arizona	Montana
Arkansas	Nebraska
California	Nevada
Connecticut	New Hampshire
Delaware	New Jersey
Florida	New Mexico
Hawaii	New York
Indiana	North Dakota
Kansas	Ohio
Louisiana	Oklahoma
Maine	Oregon
Massachusetts	Pennsylvania
Michigan	South Carolina
South Dakota	Wisconsin
Tennessee	Wyoming
Texas	Guam
Utah	Northern Mariana Islands
Vermont	Puerto Rico
Virginia	
Washington	

Immediately upon receipt of this notice, applicants that are governmental entities must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should contact, immediately upon receipt of this notice, the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

In States not listed above, State, areawide, regional, and local entities may submit comments directly to the Department. Any State process recommendation and other comments submitted by a State single point of contact and any comments from State, areawide, regional, and local entities must be mailed or hand delivered by January 30, 1985, to the following address:

The Secretary, U.S. Department of Education, Room 4181, 84.003S, 400 Maryland Avenue, SW., Washington, D.C. 20202. (Proof of mailing will be determined on the same basis as applications.)

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION. *DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.*

Available Funds

An award to an SEA for Fiscal Year 1985 may not exceed five percent of the total amount paid under part A of the Bilingual Education Act to local educational agencies in the State of the SEA in Fiscal Year 1984.

It is expected that approximately $2,653,350 will be available for new awards under the State Educational Agency Projects for Coordinating Technical Assistance Program in Fiscal Year 1985.

However, these estimates do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application Forms

Application packages are expected to be ready for mailing in October 1984. They will be mailed to each eligible State educational agency. A copy of the application package may be obtained by writing to the Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue, SW. (Reporters Building, Room 421), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information package is intended only to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 50 pages in length. The Secretary further urges that applicants not submit information that is not requested.

(Approved by the Office of Management and Budget under control number 1885–0003)

Applicable Regulations

Regulations applicable to this program include the following:

(1) The regulations governing the State Educational Agency Projects for Coordinating Technical Assistance Program, 34 CFR Parts 500 and 503.

(2) The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, 78, and 79.

Further Information

For further information contact the State Educational Agency Projects Application Coordinator, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue, SW. (Reporters Building, Room 421), Washington, D.C. 20202. Telephone (202) 245–2922. (20 U.S.C. 3231)

84.003B—Bilingual Education Act—Basic Projects in Bilingual Education Program

Closing Date

December 7, 1984.

Applications are invited for new projects under the Bilingual Education Act (Act)—Basic Projects in Bilingual Education Program.

Authority for this program is contained in sections 703–722 of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (Pub. L. 95–561). (20 U.S.C. 3223–3232)

This program issues awards to local educational agencies (for purposes of this program, the term "local educational agency" includes a nonprofit institution or organizations of an Indian tribe that operates an elementary or secondary school in which Indian children constitute more than 50 percent of the enrollment), institutions of higher education applying jointly with one or more local educational agencies, and elementary or secondary schools operated or funded by the Bureau of Indian Affairs (BIA) for Indian children on a reservation.

The purpose of the awards is to establish, operate, or improve programs of bilingual education to assist children of limited English proficiency and to build the capacity of grantees to continue those programs when funding under the Act is reduced or no longer available.

Closing Date for Transmittal of Applications

An application must be mailed or hand delivery by December 7, 1984.

Applications Delivered by Mail

An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.003B Washington, D.C. 20202.

Program Information

As stated in 34 CFR 501.31, the Secretary annually establishes a cut-off score, based on the selection criteria in 34 CFR 501.30, which an application must meet to be considered for a grant. The Secretary establishes 30 points as the cut-off score for applications under the Basic Projects in Bilingual Education Program for Fiscal Year 1985.

The maximum project period which an applicant may propose is three years.

To be eligible for assistance, an applicant must meet the requirements found in the regulations applicable to this program, including the following:

(1) An applicant must establish an advisory council to assist in the development of its application. Requirements pertaining to advisory councils are contained in 34 CFR 501.20.

(2) An applicant must consult with appropriate private school officials in designing its application and must provide for the participation in its project of children enrolled in nonprofit private schools in the area to be served, whose educational needs, language(s), and grade level(s) are of a similar type to those which the project is intended to address. Requirements pertaining to private school participation are contained in 34 CFR 501.21.

(3) An applicant must include adequate auxiliary and supplementary training programs for persons who are participating in, or preparing to participate in, the programs of bilingual education to be supported by the proposed project. Applicants should refer to 34 CFR 501.10(c) for the types of training activities authorized and to 34 CFR 500.41 for the rates for allowable costs for trainees participating in the training activities.

(4) A local educational agency, applying as a sole or joint applicant, is required to hold at least one meeting, open to the public, to discuss the contents of its application. Requirements for scheduling and holding this open meeting are contained in the Education Department General Administrative Regulations (34 CFR 75.139–75.141). The local educational agency must complete the certification form in the application package. This requirements must be met regardless of whether the local educational agency is designated as the applicant under 34 CFR 75.128.

(5) Joint applicants must complete a special certification form in the application package.

(6) An applicant must provide a copy of its application to the appropriate State educational agency in its State in advance of submitting it to the Department of Education. Requirements pertaining to State educational agency review are contained in 34 CFR 500.20.

An eligible school operated or funded by the Bureau of Indian Affairs must submit its application for comment to the Secretary of the Interior or his or her designee, using procedures outlined in 34 CFR 500.20(c).

Intergovernmental Review

On June 24, 1983, the Secretary published in the **Federal Register** final regulations (34 CFR Part 79, published at 48 FR 29158 *et seq.*) implementing Executive Order 12372 entitled "Intergovernmental Review of Federal Programs." The regulations took effect September 30, 1983.

This program is subject to the requirements of the Executive Order and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

The Executive Order—

- Allows States, after consultation with local officials, to establish their own process for review and comment on proposed Federal financial assistance;
- Increases Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why those views will not be accommodated; and
- Revokes OMB Circular A–95.

Transactions with nongovernmental entities, including State postsecondary educational institutions and federally recognized Indian tribal governments, are not covered by Executive Order 12372. Also excluded from coverage are research, development, or demonstration projects that do not have a unique geographic focus and are not directly relevant to the governmental responsibilities of a State or local government within that geographic area.

The following is the current list of States that have established a process, designated a single point of contact, and have selected this program for review:

State	
Alabama	New York
Arizona	North Dakota
Arkansas	Ohio
California	Oklahoma
Connecticut	Oregon
Delaware	Pennsylvania
Florida	South Carolina
Hawaii	South Dakota
Indiana	Tennessee
Kansas	Texas
Louisiana	Utah
Maine	Vermont
Massachusetts	Virginia
Michigan	Washington
Missouri	Wisconsin
Montana	Wyoming
Nebraska	Guam
Nevada	Northern Mariana Islands
New Hampshire	Puerto Rico
New Jersey	
New Mexico	

Immediately upon receipt of this notice, applicants that are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should contact, immediately upon receipt of this notice, the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

In States not listed above, State, areawide, regional, and local entities may submit comments directly to the Department. Any State process recommendation and other comments submitted by a State single point of contact and any comments from State, areawide, regional, and local entities must be mailed or hand delivered by February 8, 1985, to the following address:

The Secretary, U.S. Department of Education, Room 4181, 84.003B, 400 Maryland Avenue, SW., Washington, D.C. 20202. (Proof of mailing will be determined on the same basis as applications.)

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION. *DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.*

Available Funds

It is expected that approximately $37,500,000 will be available for new grants under the Basic Projects in Bilingual Education Program in Fiscal Year 1985.

It is estimated that these funds could support approximately 220 projects.

The anticipated award for most new projects is between $50,000 and $200,000.

However, these estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application Forms

Application packages are expected to be ready for mailing in October 1984. They will be mailed to individuals on the mailing list for the Bilingual Education Act programs. A copy of the application package may be obtained by writing to the Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue, SW. (Reporters Building, Room 421), Washington, DC 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the entire application not exceed 60 pages in length. The Secretary further urges that applicants not submit information that is not requested.

(Approved by the Office of Management and Budget under control number 1885–0003.)

Applicable Regulations

Regulations applicable to this program include the following:

(1) The regulations governing the Basic Projects in Bilingual Education Program, 34 CFR Parts 500 and 501.

(2) The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, 78, and 79.

Further Information

For further information contact the Basic Projects Application Coordinator, Office of Bilingual Education and Minority Application Coordinator, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue, SW. (Reporters Building, Room 421), Washington, DC 20202. Telephone (202) 245–2961. (20 U.S.C. 3223–3232)

84.003]—Bilingual Education Act—Training Projects Program (Activities A, B, and C)

Closing Date

December 28, 1984.

Applications are invited for new projects under the Bilingual Education Act—Training Projects Program, that propose any one or a combination of activities described in 34 CFR 510.10 (a), (b), and (c).

Authority for this program is contained in section 723 of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (Pub. L. 95–561). (20 U.S.C. 3233)

This program issues awards to local educational agencies (for purposes of this program, the term "local educational agency" includes a nonprofit institution or organization of an Indian tribe that operates an elementary or secondary school in which Indian children constitute more than 50 percent of the enrollment); State educational agencies, and institutions of higher education or nonprofit private organizations which apply after consultation with, or jointly with, one or more local educational agencies or a State educational agency.

The purpose of the awards is to establish, operate, or improve programs of bilingual education at institutions of higher education for persons who are participating in, or preparing to participate in, programs of bilingual education and bilingual education training.

Closing Date for Transmittal of Applications

An application must be mailed or hand delivered by December 28, 1984.

Applications Delivered by Mail

An application sent by mail should be addressed to the U.S. Department of Education, Application Control Center, Attention: 84:003J, Washington, D.C. 20202.

Program Information

As stated in 34 CFR 510.34(a) of the regulations, the Secretary annually establishes a cut-off score based on the selection criteria in 34 CFR 510.31, which an application must meet to be considered for a grant. The Secretary establishes 30 points as the cut-off score for applications under the Training Projects Program (Activities A, B, and C) for Fiscal Year 1985.

The maximum project period which a local educational agency, applying as a joint applicant, may propose is three years. The maximum project period which an applicant other than a local edcuational agency may propose is five years. An applicant that proposes a project period of more than one year must justify the need for the proposed project period.

To be eligible for assistance, an applicant must meet the requirements found in regulations applicable to this program, including the following:

(1) A local educational agency, applying as a joint applicant, is required to hold at least one meeting, open to the public, to discuss the contents of its application. Requirements for scheduling and holding this open meeting are contained in the Education Department General Administrative Regulations (34 CFR 75.139–75.141).

(2) Joint applicants must complete a special certification form in the program information package.

(3) An applicant must provide a copy of its application to the appropriate State educational agency in its State in advance of submitting it to the Department of Education. Requirements pertaining to State educational agency review are contained in 34 CFR 500.20.

(4) Certain applicants must establish an advisory council to assist in the development of an application. Requirements pertaining to advisory councils are contained in 34 CFR 510.21.

Intergovernmental Review

On June 24, 1983, the Secretary published in the Federal Register final regulations (34 CFR Part 79, published at 48 FR 29158 *et seq.*) implementing Executive Order 12372 entitled "Intergovernmental Review of Federal Programs." The regulations took effect September 30, 1983.

This program is subject to the requirements of the Executive Order and the regulations in 34 CFR Part 79. The objectives of Executive Order 12372 is to foster an intergovernmental partnership and a stringthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

The Executive Order—

- Allow States, after consultation with local officials, to establish their own process for review and comment on proposed Federal financial assistance;
- Increases Federal responsiveness to State and local officials by requiring Federal agencies to accomodate State and local views or explain why those views will not be accommodated; and
- Revokes OMB Circular A–95.

Transactions with nongovernmental entities, including State postsecondary educational institutions and federally recognized Indian tribal governments, are not covered by Executive Order 12372. Also excluded from coverage are research, development, or demonstration projects that do not have a unique geographic focus and are not directly relevant to the governmental responsibilities of a State or local government within that geographic area.

The following is the current list of State that have established a process, designated a single point of contact, and have selected this program for review:

State	
Alabama	New York
Arizona	North Dakota
Arkansas	Ohio
California	Oklahoma
Connecticut	Oregon
Delaware	Pennsylvania
Florida	South Carolina
Hawaii	South Dakota
Indiana	Tennessee
Kansas	Texas
Louisiana	Utah
Maine	Vermont
Massachusetts	Virginia
Michigan	Washington
Missouri	Wisconsin
Montana	Wyoming
Nebraska	Guam
Nevada	Northern Mariana Islands
New Hampshire	
New Jersey	Puerto Rico
New Mexico	

Immediately upon receipt of this notice, applicants that are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should contact, immediately upon receipt of this notice, the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point contact for each State is included in the application package for this program.

In States not listed above, State, areawide, regional and local entities may submit comments directly to the Department. Any State process recommendation and other comments submitted by a State single point of contact and any comments from State, areawide, regional, and local entities must be mailed or hand delivered by February 28, 1985, to the following address:

The Secretary, U.S. Department of Education, Room 4181, 84.003J, 400 Maryland Avenue, SW., Washington, D.C. 20202. (Proof of mailing will be determined on the same basis as applications.)

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION. *DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.*

Available Funds

It is expected that approximately $300,000 will be available for new grants under the Training Projects Program (Activities A, B, and C) in Fiscal Year 1985.

It is estimated that these funds could support two projects.

The anticipated award for each project is $150,000.

However, these estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application Forms

Applications are expected to be ready for mailing in October 1984. They will be mailed to individuals on the mailing list for the Bilingual Education Act programs. A copy of the application form and program information package may be obtained by writing to the Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue, SW., (Reporters Building, Room 421), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance.

Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 40 pages in length. The Secretary further urges that applicants not submit information that is not requested.

(Approved by the Office of Management and Budget under control number 1885–0003)

Applicable Regulations

Regulations applicable to this program include the following:

(1) The regulations governing the Training Projects Program, 34 CFR Parts 500 and 510.

(2) The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, 78, and 79.

Further Information

For further information contact the Training Projects (Activities A, B, and C) Application Coordinator, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue, SW., (Reporters Building, Room 421), Washington, D.C. 20202. Telephone (202) 245–2595. (20 U.S.C. 3233)

PART III—PROGRAMS WITH CLOSING DATES FOR NONCOMPETING CONTINUATIONS LISTED IN CHRONOLOGICAL ORDER

CFDA	Program	Closing date
84.003H	Bilingual Education Act—school of education projects program—noncompeting continuations.	Nov. 5, 1984.
84.003R	Bilingual Education Act—training projects program (activity E)—noncompeting continuations.	Do.
84.077B	Bilingual vocational training—noncompeting continuations.	Nov. 13, 1984.
84.099B	Bilingual vocational instructor training—noncompeting continuations.	Do.
84.003E	Bilingual Education Act—demonstration projects program—noncompeting continuations.	Jan. 4, 1985.
84.003N	Bilingual Education Act—training projects program (activity D)—noncompeting continuations.	Jan. 14, 1985.
84.003K	Bilingual Education Act—training projects program (activities A, B, and C)—noncompeting continuations.	Jan. 29, 1985.
84.003T	Bilingual Education Act—State educational agency projects for coordinating technical assistance—noncompeting continuations.	Feb. 11, 1985.
84.003C	Bilingual Education Act—basic projects program—noncompeting continuations.	Mar. 15, 1985. April 15, 1985.

PART IV—INDIVIDUAL ANNOUNCEMENTS FOR PROGRAMS WITH NONCOMPETING CONTINUATIONS LISTED IN PART III

84.003H—Bilingual Education Act—School of Education Projects Program

Closing Date

November 5, 1984.

Requests are invited for noncompeting continuation awards under the Bilingual Educations Act—School of Education Projects Program.

Authority for this program is contained in section 723 of the Elementary and Secondary Education Act of 1965, as amended by the Education amendments of 1978 (Pub. L. 95–561). (20 U.S.C. 3233)

Current recipients of grants under this program that have one or more year(s) remaining of an approved multi-year project period may request continuation of their present projects.

The purpose of the awards is to assist institutions of higher education in developing or expanding their capability to provide degree-granting bilingual education training programs.

Closing Date for Tansmittal of Requests

To be assured of consideration for funding, requests for noncompeting continuation awards should be mailed or hand delivered by November 5, 1984.

If the request is late, the Department of Education may lack sufficient time to review it with other requests for noncompeting continuations and may decline to accept it.

Requests Delivered by Mail

A request sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.003H, Washington, D.C. 20202.

Program Information

In the case of a request submitted by an LEA as a joint applicant, the following applies. As stated in 34 CFR 500.40, the Secretary makes a continuation award only if the grantee meets the conditions of section 721(e)(2) of the Bilingual Education Act, which requires a grantee to demonstrate, among other things, that it is making satisfactory progress toward achieving the stated objectives of the progam.

In the case of applicants other than LEAs, the Secretary uses the procedures and criteria in 34 CFR 75.253 for determining whether to make a continuation award.

Available Funds

It is expected that approximately $200,000 will be available for four noncompeting continuation grants under the School of Eduction Projects Program in Fiscal Year 1985.

However, these estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Request Forms

Request packages are expected to be ready for mailing in October 1984. They will be mailed to current recipients that have one or more year(s) remaining of an approved multi-year project period. A copy of the request package may be obtained by writing to the Office of Bilingual Education and Minority Language affairs, U.S. Department of Education, 400 Maryland Avenue, SW. (Reporters Building, Room 421), Washington, D.C. 20202.

Requests must be prepared and submitted in accordance with the regulations, instructions and forms included in the program information package. However, the program information is only intended to aid applicants in requesting assistance. Nothing in the progam information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that grantees not submit information that is not requested.

(Approved by the Office of Management and Budget under control number 1885–0004.)

Applicable Regulations

Regulations applicable to this program include the following:

(1) The regulations governing the School of Education Projects Program 34 CFR Parts 500 and 514.

(2) The Education Department General Administrative Regulations (EDGAR), 43 CFR Parts 74, 75, 77, and 78.

Further Information

For further information contact the School of Education Projects Application Coordinator, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue, SW. (Reporters Building, Room 421), Washington, D.C. 20202. Telephone: (202) 245–2595. (20 U.S.C. 3233)

84.003R—Bilingual Education Act—Training Projects Program (Activity E)

Closing Date

November 5, 1984.

Requests are invited for noncompeting continuations under the Bilinual Education Act—Training Projects Program that proposed the activity described in 34 CFR 510.10(e).

Authority for this program is contained in section 723 of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (Pub. L. 95–561). (20 U.S.C. 3233)

Current recipients of grants under this program that have one or more year(s) remaining of an approved multi-year project period may request continuation of their present projects.

The purpose of the awards is to provide non-degree training programs to increase the skills of State educational agency personnel in carrying out their responsibilities with regard to programs of bilingual education.

Closing Date for Transmittal of Requests

To be assured of consideration for funding, requests for noncompeting continuation awards should be mailed or hand delivered by November 5, 1984.

If the request is late, the Department of Education my lack sufficient time to review it with other requests for noncompeting continuations and may decline to accept it.

Requests Delivered by Mail

A request sent by mail should be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.003R, Washington, D.C. 20202.

Program Information

In the case of a request submitted by an LEA as either a sole or joint applicant, the following applies: As stated in 34 CFR 500.40, the Secretary makes a continuation award only if the grantee meets the conditions of section 721(e)(2) of the Bilingual Education Act, which requires a grantee to demonstrate, among other things, that it is making satisfactory progress toward achieving the stated objectives of the program.

In the case of applicants other than LEAs, the Secretary uses the procedures and criteria in 34 CFR 75.253 for determining whether to make a continuation award.

Intergovernmental Review

On June 24, 1983, the Secretary published in the Federal Register final regulations (34 CFR Part 79, published at 48 FR 29158 *et seq.*) implementing Executive Order 12372 entitled "Intergovernmental Review of Federal Programs." The regulations took effect September 30, 1983.

This program is subject to the requirements of the Executive Order and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

The Executive Order—

- Allows States, after consultation with local officials, to establish their own process or review and comment on proposed Federal financial assistance;
- Increases Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why those views will not be accommodated; and
- Revokes OMB Circular A–95.

Transactions with nongovernmental entities, including State postsecondary educational institutions and federally recognized Indian tribal governments, are not covered by Executive Order 12372. Also excluded from coverage are research, development, or demonstration projects that do not have a unique geographic focus and are not directly relevant to the governmental responsibilities of a State or local government within that geographic area.

The following is the current list of States that have established a process, designated a single point of contact, and have selected this program for review:

State	
Alabama	New York
Arizona	North Dakota
Arkansas	Ohio
California	Oklahoma
Connecticut	Oregon
Delaware	Pennsylvania
Florida	South Carolina
Hawaii	South Dakota
Indiana	Tennessee
Kansas	Texas
Louisiana	Utah
Maine	Vermont
Massachusetts	Virginia
Michigan	Washington
Missouri	Wisconsin
Montana	Wyoming
Nebraska	Guam
Nevada	Northern Mariana Islands
New Hampshire	Puerto Rico
New Jersey	
New Mexico	

Immediately upon receipt of this notice, applicants that are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activitives in more than one State should contact, immediately upon receipt of this notice, the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

In States not listed above, State, areawide, regional, and local entities may submit comments directly to the Department. Any State process recommendation and other comments submitted by a State single point of contact and any comments from State, areawide, regional, and local entities must be mailed or hand delivered by December 5, 1984, to the following address:

The Secretary, U.S. Department of Education, Room 4161, 84:003R, 400 Maryland Avenue, S.W., Washington, D.C. 20202. (Proof of mailing will be determined on the same basis as applications.)

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION. *DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.*

Available Funds

It is expected that approximately $180,000 will be available for three noncompeting continuation grants under the Training Projects Program (Activity E) in Fiscal Year 1985.

However, these estimates do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute of regulations.

Request Forms

Request packages are expected to be ready for mailing in October 1984. They will be mailed to current recipients that have one or more year(s) remaining of an approved multi-year project period. A copy of the request package may be obtained by writing to the Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education 400 Maryland Avenue, SW., (Reporters Building, Room 421), Washington, D.C. 20202.

Requests must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in requesting assistance.

Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that grantees not submit information that is not requested.

(Approved by the Office of Management and Budget under control number 1885-0004.)

Applicable Regulations

The regulations applicable to this program include the following:

(a) The regulations governing the Training Projects Program, 34 CFR Parts 500 and 510.

(b) The Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77, 78, and 79.

Further Information

For further information contact the Training Projects (Activity E) Application Coordinator, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue, SW., (Reporters Building, Room 421), Washington, D.C. 20202, Telephone (202) 245-2922. (20 U.S.C. 3233)

84.077B—Bilingual Vocational Training Program

Closing Date

November 13, 1984.

Applications are invited for noncompeting continuation awards under the Bilingual Vocational Training Program.

Authority for this program is contained in sections 181-189B of the Vocational Education Act of 1963, as amended by the Education Amendments of 1976 (Pub. L. 94-482). (20 U.S.C. 2411-2421)

Current recipients of grants under this program that have one or more year(s) remaining of an approved multi-year project period may apply for continuation of their present projects.

The purpose of the awards is to provide bilingual vocational training to persons who are from environments where the dominant language is other than English and who are unemployed or under-employed because of their limited English speaking ability.

Closing Date for Transmittal of Applications

To be assured of consideration for funding, an application for a continuation award should be mailed or hand delivered by November 13, 1984.

If the application is late, the Department of Education may lack sufficient time to review it with other applications for noncompeting continuations and may decline to accept it.

Applications Delivered by Mail

An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.077B, Washington, D.C. 20202.

Intergovernmental Review

On June 24, 1983, the Secretary published in the Federal Register final regulations (34 CFR Part 79, published at 48 FR 29158 *et seq.*) implementing Executive Order 12372 entitled "Intergovernmental Review of Federal Programs." The regulations took effect September 30, 1983.

This program is subject to the requirements of the Executive Orde and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

The Executive Order—

- Allows States, after consultation with local officials, to establish their own process for review and comment on proposed Federal financial assistance;
- Increases Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why those views will not be accommodated; and
- Revokes OMB Circular A-95.

Transactions with nongovernmental entities, including State postsecondary educational institutions and federally recognized Indian tribal governments, are not covered by Executive Order 12372. Also excluded from coverage are research, development, or demonstration projects that do not have a unique geographic focus and are not directly relevant to the governmental responsibilities of a State or local government within that geographic area.

The following is the current list of States that have established a process, designated a single point of contact, and have selected this program for review:

State	
Alabama	Louisiana
Arizona	Maine
Arkansas	Massachusetts
California	Michigan
Connecticut	Missouri
Delaware	Montana
Florida	Nebraska
Hawaii	Nevada
Indiana	New Hampshire
Kansas	New Jersey
New Mexico	Texas
New York	Utah
North Dakota	Vermont
Ohio	Virginia
Oklahoma	Washington
Oregon	Wisconsin
Pennsylvania	Wyoming
Rhode Island	Guam
South Carolina	Northern Mariana Islands
South Dakota	
Tennessee	Puerto Rico

Immediately upon receipt of this notice, applicants that are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should contact, immediately upon receipt of this notice, the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

In States not listed above, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State process recommendation and other comments submitted by a State single point of contact and any comments from State, areawide, regional, and local entities must be mailed or hand delivered by December 13, 1984 to the following address:

The Secretary, U.S. Department of Education, Room 4161, 84.077B, 400 Maryland Avenue, SW., Washington, D.C. 20202. (Proof of mailing will be determined on the same basis as applications.)

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION. *DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.*

Available Funds

It is expected that approximately $1,695,000 will be available for eight noncompeting continuations under the Bilingual Vocational Training Program . in Fiscal Year 1985.

However, these estimates do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application Forms.

Application packages are expected to be ready for mailing in October 1984. They will be mailed to current recipients that have one or more year(s) remaining

of an approved multi-year project period. A copy of the application may be obtained by writing to the Bilingual Vocational Training Program, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue, SW (Reporters Building, Room 421), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that applicants not submit information that is not requested.

(Approved by the Office of Management and Budget under control number 1885–0002.)

Applicable Regulations

Regulations applicable to this program include the following:

(1) The regulations governing the Bilingual Vocational Training Program, 34 CFR part 525.

(2) The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, 78, and 79.

(3) The Department of Labor regulations (29 CFR 95.34) as in effect on September 30, 1979, governing training allowances for participants in the Bilingual Vocational Training Program.

Further Information

For further information contact the Bilingual Vocational Training Projects Application Coordinator, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue, SW (Reporters Building, Room 421), Washington, D.C. 20202. Telephone (202) 732–1852 or 447–9227. (20 U.S.C. 2411–2421)

84.099B—Bilingual Vocational Instructor Training Program

Closing Date

November 13, 1984.

Applications are invited for noncompeting continuation awards under the Bilingual Vocational Instructor Training Program.

Authority for this program is contained in Sections 181–189B of the Vocational Education Act of 1963, as amended by the Education Amendments of 1976 (Pub. L. 94–482). (20 U.S.C. 2411–2421)

Current recipients of grants under this program that have one or more year(s) remaining of an approved project period may apply for continuation of their present projects.

The purpose of the awards is to provide training programs for persons seeking to improve their skills and qualifications as instructors in bilingual vocational training programs for persons of limited English speaking ability.

Closing Date for Transmittal of Applications

To be assured of consideration for funding, an application for a continuation award should be mailed or hand delivered by November 13, 1984.

If the application is late, the Department of Education may lack sufficient time to review it with other applications for noncompeting continuations and may decline to accept it.

Applications Delivered by Mail

An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.099B, Washington, D.C. 20202.

Intergovernmental Review

On June 24, 1983, the Secretary published in the **Federal Register** final regulations (34 CFR Part 79, published at 48 FR 29158 *et seq.*) implementing Executive Order 12372 entitled "Intergovernmental Review of Federal Programs." The regulations took effect September 30, 1983.

This program is subject to the requirements of the Executive Order and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

The Executive Order—

- Allows States, after consultation with local officials, to establish their own process for review and comment on proposed Federal financial assistance,
- Increases Federal responsiveness to State and local officials by requiring Federal agencies to acccommodate State and local views or explain why those views will not be accommodated, and
- Revokes OMB Circular A–95.

Transactions with nongovernmental entities, including State postsecondary educational institutions and federally recognized Indian tribal governments, are not covered by Exectutive Order 12372. Also excluded from coverage are research, development, or demonstration projects that do not have a unique geographic focus and are not directly relevant to the governmental responsibilities of a State or local government within that geographic area.

The following is the current list of States that have established a process, designated a single point of contact, and have selected this program for review:

State	
Alabama	New Mexico
Arizona	New York
Arkansas	North Dakota
California	Ohio
Connecticut	Oklahoma
Delaware	Oregon
Florida	Pennsylvania
Hawaii	South Carolina
Indiana	South Dakota
Kansas	Tennessee
Louisiana	Texas
Maine	Utah
Massachusetts	Vermont
Michigan	Virginia
Missouri	Washington
Montana	Wisconsin
Nebraska	Wyoming
Nevada	Guam
New Hampshire	Northern Mariana
New Jersey	Islands

Immediately upon receipt of this notice, applicants that are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should contact, immediately upon receipt of this notice, the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

In States not listed above, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State process recommendation and other comments submitted by a State single point of contact and any comments from State, areawide, regional, and local entities must be mailed or hand delivered by December 13, 1984 to the following address:

The Secretary, U.S. Department of Education, Room 4181, 84.099B, 400 Maryland Avenue, SW., Washington, D.C. 20202. (Proof of mailing will be determined on the same basis as applications.)

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION. *DO NOT*

SEND APPLICATIONS TO THE ABOVE ADDRESS.

Available Funds

It is expected that approximately $800,000 will be available for four noncompeting continuations under the Bilingual Vocational Instructor Training Program in Fiscal Year 1985.

However, these estimates do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application Forms

Application packages are expected to be ready for mailing in October 1984. They will be mailed to current recipients that have one or more year(s) remaining of an approved multi-year project period. A copy of the application package may be obtained by writing to the Bilingual Vocational Instructor Training Program, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue, SW. (Reporters Building, Room 421), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that applicants not submit information that is not requested.

(Approved by the Office of Management and Budget under control number 1885–0002.)

Applicable Regulations

Regulations applicable to this program include the following:

(1) The regulations governing the Bilingual Vocational Instructor Training Program, 34 CFR Part 526.

(2) The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, 78, and 79.

Further Information

For further information contact the Bilingual Vocational Training Instructor Projects Application Coordinator, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue, SW. (Reporters Building, Room 421), Washington, D.C. 20202. Telephone (202) 732–1840 or 447–9227.

(20 U.S.C. 3411–3421)

84.003E—Bilingual Education Act—Demonstration Projects Program

Closing Dates

January 4, 1985.

Requests are invited for noncompeting continuations under the Bilangual Education Act—Demonstration Projects Program.

Authority for this program is contained in Sections 703–722 of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (Pub. L. 95–561). (20 U.S.C. 3223–3232)

Current recipients of grants under this program that have one or more year(s) remaining of an approved multi-year project period may request continuation of their present projects.

The purpose of the awards is to provide financial assistance to demonstrate exemplary approaches to programs of bilingual education and to build the capacity of grantees to continue those programs when Title VII funds are reduced of no longer available.

Closing Date for Transmittal of Requests

To be assured of consideration for funding, requests for noncompeting continuation awards should be mailed or hand delivered by January 4, 1985.

If the request is late, the Department of Education may lack sufficient time to review it with other requests for noncompeting continuations and may decline to accept it.

Requests Delivered by Mail

A request sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.003E, Washington, D.C. 20202.

Program Information

As stated in 34 CFR 500.40, the Secretary makes a continuation award only if the grantee meets the conditions of section 721(e)(2) of the Billingual Education Act, which requires a grantee to demonstrate, among other things, that it is making satisfactory progress toward achieving the stated objectives of the program.

Intergovernmental Review

On June 24, 1983, the Secretary published in the **Federal Register** final regulations (34 CFR Part 79, published at 48 FR 29158 *et seq.*) implementing Executive Order 12372 entitled "Intergovernmental Review of Federal Programs." The regulations took effect September 30, 1983.

This program is subject to the requirements of the Executive Order and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

The Executive Order—

- Allows States, after consultation with local officials, to establish their own process for review and comment on proposed Federal financial assistance;

Increases Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why those views will not be accommodated; and

- Revokes OMB Circular A–95.

Transactions with nongovernmental entities, including State postsecondary educational institutions and federally recognized Indian tribal governments, are not covered by Executive Order 12372. Also excluded from coverage are research, development, or demonstration projects that do not have a unique geographic focus and are not directly relevant to the governmental responsibilities of a State or local government within that geographic area.

The following is the current list of States that have established a process, designated a single point of contact, and have selected this program for review:

State	
Alabama	New York
Arizona	North Dakota
Arkansas	Ohio
California	Oklahoma
Connecticut	Oregon
Delaware	Pennsylvania
Florida	South Carolina
Hawaii	South Dakota
Indiana	Tennessee
Kansas	Texas
Louisiana	Utah
Maine	Vermont
Massachusetts	Virginia
Michigan	Washington
Missouri	Wisconsin
Montana	Wyoming
Nebraska	Guam
Nevada	Northern Mariana Islands
New Hampshire	Puerto Rico
New Jersey	
New Mexico	

Immediately upon receipt of this notice, applicants that are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should contact, immediately upon receipt of this

notice, the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

In States not listed above State, areawide, regional, and local entities may submit comments directly to the Department. Any State process recommendation and other comments submitted by a State single point of contact and any comments from State, areawide, regional, and local entities must be mailed or hand delivered by February 4, 1984, to the following address:

The Secretary, U.S. Department of Education, Room 4181, 84.003E, 400 Maryland Avenue, SW., Washington, D.C. 20202. (Proof of mailing will be determined on the same basis as applications.)

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION. *DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.*

Aavailable Funds

It is expected that approximately $6,800,000 will be available for 38 noncompeting continuation grants under the Demonstration Projects Program in Fiscal Year 1985.

However, these estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Request Forms

Request packages are expected to be ready for mailing in October 1984. They will be mailed to current recipients that have one or more year(s) remaining of an approved multi-year project period. A copy of the request package may be obtained by writing to the Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue, SW. (Reporters Building, Room 421), Washington, D.C. 20202.

Requests must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information in only intended to aid applicants in requesting assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that grantees not submit information that is not requested.

(Approved by the Office of Management and Budget under control number 1885–0004.)

Applicable Regulations

Regulations applicable to this program include the following:

(a) The regulations governing the Demonstration Projects Program 34, CFR Parts 500 and 502.

(b) The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, 78, and 79.

Further Information

For further information contact the Demonstration Projects Application Coordinator, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue, SW. (Reporters Building, Room 421), Washington, D.C. 20202. Telephone (202) 447–9227. (20 U.S.C. 3223–3232)

84.003N—Bilingual Education Act—Training Projects Program (Activity D)

Closing Date

January 14, 1985.

Requests are invited for noncompeting continuations under the Bilingual Education Act—Training Projects Program that proposed the activity described in 34 CFR 510.10(d).

Authority for this program is contained in section 723 of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (Pub. L. 95–561). (20 U.S.C. 3233)

Current recipients of grants under this program that have one or more year(s) remaining of an approved multi-year project period may request continuation of their present projects.

The purpose of the awards is to improve the skills of parents and other participants in carrying out their responsibilities in programs of bilingual education.

Closing Date for Transmittal of Requests

To be assured of consideration for funding, requests for noncompeting continuation awards should be mailed or hand delivered by January 14, 1985.

If the request is late, the Department of Education may lack sufficient time to review it with other requests for noncompeting continuations and may decline to accept it.

Requests Delivered by Mail

A request sent by mail should be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.003N, Washington, D.C. 20202.

Program Information

In the case of of a request submitted by an LEA as either a sole or joint applicant, the following applies: As stated in 34 CFR 500.40, the Secretary makes a continuation award only if the grantee meets the conditions of section 721(e)(2) of the Bilingual Education Act, which requires a grantee to demonstrate, among other things, that it is making satisfactory progress toward achieving the stated objectives of the program.

In the case of applicants other than LEA's, the Secretary uses the procedures and criteria in 34 CFR 75.253 for determining whether to make a continuation award.

Intergovernmental Review

On June 24, 1983, the Secretary published in the **Federal Register** final regulations (34 CFR Part 79, published at 48 FR 29158 *et seq.*) implementing Executive Order 12372 entitled "Intergovernmental Review of Federal Programs." The regulations took effect September 30, 1983.

This program is subject to the requirements of the Executive Order and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

The Executive Order—

- Allows States, after consultation with local officials, to establish their own process for review and comment on proposed Federal financial assistance;
- Increases Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why those views will not be accommodated; and
- Revokes OMB Circular A–95.

Transactions with nongovernmental entities, including State postsecondary educational institutions and federally recognized Indian tribal governments, are not covered by Executive Order 12372. Also excluded from coverage are research, development, or demonstration projects that do not have a unique geographic focus and are not directly relevant to the governmental responsibilities of a State or local government within that geographic area.

The following is the current list of States that have established a process, designated a single point of contact, and have selected this program for review:

State	
Alabama	New York
Arizona	North Dakota
Arkansas	Ohio
California	Oklahoma
Connecticut	Oregon
Delaware	Pennsylvania
Florida	South Carolina
Hawaii	South Dakota
Indiana	Tennessee
Kansas	Texas
Louisiana	Utah
Maine	Vermont
Massachusetts	Virginia
Michigan	Washington
Missouri	Wisconsin
Montana	Wyoming
Nebraska	Guam
Nevada	Northern Mariana Islands
New Hamshire	Puerto Rico
New Jersey	
New Mexico	

Immediately upon receipt of this notice, applicants that are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about, and to comply with, the State's prorocess under the Executive Order. Applicants proposing to perform activities in more than one State shoud contsact, immediately upon receipt of this notice, the single point of contact for each State and follow the procedures estalished in those States under the Executive Order. A list containing the single point of contact for each State is included in the appliction package for this program.

In States not listed above State, areawide, regional, and local entities may submit comments directly to the Department. Any State process recommendation and other comments submitted by a State single point of contact and any comments from State, areawide, regional, and local entities must be mailed or hand delivered by February 14, 1985, to the following address:

The Secretary, U.S. Department of Education, Room 4181, 84.003N, 400 Maryland Avenue, SW., Washington, D.C. 20202. (Proof of mailing will be detemined on the same basis as applicaitons.)

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION. *DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.*

Available Funds.

It is expected that approximately $1,800,000 will be available for 19 noncompeting contuinuation grants under the Training Projects Program (Activity D) in Fiscal Year 1985.

However, these estimates do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Request Forms

Request packages are expected to be ready for mailing in October 1984. They will be mailed to current recipients that have one or more year(s) remaining of an apporved multi-year project period. A copy of the request package may be obtained by writing to the Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue, SW. (Reporterts Building, Room 421), Washington, D.C. 20202.

Requests must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in requesting assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond thoses imposed under the statuue and regulations.

The Secretarty strongly urges that a grantee not submit information that is not requested.

(Approved by the Office of Management and Budget under control number 1885–0004.)

Applicable Regulations

The regulations applicable to this program include the following:

(a) The Regulations governing the Training Projects Program, 34 CFR Parts 500 and 510.

(b) The Education Department . General Administrative Regulations, 34 CFR Parts 74, 75, 77, 78, and 79.

Further Information

For further information contact the Training Projects (Activity D) Application Coordinator, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, (Reporters Building, Room 421), 400 Maryland Avenue, SW., Washington, D.C. 20202 Telephone (202) 245–2595. (20 U.S.C. 3233)

84.003K—Bilingual Education Act—Training Projects Program (Activities A, B, and C)

Closing Date

January 28, 1985.

Requests are invited for noncompeting continuations under the Bilingual Education Act—Training Projects Program, that propose any one or combination of the activities described in 34 CFR 510.10 (a), (b), and (c).

Authority for this program is contained in Section 723 of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (Pub. L. 95–561). (20 U.S.C. 3233)

Current recipients of grants under this program that one or more year(s) remaining of an approved multi-year project period may request continuation of their present projects.

The purpose of the awards is to establish, operate, and improve programs of bilingual education at institutions of higher education for persons who are participating in, or preparing to participate in, programs of bilingual education and bilingual education training.

Closing Date for Transmittal of Requests

To be assured of consideration for funding, requests for noncompeting continuation awards should be mailed or hand delivered by January 28, 1985.

If the request is late, the Department of Education may lack sufficient time to review it with other requests for noncompeting continuations and may decline to accept it.

Requests Delivered by Mail

A request sent by mail should be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.003K, Washington, D.C. 20202.

Program Information

In the case of a request submitted by an LEA as either a sole or joint applicant, the following applies: As stated in 34 CFR 500.40, the Secretary makes a continuation award only if the grantee meets the conditions of section 721(e)(2) of the Bilingual Education Act, which requires a grantee to demonstrate, among other things, that it is making satisfactory progress toward achieving the stated objectives of the program.

In the case of applicants other than LEAs, the Secretary uses the procedures and criteria in 34 CFR 75.253 for determining whether to make a continuation award.

Intergovernmental Review

On June 24, 1983, the Secretary published in the **Federal Register** final regulations (34 CFR Part 79, published at

48 FR 29158 *et seq.*) implementing Executive Order 12372 entitled "Intergovernmental Review of Federal Programs." The regulations took effect September 30, 1983.

This program is subject to the requirements of the Executive Order and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

The Executive Order—

- Allows States, after consultation with local officials, to establish their own process for review and comment on proposed Federal financial assistance;
- Increases Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why those views will not be accommodated; and
- Revokes OMB Circular A–95.

Transactions with nongovernmental entities, including State postsecondary educational institutions and federally recognized Indian tribal governments, are not covered by Executive Order 12372. Also excluded from coverage are research, development, or demonstration projects that do not have a unique geographic focus and are not directly relevant to the governmental responsibilities of a State or local government within that geographic area.

The following is the current list of States that have established a process, designated a single point of contact, and have selected this program for review:

State	
Alabama	New York
Arizona	North Dakota
Arkansas	Ohio
California	Oklahoma
Connecticut	Oregon
Delaware	Pennsylvania
Florida	South Carolina
Hawaii	South Dakota
Indiana	Tennessee
Kansas	Texas
Louisiana	Utah
Maine	Vermont
Massachusetts	Virginia
Michigan	Washington
Missouri	Wisconsin
Montana	Wyoming
Nebraska	Guam
Nevada	Northern Mariana Islands
New Hampshire	Puerto Rico
New Jersey	
New Mexico	

Immediately upon receipt of this notice, applicants that are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should contact, immediately upon receipt of this notice, the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

In States not listed above, State, areawide, regional, and local entities may submit comments directly to the Department. Any State process recommendation and other comments submitted by a State single point of contact and any comments from State, areawide, regional, and local entities must be mailed or hand delivered by February 28, 1985, to the following address:

The Secretary, U.S. Department of Education, Room 4161, 84.003K, 400 Maryland Avenue, SW., Washington, D.C. 20202. (Proof of mailing will be determined on the same basis as applications.)

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION. *DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.*

Available Funds

It is expected that approximately $11,700,000 will be available for 127 noncompeting continuation grants under the Training Projects Program (Activities A, B, and C) in Fiscal Year 1985.

However, these estimates do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Request Forms

Request packages are expected to be ready for mailing in October 1984. They will be mailed to current recipients that have one or more year(s) remaining of an approved multi-year project period. A copy of the request package may be obtained by writing to the Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue, SW. (Reporters Building, Room 421), Washington, D.C. 20202.

Requests must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in requesting assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that a grantee not submit information that is not requested.

(Approved by the Office of Management and Budget under control number 1885–0004.)

Applicable Regulations

The regulations applicable to this program include the following:

(a) The regulations governing the Training Projects Program, 34 CFR Parts 500 and 510.

(b) The Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77, 78, and 79.

Further Information

For further information contact the Training Projects (Activities A, B, and C) Application Coordinator, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Reporters Building, Room 421), 400 Maryland Avenue, SW., Washington, D.C. 20202, Telephone (202) 245–2595. (20 U.S.C. 3233)

84.003T—Bilingual Education Act—State Educational Agency Projects for Coordinating Technical Assistance Program

Closing Date

February 11, 1985.

Requests are invited for noncompeting continuations under the Bilingual Education Act—State Educational Agency Projects for Coordinating Technical Assistance Program.

Authority for this program is contained in Section 721 of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (Pub. L. 95–561). (20 U.S.C. 3231)

Current recipients of grants under this program that have one or more year(s) remaining of an approved multi-year project period may request continuation of their present projects.

The purpose of the awards is to assist State educational agencies in the coordination of technical assistance to programs of bilingual education assisted under the Bilingual Education Act within their States.

Closing Date for Transmittal of Requests

To be assured of consideration for funding, requests for noncompeting continuation awards should be mailed or hand delivered by February 11, 1985.

If the request is late, the Department of Education may lack sufficient time to review it with other requests for noncompeting continuations and may decline to accept it.

Requests Delivered by Mail

A request sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.003T, Washington, D.C. 20202.

Intergovernmental Review

On June 24, 1983, the Secretary published in the **Federal Register** final regulations (34 CFR Part 79, published at 48 FR 29158 *et seq.*) implementing Executive Order 12372 entitled "Intergovernmental Review of Federal Programs." The regulations took effect September 30, 1983.

This program is subject to the requirements of the Executive Order and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

The Executive Order—

- Allows States, after consultation with local officials, to establish their own process for review and comment on proposed Federal financial assistance;
- Increases Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why those views will not be accommodated; and
- Revokes OMB Circular A–95.

Transactions with nongovernmental entities, including State postsecondary educational institutions and federally recognized Indian tribal governments, are not covered by Executive Order 12372. Also excluded from coverage are research, development, or demonstration projects that do not have a unique geographic focus and are not directly relevant to the governmental responsibilities of a State or local government within that geographic area.

The following is the current list of States that have established a process, designated a single point of contact, and have selected this program for review:

State	
Alabama	Kansas
Arizona	Louisiana
Arkansas	Maine
California	Massachusetts
Connecticut	Michigan
Delaware	Missouri
Florida	Montana
Hawaii	Nebraska
Indiana	Nevada
New Hampshire	Texas
New Jersey	Utah
New Mexico	Vermont
New York	Virginia
North DAkota	Washington
Ohio	Wisconsin
Oklahoma	Wyoming
Oregon	Guam
Pennsylvania	Northern Mariana Islands
South Carolina	Puerto Rico
South Dakota	
Tennessee	

Immediately upon receipt of this notice, applicants that are governmental entities must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should contact, immediately upon receipt of this notice, the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

In States not listed above, State, areawide, regional, and local entities may submit comments directly to the Department. Any State process recommendation and other comments submitted by a State single point of contact and any comments from State, areawide, regional, and local entities must be mailed or hand delivered by March 13, 1985, to the following address:

The Secretary, U.S. Department of Education, Room 4181 84.003T, 400 Maryland Avenue, SW., Washington, D.C. 20202. (proof of mailing will be determined on the same basis as applications.)

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION. *DO NOT SEND APPLICATION TO THE ABOVE ADDRESS.*

Available Funds

It is expected that approximately $1,825,000 will be available for noncompeting continuation grants under the State Educational Agency Projects for Coordinating Technical Assistance Program in Fiscal Year 1985.

An award to an SEA may not exceed five percent of the total amount paid under Part A of the Bilingual Education Act to local educational agencies in the State of the SEA in Fiscal Year 1984.

Request Forms.

Request packages are expected to be ready for mailing in October 1984. They will be mailed to current recipients that have one or more year(s) remaining of an approved multi-year project period. A copy of the request package may be obtained by writing to the Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue, SW. (Reporters Building, Room 421), Washington, D.C. 20202.

Requests must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in requesting assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that grantees not submit information that is not requested.

(Approved by the Office of Management and Budget under control number 1885–0004.)

Applicable Regulations

Regulations applicable to this program include the following.

(1) The regulations governing the State Educational Agency Projects for Coordinating Technical Assistance Program, 34 CFR Parts 500 and 503.

(2) The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, 78, and 79.

Further Information

For further information contact the State Educational Agency Projects Application Coordinator, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue, SW. (Reporters Building, Room 421), Washington, D.C. 20202. Telephone (202) 245–2922. (20 U.S.C. 3231)

84.003C—Bilingual Education Act—Basic Projects Program

Closing Dates

March 15, 1985—Requests for third budget period, April 15, 1985—Requests for second budget period.

Requests are invited for noncompeting continuation awards under the Bilingual Education Act—Basic Projects Program.

Authority for this program is contained in Sections 703–722 of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (Pub. L. 95–561). (20 U.S.C. 3223–3232)

Current recipients of grants under this program that have one or more year(s) remaining of an approved multi-year

project period may request continuation of their present projects.

The purpose of the awards is to establish, operate, or improve programs of bilingual education to assist children of limited English proficiency and to build the capacity of grantees to continue those programs when Title VII funds are reduced or no longer available.

Closing Date for Transmittal of Requests

To be assured of consideration for funding, requests for noncompeting continuation awards for a third budget period should be mailed or hand delivered by March 15, 1985. Requests for noncompeting continuation awards for a second budget period should be mailed or hand delivered by April 15, 1985.

If the request is late, the Department of Education may lack sufficient time to review it with other requests for noncompeting continuations and may decline to accept it.

Requests Delivered by Mail

A request sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.003C, Washington, D.C. 20202.

Program Information

As stated in 34 CFR 500.40, the Secretary makes a continuation award only if the grantee meets the conditions of section 721(E)(2) of the Bilingual Education Act, which requires a grantee to demonstrate, among other things, that it is making satisfactory progress toward achieving the stated objectives of the program.

Intergovernmental Review

On June 24, 1983, the Secretary published in the Federal Register final regulations (34 CFR Part 79, published at 48 FR 29158 *et seq.*) implementing Executive Order 12372 entitled "Intergovernmental Review of Federal Program." The regulations took effect September 30, 1983.

This program is subject to the requirements of the Executive Order and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

The Executive Order—

- Allows States, after consultation with local officials, to establish their own process for review and comment on proposed Federal financial assistance;
- Increases Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why those views will not be accommodated; and
- Revokes OMB Circular A–95.

Transactions with nongovernmental entities, including State postsecondary educational institutions and federally recognized Indian tribal governments, are not covered by Executive Order 12372. Also excluded from coverage are research, development, or demonstration projects that do not have a unique geographic focus and are not directly relevant to the governmental responsibilities of a State or local government within that geographic area.

The following is the current list of States that have established a process, designated a single point of contact, and have selected this program for review:

State	
Alabama	New York
Arizona	North Dakota
Arkansas	Ohio
California	Oklahoma
Connecticut	Oregon
Delaware	Pennsylvania
Florida	South Carolina
Hawaii	South Dakota
Indiana	Tennessee
Kansas	Texas
Louisiana	Utah
Maine	Vermont
Massachusetts	Virginia
Michigan	Washington
Missouri	Wisconsin
Montana	Wyoming
Nebraska	Guam
Nevada	Northern Mariana Islands
New Hampshire	Puerto Rico
New Jersey	
New Mexico	

Immediately upon receipt of this notice, applicants that are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should contact, immediately upon receipt of this notice, the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

In States not listed above, State, areawide, regional, and local entities may submit comments directly to the Department. Any State process recommendation and other comments submitted by a State single point of contact and any comments from State, areawide, regional, and local entities must be mailed or hand delivered by April 15, 1985 for requests for a third budget period, or by May 15, 1985 for requests for a second budget period, to the following address:

The Secretary, U.S. Department of Education, Room 4161, 84.003C, 400 Maryland Avenue, SW., Washington, D.C. 20202. (Proof of mailing will be determined on the same basis as applications.)

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION. *DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.*

Available Funds

It is expected that approximately $51,000,000 will be available for 524 noncompeting continuation grants under the Basic Projects in Bilingual Education Program in Fiscal Year 1985.

Request Forms

Request packages are expected to be ready for mailing in October 1984. They will be mailed to current recipients that have one or more year(s) remaining of an approved multi-year project period. A copy of the request package may be obtained by writing to the Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue, SW. (Reporters Building, Room 421), Washington, D.C. 20202.

Requests must be prepared and submitted in accordance with the regulations, instructions, and forms included in the request package. However, the program information is only intended to aid applicants in requesting assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that grantees not submit information that is not requested.

(Approved by the Office of Management and Budget under control number 1885–0004.)

Applicable Regulations

The regulations applicable to this program include the following.

(1) The regulations governing the Basic Projects in Bilingual Education Program, 34 CFR Parts 500 and 501.

(2) The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, 78, and 79.

Further Information

For further information contact the Basic Projects Application Coordinator, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue, SW. (Reporters Building, Room 421), Washington, D.C. 20202. Telephone (202) 245–2922. (20 U.S.C. 3223–3232)

(Catalog of Domestic Assistance No. 84.003, Bilingual Education; 84.077, Bilingual Vocational Training; 84.099, Bilingual Vocational Instructor Training)

Dated: September 24, 1984.

T.H. Bell,

Secretary of Education.

[FR Doc. 84–25787 Filed 9–27–84; 8:45 am]

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Part VI

Department of Agriculture

Food Safety and Inspection Service

9 CFR Parts 307, 350, 351, 354, 355, 362, and 381

Fee Increase for Inspection Services; Final Rule

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 307, 350, 351, 354, 355, 362, and 381

[Docket No. 84-013F]

Fee Increase for Inspection Services

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is amending the Federal meat and poultry products inspection regulations to increase fees charged by FSIS to provide overtime inspection, identification, certification, or laboratory services to meat and poultry establishments. The fees reflect the increased costs of providing these services in fiscal year 1985.

EFFECTIVE DATE: September 30, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. William L. West, Director, Budget and Finance Division, Administrative Management, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-3367.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This rule is issued in conformance with Executive Order 12291, and has ben determined to be not a "major rule." It will not result in an annual effect on the economy of $100 million or more; a major increase in cost or prices for consumers, indiviidual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Effect on Small Entities

The Administrator, Food Safety and Inspection Service, has determined that this action will not have a significant economic impact on a subsantial number of small entities as defined by the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601), because the fees provided for in this document are not new but merely reflect a minimal increase in the costs currently borne by those entities which elect to utilize certain inspection services.

Background

Each fiscal year, the fees for certain services rendered to operators of official meat and poultry establishments, importers, or exporters by the Food Safety and Inspection Service (FSIS) are reviewed and a cost analysis is performed to determine if such fees are adequate to recover the cost of providing the services. The analysis relates to fees charged in connection with overtime and holiday inspection, identification, certification, or laboratory services. The fees to be charged for these services are determined by an analysis of data on the current cost of these services coupled with the increase in that cost due to the increase for salaries of Federal employees allocated by Congress under the Federal Pay Comparability Act of 1970.

Based on the Agency's analysis of the costs incurred in providing these services, a proposal was published in the **Federal Register** on August 21, 1984 (49 FR 33155), to increase the fees related to such services to reflect increased costs associated therewith in the upcoming fiscal year.

The only comment received on the proposal states that the Agency should not impose an increase in fees upon establishments in the absence of a Federal pay raise or other appropriate justification. In this regard, the increase in fees reflect a cost increase in salary for promotions, within-grade increases, and the .5 percent pay raise approved by Congress subsequent to the last increase in fees. In addition the costs for some fringe benefits, travel and administrative support have all increased. The fees provided for in this document reflect only a minimal increase in the costs currently borne by those entities electing to utilize those services.

These fee increases do not include the increase resulting from an anticipated pay raise for Federal employees. Although the pay raise is normally effective at the beginning of each fiscal year and calculated into the fee increases, this fiscal year Congress is delaying the pay increase. When Congress enacts a pay increase, FSIS will engage in further rulemaking prior to raising fees.

The amendments, as proposed, to the Federal meat and poultry products inspection regulations are promulgated herein.

List of Subjects

9 CFR Part 307

Meat inspection, Fee charges.

9 CFR Part 350

Meat inspection, Fee charges.

9 CFR Part 351

Meat inspection, Fee charges.

9 CFR Part 354

Meat inspection, Fee charges.

9 CFR Part 355

Animal foods, Fee charges.

9 CFR Part 362

Poultry and poultry products, Fee charges.

9 CFR Part 381

Poultry products inspection, Fee charges.

PART 307—[AMENDED]

1. The authority citation for Part 307 reads as follows:

Authority: 41 Stat. 241, 7 U.S.C. 394; 34 Stat. 1264, as amended; 21 U.S.C. 621; 62 Stat. 334; 21 U.S.C. 695, 7 CFR 2.15(a), 2.92.

2. Section 307.5(a) is revised to read as follows:

§ 307.5 Overtime and holiday inspection service.

(a) The management of an official establishment, an importer, or an exporter shall pay the Food Safety and Inspection Service $21.00 per hour per Program employee to reimburse the Program for the cost of the inspection service furnished on any holiday as specified in paragraph (b) of this section; or for more than 8 hours on any day, or more than 40 hours in any administrative workweek Sunday through Saturday.

* * * * *

PART 350—[AMENDED]

3. The authority citation for Part 350 reads as follows:

Authority: 41 Stat. 241, 7 U.S.C. 394; 60 Stat. 1087, as amended, 7 U.S.C. 1622; 60 Stat. 1090, as amended, 7 U.S.C. 1624; 34 Stat. 1264, as amended, 21 U.S.C. 621; 62 Stat. 334, 21 U.S.C. 695; 7 CFR 2.15(a), 2.92.

4. Section 350.7(c) is revised to read as follows:

§ 350.7 Fees and charges.

* * * * *

(c) The fees to be charged and collected for service under the regulations in this Part shall be at the rate of $17.96 per hour for base time, $21.00 per hour for overtime including Saturdays, Sundays, and holidays, and $34.68 per hour for laboratory service, to cover the costs of the service and shall be charged for the time required to render such service. Where appropriate, this time will include, but will not be

limited to, the time required for travel of the inspector or inspectors in connection therewith during the regularly scheduled administrative workweek.

* * * * *

PART 351—[AMENDED]

5. The authority citation for Part 351 reads as follows:

Authority: 60 Stat. 1087, as amended, 7 U.S.C. 1622, 60 Stat. 1090, as amended, 7 U.S.C. 1624; 7 CFR 2.15(a), 2.92.

6. Section 351.8 is revised to read as follows:

§ 351.8 Charges for surveys for plants.

Applicants for the certification service shall pay the Department for salary costs at the rate of $17.96 per hour for base time, $21.00 per hour for overtime, travel and per diem allowances at rates currently allowed by the Government Travel Regulations, and other expenses incidental to the initial survey of rendering plants or storage facilities for which certification service is requested.

7. Section 351.9(a) is revised to read as follows:

§ 351.9 Charges for examinations.

(a) The fees to be charged and collected by the Administrator for examination shall be $17.96 per hour for base time and $21.00 per hour for overtime including Saturdays, Sundays, and holidays, as provided for in § 351.14 and $34.68 per hour for any laboratory service required to determine the eligibility of any technical animal fat for certification under the regulations in this Part. Such fees shall be charged for the time required to render such service, including, but not limited to, the time required for the travel of the inspector or inspectors in connection therewith.

* * * * *

PART 354—[AMENDED]

8. The authority citation for Part 354 reads as follows:

Authority: 60 Stat. 1087, as amended, 7 U.S.C. 1622, 60 Stat. 1090, as amended, 7 U.S.C. 1624; 7 CFR 2.15(a), 2.92.

9. Section 354.101(b) is revised to read as follows:

§ 354.101 On a fee basis.

* * * * *

(b) The charges for inspection service will be based on the time required to perform such services. The hourly rate shall be $17.96 for base time and $21.00 for overtime or holiday work.

PART 355—[AMENDED]

10. The authority citation for Part 355 reads as follows:

Authority: 60 Stat. 1087, as amended, 7 U.S.C. 1622, 60 Stat. 1090, as amended, 7 U.S.C. 1624; 7 CFR 2.15(a), 2.92.

11. Section 355.12 is revised to read as follows:

§ 355.12 Charge for service.

The fees to be charged and collected by the Administrator shall be $17.96 per hour for base time, $21.00 per hour for overtime, including Saturdays, Sundays, and holidays, and $34.68 per hour for laboratory services to reimburse the Department for the cost of the inspection service furnished.

PART 362—[AMENDED]

12. The authority citation for Part 362 reads as follows:

Authority: 60 Stat. 1087, as amended, 7 U.S.C. 1622, 60 Stat. 1090, as amended, 7 U.S.C. 1624; 7 CFR 2.15(a), 2.92.

13. Section 362.5(c) is revised to read as follows:

§ 362.5 Fees and charges.

* * * * *

(c) The fees to be charged and collected for service under the regulations in this Part shall be at the rate of $17.96 per hour for base time, $21.00 per hour for overtime including Saturdays, Sundays, and holidays, and $34.68 per hour for laboratory service to cover the costs of the service and shall be charged for the time required to render such service, including, but not limited to, the time required for the travel of the inspector or inspectors in connection therewith during the regularly scheduled administrative workweek.

* * * * *

PART 381—[AMENDED]

14. The authority citation for Part 381 reads as follows:

Authority: 71 Stat. 447, 448, as amended, 21 U.S.C. 463, 466; 7 CFR 2.15(a), 2.92.

15. Section 381.38(a) is revised to read as follows:

§ 381.38 Overtime and holiday inspection service.

(a) The management of an official establishment, an importer, or an exporter shall pay the Food Safety and Inspection Service $21.00 per hour per Program employee to reimburse the Program for the cost of the inspection service furnished on any holiday specified in paragraph (b) of this section; or for more than 8 hours on any day, or more than 40 hours in any administrative workweek Sunday through Saturday.

* * * * *

The Administrator has determined that good cause exists to make these amendments effective less than 30 days after publication in the **Federal Register.**

Done at Washington, DC, on: September 25, 1984.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 84-26005 Filed 9-27-84; 9:03 am]

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Part VII

Department of Health and Human Services

Office of the Secretary

Medicare Program; Notices

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[BDM-009-N]

Medicare Program; Part A Premium for the Uninsured Aged for the 12-Month Period Beginning January 1, 1985

AGENCY: Office of the Secretary, HHS.
ACTION: Notice.

SUMMARY: This notice announces Medicare's monthly hospital insurance premium for the uninsured aged for the 12 months beginning January 1, 1985.

EFFECTIVE DATE: January 1, 1985.

FOR FURTHER INFORMATION CONTACT: Sol Mussey, Director, Division of Medicare Cost Estimates, Office of Financial and Actuarial Analysis, 1-C-11 Oak Meadows Building, 6325 Security Blvd., Baltimore, Maryland 21207, Telephone: (301) 594-2829.

SUPPLEMENTARY INFORMATION: Under the authority in section 1818(d)(2) of the Social Security Act (42 U.S.C. 1395i-2(d)(2)), I have determined that the monthly Medicare hospital insurance premium for the uninsured aged for the 12 months beginning January 1, 1985, is $174.

Section 1818 of the Social Security Act provides for voluntary enrollment in the hospital insurance program (Part A of Medicare). Subject to payment of a monthly premium, of certain persons age 65 and older who are uninsured for social security or railroad retirement benefits and do not otherwise meet the requirements for entitlement to hospital insurance. (Persons insured under the Social Security or Railroad Retirement Acts need not pay premiums for hospital insurance.)

Section 1818(d)(2) of the Act, as amended by seciton 606(b) of the Social Security Amendments of 1983 (Pub. L. 98-21) requires the Secretary to determine and publish, during the next to last quarter of each calendar year, the amount of the monthly Part A premium for voluntary enrollment for the following calendar year. The formula specified in this section requires that, for the period beginning January 1, 1985, the 1973 base year premium ($33) be multiplied by the ratio of (1) the 1985 inpatient hospital deductible to (2) the 1973 inpatient hospital deductible rounded to the nearest multiple of $1 or, if midway between multiples of $1, to the next higher multiple of $1.

Under section 1813(b)(2) of the Act, the 1985 inpatient hospital deductible was determined to be $400. The 1973 deductible was actuarially determined to be $76, although the 1973 deductible was actually promulgated to be only $72, to comply with a ruling of the Cost of Living Council. (See 37 FR 21452, October 11, 1972.) The monthly premium for the 12-month period beginning January 1, 1985 has been calculated using the $76 deductible for 1973, since this more closely satisfies the intent of the law. Thus, the monthly hos pital insurance premium is $33 × (400/76) = $173.68, which is rounded to $174.

Regulatory Impact Statement

The monthly hospital insurance premium for the uninsured aged for the 12-month period beginning January 1, 1985, will increase to $174. That amount is 12 percent higher than the $155 monthly premium amount for the 12 month period beginning January 1, 1984.

The estimated cost of this increase to the approximately 22 thousand enrollees who do not otherwise meet the requirements for entitlement to hospital insurance will be about $5 million.

Because this notice merely announces an amount required by the formula specified in section 1818(d)(2) of the Act, and does not alter any regulation or policy, no analyses under Executive Order 12291 or the Regulatory Flexibility Act, Pub. L. 96-354, are required, and the Secretary so certifies.

(Sec. 1818(d)(2) of the Social Security Act (42 U.S.C. 1395i-2(d)(2))

(Catalog of Federal Domestic Assistance Program No. 13.773 Medicare—Hospital Insurance)

Dated: September 21, 1984.

Carolyne K. Davis,
Administrator, Health Care Financing Administration.

Approved: September 26, 1984.

Maragaret M. Heckler,
Secretary.

[FR Doc. 84-26000 Filed 9-27-84; 11:58 am]
BILLING CODE 4120-03-M

[BDM-010-GN]

Medicare Program; Monthly Actuarial Rates and Monthly Premium Rate

AGENCY: Office of the Secretary, HHS
ACTION: General Notice.

SUMMARY: This notice announces the monthly actuarial rates for aged (age 65 or over) and disabled (under age 65) enrollees in the Medicare Supplementary Medical Insurance (SMI) program for calendar year 1985. It also announces the monthly SMI premium rate to be paid by all enrollees during calendar year 1985.

DATE: The premium rate in this notice is calculated under the provisions of sections 1839(a)(3) and 1839(e) of the Social Security Act as revised by section 2302 of Pub. L. 98-369, the Deficit Reduction Act of 1984. Section 1839(e) of the Act temporarily holds the SMI premium at a constant percentage of the monthly actuarial rate for aged beneficiaries, while section 1839(a)(3), provides that the rates apply on a calendar year basis.

EFFECTIVE DATE: January 1, 1985.

FOR FURTHER INFORMATION CONTACT: Susan Kunkel, Supervisory Actuary, Division of Medicare Cost Estimates, 1-C-11 Oak Meadows Building, Baltimore, Maryland 21207, Telephone: (301) 594-1049.

SUPPLEMENTARY INFORMATION:

Background

The Secretary of Health and Human Services is required by law to issue two annual notices relating to the Medicare Supplementary Medical Insurance (SMI) program.

One notice announces two amounts that, according to actuarial estimates, will equal, respectively, one-half the expected average monthly cost of SMI for each aged enrollee (age 65 or over) and one-half the expected average monthly cost of SMI for each disabled enrollee (under age 65) during the calendar year beginning the following January. These amounts are called "monthly actuarial rates".

The second notice announces the monthly SMI premium rate to be paid by aged and disabled enrollees for the calendar year beginning the following January. (Although the costs to the program per disabled enrollee are higher than for the aged, the law provides that they pay the same premium amount.) Beginning with the passage of section 203 of Pub. L. 92-603 and until the passage of section 124 of the Tax Equity and Fiscal Responsiblity Act of 1982 (Pub. L. 97-248), the premium rate was limited to the lesser of the actuarial rate for aged enrollees, or the current monthly premium rate increased by the same percentage as the most recent general increase in monthly title II social security benefits. The difference between the premiums paid by all enrollees and total incurred costs is met from the general revenues of the Federal government.

Section 124 of Pub. L. 97-248, the Tax Equity and Fiscal Responsibility Act of 1982, amended section 1839 of the Social Security Act by temporarily suspending the limitation on annual increases in the SMI premium rate. As further amended by section 606 of Pub. L. 98-21 and section 2302 of Pub. L. 98-369, section

1839 sets the monthly premium rate for calendar years 1984 through 1987 at a level equal to 50 percent of the monthly actuarial rates for aged beneficiaries. In January 1988, calculation of the premium rate will revert to the method used before the passage of Pub. L. 97–248, Pub. L. 98–21 and Pub. L. 98–369, except that it will remain on a calendar year basis.

The notices of these amounts for calendar year 1985 are as follows:

Notice of Monthly Actuarial Rates

As required by sections 1839(a) (1) and (4) of the Social Security Act (42 U.S.C. 1395(a) (1) and (4)), as amended, I have determined that the monthly actuarial rates applicable for calendar year 1985 are $31.00 for enrollees age 65 and over, and $52.70 for disabled enrollees under age 65. The accompanying statement gives that actuarial assumptions and bases from which these rates are derived.

Notice of Monthly Premium Rate

As required by section 1839(e)(1) of the Social Security Act (42 U.S.C. 1395r(e)(1)), as amended, I have determined that the standard monthly premium-amount will be $15.50 during calendar year 1985. The accompanying statement shows how this amount was derived.

Statement of Actuarial Assumptions and Bases Employed in Determining the Monthly Actuarial Rates and the Standard Monthly Premium Rate for the Supplementary Medical Insurance Program Beginning January 1985

1. Actuarial Status of the Supplementary Medical Insurance Trust Fund

The law reqires that the SMI program be financed on an incurred basis; that is, program income during the calendar year for which the actuarial rates are effective must be sufficient to pay for services furnished during that year (including associated administrative costs) even though payment for some of these services will not be made until after the close of the year. The portion of income required to cover benefits not paid until after the close of the calendar year is added to the trust fund until needed. Thus, the assets in the trust fund at any time should be no less than benefit and administrative costs incurred but not yet paid.

Because the rates are established prospectively, they are subject to projection error. As a result, the income to the program may not equal incurred costs. Therefore, trust fund assets should be maintained at a level that is adequate to cover a moderate degree of projection error in addition to the amount of incurred but unpaid expenses. Table 1 summarizes the estimated actuarial status of the trust fund as of the end of the financing period for periods from 1983 through 1984.

TABLE 1.—ACTUARIAL STATUS OF THE SMI TRUST FUND AS OF THE END OF THE FINANCING PERIODS, JUNE 30, 1983–DECEMBER 31, 1984

[In millions of dollars]

Financing period ending [1]	Assets	Liabilities	Assets less liabilities
June 30, 1983	$6,781	$3,973	$2,808
Dec. 31, 1983	7,070	4,273	2,797
Dec. 31, 1984	8,541	4,668	3,873

[1] Prior to July 1, 1983, the financing periods were the 12-month periods ending June 30. For the transitional period, the financing period is July 1, 1983 through December 31, 1983. After December 31, 1983, the financing periods are the calendar year periods ending December 31.

2. Monthly Actuarial Rate for Enrollees Age 65 and Older

The monthly actuarial rate is one-half the monthly projected cost of benefits and administrative expenses for each enrollee age 65 and older, adjusted to allow for interest earnings on assets in the trust fund and a contingency margin. The contingency margin is an amount appropriate to provide for a moderate degree of projection error and to amortize unfunded liabilities.

The monthly actuarial rate for enrollees age 65 and older for calendar year 1985 was determined by projecting per-enrollee cost for the 12-month periods ending June 30, 1985 and June 30, 1986, by type of service. Although the actuarial rates are now applicable for calendar years, Projections of per-enrollee costs were determined on a July to June period, consistent with the July 1 annual fee screen update used for benefits prior to the passage of section 2306(b) of Pub. L. 98–369. The values for the 12-month period ending June 30, 1982, were established from program data. Subsequent periods were projected using a combination of program data and data from external sources. The projection factors used are shown in Table 2. These per-enrollee values are then adjusted to apply to a calendar year period. The projected values for financing periods from July 1, 1982, through December 31, 1985,are shown in Table 3.

The projected monthly rate required to pay for one-half of the total of benefits and administrative costs for enrollees age 65 and over for calendar year 1985 is $33.12. The monthly actuarial rate of $31.00 provides an adjustment for interest earnings and $–1.27 for a contingency margin. A negative margin is needed to begin to reduce the surplus which is developing in 1984 to a more appropriate level.

3. Monthly Actuarial Rate for Disabled Enrollees

Disabled enrollees are those persons enrolled in SMI because of entitlement to disability benefits for not less than 24 months or because of entitlement to Medicare under the end-stage renal disease program. Projected monthly costs for disabled enrollees (other than those suffering from end-stage renal disease) are prepared in a fashion exactly parallel to projections for the aged, using appropriate actuarial assumptions (see Table 2). Costs for the end-stage renal disease program are projected using a different computer model because of the complex demographic problems involved. The combined results for all disabled enrollees are shown in Table 4.

The projected monthly rate required to pay for one-half of the total of benefits and administrative costs for disabled enrollees for calendar year 1985 is $59.10. The monthly actuarial rate of $52.70 provides an adjustment for interest earnings and $–1.40 for a contingency margin. A negative margin is needed to begin to reduce the surplus which is developing in 1984 to a more appropriate level.

TABLE 2—PROJECTION FACTORS[1] 12-MO PERIODS ENDING JUNE 30 OF 1983–86

[In percent]

12-mo period ending June 30	Physicians' services		Radiology and pathology	Outpatient hospital services	Home Health agency services	Health care prepayment plans	Independent lab services
	Fees[2]	Residues[3]					
Aged:							
1983	8.9	14.0	3.0	15.0	15.0	20.0	1.0
1984	7.1	3.4	–14.5	15.6	4.2	20.0	–7.6

TABLE 2—PROJECTION FACTORS[1] 12-MO PERIODS ENDING JUNE 30 OF 1983–86—Continued

[In percent]

12-mo period ending June 30	Physicians' services		Radiology and pathology	Outpatient hospital services	Home Health agency services	Health care prepayment plans	Independent lab services
	Fees[2]	Residues[3]					
1985	0.5	9.0	−0.9	22.3	15.1	20.2	94.2
1986	5.8	5.0	9.6	22.2	7.6	24.8	6.1
Disabled:							
1983	8.9	12.5	6.0	15.0	0.0	20.0	19.0
1984	7.1	5.6	−13.3	22.4	0.0	24.8	−4.8
1985	0.5	10.5	0.0	23.7	0.0	26.3	148.1
1986	5.8	7.2	9.4	26.8	0.0	34.0	4.9

[1] All values are per enrollee.
[2] As recognized for payment under the program.
[3] Increase in the number of services received per enrollee and greater relative use of more expensive services.

TABLE 3.—DERIVATION OF MONTHLY ACTUARIAL RATE FOR ENROLLEES AGE 65 AND OVER, FINANCING PERIODS ENDING JUNE 30, 1983, THROUGH DEC. 31, 1985

	Financing periods			
	July 1, 1982, through June 30, 1983	July 1, 1983, through Dec. 31, 1983	January 1, 1984, through Dec. 31, 1984	January 1, 1985, through Dec. 31, 1985
Covered services (at level recognized):				
Physicians' reasonable charges	$25.26	$27.32	$29.34	$32.37
Radiology and pathology	1.11	.99	.95	.99
Outpatient hospital and other institutions	4.43	4.95	5.70	6.96
Home health agencies	.03	.03	.03	.03
Health care prepayment plans	.77	.88	1.01	1.24
Independent lab	.37	.35	.51	.68
Total services	31.99	34.52	37.54	42.26
Cost-sharing:				
Deductible	−2.49	−2.51	−2.52	−2.53
Coinsurance	−5.86	−6.39	−6.93	−7.81
Total benefits	23.64	25.62	28.09	31.94
Administrative expenses	.99	1.11	1.13	1.18
Incurred expenditures	24.63	26.73	29.22	33.12
Value of interest	−.65	−.65	−.79	−.85
Contingency margin for projection error and to amortize the surplus or deficit	.52	.92	.77	−.27
Monthly actuarial rate	24.50	27.00	29.20	31.00

[1] This rate, although originally promulgated for the 12-mo period ending June 30, 1984, was modified by section 606(c)(2) of Pub. L. 98–21 to apply only to the 6-mo period ending Dec. 31, 1983.

TABLE 4.—DERIVATION OF MONTHLY ACTUARIAL RATE FOR DISABLED ENROLLEES, FINANCING PERIODS ENDING JUNE 30, 1983, THROUGH DEC. 31, 1985

	Financing periods			
	July 1, 1982, through June 30, 1983	July 1, 1983, through Dec. 31, 1983	Jan. 1, 1984, through Dec. 31, 1984	Jan. 1, 1985, through Dec. 31, 1985
Covered services (at level recognized):				
Physicians' reasonable charges	$29.38	$31.85	$34.32	$38.23
Radiology and pathology	1.14	1.02	0.98	1.03
Outpatient hospital and other institutions	25.17	26.61	28.50	32.19
Home health agencies	.00	.00	.00	.00
Health care prepayment plans	0.44	0.52	0.62	0.81
Independent lab	0.55	0.53	0.80	1.11
Total services	56.68	60.53	65.22	73.37
Cost-sharing:				
Deductible	−2.27	−2.30	−2.33	−2.36
Coinsurance	−10.85	−11.64	−12.50	−14.02
Total benefits	43.56	46.59	50.39	56.99
Administrative expenses	1.98	1.99	2.03	2.11
Incurred expenditures	45.54	48.58	52.42	59.10
Value of interest	3.51	−3.61	−4.39	−5.00
Contingency margin for projection error and to amortize the surplus or deficit	07	1.13	6.27	−1.40
Monthly actuarial rate	42.10	[1]46.10	54.30	52.70

[1] This rate, although originally promulgated for the 12-month period ending June 30, 1984, was modified by section 606(c)(2) of Pub. L. 98–21 to apply only to the 6-month period ending Dec. 31, 1983

4. Sensitivity Testing

Several factors contribute to uncertainty about future trends in medical care costs. In view of this, it seems appropriate to test the adequacy of the rates announced here using alternative assumptions. The most unpredictable factors that contribute significantly to future costs are outpatient hospital costs, physician residual (as defined in Table 2), and increases in physician fees as constrained by the program's reasonable charge screens and economic index. Two alternative sets of assumptions and the results of those assumptions are shown in Table 5. All assumptions not shown in Table 5 are the same as in Table 2.

Table 5 indicates that, under the assumptions used in preparing this report, the monthly actuarial rates will result in an excess of assets over liabilities of $2,728 million by the end of December 1985. This amounts to 9.3 percent of the estimated total incurred expenditures for the following year.

Assumptions which are somewhat more pessimistic (and, therefore, test the adequacy of the assets to accommodate projection errors), produce a deficit of $425 million by the end of December 1985, which amounts to −1.3 percent of the estimated total incurred expenditures for the following year. Under family optimistic assumptions, the monthly actuarial rates will result in a surplus of $5,701 by the end of December 1985, which amounts to 21.3 percent of the estimated total incurred expenditures for the following year.

TABLE 5.—PROJECTION FACTORS AND THE ACTUARIAL STATUS OF THE SMI TRUST FUND UNDER ALTERNATIVE SETS OF ASSUMPTIONS FOR FINANCING PERIODS THROUGH DEC. 31, 1985

	This projection			Low cost projection			High cost projection		
	12-mo periods ending June 30,			12-mo periods ending June 30,			12-mo periods ending June 30,		
	1984	1985	1986	1984	1985	1986	1984	1985	1986
Projection factors (in percent):[1]									
Physician services—fees:[2]									
Aged	7.1	6.5	5.8	6.6	0.0	5.1	7.6	1.0	6.5
Disabled	7.1	6.5	5.8	6.6	0.0	5.1	7.6	1.0	6.5
Physician services—Residual:[3]									
Aged	3.4	9.0	5.0	1.9	7.3	2.7	4.8	10.7	7.3
Disabled	5.6	10.5	7.2	1.6	5.5	0.2	8.6	15.5	14.2
Outpatient hospital services:									
Aged	15.6	22.3	22.2	10.6	15.3	12.2	20.6	29.3	38.2
Disabled	22.4	23.7	26.6	16.4	13.7	11.8	28.4	28.7	47.6
	As of Dec. 31,			As of Dec. 31,			As of Dec. 31,		
	1983	1984	1985	1983	1984	1985	1983	1984	1985
Actuarial status (in millions):									
Assets	$7,070	$8,841	$9,490	$7,070	$8,375	$10,932	$7,070	$7,888	$8,998
Liabilities	4,273	4,968	5,762	4,041	4,624	5,231	4,506	5,318	5,251
Assets Less Liabilities	2,797	3,873	2,728	3,029	4,751	5,701	2,564	2,570	−425
Ratio of assets less liabilities to expenditures (in percent)[4]	12.7	14.4	9.3	14.3	20.0	21.3	11.2	8.4	−1.3

[1] All values are per enrollee.
[2] As recognized for payment under the program.
[3] Increase in the number of services received per enrollee and greater relative use of more expensive services.
[4] Ratio of assets less liabilities at the end of the year to total incurred expenditures during the following year, expressed as a percent.

5. Standard Premium Rate

For calendar years 1984 through 1987, the law provides that the standard monthly premium rate for both aged and disabled enrollees shall be 50 percent of the monthly actuarial rate for enrollees age 65 and older. Therefore, the standard monthly premium rate for both aged and disabled enrollees for calendar year 1985 is $15.50 which is 50 percent of the monthly actuarial rate for this period ($31.00).

Regulatory Impact Statement

The monthly SMI premium rate of $15.50 for all enrollees during calendar year 1985 is 6.2 percent higher than the $14.60 monthly premium amount for the previous financing period.

The estimated cost of this increase over the current premium to the approximately 29.9 million SMI enrollees will be about $325 million for calendar year 1985.

Because this notice of the SMI premium rate announces an amount required by the formula specified in section 1839(e)(1) of the Social Security Act, and does not alter any regulation or policy, no analyses under Executive Order 12291 or the Regulatory Flexibility Act, Pub. L. 96–354, are required, and the Secretary so certifies.

(Secs. 1839(a) (1), (3), and (4); and (e) (1) and (2) of the Secial Security Act; 42 U.S.C. 1395r(a) (1), (3), and (4); and (e) (1) and (2))

(Catalog of Federal Domestic Assistance Program No. 13.774, Medicare-Supplementary Medical Insurance)

Dated: September 21, 1984.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: September 26, 1984.

Margaret M. Heckler,

Secretary.

[FR Doc. 84-26010 Filed 9-27-84; 11:58 am]
BILLING CODE 4120-03-M

[BDM-011-N]

Medicare Program; Inpatient Hospital Deductible and Coinsurance Amounts for 1985

AGENCY: Office of the Secretary (OS), HHS.

ACTION: Notice.

SUMMARY: This notice announces the inpatient hospital deductible and coinsurance amounts for calendar year

1985 under Medicare's Hospital Insurance Program. The Medicare statute specifies the formula to be used to determine these amounts. The inpatient hospital deductible will be $400. The daily coinsurance amounts will be: (a) $100 for the 61st through 90th days of hospitalization; (b) $200 for lifetime reserve days; and (c) $50 for the 21st through the 100th days of extended care services in a skilled nursing facility. Each figure represents an increase of approximately 12 percent over the corresponding 1984 figure.

EFFECTIVE DATE: January 1, 1985.

FOR FURTHER INFORMATION CONTACT: Sol Mussey, Director, Division of Medicare Cost Estimates, Office of Financial & Actuarial Analysis, 1–C–11 Oak Meadows Building, 6325 Security Blvd., Baltimore, Maryland 21207, (301) 594–2829.

SUPPLEMENTARY INFORMATION: Under the authority in section 1813(b)(2) of the Social Security Act (42 U.S.C. 1395e(b)(2)), the Secretary has determined that the Medicare inpatient hospital deductible for 1985 will be $400.

Section 1813 provides for an inpatient hospital deductible and certain coinsurance amounts to be deducted from the amount payable by Medicare for inpatient hospital services and extended care services furnished an individual. Section 1813(b)(2) requires the Secretary of HHS to determine and publish, between July 1 and October 1 of each year, the amount of the inpatient hospital deductible applicable for the following calendar year.

Because the coinsurance amounts in section 1813 are fixed percentages of the inpatient hospital deductible for services furnished in the same calendar year, the increase in the deductible has the effect of also increasing the amount of coinsurance the Medicare beneficiary must pay. Thus, for inpatient hospital services or extended care services furnished in 1985, the daily coinsurance for the 61st through 90th days of hospitalization (¼ of the inpatient hospital deductible) will be $100; the daily coinsurance for lifetime reserve days (½ of the inpatient hospital deductible) will be $200; and the daily coinsurance for the 21st through the 100th days of extended care services in a skilled nursing facility (⅛ of the inpatient hospital deductible) will be $50.

Under the formula in the law, the deductible for calendar year 1985 must be equal to $45 multiplied by the ratio of (1) the current average per diem rate for inpatient hospital services for calendar year 1983 to (2) the average per diem rates for such services in 1966. The amount so determined is rounded to the nearest multiple of $4. The average per diem rates are based on the amounts paid to participating hospitals by Medicare for inpatient services to insured individuals, plus the deductible and coinsurance amounts.

The average per diem rate for a calendar year is computed from the inpatient hospital bills for all beneficiaries. Each bill shows the number of inpatient days of care and the interim cost (the sum of interim reimbursement, deductible, and coinsurance). The data are summarized for each year, and an average interim per diem rate computed that accurately reflects interim costs on an accrual basis.

In order to reflect the change in the average per diem hospital cost under the program properly, the average interim cost must be adjusted to show the effect of final cost settlements made with each participating hospital after the end of its accounting year. The final settlements adjust the interim payment to the hospital to the actual full cost of providing covered services to beneficiaries. To the extent that the ratio of final cost to interim cost for 1983 differs from the ratio of final cost to interim cost for 1966, the increase in average interim per diem costs will not coincide with the increase in actual cost that has occurred.

The current average interim per diem rate for inpatient hospital services for calendar year 1983, based on tabulated interim costs, is $341.20; the corresponding amount for 1966 is $37.92. The averages are based on approximately 108 million days of hospitalization in 1983 and 30 million days in 1966 (last 6 months of the year). The ratio of final cost to interim cost is approximately 1.045 for 1983 and 1.055 for 1966. Thus, the inpatient hospital deductible is $45×(341.20×1.045)/(37.92×1.055)=$401.07 which is rounded to $400.

Regulatory Impact Statement

The inpatient hospital deductible and coinsurance amounts for calendar year 1985 will be 12 percent higher than the 1984 amounts. The inpatient hospital deductible increased from $356 to $400; the daily coinsurance for the 61st through 90th days of hospitalization increased from $89 to $100; the daily coinsurance for lifetime reserve days increased from $178 to $200; and the daily coinsurance for the 21st through 100th days of extended care services in a skilled nursing facility increased from $44.50 to $50.

The estimated cost to beneficiaries due to these increases is $460 million. This amount is based on an estimated 7.9 million beneficiaries who will have 8.0 million benefit periods and use 3.9 million hospital coinsurance days, 1.8 million lifetime reserve days, and 4.1 million skilled nursing facility coinsurance days in 1985.

HCFA computed the 1985 inpatient hospital deductible and coinsurance amounts in the same manner as in previous years as required by section 1813 of the Act. The costs associated with this notice are the result of legislative requirements implemented by this notice. Since this notice merely announces amounts required by legislation and is not a proposed rule or final rule issued after a proposal, no analysis is required under Executive Order 12291 or the Regulatory Flexibility Act, and the Secretary so certifies.

(Sec. 1813(b)(2) of the Social Security Act (42 U.S.C. 1395e(b)(2)))

Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance)

Dated: September 21, 1984.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: September 26, 1984.

Margaret M. Heckler,

Secretary.

[FR Doc. 84–26011 Filed 9–27–84; 11:58 am]

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federal register

Friday
September 28, 1984

Part VIII

Department of Health and Human Services

Health Care Financing Administration

Medicare Program; Standards and Criteria for Evaluating Intermediary and Carrier Performance During Fiscal Year 1985; General Notice With Comment Period

VOL 49 ISS 190 SEP 28 1984 UMI

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[BPO-48-GNC]

Medicare Program; Standards and Criteria for Evaluating Intermediary and Carrier Performance During Fiscal Year 1985

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: General notice with comment period.

SUMMARY: This notice describes the standards and criteria to be used for evaluating the performance of fiscal intermediaries and carriers in the administration of the Medicare program for fiscal year 1985. The results of these evaluations are considered whenever we enter into, renew, or terminate an intermediary or carrier agreement or take other contract actions; assign or reassign providers of services to an intermediary; or designate regional or national intermediaries.

This notice is published in accordance with sections 1816(f) and 1842(b)(2) of the Social Security Act, as amended by section 2326 of the Deficit Reduction Act of 1984 (Pub. L. 98-369), which requires us to publish for public comment in the **Federal Register** those criteria and standards against which we evaluate intermediaries and carriers.

EFFECTIVE DATES: October 1, 1984. To assure consideration, comments should be mailed by October 29, 1984.

ADDRESS: Address comments in writing to: Health Care Financing Administration, Department of Health and Human Services, Attention: BPO-48-GNC, P.O. Box 26676, Baltimore, Maryland 21207.

If you prefer, you may deliver your comments to Room 309-G Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, D.C. or to Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

Comments will be available for public inspection as they are received, beginning approximately three weeks after publication, in Room 309-G of the Department's office at 200 Independence Avenue, SW., Washington, D.C. 20201, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202 245-7890).

Because of the large number of comments we receive, we cannot acknowledge or respond to them individually. However, we will accept the comments of interested parties, consider them, and publish the comments and our responses to them in a subsequent **Federal Register** if we modify the FY 85 criteria and standards as announced.

FOR FURTHER INFORMATION CONTACT: Newton H. Dikoff, (301) 594-8191.

SUPPLEMENTARY INFORMATION:

A. Background

Under Section 1816 of the Social Security Act, public or private organizations and agencies participate in the administration of Part A (Hospital Insurance) of the Medicare program under agreements with the Secretary of Health and Human Services. These agencies or organizations are known as fiscal intermediaries, and they perform bill processing and benefit payment functions for the Medicare program. Most providers of services (such as hospitals, skilled nursing facilities (SNFs), and home health agencies (HHAs)) submit bills to these intermediaries, which determine whether the services are covered under Medicare and determine correct payment amounts. The intermediaries then make payments to the providers on behalf of the beneficiaries.

Under Section 1842 of the Social Security Act, the Secretary is authorized to enter into contracts with carriers to fulfill various functions in the administration of Part B (Supplementary Medical Insurance) of the Medicare program. Beneficiaries, physicians and suppliers of services submit claims to these carriers. The carriers determine whether the services are covered under Medicare and the reimbursable amount (usually on the basis of reasonable charges) for the services or supplies and then make payment to the appropriate party.

Beginning in 1980 for intermediaries and in 1981 for carriers, we have been evaluating contractor quality and efficiency through the Contractor Performance Evaluation Program (CPEP). On June 23, 1980 we published regulations at 42 CFR 421.120 to implement a statutory requirement in Section 1816(f) of the Social Security Act that we establish by regulations our criteria and standards for evaluating intermediary performance. We revised § 421.120 on February 18, 1983 (48 FR 7178) to provide for publication of **Federal Register** notices to announce standards and criteria applicable during each fiscal year. Since that time we have been publishing our standards and criteria for intermediaries in the **Federal Register**.

Under the requirements of 42 CFR 421.120, we previously published (for intermediaries) performance criteria and the individual elements of each. Performance criteria evaluate the overall effectiveness of an intermediary's Medicare operation. Under the requirements of 42 CFR 421.122, we published (for intermediaries) statistical standards, which establish measures of performance based on nationwide intermediary experience during a base period.

B. Fiscal Year 1985 Criteria and Standards—General

Until July 18, 1984, as discussed below, there was no requirement for publication of a regulation or notice for carrier evaluation. Nonetheless, we have evaluated carrier performance under CPEP using criteria and standards similar to those we used for intermediaries, even though we have not published them for comment in the **Federal Register**. Instead, we relied on consultation with the carrier community in developing appropriate criteria and standards.

Section 2326(c) of the Deficit Reduction Act of 1984 (Pub. L. 98-369) amended section 1816(f) of the Social Security Act by deleting the requirement that we establish intermediary performance criteria and standards by regulation. At the same time Section 2326(c) added a requirement to Section 1816(f) for intermediaries and to Section 1842(b) for carriers that we publish in the **Federal Register** for comment the criteria and standards against which we evaluate both intermediaries and carriers, and that we give the public an opportunity to comment before implementing them. In view of this requirement, this notice announces the FY 1985 criteria and standards to be used to measure the effectiveness and efficiency of both intermediaries and carriers.

In view of the fact that we have previously published notices containing criteria and standards (e.g., see 48 FR 7308 and 49 FR 14581) we are noting several differences from prior notices.

First, due to the changes of legislation, already discussed, this notice for the first time includes criteria and standards applicable to carriers. The criteria and standards for carriers are different from those applicable to intermediaries, to reflect the different operations of these contractors. Criteria and standards to evaluate carrier performance appear in Section E of this notice. The seven criteria to evaluate carriers contain 70 elements and eight standards.

The second change from prior year notices involves the distinction between

performance criteria and statistical standards. Since performance criteria are provided for by 42 CFR 421.120 and statistical standards by § 421.122, we presented them in separate parts of prior notices. In fact, the statistical standards may measure the performance of activities quantitatively, which are also being measured by performance criteria qualitatively. Therefore, we are no longer separately presenting discussion of the statistical standards. Instead, the standards are identified under the performance areas where they apply. For FY 1985, there are nine performance criteria with six statistical standards applicable to intermediaries, and seven performance criteria with eight standards applicable to carriers.

Third, we are modifying the performance areas that we evaluate to parallel more closely the way intermediary and carrier budgets are organized. This change will allow us to make comparisons between similar activities of different intermediaries and carriers more accurately. Unlike the situation that existed when the CPEP evaluations began in 1980 and 1981, all intermediaries and carriers no longer perform virtually identical functions. For example, for home health agencies, there are designated regional intermediaries and alternative designated intermediaries. Since not all intermediaries process home health agency bills, it is no longer appropriate to establish a performance standard for home health agency bill processing that all intermediaries must meet. It is appropriate, however, to measure the efficiency and effectiveness of those contractors with specialized functions under the budget area where the activity takes place.

We also are making changes in the measurements used to evaluate performance for FY 1985. The new scoring system is presented in Section C. (See 48 FR 7309 for a complete explanation of the previous scoring system). Following is an overview of the scoring system changes.

In prior years, the measurement system used a three-tiered approach which consisted of performance areas, criteria and elements. The performance areas were general activity areas, such as "Provider Reimbursement"; the criteria were more specific (e.g. "Identify, control and recover overpayments to providers timely"); and elements were the most specific (e.g., "overpayments to providers must not exceed established threshold levels"). Each performance area and criterion was assigned a "passing" score and points were accumulated depending on performance as measured under each element. For example, for FY 1984, to pass the "Provider Reimbursement" area an intermediary was required to attain 176 points; to pass the criterion, "Identify, Control and review overpayments to providers timely" (one of the four criteria in the provider reimbursement area) required 38 points. A contractor failed CPEP if it failed to achieve a passing score for any area.

For FY 1985, the measurement uses a two-tiered approach that consists of criteria and elements (and, in some instances, statistical standards). Performance areas will no longer be used. Since all contractors do not perform identical processes, as explained earlier, it is inappropriate to require that all achieve an identical, fixed passing score. For example, a designated regional intermediary for HHAs will receive points for processing HHA bills that accumulate towards achieving the overall passing score, whereas no points would be given to an intermediary that was not so designated, since it precessed no HHA bills. This would result in one contractor having an opportunity to accumulate a higher total score based on the diversity of its workload rather than on its performance level. On the the other hand, if we limited the criteria and elements only to the common activities of all contractors we would diminish our ability to measure areas where good performance is critical.

Since it is no longer necessary for all contractors to achieve a fixed total score, it is no longer necessary to organize the criteria into performance areas. Consequently, under the FY 1985 measurement a contractor will fail CPEP if it fails to achieve a passing score for any criterion.

Also under the revised scoring system included in this notice (and previously discussed with intermediaries and carriers), we have identified a number of activities (elements or standards) that have such significant program importance that deficient performance in that activity cannot be tolerated. These are being designated as "critical standards" or "critical elements". A deficient score in a critical standard or element constitutes failure of that standard or element and failure of the entire CPEP. For intermediaries the 16 critical standards or elements are:

- Process bills at an acceptable unit cost.
- Meet targeted volume of electronic media claims (EMC) by September 30, 1985.
- Provide the patient bill (PATBILL) data to peer review organizations (PROs) within agreed upon timeframes and assure complete hosptial discharge data.
- Report bills processed after March 31, 1985 to HCFA in the UNIBILL format.
- Achieve negotiated savings goals in adjudicating secondary payer claims involving working aged cases.
- Achieve negotiated savings goals in adjudicating secondary payer claims involving automobile, liability and no-fault insurance.
- Accurately conduct HHA Coverage Compliance Reviews.
- Administer a cost-effective medical review/utilization review program.
- Recover overpayments to providers timely.
- Properly perform audits and target amount computation.
- Establish and administer a cost-effective provider audit program.
- Properly compute blended payment rate under PPS.
- Establish interim payments to hospitals to approximate Medicare reimbursable costs.
- Confine the incidence of hospital overpayments to acceptable levels.
- Confine the incidence of SNF overpayments to acceptable levels.
- Confine the incidence of HHA overpayments to acceptble levels.

For carriers the 13 critical standards or elements are:

- Process claims at an acceptable unit cost.
- Respond accurately to beneficiary inquiries.
- Make accurate medical review determinations.
- Implement mandated prepayment screens.
- Complete beneficiary requests for reviews accurately.
- Meet targeted volume of electronic media claims by September 30, 1985.
- Implement the HCFA common procedure coding system and install the annual update timely.
- Achieve negotiated savings goals in adjudicating secondary payer claims involving working aged.
- Achieve negotiated savings goals in adjudicating secondary payer claims involving auto, liability, and no-fault insurance.
- Recover physician/supplier overpayments timely.
- Maintain an acceptable overpayment deductible error rate.
- Maintain an acceptable underpayment deductible error rate.
- Administer a cost-effective medical review/utilization review program.

For fiscal year 1985, the unit cost evaluation also is being fundamentally restructured. In prior years we

determined a unit cost of bill processing and then adjusted it for each intermediary to take into account significant measureable factors that are not within the intermediary's control. In an effort to narrow the range of unit cost performance, for fiscal year 1985 each contractor will have an individual standard for its reasonable bill processing administrative unit cost. This standard is based on driving all costs to or below the fiscal year 1983 mean cost for all intermediaries or carriers, respectively, and reducing the mean unit cost through increased efficiency. These individual standards also take into account the Bureau of Labor Statistics geographic wage index, bill mix, inflation, reduced incremental cost for processing workload increases between fiscal year 1983 and 1985, and individual contractor circumstances (such as significant changes in cost for fiscal year 1984). The individual standards required substantial reductions in unit cost for those contractors with unit costs greatly in excess of the national mean and lesser reductions in unit cost for lower cost contractors.

Action Based on Performance Evaluations

We may, as in previous years, initiate administrative actions as a result of the evaluation of intermediary and carrier performance using these performance standards and elements. Under sections 1816 and 1842 of the Act we consider the results of the evaluations in determinations we make concerning:

1. Entering into, renewing or terminating agreements with contractors; and

2. Decisions concerning other contract actions for intermediaries and carriers (such as deletion of an automatic renewal clause). These are made on a case-by-case basis and depend primarily on the nature and degree of performance. More specifically, they depend on:

a. Relative overall performance compared to other contractors;

b. Number of standards and elements for which superior, average, or deficient performance occurs;

c. Extent of each failure; and

d. Relative significance of the elements and standards for which superior or deficient performance occurs within the overall Contractor Performance Evaluation Program (CPEP).

In addition, we consider the results of intermediary evaluations in determinations we make concerning—

3. Assignment or reassignment of providers; and

4. Designation of regional or national intermediaries for classes of providers.

We make individual contract action decisions after considering these factors in terms of their relative significance and impact on the government's ability to administer the Medicare program efficiently.

Replacement of Contractors Through Competitive Bidding

Finally, section 2326(a) of the Deficit Reduction Act of 1984 (Pub. L. 98–369) allows HCFA to use competitive bidding to replace a contractor whose performance over a period of time has been in the lowest 20th percentile as measured by these cost and performance criteria. In fiscal year 1985 and again in fiscal year 1986, section 2326(a) authorizes HCFA to enter into two intermediary agreements and two carrier contracts based on competitive bidding, without regard to provider nomination rights, in order to replace low ranking intermediaries and carriers.

C. Scoring System

For both intermediaries and carriers each performance criterion is comprised of a number of review elements, and, in certain criteria, statistical standards as well. Each element and standard will be scored on a scale of 0–10. This differs from the method used in prior years, in that the bonus/penalty point concept is eliminated. Each element has a method of evaluation that is used to calculate a score based on a contrator's performance for that element.

In general, in a contractor exactly meets the requirements for an element, it would achieve a score of 7, to which we refer as the threshold score. Based on the performance level established for each element, a score below the threshold (i.e., a score of 6 or lower) constitutes a deficiency requiring correction or improvement.

A contractor's performance will be evaluated against each standard and element. Each standard and element is assigned a weight of 1, 3, or 5 according to its relative significance within the evaluation program, with critical standards and elements receiving a weight of 5. For each performance criterion, the evaluation will be carried out in terms of points earned compared to points available to the contractor. That is, if a contractor does not perform a particular function or the element addressing a particular funcition is not reviewed for some other reason, the points available to the contractor will be appropriately reduced. In any event, a contractor will be required to achieve a certain percentge of points (we are tentatively proposing 70 percent) available to a performance criterion as well as equal or exceed the threshold score for each of the designated critical standards and elements in order to pass that criterion.

Certain standards and elements are being designated as "critical". A critical standard or element is a standard or element that addresses a contractor function of such significant program importance that deficient performance cannot be tolerated. Therefore, a deficient score (i.e., 6 or below a critical standard or element) constitutes a failure of that standard or element, a failure of the criterion in which it is contained and failure of the CPEP. Critical standards or elements are annotated with an asterisk in the lists of standards and elements below.

Failure to meet the individual unit cost standard (in the absence of adjustment to the standard preapproved by HCFA) will result in failure of CPEP. The mean of the individual contractor unit cost standards will be the standard for all contractors. Contractors with actual fiscal year 1985 unit costs over this mean will receive a score less than the total score possible for the element under CPEP.

D. Criteria and Standards for Intermediaries

We will use nine criteria to evaluate the overall quality of an intermediary's performance during fiscal year 1985. They are (1) bill processing; (2) beneficiary services; (3) provider services; (4) productivity investments; (5) payment safeguards—bill processing; (6) payment safeguards—provider reimbursement; (7) payment safeguards—medical review/utilization review; (8) fiscal management; and (9) contractor management. The nine areas to be evaluated contain a total of 92 elements and six standards. There are five elements for bill processing, four for beneficiary services, two for provider services, five for productivity investments, seven for payment safeguards—bill processing, 20 for payment safeguards—provider reimbursement, 17 for payment safeguards—medical review, 18 for fiscal management, and 14 for contract management. There are six standards for bill processing.

1. Bill Processing Criterion

For the fiscal year 1985 evaluation period, we will use the following elements below to determine if an intermediary properly controlled and processed bills from providers and submitted accurate bill information to

HCFA. The intermediary is required to meet the following elements:

- Control bills from date of receipt (Element 1 Weight = 3.0).
- Ensure that hospital inpatient bills pass HCFA utilization edits (Element 2 Weight = 1.0).
- Ensure that hospital outpatient bills pass HCFA utilization edits (Element 3 Weight = 1.0).
- Ensure that SNF bills pass HCFA utilization edits (Element 4 Weight = 1.0).
- Make payment for dialysis to end stage renal disease providers based on a determined composite rate or the approved exception rate and assure that duplicate payments do no occur (Element 5 Weight = 3.0).

The intermediary must meet the following standards:

- Process hospital inpatient bills timely (Standard 1 Weight = 1.0).
- Process SNF bills timely (Standard 3 Weight = 1.0).
- Process HHA bills timely (Standard 4 Weight=1.0).
- Control the number of days work on hand over 30 days to an acceptable level (Standard 5 Weight=1.0).
- Process bills at an acceptable cost (Standard 6 Weight=5.0)*.

2. Beneficiary Services Criterion

An intermediary must ensure that, in Medicare matters, beneficiaries are treated according to law, regulations and general instructions covering such areas as responding to inquiries, providing reconsiderations of claims and furnishing appropriate notices of reconsideration decisions. We will use the elements below to evaluate the beneficiary services criterion for FY 1985. The intermediary is required to:

- Repond accurately to beneficiary inquiries (Element 1 Weight=3.0).
- Respond timely to beneficiary inquiries (Element 2 Weight=1.0).
- Prepare accurate reconsideration determinations (Element 3 Weight=3.0).
- Prepare appropriate notices of reconsideration decisions and furnish copies to appropriate parties (Element 4 Weight=1.0).

3. Provider Services Criterion

An intermediary must ensure that, in Medicare matters, providers are treated according to law, regulations and general instructions in regard to responding to inquires. We will use the elements below to evaluate the provider services criterion for FY 1985. The intermediary is required to:

- Respond accurately to provider inquiries (Element 1 Weight=3.0).
- Respond timely to provider inquiries (Element 2 Weight=1.0).

4. Productivity Investments Criterion

An intermediary must take programmatic, administrative and systems initiatives designed to improve the cost effectiveness and/or efficiency of Medicare claims operations, reduce burdens on the public, and improve beneficiary understanding of the program. We will use the standards or elements below to evaluate this criterion in FY 1985. The intermediary is required to:

- Meet targeted volume of electronic media claims (EMC) by September 30, 1985 (Element 1 Weight=5.0).*
- Use the national standard format for electronic media claims (EMC) (Element 2 Weight=3.0).
- Provide patient bill (PATBILL) data to peer review organizations (PROs) within agreed upon timeframes and assure complete hospital discharge data. (Element 3 Weight=5.0).*
- Report bills processed after March 31, 1985 in the uniform bill (UNIBILL) format (Element 4 Weight=5.0)*.
- Implement contractor initated enhancements efficiently and effectively (Element 5 Weight=3.0).

5. Payment Safeguards—Bill Processing Criterion

An intermediary must administer the Medicare program in manner that achieves maximum savings and cost avoidance for the Medicare trust funds. We will use the elements below to evaluate this criterion in FY 1985. The intermediary is required to:

- Properly process limitation of liability determinations for non-PPS provider billings (Element 1) Weight=3.0).
- Properly process limitation of liability determination for PPS-Hospital billings (Element 2 Weight=3.0).
- Achieve negotiated savings goals in adjudicating secondary payer claims involving working aged cases (Element 3 Weight=5.0).*
- Achieve negotiated savings goals in adjudicating secondary payer claims involving automobile, liability, and no-fault insurance cases (Element 4 Weight=5.0)*.
- Identify and dispose of all fraud and abuse cases properly (Element 5 Weight=3.0).
- Properly compute blended payment rates under PPS (Element 6 Weight=5.0).*
- Ensure that no payments are made to excluded, terminated or suspended providers, physicians or suppliers (Element 7 Weight=3.0).

6. Payment Safeguards—Provider Reimbursement Criterion

An intermediary must administer the program in a manner that achieves maximum savings and cost avoidance for the Medicare trust funds. We will use the elements below to evalute the criterion in FY 1985. The intermediary will be required to:

- Establish interim payments for hospitals to approximate Medicare reimbursable costs (Element 1 Weight=5.0)*.
- Establish interim payments for SNFs to approximate Medicare reimbursable costs (Element 2 Weight=3.0).
- Establish interim payments for HHAs to approximate Medicare reimbursable costs (Element 3 Weight=3.0).
- Properly compute, review and adjust interim rates under PPS (Element 4 Weight=5.0)*.
- Review "Interim Rate Change Reports" (HCFA Form 91) and take appropriate action on accordance with general instructions (Element 5 Weight=1.0).
- Take appropriate action when providers fail to file cost reports by the due date (Element 6 Weight=3.0).
- Confine the incidence of hospital overpayments to acceptable levels (Element 7 Weight=5.0)*.
- Confine the incidence of SNF overpayments to acceptable levels (Element 8 Weight=5.0)*.
- Confine the incidence of HHA overpayments to acceptable levels (Element 9 Weight=5.0)*.
- Properly calculate and assess interest (Element 10 Weight=3.0).
- Recover overpayments to providers timely (Element 11 Weight=5.0)*.
- Properly finalize hospital cost reports for reporting periods prior to PPS. (Element 12 Weight=3.0).
- Properly finalize SNF cost reports. (Element 13 Weight=3.0).
- Properly perform audits and target amount computations required by section 1886 of the Act (Element 14 Weight=5.0)*.
- Properly finalize HHA cost reports. (Element 15 Weight=3.0).
- Establish and administer a cost effective provider audit program (Element 16 Weight=5.0)*.
- Properly identify and dispose of fraud and abuse cases involving audited cost reports (Element 17 Weight=3.0).
- Settle hospital FY 1984 cost reports by the end of FY 1985 (Element 18 Weight=1.0).

* Identifies critical standard or element.

• Settle SNF FY 1984 cost reports by the end of FY 1985 (Element 19 Weight=1.0).
• Settle HHA FY 1984 cost reports by the end of FY 1985 (Element 20 Weight=1.0).

7. Payment Safeguards—Medical Review/Utilization Review (MR/UR) Criterion

An intermediary must perform necessary medical review activities as required by HCFA instructions in a timely, accurate and cost effective manner. The intermediary is required to:

• Subject inpatient Hospital bills to the appropriate level of medical review (Element 1 Weight=1.0).
• Subject outpatient Hospital bills to the appropriate level to medical review (Element 2 Weight=1.0).
• Subject home health agency bills to the appropriate level of medical review (Element 3 Weight=1.0).
• Subject CORF bills to the appropriate level of medical review (Element 4 Weight=1.0).
• Subject SNF bills to the appropriate level of medical review (Element 5 Weight=1.0).
• Subject electronic media claims (EMC) bills to the appropriate level of medical review (Element 6 Weight=1.0).
• Process outpatient bills to ensure that correct medical review determinations are made (Element 7 Weight=3.0).
• Process HHA bills to assure that correct medical review determinations are made (Element 8 Weight=3.0).
• Process SNF bills to ensure that correct medical review determinations are made (Element 9 Weight=3.0).
• Process CORF bills to ensure that correct medical review determinations are made (Element 10 Weight=3.0).
• Process EMC bills to ensure that correct medical review determinations are made (Element 11 Weight=3.0).
• Properly rank HHAs for coverage compliance reviews (Element 12 Weight=3.0).
• Within one year of ranking, review HHAs ranked within the top 10 percent (Element 13 Weight=1.0).
• Accurately conduct HHA coverage compliance reviews (Element 14 Weight=5.0).*
• Conduct a 100 percent prepayment medical review of HHA providers where required (Element 15 Weight=3.0).
• Administer a cost-effective MR/UR program (Element 16 Weight=5.0).*
• Submit timely "Reports of Benefit Savings" (Element 17 Weight=1.0).

8. Fiscal Management Criterion

An intermediary must take measures to protect the Medicare program and the public interest. It must manage Federal funds for both benefit payments and cost of administration in accordance with its agreement with the Secretary, the Federal Acquisition Regulations, the HHS Acquisition Regulations, and HCFA instructions. The intermediary is required to:

• Ensure that cost allocations are consistent (provide reasonable assurance that comparable transactions are treated alike) and chargeable to a particular cost objective in accordance with the relative benefits received or other equitable relationship (Element 1 Weight=3.0).
• Confine actual operations expenditures to the latest approved budget and have the ability to identify potential expenditures in excess of the approved budget in advance of the occurrence of such expenditures (Element 2 Weight=3.0).
• Confine actual MR/UR expenditures to the latest approved budget and have the ability to identify potential expenditures in excess of the approved budget in advance of the occurrence of such expenditures (Element 3 Weight=3.0).
• Confine actual provider audit expenditures to the latest approved budget and have the ability to identify potential expenditures in excess of the approved budget in advance of the occurrence of such expenditures (Element 4 Weight=3.0).
• Confine actual productivity investment expenditures to the latest approved budget and have the ability to identify potential expenditures in excess of the approved budget in advance of the occurrence of such expenditures (Element 5 Weight=3.0).
• Confine administrative funds drawn to the approved budget distribution and in accordance with actual expenditures (Element 6 Weight=3.0).
• Submit the budget request in accordance with general instructions (Element 7 Weight=3.0).
• Submit the budget request timely (Element 8 Weight=1.0).
• Submit accurate "Plan of Expenditure Reports" (Element 9 Weight=3.0).
• Submit "Plan of Expenditure Reports" timely (Element 10 Weight=1.0).
• Submit accurate "Interim Expenditure Reports" (IERs) (Element 11 Weight=3.0).
• Submit IERs timely (Element 12 Weight=3.0).
• Submit accurate "Variance Reports" (Element 13 Weight=3.0).
• Submit "Variance Reports" timely (Element 14 Weight=1.0).
• Submit accurate "Time Account Adjustment Schedules" (Element 15 Weight=1.0).
• Submit "Time Account Adjustment Schedules" timely (Element 16 Weight=1.0).
• Submit an accurate "Final Administrative Cost Proposal" (FACP) (Element 17 Weight=3.0).
• Submit the FACP timely (Element 18 Weight=1.0).

9. Contract Management Criterion

An intermediary must take measures to ensure compliance with HCFA directives and meet management information needs in administering the Medicare program. The intermediary is required to:

• Submit leases and other subcontracts (including those for electronic data processing (EDP) services) to HCFA for prior approval or give notice in accordance with the Medicare agreement and HCFA instructions (Element 1 Weight=3.0).
• Achieve Small and Disadvantaged Businesses (SADBUS) goals (Element 2 Weight=1.0).
• Submit accurate cost report data for the hospital cost report information system (HCRIS) (Element 3 Weight=3.0).
• Submit HCRIS reports timely (Element 4 Weight=1.0).
• Submit accurate "Intermediary Benefit Payment Reports" (Element 5 Weight=3.0).
• Submit timely "Intermediary Benefit Payment Reports" (Element 6 Weight=1.0).
• Submit accurate provider overpayment data (Element 7 Weight=3.0).
• Submit provider overpayment data timely (Element 8 Weight=1.0).
• Submit accurate "Medicare Program Provider Overpayment Cause Reports" (HCFA 411) (Element 9 Weight=3.0).
• Submit "Medicare Program Provider Overpayment Cause Reports" (HCFA Form 411) timely (Element 10 Weight=1.0).
• Submit accurate ESRD cost reports and worksheets (Element 11 Weight=1.0).
• Submit timely ESRD cost reports and worksheets (Element 12 Weight=1.0).
• Implement administrative instructions (such as Intermediary Letters and manual transmittals) issued by HCFA central office accurately and timely (Element 13 Weight=3.0).
• Implement HCFA regional office directives and recommendations accurately and timely (Element 14 Weight=3.0).

E. Criteria and Standards for Carriers

We will use seven criteria to evaluate the overall quality of carrier performance during fiscal year 1985. They would be: (1) Claims processing; (2) beneficiary services; (3) productivity investments; (4) payment safeguards—claims processing; (5) payment safeguard——medical review/utilization review; (6) fiscal management; and (7) contract management. The seven areas to be evaluated contain a total of 70 elements and eight standards. There are six elements for claims processing, 14 for beneficiary services, five for productivity investments, 12 for payment safeguards—claims processing, 10 for payment safeguards—medical review/utilization review, 17 for fiscal management and six for contract management. There are six standards for claims processing and two for payment safeguards—claims processing.

1. Claims Processing Criterion

A carrier must accurately determine the amount of program payments allowed for covered services in processing allowable Part B Medicare claims. A carrier must also disallow claims for non-covered services. The processing of allowed and disallowed claims must be performed in a timely, economical manner. For FY 1985 we will use the following 6 elements to assess carriers' claims processing performance. The carrier must:

- Control claims from actual date of receipt (Element 1 Weight=3.0).
- Establish customary charge screens in accordance with regulations and instructions (Element 2 Weight=3.0).
- Establish locality prevailing charges in accordance with instructions and regulations (Element 3 Weight=3.0).
- Update new reasonable charge screens timely (Element 4 Weight=3.0).
- Properly compute the ESRD physician monthly capitation rate and assure that duplicate payments are not made under this program (Element 5 Weight=3.0).
- Properly integrate the ESRD beneficiary selection from the HCFA Form 382 annual listing and monthly update into the claims processing system (Element 6 Weight=1.0).
- The carrier also must meet the following 6 standards:
- Process assigned claims timely in accordance with HCFA 30 day standard (Standard 1 Weight=1.0).
- Process assigned claims timely in accordance with HCFA 60 day standard (Standard 2 Weight=1.0).
- Process nonassigned claims timely in accordance with HCFA 30 day standard (Standard 3 Weight=1.0).
- Process nonassigned claims timely in accordance with HCFA 60 day standard (Standard 4 Weight=1.0).
- Control days work on hand over 30 days to an aceptable level. (Standard 5 Weight=1.0).
- Process claims at an acceptable unit cost. (Standard 6 Weight=5.0).*

2. Beneficiary Services Criterion

A carrier must ensure that Medicare beneficiaries are treated according to law, regulations and general instructions covering areas such as responding to inquiries, issuing notice of determinations and providing impartial reviews. We will use 14 elements to evaluate carrier performance in serving beneficiaries. The carrier must:

- Respond timely to beneficiary inquiries (Element 1 Weight=1.0).
- Respond accurately to beneficiary inquiries (Element 2 Weight=5.0).*
- Provide readable responses to beneficiary inquiries (Element 3 Weight=3.0).
- Maintain a proper level of service for incoming telephone calls (Element 4 Weight=3.0).
- Respond accurately to telephone inquiries (Element 5 Weight=3.0).
- Respond timely to telephone inquiries (Element 6 Weight=1.0).
- Respond accurately to physician and supplier inquiries (Element 7 Weight=3.0).
- Respond timely to physician and supplier inquiries (Element 8 Weight=1.0).
- Properly generate explanations of Medicare benefits (EOMBs) and denial notices (Element 9 Weight=3.0).
- Ensure that special message developed by the carrier for the EOMB are approved by the HCFA regional office (Element 10 Weight=1.0).
- Prepare the physician and supplieri assignment rate list timely (Element 11 Weight=3.0).
- Complete reviews accurately (Element 12 Weight=5.0).*
- Complete reviews timely (Element 13 Weight=1.0).
- Furnish readable notices of review determinations (Element 14 Weight=3.0).

3. Productivity Investments Criterion

A carrier must take programmatic, administrative and system initiatives designed to improve the cost effectiveness and/or efficiency of Medicare claims operations, reduce burdens on the public and improve beneficiary understanding of the problem. We will use five elements to assess performance of this activity. The carrier is required to:

- Meet targeted volume of electronic media claims by September 30, 1985 (Element 1 Weight=5.0). *
- Use the national standard format for EMC (Element 2 Weight=3.0).
- Implement the HCFA Common Procedure Coding System and install the annual update timely. (Element 3 Weight=5.0). *
- Notify HCFA central office promptly of all local code assignments (Element 4 Weight=3.0).
- Implement contractor-initiated enhancements efficiently and effectively (Element 5 Weight=3.0).

4. Payment Safeguards—Claims Processing Criterion

A carrier must administer the Medicare program in a manner that achieves maximum savings and cost avoidance to the Medicare trust funds. We will use 12 elements and two standards to assess performance in this area. The carrier is required to:

- Adjudicate claims for non-physician medical services accurately (Element 1 Weight=3.0).
- Conduct postpayment reviews to identify and develop claims for non-physician services furnished to hospital inpatients (Element 2 Weight=1.0).
- Correctly determine reimbursement of laboratory services and lowest charge level items (Element 3 Weight=3.0).
- Follow HCFA instructions regarding provider-based physician reimbursement (Element 4 Weight=3.0).
- Follow HCFA instructions regarding teaching physician reimburusement (Element 5 Weight=3.0).
- Achieve negotiated savings goals in adjudicating secondary payer claims involving working aged cases (Element 6 Weight=5.0). *
- Achieve negotiated savings goals in adjudicating secondary payer claims involving automobile, liability, and no-fault insurance. (Element 7 Weight=5.0). *
- Identify and dispose of all fraud and abuse cases properly (Element 8 Weight=3.0).
- Determine liability and properly dispose of beneficiary overpayment cases (Element 9 Weight=3.0).
- Recover physician and supplier overpayments timely (Element 10 Weight=5.0). *
- Properly calculate and assess interest penalties (Element 11 Weight=3.0).
- Ensure that no payments are made to exclude, terminated or suspended providers, physicians, or suppliers (Element 12 Weight=3.0).

The carrier also is required to meet the following two standards:

- Maintain an acceptabe overpayment deductible error rate (Standard 1 Weight=5.0). *
- Maintain an acceptable underpayment deductible error rate (Standard 2 Weight=5.0). *

5. Payment Safeguards—Medical Review/Utilization Review Criterion

A carrier must administer the Medicare program in a manner that achieves maximum MR/UR savings to the Medicare trust funds. We will use ten elements to assess performance in this area. The carrier is required to:

- Submit accurate quarterly medical review reports (Element 1 Weight=3.0).
- Submit timely quarterly medical review reports (Element 2 Weight=1.0).
- Submit an accurate annual medical review report (Element 3 Weight=3.0).
- Submit a timely annual medical review report (Element 4 Weight=1.0).
- Make accurate medical review determinations (Element 5 Weight=5.0).*
- Make appropriate medical necessity utilization review of Part B claims (Element 6 Weight=1.0).
- Administer a cost-effective MR/UR program (Element 7 Weight=5.0).*
- Conduct effective postpayment program (Element 8 Weight=3.0).
- Implement mandated prepayment screens (Element 9 Weight=5.0).*
- Review physician services for Part A denials shifted to Part B for review of physician services (Element 10 Weight=3.0).

6. Fiscal Management Criterion

A carrier must take measures to protect the Medicare program and the public interest. It must manage Federal funds for both beneft payments and cost of administration in accordance with its agreement with the Secretary, the Federal acquisition regulations and HCFA instructions. We will use 17 elements to measure performance of carriers' fiscal management of the Medicare program. Each carrier is required to:

- Ensure that cost allocations are consistent (provide reasonable assurance that comparable transactions are treated alike) and chargeable to a particular cost objective in accordance with the relative benefits received or other equitable relationship (Element 1 Weight=3.0).
- Confine actual operations expenditures to the latest approved budget and have the ability to identify potential expenditures in excess of the approved budget in advance of the occurrence of such expenditures (Element 2 Weight=3.0).
- Confine actual medical review/utilization review expenditures to the latest approved budget and have the ability to identify potential expenditures in excess of the approved budget in advance of the occurrence of such expenditures (Element 3 Weight=3.0).
- Confine actual program investment expenditures to the latest approved budget and have the ability to identify potential expenditures in excess of the approved budget in advance of the occurrence of such expenditures (Element 4 Weight=3.0).
- Confine administrative funds drawn to the approved Budget Distribution and in line with actual expenditures (Element 5 Weight=3.0).
- Submit the budget request accurately (Element 6 Weight=3.0).
- Submit the budget request timely (Element 7 Weight=1.0).
- Submit accurate "Plan of Expenditure Reports" (Element 8 Weight=3.0).
- Submit "Plan of Expenditure Reports" timely (Element 9 Weight=1.0).
- Submit accurate "Interim Expenditure Reports" (Element 10 Weight=3.0).
- Submit "Interim Expenditure Reports" timely (Element 11 Weight=3.0).
- Submit accurate "Variance Reports" (Element 12 Weight=3.0).
- Submit "Variance Reports" timely (Element 13 Weight=1.0).
- Submit accurate "Time Account Adjustment" schedules (Element 14 Weight=1.0).
- Submit Time Account Adjustment Schedules timely (Element 15 Weight=1.0).
- Submit an accurate FACP (Element 16 Weight=3.0).
- Submit a timely FACP (Element 17 Weight=1.0).

7. Contract Management Criterion

A carrier must take measures to ensure compliance with HCFA directives and meet management information needs in adminstering the Medicare program. A carrier would be required to:

- Submit leases and other subcontracts (including those for EDP services) to HCFA for prior approval or give notice in accordance with the Medicare agreement and HCFA instructions (Element 1 Weight=3.0).
- Achieve Small and Disadvantaged Business (SADBUS) goals (Element 2 Weight=1.0).
- Submit accurate physician and supplier overpayment data quarterly (Element 3 Weight=3.0).
- Submit physician and supplier overpayment data timely (Element 4 Weight=1.0).
- Implement Intermediary Letters and manual transmittals issued by FCFA central office accurately and timely (Element 5 Weight=3.0).
- Implement HCFA regional office directives and recommendations accurately and timely (Element 6 Weight=3.0).

F. Regulatory Impact Analysis

1. Executive Order 12291

Executive Order 12291 requires us to prepare and publish a regulatory impact analysis for any major rule. A major rule is defined as a rulemaking document, including a notice such as this one, that is likely to have an annual economic impact of $100 million or more, cause a major increase in costs or prices, or have a significant adverse affect on competition, employment, investment, productivity, or innovation.

We do not expect this notice to meet any of these criteria. Its primary direct effect is on our operations and the operations of our contractors. We expect the incremental costs of administering these criteria and standards to be more than offset by resulting improvements in efficiency and effectiveness. We are estimate that our costs will increase only minimally. Further, we expect the effects on both competition and productivity to be favorable, not adverse, and the effects, if any, on employment, investment, and innovation to be negligible.

For these reasons, we have determined that this notice is not a major rule. Therefore, a regulatory impact analysis is not required.

2. Regulatory Flexibility Act

Section 603 of the Regulatory Flexibility Act (5 U.S.C. 601 to 612) requires us to prepare and publish a regulatory flexibility analysis for any rulemaking document unless the Secretary certifies, under section 605(b) of that Act, that the requirements do not have a significant impact on a substantial number of small entities.

Under the RFA, a small entity is defined as a small business, an independently owned and operated nonprofit enterprise that is not dominant in its field, or an agency or governmental entity of a jurisdiction with a population of less than 50,000. We consider all providers and suppliers to be small entities. We do not consider intermediaries and carriers to be small entities since they are our agents. Rather, we consider the providers,

physicians and supplies with which they deal on our behalf to be the entities for which we assess impacts subject to the RFA.

The direct effect of this notice is on our contractors. Since they are not small entities, even though we expect this notice to have an effect on contractor operations, an analysis of that impact is not required. However, it is clear that many standards and elements, such as those governing bill processing, beneficiary services, and provider services, will have indirect effects on a substantial number of providers and suppliers. Therefore, in order to verify that a regulatory flexibility analysis is not required, we assessed whether the indirect impact on those small entities will be significant.

Generally, the operations to which the standards and elements of the intermediary and carrier performance criteria refer are required by law, other regulations, contract, or other program instructions. These criteria provide an evaluation process and do not in themselves require the performance of the operations they evaluate. The most important indirect effect on providers and suppliers is to ensure that they are paid timely and accurately. We do not expect these criteria and standards to have any indirect adverse effects on them. Therefore, we have determined that the evaluation process in itself will not have a significant impact on providers and suppliers, and the Secretary certifies, in accordance with section 605(b) of the RFA, that this notice will not have a significant economic impact on a substantial number of small entities. An initial regulatory flexibility analysis is not required.

3. Paperwork Reduction Act

This notice contains no information collection requirements subject to EOMB approval under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.).

(Sections 1102, 1814, 1816, 1842 and 1871 the Social Security Act (42 U.S.C. 1302, 1395f, 1395h, 1395u and 1395hh))

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance; No. 13.774, Medicare—Supplementary Medical Insurance)

Dated September 20, 1984.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

[FR Doc. 84-26028 Filed 9-27-84; 11:49 am]

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This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (phone 202-275-3030).

S.J. Res. 275/Pub. L. 98–418

To designate the month of October 1984 as "National Spina Bifida Month". (Sept. 25, 1984; 98 Stat. 1606) Price: $1.00

S. 1546/Pub. L. 98–419

Deepwater Port Act Amendments of 1984. (Sept. 25, 1984; 98 Stat. 1607) Price: $1.00

H.R. 5177/Pub. L. 98–420

Granting the consent of Congress to an amendment to the Wheeling Creek Watershed Protection and Flood Prevention District Compact entered into by the States of West Virginia and Pennsylvania. (Sept. 25, 1984; 98 Stat. 1611) Price: $1.00

S. 806/Pub. L. 98–421

To provide for a plan to reimburse the Okefenoke Rural Electric Membership Corporation for the costs incurred in installing electrical service to the Cumberland Island National Seashore. (Sept. 25, 1984; 98 Stat. 1613) Price: $1.00

S.J. Res. 25/Pub. L. 98–422

Redesignating the Saint Croix Island National Monument in the State of Maine as the "Saint Croix Island International Historic Site". (Sept. 25, 1984; 98 Stat. 1615) Price: $1.00

S.J. Res. 334/Pub. L. 98–423

To provide for the designation of the month of November 1984, as "National Hospice Month". (Sept. 25, 1984; 98 Stat. 1617) Price: $1.00

S.J. Res. 335/Pub. L. 98–424

To designate the week beginning on May 19, 1985, as "National Tourism Week". (Sept. 25, 1984; 98 Stat. 1618) Price: $1.00

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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Presidential Documents

Title 3—

The President

Executive Order 12488 of September 27, 1984

Amending Executive Order No. 11157 as It Relates to Incentive Pay for Hazardous Duty

By the authority vested in me as President of the United States of America by Public Law 98–94 and Section 301(a) of Title 37 of the United States Code, and in order to define the scope of one category of hazardous duty, it is hereby ordered as follows:

Section 1. Executive Order No. 11157 of June 22, 1964, as amended, is further amended by striking out subsection (g) of Section 109 of Part I and inserting in lieu thereof the following:

"(g) The term 'duty involving the servicing of aircraft or missiles with highly toxic fuels or propellants or the testing of aircraft or missile systems (or components of such systems) during which highly toxic fuels or propellants are used' shall be construed to mean duty performed by members as a primary duty that requires (1) removal, replacement, and servicing of the emergency power unit of an aircraft with H–70 propellant (30 percent water, 70 percent hydrazine); (2) participation by those personnel performing duties described in (g)(1) who must also participate in an emergency response force, spill containment, or spill cleanup involving H–70 propellant (30 percent water, 70 percent hydrazine); (3) handling and maintaining the liquid propellants (liquid oxidizer-nitrogen tetroxide; unsymmetrical dimethyl hydrazine) used in the Titan weapon system, if such duty requires qualification in the use of the Rocket Fuel Handler's Clothing Outfit and involves (A) launch duct operations, including flow, pressurization, on-load, set-up or tear down involving propellant transfer operations; (B) set-up, installation or tear down for fuel/oxidizer flow; (C) decontamination of equipment, including, but not limited to, the Rocket Fuel Handler's Clothing Outfit; (D) venting or pressurizing missile fuel or oxidizer tanks; (E) removing or replacing missile components while missile fuel and oxidizer tanks are loaded with such propellants; (F) transferring propellants between commercial and military holding trailers, or between holding trailers and fuel/oxidizer pump rooms; or normal preventive maintenance activities including, but not limited to, seal changes; (4) handling and maintaining the propellants, unsymmetrical dimethyl hydrazine and inhibited red-fuming nitric acid, used in the LANCE missile system; (5) handling, transporting or working with toxic fuels/propellants by members assigned to the Air Force Rocket Propulsion Lab (AFRPL) who (A) directly manage and inspect the activities of crew members conducting operations involving experimental rocket propulsion systems and components; (B) directly monitor and set up measurement instruments in operational areas where contamination is suspected or may be physically present; (C) install and remove instrumentation devices from propulsion systems and components; (D) perform final test preparation and immediate safety inspection duties around pressurized, active systems during prerun and postrun test periods; or, (E) install and repair electrical systems; (6) handling, loading/unloading and transporting toxic fuels and oxidizers at the precision sled track while working with the liquid rocket sled, which uses JP–X (a mixture of jet fuel (JP–4) and unsymmetrical dimethyl hydrazine) and red-fuming nitric acid and a propulsion; or (7) involvement with other toxic substances contained in missile or aircraft weapon system fuels or propellants as determined by the Secretary concerned. The entitlement to the pay provided for in this subsection is based upon the performance of such duty which has the potential for accidental or inadvertent exposure to

highly toxic fuels or propellants or related substances and not upon actual quantifiable exposure to such substances. Therefore, neither this construction of the term nor the receipt of the pay provided for in this subsection may be construed as indicating that any person entitled to such pay has been actually exposed to highly toxic fuels or propellants or related substances contrary to the provisions of any statute, Executive order, rule, or regulation relating to health or safety which is applicable to the uniformed services."

Sec. 2. This Executive Order shall be effective as of October 1, 1983.

Ronald Reagan

THE WHITE HOUSE,
September 27, 1984.

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Rules and Regulations

Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

GENERAL ACCOUNTING OFFICE

4 CFR Part 81

Records; Public Availability of General Accounting Office Records

AGENCY: General Accounting Office.

ACTION: Final rule.

SUMMARY: This rule revises GAO's regulations regarding the public disclosure of GAO records. Mainly, the existing exemptions from disclosure have been rearranged and clarified to contain examples of various categories of records falling into a specific exemption. A new provision has been added to prevent disclosure of records involving work in progress. Fees have been raised to reflect current costs. Changes update Executive Order and telephone number; minor editorial changes clarify and correct.

EFFECTIVE DATE: October 1, 1984.

FOR FURTHER INFORMATION CONTACT: Ms. Nola Casieri, Office of Policy, United States General Accounting Office, 441 G Street, NW., Washington, D.C. 20548 (202) 275–6172.

SUPPLEMENTARY INFORMATION: In light of GAO's experience with respect to requests for disclosure of its records, the regulations have been revised. Although GAO is not subject to the Freedom of Information Act (5 U.S.C. 522), GAO has adopted a disclosure policy which follows the spirit of the act consistent with its responsibilities to the Congress.

Section 81.3(b) has been updated as to facility name and phone number for obtaining reports published. The provision formerly in § 81.4(e) covering records originating outside GAO now appears in new § 81.5(a).

In furtherance of GAO's goal of timely work and because many of GAO's functions involve inquiries and the gathering of information on behalf of the Congress, a new provision has been added to the regulations in § 81.5(b) so that GAO's work in progress not be disrupted. This provision is also intended to prevent the premature disclosure of information which may be incomplete or inaccurate. The provision will not apply to records relating to completed work.

The existing exemptions previously found in § 81.5 have been clarified and rearranged in new § 81.6 as follows:

(1) paragraph (a) has been changed to clarify that congressional contact memoranda are exempt from disclosure unless waived by GAO's Director, Office of Policy.

(2) Paragraph (b) has been changed to refer to the current Executive Order dealing with classified documents.

(3) GAO operating rules and manuals of procedures for auditors are no longer included as examples of records relating solely to internal personnel rules and practices under paragraph (c).

(4) Paragraphs (d) and (e) have been changed to more closely conform to similar provisions currently found in the Freedom of Information Act for records specifically exempted from disclosure by statute and records containing proprietary information, respectively.

(5) Paragraphs (k) and (l) have been added to clairfy the exemption from disclosure for privileged or confidential information previously contained in § 81.5(a)(5).

Existing § 81.6 providing for a public reading facility now appears as § 81.8. Fees and charges, remaining at § 81.7, have been updated to reflect current costs. The cost of search for the first hour will be subject to charge. However, reproduction and search fees will not be assessed on amounts less than $25.

Minor editorial changes have been made throughout the regulations.

These revisions will be applicable to all requests received after the date of publication.

List of Subjects in 4 CFR Part 81

Archives and records, Freedom of information.

Accordingly, 4 CFR Part 81 is revised to read as follows:

PART 81—PUBLIC AVAILABILITY OF GENERAL ACCOUNTING OFFICE RECORDS

Sec.
81.1 Purpose and scope of part.
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81.4 Requests for identifiable records.
81.5 Records originating outside GAO, or records involving work in progress.
81.6 Records which may be exempt from disclosure.
81.7 Fees and charges.
81.8 Public reading facility.

Authority: 31 U.S.C. 711.

§81.1 Purpose and scope of part.

This part implements the policy of the United States General Accounting Office (GAO) with respect to the public availability of GAO records. While GAO is not subject to the Freedom of Information Act (5 U.S.C. 552), GAO's disclosure policy follows the spirit of the act consistent with its duties and functions and responsibility to the Congress. Application of this act to GAO is not to be inferred from the provisions of these regulations.

§81.2 Administration.

The administration of this part is the duty and responsibility of the Director, Office of Policy (OP), United States General Accounting Office, 441 G Street, NW., Washington, D.C. 20548, and to that end the Director shall promulgate such supplemental rules or regulations as may be necessary.

§81.3 Definitions.

As used in this part:

(a) *"Identifiable"* means a reasonably specific description of a particular record sought, such as the date of the record, subject matter, agency or person involved, etc., which will permit location or retrieval of the record.

(b) *"Records"* includes all books, papers, manuals, maps, photographs, reports, and other documentary materials, regardless of physical form or characteristics under the control of GAO in pursuance of law or in connection with the transaction of public business. In the context of a request for a record or records, the term "records" refers only to a record in being and under the control of GAO. It does not include the compiling or procuring of a record. Nor does it include library or museum material made or acquired and preserved solely for reference or exhibition purposes, or extra copies of documents preserved only for convenience of reference. It is intended that GAO publications are not within the purview of this order. GAO

published reports and decisions or listing of reports should be obtained from the U.S. General Accounting Office, Information Handling and Support Facility (IHSF), P.O. Box 6015, Gaithersburg, Md. 20877, phone (202) 275-6241.

(c) *"Records Available to the Public"* means records which may be examined or copied or of which copies may be obtained, in accordance with this part, by the public or representatives of the press regardless of interest and without specific justification.

(d) *"Disclose or Disclosure"* means making available for examination or copying, or furnishing a copy.

(e) *"Person"* includes an individual, partnership, corporation, association, or public or private organization other than a Federal agency.

§ 81.4 Requests for identifiable records.

(a) A request to inspect or obtain a copy of an identifiable record of GAO must be submitted in writing to the Director, OP (see § 81.2), who will promptly acknowledge and record the request.

(b) The Director, OP, or other GAO organizational unit will promptly honor the request if no valid objection exists to the propriety of such action and the requester is willing and able to pay the prescribed fees for making the record available for inspection or copying or being provided with a copy.

(c) In the event of an objection or doubt as to the propriety of providing the requester with a copy of the record sought, every effort will be made to resolve such problems as quickly as possible, including consultation with appropriate GAO elements. If it is determined that the record should be withheld, the Director, OP, shall inform the requester in writing that the request has been denied; shall identify the material withheld; and shall explain the basis for the denial.

(d) A person whose request is denied shall be informed that further consideration of his/her request may be obtained by a letter to the Comptroller General of the United States setting forth the basis for the belief that the denial of the request was unwarranted.

§ 81.5 Records originating outside GAO, or records involving work in progress.

(a) It is the policy of GAO not to provide records from its files that originate in another agency or nonfederal organization to persons who may not be entitled to obtain the records from the originator. In such instances, requesters will be referred to the person or organization that originated the records.

(b) In order to avoid disruption of work in progress, and in the interests of fairness to those who might be adversely affected by the release of information which has not been fully reviewed to assure its accuracy and completeness, it is the policy of GAO not to provide records which are part of ongoing reviews or other current projects. In response to such requests, GAO will inform the requester of the estimated completion date of the review or project so that the requester may then ask for the records. At that time, the records may be released unless exempt from disclosure under § 81.6.

§ 81.6 Records which may be exempt from disclosure.

The public disclosure of GAO records contemplated by this part does not apply to records, or parts thereof, within any of the categories listed below. Unless precluded by law, the Director, OP, may nevertheless release records within these categories.

(a) Congressional correspondence and other papers relating to work performed in response to a congressional request (unless authorized by the congressional requester), and congressional contact memoranda.

(b) Records specifically required by an Executive Order to be kept secret in the interest of national defense or foreign policy. An example of this category is a record classified under Executive Order 12356, National Security Information.

(c) Records related solely to the internal personnel rules and practices of an agency. This category includes, in addition to internal matters of personnel administration, internal rules and practices which cannot be disclosed without prejudice to the effective performance of any agency function. Examples within the purview of this exemption are guidelines, and procedures for auditors, investigators, or examiners.

(d) Records specifically exempted from disclosure by statute provided that such statute (1) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (2) establishes particular criteria for withholding or refers to particular types of matters to be withheld.

(e) Records containing trade secrets and commercial or financial information obtained from a person and privileged or confidential. This exemption may include, but is not limited to, business sales statistics, inventories, customer lists, scientific or manufacturing processes or development information.

(f) Personnel and medical files and similar files the disclosure of which could constitute a clearly unwarranted invasion of personal privacy. This exemption excludes from disclosure all personnel and medical files, and all private or personal information contained in other files, which, if disclosed to the public, would amount to a clearly unwarranted invasion of the privacy of any person. An example of such other files within the exemption would be files compiled to evaluate candidates for security clearance.

(g) Investigatory files complied for law enforcement purposes.

(h) Records having information contained in or related to examination, operation, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions.

(i) Records containing geological and geophysical information and data (including maps) concerning wells.

(j) Inter-agency or intra-agency memoranda, letters or other materials that are part of the deliverative process. For example, this exemption includes internal communications such as GAO or other agency draft reports, and those portions of internal drafts, memoranda and workpapers containing opinions, recommendations, advice or evaluative remarks of GAO employees. This exemption seeks to avoid the inhibiting of internal communications, and the premature disclosure of documents which would be detrimental to an agency function.

(k) Records in addition to those described in paragraph (j) of this section containing information customarily subject to protection as privileged in a court or other proceedings, such as information protected by the doctor-patient, attorney-work product, or lawyer-client privilege.

(l) Unsolicited records containing information submitted by any person to GAO in confidence and records which GAO has obligated itself not to disclose. An example of records covered by this exemption would be information obtained by the GAO Fraud Referral and Investigations Group (GAO Hotline).

§ 81.7 Fees and charges.

(a) No fee or charge will be made for:

(1) Records provided under provisions of this part when the direct search and reproduction costs are less than $25.

(2) Records requested which are not found or which are determined to be exempt under provisions of this part.

(3) Staff-hours spent in resolving any legal or policy questions pertaining to the request.

(4) Copies of records including those certified as true copies, that are furnished for official use to any officer or employee of the federal government.

(5) When necessary or desirable to the performance of a function of GAO, copies of pertinent records furnished to a party having a direct and immediate interest in a matter pending before the Office.

(b) When costs are $25 or more, the fees and charges described below, will be assessed for the direct costs of search and reproduction of records available to the public under this part.

(1) The reproduction charge per page shall be 20 cents.

(2) Certification of authenticity shall be $10 for each certificate.

(3) Search for records by Office personnel:

(i) Clerical personnel—$7 an hour.

(ii) Professional personnel—$18 an hour.

(4) Other direct costs related to the request may be charged for such items as computer searches.

(c) GAO shall notify the requester and may require an advance deposit where the anticipated fees will exceed $50.

(d) Fees and charges shall be paid by check or money order payable to the U.S. General Accounting Office.

(e) Fees established by this section may be waived or reduced upon a determination by the Director, OP, that such waiver or reduction is in the public interest because furnishing the information is considered as primarily benefiting the general public. Persons seeking such waiver or reduction of fees may be required to submit a statement setting forth the intended purpose for which the records are requested or otherwise indicate how disclosure will primarily benefit the public and, in appropriate cases, explain why the volume of records requested is necessary. Determinations pursuant to this subsection are solely within the discretion of GAO.

§ 81.6 Public reading facility.

A public reading facility shall be maintained by the General Accounting Office at 441 G Street, NW., Washington, D.C. The facility, under the immediate supervision of the Chief, Legal Information and Reference Services, Office of the General Counsel, shall be open to the public from 8 a.m. to 5 p.m. except Saturdays, Sundays, and holidays.

Dated: September 25, 1984.

Charles A. Bowsher,

Comptroller General of the United States.

[FR Doc. 84-25963 Filed 9-28-84; 8:45 am]

BILLING CODE 1610-02-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 371

[Docket No. 84-404]

Organization, Functions, and Delegations of Authority

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document revises the statement of organization, functions, and delegations of authority of the Animal and Plant Health Inspection Service (APHIS) by delegating to the Deputy Administrator for Management and Budget, the authority to provide management support services for the Federal Grain Inspection Service, the Office of Transportation, the Agricultural Cooperative Service, the Packers and Stockyards Administration and the Agricultural Marketing Service as agreed upon by the agencies.

EFFECTIVE DATE: October 1, 1984.

FOR FURTHER INFORMATION CONTACT: William E. Havens, Program Manager, Classification, Employment, and Executive Resources Programs, Human Resources Division, APHIS, United States Department of Agriculture, Rm. 221, Federal Center Bldg. 6505 Belcrest Road, Hyattsville, MD 20782 (301)436-6466.

SUPPLEMENTARY INFORMATION: The Department of Agriculture is pursuing a concept of centralized administrative support functions wherever feasible within USDA Agencies. The Secretary has determined that cost-effective consolidation opportunities exist within the Marketing and Inspection Services. Thus, the Assistant Secretary for Marketing and Inspection Services has delegated authority for providing management support services for the Federal Grain Inspection Service, the Office of Transportation, the Agricultural Cooperative Service the Packers and Stockyards Administration, and the Agricultural Marketing Service to the Administrator, Animal and Plant Health Inspection Service (49 FR 29053) dated July 18, 1984. The purpose of this document is to amend the statement of organization, functions, and delegations of authority of the Animal and Plant Health Inspection Service to specifically delegate the responsibility for providing these administrative support functions to the Deputy Administrator for Management and Budget. Coupled with this delegation is the authority to take actions required by law or regulation that are necessary to providing such support services as are agreed to by the Agencies involved.

As used herein, the term management support services includes budget, finance, personnel, procurement, property management, communications, paperwork management, and related administrative services.

This rule relates to internal agency management, and therefore, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect thereto are impractical and contrary to the public interest, and good cause is found for making this rule effective less than 30 days after publication in the **Federal Register**. Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12291. Finally, this action is not a rule as defined by Pub. L. 96-354, the Regulatory Flexibility Act, and thus, is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 371

Organization and functions (Government agencies).

PART 371—ORGANIZATION, FUNCTIONS, AND DELEGATIONS OF AUTHORITY

Accordingly, 7 CFR 371 is amended as follows:

1. The authority citation for Part 371 reads as follows:

Authority: 5 U.S.C. 301.

Section 371.2 is amended by adding a new paragraph (e)(11) to read as follows:

§ 371.2 The Office of the Administrator.

* * * * *

(e) Deputy Administrator for Management and Budget

* * * * *

(11) Providing management support services for the Federal Grain Inspection Service, the Office of Transportation, the Agricultural Cooperative Service, the Packers and Stockyards Administration, and the Agricultural Marketing Service as agreed upon by the agencies with authority to take actions required by law or regulation. As used herein, the term management support services includes budget, finance, personnel, procurement,

property management, communications, paperwork management, and related administrative services.

* * * * *

3. Section 371.5 is amended by revising paragraphs (a) (1), (2) and (4), (b) (1) and (2), (c) (1) and (2) and (g) (1), (2) and (3) and by adding a new paragraph (b)(5) to read as follows:

§ 371.5 Administrative Management.

* * * * *

(a) * * *

(1) Participating with the Deputy Administrator for Management and Budget in the overall formulation of all administrative management policies, programs, and activities for Animal and Plant Health Inspection Service (APHIS), Agricultural Cooperative Service (ACS), and Office of Transportation (OT).

(2) Planning, providing staff leadership and administering the budget and related programs and the fiscal and related management programs necessary to meet requirements of programs and administrative activities in APHIS, ACS, and OT.

(3) * * *

(4) Assisting in developing the accounting and related financial systems necessary for APHIS, ACS, and OT. Developing procedures and instructions to implement the systems, and maintaining these systems.

(5) * * *

(b) * * *

(1) Participating with the Deputy Administrator for Management and Budget in the overall formulation of all administrative management policies, programs and activities of the Animal and Plant Health Inspection Service (APHIS), Federal Grain Inspection Service (FGIS), Agricultural Cooperative Service (ACS), Packers and Stockyards Administration (P&SA), and Office of Transportation (OT).

(2) Planning, providing staff leadership and assistance to managers and program leaders of APHIS, FGIS, ACS, P&SA and OT in the areas of EEO and Civil Rights, organization, position management, performance appraisal, position classification, salary and wage administration, recruitment and placement, employee relations, and labor management relations. Planning and providing staff leadership and assistance to managers and supervisors of APHIS, FGIS, ACS, P&SA and OT in the areas of employee development and training pertaining to executive and managerial development, supervisory, administrative and clerical training and related activities.

* * * * *

(5) Providing certain operating personnel services for APHIS, FGIS, ACS, P&SA and OT, and Agricultural Marketing Service (AMS) as agreed upon by APHIS and each agency.

(c) * * *

(1) Participating with the Deputy Administrator for Management and Budget in the overall formulation of administrative management policies, programs, and activities of the Animal and Plant Health Inspection Service (APHIS), Federal Grain Inspection Service (FGIS), Agricultural Cooperative Service (ACS), Packers and Stockyards Administration (P&SA), Office of Transportation (OT), and Agricultural Marketing Service (AMS).

(2) Planning for and providing staff leadership and operating administrative services and assistance to managers and supervisors in: real and personal property management and utilization; procurement of supplies, equipment, and services through competitive and noncompetitive procedures or from established contract sources, safety, health and environmental concerns; development, and control of forms, reports, records security, printing and distribution; mail and shuttle service; and directives management. Providing overall direction and coordination for the design and construction of facilities.

* * * * *

(g) * * *

(1) Participating with the Deputy Administrator for Management and Budget in the overall formulation of personnel, financial and administrative services policies and programs for the Animal and Plant Health Inspection Service (APHIS), Federal Grain Inspection Service (FGIS), Agricultural Cooperative Service (ACS), Packers and Stockyards Administation (P&SA), and Office of Transportation (OT).

(2) Within the provisions of applicable policies, procedures and laws, providing personnel, financial and administrative services to personnel in the Agricultural Marketing Service, APHIS, FGIS, ACS, P&SA and OT.

(3) Participating in planned management reviews. Providing assistance and advice to program officials and supervisory personnel concerning personnel, financial, and administrative problems. Providing guidance on the implementation of policies, procedures and regulations.

* * * * *

Dated: September 26, 1984.

Bert W. Hawkins,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 84-25987 Filed 9-28-84; 8:45 am]

BILLING CODE 3410-34-M

Agricultural Marketing Service

7 CFR Part 981

Handling of Almonds Grown in California; Establishment of Salable, Reserve, and Export Percentages for the 1984–85 Crop Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule establishes salable, reserve, and export percentages of 75 percent, 25 percent, and 0 percent, respectively, for marketable California almonds delivered to handlers during the 1984–85 crop year, which began July 1, 1984. This action is taken under the marketing order for almonds grown in California and is designed to promote orderly marketing conditions in view of an estimated record large 1984 almond crop.

EFFECTIVE DATE: July 1, 1984 through June 30, 1985.

FOR FURTHER INFORMATION CONTACT: Frank M. Grasberger, Acting Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250 (202) 447–5053.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified a "non-major" rule under criteria contained therein.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

It is found that good cause exists for not postponing the effective date of this action after publication in the **Federal Register** (5 U.S.C. 553). The marketing order for California almonds requires that the salable, reserve, and export percentages established for a particular crop year apply to all marketable almonds received by handlers from the beginning of that year. The 1984–85 crop year began July 1, 1984, and handlers are now receiving new crop almonds.

Notice of this action was published in the August 17, 1984, issue of the **Federal Register** (49 FR 32856) and interested

persons were afforded an opportunity to submit written comments. One comment was received in favor of the proposal and one comment was received in opposition.

The auhority to establish salable and reserve percentages is in § 981.47 of the marketing agreement and Order No. 981, both as amended (7 CFR Part 981), regulating the handling of almonds grown in California and hereinafter referred to collectively as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The percentages are based on a unanimous recommendation of the Almond Board of California, hereinafter referred to as the "Board," which works with the USDA in administering the order.

Pursuant to §§ 981.47 and 981.49 of the order, the Board based its recommendation for salable, reserve, and export percentages of 75 percent, 25 percent, and 0 percent, respectively, on estimates of marketable supply and combined domestic and export trade demand for the 1984–85 crop year. The Board's marketable supply estimate of 494 million kernel weight pounds is based on its 1984 crop estimate of 520 million pounds, minus an estimated weight loss of 26 million pounds resulting from the removal of inedible kernels by handlers and losses during manufacturing.

Trade demand is estimated at 380 million pounds—150 million pounds for domestic needs and 230 million pounds for export needs. An inventory adjustment is made to account for supplies of almonds carried in from the 1983–84 marketing year and for supplies deemed desirable to be carried out on June 30, 1985, for early season shipment during the 1985–86 crop year until the 1985 crop is available for market. After adjusting for inventory, the salable supply is calculated at 370.5 million pounds, the quantity of almonds from the 1984 estimated marketable production necessary for trade demand needs. The salable percentage of 75 percent will meet those needs.

The remaining 25 percent (123.5 million pounds) of the 1983 marketable supply must be withheld by handlers to meet their reserve obligations. The Board plans to allocate a small portion of these almonds for use chiefly in the almond butter and school lunch projects begun during the 1982–83 crop year. These long-term projects are a means for the industry to develop new markets for almonds in view of larger crops. Allocated reserve almonds also could be disposed of in other noncompetitive outlets as specified in the order or approved by the Board.

The remaining portion of the reserve will be held as a contingency for allocation at a later date. All or part of these almonds could be released to salable to augment 1984–85 or 1985–86 salable supplies if: (1) 1984 crop production is less than the estimated 520 million pounds, (2) 1984–85 combined domestic and export trade demand is greater than the estimated 380 million pounds, or (3) it appears that 1985 crop production will be insufficient to meet 1985–86 trade demand needs. The Board is required to make any recommendation to the Secretary to increase the salable percentage prior to May 15, 1985. Alternatively, the Board could use contingency reserve almonds to augment supplies for almond butter, school lunch, or other market development projects or dispose of these almonds in other noncompetitive outlets specified in § 981.66(c) of the order or as approved by the Board.

The order permits the Board to include normal export requirements with domestic requirements in its estimate of trade demand when recommending the establishment of salable, reserve, and export percentages for any crop year. For the 1984–85 crop year, estimated exports are included in trade demand, thereby making export a salable outlet rather than a reserve outlet. Because of this action, no portion of the reserve will be eligible for export to normal outlets. Thus, an export percentage of 0 is established.

A complete tabulation of the estimates and calculations used by the Board in arriving at its recommendation is as follows:

MARKETING POLICY ESTIMATES—1984 CROP

[Kernel weight basis]

	1,000,000 pounds	Percent
Estimated Production		
1. 1984 Crop	520.0	
2. Loss and Exempt—5%	26.0	
3. Marketable Supply	494.0	
Estimated Trade Shipments		
4. Domestic	150.0	
5. Export	230.0	
6. Total	380.0	
Inventory Adjustment		
7. Carryin July 1, 1984	91.8	
8. Estimated Carryover June 30, 1985	82.3	
9. Adjustment	(9.5)	
Salable/Reserve		
10. Salable Supply (6 plus 9)	370.5	
11. Reserve Supply (3 minus 10)	123.5	
12. Salable percent (10÷3×100)		75.0
13. Reserve percent (100% minus 12)		25.0

The objective of the order's volume regulation provisions is to establish and maintain orderly marketing conditions for all California almonds. This action will help to stabilize supplies and prices as the industry faces its largest crop in history—a crop estimated to be 27.8 percent greater than the 1981 record crop of 407 million pounds and 114.9 percent greater than the small 1983 crop of 242 million pounds. World production also is expected to set a record, and sales of California almonds in export will be difficult due to unfavorable exchange rates. However, this action will still provide an estimated 462.3 million pounds of California almonds for unrestricted sales (1984 crop salable supply plus carryin from the 1983 crop) to meet increasing domestic and world almond consumption. This amount exceeds the actual 1981–82 record for delivered sales of California almonds by 42.8 percent. Further, this action could provide market stability during the 1985–86 crop year in the event that 1985 production is down. Given the cyclical tendency of almond production, this is a likely possibility according to the commenter in favor of the proposal.

For example, the commenter states that a 520 million pound crop would mean an average yield of 1,405 pounds of almonds per acre—by far the largest yield ever produced and unlikely to be repeated soon. When unusually high production occurs, the trees are stressed and their production potential for the following year is reduced.

That commenter also indicates that California will produce about 65 percent of 1984 world almond production—a larger share than usual. The commenter believes that because of this circumstance, volume regulation will mostly benefit California producers rather than foreign producers and that California will have a strong influence on the world market. Therefore, the orderly market situation expected as a result of the marketing percentage is quite important.

The commenter in opposition to the proposal favors a salable percentage of 100 percent and a reserve percentage of 0 percent. The commenter believes that a contingency reserve will cause market weakness and price uncertainty because potential buyers will hold off making purchases in anticipation that the contingency reserve will be released to salable causing prices to drop. However, this is unlikely because the contingency reserve would be released to salable only in the event that supply is insufficient to meet trade demand needs.

In support of this position, the commenter indicates that for the 1981–82 crop year, when a 25 percent reserve was established and later released to

salable, grower prices were reduced to one-half of what they were the previous year, and there was no significant impact on sales volumes. Actually, sales for 1981–82 were up 14.6 percent over 1980–81 and set a new record.

The commenter in opposition also indicates that almond sales have already been harmed by anticipation that a reserve would be established for the 1984–85 crop year. The commenter points that both current shipments and sales for future shipment were down in July 1984 from July 1983. While this is true, it is doubtful that the reason has to do with the anticipation of a reserve. July 1983 sales were unusually high because inventory was large and it was anticipated that the 1983 crop would be small. Thus, buyers were trying to obtain supplies before prices increased. This July, with a much smaller inventory and an anticipated record large 1984 crop, buyers were waiting for 1984 crop opening prices, which were expected to be lower. In mid-August, a major almond handler announced its 1984 crop opening prices, and they were significantly lower than 1983 crop opening prices.

For these reasons, the objections of the commenter are denied.

Therefore, after consideration of all relevant matter presented, including that in the notice, the Board's recommendation, and other available information, it is further found that the establishment of salable, reserve, and export percentages, as hereinafter set forth, will tend to effectuate the declared policy of the act.

List of Subjects in 7 CFR Part 981

Marketing agreements and orders, Almonds, California.

Section 981.233 is added to Subpart—Salable, Reserve, and Export Percentages to read as follows: (This subpart and section will not appear in the Code of Federal Regulations).

PART 981—ALMONDS GROWN IN CALIFORNIA

Subpart—Salable, Reserve, and Export Percentages

§ 981.233 Salable, reserve, and export percentages for almonds during the crop year beginning July 1, 1984.

The salable, reserve, and export percentages during the crop year beginning July 1, 1984, shall be 75 percent, 25 percent, and 0 percent, respectively.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: September 26, 1984.

Thomas R. Clark,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 84-25983 Filed 9-28-84; 8:45 am]

BILLING CODE 3410-02-M

Commodity Credit Corporation

7 CFR Part 1435

Price Support Loan Program for 1983 Through 1985 Crops Sugar Beets and Sugarcane

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The interim rule governing the Price Support Loan Program for 1983 Through 1985 Crops Sugar Beets and Sugarcane, published in the **Federal Register** on October 5, 1983, (48 FR 45374), is hereby adopted as a final rule without change. This program is mandated by section 201(h) of the Agricultural Act of 1949, as amended by the Agriculture and Food Act of 1981. Under the program, the Commodity Credit Corporation (CCC) will support prices to domestic producers of the 1983 through 1985 crops of sugarcane and sugar beets through nonrecourse loans made by CCC to sugar processors.

EFFECTIVE DATE: October 1, 1984.

FOR FURTHER INFORMATION CONTACT: Steve Gill, Cotton, Grain, and Rice Price Support Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013. Phone: (202) 447–8480.

SUPPLEMENTARY INFORMATION: Information collection requirements contained in this regulation (7 CFR 1435) have been approved by the Office of Management and Budget in accordance with the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. Chapter 35, and have been assigned OMB Number 0560–0093.

This final rule has been reviewed under USDA procedures established in accordance with the provisions of Departmental Regulation 1512–1 and Executive Order 12291 and has been classified as a "major rule" since this action may have an annual effect on the economy of $100 million or more.

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this final rule.

An Environmental Evaluation with respect to the price support loan program has been completed. It has been determined that this action is not expected to have any significant impact on the quality of the human environment. In addition, it has been determined this action will not adversely affect environmental factors such as wildlife habitat, water quality, air quality, and land use and appearance. Accordingly, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

The title and number of the Federal Assistance Program to which this final rule applies are: Title—Commodity Loans and Purchases, Number 10.051, as found in the Catalog of Federal Domestic Assistance.

A Final Regulatory Impact Analysis is available from Thomas W. Fink, Cotton, Grain, and Rice Price Support Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013. The Final Regulatory Impact Analysis describes the impact of making price support available for the 1983 through 1985 crops of sugar beets and sugarcane by means of nonrecourse loans.

Statutory Requirements

Section 201(h) of the Agricultural Act of 1949, as amended by the Agriculture and Food Act of 1981 (hereinafter referred to as the "1949 Act"), requires that price support be made available for the 1982 through 1985 crops of sugar beets and sugarcane. The price support loan program for the 1982 crop of sugar beets and sugarcane was effective October 1, 1982. The 1949 Act also provides that 1983 crop sugar, as well as 1984 and 1985 crop sugar, will be eligible for price support through a price support loan program.

Interim Rule

An interim rule setting forth the terms and conditions of the Price Support Loan Program for 1983 through 1985 Crops Sugar Beets and Sugarcane was published in the **Federal Register** on October 5, 1983, at 48 FR 45374. A comment period was provided through December 5, 1983.

General Summary of Comments

The Department has considered all comments received in developing this final rule. The Department received a total of 2 comments with respect to the interim rule; one from a sugar beet processor and one from an industrial user of sugar.

All comments received are on file and available for public inspection in Room

3627-South Building, 14th and Independence Avenue, SW., Washington, D.C., 20013.

The following is a summary of comments received and actions taken:

Comments on Major Program Provisions

I. Method of Support

A. *Provisions of the Interim Rule.* As required by the 1949 Act, the interim rule provided that the Secretary of Agriculture would support prices to domestic producers of the 1983 through 1985 crops of sugarcane and sugar beets through nonrecourse loans. The interim rule also provided that interest would not be charged upon forfeiture of the loan collateral.

B. *Comment.* A comment was received with respect to the issue as to whether interest would be charged upon forfeiture to CCC by a processor of sugar which is serving as collateral for a loan. The respondent supported a provision requiring that interest be charged upon forfeiture of the loan collateral. In addition to interest charges, the respondent recommended that processors forfeiting raw sugar to CCC in settlement of their loans be required to deliver the raw sugar from the storage location to the facility where it would normally be refined.

C. *Discussion of Comment.* The respondent argued that charging interest and transportation costs upon forfeiture of loan collateral would minimize the risk of forfeitures and potential budget outlays to the Government and would be in keeping with the Administration's commitment to market-oriented farm programs since adoption of the respondent's position would further encourage processors to market their sugar rather than forfeit it. Finally, the respondent stated that charging of interest and transportation costs would held reduce the differential between the loan rate and the Market Stabilization Price (MSP). The MSP is that price which is necessary to ensure that sugar pledged as price support loan collateral is marketed commercially rather than forfeited to CCC.

D. *Conclusion.* After careful consideration of the comment received, it has been concluded that the provisions of the interim rule should be adopted in the final rule. It has been the longstanding policy of the Department not to require the payment of interest upon forfeiture of price support loan collateral. Also, the loan rate offered to processors varies depending upon the location of the sugar pledged as loan collateral and reflects the cost of transporting the sugar from the location where it is pledged as collateral (the storage location) to the marketplace. The weighted average of these loan rates is designed to equal the announced price support rate. Thus, in the case of sugar, raw sugar located near refineries (the marketing point) may be pledged as collateral at a loan rate which is above the weighted average national loan rate while raw sugar located far from refineries may be pledged as collateral at a loan rate below the weighted average national loan rate.

Upon forfeiture, title to the loan collateral vests in CCC where the collateral is stored. If CCC seeks to sell the collateral, it must then pay the cost of transporting the collateral from the storage location to the marketplace. Under previous price support programs for sugar, processors have not been required to pay interest or transportation charges upon forfeiture of the loan collateral. There does not appear to be adequate justification for deviating from this established policy at this time.

II. Maturity of Loans

A. *Provisions of the Interim Rule.* The interim rule provided that loans will mature on the last day of the sixth month following the month in which the loan is disbursed, but in no event later than September 30 of the applicable fiscal year.

B. *Comment.* A comment was received with respect to the maturity of loans. The respondent, a sugar beet processor, stated that limiting loans to six months placed them in a difficult situation because if they obtained loans for the purpose of making payments to growers, the six-month loans would mature prior to the time when the processor is able to sell all of the sugar which is produced from sugar beets purchased from the growers. Conversely, if processors obtained loans which would mature on dates consistent with their sales pattern, then the processor would not have sufficient working capital to meet its initial payment commitments to growers. The respondent suggested that processors be given the option to extend loans beyond the six-month maturity date for a period up to nine months, but not beyond September 30 of the applicable fiscal year. The respondent also suggested that, in consideration for an extension of the maturity date, the processors would waive their right to forfeit the loan collateral during the extension period.

C. *Discussion of Comment and Conclusion.* First of all, the purpose of the price support program is to support the price of sugar beets and sugarcane rather than to finance the other contractual commitments of the processor to its growers. In addition, a loan maturity date on the last day of the sixth month in which the loan is disbursed, but no later than September 30 of the applicable fiscal year, appears to be in the best interest of CCC and the sugar industry. The final loan maturity date of September 30 is mandated by section 201(h) of the 1949 Act. If loan extensions of up to nine months were offered, such loans would mature between July and September 30. Experience with other commodities suggests that having all loans mature within a short time frame usually has a depressing effect upon the market prices of the commodity. Accordingly, the provisions of the interim rule have been retained.

List of Subjects in 7 CFR Part 1435

Loan programs/agriculture, Price support programs, Sugar.

Final Rule

Accordingly, the interim rule published at 48 FR 45374, October 5, 1983, 7 CFR §§ 1435.110–1435.123, is hereby adopted as a final rule without change.

Signed at Washington, D.C., on September 24, 1984.

Richard E. Lyng,

Acting Secretary.

[FR Doc. 84-25919 Filed 9-28-84; 8:45 am]

BILLING CODE 3410-05-M

Office of the Secretary

7 CFR Part 3015

General Provisions for Grants and Cooperative Agreements With Institutions of Higher Education, Other Nonprofit Organizations and Hospitals

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: This document amends 7 CFR Part 3015, Uniform Federal Assistance Regulations, by amending paragraph (b)(17) of § 3015.205, to exclude nonprofit organizations from the general requirement that USDA funds not be used for partisan or political activity purposes, since such organizations are now subject to the more specific, uniform lobbying provisions of paragraph B.21 of OMB Circular A–122, "Cost Principles for Nonprofit Organizations."

EFFECTIVE DATE: October 1, 1984.

FOR FURTHER INFORMATION CONTACT: Ms. Lyn Zimmerman, Supervisory Progam Analyst, Office of Finance and Management, USDA, Room 2117,

Auditors Building, 14th and Independence Avenue, SW., Washington, D.C. 20250. (Telephone (202) 382–1553).

SUPPLEMENTARY INFORMATION:

Classification

This rule has been reviewed under Executive Order 12291 and it has been determined that this is not a major rule.

Regulatory Analysis

Although this rule may directly affect recipients of Federal assistance awards administered by the Department of Agriculture, it has been determined that this rule will not involve a substantial or major impact on the Nation's economy or large numbers of individuals or businesses. There will be no major increase in costs or prices to consumers, individuals, industries, Federal, State or local government agencies, or geographic regions. Additionally, John E. Carson, Director, Office of Finance and Management, has determined that it will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act (5 U.S.C. 601–612).

Proposed Rulemaking

This rule relates to grants and other Federal assistance and, therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect thereto are impractical and contrary to the public interest and good cause is found for making this Rule effective less than 30 days after publication in the **Federal Register**. While the Department is not engaging in proposed rulemaking, any member of the public may submit comments on this rule.

Background

Effective May 29, 1984, OMB amended Circular A–122 to insert a new paragraph "B.21. Lobbying." The revision defines and makes uniform for nonprofit organizations the disallowance of costs associated with certain kinds of lobbying and political activities. In the case of USDA, the amendment to Circular A–122 became immediately effective through the cross-referencing provisions of 7 CFR 3015.193. However, § 3015.205 sets forth general provisions which apply, in whole or in part, to grants and cooperative agreements awarded by USDA to institutions of higher education, other nonprofit organizations and hospitals. These provisions include paragraph (b)(17) which requires assurance that USDA funds are not used for partisan or political advocacy purposes. The provision set forth in § 3015.205(b)(17) is broader and less precise than the terms of the A–122 lobbying amendment. Therefore, to achieve consistent treatment of the A–122 lobbying amendment across the Government, USDA is amending § 3015.205(b)(17) to exclude nonprofit organizations from the general requirement that USDA funds not be used for partisan or political activity purposes in order to clarify that such organizations are now subject to the more specific uniform lobbying provisions of paragraph B.21. of OMB Circular A–122.

List of Subjects in 7 CFR Part 3015

Grant programs, Agriculture, Intergovernmental relations.

PART 3015—[AMENDED]

Accordingly, 7 CFR Part 3015 is amended as follows:

1. The authority citation for Part 3015 reads as follows:

Authority: 5 U.S.C. 301.

2. In Subpart U § 3015.205(b)(17) is revised as follows:

Subpart U—Miscellaneous

§ 3015.205 General Provisions for Grants and Cooperative Agreements With Institutions of Higher Education, Other Nonprofit Organizations, and Hospitals.

* * * * *

(b) *Assurances and Compliance.* * * *

(17) It will establish safeguards to ensure that USDA funds are properly spent. In particular, except nonprofit organizations which are subject to the lobbying provisions of paragraph B.21. of OMB Circular A–122, it will assure that funds are not used for partisan or political activity purposes.

* * * * *

Issued at Washington, D.C.

Approved: September 26, 1984.

John J. Franke, Jr.,

Assistant Secretary for Administration.

John R. Block,

Secretary of Agriculture.

[FR Doc. 84–25981 Filed 9–28–84; 8:45 am]

BILLING CODE 3410–90–M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 2 and 50

Elimination of Review of Financial Qualifications of Electric Utilities in Operating License Review and Hearings for Nuclear Power Plants

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule eliminating financial qualification review and findings for electric utilities that are applying for operating licenses for utilization facilities if the utility is a regulated public utility or is authorized to set its own rates. The final rule also restates a requirement for financial qualification review and findings for electric utilities that are applying for construction permits.

FOR FURTHER INFORMATION CONTACT: Carole F. Kagan (202–634–1493).

SUPPLEMENTARY INFORMATION: In FR Doc. 84–24085 appearing on page 35747 in the issue of Wednesday, September 12, 1934, make the following correction:

Page 35751, first column, second complete paragraph, change the words "strong indications" to "some indication".

Approved: September 25, 1984.

John C. Hoyle,

Assistant Secretary.

[FR Doc. 84–25865 Filed 9–28–84; 8:45 am]

BILLING CODE 7590–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 83–NM–92–AD Amdt. 39–4923]

Airworthiness Directives: Boeing Model 737 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) which requires inspection and repair, as necessary, of the Body Station (BS) 1016 aft pressure bulkhead, on certain Boeing Model 737 series airplanes. This action is necessary to detect corrosion and cracking. There have been numerous reports of corrosion, two of which have resulted in the loss of cabin pressure. Severe corrosion and cracking could result in sudden loss of cabin pressure.

DATES: Effective November 5, 1984.

ADDRESSES: The Boeing Service Bulletin specified in this AD may be obtained upon request from Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124.

FOR FURTHER INFORMATION CONTACT: Mr. Carlton A. Holmes, Airframe Branch, ANM–120S, Seattle Aircraft Certification Office, FAA, Northwest

Mountain Region, 9010 East Marginal Way South, Seattle, Washington; telephone (206) 431–2926. Mailing address: Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring inspection and modification of the aft pressure bulkhead at Body Station (BS) 1016 on certain Boeing Model 737 Series airplanes was published in the **Federal Register** on December 27, 1983 (48 FR 56958). The comment period closed on February 13, 1984.

The proposal was prompted by numerous reports of corrosion and cracking in the lower lobe of the aft fuselage pressure bulkhead at Body Station 1016. In three cases the pressure bulkhead ruptured and cabin pressure was lost. Although the pressure web typically ruptures allowing a relatively slow loss of cabin pressure, in at least one report, both web and stiffeners were found severely corroded. Loss of both the web and stiffeners can result in sudden loss of cabin pressure.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to all comments received.

One commenter objected to the 90 day limit for accomplishment of the initial inspection and suggested a limit of 120 days, cosistent with the manufacturer's service bulletin. The FAA agrees, and accordingly, the AD has been changed to require a 120 day threshold for the initial inspection.

Another commenter requested that credit be given for previous accomplishment of the required inspection without the drain hole enlargement and that operators be allowed to defer drain hole enlargement following initial inspection. The final rule does allow credit for inspections accomplished within the last 21 months, and Revision 1 to the manufacturer's service bulletin allows deferment of the drain hole enlargement until the next "C" check. The FAA concurs with the drain hole modification deferment and the final rule is written accordingly.

Several commenters suggested that the repeat interval for inspection of the forward surface of the Body Station 1016 be increased from the proposed two year interval. The FAA disagrees. In addition to detecting corrosion as early as possible, another objective of this inspection is to insure that the drain hole remains unobstructed and that the leveling compound remains intact. Two year intervals have been specified as a reasonable repeat cycle in other airworthiness directives, such as AD 82–01–09 (47 FR 1111), which are intended to detect corrosion in the lower fuselage lobe. Finally, Paragraph F of the rule allows extension of the repeat interval providing the extension can be substantiated.

Four remaining commenters had no objection to the rule as proposed and indicated they had either accomplished the proposed inspection or would have no difficulty in its accomplishment.

It is estimated that 180 airplanes of U.S. registry will be initially affected by the proposed AD, and that approximately 8 manhours are required to perform the necessary inspections. Based on an average labor cost of $40 per manhour, the total cost to the U.S. fleet for accomplishment of the inspections is $57,600. For these reasons, this rule is not considered to be a major rule under the criteria of Executive Order 12291. Few, if any, small entities within the meaning of the Regulatory Flexibility Act would be affected.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Rule

Accordingly, pursuant to the authority delegated to me by the Administrator § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive (AD):

Boeing: Applies to Model 737 airplanes, certificated in all categories with more than 20,000 flight hours or 7 years time in service, whichever occurs first. Compliance is required as indicated. To ensure the continuing structural integrity of the aft pressure bulkhead, accomplish the following:

A. Within 120 days after the effective date of this AD, unless already accomplished within the last 21 months, visually inspect the B.S. 1016 pressure bulkhead for cracks and corrosion in accordance with Boeing Service Bulletin 737–53–1075, Revision 1, dated September 2, 1983, or later FAA approved revisions. Remove any obstruction to the drain hole in the frame chord and replace any deteriorated leveling compound as noted in the service bulletin. Treat the area of inspection with corrosion inhibitor, BMS 3–23, or equivalent.

B. Accomplish the drain hole enlargement specified in the service bulletin, within one year following the effective date of this amendment.

C. If cracking or corrosion is found, prior to further flight, repair in accordance with: (1) Boeing Service Bulletin 737–53–1075, Revision 1, dated September 2, 1983, or (2) a method approved by the Manager, Seattle Aircraft Certification Office, Northwest Mountain Region, Seattle, Washington.

D. Repeat the visual inspections and corrosion inhibitor treatment of paragraph A, above, at intervals not to exceed 2 years time in service.

E. Aircraft may be ferried to a maintenance base for repair in accordance with FAR 21.197 and 21.199.

F. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, Northwest Mountain Region, Seattle, Washington.

G. Upon request of the operator, an FAA Maintenance Inspector, subject to prior approval of the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, may adjust the repetitive inspection intervals specified in this AD to permit compliance at an established inspection period of an operator, if the request contains substantiating data to justify the adjustment period.

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington.

This amendment becomes effective November 5, 1984.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430 and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89)

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities because few, if any, Model 737 airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption **FOR FURTHER INFORMATION CONTACT.**

Issued in Seattle, Washington, on September 21, 1984.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 84–25875 Filed 9–28–84; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 83-ANE-20; Amdt. No. 39-4871]

Airworthiness Directives; Alexander Schleicher Models ASW 15 and ASW 15 B Series Sailplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires inspection and replacement if needed, or reinforcement of the bellcrank that activates the elevator on Alexander Schleicher Models ASW 15 and ASW 15 B sailplanes. This AD is needed to prevent bellcrank fatigue failures and possible loss of elevator control during flight.

DATE: Effective—October 1, 1984.

SUMMARY: Incorporation by Reference approved by the Director of the **Federal Register** on October 1, 1984.

Compliance schedule—As prescribed in body of the AD.

ADDRESSES: The applicable technical notes may be obtained from Alexander Schleicher Segelflugzeubau, D-6416 Poppenhausen, Federal Republic of Germany. Copies of each of the technical notes are contained in the Rules Docket at the Office of Regional Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Chris Christie, Manager, Aircraft Certification Staff, Europe, Africa, and Middle East Office, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, telephone 513.38.30; or Cheryl McCabe, ANE-152, Boston Aircraft Certification Office, FAA, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, telephone (617) 273-7329.

SUPPLEMENTARY INFORMATION: There have been reports of cracks in the bellcrank mechanism which actuates the elevator of the Alexander Schleicher ASW 15 and ASW 15 B sailplanes. Cracks in the bellcrank can lead to fatigue failure with the possible result of loss of elevator control. One such failure occurred in fight in Germany on an ASW 15 sailplane and the probable cause was determined to be a crack in the bellcrank, which resulted in fatigue failure. Since this condition is likely to develop on other sailplanes of the same type design, an AD is being issued which requires an initial and thereafter repetitive inspection of the bellcrank on ASW 15 and ASW 15 B sailplanes for cracks, and replacement or reinforcement of the bellcrank if cracks are found. Approximately 37 sailplanes will be affected by the requirement of this AD for an estimated cost impact of $40,700 or $1,100 per sailplane.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD.

Alexander Schleicher: Applies to Models ASW 15 and ASW 15 B sailplanes, certificated in any category.

Compliance is required as indicated, unless already accomplished.

To prevent elevator bellcrank failure due to fatigue, accomplish the following:

(a) Within the next 10 takeoffs or 25 hours time-in-service, whichever occurs first, unless already accomplished within the last 90 takeoffs or 75 hours time-in-service, and thereafter at intervals of 100 takeoffs or 100 hours time-in-service, whichever occurs first, visually inspect the bellcrank for cracks in accordance with Item 1 of the Instructions of Alexander Schleicher Technical Note No. 21 (TN No. 21), dated November 24, 1981.

(1) If no cracks are found, reconnect and re-rig the rudder following the manufacturer's instructions contained in TN No. 21.

(2) If cracks are found, prior to further flight, replace the bellcrank in accordance with Item 2 of TN No. 21. Use repair instruction "A" of the technical manual for the applicable ASW 15 type sailplane. Thereafter, at intervals of 100 takeoffs or 100 hours time-in-service, whichever occurs first, perform the inspection required by Item 1 above.

(b) In lieu of replacement of the bellcrank, reinforcement of the bellcrank and modifications of the fin spar and root rib may be accomplished in accordance with Item 2 of the action required of Alexander Schleicher Technical Note No. 22 (TN No. 22), dated November 1, 1982. After reinforcement of the bellcrank in accordance with TN No. 22, the repetitive inspection of this AD is no longer required and TN No. 21 is no longer applicable.

The Alexander Schleicher Technical Notes No. 21 dated November 24, 1981, and No. 22 dated November 1, 1982, identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 522(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Alexander Schleicher Segelflugzeubau, D-6414 Poppenhausen, Federal Republic of Germany. These documents may also be examined at the Office of Regional Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803.

Alternate inspections, adjustment of the inspection interval, or other actions which provide an equivalent level of safety must be approved by the Manager, Brussels Aircraft Certification Staff, AEU-100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, Brussels, Belgium, telephone 513.38.30.

This amendment becomes effective October 1, 1984.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g) [Revised, Pub. L. 97-449, January 12, 1983] (14 CFR 11.89))

Note.—The FAA has determined that this regulation only involves a total of 37 sailplanes at an approximate cost of $40,700 or $1,100 per sailplane. Therefore, I certify that this action—(1) Is not a "major rule" under Executive Order 12291, and (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption **FOR FURTHER INFORMATION CONTACT.**

Note.—The incorporation by reference provisions of this document were approved by the Director of the **Federal Register** on October 1, 1984. The referenced technical notes are available at the **Federal Register.**

Issued in Burlington, Massachusetts, on May 14, 1984.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 84-25876 Filed 9-28-84; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 84-NM-18-AD; Amdt. 39-4924]

Airworthiness Directives: British Aerospace Model DH-114 Heron Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) which requires modification of the horizontal stabilizer upper pick-up eyebolt holes and replacement of the eyebolts on all British Aerospace Model DH-114 Heron series airplanes. One case of in-service eyebolt failure has been reported. The upper eyebolts are the main attachment points for the upper spar chord of the horizontal stabilizer. Failure of these

eyebolts could lead to separation of the stabilizer.

EFFECTIVE DATE: November 5, 1984.

ADDRESSES: The applicable service information may be obtained from British Aerospace, Inc., Box 17414, Dulles International Airport, Washington, D.C. 20041, or may also be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Harold N. Wantiez, Foreign Aircraft Certification Branch, ANM-150S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington; telephone (206) 431-2977. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington, 98168.

SUPPLEMENTARY INFORMATION: The United Kingdom Civil Aviation Authority (CAA) has, in accordance with existing provisions of a bilateral agreement, notified the FAA of an unsafe condition on Model DH-114 airplanes which must be corrected by complying with British Aerospace Technical News Sheet No. F.21.

There has been one reported case in which a horizontal stabilizer upper pick-up eyebolt was found fractured. Investigation revealed that fatigue was the cause of the failure. An adverse tolerance build-up may have caused the fatigue failure. British Aerospace Technical News Sheet No. F.21 requires the removal and discarding of existing pick-up eyebolts, modification to the eyebolt holes to eliminate mismatch, and the installation of new pick-up eyebolts.

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring accomplishment of the previously mentioned inspections and modifications was published in the **Federal Register** on June 29, 1984 (49 CFR 26748). The comment period closed on August 20, 1984, and interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received.

It is estimated that 45 U.S. registered airplanes will be affected by this AD, that it will take approximately 40 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Replacement parts are estimated at $400 per airplane. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $90,000. For these reasons, this rule is not considered to be a major rule under the criteria of Executive Order 12291. Few, if any, small entities within the meaning of the Regulatory Flexibility Act will be affected.

Therefore, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

List of Subjects: 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

British Aerospace, Inc.: Applies to Model DH-114 Heron series 2A, 2DA, and 2X airplanes certificated in all categories. Compliance is required as indicated. To prevent fatigue failure of the tailplane upper pick-up eyebolts, accomplish the following within 90 days after the effective date of this AD, unless already accomplished:

A. Remove the eyebolts, modify the eyebolt holes, and install new eyebolts in accordance with paragraphs 4.1, 4.2, and 4.3, respectively, of British Aerospace Aircraft Group Technical News Sheet No. F.21, Issue 1, dated January 8, 1979.

B. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

This amendment becomes effective November 5, 1984.

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic impact on a substantial number of small entities because few, if any, Model DH-114 airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the regulatory docket. A copy may be obtained by contacting the person identified under the caption **FOR FURTHER INFORMATION CONTACT.**

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 41 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89)

Issued in Seattle, Washington, on September 21, 1984.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 84-25874 Filed 9-28-84; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 84-CE-29-AD; Amdt. 39-4925]

Airworthiness Directives; Gulfstream Aerospace Corp., Models 690, 690A, 690B, 690C, 690D, 695, and 695A Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to Gulfstream Aerospace Corporation (GAC) Models 690, 690A, 690B, 690C, 690D, 695, and 695A airplanes. A manufacturing defect has been found on some Barry Wright Corporation engine isolator assemblies installed on these airplanes which could prevent proper bolt preload and result in fatigue induced premature fracture of the isolator assembly thru-bolt. If the right-hand side isolator assembly fails the engine mount system would be capable of supporting only 55 percent of limit load. This action will reduce the risk of engine separation from the airframe due to failure of the engine isolator assemblies.

EFFECTIVE DATE: October 8, 1984.

Compliance: Within next 50-hours' time-in-service after the effective date of this AD.

ADDRESSES: The applicable service bulletin may be obtained from: Gulfstream Aerospace Corporation, Wiley Post Airport, P.O. Box 22500, Oklahoma City, Oklahoma 73123 or the Rules Docket, FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Efrain E. Esparza, Airframe Engineer Airplane Certification Branch, ASW-150, FAA, Southwest Region, P.O. Box 1689, Fort Worth, Texas 76101; Telephone 817-877-2077.

SUPPLEMENTARY INFORMATION: There have been 35 reports of Barry Wright Corporation defective engine mount isolators. Of these, four failed while installed on Gulfstream Aerospace Corporation 690 or 695 series airplanes. The rest were found to be defective during routine inspections and in spares stock. If loss of a critical isolator

assembly occurs, the engine mount system can only support up to 55 percent of the limit load expected in service and a catastrophic failure resulting in engine separation is possible. Since the condition described herein is likely to exist on other airplanes of the same type design an AD is being issued applicable to all GAC Models 690, 690A, 690B, 690C, 690D, 695, and 695A, which have Barry Wright Corporation engine isolators installed. The AD requires a one-time inspection to check for defective isolators and, if necessary, replacement of defective isolators in accordance with Gulfstream Aerospace Corporation Service Bulletin (SB) 201 issued May 11, 1984. Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket under the caption **ADDRESSES** at the location identified.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD:

Gulfstream Aerospace Corporation: Applies to Models 690 and 690A, (S/Ns 11001 through 11284 which have had engine isolator assemblies replaced after July 28, 1975); 690A (S/Ns 11285 through 11344); 690B (S/Ns 11350 through 11568), 690C (S/Ns 11600 through 11732); 690D (S/Ns 15001 through 15033 and 15037); 695 (S/Ns 95000 through 95084); 695A (S/Ns 96001 through 96061, 96063 through 96072, 96075, 97078, 96085, and 96088) airplanes certificated in any category.

Compliance: Required as indicated, unless already accomplished.

To prevent failure of the engine mount systems accomplish the following:

(a) Within 50 hours' time-in-service after the effective date of this AD, inspect and modify, if required, the engine mount systems in accordance with Gulfstream Aerospace Corporation Service Bulletin SB 201 issued May 11, 1984.

(b) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(c) An equivalent method of compliance with this AD may be used if approved by the Manager, Airplane Certification Branch, ASW-150, FAA, Southwest Region, Post Office Box 1689, Fort Worth, Texas 76101; Telephone (817) 877-2070.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958 as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g) (Revised Pub. L. 97-449, Jan. 12, 1983); § 11.89 of the Federal Aviation Regulations (14 CFR 11.89))

This amendment becomes effective on October 8, 1984.

Issued in Kansas City, Missouri, on September 21, 1984.

Murray E. Smith,

Director, Central Region.

[FR Doc. 84-25873 Filed 9-28-84; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 84-ASW-35]

Alteration and Designation of Control Zones: Lawton, OK, and Fort Sill, OK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will alter the control zone at Lawton, OK, and designate a control zone at Fort Sill, OK. The intended effect of the amendment is to provide controlled airspace for aircraft executing standard instrument approach procedures (SIAPs) to the Lawton Municipal Airport and Henry Post AAF. This amendment is necessary since the Lawton Airport Traffic Control Tower (ATCT) will assume weather reporting for the Lawton Municipal Airport; however, the ATCT is a part-time facility and Henry Post AAF will be responsible for making the required weather reports when the Lawton ATCT is closed. Since this weather reporting will be made at two different airports, during the hours specified, action is necessary to designate separate control zones for each airport.

EFFECTIVE DATE: 0901 G.m.t., December 20, 1984.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, telephone (817) 877-2463.

SUPPLEMENTARY INFORMATION:

History

On August 3, 1984, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the control zone at Lawton, OK, and designate a control zone at Fort Sill, OK (49 FR 31076).

Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is that proposed in the notice. Section 71.171 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6 dated January 3, 1984.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations will be required for Lawton, OK, and Fort Sill, OK, since weather reports will be available at the Lawton Municipal Airport during the time the Lawton ATCT is operational, this weather will govern the control zone at the Lawton Municipal Airport. When the Lawton ATCT is closed, the weather taken at Henry Post AAF will govern the control zone at Fort Sill, OK. This method of operation will require designation of separate control zones for the two airports. However, the two control zones will not be effective at the same time.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Control zones, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.171 of Part 71 of

the Federal Aviation Regulations (14 CFR Part 71) is amended as follows:

Lawton, OK [Revised]

Within a 5-mile radius of the Lawton Municipal Airport (latitude 34°34'00" N., longitude 98°24'58" W.) and within a 5-mile radius of Henry Post AAF (latitude 34°39'03" N., longitude 98°24'00" W.) and within 2.5 miles each side of the 180° bearing of the Post Nondirectional Radio Beacon (NDB) extending from the 5-mile radius area of Henry Post AAF to 9.5 miles south of the Post NDB; and within 2 miles each side of the 179° bearing of the Trail NDB extending from the Henry Post AAF 5-mile radius area to the Trail NDB, excluding that airspace within R-5601A when the restricted area is activated. This control zone is effective during the specific dates and times established in advance by a notice to airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Fort Sill, OK [New]

Within a 5-mile radius of the Henry Post AAF (latitude 34°39'03" N., longitude 98°24'00" W.), and within 2.5 miles each side of the 180° bearing of the Post NDB extending from the 5-mile radius area to 9.5 miles south of the Post NDB; and within 2 miles each side of the 179° bearing of the Trail NDB extending from the 5-mile radius area to the Trail NDB, excluding that airspace within R-5601A when the restricted area is activated. This control zone is effective from 2100 local time to 0700 local time.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)) (49 U.S.C. 106(g) (Revised, Pub. L. 97-449, Jan. 12, 1983)); and 14 CFR 11.69)

Issued in Fort Worth, TX, on September 14, 1984.

F.E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 84-25870 Filed 9-28-84; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 84-ASW-34]

Alteration of Transition Area: Fairview, OK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will alter the transition area at Fairview, OK. The intended effect of the amendment is to provide controlled airspace for aircraft executing a new standard instrument approach procedure (SIAP) to the Fairview Airport. This amendment is necessary since a review of the designated airspace revealed the controlled airspace is improperly described as being from the surface and there is an error in the extension of the 700-foot transition area.

EFFECTIVE DATE: 0901 G.m.t., December 20, 1984.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, telephone (817) 877-2463.

SUPPLEMENTARY INFORMATION:

History

On August 3, 1984, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the transition area at Fairview, OK (49 FR 31075).

Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6 dated January 3, 1984.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations is required at Fairview, OK, since a review of the designated airspace revealed the airspace is improperly described from a vertical standpoint and the bearing from the nondirectional radio beacon (NDB) is not correct.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended as follows:

Fairview, OK [Revised]

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Fairview Airport (latitude 36°17'24" N., longitude 98°28'32" W.) and within 3 miles each side of the 007° bearing of the NDB (latitude 36°17'14" N., longitude 98°28'39" W.) extending from the 5-mile radius area to 8.5 miles north of the NDB.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)); and 14 CFR 11.69)

Issued in Fort Worth, TX, on September 14, 1984.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 84-25869 Filed 9-28-84; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 84-ASW-32]

Alteration of Transition Area and Control Zone; Temple, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will alter the transition area and control zone at Temple, TX. The intended effect of the amendment is to provide additional controlled airspace for aircraft executing a new standard instrument approach procedure (SIAP) to the Draughon-Miller Municipal Airport. This amendment is necessary since there is a new SIAP being developed using the back course of the instrument landing system localizer to Runway 33.

EFFECTIVE DATE: 0901 G.m.t., December 20, 1984.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, telephone (817) 877-2463.

SUPPLEMENTARY INFORMATION:

History

On August 3, 1984, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Temple, TX, transition area and control zone (49 FR 31077).

Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is that proposed in the notice. Sections 71.171

and 71.181 of Part 71 of the Federal Aviation Regulations were republished in Handbook 7400.6 dated January 3, 1984.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations will be required at Temple, TX, since there is a proposed SIAP to Runway 33 using the back course of the ILS system at the Draughon-Miller Municipal Airport.

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in CFR Part 71

Control zones, Transition areas, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) are amended as follows:

§ 71.171

Temple, TX [Revised]

Within a 5-mile radius of the Draughon-Miller Municipal Airport (latitude 31°09'08" N., longitude 97°24'27" W.), and within 2.5 miles west and 3.5 miles east of the north localizer course extending from the 5-mile radius area to 15.5 miles north of the airport and 1.5 miles each side of the south localizer course extending from the 5-mile radius area to 6 miles south of the airport. This control zone is effective during the specific dates and times established in advance by a notice to airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

§ 71.181

Temple, TX [Amended]

by adding:

; and within 3 miles each side of the south localizer course extending from the 7-mile radius area to 17 miles south of the airport.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)); and 14 CFR 11.69)

Issued in Fort Worth, TX, on September 14, 1984.

F.E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 84-25888 Filed 9-28-84; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 341, 342, 343, 344, 345, 346, and 347

49 CFR Part 1300

[Docket No. RM83-78-000]

Final Rule-Correction

Issued: September 26, 1984.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule, correction, change of effective date.

SUMMARY: On March 23, 1984, the Federal Energy Regulatory Commission (FERC) issued a final rule in Docket No. RM83-78-000, 49 FR 12898 (March 30, 1984) (Order No. 367), transferring oil pipeline regulations from Title 49 to Title 18 of the *Code of Federal Regulations*. On June 27, 1984, the FERC postponed the effective date of the new Part 341, 18 CFR Part 341. (49 FR 27117, June 29, 1984). This document again postpones effective date of the new Part 341.

EFFECTIVE DATE: The effective date for 18 CFR Part 341 is October 30, 1984. The effective date for 18 CFR Parts 342, 343, 344, 345, 346, and 347 remains July 2, 1984.

FOR FURTHER INFORMATION CONTACT: Joseph R. Hartsoe, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8033.

SUPPLEMENTARY INFORMATION: On March 23, 1984, the Interstate Commerce Commission (ICC) in conjunction with the Federal Energy Regulatory Commission (FERC) redesignated 49 CFR Part 1300 as 18 CFR Part 341, effective July 2, 1984. The ICC changed the effective date of this redesignation to October 2, 1984, 49 FR 27117 (June 29, 1984). Recently, the ICC once again changed the effective date of this redesignation to October 30, 1984. Since the FERC cannot redesignate 49 CFR Part 1300 without the concurrence of the ICC, the effective date of 18 CFR Part 341 is changed to October 30, 1984.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-25987 Filed 9-28-84; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 25

[T.D. 7978]

Transitional Rule for Increased Annual Gift Tax Exclusion and Unlimited Exclusion for Certain Transfers

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the annual gift tax exclusion and the unlimited exclusion for certain medical and educational transfers under section 2503 of the Internal Revenue Code of 1954. Changes to the applicable law made by the Economic Recovery Tax Act of 1981 are reflected in this document. These regulations provide the public with the guidance needed to comply with that Act.

DATES: The regulations are effective for gifts made after December 31, 1981.

FOR FURTHER INFORMATION CONTACT: Ada S. Rousso of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (Attention: CC:LR:T: 202-566-4336, not a toll free call).

SUPPLEMENTARY INFORMATION:

Background

On January 6, 1984, the Federal Register published proposed amendments to the Estate and Gift Tax Regulations (26 CFR Part 25) under section 2503 of the Internal Revenue Code of 1954 (49 FR 896) reflecting changes to the law made by section 441 of the Economic Recovery Tax Act of 1981 (Pub. L. 97-34, 95 Stat. 319).

Section 441(a) of the Economic Recovery Tax Act of 1981 increased the annual gift tax exclusion to $10,000 per donee for gifts made during calendar year 1982 and subsequent years. See § 25.2503-2(a) and 48 FR 40373.

Section 441(b) of the Act added section 2503(e) to the Code. Section 2503(e) and § 25.2503-6 generally provide that amounts paid on behalf of any individual as tutition to certain

educational organizations or as payment for medical care to any person who provides medical care with respect to that individual will not be considered transfers subject to the gift tax. This exclusion is permitted without regard to the relationship between the donor and donee. A clarifying change was made in the regulations which clarifies that transportation expenses are also within the scope of § 25.2503–6.

A public hearing was neither held nor requested. However, two comments suggesting changes were received. After consideration of the comments regarding the proposed amendments, those proposed amendments as revised by this document are adopted by this Treasury decision.

Summary of Comments

Section 25.2503–2(d) provides a transitional rule which states that the increase in the annual gift tax exclusion from $3,000 to $10,000 (as enacted by section 441(a) of the Economic Recovery Tax Act of 1981) for gifts made during calendar year 1982 and subsequent years does not apply to powers of appointment granted under certain instruments created before September 12, 1981. One commentor suggested adding an example (3) to § 25.2503–2(e) providing for a power of appointment granted in a trust that refers to "any available annual gift tax exclusion", thus indicating that the creator of the trust did not intend limiting the power to $3,000. Because the facts of example (2) of § 25.2503–2(e) already provide for a power of appointment granted in a trust that refers to section 2503(b) as amended at any time, the final regulations do not adopt the suggested revision. Example (2) is intended to reflect an expressed intent on the part of the grantor not to limit the power to $3,000.

The second commentor suggested that a transfer to a trust from an individual for the purpose of paying tuition to an educational organization on behalf of another individual should qualify for the unlimited exclusion from the gift tax under section 2503(e). That section provides that transfers to educational organizations described in section 170(b)(1)(A)(ii) qualify for the unlimited exclusion from the gift tax. In response to that comment, an example illustrating the exclusion for tuition payments has been added to § 25.2503–6(c). That example illustrates that a transfer to an irrevocable trust which is complete for gift tax purposes will not qualify for the unlimited exclusion for tuition expenses.

Special Analyses

The Commissioner of Internal Revenue has determined that this final rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. Although a notice of proposed rulemaking which solicited public comments was issued, the Internal Revenue Service concluded when the notice was issued that the regulations are interpretative and that the notice and public procedure requirement of 5 U.S.C. 553 did not apply. Accordingly, the final regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Drafting Information

The principal author of these regulations is Ada S. Rousso of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects in 26 CFR Part 25

Gift taxes.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Part 25 is amended as follows:

PART 25—[AMENDED]

Paragraph 1. Section 25.2503–2 is amended by adding paragraphs (d) and (e), immediately after paragraph (c), to read as set forth below.

§ 25.2503–2 Exclusions from gifts.

* * * * *

(d) *Transitional rule.* The increased annual gift tax exclusion as defined in section 2503(b) shall not apply to any gift subject to a power of appointment granted under an instrument executed before September 12, 1981, and not amended on or after that date, provided that: (1) The power is exercisable after December 31, 1981, (2) the power is expressly defined in terms of, or by reference to, the amount of the gift tax exclusion under section 2503(b) (or the corresponding provision of prior law), and (3) there is not enacted a State law applicable to such instrument which construes the power of appointment as referring to the increased annual gift tax exclusion provided by the Economic Recovery Tax Act of 1981.

(e) *Examples.* The provisions of paragraph (d) of this section may be illustrated by the following examples:

Example (1). A executed an instrument to create a trust for the benefit of B on July 2, 1981. The trust granted to B the power, for a period of 90 days after any transfer of cash to the trust, to withdraw from the trust the lesser of the amount of the transferred cash or the amount equal to the section 2503(b) annual gift tax exclusion. The trust was not amended on or after September 12, 1981. No state statute has been enacted which construes the power of appointment as referring to the increased annual gift tax exclusion provided by the Economic Recovery Tax Act of 1981. Accordingly, the maximum annual gift tax exclusion applicable to any gift subject to the exercise of the power of appointment is $3,000.

Example (2). Assume the same facts as in example (1) except that the power of appointment granted in the trust refers to section 2503(b) as amended at any time. The maximum annual gift tax exclusion applicable to any gift subject to the exercise of the power of appointment is $10,000.

Par. 2. Section 25.2503–6 is added to read as follows:

§ 25.2503–6 Exclusion for certain qualified transfer for tuition or medical expenses.

(a) *In general.* Section 2503(e) provides that any qualified transfer after December 31, 1981, shall not be treated as a transfer of property by gift for purposes of chapter 12 of subtitle B of the Code. Thus, a qualified transfer on behalf of any individual is excluded in determining the total amount of gifts in calendar year 1982 and subsequent years. This exclusion is available in addition to the $10,000 annual gift tax exclusion. Furthermore, an exclusion for a qualified transfer is permitted without regard to the relationship between the donor and the donee.

(b) *Qualified transfers*—(1) *Definition.* For purposes of this paragraph, the term "qualified transfer" means any amount paid on behalf of an individual—

(i) As tuition to a qualifying educational organization for the education or training of that individual, or

(ii) To any person who provides medical care with respect to that individual as payment for the qualifying medical expenses arising from such medical care.

(2) *Tuition expenses.* For purposes of paragraph (b)(1)(i) of this section, a qualifying educational organization is one which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on. See section 170(b)(1)(A)(ii) and the regulations

thereunder. The unlimited exclusion is permitted for tuition expenses of full-time or part-time students paid directly to the qualifying educational organization providing the education. No unlimited exclusion is permitted for amounts paid for books, supplies, dormitory fees, board, or other similar expenses which do not constitute direct tuition costs.

(e) *Medical expenses.* For purposes of paragraph (b)(1)(ii) of this section, qualifying medical expenses are limited to those expenses defined in section 213(d) (section 213(e) prior to January 1, 1984) and include expenses incurred for the diagnosis, cure, mitigation, treatment or prevention of disease, or for the purpose of affecting any structure or function of the body or for transportation primarily for and essential to medical care. In addition, the unlimited exclusion from the gift tax includes amounts paid for medical insurance on behalf of any individual. The unlimited exclusion from the gift tax does not apply to amounts paid for medical care that are reimbursed by the donee's insurance. Thus, if payment for a medical expense is reimbursed by the donee's insurance company, the donor's payment for that expense, to the extent of the reimbursed amount, is not eligible for the unlimited exclusion from the gift tax and the gift is treated as having been made on the date the reimbursement is received by the donee.

(c) *Examples.* The provisions of paragraph (b) of this section may be illustrated by the following examples.

Example (1). In 1982, A made a tuition payment directly to a foreign university on behalf of B. A had no legal obligation to make this payment. The foreign university is described in section 170(b)(1)(A)(ii) of the Code. A's tuition payment is exempt from the gift tax under section 2503(e) of the Code.

Example (2). A transfers $100,000 to a trust the provisions of which state that the funds are to be used for tuition expenses incurred by A's grandchildren. A's transfer to the trust is a completed gift for Federal gift tax purposes and is not a direct transfer to an educational organization as provided in paragraph (b)(2) of this section and does not qualify for the unlimited exclusion from gift tax under section 2503(e).

Example (3). C was seriously injured in an automobile accident in 1982. D, who is unrelated to C, paid C's various medical expenses by checks made payable to the physician. D also paid the hospital for C's hospital bills. These medical and hospital expenses were types described in section 213 of the Code and were not reimbursed by insurance or otherwise. Because the medical and hospital bills paid in 1982 for C were medical expenses within the meaning of section 213 of the Code, and since they were paid directly by D to the person rendering the medical care, they are not treated as transfers subject to the gift tax.

Example (4). Assume the same facts as in example (2) except that instead of making the payments directly to the medical service provider, D reimbursed C for the medical expenses which C had previously paid. The payments made by D to C do not qualify for the exclusion under section 2503(e) of the Code and are subject to the gift tax on the date the reimbursement is received by C to the extent the reimbursement and all other gifts from D to C during the year of the reimbursement exceed the $10,000 annual exclusion provided in section 2503(b).

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917, 26 U.S.C. 7805).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: September 14, 1984.

Ronald A. Pearlman,

Acting Assistant Secretary of the Treasury.

[FR Doc. 84-25884 Filed 9-28-84; 8:45 am]

BILLING CODE 4830-01-M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

29 CFR Part 2705

Privacy Act of 1974; Final Regulations for Implementation

AGENCY: Federal Mine Safety and Health Review Commission.

ACTION: Final rule.

SUMMARY: The following regulations drafted in accordance with section (f) of 5 U.S.C. 552a, Privacy Act of 1974, are hereby adopted by the Commission. The purposes of these regulations are to establish procedures by which an individual can determine if the Commission maintains a system of records which include a record pertaining to that individual and also to establish procedures for individual access to the records for purposes of review, amendment and/or correction.

EFFECTIVE DATE: October 1, 1984.

FOR FURTHER INFORMATION CONTACT: Catherine Sands Hiler, (202) 653-5625.

Signed this 24th day of September 1984.

Catherine Sands Hiler,

Executive Director.

SUPPLEMENTARY INFORMATION: Proposed rulemaking was published on pages 30666-30667 of the **Federal Register** of July 31, 1984, and invited comments for 30 days ending August 30, 1984. No written comments were received. One oral comment was received, thoroughly discussed, and the concerns were satisfied with no further action requested.

List of Subjects in 29 CFR Part 2706

Privacy Act.

Part 2706 is hereby added to Title 29 of the Code of Federal Regulations to read as follows:

PART 2705—PRIVACY ACT IMPLEMENTATION

Sec.

2705.1 Purpose and scope.
2705.2 Definitions.
2705.3 Procedures for requests pertaining to individuals' records in a records system.
2705.4 Times, places, and requirements for the identification of the individual making a request.
2705.5 Access of requested information to the individual.
2705.6 Request for correction or amendment to the record.
2705.7 Agency review of request for correction or amendment of the record.
2705.8 Appeal of an initial adverse agency determination on correction or amendment of the record.
2705.9 Disclosure of record to a person other than the individual to whom the record pertains.
2705.10 Fees.

Authority: 5 U.S.C. 552a: Pub. L. 93-579.

§ 2705.1 Purposes and scope.

The purposes of these regulations are to:

(a) Establish a procedure by which an individual can determine if the Federal Mine Safety and Health Review Commission, hereafter the "Commission", maintains a system of records which includes a record pertaining to the individual; and

(b) Establish a procedure by which an individual can gain access to a record pertaining to him or her for the purpose of review, amendment and/or correction.

§ 2705.2 Definitions.

For the purpose of these regulations—

(a) The term "individual" means a citizen of the United States or an alien lawfully admitted for permanent residence;

(b) The term "maintain" includes maintain, collect, use of disseminate;

(c) The term "record" means any item, collection or grouping of information about an individual that is maintained by the Commission, including, but not limited to, his or her employment history, payroll information, and financial transactions and that contains his or her name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as social security number.

(d) The term "system or records" means a group of any records under control of the Commission from which

information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual; and

(e) The term "routine use" means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.

§ 2705.3 Procedure for requests pertaining to individuals' records in a records system.

An individual shall submit a request to the Executive Director to determine if a system of records named by the individual contains a record pertaining to the individual. If a record pertaining to the individual does exist in the specified system of records and the individual wishes to review that record he or she shall submit a request to the Executive Director of the Commission which states the individual's desire to review his or her record.

§ 2705.4 Times, places, and requirements for the indentification of the individual making a request.

An individual making a request to the Executive Director of the Commission pursuant to § 2705.3 shall present a written request at the Commission Office, 1730 K Street NW., Room 612, Washington, DC 20006, on any business day between the hour of 8:30 a.m. and 5:00 p.m. The individual submitting the request should present himself or herself at the Commission's offices with a form of identification which will permit the Commission to verify that the individual is the same individual as contained in the record requested.

§ 2705.5 Access to requested information to the individual.

As soon as practicable after verification of identity the Commission shall disclose to the individual the information contained in the record which pertains to that individual.

§ 2705.6 Request for correction or amendment to the record.

The individual shall submit a written request to the Executive Director which states the individual's desire to correct or to amend his or her record and details the specific corrections or amendments sought. This request is to be made in accord with provisions of § 2705.4.

§ 2705.7 Agency review of request for correction or amendment of the record.

Within ten working days of the receipt of the request to correct or to amend the record, the Executive Director will acknowledge in writing such receipt and promptly either—

(a) Make any correction or amendment to that portion of the record which the individual believes is not accurate, relevant, timely, or complete; or

(b) Inform the individual of the Executive Director's refusal to correct or to amend the record in accordance with the request, and the procedures established by the Commission for the individual to request a review of that refusal.

§ 2705.8 Appeal of an initial adverse Commission determination on correction or amendment of the record.

An individual who disagrees with the refusal of the Executive Director to correct or to amend his or her record may submit a request for a review of such refusal to the Chairman, Federal Mine Safety and Health Review Commission, 1730 K Street NW., Room 610, Washington, D.C. 20006. The Chairman will, not later than thirty working days from the date on which the individual requests such review, complete such review and make final determination unless, for good cause shown, the Chairman extends such thirty-day period. If, after his or her review, the Chairman also refuses to correct or to amend the record in accordance with the request, the Individual may file with the Commission a concise statement setting forth the reasons for his or her disagreement with the refusal of the Commission and may seek judicial review of the Chairman's determination under 5 U.S.C. 552a(g)(1)(A).

§ 2705.9 Disclosure of record to a person other than the individual to whom the record pertains.

The Commission will not disclose a record to any individual other than the individual to whom the record pertains without receiving the prior written consent of the individual to whom the record pertains, unless the disclosure has been listed as a "routine use" in the Commission's notices of its system of records, or falls within one of the special disclosure situations listed in the Privacy Act of 1974 (5 U.S.C. 552a(b)).

§ 2705.10 Fees.

If an individual requests copies of his or her record, he or she will be charged a reasonable fee, excluding the cost of any search for review of the record, in advance of receipt of the pages.

[FR Doc. 84-25924 Filed 9-28-84; 8:45 am]

BILLING CODE 6735-01-M

POSTAL SERVICE

39 CFR Part 10

Express Mail International Service to New Zealand

AGENCY: Postal Service.

ACTION: Final action on Express Mail International Service to New Zealand.

SUMMARY: Pursuant to an agreement with the postal administration of New Zealand, the Postal Service intends to begin Express Mail International Service with New Zealand at postage rates indicated in the tables below. Service is scheduled to begin on October 29, 1984.

EFFECTIVE DATE: October 29, 1984.

FOR FURTHER INFORMATION CONTACT: Leon W. Perlinn, (202) 245-4414.

SUPPLEMENTARY INFORMATION: By a notice published in the **Federal Register** on August 27, 1984 (49 FR 33901), the Postal Service announced that it was proposing to begin Express Mail International Service to New Zealand. Comments were invited on published rate tables, which are proposed amendments to the International Mail Manual (incorporated by reference in the Code of Federal Regulations, 39 CFR 10.1) and which are to become effective on the date service begins. No comments were received.

Accordingly, the Postal Service states that it intends to begin Express Mail International Service with New Zealand on October 29, 1984 at the rates indicated in the tables below.

List of Subjects in 39 CFR Part 10

Postal service, Foreign relations.

NEW ZEALAND.—INTERNATIONAL EXPRESS MAIL

Custom designed service [1] [2]		On demand service [2]	
Weight not over (pounds)	Rate	Weight not over (pounds)	Rate
1	$29.00	1	$21.00
2	33.50	2	25.50
3	38.00	3	30.00
4	42.50	4	34.50
5	47.00	5	39.00
6	51.50	6	43.50
7	56.00	7	48.00
8	60.50	8	52.50
9	65.00	9	57.00
10	69.50	10	61.50
11	74.00	11	66.00
12	78.50	12	70.50
13	83.00	13	75.00
14	87.50	14	79.50
15	92.00	15	84.00
16	96.50	16	88.50
17	101.00	17	93.00
18	105.50	18	97.50
19	110.00	19	102.00
20	114.50	20	106.50
21	119.00	21	111.00
22	123.50	22	115.50

[1] Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a

Service Agreement providing for tender by the customer at a designated Post Office.

[1] Pickup is available under a Service Agreement for an added charge of $5.60 for each pickup stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pickup charge.

A transmittal letter making these changes in the pages of the International Mail Manual will be published in the **Federal Register** as provided in 39 CFR 10.3 and will be transmitted to subscribers automatically.

(39 U.S.C. 401, 404, 407)

W. Allen Sanders,

Associate General Counsel, Office of General Law Administration.

[FR Doc. 84-25853 Filed 9-28-84; 8:45 am]

BILLING CODE 7710-12-M

FEDERAL MARITIME COMMISSION

46 CFR Part 510

[Docket No. 84-19]

Licensing of Ocean Freight Forwarders

Correction

In FR Doc. 84-24312 beginning on page 36296 in the issue of Friday, September 14, 1984, make the following corrections:

§ 510.11 [Corrected]

1. On page 36299, in the second column, in § 510.11 (a)(2), in the third line, "§ 510.4" should read "§ 510.14".

§ 510.23 [Corrected]

2. On page 36302, in the third column, in § 510.23(C), in the 21st line, "(b)" should read "(2)".

§ 510.25 [Corrected]

3. On page 36303, in the second column, in § 510.25, in the text of the certification, paragraph designated "2", in the second line, "name and firm" should read "name of firm".

Billing Code 1505-01-M

46 CFR 515

[Docket No. 84-18]

The Shipping Act of 1984; Final Rules for Marine Terminal Operations and Passenger Vessels

Correction

In FR Doc. 84-24313 beginning on page 36303 in the issue of Friday, September 14, 1984, make the following correction on page 36305: In the second column, in § 515.6(d)(2), in the first line, "mans" should read "means".

BILLING CODE 1505-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 83-1203; RM-4528]

FM Broadcast Station in Stephenson, MI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns Channel 257A to Stephenson, Michigan, as that community's first FM service, in response to a request filed by David Schaberg.

EFFECTIVE DATE: November 27, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner or Stan Schmulewitz, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Stephenson, Michigan); MM Docket No. 83-1203, RM-4528.

Adopted: September 17, 1984.
Released: September 21, 1984.

By the Chief, Policy and Rules Division.

1. The Commission herein considers its *Notice of Proposed Rule Making*, 48 FR 52336, published November 17, 1983, proposing the assignment of Channel 257A to Stephenson, Michigan, as that community's first FM service, in response to a petition filed by Robert A. Sherman ("petitioner"). Petitioner filed comments in response to the *Notice* advising that he is no longer supportive of the proposal. However, we also received comments from David Schaberg, in which he expressed interest in the proposal and indicated his intention to apply for the channel, if assigned. No oppositions to the proposal were received.

2. In view of the fact that the proposed assignment could provide a first local FM service to Stephenson, Michigan, the Commission believes the public interest would be served by the assignment of Channel 257A to that community.

3. A staff engineering study reveals that Channel 257A can be assigned to Stephenson consistent with the minimum distance separation requirements of § 73.207(a) of the Commission's Rules. Additionally, since the proposed assignment is within 320 kilometers (200 miles) of the common U.S.-Canada border, concurrence of the Canadian government was obtained.

4. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective November 27, 1984, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended to include the community listed below, as follows:

City	Channel No.
Stephenson, MI	257A

5. It is further ordered, That this proceeding is terminated.

6. For further information concerning the above, contact Nancy V. Joyner or Stanley Schmulewitz, Mass Media Bureau, (202) 634-6530.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84-25894 Filed 9-28-84; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-1231; RM-4541]

FM Broadcast Station Camden, AR

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein, at the request of Gary D. Terrell, assigns Channel 237A to Camden, Arkansas, as that community's second FM service.

EFFECTIVE DATE: November 27, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and order

(Proceeding Terminated)

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Station (Camden, Arkansas) (MM Docket No. 83-1231, RM-4541)

Adopted: Sept. 17, 1984.

Released: September 21, 1984.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration the *Notice of Proposed Rule Making*, 48 FR 53728, published November 29, 1983, proposing the assignment of Channel 237A to Camden, Arkansas, as that community's second FM service. The Notice was adopted in response to a petition filed by Gary D. Terrell ("petitioner"). Supporting comments were filed by petitioner reaffirming his intention to apply for the channel, if assigned. Comments were filed by Camden Radio, Inc. ("Camden"), licensee of Stations KAMD and KWEH(FM), Camden, Arkansas.

2. Camden raises the question of whether a station on Channel 237A could provide city grade service to the community from the restricted site of 5.7 miles (9.1 km) specified in the *Notice*. However, a Class A station can be expected to provide city grade coverage (3.16 m V/m) up to a distance of 8 miles. Here Camden's comments provide no information (terrain factor, unavailability of property, etc.) which would give us reason to doubt the feasibility of city grade service being provided by Channel 237A from a distance of 5.7 miles.

3. The Commission believes the public interest would be served by the assignment of FM Channel 237A to Camden, Arkansas, in order to provide a second FM service to the community. The assignment can be made in compliance with the minimum distance separation requirements of § 73.207 of the Commission's Rules, provided the transmitter is located 5.7 miles (9.1 km) south of the community to avoid short-spacing to FM Station KJKK (Channel 237A). Murfressboro, Arkansas, and Station KADL (Channel 235), Pine Bluff, Arkansas.[1]

PART 73—[AMENDED]

§ 73.606 [Amended]

4. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective November 27, 1984, the Television Table of Assignments, § 73.606(b) of the Commission's Rules, is amended to include the community listed below, as follows:

[1] As this petition was filed before December 16, 1983, the "10-mile buffer" provided for by the new rules adopted in BC Docket No. 80-90, 49 FR 10260, published March 20, 1984 does not apply. Therefore Station KADL (Channel 235), Pine Bluff, Arkansas does not receive the "10-mile buffer zone" in the direction of Camden.

City	Channel No.
Camden, AR	237A, 246

5. It is further ordered, That this proceeding is terminated.

6. For further information contact Patricia Rawlings, Mass Media Bureau, (202) 634-6530.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84-25885 Filed 9-28-84; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 84-16; RM-4627]

FM Broadcast Station in Ukiah, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns FM Channel 290 to Ukiah, California, as that community's third FM channel, in response to a petition filed by Theodore S. Storck.

EFFECTIVE DATE: November 27, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.202(b), table of assignments, FM Broadcast Stations (Ukiah, California) (MM Docket No. 84-16, RM-4627).

Adopted: September 17, 1984.

Released: September 21, 1984.

By the Chief, Policy and Rules Division.

1. The Commission has under consideration the *Notice of Proposed Rule Making*, 49 FR 3886, published January 31, 1984, proposing the assignment of Class B FM Channel 290 to Ukiah, California, as that community's third FM channel. The *Notice* was issued in response to a petition filed by Theodore S. Storck ("petitioner"). Petitioner filed comments affirming his interest in the assignment. No oppositions to the proposal were received.

2. The Commission believes that the public interest would be served by the assignment of FM Channel 290 to Ukiah, California, in order to provide a third FM channel to the community. The assignment can be made in compliance with the minimum distance separation requirements of § 73.207 of the Commission's Rules.

PART 73—[AMENDED]

§ 73.202 [Amended]

3. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective November 27, 1984, the FM Table of Assignments, § 73.202(b) of the Rules is amended with regard to the following community:

City	Channel No.
Ukiah, CA	233, 277, 290

4. It is further ordered, That this proceeding is terminated.

5. For further information concerning this proceeding, contact Patricia Rawlings, Mass Media Bureau (202) 634-6530.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84-25889 Filed 9-28-84; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-1343; RM-4606]

FM Broadcast Station in Aspen, CO

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns Channel 296A to Aspen, Colorado, as that community's second FM service, at the request of Nae Kyung Kim.

EFFECTIVE DATE: November 27, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.202(b), table of assignments, FM Broadcast Stations (Aspen, Colorado) (MM Docket No. 83-1343, RM-4606).

Adopted: September 17, 1984.
Released: September 21, 1984.

By the Chief, Policy and Rules Division.

1. Before the Commission for consideration is the *Notice of Proposed Rule Making*, 49 FR 465, published January 4, 1984, proposing the assignment of Channel 296A to Aspen, Colorado, as that community's second local FM service. The *Notice* was adopted in response to a petition filed by Nae Kyung Kim ("petitioner"). Supporting comments were filed by petitioner reaffirming his intention to apply for the channel, if assigned. No comments in opposition to the proposal were received.

2. The Commission believes that the public interest would be served by the assignment of FM Channel 296A to Aspen, Colorado, in order to provide a second local FM service to the community. The assignment can be made in compliance with the minimum distance separation requirements of Section 73.207 of the Commission's Rules.

PART 73—[AMENDED]

§ 73.202 [Amended]

3. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective November 27, 1984, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended for the following city:

City	Channel No.
Aspen, CO	249A, 296A

4. It is further ordered, That this proceeding is terminated.

5. For further information concerning this proceeding, contact Patricia Rawlings, Mass Media Bureau, (202) 634-6530.

(Secs. 4, 303, 48 Stat. as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84-25692 Filed 9-28-84; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-1294; RM-4549]

FM Broadcast Station in Eureka, KS

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns FM Channel 228A to Eureka, Kansas, as that community's first local assignment, at the request of Frederick E. Miller.

EFFECTIVE DATE: November 27, 1984.

ADDRESS: Federal Communications Commission, Washington D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.202(b), table of assignments, FM Broadcast Stations, (Eureka, Kansas) MM Docket No. 83-1294, RM-4549).

Adopted: September 17, 1984.
Released: September 21, 1984.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration the *Notice of Proposed Rule Making*, 48 FR 55591, published December 14, 1983, seeking comments on the proposed assignment of Channel 228A to Eureka, Kansas, as that community's first local FM allocation, at the request of Frederick E. Miller ("petitioner"). The channel can be assigned in compliance with the Commission's minimum distance separation and other technical rules.[1] The petitioner filed comments reiterating his intention to apply for the channel, if assigned. No other comments were received.

PART 73—[AMENDED]

§ 73.202 [Amended]

2. We believe the assignment of Channel 228A at Eureka to be in the public interest, as it could provide that community its first local FM service. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered That effective November 27, 1984, the FM Table of Assignments, § 73.202(b) of the Rules, is amended with respect to the community listed below, to read as follows:

City	Channel No.
Eureka, KS	228A

3. It is further ordered, That this proceeding is terminated.

4. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84-25696 Filed 9-28-84; 8:45 am]

BILLING CODE 6712-01-M

[1] It is noted that the assignment will infringe upon the 16 kilometer buffer of Station KYEZ, Channel 229 at Salina, Kansas. However, as the petition for rule making was filed prior to March 1, 1984, the date on which the buffer zone was established, it is not necessary that such protection be afforded. See, *Memorandum Opinion and Order*, BC Docket 80-90 FR 10280, published March 20, 1984, and Public Notice, *Implementation of BC Docket 80-90, The Commission Does Not Contemplate a General Freeze*, Mimeo No. 1308, December 9, 1983.

47 CFR Part 73

[MM Docket No. 84-270; RM-4598]

FM Broadcast Station in Pittsburg, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns Channel 276A to Pittsburg, Texas, in response to a petition filed by Charles D. Hagen and Steven Milner as that community's first local FM broadcast service.

EFFECTIVE DATE: November 27, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: D. David Weston, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.202(b), table of assignments, FM Broadcast Stations (Pittsburg, Texas) (MM Docket No. 84-270, RM-4598).

Adopted: September 17, 1984.
Released: September 21, 1984.
By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration the *Notice of Proposed Rule Making*, 49 FR 11689, published March 27, 1984, in response to a petition filed by Charles D. Hagen and Steven Milner ("petitioners"), proposing the assignment of FM Channel 276A to Pittsburg, Texas, as its first local FM broadcast service. Petitioners have filed supporting comments reaffirming their intention to apply for the channel, if assigned. No comments in opposition to the proposal were received.

2. The Commission believes that the public interest would be served by the assignment of FM Channel 276A to Pittsburg, Texas, since it could provide a first local FM broadcast service to that community. The assignment can be made in compliance with the minimum distance separation requirements of § 73.207 of the Rules with a site restriction 7.6 miles northwest of Pittsburg, Texas. The site restriction would prevent short spacing to FM Station KJCS on Channel 277 in Nacogdoches, Texas, and FM Station KOSY on Channel 273 in Texarkana, Texas.

PART 73—[AMENDED]

§ 73.202 [Amended]

3. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and 0.61 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective November 27, 1984, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended for the following city:

City	Channel No.
Pittsburg, TX	276A

4. It is further ordered, That this proceeding is terminated.

5. For further information concerning this proceeding, contact D. David Weston, Mass Media Bureau, (202) 634–6530.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)
Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84–25866 Filed 9–28–84; 8:45 am]
BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 83–19; RM–4212]

FM Broadcast Station in Bringam City, UT

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein at the request of Brigham City Broadcasting Company substitutes Class C Channel 295 for Channel 296A and modifies the license of Station KFRZ at Brigham City, Utah, to specify operation on the new FM channel. In addition, in response to other expressed interests, Channel 264 is assigned to Brigham City. The action could provide Brigham City with its first and second wide-area coverage FM stations.

EFFECTIVE DATE: November 27, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order

(Proceeding Terminated)

In the matter of amendment of § 73.202(b), table of assignments, FM Broadcast Stations, (Brigham City, Utah) MM Docket No. 83–19, RM–4212).

Adopted: September 17, 1984.
Released: September 21, 1984.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration the *Notice of Proposed Rule Making*, 48 FR 4697, published February 2, 1983, proposing the substitution of FM Class C Channel 295 for Channel 296A at Brigham City, Utah. The petitioner, Brigham City Broadcasting Company, Inc., also requested that its license for Station KBUH–FM (now KFRZ) be modified to specify operation on the new channel.[1] The petitioner submitted comments and reply comments reiterating its intention to operate on the higher-powered channel, if assigned. Comments expressing an interest in operating on Channel 295 were also filed by Georgiana Miyagishima, Stephen L. Hughes, and Melanie Kay Hughes.

2. Petitioner's reply comments point out that Channels 248 and 264 can be assigned to Brigham City, in addition to Channel 295. Therefore, it requests that its license be modified to specify Channel 295 and that Channels 248 and 264 be assigned to enable the other parties expressing interest to file for the additional FM channels. Our engineering study shows that only Channel 264 is available for assignment with a site restriction of 11.4 miles northeast. Channel 248 is unavailable for assignment due to short-spacing to Channel 247 at Blackfoot, Idaho.[2]

3. The Commission's recent action in MM Docket 83–1148 [3] provides for the modification of an existing station's license in rule making if the Commission can assign an additional channel of equal class to satisfy the stated interests of other parties. Therefore, in light of the continuing interest by the petitioner as well as interest expressed by three other parties, we are herein assigning Channels 264 and 295 to Brigham City. Additionally, we will modify the license of Station KFRZ–FM to specify operation on Channel 295. This action will enable Brigham City to receive a first and second wide-area coverage service.

PART 73—[AMENDED]

§ 73.202 [Amended]

4. Accordingly, pursuant to the authority contained in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective November 27, 1984, the FM Table of Assignments, § 73.202(b) of the Rules, is amended with regard to the following community:

City	Channel No.
Brigham City, UT	264, 295

5. It is further ordered, That pursuant to section 316(a) of the Communications Act of 1934, as amended, the license of Station KFRZ–FM, Brigham City, Utah, IS MODIFIED to specify operation on Channel 295 subject to the following conditions:

(a) At least 30 days before operating on Channel 295, the licensee shall submit to the Commission a minor

[1] The license for Station KBUH–FM was transferred to First National Broadcasting Corporation (BALH–820831GF). Brigham City Broadcasting states that the sale was consummated on March 15, 1983. The call letters have been changed to KFRZ.

[2] The licensee of KLCE–FM was authorized to operate on Channel 247 in lieu of Channel 249A at Blackfoot, Idaho, by *Report and Order* in MM Docket 83–289, adopted August 29, 1983.

[3] *Report and Order*, MM Docket 83–1148, adopted July 26, 1984, 49 FR 34007, published August 28, 1984.

change application for a construction permit (Form 301);

(b) Upon grant of the construction permit, program tests may be conducted in accordance with § 73.1620;

(c) Nothing contained herein shall be construed to authorize a major change in transmitter location or to avoid the necessity of filing an environmental impact statement pursuant to § 1.301 of the Commission's Rules.

6. It is further ordered, That this proceeding is terminated.

7. For further information contact Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84-25689 Filed 9-28-84; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 84-271; RM-4501]

TV Broadcast Station in Bakersfield, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns UHF TV Channel 48 to Bakersfield, California as that community's fifth television assignment in response to a petition filed by Stephen J. Mewhort.

EFFECTIVE DATE: November 27, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C 20554.

FOR FURTHER INFORMATION CONTACT: D. David Weston, Mass Media Bureau.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.606(b), table of assignments TV Broadcast Stations (Bakersfield, California) (MM Docket No. 84-271, RM-4501).

Adopted: September 17, 1984.
Released: September 21, 1984.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration the *Notice of Proposed Rule Making*, 49 FR 11690, published March 27, 1984, proposing the assignment of UHF TV Channel 48 to Bakersfield, California, as that community's fifth television channel assignment. The *Notice* was adopted in response to a petition filed by Stephen J. Mewhort ("petitioner"). Petitioner has filed supporting comments reaffirming his intention to apply for the channel, if assigned. No oppositions or other comments expressing an interest in the proposal were received.

2. The channel can be assigned in compliance with the Commission's minimum distance separation and other requirements with a site restriction of 2.7 miles north of Bakersfield to avoid a short spacing to the construction permit issued for Station KTIE, Channel 63, Oxnard, California.

PART 73—[AMENDED]

§ 73.606 [Amended]

3. We believe the public interest would be served by assigning UHF TV Channel 48 to Bakersfield, California, since it could provide a fifth television service to that community. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective November 27, 1984, the Television Table of Assignments, § 73.606(b) of the Rules, is amended with respect to the community listed below, to read as follows:

City	Channel No.
Bakersfield, CA	17, 23–, 29, *39–, 48

4. It is further ordered, That this proceeding is terminated.

5. For further information concerning the above, contact D. David Weston, Mass Media Bureau, (202) 634–6530.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84-25690 Filed 9-28-84; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-1143; RM-4565]

FM Broadcast Station in Woodlake, CA

AGENCY: Federal Communications Commission.

ACTION: Final action.

SUMMARY: Action taken herein, at the request of Eric R. Hilding, assigns Class B FM Channel 281 to Woodlake, California, as that community's first FM channel.

EFFECTIVE DATE: November 27, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order

In the matter of amendment of § 73.202(b), table of assignments, FM Broadcast Stations, (Woodlake, California) (MM Docket No. 83-1143, RM-4565).

Adopted: September 17, 1984.
Released: September 21, 1984.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration the *Notice of Proposed Rule Making*, 48 FR 51652, published November 10, 1983, proposing the assignment of Class B FM Channel 281 to Woodlake, California, as that community's first FM channel. The *Notice*, was adopted in response to a petition filed by Eric R. Hilding ("petitioner"). Petitioner filed comments reaffirming his interest in the proposed channel, if assigned. Comments were filed by Western Sun Communications ("WSC"), licensee of Station KMGX(FM), Channel 279, Hanford, California, to which petitioner filed reply comments.

2. WSC, in its comments, expressed concern over the close spacing between Station KMGX and the proposed site for Channel 281. WSC stated that the proposed site restriction may not provide KMGX sufficient flexibility in any future relocation of its own facilities to improve service.

3. Petitioner stated in his reply comments that WSC's comments were simply a "redefinition" of the FCC Rules which permit the proposed assignment

4. The Commission believes that the public interest would be served by the assignment of FM Channel 281 to Woodlake, California, in order to provide a first FM service to the community. The assignment can be made in compliance with the minimum distance separation requirements of § 73.207 of the Commission's Rules, with a site restriction of 2.1 miles (3.4 Km) southeast of the community to avoid short-spacing to KMGX (Channel 279), Hanford, California.[1]

[1] Under rules adopted in the *Report and Order*, BC Docket No. 80-90, 94 FCC 2d 152 (1983), recons., *Memorandum Opinion and Order*, 49 FR 10280, published March 20, 1984, the spacing between 2nd adjacent Class B channels has been increased. However, because the petition was filed before March 1, 1984, the new spacing requirements do not apply.

PART 73—[AMENDED]

§ 73.202 [Amended]

5. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective November 27, 1984, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended for the following city:

City	Channel No.
Woodlake, CA	281

6. It is further ordered, That this proceeding is terminated.

7. For further information concerning this proceeding, contact Patricia Rawlings, Mass Media Bureau, (202) 634–6530.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84-25897 Filed 9-28-84; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF DEFENSE

48 CFR Ch. 2

[Defense Acquisition Circular 84–1]

DoD FAR Supplement

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: Defense Acquisition Circular (DAC) 84–1 amends the DoD FAR Supplement with respect to foreign acquisitions; options; technical data, other data, computer software, and copyrights; and provides a policy statement on the use of Defense and Standard Forms after April 1, 1984.

EFFECTIVE DATE: April 1, 1984.

FOR FURTHER INFORMATION CONTACT: J. Brannan, Director, Defense Acquisition Regulatory Council, OUSDRE(AM) (DARS), OUSDRE(M&RS), Room 3D139, Pentagon, Washington, D.C. 20301–3062, telephone (202) 697–7266.

SUPPLEMENTARY INFORMATION:

Background

The DoD FAR Supplement is codified in Chapter 2, Title 48 of the Code of Federal Regulations.

The initial publication of the DoD FAR Supplement was contained in Part II, Volume 49, No. 59, of the **Federal Register** (49 FR 11302) of March 26, 1984.

Interested parties may submit proposed revisions to this Supplement directly to the DAR Council.

List of Subjects in 48 CFR Ch. 2

Government procurement.

James T. Brannan,

Director Defense Acquisition Regulatory Council.

Defense Acquisition Circular

[Number 84–1]

March 1, 1984.

All DoD FAR Supplement and other directive material contained in this Defense Acquisition Circular is effective April 1, 1984.

Defense Acquisition Circular (DAC) 84–1 amends the DoD FAR Supplement and prescribes procedures to be followed. The following is a summary of the amendments and procedures:

Item I—Foreign Acquisition

Incorporated into the 1984 Edition of the DoD FAR Supplement is Part 225, Foreign Acquisition.

Item II—Subpart 217.2, Options

Subpart 217.2, Options, has been revised to clarify coverage and to align it to Part 225 of the DoD FAR Supplement. Appropriate changes have been made to the clauses in 252.217.

Item III—227.4, Technical Data, Other Data, Computer Software, and Copyrights

Subpart 227.4, Technical Data, Other Data, Computer Software, and Copyrights, is published in its entirety in this circular and became effective on April 1, 1984. Subpart 227.4 relocates into one subpart the textual material currently in the DAR relating to technical data, computer software, and copyrights.

Item IV—Policy Statement on the Use of Defense and Standard Forms after April 1, 1984

Unless otherwise required by the terms of a solicitation or contract, Standard Forms prescribed by the FAR shall be used.

When a DD Form subsequently superseded by a Standard Form in the FAR is required by the terms of a contract and use of a Standard Form would be in the Government's best interest, the contracting officer is authorized to enter into an appropriate mutual agreement with the contractor to use the Standard Form.

When DD Forms continue to be required for contract performance, DoD activities should assure that sufficient stocks are retained. Special care is required because many are being phased out of the supply system.

When new Standard Forms are prescribed and on hand, there may nevertheless be some rare instances when continued use of a superseded DD Form may be indicated for reasons of economy or severe administrative hardship. An example might be very large quantities of a high use rate form at an installation. Authority to approve continued use of the superseded form is hereby delegated to the Departments, provided that authority shall not be redelegated below the level of the Head of the Contracting Activity (HCA). Continued use may be approved for no longer than six months and must be on a form-by-form basis. This authority shall expire on December 31, 1984.

When new Standard Forms cannot be obtained from the GSA for use by April 1, 1984, local reproduction of the form is authorized until GSA stocks are available, if an appropriate determination is made on a form-by-form basis by the staff officer responsible for procurement at the activity. Each such determination shall be limited to a 60-day period, but may be renewed.

Adoption of Amendments

Therefore, the DoD FAR Supplement contained in 48 CFR Chapter 2 is amended as set forth below.

1. The authority citation for Chapter 2 reads as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, DoD FAR Supplement 201.301.

PART 217—SPECIAL CONTRACTING METHODS

2. Section 217.203 is revised to read as follows:

217.203 Solicitations.

(a)(S–70) When the contracting officer either knows or anticipates that the option may be appropriate to fulfill Foreign Military Sales (FMS) commitments, the solicitation shall notify contractors of the Government's intent in this regard and shall identify the FMS country (countries) and its (their) requirements.

(S–71) When the contracting officer either knows or anticipates that an option may be appropriate to fulfill FMS requirements but the specific country or countries are not identified, the solicitation shall advise contractors that

the U.S. Government will subsequently identify the foreign country for the purpose of negotiating any equitable price adjustment for cost or profit considerations attributable to the option if exercised for FMS requirements (see 217.208(S–70)(2).

(S–72) Such notificiation shall not be placed in solicitations for the establishment or replenishment of DoD inventories or stocks or acquisitions made under DoD Cooperative Logistics Support Arrangements.

(g)(2) The Chief of the Contracting Office is the person authorized to make the approval cited in FAR 17.203(g)(2).

217.206 [Removed]

3. Section 217.206 is removed.

4. Section 217.208 is revised to read as follows:

217.208 Solicitation Provisions and Contract Clauses.

(S–70) *FMS Option.*

(1) When the contracting officer either knows or anticipates that a contract option may be exercised to fulfill FMS requirements (see 225.7309) and the parties are able to negotiate a price in advance, insert the clause at 252.217–7000, Exercise of Option to Fulfill Foreign Military Sales Commitments, if a clause at FAR 52.217–6, –7, –8, or –9 is included in the contract.

(2) When the contracting officer either knows or anticipates that a contract option may be exercised to fulfill FMS requirements (see 225.7309) and the parties are unable to negotiate any additional cost or profit considerations attributable to Foreign Military Sales until a specific country or countries are subsequently identified, the clause at 252.217–7001, Exercise of Option to Fulfill Foreign Military Sales Commitment, (Alt. 1) shall be inserted if a clause at FAR 52.217–6, –7, –8, –9 is included in the contract.

5. A new Part 225 is added to read as follows:

PART 225—FOREIGN ACQUISITION

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, DoD FAR Supplement 201.301.

225.000 Scope of part.

This part supplements FAR Part 25 and provides special guidance (including pricing guidance) for Military Assistance Program acquisitions and Foreign Military Sales; procedures to promote liaison with overseas activities and compliance with government-to-government agreements for acquisition from foreign contractors; and procedures for the solicitation and evaluation of offers of defense equipment which are qualifying country end products.

225.001 Definitions.

As used through this part, the words and terms defined in this paragraph shall have the meanings set forth below, unless a different definition is prescribed for a specific subpart.

"Defense cooperation agreement country end product" means an item listed in the defense cooperation country agreement and produced in that country.

"A defense cooperation country" is a foreign country which has a defense cooperation agreement and for which a Determination and Findings (D&F) was made by the Secretary of Defense waiving the Buy American Act restrictions for a list of mutually agreed items. These countries are listed at 225.7501.

"Defense cooperation country offer" means an offer of a defense cooperation country end product, including transportation to destination.

"Defense equipment" means any equipment, item of supply, component, or end product purchased by the Department of Defense.

"Domestic concern" means an incorporated concern incorporated in the United States or an unincorporated concern having its principal place of business in the United States. (In the context of this part, "concern" refers to a prospective or actual contractor. Thus, a contract with a foreign subsidiary or foreign branch or business office of a U.S. corporation would not be a contract with a domestic concern. Conversely, a contract executed by a foreign salesman or agent on behalf of a domestic concern would nevertheless be a contract with a domestic concern since the basic contractual and legal responsibility resides with the domestic concern.)

"Domestic end product" means (i) an unmanufactured end product which has been mined or produced in the United States; or (ii) an end product manufactured in the United States if the cost of its qualifying country components and its components which are mined, produced, or manufactured in the United States exceeds 50% of the cost of all its components. The cost of components shall include transportation costs to the place of incorporation into the end product and U.S. duty (whether or not a duty-free entry certificate may be issued). A component shall be considered to have been mined, produced, or manufactured in the United States (regardless of its source in fact) if the end product in which it is incorporated is manufactured in the United States and the component is of a class or kind (i) determined by the Government to be not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality; or (ii) as to which the Secretary concerned has determined that it would be inconsistent with the public interest to apply the restrictions of the Buy American Act (FAR 225.102(a)(3)).

"FMS/Offset arrangement country" means an offer of a FMS/offset arrangement country end product, including transportation to destination.

"FMS/Offset arrangement country" is a foreign country which has an offset arrangement negotiated in conjunction with a Foreign Military Sale and which arrangement provides for obtaining a waiver of the Buy American Act restrictions on a case-by-case basis. These countries are listed at 225.7310(a).

"FMS/Offset arrangement country end product" means (i) an unmanufactured end product mined or produced in a FMS/Offset arrangement country; or (ii) an end product manufactured in a FMS/Offset arrangement country if the cost of its qualifying country components and its components which are mined, produced, or manufactured in the United States exceeds 50% of the cost of all its components. The cost of components shall include transportation costs to the place of incorporation into the end product and any duty, whether or not duty is in fact paid.

"Foreign concern" means a concern that is not a domestic concern.

"Participating country" is a NATO country which has a Memorandum of Understanding (MOU) or similar agreement with the U.S., and for which a blanket D&F was made by the Secretary of Defense waiving the Buy American Act restrictions. These countries are listed at 225.7401.

"Participating country end product" means (i) an unmanufactured end product mined or produced in a participating country; or (ii) an end product manufactured in a participating country if the cost of its qualifying country components and its components mined, produced, or manufactured in the United States exceeds 50% of the cost of all its components. The cost of components shall include transportation to the place of incorporation into the end product and any duty, whether or not duty is in fact paid.

"Participating country offer" means an offer of a participating country end product, including transportation to destination.

"Qualifying country" means any country defined as a defense

cooperation country, a FMS/Offset arrangement country, or a participating country.

"Qualifying country component" means (i) an item mined, produced, or manufactured in a participating country or in a FMS/Offset arrangement country when the applicable D&F has been made waiving the Buy American Act restrictions; or (ii) any item listed in a defense cooperation country agreement.

"Qualifying country end product" means (i) a participating country end product; (ii) a FMS/Offset arrangement country end product when the applicable D&F has been made waiving the Buy American Act restrictions; or (iii) a defense cooperation country agreement listed item.

"Qualifying country offer" means an offer to a qualifying country end product, including transportation to destination.

"Source" (when restricted by such words as foreign, domestic, qualifying country, etc.) refers to the actual manufacturer or producer of the end product or component (product may encompass a report).

"United States" means the States, the District of Columbia, Puerto Rico, and possessions. It does not include leased bases or trust territories.

Subpart 225.1—Buy American Act—Supplies

225.102 Policy.

(S–70) *Buy American Act requirements.* Except as provided in this section, the Buy American Act requires that in the acquisition of supplies, only domestic end products shall be acquired for public use in the United States. In determining whether an end product is a domestic end product, only the end product and its components shall be considered. The act and its implementation by E.O. 10582 and the Balance of Payments Program require the use of evaluation factors specified in 225.105.

(1) *Use outside the United States.* The restrictions of the Buy American Act do not apply to articles, materials, or supplies for use outside the United States. However, the Balance of Payments Program is not so restricted. In order to uniformly implement the Balance of Payments Program worldwide, the preferences and procedures of the Buy American Act for soliciting and awarding contracts for supplies and applicable services have been extended as a matter of policy to acquisition of supplies and applicable services for use outside the United States.

(2) *Unreasonable cost or inconsistency with the public interest.* The restrictions of the Buy American Act and the Balance of Payments Program do not apply when it is determined by the Secretary concerned that the cost of a domestic end product would be unreasonable, or that acquisition of a domestic end product would be inconsistent with the public interest.

(3) *Nonavailability in the United States.* The Buy American Act does not apply to (i) end products of a class or kind which the Government has determined are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality; or (ii) components of end products manufactured in the United States or a qualifying country if the component is of a class or kind determined by the Government to be not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality. Certain items determined to be exempt under these exceptions are set forth in FAR 25.108(d)(1).

(4) *Commissary resale.* The provisions of the Buy American Act do not apply to supplies purchased specifically for commissary resale. However, nonsubsistence items of foreign origin purchased for resale in domestic commissaries must meet the evaluation criteria in this subpart.

(S–71) A nonavailability determination is not required for end products or components listed in (S–72) below or in FAR 25.108(d)(1). Otherwise, acquisitions of foreign end products or components on the basis of nonavailability shall be made only after a determination of nonavailability has been made and the acquisition is approved.

(1) At a level above the contracting officer, if the amount involved is estimated not to exceed $25,000;

(2) By the chief of the contracting office concerned, if the acquisition is estimated not to exceed $25,000;

(3) By the head of the contracting activity (HCA) or his immediate deputy, or in the case of the Defense Advanced Research Projects Agency (DARPA), the Director, DARPA, if the acquisition is estimated not to exceed $2 million; or

(4) By the Secretary of the Department concerned, or his designee at a level no lower than an HCA, if the acquisition is estimated to exceed $2 million.

In making such determination, and granting such approval, the feasibility of foregoing the requirement or providing a U.S. substitute shall be considered.

(S–72) Acquisitions in the following categories may be made without determinations or approvals otherwise required by this subsection.

(1) Spare and replacement parts, if the acquisition must be restricted to the original manufacturer or his supplier.

(2) Foreign drugs by the Defense Personnel Support Center when the Chief of the Division of Technical Operations, Directorate of Medical Materiel, has determined that only the requested foreign drug will fulfill the requirements.

(S–73) *Balance of payments program requirements.* The 50% evaluation factor in favor of domestic offers, implemented in 225.105, is an interim measure designed to alleviate the impact of DoD expenditures on the Nation's balance of international payments. The Department of Defense does not expect to use the 50% factor beyond the time when the U.S. balance of payments deficit is corrected.

(1) Although the evaluation procedures in 225.105 reduce overseas dollar expenditures resulting from defense acquisition at an acceptable increase in budgetary costs, this result is an average and overall result rather than one precisely obtained in each case. This is so because, both under the Buy American Act and as a matter of administrative practicability, items are classified absolutely as "foreign" or "domestic" and varying degrees within each class are not recognized. However, deviations (see FAR Subpart 1.4) from the evaluation procedures of 225.105 should be considered for acquisitions over $250,000 when it is anticipated that the low domestic offer will involve relatively substantial foreign expenditures or that the low foreign offer will involve relatively substantial Comestic expenditures. Any request for such a deviation should be made sufficiently in advance of solicitation to permit the solicitation to describe the evaluation procedure that will be used. Such deviations require the advance approval of the Under Secretary of Defense for Research and Engineering (USDRE) or his designee.

225.103 Agreements with certain foreign governments.

(See Subparts 225.73, 225.74 and 225.75.)

225.105 Evaluating offers.

In lieu of the procedures set forth in FAR 25.105, the following procedures are applicable to the Department of Defense.

(S–70) In accordance with the Buy American Act, the Secretary of Defense has determined that where the procedures in (S–71) below result in the acquisition of foreign end products, the acquisition of domestic end products would be (i) unreasonable in cost or (ii) inconsistent with the public interest.

(S–71) Except as provided in paragraphs (S–71), (S–73) and (S–74) below, offers shall be evaluated so as to give preference to domestic offers as follows:

(1) Each nonqualifying country offer of defense equipment (but see exception (ii) below) shall be adjusted for purposes of evaluation either by excluding any duty from the nonqualifying country offer and adding 50% of the offer (exclusive of duty) to the remainder, or by adding to the nonqualifying country offer (inclusive of duty) a factor of 6% of that offer, whichever results in the greater evaluated price, except that a 12% factor shall be used instead of the 6% factor if (i) the firm submitting the low acceptable domestic offer is a small business concern, or a labor surplus area concern, or both; (ii) small purchase procedures are not used; and (iii) any contract award to a domestic concern which would result from applying the 12% factor, but which would not result from applying the 6% or 50% factor, would not exceed $100,000. If an award for more than $100,000 would be made to a domestic concern if the 12% factor is applied, but would not be made if the 6% factor or 50% factor is applied, the matter shall be submitted to the Secretary of the Department concerned for decision as to whether the award to the small business or labor surplus area concern would involve unreasonable cost or inconsistency with the public interest. If the foregoing procedure results in a tie between a nonqualifying country offer, as evaluated, and a domestic offer, award shall be made on the latter. In other instances, use the tie-breaking procedures in 214.407–6. When more than one line item is offered in response to a solicitation, the appropriate factor shall be applied on an item-by-item basis, except that the factor may be applied to any group of items as to which the solicitation specifically provides that award may be made on a particular group of items.

(2) In the event that a domestic offer, a qualifying country offer, and a nonqualifying country offer compete for defense equipment, the qualifying country offer shall be evaluated without applying the price differentials of this paragraph, whereas the nonqualifying country offer shall be subject to the price differentials (see Example E below). However, in the event the low domestic offer exceeds the evaluated price of the nonqualifying country offer, all foreign offers shall be evaluated as if no domestic offer was submitted (see Example F below). In the event a qualifying country offer competes against a nonqualifying country offer and no domestic offer is submitted, they shall be evaluated on an equal basis (see Example G below).

(S–72) The following examples illustrate how the procedure in (S–71) above should be applied. Throughout these examples, "domestic offer—large" means a domestic offer which is not from a small business or labor surplus area concern; "domestic offer—small" means a domestic offer which is from either a small business concern or a labor surplus area concern, or both.

Example A

Nonqualifying Country Offer, including duty of $4,500	$14,500
Domestic Offer—Large	15,100
Domestic Offer—Small	15,110

Award on Domestic Offer—Large. Domestic Offer—Small is out because it is not the low acceptable domestic offer. Nonqualifying Country Offer, if adjusted by the 50% factor, would be $14,500 less $4,500 duty (i.e., $10,000), plus 50% of $10,000 (i.e., $5,000), or $15,000; but if adjusted by the 6% factor, it would be $14,500 plus 6% of $14,500 (i.e., $870), or $15,370; therefore, the 6% factor is added, and the Domestic Offer—Large is the low evaluated offer.

Example B

Nonqualifying Country Offer, including duty of $2,000	$12,000
Domestic Offer—Large	15,000

Award on Domestic Offer—Large. Nonqualifying Country Offer, adjusted by 50% factor, is $15,000; adjusted by 6% factor, it is $12,720. Therefore, Nonqualifying Country Offer is evaluated at $15,000, resulting in a tie and consequent award on the Domestic Offer—Large.

Example C

Nonqualifying Country Offer, including duty of $3,500	$13,500
Domestic Offer—Large	17,000
Domestic Offer—Small	15,100

Award on Domestic Offer—Small. Nonqualifying Country Offer, adjusted by 50% factor, is $15,000; adjusted by 12% factor, it is $15,120. Therefore, it is evaluated at $15,120, resulting in award on the Domestic Offer—Small.

Example D

Nonqualifying Country Offer, including duty of $70,000	$270,000
Domestic Offer—Large	310,000
Domestic Offer—Small	302,000

Submit the case to the Secretary of the Department concerned. Nonqualifying Country Offer, adjusted by 50% factor, is $300,000; adjusted by 12% factor, it is $302,400; adjusted by 6% factor, it is $286,200. Therefore, Domestic Offer—Small is in line for possible award only because of the bidder's small business or labor surplus area status. But since the contract award would exceed $100,000, the matter requires Secretarial decision.

Example E

Nonqualifying Country Offer, including duty of $2,000	$8,000
Domestic Offer—Large	10,500
Domestic Offer—Small	8,900
Qualifying Country Offer	8,800

Award on Qualifying Country Offer. Nonqualifying Country Offer, adjusted by 50% factor, is $9,000; adjusted by 12% factor, it is $8,960. Therefore, it is evaluated at $9,000. The qualifying country offer receives the award because it is evaluated without adjustment and is the lowest offer.

Example F

Nonqualifying Country Offer, including duty of $2,000	$8,000
Domestic Offer—Large	10,000
Domestic Offer—Small	9,500
Qualifying Country Offer	8,800

Award on Nonqualifying Country Offer. Nonqualifying Country Offer, adjusted by 50% factor, is $9,000; adjusted by 12% factor, it is $8,960. Therefore, it is evaluated at $9,000 which is still lower than both domestic offers. Accordingly, the qualifying and nonqualifying country offers are evaluated on an equal basis as if the domestic offers had never been submitted, and the award is made on the nonqualifying country offer.

Example G

Nonqualifying Country Offer	$10,000
Qualifying Country Offer	11,500

Award on Nonqualifying Country Offer. Since there is no domestic offer, the nonqualifying country and qualifying country offers are evaluated on an equal basis, and the award is made on the nonqualifying country offer.

(S–73) When a qualifying country offer is received for defense equipment listed in 225.7405 or FAR 8.203, rejection of that offer in the interest of protecting the domestic mobilization base is required, except when the quantity for which the offer is made has been identified as a quantity in excess of that required to maintain the U.S. defense mobilization base for those items. In those instances when it has been determined prior to

solicitation that the item is not to be supplied from any foreign source, offerors shall be so notified in the solicitation. When rejection of a qualifying country offer is contemplated for reasons of national interest or for mobilization base considerations and the defense equipment involved is not listed in 225.7405 or FAR 8.203, a copy of the proposed decision shall be forwarded to OUSDRE(AM) (International Acquisition), 10 working days in advance of issuance of the rejection.

(S–74) When proposed awards are submitted for Secretarial decision pursuant to (S–71) above, each submission shall include a copy of each offer being considered for award, the date the offer expires, including extensions, a copy of the abstract of bids or proposals, and a statement justifying the proposed awards. Submissions should be forwarded to allow 21 days for processing and Secretarial consideration, unless the nature of the item or market conditions indicate the need for processing in a shorter time.

(S–75) When performing the evaluation in (S–71) above for items for civil works activities, offers of qualifying country end products shall not be subject to the 50% evaluation factor of the Balance of Payments Program, but shall be subject to the 6% and 12% evaluation factors of the Buy American Act, unless a specific waiver of the Buy American Act is otherwise obtained for that acquisition through the procedures of this subpart.

225.107 Acquisition from or through other government agencies.

Balance of Payments evaluation procedures are not applicable to transactions described in FAR 25.107 (a), (b) and (c).

(S–70) Defense activities have the responsibility for compliance with the Buy American Act and Balance of Payments evaluation procedures when they purchase a foreign end item from (1) a mandatory Federal Supply Schedule which includes a domestic end product; or (2) a nonmandatory Federal Supply Schedule.

(S–71) Defense activities purchasing items of equipment and supplies for civil works projects for use in the United States by civil agencies or departments shall not apply the Balance of Payments Program 50% evaluation factor when evaluating offers; only the evaluation factors of the Buy American Act, as implemented by Executive Order 10582, dated 17 December 1954, shall be applied.

(S–72) In the case of coordinated acquisition under Part 208, compliance with the Buy American Act and Balance of Payments evaluation procedures is the responsibility of the Contracting Department, except when the Requiring Department specifies a foreign end product; in which case, the determination that the domestic end product is not available, including consideration of foregoing the acquisition or providing a U.S. substitute, shall be the responsibility of the Requiring Department.

225.108 Excepted articles, materials, and supplies.

(a) Pursuant to the Buy American Act, it has been determined that the articles, materials, and supplies listed in FAR 25.108(d)(1) and below, when purchased as end items or components, are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality. When required to be incorporated into (i) an end product or construction material manufactured in the United States, or (ii) a qualifying country end product or construction material, these items or components may be regarded as being of domestic origin. (For construction material, see FAR 25.2.)

(d)(1) Sperm oil.

(d)(S–70) *Scrap.* Scrap generated in, collected in, and prepared for processing in the United States, shall be considered as of domestic origin.

225.109 Solicitation provisions and contract clauses.

(a)(S–70) The provision at 252.225–7000, Buy American-Balance of Payments Program Certificate, shall be used in lieu of the provisions at FAR 52.225–1, Buy American Certificate, and FAR 52.225–6, Balance of Payments Program Certificate, and shall be inserted in any solicitation which includes the clause at 252.225–7001.

(a)(S–71) For small purchases using DD Form 1155, the provision at 252.225–7000 shall be used with the clause, Foreign Supplies, on DD Form 1155r. When so used, the provision may be modified by inserting a period after "* * * products" in paragraphs (b)(i), (b)(ii), and (b)(iii) and then deleting the balance of the respective sentences.

(b) When quotations are obtained orally, vendors shall be informed that only domestic and qualifying country end products shall be acceptable, other than those items which have been excepted either on a blanket or an individual basis, or the price of the offered foreign end product meets the evaluation criteria in 225.105.

(d)(S–70) The clause at 252.225–7001, Buy American Act and Balance of Payments Program, shall be used in lieu of the clauses at FAR 52.225–3, Buy American Act-Supplies, and FAR 52.225–7, Balance of Payments Program. The contracting officer shall insert the clause at 252.225–7001 in all solicitations and contracts (i) not utilizing small purchase procedures, (ii) which do not contain the clause at 252.225–7006, and (iii) for supplies and for services, which services require the furnishing of supplies (e.g. the leasing of equipment), except as cited in 225.302(S–72)(1).

(d)(S–71) For small purchases using DD Form 1155, the clause at 252.225–7001 may be inserted in lieu of the clause, Foreign Supplies, on DD Form 1155r.

(d)(S–72) The contracting officer shall insert the clause at 252.225–7002, Qualifying Country Sources as Subcontractors, whenever the clause at 252.225–7001 or the clause 252.225–7006 is used in the solicitation or contract.

(S–70) *Solicitation of offers.* Solicitations shall state that the specific information as to articles, materials, and supplies excepted from these procedures (see 225.108(d)(1)) is available to prospective contractors upon request. When only domestic end products are acceptable, the solicitation shall so state.

Subpart 225.2—Buy American Act—Construction Materials

225.202 Policy.

(a) (1) and (2) The restrictions of the Buy American Act do not apply when it is determined by the Secretary concerned that the use of a particular domestic construction material would (i) unreasonably increase the cost, or (ii) be impracticable. When proposed awards are submitted for approval, each submission shall include a description of the materials, including unit and quantity, estimated costs, location of the construction project, name and address of the proposed contractor, and a detailed justification of the impracticability of using domestic materials. Submissions shall allow 21 days for processing, unless the nature of the item or market conditions indicate the need for processing in a shorter time.

(a)(3) The Buy American Act does not apply to articles, materials, and supplies of a class or kind determined to be not mined, produced or manufactured in the United States in sufficient and reasonably available quantities and of a satisfactory quality. Certain construction materials determined to be exempt under this exception are set

forth in FAR 25.108(d)(1). Purchase of nondomestic construction material on the basis of "nonavailability," when the material is not listed in FAR 25.108(d)(1), shall be made only if the determination for the purchase and use of such material is approved by:

(i) The Secretary of the Department concerned, if the cost of such materials is estimated to exceed $100,000;

(ii) The Head of the Contracting Activity or his immediate deputy, if the cost of such materials is estimated not to exceed $100,000;

(iii) The principal staff officer responsible for procurement within the contracting activity (or in the Air Force, within the major air command) concerned, if the cost of such materials is estimated not to exceed $10,000; or

(iv) An official at a level above the contracting officer, if the cost of such materials is estimated not to exceed $2,500. Before granting such approval or making such determination, the feasibility of foregoing the requirement or providing a United States substitute shall be considered. When proposed awards are submitted for approval, each submission shall include a description of the materials, including unit and quantity, estimated costs, location of the construction project, name and address of the proposed contractor, and a detailed justification of the impracticability of using domestic materials. Submissions shall allow 21 days for processing, unless the nature of the item or market conditions indicate the need for processing in a shorter time.

(S–70) *Panamanian materials for use in the Canal Zone.* In accordance with the Memorandum of Understanding ancillary to the Treaty with the Republic of Panama, signed 25 January 1955, articles, materials, and supplies that are mined, produced, or manufactured in Panama and are purchased for use in the Canal Zone are excepted from the Buy American Act.

225.205 Solicitation provision and contract clause.

(S–70) *Nondomestic construction material.* When a determination has been made that certain construction materials may be used without regard to The Buy American Act, the clause at 252.225–7003, Nondomestic Construction Materials, shall be included in the contract by the contracting officer, and the excepted item shall be listed therein. When this clause is used, the contracting officer shall place in the contract file a copy of the signed approval, and a copy thereof shall be available for public inspection.

Subpart 225.3—Balance of Payments Program

225.300 Scope of subpart.

This subpart implements the Department of Defense balance of Payments Program with respect to all acquisitions of (a) services which require the furnishing of end items (e.g., leasing of equipment) and supplies required for use outside the United States, except petroleum and Military Assistance Program acquisitions (see 225.72), and Foreign Military Sales (see 225.73); and (b) scientific and technical knowledge, resulting in dollar expenditures outside the United States and Canada. However, the exception regarding Military Assistance Program and FMS acquisitions does not apply to 225.370. Defense requirements as to the use of U.S. Flag vessels, which effect the Balance of Payments Program, are set forth in FAR 47.5.

225.302 Policy.

(a) It is the policy of the Department of Defense to implement the Balance of Payments Program using evaluation procedures similar to those which implement the Buy American Act.

(S–70) *Prohibition against fragmenting acquisitions.* As to those provisions of this subpart which state dollar limitations below which exceptions permitting the purchase of foreign items may be made if certain conditions are satisfied, requirements aggregating more than any such limitations shall not be broken into separate purchases which are less than such limitations merely for the purpose of allowing such exceptions.

(S–71) *Real property construction, repair, and maintenance.* All projects for construction, repair, and maintenance of real property outside the United States must be approved in accordance with DoD Directive 7060.4 (AR–37–43; AFR 85–6/AFM 86–1; NAVFACINST 7020.6). Contracts for such projects will require that specified U.S. materials will be used or that Government materials and equipment will be furnished, only when the cost of the U.S. items (including transportation and handling costs) does not exceed the cost of foreign items plus 50%. A differential greater than 50% may be used when specifically authorized in the project approval.

(S–72) *Exceptions.*

(1) Acquisitions of end products (including construction materials) and applicable services for use outside the United States should be made in the following cases without regard to the origin of the end products. In these cases, the provision at 252.225–7000 and the clauses at 252.225–7001 and 252.225–7002 shall not be used.

(i) *Treaty or executive agreement*—Acquisitions required to be made from indigenous sources pursuant to a treaty or executive agreement between governments.

(ii) *Small purchases*—Acquisitions by contracting officers located outside the United States, which are estimated not to exceed $25,000 in foreign costs.

(iii) *Perishable subsistence*—Acquisitions of perishable subsistence items when it is determined that delivery from the United States would destroy or significantly impair their quality at the point of consumption. The determination shall be made prior to acquisition by the individuals designated in (a)(S–72)(2)(i) below or their immediate deputies, except that this authority may be redelegated for acquisitions estimated not to exceed $500,000 in foreign cost. A determination is not required for the acquisition of perishable subsistence items for commissary resale.

(iv) *Panamanian products used in Panama*—Acquisitions of articles, materials or supplies that are mined, produced, or manufactured in Panama when acquired by, and for use of, U.S. Forces in Panama.

(v) *Services*—Services which do not primarily involve the acquisition of equipment or supplies.

(vi) *Certain food items*—Acquisition of bananas, tea, coffee, spices, herbs, sugar, cocoa, cream of tartar, tapioca, and coconut.

(vii) *Miscellaneous*—Acquisition of the requirements listed below, *Provided,* they do not duplicate or replace an existing organic service capability.

(A) All items on the list at FAR 25.108(d)(1);

(B) Utilities, including gas, water, electricity, steam, sewage, refuse collection and disposal;

(C) Maintenance and repair of, and acquisition of spare parts for, foreign-manufactured vehicles, equipment, machinery and system; *Provided,* in the case of parts, That this exception applies only if the acquisition must be restricted to the original manufacturer or his supplier in accordance with FAR 15.213;

(D) Industrial gases;

(E) Brand drugs specified by the Defense Medical Materiel Board;

(F) The following bulk construction materials: sand, gravel and other soil materials, stone, concrete masonry units; and fired brick;

(G) Overhaul and repair of vessels, aircraft, and vehicles which are home-ported/stationed/deployed overseas and which, because of their operating commitments, cannot return to the

United States or to U.S.-operated repair facilities;

(H) Ice (wet or dry);

(I) Books, pamphlets, newspaper, magazines, periodicals, and printed briefs and films not printed in the United States and for which there are no substitutes of U.S. origin which are intended for use in the Department of Defense Overseas Dependents Schools; and

(J) Ready-mixed asphalt and portland cement concrete; *Provided,* That foreign cost is estimated not to exceed $10,000.

(viii) *Excess and near-excess foreign currencies*—Acquisitions made with excess or near-excess foreign currencies when acquisition costs are in accordance with 252.7604.

(ix) *Commissary resale*—Purchases of subsistence items of foreign origin which are intended for resale in overseas commissary stores.

(x) *Nonavailability in the United States*—Acquisitions as to which it is determined in advance by the individuals designated in (a)(S–72)(2) below that (A) the requirements can only be filled by foreign end products because U.S. end products are not available per se, or are not available within the time required to meet urgent military requirements directly related to maintaining combat capability, the health and safety of DoD personnel, or to protect property, and (B) that it is not feasible to forego filling the requirements or to provide a U.S. substitute for it. This authority is not intended for use in making repetitive supply acquisitions or acquisitions of total annual supply requirements of items available in the United States but not available within the time required.

(xi) *Unreasonable cost*—Acquisitions, other than those covered in (i) through (x) above where United States end products or services are available and the difference between the domestic cost and the foreign cost exceeds 50% of the foreign cost, if so determined in advance by the individuals designated in (a)(S–72)(2) below.

(2) The individuals listed below, and their immediate deputies are designated to make the determinations required by (a)(S–72)(1) (iii), (x), and (xi) above.

(i) For acquisitions estimated not to exceed $2 million in foreign cost, except that this authority may be redelegated to other individuals specifically designated for this purpose for acquisitions estimated not to exceed $500,000:

Department of the Army—

Director for Requirements and Acquisition U.S. Army Materiel Development and Readiness Command;
Commander in Chief, U.S. Army, Europe; and DCSLOG, U.S. Army, Europe;
Commander, Eighth U.S. Army Chief of Staff, Eighth U.S. Army;
Chief, U.S. Army Security Agency;
Commander, Corps of Engineers Command;
Commander, U.S. Army, Japan;

Department of the Navy—

Commander-in-Chief, U.S. Naval Forces, Europe;
Commander, U.S. Naval Forces, Japan;
Commander, U.S. Naval Forces, Philippines;
Chief of Naval Material;
Commander-in-Chief, U.S. Atlantic Fleet;
Commander, Naval Logistics Command, Pacific Fleet;
Commander, Military Sealift Command (MSC);
Commandant, U.S. Marine Corps;
Commander, Naval Facilities Engineering Command;
Commanding General, III Marine Amphibious Force;

Department of the Air Force—

Commander, U.S. Air Forces in Europe;
Commander, Pacific Air Force;
Commander, Military Airlift Command (MAC);
Commander, Air Force Logistics Command;
Commander, Air Force Systems Command;
Commander, Strategic Air Command;
Commander, Tactical Air Command;
Commander, Air Force Communications Command;
Commander, Space Command;

Defense Logistics Agency—

Executive Director, Contracting;

Defense Communications Agency—

Director;

(ii) For acquisitions estimated to exceed $2 million in foreign cost—Secretary of the Department concerned.

(3) Acquisition of scientific and technical knowledge resulting in expenditures outside the United States and Canada shall be made only in the following cases:

(i) Those set forth in (a)(S–72)(1) (i), (ii), and (viii) above;

(ii) When it is determined in advance, by the individuals designated in (a)(S–72)(4) below, that the requirement can only be filled by foreign end products or services and that it is not feasible to forego filling the requirement or to provide a U.S. substitute for it; and

(iii) Acquisitions other than those covered in (a)(S–72)(3) (i) and (ii) above when U.S. end products or services are available, and the difference between the domestic cost and the foreign cost exceeds 50% of the foreign cost as determined by the individuals designated in (a)(S–72)(4) below. Whenever practicable, such acquisitions shall be made on a cost-sharing basis or other arrangement designed to limit any adverse effect on the balance of payments. Policy questions concerning such arrangements should be directed to the Under Secretary of Defense for Research and Engineering.

(4) The individuals listed below and their immediate deputies are designated to make the determinations required by (a)(S–72)(3) (ii) and (iii) above.

(i) For acquisitions estimated not to exceed $2 million in foreign cost, except that this authority may be redelegated to individuals specifically designated for this purpose for acquisitions estimated not to exceed $100,000:

Department of the Army—

Commanding General, Army Materiel Development and Readiness Command;
Commander, Corps of Engineers Command;
Surgeon General, Army Medical Corps;
Chief of Research, Development and Acquisition;

Department of the Navy—

Chief of Naval Research;
Commander, Naval Air Systems Command;
Commander, Naval Electronics Systems Command;
Commander, Naval Sea Systems Command;
Chief, Bureau of Medicine and Surgery;
Commander, Naval Supply Systems Command;
Chief of Naval Development;
Oceanographer of the Navy;
Commander, Naval Facilities Engineering Command;
Military Sealift Command;
DC/S Installations and Logistics Department Headquarters, U.S. Marine Corps;

Department of the Air Force—

Commander, Air Force Systems Command;
Commander, Air Force Logistics Command;

Defense Agencies—

Director, Advance Research Projects Agency;
Director, Defense Nuclear Agency;
Director, Defense Communications Agency;
Director, Defense Intelligence Agency.

(ii) For acquisitions estimated to exceed $2 million in foreign cost—Secretary of the Department concerned, or the Under Secretary of Defense for Research and Engineering in the case of agencies set forth in (a)(S–72)(4)(i).

(5) Complete documentation justifying acquisitions under (a)(S–72)(1) and (3) above shall be prepared except for acquisitions made pursuant to (a)(S–72)(1)(ii) and (1)(vi). Such documentation shall be prepared by requiring activities, furnished in requests for determination submitted to the individuals listed in (a)(S–72) (2) and (4) above, and included in the contract file.

(S–73) *Construction materials.* Purchase of materials, equipment, and supplies for construction overseas shall generally be the responsibility of the contractor performing the work; but where necessary to comply with foreign law, or to avoid taxation, or to obtain

other advantages, purchase may be by the United States. Contracting Officers shall consider savings that may be obtained by exemptions from import and other taxes and, to the extent economical, shall take advantage of tax exemptions available under existing agreements. See 229.402–70. In specifying materials, supplies, and equipment for construction in foreign countries, contracting officers shall make maximum use of foreign currencies available for the project, shall encourage the use of American materials, equipment, and supplies and shall obtain the maximum feasible competition from indigenous, other foreign and American suppliers.

225.303 Procedures.

Except as provided in 225.302(d), proposed acquisitions of supplies and applicable services for use outside the United States shall be accomplished in accordance with the evaluation procedures in (b) below.

(a) *Solicitation of offers.* When quotations are obtained orally, vendors shall be informed that only domestic and qualifying country end products shall be acceptable other than those items which have been excepted either on a blanket or an individual basis or the price for the nonqualifying country end item meets the evaluation criteria in (b) below. When only domestic end products are acceptable, the solicitation shall so state.

(b) *Evaluation.*

(1) In accordance with the Balance of Payments Program, when these procedures result in the acquisition of foreign end products, the acquisition of domestic end products is deemed unreasonable in cost or inconsistent with the public interest. Except as provided herein and in 225.105, offers shall be evaluated so as to give preference to domestic offers as follows:

(i) Each nonqualifyng country offer of defense equipment (but see exception in (b)(1)(ii) below) shall be adjusted for purposes of evaluation by increasing such offer by 50%. If the foregoing procedure results in a tie between a nonqualifying country offer, as evaluated, and a domestic offer, award shall be made on the latter. In all other instances, use the tie-breaking procedures in FAR 14.407–6.

(ii) In the event that a domestic offer, a qualifying country offer, and a nonqualifying country offer compete for defense equipment, the qualifying country offer shall be evaluated without applying the price differentials of this paragraph, whereas the nonqualifying country offer shall be subjected to the price differentials (see Example A below). However, in the event the low domestic offer exceeds the evaluated price of the nonqualifying country offer, all foreign offers shall be evaluated as if no domestic offer was submitted (see Example B below). In the event a qualifying country offer competes against a nonqualifying country offer and no domestic offer is submitted, they shall be evaluated on an equal basis (see Example C below).

(2) The following examples illustrate how the procedure in (b)(1) abcve should be applied.

Example A

Nonqualifying Country Offer	$6,000
Domestic Offer	8,900
Qualifying Country Offer	8,800

Award on qualifying country offer. The nonqualifying country offer, adjusted by 50% factor is $9,000. The qualifying country offer receives the award because it is evaluated without adjustment and is the lowest offer.

Example B

Nonqualifying Country Offer	$6,000
Domestic Offer	9,500
Qualifying Country Offer	8,800

Award on nonqualifying country offer. Nonqualifying country offer, adjusted by 50% factor is $9,000. It is still lower than the domestic offer. Accordingly, the qualifying and nonqualifying country offers are evaluated on an equal basis as if the domestic offer had never been submitted and the award is made on the nonqualifying country offer.

Example C

Nonqualifying Country Offer	$10,000
Qualifying Country Offer	11,500

Award on nonqualifying country offer. Since there is no domestic offer, the nonqualifying country and qualifying country offers are evaluated on an equal basis, and the award is made on the nonqualifying country offer.

225.304 Excess and near-excess foreign currencies.

(See Subpart 225.76.)

225.305 Solicitation provision and contract clauses.

(c) *Clauses.* The contracting officer shall insert the clause at 252.225–7004, Identification of Expenditures in the United States, under the conditions set forth at 252.370 (see 252.109 for use of clauses at 252.225–7000, 252.225–7001, and 252.225–7002).

225.370 Identification of expenditures in the United States.

DoD balance of payment reporting instructions require the reporting of the amount of acquisitions of U.S. end products and services accomplished under these regulations. The following provisions are designed to facilitate such reporting by cognizant accounting and disbursing officers. In implementing these provisions, it is essential that there be appropriate liaison between acquisition, accounting, and disbursing personnel at each activity involved.

(a) Except as provided in (b) below, the clause at 252.225–7004, Identification of Expenditures in the United States, shall be included in each contract in excess of $25,000 that—

(1) Requires the contractor to furnish U.S. end products, except that the clause in 252.225–7004 is not required if the contractor is a domestic concern and the Government will take title to the end products within the United States; or

(2) In the case of a contract for construction, repair or maintenance of real property, or for services, to be performed outside the United States, either—

(i) Requires the contractor to acquire specified materials, equipment, or services from U.S. sources (whether or not the contractor is a domestic concern), or

(ii) Is with a contractor who is a domestic concern (whether or not specified items must be acquired from U.S. sources).

(b) In lieu of the clause specified at (a) above, the following statement may be placed prominently on the face of each such contract, where the contracting officer considers that greater accuracy will be achieved or that inclusion of the contract clause is impracticable:

U.S. Expenditures for:

U.S. end products— ———% of each invoice.

U.S. services— ———% of each invoice.

Transportation on U.S. carriers— ——— % of each invoice. (See DoD FAR Supplement 252.225–7004 for definitions)

(c) Contracts and purchase orders of $25,000 or less, which otherwise meet the criteria in (a) above for including the clause at 252.225–7004, shall have the statement in (b) above placed prominently on their face.

Subpart 225.4—Purchases under the Trade Agreements Act of 1979

225.401 Definitions.

"Designated country." Add Israel to the list of designated countries shown in FAR 25.401.

"Eligible product" means a designated country end product listed at 225.403(S–70).

225.402 Policy.

(b) There shall be no purchase of a foreign end product listed in 225.403(S–70) with a total value at or above that specified in the FAR which is not a designated country end product except as provided below:

(1) National interest exceptions must be approved on a case-by-case basis. An exception request with supporting rationale shall be submitted in accordance with Departmental procedures to DUSDRE (AM) or designee.

(2) End products from countries listed at 225.7310(a) and 225.7401, and from countries at 225.75 are limited to those items listed on appropriate annexes.

225.403 Exceptions.

(d) This exception includes purchases from foreign sources where prohibited by the Department of Defense Annual Appropriations Act (see 225.7002). The products listed at 225.403(S–70) generally do not come under this exception, but in the event a Department considers an individual acquisition of such a listed product to be a purchase "indispensable for national security or national defense purposes," and appropriate for exclusion from the provisions of this subpart, a request with supporting rationale shall be submitted in accordance with Departmental procedures for approval by DUSDRE(AM) or designee.

(S–70) List of Eligible Products. The following list is arranged according to Federal Supply Classifications. If an item is not, within an FSC listed below, FAR Subpart 25.4 does not apply.

FSC Category/Description

22—Railway equipment
23—Motor vehicles, trailers, and cycles (except 2350 and buses under 2310)
24—Tractors
25—Vehicular equipment components
26—Tires and tubes
29—Engine accessories
30—Mechanical power transmission equipment
32—Woodworking machinery and equipment
34—Metalworking machinery (except 3408, 3410–3419, 3426, 3433, 3441–3443, 3446, 3448, 3449, 3460, 3461)
35—Service and trade equipment
36—Special industry machinery (except 3069)
37—Agricultural machinery and equipment
38—Construction, mining, excavating, and highway maintenance equipment
39—Materials handling equipment
40—Rope, cable, chain and fittings
41—Refrigeration and air conditioning equipment
42—Fire fighting, rescue and safety equipment
43—Pumps and compressors
44—Furnance, steam plant and drying equipment (except 4470)
45—Plumbing, heating and sanitation equipment
46—Water purification and sewage treatment equipment
47—Pipe, tubing, hose and fittings
48—Valves
49—Maintenance and repair shop equipment (except 4920–4927), 4931–4935, 4960)
52—Measuring tools
53—Hardware and abrasives
54—Prefabricated structures and scaffolding
55—Lumber, millwork, plywood and veneer
56—Construction and building materials
61—Electric wire, and power and distribution equipment
62—Lighting fixtures and lamps
63—Alarm and signal systems
65—Medical, dental, and veterinary equipment and supplies
66—Instruments and laboratory equipment (except aircraft clocks under 6645)
67—Photographic equipment
68—Chemical and chemical products
69—Training aids and devices
70—General purpose ADPE, software, supplies and support equipment
71—Furniture
72—Household and commercial furnishings and appliances
73—Food preparation and serving equipment
74—Office machines, visible record equipment and ADP equipment
75—Office supplies and devices
76—Books, maps, and other publications
77—Musical instruments, phonographs, and home type radios
78—Recreational and athletic equipment
79—Cleaning equipment and supplies
80—Brushes, paints, sealers and adhesives
81—Containers, packaging and packing supplies (except 8140)
8460—Luggage
85—Toiletries
87—Agricultural supplies
88—Live animals
91—Fuels, lubricants, oils and waxes
93—Nonmetallic fabricated materials
94—Nonmetallic crude materials
96—Ores, minerals and their primary products
99—Miscellaneous

225.404 Labor surplus area set-asides.

(See 252.220–7000 and 252.220–7001.)

225.405 Procedures.

(d) This requirement does not apply to offshore procurements or to Defense Fuel Supply Center post, camp, or station overseas requirements. (See 225.501.)

225.407 Solicitation provision and contract clause.

(a) (1) The provision, Buy American-Trade Agreements-Balance and Payments Program Certificate, at 252.225–7005, shall be used in all solicitations in which the Buy American Act, Trade Agreements Act, and the Balance of Payments Program clause at 252.225–7006 is used. This provision is to be used in lieu of that at FAR 52.225–8.

(a)(2) The clause at 252.225–70–6, Buy American Act, Trade Agreements Act, and the Balance of Payments Program, shall be used in lieu of the clause at FAR 52.225–9 and shall be inserted along with the clause at 252.225–7002, Qualifying Country Sources as Subcontractors, in all solicitations and contracts subject to the Trade Agreements Act. The clause at 252.225–7006 may also be used in lieu of the clause at 252.225–7001.

Subpart 225.5—Payment in Local Foreign Currency

225.501 Policy.

(a) Offshore contracts with local firms will be priced and paid in local currency unless (i) there exists a Status of Forces Agreement providing for payment in U.S. currency; or (ii) the use of local currency is determined to be inequitable, and the use of U.S. currency is authorized at a level above the contracting officer. An example of a situation where pricing and paying in dollars may be appropriate or necessary would be a contract requiring significant purchases in the United States (see 225.76).

Subpart 225.6—Customs and Duties

225.600 Scope of subpart.

This subpart sets forth policies and procedures for excepting from import duty certain supplies that are imported into the United States in connection with Defense contracts. Ordinarily, duty is payable for the importation of non-Defense supplies obtained outside the United States. Two exemptions to this rule are available to the Department of Defense: "Emergency purchases of war materials abroad" by a Military Department may be imported duty-free pursuant to Schedule 8, Part 3, Item No. 833.00, Tariff Schedules of the United States; and certain supplies (not including equipment) for vessels or

aircraft operated by the United States may be imported duty-free pursuant to 19 U.S.C. 1309. This subpart prescribes the uses and limits of these two exceptions. This subpart does not deal with or affect the evaluation of offers of foreign supplies as set forth elsewhere in Part 225. Although the procedures of this subpart may require or permit duty-free entry to be accorded foreign supplies in a given case, this in itself neither precludes nor requires the inclusion of duty in evaluating an offer of such supplies.

225.602 Policy.

The issuance of duty-free entry certificates in appropriate situations will result in important savings to military appropriations. Such certificates must be limited to carefully selected situations lest they result in unanticipated profits to contractors, especially under fixed-price-type contracts, and involve the Government in administrative expenses outweighing any possible savings to military appropriations. It is DoD policy to use duty-free entry certificates whenever there is *reasonable assurance* that advantages in the form of savings to military appropriations will outweigh the administrative and other costs of processing duty-free entry certificates and of maintaining controls to verify that the full benefit of the certificates inures to the Government. A contractor which has been awarded a fixed-price-type contract based on providing a domestic end product or component cannot subsequently furnish a foreign end product or component (including a qualifying country end product or component) and receive a duty-free entry certificate in accordance with FAR 52.225–10 without an appropriate reduction in contract price.

225.603 Procedures.

(a) *General.*

(S–70) When a prime contract involving foreign supplies contains the clause in FAR 52.225–10 and the prime contractor sends a notification of a purchase of foreign supplies under the cotract to the Contract Administration Office (CAO) designated in the contract, the CAO will verify that the prime contract includes the Duty-Free Entry clause for items identified or items to be identified later; and in the latter case, that the contracting officer has agreed to furnish a duty-free entry certificate for the items identified in exchange for a reduction in contract price in the amount of duty which would be payable if duty-free entry certificates were not issued pursuant to the provisions of this clause. The CAO will then forward the notification to Commander, Defense Contract Administration Services Management Area, New York, 60 Hudson Street, New York, NY 10013. The notification will be forwarded as an enclosure to the information provided in the format shown below.

To: Commander, DCASMA, New York, Attn: Transportation Officer

Contract —— issued to ———— (Contractor).

Enclosed is a contractor notification of the purchase of foreign supplies. Verfication has been made that:

( ) The prime contract includes the clause at FAR 52.225–10, Duty-Free Entry for the items identified on the enclosed notification.

( ) The prime contract includes the Clause at FAR 52.225–10, Duty-Free Entry and the Contracting Officer has agreed to furnish a duty-free entry certificate for the items identified in exchange for an appropriate reduction in contract price.

The contract is expected to be completed by ————.

Signature ————————————

Title ————————————

(S–71) When the Government agrees to execute duty-free entry certificates for supplies, in accordance with the clause in FAR 52.225–10, the contractor shall be notified that the foreign supplier is to include on the bill of lading (or other shipping document) the information required to be inserted on such documents as provided in the clause. Failure to include such information on the bill of lading (or other shipping document) will result in the shipment being treated as a shipment without benefit of free entry under Schedule 8, Part 3, Item No. 832.00, Tariff Schedules of the United States.

(S–72) Upon receipt of a request for duty-free entry, the designated Government representative shall promptly prepare the required Customs Forms and execute the duty-free entry certificate in accordance with (S–73) below and forward 2 copies of Customs Form 7501 and one copy of Customs Form 7501A to the District Director of Customs submitting the request.

(S–73) The duty-free entry certificate referred to in this paragraph shall be printed, stamped, or typed on the face of Customs Form 7501 or attached thereto in the following form:

(Date)————————————

I certify that the acquisition of this material constituted an emergency purchase of war material abroad by the (indicate Department) and it is accordingly requested that such material be admitted free of duty pursuant to Schedule 8, Part 3, Item No. 832.00, Tariff Schedules of the United States.

(Name) ————————————

(Title)————————————

(Title of Government representative who has been designated to execute free entry certificates for the above-named Department)

(Organization) ————————————

(c) *Immediate entry and release.* Immediate release permits, executed on Customs Forms 3461 (Application for Special Permit for Delivery of Perishable and Other Articles, Immediate Delivery of Which is Necessary), entitle all shipments qualifying as "emergency purchases" of war material abroad to be released immediately by the District Directors of Customs at the various ports of entry, prior to and pending the filing of Customs Forms 7501 and 7501A and a duty-free entry certificate. The existence of an immediate release permit on file at a port of entry does not dispense with the necessity of filing Customs Forms 7501 and 7501A and appropriate duty-free entry certificates. Each Department shall designate the individuals responsible for issuance of Immediate Release Permits.

225.604 Exempted supplies.

225.604–70 Emergency purchase of war materials abroad.

(a) Any acquisition of foreign supplies constitutes "an emergency purchase of war material" if:

(1) The supplies comprise—

(i) Weapons, munitions, aircraft, vessels, or boats;

(ii) Agricultural, industrial, or other supplies used in the prosecution of war or for the national defense; or

(iii) Supplies, including components or equipment, necessary for the manufacture, production, processing, repair, servicing, or operation of supplies within (a)(1) (i) or (ii) above; and

(2) The acquisition—

(i) Is made in time of war or during a national emergency;

(ii) Is made because of a shortage of domestic supply, pursuant to a decision that the supplies are necessary for the adequate maintenance of the Armed Services;

(iii) Is made for the use of U.S. forces abroad or U.S. vessels in foreign waters; or

(iv) Consists of captured enemy war material, materials requisitioned by U.S. forces abroad, or materials rebuilt from other materials owned by, or turned over to U.S. forces, or materials loaned or given to a Military Department of the U.S. Government under exchange agreements with foreign governments.

(b) *Requirements.*

(1) To assure that the policy of 225.602 is carried out for emergency purchases of war materials abroad, the clause at

FAR 52.225–10 shall be used in each negotiated contract in excess of $100,000, unless the minimum dollar limits in FAR 25.605 apply. Notwithstanding these dollar limits, the clause may be inserted in any other negotiated contract when the contracting officer determines that to do so would further the policy in 225.602 and would be consistent with the limitations in (b)(2) below, and in any such case the dollar figure in paragraphs (b)(1) and (i)(2) of the clause in FAR 52.225–10 may be reduced appropriately.

(2) Duty-free entry certificates shall be issued as required by contracts containing any of the contract clauses described in FAR 25.605. Consistent with 225.602, duty-free entry certificates may be issued in connection with any other contract for an "emergency purchase of war material" that falls within one of the following categories:

(i) Direct purchases abroad regardless of whether title passes at point of origin or at destination in the United States, *Providing*, the contract states that the final price is exclusive of duty;

(ii) Purchases abroad by a Government prime contractor under a cost-reimbursement type contract or by a cost-reimbursement type subcontractor (where no fixed-price prime or fixed-price subcontract intervenes between the purchaser and the Government), regardless of whether title passes at point of origin or at destination in the United States. If a fixed-price prime or fixed-price subcontract intervenes, the criteria stated in (b)(2)(iii) below should be followed; and

(iii) Purchases abroad by a fixed-price contractor, a fixed-price subcontractor, or a cost-type subcontractor where a fixed-price prime contract, or fixed-price subcontract intervenes; *Provided* (A) the fixed-price prime contract and, where applicable, fixed-price subcontract prices are, or are amended to be, exclusive of duty; (B) the prime contractor and, where applicable, the subcontractors concerned certify that the supplies so purchased are to be delivered to the Government or incorporated in Government-owned property or in an end product to be furnished to the Government, and that the duty will be paid if such supplies or any portion thereof are utilized for other than the performance of the Government contract or disposed of other than for the benefit of the Government in accordance with the contract terms; and (C) such acquisition abroad is authorized by the terms of the prime contract, the applicable subcontract, or by the contracting officer. In any such case, the procedures required by the clauses prescribed in FAR 25.605 shall be followed to the extent practicable.

225.604–71 Supplies for vessels or aircraft operated by the United States.

(a) Subject to the considerations prescribed in FAR 25.602, a duty-free entry certificate may be issued when "certain supplies (not including equipment)" are purchased for vessels or aircraft operated by the United States. As used in this paragraph, the term "certain supplies (not including equipment)" includes articles known as "stores," such as food, medicines and toiletries, and, in addition, all consumable articles necessary and appropriate for the propulsion, operation, and maintenance of the vessel or aircraft, such as fuel, oil, gasoline, grease, paint, cleansing compounds, solvents, wiping rags, and polishes. It does not include portable articles necessary and appropriate for the navigation, operation or maintenance of the vessel or aircraft and for the comfort and safety of the persons on board, such as rope, bolts and nuts, bedding, china and cutlery, which are included in the term "equipment." The procedures to be followed in the issuance of such certificates shall be prescribed by the respective Departments.

(b) The duty-free entry certificate referred to in this paragraph shall be printed, stamped, or typed on the face of Customs Form 7501, or attached thereto, and shall be executed by a duly designated officer or civilian official of the appropriate Department in the following form:

(Date) _____

I certify that the acquisition of this material constituted a purchase of supplies by the United States for vessels or aircraft operated by the United States, and is admissible free of duty pursuant to 19 U.S.C. 1309.

(Name) _____
(Title) _____
(Organization) _____

225.605 Contract clause.

(a)(70) *Duty-free entry for specified items.* Within the limits of 225.604, the clause in FAR 52.225–10 and the clause at 252.225–7007 shall be used when the contracting officer knows at the time of execution of the contract that foreign supplies (other than those for which duty-free entry is to be accorded pursuant to (S–72) below on which the estimated aggregated duty exceeds $1,000) are to be imported into the United States, its possessions, or Puerto Rico, in connection with performance of the contract.

(S–71) *Duty-free entry for items not identified in the contract.* Within the limits of 225.604–70(b), the clause at FAR 52.225–10 shall be used unless the contracting officer anticipates that, in connection with the performance of the contract, neither the prime contractor nor any first-tier subcontractor will make any purchase of foreign supplies in excess of $10,000 that would not be covered by the clause prescribed in (S–72) below.

(S–72) *Duty-free entry—qualifying country end products and components.* The clause in 252.225–7008 shall be inserted in all contracts for supplies and in all contracts for services involving the furnishing of supplies, except that it need not be inserted in the case of simplified small purchase procedures and in contracts for supplies exclusively for use outside the United States.

Subpart 225.7—Restrictions on Certain Foreign Purchases

225.703 Exceptions.

(b) For other than small purchases, an exception shall be approved by the Secretary of the Department concerned. Before granting an exception for other than small purchases, the Secretary concerned shall obtain the advice of the Assistant Secretary of Defense (International Security Affairs); however, such advice is not required for emergency purchases, or where supplies are not available from any other source and substitute supplies are not acceptable.

Subpart 225.8—International Agreements and Coordination

225.800 Scope of subpart.

This subpart concerns the applicability of international agreements other than those in Subparts 225.73, 225.74, 225.75, and coordination with overseas commands and activities in purchasing from foreign sources.

225.801 International agreements.

Treaties and international agreements in effect between the United States and governments receiving military and economic aid under the Foreign Assistance Act of 1961, affect acquisition in foreign countries. Copies of international agreements are filed with the United States European Command covering existing agreements in the United Kingdom of Great Britain and Northern Ireland, Western European countries, North Africa, and in the Middle East. Agreements with countries in the Pacific and Far East are filed with the United States Pacific Command (CINCPAC). Military Assistance Advisory Groups, Naval Missions, and Joint United States Military Aid Groups normally have

copies of the agreements applicable to the countries concerned.

225.870 Coordination with overseas commands and activities.

When it has been determined that an acquisition will be made from a foreign contractor, overseas contracting offices shall be utilized to the maximum practical extent. Contracting offices not within the command jurisdiction of a unified or specified command, anticipating placement of contacts with foreign contractors, shall maintain liaison with the appropriate component commander during preaward negotiations and postaward administration. When an acquisition may result in a requirement for logistical support of contractor employees or additional Government employees in an overseas location, the contracting officer shall insure that the contract file includes documentation reflecting specific advance approval for such commitment from the appropriate component commander.

Subpart 225.9—Omission of Examination of Records Clause

225.903 Conditions for omission.

(b) A determination of the Secretary under FAR 225.903(a)(2) does not require the concurrence of the Comptroller General or his designee. However, when a determination is the basis for exclusion of the Examination of Records by Comptroller General clause, the statute requires that a written report be furnished to the Congress. This report, which shall explain the reasons for the determination, shall be submitted in triplicate by the Department of Defense component concerned, to the Director for Information Operations and Reports, Washington Headquarters Services, Washington, DC 20301 (see also 225.7203).

225.904 Determination and findings.

Request for determination and findings for exclusion ordinarily will be initiated by the contracting officer. The report shall consist of a letter submitted through normal acquisition channels, addressed to the Secretary, setting forth all the facts necessary to arrive at an appropriate determination and findings.

Subpart 225.70—Appropriations Act Restrictions

225.7000 Scope of subpart.

This subpart implements the Defense Appropriations Act restriction on the availability of appropriated funds for the acquisition of any article of food, clothing, cotton, wool, woven silk and woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric, specialty metals, or hand or measuring tools. However, reference should be made to the current Department of Defense Appropriations Act as a check on the current applicability of such restriction. This subpart also implements the restriction on acquisition of foreign buses contained in Section 404 of Pub. L. 90–500 (see 225.7006), the restriction on R&D contracting with foreign sources contained in Section 744 of Pub. L. 92–570 (see 225.7007), the restriction for the construction of major components of the hull or superstructure of any naval vessel or the construction of any naval vessel in foreign shipyards (see 225.7005), and the restriction on acquisition of manual typewriters which were manufactured by facilities located within states which are signatories of the Warsaw Pact (see 225.7004). Nothing herein shall affect the applicability of the Buy American Act or the Balance of Payments Program.

225.7001 Definitions.

As used in this subpart, the following terms have the meaning set forth below.

"Hand or Measuring Tools", means those tools listed in Federal Supply Classifications 51 and 52 respectively.

"Possessions", As used in the phrase "United States or its possessions," includes Puerto Rico.

"United States" means the States and the District of Columbia.

"Specialty metals" means:

(a) Steels where the maximum alloy content exceeds one or more of the following limits: manganese, 1.65%; silicon, 0.60%; or copper, 0.60%; or which contains more than 0.25% of any of the following elements: aluminum, chromium, cobalt, columbium, molybdenum, nickel, titanium, tungsten, or vanadium;

(b) Metal alloys consisting of nickel, iron-nickel and cobalt base alloys containing a total of other alloying metals (except iron) in excess of 10%;

(c) Titanium and titanium alloys; or

(d) Zirconium and zirconium base alloys.

225.7002 Restriction on food, clothing, fabrics, and specialty metals.

Except as provided in (a) below, contracting activities shall not acquire supplies consisting in whole or in part of any food, clothing, cotton, wool, woven silk and woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric, or coated synthetic fabric, which have not been grown or produced in the United States or its possessions; or specialty metals, including stainless steel flatware which have not been melted in steel manufacturing facilities located within the United States or its possessions, but this does not restrict the acquisition of cotton or wool reprocessed or reused in the United States or its possessions or of foods manufactured or processed in the United States or its possessions.

(a) *Exceptions.* The following exceptions apply:

(1) Acquisitions outside the United States in support of combat operations;

(2) Acquisitions by vessels in foreign waters;

(3) Emergency acquisitions or acquisitions or perishable foods by establishments located outside the United States for the personnel attached thereto;

(4) Acquisitions of those supplies listed in FAR 25.108(d)(1) as to which the list does not make this subpart expressly applicable;

(5) Small purchases (for the purpose of this exception, a small purchase shall mean an acquisition action, as distinguished from a single line item, involving a total dollar amount not in excess of $10,000);

(6) Acquisitions of end items incidentally incorporating cotton or wool, of which the estimated value is not more than 10% of the total price of the end item; *Provided,* That the estimated value does not exceed $10,000 or 3% of the total price of the end item, whichever is greater;

(7) Any articles of food or clothing or any form of cotton, woven silk and woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric, coated synthetic fabric, or wool, as to which the Secretary concerned has determined that a satisfactory quality and sufficient quantity grown or produced in the United States or its possessions cannot be acquired as and when needed at U.S. market prices;

(8) Supplies purchased specifically for commissary resale (see 225.102(70)(4));

(9) Purchases of specialty metals or any item incorporating specialty metals, as to which the Secretary concerned or his authorized designee has determined that a satisfactory quality and sufficient quantity melted in the United States or its possessions cannot be acquired as and when needed at U.S. market prices;

(10) Purchases of specialty metals below the prime contract level for programs other than those for aircraft, missile and space systems, ships, tank-automotive, weapons, and ammunition; and

(11) Purchases of specialty metals or chemical warfare protective clothing when such purchases are necessary to comply with agreements with foreign

governments requiring the United States to purchase supplies from foreign sources for the purposes of offsetting sales made by the U.S. Government or U.S. firms under approved programs serving defense requirements, or when such acquisition is in furtherance of an agreement with a qualifying country.

(b) *Preference for certain domestic commodities.* The contracting officer shall insert the clause at 252.225–7009, Preference for Certain Domestic Commodities, in all solicitations expected to have, and all small purchases and contracts which do have, a value of $10,000 or more.

(c) *Preference for domestic wool.*

(1) The Secretaries have determined that to the extent that application of the procedures in this subparagraph results in the acquisition of any articles of wool (except mohair) not grown, reprocessed, reused, or produced in the United States or its possessions, a satisfactory quality and sufficient quantity of such articles grown, reprocessed, reused, or produced in the United States or its possessions cannot be acquired as and when needed at U.S. market prices.

(2) Offers for supplies of which wool is a part will be solicited on the following alternative bases:

(i) Manufactured in the United States or its possessions from domestic wool;

(ii) Manufactured in the United States or its possessions from foreign wool; and

(iii) Manufactured in the United States or its possessions from a blend of (percent) domestic wool and (percent) foreign wool.

(3) For each solicitation for supplies of which wool is a component part or end product, the contracting officer will insert the clause at 252.225–7010, Domestic Wool Prefence. The evaluation factor will be computed in accordance with (c)(6) below, and the amount of the factor will be inserted in place of the blank in (c) of the provision at 252.225–7010.

(4) If, on the date of opening of offers, the average market price of domestic wool of usable grades is no more than 10% above the average of the prices of representative types and grades of domestic wools in the wool category that includes the wool required by the specifications (see (c)(6) below), which prices reflect the current incentive price as established by the Secretary of Agriculture, and if reasonable offers have been received for the advertised quantity offering 100% domestic wools, the contract will be awarded for domestically produced articles using 100% domestic wools, and the procedure set forth in (c) (5) and (6) below will be disregarded.

(5) In the evaluation of offers under this subpart, an evaluation factor computed in accordance with (c)(6) below will be added to that portion of the offered price that represents foreign wool to be furnished or used in performance of the contract, and award will be made accordingly. In the event that tie offers result from such evaluation, award will be made to the offeror proposing to furnish or use the most domestic wool.

(6) The evaluation factor to be used under (c)(5) above will be 10% of the average of the following prices of representative types and grades of domestic wools within that one of the following categories which includes the wool required by the specifications. (The following prices reflect the current incentive price of $0.62 per pound grease basis converted to grade and type clean basis.)

Representative type and grade	Price clean basis per pound dollars
Group 1—Grades 60's and Finer	
Category 1—Staple, Average and Good French Combing (worsted type)	
The average of the following grades:	
Territory Original Bag Wool: Average and Good French Combing, 64's and finer	1.7748
Graded Territory and Texas Wool: Staple and Good French Combing, One-half Blood, 60's/62's	1.6946
Graded Fleece Wool:	
Staple and Good French Combing, 64's and finer	1.7862
Staple and Good French Combing, One-half Blood, 60's/62's	1.6259
Category 2—Short Average and Good French Combing and Clothing (woolen type)	
The average of the following grades:	
Territory Original Bag Wool: Short, French Combing and Clothing, fine (64's, not to exceed 15% of 60's/62's)	1.5801
Graded Territory and Texas Wool: Average and Good French Combing, One-half Blood, 60's and 62's	1.6145
Graded Fleece Wool:	
Average and Good French Combing, 64's and finer	1.7061
Average and Good French Combing, One-Half Blood, 60's/62's	1.5343
Group 2—Grades 50's–60's	
Category 3—Staple and Good French Combing (worsted)	
The average of the following grades:	
Graded Territory and Texas Wool:	
Staple and Good French Combing, Three-eighths Blood, 56's/58's	1.3648
Staple and Good French Combing, 50's/48's, One-quarter Blood	1.3397
Graded Fleece Wool:	
Staple and Good French Combing, Three-Eighths Blood, 56's/58's	1.3626
Staple and Good French Combing, 50/s48's, One-Quarter Blood	1.2710
Category 4—Average French Combing (woolen type)	
The average of the following grades:	
Graded Territory and Texas Wool:	
Average French Combing, Three-eighths Blood, 56's/58's	1.3053
Average French Combing, 50's/48's, One-quarter Blood	1.2023
Graded Fleece Wool:	
Average French Combing, Three-eighths Blood 56's/58's	1.2137
Average French Combing, 50's/48's, One-quarter Blood	1.0878
Group 3—Grades Below 50's	
Category 5—Staple and Good French	
The average of the following grades:	
Graded Fleece Wool:	
Low One-quarter Blood, 46's, 4 inches or more in length	1.1565
Common and Braid, 44's/36's, 5 inches or more in length	1.0763

(7) See Subpart 225.76 for procedures for using U.S.-owned foreign currency for payment of contracts for foreign-end products.

225.7002 Preference for domestic specialty metals.

(d)(1) The contracting officer shall insert the clause at 252.225–7011, Preference for Domestic Specialty Metals (Major Programs), in all solicitations and contracts over $10,000 that call for the delivery to the Government of an article containing specialty metals within the following six major classes of programs: aircraft, missile and space systems, ships, tank-automotive, weapons, and ammunition.

(2) The contracting officer shall insert the clause at 252.225–7012, Preference For Domestic Specialty Metals, in all solicitations and contracts over $10,000, other than those covered by the clause in (d)(1) above, calling for the delivery of an article that contains specialty metals.

225.7003 Restriction on domestic hand or measuring tools.

Pub. L. 97–377 and subsequent laws appropriating funds for the Department of Defense have provided restrictions on the acquisition of hand or measuring tools. The contracting officer shall insert the clause at 252.225–7013, Preference for Domestic Hand or Measuring Tools, in all small purchases of $10,000 or more and in all contracts calling for delivery of hand or measuring tools.

225.7004 Restriction on sources for manual typewriters.

Public Law 97–377 provides that none of the funds available to the Department of Defense shall be available of the procurement of manual typewriters which were manufactured by facilities located within States which are Signatories to the Warsaw Pact.

225.7005 Restriction on the hull and superstructure of naval vessels.

Each year the Department of Defense Appropriations Authorization Act contains the Burns-Tollefson Amendment which reads:

"*Provided*, That none of the funds herein provided for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign shipyards for the construction of major components of the hull or superstructure of such vessel: *Provided further*, That none of the funds herein provided shall be used for the construction of any naval vessel in foreign shipyards".

This Amendment is incorporated into the Department of Defense Appropriations Act each year and is located under "Shipbuilding and Conversion, Navy".

225.7006 Restriction on acquisition of foreign buses.

(a) Section 404 of the Act of September 20, 1968 (Pub. L. 90–500), the Department of Defense Appropriation Authorization Act for Fiscal Year 1969, provides that:

"No funds authorized for appropriation for the use of the Armed Forces of the United States under the provisions of this Act or the provisions of any other law shall be available for the purchase, lease, rental, or other acquisition of multipassenger motor vehicles (buses) other than multipassenger motor vehicles (buses) manufactured in the United States, except as may be authorized by regulations promulgated by the Secretary of Defense solely to insure that compliance with this prohibition will not result in either an uneconomical procurement action or one which would adversely affect the national interests of the United States."

(b) The objective of this statutory provision is to assure that only buses manufactured in the United States shall be used to satisfy requirements of United States Armed Forces located throughout the world for bus transportation, where such buses are available and where their use would not be uneconomical or contrary to the national interests of the United States. It should be applied whether the buses are purchased, leased, rented, or made available under contracts for transportation services. The use of foreign manufactured buses is authorized where the Head of the Contracting Activity determines that the use of U.S.-manufactured buses would be uneconomical or would adversely affect the national interests of the United States. However, foreign buses may be acquired without such determination in the following circumstances:

(1) When U.S.-manufactured buses are not available in time to satisfy requirements which cannot be postponed, foreign-manufactured buses may be used for a temporary period of time but not to exceed the lead time required for acquisition and delivery of U.S.-manufactured buses.

(2) When the requirement for buses is of a temporary nature to meet a special but nonrecurring requirement or where a recurring requirement is sporadic and infrequent, foreign-manufactured buses may be used for the temporary periods of time not to exceed the period of time needed to meet the nonrecurring or the recurring infrequent requirement.

(3) When foreign-manufactured buses are made available at no direct or indirect acquisition cost to the U.S. Government, foreign-manufactured buses may be used.

225.7007 Restriction on R&D contracting with foreign sources.

(a) Section 744 of the Defense Appropriations Act for FY 1973 (Pub. L. 92–570) provides that no funds appropriated for the Department of Defense are available for entering into any contract or agreement with any foreign corporation, organization, person, or other entity for the performance of research and development in connection with any weapon system or other military equipment for the Department of Defense when there is a U.S. corporation, organization, person, or other entity equally competent to carry out such research and development and willing to do so at a lower cost.

(b) The above provision does not change the rules for the selection of research and development contractors set forth in FAR Part 35. However, when a U.S. and a foreign source are considered equally competent, the contracting officer will make a determination as to which of the sources will provide the services required at the lowest estimated cost to the Government.

Subpart 225.71—Canadian Purchases

225.7101 Mutual Canadian-American interests.

(a) Because of the close geographical proximity of the United States and Canada, and because of the mutual interest of both nations in the defense of North America, various steps have been taken during and since World War II to coordinate their economic efforts in the common defense, so as to achieve:

(1) Greater integration of military production;

(2) Greater standardization of military equipment;

(3) Wider dispersal of production facilities;

(4) Establishment of supplemental sources of supply; and

(5) Greater flow of defense supplies and equipment between the two countries.

Accordingly, it is DoD policy to seek the best possible coordination of the material programs of Canada and the United States and to assure Canada a fair opportunity to share in the production of military equipment and material involving programs of mutual interest to Canada and the United States and in the research and development connected therewith. Accomplishment of these purposes requires (i) the exemption of the restrictions of the Balance of Payment Program and the Buy American Act with respect to acquisitions for public use of supplies mined, produced, or manufactured in Canada in the manner prescribed in Subparts 225.1 and 225.3; and (ii) the Canadian Commercial Corporation, in placing contracts with Canadian or U.S. concerns, to insert suitable provisions in such contracts, obtaining for the Department of Defense the same production rights, data and information that the Department of Defense would obtain for itself pursuant to the FAR and this supplement if the Department were placing the contracts with U.S. concerns.

225.7102 Agreement with the Government of Canada.

(a) The agreement, dated 27 July 1956, as amended 17 December 1956, 31 May 1957, 6 January 1961, and 15 October 1962, between the Department of Defense Production (Canada) and the Department of Defense (see Appendix T Subpart 2), sets forth policies and provides for the implementation of procedures with respect to all contracts for supplies and services placed with the Canadian Commercial Corporation (an agency of the Government of Canada) on or after 1 October 1956.

(b) Subsequent to the execution of the agreement referred to in (a) above, the reorganization of the Canadian Government's departments and agencies vested the contracting authority of the former Canadian Department of Defense Production in the Department of Supply and Services. Pursuant to that reorganization, the authority of the Department of Defense Production to enter into cooperative development projects under the Memorandum of Understanding (see Appendix T) is vested in the Canadian Department of Industry, Trade and Commerce.

(c) This agreement and associated enabling provisions permit Canadian firms, including Canadian Crown corporations, a fair opportunity to participate in the production of defense equipment and material involving

defense programs of interest to both nations.

(d) A contract with a supplier or contractor located in Canada should normally be made with and administered through the Canadian Commercial Corporation. (See 225.7104(b).)

(e) In connection with contracts placed with the Canadian Commercial Corporation, the Department of Supply and Services (Canada) provides without charge to the Defense Departments and Agencies, among other things, such contract administration services as cost and pricing analysis, industrial security, accountability and disposal of Government property, production expediting, compliance with Canadian labor laws, processing of termination claims and disposal of termination inventory, customs documentation, processing of disputes and appeals, and such other related contract administration functions as may be required with respect to the Canadian Commerical Corporation contract with the Canadian supplier. Additionally, in connection with such contracts, audits, when required, are performed by the Audit Services Bureau, Department of Supply and Services (Canada), and the Department of National Defence (Canada) provides inspection personnel, services and facilities, at no charge to the Defense Departments and Agencies.

225.7104 Procedures for Candian purchases.

(a) *Bidding procedures.*

(1) *Solicitation of Canadian firms.*

(i) Except as provided in (a)(1)(ii) below, Canadian firms shall be included on bidders mailing lists and comparable source lists only upon request by the Canadian Commercial Corporation. Such requests shall be forwarded by the Canadian Commerical Corporation to the activity having acquisition responsibility for the supplies or services involved.

(ii) Canadian planned producers under the Industrial Readiness Planning Program shall be included on bidders mailing lists for their planned items (see FAR 14.205–1).

(iii) Solicitations shall be sent directly to Canadian firms appearing on the appropriate bidders mailing lists. A complete copy of the solicitation and a listing of Canadian firms solicited shall be sent to the Canadian Commercial Corporation, Export Supply Centre, Ottawa, Ontario, KIA–OS6, Canada.

(iv) Upon request by the Canadian Commercial Corporation, solicitations shall be furnished to it even though no Canadian firms were solicited.

(v) Small purchases (see FAR Part 13) normally should be handled directly with Canadian firms and not through the Canadian Commercial Corporation.

(2) *Submission of offers.*

(i) As indicated in 225.7104(b) below, the Canadian Commercial Corporation should normally be the prime contractor. In order to indicate its acceptance of offers by individual Canadian companies, the Canadian Commercial Corporation issues a letter supporting the Canadian offer and containing the following information: name of the Canadian offeror; confirmation and endorsement of the offer in the name of the Canadian Commercial Corporation; and a statement that the Corporation shall subcontract 100% with the offeror.

(ii) When a Canadian offer cannot be processed through the Canadian Commercial Corporation in time to meet the bid-opening requirement or the closing date for receipt of proposals, the Corporation is authorized to permit Canadian firms to submit offers directly; *Provided,* That the Canadian offer and the Canadian Commercial Corporation endorsement are both received by the contracting officer prior to bid opening or the closing date for receipt of proposals.

(iii) All formally advertised bids shall be submitted by the Canadian Commercial Corporation in terms of U.S. currency. Contracts placed as a result of such formal competitive bidding shall not be subject to adjustment for losses or gains resulting from fluctuation in exchange rates.

(iv) All offers and quotations submitted by the Canadian Commercial Corporation, except those in which competition is obtained, shall be in terms of Canadian currency. However, the Corporation may, at the time of submitting the offer, elect to quote and receive payment in terms of U.S. currency; in which event, contracts arising thereform shall provide for payment in U.S. currency and shall not be subject to adjustment for losses or gains resulting from fluctuation in exchange rates.

(b) *Contracting procedures.*

(1) Individual contracts covering purchases from suppliers located in Canada, except as noted in (b)(2) below, shall be made with the Canadian Commercial Corporation, which has offices located at the Export Supply Centre, 11 Laurier Avenue, Hull, Quebec, Canada (mail address—Canadian Commercial Corporation, Export Supply Centre, Ottawa, Ontario, K1A–0S6 Canada), and at 245 Massachusetts Avenue NW., Washington, DC 20008. Contracts should normally be awarded to and administered through the Export Supply Centre Office in Hull, and all payments under such contracts awarded to the Canadian Commercial Corporation shall be made to that office. Under contracts with the Canadian Commercial Corporation, direct communication with the Canadian supplier is authorized and encouraged in connection with all technical aspects of the contract; *Provided,* however, That the approval of the Corporation shall be obtained on any matters involving changes to the contract.

(2) The general policy in (b)(1) above need not be followed for purchases negotiated for experimental, developmental, or research work under FAR 15.205 or FAR 15–211, unless the contract is for a project under the Defense Development Sharing Program; purchases negotiated under FAR 15.202 for public exigency; purchases negotiated under FAR 15.203 for small purchases; or purchases made by U.S. Defense activities located in the Dominion of Canada.

(3) Prices in the contracts shall identify the type of currency; i.e., United States or Canadian. When contracts provide for payment in Canadian currency, the contract price shall be quoted in terms of Canadian dollars and shall identify the amount by the initials CN; e.g., $1,647.23CN. The contract shall clearly indicate on its face the US/Canadian conversion rate at the time of award and the US dollar equivalent of the Canadian dollar contract amount.

(c) *Administration procedures.*

(1) The following policy and procedures are applicable only to cost-reimbursement type contracts with Canadian contractors:

(i) On contracts with the Canadian Commercial Corporation (CCC), audits are automatically arranged by the Department of Supplies and Services (DSS) Canada (see 225.7102). Audit reports are furnished to DSS. Upon advice from DSS, the CCC will certify the invoice and forward it with Standard Form 1034 (Public Voucher) to the ACO for further processing (see 242.803(a)) and transmittal to the disbursing officer.

(ii) On contracts placed directly with Canadian firms, audits are requested by the ACO from the Audit Services Bureau (ASB), Ottawa, Ontario, Canada. Invoices are approved by the ASB/DSS auditor on a provisional basis pending completion of the contract and final audit. These invoices, accompanied by Standard Form 1034 (Public Voucher) are forwarded to the ACO for further processing (see 242.803(a)) and transmittal to the disbursing officer.

Periodic advisory audit reports are furnished directly to the ACO.

(d) *Termination procedures.* The Canadian Commercial Corporation will continue to administer contracts that may be terminated by the U.S. contracting officer and settle all Canadian subcontracts in accordance with the policies, practices, and procedures of the Canadian Government in the termination and settlement of Department of Defence Production (Canada) contracts. The U.S. agency administering the contract with the Canadian Commercial Corporation shall render such services as are required by the Canadian Commercial Corporation with respect to settlement of any subcontracts placed in the United States, including disposal of inventory. The settlement of such U.S. subcontracts shall be in accordance with this regulation.

(e) *Acceptance of canadian supplies.* Under f.o.b.-origin contracts with the Canadian Commercial Corporation where inspection has been performed by the Department of National Defence (Canada), pursuant to paragraph 6 of the Letter of Agreement (see Appendix T), acceptance of supplies or services which are in accordance with the terms of the contract, shall be made by the Department of National Defense (Canada) on behalf of the Defence Departments and Agencies. Signing of the acceptance certificate on the applicable United States Department of Defense inspection and acceptance form shall be considered satisfactory evidence for payment purposes.

(f) *Industrial security.* Industrial Security for Canada shall be in accordance with 225.7403(d) and pursuant to the United States-Canada Industrial Security Agreement of 31 March 1952, as amended.

225.7105 Contract administration.

(a) When services are requested from the Defense Contract Administration Services on contracts to be performed in Canada, the request shall be directed to: DCASMA, Ottawa, 6th Floor, Canadian Building, 219 Laurier Avenue, West, Ottawa, Ontario, Canada (K1A0S5).

(b) When contract administration is performed in Canada by Defense Contract Administration Services, the paying office activity to be named in the contract for disbursement of DoD funds (DoD Department Code: 17-Navy; 21-Army; 57-Air Force; 97-All other DoD components), whether payment is in Canadian or U.S. dollars, shall be: Disbursing Office, Defense Contract Administration, Services Region, Cleveland, 1240 East 9th Street, Anthony J. Celebrezze Federal Building, Cleveland, Ohio 44199.

Subpart 225.72—Military Assistance Program Acquisitions

225.7200 Scope of subpart.

This subpart implements the Military Assistance Program portion of the Foreign Assistance Act of 1961 (Section 604, 22 U.S.C. 2354) and the policies set forth in the President's Determination under Section 604(a) of the said act (Memorandum of October 18, 1961) and in Executive Order 10973 dated 3 November 1961.

225.7201 Statutory requirements.

(a) Section 604(a) of the Foreign Assistance Act of 1961, as implemented, provides that funds made available under the Act shall not be used for acquisition outside the United States except:

(1) To acquire items required for military assistance which are not produced in the United States;

(2) To make local purchases for administrative purposes;

(3) To use local currency available for military assistance purposes; or

(4) Where the Assistant Secretary of Defense (ISA) certifies that exclusion of acquisition outside the United States would seriously impede attainment of Military Assistance Program objectives.

(b) Where a MAP order involves acquisition covered by a certification issued in accordance with (a)(4) above, the Director of Military Assistance, Office of the Assistant Secretary of Defense (International Security Affairs), will specify in the order that the Military Department is authorized to contract offshore.

225.7202 Procedures.

The following procedures apply to all contracts for the Military Assistance Program (other than those excepted pursuant to 225.7201) citing funds authorized by the Foreign Assistance Act of 1961, or citing funds made available under Department of Defense Appropriation Acts when it is known at the time of acquisition that the items being acquired are to fill existing Military Assistance Program orders and that DoD appropriations are to be reimbursed from Foreign Assistance Act funds. The requirements of this paragraph do not apply to issues from DoD inventories or to replenishment of such inventories.

(a) *Method of purchase.* Acquisition for the Military Assistance Program shall be restricted to domestic concerns and to U.S. end products as defined in 252.225-7016. Except for this restriction on solicitation, acquisition shall be made by formal advertising, wherever practicable. Subject to the limitations prescribed in FAR 15.1 and pursuant to the authority of 10 U.S.C. 2304(a), acquisition may be effected by negotiation under any appropriate exception of 10 U.S.C. 2304(a). The Foreign Assistance Act of 1961 shall not be used as authority to negotiate under 10 U.S.C. 2304(a)(17).

(b) *Certificate.* When the acquisition is solely to fill existing Military Assistance Program orders, the solicitation shall so state. When the acquisition consists of both Military Assistance Program items and Non-Military Assistance Program items, the solicitation shall clearly designate the Military Assistance Program items. In either instance, the solicitation shall require that each offer for end products include either the certificate at 252.225-7000 or the certificate at 252.225-7005 and the certificate at 252.225-7015.

225.7203 Exemptions from examination of records requirement.

(a) *General.* Military Assistance Program purchases authorized to be made outside the United States under the Foreign Military Sales Act of 1968, as amended, and the Arms Export Control Act of 1976, as amended, are exempt (Executive Order No. 11223, dated 12 May 1965) from the requirement for examination of records by the Comptroller General (10 U.S.C. 2313(b) and Section 3(b), Pub. L. 85-804) in the following circumstances:

(1) Contracts with foreign contractors (including foreign governments) to be performed outside the United States; and

(2) Contracts, and amendments and modifications thereof, entered into pursuant to Pub. L. 85-804 (see FAR Part 50), *Provided,* That the Department concerned shall make a determination that it is impracticable to include the Examination of Records clause or to obtain compliance therewith; such determinations may be made by any officer or official authorized to approve contracts, and amendments and modifications thereof, pursuant to FAR Part 50.

(b) Notwithstanding the exemptions permitted above, the contracting officer, where practicable, shall include the Examination of Records clause in contracts covered in (a)(1) above.

225.7204 Department of Defense audit and records.

Contracts exempted under 225.7203(a)(1) from the requirement for examinaton of records by the

Comptroller General shall nevertheless include the clause at FAR 52.214–28, Audit—Formal Advertising or at FAR 52.215–2, Audit—Negotiation, as appropriate, in accordance with the requirement of that paragraph.

225.7205 Contract provision and clause.

(a) The provision at 252.225–7015, United States Products Certificate (Military Assistance Program), shall be inserted in all solicitations which, in whole or in part, are subject to this Subpart 225.72 under the conditions at 225.7202(b).

(b) The clause at 252.225–7016, United States Products (Military Assistance Program), shall be inserted by the contracting officer in all solicitations and contracts which call for end products which, in whole or in part, are subject to this Subpart 225.72, unless excepted pursuant to 225.7201 and in all solicitations which include the provisions at 252.225–7015.

Subpart 225.73—Acquisitions for Foreign Military Sales

225.7300 Scope of subpart.

This subpart sets forth policies and procedures applicable to acquisitions made for the purpose of Foreign Military Sales (FMS) pursuant to the Arm Export Control Act. It does not apply to Foreign Military Sales made from inventories or stocks, to acquisitions for replenishment of inventories or stocks, or acquisitions made under DoD Cooperative Logistics Supply Support Arrangements. An FMS Agreement is an accepted Letter of Offer and Acceptance which is the document by which the U.S. Government agrees to sell defense articles and services to a foreign government or international organization.

225.7301 Applicable statutory provisions.

(a) *Contract Administration.*

(1) Pursuant to Section 22 of the Arms Export Control Act (Pub. L. 90–629, as amended) the Department of Defense is authorized to enter into contracts for purposes of resale to foreign countries or international organizations.

(2) The Act provides in part that:

(i) The President may, without requirement for charge to any appropriation or contract authorization otherwise provided, enter into contracts for the acquisition of defense articles or defense services for sale for U.S. dollars to any foreign country or international organization if such country or international organization provides the U.S. Government with a dependable undertaking (A) to pay the full amount of such contract which will assure the U.S. Government against any loss on the contract; and (B) to make funds available in such amounts and at such times as may be required to meet the payments required by the contract and any damages and costs that may accrue from the cancellation of such contract, in advance of the time such payments, damages, or costs are due. Interest shall be charged on any net amount by which any such country or international organization is in arrears under all of its outstanding unliquidated dependable undertakings, considered collectively. The rate of interest charged shall be a rate not less than a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding short-term obligation of the United States as of the last day of the month preceding the net arrearage and shall be computed from the date of net arrearage.

(ii) The President may, if he determines it to be in the national interest, issue letters of offer under Section 22 of the Arms Export Control Act, as amended, which provides for billing upon delivery of the defense article or rendering of the defense service and for payment within 120 days after the date of billing. This authority may be exercised, however, only if the President also determines that the emergency requirements of the purchaser for acquisition of such defense articles and services exceed the ready availability to the purchaser of funds sufficient to make payments on a dependable undertaking basis and submits both determinations to the Congress together with a special emergency request for authorization and appropriation of additional funds to finance such purchases under this Act.

(b) *Commercial Availability.* DoD policies and procedures with respect to commercial availability are contained in the Military Assistance and Sales Manual (DoD Manual 5105.38–M), Part III, Chapter H, entitled *Commercial Availability*, published by the Defense Security Assistance Agency. (See DoD Manual 5105.38–M.)

225.7302 Applicability.

The FAR and this supplement shall apply to all purchases and contracts made the Department of Defense in support of Foreign Military Sales.

225.7303 Preparation of DoD offer and acceptance, DD form 1513.

(a) DD Form 1513 lists the items and/or services, estimated costs, the terms and conditions of sale, and provides for the foreign government's signature to indicate acceptance.

(b) *Procedures.*

(1) In connection with each Foreign Military Sale expected to involve a contract in excess of $10,000 which cannot be placed on the basis of price competition (as, for example, when the foreign customer has designated only one source as acceptable), before the Department of Defense furnishes prices for information purposes to potential foreign customers, prices, delivery and other relevant information shall be requested from the prospective source, and such request shall state that it is for information for the purpose of a potential Foreign Military Sale and shall identify the customer.

(2) As a general rule on FMS programs requiring new acquisitions, the contracting officer should participate in the preparation of Price and Availability Data to support the tendering of the DoD Offer and Acceptance (DD Form 1513) by the U.S. Government to foreign countries and international organizations. In addition to the identification and review of sales commissions and fees, the contracting officer shall request contractors to identify in advance of the DoD Offer and Acceptance any unusual provisions or deviations, particularly those proposed for the contract which could affect the prices quoted. Such unusual contractual requirements shall also be identified in the submittal of the price and availability data to the Departmental activity responsible for providing the DoD Offer and Acceptance to the foreign country. If the Departmental activity expands, modifes or does not accept such requirements, the contractor shall be advised prior to the submission of the offer to the foreign country.

225.7304 Pricing acquisitions for foreign military sales.

(a) *General.* When the Department of Defense undertakes purchasing for sale to a foreign country which has committed itself to bear the cost of the acquisition, the Department of Defense assumes responsibility to see to it that no more than a fair price is paid for the acquisition. Accordingly, FMS contracts shall be priced on the same principles and with the same care as are used in pricing normal defense contracts. This does not mean that prices of normal defense contracts for an item are automatically applicable to FMS contracts for the same item. On the contrary, application to FMS contracts of the pricing principles established by FAR Part 15 and FAR Part 31 may require pricing results that differ from normal defense contract prices for the same item because certain kinds of

costs may reasonably and allocably arise in different amounts for the former than for the latter. In this regard, known FMS requirements shall be separately identified in solicitations.

(b) *Commercial sales to foreign customers.* If the contractor has made sales of an item to foreign customers under comparable conditions, including quantity and delivery, the pricing of FMS contracts shall be in accordance with FAR Part 15.

(c) *Cost of doing business with a foreign government or an international organization.*

(1) In pricing FMS contracts, where non-U.S. Government prices as described in (b) do not exist, recognition should be given to costs of doing business with a foreign government or international organization (even though the form of the transaction is a defense purchase for the purpose of FMS) whenever comparable costs of doing business with the United States would be recognized in pricing normal defense contracts. Thus, recognition should be given to reasonable and allocable costs, even though such costs might not be recognized in the same amounts in pricing normal defense contracts. Examples of such costs include, but are not limited to, the following:

(i) Selling expenses (not otherwise limited by FAR Part 31); e.g.:

(A) Maintaining international sales and service organizations;

(B) Sales commissions and fees in accordance with FAR Subpart 3.4;

(C) Sales promotions, demonstrations, and related travel for the purposes of sales to foreign governments; however, such costs shall not be recovered against U.S. Government contracts for U.S. Government requirements. These expenses may be recovered; *Provided,* That when required by paragraph 123.16 of the International Traffic in Arms Regulations (ITAR) (22 CFR Part 121), such promotion or demonstration has received U.S. Government approval.

(D) Configuration studies and related technical services undertaken as a direct selling effort to a foreign country.

(ii) Product support and postdelivery service expenses; e.g.:

(A) Operations or maintenance training, training or tactics films, manuals, or other related data;

(B) Technical field services provided in a foreign country related to accident investigations, weapon system problems, operations/tactics enhancement, and related travel to foreign countries.

(iii) Costs associated with the implementation of DoD offset arrangements.

(iv) Costs that are the subject of advance understanding, in accordance with the appropriate provisions of FAR Part 31, or where the advance understanding places a limit on the amounts of cost that will be recognized allowable in defense contract pricing, and the understanding contemplated that it will apply only to DoD contracts for the U.S. Government's own requirements (as distinguished from contracts for FMS).

(2) Costs that are not allowable under FAR Part 31 are not allowable in pricing FMS contracts.

(3) The provisions of Section 203, Pub. L. 91-441, do not apply to contracts for Foreign Military Sales. Therefore, the ceiling limitations or the formula constraints on bid and proposal (B&P) costs incorporated in Part 231, and on independent research and development (IR&D) costs incorporated in Part 231 shall not be applicable to contracts for Foreign Military Sales. IR&D and B&P costs allowed on contracts for Foreign Military Sales shall be limited to their allocable share of the total expenditures. In pricing contracts for Foreign Military Sales, the best estimate of reasonable costs shall be used in forward pricing. Actual expenditures, to the extent that they are reasonable, shall be used in determining final cost.

(4) Pursuant to Section 21(e)(1)(A) of the Arms Export Control Act, as amended, the United States shall make appropriate charges for administrative services in order to recover the estimated cost of administration of sales made under the Arms Export Control Act.

(d) *Government-to-government agreements.* In the event a government-to-government agreement between the United States and a foreign government, for the sale, coproduction, or cooperative logistic support of a specifically defined weapon system, major end item or support item, contains language in conflict with the provisions of (a) through (c) above, the language of the government-to-government agreement shall prevail.

225.7305 Sales commissions and contingent fees on foreign military sales.

(a) *Scope.* This section provides policies and procedures for determining the applicability and allowability of sales commissions and contingent fees on FMS purchases. It supplements the policies contained in 225.7304(c)(1)(i), FAR Part 31, and FAR Subpart 3.4.

(b) *Policy.* Sales commissions and contingent fees are allowable under defense contracts; *provided;* that, in accordance with FAR Part 31 and FAR Subpart 3.4, the commissions or fees are paid to a bona fide employee or a bona fide established commercial or selling agency maintained by the prospective contractor (hereinafter referred to as contractor) for the purpose of securing business (but see 225.7305(f)). For FMS, it is extremely difficult for the Department of Defense to verify the services rendered or the value of services by bona fide employees or bona fide established commercial or selling agencies. Therefore, it is the policy of the Department of Defense that the allowable cost of sales commission and contingent fees (as defined in FAR Subpart 3.4) anticipated to be included in FMS contracts is limited to $50,000, and such fees or commissions shall be made known to the purchasing government prior to or in conjunction with the submission of the DoD Offer and Acceptance (DD Form 1513) to that government.

(c) *DoD offer and acceptance procedures.*

(1) In submitting an Offer and Acceptance to a foreign government which is known to contain a sales commission or fee, the Department of Defense will include:

(i) The name and address of the sales representative;

(ii) The estimate of the proposed fee, along with a statement as to the percentage of sale involved if such fee is based on a percentage of the sale price; and

(iii) A statement indicating one of the following, whichever is applicable:

(A) Appropriate officials within the U.S. Department of Defense considered the fee to be fair and reasonable;

(B) In the event only a portion of the proposed fee is considered fair and reasonable, a statement to this effect, together with the rationale therefor; or

(C) The U.S. Department of Defense cannot determine reasonableness of the proposed fee. The notification in the Offer and Acceptance may also include the contractor's explanation of or justification for the proposed charge, together with any other data which may be requested by the purchasing government.

(2) The Offer and Acceptance also will include a statement to the effect that acceptance of the offer by the purchasing government, after receipt of the appropriate notification outlined above, will constitute that government's approval of the sales commission or fee involved. No fee shall be accepted by the Department of Defense if disapproved by the purchasing government.

(3) There may be occasions, as when FMS requirements are to be fulfilled by

competitive acquisitions, when it is not possible to determine prior to presentation of the Offer and Acceptance whether or not the price to be paid for material or services will include sales commissions and fees. In such cases, the purchasing government will be notified (by DoD officials responsible for presentation of the Offer and Acceptance) as soon as possible if subsequent contract negotiations indicate that a sales representative's charges will be claimed by the contractor. This notification will include the information outlined in (c)(1) above, along with an indication that the Department of Defense will determine whether or not to accept such costs as a valid charge to the contract, unless contrary notification is received from the purchasing government within 30 days of the date of the notification.

(4) If in making the determination required by FAR Subpart 3.4 and (d)(3), the responsible contracting official determines that a sales representative is not bona fide for reasons other than reasonableness of fee, no Offer and Acceptance will be tendered pending withdrawal by the prospective contractor of the fee for such sales representative from his proposal.

(d) *Applicability and allowability of sales commissions or fees.*

(1) When a contracting officer is requested to obtain price and availability data from a contractor to support the tendering of an Offer and Acceptance, he shall require the contractor to identify the amount of any sales commissions or fees. Allowable costs for sales commissions or fees applicable to contracts for FMS shall not exceed $50,000 per contract (including all modifications and subcontracts thereto) for each foreign customer served by that contract. Although commissions and fees may be less than $50,000 per contract, all such commissions and fees must be justified and supported, based on the criteria in (d)(2) below. If deviations to this policy are considered necessary, FAR 1.4 shall apply. In addition, sales commissions or fees shall not be allowed for follow-on spares provided under DoD Cooperative Logistic Supply Support Arrangements.

(2) In order to provide the appropriate notice and advice regarding sales commissions and fees to a foreign government at the time an Offer and Acceptance is submitted, the contracting officer except with respect to those contracts excluded in FAR Subpart 3.4, shall:

(i) Require the contractor to submit a Contractor's Statement of Contingent or Other Fees (Standard Form 119) (including any such fees claimed by subcontractors);

(ii) Determine under FAR Subpart 3.4 whether a bona fide employee or agency relationship exists (for the purposes of FMS, the definition in FAR Subpart 3.4 of improper influence also extends to officials of the foreign government);

(iii) Require the contractor to submit a breakdown of the fee related to the services performed by the sales representative. Even though a bona fide employee or agency relationship is determined to exist, the basic test of reasonableness for the purposes of making the statement required by 225.7305(c)(1)(iii) is an assessment of the services provided, or to be provided, compared to the amount of the fee. In addition to the fee breakdown of services, a comparative analysis may be made of the proposed fee/commission with recent payment for comparable services under commercial sales (non-FMS) of the same or similar items, and sales commissions and fees allowed on previous FMS sales of comparable scope and dollar amounts. In analyzing the fee, consideration should be given to whether the sale is the initial or follow-on sale because the effort for follow-on sales of additional quantities, spares and support equipment would not normally be as great as the effort for the initial sale.

(3) The PCO shall make a determination with respect to a bona fide employee or agency relationship and reasonableness of the commission or fee (i.e., one of the 225.7305(c)(1)(iii) fee statements), subject to the approval of the chief of the contracting office.

(e) *Contracting procedures relating to sales, commissions and fees.* If, after notification by DOD officials responsible for presentation of the Offer and Acceptance to a foreign government as required by (c) above, the foreign government disapproves the fee, or a portion of the fee, the contracting officer shall notify the prospective contractor and request withdrawal of the fee for the sales representative from the proposal. Should the contractor refuse to withdraw the fee, the Department of Defense will notify the foreign government that the Department of Defense is unable to purchase the items or services from that contractor.

(f) *Special country requests with respect to sales commissions and fees.* Pursuant to DoD Manual 5105.38–M (Military Assistance and Sales Manual), Letters of Offer and Acceptance for requirements for the governments of Australia, Taiwan, Egypt, Greece, Iran, Israel, Japan, Jordan, Republic of Korea, Kuwait, Pakistan, Philippines, Saudi Arabia, Turkey, Thailand, United Arabe Emirates, or Venezuela (Air Force) are required to provide that all U.S. Government contracts resulting from the Letters of Offer shall prohibit the payment of sales commission and fee unless such payments have been identified and payment thereof approved in writing by the government involved before contract award. Therefore, the contracting officer shall on behalf of these purchasers, insert the clause at 252.225–7017, Limitation of Sales Commissions and Fees for Foreign Governments, in all solicitations and contracts for FMS requirements unless such payment has been approved.

225.7306 Recovery of nonrecurring costs.

(a) *Policy.* It is the policy of the Department of Defense to recover a fair share of its investment in nonrecurring costs related to defense products, and/or a fair price for its contribution to the development of related technology, when such products are sold and when technology relating to the manufacture of the products is sold or licensed to a foreign government, international organization, foreign commercial firm, or domestic organization. Furthermore, in selected cases, it is DoD policy to recover, on behalf of a foreign government or international organization, a fair share of the nonrecurring costs for a special feature or product paid by the foreign government or international organization under a foreign military sales case when subsequent customers purchase the same specialized feature.

(b) *Applicability.*

(1) This policy applies to those products and technologies for which investment costs equal or exceed $5 million for any of the following:

(i) nonrecurring research, development, test, and evaluation (RDT&E) costs to develop defense products and related technology. The determination of RDT&E costs shall be based upon the current and predecessor models of an item or equipment.

(ii) nonrecurring production costs.

(iii) RDT&E and nonrecurring production costs for special features under a foreign military sale, when requiested by the FMS customer and agreed to by the U.S. Government.

(2) In the event an end item contains one or more components which individually meet the above thresholds, recoupment will be made on a component when sold separately.

(3) In the case of product sales, if the dollar threshold is met for either nonrecurring RDT&E or production costs, recoupment for both categories of investment costs will be charged.

(c) *Procedures.* Charges shall be computed and assessed by the DoD officials responsible for presentation of the DD Form 1513. Such charges shall not be included in the contractor's proposed price.

225.7307 Source selection.

(a) Purchases for FMS customers shall be implemented under normal acquisition and contract management procedures set forth in the FAR and this supplement, and other directives. However, the FMS customer may request that a defense article or defense service be obtained from a particular prime source. In such cases, FAR 15.210 provides authority to negotiate on a sole source basis. The FMS customer may also request that a sole source subcontract be placed with a particular firm. The contracting officer shall honor requests for sole source prime and subcontracts from the FMS customer as specified in the Letter of Agreement or other written direction by the military sales oganization.

(b) Representatives of the FMS customer shall not be permitted to direct the deletion of names of firms from bidders mailing lists or slates of proposed A-E firms. They may, however, suggest that certain firms be included. Contracting offices shall not accept directions from the FMS customer as to source selection decisions or contract terms (other than the special contract provisions and warranties referred to in Condition A.2 of the DD Form 1513), nor shall the FMS customer be permitted to interfere with a prime contractor's placement of his subcontracts. Requests by the FMS customer for rejection of any bid or proposal shall not be honored unless the rejection is justified on the basis of reasons which would be sufficient in the case of a purchase by the Department of Defense to meet its own needs.

225.7308 Limitation of liability.

In acquisitions for FMS, the foreign purchaser shall be advised that the appropriate Limitation of Liability clause(s) (see FAR Subpart 46.8) is included in the FMS contract (see Condition C on the DD Form 1513). If the foreign customer does not agree to assume the risk for loss or damage as provided in the clause(s) and objects to the inclusion of such clause(s) in the Offer and Acceptance, the contractor shall be so advised. The costs of necessary insurance, if any, to be obtained by the contractor to cover such risk of loss or damage shall be considered in establishing the FMS contract price of such items.

225.7309 Exercise of options for foreign military sales.

Exercising an option to satisfy an FMS requirement may introduce the need to consider changes to costs and profit attributable to pricing differences between U.S. and FMS contract requirements. Such consideration may also be necessary if the option is already identified for FMS but it is exercised for country B requirements instead of the country A requirements to which it was priced. In order to provide for and better permit the inclusion of priced options in the contract and their subsequent exercise for FMS requirements whether or not the specifics are fully known at the time of award, the contracting officer should consider the use of the clauses prescribed at 217.207(70).

225.7310 Implementation of offset arrangements negotiated pursuant to foreign military sales agreements.

(a) *Scope.* This section sets forth policies and procedures concerned with the fulfillment of Department of Defense offset arrangements negotiated pursuant to an FMS agreement. An "FMS/offset arrangement" is that which is negotiated pursuant to an FMS agreement wherein the Department of Defense agrees to place on a contractural basis and consistent with the guidance in 225.7310(b)(2), a certain percentage of the FMS agreement dollar value or a stated dollar objective in that country with which the FMS agreement has been negotiated. The purpose of an FMS/offset arrangement is to fulfill commitments negotiated pursuant to an FMS agreement. Australia, Belgium, Denmark, Netherlands, Norway, and Switzerland have FMS/offset arrangements negotiated pursuant to FMS agreements. However, Belgium, Denmark, Netherlands, and Norway are also participating NATO countries and are accorded preferences under Subpart 225.74.

(b) *General.*

(1) Since May 4, 1978, it has been DoD policy not to enter into government-to-government offset agreements because of the inherent difficulties in negotiating and implementing such arrangements. Exceptions to this policy must be approved by the Secretary of Defense or his Deputy and will only be made when there is no feasible alternative to ensure the successful completion of FMS transactions considered to be of significant importance to the national security interests of the United States.

(2) When authorized, offset provisions typically require the Military Departments or U.S. prime contractors, or both, to identify items for which foreign sources may obtain contracts up to a specified offset level and in accordance with the terms and conditions of the particular DoD offset agreement. Normally, FMS/offset arrangements should be negotiated prior to the FMS agreement Offer and Acceptance in order that the Department of Defense and its prime contractors will have an opportunity to assess in advance the DoD's or contractor's ability to fulfill the FMS/offset arrangement, and include in the offer those DoD and contractor costs associated with such arrangements.

(3) If an exception is granted pursuant to paragraph (b)(1) above, the policy of the Department of Defense is that the domestic concerns involved in the FMS and the foreign customer will make suitable arrangements to fulfill an FMS/offset arrangement. Only if it is determined that the FMS offset arrangement cannot be fulfilled in this fashion will the Department of Defense seek to fulfill the offset commitments through other defense purchases. When practical, the U.S. prime contractor shall be contacted and coordination obtained prior to the Government's committing the U.S. prime contractor's participation.

(4) The Defense Security Assistance Agency (DSAA) acts as the focal point within the Executive Branch for interagency coordination on offset policy in consultation with the Office of the Assistant Secretary of Defense (International Security Affairs), from which DSAA derives overall policy guidance. The Office of the Under Secretary of Defense for Research and Engineering (OUSDRE) is responsible for matters pertaining to the fulfillment of the offset portion of FMS agreements. General information regarding the existence of FMS/offset arrangements with particular countries or implementation of such arrangements may be obtained by submitting inquiries through the Departments to the Director for International Acquisition, OUSDRE(AM).

(c) *Procedures.*

(1) Whenever an FMS agreement involves a single major weapon system, the Department responsible for acquisition of the weapon system will be responsible for managing any resulting FMS/offset arrangement. If an FMS agreement involves the sale of items from two or more Departments, OUSDRE may either direct that one Department be responsible for coordinating the implementation of the FMS/offset arrangement, or apportion responsibility for managing the offset program among two or more Departments. Such management

includes (i) the development of special contractual provisions consistent with (c)(4) below; (ii) the consideration of other DoD contract items for competition by foreign sources (to the extent other defense purchasing is involved or becomes necessary); and (iii) the obtaining of appropriate exemptions by the Secretary of the purchasing Department concerned from the Buy American Act under FAR 25.102, the Balance of Payments Program, duty and other applicable acquisition restrictions on a purchase-by-purchase basis of defense equipment. (See sample Determination and Findings set forth in (c)(2)(i) below for the exemption of the Buy American Act.) Even though a Military Department or Defense Agency is not responsible for the management of a certain FMS/offset arrangement, it will consider, for competitive acquisitions, offers of defense equipment from FMS/offset arrangement country sources.

(2) Solicitation of FMS/offset arrangement country sources shall be accomplished using procedures like those set forth in 225.7403(a)(1) for participating countries (see also 225.402(b)). When soliciting sources outside the United States, international air mail shall be utilized where security classification permits. See 214.202–1, FAR 14.203–1, and FAR 15.408(c). For the purpose of evaluating an FMS/offset arrangement country offer, it shall be treated as if it were a participating country offer and evaluated in accordance with 225.7403(a)(3). If after such evaluation, it is clear that the FMS/offset arrangement country offer is low or otherwise eligible for award, the contracting officer shall request from the Secretary of the Department concerned the appropriate exemptions for the acquisition as set forth in (2)(i) below. The list set forth at 225.7405 shall also apply to FMS/offset arrangement countries as shall 225.402(b).

(i) To obtain an exemption, under FAR 25.102, of the Buy American Act, the contracting officer shall process a Determination and Findings for the signature of the Secretary of the Department or Agency concerned. The Determination and Findings shall be substantially as follows for end items, or modified as necessary for components.

Service or Agency Exemption of the Buy American Act (41 U.S.C. 10a–d) Determination and Findings

Upon the basis of the following findings and determination which I hereby make in accordance with the provisions of FAR 25.102, acquisition of an (FMS/offset arrangement country) (describe item) may be made as provide below.

Findings

1. The (Contracting Acitvity) proposes to purchase ————, under contract number ——, mined, produced or manufactured in (country of origin). The total estimated cost of this acquisition is ——.

2. The United States Government (USG) and the Government of ———— have entered into an FMS/offset arrangement whereby the Government of ———— will purchase US defense articles and services and the USG, through the Department of Defense (DoD), if necessary, will offer potential DoD requirements suitable for purchase of (FMS/offset arrangement country) defense items.

3. The Agreement provides that competitive offers (FMS/offset arrangement country) end products will be evaluated by the Department of Defense without imposing any price differential under the Buy American Act or Balance of Payments Program and without taking applicable U.S. customs and duties into consideration so that (FMS/offset arrangement country) items may better compete, for sales of defense equipment to the Department of Defense. In addition, the Agreement stipulates that acquisitions of (FMS/offset arrangement country) items must fully satisfy Department of Defense requirements for performance, quality, and delivery and shall cost the Department of Defense no more than would comparable U.S. source or other foreign source defense equipment eligible for award.

4. In other to achieve the above objectives, the solicitation contained the Buy American Act and Balance of Payments Program clause, 252.225–7001, or the Buy American Act, Trade Agreements Act, and the Balance of Payments Program clause, 252.225–7006 which state that an exemption from the application of the Buy American Act may be granted by the Secretary of the Department concerned. Offers were solicited from other sources and the offer received for an (FMS/offset arrangement country end item) is found to be acceptable.

Determination

Pursuant to the Buy American Act (41 U.S.C. 10a–d), I hereby determine that it is inconsistent with the public interest to apply the restrictions of the Buy American Act to the proposed offer.

(Date) ————————————————

(Secretary of Department)

(3) To assure that the policy of 225.602 is carried out regarding the issuance of duty-free entry certificates, the contracting officer shall include the clauses at FAR 52.225–10, Duty-Free Entry, and 252.225–7007, Supplies to be Accorded Duty-Free Entry, in contracts which either contribute, or anticipate to contribute, to the fulfillment of an FMS/offset arrangement.

(4) The clause set forth at 252.225–7018, Offset Arrangement, shall be used in a contract when the domestic concern involved in the Foreign Military Sale has accepted responsibility for accomplishing any portion of an FMS/offset arrangement. (Paragraph (a) of the clause should be modified as necessary to state any special terms and conditions of the FMS/offset arrangement, such as competitive prices or otherwise, period of offset accomplishment, special type nature of offset required, and so forth.

(5) When an FMS/offset arrangement program is structured to provide offset potential on a number of DoD purchases, as opposed to only within the prime FMS contracts, DoD solicitations which contemplate proposals of FMS/offset arrangement country end products should indicate that the price evaluation of offers will be accomplished without the application of the Buy American Act or the Balance of Payments Program differentials or duty, which would otherwise be applied to the price evaluation in accordance with other paragraphs of this Part 225. If on the basis of such evaluation, an offeror proposing an end product from an FMS/offset arrangement country source is low, the matter will be forwarded to the Secretary of the Department for consideration as to whether it would be in the public interest to exempt the end product from the restrictions of the Buy American Act (see FAR 25.102) and the Balance of Payments Program regulations. FMS/offset arrangement country sources, in competing for DoD purchases under a DoD FMS/offset program, must be responsive to the terms and conditions of DoD solicitations unless otherwise specifically provided for in the FMS/offset arrangement with the FMS/offset arrangement country. DoD contracting activities must also comply with all other laws and regulations governing foreign purchases, such as security restrictions and disclosure of information to foreign nationals.

(6) In a general FMS/offset arrangement which contemplates foreign competition with U.S. sources for defense contracts (as opposed to one structured to be accomplished within the FMS prime contracts for that sale), the preferable procedure is to require the foreign government to propose, from time to time, specific defense-related items which appear susceptible to competition by companies in that country. When such proposals are made, the foreign government will include the names and addresses of the foreign sources which that foreign government considers qualified to perform the work. However, in order to ensure fulfillment of the FMS/offset arrangement within the specified time limits, the Departments are also expected to exercise initiative in seeking out items

which might be suitable for such foreign competition and in making arrangements through the foreign government, if necessary, to identify suitable sources.

225.7311 Use of Government production and research property on work for foreign governments or international organizations.

(See 45.405.)

225.7312 Exclusionary policies and practices of foreign governments.

All contracts for the purchase of goods or services for Military Assistance Programs (MAP), International Military Educational Training (IMET), and Foreign Military Sales (FMS) shall include the clause in 252.225-7019, Exclusionary Policies and Practices of Foreign Governments.

225.7313 Nonapplicability of rates.

Nonapplicability of rates under 49 U.S.C. Section 10721 (formerly "Section 22 Rates").

(See FAR 47.104-2.)

225.7314 Specific FMS/offset agreements.

Specific FMS/Offset Agreements are included in Appendix T, Subpart 1.

Subpart 252.74—Purchases From NATO Participating Country Sources

225.7400 Scope of subpart.

This subpart implements the Memoranda of Understanding (MOU) between the United States and participating countries.

225.7401 Policy.

In order to increase the defense capabilities of NATO through more efficient cooperation in the field of research and development, production, and acquisition of defense equipment, the United States has entered into Memoranda of Understanding with Canada, the Federal Republic of Germany, the Government of Italy, the United Kingdom of Great Britain and Northern Ireland (U.K.), the Government of Norway, the Kingdom of the Netherlands, the Government of Portugal, the Government of Belgium, the Government of Denmark, the Government of France, the Government of Turkey, the Government of the Grand Duchy of Luxembourg, and the Government of Spain. The objective of each MOU is to facilitate the defense of North America and Europe so as to achieve:

(a) Greater cooperation in research, development, acquisition, and production

(b) The most rational use of their respective industrial, economic, and technological resources;

(c) The greatest attainable military capability at the lowest possible cost; and

(d) Greater standardization and interoperability of their weapon systems.

Accordingly, it is DoD policy to seek the best possible coordination of the materiel program between the participating countries and the United States and to ensure that sources from participating countries are provided every opportunity to compete on a fair and equal basis with U.S. sources for research and development and for production contracts consistent with 225.7402(b). Accomplishment of this policy requires exemption of foreign acquisition restrictions with respect to all items of defense equipment from participating countries. (See also 225.402(b).)

225.7402 MOUs with NATO participating countries.

(a) The MOUs set forth acquisition policies with respect to defense equipment from sources in participating countries.

(b) *Applicability.* This subpart applies except where restricted by (1) provisions of U.S. National Disclosure Policy (NDP), DoD Directive 5230.11; (2) U.S. defense mobilization base requirements as specified in 208.73, 208.74, and 208.75; (3) U.S. laws or regulations (e.g., the annual DoD Appropriations Act (Subpart 225.70); and (4) U.S. Industrial Security Requirements.

225.7403 Procedures for purchases from participating countries.

(a) *Solicitation procedures.*

(1) *Solicitation of sources in participating countries.*

(i) Participating country sources shall be included on bidders mailing lists and comparable source lists upon request by such sources in accordance with the procedures in FAR 14.205. Requests of this nature should be forwarded by participating country sources to the activity having acquisition responsibility for the supplies involved.

(ii) The normal criteria for soliciting and making awards under FAR Part 19 for small business concerns and FAR Part 20 for labor surplus area firms shall be utilized without regard to the fact that there are potential participating country sources for the end product, except items developed under the U.S./Canadian Development Sharing Program. Offers of a foreign end product shall not be considered on any acquisition, or part thereof, identified for the exclusive participation for such firms.

(iii) Solicitations shall be sent directly to participating country sources appearing on the appropriate bidders mailing list except when restricted by 225.105, 225.7402(b), 225.7405 and (ii) above. In addition, Canadian sources shall also be solicited through the Canadian Commercial Corporation in accordance with 225.7104. When solicitation destinations are outside the United States, international air mail shall be utilized where security classification permits (see FAR 14.202 and FAR 14.203).

(iv) Upon request, solicitations shall be furnished to the embassy or other designated place or representative of the participating country.

(v) If unusual technical or security requirements would preclude the acquisition of otherwise acceptable defense equipment from participating country sources, the need for such requirements should be specifically reviewed. Under no circumstances will unusual technical or security requirements be imposed solely for the purpose of precluding the acquisition of defense equipment from participating countries.

(vi) Participating country sources shall not be automatically excluded from submitting offers because their supplies have not been tested and evaluated by a Department. Departments which find it necessary to limit solicitations to sources whose items have been service tested and evaluated by the department shall make provision for considering supplies from participating country sources which have been tested and accepted by the participating country for service use, subject to U.S. confirmatory test, if necessary. Where it appears that these provisions might adversely delay service programs, the concurrence of the Department of Defense Acquisition Executive, USDRE, shall be obtained prior to exclusion of the participating country item from consideration. Sufficiency of participating country service testing should be considered on a case-by-case basis. When confirmatory tests of participating country end products are deemed necessary by the department, U.S. test and evaluation standards, policies, and procedures shall apply.

(vii) Subject to 225.7402(b), industry representatives from a participating country shall be permitted to attend symposia, program briefings, prebid conferences (FAR 14.207 and FAR 15.409), and like meetings which address U.S. defense equipment needs and

requirements. When practical, these meeting should be structured so as to allow attendance by representatives of participating country concerns.

(2) *Submission of offers.* Participating country sources competing for DoD requirements must be responsive to the terms and conditions of DoD solicitations.

(3) *Evaluation of offers from participating country sources.*

(i) In furtherance of the objectives set forth in 225.7401, the Secretary of Defense has determined that it is inconsistent with the public interest to apply the restrictions of the Buy American Act and the Balance of Payments Program with respect to acquisition of defense equipment (for items for civil works activities, see 225.105(75)) which is mined, produced, or manufactured in a participating country.

(ii) In accordance with the above, offers of participating country end products shall be evaluated without the application of the price differentials normally applied pursuant to the Buy American Act and Balance of Payments Program requirements contained in 225.105 and Subpart 225.3. This exemption shall further include the following consideration: In the event that a domestic offer, a participating country offer, and a nonqualifying country offer compete for defense equipment, the participating country offer shall be evaluated without applying the price differentials of 225.105, whereas the nonqualifying country offer shall be subjected to the price differentials. (See 225.105(72), Example E.) However, in the event that the low domestic offer exceeds the evaluated price of the nonqualifying country offer, all foreign offers shall be evaluated as if no domestic offer was submitted. (See 225.105(72), Example F.) In the event that a participating country offer competes against a nonqualifying country offer and no domestic offer is submitted, the participating country offer shall be evaluated on an equal basis with the nonqualifying country offer. (See 225.105(72), Example G.) Participating countries are listed at 225.7401.

(iii) As to any end product that is manufactured in the United States, all components from participating countries are treated as components mined, produced, or manufactured in the United States for the purpose of determining whether the end product is a domestic source end product.

(iv) In keeping with the policy to enhance cooperation with the participating countries, U.S. duty-free entry shall be accorded supplies from participating countries by the issuance of duty-free entry certificates. Offers of defense equipment from participating country sources shall be evaluated without application of duty. Such duty-free entry shall be accorded whenever such supplies are acquired at a prime contract or at a subcontract level. (See also 225.602 for postaward circumstances of fixed-price type contracts.) The resulting contract shall include the appropriate clause(s) referenced in 225.605.

(v) If, when evaluated in accordance with the above, an offer of a participating country end product is determined to be from the lowest, responsive, responsible offeror, the cognizant contracting officer shall normally proceed to make award to that offeror. However, there is no restriction on the authority or responsibility of the cognizant Secretary to restrict acquisitions to domestic sources or reject an otherwise acceptable offer from a participating country source in those instance where such restriction or rejection is considered necessary for reasons of the national defense.

(b) *Subcontracting with participating country sources.* In reviewing prime contractor subcontracting procedures, the contracting officer shall assure that the prime contract does not preclude participating country sources from competing for subcontracts, except when restricted by national security interest reasons or mobilization base considerations.

(c) *Required clause.* As prescribed at 225.109(d)(S–72), the clause at 252.225–7002, Qualifying Country Sources as Subcontractors, shall be inserted in solicitations and contracts.

(d) *Industrial security for participating countries.* Required procedures designed to safeguard classified defense information which may be necesary for the performance of contracts awarded to participating country sources are set forth in the DoD Industrial Security Regulation DoD 5220.22–R (implemented for the Army by AR 380–131; for the Navy by OPNAV Instruction 5540.8E; for the Air Force by AFR 205–4; for the Defense Logistics Agency by DLAM 8500.1; for the Defense Communications Agency by DCA Inst. 240–50–7; and for the Defense Mapping Agency by DMA Inst. 5520.22).

225.7404 Contract administration.

When contract administration services are requested on contracts to be performed in participating countries, except Canada, the request should be directed to the cognizant activity in accordance with DoD 4105.59–H, Section II, Part 2 (DoD Directory of Contract Administration Services Components). Contract administration services required with respect to DoD subcontracts placed by participating country sources, except Canada in the United States will be arranged by the cognizant activity in accordance with DoD 4105.59H, Section II, Part 2 (DoD Directory of Contract Administration Services Components).

225.7405 List of excluded items.

The policies and procedures of this subpart do not apply to offers of the following items of defense equipment unless the quantity being acquired is greater than that required to maintain the U.S. defense mobilization base. This restriction does not apply to Canadian Planned Producers. Items may be added to or deleted from the list from time to time. Information concerning this list may be obtained from OUSDRE(AM), International Acquisition. (See also Subparts 208.73, 208.74, and 208.75.)

Navy

Fuzes, Safe and Arm Devices, and Similar Items
- MK–13 Safe and Arm Device
- MK–13 Triggering Device
- MK–17 Safe and Arm Device
- MK–33 Safe and Arm Device
- MK–330 Fuze
- MK–334 Fuze
- MK–404 Fuze
- MK–407 Fuze
- FMU–109 Fuze

Missiles and Missile Components
- AIM–7F Sparrow Missile
- Guidance and Controls Section
- MK–58 Rocket Motors
- MK–71 Warhead Metal Parts

AIM–9L Sidewinder Missile
- Guidance and Control Section
- MK–36 Rocket Motors
- DSU–15 Target Detector
- AN/WDU–17 Warhead
- MK 1 Wing and ANM/BSU–32 Fins

Trident I (C–4) Missile System
- Guidance and Control System
- MK–5 Electronic Assemblies (EA)
- MK–5 Inertial Measurement Unit Electronics (IMUE) and Monitor Component Assembly (MCA)
- Backfit of Poseidon (C–3) SSBNs

Flares
- MK–46 Flares, Infrared Decoy

Sonobuoys and Components
- AN/SSQ–36
- AN/SSQ–41B
- AN/SSQ–53A
- AN/SSQ–57A
- AN/SSQ–62

Ship Gun Systems
- MK–75 Gun Mounts

Submarine Systems
- Type 18B/D Periscope System
- TR 155 K 33 Transducers

Military Sealift Cargo
- Ocean Transportation and Services

Air Force

MAC Commercial Airlift
GAU-8/A and 30mm Ammo

Defense Logistics Agency

Textiles—Worsted

Army

L.A.P., manufacturing and testing of projectiles (5.56 mm through 8 inch), mines, dispensers, rockets, pyrotechnic devices, grenades, demolition charges, small arms ammunition and components, fuzes and components containing mechanical timing devices)
TOW Missile and Launcher
2.75 Rocket Items
- LAP Motor
- Fin & Nozzle Assembly
- Stabilizer Rod
- Felt Washer
- Ring Charge Support
- O Ring
- Metal Spacer
- Intervelometer
- Igniter
- Motor Tube
- Seal Rings
- Disc Charge Support
- Spacer Charge Support
- Lockwire
- Launcher
- Fin Blades

Projectile Metal Parts for Cartridge 105mm (Beehive)
Projectile M406, M107—155mm
Projectile M509—8 inch
Projectile M735
Projectile M735, Metal Parts and Cores
Projectile M718, M141
155mm Cannister, XM625, XM620:
- Projectile Metal Parts for Cartridge 90mm

255mm Projectile, AT M718/M741 (RAAM):
- Component, Electronic Assemblies

Cartridge Case M118, M14B4
Fuze:
- M1 Delay
- MK-1
- MK-30
- MK-38 Energizer
- MK-40 Energizer
- MK-54
- MK-73-13
- MK-339-1/Inert
- MK-379
- MK-393/403
- MK-404
- MK-407
- FM-54B
- M19
- M42/46
- M62A2
- M91A2
- M84A1
- M114 S&A
- M118 S&A
- M201A1
- M213
- M19E1
- M223
- M228
- M427/M423
- M494/571
- M505A3
- M505
- M509A2
- M564
- M585
- M567 (Comp Pts/Rewk)
- M577/M582
- M578
- M578 (Comp Pts)
- M732:
  - Elec Head Final Assembly
  - Detonator
  - Power Supply
  - Sleeve
  - Elec Timer, W/IC
  - M904E3

Casing Burster Warhead, M156
Assy M258, M170
- Body Assy and Base Plug, M404
- Bomb, M117A1E1
- Launcher Rocket 2AU 68A/A
- Warhead Flechets WDU 4A/A
- M18 Mine Program Blasting Cap, Firing Device, Metal Parts, Test Sets
- Laser Range Finder VVG-2 and M21 for Solid State Ballistic Computer for M60 Series Tank
- Limited Light Sight
- MX-9644 Image Intensifier Tube 25mm
- MX-7845 Image Intensifier Tube (1st generation)
- MX-8501 Image Intensifier Tube (1st generation)
- BA-4386 Battery
- AN/PVS-4 Night Vision Sights
- AN/PVS-5 Night Vision Goggles
- AN/PVS-5A Night Vision Goggles
- AN/VVS-2 Viewer
- AN/VSS-3 Searchlight
- Common Module Program (Thermal Imaging System) Tactical Night Vision Systems—
  - AN/TAS-4
  - AN/TAS-5
  - AN/TAS-6
  - GLLD/TAS-4
- Machine Gun M240
- Machine Gun M240 Spare Parts
- Electronic Time Fuze XM587E2/XM724
- Power Supply PS127
- Fuze Setter XM36E1
- Tank Thermal Sights AN/VSG-2
- Night Vision Goggles AN/PVS-5A
- Image Intensifier Assembly MX-9916-UV
- Battery, Dry BA-4386
- Maintenance of idle portions of 21 GOCO facilities
- Consolidated Facilities Scranton AAP
- Hydraulic Turbine (Civil Works)

225.7406 Specific reciprocal memoranda of understanding with NATO participating countries.

Specific reciprocal memoranda of understanding with NATO participating countries are included in Appendix T, Subpart 2.

Subpart 225.75—Purchases From Defense Cooperation Country Sources

225.7500 Scope of subpart.

This subpart implements the defense cooperation agreements made by the United States pursuant to other than Foreign Military Sales agreements.

225.7501 Policy.

In order to increase their respective defense capabilities through more efficient cooperation in the research and development, production, and acquisition of defense equipment, the United States and the Governments of Israel and Egypt have entered into a defense cooperation agreement. The purpose of this agreement is to promote the most cost-effective and rational use of defense appropriations of the United States and the defense cooperation country. Accordingly, it is Department of Defense policy to achieve the best possible coordination of the materiel programs between such countries and the United States and to ensure that sources in defense cooperation countries are provided the opportunity to compete on a fair and equal basis with U.S. sources for selected research and development, production and service contracts subject to the restrictions of 225.7402(b). Accomplishment of this policy requires the exemption of certain Buy National laws and foreign acquisition restrictions with respect to selected defense equipment purchased from defense cooperation country sources. For the purposes of solicitation and evaluation of such selected defense equipment, offers of defense cooperation country end products shall be treated as if they were participating country end products, except as provided in 225.402(b).

225.7502 Procedures.

(a) *Solicitation procedures.* Defense cooperation country sources shall be solicited as if they were sources from participating countries. The procedures set forth at 225.7403(a)(1) shall apply.

(b) *Submission of offers.* Defense cooperation country sources competing for DoD requirements must be responsive to the terms and conditions of DoD solicitations. The Buy American Act and the Balance of Payments Program restrictions are waived only for items listed in appropriate annexes to the agreements with the defense cooperation country. However, the absence of an item from the defense equipment list is without prejudice to the authority of the Secretary to determine in any individual case that application of the restrictions to that item would be inconsistent with the public interest. Copies of these lists may be obtained from the Director for International Acquisition, OUSDRE(AM).

(c) *Evaluation procedures.* Defense cooperation country offers shall be evaluated as if they were participating

country offers. The procedures set forth at 225.7403(a)(3)(ii) shall apply.

(d) *Other procedures.* Contracting procedures, industrial security procedures and contract administration procedures for defense cooperation country sources shall be conducted as if they were sources from participating countries. The procedures and policies set forth at 225.7403(c), 225.7404, and 225.7405, and throughout this regulation shall apply.

225.7503 Specific memoranda of understanding with defense cooperation countries.

Specific memoranda of understanding with defense cooperation countries are included in Appendix T, Subpart 3.

Subpart 225.76—Use of U.S.-Owned Foreign Currency for Payments

225.7600 Scope of subpart.

This subpart implements the Government's policy that U.S.-owned foreign currency be used when feasible in payment of purchases in foreign countries.

(a) This subpart applies to acquisitions of supplies, services, or construction for use outside the United States.

(b) This subpart does not apply to acquisitions (1) funded from Special Foreign Currency Program Appropriations; or (2) made under Subpart 225.1.

225.7601 Definitions.

As used in this subpart, the following terms have the meanings set forth below:

"Excess Foreign Currency" means currency that has been determined by the Department of the Treasury to be in excess of foreseeable requirements of the U.S. Government. Countries in which the United States owns excess foreign currency are listed in 225.7607(a).

"Near-Excess Foreign Currency" means currency that has been determined by the Department of the Treasury to be above the immediate requirements of the U.S. Government. Countries in which the United States owns near-excess foreign currency are listed in 225.7607(b).

"U.S. Dollar Content" means the U.S. dollar cost to an offeror for domestic source end products or services (including costs of transportation furnished by U.S. flag carriers) imported directly from the United States and to be used in performance of a contract, as certified by the offeror.

"U.S.-Owned Foreign Currency" means currency of a foreign country which currency is:

(a) Owned by the United States;

(b) Determined excess or near-excess by the United States Department of the Treasury;

(c) Available in the country of issuance to pay obligations of the United States within that country; and

(d) Disbursed by the United States Treasury Disbursing Officer in the country concerned, either directly to the contractor or to the military disbursing officer, as appropriate.

225.7602 Procedures.

(a) Except as provided in (c) below, when supplies, services, or construction for use outside the United States are to be purchased, the solicitation shall contain the provision in 252.225–7020, Option to Award and Pay in United States Owned Foreign Currency, when it can reasonably be expected that (1) contracts will be performed in whole or in part in a country in which there is U.S.-owned foreign currency; or (2) a contractor (domestic or foreign) may be willing to accept U.S.-owned foreign currency in payment in whole or in part.

(b) Failure to state a price in U.S.-owned foreign currency, either in whole or in part, shall not in itself cause an offer to be considered nonresponsive to a solicitation.

(c) Requests for quotations for purchases described under small purchase procedures for delivery within a country in which there is U.S.-owned foreign currency shall be limited to be the local trade area of that country; and, to the extent feasible within the criteria in 225.7606, shall require quotations to be stated only in the U.S.-owned foreign currency of that country.

225.7603 Evaluating offers.

(a) *Conversion for evaluation purposes.* For purposes of evaluation, offers expressed in whole or in part in U.S.-owned foreign currency shall be converted to show their equivalency in U.S. dollars at the rate of exchange used by U.S. disbursing officers for such currency on the date set for receipt of offers.

(b) *Excess foreign currency offers.* Subject to (d) below and to the award limitations in 225.7604, reference for acceptance of offers in excess foreign currency or in combinations of excess foreign currency and U.S. dollars shall be in the following order, even though the offer preferred may not be the lowest in price:

(1) The lowest responsive offer in whole in an excess foreign currency. If equal low offers are received and one or more contain a U.S. dollar content which is not required to be paid in U.S. dollars, that offer which contains the greatest U.S. dollar content shall be preferred.

(2) When the only responsive offers in excess foreign currency also contain a U.S. dollar content for which payment in U.S. dollars is required and is limited to that content, that offer which results in the lowest expenditure of U.S. dollars.

(3) When the only responsive offers in excess foreign currency also require payment in part in U.S. dollars which are not limited to the U.S. dollar content, that offer which results in the lowest expenditure of U.S. dollars. If equal low offers are received and one or more contain a U.S. dollar content and others contain no U.S. dollar content, that offer which contains the greatest U.S. dollar content shall be preferred.

(4) When responsive offers in combinations described in (b) (2) and (3) above are received, the lowest offer evaluated under (b)(2) above.

(5) When responsive offers are received in U.S. dollars only, the lowest such offer. If equal low offers are received and one or more contain a U.S. dollar content, that offer which contains the greatest U.S. dollar content shall be preferred.

(c) *Near-excess foreign currency offers.* The lowest responsive offer in whole or in part in a near-excess foreign currency which does not exceed the lowest responsive offer in U.S. dollars shall be preferred over the U.S. dollar offer. Offers in excess foreign currency shall always be preferred over offers in near-excess foreign currency.

(d) *Consideration of combination offers.* When responsive offers received include some which are priced only in U.S. dollars and others in combinations of U.S. dollars and excess or near-excess foreign currency, a combination offer shall not be considered for award if the U.S. dollar amount of that offer exceeds the dollar amount of the lowest responsive offer in U.S. dollars only.

(e) *Evaluation Table.* The following table illustrates the evaluation of offers received in whole in excess foreign currency, in combinations of excess foreign currency and U.S. dollars, and in U.S. dollars only.

Evaluation Table

Offers received are priced in U.S. dollars and "X" Country's rupees. Applicable exchange rate assumed for this table is 3 rupees equal 1 dollar.

Offers	In excess currency only	In combination excess currency—U.S. dollars	In U.S. dollars only	In U.S. dollars as converted (see 6-1105.1)	U.S. dollars content	Preference	
						For award	See footnote
1	360R			$120 ($20 + $80)	$0	1	3
2		60R + $80		$100 ($6 + $95)	0	8	4
3		18R + $95		$101 ($20 + $90)	0	None	4
4		60R + $90		$110	0	7	4
5			$94	$94	0	9	5
6	450R			$150 ($20 + $90)	$50	2	3
7		60R + $90		$110	$90	4	4
8			$94	$94	$50	6	5
9	450R			$150 ($20 + $80)	$0	3	3
10		60R + $80		$100	$50	5	4

Notes to Evaluation Table

1. All offers are assumed to be responsive.
2. The lowest offer in U.S. dollars only is $94. Therefore, $141 ($94.00 plus $47) is the maximum amount for which the contracting officer has authority to award without referral under 225.7604(b).
3. Offers 1, 6, and 9 are entirely in excess foreign currency and are given first consideration. Offer 1, being the lowest, is preferred for award. In the absence of Offer 1, Offer 6 would be preferred because it contains a U.S. dollar content of $50. In the absence of Offers 1 and 6, Offer 9 would be preferred. In accepting Offer 1, 6, or 9, the DoD Appropriation would be charged $94 (see 225.7604(a)). Before Offer 6 or 9 could be accepted, they would require referral under 225.7604(b).
4. Offers 2, 3, 4, 7, and 10 are combination offers and would be given consideration in the absence of Offers 1, 6, and 9, or in the absence of Offer 1 and in case Offers 6 and 9 were not approved by higher authority after referral under 225.7604(b). Offer 7 would be preferred over Offers 2, 3, 4, and 10 because it contains a U.S. dollar content and the part to be paid in U.S. dollars is limited to that content. In the absence of Offer 7, Offer 10 would be preferred over Offers 2, 3, and 4 because it contains a U.S. dollar content of $50, and, although the part to be paid in U.S. dollars is more than that content, it would result in the least expenditure of U.S. dollars. In the absence of Offers 7 and 10, Offer 2 would be preferred over Offers 3 and 4 because it would result in the least expenditure of United States dollars. In the absence of Offers 2, 7, and 10, Offer 4 would be preferred. Offer 3 could not be considered for award because the U.S. dollar amount ($95) exceeds the lowest offer in U.S. dollars ($94) (see 225.7604(d)).
5. Offers 5 and 8 are entirely in U.S. dollars and would be given consideration in the absence of all other offers or in the absence of all other offers except 6 and 9 and in case those offers were not approved by higher authority after referral under 225.7604(b). Offer 8 would be preferred to Offer 5 because it contains a U.S. dollar content of $50.

225.7604 Awards.

(a) *Basis.* Award shall be made in accordance with (b) and (c) below. When unreasonable overpricing in relation to the U.S. dollar cost or the normal local foreign currency cost to non-DoD users of the same or similar items exists, the proposed acquisition shall be referred to higher authority.

(b) *Awards by the contracting officer.* The contracting officer shall have authority to award contracts as follows:

(1) To the offeror submitting the lowest responsive offer in whole or in part in excess foreign currency when that offer does not exceed the lowest responsive offer in U.S. dollars by more than 50% and the lowest responsive offer in U.S. dollars does not exceed $50,000; (Note: The cost to the DoD Appropriation shall be the lowest responsive offer in U.S. dollars. The additional cost will be assumed by the Department of the Treasury.)

(2) To the offeror submitting the lowest responsive offer in whole or in part in near-excess foreign currency, when that offer does not exceed the lowest responsive offer in U.S. dollars;

(3) To the offeror submitting the lowest responsive offer entirely in U.S. dollars; Provided, That payment in U.S. dollars is authorized under 225.7606.

(c) *Awards requiring approval by higher authority.*

(1) The contracting officer shall refer the proposed acquisition to the appropriate official listed in (c)(3) below when:

(i) The lowest responsive offer in excess foreign currency exceeds the lowest responsive U.S. dollar offer by more than 50%, regardless of the U.S. dollar cost of the contract;

(ii) The lowest responsive U.S. dollar offer exceeds $50,000; or

(iii) The lowest responsive offer in near-excess foreign currency exceeds the lowest responsive offer in U.S. dollars.

(2) The contracting officer shall refer the case expeditiously describing, as a minimum, the acquisition involved; the number of offers received in each currency category; the lowest responsive offer in U.S. dollars; the date or dates the offers will expire; and recommending the offer, if any, that should be accepted.

(3) The Secretaries of the Military Departments, the Under Secretary of Defense for Research and Engineering, the Directors of Defense Agencies, and the Assistant Secretary of Defense (Comptroller), or their designees, shall determine whether a proposed acquisition described in (a) above shall be made payable in U.S.-owned foreign currency or in U.S. dollars.

225.7605 Determinations of nonfeasibility and contract certifications.

(a) At the time of award, the contracting officer shall determine whether payment in U.S.-owned foreign currency is feasible.

(b) When the contracting officer determines that it is not feasible under one of the criteria in 225.7606 to use U.S.-owned foreign currency for payment of a contract, he shall execute a Contract Certification in the following format.

Contract Certification

I hereby certify that it is not feasible to make payment under this contract in the country of ———— in the amount of $———— from U.S.-owned foreign currency for the reason stated. (Cite the applicable criterion.)

(Signature) ————————————

(Type Name and Title of Contracting Officer)

(c) When U.S.-owned foreign currency and U.S. dollars are combined for payment of a contract, the dollar amount shown in the Contract Certification shall be that amount which is to be paid in U.S. dollars.

(d) The original and one copy of each Contract Certification shall be furnished to the disbursing officer designated to make payments under the contract; and one signed copy shall be filed with the contract. Other distribution may be made in accordance with Departmental instructions.

225.7606 Criteria for nonfeasibility determinations.

The following criteria shall be used in determining that payment of contracts in whole or in part in U.S.-owned foreign currency is not feasible:

(a) The Department of the Treasury is not holding excess or near-excess foreign currency in the country concerned.

(b) The contract is to be awarded in a foreign country where there is U.S.-owned foreign currency but where a treaty, executive agreement, or law of the country concerned requires payments to be made in U.S. dollars.

(c) Responsive offers require payment in U.S. dollars in whole or in part.

(d) The only responsive offers received require payment entirely in U.S. dollars.

(e) The acquisition is for a compelling need and of such urgency that serious injury to the U.S. Government would likely be incurred if payment in excess or near-excess foreign currency were to be insisted upon.

(f) Offers in excess or near-excess foreign currency were unreasonably overpriced in relation to the U.S. dollar cost or the normal local foreign currency cost to non-Department of Defense users of the same or similar items or services and payment in U.S. dollars has been authorized by the proper authority under 225.7604(c)(3).

225.7607 Excess and near-excess foreign currency countries.

(a) The Department of the Treasury holds excess foreign currency in the following countries:

Country	Currency
Burma	Kyat.
Guinea	Franc.
India	Rupee.
Pakistan	Rupee.
Poland	Zloty.

(b) The Department of the Treasury holds near-excess foreign currency in the following countries:

Country	Currency
Taiwan	Taiwan Dollar.
Yugoslavia	Dinar.

(c) Changes in the currency position of the countries in which excess and near-excess foreign currency is held are disseminated periodically by the Departments to their disbursing officers.

225.7608 Contracts with domestic concerns.

The clause in 252.225–7021, Acquisition and Use of Excess and Near-Excess Currency, shall be included in any contract with a domestic concern when the contracting officer anticipates the contract will be performed in any U.S.-owned foreign currency country.

6. A new Part 227 is added to read as follows:

PART 227—PATENTS, DATA, AND COPYRIGHTS

Subpart 227.4—Technical Data, Other Data, Computer Software, and Copyrights

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, DoD FAR Supplement 201.301.

227.400 Scope of subpart.

(a) This subpart set forth the Department of Defense policies, procedures, implementing instructions, solicitation provisions, and contract clauses relating to rights in technical data, other data, computer software, and copyrights as well as to requirements for the acquisition of technical data and computer software. This subpart also sets forth policies, procedures, implementing instructions, solicitation provisions, and contract clauses pertaining to data, copyrights, and restricted designs unique to the acquisition of construction and architect-engineer services.

(b) Specific information concerning requirements for the acquisition of computer software is found in DoD Directive 5000.19–L, Volume II, "Acquisition Management Systems and Data Requirements Control List".

(c) This subpart does not encompass rights in computer software acquired under GSA authorized ADP Schedule Pricelist contracts. Such rights are governed by the terms of the GSA contracts.

227.401 Definitions.

"Commercial computer software", as used in this subpart, means computer software which is used regularly for other than Government purposes and is sold, licensed, or leased in significant quantities to the general public at established market or catalog prices.

"Computer", as used in this subpart, means a data processing device capable of accepting data, performing prescribed operations on the data, and supplying the results of these operations; for example, a device that operates on discrete data by performing arithmetic and logic processes on the data, or a device that operates on analog data by performing physical processes on the data.

"Computer data base", as used in this subpart, means a collection of data in a form capable of being processed and operated on by a computer.

"Computer program", as used in this subpart, means a series of instructions or statements in a form acceptable to a computer, designed to cause the computer to execute an operation or operations. Computer programs include operating systems, assemblers, compilers, interpreters, data management systems, utility programs, sort-merge programs, and ADPE maintenance/diagnostic programs, as well as applications programs such as payroll, inventory control, and engineering analysis programs. Computer programs may be either machine-dependent or machine-independent, and may be general-purpose in nature or be designed to satisfy the requirements of a particular user.

"Computer software", as used in this subpart, means computer programs and computer data bases.

"Computer software documentation", as used in this subpart, means technical data, including computer listings and printouts, in human-readable form which (a) documents the design or details of computer software, (b) explains the capabilities of the software, or (c) provides operating instructions for using the software to obtain desired results from a computer.

"Data", as used in this subpart, means recorded information, regardless of form or characteristic.

"License rights", as used in this subpart (SBIR program contracts only), means rights to use, duplicate, or disclose technical data or computer software, in whole or in part and in any manner, for Government purposes only, and to have or permit others to do so for Government purposes only. License rights do not grant to the Government the right to have or permit others to use technical data or computer software for commercial purposes.

"Limited rights", as used in this subpart, means rights to use, duplicate, or disclose technical data in whole or in part, by or for the Government, with the express limitation that such technical data shall not, without the written permission of the party furnishing such technical data, be (a) released or disclosed in whole or in part outside the Government, (b) used in whole or in part by the Government for manufacture, or in the case of computer software documentation, for reproduction of the computer software, or (c) used by a party other than the Government, except for:

(1) Emergency repair or overhaul work only, by or for the Government, where the item or process concerned is not otherwise reasonably available to enable timely performance of the work, *provided* that the release or disclosure thereof outside the Government shall be made subject to a prohibition against further use, release or disclosure; or

(2) Release to a foreign government, as the interest of the United States may require, only for information or evaluation within such government or for emergency repair or overhaul work by or for such government under the conditions of (1) above.

"Limited rights", as used in this subpart (SBIR program contracts only), means rights to use, duplicate, or disclose technical data, in whole or in part, by or for the Government, with the express limitation that such technical data shall not, without the written permission of the party furnishing such technical data, be (a) released or disclosed in whole or in part outside the Government, (b) used in whole or in part by the Government for manufacture, or in the case of computer software documentation, for preparing the same or similar computer software, or (c) used by a party other than the Government.

"Restricted rights", as used in this subpart, means rights that apply only to computer software, and include, as a minimum, the right to—

(a) Use computer software with the computer for which or with which it was acquired, including use at any Government installation to which the

computer may be transferred by the Government;

(b) Use computer software with a backup computer if the computer for which or with which it was acquired is inoperative;

(c) Copy computer programs for safekeeping (archives) or backup purposes; and

(d) Modify compute software, or combine it with other software, subject to the provision that those portions of the derivative software incorporating restricted rights software are subject to the same restricted rights.

In addition, restricted rights include any other specific rights not inconsistent with the minimum rights in (1) through (4) above that are listed or described in a contract or described in a license or agreement made a part of a contract.

"Technical data", as used in this subpart, means recorded information, regardless of form or characteristic, of a scientific or technical nature. It may, for example, document research, experimental, developmental, or engineering work; or be usable or used to define a design or process or to procure, produce, support, maintain, or operate materiel. The data may be graphic or pictorial delineations in media such as drawings or photographs; text in specifications or related performance or design type documents; or computer printouts. Examples of technical data include research and engineering data, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications and related information, and computer software documentation. Technical data does not include computer software or financial, administrative, cost and pricing, and management data, or other information incidental to contract administration.

"Technical data", as used in this subpart (SBIR program contracts only), means recorded information, regardless of form or characteristic, of a scientific or technical nature. Examples of technical data include research and engineering data, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications and related information, and computer software documentation. Technical data does not include computer software or financial, administrative, cost and pricing, and management data, or other information incidental to contract administration.

"Unlimited rights", as used in this subpart, means rights to use, duplicate, or disclose technical data or computer software in whole or in part, in any manner and for any purpose whatsoever, and to have or permit others to do so.

227.402 Copyrights.

(a) In general, the copyright law gives an owner of copyright the exclusive rights to—

(1) Reproduce the copyrighted work in copies or phonorecords;

(2) Prepare derivative works;

(3) Distribute copies or phonorecords to the public;

(4) Perform the copyrighted work publicly; and

(5) Display the copyrighted work publicly.

(b) In view of the exclusive rights in paragraphs (a) (1) through (5) above, any technical data, other data, or computer software that is protected under the copyright law is not in the public domain, even though it may have been published, because acts inconsistent with these rights may not be exercised without a license from the copyright owner.

(c) Department of Defense policy affords the contractor ownership of copyright in any work of authorship first prepared, produced, originated, developed, or generated under a contract, unless the work is designated a "special work" in which case ownership and control of the work is retained by the Government and the contractor is precluded by the terms of the contract from asserting any rights or claim to copyright in the work. Department of Defense policy also requires that the contractor grant to the Government and authorize the Government to grant to others a nonexclusive, paid-up, worldwide license for Government purposes in any work of authorship (other than a "special work") first prepared, produced, originated, developed, or generated and, in addition, requires that the contractor grant to the Government and authorize the Government to grant to others the same license in any work of authorship acquired by the Government under the contract (not first prepared) in which the copyright is owned by the contractor.

(d) Under the clause at 252.227–7013, Rights in Technical Data and Computer Software, the contractor grants to the Government and authorizes the Government to grant to others a nonexclusive, paid-up, worldwide license for Government purposes, under any copyright owned by the contractor in any technical data or computer software prepared for or acquired by the Government under the contract. Under the clause at 252.227–7020, Rights in Data—Special Works, any work first produced in the performance of the contract becomes the sole property of the Government, and the contractor agrees not to assert any rights or establish any claim to copyright in such work. Under this clause, the contractor similarly grants to the Government and authorizes the Government to grant to others a nonexclusive, paid-up, worldwide license for Government purposes in any portion of a work which is not first produced in the performance of the contract but in which copyright is owned by the contractor and which is incorporated in the work furnished under the contract.

(e) Under both of these clauses at 252.227–7013 and 252.227–7020, unless written approval of the contracting officer is obtained, the contractor also agrees not to include in any work prepared, produced, originated, developed, generated, or acquired under the contract, any work of authorship in which copyright is not owned by the contractor without acquiring for the Government and those acting by or on behalf of the Government a nonexclusive, paid-up, worldwide license for Government purposes in the copyrighted work.

227.403 Acquisition of rights in technical data.

227.403–1 Background.

(a) *Government's interest in technical data.* The Government has extensive needs for many kinds of technical data. Its needs may well exceed those of private commercial customers. For defense purposes, millions of separate equipment and supply items, ranging from standard to unique types, must be acquired, operated, and maintained, often at points remote from the source of supply. Functions requiring varied kinds of technical data include training of personnel, overhaul and repair, cataloging, standardization, inspection and quality control, packaging, and logistics operations. Technical data resulting from research and development contracts must be obtained, organized and disseminated to many different users. Finally, the Government must make technical data widely available in the form of contract specifications in order to obtain competition among its suppliers, and thus further economy in Government procurement.

(b) *Contractor's interest in technical data.* Commercial organizations have a valid economic interest in technical data pertaining to items, components, or processes which they have developed at their own expense. Such technical data

is often closely held because its disclosure to competitors could jeopardize the competitive advantage it was developed to provide. Public disclosure of such technical data can cause serious economic hardship to the originating company.

(c) *The balancing of interests.*

(1) It is apparent that there is no necessary correlation between the Government's need for technical data and its contractors' economic interest therein. However, in balancing the Government's requirements for technical data against the contractor's interest in protecting his technical data, it should be recognized that there may be a considerable identity of interest. This is particularly true in the case of innovative contractors who can best be encouraged to develop at private expense items of military usefulness where their rights in such items are scrupulously protected.

(2) It is equally important that the Government foster successful contractual relationships and encourage a ready flow of data essential to Government needs by confining its acquisitions of technical data to cases of actual need. Certainly the Government must not be barred from bargaining and contracting to obtain such technical data as it needs, even though that technical data may normally not be disclosed in commercial practice. Moreover, when the Government pays for research and development work which produces new knowledge, products, or processes, it has an obligation to foster technological progress through wide dissemination of the new and useful information derived from such work and where practicable to provide competitive opportunities for supplying the new products and utilizing the new processes.

(3) At the same time, acquiring, maintaining, storing, retrieving, and distributing technical data in the vast quantities generated by modern technology is costly and burdensome for the Government. For this reason alone, it would be necessary to control closely the extent and nature of technical data procurement. Such control is also necessary to insure Government respect for its contractors' economic interest in technical data relating to their privately developed items. The policies and procedures of this subsection are framed in the light of these considerations.

227.403-2 Policy.

(a) *General.*

(1) It is the policy of the Department of Defense to acquire only such technical data rights as are essential to meet Government needs.

(2) In deciding whether to acquire technical data for further acquisitions so that all such acquisitions can be made on a competitive basis to the maximum practicable extent, the provisions of this section shall govern.

(b) *Unlimited rights technical data.* Technical data in the following categories shall be acquired with unlimited rights:

(1) Technical data resulting directly from performance of experimental, developmental, or research work which was specified as an element of performance in a Government contract or subcontract;

(2) Technical data necessary to enable others to manufacture end-items, components and modifications, or to enable them to perform processes, when the end-items, components, modifications or processes have been, or are being, developed under Government contracts or subcontracts in which experimental, developmental or research work was specified as an element of contract performance, except technical data pertaining to items, components or processes developed at private expense;

(3) Technical data prepared or required to be delivered under any Government contract or subcontract and constituting corrections or changes to Government-furnished data;

(4) Technical data pertaining to end-items, components or processes, prepared or required to be delivered under any Government contract or subcontract, for the purpose of identifying sources, size, configuration, mating and attachment characteristics, functional characteristics and performance requirements ("form, fit and function" data, e.g., specification control drawings, catalog sheets, envelope drawings, etc.);

(5) Manuals or instructional materials prepared or required to be delivered under a Government contract or subcontract for installation, operation, maintenance or training purposes; and

(6) Technical data which is in the public domain or has been or is normally released or disclosed by the contractor or subcontractor without restriction on further disclosure. "In the public domain" means available to the public without copyright or other restriction of any kind.

(c) *Limited rights technical data.*

(1) Except as provided in paragraph (b) above, unpublished technical data pertaining to items, components or processes developed at private expense will be acquired with limited rights. *Provided* that the data is identified as limited rights data in accordance with paragraph (b)(2) of the clause at 252.227-7013, Rights in Technical Data and Computer Software. Unpublished, as applied to technical data and computer software documentation, means that which has not been released to the public nor been furnished to others without restriction on further use or disclosure.

(2) It should be clearly understood that the above statement of policy is a recital of rights to be acquired in technical data. Neither the foregoing statement of technical data rights policy, nor its implementing paragraphs (b) (1) and (2) of the clause at 252.227-7013, Rights in Technical Data and Computer Software, establishes technical data requirements for a particular contract. It should also be noted that technical data pertaining to items, components or processes developed at private expense may be called for, required, or otherwise furnished under paragraphs (b) (1), (3), (4), (5), and (6) above and, as such, it will be acquired with unlimited rights. Contract clauses and the schedule establish the form and type of technical data to be furnished; the categories into which such technical data fall, determine the rights to be obtained by the Government to use or publish such technical data.

(d) *Predetermination of rights in technical data.*

(1)(i) When the Government needs technical data with unlimited rights, any data which the offeror intends to deliver with limited rights pursuant to paragraph (c) above should be identified prior to contract award, if feasible, and an agreement with respect thereto shall be incorporated in the contract. This procedure is called predetermination of rights in technical data.

(ii) The procedure may be initiated by the contracting officer or an offeror during the negotiation of a negotiated contract. In order to be productive, the procedure should apply only to that technical data for which rights may practicably be identified. Although the agreement may also cover technical data to be delivered with unlimited rights, in no case shall the procedure be used to require the contractor to furnish, with unlimited rights, technical data which he is entitled to furnish with limited rights under the policy in paragraph (c) above. The contracting officer shall consult his counsel as fully as possible in determining whether to use the procedure and in connection with the various steps of the procedure.

(2) Any agreements reached shall be incorporated in the Schedule of the contract directly or by reference and shall describe specifically the technical data which may be furnished with

limited rights pursuant to paragraph (c) above. The contracting officer may, however, review the technical data asserted to be limited rights data to determine whether to invoke the procedures of paragraph (f) below to negotiate to purchase unlimited rights in any of the technical data, or adopt some alternative such as to—

(i) Delete or modify the requirement for the technical data in which the Government would need unlimited rights if it were ordered, or

(ii) Modify the specifications so as not to require or permit the use of the item, component or process covered by the limited rights data; or

(iii) Include a contractual option to acquire unlimited rights.

(3) When the predetermination of rights in technical data procedure is to be used, include the provision at 252.227-7014, Predetermination of Rights in Technical Data, in the Request for Proposals.

(4) If completion of predetermination proves impracticable before award or if contractual requirements relating to design or technical data items are changed during the course of a contract, an appropriate provision shall be included in the contract, requiring the contractor to complete the identification of limited rights with respect to that technical data listed in the solicitation for which predetermination was proposed, or to identify limited rights technical data relating to the changed requirements.

(e) *Subcontracts.* It is the policy of the Department of Defense that prime contractors and higher-tier subcontractors shall not use their power to award subcontracts as economic leverage to acquire rights in the technical data of their subcontractors for themselves. Accordingly, a subcontractor who would have the right pursuant to paragraph (c) above to furnish technical data with limited rights, may furnish such limited rights data directly to the Government rather than through the prime contractor.

(f) *Specific acquisition of unlimited rights in technical data.*

(1) Notwithstanding paragraph (c) above or any other provision of this subsection the Government may acquire unlimited rights in any limited rights technical data by means of negotiation with an individual contractor or subcontractor, or as a part of a competition among several contractors or subcontractors. Such individual negotiation or competition may be conducted either by the Government, or upon Government request by the prime contractor or higher-tier subcontractor. Such unlimited rights in technical data shall be stated in the contract schedule as a separate item and shall be separately priced. Unlimited rights in technical data shall not be acquired under this paragraph unless it is determined after a finding upon a documented record that—

(i) There is a clear need for reprocurement of the item, component, or process to which the technical data pertains;

(ii) There is no suitable item, component or process of alternate design or availability;

(iii) The item or component can be manufactured or the process performed through the use of such technical data by other competent manufacturers, without the need for additional technical data which cannot be purchased reasonably or is not readily obtained by other economic means; and

(iv) Anticipated net savings in reprocurements will exceed the acquisition cost of the technical data and rights therein.

(2) The analysis and findings referred to in paragraph (b)(1) above shall specifically identify each item, component or process and the particular technical data therefor which is to be purchased.

(3) When all technical data is to be acquired under any contract with unlimited rights in accordance with the findings of paragraph (f)(1) above, the clause at 252.227-7015, Rights in Technical Data—Specific Acquisition, shall be used.

(4)(i) In addition to the acquisition of unlimited rights in technical data as authorized in paragraph (f)(1) above, there will be situations when it is in the best interest of the Government to acquire from subcontractors repair parts or components by direct sale to the Government.

(ii) The clause at 252.227-7017, Rights in Technical Data—Major System and Subsystem Contractor, may be used in contracts for major systems or major subsystems involving estimated program expenditures in excess of $50 million of RDT&E funds or in excess of $200 million of production funds. When this clause is used, any compensation the contractor requires for the right the subcontractor will have to use his limited rights, technical data shall be included in the price of the prime contract. Also, the Government shall have the right to purchase such items direct from manufacturing subcontractors without the payment, either directly of any fee or royalty to the prime contractor, or as part of the purchase price, for use of the prime contractor's technical data.

(iii) For the purpose of applying the foregoing policy, the following definitions shall be utilized: A major system is a composite of equipment, skills, and techniques capable of performing and/or supporting an operational role which required or will require research, development, test and evaluation investment or design, development, test and evaluation investment estimated in excess of $50 million or total production investment estimated in excess of $200 million. A major subsystem is a major functional part of a major system (as defined above) which is essential to operational completeness. Examples are: airframe, propulsion, armament, guidance, and communication. A major system or major subsystem contractor includes an associate contractor defined as a prime contractor to the Government for developing and/or producing subsystems, equipment, or components meeting specifications prepared by a contractor performing one or more of the functions of systems engineering for a major system (as defined above).

(g) *Notice of certain limited rights.*

(1) Whether or not the procedure of paragraph (d) above for predetermination of rights in technical data is used, if continuing information is desired under a contract about a contractor's intention to use in the performance of the contract any item, component, or process for which technical data would be subject to limited rights in accordance with the policy of paragraph (c) above, the contractor may be required to advise the contracting officer of this fact promptly (see paragraph 227.412(a)(2) and Alternate I to the clause at 252.227-7013, Rights in Technical Data and Computer Software). If possible, the schedule should indicate the specific areas pertaining to which limited rights data is of concern and the notice requirement should be restricted to those areas of concern.

(2) No such advice shall be required as to items, components, or processes for which notice was previously given pursuant to the predetermination procedure in the same contract, or with respect to standard commercial items which are manufactured by more than one source of supply. No contracting officer approval under this clause is necessary for the contractor to use any item, component, or process, identified pursuant to this requirement, in the performance of the contract.

(3) If the contracting officer agrees that under the policy stated in paragraph (c) above such technical data would be subject to limited rights, he

may then determine whether to invoke the procedure of paragraph (f) above, to negotiate for the purchase of unlimited rights in such data or to adopt other suitable alternatives. The contract shall be amended to reflect any changes required by these procedures.

227.403-3 Procedures.

(a) *Deviations.* Extension of the six-month period of 227.403–3(d)(2) below shall be processed under the authority of FAR 1.403. Other deviations to 227.403 and from the clauses prescribed for use herein shall be processed in accordance with the procedures in FAR 1.404.

(b) *Establishing the Government's rights to use technical data.* All technical data specified in a contract or subcontract for delivery thereunder shall be acquired subject to the rights established in the appropriate Rights in Technical Data clauses. Except as provided in FAR 48.105 and in FAR Subpart 36.6 no other clauses, directives, standards, specifications or other implementation shall be included, directly or by reference, to enlarge or diminish such rights. The Government's acceptance of technical data subject to limited rights does not impair any rights in such data to which the Government is otherwise entitled or impair the Government's right to use similar or identical data acquired from other sources.

(c) *Marking of technical data.*

(1) Technical data delivered to the Government pursuant to any contract requirement shall be marked with the number of the prime contract, except as provided, in 227.404–2(c)(2), and the name of the contractor and any subcontractor who generated the technical data. Each piece of technical data submitted with limited rights shall also be marked with—

(i) The authorized restrictive legend,

(ii) An indication (for example, by circling, underscoring, or a note) of that portion of the piece of technical data to which the legend is applicable, and

(iii) An explanation of the indication used to identify limited rights data.

The Government shall include such identifying markings on all reproductions thereof, unless the Government cancels such markings pursuant to paragraphs (c)(2), (d)(3), or (d)(4) below.

(2) The contractor has the responsibility to assure that no restrictive markings are placed on technical data except in accordance with the "Rights in Technical Data and Computer Software" clause at 252.227–7013. Copyright notices as specified in Title 17 United States Code, Sections 401 and 402, are not considered "restrictive markings". When the clause at 252.227–7013, "Rights in Technical Data and Computer Software", is required by 227.412(a), the clause at 252.227–7018, "Restrictive Markings on Technical Data", shall also be included in the contract. The contractor's procedures required by this clause shall be reviewed periodically by the Contract Administration Office. In addition to the rights afforded to the Government by the clause at 252.227–7018, "Restrictive Markings on Technical Data", the following actions are available to insure proper marking of technical data:

(i) The procedures in paragraph (d), "Removal of Unauthorized Markings", of the clause at 252.227–7013, may be invoked if the contractor fails to follow procedures required by the clause at 252.227–7013, Rights In Technical Data and Computer Software, or fails to correct deficiencies within a specified time.

(ii) Failure to follow proper marking procedures may also be deemed to render technical data nonconforming and subject to FAR 46.102 and to withholding of payments under the "Technical Data—Withholding of Payments" clause.

(iii) When a pre-award survey is requested by the purchasing office, the quality assurance review shall include as an item of special inquiry an examination of the prospective contractor's procedures for complying with the "Restrictive Markings on Technical Data" clause.

(iv) The contractor's procedures for complying with the "Restrictive Markings on Technical Data" clause shall be reviewed when holding post-award conferences pursuant to FAR Subpart 42.

(d) *Unmarked or improperly marked technical data.*

(1) The Government shall have the right to require the contractor to furnish clear and convincing evidence of the propriety of any restrictive markings used by the contractor on data furnished to the Government under contract.

(2) Technical data received without a restrictive legend shall be deemed to have been furnished with unlimited rights. However, within six months after delivery of such data the contractor may request permission to place restrictive markings on such data at his own expense and the Government may so permit if the contractor—

(i) Demonstrates that the omission of the restrictive marking was inadvertent,

(ii) Establishes pursuant to paragraph (d)(1) above that the use of the markings is authorized, and

(iii) Relieves the Government of any liability with respect to such technical data (see 227.403–3(a)).

(3) If technical data which the contractor is not authorized by the contract to furnish with limited rights is received with restrictive markings, the technical data shall be used with limited rights pending written inquiry to the contractor. If no response to an inquiry has been received within 60 days, or if the response fails to substantiate by clear and convincing evidence that the markings were authorized, the cognizant Government personnel shall cancel or ignore such markings, notify the contractor accordingly in writing, and thereafter may use such technical data with unlimited rights.

(4) If technical data which the contractor is authorized by the contract to furnish with limited rights is received with restrictive markings not in the form prescribed by the contract, the technical data shall be used with limited rights, and the contractor shall be required by written notice to correct the markings to conform with those specified in the contract. If the contractor fails to so correct the markings within 60 days after notice, Government personnel may correct or cancel the markings, so notify the contractor in writing, and thereafter use the technical data accordingly.

(e) *Technical data furnished on a restricted basis in support of a proposal.* When the contracting officer contemplates awarding a contract on a solicited or unsolicited proposal which was offered on a restricted basis (see FAR 5.413 and FAR 15.509), he shall ascertain whether to acquire rights to use all or part of the technical data furnished with the proposal. If such rights are desired, the contracting officer shall negotiate with the offeror in accordance with the policies set forth in this 227.403. If the offeror agrees to furnish the technical data under the contract, the appropriate clause at 252.227–7013, Rights in Technical Data and Computer Software, shall be inserted in the contract, and the contract shall identify the technical data to be covered by the clause as provided by 227.410.

(f) *Delivery of technical data to foreign governments.* As provided in the definition of limited rights in 227.401, limited rights include the right of the Government to deliver the technical data to foreign governments as the national interest of the United States may require, subject to the same limitations which the Government accepts for itself. When the Government proposes to make technical data subject to limited rights available for use by a

foreign government, it will, to the maximum extent practicable, give reasonable notice thereof to the contractor or subcontractor who generated the technical data and whose name appears thereon.

227.404 Acquisition of rights in computer software.

227.404-1 Policy.

(a) The Government shall have unlimited rights in:

(1) Computer software resulting directly from or generated as part of the performance of experimental, developmental, or research work specified as an element of performance in a Government contract or subcontract;

(2) Computer software required to be originated or developed under a Government contract, or generated as a necessary part of performing a contract;

(3) Computer data bases, prepared under a Government contract, consisting of: (i) information supplied by the Government (ii) information in which the Government has unlimited rights, or (iii) information which is in the public domain;

(4) Computer software prepared or required to be delivered under this or any other Government contract or subcontract and constituting corrections or changes to Government-furnished software; or

(5) Computer software which is in the public domain or has been or is normally furnished by the contractor or subcontractor without restriction.

(b) When the Government has unlimited rights in computer software in the prossession of a contractor, no payment will be made for rights of use of such software in performance of Government contracts or for the later delivery to the Government of such computer software, *provided* however, that the contractor shall be entitled to compensation for converting the software into the prescribed form for reproduction and delivery to the Government.

(c) It is Department of Defense policy to acquire only such rights to use, duplicate, and disclose computer software developed at private expense as are necessary to meet Government needs. Such rights should be designed to allow the Government flexibility while, at the same time, adequately preserving the rights of the contractor. Computer software developed at private expense may be purchased or leased. Restrictions may be negotiated with respect to the right of the Government to use, duplicate, or disclose computer programs or computer data bases developed at private expense. As a minimum, however, the Government shall have the rights provided in the definition of restricted rights in 227.401.

(d) Patented or copyrighted computer software will not be subject to any agreement prohibiting the Government from infringing a patent or copyright. Title 28, United States Code, Section 1498 provides that the Government is liable only for reasonable compensation for use of a patented invention or for infringement of copyright. However, see 227.711.

(e) When computer software is developed at private expense and acquired with restricted rights, the associated computer software documentation will be acquired with limited rights to the extent provided in the definition of limited rights in 227.401, and will not be used for preparing the same or similar computer software.

(f) Commercial computer software and related documentation developed at private expense may be leased, or a license to use may be purchased, by the Government subject to the restrictions in (b)(3)(i) of the clause at 252.227-7013, Rights in Technical Data and Computer Software.

227.404-2 Procedures.

(a) *Deviations.* All requests for deviations from this 227.404 shall be submitted to the DAR Council in accordance with the procedures in FAR 1.404.

(b) *General.*

(1) Except as provided at 252.227-7031, Data Requirements, any computer program or computer data base to be purchased under a contract shall be listed on the Contract Data Requirements List (DD Form 1423). Also, if a contract requires the conversion of data to machine-readable form, the editing or revision of existing programs, or the preparation or computer software documentation, the products of this work, if required to be delivered, shall be included on the DD Form 1423.

(2) The clause at 252.227-7013, Rights in Technical Data and Computer Software, shall be included in every contract under which computer software may be originated, developed, or delivered. That clause establishes the circumstances under which the Government secures unlimited rights inboth technical data and computer software, limited rights in technical data, and restricted rights in computer software. In negotiated contracts where the clause at 252.227-7013, Rights in Technical Data and Computer Software, is required, the provision at 252.227-7019, Identificationof Restricted Rights Computer Software, shall be included in the solicitation.

(3) Contracts under which computer software developed at private expense is procured or leased shall explicitly set forth the rights necessary to meet Government needs and restrictions applicable to the Government as to use, duplication and disclosure of the software. Thus, for example, such software may be needed, or the owner of such software will only sell or lease it, for specific or limited purposes such as for internal agency use, or for use in a specific activity, installationor service location. In any event, the contract must clearly define any restrictions on the right of the Government to use such computer software, but such restrictions will be acceptable only if they will permit the Government to fulfill the need for which such software is being procured. The recital of restrictions may be complete within itself or it may reference the contractor's license or other agreement setting forth restrictions. If referencing is employed, a copy of the license or agreement must be attached to the contract. The minimum rights are provided in the Rights in Technical Data and Computer Software clause at 252.227-7013, and need not be included in the recital.

(4) When computer software developed at private expense is modified or enhanced as a necessary part of performing a contract, only that portion of the resulting product in which the original product is recognizable will be deemed to be computer software developed at private expense to which restricted rights may attach.

(5) The scope of the restrictions on or, conversely, the scope of the use which the Government is permitted to make of such software shall be taken into account in determining the reasonableness of the contract price for the computer software.

(c) *Computer software subject to restricted rights.*

(1) Because of the widely-varying restrictions which are likely to be encountered in the purchase or lease of computer software developed at private expense, a standard recital setting forth specific restrictions and rights suitable for all cases is not feasible. If the standard set of restrictions and rights set forth in 227.404-1(f) for commercial computer software is not appropriate, personnel are urged to consult counsel in any case in which the proposed contractor requests the Government to accept other restrictions on the use of such software.

(2) To apprise user personnel of the restrictions on use, duplication or

disclosure agreed to by the Government with respect to such software sold or leased to the Government, the contractor is required to place the following legend on such software:

Restricted Rights Legend

Use, duplication or disclosure is subject to restrictions stated in Contract No. ———— with ———— (Name of Contractor).

For commercial computer software and documentation, the contract number may be omitted and replaced by "paragraph (b)(3)(B) of the Rights in Technical Data and Computer Software clause at 252.227–7013", and the contractor's address added. The Government shall include the same restrictive markings on all its reproductions of the computer software unless the Government cancels such markings pursuant to the procedures in 227.403–3(d).

(3) A statement setting forth the restrictions imposed on the Government to use, duplicate, and disclose computer software subject to restricted rights is required to be prominently displayed in human-readable form in the computer software documentation. The reference to the Rights in Technical Data and Computer Software clause in the Restricted Rights Legend on commercial computer software and documentation satisfies this requirement.

(4) Except as provided in paragraph (b) above, computer programs, computer data bases, and computer software documentation delivered to the Government pursuant to a contract requirement must be identified with the number of the prime contract and the name of the contractor.

(5) All markings (notice, legends, identifications, etc.), concerning restrictions on the use, duplication, or disclosure of computer software required or authorized by the terms of the contract under which delivery is made are required to be in human-readable form that can be readily and visually perceived and, in addition may be in machine-readable form as appropriate and feasible under the circumstances. Such markings shall be affixed by the contractor to the computer software prior to delivery of the software to the Government.

(6) The human-readable markings may be applied to card decks, magnetic tape reels, or disc packs. This may be, in the case of a card deck, on a notice card even though the cards of the deck do not contain printed material; in the case of a card deck packaged in a container intended as a permanent receptacle for the cards, on the container; in the case of a tape, on the tape reel or on the surface of the leader and trailer of the tape; and in the case of a disc pack, on the hub of the disc.

(d) *Unmarked or improperly marked computer software.*

(1) No restrictive markings shall be placed upon computer software unless restrictions are set forth in the contract prior to delivery of the software. Copyright notices as specified in Title 17, United States Code, Sections 401 and 402 are not considered "restrictive markings". The Government may require the contractor to identify the contractual provision setting forth such restrictions before accepting computer software with restrictive markings. If computer software is received with restrictive markings, and there is a question whether it is authorized by the contract to be furnished with restricted rights, it shall be used subject to the asserted restrictions pending written inquiry to the contractor. If no response to an inquiry has been received within 60 days, or if the response fails to identify the restrictions set forth in the contract, the cognizant Government personnel shall cancel or ignore the markings, notify the contractor accordingly in writing, and thereafter use the software with unlimited rights.

(2) Computer software received without a restrictive legend shall be deemed to have been furnished with unlimited rights. However, the contractor may request permission to place restrictive markings on such software at his own expense, and the Government may so permit, if the contractor establishes that the markings are authorized by the contract and demonstrates that the omission was inadvertent. Failure of the contractor to mark such computer software prior to delivery to the Government shall relieve the Government of liability for any use, duplication or disclosure of such computer software.

(3) If computer software authorized by the contract to be furnished with restrictions is received with restrictive markings not in the form prescribed by the contract, the software should be used in accordance with the restrictions provided for in the contract and the contractor shall be required by written notice to correct the markings to conform with those specified in the contract. If the contractor fails to correct the markings within 60 days after notice, Government personnel may correct the markings, and so notify the contractor.

227.405 Contracts for acquisition of special works.

(a) The clause at 252.227–7020, Rights in Data—Special Works, shall be used in all contracts for special works, including technical data and computer software, where ownership and control by the Government is desired, for example, in contracts—(1) primarily for the production of audiovisual works including motion pictures or television recordings with or without accompanying sound, or for the preparation of motion picture scripts, musical compositions, sound tracks, translations, adaptations, and the like; (2) for histories of the respective Departments for services or units thereof; (3) for works pertaining to recruiting, morale, training, or career guidance; (4) for surveys of Government establishments; (5) for works pertaining to the instruction or guidance of Government officers and employees in the discharge of their official duties; and (6) primarily for production of technical reports, studies, or similar documents.

(b) Contracts for audiovisual works may include limitations in connection with music licenses, talent releases, and the like which are consistent with the purpose for which the works are acquired.

227.406 Contracts for acquisition of existing works.

(a) *Off-the-shelf purchase of books and similar items.* Notwithstanding the instructions of any other paragraphs in this part, no contract clause contained in this part need be included in contracts for the separate, sole procurement of data, other than motion pictures, in the exact form in which such material exists prior to the initiation of a request for purchase (such as the off-the-shelf purchases of existing products) unless the right to reproduce such technical data is an objective of the contract.

(b) *Purchase of existing audiovisual works.*

(1) The clause at 252.227–7021, Rights in Data—Existing Works shall be used in contracts exclusively for the procurement of existing motion pictures, television recordings, or other audiovisual works. The contract may set forth limitations consistent with the purposes for which the material covered by the contract is being procured. Examples of these limitations are—(i) means of exhibition or transmission; (ii) time; (iii) type of audience; and (iv) geographical location. Paragraph (c) of the clause should be modified to make the indemnity coextensive with the rights acquired under paragraph (b) of the clause as limited by the contract.

(2) In contracts which call for the modification of existing motion pictures, television records, or other audiovisual works through editing, translation, or

addition of subject matter, the clause at 252.227-7020, Rights in Data—Special Works, appropriately modified, shall be used.

227.407 Contracts limiting Government's right of publication for sale to the general public.

The paragraph of Alternate II may be added to the clause at 252.227-7013, Rights in Technical Data and Computer Software, for use in contracts for research when the contracting officer determines, in consultation with counsel, as appropriate, that public dissemination of a work, or certain designated parts of a work, specified to be delivered under the contract is in the best interest of the Government and would be facilitated by the Government relinquishing its right to publish the work for sale, or to have others publish the work for sale on behalf of the Government. This paragraph shall not be used otherwise.

227.408 Architect-engineer and construction contracts.

227.408-1 General.

This section sets forth policies, procedures, implementing instructions, solicitation provisions, and contract clauses pertaining to data, copyrights, and restricted designs unique to the acquisition of construction and architect-engineer services.

227.408-2 Acquisition and use of plans, specifications, and drawings.

(a) Architectural designs and data clauses for architect-engineer or construction contracts.

(1) *Plans and specifications and as-built drawings.*

(i) Except as provided in (a)(1)(ii) below, insert the clause at 252.227-7022, Government Rights (Unlimited), in solicitations and contracts calling for architect-engineer services or in contracts for construction involving architect-engineer services.

(ii) When the purpose of a contract for architect-engineer services or for construction involving architect-engineer services is to obtain a unique architectural design of a building, a monument, or construction of similar nature, which for artistic, esthetic or other special reasons the Government does not want duplicated by anyone else, the Government may desire to acquire exclusive control of the data pertaining to such design. In those cases only where the contracting officer determines for the foregoing reasons that it is desirable to maintain exclusive control over the design and data, the clause at 252.227-7023, Drawings and Other Data to Become Property of Government, shall be used in solicitation and contracts. If the contract is for architect-engineer services, the clause at 252.227-7022 shall be deleted and the clause at 252-227-7023 substituted therefor. If the contract is for construction involving architect-engineer services, only the clause at 252.227-7023 shall be included.

(2) *Shop drawings for construction.* In acquiring shop drawings for construction, the Government shall obtain the unlimited right to use and reproduce such drawings, but shall not exclude a similar right in the designer or others. Accordingly, in solicitations and contracts calling for delivery of such drawings, insert the clause at 252.227-7033, Rights in Shop Drawings.

227.408-3 Contracts for construction supplies and research and development work.

The solicitation provisions and contract clauses in Subpart 227.4 relating to technical data, other data, computer software, and copyrights and prescribed for use in solicitation and contracts for the acquisition of other than construction or architect-engineer services are applicable when the acquisition is limited to either (a) construction supplies or materials as such, as distinguished from construction as defined in FAR 36.102; (b) experimental, developmental, or research work, or test and evaluation studies of structures, equipment, processes, or materials for use in construction; or (c) both. The right of the Government and others to use, duplicate, or disclose such technical data, other data, or computer software will be determined by the terminology of the applicable clauses in the contracts or the terminology of agreements recited-in or made part of the contracts.

227.408-4 Mixed contracts.

When solicitations and resulting contracts call for (a) supplies or materials, (b) experimental, developmental or research work, or (c) both, in addition to either construction or architect-engineer work, the solicitation provisions and contract clauses in Subpart 227.4 relating to technical data, other data, computer software, and copyrights and prescribed for use in solicitations and contracts for the acquisition of other than construction or architect-engineer services shall be included in such solicitations and resultant contracts in addition to the appropriate solicitation provisions and contract clauses prescribed for use in solicitations and contracts for construction or architect-engineer services. In such cases, the solicitations and resulting contracts shall clearly indicate which of the solicitation provisions and contract clauses apply only to the supplies or materials being acquired, or to the experimental, development, or research work, or to both, and which of the solicitation provisions and contract clauses apply only to the construction or architect-engineer work.

227.408-5 Approval of restricted designs.

(a) Specifications for construction should allow for maximum latitude in the use of various types of commercially available products, materials, equipment, or processes which will meet objective Government requirements. However, Government requirements may necessitate, or the architect-engineer may contemplate the use of structures, products, materials, equipment, or processes which are available only from a sole source. In such event, the architect-engineer should report to the contracting officer the items known to him to be sole source, and the reasons therefor, and advise the contracting officer of the extent to which such items are considered necessary to meet the Government's requirements. This will make possible timely planning and arrangements for the use of sole source items, or where appropriate, consideration of alternate items.

(b) This procedure is not intended to restrict the use of patented or copyrighted items, but is meant to give the Government an opportunity to consider whether the specifications being drawn by the architect-engineer, in regard to any one item, are unnecessarily restricted, according to objective Government requirements to a single sole source item. The procedure is primarily for use in instances where the proposed design is expected to be conventional or standard and where the design may used in subsequent acquisitions. For this purpose, the clause at 252.227-7024, Notice and Approval of Restricted Designs, may be inserted in architect-engineer contracts.

227.409 Contracts awarded under Small Business Innovation Research Program (SBIR Program).

(a) Pub. L. 97-219, "Small Business Innovation Development Act of 1982", requires certain agencies to establish a Small Business Innovation Research Program (SBIR Program). The public law also includes terminology providing for "retention of rights in data generated in the performance of the contract by the small business concern". The Small Business Administration (SBA) issued

Policy Directive No. 65-01 on 19 November 1982 to provide policy direction for the conduct of the Small Business Innovation Research Programs within the federal agencies. The policy directive was issued pursuant to the authority contained in the public law.

(b) In the policy directive, the SBA in essence recommended that, except for program evaluation, agencies should protect technical data and computer software generated under an SBIR Program contract (funding agreement) for a period of two years from the completion of the contract under which the technical data and computer software were generated, unless the agencies obtained permission to disclose such data and software from the contractor. The SBA also recommended that, effective at the conclusion of the two-year period, the Government shall have a royalty-free license in the technical data and computer software for Government use. The SBA further recommended that the contractor, with prior written permission of the contracting officer, be afforded ownership of copyright in technial data and computer software generated under an SBIR Program contract and that the contractor be allowed to publish (subject to national security considerations, if any) such data and software. The policy directive considered it appropriate that the Government should receive a royalty-free license under any copyright and that each publication should contain an appropriate acknowledgement and disclaimer statement.

(c) The clause at 252.227-7025, Rights in Technical Data and Computer Software (SBIR Program), incorporates the coverage recommended by the SBA policy directive and shall be included in all contracts awarded under the SBIR Program in which technical data or computer software is required to be prepared, originated, developed, generated, or delivered. The clause differs basically from the clause at 252.227-7013, Rights in Technical Data and Computer Software, in that it incorporates a new category of rights defined as license rights. This new category permits certain technical data and computer software generated under an SBIR Program contract to be delivered with a license rights legend thereon. The clause thus permits technical data to be acquired under a contract with license rights, unlimited rights, or limited rights; and computer software to be acquired with license rights, unlimited rights or restricted rights. The clause is limited to use solely in contracts awarded under the SBIR Program.

227.418 Acquisition of technical data and computer software.

227.418-1 General.

(a) *Policy.*

(1) Technical data and computer software is expensive to prepare in the required form and to maintain and update. Every effort, therefore, should be made to avoid placing a requirement upon a contractor to prepare and deliver technical data or software unless the need is positively determined. By delaying the delivery of technical data or software until needed for a specific purpose, storage requirements within DoD of technical data and computer software items are reduced, the handling of technical data and software superseded by updated versions is greatly decreased and the purchase of technical data or software which may become obsolete by pending hardware changes is minimized.

(2) Economy in the purchase of technical data and software and the probability of greater currency may be achieved by deferring the delivery, and in some cases deferring the ordering, of technical data or software until an operational need is determined, or until stability of design or production is reached during contract performance. The application of the deferred delivery and deferred ordering principles, as explained further, should be made only after a careful evaluation on a case-by-case basis of the anticipated operational uses of technical data or computer software and any other relevant considerations. When it is expected that technical data or computer software may be required, but the precise need at time of contracting has not been determined, deferred ordering will be used to avoid the cost of preparation but allow the ordering of the technical data or software at some point downstream in contract performance should the need arise. When the need but not the time of delivery can be determined, deferred delivery will be used. When deferred delivery is used, it is expected that the contractor will price the technical data and software at the time of contracting and incur the cost of preparation prior to the call for delivery. Therefore, it is important that deferred ordering rather than deferred delivery be used where the need for technical data or software is doubtful. Whether the technique of deferred delivery or deferred ordering is used, the receipt of technical data or software by the Government should be scheduled to be in phase with a specific and planned use of the technical data or software.

(b) Deferred delivery refers to the practice of timing the delivery of technical data or computer software specified in a contract to a firm, operational need. This technique should be used only when a technical data or software requirement can be determined at the time of contracting and therefore is specified on the DD Form 1423, but the time or place of delivery is not firm. The dates for the delivery of data and software should be scheduled to coincide with the needs of the Government. The contractor, however, must be notified sufficiently in advance of a delivery date to enable him to provide the technical data or software in specified form on time. Thus, in any contract the Government may defer the delivery of all or any portion of the technical data or computer software specified in the contract until actual need can be economically determined. The Government may require the contractor to deliver any such data or software, or portions thereof, at any time during the performance of the contract or within two years from either acceptance of all items (other than data and software) under the contract or termination of the contract, whichever is later. However, the contractor's obligation to deliver technical data pertaining to any item obtained from a subcontractor shall cease two years after the date on which he accepts the item. The Government's rights in deferred delivery data and software are as prescribed in the contract under which the data or software is to be delivered. When the delivery of technical data or computer software is to be deferred, the clause at 252.227-7028, "Deferred Delivery of Technical Data or Computer Software", shall be included in the contract.

(c) Deferred ordering refers to delaying the ordering of technical data or computer software generated in the performance of the contract until such time as a need can be established and the requirements can be specifically identified for delivery under the contract. In many instances it is difficult to determine during solicitation and negotiation stages exactly what data or software is needed. The information available at these stages may suggest the need for some data or software but further information may be needed to identify the specific data or software items. In such situations, and also when it is desired to delay the ordering of technical data or computer software until such time as the production design becomes firm, the clause at 252.227-

7027, Deferred Ordering of Technical Data or Computer Software, is appropriate. The requirement for technical data or computer software under these circumstances is not listed on the DD Form 1423 until the specific need is determined. Whenever the clause at 252.227-7027, Deferred Ordering of Technical Data or Computer Software, is used, the clause at 252.227-7013, Rights in Technical Data and Computer Software, shall also be included. When data or software items are ordered, the delivery dates shall be negotiated and the contractor shall be compensated for converting the data or software into the prescribed form, for reproduction and delivery to the Government. Compensation to the contractor shall not include the cost of generating such data or software since it was generated in the performance of work for which the Government has already agreed to pay the contractor.

227.410-2 Requirement for technical data certification.

The provision at 252.227-7028, Requirement for Technical Data Certification, shall be included in a solicitation that may result in a negotiated contract when information is needed to establish whether an offeror has delivered or is obligated to deliver to the Government under any contract or subcontract the same or substantially the same technical data included in the offer (see 215.406 and FAR 15.406-5(a)). This solicitation provision requires the offeror to submit with the offer a certification as to whether the same or substantially the same technical data that is included in the offer has been delivered or is obligated to be delivered to the Government under any contract or subcontract. If so, the offeror will be required to identify one such contract or subcontract under which such technical data was delivered or will be delivered, and the place of such delivery.

227.410-3 Identification of technical data.

(a) The contractor is required to include on technical data delivered under a contract his name, the contract number and the name of any subcontractor who generated any part of such data. If technical data were marked, for example, in the manner permitted by paragraph (b)(2) of the clause at 252.227-7013, Rights in Technical Data and Computer Software, such marked data would comply with the requirements of the clause identified in (b) below and need not be further identified pursuant to this clause. The marking requirement provides the basis for identifying the rights of the contractor and the Government in technical data.

(b) To insure that technical data is fully identified as to its source, the clause at 252.227-7029, Identification of Technical Data, shall be made a part of any contract under which technical data is to be delivered.

227.410-4 Technical data—withholding of payment.

(a) Timely delivery of technical data is particularly important to the operation and maintenance of equipment as well as competitive procurement of follow-on quantities of contract items and of items broken out from an assembly or equipment. The clause at 252.227-7030, Technical Data—Withholding of Payment, is designed to assure timely delivery of technical data. The clause permits a withholding not exceeding 10 percent of the total contract price or amount, but the contracting officer may specify a lesser amount in the contract if circumstances warrant. A case-by-case determination as to the amount to be withheld shall be made by the contracting officer after considering the estimated value of the technical data to the Government. No amount shall be withheld when the failure to make timely delivery arises out of causes beyond the control and without the fault or negligence of the contractor.

(b) Withholding action under paragraph (b) of the clause should be taken only when the contractor has failed to make timely deliveries of acceptable technical data on other contracts or if the Contracting Officer has information which would cause him to anticipate late delivery of technical data or delivery of deficient technical data. The amount of withholding should be based on the estimated value of the technical data to the Government.

227.410-5 Warranties of technical data.

The factors contained in 246.703, Criteria for Use, shall be considered in deciding whether to provide for warranties of technical data delivered under contracts calling for technical data. The basic technical data warranty clause is set forth at 252.246-7001, Warranty of Data. There are two alternates to the basic clause. The basic clause and the appropriate alternate should be selected in accordance with 246.770.

227.410-6 Data requirements.

(a) The clause at 252.227-7031, Data Requirements, shall be included in all solicitations and contracts, except that the clause need not be included in—

(1) Any contract, of which the aggregate amount involved does not exceed $25,000 and in any blanket purchase agreement and purchase order utilizing the DD Form 1155 (however, the DD Form 1423 shall be used with orders issued under a basic ordering agreement);

(2) Any contract awarded to a contractor outside the United States, except those under Subpart 225.71, Canadian Purchases;

(3) Any research or exploratory development contract when reports are the only deliverable item(s) under the contract;

(4) Any service type contract, when the contracting officer determines that the use of the DD Form 1423 (Contract Data Requirements List) is impractical for use with respect to records prepared by a contractor in performing operation and maintenance under the contract;

(5) Any contract under which construction and architectural drawings and specifications are the only deliverable items;

(6) Any contract for commercial items when the only deliverable data is such an item, or would be packaged or furnished with such items in accordance with customary trade practices; or

(7) Any contract for items containing material which, by virtue of its potentially dangerous nature, requires controls to assure adequate safety to life and property, when the only deliverable data is the Materials Safety Data Sheet (MSDS) submitted in compliance with Federal Standard 313A and the clause at FAR 52.223-3, Hazardous Material Identification and Material Safety Data, and when such clause is included in the contract.

(b) The clause at 252.227-7031, Data Requirements, states that the contractor is required to deliver only the data items listed on the DD Form 1423 and the data items identified in and deliverable under any contract clause of Subpart 252.2 and FAR Subpart 52.2 made a part of the contract.

(c) Other than the data items falling within the exceptions set forth in paragraph (a) above, and the data items identified in and deliverable under any contract clause of Subpart 252.2 and FAR Subpart 52.2 made a part of the contract, the requirement for delivery of any data items under the contract can be established only by listing the data items on the DD Form 1423 (see 253.270). The clause at 252.227-7031, Data Requirements, shall be inserted in all contracts in which the DD Form 1423 is used. The DD Form 1423 need not be used to list data or software requirements in any of the contracts falling within the exceptions set forth in paragraph (a) above.

227.411 Contracts with foreign sources to be performed outside the United States.

Normally, the clause at 252.227–7032, rights in Technical Data and Computer Software (Foreign), is used in solicitations and contracts with foreign sources, except that the clause shall not be used in contracts for special works (see 227.405), contracts for existing works (see 227.406), or contracts for Canadian purchases (see Subpart 225.71, Canadian Purchases). This clause should be inserted when the Government is to acquire unlimited rights in all technical data, including reports, drawings and blueprints, and all computer software, specified to be delivered to the Government. The clause at 252.227–7013, Rights in Technical Data and Computer Software, shall be inserted when the same rights are to be obtained as would be obtained if contracting with United States firms. Notwithstanding 227.403–3(a) and 227.404–2(a), the clause may be modified to meet the requirements necessary for and peculiar to the foreign procurement, *provided* it agrees with the policies and principles of 227.403–2 and 227.404–1.

227.412 Solicitation provisions and contract clauses.

(a)(1) The contracting officer shall insert the basic data clause at 252.227–7013, Rights in Technical Data and Computer Software, in solicitations and contracts when technical data is specified to be delivered or computer software may be originated, developed, or delivered, *provided* that such clause shall not be used in solicitations and contracts—

(i) When all technical data to be delivered is to be acquired with unlimited rights pursuant to the policy at 227.403–2(f) in which case the clause at 252.227–7015, Rights in Technical Data—Specific Acquisition, shall be used;

(ii) When existing works are to be acquired in accordance with 227.406;

(iii) When special works are to be acquired in accordance with 227.405;

(iv) When the work will be performed by foreign sources outside the United States, its territories, possessions, or Puerto Rico, in which case the clause at 252.227–7032, rights in Technical Data and Computer Software (Foreign) applies;

(v) When performance will be limited solely to architect-engineer services or construction, in which case either the clause at 252.227–7022, Architect-Engineer Work—Unlimited Rights, or the clause at 252.227–7023, Architect-Engineer Work—Sole Property Rights, applies; and

(vi) When the contract is awarded under the DoD Small Business Innovation Research Program (SBIR Program), in which case the clause at 252.227–7025, Rights in Technical Data and Computer Software (SBIR Program), applies.

(2) The contracting officer shall use the clause with its Alternate I in accordance with the policy at 227.403–2(g).

(3) The contracting officer shall use the clause with its Alternate II under the circumstances specified at 227.407.

(b) The contracting officer shall insert the provision at 252.227–7014, Predetermination of Rights in Technical Data, in solicitations when the procedure of 227.403–2(d) is to be used.

(c) The contracting officer shall insert the clause at 252.227–7015, Rights in Technical Data—Specific Acquisition, in solicitations and contracts when all technical data is to be acquired with unlimited rights in accordance with 227.403–2(f) (1), (2), and (3). The clause shall also be included in subcontracts when the Government has determined to acquire all technical data with unlimited rights from a subcontractor in accordance with the authority and findings of 227.403–2(f) (1), (2), and (3). The clause shall not be used under any other circumstances.

(d) The contracting officer, in order to prevent any misinterpretation of the scope of the clause at 252.227–7013, Rights in Technical Data and Computer Software, in the contract, may insert the clause at 252.227–7016, Contract Schedule Items Requiring Experimental, Developmental, or Research Work, in solicitations and contracts when the solicitations and contracts, in whole or in part, call for experimental, developmental, or research work as an element of performance.

(e) The contracting officer may insert the clause at 252.227–7017, rights in Technical Data—Major System and Subsystem Contracts, in solicitations and contracts for major systems or major subsystems under the circumstances specified at 227.403–2(f)(4) (i), (ii), and (iii).

(f) The contracting officer shall insert the clause at 252.227–7018, Restrictive Markings on Technical Data, in all solicitations and contracts in accordance with 227.403–3(c)(2).

(g) The contracting officer shall insert the provision at 252.227–7019, Identification of Restricted Rights Computer Software, in solicitations and contracts in accordance with 227.404–2(b)(2).

(h) The contracting officer shall insert the clause at 252.227–7020, Rights in Data—Special Works, in solicitations and contracts as required by 227.405.

(i) The contracting officer shall insert the clause at 252.227–7021, Rights in Data—Existing Works, in solicitations and contracts as required by 227.406.

(j) The contracting officer shall insert the clause at 252.227–7022, Government Rights (Unlimited) in solicitations and contracts in accordance with 227.408–2(a)(1)(i).

(k) The contracting officer shall insert the clause at 252.227–7023, Drawings and Other Data to Become Property of Government, in solicitations and contracts in accordance with 227.408–2(a)(1)(ii).

(l) The contracting officer shall insert the clause at 252.227–7024, Notice and Approval of Restricted Designs, in solicitations and contracts in accordance with 227.408–5.

(m) The contracting officer shall insert the clause at 252.227–7025, Rights in Technical Data and Computer Software (SBIR Program), in solicitations and contracts in accordance with 227.409.

(n) The contracting officer shall insert the clause at 252.227–7026, Deferred Delivery of Technical Data on Computer Software, in solicitations and contracts in accordance with 227.410–1(b).

(n) The contracting officer shall insert the clause at 252.227–7026, Deferred Delivery of Technical Data or Computer Software, in solicitations and contracts in accordance with 227.410–1(b).

(o) The contracting officer shall insert the clause at 252.227–7027, Deferred Ordering of Technical Data or Computer Software, in solicitations and contracts in accordance with 227.410–1(c).

(p) The contracting officer shall insert the provision at 252.227–7028, Requirement for Technical Data Certification, in solicitations in accordance with 227.410–2.

(q) The contracting officer shall insert the clause at 252.227–7029, Identification of Technical Data, in all solicitations and contracts in accordance with 227.410–3.

(r) The contracting officer shall insert the clause at 252.227–7030, Technical Data—Withholding of Payment, in solicitations and contracts in accordance with 227.410–4.

(s) The contracting officer shall insert the clause at 252.227–7031, Data Requirements, in solicitations and contracts, in accordance with 227.410–6.

(t) The contracting officer shall insert the clause at 252.227–7032, Rights in Technical Data and Computer Software (Foreign), in solicitations and contracts in accordance with 227.411.

(u) The contracting officer shall insert the clause at 252.227–7033, Rights in Shop Drawings, in solicitation and

contracts in accordance with 227.408–2(a)(2).

PART 252—SOLICITATION PROVISIONS AND CONTROL CLAUSES

7. Section 252.217–7000 is revised to read as follows:

252.217–7000 Exercise of Option to Fulfill Foreign Military Sales Commitments.

As prescribed at 217.208(S–70)(1), insert the following clause:

Exercise of Option To Fulfill Foreign Military Sales Commitments (Apr 1984)

The U.S. Government may exercise the option or options under the option clause of this contract to fulfill Foreign Military Sales commitments undertaken by the U.S. Government on behalf of a foreign country.

(End of clause)

8. Section 252.217–7001 is added to read as follows:

252.217–7001 Exercise of Option To Fulfill Foreign Military Sales Commitments (Alt. 1).

As prescribed at 217.208(70)(2), insert the following clause:

Exercise of Option To Fulfill Foreign Military Sales Commitments (Alt. 1) (Apr 1984)

The U.S. Government may exercise the option or options under the option clause of this contract to fulfill Foreign Military Sales commitments undertaken by the U.S. Government on behalf of a foreign country. At the date of exercise of the option, the U.S. Government will identify the foreign country for the purpose of negotiating an equitable price adjustment for any cost or profit considerations attributable to Foreign Military Sales requirements in section 225.7304 and paragraph 215.905–1(b)(7)(iii)(E) of the DoD FAR Supplement. Failure to agree to such an equitable adjustment shall be treated as a dispute within the meaning of the clause of this contract titled "DISPUTES".

(End of clause)

9. Sections 252.225–7000 through 252.225–7021 are added to read as follows:

252.225–7000 Buy American—Balance of Payments Program Certificate.

As prescribed at 225.109(a)(S–70), insert the following provision:

Buy American—Balance of Payments Program Certificate (Oct 1980)

(a) The offeror hereby certifies that each end product, except the end products listed below, is a domestic end product (as defined in the clause entitled "Buy American Act and Balance of Payments Program") and that components of unknown origin have been considered to have been mined, produced, or manufactured outside the United States or a qualifying country.

EXCLUDED END PRODUCTS

Line item No.	Country of origin
(List as necessary)	

(b) Offers will be evaluated by giving certain preferences to domestic end products and foreign qualifying country end products over foreign nonqualifying country end products. In order to obtain such preferences in the evaluation of each excluded end product listed in (a) above, it is necessary that offerors identify and certify, below, those excluded end products identified above that are qualifying country end products or they will be deemed nonqualifying country end products. Offerors must certify by inserting the applicable line item numbers in the appropriate brackets:

(i) The offeror certifies that the following supplies qualify as "participating country end products" as that term is defined in the clause entitled "Buy American Act and Balance of Payments Program."

(Insert line item no.)

(ii) the offeror certifies that the following supplies qualify as "FMS/offset arrangement country end products" as that term is defined in the clause entitled "Buy American Act and Balance of Payments Program," if the Government makes the necessary waivers.

(Insert line item no.)

(iii) The offeror certifies that the following supplies qualify as "defense cooperation country end products" as that term is defined in the clause entitled "Buy American Act and Balance of Payments Program."

(Insert line item no.)

(iv) The offeror certifies that the following supplies qualify as "designated country end products" as that term is defined in the clause entitled "Buy American Act, Trade Agreements Act, and Balance of Payments Program".

(Insert line item no.)

(c) Offers will be evaluated in accordance with the policies and procedures of FAR Part 25 and DoD FAR Supplement Part § 225.

(End of Certificate)

252.225–7001 Buy American Act and the Balance of Payments Program.

As prescribed at 225.109(d)(S-70), insert the following clause:

Buy American Act and Balance of Payments Program (Oct 1980)

(a) This clause implments the Buy American Act (41 U.S.C. Section 10a–d) and the Department of Defense Balance of Payments Program by providing a preference to domestic end products over foreign end products, except for certain foreign end products which meet the requirements for classification as qualifying country end products. For the purpose of this clause—

(i) "Components" means those articles, materials, and supplies directly incorporated into end products.

(ii) "Qualifying country component" means (A) an item mined, produced, or manufactured in a participating country or in an FMS/Offset arrangement country when the applicable D&F has been made waiving the Buy American Act restrictions; or (B) any item listed in a defense cooperation country agreement.

(iii) "End products" means those articles, materials, and supplies to be acquired for public use under the contract. As to a given contract, the end products are the items to be delivered to the Government, as specified in the contract, including supplies to be acquired by the Government for public use in connection with service contracts but excluding installation and other services to be performed after delivery.

(iv) "Domestic end product" means (A) an unmanufactured end product which has been mined or produced in the United States, or (B) an end product manufactured in the United States if the cost of its qualifying country components and its components which are mined, produced, or manufactured in the United States exceeds fifty percent (50%) of the cost of all its components. The cost of components shall include transportation costs to the place of incorporation into the end product and U.S. duty (whether or not a duty-free entry certificate may be issued). A component shall also be considered to have been mined, produced, or manufactured in the United States (regardless of its source in fact) if the end product in which it is incorporated is manufactured in the United States and the component is of a class or kind (A) determined by the Government to be not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality, or (B) as to which the Secretary concerned has determined that it would be inconsistent with the public interest to apply the restrictions of the Buy American Act.

(v) "Foreign end product" means an end product other than a domestic end product.

(vi) "Qualifying country end product" means (A) a participating country end product; (B) an FMS/Offset arrangement country end product when the applicable Determination and Findings has been made waiving the Buy American Act restrictions; or (C) a defense cooperation country agreement listed item.

(vii) "Participating country end product" means (A) an unmanufactured end product mined or produced in a participating country, or (B) an end product manufactured in a participating country if the cost of its qualifying country components and its components mined, produced, or manufactured in the United States exceeds fifty percent (50%) of the cost of all its components. The cost of components shall include transportation costs to the place of incorporation into the end product and any duty whether or not duty is, in fact, paid.

(viii) "FMS/Offset arrangement country end product" means (A) an unmanufactured end product mined or produced in an FMS/

offset arrangement country, or an end product manufactured in an FMS/offset arrangement country if the cost of its qualifying country components and its components which are mined, produced, or manufactured in the United States exceeds fifty percent (50%) of the cost of all its components. The cost of components shall include transportation costs to the place of incorporation into the end product and any duty whether or not duty is, in fact, paid. To obtain the waivers necessary to accord preferential treatment for an FMS/offset arrangement country end product, see the procedures at DoD FAR Supplement 225.7310(c)(2)(i).

(ix) "Defense cooperation country end product" means an item listed in the defense cooperation country agreement and produced in that country.

(b) The Contractor agrees that there will be delivered under thsis contract only domestic end products *unless*, in its offer, it specified delivery of foreign end products in the clause entitled "Buy American Act and Balance of Payments Program Certificate." An offer certifying that a qualifying country end product will be supplied requires the Contractor to supply a qualifying country end product or, at the Contractor's option, a domestic end product. An offer based on supplying a nonqualifying country end product, if accepted, will permit the Contractor to supply a product without regard to the requirements of this clause.

(c) Offers will be evaluated in accordance with the policies and procedures of FAR Part 25 and DoD FAR Supplement Part 225.

(End of clause)

252.225-7002 Qualifying country sources as subcontractors.

As prescribed at 225.109(d)(S-72), insert the following clause:

Qualifying Country Sources as Subcontractors (Oct 1980)

No qualifying country source (DoD FAR Supplement 225.001), subject to the restrictions set forth in DoD FAR Supplement 225.74, or U.S. source is to be precluded from competing for subcontracts.

(End of clause)

252.225-7003 Nondomestic construction materials.

As prescribed at 225.205(S-70), insert the following:

Nondomestic construction materials (Oct 1166)

The requirements of the clause of this contract entitled "Buy American Act" do not apply to the item set forth below.

(Insert list here)

(End of clause)

252.225-7004 Identification of expenditures in the United States.

(a) As prescribed at 225.305(c), insert the following clause:

Identification of Expenditures in the United States (Oct 1966)

(a) On each invoice, voucher, or other request for payment under this contract, the Contractor shall identify that part of the requested payment which represents estimated expenditures in the United States. Identification shall consist of stating the full amount of the payment requested, subdivided into the following categories:

1. United States end products—expenditures for material and equipment manufactured or produced in the United States, excluding transportation;

2. United States services—expenditures for services performed in the United States, including charges for overhead, other indirect costs, and profit;

3. Transportation on United States carriers—expenditures for transportation furnished by United States flag, ocean, surface, and air carriers; and

4. Expenditures not identified under 1, 2, and 3 above.

(b) If this contract is principally for supplies or if the Contractor is not an incorporated concern incorporated in the United States, or an unincorporated concern having its principal place of business in the United States, the amounts identified under (a)1, (a)2, and (a)3 above will be limited to payments made pursuant to the requirements either of the "United States Products and Services" clause, if any, or of any other specific provision of this contract that obligates the Contractor to procure certain materials, equipment, transportation, or services from United States sources.

(c) The identification of expenditures required under (a) above may be expressed either as dollar amounts or as percentages applicable to the total amount of the request for payment.

(d) The identification will be based on reasonable estimates by the Contractor. Nothing in this clause requires the establishment or maintenance of detailed accounting records or gives the United States Government any right to audit the Contractor's books or records.

(End of clause)

252.225-7005 Buy American Act—Trade Agreements Act—Balance of Payments Program Certificate.

As prescribed at 225.407(a)(1), insert the following provisions:

Buy American act—Trade agreements act—Balance of Payments Program Certificate (Apr. 1984)

(a) The offeror hereby certifies that each end product, except the end products listed below, is a domestic end product (as defined in the clause entitled "Buy American Act, Trade Agreements Act, and Balance of Payments Program"), and that components of unknown origin have been considered to have been mined, produced, or manufactured outside the United States or a qualifying country.

EXCLUDED END PRODUCTS

Line item No.	Country of origin
(List as necessary)	

(b) Offers will be evaluated by giving certain preferences to domestic end products, qualifying country end products, and designated country end products over other end products. In order to obtain such preferences in the evaluation of each excluded end product listed in (a) above, it is necessary that offerors identify and certify, below, those excluded end products identified above that are qualifying country end products or designated country end products, or they will be deemed neither qualifying country end products nor designated country end products. Offerors must certify by inserting the applicable line item numbers in the appropriate brackets.

(i) The offeror certifies that the following supplies qualify as "participating country end products" as that term is defined in the clause entitled "Buy American Act, Trade Agreements Act, and Balance of Payments Program".

(Insert line item No.)

(ii) The offeror certifies that the following supplies qualify as "FMS/Offset arrangement country end products" as that term is defined in the clause entitled "Buy American Act, Trade Agreements Act, and Balance of Payments Program," if the Government makes the necessary waivers.

(Insert line item No.)

(iii) The offeror certifies that the following supplies qualify as "defense cooperation country end products" as that term is defined in the clause entitled "Buy American Act, Trade Agreements Act, and Balance of Payments Program."

(Insert line item No.)

(iv) The offeror certifies that the following supplies qualify as "designated country end products" as that term is defined in the clause entitled "Buy American Act, Trade Agreements Act, and Balance of Payments Program".

(Insert line item No.)

(c) Offers will be evaluated in accordance with the policies and procedures of FAR Part 25 and DoD FAR Supplement Part 225.

(End of Certificate)

252.225-7006 Buy American Act, Trade Agreements Act, and the Balance of Payments Program.

As prescribed at 225.407(a)(2), insert the following clause:

Buy American Act, Trade Agreements Act, and the Balance of Payments Program (Apr. 1984)

(a) This clause implements the Buy American Act (41 U.S.C. Section 10a–d), the Trade Agreements Act of 1979 (19 U.S.C. 2501 et seq.), and the Department of Defense Balance of Payments Program by providing a preference to domestic end products over foreign end products, except for certain foreign end products which meet the requirements for classification as qualifying country end products or as designated country end products. For the purpose of this clause—

(i) "Components" means those articles, materials, and supplies incorporated directly into the end products.

(ii) "Qualifying country component" means (A) an item mined, produced, or manufactured in a participating country or in an FMS/Offset arrangement country when the applicable D&F has been made waiving the Buy American Act restrictions; or (B) any item listed in a defense cooperation country agreement.

(iii) "End product" means those articles, materials, and supplies to be acquired for public use under the contract.

(iv) "Domestic end product" means (A) an unmanfactured end product which has been mined or produced in the United States, or (B) an end product manufactured in the United States if the cost of its qualifying country components, and its components which are mined, produced, or manufactured in the United States exceeds fifty percent (50%) of the cost of all its components. The cost of components shall include transportation costs to the place of incorporation into the end product and U.S. duty (whether or not a duty-free entry certificate may be issued). A component shall also be considered to have been mined, produced, or manufactured in the United States (regardless of its source in fact) if the end product in which it is incorporated is manufactured in the United States and the component is of a class or kind (A) determined by the Government to be not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality, or (B) as to which the Secretary concerned has determined that it would be inconsistent with the public interest to apply the restrictions of the Buy American Act.

(v) "Foreign end product" means an end product other than a domestic end product.

(vi) "Qualifying country end product" means (A) a participating country end product; (B) an FMS/Offset arrangement country end product when the applicable Determination and Findings has been made waiving the Buy American Act restrictions; or (C) a defense cooperation country agreement listed item.

(vii) "Participating country end product" means (A) an unmanufactured end product mined or produced in a participating country, or (B) an end product manufactured in a participating country if the cost of its qualifying country components and its components mined, produced, or manufactured in the United States exceeds fifty percent (50%) of the cost of all its components. The cost of components shall include transportation costs to the place of incorporation into the end product and any duty whether or not duty is, in fact, paid.

(viii) "FMS/Offset arrangement country end product" means (A) and unmanufactured end product mined or produced in an FMS/Offset arrangement country, or (B) an end product manufactured in an FMS/Offset arrangement country if the cost of its qualifying country components and its components which are mined, produced, or manufactured in the United States exceeds fifty percent (50%) of the cost of all its components. The cost of components shall include transportation costs to the place of incorporation into the end product and any duty whether or not duty is, in fact, paid. To obtain the waivers necessary to accord preferential treatment for an FMS/Offset arrangement country end product, see the procedues at DoD FAR Supplement 225.7310(c)(2)(i).

(ix) "Defense cooperation country end product" means an item listed in the defense cooperation country agreement and produced in that country.

(x) "Designated country end product" means an article that (A) is wholly the growth, product, or manufacture of the designated country, or (B) in the case of an article which consists in whole or in part of materials from another country or instrumentality, has been substantially transformed into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed. The term includes services (except transportation services) incidential to its supply; *Provided*, That the value of those incidental services does not exceed that of the product itself. It does not include service contracts as such.

(b) The Contractor agrees that there will be delivered under this contract only domestic end products *unless*, in its offer, it specified delivery of foreign end products in the clause entitled Buy American Act, Trade Agreements Act, and Balance of Payments Program Certificate. An offer certifying that a qualifying country end product or a designated country end product will be supplied requires the Contractor to supply a qualifying country end product, a designated country end product, whichever is certified, or, at the Contractor's option, a domestic end product. An offer based on supplying a nonqualifying country end product, if accepted, will permit the Contractor to supply a product without regard to the requirements of this clause; however, Contractors may not supply an end product listed at DoD FAR Supplement 225.403(S–70) with a total value at or above that specified in FAR Subpart 25.4 from a country not listed at FAR 25.401, except as provided at DoD FAR Supplement 225.402(b).

(c) Offers will be evaluated in accordance with the policies and procedures of FAR Part 25 and DoD FAR Supplement Part 225.

(End of clause)

252.225–7007 Supplies to be accorded duty-free entry.

As prescribed at 225.605(a)(S–70), insert the following clause:

Supplies To Be Accorded Duty-Free Entry (Dec 1965)

In accordance with paragraph (a) of the clause entitled "Duty-Free Entry," the following supplies are hereby identified as supplies to be accorded duty-free entry:

(End of clause)

252.225–7008 Duty-free entry—qualifying country end products and supplies.

As prescribed at 225.605(a)(S–72), insert the following clause:

Duty-Free Entry—Qualifying Country End Products and Supplies (Jan 1981)

(a) Except as otherwise approved by the Contracting Officer, no amount is or will be included in the contract price on account of duty with respect to—

(i) All end items which constitute "qualifying country end products" (as defined in DoD FAR Supplement 225.001) to be delivered under this contract; and

(ii) All supplies (including, without limitation, raw materials, components, and intermediate assemblies) produced or made in qualifying countries, which are to be incorporated in the end items to be delivered under this contract; *Provided*, That such end items are manufactured in the United States or in a qualifying country, except supplies imported into the United States prior to the date of this contract or, in the case of supplies imported by a first or lower tier subcontractor hereunder, prior to the date of the subcontract.

(b) The Contractor warrants that all such qualifying country supplies, for which duty-free entry is to be claimed, are intended to be delivered to the Government or incorporated in the end items to be delivered under this contract and that duty shall be paid by the Contractor to the extent that such supplies, or any portion thereof (if not scrap or salvage) are diverted to nongovernmental use other than as a result of a competitive sale made, directed, or authorized by the Contracting Officer.

(c) The Government agrees to execute duty-free entry certificates and to afford such assistance as appropriate in order to obtain the duty-free entry of qualifying country end products as to which the shipping documents bear the notation specified in paragraph (d) below, except as the Contractor may otherwise agree.

(d) All shipping documents submitted to customs, covering qualifying country end products or supplies for which duty-free entry is to be claimed, shall bear the following information:

(i) Government prime contract number;

(ii) Identification of carrier;

(iii) The notation: "United States Department of Defense Duty-Free Entry To Be Claimed pursuant to Schedule 8, Part 3, Item No. 832.00, Tariff Schedules of the United States. Upon arrival of shipment at the appropriate port of entry, District Director of Customs, kindly release the shipments under 8.59CR and notify Commander, Defense Contract Administration Services Management Area, New York, 60 Hudson Street, New York, NY 10013, who will execute

Customs Forms 7501 and 7501A and the Duty-Free Entry Certificate."

(iv) Gross weight in pounds (if freight is based on space tonnage, state cubic feet in addition to gross shipping weight); and

(v) Estimated value in U.S. dollars.

(e) The Contractor agrees to instruct the foreign supplier to prepare a sufficient number of copies of the bill of lading (or other shipping document) so that at least two of the copies accompanying the shipment will be available for use by the District Director of Customs at the port of entry.

(f) The Contractor agrees to notify the Contract Administration Office (CAO) in writing of any purchase by the Contractor of qualifying country supplies that are to be imported into the United States for delivery to the Government or for incorporation in end items to be delivered to the Government under the contract. Such notice shall be furnished to the CAO immediately upon the award by the Contractor to the qualifying country supplier. The notice shall identify (i) the qualifying country, (ii) the contract number, and (iii) the scheduled delivery date(s).

(g) This clause shall not apply to purchases of qualifying country supplies in connection with this contract if (i) such qualifying country supplies are identical in nature with supplies purchased by the Contractor or any subcontractor hereunder in connection with his commercial business; and (ii) it is not economical or feasible to account for such supplies so as to assure that the amount of such supplies for which duty-free entry is claimed pursuant to this clause does not exceed the amount thereof purchased in connection with this contract.

(h) The Contractor agrees to insert the substance of this clause, including this paragraph (h) in all subcontracts for supplies hereunder that exceed $2,500. Each such subcontract shall require the subcontractor to identify this contract by its contract number on any shipping documents submitted to Customs covering supplies for which duty-free entry is to be claimed pursuant to this clause.

(End of clause)

252.225-7009 Preference for certain domestic commodities.

As prescribed at 225.7002(b), insert the following clause:

Preference for Certain Domestic Commodities (Oct 1980)

The Contractor agrees that there will be delivered under this contract only such articles of food, clothing, cotton, woven silk and woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric, coated synthetic fabric, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles) as have been grown, reprocessed, reused, or produced in the United States, its possessions, or Puerto Rico; *Provided,* That (i) this clause shall have no effect to the extent that the Secretary has determined that a satisfactory quality and sufficient quantity of such articles cannot be acquired as and when needed at U.S. market prices; (ii) nothing herein shall preclude the delivery, under this contract, of foods which have been manufactured or processed in the United States, its possessions, or Puerto Rico; and (iii) this clause shall not apply to chemical warfare protective clothing produced in qualifying countries (see DoD FAR Supplement Part 225).

(End of clause)

252.225-7010 Domestic Wool Preference.

As prescribed at 225-7002(c)(3), insert the following clause:

Domestic Wools Preference (Mar 1958)

(a) It is Congressional policy that, in Department of Defense procurements, preference shall be given to wool grown, reprocessed, reused, or produced in the United States, its possessions, or Puerto Rico, to the extent that articles containing such wool can be procured as and when needed at United States market prices.

(b) If, on the date of opening of bids or evaluation of proposals, the average market price of domestic wool of usable grades (as reported by grade and type in the four issues of the Department of Agriculture "Market News" immediately preceding the date of bid opening or evaluation of proposals) is not more than ten percent (10%) above the average of the prices (for usable grades and types) which reflect the current incentive price established by the Secretary of Agriculture, award will be made only on bids or proposals offering domestically produced articles of which the wool component is one hundred percent (100%) domestic wool; *Provided,* That such bids or proposals are considered reasonable and otherwise acceptable.

(c) If, on the date of opening of bids or evaluation of proposals, the average market price of domestic wool of usable grades (as reported by grade and type in the four issues of the Department of Agriculture "Market News" immediately preceding the date of bid opening or evaluation of proposals) is more than ten percent (10%) above the average of the prices (for usable grades and types) which reflect the current incentive price, or to the extent that the Government's requirement cannot be filled by awards based on paragraph (b) hereof, there will be added to each bid or proposal offering articls of which the wool component is one hundred percent (100%) foreign wool, an evaluation factor of $—— per yard or per item, and there will be added to each bid or proposal offering articles of which the wool component is a blend of domestic and foreign wool that part of the evaluation factor which is in direct proportion to the percentage of foreign wool to be used, and award will be made to the low acceptable bidder.

(d) For the purposes of (b) and (c) above, the average market price of domestic wool of usable grades shall be the average market price of the representative types and grades set forth in DoD FAR Supplement 225.7002(c)(6) within that one of the categories therein set forth which includes wool which would meet the specifications, and the average of the prices which reflect the current incentive price established by the Secretary of Agriculture shall be the average of the prices set forth in 225.7002(c)(6) for that category.

(e) While bids or proposals offering articles using foreign wool may be considered and evaluated, as stated above, all stages of manufacturing of wool (whether foreign or domestic) must be performed in the United States, its possessions, or Puerto Rico, as required by the contract clause entitled "Preference for Certain Domestic Commodities." This requirement is satisfied as to wool noils, reprocessed or reused wool if the reprocessing (i.e., garnetting or combing) and ensuring manufacture is performed in the United States, its possessions or Puerto Rico.

(f) The Secretary has determined that, to the extent that any foreign wool is used under an award made pursuant to paragraph (c) hereof, a satisfactory quality and sufficient quantity of domestic wool cannot be procured as and when needed at United States market prices.

(End of clause)

252.225-7011 Preference for domestic specialty metals (major programs).

As prescribed at 225.7002(d)(1), insert the following:

Preference for Domestic Specialty Metals (Major Programs) (Oct 1980)

(a) The Contractor agrees that any specialty metals (as hereinafter defined) incorporated in articles delivered under this contract will be melted in the United States, its possessions, or Puerto Rico; *Provided,* That this clause shall have no effect to the extent that (i) the Secretary or his designee has determined that a satisfactory quality and sufficient quantity of such articles cannot be acquired as and when needed at U.S. market prices; (ii) the acquisition is for a qualifying country end product; or (iii) the acquisition is necessary to comply with agreements with foreign governments requiring the United States to purchase supplies from foreign sources for the purposes of offsetting sales made by the U.S. Government or U.S. firms under approved programs serving defense requirements.

(b) For the purposes of this clause, the term "specialty metals" means:

(i) Steels, where the maximum alloy content exceeds one or more of the following limits: manganese, 1.65 percent; silicon, 0.60 percent; or copper, 0.60 percent or which contains more than 0.25 percent of any of the following elements: aluminum, chromium, cobalt, columbium, molybdenum, nickel, titanium, tungsten, or vanadium;

(ii) Metal alloys consisting of nickel, iron-nickel and cobalt base alloys containing a total of other alloying metals (except iron) in excess of ten percent (10%);

(iii) Titanium and titanium alloys; or

(iv) Zirconium and zirconium base alloys.

(c) The Contractor agrees to include this clause, including this paragraph (c), in every subcontract or purchase order issued hereunder, unless he knows that the item being purchased contains no specialty metals.

(End of clause)

252.225-7012 Preference for domestic specialty metals.

As prescribed at 225.7002(d)(2), insert the following clause:

Preference for Domestic Specialty Metals (Oct 1980)

(a) The Contractor agrees that any specialty metals (as hereinafter defined) furnished by it or purchased by it for direct incorporation in any article delivered to the Government under this contract shall have been melted in the United States, its possessions, or Puerto Rico; *Provided*, That this clause shall have no effect to the extent that (i) the Secretary or his designee determines that a satisfactory quality and sufficient quantity of such articles cannot be acquired as and when needed at U.S. market prices; (ii) the acquisition is for a qualifying country end product; or (iii) the acquisition is necessary to comply with agreements with foreign governments requiring the United States to purchase supplies from foreign sources for the purpose of offsetting sales made by the U.S. Government or U.S. firms under approved programs serving defense requirements.

(b) For the purposes of this clause, the term "specialty metals" means:

(i) Steels where the maximum alloy content exceeds one or more of the following limits: manganese, 1.65 percent; silicon, 0.60 percent; or copper, 0.60 percent or which contains more than 0.25 percent of any of the following elements: aluminum, chromium, cobalt, columbium, molybdenum, nickel, titanium, tungsten, or vanadium;

(ii) Metal alloys consisting of nickel, iron-nickel and cobalt base alloys containing a total of other alloying metals (except iron) in excess of ten percent (10%);

(iii) Titanium and titanium alloys; or

(iv) Zirconium and zirconium base alloys.

(End of clause)

252.225-7013 Preference for domestic hand measuring tools.

As prescribed at 225.7003, insert the following clause:

Preference for Domestic Hand or Measuring Tools (Apr 1984)

The Contractor agrees that there will be delivered under this contract only such hand or measuring tools as have been produced in the United States or its possessions.

(End of clause)

252.225-7014 [Reserved]

252.225-7015 United States Products Certificate (Military Assistance Program).

As prescribed at 225.7205(a), insert the following provision:

United States Products Certificate (Military Assistance Program) (Dec 1962)

To the extent that the Government specifies the items being purchased are in implementation of the Military Assistance Program, the bidder or offeror hereby certifies that each such item furnished will be a United States end product (as defined in the contract clause entitled "United States Products"); that components of unknown origin have been considered to have been mined, produced, or manufactured outside the United States; and that he is a domestic concern.

(End of provision)

252.225-7016 United States Products (Military Assistance Program).

As prescribed at 225.7205(b), insert the following clause:

United States Products (Military Assistance Program) (Dec 1962)

(a) To the extent that the Government specifies the items being purchased are in implementation of the Military Assistance Program, the Contractor agrees that there will be delivered under this contract only United States end products.

(b) For the purpose of this clause:

(i) "Components" means those articles, materials, and supplies, which are directly incorporated in end products.

(ii) "End products" means those articles, materials, and supplies which are acquired under this contract for public use; and

(iii) A "United States end product" means—

(A) An unmanufactured end product which has been mined or produced in the United States; and

(B) An end product manufactured in the United States if the cost of the components thereof which are mined, produced, or manufactured in the United States exceeds fifty percent (50%) of the cost of all its components. A component shall be considered to have been mined, produced, or manufactured in the United States (regardless of its source in fact) if the end product in which it is incorporated is manufactured in the United States and the component is of a class or kind determined by the Government to be not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.

(End of clause)

252.225-7017 Limitation of sales commissions and fees for foreign Governments.

As prescribed at 225.7305(f), insert the following clause:

Limitation of Sales Commissions and Fees for Foreign Governments (Oct 1980)

Unless the sales commission and fee have ben identified and payment thereof has been approved in writing by the Government of ————* before contract award, the following provisions, as appropriate, shall apply.

(a) For firm-fixed-priced contracts or fixed-price contracts with economic price adjustment:

"The Contractor certifies that the contract price (including any subcontracts awarded hereunder) does not include any direct or indirect costs of sales commissions or fees for contractor sales representatives for the solicitation or promotion or otherwise to secure the conclusion of the sale of any of the supplies or services called for by this contract to the Government of ————*."

(b) For all other types of contracts:

"Notwithstanding any other provision of this contract, any direct or indirect costs of sales commissions or fees for contractor (or subcontractor) sales representatives for the solicitation or promotion or otherwise to secure the conclusion of the sale of any of the supplies or services called for by this contract to the Government of ————* shall be considered as an unallowable item of cost under this contract."

* Name of foreign country.

(End of clause)

252.225-7018 Offset arrangement.

As prescribed at 225.7310(c)(4), insert the following clause:

Offset Arrangement (Oct 1980)

(a) The contractor is responsible under the contract for arranging with representatives of the Government of ————*, under ————**, dated ————, for participation by sources in ————*, for a minimum of (*percentage or dollar value*) of the value of this prime contract. This offset requirement may be fulfilled either by subcontracts under this contract or through other business the Contractor may choose to place in ————*. (Commercial business will not be considered for duty-free entry.) All contractual arrangements to be entered into in accordance with this clause must be submitted to the Contracting Officer for determination as to whether such arrangements fulfill the offset requirement. Special conditions relating to the offset requirement are as follows:

————————————————

————————————————

(b) The Contractor will provide the following information to the Contracting Officer within 30 calendar days after the completion of each calendar quarter during the term of the contract:

(i) Subcontract or other solicitations offered to ————* industry (Items, dollar value, date of solicitation, and identification of sources);

(ii) Subcontract or orders placed with ————* sources—

(A) Item

(B) Value

(C) Contracting officer

(D) Competitive or noncompetitive

(E) Date of subcontract

(F) Identification of subcontractor

(iii) Status of deliveries under subcontracts placed with ————* sources.

(c) None of the provisions of this clause shall relieve the Contractor of the need to comply with the International Traffic in Arms Regulations, the Industrial Security Manual, or other laws and regulations governing foreign acquisition and disclosure of information to foreign nationals.

(d) The substance of this provision shall be placed in all subcontracts awarded to U.S. companies which appear to offer a significant opportunity for lower tier subcontracting with ————* sources under ————**.

* Insert name of foreign country.

** Insert offset agreement number or other description.

(End of clause)

252.225-7019 Exclusionary Policies and Practices of Foreign Governments.

As prescribed at 225.7312, insert the following clause:

Exclusionary Policies and Practices of Foreign Government (Jan 1977)

No person, partnership, corporation, or other entity performing functions pursuant to this contract, shall, in employing or assigning personnel to participate in the performance of any such function, whether in the United States or abroad, take into account the exclusionary policies or practices of any foreign government where such policies or practices are based on race, religion, national origin, or sex.

(End of clause)

252.225-7020 Option to award and pay in foreign currency.

As prescribed at 225.7602(a), insert the following provisions:

Option to Award and Pay in Foreign Currency (Apr 1974)

(a) Offerors are required to state their price in United States dollars. Such price may also be stated wholly in the currency of the countries listed in the Schedule, or in a combination of United States dollars and the currency of any of the listed countries.

(b) Offerors shall state separately the United States dollar content, if any, in United States dollars. The term "United States dollar content" means the United States dollar cost to an offeror for United States end products or services (including costs of transportation furnished by United States flag carriers) imported directly from the United States and to be used in performance of a contract, as certified by the offeror.

(c) The Contracting Officer reserves the right to award to that responsive offeror willing to accept payment in whole or in part in a currency of any of the listed countries and whose offer is considered the most advantageous to the United States Government, even though the total price of the accepted offer may be more than the price of an offer received in United States dollars.

(End of provision)

252.225-7021 Acquisition and use of excess and near-excess currency.

As prescribed at 225.7608, insert the following clause:

Acquisition and Use of Excess and Near-Excess Currency (Dec 1987)

The Contractor shall not expend United States dollars for the performance of this contract in any of the countries set forth in the Schedule of this contract for the purchase of currency of such countries or for the purchase of goods or services needed for performance under this contract. The Contractor shall purchase all such currencies from United States disbursing officers in such countries at the rates of exchange used by such officers at the times of purchase.

(End of clause)

10. Sections 252.227-7013 through 252.227-7033 are added to read as follows:

252.227-7013 Rights in technical data and computer software.

As prescribed at 227.412(a)(1), insert the following clause:

Rights in Technical Data and Computer Software (May 1981)

(a) *Definitions.* "Commercial Computer Software", as used in this clause, means computer software which is used regularly for other than Government purposes and is sold, licensed or leased in significant quantities to the general public at established market or catalog prices.

"Computer", as used in this clause, means a data processing device capable for accepting data, performing prescribed operations on the data, and supplying the results of these operations; for example, a device that operates on discrete data by performing arithmetic and logic processes on the data, or a device that operates on analog data by performing physical processes on the data.

"Computer Data Base", as used in this clause, means a collection of data in a form capable of being processed and operated on by a computer.

"Computer Program", as used in this clause, means a series of instructions or statements in a form acceptable to a computer, designed to cause the computer to execute an operation or operations. Computer programs include operating systems, assemblers, compilers interpreters, data management systems, utility programs, sort-merge programs, and ADPE maintenance/diagnostic programs, as well as applications programs such as payroll, inventory control, and engineering analysis programs. Computer programs may be either machine-dependent or machine-independent, and may be general-purpose in nature or designed to satisfy the requirements of a particular user.

"Computer Software", as used in this clause, means computer programs and computer data bases.

"Computer Software Documentation", as used in this clause, means technical data, including computer listings and printouts, in human-readable form which (1) documents the design or details of computer software, (2) explains the capabilities of the software, or (3) provides operating instructions for using the software to obtain desired results from a computer.

"Limited Rights", as used in this clause, means rights to use, duplicate, or disclose technical data, in whole or in part, by or for the Government, with the express limitation that such technical data shall not, without the written permission of the party furnishing such technical data be (1) released or disclosed in whole or in part outside the Government, (2) used in whole or in part by the Government for manufacture, or in the case of computer software documentation, for preparing the same or similar computer software, or (3) used by a party other than the Government, except for:

(1) Emergency repair or overhaul work only, by or for the Government, where the item or process concerned is not otherwise reasonably available to enable timely performance of the work, *provided* that the release or disclosure thereof outside the Government shall be made subject to a prohibition against further use, release or disclosure; or

(2) Release to a foreign government, as the interest of the United States may require, only for information or evaluation within such government or for emergency repair or overhaul work by or for such government under the conditions of (1) above.

"Restricted Rights", as used in this clause, means rights that apply only to computer software, and include, as a minimum, the right to—

(1) Use computer software with the computer for which or with which it was acquired, including use at any Government installation to which the computer may be transferred by the Government;

(2) Use computer software with a backup computer if the computer for which or with which it was acquired is inoperative;

(3) Copy computer programs for safekeeping (archives) or backup purposes; and

(4) Modify computer software, or combine it with other software, subject to the provision that those portions of the derivative software incorporating restricted rights software are subject to the same restricted rights.

In addition, restricted rights include any other specific rights not inconsistent with the minimum rights in (1) through (4) above that are listed or described in this contract or described in a license or agreement made a part of this contract.

"Technical Data", as used in this clause, means recorded information, regardless of form or characteristic, of a scientific or technical nature. It may, for example, document research, experimental, developmental or engineering work, or be usable or used to define a design or process or to procure, produce, support, maintain, or operate materiel. The data may be graphic or pictorial delineations in media such as drawings or photographs, text in specifications or related performance or design type documents, or computer printouts. Examples of technical data include research and engineering data, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications and related information, and computer software documentation. Technical data does not include computer software or financial, administrative, cost and pricing, and management data or other information incidental to contract administration.

"Unlimited Rights", as used in this clause, means rights to use, duplicate, or disclose technical data, in whole or in part, in any manner and for any purpose whatsoever, and to have or permit others to do so.

(b) *Government rights.*

(1) *Unlimited rights.* The Government shall have unlimited rights in:

(i) Technical data and computer software resulting directly from performance of experimental, developmental or research work which was specified as an element of performance in this or any other Government contract or subcontract;

(ii) Computer software required to be originated or developed under a Government contract, or generated as a necessary part of performing a contract;

(iii) Computer data bases, prepared under a Government contract, consisting of information supplied by the Government, information in which the Government has unlimited rights, or information which is in the public domain;

(iv) Technical data necessary to enable manufacture of end-items, components, and modifications, or to enable the performance of processes, when the end-items, components, modifications or processes have been, or are being, developed under this or any other Government contract or subcontract in which experimental, developmental or research work is, or was specified as an element of contract performance, except technical data pertaining to items, components, processes, or computer software developed at private expense (but see subdivision (b)(2)(ii) below).

(v) Technical data or computer software prepared or required to be delivered under this or any other Government contract or subcontract and constituting corrections or changes to Government-furnished data or computer software;

(vi) Technical data pertaining to end-items; components or processes, prepared or required to be delivered under this or any other Government contract on subcontract, for the purpose of identifying sources, size, configuration, mating and attachment characteristics, functional characteristics and performance requirements ("form, fit and function" data, e.g., specification control drawings, catalog sheets, envelope drawings, etc.);

(vii) Manuals or instructional materials prepared or required to be delivered under this contract or any subcontract hereunder for installation, operation, maintenance or training purposes;

(viii) Technical data or computer software which is in the public domain, or has been or is normally released or disclosed by the Contractor or subcontractor without restriction on further disclosure; and

(ix) Technical data or computer software listed or described in an agreement incorporated into the schedule of this contract which the parties have predetermined, on the basis of subparagraphs (i) through (viii) above, and agreed will be furnished with unlimited rights.

(2) *Limited rights.* The Government shall have limited rights in:

(i) Technical data, listed or described in an agreement incorporated into the Schedule of this contract, which the parties have agreed will be furnished with limited rights; and

(ii) Unpublished technical data pertaining to items, components or processes developed at private expense, and unpublished computer software documentation related to computer software that is acquired with restricted rights, other than such data as may be included in the data referred to in subdivisions (b)(1)(i), (v), (vi), (vii), and (viii) above. The word *unpublished*, as applied to technical data and computer software documentation, means that which has not been released to the public nor been furnished to others without restriction on further use or disclosure. For the purpose of this definition, delivery of limited rights technical data to or for the Government under a contract does not, in itself, constitute release to the public.

Limited rights shall be effective provided that only the portion or portions of each piece of data to which limited rights are to be asserted pursuant to subdivisions (2) (i) and (ii) above are identified (for example, by circling, underscoring, or a note), and that the piece of data is marked with the legend below in which is inserted:

A. the number of the prime contract under which the technical data is to be delivered,

B. the name of the Contractor and any subcontractor by whom the technical data was generated, and

C. an explanation of the method used to identify limited rights data.

Limited Rights Legend

Contract No. ——— ———
Contractor: ——— ———

Explanation of Limited Rights Data Identification Method Used

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Those portions of this technical data indicated as limited rights data shall not, without the written permission of the above Contractor, be either (A) used, released or disclosed in whole or in part outside the Government, (B) used in whole or in part by the Government for manufacture or, in the case of computer software documentation, for preparing the same or similar computer software, or (c) used by a party other than the Government, except for: (1) emergency repair or overhaul work only, by or for the Government, where the item or process concerned is not otherwise reasonably available to enable timely performance of the work, *provided* that the release or disclosure hereof outside the Government shall be made subject to a prohibition against further use, release or disclosure; or (2) release to a foreign government, as the interest of the United States may require, only for information or evaluation within such government or for emergency repair or overhaul work by or for such government under the conditions of (1) above. This legend, together with the indications of the portions of this data which are subject to such limitations shall be included on any reproduction hereof which includes any part of the portions subject to such limitations.

(3) *Restricted rights.*

(i) The Government shall have restricted rights in computer software, listed or described in a license or agreement made a part of this contract, which the parties have agreed will be furnished with restricted rights, *provided*, however, notwithstanding any contrary provision in any such license or agreement, the Government shall have the rights is included in the definition of "restricted rights" in paragraph (a) above. Such restricted rights are of no effect unless the computer software is marked by the Contractor with the following legend:

Restricted Rights Legend

Use, duplication or disclosure is subject to restrictions stated in Contract No. —— with —— (Name of Contractor) ——.

and the related computer software documentation includes a prominent statement of the restrictions applicable to the computer software. The Contractor may not place any legend on computer software indicating restrictions on the Government's rights in such software unless the restrictions are set forth in a license or agreement made a part of this contract prior to the delivery date of the software. Failure of the Contractor to apply a restricted rights legend to such computer software shall relieve the Government of liability with respect to such unmarked software.

(ii) Notwithstanding subdivision (i) above, commercial computer software and related documentation developed at private expense and not in public domain may, if the Contractor so elects, be marked with the following Legend:

Restricted Rights Legend

Use, duplication, or disclosure by the Government is subject to restrictions as set forth in subdivision (b)(3)(ii) of the Rights in Technical Data and Computer Software clause at 252.227-7013.

(Name of Contractor and Address)

When acquired by the Government, commercial computer software and related documentation so legended shall be subject to the following:

(A) Title to and ownership of the software and documentation shall remain with the Contractor.

(B) User of the software and documentation shall be limited to the facility for which it is acquired.

(C) The Government shall not provide or otherwise make available the software or documentation, or any portion thereof, in any form, to any third party without the prior written approval of the Contractor. Third parties do not include prime contractors, subcontractors and agents of the Government who have the Government's permission to use the licensed software and documentation at the facility, and who have agreed to use the licensed software and documentation at the facility, and who have agreed to use the licensed software and documentation only in accordance with these restrictions. This provision does not limit the right of the Government to use software, documentation, or information therein, which the Government may already have or obtains without restrictions.

(D) The Government shall have the right to use the computer software and doumentation with the computer for which it is acquired at any other facility to which that computer may be transferred; to use the computer software and documentation with a backup computer when the primary computer is inoperative; to

copy computer programs for safekeeping (archives) or backup purposes; and to modify the software and documentation or combine it with other software, *provided*, that the unmodified portions shall remain subject to these restrictions.

(E) If the Contractor, within sixty (60) days after a written request, fails to substantiate by clear and convincing evidence that computer software and documentation marked with the above Restricted Rights Legend are commercial items and were developed at private expense, or if the Contractor fails to refute evidence which is asserted by the Government as a basis that the software is in the public domain, the Government may cancel or ignore any restrictive markings on such computer software and documentation and may use them with unlimited rights. Such written requests shall be addressed to the contractor as identified in the Restricted Rights Legend.

(4) No legend shall be marked on, nor shall any limitation or restriction on rights of use be asserted as to, any data or computer software which the Contractor has previously delivered to the Government without restriction. The limited or restricted rights provided for by this paragraph shall not impair the right of the Government to use similar or identical data or computer software acquired from other sources.

(c) *Copyright.*

(1) In addition to the rights granted under the provisions of paragraph (b) above, the Contractor hereby grants to the Government a nonexclusive, paid-up license throughout the world, of the scope set forth below, under any copyright owned by the Contractor, in any work of authorship prepared for or acquired by the Government under this contract, to reproduce the work in copies or phonorecords, to distribute copies or phonorecords to the public, to perform or display the work publicly, and to prepare derivative works thereof, and to have others do so for Government purposes. With respect to technical data and computer software in which the Government has unlimited rights, the license shall be of the same scope as the rights set forth in the definition of "unlimited rights" in paragraph (a) above. With respect to technical data in which the Government has limited rights, the scope of the license is limited to the rights set forth in the definitions of "limited rights" in paragraph (a) above. With respect to computer software which the parties have agreed in accordance with subparagraph (b)(3) above will be furnished with restricted rights, the scope of the license is limited to such rights.

(2) Unless written approval of the Contracting Officer is obtained, the Contractor shall not include in technical data or computer software prepared for or acquired by the Government under this contract any works of authorship in which copyright is not owned by the Contractor without acquiring for the Government any rights necessary to perfect a copyright license of the scope specified in subparagraph (c)(1).

(3) As between the Contractor and the Government, the Contractor shall be considered the "person for whom the work was prepared" for the purpose of determining authorship under Section 201(b) of Title 17, United States Code.

(4) Technical data delivered under this contract which carries a copyright notice shall also include the following statement which shall be placed thereon by the Contractor, or should the Contractor fail, by the Government: This material may be reproduced by or for the U.S. Government pursuant to the copyright license under the clause at 252.227–7013 (date).

(d) *Removal of unauthorized markings.* Notwithstanding any provision of this contract concerning inspection and acceptance, the Government may correct, cancel, or ignore any marking not authorized by the terms of this contract on any technical data or computer software furnished hereunder if:

(1) the Contractor fails to respond within sixty (60) days to a written inquiry by the Government concerning the propriety of the markings, or

(2) the Contractor's response fails to substantiate, within sixty (60) days after written notice, the propriety of limited rights markings by clear and convincing evidence, or of restricted rights markings by identification of the restrictions set forth in the contract.

(e) *Limitation on charges for data and computer software.* The Contractor recognizes that the Government or a foreign government with funds derived through the Military Assistance Program or otherwise through the United States Government may contract for property or services with respect to which the vendor may be liable to the Contractor for charges for the use of technical data or computer software on account of such a contract. The Contractor further recognizes that it is the policy of the Government not to pay in connection with its contracts, or to allow to be paid in connection with contracts made with funds derived through the Military Assistance Program or otherwise through the United States Government, charges for data or computer software which the Government has a right to use and disclose to others, which is in the public domain, or which the Government has been given without restrictions upon its use and disclosure to others. This policy does not apply to reasonable reproductions, handling, mailing, and similar administrative costs incident to the furnishing of such data or computer software. In recognition of this policy, the Contractor agrees to participate in and make appropriate arrangements for the exclusion of such charges from such contracts, or for the refund of amounts received by the Contractor with respect to any such charges not so excluded.

(f) *Acquisition of data and computer software from subcontractors.*

(1) Whenever any technical data or computer software is to be obtained from a subcontractor under this contract, the Contractor shall use this same clause in the subcontract, without alteration, and no other clause shall be used to enlarge or diminish the Government's or the Contractor's rights in that subcontractor data or computer software which is required for the Government.

(2) Technical data required to be delivered by a subcontractor shall normally be delivered to the next-higher tier contractor. However, when there is a requirement in the prime contract for data which may be submitted with limited rights pursuant to subparagraph (b)(2) above, a subcontractor may fulfill such requirement by submitting such data directly to the Government rather than through the prime Contractor.

(3) The Contractor and higher-tier subcontractors will not use their power to award subcontracts as economic leverage to acquire rights in technical data or computer software from their subcontractors for themselves.

(End of clause)

ALTERNATE I (MAY 1981)

As prescribed at 227.412(a)(2), add the following paragraph to the basic clause:

Notice of certain limited rights

(h)(1) Unless the Schedule provides otherwise, and subject to (2) below, the Contractor will promptly notify the Contracting Officer in writing of the intended use by the Contractor or a subcontractor in performance of this contract of any item, component or process for which technical data would fall within subparagraph (b)(2) above.

(2) Such notification is not required with respect to:

(i) standard commercial items which are manufactured by more than one source of supply; or

(ii) items, components or processes for which such notice was given pursuant to predetermination of rights in technical data in connection with this contract.

(3) Contracting Officer approval is not necessary under this clause for the Contractor to use the item, component or process in the performance of the contract. (APR 1972)

ALTERNATE II (MAY 1981)

As prescribed at 227.412(a)(3), add the following paragraph to the basic clause:

( ) Publication for sale. If, prior to publication for sale by the Government and within the period designated in the contract or task order, but in no event later than 24 months after delivery of such data, the Contractor publishes for sale any data (1) designated in the contract as being subject to this paragraph and (2) delivered under this contract, and promptly notifies the Contracting Officer of these publications, the Government shall not publish such data for sale or authorize others to do so. This limitation on the Government's right to publish for sale any such data so published by the Contractor shall continue as long as the data is protected as a published work under the copyright law of the United States and is reasonably available to the public for purchase. Any such publication shall include a notice identifying this contract and recognizing the license rights of the Government under subparagraph (c)(1) of this clause. As to all such data not so published by the Contractor, this paragraph shall be of no force or effect.

252.227-7014 Predetermination of rights in technical data.

As prescribed at 227.412(b), insert the following provision:

Predetermination of Rights in Technical Data (Jul 1978)

(a) The offeror is requested to identify in his proposal which of the below listed data (including data to be furnished in whole or in part by a subcontractor) when delivered, he intends to identify as limited rights data in accordance with paragraph (b) of the "Rights in Technical Data and Computer Software" clause of this Solicitation. This identification need not be made as to data which relate to standard commercial items which are manufactured by more than one source of supply.

(The solicitation should list here that technical data or portions thereof with respect to which the Government proposes use of the predetermination procedure. Data which clearly comes within subparagraph (b)(1) of the "Rights in Technical Data and Computer Software" clause and would therefore be acquired with unlimited rights should not be listed.)

(b) Limited rights data may be identified as such, pursuant to paragraph (a) above only if it pertains to items, components or processes developed at private expense. Nevertheless, it cannot be so identified if it comes within subparagraph (b)(1) of the "Rights in Technical Data and Computer Software" clause. At the request of the Contracting Officer or his representative, the offeror agrees to furnish clear and convincing evidence that the data which will be so identified comes within the definition of limited rights data.

(c) The listing of a data item in paragraph (a) above does not mean that the Government considers such item to come within the definition of limited rights data.

(End of provision)

252.227-7015 Rights in technical data—specific acquisition.

As prescribed at 227.412(c), insert the following clause:

Rights in Technical Data—Specific Acquisition (Mar 1979)

(a) *Definition.* Technical Data means recorded information, regardless of form or characteristic, of a scientific or technical nature. It may, for example, document research, experimental, developmental or engineering work; or be unable or used to define a design or process or to procure, produce, support, maintain, or operate materiel. The data may be graphic or pictorial delineations in media such as drawings or photographs; text in specifications or related performance or design type documents; or computer printouts. Examples of technical data include research and engineering data, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information, and documentation related to computer software. Technical data does not include computer software or financial, administrative, cost and pricing, and management data, or other information incidental to contract administration.

(b) *Government rights.* The Government may duplicate, use and disclose in any manner and for any purpose whatsoever, and have others so do, all or any part of the technical data delivered by the Contractor to the Government under this contract.

(c) *Copyright.*

(1) In addition to the rights granted under the provisions of (b) above, the Contractor hereby grants to the Government a nonexclusive, paid-up license throughout the world under any copyright owned by the Contractor, in any work of authorship prepared for or acquired by the Government under this contract, to reproduce the work in copies or phonorecords, to distribute copies of phonorecords to the public, to perform or display the work publicly, and to prepare derivative works thereof, and to have others do so for Government purposes.

(2) Unless written approval of the Contracting Officer is obtained, the Contractor shall not include in technical data prepared for or acquired by the Government under this contract any works of authorship in which copyright is not owned by the Contractor without acquiring for the Government any rights necessary to perfect a copyright license of the scope specified in subparagraph (c)(1) above.

(3) As between the Contractor and the Government, the Contractor shall be considered the "person for whom the work was prepared" for the purpose of determining authorship under Section 201(b) of Title 17, United States Code.

(4) Technical data delivered under this contract which carries a copyright notice shall also include the following statement which shall be placed thereon by the Contractor, or should the contractor fail, by the Government: This material may be reproduced by or for the U.S. Government pursuant to the copyright license under the clause at 252.227-7015 (date).

(d) *Relation to patents.* Nothing contained in this clause shall imply a license to the Government under any patent, or be construed as affecting the scope of any license or other right otherwise granted to the Government under any patent.

(e) *Limitation on charges for data.* The Contractor recognizes that the Government, or a foreign government with funds derived through the Miliary Assistance Program or otherwise through the United States Government, may contract for property or services with respect to which the vendor may be liable to the Contractor for charges for the use of technical data on account of such a contract. The Contractor further recognizes that it is the policy of the Government not to pay in connection with its contracts, or to allow to be paid in connection with contracts made with funds derived throughout the Military Assistance Program or otherwise through the United States Government, charges for data which the Government has a right to use and disclose to others, which is in the public domain, which the Government has been given without restrictions upon its use and disclosure to others. This policy does not apply to reasonable reproduction, handling, mailing, and similar administrative costs incident to the furnishing of such data. In recognition of this policy, the Contractor agrees to participate in and make appropriate arrangements for the exclusion of such charges from such contracts, or for the refund of amounts received by the Contractor with respect to any such charges not so excluded.

(End of clause)

252.227-7016 Contract schedule items requiring experimental, developmental, or research work.

As prescribed at 227.412(d), insert the following clause:

Contract Schedule Items Requiring Experimental, Developmental, or Research Work (Mar 1975)

For purposes of defining the nature of the work and the scope of rights in data granted to the Government pursuant to the "Rights in Technical Data and Computer Software" clause of this contract, it is understood and agreed that items (list applicable schedule line items or sub-line items or data exhibit numbers) require the performance of experimental, developmental, or research work. This clause does not constitute a determination as to whether or not any data required to be delivered under this contract falls within the definition of limited rights data.

(End of clause)

252.227-7017 Rights—in technical data major system and subsystem contracts.

As prescribed at 227.412(e), insert the following clause:

Rights in Technical Data—Major System and Subsystem Contracts (Nov 1971)

The Contractor agrees that he will neither incorporate any provision in his subcontracts nor enter into any agreement, written or oral, either directly or indirectly, with subcontractors which has or may have the effect of prohibiting subcontractor sales directly to the Government of any supplies, like those manufactured or services like those furnished by such subcontractor under this contract or any follow-on production contract, or under any contract for parts or components of supplies furnished under this or any follow-on production contract. The Contractor further agrees that all data, including data in which the Government may not have unlimited rights, furnished or otherwise made available by the Contractor for use by subcontractors to furnish such supplies or services, will be furnished to such subcontractors without payment to the Contractor of any fee, royalty or other charge by the subcontractor or the Government for use by such subcontractors in furnishing such supplies or services for sale directly to the Government. For the purpose of this paragraph, the term "fee, royalty or other charge" shall not include within its meaning fees, royalties of charges for reasonable returns on use of patents.

(End of clause)

252.227-7018 Restrictive markings on technical data.

As prescribed at 227.412(f), insert the following clause:

Restrictive Marking on Technical Data (Mar 1975)

(a) The Contractor shall have, maintain, and follow throughout the performance of this contract, procedures sufficient to assure that restrictive markings are used on technical data required to be delivered hereunder only when authorized by the terms of the "Rights in Technical Data and Computer Software" clause of this contract. Such procedures shall be in writing. The Contractor shall also maintain a quality assurance system to assure compliance with this clause..

(b) As part of the procedures, the Contractor shall maintain (1) records to show how the procedures of paragraph (a) above were applied in determining that the markings are authorized, as well as (2) such records as are reasonably necessary to show pursuant to subparagraph (d)(2) of the "Rights in Technical Data and Computer Software" clause that restrictive markings used in any piece of technical data delivered under this contract are authorized.

(c) The Contractor shall, within sixty (60) days after award of this contract, identify in writing to the Contracting Officer by name or title the person(s) having the final responsibility within Contractor's organization for determining whether restrictive markings are to be placed on technical data to be delivered under this contract. The Contractor hereby authorizes direct contract between the Government and such person(s) in resolving questions involving restrictive markings.

(d) The Contracting Officer may evaluate or verify the Contractor's procedures to determine their effectiveness. Upon request, a copy of such written procedures shall be furnished. The failure of the Contracting Officer to evaluate or verify such procedures shall not relieve the Contractor of the responsibility for complying with paragraphs (a) and (b) above.

(e)(1) If the Contractor fails to make a good faith effort to institute the procedures of paragraphs (a) and (b) above, any limited rights markings on technical data delivered under this contract may be cancelled or ignored by the Contracting Officer. The Contracting Officer shall give written notice to the Contractor of the action taken, including identification of the data on which markings have been cancelled or ignored, and thereafter may use such data with unlimited rights.

(2) The Contracting Officer may give written notification to the Contractor of any failure to maintain or follow the established procedures, or of any material deficiency in the procedures, and state a period of time not less than thirty (30) days within which the Contractor shall complete corrective action. If corrective action is not completed within the specified time, restrictive markings on any technical data being prepared for delivery or delivered under this contract during that period shall be presumed to be unauthorized by the terms thereof and the Contracting Officer may cancel or ignore such markings if the Contractor is unable to substantiate the markings in accordance with the procedures of paragraph (d) of the clause at 252.227-7013, "Rights in Technical Data and Computer Software".

(f) Notwithstanding any provisions of this contract concerning inspection and acceptance, the acceptance by the Government of technical data with restrictive legends shall not be construed as a waiver of any rights accruing to the Government.

(g) This clause, including this paragraph (g), shall be included in each subcontract under which technical data is required to be delivered. When so inserted, "Contractor" shall be changed to "Subcontractor".

(End of clause)

252.227-7019 Identification of restricted rights computer software.

As prescribed at 227.412(g), insert the following provision:

Identification of Restricted Rights Computer Software (Apr 1977)

The offeror's attention is called to the requirement in the "Rights in Technical Data and Computer Software" clause that any restrictions on the Government concerning use or disclosure of computer software which was developed at private expense and is to be delivered under the contract must be set forth in an agreement made a part of the contract, either negotiated prior to award or included in a modification of the contract before such delivery. Therefore, the offeror is requested to identify in his proposal to the extent feasible any such computer software which was developed at private expense and upon the use of which he desires to negotiation restrictions, and to state the nature of the proposed restrictions. If no such computer software is identified, it will be assumed that all deliverable computer software will be subject to unlimited rights.

(End of clause)

252.227-7020 Rights in data—special works.

As prescribed at 227.412(h), insert the following clause:

Rights in Data—Special Works (Mar 1979)

(a) The term "works" as used herein includes literary, musical, and dramatic works; pantomimes and choreographic works; pictorial, graphic, and sculptural works; motion pictures and other audiovisual works; sound recordings; and works of similar nature. The term does not include financial reports, cost analyses, and other information incidential to contract administration.

(b) All works first produced in the performance of this contract shall be the sole property of the Government, which shall be considered the "person for whom the work was prepared" for the purpose of authorship in any copyrightable work under Section 201(b) of Title 17, United States Code, and the Government shall own all of the rights comprised in the copyright. The Contractor agrees not to assert or authorize others to assert any rights, or establish any claim to copyright, in such works. The Contractor, unless directed to the contrary by the Contracting Officer, shall place on any such works delivered under this contract the following notice:

c (*Year date of delivery*) United States Government as represented by the Secretary of (*department*). All rights reserved.

In the case of a phonorecord, the c will be replaced by P.

(c) Except as otherwise provided in this contract, the Contractor hereby grants to the Government a nonexclusive, paid-up license throughout the world (1) to reproduce in copies or phonorecords, to prepare derivative works, to distribute copies or phonorecords, and to perform or display publicly any portion of a work which is not first produced in the performance of this contract but in which copyright is owned by the Contractor and which is incorporated in the work furnished under this contract, and (2) to authorize others to do so for Government purposes.

(d) Unless written approval of the Contracting Officer is obtained, the Contractor shall not include in any works prepared for or delivered to the Government under this contract any works of authorship in which copyright is not owned by the Contractor or the Government without acquiring for the Government any rights necessary to perfect a license of the scope set forth in paragraph (c) above.

(e) The Contractor shall indemnify and save and hold harmless the Government, and its officers, agents and employees acting for the Government, against any liability, including costs and expenses, (1) for violation of proprietary rights, copyrights, or rights of privacy or publicity, arising out of the creation, delivery, or use of any works furnished under this contract, or (2) based upon any libelous or other unlawful matter contained in such works.

(f) Nothing contained in this clause shall imply a license to the Government under any patent, or be construed as affecting the scope of any license of other right otherwise granted to the Government under any patent.

(g) Paragraphs (c) and (d) above are not applicable to material furnished to the Contractor by the Government and incorporated in the work furnished under the contract; *Provided*, such incorporated material is identified by the Contractor at the time of delivery of such work.

(End of clause)

252.227-7021 Rights in data—existing works.

As prescribed at 227.412(i), insert the following clause:

Rights in Data—Existing Works (Mar 1979)

(a) The term "works" as used herein includes literary, musical, and dramatic works; pantomines and choreographic works; pictorial, graphic and sculptural works; motion pictures and other audiovisual works; sound recordings; and works of a similar

nature. The term does not include financial reports, cost analyses, and other information incidental to contract administration.

(b) Except as otherwise provided in this contract, the Contractor hereby grants to the Government a nonexclusive, paid-up license throughout the world (1) to distribute, perform publicly, and display publicly the works called for under this contract and (2) to authorize others to do so for Government purposes.

(c) The Contractor shall indemnify and save and hold harmless the Government, and its officers, agents, and employees acting for the Government, against any liability, including costs and expense, (1) for violation of proprietary rights, copyrights, or rights of privacy or publicity arising out of the creation, delivery, or use, of any works furnished under this contract, or (2) based upon any libelous or other unlawful matter contained in same works.

(End of clause)

252.227-7022 Government rights (unlimited).

As prescribed at 227.412(j), insert the following clause:

Government Rights (unlimited) (Mar 1979)

(a) The Government shall have unlimited rights, in all drawings, designs, specifications, notes and other works developed in the performance of this contract, including the right to use same on any other Government design or construction without additional compensation to the Contractor. The Contractor hereby grants to the government a paid-up license throughout the world to all such works to which he may assert or establish any claim under design patent or copyright laws. The Contractor for a period of three years after completion of the project agrees to furnish the original or copies of all such works on the request of the Contracting Officer.

(End of clause)

252.227-7023 Drawings and other data to become property of Government.

As prescribed at 272.412(k), insert the following clause:

Drawings and Other Data To Become Property of Government (Mar 1979)

All designs, drawings, specifications, notes and other works developed in the performance of this contract shall become the sole property of the Government and may be used on any other design or construction without additional compensation to the Contractor. The Government shall be considered the "person for whom the work was prepared" for the purpose of authorship in any copyrightable work under Section 201(b) of Title 17, United States Code. With respect thereto, the Contractor agrees not to assert or authorize others to assert any rights nor establish any claim under the design patent or copyright laws. The Contractor for a period of three years after completion of the project agrees to furnish all retained works on the request of the Contracting Officer. Unless otherwise provided in this contract, the Contractor shall have the right to retain copies of all works beyond such period.

(End of clause)

252.227-7024 Notice and approval of restricted designs.

As prescribed at 227.412(l), insert the following clause:

Notice and Approval of Restricted Designs (Apr 1984)

In the performance of this contract, the Contractor shall, to the extent practicable, make maximum use of structures, machines, products, materials, construction methods, and equipment that are readily available through Government or competitive commercial channels, or through standard or proven production techniques, methods, and processes. Unless approved by the Contracting Officer, the Contractor shall not produce a design or specification that requires in this construction work the use of structures, products, materials, construction equipment, or processes that are known by the Contractor to be available only from a sole source. The Contractor shall promptly report any such design or specification to the Contracting Officer and give the reason why it is considered necessary to so restrict the design or specification.

(End of clause)

252.227-7025 Rights in technical data and computer software (SBIR Program).

As prescribed at 227.412(m), insert the following clause:

Rights in technical Data and Computer Software (SBIR Program) (Apr 1984)

(a) *Definitions.* "Computer Data Base", as used in this clause, means a collection of data in a form capable of being processed and operated on by a computer.

"Computer Program", as used in this clause, means a series of instructions or statements in a form acceptable to a computer, designed to cause the computer to execute an operation or operations. Computer programs may be either machine-dependent or machine-independent, and may be general-purpose in nature or designed to satisfy the requirements of a particular user.

"Computer Software", as used in this clause, means computer programs and computer data bases.

"Computer Software Documentation", as used in this clause, means technical data, including computer listings and printouts, in human-readable form which (1) documents the design or details of computer software, (2) explains the capabilities of the software, or (3) provides operating instructions for using the software to obtain desired results from a computer.

"License Rights", as used in this clause, means rights to use, duplicate, or disclose technical data or computer software, in whole or in part and in any manner, for Government purposes only, and to have or permit others to do so for Government purposes only. License Rights do not grant to the Government the right to have or permit others to use technical data or computer software for commercial purposes.

"Limited Rights", as used in this clause, means rights to use, duplicate, or disclose technical data, in whole or in part, by or for the Government, with the express limitation that such technical data shall not, without the written permission of the party furnishing such technical data be (1) released or disclosed in whole or in part outside the Government, (2) used in whole or in part by the Government for manufacture, or in the case of computer software documentation, for preparing the same or similar computer software, or (3) used by a party other than the Government.

"Restricted Rights", as used in this clause, means rights that apply only to computer software, and include, as a minimum, the right to:

(1) Use computer software with the computer for which or with which it was acquired, including use at any Government installation to which the computer may be transferred by the Government;

(2) Use computer software with a backup computer if the computer for which or with which it was acquired is inoperative;

(3) Copy computer programs for safekeeping (archives) or backup purposes; and

(4) Modify computer software, or combine it with other software, subject to the provision that those portions of the derivative software incorporating restricted rights software are subject to the same restricted rights.

In addition, restricted rights include any other specific rights not inconsistent with the minimum rights in (1) through (4) above that are listed or described in this contract or described in a license or agreement made a part of this contract.

"Technical Data", as used in this clause, means recorded information regardless of form or characteristic, of a scientific or technical nature. Examples of technical data include research and engineering data, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications and related information, and computer software documentation. Technical data does include computer software or financial, administrative, cost and pricing, and management data, or other information incidental to contract administration.

"Unlimited Rights", as used in this clause, means rights to use, duplicate, or disclose technical data or computer software, in whole or in part, in any manner and for any purpose whatsoever, and to have or permit others to do so.

(b) *Government rights.*

(1) *License rights.* For a period of two (2) years (or such other period as may be authorized by the Contracting Officer for good cause shown) after the delivery and acceptance of the last deliverable item under this contract the Government shall have limited rights and, after the expiration of the two-year period, shall have license rights in:

(i) Technical data and computer software resulting directly from performance of experimental, developmental, or research work which was specified as an element of performance in this contract or any subcontract hereunder;

(ii) Computer software required to be originated or developed under this contract

or any subcontract hereunder, or generated as a necessary part of performing this contract or any subcontract hereunder;

(iii) Technical data necessary to enable manufacture of end-items, components and modifications, or to enable the performance of processes, when the end-items, components, modification or processes have been, or are being, developed under this contract or any subcontract hereunder in which experimental, developmental or research work is, or was specified as an element of contract performance, except technical data pertaining to items, components, processes, or computer software developed at private expense (but see subdivision (b)(2)(i) below);

(iv) Technical data or computer software prepared or required to be delivered under this contract or any subcontract hereunder and constituting corrections or changes to Government-furnished data or computer software;

(v) Technical data pertaining to end-items, components or processes, prepared or required to be delivered under this contract or any subcontract hereunder for the purpose of identifying sources, size, configuration, mating and attachment characteristics, functional characteristics and performance requirements ("form, fit and function" data, e.g., specification control drawings, catalog sheets, envelope drawings, etc.);

(vi) Manuals or instructional materials prepared or required to be delivered under this contract or any subcontract hereunder for installation, operation, maintenance, or training purposes; and

(vii) Any other technical data or computer software prepared or required to be delivered under this contract or any subcontract hereunder, other than technical data furnished with limited or unlimited rights pursuant to subparagraph (b) (2) and (4) below or computer software furnished with restricted or unlimited rights pursuant to subparagraphs (b) (3) and (4) below.

License Rights shall be effective with respect to the technical data identified in subdivisions (b)(1) (i), (iii), (iv), (v), (vi), and (vii) above only if each piece of data is marked with the License Rights Legend below in which is inserted the number of the prime contract under which the data is to be delivered, the name of the contractor and any subcontractor by whom the data was generated, and the period in which the data is subject to limited rights and shall be effective with respect to the computer software identified in subdivisions (b)(1) (i), (ii), and (iv) and (vii) above only if each unit of software is marked with an abbreviated License Rights Legend reciting that the use, duplication, or disclosure of the software is subject to the same license rights restrictions included in the same contract (identified by number) with the same Contractor (identified by name):

License Rights Legend

Contract No.————————————
Contractor or subcontractor: ————————

For a period of two (2) years after the delivery and acceptance of the last deliverable item under this contract, this technical data shall not, without the written permission of the above Contractor, be either (A) used, released or disclosed in whole or in part outside the Government, (B) used in whole or in part by the Govenment for manufacture, or (C) used by a party other than the Government. After the expiration of the two (2) year period, the Government may use, duplicate, or disclose the data, in whole or in part and in any manner, for Government purposes only, and may have or permit others to do so for Government purposes only. All rights to use or duplicate the data in whole or in part for commercial purposes are retained by the Contractor, and others to whom this data may be disclosed agree to abide by this commercial purposes limitation. The Government assumes no liability for use or disclosure of the data by others for commercial purposes. This legend shall be included on any reproduction of this data, in whole or in part.

(2) *Limited rights.* The Government shall have limited rights in:

(i) Unpublished technical data pertaining to items, components or processes developed at private expense, and unpublished computer software documentation related to computer software that is acquired with restricted rights, other than such data as may be included in the data referred to in subdivisions (b)(1) (i), (iv), (v), and (vi) above. The word *unpublished*, as applied to technical data and computer software documentation, means that which has not been released to the public nor been furnished to others without restriction on further use or disclosure. For the purpose of this definition, delivery of limited rights technical data to or for the Government under a contract does not, in itself, constitute release to the public.

Limited Rights shall be effective with respect to the technical data mentioned in subdivision (b)(2)(i) above only if each piece of data is marked with the Limited Rights Legend below in which is inserted the number of the prime contract under which the data is to be delivered and the name of the Contractor and any subcontractor by whom the data was generated:

Limited Rights Legend

Contract No.————————————
Contractor or subcontractor: ————————

This technical data shall not, without the written permission of the above contractor, be either (A) used, released or disclosed in whole or in part outside the Government, (B) used in whole or in part by the Government for manufacture, or (C) used by a party other than the Govenment. This legend shall be included on any reproduction of this data, in whole or in part.

(3) *Restricted rights.* The Government shall have restricted rights in privately developed computer software, listed or described in a license or agreement made a part of this contract, which the parties have agreed will be furnished with restricted rights, *provided*, however, notwithstanding any contrary provision in any such license or agreement, the Government shall have the rights included in the definition of "restricted rights" in paragraph (a) above. Such restricted rights are of no effect unless the computer software is marked by the Contractor with the following legend:

Restricted Rights Legend

Use, duplication or disclosure is subject to restrictions stated in Contract No.———— with ———————— (Name of Contractor).

and the related computer software documentation includes a prominent statement of the restrictions applicable to the computer software. The Contractor may not place any legend on computer software indicating restrictions on the Government's rights in such software unless the restrictions are set forth in a license or agreement made a part of this contract prior to the delivery date of the software. Failure of the Contractor to apply a restricted rights legend to such computer software shall relieve the Government of liability with respect to such unmarked software.

(4) *Unlimited rights.* The Government shall have unlimited rights in:

(i) Technical data or computer software required to be prepared or delivered under this contract or any subcontract hereunder that was previously delivered or previously required to be delivered to the Government under any contract or subcontract with unlimited rights;

(ii) Technical data or computer software that is in the public domain or has been or is normally released or disclosed by the Contractor or any subcontractor without restriction on further use or disclosure; and

(iii) Computer data bases, consisting of information supplied by the Government, information in which the Government has unlimited rights, or information which is in the public domain.

(5) No legend shall be marked on, nor shall any limitation or restriction on rights of use be asserted as to, any technical data or computer software which the Contractor or any subcontractor has previously delivered to the Government without restriction. The license, limited to restricted rights provided for by this paragraph (b) shall not impair the right of the Government to use similar or identical technical data or computer software acquired from other sources.

(c) *Copyright.*

(1) The Contractor is hereby granted permission to assert or establish claim to or ownership of copyright in any work of authorship prepared for or acquired by the Government under this contract. In addition to the rights granted under the provisions of paragraph (b) above, the Contractor hereby grants to the Government a nonexclusive, irrevocable, paid-up license throughout the world of the scope set forth below, under any such copyright to reproduce the work in copies or phonorecords, to distribute copies or phonorecords to the public, to perform or display the work publicly, and to prepare derivative works thereof, and to have others do so for Government purposes. All published works for which claim to or ownership of copyright has been asserted or established shall contain an appropriate credit line identifying Government support. With respect to technical data and computer software in which the Government has license rights or unlimited rights the license shall be of the same scope as the rights set forth in the definitions of "license rights" and "unlimited rights" in paragraph (a) above.

With respect to technical data in which the Government has limited rights, the scope of the license is limited to the rights set forth in the definition of "limited rights" in paragraph (a) above. With respect to computer software which the parties have agreed in accordance with paragraph (b)(3) above will be furnished with restricted rights, the scope of the license is limited to such rights.

(2) Unless written approval of the Contracting Officer is obtained, the Contractor shall not include in technical data or computer software prepared for or acquired by the Government under this contract any works of authorship in which copyright is not owned by the Contractor without acquiring for the Government any rights necessary to perfect a copyright license of the scope specified in subparagraph (c)(1).

(3) As between the Contractor and the Government, the Contractor shall be considered the "person for whom the work was prepared" for the purpose of determining authorship under Section 201(b) of Title 17, United States Code.

(4) Technical data delivered under this contract which carries a copyright notice shall also include the following statement which shall be placed thereon by the Contractor, or should the Contractor fail, by the Government:

This material may be reproduced by or for the U.S. Government pursuant to the copyright license under the clause at 252.227-7025 (date).

(d) *Removal of unauthorized markings.* Notwithstanding any provision of this contract concerning inspection and acceptance, the Government may correct, cancel, or ignore any marking not authorized by the terms of this contract on any technical data or computer software furnished hereunder, if:

(1) The Contractor fails to respond within sixty (60) days to a written inquiry by the Government concerning the propriety of the markings:; or

(2) The Contractor's response fails to substantiate, within sixty (60) days after written notice, the propriety of limited rights markings by clear and convincing evidence, or of restricted rights markings by identification of the restrictions set forth in the contract.

In either case, the Government shall give written notice to the Contractor of the action taken.

(e) *Omitted markings.* Technical data and computer software delivered to the Government without any of the legends or markings specified in paragraph (b) above or that are not copyrighted shall be deemed to have been furnished with unlimited rights, and the Government assumes no liability for the use, duplication, or disclosure of such data and software. However, to the extent the data and software have not been disclosed without restriction outside the Government, the Contractor may request, within six (6) months after delivery of such data and software, permission to place restrictive legends on such data and software at the Contractor's expense and the Government may so permit if the Contractor:

(1) Demonstrates that the omission of the restrictive legends was inadvertent;

(2) Establishes pursuant to paragraph (d) above that the use of the markings is authorized; and

(3) Acknowledges that the Government has no liability with respect to the use or disclosure of such data and software that was received prior to the addition of the restrictive markings.

(f) *Relation to patents.* Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Government under any patent.

(g) *Acquisition of data and computer software from subcontractor.*

(1) Whenever any technical data or computer software is to be obtained from a subcontractor under this contract, the Contractor shall use this same clause in the subcontract, without alternation, and no other clause shall be used to enlarge or diminish the Government's or the Contractor's rights in that subcontractor data or computer software which is required for the Government.

(2) Technical data required to be delivered by a subcontractor shall normally be delivered to the next higher-tier Contractor. However, when there is a requirement in the prime contract for data which may be submitted with limited rights pursuant to subparagraph (b)(2) above, a subcontractor may fulfill such requirement by submitting such data directly to the Government rather than through the prime Contractor.

(3) The Contractor and higher-tier subcontractors will not use their power to award subcontracts as economic leverage to acquire rights in technical data or computer software from their subcontractors for themselves.

(End of clause)

252.227-7026 Deferred delivery of technical data or computer software.

As prescribed at 227.412(n), insert the following clause:

Deferred Delivery of Technical Data or Computer Software (Nov. 1974)

The Government shall have the right to require, at any time during the performance of this contract, within two (2) years after either acceptance of all items (other than data or computer software) to be delivered under this contract or termination of this contract, whichever is later, the delivery of any technical data or computer software item identified in this contract as "deferred delivery" data or computer software. The obligation to furnish such technical data required to be prepared by a subcontractor and pertaining to an item obtained from him shall expire two (2) years after the date Contractor accepts the last delivery of that item from that subcontractor for use in performing this contract.

(End of clause)

252.227-7027 Deferred ordering of technical data or computer software.

As prescribed at 227.412(o), insert the following clause:

Deferred Ordering of Technical Data or Computer Software (Nov. 1974)

In addition to technical data or computer software specified elsewhere in this contract to be delivered hereunder, the Government may, at any time during the performance of this contract or within a period of three (3) years after acceptance of all items (other than technical data or computer software) to be delivered under this contract or the termination of this contract, order any technical data or computer software (as defined in the "Rights in Technical Data and Computer Software" clause of this contract) generated in the performance of this contract or any subcontract hereunder. When such technical data or computer software is ordered, the Contractor shall be compensated for converting the data or computer software into the prescribed form, for reproduction and delivery. The obligation to deliver such technical data of a subcontractor and pertaining to an item obtained from him shall expire three (3) years after the date the contractor accepts the last delivery of that item from that subcontractor under this contract. The Government's rights to use said data or computer software shall be pursuant to the "Rights in Technical Data and Computer Software" clause of this contract.

(End of clause)

252.227-7028 Requirement for technical data certification.

As prescribed at 227.412(p), insert the following provision:

Requirement for Technical Data Certification (Apr. 1974)

The offeror shall submit with his offer a certification as to whether he has delivered or is obligated to deliver to the Government under any contract or subcontract the same or substantially the same technical data included in his offer; if so, he shall identify one such contract or subcontract under which such technical data was delivered or will be delivered, and the place of such delivery.

(End of provision)

252.227-7029 Identification of technical data.

As prescribed at 227.412(q), insert the following clause:

Identification of Technical Data (Mar. 1975)

Technical Data (as defined in the "Rights in Technical Data and Computer Software" clause of this contract) delivered under this contact shall be marked with the number of this contract, name of Contractor, and name of any subcontractor who generated the data.

(End of clause)

252.227-7030 Technical data—withholding of payment.

As prescribed at 227.412(r), insert the following clause:

Technical Data—Withholding of Payment (Jul. 1978)

(a) If "Technical Data" (as defined in the clause of this contract entitled "Rights in Technical Data and Computer Software"), or

any part thereof, specified to be delivered under this contract, is not delivered within the time specified by this contract or is deficient upon delivery (including having restrictive markings not specifically authorized by this contract), the Contracting Officer may until such data is accepted by the Government, withhold payment to the Contractor of ten percent (10%) of the total contract price or amount unless a lesser withholding is specified in the contract. Payments shall not be withheld nor any other action taken pursuant to this paragraph when the Contractor's failure to make timely delivery or to deliver such data without deficiencies arises out of causes beyond the control and without the fault or negligence of the Contractor.

(b) After payments total ninety percent (90%) of the total contract price or amount and if all technical data specified to be delivered under this contract has not been accepted, the Contracting Officer may, withhold from further payment such sum as he considers appropriate, not exceeding ten percent (10%) of the total contract price or amount unless a lesser withholding limit is specified in the contract.

(c) The withholding of any amount or subsequent payment to the Contractor shall not be construed as a waiver of any rights accruing to the Government under this contract.

(End of clause)

252.227-7031 Data requirements.

As prescribed at 227.412(s), insert the following clause:

Data Requirements (Apr. 1972)

(a) Data means recorded information, regardless of form or characteristics.

(b) The Contractor is required to deliver only the data items listed on the DD Form 1423 (Contract Data Requirements List) and data items identified in and deliverable under any contract clause of FAR Subpart 52.2 and Subpart 252.2 made a part of the contract.

(End of clause)

252.227-7032 Rights in technical data and computer software (foreign).

As prescribed at 227.412(t), insert the following clause:

Rights in Technical Data and Computer Software (Foreign) (Jun. 1975)

The United States Government may duplicate, use, and disclose in any manner for any purposes whatsoever, including delivery to other governments for the furtherance of mutual defense of the United States Government and other governments, all technical data including reports, drawings and blueprints, and all computer software, specified to be delivered by the Contractor to the United States Government under this contract.

(End of clause)

252.227-7033 Rights in shop drawings.

As prescribed at 227.412(u), insert the following clause:

Rights in Shop Drawings (Apr. 1966)

(a) Shop drawings for construction means drawings, submitted to the Government by the Construction Contractor, subcontractor or any lower tier subcontractor pursuant to a construction contract, showing in detail (i) the proposed fabrication and assembly of structural elements and (ii) the installation (i.e., form, fit, and attachment details) of materials or equipment. The Government may duplicate, use, and disclose in any manner and for any purpose shop drawings delivered under this contract.

(b) This clause, including this paragraph (b), shall be included in all subcontracts hereunder at any tier.

(End of clause)

[FR Doc. 84-25957 Filed 9-28-84; 8:45 am]
BILLING CODE 3810-01-M

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48 CFR Ch. 2

[Defense Acquisition Circular 84-2]

DoD FAR Supplement

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: Defense Acquisition Circular (DAR) 84-2 amends the DoD FAR Supplement with respect to Certificates of Appointment; synopses; design to cost; industrial preparedness production planning; debarment, suspension, and ineligibility; acquisition and distribution of commercial products; use of Optional Forms 347 and 348 for small purchases; procurement of parts; special contracting methods; independent research and development (IR&D) and bid and proposal (B&P) costs; contract administration; value engineering; pricing adjustment; profit; set-asides for small business; and special termination costs.

EFFECTIVE DATE: April 1, 1984.

FOR FURTHER INFORMATION CONTACT:
J. Brannan, Director, Defense Acquisition Regulatory Council, OUSDRE(AM) (DARS), OUSDRE(M&RS), Room 3D139, Pentagon, Washington, D.C. 20301-3062, telephone (202) 697-7266.

SUPPLEMENTARY INFORMATION:

Background

The DoD FAR Supplement is codified in Chapter 2, Title 48 of the Code of Federal Regulations.

The initial publication of the DoD FAR Supplement was contained in Part II, Volume 49, No. 59, of the **Federal Register** (49 FR 11302) of March 26, 1984.

Interested parties may submit proposed revisions to this Supplement directly to the DAR Council.

List of Subjects in 48 CFR Ch. 2

Government procurement.

James T. Brannan,
Director, Defense Acquisition Regulatory Council.

Defense Acquisition Circular

[Number 84-2]

March 5, 1984

All DoD Supplement and other directive material contained in this Defense Acquisition Circular is effective April 1, 1984.

Defense Acquisition Circular (DAC) 84-2 amends the DoD FAR Supplement and prescribes procedures to be followed. The following is a summary of the amendments and procedures:

Item I—Certificates of Appointment

An additional provision (201.603-3, Appointment) is added to ensure that contracting officer warrants issued under the Armed Services Procurement Regulation and Defense Acquisition Regulation are continued in full effect after transition to the Federal Acquisition Regulation.

Item II—Synopses

A revision is made to 205.202(v) to correct references to the FAR. Also, 205.205(c)(2) is revised to remove the word "not" (a publication error) from the first line of this subparagraph.

Item III—Design to Cost

Subparagraph 207.103(f)(1)(i)(B) is revised to include a reference to DoD Directive 4245.3, "Design to Cost," which replaced the previously cited DoD Directive 5000.28 on April 6, 1983.

Item IV—Industrial Preparedness Production Planning

A new section 208.070 has been established to provide the general policy statement on the Industrial Preparedness Production Planning Program which was previously found at 1-2200 and 1-2206 of the DAR.

Item V—Debarment, Suspension, and Ineligibility

Section 209.405 is revised by adding a new paragraph (c) which clearly establishes that a debarred or suspended contractor (including an agent or individual) is excluded from conducting business with the Department of Defense as an agent or representative of another contractor during the period of disqualification. The addition also conforms with FAR 9.403 which defines a contractor, in part,

as "any individual or other legal entity that . . . conducts business with the Government as an agent or representative of another contractor."

Item VI—Acquisition and Distribution of Commercial Products

Coverage is added to Part 211 pertaining to the acquisition of commercial products.

Item VII—Use of Optional Forms 347 and 348 for Small Purchases

Subsection 213.505–2 of the DoD FAR Supplement, Agency Order Forms in Lieu of Optional Forms 347 and 348, has been changed to make it clear that the DD Form 1155 and the Standard Form 44 are the only forms authorized for use in accomplishing small purchases. Further, it should be noted that the use of the word "should" in FAR 13.505–2(b)(1) means that the guidance contained therein is not mandatory. For example, the "Termination for Convenience" clause in DD Form 1155r does not apply unless the appropriate block is checked for Additional General Provisions. Clauses not prescribed in accordance with 213.502–2 of the DoD FAR Supplement shall not be used.

Item VIII—Procurement of Parts

A new subparagraph 217.7203(e), pertaining to limitations on price increases (spare parts), has been added to the current coverage on procurement of parts, pursuant to the 1984 DoD Authorization Act, Public Law 98–94.

Item IX—Special Contracting Methods

A new Subpart 217.74, Contracts with Requirements for Provisioned Items, is added to incorporate the coverage formerly found in DAR 4–300.

Item X—Independent Research and Development (IR&D) and Bid and Proposal (B&P) Costs

Coverage is added revising the threshold requiring advance agreements for IR&D and B&P Costs. Also added is a subparagraph pertaining to the "potential relationship" test for IR&D and B&P Costs allocated to DoD contracts.

Item XI—Contract Administration

Subpart 242.3 is corrected at 242.302(a)(S–71) to include language conforming to prior DAR coverage, 1–406(c)(lxiii).

Item XII—Value Engineering

In accordance with Secretary of Defense memorandum of 29 August 1983, Subject: Spare Parts Acquisition, 248.201(a) has been added to require inclusion of a Value Engineering Incentive clause in all contracts for spare parts and repair kits, for other than standard commercial parts, of $25,000 or more.

Item XIII—Pricing Adjustment

Changes are made to 215.804–8 and 252.215–7000 to correct coverage in the supplement and to eliminate duplicate coverage.

Item XIV—Profit

Editorial corrections are made to the coverage at 215.902 to change the word "equitable" to "inequitable" on the fourth line in subparagraph (a)(1)(ii), and to include in the same subparagraph (ii), coverage which was inadvertently omitted.

Item XV—Set-Asides for Small Business

Section 219.501 is amended to clarify coverage concerning acquisition of A&E services (military construction projects over $85,000), and to conform its content to the OUSDRE(AM) memorandum of December 22, 1983, Subject: Architectural and Engineering Services. Related changes are made to 219.801 and 236.600.

Item XVI—Special Termination Costs

Subparagraph 249.7003(a)(2) is revised to correct an omission in the supplement which resulted in the loss of criteria for determining when a contract would contain the special termination cost clause. This revision essentially conforms the language to that previously stated in DAR 8–712.

Item XVII—Editorial Correction

Section 207.604 is amended to reflect the addition of the format referenced in 207.604(f)(1) which was omitted from the 1984 Edition of the DoD FAR Supplement.

Adoption of Amendments

Therefore, the DoD FAR Supplement contained in 48 CFR Chapter 2 is amended as set forth below.

1. The authority citation for Chapter 2 reads as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, DoD FAR Supplement 201.301.

PART 201—FEDERAL ACQUISITION SYSTEM

201.304 [Amended]

2. Section 201.304 is amended by removing the reference "(a)" in paragraph (b)(2) and inserting in its place "FAR 1.304(a)."

3. Section 201.603–3 is added to read as follows:

201.603–3 Appointment.

Certificates of Appointment which were issued under the purview of the Armed Services Procurement Regulation and its successor, the Defense Acquisition Regulation, will have the same effect as if they had been issued under the Federal Acquisition Regulation.

PART 205—PUBLICIZING CONTRACT ACTIONS

4. Section 205.202 is amended by revising paragraph (v) to read as follows:

205.202 Exceptions.

The following need not be publicized in the Synopsis:

* * * * *

(v) Procurement to be made by an order placed under an existing contract covered by FAR 16.5 or under a mandatory Federal Supply Schedule (see FAR 38.101(b));

* * * * *

5. Section 205.205 is amended by revising paragraph (c)(2) to read as follows:

205.205 Special situations.

* * * * *

(c)(2) A notice of procurements with fees expected to be less than $10,000, or to be made outside the United States, its possessions, or Puerto Rico, shall be displayed at the contracting office and need not be publicized in the *Commerce Business Daily*.

* * * * *

PART 207—ACQUISITION PLANNING

6. Section 207.103 is amended by revising paragraph (f)(1)(i)(B) to read as follows:

207.103 Agency-head responsibilities.

* * * * *

(f)(1) *Design-to-cost criteria and thresholds.*

(i) * * *

(B) To the acquisition of systems, subsystems, and components below the thresholds for major defense systems to the extent prescribed in DoD 4245.3, "Design to Cost", and in accordance with Departmental procedures.

* * * * *

PART 208—REQUIRED SOURCES OF SUPPLIES AND SERVICES

7. Section 208.070 is added to read as follows:

208.070 Industrial preparedness production planning.

(a) *Scope of subpart.* This subpart establishes uniform procurement policy guidance and procedures for the Department of Defense in planning with industry for the establishment and retention of industrial base capability essential to national defense for production during periods of national emergencies.

(b) *Definitions.*

"Emergency (National)" means a condition declared by the President or Congress by virtue of powers previously vested in them which authorizes certain emergency actions to be undertaken in the national interest. Actions to be taken may include partial or total mobilization of national resources.

"Industrial Base" means that part of the total privately-owned and Government-owned industrial production and maintenance capacity of the United States, its territories and possessions, as well as capacity located in Canada, expected to be available during emergencies to manufacture and repair items required by the military services.

"Industrial Preparedness Planning" means planning designed to maintain an adequate industrial base to support DoD requirements for selected essential military items in a national emergency.

"Planned (or Planning) Item" means any item selected for industrial preparedness planning under the criteria of DoD Instruction 4005.3, "Industrial Preparedness Production Planning Procedures."

"Planned Producer" means an industrial firm which has indicated its willingness to produce specified military items in a national emergency by completing an Industrial Preparedness Program Production Planning Schedule (DD Form 1519).

(c) *General.* The Industrial Preparedness Production Planning (IPPP) program is conducted jointly among DoD components and industry to provide a means for correlating industrial capabilities and military requirements for the orderly retention, improvement, and rapid application of industrial capability to military production during an emergency.

(d) *Policy.*

(1) The Department of Defense will conduct Industrial Preparedness Production Planning to assure capability for the sustained production of essential military items to meet the needs of the U.S. and Allied Forces during an emergency.

(2) In planning for the production of selected items, preference shall be given to the use of privately-owned facilities, so as to minimize the need for Government investment. Government-owned production facilities will be included in the industrial base only when:

(i) Private industry is unable or unwilling to provide the facilities necessary to support DoD requirements; or

(ii) They are determined to be necessary for reasons of national security or to assure a quick response capability to meet fluctuating or job lot demands.

(3) Current procurements will be integrated, when applicable, with Industrial Preparedness Production Planning requirements.

(e) *Limitations.*

(1) Industrial Preparedness Production Planning will be limited to those weapon systems and items selected by the Military Departments and DLA in accordance with policy established in DoDI 4005.3, "Industrial Preparedness Production Planning Procedures."

(2) Industrial Preparedness Production Planning with foreign sources, except Canada, is prohibited.

(f) *Existing authority affecting the industrial base.* Specific authority under current contracting procedures to accomplish industrial planning actions includes the following:

(1) Leasing of Government-owned property to planned emergency producers under the authority of the Military Leasing Act of 1947 as codified in 10 U.S.C. 2667;

(2) Purchases in the interest of national defense or industrial preparedness (see FAR 15.217);

(3) Obtaining Jewel Bearings, Miniature and Instrument Ball Bearings, Precision Components for Mechanical Time Devices and High Purity Silicon (see FAR 8.2, and 208.73, 208.74 and 208.75 of this supplement).

(4) Use of multiyear contracts (see FAR 17.1 and 215.217);

(5) Providing Government production and research property to contractors (see FAR 45.302–1); and

(6) Preservation of domestic industrial base (see FAR Part 25).

(g) *Applicable procedures.* To assure the most effective planning approach, each DoD component will determine the specific type and depth of Industrial Preparedness Production Planning for each planning item. One or more of the authorities listed above may be appropriate to accomplish a particular planning action. Specific procedures as applicable to a current procurement action include:

(1) Solicitation of Planned Producers in all procurements over $10,000 of items for which they have signed industrial preparedness agreements (but see FAR Subpart 19.5 and 220.7003 of this supplement as pertain to partial set-asides for small business and labor surplus);

(2) Use negotiation procedures under FAR 15.217 to effect an industrial planning requirement; and

(3) When determined necessary by the applicable DoD component, award of individual service contracts may be awarded for accomplishing industrial planning efforts for selected essential military items. These efforts may include but are not limited to the maintenance of Government-owned industrial facilities (real and personal property); including production data packages; and

(4) When it is determined necessary to contract for an Industrial Preparedness Production Planning effort, and an item selected for such planning is being procured, a line item for the planning services and data will be included in the contract schedule. The schedule shall describe in detail the required end items of supply, the specific services, and data by separate line items (see 204.71).

PART 209—CONTRACTOR QUALIFICATIONS

8. Section 209.405 is amended by adding paragraph (c) to read as follows:

209.405 Effect of listing.

* * * * *

(c) Debarred or suspended contractors are also excluded from conducting business with the Government as agents or representatives of other contractors.

9. A new Part 211 is added to read as follows:

PART 211—ACQUISITION AND DISTRIBUTION OF COMMERCIAL PRODUCTS

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, DoD FAR Supplement 201.301.

211.002 Policy.

Contracting activities may use purchase descriptions which allow offerors to furnish commercial products and allow the Government to use commercial distribution systems whenever these products or distribution systems satisfy the Government's needs, but only if not prohibited by 211.005(b) below.

211.005 Acceptability.

When using funds appropriated by the 1983 DoD Supplemental Appropriation Act or the 1984 DoD Appropriations Act, no solicitation shall impose a requirement that in order to be eligible

to submit a bid or an offer on a contract to be let for the supply of commercial or commercial-type products, a small business concern must demonstrate that its product is accepted in the commercial market (except to the extent that may be required to evidence compliance with the Walsh-Healey Public Contracts Act) or satisfy any other prequalification to submitting a bid or an offer for the supply of any such product. Under this prohibition, solicitations may not exclude small business concerns from being considered for award, whether or not former suppliers under detailed specifications, solely because the product of the small business does not meet the definition of a "commercial product" or "commercial-type product" in FAR 11.001.

PART 213—SMALL PURCHASE AND OTHER SIMPLIFIED PURCHASE PROCEDURES

10. Section 213.505–2 is amended by revising paragraph (S–70) to read as follows:

213.505–2 Agency order forms in lieu of Optional Forms 347 and 348.

(S–70) Negotiated purchases of supplies, nonpersonal services and construction not in excess of $25,000 may be effected by using DD Form 1155, Order for Supplies or Services/Request for Quotations, and its ancillary forms. (Optional Forms 347 and 348 are not authorized for use in the Department of Defense.) Standard Form 44, Purchase Order-Invoice-Voucher, may also be used for material and nonpersonal services purchases not in excess of $2,500.

* * * * *

PART 215—CONTRACTING BY NEGOTIATION

11. Section 215.804–8 is amended by revising paragraph (S–70) and removing paragraph (S–71) as follows:

* * * * *

215.804–8 Contract clauses.

* * * * *

(S–70) The clause at 252.215–7000, Aggregate Pricing Adjustment, shall be included in all solicitations and contracts which include a clause at FAR 52.215–23, FAR 52.215–24, or at FAR 52.215–25. The Contracting Officer may insert a lesser dollar amount, if appropriate.

12. Section 215.902 is amended by revising paragraph (a)(1)(ii) to read as follows:

215.902 Policy.

(a)(1) * * *

(ii) If the contracting officer makes a written determination that the pricing situation meets any of the circumstances set forth above and that application of the manufacturing weighted guidelines will result in an inequitable profit objective, other methods for establishing the profit objective may be used. These methods shall be supported in a manner similar to that used in the weighted guidelines (profit factor breakdown and documentation of profit objectives); however, investment or other factors that would not be applicable to the contract shall be excluded from the profit objective determination. It is intended that the methods will result in profit objectives for noncapital intensive contracts that are below those generally developed for capital intensive contracts.

PART 217—SPECIAL CONTRACTING METHODS

13. Section 217.7203 is amended by adding paragraph (e) to read as follows.

§ 217.7203 Procurement of parts.

* * * * *

(e) *Limitations on price increases.*

(1) Pursuant to the 1984 DoD Authorization Act, Pub. L. 98–94, and except as provided in (e)(2) below, the contracting officer shall not award a contract for any centrally managed spare or replacement part when the price of such part has increased by 25 percent or more at any time within the most recent 12-month period.

(2) The purchase of such part is permitted notwithstanding a price increase of 25 percent or more provided the contracting officer certifies in writing to the head of a contracting activity before the purchase is made that:

(i) The contracting officer has evaluated the price of such part and concluded that the increase in the price of such part is fair and reasonable, or

(ii) The national security interests of the United States require that such part be purchased despite the increase in price of such part.

(3) If necessary to augment a price history for the requirements of this paragraph (e), purchasing offices may require that vendors supply price and quantity data for previous orders of the spare or replacement part, if any, as part of their response to a solicitation.

(4) The fact that a particular price has not increased by 25 percent in no way relieves the contracting officer of the responsibility for obtaining a fair and reasonable price.

14. A new Subpart 217.74 (sections 217.7400 through 217.7403) is added to read as follows:

Subpart 217.74—Contracts with Requirements for Provisioned Items

217.7400 Scope of subpart.

This subpart sets forth contract requirements and procedures to be followed with respect to the provisioning process.

217.7401 Definitions.

"Provisioned Item" means any support-type item selected throught provisioning procedures to support an end item or equipment. Support-type items include (but are not limited to) spares, repair parts and special support equipment.

"Provisioned Items Order" means an unpriced order issued under a contract which sets forth the Government's requirements for provisioned items. (Provisioned items for which firm prices have been established are procured by supplemental agreement or by separate contract.)

"Provisioning Activity" means that organization of a using Military Service, or that organization delegated by a using Service, which is resonable for the selection of, and the determination of requirements for, provisioned items.

"Provisioning Procedure" means the contract specification which sets forth the general requirements governing the acquisition of provisioned items and related documentation. It includes various optional provisioning techniques and formats for provisioning lists and data which the Government may elect to use on a particular contract. It also prescribes the sequence and timing of events to be followed and the responsibilities of the Government and the contractor in the provisioning process.

"Provisioning Requirements Statement" means the contractual document by which the Government notifies the contractor of the specific provisioning requirements selected from available options, as applicable to a particular contract. It normally includes instructions such as the provisioning method to be used; the range of provisioning technical documentation and data including the form and schedule of submission, number of copies and distribution instructions; the type and location of provisioning conferences; sample article requirements; the delivery schedule and packaging and marking requirements for provisioned items, and contractor requirements for provisioning screening.

"Provisioning Technical Documentation" means the documentation furnished by contractors to a provisioning activity for use in the identification, determination of initial requirements and cataloging of items to be procured. It generally includes provisioning lists, priced spare parts lists, and EDP cards and tapes. Engineering drawings or sketches supported by item descriptions (which include technical characteristics) are referred to as supplementary provisioning technical documentation.

217.7402 Procurement requirements.

(a) *Contract requirements.* Contracts which contain Provisioning Procedures shall specify the functions of the provisioning process to be performed under the contract and the activities responsible for performing these functions. Further, such contracts shall:

(1) Include a Provisioning Requirements Statement or specify a time (e.g., days after award) for its incorporation in the contract by contract modification; revisions to the Provisioning Requirements Statement shall also be incorporated by contract modification;

(2) Provide on the DD Form 1423 a time schedule or milestones for the delivery of provisioning technical documentation or for the subsequent incorporation thereof in the contract by contract modification;

(3) Require a flow-down of the appropriate provisioning technical documentation requirement in subcontracts and purchase orders where the documentation is to be prepared by subcontractors;

(4) Specify, if applicable, procedures for contractor interim release of long lead time items and include ordering and funding instructions for such items. (Such instructions shall require the contractor to advise the PCO or Provisioning activity within 30 days as to the items released, their estimated cost and the effective date of release.);

(5) Provide a time-frame for contractors to furnish price quotations for Provisioned Items Orders, which normally shall not exceed 60 days from receipt of the order;

(6) Specify exhibit identifiers applicable to the contract line/subline items (see 204.7105);

(7) Specify the activity designated to issue Provisioned Items Orders, i.e., PCO, Provisioning Activity or ACO. (When it is anticipated that more than one department will place Provisioned Items Orders against the contract, the requirements for provisioned items of each department shall be stated as separate contract line items.);

(8) Include procedures for processing changes in quantities of items ordered, including cancellations.

(b) *Issuance of provisioned items orders.* Provisioned Items Orders shall be issued on Standard Form 30, Amendment of Solicitation/Modification of Contract, and numbered in accordance with 204.7004–3.

(1) The term PROVISIONED ITEMS ORDER, in capital letters and underscored, shall be entered in Block 14.

(2) The appropriate exhibit identifier(s) for all attached exhibits shall be entered in Block 14.

(3) The order shall obligate funds to cover the estimated price of the items being ordered. Individual estimated prices will be shown for each exhibit line item on the copy(ies) of the Provisioned Items Order to be provided to the accounting and payment office(s).

(4) The Provisioned Items Order, or other form of contract modification, shall be used to effect decreases in quantities of items ordered, including cancellation.

(5) Upon receipt of advice from the contractor, as provided in (a)(4) above, the contracting officer will normally within 30 days issue an order covering the interim released items or notify the contractor to cancel the items.

(6) Orders shall be given the same distribution as the basic contract (see FAR 4.2) except that the distribution of voluminous spares/repair parts exhibits may be curtailed to the extent determined by the PCO and provided that the required copies, complete with exhibits, are forwarded to the Contract Administration Office and the payment office.

217.7403 Contract administration requirements.

(a) *Provisioning conferences.* The PCO or Provisioning Activity shall give the Contract Administration Office (CAO) timely notice of conferences on provisioning matters. The CAO shall: (1) Insure that the contractor understands the basic provisioning requirements of the contract and that all applicable publications are available to the contractor; (2) coordinate, as necessary, with the contractor and the PCO or Provisioning Activity to determine the types of and schedules for provisioning conferences required, e.g., guidance meetings, long lead time items conferences, source coding meetings, etc.; and (3) assist, if required, in the development of conference agenda. When requested by the PCO or Provisioning Activity or when otherwise considered necessary for effective contract administration, the CAO shall be represented at provisioning conferences.

(b) *Monitoring by the Contract Administration Office.* The CAO shall monitor each contract which contains requirements for provisioning technical documentation and provisioned items, as follows:

(1) Prepare and maintain a check list of events in the provisioning process, including schedules for use in monitoring such events;

(2) Review contractor progress in the preparation of provisioning technical documentation and, on request of the PCO or Provisioning Activity, inspect such documentation for format and content;

(3) Insure that the contractor invokes the prime contract provisioning technical documentation requirements in subcontracts and purchase orders when the subcontractor is charged with preparation of any documentation;

(4) Advise the PCO or Provisioning Activity, in accordance with FAR 42.11 of provisioning technical documentation delivery delays or other related problems;

(5) Insure contractor compliance with the contract requirements relative to the assignment of National Stock Numbers;

(6) Insure that the contractor adheres to the criteria established by the contract for the release of long lead time items.

(c) *Negotiating and executing supplemental agreements.* The ACO shall accomplish negotiation of prices and execution of supplemental agreements within 180 days after receipt of the Provisioned Items Order *provided* that, when time in excess of 60 days is allowed for submission of price quotations (see 217.7402(a)(5)), the 180 day period shall be adjusted accordingly. He also shall maintain records to reflect the status of Provisioned Items Orders as to adequacy of obligated funds, due dates for price quotations, and actions taken to obtain additional funds or deobligate excess funds.

(1) In the process of negotiating prices, the ACO shall:

(i) Determine the acceptability of pricing methods proposed by the contractor;

(ii) Verify that items and quantities contained in proposals are identical to those ordered, clarifying, as appropriate, any variances with the PCO or Provisioning Activity; and

(iii) Avail himself of data from similar contracts with the contractor, making use of audit records and information available from the PCO or Provisioning Activity. Price negotiation policies and

techniques set forth in FAR 15.8 shall be followed, including the record of price negotiations required by FAR 15.806.

(b) When delivery dates are not proposed by the PCO or Provisioning Activity or, when proposed delivery dates cannot be met by the contractor, the ACO shall coordinate the negotiated schedule with the PCO or Provisioning Activitity prior to the execution of the supplemental agreement.

(c) Supplemental Agreements shall be used to increase quantities of priced items and to definitize Provisioned Items Orders. Supplemental Agreements which definitize Provisioned Items Orders may incorporate multiple orders, or portions of orders when such action is not inconsistent with the provisions of the applicable contract.

PART 219—SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

15. Section 219.501 is amended by adding paragraphs (S–70), (S–71), (S–72), and (S–73) to read as follows:

219.501 General.

* * * * *

(S–70) Architectural and engineering services and construction design contracts in the amount of $85,000 and over for military construction projects shall not be set-aside for small business. Indefinite delivery and indefinite quantity contracts for architectural and engineering services that are set-aside for small business shall not exceed, for the total of orders placed under the contract, $85,000.

(S–71) Every proposed acquisition for construction, including maintenance and repairs, in excess of $5,000 and under $2 million (except dredging under $1 million) shall be considered individually, as though the Small Disadvantaged Business Utilization Specialist had initiated a set-aside request, and the procedures of DoD FAR Supplement 219.505 shall apply.

(S–72) Every proposed acquisition of $2 million or more for construction or $1 million or more for dredging, shall be considered on an individual acquisition basis under FAR Subpart 19.502–2.

(S–73) Every proposed acquisition for A–E services and construction design under $85,000 for military construction projects shall be considered individually, as though the Small and Disadvantaged Business Utilization Specialist had initiated a set-aside request, and the procedure of DoD FAR Supplement 219.505 shall apply.

219.505 [Amended]

16. Section 219.505 is amended by correctly designating paragraphs (d), (e), and (f) as paragraphs (c), (d) and (e).

17. Section 219.801 is added to read as follows:

219.801 General.

(b)(1) Architectural and engineering services and construction design contracts in the amount of $85,000 and over for military construction projects shall not be awarded under the 8(a) Program.

PART 231—CONTRACT COST PRINCIPLES AND PROCEDURES

18. Section 231.205–18 is amended by adding paragraphs (c)(1) and (2) to read as follows:

231.205–18 Independent Research and Development and Bid and Proposal Costs.

* * * * *

(c) * * *

(1) For DoD contracts, the amount of $4,400,000 is to be substituted for the dollar thresholds in FAR 31.205–18(c)(1)(i) and FAR 31.205–18(c)(1)(v) and the amount of $550,000 is to be substituted for the dollar thresholds in FAR 31.205–18(c)(1)(ii).

(2) The total amount of IR&D/B&P costs allocated to DoD contracts shall not exceed the total of expenditures for IR&D/B&P projects with a potential relationship to a military function or operation. For contracts which do not provide for cost determinations on a historical basis, the requirement will be considered to have been met if the estimated IR&D/B&P costs allocated to the contract do not exceed its proportionate share of the total estimated costs of IR&D/B&P with a potential relationship to a military function or operation. IR&D/B&P costs will be considered to satisfy the potential relationship requirement when the contractor can demonstrate that the effort under a proposed contract or grant would have a potential relationship to a military function or operation. The potential relationship of IR&D/B&P will be determinated by the contracting officer, and the results of the determination will be made available to the contractor. For additional allowability requirements affecting Foreign Military Sales (FMS) contracts, see 225.7304.

PART 236—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

19. Section 236.600 is added to read as follows:

236.600 Scope of subpart.

Architectural and engineering services and construction design contracts in the amount of $85,000 and over for military construction projects shall not be set-aside for small business. Those under $85,000 shall be considered individually, as though the Small and Disadvantaged Business Utilization Specialist had initiated a set-aside request, and the procedures of FAR Subpart 19.505 shall apply.

PART 237—SERVICE CONTRACTING

237.7001 [Amended]

20. Section 237.7001(c) is amended by adding "(FSR)" after the words "Field Service Representatives."

PART 242—CONTRACT ADMINISTRATION

21. Section 242.302 is amended by revising paragraph (a)(S–71) to read as follows:

242.302 Contract administration functions.

(a) * * *

(S–71) Perform post award surveillance of contractor progress toward demonstration of Cost/Schedule Control Systems to meet the Cost/Schedule Control Systems Criteria, provide assistance in the review and acceptance of contractors' Cost/Schedule Control Systems, and perform post acceptance surveillance to ensure continuing operation of contractors' accepted systems. The contracting officer shall insert the clauses at 252.242.7001, Notice of Cost/Schedule Control Systems, and 252.242.7002, Cost/Schedule Control Systems, when required by DoDI 7000.2.

22. A new Part 248 is added to read as follows:

PART 248—VALUE ENGINEERING

Subpart 248.2—Contract Clauses

248.201 Clauses for supply or service contracts.

(a) *General.* Supply or service contracts for spare parts and repair kits of $25,000 or more, for other than standard commercial parts, shall contain a VE incentive clause (see FAR 48.201(b)).

(5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, DoD FAR Supplement 201.301)

PART 249—TERMINATION OF CONTRACTS

23. Section 249.7003 is amended by

revising paragraph (a)(2) to read as follows:

249.7003 Special termination costs.

(a) * * *

(2) The contract is estimated to require total RDT&E financing in excess $25 million or total production investment in excess of $100 million;

* * * * *

270.604 Contractor documentation.

SUGGESTED PURCHASE/LEASE ANALYSIS FORMAT

ADP System

As of

Date

ADPS Components	Qty.	Vendor	Avg. Monthly Rental (*)/ Lease (**)	Instal. Date	Useful Life (***)	Org. Purchase Price	Equity (†)	(7–8) Current Purchase Price	Other Vendors Purchase Price	Residual Value (††)	(9–11 or 10–11) Owner Depreciation Costs	Other Costs (†††)	(12 + 13) Total Owner Costs	(4 × 6) Total Rental/ Lease Costs (††††)	(15–14) Differential (†††††)
	2	3	4 1	5	6	7	8	9	10	11	12	13	14	15	16

(*) Includes projected extra shift where necessary.
(**) Includes other costs (taxes, maintenance, insurance, etc.)
(***) Documentation must be provided and attached per ASPR 3–1100.3 or 215–205.48, as applicable.
(†) Accrued equity on rented/leased equipment (accumulated rental credits).
(††) Residual value forecast at end of useful life.
(†††) Includes taxes, maintenance, insurance, selling costs, lease cancellation costs, etc.
(††††) When considering annual justification for retention of existing ADPE capacity and the need to continue leasing, only the remaining rental costs to be paid under the lease should be shown.
(†††††) If lease is favorable, bracket differential figures.

[FR Doc. 84–25859 Filed 9–28–84; 8:45 am]

BILLING CODE 3810–01–M

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

24. Section 252.215–7000 is revised to read as follows:

252.215–7000 Aggregate pricing adjustment.

As prescribed at 215.804–8 (S–70), insert the following clause:

Aggregate Pricing Adjustment (Apr 1984)

In determining whether a pricing adjustment is expected to exceed $500,000, the term "pricing adjustment" shall mean "the aggregate increases and/or decreases in cost plus applicable profits".

(End of clause)

25. Section 270.604 is amended by adding the following table at the end of the section.

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48 CFR Ch. 2

[Defense Acquisition Circular 84–3]

DoD FAR Supplement

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: Defense Acquisition Circular (DAC) 84–3 amends the DoD FAR Supplement with respect to Federal Supply Schedules; bill of materials; notice of radioactive materials; contract clauses and provisions (matrix listings); and patents, data and copyrights.

EFFECTIVE DATE: April 1, 1984.

FOR FURTHER INFORMATION CONTACT:
J. Brannan, Director, Defense Acquisition Regulatory Council, OUSDRE(AM) (DARS), OUSDRE(M&RS), Room 3D139, Pentagon, Washington, D.C. 20301, telephone (202) 697–7266.

SUPPLEMENTARY INFORMATION:

Background

The DoD FAR Supplement is codified in Chapter 2, Title 48 of the Code of Federal Regulations.

The initial publication of the DoD FAR Supplement was contained in Part II, Volume 49, No. 59, of the **Federal Register** (49 FR 11302) of March 26, 1984.

Interested parties may submit proposed revisions to this Supplement directly to the DAR Council.

List of Subjects in 48 CFR Chapter 2

Government procurement.

James T. Brannan,

Director, Defense Acquisition Regulatory Council.

Defense Acquisition Circular

[Number 84–3]

March 15, 1984

All DoD FAR Supplement and other directive material contained in this Defense Acquisition Circular is effective April 1, 1984.

Defense Acquisition Circular (DAC) 84–3 amends the DoD FAR Supplement and prescribes procedures to be followed. The following is a summary of the amendments and procedures:

Item I—Federal Supply Schedules

The list of Federal Supply Schedules mandatory for use (formerly at DAR 5–102.3) has been updated and replaces the list now appearing at 208.404–70.

Item II—Bill of Materials

Subsection 210.004–70, Requiring Bills of Material, has been added to the coverage pertaining to Specifications, Standards and Other Purchase Descriptions. The coverage now conforms to former DAR coverage. Also added is the clause at 252.210–7004, entitled Bill of Material.

Item III—Notice of Radioactive Materials

Section 223.303 has been modified to include coverage requiring the clause now placed at 252.223–7000, Notice of Radioactive Materials. This material was inadvertently omitted from the 1984 Edition of the DoD FAR Supplement.

Item IV—Contract Clauses and Provisions (Matrix Listings)

Subparagraph 252.101(e)(2)(ii) is added to provide clarifiction in those instances where FAR Matrix listings contain direction for location of a provision or clause that is contrary to the UCF coverage at 214.201 and 215.406.

Item V—Patents, Data, and Copyrights

Part 227 has been revised to include a "flowdown" provision to subcontractors for the clause at FAR 52.227–11. Portions of Part 236, Construction and Architect-Engineer Contracts, Subpart 237.74, Communication Services, and related clauses have been deleted in light of coverage in the new Part 27, Patents, of the FAR.

Adoption of Amendments

Therefore, the DoD FAR Supplement contained in 48 CFR Chapter 2 is amended as set forth below.

1. The authority citation for Chapter 2 reads as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202; DoD Directive 5000.35, DoD FAR Supplement 201.301.

PART 208—REQUIRED SOURCES OF SUPPLIES AND SERVICES

2. Section 208.404–70 is revised to read as follows:

208.404–70 Applicability of listed federal supply schedules.

Supplies and services covered by the Federal Supply Schedules listed herein are mandatory in whole or in part upon some element of the Department of Defense. Some of the Federal Supply Schedules listed include classes unrelated to the Federal Supply Group which indentifies the Schedule. To aid in locating an item in the mandatory Schedules, the classes included in each Schedule have been listed. The Remarks column states exceptions to the mandatory provisions of the Schedule when applicable. (But see 208.470–6 for mandatory use of GSA Term Contracts for maintenance, repair, rehabilitation and reclamation of personal property.) The Schedules should be checked for complete details concerning the exceptions.

Mandatory National.

Schedule identification	FSC class	Schedule title	Remarks
25 I	2520, 2530, and 2540	VEHICULAR EQUIPMENT COMPONENTS—tire chains and clutch facings	
26 II	2610	PNEUMATIC TIRES AND INNER TUBES—Highway, off-highway industrial, pursuit/emergency high speed passenger, and agriculture.	
26 IV A	2630	TIRES—industrial, solid and cushion	
35 IV A	3510	APPLIANCES—household and commercial washing machines, electric, and drying tumblers, electric and gas.	
36 II	3610, and 3615	SPECIAL INDUSTRY MACHINERY—lithographic printing plates (masters) and solutions, spirit duplication, thermal process, printing, duplicating, and bookbinding equipment; and pulverizing, pulping, and shredding machines.	Except Special Item Nos. 51-1, 51-1-1, 51-1-3, 51-2, 51-46, 51-106, 51-107, 51-108, 51-110, 51-111, 51-113, 51-114, 51-125, 51-125-1, and 51-126.
36 IV	3610	SPECIAL INDUSTRY MACHINERY—copying equipment, supplies and services	Except Special Item Nos. 51-43, 51-44, 51-45, 51-52, 51-53, and 51-54.
37 I A	3730	AGRICULTURAL EQUIPMENT—Cattleguards	
37 II A	3750	LAWN AND GARDEN EQUIPMENT—lawn mowers, mowers, shredders, edgers, trimmers, roto-tillers, broadcast spreaders, sprayers, vacuums, sweepers, tractors, and accessories.	
41 I A	4120	AIR CONDITIONING EQUIPMENT—domestic use window units	
41 III A	4110	APPLIANCES—household refrigerator and refrigerator freezers	
41 III B	4110	REFRIGERATION EQUIPMENT—drinking water dispensers, mechanically cooled.	
45 VII A	4520	PLUMBING AND HEATING EQUIPMENT—domestic water heaters, gas and electric.	
45 VIII A	4540	PLUMBING AND SANITATION EQUIPMENT—household garbage disposers, ½ and ⅓ horsepower	
49 I A	4910 and 4940	MAINTENANCE AND REPAIR SHOP EQUIPMENT—hydraulic jacks, heat guns, auger machines.	
51 I A	5130, 5133, and 5180	HAND AND POWER TOOLS—pneumatic, hydraulic, powder actuated, gasoline engine, and special purpose drill bits.	
51 II A	5130	HAND AND POWER TOOLS—electric	
51 IV	5110, 5120, 5136, 5140, and 5210	HAND AND POWER TOOLS—nonpowered tools	
56 I B	5620	GLASS—safety glass, laminated, for "m" series trucks	
61 I	6140	BATTERIES—6 or 12 volt lead-acid automotive storage	
61 III	6135	BATTERIES—dry cell	Except Index Nos. 5 and 13–22.
62 I	6230	LIGHTING FIXTURES AND LAMPS—household and quarters use	
62 III	6240, 6250, and 6750	ELECTRIC LAMPS—flourescent and incandescent, and fluorescent adapters	
62 and 67	6240 and 6750	LAMPS—electrical and photographic	
66 I B	6650 and 6675	INSTRUMENTS AND LABORATORY EQUIPMENT—electronic distance measuring equipment and magnifiers.	Except Air Force.
66 II A	6630	INSTRUMENTS AND LABORATORY EQUIPMENT—blood analysis systems, dilutors, pipettes, electrophoresis equipment.	Do.
66 II B	6515, 6630, 6640, and 8125	INSTRUMENTS AND LABORATORY SUPPLIES—glass, plastic, and metal laboratory ware; laboratory distillation and demineralizing systems; vena puncture products for blood specimen collection; and prescription bottles.	
66 II C	6630, 6640, and 6650	INSTRUMENTS AND LABORATORY EQUIPMENT—microscopes, centrifuges, pH meters, microtomes, stirrers, shakers, stereoscopes, monoculers, and titrators/titration systems.	
66 II E	6670	INSTRUMENTS AND LABORATORY EQUIPMENT—laboratory balances, precision scales and accessories.	
66 II G	6625	INSTRUMENTS AND LABORATORY EQUIPMENT—graphic recording instruments.	Except Air Force.
66 II J	6625	INSTRUMENTS AND LABORATORY EQUIPMENT—measuring and test instruments.	Do.
66 II H	5915, 5985, and 6625	INSTRUMENTS AND LABORATORY EQUIPMENT—amplifiers, microwave and low frequency instruments, and RF components.	Do.
66 II K	6625	INSTRUMENTS AND LABORATORY EQUIPMENT—power supplies and components.	Do.
66 II L	6625	INSTRUMENTS AND LABORATORY EQUIPMENT—transducers, and servomechanisms.	Do.
66 II M	6625, 6630, and 6650	INSTRUMENTS AND LABORATORY EQUIPMENT—spectrophotometers, densitometers, liquid scintillation systems, multi-channel pulse height analyzers, spectrometers, photometers, and polarograph analysis equipment.	Do.
66 II N	6630, 6635, 6640, and 6660	INSTRUMENTS AND LABORATORY EQUIPMENT—analyzers, chromatographs, colony counters, blood analysis systems dilutors, pipetters, electrophoresis equipment, and image analysis systems.	Do.

Schedule identification	FSC class	Schedule title	Remarks
66 II O	4110, 6530, 6636, and 6640	INSTRUMENTS AND LABORATORY EQUIPMENT—laboratory apparatus, and laboratory and clinical refrigerators and freezers.	
66 II P	6640	INSTRUMENTS AND LABORATORY EQUIPMENT—laboratory and pharmacy furniture.	
66 II S	6630, 6640, and 6670	INSTRUMENTS AND LABORATORY EQUIPMENT—Glassware and Scales	
67 II B	6635, 6750, 6720, and 6740	PHOTOGRAPHIC SUPPLIES—film, chemicals, and photographic paper	
67 IV B	6720, 6730, 6740, 6750, and 6760	MICROPHOTOGRAPHIC EQUIPMENT AND SUPPLIES—cameras, projectors, printers, developing and duplicating equipment, and chemicals, film, and paper.	Except SIN's 21-12-4a, b and c, 21-21, 21-21a, 21-22, 21-22a, 21-40, and 21-41.
68 III E and F	6830	CHEMICALS AND CHEMICAL PRODUCTS—refrigerant fluorocarbons and sulfur hexafluoride.	
68 III G	6830	CHEMICALS AND CHEMICAL PRODUCTS—helium	
68 III H	6830	CHEMICALS AND CHEMICAL PRODUCTS—fire extinguishing fluorocarbons	
71 I A	7105	HOUSEHOLD AND QUARTERS FURNITURE—ranch style	
71 I B	7105	HOUSEHOLD AND QUARTERS FURNITURE—danish style	Except SIN's 29 through 38.
71 I C	7105	HOUSEHOLD AND QUARTERS FURNITURE—traditional style	
71 I D	7105	HOUSEHOLD AND QUARTERS FURNITURE—dormitory and quarters	Except items 1-57 and 92-100.
71 I E	7105	HOUSEHOLD AND QUARTERS FURNITURE—upholstered (performance tested) furniture.	
71 I G	7105	HOUSEHOLD AND QUARTERS FURNITURE—rattan	
71 II A, B, and C	7110	OFFICE FURNITURE—executive traditional, unitized and contemporary, wood	
71 II D	7110	OFFICE FURNITURE—filing cabinets, shelf files, card files, insulated files and card size files (for desk use); file cabinets, tabulating machine card size.	
71 II E	7110	OFFICE FURNITURE—Systems Furniture	
71 II F	7110	OFFICE FURNITURE—Systems Furniture	
71 III A	7110 and 7195	MISCELLANEOUS FURNITURE—classroom, auditorium and theatre seating	
71 III B	7195	MISCELLANEOUS FURNITURE—library, wood or metal	
71 III C	7125	MISCELLANEOUS FURNITURE—storage cabinets for forms and flammable liquids.	
71 III D	7110 and 7125	MISCELLANEOUS FURNITURE—mail sorting and distribution equipment, modular cabinets for high and low density storage, and molded plastic/corrugated storage bins.	
71 III E	7110	MISCELLANEOUS FURNITURE—insulated and uninsulated security filing cabinets, safes, vault doors, and map and plan files.	
71 III F	6530, 7105, 7210, and 7230	MISCELLANEOUS FURNITURE—hospital patient room	Except items 482-7 and 482-8
71 III H	7105 and 7110	MISCELLANEOUS FURNITURE—multi-purpose seating	
71 III J	7125	MISCELLANEOUS FURNITURE—steel vertical blueprint filing cabinets, roll drawing files, and high-density movable shelf filing cabinet systems.	
71 III K	7125	MISCELLANEOUS FURNITURE—special purpose	
71 III L	7110	MISCELLANEOUS FURNITURE—cafeteria and food service	
71 III M	7195	MISCELLANEOUS FURNITURE—acoustical partitions, speech privacy partitions, and vertical surface panels.	Except items 500-2, 500-3, and 500-4.
71 III N	7045 and 7110	MISCELLANEOUS FURNITURE—ADP furniture, storage and transportation items.	
71 III O	7105 and 7195	MISCELLANEOUS FURNITURE—folding chairs and tables	
71 V B	7110 and 7125	OFFICE FURNITURE—key cabinets	
71 V D	7105 and 7110	OFFICE AND FIELD FURNITURE—office furniture; map and plan filing cabinets and folding tables; modular steel field office furniture: filing cabinets, desk top, and end folding table.	
71 XIV A	7110, 7125, and 7195	SHOP FURNITURE—desks, benches, and tables	
71 XXVII A	6230, 7105, 7110, and 7195	FURNITURE—office and household, centunon by Federal Prison Industries	
71 XXVII B	7110	OFFICE FURNITURE—contemporary centunon by Federal Prison Industries	
72 I A and D	7220	HOUSEHOLD AND COMMERCIAL FURNISHINGS—carpets, special purpose carpets, rugs, carpet tiles, and carpet cushions.	Not mandatory for use aboard vessels
72 I B	7220	HOUSEHOLD AND COMMERCIAL FURNISHINGS—floor coverings; tile, linoleum, and vinyl sheet.	Do.
72 I E	7220	HOUSEHOLD AND COMMERCIAL FURNISHINGS—mats and matting; entrance-way, interlocking modular, resilient open construction and anti-static types.	Do.
72 II	7230 and 8305	HOUSEHOLD AND COMMERCIAL FURNISHINGS—window shades: cloth vinyl, and fiberglass.	Not mandatory for FSC 8305.
73 IV A	7310	APPLIANCES—household gas ranges	
73 IV B	7310	APPLIANCES—household and commercial electric ranges	
73 V A	7320	APPLIANCES—household dishwashing machines	
74 I A	7430	OFFICE MACHINES—electronic typewriters, visual display preparation devices, sound reduction equipment and electric typewriter supplies.	
74 I B	7430	OFFICE MACHINES—typewriters, electric, angle element	
74 I C	7450	OFFICE MACHINES—dictating and transcribing equipment	
74 II and III	6645, 7420, and 7490	OFFICE MACHINES—adding, calculating, cash registers, time measuring instruments, miscellaneous office machines	
74 II A	7420	OFFICE MACHINES—Calculators, desk top nonprogrammable	
74 V	7430	OFFICE MACHINES—manual typewriters—portable and nonportable	
75 I C	7530 and 9310	OFFICE SUPPLIES—special use paper: engineering and draftsman papers—graph, drawing, tracing, overlay plastic sheets, cardboard and paper embossing; index sheet sets for looseleaf binders; paperboard, drawing; and labels for automatic data processing.	
75 I D	7530	OFFICE SUPPLIES—plotting paper, supplies; and recording paper	
75 II A	3540, 7510, 7520, 7690, and 7530	OFFICE SUPPLIES—pencils, leads, tape label marking, chart supplies, and/or letters and figures, sorters, desk correspondence, file suspended folders, plastic book jackets, plastic organizers and sorters, out-of-typewriter correction material, labels, price marking equipment, data binders, binders, looseleaf, typewriter ribbons, word processing ribbons, correction tape, computer ribbons, computer printout ruler, plastic copy holder, and print wheels.	
75 II B	3540, 7510, and 7520	OFFICE SUPPLIES—looseleaf binders, label tape, pamphlet files, multistrike typewriter ribbons, typewriter correction tape, pressure sensitive adhesive tape, correctable typewriter ribbons, plastic desk trays, lead holders, document protector, typist copyholders, gummed tape dispensers, file drawer frames, stapling machines, bristol cardboard, labeling machines.	
75 IV A and B	7520	OFFICE SUPPLIES—rubber stamps	
75 IV C	7520	OFFICE SUPPLIES—pre-inked rubber stamps	
75 V	7530	OFFICE SUPPLIES—envelopes: mailing, printed and plain	Madatory except for plain envelopes for use in the District of Columbia.
75 VII	7540	OFFICE SUPPLIES—U.S. Government national credit card	

Schedule identification	FSC class	Schedule title	Remarks
75 VIII A	7530	OFFICE SUPPLIES—cards: tabulating, aperture, and copy	
75 X	7530	OFFICE SUPPLIES—xerographic paper	
75 XI	7530	OFFICE SUPPLIES—xerographic paper and thermal copy paper	
75 XII	7530	OFFICE SUPPLIES—electrographic paper	
76 I	7610 and 7640	PUBLICATIONS—dictionaries, encyclopedias, other reference books and pamphlets, maps, atlases, charts, and globes.	
76 II	7610, 7630, and 7670	PUBLICATIONS—law, tax, and reporting periodicals, microfilm library systems	Except SIN's 37-5, 6, and 7.
77 I	7740	AUDIO AND VIDEO SUPPLIES—phonograph records, 8-track tape cartridges, and cassettes.	
77 III	7105 and 7730	AUDIO AND VIDEO EQUIPMENT—televisions, radios, phonographs and video cassette recorders	
78 I A	7810	ATHLETIC AND RECREATIONAL EQUIPMENT—outdoor equipment	
78 I B	7810, 7820, and 7830	ATHLETIC AND RECREATIONAL EQUIPMENT—indoor recreational and gymnasium equipment.	
78 I C	7830	ATHLETIC AND RECREATIONAL EQUIPMENT—outdoor recreational equipment	
79 I A	7910	CLEANING EQUIPMENT AND SUPPLIES—vacuum cleaners, carpet shampooers, floor polishing and scrubbing machines.	
79 I B	7910	CLEANING EQUIPMENT AND SUPPLIES—vacuum cleaners, carpet shampooers, floor polishing and scrubbing machines.	
79 II A	7930	CLEANING EQUIPMENT AND SUPPLIES—liquid and powdered dishwashing compounds with contractor supplied, installed and maintained accessory dispensing systems.	
79 III A	7930	CLEANING EQUIPMENT AND SUPPLIES—liquid and powdered laundry detergents with contractor supplied, installed and maintained accessory dispensing systems.	
80 II A	8010	PAINT—gloss and semi-gloss latex, interior	
81 I A	8135	PACKAGING AND PACKING SUPPLIES—cushioning material	
81 II A	8135	PACKAGING AND PACKING SUPPLIES—steel and nonmetallic strapping	
99 VI A	9910	TROPHIES AND AWARDS—trophies, awards, plaques, pins and ribbons	
99 V A	9905	RECRUITING AID PROMOTIONAL MATERIAL	For requirements of recruiting commands only.
733	7339	TRANSCRIPTS—stenographic reporting services	

In addition to these National Federal Supply Schedules, there are Regional Schedules (chiefly covering various services) which are mandatory in the region covered. Activities should check with local GSA Region offices for listings of regional schedules applicable in their area.

PART 210—SPECIFICATIONS, STANDARDS, AND OTHER PURCHASE DESCRIPTIONS

3. Section 210.001 is added to read as follows:

210.001 Definitions.

"Bill of Materials" means a report by a supplier which specifies the quantities of various materials required to produce a designated quantity of supplies of a particular kind.

4. Section 210.004–70 is added to read as follows:

210.004–70 Requiring bills of material.

A bill of materials with respect to all or part of the supplies to be furnished pursuant to a contract, shall be required only if the contracting officer shall determine that such bill is necessary to develop materials or components requirements for production and maintenance programs, for industrial mobilization purposes, or for other specified purposes. In such event, the contract shall specify, with respect to such bill, the following:

(i) The supplies or parts thereof to be covered by the bill of materials;

(ii) The type of bill or bills (detailed, modified, expanded summary, or abbreviated summary) to be furnished, with applicable instructions;

(iii) The compensation to be paid the contractor for furnishing such bill and any revisions thereto, or a statement that the price of the item to which the bill relates includes compensation for the furnishing of such bill;

(iv) The number and kind of copies of such bill to be furnished; and

(v) Delivery dates. The contract shall also include the clause required by 210.011 (S–72). When a bill of materials is procured by contract separate from the supplies to which such bill of materials relates, such contract shall include such of the terms mentioned above as may be appropriate and shall specifiy that the bill of materials shall be furnished on DD Forms 346 and 347 if applicable, or authorized reproductions thereof. The contractor shall not be required to obtain data for the bill of materials in greater detail from a subcontractor than he is to furnish under the terms of the above clause.

5. Section 210.011 is amended by adding paragraph (S–72) to read as follows:

210.011 Solicitation provisions and contract clauses.

* * * * *

(S–72) The contracting officer shall insert the clause at 252.210–7004 as required by 210.004–70.

6. A new Part 223 is added to read as follows:

PART 223—ENVIRONMENT, CONSERVATION, AND OCCUPATIONAL SAFETY

Subpart 223.3—Hazardous Material Identification and Material Safety Data

223.303 Contract clause.

(S–70) The contracting officer shall insert the clause at 252.223–7000, Notice of Radioactive Materials, in all contracts for items, components thereof, and materials which are radioactive in which the radioactivity per gram is greater than 0.002 microcuries. Such contracts include, but are not limited to, contracts for aircraft, ammunition, missiles, vehicles, electronic tubes, instrument panel gauges, compasses and identification markers.

(5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, DoD FAR Supplement 201.301)

PART 227—PATENTS, DATA, AND COPYRIGHTS

7. Part 227 is amended by adding new Subpart 227.3 (sections 227.304–1 and 227.304–4) to read as follows:

Subpart 227.3—Patent Rights Under Government Contracts

227.304–1 General.

Interim and final invention reports and notification of all subcontracts for experimental, developmental, or research work (FAR 27.304–1(d)(ii)) may be submitted on DD Form 882.

227.304-4 Subcontracts.

The contracting officer shall insert the clause at 252.227-7034, Patents-Subcontracts, in solicitations and contracts containing the clause at FAR 52.227-11, Patent Rights—Retention by the Contractor (Short Form).

PART 236—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

8. Section 236.570 is revised to read as follows:

236.570 Additional clauses.

Sections 236.571 through 236.574 present additional clauses for insertion in contracts for construction and architect-engineer services.

236.575-236.578 [Removed]

9. Sections 236.575 through 236.578 are removed.

PART 237—SERVICE CONTRACTING

237.7413 [Amended]

10. Section 237.7413 is amended by removing and reserving paragraphs (a)(2) and (b)(1).

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

11. Section 252.101 is amended by adding paragraphs (e) and (e)(2)(ii) to read as follows:

252.101 Using Part 52.

* * * * *

(e) *Matrices.*

(2)(ii) In the event of an obvious conflict between the matrix location listing and FAR 14.201 or 15.406, the latter shall govern.

* * * * *

12. Section 252.210-7004 is added to read as follows:

252.210-7004 Bill of materials.

As prescribed at 210.011(S-72), insert the following clause:

Bill of Materials (Apr 1955)

(a) With respect to the supplies to be delivered pursuant to the contract, for which a Bill of Materials is required, the Contractor shall furnish a Bill of Materials in the required number of copies on Department of Defense Forms 346 and 347 if applicable, or authorized reproductions thereof, in accordance with the instructions specified in the Schedule.

(b) The Contractor shall furnish to the Government, at such intervals as designated in the Schedule, revised pages of the Bill of Materials incorporating the effect of any changes, pursuant to the clause hereof entitled "Changes", in the quantity of any material or part, or any other information contained in the Bill of Materials, or a statement that no revision is necessary. A final revision, or statement that no revision is necessary, shall be furnished upon completion of performance of the contract.

(c) The Bill of Materials and all revisions or statements subsequent thereto, shall be subject to inspection and acceptance by the Government.

(End of clause)

13. Section 252.223-7000 is added to read as follows:

252.223-7000 Notice of radioactive materials.

As prescribed at 223.303 (S-70), insert the following clause:

Notice of Radioactive Materials (Apr 1974)

(a) The Contractor shall notify the Contracting Officer or his designee, in writing (—*—) days prior to the delivery of, or prior to completion of any servicing required by this contract of, items containing either (i) radioactive material requiring specific licensing under the regulations issued pursuant to the Atomic Energy Act of 1954, as amended, and set forth in Title 10 CFR, in effect on the date of this contract, or (ii) other radioactive material not requiring specific licensing in which the radioactivity per gram is greater than 0.002 microcuries. Such notice shall specify the part or parts of the items which contain such radioactive materials, a description of the materials, the name and activity of the isotope, the manufacturer of the materials, and any other information known to the Contractor which will put users of the items on notice as to the hazards involved (BOB No. 38-R027).

(b) All items, parts or subassemblies which contain radioactive materials in which the radioactivity per gram is greater than 0.002 microcuries and all containers in which such items, parts or subassemblies are delivered to the Government shall be clearly marked and labeled as required by the latest revision of MIL-STD-1458 in effect on the date of the contract.

(End of clause)

* The Contracting Officer shall insert the number of days required in advance of delivery of the item or completion of the servicing to assure that appropriate licenses are obtained or safeguards are taken when licenses are not required.

14. Section 252.227-7034 is added to read as follows:

252.227-7034 Patents-subcontracts.

As prescribed at 227.304-4, insert the following clause:

Patents-Subcontracts (Apr 1984)

The Contractor will include the clause at FAR 52.227-12, Patent Rights—Retention by the Contractor (Long Form) suitably modified to identify the parties, in all subcontracts, regardless of tier, for experimental, developmental, or research work to be performed by other than a small business firm or nonprofit organization.

(End of clause)

252.236-7019 through 252.236-7052 [Removed]

15. Sections 252.236-7019, 252.236-7050, 252.236-7051, and 252.236-7052 are removed.

252.237-7401 [Removed]

16. Section 252.237-7401 is removed and reserved.

252.237-7405 [Removed]

17. Section 252.237-7405 is removed and reserved.

18. Section 252.249-7000 is amended by adding paragraph (a)(5) to read as follows:

252.249-7000 Special termination costs.

(a) * * *

(5) Costs in categories (a) (1), (2), (3), and (4) above to which subcontractors may be entitled in the event of termination.

* * * * *

[FR Doc. 84-25958 Filed 9-28-84; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 1

[OST Docket No. 1; Amdt. 1-196]

Organization and Delegation of Powers and Duties; Clarification

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: This amendment clarifies a limitation on the delegation to the Federal Highway Administrator under the Surface Transportation Assistance Act of 1978.

DATE: The effective date of this amendment is October 1, 1984.

FOR FURTHER INFORMATION CONTACT: Robert I. Ross, Office of the General Counsel, C-50, Department of Transportation, Washington, DC 20590, (202) 426-4723.

SUPPLEMENTARY INFORMATION: Since this amendment relates to Departmental management, procedures, and practice, notice and comment on it are unnecessary and it may be made effective in fewer than thirty days after publication in the **Federal Register.**

When DOT's delegation under the Surface Transportation Assistance Act of 1978 was published, the delegation to the Federal Highway Administrator (49 CFR 1.48(c)(1)) was expressed in a manner that has caused some confusion:

Whether the limitation "as it relates to matters within the primary responsibility of the Federal Highway Administrator" applied only to "Title IV" (now "Title IV, as amended") or to all sections of that statute delegated to the Highway Administrator. The limitation was intended, and has been implemented, to apply only to Title IV; this amendment clarifies that.

List of Subjects in 49 CFR Part 1

Authority delegations (government agencies), Organization and functions (government agencies).

In consideration of the foregoing, § 1.48 of Part 1 Title 49, Code of Federal Regulations, is mended by revising paragraph (c)(1), and the introductory language of § 1.48 is printed for the convenience of the reader, to read as follows:

§ 1.48 Delegations to Federal Highway Administrator.

The Federal Highway Administrator is delegated authority to—

* * * * *

(c) Administer the following laws relating generally to highways:

(1) Sections 105, 107(c)–(e), 123 (a) and (b), 124(c), 126(d)–(g), 138(c), 140–145, 147–154, 167, and 171, and Title IV, as amended (as it relates to matters within the primary responsibility of the Federal Highway Administrator), of the Surface Transportation Assistance Act of 1978, Pub. L. 95–599, 92 Stat. 2689; and sections 502–504, Title V, of the Highway Revenue Act of 1978.

* * * * *

(49 U.S.C. 322; 49 CFR 1.57(1))

Issued in Washington, DC, on September 26, 1984.

Rosalind A. Knapp,

Acting General Counsel.

[FR Doc. 84-26081 Filed 9-28-84; 9:00 am]
BILLING CODE 4910-62-M

National Highway Traffic Safety Administration

49 CFR Parts 571, 574, and 575

[Docket No 84-11; Notice 1]

Corrections of Errors in Code of Federal Regulations

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Technical amendment.

SUMMARY: This agency has discovered several errors in the most recent edition of Title 49 of the Code of Federal Regulations, with respect to NHTSA's tire standards and regulations. This notice corrects those errors, so that the replacement for this edition of the Code of Federal Regulations will be accurate. All of the affected provisions have previously appeared in correct form in the **Federal Register**, so no new obligations or duties are imposed on any party as a result of these corrections.

EFFECTIVE DATE: October 1, 1984.

FOR FURTHER INFORMATION CONTACT: Stephen Kratzke, Office of Chief Counsel, NHTSA, 400 Seventh Street, SW., Washington, D.C. 20590 (202–426–2992).

SUPPLEMENTARY INFORMATION: There are a number of errors in the October 1, 1983 version of Title 49 of the Code of Federal Regulations, relating to this agency's tire standards and regulations. To ensure that the next revision of the Code of Federal Regulations contains accurate versions of these standards and regulations, this notice sets forth the correct versions of these requirements. The errors in the current Code of Federal Regulations include:

(1) The omission of Figure 2 and the omission of certain values in Tables I–A, I–B, and I–C of Standard No. 109;

(2) The omission of Table I from Standard No. 110; and

(3) Several typographical errors in the Uniform Tire Quality Grading Standards of § 575.104.

Additionally, as a result of the interim final rule and permanent final rule on voluntary tire registration both amending the definition section of Part 574, the next revision of Title 49 of the Code of Federal Regulations would have contained identical definitions of the term "independent" at § 574.3(c) (1) and (2). To avoid this duplication, this notice sets forth all of § 574.3(c) as it should appear.

Publication of the correct versions of these requirements imposes no duties or responsibilities on any party, nor does it alter any existing obligations. The correct version of all of these requirements has appeared in the **Federal Register** at one time or another, following the adoption of these requirements as final rules. For the tables and figures omitted from Standards No. 109 and 110, see 32 FR 15792, at 15794, 15798, and 15799; November 16, 1967. For the Part 574 definitions, see 49 FR 4755, at 4760; February 8, 1984. For the Uniform Tire Quality Grading Standards language, see 43 FR 30542; July 17, 1978 and 43 FR 50438; October 30, 1978. This notice simply ensures that the public will have correct copies of the tire requirements in Title 49 of the Code of Federal Regulations. Accordingly, the NHTSA finds for good cause that notice and opportunity for comment are unnecessary, and these corrections are effective as soon as this notice is published.

In consideration of the foregoing, Title 49 of the Code of Federal Regulations is amended by making the following changes:

PART 571—[AMENDED]

§ 571.109 [Amended]

1. In § 571.109 Standard No. 109; New pneumatic tires—passenger cars, Figure 2 is added at the end of the standard, appearing after Figure 1 and before Figure 2a as follows:

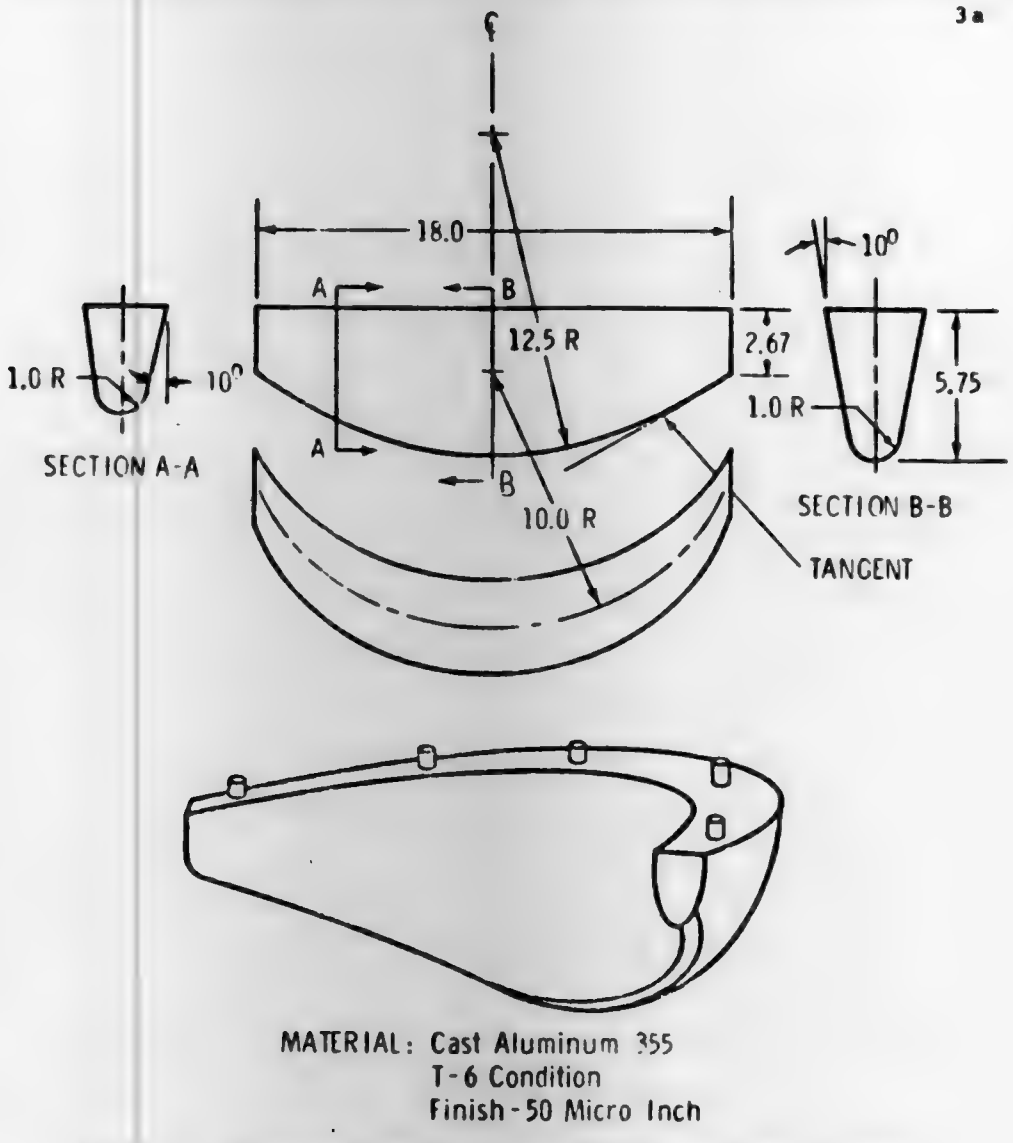

FIGURE 2 – Diagram of Bead Unseating Block Dimensions in Inches

2. Table I–A in Appendix A to § 571.109 is revised to read as follows:

TABLE I–A—FOR BIAS PLY TIRES WITH DESIGNATED SECTION WIDTH OF 6 INCHES AND ABOVE

Cord material	Maximum permissible inflation					
	32 lb/in²	36 lb/in²	40 lb/in²	240 kPa	280 kPa	300 kPa
Rayon (in-lbs)	1,650	2,574	3,300	1,650	3,300	1,650
Nylon or polyester (in-lbs)	2,600	3,900	5,200	2,600	5,200	2,600

3. Table I–B in Appendix A to § 571.109 is revised to read as follows:

Table I–B.—FOR BIAS PLY TIRES WITH DESIGNATED SECTION WIDTH BELOW 6 IN.

Cord material	Maximum permissible inflation					
	32 lb/in²	36 lb/in²	40 lb/in²	240 kPa	280 kPa	300 kPa
Rayon (in-lbs)	1,000	1,875	2,500	1,000	2,500	1,000
Nylon or polyester (in-lbs)	1,950	2,925	3,900	1,950	3,900	1,950

4. Table I–C in Appendix A to § 571.109 is revised to read as follows:

TABLE I–C—FOR RADIAL PLY TIRES

Size designation	Maximum permissible inflation					
	32 lb/in²	36 lb/in²	40 lb/in²	240 kPa	280 kPa	300 kPa
Below 160 mm (in-lbs)	1,950	2,925	3,900	1,950	3,900	1,950
160 mm or above (in-lbs)	2,600	3,900	5,200	2,600	5,200	2,600

5. A new Table I is added at the end of § 571.110, to read as follows:

§ 571.110 Standard No. 110; Tire selection and rims.

* * * * *

TABLE I.—OCCUPANT LOADING AND DISTRIBUTION FOR VEHICLE NORMAL LOAD FOR VARIOUS DESIGNATED SEATING CAPACITIES

Designated seating capacity, number of occupants	Vehicle normal load, number of occupants	Occupant distribution in a normally loaded vehicle
2 through 4	2	2 in front.
5 through 10	3	2 in front, 1 in second seat.

PART 574—TIRE IDENTIFICATION AND RECORDKEEPING

6. Section 574.3(c) is revised to read as follows:

§ 574.3 Definitions.

* * * * *

(c)(1) "Independent" means, with respect to a tire distributor or dealer, one whose business is not owned or controlled by a tire manufacturer or brand name owner.

(2) "Mileage contract purchaser" means a person who purchases or leases tire use on a mileage basis.

(3) "New tire brand name owner" means a person, other than a new tire manufacturer, who owns or has the right to control the brand name of a new tire or a person who licenses another to purchase new tires from a new tire manufacturer bearing the licensor's brand name.

(4) "Retreaded tire brand name owner" means a person, other than a retreader, who owns or has the right to control the brand name of a retreaded tire or a person who licenses another to purchase retreaded tires from a retreader bearing the licensor's brand name

(5) "Tire purchaser" means a person who buys or leases a new tire, or who buys or leases for 60 days or more a motor vehicle containing a new tire for purposes other than resale.

* * * * *

PART 575—[AMENDED]

7. Section 575.104(d)(2)(ii) introductory text and (d)(2)(ii)(A) are revised to read as follows:

§ 575.104 Uniform tire quality grading standards.

* * * * *

(d) *Requirements.*

* * * * *

(2) *Performance.*

* * * * *

(ii) *Traction.* Each tire shall be graded for traction performance with the word "TRACTION" followed by the symbols C, B, or A, when the tire is tested in accordance with the conditions and procedures specified in paragraph (f) of this section.

(A) The tire shall be graded C when the adjusted traction coefficient is either:

* * * * *

8. Section 575.104(f)(2)(x) is revised to read as follows:

* * * * *

(f) *Traction grading conditions and procedures.*

* * * * *

(2) *Procedure.*

* * * * *

(x) Compute a candidate tire's adjusted traction coefficient for concrete (μ_c) by the following formula:

μ_c = Measured candidate tire coefficient for concrete + 0.35
− Measured standard tire coefficient for concrete

* * * * *

9. Figure 1 following § 575.104 is revised to appear as follows:

10. T
Figure
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(Secs. 1
U.S.C. 1
49 CFR

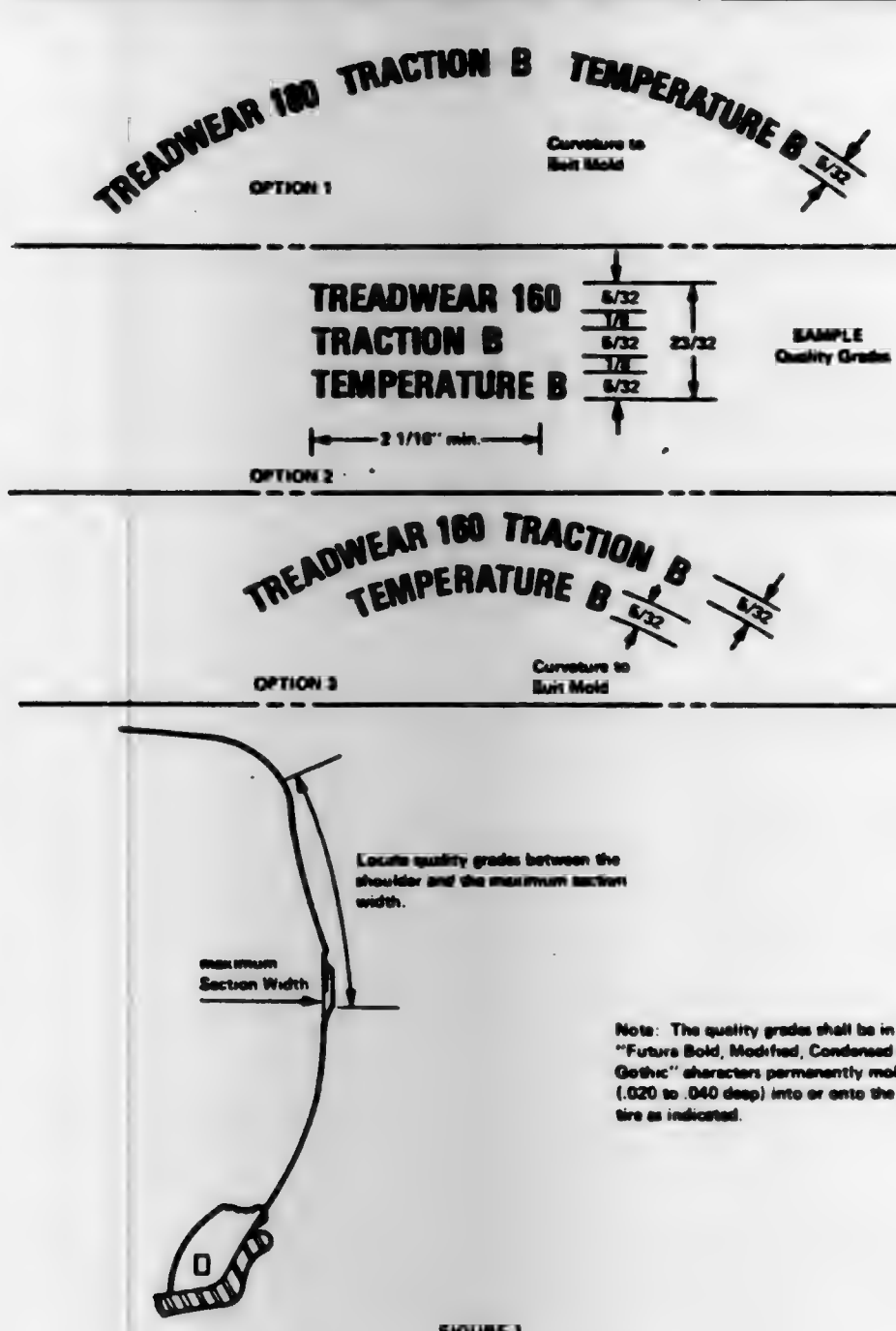

FIGURE 1

10. The first paragraph following Figure 5 is revised to read as follows:

* * * * *

In this graph, xG5J, $y_{(j=0, 1, \ldots 8)}$ are the individual data points representing the tread depth measurements (the overall average for the tire with 6 measurements in each tire groove) at the beginning of the test (after break-in) and at the end of each 800-mile segment of the test.

* * * * *

(Secs. 103, 119, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1407), delegation of authority at 49 CFR 1.50.)

Issued on September 26, 1984.

Howard M. Smolkin,

Acting Administrator.

[FR Doc. 84–26001 Filed 9–28–84; 8:45 am]

BILLING CODE 4910–59–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1103

[Ex Parte No. 55 (Sub-54)]

Changes to Rules Governing Scheduling of ICC Non-Attorney Practitioners' Examinations

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: Due to a decrease in the number of applicants for the examination, the Commission is amending its rules which specify the schedule for the non-attorney practitioners' examination. The examination will now be held on an annual basis and will be administered on the second Tuesday in July.

DATES: Effective on October 31, 1984.

FOR FURTHER INFORMATION CONTACT: Darlene Proctor, Office of the Secretary, (202) 275–7233.

SUPPLEMENTARY INFORMATION: On July 2, 1984, the Commission issued proposed rules to amend 49 CFR 1103.3(g), which states that examinations will be conducted twice a year on the first Tuesday in June and December of each year [49 FR 28276, July 11, 1984]. The proposed rules would reduce the frequency of the examination to once a year, on the third Tuesday of June.

The Commission received only one comment on the proposed rules. That comment, from an ICC Practitioner, suggested the exam be scheduled in July instead of June since most colleges are ending their year and conducting exams during the same time period as our proposed schedule. We have no strong preference for either month and agree that July would be more convenient to applicants. We will therefore administer the exam on the second Tuesday in July of each year. We will also amend the time period for filing applications to improve administrative processing of the applications. An application for the exam will now be submitted between January and May 15 of the year in which the examination is to be taken.

The Code of Federal Regulations is amended to reflect these changes as shown in Appendix A of this decision.

This action does not affect the quality of the human environment or the conservation of energy resources.

Small entities will not be affected significantly by this action.

(49 U.S.C. 10308 and 10321; 5 U.S.C. 559)

List of Subjects in 49 CFR Part 1103

Administrative practice and procedure.

Decided: September 24, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett, Gradison, Simmons, Lamboley, and Strenio.

Commissioners Lamboley and Strenio did not participate.

James H. Bayne,

Secretary.

Appendix

PART 1103—[AMENDED]

In 49 CFR 1103.3, paragraphs (c) and (g) are revised to read as follows:

§ 1103.3 Persons not attorneys-at-law—qualifications and requirements for practice before the Commission.

* * * * *

(c) *Application for admission.* An application filed pursuant to this rule under oath for admission to practice shall be submitted between January and May 15 of the year in which the examination is to be taken. The application is to be completed in full on the form provided by the Commission, and shall be addressed to the Secretary, Interstate Commerce Commission, Washington, DC 20423, to the attention of the room number indicated on the form.

* * * * *

(g) *Time and place of examination.* The examination will be conducted once a year on the second Tuesday in July. Notice of the time and place to appear for the examination will be mailed to qualifying applicants approximately 30 days prior to the date of the examination.

* * * * *

[FR Doc. 84-25943 Filed 9-28-84; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Part 1300

[No. 37321]

Revision of Tariff Regulations, All Carriers; Change of Effective Date

AGENCY: Interstate Commerce Commission.

ACTION: Final Rule Change of Effective Date.

SUMMARY: In this proceeding the Interstate Commerce Commission (ICC) proposed a revision and consolidation of its regulations in 49 CFR Parts 1300 to 1310 (48 FR 31265, July 1983). New regulations would be located at 49 CFR Part 1312 and 49 CFR 1300 to 1310 would be removed from the Code of Federal Regulations (CFR). The Federal Energy Regulatory Commission (FERC) also uses portions of 49 CFR Part 1300 in its regulation of rates and charges for the transportation of oil by pipeline. At 49 FR 12914, 3–3–84, the ICC issued a notice to transfer 49 CFR Part 1300 from Title 49 of the CFR to Title 18 of the CFR, instead of removing the Part from the CFR. The original effective date of July 2, 1984 was postponed to October 2, 1984 (48 FR 27117, June 29, 1984) because the ICC had the proposed rules under consideration. Since the ICC is still considering the revisions to its tariff regulation, it is necessary to further postpone the effective date of this final rule.

EFFECTIVE DATE: October 30, 1984.[1]

FOR FURTHER INFORMATION CONTACT:
Kathleen M. King, (202) 275–7428
Charles E. Langyher, (202) 275–7739.

SUPPLEMENTARY INFORMATION: The action we are taking by this notice concerns solely matters of agency practice and procedure because it merely postpones the effective date of the transfer of existing regulations from Title 49 CFR to Title 18 CFR. Therefore, we find pursuant to Section 553(b) of the Administrative Procedure Act, 5 U.S.C. 553(b), that prior notice and opportunity for public comment is unnecessary.

This decision will not significantly affect the quality of the human environment or the conservation of energy resources.

List of Subjects in Part 1300

Pipeline.

Authority: 5 U.S.C. 553 and 49 U.S.C. 10321.

Decided: September 1984.

By the Commission, Reese H. Taylor, Jr., Chairman.

James H. Bayne,

Secretary.

[FR Doc. 84-25944 Filed 9-28-84; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Parts 1303–1310, and 1312

[Docket No. 37321]

Revision of Tariff Regulations, all Carriers

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: The Commission is revising its rules governing the construction, filing, and posting of tariffs and related documents. In reviewing the existing rules, we considered that many related more to substance than form, and did not allow sufficient flexibility for carriers to publish innovative rates and services. Many of the existing rules failed to reflect the statutory changes since 1980. The new rules will be located at 49 CFR Part 1312 and the existing rules in 49 CFR Parts 1303, 1304, 1305, 1306, 1307, 1308, 1309, and 1310 will be removed. (49 CFR Part 1300 has been transferred to 18 CFR, Chapter I, and redesignated Part 341 at the request of the Federal Energy Regulatory Commission). (The effective date of the transfer is October 30, 1984. See rule published elsewhere in this issue.) No changes to existing tariffs are required.

DATE: The effective date of the new rules is October 30, 1984.

FOR FURTHER INFORMATION CONTACT:
Charles E. Langher, (202) 275–7739.

SUPPLEMENTARY INFORMATION: This proceeding was instituted by a notice of proposed rules, published in the **Federal Register** at 48 FR 31265, July 7, 1983, to consider proposals for the revision of the Commission's regulations for the construction, posting and filing of carriers' tariffs, schedules, and related documents.

Among other things, the adopted rules:

(1) Allow more flexibility in tariff size;

(2) No longer require the filing of letters of authorization, powers of attorney or concurrences, and letters of transmittal may be in any form;

(3) Contain performance standards that tariffs be understandable and legible and that rates be clearly stated in lieu of more restrictive rules;

(4) Make specific formats for many items and contents of tariffs optional;

(5) Lift restrictions placed on the publication of accessorial, terminal and other services;

(6) Codify a number of outstanding special tariff authorities and recent decisions;

(7) Offer more flexibility in the amount of supplemental matter; and

(8) Ease posting requirments.

In our NPR in this proceeding we indicated that 49 CFR Parts 1301 and 1302 were affected by this action. However, upon review we have determined that those parts, unlike the other parts, do not contain tariff publishing rules of general application. Further, 49 CFR Part 1301 was removed in Ex Parte No. 356 (Sub-No. 3), *Rail General Exemption Authority—Long and Short Haul Transportation*, at 48 FR 9649, March 8, 1984. Consequently, we have deleted reference to 49 CFR Parts 1301 and 1302 in this notice.

The Federal Energy Regulatory Commission (FERC) uses 49 CFR Part 1300 in its regulation of oil pipeline rates, charges and provisions. FERC requested that this Commission transfer Part 1300 from Title 49 of the CFR to

[1] The FERC is publishing a technical correction contemporaneously with this notice that postpones the effective date for transfer of the rules for the establishment of rates or charges for the transportation of oil by pipeline from Title 49 to Title 18 of the CFR.

Title 18 of the CFR, instead of removing it from the CFR entirely and we did so effective October 30, 1984.

Additional information is contained in the Commission's decision. For a copy of it write to: TS Infosystems, Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 (D.C. Metropolitan area) or toll free (800) 424-5403.

This notice is issued under the authority of section 10762 of the Interstate Commerce Act (49 U.S.C. 10762) and section 553 of the Administrative Procedure Act (5 U.S.C. 553).

List of Subjects in 49 CFR Parts, 1303, 1304, 1305, 1306, 1307, 1308, 1309, 1310, and 1312

Buses, Freight forwarders, Maritime carriers, Motor carriers, Passenger vessels, Pipelines, Railroads.

Decided: September 24, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett, Gradison, Simmons, Lamboley, and Strenio. Commissioners Lamboley and Strenio did not participate.

James H. Bayne

Secretary.

Appendix

Chapter X of Title 49 of the Code of Federal Regulations is amended as follows:

1. Part 1312 is added to read as follows:

PART 1312—REGULATIONS FOR THE PUBLICATION, POSTING AND FILING OF TARIFFS, SCHEDULES AND RELATED DOCUMENTS

Sec.

1312.1 Introduction and general provisions.
1312.2 Applications for special tariff authority.
1312.3 Size of paper and where to send tariff publications and other documents.
1312.4 Filing tariffs.
1312.5 Posting requirements.
1312.6 Furnishing copies of tariff publications.
1312.7 Form and printing.
1312.8 ICC tariff designations.
1312.9 Codes for identification of places.
1312.10 Powers of attorney, concurrences, transfer of agent.
1312.11 Tariffs issued by joint agents not applicable to contract carriers or freight forwarders.
1312.12 Title page of original tariffs.
1312.13 Contents of tariffs.
1312.14 Statement of rates and fares.
1312.15 Routing not applicable to freight fowarder or contract carriers.
1312.16 Sectional tariffs.
1312.17 Amendments
1312.18 Supplements.
1312.19 Cancellation of tariffs and transfer of provisions.
1312.20 Transfer of operations—change in name and control.
1312.21 Suspended matter.
1312.22 Rates or other provisions prescribed by the Commission.
1312.23 Expiration dates.
1312.24 Tariffs listing carriers' operating authority applicable to motor carriers of property.
1312.25 Participating carrier tariffs.
1312.26 Rate basis tariffs.
1312.27 Classification, exceptions, rules, dangerous articles and station list tariffs.
1312.28 Accessorial, terminal and other services.
1312.29 Rates and liability based on value provisions.
1312.30 Distance rates.
1312.31 Commodity rates determined by the use of rate base numbers.
1312.32 Application of rates from or to intermediate points.
1312.33 Class rates from or to unnamed points applicable only to motor carriers of property.
1312.34 Continuous service rates applicable only to motor carriers of property.
1312.35 Time-volume rates applicable only to passenger carriers.
1312.36 Seasonal water rates.
1312.37 Export and import traffic and joint rates with ocean carriers.
1312.38 Substitution of service.
1312.39 Miscellaneous provisions which may be filed on less than statutory notice.
1312.40 Claims rules.
1312.41 Contracts and contract summaries.

Authority: 49 U.S.C. 10762; 5 U.S.C. 553.

§ 1312.1 Introduction and general provisions.

(a) *Purpose.* Tariffs are for the information and the use of the general public. They shall be published in a manner that ensures they are readable and that their terms and conditions are easy to understand and apply. The Commission reserves the right to reject or strike any tariff publication or other document not in compliance with law, or to require that it be modified, corrected or reissued. Rejection or striking of tariffs will be handled consistent with due process of law.

(b) *Definitions.* For the purpose of this part—

(1) "Act" means the Interstate Commerce Act, as amended.

(2) "Agent" means a person, association or corporation authorized to publish and file rates and provisions for a carrier's account in tariffs published in the agent's name.

(3) "Agent tariff" means a tariff filed in the name of an agent.

(4) "Basing fare" means a fare used for constructing a through fare for transportation from one point to another over a route for which no through, one-factor fare (other than basing fare) is published.

(5) "Bound tariff" means a tariff consisting of two or more sheets bound at the left edge in pamphlet or book form or a single-sheet tariff.

(6) "Carrier" means a common carrier, contract carrier or freight forwarder subject to the Act. It also means an ocean carrier participating in joint tariff provisions with carriers subject to the Act.

(7) "Carrier's tariff" means a tariff filed in the name of a carrier.

(8) "Class I," "Class II," and "Class III," carriers are as defined in the Commission's Uniform System of Accounts Part 1240 of this title.

(9) "Classification" means a publication containing a list of commodities, the classes to which they are assigned for the purpose of applying class rates, and governing rules and regulations.

(10) "Class rate" means a rate which applies to commodities according to the class assigned in a classification, a tariff of exceptions to a classification, or in a class rate tariff.

(11) "Class tariffs" are those which contain class rates.

(12) "Commission" means the Interstate Commerce Commission.

(13) "Commodity rate" means a rate published to apply to commodities specifically named or described in the tariff in which the rate is published or in a separate commodity list.

(14) "Commodity tariffs" are those which contain commodity rates.

(15) "Common carrier" means all common carriers and freight forwarders subject to the Act.

(16) "Commutation fare" means a charge for a specified number of trips (more than a single round trip) or for an unlimited number of trips within a certain period of time, which, on a per trip basis is less than the normal rate.

(17) "Item" means a tariff provision of any kind bearing an "item number" designation.

(18) "Joint rate" means a rate that applies over the lines or routes of two or more carriers made by an agreement between the carriers, effected by a concurrence or power of attorney.

(19) "Joint tariffs" are those which contain joint rates.

(20) "Local rate" means a rate that applies over the lines or routes of one carrier only.

(21) "Local tariffs" are those which contain local rates.

(22) "Looseleaf page amendment" means a single sheet published as an amendment (not a supplement) to a looseleaf tariff.

(23) "Looseleaf tariff" means a tariff consisting of looseleaf pages.

(24) "Motor common carriers of property" means all motor common carriers of property subject to the Act, except passenger carriers having authority to transport property in the same vehicle with the passengers.

(25) "Ocean carrier" means a vessel-operating common carrier by water regulated by the Federal Maritime Commission, and engaged in foreign commerce as defined in the Shipping Act of 1916.

(26) "Original tariff" means the tariff as originally filed excluding amendments.

(27) "Post" refers to the public availability of filed tariffs.

(28) "Proportional rate" means a rate published to apply only to traffic having a prior movement, a subsequent movement, or both.

(29) "Proportional tariffs" are tariffs containing proportional rates.

(30) "Rate" means a rate, fare or charge.

(31) "Round-trip excursion" means the transportation of passengers by motor vehicle on an excursion between points on the regularly operated route of a common carrier, but does not embrace special or charter operations.

(32) "Segment" means a separate tariff provision of any kind set apart by use of a number or letter designation (other than an item designation), or by employment of line or space separations.

(33) "Suburban service" means the transportation of passengers (over a regular route, in the case of motor common carriers) between places or communities, the limits of which are not more than 75 air miles apart.

(34) "Supplement" means a single sheet, or two or more sheets bound at the left edge in pamphlet or book form, identified as a supplement and published to amend or cancel a tariff.

(35) "Tariff" means a publication containing rates, classification ratings, rules, regulations, or other provisions, as amended, filed in a carrier's or an agent's name. (The term does not include rate tenders or quotations issued under section 10721 of the Act (see Part 1330 of this title)).

(36) "Tariff publication" means an original tariff, a supplement, or a looseleaf-page amendment.

(37) "Through rate" means the total rate from point of origin to destination. It may be a local rate, a joint rate, or a combination of separately established rates.

(c) *Application.* (1) These regulations govern the construction, publication, filing, and posting of —

(i) Any tariff filed under the Act;

(ii) Any tariff which contains a through route and a joint rate, or a provision governing the application of a through route or joint rate, over the lines of a common carrier on the one hand, and a nonvessel or vessel operating ocean carrier, on the other hand, for the transportation of property between any place in the United States and any place in a foreign country.

(2) Some of the regulations in this part do not apply to tariffs of all types of carriers. These regulations state either that they do not apply to tariffs of specific types of carriers or that they apply only to tariffs of specific types of carriers.

(3) These regulations are to be liberally construed. The absence of specific approval of particular practices or provisions does not imply disapproval of them.

(4) Special permission to depart from any of these rules may be requested. See § 1312.2.

(d) *Intrastate provisions.* (1) Tariffs may include provisions having intrastate application if they are distinguished from the interstate provisions. Tariffs may be identified as joint filings with State regulatory bodies.

(2) Rates to be used between points in one State, which are also to be used in making combination through rates for interstate shipments, shall be filed with the Commission and posted for public inspection, and they may be changed only in accordance with the provisions of the Act.

(e) *Information-only provisions.* Provisions for information purposes only may be included in a tariff. They must be clearly marked. Such material may include tariffs covering transportation not subject to economic regulation by the Commission, and advertising and promotional material.

(f) *Carrier liability.* The tender of a tariff and its receipt by the Commission does not relieve the carriers of liability for violations of the Act, other laws or the Commission's regulations.

§ 1312.2 Applications for special tariff authority.

(a) *Applications may be filed.* Applications for special tariff authority to depart from the regulations of this part may be filed if in accordance with the provisions of this section.

(b) *Authority will not be issued to modify formal decisions.* Special tariff authority will not be issued to modify a formal decision of the Commission. Any request to modify a formal decision shall be filed in accordance with the Commission's Rules of Practice (Subchapter B of this chapter).

(c) *Who may file.* Applications may only be filed by the carrier(s) or agent(s) who has authority to file the proposed tariff publication for which relief is requested. An agent or carrier may request relief which would have application broader than the carrier's account.

(d) *Payment of fee.* Payment of the fee in the amount and manner required by Part 1002 of this chapter shall accompany the application except that carriers or agents using the monthly tariff filing fee payment system may also pay these fees monthly.

(e) *Copies and numbering.* The original and one copy of the application (including amendments and exhibits) shall be filed. Applications shall be consecutively numbered by the applicant.

(f) *Content of application.* (1) All involved tariff publications shall be identified, including supplement and looseleaf page numbers, with specific reference to provisions by item, section, or page numbers.

(2) If the proposal involves the publishing of rates, all points involved shall be sufficiently identified.

(3) If the proposal involves rules, the wording of the rules shall be furnished.

(4) The application shall show how the proposed change is to be published, i.e., by republication of tariff matter, or by publication of a statement.

(5) The reasons and justification for the proposal shall be stated.

(6) If relief is requested from notice requirements, the reasons why that notice cannot or should not be given shall be stated.

(7) Applications requesting authority to change, cancel or postpone matter which is the subject of a protest or petition for investigation or suspension shall certify that the protestants have been notified by telegram or telephone. The application shall also state whether or not the protestants have registered objections to the proposal. See § 1312.40(e).

(g) *Telegraphic request.* When, because of an emergency, special tariff authority is requested by telegram, the telegram shall state the pertinent facts. The fee, if not paid monthly, shall be sent not later than the next working day.

(h) *Appeals to special tariff authority decisions may be filed.* See 49 CFR 1118.4.

(i) *Authority to reject publication.* The granting and use of special tariff authority does not limit the Commission's jurisdiction over the content of the tariff, or any of the Commission's powers with respect to the tariff.

§ 1312.3 Size of paper and where to send tariff publication and other documents.

Except as authorized in § 1312.30(c) (Distance Guides), tariff publications and other documents shall be prepared on durable paper, measuring not more than 8½ x 11 inches, and shall be sent to:

Interstate Commerce Commission, Bureau of Traffic—Section of Tariffs, Washington, D.C. 20423.

Packages containing tariff publications shall be prominently marked "Tariffs." Packages containing applications for special tariff authority to depart from these rules shall be prominently marked "Special Tariff Authority Application."

§ 1312.4 Filing tariffs.

(a) *Number of copies and fees for filing.* Carriers and agents shall send 2 copies of each tariff publication for official filing, unless the Commission requests more. When a tariff publication is published in more than one agent's name, only two copies of the publication are required. An agent's or carrier's tariff publication containing joint rates or provisions constitutes a sufficient filing for each of the participating carriers. It is not required that 2 copies be filed in the name of each agent. Fees shall be paid in accordance with Part 1002.

(b) *Letters of transmittal.* (1) A letter of transmittal shall be sent in the same package with the tarriff publication(s).

(2) A letter of transmittal shall be signed by the person issuing the tariff or an athorized representative. Authorizations shall not be filed with the Commission unless specifically requested or the existence of such authorization is questioned in a challenge to the tariff. Absent challenge, the Commission will assume agents have the necessary authority from their principals.

(3) If one transmittal letter is used to cover more than one package of tariff publications, the letter shall state the number of packages. The original letter shall be sent in one package and a copy of the letter sent with each of the other packages.

(4) If a receipt is desired, mark the letter "Receipt Requested" and send an extra copy of the letter with a postage paid, self-addressed return envelope. Do not enclose loose stamps.

(5) Letters of transmittal must contain the certification required by § 1312.6.

(6) When a tariff publication containing rates on household goods as defined in § 1056.1(b)(1) of this title is published for the account of household goods carriers as defined in § 1056.1(b) or for motor carriers of property to effect a general increase or decrease under the Ex Parte No. MC–82 procedures, on not less than 45 days' notice, the letter shall so indicate.

(7)(i) The letter of transmittal accompanying each tariff publication which contains a rate, charge, or provision which the carrier wishes to have filed pursuant to zone of rate freedom provisions of 49 U.S.C. 10708(d)(1) applicable to motor common carriers of property and freight forwarders, shall indicate this by including an appropriate statement.

(ii) If the application of the proposed rate, charge, or provision would result in an increase in charges, the letter shall state that the proposed increase in the aggregate is not more than 15 percent above that in effect 1 year prior to the effective date of the proposed increase.

(iii) If the application of the proposed rate, charge, or provision would result in a reduction in charges, the letter shall state that the proposed reduction in the aggregate shall be no more than 15 percent below the lesser of that in effect on July 1, 1980 (or the date, if after July 1, 1980, on which a rate, charge, or provision first became effective for a service not provided by the freight forwarder, or the carrier, on July 1, 1980), or that in effect 1 year prior to the effective date of the proposed reduction.

(iv) The carrier or freight forwarder will also be required in the letter to certify that the rates or provisions do not exceed the amount allowed by Section 10708(d)(3) (A or B); and that the rates or provisions fall within the 15 percent zone; also, if the rate is more than 15 percent above the rate in effect one year earlier, to include in the statement whether the proposed rate has been subject to general rate increases during the previous year, what percent increase was taken, the bureaus which published the increase, and the effective date.

(v) The letter need not identify the number of the item (or page) and tariff in which the rate, charge, or provision may be found that was in effect one year prior to the date of the proposed rate, or on July 1, 1980, or later, as appropriate. However, if the rate is protested, the forwarder or carrier, in its reply to the protest, must make such identification.

(vi) This percentage shall be increased or decreased, as the case may be, by the percentage change in the Producers Price Index, as published by the Department of Labor that has occurred during the one-year period prior to the effective date of the proposed rate.

(8) The letter of transmittal accompanying each tariff publication which contains a fare, rate, charge, or provision which the carrier wishes to have considered pursuant to the zone of rate freedom provisions of 49 U.S.C. 10708(d)(4) applicable to motor common carriers of passengers shall indicate this by including an appropriate statement.

(i) If application of the proposed fare, rate, charge, or provision would result in an increase in charges, the letter shall state that the proposed increase in the aggregate is not more than 10 percent above that in effect one year prior to the effective date of the proposed increase. On November 19, 1983, the figure increased to 15 percent. On November 19, 1984, the figure increased to 20 percent. When only some increases are within the zone, they should be designated individually.

(ii) If the application of the proposed fare, rate, charge, or provision would result in a reduction in charges, the letter shall state that the proposed reduction in the aggregate shall be no more than 20 percent below the lesser of that in effect on November 19, 1982 (or, in the case of any charges which the carrier or carriers first establish after such date for a service not provided by the carrier or carriers on such date, such charge on the date such charge first becomes effective) or the charge in effect one year prior to the effective date. On November 19, 1983, the figure changed to 25 percent; and, on November 19, 1984, the figure changes to 30 percent. When only some decreases are within the zone, they should be designated individually.

(iii) After November 19, 1985, the Commission may not investigate, suspend, revise, or revoke any rate proposed by a motor common carrier of passengers on the grounds that such rate is unreasonable on the basis that it is too high or too low, unless the proposed rate is established collectively in accordance with the procedures of an agreement approved by the Commission under 49 U.S.C. 10706(b). After November 19, 1985, statements required in the immediate preceding two paragraphs above shall no longer be required. In publishing and filing a tariff under 49 U.S.C. 10762, the carrier shall disclose whether such rate is the result of collective ratemaking procedures pursuant to an agreement approved by the Commission under 49 U.S.C. 10706(b).

(iv) If a fare, rate, charge, or provision filed under the zone of rate freedom provisions of 49 U.S.C. 10708(d)(4) is protested, the carrier shall, in its reply to the protest, identify the number of the item (or page) and tariff in which the fare, rate, charge, or provision may be found that was in effect one year prior

to the effective date of the proposed rate, or on November 19, 1982, or both, as appropriate.

(c) *Tariff publications not consecutively numbered or lettered.* A tariff publication submitted for filing, which is not in sequence, shall be accompanied by an explanation.

(d) *Concurrences and powers of attorney.* Concurrences and powers of attorney shall not be filed with the Commission. However, a carrier may not participate in a tariff issued in the name of another carrier or an agent unless a power of attorney or concurrence has been executed. Absent effective concurrences or powers of attorney, tariffs are void as a matter of law. Should a challenge to a tariff be made on this basis, carriers will be required to submit the necessary proof. See also § 1312.10.

(e) *Period of notice required.* (1) As a general rule, tariff publications shall be filed on statutory notice; i.e.:

(i) For railroad tariffs:

(A) 20 days for rates or provisions published in connection with new service or changes resulting in increased rates or decreased value of service;

(B) 10 days for changes resulting in decreased rates or charges or changes resulting in neither increases nor reductions;

(C) For contracts and contract summaries filed pursuant to 49 U.S.C. 10713 see § 1312.41; and,

(D) 45 days for publications naming surcharges or cancelling joint rates under 49 U.S.C. 10705a;

(ii) For all other carriers:

(A) 30 days, except 10 days for tariffs naming reduced fares on special or charter passenger operations.

(B) For independently set rates of motor common carriers and freight forwarders the rule generally is 1 day's notice for reductions and 7 workdays' for increases see § 1312.39(f) for details.

However, numerous exceptions authorizing shorter notice are contained in these rules, and special permission for shorter notice may also be requested.

(2) Notice means the number of days a publication shall be on file with the Commission prior to its effective date. The date the publication is received by the Commission is the 1st day of notice.

(f) *Return of tariffs by the Commission.* The Commission will not return a tariff publication unless it is formally rejected (see paragraph (g) of this section) or under the following circumstances:

(1) The package containing the tariff publication arrives with postage or other delivery charges due; or

(2) The tariff publication which the Commission receives is missing an essential part; or

(3) A carrier or agent requests returns before the effective date and subscribers are promptly notified.

(g) *Rejection of tariff publication.* A tariff publication submitted for filing may be rejected by the Commission if the publication—

(1) Fails to give lawful notice of changes in rates or provisions which it proposes to establish;

(2) Fails to meet the requirements of the regulations in this part; or

(3) Violates any decision or order of the Commission or of a court.

When a tariff publication is rejected, the party who tendered it will be furnished a written explanation of reasons. The rejected tariff publication ordinarily will be returned, but the Commission may retain copies for its own use. Appeals of the rejection may be filed.

§ 1312.5 Posting requirements.

(a) *General posting requirements.* (1) Each carrier shall maintain, at its principal office, a complete set of its tariffs (proposed and effective) and those to which it is a party.

(2) Each carrrier shall also maintain some or all tariffs at other locations, as may be useful. Carriers shall provide information regarding all locations where tariffs may be viewed.

(3) At all points where tariffs are posted, they shall be made available for inspeciton by any person during carrier's normal business hours. The tariffs shall be accessible and readable. The carrier shall also post, in a conspicuous place in these locations, a notice, in large print, which contains a statement that the tariffs are available for public inspection.

(4) At all other carrier business offices, the carrier shall display a notice advising the public of the location of the nearest available tariff file. The notice shall be in large print and posted in a conspicuous place. In addition, the carrier shall, upon request, make particular tariffs available at that location as soon as possible but not later than within 20 days, or provide the sought information orally if satisfactory to the requestor.

(5) Any publication referred to in a tariff must be posted with that tariff.

(b) *Exceptions to the posting requirements.* (1) Class III carriers shall maintain at their principal office a complete set of all tariffs filed in their own behalf covering rates, charges and services performed within the limits of their operation. Tariffs in which Class III carriers are listed as participants can be made available at their principal office or in the tariff file of their principal connecting carrier(s).

(2) A motor common carrier of passengers, which participates in an agent's routing tariff, only has to post the title page of the routing tariff, the sections naming joint routes with connecting carriers, and any other rules or provisions necessary for an understanding of that carrier's routing.

(3) Circus or show outfit tariffs (see § 1312.39(e)) need not be posted.

(4) If any tariff maintained pursuant to paragraphs (a) (1) and (2) of this section has not been used for a substantial length of time the posting of that tariff, including its reissues, may be discontinued at that station until such time as a request is made to the carrier's agent to have it reposted. It shall then be reposted within 20 days.

(c) *Notice of proposed increases in passenger fares.*

(1) Motor and rail common carriers of passengers proposing to increase commutation or suburban service fares—

(i) By tariff publication, shall comply with the provisions of paragraphs (c) (3), (5), (7), (8), and (9) of this section; or

(ii) By petition to the Commission prior to filing tariff publications, shall comply with the provisions of paragraphs (c) (3), (4), (6), and (8) of this section.

(2) Motor and rail common carriers of passengers proposing to increase regular route service fares other than commutation or suburban service fares—

(i) By tariff publication, shall comply with the provisions of paragraphss (c) (3), (5), and (10) of this section; or

(ii) By petition to the Commission prior to the filing of tariff publications, shall comply with the provisions in paragraphs (c) (3), (4), and (6) of this section.

(3) A notice shall be displayed at a conspicuous place at each station where tariffs containing the fares to be increased are required to be posted and, in 2 conspicuous places, one in the forward and one in the rear section of each vehicle engaged in the service for which the increase is proposed. The notice shall be printed in type sufficiently large to be read under ordinary conditions by passengers seated in the vehicle. Each notice shall be either one sign at least 240 square inches in size or two signs at least 120 square inches in each size.

(4) The notice shall—

(i) Describe briefly the increases proposed, the transportation service for which they are proposed and the points affected;

(ii) State that interested persons may file objections with the Commission; and

(iii) State that information regarding the Commission's rules of practice may be obtained by writing the Secretary of the Commission.

(5) The notice shall be displayed at the same time a tariff publication containing the proposed increased fares is filed with the Commission and shall remain displayed until—

(i) The carrier withdraws its request;

(ii) The Commission suspends the increase; or

(iii) The increase becomes effective.

(6) The notice shall be displayed at the same time a petition is filed with the Commission requesting authority to increase fares or to file a tariff publication containing proposed increased fares. The notice shall remain displayed until the Commission acts on the petition.

(7) The carrier shall send a copy of the notice by first-class mail to the Governor and any State and County agency responsible for passenger service in all affected states and counties.

(8) As to each municipality affected by the proposal which has a population of 25,000 or more, the carrier shall send a copy of the notice—

(i) To all daily newspapers published in the municipality having a circulation of 25,000 or more; or if none,

(ii) To the daily newspaper having the largest circulation; or, if there is no daily newspaper,

(iii) To the weekly newspaper having the largest circulation.

(9) The notice shall read substantially as follows:

Notice of Increased Fares for Commuter or Suburban Service

(Name of carrier)

This carrier has filed tariffs with the Interstate Commerce Commission proposing increases in fares effective (Date) ———— for (Here, describe briefly the kind of transportation, points or localities affected, and the increase proposed.)

Anyone may file a complaint challenging the increase by writing to the Interstate Commerce Commission, Washington, D.C. 20423.

The complaint should include the reasons you object to the increase and should be mailed (Here, show "in time to reach the Commission 12 days before the effective date shown above", unless the increase has been filed on less than 30 days' notice by a motor carier or 20 days' notice by a railroad. If the latter, show "as soon as possible."

At the same time the compliant is sent to the Commission a copy must also be sent to this carrier's general office. (Here, show the street address, city, state, zip code and telephone number of the carrier's general office.)

Further information is on file at the regional and district offices of the Commission; at our stations, agencies, or offices where tickets are sold and tariffs containing the proposed increases are required to be posted; and at our general office. A copy of this proposal and statement of justification has been mailed to the Governor and to the appropriate State and County agencies in all states and counties affected by the proposal.

(10) The notice shall read substantially as follows:

Notice of Increased Fares for Regular Route Service

(Name of carrier)

This carrier has filed tariffs with the Interstate Commerce Commission proposing increases in fares effective (Date) ———— for (Here, describe briefly the kind of transportation, the points or localities affected, and the increase proposed.)

Anyone may protest the increase by writing to the Interstate Commerce Commission, Washington, D.C. 20423. The protest should include the reasons you object to the increase and should be mailed (Here, show "in time to reach the Commission 12 days before the effective date shown above", unless the increase has been filed on less than 30 days' notice by a motor carrier or 20 days' notice by a railroad. If the latter, show "as soon as possible."

At the same time the protest is sent to the Commission a copy must also be sent to this carrier's general office. (Here, show the street address, city, state, zip code and telephone number of the carrier's general office.)

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§ 1312.6 Furnishing copies of tariff publications.

(a) *Definitions.* (1) "Subscriber," as used in this section, means any party other than carrier participants in the tariff that is voluntarily furnished, or any party that requests that it be furnished, one or more copies of a particular tariff with or without subsequent amendments or reissues to that tariff.

(2) "Short-notice publication," as used in this section, means an entire tariff publication authorized to be filed without notice or on notice of less than 10 days.

(b) *Sending new publications to subscribers.* (1) The publishing carrier or agent shall send each newly-issued tarriff, supplement, or loose-leaf page as requested to each subscriber by first-class mail, or other means requested in writing by the subscriber.

(2) Newly-issued tariffs, supplements, or loose-leaf pages other than short-notice publications, shall be sent to each subscriber not later than the time the copies for official filing are sent to the Commission.

(3) New short-notice publications shall be sent to each subscriber within 5 calendar days of the date the copies for offical filing are sent to the Commission.

(4) Carriers or agents may, if acceptable to a subscriber, furnish only specific portions of original tariffs and amendments affecting those portions.

(c) *Certification.* The letter of transmittal accompanying the copies to the Commission shall contain the following certification:

I certify that compliance with 49 CFR 1312.6 has been [in the case of short-notice publications "will be"] made."

(d) *Charges.* (1) The charge for copies of tariff publications sent to subscribers shall be reasonable and identical.

(2) No charge may be made (not even for the cost of sending the publication) for any publication that is rejected by the Commission.

(e) *Notice of rejection.* If a publication is rejected, the subscribers shall be notified.

§ 1312.7 Form and printing.

(a) *Form, durability and method of printing.* Tariff publications shall be in the English language, and shall be legible and durable for the life of the tariff.

(b) *General rules.* (1) Except for the title page, and except as otherwise authorized, all pages shall be consecutively numbered using Arabic numerals.

(2) Pages intentionally left blank shall so state.

(3) Reasonable margins shall be provided at a bound edge.

(c) *Bound tariffs.* Bound tariff publications of two or more sheets shall be permanently bound. Stapling is acceptable.

(d) *Looseleaf tariffs.* (1) Original and revised pages shall be so designated. Numbering in sectional tariffs may use letter or number prefixes and suffixes after "original" or "revised", provided the system is explained. See § 1312.17 for rules governing identification of amendments.

(2) Each page shall show the name of the issuing carrier or agent and the complete mailing address. Ocean carriers filing tariffs jointly with this Commission and the Federal Maritime

Commission shall show the name officially recognized by that agency.

(3) Each page shall show the issued date and the general effective date. With the original issue of the looseleaf tariff, issued and effective dates need be shown only on the original title page, not on each original page. The name of the month shall be spelled out, followed by the day and year by number. If the page contains matter (including reissued matter) effective upon a date other than the general effective date, the notation "(Except as otherwise provided)" shall be shown directly with the general effective date.

(e) *Items and numbering systems.* (1) Numbering systems shall be understandable and not duplicative.

(2) Original tariffs shall allow sufficient unused item numbers to allow for expansion.

(3) If two or more items contain related subject matter, or one or more items are subordinate to another, compound numbers (an original number followed by a hyphen or decimal, then a new series of numbers, i.e., Item 400, Item 400–1, Item 400–2 or Item 400, Item 400.1, Item 400.2) are permitted. Compound numbers may be used in amendments if new matter has to be added, provided the initial number (item 400 in the example) has not already been used in a compound number series.

(4) Sections of a tariff or notes outside or inside of items shall be numerically or alphabetically designated. Item numbers for class rate tables, if assigned, shall be in numerical sequence.

§ 1312.8 ICC tariff designations.

(a) *ICC designation.* The ICC designation is—

(1) The characters "ICC"; followed by

(2) The tariff, carrier or agent code; followed by

(3) The tariff number.

(b) *ICC designations to be shown on tariff publications.* (1) The ICC designation shall be shown on the title page of all new or reissued tariff publications.

(2) Tariffs published to apply on emergency movements authorized under section 10928 of the Act may be filed without the carrier code if the carrier has not been issued a code. For example, a motor carrier's tariff may show a designation "ICC 900" if no code has been assigned and the number "900" has not been previously used. The tariffs shall, however, fully comply with all other requirements of this section.

(c) *Assignment of tariff, carrier and agent codes.* (1) Tariff, carrier and agent codes shall consist of a minimum of two and a maximum of four alphabetical characters.

(2) The codes shall be assigned by the transportation industry as follows:

Railroads: Executive Committee, Western Railroad Association, Suite 1200, 222 Riverside Plaza, Chicago, IL 60606

Freight Forwarders: Freight Forwarders Tariff Bureau, Inc., 140 Cedar St., New York, NY 10006

Water Carriers: Waterways Freight Bureau, Suite 402, 1334 G St., NW., Washington, DC 20005

Motor Carriers: (Passenger and Property), National Motor Freight Traffic Association, Inc., 1616 P St., NW., Washington, DC 20036

The fee assessed, if any, may be no more than the processing cost.

(3) Only one code shall be assigned to each carrier or agent, except as authorized in paragraphs (c)(5) and (6) of this section.

(4) A court appointed receiver, trustee, executor, administrator, assignee, etc., who assumes possession and operating control of a carrier's lines, in whole or in part, shall use the old carrier's code. In all other cases where the regulations in this part require the filing of an adoption notice, the code of the new carrier shall be used on the adoption notice and on all original tariffs filed thereafter in the new carrier's name. If a carrier's or agent's name is changed without a change in ownership of the carrier or identity of the agent, a new code shall be assigned, unless the Commission authorizes the use of the same code. (Exception: A code assigned for use on a specific tariff of an agent shall continue to be used on that tariff.)

(5) Consideration shall be given to requests for the assignment of specific codes for classifications and other governing tariffs, issued by agents, which have a substantial nationwide application for a substantial number of participating carriers. Whenever possible, the assigned code shall coincide with the first letter of the primary words in the title of the tariff. Only one code shall be assigned to a tariff.

(6) Consideration shall be given to requests for assignment of an extra code(s) to a carrier. The additional code(s) shall be constructed by the use of the base code assigned to the carrier, together with an appropriate letter suffix. In no case shall the code exceed four characters. If the base code consists of four characters, the letter suffix shall be added to the first three characters of the base code.

(7) The industry shall file with the Commission in tariff form a list of the assigned alphabetical codes and the names of the carriers and agents to which they are assigned. The tariff shall be amended every 3 months if the list has changed during that period. The amendments shall show the changes, additions and cancellations made during that period. The tariff shall comply with the amendment limitations provided in § 1312.17 of this part. Partial amendments to the list may be shown in each supplement, and more than one partial amendment may be in effect at the same time.

(d) *Tariff numbers.*

(1) A tariff number assigned to a tariff shall consist of not more than four numerals. For rail general increase master tariffs, the number may be the letter "X" followed by the docket number of the ex parte proceeding.

(2) For property tariffs of rail carriers, the first digit or letter shall conform to the following grouping:

First digit or letter of tariff Nos	Types of tariffs
1	Class rate tariffs.
2	Class exceptions tariffs.
3	General commodity rate tariffs (i.e., numerous unrelated commodities).
4	Specific commodity rate tariffs (e.g., iron or steel articles)
5	Routing guide tariffs
6	Governing tariffs (all kinds).
7	Reserved.
8 or 9	Miscellaneous tariffs (e.g., switching, special service, terminal service)
X	May be used for master tariff of general increases.

(3) For tariffs of motor common carriers of property other than household goods carriers the first digit shall conform to the following grouping:

First digit of tariff Nos	Types of tariffs
1	Governing publications of all kinds; adoption notices.
2	Commodity rate tariffs
3	Combined class and commodity rate tariffs
4	Commodity column or distance rate tariffs.
5	Class rate tariffs.
6	Miscellaneous tariffs (those not included in any other category).
7	Import and export tariffs (tariffs assigned this digit shall contain only import or export, or both, provisions).
8	Reserved for future assignment.
9	Tariffs containing rates or provisions covering emergency movements authorized by this Commission under section 10928 of the Act.

Any tariff assigned any first digit other than 7 may contain some, but not solely import or export provisions.

(4) When a tariff could be construed as being of more than one type because of the provisions it contains, the governing factor in assignment of the digit or letter will be the category that represents the principal portion of the contents or which signifies its primary purpose.

(5) The first digit of a tariff number assigned to tariffs of motor carriers of passengers or water carriers of proper y

containing rates or provisions covering emergency movements authorized by the Commission under section 10928 of the Act shall be "9".

(6) For all tariffs not governed by paragraphs (d) (2), (3), (4), or (5) of this section, the carrier or agent shall assign groupings for each of the particular types of tariffs involved, and the number assigned to a tariff shall conform to that grouping.

(7) The assigned number will remain the same from reissue to reissue of the tariff. The first time a tariff is issued, its tariff number shall not have a letter suffix. The first reissue of the tariff shall have the letter suffix A, the next reissue B, and so on through Z, after which the letter suffix A will again be used and the process repeated. A carrier or agent may not use any number on its tariffs that differs in any respect from that used in the ICC designation, and whole numbers (not fractional or decimal) shall be used.

(e) *Use in tariffs.* A tariff which refers to another tariff shall identify the other tariff by its ICC designation and name the issuing carrier or agent.

(f) *ICC designations; rejected tariffs.* When the ICC designation of a rejected tariff does not include a letter suffix, the designation on the tariff issued in its place shall bear the letter suffix A. When the ICC designation of a rejected tariff includes a letter suffix, the designation on the tariff issued in its place shall bear the next consecutive letter suffix. The rejected tariff may not be referred to in any subsequent tariffs as having been amended, canceled, or withdrawn, but the tariff which is published in its place shall bear the following notation:

Issued in place of (here identify the rejected tariff), rejected by the Commission.

§ 1312.9 Codes for identification of p...ces.

(a) *Definition.* As used in this part, the term "code for identification of places" means any numeric or alphabetic system used to represent, or identify, places, points, facilities, or locations.

(b) *Use.* Codes for identification of places may be used instead of, or in addition to, the naming of places, points, facilities, or locations; provided that an explanation of the code is contained in the same tariff using the code, or in a separate tariff specifically named as a governing publication.

§ 1312.10 Powers of attorney, concurrences, transfer of agent. [See also § 1312.4(d)]

(a) *Powers of attorney.* Powers of attorney may be given by a carrier to a carrier or an agent for the purpose of publishing and filing tariffs. A power of attorney may be given by Class III rail carriers to larger carriers with which they connect or by rail subsidiaries to parent rail carriers authorizing the larger or parent rail carriers to publish tariffs, to give and receive concurrences, and to give powers of attorney to agents on behalf of the Class III or subsidiary rail carrier. The power may be as broad or limited as expressed in the document, and alternate agents may be named. Powers of attorney shall not be filed at the Commission, but shall be maintained and produced if requested by any person. Revocation or amendment of the power of attorney should be reflected through lawfully published tariff revisions effective concurrently. In the event of failure to so revise the applicable tariff or tariffs, the rates in such tariff or tariffs will remain applicable until lawfully changed. If the scope of a power of attorney is questioned by any person, the document shall be produced.

(b) *Concurrences.* (1) A concurrence is used to show that one carrier has agreed to participate in joint rates or provisions published in a tariff filed by another carrier or agent. A concurrence does not give a carrier authority to publish local rates or provisions for the carrier issuing the concurrence. If two or more carriers execute powers of attorney to the same agent, it is not necessary for those carriers to exchange concurrences.

(2) Concurrences shall not be filed with the Commission, but shall be maintained and produced if requested. Revocation or amendment of the concurrence should be reflected through lawfully published tariff revisions effective concurrently. In the event of failure to do so, the rates in such tariff remain applicable until lawfully changed. If the concurrence is questioned, the document shall be produced by any person.

(c) *Transfer of authority from one agent to another.* When a new agent is to take over all effective tariffs of another agent (including where a name of a corporation is changed), powers of attorney shall be appropriately amended.

(d) *Take-over publications.* (1) When an agent is appointed to take over an agency, or when an alternate agent takes over the duties of the principal agent, the new or alternate agent shall immediately issue a supplement to each of the superseded agent's effective tariffs. Instead of showing an effective date on the title page, the following statement or one to similar effect shall be shown:

On and after [date the authority was transferred], this publication is the issue of [new or alternate agent's name].

(2) In the case of a new agent, only the carriers that have issued new powers of attorney may be shown in the take-over publication as participants. All other carriers previously shown as participants shall be shown as canceled either by listing each and stating its participation is canceled or by showing the following statement or one to similar effect at the beginning of the list:

The following is the list of carriers participating in this tariff as of [take-over date]. All carriers previously shown as participants but not shown are canceled.

(3) A take-over supplement shall remain in effect for the life of the tariff, except the list of participating carriers may be amended.

(4) A take-over supplement is exempt from the provisions of § 1312.18 limiting the number and volume of supplements.

(5) Where joint-agent publications (see § 1312.11) are involved, there are four major situations:

(i) The issuing agent is taken over by an agent not already shown as joining in the publication.

(ii) A joint agent is taken over by an agent other than the issuing agent.

(iii) A joint agent is taken over by the issuing agent; or

(iv) The issuing agent is taken over by a joint agent shown on the publication.

(A) In the case of paragraph (d)(5)(i), the new agent issues the take-over supplement.

(B) In the case of paragraph (d)(5)(ii), the issuing agent of the tariff issues the supplement showing the name of the new agent for the one taken over.

(C) In the case of paragraph (d)(5)(iii), the issuing agent of the tariff issues the supplement, with the former agent and its ICC designation deleted.

(D) In the case of paragraph (d)(5)(iv), the new agent becomes the issuing agent, issues the take-over supplement, with the former issuing agent and its ICC designation deleted. In each case, the supplement shall contain only matter necessary to explain the action with the list of participating carriers, if any, appropriately amended.

(6) Amendments (including the take-over supplement) filed by the new agent to tariffs issued by the former agent shall, in connection with the ICC designation, show that they are in the series of the former agent.

(7) New tariffs issued by the new agent shall be in the new agent's own ICC designation series. If a new tariff cancels a tariff taken over by the new agent, the cancellation shall indicate the series of the tariff canceled.

(8) An alternate agent, after take over, shall continue to use the ICC

designation series of the former agent, and shall, in connection with the ICC designation, identify it by name of the former agent.

§ 1312.11 Tariffs issued by joint agents not applicable to contract carriers or freight forwarders.

(a) *May be filed.* Two or more agents may issue a tariff(s). Each agent shall act only for carriers who have given it powers of attorney or who have given concurrences to carriers issuing powers of attorney. Each agent need not obtain powers of attorney from all participating carriers. Each carrier shall be shown as participating under authority given to one of the issuing agents.

(b) *Title pages and looseleaf pages.* The title page of each original joint issue tariff and supplement and each joint issue looseleaf page—

(1) May show a separate ICC designation in the series of each agent; and

(2) Shall show at the bottom—

(i) "Issued By" followed by the name, title, and mailing address of the principal agent or issuing party; and

(ii) Below that, "Jointly With" followed by the name, title, and mailing address of the other agent(s) joining in the issue.

For bound tariffs only, the names, addresses, and ICC designations of agents other than the principal agent may be shown on the reverse side of the title page of the tariff publication instead of on the title page. Except as provided in § 1312.10, an agent may be added or deleted as an issuing party only by reissue of the tariff. In either case, the former tariff shall be canceled only by supplement.

(c) *List of participating carriers.* Any list of carriers participating in the tariff shall be arranged as provided in § 1312.13 and shall be published in—

(1) The tariff itself;

(2) A separate jointly issued participating carrier tariff; or

(3) Each issuing agent's separate participating carrier tariff.

§ 1312.12 Title page of original tariffs.

(a) *Title page required.* Original tariffs shall have a title page which contains at a minimum the information required by paragraphs (b) through (k) of this section.

(b) *ICC designation and cancellation notice.* The tariff's ICC designation shall be shown. Immediately under it, the ICC designation of the tariff(s) being canceled, if any. If there are numerous tariffs being canceled, the ICC designations of those tariffs may be shown—

(1) If a bound tariff, on the first page after the title page which contains tariff matter; or

(2) If a looseleaf tariff, on the first page after the "check sheet(s)," or, if the "correction number, checkoff" type of check sheet is also employed, the first page following that. If the cancellations are not shown on the title page, reference to the location of the listing of the canceled tariffs should be shown.

(c) *Looseleaf tariffs.* The title page of an original looseleaf tariff shall be designated as an "Original Title page."

(d) *Name and certificate number.* The name of the issuing carrier or agent and complete mailing address shall be shown. Ocean carriers filing tariffs jointly with this Commission and the Federal Maritime Commission shall show the name officially recognized by that agency. The name of the carrier shall be followed by the number of its certificate or permit, if any. Sub numbers of certificates and permits need not be shown. If the agent is a corporation or association, its name shall be shown. If the agent is an individual, the association's name (if any) for whom the agent acts may also be shown.

(e) *Type of rates or fares, modes of transportation and territorial application—rate or fare tariffs.* (1) (This paragraph applies to water and motor passenger contract carriers.) The title page shall state that the tariff is a "Contract Carrier Schedule of Minimum Rates [or "Fares"] and Charges Applying On", and show a short, specific description of the commodities, or types of fares, and the territory covered.

(2) (This paragraph applies to common carriers.) A tariff naming rate shall provide the following information:

(i) The type of rates, the modes of transportation, and the territory covered. The terms local, joint, proportional, and distance shall be used to identify the rates.

(ii) Tariffs shall use appropriate terms to identify the rates in the tariff as specifically as possible; for example: export, import, coastwise, intercoastal, assembling, distribution, class, commodity, commodity-column (column-commodity), passenger, commutation, truckload, carload, trainload, less-than-truckload, less-than-carload, or any quantity.

(iii) Each mode of transportation shall be identified, such all-rail, all-motor, motor-water, motor-rail or rail-motor-water routes.

(f) *Governing tariffs.* A classification, a rules tariff or another type of governing tariff shall show a brief descripition of the tariff and its contents.

(g) *Nomenclature for tariff.* A brief reference (e.g., "Iron and Steel Tariff," "Charter Coach Tariff"), by which the tariff can be readily identified may be shown.

(h) *Reference to item containing a list of governing tariffs.* A tariff governed by one or more other tariffs shall refer to the item containing the list of the governing tariffs, in the following manner:

For governing publications, see Item ——.

(i) *Tariffs issued under decision, order or other authority.* A reference to the decision or order by number, or a reference to the regulation by section number, and the number of days' notice (where less than statutory notice is authorized) shall be shown if the entire tariff—

(1) Is issued to comply with a mandatory decision of the Commission or an order of a court requiring a specific action;

(2) Is issued under authority of a permissive decision allowing less than statutory notice or departure from tariff publishing regulations; or

(3) Is published under a regulation of this part permitting less than statutory notice or departure from an outstanding decision, or both.

(j) *Issue and effective dates.* The issue date and the general effective date shall be shown. If a tariff contains matter (including reissued matter) effective upon a date other than the general effective date, show the following directly with the general effective date: "(except as otherwise provided)."

(k) *Expiration dates.* A tariff that is to expire with a given date shall show the following or similar notation: "This tariff, as amended, expires with [here show date of expiration], unless sooner canceled, changed, or extended."

§ 1312.13 Contents of tariffs.

(a) *General requirements.* No provision may be published in tariff publications which exceeds the carrier's operating authority. An original tariff shall contain the provisions required by paragraphs (b) through (l) of this section. Any matter not specifically prohibited may be included.

(b) *Checksheets—looseleaf tariffs only.* A checksheet, may be used to list in numerical order the numbers of the original looseleaf pages comprising the tariff. (This page shall always show an updated listing of each page and supplement and shall accompany the pages and supplements being filed.) If the tariff uses the "correction number, check-off" type of checksheet as looseleaf page amendments are filed, it

must be accompanied by in numerical order, a list of correction numbers beginning with No. 1. See § 1312.17 Amendments.

(c) *Participating carriers.* (1) (This paragraph does not apply to carriers' local tariffs.) Unless a separate participating carrier's tariff is filed, a list of the participating carriers shall be provided, showing the names of the carriers; the city and state of the principal office of the carrier; and the lead docket number of each carrier's operating authority, if any.

(2) A carrier may not without authorization file local rates or provisions to apply for another carrier not joint rates or provisions to which it is not a party.

(d) *Statement of operating authority in rate tariffs.* (This paragraph does not apply to railroad, pipeline or passenger carriers.) The operating authority under which rates are published shall be clearly shown in the tariff containing the rates, in a referred to "scope tariff" (see § 1312.24) or in a rules tariff.

(e) *Governing tariffs.* (1) A list of governing tariffs shall be shown, along with the type of tariff, its issuing agent or carrier, and its ICC designation.

(2) Governing publications shall be on file with the Commission except that rules published in the CFR and other publications containing standardized codes or terms that are published by the Federal government and available from the government need not be reproduced, only referenced.

(3) Governing publications shall not result in conflicting rates, charges or provisions.

(f) *Rules and other provisions which govern the tariff.* (1) Rules or provisions stating conditions which in any way affect the rates named in the tariff shall be published either in the rate tariff under the heading "Governing Provisions" or other tariffs. A provision affecting a particular item or rate shall be specifically referred to. Provisions affecting more than one but not all of the rates in the tariff or applying for only some of the participating carriers may be included with explanatory statements.

(2)(i) Each rule or regulation shall be given a separate number. Where the following subjects are to be provided for in rail tariffs, the rules covering them shall bear the titles indicated and be assigned the item numbers indicated. If a title includes subjects not treated in the rule, those subjects may be eliminated from the title.

Item and Title
5 Description of Governing Classification, Exceptions and Rules Tariffs
10 Station List and Conditions
15 Explosives, Dangerous Articles
20 Reference to Tariffs, Items, Notes, Rules, etc.
25 Terminal or Transit Privileges or Services
30 Perishable Freight
35 Transfer Between Connecting Carriers
40 Consecutive Numbers
45 Capacities and Dimension of Cars
50 Combination Rates
55 Substitution of Motor Service for Rail or Water Service
60 National Service Order Tariff
65 Proportional Rates—application
70 Alternation
75 Method of Canceling Items
80 Intermediate Application—origin
85 Intermediate Application—destination
100 Method of Denoting Reissued Matter in Supplements
105 Straight or Mixed CL Application

For motor tariffs, the list is as follows:

Item and Title
100 Governing Publications
110 to 119 Definitions
150 Application of Tariff
160 to 290 Application of Rates
299 Absorptions
300 Advancing Charges
305 Advertising on Carrier Equipment
310 Advertising or Premiums
315 to 335 Allowances
340 Arbitraries or Differentials
345 Arrival Notice and Undelivered Freight
350 Assembling or Distributing Freight
360 Bills of Lading
370 Bulk Freight
381 Cancellation of Items
382 Cancelling Original and Revised Pages, Except the Title Page
390 Capacity Loads
405 Carrier Trade Names
407 to 419 Claims, Loss and Damage
420 Classification of Articles—General
421 Classification by Analogy
422 Classification of Combined Articles
423 Classification of Loose Articles
424 Classification of Parts or Pieces of a Complete Article
426 Classification of Reconditioning Bags
428 Classification of Various Documents Included with Freight
430 COD shipments
435 Collection of Charges
440 Commercial Zones
455 Consecutive Numbers
460 Consolidation of Shipments
465 Containers
470 Control and Exclusive Use of Vehicles
480 Customs or In-Bond Freight
490 Density
500 Detention—Vehicles With Power Units
501 Detention—Vehicles Without Power Units
502 Detention—LTL or AQ Shipments
503 Detention—Prearranged Scheduling
510 Distances
520 Equipment
530 Expedited Service
535 Expiration Dates
540 Explosives and Other Dangerous Articles
550 Export, Import, Coastwise or Intercoastal Freight
560 Extra Labor
565 Fractions
566 Handling Freight Not Adjacent to Vehicle
568 Heavy or Bulky Freight
570 Impracticable Operations
575 Light or Bulky Freight
578 Loading by Consignor—Unloading by Consignee
580 Marking or Tagging Freight
595 Maximum Charge
600 Meat Hooks or Racks
610 Minimun Charge
640 Mixed Shipments—LTL
645 Mixed Shipments—TL or Vol.
647 Notification Prior to Delivery
650 Operating Rights
660 Order-Notify Shipments
670 Over Dimension Freight
675 Over Weight Shipments
680 to 689 Packing or Packaging
710 Pallets, Platform or Skids
720 Payment of Charges
730 Peddler Truck Shipments
740 Permits, Special
750 Pickup or Delivery Service
753 Pickup or Delivery Service—Private Residence
754 Pickup or Delivery Service—Sundays or Holidays
755 Pickup or Delivery Service—Saturdays
756 Pickup or Delivery Service—Saturdays, Sundays, or Holidays
765 Precedence of Rates
766 Precedence of Rules
770 Prepayment
780 Prohibited or Restricted Articles
784 Proof of Delivery
800 Proportional Rates
810 Protective Service
820 Reconsignment or Diversion
830 Redelivery
845 Reference to Tariffs, Schedules
846 Reissued Matter, Method of Treating
848 Released Value
850 Reporting Charge
860 Returned, Undelivered Shipments
880 Sealing of Trucks
881 Section 10721 Tenders
883 Shipments Tendered as a Truckload
885 Single Shipment Pickup
887 Sorting or Segregating
890 Special Services
900 Stopoffs
910 Storage
920 Substitution of Service
940 Terminal Areas
950 Terminal Charges at Ports
957 Tolls
959 Transfer of Lading
960 Transfer of Service
970 Transit Privileges or Services
980 Unnamed Points
985 Vehicle Furnished But Not Used
990 Weighing and Weights
992 Weight Verification
995 Weights—Gross Weights and Dunnage
997 Weights—Minimum Weight Factor

(ii) A carrier or agent may assign a title and number of its choosing for matter not listed, provided the title and number chosen do not conflict with those listed.

(iii) If a title does not properly identify a rule's content, qualifying words, phrases or subtitles may be added. When qualifying words or phrases are used, the prescribed title shall be followed by a dash and the added words. Subtitles or references to excepted classification rules shall follow the title.

(iv) When a rule is split into two or more parts, the prescribed item number may be subdivided. The first part of the rule (which shall contain the general rule, if any) must be assigned the prescribed item number without a numerical suffix. Each subdivision shall be assigned a compound number, which shall be constructed by use of the prescribed number followed by a decimal or a hyphen, then a new series of numbers, for example: item 70.1, or 70–1, in numerical sequence. Each subdivision must show the prescribed title.

(v) Exceptions to a rule may be included in the general rule or arranged in items immediately following the rule to which exception is taken. In the latter case, exception items are to use the standard item number of the general rule followed by a suffix—for example, exceptions to item 85 would use items 85.1, 85.2, etc., or 85–1, 85–2, etc.

(vi) Tariffs subject to the provisions contained in § 1312.37 are not subject to the requirements of this paragraph.

(3) Governing provisions should be given brief, but descriptive, titles.

(4) Tariffs containing rates for the transportation of dangerous articles (hazardous materials) may reproduce the Department of Transportation's regulations governing the acceptance and transportation of those articles refer to a separate tariff which contains the regulations, or refer to the CFR location of the governing rules.

(5) Rules and regulations of passenger carriers concerning their practices, procedures and regulations for the sale, honoring, exchange, validation, refund, and time limits for usage of tickets shall be published in the fare tariffs, or the fare tariff shall refer to a separate tariff containing these provisions.

(g) *Exceptions to class ratings.* (1) The exceptions to class ratings in a classification or exceptions tariff applying only for the rates published in one tariff shall be published in that tariff, be clear, be published in a separate section, be arranged in the same order, describe the commodity in the same words, or as close as possible, used in the classification, and use the generic heading, if any, used in the classification, and indicate the quantity application.

(2) Different class ratings on the same article or commodity based on different minimum quantities may be published if the class ratings are published in one item.

(3) An exception class rating may be published to apply on the movement of a plant to a new location without naming each article to be transported, provided application is clear.

(h) *Exceptions to classification or exceptions tariff rules.* (1) Exceptions to rules in a classification or exceptions tariff applying only for the rates published in one tariff, should be published in that tariff, in the "Governing Provisions" section [but see § 1312.27(b)] and shall—

(i) Be arranged in the same order as they appear in the classification;

(ii) Unless the exception is to make the rule (or part of the rule) not applicable, be complete in themselves by republication of the complete rules, section or other identifiable unit affected;

(iii) Identify the classification rule (and exceptions tariff rule, if any) and the part being changed;

(iv) Republish the entire rule if relatively small;

(v) If the exception is to make the rule (or portion of the rule) not applicable, identify the rule or portion affected.

(i) *Application for individual carriers.* Tariffs shall contain statements indicating the proper application of the rates and provisions for particular carriers.

(j) *Statements of rates and fares.* Rate tariffs shall contain a statement of rates applicable for the transportation of the articles on which rates are named. Fare tariffs shall contain a statement of fares applicable for the transportation of passengers which the tariff is intended to cover. Tariffs must be presented in a manner that allows all tariff users to have knowledge of the exact rate of fare applicable to any given shipment.

(k) *Statement of routes.* A clear statement of routes over which the published rates apply shall be shown, prepared in accordance with the provisions of § 1312.15.

(l) *Explanation of reference marks, notes, and abbreviations.* (1) Reference marks, abbreviations and note references used in a tariff shall be explained either in the item to which they apply or in a separate item. Use shall be consistent throughout the tariff unless the deviation is specifically explained. See also §§ 1312.17 and 1312.18.

(2) Standard carrier codes may be included as part of the List of Participating Carriers if one is published within the tariff, provided a statement to that effect is included under the explanation of abbreviations.

(3) In addition to U.S. Postal Service State name abbreviations and acronyms of Federal agencies, the following commonly used abbreviations are acceptable without explanation.

Abbreviation	Explanation
&	and
AFB	Air Force Base
a.m.	ante meridien
Ave	Avenue
Blvd	Boulevard
Bldg	Building
br	branch
Bros	Brothers
¢	cents
CFR	Code of Federal Regulations
Co	Company
Corp	Corporation
cu	cubic
cwt	100 pounds
Cy	County
d/b/a/	doing business as
$	dollars
E	East
etc	et ceteris
e.g.	for example
Ft	Fort
ft or '	foot, feet
gal	gallon
i.e.	that is
in or "	inch, inches
Inc.	Incorporated
Jct	Junction
lb	pound
Ltd	Limited
mfg	manufacturing
Mt	Mount, Mountain
N	North
No.	Number
oz	ounce
%	percent
p.m.	post meridien
PO	Post Office
Rd	Road
S	South
St	Street
US	United States
wt	weight
W	West

(4) The following reference marks (symbols) are suggested for use.

* or (R) or *R* to denote reductions

—* or (A) or *A* to denote increases

— or (C) or *C* to denote changes which result in neither increases nor reductions in charges

* or (N) or *N* to denote no change in rate [fare] (see § 1312.17(f)).

+ to denote intrastate application only

[ ], □, δ, or ( ), to denote reissued matter (see § 1312.17(g).

(5) New or added matter (matter that does not actually change the application of published rates) on which the prescribed reference marks in this paragraph would not be appropriate may be indicated as "New," "Addition," "Add" or bear a properly explained reference mark of the carrier's or agent's choice.

§ 1312.14 Statement of rates and fares.

(a) *Shall be clear and explicit.* (1) Rates, fares, and provisions shall be clearly stated and arranged in a

systematic manner which establishes the rate, charge or attendant provisions for each service offered or performed by the serving carrier. Rates and charges shall be explicitly stated per unit in U.S. dollars or cents. A rate for a given service may be expressed as a definite percentage of another explicitly stated rate in the same or other tariffs. The disposition of fractions and other tariff elements required to determine the applicable rate, charge or provision shall be clearly explained. Tariffs of water and motor passenger contract carriers shall provide an explicit statement of the minimum rates, fares, or charges actually maintained. Rates may be stated in any measurable unit. Rates may be stated as applying e.g., per car, per vehicle, per mile, per vehicle-mile, per container, per package, per passenger, per unit of time or other variable unit, provided the measure of the service is fixed by defining the unit specifically, or in maximum terms, such as a stated maximum weight of contents permitted per vehicle or container of a certain maximum cubic capacity or measurement, or stated maximum dimensions or weight per individual package. Rates for rail, water, and motor passenger service (including one-way, roundtrip, commutation, etc.) may be stated per passenger or other identifiable unit. Rates based on quantity shall be stated as having any quantity, less-than-truckload, truckload, less-than-carload, carload, trainload, volume or any other clearly defined quantity application.

(2) (This paragraph only applies to transportation of property by railroads.) Rates may be shown as applying from or to "all points" in a State to territory located on the lines of the carrier parties to the tariff, without naming the points in the tariff, provided the tariff is governed by a station list tariff or otherwise adequately describes the territorial scope. Points may be excepted from the application of the rates by listing them. Intermediate point rules (§ 1312.33) may not be used in connection with origin or destination points provided in accordance with this paragraph, as to do so would be redundant.

(3) Rates may be published to apply from or to a named plant site, construction site, or other site, if its location is identified. Rates may be published for the account of a specifically named shipper or receiver.

(b) *Arbitraries.* A tariff may provide rates from or to designated points by the addition or deduction of arbitraries or differentials to or from rates in the tariff from or to named base points. Provision for this shall be shown either in a separate item in the same tariff, which shall specifically name the base point and clearly and definitely state the manner in which the arbitraries or differentials shall be applied, or in a separate rate basis tariff.

(c) *Class rates.* Class rate tariffs shall provide a rate for class ratings shown in the classification or exceptions tariff except class rates for certain classes may be omitted provided there is a statement that the next lower class or the next higher class (not both) for which rates are published shall be used.

(d) *Alternation and precedence of rates, and maximum charges.* Alternation of rates is permitted. The extent of alternation must be clearly defined by explicitly delineating the levels of rates subject to alternation. For example:

—Rates named in Section 2 of this tariff alternate with rates named in Sections 3 and 4 of this tariff.
—Rates named in this tariff alternate with rates named in tariff ———, issued by ———.
—Commodity rates named in Section of — of this tariff alternate with class rates named in tariff ———, issued by ————; alternation extends to class rates as discounted through use of discount provisions named in tariff ———, issued by ————.

(e) *Mixed shipments.* If two or more commodities are listed in connection with a rate or rating application, there shall be a clear statement as to whether the rate or rating applies only on straight shipments, on a specific mixture of the articles, or on straight or mixed shipments. If one or more of the commodities are to be subject to a rate or a minimum quantity or both, different from the others, how the minimum charge per mixed shipment is to be determined shall be clearly stated. This is also required if two or more rates or ratings, based on different minimum quantities, are provided for the same commodity. Where different rates or ratings are so provided, there shall be a statement published explaining how the deficit, if any, in the applicable minimum weight shall be rated.

(f) *Commodity rates.* Except as otherwise provided in paragraphs (g), (h) and (i) of this section, when commodity rates are established, the commodity description shall be specific and the rates may not be applied to analogous articles unless so provided. As far as possible, uniform commodity descriptions should be used in all tariffs.

(g) *Generic terms.* Rates, tariffs, or sections of tariffs may be published to apply commodities without naming the individual articles by publication of an appropriate description.

(h) *Reference to items or lists for commodities or descriptions.* (1) Commodity rate items may contain rates on a number of articles without naming the articles in the item by use of a generic term and reference to an item (not a rate item) in the tariff or in a separate tariff (sufficiently identified on its title page) which contains a complete list of the articles (and minimum weights, if any). The list shall bear a commodity caption (for example "Packinghouse products, namely"), which shall be worded the same as the generic term used in the rate item, and the commodities in each list shall be arranged alphabetically.

(2) The rate item may except certain commodities in the list.

(3) A rate tariff may refer to a classification instead of, or in addition to, a separate list tariff for description of articles on which rates published by reference to generic terms will apply. The reference may be restricted to the descriptions in certain identified items under the generic heading used. A rate item may refer to classification items for a detailed description, and for governing conditions, if the commodity term used in the rate item embraces the commodities in the classification items. The rate tariff shall clearly indicate the application of notes, qualifying conditions and other matter published in connection with the classification items.

(i) *Application of aggregate of intermediate rates and combination rates.* (1) Except where a carrier elects to permit alternation, when a rate, whether local or joint, from origin to destination has been established via a route as a "one-factor rate," it becomes the only legal rate for through transportation via that route, whether it is greater or less than the aggregate of intermediate rates, if any.

(2) The lowest combination of rates applicable via the route of movement is the legal rate if no one-factor rate is in effect. The combination shall be treated as a unit from origin to destination.

Note.—This section does not require equalizing via one route or gateway the combination of rates applicable over another route or via a different gateway.

(j) *Proportional rates.* (This paragraph does not apply to contract carriers or freight forwarders.) Tariffs containing proportional rates shall clearly show their application. If a proportional rate is intended for use on traffic destined to a restricted territory or points, the territory shall be clearly defined.

(k) *Tank-line gauge books and equipment register.* When rates are published with minimum weights dependent upon, for example, the length of the car used, or the marked cubical or gallon capacity of the car used, that measurement or mark becomes an intergral part of the rate and carriers shall file tariffs showing the numbers, dimensions, capacities, and ownership of freight cars, and other information required by law to be filed with respect to such cars. The information may be published in separate publications and be filed by duly authorized agents. Successive issues and amendments may be made effective on 1 day's notice.

§ 1312.15 Routing not applicable to freight forwarders or contract carriers.

(a) *Routing to be specified.* Except as authorized in paragraph (b) of this section, the routing to be used shall be specified in a complete and clear manner, identifying each carrier and the point of interchange in proper order from origin to destination. For motor carriers, highway numbers need not be listed.

(b) *Open routing.* (This paragraph applies to tariffs of railroads.) Routing may be provided by publishing a statement substantially as follows in the rate tariff:

> The rates in this tariff apply over all routes made by use of the lines of any of the carriers parties to this tariff, except as otherwise specifically provided on pages ——, in individual rate items, or in connection with individual rates.

The exceptions may be stated either by showing that the rate applies only via specified routes (affirmative routing), or by showing that the rate does not apply via specified routes (negative routing). Affirmative routing may be shown in a routing guide, but negative routing may not.

(c) *Where to publish routes.* The routes shall be published in the rate tariff, in a separate routing tariff or tariffs (a "routing guide"), or in a separate routing tariff or tariffs which are governed by an explanation of routes tariff or tariffs. Routes may be published in both rate tariffs and routing tariffs.

(d) *Notations in tariff publications.* (1) A routing guide shall contain the following or similar statement on its title page:

> The routes in this tariff may be used only when rate tariffs provide for their application.

(2) If all of the routes are provided in the rate tariff, the following or similar notation shall be shown in the rate tariff under the heading "Routing Instructions":

> The rates in this tariff apply only via the routes specified on pages [or "in items"].

(3) If all of the routes are provided in the routing guide, the following or similar notation (with appropriate tariff reference) shall be shown in the rate tariff under the heading "Routing Instructions":

> The rates in this tariff apply only via the routes specified in [here show ICC designation] for carrier parties to this tariff.

(4) If the rate tariff contains routing and also refers to a routing guide, an appropriate notation shall be published in the rate tariff under the heading "Routing Instructions." The notation shall clearly state the circumstances when the routing in the rate tariff applies and when the routing in the routing guide applies.

(e) *Number of routing guides.* A rate may not be subject to more than one routing guide except—

(1) Joint rates of a rail subsidiary or a Class III rail carrier with two or more connecting or parent rail carriers may refer to the routing guides of each of the connecting or parent carriers;

(2) If territorial routing guides are published, an interterritorial rate may refer to one guide for each of the separate territories involved; and

(3) Reference may be made to separate routing guides of any of the participating carriers for internal routing over each of the carrier's lines.

(f) *Combined routing guide/participating carrier tariff.* A routing guide may be combined with a participating carrier tariff, or a combined participating carrier and points of service tariff, provided the routing provisions are separate and the requirements of this section are otherwise complied with.

(g) *Emergency routing clause.* The following provision or one of similar effect may be published under the heading "Routing Instructions" in connection with joint rates on property:

> **Emergency Routing**
>
> The joint rates in this tariff apply via the routes and through the transfer points authorized in this tariff, except:
>
> When, because of pronounced traffic congestion (not an embargo), detours or other similar emergencies, or through carriers' error, carriers forward shipments by other transfer points of the same carriers or over the lines of other carriers parties to this tariff, the rate specified in this tariff will apply if it results in lower charges than the otherwise applicable rate over the actual route of movement.

(h) *Cancellation of or surcharges to joint routes or rates.* (This paragraph applies only to rail carriers.) Cancellations of joint rates or routes or surcharges to them under the authority of 49 U.S.C. 10705a shall have a clear statement to that effect in the tariff publication.

§ 1312.16 Sectional tariffs.

Tariffs may be arranged in "sections" to separate different kinds of rates or provisions, provided the sections are consecutively numbered or lettered and differentiation among sections is clear.

§ 1312.17 Amendments.

(a) *How made.* An amendment is a change in, addition to, or cancellation from a tariff. Supplements are tariff publications to be used to amend bound tariffs (see § 1312.18) and new or revised pages are tariff publications to be used to amend looseleaf tariffs (see paragraph (d) of this section). Supplements may also be used to amend looseleaf tariffs as provided in paragraph (d)(16) of this section.

(b) *Lists of participating carriers.* (This paragraph does not apply to participating carrier tariffs.)

(1) In bound tariffs, the list shall be amended by—

(i) Publishing a complete new list containing all changes and canceling the prior list; or

(ii) Publishing a cumulative list of all changes, alphabetically arranged either by code or carrier name, and the statement: "The list of participating carriers is as shown in the tariff except for the following changes." Only one cumulative list may be in effect at one time. A carrier's participation shall be canceled by showing the carrier's complete name, together with the word "Cancel" or other suitable provision. Changes shall be carried forward in subsequent amendments to the list as reissued matter.

(2) In a looseleaf tariff, the list shall be amended either by (i) republication of the page(s) on which the list appears, indicating the cancellations, additions and changes. The canceled carriers' names shall be republished on a separate page(s) at the end of the list, indicating when the cancellation was first effective, until all provisions in the tariff referring specifically to the carrier(s) have been removed from the effective pages. The pages containing the list shall refer to the page(s) containing the list of canceled carriers; or (ii) reissuing the affected page(s) with an appropriate symbol to show elimination of a carrier.

(3) Concurrent with the cancellation of a carrier from the participating carrier list, all provisions specifically referring to that carrier shall be appropriately amended unless—

(i) The cancellation is in connection with the publication of a complete adoption of the rates of that carrier by another (see § 1312.20); or

(ii) The method permitted in paragraph (b)(4) of this section is used.

(4) A carrier's participation may be canceled by publishing a blanket cancellation notice directly with the list of participating carriers, and referring to the notice when canceling the carrier's name from the list. If this method is used, all provisions specifically referring to that carrier shall be amended as soon as possible. During the interim, an item or provision which specifically refers to that carrier may not be republished unless the reference is concurrently removed.

(c) *Amendments to bound tariffs.* (1) Provisions shall be amended by publication of the entire item or segment in a supplement, except as otherwise authorized.

(2) When an item is to be amended, the new item shall be given the same number with a letter suffix, starting with the letter A, continuing through Z, then starting with AA, BB, and so on. Except as provided in paragraph (c)(3) of this section, the new item shall specifically cancel all uncanceled items in the same series. For example: "Item 40–A cancels Item 40"; "Item 40–C cancels Item 40–B and Item 40–A" (if Item 40–A had not been canceled previously).

(3) Items need not specifically cancel the previous items in the same series if the tariff contains a rule explaining the process in which items are superseded. For example, the rule may provide that the use of the next letter suffix automatically cancels the prior item. The rule shall be maintained for the life of the tariff. Specific cancellation shall be made of items containing rates or provisions under suspension or held in force by reason of suspension.

(4) When provisions of a numbered segment, other than an item, are to be amended, the new segment shall be given the same number, without a suffix, and specifically cancel all prior uncanceled segments bearing the same number. The cancellation shall be made by referring to the segment number and its location, i.e., "Section 3, cancels Section 3 on pages 50–56 of the tariff."

(5) When the provisions of an unnumbered segment are to be amended or canceled, the previous segment shall be canceled by clearly indicating the matter and referring to its location.

(6) Amendment in part without bringing forward the item or segment in its entirety, may be made of items or segments containing only—

Tables of contents;
Lists of—participating carriers, commodities, or points of service;
Indexes of—commodities, origins, or destinations;
Statements of carriers' operating authorities;
Explanations of—routing, abbreviations, reference marks, or notes;
Package descriptions; or
Tables of—rates, rate base numbers, or other figures comprising more than two pages.

(7) If a reference mark in a rate table is amended, the rates need not be republished provided the changed reference is explained in the explanation of reference marks and a list of items that use the mark is included.

(8) When amending a figure at the intersection of a headline and sideline point of tables of rates, rate base numbers or other figures, either the entire vertical column or entire horizontal column of figures in which the change appears shall be reproduced. In no case, however, shall the format of the tables be changed during the life of the tariff.

(9) Partial amendments shall be published so that it is clear what matter is being added, changed or canceled.

(10) The following notation or one to similar effect shall be shown with a partial amendment of an item or segment containing station index numbers:

The index numbers of stations in this supplement correspond with the index numbers of the same stations shown on pages —— to ——, inclusive, of the tariff, with the following additions and deletions.

(11) Additions to an item may be published without bringing forward the entire item by stating, e.g., "Refer to item 100 and add . . . ."

(12) Canceled matter may not be reproduced in an item or segment effecting a cancellation except to the extent necessary to identify the subject matter.

(13) An expiration or cancellation statement of an entire item or segment shall be treated the same as any other reissued matter in subsequent supplements.

(14) If part or all of the matter in an item or segment is transferred to another tariff or to a different location in the same tariff, that item or segment shall—

(i) Be revised in the regular manner; and

(ii) Show where the transferred matter will thereafter be found.

(d) *Amendments to looseleaf tariffs.* (1) New pages added at the end of the tariff shall be designated as "Original" and consecutively numbered beginning with the number following the number of the last page of the original tariff.

(2) Other new pages shall be designated as "Original" and given the same number as an existing page (if the tariff contains pages printed on both sides of the sheet, use the higher number) followed by a single suffix letter, in alphabetical sequence starting with "A". No other system or variation may be used.

(3) Both sides of a sheet shall be given page numbers when adding new pages to a tariff containing pages printed on both sides of the sheets. If one side is intentionally left blank, the page shall contain a statement to that effect.

(4) Amendment of a title page shall be made by reprinting it and giving it a revision number. The first amendment shall be designated as "1st Revised Title Page", and so on in consecutive numerical order. Revised title pages shall show the following under their effective dates: "Original Tariff effective (here show the effective date of the original tariff)." The revised page shall specifically cancel all the uncanceled title pages to the same tariff. The cancellation shall be shown with the new designation, for example, "1st Revised Title Page cancels Original Title Page."

(5) (This paragraph does not apply to title pages.)

(i) Amendment of a page shall be made by reprinting it and giving it a revision number. The first amendment shall be designated as "1st Revised Page ——," and so on in consecutive numerical order. Suffixes or prefixes may be used. See § 1312.7(b). The revised page designations shall be shown in the same corner as original page designations are shown.

(ii) If the pages being amended are to a tariff which contains pages printed on both sides of the sheets, both sides of the sheets shall be reprinted. If changes are not being made in the tariff matter on one side of the sheet, the following notation shall be shown with the new revision number: "Change in revision number —— only."

(iii) Except as provided in paragraph (d)(7) of this section, revised pages shall cancel all uncanceled pages in the same series. The cancellation shall be shown with the new designation, for example, "2nd Revised Page 10 cancels 1st Revised Page 10."

(6) If a page is rejected, its designation (i.e., "original", "1st Revised", etc.) may not be used again in that page series. The rejected page may not be referred to on a subsequent page as having been canceled, amended or withdrawn. The page issued in its place shall use the next revision number and bear the following:

Issued in place of (here identify the rejected page), rejected by the Commission.

(7) Pages, other than title pages, need not specifically cancel previous pages in the same series if the tariff contains the following statement or one to similar effect:

Unless otherwise provided, amendment of a page will be made by reprinting the page and showing a revision number. The revision numbers will be used in consecutive numerical order beginning with "1st Revised Page". A revised page cancels any uncanceled revised or original pages which bear the same page number.

The statement shall be maintained for the life of the tariff. Specific cancellation shall be made of pages containing rates or provisions under suspension or held in force by reason of suspension.

(8) Except as otherwise authorized, looseleaf tariffs may not be further amended when the number of sheets (including check sheets) containing canceled pages would exceed six times the number of sheets (including check sheets) containing effective pages. This limitation may be exceeded if necessary to comply initially with a Commission decision or if specifically authorized.

(9) If a revised page omits rates or other provisions which had been shown on the page it cancels, the disposition of the omitted matter shall be indicated. If the matter is transferred to another tariff or to another page in the same tariff, that shall be stated. If transferred to another page, the page to which it is transferred shall contain the following notation directly with the transferred matter—

For [here state whether rates, rules, provisions, etc., as appropriate] previously in effect, see page(s) ——.

or an explanation of the transfer in some other manner. If matter is canceled or expired and not transferred, the page shall so indicate, identifying the canceled or expired matter only to the extent necessary to show what is affected.

(10)(i) If five or more pages of a tariff are to be reissued at one time with the same effective date to cancel all provisions or to transfer all provisions to other pages, the reissue and the cancellation may be accomplished by a single printing, showing the individual cancellations. (If for a tariff which has pages printed on both sides of the sheets, this method may only be used when both pages of any particular sheet are being canceled or transferred.)

(ii) The reissued matter shall clearly show the designation of the page(s) to which matter is being transferred. See paragraph (d)(9) of this section.

(iii) Where the page designation for that tariff would otherwise appear (i.e., the upper left-hand or upper right-hand corner), the following shall be shown, completed;

Revised Page ——————————
Cancels Page ——————————

(iv) The automatic cancellation provisions of paragraph (d)(7) of this section may not be used with this procedure.

(v) This procedure may not be used when new or other provisons are to be substituted on the pages. However, the pages may be subsequently reissued individually in the regular manner.

(11) The check sheet (see § 1312.13(b)) shall be reissued and filed with the filing of any amendment. The revised check sheet shall—

(i) List all effective pages in numerical sequence;

(ii) Show the latest designation of each page;

(iii) Indicate those pages which have been revised or added since the previous check sheet;

(iv) Indicate those pages or supplements which contain only matter under suspension or held in force by reason of suspension; and

(v) List all effective, or filed and yet to be effective, supplements.

(12) If the "correction number, check off" type of check sheet is used, looseleaf page amendments issued and filed at one time shall show the same correction number. The first filing shall bear correction No. 1, the second correction No. 2, and so on in consecutive order. In lieu of the foregoing, carriers or agents utilizing the "correction, check off" type of check sheet may issue and file looseleaf page amendments with sequentially numbered correction numbers. An explanation of the correction numbering system shall be given.

(13) Supplements (except supplements canceled by other supplements of like or similar character or content) shall be canceled by reissue of the check sheet containing the updated list of pages, adding the words "also cancels Supplement No. —" immediately following the words "cancels —— page ——".

(14) Any indexes or tables of contents shall be amended concurrently with changes in the contents of the tariff to show additions, cancellations, and changes as to points and commodities.

(15) Supplements to looseleaf tariffs may be used for the following purposes—

(i) Conversion or percentage supplements to provide general rate changes, see paragraph (j) of this section and § 1312.18(h).

(ii) Transfer or cancellation of provisions, see § 1312.19.

(iii) Suspended matter, see § 1312.21.

(iv) Seasonal rates or fares, see § 1312.36.

(v) Transfer of operations—(change in name and control), see § 1312.20.

(vi) Take-over publications (transfer of agent), see § 1312.10; or

(vii) Postponement of tariffs or tariff matter, see § 1312.39.

(e) *Reinstatement of canceled or expired provisions shall be by republication.* If provisions have been eliminated by cancellation or expiration, they may only be reinstated by republication. Rates cancelled on the erroneous belief they were obsolete may be republished on 5 days' notice.

(f) *Changes are to be indicated.* (for suggested reference marks see § 1312.13.)

(1) Changes resulting in increases which are not correctly identified may result in a Commission finding that such changes are unlawfully published and filed and therefore invalid and not collectable.

(2) When a change of the same character is made in a substantial number of rates a statement may be used in place of symbolizing each of the individual rate changes. The statement shall note the nature of the change. The statement shall be in distinctive type at the top of the title page of the publication or the top of the page(s), containing the rates, with exceptions, if any, so noted. An appropriate reference mark shall be used to indicate any other change not indicated by the general statement on the publication.

(3) When tariff matter subject to a reference mark or the wording required by this paragraph is reissued without change, the reference mark or wording shall be omitted.

(g) *Reissued matter.* (1) Matter brought forward without change from one supplement to another in the same tariff shall be designated as "Reissued" and the supplement number from which it is reissued shown, and the effective date of that supplement. Except as provided in paragraphs (g) (2) and (4) of this section, this shall be accomplished in one of the following ways:

(i) The information shall be published with the reissued matter, for example, "Reissued from Supplement 1, effective June 1, 1990", or

(ii) With the reissued matter, show in a square or substitute (see § 1312.13) the number of the supplement from which it is reissued; and

(iii) under the explanation of reference marks in the supplement, show the supplement number in the square or substitute and explain it, for example, "[1] Reissued from Supplement 1, effective June 1, 1990"; or under the explanation of reference marks in the original tariff, show the empty square or substitute, with the following or similar explanation:

Reissued from supplement bearing the number [enclosed within the square]. To determine its original effective date, see that supplement.

(2) If the reissued matter is brought forward from a supplement and its effective date had been changed by another supplement, this information shall be shown in the following manner:

Reissued from Supplement ——, effective ——, per Supplement ——.

This statement shall either be shown directly with the reissued matter, or elsewhere on the same page with the reissued matter referring to it. The number-in-the-square method or substitute may not be used in this instance.

(3) Matter in looseleaf tariffs being brought forward without change from one page to the next revision of that page shall only be referenced when republishing the cancellation of participating carriers as required by paragraph (c)(2) of this section. The reissue of the canceled carriers may be indicated by—

(i) Showing the square reference mark or substitute with the revision number of the page from which the carriers' names are being reissued; and

(ii) Publishing under the explanation of reference marks in the tariff, the following or similar note:

Reissued without change from the issue of the same page bearing the revision number [enclosed within the square]. To determine the original effective date see that revised page.

(4) If the effective date shown for a provision in the prior supplement or looseleaf page being canceled is a date later than the general effective date of the new supplement or looseleaf page in which the provision is being reissued, the number in a square reference mark or substitute may not be used. The reference to the prior supplement or looseleaf page and the later effective date shall be stated in full directly with the reissued provision.

(h) *Change in the explanation of reference marks and notes.* (This paragraph does not apply to the explanation of the reference marks used in referring to an item showing expiration dates.)

(1) A change in or cancellation of an explanation of a general reference marks or general note or of an item or other provision the explanation refers to, shall be accompanied by—

(i) The republication of all provisions which refer to the reference mark or note; or

(ii) The publication, directly with the changed or canceled explanation, item or other provision, of a list of each tariff provision which refers to the reference mark or note, identifying the provisions by item or page number, and supplement number, if any; or

(iii) The publication, directly with the changed or canceled explanation, item or other provision, of a statement generally described the effect of the change or cancellation. If this method is used, a notation shall be made at the top of the page(s) containing the change or cancellation that the page(s) contains a changed or canceled reference mark or note, or tariff provision referred to by the mark or note.

(2) If new reference marks are added, they need be explained only in the items where they apply rather than amending the original explanation of reference marks.

(3) Two explanation of reference mark provisions may be in effect where the second is used to change or add references and the first remains unchanged.

(i) *Matter issued under decision or other authority.* Amendments published under authority of a Commission decision requiring specific action or a Commission decision or regulation of this part which permits less than statutory notice or departure from outstanding requirements shall —

(1) Refer to the authority and make clear to what tariff it applies;

(2) State the number of days' notice authorized (if less than statutory notice); and

(3) Briefly identify the relief authorized.

(j) *Conversion supplements to provide general rate changes.* (This paragraph does not apply to property tariffs of railroads.) Conversion supplements are published to convert a substantial portion of the rates in a tariff, or the rates in a described category (i.e., commuter fares, truckload rates, etc.) to a higher or lower general level, without publishing the items or provisions containing the rates.

(1) The supplement shall show the base rates (i.e., the rates being changed) and the new rate.

(2) The supplement shall contain an application provision reading substantially as follows:

Except as provided in subsequent amendments to this tariff, all rates and charges in this tariff, as amended, or as may subsequently be amended, are, or will on their effective dates be, [specify whether increased or reduced] as follows for the period this supplement is in effect.

If there are exceptions to the application, reference to the location of the exceptions shall be shown. If not all of the rates are being changed, the provisions shall state the exact category of rates being changed, or list the items or sections of the tariff which contain them. Immediately following the statement, a clear and explicit application of each column of changes shall be published.

(3) The supplement shall provide the method of determining the application of the general increase or reduction on combination rates, rates made by use of arbitraries, or other multiple-factor rates.

(4) The supplement shall contain a provision stating the mathematical procedure or formula to be used in arriving at the new rates when the supplement does not include all the tariff rates and charges to be changed. The supplement shall also provide a method of disposing of resulting fractions.

(5) The base rates and new rates shall be stated in the same monetary unit as used in the tariff. If the tariff names rates in more than one monetary unit, a statement of how the change is to be applied to the remainder of the rates shall be published.

(6) The supplement may not provide for the application of one increase or reduction, and then subject the resultant rate to another rate increase or reduction.

(7) Only matter concerning the application of the conversion may be published in the supplement.

(8) The title page shall indicate whether changes are increases and/or reductions. The different categories of changes shall be appropriately referenced.

(9) Only one conversion supplement to a tariff may be in effect at one time.

(10) An exception item or note may be republished from the conversion supplement into a regular supplement of a bound tariff in order to add, eliminate or change provisions. If exceptions are published in a conversion supplement to a looseleaf tariff, they may not be amended. The exceptions, however, may be published in the tariff proper (provided the conversion supplement makes proper reference) and then amended in the regular manner.

(11) Amendments containing rates or charges becoming effective during the effectiveness of a conversion supplement shall state whether or not they are subject to the provisions of the conversion supplement or the application item, identifying the supplement or item.

(12) Part of the same general adjustment may be effected by specific publication of the rates in a companion supplement or looseleaf page amendment, provided—

(i) The issue and effective dates are the same as the conversion supplement; and

(ii) They are not made subject to the conversion supplement provisions.

(13) Conversion supplements and companion amendments are exempt from the supplemental volume provisions of § 1312.18.

(14) The provisions of this paragraph do not authorize the publication and filing of master tariffs or connecting link supplements, and conversion supplements may not be filed to tariffs which refer to a master tariff for the application of increases or reductions. Special tariff authority must be obtained for publication of master tariffs or connecting-link supplements.

(k) *Rail cost recovery increases.* Rail carriers or their agents may publish cost recovery tariffs in master tariff format to provide increases in rail rates and charges as authorized by the Commission under Ex Parte No. 290 (Sub-No. 2), *Railroad Cost Recovery Procedures.* The increases may apply to joint rates and single-line traffic to the extent adopted by individual carriers. A connecting-link, blanket, other supplement or general tariff item shall connect the affected tariffs to the master tariffs. All publications may be filed upon 1 day's notice, with 2-year expiration dates. Annual, accumulated master tariffs may be published to expire no later than September 30 of the second calendar year following the year in which the tariff became effective, by which date all increases shall be transferred to the base tariffs. Extension of any expiration dates may, however, be requested. The master tariffs may not be amended except that new or reduced provisions may be published upon 1 day's notice. The terms of § 1312.18 as to supplemental volume are waived. Blanket supplements shall conform to the terms of § 1312.18(h).

(l) *Supplements to transfer rate changes from master tariffs or conversion or percentage supplements into base rates.* (1) A supplement (not a conversion supplement) may be filed to a bound tariff for the purpose of incorporating in the base rates all applicable changes effected by the use of a conversion or percentage supplement or a master tariff. The supplement may contain matter from prior supplements provided those supplements are canceled.

(2) The title pages of supplements issued under authority of this paragraph shall bear an explanation note citing this paragraph.

(3) If different increases or reductions apply on related articles shown in an item or descriptive listing of commodities, the rates may be brought forward into the supplement on the basis of the increases or reductions applying to the predominant article in the item or description, provided a statement is included in the supplement that this has been done. The rate changes shall be appropriately referenced except as specified in paragraph (1)(4) of this section for exceptions concerning symbolization.

(4) Symbolization of the increases and reductions resulting from the normal rounding-off of fractions or from the use of predominant article authority may be omitted in the supplement, providing the supplement is filed on not less than 45 days' notice and the title page of the supplement also bears the following or a similar statement:

This supplement contains changed bases of rates, charges and provisions which result in increases and reductions. The supplement also contains variations in wording which result in no change in the rates and charges. These changes are not shown by the use of uniform symbols which have been omitted under authority of 49 CFR 1312.17.

(5) Supplements issued under authority of this paragraph shall be exempt from the provisions of § 1312.18 governing the volume of supplemental matter permissible.

§ 1312.18 Supplements.

(a) *Changing provisions of a bound tariff.* A supplement may be used to add, delete or change provisions of a bound tariff. General rules, in addition to rules applicable to tariffs as a whole, are provided below. In addition, certain "special supplements" are authorized, viz:

Suspension supplements, § 1312.21.
Postponing supplements, see § 1312.39.
Bridge supplements, see paragraph (f) of this section.
Blanket supplements, see paragraph (g) of this section.
Adoption supplements, see § 1312.20.
General increase or reduction supplements, see § 1312.17 (j) and (k) and paragraph (h) of this section.
Cancellation supplements, see § 1312.19.

(b) *Designation and title page requirements.* (1) Supplements to a tariff shall be consecutively numbered:

(2) If a supplement is rejected, its number may not be used again, and a supplement issued in its place shall bear the following notation with the supplement designation:

Issued in place of Supplement ——, rejected by the Commission.

(3) With the supplement identification, the publications the supplement cancels shall be shown, as follows:

Cancels Supplement(s) ——.

(4) The title page shall list all prior supplements still in effect on the effective date of the supplement, with any special supplements so indicated.

(5) A supplement may contain matter having different effective dates provided it is clearly explained on the title page.

(c) *Reference marks.* Reference may be made to an item or section in the original tariff containing the explanations. See § 1312.17 governing partial amendment of reference marks.

(d) *Updated list of items and units in effective supplements.* Supplements shall, as necessary, contain cumulative lists of items and numbered segments that have been added, changed or canceled by supplement (including partial amendments or "script-clause" amendments), together with reference to the latest supplement in which each is published.

(e) *Number of supplements, pages permitted, and duration of tariffs.* (1) Except as otherwise provided, the total number of pages of effective regular supplements may not exceed 50 percent of the number of original pages. There is no separate limit on the number of supplements.

(2) The restriction on the number of supplemental pages does not apply to a tariff which is reissued within a year, provided the following notation is shown on the title page of the original tariff:

A reissue of this tariff will become effective not later than ——.

The date of the next reissue shall be shown, and the notation may not be changed or canceled.

(3) A supplement may exceed the limitation of paragraph (e)(1) of this section if it is to comply with a Commission order and contains no other matter.

(f) *Bridge supplements.* More than one bridge supplement (a publication amending both a bound tariff and its reissue), may be in effect at one time provided the contents are separated as to each tariff and clearly identified as to

the tariff being amended showing the item or other segment of each tariff that is being added, changed or canceled. The limitations of paragraph (e)(1) of this section do not apply.

(g) *Blanket Supplements.* A blanket supplement (a common supplement issued jointly to two or more tariffs of the same carrier or agent) may be filed if, in addition to compliance with other rules—

(1) The number of copies ordinarily required for each tariff supplement is filed; and

(2) The supplement contains, under a heading "List Of Tariffs Supplemented Hereby", the number of each supplement and ICC designation of each tariff being supplemented. Any additional provisions (such as cancellation notices, items containing matter held in effect, etc.) shall be similarly shown.

(h) *Percentage supplements to provide general rate changes.* (1) A supplement, which expresses the amount of change as a percentage by which the tariff's rates and charges are to be increased or reduced, may be filed to any tariff to provide a general change in the level of all or substantially all rates and charges, or all or substantially all the rates and charges in a specific category in the tariff.

(2) The supplement shall clearly explain its application and shall state where any exceptions to its application are listed. It shall show how to compute the increased or reduced rates from the percentages shown; how to dispose of fractions; how to compute multiple-factor rates made by the use of arbitraries or other means. Only matter concerning the percentage change may be published in the supplement.

(3) The title page of a percentage supplement shall describe the nature of the changes effected by the supplement. Only one percentage supplement may be in effect at one time and shall be subject to a two-year expiration date which shall be shown on the supplement's title page. Tariff amendments containing rates or charges becoming effective during the effectiveness of a percentage supplement shall state whether they are subject to the provisions of the percentage supplement.

§ 1312.19 Cancellation of tariff and transfer of provisions.

(a) *Cancellation of an entire tariff.* (1) Except as provided in paragraph (a)(4) of this section, a tariff shall be canceled by issuing a supplement. The supplement shall—

(i) State on its title page that it cancels the tariff;

(ii) Refer by ICC designation to the tariff(s), if any, which applies in place of the canceled provisions; and

(iii) Identify provisions being transferred (not discontinued) and the tariffs to which they are being transferred.

(2) Tariff publications to which a transfer is made shall so indicate.

(3) If, in connection with transfer of provisions, a carrier is being added as a participant in an agent's tariff, carrier's name and alpha code must be added to the list of participating carriers.

(4) When the provisions of a tariff are to be transferred to a new tariff only, issued by the same carrier or agent(s), the cancellation shall be made by the new tariff by showing on its title page, or within (as provided in § 1312.12(b)), that it cancels the prior issue. If some of the provisions of the prior issue are being discontinued, the new tariff shall indicate the tariff(s) containing provisions, if any, which will apply in the place of the prior issue.

(b) *Cancellation of part of a tariff.* Cancellation of a part of a tariff shall be made by publishing amendments in the regular manner, or by a statement in a special supplement, if—

(1) The statement identifies the canceled material (by item, section, page, etc.);

(2) Matter being transferred to another tariff(s) is identified and the tariff(s) to which it is transferred is identified;

(3) Reference is made to the tariff(s) (if any) which will apply in place of the discontinued matter;

(4) Tariff publications to which matter is being transferred indicate the tariff which formerly contained the matter; and

(5) The effective date of the cancelling supplement and the publication(s) effecting any transfer is the same. The special supplement shall remain in effect for the life of the tariff, or, in the case of looseleaf tariffs, when all the affected pages have been reissued (the reissued pages shall refer to the special supplement for the initial cancellation of the involved provisions). The special supplement to a bound tariff may contain cancellations in the regular manner and is exempt from the supplemental limitations in this part. In a bound tariff, a reissue of an item or segment affected by the statement form of cancellation shall specifically cancel the prior item or segment and make reference to the special supplement for the initial cancellation.

§ 1312.20 Transfer of operations—change in name and control.

(a) *General.* (1) As used in this section—

(i) "Old carrier" refers to the carrier or party whose name is changed or whose operating authority is transferred;

(ii) "New carrier" refers to the new name of the old carrier or to the party to which the operating authority is transferred; and

(iii) "Adoption publications" refers to adoption notices, and combination adoption notices and adoption supplements.

(2) When a carrier's name is lawfully changed or its operating authority transferred, tariff adjustments must be made. The procedure to be followed depends on the particular circumstances.

(b) *Purpose of adoption notices.* (1) Adoption notices shall be filed to reflect new ownership or control when—

(i) A carrier's name is lawfully changed;

(ii) A carrier's operating authority is transferred, entirely or partially; or

(iii) A fiduciary (receiver, trustee, etc.) assumes possession and control of a carrier's property; and when the carrier wishes (for whatever period) to use the old carrier's tariffs.

(2) In addition to the adoption notice, an adoption supplement shall be filed to reflect the new carrier's adoption of the old carrier's tariff(s).

(c) *When adoption notice only is required.* The new carrier shall file an adoption notice, in its own name and in tariff form, if the old carrier has no effective tariffs of its own (or predecessor's) issue to be adopted, but does have rates or other provisions in an agent's or another carrier's tariff(s) to be adopted.

(d) *Form of adoption notice.* (1) The adoption notice shall be prepared substantially as follows (names and numbers used for illustration only):

ICC JDTI 100

John Doe Transport, Inc., Adoption Notice
[identify what is adopted and from whom]
Issued: [show date prepared]
Effective: [show date]
Issued by [identify publisher and address].

(e) *Combination adoption notice and adoption supplement.* If the old carrier has one or more effective tariffs (not adoption notices) of its own (or predecessor's) issue, the new carrier shall file, in its own name and in tariff form, a combination publication which shall serve as both its adoption notice and adoption supplement (see paragraph (o) of this section when new carrier amends old carrier's tariff in part). The publication shall be prepared as provided in paragraph (f) of this section. Two copies of the publication (serving as an adoption notice tariff)

plus two additional copies for each tariff supplemented shall be filed.

(f) *Form of combination adoption notice and adoption supplement.* (1) If filing of a combination adoption notice and adoption supplement is required under paragraph (e) of this section, and the old carrier's authority is adopted entirely, the combination publication shall be prepared as provided in paragraph (d) of this section, except—

(i) The upper right corner shall identify the publication as the new carrier's adoption notice and also as an adoption supplement to each of the old carrier's tariff(s) involved.

[Example:
Adoption Notice Tariff..... ICC JDTI 100
Adoption Supplement 8 to..... ICC ABCD 200*
*Show transferor's name]; and

(ii) The combination publication shall contain a second paragraph prepared substantially as follows:

On the effective date shown below, each tariff supplemented by this publication became the tariff of John Doe Transport, Inc., as stated in its adoption notice shown above.

(2) If filing of a combination adoption notice and adoption supplement is required under paragraph (e) of this section, and the old carrier's authority is adopted partially, the combination publication shall be prepared as shown in paragraph (f)(1) of this section, with the necessary changes to reflect partial adoption.

(3) Adoption supplements shall be assigned the next unused supplement number to the tariff supplemented. If the tariff is adopted partially, the old carrier shall reserve two supplement numbers for each new carrier, to be used for adoption and cancellation supplements (see paragraph (o) of this section for reservation of supplement numbers).

(g) *ICC designation to be used.* The ICC designation assigned to adoption notices shall be in the new carrier's series, except that adoption notices filed by a fiduciary shall be in the old carrier's series and the designation shall be identified by naming the old carrier followed by "series." If no code has been assigned, a "blank code such as "MF–A1000" may be used.

(h) *Effective date of adoption publications.* (1) The effective date of adoption publications is the date the adoption occurs. Adoption publications shall be filed promptly and, if possible, prior to the effective date of the publication.

(2) Each agent or carrier to whom the old carrier issued a concurrence or power of attorney being adopted shall be furnished a copy of the adoption publication.

(3) If the transfer of operating authority to the new carrier requires approval by the Commission, the effective date of the publication may not be prior to the effective date of the approval.

(i) *When name of old carrier need not be shown.* If a carrier re-adopts tariffs of its own issue, which had been adopted by another party, it need not identify those tariffs as being in its own series.

(j) *Temporary control.* (1) If a party's authority to assume operating control of a carrier under section 11349 of the Act is not made permanent, the old carrier shall reassume operating control by filing an adoption notice.

(2) The effective date of the adoption publication is the date the other party's authority to assume operating control of the carrier expires or is vacated.

(k) *Fiduciaries.* (1) When a fiduciary assumes possession or operating control of a carrier, tariff publications and other instruments shall show the name of the carrier, followed by the name and capacity of the fiduciary. (Also see 49 CFR 1181.5—Operations by fiduciaries.)

(2) Upon termination of the fiduciary's possession or control, the party assuming control of the carrier's property shall comply with the regulations in this section.

(l) *Concurrences and powers of attorney.* If the old carrier's operating authority is adopted entirely, its effective concurrences and powers of attorney become those of the new carrier and remain effective until canceled, revoked, or replaced by the new carrier.

(m) *Tariffs issued by other carriers or by agents.* (1) If the old carrier is listed in a participating carrier tariff, the participating carrier tariff shall be amended as provided in § 1312.25.

(2) If tariff provisions contained in a tariff not issued in the old carrier's name need to be adopted, and the tariff contains its own list of participating carriers, the tariff shall be amended on lawful notice to reflect the adoption, in the manner required by paragraphs (m)(3) and (4) of this section.

(3) If adopted entirely, the old carrier's name shall be brought forward and its participation canceled. Directly with the cancellation shall be reference to a statement substantially as follows:

[New carrier's name] by its adoption notice [ICC designation] which became effective on [date], is substituted for [old carrier's name] wherever it appears in this tariff.

(4) If adopted partially, the old carrier's name may be canceled only if there are no provisions remaining in the tariff for its account. If not already shown as a participant, the new carrier shall be added. Directly with the old carrier's name (or cancellation of its participation) shall be reference to a statement substantially as follows:

[New carrier's name] by its adoption notice [ICC designation] which became effective on [date], to the extent that they contain rates or other provisions applying [describe the authority transferred], is substituted for [old carrier's name] wherever it appears in this tariff.

(n) *Cancellation of provisions in partially adopted tariffs.*

(1) Rates or other provisions in a tariff in the old carrier's name, which apply locally and are involved in the partial transfer of authority to a new carrier, shall be canceled and published in tariffs of the new carrier's (or its agent's) issue.

(2) Items, units, or looseleaf pages may not be reissued to effect the cancellation. Instead, the cancellation shall be made by a statement substantially as follows:

Provisions formerly shown in [identify provisions by item number, segment, page, section, table, etc.] which were adopted by [new carrier's name] are canceled. Apply provisions in [identify provisions by item number, segment, page, section, table, etc.] of [issuing carrier's or agent's name and ICC designation of tariff].

(3) The cancellation statement shall be published in a special supplement to the tariff, whether bound or looseleaf, which—

(i) Shall be filed on lawful notice within 120 days of the adoption publication's effective date;

(ii) Is exempt from limitations on volume of supplemental matter imposed by this part;

(iii) Shall become effective concurrently with the establishment of corresponding provisions for the new carrier's account; and

(iv) Shall remain in effect for the life of the tariff.

(4) Rates and other provisions covering the adopted authority shall be filed on lawful notice in the new tariff(s) to become effective concurrently with the cancellation of the corresponding provisions from the old carrier's tariffs.

(o) *Reservation of supplement numbers for new carrier's use.* Two unused supplement numbers shall be reserved for each new carrier's use. One of the numbers shall be assigned to the adoption publication and the other to the cancellation supplement.

(p) *Subsequent supplements or looseleaf pages.*

(1) Subsequent supplements or looseleaf pages to adopted tariffs issued by the old carrier (or its predecessor) shall show the name of the carrier in

whose ICC designation series the tariff was issued originally, except when the old carrier re-adopts its own tariff.

(2) Subsequent supplements or pages shall be filed by—

(i) The new carrier if the tariff was adopted entirely; or

(ii) The old carrier if the tariff was adopted partially, except as provided in paragraph (n) of this section.

(q) *Describe former tariff when canceling.* When canceling tariffs issued or adopted by the old carrier, the new carrier shall identify the tariffs in the cancellation notice by—

(1) ICC designation;

(2) Issuing carrier's name; and

(3) Reference to the series in which the tariff was published, if the old carrier published tariffs in more than one series.

(r) *Adoption supplements are noncounting.* Adoption supplements are exempt from the limitations on volume of supplemental matter as contained in § 1312.18.

§ 1312.21 Suspended matter.

(a) *Effect of suspension.* When the Commission suspends one or more rate(s), provision(s) or publication(s), that suspended matter is postponed until the suspension period runs out.

(b) *Supplement required.* A supplement announcing the suspension shall be filed to the involved tariff(s). Two methods of publishing may be used. One is to issue a separate supplement for each suspension proceeding; the other is to issue a consolidated suspension supplement which contains notices of all suspension proceedings involving the tariff. Only one consolidated supplement to a tariff may be in effect at one time. The title page of either type of supplement shall—

(i) Identify the Commission's suspension docket number;

(2) Show an issue date but not an effective date; and

(3) Comply with the requirements governing tariff amendments, except as otherwise provided in this section.

(c) *Content of supplement.* The supplement shall:

(1) Identify the rates, provisions or publications which have been suspended;

(2) State that those rates, provisions or publications are "under suspension and may not be used until [here show either the date to which the matter has been suspended, or a later date, or state "this suspension notice is canceled"]";

(3) Identify the rates, provisions or publications that will apply in place of the suspended matter;

(4) Correct by statement any cancellations which would have the effect of canceling the suspended matter or the matter held in force; and

(5) Correct the listing of effective supplements on previous supplements' title pages.

(d) *Additional requirements for consolidated supplements.* (1) The consolidated supplement shall provide information for each suspension proceeding.

(2) The matter shall be amended and reissued in the regular manner, except as follows:

(i) If it is necessary to issue a publication to reflect changes in a corrected decision of the Commission, the supplement shall be reissued and explained with the appropriate changes made.

(ii) If the suspended matter is made effective, canceled, or reissued the involved matter shall be canceled (in the regular manner) in the same supplement as the change or reissue of the suspended matter.

(iii) If the suspended matter becomes effective because of the expiration of the suspension or postponement period, the explanatory matter shall be canceled (in the regular manner) in the next regular supplement to the tariff.

(e) *Additional requirements for separate suspension supplements.* (1) Separate supplements announcing individual suspensions to a bound tariff shall be canceled by the—

(i) Supplement containing the change or reissue of the suspended matter; or

(ii) By the next regular supplement if the suspended matter becomes effective because of the expiration of the suspension of postponement period.

(2) Separate supplements announcing individual suspensions to a looseleaf tariff shall be canceled by reissuing the check sheet with an effective date concurrent with the change or reissue.

(3) Suspension information may not be canceled in full unless all of the involved matter under suspension is canceled, becomes effective or is reissued.

(f) *Extension of suspension period.* If the Commission extends the suspension period, the suspension notice shall be republished, canceling the first notice, and the statements adapted to the new action taken, with reference to the facts of the first suspension. Subsequent handling of the matter shall proceed as prescribed for suspension matters in this section.

(g) *Suspended matter reissued prior to notice.* If suspended matter has been reissued prior to the filing of the explanatory notice, the notice shall cancel (by statement) the reissued matter. The cancellation statement shall have the same effective date as the reissued matter.

(h) *Changed suspended matter.* If suspended matter has been changed prior to the filing of a suspension notice, the matter shall be republished in the regular manner to remove any violation of the suspension decision, as provided in paragraph (i) of this section. Also see paragraph (k) of this section.

(i) *Reissuing suspended matter after notice.* (1) If a suspension notice has been filed, the matter under suspension and the matter held in force by reason of the suspension may be reissued (without change) in the regular manner provided the explanatory notice is brought forward from the suspension supplement.

(2) If suspended matter or matter held in force is reissued, the publication shall be made in a manner that insures that if the suspension or postponement period ends, the matter held in force is canceled or superseded by the effectiveness of the suspended matter.

(3) Original tariffs or supplements containing reissued suspended matter shall identify the suspended matter.

(j) *Postponement of suspended matter.* (1) A postponement notice may be filed at any time on 1 day's notice during the suspension period, provided—

(i) It becomes effective prior to the end of the suspension period;

(ii) It states that the postponed matter may not be used during the postponement period; and

(iii) The specific date to which the matter is postponed is shown, or the statement "postponed until this notice is canceled", is shown.

(2) Suspended matter postponed to a specific date may be further postponed if done prior to the end of the previous postponement period, and the previous notice is canceled.

(3) The postponement notice may be canceled at any time after the end of the suspension period.

(k) *Changes and cancellation during the suspension period.* Suspended matter or matter held in force may be changed or canceled during the suspension period, as follows:

(1) Suspended matter may be canceled in whole or in part on 1 day's notice if—

(i) The cancellation is to become effective prior to the end of the suspension (or postponement) period, or the effective date of a final decision in the proceeding, whichever is earlier; and

(ii) At the time of filing, all parties of record and the Office of Proceedings, Interstate Commerce Commission, Washington, DC 20423, shall be notified

(with reference to the involved docket number) of the tariff publication(s) and its effective date. The notice to the Office of Proceedings shall certify that the parties of record have been notified, and a copy of that notice (if in writing) shall be sent with the tariff publications submitted for official filing.

(2) When suspended matter is canceled, it may not be republished to become effective on less than statutory notice, absent special permission.

(3) The matter held in force shall be republished (without change) in the same publication containing, and concurrently with, the cancellation of the suspended matter if the matter held in force—

(i) Is in the same tariff as the suspended matter and was to be specifically canceled by it; or

(ii) Is in a prior issue of the tariff containing the suspended matter.

(4) Cancellation of suspended matter in a bound tariff shall be made in a supplement. Cancellation of suspended matter in a looseleaf tariff shall be made by looseleaf page amendment, unless the tariff only contains the suspended matter, then cancellation shall be made by supplement. If a tariff contains only the suspended matter (or if the suspended matter is a conversion supplement), the cancellation may be made by publishing a notice of cancellation in the supplement, and either bringing forward the matter held in force, or referring to its location.

(5) Postponement provisions shall be canceled concurrently with, and on the same notice as, the cancellation of the suspended matter. The postponement provisions shall be canceled in the same supplement as the cancellation of the suspended matter, or, if cancellation of the suspended matter is by looseleaf page amendment, by the check sheet.

(l) *Commission vacates suspension or finds suspended matter justified.* (1) If the Commission vacates a suspension or finds the matter justified, the suspended matter may be made effective on 1 day's notice, but not earlier than the effective date of the Commission's decision.

(2) Suspended matter in a bound tariff, or nonreissued suspended matter in a looseleaf tariff, may only be made effective by publishing a notice in a supplement to the tariff. Reissued suspended matter in a looseleaf tariff may only be made effective by publishing a notice on a reissue of the involved page(s). The notice shall identify the suspended matter, state the effective date, and cancel any postponement notice. If the suspended matter was to specifically cancel the matter held in force in the same tariff, or the matter held in force was to have expired, the matter held in force shall be specifically canceled with the same effective date and on the same notice.

(3) If a new tariff had provided for cancellation of another tariff, but that cancellation was nullified because of the suspension, the other tariff shall be canceled by a statement in a supplement to the new tariff. Otherwise, if a tariff contains only matter held in force by the suspension and the matter is required to be canceled, the cancellation of the tariff shall be made by supplement to that tariff.

(4) Changes or additions to a tariff containing matter held in force because of the entire suspension of another tariff may be brought forward without change into the other tariff. The publication shall be by supplement to a bound tariff and by looseleaf page amendment to a looseleaf tariff. If this is done, the tariff containing the matter held in force shall be concurrently canceled by supplement.

(m) *Suspended matter ordered canceled.* If suspended matter is ordered canceled, the cancellation may be made on 1 day's notice, unless otherwise ordered.

(n) Tariff amendments required or permitted to be filed and matter held in force under the authority of this section are, for the life of the tariff, exempt from the provisions of this part pertaining to the volume of effective supplements or looseleaf page amendments.

(o) *Reference to Commission suspension decisions.* Publications issued under authority of this section shall refer to this section and to the investigation and suspension docket number.

(p) *Court orders.* Restraining orders, injunctions, enjoinders, or other court orders having the effect of suspending the operation of tariff provisions shall, to the extent possible, be reflected in tariffs in the same manner as suspension decisions.

§ 1312.22 Rates or other provisions prescribed by the Commission.

If the Commission requires publication of certain rates or provisions, a carrier or agent shall—

(a) Publish the rate or provisions on statutory notice, unless otherwise specifically authorized, with reference in the tariff publication to the decision in the manner required by this part;

(b) Notify the Commission when the decision has been complied with, referring to the docket number of the decision (the volume and page number of any printed Commission reports shall also be shown); and

(c) Identify, in the notice of compliance, the item, page, supplement and tariff where the complying provisions are published.

§ 1312.23 Expiration dates.

(a) *How and where expiration dates are to be shown.* (1) An original tariff or a supplement may be shown to expire by placing the following on the title page: "This tariff [supplement] expires with [here show date] unless sooner canceled, changed, or extended."

(2) An expiration date of an original tariff or a prior supplement may be added or changed in a supplement by providing an explanatory statement on the title page. If the supplement is reissued, the amended or added expiration date statement shall be reissued in the regular manner.

(3) An item or other part of a tariff may be shown to expire by publishing the following statement within the item: "Expires [here show date]."

(4) Matter may also be shown to expire by referencing it with a reference mark which shall be explained as "Subject to the expiration date shown in item [here show expiration date item number]." The expiration date item, reserved for this purpose only, shall identify the matter referred to and show the expiration dates.

(b) *Extension of expiration dates.* An expiration date may be canceled or extended to a later date. However, the extension may not be made effective after the expiration date. Also see § 1312.39.

§ 1312.24 Tariffs listing carriers' operating authority applicable to motor carriers of property.

(a) A separate tariff containing a description of carriers' operating authorities (a "scope" tariff) may be filed. A "scope tariff shall contain a statement explaining that the application of rates and provisions in tariffs governed by it is limited to the extent of the carrier's operating authority published in the "scope" tariff.

(b) A description of the carrier's operating authority may not be used as a substitute for describing commodities or territories for rate application.

(c) If rate tariffs are governed by more than one scope tariff, each scope tariff shall be referred to in the rate tariff as a governing publication.

(d) A scope tariff may be combined with a participating carrier tariff, a rate basis tariff, and/or a rules tariff.

§ 1312.25 Participating carrier tariffs.

(a) *Separate tariffs may be filed by agents.* (1) An alphabetical list of carriers participating in agent's tariffs, along with a description of the underlying tariffs, may be filed in a

separate tariff (not a rate tariff). The title page of the participating carrier tariff shall state that it applies only in connection with tariffs referring to it. If the tariff governs tariffs issued jointly by two or more agents, it shall be a joint issue (see § 1312.11).

(2) Except for statements explaining the extent of carriers' participation in governed tariffs (for example, only for local hauls or only for joint hauls) the tariff may not contain provisions governing rate application.

(b) *List of carriers.* (1) The list of participating carriers shall be constructed in the manner required by this part. Carriers' code designations may be shown directly with the carriers' names.

(2) All governed tariffs in which a carrier participates shall be referred to by ICC designation directly with the carrier's name. The participation of all carriers in the participating carrier tariff may be provided by a statement, rather than listing the tariff designation directly with the carriers' name.

(c) *List of tariffs.* An agent's participating carrier tariff shall contain a current and correct list of its tariffs, including those which contain their own list of participating carriers or which are issued jointly with another agent(s). If the participating carrier tariff is a joint issue, only the tariffs of the principal agent need be listed. The tariffs shall be listed in numerical order by ICC designation, with a separate section for each agent if joint issues are involved. Each tariff listed shall be described so that its general application may be determined without examining the tariff itself.

(d) *Cancellation of participating carriers.* (1) Except as provided in paragraph (f) of this section, when a carrier's participation in a participating carrier tariff or governed tariff is canceled, all reference to the carrier in the involved tariff(s) shall be canceled.

(2) The cancellation may be accomplished either by—

(i) Amending all matter to eliminate reference to the carrier; or

(ii) Publishing a blanket cancellation notice.

The blanket cancellation shall be published in the participating carrier tariff and shall be referred to in the cancellation of the carrier's name. A provision referring to the canceled carrier may not be republished without concurrent cancellation of the reference to that carrier and all matter shall be amended as soon as possible.

(3)(i) In a bound tariff the canceled carrier's name (and reference to the blanket cancellation notice, if used) shall be carried forward as reissued matter in the list of participating carriers.

(ii) In a looseleaf tariff, the carrier's name (and reference to the blanket cancellation notice, if used) and the date the cancellation became effective shall be republished in successive issues of the list of participating carriers until all provisions referring to the carrier are amended.

(e) *Reinstatement of participating carriers.* If a carrier's participation is canceled, and reinstated at a later date, the tariff shall so explain. This explanation shall be referred to directly with the reinstated carrier's name until the participating carrier tariff is reissued.

(f) *Adoptions.*

(1) If a carrier adopts another carrier, wholly or partially, the adoption shall be announced and explained in the participating carrier tariff. This announcement shall be continued in the tariff and reissues until a carrier adopted wholly is no longer referred to in any provision of the governed tariffs, and until a carrier adopted partially is no longer referred to in those provisions in the governed tariff affected by the partial adoption.

(2) The name of a wholly adopted carrier shall be canceled from the list of participating carriers. The name of a partially adopted carrier may not be canceled from the list of participating carriers unless its remaining rates and provisions are not published in the agent's tariff(s). Reference to the adoption and the cancellation shall be continued until the participating carrier tariff is reissued.

(g) *Participating carrier tariff may include other provisions.* Provisions authorized to be published in a routing guide, points of service, and/or a "scope" tariff, may be published in a participating carrier tariff provided application of each category is clear.

§ 1312.26 Rate basis tariffs.

(a) *Separate tariffs may be filed.* Rate groups or rate bases for determination of rates between points named in the rate tariff may be filed in a separate tariff. The tariff may contain routing and operating authority provisions, waybilling instructions and divisions. No tariff may be governed by more than two rate group or rate basis tariffs, one for origin points and one for destination points.

(b) *Points and rate group or basis to be listed.* Railroad basing tariffs may list the location of each station or refer by ICC designation to a station list tariff. Directly with each point listed shall be published either its assigned rate group or reference to an item providing that information. Exceptions to the rate group may be published.

(c) *Arbitraries or differentials.* Amounts to be added to (arbitraries) or subtracted from (differentials) base rates may be published either directly with each point or in an item referred to directly with each point. Provisions governing arbitraries or differentials which differ from those governing the base rates shall be referred to directly with the arbitraries or differentials (see § 1312.14).

§ 1312.27 Classification, exceptions, rules, dangerous articles and station list tariffs.

(a) *Classification.* (1) A classification of commodities may be published as a separate tariff. The classification shall list the various commodities and assigned class of each. Whatever organization is used within the tariff shall be clear.

(2) Rules having general application may be published in a classification. The rules shall precede the itemized list of articles.

(3) The classification shall, if applicable, include a statement that exception exist and take precedence.

(b) *Exceptions tariffs.* (1) Exceptions to the classification provisions may be published in a separate tariff.

(2) Exceptions tariffs shall be published as required by the rules governing tariff content generally. The title page shall contain the following statement:

> This tariff applies only in connection with tariffs referring to it by ICC designation.

(c) *Rules tariffs.* Governing provisions may be published in a separate tariff or tariffs provided the application and any exceptions are clearly explained.

(d) *Dangerous articles tariffs.* The Department of Transportation's regulations governing the acceptance and transportation of dangerous articles and hazardous materials may be reproduced and filed in a separate tariff.

(e) *Participation in governing publications.* Carriers participating in tariffs which refer to, and are governed by, separate tariffs (classifications, exceptions, rules etc.), shall also participate in those governing separate tariffs, unless specifically stated in the governed tariffs that provisions in the separate tariffs will not apply for their account. This does not require participation in local drayage tariffs or in terminal and special services tariffs applicable only for the issuing carrier. Carriers participating in a rate tariff solely to provide substituted service at another carrier's option need not

participate in the governing tariffs. See § 1312.38.

(f) *List of stations showing facilities, additions and abandonments.* (1) A tariff publication may be filed containing a list of stations with the railroad location of each, alphabetically and geographically arranged with index numbers, prepay requirements, station facilities, additions of stations, abandonments of stations, changes in names of stations, and restrictions as to acceptance and delivery of freight. No rates or charges and no matter that will in any way increase or decrease the rate or charge in tariffs making reference to this publication may be shown. Changes in the tariff may be made on not less than 1 day's notice, except that announcement of the restrictions as to the acceptance or delivery of freight shall be made effective on not less than statutory notice.

(2) Changes made on less than statutory notice under the authority of this paragraph shall state that they are so made.

(3) Rate tariffs that are to be governed by the separate tariff publication shall so state, and their application clearly explained.

(4) When a station has been abandoned as of a date specified in the tariff authorized by this section, the rates from or to the station are inapplicable and shall be eliminated in the next amendment of the rate tariffs. When the elimination is made by supplement, the following notation shall be used:

Eliminate ——— station abandoned. For effective date see [the governing tariff issued under this rule].

This notation must be continued in connection with the name of the station as long as the tariff remains effective, and indicated as a reissue from the supplement in which it was first published, but without stating the effective date of the supplement.

§ 1312.28 Accessorial, terminal and other services.

(a) *General rules.* Carriers or their agents shall publish and file with the Commission all rules and charges governing accessorial services, terminal services, allowances, absorptions, and other practices or privileges. The rules shall be published in clear terms, and the rate, if any, shall be stated separately. The amount of the charges shall be included or be readily ascertainable if the carrier is acting as collection agent for a third party or is advancing payment, e.g., as for tolls, ferry charges, and special permits.

(b) *Method of publication.* (1) Rules and charges referred to in paragraph (a) of this section may be published either in—

(i) The line-haul rate tariff;

(ii) Separate tariffs which are referred to in the rate tariff by specific ICC designation; or

(iii) Separate tariffs combined with a clause in the rate tariff which identifies the services offered in connection with the rate and indicates that other tariffs of the carrier contain the application charges.

(2) A rate tariff issued in a carrier's name may refer to their agent's terminal services tariffs as well as its own, provided application of the various tariffs is clear.

(c) *Pickup and delivery service.* (1) All carriers of property shall, as appropriate, specify whether rates include pickup and delivery and, if so, the relevant geographic area, and governing conditions.

(2) If pickup and delivery service is performed beyond the limits of the point at which the rate applies, the larger area shall be described in the rate tariff.

(3) The following applies only to motor common carriers of property.

(i) Rates from or to locations which are not generally recognized as commercial locations shall not differ from the rates applicable to a commercial location if the transportation conditions are the same.

(ii) Before attempting delivery to a non-commercial location, the carrier and consignor or consignee shall arrange a mutually agreeable date and approximate time for delivery. The arrangement for delivery may be accomplished by a consignor's notation on the bill of lading, or by oral or written agreement between the carrier and the consignee. No charges may be assessed for the initial arrangement for delivery.

(iii) If for reasons attributable to the consignee, the carrier is unable to accomplish delivery in accordance with arrangements made as provided in paragraph (c)(3)(ii) of this section, a new delivery date and approximate time shall be agreed upon, and upon redelivery under this subparagraph, a reasonable charge may be assessed to cover the costs of the original scheduling, rescheduling and redelivery.

(e) *Switching charges.* (This paragraph applies only for railroads.) (1) Carriers performing switching service on interstate shipments shall file a tariff or tariffs containing their charges for that service. The switching tariff shall name the stations, warehouses, teams or industrial tracks, or other points at which shipments will be received or delivered within the switching limits, or shall otherwise clearly define the switching limits. Charges may be published in more than one tariff, provided application of each is clear. The tariff shall explain the amount to be paid by the shipper and the amount to be absorbed, as applicable.

(2) Absorption provisions shall be published in a rate, switching or absorption tariff of the line haul carrier and all provisions on the same tariff shall be published only in one tariff, except as provided in paragraph (e)(4) of this section.

(3) The carrier whose charges are absorbed and the amount absorbed shall be stated. If charges are partially absorbed, the rate tariff shall state that the unabsorbed charges will be in addition to the line haul charges.

(4) If absorption provisions are published in a switching or absorption tariff, exceptions to those provisions may be published in rate tariff. If published, the exception and the general absorption provision shall each state that the provisions in the rate tariff are exceptions to, and apply in place of the general absorption provisions. The exceptions provisions need not name the carrier whose charges are absorbed.

§ 1312.29 Rates and liability based on value provisions.

Released rate provisions established in accordance with 49 U.S.C. 10730 shall be published in the same tariff as the matter they govern. The tariff shall, to the extent required by statute refer specifically to an action of the Commission.

§ 1312.30 Distance rates.

(a) *Distance rates may be filed.* Distance or mileage (hereafter referred to as distance) class or commodity rates may be filed.

(b) *Method of showing distances.* Distance rates may be published to apply per vehicle per mile, or other unit per mile, or by establishing a rate table or segment showing a scale of distances for which charges will be applied. If the latter method is used, a rate shall be provided for each distance. Each State or area covered by the application of the rates shall be listed. The listing may be brief but informative as to the territorial coverage.

(c) *Determination of distances.* (1) A tariff containing distance rates shall contain provisions for the determination of distances by—

(i) Publishing the distances between all locations covered by the distance rates in the tariff;

(ii) Referring to a map(s) attached to the tariff; or

(iii) Referring to a distance guide(s).

(2) If maps are referred to, the rate tariff shall include a rule specifying the manner in which distances are obtained from maps. The rule shall include a definite means for determining distances between all locations within the territorial coverage of the rates, regardless of whether or not all the locations are shown on the map and regardless of whether or not actual distances are shown between all locations.

(3) When a map to a tariff is superseded by another, the new map shall be attached to and made a part of a supplement to a bound tariff, or a looseleaf page to a looseleaf tariff, which shall specifically cancel the old map and give effect to the new.

(4) Except as provided in § 1312.13(e)(2), only distance guides officially on file with the Commission may be referred to. More than one may be referred to provided the rate tariff clearly specifies the circumstances under which each guide will apply. An agent's tariff may refer to another agent's distance guide.

(5) Distance guides shall provide distance tables or combinations of tables and maps. Tables shall provide specific distances between a substantial number of the points and be shown as having precedence over the distances determined by the use of maps. Each guide shall provide rules stating its application. The rules shall include a means for determining distances between all locations within the territorial coverage of the guide, regardless of whether all the locations are shown in the guide or whether distances are shown between all locations. If distances between certain points or areas are to be determined only through a certain gateway or interchange point, those points or areas and the gateway or interchange point shall be identified. Distance guides may exceed the maximum size limitations imposed by § 1312.3 but may not exceed 14½ by 17½ inches in size.

(6) Railroad distance rate tariffs or distance guides shall also provide:

(i) A list of the points between which the rates apply;

(ii) The shortest distances between those points;

(iii) An indication of which of those points are junction points where traffic may be interchanged without transfer of the lading; and

(iv) The names of the connecting carriers at each of those junctions.

(7) A rail carrier or its agent may file a separate tariff containing the information required by paragraph (c)(6) of this section to govern local rates. The distances shall be shown—

(i) Form each point to each point;

(ii) Form each point to each junction point; or

(iii) Form each junction point to each other junction point and from each point to the nearest junction point in each direction.

(8) An agent may file a separate tariff to govern joint rail rates. The distances shall be shown from each junction point to each other junction point and from each point to the nearest junction point in each direction. The latter distances need not be shown if the rate tariff refers to local distance tariffs of each carrier which contain the distances.

§ 1312.31 Commodity rates determined by the use of rate base numbers.

This rule applies only for common carriers of property. "Column commodity rates" or "commodity rate column" shall be the terms used in captions for, and references to, commodity rates determined by use of rate base numbers or other basing systems. The basing system shall be in the same or other tariffs.

§ 1312.32 Application of rates from or to intermediate points.

This section does not apply to freight forwarders, pipelines, contract carriers, or on irregular route motor common carrier authority.

(a) *Intermediate application of rates.* Tariffs may publish appropriate rules to provide for the application of rates from or to points located between origins and destinations from or to which the rates apply.

(b) *Rules must be complete.* The rules must be clear and complete. The rules shall give consideration to situations where branch or diverging routes or points are involved. The rules shall also specifically provide for the application or nonapplication of effective rates specifically applying from or to the intermediate points.

(c) *Intermediate point rules to be published in connection with regular-route authority.* A statement shall be published indicating under what circumstances, if any, the rules will apply for off-route points, and for points located on either side of the highway which may be served under the implied authority of the carrier's certificate.

§ 1312.33 Class rates from or to unnamed points applicable only to motor carriers of property.

(a) Class tariffs shall provide class rates for all points within the territorial coverage of the tariff which the participating carriers are authorized to serve; and which are shown on official State maps or equivalent commercial maps.

(b) If the class-rate intermediate rule is not used or will not cover all unnamed points a carrier may serve, a rule describing how to compute rates on unnamed points may be published. Application of the various rules, if more than one is used, shall be clear.

§ 1312.34 Continuous service rates applicable to passenger carriers.

(a) Rates may be filed which are published to apply when carrier's equipment is used exclusively by and in the continuous service of a single shipper during a specified period of time. All necessary definitions and conditions shall be provided.

(b) If other than regulated, interstate traffic is used to meet the continuous use requirements, the tariff shall so state and explain all requirements.

(c) Continuous service periods may not begin prior to the effective date of the tariff.

(d) The tariff shall provide for other charges if the continuous service conditions are not met. Provisions may be published for the execution of an indemnity bond to guarantee payment. If charges are required to be collected for a deficit in the minimum charge or for any time during the period the equipment is not used, it shall be clear what rate is to apply on the deficit or nonuse. Consideration shall also be given as to whether the deficit or the nonuse rate will change (e.g., through general increase) during the period.

(e) The tariff shall provide that the carriers will keep complete and accurate records of the movements, that the information in these records will be available to the shipper and where and when it will be available.

(f) The tariff shall state whether and how the rates or conditions will be revised and the procedure to use due to disabilities such as strikes, breakdown of equipment, fire, etc., identifying the disabilities and indicating the rate or condition revisions.

(g) Provisions may be published permitting discontinuance during the period for specified reasons. The provisions shall clearly state any penalty charge and the amount to be assessed for the discontinuance privilege.

(h) Retroactive application of tariff amendments is not permitted.

§ 1312.35 Time-volume rates applicable to passenger carriers.

(a) Rates may be filed which are published to apply only when a specific

quantity of freight is shipped by a consignor or received by a consignee during a specified period of time. All necessary definitions and conditions shall be provided.

(b) If other than regulated interstate traffic is used to meet the time-volume service requirements, the tariff shall so state and explain all requirements.

(c) Time/volume periods may not begin prior to the effective date of the tariff.

(d) The tariff shall provide for other charges if the time/volume conditions are not met. Provisions may be published for the execution of an indemnity bond to guarantee payment. If the tariff provides for the collection of charges on a deficit, consideration shall also be given as to whether the deficit rate will change (e.g., through general increase) during the period. If charges are required to be collected for any deficit in weight between the actual weight of a particular shipment and the minimum weight on which charges for that shipment are assessed as the volume shipments move, the tariff shall so provide.

(e) The tariff shall provide that the carrier(s) will keep complete and accurate records of the movements, that the information will be available to the shipper and where and when it will be available.

(f) The tariff shall state whether and how the minimum quantity requirements will be reduced and the procedure to use due to disabilities such as strikes, breakdown of equipment, fire, etc., identifying the disabilities and indicating the rate or condition revisions.

(g) Provision may be published permitting discontinuance for specified reasons. The provisions shall clearly state any penalty charge and the amount to be assessed for the discontinuance privilege.

(h) Retroactive application of tariff amendments is not permitted.

§ 1312.36 Seasonal water rates.

(a) *Discontinuance and restoration of service.* If tariffs contain rates applicable to water routes which are seasonally closed to navigation, they shall contain provisions governing the discontinuance and restoration of service.

(b) *Title page notation.* The title page of the tariff shall briefly state the service limitations and refer, if necessary, to specific provisions.

(c) *Supplements announcing discontinuance of service.* Only one supplement announcing discontinuance of transportation service may be effective at one time. The supplement may be filed to a bound or looseleaf tariff without regard to the supplement limits of this part, and may be filed on 1 day's notice.

(d) *Reissues.* If a tariff discontinuing service as of a specific date becomes effective after the actual date service was discontinued, the tariff shall so state, refer to the prior supplement and ICC tariff designation, and state that a further supplement announcing discontinuance of service for that season will not be filed.

§ 1312.37 Export and import traffic and joint rates with ocean carriers.

(a) *Definitions.* The term "domestic carrier" as used in this section means a common carrier by rail, motor, water, or freight forwarder subject to the Act.

(b) *Through routes and joint rates.* A domestic carrier may establish a through route and joint rate with a non-vessel or vessel operating ocean carrier for the transportation of property between any place in the United States and any place in a foreign country. Tariffs naming the through route and joint rate shall be filed with the Commission. The tariff may be filed in the name of the ocean carrier, a conference of ocean carriers, the domestic carrier or the publishing agent of the carriers.

(c) *Tariff provisions.* (1) The tariff containing the joint rates shall, in addition to complying with all of the other requirements of this part, include the division or rate to be received by the domestic carrier for its share of the revenue covering a through shipment or aggregate of shipments under the tariff.

(2) A tariff filed in the name of a conference need not show "Agent" after the name of the conference unless the conference publishes as an agent.

(3) "Cargo, N.O.S." may be used as a commodity description provided the term is clearly defined in the tariff.

(d) *Changes on less than statutory notice.* (1) The following changes may be published by amendment to the tariff to be effective on a specified date not prior to the date filed with the Commission, provided the division or rate accruing to the domestic carrier or a provision governing or affecting that division or rate does not change:

(i) A change in a published rate or other provision which results in reduction or in no change in charges. This includes a change in a rate which results in lessening or canceling a proposed (i.e. published but not yet effective) increase; and

(ii) The establishment of a rate on a specific commodity not previously named in a tariff which results in a reduction or no change in charges.

(2) Changes in charges for terminal services, canal tolls, or other additional charges may be made effective upon a specified date not prior to the date filed with the Commission, provided the charges are not under the control of the carrier or conference and the agency assessing the charges to the carrier, increases the charges without notice or without adequate notice to the carrier or conference. If a change occurs in the division, rate, or charge accruing to the domestic carrier, the amendment shall contain a statement explaining the change.

(e) *Port combination bases.* Domestic and ocean carriers may enter into joint arrangements and domestic carriers may at the same time maintain an effective rate applicable only from and to the ports, usable in combination with the ocean carriers' independently established rates. In the absence of a statement in tariffs limiting the application of export or import rates, the rates will apply. The domestic carriers may also publish in their tariffs, as information, the ocean carriers' rates that will apply to or from a foreign country in connection with the domestic carriers' rates. When this is done, the ocean carriers' rates are in no manner subject to the jurisdiction of this Commission.

(f) *Through export and import billing.* When export and import shipments are forwarded under through billing, the through bills of lading shall clearly separate the liability of the domestic carriers and the ocean carriers. The name of the domestic carrier shall appear on the face of the bill of lading when that carrier originates the shipment. Tariffs which provide for the use of a specified kind of bill of lading shall reproduce all of its terms and conditions.

§ 1312.38 Substitution of service.

Paragraphs (a), (b), (c), and (d) of this section only apply to property carriers. The provisions of this section may not be used in connection with joint rates and provisions for which concurrences are in effect unless they so provide.

(a) *Substituted service may be provided.* (1) If a rail, water, or motor carrier (hereafter referred to as Carrier A) desires to have the option to substitute the services of a carrier of a different transportation mode (hereafter referred to as Carrier B) for part of its movement of a shipment, it may do so subject to the requirements of this section.

(2) Either the rate tariff or a governing tariff shall contain the substituted service provisions.

(3) A separate tariff entitled "Substituted Freight Service Directory" may be filed, governing the rate tariff(s), provided it contains only matter relating to the substituted service.

(b) *Service conditions.* Substituted service provisions may be published if—

(1) The shipment moves on the bill of lading that would be used if Carrier A was performing the service;

(2) Carrier A assumes the responsibility for the lading while it is in the possession of Carrier B; and

(3) Movement of the lading has been made prior to, or will be made subsequent to, the service performed by Carrier B.

(c) *Tariff conditions.* The tariff provisions for substituted service shall include—

(1) The name of Carrier B;

(2) The points between which the substituted service will be performed;

(3) A statement that the rate applicable via Carrier A will apply; and

(4) A statement that the substituted service will not be performed if the shipper advises the carrier that it does not want service to be substituted. Carrier B does not need to be shown as a participant in Carrier A's rate or governing tariffs, nor in the routing provisions.

(5) When publishing substitution of trailer-on-flatcar service for motor service, tariffs need not show the rail carrier's name or points of interchange with the rail carriers.

(d) *Changes in tariff provisions.* Additions, deletions and other changes in substituted service provisions (not rates) may be made on 1 day's notice.

(e) *Optional honoring of ticket arrangements.* (This paragraph only applies to passenger carriers.) Provisions may be published affirming an agreement of two or more carriers for the acceptance by one carrier of a ticket sold over the route of another carrier. The carriers' names shall be shown, along with the names of the points between which the tickets will be honored, and any restrictions or exceptions stated.

§ 1312.39 Miscellaneous provisions which may be filed on less than statutory notice.

(a) *Restorations of carrier participation.* Amendments to restore a carrier's participation in a tariff may be filed on 5 days' notice provided the relisting of the carrier is indicated to become effective not later than the date the cancellation was published to become effective.

(b) *Amendment of participating carrier list in a classification or dangerous articles tariff.* Additions, corrections and other changes to the list of participating carriers in classifications and dangerous articles tariffs may be made on 1 day's notice. This authority may not be used to cancel the participation of a carrier.

(c) *Rates for or newly established water carrier service.* (1) (This paragraph does not apply to the transportation of passengers.) Rates and provisions applicable at, from, to or via points on new lines may be established on 10 days' notice. If the establishment of local rates under this authority results in the establishment of combination through rates, the combination through rates may be displaced by lower rates, either single factor or combination, on 10 days' notice. If class rates are initially established under this authority, lower commodity rates to displace the class rates may later be established on 10 days' notice.

(2) (This paragraph applies only to the transportation of passengers.) Rates and provisions applicable at, from or to points on new lines may be established in the first instance on 1 day's notice.

(d) *Extension of expiration dates or postponement of effective dates of comeback provisions.* Amendments to extend the expiration dates of provisions, and to postpone the effective date of comeback provisions (provisions which are paired with and published to supersede those indicated to expire with the preceding day) may be published on 1 day's notice provided no change is made in the extended or postponed provisions.

(e) *Effective Dates.* The effective date of a publication, rate, or provision may be postponed on 1 day's notice, and in statement form.

(f) *Round trip excursion fares.* (This paragraph applies only to passenger service other than special or charter operations.) Fares for a round trip excursion limited to a designated period may be established upon posting and filing the tariff with the Commission on 1 workday's notice.

(g) *Transportation of circus and show outfits.* Rates for specified movements of circuses and other show outfits may be established by filing the tariffs with the Commission on 1 day's notice. The tariffs shall publish the charges specifically, or may consist of a proper title page, containing the statement "as per copy of contract attached," with a copy of the contract attached.

(h) *Freight rate tariffs and classifications of motor common carriers of property and freight forwarders—notice for independent rate changes*—(1) *New and reduced rates.* Except as otherwise provided in paragraphs (h)(2), (4) and (5) of this section, each independently established new or changed rate, charge, rule, or other provision shall be filed with the Commission in Washington, D.C. at least 1 day before the date upon which it is to become effective.

(2) *Increased rates.* Each independently established increased rate or charge and each independently established change in a rule or other provision which effects a reduction in the value of service or increase in a rate or charge shall be filed with the Commission in Washington, D.C. at least 7 workdays before the date upon which it is to become effective.

(3) *Independently established for carrier's account.* The rate, charge, rule, or other provision shall be published either in a tariff filed in the carrier's name or under independent action instructions for only the particular carrier's account in a tariff filed in a tariff publishing agent's name.

(4) *Joint intermodal traffic.* This section does not apply to any single-factor rate, charge, rule, or other provision having application over any segment of the lines of another transportation mode.

(5) *This section supersedes others.* The provisions of this section take precedence over all the provisions of this Part 1312 that govern filing notice. The other provisions will continue to apply to filings that have been docketed with rate bureaus in advance of filing with the Commission (collectively agreed upon rate filings).

(6) *Mixed filings.* Tariffs or amendments that contain both 1-day and 7 workday filings shall be filed upon 7 workdays' notice, with the 1-day filings appropriately excepted from the 7 workday notice.

§ 1312.40 Claims rules.

Each carrier or its agent shall file with the Commission its rules and practices with respect to—

(a) The loss or damage to property (see 49 CFR Part 1005); and

(b) Overcharge, duplicate payment or overcollection of freight charges (see 49 CFR Part 1008).

The rules and regulations may be published in a rate or rules tariff, a classification, or in a separate tariff containing no other matter, or the tariff may refer to the relevant CFR provisions.

§ 1312.41 Contracts and contract summaries.

(a) *Filing and availability of contract, contract amendments, contract summaries and contract summary supplements.* (1)(i) Railroads entering into contracts for railroad transportation

services with purchasers of rail service shall file with the Commission's Section of Tariffs the original and one copy of the contract and three copies of the contract summary.

(ii) Contracts and contract summaries shall not be filed in the same package with standard tariff filings.

(iii) The confidential contract shall not be attached to the contract summary.

(iv) The envelope or wrapper containing the contract and summary shall be marked "Confidential, Rail Contract".

(v) A contract and summary shall be accompanied by a transmittal letter identifiying the submitted documents, and the name and telephone number of a contact person.

(2)(i) The contract filed under these rules will not be available for inspection by persons other than the parties to the contract and authorized Commission personnel, except by petition demonstrating a likelihood of succeeding on the merits of the complaint and that the matter complained of could not be proven without access to additional contract information. The Commission's action in any contract-disclosure matter, including a petition filed under this subparagraph is subject to the limitations imposed by 5 U.S.C. 552(b) and the Trade Secrets Act, 18 U.S.C. 1905.

(ii) A contract and its summary filed under 49 U.S.C. 10713 may be labeled "Nonconfidential." Such a designation will permit the general public to inspect the entire contract.

(3) The contract summary filed under these rules shall include the information specified in paragraph (d) of this part. The contract summary shall be made available for inspection by the general public.

(4) The contract summary filed under these rules shall not be required to be posted in any stations, but shall be made available from carriers participating in the contract upon reasonable request.

(b) *Contract and contract summary title pages.* (1) The title page of every contract and amendment shall contain only the following information:

(i) In the upper right corner, the contract number (see paragraph (c) of this section).

(ii) In the center of the page, the issuing carrier's name, followed by the word "CONTRACT" in large print.

(iii) Amendments to contracts shall also show in the upper right corner, the amendment number (see paragraph (c) of this section).

(iv) A solid one inch black border down the right side of the title page.

(v) Date of issue and date to be effective.

(2) The title page of every contract summary and supplement shall contain only the following information:

(i) In the upper right corner, the contract summary number (see paragraph (c) of this section).

(ii) In the center of the page, the issuing carrier's name, followed by the words "CONTRACT SUMMARY" in large print.

(iii) Date of issue and date to be effective.

(iv) In the center lower portion, the issuing individual's name and address.

(v) Supplements to contract summaries shall also show in the upper right corner, the supplement number (see paragraph (c) of this seciton).

(c) *Contract and contract summary numbering system.* (1) Each issuing carrier shall sequentially number the contract and contract summary it issues. The contract and contract summary identification number shall include the word "ICC," the industry standard alphabet code for the issuing railraod (limited to four letters), the letter "C", and the sequential number, with each separated by a hyphen. The following is an example: the 357th contract filed by the Milwaukee Road would have the following tariff identification number: "ICC–MILW–C–0357."

(2) Any amendment to a contract shall be reflected in a corresponding supplement to the contract summary. If the change in the contract is only in confidential matter, a statement to that effect will be made in the supplement.

(3) At the carrier's option, the carrier's tariff publishing officers may reserve blocks of numbers if tariffs are issued from different departments. An index to the blocks of reserved numbers shall be filed with the Commission.

(4) Contract amendments and contract summary supplements shall be sequentially numbered.

(d) *Content of contract summary; format.* (1) Contract summaries for agricultural commodities, forest products or paper shall contain the following terms in the order named.

(i) A list, alphabetically arranged, of the corporate names of all carriers that are parties to the contract plus their addresses for service of complaints.

(ii) The commodity or commodities to be transported under the contract.

(iii) The origin station(s) and destination station(s), including the specific port(s) (if applicable).

(iv) The duration of the contract.

(v) Rail car data by number of dedicated cars, or, at the carrier's option, car days:

(A) by major car type used to fulfill the contract or contract options:

(*1*) available and owned by the carriers listed in paragraph (a)(1)(i) of this section;

(*2*) available and leased by the carriers listed in (1)(i), with average number of bad-order cars identified;

(*3*) (optional) on order (for ownership or lease) along with delivery dates, and,

(*4*) in the event a complaint is filed involving common carrier obligation and carrier furnished cars, the carrier(s) shall immediately submit to the Commission and the complainant additional data on cars used to fulfill the challenged contract. Data shall include (by major car type used to fulfill the contract):

(*i*) total bad car orders;

(*ii*) assigned car obligations; and

(*iii*) free running cars.

(B) In addition to paragraph (d)(i)(v)(A) of this section if agricultural commodities (including forest products but not including woodpulp, wood chips, pulpwood or paper) a certified statement by the participating rail carrier/carriers:

(*1*) that the cumulative equipment total for all contracts does not exceed 40 percent of the capacity of the rail carrier's owned and leased cars by applicable major car type, and

(*2*) in the case of an agricultural shipper which originated an average 1,000 cars or more per year during the prior 3-year period by major car type, that the equipment used does not exceed 40 percent of the rail carrier's owned or leased cars used on the average by that shipper during the previous 3 years.

(C) Rail car data need not be submitted if:

(*1*) the shipper furnishes the rail cars, unless the cars are leased from the carrier; or

(*2*) the contract is restricted to certain services which do not entail car supply.

(vi) Identification of base rates or charges, movement type (e.g., single car, multiple car, unit train), a minimum volume requirement (if applicable), and a summary of escalation provisions.

(vii) *Special features.* Identification of existence (but not the terms or amount) of special features such as transit time commitments, guaranteed car supply, minimum percentage of traffic requirements, credit terms, discounts, etc.

(2) Contract summaries for other commodities or services not involving a port shall contain the information required in paragraphs (d)(1) (i), (ii), (iv), and (v) of this section. Paragraph (d)(i)(vii), Special features, shall be

applicable to the extent that service requirements are placed in the contract.

(3) Contract summaries for other commodities or services involving a port shall contain the information required in paragraphs (d)(1) (i), (ii), (iv), (v), (vi), and (vii) of this section. In addition, the port shall be named and the tariff mileage (rounded to the nearest 50 miles) shall be disclosed (or, at the contracting parties' option, the origin and destination shall be specified). The required information shall be disclosed for each movement involving multiple origins/destinations.

(4) *Format.* The contract summary and supplements shall enumerate and have each item completed. When the item does not pertain to the contract or amendment, the term "Not applicable" ("NA") shall be used.

(e) *Availability of contract summary.* Copies of contract summaries shall be available from the Commission's Contract Advisory Service and Bureau of Traffic. Copies of contract summaries shall also be available from carriers participating in the contract.

(f) *Contract implementation date.* All filed contracts (and amendments) and contract summaries (and supplements) shall be subject to the implementation provisions of 49 CFR 1039.2.

(g) *Contract approval—statutory notice.* All filed contracts (and amendments) and contract summaries (and supplements) shall provide 30 days' notice as required by 49 U.S.C. 10713(e).

PARTS 1303, 1304, 1305, 1306, 1307, 1308, 1309, AND 1310—[REMOVED]

2. Parts 1303, 1304, 1305, 1306, 1307, 1308, 1309, and 1310 are removed.

[FR Doc. 84-25045 Filed 9-28-84; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[Docket No. 31012-199]

Atlantic Tuna Fisheries

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of annual adjustment to General category quota.

SUMMARY: NOAA issues this notice (1) allocating 50 short tons (st) of the 650 st General category fishery quota to the New York Bight area west of a straight line originating at a point on the southern shore of Long Island at 721° 50' W. longitude and running SSE 150° true to be used beginning September 30, 1984, and (2) allocating the balance of 89 st of the inseason adjustment amount to the General category fishery for a total annual quota of 689 st. The 50 st allocation for the New York Bight area west of the above coordinates will provide fishermen a reasonable opportunity to fish without exceeding the overall quota.

EFFECTIVE DATE: September 26, 1984.

FOR FURTHER INFORMATION CONTACT: William C. Jerome, Jr., 617-281-3600, extension 325, or David S. Crestin, 617-281-3600, extension 253.

SUPPLEMENTARY INFORMATION: Regulations promulgated under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971-971h) regulating the take of Atlantic bluefin tuna by persons and vessels subject to U.S. jurisdiction were published in the **Federal Register** on June 17, 1983 (48 FR 27745). They were amended by rules published in the **Federal Register** on July 24, 1984 (49 FR 29796).

Section 285.22(a) (49 FR 29796) for the *General* category provides: "If the Assistant Administrator determines (based on dealer reports, availability of giant Atlantic bluefin tuna on the fishing grounds, and any other relevant information), that variations in seasonal distribution, abundance, or migration patterns of Atlantic bluefin tuna, and the catch rate may prevent fishermen in an identified area from harvesting their share of the quota, the Assistant Administrator may set aside an allocation for such area. The amount of any allocation will not exceed the greater of 50 st or the maximum reported landings in the identified area in any of the preceding three years. The daily catch rate limit for the identified area will be set at one giant Atlantic bluefin tuna per day per vessel."

The unanticipated and unusually high catch rate of giant Atlantic bluefin tuna in the General category fishery east of a straight line originating at a point on the southern shore of Long Island at 72° 50' W. longitude (approximately the town of Moriches) and running SSE 150° true, will result in an early closure of the General category fishery. This frustrates the intent of the rules to provide fishermen throughout the range of the fishery a reasonable opportunity to fish. Early closure of the fishery will prevent the traditional giant Atlantic bluefin tuna fishery which occurs later in the season in the New York Bight area from taking place. Therefore, the Assistant Administrator for Fisheries, NOAA (Assistant Administrator), has determined based on dealer reports that variations in seasonal distribution, abundance, and the catch rate (landings) will prevent an identified area from harvesting its share of the quota. Consequently, the Assistant Administrator hereby allocates 50 st of the 650 st General category quota to the New York Bight area west of a straight line originating at a point on the southern shore of Long Island at 72° 50' W. longitude (approximately the town of Moriches) and running SSE 150° true to be taken at the rate of one giant Atlantic bluefin tuna per day per vessel. Giant Atlantic bluefin tuna harvested under this 50 st allocation may only be landed in the area identified above, beginning September 30, 1984.

Section 285.22(a) (49 FR 29796) provides for an annual quota of 650 st of giant Atlantic bluefin tuna to be taken by vessels permitted in the General category in the regulatory area, which has been adjusted down to 600 st, as stipulated above. The Assistant Administrator is authorized under § 285.22(g) (48 FR 27745) to release amounts from the reserve for inseason adjustments to increase the quota for any fishery segment. Data reported on the catch of Atlantic bluefin tuna in the General category indicate that the quota for this category will be exceeded very shortly. Therefore, under the inseason adjustment authority, the remaining balance of 89 st of the inseason adjustment amount is hereby transferred to the General category for a new total of 689 st. This will extend the opportunity to fish in the General category for as long as possible.

Notice of this action has been mailed to all Atlantic bluefin tuna dealers and vessel owners holding a valid vessel permit for this fishery.

Other Matters

This action is taken under the authority specified at 50 CFR 285.22, and is taken in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 285

Administrative practice and procedure, Fish, Fisheries, Fishing, Imports, International operations, Penalties, Reporting and recordkeeping requirements.

(16 U.S.C. 971 *et seq.*)

Dated: September 26, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 84-25678 Filed 9-28-84; 11:06 am]
BILLING CODE 3510-22-M

50 CFR Part 285

[Docket No. 31012-199]

Atlantic Tuna Fisheries

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of General category closure.

SUMMARY: NOAA issues this notice to close the fishery for Atlantic bluefin tuna conducted by vessels permitted in the General category in the regulatory area. Closure of this fishery is necessary because the adjusted annual catch quota of 689 short tons (st) will be attained by the effective date. Vessels permitted in the General category may continue to fish for a special 50 st quota in the special regulatory area west of a straight line originating at a point on the southern shore of Long Island at 72°50'W. longitude and running SSE 150° true. The intent of this action is to insure that the overall U.S. quota for Atlantic bluefin tuna in the Western Atlantic Ocean will not be exceeded.

EFFECTIVE DATES: The General category fishery is closed 0001 hours Eastern Daylight Time (EDT) October 1, 1984, through December 31, 1984, except that fishing by vessels in the General category may continue for the 50 st allocation for that area west of a straight line originating at a point on the southern shore of Long Island at 72°50'W. longtitude and running SSE 150° true.

FOR FURTHER INFORMATION CONTACT: William C. Jerome, Jr., 617-281-3600, extension 325, or David S. Crestin, 617-281-3600, extension 253.

SUPPLEMENTARY INFORMATION: Regulations promulgated under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971-971h) regulating the take of Atlantic bluefin tuna by persons and vessels subject to U.S. jurisdiction were published in the **Federal Register** on June 17, 1983 (48 FR 27745). They were amended, by rules published in the **Federal Register** on July 24, 1984 (49 FR 29796).

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), is authorized under § 285.20(b)(1) to monitor the catch and landing statistics and, on the basis of these statistics, to project a date when the total catch of Atlantic bluefin tuna will equal any quota under § 285.22. The Assistant Administrator, further, is authorized under § 285.20(b)(1) to prohibit the fishing for, or retention of, Atlantic bluefin tuna by the type of vessels subject to the quotas.

The Assistant Administrator has determined, based on the reported catch of giant Atlantic bluefin tuna, that the annual quota of 689 st, as adjusted on September 30, 1984, of giant Atlantic bluefin tuna available to vessels permitted in the General category has been attained. Therefore, fishing for, and retention of, giant Atlantic bluefin tuna by vessels in the General category must cease at 0001 hours e.d.t. on the Effective Date given above except that fishing by vessels in the General category may continue for the 50 st allocation for that area west of a straight line originating at a point on the southern shore of Long Island at 72°50'W. longitude (approximately the town of Moriches) and running SSE 150° true.

Notice of these actions has been mailed to all Atlantic bluefin tuna dealers and vessel owners holding a valid vessel permit for this fishery.

Other Matters

The effects of this closure on the participants in the fishery were considered in the design of the final regulations. This action is taken under the authority specified at 50 CFR 285.20(b)(1), and is taken in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 285

Administrative practice and procedure, Fish, Fisheries, Fishing, Imports, International operations, Penalties, Reporting and recordkeeping requirements.

(16 U.S.C. 971 *et seq.*)

Dated: September 26, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 84-25928 Filed 9-26-84; 1:21 pm]

BILLING CODE 3510-22-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

Refuge Specific Hunting Regulations

Correction

In FR Doc. 84-24681 beginning on page 36736 in the issue of Wednesday, September 19, 1984, make the following corrections:

1. On page 36736, second column, first complete paragraph, in the third and eleventh lines, "special regulation" should have read "special regulations".

2. On the same page, in the same column, in the second complete paragraph, in the ninth line, insert the word "on" between "hunting" and "refuges".

3. On the same page, in the third column, in the fourteenth line from the bottom, "cetain" should have read "certain".

4. On page 36737, first column, in the third complete paragraph, last line, "the" should have read "a".

5. On the same page, third column, second complete paragraph, fifth line from the bottom, "habitate" should have read "habitat."

§ 32.12 [Corrected]

6. On page 36742, in § 32.12(e)(9), first column, third line, insert the word "and" before "gallinules".

7. On page 36743, in § 32.12(n), third column, third line, "*wildlife*" should have read "*Wild Life*".

8. On page 36748, in § 32.12(ll)(6)(i), first column, third line, "SPHW" should have read "SPWH".

9. On the same page, in § 32.12(mm)(2), in the second column, the heading should read as follows: "*Fish Springs National Wildlife Refuge.*"

10. In § 32.12(oo)(3), second column, insert the word "*National*" between "*Lake*" and "*Wildlife*", in the heading.

§ 32.22 [Corrected]

11. On page 36750, in § 32.22(e)(6), fifth line, insert the word "only" between "one day" and "pheasant".

§ 32.32 [Corrected]

12. On page 36754, in § 32.32(a)(1), third column, the sixth line should have been designated as "(i)".

13. On page 36757, in § 32.32(v), second column, first line, insert "(1)" before the word "*Hillside*". In the second line, insert a hyphen between the words "white" and "tailed".

14. On the same page, in § 32.32(v)(2), second line, "white tailed-deer" should have read "white-tailed deer".

15. On page 36758, in § 32.32(z)(1), third column, second line, "*Wildlife Refuge*" should have read "*Wildlife Range*".

16. On page 36759, in § 32.32(ff)(3), third column, second line, insert the word "and" between "elk" and "white-tailed".

17. On page 36760, in § 32.32(ii)(2)(iv), first column, first line, "the" should have read "of".

BILLING CODE 1505-01-M

Proposed Rules

Federal Register
Vol. 49, No. 191
Monday, October 1, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 20

[Docket No. PRM-20-15]

Edison Electric Institute (EEI) and Utility Nuclear Waste Management Group (UNWMG); Filing of Petition for Rulemaking

Correction

In FR Doc. 84-24796 beginning on page 36653 in the issue of Wednesday, September 19, 1984, make the following correction:

On page 36654, the equation in the first and second columns should have read as follows:

$$\sum_{1} \frac{\text{Concentration of radionuclide 1}}{\text{radionuclide 1 Part 20, App. E concentration}} \leq \frac{1{,}000}{\text{volume of gallons disposed of at location (gal/yr)}}$$

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 84-NM-99-AD]

Airworthiness Directives; McDonnell Douglas Model DC-9 and C-9 (Military) Series Airplanes, Fuselage Numbers 1 Through 855

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD) that would require rerouting of the toilet flush motor power wire harnesses in the forward and aft lavatories. This action is prompted by the discovery of a potential ignition source which is the toilet flush motor power wire harness routed over the toilet holding tank. This proposed AD is required to aid in eliminating a potential fire.

DATES: Comments must be received on or before December 20, 1984. Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). This information also may be examined at and comments may be made to the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Gilbert L. Thompson or George Y. Mabuni, Aerospace Engineers, Systems & Equipment Branch, ANM-130L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808; telephone (213) 548-2831.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified under the caption "Availability of NPRM." All communications received on or before the closing date for comments specified above will be considered by the Administrafor before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 84-NM-99-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

During the invesitgation of a DC-9-32 airplane accident involving a lavatory fire, a number of similar model airplanes were inspected. Although found not to be the cause of the fire, a potential ignition source was found on some in-service airplanes. The potential ignition source of concern is the toilet flush motor power wire harness, routed over the toilet holding tank, from the circuit breakers to the flush button and timer. This area can be contaminated with "degerm" fluid that occasionally leaks from the flexible coupling between the flush pump and toilet bowl. The wire harness contains 9 wires, four of which are powered whenever the toilet flush motor circuit breakers are closed and the 115 VAC Ground Service Bus is powered. The wire harness, as designed, is encased in insulation sleeving and is secured above the toilet tank by standoffs and clamps. An inspection of

the lavatories in approximately 180 DC–9 airplanes revealed that the wire harness, in several lavatories, was improperly maintained; standoffs and clamps were found missing, and in one case minor wire chafing was found.

This inspection revealed that the standoffs and clamps on some of the DC–9 airplanes were not reinstalled during the replacement of the flush motor pump assembly. The unsecured wire harness lying on the toilet holding tank can chafe against the components mounted on the holding tank. If the chafing damages the sleeving and the wiring insulation enough to expose the conductors to the conductive degerm fluid, the potential for ignition exists.

A survey was conducted to determine if a similar routing of the toilet flush motor power wire harness existed on any other large transport airplanes. The survey, which included Airbus Model A300; Boeing Models B707, B720, B737, B747, B757, B767; McDonnell Douglas Models DC–8, DC–9, DC–10; and Lockheed Model L–1011 airplanes, revealed that this type of routing of the subject harness exists only on DC–9 airplanes, fuselage numbers 1 through 855. The manufacturer is preparing DC–9 Service Bulletin 24–76, scheduled to be released on September 30, 1984, which will describe two changes to the installation of the lavatory pump motor power wire harness. This AD proposes to encompass only one of the changes, namely the requirement to reroute the toilet flush motor power wire harness outboard and away from the flush motor and pump assembly in the forward and aft lavatories on DC–9 airplanes, fuselage numbers 1 through 855. The new routing would be similar to that in DC–9 airplanes manufactured subsequent to fuselage number 855. Rerouting of the toilet flush motor power wire harness away from the area of the toilet holding tank occasionally contaminated by "degerm" fluid, would eliminate the potential ignition source.

Cost Estimate

It is estimated that 462 U.S. registered airplanes would be affected by this proposed AD, that it would take approximately 6.6 manhours per airplane to accomplish the required actions, and that the average labor costs would be $40 per manhour. The actual costs of modification parts are estimated to be $450 per airplane. Based on these figures, the total cost impact of this AD on the U.S. fleet is estimated to be $329,868.

For these reasons, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291. Few, if any, small entities within the meaning of the Regulatory Flexibility Act would be affected.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

McDonnell Douglas: Applies to McDonnell Douglas Model DC–9 and C–9 (Military) series airplanes, fuselage numbers 1 through 855, certificated in all categories. Compliance required as indicated, unless previously accomplished.

To eliminate a potential ignition source from the forward and aft lavatories, accomplish the following:

A. Within 12 months after the effective date of this airworthiness directive (AD), reroute the toilet flush motor power wire harness in the forward and aft lavatories in accordance with the Accomplishment Instructions of McDonnell Douglas DC–9 Service Bulletin 24–76, original issue, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

B. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this proposal who have not already received these documents from the manufacturer may obtain copies upon request to the McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846. Attention: Director, Publications and Training, C1-750 (54–60). These documents also may be examined at the FAA Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.85)

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, Model DC–9 and C–9 (Military) series airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket. A copy may be obtained by contacting the person identified under the caption "**FOR FURTHER INFORMATION CONTACT.**"

Issued in Seattle, Washington, on September 21, 1984.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 84–25672 Filed 9–28–84; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 84–ANM–13]

Proposed Establishment of Transition Area, Choteau, MT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish a transition area at Choteau, Montana. The intended effect of the proposed action is to provide controlled airspace from 700 feet above the surface for aircraft executing a new instrument approach procedure to Choteau Airport. This action is necessary to ensure segregation of the aircraft using the approach procedures in instrument weather conditions.

DATES: Comments must be received on or before December 13, 1984.

ADDRESSES: Send comments to: Manager Airspace & Procedures Branch, ANM–530, Federal Aviation Administration, Docket No. 84–ANM–13, 17900 Pacific Highway South, C–68966, Seattle, WA 98168.

The official docket may be examined in the Regional Counsel Office.

An informal docket may also be examined during normal business hours at the Airspace & Procedures Branch, 17900 Pacific Highway South, Seattle, WA 98168.

FOR FURTHER INFORMATION CONTACT: Kathy Paul, Airspace Technician, ANM–535. The telephone number is: (206) 431–2530.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments

are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 84–ANM–13." The postcard will be date-time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Airspace & Procedures Branch, 17900 Pacific Highway South, Seattle, WA 98168 both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, at the address previously listed. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which described the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of the Federal Aviation Regulations (14 CFR Part 71) to provide controlled airspace for the benefit of aircraft conducting instrument flight rules (IFR) activity. Establishment of the transition area at Choteau will necessitate an amendment to this subpart since there is a new IFR procedure to the Choteau Airport. Section 71.13 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6 dated January 3, 1984.

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and for the same reasons, (4) it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in CFR Part 71

Transition areas, Aviation safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Choteau, Montana Transition Area [New]

"That airspace extending upward from 700 feet above the surface within a 9 mile radius of Choteau NDB (47°49'30"N LAT/ 112°09'55"W LONG)."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983)); and 14 CFR 11.65.)

Issued in Seattle, Washington, on September 21, 1984.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 84–25871 Filed 9–28–84; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 808

[Docket No. 83P–0125]

Medical Devices; Opportunity for Oral Hearing on Proposed Action on Hawaii's Application for Exemption From Preemption for Hearing Aid Requirements

AGENCY: Food and Drug Administration.

ACTION: Notice of opportunity for oral hearing.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for interested persons to request an oral hearing on a proposed rule that would grant exemption from Federal preemption for certain of Hawaii's hearing aid device requirements and would deny exemption for other of its requirements. The proposed rule is published elsewhere in this issue of the **Federal Register**.

DATE: Requests for an oral hearing by October 31, 1984.

ADDRESS: Written requests to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Les Weinstein, Center for Devices and Radiological Health (HFZ–84), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4874.

SUPPLEMENTARY INFORMATION: Section 808.25 (21 CFR 808.25) of FDA's regulations provides procedures for processing applications for exemption from Federal preemption of State and local requirements applicable to medical devices under section 521 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360k). Section 808.25(c) provides that concurrent with the agency's determination to issue in the **Federal Register** a proposed regulation either to grant or to deny an exemption from preemption, the agency also will issue in the **Federal Register** a notice of opportunity for interested persons to request an oral hearing before FDA to present views on the application and the proposed regulation.

Elsewhere in this issue of the **Federal Register**, FDA is issuing a proposed regulation responding to an application from the State of Hawaii for exemption from preemption for section 14.1, subsections (a), (b), and (c) of chapter 451A of the Hawaii Revised Statutes. Therefore, in accordance with § 808.25(c), FDA is announcing an opportunity for interested persons to request an oral hearing on its proposal to grant exemption from Federal preemption for certain of Hawaii's hearing aid device requirements and to deny exemption for other of its requirements.

FDA advises that under § 808.25(d), any request for a hearing is required to be submitted to the Dockets Management Branch (address above) and to include an explanation of why an oral hearing, rather than submission of written comments only, is essential to the presentation of views on the application for exemption from preemption and on the proposed regulation. Further, to enable expeditious review of requests for an oral hearing and final action on the application for exemption and on the proposed rule, FDA has limited the period for requesting an oral hearing to the first 30 days of the comment period on the proposed regulation.

Under § 808.25(e), if a timely request for a hearing is made, FDA will review the request and will determine whether a hearing should be granted. If FDA determines that an oral hearing should be held, it will announce the time, date, and place of the hearing in a future issue of the **Federal Register**. The procedures that will govern any such oral hearing

are those applicable to a public hearing before the Commissioner of Food and Drugs under Part 15 of FDA's administrative practices and procedures regulations (21 CFR Part 15).

Interested persons may, on or before October 31, 1984, submit to the Dockets Management Branch (address above) written requests for an oral hearing on this matter. Two copies of any requests are to be submitted, except that individuals may submit one copy. Requests are to be identified with the docket number found in brackets in the ehading of this document. Received request may be seen in the office above between 9 a.m. and 4 p.m., Monday through Firday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 521, 90 Stat. 574 (21 U.S.C. 360k)) and under authority delegated to the Commissioner (21 CFR 5.10).

Dated: September 8, 1984

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 84-25883 Filed 9-28-84; 8:45 am]
BILLING CODE 4160-01-M

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21 CFR Part 808

[Docket No. 83P-0125]

Exemption From Preemption of State and Local Hearing Aid Requirements; Hawaii's Application for Exemption

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to grant exemption from Federal preemption for certain of Hawaii's hearing aid device requirements and to deny exemption for other of its requirements. This action responds to an application from the government of Hawaii. The Federal Food, Drug, and Cosmetic Act preempts State and local medical device requirements that are different from or in addition to Federal requirements. The act also provides that the agency may, by regulation, exempt State and local device requirements from preemption. Elsewhere in this issue of the **Federal Register**, FDA is announcing an opportunity for interested persons to request an oral hearing on the proposed regulation.

DATES: Comments by November 30, 1984. FDA proposes that any final regulation based on this proposal be effective 30 days after the date of its publication in the **Federal Register**.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Les Weinstein, Center for Devices and Radiological Health (HFZ-84), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4874.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 15, 1977 (42 FR 9286), FDA published final regulations establishing requirements for professional and patient labeling for hearing aid devices (21 CFR 801.420) and conditions for sale of hearing aids (21 CFR 801.421) (approved by the Office of Management and Budget under control number 0910-0171).

Section 521(a) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360k(a)) contains special provisions governing the regulation of devices by States and localities. That section prescribes a general rule that after May 28, 1976, a State or political subdivision of a State may not establish or continue in effect any requirement with respect to a medical device intended for human use having the force and effect of law (whether established by statute, ordinance, regulation, or court decision), which is different from, or in addition to, any requirement applicable to such device under any provision of the act and which relates to the safety or effectiveness of the device or to any other matter included in a requirement applicable to the device under the act. Thus, since §§ 801.420 and 801.421 became effective on August 25, 1977, any State or local hearing aid requirement that is different from or in addition to the requirements with respect to professional and patient labeling and conditions for sale of hearing aids established by FDA regulations, is preempted under section 521(a) of the act.

Section 521(b) of the act provides that FDA may upon application by a State or political subdivision, and by regulation issued after notice and an opportunity for an oral hearing, exempt a State or local medical device requirement from preemption under such conditions as FDA may prescribe if the requirement is (1) more stringent than an FDA requirement applicable to the device or (2) required by compelling local conditions, and compliance with it would not cause the device to be in violation of any requirement applicable under the act.

In the **Federal Register** of May 2, 1978 (43 FR 18661), FDA published final regulations establishing procedures for considering applications for exemption from preemption (21 CFR Part 808) (approved by the Office of Management and Budget under control number 0910-0129). In § 808.1(d) of the regulations, FDA provided examples of State or local requirements that are not regarded as preempted by section 521 of the act. In accordance with the regulations, the following requirements relating specifically to hearing aids are not preempted: (1) Requirements with respect to the licensing of hearing aid dispensers, audiologists, and physicians; (2) requirements that are substantially identical to the FDA requirements governing the labeling and conditions for sale of hearing aids; and (3) requirements established by Federal, State, or local agencies governing the expenditure of public funds for purchasing hearing aids and hearing health care services for the hearing impaired.

On April 8, 1983, the State of Hawaii applied for exemption from preemption for section 14.1, subsections (a), (b), and (c) of chapter 451A of the Hawaii Revised Statutes:

Section 451A-14.1 Requirement of authorization from physician or otorhinolaryngologist; authorization records.

(a) No person engaged in the fitting and selling of hearing aids shall sell, barter, offer to sell or otherwise knowingly establish a commercial relationship with a potential purchaser without first obtaining and maintaining in his possession written authorization by a physician that the purchaser or potential purchaser has been examined by him and that he has prescribed or approved a hearing device, provided, however, that in the case of a child ten years of age or under, such written authorization must be by an otorhinolaryngologist.

(b) For the purposes of subsection (a) of this section, such written authorization must be signed by the physician or otorhinolaryngologist within ninety days prior to the date of sale, barter, offer or commencement of a commercial relationship as referred to above; provided, however, that the ninety day limit provided in this subsection shall not apply if the written authorization of the physician or otorhinolaryngologist states that a return visit of the patient is not necessary for subsequent purchases of a hearing device.

(c) Every hearing aid dealer and fitter licensed pursuant to this chapter shall keep a suitable book or file, or a microfilm of such book or file in which shall be preserved, for a period of not less than five years, every authorization by physicians or otorhinolaryngologists received pursuant to this section. The book, file, or microfilm of such authorizations shall at all times be open to inspection by the board of hearing aid dealers and fitters and other law enforcement agencies.

Section 14.1, subsection (a) of the Hawaii statute requires the hearing aid dispenser to obtain a written authorization from a physician but does not provide for a waiver of the medical evaluation by the prospective user. Section 801.421(a)(2) of FDA's regulation permits any informed adult 18 years of age or older to waive the medical evaluation requirement. Thus, subsection (a) is different from the FDA requirement and is preempted. FDA believes that adults should be permitted to waive the medical evaluation requirement if the prospective user has religious or personal objections to a medical evaluation. Therefore, FDA is proposing to deny exemption from preemption for this portion of subsection (a).

Subsection (a) also prohibits the sale of a hearing aid to a child under the age of 10 who does not have written authorization from an otorhinolaryngologist. This provision is more stringent than the Federal requirement (see § 801.421(a)). FDA believes that hearing loss in children can be treated medically or surgically more often than in adults and that otorhinolaryngologists are more knowledgeable about such treatment than are other physicians. Therefore, FDA is proposing to exempt this portion of subsection (a) from preemption.

Section 14.1, subsection (b) of Hawaii's statute requires that the medical authorization required in subsection (a) be signed within 90 days prior to the sale of a hearing aid, but provides that this 90-day limit does not apply if the authorization states that a return visit of the patient is not necessary for subsequent purchases of a hearing device. Section 801.421(a) of FDA's regulation provides that the medical evaluation shall have taken place within the preceding 6 months. Thus, subsection (b) is different from the FDA requirement and is preempted. FDA believes that the 3-month time limit is unnecessarily stringent. Moreover, the FDA requirement of medical evaluation also applies to the sale of a replacement for a worn-out or damaged hearing aid. Thus, if "subsequent purchase" includes a new sale, and not simply a warranty-type replacement of parts or substitution of one hearing aid for another, all provisions of the FDA regulation are required to be met, including a medical examination within the preceding 6 months. Therefore, FDA is proposing to deny exemption from preemption for subsection (b).

Section 14.1, subsection (c) of Hawaii's statute requires the hearing aid dispenser to keep the physician's written authorization on file for 5 years. Section 801.421(d) of FDA's regulation requires dispensers to maintain copies of medical clearance statements and waivers for only 3 years. Thus, subsection (c) is different from the FDA requirement and is preempted. FDA believes that Hawaii's more stringent requirement will assist the State in enforcing its statute and, therefore, is proposing to exempt subsection (c) from preemption.

Section 808.25 of FDA's regulations provides that, concurrent with the agency's determination to issue in the **Federal Register** a proposed regulation either to grant or to deny an exemption from preemption, the agency also will issue in the **Federal Register** a notice of opportunity for interested persons to request an oral hearing before FDA to present views on the application and the proposed regulation. Elsewhere in this issue of the **Federal Register**, FDA is issuing such a notice.

FDA advises that it previously has ruled on the applications of 20 States and the District of Columbia for exemption from preemption for their State and local hearing aid requirements (see 45 FR 67325 and 67326; October 10, 1980). Many of the written comments and much of the testimony at the oral hearing on these other applications are relevant to the Hawaii application and will be considered in the preparation of the final regulation on this application.

Executive Order 12291

FDA has carefully reviewed the proposed rule under Executive Order 12291 and concludes that it does not meet any of the criteria of a major regulation. Therefore, a regulatory impact analysis is not required. The proposal merely applies Part 808 of the regulations to an application from the Government of Hawaii. The proposal does not impose any new Federal requirements on any person. Similarly, no new requirements are established at the State level because the proposal allows part of an existing Hawaiian regulation to remain in effect while preempting other parts of that regulation.

Regulatory Flexibility Act

FDA certifies that the regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities because it does not impose any new requirements on any person. Therefore, a regulatory flexibility analysis, as provided in the Regulatory Flexibility Act, is not required.

List of Subjects in 21 CFR Part 808

Exemption of specific State requirements, Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 521, 701, 52 Stat. 1055–1056 as amended, 90 Stat. 574 (21 U.S.C. 360k, 371)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), it is proposed that Part 808 be amended in Subpart C by adding new § 808.61 to read as follows:

PART 808—EXEMPTIONS FROM FEDERAL PREEMPTION OF STATE AND LOCAL MEDICAL DEVICE REQUIREMENTS

§ 808.61 Hawaii.

(a) The following Hawaii medical device requirements are enforceable, notwithstanding section 521 of the act, because the Food and Drug Administration has exempted them from preemption under section 521(b) of the act: Hawaii Revised Statutes, chapter 451A, section 14.1, subsection (a) with respect to medical examination of a child 10 years of age or under, and subsection (c).

(b) The following Hawaii medical device requirements are preempted by section 521(a) of the act, and the Food and Drug Administration has denied them exemption from preemption: Hawaii Revised Statutes, chapter 451A, section 14.1, subsection (a) to the extent that it requires a written authorization by a physician and does not allow adults to waive this requirement for personal, as well as religious, reasons, and subsection (b).

Interested persons may, on or before November 30, 1984, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 8, 1984.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 84-25884 Filed 9-28-84; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

23 CFR Ch. III

[Docket 84-02; Notice 1]

Procedures for Transition to New National Driver Register

AGENCY: National Highway Traffic Safety Administration (NHTSHA), DOT.

ACTION: Notice of proposed rulemaking..

SUMMARY: For over 20 years, the Federal Government has operated the National Driver Register (NDR), a voluntary State/Federal cooperative program to assist the States in exchanging information about the driving license records of certain individuals. The NDR is designed to address the problem that arises when chronic traffic law violators, after losing their licenses in one State, travel to and receive licenses in another State. The current NDR relies primarily on the U.S mail to receive information from the States and to respond to inquiries for the States. In 1982, Congress enacted legislation to improve the NDR by converting it to a fully automated system, enabling a State to determine, virtually instantly, whether another State has taken an adverse action against a driver license applicant. This notice proposes procedures NHTSA will follow for the orderly transition from the current NDR to the new, automated NDR.

DATES: Comments must be received by October 31, 1984. The rules will be effective upon publication of the Final Rule in the **Federal Register.**

ADDRESS: Written comments should refer to the docket number and the number of this notice and be submitted to (preferably in ten copies): Docket Section, National Highway Traffic Safety Administration, Room 5109, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590. (Docket hours are 8 a.m. to 4 p.m.).

FOR FURTHER INFORMATION CONTACT: Mr. Clayton Hatch, Chief, National Driver Register (NIS–33), 400 Seventh Street, SW., Washington, D.C. 20590 or telepone (202) 426–4800.

SUPPLEMENTARY INFORMATION: On October 25, 1982, Congress enacted legislation which called for the establishment of an improved National Driver Register to assist chief driver licensing officials of participating States in exchanging information regarding certain motor vehicle driving records. The current Register was established in 1960 and is now operated by the National Highway Traffic Safety Administration. It is computer assisted, but uses the U.S Mails to send information to and from State licensing authorities. The October 1982 legislation envisioned a fully-automated system which would provide rapid, computer-processed responses to the inquiries of the State licensing authorities. Through this new system, the States will be able to learn more quickly of adverse actions taken by other States and decide whether to grant a driver's license to an applicant. This Notice of Proposed Rulemaking identifies proposed procedures for the orderly transition to the new NDR. Comments on these procedures are invited.

Current NDR

States presently participate in the NDR by (1) providing reports of license withdrawals and denials for entry onto the NDR file, and (2) submitting names of license applicants to be checked against the NDR file to determine if a report for license withdrawal or denial is in the file from another licensing jurisdiction. State participation is voluntary and currently all States participate in some manner.

Reports of license withdrawals and denials now on file contain descriptive information about the individual (name, date of birth, sex, height, weight, etc.) and details about the adverse action taken (traffic violation for which license was withdrawn or denied, date of action, date of eligibility for license restoration and date restored when applicable).

Transmission of the data on both inquiries and reports is predominantly by mail. Upon receipt of the State-supplied information, it is processed against the computer based file generally within 24 hours from receipt. The matching of an inquiry with a record on file produces a "Probable Identification" (no identification is "positive," since the possibility exists that the individual described on the inquiry record may not be the same person identified on the NDR record of withdrawal or denial). The "Probable Identifications" are immediately mailed to the inquiring States so that they may take appropriate action. This process (from the time of State inquiry to State receipt of a "Probable Identification") generally takes a week to ten days. A response is provided only when a match occurs. In addition to allowing inquiries from State licensing agencies, the present NDR accepts requests for driver's license checks to be performed for Federal Government agencies. However, any inquiry must, by law, be in connection with the issuance or reissuance of a motor vehicle operator's license.

Need for New NDR

Many deficiencies in the present National Driver Register system have been identified over the years by the National Highway Traffic Safety Administration, the States and outside groups. The greatest problem of the current system is the length of time needed to respond to inquiries. Many States now issue a full-term license over-the-counter while the applicant is present. Although these States still send inquiries to the NDR, the results of National Driver Register file checks are received after a license has been issued. Therefore an applicant can be licensed by one State while his privilege to drive was suspended or revoked in another State. The licensing State does not learn of the adverse driving record for a week or two, at which point it is difficult to find the licensee to suspend or revoke his permit. Another problem is that NDR records are only periodically updated by the Sates and on occasion have contained inaccurate data due to transcription errors.

Aware of these shortcomings, the Nation Highway Traffic Safety Administration conducted a study in 1973 to identify program problems and their extent. The study's primary recommendation was that a rapid response service was needed and that such a capability should be developed. As a result, an effort was undertaken in March 1975, to determine system feasibility and to define and design for a rapid response system. A comprehensive survey was made of all licensing jurisdictions which showed that 41 States desired a rapid response service. Based on the determination that such a system was feasible, a plan was developed in April 1978, for the implementation of a state-of-the-art Federal/State driver record communication system. This system was identified as the "Rapid Response System". This system would have allowed States to obtain information directly from the NDR file in a matter of seconds through use of computer assisted technology. Although this approach solved the response-time problem, it did not correct other shortcomings, espcially data accuracy. A report was submitted to Congress in 1980, pursuant to the Surface Transportation Assistance Act of 1978, which outlined the problems of maintaining current and accurate data in a massive data file. The report recommended a aystem whereby the NDR serves as a conduit for retriveing

information from the State of Record (SOR) and relaying that information immediately, without interception, to the State of Inquiry (SOI). This system also solved some concerns about the privacy implications of the Federal Government retaining detailed records on certain drivers. Thus, the NDR would no longer be encumbered with high volume data handling problems and could rely directly on the State to provide information which would be as accurate and as current as the data in the State file at the time of inquiry.

New NDR

After consideration of the 1980 study, Congress enacted the NDR Act of 1982 (Pub. L. 97-364, October 25, 1982) to enhance the accuracy and effectiveness of the Register. A key feature of the legislation lies in section 203(a) which directs the Secretary of Transportation to establish and maintain a system which would enable the Secretary to "relay *without interception of the actual information* to the chief driver licensing official of a particpating State, any information provided by any chief driver licensing official of a State of record in response to such request". (Emphasis added). Further, the law requires that the content of the Federal NDR file be limited to minimal, personal identifying information. Thus, the law requires that specific information about *why* an individual's name appears in the NDR file is no longer to be retained in the Federal NDR. Rather, it is to be maintained by the State which instituted the adverse action. This change in record content underlies the shift in record custodianship from the Federal Government to the States and focuses on protecting the privacy of these records by ensuring that no central location will house all the details about adverse driver license actions taken in the States. Furthermore, the law specifies that the "Secretary shall not be responsible for the accuracy of any information relayed to the chief driver licensing official of any participating State."

The system being proposed for implementation which would comply with the mandates of the NDR Act of 1982 is similar to the Problem Driver Pointer System (PDPS) which was conceptually defined in the 1980 study.

Briefly stated, the PDPS will operate as follows:

1. A State asks the NDR to:

a. Check whether an individual who is applying for a driver's license has adverse action information on file in any other State.

b. Retrieve a summary of that information from the State which took the adverse action; and

c. Provide the summary to the inquiring State.

2. This is to be done either electronically, or until such time as the State is capable of participating electronically, through the mail.

3. The NDR file will consist only of names and other minimal identifying information about an individual who has had an adverse action taken against him or her. The information in the NDR is known as the "record".

4. If the NDR locates a record on the applicant in the files it will first provide a response to the inquiring State indicating that a record has been found. It will then obtain the adverse action information (Driver History Summary) from the State in which the action occurred and relay it, without interception, to the inquiring State.

5. If the NDR does not locate a record, it will so indicate to the State of Inquiry.

The implementation of this system in compliance with the Congressional mandate, requires significant changes to both the method of operation of the NDR and the type of data maintained. Prior to full implementation, the processes will be pilot-tested among four States (see discussion *infra*), and changes may be made as a result of what is learned during the test.

The Problem Driver Pointer System (PDPS), will use electronic "on-line interactive" and "on-line remote job entry," communication systems to replace mail as the principal means of data transmittal. "On-line interactive" means active two-way communication with a computer, allowing one to receive information from a computer file (such as the NDR file) almost immediately after it is requested. Remote job entry designates a slower automated response method. Information requests are sent in batches, usually large numbers at a time, and usually at night. The responses are then also assembled in batches. Once the entire group of requests has been acted on, all of the responses are sent back together to the requester.

Interactive service is intended to satisfy the immediate reponse needs of States which issue permanent licenses over-the-counter and electronically check their own files prior to issuance (20 States currently use this method). The Agency plans to limit the service to the processing of non-minimum age applicants requesting licenses for the first time in that jurisdication. (It is assumed that minimum age applicants are not likely to have records elsewhere and therefore do not justify interactive record checks.)

Remote job entry service is intended to be used: (1) By States not performing on-line inquiries prior to issuance of a license (either permanent or temporary) while the applicant is present; (2) by States that do not possess the equipment necessary for higher level (interactive) communications; and (3) for those inquiries not needing an immediate response (license renewals and employer requests).

As previously stated, when the system is fully implemented the NDR will no longer contain the actual adverse action data. Rather, the records will identify only that an adverse action was taken against an individual and the States where the adverse action was taken. The adverse action data will be retained by the State of Record, and not in the NDR. Thus, the chance of error is reduced significantly.

The NDR Act of 1982 expanded the categories of adverse driver licensing action which are authorized to be transmitted by the Register to include convictions for certain traffic offenses even though a license withdrawal or denial did not result. The Act directed the chief driver licensing officials in participating States to transmit a report to the NDR regarding any individual:

(1) Who is denied a motor vehicle operator's license by such State for cause;

(2) Whose motor vehicle operator's license is cancelled, revoked, or suspended by such State, for cause; or

(3) Who is convicted under the laws of such State of the following motor vehicle-related offenses or comparable offenses:

(A) Operation of a motor vehicle while under the influence of, or impaired by, alcohol or a controlled substance;

(B) A traffic violation arising in connection with a fatal traffic accident, reckless driving, or racing on the highways;

(C) Failure to render aid or provide identification when involved in an accident which results in a fatality or personal injury; or

(D) Perjury or the knowledgeable making of a false affidavit or statement to officials in connction with activities governed by a law or regulation relating to the operation of a motor vehicle.

Any report transmitted through NDR regarding an indivdual will contain the following data:

(1) The legal name, date of birth (including day, month, and year) sex, (and at the Secretary discretion) height, color of eyes, and color of hair.

(2) The name of the State transmitting such information; and

(3) The social security account number, if used by the reporting State for driver record or motor vehicle license purposes, and the motor vehicle operator's license number of such individual (if that number is different from the operator's social security account number).

This data shall be transmitted not later than 31 days after its receipt by a State motor vehicle department or 6 months after the date on which such State becomes a participating State.

The chief State driver license officials (except for individuals obtaining information on themselves pursuant to the Privacy Act) remain the only persons who have access to the NDR, i.e., all requests other than Privacy Act requests from individuals seeking information on themselves, must be made through these officials. Under the current system, chief driver licensing officials' access is restricted to information to be used for driver licensing purposes only. The NDR Act of 1982 now permits chief driver licensing officials to obtain NDR information for additional purposes and on behalf of additionally authorized users. The new law provides access as follows:

1. For purposes of State driver improvement or highway safety. The Agency plans to define the specific purposes for which the NDR information may be used under this broadened authority in each pilot State contract (See discussion of pilot test program, infra). These uses, as well as attendant procedures will be evaluated after the completion of the pilot test program at which time the Agency will seek comments on final definitions and procedures covering this provision. Until such time, requests pertaining to driver improvement or highway safety will be honored only from pilot States.

2. On behalf of the Chairman of the National Transportation Safety Board (NTSB) and the Administrator of the Federal Highway Administration, for purposes of requesting information regarding any individual who is the subject of any accident investigation conducted by NTSB or the Bureau of Motor Carrier Safety (BMCS).

Procedures have been established via agreement with the District of Columbia driver licensing officials, whereby NTSB and BMCS submit inquiries for transmittal to the District of Columbia for processing.

3. On behalf of a driver or person seeking employment as a driver with the provision that the information will be transmitted directly to the employer or prospective employer, who shall make that information available to the affected individual. Further, the law stipulates that such information shall not have been entered in the Register more than three years before the date of the request.

Definitions and procedures to be followed by the State licensing officials for transmitting such requests and for sending the NDR responses to the employer as well as the computer processing steps necessary to insure compliance with the Act's limitation that the transmitted information be no more than three years old, will be developed and tested as part of the pilot test program. Thus, requests pursuant to this section will only be accepted from the pilot States during the pilot test program period. These definitions and procedures will be evaluated after the completion of the pilot test program at which time the Agency will seek comments on final definitions and procedures covering this provision.

4. On behalf of an individual to:

a. Determine whether the NDR is providing any data regarding him or her or the accuracy of any such data, or

b. Obtain a certified copy of data provided through the NDR regarding the individual.

This information may also be obtained directly by the individual, as it is currently done, through Privacy Act requests sent directly to the NDR.

Procedures to be followed by individuals and State licensing officials pursuant to this provision will be developed and tested as part of the pilot test program. These procedures will be evaluated after completion of the pilot test program at which time the Agency will seek comments on final procedures covering this provision.

Requests from Federal agencies in connection with the issuance of permits to operate Federally owned vehicles, as are permitted under the current NDR (Pub. L. 89–563, 23 U.S.C. 313, note) will be treated differently under the new NDR. To obtain these records, Federal agencies will be required, like any other employer, to request the employee or prospective employee to arrange to have information provided to them. Until such time as the procedures for this employer access provision have been promulgated, Federal agencies will continue to submit requests directly to the NDR under current arrangements and procedures.

Pilot Test Program

Because it is desirable to evaluate the features that now appear to be essential to the PDPS concepts and to determine the extent to which the PDPS serves the needs of the States, Congress mandated that a pilot test program be conducted. The program will begin with a four-State pilot test program. Following evaluation of the results of the test, a determination will be made with respect to changes to be made in the system and possible amendments to be sought in the law. The full PDPS is to be implemented no later than October 25, 1989.

The pilot test program is intended to demonstrate the effectiveness of the referral ("pointer") and relay procedures, using electronic communications (interactive and remote job entry). All provisions of the new NDR including broadened uses, increased access and records on conviction data will be incorporated into the pilot test program. The test will therefore provide the basis for evaluations by the Congress, the States, and the Agency as well as initiate the actual PDPS operations.

Four (4) States will be selected, in accordance with the Act on the following bases:

1. Interest in participating in the program;

2. Having, at the time of selection, an intrastate, on-line driver licensing system capable of electronic transmissions to the NDR;

3. Indication of willingness to participate in a comprehensive mechanical and programmatic evaluation of the system;

4. Variance from other selected States with respect to geography and population so that the four pilot States, as a group, will be representative of varying geographical and population characteristics of the Nation.

5. Agreement to provide other States with driver record information as required in the system concepts; and

6. Variance from other selected States with respect to computer technologies and equipment.

The selection of the pilot test program States will be accomplished through a competitive procurement process. As warranted by findings in the systems design study, more detailed and additional criteria will be described in the request for proposals (RFP), scheduled to be issued later this year.

Proposal for Transition Procedures

The Act provides that a State "may become a participating State under this title by notifying the Secretary of its intention to be bound by the provisions of section 205", which prescribes the categories and content of reports to be transmitted to the NDR. Thus, participation will require, at a minimum, that a State agree to transmit reports regrading individuals whose licenses

have been denied or withdrawn, or who have been convicted of any of the offenses identified in section 205 (listed earlier).

Once the pilot test program has been assessed, the Agency will promulgate regulations establishing procedures whereby a State may make such notification. In this way, States may be brought gradually into the PDPS. A State will be allowed to participate either electronically or, until such time as capable of electronic data transmission, by mail.

The law further requires that the NDR "not maintain in the Register any report or information which was compiled under the provisions of Pub L. 86-660" (governing the present NDR operations) after October 25, 1989. Consequently, by the date a State must either be participating in the PDPS or, if still participating under the present system, cease doing so until brought into the PDPS according to the procedures to be established as referenced above.

It is important to note that during the pilot test program period and during the time that the remaining States are converting to PDPS, the NDR will continue to provide full service to all States. This will necessitate the maintenance of a dual system by the NDR, whereby it will facilitate the interrelations of both conventional (current system) and PDPS States.

Until 40% of the participating States operate under PDPS, or until October 25, 1989, whichever occurs first, all States, including PDPS States shall continue to transmit substantive information on adverse actions to the NDR. The categories of adverse actions shall be those defined in the current NDR. Conviction data will not be transmitted in substantive format. (See discussion below.) Therefore, for a period of time, PDPS States will transmit both pointer and substantive information.

After such time as 40% of the participating States or after October 25, 1989, whichever occurs first, PDPS States will be required to transmit only pointer records. As a result, when an inquiry from a non-PDPS State matches a record from a PDPS State, the State of Inquiry will be informed merely that a pointer record exists in a given State. To retrieve the substantive information the State of Inquiry must request it directly from the State of Record.

In this manner, PDPS States will not be burdened with providing dual records for an extended period of time.

As indicated above, the types of records accessible through the new NDR have been broadened to include conviction records. To fully test the system, PDPS States will submit reports based on these additional records, in pointer format only, starting with the pilot test program. These records will be made accessible to all PDPS States of Inquiry. However, we are seeking comments on the feasibility and desirability of making these conviction records available to all States.

Recognizing the length of time required before the rapid communications capability of the PDPS will be available to the vast majority of States, the Agency has determined that it can provide interim improvements that will meet the States' needs for a rapid response service. One approach under consideration is the implementation of the "Rapid Response System" (RRS) concept developed in 1978 (referenced earlier). While this sytem allows States prossessing the requisite computer capabilities to receive responses to inquiries as rapidly as under PDPS, it is markedly different from the PDPS in that it retrieves only the information currently contained in the NDR master file.

Congress, in passing the NDR Act of 1982 and requiring a system such as the PDPS, recognized the potential privacy problems arising out of inaccurate and outdated data contained in the NDR file. The Agency therefore seeks comments from all interested parties as to the desirability of providing a rapid access capability to the NDR file pending the transition to the full PDPS. In addressing the desirability of the RRS as a transition system, commenters are asked to weigh not only its substantive benefits and shortcomings but also the costs and implementation time necessary to provide this interim capability.

Another interim improvement, which is already in effect, is the Remote Job Entry system, whereby States can send and receive data over telephone lines. States using this method are able to receive responses to their inquiries in less than 24 hours.

Implementation Schedule

The following implementation schedule is proposed. Several of these dates are mandated by the Act.

Milestone	Date
1. Design of pilot test program	Apr. 25, 1984.
2. Implementation of the pilot test program.	Oct. 25, 1984.
3. Selection of pilot States	Apr. 25, 1985.
4. Completion of the pilot test program	Oct. 25, 1985.
5. Commencement of pilot test program evaluation.	Do.
6. Report of Evaluation to Congress	Oct. 25, 1986.
7. Conversion of all States to PDPS	Oct. 25, 1989.

The Agency is requesting comments from any interested parties regarding this schedule. States in particular are requested to asess this schedule in light of major procurement and file conversion efforts that would be required if they choose to participate in the NDR by using electronic communications.

Privacy Considerations

The current NDR complies with the Federal Privacy Act, as will the PDPS and any transitional NDR.

The PDPS concept presents unique enhancements of data reliability and integrity. Because all data stored at the NDR for the pointer functions will be furnished directly by the member States, the data should be more accurate and current. Further, because the size of the (pointer) file is greatly reduced, fewer data will be susceptible to recording errors.

Most NDR data is already in the public domin at the State level, and consequently is not highly sensitive. Therefore, an intensive degree of security is not required to protect individual's right to privacy. No specialized communication measures appear to be necessary for the on-line portions of the system, particularly since States have strict access controls for their own systems. Nonetheless, a detailed privacy and security plan will be prepared for the electronic NDR and will be implemented as part of the pilot test program. This will include software techniques which will be adapted to maintain security through use of passwords, log-on procedures, etc. with minimal impact on users. Details of this plan will appear in the RFP for the pilot test program.

NHTSA has analyzed the impact of this action and has determined that it is not "major" within the meaning of Executive Order 12291, but is "significant" within the meaning of Department of Transportation regulatory policies and procedures. In reaching the ultimate goal of the NDR Act of 1982, which is to have all States participating in an electronic Register, we anticipate that States will expend a considerable amount of money for computer systems. However, this upgrade may be for purposes broader than joining the NDR. Nonetheless, the Agency is not imposing any mandatory requirements on the States because participation in the NDR will remain voluntary.

As soon as practicable, the Agency will commence a pilot test program in which; (a) Problems will be identified and corrected, thus enabling the Agency to establish procedures for full implementation of the PDPS, and (b) data and other information will be

collected and analyzed for the purpose of assessing various operational and administrative aspects and features of the PDPS. When final decision concerning the NDR are made by both the Agency and Congress it will be possible to evaluate adequately the impact which the PDPS system will have upon the States.

Because there will be virtually no economic impact from this rule, a full regulatory evaluation is not necessary.

In accordance with the Regulatory Flixibility Act, the Agency has evaluated the effects of this rule on small entites. Based on that evaluation, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities. Accordingly, no regulatory flexibility analysis has been prepared.

The Agency has also analyzed this action for the purpose of the Nationl Environmental Policy Act. The Agency has determined that this action will not have any effect on the human environment. Interested persons are invited to comment on this proposal. It is requested but not required that 10 copies be submitted.

All comments must be limited to 15 pages in length. Necessary attachments may be appended to those submissions without regard to the 15 page limit. (49 CFR 553.21). This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing data will also be considered. However, the rulemaking action may proceed at any time after that date. Any comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NITSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

(23 U.S.C. 401; delegations of authority at 49 CFR 1.50 and 501)

Issued on September 24, 1984.

Diane K. Steed,

Administrator.

Transition Procedures From Current to New National Driver Register

1. Scope

This rule provides procedures, in accordance with section 203(c)(1) of the National Driver Register Act of 1982 (Pub. L. 97–364), for the orderly transition from the system regarding the motor vehicle driving records of individuals as provided in Pub. L. 86–660, as amended, National Driver Register (current NDR) to the system established in Pub. L. 97–364 (new NDR).

2. Purpose

The purpose of this rule is to provide States with information concerning the procedures which the National Highway Traffic Safety Administration plans to follow to implement the new National Driver Register. This will ensure that participating States understand their rights and obligations during the transitional period which will commence on the effective date of this notice and will terminate on October 25, 1989.

3. Definitions

3.1. Problem Driver Pointer System (PDPS)—whereby the NDR serves as a conduit for retrieving information from the State which took adverse action against a driver (State of Record) and relaying that information, without interception, to the State requesting the information (State of Inquiry).

3.2. Pointer Record—A report containing only such data as described in section 205(b) of Pub. L. 97–364.

3.3. PDPS State—A State, which participates in the pilot test program or, after the pilot test program is completed, which participates in the PDPS, by submitting pointer records for inclusion in the NDR file and by providing information as a State of Record.

3.4. Non-PDPS State—A State which operates under the current NDR by submitting complete substantive adverse driver licensing data to the NDR.

3.5. Match—When the personal identifying information in an inquiry compares with the personal identifying information on a record in the NDR file such that there is a high probability that the individual identified on both records is the same person.

4. General Transition Procedures

4.1. Data To Be Transmitted to NDR by PDPS States.

4.1.1. The chief driver licensing official in each PDPS State shall transmit to the NDR a pointer record regarding any individual who has had adverse action taken against him as described in section 205 of Pub. L. 97–364.

4.1.2. The chief driver licensing official in each PDPS State shall transmit to the NDR the full substantive adverse action data on any individual who has had adverse action taken against him as described in Pub. L. 86–660 as amended, until such time as 40% of the participating States become PDPS States or until October 25, 1989, whichever occurs first.

4.2. Data To Be Transmitted to NDR by Non-PDPS States.

4.2.1. The chief driver licensing official in each non-PDPS State shall transmit to the NDR the full substantive adverse action data on any individual who has had adverse action taken against him as described in Pub. L. 86–660, as amended by Pub. L. 89–563, Title IV, section 401, 23 U.S.C. 313, note.

4.3. Data To Be Received by PDPS States.

4.3.1. When a match occurs with a pointer record on file from a PDPS State, the PDPS State of Inquiry will receive the pointer record response from the NDR and the adverse action information from the State of Record.

4.3.2 When a match occurs with a record on file from a non-PDPS State, the PDPS State of Inquiry will receive the full substantive record from the NDR.

4.3.3. When no match occurs, the PDPS State of Inquiry will receive a negative response from the NDR if either: (a) The inquiry was transmitted interactively, or (b) the inquiry is on behalf of an employer or an individual.

4.4. Data To Be Received by Non-PDPS States.

4.4.1. When a match occurs with a record on file from a non-PDPS State, the non-PDPS State of Inquiry will receive the full substantive record from the NDR.

4.4.2. When a match occurs with a record on file from a PDPS State, the non-PDPS State of Inquiry will receive the full substantive record which includes the personal identifying information pointer record from the NDR until such time as described in section 4.1.2, after which non-PDPS States of Inquiry will receive only pointer records.

4.4.3. Prior to the time described in section 4.1.2, when a match occurs with a record on file from a PDPS State, but a substantive record is not available from the NDR, the non-PDPS State will receive a pointer record which will

indicate to the State that only conviction data exists and that it must be obtained directly from the State of Record.

4.4.4. When no match occurs, the non-PDPS State of Inquiry will not receive any response.

4.5. Accessibility of NDR Information.

4.5.1. All requests for information from the NDR must be made by State chief driver licensing officials with the exception of requests by Federal agencies in connection with the issuance of permits to operate Federally owned vehicles.

4.5.2. All requests for information made by State chief driver licensing officials must pertain to driver licensing with the exception of requests on behalf of the Chairman of the National Transportation Safety Board and the Administrator of the Federal Highway Administration, for purposes of requesting information regarding any individual who is the subject of any accident investigation conducted by the NTSB or Bureau of Motor Carrier Safety, and requests from States participating in the pilot test program as provided in Pub. L. 97–364, 23 U.S.C. 513, note. Requests from States participating in the pilot test program may be for the purposes of State driver improvement or highway safety as defined in each pilot State contract.

[FR Doc. 84–25781 Filed 9–28–84; 4:25 pm]
BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 906

Public Comment and Opportunity for Public Hearing on Proposed Modifications of the Colorado Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule: Notice of receipt of permanent program modifications: Public comment period and opportunity for public hearing.

SUMMARY: OSM is announcing procedures for the public comment period and for a public hearing on the adequacy of proposed amendments to the Colorado Permanent Regulatory Program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA) which were submitted to OSM by Colorado for the Director's approval. The amendments pertain to notice and approval requirements and performance standards for coal exploration, permit application information requirements pertaining to soil resources and performance standards for surface mining operations relating to topsoil, sealing of drilled holes and underground openings, explosives, and the cessation of operations.

This notice sets forth the times and locations that the Colorado program and proposed amendments are available for public inspection, the comment period during which interested persons may submit written comments on the proposed program elements, and the procedures that will be followed at the public hearing.

DATES: Written comments from members of the public not received by 4:30 p.m. on October 31, 1984 will not necessarily be considered in the Director's decision on whether the proposed amendments satisfy the criteria for approval.

A public hearing on the proposed amendments has been scheduled for October 29, 1984. Any person interested in making an oral or written presentation at the hearing should contact Mr. Robert Hagen at the address and telephone number listed below by October 15, 1984. If no person has contacted Mr. Hagen by this date to express an interest to participate in this hearing, the hearing will not be held.

ADDRESSES: The public hearing will be held between 9:00 a.m. and 12:00 noon in room 2010, Technical Center West, Brooks Towers, 1020 15th St., Denver, Colorado. Written comments and requests for an opportunity to speak at the public hearing should be sent to Mr. Robert Hagen, Field Office Director, Office of Surface Mining Reclamation and Enforcement, New Mexico Field Office, 219 Central Avenue, N.W., Albuquerque, New Mexico 87102.

Copies of the Colorado program, the proposed modifications to the program and all written comments received in response to this notice will be available for public review at the OSM Field Office above and the OSM Headquarters office and the office of the State regulatory authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Colorado Mined Land Reclamation Division, Department of Natural Resources, 1313 Sherman Street, Denver, Colorado 80220

Office of Surface Mining, 1100 "L" Street, NW., Room 5124, Washington, D.C., Telephone: (202) 343–5351

FOR FURTHER INFORMATION CONTACT: Mr. Arthur W. Abbs, Chief, Division of State Program Assistance, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW., Washington, D.C. 20240, Telephone: (202) 343–5351.

SUPPLEMENTARY INFORMATION: On February 29, 1980, OSM received a proposed regulatory program from the State of Colorado. On December 15, 1980, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary approved the program subject to the correction of 45 minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the December 15, 1980 **Federal Register** (45 FR 82173–82214).

Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Colorado program can be found in the December 15, 1980 **Federal Register** (45 FR 82173–82214).

On August 28, 1984, the Colorado Mined Land Reclamation Division submitted proposed program amendments for OSM's approval.

The amendments include proposed changes to the Colorado Code of Regulations as outlined below:

Section 1.04 Definitions

Paragraph (22), the definition for "Coal Exploration," is revised.

Section 2.02 General Requirements for Coal Exploration

Paragraph 2.02.1, "Scope," is revised.

Section 2.02.2 Exploration Involving Removal of 250 Tons or Less of Coal

Paragraphs 2.02.2(2) (c) and (g), pertaining to the content requirements of written notices, are revised.

Section 2.02.3 General Requirements: Exploration Involving Removal of More than 250 Tons of Coal

Paragraphs 2.02.3(1) (c)(ii) and (e), concerning the content requirements for an application for approval, are revised.

Section 2.04.9 Soil Resources Information

Paragraphs 2.04.9(1) (a)–(c), pertaining to permit application information requirements relating to soil resources, are revised.

Section 4.06 Topsoil

Paragraph 4.06.1(2), pertaining to general requirements for the handling of topsoil for surface coal mining operations, is revised.

Paragraph 4.06.2(2)(1), concerning the timing of topsoil removal, is revised.

Paragraph 4.06.2(2)(a), pertaining to the materials to be removed, is revised.

Paragraph 4.06.2(4)(a)(ii), concerning topsoil trials and tests, is revised.

Paragraphs 4.06.4 (1) and (2)(a), pertaining to topsoil redistribution, are revised.

Section 4.07 Sealing of Drilled Holes and Underground Openings

Paragraph 4.07.1(2), covering general requirements for the sealing of drilled holes and underground openings, is revised.

Paragraph 4.07.2, covering the temporary sealing of drilled holes and underground openings, is revised.

Paragraph 4.07.3(2), pertaining to the permanent sealing of holes and underground openings in aquifers, is revised.

Section 4.08 Use of Explosives

Paragraphs 4.08.3(2)(b) (i) and (ii), pertaining to the contents of the blasting schedule, are revised.

Paragraph 4.08.4(1)(b)(ii), establishing requirements for surface blasting, is revised.

Paragraphs 4.08.4 (10) and (10(a), pertaining to the maximum peak particle velocity in blasting operations, are revised.

Paragraph 4.08.5(14), pertaining to the records of blasting, is revised.

Paragraph 4.08.6(2), concerning seismographic measurements, is revised.

Section 4.21 Coal Exploration

Paragraph 4.21.1, "Scope", is revised.

Paragraph 4.21.4(1), concerning performance standards for coal exploration, is revised.

Section 4.30 Cessation of Operations

Paragraph 4.30.1(2), pertaining to the temporary cessation of operations, is revised.

The proposed amendments are available for review, in full text, at the addresses listed above. The Secretary seeks public comment on whether the proposed modifications to the Colorado permanent program listed above satisfy the criteria for approval of State program amendments at 30 CFR 732.15 and 732.17. If the Secretary determines the proposed modifications are consistent with SMCRA and no less effective than OSM's regulations, the amendments will be approved, and 30 CFR 906 modified accordingly.

Additional Determinations

1. *Compliance With the National Environmental Policy Act:* The Secretary has determined that pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Compliance With the Regulatory Flexibility Act:* The Secretary has tentatively determined that this proposed rule would not have a significant economic impact on small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

3. *Compliance With Executive Order No. 12291:* On August 28, 1981, the Office of Management and Budget (OMB) granted the Office of Surface Mining exemption from sections 3, 4, 6, and 8 of Executive Order 12291 for all actions taken to approve, or conditionally approve, State regulatory program, actions, or amendments. Therefore, a Regulatory Impact Analysis and regulatory review by OMB is not needed for this program amendment.

List of Subjects in 30 CFR Part 906

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Authority: Sec. 503, Pub. L. 95–87 (30 U.S.C. 1253), unless otherwise noted.

Dated: September 24, 1984.

William B. Schmidt,

Acting Director, Office of Surface Mining.

[FR Doc. 84–25912 Filed 9–28–84; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD7 84–10]

Marine Parade; Pompano Beach 22nd Annual Christmas Boat Parade

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rule making.

SUMMARY: Special Local Regulations are being adopted for the Pompano Beach 22nd Annual Christmas Boat Parade. The parade is scheduled to take place in all navigable waters from a center point between Lake Santa Barbara and Lettuce Lake. The regulations are needed to provide for the safety of life on navigable waters during the event.

EFFECTIVE DATE: These regulations would become effective at 1830 local time on 16 December 1984 and terminate at 2200 local time on 16 December 1984.

ADDRESSES: Comments should be mailed to Commander, USCG Group Miami, 100 Macarthur Causeway, Miami Beach, FL 33139. The comments and other materials referenced in this notice will be available for inspection and copying at 100 Macarthur Causeway, Communications Center. Normal office hours are between 7:00 a.m. and 3:30 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Ens. T.F. Tabrah (305) 350–4309.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rule making by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (84–10) and the specific section of the proposal to which their comments apply, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped self-addressed postcard or envelope is enclosed.

The regulations may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The drafters of notice are Ens T.F. Tabrah, project officer, USCG Group Miami and LCDR K.E. Gray, project attorney, Seventh Coast Guard District Legal Office.

Discussion of Proposed Regulations

The Pompano Beach 22nd Annual Christman Boat Parade is a 10 mile parade with approximately 75–100 boats displaying decorative lighting expected to participate. Regulations are issued by the Commander, U.S. Coast Guard Group Miami as a public service to facilitate the holding of this event, to promote maritime safety, and to reduce to a minimum interference with other vessel traffic in the area.

Economic Evaluation and Certification

These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). A draft regulatory evaluation has been prepared and placed in the rulemaking docket. It may be inspected and copied at the address listed under **ADDRESSES.** Copies may also be obtained by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.**

Based upon the information in the draft evaluation, the Coast Guard certifies that this proposal, if adopted, will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposed to amend Part 100 of Title 33, Code of Federal Regulations, by adding a temporary § 100.35–T710 to read as follows:

§ 100.35–T710 Lake Santa Barbara and Lettuce Lake Christmas Boat Parade.

(a) *Regulated area:* All navigable waters from a center point between Lake Santa Barbara and Lettuce Lake, (approximate position 26–13.2N, 080–05.9W) proceeding north in the Intracoastal Waterway to the Hillsboro Blvd. Bridge in Hillsboro Beach.

(b) *Special Local Regulations:*

(1) All vessel traffic in the regulated area will be controlled by the Patrol Commander and will proceed at 5 MPH when passing parade participants.

(2) Rule 20 of the Inland Navigation Rules Act of 1980 will be suspended for registered participants only.

(3) A succession of not less than 5 short whistle or horn blasts from a patrol vessel will be signal for any non-participating vessels to stop immediately. The display of a red distress flare from a patrol vessel will be signal for any and all vessels to stop immediately.

[46 U.S.C. 454; 49 U.S.C. 1655(b); 49 CFR 1.46(b); and 33 CFR 100.35]

Dated: September 26, 1984.

G.E. Walton,

Captain, U.S. Coast Guard Commander. USCG Group Miami.

[FR Doc. 84–25946 Filed 9–28–84; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 100

[CGD11 84–71]

Marine Event; Lake Havasu Classic

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This proposed rule will establish special local regulations during the Lake Havasu Classic. This event will be held on 21 through 24 November 1984 at Thompson Bay, Lake Havasu, Arizona. Through this action the Coast Guard intends to ensure the safety of spectators and participants on navigable waters during the event.

DATE: Comments must be received on or before 15 October 1984.

ADDRESSES: Comments should be mailed to Commander (bb), Eleventh Coast Guard District, 400 Oceangate Blvd., Long Beach, CA 90822. The comments will be available for inspection and copying at the Union Bank Bldg., Suite 901, 400 Oceangate, Long Beach, California. Normal office hours are between 7:30 a.m. and 3:30 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: LTJG Jorge Arroyo, Eleventh Coast Guard District Boating Affairs Office, 400 Oceangate, Long Beach, California 90822, Tel: (213) 590–2331.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rule making by submitting written views, data, or arguments. Commenters should include their name and address, identify this notice (CGD11 84–71) and the specific section of the proposal to which their comments apply, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped self-addressed postcard or envelope is enclosed.

The regulations may change in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rule making process.

Drafting Information

The drafters of this regulation are LTJG Jorge Arroyo, Project Officer, Boating Affairs Office, Eleventh Coast Guard District and LT Joseph R. McFaul, Project Attorney, Legal Office, Eleventh Coast Guard District.

Discussion of Proposed Regulation

The Havasu Sports Federation's "Lake Havasu Classic" will be conducted on the Colorado River beginning 21 November 1984, east of Spectator Point in Thompson Bay, Lake Havasu. This event will have 75 tunnel and pleasure/modified V-bottom outboard boats, 10 to 20 feet in length that could pose hazards to navigation. Vessels desiring to transit the regulated area may do so only with clearance from a patrolling law enforcement vessel or an event committee boat.

Economic Assessment and Certification

These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulation, and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary, since the regulated area will be opened periodically for the passage of vessel traffic.

Since the impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 100 of Title 33, Code of Federal Regulations, by adding the following section:

§ 100.35–11 84–71 Lake Havasu Classic, Lake Havasu, Arizona.

(a) *Regulated Area:* The following area may be closed intermittently to all vessel traffic. That portion of Thompson Bay, Lake Havasu, Arizona starting approximately 100 yards on a bearing of 130°T off Spectator Point, thence due north approximately 1,110 yards, thence 140°T approximately 2,200 yards, thence due west approximately 2,400 yards, then back to the starting point.

(b) *Effective Dates:* These regulations will be effective from 8:00 AM to 5:30 PM on 21 through 24 November 1984.

(c) *Special Local Regulations:* All persons and/or vessels not registered with the sponsor as participants or official regatta patrol vessels are considered spectators. The "official regatta patrol" consists of any Coast Guard, public, state or local law enforcement and/or sponsor provided vessels assigned to patrol this event.

(1) No spectators shall, block, anchor, loiter in, or impede the through transit of participants or official regatta patrol vessels in the regulated area during the effective dates, unless cleared for such entry by or through an official regatta patrol vessel.

(2) When hailed and/or signaled by horn or whistle by an official regatta patrol vessel, a spectator shall come to an immediate stop. Vessels shall comply with all directions of the designated Patrol Commander. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(3) All vessels in close enough vicinity shall operate at a safe and prudent speed which will create a minimum wake that will not affect participants.

(4) The Patrol Commander is empowered to forbid and control the movement of vessels in the regulated area. He may terminate the marine event at any time it is deemed necessary for the protection of life and property. He may be reached on VHF Channel 16 (156.8 MHz) when required, by the call sign "PATCOM".

(46 U.S.C. 454; 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b); 33 CFR 100.35)

Dated: August 30, 1984.

J.I. Maloney,

Captain, U.S. Coast Guard, Commander, Eleventh Coast Guard District, Acting.

[FR Doc 84-25948 Filed 9-28-84; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 117

[08-84-03]

Drawbridge Operation Regulations; West Pearl River, LA

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At The request of the Louisiana Department of Transportation and Development (LDOTD), the Coast Guard is considering a change to the regulation governing the operation of the lift span bridge over the West Pearl River, mile 7.9, on U.S. Highway 90 near Pearlington, St. Tammany Parish, Louisiana by requiring that at least four hours advance notice be given for an opening of the draw. Presently, the draw is required to open on signal from 5:00 a.m. to 9:00 p.m. and on 12 hours advance notice from 9:00 p.m. to 5:00 a.m. This proposal is being made because of the infrequent requests for opening the draw. This action should relieve the bridge owner of the burden of having a person constantly available at the bridge to open the draw from 5:00 a.m. to 9:00 p.m., while still providing for the reasonable needs of navigation.

DATE: Comments must be received on or before November 15, 1984.

ADDRESSES: Comments should be mailed to Commander (obr), Eighth Coast Guard District, 500 Camp Street, New Orleans, Louisiana 70130. The comments and other materials referenced in this notice will be available for inspection and copying at the Eighth Coast Guard District, Bridge Administration Branch, Room 1115, 500 Camp Street, New Orleans, Louisiana 70130. Normal office hours are between 8:00 a.m. and 3:30 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Perry Haynes, Chief, Bridge Administration Branch, at the address given above, telephone (504) 589–2965.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data or arguments. Persons submitting comments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgement that their comments have been received should enclose a stamped, self-addressed postcard or envelop.

The Commander, Eighth Coast Guard District, will evaluate all communications received and determine a course of final action on this proposal. The proposed regulation may be changed in the light of comments received.

Drafting Information

The drafters of this notice are Perry Haynes, project officer, and steve Crawford, project attorney.

Discussion of Proposed Regulation

Vertical clearance of the bridge in the closed position is 10.0 feet above high water and 12.6 feet above low water. Navigation through the bridge consists of commercial and pleasure vessels. Data submitted by the LDOTD for the years 1983 and 1982 show that this traffic through the bridge is as follows:

(1) In 1983, between 5:00 a.m. and 9:00 p.m., the period when the bridge now has to open on signal, there were 120 bridge openings—an average of 10.0 openings per month or an average of one opening every three days. In 1982, for the same time period, there were 142 bridge openings.

(2) In both 1983 and 1982, between 9:00 p.m. and 5:00 a.m., the period when the bridge now is on 12 hours advance notice, there were virtually no openings for navigation.

Considering the few openings involved, the Coast Guard feels that the current on site attendance at the bridge is not warranted, and adoption of the four-hour advance notice for an opening will provide relief to the bridge owner, while still reasonably providing for the needs of navigation.

The advance notice for opening the draw would be given by placing a collect call at any time to the LDOTD District Office at Hammond, Louisiana, telephone (504) 345–7390.

Economic Assessment and Certification

This proposed regulation is considered to be non-major under Executive Order 12291 on Federal Regulation and non-significant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. The basis for this conclusion is that few vessels pass this bridge, as evidenced by the 1983 and 1982 bridge opening statistics which show that the bridge averages one opening about every three days. These vessels can reasonably give four hours notice for a bridge opening by placing a collect call to the bridge owner at any time. Mariners requiring the bridge openings are mainly repeat users and scheduling their arrival at the bridge at the appointed time should involve little or no additonal expense to them. Since the economic impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulation

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations, by revising § 117.511(b) to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.511 West Pearl River.

* * * * *

(b) The draw of the US90 bridge, mile 7.9 near Pearlington, shall open on signal if at least four hours notice is given.

(33 U.S.C. 499; 49 CFR 1.46(c)(5); 33 CFR 1.05–1(g)(3))

Dated: September 18, 1984.

W.H. Stewart,

Rear Admiral, U.S. Coast Guard.

[FR Doc. 84-25949 Filed 9-28-84; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

34 CFR Parts 361, 362, 366, 369, 373, 379, 385, 386, and 389

Rehabilitation Services Administration Programs

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to issue regulations under the Rehabilitation Act of 1973, as amended (the Act) for a variety of programs administered by the Rehabilitation Services Administration (RSA). The proposed regulations implement amendments to the Act made by Pub. L. 98–221, the Rehabilitation Amendments of 1984.

DATES: Comments must be received on or before November 15, 1984.

ADDRESSES: Comments should be addressed to: Charles Smolkin, Rehabilitation Services Administration, Department of Education, 400 Maryland Avenue, SW. (Switzer Building, Room 3418), Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Charles Smolkin, (202) 732–1303.

SUPPLEMENTARY INFORMATION: The Rehabilitation Services Programs are authorized by the Rehabilitation Act of 1973, Pub. L. 93–112 (29 U.S.C. 701 *et seq.*), as amended. The programs support a wide variety of services and activities that assist in the rehabilitation of handicapped individuals.

Regulations for the programs affected by this notice were published on December 30, 1980 (45 FR 86378) and January 19, 1981 (46 FR 5410, 5416, and 5521) and are currently codified at 34 CFR Parts 361, 362, 366, 369, 373, 379, 385, 386, and 389. These proposed regulations implement miscellaneous amendments to the Act, recently made by Pub. L 98–221, the Rehabilitation Amendments of 1984. A summary of the proposed regulations follows:

Part 361—The State Vocational Rehabilitation Services Program

Section 361.150 would expand the scope of the Innovation and Expansion grant program to include projects that maximize use of technological innovations in meeting employment and training needs of handicapped youth and adults in accordance with Section 121(a)(3) of the Act.

Part 362—Project Grants and Other Assistance in Vocational Rehabilitation

Subpart F is removed because the National Center for Deaf-Blind Youths and Adults is now authorized under Title II of Public Law 98–221, as the Helen Keller National Center, rather than under the Rehabilitation Act. Subpart G is removed because evaluation projects are no longer carried out under Section 401 of the Act. These regulations are no longer needed.

Part 366—Centers for Independent Living

Section 366.20 describes the components of an annual evaluation plan that applicants for independent living centers grants would be required to include in their applications. This provision implements section 711(c)(3) of the Act.

Part 373—Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Severely Handicapped Individuals

Section 373.10 would be revised to remove the reference to spinal cord injured individuals because section 311(a) of the Act transfers authority for spinal cord special projects and demonstrations from RSA to the National Institute for Handicapped Research.

Part 379—Projects With Industry

Section 379.2 would add State vocational rehabilitaton units to the list of eligible applicants under the Projects With Industry Program, in accordance with section 621(a)(1) of the Act.

Section 379.43 would identify the required components of an annual evaluation plan required under a Projects With Industry agreement. This provision implements section 621(a)(3) of the Act.

Part 385—Rehabilitation Training

Section 385.1(a)(1) would state that the purpose of the rehabilitation training program is to increase the number of "qualified" personnel trained to provide rehabilitation services, in accordance with an amendment to Section 304(a) of the Act.

Section 385.4(b) would define "qualified" personnel as personnel who have met existing certification and/or licensure requirements, if any, of appropriate State and/or national certification boards, in accordance with language in the Conference Report on Pub. L. 98–221.

Section 385.43 would require that all grantees that train rehabilitation counselors under Parts 386–390 include training in the applicability of section 504 of the Act or ensure that those counselors are knowledgeable in the applicability of Section 504. This provision implements Section 304(a) of the Act.

Part 386—Rehabilitation Training: Rehabilitation Long-Term Training

Section 386.1 would provide that funds for long-term training be targeted to areas of personnel shortage, in accordance with an amendment to section 304(b) of the Act.

Sections 386.1 (u) and (v) would identify independent living and client assistance as areas in which personnel may be trained, in accordance with section 304(a)(2) of the Act.

Section 386.42(a)(5) would correct an error in the current regulations to permit traineeship candidates to be enrolled in academic, as well as non-academic, study.

Part 389—Rehabilitation Continuing Education Programs

Section 389.10(c) (2) and (3) would authorize grantees to train staff of centers for independent living and client assistance programs, in accordance with section 304(a)(2) of the Act.

Finally, these proposed regulations include several technical amendments and corrections, including a revised definition of "Act" in Part 369 and elsewhere.

Executive Order 12291

These proposed regulations have been reviewed in accordance with Executive Order 12291.

They are not classified as major because they do not meet the criteria for major regulations established in the Order.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations will not have a significant economic impact on a substantial number of small entities. States and State agencies are not regarded as small entities under the Act. In addition, to the extent that small entities are applicants or grantees under this program, these regulations will not impose any burdens on them.

Intergovernmental Review

These programs, with the exception of 34 CFR Parts 362, 373, 379, 385, 386, and 389, are subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79 (48 FR 29158; June 24, 1983). The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

In accordance with the Order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Invitation To Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Room 3418, Mary E. Switzer Building, 330 C Street SW., Washington, D.C., between the hours of 8:30 a.m. and 4:00 p.m.,

Monday through Friday of each week except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, public comment is invited on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Paperwork Reduction Act of 1980

The information collection requirements contained in these proposed regulations in § 366.20 (Part 366) and § 379.43 (Part 379) will be sent to OMB for review under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511).

Comments that only concern information collection requirements should be addressed to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, 17th Street and Pennsylvania Avenue, NW., Washington, D.C. 20503. Attention: Desk Officer for the U.S. Department of Education.

All other comments regarding these proposed regulations should be sent to the Department of Education at the address given at the beginning of this preamble.

List of Subjects

34 CFR Part 361

Administrative practice and procedure, Education, Grant programs—education, Grant programs—social programs, Vocational rehabilitation.

34 CFR Part 362

Blind, Education, Grant programs—education, Grant programs—social programs, Manpower training programs, Research, Technical assistance, Vocational rehabilitation.

34 CFR Part 366

Education, Grant programs—social programs, Reporting and recordkeeping requirements, Vocational rehabilitation.

34 CFR Part 369

Blind, Education, Grant programs—education, Grant programs—social programs, Manpower training programs, Research, Technical assistance, Vocational rehabilitation.

34 CFR Part 373

Education, Grant programs—social programs, Vocational rehabilitation.

34 CFR Part 379

Business and industry, Education, Reporting and recordkeeping requirements, Grant programs—social programs, Vocational rehabilitation.

34 CFR Part 385

Education, Grant programs—education, Vocational rehabilitation.

34 CFR Part 386

Education, Grant programs—education, Vocational rehabilitation.

34 CFR Part 389

Education, Grant programs—education, Vocational rehabilitation.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following ech substantive provision of these proposed regulations.

(Catalog of Federal Domestic Assistance No. 84.126, Basic Vocational Rehabilitation Services Program; 84.128, Special Projects; 84.130, Innovation and Expansion Grants; and 84.132, Centers for Independent Living)

T.H. Bell,

Secretary of Education.

The Secretary proposes to amend Parts 361, 362, 366, 369, 373, 379, 385, 386, and 389 of Title 34 of the Code of Federal Regulations as follows:

PART 361—THE STATE VOCATIONAL REHABILITATION SERVICES PROGRAM

1. In § 361.1, the definition of "Act" in paragraph (c)(2) is revised to read as follows:

§ 361.1 The State vocational rehabilitation services program.

* * * * *

(c) * * *

(2) * * *

"Act" means the Rehabilitation Act of 1973 (29 U.S.C. 701 *et seq.*), as amended.

* * * * *

2. Section 361.150 is revised to read as follows:

§ 361.150 Purpose.

Under section 121(a) of the Act, the Secretary makes grants for the purpose of paying a portion of the cost of planning, preparing for, and initiating special programs under the State plan in order to expand vocational rehabilitation services, including—

(a) Programs to initiate or expand services to individuals with the most severe handicaps;

(b) Special programs to initiate or expand services to classes of handicapped individuals who have unusual or difficult problems in connection with their rehabilitation; or

(c) Programs to maximize the use of technological innovations in meeting the employment training needs of handicapped youth and adults.

(Sections 121(a) of the Act; 29 U.S.C. 741(a))

PART 362—PROJECT GRANTS AND OTHER ASSISTANCE IN VOCATIONAL REHABILITATION

3. The table of contents for Part 362 is amended by removing and reserving Subparts F and G.

Subpart F—[Removed and Reserved]

4. In Part 362, Subpart F (§§ 362.80-362.84) is removed and reserved.

Subpart G—[Removed and Reserved]

5. In Part 362, Subpart G (§§ 362.90-362.91) is removed and reserved.

PART 366—CENTERS FOR INDEPENDENT LIVING

6. The table of contents for Part 366 is amended by adding a new Subpart C to read as follows:

* * * * *

Subpart C—How Does One Apply for a Grant?

Sec.
366.20 What are the application requirements?

* * * * *

7. Part 366 is amended by adding a new Subpart C to read as follows:

Subpart C—How Does One Apply for a Grant?

§ 366.20 What are the application requirements?

In addition to the information required by 34 CFR 75.107, each applicant shall include in its application—

(a) An assurance that handicapped individuals will be substantially involved in policy direction and management of the center, and will be employed by the center;

(b) An assurance that the center will offer handicapped individuals a combination of independent living services, including, as appropriate, the services described in the definition of "center for independent living" in § 366.4(b); and

(c) A description of an annual evaluation plan which contains, at a minimum, the following elements:

(1) The numbers and types of handicapped individuals assisted.

(2) The extent to which individuals with varying handicapping conditions were served.

(3) The types of services provided.

(4) The sources of funding.

(5) The percentage of resources committed to each type of service provided.

(6) How services provided contributed to the maintenance of or the increased independence of handicapped individuals assisted.

(7) The extent to which handicapped individuals participate in management and decisionmaking in the center.

(8) The extent of capacity building activities including collaboration with other agencies and organizations.

(9) The extent of catalytic activities to promote community awareness, involvement, and assistance.

(10) The extent of outreach efforts and the impact of such efforts.

(11) A comparison, when appropriate, of prior year(s) activities with most recent year activities.

(Section 711(c) of the Act; 29 U.S.C. 796e(c))

PART 369—VOCATIONAL REHABILITATION SERVICE PROJECTS

8. In § 369.4, the definition of "Act" in paragraph (b) is revised to read as follows:

§ 369.4 What definitions apply to these programs?

* * * * *

(b) * * *

"Act" means the Rehabilitation Act of 1973 (29 U.S.C. 701 *et seq.*), as amended.

* * * * *

PART 373—SPECIAL PROJECTS AND DEMONSTRATIONS FOR PROVIDING VOCATIONAL REHABILITATION SERVICES TO SEVERELY HANDICAPPED INDIVIDUALS

9. Section 373.10 is revised to read as follows:

§ 373.10 What types of projects are authorized under this program?

Authorized activities under this program include carrying out special projects concerned with establishing programs and constructing facilities for expanding or otherwise improving vocational rehabilitation services and other rehabilitation services to handicapped individuals, especially those who are the most severely handicapped. Handicapped individuals served under this program include blind individuals, deaf individuals, and other groups of severely handicapped individuals, irrespective of age or vocational potential, identified each year by the Secretary.

(Section 311(a) of the Act; 29 U.S.C. 777a(a))

§ 373.11 [Removed and Reserved]

10. Section 373.11 is removed and reserved, and the table of contents for Part 373 is amended accordingly.

PART 379—PROJECTS WITH INDUSTRY

11. Section 379.2 is revised to read as follows:

§ 379.2 Who is eligible for assistance under this program?

Employers and profit-making and nonprofit organizations with which the Secretary may enter into an agreement include any designated State unit; industrial, business, or commercial enterprise; labor organization; employer, industrial, or community trade association; rehabilitation facility; or other agency or organization with the capacity to arrange, coordinate, or conduct training and other employment programs, and provide supportive services and assistance for handicapped individuals in a realistic work setting.

(Section 621(a)(1) of the Act; 29 U.S.C. 795g(a))

12. In § 379.43, paragraphs (k) and (l) are revised, and paragraph (m) is added, to read as follows:

§ 379.43 What general provisions are required in agreements?

Any agreement entered into must, in addition to standard provisions—

* * * * *

(k) Provide that handicapped employees will not be unreasonably segregated from other employees;

(l) Contain an agreement to make reports and to keep any records and accounts required by the Secretary and to make records and accounts available for audit purposes; and

(m) Contain a description of an annual evaluation plan which contains, at a minimum, the following elements:

(1) The numbers and types of handicapped individuals assisted.

(2) The types of assistance provided.

(3) The sources of funding.

(4) The percentage of resources committed to each type of assistance provided.

(5) The extent to which the employment status and earning power of handicapped individuals changed following assistance.

(6) The extent of capacity building activities, including collaboration with other organizations, agencies, and institutions.

(7) A comparison, when appropriate, of current activities with activities of prior years.

(Sections 12(c) and 621 of the Act; 29 U.S.C. 711(c) and 795g)

PART 385—REHABILITATION TRAINING

13. The table of contents for Part 385 is amended by adding a new section heading to read as follows:

* * * * *

§ 385.43 What requirement applies to the training of rehabilitation counselors?

* * * * *

14. In § 385.1, paragraph (a)(1) is revised to read as follows. The introductory text of paragraph (a) is reprinted for the convenience of the reader.

§ 385.1 What is the Rehabilitation Training Program?

(a) The Rehabilitation Training Program is designed to—

(1) Increase the supply of qualified personnel available for employment in public and private agencies and institutions involved in the vocational rehabilitation and independent living rehabilitation of physically and mentally handicapped individuals, especially those individuals with the most severe handicaps; and

* * * * *

* * * * *

(b) * * *

15. In § 385.4, the definition of "Act" in paragraph (b) is revised to read as follows:

§ 385.4 What definitions apply to these programs?

"Act" means the Rehabilitation Act of 1973 (29 U.S.C. 701 *et seq.*), as amended.

* * * * *

16. In § 385.4, paragraph (b) is amended by inserting, after the definition of "Physical and mental restoration services", the following new definition:

"Qualified personnel" means personnel who have met existing certification and/or licensure requirements, if any, of appropriate State and/or national certification boards.

(H.R. (Conf.) Rep. No. 595, 98th Cong., 2nd Sess. 32 (1984))

17. Part 385 is amended by adding a new § 385.43 to read as follows:

§ 385.43 What requirement applies to the training of rehabilitation counselors?

Any grantee who provides training of rehabilitation counselors under any of the programs in 34 CFR Parts 386–390 must train those counselors in the applicability of the provisions of Section 504 of the Act or ensure that those counselors are knowledgeable in the applicability of those provisions.

(Section 304(a) of the Act; 29 U.S.C. 774(a))

PART 386—REHABILITATION TRAINING: REHABILITATION LONG-TERM TRAINING

18. Section 386.1 is amended by revising the introductory text, by removing the "and" at the end of paragraph (t), and by redesignating paragraph (u) as paragraph (w) and revising it and adding new paragraphs (u) and (v), to read as follows:

§ 386.1 What is the Rehabilitation Long-Term Training Program?

This program is designed to provide academic and non-academic training in areas of personnel shortages identified by the Secretary, which may include—

* * * * *

(u) Independent living;

(v) Client assistance; and

(w) Other fields that contribute to the rehabilitation of handicapped individuals, including homebound and institutionalized individuals and individuals with limited English-speaking ability.

(Section 304 (a) and (b) of the Act; 29 U.S.C. 774 (a) and (b))

19. In § 386.42, paragraph (a)(5) is revised to read as follows. The introductory test of paragraph (a) is reprinted for the convenience of the reader.

§ 386.42 What are the special requirements affecting the awarding of traineeships?

(a) A candidate for a rehabilitation traineeship must—

* * * * * *

(5) Be entolled for academic or non-academic study in the grantee institution;

* * * * *

PART 389—REHABILITATION CONTINUING EDUCATION PROGRAMS

20. In § 389.10, paragraph (c) is revised to read as follows. The introductory text of the section is reprinted for the convenience of the reader.

§ 389.10 What types of projects are authorized under this program?

Rehabilitation Continuing Education Programs—

* * * * *

(c) Develop and conduct training programs for staff of—

(1) Private rehabilitation agencies and facilities which cooperate with State vocational rehabilitation units in providing vocational rehabilitation and other rehabilitation services;

(2) Centers for independent living; and

(3) Client assistance programs.

(Section 304(a) of the Act; 29 U.S.C. 774(a))

[FR Doc. 84-25985 Filed 9-28-84; 8:45 am]
BILLING CODE 4000-01-M

PANAMA CANAL COMMISSION

35 CFR Part 121

Inspection and Registration of Vessels

AGENCY: Panama Canal Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: By means of this document, the Panama Canal Commission is proposing to reclassify its motorboat equipment requirements to conform them to the metric dimension standards specified in the revised Rules for the Prevention of Collisions in the Panama Canal, which went into effect on April 1, 1984 (48 FR 52703).

DATE: Written comments should be submitted on or before October 31, 1984.

ADDRESSES: Send comments to: Panama Canal Commission, 425 13th Street, NW., Rm. 312, Washington, D.C. 20004 or Panama Canal Commission, Office of General Counsel, APO Miami, Florida 34011.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Rhode, Jr., Secretary, Panama Canal Commission, (202) 724–0104, or Mr. John L. Haines, Jr., telephone in Balboa Heights, Republic of Panama, 52–7511.

SUPPLEMENTARY INFORMATION: By a document published on November 22, 1983 (48 FR 52703), the Panama Canal Commission made comprehensive revisions to the rules for prevention of collisions in the in the Panama Canal. The purpose of these revisions was to standardize the rules for prevention of collisions, using the International Regulations for Preventing Collisions at Sea (COLREGS) as a model and supplementing them where necessary, with rules of particular application in the Panama Canal. These revisions included the conversion of measurements from feet to meters where applicable; consequently, the classifications of motorboats and their equipment requirements as provided by 35 CFR 121.131 must also be converted to conform to the dimension standards of the various provisions of 35 CFR Part 111 which refer to motorboats and their sound and light equipment. These requirements are found in §§ 111.3(1), 111.22, 111.23, 111.30 and 111.33.

Presently § 121.131 lists five classes of motorboats based on their length in feet. It is proposed to reclassify these into four categories based on length in meters. In addition, the length and width measurements for line required on board are being converted to the metric system. The red lantern, previously required on all classes of motorboats, will not be required on motorboats 12 meters or under due to the difficulty of storing the lanterns on the smaller craft and the possibility of creating a fire hazard. Also, the summary of "Motorboat Rules and Regulations" required on board will be replaced by a copy of the *Motorboat Operators' Handbook*. Finally, the life preservers, ring buoys and fire extinguishers required by a new § 121.131(e) must be permanently marked with the name of the motorboat on which they are carried and shall be of type approved by an international regulatory body or equivalent and subject to approval by the Commission's Board of Local Inspectors.

The Commission has determined that this rule does not constitute a major rule within the meaning of Executive Order 12291 dated February 17, 1981 (47 FR 13193). The bases for that determination are, first, that the rule, when implemented, would not have an annual effect on the economy of $100 million or more per year. Secondly, the rule would not result in a major increase in costs or prices for consumers, individual industries or local governmental agencies or geographic regions. Finally, the agency has determined that implementation of the rule would not have a significant adverse effect on competition, employment, investment, productivity, innovation or the ability of United States-based enterprises in domestic or export markets.

Further, the Commission has determined that this proposed rule is not subject to the requirements of section 603 and 604 of Title 5, United States Code, in that its promulgation will not have a significant impact on a sustantial number of small entities, and the Administrator of the Commission so certifies pursuant to 5 U.S.C. 605(b).

List of Subjects in 35 CFR Part 121

Marine safety, Navigation (water), Vessels.

Accordingly, under the authority vested in the President by Sec. 1801, Pub. L. 96–70, 93 Stat. 492 (22 U.S.C. 3811) and E.O. 12215, 45 FR 36043, it is proposed to revise 35 CFR 121.131 as follows:

Motorboats

§ 121.131 Equipment on motorboats.

(a) Motorboats less than 7 meters in length shall carry the following equipment:

2 oars or paddles.
1 whistle or other sound-producing device, hand-, mouth-, or power-operated.
1 bailer.
20 meters of manila line not less than 15 millimeters in diameter or synthetic line of comparable strength.
2 approved fire extinguishers, either 1¼ gallon foam, 4-lb CO_2 or 2-lb. dry chemical, when the engine is inboard or 1 such extinguisher when the motor is outboard.
1 combination light showing red to port and green to starboard or individual red and green sidelights.
1 stern light or all-round white light.
1 anchor with 40 meters of suitable cable.
1 red flag.
1 approved life preserver for each person carried.
1 copy of the *Motorboat Operators' Handbook*.

(b) Motorboats 7 meters or over but less than 12 meters in length shall carry the following equipment:

1 approved life ring buoy of not less than 600 millimeters outside diameter.
1 whistle, power-operated, audible at least one mile.
1 bailer.
20 meters of manila line not less than 18 millimeters in diameter or synthetic line of comparable strength.
3 approved fire extinguishers, 2 of which shall be 2½ gallon foams, 15-lb. CO_2, or 10-lb. dry chemical, and the third of which shall be 1¼ gallon foam, 4-lb. CO_2, or 2-lb. dry chemical.
1 boat hook.
1 combination light showing red to port and green to starboard or individual red and green sidelights.
1 stern light or all-round white light.
1 anchor with 40 meters of suitable cable.
1 fog bell of not less than 200 millimeters outside diameter.
1 red flag.
1 approved life preserver for each person carried.
1 copy of the *Motorboat Operators' Handbook*.

(c) Motorboats 12 meters or over and not more than 20 meters shall carry the following equipment:

2 approved life ring buoys not less than 600 millimeters outside diameter.
1 approved fog horn.
1 whistle, power-operated, audible at least 1 mile.
1 bailer.
25 meters of manila line not less than 21 millimeters diameter or synthetic line of comparable strength.
4 approved fire extinguishers, three of which shall be 2½ gallon foam, 15-lb. CO_2, or 10-lb. dry chemical, and the fourth of which shall be 1¼ gallon foam, 4-lb. CO_2, or 2-lb. dry chemical.
2 boat hooks.
1 masthead light, white, 225 degrees fixed to show the light from right ahead to 22.5 degrees abaft the beam on either side.
1 combination light showing red to port and green to starboard or individual red and green sidelights.
1 stern light, white, 135 degrees, placed as nearly as practicable at the stern, and so fixed to show the light 67.5 degrees from right aft on each side.
1 anchor with 40 meters of suitable cable.
1 fog bell, not less than 200 millimeters outside diameter.
1 red lantern.
1 red flag.
1 approved life preserver for each person carried.
1 copy of the *Motorboat Operators' Handbook*.

(d) Any cayuco less than 20 meters in length equipped with an outboard motor or motors operating in Madden Lake or Gatun Lake shall carry the following equipment:

2 oars or paddles.
1 whistle or other sound-producing device, hand, mouth or power operated.
1 bailer.
20 meters of manila line not less than 21 millimeters diameter or synthetic line of comparable strength.
1 flashlight.
1 approved life preserver for each person carried.

(e) Life preservers, ring buoys and fire extinguishers required by this section shall be of a type approved by an international regulatory body or equivalent thereto, and subject to approval by the Board of Local Inspectors, and shall be permanently marked with the name of the motorboat on which they are carried.

Dated: August 29, 1984.

D.P. McAuliffe,

Administrator, Panama Canal Commission.

[FR Doc. 84–25997 Filed 9–28–84; 8:45 am]

BILLING CODE 3640–04–M

POSTAL SERVICE

39 CFR Part 111

Business Reply Mail

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: The purpose of this document is to propose a variety of changes to the regulations for Business Reply Mail (BRM) to be effective January 1, 1985. Changes are proposed for format requirements to accommodate mail processing optical character reader specifications, and changes are made throughout the Business Reply Mail section to simplify procedures and provide clearer instructions for mailers and postal personnel.

DATES: Comments must be received on or before October 31, 1984.

FOR FUTHER INFORMATION CONTACT: Dick Greene, Office of Mail Classification, Rates and Classification Department, U.S. Postal Service, Washington, D.C. 20260–5371, Telephone (202) 245–4530.

SUPPLEMENTARY INFORMATION: The present regulations regarding permits, postage and fees became effective in September, 1976. The current BRM format requirements became mandatory on May 1, 1979. Many inquiries have been received from mailers and postal personnel requesting clarification of the present regulations and guidance in other areas not covered by the regulations. Additionally, Publication 25, *A Guide To Business Mail Preparation*, which is provided to mailers and printers to assist them in making their mail compatible with postal addressing standards, has recently been revised. Changes in that publication are reflected in this proposal.

The major changes proposed to the present regulations are as follows:

917.2 Permits.

At the present time, Form 3614, *BRM Application And Annual Renewal Notice*, serves both as an application and as record of approval to distribute BRM. Also, Form 3614 allows branches or dealers authorized by the permit holder to receive the permit holder's BRM (under the same permit number) without the branches or dealers paying for a BRM permit. Form 3615, *Business Reply Mail Fee Notice*, is enclosed in Publication 115, *Business Reply Mail*, and together they have been mailed to the permit holder each year for renewal of BRM permits. This method of notifying mailers to renew permits has proven unsatisfactory because many mailers do not respond and renew their BRM permit. It is proposed, therefore, that Form 3614 will be used as both a permit application and renewal notice. Form 3614 will have a separate card for renewal notices and will be included in Publication 115 when permit applications are requested. Permit

holders will be provided Form 3544, *Post Office Receipt For Money*, as evidence of having paid for and been approved to have a BRM permit. Form 3544 is a standard receipt issued to mailers to acknowledge payments. The use of Forms 3614 and 3544 will eliminate Form 3615.

In addition, there is no clear policy at present for processing nonrenewed permits. Therefore, it is proposed in 917.22, Annual Permit Renewals and 917.23, Nonrenewed Permits, that permit holders will be furnished a renewal notice (Form 3614) by December 1; that permit holders must renew their permits by December 31; and that permit holders will be informed by certified mail of the planned disposition of their BRM if the permit is not renewed by January 10.

917.24 BRM Addressed to Agents, Branches, and Dealers

It is proposed in 917.24, Acceptance of BRM in any post office, to simplify and clarify the present regulations involving BRM addressed to agents, branches, dealers and third parties or distributed from a central office. The new regulation simply requires that the permit holder's name must be printed on the BRM whenever the permit holder's number is used by agents, branches, dealers and third parties. Post offices will not accept BRM and will require agents, branches, dealers or third parties to apply for a permit and pay the permit fee if they do not have the name of the permit holder printed above their name and address. A permit holder can distribute BRM through any post office for delivery at any post office provided the post offices involved receive a written authorization and a copy of a valid Form 3544 to cover distribution and delivery requirements. The present regulations (917.25) have proven to be confusing for both permit holders and postal personnel. It is believed that the new regulation better explains our requirements for the acceptance of BRM in any post office.

917.243 Permit Holder's Guarantee.

It is proposed in 917.243, Permit Holders Guarantee, that permit holders will not be be held liable for obvious abuses of BRM. Presently, permit holders are considered liable for BRM postage and charges regardless of the circumstances. The new regulation provides fairer treatment for mailers where BRM has been misused. Clearer instructions are also provided to postmasters for dealing with nonpayment of BRM postage and fees by agents, branches, dealers or third parties authorized by a permit holder. Current regulations (917.24) do not provide guidelines to post offices or permit holders as to postal procedures regarding refusal to pay BRM postage and charges, and when exceptions to the permit holder's postage guarantee are permissible. The new regulations provide that refusal to pay BRM postage and charges is ground for immediate revocation of the BRM permit, except in certain cases.

917.31 Zone Charges.

It is proposed in 917.31, General, that First Class Zone Rated (Priority) BRM be rated as Zone 1 if the zone cannot be determined from the cancellation or the sender's address on the BRM piece. There is no specific instruction in this matter at present and consequently arbitrary or no postage charges are being calculated. This new regulation provides the necessary guideline.

917.333 Business Reply Account.

It is proposed in 917.333, Business Reply Account, to clarify that the $75 accounting fee must be paid for separation of BRM charges and indicate the action to be taken by postmasters when a business reply account contains insufficient funds. Simply put, a permit holder who uses a business reply account will be charged the business reply accounting fee for each separate billing. If a business reply account contains insufficient funds three days after the permit holder is notified by certified mail, then the permit holder will be required to pay the BRM fees as if no accounting fee had been paid. Present regulations do not adequately explain to mailers and postal employees the requirements for accounts with insufficient funds or requests for the separate billing of postage and charges.

917.333 Two or More BRM Pieces.

It is proposed in 917.333, Two or More BRM Pieces, that BRM pieces that are permanently wrapped or fastened together should pay postage at a single piece rate. Presently, there is no clear instruction on how to charge for this kind of BRM. It is believed that mailers will benefit from reduced charges and that better service will result because post offices will no longer separate BRM pieces fastened together, thus saving handling costs.

917.34 BRM Bearing Stamps.

It is proposed in 917.34, BRM Bearing Stamps, to inform post offices that permit holders are entitled to a refund of First-Class postage (not BRM per-piece charges) when foreign or solicited stamps are affixed to BRM. Occasionally, BRM will be returned from a foreign country with foreign postage stamps affixed to it. Questions have been raised by mailers as to whether a full refund for the value of the foreign postage affixed can be received because mailers currently receive a full refund for any domestic postage affixed. The proposed regulation informs mailers that only the value of domestic postage will be refunded as foreign postal administrators receive the revenue for the item mailed and we can only refund the USPS portion of postage costs.

It is also proposed that permit holders be allowed to solicit mailers to affix postage to save permit holders the cost of postage. Presently, regulations do not take a position on this matter.

917.4 Address Alterations.

It is proposed in 917.4, Address Alterations, to inform mailers that the address on BRM cannot be altered to an address other than that of the permit holder and to stipulate that the permit holder cannot relable BRM if the new address label interferes with the Facing Identification Mark (FIM), covers the permit holder's name printed on the BRM, or if a bar code was previously printed on the item. We have found that permit holders have attempted labelling to salvage inventories of BRM and in the process have not aligned the labels to satisfy BRM format requirements necessary for mail processing equipment. The new regulations insure that such mail will be properly prepared so it may be handled efficiently.

917.5 Format.

It is proposed in 917.5, Format, to update the requirements of mail processing optical character reader specifications, as indicated in detail below, in order to ensure efficient handling of BRM mail.

917.51 General.

Section 917.51, General, has been clarified to inform mailers that all colors of ink are acceptable for BRM provided they satisfy the criteria for reflectance.

917.522 Business Reply Legend.

Section 917.522, Business Reply Legend, now authorizes only two legends: "Business Reply Mail" or "Business Reply Label". The legend "Business Reply Card" has been deleted as post offices can distinquish BRM qualifying for the card rate without the legend.

917.525 Addressing.

Section 917.525, Addressing, provides specific measurements that are now required for optical character reader acceptance. It will now be required to print complete BRM address information

in an area no lower than ⅝", nor higher than 2¼", from the bottom edge of the mail piece, and with no printing permitted within 1" of the left and right edges of the mail piece (except for the horizontal bars). There must be at least ½" clearance between the ZIP Code and the horizontal bars. Unique Zip Codes must not be printed on BRM unless they are exclusive to BRM. Company logos, if printed in the address area, must be printed no lower than the street address or the post office box line and not interfere with any required BRM format. Preprinted labels containing only delivery address information are permitted for addressing BRM.

917.526 Horizontal Bars.

Section 917.526, Horizontal Bars, states that the bars must not extend below the delivery address line. At present permit holders can print the horizontal bars to within ⅝ inch of the bottom edge of the mail piece.

917.528 Pre-Barcoded BRM.

Section 917.528, Pre-Bar Coded Business Reply Mail, introduces the specifications for bar codes. Bar coding of BRM is optional.

917.54 BRM Format Corrective Action.

Section 917.54, BRM Format Corrective Action, informs mailers and post offices of the actions required for revocation and requalification of a permit holder when incorrect BRM formats are repeatedly distributed. Presently, neither mailers nor post offices have instructions for handling incorrect BRM format.

917.55 & 917.56 Envelopes.

917.55, Envelopes, and 917.56, Window Envelopes, report requirements that were previously provided elsewhere in the DMM. It is proposed to also include the requirements in 917, Business Reply Mail, for the convenience of permit holders, envelope manufacturers and printers.

917.57 Self Mailers.

917.57, Self Mailers, clearly defines the requirements of self mailers which at present are not included in the regulations.

917.59 Business Reply Labels.

917.59, Business Reply Labels, stipulates that business reply labels cannot be used on standard letter mail and answers typical questions concerning minimum size and the height of the column of horizontal bars.

917.60 Implementation Deadline.

Section 917.60, Implementation Deadline, gives permit holders until December 31, 1985, before BRM with present format requirements will no longer quality for distribution.

Accordingly, although exempt from the requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comment on the following proposed amendments of the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations. See 39 CFR 111.1.

List of Subjects in 39 CFR Part 111

Postal Service.

PART 111—[AMENDED]

Revise part 917 to read as follows:

PART 917—BUSINESS REPLY MAIL (BRM)

917.1 General.

.11 Description. BRM service enables mailers to receive First-Class Mail back from customers by paying postage only on the mail that is returned to them from their original distribution of BRM pieces. The permit holder guarantees payment of the appropriate First-Class postage plus a handling charge per piece on all returned BRM distributed under the permit holder's permit number. All BRM will be cancelled to assure that First-Class service standards are being met.

.12 Special Services. Special services (*e.g.*, insurance, registration, certified, C.O.D., return receipts) cannot be used with BRM.

.13 Distribution. Business reply cards, envelopes, self-mailers, cartons, and labels may be distributed by a valid BRM permit holder in any quantity for return to any post office in the United States and its territories and possessions, including military post offices overseas. Refer to International Mail Manual (IMM), 233.32, for international BRM requirements. Domestic BRM must not be sent to any foreign countries.

917.2 Permits.

.21 Application.

.211 Completing Forms. Completion of Form 3614, *BRM Application and Annual Renewal Notice*, appearing below, is required. Form 3614 and the annual permit fee must be submitted to the post office issuing the permit. On receipt of the application and fee, the postmaster will complete the permit portion of the form and assign the permit number. The postmaster will complete and give the customer Form 3544, *Receipt for Payment;* and provide Publication 115, *Business Reply Mail*, to the applicant. The postmaster will not return Form 3614 to the customer. (See 917.242 for exceptions when branches and dealers are involved.)

.212 Filing Forms. Post offices file Form 3614 by permit holder in alphabetical order. A copy of Form 3544 must be attached to Form 3614 as proof of payment. (*Exception:* Post offices with a large number of BRM permits may elect to file Form 3544 in permit number sequence, for cross reference purposes.)

.22 Annual Permit Renewals. A renewal notice (Form 3614) will be furnished each BRM permit holder by December 1 of each year. The permit holder must return the renewal notice and payment to the post office issuing the permit by December 31.

.23 Nonrenewed Permits. When records indicate a permit was not renewed, the permit holder will be informed in writing by certified mail that all *BRM mail will be held for ten days and then returned to sender*, if the permit is not renewed. The following methods will be followed if the permit is not renewed after the mailer has been notified in writing and ten days have elapsed:

a. BRM will be returned to the sender.

b. BRM that does not contain the sender's return address is forwarded to the nearest dead letter branch for proper handling with the endorsement "Business Reply Permit Cancelled."

c. BRM qualifying for the card rate is treated as waste (See 159).

d. Mail distributed by branches and dealers of the permit holder is returned to the post office where the permit is held for collection of postage and fees from the permit holder.

.24 Acceptance of BRM in any Post Office.

.241 Acceptance Conditions. BRM will be processed and delivered under the following conditions:

a. The permit holder's permit number, city, state, and name *must be printed on the BRM distributed.*

b. Post offices will not accept BRM for delivery and will require branches, agents or dealers to apply for a permit and pay the permit fee if branches, agents or dealers distribute BRM on behalf of a permit holder and the name of the permit holder is not printed above their name and address. Branches', agents', or dealers' names and addresses must be printed below the permit holder's name.

.242 Return Through More Than One Post Office. A permit holder can distribute BRM through any post office

for delivery at any post office. The permit holder does not have to pay an additional permit fee to distribute or return BRM through other post offices provided the permit holder submits a written authorization to the other post offices involved for the branch, agent, or dealer to receive the BRM, and the permit holder provides a copy of a valid Form 3544 (which shows the BRM permit fee was paid) to any post office that will be processing the BRM. The permit holder's written authorization must provide the name, address, and telephone number of the branch, agent, or dealer authorized to receive BRM.

.243 Permit Holder's Guarantee. The permit holder guarantees payment of postage and fees on delivery of BRM. Any concern distributing BRM under one permit for return to its branches or dealers gurantees to pay postage on any returns refused by any authorized addresses, branches or dealers. Refusal to accept and pay the required charges for BRM offered for delivery will be grounds for immediate revocation of the BRM permit. Exceptions are as follows:

a. When refusal involves branches, agents and dealers, the BRM will be forwarded to the post office issuing the original permit for collection of the refused postage and fees frm the permit holder before the BRM permit is revoked.

b. When the BRM is not use as intended by the permit holder, (*e.g.*, BRM used for mailing bricks, or malfunctioning products) and the permit holder refuses delivery of BRM *not used as intended*, the post office will treat the items as waste. The post office will not consider refusal to accept and pay BRM charges for the *not used as intended* BRM as grounds for revocation of the BRM permit.

917.3 Postage and Fees.

.31 General. There is an annual BRM permit fee. First-Class postage and a BRM per piece charge will be collected from the addresses upon delivery. An additional annual accounting fee is required for establishment of a business reply account.

.31 Zone Related BRM. All BRM must be cancelled. First-Class Zone Rated (Priority) BRM will be rated zone 1 if the zone cannot be determined from the cancellation or the sender's address on the BRM piece.

.32 Fees:

BRM annual permit and renewal fee	$40.00
BRM accounting fee	$75.00

The applicable and full BRM fee(s) must be paid each calendar year or portion thereof. Fees are not prorated. Fees are not refundable or transferable even when BRM permits of accounts are not used.

.33 Payment of Postage and Fees.

.331 General. Permit holders have three options for paying postage and fees on BRM returned: (1) in cash; (2) through a postage due account; or (3) through a business reply account.

.332 Cash or Postage Due Account. Payment may be paid in cash or through a regular postage due account as follows:

a. Amount Collected. The amount to be collected for cash or use of regular postage due account transactions is the appropriate First-Class postage, *plus a charge of 18 cents per piece.*

b. Account Fee. No business reply account fee will be charged when the regular postage due account is used. Use of a postage due account does not qualify the BRM for the lower per piece charge given permit holders with a business reply account.

c. Affixing Stamps or Meter Strips. Postage due stamps or meter strips for the amount will be affixed to the mail or to Form 3582–A, *Postage Due Bill.* The stamps must be cancelled and delivered to the addressee with the mail when the amount due is paid.

.333 Business Reply Account. A busines reply account must only be used for payment of postage and fees on BRM as follows:

a. Amount Collected. The amount to be collected for business reply account transactions is the appropriate First-Class postage, *plus a charge of 5 cents per piece.*

b. Account Fee. In addition to the annual permit and renewal fee, a separate accounting fee is charged for each business reply account at each post office where the mail is to be returned. The full fee must be paid for the whole or part of each calendar year.

c. The following conditions apply to business reply accounts:

1. Only one billing is provided for each business reply account.

2. When a permit holder distributes BRM with different addresses or post office box numbers under the same permit number in the same delivery unit and is covered by one business reply account, the BRM is separated by each different address or post office box number, but only one billing is provided for the business reply account.

3. When a permit holder with a business reply account desires a separation of charges, payment of a business reply accounting fee is required for *each* billing prepared for each separation. The permit holder pays the appropriate First-Class postage, plus a charge of 18 cents per piece, for each separation if a business reply account fee is not paid for each separation.

d. Insufficient Funds. When a business reply account contains insufficient funds to cover the amount due for postage and fees, the BRM is held and the permit holder notified by certified mail that the BRM is being held. If funds are not deposited within three days, the BRM is treated as a cash or postage due account transaction and the permit holder pays the appropriate First-Class postage plus a charge of 18 cents per piece. If funds are deposited within three days, all BRM held during the three days will be charged First-Class postage, plus 5 cents per piece.

e. BRM Addressed to Different Firms. BRM addressed to several different firms at the same delivery unit may be delivered to an agent authorized by a valid business reply permit holder. The agent will pay one business reply account fee for all the firms represented by the agent in the same delivery unit. If the agent, or any of the firms represented by the agent, desires a separation of charges, then the conditions in 917.333(c) are applicable.

.334 Two or More BRM Pieces. Two or more BRM pieces may be mailed as a single item under the following conditions:

a. The BRM pieces are identically addressed and approximately the same size or shape. They must be securely or permanently fastened together. String or rubber bands are unacceptable.

b. The weight of the combined item must not exceed the permitted maximum size of 108 inches (length and girth) or the weight limit of 70 pounds.

c. BRM postage due calculations are based on the total weight of the item and the appropriate First-Class postage plus the BRM charge for one piece.

d. When two or more BRM pieces mailed together become separated, BRM postage and fee charges are calculated for each piece.

.340 BRM Bearing Stamps.

.341 BRM with postage affixed is handled in the same manner as other BRM. No effort is made to identify or separate BRM pieces having postage affixed. Applicable postage and fees are charged without deducting the amount of any postage stamps affixed.

.342 Refunds. The 5¢ or 18¢ per BRM piece charges are not refundable. However, business reply permit holders may request a credit or refund (as provided in 147.22) for the amount of postage affixed to BRM pieces by submitting a completed Form 3533, *Application and Voucher for Refund of Postage and Fees*, to the postmaster

along with evidence of the excess postage payment for which a credit or refund is desired. Permit holders are entitled to a refund for postage affixed to BRM that may be attributed to printed endorsements which solicit mailers to help reduce permit holder postage costs. To receive refunds for postage, business reply permit holders must present to the designated office properly faced and banded packages of 100 identical BRM pieces with identical amounts of postage affixed. Exceptions to this are:

a. A postmaster may accept a package of less than 100 business reply envelopes if necessary to prevent loss or hardship to a mailer.

b. The address side of the envelope may be separated and submitted as evidence, instead of the entire envelope, provided all address sides are separated in the same manner.

.343 Foreign Postage Refunds. The permit holder is only entitled to a refund of the U.S. First-Class postage rate charged to the permit holder, not any value of the foreign postage stamps nor the BRM per piece handling charges.

917.4 Address Alterations.

.41 General. The address on BRM pieces cannot be altered to an address other than that of the permit holder. BRM items cannot be converted for any other purpose then intended by the permit holder, *even when postage is affixed.*

.42 Processing. BRM with address alterations will be processed as follows:

a. BRM qualifying for the card rate is treated as waste (see 159).

b. Other BRM pieces with altered addresses must be endorsed "Return to Sender." If the BRM does not contain a return address, it will be forwarded to the nearest dead letter branch with the endorsement "Undeliverable As Addressed."

c. The only acceptable alteration of address information on BRM would be when the centralized mark-up (CMU) or the permit holder applies a label containing the new address of the permit holder. A new address label will be unacceptable it it interferes with the Facing Identification Mark (FIM), if it covers the permit holder's name printed on the BRM; or if a bar code was previously printed on the item.

917.5 Format.

.51 General. All forms of printing are permissible provided they are legible to the satisfaction of the Postal Service. However, handwriting, typewriting or handstamping cannot be used to prepare the address side of BRM (see DMM 137 for exception on Official Mail). Printed borders are not authorized on business reply letters and cards; however, they are allowed on business reply labels and cartons and envelopes larger than 6⅛" high or 11½" long or ¼" thick. All colors of ink are acceptable provided there is at least a 30% reflectance difference throughout the red spectral range of 550 to 775 nanometers (nm) between the paper and ink.

.52 Format Elements (see Exhibit 917.52).

.521 "No Postage Necessary * * *" Endorsement. The endorsement "NO POSTAGE NECESSARY IF MAILED IN THE UNITED STATES" must be printed in the upper right corner of the face of the piece. The endorsement must not extend further than 1¾" from the right edge of the mail piece.

.522 Business Reply Legend. The appropriate BUSINESS REPLY legend must appear above the address in capital letters at least 3/16" in height. Authorized legends are:

Legend	For use on
BUSINESS REPLY MAIL	All BRM except for business reply labels (Cards must qualify for the lower card rate—see 917.58.)
BUSINESS REPLY LABEL	The legend "BUSINESS REPLY LABEL" means that the permit holder guarantees payment of First-Class postage upon the return of mailable matter with the permit holder's business reply label. Items printed with the legend "BUSINESS REPLY MAIL" are not acceptable as labels.

.523 Permit Number. Immediately below the BUSINESS REPLY legend the words "FIRST-CLASS PERMIT NO * * *" followed by the permit number and the name of the issuing post office (city and state) must be shown in capital letters.

.524 "Postage Will Be Paid * * *" Endorsement. The legend "POSTAGE WILL BE PAID BY ADDRESSEE" must appear below the "FIRST-CLASS PERMIT NO * * *", not lower than 2¼" from the bottom edge of the BRM.

.525 Address. The complete address, including the name of the permit holder, street address, and/or post office box number, city, state, and ZIP Code must be printed directly on the mail piece. *Exception:* Preprinted labels with only delivery address information are permitted for addressing BRM. However, the permit holder's name must still be printed directly on the BRM. Permit holders are liable for the postage and fees on BRM returned with improper addressing. Mailers are encouraged, but not required, to use ZIP+4 Codes and corresponding bar codes on BRM. Other requirements are as follows:

a. The bottom line of the address must be no lower than ⅝", and the top line of the address must not be higher than 2¼", from the bottom edge of the mail piece. The space ⅝" from the bottom edge and 4½" from the right edge of the mail piece is reserved for bar codes. A clear margin void of any extraneous matter (except for the horizontal bars specified in 917.526) of at least 1" is required between the left and right edges of the mail piece and the address.

b. There must be at least ½" clearance between the ZIP Code and the horizontal bars.

c. Unique ZIP Codes, unless assigned exclusively for BRM/postage due mail, must not be used for BRM.

d. A company logo is permitted if it is located *no lower than the top of the street address or the post office box line.* The logo must not interfere with any of the required business reply endorsements.

e. The upper left corner of the address side is available for permit holder use (see Exhibit 917.52—Figure 3).

.526 Horizontal Bars. To facilitate rapid recognition of BRM, a series of horizontal bars parallel to the length of the mail piece must be printed immediately below the endorsement "NO POSTAGE NECESSARY IF MAILED IN THE UNITED STATES." The bars must be uniform in length, at least 1" long and 1/16 to 3/16 inch thick and evenly spaced. The vertical column of horizontal bars must not extend below the delivery address line, which is the line above the line containing the ZIP Code.

.527 Facing Identification Mark (FIM). FIM is a vertical bar code pattern printed at the top right portion of the address side of the BRM piece. FIM functions as an orientation mark for automatic facing and cancelling equipment. Requirements for FIM are as follows:

a. A FIM must be printed on all BRM except business reply labels, or BRM larger than 6⅛" high or 11½" long or ¼" thick. The following FIM types are applicable for BRM:

FIM B—For preprinted BRM, penalty, or franked mail *without* bar code. Prevents rejection on the facer canceller.

FIM C—For preprinted BRM and penalty or franked mail *with* bar code. Allows capture at facer canceller.

b. See Exhibit 917.52, Figure 2, for FIM printing location. Each FIM bar must be at least ½' high. Each bar must be at least .03125" (±.008" wide). Extraneous ink must not cause a bar to exceed specified limits. BRM is nonmailable when the FIM has insuffienct ink coverage, improper measurement, ink in

the space between the bars, or is either enlarged or reduced.

c. The combined effects of positional and rotational skew must be limited to ±5 degrees from the perpendicular edge of the printed FIM to the top edge of the mail piece.

d. There must be at least a 30 percent reflectance difference throughout the red spectral range of 500 nm to 775 nm between the paper and ink.

e. Additional specifications for printing the FIM pattern and bar codes are contained in Publication 25, *A Guide to Business Mail Preparation*. USPS negatives or positives and specifications must be used for printing the FIM pattern and bar code. Negatives and positives are available, free of charge, from the local post office customer service representatives.

.528 Pre-Bar Coded BRM. Bar coding permits highly reliable sortation of mail through automated bar code sorters instead of manual or mechanized methods. Pre-bar coding of BRM is optional. If BRM is pre-bar coded, these requirements must be followed:

a. FIM C must be used for pre-bar coded business reply mail.

b. Each full bar must be 0.125 ± 0.10" high. Each half bar must be 0.050 ± .010" high. All bars printed must be 0.020 ± .005" wide. The horizontal spacing of all bars must be 21 bars per inch ± 1 bar. See Exhibit 917.52 for bar code printing location.

c. Extraneous ink must not exceed 0.003" in the allowed height or width of any bar or cause space-to-background print reflectance differences (PRD) to exceed 10%.

d. The combined effects of positional and rotational skew must be limited to ± 5 degrees from the perpendicular edge of the printed bar code to the bottom edge of the mail piece.

e. There must be at least a 30% reflectance difference throughout the red spectral range of 500 nm to 775 nm between the paper and ink.

.53 BRM Format Review. Postal inspection of BRM before printing is not mandatory. However, permit holders receiving written postal approval of BRM before printing could avoid the cost of reprinting and distributing in the event of a nonmailable ruling. Postal approval of BRM requires that two BRM pieces be submitted to the post office where the permit is held or where the mail will be returned. The post office will return one BRM with written approval or required changes. The postmaster retains the other BRM piece and a copy of the written approval or required changes given to the mailer.

.54 BRM Format Corrective Action.

.541 The permit holder and authorized permit users must be notified in writing of specific errors when BRM formats do not meet current postal requirements. The *permit holder* is responsible for correcting BRM format and ensuring that future formats meet specifications.

.542 Repeated instances of incorrect BRM formats, as determined by the Postal Service, are grounds for revocation of the business reply permit. The permit holder must be notified by certified mail and allowed ten days to respond before a permit is revoked.

.543 To obtain a new permit after a BRM permit has been revoked for failure to follow BRM format requirements, a new application (Form 3614) must be completed, the required BRM permit fee must be paid, a new business reply account fee must be paid (if used) and two samples of all BRM format must be submitted to the appropriate post office for approval for the next two-year period.

.55 Envelopes.

.551 Paper envelopes used for BRM must have a minimum base weight of 20 pounds (17" χ 22", 500 sheet base). Nonpaper envelopes must be approved for mailability by the USPS Engineering Support Center, Rockville, Maryland 20852–8101.

.552 If the BRM envelope is made of paper with dark fibers, the print reflectance difference (PRD) between the fibers and the background should not exceed 10%.

.553 Envelope paper must not have phosphorescence exceeding 3.0 phosphory meter units (PMU) to avoid orientation problems in the facer canceller. Envelopes must have at least a 50% reflectance value.

.554 Half tone screenings of less than 200 dots per inch must not be used in the background of the address area of the envelope as they cause OCR interference.

.555 BRM envelopes are nonmailable when sealed with wax, clasps, string, staples, or buttons, or when all edges are not straight or when the envelope is not rectangular.

.56 Window Envelopes. A BRM window or open panel envelope must be prepared as follows:

a. The endorsements "NO POSTAGE NECESSARY IF MAILED IN THE UNITED STATES", and "POSTAGE WILL BE PAID BY THE ADDRESSEE.", the permit holder's name, horizontal bars; FIM; the legend "BUSINESS REPLY MAIL"; First-Class permit number; city, and state; and the permit holder's name *must be printed* on the *address side of the envelope.*

b. There must be at least ⅛ inch clearance and no extraneous (nonaddress) printing around the edges of the address shown in the window even when the address is moved to its full limits inside the window envelope.

c. The window must not be positioned lower than ⅝" (unless there is 4" of clear space for the printing of bar codes from the right edge of the window) or higher than 2¼" from the bottom edge of the envelope. This area is reserved for addressing and bar codes. The address showing through for addressing and bar codes. The address showing through the window must be that of the permit holder or an authorized agent/dealer and must be at least 1" from the left or right edge of the mail piece.

d. Materials covering windows must allow the address to be readable.

e. Permit holders are responsible for the postage and fees on all BRM returned if the address is incomplete or cannot be read through the window.

.57 Self-Mailers. BRM self-mailers must be rectangular, at least 0.007" thick, and contain instructions for folding and sealing. Self-mailers are nonmailable when sealed with wax, clasps, string, staples, or buttons, and when they do not have straight sides.

.58 BRM Cards. Cards must be rectangular in shape, not less than 3½ x 5" or greater than 4¼x6" and of uniform thickness not less than 0.007".

.59 Business Reply Labels.

.591 Minimum size of label with the legend "Business Reply Laebl" 2 x 3" It is not necessary to print FIM or bar codes on BR labels; however, all other BRM format requirements must be met on the label.

.592 The series of horizontal bars on business reply labels must be at least ¾" in height.

.593 Business reply labels must not be used on standard size BRM cards and envelopes.

917.6 Implementation Deadline

All BRM distributed after December 31, 1985, must comply with the format requirements contained in this section. Material complying with the prior format requirements will be unacceptable for distribution after December 31, 1985.

An appropriate amendment to 39 CFR 111.3 to reflect these changes will be published if the proposal is adopted.

(39 U.S.C. 401(2), (10), 404(a) (2), (4))

W. Allen Sanders,

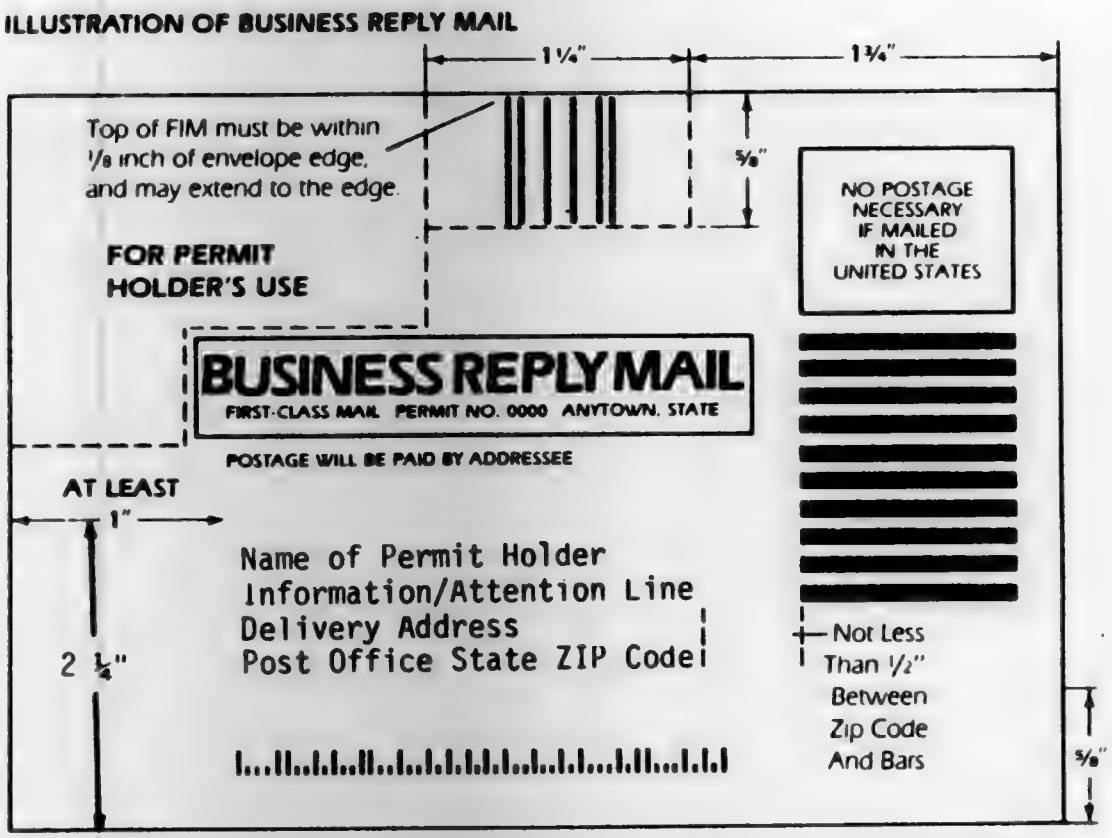
Associate General Counsel, Office of General Law and Administration.

BILLING CODE 7710-12-M

EXHIBIT 917.52 BUSINESS REPLY MAIL FORMAT REQUIREMENTS

Figure 3

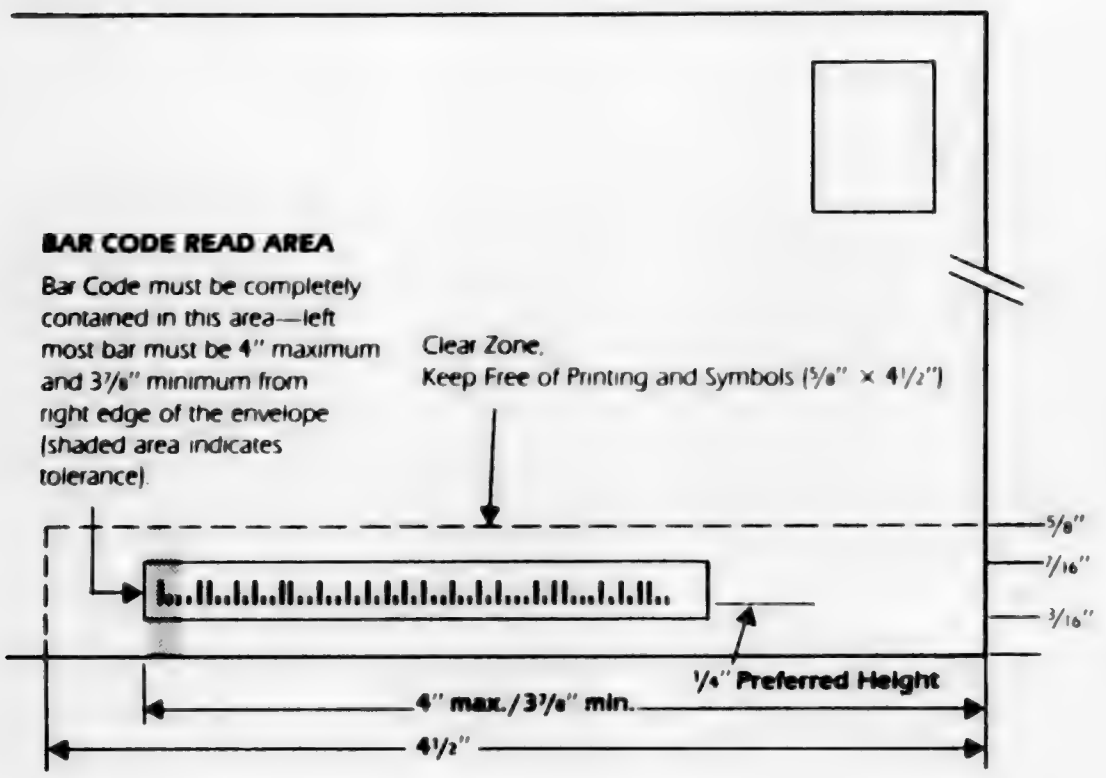
ILLUSTRATION OF BUSINESS REPLY MAIL



Horizontal identification bars must be at least 1-inch in length, and must not extend vertically below the delivery address line.

Figure 1

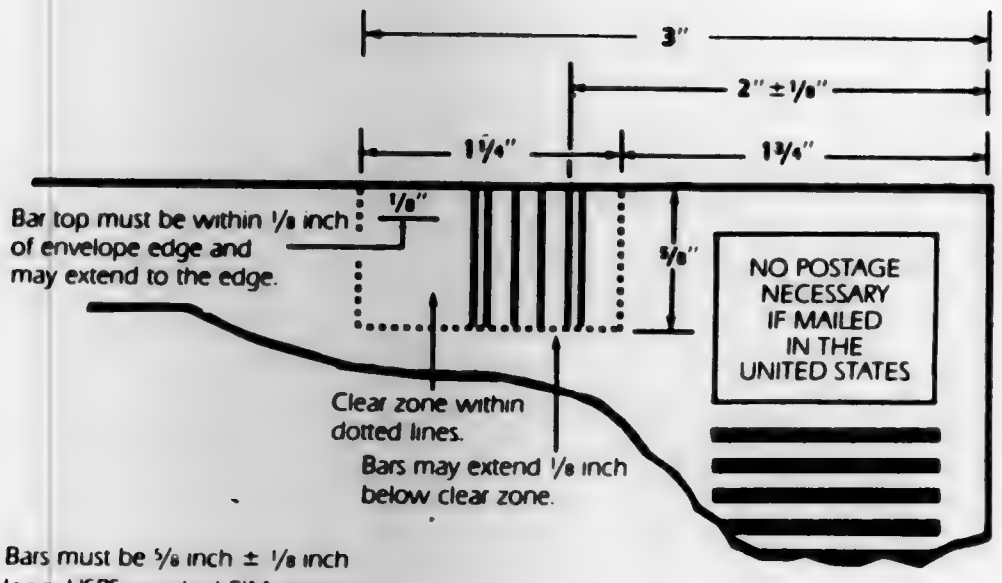
BAR CODE LOCATION



Both FIM and Bar Code must have at least 30% print reflectance differance and the combined effects of positional and rotational skew must be limited to ± degrees from the FIM or Bar Code to the top or bottom edge of the mail piece.

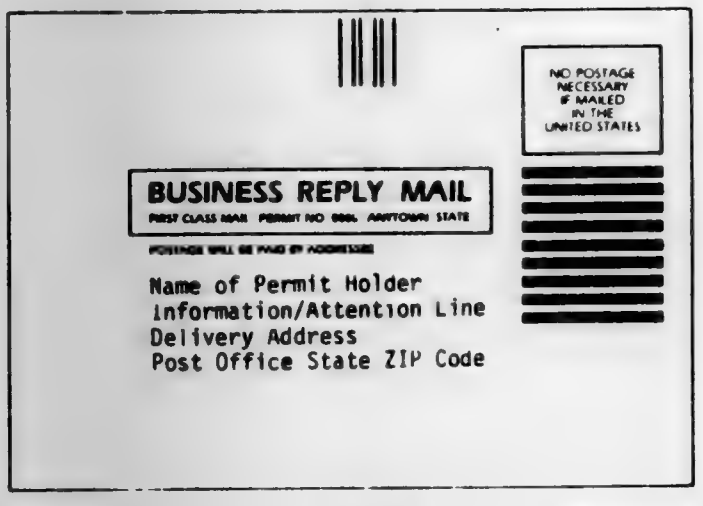
Figure 2

FIM LOCATION



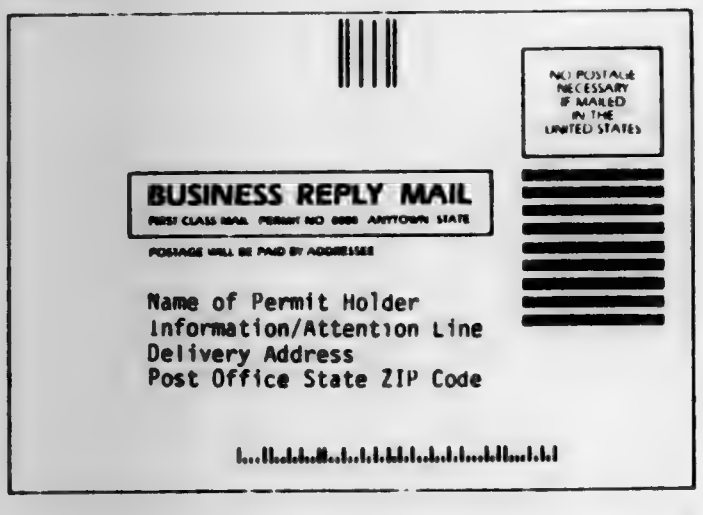
Bars must be 5/8 inch ± 1/8 inch long. USPS supplied FIM patterns (A-B-C) are 5/8 inch long and should not be reduced or enlarged in size.

FIM B
FOR PRE-PRINTED BUSINESS REPLY PENALTY OR FRANKED MAIL WITHOUT BAR CODE PREVENTS REJECTION ON THE FACER CANCELER



FIM C
FOR PRE-PRINTED BUSINESS REPLY PENALTY OR FRANKED MAIL WITH BAR CODE. ALLOWS CAPTURE AT FACER CANCELER.

Examples are reduced from actual size.



FORM SIZE 3 7/8" X 8"

FORM 3614, BRM APPLICATION AND ANNUAL RENEWAL NOTICE

Application is made to distribute business reply cards, envelopes, self mailers, cartons, and labels prepared and mailed for return without prepayment of postage under Section 917, Domestic Mail Manual. Postage at First-Class rates and the additional per piece charge for business reply mail will be paid on all pieces returned under this privilege. Applicant agrees to prepare mailing pieces in accordance with Section 917, Domestic Mail Manual, and understands that failure to conform with those requirements may be considered basis for revocation of this permit. The annual business reply permit fee, and the annual accounting charge if payment is to be from a BRM trust account, must accompany this request.

PERMIT MUST BE RENEWED BY DECEMBER 31. BRM WILL NOT BE DELIVERED WITHOUT A VALID PERMIT.

NAME AND ADDRESS OF PERMIT HOLDER (print or type)	NAME		TELEPHONE NO.
	STREET	CITY AND STATE	ZIP CODE
POST OFFICE TO WHICH SUBMITTED (City, State and ZIP Code)	SIGNATURE AND TITLE OF APPLICANT		DATE

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BRM ACCOUNT YES NO	BRM ACCOUNT FEE RECEIPT NO.	BRM PERMIT FEE RECEIPT NO.	☐ APPLICATION APPROVED ☐ APPLICATION DENIED	PERMIT NUMBER
DATE OF ISSUANCE	DATE OF EXPIRATION	SIGNATURE OF POSTMASTER		

- POSTMASTER MUST GIVE CUSTOMER FORM 3544, RECEIPT FOR PAYMENT FOR PROOF OF HAVING A VALID PERMIT.

[FR Doc. 84-25770 Filed 9-28-84; 8:45 am]
BILLING CODE 7710-12-C

ENVIRONMENTAL PROTECTION AGENCY

[OSW-FRL 2684-1]

40 CFR Part 271

New Hampshire; Final Authorization of State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of Tentative Determination Application of New Hampshire for Final Authorization, Public Hearing, and Public Comment Period.

SUMMARY: New Hampshire has applied for final authorization under the Resource Conservation and Recovery Act (RCRA). EPA has reviewed New Hampshire's application and has made the tentative decision that New Hampshire's hazardous waste program satisfies all of the requirements necessary to qualify for final authorization. Thus, EPA intends to grant final authorization to the State of New Hampshire to operate its program in lieu of the federal program.

New Hampshire's application for final authorization is available for public review and comment, and a public hearing will be held to solicit comments on the tentative decision if significant public interest is expressed.

DATES: If significant public interest is expressed in holding a hearing, a public hearing is scheduled for November 1, 1984. EPA reserves the right to cancel the public hearing if significant public interest in holding a hearing is not communicated to EPA by telephone or in writing by October 25, 1984. EPA will determine by October 26, 1984, whether there is significant interest to hold the public hearing. New Hampshire will participate in the public hearing held by EPA on this subject if a hearing is to be held. All written comments on New Hampshire's final authorization application must be received by the close of business on October 25, 1984.

ADDRESSES: Copies of New Hampshire's final authorization application are available during regular business hours at the following addresses for inspection:

Office of Waste Management, Health and Welfare Building, Hazen Drive, Concord, New Hampshire 03301, Contact: Charles E. Knox, (603) 271-4623

U.S. EPA Headquarters Library, PM 211A, 401 M Street SW, Washington, DC 20460, (202) 382-5926

U.S. EPA Region I Library, JFK Federal Building, Room E 121, Boston, Massachusetts 02203, Contact: Peg Nelson (617) 271-5791.

Written comments on the application and written or telephone communication of interest in EPA's holding a public hearing on the New Hampshire application must be sent to: Susan L. Hanamoto, State Waste Programs Branch, U.S. EPA, Room 1903, JFK Federal Building, Boston, Massachusetts 02203 (617) 223-1924.

If you wish to find out whether or not EPA will hold a public hearing on the New Hampshire application based upon EPA's decision that there was significant public interest in such a hearing, write or telephone after October 26, 1984, the contact person listed below or Charles E. Knox, Office of Waste Management, Health and Welfare Building, Hazen Drive, Concord, New Hampshire 03301, (603) 271-4623.

If significant public interest is expressed, EPA will hold a public hearing on New Hampshire's application for final authorization on Thursday, November 1, 1984 at 10:00 a.m. at the auditorium, Health and Welfare Building, Hazen Drive, Concord, New Hampshire.

FOR FURTHER INFORMATION CONTACT: Susan L. Hanamoto, State Waste Programs Branch, U.S. EPA, Room 1903, JFK Building, Boston, Massachusetts, (617) 223-1924.

SUPPLEMENTARY INFORMATION:

A. Background

Section 3006 of the Resource Conservation and Recovery Act (RCRA) allows EPA to authorize State hazardous waste programs to operate in the State in lieu of the federal hazardous waste program. Two types of authorization may be granted. The first type, known as "interim authorization", is a temporary authorization which is granted if EPA determines that the State program is "substantially equivalent" to the Federal program (section 3006(c), 42 U.S.C. 6226(c)). EPA's implementing regulations at 40 CFR 271.121-271.137 established a phased approach to interim authorization: Phase I, covering the EPA regulations in 40 CFR Part 260-263 and 265 (universe of hazardous wastes, generator standards, transporter standards and standards for interim status facilities) and Phase II, covering the EPA regulations in 40 CFR Parts 124, 264, and 270 (procedures and standards for permitting hazardous waste management facilities). Phase II has three components. Phase IIA covers general permitting procedures and technical standards for containers, tanks, surface impoundments, and waste piles. Phase IIB covers incinerator facilities, and Phase IIC addresses landfills and and land treatment facilities.

By statute, all interim authorizations expire on January 26, 1985.

Responsibility for the hazardous waste program returns (reverts) to EPA on that date if the State has not received final authorization.

The second type of authorization is a "final authorization" that is granted by EPA if the Agency finds that the State program: (1) is "equivalent" to the Federal program, (2) is consistent with the Federal program and other State programs, and (3) provides for adequate enforcement (section 3006(b), 42 U.S.C. 6228(b)). States need not to have obtained interim authorization in order to qualify for final authorization. EPA regulations for final authorization appear at 40 CFR 271.1-271.23.

B. New Hampshire

The State on New Hampshire received Phase I interim authorization of November 3, 1981 and Phase II interim authorization, Components A and B on March 31, 1983. On November 29, 1983, the State submitted a draft application for final authorization. The official application for final authorization was submitted on June 28, 1984. Prior to submission of the application to EPA, New Hampshire held a public hearing on May 31, 1984 to solicit comments on the application. The only oral comment at the public hearing expressed support for the State to receive final authorization. This same commenter also submitted a written statement supporting the State's efforts at obtaining final authorization and endorsing a continuation of State interagency cooperation. The other written comment also supported the State's final authorization efforts and suggested changes to the regulations regarding hazardous waste mixtures, EP toxicity, exclusions, small quantity generator limits, and a small quantity transportation exemption. EPA's comments on the final authorization application were forwarded to the State on March 21, 1984. In brief, EPA requested the State to provide the following:

1. A clarification of the enforcement actions available to the State and the circumstances under which these actions would be used.

2. A clarification of the regulation that deals with transporters taking immediate and appropriate action in the event of a discharge of hazardous waste.

3. A commitment in the Memorandum of Agreement to address requests from interested persons regarding modification, revocation and reissuance, or termination of permits.

4. A commitment in the Memorandum of Agreement to require permit applications for surface impoundments, piles, land treatment units, and landfills to also include the additional information as stated in 40 CFR 264.14(c).

In the application for final authorization that was available for review prior to the State's public hearing, the State addressed each EPA comment and satisfied EPA's concerns.

Thus, EPA tentativley intends to grant final authorization to New Hampshire to operate its program in lieu of the federal program. Copies of New Hampshire's application are available for inspection and copying at the locations indicated in the "ADDRESSES" section of this notice.

In making its final decision, EPA will consider all public comments on the tentative determination and the measures taken by the State to address EPA's concerns. Issues raised by the public comments may be the basis for a decision to deny final authorization to New Hampshire. EPA expects to make a final decision on whether or not to approve New Hampshire's program by December 28, 1984.

It is possible that the schedule for EPA's final decision could be changed if substantial amendments are made to Vermont's application in response to public comments. This is because 40 CFR 271.5(c) provides that if the state's application materially changes during EPA's review period, the statutory review period begins again upon receipt of the revised submission. The State and EPA may also extend the review period by agreement (see 40 CFR 271.6(d)). EPA will give notice of its final decision or of a change in schedule in the **Federal Register** by December 31, 1984. That notice will include a summary of the reasons for the final decision, if made at that time, and a response to all major comments received during the public comment period.

Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. The authorization suspends the applicability of certain Federal regulations in favor of the State program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Executive Order 12291

The Office of Management and Budget (OMB) has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 271

Hazardous materials, Indian-lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Intergovernmental relations, Penalties, and Confidential business information.

Authority: This notice is issued under the authority of Sections 2002(a), and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6192(a), 6926, and 6974(b).

Dated: September 7, 1984.

Paul G. Keough,

Acting Regional Administrator.

[FR Doc. 84-25837 Filed 9-28-84; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Subchapters D, H, and I

[CGD 83-026]

Fire Protection Regulations

AGENCY: Coat Guard, DOT.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Coast Guard is considering changes to the fire protection regulations in 46 CFR Subchapters D, H, and I that will incorporate the 1981 set of amendments to the Safety of Life at Sea (SOLAS) 1974 Convention, update the existing fire protection regulations, and consolidate the fire protection regulations in Subchapters D, H, and I into a single new Subchapter. The Coast Guard is seeking public comment on these changes.

DATES: Comments must be received on or before November 30, 1984.

ADDRESSES: Comments should be submitted to: Commandant (G-CMC/21) (CGD 81-026), U.S. Coast Guard, Washington, D.C., 20593. Between the hours of 8:00 a.m. and 3:00 p.m., Monday through Friday, comments may be delivered to and will be available for inspection or copying at the Marine Safety Council (G-CMC/21), Room 2110, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Mr. Donald J. Kerlin, Office of Merchant Marine Safety, telephone (202) 426-2197.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this advance notice of proposed ruelemaking by submitting written views, data, or arguments. Each comment should include the name and address of the person submitting the comment, reference the docket number (CGD 83-026), identify the specific section of the notice to which each comment applies, and include sufficient detail to indicate the basis on which each comment is made. If an acknowledgement is desired, a stamped addressed postcard should enclosed. All comments received before the expiration of the comment period will be considered before final action is taken on this notice. No public hearing is planned.

Drafting information

The principal persons involved in drafting this notice are: Mr. Donald J. Kerlin, Project Manager, Office of Merchant Marine Safety, and Mr. Michael N. Mervin, Project Attorney, Office of the Chief Counsel.

Discussion of proposed rules

The United States, as a signatory to the Safety of Life at Sea Convention, intends to enforce the regulations contained in the Convention and the amendments to the Convention. The 1981 set of amendments to the 1974 Convention became effective on September 1, 1984. The Coast Guard is considering revisions to the fire protection regulations in Subchapters D (tank vessels), H (passenger vessels), and I (cargo vessels) to reflect Chapter II-2 (Fire Protection) of the 1981 set of amendments. The Coast Guard requests comment on incorporating these amendments into the Code of Federal Regulations.

The Coast Guard has recognized that there are certain fire protection rules that have become outdated or that need modification for a variety of reasons. The Coast Guard requests comment as to which regulations may be in need of revision.

Currently the fire protection regulations for tank vessels, passenger vessels, and cargo vessels are located in three separate locations. This results in needless duplication. The Coast Guard proposes to consolidate the fire protection regulations found in Subchapters D, H, and I into a single new Subchapter. The Coast Guard requests comment as to this consolidation.

List of Subjects in 46 CFR Parts 30–40 and 70–106

Cargo Vessels, Marine Safety.

(46 U.S.C. 3306; 49 CFR 1.46)

Dated: September 26, 1984.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard Chief, Office of Merchant Marine Safety.

[FR Doc. 84–25947 Filed 9–28–84; 8:45 am]

BILLING CODE 4910–14–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 84–892; RM–4790; RM–4795]

TV Broadcast Stations Grand Junction, CO and Sante Fe, NM

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the assignments of VHF Television Channels 2 and 4 to Grand Junction, Colorado, as that community's third and fourth commercial television channels. In addition, we propose the modification of the construction permit for Station KSAF–TV, Channel 2 at Sante Fe, New Mexico, changing its offset from "+" to "zero". This action was taken in response to two separate petitions filed, Contemporary Communications and by Mesa County Telecasting.

DATES: Comments must be filed on or before November 15, 1984, and reply comments on or before November 30, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

Notice of Proposed Rule Making and Order To Show Cause

In the matter of amendment of § 73.606(b), table of assignments, Television Broadcast Stations, (Grand Junction, Colorado and Sante Fe, New Mexico) (MM Docket No. 84–892, RM–4790, RM–4795).

Adopted: September 17, 1984.

Released: September 24, 1984.

By the Chief, Policy and Rules Division.

1. Before the Commission for consideration are two separate petitions for rule making seeking assignments of VHF Television Channels to Grand Junction, Colorado. The first, filed April 9, 1984 by Contemporary Communications, ("Contemporary") requests the assignment of Channel 2 to Grand Junction. The second, filed April 27, 1984 by Mesa County Telecasting ("Mesa") requests the assignment of Channel 4 to the same community. The assignments could provide the community with its third and fourth commercial television channels. Contemporary and Mesa both submitted information in support of their proposal and expressed their intention to apply for the channels, if assigned. The assignment of both channels can be made in compliance with the minimum distance separation requirements of § 73.610 of the Commission's Rules, with site restrictions.

2. Grand Junction (population 28,144),[1] seat of Mesa County (population 81,530) is located in western Colorado, approximately 320 kilometers (200 miles) southwest of Denver, Colorado.

3. The proposed assignment of VHF Television Channel 4 to Grand Junction requires a site restriction of 6.7 miles (10.7 Km) west of the community to avoid a short-spacing to Station KCNC–TV, Channel 4 at Denver, Colorado. As for the proposed assignment of VHF Television Channel 2, a site restriction of 6.8 miles (10.9 Km) west of the community is required to avoid a short-spacing to Station KWGN–TV, Channel 2, at Denver, Colorado. Also, in order to assign Channel 2 to Grand Junction, Station KSAF–TV (Channel 2), at Sante Fe, New Mexico is ordered to show cause herein why it should not change its offset from "+" to "zero."

4. The ultimate permittee of Channel 2 at Grand Junction is required by Commission policy to reimburse Station KSAF–TV for the reasonable costs of changing its offset.

5. In view of the fact that Grand Junction could receive its third and fourth commercial television channels, the Commission believes it would be in the public interest to seek comments on the proposal to amend the Television Table of Assignments (§ 73.606(b) of the Commission's Rules) for the following communities:

City	Channel No.	
	Present	Proposed
Grand Junction, CO	5–, 8–, and *18+.	2+, 4+, 5–, 8–, and *18+
Sante Fe, NM	2+, *9+, 11–, and 19–.	2, *9+, 11–, and 19–

6. Accordingly, it is ordered, That pursuant to section 316(a) of the Communications Act of 1934, as amended, New Mexico Media LTD permittee of Station KSAF–TV, Sante Fe, New Mexico, shall show cause why its permit should not be modified to specify on Channel 2 as proposed herein instead of the present Channel 2+.

7. Pursuant to § 1.87 of the Commission's Rules, New Mexico Media, may not later than November 15, 1984, request that a hearing be held on the proposed modification. If the right to request a hearing is waived, it may not be later than November 15, 1984, file a written statement showing with particularly why its application should not be modified proposed in the *Order to Show Cause*. In this case, the Commission may call on New Mexico Media to furnish additional information, designate the matter for hearing, or issue, without further proceeding, an *Order* modifying the application as provided in the *Order to Show Cause*. If the right to request a hearing is waived and no written statement is filed by the date referred to above, New Mexico Media will be deemed to have consented to the modification as proposed in the *Order to Show Cause* and a final order will be issued by the Commission, if the above-mentioned channel modification is ultimately found to be in the public interest.

8. It is further ordered, That the Secretary shall send a copy of this *Notice of Proposed Rule Making and Order to Show Cause* by certified mail, return receipt requested, to New Mexico Media, LTD, P.O. Box 580, Sante Fe, New Mexico 87501.

9. Interested parties may file comments on or before November 15, 1984, and reply comments on or before November 30, 1984, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, follows:

Larry G. Fuss, Contemporary Communications, P.O. Box 3976, Jackson, Georgia 30233 (Petitioner)

Gary D. Terrell, Mesa County Telecasting, 32 Old Sterlington Road, Apt. 77, Monroe, LA 71203 (Petitioner)

10. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the*

[1] Population figures are from 1980 U.S. Census

Commission's rules, 46 FR 11549, published February 9, 1981.

11. For further information concerning this proceeding, contact Patricia Rawlings, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a *Notice of Proposed Rule Making* is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner considered an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes and *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comment, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b), and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All findings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 84-25891 Filed 9-28-84; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 84-894; RM-4661; RM-4701; RM-4737]

FM Broadcast Stations in Boonville, Canajoharie, Deposit, Frankfort and Sidney, NY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein optionally proposes FM channel assignments to Boonville, Canajoharie, Deposit, Frankfort, and Sidney, New York, at the request of several parties. The assignments could provide each community with a first local or first wide-coverage FM service.

DATES: Comments must be filed on or before November 15, 1984, and reply comments on or before November 30, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Notice of Proposed Rule Making

In the matter of amendment of § 73.202(b), table of assignments, FM Broadcast Stations, (Boonville, Canajoharie, Deposit, Frankfort and Sidney, New York). (MM Docket No. 84-894; RM-4661; RM-4707; RM-4737).

Adopted: September 17, 1984.
Released: September 24, 1984.

By the Chief, Policy and Rules Division.

1. The Commission has before it five mutually exclusive proposals for the assignment of FM channels. DGR Communications, Inc. ("DGR"), on October 24, 1983, filed a petition seeking the assignment of Channel 235 to Deposit, New York (RM-4661). On November 22, 1983, Robert Raide, d/b/a Broadcast Facilities Company ("BFC"), filed a petition requesting the substitution of Channel 235 for Channel 265A at Sidney, New York. BFC further requests modification of its license for Station WSID (Channel 265A) to specify operation on the new channel. WTMK Broadcasting Corporation ("WTMK"), on December 23, 1983, filed a petition requesting the allocation of Channel 235 to Frankfort, New York (RM-4737).[1] In

[1] The petition for Frankfort was filed after December 16, 1983. It is being considered at this time as a conflicting proposal to two of the MM Docket 84-231 proposals.

the omnibus *Notice of Proposed Rule Making* in Docket 84–231, we proposed the assignment of Channel 236A to Boonville, New York, and Channel 232A to Canajoharie, New York. We have received a letter of intent from Atwood Broadcasting Corporation ("Atwood"), licensee of AM daytime-only Station WBRV, Boonville, for use of Channel 236A there. WAMC, Inc. ("WAMC"), licensee of noncommercial educational FM Station WAMC, Albany, New York, has expressed interest in use of Channel 232A at Canajoharie, New York, and further requests that the channel be reserved for noncommercial use. The request for Channel 235 at Frankfort conflicts with all four channel assignments and is timely filed for consideration as a counterproposal to each proposed allocation. Therefore, as stated in the *Public Notice* of July 23, 1984, setting forth all remaining proposed allocations in MM Docket 84–231, the Boonville, Canajoharie and Frankfort proposals will be considered herein.[2]

2. Deposit (population 1,887)[3] is located in Broome and Delaware Counties (population 213,648 and 46,824, respectively), approximately 45 kilometers (28 miles) east of Binghamton, New York. Sidney (population 4,861) is located in Delaware County, approximately 28 kilometers (18 miles) north of Deposit. Boonville (population 2,344) is located in Oneida County (population 253,466), approximately 54 kilometers (34 miles) northwest of Frankfort. Canajoharie (population 2,412) is located in Montgomery County (population 53,439), approximately 43 kilometers (27 miles) southeast of Frankfort. Frankfort (population 2,995) is located in Herkimer County (population 66,714), approximately 86 kilometers (53 miles) northeast of Sidney. Deposit, Boonville, Canajoharie and Frankfort have no local FM service. Sidney has Channel 265A assigned to it on which Station WSID operates.

3. The Commission has determined that alternative Class A assignments are available for assignment to Boonville and Canajoharie. Boonville can be assigned Channel 268A, with a site restriction of 1.2 kilometers (0.7 miles) east to avoid short-spacing to an application for use of Channel 269A at Pulaski, New York, and Channel 227A can be assigned to Canajoharie without any site restriction. Channel 235 is the only Class B channel which can be assigned to Sidney, Deposit and Frankfort. However, we have determined that Channel 250A can be assigned to Frankfort with a site restriction of 1.4 kilometers (0.9 miles) southeast, and if Channel 235 is assigned to Sidney, Channel 265A can then be assigned to Deposit without any site restriction.Therefore, we are seeking comments on three assignment plans. We also seek comments on whether any Class B1 channels are available for assignment to Deposit, Sidney or Frankfort and whether any party would be willing to operate on a Class A or B1 facility at Frankfort or Deposit should Channel 235 be assigned to Sidney. Interested parties should be guided in their responsive comments by the specific requests for information made herein as well as the policies concerning mutually exclusive proposals as enunciated in *Revision of FM Policies and Procedures*, 90 F.C.C. 2d 88 (1982).

4. Channel 235 can be assigned to Deposit in compliance with the Commission's minimum distance separation requirements if the transmitter is located at least 8.2 kilometers (5.1 miles) north of the community. This will avoid a short-spacing to Stations WMSP, Channel 235, Harrisburg, Pennsylvania; WZZO, Channel 236, Bethlehem, Pennsylvania; WDNH–FM, Channel 237A, Honesdale, Pennsylvania; and WLSP–FM, Channel 232A, Carbondale, Pennsylvania.[4] Channel 235 can be assigned to Sidney, and utilized at the transmitter site for Station WSID, in compliance with the Commission's minimum distance separation requirements. Channel 235 can be assigned to Frankfort without a site restriction.

5. As to the modification of license for Station WSID to specify the superior class of channel, it should be noted that if another party should indicate an interest in the Class B assignment at Sidney, the modification may not be implemented. Instead, an opportunity for the filing of competing applications, or the addition of an equivalent channel, may be provided. See *Cheyenne, Wyoming*, 62 F.C.C. 2d 63 (1976), and *Modification of FM and TV Station Licenses*, 49 FR 34007, published August 28, 1984.

6. All five communities are located within 199 miles (320 kilometers) of the U.S.-Canadian border. Therefore, the concurrence of the Canadian Government must be obtained before a channel can be assigned to any of the communities.

7. In view of the foregoing, the Commission considers it appropriate to solicit comments on the alternative amendments to the FM Table of Assignments, § 73.202(b) of the Rules, as follows:

City	Channel No.	
	Present	Proposed
Option I:		
Boonville, New York		268A
Canajoharie, New York		227A
Deposit, New York		235
Frankfort, New York		250A
Option II:		
Boonville, New York		268A
Canajoharie, New York		227A
Frankfort, New York		235
Option III:		
Boonville, New York		268A
Canajoharie, New York		227A
Deposit, New York		265A
Frankfort, New York		250A
Sidney, New York	265A	235

8. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before November 15, 1984, and reply comments on or before November 30, 1984, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows:

David J. Doherty, President, DGR Communications, Inc., 10137 Marshall Pond Road, Burke, Virginia 22015 (Deposit proponent)

Kenneth E. Satten, Esq., Wilkinson, Barker, Knauer & Quinn, 1735 New York Avenue, NW., Washington, D.C. 20006 (Counsel to Frankfort proponent)

Robert A. Woods, Esq., Malcolm G. Stevenson, Esq., Schwartz, Woods & Miller, Suite 206, the Palladium, 1325–18th Street, NW., Washington, D.C. 20036 (Counsel to Canajoharie proponent)

Lauren A. Colby, Esq., 532 Pearl Street, Frederick, Maryland 21701 (Counsel to Sidney proponent)

Harry F. Cole, Esq., Flood, Bechtel, Ward & Cole, 1000 Potomac Street, NW., Suite 402, Washington, D.C.

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[2] *Public Notice, Reply Comment Date of August 22, 1984, Established in MM Docket 84–231*, 49 FR 31720, published August 8, 1984.

[3] Population figures are taken from the 1980 U.S. Census.

[4] Although the assignment would create an approximate 3 kilometers short-spacing to Stations WLSP-FM and WDNH-FM, at the site specified by the Commission for Deposit, 5.1 miles north, the proposal complies with the spacing requirements for Class B channels relative to adjacent channels which were in existence at the time the petition was filed. See *Memorandum Opinion and Order*, BC Docket 80–90, 49 FR 10280, published March 20, 1984.

20007 (Counsel to Boonville proponent)

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202 (b) of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

9. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, 202–634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration of court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(c)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 84–25699 Filed 9–28–84; 8:45 am]
BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 84–895; RM–4799]

TV Broadcast Stations in Santa Catalina Island or Avalon, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of UHF TV Channel 54 to either Santa Catalina Island or Avalon, California, as its first assignment, in response to a petition filed by Jin Nok Wi. Petitioner is required to provide information to demonstrate that Santa Catalina Island is a "community" for assignment purposes or submit a statement expressing an interest in Avalon, the principal community on the Island of Santa Catalina, California.

DATES: Comments must be filed on or before November 15, 1984, and reply comments on or before November 30, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: D. David Weston, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcast.

Notice of Proposed Rule Making

In the matter of amendment of § 73.606(b), table of assignments, TV Broadcast Stations. (Santa Catalina Island or Avalon, California) (MM Docket No. 84–895, RM–4799)

Adopted: September 17, 1984.
Released: September 24, 1984.

By the Chief, Policy and Rules Division.

1. Before the Commission is a petition for rule making filed by Jin Nok Wi ("petitioner") requesting the allocation of UHF TV Channel 54 to Santa Catalina Island, California as its first television assignment. Petitioner states that it, or an entity of which it is a part, will apply for the channel, if assigned.

2. Santa Catalina Island (not listed in 1980 U.S. Census) in Los Angeles County (population 7,477,503) [1] is located approximately 72 kilometers (45 miles) south of Los Angeles, California. Avalon

[1] Population figures were extracted from the 1980 U.S. Census.

(population 2,022) is the principal community on the Island.

3. Petitioner states that Santa Catalina Island is a "community" with a population of 2,020 located in "Los Angeles County in the State of California." We are, however, unable to confirm that Santa Catalina Island is in fact an incorporated "community" since it is not listed as a "place" in the 1980 U.S. Census. Likewise we do not have any official recognition concerning Santa Catalina Island's population since it is excluded from the Census Report. Further, economic data with respect to Los Angeles County only was supplied by petitioner. Based upon the information before us, we are unable to make a determination that Santa Catalina Island has "community" status for assignment purposes. *See Cascade Village, Colorado,* 48 FR 19917, published May 3, 1983, and cases cited therein.

4. Section 307(b) necessitates that we require assignments to "communities" as a geographically identifiable population grouping. Generally, if a community is incorporated or listed in the U.S. Census, that is sufficient to satisfy its status. As here, the absence of such recognizable community status places the burden on the petitioner to provide the Commission with sufficient information to demonstrate that such a place is a geographically identifiable grouping which may qualify as a "community" for assignment purposes. See, *Ansley, Alabama,* 46 FR 58688 published December 3, 1981. As an alternative, the Commission has identified Avalon as the principal community on the island of Santa Catalina which can be assigned a UHF TV channel in compliance with the minimum distance separation requirements of §§ 73.610 and 73.698 of the Rules.

5. In view of the above, therefore, we believe it appropriate to further investigate and clarify this matter through the solicitation of comments. Petitioner is therefore required in its comments to express an interest in an Avalon allocation or to provide information to demonstrate how Santa Catalina Island may qualify as a "community" for assignment purposes. See *Ansley, Alabama, supra.*

6. If UHF TV channel 54 is assigned to either Santa Catalina Island or Avalon, California, it will require coordination with the Mexican government since the proposed assignment is within 320 kilometers (200 miles) of the U.S.-Mexican border.

7. Based on the above, we believe the public interest would be served by seeking comments on petitioner's request. Accordingly, it is proposed to amend the Television Table of Assignments, § 73.606(b) of the Commisssion's Rules, for the communities listed below:

City	Channel No.	
	Present	Proposed
Santa Catalina Island, California; or		54
Avalon, California		54

8. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

9. Interested parties may file comments on or before November 15, 1984, and reply comments on or before November 30, 1984, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: Omni Communications, Inc., c/o Stanley G. Emert, Jr., One Regency Square, Suite 450, Knoxville, Tennessee 37915 (consultant to petitioner).

10. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply To Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules,* 46 FR 11549, published February 9, 1981.

11. For further information concerning this proceeding, contact D. David Weston, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(c)(1), 308 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice,* they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 84-25698 Filed 9-28-84; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 84-891; RM-4794]

TV Broadcast Station in Fort Bragg, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes to assign VHF television Channel 8 to Fort Bragg, California, as that community's first local television broadcast service, in response to a petition filed by California Communications Group.

DATES: Comments must be filed on or before November 15, 1984, and reply comments must be filed on or before November 30, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner or Stanely Schmulewitz, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

Proposed Rule Making

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations (Fort Bragg, California); MM Docket No. 84-891, RM-4794.

Adopted: September 17, 1984.
Released: September 24, 1984.

By the Chief, Policy and Rules Division.

1. A petition for rule making has been filed by California Communications Group ("petitioner") requesting the assignment of VHF television Channel 8 to Fort Bragg, California, as that community's first local television broadcast service. Petitioner states that it will apply for the channel if assigned in response to the request.

2. For Bragg (population 5,019) [1], in Mendocino County (population 66,738), is located on the California coast, approximately 230 kilometers (142 miles) northwest of San Francisco. Currently, it is devoid of any local television broadcast service. Although Channel 17 is assigned to Fort Bragg, it has been unavailable for television use since 1970 when the Commission designated UHF channels 14-20 for shared use in the land mobile communications services. See, *First Report and Order*, Docket 18261, 23 R.R. 2d 325, 343-344, 359 (1970). Accordingly, since Channel 17 is unavailable to Fort Bragg, it appears that no useful purpose would be served by retaining it in the Table. Therefore, we shall propose to delete the channel herein.

3. A staff engineering study reveals that VHF television Channel 8 can be assigned to Fort Bragg consistent with the minimum distance separation requirements of Section 73.610 of the Commission's Rules.

4. In view of the above considerations, we believe the petitioner's proposal warrants consideration since it could provide a first local television service to Fort Bragg, California. Therefore, we shall propose to amend the Television Table of Assignments, § 73.606(b) of the Commission's Rules, as follows:

Channel No.	City	
	Present	Proposed
Fort Bragg, California	*17+	8-

5. The Commission's authority to institute rule making proceedings, showing required, cut-off procedures, and filing requirements are contained in the attached Appendix and are

[1] Population figures were extracted from the 1980 U.S. Census.

A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before November 15, 1984, and reply comments on or before November 30, 1984, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioner, or their counsel or consultant, as follows: National Communications Consultants, Attn: Kirk Tollett, First National Bank Building, Public Square, Sparta, TN 38583 (Consultant to Petitioner).

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Nancy V. Joyner or Stan Schmulewitz, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(c)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b)

and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceedings will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 84-25001 Filed 9-28-84; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 84-893; RM-4793]

TV Broadcast Station in Las Vegas, NV

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes to assign UHF television Channel 33 to Las Vegas, Nevada, as that community's sixth commercial television broadcast service, in response to a petition filed by William A. DiMeolo.

DATES: Comments must be filed on or before November 15, 1984, and reply comments must be filed on or before November 30, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner or Stanley Schmulewitz, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

Proposed Rule Making

In the matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations (Las Vegas, Nevada); MM Docket No. 84-893, RM-4793.

Adopted: September 17, 1984.
Released: September 24, 1984.

By the Chief, Policy and Rules Division.

1. A petition for rule making has been filed by William A. DiMeolo ("petitioner"), requesting the assignment of UHF Television Channel 33 to Las Vegas, Nevada, as that community's sixth commercial television broadcast service. Petitioner states that he will apply for the channel, if assigned as proposed.

2. Las Vegas (population 164,674),[1] the seat of Clark County (population 463,087), is located in southern Nevada, approximately 400 kilometers (250 miles) northeast of Los Angeles, California.

3. A staff engineering study reveals that UHF Television Channel 33 can be assigned to Las vegas in conformity with the minimum distance separation requirements of §§ 73.610 and 73.698 of the Commission's Rules. In a separate proceeding (Docket 84-625) we have proposed to substitute Channel 2 for Channel 3 at Las Vegas.

4. In view of the above considerations, we believe the petitioner's proposal warrants consideration since it could provide a sixth commercial television broadcast service to the community for the expression of diverse viewpoints and programming. Accordingly, the Commission proposes to amend the Television Table of Assignments, § 73.606(b) of the Commission's Rules with respect to the community listed below, as follows:

City	Channel No.	
	Present	Proposed
Las Vegas Nevada.....	3, 8-, *10+, 13-, 15+, and 21+.	2+, 8-, *10+, 13-, 15+, 21+, and 33+

5. The Commission's authority to institute rule making proceedings, showing required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before November 15, 1984, and reply comments on or before November 30, 1984, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: Michael H. Rosenbloom, Esq., Wilner and Scheiner, 1200 New Hampshire Ave., NW., Washington, D.C. 20036 (Counsel for Petitioner).

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend*

[1] Population figures ere extracted from the 1980 U.S. Census.

§§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules, 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Nancy V. Joyner or Stanley Schmulewitz, Mass Media Bureau (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(e)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 84-25900 Filed 9-28-84; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 5, 6, 14, and 15

Federal Acquisition Regulation (FAR); Availability and Request for Comment on Proposed Regulatory Revisions

AGENCY: Department of Defense (DOD), General Services Administration, and National Aeronautics and Space Administration.

ACTION: Notice of availability and request for comment on proposed changes to the FAR.

SUMMARY: As announced in 49 FR 29982 dated July 25, 1984, The Defense Acquisition Regulatory (DAR) Council and the Civilian Agency Acquisition Council (CAAC) are making available for public and Government agency review and comment proposed changes to the FAR to implement the Competition in Contracting Act, Title VII of Pub. L. 98–369. Copies of the draft proposal, soliciting comments on the subject, have been mailed to Government agencies, private firms, and associations.

DATE: Comment must be received on or before October 5, 1984.

ADDRESS: The proposed changes are available at and comments are to be submitted to the General Services Administration; FAR Secretariat (VR), 18th & F Streets, NW., Room 4041, Washington, D.C. 20405.

FOR FURTHER INFORMATION CONTACT: Roger M. Schwartz, Director, FAR Secretariat, (202) 523–4755.

SUPPLEMENTARY INFORMATION: The Competition in Contracting Act of 1984 substantially changes the basic statutes underlying the Federal procurement system. Agencies will be required to achieve full and open competition by soliciting sealed bids or requesting competitive proposals or use other competitive procedures, unless a statutory exception permits other than full and open competition. Among its major provisions, the Act imposes new justification, approval, and notice requirements for contracts employing other than full and open competition; requires appointment of a competition advocate; codifies the General Accounting Office bid protest process; and provides statutory authority for the General Services Board of Contract Appeals to resolve protests regarding

automatic data processing procurement. Solicitations issued after 31 March 1985 must comply with the requirements of the Act.

List of Subjects in 48 CFR Parts 5, 6, 14, 15

Government procurement.

(40 U.S.C. 486(c); Chapter 137, 10 U.S.C.; and 42 U.S.C. 2453(c))

Roger M. Schwartz,

Director, FAR Secretariat.

[FR Doc. 84-26092 Filed 9-28-84; 9:01 am]

BILLING CODE 6820-01-M

Notices

Federal Register
Vol. 49, No. 191
Monday, October 1, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

Designation Renewal of Hastings Grain Inspection, Inc. (NE) and New York State Department of Agriculture and Markets (NY)

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the designation renewal of Hastings Grain Inspection, Inc. (Hastings), and New York State Department of Agriculture and Markets (New York), as official agencies responsible for providing official services under the U.S. Grain Standards Act, as amended (Act).

EFFECTIVE DATE: November 1, 1984.

ADDRESS: James R. Conrad, Chief, Regulatory Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 1647 South Building, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447-8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation do not apply to this action.

The May 1, 1984, issue of the **Federal Register** (49 FR 18586) contained a notice from the Federal Grain Inspection Service (FGIS) announcing that Hastings' and New York's designations terminate on October 31, 1984, and requesting applications for designation as the agency to provide official services within each specified geographic area. Applications were to be postmarked by May 31, 1984.

Hasting and New York were the only applicants for each respective designation.

FGIS announced the names of these applicants and requested comments on same in the July 2, 1984, issue of the **Federal Register** (49 FR 27189). Comments were to be postmarked by August 16, 1984.

One favorable comment was received regarding Hastings' designation renewal; no comments were received regarding New York's.

FGIS has evaluated all available information regarding the designation criteria in section 7(f)(1)(A) of the Act (7 U.S.C. 71 *et seq.*), and in accordance with section 7(f)(1)(B), has determined that Hastings and New York are able to provide official services in the respective geographic areas for which their designations are being renewed. Each assigned area is the entire geographic area, as previously described in the May 1 **Federal Register** issue.

Effective November 1, 1984, and terminating October 31, 1987, Hastings and New York are responsible to provide official inspection services in their respective specified geographic areas.

A specified service point, for the purpose of this notice, is a city, town, or other location specified by an agency to conduct official inspection services and where the agency and one or more of its licensed inspectors are located. In addition to the specified service points within the assigned geographic area, an agency will provide official services not requiring a licensed inspector to all locations within its geographic area.

Interested persons may contact the Regulatory Branch, specified in the address section of this notice, to obtain a list of an agency's specified service points. Interested persons also may obtain a list of the specified service points by contacting the agency at the following address:

Hastings Grain Inspection, Inc., 306 East Park Street, Hastings, NE 68901

New York State Department of Agriculture and Markets, Building 8, State Campus, Albany, NY 12235

(Sec. 8, Pub. L. 94-582, 90 Stat. 2873 (7 U.S.C. 79))

Dated: September 18, 1984.

J.T. Abshier,

Director, Compliance Division.

[FR Doc. 84-25772 Filed 9-28-84; 8:45 am]

BILLING CODE 3410-EN-M

Request for Comments on Designation Applicants in the Geographic Areas Currently Assigned to California Department of Food and Agriculture (CA) and Washington Department of Agriculture (WA)

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice requests comments from interested parties on the applicants for official agency designation in the areas currently assigned to California Department of Food and Agriculture (California) and Washington Department of Agriculture (Washington).

DATE: Comments to be postmarked on or before November 15, 1984.

ADDRESS: Comments must be submitted, in writing, to Lewis Lebakken, Jr., Information Resources Management Branch, Resources Management Division, Federal Grain Inspection Service, U.S. Department of Agriculture, Room 0667 South Building, 1400 Independence Avenue, SW., Washington, DC 20250. All comments received will be made available for public inspection at the above address during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., telephone (202) 382-1738.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512-1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

The August 6, 1984, issue of the **Federal Register** (49 FR 31310) contained a notice from the Federal Grain Inspection Service requesting applications for designation to perform official services under the U.S. Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (Act), in the areas currently assigned to the official agencies.

Applications were to be postmarked by September 5, 1984.

California and Washington, the only applicants for each respective designation, requested designation for the entire geographic area currently assigned to each of those agencies.

This notice provides interested persons the opportunity to present their comments concerning the applicants for designation. All comments must be submitted to the Information Resources Management Branch, Resources Management Division, specified in the address section of this notice, and postmarked not later than November 15, 1984.

Comments and other available information will be considered in making a final decision. Notice of the final decision will be published in the **Federal Register**, and the applicants will be informed of the decision in writing.

(Sec. 8, Sec. 9, Pub. L. 94–582, 90 Stat. 2873, 2875 (7 U.S.C. 79, 79a))

Dated: September 18, 1984.

J.T. Abshier,

Director, Compliance Division.

[FR Doc. 84-25773 Filed 9-28-84; 8:45 am]

BILLING CODE 3410-EN-M

Request for Designation Applicants to Perform Official Services in the Geographic Areas Currently Assigned to Gibson City Grain Inspection Department (IL), Indianapolis Grain Inspection & Weighing Service, Inc. (IN), and Wyoming Department of Agriculture (WY)

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: Pursuant to the provisions of the U.S. Grain Standards Act, as amended (Act), official agency designations shall terminate not later than triennially and may be renewed in accordance with the criteria and procedures prescribed in the Act. This notice announces that the designation of three agencies will terminate, in accordance with the Act, and requests applications from parties, including the agencies currently designated, interested in being designated as the official agency to conduct official services in the geographic area currently assigned to each specified agency. The official agencies are Gibson City Grain Inspection Department, Indianapolis Grain Inspection & Weighing Service, Inc., and Wyoming Department of Agriculture.

DATE: Applications to be postmarked on or before October 31, 1984.

ADDRESS: Applications must be submitted to James R. Conrad, Chief, Regulatory Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 1647 South Building, Washington, DC 20250. All applications received will be made available for public inspection at the above address during regular business hours.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

Section 7(f)(1) of the Act (7 U.S.C. 71 *et seq.*, at 79(f)(1)) specifies that the Administrator of the Federal Grain Inspection Service (FGIS) is authorized, upon application by any qualified agency or person, to designate such agency or person to perform official services after a determination is made that the applicant is better able than any other applicant to provide official services in an assigned geographic area. Donald Swanstrom, doing business as Gibson City Grain Inspection Department (Gibson City), Routes 47 and 9, P.O. Box 20, Gibson City, IL 60936; Indianapolis Grain Inspection and Weighing Service, Inc. (Indianapolis), 4804 East Michigan Street, Indianapolis, IN 46201; and Wyoming Department of Agriculture, 2219 Carey Avenue, Cheyenne, WY 82001, were each designated under the Act as an official agency to perform inspection functions on April 1, 1982.

Each agency's designation terminates on March 31, 1985. Section 7(g)(1) of the Act states, generally, that official agencies' designations shall terminate no later than triennially and may be renewed according to the criteria and procedures prescribed in the Act.

The geographic area presently assigned to Gibson City, in the State of Illinois, pursuant to section 7(f)(2) of the Act, and which is the area that may be assigned to the applicant selected for designation, is the following:

Bounded on the North by the northern Livingston County line from the ICG Railroad line;

Bounded on the East by the Livingston County line; the Ford County line; the southern Ford County line west to Interstate 57; Interstate 57 south to State Route 136;

Bounded on the South by State Route 136 west to a point approximately 10 miles west of the eastern Mclean County line; and

Bounded on the West from this point through Arrowsmith to Pontiac along a straight line running north and south which intersects with the ICG Railroad line northeast to the northern Livingston County line.

The following location, outside of the foregoing contiguous geographic area is presently assigned to Gibson City and is part of this geographic area assignment: Farm Service, Arrowsmith, McLean County.

An exception to the described geographic area is the following location situation inside Gibson City's area which has been and will continue to be serviced by Bloomington Grain Inspection Department; Bunge Corporation, Pontiac, Livingston County.

The geographic area presently assigned to Indianapolis, in the State of Indiana, pursuant to section 7(f)(2) of the Act, and which is the area that may be assigned to the applicant selected for designation, is the following: Bartholomew; Brown; Hamilton, south of State Route 32; Hancock; Hendricks; Johnson; Madison, west of State Route 13 and south of State Route 132; Marion; Monroe; Morgtan; and Shelby Counties.

The geographic area presently assigned to Wyoming, pursuant to section 7(f)(2) of the Act, and which is the area that may be assigned to the applicant selected for designation, is the entire State of Wyoming, except the geographic area assigned to Denver Grain Exchange Association, as follows: Goshen County, Platte County, and these locations in Laramie County: Albin Elevator, Albin; Farmers Coop, Burns; Carpenter Elevator, Carpenter; Pillsbury Company, Egbert; and Pine Bluffs Feed and Grain, Pine Bluffs.

Interested parties including Gibson City, Indianapolis, and Wyoming are hereby given opportunity to apply for designation as the official agency to perform the official services in the geographic areas, as specified above, under the provisions of section 7(f) of the Act and § 800.196(b) of the regulations issued thereunder. Designations in the specified geographic areas are for the period beginning April 1, 1985, and ending March 31, 1988. Parties wishing to apply for designation should contact the Regulatory Branch, Compliance Division, at the address listed above for forms and information.

Applications submitted and other available information will be considered in determining which applicant will be

designated to provide official services in a geographic area.

(Sec. 8, Pub. L. 94–582, 90 Stat. 2873 (7 U.S.C. 79))

Dated: September 18, 1984.

J.T. Abshier,

Director, Compliance Division.

[FR Doc. 84-25774 Filed 9-28-84; 8:45 am]

BILLING CODE 3410-EN-M

Soil Conservation Service

Wolf Creek-Highlands Watershed, CO

AGENCY: Soil Conservation Service.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Wolf Creek-Highlands Watershed, Prowers County, Colorado.

FOR FURTHER INFORMATION CONTACT: Mr. Sheldon G. Boone, State Conservationist, Soil Conservation Service, Diamond Hill Complex, Bldg. A, 3rd Floor, 2490 West 26th Avenue, Denver, CO 80211, telephone (303) 964–0295.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Sheldon G. Boone, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for watershed protection. The planned works of improvement include installing the land treatment practices of conservation tillage systems and terrace systems on non-irrigated cropland.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various federal, state and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. The basic data developed during the environmental evaluation are on file and may be reviewed by contacting. Mr. Sheldon G. Boone.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Executive Order 12372 regarding State clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: September 24, 1984.

Kenneth A. Pitney,

Assistant State Conservationist.

[FR Doc. 84-25880 Filed 9-28-84; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

International Trade Administration

Electronic Instrumentation Technical Advisory Committee; Partially Closed Meeting

The Electronic Instrumentation Technical Advisory Committee was initially established on October 23, 1973, and rechartered on January 5, 1984, in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act.

Time and Place: October 18, 1984 at 9:30 a.m., Herbert C. Hoover Building, Room 3407, 14th Street and Constitution Avenue, NW., Washington, D.C. The meeting will continue to its conclusion on October 19, 1984, in Room 3708, Herbert C. Hoover Building.

Agenda: The Committee will begin with an open meeting to invite public comments with regards to existing commodity or techonlogy controls. The commodities and technologies that falls under the responsibilities of the Committee are those relating to the following Commodity Control List (CCL) entries:

1510, 1518, 1522, 1529, 4529, 1531, 1533, 1534, 1541, 1560, 1561, 1564, 1568, 1572, 1584, 1585, 1587, 6598

Invited comments will be restricted to these or substantially related items.

In particular the Committee would like to invite public evidence of foreign available equipment (or technology) falling within the above mention CCL entries. Information is desired relating to equipment (or technologies) produced or available in the following country groups:

a. Proscribed countries (East Bloc Countries)

b. Non-COCOM free world countries.

Specific information is needed on:

1. Manufactures and country of origin,
2. Product's capabilities and features,
3. Product availability and price,
4. Proof of delivery of products in sufficient quantity and quality, and
5. Location where the Electronic Instrumentation Technical Advisory Committee can obtain a sample for evaluation.

The Committee is generally concerned with future regulatory levels and changes needed to existing commodity and technology regulation levels. Public comments should be formulated to support changes in either commodity or technology control level. Request specifically oriented to individual license application should not be presented at this time.

Following the open session the Committee will meet in executive session to discuss matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

SUPPLEMENTARY INFORMATION: A Notice of Determination to close meeting or portions of meetings of the Committee to the public on the basis of 5 U.S.C. 552b(c)(1) was approved on February 6, 1984, in accordance with the Federal Advisory Committee Act. A copy of the Notice is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, telephone: 202–377–4217. For further information contact Mrs. Margaret A. Cornejo 202–377–2583.

Dated: September 25, 1984.

Milton, M. Baltas,

Director, Technical Programs Staff, Office of Export Administration.

[FR Doc. 84-25916 Filed 9-28-84; 8:45 am]

BILLING CODE 3510-DT-M

[A–412–013]

Titanium Sponge From the United Kingdom: Final Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice.

SUMMARY: We have determined that titanium sponge from the United Kingdom is being, or is likely to be, sold in the United States at less than fair value. We have notified the U.S. International Trade Commission (ITC) of our determination, and the ITC will determine, within 45 days of publication of this notice, whether a U.S. industry is materially injured, or is threatened with material injury, by imports of this merchandise. We have directed the U.S.

Customs Service to continue to suspend the liquidation of all entries of the subject merchandise which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice and to require a cash deposit or bond for each such entry in an amount equal to the estimated dumping margin as described in the "Suspension of Liquidation" section of this notice. We have decided, however, to exclude those entries being imported in fulfillment of the sale to the General Services Administration for the National Defense Stockpile made during the period of investigation from suspension of liquidation and any bonding or deposit requirements.

EFFECTIVE DATE: October 1, 1984.

FOR FURTHER INFORMATION CONTACT: John J. Kenkel, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377–3965.

Final Determination

We have determined that titanium sponge from the United Kingdom is being, or is likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (19 U.S.C. 1673d) (the Act).

We have found that the foreign market value of titanium sponge exceeded the United States price on the single sale made during the period of investigation. The margin on this sale amounted to 109.06 percent.

Case History

On November 28, 1983, we received a petition from RMI Company on behalf of the domestic titanium sponge industry. In compliance with the filing requirements of § 353.36 of our regulations (19 CFR 353.36), the petitioner alleged that imports of titanium sponge from the United Kingdom are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports are materially injuring, or are threatening material injury to, a United States industry. The petition also alleged that sales of the subject merchandise were being made at less than the cost of production. After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping investigation. We notified the ITC of our action and initiated such an investigation on December 16, 1983 (48 FR 56817). On January 12, 1984, the ITC determined that there is reasonable indication that imports of titanium sponge from the United Kingdom are materially injuring a U.S. industry.

On January 13, 1984, we mailed an antidumping questionnaire to Billiton (U.K.) Ltd., the exporter of the merchandise. An extension of time to respond was granted, and on March 2, 1984, we received the response to the questionnaire.

The respondent declined to provide essential cost information requested. Therefore, based on best information available, we preliminarily determined on May 7, 1983, that titanium sponge was being sold at less than fair value (49 FR 20042). The estimated dumping margin was 93.91 percent. The respondent has continued to refuse to cooperate in this investigation.

A hearing was held on August 14, 1984, to allow the parties an opportunity to address the issues arising in this investigation.

Scope of the Investigation

The merchandise covered by this investigation is titanium sponge. The term "titanium sponge" covers titanium sponge, unwrought, as currently provided for in item 629.1420 and of the *Tariff Schedules of the United States Annotated* (TSUSA) and which may enter the United States under item number 833 of the TSUSA for certified government importations for the National Defense Stockpile. Titanium sponge is a porous, brittle metal that has a high strength-to-weight ratio and is highly ductile. It is an intermediate product used to produce titanium ingot, slab, billet, bar, plate and sheet.

This investigation covers the period from June 1 to November 30, 1983. Deeside Titanium Co. Ltd. is the only known U.K. producer that exports the subject merchandise to the United States.

Fair Value Comparison

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

As provided in section 776(b) of the Act, we used the best information available to represent the United States price because the respondent refused to provide the Department with an adequate response to our questionnaire. Therefore, we calculated the purchase price for Deeside based on the information provided in the petition, which is the best information otherwise available.

We deducted from the purchase price the petitioner's estimates for ocean freight, U.S. port and inland freight costs and insurance costs incurred in delivering the product.

Foreign Market Value

We declared the respondent to be nonresponsive because it did not provide requested cost information that we needed to conduct our investigation. In accordance with section 776 of the Act, we used the best information available. The petitioner alleged that sales in the home market were at prices below the cost of producing titanium sponge. Therefore, the best information available is constructed value based on the cost estimate provided in the petition. The petitioner added 10 percent to its cost estimate for general expenses, and the statutory eight percent profit to its estimate of the sum of cost of production and general expenses in order to obtain a constructed value in accordance with section 773(e)(1) of the Act. We made an adjustment to foreign market value for the petitioner's estimate for commissions.

Petitioner's Comments

Comment 1: Petitioner claims that the respondent has not provided the Department with even the most basic data needed for an analysis of the cost of production of Deeside Titanium Co., Ltd. Accordingly, the data submitted by the petitioner is the "best information available."

DOC Position: We agree. The period of investigation is June 1 through November 30, 1983. The respondent refused to provide cost of production information for this period, despite repeated requests. Accordingly, we have used best information available as provided in the petition.

Comment 2: Petitioner contends that the Department should use exporter's sale price instead of purchase price to calculate the United States price because Billiton Metals, Inc. (the U.S. seller) is related to Billiton (U.K.) Ltd. (the exporter).

DOC Position: We disagree. Exporter's sales price is used to determine United States price when the sale is made after importation. Here, the merchandise was sold to the General Services Administration (GSA) prior to its importation by a U.S. company, Billiton Metals, Inc. (BMI). Therefore, we calculated the dumping margin predicated on purchase price.

Comment 3: Petitioner claims that antidumping duties should be applied to dumped articles classified under Tariff

Schedules of the United States item 833.00.

DOC Position: See our response to respondent's comment six.

Respondent's Comments

Comment 1: Respondent argues that the period of investigation should be 1984 instead of 1983 because that is when Deeside intended to produce the titanium sponge destined for the United States.

DOC Position: We disagree. The Department determines whether the respondent sold the merchandise at less than fair value by comparing the price at the time of sale to home market sales. If the home market is not viable, the Department then uses third country sales. If neither of these markets is viable the constructed value is used for comparison. Deeside had a home market sale and third country sales during 1983. To determine the viability of the home market or third country sales we cannot use 1984 costs to determine if sales were above the cost-of-production. 1983 sales must be compared to the actual costs incurred to produce the merchandise to determine if the sales price could recover all costs. When comparing sales to cost, it is apparent that 1983 sales could not be compared to 1984 costs.

Comment 2: Respondent contends that the Department is required to accept and verify all information relevant to the investigation. In addition, the information submitted by the respondent is the best available.

DOC Position: We disagree. The respondent has submitted 1984 cost data, rather than the 1983 data requested by the Department. When relevant data are not provided, we will neither accept nor verify nonrelevant data. Respondent has misconstrued the meaning of the term of art, "best information available." To reach a determination, we use the questionnaire responses. Where the respondent does not cooperate, we use the best information otherwise avaiable. We usually dismiss the entire response when the respondent submits only partial information because the selection of information submitted may be self-serving. The only information on cost of production for the period under investigation was submitted by the petitioner. Thus, it is the best information available.

Comment 3: Respondent argues that there have been no sales at less than fair value because the producer has priced the product so as to recoup its capital expenditures and labor learning curve losses over a reasonable period of time in anticipation of rising demand.

DOC Position: We could not address this issue because respondent did not provide the requested cost information.

Comment 4: Respondent states that the Department should respect the confidentiality agreement among its shareholders and, therefore, not penalize it for its non-response to certain questions.

DOC Position: The shareholders' confidentiality agreement does not relieve them of the consequences of refusing to cooperate in our investigation. Therefore, we have used the best information available, in accordance with section 776 of the Act (19 U.S.C. 1677e(b)) and § 353.51 of our regulations (19 CFR 353.51(b)).

Comment 5: Respondent maintains that GSA purchases of certified strategic and critical materials for National Defense Stockpile, such as titanium sponge, are not subject to antidumping duties under TSUSA item 833 because the "exemption" for importation under 833 is absolute and because the Department's interpretation of item 832 as free of antidumping duties is equally applicable to imports under item 833.

DOC Position: We have determined that it was reasonable for Billiton Metals, Inc., to expect, at the time it enetered into a contract with GSA, that imports of titanium sponge certified for the National Defense Stockpile would enter free of duties, including antidumping duties. It had this expectation based on the longstanding administrative practice of exempting articles imported for defense procurement under TSUS 832. Because of Billiton's reliance on this past practice, we have excluded entries within the current titanium sponge procurement contract from the scope of our determination. We credit reliance here only because of twenty-five years of unbroken practice by two federal agencies, and apparent congressional acquiescence in the practice.

Nevertheless, we do not view this decision as immutable. Further reliance on this agency's past practice would not be well advised. We intend to undertake a careful and thorough review of issues relevant to the waiver of antidumping and countervailing duties under sections 832 and 833, and will publish the results of this review within six months. During the course of this review, we will invite comments from all interested parties. We have decidied to undertake this review in recognition of serious implications for the domestic industry of a waiver of such duties, and our obligation to enforce vigorously the unfair trade laws.

Comment 6: Respondent contends that procurements under the Trade Agreements Act of 1979 and Department of Defense memoranda of understanding require that all bidders be treated on an equal basis.

DOC Position: Respondent's interpretation of the Trade Agreements Act of 1979 as requiring equal treatment for foreign bidders is incorrect. Section 301 of the Act, 19 U.S.C. 2511, provides that the President *may* waive discriminatory purchasing requirements, such as the Buy American provisions. Also, the GATT Procurement Code, which is in force under the Act, states that its equal treatment provision does not prevent imposition of duties. The Department of Defense memoranda of understanding with other countries do not require equal treatment; duties may not be considered, even at the bid evaluation stage. These memoranda, however, concern only defense procurement.

Comment 7: Respondent argues that any change in the Department's long-established position may occur only in accordance with the notice and public comment requirements of the Administrative Procedure Act.

DOC Position: Our investigations are not subject to the rulemaking provisions of the Administrative Procedure Act and our procedures have received judicial approval. *NLRB* v. *Bell Aerospace Company*, 416 U.S. 267, 290–95 (1973); *Michelin Tire Corp.* v. *United States*, slip op. 83–136 at 5 (Ct. Int'l Trade Dec. 22, 1983). We followed our normal procedures in this investigation, providing full notice and opportunity to comment to all interested parties.

Verification

Because the respondent did not provide the information requested in our questionnaire, we were unable to conduct a verification.

ITC Notification

In accordance with section 735(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-confidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. The ITC will make its determination whether these imports are

materially injuring, or threatening material injury to, a U.S. industry within 45 days of the publication of this notice. If the ITC determines that material injury or the threat of material injury does not exist, this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. If, however, the ITC determines that such injury does exist, we will issue an antidumping order, directing Customs officers to assess an antidumping duty on titanium sponge from the United Kingdom entered, or withdrawn from warehouse, for consumption after the suspension of liquidation, equal to the amount by which the foreign market value of the merchandise exceeds the U.S. prices.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we have directed the United States Customs Service to suspend liquidation of all entries of the subject titanium sponge from the United Kingdom which are entered, or withdrawn from warehouse, for consumption on or after May 11, 1984. The Customs Service shall continue to require a cash deposit or the posting of a bond equal to the estimated average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price. This suspension of liquidation will remain in effect until further notice. The Customs Service, however, will exclude those entries being imported in fulfillment of the contract dated October 28, 1983, between the General Services Administration and Billiton Metals, Inc. for the National Defense Stockpile from the suspension of liquidation and any bonding or deposit requirements. The average margin for the respondent is as follows:

	Margin (percent)
Deeside Titanium Co., Ltd	109.06
All other manufacturers, producers, and exporters	109.06

This determination is being published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)).

Dated: September 24, 1984.

William T. Archey,

Acting Assistant Secretary for Trade Administration.

[FR Doc. 84-25952 Filed 9-28-84; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-020]

Titanium Sponge From Japan: Final Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice.

SUMMARY: We have determined that titanium sponge from Japan is being, or is likely to be, sold in the United States at less than fair value. We have notified the U.S. International Trade Commission (ITC) of our determination, and the ITC will determine, within 45 days of publication of this notice, whether a U.S. industry is materially injured, or is threatened with material injury, by imports of this merchandise. We have directed the U.S. Customs Service to continue to suspend the liquidation of all entries of the subject merchandise which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice and to require a cash deposit or bond for each such entry in an amount equal to the estimated dumping margin as described in the "Suspension of Liquidation" section of this notice. We have decided, however, to exclude those entries being imported in fulfillment of the sale to the General Services Administration for the National Defense Stockpile made during the period of investigation from suspension of liquidation and any bonding or deposit requirements.

EFFECTIVE DATE: October 1, 1984.

FOR FURTHER INFORMATION CONTACT: John J. Kenkel, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-3965.

SUPPLEMENTARY INFORMATION:

Final Determination

We have determined that titanium sponge from Japan is being, or is likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (19 U.S.C. 1673d) (the Act).

We have found that the foreign market value of titanium sponge exceeded the United States price on 100 percent of comparisons made for each company. These margins ranged from 1.30 percent to 67.49 percent. The margins for Osaka Titanium Company ranged from 1.30 percent to 18.80 percent. The weighted-average margin for all comparisons made was 15.09 percent. The margins for Toho Titanium ranged from 31.53 percent to 40.29 percent. The weighted-average margin for all comparisons made was 34.25 percent. The margins for Nippon Soda ranged from 55.60 percent to 67.49 percent. The weighted-average margin for all comparisons made was 56.37 percent.

Case History

On November 28, 1983, we received a petition from RMI Company on behalf of the domestic titanium sponge industry. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petitioner alleged that imports of titanium sponge from Japan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports are materially injuring, or are threatening material injury to, a United States industry. The petition also alleged sales of the subject merchandise were being made at less than the cost of production. After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping investigation. We notified the ITC of our action and initiated such an investigation on December 16, 1983 (48 FR 56815). On January 12, 1984, the ITC determined that there is reasonable indication that imports of titanium sponge from Japan are materially injuring a U.S. industry.

On December 30, 1983, we presented antidumping questionnaires to counsel for Osaka Titanium Co. Ltd. (OTC), Toho Titanium Co. Ltd. (Toho) and Nippon Soda Co. (Nisso). An extension of time to respond was granted, and on February 23, 24 and March 9, 1984, we received their responses to the questionnaires. Based on information contained in those responses, on May 7, 1984, we preliminarily determined that titanium sponge was being sold at less than fair value (49 FR 20042). The estimated weighted-average dumping margins were zero, 15.90 and 62.30 percent, for OTC , Toho and Nisso, respectively. As required by law, we conducted a verification of the correctness of each response through examination of source documents of each company in Japan. We also received a questionnaire response from Philipp Brothers, Inc. (Phibro). Phibro stated that it acts as a purchaser and/or agent of the producer of this product. We also conducted a verification of its responses.

A hearing was held on July 25, 1984, to allow the parties an opportunity to

address the issues arising in this investigation.

Scope of the Investigation

The merchandise covered by this investigation is titanium sponge. The term "titanium sponge" covers titanium sponge, unwrought, as currently provided for in item 629.1420 of the Tariff Schedules of the United States Annotated (TSUSA). Titanium sponge may also enter under item 833 of the TSUSA for certified government importations for the National Defense Stockpile. Titanium sponge is a porous, brittle metal, that has a high strength-to-weight ratio and is highly ductile. It is an intermediate product used to produce titanium ingot, slab, billet, bar, plate and sheet.

This investigation covers the period from June 1 to November 30, 1983. OTC, Nisso and Toho are the only known Japanese producers who export the subject merchandise to the United States. We examined virtually all United States sales made during the period of investigation.

Fair Value Comparison

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

As provided in section 772(b) of the Act, we used the purchase price of the subject merchandise to represent the United States price because the merchandise was sold to unrelated U.S. purchasers prior to its importation into the United States.

We calculated the purchase price for Nisso based on the CIF price to the first unrelated United States purchaser. We deducted port charges, inland freight, ocean freight and insurance costs incurred in delivering the product.

We calculated purchase price for OTC based on the CIF or C&F price from Philipp Brothers, Inc. (an unrelated trading company) to the first unrelated United States purchaser on those sales where Phibro acted as agent. We used the price from Sumitomo Corporation of America to the first unrelated purchaser on all other sales. We deducted inland freight, home market brokerage, ocean freight and inland and marine insurance.

We calculated purchase price for Toho based on the CIF price from Mitsui & Co., Ltd. (a related trading company) to the first unrelated United States purchaser. We deducted inland and ocean freight and insurance costs.

Foreign Market Value

In accordance with section 773(a)(2) of the Act, we used constructed value to determine foreign market value. The petitioner alleged that sales in the home market were at prices below the cost of producing titanium sponge. In order to determine the cost of production, we examined production costs, including materials, labor and general expenses.

We found that all non-U.S. sales of the merchandise under investigation were made over an extended period of time in substantial quantities, and at prices that did not permit recovery of all costs within a reasonable period of time in the normal course of trade. Therefore, we disregarded these sales in our analysis in accordance with section 773(b) of the Act. Instead, we used constructed value to determined foreign market value. In accordance with section 773 of the Act, we calculated constructed value, where appropriate, by adding the costs of materials, fabrication, general expenses, and profit. For materials, fabrication and general expenses we used the appropriate producer's actual cost figures. We did not use the statutory 10 percent for general expenses since actual expenses for each company exceeded the minimum of 10 percent of the sum of material and fabrication costs prescribed in section 773(e)(1)(B) of the Act. We used the statutory eight percent for profit since actual profit did not meet the eight percent of the sum of costs and general expenses prescribed in section 773(e)(1)(B) of the Act.

In calculating foreign market value, we made currency conversions from Japanese yen to United States dollars in accordance with § 353.56(a)(1) of our regulations using the certified daily exchange rates.

We found that all U.S. sales for each company were made at less than the constructed value.

Petitioner's Comments

Comment 1: Petitioner claims that for OTC, United States price should be the price at which OTC sells titanium sponge to Sumitomo Corporation , a Japanese trading company, and not the price charged by Sumitomo to the first unrelated U.S. customer.

DOC Position: We disagree. We found that OTC does not sell the merchandise to Sumitomo. Instead, Sumitomo acts as agent for OTC and receives a commission for its services.

Comment 2: Petitioner argues that if the Department uses Sumitomo's price to the first unrelated customer as the basis for United States price, it should deduct the commission paid to Sumitomo since Sumitomo is conducting an arm's length transaction with OTC.

DOC Position: We disagree. We have determined that if a producer owns five percent or more of an agent, or vice versa, we will treat them as related companies. Therefore, we did not deduct Sumitomo's commission from purchase price.

Comment 3: Petitioner contends that deductions for selling commissions in calculating United States price should not be offset by non-comparable selling expenses for home market sales.

DOC Position: We disagree. Under § 353.15(c) of our regulations, reasonable allowance for actual selling expenses in one market will be made where commissions are paid in the other market. The allowance is limited by the lesser of the two amounts. The expenses in the two markets do not have to be comparable.

Comment 4: Petitioner contends that in its response, Osaka improperly modified its inventory accounting methodology in reporting its raw material costs. Cost of production is, as a rule, based on the normal accounting practices of the company involved. Absent compelling reasons to do otherwise, Osaka's normal accounting method for raw materials must provide the basis for the Departments analysis of Osaka's raw material cost.

DOC Position: We agree. In calculating the cost of production, the Department values the inputs based on the company's accounting methods used in the ordinary course of business, unless the Department concludes that such methods do not appropriately reflect the cost of the product under investigation. Therefore, as OTC's normal accounting practice follows generally accepted accounting principles and appropriately reflected the cost of the product, the Department rejected the methodology used by OTC in its response and instead used OTC's normal accounting method for calculating the material cost in cost of production.

Comment 5: Petitioner claims that titanium tetrachloride produced by OTC is an intermediate product in the production process of titanium sponge, and not a by-product as claimed by respondent. Because it is an intermediate product, OTC should not be allowed to reduce the cost of producing titanium sponge by the revenue earned from sales of excess titanium tetrachloride.

DOC Position: We agree. We analyzed the production of titanium tetrachloride and determined that such product was not a by-product but was

an intermediate product because (1) it was manufactured in separate facilities, (2) the quantity of production could be determined by management and is not determined by the production of titanium sponge, and (3) its production was not an unavoidable consequence of the manufacturing of titanium sponge. Therefore, we have not offset the cost of producing titanium sponge by the revenues from outside sales of titanium tetrachloride.

Comment 6: Petitioner contends that in its questionnaire response, Osaka improperly excluded depreciation on plant and equipment which, because of the depressed market conditions, was not in production. Depreciation expense is a fixed cost of production. Facilities have a depreciable life and must be depreciated over that period whether or not they are in operation.

DOC Position: We agree. Depreciation of equipment which, due to economic conditions, has been temporarily idled is considered to be a cost incurred for the manufacturing of the product under investigation and must be included in the cost of production. Therefore, the cost of production employed in the determination of fair value has been adjusted to reflect the depreciation of idle plant capacity.

Comment 7: Petitioner argues that Osaka understated selling, general and administrative expenses by excluding research and development expense, business taxes, legal expenses and other expenses. Each of the specific items that was excluded is a necessary expense incurred in the titanium sponge production business.

In addition, Osaka improperly allocated its SG&A expenses on the basis of *net* sales, in order to lower the costs allocated to titanium sponge production.

Osaka's SG&A costs should also include the selling costs absorbed by Sumitomo and Sumitomo Corporation of America.

DOC Position: Research and development costs directly attributable to titanium sponge have been included in the cost of production employed in the determination of fair value. All other costs have been included in selling, general and administrative expenses, a portion of which have been allocated to sales of titanium sponge. The methods used to allocate the selling, general and administration expenses were (1) to identify those expenses which could be tied specifically to the product or (2) to allocate unidentified expenses on the basis of cost of production.

The administrative costs of Sumitomo Corporation and Sumitomo Corporation of America have not been included in the cost of production included in the comparison of home market sales because these companies are employed in export sales only.

Comment 8: The petitioner contends that by allocating financial income and expense on the basis of net sales rather than the cost of goods sold, OTC understates the real cost of financing titanium sponge. In addition, Osaka failed to report financing costs borne by Sumitomo and Sumitomo Corporation of America.

DOC Position: We disagree with the petitioner for the following reasons. Financial income unrelated to the production of titanium sponge was not included in the cost of production to allocate financial expenses on the net sales or cost-of-goods-sold basis and would not appropriately be identifying such costs with titanium sponge. The company produces and sells titanium sponge and silicon products. Some of the silicon products are purchased from a subsidiary and resold by the company. The balance of the silicon products is manufactured by the company. The financial expenses pertains only to the production of titanium sponge and silicon products manufactured by the company, not to the silicon produced by the subsidiary. Therefore, to allocate this cost by sales value or cost-of-goods sold would be apportioning some of the expense to the silicon produced by the subsidiary. For calculating the cost of production, financial expense has been allocated on the basis of the relative cost of direct, long-term plant assets of the company. The financial expense of Sumitomo and Sumitomo Corporation of America have not been included in the cost of production because they engage only in export sales.

Comment 9: Petitioner argues that Osaka takes a significant cost of production credit for dividend income and income from the sale of negotiable securities. Established Department practice has been to disallow claims for cost of production credits from non-operational revenue that cannot be directly related to sales of the product under investigation. Under this precedent, the non-related income reported by Osaka cannot be factored into its production costs.

DOC Position: We agree. Dividend and securities sales income have been excluded from the interest calculation, because the securities were held by the company for investment purposes and were not related to the cost of production of titanium sponge.

Comment 10: Petitioner claims that for Toho, the United States price should be the price at which Toho sells its titanium sponge to Mitsui & Co., if the Department uses Toho's home market sales to Mitsui as the basis for determining whether home market sales are above cost of production.

DOC Position: We disagree. We found that Toho does not sell the merchandise to Mitsui in the United States market. Mitsui is Toho's agent and receives a commission for it services. Therefore, we have used the price charged by Mitsui to the first unrelated U.S. purchaser.

Comment 11: Petitioner argues that if the Department uses the Mitsui price to the first unrelated customer on U.S. sales as the basis for United States prices, it must reduce the price by the amount of the commission paid to Mitsui because that price reflects selling expenses in addition to Toho's indirect selling expenses.

DOC Position: We disagree. See DOC position to petitioner's comment two.

Comment 12: Petitioner contends that in its questionnaire response, Toho modified its normal accounting methodology in order to lower the cost of raw materials reported to the Department. DOC must use Toho's normal accounting practices provided they follow accepted principles.

DOC Position: We agree. See our response to petitioner's comment four.

Comment 13: Petitioner asserts that in responding to the Department's questionnaire, Toho excluded a good portion of its labor costs from the cost of production response submitted to the Department. Toho adjusted its labor costs by eliminating "excess labor" due to production problems at a plant that had been in operation for over two years. Respondent must report all labor costs so that the Department can accurately determine cost of production.

DOC Position: We agree. Actual labor costs incurred by the respondent were included in the cost of production for the determination of fair value. The Department does not permit the adjustment of actual costs incurred to a hypothetical efficient production cost model.

Comment 14: Petitioner claims that Toho understated its depreciation costs in its questionnaire response by treating depreciation on its idle facilities as a financial expense and by modifying its normal method of depreciation from a double declining balance to a straight line method.

DOC Position: We agree. See our response to Petitioner's comments four and six.

Comment 15: Petitioner argues that Toho improperly excluded its research and development directly related to titanium sponge costs from its stated

cost of production. The data must be corrected.

DOC Position: We agree. In conformity with department policy, the cost of production has been adjusted to reflect the cost of research and development in the measurement of fair value.

Comment 16: Petitioner contends that costs incurred by a plant that is dedicated to the production of titanium sponge are properly allocated to titanium sponge production. Toho erroneously included a number of plant costs in SG&A. Accuracy in cost calculation requires that these costs be allocated only to titanium sponge production.

DOC Position: We agree. The cost of production has been adjusted to reflect the full cost of factory administration allocated to the production of titanium sponge.

Comment 17: Petitioner argues that to the extent that Toho allocated SG&A expenses on the basis of gross margin, they should be recalculated.

In addition, Toho's SG&A expenses should be recalculated to (1) exclude dividend income, income from the sale of securities, and income from the sale of land, and (2) include retirement benefits for officers of the corporation.

DOC Position: The Department agrees that allocation of SG&A expenses on the basis of gross margin (the difference between sales revenue and cost of goods sold) is not a reasonable allocation method. For example on such basis, a product which is being sold at a price below the cost of sales would not absorb any selling, general and administrative expenses. Therefore, the allocation method has been changed to a method based on cost of production.

The income from dividends on stock held in other companies, security sales and land sales are not considered to be related to the production of titanium sponge. Therefore, we did not include the benefits of this income in the measurement of fair value.

The retirement benefits for officers of the corporation are considered a necessary expense of the corporation and the portion allocated to titanium sponge production has been included in the cost of production.

Comment 18: Petitioner argues that Nisso's United States price should be that to its unrelated trading company. Alternatively, if the Department uses the price from the unrelated trading company to the first unrelated U.S. purchaser, it should not allow any offset for indirect selling expenses in the home market because the U.S. commission is not comparable to any selling expense incurred in the home market.

DOC Position: We disaree. Nisso does not sell the merchandise to an unrelated trading company. Therefore, we used the price from the trading company to the first unrelated U.S. purchaser as the purchase price. We allowed an adjustment for indirect selling expenses as explained in our response to petitioner's comment three.

Comment 19: Petitioner objects to a number of major adjustments that Nisso claimed to its production costs resulting from the start-up of its titanium tetrachloride plant in April 1983, *e.g.*, labor, rent, raw materials, depreciation. A number of the adjustments requested cannot reasonably be viewed as legitimate "start-up" costs and were start-up costs might fairly be claimed, the absence of detailed supporting data is conspicuous. Petitioner claims that Nisso also cannot reasonably claim that lower-than-expected output levels where a "start-up" phenomenon when, instead, they were caused by the collapse of the market.

DOC Position: We agree. Under section 773(b) of the Act, one of the tests of selling below the cost of producing the product under investigation is that such sales "are not at prices which permit recovery of all costs within a resonable period of time in the normal course of trade." We believe that this provision contemplates start-up as a period when sales prices may not exceed production costs because cost may be extraordinary. Therefore, the Department usually would consider the cost related to start-up to determine if the sales price could meet the requirements of the above section. However, adjustments for start-up must be supported by sufficient documentation that would allow us to verify their accuracy. Because the Department considers the supporting documentation submitted by Nisso insufficient to support the accuracy of the start-up adjustment, the adjustment has been denied. Therefore, the cost of production employed in the calculation of fair value is based on the actual cost of producing titanium sponge for the period of the investigation.

Comment 20: Petitioner objects to Nisso's claim for electricity cost savings specifically related to titanium sponge production when most other costs to Nisso are budgeted on a plant-wide basis. To grant such a claim would allow Nisso to elect the specificity and method for stating individual costs.

DOC Position: We disgree. During the verification, Nisso submitted extensive information to support the allocation of electricity cost. We verified the information. Therefore, the submitted cost of electricity has been employed in the calculation of cost of production.

Comment 21: Petitioner contends that Nisso excluded a number of items from its reported selling, general, and administrative expenses. These are noted in the verification report and except for profits and loss from the sale or disposal of securities and fixed assets, they are properly attributable to titanium sponge production. There also appears to be a problem of understating financing costs.

DOC Position: The Department agrees with the petitioner. Therefore, the selling, general and administrative expenses have been adjusted to reflect all costs attibutable to the production of titanium sponge. Also, the allocation of financing expenses has also been corrected.

Respondents' Comments

Phibro

Comment 1: Even if Commerce issues an antidumping order as a result of this investigation, importations of titanium sponge certified for the National Defense Stockpile are exempt from all duties, including antidumping duties, according to long-standing administrative practice regarding a related tariff provision for defense procurement.

DOC Position: We have determined that it was reasonable for Phibro to expect, at the time it entered into a contract with GSA, that imports of titanium sponge certified for the National Defense Stockpile would enter free of duties, including antidumping duties. It had this expectation based on the longstanding administrative practice of exempting articles imported for defense procurement under TSUS 832. Because of Phibro's reliance on this past practice, we have excluded entries within the current titanium sponge procurement contract from the scope of our determination. We credit reliance here only because of twenty-five years of unbroken practice by two federal agencies, and congressional acquiescence in the practice.

Nevertheless, we do not view this decision as immutable. Further reliance on this past practice would not be well advised. We intend to undertake a careful and thorough review of issues relevant to the waiver of antidumping and countervailing duties under Sections 832 and 833, and will publish the results of this review within six months. During the course of this review, we will invite comments from all interested parties. We have decided to undertake this review in recognition of serious

implications for the domestic industry of a waiver of such duties, and our obligation to enforce vigorously the unfair trade laws.

Osaka Titanium Company

Comment 1: Osaka claims that it properly calculated the amounts for depreciation, titanium tetrachloride as a by-product, cost of manufacturing at current costs, R&D not related to production and sale of the product in 1983, reduction of finance costs by amount of income and Japanese enterprise tax exclusion in its response for the cost of production for titanium sponge.

DOC Position: See the DOC position to petitioner's comments four through eight.

Comment 2: OTC contends that Phibro and Sumitomo are OTC's agents and are related to OTC within the meaning of the antidumping law.

DOC Position: We have determined whether a producer and its agent are considered to be related, for the purposes of an antidumping investigation, by examining the percentage ownership one company has in the other. If a producer owns five percent or more of the agent, or vice versa, we will treat them as related. The degree of ownership between OTC and Sumitomo meets this test. The degree of ownership, however, between OTC and Phibro is so small as to be negligible. Therefore, for purposes of this investigation, we do not consider them to be related. It is clear that Sumitomo acts as an agent for OTC on U.S. sales. We also found evidence supporting OTC's and Pilbro's claims that Phibro acted as OTC's agent on non-GSA sales. Therefore, we have treated Phibro accordingly.

Toho Titanium Company

Comment 1: Toho asserts that the Department must determine that its home market sales at less than the cost of production (1) have been made over an extended period of time and (2) are not at prices which permit recovery of all costs within a reasonable period of time in the normal course of trade, pursuant to section 773(b) of the Act. Toho argues that the six-month period which the Department examined is not an "extended period of time" nor a "reasonable period" within the meaning of the Act.

DOC Position: Toho submitted the company's plant utilization data for 10 years to support its allegation that the titanium sponge industry was in a trough in its business cycle during the period of investigation and that Toho's prices would allow recovery of all costs over a "reasonable period of time," were that period to include an entire business cycle. The adjustment was not considered by the Department because the information (1) did not justify Toho's position that its prices would recover all costs over a "reasonable period of time," and (2) was not submitted in a timely manner.

Comment 2: Toho claims that the Department should make an adjustment for extraordinary expenses such as excessive labor costs it incurred in the start-up of its new reduction facility.

DOC Position: We disagree. Section 773 of the Act and § 353.7 of the Commerce regulations (19 CFR 353.7) require the inclusion of labor costs in cost of production. While the Department recognizes that in certain circumstances such as during a start-up phase, there could be appropriate adjustments to the cost of production, in this case the plant had been in operation beyond a reasonable start-up period.

Comment 3: Toho claims that because Toho and Phibro are related, the Department should use prices charged by Phibro to its United States customers to calculate U.S. price, alternatively if Phibro is not related to Toho, then the Department should allow an adjustment for indirect selling expenses in the home market equivalent to Phibro's commission.

DOC Position: We disagree. We found that Phibro is not an agent for Toho but is the first unrelated U.S. purchaser. Therefore, we did not allow an offset for Phibro's commission.

Comment 4: The petitioner's assertion that Toho changed its cost accounting methodology to straight line depreciation solely for this investigation is wrong because Toho currently, for its financial and tax reporting, uses straight line depreciation.

DOC Position: We disagree. See DOC position to petitioner's comment four. The depreciation method used by the company on its books during the period of investigation was the double-declining balance methods not straight line. The Department accepted the method that the company used on its books during the period of investigation.

Comment 5: The Department should exclude all non-operating income and expenses from GS&A.

DOC Position: We disagree. See DOC position to petitioner's comment eight and nine.

Comment 6: Toho contends that the Department should exclude contributions to the retirement fund because Japanese law distinguishes these funds from salaries; the contributions are clearly non-operating in nature.

DOC Position: We disagree. See DOC position to petitioner's comment 17.

Nippon Soda Company

Comment 1: Nisso claims that the Department must adjust its computation of cost of production and constructed value to make due allowance for Nisso's start-up costs, including production inefficiencies and quality control problems. The production inefficiencies included area of problems in input usage rate, factory overhead costs, and labor costs.

DOC Position: We disagree. See DOC position to petitioner's comment 19.

Comment 2: Moreover. Nisso argues that the Department must amortize start-up costs over a reasonable cost recovery period in determining cost of production and constructed value. Nisso proposes using a five-year period for cost recovery.

DOC Position: We disagree. See DOC position to petitioner's comment 19.

Comment 3: The Department should exclude Nisso's interest expenses for long-term debt in calculating cost of production because Nisso rents facilities for production of sponge from its wholly-owned subsidiary. Its subsidiary's long-term debt costs are reflected in the rent paid by Nisso to the subsidiary. Inclusion of this expense in both rent and financing will result in double counting.

DOC Position: We disagree. The interest expense included in the cost of production was Nisso's expense, not the interest expense of its subsidiary. Therefore, Nisso's interest expense and the rent paid to its subsidiary were included in the calculation of cost of production. This did not result in double counting.

Comment 4: Nisso claims that the Department must grant it an adjustment for all indirect selling expenses in the home market because Commerce regulations provide that sales commissions paid in one market but not the other may be offset by indirect selling expenses in the market where no commissions and paid. Nisso, further contends that the decision in *Silver Reed America, Inc.* v. *United States*, slip op. 84–8 (Ct. of Int'l Trade. Feb. 1, 1984) invalidates the cap that the Department's regulation places on the offset provision.

DOC Position: We do not agree, that our regulation is invalid insofar as it limits the permissible offset to the amount of indirect selling expenses or the amount of commission paid in the other market, whichever is less. *Silver Reed*, which Nisso cites, addresses only the offset cap provision for exporter's

sales price, rather than the commission offset. Furthermore, that case is on appeal.

Verification

In accordance with section 776(a) of the Act, we verified the information provided by each company by using standard verification procedures, including examination of relevant sales and financial records of the company. Only data considered verified were used in arriving at our final determination. We also verified the responses submitted by Phibro, a purchaser and/or agent of the producer of this product.

ITC Notification

In accordance with section 735(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-confidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. The ITC will make its determination whether these imports are materially injuring or threatening materially injury, to a U.S. industry within 45 days of the publication of this notice. If the ITC determines that material injury or the threat of material injury does not exist, this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. If, however, the ITC determines that such injury does exist, we will issue an antidumping order, directing Customs officers to assess an antidumping duty on titanium sponge from Japan entered, or withdrawn from warehouse, for consumption after the suspension of liquidation, equal to the amount by which the foreign market value of the merchandise exceeds the U.S. price.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we have directed the United States Customs Service to suspend liquidation of all entries of the subject titainium sponge from Japan, which are entered, or withdrawn from warehouse, for consumption on or after May 11, 1984. The Customs Service shall continue to require a cash deposit or the posting of a bond equal to the estimated weghted-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price. This suspension of liquidation will remain in effect until further notice. The Customs Service, however, will exclude those entries being imported in fulfillment of the contract dated October 28, 1983, between the General Services Administration and Philipp Brothers, Inc., for the National Defense Stockpile, from the suspension of liquidation and any bonding or deposit requirements. The weighted-average margin for each company is as follows:

	Margin (percent)
Osaka Titanium Co	15.09
Toho Titanium Co	34.25
Nippon Soda Co	56.37
All other manufacturers, producers and exporters	28.47

This determination is being published pursuant to section 735(d) of the Act (19 U.S.C. 16783d(d)).

William T. Archey,

Acting Assistant Secretary for Trade Administration.

September 24, 1984.

[FR Doc. 84-25851 Filed 9-28-84; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Mid-Atlantic Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Mid-Atlantic and the South Atlantic Fishery Management Council will meet October 24–26, 1984, at the Cavalier, 42nd and Atlantic Avenue, Virginia Beach, VA, to discuss the Surf Clam and Ocean Quahog Fishery Management Plan (FMP), Striped Bass FMP, Swordfish Plan, joint venture policy and other fishery management and administrative matters.

The meeting may be lengthened or shortened depending on progress of the agenda. The Council may go into closed session to discuss personnel and/or national security matters. A detailed agenda will be made available to the public about October 12. For further information contract John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19901, telephone: (302) 674–2331.

Dated: September 25, 1984.

Roland Finch,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 84-25879 Filed 9-28-84; 8:45 am]

BILLING CODE 3510-22-M

New England Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The New England Fishery Management Council, established by Section 302 of the Magnuson fishery Conservation and Management Act of 1976 (Public Law 94–265), will hold a public meeting to discuss measures to be included in the fishery management plan for the multi-species fishery in the New England and Mid-Atlantic areas of the fishery conservation zone. Other Council busienss may also be discussed as time permits.

The Council will convene a meeting October 10, 1984 at 9:30 a.m., Holiday Inn, Peabody, MA, and will adjourn at approximately 6:00 p.m. or upon conclusion of the agenda. For further information contact Douglas G. Marshall, Executive Director, New England Fishery Management Council, Suntaug Office Park, 5 Broadway (Rte. 1), Saugus, Massachusets 01906, telephone: 617–231–0422.

Dated: September 25, 1984.

Roland Finch,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 84-25880 Filed 9-28-84; 8:45 am]

BILLING CODE 3510-22-M

Mid-Atlantic Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Scientific and Statistical Committee of the Mid-Atlantic Fishery Management Council will convene a meeting on October 10, 1984 at the Best Western, Airport Inn, Philadelphia International Airport, Philadelphia, PA, to discuss the Surf Clam and Ocean Quahog Quota for 1985, vessel ID project, Striped bass FMP and other fishery related matters. The meeting may be lengthened or shortened depending upon progress of the agendas. For further information contact John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE, 11901, telephone: 302–674–2231.

Dated: September 25, 1984.

Roland Finch,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 84-25661 Filed 9-28-84; 8:45 am]

BILLING CODE 3510-22-M

Receipt of Permit Applications

This document publishes for public review a summary of applications received by the Secretary of State requesting permits for foreign vessels to fish in the fishery conservation zone under the Magnuson Fishery Conservation and Management Act (Magnuson Act, 16 U.S.C. 1801 *et seq.*)

Send comments on applications to: Fees, Permits and Regulations Division (F/M12), National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, or, send comments to the Fishery Managment Council(s) which review the application(s), as specified below:

Douglas G. Marshall, Executive Director, New England Fishery Management Council, 5 Broadway (Route 1), Saugus, MA 01906, 617/231-0422

John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Federal Building, Room 2115, 300 South New Street, Dover, DE 19901, 302/674-2331

David H.G. Gould, Executive Director, South Atlantic Fishery Management Council, Southpark Building, Suite 306, 1 Southpark Circle, Charleston, SC 29407, 803/571-1366

Omar Munoz-Roure, Executive Director, Caribbean Fishery Management Council, Banco De Ponce Building, Suite 1108, Hato Rey, PR 00818, 809/753-6910

Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Blvd., Tampa, FL 33609, 813/228-2815

Joseph C. Greenley, Executive Director, Pacific Fishery Management Council, 526 S.W. Mill Street, Portland, OR 97201, 503/221-6352

Jim H. Bryson, Executive Director, North Pacific Fishery Management Council, 605 W. Fourth Avenue, Anchorage, AK 99510, 907/271-4060

Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council, 164 Bishop Street, Room 1608, Honolulu, HI 98613, 808/523-1368

For further information contact Shirley E. Whitted or John D. Kelly (Fees, Permits, and Regulations Division, 202-634-7432).

The Magnuson Act requires the Secretary of State to publish a notice of receipt of all applications for such permits summarizing the contents of the applications in the **Federal Register**. The National Marine Fisheries Service, under the authority granted in a memorandum of understanding with the Department of State effective November 29, 1983, issues the notice on behalf of the Secretary of State.

Individual vessel applications for fishing in 1984 have been received from the Government(s), shown below.

Dated: September 26, 1984.

Roland Finch,

Director, Office of Fisheries Management, National Marine Fisheries Service.

Code	Fishery	Regional fishery management councils
ABS	Atlantic Billfishes and Sharks.	New England, Mid Atlantic, South Atlantic, Gulf of Mexico, Caribbean.
BSA	Bering Sea and Aleutian Islands.	North Pacific.
GOA	Gulf of Alaska	North Pacific.
NWA	Northwest Atlantic Ocean.	New England, Mid-Atlantic.
SMT	Seamount Groundfish	Western Pacific.
SNA	Snails (Bering Sea)	North Pacific.
WOC	Pacific Groundfish (Washington, Oregon and California).	Pacific.
PBS	Pacific Billfishes and Sharks.	Western Pacific.

Activity codes which specify categories of fishing operations applied for are as follows:

Fishing operations	Activity code
Catching, processing and other support	1
Processing and other support only	2
Other support only	3
"Joint venture" in support of U.S. vessels	4

Nation vessel name, and vessel type	Application No.	Fishery	Activity
USSR:			
Svetlaja, Large Stern Trawler.	UR-84-0080	BSA, GOA, WOC	1
Ternei, Large Stern Trawler.	UR-84-0202	BSA, GOA, WOC	1
Sovgavanj, Large Stern Trawler.	UR-84-0234	BSA, GOA, WOC	1
Zelenograd, Large Stern Trawler.	UR-84-0634	BSA, GOA, WOC	1
Slavianski, Large Stern Trawler.	UR-84-9765	BSA, GOA, WOC	1
Ukrainsky Komsomolets, Large Stern Trawler.	UR-84-0771	BSA, GOA, WOC	3

Poland

Joint Venture—The government of Poland has applied for fishing vessel permits for the *Gemini* and the *Aquila* to engage in joint venture activities with Quest Export Trading Company, 790 North 4th Court, Coos Bay, Oregon 97420, tele: 503/267-5457, the American Partner. The application requests that Polish vessels receive transshipments of U.S. harvested Alaskan pollock in the amount of 5,000 mt from domestic vessels. The joint venture will take place in the BSA and GOA fisheries. A notice of receipt for the two vessels used in this operation was published June 19, 1984 at FR 25021 for the BSA, GOA and WOC fisheries.

For the Information of the Reader

Japan—Applications were received to authorize the vessels, *Shiga Maru, Kunisaki, Orion, Kisaragi Maru, Takeshima Maru, Hirotusuki Maru,* to conduct support authorities in the WOC fishery. A notice of receipt of vessel applications was published for these vessels 12/22/83 at FR 56669 for the BSA, GOA, SMT, and NWA fisheries for support activities.

Poland—The Polish Government has submitted an application to expand the Polish Alaskan joint venture to the GOA fishery requesting 15,000 mt Alaskan pollock. This is an extension of the operation that was published June 19, 1984, at FR 25022. An application was received to authorize the vessel, *Prof. Bugucki,* in the GOA fishery. A notice of receipt of that vessel application was published July 25, 1984, at FR 30005 for the BSA and WOC fisheries for directed fishing as well as joint venture. The North Pacific Fishery Management Council recommended approval of the GOA joint venture together with the one for the BSA on July 2, 1984. Therefore, the submission of this application complete administrative requirements and informs the reader of the approved JV operation.

USSR—The Union of the Soviet Socialist Republics has submitted an application for the vessel, ZELENOGRAD, to participate in the joint venture operation published December 2, 1983, at FR 54410. The notice also listed applications to authorize the Samara and the Korenga in the BSA and GOA.

[FR Doc. 84-25960 Filed 9-28-84; 8:45 am]

BILLING CODE 3510-22-M

Marine Fisheries Advisory Committee; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: As required by section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1982), notice is hereby given of subcommittee

meetings of the Marine Fisheries Advisory Committee (MAFAC). MAFAC was established by the Secretary of Commerce on February 17, 1971, to advise the Secretary on matters pertinent to the Department's responsibilities for marine fisheries resources and on means to facilitate cooperation between public and private interests in these matters.

DATES: The meetings will be held on October 15, 1984, 8:00 a.m. to 5:15 p.m. and on October 16, 1984, 8:00 a.m. to 11:45 a.m..

ADDRESS: The meetings will be held at the Howard Johnson's Motor Lodge, 320 Washington Street, Newton, Massachusetts.

Meeting Agenda: On October 15, 1984, the Budget and Strategic Planning Subcommittee will meet 8:00—9:30 a.m. to discuss the FY 1985 budget status; FY 1986 program; FY 1987 planning; NMFS objectives; and NMFS strategic plan. The Public Relations Working Group will meet 9:45–10:45 a.m. to discuss the need for establishment of a subcommittee. The State/Federal/Regional Councils Subcommittee will meet 11:00–12:30 p.m. to discuss the proposed NMFS policy for management of interjurisdictional coastal fisheries; and Federal fisheries responsibilities. The Habitat Conservation Subcommittee will meet 1:30–3:15 p.m. to discuss fishery resource considerations in Federal Energy Regulatory Commission procedures; NMFS habitat conservation policy; NOAA habitat alterations policy development; FY 1985 habitat budget; and Fish and Wildlife Coordination Act amendments. The Marine Recreational Fishing Subcommittee will meet 3:30–5:15 p.m. to discsuss status of the NMFS Marine Recreational Fishing Policy; the 1985 Boating Safety and Sport Fish Restoration Act; the NMFS draft program plan for development of marine recreational fisheries; and FWS/NMFS consulation on Dingell-Johnson marine recreational projects.

On October 16, 1984, the Consumer Affairs Subcommittee will meet 8:00–9:30 a.m. to discuss mandatory quality control inspection; benefits of seafood consumption; and seafood consumption survey. The Commercial Fishing Subcommittee will meet 9:45–11:45 a.m. to discuss joint ventures; phaseout of foreign fishing; development of U.S. export capacity; allocating surplus fishery resources; loan guarantees under capital Construction Fund (CCF); and economic impact of taxes deferred under CCF.

FOR FURTHER INFORMATION CONTACT: Ann Smith, Executive Secretary, Marine Fisheries Advisory Committee, National Marine Fisheries Service, Washington, D.C. 20235, telephone (202) 634–7220.

Dated: September 26, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management.

[FR Doc. 84-25979 Filed 9-28-84; 8:45 am]

BILLING CODE 3510-08-M

Office of the Secretary

[Docket No. 40921-4121]

Cost Comparison Review Scheduled for Commercial or Industrial Activity Performed by Government Personnel in the Office of the Secretary

September 25, 1984.

AGENCY: Office of the Secretary, Commerce.

ACTION: Notice.

SUMMARY: Notice is hereby given that pursuant to Office of Management and Budget (OMB) Circular A–76 and Department of Commerce Administrative Order 201–41, the Office of the Secretary intends to conduct a cost comparison of the following commercial activity performed by Government personnel in the Office of the Secretary, Office of Administrative Services Operations, and to issue an invitation for bids or request for proposals after the start date shown:

Description of activity and location	Review start date	Review completion
Operation of Commerce Library at the Herbert C. Hoover Building, Washington, D.C.	Oct. 1, 1984	Sept. 30, 1985.

An invitataion for bids or request for proposals will be announced in the *Commerce Business Daily* and in the **Federal Register**.

A contract or contracts may or may not result from the cost comparison of this activity. Results of the cost comparison will be made available to responding bidders or offerors, and other interested parties.

FOR FURTHER INFORMATION CONTACT: Jim Sullivan, Office of Management Analysis and Control, Office of the Assistant Secretary for Administration, Deparatment of Commerce, Washington, D.C. 20230, (202) 377–3743.

Hugh L. Brennan,

Director for Procurement and Administrative Services, Office of the Assistant Secretary for Administration, Department of Commerce.

[FR Doc. 84-25983 Filed 9-28-84; 8:45 am]

BILLING CODE 3510-03-M

[Docket No. 40920-4120]

Cost Comparison Review Scheduled for Commercial or Industrial Activity Performed by Government Personnel in the Office of the Secretary

September 25, 1984.

AGENCY: Office of the Secretary, Commerce.

ACTION: Notice.

SUMMARY: Notice is hereby given that pursuant to Office of Management and Budget (OMB) Circular A–76 and Department of Commerce Administrative Order 201–41, the Office of the Secretary intends to conduct a cost comparison of the following commercial activity performed by Government personnel in the Office of the Secretary, Office of Administrative Services Operations, and to issue and invitation for bids or request for proposals after the start date shown:

Description of activity and location	Review start date	Review completion
Operation of the Design and Graphics Services for the Department of Commerce, Washington, D.C.	Oct. 1, 1984	Sept. 30, 1985.

An invitation for bids or request for proposals will be announced in the *Commerce Business Daily* and in the **Federal Register**.

A contract or contracts may or may not result from the cost comparison of this activity. Results of the cost comparison will be made available to responding bidders or offerors, and other interested parties.

FOR FURTHER INFORMATION CONTACT: Marc J. Bloom, Office of Administrative Services Operations, Office of the Assistant Secretary for Administration, Department of Commerce, Washington, D.C. 20230 (202) 377–4983.

Hugh L. Brennan,

Director for Procurement and Administrative Services, Office of the Assistant Secretary for Administration, Department of Commerce.

[FR Doc. 84-25982 Filed 9-28-84; 8:45 am]

BILLING CODE 3510-03-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

September 24, 1984.

The USAF Scientific Advisory Board Weapons Panel will meet on October 18 (8:00 a.m.–5:00 p.m.) and October 19

(8:00 a.m.–2:00 p.m.) 1984 at Eglin AFB, Florida to receive briefings on and to discuss current and planned weapon development programs. The panel will meet in building 1, room 204, on October 18 and in room 118 on October 19.

This meeting will concern matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) and therefore will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697–4648.

Norita C. Koritko,

Air Force Federal Register Liaison Officer.

[FR Doc. 84–25977 Filed 9–28–84; 8:45 am]

BILLING CODE 3910–01–M

DEPARTMENT OF EDUCATION

Office of Management

Membership of the Performance Review Board

AGENCY: Department of Education.

ACTION: Notice of Membership of the Performance Review Board.

SUMMARY: Notice is hereby given of the names of members of the Department of Education Performance Review Board.

FOR FURTHER INFORMATION CONTACT: Martha C. Brooks, Director, Executive Resources Division, Office of Personnel Resource Management Service, Office of Management, Department of Education, (Room 1085, FOB–6), 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 472–3567.

SUPPLEMENTARY INFORMATION: Section 4314(c)(1) through (5) of Title 5, U.S.C. requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more SES performance review boards. The board shall review and evaluate the initial appraisal of a senior executive's performance by the supervisor, along with any recommendations to the appointing authority relative to the performance of the senior executive.

Membership

The following executives of the Department of Education have been selected to serve on the Performance Review Board of the Department of Education: Linda Combs, Chairperson; Lawrence Davenport; Ralph Olmo; Joan Standlee; William Smith; Emerson Elliott; Earl Ingram; Richard Hastings; Sally Christensen; Theodore Sky; Harold Wright; Frances Norris; Hunter Harrison; Thomas Skelly; Norman Beller; Mark Blazey; Burton Taylor; John Yazurlo; Dick Hays; Paul Delker.

Dated: September 26, 1984.

Ralph J. Olmo,

Acting Deputy Under Secretary for Management.

[FR Doc. 84–25984 Filed 9–28–84; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project Nos. 2514–002, et al.]

Hydroelectric Applications (Appalachian Power Co., et al); Applications Filed With the Commission

Take notice that the following hydroelectric applications have been filed with the Federal Energy Regulatory Commission and are available for public inspection:

1 a. Type of Application: Change of Land Rights.

b. Project No.: 2514–002.

c. Date Filed: June 1, 1984.

d. Applicant: Appalachian Power Co.

e. Name of Project: Byllesby and Buck Project.

f. Location: On the New River in Carroll County, Virginia.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. John W. Vaughan, President, Appalachian Power Company, 40 Franklin Road, Roanoke, VA 24009.

i. Comment Date: November 13, 1984.

j. Description of Lands to be Transferred: The applicant requests that 99.7 acres of project lands be transferred to the U.S. Forest Service. The lands would be developed by the U.S. Forest Service as a recreational area in accordance with the terms and conditions of the license. These project lands are designated as Parcel 2, Tract No. 5 and Parcel 2, Tract No. 3.

k. Purpose of Project: The project lands transferred would be developed as part of the Mount Rogers National Recreational area.

l. This notice also consists of the following standard paragraphs: B, C, and D2.

2 a. Type of Application: License (More than 5 MW).

b. Project No.: 5931–002.

c. Date Filed: December 29, 1983.

d. Applicant: Roseburg Lumber Company.

e. Name of Project: Hatchet Creek.

f. Location: On Hatchet Creek in Shasta County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Charles Grenier, P.O. Box 697, Anderson, California 96007.

i. Comment Date: November 29, 1984.

j. Description of Project: The proposed project would consist of: (1) A 6-foot-high, 50-foot-long diversion weir at elevation 3,487 feet msl; (2) a 39-inch-diameter, 18,600-foot-long pipe; (3) a powerhouse containing a single generating unit with a rated capacity of 6,890 kW, operating under a head of 1,025 feet; (4) a switch gear; (5) a power transformer stepping voltage from 4,160 volts to 13.8 kV; (6) a 4,800-foot-long, 13.8-kV transmission line; (7) a substation increasing voltage to 230-kV; and (8) interconnection with Pacific Gas and Electric Company's (PG&E) transmission line existing at the proposed substation site. This project will not occupy any Federal lands. This application was filed pursuant to an 18-month preliminary permit issued to the Applicant on June 18, 1982. No new recreational facilities are proposed by the Applicant.

k. Purpose of Project: The estimated 19.57 GWh generated annually by the proposed project would be sold to PG&E.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C and D1.

3 a. Type of Application: Minor License.

b. Project No.: 7678–001.

c. Date Filed: May 9, 1984.

d. Applicant: Michiana Hydro-Electric Power Corporation.

e. Name of Project: Goshen Water Power.

f. Location: On the Elkhart River, in Elkhart County, Indiana.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Charles. S. Hayes, 1634 East Jefferson Blvd., South Bend, Indiana 46617.

i. Comment Date: December 3, 1984.

j. Description of Project: The proposed project would consist of: (1) An existing concrete dam approximately 200-feet in length and 15-feet high; (2) an existing pond with storage capacity of 3,100 acre-feet and normal pool elevation of 790.3-feet, m.s.l., (3) an existing headgate structure; (4) an existing hydraulic canal, approximately 1.5 miles long and 50-feet wide; (5) an existing concrete and brick powerhouse, approximately 50-feet by 25-feet, which will house two proposed turbine-generating units with a total installed capacity of 430 kW; (6) an existing tailrace; (7) about 250-feet of proposed transmission line at 12.5 kV;

(8) and appurtenant facilities. Applicant estimates that the average annual energy generation would be 2,275,000 kWh. Owner of the dam is the Elkhart County Park and Recreation Board. The powerhouse is owned by the City of Goshen.

k. Purpose of Project: The applicant anticipates the project power will be sold to the Northern Indiana Public Service Company.

l. This notice also consists of the following standard pargraphs: A3, A9, B, C and D1.

4 a. Type of Application: Preliminary Permit.

b. Project No.: 8138–000.

c. Date Filed: March 1, 1984.

d. Applicant: The Nuclear Energy Group, Inc.

e. Name of Project: Curwensville.

f. Location: On the West Branch of the Susquehanna River in Clearfield County, Pennsylvania.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Brian B. Hegarty, The Nuclear Energy Group, Inc., Hydro Systems Division, 1000 RIDC Plaza, Suite 312, Pittsburgh, Pennsylvania 15238.

i. Comment Date: November 29, 1984.

j. Description of Project: The proposed project would utilize the existing U.S. Army Corps of Engineers' Curwensville Dam and would consist of: (1) A proposed 150-foot-long, 9.5-foot-diameter penstock; (2) a proposed powerhouse which will contain an installed generating capacity of 1,750 kW; (3) a proposed 75-foot-long, 11.1-foot-diameter tailrace; (4) a proposed 240-foot-long, 12-kV transmission line; and (5) appurtenant facilities.

The Applicant estimates the average annual energy generation to be 6,130 MWh.

k. Purpose of Project: The applicant intends to sell the power produced at the site to the Pennsylvania Electric Company.

l. This notice also consists of the following standard pargraphs: A5, A7, A9, B, C & D2.

m. Proposed Scope and Cost of Studies under Permit: A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license. Applicant seeks issuance of a preliminary permit for a period of 18 months, during which time it would perform surveys and geologic investigations, determine the economic feasibility of the project, investigate the sale of project power, secure financing commitments, consult with Federal, State and local government agencies concerning the potential environmental effects of the project, and prepare an application for an FERC license, including an environmental report. Applicant estimates the cost of the work under the permit would be $40,000.

5 a. Type of Application: Preliminary Permit.

b. Project No.: 8235–001.

c. Date Filed: April 6, 1984.

d. Applicant: Hydroelectric Development, Inc.

e. Name of Project: Robertson Dam.

f. Location: On the Ashuelot River in Cheshire County, New Hampshire.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: John R. Spencer, Dufresne-Henry, Inc., Precision Park, North Springfield, Vermont 05150.

i. Comment Date: November 30, 1984.

j. Description of Project: The proposed run-of-river project would consist of:

Alternative A

(1) A new 12-foot-high, 150-foot-long concrete gravity dam, completely breached about 10 years ago; (2) a small reservoir with a normal surface elevation of 410 feet NGVD; (3) a new intake structure at the southern abutment of the dam; (4) a new 7-foot-diameter, 3,200-foot-long steel penstock; (5) a new powerhouse at the southern abutment of the Robertson Dam, with 3 turbine-generator units with a total installed capacity of 2,500 kW; (6) a new 40-foot-long tailrace; (7) a new 69-kV, 200-foot-long transmission line; and (8) other appurtenances. The Robertson Dam is a 10-foot-high, 150-foot-long rock-filled timber crib structure and impounds a small reservoir with a normal surface elevation of 382 feet NGVD. Applicant estimates an average annual generation of 7,000,000 kWh for this alternative.

Alternative B

(1) A new 12-foot-high, 150-foot-long concrete gravity dam (completely breached about 10 years ago); (2) a small reservoir with a normal surface elevation of 410 feet NGVD; (3) a new intake structure and powerhouse at the southern abutment of the dam with 2 turbine-generator units with a total installed capacity of 1,170 kW; (4) a new 40-foot-long tailrace; (5) the existing Robertson Dam and small reservoir, about 3,500 feet downstream; (6) a new intake structure and powerhouse at the southern abutment of the dam, with 2 turbine-generator units with a total installed capacity of 830 kW; (7) a new 40-foot-long tailrace; (8) a new 69-kV, 200-foot-long transmission line; and (9) other appurtenances. Applicant estimates an average annual generation of 6,000,000 kWh. The existing facilities are owned by Paper Services Mills, Inc.

k. Purpose of Project: Project energy would be sold to the New Hampshire Public Service Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 18 months during which time it would prepare studies of the hydraulic, construction, economic, environmental, historic and recreational aspects of the project. Depending on the outcome of the studies, Applicant would prepare an application for an FERC license. Applicant estimates the cost of studies under the permit would be $48,000.

6 a. Type of Application: Application for license (under 5MW).

b. Project No.: 8366–000.

c. Date Filed: June 14, 1984.

d. Applicant: PRODEK, Inc.

e. Name of Project: Sumner Water Power Project.

f. Location: On Pecos River in DeBaca County, New Mexico.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. David N. Raffel, President, PRODEK, Inc., P.O. Box 12608, El Paso, Texas 79913.

i. Comment Date: December 3, 1984.

j. Description of Project: The proposed project would utilize the existing Bureau of Reclamation's Sumner Dam and Reservoir and would consist of: (1) A new steel penstock utilizing the existing outlet works near the right dam abutment; (2) a new powerhouse containing 6 turbine-generator units rated at 200 kW each for a total rated capacity of 1,200 kW; (3) draft tube outlets returning flow to the existing outlet works stilling basin; (4) an underground transmision line connecting to nearby existing lines; and (5) appurtenant facilities. The Applicant estimates that the average annual energy output would be 3,500,000 kWh. Project energy will likely be sold to the Farmer's Electric Cooperative, Inc., of New Mexico.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C, D1.

7 a. Type of Application: Preliminary Permit.

b. Project No.: 8377–000.

c. Date Filed: June 21, 1984.

d. Applicant: Central Hydroelectric Corporation.

e. Name of Project: Isabella Hydroelectric Project.

f. Location: On Kern River in Kern County, California.

g. Filed Pursuant to: Federal Power Act section 791(a)–825(r).

h. Contact Person: Bart M. O'Keeffe, 3451 Longview Drive, Suite 130, North Highlands, California 95660.

i. Comment Date: November 29, 1984.

j. Description of Project: The proposed project would utilize the existing 193-foot-high dam and 13,900-acre reservoir of the U.S. Army Corps of Engineers' Isabella Project and would consist of: (1) A 13.67-foot-diameter steel liner, acting as a penstock, to be inserted into the existing outlet tunnel of the Isabella Dam; (2) an outlet structure, containing three-gated structures, (3) a 10,575-kW powerhouse containing three Francis type turbines each rated at 3,150 kW and a fourth unit rated at 1,125 kW; and (4) a 66-kV, 1,200-foot-long transmission line connecting with an existing 66-kV trransmission line of the Southern California Edison Company (SCE).

Purpose of Project: A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months during which time it would conduct engineering, hydrological, economic and environmental studies; conduct negotiations with the utility; and prepare FERC license application. No new roads are required to conduct the studies. The cost of studies to be completed for preliminary permit is estimated to be $75,000.

The estimated 26.5 million kWh generated annually by the project would be sold to SCE.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

8 a. Type of Application: Preliminary Permit.

b. Project No.: 8381–000.

c. Date Filed: June 22, 1984.

d. Applicant: Noah Corp.

e. Name of Project: Gallipolis Locks and Dam

f. Location: On the Ohio River in Gallia County, Ohio.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: James B. Price, President-Noah Corp,. P.O. Drawer 640, Aiken, South Carolina 29802.

i. Comment Date: December 3, 1984.

j. Description of Project: The proposed project would utilize the existing U.S. Army Corps of Engineers' Gallipolis Locks and Dam and would consist of: (1) A proposed powerhouse which will contain an installed generating capacity of 70 MW; (2) a proposed 1.7-mile-long, 138–kV transmission line; and (3) appurtenant facilities. The Applicant estimates that the average annual energy generation will be 300 GWh.

k. Purpose of Project: It is the intent of the Applicant to sell the electric power produced to Virginia Electric Power Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, C, B, and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months during which time it would prepare studies of the hydraulic, construction, economic, environmental, historic and recreational aspects of the project. Depending on the outcome of the studies, Applicant would prepare an application for an FERC license. Applicant estimates the cost of the studies under the permit would be $100,000.

9 a. Type of Application: Preliminary Permit.

b. Project No.: 8414–000.

c. Date Filed: July 9, 1984.

d. Applicant: Atlas Placer Power.

e. Name of Project: Rock Creek.

f. Location: On Rock Creek, partly within the Tahoe National Forest in Sierra County, California.

g. Filed Pursuant to: Federal Power Act., 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Fracis E. Borcalli, Ensign and Buckley, Consulting Engineers, 3327 longview Drive, North Highland, CA 95660.

i. Comment Date: December 3, 1984.

j. Description of Project: The proposed project would consist of: (1) An intake structure within the north bank of the Rock Creek at elevation 3,970 feet; (2) a 20-inch-diameter, 6,200-foot-long low pressure steel pipe; (3) a 20-inch-diameter; 900-foot-long penstock; (4) a powerhouse containing a single generating unit with a rated capacity of 1,600 KW operating under a head of 1,090 feet; and (5) a short tap into an existing Pacific Gas and Electric. Company's 12–KV transmission line at the project site.

k. Purpose of Project: The project's estimated annual generation of 3 million KWH would be sold to a local utility.

l. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C, and D2.

10 a. Type of Application: Preliminary Permit.

b. Project No.: 8415–000.

c. Date Filed: July 9, 1984.

d. Applicant: Winona Hydro Partners.

e. Name of Project: Mississippi Lock & Dam No. 5.

f. Location: On the Mississippi River in Buffalo County, Wisconsin.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Ingolf Hermann, Winona Hydro Partners, 380 Ridgehill Professional Building, 2000 Plymouth Road, Minnetonka, Minnesota 55343.

i. Comment Date: December 3, 1984.

j. Description of Project: The Applicant would utilize an existing dam and lands under the jurisdiction of the U.S. Army Corps of Engineers. The proposed project would consist of: (1) A proposed intake structure; (2) proposed penstocks; (3) a proposed forebay; (4) a proposed powerhouse containing 5 generating units rated at 2 MW each, for a total installed capacity of 10 MW; (5) a proposed tailrace; (6) a proposed substation; (7) a proposed transmission line; and (8) appurtenant facilities. The estimated average annual energy output for the project is 55,000,000 kWh.

k. Proposed Scope of Studies Under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, Applicant would decide whether to proceed with an application for an FERC license. Applicant estimates the cost of the studies under the permit would be $50,000.

1. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C & D2.

11 a. Type of Application: Preliminary Permit.

b. Project No.: 8420–000.

c. Date Filed: July 9, 1984.

d. Applicant: Essex County.

e. Name of Project: J & J Rogers/ AuSable Forks Project.

f. Location: On the West Branch of the AuSable River in Essex County, New York.

g. Filed Pursant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: William Johnston, County Planner, Essex County Planning Office, Church Street, Elizabethtown, New York 12932.

i. Comment Date: November 13, 1984.

j. Competing Application: Project No. 8137–000; Date Filed: March 1, 1984.

k. Description of Project: The proposed project would consist of: (1) The existing 34-foot-high, 103-foot-long concrete gravity J & J Rogers Dam; (2) a reservoir with a surface area of 8 acres,a storage capacity of 56 acre-feet, and a

normal water surface elevation of 665.5-feet m.s.l.; (3) an existing forebay structure; (4) a new 7-foot-diameter, 1100-foot-long steel penstock; (5) a new powerhouse containing two generating units having a total installed capacity of 900 kW; (6) a new tailrace; (7) a new 1100-foot-long, 13.5-kV transmission line; and (8) appurtenant facilities. The Applicant estimates the average annual generation would be 8100 MWH. The existing dam and project facilities are owned by the Applicant.

l. Purpose of Project: All project energy produced would be sold to the New York State Electric and Gas Corporation.

m. This notice also consists of the following standard paragraphs: A8, A9, B, C, and D2.

n. Proposed Scope and Cost of Studies Under Permit: A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 18 months, during which time the Applicant would perform studies to determine the feasibility of the project. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates the cost of the studies under permit would be $108,000.

12 a. Type of Application: Preliminary Permit.

b. Project No: 8422–000.

c. Date Filed: July 9, 1984.

d. Applicant: Pine Island Pond Hydro.

e. Name of Project: Pine Island Pond Project.

f. Location: On the Cohas Brook in Hillsborough County, New Hampshire.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. § 791(a)–825(r).

h. Contact Person: Anne L. Warner, Pine Island Pond Hydro, 6–10 Pendleton Land, Londonderry, New Hampshire 03053.

i. Comment Date: November 29, 1984.

j. Description of Project: The proposed project would consist of: (1) An existing 70-foot-long stone masonry dam varying in height from 12 to 15 feet; (2) a reservoir with a surface area of 70 acres, a storage capacity of 500 acre-feet, and a normal water surface elevation of 150 feet msl; (3) a new intake structure; (4) a new powerhouse containing one generating unit with a capacity of 90 kw; (5) a new tailrace; (6) a new transmission line 300 feet long; and (7) appurtenant facilities. The Applicant estimates the average annual generation would be 450,000 kwh. the existing dam is owned by Laurence E. Desrosiers.

k. Purpose of Project: All project energy produced would be sold to the Public Service Company of New Hampshire.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. Proposed Scope and Cost of studies under Permit: A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time the Applicant would perform studies to determine the feasibility of the project. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates the cost of the studies under permit would be $20,000.

13 a. Type of Application: Preliminary Permit.

b. Project No: 8445–000.

c. Date Filed: July 19, 1984.

d. Applicant: Jerry Buckley.

e. Name of Project: Blue Hill Hydroelectric.

f. Location: West Fork Clear Creek and Blue Creek, in Clear Creek County, Colorado.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: William J. Kenney, 2600 Virginia Avenue, NW., Suite 209, Washington, D.C. 20037.

i. Comment Date: November 30, 1984.

j. Description of Project: The project would consist of all new facilities as follows: (1) A concrete overflow diversion structure approximately 5-feet high and 40-feet long, located on the West Fork of Clear Creek; (2) a second concrete overflow diversion structure approximately 4-feet high and 10-feet long, located on Blue Creek; (3) an impoundment on the West Fork of Clear Creek with a water surface area of about 0.1 acres and storage capacity of less than 0.2 acre-feet. The Blue Creek diversion structure will create essentially no impoundment. The normal water surface elevation at these two structures would be approximately 9340 feet, m.s.l.; (4) the main penstock extended from the Clear Creek diversion will be 36-inches in diameter and approximately 5300 feet long, and will be buried on the north side of the West Fork of Clear Creek. The penstock connecting the Blue Creek diversion dam and the main penstock will be 12-inches in diameter and approximately 300 feet long; (5) a powerhouse at the end of the main penstock approximately 40-feet by 20-feet, housing three turbine-generator units with a total installed capacity of 2,000 kw; (6) a tailrace channel about 100-feet long; (7) about 200-feet of 25-kV transmission line; and (8) appurtenant facilities. Applicant estimates that the average annual energy generation would be 7,400,000 kWh. The profect will affect lands of the Arapaho National Forest.

k. Purpose of Project: The Applicant anticipates that project energy will be sold to the Public Service Company of Colorado.

l. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C, and D2.

m. Proposed scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 24 months during which time it would prepare studies of the hydraulic, construction, economic, environmental, historic and recreational aspects of the project. Depending on the outcome of the studies, Applicant would prepare an application for an FERC license. Applicant estimates the cost of the studies under the permit would be between $15,000 and $25,000.

14 a. Type of Application: Preliminary Permit.

b. Project No: 8454–000.

c. Date Filed: July 20, 1984.

d. Applicant: Fountain City Associates.

e. Name of Project: Mississippi Lock & Dam No. 5A.

f. Location: On the Mississippi River in Winona County, Minnesota and Buffalo County, Wisconsin.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Joel Kirk Rector, CFS Financial Corporation, 324 South State Street, #500, Salt Lake City, Utah 84111.

i. Comment Date: December 3, 1984.

j. Description of Project: The Applicant would utilize an existing dam and lands under the jurisdiction of the U.S. Army Corps of Engineers. The proposed project would consist of: (1) A proposed intake structure; (2) a proposed penstock; (3) a proposed powerhouse containing 1 generating unit rated at 6,000 kW; (4) a proposed 69-kV, 800-foot-long transmission line; and (5) appurtenant facilities. The estimated average annual energy output for the project is 30,000,000 kWh.

k. Proposed Scope of Studier under Permit: A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months to conduct feasibility studies, prepare final design plans and a license application. Applicant estimates the cost for this work would be $100,000.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C & D2.

15 a. Type of Application: Preliminary Permit.

b. Project No: 8459–000.

c. Date Filed: July 23, 1984.

d. Applicant: Geoffrey Shadroui.

e. Name of Project: Swanton.

f. Location: On the Missisquoi River in the Village of Swanton, Franklin County, Vermont.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Geoffrey Shadroui, 121 Maple Avenue, Barre, Vermont 05641.

i. Comment Date: December 3, 1984.

j. Description of Project: The proposed run-of-river project would consist of: (1) An existing 6-foot-high and 360-foot-long concrete dam; (2) a small reservoir with a surface area of 60 acres; (3) an existing 280-foot-long canal at the west side of the dam; (4) an existing concrete powerhouse with 3 new turbine-generator units with a total installed capacity of 1,000 kW; (5) a new 600-volt and 280-foot-long transmission line; and (6) other appurtenances. Applicant estimates an average annual generation of 3,600,000 kWh. Existing facilities are owned by the Village of Swanton.

k. Purpose of Project: Project energy would be sold to the Swanton Water and Light Department.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 24 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $50,000.

16 a. Type of Application: Preliminary Permit.

b. Project No: 8487–000.

c. Date Filed: August 2, 1984.

d. Applicant: Amador County.

e. Name of Project: Irish Hill Water and Power.

f. Location: On Dry Creek in Amador County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a) (825(r).

h. Contact Person: Mr. Kenneth Deaver, Chairman of the Board, Amador County, 108 Court St., Jackson, California 95642.

i. Comment Date: November 13, 1984.

j. Competing Application: Project No. 8084.000; Date Filed: February 13, 1984.

k. Description of Project: The proposed project would consist of: (1) A 185-foot-high, 1,880-foot-long earthfill dam forming; (2) a reservoir with gross storage capacity of 100,000 acre-feet and water surface elevation of 575 feet; (3) a powerhouse, at the foot of the dam, with total installed capacity of 4,500 kW operating under a head 155 feet; and (4) a 4-mile-long, 60-kV transmission line connecting the powerhouse with the Applicant's proposed 60-kV transmission line under its application for preliminary permit for Project No. 8144. The public notice for Project No. 8144 was issued on June 27, 1984.

l. Purpose of Project: Project energy would be sold to a public or private utility.

m. This notice also consists of the following standard paragraphs: A8, A9, B, C & D2.

17 a. Type of Application: Preliminary Permit.

b. Project No: 8500–000.

c. Date Filed: August 9, 1984.

d. Applicant: New Valley Hydro Ltd.

e. Name of Project: New Valley Hydroelectric Project.

f. Location: On Big Creek, near town of Burnt Ranch, within the Shasta-Trinity National Forest, in Trinity County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Roy McDonald, 1121 L Street, Suite 1000, Sacramento, California 95814.

i. Comment Date: November 30, 1984.

j. Description of Project: The proposed project would consist of: (1) A 5-foot-high, 86-foot-long diversion dam on Big Creek at elevation 1,500 feet; (2) a 4-foot-diameter, 9,000-foot-long diversion conduit; (3) a 35-inch-diameter, 1,150-foot-long steel penstock; (4) a powerhouse with a total installed capacity of 2,540 kW operating under a head of 410 feet; and (5) a 5.5-mile-long, 12.5-kV transmission line to connect to an existing Pacific Gas and Electric Company (PG&E) transmission line. The Applicant estimates the average annual energy generation at 10 million kWh to be sold to PG&E.

A preliminary permit, if issued, does not authorize construction. The Application seeks issuance of a 36-month preliminary permit to conduct technical, environmental and economic studies, and also prepare an FERC license application at an estimated cost of $70,000.

k. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C and D2.

18 a. Type of Application: Exemption (5 MW or less).

b. Project No: 6378–003.

c. Date Filed: August 1, 1984.

d. Applicant: Monterey County Flood Control and Water Conservation District.

e. Name of Project: Nacimiento Hydroelectric Project.

f. Location: On Nacimiento River in San Luis Obispo County, California.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980 (16 U.S.C. 2705 and 2708 *as amended*).

h. Contact Person: Mr. Wayne MacRostie, Interim District Engineer, Monterey County Flood Control and Water Conservation District, P.O. Box 930, Salinas, California 93902.

i. Comment Date: November 8, 1984.

j. Competing Application: Project No. 8333, Date Filed: June 1, 1984 (Notice expires September 28, 1984).

k. Description of Project: The proposed project would consist of: (1) The Applicant's existing 190-foot-high earthfill Dam with a 1,650-foot-long crest at elevation 825 feet; (2) the existing 470,000-acre-foot Nacimiento Reservoir; (3) a proposed powerhouse, at the existing low-level outlet, containing two generating units with combined rated capacity of 3,175 kW operating under a head of 115 feet; and (4) a proposed 1,000-foot-long, 21-kV transmission line connecting the project with an existing Pacific Gas and Electric Company line northeast of the powerhouse.

l. Purpose of Project: The project's estimated annual generation of 9.5 million kWh would be sold to a local utility.

m. This notice also consists of the following standard paragraphs: A2, A9, B, C and D3a.

19 a. Type of Application: Exemption (5 MW or less).

b. Project No: 7893–001.

c. Date Filed: July 3, 1984.

d. Applicant: Bertha Wright Bertillion.

e. Name of Project: Wright Ranch Hydroelectric.

f. Location: On Rock Creek near the town of Goodyear Bar in Sierra County, California.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980 (16 U.S.C. 2705, 2708 *as amended*).

h. Contact Person: Mr. Francis E. Borcalli, Borcalli, Ensign and Buckley, 3327 Longview Drive, North Highlands, California 95660.

i. Comment Date: November 1, 1984.

j. Description of Project: The proposed project would consist of: (1) An existing

3½-foot-high diversion dam at elevation 2800 feet; (2) an existing 15-inch-diameter, 465-foot-long pipeline; (3) an existing 266-foot-long wooden flume; (4) an existing 2,400-foot-long ditch; (5) a 12-inch-diameter, 830-foot-long penstock; (6) a powerhouse containing a single generating unit with a rated capacity of 20 kW operating under 138 feet of head; and (7) a 400-foot-long transmission line connecting the powerhouse with an existing Pacific Gas and Electric Company (PG&E) line.

k. Purpose of Project: The estimated 130,000 kWh of project's annual generation will be sold to PG&E.

l. This notice also consists of the following standard paragraphs: A1, A9, B, C & D3a.

20 a. Type of Application: Preliminary Permit.

b. Project No.: 8531–000.

c. Date Filed: August 17, 1984.

d. Applicant: SHA Development Company.

e. Name of Project: Albion Project.

f. Location: On the Blackstone River in Hartford County, Connecticut.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. David M. Coombe, Synergics, Inc., 410 Severn Avenue, Suite 409, Annapolis, Maryland 21403.

i. Comment Date: November 29, 1984.

j. Description of Project: The proposed project would consist of: (1) An existing 300-foot-long, 25-foot-high concrete rollaway dam; (2) a reservoir with a surface area of 18 acres, a storage capacity of 235 acre-feet, and a normal water surface elevation of 87.7 feet m.s.l.; (3) an existing 1250-foot-long, 140-foot-wide headrace; (4) a proposed powerhouse containing two generating units with a total installed capacity of 900 kW; (5) an existing tailrace; (6) a new 13.2-kV transmission line; and (8) appurtenant facilities. The Applicant estimates the annual generation would be 3,660,000 kWh. The dam and existing project facilities are owned by American Tourister Inc.

k. Purpose of Project: All project power generated would be sold to the Blackstone Valley Electric Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

m. Proposed Scope and Cost of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 18 months, during which time the Applicant would perform studies to determine the feasibility of the project. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates the cost of the studies under permit would be $30,000.

Competing Applications

A1. Exemption for Small Hydroelectric Power Project under 5MW Capacity—Any qualified license or conduit exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license or conduit exemption application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such an application. Any qualified small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing small hydroelectric exemption application or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing license, conduit exemption, or small hydroelectric exemption application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

A2. Exemption for Small Hydroelectric Power Project under 5MW Capacity—Any qualified license or conduit exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license or conduit exemption application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing license or conduit exemption application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit and shall hydroelectric exemption will not be accepted in response to this notice.

A3. License or Conduit Exemption—Any qualified license, conduit exemption, or small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license, conduit exemption, or small hydroelectric exemption application, or a notice of intent to file such an application. Submissions of a timely notice of intent allows an interested person to file the competing license, conduit exemption, or small hydroelectric exemption application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

This provision is subject to the following exception: if an application described in this notice was filed by the preliminary permittee during the term of the permit, a small hydroelectric exemption application may be filed by the permittee only (license and conduit exemption applications are not affected by this restriction).

A4. License or Conduit Exemption—Public notice of the filing of the initial license, small hydroelectric exemption or conduit exemption application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, any competing application for license, conduit exemption, small hydroelectric exemption, or preliminary permit, or notices of intent to file competing applications, must be filed in response to and in compliance with the public notice of the initial license, small hydroelectric exemption or conduit exemption application. No competing applications or notices of intent may be filed in response to this notice.

A5. Preliminary Permit: Existing Dam or Natural Water Feature Project—Anyone desiring to file a competing application for preliminary permit for a proposed project at an existing dam or natural water feature project, must submit the competing application to the Commission on or before 30 days after the specified comment date for the particular application (see 18 CFR 4.30 to 4.33 (1982)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

A competing preliminary permit application must conform with 18 CFR 4.33 (a) and (d).

A6. Preliminary Permit: No Existing Dam—Anyone desiring to file a competing application for preliminary permit for a proposed project where no dam exists or where there are proposed major modifications, must submit to the Commission on or before the specified comment date for the particular application, the competing application itself, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 60 days

after the specified comment date for the particular application.

A competing preliminary permit application must conform with 18 CFR 4.33 (a) and (d).

A7. Preliminary Permit—Except as provided in the following paragraph, any qualified license, conduit exemption, or small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license, conduit exemption, or small hydroelectric exemption application or a notice of intent to file such an application. Submission of a timely notice of intent to file a license, conduit exemption, or small hydroelectric exemption application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

In addition, any qualified license or conduit exemption applicant desiring to file a competing application may file the subject application until: (1) A preliminary permit with which the subject license or conduit exemption application would compete is issued, or (2) the earliest specified comment date for any license, conduit exemption, or small hydroelectric exemption application with which the subject license or conduit exemption application would compete; whichever occurs first.

A competing license application must conform with 18 CFR 4.33 (a) and (d).

A8. Preliminary Permit—Public notice of the filing of the initial preliminary permit application, which has already been given, established the due date for filing competing preliminary permit applications on notices of intent. Any competing preliminary permit application, or notice of intent to file a competing preliminary permit application, must be filed in response to and in compliance with the public notice of the initial preliminary permit application. No competing preliminary permit applications or notices of intent to file a preliminary permit may be filed in response to this notice.

Any qualified small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing small hydroelectric exemption application or a notice of intent to file such an application. Submission of a timely notice of intent to file a small hydroelectric exemption application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

In addition, any qualified license or conduit exemption applicant desiring to file a competing application may file the subject application until: (1) A preliminary permit with which the subject license or conduit exemption application would compete is issued, or (2) the earliest specified comment date for any license, conduit exemption, or small hydroelectric exemption application with which the subject license or conduit exemption application would compete; whichever occurs first.

A competing license application must conform with 18 CFR 4.33 (a) and (d).

A9. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed, either (1) a preliminary permit application or (2) a license, small hydroelectric exemption, or conduit exemption application, and be served on the applicant(s) named in this public notice.

B. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST" or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Project Management Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D1. *Agency Comments*—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88-29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments with the Commission within the time set for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D2. *Agency Comments*—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3a. *Agency Comments*—The U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 408 of the Energy Security Act of 1980, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined

to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3b. *Agency Comments*—The U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 30 of the Federal Power Act, to file within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: September 26, 1984.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-25988 Filed 9-28-84; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5550-001]

Modesto Irrigation District; Surrender of Preliminary Permit

September 25, 1984.

Take notice that Modesto Irrigation District, Permittee for the proposed Boyd's Hat Creek Project, has requested that its preliminary permit be terminated. The preliminary permit was issued on July 29, 1983, and would have expired December 31, 1984. The project would have been located on Hat Creek in Shasta County, California.

The Permittee filed its request on September 12, 1984, and the surrender of the preliminary permit for Project No. 5550 is deemed accepted as of September 12, 1984, and effective 30 days after the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-25989 Filed 9-28-84; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6735-001]

Modesto Irrigation District; Surrender of Preliminary Permit

September 25, 1984.

Take notice that Modesto Irrigation District, Permittee for the proposed Duncan Canyon Creek Project, has requested that its preliminary permit be terminated. The preliminary permit was issued on November 22, 1983, and would have expired on April 30, 1985. The project would have been located on Duncan Canyon Creek, in Placer County, California.

The Permittee filed its request on September 4, 1984, and the surrender of the preliminary permit for Project No. 6735 is deemed accepted as of September 4, 1984, and effective 30 days after the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-25990 Filed 9-28-84; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPPE-FRL-2683-3]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) requires the Agency to publish in the **Federal Register** a notice of proposed information collection requests (ICRs) that have been forwarded to the Office of Management and Budget for review. The ICR describes the nature of the solicitation and the expected impact, and, where appropriate, includes the actual data collection instrument. The following ICRs are available to the public for review and comment.

FOR FURTHER INFORMATION CONTACT: Nanette Liepman (PM-223); Office of Standards and Regulations; Regulation and Information Management Division; U.S. Environmental Protection Agency; 401 M Street, SW., Washington, D.C. 20460; telephone (202) 382-2742 or FTS 382-2742.

Water Programs

National Pollutant Discharge Elimination System (NPDES)

The following new or modified information collection requests are included in the final rule on the NPDES Litigation Settlement Agreement, published on 26 September 1984. The permit authority is EPA or the appropriate state water pollution control agency.

- *Title:* Request for Modification, Revocation and Reissuance, or Termination of Permit [EPA #0029, 40 CFR 124.5(a)].

Abstract: Interested persons, including permittees, may request the permit authority to modify, revoke and reissue, or terminate a permit. The request may result in changes to the permit which increase or decrease the authorized pollutant discharge.

Respondents: Businesses and other organizations, state and local governments, and individuals.

- *Title:* Report of Planned Changes to Permitted Facility [EPA #0092, 40 CFR 122.41(L)(1)].

Abstract: A permittee must notify the permit authority of any planned physical alteration or addition to its facility that could significantly affect its discharge. The permit authority uses this information to dicide whether to modify any of the permit conditions.

Respondents: Businesses, state and local governments, and other organizations discharging wastewater.

- *Title:* Wastewater Permittee Report of Excessive Toxic Pollutant Discharge (EPA #0125, 40 CFR 122.42(a)].

Abstract: A permittee must report to the permit authority the discharge of those toxic pollutants (not limited in the permit) that exceed threshold levels specified in EPA regulations. The permit authority uses the information to assess the need for permit modification.

Respondents: Businesses.

- *Title:* Application for Permit to Discharge Wastewater—Form 2c [EPA #0238, 40 CFR 122.21(g), 122.45].

Abstract: Facilities intending to discharge any pollutant into national waters must obain an NPDES permit. Applicants submit the form to the permit authority, describing the facility location, receiving waters, and discharge. The permit authority approves/disapproves the application and sets permit conditions.

Respondents: Businesses and other organizations with existing manufacturing, commercial, mining or silvicultural operations.

- *Title:* NPDES Notice of Actual Production Level—Automotive

Manufacturing Industries [EPA #1025, 40 CFR 122.45(b)(2)(ii)].

Abstract: Permittees with approved alternate discharge limits must notify the permit authority when changes in production are anticipated. The permit authority then evaluates permit compliance based on the alternate limits

Respondents: Automotive manufacturing industries.

Title: Notification of Construction Prior to Wastewater Permit Issuance [EPA #1163, 40 CFR 122.29(c)(5)].

Abstract: If a new source begins construction prior to final permit issuance, it must notify the EPA Regional Administator of this fact. Such construction prior to final permit issuance constitutes grounds for permit denial.

Respondents: Businesses and other organizations discharging wastewater.

Agency PRA Clearance Requests Completed by OMB

EPA #0276, Application for Experimental Use Permit To Ship and Use a Pesticide for Experimental Purposes Only/Final Reports on EUP's, was approved 9/12/84 (OMB #2060–0013: expires 9/30/87).

EPA #0277, Registration of Pesticides Under section 3 of the Federal Insecticide, Fungicide and Rodenticide Act, was approved 9/07/84 (OMB #2000–0483; expires 9/30/87).

EPA #0871, Contractors and Assistant recipients Invention Report, was approved 9/07/84 (OMB #2000–0021: expires 6/30/87).

EPA #0997, NSPS for Petroleum Dry Cleaners—Reporting and Recordkeeping, was approved 9/13/84 (OMB #2060–0079: expires 9/30/87).

EPA #1001, Polychlorinated Biphenyls (PCB's): Exclusions, Exemptions and Use Authorizations, was approved 9/12/84 (OMB #2070–0008: expires 9/30/87).

EPA #1132, NSPS for Volatile Organic Liquid Storage—Reporting and Recordkeeping, was approved 9/06/84 (OMB #2060–0074: expires 9/30/87).

Comments on all parts of this notice should be sent to:

Nanette Liepman (PM–223) U.S. Environmental Protection Agency, Office of Standards and Regulations, Regulation & Information Management Division, 401 M Street, S.W., Washington, D.C. 20460; and

Rick Otis, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3228) 726 Jackson Place, N.W., Washington, D.C. 20503

Dated: September 24, 1984.

Daniel J. Fiorino,

Acting Director, Regulation and Information Management Division.

[FR Doc. 84–25800 Filed 9–28–84; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–51526A; FRL–2683–7]

Certain Chemicals; Premanufacture Notices, Extension of Review Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is extending the review period for an additional 90 days for premanufacture notices (PMNs) 84–884 and 84–885, under the authority of section 5(c) of the Toxic Substances Control Act (TSCA). The review period will now expire on December 22, 1984.

FOR FURTHER INFORMATION CONTACT: Jane Talarico, Chemical Control Division (TS–794), Environmental Protection Agency, Rm. E–611, 401 M St., SW., Washington, D.C. 20460 (202–382–3725).

SUPPLEMENTARY INFORMATION: On June 26, 1984, EPA received PMNs 84–884 and 84–885 for new chemical substances 1-methyl-1-phenylethyl peroxyester and carboxylic acid chloride respectively. The submitter claimed its identities, specific chemical identities, volumes, uses, and process information to be confidential business information. Notice of receipt was published in the **Federal Register** of July 13, 1984 (49 FR 28614). The original 90-day review period was scheduled to expire on September 23, 1984.

Based on its analysis, EPA finds that there is a possibility that the substance submitted for review in these PMNs may be regulated under TSCA. The Agency requires an extension of the review period, as authorized by section 5(c) of TSCA, to investigate further potential risk, to examine its regulatory options, and to prepare the necessary documents, should regulatory action be required. Therefore, EPA has determined that good cause exists to extend the review period for an additional 90 days, to December 22, 1984.

PMNs are available for public inspection in Rm. E–107, at the EPA headquarters, address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

Dated: September 21, 1984.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 84–25830 Filed 9–28–84; 8:45 am]

BILLING CODE 6560–50–M

[SAB–FRL–2683–8]

Science Advisory Board; Environmental Health Committee; Open Meeting

Under Pub. L. 92–463, notice is hereby given that a one-day meeting of the Metals Subcommittee of the Environmental Health Committee (EHC) of the Science Advisory Board will be held on October 22, 1984, in the Anderson Conference Room, University of Rochester School of Medicine and Dentistry, 575 Elmwood Avenue, Rochester, New York. The meeting will start at 9:00 a.m. and adjourn not later than 4:00 p.m.

The principal purpose of the meeting will be to review and comment on the scientific adequacy of a preliminary draft document entitled Updated Mutagenicity and Carcinogenicity Assessment of Cadmium prepared by the Office of Health and Environmental Assessment (OHEA) in the Office of Research and Development (ORD). The document is dated April 1984 (EPA–600/8–83–025B) and is an Addendum to the Health Assessment Document (HAD) for Cadmium dated May 1981 (EPA–600/8–81–023) previously reviewed by the EHC at a public meeting on September 22–23, 1983.

For information on how to obtain copies of the draft HAD please write the ORD Publications Office, Center for Environmental Research Information, U.S. EPA, Cincinnati, Ohio 45268 or call (513) 684–7562.

The meeting will be open to the public. Any member of the public wishing to attend, participate, submit a paper, or wishing further information should contact Dr. Daniel Byrd, Executive Secretary to the EHC, or Mrs. Patti Howard, by telephone at (202) 382–2552 or by mail to: Science Advisory Board (A–101F), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460 before c.o.b. October 16, 1984.

Terry F. Yosie,

Staff Director, Science Advisory Board.

September 20, 1984.

[FR Doc. 84–25834 Filed 9–28–84; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–725–DR]

Major Disaster and Related Determinations; State of New York

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of New York (FEMA–725–DR), dated September 25, 1984, and related determinations.

DATED: September 25, 1984.

FOR FURTHER INFORMATION CONTACT: Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287–0501.

NOTICE: Notice is hereby given that, in a letter of September 25, 1984, the President declared a major disaster under the authority of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 *et seq.* , Pub. L. 93–288), as follows:

I have determined that the damage in certain areas of the State of New York, resulting from severe storms and flooding during the period of August 11 through 14, 1984, is of sufficient severity and magnitude to warrant a major disaster declaration under Pub. L. 93–288. I therefore declare that such a major disaster exists in the State of New York.

In order to provide Federal assistance, you are hereby authorized to allocate, from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under Pub. L. 93–288 for Public Assistance will be limited to 75 percent of total eligible costs in the designated area.

The time period prescribed for the implementation of section 313(a), priority to certain applications for public facility and public housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, and redelegated to me, I hereby appoint Mr. Michael J. Chivinski of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of New York to have been affected adversely by this declared major disaster:

Allegany and Steuben Counties for Individual Assistance and Public Assistance.

Yates County as an adjacent county for Individual Assistance only.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 84–25918 Filed 9–28–84; 8:45 am]

BILLING CODE 6718–01–M

[Docket: FEMA–REP–4–NC–4]

South Carolina and North Carolina Radiological Emergency Plans

AGENCY: Federal Emergency Management Agency.

ACTION: Notice of receipt of plans.

SUMMARY: For continued operation of nuclear power plants, the Nuclear Regulatory Commission requires approved licensee and State and local governments' radiological emergency response plans. Since FEMA has a responsibility for reviewing the State and local governments' plans, the State of South Carolina and the State of North Carolina have submitted their radiological emergency plans to the FEMA Regional Office. These plans support nuclear power plants which impact on South Carolina and North Carolina, and include those of local governments near Duke Power Companys' Catawba Nuclear Station located in York County, South Carolina.

Date Plans Received: North Carolina—September 5, 1984; South Carolina—September 11, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Major P. May, Regional Director, FEMA Region IV, 1371 Peachtree St., NE, Atlanta, GA 30309, 404/881–2400.

Notice: In support of the Federal requirement for emergency response plans, FEMA has a final Rule describing its procedures for review and approval of State and local governments' radiological emergency response plans. Pursuant to this FEMA Rule (44 CFR Part 350.8), "Review and Approval of State Radiological Emergency Plans and Preparedness", 45 FR 42341, the "North Carolina Emergency Response Plan in Support of the Catawba Nuclear Station" and the "Catawba Nuclear Station Site-Specific Plan" and the "York County Emergency Operation Plan" of South Carolina were received by the Federal Emergency Management Agency Region IV Office.

Included are plans for local governments which are wholly or partially within the plume exposure pathway emergency planning zones of the nuclear plants. For the Catawba Nuclear Station, plans are included for York County, South Carolina, and for Mecklenburg and Gaston Counties, North Carolina.

Copies of the plans are available for review at the FEMA Region IV Office, or they will be made available upon request in accordance with the fee schedule for FEMA Freedom of Information Act requests, as set out in subpart C of 44 CFR Part 5. There are 841 pages in the documents; reproduction fees are $0.10 a page payable with the request for copy.

Comments on the plan may be submitted in writing to Mr. Major P. May, Regional Director, at the above address within thirty days of this **Federal Register** Notice.

FEMA Rule CFR 350.10 also calls for a public meeting prior to approval of the plans. This meeting was held in accordance with FEMA Rule CFR 350.10 at the Clover Junior High School, Clover, South Carolina on February 17, 1984.

Thomas P. Credle,

Deputy Regional Director.

[FR Doc. 84–25917 Filed 9–28–84; 8:45 am]

BILLING CODE 6718–01–M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed; North Europe-U.S. Pacific Freight Conference, et al.

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No. 202–000093–033.

Title: North Europe-U.S. Pacific Freight Conference.

Parties:

Blue Star Line, Ltd.,
Compagnie Generale Maritime,
Hapag-Lloyd AG,
Intercontinental Transport (ICT) B.V.,
A/S Det Ostasiatiske Kompagnie,
Johnson Line AB,
Sea-Land Service, Inc.,
Trans Freight Lines Inc.

Synopsis: The proposed amendment would adopt the Commission's mandated transitional provisions, restate the agreement and reformat the agreement in accordance with the provisions of the Shipping Act of 1984 and the Commission's implementing regulations.

Agreement No. 202–010485–001.

Title: United States Atlantic Ports/ Italy, France and Spain Freight Conference.

Parties:

Costa Armatori S.p.A.,
"Italia" di Navigazione S.p.A.,
Farrell Lines, Inc.,
Sea-Land Services, Inc.

Synopsis: The proposed amendment would authorize agreements with other conferences on inland European rates, add new independent action rules to replace interim mandatory provisions, add a new article governing service contracts and clarify that cargo exempt from tariff filing requirements is included within the scope of the agreement and that rates, charges and rules covering such cargo will be published in a conference tariff.

Agreement No. 224–010609–001.

Title: Jersey City Terminal Agreement.

Parties: Global Terminal and Container Services, Inc. (Global), American Coastal Line Joint Venture Inc. (ACLJVI).

Synopsis: This agreement amends the basic agreement by allowing Global to utilize the container demurrage provisions of ACLJVI's Freight Tariff FMC–3 and FMC–4 in lieu of Global's Terminal Tariff No. 1, which is specified in the basic agreement.

Agreement No. 221–010646.

Title: Oakland Marine Terminal Agreement.

Parties: The Port of Oakland (Port), Korea Marine Transport Co., Ltd. (KMTC).

Synopsis: Agreement No. 221–010646 provides that KMTC shall have the nonexclusive use of assigned premises at the Port's Outer Terminal, Berth No. 6, for the berthing, loading and discharging of its vessels and related operations in its transpacific container liner service. KMTC agrees that the assigned premises shall be the published, regularly scheduled Northern California port of call for its vessel operations. The dockage and wharfage charges paid by KMTC to the Port for the use of these facilities is established at 90% of the Port's applicable tariff rates. If KMTC generates in excess of 31,000 revenue tons per acre in a contract year, wharfage payments for such tonnage in excess of that amount will be refunded to KMTC. The agreement terminates August 31, 1989.

Dated: September 26, 1984.

By Order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 84–25954 Filed 9–28–84; 8:45 am]

BILLING CODE 6735–01–M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Privacy Act of 1974; Systems of Records

AGENCY: Federal Mine Safety and Health Review Commission.

ACTION: Amendment to System of Records FMSHRC–01.

SUMMARY: Added to the System of Record FMSHRC–01 (49 FR 30668, July 31, 1984) an additional routine use to allow the transfer of information to a debt collection agency. The addition was a recommendation from the Office of Personnel Management received during the 30 day comment period.

DATE: Comments are due on or before October 31, 1984. This system of record routine use will become effective October 31, 1984, unless the Commission publishes notice to the contrary.

ADDRESS: Send comments to the Executive Director, Federal Mine Safety and Health Review Commission, Room 612, 1730 K Street, N.W., Washington, D.C. 20006.

FOR FURTHER INFORMATION CONTACT: Catherine Sands Hiler, (202) 653–5625.

Signed this 24th day of September, 1984.

Catherine Sands Hiler,

Executive Director.

FMSHRC–01 is amended by adding a routine use as follows:

FMSHRC–01

SYSTEM NAME:

Payroll Records Federal Mine Safety and Health Review Commission.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

* * * * *

[FR Doc. 84–25922 Filed 9–28–84; 8:45 am]

BILLING CODE 6735–01–M

FEDERAL RESERVE SYSTEM

Bancorp Hawaii, Inc.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23 (a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 19, 1984.

A. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Bancorp Hawaii Inc.*, Honolulu, Hawaii, proposes to engage, through its

subsidiary, BHI Trust Limited (following the merger of BHI Trust Limited with and into Hawaiian Trust Company, Limited) in fiduciary and trust activities, including administration of testamentary and irrevocable trusts; administration of living trusts; estate settlement (probate); investment management and advice; guardianship services; employee benefit services (pension-profit sharing trusts and agencies); corporate trusteeships; stock transfer agencies; investment management and advice for corporations; bookkeeping, custody and bill paying for corporations; and ancillary services directly related to its trust activities. These activities would be conducted in the State of Hawaii and other United States jurisdictions in the Pacific Basin.

Board of Governors of the Federal Reserve System, September 25, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-25913 Filed 9-28-84; 8:45 am]

BILLING CODE 6210-01-M

FNB Financial Services Corp., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and section 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than October 22, 1984.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *FNB Financial Services Corporation*, Reidsville, North Carolina; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank of Reidsville, Reidsville, North Carolina.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Lincoln Bancshares, Inc.*, Lincolnton, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of Farmers State Bank, Lincolnton, Georgia.

C. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Dysart Bancshares, Inc.*, Dysart, Iowa; to become a bank holding company by acquiring 81 percent or more of the voting shares of Dysart State Bank, Dysart, Iowa.

2. *Evans Bancshares, Inc.*, Evansdale, Iowa; to become a bank holding company by acquiring 97.82 percent of the voting shares of First Security State Bank, Evansdale, Iowa.

3. *First Winnebago Corporation*, Winnebago, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank of Winnebago, Winnebago, Illinois.

D. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Third Illinois Bancorp, Inc.*, Manchester, Missouri; to become a bank holding company by acquiring at least 89.2 percent of the voting shares of Lawrenceville National Bank & Trust Company, Lawrenceville, Illinois.

E. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Chariton County Bancshares, Inc.*, Chariton, Missouri; to become a bank holding company by acquiring at least 80 percent of the voting shares of Chariton County Bank (formerly Commerce Bank of Brunswick), Brunswick, Missouri.

2. *Waterville Bancshares, Inc.*, Waterville, Kansas; to become a bank holding company by acquiring 100 percent of the voting shares of The Citizens State Bank of Waterville, Waterville, Kansas.

F. **Federal Reserve Bank of Dallas.** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Capitalbank Corporation*, San Antonio, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of First City Bank-Capital Park, San Antonio, Texas.

2. *Houston Bancorporation, Inc.*, Lake Jackson, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of Citizens National Bank, Houston, Texas.

3. *O'Donnell Bancshares, Inc.*, O'Donnell, Texas; to become a bank holding company by acquiring 92 percent of the voting shares of The First National Bank of O'Donnell, O'Donnell, Texas.

Board of Governors of the Federal Reserve System, September 25, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-25914 Filed 9-28-84; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 84D-0284]

Drug Stability, Availability of Draft Revised Liquid Feed Supplement Guidelines

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the draft revised liquid feed supplements section of the Center for Veterinary Medicine's guidelines entitled "Drug Stability Guidelines." The guidelines describe practices and procedures that FDA views as acceptable in complying with the requirements for the manufacture of finished dosage forms in new animal drug applications and of the corresponding current good manufacturing practice regulations.

DATE: Comments by November 30, 1984.

ADDRESSES: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. Requests for copies of the draft revised guidelines section to the Division of Drug Manufacturing and Controls (HFV-140), Center for Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: John R. Markus, Center for Veterinary Medicine (HFV-140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3442.

SUPPLEMENTARY INFORMATION: FDA is announcing the availability of the draft

revised liquid feed supplements section of the Drug Stability Guidelines prepared by the Center for Veterinary Medicine (the Center). A notice of availability of the Drug Stability Guidelines was first published in the **Federal Register** of November 2, 1976 (42 FR 48150). Since then, the guidelines have been revised from time to time. In the **Federal Register** of July 22, 1980 (45 FR 48945), FDA announced the availability of the latest revised guidelines. The guidelines are intended to be used as an aid in designing and conducting stability studies to meet the requirements of § 514.1(b)(5)(x) (21 CFR 514.1(b)(5)(x)). Section 514.1 specifies the proper form and the information required for new animal drug approval under section 512(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C 360b(b)). The guidelines apply to dosage form drugs and to drugs used in medicated feeds.

The Center, through review of applications and meetings with industry, has determined that the liquid feed supplements section of the guidelines is outdated. Use of different types of carrier media (e.g., thixotropic agents) for the transport of drugs to animals has required the Center to develop guidelines that provide for chemical and positional stability of drugs in liquid feeds. For those liquid feed matrices in which the drug is completely soluble, chemical stability testing should be done. Under this condition, the drug is assumed to be homogeneously distributed throughout the matrix. For those liquid feed matrices in which the drug is not completely soluble, positional stability testing should be done. Under this condition, the drug is dispersed throughout the matrix by a suspending or thickening agent. Because of incomplete solubility, the drug is dispersed in a layering effect. The draft revised guidelines provide for use of mixing equipment or static (nonmixing) situations.

This notice and the draft revised guidelines are issued under § 10.90(b) (21 CFR 10.90(b)), which provides for the use of guidelines to establish procedures or standards of general applicability that are not legal requirements but are acceptable to the agency. If a person chooses to depart from the practices and procedures set forth in the guidelines, that person may wish to discuss the matter further with the agency to prevent an expenditure of money and effort on work that may later be found to be unacceptable.

This draft revised section of the guidelines supersedes the corresponding section of the existing guidelines, and may be used immediately. The agency advises uses of the stability guidelines that it expects to issue a draft revision of other parts of the guidelines in the near future. The revised guidelines will include the section which is the subject of this notice.

Interested persons may, on or before November 30, 1984, submit written comments on the draft revised guidelines to the Dockets Management Branch (address above). Two copies of comments are to be submitted, except that individuals may submit one copy. Comments should be identified with the docket number found in brackets in the heading of this document. Received comments and related materials may be seen in the Dockets Management Branch, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 25, 1984

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-25882 Filed 9-28-84; 11:11 am]

BILLING CODE 4160-01-M

National Institutes of Health

Dental Research Programs Advisory Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Dental Research Programs Advisory Committee from 9:00 a.m. to recess on November 1 and from 9:00 a.m. to adjournment on November 2, 1984, in Conference Room B1N30B, Building 38A, National Institutes of Health, Bethesda, Maryland.

The entire meeting will be open to the public to discuss research progress and ongoing plans and programs. Attendance by the public will be limited to space available.

Dr. Anthony Rizzo, Deputy Associate Director for Extramural Programs, NIDR, NIH, Westwood Building, Room 504, Bethesda, Maryland 20205 (telephone 301 496-7748) will furnish rosters of committee members, a summary of the meeting, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Programs Nos. 13.121—Diseases of the Teeth and Supporting Tissues; Caries and Restorative Materials; Periodontal and Soft Tissue Diseases; 13.122—Disorders of Structure, Function, and Behavior, Craniofacial Anomalies, Pain Control, and Behavioral Studies; 13.845—Dental Research Institutes, National Institutes of Health)

Dated: September 24, 1984.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 84-25904 Filed 9-28-84; 8:45 am]

BILLING CODE 4140-01-M

Division of Research Resources; Meeting of the National Advisory Research Resources Council

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Research Resources Council, Division of Research Resources (DRR), October 10 and 11, 1984, Conference Room 6, Building 31-C, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20205.

This meeting will be open to the public October 10 from 9:00 a.m. to 5:30 p.m. to discuss administrative details such as the Report of the Director, DRR, budget and legislative updates, and other issues. Attendance by the public will be limited to space available.

In accordance with provisions set forth in section 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on October 11 from 8:30 a.m. to adjournment for the review, discussion and evaluation of individual grant applications. The applications and discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Information Officer, DRR, Building 31, Room 5B10, National Institutes of Health, Bethesda, Maryland 20205, (301) 496-5545, will provide summaries of the meeting and rosters of the Council members. Dr. James F. O'Donnell, Deputy Director, DRR, Building 31, Room 5B03, National Institutes of Health, Bethesda, Maryland 20205, (301) 496-6023, will provide substantive program information and will receive any comments pertaining to this announcement.

Dated: September 24, 1984.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 84-25905 Filed 9-28-84; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Child Health and Human Development; Meetings

Pursuant to Pub. L. 92-463, notice is hereby given of meetings of the review committees of the National Institute of

Child Health and Human Development for November 1984.

These meetings will be open to the public to discuss items relative to committee activities, including announcements by the Director, Scientific Review Program, and executive secretaries, for approximately one hour at the beginning of the first session of the first day of the meeting. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6) Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, these meetings will be closed to the public for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Marjorie Neff, Committee Management Officer, NICHD, Landow Building, Room 6C08, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496–1485, will provide a summary of the meeting and a roster of committee members.

Substantive program information may be obtained from each executive secretary whose name, room number, and telephone number are listed below each committee.

Name of Committee: Population Research Committee.

Executive Secretary: Dr. Dinesh Sharma, Room 6C03, Landow Building, Telephone: 301, 496–1696.

Date of Meeting: November 8–9, 1984.

Place of Meeting: Landow Building, Conference Room A.

Open: November 8, 1984, 9:00 a.m.—10:00 a.m.

Closed: November 8, 1984, 10:00 a.m.—5:00 p.m. November 9, 1984, 9:00 a.m.—adjournment.

Name of Committee: Matenal and Child Health Research Committee.

Executive Secretary: Dr. Jane Showacre, Room 6C03, Landow Building, Telephone: 301, 496–1696.

Date of Meeting: November 13–14, 1984.

Place of Meeting: Landow Building, Conference Room A.

Open: November 13, 1984, 9:00 a.m.—10:00 a.m.

Closed: November 13, 1984, 10:00 a.m—5:00 p.m. November 14, 1984, 9:00 a.m.—adjournment.

Name of Committee: Mental Retardation Research Committee.

Executive Secretary: Dr. Stanley Slater, Room 6C03, Landow Building, Telephone: 301, 496–1696.

Date of Meeting: November 15–16, 1984.

Place of Meeting: Landow Building, Conference Room A.

Open: November 15, 1984, 1:00 p.m.—2:00 p.m.

Closed: November 15, 1984, 2:00 p.m.—5:00 p.m. November 16, 1984, 9:00 a.m.—adjournment.

(Catalog of Federal Domestic Assistance Program No. 13.864, Population Research and No. 13.865, Research for Mothers and Children, National Institutes of Health.)

Dated: September 24, 1984.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 84–25908 Filed 9–28–84; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute; The Ad Hoc Working Group of the NCI Thyroid/Iodine-131 Assessments Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the NCI Thyroid/Iodine-131 Assessments Committee ad hoc Working Group, National Cancer Institute, October 10–11, 1984, Building 31A, Conference Room 2, National Institutes of Health, Bethesda, Maryland 20205. The entire meeting will be open on October 10 from 2:00 p.m. to approximately 5:00 p.m. and on October 11 from 9:00 a.m. to adjournment. Attendance by the public will be limited to space available.

The meeting is being held by the ad hoc Working Group to discuss the activities of the NCI Thyroid/Iodine-131 Assessments Committee.

Requests for information on the meeting should be directed to Dr. Victor H. Zeve, National Cancer Institute, Landow Building, Room 3A10, Bethesda, Maryland 20205 (301/496–6111).

Dated: September 24, 1984.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc 84–25902 Filed 9–28–84; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Sickle Cell Disease Advisory Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Sickle Cell Disease Advisory Committee, National Heart, Lung, and Blood Institute, October 26, 1984. The meeting will be held at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205, Building 31, Conference Room 7, C-Wing. The entire meeting will be open to the public from 9:00 a.m. to 5:00 p.m., to discuss recommendations on the implementation and evaluation of the Sickle Cell Disease Program. Attendance by the public will be limited to space available.

Ms. Terry Bellicha, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, National Institutes of Health, Building 31, Room 4A21, (301) 496–4236, will provide summaries of the meeting and roster of the Committee members.

(Catalog of Federal Domestic Assistance Program No. 13.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: September 24, 1984.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 84–25903 Filed 9–28–84; 8:45 am]

BILLING CODE 4140–01–M

National Institute on Aging; Board of Scientific Counselors; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute on Aging, October 16–18, 1984, to be held at the Gerontology Research Center, Baltimore, Maryland. The meeting will be open to the public from 8:30 a.m. on Tuesday, October 16 until approximately 4:00 p.m. and will again be open to the public from 8:30 a.m. on Wednesday, October 17 until 4:00 p.m. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on October 16 from 4:00 p.m., until recess, and again on October 17 from 4:00 p.m., until adjournment on October 18 for the review, discussion and evaluation of individual programs and projects conducted by the National Institutes of Health, NIA, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. June C. McCann, Committee Management Officer, NIA Building 31, Room 2C–05, National Institutes of Health, Bethesda, Maryland 20205, (telephone: 301/496–5898) will provide a summary of the meeting and a roster of committee members. Dr. Richard C. Greulich, Scientific Director, NIA, Gerontology Research Center, Baltimore City Hospitals, Baltimore, Maryland 21224, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No 13.866, Aging Research, National Institutes of Health.)

Dated: September 24, 1984.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 84-25907 Filed 9-28-84; 8:45 am]

BILLING CODE 4140-01-M

National Cancer Institute; Board of Scientific of Cancer Etiology; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, Division of Cancer Etiology on October 18-19, 1984, Building 31, C Wing, Conference Room 6, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205. The meeting will be open to the public from approximately 1:00 p.m. to recess on October 18, and from 9:00 a.m. to adjournment on October 19, for discussion and review of the Division budget and review of concepts for grants and contracts. Attendance by the public will be limited to space available.

The Board of Scientific Counselors meeting will be closed to the public from 9:00 a.m. to approximately 1:00 p.m. on October 18, 1984, in accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, for the review, discussion and evaluation of individual programs and projects conducted by the Division of Cancer Etiology. These programs, projects, and discussions could reveal personal information concerning individuals associated with the program and projects, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. David McB. Howell, Executive Secretary of the Board of Scientific Counselors, Division of Cancer Etiology, National Cancer Institute, Building 31, Room 11A04, National Institutes of Health, Bethesda, Maryland 20205 (301/496-6927) will furnish substantive program information.

Dated: September 24, 1984.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 84-25908 Filed 9-28-84; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Allergy and Infectious Diseases; Board of Scientific Counselors; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Allergy and Infectious Diseases, on October 29, 30, and 31. On October 29 and 30 the meeting will be held in Conference Room 428, Building 5, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD. On October 31, the meeting will be held in Conference Room 7A-24, Building 31, National Institutes of Health, Bethesda, Maryland.

The meeting will be open to the public on October 29 from 8:30 a.m. until recess and on October 30 from 8:30 a.m. until noon. During this open session, the permanent staff of the Laboratory of Parasitic Diseases will present and discuss their immediate past and present research activities.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting of the Board will be closed to the public on October 30 from 1:00 p.m. until recess and again on October 31 from 8:30 a.m. until adjournment for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute of Allergy and Infectious Diseases, including consideration of personal qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Thomas Flavin, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A-32, National Institutes of Health, Bethesda, Maryland 20205, telephone (301) 496-5717, will provide summaries of the meeting and rosters of the Board members.

Dr. Kenneth W. Sell, Executive Secretary, Board of Scientific Counselors, NIAID, National Institutes of Health, Building 10, Room 11C103, telephone (301) 496-3006, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13-301, National Institutes of Health)

Dated: September 24, 1984.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 84-25909 Filed 9-28-84; 8:45 am]

BILLING CODE 4140-01-M

National Heart, Lung, and Blood Institute; Board of Scientific Counselors; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Heart, Lung, and Blood Institute Board of Scientific Counselors, November 29 and 30, 1984, National Institutes of Health, 9000 Rockville Pike, Building 10, Room 7N214, Bethesda, Maryland 20205. This meeting will be open to the public from 9:30 a.m. to 4:00 p.m. November 29 and from 9:30 a.m. to 12 noon on November 30 for discussion of the general trends in research relating to cardiovascular, pulmonary and certain hematologic diseases. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 12 noon to adjournment November 30 for the review, discussion, and evaluation of individual programs and projects conducted by the National Institutes of Health, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Terry Bellicha, Chief, Public Inquiry Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496-4236, will provide summaries of the meeting and rosters of the Board members. Substantive program information may be obtained from Dr. Jack Orloff, Director, Division of Intramural Research, NHLBI, NIH, Building 10, Room 7N214, phone (301) 496-2116.

Dated: September 24, 1984.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 84-25910 Filed 9-28-84; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Environmental Health Sciences; Board of Scientific Counselors; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, NIEHS, October 10-11, 1984, in Building 101 Conference Room, South Campus, NIEHS, Research Triangle Park, North Carolina.

This meeting will be open to the public 9 a.m. to 12 noon on October 10, for the purpose of presenting an overview of the organization and conduct of research in the Laboratory of Pulmonary Functions and Toxicology. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6) of Title 5 U.S. Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on October 10 from approximately 1 p.m. to adjournment on October 11, for the evaluation of the programs of the Laboraltory of Pulmonary Functions and Toxicology, including the consideration of personnel qualifications and performance, the competence of individual investigators, and similar itmes, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Executive Secretary, Dr. Charles E. Carter, Scientific Director, NIEHS Research Triangle Park, N.C. 27709, telephone (919) 541–3205, FTS 629–3205, will furnish summaries of the meeting, rosters of committee members and substantive program information.

Dated: September 24, 1984.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 84-25911 Filed 9-28-84; 8:45 am]

BILLING CODE 4140-01-M

Public Health Service

Privacy Act of 1974; Altered System of Records

AGENCY: Department of Health and Human Services; Public Health Service.

ACTION: Notification of altered Privacy Act system of records 09–15–0036, "Indian Health Service Scholarship Programs, HHS/HRSA/IHS."

SUMMARY: In accordance with the requirements of the Privacy Act, the Public Health Service (PHS) is publishing notice of a proposal to alter system of records 09–15–0036, "Health Professions Preparatory Scholarship Program for Indians and Health Professions Scholarship Program Record System, HHS/HRSA/IHS."

The purpose of the alteration is to expand the existing system of records with a view toward administrating all future Indian Health Service (IHS) scholarship programs in the Health Resources and Services Administration (HRSA), not just the two scholarship programs currently covered. We are also proposing to alter one routine use.

PHS invites interested persons to submit comments on the proposed alteration on or before October 31, 1984.

DATE: PHS has sent a report of altered system to the Congress and to the Office of Management and Budget (OMB) on September 19, 1984. The alteration of this system of records will be effective 60 days from the date submitted to OMB unless PHS receives comments on the alteration which would result in a contrary determination.

ADDRESS: Address comments to the HRSA Privacy Act Coordinator, Department of Health and Human Services, Room 14A–20, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. We will make comments received available for public inspection at the above address during normal business hours, 8:30 a.m.–5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Ms. Sandra L. Perry, Privacy Act Coordinator, Health Resources and Services Administration, Room 14A–20, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301) 443–3780. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: IHS currently maintains the Health Professions Preparatory Scholarship Program for Indians and the Health Professions Scholarship Record System. The purpose of the system of records is to select candidates for the two IHS scholarship programs, to monitor the scholarship-related activities of the selected candidates, and to evaluate the effectiveness of the scholarship programs.

The Indian Health Care Amendments of 1980, Section 3(b)(1) of Pub. L. 96–537, provided for the addition of a third scholarship program, entitled "Health Professions Pregraduate Scholarship Program for Indians." IHS intends to expand the "Categories of Individuals" section and the "Categories of Records in the System" section to accommodate the third scholarship program by broadening the language to include all individuals who have applied for and have received any scholarship grant administered by IHS.

To reflect the expansion of this umbrella system of records, IHS has changed the name of the record system from "Health Professions Preparatory Scholarship Program for Indians and Health Professions Scholarship Program Record System, HHS/HRSA/IHS" to "Indian Health Service Scholarship Programs, HHS/HRSA/IHS."

To reflect the requirements of the Debt Collection Act of 1982, the "Purpose" section has been modified to include the statement, "Records may be transferred to System No. 09–15–0045, Health Resources and Services Administration Loan Repayment/Debt Management Record System, HHS/HRSA/OA, for debt collection purposes."

The fourth routine use has been modified to remove the requirement that an annual list of scholarship recipients be published in the **Federal Register**, and now reads "The Indian Health Service will provide to any person requesting it a list of recipients of scholarship grants, including the school attended and tribal affiliation of each recipient." Disclosure to persons requesting this nonsensitive information in the record system is provided for by the terms of the final rules and regulations implementing the Indian Health Care Improvement Act Programs (49 FR 7380–7381, dated February 29, 1984, § 36.374).

In addition to the above-mentioned alterations and modifications, the "Authority for Maintenance of the System," "Disclosure to Consumer Reporting Agencies," "Safeguards," "Retention and Disposal," "Record Access Procedures," and the "Contesting Record Procedure" sections have been revised, either to enhance clarity and specificity, or to incorporate normal updating changes.

This system notice was last published in the **Federal Register** on November 29, 1983 (48 FR 53902–53903). We are republishing the system notice in its entirety below to incorporate the proposed alterations and modifications.

Dated: September 19, 1984.

Wilford J. Forbush,

Deputy Assistant Secretary for Health Operations and Director, Office of Management.

09–15–0036

SYSTEM NAME:

Indian Health Service Scholarship Programs, HHS/HRSA/IHS.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Human Resources Management Branch, Indian Health Service, 5600 Fishers Lane, Room 6A–23, Rockville, Maryland 20857 and
Washington National Records Center, 4205 Suitland Road, Suitland, Maryland 20832

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who have applied for, persons who have been approved to receive,

persons who are receiving, and persons who have received scholarship grant funds administered by the Indian Health Service (IHS) since January 1976, such as, but not necessarily limited to, the Health Professions Pregraduate Scholarship Program for Indians, the Health Professions Preparatory Scholarship Program for Indians, and the Health Professions Scholarship Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include all grant applications; associated forms from selected applicants only; selection and performance records; progress reports; vouchers of expenditures; and social security numbers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 103 of the Indian Health Care Improvements Act, 25 U.S.C. 1613, Health Professions Preparatory Scholarship Program for Indians, and the Health Professions Pregraduate Scholarship Program for Indians.

Section 104 of the Indian Health Care Improvement Act, 42, U.S.C. 294y–1, Health Professions Scholarship; Program.

Section 4 of the Debt Collection Act of 1982, Pub. L. 97–365, 5 U.S.C. 5514 note, Requirement That Applicant Furnish Taxpayer Identifying Number.

PURPOSE OF THE SYSTEM:

The purpose of this system of records is to select candidates for the Indian Health Service scholarship programs, to monitor the scholarship-related activities of candidates selected, and to evaluate the effectiveness of the programs. Scholarship-related activities are defined as enrollment and attendance in IHS-funded courses, the receipt by the student of a monthly stipend and the expenditure of funds by the student for the purchase of supplies (including books), equipment, tuition, fees and other reimbursable and justified expresses authorize by IHS,

Records may be transferred to system No. 09–15–0045, Health Resources and Services Administration Loan Repayment/Debt Management Records System, HHS/HRSA/OA," for debt collection purposes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Records may be disclosed to a congressional office in response to an inquiry from that office made at the request of the subject individual.

2. Records may be disclosed to authorized persons employed by the grantee institution (the institution which the recipient of a scholarship grant is attending) as needed for the administration of a scholarship grant award.

2. Records may be disclosed to other Federal agencies that also provide scholarship funding at the request of these Federal agencies in conjunction with a matching program conducted by these Federal agencies to detect or curtail fraud and abuse in Federal scholarship programs, and to collect delinquent loans or benefit payments owed to the Federal Government.

4. IHS will provide to any person requesting it a list of recipients of scholarship grants, including the school attended and tribal affiliation of each recipient.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosure pursuant to 5 U.S.C. 522a(b)(12): Disclosure may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)). The purpose of this disclosure is to aid in the collection of outstanding debts owned to the Federal Government; typically, to provide an incentive for debtors to repay delinquent Federal Government debts by making these debts part of their credit records. Disclosure of records is limited to the individual's name, address, Social Security number, and other information necessary to establish the individuals' identity; the amount, status, and history of the claim; and the agency or program under which the claim arose. This disclosure will be made only after the procedural requirements of 31 U.S.C. 3711(f) have been followed.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in folders, ledgers, and on electronic word processing diskettes.

RETRIEVABILITY:

Records which identify individual persons are indexed by name or identification number of scholarship grant applicant or recipient.

SAFEGUARDS:

1. Authorized Users: Access is limited only to authorized personnel in the performance of their duties. Authorized personnel include: the system manager, his/her staff, IHS Area/Program Scholarship Coordinators, IHS Headquarters Branch Chiefs acting as advisors to scholarship recipients, staff of the IHS grants Management Office, and IHS Headquarters and Area/Program Offices.

2. Physical Safeguards: Paper records are stored in locked file cabinets. The records storage area is secured during off-duty hours.

Word processing diskettes are stored in areas where fire and life safety codes are strictly enforced. Word processing diskettes are off-loaded and stored in locked cabinets when not in use.

3. Procedural Safeguards: All IHS personnel who make use of records contained in this system are made aware of their responsibilities under the provisions of the Privacy Act and are required to maintain Privacy Act safeguards with respect to such records.

The records storage area is not left unattended during office hours, including lunch hours. Records are not removed from this area in which they are maintained in the absence of proper charge-out procedures. Twenty-four-hour, seven-day security guards perform random checks on the physical security of the records storage area and word processing diskettes. A data set name controls the release of data to only authorized users.

When copying records for authorized purposes, care is taken to ensure that any imperfect pages are not left in the reproduction room where they can be read, but are destroyed or obliterated.

4. Implementing Guidelines: DHHS Chapter 45–13 and supplementary Chapter PHS.hf: 45–13 of the General Administration Manual; and, Chapter PHS.i.1–602, of the PHS Grants Administration Manual, "Information on Individuals Obtained in Grant Application."

RETENTION AND DISPOSAL:

Scholarship application materials are returned to unsuccessful applicants. Records in the system are retained by IHS for one year after the final award payment has been made by IHS and are then retired to a Federal Records Center. Records are shredded or burned by the Federal Records Center four years after they are received.

SYSTEM MANAGER AND ADDRESS:

Chief, Human Resources Development Branch, Indian Health Service, 5600 Fishers Lane, Room 6A–23, Rockville, Maryland 20857.

NOTIFICATION PROCEDURE:

Requests by mail or in person: To substantiate the identity of subject individual seeking access to his/her scholarship grant application and/or

performance record the requester must provide his/her name, signature, and Grant Identification Number; and to identify the record sought the requester must provide dates of attendance, school(s) of attendance, and field or speciality or courses taken.

In addition, the requester is informed that provision of the SSN may assist in the verification of the identity of the person as well as the identification of his/her record. The requester is informed that provisions of his/her SSN is voluntary and that the individual will not be refused access to his/her record for failure to disclose his/her SSN.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also provide a reasonable description of the record being sought.

Requesters may also request an accounting of disclosures that have been made of their record, if any.

CONTESTING RECORD PROCEDURES:

Contact the system manager, provide a reasonable description of the record, specify the information being contested, the corrective action sought, and the reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant.

RECORD SOURCE CATEGORIES:

Individuals whose records are contained in the sytem, third parties who provide reference concerning the subject individuals, and schools that individuals in the system attend or have attended.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 23823 Filed 9-28-84; 8:45 am]
BILLING CODE 4160-10-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Privacy Act of 1974—Revision and Update of Notices of Systems of Records

This notice updates and revises the information which the Department of the Interior has published describing systems of records maintained which are subject to the requirements of section 3 of the Privacy Act of 1974, as amended, 5 U.S.C. 552a. Except as noted below, all changes being published are editorial in nature, and reflect organization changes and other minor administrative revisions which have occurred since the previous publication of the material in the **Federal Register**.

A composite system of records notice is being established to describe the payroll, attendance, and leave records contained in the Department's integrated payroll/personnel (PAY/PERS) information system. The composite notice, published in its entirety below, will replace the ten separate bureau and office notices previously published in the **Federal Register** that describe payroll records. The title, number, and citation to the previous publication of each notice in the **Federal Register** are provided below.

1. Payroll, Attendance, and Leave-Interior, Office of the Secretary-85 (48 FR 49103, October 24, 1983, as amended at 49 FR 3274, January 26, 1984).
2. Payroll-Interior, BLM–17 (42 FR 19115, April 11, 1977, as amended at 49 FR 3274, January 26, 1984).
3. Payroll, Attendance, and Leave Records-Interior, Reclamation-24 (48 FR 44663, September 29, 1983, as amended at 49 FR 3274, January 26, 1984).
4. Payroll-Interior, FWS–24 (48 FR 54720, December 6, 1983, as amended at 49 FR 3274, January 26, 1984).
5. Payroll-Interior, NPS–20 (48 FR 51704, November 10, 1983, as amended at 49 FR 3274, January 26, 1984).
6. Payroll, Attendance and Leave Records-Interior, GS–1 (48 FR 46449, October 12, 1983, as amended at 49 FR 3274, January 26, 1984).
7. Payroll-Interior, Mines-1 (48 FR 45311, October 4, 1983, as amended at 49 FR 3274, January 26, 1984).
8. Payroll—Interior, OSM–1 (48 FR 50170, October 31, 1983, as amended at 49 FR 3274, January 26, 1984).
9. Payroll-Interior, BIA–17 (48 FR 41108, September 13, 1983, as amended at 49 FR 3275, January 26, 1984).
10. Payroll Personnel Data-Interior,, EMM–7 (48 FR 57626, December 30, 1983, as amended at 49 FR 3275, January 26, 1984).

The notices described in items 2 through 10 above are removed from the inventory of systems of records notices describing records maintained by the Department. The notice published below replaces the notice described in item 1 above.

5 U.S.C. 552a(e)(11) requires that the public be provided a 30-day period in which to comment. Therefore, written comments on these proposed changes can be addressed to the Department Privacy Act Officer, Office of the Secretary (PIR), U.S. Department of the Interior, Washington, D.C. 20240. Comments received on or before October 31, 1984, will be considered. The notices shall be effective as proposed without further notice at the end of the comment period, unless comments are received which would require a contrary determination.

Dated: September 25, 1984.

Oscar W. Mueller, Jr.,

Director, Office of Information Resources Management.

INTERIOR/OS–85

SYSTEM NAME:

Payroll, Attendance, and Leave Records—Interior, Office of the Secretary-85.

SYSTEM LOCATION:

(1) Office of the Secretary, Office of Administrative Services, Division of Fiscal Services, U.S. Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240,

(2) Bureau of Land Management, Division of Financial Operations, Denver Federal Center, Bldg. 50, Denver, Colorado 80225,

(3) Bureau of Reclamation, Division of Management Support, Engineering and Research Center, Denver Federal Center, Building 67, P.O. Box 25007, Denver, Colorado 80225,

(4) U.S. Fish and Wildlife Service, Division of Finance, 18th and C Streets, NW., Washington, D.C. 20240,

(5) National Park Service, Office of the Chief, Branch of Payroll Operations, Post Office Box 25287, Lakewood, Colorado 80225.

(6) Geological Survey, Branch of Financial Management, National Center, Reston, Virginia 22092,

(7) Bureau of Mines, Division of Finance, Building 20, Denver Federal Center, Denver, Colorado 80225,

(8) Office of Surface Mining Reclamation and Enforcement, Division of Financial Management, Building 20, Denver Federal Center, Denver, Colorado 80225,

(9) Bureau of Indian Affairs, Branch of Employee Data and Compensation, P.O. Box 2026, Albuquerque, New Mexico 87103,

(10) Minerals Management Service, Financial Management Division, Mail Stop 632, 12203 Sunrise Valley Drive, Reston, Virginia 22091,

(11) Office of Inspector General, Office of Assistant Inspector General for Administration, 18th and C Streets, NW., Washington, D.C. 20240,

(12) Office of Aircraft Services, Division of Management Services, P.O. Box 15428, Boise, Idaho 83715–9998,

(13) All Departmental offices and locations which prepare and provide input documents for data processing and administrative actions.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All employees of the Department of the Interior, and employees of Independent Agencies, Councils, and Commissions who are provided payroll administrative support by the Department.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employee identification, pay rate and grade, retirement, and location data; length of service; pay, leave, time and attendance, allowances, and cost distribution records; deductions for FICA, savings bonds, insurance, union dues, taxes, allotments, quarters, charities; overtime authorizations, awards, shift schedules, pay differentials, IRS tax lien data; and related personnel data. Also included is information on debts owed to the government as a result of overpayment, refunds owed, or a debt referred for collection on a transferred employee. The payroll, attendance, and leave records described in this notice form a part of the information contained in the Department's integrated payroll and personnel (PAY/PERS) automated information system. Personnel records contained in the PAY/PERS system are covered under the governmentwide system of records notice published by the Office of Personnel Management (OPM/GOVT–1).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5101, et seq., 31 U.S.C. 3512.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are for fiscal operations for payroll, attendance, leave, insurance, tax, retirement and cost accounting programs; and to prepare related reports to other Federal agencies including the Treasury Department and the Office of Personnel Management. Disclosures outside the Department of the Interior may be made: (1) To the Department of the Treasury for preparation of payroll checks and other checks to Federal, State, and local government agencies, non-governmental organizations, and individuals; (2) to the Internal Revenue Service and to State, local, tribal and territorial governments for tax purposes; (3) to the Office of Personnel Management in connection with programs administered by that office; (4) to another Federal agency to which an employee has transferred (5) to the U.S. Department of Justice when related to litigation or anticipated litigation; (6) to disclose pertinent information to an appropriate Federal, State, local, or foreign agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the disclosing agency becomes aware of an indicatio of a violation or potential violation of civil or criminal law or regulation; (7) to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of the individual; (8) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (9) to Federal, State or local agencies where necessary to enable the Department of the Interior to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit; (10) to appropriate Federal and State agencies to provide required reports including data on unemployment insurance; (11) to the Social Security administration to report FICA deductions; (12) to labor unions to report union dues deductions; (13) to insurance carriers to report withholdings for health insurance; (14) to charitable institutions to report contributions; (15) to a Federal agency for the purpose of collecting a debt owed the Federal government through administrative or salary offset; (16) to other Federal agencies conducting computer matching programs to help eliminate fraud and abuse and to detect unauthorized overpayments made to individuals; (17) to provide addresses obtained from the Internal Revenue Service to debt collection agencies for purposes of locating a debtor to collect or compromise a Federal claim against the debtor; (18) with respect to Bureau of Indian Affairs employee records, to a Federal, State, local agency, or Indian tribal group or any establishment or individual that assumes jurisdiction, either by contract or legal transfer, of any program under the control of the Bureau of Indian Affairs; (19) with respect to Bureau of Reclamation employee records, to non-Federal auditors under contract with the Department of the Interior or Energy or water user and other organizations with which the Bureau of Reclamation has written agreements permitting access to financial records to perform financial audits.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in manual, microfilm, and printout form in the Payroll Office. Currently applicable records are stored on magnetic media at the computer processing center; historic records are stored on magnetic media at the computer center. Original input documents are kept in standard office filing equipment.

RETRIEVABILITY:

Indexed by name, social security number, and organizational code.

SAFEGUARDS:

Maintained with safeguards meeting the requirements of 43 CFR 2.51.

RETENTION AND DISPOSAL:

The records contained in this system of records have varying retention periods as described in General Records Schedule 2 issued by the Administrator, General Services Administration, and are disposed of in accordance with the Federal Property Management Regulations, 41 CFR 101–11.406–9.

SYSTEM MANAGER(S) AND ADDRESS:

The following system managers are responsible for the payroll records contained in the integrated Payroll/Personnel (PAY/PERS) system which are pertinent to their bureaus. Personnel records contained in the PAY/PERS system fall under the juridiction of the Office of Personnel Management as prescribed in 5 CFR Part 293 and 5 CFR Part 297.

(1) Chief, Division of Fiscal Services, Office of Administrative Services, U.S. Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240;

(2) Chief, Division of Financial Operations, Bureau of Land Management, Denver Federal Center, Bldg. 50, Denver, Colorado 80225;

(3) Finance Officer, Division of Management Support, Bureau of Reclamation, Denver Federal Center, Building 67, P.O. Box 25007, Denver, Colorado 80225;

(4) Chief, Division of Finance, U.S. Fish and Wildlife Servcice, 18th and C Streets, NW., Washington, D.C. 20240;

(5) Chief, Branch of Payroll Operations, National Park Service, Post Office Box 25287, Denver, Colorado 80225;

(6) Chief, Branch of Financial Management, Geological Survey, National Center, Reston, Virginia 22092;

(7) Chief, Division of Finance, Bureau of Mines, Building 20, Denver Federal Center, Denver, Colorado 80225;

(8) Chief, Division of Financial Management, Office of Surface Mining, Building 20, Denver Federal Center, Denver, Colorado 80225;

(9) Director, Office of Administration, Bureau of Indian Affairs, 1951 Constitution Avenue, NW., Washington, D.C. 20245;

(10) Chief, Financial Management Division, Minerals Management Service, 12203 Sunrise Valley Drive, Mail Stop 632, Reston, Virginia 22091.

(11) Assistant Inspector General for Administration, Office of Inspector General, 18th and C Streets, NW, Washington., D.C. 20240.

(12) Chief, Division of Management Services, Office of Aircraft Services, P.O. Box 15428, Boise, Idaho 83715–9998.

NOTIFICATION PROCEDURES:

Inquiries regarding the existence of records should be addressed to the pertinent System Manager. A written, signed request stating that the individual seeks information concerning his/her records is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access may be addressed to the pertinent System Manager. The request must be in writing, signed by the requester, and meet the content requirement of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the pertinent System Manager and meet the content requirements of 43 CFR 2.71.

RECORDS SOURCE CATEGORIES:

Individuals on whom the records are maintained, supervisors, timekeepers, official personnel records, previous employers, and the Internal Revenue Service.

[FR Doc. 84-25074 Filed 9-28-84; 8:45 am]
BILLING CODE 4310-01-M

Bureau of Indian Affairs

Information Collection Submitted for Review

August 29, 1984.

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget Interior Department Desk Officer, Washington, D.C. 20240, telephone (202) 395–7313.

Title: 25 CFR Part 244, Wind River Reservation Game Code.

Bureau Form Numbers: None.

Frequency: Annually.

Description of Respondents: Indians seeking a hunting permit.

Annual Responses: 1,930.

Annual Burden Hours: 903.

Bureau Clearance Officer: Orville Hood, (202) 343–3574.

Kenneth Smith,

Assistant Secretary—Indian Affairs.

[FR Doc. 84-25075 Filed 9-28-84; 8:45 am]
BILLING CODE 4310-02-M

Bureau of Land Management

[Coal Lease Application C-26914]

Colorado; Public Hearing Availability of Environmental Assessment, and Request for Public Comment

The Department of the Interior, Bureau of Land Management, Colorado State Office, Denver, Colorado, hereby gives notice that a public hearing will be held on October 23, 1984, at 7:00 p.m. in the Yampa Valley Electric Building, 32—10th Street, Steamboat Springs, Colorado. This emergency by-pass application has been made by Colorado Yampa Coal Company to the United States to offer for lease approximately 202,000 tons of recoverable Wadge seam coal in the lands hereinafter described. The purpose of the hearing is to obtain public comments on the Environmental Assessment and on the following items: (1) The method of mining to be employed to obtain maximum economic recovery of the coak, (2) the impact that mining the coal in the proposed leasehold may have on the area, and (3) methods of determining the fair market value of the coal to be offered. Written requests to testify orally at the October 23, 1984, public hearing should be received at the Craig District Office, Bureau of Land Management, 455 Emerson Street, Craig, Colorado 81625, prior to the close of business October 23, 1984. People who indicate they wish to testify when they check in at the hearing may have an opportunity if time is available.

Both oral and written comments will be received at the public hearing, but speakers will be limited to a maximum of three or five minutes each depending on the number of persons desiring to comment. The time limitation will be strictly enforced, but the complete text of prepared speeches may be filed with the presiding officer at the hearing, whether or not the speaker has been able to finish oral delivery in the allotted minutes. Written comments regarding the Environmental Assessment may also be submitted to the Craig District Office at the above address, prior to close of business on October 29, 1984.

In addition, the public is invited to submit written comments concerning the fair market value and maximum economic recovery of the coal resource. Public comments will be utilized in establishing fair market value for the coal resources in the described lands. Comments should address specific factors related to fair market value including, but not limited to: the extent and quality of the coal resources, the price that the mined coal would bring in the market place, the cost of producing the coal, the interest rate at which anticipated income streams would be discounted, depreciation and other accounting factors, and the mining method or methods which would achieve maximum economic recovery of the coal. Documentation of similar market transactions, including location, terms and conditions, may also be submitted. The comments will be considered in the final determination of fair market value. Should any information submitted as comments be considered to be proprietary by the commenter, the information should be labeled as such and stated in the first page of the submission. Comments on fair market value should be sent to the State Director (CO–920), Bureau of Land Management, Colorado State Office, 2020 Arapahoe Street, Denver, Colorado 80205, to arrive no later than October 29, 1984.

Substantive comments, whether written or oral, will receive equal consideration prior to any lease offering.

The coal resource to be offered is limited to coal recoverable by surface mining methods from the Wadge Seam in the following lands located approximately 13 miles southwest of Steamboat Springs, Colorado:

T. 4 N., R. 86 W., 6th P.M.
Sec. 9: W½SW¼SW¼ and NE¼SW¼ SW¼.

The land described contains 30 acres.

The average coal quality is approximately as follows: Sub Bituminous 10,500/11,500; Sulfur 0.5%; Ash 12%.

The draft Environmental Assessment is available for review in the Craig District Office. Single copies are available for distribution upon request from that office.

A copy of the Environmental Assessment, the case file and the comments submitted by the public on fair market value, except those portions identified as proprietary by the commenter and meeting exemptions stated in the Freedom of Information Act, will be available for public inspection at the Colorado State Office, Bureau of Land Management.

Evelyn W. Axelson,

Chief, Mineral Leasing Section.

[FR Doc. 84-25886 Filed 9-28-84; 8:45 am]

BILLING CODE 4310-JB-M

[C-35774]

Colorado; Classification of Public Lands for State Indemnity Selection

1. Pursuant to sections 2275 and 2276 of the Revised Statutes, as amended (43 U.S.C. 851, 852), and the provisions granted to the State of Colorado by the Act of March 3, 1875 (18 Stat. 475), the public lands described below are hereby classified for State Indemnity Selection. The State of Colorado has filed an application to acquire the described lands in lieu of certain school lands that were encumbered by other rights or reservations before the State's title could attach. This application was assigned serial number Colorado 35774.

2. The Notice of Proposed Classification of these lands was published in the **Federal Register** of July 7, 1982, Vol. 47, No. 130, pages 29607–29609. The land is being classified as proposed.

3. The lands included in this classification are in Hinsdale County and are described as:

New Mexico Principal Meridian

T. 43 N., R. 4 W.,
Sec. 9, lots 22 and 25;
Sec. 10, lots 34 and 39.

The area described contains 57.43 acres.

4. This classification decision is based on the following disposal criteria set forth in Title 43 Code of Federal Regulations, Part 2400.

Transfer of the lands to the State will help fulfill the Federal Government's common school land grant to the State, and constitutes a public purpose use of the land. Lands found to be valuable for a public purpose use will be considered chiefly valuable for public purposes (43 CFR 2430.2b).

5. Rights-of-way granted by the Bureau of Land Management on the above lands will transfer with the land: Gunnison County Electric Association, Inc., P.O. Box 180, Gunnison, Colorado 81230, C–021766; Harley and Caryl Rudofsky, c/o Kasic and Landwehr, P.C. 121 South Taylor, P.O. Box 628, Gunnison, Colorado 81230, C–31163. It is anticipated that minerals in lots 22 and 25 of section 9 will be transferred in a clearlist if one issues, provided the State of Colorado has mineral-in-character base of equivalent value to the minerals in lots 22 and 25. It is anticipated that minerals, if any, in lots 34 and 39 of section 10 will be transferred in a clearlist if one is issued as these lots are considered to be nonmineral in character.

Any cultural resources will be managed by the State. The lands described above are segregated from operation of the public land laws, including the general mining law, but not the mineral leasing laws, for 120 days from the date of publication of this notice in the **Federal Register.**

6. The public lands classified by this notice are shown on a map on file and available for inspection in the Bureau of Land Management District Office, 2465 South Townsend, Montrose, Colorado 81401, Phone (303) 249–7791.

7. For a period of 30 days from the date of publication in the **Federal Register,** this classification shall be subject to exercise of administrative review and modification by the Secretary of the Interior as provided for in 43 CFR 2461.3 and 2462.3. Interested parties may submit comments to the Secretary of the Interior, LLM 320, Washington, D.C. 20240.

Dated: September 20, 1984.

Kannon Richards,

State Director.

[FR Doc. 84-25887 Filed 9-28-84; 8:45 am]

BILLING CODE 4310-JB-M

[OR36767, OR37058]

Realty Action; Sale of Public Lands in Baker and Malheur Counties, OR

Summary

The following described public land has been examined and identified as suitable for disposal by sale under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713), at no less than the appraised fair market value:

BAKER COUNTY, WILLAMETTE MERIDIAN, OR

Parcel No.	Legal Description	Acreage	Value
OR36767			
	T. 10S., R. 39E., Sec. 25, SE¼SW¼.	40.00	$5,400
2	T. 7S., R. 40E., Sec. 6, Lots 7 and 10.	14.19	2,050
3	T. 7S., R. 40E., Sec. 26, NE¼NE.	40.00	5,375
4	T. 10S., R. 40E., Sec. 9, NE¼SE¼.	40.00	5,275
5	T. 8S., R. 41E., Sec. 7, Lot 4.	39.34	5,400
6	T. 8S., R. 41E., Sec. 29, SW¼SE¼.	40.00	5,450
7	T. 9S., R. 43E., Sec. 15, SW¼SE¼; Sec. 22, NW¼NE¼.	80.00	10,850
8	T. 10S., R. 43E., Sec. 3, SE¼SE¼.	40.00	5,175
9	T. 10S., R. 43E., Sec. 5, SW¼SW¼.	40.00	4,825
10	T. 8S., R. 47E., Sec. 10, SE¼NW¼.	40.00	5,400

MALHEUR COUNTY, WILLAMETTE MERIDIAN, OR

Parcel No.	Legal description	Acreage	Value
OR 37058			
1	T.14S., R.41E., Sec. 15, SE¼NE¼.	40.00	$5,000
2	T.14S., R.41E., Sec. 17, SW¼SW¼.	40.00	4,000
3	T.21S., R.38E., Sec. 21, Lot 1.	12.09	800

The parcels are difficult and uneconomical to manage as part of the public lands and are not suitable for management by another Federal agency. There are no significant resource values which will be affected by this disposal. Only parcel No. 3 of OR37058 has legal access; none of the parcels in OR36767 has legal access. The sale is consistent with BLM planning for the subject land and the public interest will be served by offering this land for sale.

Except for provisions of section 203 of the Federal Land Policy and Management Act of 1976, (90 Stat. 2750; 43 U.S.C. 1713), the above described lands are hereby segregated from appropriation under the public land laws, including the mining laws.

All parcels are being offered for sale through modified competitive or non-competitive (direct) bidding procedures as follows:

Serial No. OR36767

Parcel No. 1—Modified competitive to designated bidders
(1) Richard E. Truscott Estate c/o Roger Agar (Trustee)
(2) Gary Marlette
Parcel No. 2—Modified competitive to designated bidders
(1) Nina Prowell
(2) Joseph T. Steiner
Parcel No. 3—Modified competitive to designated bidders
(1) Warner Bros. c/o Fred Warner
(2) Charles M. Colton
Parcel No. 4—Noncompetitive

Warnock Ranches c/o Dan Warnock
Parcel No. 5—Noncompetitive
Charles M. Colton
Parcel No. 6—Modified competitive to designated bidders
(1) Earl McKnight
(2) Virgil Prowell Estate c/o Claudine J. Prowell
Parcel No. 7—Noncompetitive
Phillips Angus Ranch, Inc.
Parcel No. 8—Modified competitive to designated bidders
(1) Frank E. Widman c/o Mike Widman
(2) Agnes Widman Heater
Parcel No. 9—Uncompetitive
Orman Bieber
Parcel No. 10—Modified competitive to designated bidders
(1) L. J. Smelcer
(2) Leroy J. Smelcer

Serial No. OR37058

Parcel No. 1—Noncompetitive
Orchards Water Co.
Parcel No. 2—Noncompetitive
D. L. Berger
Parcel No. 3—Noncompetitive
John W. Wharton

Modified competitive and noncompetitive bidding procedures are being used to recognize the needs and historical uses of adjoining landowners and users. Preference to users is authorized under section 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713; 43 CFR 2711.3–2).

The terms and conditions applicable to the above sales are:

1. A right-of-way for ditches and canals will be reserved to the United States (43 U.S.C. 945).

2. A right-of-way will be reserved for that portion of Malheur Reservoir and Dam (VO1499) found in parcel No. 1 of OR37058.

3. For parcels No. 1, 2, and 3 of OR37058, the sale is for the surface estate only. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove the minerals.

4. For parcels No. 1, 2, 3, 5, 6, 8, and 9 of OR36767, the sale is for the surface estate only. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove the minerals.

5. All minerals beneath parcels No. 4, 7 and 10 of OR36767 will be offered for conveyance. These mineral interests being offered have no known mineral value. A bid on the parcel will also constitute application for conveyance of those mineral interests offered under the authority of section 209(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1719(b)). On the sale date, the successful bidder(s) will be required to deposit an additional $50.00 nonrefundable filing fee for the conveyance offered minerals pursuant to 43 CFR 2720.1–2(c).

6. For parcel No. 1 of OR36767, the successful bidder agrees that he takes the real estate subject to the existing grazing use of the Richard E. Truscott Estate, holder of Grazing Authorization No. 6244. The rights of the Truscott Estate to graze domestic livestock on the real estate according to the conditions and terms of Grazing Authorization No. 6244 shall cease on 2/28/85. The successful bidder is entitled to receive annual grazing fees from the Truscott Estate in an amount not to exceed that which would be authorized under the Federal Grazing Fee published annually in the **Federal Register**.

7. For parcel No. 3 of OR36767, the successful bidder agrees that he takes the real estate subject to the existing grazing use of Warner Brothers, holder of Grazing Authorization No. 6245. The rights of Warner Brothers to graze domestic livestock on the real estate according to the conditions and terms of Grazing Authorization No. 6245 shall cease on 2/28/92. The successful bidder is entitled to receive annual grazing fees from Warner Brothers in an amount not to exceed that which would be authorized under the Federal Grazing Fee published annually in the **Federal Register**.

8. For Parcel No. 6 of OR36767, the successful bidder agrees that he takes the real estate subject to the existing use of Earl McKnight, holder of Grazing Authorization No. 6227. The rights of Earl McKnight to graze domestic livestock on the real estate according to the conditions and terms of Grazing Authorization No. 6227 shall cease on 2/28/89. The successful bidder is entitled to receive annual grazing fees from Earl McKnight in an amount not to exceed that which would be authorized under the Federal Grazing Fee published annually in the **Federal Register**.

9. For Parcel No. 8 of OR36767, the successful bidder agrees that he takes the real estate subject to the existing grazing use of Mike Widman, holder of Grazing Authorization No. 6253. The rights of Mike Widman to graze domestic livestock on the real estate according to the conditions and terms of Grazing Authorization No. 6253 shall cease on 2/28/87. The successful bidder is entitled to receive annual grazing fees from Mike Widman in an amount not to exceed that which would be authorized under the Federal Grazing Fee published annually in the **Federal Register**.

10. For Parcel No. 10 of OR36767, the successful bidder agrees that he takes the real estate subject to the existing grazing use of Leroy Smelcer, holder of Grazing Authorization No. 6330. The rights of Leroy Smelcer to graze domestic livestock on the real estate according to the conditions and terms of Grazing Authorization No. 6330 shall cease on 2/28/85. The successful bidder is entitled to receive annual grazing fees from Leroy Smelcer in an amount not to exceed that which would be authorized under the Federal Grazing Fee published annually in the **Federal Register**.

11. The sale will be subject to all valid existing rights, reservations, and restrictions of record.

12. The BLM may accept or reject any and all offers, or withdraw any land or interest in land from sale, if in the opinion of the authorized officer, consumption of the sale would not be fully consistent with the Federal Land Policy and Management Act or other applicable laws.

All parcels will be offered for sale by sealed bids only. The sealed bids for the modified and noncompetitive sales for parcels 1–10 of OR36767 will be opened at 10:00 a.m. at the Baker Resource Area Headquarters, New Federal Building, P.O. Box 987, Baker, Oregon 97814. Sealed bids shall be considered only if received at the above address prior to 10:00 a.m. on December 5, 1984.

The sealed bids for the noncompetitive sales for parcels 1–3 of OR37058 wil be opened at 10:00 a.m. (Mountain Standard Time) at the Vale District Office, 100 Oregon St., P.O. Box 700, Vale, Oregon 97918.

For parcels No. 1, 2, 3, 6, 8, and 10 of OR36767 not sold pursuant to this Notice of Realty Action will continue to be available for sale on a sealed bid basis. All sealed bids for available parcels will be opened at 10:00 a.m. on the first Wednesday of each month and must be received in the Baker Resource Area Headquarters by 4:00 p.m. the last working day prior to the opening of the sealed bids.

This provision does not apply to Parcels No. 4, 5, 7, and 9 of OR36767. If these parcels are not purchased by the designated bidders, they will be removed from availability for purchase.

For parcels No. 2 and 3 of OR37058 not sold pursuant to this Notice of Realty Action, will continue to be available for sale on a sealed bid basis. All sealed bids for available parcels will be opened at 10:00 a.m. (Mountain Standard Time) on the first Wednesday of each month and must be received in the Vale District Office by 4:00 p.m. (Mountain Standard Time) the last working day prior to the opening of the sealed bids.

This provision does not apply to parcel No. 1 of OR37058. If this parcel is not purchased by the designated bidder, it will be removed from availability for purchase.

Federal law requires that individuals by 18 years of age or over and a U.S. citizen, and corporations be subject to the laws of any State of the United States.

Bids must be made by the principal or his duly qualified agent. Bids delivered or sent by mail must be received at the BLM at the above respective addresses, before 10:00 a.m., December 5, 1984 to be considered. Each sealed bid must be accompanied by postal money order, bank draft or cashier's check, made payble to the Bureau of Land Management for not less than 30 percent of the bid, 20 percent for parcel No. 7 of OR36767. The sealed envelope must be marked in the lower left hand corner as follows. "Public Sale Bid Parcel

No. ——, Serial No. OR ———. Sale held December 5, 1984."

If two or more envelopes are received containing valid bids of the same amount for the same parcel, tied high bidders will be immediately notified and given 20 days to submit a new bid. The highest qualifying sealed bid on each parcel will be the sale price. The successful bidder will be required to pay the remainder of the sale price within 180 days. Failure to submit the full sale price within 180 days shall cancel sale of the specific parcel and the bidder's deposit will be forfeited. All unsuccessful bids will be returned.

For parcel Nos. 1–10 of OR36767—detailed information concerning the sale, including the planning documents, environmental assessment and the record of public involvement, is available for review at the Baker Resource Area Headquarters, New Federal Building, Baker, Oregon.

For parcels Nos. 1–3 of OR37058—detailed information concerning the sale, including the planning documents, environmental assessment and the record of public involvement, is available for review at the Vale District Office, 100 Oregon St., Vale, Oregon

FOR FURTHER INFORMATION CONTACT: For parcel Nos. 1–10 of OR36767—detailed information concerning the sale, including the planning documents, environmental assessment and the record of public involvement, is available for review at the Baker Resource Area Headquarters, New Federal Building, Baker, Oregon.

For parcels Nos. 1–3 of OR37058—detailed information concerning the sale, including the planning documents, environmental assessment and the record of public involvement, is available for review at the Vale District Office, 100 Oregon St., Vale, Oregon.

For a period of 45 days after the date of issuance of this notice, the public and interested parties may submit comments to the Vale District Manager, at the above address. Any adverse comments received as a result of the Notice of Realty Action or notification to the Congressional committee and delegations pursuant to Pub. L. 97–394 will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become a final determination of the Department of the Interior. Interested parties should continue to check with the District Office or the Baker Resource Area Headquarters to keep themselves advised of changes.

Dated: September 24, 1984.

Pearl M. Parker,

District Manager.

[FR Doc. 84–25986 Filed 9–28–84; 8:45 am]

BILLING CODE 4310–33–M

Minerals Management Service

Development Operations Coordination Document; The Superior Oil Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that the Superior Oil Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS 0797, Block 105, Eugene Island Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Intracoastal City, Louisiana.

DATE: The subject DOCD was deemed submitted on September 24, 1984.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838–0875.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised Section 250.34 of Title 30 of the CFR.

Dated: September 24, 1984.

John L. Rankin,

Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 84–25988 Filed 9–28–84; 8:45 am]

BILLING CODE 4310–MR–M

National Park Service

Lower Sheenjek Wild and Scenic River Study, Alaska

ACTION: Notice of Availability of Draft Environmental Impact Statement.

SUMMARY: This notice announces the availability of a draft environmental impact statement (EIS) for the Lower Sheenjek Wild and Scenic River Study in Alaska. This notice also announces the comment period for receiving public comments on the draft EIS.

DATE: Comments on the draft EIS should be received no later than 90 days from the date of this notice.

ADDRESSES: Comments on the draft EIS should be submitted to Regional Director, Alaska Region, National Park Service, 2525 Gambell Street, Room 107, Anchorage, Alaska 99503. Public reading copies of the draft EIS will be available for review at the following locations.

Office of Public Affairs, National Park Service, Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240 (Telephone 202–343–6843)

Visitor Center, Alaska Regional Office, National Park Service, 2525 Gambell Street, Room 101, Anchorage, Alaska 99503 (Telephone 907–271–4366)

A limited number of copies of the statement are available on request from the Regional Director, Alaska Region, National Park Service, 2525 Gambell Street, Room 107, Anchorage, Alaska 99503, 907–271–4366.

FOR FURTHER INFORMATION CONTACT: Mr. Vaughn Baker, Division of Planning, Alaska Regional Office, National Park Service, 2525 Gambell Street, Room 107, Anchorage, Alaska 99503, 907–271–4366.

SUPPLEMENTARY INFORMATION: The lower Sheenjek River, in Northeast Alaska (those portions of the river not already in the National Wild and Scenic Rivers System) has been studied with respect to possible inclusion in the national system. The EIS describes and evaluates three alternatives, including a proposed action that calls for designation of both study segments, a total of about 124 river miles.

Dated: September 20, 1984.

Bruce Blanchard,

Director, Office of Environmental Project Review.

[FR Doc. 84-25941 Filed 9-28-84; 8:45 am]

BILLING CODE 4310-70-M

Squirrel Wild and Scenic River Study, Alaska

ACTION: Notice of Availability of Draft Environmental Impact Statement.

SUMMARY: This notice announces the availability of a draft environmental impact statement (EIS) for the Squirrel Wild and Scenic River Study in Alaska. This notice also announces the comment period for receiving public comments on the draft EIS.

DATES: Comments on the draft EIS should be received no later than 90 days from the date of this notice.

ADDRESSES: Comments on the draft EIS should be submitted to Regional Director, Alaska Region, National Park Service, 2525 Gambell Street, Room 107, Anchorage, Alaska 99503. Public reading copies of the draft EIS will be available for review at the following locations.

Office of Public Affairs, National Park Service, Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240 (Telephone 202-343-6843)

Visitor Center, Alaska Regional Office, National Park Service, 2525 Gambell Street, Room 101, Anchorage, Alaska 99503 (Telephone 907-271-4366)

A limited number of copies of the statement are available on request from the Regional Director, Alaska Region, National Park Service, 2525 Gambell Street, Room 107, Anchorage, Alaska 99503, 907-271-4366.

FOR FURTHER INFORMATION CONTACT: Mr. Vaughn Baker, Division of Planning, Alaska Regional Office, National Park Service, 2525 Gambell Street, Room 107, Anchorage, Alaska 99503 907-271-4366.

SUPPLEMENTARY INFORMATION: The Squirrel River, a tributary of the Kobuk River in northwest Alaska, has been studied with respect to possible inclusion in the National Wild and Scenic Rivers System. This EIS describes and evaluates five alternatives, including the proposed action. The proposed action calls for a designation of the federally administered portion of the Squirrel River, plus the lower 6 miles of the North Fork and 15 miles of the Omar River.

Dated: September 20, 1984.

Bruce Blanchard,

Director, Office of Environmental Project Review.

[FR Doc. 84-25942 Filed 9-28-84; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Board for International Food and Agricultural Development; Meeting

Pursuant to the a provisions of the Federal Advisory Committee Act, notice is hereby given of the sixty-sixth meeting of the Board for International Food and Agricultural Development (BIFAD) on October 11, 1984.

For this meeting, the principal item of business is a presentation and discussion of fisheries in international development by John V. Byrne, Administrator of the National Oceanic and Atmospheric Administration (NOAA), and members of his senior staff with input from A.I.D., U.S. Department of Agriculture, and the Title XII university community. In addition, the Board will consider old business left over from the previous meeting such as the moratorium on applications for new Strengthening Grants, and the Collaborative Research Support Program (CRSP) revised guidelines.

The meeting will begin at 9:00 a.m. and adjourn at 12:30 p.m., and will be held in Room 1107, New State Department Building, 22nd and C Streets, NW., Washington, D.C. The meeting is open to the public. Any interested person may attend, may file written statements with the Board before or after the meeting, or may present oral statements in accordance with procedures established by the Board, and to the extent the time available for the meting permits. An escort from the "C" Street Information Desk (Diplomatic Entrance) will conduct you to the meeting.

Dr. Erven J. Long, Coordinator, Research and University Relations, Bureau for Science and Technology, Agency for International Development, is designated as A.I.D. Advisory Committee Represenatative at this meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, International Development Cooperation Agency, Washington, D.C. 20503, or telephone him at (703) 235-8929.

Dated: September 25, 1984.

Bernard Masters,

Acting Coordinator, Research and University Relations, Bureau for Science and Technology.

[FR Doc. 84-26004 Filed 9-28-84; 8:45 am]

BILLING CODE 8116-01-M

[Amdt. No. 1 to Delegation of Authority No. 40]

Regional Assistant Administrators, et al.; Delegation of Authority Regarding Source, Origin and Nationality for Procurement

Pursuant to the authority delegated to me by IDCA Delegation of Authority No. 1 (44 FR 57521, October 1, 1979), I hereby amend Delegation of Authority No. 40 (47 FR 1049, January 8, 1982) as follows:

1. Section I is amended by adding "Program and Policy Coordination" after "Science & Technology".

2. Paragraphs IA. and IB. are amended by deleting "$3,000,000" and inserting "$5,000,000".

This amendment is effective immediately.

Dated: September 15, 1984.

Jay F. Morris,

Deputy Administrator.

[FR Doc. 84-25978 Filed 9-28-84; 8:45 am]

BILLING CODE 8116-01-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to Clean Water Act; United States v. District of Columbia

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on September 12, 1984 a proposed Consent Decree in *United States* v. *District of Columbia*, Civil Action No. 84-2842, was lodged with the United Stated District Court for the District of Columbia. The proposed Consent Decree concerns the discharge of pollutants from the District of Columbia's Blue Plains Wastewater Treatment Plant.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *District of Columbia*, D.J. Ref. No. 90-5-1-1-1969.

The proposed Consent Decree may be examined at the office of the United States Attorney, District of Columbia,

Third Street & Constitution Avenue, NW., Washington, D.C. 20001 and at Region III Office of Environmental Protection Agency, Sixth & Walnut Streets, Philadelphia, Pennsylvania 19106. Copies of the Consent Decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $4.10.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 84-25978 Filed 9-28-84; 8:45 am]

BILLING CODE 4410-01-M

Office of Justice Assistance, Research, and Statistics

State Reimbursement Program for Incarcerated Mariel-Cubans

AGENCY: Office of Justice Assistance, Research, and Statistics, Justice

ACTION: Notice of issuance of solicitation for applications to reimburse states for the expense incurred by the incarceration of Mariel-Cubans.

SUMMARY: The Office of Justice Assistance, Research, and Statistics (OJARS) is administering a program to reimburse states for the expenses incurred by the incarceration of certain Mariel-Cubans in state facilities. The Program is limited to those states which have incarcerated Mariel-Cubans that were paroled by the U.S. Department of Justice during the 1980 influx of Cubans leaving the port of Mariel.

ADDRESSES: Henry T. Tubbs, Office of Planning and Management, Office of Justice Assistance, Research, and Statistics, 633 Indiana Avenue, NW., Washington, D.C. 20531.

FOR FURTHER INFORMATION CONTACT: Henry T. Tubbs, (202) 724-5974. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: The Office of Justice Assistance, Research, and Statistics (OJARS) is publishing a notice of issuance of solicitation to implement a State Reimbursement Program for Incarcerated Mariel-Cubans. The Department of Justice Appropriations Act (Pub. L. 98-411) allocates up to $5 million for the purpose of making grants to states for their expenses for the incarceration of Mariel-Cubans in state facilities.

I. General Provisions

Statutory authority: The statutory authority is the Department of Justice Appropriations Act (Pub. L. 98-411).

Submission date: The submission date for state applications is not later than February 1, 1985.

Eligible applicants: All states are eligible to apply for and receive grants. *State*, means any state of the United States and includes the District of Columbia and the Commonwealth of Puerto Rico.

Participating states: It is estimated that approximately fourteen states will participate in this program. Although we can not be positive at this time, it is assumed that the states of Florida, Arkansas, Wisconsin, and Pennsylvania will participate, as holding camps existed in each state. Although not necessarily limited to the following: the states of California, New Jersey, New York, Texas, Nevada, Arizona, Illinois, Louisiana, Massachusetts, and the Commonwealth of Puerto Rico may be included as participating states.

II. Allocations and Uses of Funds

Fund availability: The Act provides a total of $5 million for the purpose of making grants to states. The total amount of funds awarded will be on the basis that the certified number of incarcerated persons in a state bears to the total certified number of such incarcerated persons. The amount of reimbursements per prisoner per annum will not exceed $12,000.

Fund use: The intent of the public law is to reimburse the states for their expenses by reason of Mariel-Cubans having to be incarcerated in state facilities. A budget or expenditure plan is not required as the award will be solely for reimbursement. No match funds are required.

III. Application Content

(a) All state applicants must submit Standard Form 424 (Application for Federal Assistance), and a *certified listing* of incarcerated Mariel-Cuban prisoners. This listing will include the following information in the suggested sequence:

(1) Name (last name first)
(2) AKA (also know as)
(3) Alien Identification Number (e.g., A24456789)
(4) Date of birth
(5) Last known address
(6) Conviction date
(7) Conviction offense
(8) Probable earliest release date
(9) State facility housing the prisoner
(10) State facility address
(11) Dates of incarceration of the prisoner
(12) I-247 Form—Immigration Detainer Notice (If INS has filed a Detainer on this prisoner, submit a copy)
(13) Fingerprint card

(b) The certified listing must be signed by the Governor or his authorized representative.

(c) The period of incarceration for reimbursement purposes is October 1, 1984 to September 30, 1985. The computation of funds will be based on an aggreate total of certified prisoners incarcerated for a twelve month period, (e.g., if two prisoners are incarcerated for six months during the period the state will be reimbursed the full amount for one year).

(d) The Act is specific in that the prisoner must have been paroled into the United States by the Attorney General during the 1980 influx of Mariel-Cubans. This means those Cubans who *Entered Without Inspection* (EWI), earlier arrivals (pre-boatlift), and/or later arrivals (post-boatlift) can not be included and, thus, no expenses will be reimbursed.

(e) State law will prevail when a determination is required as to what constitutes a state facility and/or a state prisoner.

IV. Review of State Applications

State applications must be submitted in the form and at the time prescribed.

(a) The application and certified listing will be reviewed by OJARS and a cross-check verification of prisoners will be made. This review will be accomplished not later than April 1, 1985 and grants will be immediately made to states.

(b) Compliance with Executive Order 12372, "Intergovernmental Review of Federal Programs." This program is covered by Executive Order 12372 and Department of Justice implementing regulations 28 CFR Part 30. States must submit grant applications to the states *Single Point of Contact*, if there is a *Single Point of Contact*, and if this program has been selected for coverage by the state process, at the same time applications are submitted to the Federal agency. State processes have 60 days starting from the application deadline to comment on applications. Applicants should contact their state "Single Point of Contact" as soon as possible to alert them of the prospective application and receive instructions regarding the process.

(c) The Office of Justice Assistance, Research, and Statistics will notify the applicant in writing of the specific

reasons for the disapproval of the application or amendment, in whole or in part.

V. Civil Rights Assurances

The applicant State must specifically assure its compliance with the following civil rights laws and regulations:

(a) Title VI of the Civil Rights Act of 1964 and its implementing regulations 28 CFR 42.101, *et seq.*

(b) Section 815(c) of the Justice System Improvement Act of 1979, and its implementing regulations 28 CFR 42.201, *et seq.*

(c) Section 504 of the Rehabilitation Act of 1973, as amended, and its implementing regulations at 28 CFR 42.501, *et seq.*

(d) Title IX of the Education Amendments of 1972, and

(e) The Age Discrimination Act of 1975.

Any application for $500,000 or more shall be accompanied by a copy of the current Equal Employment Opportunity Program of the corrections department in accordance with the provisions of 28 CFR 42.301 *et seq.*

VI. Non-discrimination

The state assures that it will comply, and that subgrantees and contractors will comply, with all applicable Federal non-discrimination requirements, including:

(a) Title VI of the Civil Rights Act of 1964;

(b) Section 504 of the Rehabilitation Act of 1973, as amended;

(c) Title IX of the Education Amendments of 1972;

(d) The Age Discrimination Act of 1975; and,

(e) The Department of Justice Non-Discrimination Regulations, 28 CFR Part 42, Subparts C, D, E and G.

Lois Haight Herrington,

Assistant Attorney General.

[FR Doc. 84-25940 Filed 9-28-84; 8:45 am]

BILLING CODE 4410-18-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[84-76]

NASA Advisory Council (NAC), Space and Earth Science Advisory Committee (SESAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space and Earth Science Advisory Committee.

DATE: October 24, 1984 8:30 a.m. to 5 p.m.; October 25, 1984, 8:45 a.m. to 4:30 p.m.; and October 26, 1984, 8:30 a.m. to 12 noon.

ADDRESS: National Aeronautics and Space Administration, Room 226A, 600 Independence Avenue, SW, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. Jeffrey D. Rosendhal, Code E, National Aeronautics and Space Administration, Washington, DC. 20546 (202/453-1410).

SUPPLEMENTARY INFORMATION: The NAC Space and Earth Science Advisory Committee Consults with and advises the council as a whole and NASA on plans for, work in progress on, and accomplishments of NASA's Space and Earth Science programs. The meeting will be open to the public up to the seating capacity of the room (approximately 50 persons including Committee members and other participants). Topics under discussion at this meeting will include status reports on the Space Station Task Force and the Earth System Sciences Committee (ESSC); the Space Science Board Long Range Planning; and the activities of the Office of Science and Technology Policy in regard to the Space and Earth Science Program.

Type of meeting: Open.

Agenda

October 24, 1984

8:30 a.m.—Introduction, Logistics, Announcements
9 a.m.—FY 1984 Budget and Program Status
9:30 a.m.—Space Science Board Long Range Planning Study
10:30 a.m.—Review of Earth System Science Committee Activities
1:30 p.m.—Space Station Organization and Planning
2:30 p.m.—Review of SESAC Space Station Task Force Activities
5 p.m.—Adjourn

October 25, 1984

8:45 a.m.—Office of Science and Technology Policy (OSTP) Activities/Perspective on Prospects for the Space and Earth Science Program
10:30 a.m.—Discussion on Committee Activities for the Coming Year
1:15 p.m.—Discussion on Committee Activities/Organizational Splinter Meetings
4:30 p.m.—Adjourn

October 26, 1984

8:30 a.m.—Committee Planning and Organizational Activities
12 noon—Adjourn

Dated: September 24, 1984.

Richard L. Daniels,

Deputy Director, Logistics Management and Information Programs Division, Office of Management.

[FR Doc. 84-25939 Filed 9-28-84; 8:45 am]

BILLING CODE 7515-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel Meetings

AGENCY: National Endowment for the Humanities.

ACTION: Notice of Meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, D.C. 20506:

1. Date: October 15-16, 1984. Time: 9:00 a.m. to 5:00 p.m. Room: 415. Program: This meeting will review applications submitted for Special Projects/Program Development Programs, Division of General Programs, for projects beginning after April 1, 1985.

2. Date: October 22-23, 1984. Time: 8:30 a.m. to 5:00 p.m. Room: 316. Program: This meeting will review applications submitted to the Research Resources Program: American Studies I Panel, Division of Research Programs, for projects beginning after April 1, 1985.

3. Date: October 29, 1984. Time: 8:30 a.m. to 5:00 p.m. Room: 316. Program: This meeting will review applications submitted to the Research Resources Program: Literature, Libraries, and Bibliography Panel, Division of Research Programs, for projects beginning after April 1, 1985.

4. Date: October 30, 1984. Time: 8:30 a.m. to 5:00 p.m. Room: 316. Program: This meeting will review applications submitted to the Research Resources Program: Preservation Panel, Division of Research Programs, for projects beginning after April 1, 1985.

5. Date: October 16, 1984. Time: 8:30 a.m. to 5:00 p.m. Room: 316. Program: This meeting will review applications submitted to the Research Resources Program: Art Historical Resources Panel, Division of Research Programs, for projects beginning after April 1, 1985.

6. Date: October 22, 1984. Time: 9:00 a.m. to 5:00 p.m. Room: 430. Program: This meeting will review applications submitted for Special Projects/Bicentennial Programs, Division of General Programs, for projects beginning after April 1, 1985.

7. Date: October 22-23, 1984. Time: 8:30 a.m. to 5:00 p.m. Room: 415. Program: This meeting will review applications submitted for the Humanities Projects in Media, Division of General Programs for projects beginning after April 1, 1985.

8. Date: October 25-26, 1984. Time: 8:30 a.m. to 5:00 p.m. Room: 415. Program: This meeting will review applications submitted

for the Humanities Projects in Media, Division of General Programs, for projects beginning after April 1, 1985.

The proposed meetings are for the purpose of Panel review, discussion, evaluation and recommendation of applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and (3) information the disclosure of which would significantly frustrate implementation of proposed agency action; pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c) (4), (6), and (9)(B) of section 552b of Title 5, United States Code.

Further information about these meetings can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506, or call (202) 786–0322.

Stephen J. McCleary,

Advisory Committee, Management Officer.

[FR Doc. 84–26000 Filed 9–28–84; 8:45 am]

BILLING CODE 7536-01-M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Regulatory Biology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting.

Name: Advisory Panel for Regulatory Biology.

Date and time: October 17, 18, and 19, 1984 8:30 a.m. to 5:00 p.m. each day.

Place: Room 338, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

Type of meeting: Closed.

Contact person: Bruce L. Umminger, Program Director, Regulatory Biology Program Room 332, National Science Foundation, Washington, DC 20550 Telephone 202/357–7975.

Purpose of advisory panel: To provide advice and recommendations concerning support for research in regulatory biology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Dated: September 26, 1984.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 84–25981 Filed 9–28–84; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–213]

Connecticut Yankee Atomic Power Co.; Environmental Assessment and Finding of no Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of an exemption from the requirements of 10 CFR 50.46 and Appendix K to 10 CFR Part 50 to Connecticut Yankee Atomic Power Company (the licensee) for the Haddam Neck Plant, located at the licensee's site in Middlesex County, Connecticut.

Environmental Assessment

Identification of the Proposed Action: The exemption would exempt the licensee from the requirements of 10 CFR 50.46 to provide an analysis conforming to Appendix K for the installation of up to four Zircaloy clad lead test assemblies in the Haddam Neck core. The proposed exemption is in accordance with the licensee's request dated August 31, 1984, as supported by information provided in an amendment request dated May 25, 1984.

The Need for the Proposed Action: 10 CFR 50.46 (a)(1) requires that for each light-water nuclear power reactor fueled with uranium oxide pellets within cylindrical Zircaloy cladding, emergency core cooling system (ECCS) performance shall be calculated in accordance with an acceptable evaluation model as provided in 10 CFR Part 50 Appendix K, ECCS Evaluation Models. Because the Haddam Neck Plant has historically been fueled with stainless steel clad fuel, the licensee was previously required to evaluate ECCS performance in accordance with 10 CFR 50.46. Rather, it was required to demonstrate the ECCS performance capability in accordance with the AEC Interim Policy Statement for Emergency Core Cooling Systems (36 FR 12247). The licensee now plans to install four Zircaloy-4 clad lead test assemblies to evaluate the potential to convert to a zirconium clad core in order to reduce the enrichment of uranium required for a fuel cycle. The licensee wishes to take advantage of the refueling cycle beginning in Fall 1984 to obtain performance data for the new fuel. However, since Appendix K analyses are lengthy and costly, the licensee requests permission to operate on the basis of the previous evaluation using stainless steel modeling since the core remains essentially a complete stainless steel core (153 assemblies out of 157).

Environmental Impacts of Proposed Action: The proposed action pertains to the use of Zircaloy clad fuel in the Haddam Neck core. The NRC staff has reviewed the licensee's request for exemption and proposed amendment to the Technical Specifications and agrees with the licensee that the loss-of-coolant accident evaluation for Haddam Neck would not be sensitive to increased metal-water reaction because the Zircaloy lead test assemblies are at locations not exceeding 11.0 kW/ft steady-state peak linear heat generation rate. The NRC staff review also indicates that there are no other transients or accidents for which the increase of 50 kg of Zircaloy-4 in the core would make any significant difference in the safety evaluation. Thus, the exemption does not affect the risk of facility accidents. Post-accident radiological releases will not be greater than previously determined nor does the proposed exemption otherwise affect radiological plant effluents, or any significant occupational exposures. The exemption does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant radiological or non-radiological environmental impacts associated with the proposed exemption. Since the staff has concluded that there is no measurable environmental impact associated with the proposed exemption, any alternative will either have no environmental impact or greater environmental impact.

The principal alternative to the exemption would be to not allow the use of the lead test assemblies until literal compliance with 10 CFR 50.46 and Appendix K was demonstrated. This would likely require Connecticut Yankee Atomic Power Company to develop new ECCS evaluation models for NRC approval prior to determining the economic feasibility for conversion to the new fuel. Such an evaluation for four lead test assemblies out of a core of 157 assemblies would not significantly enhance the protection of the environment.

Alternative Use of Resource: The proposed exemption involves the use of resources (Zircaloy-4) not previously considered in the Haddam Neck Draft and Final Environmental Statements, March 1973 and October 1973, respectively. However, Zircaloy is by far the dominant cladding material in use in lightwater power reactors licensed by the NRC and the use of up to 400 kg of Zircaloy in a core with a total of 18,000 kg of clad material is insignificant from the standpoint of resource use.

Findings of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption.

Based upon the environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the licensee's requests dated May 25, 1984 and August 31, 1984, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., 20555, and at the Russell Library, 119 Broad Street, Middletown, Connecticut 16457.

Dated at Bethesda, Maryland, this 25th day of September 1984.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing.

[FR Doc. 84-25994 Filed 9-28-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-289]

General Public Utilities Nuclear Corp.; (Three Mile Island Nuclear Station, Unit 1), Issuance of Director's Decision Under 10 CFR 2.206

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, has issued a decision concerning a petition dated January 20, 1984, as supplemented on May 9, 1984, submitted by the Union of Concerned Scientists. The petitions request that the Commission initiate show cause or further enforcement proceedings to pervent restart of the Three Mile Island Nuclear Station, Unit 1, unless and until certain modifications are made to the facility's emergency feedwater system.

The Director, Office of Nuclear Reactor Regulation, has determined to deny the petitioner's request to initiate such proceedings. The reasons for this decision are explained in a "Director's Decision under 10 CFR 2.206" (DD-84-22) which is available for public inspection in the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and in the local Public Document Room for the TMI facility located in the Government Publications Section of the State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126. A copy of this decision will be filed with the Secretary for the Commissions' review.

Dated at Bethesda, Maryland this 25th day of September 1984.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 84-25995 Filed 9-28-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. STN 50-498 OL, STN 50-499 OL; ASLBP No. 79-421-07 OL]

Houston Lighting and Power Co., et al. (South Texas Project Units 1 and 2); Change in Date of Prehearing Conference

September 25, 1984.

The prehearing conference previously scheduled for October 15-16, 1984 (49 FR 36037, September 13, 1984, as modified by Notice dated September 19, 1984) has been rescheduled for October 16, 1984, beginning at 9:00 a.m. Parties should plan their presentations to permit the conference to be completed in one day (rather than the two previously scheduled).

The prehearing conference will be held at the same location as previously announced: Forum Rooms 1-2, Astro Village Hotel, 2350 South Loop W (I-610 at Kirby), Houston, Texas.

For the Atomic Safety and Licensing Board.

Dated at Bethesda, Maryland.

Charles Bechhoefer,

Chairman, Administrative Judge.

[FR Doc. 84-25992 Filed 9-28-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-352-OL; and 50-353-OL ASLBP No. 81-465-07 OL]

Philadelphia Electric Co.; Limerick Generating Station, Units 1 and 2; Reconstitution of Board

Pursuant to the authority contained in 10 CFR 2.721, the Atomic Safety and Licensing Board for *Philadelphia Electric Company* (Limerick Generating Station, Units 1 and 2), Docket Nos. 50-352-OL and 50-353-OL, is hereby reconstituted by appointing Administrative Judges Helen F. Hoyt and Jerry Harbour in place of Administrative Judges Lawrence Brenner and Peter A. Morris, who, because of schedule conflicts, are unable to serve. Administrative Judge Helen F. Hoyt is appointed as Chairman of the Board.

As reconstituted, the Board is comprised of the following Administrative Judges:

Helen F. Hoyt, Chairman
Dr. Richard F. Cole
Dr. Jerry Harbour

All correspondence, documents and other material shall be filed with the Board in accordance with 10 CFR 2.701 (1980). The addresses of the new Board members are:

Helen F. Hoyt, Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

Dr. Jerry Harbour, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

Issued at Bethesda, Maryland, this 25th day of September 1984.

B. Paul Cotter, Jr.

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 84-25993 Filed 9-28-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-406]

Tuskegee Institute; Finding of No Significant Environmental Impact Regarding Proposed Order Relating to Termination of Facility Operationg License No. R-122

The Nuclear Regulatory Commission (the Commission) is considering issuance of an Order authorizing disposition of all reactor components and terminating Facility Operating License No. R-122 for the Tuskegee Institute in Tuskegee, Alabama.

The Order will authorize disposal of the reactor components and terminate the Operating License in accordance with the licensee's application dated

August 9, 1983, as supplemented. Opportunity for hearing was afforded by the Notice of Proposed Issuance of Order Authorizing Disposition of Component Parts and Termination of Facility License published in the **Federal Register** June 12, 1984 at 49 FR 24189.

Environmental Assessment

Identification of Proposed Action

The Order would authorize disposition of all reactor components and terminate Operating License No. R–122, issued to the Tuskegee Institute Research Reactor in Tuskegee, Alabama.

Need the Proposed Action

The Tuskegee Institute Research Reator was never assembled and did not operate at the Tuskegee Institute. The final inspection and termination approval have been completed and show that all relevant regulatory requirements have been satisfied. Therefore, there is no longer any need for the Operating License to be in effect.

Environmental Impacts of Proposed Action

Since the fuel has been shipped offsite and residual contamination is within acceptable levels, termination of the license is the next appropriate administrative action. This action will have no environmental impact.

Alternative Use of Resources

This action does not involve the use of resources beyond those needed for its administrative processing.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's decommissioning plan and conducted the final inspection of the site. No other agencies or persons were consulted.

Finding of no Significant Impact

On the basis of the Environmental Assessment, the Commission has concluded that termination of the license will have no significant environmental impact. The Commission has determined not to prepare an Environmental Impact Statement for the proposed action.

For futher details with respect to this action see the licensee's request for decommissioning and termination dated August 9, 1983, and the Commission's Notice of Proposed Issuance of Order Authorizing Disposition of Component Parts and Termination of Facility License dated July 12, 1984, (49 FR 24189), which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C.

Dated at Bethesda, Maryland, this 28th day of September 1984.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing.

[FR Doc. 84–25986 Filed 9–28–84; 8:45 pm]

BILLING CODE 7590–01–M

Documents Containing Reporting or Record Keeping Requirements; Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision or extension: New.

2. The title of the information collection: 10 CFR Part 53, "Criteria and Procedures for Determining the Adequacy of Available Spent Nuclear Fuel Storage Capacity."

3. The form number if applicable: Not Applicable.

4. How often the collection is required: Once.

5. Who will be required or asked to report: NRC Power Reactor Licensees.

6. An estimate of the number of responses: Not More Than Two Annually.

7. An estimate of total number of hours needed annually to complete the requirement or request: 2640 Hours Per Year.

8. An indication of whether section 3504(h), Pub. L. 96–511 applies: Not Applicable.

9. Abstract: Any person owning and operating a civilian nuclear power reactor, when requesting a determination under section 135(b) of the Nuclear Waste Policy Act of 1982, must submit general and specific information to assist the Commission in determining whether that person cannot reasonably provide adequate spent nuclear fuel storage capacity.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 1717 H Street NW., Washington, D.C. 20555.

Comments and questions should be directed to the OMB reviewer Jefferson B. Hill, (202) 395–7340.

NRC Clearance Officer is R. Stephen Scott, (301) 492–8585.

Dated at Bethesda, Maryland this 24th day of September 1984.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 84–25980 Filed 9–28–84; 4:45 pm]

BILLING CODE 7590–01–M

Draft Regulatory Guide; Issuance, Availability; Test and Calibration of Radiation Protection Instrumentation

The Nuclear Regulatory Commission has issued for public comment a draft of a new guide planned for its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, OP 032–5 (which should be mentioned in all correspondence concerning this draft guide), is entitled "Test and Calibration of Radiation Protection Instrumentation" and is intended for Division 8, "Occupational Health." It is being developed to provide information to licensees on criteria acceptable to the NRC staff for the test and calibration of hand-held portable instruments used to make surveys for radiation. With certain exceptions and supplements, the proposed guide will endorse ANSI N323–1978, "Radiation Protection Instrumentation Test and Calibration."

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review and do not represent an official NRC staff position.

Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Comments on both drafts should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by November 30, 1984.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Silver Spring, Maryland this 24th day of September 1984.

For the Nuclear Regulatory Commission.

Karl R. Goller,

Director, Division of Radiation Programs and Earth Sciences, Office of Nuclear Regulatory Research.

[FR Doc. 84-25691 Filed 9-28-84; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service; Consolidated Listing of Schedules A, B, and C Exceptions

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives a consolidated notice of all positions excepted under Schedules A, B, C as of June 30, 1984, as required by Civil Service Rule VI, Exceptions from the Competitive Service.

SUPPLEMENTARY INFORMATION: Civil Service Rule VI (5 CRF 6.1) requires the Office of Personnel Management (OPM) to publish notice of all exceptions granted under Schedules A, B, and C. 5 CFR 213.103(c) further requires that a consolidated listing, current as of June 30 of each year, be published annually as a notice in the **Federal Register**. That notice follows. OPM maintains continuing information on the status of all Schedules A, B, and C excepted appointing authorities. Interested parties needing information about specific authorities during the year may obtain information by contacting the Staffing Policy Analysis Division, Room 6526, Office of Personnel Management, 1900 E Street NW., Washington, D.C. 20415, or by calling (202) 632-6817. The following exceptions were current on June 30, 1984:

Schedule A

Section 213.3102 Entire executive civil service.

(a) Positions of Chaplain and Chaplain's Assistant.

(b) Cooks, except at fixed locations such as hospitals, quarantine stations, and penal institutions.

(c) Positions to which appointments are made by the President without confirmation by the Senate.

(d) Attorneys.

(e) Law clerk trainee positions. Appointments under this paragraph shall be confined to graduates of recognized law schools or persons having equivalent experience and shall be for periods not to exceed 14 months pending admission to the bar. No person shall be given more than one appointment under this paragraph. However, an appointment which was initially made for less than 14 months may be extended for not to exceed 14 months in total duration.

(f) Chinese, Japanese, and Hindu interpreters.

(g) Any nontemporary position the duties of which are part-time or intermittent in which the appointee will receive compensation during his or her service year that aggregates not more than 40 percent of the annual salary rate for the first step of grade GS-3. This limited compensation includes any premium pay such as for overtime, night, Sunday, or holiday work. It does not, however, include any mandatory within-grade salary increases to which the employee becomes entitled subsequent to appointment under this authority. Appointments under this authority may not be for temporary project employment.

(h) Positions in Federal mental institutions when filled by persons who have been patients of such institutions and have been discharged and are certified by an appropriate medical authority thereof as recovered sufficiently to be regularly employed but it is believed desirable and in the interest of the persons and the institution that they be employed at the institution.

(i) Subject to prior approval of OPM, positions requiring temporary, part-time or intermittent employment in wage board type occupations (i.e., position excluded from Classification Act coverage by section 202(7) of the Act) on construction or repair work, where the activity is carried on in localities where examination coverage for the positions has not been provided and where because of employment conditions there is a shortage of available candidates for the positions. Appointments under this paragraph shall not extend beyond 1 year and the employment thereunder shall not exceed 180 working days a year. Seasonal employments of a recurring nature are not authorized under this paragraph.

(j) Positions filled by (1) appointment of persons previously employed as National Guard Technicians under 32 U.S.C. 709(a) in positions at the same or equivalent grade level, or below, who are applying for or receiving an annuity under the provisions of 5 U.S.C. 8337(h) by reason of a disability that disqualifies them from membership in the National Guard or from holding the military grade required as a condition of their National Guard employment; or (2) reassignment, promotion, or demotion within the same agency of former National Guard Technicians originally appointed under this authority.

(k) Positions without compensation provided appointments thereto meet the requirements of applicable laws relating to compensation.

(l) Positions requiring the temporary or intermittent employment of professional, scientific, or technical experts for consultation purposes.

(m) Nonsupervisory positions of custodial laborer (levels 1, 2, and 3) and general laborer (levels 2 and 3) in field establishments outside central office and regional office cities of OPM where examination coverage has not been provided for the positions, as follows:

(1) For temporary, intermittent, or seasonal employment (exclusive of positions covered by paragraph (1) of this section) not to exceed 180 working days a year in the Departments of Agriculture, Commerce, Interior, and Energy, in the Federal Aviation Agency, and in the International Boundary and Water Commission; or

(2) When it is specifically held by OPM that this authority is applicable for employment in localities that are isolated with respect to labor supply and where there is a shortage of available candidates for the positions.

(n) Any local physician, surgeon, or dentist employed under contract or on a part-time or fee basis.

(o) Positions of a scientific, professional, or analytical nature when filled by bona fide members of the faculty of an accredited college or university who have special

qualifications for the positions to which appointed. Employment under this provision shall not exceed 130 working days a year.

(p) Positions of a scientific, professional, or analytical nature when filled by bona fide graduate students at accredited colleges or universities provided that the work performed for the agency is to be used by the student as a basis for completing certain academic requirements toward a graduate degree. Appointments under this authority may not exceed 1 year, but may be extended for additional period(s) not to exceed 1 year as long as the conditions for appointment continue to be met. The appointment of any individual under this authority shall terminate upon the individual's completion of requirements for the graduate degree.

(q) Positions at grade GS–7 and below when appointees are to assist scientific, professional, or technical employees. Persons employed under this provision shall be (1) bona fide high school science or mathematics teachers; or (2) bona fide students at high schools or accredited colleges or universities who are pursuing courses related to the field in which employed. The appointment of any individual under this authority shall terminate upon the individual's ceasing to be enrolled in a qualifying educational program or to be employed as a teacher. No person shall be employed under this provision in (i) positions of a routine clerical type; or (ii) positions in excess of 1040 working hours a year, except that the 1040 working-hours-a-year limitation shall not apply to positions at grade GS–4 and below which are established in connection with associate degree cooperative education programs. Students enrolled in bachelor's degree cooperative education programs as defined in § 213.3202(a) shall not be employed under this provision. Appointments under this authority may be made only to positions for which qualification standards established under 5 CFR Part 302 are consistent with the education and experience standards established for comparable positions in the competitive service. Appointments under this authority may not be used to extend the service limits contained in any other appointing authority.

(r)–(s) [Reserved]

(t) Positions when filled by mentally retarded persons in accordance with written agreements executed between an agency and the OPM. Provisions to be included in such agreements are specified in the Federal Personnel Manual. Upon completion of 2 years of satisfactory service under this authority, the employee many qualify for conversion to competitive status under the provisions of Executive Order 12125 and implementing regulations issued by the Office.

(u) Positions when filled by severely physically handicapped persons who (1) under a temporary appointment have demonstrated their ability to perform the duties satisfactorily; or (2) have been certified by counselors of State vocational rehabilitation agencies or the Veterans Administration as likely to succeed in the performance of the duties. Upon completion of 2 years of satisfactory service under this authority, the employee may qualify for conversion to competitive status under the provisions of Executive Order 12125 and implementing regulations issued by the Office.

(v) Between May 13 and September 30 only, temporary Summer Aid positions the duties of which involve work of a routine nature not regularly covered under the General Schedule requiring no specific knowledge or skills, when filled by youths, either (1) appointed under economic needs standards prescribed by the Office of Personnel Management; or (2) who are mentally retarded or severely physically handicapped. Youths may not be appointed unless they have reached their 16th birthday. This paragraph shall apply only to positions for which pay is fixed at the highest Federal minimum wage rate established by the Fair Labor Standards Act of 1938, as amended.

(w) Part-time or intermittent positions, the duties of which involve routine work up to and including the GS–4 level of difficulty or equivalent under the Federal Wage System, when filled by bona fide students appointed under the Stay-in-School Program. Students may be appointed if they need the earnings from this employment to continue in school or if they are mentally retarded or severely physically handicapped, provided that the following conditions are met: (1) Appointees are enrolled in or accepted for enrollment as a resident student in a secondary school (or other appropriate school for mentally retarded students) or an institution of higher learning not above the baccalaureate level, accredited by a recognized accrediting body;

(2) Employment does not exceed 20 hours in any calendar week except that students may work full time during any period in which their school is officially closed and during any school vacation period;

(3) While employed, appointees continue to maintain an acceptable school standing, although they need not attend school during the summer;

(4) Appointees meet the economic criteria prescribed by the Office of Personnel Management, except that this requirement does not apply to mentally retarded or severely physically handicapped students appointed under the authority; and

(5) Salaries are fixed by the agency head at a level commensurate with the duties assigned and the expected level of performance.

Appointments under this authority may not extend beyond 1 year. *However*, such appointments may be made for additional periods of not to exceed 1 year, each, if the conditions for initial appointment are still met. Students may not be appointed under this authority unless they have reached their 16th birthday. No new appointments may be made between May 13 and August 31, inclusive.

(x) Positions for which a local recruiting shortage exists when filled by inmates of Federal, District of Columbia, and State (including the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands) penal and correctional institutions under work-release programs authorized by the Prisoner Rehabilitation Act of 1965, the District of Columbia Work Release Act, or under work-release programs authorized by the States. Initial appointments under this authority may not exceed 1 year. An initial appointment may be extended for one or more periods not to exceed one additional year each upon a finding that the inmate is still in a work-release status and that a local recruiting shortage still exists. No person may serve under this authority longer than 1 year beyond the date of that person's release from custody.

(y) Positions at grade GS–2 and below for summer employment as defined in 213.3101(d), of assistants to scientific, professional, and technical employees, when filled by finalists in national science contests.

(z) Not to exceed 30 positions of assistants to top-level Federal officials when filled by persons designated by the President as White House Fellows.

(aa) Scientific and professional research associate positions at GS–11 and above when filled on a temporary basis by persons having a doctoral degree in an appropriate field of study for research activities of mutual interest to appointees and their agencies. Appointments are limited to persons referred by the National Research Council under its post-doctoral research associate program, may not exceed 2 years, and are subject to satisfactory

outcome of evaluation of the associate's research during the first year.

(bb) Positions when filled by aliens in the absence of qualified citizens. Appointments under this authority are subject to prior approval of the Office except when the authority is specifically included in a delegated examining agreement with the Office.

(cc) Positions at GS–15 and below when filled by persons identified as Interchange Executives by the President's Commission on Personnel Interchange. Appointments made under this authority may not extend beyond 2 years.

(dd)–(ee) [Reserved]

(ff) Not to exceed 25 positions when filled in accordance with an agreement between OPM and the Department of Justice by persons in programs administered by the Attorney General of the United States under Pub. L. 91–452 and related statutes. A person appointed under this authority may continue to be employed under it after he ceases to be in a qualifying program only as long as he remains in the same agency without a break in service.

(gg)–(hh) [Reserved]

(ii) Positions of Presidential Intern, GS–9 and –11, in the Presidential Management Intern Program. Initial appointments must be made at the GS–9 level. No one may serve under this authority for more than 2 years, unless extended with OPM approval for up to one additional year. Upon completion of 2 years of satisfactory service under this authority, the employee may qualify for conversion to competitive appointment under the provisions of Executive Order 12364, in accordance with requirements published in the Federal Personnel Manual.

(jj) Legal intern positions. Appointments under this paragraph shall be confined to bona fide students at recognized law schools who are candidates for J.D. or LL.B. degrees. Appointments under this authority may not exceed 1 year, but may be extended for additional period(s) not to exceed 1 year as long as the conditions for appointment continue to be met. The appointment of any individual under this authority shall terminate upon the individual's graduation from law school.

(kk) [Reserved]

(ll) Positions as needed of readers for blind employees, interpreters for deaf employees and personal assistants for handicapped employees, filled on a full time, part-time, or intermittent basis.

Section 213.3103 Executive Office of the President

(a) *Office of Administration.* (1) Not to exceed 75 positions to provide administrative services and support to the White House office.

(b) *Office of Management and Budget.* (1) Not to exceed 10 positions at grades GS–9/15.

(c) *Council on Environmental Quality.* (1) Professional and technical positions in grades GS–13 through –15 on the staff of the Council.

(d)–(f) [Reserved]

(g) *National Security Council.* (1) All positions on the staff of the Council.

(h) *Office of Science and Technology Policy.* (1) Thirty positions of Senior Policy Analyst, GS–15; Policy Analyst, GS–11/14; and Policy Research Assistant, GS–9, for employment of anyone not to exceed 5 years on projects of a high priority nature.

Section 213.3104 Department of State.

(a) *Office of the Secretary.* (1) All positions, GS–15 and below, on the staff of the Family Liaison Office, Office of the Under Secretary for Management.

(2)–(5) [Reserved]

(b) *American Embassy, Paris, France.* (1) Chief, Travel and Visitor Unit. No new appointments may be made under this authority after August 10, 1981.

(c) *International Boundary and Water Commission, United States and Mexico.* (1) Gauge readers employed part time or intermittently at isolated localities when in the opinion of OPM, appointment through competitive examination is impracticable.

(d) *International Boundary Commission, United States and Canada.* (1) Temporary and intermittent field employees such as instrument men, foremen, recorders, packers, cooks, and axemen, for not to exceed 180 working days within any one calendar year.

(e) *Bureau of Oceans and International Environmental and Scientific Affairs.* (1) Two Physical Science Administration Officer positions at GS–16.

(f) [Reserved]

(g) *Office of Refugee and Migration Affairs.* (1) Not to exceed 10 positions at grades GS–5 through –11 on the staff of the office.

(h) *Bureau of Administration.* (1) One Presidential Trip Specialist. No new appointments may be made under this authority after June 11, 1981. No one may serve under this authority longer than 5 years.

Section 213.3105 Department of the Treasury

(a) *Office of the Secretary.* (1) Not to exceed 20 positions at the equivalent of GS–13 through GS–17 to supplement permanent staff in the study of complex problems relating to international financial, economic, trade, and energy policies and programs of the Government, when filled by individuals with special qualifications for the particular study being undertaken. Employment under this authority may not exceed 4 years.

(2) Not to exceed 20 positions, which will supplement permanent staff involved in the study and analysis of complex problems in the area of domestic economic and financial policy. Employment under this authority may not exceed 4 years.

(b) *U.S. Customs Service.* (1) Positions in foreign countries designated as "interpreter-translator" and "special employees," when filled by appointment of persons who are not citizens of the United States; and positions in foreign countries of messenger and janitor.

(2) [Reserved]

(3) Positions of part-time, intermittent, or temporary Customs Inspectors, and Port Directors in Alaska paid at a rate not above GS–9 and for not more than 130 working days in a service year.

(4) Positions of day "pickup" laborers whose assignments are to intermittent duties of short duration that must be performed without delay in field establishments where hiring of "pickup" laborers is authorized by the Bureau of Customs' headquarters. Persons appointed under this authority may not be employed in this kind of work in the Bureau of Customs for more than 180 working days a year under this authority or under a combination of this authority and any other authority for excepted appointment that may be appropriate. This authority is not appropriate for job employment.

(5) Positions at GS–9 and below of Customs Enforcement Officer, Customs Inspector, Customs Marine Clerk/Officer, Customs Aid (sampling), Customs Warehouse Officer, Port Director, Interpreter, and Laborer, with duties of a continuing nature that require the part-time or intermittent service of an employee for not more than 700 hours in his service year. An individual appointed under this exception may not be employed in the Bureau of Customs under a combination of this and any other exception for more than 700 hours in his service year.

(6) Twenty-five positions of Criminal Investigator for special assignments.

(7)–(8) [Reserved]

(9) Not to exceed 25 positions of Customs Patrol Officers in the Papago Indian Agency in the State of Arizona when filled by the appointment of persons of one-fourth or more Indian blood.

(c) *Office of the Comptroller of the Currency.* (1) Not to exceed six positions

filled under the Professional Accounting Fellow Program. Appointments under this authority may not exceed 2 years.

(d) [Reserved]

(e) *Internal Revenue Service.* (1) Twenty positions of investigator for special assignments.

(f) [Reserved]

(g) *Bureau of Alcohol, Tobacco, and Firearms.* (1) One hundred positions of criminal investigator for special assignments.

(h) *Office of New York Finance.* (1) Not to exceed 10 positions. Employment under this authority may not exceed September 30, 1983.

(i) *Bureau of Government Financial Operations.* (1) Clerical positions at grades GS–5 and below established in Emergency Disbursing Offices to process emergency payments to victims of catastrophes or natural disasters requiring emergency disbursing services. Employment under this authority may not exceed 1 year.

Section 213.3106 Department of Defense.

(a) *Office of the Secretary.* (1) Not to exceed 30 positions at grades GS–7/15 in the Defense Mobilization Systems Planning Activity, Office of the Deputy Assistant Secretary of Defense (Mobilization Planning and Requirements.) No new appointments may be made under this authority after March 31, 1985.

(2)–(5) [Reserved]

(6) One Executive Secretary, US–USSR Standing Consultative Commission and Staff Analyst (SALT), Office of the Assistant Secretary of Defense (International Security Affairs).

(b) *Entire Department (including the Office of the Secretary of Defense and the Departments of the Army, Navy, and Air Force.)* (1) Professional positions in Military Dependent School Systems overseas.

(2) Positions in attache 1 systems overseas, including all professional and scientific positions in the Naval Research Branch Office in London.

(3) Positions of clerk-translator, translator, and interpreter overseas.

(4) Positions of Educational Specialist the incumbents of which will serve as Director of Religious Education on the Staffs of the Chaplains in the military services.

(5) Positions under the program for utilization of alien scientists approved under pertinent directives administered by the Director of Defense Research and Engineering of the Department of Defense when occupied by alien scientists initially employed under the program including those who have acquired United States citizenship during such employment.

(6) Positions in overseas installations of the Department of Defense when filled by dependents of military or civilian employees of the U.S. Government residing in the area. Employment under this authority may not extend longer than 2 months following the transfer from the area or the separation of a dependent's sponsor: *Provided,* that (i) a school employee may be permitted to complete the school year; and (ii) an employee other than a school employee may be permitted to serve up to one additional year when the military department concerned finds that the additional employment is in the interest of management.

(7) Fifteen secretarial and staff support positions at GS–12 or below on the White House Support Group.

(c) Defense Contract Audit Agency. (1) Not to exceed two positions of Accounting Fellow, Auditor, GM–511–14, filled under the Accounting Fellowship Program. Appointments under this authority may not exceed 2 years.

(d) *General.* (1) Positions concerned with advising, administering, supervising or performing work in the collection, processing, analysis, production, evaluation, interpretation, dissemination, and estimation of intelligence information, including scientific and technical positions in the intelligence function; and positions involved in the planning, programming, and management of intelligence resources when, in the opinion of OPM, it is impracticable to examine. This authority does not apply to positions assigned to cryptologic and communications intelligence activities/functions.

(2) Positions involved in intelligence-related work of the cryptologic intelligence activities of the military departments. This includes all positions of intelligence research specialist, and similar positions in the intelligence classification series; all scientific and technical positions involving the applications of engineering, physical or technical sciences to intelligence work; and professional as well as intelligence technician positions in which a majority of the incumbent's time is spent in advising, administering, supervising, or performing work in the collection, processing, analysis, production, evaluation, interpretation, dissemination, or estimation of intelligence information or in the planning, programming, and management of intelligence resources.

(e) *Uniformed Services University of the Health Sciences.* (1) Positions of Dean, Associate Dean, Assistant Dean, faculty members, postdoctoral fellows, and teaching/research assistants.

(2) Positions established to perform work on projects funded from grants.

(f) *National Defense University.* (1) Not to exceed 16 positions of senior policy analyst, GS–15, at the strategic Concepts Development Center. Initial appointments to these positions may not exceed 3 years, but may be extended thereafter for additional period(s) not to exceed 1 year each.

Section 213.3107 Department of the Army.

(a) *General.* (1) Not to exceed 30 positions on the faculty and staff which are classified in the GS–1700 occupational group and the GS–1410 Librarian series, located at the U.S. Army Russian Institute, Garmisch, Germany, and the U.S. Army Foreign Language Training Center Europe, Munich, Germany.

(2) Unskilled laborers and munitions handlers engaged in handling ordnance material, including ammunition, where temporary or intermittent employment is necessary.

(b) *Aviation Systems Command.* (1) One scientific and professional research position in the U.S. Army Research and Technology Laboratories, the duties of which require specific knowledge of aviation technology in non-allied nations.

(c) *Corps of Engineers.* (1) [Reserved]

(2) Nonsupervisory trades, crafts, and manual labor positions at grades WG–6 and below on survey, construction, short-term maintenance, or floating-plant operations, where because of turnover, lack of housing facilities, mobility of work site, or remoteness of personnel servicing facilities, an adequate labor force can be recruited only by immediate gate hiring on a local basis. This authority can be used only when OPM has determined that it is psecifically applicable to a given situation; ordinarily, it will not be used for employment in OPM central office, regional, and branch office cities or in cities where there is a local OPM area office to service the employing establishment.

(d) *U.S. Military Academy, West Point, New York.* (1) Civilian professors, instructors, teachers (except teachers at the Children's School), Cadet Social Activities Coordinator, chapel organist and Choir-master, Dirtector of Intercollegiate Athletics, Associate Director of Intercollagiate Athletics, Facility Manager, Deputy Director of Alumni Affairs; and librarian when filled by an officer of the Regular Army retired from active service, and the

military secretary to the Superintendent when filled by a U.S. Military Academy graduate retired as a regular commissioned officer for disability.

(e)–(f) [Reserved]

(g) *Defense Language Institute.* (1) All positions of the faculty and staff which are classified in the GS–1700 occupational group, the GS–1040 Language specialist series, and the GS–303 Bilingual Clerk series, that require either a proficiency in a foreign language or a knowledge of foreign language teaching methods.

(2)–(4) [Reserved]

(h) *Army War College, Carlisle Barracks, Pa.* (1) Five positions of Educaitonal Specialist for employment of not to exceed 1 year: Provided, that such employment may, with the prior approval of OPM, be extended for not to exceed one additional year.

(2) Nine senior policy analyst positions, GS–14/15, at the Strategic Studies Institute, Army War College, with appointments to be made initially for up to 3 years and thereafter extended annually if needed.

(3) Five research oriented faculty positions, GS–14/15, with the U.S. Army War College, at Carlisle Barracks, Pennsylvania, with appointments to be made initially for up to 3 years and thereafter extended annually if needed.

(i) *Defense Systems Management School, Fort Belvoir, Va.* (1) The Deputy Commandant and professors in grades GS–13 through GS–15.

(j) *U.S. Military Academy Preparatory School, Fort Monmouth, New Jersey.* (1) Positions of Academic Director, Department Head and Instructor.

Section 213.3108 Department of the Navy

(a) *General.* (1) [Reserved]

(2) Positions of Student Pharmacist for temporary, part-time, or intermittent employent in U.S. naval regional medical centers, hospitals, clinics and departments when filled by students who are enrolled in an approved pharmacy program in a participating non-Federal institution, and whose compensation is fixed under 5 U.S.C. 5351–54. Employment under this authority may not exceed 1 year.

(3) [Reserved]

(4) Not to exceed 50 positions of resident-in-training at U.S. naval regional medical centers, hospitals, and dispensaries which have residency training programs, when filled by residents assigned as affiliates for part of their training from non-Federal hospitals. Assignments shall be on a temporary (full-time or part-time) or intermittent basis, shall not amount to more than 6 months for any person, and shall be applied only to persons whose compensation is fixed under 5 U.S.C. 5351–54.

(5) [Reserved]

(6) Positions of Student Operating Room Technician for temporary, part-time or intermittent employment in U.S. naval regional medical centers and hospitals, when filled by students who are enrolled in an approved operating room technician program in a participating non-Federal institution, whose compensation is fixed under 5 U.S.C. 5351–54. Employment under this authority may not exceed 1 year.

(7) Positions of student social worker for temporary, part-time, or intermittent employment in U.S. naval regional medical centers, hospitals and dispensaries, when filled by bona fide students enrolled in academic institutions: *Provided,* that the work performed in the agency is to be used by the student as a basis for completing certain academic requirements by such educational institution to qualify for a graduate degree in social work. This authority shall be applied only to students whose compensation is fixed under 5 U.S.C. 5351–54.

(8) Positions of student practical nurse for temporary, part-time, or intermittent employment in U.S. naval regional medical centers, hospital, and dispensaries, when filled by trainees enrolled in a non-Federal institution in an approved program of educational and clinical training which meets the requirements for licensing as a practical nurse. This authority shall be applied only to trainees whose compensation is fixed under 5 U.S.C. 5351–54.

(9) One Personnel Security Specialist, Naval Personnel Program Support Activity, Bureau of Naval Personnel.

(10) Positions of medical technology intern in U.S. naval regional medical centers, hospitals, and dispensaries, when filled by students enrolled in approved programs of training in non-Federal institutions. Employment under this authority may be filled on a full-time, part-time, or intermittent basis but may not exceed 1 year. This authority shall be applied only to students whose compensation is fixed under 5 U.S.C. 5351–54.

(11) Positions of medical intern at U.S. naval regional medical centers, hospitals, and dispensaries, when filled by persons who are serving medical internships at participating non-Federal hospitals and whose compensation is fixed under 5 U.S.C. 5351–54. Employment under this authority may not exceed 1 year.

(12) Positions of student speech pathologist at U.S. naval regional medical centers, hospitals, and dispensaries, when filled by persons who are enrolled in participating non-Federal institutions and whose compensation if fixed under 5 U.S.C. 5351–54. Employemnt under this authority may not exceed 1 year.

(13) Positions of student dental assistant in U.S. naval dental centers, clinics, and departments, when filled by students who are enrolled in an approved dental assistant program in a participating non-Federal institution, and whose compensation is fixed under 5 U.S.C. 5351–54. Employment under this authority may not exceed 1 year.

(14) [Reserved]

(15) Marine positions assigned to a coastal or seagoing vessel operated by a naval activity for research or training purposes.

(b) *Naval Acadmey, Naval Postgraduate School, and Naval War College.* (1) Professors, instructors, and teachers; the Director of Academic Planning, Naval Postgraduate School; and the librarian, organist-choirmaster, registrar, the dean of admissions, and social counselors at the Naval Academy.

(c) [Reserved]

(d) *Military Sealift Command.* (1) All positions on vessels operated by the Military Sealift Command.

(e)–(f) [Reserved]

(g) *Office of Naval Research.* (1) Not to exceed five positions of Liason Scientists, GS–13/15, in the office of Naval Research Branch Office in Japan, when filled by research scientists who have specialized experience in scientific disciplines of current interest to the Department and who have a demonstrated ability to deal with the Japanese scientific community in their disciplines. An appointment under this authority may be made initially for a period not to exceed 2 years. With the prior approval of OPM, total employment under this authority may be for as long as 3 years.

Section 213.3109 Department of the Air Force.

(a) *Office of the Secretary.* (1) One Special Assistant in the Office of the Secretary of the Air Force. This position has advisory rather than operating duties except as operating or administrative responsibilities may be exercised in connection with the pilot studies.

(b) *General.* (1) Professional, technical, managerial and administrative position supporting speace activities, when approved by the Secretary of the Air Force.

(2) Fifty-five positions engaged in interdepartmental defense projects

involving scientific and technical evaluations.

(c) Not to exceed 14 professional positions, GS–11 through GS–15, in Detachment 6, 2762 Logistics Squadron (Special), Norton Air Force Base, California, which will provide logistic support management to specialized research and development projects. Employment under this authority may not exceed January 31, 1985.

(d) *U.S. Air Force Academy, Colorado.* (1) Positions of Cadet Hostesses, Instructors in Physical Education, and Instructors in Music (choirmaster).

(e) Not to exceed five positions, GS–12 through GS–15, in the Specialized Management Office (WR–ALC/QL) at Robins Air Force Base, Georgia, which will provide logistic support management staff guidance for highly sensitive and high priority programs and projects. Employment under this authroity is not to exceed May 30, 1988.

(f) *Air Force Office of Special Investigations.* (1) Twenty-five positions of Criminal Investigator and Intelligence Research Specialist, GS–9 through GS–14, for indefinite employment on projects concerned with the security of national defense activities and materials.

(2) Not to exceed 25 positions of Criminal Investigators/Polygraph Examiners, GS–11 thrugh GS–14, in the Air Force Office of Special Investigations, Polygraph Office, duty location nationwide, which will provide high level polygraph security screening for a highly classified, sensitive and compartmented special access program concerned with national defense activities and materials, for employment not to exceed April 30, 1987.

(g) Not to exceed 7 positions, GS–12 through 15, in Headquarters Air Force Logistics Command, DCS Logistics Operation, Wright Patterson Air Force Base, Ohio, which will provide logistic support management staff guidance to classified research and development projects. Employment under this authority is not to exceed January 31, 1985.

Section 213.3110 Department of Justice

(a) *General.* (1) Deputy U.S. Marshals employed on an hourly basis for intermittent service.

(2) [Reserved]

(3) U.S. Marshal in the Virgin Islands.

(4) Staff positions, GS–15 and below, to assist in the resettlement of Cuban and Haitian entrants. Employment under this authority may not exceed September 30, 1984.

(5) Thirty positions of Field Representative and Field Representative Trainee, GS–5 through GS–14, in the Community Relatins Service for temporary employment not to exceed 1 year. Employment under this authority may be extended for not to exceed 1 additional year.

(6) [Reserved]

(b) *Imigration and Naturalization Service.* (1) Not to exceed 700 positions at grades GS–15 and below engaged in planning for and implementing the processing of claims for resident status which may be submitted by aliens already in the United States as authorized by immigration control and reform legislation. Employment under this authority is not to exceed 4 years from the effective date of such legislation. New appointments under this authority may not be made after December 31, 1984 unless applicable authorizing legislation has been enacted.

(c) *Drug Enforcement Administration.* (1) [Reserved]

(2) 150 positions of Intelligence Research Agent and/or Intelligence Operation Specialist in the GS–132 series, grades GS–9 through GS–15.

(d) U.S. Marshals Service. (1) Three hundred intermittent positions for guard for employment not to exceed 1,040 hours a year.

Section 213.3112 Department of the Interior.

(a) *General.* (1) Technical, maintenance, and clerical positions at or below grades GS–7, WG–10, or equivalent in the field service of the Department of the Interior, when filled by the appointment of persons who are certified as maintaining a permanent and exclusive residence within, or contiguous to, a field activity or district, and as being dependent for livelihood primarily upon employment available within the field activity of the Department.

(2) All positins on Government-owned ships or vessels operated by the Department of the Interior.

(3) Temporary or seasonal caretakers at temporarily closed camps or improved areas to maintain grounds, buildings, or other structures and prevent damages or theft of Government property. Such appointments shall not extend beyond 130 working days a year without the prior approval of OPM.

(4) Temporary, intermittent, or seasonal field assistants at GS–7, or its equivalent, and below in such areas as forestry, range management, soils, engineering, fishery and wildlife management, and with surveying parties. Employment under this authority may not exceed 180 working days a year.

(5) Temporary positions established in the field service of the Department for emergency forest and range fire prevention or suppression and blister rust control for not to exceed 180 working days a year: *Provided,* that an employee may work as many as 220 working days a year when employment beyond 180 days is required to cope with extended fire seasons or sudden emergencies such as fire, flood, storm, or other unforeseen situations involving potential loss of life or property.

(6) Persons employed in field positions, the work of which is financed jointly by the Department of the Interior and cooperating persons or organizations outside the Federal service.

(7) All positions in the Bureau of Indian Affairs and other positions in the Department of the Interior directly and primarily related to providing services to Indians when filled by the appointment of Indians. The Secretary of the Interior is responsible for defining the term "Indian."

(8) Temporary, intermittent, or seasonal positions at GS–7 or below in Alaska, as follows: Positions in non-professional mining activities, such as those of drillers, miners, caterpiller operators, and samplers. Employment under this authority shall not exceed 180 working days a year and shall be appropriate only when the activity is carried on in a remote or isolated area and there is a shortage of available candidates for the positions.

(9) Temporary, part-time, or intermittent employment of mechanics, skilled laborers, equipment operators and tradesmen on construction, repair, or maintenance work not to exceed 180 working days a year in Alaska, when the activity is carried on in a remote or isolated area and there is a shortage of available candidates for the positions.

(10) Seasonal airplane pilots and airplane mechanics in Alaska, not to exceed 180 working days a year.

(11) Temporary staff positions in the Youth Conservation Corps Centers operated by the Department of the Interior. Employment under this authority shall not exceed 11 weeks a year except with prior approval of OPM.

(12) Positions in the Youth Conservation Corps for which pay is fixed at the Federal minimum rate. Employment under this authority may not exceed 10 weeks.

(b) [Reserved]

(c) *Indian Arts and Crafts Board.* (1) The Executive Director.

(d) [Reserved]

(e) *Office of the Assistant Secretary, Territorial and International Affairs.* (1) [Reserved]

(2) Not to exceed four positions of Territorial Management Interns, grades GS–5, GS–7, or GS–9, when filled by territorial residents who are U.S. citizens from the Virgin Islands or Guam; U.S. nationals from American Samoa; or in the case of the Northern Marianas, will become U.S. citizens upon termination of the U.S. trusteeship. Employment under this authority may not exceed 6 months.

(3) [Reserved]

(4) Special Assistants to the Governor of American Samoa who perform specialized administrative, professional, technical, and scientific duties as members of his or her immediate staff.

(f) *National Park Service.* (1) Park Ranger positions (appropriate specializations) at salaries equivalent to GS–5, or GS–4 and those equivalent to grade GS–7 or GS–6 in which the duties are supervisory or are limited to a highly specialized part of the duties performed by career protective or interpretive personnel of the National Park Service. (The total number of Park Ranger and Park Technician positions at salaries equivalent to GS–7 and GS–6 excepted under this paragraph and paragraph (f)(2) of this section shall not exceed 200.) Employment under this paragraph is limited to persons who meet the qualification standards for each salary level which have been agreed upon by OPM and the Department. These standards include as a minimum the following number of previous seasons' experience in the National Park Service as a Park Ranger at a salary equivalent to the next lower grade:

(i) For IGS–7: Two seasons at IGS–6 level.

(ii) For IGS–6: Two seasons at IGS–5 level.

(iii) For IGS–5: One season at IGS–4 level.

Employment under this paragraph shall be only for duty that is temporary, intermittent, or seasonal, and no person shall be employed by the same appointing office in the National Park Service under this paragraph or a combination of this and any other excepting authorities in excess of 180 working days a year.

(2) Park Aid and Park Technician positions at salaries equivalent to GS–2 through GS–5 to perform technical and practical work supporting the management, conservation, interpretation, development, and use of park ares and resources; and positions at salaries equivalent to GS–7 and GS–6 in which the duties are supervisory or are limited to a highly specialized part of the duties performed by career resources management, interpretive or visitor service personnel of the National Park Service. (The total number of Park Technician and Park Ranger positions at salaries equivalent to GS–7 and GS–6 excepted under this paragraph and paragraph (f)(1) of this section shall not exceed 200.) Employment under this paragraph is limited to persons who meet the qualification standards for each salary level which have been agreed upon by OPM and the Department. These standards include as a minimum the following number of previous seasons' experience in the National Park Service as a Park Aid or Park Technician equivalent to the next lower grades:

(i) For IGS–7: Two seasons at IGS–6 level.

(ii) For IGS–6: Two seasons at IGS–5 level.

(iii) For IGS–5: One season at IGS–4 level.

(iv) For IGS–4: One season at IGS–3 level or its equivalent in experience.

(v) For IGS–3: One season at IGS–2 level or its equivalent in experience.

Employment under this paragraph shall be only for duty that is temporary, intermittent, or seasonal, and no person shall be employed by the same appointing office in the National Park Service under this paragraph or a combination of this and any other excepting authorities in excess of 180 working days a year.

(3) Seven full-time permanent and 31 temporary, part-time, or intermittent positions in the Redwood National Park, California, which are needed for rehabilitation of the park, as provided by Pub. L. 95–250.

(4) One Special Representative of the Director.

(g) *Bureau of Reclamation.* (1) Appraisers and examiners employed on a temporary, intermittent, or part-time basis on special valuaton or prospective-entrymen-review projects where knowledge of local values or conditions or other specialized qualifications not possessed by regular Bureau employees are required for successful results. Employment under this provision shall not exceed 130 working days a year in any individual case: *Provided,* that such employment may, with prior approval of OPM, be extended for not to exceed an additional 50 working days in any single year.

(h) *Office of the Deputy Assistant Secretary for Territorial Affairs.* (1) Positions of Territorial Management Interns, GS–5, when filled by persons selected by the Government of the Trust Territory of the Pacific Islands. No appointment may extend beyond 1 year.

(i) *Office of Hearings and Appeals.* (1) [Reserved]

Section 213.3113 Department of Agriculture.

(a) *General.* (1) Agents employed in field positions the work of which is financed jointly by the Department and cooperating persons, organizations, or governmental agencies outside the Federal service. Except for positions for which selection is jointly made by the Department and the cooperating organization, this authority is not applicable to positions in the Agricultural Research Service, the Animal and Plant Health Inspection Service, or positions in the Statistical Reporting Service. This authority is not applicable to the following positions in the Agricultural Marketing Service: Agricultural Commodity grader (grain) and (meat), (poultry), and (dairy) agricultural commodity aid (grain), and tobacco inspection positions.

(2)–(4) [Reserved]

(5) Temporary, intermittent, or seasonal employment in the field service of the Department in positions at and below GS–7 and WG–10 in the following types of positions: Field assistants for subprofessional services; caretakers at temporarily closed camps or improved areas; forest workers engaged primarily for fire prevention or suppression activities and other forest workers employed at headquarters other than forest supervisor and regional offices; State performance assistants in the Agricultural Stabilization and Conservation Service; agricultural commodity aids (cotton) in the Agricultural Marketing Service; agricultural helpers, helper-leaders, and workers in the Agricultural Research and the Animal and Plant Health Inspection Service; and subject to prior OPM approval granted in the calendar year in which the appointment is to be made, other clerical, trades, crafts, and manual labor positions. Total employment under this subparagraph may not exceed 180 working days in a service year: *Provided,* that an employee may work as many as 220 working days in a service year when employment beyond 180 days is required to cope with extended fire seasons or sudden emergencies such as fire, flood, storm, or other unforeseen situations involving potential loss of life or property. This paragraph does not cover trades, crafts, and manual labor positions covered by paragraphs (i) and (m) of § 213.3102.

(6) [Reserved]

(7) Not to exceed 20 Program Assistants, whose experience acquired in positions excepted from the competitive civil service in the administration of agricultural programs

at the State level is needed by the Department for the more efficient administration of its programs. No new appointment may be made under this authority after December 31, 1977.

(b) [Reserved]

(c) *Forest Service.* (1) [Reserved]

(2) Positions in Alaska of Laborers, Boat Operators, Mechanics, Equipment Operators, and Carpenters whose duties require the operation of boats in coastal waters and/or the establishment and maintenance of work camps in remote areas.

(d) *Agricultural Stablization and Conservation Service.* (1) [Reserved]

(2) Members of State Committees: *Provided,* that employment under this authority shall be limited to temporary intermittent (WAE) positions whose principal duties involve administering farm programs within the State consistent with legislative and Departmental requirements and reviewing national procedures and policies for adaptation at State and local levels within established parameters. Individual appointments under this authority are for 1 year and may be extended only by the Secretary of Agriculture or his designee. Members of State Committees serve at the pleasure of the Secretary.

(3) [Reserved]

(e) *Farmers Home Administration.* (1) [Reserved]

(2) County committeemen to consider, recommend, and advise with respect to the Farmers Home Administration program.

(3) Temporary positions whose principal duties involve the making and servicing of natural disaster emergency loans pursuant to current statutes authorizing natural disaster emergency loans. Appointments under this provision shall not exceed 1 year unless extended for one additional period not to exceed 1 year, but may, with prior approval of OPM, be further extended for additional periods not to exceed 1 year each.

(4) [Reserved]

(5) Temporary positions in State and county offices of the Farmers Home Administration whose principal duties involve the making and servicing of loans pursuant to the Economic Opportunity Act of 1964. Appointments under this provision shall not exceed 1 year unless extended with prior OPM approval for not to exceed one additional year.

(6) Professional and clerical positions in the Trust Territory of the Pacific Islands when occupied by indigenous residents of the Territory to provide financial assistance pursuant to current authorizing statutes.

(7) Positions concerned with an economic emergency loan program authorized by the Agricultural Credit Act of 1978, for seasonal employment not to exceed August 31, 1982.

(f) *Agricultural Marketing Service.* (1) Positions of Cotton, Tobacco, Dairy, and Poultry Agricultural Commodity Graders and Meat Acceptance Specialists, GS–11 and below, for employment not to exceed 1280 hours in a service year. Agricultural Commodity Graders (Cotton), GS–5, may be employed as trainees for the first appointment for an initial period of 6 months for training without regard to the hour limitation. Positions of Agricultural Commodity Technicians, GS–5 through GS–7; Agricultural Commodity Aids, GS–2 through GS–5; Clerks, GS–4 and below; and laborers employed on a seasonal basis not to exceed 180 days or 1280 hours a year.

(2) Positions of Raisin Inspectors and Aids and Processed Fruit and Vegetable Graders and Aids, GS–9 and below, for employment not to exceed 180 days in a service year. In unforeseen situations such as bad weather or crop conditions, unanticipated plant demands, or increased imports, employees may work up to 240 days in a service year.

(3) Milk Market Administrators.

(4) All positions on the staffs of Milk Market Administrators.

(5) [Reserved]

(g)–(i) [Reserved]

(j) *Food and Nutrition Service.* (1) [Reserved]

(2) Three hundred fifty positions of food assistance program specialist, GS–5/7, under the Child Nutrition Summer Feeding Program, for temporary employment not to being before March 1 and not to exceed September 30 of each year, on a full-time, part-time, or intermittent basis.

(k) Animal and Plant Health Inspection Service. (1) [Reserved]

(2) Temporary field positions concerned with the control, suppression, and eradication of emergency livestock and plant diseases and emergency outbreaks of animal and plant pests. Persons appointed under the authority may not be employed in these positions in the Animal and Plant Health Inspection Service for longer than 1 year under this authority, or under a combination of this and any other authorities for excepted appointment that may be appropriate without prior approval of OPM. This authority shall be appropriate only in situations declared by the Secretary of Agriculture to be emergencies threatening the livestock and plant industries of the country.

(l) *Food Safety and Inspection Service.* (1)–(2) [Reserved]

(3) Positions of meat and poultry inspectors (veterinarians at GS–11 and below and nonveterinarians at appropriate grades below GS–11) for employment on a temporary, intermittent, or seasonal basis, not to exceed 1,280 hours a year.

(m) *Federal Grain Inspection Service.* (1) One hundred and fifty positions of Agricultural Commodity Aid (Grain), GS–2/4; 100 positions of Agricultural Commodity Technician (Grain), GS–4/7; and 60 positions of Agricultural Commodity Grader (Grain), GS–5/9, for temporary employment on a part-time, intermittent, or seasonal basis not to exceed 1,280 hours in a service year.

Section 213.3114 Department of Commerce.

(a) *General.* (1)–(2) [Reserved]

(3) Not to exceed 50 scientific and technical positions whose duties are performed primarily in the Antarctic. Incumbents of these positions may be stationed in the continental United States for periods of orientation, training, analysis of data, and report writing.

(b) *Office of the Secretary.* (1) One position of Administrative Assistant, GS–301–8, in the Office of Economic Affairs. New appointments may not be made after March 30, 1979.

(c) [Reserved]

(d) *Bureau of the Census.* (1) Managers, supervisors, technicians, clerks, interviewers, and enumerators in the field service, for temporary, part-time or intermitten employment in connection with major economic and demographic censuses or with surveys of a nonrecurring or noncyclical nature: *Provided,* that temporary, part-time employment will be for periods not to exceed 1 year; and that such appointments may be extended for additional periods of not to exceed 1 year each; but that prior Office approval is required for extension of total service beyond 2 years.

(2) Current Program Interviewers employed on an intermittent or part-time basis in the field service.

(3) Not to exceed 20 professional and scientific positions at grades GS–9 through GS–12 filled by participants in the ASA research trainee program. Employment of any individual under this authority may not exceed 2 years.

(e)–(h) [Reserved]

(i) *Office of the Under Secretary for International Trade.* (1) Thirty positions at GS–12 and above in specialized fields relating to international trade or commerce in units under the jurisdiction

of the Under Secretary for International Trade. Incumbents will be assigned to advisory rather than to operating duties, except as operating and administrative responsibility may be required for the conduct of pilot studies or special projects. Employment under this authority will not exceed 2 years for an individual appointee.

(2) Not to exceed 40 positions of Managers and Deputy Managers of International Trade Fairs and Exhibit Programs in foreign countries when the duties require a considerable portion of the employee's time to be spent in foreign countries.

(3) Not to exceed 30 positions in grades GS–12 through GS–15, to be filled by persons qualified as industrial or marketing specialists; who possess specialized knowledge and experience in industrial production, industrial operations and related problems, market structure and trends, retail and wholesale trade practices, distribution channels and costs, or business financing and credit practices applicable to one or more of the current segments of U.S. industry served by the Under Secretary for International Trade, and the subordinate components of his organization which are involved in Domestic Business matters. Appointments under this authority may be made for a period of not to exceed two years and may, with prior approval of OPM, be extended for an additional period of 2 years.

(j) National Oceanic and Atmospheric Administration. (1) subject to prior approval of OPM, which shall be contingent upon a showing of inadequate housing facilities, meterological aid positions at the following stations in Alaska: Barrow, Bethal, Kotzebue, McGrath, Northway, and St. Paul Island.

(2) Positions requiring temporary employment of persons to perform duties which involve work associated with the inspection of fishery products. Appointment under this authority may be made for a period of 1 year (2,080 hours), with one extension not to exceed 2,080 hours. No persons shall be employed under this authority in a supervisory position or in a position above grade GS–9, or equivalent. Positions filled under this authority may not exceed 20 percent of authorized fishery products inspection staff.

(3) All civilian positions on vessels operated by the National Ocean Survey.

(4) Temporary positions required in connection with the surveying operations of the field service of the National Ocean Survey. Appointment to such positions shall not exceed 8 months in any one calendar year.

(k) [Reserved]

(l) *National Telecommunication and Information Administration.* (1) Seventeen professional positions in grades GS–13 through GS–15.

(m) [Reserved]

Section 213.3115 Department of Labor.

(a) *Office of the Secretary.* (1) Chairman and five members, Employees' Compensation Appeals Board.

(2) Chairman and two members, Benefits Review Board.

(b) *Bureau of Labor Statistics.* (1) Not to exceed 500 positions involving part-time and intermittent employment for field survey and enumeration work in the Bureau of Labor Statistics. This authority is applicable to positions where the salary is equivalent to GS–6 and below. Employment under this authority may not exceed 1,600 work hours in a service year. No new appointment may be made under this authority after December 31, 1984.

(c) [Reserved]

(d) *Employment and Training Administration.* (1) Not to exceed 10 positions of supervisory manpower development specialist and manpower development specialist GS–7/15, in the Division of Indian and Native American Programs, when filled by the appointment of persons of one-fourth or more Indian blood. These positions require direct contact with Indian tribes and communities for the development and administration of comprehensive employment and training programs.

Section 213.3116 Department of Health and Human Services.

(a) *Saint Elizabeth's Hospital.* (1)–(4) [Reserved]

(5) Fifteen positions of pyschodrama trainees, including interns and first- and second-year residents. This authority shall be applied only to positions with compensation fixed under 5 U.S.C. 5351 and 5352.

(6)–(8) [Reserved]

(9) Positions of Chaplain Residents: *Provided,* that employment under this authority shall not exceed 39 months for any individual. This authority shall be applied only to positions whose compensation is fixed in accordance with the provisions of 5 U.S.C. 5351 and 5352.

(10) [Reserved]

(11) Ten positions of group dynamics and group psychotherapy trainees, including interns and residents in the Overholser Training and Research Division. Employment under this authority shall not exceed 2 years, and shall be applied only to positions with compensation fixed under 5 U.S.C. 5351 and 5352.

(12) Ten positions of Interns, Residents and Fellows for work in mental health and deafness. Employment under this authority may not exceed 1 year for any individual.

(13) Fifteen positions of Interns and Residents in Applied and Evaluative Research (Mental Health) Program. Employment under this authority may not exceed 2 years for any individual.

(b) *Public Health Service.* (1) Not to exceed five positions a year of Medical Technologist Resident, GS–644–7, in the Blood Bank Department, Clinical Center, of the National Institutes of Health. Appointments under this authority will not exceed 1 year.

(2) Positions at Government sanatoria when filled by patients during treatment or convalescence.

(3) All positions in the Public Health Service Hospital, Carville, La.

(4) Positions concerned with problems in preventive medicine financed or participated in by the Department of Health and Human Services and a cooperating State, county, municipality, incorporated organization, or an individual in which at least one-half of the expense is contributed by the cooperating agency either in salaries, quarters, materials, equipment, or other necessary elements in the carrying on of the work.

(5) Medical and dental interns, externs, and residents; and student nurses.

(6) Positions of scientific, professional, or technical nature when filled by bona fide students enrolled in academic institutions: *Provided,* that the work performed in the agency is to be used by the student as a basis for completing certain academic requirements required by an educational institution to qualify for a scientific, professional, or technical field: *And provided further,* that appropriate exclusions of the positions under the authority of Pub. L. 80–330 have been approved by the Office of Personnel Management.

(7) [Reserved]

(8) All positions in the Public Health Service and other positions in the Department of Health and Human Services directly and primarily related to providing services to Indians when filled by the appointment of Indians. The Secretary of Health and Human Services is responsible for defining the term "Indian."

(9) Twelve positions of Therapeutic Radiologic Technician Trainee in the Radiation Oncology Branch, National Cancer Institute. Employment under this authority shall not exceed 1 year for any

individual. This authority shall be applied only to positions with compensation fixed under 5 U.S.C. 5351–5356.

(10) Health care positions of the National Health Service Corps for employment of any one individual not to exceed 4 years of service in health manpower shortage areas.

(11) Pharmacy Resident positions at GS–7 in the National Institutes of Health's Clinical Center, Pharmacy Department. Employment in these positions is confined to graduates of approved schools of pharmacy and is limited to a period not to exceed 12 months pending licensure.

(12) Hospital Administration Resident positions at GS–9 in the National Institutes of Health's Clinical Center, Bethesda, Maryland. Employment in these positions is confined to graduates of approved hospital or health care administration programs and is limited to a period not to exceed 1 year.

(c) [Reserved]

(d) *Social Security Administration.* (1) Six positions of social insurance representative in the district offices of the Social Security Administration in the State of Arizona when filled by the appointment of persons of one-fourth or more Indian blood.

(2) Seven positions of social insurance representative in the district offices of the Social Security Administration in the State of New Mexico when filled by the appointment of persons of one-fourth or more Indian blood.

(3) Two positions of social insurance representative in the district offices of the Social Security Administration in the State of Alaska when filled by the appointment of persons of one-fourth or more Alaskan Native blood (Eskimos, Indians, or Aleuts).

(4) Not to exceed 64 positions on the Refugee Program Staff.

(5) Eleven clerical and technical positions at grade GS–5 in the Social Security Administration which involve contact with recent Indochinese immigrants and which require a knowledge of Indochinese languages and an understanding of any sympathy for the problems faced by recent Indochinese immigrants.

(6) [Reserved]

(e) [Reserved]

(f) *The President's Council on Physical Fitness.* (1) Four staff assistants, The President's Council on Physical Fitness.

(g)–(i) [Reserved]

(j) *Health Care Financing Administration.* (1) [Reserved]

(2) Not to exceed 10 professional positions, GS–9 through GS–15, to be filled under the Health Care Financing Administration Professional Exchange Program. Appointment under the authority will not exceed 1 year.

(k) *Office of the Secretary.* (1) Not to exceed 75 positions providing direct services to Cuban and Haitian entrants.

(2) Not to exceed 10 positions at grades GS–9/14 in the Office of the Assistant Secretary for Planning and Evaluation filled under the Policy Research Associate Program. New appointments to these positions may be made only at grades GS–9/12. Employment of any individual under this authority may not exceed 2 years.

Section 213.3117 Department of Education.

(a) Positions concerned with problems in education financed and participated in by the Department of Education and a cooperating State educational agency, or university or college, in which there is joint responsibility for selection and supervision of employees, and at least one-half of the expense is contributed by the cooperating agency in salaries, quarters, materials, equipment, or other necessary elements in the carrying on of the work.

Section 213.3124 Board of Governors, Federal Reserve System.

(a) All positions.

Section 213.3127 Veterans Administration.

(a) *Construction Division.* (1) Temporary construction workers paid from "purchase and hire" funds and appointed for not to exceed the duration of a construction project.

(b) Not to exceed 400 positions of rehabilitation counselors, GS–3 through GS–11, in Alcoholism Treatment Units and Drug Dependence Treatment Centers, when filled by former patients.

(c) [Reserved]

(d) Not to exceed 600 positions at grades GS–3 through GS–11, involved in the Veterans Administration Vietnam Era Veterans Readjustment Counseling Program. No one may serve under this authority after August 31, 1988.

Section 213.3128 U.S. Information Agency.

(a) *Office of Congressional and Public Liaison.* (1) Two positions of Liaison Officer (Congressional), GS–14.

(b) Five positions of Supervisory International Exchange Officer (Reception Center Director), GS–13 and GS–14, located in USIA's field offices of New Orleans, New York, Miami, San Francisco and Honolulu. Initial appointments will not exceed December 31 of the calendar year in which appointment is made with extensions permitted up to a maximum period of 4 years.

Section 213.3130 Securities and Exchange Commission.

(a)–(b) [Reserved]

(c) Positions of accountant and auditor, GS–13 through 15, when filled by persons selected under the SEC Accounting Fellow Program, as follows: (1) Four positions, for employment of any one individual not to exceed 2 years; and

(2) Two additional identical positions, for employment of any one individual not to exceed 90 days which may be used to provide a period of transition and orientation between Fellowship appointments. These additional identical positions must be filled by persons who either have completed a 2-year Fellowship or have been selected as replacement Fellows for a 2-year term. Appointments of outgoing Fellows under this authority must be made without a break in service of 1 workday following completion of their 2-year terms; incoming Fellows appointed under this provision must be appointed to 2-year Fellowships without a break in service of 1 workday following their 90-day appointments.

(d) Positions of Economist, GS–13 through 15, when filled by persons selected under the SEC Economic Fellow Program. No more than four positions may be filled under authority at any one time. An employee may not serve under this authority longer than 2 years unless selected under provisions set forth in the Intergovernmental Personnel Act (IPA), 5 U.S.C. 3372(b)(2).

Section 213.3131 Department of Energy.

(a) [Reserved]

(b) *Bonneville Power Administration.* (1) Five Area Managers.

Section 213.3132 Small Business Administration.

(a) When the President under 42 U.S.C. 1855–1855g, the Secretary of Agriculture under 7 U.S.C. 1961, or the Small Business Administration under 15 U.S.C. 636(b)(1) declares an area to be a disaster area, positions filled by temporary appointment of employees to make and administer disaster loans in the area under the Small Business Act, as amended. Service under this authority may not exceed 4 years, and no more than 2 years may be spent on a single disaster. Exception to this time limit may only be made with prior Office approval. Appointments under this authority may not be used to extend the 2-year service limit contained in

paragraph (b) below. No one may be appointed under this authority to positions engaged in long-term maintenance of loan portfolios.

(b) When the President under 42 U.S.C. 1855–1855g, or the Secretary of Agriculture under 7 U.S.C. 1961 or the Small Business Administration under 15 U.S.C. 636(b)(1), declares an area to be a disaster area, positions filled by temporary appointment of employees to make and administer disaster loans in that area under the Small Business Act, as amended. No one may serve under this authority for more than an aggregate of 2 years without a break in service of at least 6 months. Persons who have had more than 2 years of service under paragraph (a) of this section must have a break in service of at least 6 months following such service before appointment under this authority. No one may be appointed under this authority to positions engaged in long-term maintenance of loan portfolios.

(c) Positions of Community Economic-Industrial Planner, GS–7 through 12, when filled by local residents who represent the interest of the groups to be served by the Minority Entrepreneurship Terms of which they are members. No new appointments may be made under this authority after May 1, 1977.

Section 213.3133 Federal Deposit Insurance Corporation.

(a) All Liquidation Graded, temporary field positions concerned with the work of liquidating the assets of closed banks, of liquidating loans to banks, or of paying the depositors of closed insured banks.

Section 213.3136 U.S. Soldiers' and Airmen's Home.

(a) All positions.

Section 213.3137 General Services Administration.

(a) *General.* (1) Custodians, guards, watchmen, laborers, and other employees engaged in the custody, care, and preservation of plants, warehouses, shipyards, airfields, and surplus facilities of a similar nature pending disposition of such facilities.

(b) Not to exceed 25 positions at grades GS–14/15, in order to bring into the agency current industry expertise in various program areas. Appointments under this authority may not exceed 2 years.

Section 213.3140 Civil Aeronautics Board.

(a) Not to exceed 40 percent of the Civil Aeronautics Board's authorized GS–15 and below positions. This authority may not be used for new appointments to positions which are identified for transfer to other Federal agencies as authorized under the mandates of the Airline Deregulation Act of 1978. Employment under this authority may not exceed December 31, 1984.

Section 213.3141 National Labor Relations Board.

(a) Election Examiners for temporary, part-time or intermittent employment in connection with elections under the Labor-Management Relations Act.

Section 213.3142 Export-Import Bank of the United States.

(a) One Special Assistant to the Board of Directors, grade GS–14 and above.

Section 213.3146 Selective Service System.

(a) State Directors.

(b)–(c) [Reserved]

(d) Executive Secretary, National Selective Service Appeal Board.

Section 213.3148 National Aeronautics and Space Administration.

(a) One hundred and fifty alien scientists having special qualifications in the fields of aeronautical and space research where such employment is deemed by the Administrator of the National Aeronautics and Space Administration to be necessary in the public interest.

(b) Not to exceed 40 positions of fully qualified pilot and mission specialists astronauts.

(c)–(e) [Reserved]

(f) Positions of Program Coordinator/Counselor at grades GS–7/9/11 for part-time and summer employment in connection with the High School Students Summer Research Apprenticeship Program.

Section 213.3152 U.S. Government Printing Office.

(a) Not to exceed three positions of Research Associate at grades GS–15 and below, involved in the study and analysis of complex problems relating to the reduction of the Government's printing costs and to provision of more efficient service to customer agencies and the public. Appointments under this authority may not exceed 1 year, but may be extended for not to exceed one additional year.

(b) Positions in the printing trades when filled by students majoring in printing technology employed under a cooperative education agreement with the University of the District of Columbia.

Section 213.3154 Federal Home Loan Bank Board.

(a) One Secretary, Federal Home Loan Bank Board.

(b) [Reserved]

(c) Positions in the Federal Savings and Loan Insurance Corporation concerned with the work of liquidating the assets of closed insured institutions or the liquidation of loans or the handling of contributions to insured institutions and the purchase of assets therefrom; and positions of the Federal Savings and Loan Insurance Corporation the work of which is concerned with paying the depositors of closed insured institutions. Appointments under this authority may not exceed 3 years.

Section 213.3156 Commission on Civil Rights.

(a) Twenty-five positions at grade GS–11 and above of employees who collect, study, and appraise civil rights information to carry out the national clearinghouse responsibilities of the Commission under Pub. L. 88–352, as amended. No new appointments may be made under this authority after March 31, 1976.

Section 213.3174 Smithsonian Institution.

(a) Not to exceed 25 positions at grades GS–11 and below which support planning and production of the Annual American Folklife Festival. Employment under this authority may not exceed 6 months in connection with any one Festival.

(b) All positions located in Panama which are part of or which support the Smithsonian Tropical Research Institute.

(c) One Russian Studies Program Administrator, one East Asian Studies Program Administrator, one International Security Studies Program Administrator, and one Latin American Program Administrator in the Woodrow Wilson International Center for Scholars.

Section 213.3182 National Foundation on the Arts and the Humanities.

(a) *National Endowment for the Arts.* (1) Until September 30, 1985, one position of Assistant Director, Artists-in-Education Programs, Office for Partnership, GS–301–14.

(2) Until September 30, 1985, one position of Director of Federal-State Partnership.

(3) Until September 30, 1985, one position of Director of Literature Programs.

(4) Until September 30, 1985, one position of Assistant Director of Theatre Programs.

(5) Until September 30, 1985, one position of Director of Folk Arts Programs.

(6) Until September 30, 1985, one position of Director, Opera/Musical Theatre Programs.

(7) Until September 30, 1985, one position of Assistant Director of Opera/Musical Theatre Programs.

(8) Until September 30, 1985, one position of Assistant Director of Literature Programs.

(9) Until September 30, 1985, one position of Director of Locals Test Programs, Office of the Deputy to the Chairman for Public Partnership.

(10) Until September 30, 1985, one position of Deputy to the Chairman for Public Partnership.

(11) Until September 30, 1985, four Project Evaluators.

(12) Until September 30, 1985, one position of Director of Museum Programs.

(13) Until September 30, 1985, one position of Assistant Director of Folk Arts, Office of the Deputy Chairman for Programs.

(14) Until September 30, 1985, two positions of Assistant Director of Music Programs.

(15) Until September 30, 1985, one position of Director of Expansion Arts Programs.

(16) Until September 30, 1985, one position of Director of Media Arts Programs.

(17) Until September 30, 1985, one position of Director, Challenge Grant Program.

(18)–(19) [Reserved]

(20) Until September 30, 1985, one position of Director of Inter Arts Program.

(21) Until September 30, 1985, one position of Assistant Director of Expansion of Arts Programs.

(22) Until September 30, 1985, one position of Assistant Director of Media Arts Programs.

(23) Until September 30, 1985, one position of Assistant Director of Design Arts Program.

(24) Until September 30, 1985, one position of Assistant Director of Dance Programs.

(25) Until September 30, 1985, one position of Assistant Director of Visual Arts Programs.

(26) Until September 30, 1985, one position of Assistant Director of Museum Programs.

(27) Until September 30, 1985, one position of Assistant Director of Special Projects.

(28)–(29) [Reserved]

(30) Until September 30, 1985, one position of Director of Education Programs.

(31) Until September 30, 1985, one position of Director of Music Programs.

(32) Until September 30, 1985, one position of Director of Theater Programs.

(33) Until September 30, 1985, one position of Director of Dance Programs.

(34) Until September 30, 1985, one position of Director of Visual Arts Programs.

(35) Until September 30, 1985, one position of Director of Design Arts Program.

(36) [Reserved]

(37) Until September 30, 1985, one Director for State Programs.

(38) Until September 30, 1985, one Director for Artists-in-Education Programs.

(b) *National Endowment for the Humanities.* (1)–(21) [Reserved]

(22) Until September 30, 1985, one position of Bicentennial Coordinator, Office of the Chairman.

Section 213.3184 Department of Housing and Urban Development.

(a) One position of Special Advisor to the Regional Administrator, GS–301–14, in San Francisco. Employment under this authority may not exceed 2 years.

Section 213.3191 Office of Personnel Management.

(a) Not to exceed 500 positions in Federal Job Information Centers, to be filled under the Community Outreach Information Network program. Appointments under this authority may not exceed 90 days, and no one may receive more than one appointment under the authority.

(b)–(c) [Reserved]

(d) Part-time and intermittent positions of test examiners at grades GS–8 and below.

Section 213.3194 Department of Transportation.

(a) *U.S. Coast Guard.* (1) Not to exceed 25 positions of Marine Traffic Controller (Pilot), at grade GS–11 and below for temporary, intermittent or seasonal employment in the State of Louisiana. Temporary appointments may not exceed 1 year, and temporary appointees may be reappointed under this authority only after a break in service of at least 6 months. Intermittent or seasonal employment may not exceed 180 working days in a service year, except that this limitation for an individual employee may be extended to 220 days when necessitated by emergencies caused by unusual flooding conditions or high river stages.

(2) Lamplighters.

(3) Professors, Associate Professors, Assistant Professors, Instructors, one Principal Librarian, one Cadet Hostess, and one Psychologist (Counseling) at the Coast Guard Academy, New London, Conn.

(b) [Reserved]

(c) *Federal Highway Administration.* (1) Temporary, intermittent, or seasonal employment in the field service of the Federal Highway Administration at grades not higher than GS–5 for subprofessional engineering aide work on the highway surveys and constructions projects, for not to exceed 180 working days a year, when in the opinion of OPM, appointment through competitive examination is impracticable.

(d) [Reserved]

(e) *Maritime Administration.* (1)–(2) [Reserved]

(3) All positions on Government-owned vessels or those bareboats chartered to the Government and operated by or for the Maritime Administration.

(4)–(5) [Reserved]

(6) U.S. Merchant Marine Academy, positions of: Professors, Instructors, and Teachers: including heads of Departments of Physical Education and Athletics, Humanities, Mathematics and Science, Maritime Law and Economics, Nautical Science, and Engineering; Coordinator of Shipboard Training; the Commandant of Midshipmen, the Assistant Commandant of Midshipmen; Director of Music; three Battalion Officers; three Regimental Affairs Officers; and one Training Administrator.

(7) U.S. Merchant Marine Academy position of: Associate Dean; Registrar; Director of Admissions; Assistant Director of Admissions; Director, Office of External Affairs; Placement Officer; Administrative Librarian; Shipboard Training Assistant; three Academy Training Representatives; and one Education Program assistant.

Section 213.3195 Federal Emergency Management Agency.

(a) Field positions at grades GS–15 and below, or equivalent, which are engaged in work directly related to unique response efforts to environmental emergencies not covered by the Disaster Relief Act of 1974, Pub. L. 93–288, as amended.

Employment under this authority may not exceed 36 months on any single emergency. Persons may not be employed under this authority for long-term duties or for work not directly

necessitated by the emergency response effort.

(b) Not to exceed 30 positions at grades GS–15 and below in the Offices of Executive Administration, General Counsel, Inspector General, Comptroller, Public Affairs, Personnel, Acquisition Management, and the State and Local Program and Support Directorate which are engaged in work directly related to unique response efforts to environmental emergencies not covered by the Disaster Relief Act of 1974, Pub. L. 93–288, as amended. Employment under this authority may not exceed 36 months on any single emergency, or for long-term duties or work not directly necessitated by the emergency response effort. No one may be reappointed under this authority for service in connection with a different emergency unless at least 6 months have elapsed since the individual's latest appointment under this authority.

(c) Not to exceed 350 professional and technical positions at grades GS–5 through GS–15, or equivalent, in Mobile Emergency Response Support Detachments (MERS).

Section 213.3199 Temporary organizations.

(a) Positions at GS–15 and below on the staffs of temporary boards and commissions which are established by law or Executive order for specified periods not to exceed 4 years to perform specific projects. A temporary board or commission originally established for less than 4 years and subsequently extended may continue to fill its staff positions under this authority as long as its total life, including extension(s) does not exceed 4 years. No board or commission may use this authority for more than 4 years to make appointments and position changes unless prior approval of the Office is obtained.

(b) Positions at GS–15 and below on the staffs of temporary organizations established within continuing agencies when all of the following conditions are met: (1) The temporary organization is established by an authority outside the agency, usually by law or Executive order; (2) the temporary organization is established for an initial period of 4 years or less and, if subsequently extended, its total life including extension(s) will not exceed 4 years; (3) the work to be performed by the temporary organization is outside the agency's continuing responsibilities; and (4) the positions filled under this authority are those for which other staffing resources or authorities are not available within the agency. An agency may use this authority to fill positions in organizations which do not meet all of the above conditions or to make appointments and position changes in a single organization during a period longer than 4 years only with prior approval of the Office.

Schedule B

Section 213.3202 Entire executive civil service.

The provisions established under paragraphs (a) through (i) are authorized under provisions of E.O. 12015 and support career-related work-study programs. OPM's requirements relating to appointment under paragraphs (a) through (i) will be published in the Federal Personnel Manual. Further, appointments under paragraphs (a) through (i) are subject to all the requirements and conditions governing career or career-conditional appointments, including investigation by OPM to establish an appointee's qualifications and suitability. Appointments of participants may be converted to career or career-conditional at any time within a 120-day period after satisfactory completion of a career-related work-study program.

(a) Student positions established in connection with a bachelor's degree cooperative education program which provide for a formally arranged schedule of attendance at an institution of higher learning combined with at least 26 weeks, or 1040 hours, of study-related work in a Federal agency. The periods of work and study together must satisfy requirements for a bachelors degree and must provide the experience necessary for a career or career-conditional appointment to administrative, professional or technical positions in the Federal career service upon the student's graduation.

(b) Student positions established in support of cooperative education programs for graduate students which provide for scheduled periods of attendance at a graduate school combined with at least 16 weeks or 640 hours of study-related work in a Federal agency. The periods of work and study must satisfy requirements for a graduate degree and provide experience necessary for career or career-conditional appointment in the Federal career service upon the student's graduation.

(c) Student positions established in connection with associate degree cooperative education programs which provide for formally arranged schedules of attendance at a recognized 2-year educational institution combined with at least 26 weeks or 1040 hours of study-related work in a Federal agency. The periods of work and study together must satisfy the requirements for graduation and must provide the experience necessary for career or career-conditional appointment in selected occupations in the Federal career service upon the student's graduation.

(d) Student positions established in connection with the Harry S. Truman Foundation Scholarship Program under the provisions of Pub. L. 93–642 to permit scheduled periods of attendance at institutions of high education combined with at least 26 weeks or 1040 hours of study-related work in a Federal agency. The periods of work and study satisfy requirements of programs established by agreement between the Harry S. Truman Scholarship Foundation and the employing agency and provide the experience necessary for career or career-conditional appointment in the Federal career service upon the student's graduation.

(e) Positions at shipyards, air rework facilities and other major industrial activities in the Department of the Navy which prepare students at the high school level, upon satisfactory completion of a cooperative education program of at least 1,040 hours for employment in preapprentice positions or in helper positions at the WG–5 level as pipefitters, marine machinist, inside machinist, welder, sheet metal mechanic, and such other occupations where the journeyman level is WG–9 or above as the Associate Director, Staffing Group, shall have approved, provided that (1) Not more than 25 percent of the positions in covered occupations will be filled annually at any single installation through this conversion authority; and (2) the maximum time during which any student will be employed in the program is 18 months; and (3) except for conditions specified in this authority, students will be subject to instructions governing all other high school vocational education students in cooperative education programs; and (4) any student who completes a program without a diploma must have an authenticated certificate from the school indicating satisfactory completion in his or her personnel folder.

(f) Positions under the Federal Junior Fellowship Program, a career-related work-study program covered under the provisions of Executive Order 12015.

(g)–(i) [Reserved]

(j) Special executive development positions established in connection with Senior Executive Service candidate development programs which have been approved by OPM. A Federal agency may make new appointments under this authority for any period of employment

not exceeding three years for one individual.

(k) Positions at grades GS–15 and below when filled by individuals who (1) are placed at a severe disadvantage in obtaining employment because of a psychiatric disability evidenced by hospitalization or outpatient treatment and have had a significant period of substantially disrupted employment because of the disability; and (2) are certified to a specific position by a State vocational rehabilitation counselor or a Veterans Administration counseling psychologist (or psychiatrist) who indicates that they meet the severe disadvantage criteria stated above, that they are capable of functioning in the positions to which they will be appointed, and that any residual disability is not job related. Employment of any individual under this authority may not exceed 2 years following each significant period of mental illness.

(l) Professional and administrative career (PAC) positions at the GS–5 or GS–7 grade level which are subject to the decree entered on November 19, 1981, by the United States District Court for the District of Columbia in the civil action known as *Luevano* v. *Devine* and numbered as No. 79–271, which were not removed from coverage of the Professional and Administrative Career Examination (PACE) prior to the effective date of the consent decree, and which are to be filled, under the conditions described below, by appointment of individuals other than those who at the time of such appointment already have competitive status in the Federal civil service. When a Federal agency needs to fill a PAC position that was not removed from PACE coverage before the consent decree became effective, and the agency has made maximum use of priority placement sources and has given appropriate consideration to available and qualified status applicants, then OPM may authorize the agency to make a new appointment under this paragraph. Such appointments shall be authorized and made pursuant to such Schedule B requirements for PAC positions as shall be prescribed in the Federal Personnel Manual. Terms of use of this appointment authority shall be established from the competitive service pursuant to this authority. An incumbent of a Schedule B PAC position may be appointed to a competitive position upon a demonstration that the employee has met qualifications on the basis of an examination of the employee's experience and such other measures as may be prescribed for such position in civil service laws, rules, and regulations, including the Federal Personnel Manual.

Section 213.3203 Executive Office of the President.

(a) [Reserved]

(b) *Office of the Special Representative for Trade Negotiations.* (1) Seventeen positions of economist at grades GS–12 through GS–15.

Section 213.3204 Department of State.

(a)-(c) [Reserved]

(d) Eight positions on the household staff of the President's Guest House (Blair and Blair-Lee Houses).

(e) Four Physical Science Administration Officer positions at GS–11 and GS–12 under the Bureau of Oceans and International Environmental and Scientific Affairs' Science, Engineering and Diplomacy Fellowship Program. Employment under this authority is not to exceed 1 year.

(f) Scientific, professional, and technical positions at grades GS–12 to GS–15 when filled by persons having special qualifications in foreign policy matters. Total employment under this authority may not exceed 4 years.

Section 213.3205 Department of the Treasury.

(a) Positions of Deputy Comptroller of the Currency, Chief National Bank Examiner, Assistant Chief National Bank Examiner, Regional Administor of National Banks, Deputy Regional Administrator of National Banks, Assistant to the Comptroller of the Currency, National Bank Examiner, Associate National Bank Examiner, and Assistant National Bank Examiner, whose salaires are paid from assessments against national banks and other financial institutions.

(b) [Reserved]

(c) Not to exceed two positions of Accountant (Tax Specialist) at grades GS–13 and above to serve as specialists on the accounting analysis and treatment of corporation taxes. Employments under this paragraph shall not exceed a period of 18 months in any individual case.

(d) Positions concerned with the protection of the life and safety of the President and members of his immediate family, or other persons for whom similar protective services are prescribed by law, when filled in accordance with special appointment procedures approved by OPM. Service under this authority may not exceed (1) a total of 4 years; or (2) 120 days following completion of the service required for conversion under Executive Order 11203, whichever occurs first.

Section 213.3206 Department of Defense.

(a) *Office of the Secretary.* (1) [Reserved]

(2) Professional positions at GS–11 through GS–15 involving systems, costs, and economic analysis functions in the Office of the Assistant Secretary (Program Analysis and Evaluation); and in the Office of the Deputy Assistant Secretary (Systems Policy and Information) in the Office of the Assistant Secretary (Comptroller).

(3)–(4) [Reserved]

(5) Four Net Assessment Analysts.

(b) *Interdepartmental activities.* (1) Five positions to provide general administration, general art and information, photography, and/or visual information support to the White House Photographic Service.

(c) *National Defense University.* (1) Twenty-one positions for professor, GS–13/15, for employment of any one individual on an initial appointment not to exceed 3 years with an annual renewal provision indefinitely thereafter.

(d) *General.* (1) One position of Law Enforcement Liaison Officer (Drugs), GS–301–15, U.S. European Command.

Section 213.3207 Department of the Army.

(a) *U.S. Army Command and General Staff College.* (1) Seven positions of professors, instructors, and education specialists. Total employment of any individual under this authority may not exceed 4 years.

(b) *Brooke Army Medical Center, Fort Sam Houston, Texas.* (1) Two Medical Officer (Surgery) positions, GS–12, in the Clinical Division, U.S. Army Institute of Surgical Research, whose incumbents are enrolled in medical school surgical residency programs. Employment under this authority shall not exceed 12 months.

Section 213.3208 Department of the Navy.

(a) *Naval Underwater Systems Center, New London, Connecticut.* (1) One position of oceanographer, grade GS–14, to function as project director and manager for research in the weapons systems applications of ocean eddies.

(b) All civilian faculty positions of professors, instructors, and teachers on the staff of the Armed Forces Staff College, Norfolk, Virginia.

Section 213.3209 Department of the Air Force.

(a) Not to exceed four interdisciplinary positions for the Air

Research Institute at the Air University, Maxwell Air Force Base, Alabama, for employment to complete studies proposed by candidates and acceptable to the Air Force. Employment of any one individual is not to exceed 1 year. Such employment may be extended for not to exceed one additional year. Total employment of any one individual under this authority may not exceed 2 years.

(b) Civilian Deans and Professors at the Air Force Institute of Technology, Wright-Patterson Air Force Base, Dayton, Ohio.

(c) One Director of Instruction and 14 civilian Instructors at the Defense Institute of Security Assistance Management, Wright-Patterson Air Force Base, Dayton, Ohio. Individual appointments under this authority will be for an initial 3-year period, which may be followed by an appointment of indefinite duration.

(d) Seven positions of professor or associate professor at the Air University, Maxwell Air Force Base, Ala., for employment of any one individual not to exceed 2 years. Such employment may be extended once for an additional period of 2 years. Total employment of any one individual under this authority may not exceed 4 years.

Section 213.3210 Department of Justice.

(a) Criminal Investigator (Special Agent) positions in the Drug Enforcement Administration. New appointments may be made under this authority only at grades GS–5 through 11. Service under the authority may not exceed 4 years. Appointments made under this authority may be converted to career or career-conditional appointments under the provisions of Executive Order 12230, subject to conditions agreed upon between the Department and OPM.

(b) Positions of Port Receptionist and Supervisory Port Receptionist, Immigration and Naturalization Service.

(c) Not to exceed 50 positions at grades GS–7 through 15 assigned to regional task forces established to conduct special investigations to combat drug trafficking and organized crime.

(d) Until September 30, 1984, positions, other than those providing routine clerical and administrative support, on the staff of the offices of United States Trustees. Terms of service under this authority shall be established in accordance with provisions of the Bankruptcy Reform Act of 1978 and subsequent applicable legislation.

Section 213.3212 Department of the Interior.

(a) Any competitive position at an Indian school when filled by the spouse of a competitive employee of the school, when because of isolation or lack of quarters, the OPM deems appointment through competitive examination impracticable.

Section 213.3213 Department of Agriculture.

(a) *Office of International Cooperation and Development.* (1) Positions of a project nature involved in international technical assistance activities. Service under this authority may not exceed 2 years on a single project for any individual. No more than 20 new appointments may be made under this authority in any 12-month period.

(b) *Agricultural Research Service.* (1) Temporary positions of professional Research Scientists, GS–15 or below, when such positions are established to support the ARS Research Associateship Program and are filled by persons having a doctoral degree in an appropriate field of study for research activities of mutual interest to appointees and ARS. Appointments are limited to proposals approved by the Administrator and may be made initially for 1 year with an extension for up to one additional year. No more than 25 new appointments may be made under this authority during a calendar year.

Section 213.3214 Department of Commerce.

(a) *Bureau of the Census.* (1) [Reserved]

(2) Not to exceed 50 Community Services Specialist positions at the equivalent of GS–5 through GS–12.

(b) *Economic Development Administration.* (1)–(2) [Reserved]

(c) *Minority Business Development Agency.* (1) One position of minority business opportunity specialist at grades GS–9 through GS–15. This authority may not be used for new appointments after December 31, 1977.

(d) *Office of Telecommunications.* (1) Not to exceed 10 positions of Telecommunications Policy Analyst, grades GS–11 through 15. Employment under this authority may not exceed 2 years.

Section 213.3215 Department of Labor.

(a) Positions of Chairman and Member, Wage Appeals Board.

Section 213.3216 Department of Health and Human Services.

(a) *Public Health Service.* (1) Not to exceed 68 positions at GS–11 and below on the Health and Nutrition Examination Survey teams of the National Center for Health Statistics.

(b)–(c) [Reserved]

(d) *National Library of Medicine.* (1) Ten positions of Librarian, GS–7, the incumbents of which will be trainees in the Library Associate Training Program in Medical Librarianship and Biomedical Communications. Employment under this authority is not to exceed 1 year.

Section 213.3217 Department of Education.

(a) Seventy-five positions, not in excess of GS–13, of a professional or analytical nature when filled by persons, other than college faculty members or candidates working toward college degrees, who are participating in midcareer development programs authorized by Federal statute or regulation, or sponsored by private nonprofit organizations, when a period of work experience is a requirement for completion of an organized study program. Employment under this authority shall not exceed 1 year.

(b) Fifty positions, GS–7 through GS–11, concerned with advising on education policies, practices, and procedures under unusual and abnormal conditions. Persons employed under this provision must be bona fide elementary school and high school teachers. Appointments under this authority may be made for a period of not to exceed 1 year, and may, with the prior approval of the Office of Personnel Management, be extended for an additional period of 1 year.

Section 213.3227 Veterans Administration.

(a) Not to exceed 800 principal investigatory, scientific, professional and technical positions at grades GS–11 and above in the medical research program. Employment under this authority may not exceed 7 years for any individual.

Section 213.3228 U.S. Information Agency.

(a) *Voice of America.* (1) Not to exceed 150 positions at grades GS–15 and below in the Cuba Service. Appointments may not be made under this authority to administrative, clerical, and technical support positions.

(b) Positions of English Language Radio Broadcast Intern, GS–1001–5/7/9. Employment is not to exceed 2 years for any intern.

Section 213.3231 Department of Energy.

(a) Twenty Exceptions and Appeals Analyst positions at grades GS–7 through 11, when filled by persons selected under DOE's fellowship

program in its Office of Hearings and Appeals, Washington, D.C. Appointments under this authority shall not exceed 3 years.

Section 213.3237 General Services Administration.

(a) One position of Deputy Director of Network Services.

Section 213.3242 Export-Import Bank of the U.S.

(a) One position of Food Service Worker WG–7804–3/4/5, in the Office of the President and Chairman.

Section 213.3248 National Aeronautics and Space Administration.

(a) Not to exceed 40 positions of Command Pilot, Pilot and Mission Specialist candidates at grades GS–7 through 15 in the Space Shuttle Astronaut program. Employment under this authority may not exceed 3 years.

Section 213.3254 Federal Home Loan Bank Board.

(a) Positions of Accounting Policy Analyst, GS–13/14/15, in the Office of Examinations and Supervision filled in connection with a fellowship program. Appointments under this authority may not exceed 2 years. No more than two new appointments may be made under this authority during any consecutive 12-month period.

(b) Up to 73 positions at GS–15 and below in the Federal Home Loan Bank Board engaged in exploring methods to promote stability in the thrift industry, restore the industry to profitability, and protect individual savers.

Section 213.3257 National Credit Union Administration.

(a) *Central Liquidity Facility.* (1) All managerial and supervisory positions at pay levels greater than the equivalent of GS–13.

Section 213.3259 ACTION.

(a) *Office of Domestic and Anti-Poverty Operations.* (1) Not to exceed 25 positions of Program Specialist at grades GS–9 through GS–15.

(2) [Reserved]

(b) *Office of Voluntary Liaison.* (1) Three positions of Program Specialist at grades GS–7 through GS–15.

Section 213.3264 U.S. Arms Control and Disarmament Agency.

(a) Twenty-five scientific, professional, and technical positions at grades GS–12 through GS–15 when filled by persons having special qualifications in the fields of foreign policy, foreign affairs, arms control, and related fields. Total employment under this authority may not exceed 4 years.

Section 213.3272 Administrative Office of the U.S. Courts.

(a) Not to exceed 18 positions of Federal Probation System Administrator in the Division of Probation, when filled by Federal Probation Officers and/or Pretrial Services Officers on active service in the U.S. Courts.

(b) [Reserved]

(c) Three positions of Clerks Liaison Officer in the Division of Clerks of Court.

Section 213.3274 Smithsonian Institution.

(a) *National Zoological Park.* (1) Four positions of Veterinary Intern, GS–8/9/11. Employment under this authority is not to exceed 36 months.

(b) *Freer Gallery of Art.* (1) Not to exceed four positions of Oriental Art Restoration Specialist at grades GS–9 through GS–15.

Section 213.3276 Appalachian Regional Commission.

(a) Two Program Coordinators.

Section 213.3282 National Foundation on the Arts and the Humanities.

(a) *National Endowment for the Arts.* (1) Until September 30, 1985, Assistant Director, Office of Program Development and Coordination.

(b) *National Endowment for the Humanties.* (1) Until September 30, 1985, Humanist Administrator, Reference Works Programs, Division of Research Programs.

(2) Until September 30, 1985, Humanist Administrator (Assistant Director), Central Disciplines in Undergraduate Education Program, Division of Education Programs.

(3) Until September 30, 1985, Deputy Director, Division of Education Programs.

(4) Until September 30, 1985, Director, Division of Research Grants.

(5) Until September 30, 1985, one position of Director, GS–1701–15, one position of Deputy Director, GS–1701–14, and six positions of Humanist Administrator, GS–1701–13, Division of State Programs.

(6) Until September 30, 1985, one Director and one Deputy Director, Division of Fellows and Seminars.

(7) Until September 30, 1985, one Humanist Administrator, Fellowships for College Teachers, Division of Fellowships.

(8) Until September 30, 1985, four positions of Humanist Administrator, Media Program, Division of General Programs.

(9) Until September 30, 1985, one position of Humanist Administrator (Assistant Director), Exemplary Projects, Nontraditional Learners, and Teaching Materials Program, Division of Education Programs.

(10) Until September 30, 1985, one position of Assistant Director for the Elementary and Secondary Education Program, Division of Education Programs.

(11) Until September 30, 1985, one position of Assistant Director for the Museums and Historical Organizations Program, Division of General Programs.

(12) Until September 30, 1985, one position of Humanist Administrator, Museums and Historical Organizations Program, Division of General Programs.

(13) Until September 30, 1985, one position of Humanist Administrator, Elementary and Secondary Education Program, Division of Education Programs.

(14) Until September 30, 1985, Director of General Programs.

(15) Until September 30, 1985, one Deputy Director of General Programs.

(16) Until September 30, 1985, one Humanist Administrator, Youth Programs, Division of General Programs.

(17) Until September 30, 1985, one Humanist Administrator, Program Development, Division of General Programs.

(18) Until September 30, 1985, one position of Director, Division of Education Programs.

(19) Until September 30, 1985, one Special Assistant for Comparative Cultures, Office of the Chairman. Appointments under this authority may not exceed 4 years.

(20) Until September 30, 1985, one Humanist Administrator, Fellowships at Centers for Advanced Study, Division of Fellowships and Seminars.

(21) Until September 30, 1985, one Challenge Grants Officer.

(22) Until September 30, 1985, one Assistant Director, Media Program, Division of General Programs.

(23) Until September 30, 1985, one position of Humanist Administrator, Publications Program, Division of Research Grants.

(24) Until September 30, 1985, one Deputy Director, Division of Research Grants.

(25) Until September 30, 1985, one Humanist Administrator, Summer Seminars for College Teachers, Division of Fellowships and Seminars.

(26) Until September 30, 1985, one position of Humanist Administrator, Humanities Libraries Projects, Division of General Programs.

(27) Until September 30, 1985, one position of Humanist Administrator, GS–14, Humanities Planning and Assessment Studies Program, Office of Planning and Policy Assessment.

(28) Until September 30, 1985, one position of Humanist Administrator, Program Development, Division of General Programs, GS–14.

(29) Until September 30, 1985, two positions of Humanist Administrator, GS–1701–14, in the Research Resources Programs and in the Basic Research Programs, Division of Research Programs.

(30) Until September 30, 1985, one Humanist Administrator, Office of Challenge Grants.

(31) (Reserved).

(32) Until September 30, 1985, one Humanist Administrator, Independent Study and Research Program, Division of Fellowships and Seminars.

(33) Until September 30, 1985, on Assistant Director, Special Projects Program, GM–1701–14, Division of General Programs.

(34) Until September 30, 1985, one Humanist Administrator, GS–1701–12, Central Disciplines in Undergraduate Education Program, Division of Education Programs.

(35) Until September 30, 1985, one Humanist Administrator, Central Disciplines in Undergraduate Education Programs, Division of Education Programs.

(36) Until September 30, 1985, two Humanist Administrators, Exemplary Projects, Nontraditional Learners, and Teaching Materials Program, Division of Education Programs.

(37) Until September 30, 1985, one Humanist Administrator, Summer Seminars for Secondary School Teachers, Division of Fellowships and Seminars.

(38) Until September 30, 1985, one Humanist Administrator, Summer Stipends, Division of Fellowships and Seminars.

(39) Until September 30, 1985, one Humanist Administrator, Basic Research Programs, Division of Research Programs.

(40) Until September 30, 1985, one Humanist Administrator, Translation Program, Reference Works Program, Division of Research Programs.

(41) Until September 30, 1985, one Humanist Administrator, Editions Program, Reference Works Program, Division of Research Programs.

(42) Until September 30, 1985, one Humanist Administrator, Humanities Projects in Museums and Historical Organizations, Division of General Programs. Employment under this authority may not exceed 1 year.

Section 213.3285 Pennsylvania Avenue Development Corporation.

(a) One position of Civil Engineer (Construction Manager).

Section 213.3291 Office of Personnel Management.

(a) Not to exceed eight positions of Associate Director at the Executive Seminar Centers at grades GS–13 and GS–14. Appointments may be made for any period up to 3 years and may be extended without prior approval for any indiviual. Not more than half of the authorized faculty positions at any one Executive Seminar Center may be filled under this authority.

(b) Twelve positions of faculty members at grades GS–13 through 15, at the Federal Executive Institute. Individual appointments under this authority may be made for initial period(s) up to 3 years, which may be followed by an appointment of indefinite duration.

Schedule C

Section 213.3303 Executive Office of the President.

Office of Management and Budget

OMB 1 Secretary to the Associate Director for Economics and Government.
OMB 5 Secretary to the Director.
OMB 8 Secretary to the Deputy Director.
OMB 10 Secretary to the Associate Director for Public Affairs.
OMB 11 Secretary to the Associate Director, National Security and International Affairs.
OMB 16 Secretary to the Associate Director for Management.
OMB 20 Secretary to the Administrator of the Office of Federal Procurement Policy.
OMB 23 Administrative Assistant to the Administrator, Information and Regulatory Affairs.
OMB 27 Staff Assistant to the Associate Director.
OMB 33 Executive Assistant to the Deputy Director.
OMB 36 Public Affairs Assistant to the Assistant Director for Public Affairs.
OMB 37 Legislative Assistant to the Assistant Director for Legislative Affairs.
OMB 38 Confidential Secretary to the Counsel to the Director for Policy Analysis and Law.
OMB 41 Secretary (Steno) to the Assistant Director for Legislative Affairs.
OMB 43 Secretary (Steno) to the Associate Director for Economics and Planning.
OMB 46 Clerk Legislative Affairs to the Assistant Director for Legislative Affairs.
OMB 47 Public Affairs Specialist to the Assistant Director for Public Affairs.
OMB 49 Administrative Assistant to the Assistant Director for Legislative Affairs.
OMB 50 Legislative Assistant to the Assistant Director for Legislative Affairs.
OMB 51 Administrative Assistant to the Chief, Legislative and Budget Support Group.
OMB 53 Legislative Clerk to the Chief, Legislative and Budget Support Group.

President's Commission on Executive Exchange

PCEE 1 Confidential Assistant to the Executive Director.
PCEE 2 Confidential Assistant to the Executive Director.
PCEE 4 Secretary (Typing) to the Executive Director.
PCEE 5 Public Information Officer to the Executive Director.
PCEE 6 Public Affairs Assistant to the Executive Director.

Office of the United States Trade Representative

USTR 10 Confidential Assistant to the Ambassador.
USTR 12 Special Assistant to the Executive Assistant to the Trade Representative.
USTR 13 Confidential Assistant to the General Counsel.
USTR 14 Secretary (Steno) to the Trade Representative.
USTR 15 Confidential Secretary to the Deputy Trade Representative.
USTR 17 Public Affairs Specialist to the Director for Public and Intergovernmental Affairs.
USTR 18 Secretary (Steno) to the Ambassador.
USTR 19 Director for Congressional Affairs.
USTR 20 Deputy Director for Congressional Affairs.
USTR 21 Confidential Assistant to the Deputy Trade Representative.

Section 213.3304 Department of State.

ST 8 Secretary (Steno) to the Secretary.
ST 9 Secretarial Assistant (Steno) to the Secretary.
ST 51 Secretary (Steno) to the Legal Advisor.
ST 79 Special Assistant to the Ambassador-at-Large.
ST 90 Foreign Affairs Officer to the Chief of Protocol.

ST 95 Secretary (Steno) to the Ambassador-at-Large.
ST 97 Member, Policy Planning Staff to the Director.
ST 99 Secretary (Steno) to the Ambassador.
ST 102 Special Assistant to the Under Secretary.
ST 105 Special Assistant to the Assistant Secretary.
ST 106 Assistant to the Manager, President's Guest House.
ST 107 Secretary (Steno) to the Assistant Secretary for the Bureau of Economic Business Affairs.
ST 109 Secretary (Steno) to the Director, Management Operations.
ST 114 Coordinator for Caribbean Affairs.
ST 115 Public Information Specialist to the Ambassador-at-Large.
ST 116 Special Assistant to the Counselor.
ST 117 Confidential Clerk to the Secretary.
ST 119 Secretary (Steno) to the Assistant Secretary for Inter-American Affairs.
ST 120 Special Assistant to the Spokesman, Office of the Spokesman.
ST 122 Staff Assistant to the Under Secretary for Management.
ST 125 Secretary (Steno) to the Secretary.
ST 127 Secretary (Steno) to the Assistant Secretary for Human Rights and Humanitarian Affairs.
ST 130 Member, Policy Planning Staff to the Director.
ST 134 Secretary (Steno) to the Deputy Secretary.
ST 139 Protocol Officer (Visits) to the Chief of Protocol.
ST 140 Secretary (Steno) to the Chief of Protocol.
ST 142 Housekeeper, Presidential Guest House.
ST 145 Member, Policy Planning Staff to the Director.
ST 148 Member, Policy Planning Staff to the Director.
ST 149 Special Assistant to the Assistant Secretary for Inter-American Affairs.
ST 150 Staff Assistant to the Ambassador-at-Large/Special Advisor to the Secretary.
ST 153 Special Assistant to the Assistant Secretary, Bureau of International Affairs.
ST 154 Congressional Liaison Officer to the Assistant Secretary for Legislative and Intergovernmental Affairs.
ST 155 Protocol Officer (Visits) to the Chief of Protocol.
ST 159 Protocol Officer to the Chief of Protocol.
ST 161 Secretary (Steno) to the Under Secretary for Management.
ST 163 Special Assistant to the Deputy Secretary of State.
ST 167 Protocol Officer to the Chief of Protocol.
ST 173 Special Assistant to the Under Secretary for Management.
ST 174 Public Affairs Specialist to the Deputy Assistant Secretary for Public Affairs.
ST 175 Staff Assistant to the Principal Deputy Assistant Secretary for Congressional Relations.
ST 176 Staff Assistant to the Under Secretary for Management.
ST 177 Special Assistant to the Chairman, International Joint Commission.
ST 178 Secretary (Steno) to the Assistant Secretary, Bureau of International Narcotics Matters.
ST 179 Congressional Relations Officer to the Assistant Secretary, Office of Congressional Relations.
ST 180 Policy and Program Officer to the Assistant Secretary, Bureau of Human Rights and Humanitarian Affairs.
ST 181 Director, Office of Intergovernmental and Public Liaison.
ST 182 Special Assistant to the Assistant Secretary, Bureau of Consular Affairs.
ST 183 Public Affairs Advisor to the Assistant Secretary, Bureau of Human Rights and Humanitarian Affairs.
ST 184 Special Assistant to the Assistant Secretary, Office of African Affairs.
ST 186 Alternate Representative to the Ambassador, U.S. Permanent Representative to the Organization of American States.
ST 187 Secretary (Steno) to the Chairman, International Joint Commission.
ST 191 Secretary (Steno) to the Executive Assistant/Special Assistant to the Secretary.
ST 192 Staff Assistant to the Deputy Secretary of State.
ST 193 Assistant to the Under Secretary for Security Assistance, Science and Technology.
ST 195 Staff Assistant to the Assistant Secretary for Congressional Relations.
ST 197 Special Assistant to the Assistant Secretary for Oceans and International Environmental and Scientific Affairs.
ST 198 Special Assistant to the Deputy Secretary of State.
ST 199 Executive Assistant to the Ambassador-at-Large.
ST 200 Staff Assistant to the Deputy Secretary of State.
ST 202 Special Assistant to the Ambassador-at-Large.
ST 203 Special Assistant to the Counselor.
ST 204 Deputy Assistant Secretary for Private Sector Initiatives.
ST 205 Secretary (Steno) to the Assistant Secretary for European Affairs.
ST 206 Special Assistant to the Under Secretary for Security Assistance, Science and Technology.
ST 207 Deputy Assistant Secretary for Oceans and Fisheries Affairs.
ST 209 Protocol Officer (Visits) to the Chief of Protocol.
ST 210 Special Assistant to the Assistant Secretary for Oceans and International Environmental and Scientific Affairs.
ST 212 Special Assistant to the Assistant Secretary for Economic and Business Affairs.
ST 213 Special Assistant to the Assistant Secretary for Human Rights and Humanitarian Affairs.
ST 214 Staff Assistant to the Under Secretary for Political Affairs.
ST 215 Special Assistant to the Assistant Secretary for the Bureau of International Organization Affairs.
ST 216 Special Assistant to the Ambassador, U.S. Representative, Organization of American States.
ST 217 Deputy Coordinator for Public Diplomacy for Latin America and the Caribbean.
ST 218 Deputy to the Ambassador-at-Large/Special Advisor to the Secretary.
ST 220 Congressional Relations Specialist to the Assistant Secretary for the Bureau of International Organization Affairs.
ST 221 Special Assistant to the Assistant Secretary for East Asian and Pacific Affairs.

Section 213.3305 Department of the Treasury.

TREA 27 Staff Assistant (Coordination) to the Secretary.
TREA 28 Special Assistant to the Director of the Mint.
TREA 33 Special Assistant to the Assistant Secretary for Public Liaison and Consumer Affairs.
TREA 39 Staff Assistant to the Assistant Secretary for Legislative Affairs.
TREA 41 Staff Assistant to the Assistant Secretary for Public Affairs.

TREA 47 Special Assistant to the Assistant Secretary for Legislative Affairs.
TREA 48 Public Information Specialist to the Assistant Secretary for Public Affairs.
TREA 52 Special Assistant to the Assistant Secretary for Legislative Affairs.
TREA 59 Special Assistant to the Assistant Secretary for Tax Policy.
TREA 60 Confidential Secretary to the Assistant Secretary for Tax Policy.
TREA 61 Special Assistant to the Assistant Secretary for Public Affairs.
TREA 69 Staff Assistant to the Executive Secretary.
TREA 81 Deputy Executive Secretary.
TREA 82 Staff Assistant to the Principal Deputy Assistant Secretary for International Affairs.
TREA 89 Special Assistant to the Assistant Secretary for Legislative Affairs.
TREA 90 Special Assistant to the Assistant Secretary for Public Affairs.
TREA 92 Director, Consumer Affairs.
TREA 97 Senior Assistant to the Assistant Secretary for Enforcement and Operations.
TREA 99 Staff Assistant to the Director, Office of Revenue Sharing.
TREA 100 Staff Assistant to the Deputy Assistant Secretary for Administration.
TREA 101 Director, Office of Business Affairs.
TREA 103 Staff Assistant to the Senior Deputy Comptroller for Operations.
TREA 104 Executive Assistant to the Special Assistant to the Commissioner for Legislative and Public Affairs.
TREA 105 Policy Adviser to the Commissioner of Customs.
TREA 108 Staff Assistant to the Treasurer of the United States.
TREA 109 Special Assistant to the Assistant Secretary for Public Affairs.
TREA 110 Staff Assistant to the Assistant Secretary for Electronic Systems and Information Techology.
TREA 111 Senior Adviser to the Assistant Secretary for Electronic Systems and Information Technology.
TREA 112 Staff Assistant to the Director, Office of Revenue Sharing.
TREA 113 Executive Assistant to the Special Assistant to the Commissioner.
TREA 114 Staff Assistant to the Commissioner of Customs.
TREA 115 Staff Assistant to the Deputy Assistant Secretary for Fiancial Systems.
TREA 116 Staff Assistant to the Commissioner of Customs.
TREA 117 Special Assistant to the Assistant Secretary for Business and Consumer Affairs.
TREA 118 Staff Assistant to the Executive Secretary.

Section 213.3306 Department of Defense.

DOD 3 Private Secretary to the Secretary of Defense.
DOD 5 Private Secretary to the Deputy Secretary.
DOD 6 Private Secretary to the Under Secretary for Research and Engineering.
DOD 8 Private Secretary to the Deputy Under Secretary for Research and Engineering (Tactical Warfare Programs).
DOD 9 Private Secretary to the Deputy Under Secretary of Defense for Research and Engineering (Strategic and Theater Nuclear Forces).
DOD 10 Private Secretary to the Deputy Under Secretary of Defense for Research and Engineering (Research and Advanced Technology).
DOD 13 Private Secretary to the Assistant Secretary for Manpower, Reserve Affairs and Logistics.
DOD 14 Private Secretary to the Assistant Secretary of Defense for International Secruity Affairs.
DOD 15 Private Secretary to the Assistant Secretary for Public Affairs.
DOD 18 Private Secretary to the Assistant Secretary (Comptroller).
DOD 19 Private Secretary to the Director, Program Analysis and Evaluation.
DOD 22 Private Secretary to the Assistant Secretary of Defense for Atomic Energy.
DOD 23 Private Secretary to the Military Assistant to the Secretary.
DOD 30 Secretary (Steno) to the Defense Advisor to US NATO.
DOD 31 Private Secretary to the Assistant Secretary of Defense for Legislative Affairs.
DOD 32 Special Assistant to the Assistant Secretary of Defense for Legislative Affairs.
DOD 33 Personal Secretary to the Deputy Secretary.
DOD 34 Private Secretary to Principal Deputy Assistant Secretary of Defense for International Security Affairs.
DOD 35 Confidential Assistant to the Executive Secretary.
DOD 37 Assistant to the Secretary for Personnel Security.
DOD 54 Private Secretary to the Judge, U.S. Court of Military Appeals.
DOD 55 Private Secretary to the Chief Judge, U.S. Court of Military Appeals.
DOD 56 Private Secretary to the Judge, U.S. Court of Military Appeals.
DOD 62 Private Secretary to the Personal Assistant to the President, White House Support Group.
DOD 66 Private Secretary to the Physician to the President, White House Support Group.
DOD 73 Private Secretary to the Assistant Secretary of Defense for Health Affairs.
DOD 75 Chauffeur to the Deputy Secretary.
DOD 84 Private Secretary to the Principal Deputy Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics).
DOD 98 Private Secretary to the Secretary of Defense Representative on Mutual and Balanced Force Reduction and Conference on Security and Cooperation in Europe.
DOD 101 Personal and Confidential Assistant to the Director of Net Assessment.
DOD 104 Special Projects Assistant to the Deputy Assistant Secretary of Defense for Equal Opportunity and Safety Policy.
DOD 112 Special Assistant to the Assistant Secretary for Legislative Affairs.
DOD 119 Private Secretary to the Principal Deputy Director, Program Analysis and Evaluation.
DOD 148 Private Secretary to the Deputy Under Secretary of Defense (Policy).
DOD 156 Private Secretary to the Assistant Deputy Under Secretary of Defense (Policy).
DOD 171 Special Assistant to the Deputy Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics).
DOD 174 Private Secretary to the Under Secretary for Policy.
DOD 175 Personal and Confidential Assistant to the Judge, U.S. Court of Military Appeals.
DOD 178 Special Assistant to the Assistant Secretary for Legislative Affairs.
DOD 187 Special Assistant for African Affairs to the Deputy Assistant Secretary of Defense for International Security Affairs.
DOD 189 Staff Assistant to the Deputy Secretary of Defense.

DOD 194 Private Secretary to the Assistant Secretary of Defense for International Security Policy.
DOD 196 Private Secretary to the Deputy Under Secretary of Defense, Research and Engineering (Acquisition Management).
DOD 205 Personal and Confidential Assistant to the Judge, U.S. Court of Military Appeals.
DOD 209 White House Director of Television Services.
DOD 210 Chauffeur to the Secretary of the Interior.
DOD 211 Special Assistant to the Principal Deputy Assistant Secretary for Public Affairs.
DOD 212 Private Secretary to the Deputy Under Secretary, Research and Engineering (International Programs and Technology).
DOD 216 Private Secretary to the Principle Deputy Assistant Secretary for International Security Policy.
DOD 217 Private Secretary to the Deputy Under Secretary for Research and engineering.
DOD 218 Private Secretary to the Assistant Secretary of Defense for Development and Support.
DOD 220 Assistant to the Director for Emergency Planning.
DOD 222 Executive Assistant to the Assistant Secretary for Research and Technology.
DOD 225 Special Assistant to the Director, Defense Security Assistance Agency.
DOD 227 Private Secretary to the Assistant Secretary for Research and Technology.
DOD 228 Private Secretary to the Director, Defense Testing and Evaluation.
DOD 232 Special Assistant to the Assistant Secretary for International Security Policy.
DOD 234 Deputy Assistant to the Secretary and Deputy Secretary of Defense.
DOD 235 Special Assistant to the Deputy Assistant Secretary, Near Eastern, African and South Asian Affairs.
DOD 236 Special Assistant to the Assistant Secretary for Public Affairs.
DOD 238 Special Assistant to Assistant Secretary for Legislative Affairs.
DOD 241 Personal and Confidential Assistant to the Assistant Secretary for International Security Policy.
DOD 245 Private Security to the Photographer to the President, White House Support Group.
DOD 248 Special Projects Assistant to the Deputy Assistant Secretary for Equal Opportunity and Safety Policy.
DOD 249 Special Assistant to the Director, Defense Audiovisual Agency.
DOD 250 Speechwriter to the Assistant Secretary of Defense for Public Affairs.
DOD 251 Assistant to the Deputy Assistant Secretary of Defense for East Asian and Pacific Affairs.
DOD 252 Confidential Assistant to the Secretary.
DOD 254 Special Assistant for Emergency Planning and Requirements.
DOD 255 Personal and Confidential Assistant to the Deputy Secretary.
DOD 256 Special Assistant to the Assistant Secretary for Manpower, Reserve Affairs and Logistics.
DOD 257 Special Assistant for Technology Transfer Policy to the Deputy Assistant Secretary of Defense, International Economic, Trade and Security Policy.
DOD 258 Confidential Assistant to the Director for Emergency Planning.
DOD 259 Staff Assistant to the Special Assistant to the President.
DOD 260 Special Assistant to the Ambassador to NAOT.
DOD 261 Special Assistant for European Security and Political Affairs.
DOD 262 Special Assistant to the Deputy Assistant Secretary of Defense for East Asian and Pacific Affairs.
DOD 263 Special Assistant to the Assistant Secretary of Defense for International Security Policy.
DOD 264 Assistant Director to the Chairman of the President's Foreign Intelligence Advisory Board.
DOD 265 Special Assistant to the Deputy Assistant Secretary of Defense for East Asian and Pacific Affairs.
DOD 266 Assistant for Policy Analysis to the Deputy Assistant Secretary of Defense for International Economic, Trade and Security Policy.

Section 213.3307 Department of the Army.

ARMY 1 Staff Assistant to the Secretary.
ARMY 2 Secretary (Steno) to Under Secretary.
ARMY 3 Secretary (Steno) to the Assistant Secretary of the Army, Manpower and Reserve Affairs.
ARMY 6 Secretary (Steno) to the Assistant Secretary, Research, Development and Acquisition.
ARMY 17 Secretary (Steno) to the Assistant Secretary, Civil Works.
ARMY 21 Secretary (Steno) to the General Counsel.
ARMY 25 Public Affairs Officer to the Chief, Office of the Chief of Public Affairs.
ARMY 30 Secretary (Typing) to the Principal Deputy Assistant Secretary.
ARMY 38 Plans Coordinator to the Chief of Public Affairs.
ARMY 40 Staff Advisor to the Deputy Assistant to the President.
ARMY 41 Assistant Director to the Chairman and Executive Director of the President's Foreign Intelligence Advisory Board.
ARMY 44 Executive Director to the Deputy Assistant Secretary, Reserve Affairs.
ARMY 51 Confidential Staff Assistant to the Deputy Director, Office of Private Sector Initiatives.
ARMY 52 Special Assistant to the Assistant Secretary of the Army, Research, Development and Acquisition.
ARMY 54 Staff Assistant to the Deputy Assistant to the President for Presidential Personnel.

Section 213.3308 Department of the Navy.

NAVY 2 Staff Assistant to the Secretary.
NAVY 7 Private Secretary to the Assistant Secretary of Research and Engineering Systems.
NAVY 20 Special Assistant to the Military Assistant to the President.
NAVY 23 Special Assistant to the Military Assistant to the President.
NAVY 25 Special Assistant to the Military Assistant to the President.
NAVY 27 Special Assistant for Emergency Planning to the Military Assistant to the President.
NAVY 31 Staff Assistant to the Under Secretary.
NAVY 35 Staff Assistant to the Deputy Assistant Secretary.
NAVY 36 Staff Assistant to the Principal Deputy Assistant Secretary.
NAVY 37 Attorney-Adviser to the General Counsel.
NAVY 38 Private Secretary to the Under Secretary.

Section 213.3309 Department of the Air Force.

AF 2 Secretary (Steno) to the Under Secretary.
AF 3 Secretary (Steno) to the Assistant Secretary for Manpower, Reserve Affairs and Installations.
AF 5 Secretary (Steno) to the Assistant Secretary for Research, Development Logistics.

AF 8 Secretary (Steno) to the General Counsel.
AF 17 Administrative Officer to the Assistant to the Vice President for National Security Affairs.
AF 18 Special Assistant to the Assistant to the Vice President for National Security Affairs.
AF 20 Secretary (Steno) to the Military Assistant to the President.
AF 21 Special Assistant to the Military Assistant to the President.
AF 22 Secretary (Steno) to the Assistant to the Vice President for National Security Affairs.
AF 26 Special Assistant to the Assistant Secretary for Manpower, Reserve Affairs and Installations.
AF 28 Special Assistant to the General Counsel.
AF 29 Staff Assistant to the Secretary.
AF 30 Special Assistant to the Assistant to the President/Director of the White House Military Office.
AF 31 Secretary (Steno) to the Assistant to the Vice President for National Security Affairs.

Sections 213.3310 Department of Justice.

JUS 13 Secretary (Typing) to the Deputy Attorney General.
JUS 21 Confidential Assistant (Private Secretary) to the Assistant Attorney General, Antitrust Division.
JUS 23 Private Secretary to the Assistant Attorney General, Civil Division.
JUS 25 Confidential Assistant (Private Secretary) to the Assistant Attorney General, Criminal Division.
JUS 26 Confidential Secretary (Private Secretary) to the Assistant Attorney General, Tax Division.
JUS 27 Private Secretary to the Assistant Attorney General, Land and Natural Resources Division.
JUS 35 Confidential Assistant (Private Secretary) to the U.S. Attorney, Office of Legal Counsel.
JUS 53 Secretary (Steno) to the Assistant Attorney General, Civil Rights Division.
JUS 70 Special Assistant to the Assistant Attorney General, Civil Rights Division.
JUS 83 Confidential Assistant to the Attorney General.
JUS 93 Secretary (Steno) to the Associate Attorney General.
JUS 97 Secretary (Steno) to the Attorney General.
JUS 115 Confidential Assistant (Private Secretary) to the Assistant Attorney General, Office of Legislative Affairs.
JUS 122 Staff Assistant to the Director of Public Affairs.
JUS 128 Secretary and Confidential Assistant to the U.S. Attorney.
JUS 129 Special Assistant to the Assistant Attorney General, Antitrust Division.
JUS 147 Attorney-Advisor to the Assistant Attorney General, Civil Division.
JUS 152 Secretary and Confidential Assistant to the U.S. Attorney.
JUS 158 Secretary and Confidential Assistant to the U.S. Attorney.
JUS 165 Special Assistant to the Associate Attorney General.
JUS 166 Special Assistant to the Attorney General.
JUS 170 Special Assistant to the Attorney General.
JUS 175 Special Assistant to the Attorney General, Offices, Board and Divisions.
JUS 188 Special Assistant to the Assistant Attorney General, Antitrust Division.
JUS 190 Staff Assistant to the Assistant Attorney General.
JUS 195 Secretary (Typing) to the Commissioner, Immigration and Naturalization Service.
JUS 200 Secretary and Confidential Assistant to the U.S. Attorney.
JUS 204 Secretary (Steno) to the Assistant Attorney General, Legislative Affairs.
JUS 205 Special Assistant (Security) to the Associate Commissioner for Enforcement, Immigration and Naturalization Service.
JUS 207 Staff Assistant to the Deputy Director, Office of Public Affairs.
JUS 210 Secretary (Steno) to the Attorney General.
JUS 213 Staff Assistant to the Counselor to the Attorney General.
JUS 214 Confidential Assistant to the Assistant Attorney General, Office of Legal Policy.
JUS 215 Deputy Assistant Attorney General, Antitrust Division.
JUS 216 Special Assistant to the Administrator, Office of Juvenile Justice and Delinquency Prevention.
JUS 218 Confidential Assistant to the Administrator, Office of Juvenile Justice and Delinquency Prevention.
JUS 219 Special Assistant to the Assistant Attorney General, Tax Division.
JUS 220 Special Assistant to the Attorney General, Tax Division.
JUS 221 Special Assistant to the Director, Bureau of Justice Statistics.
JUS 225 Legal Aide to the Director, Regulatory and Legislative Affairs Staff.
JUS 226 Staff Assistant to the General Counsel, Immigration and Naturalization Service.
JUS 227 Staff Assistant to the Director, Community Relations Service.
JUS 229 Special Assistant to the Director, National Institute of Justice.
JUS 231 Attorney-Advisor to the Director, Regulatory and Legislative Affairs Staff.
JUS 233 Attorney-Advisor to the Assistant Attorney General, Civil Rights Division.
JUS 234 Confidential Assistant to the Assistant Attorney General for Justice Assistance.
JUS 236 Confidential Assistant to the Commissioner, Immigration and Naturalization Service.
JUS 239 Secretary to the Deputy Administrator of the Office of Juvenile Justice and Delinquency Prevention.

Section 213.3311 Federal Judicial Center.

FJC 2 Secretary (Steno) to the Director.

Section 213.3312 Department of the Interior.

INT 18 Confidential Assistant to the Assistant Secretary, Water and Science.
INT 25 Steward to the Secretary.
INT 37 Confidential Assistant to the Deputy Solicitor.
INT 73 Special Assistant to the Secretary.
INT 116 Special Assistant to the Deputy Assistant Secretary, Office of Territorial Affairs.
INT 149 Special Assistant to the Assistant Secretary, Land and Minerals Management.
INT 152 Special Assistant to the Deputy Director of the National Park Service.
INT 153 Assistant to the Director for Congressional and Legislative Activities.
INT 165 Special Assistant to the Director, Bureau of Land Management.
INT 170 Special Assistant to the Deputy Director of the National Park Service.
INT 171 Public Information Officer for the Bureau of Reclamation.
INT 191 Special Assistant to the Director, Bureau of Land Management.
INT 193 Special Assistant to the Director, Office of Surface Mining and Reclamation.
INT 195 Special Assistant to the Assistant Secretary, Territorial and International Affairs.
INT 198 Special Assistant to the Assistant Secretary, Territorial and International Affairs.

INT 198 Special Assistant to the Counselor to the Secretary.
INT 201 Special Assistant to the Assistant Secretary, Territorial and International Affairs.
INT 202 Special Assistant to the Director, National Park Service.
INT 204 Special Assistant to the Secretary.
INT 205 Special Assistant to the Assistant Secretary, Indian Affairs.
INT 207 Special Assistant to the Assistant Secretary, Territorial and International Affairs.
INT 208 Congressional Liaison Officer to the Director, Minerals Management Service.
INT 212 Special Assistant to the Counselor to the Secretary.
INT 217 Special Assistant to the Assistant Secretary, Territorial and International Affairs.
INT 219 Staff Assistant to the Public Information Officer, Bureau of Reclamation.
INT 220 Special Assistant to the Assistant Secretary, Territorial and International Affairs.
INT 222 Special Assistant to the Assistant Secretary, Fish and Wildlife Service.
INT 225 Special Assistant to the Director. Office of Surface Mining.
INT 226 Special Programs Liaison to the Associate Director, Bureau of Land Management.
INT 227 Special Assistant to the Assistant Secretary, Land and Minerals Management.
INT 228 Special Assistant to the Assistant Secretary for Policy, Budget and Administration.
INT 231 Special Assistant to the Director, Office of Public Affairs.
INT 232 Special Assistant to the Executive Assistant to the Secretary.
INT 235 Confidential Assistant to the Director, Fish and Wildlife Service.
INT 237 Special Assistant to the Director, Fish and Wildlife Service.
INT 238 Director, Office of Congressional and Legislative Affairs.
INT 239 Assistant for Public Affairs to the Associate Director.
INT 241 Congressional Affairs Officer, Fish and Wildlife Service.
INT 242 Special Assistant to the Assistant Director, Legislative and Congressional Affairs.
INT 243 Confidential Assistant to the Under Secretary.
INT 244 Special Assistant to the Assistant Secretary and Director, Office of Public Affairs.
INT 245 Special Assistant to the Special Assistant (Field Representative) to the Secretary.
INT 247 Special Assistant to the Counselor to the Secretary.
INT 249 Special Assistant to the Assistant Secretary, Water and Science.
INT 250 Special Assistant to the Director, Bureau of Mines.
INT 251 Public Affairs Specialist to the Deputy Director, Minerals Management Service.
INT 252 Staff Assistant to the Associate Director for Offshore Minerals Management.
INT 253 Special Assistant to the Assistant Secretary, Territorial and International Affairs.
INT 254 Assistant to the Director, Minerals Management Service.
INT 255 Special Assistant to the Deputy Director, National Park Service.
INT 256 Staff Assistant to the Associate Director, Bureau of Land Management.
INT 257 Staff Assistant to the Associate Director, Bureau of Land Management.
INT 258 Confidential Assistant to the Special Assistant (Field Representative) to the Secretary.
INT 259 Special Assistant to the Congressional Liaison Officer, Bureau of Mines.
INT 260 Executive Assistant to the Under Secretary.

Section 213.3313 Department of Agriculture.

AGR 1 Administrative Assistant to the Secretary.
AGR 2 Confidential Assistant to the Assistant Secretary for Governmental and Public Affairs.
AGR 3 Confidential Assistant to the Secretary.
AGR 5 Confidential Assistant to the Secretary.
AGR 6 Confidential Assistant to the Executive Assistant to the Secretary.
AGR 8 Chauffeur to the Secretary.
AGR 12 Private Secretary to the Under Secretary, International Affairs and Commodity Programs.
AGR 13 Private Secretary to the Assistant Secretary for Food and Consumer Services.
AGR 21 Private Secretary to the Deputy Secretary.
AGR 23 Private Secretary to the General Counsel.
AGR 24 Confidential Assistant to the Administrator, Farmers Home Administration.
AGR 25 Staff Assistant to the Administrator, Farmers Home Administration.
AGR 26 Confidential Assistant to the Administrator, Farmers Home Administration.
AGR 27 Private Secretary to the Administrator, Farmers Home Administration.
AGR 28 Member, Board of Directors, Federal Crop Insurance Corporation.
AGR 29 Member, Board of Directors, Federal Crop Insurance Corporation.
AGR 30 Private Secretary to the Manager, Federal Crop Insurance Corporation.
AGR 31 Confidential Assistant to the Administrator, Agricultural Stabilization and Conservation Service.
AGR 32 Confidential Assistant to the Administrator, Agricultural Stabilization and Conservation Service.
AGR 33 Confidential Assistant to the Administrator, Agricultural Stabilization and Conservation Service.
AGR 35 Private Secretary to the Administrator, Agricultural Stabilization and Conservation Service.
AGR 44 Private Secretary to the Assistant Secretary for Economics.
AGR 48 Confidential Assistant to the Administrator, Food and Nutrition Service.
AGR 56 Private Secretary to the Assistant Secretary for Governmental and Public Affairs.
AGR 61 Private Secretary to the Assistant Secretary for Natural Resources and Environment.
AGR 62 Private Secretary to the Under Secretary for Small Community and Rural Development.
AGR 64 Confidential Assistant to the Under Secretary for Small Community and Rural Development.
AGR 65 Confidential Assistant to the Director for Congressional and Public Affairs.
AGR 74 Private Secretary to the Deputy Assistant Secretary for Food and Consumer Services.
AGR 75 Private Secretary to the Deputy Under Secretary for Small Community and Rural Development.
AGR 77 Confidential Assistant to the Director, Congressional Affairs.
AGR 80 Confidential Assistant to the Director, Rural Development Policy.
AGR 81 Confidential Assistant to the Administrator, Farmers Home Administration.
AGR 95 Private Secretary to the Director, Rural Development Policy.

AGR 96 Confidential Assistant to the Assistant Secretary for Natural Resources and Environment.
AGR 97 Confidential Assistant to the Secretary.
AGR 102 Special Assistant to the Assistant Secretary for Food and Consumer Services.
AGR 103 Confidential Assistant to the Administrator, Foreign Agricultural Service.
AGR 105 Confidential Assistant to the Director, Congressional and Public Affairs.
AGR 106 Confidential Assistant to the Assistant Secretary for Governmental and Public Affairs.
AGR 108 Private Secretary to the Deputy Under Secretary for International Affairs and Commodity Programs.
AGR 109 Confidential Assistant to the Assistant Secretary for Governmental and Public Affairs.
AGR 111 Confidential Assistant to the Deputy Secretary.
AGR 114 Confidential Assistant to the Assistant Secretary for Governmental and Public Affairs.
AGR 115 Confidential Assistant to the Director, Congressional and Public Affairs.
AGR 117 Confidential Assistant to the Director, Governmental and Public Affairs.
AGR 118 Confidential Assistant to the Assistant Secretary for Governmental and Public Affairs.
AGR 121 Confidential Assistant to the Assistant Secretary for Governmental and Public Affairs.
AGR 128 Private Secretary to the Administrator, Federal Grain Inspection Service.
AGR 129 Private Secretary to the Assistant Secretary for Marketing and Inspection Services.
AGR 130 Private Secretary to the Deputy Assistant Secretary for Marketing and Inspection Services.
AGR 131 Private Secretary to the Deputy Assistant Secretary for Natural Resources and Environment.
AGR 133 Confidential Assistant to the Assistant Secretary for Economics.
AGR 136 Confidential Assistant to the Administrator for Food Safety and Inspection Service.
AGR 139 Confidential Assistant to the Executive Assistant to the Secretary.
AGR 140 Confidential Assistant to the Assistant Secretary for Economics.
AGR 141 Confidential Assistant to the Administrator for Food Safety and Inspection Service.
AGR 143 Confidential Assistant to the Administrator, Agricultural Marketing Service.
AGR 144 Staff Assistant (Typing) to the Administrator, Agricultural Marketing Service.
AGR 152 Deputy General Counsel.
AGR 156 Confidential Assistant to the Administrator, Federal Grain Inspection Service.
AGR 157 Confidential Assistant to the Administrator, Foreign Agricultural Service.
AGR 158 Private Secretary to the Assistant Secretary for Science and Education.
AGR 159 Special Representative for the Administrator, Foreign Agricultural Service.
AGR 160 Confidential Assistant to the Administrator, Foreign Agricultural Service.
AGR 161 Confidential Assistant to the Assistant to the Secretary for Intergovernmental Affairs.
AGR 163 Confidential Assistant to the Secretary.
AGR 164 Confidential Assistant to the Assistant Secretary for Science and Education.
AGR 168 Staff Assistant to the Administrator, Food Safety and Inspection Service.
AGR 169 Private Secretary to the Deputy Assistant Secretary for Economics.
AGR 174 Special Assistant to the Director, Rural Development Policy.
AGR 175 Confidential Assistant to the Assistant to the Secretary for Intergovernmental Affairs.
AGR 177 Special Assistant to the Director of the Office of Transportation.
AGR 180 Staff Assistant to the Administrator, Federal Grain and Inspection Service.
AGR 182 Assistant to the Administrator, Rural Electrification Administration.
AGR 183 Confidential Assistant to the Administrator, Food and Nutrition Service.
AGR 185 Confidential Assistant to the Administrator, Agricultural Stabilization and Conservation Service.
AGR 187 Confidential Assistant to the Assistant Secretary for Food and Consumer Services.
AGR 188 Northeast Area Director, Office of State and County Operations.
AGR 189 Southeast Area Director, Office of State and County Operations.
AGR 191 Northwest Area Director, Office of State and County Operations.
AGR 192 Southwest Area Director, Office of State and County Operations.
AGR 194 Confidential Assistant to the Under Secretary for Small Community and Rural Development.
AGR 195 Administrative Resources Coordinator.
AGR 198 Special Assistant to the Manager, Federal Crop Insurance Corporation.
AGR 199 Secretary (Typing) to the Secretary.
AGR 201 Office Assistant to the Executive Assistant to the Secretary.
AGR 202 Confidential Assistant to the Administrator, Food Safety and Inspection Service.
AGR 204 Confidential Assistant to the Assistant Secretary for Science and Education.
AGR 205 Confidential Assistant to the Administrator, Food and Nutrition Service.
AGR 206 Director, Office of the Consumer Advisor.
AGR 207 Member, Board of Directors, Federal Crop Insurance Corporation.
AGR 208 Members, Board of Directors, Federal Crop Insurance Corporation.
AGR 209 Confidential Assistant to the Chief, Soil Conservation Service.
AGR 210 Staff Assistant to the Administrator, International Cooperation and Development.
AGR 211 Deputy Director for the Office of Transportation.
AGR 212 Special Assistant to the Assistant Secretary for Administration.
AGR 213 Confidential Assistant to the Assistant Secretary for Governmental and Public Affairs.
AGR 215 Special Assistant to the Deputy Assistant Secretary for Administration.
AGR 217 Confidential Assistant to the Manager, Federal Crop Insurance Corporation.
AGR 218 Special Assistant to the Deputy Assistant for Administration.
AGR 220 Private Secretary to the Deputy Assistant Secretary for Administration.
AGR 221 Confidential Assistant to the Director, Office of Equal Opportunity.
AGR 222 Confidential Assistant to the Manager, Federal Crop Insurance Corporation.
AGR 223 Confidential Assistant to the Director, Office of Equal Opportunity.

AGR 224 Director, Congressional and Public Affairs Division.
AGR 226 Confidential Assistant to the Administrator, Food and Nutrition Service.
AGR 227 Private Secretary to the Chief Soil Conservation Service.
AGR 228 Confidential Assistant to the Inspector General.
AGR 229 Secretary (Typing) to the Executive Assistant to the Secretary.
AGR 231 Confidential Assistant to the Assistant Secretary for Governmental and Public Affairs.
AGR 332 Director, Legislative Affairs and Public Information Staff.
AGR 333 Private Secretary to the Special Assistant to the Secretary.
AGR 234 Confidential Assistant to the Administrator, Office of International Cooperation and Development.
AGR 235 Confidential Assistant to the Administrator, Agricultural Marketing Service.
AGR 236 Confidential Assistant to the Administrator (Congressional Affairs), Animal and Plant Health Inspection Service.
AGR 238 Confidential Assistant to the Assistant Secretary for Governmental and Public Affairs.
AGR 239 Deputy Director, Rural Development Policy.
AGR 240 Confidential Assistant to the Administrator, Agricultural Stabilization and Conservation Service.
AGR 241 Staff Assistant to the Assistant Secretary for Administration.
AGR 243 Confidential Assistant to the Assistant Secretary for Governmental and Public Affairs.
AGR 244 Confidential Assistant to the Chief, Soil Conservation Service.
AGR 245 Confidential Assistant to the Administrator, Agricultural Marketing Service.
AGR 246 Confidential Assistant to the Chief, Soil Conservation Service.
AGR 247 Private Secretary to the Inspector General.

Section 213.3314 Department of Commerce.

COM 1 Confidential Assistant to the Secretary.
COM 2 Special Assistant to the Secretary.
COM 3 Confidential Assistant to the Secretary.
COM 4 Confidential Assistant to the Secretary.
COM 5 Confidential Assistant to the Special Assistant to the Secretary.
COM 12 Private Secretary to the Deputy Secretary.
COM 19 Chauffeur for the Secretary.
COM 22 Congressional Liaison Officer to the Assistant Secretary for Congressional Affairs.
COM 42 Secretary (Steno) to the Commissioner, Patent and Trademark Office.
COM 70 Director, Office of Congressional Relations.
COM 73 Congressional Liaison Officer, Economic Development Administration.
COM 87 Private Secretary and Confidential Assistant to the Administrator, National Atomospheric and Oceanic Administration.
COM 89 Private Secretary to the Deputy Administrator, National Oceanic and Atmospheric Administration.
COM 100 Confidential Assistant to the Director, Minority Business Development Agency.
COM 125 Private Secretary to the Assistant Secretary for Congressional Affairs.
COM 151 Private Secretary to the Deputy Secretary.
COM 152 Congressional Liaison Officer.
COM 153 Private Secretary to the Under Secretary for International Economic Affairs.
COM 158 International Tourism Officer, U.S. Travel and Tourism Administration.
COM 160 Confidential Assistant to the Director General, U.S. and Foreign Commercial Services.
COM 161 Confidential Assistant to the Under Secretary for International Trade.
COM 162 Confidential Assistant to the Deputy Assistant Secretary for International Economic Policy.
COM 174 Private Secretary to the Deputy Assistant Secretary for Congressional Affairs.
COM 181 Special Assistant to the Assistant Secretary for Communications and Information.
COM 184 Confidential Assistant to the Director, National Bureau of Standards.
COM 189 Private Secretary to the Associate Administrator, National Oceanic and Atmospheric Administration.
COM 191 Confidential Assistant to the General Counsel.
COM 192 Legislative Director, National Oceanic and Atmospheric Administration.
COM 193 Confidential Assistant to the Deputy Assistant Secretary for Trade Development, International Trade Administration.
COM 194 Special Assistant to the Assistant Administrator, National Oceanic and Atmospheric Administration.
COM 198 Congressional Liaison Officer
COM 200 Congressional Liaison Officer
COM 201 Confidential Liaison Assistant to the Assistant Secretary for Congressional and Intergovernmental Affairs.
COM 202 Congressional Liaison Assistant to the Assistant Secretary for Congressional Affairs.
COM 203 Confidential Liaison Assistant to the Deputy Assistant Secretary for Congressional Operations.
COM 204 Special Assistant to the Associate Administrator, National Oceanic and Atmospheric Administration.
COM 207 Deputy Director, National Oceanic and Atmospheric Administration.
COM 220 Confidential Assistant to the Deputy Assistant Secretary for East Asia and the Pacific, International Trade Administration.
COM 222 Private Secretary to the Inspector General.
COM 236 Special Assistant to the Secretary.
COM 237 Special Assistant to the Under Secretary, International Trade Administration.
COM 244 Private Secretary to the Assistant Secretary, International Trade Administration.
COM 247 Private Secretary to the Under Secretary for International Trade.
COM 248 Special Assistant to the Deputy Secretary.
COM 254 Supervisory Public Affairs Specialist to the Director for Minority Business Development Agency.
COM 259 Confidential Assistant to the Deputy Under Secretary, International Trade Administration.
COM 261 Confidential Assistant to the Assistant Secretary for Trade Development.
COM 262 Confidential Assistant to the Assistant Secretary for Trade Development, International Trade Administration.
COM 263 Confidential Assistant to the Assistant Secretary, International Trade Administration.
COM 265 , Confidential Assistant to the Deputy Assistant Secretary for Export Administration.
COM 270 Secretary (Typing) to the Special Assistant to the Secretary.

COM 273 Confidential Assistant to the Deputy Assistant Secretary for Trade Information and Analysis.
COM 274 Confidential Assistant to the Director, Office of Business Liaison.
COM 284 Special Assistant to the Deputy Assistant Secretary for Intergovernmental Affairs.
COM 287 Congressional Affairs Assistant to the Deputy Assistant Secretary for Congressional Affairs.
COM 288 Confidential Assistant to the Director, Office of Business Liaison.
COM 291 Special Assistant to the Director, Office of Public Affairs.
COM 292 Special Assistant to the Deputy Assistant Secretary for Intergovernmental Affairs.
COM 293 Special Assistant to the Director, Office of Intergovernmental Affairs.
COM 294 Confidential Assistant to the Special Assistant to the Secretary.
COM 296 Confidential Assistant to the Special Assistant to the Secretary.
COM 297 Confidential Assistant to the Assistant Secretary for Administration.
COM 299 Confidential Assistant to the Director, Office of Productivity, Technology and Innovation.
COM 302 Special Assistant to the Director, Office of Public Affairs.
COM 304 Confidential Assistant to the Under Secretary for Travel and Tourism.
COM 305 Private Secretary to the Under Secretary for Travel and Tourism.
COM 306 Congressional Staff Assistant to the Assistant Secretary for Congressional and Intergovernmental Affairs.
COM 307 Special Assistant to the Deputy Assistant Secretary for Export Administration.
COM 308 Confidential Assistant to the Assistant Secretary for Trade Administration.
COM 309 Confidential Assistant to the Director, Minoirty Business Development Agency.
COM 310 Private Secretary to the Deputy Under Secretary, Tourism Administration.
COM 311 Confidential Assistant to the Special Assistant to the Secretary.
COM 312 Confidential Assistant to the Director General of the Foreign Commercial Service.
COM 313 Confidential Assistant to the Special Assistant to the Secretary.
COM 315 Special Assistant to the Deputy Assistant Secretary for Economic Development Administration.
COM 316 Confidential Assistant to the Deputy Assistant Secretary for Trade Information and Analysis.
COM 318 Special Assistant to the Assistant Director for Communications, Bureau of the Census.
COM 319 Special Assistant to the Dputy Assistant Secretary for Import Administration.
COM 320 Confidential Assistant to the Special Assistant to the Secretary.
COM 322 Confidential Assistant to the Director for Productivity, Technology and Innovation.
COM 323 Special Assistant to the Assistant Secretary for Economic Development Administration.
COM 234 Confidential Assistant to the Assistant Secretary for International Economic Policy.
COM 326 Confidential Assistant to the Director General of the Foreign Commercial Service.
COM 327 Special Assistant to the Deputy Secretary.
COM 329 Congressional Liaison Specialist to the Under Secretary, International Trade Administration.
COM 330 Confidential Assistant to the Assistant Secretary for Trade Development.
COM 331 Confidential Assistant to the Assistant Secretary for Tourism Marketing.
COM 332 Confidential Assistant to the Deputy Assistant Secretary for Industry Projects.
COM 335 Confidential Assistant to the Assistant Secretary for Congressional Affairs.
COM 336 Confidential Assistant to the Deputy Assistant Secretary for Export Enforcement.
COM 338 Press Secretary to the Secretary.
COM 339 Confidential Assistant to the Deputy Assistant Secretary for Intergovernmental Affairs.
COM 340 Special Assistant to the Assistant Administrator, National Oceanic and Atmospheric Administration.
COM 342 Confidential Assistant to the Deputy Secretary for Strategic Policy and Planning.
COM 343 Confidential Assistant to the Deputy Assistant Secretary for the U.S. and Foreign Commercial Services.
COM 345 Confidential Assistant to the Under Secretary, International Trade Administration.
COM 346 Confidential Aide to the Special Assistant to the Secretary.
COM 347 Confidential Assistant to the Director, Office of Public Affairs.
COM 348 Special Assistant to the Director, Office of Public Affairs.
COM 349 Confidential Assistant to the Associate Administrator, National Oceanic and Atmospheric Administration.
COM 350 Deputy Director, Office of Business Liaison.
COM 351 Confidential Assistant to the Associate General Counsel for Legislation and Regulation.
COM 354 Special Assistant to the Assistant Secretary for Communications and Information.
COM 356 Confidential Assistant to the Deputy Director, Office of Minoirty Business Development Agency.
COM 357 Confidential Assistant to the Director, Office of Export Trading Company Affairs.
COM 358 Special Assistant to the Deputy Assistant Secretary for Import Administration.
COM 359 Confidential Assistant to the Deputy Assistant Secretary for International Economic Policy.
COM 360 Congressional Liaison Officer to the Under Secretary for Economic Affairs.
COM 361 Special Assistant to the Director, Bureau of Census.
COM 362 Congressional Affairs Specialist to the Director, Office of Congressional Affairs, National Oceanic and Atmospheric Administration.
COM 363 Congressional Affairs Specialist to the Director, Office of Congressional Affairs, National Oceanic and Atmospheric Administration.
COM 367 Confidential Assistant to the Director of Policy and Planning, National Oceanic and Atmospheric Administration.
COM 369 Private Secretary to the Deputy Assistant Secretary for Trade Development, International Trade Administration.
COM 371 Confidential Assistant to the Program Director, National Oceanic and Atmospheric Administration.
COM 372 Deputy Director, Office of Ocean and Coastal Resource Management.
COM 373 Confidential Assistant to the Assistant Secretary for Economic Development.
COM 374 Congressional Liaison Specialist to the Assistant Director for communications Bureau of the Census.
COM 375 Congressional Liaison Officer, Bureau of the Census.

Section 213.3315 Department of Labor

LAB 17 Assistant to the Assistant Secretary for Legislative Affairs.
LAB 24 Staff Assistant to the Deputy Under Secretary for International Affairs.

LAB 25 Assistant to the Deputy Under Secretary for Legislative Affairs.
LAB 35 Special Assistant to the Director, Women's Bureau.
LAB 43 Assistant to the Assistant Secretary, Occupational Safety and Health Administration.
LAB 45 Executive Assistant to the Assistant Secretary, Occupational Safety and Health Administration.
LAB 49 Special Assistant to the Assistant Secretary, Occupational Safety and Health Administration.
LAB 62 Special Assistant to the Assistant Secretary, Occupational Safety and Health Administration.
LAB 64 Special Assistant to the Assistant Secretary, Occupational Safety and Health Administration.
LAB 83 Confidential Assistant to the Administrator for Pension and Welfare Programs.
LAB 91 Private Secretary to the Deputy Under Secretary for Legislation and Intergovernmental Relations.
LAB 92 Special Assistant to the Secretary.
LAB 93 Staff Assistant to the Secretary.
LAB 99 Special Assistant to the Assistant Secretary, Employment and Training Administration.
LAB 100 Executive Assistant to the Deputy Under Secretary for International Affairs.
LAB 104 Regional Representative to the Deputy Under Secretary for Intergovernmental Affairs.
LAB 106 Regional Representative to the Deputy Under Secretary for Intergovernmental Affairs.
LAB 107 Regional Representative to the Deputy Under Secretary for Intergovernmental Affairs.
LAB 108 Regional Representative to the Deputy Under Secretary for Intergovernmental Affairs.
LAB 109 Regional Representative to the Deputy Under Secretary for Intergovernmental Affairs.
LAB 111 Regional Representative to the Deputy Under Secretary for Intergovernmental Relations.
LAB 112 Regional Representative to the Deputy Under Secretary for Intergovernmental Affairs.
LAB 113 Secretary (Typing) to the Regional Representative.
LAB 114 Secretary to the Regional Representative.
LAB 115 Secretary (Typing) to the Regional Representative.
LAB 117 Secretary (Typing) to the Regional Representative.
LAB 118 Secretary to the Regional Representative.
LAB 119 Secretary (Typing) to the Regional Representative.
LAB 120 Secretary (Steno) to the Regional Representative.
LAB 121 Secretary (Typing) to the Regional Representative.
LAB 122 Secretary (Typing) to the Regional Representative.
LAB 123 Special Assistant to the Administrator for Pension and Welfare Benefit Programs.
LAB 126 Special Assistant to the Deputy Under Secretary, Employment Standards Administration.
LAB 127 Staff Assistant to the Director, Office of Workers' Compensation Programs.
LAB 128 Special Assistant to the Assistant Secretary, Employment and Training Administration.
LAB 131 Special Assistant to the Assistant Secretary, Employment and Training Administration.
LAB 132 Assistant to the Deputy Under Secretary for Legislation and Intergovernmental Relations.
LAB 135 Private Secretary to the Commissioner, Bureau of Labor Statistics.
LAB 138 Special Assistant to the Assistant Secretary for Mine Safety and Health Administration.
LAB 139 Special Assistant to the Administrator, Wage and Hour Division.
LAB 141 Staff Assistant to the Director, Office of Worker's Compensation Programs.
LAB 143 Special Assistant to the Assistant Secretary, Employment and Training Administration.
LAB 146 Staff Assistant to the Solicitor.
LAB 154 Assistant to the Deputy Under Secretary for Legislative Affairs.
LAB 159 Special Assistant to the Deputy Under Secretary for International Affairs.
LAB 163 Special Assistant to the Assistant Secretary, Occupational Safety and Health Administration.
LAB 169 Staff Assistant to the Assistant Secretary for Policy, Evaluation and Research.
LAB 179 Executive Assistant to the Deputy Under Secretary, Employment Standards Administration.
LAB 180 Assistant to the Deputy Under Secretary for Legislative Affairs.
LAB 181 Staff Assistant to the Deputy Under Secretary for International Affairs.
LAB 182 Staff Assistant to the Assistant Secretary for Labor Management Relations.
LAB 183 Special Assistant to the Assistant Secretary, Occupational Safety and Health Administration.
LAB 186 Special Assistant to the Director, Womens' Bureau.
LAB 187 Special Assistant to the Assistant Secretary, Employment and Training Administration.
LAB 189 Special Assistant to the Assistant Secretary, Occupational Safety and Health Administration.
LAB 192 Staff Assistant to the Assistant Secretary for Labor Management Relations.
LAB 193 Confidential Staff Assistant to the Assistant Secretary, Employment and Training Administration.
LAB 195 Special Assistant to the Assistant Secretary, Employment and Training Administration.
LAB 197 Staff Assistant to the Deputy Under Secretary for Intergovernmental Affairs.
LAB 199 Research Assistant to the Deputy Under Secretary for Legislation and Intergovernmental Relations.
LAB 203 Special Assistant to the Assistant Secretary for Veterans' Employment.
LAB 204 Staff Assistant to the Deputy Assistant Secretary for Veterans' Employment.
LAB 213 Special Assistant to the Assistant Secretary for Employment and Training.
LAB 216 Secretary (Typing) to the Assistant Secretary for Employment and Training.
LAB 217 Special Assistant to the Deputy Under Secretary for Intergovernmental Affairs.
LAB 218 Secretary to the Secretary of Labor.
LAB 219 Staff Assistant to the Deputy Under Secretary for Intergovernmental Affairs.
LAB 220 Special Assistant to the Director, Office of Information and Public Affairs.
LAB 221 Special Assistant to the Deputy Under Secretary for Intergovernmental Affairs.
LAB 224 Confidential Staff Assistant to the Assistant Secretary for Mine Safety and Health Administration.

Section 213.3316 Department of Health and Human Services.

HHS 11 Confidential Assistant to the Under Secretary.
HHS 14 Special Assistant to the Executive Secretary.
HHS 17 Staff Assistant to the Secretary.
HHS 22 Assistant to the Secretary for Special Programs.
HHS 23 Assistant to the Secretary for Special Programs.
HHS 30 Special Assistant to the Executive Administrative Assistant to the Secretary.

HHS 31 Special Assistant to the Secretary.
HHS 34 Assistant to the Secretary.
HHS 53 Special Assistant to the Assistant Secretary for Legislation.
HHS 62 Special Assistant to the Assistant Secretary for Legislation.
HHS 120 Assistant to the General Counsel.
HHS 128 Special Assistant for Special Groups.
HHS 129 Special Assistant for Special Groups.
HHS 172 Director of Consumer Information.
HHS 173 Director of Organizational Liaison.
HHS 187 Special Assistant to the Deputy Assistant Secretary for Legislation (Health).
HHS 196 Confidential Executive Assistant to the Assistant Secretary for Public Affairs.
HHS 211 Assistant to the Secretary.
HHS 213 Steward to the Secretary.
HHS 220 Confidential Assistant to the Deputy Assistant Secretary for Planning and Evaluation (Health).
HHS 237 Director, Intergovernmental and Congressional Affairs.
HHS 238 Director, Intergovernmental and Congressional Affairs.
HHS 239 Director, Intergovernmental and Congressional Affairs.
HHS 240 Director, Intergovernmental and Congressional Affairs.
HHS 241 Director, Intergovernmental and Congressional Affairs.
HHS 242 Director, Intergovernmental and Congressional Affairs.
HHS 243 Director, Intergovernmental and Congressional Affairs.
HHS 244 Director, Intergovernmental and Congressional Affairs.
HHS 246 Director, Public Affairs.
HHS 248 Director, Public Affairs.
HHS 249 Director, Public Affairs.
HHS 250 Director, Public Affairs.
HHS 251 Director, Public Affairs.
HHS 252 Director, Public Affairs.
HHS 253 Director, Public Affairs.
HHS 254 Director, Public Affairs.
HHS 255 Director, Intergovernmental and Congressional Affairs.
HHS 264 Special Assistant to the Secretary.
HHS 265 Special Assistant to the Secretary.
HHS 268 Special Assistant to the Executive Secretary.
HHS 277 Special Assistant (Special Projects) to the Deputy Under Secretary for Intergovernmental Affairs.
HHS 285 Confidential Assistant to the Secretary.
HHS 289 Confidential Assistant to the Associate Administrator for External Affairs.
HHS 290 Director of Public Affairs, Office of Human Development Services.
HHS 293 Special Assistant to the Commissioner, Administration for Children, Youth and Families.
HHS 295 Confidential Assistant to the Executive Secretary.
HHS 305 Special Assistant to the Deputy Under Secretary for Intergovernmental Affairs.
HHS 306 Special Assistant to the Director, Office of Program Coordination and Review.
HHS 307 Deputy Director to the Director, Office of Congressional Liaison.
HHS 316 Associate Commissioner, Office of Developmental Services.
HHS 318 Confidential Assistant to the Executive Assistant to the Secretary.
HHS 332 Special Assistant to the Assistant Secretary for Human Development Services.
HHS 336 Special Assistant to the Deputy Assistant Secretary, Office of Legislation (Welfare).
HHS 339 Confidential Assistant to the Deputy Assistant Secretary, Office of Legislation.
HHS 345 Congressional Liaison Specialist to the Assistant Secretary, Office of Legislation.
HHS 354 Associate Commissioner, Office of Services for Children and Youth.
HHS 359 Congressional Liaison Specialist to the Deputy Assistant Secretary, Office of Legislation.
HHS 361 Congressional Liaison Specialist to the Deputy Assistant Secretary, Office of Legislation.
HHS 362 Secretary (Steno) to the Assistant Secretary for Human Development Services.
HHS 365 Special Assistant to the Administrator, Office of External Affairs.
HHS 366 Special Assistant to the Inspector General.
HHS 367 Confidential Assistant to the Associate Commissioner, Officer of Governmental Affairs.
HHS 368 Director, Office of Intergovernmental Affairs, Health Care Financing Administration.
HHS 370 Confidential Assistant to the Associate Administrator for External Affairs, Health Care Administration.
HHS 371 Confidential Assistant to the Executive Assistant to the Secretary.
HHS 372 Special Assistant to the Director, Office of Program Coordination and Review.
HHS 373 Confidential Assistant to the Executive Secretary.
HHS 376 Confidential Secretary to the Regional Director.
HHS 377 Special Assistant to the Deputy Under Secretary for Intergovernmental Affairs.
HHS 380 Confidential Assistant to the Executive Assistant.
HHS 382 Associate Commissioner, Office for Families, Administration for Children, Youth and Families.
HHS 383 Special Assistant to the Assistant Secretary for Public Affairs.
HHS 386 Confidential Secretary to the Chief of Staff.
HHS 387 Confidential Assistant to the General Counsel.
HHS 389 Special Assistant to the Director, Office of Program Coordination and Review.
HHS 391 Confidential Staff Assistant to the Assistant Secretary for Public Affairs.
HHS 392 Confidential Staff Assistant to the Assistant Secretary for Planning and Evaluation.
HHS 393 Special Assistant to the Director, Office of Community Services.
HHS 394 Confidential Assistant to the Executive Secretary.
HHS 395 Special Assistant to the Director, Office of Community Services.
HHS 397 Special Assistant for Block Grants to the Director, Office of State and Project Assistance.
HHS 398 Confidential Staff Assistant to the Chief of Staff.
HHS 399 Special Assistant to the Assistant Secretary for Human Development Services.
HHS 400 External Affairs Specialist to the Director, Office of Community Services.
HHS 405 Executive Assistant to the Administrator, Alcohol, Drug Abuse and Mental Health Administration.
HHS 406 Special Assistant to the Assistant Secretary.
HHS 407 Special Assistant to the Commissioner, Office of Human Development.
HHS 408 Confidential Assistant to the Director, Office of Community Services.
HHS 411 Confidential Assistant to the Associate Commissioner for Governmental Affairs.
HHS 412 Special Assistant to the Regional Director.
HHS 415 Confidential Assistant to the Secretary.
HHS 416 Confidential Assistant to the Administrator, Alcohol, Drug Abuse and Mental Health Administration.
HHS 417 Special Assistant to the Regional Director.

HHS 418 Confidential Staff Assistant to the Chief of Staff.
HHS 419 Confidential Assistant to the Secretary.
HHS 20 Confidental Assistant to the Associate Administrator for Operations.
HHS 421 Confidential Staff Assistant to the Executive Secretary.
HHS 423 Special Assistant to the Associate Commissioner, Administration for Children, Youth and Families.
HHS 424 Staff Assistant to the Secretary.
HHS 425 Special Assistant to the Senior Advisor to the Secretary.
HHS 426 Director, Office of Legislation and Policy.
HHS 427 Executive Director, President's Committee on Mental Retardation.
HHS 428 Confidential Staff Assistant to the Senior Advisor to the Secretary.
HHS 429 Confidential Staff Assistant to the Secretary.
HHS 430 Director, Office of Intergovernmental Communications.
HHS 431 Confidential Staff Assistant to the Deputy Assistant Secretary for Public Affairs.

Section 213.3317 Department of Education.

EDU 3 Personal Assistant to the Secretary.
EDU 5 Confidential Assistant to the Under Secretary.
EDU 6 Confidential Assistant to the Executive Secretary.
EDU 9 Special Assistant to the Assistant Secretary, Office of Elementary and Secondary Education.
EDU 11 Personal Assistant to the Assistant Secretary, Office of Educational Research and Improvement.
EDU 14 Special Assistant to the Deputy Under Secretary for Management.
EDU 15 Special Assistant to the Deputy Under Secretary for Management.
EDU 18 Attorney-Advisor to the General Counsel.
EDU 20 Steward.
EDU 21 Confidential Assistant to the Assistant Secretary for Legislation and Public Affairs.
EDU 23 Personal Assistant to the Executive Assistant for Private Education.
EDU 29 Special Assistant to the Executive Assistant.
EDU 31 Special Assistant to the Deputy Assistant Secretary for policy.
EDU 33 Executive Assistant to the Assistant Secretary for Elementary and Secondary Education.
EDU 37 Special Assistant to the Secretary.
EDU 40 Confidential Assistant to the Executive Assistant.
EDU 46 Special Assistant to the Assistant Secretary for Vocational and Adult Education.
EDU 49 Confidential Assistant to the Deputy Assistant Secretary, Office of Legislation and Public Affairs.
EDU 51 Special Assistant to the Deputy Under Secretary for Intergovernmental and Interagency Affairs.
EDU 52 Special Assistant to the Under Secretary.
EDU 54 Confidential Assistant to the Executive Assistant.
EDU 55 Special Assistant to the Director, Intergovernmental Affairs Staff.
EDU 57 Speechwriter to the Secretary.
EDU 65 Special Assistant to the Under Secretary.
EDU 66 Special Assistant to the Secretary.
EDU 68 Confidential Assistant to the Deputy Under Secretary for Management.
EDU 70 Confidential Assistant to the Director, Intergovernmental Affairs Staff.
EDU 72 Special Assistant to the Assistant Secretary, Office of Legislation and Public Affairs.
EDU 82 Special Assistant to the Deputy Under Secretary, Office of Planning, Budget and Evaluation.
EDU 83 Special Assistant to the Deputy Under Secretary, Office of Planning Budget and Evaluation.
EDU 85 Executive Assistant to the Assistant Secretary for Special Education and Rehabilitative Services.
EDU 86 Confidential Assistant to the Assistant Secretary for Special Education and Rehabilitative Services.
EDU 88 Special Assistant to the Assistant Secretary for Elementary and Secondary Education.
EDU 89 Special Assistant to the Assistant Secretary for Elementary and Secondary Education.
EDU 90 Special Assistant to the Assistant Secretary for Vocational and Adult Education.
EDU 91 Special Assistant to the Assistant Secretary for Vocational and Adult Education.
EDU 94 Confidential Assistant to the Assistant Secretary for Postsecondary Education.
EDU 97 Executive Assistant to the Assistant Secretary, Office of Educational Research Improvement.
EDU 98 Special Assistant to the Director, National Institute of Education.
EDU 100 Confidential Assistant to the Deputy Under Secretary for Management.
EDU 103 Special Assistant to the Commissioner, Rehabilitation Services Administration.
EDU 104 Special Assistant to the Assistant Secretary, Office of Special Education and Rehabilitative Services.
EDU 105 Secretary to the Regional Representative.
EDU 106 Secretary's Regional Representative.
EDU 107 Secretary's Regional Representative.
EDU 108 Secretary's Regional Representative.
EDU 111 Secretary's Regional Representative.
EDU 112 Special Assistant to the Assistant Secretary, Office of Educational Research and Improvement.
EDU 116 Special Assistant to the Assistant Secretary, Office of Postsecondary Education.
EDU 120 Director, Office of Editorial Services.
EDU 121 Special Assistant to the Commissioner, Rehabilitation Services Administration.
EDU 123 Special Assistant to the Deputy Under Secretary for Intergovernmental and Interagency Affairs.
EDU 124 Secretary's Regional Representative.
EDU 125 Special Assistant to the Deputy Under Secretary for Intergovernmental and Interagency Affairs.
EDU 127 Special Assistant to the Secretary.
EDU 128 Confidential Assistant to the Deputy Under Secretary for Management.
EDU 131 Secretary's Regional Representative.
EDU 132 Confidential Assistant to the Deputy Under Secretary for Management.
EDU 133 Special Assistant to the Deputy Under Secretary for Planning, Budget and Evaluation.
EDU 134 Confidential Assistant to the Deputy Under Secretary for Management.
EDU 135 Confidential Assistant to the Director, National Institute of Education.

EDU 136 Confidential Assistant to the Director, Bilingual Education and Minority Languages Affairs.
EDU 137 Special Assistant to the Comptroller, Office of the Deputy Under Secretary for Management.
EDU 140 Special Assistant to the Deputy Assistant Secretary for Operations, Office of Civil Rights.
EDU 142 Special Assistant to the Deputy Assistant Secretary for Operations, Office of Civil Rights.
EDU 143 Confidential Assistant to the Counselor/Executive Assistant to the Secretary.
EDU 144 Special Assistant to the Comptroller, Office of the Deputy Under Secretary for Management.
EDU 145 Special Assistant to the Deputy Under Secretary for Management.
EDU 146 Special Assistant to the Deputy Assistant Secretary for Special Education and Rehabilitative Services.
EDU 147 Secretary's Regional Representative.
EDU 148 Executive Assistant to the Deputy Under Secretary for Management.
EDU 149 Special Assistant to the Under Secretary.
EDU 150 Special Assistant to the Deputy Assistant Secretary for Special Education and Rehabilitative Services.
EDU 153 Special Assistant to the Director, Intergovernmental Affairs Staff.
EDU 154 Executive Director, Intergovernmental Advisory Council on Education.
EDU 155 Special Assistant to the Under Secretary.
EDU 156 Special Assistant to the Director, Bilingual Education and Minority Languages Affairs.
EDU 157 Personal Assistant to the Deputy Under Secretary for Management.
EDU 158 Confidential Assistant to the Deputy Under Secretary for Intergovernmental and Interagency Affairs.
EDU 159 Confidential Assistant to the Assistant Secretary, Postsecondary Education.
EDU 160 Special Assistant to the Director, Postsecondary Relations Staff.
EDU 161 Special Assistant to the Deputy Assistant Secretary for Higher Education Programs.
EDU 164 Special Counsel to the Under Secretary.
EDU 165 Legislative Liaison to the Assistant Secretary, Office of Legislation and Public Affairs.
EDU 166 Special Assistant to the Assistant Secretary, Office of Vocational and Adult Education.
EDU 167 Director, Operations Support Services.
EDU 168 Confidential Assistant to the Associate Deputy Under Secretary for Planning, Budget and Evaluation.
EDU 169 Special Assistant to the Under Secretary.
EDU 170 Deputy Commissioner, Rehabilitative Services Administration.
EDU 172 Legislative Liaison to the Director, Legislative Liaison Staff.
EDU 174 Confidential Assistant to the Assistant Secretary, Office of Legislative and Public Affairs.
EDU 176 Confidential Assistant to the Assistant Secretary for Special Education and Rehabilitative Services.
EDU 178 Personal Assistant to the Deputy Under Secretary for Intergovernmental and Interagency Affairs.
EDU 179 Special Assistant to the Executive Assistant to the Secretary for Private Education.
EDU 180 Confidential Assistant to the Counselor/Executive Assistant to the Secretary.
EDU 181 Deputy Director, Postsecondary Relations Staff.
EDU 182 Special Assistant to the Director of Regional Liaison.
EDU 183 Deputy Director, Regional Liaison Staff.
EDU 184 Confidential Assistant to the Director, National Institute of Education.
EDU 185 Staff Assistant to the Secretary's Regional Representative.

Section 213.3318 Environmental Protection Agency.

EPA 50 Program Advisor to the Administrator.
EPA 54 Congressional Liaison Specialist to the Director, Office of Congressional Liaison.
EPA 55 Special Assistant to the Administrator.
EPA 61 Special Assistant to the Assistant Administrator for Special Administration and Resource Management.
EPA 63 Special Assistant to the General Counsel.
EPA 65 Special Assistant to the Inspector General.
EPA 69 Deputy Director, Office of Congressional Liaison.
EPA 71 Assistant Director for Local Affairs to the Director, Office of Intergovernmental Liaison.
EPA 72 Congressional Relations Specialist to the Deputy Director, Office of Congressional Liaison.
EPA 75 Congressional Relations Officer to the Deputy Director, Office of Congressional Liaison.
EPA 81 Special Assistant to the Assistant Administrator for Solid Waste and Emergency Response.
EPA 82 Special Assistant for Regulatory Affairs to the Director, Office of Federal Activities.
EPA 88 Special Assistant to the Associate Administrator for Policy and Resources Management.
EPA 89 Special Assistant to the Assistant Administrator for Solid Waste and Emergency Response.
EPA 91 Local Affairs Specialist to the Director, Office of Intrgovernmental Liaison.
EPA 93 Staff Assistant to the Executive Assistant to the Administrator.
EPA 95 Special Assistant to the Administrator.
EPA 97 Special Assistant to the Director, Office of Public Affairs.
EPA 100 Confidential Assistant to the Associate Administrator.
EPA 101 External Affairs Specialist to the Administrator.
EPA 102 Staff Assistant to the Executive Assistant to the Administrator.
EPA 103 Staff Assistant to the Assistant Administrator for External Affairs.
EPA 104 Confidential Assistant to the General Counsel.
EPA 105 Special Assistant to the Assistant Administrator for Policy, Planning and Evaluation.

Section 213.3319 Administrative Conference of the United States

ACUS 2 Confidental Assistant to the Chairman.

Section 213.3320 Inter-American Foundation.

IAF 9 Confidential Assistant (Vice President for Program) to the President.
IAF 13 Confidential Assistant (Vice President for Research and Planning) to the President.
IAF 14 Special to the President.

Section 213.3322 Interstate Commerce Commission.

ICC 1 Confidential Assistant to a Commissioner.
ICC 2 Confidential Assistant to a Commissioner.
ICC 4 Secretary (Typing) to the Chairman.

ICC 8 Confidential Assistant to the Chairman.
ICC 8 Confidential Assistant to a Commissioner.
ICC 18 Information Officer to the Chairman.
ICC 19 Staff Advisor (Transportation) to a Commissioner.
ICC 22 Staff Advisor (Economics) to a Commissioner.
ICC 24 Staff Advisor (Economics) to a Commissioner.
ICC 40 Staff Advisor (Economics) to the Managing Director.
ICC 41 Staff Advisor (Transportation) to the Director.
ICC 42 Staff Advisor (Editorial) to the Chairman.

Section 213.3323 Overseas Private Investment Corporation.

OPIC 1 Chauffeur to the President.
OPIC 19 Secretary (Steno) to the Executive Vice President.
OPIC 21 Assistant to the Executive Vice President.

Section 213.3325 The Tax Court of the United States.

TCOUS 16 Attorney-Advisor to the Judge.
TCOUS 19 Attorney-Advisor to the Judge.
TCOUS 20 Attorney-Advisor to the Judge.
TCOUS 21 Attorney-Advisor to the Judge.
TCOUS 22 Attorney-Advisor to the Judge.
TCOUS 23 Attorney-Advisor to the Judge.
TCOUS 24 Attorney-Advisor to the Judge.
TCOUS 25 Attorney-Advisor to the Judge.
TCOUS 29 Attorney-Advisor to the Judge.
TCOUS 32 Attorney-Advisor to the Judge.
TCOUS 33 Attorney-Advisor to the Judge.
TCOUS 40 Secretary and Confidential Assistant to the Judge.
TCOUS 41 Secretary and Confidential Assistant to the Judge.
TCOUS 42 Secretary and Confidential Assistant to the Judge.
TCOUS 43 Secretary and Confidential Assistant to the Judge.
TCOUS 44 Secretary to the Judge.
TCOUS 45 Secretary and Confidential Assistant to the Judge.
TCOUS 46 Secretary and Confidential Assistant to the Judge.
TCOUS 47 Secretary and Confidential Assistant to the Judge.
TCOUS 48 Secretary and Confidential Assistant to the Judge.
TCOUS 49 Secretary and Confidential Assistant to the Judge.
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TCOUS 62 Secretary and Confidential Assistant to the Judge.
TCOUS 63 Secretary and Confidential Assistant to the Judge.
TCOUS 64 Secretary and Confidential Assistant to the Judge.

Section 213.3327 Veterans Administration

VA 5 Confidential Assistant to the Associate Deputy Administrator for Logistics.
VA 11 Confidential Assistant to the Administrator of Veterans Affairs.
VA 15 Confidential Assistant to the Administrator.
VA 30 Confidential Assistant to the Director, Intergovernmental Affairs.
VA 31 Confidential Assistant to the Associate Deputy Administrator for Congressional and Public Affairs.
VA 32 Confidential Assistant to the Associate Deputy Administrator for Logistics.
VA 34 Confidential Assistant to the Associate Deputy Administrator for Congressional and Public Affairs.
VA 36 Confidential Assistant to the Director, Congressional Affairs Staff.
VA 39 Special Assistant to the Administrator.
VA 40 Confidential Assistant to the Associate Deputy Administrator for Congressional and Intergovernmental Affairs.

Section 213.3328 U.S. Information Agency.

USIA 2 Special Assistant to Director.
USIA 12 Special Assistant (Congressional Relations) to the General Counsel.
USIA 14 Special Assistant to the Associate Director for Programs.
USIA 21 Special Assistant to the Director.
USIA 22 Director, New York Foreign Press Center.
USIA 25 Counselor for Press and Public Affairs to the Associate Director for Programs.
USIA 29 Assistant Counselor for Press and Public Affairs.
USIA 30 Staff Assistant to the Director.
USIA 33 Staff Assistant to the Director, Office of Public Liaison.
USIA 34 Special Assistant to the Director, Private Sector Program.
USIA 37 Staff Assistant to the Special Assistant, Private Sector Liaison.
USIA 40 Staff Specialist to the Special Assistant, Private Sector Liaison.
USIA 41 Staff Specialist to the Special Assistant, Private Sector Liaison.
USIA 42 Secretary (Typing) to the Associate Director for Management.
USIA 45 Special Assistant to the Associate Director for Programs.
USIA 47 Special Assistant (Congressional Relations) to the General Counsel.
USIA 56 Staff Specialist to the Director, Office of Private Sector Liaison.
USIA 57 Special Assistant to the Associate Director for Educational and Cultural Affairs.
USIA 59 Staff Assistant to the Deputy Director.
USIA 61 Special Assistant to the General Counsel.
USIA 62 Special Assistant to the Associate Director for Broadcasting.
USIA 63 Special Assistant to the Director of Public Liaison.
USIA 64 Staff Assistant to the Director of Public Liaison.
USIA 65 Special Assistant (Cultural Centers and Resources) to the Associate Director for Educational and Cultural Affairs.
USIA 67 Special Assistant to the Associate Director for Educational and Cultural Affairs.
USIA 70 Special Assistant to the General Counsel.
USIA 73 Special Assistant to the Associate Director for Educational and Cultural Affairs.
USIA 77 Special Assistant to the Associate Director for Management.
USIA 79 Special Projects Officer to the Associate Director for Broadcasting.
USIA 80 Special Assistant (Media Relations) to the Director, Office of Public Liaison.
USIA 81 Special Assistant to the Associate Director for programs.
USIA 82 Special Assistant to the Associate Director for Management.
USIA 85 Special Assistant to the Director of Research.

Section 213.3330 Securities and Exchange Commission.

SEC 2 Executive Aide (Typing) to the Executive Assistant to the Chairman.
SEC 3 Confidential Assistant to the Commissioner.
SEC 5 Confidential Assistant to the Commissioner.
SEC 6 Confidential Assistant to the Commissioner.
SEC 8 Secretary (Steno) to the Chief Accountant.
SEC 9 Secretary to the General Counsel.
SEC 11 Confidential Assistant to the Chairman.
SEC 12 Public Information Officer to the Chairman.
SEC 15 Secretary (Steno) to the Director, Market Regulation Division.
SEC 16 Secretary (Steno) to the Director.
SEC 18 Secretary (Typing) to the Director of Investment Management.
SEC 21 Confidential Adviser on Corporate Practices to the Director, Division of Enforcement.

Section 213.3331 Department of Energy.

DOE 2 Confidential Assistant (Secretary) to the Secretary.
DOE 5 Confidential Assistant (Secretary) to the Deputy Secretary.
DOE 7 Secretary (Confidential Assistant) to the Under Secretary.
DOE 8 Staff Assistant to the Executive Assistant to the Secretary.
DOE 11 Private Secretary to a Member, Federal Energy Regulatory Commission.
DOE 12 Private Secretary to a Member, Federal Energy Regulatory Commission.
DOE 15 Confidential Assistant (Secretary) to the Administrator, Energy Information Administration.
DOE 17 Confidential Assistant (Secretary) to the Inspector General.
DOE 19 Confidential Assistant (Secretary) to the Director, Energy Research.
DOE 38 Staff Assistant to the Assistant Secretary for Conservation and Renewable Energy.
DOE 40 Legal Advisor to a Member of the Commission, Federal Energy Regulatory Commission.
DOE 41 Legal Advisor to a Member of the Commission, Federal Energy Regulatory Commission.
DOE 43 Legal Advisor to a Member of the Commission, Federal Energy Regulatory Commission.
DOE 48 Attorney-Advisor to the Chairman, Federal Energy Regulatory Commission.
DOE 49 Legal Advisor to a Member of the Commission, Federal Energy Regulatory Commission.
DOE 51 Attorney-Advisory (Public Utilities) to the Chairman, Federal Energy Regulatory Commission.
DOE 52 Staff Assistant to the Assistant Secretary for International Affairs.
DOE 55 Staff Assistant to the Special Assistant to the Secretary.
DOE 59 Staff Assistant to the Director, Office of Energy Research.
DOE 60 Confidential Assistant to a Member of the Commission, Federal Energy Regulatory Commission.
DOE 68 Confidential Assistant to a Member of the Commission, Federal Energy Regulatory Commission.
DOE 69 Staff Assistant (Legislative Affairs) to the Assistant to the Secretary for Legislative Affairs.
DOE 73 Legal Advisor to a Member of the Commission, Federal Energy Regulatory Commission.
DOE 74 Staff Assistant to the General Counsel.
DOE 75 Legal Advisor to a Member of the Commission, Federal Energy Regulatory Commission.
DOE 77 Staff Assistant to the Administrative Assistant to the Secretary and Chief of Staff.
DOE 87 Staff Assistant to the Assistant Secretary for Fossil Energy.
DOE 103 Attorney-Advisor to the Chairman, Federal Energy Regulatory Commission.
DOE 105 Confidential Assistant to a Member, Federal Energy Regulatory Commission.
DOE 106 Confidential Assistant to a member of the Commission, Federal Energy Regulatory Commission.
DOE 109 Private Secretary to a Member of the Commission, Federal Energy Regulatory Commission.
DOE 110 Private Secretary to a Member of the Commission, Federal Energy Regulatory Commission.
DOE 111 Private Secretary to the Chairman, Federal Energy Regulatory Commission.
DOE 112 Private Secretary to the Chairman, Federal Energy Regulatory Commission.
DOE 114 Special Assistant to the Administrator, Bonneville Power Administration.
DOE 171 Special Assistant to the Assistant Secretary for Conservation and Renewable Energy.
DOE 172 Staff Assistant to the Assistant Secretary for Conservation and Renewable Energy.
DOE 174 Special Assistant to the Assistant Secretary for Environmental Protection, Safety, and Emergency Preparedness.
DOE 178 Legislative Affairs Specialist to the Deputy Assistant Secretary for Congressional Affairs.
DOE 182 Staff Assistant to the Assistant Secretary for Congressional, Intergovernmental and Public Affairs.
DOE 185 Confidential Assistant (Secretary) to the Manager, Congressional Liaison Staff.
DOE 189 Staff Assistant to the General Counsel.
DOE 190 Staff Assistant to the Secretary.
DOE 192 Staff Assistant to the Special Assistant, Office of Programs and Policy.
DOE 195 Special Assistant to the Director, Minority Economic Impact.
DOE 197 Director, Division of Congressional Liaison, Federal Energy Regulatory Commission.
DOE 206 Executive Assistant to the Director, Office of Energy Research.
DOE 213 Senate Liaison Specialist to the Deputy Assistant Secretary for Senate Liaison.
DOE 225 Advisor to a Member of the Commission, Federal Energy Regulatory Commission.
DOE 228 Advisor to a Member of the Commission, Federal Energy Regulatory Commission.
DOE 229 Deputy Assistant Secretary for Senate Liaison.
DOE 230 Staff Assistant to the Special Assistant to the Secretary for Programs and Polices.
DOE 231 Staff Assistant to the Assistant Secretary for Congressional, Intergovernmental and Public Affairs.
DOE 234 Director, Office of Public Affairs.
DOE 235 Staff Assistant to the Director, Office of Policy Planning and Analysis.
DOE 237 Staff Assistant to the Special Assistant to the Secretary for Programs and Policies.
DOE 238 Staff Assistant to the Assistant Secretary for Conservation and Renewable Energy.
DOE 239 Staff Assistant to the Special Assistant to the Secretary for Programs and Policies.
DOE 242 Staff Assistant to the Special Assistant to the Secretary.
DOE 243 Staff Assistant to the Assistant Secretary for International Affairs.

DOE 244 Director, Office of Consumer Affairs.
DOE 245 Staff Assistant to the Assistant Secretary for Congressional, Intergovernmental and Public Affairs.
DOE 246 Staff Assistant to the Assistant Secretary for Conservation and Renewable Energy.
DOE 248 Confidential Assistant to the Chairman, Federal Energy Regulatory Commission.
DOE 249 Special Assistant to the Administrator, Economic Regulatory Administration.
DOE 251 Intergovernmental Affairs Specialist to the Director of Intergovernment Affairs.
DOE 254 Staff Assistant to the Special Assistant to the Secretary.
DOE 255 Attorney-Advisor (Assistant) to the Chairman, Federal Energy Regulatory Commission.
DOE 256 Confidential Assistant to the General Counsel, Federal Energy Regulatory Commission.
DOE 258 Research Assistant to the Special Assistant to the Secretary for Programs and Policies.
DOE 259 Private Secretary to the Chairman, Federal Energy Regulatory Commission.
DOE 263 Staff Assistant to the Assistant Secretary for Management and Administration.
DOE 264 Staff Assistant to the Administrator, Energy Information Administration.
DOE 265 Special Assistant to the Secretary.
DOE 267 Staff Assistant to the Director, Office of Minority Economic Impact.
DOE 268 Secretary (Confidential Assistant) to the Assistant Secretary for Management and Administration.
DOE 269 Intergovernmental Affairs Specialist to the Principle Deputy Assistant Secretary.
DOE 270 Public Affairs Specialist to the Director, Office of Public Affairs.
DOE 271 Staff Assistant to the General Counsel.
DOE 272 Secretarial Assistant (Typing) to the Special Assistant to the Secretary for Programs and Policies.
DOE 274 Secretary (Confidential Assistant) to the Special Assistant to the Secretary.
DOE 275 Secretary (Confidential Assistant) to the Under Secretary.
DOE 276 Secretary (Confidential Assistant) to the Executive Assistant to the Secretary.
DOE 278 Deputy Director, Office of Policy and Management.

Section 213.3332 Small Business Administration.

SBA 11 Deputy Assistant Administrator for Congressional and Legislative Affairs.
SBA 18 Special Assistant to the Administrator.
SBA 30 Special Assistant to the Associate Administrator for Minority Small Business and Capital Ownership Development.
SBA 35 Special Assistant to the Associate Administrator for Minority Small Business and Capital Ownership Development.
SBA 48 Special Assistant to the Assistant Administrator for Congressional and Legislative Affairs.
SBA 52 Special Assistant to the Administrator.
SBA 54 Special Assistant to the Assistant Administrator for Public Communications.
SBA 58 Confidential Assistant to the Chief of Staff.
SBA 59 Director of Information Services.
SBA 64 Special Assistant to the Regional Administrator.
SBA 65 Special Assistant to the Regional Administrator.
SBA 66 Special Assistant to the Regional Administrator.
SBA 68 Confidential Assistant to the Regional Administrator.
SBA 69 Special Assistant to the Regional Administrator.
SBA 70 Special Assistant to the Regional Administrator.
SBA 71 Assistant to the Regional Administrator.
SBA 72 Special Assistant to the Regional Administrator.
SBA 73 Special Assistant to the Regional Administrator.
SBA 76 Special Assistant to the Director of Women's Business Ownership.
SBA 90 Confidential Program Assistant to the Administrator.
SBA 91 Speical Assistant to the Assistant Administrator for Public Communication.
SBA 92 Staff Assistant to the Administrator.
SBA 95 Special Assistant to the Administrator.
SBA 97 Confidential Assistant to the General Counsel.
SBA 98 Staff Assistant to the Administrator
SBA 99 Special Assistant to the Regional Administrator.
SBA 100 Special Assistant to the Regional Administrator.
SBA 101 Special Assistant to the Associate Deputy Administrator for Management and Administration.
SBA 103 Confidential Assistant to the Administrator.
SBA 104 Special Assistant to the Associate Deputy Administrator for Special Programs.
SBA 105 Special Assistant to the Administrator.
SBA 107 Confidential Assistant to the Associate Deputy Administrator for Special Programs.
SBA 108 Director, Office of Public Affairs.
SBA 111 Special Assistant to the Director of Women's Business Ownership.
SBA 112 Special Assistant to the Deputy Administrator.
SBA 113 Director, Executive Secretariat.
SBA 115 Special Assistant to the Regional Administrator.
SBA 117 Staff Assistant to the Director of Women's Business Ownership.
SBA 118 Staff Assistant to the Director of Women's Business Ownership.
SBA 119 Confidential Assistant to the Regional Administrator.
SBA 120 Staff Assistant to the Assistant Administrator for Public Communications.
SBA 121 Special Assistant to the Regional Administrator.
SBA 122 Special Assistant to the Regional Administrator.
SBA 123 Special Assistant to the Regional Administrator.

Section 213.3333 Federal Deposit Insurance Corporation.

FDIC 2 Secretary to the Members.
FDIC 7 Special Assistant to the Director, Congressional Liaison Staff.

Section 213.3334 Federal Trade Commission.

FTC 5 Staff Assistant to a Commissioner.
FTC 6 Director, Office of Congressional Relations.
FTC 8 Special Assistant (Economic Adviser) to a Commissioner.

Section 213.3337 General Services Administration.

GSA 24 Special Assistant to the Commissioner.
GSA 79 Confidential Assistant to the Regional Administrator.
GSA 81 Special Assistant to the Director of Organization and Personnel.
GSA 82 Confidential Assistant to the Director of Public Affairs.
GSA 87 Confidential Assistant to the Regional Administrator.

GSA 88 Confidential Assistant to the Regional Administrator.
GSA 89 Confidential Assistant to the Director of Congressional Affairs.
GSA 90 Special Assistant to the Director of Congressional Affairs.
GSA 91 Confidential Assistant to the Commissioner, Public Building Service.
GSA 99 Confidential Assistant to the Regional Administrator.
GSA 100 Director of Executive Secretariat.
GSA 106 Special Assistant to the Director, Office of Communications.
GSA 108 Chief of Staff.
GSA 110 Special Assistant to the Director of Communications.
GSA 112 Director, Office of Program Initiatives.

Section 213.3338 Federal Communications Commission.

FCC 9 Communications Analyst to the Administrative Assistant to the Chairman.
FCC 10 Legislative Affairs Officer to the General Counsel.
FCC 11 Special Assistant to the Director of Public Affairs.
FCC 12 Confidential Staff Assistant to the Managing Director.

Section 213.3339 U.S. International Trade Commission.

ITC 1 Confidential Assistant to a Commissioner.
ITC 3 Staff Assistant (Economics) to a Commissioner.
ITC 5 Confidential Assistant to the Chairman.
ITC 6 Staff Assistant (Economics) to a Commissioner.
ITC 7 Staff Assistant (Economics) to a Commissioner.
ITC 12 Staff Assistant (Economics) to a Commissioner.
ITC 13 Staff Assistant (Legal) to the Chairman.
ITC 14 Confidential Assistant to a Commissioner.
ITC 17 Staff Assistant (Legal) to a Commissioner.
ITC 18 Confidential Assistant to a Commissioner.
ITC 19 Staff Assistant (Economics) to a Commissioner.
ITC 20 Staff Assistant (Legal) to a Commissioner.
ITC 22 Staff Assistant (Legal) to a Commissioner.
ITC 27 Congressional Liaison for the Chairman.
ITC 30 Confidential Assistant to a Commissioner.
ITC 31 Staff Assistant (Economics) to a Commissioner.
ITC 32 Staff Assistant (Economics) to a Commissioner.
ITC 33 Staff Assistant to the Chairman.

Section 213.3340 Civil Aeronautics Board.

CAB 10 Congressional Relations Representative to the Director.
CAB 13 Community Relations Representative to the Director.
CAB 18 Community Relations Representative to the Director.

Section 213.3341 National Labor Relation Board.

NLRB 2 Confidential Assistant to the Chairman.
NLRB 3 Confidential Assistant to a Member.
NLRB 5 Confidential Assistant to a Board Member.
NLRB 6 Confidential Assistant to a Board Member.

Section 213.3342 Export-Import Bank of the United States.

EXIM 1 Confidential Assistant to the President and Chairman.
EXIM 3 Private Secretary to the Director.
EXIM 4 Private Secretary to the Director.
EXIM 5 Private Secretary to the Director.
EXIM 12 Secretary (Steno) to the Senior Vice President.
EXIM 15 Secretary (Typing) to the President and Chairman.
EXIM 16 Administrative Assistant to the General Counsel.
EXIM 24 Secretary (Steno) to the Senior Vice President-Director for Credits and Financial Guarantees.
EXIM 26 Assistant to the President and Chairman.
EXIM 29 Special Assistant to the President and Chairman.
EXIM 31 Deputy Vice President for Public Affairs.
EXIM 34 Special Assistant to the Vice President and Vice Chairman for Small Business.

Section 213.3344 Occupational Safety and Health Review Commission.

OSHRC 2 Special Assistant to the Chairman
OSHRC 6 Confidential Assistant to a Commissioner.

Section 213.3348 National Aeronautics and Space Administration.

NASA 1 Secretary (Steno) to the Administrator.

Section 213.3351 Federal Mine Safety and Health Review Commission.

FM 1 Secretary (Steno) to a Commissioner.
FM 2 Secretary (Typing) to a Commissioner.
FM 4 Confidential Secretary to a Commissioner.
FM 5 Confidential Secretary to the Chairman.
FM 6 Attorney-Adviser (General) to the Chairman.
FM 7 Attorney-Adviser (General) to a Commissioner.
FM 8 Attorney-Adviser (General) to a Commissioner.
FM 9 Attorney-Adviser (General) to a Commissioner.
FM 10 Attorney-Adviser (General) to a Commissioner.
FM 12 Confidential Secretary to the General Counsel.

Section 213.3352 Government Printing Office.

GPO 3 Congressional Relations Officer.
GPO 6 Confidential Assistant to the Public Printer.
GPO 7 Confidential Assistant to the Deputy Public Printer.
GPO 9 Staff Assistant to the Congressional Relations Officer.
GPO 14 Deputy Congressional Relations Officer.

Section 213.3354 Federal Home Loan Bank Board.

FHLB 3 Secretary to a Board Member.
FHLB 7 Assistant to a Board Member.
FHLB 8 Secretary (Typing) to the Executive Staff Director.
FHLB 11 Director, Ofice of Communications.
FHLB 19 Congressional Liaison to the Executive Staff Director.
FHLB 21 Secretary (Steno) to the Congessional Liaison.
FHLB 25 Staff Assistant to the Congressional Liaison.
FHLB 26 Secretary (Typing) to the Director.

Section 213.3356 Commission on Civil Rights.

CCR 9 Special Assistant to the Staff Director.
CCR 13 Special Assistant to the Chairman.

Section 213.3357 National Credit Union Administration.

NCUA 2 Public Information Officer to the Chairman.
NCUA 3 Legislative Liaison Officer to the General Counsel.
NCUA 13 Staff Assistant to the Chairman.
NCUA 14 Special Assistant to the Board. Member.
NCUA 15 Secretary (Typing) to the General Counsel.
NCUA 16 Confidential Assistant to the Board Member.

Section 213.3359 ACTION.

ACT 2 Special Assistant to the Associate Director for Domestic and Anti-Poverty Operations.
ACT 22 Special Assistant to the Director.
ACT 29 Staff Assistant to the Director.
ACT 30 Special Assistant to the Assistant Director for Policy and Planning.
ACT 31 Special Assistant to the Director.
ACT 34 Special Assistant to the Director.
ACT 40 Special Assistant to the Assistant Director, Office of Legislative and Governmental Affairs.
ACT 44 Special Assistant to the Associate Director for Domestic And Anti-Poverty Operations.
ACT 45 Assistant Director For Communications.
ACT 46 Deputy Assistant Director for Policy and Planning.
ACT 48 Special Assistant to the Deputy Director.
ACT 51 Special Assistant to the Assistant Director, Office of Volunteer Liaison.
ACT 56 Special Assistant to the Associate Director for Domestic and Anti-Poverty Operations.
ACT 59 Secretary (Typing) to the Director.
ACT 62 Special Assistant to the Assistant Director for Volunteer Liaison.
ACT 63 Young Volunteers Program Officer to the Deputy Associate Director.
ACT 68 Special Assistant to the Director.
ACT 69 Assistant Director, Office of Legislative and Governmental Affairs.
ACT 73 Special Assistant to the Assistant Director, Office of Compliance.
ACT 74 Special Assistant to the Public Information Officer.
ACT 75 Special Assistant to the Assistant Director of Policy and Planning.
ACT 76 Special Assistant to the Director, Vietnam Veteran Leadership Program.
ACT 78 Assistant Director for Policy and Planning.
ACT 80 Staff Assistant to the Young Volunteer Program Officer.

Section 213.3360 Consumer Product Safety Commission.

CPSC 7 Special Assistant to a Commissioner.
CPSC 12 Special Assistant to a Commissioner.
CPSC 14 Special Assistant to a Commissioner.
CPSC 16 Director, Office of Congressional Relations.
CPSC 20 Special Assistant to the Chairman.
CPSC 26 Secretary (Steno) to a Commissioner.
CPSC 28 Staff Assistant to a Commissioner.
CPSC 34 Special Assistant (Legal) to a Commissioner.
CPSC 35 Confidential Assistant to the Chairman.
CPSC 38 Secretary (Typing) to the Chairman.
CPSC 39 Supervisory Public Affairs Specialist to the Director.
CPSC 40 Congressional Relations Specialist to the Director.
CPSC 41 Special Assistant to the Chairman.
CPSC 42 Public Affiars Specialist to the Chairman.
CPSC 43 Secretary (Typing) to the Director, Office of Public Affairs.
CPSC 44 Secretary (Steno) to the General Counsel.

Section 213.3364 U.S. Arms Control and Disarmament Agency

ACDA 2 Private Secretary to the Deputy Director.
ACDA 5 Private Secretary to the Assistant Director.
ACDA 7 Private Secretary to the General Counsel.
ACDA 10 Deputy Director for Congressional Affairs.
ACDA 11 Congressional Affairs Specialist to the Deputy Director.
ACDA 13 Special Assistant to the Deputy Director..
ACDA 15 Secretary to the Executive Director, General Advisory Committee.
ACDA 18 Secretary to the Special Representative for Negotiations.
ACDA 19 Private Secretary to the Special Representative for Long Range Theatre Nuclear Forces.
ACDA 20 Special Assistant to the Deputy Director for Public Affairs.
ACDA 22 Private Secretary to the Assistant Director for Multilateral Affairs Bureau.
ACDA 23 Staff Assistant to the Assistant Director for Multilateral Affairs.
ACDA 24 Special Assistant to the Assistant Director for Multilateral Affairs.

Section 213.3367 Federal Maritime Commission.

FMC 2 Confidential Assistant to a Commissioner.
FMC 4 Confidential Assistant to a Commissioner.
FMC 5 Confidential Assistant to a Commissioner.
FMC 7 Secretary (Steno) to a Commissioner.
FMC 9 Secretary (Steno) to a Commissioner.
FMC 10 Secretary (Steno) to a Commissioner.
FMC 23 Secretary (Steno) to the Counsel to the Chairman.
FMC 24 Chauffeur-Messenger to the Chairman.

Section 213.3368 Agency for International Development.

AID 20 Special Assistant to the Assistant Administrator (Asia).
AID 31 Special Assistant to the Director, Office of Public Affairs.
AID 32 Special Assistant to the Assistant Administrator.
AID 36 Deputy Director, Women in Development.
AID 37 Deputy Director to the Director, Office of Legislative Affairs.
AID 38 Deputy Assistant to the Administrator for Interbureau Affairs and Special Projects.
AID 41 Congressional Liaison Officer to the Director, Office of Legislative Affairs.
AID 43 Confidential Assistant to the Administrator.
AID 45 Deputy Assistant to the Administrator for Public Affairs.
AID 47 Special Assistant to the Assistant Administrator, Bureau for Food for Peace and Voluntary Service.
AID 48 Special Assistant to the Director, Office of Policy Development and Program Review.

Section 213.3372 Administrative Office of United States Courts.

AOUSC 2 Attorney-Advisor (Legal) to the Legislative Affairs Officer.
AOUSC 4 Supervisory Attorney-Advisor (Legal) to the Legislative Affairs Officer.
AOUSC 5 Secretary (Steno) to the Legislative Affairs Officer.
AOUSC 7 Attorney-Advisor (Legal) to the Legislative Affairs Officer.

Section 213.3376 Appalachian Regional Commission.

ARC 8 Public Affairs Liaison.
ARC 9 Special Assistant to the Alternate Federal Co-Chairman.

Section 213.3377 Equal Employment Opportunity Commission.

EEOC 5 Secretary (Steno) to a Member.
EEOC 10 Special Assistant to a Commissioner.

EEOC 13 Secretary (Typing) to the Chariman.
EEOC 15 Public Affairs Specialist to the Director.
EEOC 22 Director, Office of Congressional Affairs.
EEOC 23 Special Assistant to the Executive Director.
EEOC 25 Special Assistant to the Chairman.
EEOC 26 Staff Assistant to the Chairman.
EEOC 29 Director, Office of Public Affairs.
EEOC 37 Social Science Research Specialist to the Director, Office of Policy Implementation.
EEOC 38 Congressional Liaison Assistant to the Director, Office of Congressional Affairs.
EEOC 39 Confidential Assistant to the Chairman.

Section 213.3379 Commodity Futures Trading Commission.

CFTC 1 Administrative Assistant to the Chairman.
CFTC 3 Administrative Assistant to a Commissioner.
CFTC 5 Administrative Assistant to a Commissioner.
CFTC 6 Administrative Assistant to a Commissioner.
CFTC 12 Special Assistant to a Commissioner.
CFTC 14 Special Assistant to a Commissioner.

Section 213.3382 National Foundation on the Arts and the Humanities.

NEA 2 Director, Media, News and Special Events.
NEA 9 Congressional Liaison Officer to the Chairman.
NEA 23 Director of Policy, Planning and Research to the Chairman.
NEA 36 Special Assistant to the Director of Policy, Planning and Research.
NEA 45 Special Assistant to the Chairman.
NEA 49 Associate Deputy Chairman for Programs.
NEA 50 Special Assistant (Development) to the Deputy Chairman.
NEA 51 Executive Director, President's Committee on the Arts and Humanities.
NEA 52 Deputy to the Chairman for Private Partnership.
NEA 53 Special Assistant to the Public Affairs Officer.

Section 213.3384 Department of Housing and Urban Development.

HUD 1 Confidential Assistant to the Secretary.
HUD 6 Confidential to the General Counsel.
HUD 33 Senor Assistant for Congressional Relations to the Deputy Assistant Secretary for Congressional Relations.
HUD 35 Senior Assistant for Legislation to the Deputy Assistant Secretary for Legislation.
HUD 36 Assistant for Congressional Relations to the Deputy Assistant Secretary for Congressional Relations.
HUD 37 Assistant for Congressional Relations to the Deputy Assistant Secretary for Congressional Relations.
HUD 39 Assistant for Congressional Relations to the Deputy Assistant Secretary for Congressional Relations.
HUD 41 Assistant for Congressional Relations to the Deputy Assistant Secretary for Congressional Relations.
HUD 42 Assistant for Congressional Relations to the Deputy Assistant Secretary for Congressional Relations.
HUD 45 Assistant for Congressional Relations to the Deputy Assistant Secretary for Congressional Relations.
HUD 60 Supervisory Public Affairs Specialists to the Assistant to the Secretary for Public Affairs.
HUD 64 Staff Assistant (Typing) to the Assistant Secretary for Community Planning and Development.
HUD 65 Special Assistant to the Assistant Secretary for Community Planning and Development.
HUD 68 Executive Assistant to the Assistant Secretary for Community Planning and Development.
HUD 76 Confidential Assistant to the Assitant Secretary for Fair Housing and Equal Opportunity.
HUD 78 Special Assistant to the Assistant Secretary for Fair Housing and Equal Opportunity.
HUD 120 Special Assistant (Speech Issues) to the Assistant Secretary for Public Affairs.
HUD 135 Special Assistant to the Deputy Assistant Secretary for Fair Housing and Equal Emploment Opportunity.
HUD 137 Sepcial Assistant to Assistant Secretary for Fair Housing and Equal Opportunity.
HUD 143 Special Assistant to the Director, Executive Secretariat.
HUD 153 Executive Assistant to the President, Government National Mortgage Association.
HUD 160 Special Assistant to the Assistant Secretary for Policy Development and Research.
HUD 164 Intergovernmental Relations Officer to the Deputy Under Secretary for Intergovernmental Relations.
HUD 173 Secretary to the Secretary.
HUD 175 Assistant for Congressional Relations to the Deputy Assistant Secretary for Congressional Relations.
HUD 182 Special Assistant to the General Deputy Assistant Secretary for Housing.
HUD 184 Senior Assistant for Congressional Relations to the Deputy Assistant Secretary for Legislation and Congressional Relations.
HUD 187 Executive Assistant to the Deputy Assistant Secretary for Single Family Housing.
HUD 190 Executive Assistant to the Assistant Secretary for Housing-Federal Housing Commissioner.
HUD 191 Special Assistant to the Assistant Secretary for Policy Development and Research.
HUD 193 Special Assistant to the General Counsel.
HUD 195 Special Assistant to the Assistant Secretary for Community Planning and Development.
HUD 197 Special Advisor to the Deputy Under Secretary for Intergovernmental Relations.
HUD 198 Special Assistant to the Executive Assistant to the Secretary.
HUD 199 Special Assistant to the Assistant Secretary for Housing-Federal Housing Commissioner.
HUD 202 Executive Assistant to the Assistant Secretary for Legislation.
HUD 204 Special Assistant to the Assistant Secretary for Legislation and Intergovernmental Relations.
HUD 205 Senior Advisor to the Deputy Under Secretary for Field Coordination.
HUD 206 Intergovernmental Relations Officer to the Deputy Under Secretary for Intergovernmental Relations.
HUD 208 Intergovernmental Relations Officer to the Deputy Under Secretary for Intergovernmental Relations.
HUD 209 Intergovernmental Relations Officer to the Deputy Under Secretary for Intergovernmental Relations.
HUD 211 Assistant for Congressional Relations to the Deputy Under Secretary for Legislation and Congressional Relations.
HUD 216 Special Assistant to the Assistant Secretary for Administration.
HUD 218 Executive Assistant to the Regional Administrator.

HUD 222 Special Assistant for Congressional Relations and Public Affairs to the Regional Administrator.
HUD 223 Executive Assistant to the Regional Administrator.
HUD 224 Special Assistant to the Regional Administrator.
HUD 225 Executive Assistant to the Regional Administrator.
HUD 226 Special Assistant to the Regional Administrator.
HUD 227 Executive Assistant to the Regional Administrator.
HUD 228 Executive Assistant to the Regional Administrator.
HUD 232 Staff Assistant to the Regional Administrator.
HUD 238 Special Assistant to the Secretary.
HUD 258 Special Assistant to the Under Secretary.
HUD 260 Executive Assistant to the Assistant Secretary for Housing.
HUD 261 Special Assistant to the Secretary for Indian and Alaska Native Programs.
HUD 266 Special Assistant to the President, Government National Mortgage Association.
HUD 272 Special Assistant to the Assistant Secretary for Community Planning and Development.
HUD 285 Senior Legislative Specialist to the Deputy Assistant Secretary for Legislation.
HUD 287 Special Assistant to the Regional Administrator.
HUD 288 Assistant for Congressional Relations to the Deputy Assistant Secretary for Congressional Relations.
HUD 289 Special Assistant to the Assistant Secretary for Community Planning and Development.
HUD 293 Staff Assistant to the President, Government National Mortgage Association.
HUD 311 Associate Deputy Assistant Secretary for Multifamily Housing Programs.
HUD 312 Special Assistant to the Regional Administrator.
HUD 315 Special Assistant to the Deputy Assistant Secretary for Community Planning and Development.
HUD 316 Special Assistant to the Regional Administrator.
HUD 317 Special Assistant to the Regional Administrator.
HUD 318 Executive to the General Deputy Assistant Secretary for Public and Indian Housing.
HUD 319 Executive Assistant to the Regional Administrator.
HUD 320 Special Assistant to the Assistant Secretary for Administration.
HUD 322 Special Assistant to the Regional Administrator.
HUD 323 Executive Assistant to the General Deputy Assistant Secretary for Housing.
HUD 324 Special Assistant to the Regional Administrator.
HUD 325 Special Assistant to the Director, Office of Small and Disadvantaged Buisness Utilization.
HUD 329 Special Assistant to the Assistant Secretary for Labor Relations.
HUD 332 Special Assistant to the Regional Administrator.
HUD 334 Special Assistant to the Regional Administrator.
HUD 335 Special Assistant to the Assistant Secretary for Community Planning and Develpment.
HUD 336 Special Assistant to the General Deputy Assistant Secretary for Public Affairs.
HUD 337 Special Assistant (Speech Writer) to the Assistant Secretary for Pubic Affairs.
HUD 342 Special Assistant to the Regional Administrator.
HUD 343 Special Asistant to the Regional Administrator.
HUD 345 Staff Assistant to the Deputy Assistant Secretary for Multifamily Housing Programs.
HUD 347 Special Advisor for Elderly Programs to the Deputy Under Secretary for Intergovernmental Relations.
HUD 349 Executive Assistant to the Assistant Secretary for Housing.
HUD 351 Special Assistant to the Regional Administrator.
HUD 352 Executive Assistant to the Regional Administrator.
HUD 353 Confidential Assistant to the President for Solar Energy and the Energy Conservation Bank.
HUD 354 Special Assistant to the Deputy Assistant Secretary for Public and Indian Housing.
HUD 355 Special Assistant to the Regional Administrator.
HUD 356 Executive Assistant to the Regional Administrator.
HUD 357 Staff Assistant to the Assistant to the Secretary for Labor Relations.
HUD 361 Special Assistant to the Regional Administrator.
HUD 362 Staff Assistant to the Deputy Assistant Secretary for Housing.
HUD 364 Special Advisor for Minority Programs to the Deputy Under Secretary for Intergovernmental Relations.
HUD 365 Special Assistant to the Regional Administrator.
HUD 366 Special Assistant to the Assistant Secretary-Federal Housing Commissioner.
HUD 367 Special Assistant to the Regional Administrator.
HUD 368 Special Assistant to the Regional Administrator.
HUD 369 Special Assistant to the Deputy Assistant Secretary for Policy and Budget.
HUD 370 Special Assistant to the Assistant Secretary for Public and Indian Housing.
HUD 373 Special Assistant (Speech Issues) to the Assistant Secretary for Public Affairs.
HUD 374 Executive Assistant to the Deputy Under Secretary for Field Coordination.
HUD 376 Special Assistant to the Regional Administrator.
HUD 377 Special Assistant to the Regional Administrator.
HUD 378 Staff Assistant to the Manager, Solar Bank.
HUD 379 Assistant Director for Executive Secretariat Operations.
HUD 380 Special Assistant to the Manager, Solar Bank.
HUD 381 Special Assistant to the Secretary.
HUD 382 Staff Assistant (Typing) to the Deputy Under Secretary for Intergovernmental Relations.
HUD 383 Special Assistant to the Regional Administrator.
HUD 384 Special Assistant to the Assistant Secretary for Public and Indian Housing.
HUD 385 Special Assistant (Speech Writer) to the Assistant Secretary for Public Affairs.

Section 213.3389 National Mediation Board.

NMB 49 Special Assistant to the Chairman.
NMB 52 Confidential Assistant to the Chairman.
NMB 53 Confidential Assistant to a Member.
NMB 54 Confidential Assistant to a Member.

Section 213.3391 Office of Personnel Management.

OPM 2 Staff Assistant (Typing) to the Director.
OPM 4 Special Assistant to the Deputy Director.
OPM 5 Supervisory Special Assistant to the Director.
OPM 6 Special Assistant to the Director.
OPM 8 Confidential Assistant to the Director.
OPM 9 Confidential Assistant to the General Counsel.
OPM 10 Staff Assistant (Typing) to the Supervisory Special Assistant to the Director.

OPM 12 Regional Representative to the Director.
OPM 13 Regional Representative to the Director.
OPM 14 Regional Representative to the Director.
OPM 15 Regional Representative to the Director.
OPM 16 Regional Representative to the Director.
OPM 17 Staff Assistant (Typing) to the Director.
OPM 18 Staff Assistant to the Deputy Director.
OPM 20 Special Assistant to the Assistant Director for Public Affairs.
OPM 21 Special Assistant to the Executive Assistant Director of Policy and Communications.
OPM 22 Special Assistant to the General Counsel.
OPM 23 Special Assistant to the General Counsel.
OPM 24 Special Assistant to the Director, Office of Government Ethics.
OPM 25 Special Assistant to the Assistant Director for Public Affairs.
OPM 26 Confidential Assistant (Typing) to the Director, Office of Government Ethics.
OPM 27 Staffing Clerk (Typing) to the Confidential Assistant to the Director.
OPM 28 Special Assistant to the Associate Director for Workforce Effectiveness and Development.

Section 213.3392 Federal Labor Relations Authority.

FLRA 1 Confidential Secretary to the Chairman.
FLRA 4 Executive Assistant to the Chairman.
FLRA 6 Executive Assistant to a Member.
FLRA 7 Congressional Affairs and Public Information Officer.

Section 213.3393 Pension Benefit Guaranty Corporation.

PBGC 1 Secretary (Steno) to the Executive Director.
PBGC 3 Secretary (Typing) to the Deputy Executive Director.
PBGC 4 Special Assistant to the Executive Director.
PBGC 6 Staff Assistant to the Executive Director.

Section 213.3394 Department of Transportation.

DOT 1 Coinfidential Secretary to the Secretary.
DOT 3 Staff Assistant to the Secretary.
DOT 8 Confidential Secretary to the Deputy Secretary.
DOT 14 Chauffeur to the Secretary.
DOT 20 Congressional Liaison Officer to the Director, Office of Congressional Affairs.
DOT 38 Special Counsel to the Administrator, National Highway Traffic Safety Administration.
DOT 40 Special Assistant to the Administrator, Urban Mass Transportation Administration.
DOT 41 Special Assistant to the Administrator, Urban Mass Transportation Administration.
DOT 43 Confidential Assistant to the Administrator, Saint Lawrence Seaway Development Corporation.
DOT 54 Congressional Liaison Officer to the Director, Congressional Affairs.
DOT 55 Congressional Liaison Officer to the Director, Congressional Affairs.
DOT 56 Special Assistant to the Administrator, Saint Lawrence Seaway Development Corporation.
DOT 57 Confidential Assistant to the Assistant Secretary for Government Affairs.
DOT 60 Congressional Liaison Officer to the Director, Congressional Affairs.
DOT 67 Secretary (Typing) to the Administrator, Federal Railroad Administration.
DOT 69 Supervisory Public Affairs Specialist to the Federal Railroad Administrator.
DOT 77 Special Assistant to the Assistant Secretary for Public Affairs.
DOT 78 Special Assistant to the Assistant Secretary for Governmental Affairs.
DOT 94 Staff Assistant to the Administrator, Federal Aviation Administration.
DOT 100 Chief, Consumer Affairs Division to the Director, Office of Public and Consumer Affairs.
DOT 105 Secretary (Steno) to the Federal Highway Administrator.
DOT 115 Special Assistant to the Assistant Administrator for Public Affairs, Federal Aviation Administration.
DOT 121 Deputy Director, Office of Congressional Affairs.
DOT 123 Intergovernmental Liaison Officer to the Director, Office of Intergovernmental Affairs.
DOT 126 Director, Office of Public Affairs, Federal Highway Administration.
DOT 127 Special Assistant to the Assistant Secretary for Budget and Programs.
DOT 142 Intergovernmental Liaison Specialist to the Director, Office of Intergovernmental Affairs.
DOT 143 Staff Assistant to the Deputy Administrator, Federal Railroad Administration.
DOT 145 Staff Assistant to the Deputy Assistant Secretary for Governmental Affairs.
DOT 147 Staff Assistant to the Assistant Secretary for Public Affairs.
DOT 148 Director, Office of Scheduling and Programs.
DOT 149 Staff Assistant to the Director, Office of Commercial Space Transportation.
DOT 151 Special Assistant to the Deputy Secretary.
DOT 153 Congressional Liaison Officer to the Assistant Secretary for Governmental Affairs.
DOT 154 Confidential Assistant to the Director, Executive Secretariat.
DOT 157 Secretary (Steno) to the Associate Administrator for Policy and International Aviation.
DOT 158 Confidential Secretary to the General Counsel.
DOT 159 Special Assistant to the Administrator, Federal Highway Administration.
DOT 172 Receptionist to the Secretary.
DOT 175 Special Assistant to the Assistant Secretary for Policy and International Affairs.
DOT 185 Special Assistant to the Assistant Secretary for Policy and International Affairs.
DOT 186 Director, Office of Public Affairs, Urban Mass Transportation Administration.
DOT 191 Special Assistant to the Administrator for Public Affairs, Federal Aviation Administration.
DOT 192 Special Assistant to the Director, Office of Small and Disadvantaged Utilization.
DOT 193 Special Assistant to the Director, Office of Civil Rights.
DOT 200 Special Assistant to the Director, Office of Civil Rights.
DOT 203 Staff Assistant to the Assistant Secretary for Governmental Affairs.
DOT 207 Staff Assistant to the Inspector General.
DOT 208 Director, Executive Secretariat, Urban Mass Transportation Administration.
DOT 209 Special Assistant to the Administrator, Urban Mass Transportation Administration.
DOT 215 Special Assistant to the Director, Office of Public Affairs and Consumer Participation.
DOT 216 Confidential Assistant to the Administrator, Federal Aviation Administration.
DOT 220 Chief, Minority Business Resource Center to the Director,

Small and Disadvantaged Business Utilization.
DOT 221 Secretary to the Administrator, Maritime Administration.
DOT 223 Advisor to the Associate Administrator for Traffic Safety Programs.
DOT 229 Staff Assistant to the Administrator, Maritime Administration.
DOT 230 Deputy Director, Office of Public and Congressional Affairs.
DOT 231 Policy Advisor to the Associate Administrator for Traffic Safety Programs.
DOT 232 Special Assistant to the Regional Administrator.
DOT 233 Staff Assistant to the General Counsel.
DOT 234 Secretary (Steno) to the Special Assistant to the Secretary.
DOT 235 Special Assistant to the Secretary.
DOT 237 Special Assistant to the Assistant Secretary for Public Affairs.
DOT 241 Secretary (Typing) to the Coordinator for Minority Affairs.
DOT 242 Deputy Director, Executive Secretariat.
DOT 243 Special Assistant to the Director, Office of Public Affairs.
DOT 244 Assistant Director for Management.
DOT 245 Office Assistant to the Director, Office of Public Affairs.
DOT 246 Special Assistant to the Director, Office of Intergovernmental Affairs.
DOT 247 Private Sector Initiatives Coordinator, National Highway Traffic Safety Administration.
DOT 248 Program Coordinator to the Special Assistant to the Administrator, Federal Railroad Administration.
DOT 249 Assistant Director of Policy to the Director, Executive Secretariat.
DOT 251 Staff Assistant to the Administrator, Maritime Administration.
DOT 252 Director, Executive Secretariat, National Highway Traffic Safety Administration.
DOT 253 Intergovernmental Affairs Coordinator to the Administrator, Federal Railroad Administration.
DOT 254 Special Assistant to the Deputy Secretary.
DOT 255 Secretary (Typing) to the Chief of Staff.
DOT 256 Staff Assistant to the coordinator for Minority Affairs.
DOT 257 Staff Assistant to the Assistant Secretary for Public Affairs.
DOT 258 Deputy Director, Office of Intergovernmental Affairs.
DOT 259 Special Assistant to the Director, Executive Staff to the President's Commission on Drunk Driving.
DOT 260 Special Assistant to the Administrator, Urban Mass Transportation Administration.
DOT 261 Staff Assistant to the Deputy Secretary.
DOT 262 Secretary (Typing) to the Deputy Secretary.
DOT 263 Special Assistant to the Administrator, Saint Lawrence Seaway Development Corporation.
DOT 264 Special Assistant to the Administrator, Saint Lawrence Seaway Development Corporation.
DOT 265 Staff Assistant to the Director for Public Affairs, Federal Highway Administration.
DOT 267 Receptionist to the Associate Deputy Secretary.
DOT 268 Office Assistant to the Assistant Secretary for Public Affairs.
269 Research Assistant to the Director, Executive Secretariat.
DOT 270 Special Assistant to the Administrator, Federal Aviation Administration.

Section 213.3395 Federal Emergency Management Agency.

FEMA 1 Executive Assistant (Steno) to the Director.
FEMA 14 Special Assistant to the Administrator, Federal Insurance Administration.
FEMA 23 Special Assistant to the Director.
FEMA 24 Assistant to the Director.
FEMA 25 Assistant to the Director for Program Planning.
FEMA 28 Special Assistant to the Director.
FEMA 29 Special Assistant to the Associate Director.
FEMA 31 Special Assistant to the Associate Director, National Preparedness Programs Directorate.
FEMA 32 Deputy Director, Office of Congressional Relations.
FEMA 33 Director, Office of Regional Operations.
FEMA 34 Executive Assistant (Steno) to the Associate Director.

Section 213.3396 National Transportation Safety Board.

NTSB 1 Special Assistant to a Member.
NTSB 2 Secretary (Typing) to the Chairman.
NTSB 25 Special Assistant to a Board Member.
NTSB 30 Confidential Assistant to the Chairman.
NTSB 31 Confidential Assistant to a Board Member.
NTSB 32 Confidential Assistant to the Chairman.
NTSB 33 Confidential Assistant to a Board Member.
NTSB 34 Confidential Assistant to a Board Member.
NTSB 92 Government and Public Affairs Officer.
NTSB 98 Special Assistant to a Board Member.
NTSB 102 Special Assistant and Counsel to the Chairman.

U.S. Office of Personnel Management.
Donald J. Devine,
Director.

[FR Doc. 84-25883 Filed 9-28-84; 8:45 am]
BILLING CODE 6325-01-M

POSTAL RATE COMMISSION

[Docket No. A84-16; Order No. 581]

Hanover, WI 53542 (Emma Borkenhagen, et al., Petitioners); Order Accepting Appeal and Establishing Procedural Schedule

Issued: September 25, 1984.

Before Commissioners: Janet D. Steiger, Chairman; Henry R. Folsom, Vice-Chairman; Simeon M. Bright; John W. Crutcher; James H. Duffy.

Docket Number: A84-16.

Name of affected post office: Hanover, Wisconsin.

Name(s) of petitioner(s): Emma Borkenhagen.

Type of determination: Consolidation.

Date of filing of appeal papers: September 21, 1984.

Categories of issues apparently raised:

1. Whether the petition was timely filed, so as to give the Commission jurisdiction to hear the appeal.

2. Effect on the community [39 U.S.C. 404(b) (2) (A)].

3. Effect on postal services [39 U.S.C. 404(b) (2) (C)].

Other legal issues may be disclosed by the record when it is filed; or, conversely, the determination made by the Postal Service may be found to dispose of one or more of these issues.

In the interest of expedition within the 120-day decision schedule [39 U.S.C. 404(b) (5)] the Commission reserves the right to request of the Postal Service memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request; a copy shall be served on the Petitioner. In a brief or motion to dismiss or affirm, the Postal Service may

incorporate by reference any such memorandum previously filed.

The Commission orders:

(A) The record in this appeal shall be filed on or before October 9, 1984.

(B) The Secretary shall publish this Notice and Order and Procedural Schedule in the Federal Register.

By the Commission.

Charles L. Clapp,

Secretary.

Appendix

September 21, 1984—Filing of Petition.
September 25, 1984—Notice and Order of Filing of Appeal.
October 16, 1984—Last day for filing of petitions to intervene [*see* 39 CFR 3001.111(b)].
October 26, 1984—Petitioners' Participant Statement or Initial Brief [*see* 39 CFR 3001.115 (a) and (b)].
November 15, 1984—Postal Service Answering Brief [*see* 39 CFR 3001.115(c)].
November 30, 1984—(1) Petitioners' Reply Brief should petitioners choose to file one [*see* 39 CFR 3001.115(d)].
December 7, 1984—(2) Deadline for motions by any party requesting oral argument. The Commission will exercise its discretion, as the interest of prompt and just decision may require, in scheduling or dispensing with oral argument [*see* 39 CFR 3001.116].
January 19, 1985—Expiration of 120-day decisional schedule [*see* 39 U.S.C. 404(b)(5)].

[FR Doc. 84-25973 Filed 9-28-84; 8:45 am]
BILLING CODE 7715-01-M

POSTAL SERVICE

International Postal Rates and Fees; Proposed Changes

AGENCY: Postal Service.

ACTION: Proposed International Postal Rates and Fees.

SUMMARY: Pursuant to its authority under 39 U.S.C. 407, the Postal Service announces proposed increases in international postal rates and fees for special mail services as indicated below. The levels of some of these rates and fees, marked with an asterisk, are the current rates and will be adjusted based upon the levels of certain related domestic rates and fees for which increases have been proposed and are expected to become effective in early 1985. New levels for the international rates and fees marked with an asterisk will be announced in a Federal Register Notice along with the new domestic rates and fees when these are determined. The proposed increases are to become effective concurrently with the effective date of new domestic rates and fees.

DATE: Comments must be received on or before November 1, 1984.

ADDRESS: Written comments should be directed to the Director, Office of Rates, Rates and Classification Department, U.S. Postal Service, Washington, D.C. 20260–5350. Copies of all written comments will be available for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday in Room 8620.

FOR FURTHER INFORMATION CONTACT: Don S. Allen, (202) 245–4416.

SUPPLEMENTARY INFORMATION: These proposed increases are necessary to cover increases in the costs incurred by the Postal Service in providing international services.

Although 39 U.S.C. 407 does not require advance notice and opportunity for submission of comments and the Postal Service is exempted by 39 U.S.C. 410(a) from the advance notice requirement of the Administrative Procedure Act regarding proposed rulemaking (5 U.S.C. 553), the Postal Service invites interested persons to submit written data, views, or arguments concerning the following proposed changes in rates of postage and fees for international mail.

(39 U.S.C. 401, 403, 404(2), 407, 410(a))

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

BILLING CODE 7715-12-M

I. International Postal Rates and Fees

A. New Rates

1. Letters and letter packages (Surface)

Weight Steps Not Over Lbs.	Weight Steps Not Over Ozs.	Canada	Mexico
0	1	$0.20*	$0.20*
0	2	0.37*	0.37*
0	3	0.54*	0.54*
0	4	0.71*	0.71*
0	5	0.88*	0.88*
0	6	1.05*	1.05*
0	7	1.22*	1.22*
0	8	1.39*	1.39*
0	9	1.56*	1.56*
0	10	1.73*	1.73*
0	11	1.90*	1.90*
0	12	2.07*	2.07*
1	0	2.58*	2.58*
1	8	3.07*	3.07*
2	0	3.57*	3.57*
2	8	4.06*	4.06*
3	0	4.56*	4.56*
3	8	5.05*	5.05*
4	0	5.55*	5.55*

* To be affected by domestic rate levels.

I. International Postal Rates and Fees

A. New Rates

2. Letters and letter packages (Surface)

Weight Steps Not Over Lbs.	Weight Steps Not Over Ozs.	All countries (Other than Canada/Mexico)
0	1	$0.37
0	2	0.57
0	3	0.77
0	4	0.97
0	5	1.17
0	6	1.37
0	7	1.57
0	8	1.77
1	0	3.40
1	8	4.66
2	0	5.92
2	8	6.84
3	0	7.76
3	8	8.68
4	0	9.60

3. Letters and Letter Packages (Air)

a. Canada and Mexico; Refer to rates listed under A.1. (Surface Rates). Mail paid at this rate receives First-Class service in the United States and air service in Canada and Mexico.

b. Colombia, Venezuela, Central America, The Caribbean Islands, Bahamas, Bermuda, St. Pierre & Miquelon: 35* cents per half ounce up to and including 2 ounces; 30* cents each additional half ounce up to and including 32 ounces; 30* cents per additional ounce over 32 ounces.

c. All other Countries: 40* cents per half ounce up to and including 2 ounces; 35* cents each additional half ounce up to and including 32 ounces; 35* cents per additional ounce over 32 ounces.

4. Post and Postal Cards

a. Surface

(1) Canada: 13* cents each.

(2) Mexico: 13* cents each.

(3) All other countries: 25 cents each.

b. Air

(1) All countries (except Canada and Mexico): 28* cents each.

(2) Canada: 13* cents each.

(3) Mexico: 13* cents each.

* Affected by domestic rates.

5. Aerogrammes: 30* cents each.

6. Other Articles (AO)

a. Surface

(1). Regular Printed Matter

Weight Steps Not Over	Canada and Mexico	All Other Countries
1 oz.	$0.20*	$0.29
2	0.37*	0.47
3	0.54*	0.65
4	0.71*	0.83
6	0.85*	1.02
8	0.95*	1.21
10	1.14*	1.40
12	1.36*	1.59
14	1.58*	1.78
16	1.81*	1.97
18	1.81*	2.16
20	1.94*	2.35
22	2.07*	2.54
24	2.21*	2.73
26	2.35*	2.92
28	2.49*	3.11
30	2.62*	3.30
32	2.76*	3.49
3 lbs.	3.31*	4.19
4 lbs.	3.86*	4.89
Each additional 1 lb.	0.96*	1.22
Direct sacks to one addressee (M-Bag): Minimum 15 lbs. Maximum 66 lbs. Per Pound or Fraction	0.86*	1.10

* Affected by domestic rates.

(2). Publishers Periodicals

Weight Steps Not Over	All Countries
1 oz.	$0.15
2	0.22
3	0.29
4	0.36
6	0.46
8	0.56
10	0.66
12	0.76
14	0.86
16	0.96
18	1.06
20	1.16
22	1.26
24	1.36
26	1.46
28	1.56
30	1.66
32	1.76
3 lbs.	2.10
4 lbs.	2.44
Each additional 1 lb.	0.61
Direct sacks to one addressee (M-Bag): Minimum 15 lbs.	
Maximum 66 lbs.	
Per Pound or Fraction	0.55

(3). Books and Sheet Music

Weight Steps Not Over	All Countries
1 lb.	$0.96
2	1.76
3	2.10
4	2.44
5	3.05
6	3.66
7	4.27
8	4.88
9	5.49
10	6.10
11	6.71
Each additional 1 lb.	0.61
Direct sacks to one addressee (M-Bag): Minimum 15 lbs.	
Maximum 66 lbs.	
Per Pound or Fraction	0.55

(4). Small Packets

Weight Steps Not Over	Canada	Mexico	All Other Countries
1 oz.	$0.20*	$0.20*	$0.29
2	0.37*	0.37*	.47
3	0.54*	0.54*	.65
4	0.71*	0.71*	.83
6	0.85*	0.85*	1.02
8	0.95*	0.95*	1.21
10	1.14*	1.14*	1.40
12	1.36*	1.36*	1.59
14	1.58*	1.58*	1.78
16	1.81*	1.81*	1.97
18	--	1.81*	2.16
20	--	1.94*	2.35
22	--	2.07*	2.54
24	--	2.21*	2.73
26	--	2.35*	2.92
28	--	2.49*	3.11
30	--	2.62*	3.30
32	--	2.76*	3.49

* Affected by domestic rates.

b. Air (Encompasses all Printed Matter, Matter for the Blind and Small Packets)

WEIGHT STEPS Not Over Ounces	Canada and Mexico	Colombia, Venezuela, Central America, Caribbean Islands, Bahamas, Bermuda, & St. Pierre & Miquelon (Also, from American Samoa to Western Samoa, & from Guam to the Philippines	South America (except Colombia & Venezuela), Europe (except Estonia, Latvia, Lithuania, & U.S.S.R.), & North Africa	Estonia, Latvia, Lithuania, U.S.S.R., Asia, Australia & New Zealand, Pacific Ocean Islands, Africa (other than North Africa) the Indian Ocean Islands & the Middle East
1	See Section c.	$0.58	$0.70	$0.82
2		0.89	1.12	1.35
3		1.20	1.54	1.88
4		1.51	1.96	2.41
6		1.82	2.50	3.18
8		2.13	3.04	3.95
10		2.44	3.58	4.72
12		2.75	4.12	5.49
14		3.06	4.66	6.26
16		3.37	5.20	7.03
18		3.68	5.74	7.80
20		3.99	6.28	8.57
22		4.30	6.82	9.34
24		4.61	7.36	10.11
26		4.92	7.90	10.88
28		5.23	8.44	11.65
30		5.54	8.98	12.42
32		5.85	9.52	13.19
2.5 pounds		7.07	11.68	16.29
3.0 pounds		8.29	13.84	19.39
3.5 pounds		9.51	16.00	22.49
4.0 pounds		10.73	18.16	25.59
Each additional 1/2 pound over 4 pounds		1.22	2.16	3.10
Direct Sacks to one addressee (M-Bag): Minimum 15 pounds Maximum 66 pounds				
Per Pound or fraction		2.20	3.89	5.58

c. Air AO - Canada/Mexico (Encompasses all Printed Matter, Matter for the Blind and Small Packets)

Weight Up to Ounces	Rates
1	$0.20*
2	.37*
3	.54*
4	.71*
5	.88*
6	1.05*
7	1.22*
8	1.39*
9	1.56*
10	1.73*
11	1.90*
12	2.07*
16	2.58*
24	3.07*
32	3.57*
Pounds	
2.5	4.06*
3.0	4.56*
3.5	5.05*
4.0	5.55*
4.5	6.05*
5.0	6.54*
6.0	7.53*
7.0	8.52*
8.0	9.51*
9.0	10.51*
10.0	11.50*
11.0	12.49*
12.0	13.48*
13.0	14.47*
14.0	15.46*
15.0	16.45*
17.0	17.44*
17.0	18.43*
18.0	19.42*
19.0	20.42*
20.0	21.41*
21.0	22.40*
22.0	23.39*
23.0	24.38*
24.0	25.37*
25.0	26.36*
26.0	27.35*
27.0	28.34*
28.0	29.33*
39.0	30.33*
30.0	31.32*
Minimum 15 lbs Maximum 66 lbs per pound or fraction	
Direct sack to one addressee (M-Bag)	.89*

* Affected by domestic rates.

7. Parcel Post

a. Surface

1. Canada: $3.10* for over 1 pound and up to 2 pounds; $1.00* for each additional pound up to and including 35 pounds; $0.10* for each additional pound up to and including 37 pounds; and $0.90* for each additional pound or fraction.

2. Mexico, Central America, The Caribbean Islands, Bahamas, Bermuda, St. Pierre and Miquelon: $3.70 for the first 2 pounds and $1.20 for each additional pound or fraction.

3. All other countries: $3.90 for the first 2 pounds and $1.30 for each additional pound or fraction.

b. Air

Air Parcel Post Rates

1. Canada

Weight Steps Not Over Pounds	Ounces	Rates
1	8	$3.07*
2	0	3.57*
2	8	3.86*
3	0	4.33*
3	8	4.80*
4	0	5.27*
4	8	5.75*
5	0	6.21*
6	0	7.15*
7	0	8.09*
8	0	9.03*
9	0	9.98*
10	0	10.93*
11	0	11.87*
12	0	12.81*
13	0	13.75*
14	0	14.69*
15	0	15.63*
16	0	16.57*
17	0	17.51*
18	0	18.45*
19	0	19.40*
20	0	20.34*
21	0	21.28*
22	0	22.22*
23	0	23.16*
24	0	24.10*

(continued)

* Affected by domestic rates.

Air Parcel Post Rates

1. Canada (continued)

Weight Steps Not Over Pounds	Ounces	Rates
25	0	$25.04*
26	0	25.98*
27	0	26.92*
28	0	27.86*
39	0	28.81*
30	0	29.75*
31	0	30.69*
32	0	31.64*
33	0	32.58*
34	0	33.52*
35	0	34.46*
36	0	35.40*
37	0	36.34*
38	0	37.28*
39	0	38.23*
40	0	39.17*
41	0	40.11*
42	0	41.05*
43	0	41.99*
44	0	42.93*
45	0	43.87*
46	0	44.81*
47	0	45.75*
48	0	46.69*
49	0	47.64*
50	0	48.58*
51	0	49.52*
52	0	50.46*
53	0	51.40*
54	0	52.35*
55	0	53.29*
56	0	54.23*
57	0	55.17*
58	0	56.11*
59	0	57.06*
60	0	58.00*
61	0	58.94*
62	0	59.88*
63	0	60.82*
64	0	61.76*
65	0	62.70*
66	0	63.64*

* Affected by domestic rates.

b. Air

2. All other countries

WEIGHT STEPS	Country Groups A	B	C	D	E
First 4 ounces	$3.90	$4.95	$6.00	$7.05	$8.10
Each additional 4 ounces or fraction up to 5 pounds	.65	.90	1.10	1.35	1.60
Each additional 8 ounces or fraction over 5 pounds	1.00	1.50	2.00	2.50	3.00

AIR PARCEL POST RATE GROUPS: See List.

AIR PARCEL POST RATE GROUPS:

Country	Rate group	Maximum weight limits for air parcel post
Afghanistan	D	22
Albania	C	22
Algeria	D	44
Andorra	B	44
Angola	E	22
Antigua and Barbuda (Including Redonda)	A	22
Argentina	D	44
Ascension	No Air Service	
Australia	D	44
Austria	B	44
Azores	C	22
Bahamas	A	22
Bahrain	D	22
Bangladesh	E	22
Barbados	B	22
Belgium	D	44
Belize	A	22
Benin	D	44
Bermuda	A	33
Bhutan	No Parcel Post Service	
Bolivia	B	44
Botswana	E	22
Brazil	D	44
Brunei	D	22
Bulgaria	D	22
Burma	D	22
Burundi	E	22
Cameroon	D	22
Canada	Separate Rate Group	66
Cape Verde	D	22
Cayman Islands	A	22
Central African Rep	E	44
Chad	D	44
Chile	D	22
China (People's Republic of)	D	44
Colombia	B	44
Comoros	E	44
Congo	D	44
Corsica	E	44
Costa Rica	A	44
Cuba	No Parcel Post Service	
Cyprus	D	44
Czechoslovakia	C	44
Denmark	C	44
Djibouti	E	44
Dominica	A	22
Dominican Republic	A	44
East Timor	No Parcel Post Service	
Ecuador	B	44
Egypt	C	44
El Salvador	A	44
Equatorial Guinea	D	44
Estonia	E	22
Ethiopia	D	44
Faeroe Islands	C	44
Falkland Islands	D	22
Fiji	B	22
Finland	D	44
France (including Monaco)	D	44
French Guiana	C	44
French Polynesia	D	44
Gabon	D	44
Gambia	B	44
German Democratic Republic (East Germany)	C	44
Germany, Federal Rep. of (West Germany)	C	44
Ghana	D	22
Gibraltar	D	22
Great Britain and Northern Ireland	C	50
Greece	C	44
Greenland	D	44
Grenada	B	22
Guadeloupe	A	44
Guatemala	A	44
Guinea	B	44
Guinea-Bissau	B	22
Guyana	B	22
Haiti	A	44
Honduras	B	44
Hong Kong	C	22
Hungary	C	44
Iceland	D	44
India	D	22
Indonesia	E	22
Iran	D	44
Iraq	D	44
Ireland (Eire)	C	22
Israel	C	33
Italy (including San Marino)	C	44
Ivory Coast	D	44
Jamaica	A	22
Japan	E	22
Jordan	C	22
Kampuchea	No Parcel Post Service	

Country	Rate group	Maximum weight limits for air parcel post
Kenya	D	22
Kiribati (formerly Gilbert Islands)	B	44
Korea, (Democratic People's Republic of (North)	No Parcel Post Service	
Korea Republic of (South)	C	44
Kuwait	C	44
Lao	E	22
Latvia	E	22
Lebanon	C	11
Leeward Islands	A	22
Lesotho	E	22
Liberia	C	22
Libya	C	44
Lithuania	E	22
Luxembourg	B	44
Macao	C	22
Madagascar	E	44
Madeira Islands	B	22
Malawi	D	22
Malaysia	D	22
Maldives	E	22
Mali	C	44
Malta	C	22
Martinique	A	44
Mauritania	D	44
Mauritius	E	22
Mexico	A	44
Mongolia	No Parcel Post Service	
Morocco	C	44
Mozambique	E	22
Nauru	C	22
Nepal	D	22
Netherlands	C	44
Netherlands Antilles	A	44
New Caledonia	D	44
New Zealand	D	22
Nicaragua	B	44
Niger	D	44
Nigeria	C	22
Norway	D	44
Oman	D	22
Pakistan	D	22
Panama	A	44
Papua New Guinea	D	22
Paraguay	C	44
Peru	B	44
Phillipines	D	44
Pitcairn Islands	B	22
Poland	C	44
Portugal	C	22
Qatar	C	22
Reunion	E	44
Romania	C	22
Rwanda	D	22
St. Christopher and Nevis	A	22
St. Helena	C	22
St. Lucia	A	22
St. Pierre & Miquelon	A	44
Sao Tome & Principe	D	22
St.Vincent & The Grenadines	A	22
Santa Cruz Islands	C	22
Sao Tome & Principe	D	22
Saudi Arabia	D	22
Senegal	D	44
Seychelles	E	22
Sierre Leone	D	22
Singapore	D	22
Solomon Islands	C	22
Somalia	D	22
South Africa (including South-West Africa & Namibia)	D	22
Spain	C	22
SriLanka	D	22
Sudan	D	22
Surinsme	B	44
Swaziland	D	22
Sweden	D	44
Switzerland (including Leichtenstein)	B	44
Syria	C	44
Taiwan	C	44
Tanzania	E	22
Thailand	D	22
Togo	D	44
Tonga	B	22
Trinidad & Tobago	B	22
Tristan da Cunha	E	22
Tunisia	C	44
Turkey	C	44
Turks & Caicos Islands	A	22
Tuvalu (Ellice Islands)	B	22
Uganda	D	22
Union of Soviet Socialist Republic	E	22
United Arab Emirates	D	22

Country	Rate group	Maximum weight limits for air parcel post
Upper Volta (See Burkina)		
Uruguay	B	44
Vanuatu (formerly New Hebrides)	B	44
Vatican City State	C	44
Venezuela	B	44
Vietnam	No Parcel Post Service	
Western Samoa	B	22
Yemen Arab Republic (Sanaa)	D	44
Yemen, Peoples Democratic Rep.of (Aden)	D	44
Yugoslavia	C	44
Zaire	D	44
Zambia	E	22
Zimbabwe (formerly Rhodesia)	E	22

EXPRESS MAIL INTERNATIONAL SERVICE

FOR COUNTRIES BY RATE GROUP, SEE LIST

a. CUSTOM DESIGNED SERVICE 1/ 2/

(1) Group 1:

Pounds (Up to and including)	Rates
1	$31.00
2	32.60
3	34.20
4	35.80
5	37.40
6	39.00
7	40.60
8	42.20
9	43.80
10	45.40
11	47.00
12	48.60
13	50.20
14	51.80
15	53.40
16	55.00
17	56.60
18	58.20
19	59.80
20	61.40
21	63.00
22	64.60
23	66.20
24	67.80
25	69.40
26	71.00
27	72.60
28	74.20
29	75.80
30	77.40
31	79.00
32	80.60
33	82.20
34	83.80
35	85.40
36	87.00
37	88.60
38	90.20
39	91.80
40	93.40
41	95.00
42	96.60
43	98.20
44	99.80

(2) Group 2:

Pounds (Up to and including)	Rates
1	$31.00
2	34.80
3	38.60
4	42.40
5	46.20
6	50.00
7	53.80
8	57.60
9	61.40
10	65.20
11	69.00
12	72.80
13	76.60
14	80.40
15	84.20
16	88.00
17	91.80
18	95.60
19	99.40
20	103.20
21	107.00
22	110.80
23	114.60
24	118.40
25	122.20
26	126.00
27	129.80
28	133.60
29	137.40
30	141.20
31	145.00
32	148.80
33	152.60
34	156.40
35	160.20
36	164.00
37	167.80
38	171.60
39	175.40
40	179.20
41	183.00
42	186.80
43	190.60
44	194.40

(3) Group 3:

Pounds (Up to and including)	Rates
1	$31.00
2	35.90
3	40.80
4	45.70
5	50.60
6	55.50
7	60.40
8	65.30
9	70.20
10	75.10
11	80.00
12	84.90
13	89.80
14	94.70
15	99.60
16	104.50
17	109.40
18	114.30
19	119.20
20	124.10
21	129.00
22	133.90
23	138.80
24	143.70
25	148.60
26	153.50
27	158.40
28	163.30
29	168.20
30	173.10
31	178.00
32	182.90
33	187.80
34	192.70
35	197.60
36	202.50
37	207.40
38	212.30
39	217.20
40	222.10
41	227.00
42	231.90
43	236.80
44	241.70

(4) Group 4:

Pounds (Up to and including)	Rates
1	$31.00
2	36.90
3	42.80
4	48.70
5	54.60
6	60.50
7	66.40
8	72.30
9	78.20
10	84.10
11	90.00
12	95.90
13	101.80
14	107.70
15	113.60
16	119.50
17	125.40
18	131.30
19	137.20
20	143.10
21	149.00
22	154.90
23	160.80
24	166.70
25	172.60
26	178.50
27	184.40
28	190.30
29	196.20
30	202.10
31	208.00
32	213.90
33	219.80
34	225.70
35	231.60
36	237.50
37	243.40
38	249.30
39	255.20
40	261.10
41	267.00
42	272.90
43	278.80
44	284.70
45	290.60
46	296.50
47	302.40
48	308.30
49	314.20
50	320.10

b. CN DEMAND SERVICE 2/

(1) Group 1:

Pounds (Up to and including)	Rates
1	$23.00
2	24.60
3	26.20
4	27.80
5	29.40
6	31.00
7	32.60
8	34.20
9	35.80
10	37.40
11	39.00
12	40.60
13	42.20
14	43.80
15	45.40
16	47.00
17	48.60
18	50.20
19	51.80
20	53.40
21	55.00
22	56.60
23	58.20
24	59.80
25	61.40
26	63.00
27	64.60
28	66.20
29	67.80
30	69.40
31	71.00
32	72.60
33	74.20
34	75.80
35	77.40
36	79.00
37	80.60
38	82.20
39	83.80
40	85.40
41	87.00
42	88.60
43	90.20
44	91.80

(2) Group 2:

Pounds (Up to and including)	Rates
1	$23.00
2	26.80
3	30.60
4	34.40
5	38.20
6	42.00
7	45.80
8	49.60
9	53.40
10	57.20
11	61.00
12	64.80
13	68.60
14	72.40
15	76.20
16	80.00
17	83.80
18	87.60
19	91.40
20	95.20
21	99.00
22	102.80
23	106.60
24	110.40
25	114.20
26	118.00
27	121.80
28	125.60
29	129.40
30	133.20
31	137.00
32	140.80
33	144.60
34	148.40
35	152.20
36	156.00
37	159.80
38	163.60
39	167.40
40	171.20
41	175.00
42	178.80
43	182.60
44	186.40

(3) Group 3:

Pounds (Up to and including)	Rates
1	$23.00
2	27.90
3	32.80
4	37.70
5	42.60
6	47.50
7	52.40
8	57.30
9	62.20
10	67.10
11	72.00
12	76.90
13	81.80
14	86.70
15	91.60
16	96.50
17	101.40
18	106.30
19	111.20
20	116.10
21	121.00
22	125.90
23	130.80
24	135.70
25	140.60
26	145.50
27	150.40
28	155.30
29	160.20
30	165.10
31	170.00
32	174.90
33	179.80
34	184.70
35	189.60
36	194.50
37	199.40
38	204.30
39	209.20
40	214.10
41	219.00
42	223.90
43	228.80
44	233.70

(4)Group 4:

Pounds (Up to and including)	Rates
1	$23.00
2	28.90
3	34.80
4	40.70
5	46.60
6	52.50
7	58.40
8	64.30
9	70.20
10	76.10
11	82.00
12	87.90
13	93.80
14	99.70
15	105.60
16	111.50
17	117.40
18	123.30
19	129.20
20	135.10
21	141.00
22	146.90
23	152.80
24	158.70
25	164.60
26	170.50
27	176.40
28	182.30
29	188.20
30	194.10
31	200.00
32	205.90
33	211.80
34	217.70
35	223.60
36	229.50
37	235.40
38	241.30
39	247.20
40	253.10
41	259.00
42	264.90
43	270.80
44	276.70
45	282.60
46	288.50
47	294.40
48	300.30
49	306.20
50	312.10

INTERNATIONAL EXPRESS MAIL

Rate Groups and Maximum Weight Limits

Country	Rate Group	Maximum Weight (lbs.)
Argentina	3	33
Australia	4	44
Bahrain	3	22
Barbados	2	44
Belgium	3	44
Bermuda	1	33
Brazil	4	50
Canada	1	44
China, Peoples Republic	4	33
Colombia	2	44
Egypt	3	22
France	3	44
Federal Republic of Germany	2	44
Great Britain/Northern Ireland	2	44
Hong Kong	3	33
Ireland	2	44
Israel	3	33
Italy	3	44
Japan 3/	4	22
Korea, Republic of	3	44
Kuwait	3	33
Luxembourg	2	44
Macao	3	44
Malaysia	4	22
Netherlands	3	44
New Zealand	4	22
Norway	3	44
Qatar	3	44
Singapore	4	33
South Africa	4	44
Spain	2	44
Sweden	3	44
Switzerland	3	33
Taiwan	3	33
Thailand	4	22
Tunisia	3	44
Uruguay	3	44

1/ Rates in these tables are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a designated Post Office.
2/ Pickup is available under a Service Agreement for an added charge of $5.60 for each pickup stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pickup charge.
3/ Custom Designed service only.

9. INTERNATIONAL SURFACE AIRLIFT SERVICE RATES

a. Regular Service Pound Rates 1/ 2/

Origin Groups	Destination Groups: Rate Group A	Rate Group B	Rate Group C	Rate Group D	Rate Group E
East	$1.95	$2.22	$2.55	$2.66	$3.40
Central	1.70	2.47	NA	2.57	3.22
West	1.99	2.53	2.99	2.33	3.13

b. Regular Service M-Bag Pound Rates 2/

East	$1.76	$2.00	$2.30	$2.39	$3.06
Central	1.53	2.22	NA	2.31	2.90
West	1.79	2.28	2.69	2.10	2.82

c. Transit Service Regular Pound Rates 1/ 2/

East	NA	$2.41	NA	NA	$3.60
Central	NA	2.64	NA	NA	3.42
West	NA	2.82	NA	NA	3.30

d. Transit Service M-Bag Pound Rates 2/

East	NA	$2.17	NA	NA	$3.24
Central	NA	2.38	NA	NA	3.08
West	NA	2.54	NA	NA	2.97

1/ Minimum Rate Postage. The total postage paid on any bulk mailing may not be lower than the amount determined by multiplying the minimum rate per piece of 17¢ by the total number of pieces in the mailing. If the total postage computed at pound rates is less than the minimum postage charge, postage must be computed at the minimum rate per piece.

2/ Sack charge: $1.00.

INTERNATIONAL SURFACE AIRLIFT SERVICE RATE GROUPS: SEE LIST

International Surface Air Lift Service Rate Groups

Origin ANF's

East	Central	West
Boston	Chicago	Los Angeles
New York City	Dallas	San Francisco
Philadelphia	Houston	
Washington, D.C.		

Destination Countries for Regular and/or Transit Service

Rate Groups

A	B	C	D	E
Mexico	Albania	Argentina	India	Australia
Venezuela	Austria	Brazil	Japan	Fuji Islands
	Belgium			New Guinea
	Bulgaria			New Zealand
	Czechoslovakia			Phillipines
	Denmark			Singapore
	East Germany			South Africa
	Finland			
	France			
	Great Britain			
	Greece			
	Hungary			
	Iceland			
	Ireland			
	Italy			
	Luxembourg			
	Netherlands			
	Norway			
	Poland			
	Portugal			
	Rumania			
	Spain			
	Sweden			
	Switzerland			
	Yugoslavia			
	West Germany			

NOTE: All ANF's do not service all destinating countries.

B. New Special Mail Services Fees

1. Nonstandard Surcharge

   a. Letters (weighing one ounce or less): 9*cents

   b. Regular Printed Matter (weighing one ounce or less): 9*cents

2. Customs Clearance and Delivery Fee: $2.70

3. Inquiry Fee: $3.75*

4. Return receipt requested at time of mailing: 60*cents

5. Registered Mail

Limit of indemnity	Fee
1. Canada	
$00.00 to $100	$3.25*
$100.01 to $200	$3.55*
2. All other countries	
$25.20	$3.25*

6. Insured Mail

Limit of Indemnity **	Fees	
Not Over	Canada	All Other Countries
$ 25	$0.45*	$1.10
50	0.85*	1.50
100	1.25*	2.10
150	1.70*	3.00
200	2.05*	3.00
300	3.45*	3.70
400	4.70*	4.40
500	-- *	5.20
600	--	5.50
700	--	5.80
800	--	6.10
900	--	6.40
1,000	--	6.70
1,100	--	7.00
1,200	--	7.30

*Affected by domestic fees.

**Limits vary by country.

7. Money Orders

   a. Orders Issued on Domestic Form

Amount of Money Order	Fee
$0.01 to $25	$0.75*
$25.01 to $50	$1.10*
$50.01 to $500*	$1.55*

   b.

Orders Issued on International Form	
Amount of Money Order	Fee
$0.01 to $500.00*	$2.00

8. Special Handling

Weight	Fee
Not more than 10 pounds	$0.75*
More than 10 pounds	$1.30*

9. Special Delivery

Class of Mail	Not more than 2 pounds	Over 2 pounds
Letters, letter packages, post and postal cards.	$2.10*	$2.35*
Other articles.	$2.35*	$3.00*

10. Restricted Delivery: $1.00*

* Affected by domestic fees.

11. Certificates of Mailing

	Fee
Individual listed pieces: Original or Copy of original Certificate of mailing or receipt for registered or insured mail (Form 3817).	$0.40*
Firm mailing books (Form 3877).	0.40*
Bulk pieces: Up to 1,000 pieces	1.35*
For each additional 1,000 pieces, or fraction	0.15*
Duplicate copy	0.40*

[FR Doc. 84-25915 Filed 9-28-84; 8:45 am]
BILLING CODE 7710-12-C

SECURITIES AND EXCHANGE COMMISSION

[Release No. 21344; File No. SR-BSE-48-3]

Self-Regulatory Organizations; Boston Stock Exchange; Order Approving Proposed Rule Change

September 21, 1984.

The Boston Stock Exchange ("BSE") 1 Boston Place, Boston, Massachusetts 02108, submitted on July 6, 1984, copies of a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to amend Chapter XX, section 6 of the Exchange's rules to add a new rule which would require a member or member organization or employee thereof that gives any compensation to an employee of another member or member organization or other financial concern [1] in excess of $100 to first obtain the prior written consent of the recipient's employer.[2] However, gratuities valued at $100 or less in total given to any one person specified in Section 6, during the calendar year, are exempt from the rule's consent and notice requirement.

In addition, the proposed rule would require that a record of each gratuity given to a person covered by section 6 be retained and available for inspection by the Exchange for at least three years. The Exchange has stated in its filing that the proposed amendment is consistent with section 6(b)(5) of the Act in that it is designed to prevent fraudulent acts and practices which might arise in connection with the giving of gifts without such employer's knowledge.

Notice of the proposed rule change, together with the terms of substance of the proposed rule change, was given by the issuance of a Commission Release (Securities Exchange Act Release No. 21247, August 16, 1984) and by publication in the **Federal Register** (49 FR 33387, August 22, 1984). No comments were received with respect to the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of section 6, and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-25929 Filed 9-28-84; 8:45 am]

BILLING CODE 8010-01-M

[1] Such financial concerns include any officer or employee of a news or financial information medium, bank, trust company, insurance company or any corporation, firm or individual engaged in the business of dealing, either as broker or principal, in stocks, bonds or other securities, bills of exchange, acceptances or other forms of commerical paper.

[2] In the case of gifts by a member or member organization or employee thereof to floor employees of the BSE, the prior written consent of both the employer and the BSE is required.

[Release No.23434; (70-7025)]

Middle South Utilities, Inc., and Middle South Services, Inc.; Proposed Guaranty by Holding Company of Subsidiary Service Company's Performance Under Computer Leasing Agreement.

September 25, 1984.

Middle South Utilities, Inc. ("Middle South"), a registered holding company, and Middle South Services, Inc. ("Services"), 225 Baronne Street, New Orleans, Louisiana 70112, a subsidiary service company of Middle South, have filed a proposal with this Commission pursuant to Section 12(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 45 promulgated thereunder.

By prior orders dated December 21, 1982, and January 19, 1983 (HCAR Nos. 22793 and 22822), Middle South was authorized to guarantee the performance by Services of obligations under computer equipment leasing arrangements between Services and Comdisco, Inc. ("Comdisco"), a nonaffiliated corporation. Services now intends to enter into additional computer equipment leasing arrangements with Comdisco with respect to certain model upgrading ("Model Upgrading") for the IBM 3084 computer system and related equipment ("Computer System") currently being used by Services at its data processing center in Gretna, Louisiana. In order to effectuate these transactions, Middle South proposes to guarantee the performance by Services of its lease obligations without recourse to Services first being required.

Comdisco will purchase the Model Upgrading for the Computer System from International Business Machines Corporation ("IBM") at the IBM purchase price, estimated at approximately $612,360. Concurrently, Comdisco will lease the Model Upgrading to Services under leasing arrangements coterminous with the lease of the existing Computer System, which expires on December 31, 1986, except the commencement date of the leasing arrangements for the Model Upgrading will be approximately October or November 1984, which is when the Model Upgrading is expected to be installed. The lease will be a net lease conferring responsibility for operation, maintenance, and various expenses upon Services. The lease will be non-cancellable through the initial term ending December 31, 1986 ("Initial Term") except in the event of: (a) Irreparable damage, loss, or destruction of the Model Upgrading; or (b) default by Services. Monthly rental payments by Services for the Model Upgrading during the Initial Term will be approximately $22,449, with payments beginning by December 1984. Rental payments may be adjusted in the event that, under certain circumstances; the lessor loses certain tax benefits incident to its ownership and leasing of the Model Upgrading. Services intends to change the payments under the lease to operating expense. The rental payments are such that Services will not acquire any equity in the Model Upgrading, and, consequently, the lease will be accounted for by Services as a lease.

The proposal and any amendments thereto are available for public inspections through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by October 19, 1984, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the proposal, as filed or as it may be amended, may be authorized.

For the Commission, by the Office of Public Utility Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-25931 Filed 9-28-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 23430; (70-7014)]

New England Power Co.; Proposal To Extend Increase in Permitted Short-Term Indebtedness; Order Authorizing Solicitation of Proxies in Connection Therewith

September 21, 1984.

New England Power Company ("NEP"), 25 Research Drive, Westborough, Massachusetts 01581, a subsidiary of New England Electric System, a registered holding company, has proposed a transaction subject to sections 6(a)(2), 7(e), and 12(e) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 62 and 65 thereunder.

The preference provisions of the Cumulative Preferred Stock, as set forth in NEP's Articles of Organization and By-Laws, provide that, except as voted by the holders of a majority of the Cumulative Preferred Stock, the short-term unsecured indebtedness of NEP shall not exceed 10% of the sum of the principal amount of all bonds and other secured indebtedness and the capital, premium, and retained earnings of NEP and that all unsecured indebtedness of NEP shall not exceed 20% of such sum. As used in NEP's Articles of Organization and By-Laws, short-term unsecured indebtedness means unsecured indebtedness having an original maturity of less than ten years. Currently, as in the past, NEP's unsecured indebtedness is all short-term. By a majority vote of the holders of the Cumulative Preferred Stock during a special meeting of stockholders held on June 25, 1980, NEP was authorized to issue short-term unsecured indebtedness in excess of the 10% limitation thereon, provided that all unsecured indebtedness not exceed 20% of the indebtedness and the capital, premium, and retained earnings of NEP and that any such unsecured indebtedness in excess of the 10% limitation be issued not later than July 1, 1985, and mature not later than July 1, 1986. (HCAR No. 21634, June 20, 1980.)

In order to maintain financial flexibility in its construction and bond retirement plans, NEP now proposes to seek an affirmative vote by the holders of a majority of the Cumulative Preferred Stock, authorizing the continued issue by NEP of short-term unsecured indebtedness in excess of the 10% limitation provided that any such excess indebtedness be issued not later than November 1, 1991, such excess indebtedness shall have a maturity not later than November 1, 1992, and the 20% limitation on all unsecured indebtedness of NEP shall remain in effect.

The continuation of the 20% permitted amount of short-term unsecured indebtedness requires the favorable vote, at a meeting called for that purpose, of a majority of the Cumulative Preferred Stock of all series now outstanding voting as a single class. The Board of Directors intends to submit the proposal to the Cumulative Preferred Stockholders for approval, and to solicit proxies to obtain the required vote.

The proposal and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by October 15, 1984, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact and/or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the proposal, as filed or as it may be amended, may be authorized.

It appearing that the declaration, as amended, regarding the proposed solicitation of proxies should be permitted to become effective forthwith pursuant to Rule 62:

It is ordered, pursuant to Rule 62, that the declaration regarding the proposed solicitation of proxies be, and it hereby is, permitted to become effective forthwith, subject to the terms and conditions prescribed in Rule 24 under the Act.

For the Commission, by the Office of Public Utility Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-25930 Filed 9-28-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 23432; (70-7016)]

New England Power Co.; Proposal To Execute Loan Agreements in Connection With the Issuance of Short-Term Pollution Control Bonds; Exception From Competitive Bidding

September 24, 1984.

New England Power Company ("NEP") 25 Research Drive, Westborough, Massachusetts 01581, a subsidiary of New England Electric System, a registered holding company, has proposed a transaction subject to sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50(a)(5) thereunder.

NEP proposes to execute loan agreements in connection with the issuance of pollution control revenue bonds with a maturity of less than one year to finance certain facilities associated with its approximately 10% share of the Seabrook nuclear project and its approximately 12% share of the Millstone 3 nuclear project. NEP is seeking authority to finance its share of the Internal Revenue Service ("IRS") qualifying costs of constructing radioactive waste facilities with pollution control revenue bonds to be issued by the Industrial Development Authority of the State of New Hampshire (NHIDA) in the case of the Seabrook I nuclear project and the Connecticut Development Authority (CDA) in the case of the Millstone 3 nuclear project (NHIDA and CDA are hereinafter referred to individually and collectively as the "Issuing Authority"). NEP's share of these expenses and carrying charges is currently estimated to be approximately $20 million for the Millstone nuclear project and $15 million for the Seabrook Nuclear project. In addition, NEP has been advised that the IRS may consider certain other costs associated with Nuclear plants as being qualified for financing with pollution control revenue bonds. Actual issuance of pollution control revenue bonds in connection with these expenditures is contingent upon obtaining an opinion of nationally recognized tax counsel or an IRS ruling that the interest paid thereon will not be taxable to the buyer.

Any pollution control revenue bonds issued on NEP's behalf will be sold by the Issuing Authority through arrangements negotiated with underwriters. Based on current market conditions, it is anticipated that the interest rate on the proposed bonds will not exceed 7.5%. NEP would not be a party to the negotiated underwriting agreements but those agreements will provide that the terms of the pollution control revenue bonds and their sale shall be acceptable to NEP. Additionally, NEP may give certain written assurances to the Issuing Authority and the underwriters. Loan agreements to be entered into between NEP and the Issuing Authority will provide that the proceeds from the sale of any pollution control revenue bonds issued will be loaned to NEP. The authority would be supplemental to that applied for in pending Commission File 70-7015, providing for long-term

pollution control financing by NEP. The supplemental authority proposed here will provide NEP with the necessary flexibility to meet an IRS December 31, 1984 deadline for financing the project with tax-exempt bonds in the event that market conditions or time constraints preclude the issuance of long-term bonds by the Issuing Authority before that time. Any such short-term pollution control revenue bonds would be backed by NEP's promise to make payments to the Issuing Authority corresponding in both timing and amount to the payment obligations of the Issuing Authority with respect to the short-term pollution control revenue bonds. Any such pollution control revenue bonds would not be otherwise secured. As discussed above, these short-term pollution control revenue bonds would be sold through negotiation with underwriters.

The terms of any such short-term bonds would provide that they could be refinanced prior to their maturity, without a redemption, through a defeasance mechanism, whereby, at such time as funds are irrevocably placed in trust for the benefit of the Issuing Authority, NEP would be released from any further obligation with respect to the defeased bonds. It is presently contemplated that the Issuing Authority will issued long-term bonds to refinance any short-term bonds. In order to avoid the inflexibility and potential adverse economic impact associated with establishing, in advance, a date upon which the short-term financing will be replaced with long-term financing, it is proposed that NEP has the option to rollover the short-term financing for a period not exceeding three years, subject to Commission approval. Any short-term borrowing made by NEP pursuant to this proposal will be considered in determining the total borrowing authority granted by prior Commission Order (HCAR No. 23265, March 31, 1984).

The proposal and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by October 19, 1984, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the proposal, as filed or as it may be amended, may be authorized.

For the Commission, by the Office of Public Utility Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-25932 Filed 9-28-84; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Direct Business Loans; Interest Rates

The interest rate on Section 7(a) Small Business Administration direct business loans (as amended by Pub. L. 97-35) and the SBA share of immediate participation loans is thirteen and seven-eights (13⅞) percent for the fiscal quarter beginning October 1, 1984.

On a quarterly basis, the Small Business Administration also publishes an interest rate called the optional "peg" rate (13 CFR 120.3(b)(2)(iii)). This rate is a weighted average cost of money to the government for maturities similar to the average SBA loan. This rate may be used as a base rate for guaranteed fluctuating interest rate SBA loans. For the October–December quarter of 1984, this rate will be thirteen and one-quarter (13¼) percent.

Edward J. Myerson,

Acting Associate Administrator for Finance and Investment.

[FR Doc. 84-25926 Filed 9-28-84; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area # 12169]

North Carolina; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration on September 21, 1984, I find that the Counties of Brunswick, New Hanover, and Pender constitute a disaster loan area because of damage from Hurricane Diana beginning on September 13, 1984. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on November 23, 1984, and for economic injury until June 21, 1985, at: Disaster Area 2 Office, Small Business Administration, Richard B. Russell Federal Bldg., 75 Spring St., SW., Suite 822, Atlanta, Georgia 30303, or other locally announced locations.

Interest rates are:

	Percent
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses without credit available elsewhere	4.000
Businesses (EIDL) without credit available elsewhere	4.000
Other (non-profit organizations including charitable and religious organizations)	10.500

The number assigned to this disaster is 216908 for physical damage and for economic injury the number is 620600.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: September 25, 1984.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 84-25925 Filed 9-28-84; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice 918]

Certain Foreign Passports; Validity

Under the provisions of section 212(a)(26) of the Immigration and Nationality Act, a nonimmigrant alien who makes application for a visa or for admission into the United States is required to be in possession of a passport which is valid for a minimum period of six months from the date of expiration of the initial period of his admission into the United States or his contemplated initial period of say authorizing him to return to the country from which he came or proceed to and enter some other country during such period. By reason of the foregoing requirement, certain foreign governments have entered into agreements with the Government of the United States whereby their passports are recognized as valid for the return of the bearer to the country of the foreign-issuing authority for a period of six months beyond the expiration date specified in the passport. These arrangements have the effect of extending the validity period of the foreign passport an additional six months notwithstanding the expiration date indicated in the passport.

This order incorporates those countries which have concluded such agreements subsequent to Public Notice 766 of August 4, 1981 and adds United Arab Emirates to the list. The following foreign governments have concluded agreements with the Government of the United States:

Algeria
Antigua and Barbuda
Australia

Austria (Reisepass only)
Bahamas, The
Bangladesh (travel permits and passports)
Belgium
Bolivia
Brazil
Cambodia
Canada
Chile
Colombia
Costa Rica
Cuba
Cyprus
Denmark
Dominican Republic
Ecuador
Egypt
El Salvador
Ethiopia
Finland
France
Germany (FRG) (Reisepass and kinderausweis)
Greece
Guatemala
Guinea
Guyana
Honduras
Iceland
India
Iran
Ireland
Israel
Italy
Ivory Coast
Jamaica
Japan
Korea
Kuwait
Laos
Lebanon.
Libya
Liechtenstein
Luxembourg
Madagascar
Mauritius
Mexico
Monaco
Morocco
Netherlands
New Zealand
Nicaragua (diplomatic and official passports only)
Nigeria
Norway
Pakistan
Panama
Paraguay
Peru
Philippines
Portugal
Qatar
St. Vincent and the Grenadines
Senegal
Soviet Union (U.S.S.R.) (Seamen only)
Spain Sri Lanka
Sudan
Sweden
Switzerland
Syria
Thailand
Togo
Trinidad and Tobago
Tunisia
Turkey
United Arab Emirates
United Kingdom
Uruguay
Venezuela
Yugoslavia

In addition, travel documents issued by the Government of the Trust Territory of the Pacific Islands are considered to be valid for the return of the bearer to the Trust Territory for a period of six months beyond the expiration date specified therein.

Public Notice 766 of August 4, 1981 issued at 46 FR 39718 and amendments thereto are hereby superseded.

Dated: September 24, 1984.

Edward M. Rowell,

Acting Assistant Secretary for Consular Affairs.

[FR Doc. 84-25972 Filed 9-28-84; 8:45 am]

BILLING CODE 4710-06-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 84-072]

Lower Mississippi River Waterway Safety Advisory Committee; Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) Notice is hereby given of the fifth meeting of the Lower Mississippi River Waterway Safety Advisory Committee. The meeting will be held on Wednesday, October 17, 1984 in the 29th Floor Boardroom of the International Trade Mart Building, 2 Canal Street, New Orleans, LA. The meeting is scheduled to begin at 9 a.m. and end at 4 p.m. The agenda for the meeting consists of the following items:

1. Call to Order.
2. Minutes of the July 17, 1984 Meeting.
3. Chairman's Message.
4. Formal solicitation of views of members concerning the effectiveness, activities, and management of the committee, including recommendations for improvement.
5. Discussion of the committee sponsor's responses to recommendations approved by the LMRWSAC at their July 17, 1984 meeting.
6. Introduction of any new items for discussion.
7. Adjournment.

The purpose of this committee is to provide a public forum which will furnish to the U.S. Coast Guard consultation, local expertise, and advice on a wide range of matters regarding all facets of navigation safety.

Attendance is open to the public. With advance notice, members of the public may present oral statements at the meeting. Prior to presentation of their oral statements, but no later than the day before the meeting, members of the public shall submit, in writing, to the Executive Secretary of the Lower Mississippi River Waterway Safety Advisory Committee, the subject of their comments, a general outline signed by the presenter, and the estimated time required for presentation. The individual making the presentation shall also provide their name, address, and, if applicable, the organization they are representing. Any member of the public may present a written statement to the Advisory Committee at any time.

Additional information may be obtained from Commander R. A. Brunell, Executive Secretary, Lower Mississippi River Waterway Safety Advisory Committee, c/o Commander, Eighth Coast Guard District (mps), Room 1341, Hale Boggs Federal Building, 500 Camp Street, New Orleans, LA 70130, Telephone number (504) 589-6901.

Dated: September 20, 1984.

William H. Stewart,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 84-25980 Filed 9-28-84; 8:45 am]

BILLING CODE 4910-14-M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 191
Monday, October 1, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

September 26, 1984.

TIME AND DATE: 10:00 a.m., Wednesday, September 26, 1984.

PLACE: Room 600, 1730 K Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will also consider and act upon the following:

2. Kennecott Minerals Company, Docket Nos. WEST 82-155-M, WEST 83-60-M. (Petition for Discretionary Review.)

It was determined by a unanimous vote of Commissioners that a meeting be held on this item and that no earlier announcement of the meeting was possible. 5 U.S.C. 552b(e)(1).

Any person intending to attend this (hearing/meeting) who requires special accessibility features and/or any auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Thus, the Commission may, subject to the limitations of 29 CFR 150(a)(3) and 160(e), ensure access for any handicapped person who gives reasonable advance notice.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, (202) 653-5629.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 84-26009 Filed 9-27-84; 12:50 pm]

BILLING CODE 6735-01-M

2

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Thursday, October 4, 1984.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Summary Agenda

Because of their routine nature, no substantive discussion of the following items is anticipated. These matters will be voted on without discussion unless a member of the Board requests that an item be moved to the discussion agenda.

1. Proposal to extend, with revision, the money market mutual fund asset reports (FR 2051 a, b, c, and d).

2. Proposed extension of the reporting forms required by Regulation F (Securities of Member State Banks) (F-1, 2, 3, 4, 5, 6, 7, 8, 9 A, B, C, D, and E, 10, 11, 11A, 12, 13, and 20).

Discussion Agenda

1. Proposed amendments to Regulation E (Electronic Fund Transfers) regarding periodic disclosures and fund transfers resulting from point-of-sale transactions. (Proposed earlier for public comment; Docket No. R-0502.)

2. Any items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452-3204.

Dated: September 26, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-26002 Filed 9-26-84; 4:54 pm]

BILLING CODE 6210-01-M

3

FEDERAL RESERVE SYSTEM

TIME AND DATE: Approximately 10:45., Thursday, October 4, 1984, following a recess at the conclusion of the open meeting.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Report to Congress on the Bank Export Services Act.

2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: September 26, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-26003 Filed 9-26-84; 4:54 pm]

BILLING CODE 6210-01-M

4

TENNESSEE VALLEY AUTHORITY

CHANGE IN PREVIOUSLY ANNOUNCED TIME OF MEETING AND CHANGE IN PREVIOUSLY ANNOUNCED AGENDA: The previously announced time of the September 27, 1984 open meeting of the TVA Board was changed, following public announcement of the change at the earliest practicable time, to 9:15 a.m., September 27, 1984. The previously announced location of the meeting, TVA West Tower, Auditorium, 400 West Summit Hill Drive, Knoxville, Tennessee, remains unchanged.

In addition, the following item is now added to the previously announced agenda:

Unclassified

7. Revised Organization Bulletin—Tennessee Valley Authority

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call 615-632-8000, Knoxville, Tennessee. Information is also available at TVA's Washington Office, 202-245-0101.

SUPPLEMENTARY INFORMATION:

TVA Board Action

The TVA Board of Directors has found, the public interest not requiring otherwise, that TVA business requires the subject matter of this meeting be changed to include the additional item shown above and that no earlier

announcement of this change was possible.

The members of the TVA Board voted to approve the above findings and their approvals are recorded below:

Approved:

C.H. Dean, Jr.,
Director and Chairman.
Richard M. Freeman,
Director.
John B. Waters,
Director.

[FR Doc. 84-28095 Filed 9-27-84; 3:48 pm]
BILLING CODE 8120-01-M

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federal register

Monday
October 1, 1984

Part II

Environmental Protection Agency

40 CFR Parts 260, 261, 264, 265, 270, and 271 Hazardous Waste Management System; Ground Water Testing and Monitoring Activities; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 260, 261, 264, 265, 270, and 271

[SWH–FRL 2633–5]

Hazardous Waste Management System; Ground Water Testing and Monitoring Activities

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is today proposing to amend its hazardous waste regulations under Subtitle C of the Resource Conservation and Recovery Act (RCRA) to make EPA Publication "Test Methods for Evaluating Solid Waste" (SW–846) methods mandatory for all testing and monitoring activities required under Subtitle C, as specified in 40 CFR Parts 260–271. The Agency is also proposing to eliminate certain requirements for ground-water testing in those limited circumstances where the constituent being tested for immediately converts to another substance on contact with water, or where no testing method has been developed to detect the constituent in question. The Agency is also proposing to allow the use of screening tests for ground-water monitoring to test for classes of constituents. Finally, EPA is proposing a conceptual hierarchical approach (screening) that has the potential for reducing the amount of testing necessary to determine whether certain classes of chemical constituents are present in the ground water. All of these changes will provide for enhanced performance by both the regulated community and the Agency.

DATES: Comments on this proposed rule must be submitted on or before December 31, 1984.

ADDRESSES: Comments on this proposed rule should be sent to Docket Clerk, Docket No. 846–84–1 (RCRA Monitoring), Office of Solid Waste (WH–565), U.S. Environmental Protection Agency, 401 M. St., S.W., Washington, D.C. 20460. The public docket for this proposed rule is located in Room S–212A, U.S. Environmental Protection Agency, 401 M. St., S.W., Washington, D.C. 20460. The public docket is available for viewing from 9:00 a.m. to 4:00 p.m. Monday through Friday, except legal holidays.

Complete copies of the text of the sampling and analytical methodologies addressed in this rulemaking are available from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161, (703) 487–4600.

FOR FURTHER INFORMATION CONTACT: For general information contact the RCRA hazardous waste hotline, Office of Solid Waste (WH–563), U.S. Environmental Protection Agency, 401 M. St., S.W., Washington, D.C. 20460, telephone (800) 424–9346 or in Washington, D.C. 382–3000.

For information on the technical aspects of this proposed rule contact: David Friedman, Office of Solid Waste (WH–562B), U.S. Environmental Protection Agency, 401 M. St., S.W., Washington, D.C. 20460, (202) 382–4770.

SUPPLEMENTARY INFORMATION:

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Part I. Background
- A. Overview of Subtitle C Regulations and Testing Provisions
- B. Sampling and Test Methods Under Subtitle C
- C. General Concerns with Subtitle C Testing
- D. Specific Comments Received on Sampling and Analysis Requirements of Part 264

Part II. Proposed Modifications To Subtitle C Regulations
- A. Mandatory Use of SW–846
- B. Addition of Methods to SW–846
  - 1. Appendix VIII Methods
  - 2. Ignitability and Representative Sampling Methods
- C. Elimination of Requirement to Test for Certain Compounds
- D. Use of Screening Tests
- E. Hierarchical Analysis Protocol (HAP)
  - 1. Explanation of the HAP
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Part III. Regulatory Impact
- A. Regulatory Impact
- B. Regulatory Flexibility Act
- C. Paperwork Reduction Act
- D. State Authority

I. Background

A. Overview of Subtitle C Regulations and Testing Provisions

Subtitle C of RCRA establishes a national program to provide comprehensive regulation of hazardous waste. Central to this regulatory scheme is the critical need to reliably identity both hazardous wastes and those situations in which improper management of such wastes may adversely affect human health and the environment. The testing provisions of the Subtitle C regulations have been developed to meet this need.

Among other things section 3001 of RCRA directs EPA to list hazardous wastes which are then subject to regulation under Subtitle C.[1] Part 261 of 40 CFR contains a list of wastes determined by the Administrator to be hazardous; it also sets forth the criteria the Administrator must consider in listing a hazardous waste. One of the criteria the Administrator considers in listing a waste is whether it contains any of the approximately 375 toxic constituents set forth in Appendix VIII of Part 261. (There are a number of other factors that the Agency uses in listing a waste, in addition to mere presence of an Appendix VIII constituent. See § 261.11(a)(3). Constituents are included in Appendix VIII if they have been shown to have toxic, carcinogenic, mutagenic, or teratogenic effects on humans or other life forms. As will be seen from the discussion of testing under Section 3004 of RCRA which follows, while Appendix VIII plays an important part in the Administrator's listing considerations, it also plays a significant role in defining the extent of certain incineration and ground-water testing required of hazardous waste facilities.

Once a waste has been listed by the Administrator as hazardous in accordance with Part 261 criteria it must be managed in accordance with the remaining Subtitle C requirements regarding generators, transporters, and hazardous waste treatment, storage and disposal facilities. In order to "delist" a waste at a particular facility, an individual must petition the Agency under 40 CFR 260 and demonstrate to the Administrator through the use of appropriate sampling and analytic testing methodologies that the specific waste in question does not meet any of the criteria under which it was classified as hazardous.

Sections 3002 and 3003 require EPA to establish standards for generators and transporters of hazardous wastes which will ensure proper recordkeeping and reporting as well as the use of a manifest system to track shipments of hazaradous waste. Transporters of hazardous waste must comply with manifest and recordkeeping requirements of Part 263, but they are not required to test or evaluate the waste. Generators, however, are required to evaluate their waste and, where necessary, test it to determine whether or not it is hazardous.

To ensure that the treatment, storage, and disposal facilities which receive this waste are designed, constructed, and operated in a manner which protects human health and the environment, Section 3004 of RCRA directs EPA to promulgate technical, administrative, monitoring, and financial responsibility standards for the facilities. Parts 264 and

[1] The RCRA regulations also define characteristics of hazardous waste. The discussion here is simplified by restricting it to listed wastes.

265 implement these statutory requirements and generally require owners and operators of hazardous waste facilities both to test wastes they receive and to perform various types of ground-water monitoring.[3] Additional testing requirements for hazardous waste land treatment and incineration are also provided. The analytical testing necessary to comply with Parts 264 and 265 generally falls into one of two categories: waste analysis to identify hazards and management options, and monitoring of management effectiveness. This includes measurement of incinerator destruction and removal efficiency as part of a trial burn, and monitoring of ground water and the unsaturated zone (in the case of land treatment units) at land disposal facilities.

Owners and operators of hazardous waste facilities are required, under Parts 264 and 265, to obtain a detailed chemical and physical analysis of representative samples of wastes before such wastes are treated, stored, or disposed of at the facility. The minimum requirement for this analysis is that it contain all the information necessary to allow proper storage, treatment, or disposal of the waste in question. Facilities that manage hazardous waste from offsite are required, at a minimum, to inspect each shipment received and, where necessary, analyze each shipment to determine whether it matches the waste description contained in the accompanying manifest or shipping paper.

For hazardous waste incinerators, Part 264 also requires that stack gases and other incinerator operating streams be analyzed for designated principal organic hazardous constituents (POHCs) in order to develop operating conditions necessary to insure a required 99.99% destruction and removal efficiency (DRE). The POHCs are selected from Appendix VIII compounds known to be present in the waste that is incinerated.

Land disposal facilities are required to establish ground-water monitoring programs. Under Part 265 interim status regulations and the Part 264 permit regulations, hazardous waste facilities are required to establish background levels for certain indicator parameters and then test periodically to determine whether the background levels have been exceeded. If the periodic testing indicates a significant increase over background levels, then facilities are required to conduct further testing. In the Part 265 program, this takes the form of "assessment monitoring" for specific hazardous waste constituents. Under Part 264, facilities with final permits are required to sample and analyze for each of the compounds specified in Appendix VIII of Part 261 when there is an indication that a unit may be leaking. In addition, the facility owner/operator must monitor for some (or, in rarer cases, all Appendix VIII constituents on a regular basis during the compliance and post-closure care periods.)

In addition to the testing provisions discussed above, Parts 264 and 265 require further testing for facilities that land treat hazardous wastes. Under Part 264, EPA requires that for each waste that will be applied to the treatment zone, the owner or operator of the facility demonstrate through field tests, laboratory analyses, and available data that the hazardous constituents contained in the waste can be completely degraded, transformed, or immobilized on the treatment zone. The testing needed to accomplish this will require analyzing for certain Appendix VIII constituents. Finally, in order to make certain that the land treatment process is working effectively to contain the wastes being treated, owners and operators are required to conduct testing in the soils beneath the treatment zone. This is commonly referred to as unsaturated zone monitoring and includes both soil monitoring through the use of soil cores, and soil-pore liquid monitoring through the use of devices such as lysimeters. Where a treatment zone itself will be subsequently used for food chain crops, owners and operators of land treatment facilities must also conduct testing to demonstrate that Appendix VIII constituents will not be transferred to the crop in greater concentrations than crops grown on untreated soils.

B. Sampling and Test Methods Under Subtitle C

The foregoing discussion outlined the major Subtitle C testing requirements. The principal issue addressed by today's proposed rulemaking is *how* this testing should be carried out. Specifically, this proposed rule addresses sampling and analytical procedures and methods to be used to ensure accurate, consistent, and comparable testing results—year to year, facility to facility, and region to region.

EPA Publication SW–846, "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," contains all of the sampling and analysis methods necessary for identifying hazardous wastes under the definition and listing provisions of 40 CFR Part 261. It has been incorporated by reference for regulatory use under Part 260 and 261 and for informational purposes in Parts 260 through 265. An index of sampling and analytical procedures contained in SW–846 is provided in Appendix III of Part 261.

Use of the testing methods contained in SW–846 is presently required in only certain regulatory provisions under Subtitle C: § 261.22 specifies an SW–846 test method for measuring the hazardous waste characteristic of corrosivity; § 261.24 requires SW methods for the analsis of the extract; § 260.22(d) calls for use of SW–846 methods in developing data for delisting petitions; and § 270.62 requires the use of SW–846 analytical techniques to identify hazardous organic constituents as part of the process for obtaining a hazardous waste incinerator permit.

Appendix I of Part 261, "Representative Sampling Methods," supplements SW–846 by referencing four sampling methods for extremely viscous liquids, fly ash-like materials, containerized liquid wastes, and liquid wastes in pits, ponds and lagoons. The regulations provide explicitly that while Appendix I is not formally adopted or required by EPA, the Agency will consider its use acceptable for determining a "representative sample" (see § 261.20).

Finally, § 260.11 incorporates by reference two test methods for measuring the hazardous waste characteristic of ignitability under Part 261: ASTM Standard Test Methods for Flash Point of Liquids by Seta Flash Closed Tester and ASTM Standard Test Methods for Flash Point by Pensky-Martens Closed Tester.

As a matter of policy, EPA relies upon the sampling and analytical procedures contained in SW–846 as well as the additional methods incorporated by reference in Part 260 and Appendix I of Part 261 for implementing many of the testing provisions under Subtitle C. However, with the limited exception of the provisions noted above, none of these testing procedures and methodologies is presently required or specified for compliance with Subtitle C regulations.

C. General Concerns With Subtitle C Testing Requirements

As discussed, generators of hazardous waste and owners or operators of hazardous waste treatment, storage, and disposal facilities (TSDFs) are required to conduct sampling and analytical testing for waste analysis and monitoring purposes, as well as to provide data for any hazardous waste "delisting" petitions they may wish to submit. The constitutents they may need

[3] Sections 264.90, 265.93.

to test for could ultimately include any of those identified in Appendix VIII.

Standardized sampling and analytical methods for measuring all these constituents have not been compiled in one place nor been formally recognized as acceptable by the Agency for many purposes in the hazardous waste program. The Agency has received numerous inquiries on acceptability of various methods from both the regulated community and regional permitting officials. Usually there is more than one analytical method that can be used to measure a given parameter. This has led to confusion. Questions about which methods are appropriate, and whether other methods are equivalent, are also frequently encountered.

Because EPA has not provided specific guidance on testing methodology, it is possible that differing methods with different detection limits could be used in each Region. Testing and monitoring standards therefore may not be applied uniformly throughout the country. This creates the potential for inconsistent enforcement at both the Federal and State levels and, perhaps most important, raises the possibility of uneven and thus unfair imposition of testing requirements on individual generators of facilities which otherwise may be operating under similar circumstances.

In addition, since EPA has not identified acceptable sampling and analysis methodology for all required testing, owners or operators of hazardous waste facilities must expend resources to indentify methods for their testing amd monitoring programs. Permitting officials, in turn, may need to expend additional resources to evaluate these methods. Moreover, without specific guidance, permitting officials often will not be familiar with particular methods referenced in a permit application and this may lead to confusion and duplication of effort for both the facilities and the permitting officials.

In conjunction with the general concerns noted above, the following section outlines a number of more specific concerns raised in connection with Part 264 sampling and analysis requirements that deal particularly with the requirement to monitor for Appendix VIII constituents discussed earlier under section A. These concerns are expressed in the form of comments on an earlier rulemaking, and illustrate in more detail some of the issues that today's proposal addresses. Because of their relevance, this proposed rule is being used to summarize those comments and provide the Agency's formal response.

D. Specific Comments Received on Sampling and Analysis Requirements of Part 264

Many of the testing requirements discussed earlier were part of the Part 264 ground-water monitoring requirements published on July 26, 1982. The Agency received a number of comments on that interim final rule which are summarized as follows:

1. Sampling and analysis for all Appendix VIII constituents under the compliance monitoring requirements of Part 264 will be very expensive.

2. Many analysis methods provided in SW–846 are written for solid waste and therefore inappropriate and have not been validated for ground-water samples.

3. Neither the ground-water regulations nor SW–846 provide performance criteria (such as required levels of accuracy, precision , recovery, etc.) for analytical methods for ground-water sampling and analysis. In the absence of these criteria, a laboratory cannot reasonably evaluate and select analytical methods to be used for Appendix VIII constituents in ground water.

4. A number of Appendix VIII constituents are either unstable or dissociate into ionic species in water and therefore cannot exist in ground water.

5. Many compounds are listed as classes such as "lead and compounds N.O.S." (not otherwise specified). Hundreds of additional compounds could be assigned to the N.O.S. classes and identification of each of these would be infeasible.

6. Analytical methods for many Appendix VIII constituents are not available.

7. There are a number of technical errors in SW–846.

A discussion of the testing costs for Appendix VIII constitutents in ground water is provided in Part III of this Preamble. EPA believes that monitoring is essential to determine the extent of ground-water contaminaton and the effectiveness of a facility's corrective action program. Howeve, the Agency also believes that this monitoring should be done as cost effectively as possible and, therefore, is proposing the use of screening tests in Part II D as well as soliciting comment on a hierarchical testing formula under which it may be possible to accurately test for all classes of Appendix VIII constituents through the use of a relatively small number of analytical procedures. This is explained further in Part II D and E, respectively.

We disagree with the comment that many analysis methods in SW–846 are not appropriate for ground water. Since most of the methods contained in SW–846 evolved from EPA drinking water and effluent monitoring methods and reduce to the standard EPA 600 series methods for aqueous samples, the methods in SW–846 are appropriate for ground-water monitoring. The basis of the Agency's selection of the existing methods in SW–846, as well as the basis for incorporating additional methods into SW–846, is discussed in detail in Part II A and B respectively. As to the concern that no performance criteria exist, many SW–846 methods provide performance criteria (such as precision, accuracy, etc.) for Appendix VIII constituents. This is evidenced in the tables provided with each method. The tables provide precision and recovery data for many of the compounds EPA has identified as priority pollutants under the Clean Water Act. For a number of Appendix VIII constituents additional performance data is needed, and this is presently being worked on by the Agency's Office of Research and Development at its laboratories in Cincinnati and Las Vegas. It should be emphasized, however, that with today's action consolidating into SW–846 all the methods necessary to comply with Subtitle C testing requirements, the lack of such data for certain methods does not hinder compliance with Subtitle C regulations nor prevent the preparation and submissions of equivalency petitions under § 260.21. Equivalency can be determined on the basis of data derived from controlled experiments where a proposed method is run alongside an existing approved on.

EPA recognizes that some Appendix VIII constituents are immediately unstable in water and, therefore, impossible to test for. Therefore, EPA is proposing today in Part II C to eliminate the requirement for testing those Appendix VIII constituents that immediately convert to another compound upon contact with water. For those Appendix VIII constituents that dissociate into ionic species upon contact with water, and therefore cannot be tested for in the form listed, the Agency is providing a list of methods that can be used to determine the particular ionic species of interest in the ground water (see Table 3.1.4–2, of today's SW–846 proposed amendments). The following Appendix VIII constituents, for example, can be determined by simply testing for total cyanide, which is the species of concern:

Calcium cyanide
Copper cyanide
Cyanide (soluble salts and complexes) N.O.S.

Cyanogen
Hydrocyanic acid
Nickel cyanide
Potassium cyanide
Sodium cyanide
Zinc cyanide

It should also be noted that some compounds can be tested for (and therefore eliminated) in more than one way. Nickel cyanide, for example, can be eliminated by verifying that either nickel or cyanide is not present. Either approach is valid. Again, referring to the cyanide example, the listing "cyanide (soluble salts and complexes) N.O.S." in theory contains hundreds of compounds; however, since cyanide is sufficient to cover this N.O.S. category. This type of screening approach is explained in greater detail in Section II D of this preamble.

The methods that are proposed today and discussed in Part II B, together with the methods already contained in SW–846, will provide sampling and analysis methods for all Appendix VIII compounds with the exception of those that are immediately unstable in water or do not have analytical methods. Appendix VIII components that are immediately unstable in water or do not have associated analytical methods need not be monitored for. This point is explained more fully in Part II C.

Finally, EPA is aware of a number of technical errors in SW–846 and has taken steps to correct them. Corrections of these errors will be sent to all subscribers of SW–846 by the Government Printing Office (GPO) within the next few weeks and a notice of these corrections will be published in the **Federal Register.**

The rulemaking proposed today addresses the general concerns discussed under Section C of this part as well as the major points raised by commenters on the issues of monitoring and testing under 40 CFR Part 264.

II. Proposed Modifications to Subtitle C Regulations

As indicated in the summary to this preamble, today's rulemaking proposes to: (1) Make SW–846 mandatory for Subtitle C testing purposes; (2) consolidate in SW–846 all methods necessary for Subtitle C testing; (3) modify certain requirements for the testing for Appendix VIII compounds; (4) allow the limited use of SW–846 methods for compliance monitoring screening purposes; and (5) introduce the concept of hierarchical testing that in certain cases may reduce the number of tests required to determine whether classes of Appendix VIII compounds are present. Each of these changes addresses an issue raised in Sections C and D of Part I of this preamble and, taken together, EPA believes they will contribute significantly to reducing confusion and uncertainty, promoting uniform and consistent implementation, and eliminating unnecessary testing.

A. Mandatory Use of SW–846

Today's rulemaking proposes to make the use of SW–846 methods mandatory for Subtitle C testing in Part 260 through 271. EPA believes that the methods contained in SW–846, including the ones being added today, are suitable for the sampling and analytical testing required to comply with the requirements of Subtitle C.

The basis of the Agency's judgment that the methods being proposed today for incorporation into SW–846 are suitable for the testing required under Subtitle C is explained in Section B of this part of the preamble. With respect to the methods presently contained in SW–846, EPA's judgment that they are suitable for the sampling and analytical testing required under Parts 260 through 271 is based on a number of considerations. These include the Agency's experience with many of the methods in other programs, the fact that other methods in SW–846 are routinely utilized by the scientific community, and, finally, the fact that in some cases certain of these methods are simply the only ones that EPA has been able to develop or identify that provide acceptable levels of precision, accuracy, sensitivity, and reliability.

Most analysis methods are divided into two distinct steps: sample preparation and parameter measurement. Sample preparation depends on the sample matrix while the actual measurement of the parameter of interest depends on a specific instrument or detection device. Prior to RCRA, the Agency had developed methods for specific types of matrices such as air and water. When analyzing a water sample for organic compounds, for example, the first step is usually an extraction of the sample with an organic solvent. After the extraction, the organic solvent is concentrated and then analyzed using an instrumental technique, such as gas chromatography or combined gas chromatography-mass spectrometry.

When an analytical method will always be applied to the same matrix, the method can be written to include both the sample preparation and the parameter determination steps. This type of organization is employed in most published methods (1,2,3). Unfortunately, waste analysis involves an infinite variety of matrices and, therefore, it is impossible to write a specific method for each matrix that may be encountered. It is possible, however, to specify a number of general sample preparation techniques (i.e., the first step in the method) and a number of routine measurement methods (i.e., the second step in the method) which can be used for analyzing waste samples. Due to the wide variability of sample matrices that RCRA encompasses, EPA realized that the methods in the manual need to be more flexible than methods previously developed by the Agency or other testing organizations. This type of modular approach is believed to be the only testing organizations. This type of modular approach is believed to be the only feasible way to provide a framework for the analysis of wastes while insuring the flexibility to handle many types of matrix.

The methods manual, SW–846, is organized in this manner. Sampling methods, sample preparation methods, and parameter measurement methods are treated separately and may be combined to handle specific waste sampling and analysis situations. Sampling methods in SW–846 were chosen from sampling procedures previously developed by the Agency for the various types of materials in the air and water programs and general sampling considerations. Sampling procedures for waste materials have been derived from commonly accepted, statistically valid sampling approaches.

Where available, sample preparation methods contained in SW–846 are taken from standard methods published by EPA, ASTM, and other standards-setting organizations. For example, EPA's water, wastewater, and effluent guidelines methods developed under the Clean Water Act are employed for aqueous sample preparation. EPA has also developed sample preparation procedures for aqueous sludges which are also incorporated into SW–846. Finally, there are a number of sample preparation procedures incorporated in SW–846 that have been in general use by chemists for many years and are accepted as standard sample preparation procedures. Techniques such as soxhlet extraction and continuous liquid-liquid extraction are procedures which fall into this category.

Analytical measurement methods in SW–846 are likewise adopted from EPA, ASTM, and Standard Methods instrumental techniques. Parameter measurement methods, unlike sampling and sample preparation methods, are always the same for similar analyses. The measurement method itself is independent of the type of sample or matrix.

The precision and accuracy of the SW–846 sample preparation and analytical measurement for aqueous samples has also been established. The Agency's Office of Research and Development (ORD) is currently evaluating the sample preparation methods using a number of RCRA wastes.

With the exception of detection monitoring under Part 265, the methods presently contained in SW–846 and those being added today will be made mandatory for all testing conducted pursuant to 40 CFR Parts 260 through 271.

EPA is not proposing to apply the SW–846 methods to § 265.92 detection monitoring since the sampling and analytical testing required by § 265.92 is, in general, limited to a few, well defined parameters and is already underway at interim status facilities. EPA feels that if a facility is currently performing required detection monitoring tests using methods other than those prescribed in SW–846, the facility should be allowed to continue using those procedures until they are granted a final permit. Facilities may, at their option, begin using methods in SW–846 if they are not already doing so; however, it will be necessary for the facility to re-establish background levels using the SW–846 methods. Facilities wishing to employ this option sould use both their old method and the SW–846 method for one year [as prescribed in 40 CFR 265.92(c)] to insure that no discharge takes place while new background levels are being established. If a signficant increase in one or more parameters is detected using the old method during this period, the provisions described in § 265.93 will still apply. It should be emphasized that this proposed exemption from the mandatory use of SW–846 applies only to § 265.92 detection monitoring. EPA is soliciting comments on this proposed exemption.

EPA also proposes to require the use of SW–846 methods for any testing or monitoring required under a State program that has been authorized under Section 3006 of RCRA (42 U.S.C. 6926). EPA believes this step is needed to achieve a consistent application of sampling and analytical methods among different facilities across the country.

To indicate that SW–846 methods will be required for listing and identification of hazardous wastes, EPA is proposing to amend the State program requirements for identifying hazardous waste (§ 271.9) and the requirements for generators (§ 271.10) to specifically reference the methods in SW–846. EPA believes that State program requirements for hazardous waste management facilities (§ 271.12) should also include mandatory application of SW–846 methods for testing and monitoring purposes. EPA believes that such a result would follow from the current wording of § 271.12 which requires the programs to have standards equivalent to those EPA has established for treatment, storage and disposal facilities. Since today's proposal would make use of SW–846 a component of the substantive standards for such facilities, EPA believes § 271.12 would make SW–846 methods mandatory for State program requirements affecting such facilities. Comments are requested as to whether further clarification is needed on the mandatory use of SW–846 methods under authorized State hazardous waste programs.

As an alternative to using methods contained in SW–846, owners and operators of hazardous waste facilities may petition the Agency for approval of equivalent methods at any time (see 40 CFR 260.21). After evaluation of each new method, a determination of equivalency will be made. If the new method is judged equivalent it will be approved and incorporated into SW–846.

B. Addition of Methods to SW–846

1. Appendix VIII Methods

EPA Publicaiton SW–846 was initially incorporated by reference into the RCRA regulations for informational purposes to provide a compilation of testing methods generally acceptable to the Agency for delisting purposes. However, there are certain chemical compounds which are subject to Subtitle C testing and monitoring provisions that have not been listed as constituents of listed hazardous wastes. A number of constituents included in Appendix VIII of Part 261, for example, fall into this group.

EPA is, proposing therefore, to include the following additional methods contained in Tables 1–4 in SW–8464 to allow for the testing for all Appendix VIII compounds. With the addition of these methods, SW–846 will provide sampling and analytical procedures for compliance with all the subtitle C testing and monitoring provisions. Table 1 lists the analytical methods, and Tables 2 through 4 summarize the sampling methods to be added.

TABLE 1.—GENERAL ANALYTICAL METHODS PROPOSED TO BE ADDED TO SW–846

Method	Title	Description
1120	Electrochemical Corrosion Method.	Alternate method for determining corrosivity toward steel in characteristic testing.
1320	Multiple Extraction Procedure.	Extraction procedure for use in delisting wastes that are stablized, encapsulated or chemically fixed.
1330	Extraction Procedure for Oily Wastes.	Extraction procedure that removes oil or grease that may interfere with the normal EP test.
3560	Reverse Phas Cartridge Extraction	Cartridge method to extract organics from ground-water samples.
3570	Column Clean-Up for Oil Samples and Extracts.	Alumina column clean-up with three fractions.
3720	Volatile Organics Sampling Train Thermal Desorption Sample Preparation.	Sample preparation after collection of stack samples by VOST method.
6010	Inductively Coupled Argon Plasma (ICAP) Spectroscopy.	General method for multiple element determination
7090	Beryllium	Direct Aspiration Atomic Absorption Method.
7091	Beryllium	Furnace Atomic Absorption Method.
7198	Chromium, Hexavalent.	Differential Pulse Polarographic method
7210	Copper	Direct Aspiration Atomic Absorption Method.
7211	Copper	Furnace Atomic Absorption Method
7380	Iron	Direct Aspiration Atomic Absorption Method.
7381	Iron	Furnace Atomic Absorption Method.
7460	Manganese	Direct Aspiration Atomic Absorption Method
7461	Manganese	Furnace Atomic Absorption Method.
7550	Osmium	Direct Aspiration Atomic Absorption Method.
7551	Osmium	Furnace Atomic Absorption Method
7770	Sodium	Direct Aspiration Atomic Absorption Method.
7840	Thallium	Direct Aspiration Atomic Absorption Method.
7841	Thallium	Furnace Atomic Absorption Method.
7910	Vanadium	Direct Aspiration Atomic Absorption Method.
7911	Vanadium	Furnace Atomic Absorption Method.
7950	Zinc	Direct Aspiration Atomic Absorption Method.
7951	Zinc	Furnace Atomic Absorption Method.
8320	Phenols and Other Compounds.	General Reverse Phase Liquid Chromatographic Method.
8330	Thiourses and Other Compounds.	General Reverse Phase Liquid Chromatographic Method.
8410	Formaldehyde	Differential Pulse Polargraphic Method—basic
8411	Formaldehyde	Differential Pulse Polarographic Method—acidic.
8600	Hierarchical Analysis Protocol.	Screening method for Appendix VIII constituents in ground water.
8610	Total Aromatics by Ultraviolet and Visible Spectroscopy.	Total aromatics in ground water by UV/VIS
8620	Total Chromatographable Nitrogen/ Phosphorus Compounds.	Chromatographable nitrogen/ phosphorus compounds by thermionic detection.
8630	Dinitrobenzoyl Chloride Derivitization.	Reduction of Appendix VIII compounds followed by derivitization and UV/VIS determination

TABLE 1.—GENERAL ANALYTICAL METHODS PROPOSED TO BE ADDED TO SW-846—Continued

Method	Title	Description
9011	Photodegradeable Cyanide.	Cyanide releasable by UV radiation.
9022	Total Organic Halogen.	Neutron Activation Method.
9035	Sulfate	Automated Chloranilate Colorimetric Method.
9036	Sulfate	Automated Methyl Thymol Blue, Autoanalyzer II Colorimetric Method.
9037	Sulfate	Gravimetric Method.
9038	Sulfate	Turbidimetric Method.
9060	Total Organic Carbon.	Infrared Determination of Carbon Dioxide.
9065	Phenolics	Manual 4-AAP with Distillation, Spectrophotometric Method.
9066	Phenolics	Automated 4-AAP with Distillation Spectrophotometric Method.
9067	Phenolics	MBTH with Distillation, Spectrophotometric.
9070	Total Oil and Grease.	Total Oil and Grease for Liquids.
9071	Total Oil and Grease.	Total Oil and Grease for Solids.
9080	Cation Exchange Capacity.	Method used for Soil Liner Evaluation
9081	Cation Exchange Capacity.	Method used for Soil Liner Evaluation.
9090	Polymeric Liner Compatability.	Liner Compatability Test for Flexible Membrane Liners.
9100	Hydraulic Conductivity	General Methods for Hydraulic Conductivity and Liner Permeability.
9131	Coliform	Multiple Tube Fermentation Technique
9132	Coliform	Membrane Filter Technique.
9200	Nitrate	Brucine Colorimetric Method.
9250	Chloride	Automated Ferricyanide Autoanalyzer I Colorimetric Method.
9251	Chloride	Automated Ferricyanide Autoanalyzer II Colorimetric Method.
9252	Chloride	Mercuric Nitrate Titrimetric Method.
9310	Gross Alpha and Beta.	General Radioactivity Method.
9315	Radium	Total Radium Method.
9230	Radium 226	Radium 226 Method.

TABLE 2.—GROUND WATER SAMPLING METHODS PROPOSED TO BE ADDED TO SW-846

Section No.	Title	Description
1.2.1.20	Bailer	
1.2.1.21	Suction Pumps	
1.2.1.22	Positive Displacement Pumps.	
1.4.6	Ground-water Sampling.	Ground-water Sampling Methods.
3.1	Ground-water Monitoring.	General Ground-water Information and Analysis Procedures.

TABLE 3.—LAND TREATMENT SAMPLING METHODS PROPOSED TO BE ADDED TO SW-846

Section No.	Title	Description
1.2.1.30	Pressure Vacuum Lysimeter.	Soil Pore Liquid Sampling Equipment.
1.2.1.31	Vacuum Extractor	Do.
1.2.1.32	Trench Lysimeter	Do.
1.4.7	Land Treatment Sampling.	Land Treatment Sampling; Unsaturated Zone Monitoring.

TABLE 3.—LAND TREATMENT SAMPLING METHODS PROPOSED TO BE ADDED TO SW-846—Continued

Section No.	Title	Description
3.2	Land Treatment Monitoring.	General Land Treatment Information and Analysis Procedures.

TABLE 4.—INCINERATOR SAMPLING METHODS PROPOSED TO BE ADDED TO SW-846

Section No.	Title	Description
1.2.1.8	Modified Method 5 (MM5) Sampling Train.	Stack sampling method for semi-volatile compounds.
1.2.1.9	Source Assessment Sampling System (SASS).	Stack sampling method for semi-volatile compounds.
1.2.1.13	Volatile Organics Sampling Train (VOST).	Stack sampling method for volatile organic compounds.
1.4.5	Stack Sampling	General information on stack sampling.
3.3	Incineration	General and detailed information on hazardous waste incineration sampling and analysis strategy.

The methods listed in Table 1, together with what is presently contained in SW-846, provide analytical methodology for all Appendix VIII compounds with exception of those that are either immediately unstable in water or for which no reliable tests are presently available. When these methods are added to SW-846, at least one approved method of analysis will exist for each Appendix VIII constituent with the exceptions noted. (Section C discusses these exceptions in more detail.) Inclusion of these analytical and sampling methods in Tables 1 through 4 will, for the first time, provide the regulated community with a comprehensive and consistent set of acceptable methods that can be used for RCRA Subtitle C testing.

EPA has taken the initiative of identifying most of the procedures listed on Table 1. Three of the methods listed, however, are the result of equivalency petitions received from individuals outside the Agency pursuant to 40 CFR 260.21. For the reasons discussed below, EPA is proposing to treat these procedures as equivalent to existing SW-846 methods and, therefore, to be generally applicable to Subtitle C testing.

The first petition, from Amoco Oil Co., seeks inclusion of an Inductively Coupled Argon Plasma (ICAP) method as an alternative method for the determination of metals. EPA has evaluated this petition and proposes to include Amoco's ICAP method in SW-846 as part of a more general method developed by EPA's Office of Research and Development (Method 6010). Numerous studies have been performed comparing ICAP with the more traditional Atomic Absorption (AA) methods. (4,5) These studies, including the one submitted by Amoco with their petition, have shown that ICAP test results are comparable to AA methods in terms of precision, accuracy, and detection limit. The Agency, therefore, has determined that ICAP is equivalent to AA for the metals listed in Method 6010 and has further determined that use of this method will allow the regulated community to determine a number of metals sumultaneously and thereby lower overall monitoring and testing costs.

EPA has received a second equivalency petition from the Environmental Research Group (ERG), Inc., of Ann Arbor, Michigan, for inclusion of a Neutron Activation Method into SW-846 as an alternative method for the determination of Total Organic Halogen (TOX). ERG submitted data comparing its Neutron Activation Method with the current microcoulometric TOX method (Method 9020) for a number of blank and spiked water samples as well as a number of blank and spiked ground-water samples. Comparison of the results of the two methods shows that the maximum variance between the two methods was only 15% and that the methods were identical with respect to precision. Detection limits of the two methods was also shown to be identical. EPA has evaluated this petition and has determined that the Neutron Activation Method is equivalent to the current TOX method (Method 9020) on the basis of precision, accuracy, and detection limit. The Neutron Activation method, which has been assigned method number 9022, also provides the ability to speciate between halides which is an advantage over Method 9020. The laboratory comparison of these two methods is detailed in a report submitted by ERG titled "A Laboratory Comparison Between EPA Method 450.1 (Method 9020) and Haloscan™ for the Determination of Total Organic Halogen in Groundwater, Surface Water, and Waste Treatment Plant Effluents." This report is included in the public docket for this proposed rule and is available for viewing as previously explained. EPA is therefore proposing to include Method 9022 in SW-846.

Finally, EPA has received a third equivalency petition from EG&G, Princeton Applied Research, for inclusion of a electrochemical corrosion method as an alternative to Method 1110

(corrosivity toward steel). This method has been evaluated by EPA's National Enforcement Investigation Center (NEIC) and has been shown to offer the advantages of speed, convenience, and lower cost over the current method. NEIC has routinely used this method for screening wastes for the characteristic of corrosivity and has determined that this method gives comparable precision and accuracy figures that fall within the range produced by Method 1110. We therefore believe that the electrochemical corrosion method is equivalent to the current method. (6) Accordingly, EPA is proposing to include this method in SW–846 as an alternative for measurement of corrosion rate. The Agency will modify § 261.22(a)(2) to include this method after comments have been evaluated from this proposal.

Selection of the remaining methods and procedures listed in Tables 1 through 4 was undertaken by EPA in generally the same way described in the preceding section with regard to existing SW–846 methods. As discussed in section A, EPA uses standardized methodology for waste analysis if such methodology is available. All of the analytical methods listed in Table 1 fall into this category except for the following:

1320 Multiple Extraction Procedure
1330 Oily Waste Extraction Procedure
3560 Reverse Phase Cartridge Extraction Method
3570 Column Clean-up for Oil Samples and Extracts
3720 VOST sample preparation
7198 Polarographic method for Hexavalent Chromium
8320 Reverse Phase Liquid Chromatographic Method
8330 Reverse Phase Liquid Chromatographic Method
8410 Polarographic method for formaldehyde
8411 Polarographic method for formaldehyde
8600 Hierarchical Analysis Protocol
8610 Total Aromatics by UV/VIS
8620 Total Chromatographable Nitrogen/Phosphorus Compounds
8630 Dinitrobenzoylchloride Derivitization Method
9011 Photodegradeable Cyanide
9080 Cation Exchange Capacity of Soils
9081 Cation Exchange Capacity of Soils
9090 Liner Compatibility Test
9100 Hydraulic Conductivity, Intrinsic Permeability

With the exception of these nineteen, the methods listed on Table 1 have been used by EPA in its water programs and have been evaluated by the Office of Research and Development. These evaluations indicate that the methods are suitable for water analysis and, are therefore, acceptable to the Agency for the analysis of specific parameters in ground water. The specific Office of Research and Development evaluations are noted in the technical discussion of the methods which accompanies this rulemaking and are available either at the public docket or through the National Technical Information Service as explained in the introduction to the preamble.

Method 1320 (Multiple Extraction Procedure) was developed in response to public comment to assess the long term stability of stabilized, encapsulated, or chemically fixed hazardous wastes when evaluating delisting petitions. Its use for this purpose has been previously noticed in the **Federal Register** (see 47 FR 52682–52683, November 22, 1982). Method 1320 has been used by many hazardous waste treatment companies and the Agency to evaluate long term leaching of hazardous wastes which have been stabilized, encapsulated, or chemically fixed. This test was informally evaluated by the Agency and has been shown to have a precision comparable to that of the Extraction Procedure (EP) Toxicity test.

Method 1330 (Oily Waste Extraction Procedure), which is a combination of Methods 3540 and 1310, was also developed in response to public concern over the use of the EP Toxicity test for wastes that contain appreciable levels (i.e., greater than 1%) of oil or grease. The Agency has received numerous comments that using the EP is not appropriate for wastes which contain oil or grease since the oil or grease will shield the waste from the leaching medium. Such a situation gives artificially low values for the concentration of that toxic metals that could leach out of the waste and therefore grossly underestimates the potential hazard posed by such a waste. The Agency has discussed these concerns with interested parties and has concluded that Method 1330 addresses the limitations of the EP with respect to wastes that contain oil or grease. Method 1330 has been used extensively by member companies of the American Petroleum Institute [3] and the EPA for evaluating hazardous wastes that contain oil or grease.

Method 3570 (Column Cleanup Procedure for Oily Materials) was developed by the Agency in response to a need for detailed organic analysis of petroleum refinery wastes. Method 3570 has been shown to permit detection limits of between 1 to 50 ppm for most compounds of interest with relatively good precision and accuracy.

Method 3720 (Thermal Cartridge Desorbtion Procedure) and the VOST sampling method are closely associated. The VOST is a relatively new method that has been evaluated by EPA's ORD. The VOST used in conjunction with Method 3720 has been shown to be a reliable, sensitive, and efficient method for determining volatile organics in stack effluents and is capable of determining the required 99.99% DRE required for incinerator permitting.

Method 7198 involves the polarographic determination of hexavalent chromium. ORD has evaluated 5 different methods for the determination of hexavalent chromium in wastes and found that Method 7196 (colorimetric) to be the best overall for waste analysis and Method 7198 (polarographic) to be the next best. These studies further indicate that hexavalent chromium Methods 7195, 7196, and 7198 are acceptable for waste analysis from a standpoint of precision, recovery, and detection limits (Technical Reports, Contract 68–03–3090, WA4, detail these evaluations and are available for inspection in the public docket for this rulemaking). All the methods have been retained in order that analysts may have an option when a given method cannot be employed because of interferences that may be present in the sample.

The liquid chromatographic Methods 8320 and 8330 were developed as general High Pressure Liquid Chromatographic (HPLC) methods for polar Appendix VIII compounds by EPA's Industrial Environmental Research Laboratory at RTP. (7,8) (These reports are also available from NTIS.) Both of these methods have been evaluated with respect to on-column detection limit for the compounds listed. The results of these evaluations show that most of the compounds can be determined at levels of between 1 and 80 ng. Therefore, the actual method detection limit for the compound given can be between 1 and 80 parts per trillion assuming 100% extraction efficiency. As a result of these evaluations EPA believes that these analysis methods are appropriate for ground-water monitoring.

Methods 8410 and 8411 describe the polarographic determination of formaldehyde in an aqueous matrix. Formaldehyde is extremely water soluble and therefore difficult to determine due to low extraction and concentration efficiency. Since the polarographic methods do not require extraction or concentration, they offer

[3] In fact, it was API that suggested the basic framework for Method 1330.

the advantage of better overall accuracy and precision than previously used chromatographic procedures.[4] Therefore, we are proposing their incorporation into the methods manual.

Method 8600 (of which Methods 8610, 8620, 8630, and 3560 are part), is a hierarchical testing approach that is discussed in detail in Section E of this preamble.

Method 9011 is an extension of Method 9010 to evaluate wastes which may discompose to release cyanides on exposure to UV light. The determinitive steps in Method 9011 are identical to those in Method 9010 with similar precision and accuracy.

The two Soil Cation-Exchange Capacity methods (Methods 9080 and 9081) were adopted from standard methods for soil analysis used by the American Society of Agronomy. (9) These methods are commonly used by soil scientists and EPA has determined that they are acceptable for determining the cation exchange capacity of soils and soil liner materials.

The liner compatibility test (Method 9090) employs a short exposure of the liner to the chemical environment at two temperatures (room temperature and 50 °C) to simulate effects of a waste on the liner, including long-term effects. Since actual field testing would require 25 years or more, EPA decided that the test could be shortened to a 120-day maximum by increasing the temperature of some of the testing to 50 °C. The temperature of 50 °C and maximum test length was chosen using the Arrhenius equation assuming the activation energy for the reaction for the waste with the liner to be greater than 20 Kcal/mole. The Agency's information indicates that the reaction of the liner and the wastes in contact with it have an activation energy of 20 Kcal/mole or more.(10) Therefore, our calculations indicate that the reaction rate at 50 °C will be at least 75 times faster than at 10 °C. Since 120 days is a 75th of 25 years, this time-frame and temperature should be adequate for testing liner compatibilities with wastes.

The methods contained in Method 9100 were compiled from numerous literature sources. EPA performed an extensive literature survey to indentify methods for determining hydraulic conductivity and intrinsic permeability. The methods found and evaluated are fully referenced in Section 15 of Method 9100.

The sampling methods contained in Tables 2 and 3 were taken directly from Permitting Guidance Documents prepared by the Agency and represent the best available sampling methods for ground-water and land treatment monitoring.(11,12)

The sampling methods in Table 4 were, similarly, taken from methods developed by the Agency for its Air Programs.(13) The Modified Method 5 and SASS Trains have been in use for monitoring semivolatile organic compounds in incinerator stack gases for many years and have proven to be effective and reliable.

The full text of the methods and sections listed in Tables 1 through 4 is available from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161 or they may be viewed at the public docket.

After comments on the sections and methods to be added to Appendix III and SW–846 are received and evaluated, final sections and methods will be added to SW–846 and the appropriate changes to § 260.11 and Appendix III of Part 261 will be adopted. When the Agency makes these changes it will also provide an explanation of the technical corrections to SW–846. Persons who have subscribed to the Second Edition of SW–846 will automatically receive the *final* sections and methods (and the technical corrections when they are adopted; they will not, however, automatically receive *proposed* sections and methods.

2. Ignitability and Representative Sampling Methods

A further purpose of today's rule is to consolidate, wherever possible, existing methods necessary for Subtitle C testing into SW–846. This will eliminate the need to consult numerous different reference manuals and chemical testing guides. Where an approved method, however, is one that has been developed and copywrited by a standards-setting organization such as ASTM, the actual method cannot be printed in SW–846. For the convenience of those using SW–846, citations to such methods will be included in the appropriate sections of the manual. This rulemaking, therefore, proposes to included in SW–846 references to the following sampling methods which are presently in use and relied upon by the Agency.

1. "ASTM Standard Test Methods for Flash Point of Liquids by Setaflash Closed Tester," ASTM Standard D–3278–78.

2. "ASTM Standard Test Methods for Flash Point by Pensky-Martens Closed Tester, ASTM Standard D–93–79 or D–93–80.

3. "Flammable and Combustible Liquids Code" (1977 or 1981). National Fire Protection Assn., Boston, MA.

4. "Extremely Viscous Liquid," ASTM Standard D–140–70 Crushed or powdered material, ASTM Standard D–346–75 Soil or rock-like material, ASTM Standard D–420–69 Soil-like material, ASTM Standard D–1452–65.

5. "Fly Ash-like material," ASTM Standard D–2234–75.

C. Elimination of Requirement to Test for Certain Compounds

The Agency is proposing to eliminate the requirement to analyze ground water for the presence of compounds contained in Appendix VIII which are unstable in water or for which methods have not been published in SW–846. With the addition to SW–846 of the methods proposed in Section B, sampling and analytical procedures are now provided for 353 of the 375 compounds presently contained in Appendix VIII. The remaining 22 compounds include those that are immediately unstable in water and those for which no method is presently available.

Appendix VIII compounds which are immediately unstable in water are listed in Table V. These compounds cannot exist in water because upon contact they are immediately and irreversibly converted to other compounds. Some of these hydrolysis products are themselves Appendix VIII constituents. For example, toluene diisocyanate will decompose to toluene diamine which is also an Appendix VIII constituent.

Other Appendix VIII compounds are known to react with water at slower rates. These compounds are not included in Table V since there is some likelihood they can be found in water. For example, it is known that maleic anhydride and dimethyl sulfate are both hydrolyed to their parent acids (i.e., maleic and sulfuric acid respectively). However, it is also known that maleic anhydride is relatively persistent because it hydrolizes and biodegrades slowly and hydrolysis of dimethyl sulfate is rapid only above 18 °C.

EPA is also proposing to eliminate the requirement to test for Appendix VIII compounds for which approved analytical methods are not available and therefore have not been included in SW–846. With the proposed addition to SW–846 of the sampling and analytical procedures discussed in section B, the Agency has compiled a list of methods for all Appendix VIII constituents except for those listed in Table VI. Although analytical methods have been identified in the literature for a few of

[4] Precision and accuracy of polarographic determinations are on the order of ± 2% for most analyses

the compounds on Table VI (or compounds which are chemically similar) the Agency feels that no method can be recommended with any confidence at this time. For example, some references have been found for the spectrophotometric determination of pyrrolizidine alkaloids, but EPA feels it cannot recommend these methods for the determination of lasiocarpine (a pyrrolizidine alkaloid) since the referenced method is not applicable to environmental testing. For several compounds on Table VI no reference to an analysis method could be found.

Table V.—Appendix VIII Compounds Which are Unstable in Water

Acetyl Chloride
Aluminum Phosphide
Bis (Chloromethyl) ether
Carbon Oxyfluoride
Dimethyl Carbamoylchloride
Fluorine
Hydrogen Fluoride
Methyl Chlorocarbonate
Methyl Isocyanate
Nitrogen Dioxide
Phosgene
Toluene Diisocyanate
Zinc Phosphide

Table VI.—Appendix VIII Compounds Without Analytical Methods

Cacasin
Ethylenebisdithiocarbamic acid
2-Fluoroacetamide
Iron Dextran
Lasocarpine
Mustard Gas
Nitrogen Mustard, N-Oxide and HCl salts
Nitrogen Mustard, and HCl salts
Nitric Oxide
Phosphine

Since the compounds listed in Tables V and VI are either unstable or do not have analytical methods, the Agency feels it is unreasonable to require owners or operators of hazardous waste facilities to test for them. As methods become available for the compounds on Table VI, EPA will pursue the normal regulatory procedures to include them in SW–846; owners and operators would then need to monitor for them after their formal adoption.

D. Use of Screening Tests

In the preceding sections, EPA has proposed to make SW–846 mandatory for Subtitle C testing, to include additional methods in SW–846, and to eliminate the requirement to test for certain Appendix VIII compounds. While these proposals will do much to reduce uncertainty for hazardous wastes facilities and alleviate the need to design, develop, and validate acceptable testing methods, a substantial number of tests and still required under Subtitle C.

EPA believes that while it is necessary under compliance monitoring for the owner or operator to determine whether any Appendix VIII compounds are present in the ground water, it may not be necessary for owners or operators to test specifically for each compound in Appendix VIII. The Agency believes that it is acceptable for an owner or operator to limit the amount of testing by conducting tests which will show that certain classes of Appendix VIII constituents are not present. For example, if an owner or operator tested the ground water for the presence of halogen by using a TOX analytical method and found no halogens present, he should be able to eliminate 112 Appendix VIII compounds from further consideration, since these all contain halogens. If, however, contamination was detected, then he should be required to conduct further tests to determine the presence of the 112 Appendix VIII compounds containing halogen. A literal reading of EPA's current regulations does not allow for this approach. Specifically, the regulations call for monitoring of each hazardous constituent.

EPA, therefore, is proposing today to permit the use of individual SW–846 methods as screening procedures to make determinations for purposes of compliance monitoring of whether a particular group or class of Appendix VIII constituents is present in the ground water. If no constituent of the class being tested for is detected, then individual tests to determine the concentration of each constituent in the class do not need to be conducted. This objective is achieved in today's proposed rule by amendments to §§ 264.98(h)(2), 264.99(f) and 270.14(c)(4)(ii). Specifically these amendments remove regulatory language indicating that owners or operators must monitor for "all" or "each" constituent on Appendix VIII. In its stead EPA is proposing a requirement that the owner or operator determine whether constituents identified in Appendix VIII are present and, if so, at what concentrations. The intent of this language is to provide sufficient flexibility in the regulations to allow for screening of classes of Appendix VIII constituents.

It should be emphasized that screening protocols will only be allowed (or accepted in the case of permit applications) in those situations where an applicant can demonstrate to the Agency's satisfaction that the specific procedure being suggested is technically able to determine the presence in ground water of any one of the constituents of the class being tested for. The advantage of screening tests is that they respond to a class or classes of compounds, permitting testing for large numbers of compounds at once. This type of approach would only be useful, however, when there is a significant likelihood that certain compound classes *are not present.*

E. Hierarchical Analysis Protocol

1. Explanation of Hierarchical Analysis Protocol

As the final part of today's rulemaking, EPA is seeking public comment on a Hierarchical Analysis Protocol, which would provide a more sophisticated method for screening for Appendix VIII constituents than the simple screening methods mentioned in the preceding section D. Demonstration that a compound or class of compounds is not present in ground water can be a relatively simple matter depending on the particular compounds and classes. However, a more difficult problem is to configure SW–846 test procedures so as to: (1) Be selective for all Appendix VIII constituents, (2) quickly focus attention on Appendix VIII constituents actually present, (3) not require highly sophisticated instrumentation, (4) be relatively inexpensive, and (5) offer good sensitivity. With these objectives in mind, EPA has formulated the Hierarchical Analysis Protocol (HAP) that is presented in Figure 1.

The HAP has been informally reviewed by EPA's Office of Research and Development, the Chemical Manufacturers Association, the American Petroleum Institute, and other interested members of the scientific community. Comments received generally indicate that hierarchical type analysis procedures can be used to eliminate groups of Appendix VIII constituents in ground-water samples. Commenters have raised concerns, however, with respect to the specific tests in the HAP or on their configuration within the the hierarchy.

EPA is proposing the HAP today; it is described in more detail below. It is the Agency's intention that the following presentation serve as basis for discussion on analysis procedures and methods that can be used to meet the objectives stated. For this reason EPA is today requesting comments on the concept of the HAP approach and the alternatives to it detailed below. The following paragraphs briefly describe how the HAP is configured and how the individual tests can be used to eliminate Appendix VIII constituents in ground water samples.

The first part of the HAP concept is straightforward and utilizes existing methodology. The method numbers refer to methods currently contained in the

manual "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods" (SW–846) or which are part of this proposal. Tests for metals, cyanides, sulfides, and organic halides may be done in any order since the path of the HAP does not depend on the order the tests are performed.

Method 3570 begins a simple organic screening which utilizes three basic properties. These are the ability of aromatic compounds to absorb ultraviolet (UV) or visible (VIS) radiation; the ability of thermionic detectors (N/P) to selectively detect nitrogen or phosphorus-containing compounds; and the fact that lithium aluminum hydride will convert most organic functional groups to alcohols or amines which can be easily derivitized to form compounds which are UV/VIS active.

A brief description of each method used in the HAP is included in Figure 1. Tables VII through XV show which compounds from Appendix VIII are eliminated in each step of the procedure. Each table (VII–XV) defines a class of compounds that may be eliminated from further review by a single test.

Each method contains an explanation of the pass/fail or high/low criteria used in the HAP. Since these criteria are critical to the operation of the HAP they are discussed in the following paragraphs of this section.

Table VII.—Metals

Aluminum phosphide
Antimony and compounds, N.O.S.
Arsenic and compounds, N.O.S.
Arsenic acid
Arsenic pentoxide
Arsenic trioxide
Barium and compounds, N.O.S.
Barium cyanide
Benezenearsenoic acid
Beryllium and compounds, N.O.S.
Cadmium and compounds, N.O.S.
Calcium chromate
Chromium and compounds, N.O.S.
Copper cyanide
Cyanides (soluble salts and complexes), N.O.S.
Dichlorophenylarsine
Diethylarsine
Hydroxydimethylarsine oxide
Iron dextran
Lead and compounds, N.O.S.
Lead acetate
Lead phosphate
Lead subacetate
Mercury fulminate
Mercury and compounds, N.O.S.
Nickel and compounds, N.O.S.
Nickel carbonyl
Nickel cyanide

Table VII.—Metals—Continued

Osmium tetroxide
Phenylmercury acetate
Potassium silver cyanide
Selenious acid
Selenium and compounds, N.O.S.
Selenium sulfide
Selenourea
Silver and compounds, N.O.S.
Silver cyanide
Strontium sulfide
Tetraethyl lead
Thallium and compounds, N.O.S.
Thallic oxide
Thallium (I) acetate
Thallium (I) carbonate
Thallium (I) chloride
Thallium (I) nitrate
Thallium selenite
Thallium (I) sulfate
Vanadic acid, ammonium salt
Vanadium pentoxide
Zinc cyanide
Zinc phosphide

Table VIII.—Cyanides

Barium cyanide
Calcium cyanide
Copper cyanide
Cyanides (soluble salts and complexes), N.O.S.
Cyanogen
Cyanogen bromide
Cyanogen chloride
Hydrocyanic acid
Nickel cyanide
Potassium cyanide
Potasium silver cyanide
Silver cyanide
Sodium cyanide
Zinc cyanide

Table IX.—Volatile Halogenated Organics

Bis(2-chloroethoxy)methane
Bis(2-chloroethyl)ether
Bis(2-chloroisopropyl)ether
Bis(chloromethly)ether
Bromoacetone
Bromomethane
Chloral
Chlorinated benzenes, N.O.S.
Chlorinated ethanes, N.O.S.
Chlorinated fluorocarbons, N.O.S.
Chloroalkyl ethers, N.O.S.
Chlorobenzene
1-Chloro-2,3-epoxypropane
2-Chloroethyl vinyl ether
Chloroform
Chloromethane
Chloromethyl methyl ether
1,2-Dibromo-3-chloropropane
1,2-Dibromoethane
Dibromomethane
1,4-Dichloro-2-butene
Dichlorofluoromethane
1,1-Dichloroethane
1,2-Dichloroethane
trans-1,2-Dichloroethene
cis-1,2-Dichloroethene
1,1-Dichloroethylene
Dichloromethane
Dichloropropane, N.O.S.
1,2-Dichloropropane
Dichloropropene, N.O.S.
1,3-Dichloropropene
Halomethane, N.O.S.
Hexachloroethane

Table IX.—Volatile Halogenated Organics—Continued

Hexachloropropene
Iodomethane
Tetrachloroethane, N.O.S.
1,1,1,2-Tetrachloroethane
1,1,2,2-Tetrachloroethane
Tetrachloroethane, N.O.S.
Tetrachloromethane
Tribromomethane
1,1,1-Trichloroethane
1,1,2-Trichloroethene
Trichloroethene
Trichloromonofluoromethane
Trichloropropane, N.O.S.
1,2,3-Trichloropropane
Vinyl chloride

Table X.—Semi-volatile Halogenated Organics

Aldrin
Aramite
Benxotrichloride
Benzyl chloride
N,N-Bis(2-chloroethyl)-2-napthylamine
4-Bromophenyl phenyl ether
Chlordane
Chlorinated benzenes, N.O.S.
Chlorinated naphthalene, N.O.S.
Chlorinated phenol, N.O.S.
Chloroacetaldehyde
Chloroalkyl ethers, N.O.S.
Chlorobenzilate
p-Chloro-m-cresol
2-Chlorophenol
3-Chloropropionitrile
Cyclophosphamide
1,1-Dichloro-2,2-bis(4-chlorophenyl)ethane
1,1-Dichloro-2,2-bis(4-chlorophenyl)ethylene
Dichloromethylbenzene
1,1,1-Trichloro-2,2-bis(p-chlorophenyl)ethane
Diallate
o-Dichlorobenzene
M-Dichlorobenzene
p-Dichlorobenzene
Dichlorobenzene, N.O.S.
3,3'-Dichlorobenzidine
2,4-Dichlorophenol
2,6-Dichlorophenol
2,4-Dichlorophenoxyacetic acid, salts and esters
Dichloropropanol, N.O.S.
Dieldrin
Endosulfan
Endrin and metabolites
Heptachlor
Heptachlor epoxide
Hexachlorobenzene
Hexachlorobutadiene
Hexachlorocyclohexane (all isomers)
Hexachlorocyclopentadiene
1,2,3,4,10,10-Hexachloro-1,4,4a,5,8,8a-hexahydro-1,4:5,8-endo,endo-dimethanonaphthalene
Hexachlorophene
Kepone
Methoxychlor
Methylchlorocarbonate
4,4'-Methylenebis(2-chloroaniline)
Pentachlorobenzene
Pentachlorophenol
Polychlorinated biphenyls, N.O.S
Pronamide
1,3-Propane sulfone
1,2,4,5-Tetrachlorobenzene
2,3,7,8-Tetrachlorodibenzo-p-dioxin
2,3,4,6-Tetrachlorophenol
Toxaphene
1,2,4-Trichlorobenzene
Trichloromethanethiol

Table X.—Semi-volatile Halogenated Organics—Continued

2,4,5-Trichlorophenol
2,4,6-Trichlorophenol
2,4,5-Trichlorophenoxyacetic acid
2,4,5-Trichlorophenoxypropionic acid
Tris(2-3-dibromopropyl)phosphate

Table XI.—UV Active, Non-polar, Semi-volatile Organics

Benz(c)acridine
Benz(a)anthracene
Benzene
Benzene, dichloromethyl-
Benzo(b)fluoranthene
Benzo(j)fluoranthene
Benzo(a)pyrene
Benzotrichloride
Benzyl chloride
4-Bromophenyl phenyl ether
Chlorinated benzenes, N.O.S.
2-Chloronaphthalene
Chrysene
1,1-Dichloro-2,2-bis(4-chlorophenyl)ethane
1,1-Dichloro-2,2-bis(4-chlorophenyl)ethylene
1,1,1-Trichloro-2,2-bis(p-chlorophenyl)ethane
Dibenz(a,h)acridine
Dibenz(a,j)acridine
Dibenz(a,h)anthracene
7H-Dibenzo(c,g)carbazole
Dibenzo(a,e)pyrene
Dibenzo(a,h)pyrene
Dibenzo(a,i)pyrene
o-Dichlorobenzene
m-Dichlorobenzene
p-Dichlorobenzene
Dichlorobenzene, N.O.S.
7,12-Dimethylbenz(a)anthracene
Fluoranthene
Heptachlor
Hexachlorobutadiene
Hexachlorocyclopentadiene
Hexachlorophene
Ideno(1,2,3-cd)pyrene
Methoxychlor
3-Methylcholanthrene
Naphthalene
Polychlorinated biphenyls, N.O.S.
2,3,7,8-Tetrachlorodibenzo-p-dioxin

Table XII.—UV Active, Polar, Semi-volatile Organics

Acetophenone
3-(alpha-Acetonylbenzyl)-4-hydroxycoumarin, and salts.
2-Acetylaminofluorene
4-Aminobiphenyl
5-(Aminomethyl)-3-isoxazolol
Amitrole
Aniline
Aramite
Auramine
Benzenethiol
Benzidine
p-Benzoquinone
N,N-Bis(2-chloroethyl)-2-naphthylamine
Bis(2-ethylhexyl) phthalate
Brucine
Butyl benzyl phthalate
2-sec-Butyl-2,4-dinitrophenol
Chlorambucil
p-Chloroaniline
Chlorobenzilate
p-Chloro-m-cresol
2-Chlorophenol
Citrus red No. 2
Coal tars
Creosote
Cresols
2-Cyclohexyl-4,6-dinitrophenol
Daunomycin
Diallate
Di-n-butyl phthalate
3,3'-Dichlorobenzidine
2,4-Dichlorophenol
2,6-Dichlorophenol
2,4-Dichlorophenoxyacetic acid, salts and esters
O,O-Diethylphosphonic acid, O-p-nitrophenyl ester
Diethyl phthalate
Diethylstilbesterol
Dihydrosafrole
3,4-Dihydroxy-alpha-(methylamino)methyl benzyl alcohol.
3,3'Dimethoxybenzidine
p-Dimethylaminoazobenzene
3,3'-Dimethylbenzidine
alpha,alpha-Dimethylphenethylamine
2,4-Dimethylphenol
Dimethyl phthalate
Dinitrobenzene, N.O.S.
4,6-Dinitro-o-cresol and salts
2,4-Dinitrophenol
2,4-Dinitrotoluene
2,6-Dinitrotoluene
Di-n-octyl phthalate
Diphenylamine
1,2-Diphenylhydrazine
Isosafrole
Maleic hydrazide
Methapyrilene
4,4'-Methylenebis(2-chloroaniline)
Methyl parathion
Mitomycin C
1,4-Naphthoquinone
1-Naphthylamine
2-Naphthylamine
Nicotine and salts.
p-Nitroaniline
Nitrobenzene
4-Nitrophenol
Parathion
Pentachloronitrobenzene
Pentachlorophenol
Phenacetin
Phenylenediamine
N-Phenylthiourea
Phosphorothioic acid, O,O-dimethyl O-(p((dimethylamino)-sulfonyl) phenyl) ester
Phthalic acid esters, N.O.S.
Phthalic anhydride
2-Picoline
Propylthiouracil
Pyridine
Reserpine
Resorcinol
Safrole
Strychnine and salts
Thioacetamide
2,4,5-Trichlorophenol
2,4,6-Trichlorophenol
2,4,5-Trichlorophenoxyacetic acid
2,4,5-Trichlorophenoxypropionic acid
sym-Trinitrobenzene
Trypan blue
Uracil mustard

Table XIII.—Nitrogen or Phosphorus Containing Non-polar, Semi-volatile Organics

Dibenz (a,h) acridine
Dibenz (a,j) acridine

Table XIII.—Nitrogen or Phosphorus Containing Non-polar, Semi-volatile Organics—Continued

7H-Dibenzo(c,g)carbazole

Table XIV.—Nitrogen or Phosphorus Containing Polar, Semi-volatile Organics

1-Acetyl-2-thiourea
4-Aminobiphenyl
5-(Aminomethyl)-3-isoxazolol
Amitrole
Aniline
Auramine
Benzidine
N,N-Bis(2-chloroethyl)-2-naphthylamine
Brucine
2-sec-Butyl-2,4-dinitrophenol
3-Chloropropionitrile
2-Cyclohexyl-4,6-dinitrophenol
Cyclophosphamide
Diallate
3,3'-Dichlorobenzidine
N,N-Diethylhydrazine
O,O-Diethyl O-2-pyrazinyl phosphorothioate
Dimethoate
3,3'-Dimethoxybenzidine
p-Dimethylaminoazobenzene
3,3'-Dimethylbenzidine
1,1-Dimethylhydrazine
1,2-Dimethylhydrazine
3,3-Dimethyl-1-(methylthio)-2-butanone
alpha,alpha-Dimethylphenethylamine
Dinitrobenzene, N.O.S.
4,6-Dinitro-o-cresol and salts
2,4-Dinitrophenol
2,4-Dinitrotoluene
2,6-Dinitrotoluene
Diphenylamine
1,2-Diphenylhydrazine
Di-n-propylnitrosamine
2,4-Dithiobiuret
Ethyl carbamate
Ethyl cyanide
Ethylenimine
Ethylenethiourea
Hydrazine
Maleic hydrazide
Malononitrile
Methapyrilene
Methomyl
2-Methylaziridine
4,4'-Methylenebis(2-chloroaniline)
2-Methyllactonitrile
4,4'-Methylenebis(2-chloroaniline)
2-Methyllactonitrile
2-Methyl-2-(methylthio)propionaldehyde-o-(methyl carbonyl) oxime
N-Methyl-N'-nitro-N-Nitrosoguanidine
Methyl parathion
Methylthiouracil
1-Naphthylamine
2-Naphylamine
2-Naphthyl-2-thiourea
Nicotine and salts
p-Nitroaniline
Nitrobenzene
Nitroglycerin
4-Nitrophenol
4-Nitroquinoline-1-oxide
Nitrosamine, N.O.S.
N-Nitrosodi-n-butylamine
N-Nitrosodiethanolamine
N-Nitrosodiethylamine

Table XIV.—Nitrogen or Phosphorus Containing Polar, Semi-volatile Organics—Continued

N-Nitrosodimethylamine
N-Nitroso-N-ethylurea
N-Nitrosomethylethylamine
N-Nitroso-N-methylurea
N-Nitroso-N-methylurethane
N-Nitrosomethylvinylamine
N-Nitrosomorpholine
N-Nitrosonornicotine
N-Nitrosopiperidine
Nitrosopyrrolidine
N-Nitrososarcosine
5-Nitro-o-toluidine
Octamethylpyrophosphoramide
Parathion
Pentachloronitrobenzene
Phenacetin
Phenylenediamine
2-Picoline
Pronamide
1,3-Propane sultone
n-Propylamine
Propylthiouracil
Saccharin and salts
Toluenediamine
o-Toluidine hydrochloride
Toluene diisocyanate
Tris(1-aziridinyl) phosphine sulfide
O,O-Diethyl S-methyl ester of phosphorodithioic acid
O,O-Diethylphosphoric acid, O-p-nitrophenyl ester
Diisopropylfluorophosphate
Disulfoton
Hexaethyltetraphosphate
Octamethylpyrophosphoramide
Phosphorodithioic acid, O,O-diethyl S-((ethylthio)methyl)ester
Phosphorothioic acid, O,O-dimethyl O-(p-((dimethylamino)-sulfonyl)phenyl)ester
Tetraethyldithiopyrophosphate
Tetraethypyrophosphate
O,O,O-Triethylphosphorothioate
Tris(2,3-dibromopropyl) phosphate

Table XV.—Non-halogenated, Volatile Organics

Acetonitrile
Acrolein
Acrylamide
1,2,3,4-Diepoxybutane
*1,4-Dioxane
Ethylene oxide
Formaldehyde
Glycidaldehyde
Isobutyl alcohol
Methanethiol
Methyl ethyl ketone
Paraldehyde

*1,4-Dioxane cannot be eliminated by Method 8630.

Table XVI.—Non-halogenated, Semi-volatile Organics

Aflatoxins
Allyl alcohol
Azaserine
2-Butanone peroxide
Crotonaldehyde
Ethyl methacrylate
Ethyl methanesulfonate
Fluoroacetic acid
Formic acid
Maleic anhydride
Methyl acetonitrile
Methyl methacrylate
Methyl methanesulfonate
7-Oxabicyclo(2.2.1) heptane-2,3-dicarboxylic acid
Phenol

Table XVI.—Non-halogenated, Semi-volatile Organics—Continued

2-Propyl-1-ol
Streptozotocin
Tetranitromethane
Thiosemicarbazide
Thiourea

In the case of Method 9020 (TOX) the low value would be the method detection limit, which is about 5 ppb for routine ground-water samples. A value greater than the detection limit would require that Method 8010 be performed. Results of Method 8010 would then be compared to that found with the TOX test. If Method 8010 accounts for 85% or greater of the TOX reading and the difference between the two methods is not greater than 20 ppb then no further testing for halogenated compounds is necessary.

The Pass/Fail criteria used in the UV/VIS Method 8610 is straightforward. Ground-water samples are analyzed by Method 8610 by using an upgradient sample in the reference cell of the spectrophotometer. This insures that the contribution of any indigenous UV/VIS active compounds present in the ground water will be subtracted out. If the analyst obtains an absorbance of greater than .005 (99% transmittance) between 220 nm and 310 nm the sample will fail the UV/VIS test.

The Pass/Fail criteria employed in Method 8620 are somewhat more complicated and involves 3 cases. The first case, which should be encountered most frequently, results when no peaks (compounds) are detected in the upgradient sample. In this instance any peaks found in the downgradient sample will constitute a failed test. The second case is encountered when the same peaks are present in both the upgradient and downgradient samples. In this case, the analyst will compare the areas (or peak heights) from both chromatograms. If any downgradient peak is greater than 2 times the upgradient, the sample fails. The final case will be when peaks are detected both in the upgradient and downgradient but the downgradient sample contains more peaks. This situation also indicates at failure. Instrument sensitivity for Mehod 8620 is set by injecting 0.8 ng of parathion and adjusting the attenuation for half-scale deflection (peaks less than 5% full scale may be ignored).

EPA has formulated the HAP by applying inexpensive readily available methods, and by codifying other simple methology as necessary to determine whether Appendix VIII constitutents are present in ground water at relatively low levels (the detection limits using the methods in the HAP are on the order of 10 ppb). This scheme is arranged to eliminate large classes of compounds at a time using simple tests and using the results in a logical decision matrix to determine whether additional testing is necessary.

EPA believes that hazardous waste facilities which accept a small number of similar type wastes will realize the major economic benefits from the HAP. The HAP will only be cost effective if most of the tests in the scheme result in elimination of classes of compounds. The HAP will probably not be useful to facilities that are accepting many types of wastes because the owner or operator may find that a detailed analysis for Appendix VIII compounds is still necessary after using the HAP.

2. Alternative Methods and Approaches

A number of other approaches for analyzing ground water samples for Appendix VIII constituents have been identified. These approaches generally involve the use of sophisticated instrumentation which will increase testing costs. However, these approaches have the advantage of providing information that can be used to screen for, identify, and in some cases quantitate specific Appendix VIII components. Although there are many techniques that can be used in this way, the following discussion will focus on only three. These techniques were selected for discussion because of the unique type of information they provide, their anticipated utility, and the possibility of using them to replace screening methods described in the HAP.

a. *Mass Spectrometric Techniques.* It is generally recognized that combined Gas Chromatography/Mass Spectrometry (GC/MS) is probably the single most useful tool for organic compound analysis. The advent of high resolution gas chromatographic columns and sophisticated data systems used in conjunction with mass spectrometers has permitted the analytical chemist to explore very complex mixtures of compounds. Today GC/MS is routinely used to identify and determine the concentration of hundreds of organic compounds in a single analysis.

Of the 375 compounds or materials listed on Appendix VIII, 58 can be analyzed by testing for specific metals, cyanides, and sulfides. EPA has determined that of the 317 Appendix VIII components left, 272 will be

amenable to some form of GC/MS. The 45 remaining compounds are either unstable (12), have no analytical method (10), or are so polar that they cannot be gas chromatographed (23). [Prior to mass spectrometric analysis a compound must be in the gas phase. Very polar compounds cannot be put into the gas phase by normal methods and therefore cannot be analyzed by gas chromatography or GC/MS.]

Recently, a new mass spectrometric technique has been developed by Dr. Marvin Vestal of the University of Houston which shows great promise for the MS analysis of very polar compounds. (14) This technique, called "Thermospray," employs a liquid chromatograph coupled through a specially designed direct liquid interface to the mass spectrometer. This new interface overcomes the problem of gas phase introduction of polar compounds. Thermospray has recently been marketed by both Vestec (Houston, TX) and Finnigan/MAT (San Jose, CA), and can be easily added to existing GC/MS systems for about $15,000. The great advantage of Thermospray is its ability to analyze very polar compounds and materials that previously have been unanalyzable by GC/MS. In addition, Thermospray can also be used to analyze for many compounds that are analyzable by gas chromatography. The result is that the two techniques, GC/MS and LC/Thermospray/MS, are complementary and may give the analytical chemist the ability to screen for almost the entire gambit of compounds and materials listed on Appendix VIII. EPA has contracted with Research Triangle Institute to evaluate LC/Thermospray/MS for a variety of Appendix VIII constituents. Initial results are extremely encouraging and many useful spectra have been obtained. Eventually a GC/MS and LC/Thermospray/MS screen may be the only tests necessary for a complete qualitative and quantitative analysis for organic Appendix VIII constituents in ground-water samples.

b. *Fourier Transform Infrared Spectroscopy.* A potentially viable screening method utilizes information obtained from a Fourier Transform Infrared Spectrometer (FTIR). FTIR is sensitive, easy to use, and will provide a detection limit of about 10 ppb for most compounds (FTIR requires about 1 ug of sample and assuming extraction of a 100 ml sample of ground water, one calculates a detection limit of about 10 ppb for most compounds). The analysis of a sample would involve the usual extraction and concentration steps followed by FTIR analysis. The information obtained from the infrared spectrum will indicate the presence or absence of certain organic functional groups. For example, if the resulting IR spectrum shows no absorption in the region from 1750 to 1650 cm^{-1} then the analyst would conclude that no carbonyl groups are present in the sample. This would eliminate about 56 compounds from Appendix VIII. Likewise if the spectrum showed no absorption in the region from 800 to 600 cm^{-1} then no chlorinated compounds can be present, etc.

The FTIR spectrum can be used as a screening procedure in conjunction with selective sample extractions or fractionation. It is possible to subdivide a sample extract into a number of fractions that can be analyzed individually by FTIR. This approach insures that only compounds or materials with particular functional groups are in a specific fraction and will help eliminate interferences. The overall screening procedure using FTIR then would be to analyze each fraction for the particular functional group specific to that fraction and thereby eliminate classes of Appendix VIII compounds in a sequential manner. This approach will provide an indication of functional groups in the sample and provide a clearer picture of particular Appendix VIII components present.

This type of an approach has been proposed for certain types of analyses by EPA's Office of Research and Development and is discussed at some length in an EPA publication.(15)

c. *Microwave Plasma Detector.* A helium microwave plasma can be used for the excitation and subsequent detection of nonmetallic elements in much the same way as an argon radio frequency plasma can be used for the detection and quantitation of metals.(16,17) Both types of plasma excite atoms from their ground state to higher energy levels. Excited atoms eventually decay back their ground state with the concomitant emission of a photon of light at a specific wave length. The wave length and emission intensity are used to detect and quantitate each element.

Helium microwave plasma instruments can be used for the detection and quantitation of the following elements:

Carbon
Hydrogen
Oxygen
Nitrogen
Fluorine
Chlorine
Bromine
Iodine
Sulfur
Phosphorus

Ground-water detection limits for these elements when present in organic compounds can be estimated by considering a 100 ml sample which is extracted and the extract introduced into the plasma over a 5 second period. Using detection limit values reported by Bienner (18), all of the elements listed can be determined at a level of 0.2 ppb.

As with FTIR and the HAP, selective extractions and fractionations can be used in conjunction with the microwave plasma to provide more specific compound information.

d. *Comments.* From a theoretical standpoint, the HAP should be able to quickly determine the absence of Appendix VIII compounds in ground water. However, actual laboratory investigations need to be completed prior to making any final judgments. EPA's Office of Research and Development (ORD) is currently undertaking method evaluations using the methods provided in the HAP.

The primary purpose for discussing the broader application HAP in this notice is to solicit public comment on a number of aspects of the procedure and, more importantly, to obtain comments on the more comprehensive and sophisticated approach together with the alternative methodologies. Specifically the Agency is soliciting comments that will address the following questions:

A. Is the concept of a hierarchical analysis protocol applicable to the analysis of ground water samples?

B. Will the hierarchical approach provide adequate ground-water protection while lowering overall testing costs?

C. Are detection limits for the methods adequate?

D. Can one or more of the new techniques discussed in this notice be used to provide cost effective ground-water protection?

E. What alternative tests should be considered for inclusion in the HAP?

F. References

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3. Standard Methods for the Examination of Water and Wastewater, 15th Edition. American Public Health Association, American Waterworks Association, and the Water Pollution Control Federation, Washington D.C. (1981)

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5. Application for ICAP Approval, EPA Region VII, (September 1979). This document is available from the RCRA Docket.

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8. Guidance Manual for Hazardous Waste Incinerator Permits, U.S. Environmental Protection Agency, Office of Solid Waste and MITRE Corporation (March 1983).

9. Chapman, H.D., Cation-Exchange Capacity in C.A. Black(ed) Methods of Soil Analysis, American Society of Agronomy Madison, WI, Part 2 (1965).

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11. RCRA Permit Writers Manual, Groundwater Protection, 40 CFR Part 264 Subpart F., Prepared under EPA contract 68-01-6464 (October 1983).

12. Hazardous Waste Land Treatment, Municipal Environmental Research Laboratory, Cincinnati, Ohio, SW-874, Prepared under EPA contracts 68-03-2940 and 68-03-2943 (April 1983).

13. 40 CFR Part 60, Appendix A.

14. Blakey, C.R. and Vestal, M.L., Analytical Chemistry, *55* 750 (1983).

15. IERL-RTP Procedures Manual: Level 1 Environmental Assessment, EPA-600/7-78-201.

16. Bache, C.A. and Lisk, D.J., Analytical Chemistry, *39* 786 (1967).

17. McLean, W.R., Stanton, P.D., and Penketh, G.E., Analyst *98* 432 (1973).

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Part III

A. Regulatory Impact

Executive Order 12291 requires that the regulatory impact of potential Agency actions be evaluated as part of the process of developing regulations. Such an assessment consists of:

- A description of the potential benefits of the rule, including any beneficial effects that cannot be quantified in monetary terms (Section 3(d)(2)); and
- A description of the potential costs of the rule, including any adverse effects that cannot be qualified in monetary terms (Section 3(d)(3)).

In addition, Executive Order 12291 requires that regulatory agencies prepare a Regulatory Impact Analysis in connection with major rules (Section 3). Major rules are defined in Section 1(b) as those which are likely to result in:

1. An annual effect on the economy of $100 million or more;

2. A major increase in costs or prices for consumers or individual industries; or

3. Significant adverse effects on competition, employment, investment, productivity, innovation, or international trade.

A review of the comments filed in response to the interim final rules of July 26, 1982 indicated that the consensus among commentors was that there is significant confusion as to what constitutes full compliance with current requirements, since EPA has specified neither standard methods nor performance criteria to use in analysis of Appendix VIII constitutents. Consequently, a large segment of the regulated community will need to expend resources to determine appropriate testing methods. By specifying standard test methods EPA would reduce the uncertainties and resource costs to the regulated community.

A telephone survey of EPA and State permitting officials was conducted. These inquiries substantiated the view that the regulated community is confused as to what testing procedures should be used, and, if all Appendix VIII constituents have to be tested for. Most officials felt that a regulatory proposal specifying acceptable analytical methods, including screening procedures, would likely reduce uncertainty and cost to the regulated community.

Inquiries to the RCRA Hotline also indicated that there is significant confusion on the part of the regulated community, and standard test methods would reduce the bulk of this confusion. In particular, EPA received about 700 calls asking how to test for hazardous constituents given the lack of criteria in the regulations. Many callers also asked if it was really necessary to test for all the Appendix VIII constituents in all cases.

Available information suggests that the proposed rule does not constitute a major rule. The proposed rule eliminates 22 Appendix VIII substances from requirements for compliance and assessment monitoring. In addition, for those 353 substances which remain in Appendix VIII the regulatory proposal specifies acceptable testing methods. In contrast, the existing regulations (40 CFR 264) require testing for all 375 substances, but do not specify acceptable methods. Thus, the regulatory proposal both reduces the number of substances for which testing must be conducted and reduces the uncertainty as to which tests are appropriate for the remainder.

The available information data indicate that there will be no incremental compliance costs associated with the regulatory proposal. In assessing incremental compliance costs, we attempted to:

(1) Estimate the minimum costs of being in full compliance with the regulatory proposal;

(2) Estimate the costs associated with full compliance with the current standard (i.e., calculate the baseline); and

(3) Take the difference (either positive or negative) and attribute that difference to the regulatory proposal as either costs or savings.

To obtain an estimate of the cost of the proposed regualtory change, we contacted four major laboratories experienced in groundwater testings. These laboratories estimated per sample compliance costs from $2300 to $3100, with an average of $2700.

Estimating per sample costs associated with full compliance with the current standard (i.e., the baseline) was complicated by the facts that:

- Most candidate facilities have not yet submitted permit applications and therefore have no direct experience with compliance monitoring plans and their costs.
- As a result, testing laboratories have not had to design compliance monitoring testing programs, as there has not yet been any real demand.
- Acceptable testing methods currently do not exist for all of the Appendix VIII constituents.

Information collected from some of the more experienced testing laboratories indicates that the testing methods being proposed in this action are generally the same ones that they currently use for ground water monitoring. The reason for this is that the proposed methods are, in the main, based on the methodologies developed for use in testing industrial waste treatment facility effluents. Ground waters at hazardous wates facilities have many of the same attributes as treatment plant effluents and it is reasonable to expect that similar methods are indicated.

This suggests that the proposed analytical methods do not deviate from current practice at many of the major contract laboratories known to specialize in this area. Thus, there will be no incremental compliance costs associated with the methods proposed.

There could even be potential cost savings, due to the fact that development and validation testing would no longer be required for those constituents for which methods do not

currently exist. Estimates from testing laboratories and commentors to the interim final rules suggest that appropriate methods development, to conform with the current regulations, might cost at least $50,000 per laboratory, and could exceed $100,000.

Thus, under existing rules, laboratories would incur substantial research and development expenditures to develop acceptable methods for those constituents on Appendix VIII for which no methods exist. Depending on the number of laboratories willing to undertake such a research and development effort, the cost for the development and diffusion of acceptable methods could easily exceed $1 million.

This proposal carries with it the following benefits:

(1) Reduced uncertainty to the regulated community as to which testing methods will be acceptable;

(2) Improved guidance to EPA and State permitting officials in administering the RCRA permitting process and in establishing testing requirements under Subtitle C; and

(3) Improved uniformity in ground-water monitoring nationwide, thus ensuring ground-water monitoring data of acceptable quality.

These benefits have been documented based on the following sources:

- a review of the comments filed in response to the interim final rules of July 26, 1982;
- a telephone survey of EPA and State permitting officials; and
- an analysis of inquiries to the RCRA hotline.

At the present time, it is not possible to develop a confident estimate of the value of these benefits in dollars. However, such benefits would be achieved at a level of compliance costs which would not exceed the level of compliance costs under current rules. In fact, if under the current rules methods had to be developed for those constituents for which methods do not now exist, the regulatory proposal would result in cost savings.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

B. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5. U.S.C. 601 *et seq.*, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a Regulatory Flexibility Analysis which describes the impact of the rule on small entities (i.e., small business, small organizations, and small governmental jurisdictions). The Administrator may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

As discussed above under Regulatory Impact, there are no incremental compliance costs associated with the regulatory proposal. This proposal will therefore generally have no adverse economic impact on small entities. Accordingly, I hereby certify that this proposed regulation will not have a significant economic impact on a substantial number of small entities. This proposed regulation therefore does not require a Regulatory Flexibility Analysis.

C. Paperwork Reduction Act

This proposed rule does not contain any information collection requirements as described by provisions of the Paperwork Reduction Act of 1980. 44 U.S.C. 3501 *et seq.*

D. State Authority

Under Section 3006 of RCRA, EPA may authorize qualified States to administer and enforce their State hazardous waste management programs in lieu of EPA operating the Federal program in those States. Authorization, either interim or final, may be granted to State programs that regulate the identification, generation, transportation, or operation of facilities that treat, store, or dispose of hazardous waste.

Today's announcement proposes certain changes to the Federal hazardous waste management program. Upon authorization of the State program, EPA suspends operation within the State of those parts of the Federal program for which the State is authorized. States which have been granted final authorization will have to revise their programs to cover the requirements in today's announcement. Generally, these authorized State programs must be revised within one year of the date of promulgation of these standards, or within two years if the State must amend or enact a statute in order to make the required revision. (The process and schedule for State adoption of these regulations is described in the recent amendment to 40 CFR 271.21, published on May 22, 1984 at FR 21678.)

List of Subjects

40 CFR Part 260

Administrative practice and procedure, Hazardous materials, Waste treatment and disposal.

40 CFR Part 261

Hazardous materials, Waste treatment and disposal, Recycling.

40 CFR Part 264

Hazardous materials, Packaging and containers, Reporting requirements, Security measures, Surety bonds, Waste treatment and disposal.

40 CFR Part 265

Hazardous materials, Packaging and containers, Reporting requirements, Security measures, Surety bonds, Waste treatment and disposal, Water supply.

40 CFR Part 270

Administrative practice and procedure, Reporting and recordkeeping requirements, Hazardous materials, Waste treatment and disposal, Water pollution control, Water supply, Intergovernmental relations, Penalties, Confidential business information.

40 CFR Part 271

Hazardous materials, Indian lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Intergovernmental relations, Penalties, Confidential business information.

Dated: September 19, 1984.

William D. Ruckelshaus,

Administrator.

For the reasons set out in the preamble, Title 40 of the Code of Federal Regulations is amended as follows:

PART 260—[AMENDED]

1. The authority citation for Part 260 reads as follows:

Authority: Secs. 1006, 2002(a), 3001 through 3007, 3010, and 7004 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6905, 6912(a), 6921 through 6927, 6930, and 6974.

2. Section 260.1 is amended by inserting a new paragraph (b)(3) as follows, and by redesignating the existing paragraphs (b)(3), (b)(4), (b)(5), and (b)(6) as paragraphs (b)(4), (b)(5), (b)(6), and (b)(7) respectively:

§ 260.1 Purpose, scope, and applicability.

* * * * *

(b) * * *

(3) Section 260.4 requires the use of SW–846 test methods for sampling, testing and analytical procedures conducted pursuant to Parts 260 through 265 of this chapter.

* * * * *

3. Subpart A of Part 260 is amended by adding a new § 260.4 to read as follows:

Subpart A—General

§ 260.4 Mandatory use of SW–846 test methods.

(a) The sampling and analysis methods provided in EPA Publication "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," SW–846 and described in Appendix III of Part 261 of this chapter shall be used for all sampling, monitoring, analysis and testing required pursuant to Parts 260 through 265 of this chapter except where an equivalent method has been approved pursuant to § 260.21. Where methods contained in ground water sampling and analysis plans established in compliance with § 265.92 prior to the effective date of this rule do not comply with the requirements of SW–846, such methods may continue to be used provided that they are adequate to achieve the objectives of Subpart F of Part 265.

4. Section 260.11(a) is amended by changing the reference with respect to SW–846 to read as follows:

§ 260.11 References.

* * * * *

"Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, Second Edition, 1982," EPA Publication SW–846. It is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, [GPO Catalog Number 055–002–81001–2] on a subscription basis, and future updates will automatically be mailed to subscribers.

* * * * *

5. Section 260.20 is amended by revising paragraph (a) to read as follows:

§ 260.20 General.

(a) Any person may petition the Administrator to modify or revoke any provision in Parts 260 through 265 of this chapter. This section sets forth general requirements which apply to all such petitions. Section 260.21 sets forth additional requirements for petitions to add a testing, sampling, or analytical method to EPA Publication "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," SW–846 as described in Appendix III of Part 261 of this chapter." Section 260.22 sets forth additional requirements for petitions to exclude a waste at a particular facility from § 261.3 of this chapter or the lists of hazardous wastes in Subpart D of Part 261.

* * * * *

6. Section 260.21 is amended by revising paragraphs (a) and (b)(3) to read as follows:

§ 260.21 Petitions for equivalent testing or analytical methods.

(a) Any person seeking to add a sampling, testing, or analytical method to EPA Publication "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," SW–846 as described in Appendix III of Part 261 of this Chapter may petition for a regulatory amendment under this section and § 260.20. To be successful, the person must demonstrate to the satisfaction of the Administrator that the proposed method is equal to or superior to the corresponding method prescribed in EPA Publication SW–846 in terms of its sensitivity, accuracy, and precision (i.e., reproducibility).

(b) * * *

(3) Comparative results obtained from using the proposed method with those obtained from using the relevant or corresponding methods prescribed in EPA Publication SW–846;

* * * * *

PART 261—[AMENDED]

7. The authority citation for Part 261 reads as follows:

Authority: Secs. 1006, 2002(a), 3001 and 3002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6921, and 6922).

8. Section 261.20 is amended by revising paragraph (c) to read as follows and removing the "comment" paragraph:

§ 261.20 General.

* * * * *

(c) For purposes of this Subpart, the Administrator will consider a sample obtained using any of the applicable sampling methods specified in EPA Publication "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," (SW–846) as described in Appendix III of this Part to be a representative sample as defined in § 260.10 of this chapter.

9. Part 261, Appendix I is amended by removing the entire text following Roman numeral I and inserting in lieu thereof the bracketed word, "[reserved]".

10. The following compounds and methods are added to Table 1 of Appendix III of Part 261 in alphabetical order:

Appendix III—Chemical Analysis Test Methods

* * * * *

TABLE 1.—ANALYSIS METHODS FOR ORGANIC CHEMICALS CONTAINED IN SW–846

Compound	First edition method(s)	Second edition method(s)
3-(alpha-Acetonylbenzyl)-4-hydroxycoumarin and salts.		8250 and 8320
Acetophenone		8250.
2-Acetylaminofluorene		8250.
1-Acetyl-2-thiourea		8250 and 8330.
Aflatoxins		8250.
Aldrin		8250.
Allyl alcohol		8250.
4-Aminobiphenyl		8250.
6-Amino-1,1a,2,8,8a,8b-hexahydro-8-(hydroxymethyl)8a-methoxy-5-methylcarbamate azirino(2',3':3,4)-pyrrolo-(1,2-a)indole-4,7-dione (ester) (Mitomycin C).		8320.
5-(Aminomethyl)-3-isoxazole		8250.
2-Amino-1-methylbenzene		8250
4-Amino-1-methylbenzene		8250.
Amitrole		8250.
Aniline		8250.
Aramite		8250.
Auramine		8250.
Azaserine		8330.
Benz[c]acridine		8250.
Benzenearsonic acid (Phenyl arsonic acid).		7060.
Benzene,dichloromethly-		8250.
Benzenethiol		8250.
Benzidine		8250.
Benzo[j]fluoranthene		8100 and 8250.
Benzoquinone		8250.
N,N-Bis(2-chloroethyl)-2-naphthylamine.		8250.
Bis(chloromethyl) ether		8010 and 8240.
Bis(2-ethylhexyl) phthalate		8060 and 8250.
Bromoacetone		8010 and 8240.
Bromomethane		8010 and 8240.
4-Bromophenyl phenyl ether		8250.
Brucine		8250.
2-Butanone peroxide		8250.
Butyl benzyl phthalate		8060 and 8250.
2-sec-Butyl-4,6-dinitrophenol		8040.
Chloral		8010 and 8240.
Chlorambucil		8320.
Chlorinated benzene		8010, 8020, 8240, and 8250.
Chlorinated ethane		8010 and 8240.
Chlorinated fluorocarbon		8010 and 8240.
Chlorinated naphthalene		8250.
Chlorinated phenol		8040 and 8250.
Chloroalkyl ether		8240 and 8250.
p-Chloroaniline		8250.
Chlorobenzilate		8250.
p-Chloro-m-cresol		8040 and 8250.
1-Chloro-2,3-epoxybutane		8010 and 8240.
2-Chloroethyl vinyl ether		8010 and 8240.
Chloromethyl methyl ether		8010 and 8240.
2-Chloronaphthalene		8250
1-(o-Chlorophenyl)thiourea		8330.
3-Chloropropionitrile		8250.
Citrus red No. 2		8330.
Coal tars [1]		8240 and 8250.

TABLE 1.—ANALYSIS METHODS FOR ORGANIC CHEMICALS CONTAINED IN SW-846—Continued

Compound	First edition method(s)	Second edition method(s)
Crotonaldehyde		8330.
Cyanogen (Dicyanogen)		9010.
Cyanogen bromide		9010.
Cyanogen chloride		9010.
2-Cyclohexyl-4,6-dinitrophenol		8250.
Daunomycin		8320.
DDD [2,2-bis(p-chlorophenyl-1,1-dichloroethane]		8250.
DDE [2,2-bis(p-chlorophenyl-1,1-dichloroethylene]		8250.
DDT [1,1,1-trichloro-2,2-bis(p-chlorophenyl)ethane].		8250.
Diallate		8250.
Dibenz[a,h]acridine		8100 and 8250.
Dibenz[a,j]acridine		8100 and 8250.
Dibenz[a,h]anthracene (Dibenzo[a,h]anthracene).		8100 and 8250.
7H-Dibenzo[c,g]carbazole		8100 and 8250.
Dibenzo [a,e] pyrene		8100 and 8250.
Dibenzo [a,h] pyrene		8100 and 8250.
Dibenzo [a,i] pyrene		8100 and 8250.
1,2-Dibromo-3-chloropropane (DBCP).		8010 and 8240.
1,2-Dibromoethane		8010 and 8240.
Dibromomethane		8010 and 8240.
Di-n-butyl phthalate		8060 and 8250.
3,3'-Dichlorobenzidene		8250.
1,4-Dichloro-2-butene		8010 and 8240.
Dichlorodifluoromethane		8010 and 8240.
1,2-trans-Dichloroethene		8240.
Dichloroethylene(s)		8240.
1,1-Dichloroethylene		8240.
Dichlorophenols		8040 and 8250.
2,6-Dichlorophenol		8040 and 8250.
Dichlorophenylarsine		7060.
Dichloropropene(s)		8010 and 8240.
1,2-Dichloropropane		8010 and 8240.
Dichloropropene(s)		8010 and 8240.
1,3-Dichloropropene		8010 and 8240.
Dieldrin		8250.
1,2:3,4-Diepoxybutane		8240.
Diethylarsine		7060.
O,O-Diethyl-S-methylester phosphorodithoic acid.		8250.
O,O-Diethylphosphonic acid, O-p-nitrophenyl ester.		8250.
Diethyl phthalate		8260 and 8250.
O,O-Diethyl-O-(2-pyrazinyl) phosphorothioate.		8250.
Dihydrosafrole		8250.
Diethylstilbestrol		8330.
3,4-Dihydroxy-alpha-((methylamino)methyl) benzyl alcohol.		8330.
Diisopropyl fluorophosphate (DFP).		8250.
Dimethoate		8140 and 8250.
3,3'-Dimethoxybenzidine		8250.
p-Dimethylaminoazobenzene		8010 and 8250.
7,12-Dimethylbenz [a] anthracene.		8100 and 8250.
3,3'-Dimethylbenzidine		8250.
1,1-Dimethylhydrazine		8250.
1,2-Dimethylhydrazine		8250.
alpha, alpha-Dimethylphenethylamine.		8250.
Dimethyl phthalate		8250

TABLE 1.—ANALYSIS METHODS FOR ORGANIC CHEMICALS CONTAINED IN SW-846—Continued

Compound	First edition method(s)	Second edition method(s)
Dimethyl sulfate		8250.
2,4-Dinitrophenol		8040 and 8250.
2,4-Dinitrotoluene		8090 and 8250.
2,6-Dinitrotoluene		8060 and 8250
Di-n-octyl phthalate		8090 and 8250.
1,4-Dioxane		8240.
Diphenylamine		8250.
1,2-Diphenylhydrazine		8250.
Di-n-propylnitrosamine		8250.
Disulfoton		8140 and 8250.
Ethyl carbamate		8250.
Ethyl cyanide		8240.
2,4-Dithiobiuret		8250
Endosulfan and metabolites		8250.
Ethylenamine		8250.
Ethylene oxide		8240.
Ethylenethiourea		8250 and 8330.
Ethyl methacrylate		8250.
Ethyl methanesulfonate		8250.
Fluoranthene		8100 and 8250.
Fluoroacetic acid, sodium salt		8250.
Halomethane		8240.
Heptachlor epoxide (alpha, beta, or gamma isomers).		8250.
1,2,3,4,10,10-Hexachloro-1,4,4a,5,8,8a-hexahydro-1,4 5,8-endo,endo-dimethanonaphthalene.		8250
Hexachlorophene		8250
Hexachloropropene		8240.
Hexaethyltetraphosphate		8250.
Hydrazine		8250.
Indeno(1,2,3-cd)pyrene		8100 and 8250.
Iodomethane		8010 and 8240.
Isobutyl alcohol		8240.
Isosafrole		8250.
Kepone		8250.
Maleic hydrazide		8250.
Malononitrile		8240 and 8250.
Melphalan		8320.
Methacrylonitrile		8240.
Methanethiol		8240..
Methapyrilene		8250.
Methoxychlor		8080 and 8250.
2-Methylaziridine		8250.
3-Methylcholanthrene		8100 and 8250.
4,4'-Methylene-bis-(2-chloroaniline).		8250.
Methyl hydrazine		8240.
2-Methyllactonitrile		8250.
Methyl methacrylate		8250
Methyl methanesulfonate		8250.
2-Methyl-2-(methylthio)-o-(methylcarbonyl)-propionaldhyde oxime.		8250
N-Methyl-N'-nitro-N-nitrosoguanidine.		8250.
Methyl parathion		8140 and 8250.
Methylthiouracil		8250.
1-Naphthylamine		8250
2-Naphthylamine		8250.
1-Naphthyl-2-thoures		8330
Nicotine and salts		8250.
p-Nitroaniline		8250.
Nitroglycerine		8250.
4-Nitroquinoline-1-oxide		8250.
Nitrosamine		8250.
N-Nitrosodi-n-butylamine		8250.
N-Nitrosodiethanolamine		8250.
N-Nitrosodiethylamine		8250.
N-Nitrosodimethylamine		8250.
N-Nitroso-n-ethylurea		8250.
N-Nitrosomethylethylamine		8250

TABLE 1.—ANALYSIS METHODS FOR ORGANIC CHEMICALS CONTAINED IN SW-846—Continued

Compound	First edition method(s)	Second edition method(s)
N-Nitroso-n-methylurea		8350 and 8330.
N-Nitroso-n-methylurethane		8250.
N-Nitrosomethylvinylamine		8250.
N-Nitrosomorpholine		8250.
N-Nitrosonornicotine		8250.
N-Nitrosopiperidine		8250.
N-Nitrosopyrrolidine		8250.
N-Nitrosoarcosine		8250.
5-Nitro-o-toluidine		8320.
Octamethylpyrophosphoramide.		8250.
Parathion		8140 and 8250.
Pentachlorobenzene		8250.
Pentachloroethane		8250.
Pentachloronitrobenzene		8250.
Phenacetin		8250.
Phenylenediamine		8250.
Phenylmercury acetate		7440 and 7441.
N-Phenylthioures		8330.
Phosphorothoic acid, O,O-dimethyl ester, O-[p-((dimethylamino)sulfonyl)phenyl]ester.		8140 and 8250.
Phthalic acid esters		8060 and 8250.
Pronamide		8250.
1,3-Propane sultone		8250.
n-Propylamine		8250.
Propylthiouracil		8250.
2-Propyn-1-ol		8250.
Reserpine		8320.
Resorcinol		8250.
Saccharin		8250.
Safrole		8250.
Streptozotocin		8320
Tetraethyldithiopyrophosphate		8250.
Tetraethyl lead		7420 and 7421.
Tetraethylpyrophosphate		8250.
Tetranitromethane		8240.
Thioacetamide		8330.
Thiosemicarbazide		8330.
Thiourea		8330.
Thuram		8320.
2,4-Toluenediamine		8250.
2,6-Toluenediamine		8250.
3,4-Toluenediamine		8250.
o-Toluidine hydrochloride (as o-Toluidine).		8250.
Tribromomethane		8010 and 8240.
1,2,4-Trichlorobenzene		8020 and 8250.
Trichloromethanethiol		8250.
2,4,5-Trichlorophenoxyacetic acid.		8150.
1,2,3-Trichloropropane		8240.
O,O,O-Triethly phosphorothioate.		8250.
sym-Trinitrobenzene		8250.
Tris(1-azridinyl)phosphine sulfide.		8250.
Tris(2,3-dibromopropyl) phosphate.		8250.
Trypan blue		8330.
Uracil mustard		8250.

[a] Analyze for benzene, toluene, naphthalene, phenol, and cresol, if all these compounds are present then coal tar should be considered present.

* * * * *

11. Table 1. of Appendix III of Part 261 is amended by revising the entries for Formaldehyde and Methomyl as follows:

TABLE 1.—ANALYSIS METHODS FOR ORGANIC CHEMICALS CONTAINED IN SW-846

Compound	First edition method(s)	Second edition method(s)
• • • •		•
Formaldehyde	8.01 and 8.24	8015, 8240, 8410, and 8411.
• • • •		•
Methomyl	8.32	8250 and 8320.
• • • •		•

12. Table 2 of Appendix III of Part 261 is revised to read as follows:

TABLE 2.—ANALYSIS METHODS FOR INORGANIC CHEMICALS CONTAINED IN SW-846

Compound	First edition method(s)	Second edition method(s)
Antimony	8.50	6010, 7040, and 7041.
Arsenic	8.51	6010, 7060, and 7061.
Barium	8.52	6010, 7080, and 7081.
Beryllium		6010, 7090, and 7091.
Cadmium	8.53	6010, 7090, and 7091.
Chromium	8.54	6010, 7190, and 7191.
Chromium: Hexavalent	8.545, 8.546 and 8.547.	7195, 7196, 7197, and 7198.
Copper		6010, 7210, and 7211.
Iron		6010, 7380, and 7381.
Lead	8.56	6010, 7420, and 7421.
Manganese		6010, 7460, and 7461.
Mercury	8.57	7470 and 7471.
Nickel	8.58	6010, 7520, and 7521.
Osmium		7550 and 7551.
Selenium	8.59	6010, 7740, and 7741.
Silver	8.60	6010, 7760, and 7761.
Sodium		6010 and 7770.
Thallium		6010, 7840, and 7841.
Vanadium		6010, 7910, and 7911.
Zinc		6010, 7950, and 7951.
Cyanides	8.55	9010.
Total Organic Halogen	8.66	9020 and 9022.
Sulfides	8.67	9030.
Sulfate		9035, 9036, 9037, and 9038.
Nitrate		9200.
Chloride		9250, 9251, and 9252.
Gross Alpha and Beta		9310.
Radium		9315.
Radium 228		9320.

13. Table 3 of Appendix III of Part 261 is revised to read as follows:

TABLE 3.—SAMPLING AND ANALYSIS METHODS CONTAINED IN SW-846

Title	First edition		Second edition	
	Section No.	Method No.	Section No.	Method No.
Sampling of Solid Wastes	1.0		1.0	
Development of Appropriate Sampling Plans	1.0		1.1	
Regulatory and Scientific Objectives	1.0–2		1.1.1	
Fundamental Statistical Concepts	1.0–3		1.1.2	
Basic Statistical Strategies	1.0–7		1.1.3	
Simple Random Sampling			1.1.3.1	
Stratified Random Sampling			1.1.3.2	
Systematic Random Sampling			1.1.3.3	
Special Considerations	1.0–7			
Composite Sampling			1.1.4.1	
Subsampling			1.1.4.2	
Cost and Loss Functions			1.1.4.3	
Statistical Tests			1.1.5	
Implementation of Sampling Plan	1.0–7		1.2	
Selection of Sampling Equipment			1.2.1	
Composite Liquid Waste Sampler	3.2.1		1.2.1.1	
Weighted Bottle	3.2.2		1.2.1.2	
Dipper	3.2.3		1.2.1.3	
Thief	3.2.4		1.2.1.4	
Trier	3.2.5		1.2.1.5	
Auger	3.2.6		1.2.1.6	
Scoop and Shovel	3.2.7		1.2.1.7	
Modified Method 5 Sampling Train			1.2.1.8	
Source Assessment Sampling System (SASS)			1.2.1.9	
Volatile Organics Sampling Train (VOST)			1.2.1.13	
Bailer			1.2.1.20	
Suction Pumps			1.2.1.21	
Positive Displacement Pumps			1.2.1.22	
Pressure Vacuum Lysimeter			1.2.1.30	
Vacuum Extractor			1.2.1.31	
Trench Lysimeter			1.2.1.32	
Selection of Sample Containers	3.3		1.2.2	
Processing and Storage of Samples	3.3		1.2.3	
Sample Labels	2.0–1		1.3.1	
Sample Seals	2.0–3		1.3.2	
Field Log Book	2.0–5		1.3.3	
Chain-of-Custody Record	2.0–6		1.3.4	
Sample Analysis Request Sheet	2.0–9		1.3.5	
Sample Delivery to Laboratory	2.0–10		1.3.6	
Shipping of Samples	2.0–10		1.3.7	
Receipt and Logging of Sample	2.0–12		1.3.8	
Assignment of Sample for Analysis	2.0–13		1.3.9	
Sampling Methodology	3.0		1.4	
Containers	3.2-2		1.4.1	
Tanks	3.2-2		1.4.2	
Waste Piles	3.2-2		1.4.3	
Landfills and Lagoons	3.2-2		1.4.4	
Stack Sampling			1.4.5	
Ground-water Sampling			1.4.6	
Land Treatment Sampling			1.4.7	
Waste Evaluation Procedures			2.0	

TABLE 3.—SAMPLING AND ANALYSIS METHODS CONTAINED IN SW-846—Continued

Title	First edition		Second edition	
	Section No.	Method No.	Section No.	Method No.
Characteristics of Hazardous Waste			2.1	
Ignitability	4.0		2.1.1	
Pensky-Martens Closed-Cup Method	4.1		2.1.1	1010
Setaflash Closed-Cup Method	4.1		2.1.1	1020
Corrosivity	5.0		2.1.2	
Corrosivity Toward Steel	5.3		2.1.2	1110
Electrochemical Corrosion Method			2.1.2	1120
Reactivity	6.0		2.1.3	
Extraction Procedure Toxicity	7.0		2.1.4	
Extraction Procedure Toxicity Test	7.1, 7.2, 7.5			
Method and Structural Integrity Test	7.4		2.1.4	1310
Multiple Extraction Procedure			2.1.4	1320
Extraction Procedure for Oily Wastes			2.1.4	1330
Monitoring			3.0	
Ground Water			3.1	
Land Treatment			3.2	
Incineration			3.3	
Sample Workup Techniques			4.0	
Inorganic Techniques	8.4§		4.1	
Acid Digestion for Flame AAS	(1)		4.1	3010
Acid Digestion for Furnace AAS	(1)		4.1	3020
Acid Digestion of Oil, Grease, or Wax	8.4§-6		4.1	3030
Dissolution Procedure for Oil, Grease, or Wax	8.4§-6		4.1	3040
Organic Techniques	8.0		4.2	
Separatory Funnel Liquid-Liquid Extraction	9.0	9.01	4.2	3510
Continuous Liquid-Liquid Extraction	9.0	9.01	4.2	3520
Acid-Base Cleanup Extraction	8.0	8.84	4.2	3530
Soxhlet Extraction	8.0	8.86	4.2	3540
Reverse Phase Cartridge Extraction			4.2	3560
Column Clean-Up for Oily Wastes			4.2	3570
Sonication Extraction	8.0	8.85	4.2	3550
Gas Bulb and Gas Bag Sample Preparation			4.2	3710
Volatile Organics Sampling Train Purge and Trap Sample Preparation			4.2	3720
Sample Introduction Techniques			5.0	
Headspace	8.0	8.82	5.0	5020
Purge-and-Trap	8.0	8.83	5.0	5030
Multielement Inorganic Methods			6.0	
Inductively Coupled Plasma Method			6.0	6010
Inorganic Analytical Methods	8.0		7.0	
Antimony, Flame AAS	8.0	8.50	7.0	7470
Antimony, Furnace AAS	8.0	8.50	7.0	7471
Arsenic, Flame AAS	8.0	8.51	7.0	7060
Arsenic, Furnace AAS	8.0	8.51	7.0	7061
Barium, Flame AAS	8.0	8.52	7.0	7080
Barium, Furnace AAS	8.0	8.52	7.0	7081
Beryllium, Flame AAS			7.0	7090
Beryllium, Furnace AAS			7.0	7091
Cadmium, Flame AAS	8.0	8.53	7.0	7130
Cadmium, Furnace AAS	8.0	8.53	7.0	7131
Chromium, Flame AAS	8.0	8.54	7.0	7190
Chromium, Furnace AAS	8.0	8.54	7.0	7191
Chromium, Hexavalent, Chelation	8.0	8.547	7.0	7197
Chromium, Hexavalent, Colorimetric	8.0	8.548	7.0	7196
Chromium, Hexavalent, Coprecipitation	8.0	8.545	7.0	7195
Chromium, Hexavalent, Polarographic			7.0	7198
Copper, Flame AAS			7.0	7210
Copper, Furnace AAS			7.0	7211
Iron, Flame AAS			7.0	7380
Iron, Furnace AAS			7.0	7381
Lead, Flame AAS	8.0	8.55	7.0	7420
Lead, Furnace AAS	8.0	8.55	7.0	7421
Manganese, Flame AAS			7.0	7460
Manganese, Furnace AAS			7.0	7461
Mercury, Cold Vapor, Liquid	8.0	8.57	7.0	7470
Mercury, Cold Vapor, Solid	8.0	8.57	7.0	7471
Nickel, Flame AAS	8.0	8.58	7.0	7520
Nickel, Furnace AAS	8.0	8.58	7.0	7521
Osmium, Flame AAS			7.0	7550
Osmium, Furnace AAS			7.0	7551
Selenium, Furnace AAS	8.0	8.59	7.0	7740
Selenium, Gaseous Hydride AAS	8.0	8.59	7.0	7741
Silver, Flame AAS	8.0	8.60	7.0	7760
Silver, Furnace AAS	8.0	8.60	7.0	7761
Sodium, Flame AAS			7.0	7770
Thallium, Flame AAS			7.0	7840
Thallium, Furnace AAS			7.0	7841
Vanadium, Flame AAS			7.0	7910
Vanadium, Furnace AAS			7.0	7911
Zinc, Flame AAS			7.0	7950
Zinc, Furnace AAS			7.0	7951
Organic Analytical Methods Flame	8.0		8.0	
Gas Chromatographic Methods Furnace	8.0		8.1	
Acrolein, Acrylonitrile, Acetonitrile	8.0	8.03	8.1	8030
Aromatic Volatile Organics	8.0	8.02	8.1	8020
Chlorinated Herbicides	8.0	8.40	8.1	8150
Chlorinated Hydrocarbons	8.0	8.12	8.1	8120
Halogenated Volatile Organics	8.0	8.01	8.1	8010
Nitroaromatics and Cyclic Ketones	8.0	8.09	8.1	8090

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TABLE 3.—SAMPLING AND ANALYSIS METHODS CONTAINED IN SW-846—Continued

Title	First edition		Second edition	
	Section No.	Method No.	Section No.	Method No.
Nonhalogenated Volatile Organics	8.0	8.01	8.1	8015
Organochlorine Pesticides and PCBs	8.0	8.06	8.1	8080
Organophosphorus Pesticides	8.0	8.22	8.1	8140
Phenols	8.0	8.04	8.1	8040
Phthalate Esters	8.0	8.08	8.1	8060
Polynuclear Aromatic Hydrocarbons	8.0	8.10	8.1	8100
Gas Chromatographic/Mass Spectroscopy Methods (GC/MS)	8.0		8.2	
GC/MS Volatiles	8.0	8.24	8.2	8240
GC/MS Semi-Volatiles, Packed Column	8.0	8.25	8.2	8250
GC/MS Semi-Volatiles, Capillary	8.0	8.27	8.2	8270
High Performance Liquid Chromatographic Methods (HPLC)	8.0		8.3	
Polynuclear Aromatic Hydrocarbons	8.0	8.10	8.3	8310
Phenols and Miscellaneous Compounds			8.3	8320
Thioureas and Miscellaneous Compounds			8.3	8330
Polarographic Methods			8.4	
Formaldehyde			8.4	8410
Do			8.4	8411
Screening Methods			8.6	
Hierarchical Analysis Protocol for Ground Water			8.6	8600
Dinitrobenzoylchloride Derivitization for Appendix VIII Compounds				8630
Total Aromatics by UV Absorption			8.6	8610
Total Nitrogen/Phosphorous Gas Chromatographable Compounds			8.6	8620
Miscellaneous Analytical Methods	8.0		9.0	
Cation Exchange Capacity			9.0	9080
Do			9.0	9081
Chloride			9.0	9250
Do			9.0	9251
Do			9.0	9252
Coliform			9.0	9131
Do			9.0	9132
Cyanide; Photodegradable			9.0	9011
Cyanide; Total and Amendable to Chlorination	8.0	8.55	9.0	9010
Free Liquids Test, Paint Filter			9.0	9095
Gross Alpha and Beta			9.0	9310
Hydraulic Conductivity			9.0	9100
Nitrate			9.0	9200
pH Measurement	5.0	5.2	9.0	9040
pH Paper Method			9.0	9041
Phenolics			9.0	9065
Do			9.0	9066
Do			9.0	9067
Polymeric Liner Compatability			9.0	9090
Radium			9.0	9315
Radium 226			9.0	9320
Soil pH			9.0	9045
Specific Conductance			9.0	9050
Sulfate			9.0	9035
Do			9.0	9036
Do			9.0	9037
Do			9.0	9038
Sulfides	8.0	8.67	9.0	9030
Total Oil and Grease			9.0	9070
Do			9.0	9071
Total Organic Carbon			9.0	9060
Total Organic Halogen (TOX)	8.0	8.66	9.0	9020
Total Organic Halogen (TOX) by NA			9.0	9022
Quality Control/Quality Assurance	10.0		10.0	
Introduction	10.0		10.1	
Program Design	10.0		10.2	
Sampling	10.0		10.3	
Analysis	10.0		10.4	
Data Handling	10.0		10.5	

[1] See specific metal.

14. Appendix VIII of Part 261 is amended by adding a double asterisk before each of the following constituents and adding the following double asterisk footnote at the bottom of the first page of Appendix VIII:

Appendix VIII—Hazardous Constituents

**Acetyl Chloride
**Aluminum Phosphide
**Bis (Chloromethyl) Ether
**Cacasin
**Carbon Oxyfluoride
**Dimethyl Carbamoylchloride
**Ethylenebisdithiocarbamic acid
**Fluorine
**2–Fluoroacetamide
**Hydrogen Fluoride
**Iron Dextran
**Lasocarpine
**Methyl Chlorocarbonate
**Methyl Isocyanate
**Mustard Gas
**Nitrogen Dioxide
**Nitrogen Mustard, N-Oxide and HCl salts
**Nitrogen Mustard, and HCl salts
**Nitric Oxide
**Phosgene
**Phosphine
**Toluene Diisocyanate
**Zinc Phosphide

**To the extent that this Appendix is used to define hazardous constituents for purposes of the monitoring and response program requirements of this chapter, these constituents shall be exempt from any ground water sampling, analysis, and evaluation requirements because the Agency has determined that the constituent immediately converts to another substance upon contact with water or that no satisfactory analytical method is available at this time to detect the constituent in question.

PART 262—[AMENDED]

15. The authority citation for Part 262 reads as follows:

Authority: Secs. 1006, 2002, 3002, 3003, 3004 and 3005 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912, 6922, 6923, 6924 and 6925).

16. Subpart A of Part 262 is amended by adding new paragraph (g) to § 262.10 to read as follows:

Subpart A—General

§ 262.10 Purpose, scope, and applicability.

* * * * *

(g) When used in Part 262 of this Chapter, the following publications are incorporated by reference:

"Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, Second Edition, 1982," EPA Publication SW–846. It is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, on a subscription basis, and future updates will automatically be mailed to subscribers. The references listed is also available for inspection at the Office of the Federal Register, 1100 L Street, N.W., Washington, D.C. 20408. These incorporations by reference were approved by the Director of the Federal Register. These materials are incorporated as they exist on the date of approval and a notice of any change in these materials will be published in the **Federal Register**.

17. Section 262.11 is amended by revising paragraph (c)(1) to read as follows:

§ 262.11 Hazardous waste determination.

* * * * *

(c) * * *

(1) Testing the waste according to the sampling and analysis methods specified in EPA Publication "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," SW–846 as provided in §260.4 of this Chapter and as described in Appendix III of Part 261 of this Chapter, or according to an equivalent method approved by the Administrator under 40 CFR 260.21; or

PART 264—[AMENDED]

18. The authority citation for Part 264 reads as follows:

Authority: Secs. 1006, 2002(a), and 3004 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), and 6924).

19. Subpart A of Part 264 is amended by adding new §§ 264.5 and 264.6 to read as follows:

Subpart A—General

§ 264.5 Mandatory use of SW–846 test method.

As provided in § 260.4 of this chapter, the sampling and analysis methods specified in EPA Publication "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," SW–846 and described in Appendix III of Part 261 of this chapter shall be used for all sampling, monitoring, analysis and testing required pursuant to this Part, except where an equivalent method has been approved pursuant to § 260.21 of this chapter.

§ 264.6 References.

(a) When used in Part 264 of this chapter, the following publications are incorporated by reference:

"Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, Second Edition, 1982," EPA Publication SW–846. It is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, on a subscription basis, and future updates will automaticaly be mailed to subscribers.

(b) The references listed in paragraph (a) of this section are also available for inspection at the Office of the Federal Register, 1100 L Street, N.W., Washington, D.C. 20408. These incorporations by reference were approved by the Director of the Federal Register. These materials are incorporated as they exist on the date of approval and a notice of any change in these materials will be published in the **Federal Register**.

20. Section 264.98 is amended by revising paragraph (h)(2) to read as follows:

§ 264.98 Detection monitoring program.

* * * * *

(h) * * *

(2) Immediately sample the ground water in all monitoring wells and determine whether constituents identified in Appendix VIII of Part 261 of this chapter are present and, if so, at what concentration.

* * * * *

21. Section 264.99 is amended by revising paragraph (f) to read as follows:

§ 264.99 Compliance monitoring program.

* * * * *

(f) The owner or operator must analyze samples from all monitoring wells at the compliance point to determine whether constituents identified in Appendix VIII of Part 261 of this chapter are present and, if so, at what concentration. The analysis must be conducted at least annually to determine whether additional hazardous constituents are present in the uppermost aquifer. If the owner or operator finds Appendix VIII constituents in the gound water that are not identified in the permit as hazardous constituents, the owner or operator must report the concentrations of these additional constituents to the Regional Administrator within seven days after completion of the analysis.

* * * * *

PART 265—[AMENDED]

22. The authority citation for Part 265 reads as follows:

Authority: Secs. 1006, 2002(a), 3004 and 3005 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6924 and 6925).

23. Subpart A of Part 265 is amended by adding new §§ 265.5 and 265.6 to read as follows:

Subpart A—General

§ 265.5 Mandatory use of SW–846 test method.

(a) As provided in § 260.4 of this chapter, the sampling and analysis methods specified in EPA Publication "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," SW–846 and described in Appendix III of Part 261 of this chapter shall be used for all sampling, monitoring, analysis and testing required pursuant to this Part, except where an equivalent method has been approved pursuant to § 260.21 of this chapter. Where methods contained in ground water sampling and analysis plans established in compliance with § 265.92 do not comply with the requirements of SW–846, such methods may continue to be used provided that they are adequate to achieve the objectives of Subpart F of Part 265 of this chapter.

§ 265.6 References.

(a) When used in Part 265 of this chapter, the following publications are incorporated by reference:

"Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, Second Edition, 1982," EPA Publication SW–846. It is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, on a subscription basis, and future updates will automatically be mailed to subscribers.

(b) The references listed in paragraph (a) of this section are also available for inspection at the Office of the Federal

Register, 1100 L Street, N.W., Washington, D.C. 20408. These incorporations by reference were approved by the Director of the Federal Register. These materials are incorporated as they exist on the date of approval and a notice of any change in these materials will be published in the **Federal Register.**

§ 265.92 [Amended]

24. Section 265.92 is amended by deleting the bracketed Comment following paragraph (a)(4).

PART 270—[AMENDED]

25. The authority citation for Part 270 reads as follows:

Authority: Secs. 1006, 2002(a), 3004, 3005, 3007 and 7004 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6924, 6925 and 6974).

26. Subpart A of Part 270 is amended by revising § 270.6 to read as follows and adding a new § 270.7 to read as follows:

Subpart A—General Information

§ 270.6 Mandatory use of SW-846 test method.

(a) As provided in § 260.4 of this chapter, the sampling and analysis methods specified in EPA Publication "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," SW-846 and described in Appendix III of Part 261 of this chapter shall be used for all sampling, monitoring, analysis and testing required pursuant to this Part, except where an equivalent method has been approved pursuant to § 260.21 of this chapter.

§ 270.7 References.

(a) When used in Part 270 of this chapter, the following publications are incorporated by reference:

"Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, Second Edition, 1982," EPA Publication SW-846. It is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, on a subscription basis, and future updates will automatically be mailed to subscribers.

(b) The references listed in paragraph (a) of this section are also available for inspection at the Office of the Federal Register, 1100 L Street, NW., Washington, D.C. 20408. These incorporations by reference were approved by the Director of the Federal Register. These materials are incorporated as they exist on the date of approval and a notice of any change in these materials will be published in the **Federal Register.**

27. Section 270.14 is amended by revising paragraph (c)(4)(ii) to read as follows:

§ 270.14 Contents of Part B: General requirements.

* * * * *

(c) * * *

(4) * * *

(ii) Includes a determination of whether constituents identified in Appendix VIII of Part 261 of this chapter are present and, if so, at what concentration.

* * * * *

PART 271—[AMENDED]

28. The authority citation for Part 271 reads as follows:

Authority: Secs. 1006, 2002(a) and 3006 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (RCRA) (42 U.S.C. 6905, 6912(a), and 6936).

29. Subpart A of Part 271 is amended by adding a new paragraph (j) to § 271.1, by revising § 271.9 to read as follows, and by adding a new paragraph (i) to § 271.10.

Subpart A—Requirements for Final Authorization

§ 271.1 [Amended]

(j)(1) When used in Subpart A of this Part, the following publication is incorporated by reference:

"Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, Second Edition, 1982," EPA Publication SW-846. It is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, on a subscription basis, and future updates will automatically be mailed to subscribers.

(2) The reference listed in paragraph (1) of this section is also available for inspection at the Office of the Federal Register, 1100 L Street, NW., Washington, D.C. 20408. This incorporation by reference was approved by the Director of the Federal Register. These materials are incorporated as they exist on the date of approval and a notice of any change in these materials will be published in the **Federal Register.**

* * * * *

§ 271.9 Requirements for identification and listing of hazardous waste.

(a) The State program must control all the hazardous wastes controlled under 40 CFR Part 261 and must adopt a list of hazardous wastes and set of characteristics for identifying hazardous wastes equivalent to those under 40 CFR Part 261.

(b) In identifying hazardous wastes, the State program must require that the sampling and analysis methods provided in EPA Publication "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," SW-846 and described in Appendix III of Part 261 of this chapter be used for all sampling, monitoring, analysis and testing required pursuant to this Subpart, except where an equivalent method has been approved pursuant to § 260.21 of this chapter.

§ 271.10 Requirements for generators of hazardous waste.

* * * * *

(i) The State program must require that the sampling and analysis methods specified in EPA Publication "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," SW-846 and described in Appendix III of Part 261 of this chapter be used for all sampling, monitoring, analysis and testing required pursuant to this Subpart, except where an equivalent method has been approved pursuant to § 260.21 of this chapter.

* * * * *

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Figure 1. Method 8600 Decision Matrix

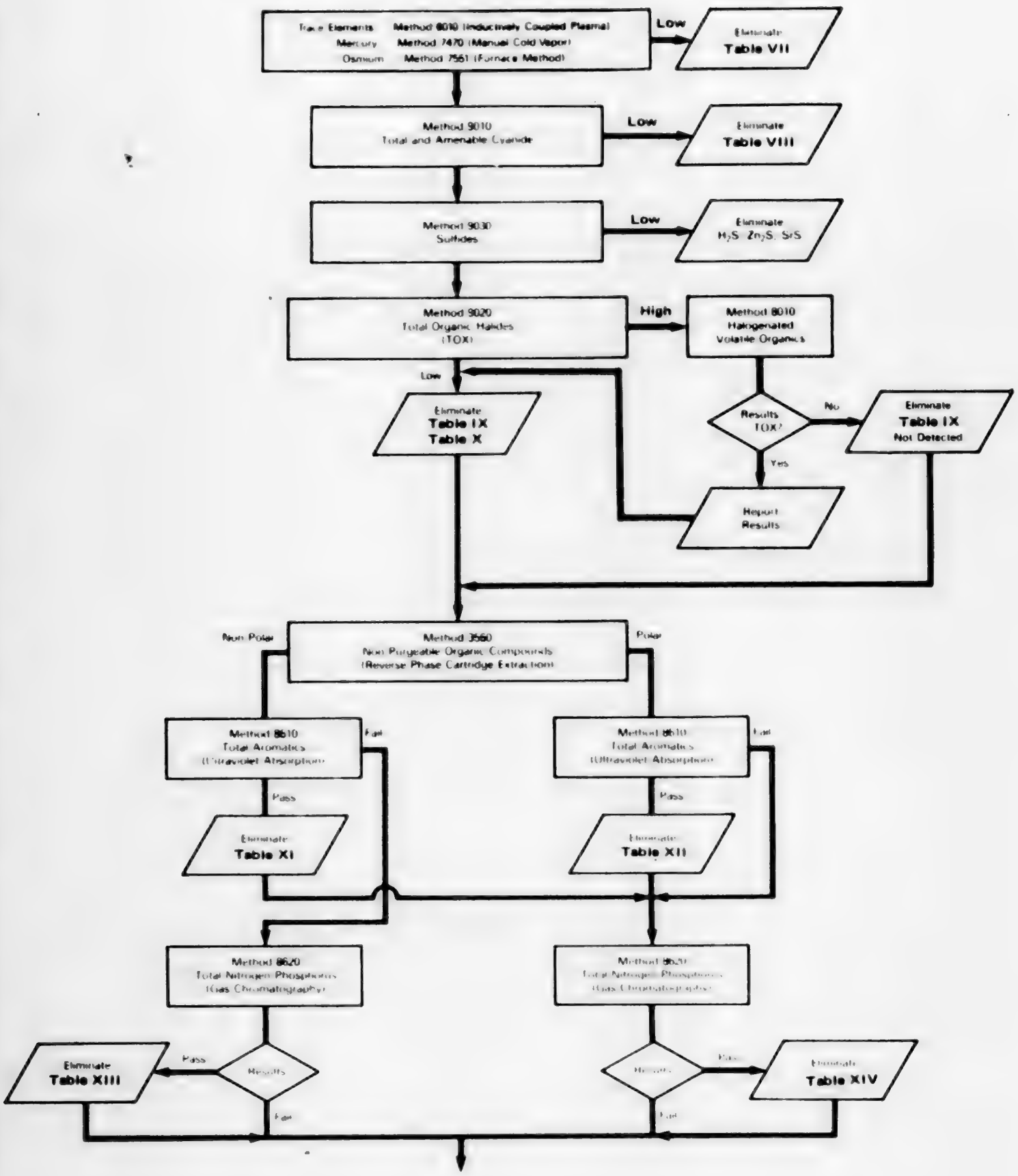

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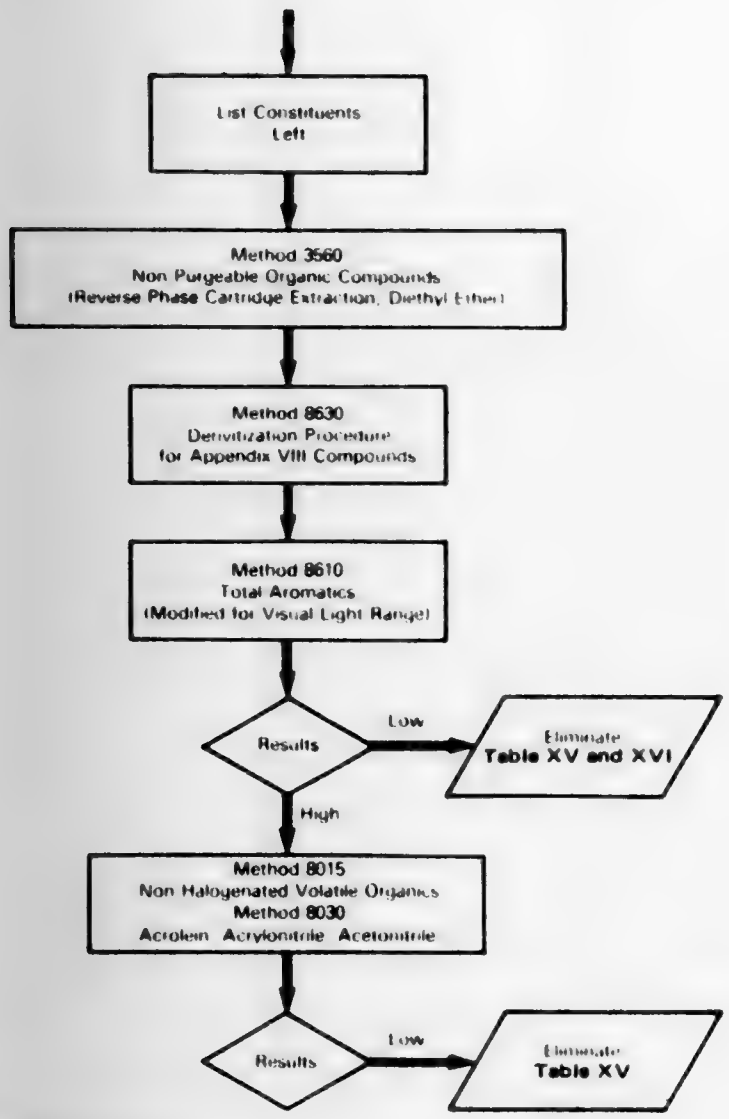
Figure 1. Method 8600 Decision Matrix (Continued)



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Part III

Environmental Protection Agency

40 CFR Part 122

The National Pollutant Discharge Elimination System; Draft Application Forms for New NPDES Permits and Facilities Which Do Not Discharge Process Wastewater; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 122

[EN FRL-2611-6]

The National Pollutant Discharge Elimination System; Draft Application Forms for New NPDES Permits and Facilities Which Do Not Discharge Process Wastewater

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is revising regulations and developing new forms to be used when applying for permits issued under the National Pollutant Discharge Elimination System (NPDES). The forms proposed today include: (1) A short version of application Form 2c (Wastewater Discharge Information) for use by Non-process wastewater dischargers; and (2) a form for new sources and new dischargers.

This notice solicits public comments on these two forms and their accompanying instructions. When completed, Short Form 2c (Form 2c–s) will replace Form 2c for facilities which do not discharge process wastewater and Form 2d will replace old Form C (7550–23 used by industrial facilities) and old short Forms C&D for new sources and new dischargers. The shorter version of Form 2c is intended to reduce reporting burdens and to simplify the application requirements for non-process wastewater dischargers. Form 2d is required to update the previous application form used by new sources in order to emphasize the control of toxic pollutants as mandated by the amended Clean Water Act (CWA).

DATES: Comments must be received on or before November 30, 1984 to be considered.

ADDRESS: Comments should be addressed to: Ms. Marilyn Goode, Permits Division (EN–336), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 426–7010.

FOR FURTHER INFORMATION CONTACT: Ms. Marilyn Goode or Ms. Gail S. Goldberg, Permits Division (EN–336), U.S. Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460, (202) 426–7035.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Agency is developing a coordinated set of forms to be used when applying for NPDES permits. General information on a facility is submitted in Form 1 (§ 122.21(f)) and need not be repeated on other forms. The forms will be used wherever EPA issues NPDES permits and in those States with approved NPDES programs which choose to adopt the forms. EPA will provide NPDES forms to States wishing to use them. States may use different forms if they wish, but the information requested of permit applicants must be the same as that required by the NPDES regulations.

The application forms will, when complete, consist of the following:

Form 1—General Information (used by several permit programs)
Discharges to Surface Water (NPDES permits)
Form 2a. Publicly Owned Treatment Work (POTW's)
Form 2b. Concentrated Animal Feeding Operations and Aquatic Animal Production Facilities
Form 2c. Existing Manufacturing, Commercial, Mining, and Silvicultural Operations
Form 2c–s. Facilities Which Do Not Discharge Process Wastewater
Form 2d. New Manufacturing, Commercial, Mining, and Silvicultural Operations

II. General Considerations

A. *Short Form 2c* (see proposed § 122.21(h)) represents a new initiative by EPA's experience a substantial number of industrial dischargers may discharge only sanitary wastewater and/or non-contact cooling water. For these facilities, toxic pollutants (with the exception of cooling water additives) are expected to be minimal or absent. At present these dischargers are required to use Form 2c. Many of the items in this form are not applicable to non-process dischargers. EPA has therefore decided to design a simplified, two page form for these non-process dischargers. Not only will the short from simplify the application procedure for certain dischargers, it will also reduce the reporting burden associated with the longer form.

In selecting the community of users of this form, a balance must be struck between the types of potential users and the complexity of the form. As the types of facilities eligible to use the short form increase, so does the complexity and length of the form. Therefore, EPA proposes to limit the use of this form to those facilities which discharge only sanitary wastes (such as privately owned treatment works with no industrial input), and non-contact cooling water. To accommodate facilities which serve food, restaurant or cafeteria wastes are included. Educational and medical laboratories are also included. Dischargers of cooling water must identify additives, and dischargers of laboratory wastes must identify the type of waste and estimate the amount. This will provide a basis for permitting authorities to require submission of additional information about toxic pollutants if necessary. (Dischargers of stormwater runoff are not eligible to use the short form because of differing application requirements promulgated pursuant to the NPDES litigation settlement.)

While certain process wastewaters may also have few or no toxic pollutants in their discharges, additional data or testing necessary to ascertain this fact would require EPA to expand the form. Secondary Industries (as defined by EPA) and other dischargers of such process wastewaters will find the existing Form 2c simpler than first appearances may suggest since many questions do not apply. However, some facilities which meet the criteria for use of the proposed short form may have discharges with a major water quality impact, due to local factors. In such cases, the local permitting authority may require additional information or the use of standard Form 2c to gather information necessary for permitting.

B. *Form 2d* (see proposed § 122.21(j)) is designed for use by industrial new source facilities and new dischargers. Briefly, a new source is any facility the construction of which began: (1) After applicable new source performance standards (NSPS) were promulgated, or (2) after NSPS were proposed, if the NSPS are promulgated within 120 days of proposal. A new discharger, on the other hand, is any facility, not a new source: (1) from which there is or may be a new or additional "discharge of pollutants" at a site from which on August 13, 1979, they had never been discharged and (2) which has never received a finally effective NPDES permit for discharge at that site. See 40 CFR 122.2 and 122.29.

Section 122.21(k)(2)(i) of the Environmental Permit Regulations explains that the EPA Regional Office or the State permitting agency will determine if a facility is a new source. A new source determination is necessary for the following reasons. If a facility is a new source, as opposed to an existing source or new discharger, NSPS would apply rather than effluent limitations applicable to existing sources. While the Clean Water Act generally exempts EPA NPDES permits from the requirement to prepare environmental impact statements under the National Evnvironmental Policy Act, this exemption does not extend to new

source permit issuance. Under § 122.29(d)(4), a new source as well as a new discharger must meet all permit conditions not later than 90 days after permit issuance. Moreover, under § 124.60, no discharge is allowed during an evidentiary hearing on the permit for the new source or new discharger, except under special circumstances.

Form 2d (see proposed § 122.21(j)) is modeled after standard Form 2c, the form used by existing dischargers. Changes to Form 2c were promulgated as a result of the settlement agreement on the NPDES regulations (see September 26, 1984, Federal Register). These changes have been incorporated in the forms proposed today for the sake of consistency in the NPDES application forms. In addition, a new discharger of stormwater runoff is not eligible to use Form 2d because of differing application requirements promulgated pursuant to the NPDES settlement agreement. These dischargers should use Form 2c (as revised).

The major difference between Form 2c and Form 2d is that Form 2d requires estimates of pollutants being discharged without requiring testing (see proposed 122.21(j)(5)). The forms presently used for new sources and new dischargers (Short Forms C and D, Standard Form C) also require no testing. These forms require estimates of certain pollutants, but estimates are not required for all pollutants on the priority pollutant list referred to in section 307(a)(1) of the CWA (as amended in 1977). In addition to estimates for the priority pollutants, Form 2d requires "followup data" testing and reporting to be done at a later date (see proposed § 122.21(j)(5)(F)). Followup data are necessary to correct possible discrepancies which may often exist between the estimated effluent data reported in Form 2d (before the facility begins operation) and the actual character of the discharge (after the facility begins operation). Permit limits established before a facility begins operation may not, therefore, lead to adequate control of pollutants present in the actual discharge. EPA considered application options ranging from requiring no additional information to requiring the submission of standard Form 2c after operation commences. EPA considered both the needs of industry for regulatory certainty and the possible necessity for adjusting permit limits after operation commences in order to protect the environment. In balancing these considerations, EPA proposes to require only the completion of Item V—Effluent Characteristics from Form 2c (with the exception of information already reported in the applicant's Discharge Monitoring Report) and information on current use or manufacture of certain pollutants which must be submitted at the request of the permitting authority no later than two years after operation commences. Item V sets forth analytical testing requirements for all industries, with special emphasis on those which may discharge toxic pollutants. The two year period is intended to allow adequate startup time. The permitting authority may then modify the permit if the analytical data received under Item V of Form 2c are significantly different from the estimates given in Form 2d. (See § 122.62 of the NPDES regulations for further information related to permit modification.) It should be noted that although section 306(d) of the Clean Water Act provides a ten-year protection period from requirements based upon more stringent new source peformance standards which may be subsequently promulgated, the protection period does not apply to recalculations under the same new source performance standard due to the receipt of new information, such as a decrease in production from that previously estimated. Nor does it apply to non-technology-based requirements as set forth in 40 CFR 122.29(d)(2).

EPA is also requesting that operators list pollutants which they currently use or manufacture as a final or intermediate product or by-product. This information will allow permit writers to have a clearer idea of the facilities' operations. It will also aid in the conducting of inspections, since inspectors will be more aware of the possibility that "used or manufactured" pollutants might be inadvertently discharged. EPA requests comments on the concept of followup data reporting.

III. Description of the Proposed Reporting Requirements

A. Short Form 2c-s (see proposed § 122.21(h)). This form, like all other NPDES forms, should be used together with Form 1. Form 1 requests the name, address, and general information about the facility.

Item I of the short form (Form 2c-s) contains a requirement to list the latitude and longitude of the facility's outfall(s) and name the receiving water(s). We expect that most facilities will have only one outfall. Those with multiple outfalls will submit a separate Short Form 2c for each outfall. Item II requires information on the types of wastewaters discharged. Further information is required about cooling water additives or laboratory wastes, since these may cause a significant discharge of pollutants. Analytical information for several conventional and nonconventional pollutants is required in Item III (Effluent Characteristics). These pollutants correspond roughly to the Item V–A pollutants of Form 2c, with some modifications to allow for the usual nature of non-process wastewater effluent. Most of these pollutants are routinely monitored by such facilities as part of existing permit requirements and this information is necessary for developing permit limits and conditions To minimize reporting burdens and only require data necessary to determine permit limits and conditions, testing for any pollutant may be waived by the permitting authority, if appropriate. However, the permitting authority may request additional pollutant data, on a case-by-case basis, under section 308 of the CWA if needed to develop specific permit conditions. Item IV requires a description of frequency of flow and duration for intermittent or seasonal discharges. Item V requires information concerning any treatment system(s) used. Item VI provides space for any other optional information that the permittee wishes to be considered. This is intended to establish better cooperation between the permittee and EPA and is not intended in any way to be an additional burden. The last item on short Form 2c-s is the certification requirement.

B. New Source Form 2d (see proposed § 122.21(j)) closely follows existing Form 2c. (A Federal Register notice of May 19, 1980, describes in detail the rational and substance of Form 2c. See 45 FR 33516.) The present discussion will explain the differences between Form 2c and 2d. The major concern with Form 2d is the development of appropriate permit conditions before a facility begins operation, or perhaps before it is constructed.

Item I requires the latitude and longitude of each outfall. This information is required for new sources and new dischargers. EPA will use the data in the Agency water quality data base called STORET. Maps of the location of water discharges will be developed to examine the relationship between NPDES outfalls and other items of interest such as drinking water intake points.

Data required in Item IV on production volume are necessary to determine permit limits when effluent guidelines are keyed to production volume. EPA considered requiring production estimates for differing numbers of years. The proposed approach requires estimates for each of

the first three operating years, since these data may be especially variable for new facilities. EPA also considered whether to require this information for all new facilities or only for those for which there are production-based effluent guidelines. Because of the special problems associated with determining permit limits for new facilities, this production information has practical utility for all new facilities. However, EPA chose to require this information only from facilities for which there are production-based effluent guidelines, principally to minimize business confidentiality concerns. Under § 122.7(b)(3) of the NPDES regulations, NPDES permit application data cannot be held confidential. EPA requests comments on this option.

Item V requires estimates of the amounts of pollutants expected to be discharged. These pollutants are the same as those required to be analyzed or reported under Item V of Form 2c for existing industrial dischargers except for three pollutants which have been suspended from the list of organic toxic pollutants in the NPDES regulations (See 46 FR 2266, January 8, 1981, and 46 FR 10723, February 4, 1981). Dischargers generally should be aware of anticipated pollutant levels in their discharge. EPA recognizes that a proposed new facility could not meet the Form 2c requirement for analytical testing prior to permit issuance. Therefore, Item V asks for an estimated range of values, using the nomenclature "daily maximum" and "daily minimum". Item V also asks for the source of the projected estimates, in order to determine whether further information might be required by the permit writer. EPA considered requiring submission of detailed raw material and process information. The proposed option (which requires estimates) was selected to minimize reporting burdens and confidentiality concerns. EPA further believes that the discharger is best able to translate process information into potential discharger values. Item VI–A requires information to determine if the discharger has conducted studies to address this problem of wastewater characterization so that the permit writer may, if necessary, examine the basis for such estimates. Item VI–B requires the discharger to identify any similar facilities of which he is aware, since this provides the permit writer with information useful in developing permit limits and conditions. Moreover, EPA credits the discharger with being most knowledgeable about its operation and industry. Item VII provides the applicant with the option of presenting additional information to help the permit writer establish permit limitations for the proposed discharges.

Several questions included in Form 2c have not been used for Form 2d because they are not relevant for new sources. In addition, we have simplified the format use in standard Form 2c in response to concerns about the length of that form.

IV. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because of the relatively small number of new sources and new dischargers (estimated at 500 per year) and the cost of submitting the date (estimated at a total of $493,020, including the followup data). Also, the short form provides for a reduction in burden for certain existing industrial facilities.

V. Regulatory Flexibility Act

EPA has determined, pursuant to the Regulatory Flexibility Act, that this regulation will not have a significant economic impact on a substantial number of small entities. Using the Small business administration's definition of small business, EPA estimates that the majority of direct industrial dischargers are not small businesses. Small businesses are usually zero dischargers or indirect dischargers to municipal treatment works. Moreover, the short form for facilities which do not discharge process wastewater will reduce the economic burden of filing an NPDES application form for these facilities.

VI. Paperwork Reduction Act

The information collection requirements in this proposed rule will be submitted to the Office of Management and Budget (OMB) for clearance under Section 3504(h) of the Paperwork Reduction Act of 1980 44 U.S.C. 3501 *et seq.* Submit comments on these requirements to EPA and: OMB, Office of Information and Regulatory Affairs, 726 Jackson Place, NW., Washington, D.C. 20503, Attention: Richard Otis.

It is proposed that 40 CFR Part 122 be amended as follows: 1. Section 122.21 is proposed to be amended by revising the introductory paragraph (g), redesignating paragraph (h) through (o) as (i) through (p), and adding new paragraphs (h) and (j) (previously reserved) to read as follows:

§ 122.21 Application for a permit.

* * * * *

(g) Application requirement for existing manufacturing, commercial, mining, and silvicultural dischargers. Existing manufacturing, commercial, mining, and silvicultural dischargers applying for NPDES permits, except for those existing facilities which do not discharge process wastewater, shall provide the following information to the Director, using application forms provided by the Director:

* * * * *

(h) Application requirements for existing manufacturing, commercial, mining and silvicultural facilities which do not discharge process wastewater. Existing manufacturing, commercial, mining and silvicultural dischargers applying for NPDES permits who do not discharge process wastewater (except for stormwater dischargers) shall provide the following information to the Director, using application forms provided by the Director:

(1) *Outfall location.* Outfall number, latitude and longitude to the nearest 15 seconds, and the name of the receiving water.

(2) *Type of waste.* An identification of the general type of waste discharged, including sanitary wastes, restaurant or cafeteria wastes, noncontact cooling water, and/or educational or medical laboratory wastes. An identification of cooling water additives that are used, if any. An identification of laboratory wastes that are discharged, if any.

(3) *Effluent characteristics.*

(i) Quantitative data for the effluent parameters listed below, unless testing is waived by the Director. The quantitative data may be data collected over the past year if they remain representative of current operations and must include maximum daily value, average daily value (over the last year) and number of measurements taken (over the last year).

(A) Discharge Flow

(B) Biochemical Oxygen Demand (BOD_5)

(C) Total Suspended Solids (TSS)

(D) Fecal Coliform

(E) pH (range)

(F) Total Residual Chlorine (if chlorine is used)

(G) Temperature (winter and summer)

(H) Oil and Grease

(ii) The Director may waive the testing and reporting requirements for any of the pollutants or flow listed in paragraph (h)(3)(i) of this section if the applicant submits a request for such a waiver forty-five days in advance of the application which demonstrates that information adequate to support issuance of a permit can be obtained through other requirements.

(4) *Flow.* A description of the frequency of flow and duration of any seasonal or intermittent discharge (except for storm runoff, leaks, or spills).

(5) *Treatment system.* A brief description of any system used.

(6) *Optional information.* Any additional information the applicant wishes to be considered.

(7) *Certification.* Signature of certifying official under § 122.22.

(j) New manufacturing, commercial, mining, and silvicultural dischargers applying for NPDES permits (except for new dischargers of stormwater runoff) shall provide the following information to the Director, using application forms provided by the Director:

(1) *Expected outfall location.* The latitude and longitude to the nearest 15 seconds and the name of the receiving water.

(2) *Discharge dates.* Information about the expected date of commencement of discharge.

(3) *Flows, sources of pollution, and treatment technologies.*

(i) *Expected treatment of wastewater.* Description of the treatment that the wastewater will receive, along with all operations contributing wastewater to the effluent, average flow contributed by each operation, and the ultimate disposal of any solid or liquid wates not discharged.

(ii) *Line drawing.* A line drawing of the water flow through the facility with a water balance as described in 40 CFR 122.21(g)(2).

(iii) *Intermittent flows.* If any of the expected discharges will be intermittent or seasonal, a description of the frequency, duration and maximum daily flow rate of each discharge occurrence (except for storm water runoff, spillage, or leaks).

(4) *Production.* If a new source performance standard promulgated under section 306 of CWA or an effluent limitation guideline applies to the applicant and is expressed in terms of production (or other measure of operation), a reasonable measure of the applicant's expected actual production reported in the units used in the applicable effluent guideline as required by § 122.45(b)(2) for the first three years.

(5) *Intake and effluent characteristics.* The requirements in parts A, B, and C of this section that an applicant must provide estimates of certain pollutants expected to be present do not apply to pollutants present in a discharge solely as a result of their presence in intake water; however, an applicant must report such pollutants as present. Net credits may be provided for the presence of pollutants in intake water if the requirements of § 122.45(h) are met.

(i) Each applicant must report estimated daily maximum and minimum values and source of information for each outfall for the following pollutants (unless waived by the permitting authority):

(A) Biochemical Oxygen Demand (BOD)

(B) Chemical Oxygen Demand (COD)

(C) Total Organic Carbon (TOC)

(D) Total Suspended Solids (TSS)

(F) Flow

(G) Ammonia (as N)

(H) Temperature (winter and summer)

(I) pH

(ii) Each applicant must report estimated daily maximum, daily minimum, and source of information for each outfall for the following pollutants, if the applicant knows or has reason to believe they will be present or if they are limited by an effluent limitation guideline either directly or indirectly through limitations on an indicator pollutant:

All pollutants in Table IV of Appendix D of Part 122 (certain conventional and nonconventional pollutants).

(iii) Each applicant must report estimated daily maximum, daily minimum and source for the following pollutants if he knows or has reason to believe that they will be present in any outfall:

(A) The pollutants listed in Table III of Appendix D (the toxic metals, cyanide, and total phenols);

(B) The organic toxic pollutants in Table II of Appendix D (except bis (chlormethyl) ether, dicloroflurormethane and trichlorofluoremethane). This requirement is waived for applicants with expected gross sales of less than $100,000 per year for the next three years, and for coal mines with expected average production of less than 100,000 tons of coal per year.

(iv) The applicant is required to report that 2,3,7,8 Tetrachlorodibenzo-PDioxin (TCDD) may be discharged if he uses or manufactures one of the following compounds:

(A) 2,4,5-trichlorophenoxy acetic acid (2,4,5-T) (CAS # 93–76–5);

(B) 2-(2,4,5-trichlorophenoxy) propanoic acid (Silvex, 2,4,5-TP) (CAS #93–72–1);

(C) 2-(2,4,5-trichlorophenoxy) ethyl 2,2-dichloropropionate (Erbon) (CAS #136–25–4);

(D) 0,0,-dimethyl 0-(2,4,5-trichlorophenyl) phosphorothioate (Ronnel) (CAS # 299–84–3);

(E) 2,4,5-trichlorophenol (TCP) (CAS # 95–95–4); or

(F) Hexachlorophene (HCP) (CAS #70–30–4).

(v) Each applicant must report any pollutants listed in Table 2d–3 of the instructions (certain hazardous substances) if he believes they will be present in any outfall (no quantitative estimates are required unless they are already available).

(vi) No later than two years after the commencement of discharge from the proposed facility, the applicant is required to complete and submit Item V of NPDES application Form 2c (see § 122.21(g)). However, the applicant need not complete those portions of Item V requiring tests which he has already performed and reported under the discharge monitoring requirements of his NPDES permit. The applicant must also list any pollutants which he then uses or manufactures as an intermediate or final product or byproduct.

(6) *Engineering report.* Each applicant must report the existence of any technical evaluation concerning his wastewater treatment, along with the name and location of similar plants of which he has knowledge.

(7) *Other information.* Any optional information the permittee wishes to have considered.

(8) *Certification.* Signature of certifying official under § 122.22.

* * * * *

2. Section 122.62 is proposed to be amended by adding the following sentence at the end of paragraph (a)(2) to read as follows:

§ 122.62 Modification or revocation and reissuance of permits.

(a)* * *

(2)* * *For new source or new discharge NPDES permits (§§ 122.21, 122.29), this cause shall include any significant information derived from effluent testing required under § 122.21(j)(5)(vi) after issuance of the permit.

* * * * *

BILLING CODE 6560-50-M

SHORT APPLICATION FORM 2C-S — INSTRUCTIONS

Who Must File Short Form 2C-s

Short Form 2c-s must be completed in conjunction with Form 1 and instead of long Form 2c. The short form may be used *only* by operators of facilities which do not discharge process wastewater (water that comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product) excluding POTW's. The form is intended primarily for use by dischargers of sanitary wastes, and noncontact cooling water. It should not be used by dischargers of stormwater runoff.

Where To File Applications

The application forms should be sent to the EPA Regional Office which covers the State in which the facility is located. Form 2c-s (the short form) must be used only when applying for permits in States where the NPDES permits program is administered by EPA. For facilities located in States which are approved to administer the NPDES permits program, the State environmental agency should be contacted for proper permit application forms and instructions. Information on whether a particular program is administered by EPA or by a State agency can be obtained from your EPA Regional Office. In Form 1, Table 1 of the "General Instructions" lists the addresses of EPA Regional Offices and the States within the jurisdiction of each Office.

Public Availability of Submitted Information

You may not claim as confidential any information *required* by this form and Form 1, whether the information is reported on the forms or in an attachment. This information will be made available to the public upon request.

You may claim as confidential any information you submit to EPA *which goes beyond* that required by this form and Form 1, although confidentiality claims for effluent data must be denied. If you do not assert a claim of confidentiality at the time of submitting the information, EPA may make the information public without further notice. Claims of confidentiality will be handled in accordance with EPA's business confidentiality regulations in 40 CFR Part 2.

Completeness

Your application will not be considered complete unless you answer every question on this form and Form 1 (except as instructed below). If an item does not apply to you, enter "NA" (for "not applicable") to show that you considered the question.

Definitions

Significant terms used in these instructions and in the form are defined in the Glossary found in the General Instructions accompanying Application Form 1 published May 19, 1980 (45 *FR* 33516).

Item I

Under Part A, list each outfall in numerical sequence. Under Part B, list the latitude and longitude to the nearest 15 seconds for each outfall. Under Part C, list the name of each outfall receiving water(s). When there is more than one outfall listed, an additional Form 2c-s must be completed for each outfall. On each additional short form again list all outfalls in Item I and circle the particular outfall to which the form pertains.

Item II

In Part A, indicate the general type(s) of wastes to be discharged by placing an "x" in the appropriate box(es). If cooling water additives are used, they must be listed by name under Part B. Also under Part B, briefly describe any laboratory wastes that are discharged, naming the type of waste and estimating the amount of these wastes discharged daily. If toxic pollutants are present in the discharges from hospital or medical laboratories, you should use standard Form 2c.

Item III

You are required to provide at least one analysis for each pollutant parameter listed by filling in the requested information under each column. Data reported must be representative of the facility's current operation. Most facilities routinely monitor these pollutants or parameters as part of existing permit requirements. However, reporting requirements for such pollutants or parameters for application purposes may be waived at the discretion of the permitting authority as provided in §122.21(h)(3)(ii). The pollutants or parameters listed in paragraph (h)(3)(i) include: discharge flow, biochemical oxygen demand (BOD), total suspended solids (TSS), fecal coliform, pH, total residual chlorine (data required only if chlorine is used), temperature (winter and summer), and oil and grease. The analysis of these pollutants must be done in accordance with procedures promulgated in 40 CFR Part 136.

The permitting authority may request that the applicant do additional testing, if appropriate, on a case-by-case basis under Section 308 of the Clean Water Act (CWA).

To request a waiver from reporting any of these pollutants or parameters, the applicant must submit to the permitting authority a written request specifying which pollutants should be waived and the reasons for requesting a waiver. This request should be submitted to the permitting authority at least 45 days before the permit application. No extensive documentation of the request will normally be needed, but the applicant should contact the permitting authority if he/she wishes to receive instructions on what her/his particular request should contain. At least 30 days are required to process the request and notify the applicant, who would use the remaining time to adjust his/her application. If a waiver from testing is granted, place an "x" in the column marked "testing waived" for the relevant pollutant(s). An applicant shall not assume that a waiver is granted unless written notice is received.

Item IV

Describe the average frequency of flow and duration of any intermittent or seasonal discharge (except for storm runoff, leaks or spills). The frequency of flow means the number of days or months per year there is intermittent discharge. Duration means the number of days or hours per discharge.

Item V

Describe briefly any treatment system(s) used, indicating whether the treatment system is physical, chemical, biological, sludge and disposal, or other. Also give the particular type(s) of process(es) used. For example, if a physical treatment system is used, specify the processes applied such as grit removal, ammonia stripping, dialysis, etc.

Item VI

This space is reserved for you to provide any additional information that you feel should be considered by the reviewer in establishing permit limitations. Any response here is optional.

Item VII

The Clean Water Act provides severe penalties for submitting false information on this application form. Section 309(c)(2) of the Clean Water Act provides that "Any person who knowingly makes any false statement, representation, or certification in any application, ... shall upon conviction, be punished by a fine of no more than $10,000 or by imprisonment for not more than six months or both."40 CFR Part 122.22 requires the certification to be signed as follows:

a. For a corporation: by a responsible corporate officer. A responsible corporate officer means (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25,000,000 (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

c. For a municipality, State, Federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes (i) the chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).

Please type or print in the unshaded areas only

EPA ID Number *(copy from Item 1 of Form 1)*

Form Approved
OMB No xxxx-xxxx
Approval expires xx-xx-xx

Form 2C-S NPDES

EPA Existing Facilities Which Do Not Discharge Process Wastewater

I. Receiving Waters

For each outfall, list the latitude and longitude, and name of the receiving water(s). *(If more than one outfall, please attach an additional short Form 2c-s for each, circling the particular outfall to which the form pertains.)*

A OUTFALL NUMBER *(list)*	B LATITUDE			LONGITUDE			C RECEIVING WATER *(name)*
	Deg	Min	Sec	Deg	Min	Sec	

II. Type of Waste

A. Check the box(es) indicating the general type(s) of wastes discharged.

☐ Sanitary Wastes ☐ Restaurant or Cafeteria Wastes ☐ Noncontact Cooling Water
☐ Educational or Medical Laboratory Wastes

B. If any cooling water additives are used, list them here. If laboratory wastes are discharged, describe briefly

III. Effluent Characteristics

Provide measurements for the following pollutants or parameters, unless waived by the permitting authority *(see instructions)*

Pollutant or Parameter	Maximum Daily Value *(include units)*	Average Daily Value (last year) *(include units)*	Number of Measurements Taken *(last year)*	Testing Waived
Discharge Flow				
Biochemical Oxygen Demand (BOD)				
Total Suspended Solids (TSS)				
Fecal Coliform				
pH (give range)				
Total Residual Chlorine *(if chlorine used)*				
Temperature *(Winter)*				
Temperature *(Summer)*				
Oil and Grease				

IV. Except for storm water runoff, leaks or spills, will the discharge described in this form be intermittent or seasonal? ☐ Yes ☐ No
If yes, briefly describe the frequency of flow and duration.

V. Treatment System *(Describe briefly any treatment system(s) used)*

VI. Other Information *(Optional)*

Use the space below to expand upon any of the above questions or to bring to the attention of the reviewer any other information you feel should be considered in establishing permit limitations. Attach additional sheets, if necessary.

VII. Certification

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

A. Name & Official Title	B. Phone No. *(area code & no.)*
C. Signature	D. Date Signed

FORM 2D INSTRUCTIONS

This form must be completed by all applicants who checked "yes" to Item II-D in Application Form 1 (General Information). To further determine if you are a new source or a new discharger, see §122.2 and proposed §122.29.

Public Availability of Submitted Information

You may not claim as confidential any information *required* by this form or Form 1, whether the information is reported on the forms or in an attachment. This information will be made available to the public upon request.You may claim as confidential any information you submit to EPA *which goes beyond* that required by this form and Form 1. Confidentiality claims for effluent data must be denied. If you do not assert a claim of confidentiality at the time of submitting the information, EPA may make the information public without further notice. Claims of confidentiality will be handled in accordance with EPA's business confidentiality regulations in 40 CFR Part 2.

Completeness

Your application will not be considered complete unless you answer every question on this form and on Form 1 (except as instructed below). If an item does not apply to you, enter "NA" (for "not applicable") to show that you considered the question.

Followup Requirements

Please note that not less than 2 years after you begin discharging from the proposed facility, you must complete and submit Item V of NPDES application Form 2c. However, you need not complete those portions of Item V requiring tests which you have already performed under the discharge monitoring requirements of your NPDES permit. You must also list any pollutants which you then use or manufacture as a final or intermediate product or byproduct.

Definitions

All significant terms used in these instructions and in the form are defined in the glossary found in the General Instructions which accompany application Form 1.

Item I

You may use the map you provided for Item XI of Form 1 to determine the latitude and longitude (to the nearest 15 seconds) of each of your outfalls and the name of the receiving water. You should name all waters to which discharge is made and which flow into significant receiving waters. For example, if the discharge is made to a ditch which flows into an unnamed tributary which in turn flows into a named river, you should provide the name or description (if no name is available) of the ditch, the tributary, and the river.

Item II

This item requires your best estimate of the date on which your facility or new outfall will begin to discharge.

Item III-A

List all outfalls, their source (operations contributing the flow), and estimate an average flow from each source. Briefly describe the planned treatment for these wastewaters prior to discharge. Also describe the ultimate disposal of any solid or liquid wastes not discharged. You should describe the treatment in either a narrative form or list the proper code for the treatment unit from a list provided in Table 2d-1.

Item III-B

An example of an acceptable line drawing appears in Figure 2d-1 to these instructions. The line drawing should show the route taken by water in your proposed facility from intake to discharge. Show all sources of wastewater, including process and production areas, sanitary flows, cooling water, and stormwater runoff. You may group similar operations into a single unit, labeled to correspond to the more detailed listing in Item III-A. The water balance should show estimates of anticipated average flows. Show all significant losses of water to production, atmosphere, and discharge. You should use your best estimates.

ItemIII-C

Fill in every applicable column in this item for each source of intermittent or seasonal discharge. Base your answers on your best estimate. A discharge is intermittent if it occurs with interruptions during the operating hours of the facility. Discharge caused by routine maintenance shutdowns, process changes, or other similar activities are not considered to be intermittent. A discharge is seasonal if it occurs only during certain parts of the year. The reported flow rate is the maximum flow at any time and should be measured in gallons per day. Maximum total volume means the total volume of any one discharge within 24 hours and is measured in units such as gallons.

ItemIV

"Production" in this question refers to those goods which the proposed facility will produce, not to "wastewater" production. This information is only necessary where applicable new source performance standards from effluent guidelines apply to your facility. Your estimated production figures should be based on a realistic projection of actual daily production level (not design capacity) for the first 3 operating years of the facility. This estimate must be a long term average estimate (e.g., average production on an annual basis). If production will vary depending on long term shifts in operating schedule or capacity, the applicant may report alternate production estimates and the basis for the alternate estimates.

If known, report quantities in the units of measurement used in the applicable effluent guideline. For example, if the applicable new source performance standard con-

tains "g/kg" as the unit, then report maximum "QUANTITY PER DAY" in "Kg." If you do not know whether any new source performance standard applies to your facility, report quantities in any unit of measurement known to you. If a guideline specifies a method to estimate production, that method must be followed.There is no need to conduct new studies to obtain these figures, only data already on hand are required. Moreover, you are not required to indicate how the reported information was calculated.

Items V — A, B, and C

These items require you to estimate (for Part C, only a list is required) and report data on the pollutants expected to be discharged from each of your outfalls. Sampling and analysis are not required at this time. If however, data from such analysis are available, then those data should be reported. Each part of this item addresses a different set of pollutants and must be completed in accordance with the specific instructions for that part. The following are the general and specific instructions for Items V-A through V-C.

Item V — General Instructions

Each part of this item requires you to provide an estimated daily maximum and daily minimum value for each pollutant listed (see Table 2d-2), according to the specific instructions below. The source of the data is also required. For Parts A through C, base your determination of whether a pollutant will be present in your discharge on your knowledge of the proposed facility's raw materials, maintenance chemicals, intermediate and final products, byproducts, and any analyses of your effluent or of any similar effluent. You may also provide the determination and the estimates based on available in-house or contractor's engineering reports or any other studies performed on the proposed facility (See Item VI of the form). If you expect a pollutant to be present soley as a result of its presence in your intake water, please state this information on the form.

REPORTING INTAKE DATA

You are not required to report pollutant data for intake water unless you wish to demonstrate your eligibilty for a "net" effluent limitation for these pollutants, that is, an effluent limitation adjusted to provide allowance for the pollutant(s) present in your intake water. If you wish to obtain credits for pollutants present in your intake water, please attach a separate sheet, with a short statement of why you believe you are eligible (See (122.45(g)). You will then be contacted by the permitting authority for further instructions.

Reporting

All pollutant levels must be reported as concentration and as total mass. Total mass is the total weight of pollutants discharged over a day.

Use the following abbreviations for units:

CONCENTRATION		MASS	
ppm	parts per million	lbs	pounds
mg/l	milligrams per liter	ton	tons (English tons)
ppb	parts per billion	mg	milligrams
Ug/l	micrograms per liter	g	grams
		kg	kilograms
		T	tonnes (metric tons)

Source

In providing the estimates, use the codes in the following table to indicate the source of such information in column 4 of Parts V — A and B.

	Code
Engineering study	
Actual data from pilot plants	1
Estimates from other engineering studies	2
Data from other similar plants	3
Best professional estimates	4
Others	specify on the form

Item V — A

Data on pollutants in Group A must be reported by all applicants for all outfalls, including outfalls containing only noncontact cooling water, stormwater runoff, or nonprocess wastewater. However, at your request, the permitting authority may waive the requirements to report information for any of these pollutants, upon a determination that reporting for such pollutant(s) is not appropriate for your effluent.

Item V — B

Data on pollutants in Group B must be reported by all applicants for all outfalls, including outfalls containing only noncontact cooling water, stormwater runoff, or nonprocess wastewater. You are merely required to report estimates for those pollutants which you know or have reason to believe will be discharged or which are limited directly by an effluent limitations guideline or indirectly through an indicator. The priority pollutants in group B are divided into the following three sections:

1) Metal toxic pollutants, total cyanide, and total phenols
2) 2,3,7,8-Tetrachlorodibenzo-P-Dioxin (TCDD) (CAS #1764-01-6)
3) Organic Toxic Pollutants (Gas Chromatography/Mass Spectrometry Fractions)
   a) Volatile compounds
   b) Acid compounds
   c) Base/neutral compounds
   d) Pesticides

For pollutants listed in Sections 1 and 3, you must report estimates as instructed above.

For Section 2, you are required to report that TCDD may be discharged if you use or manufacture one of the following compounds:

A. 2,4,5-trichlorophenoxy acetic acid (2,4,5-T) (CAS # 93-76-5);
B. 2-(2,4,5-trichlorophenoxy) propanoic acid (Silvex, 2,4,5-TP) (CAS # 93-72-1);
C. 2-(2,4,5-trichlorophenoxy) ethyl 2,2-dichloropropionate (Erbon) (CAS # 136-25-4);
D. 0,0-dimethyl 0-(2,4,5-trichlorophenyl) phosphorothioate (Ronnel) (CAS # 299-84-3);
E. 2,4,5-trichlorophenol (TCP)(CAS # 95-95-4); or
F. Hexachlorophene (HCP) (CAS # 70-30-4).

SMALL BUSINESS EXEMPTION

If you are a "small business," you are exempt from the reporting requirement for Item V-B (section 3). You may qualify as a "small business" if you fit one of the following definitions:

1) Your expected gross sales will total less than $100,000 per year for the next three years, or

2) in the case of coal mines, your average production will be less than 100,000 tons of coal per year.

If you are a "small business," you may submit projected sales or production figures to qualify for this exemption. The sales or production figures you submit must be for the facility which is the source of the discharge. The data should not be limited only to production or sales for the process or processes which contribute to the discharge, unless those are the only processes at your facility. For sales data, where intracorporate transfers of goods and services are involved, the transfer price per unit should approximate market prices for those goods and services as closely as possible. If necessary, you may index your sales figures to the second quarter of 1980 to demonstrate your eligibility for a small business exemption. This may be done by using the gross national product price deflator (second quarter of 1980 = 100), an index available in "National Income and Product Accounts of the United States" (Department of Commerce, Bureau of Economic Analysis).

The small business exemption applies to the GC/MS fractions (Section 3) of Item V-B only. Even if you are eligible for a small business exemption, you are still required to provide information on metals, cyanide, total phenols, and dioxin in Item V-B, as well as all of Items V — A and C.

Item V — C

List any pollutants in Table 2d-3 that you believe will be present in all outfalls and briefly explain why you believe they will be present. No estimate of the pollutant's quantity is required, unless you already have quantitative data.

NOTE: If you wish an exemption under 40 CFR 117.12(a)(2) for certain discharges of hazardous substances (listed in Table 2d-4 of these instructions), attached additional sheets of paper to this form, providing the following information:

A. The substance and the amount of each substance which may be discharged;

B. The origin and source of the discharge of the substance;

C. The treatment which is to be provided for the discharge by:

1. An on-site treatment system separate from any treatment system which will treat your normal discharge,

2. A treatment system designed to treat your normal discharge and which is additionally capable of treating the amount of the substance identified under paragraph 1 above, or

3. Any combination of the above.

Please note that Table 2d-3 contains those hazardous pollutants for which reporting is always required in NPDES applications. Table 2d-4 is a longer list of pollutants which need only be reported according to the note above if the applicant wishes to be exempt from the additional requirements of 40 CFR 117 (reporting, liability for cleanups of spills, etc.).

For further information on exclusions from Section 311, see 40 CFR Section 117.12(a)(2) and (c), published on August 29, 1979, in 44 *FR* 50766, or contact your EPA Regional office (Table 1 in the Form 1 instructions).

Item VI — A

If an engineering study was conducted, check the box labeled "report available." If no study was done, check the box labeled "no report."

Item VI — B

Report the name and location of any existing plant(s) which (to the best of your knowledge) resembles your planned operation with respect to items produced, production process, wastewater constituents, or wastewater treatment. No studies need be conducted to respond to this item. Only data which are already available need be submitted.

This information will be used to inform the permit writer of appropriate treatment methods and their associated permit conditions and limits.

Item VII

A space is provided for optional information.

Item VIII

The Clean Water Act provides for severe penalties for submitting false information on this application form.

Section 309(c)(2) of the Clean Water Act provides that "Any person who knowingly makes any false statement, representation, or certification in any application, . . . shall upon conviction, be punished by a fine of no more than $10,000 or by imprisonment for not more than six months, or both."

40 CFR Part 122.22 REQUIRES THE CERTIFICATION TO BE SIGNED AS FOLLOWS:

A. For a corporation: by a responsible corporate officer.

A responsible corporate officer means (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who who performs similar policy or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25,000,000 (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

B. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

C. For a municipality, State, Federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes (i) the chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).

Please type or print in the unshaded areas only

EPA ID Number *(copy from Item 1 of Form 1)*

Form Approved
OMB No XXXX-XXXX
Approval expires XX-XX-XX

Form **2D**
NPDES

Application for Permit to Discharge Wastewater New Sources and New Discharges

I. OUTFALL LOCATION

For each outfall, list the latitude and longitude, and the name of the receiving water.

Outfall Number *(list)*	LATITUDE			LONGITUDE			C. RECEIVING WATER *(name)*
	Deg	Min	Sec	Deg	Min	Sec	

II. DISCHARGE DATE

When do you expect to begin discharging?

DATE

III. FLOWS, SOURCES OF POLLUTION, AND TREATMENT TECHNOLOGIES

A. For each outfall, provide a description of (1) All operations contributing wastewater to the effluent, including process wastewater, sanitary wastewater, cooling water, and stormwater runoff; (2) The average flow contributed by each operation; and (3) The treatment received by the wastewater. Continue on additional sheets if necessary.

Outfall Number	1. Operations Contributing Flow *(list)*	Average Flow *(include units)*	3. Treatment *(Description or List Codes from Table 2d-1)*

B. Attach a line drawing showing the water flow through the facility. Indicate sources of intake water, operations contributing wastewater to the effluent, and treatment units labeled to correspond to the more detailed descriptions in Item III-A. Construct a water balance on the line drawing by showing average flows between intakes, operations, treatment units, and outfalls. If a water balance cannot be determined (e.g., for certain mining activities), provide a pictorial description of the nature and amount of any sources of water and any collection or treatment measures.

C. Except for storm runoff, leaks, or spills, will any of the discharges described in item III-A be intermittent or seasonal?

☐ Yes *(complete the following table)* ☐ No *(go to item IV)*

Outfall Number	1. FREQUENCY		2. FLOW		
	a. Days Per Week *(specify average)*	b. Months Per Year *(specify average)*	a. Maximum Daily Flow Rate *(in mgd)*	b. Maximum Total Volume *(specify with units)*	c. Duration *(in days)*

IV. PRODUCTION

If there is an applicable production-based effluent guideline, for each outfall list the estimated level of production (actual, as opposed to design), expressed in the terms and units used in the applicable effluent guideline, for the first 3 years of operation.

YEAR	a. Quantity Per Day	b. Units of Measure	c. Operation, Product, Material, etc *(specify)*

CONTINUED FROM THE FRONT	EPA ID Number *(copy from Item 1 of Form 1)*	OUTFALL NUMBER

V. EFFLUENT CHARACTERISTICS

A, and B: These items require you to report estimated amounts of the pollutants to be discharged from each of your outfalls. Each part of this item addresses a different set of pollutants and should be completed in accordance with the specific instructions for that part. Data for each outfall should be on a separate page. Attach additional sheets of paper if necessary.

General Instructions *(See table 2d-2 for Pollutants)*

Each part of this item requests you to provide an estimated daily maximum and minimum (i.e., a range) for certain pollutants and the source of information. Data for all pollutants in Group A, for all outfalls, must be submitted unless waived by the permitting authority. For all outfalls, data for pollutants in Group B should be reported only for pollutants which you believe will be present or are limited directly by an effluent limitations guideline or indirectly through an indicator.

1. Pollutant	2. Maximum Daily Value *(include units)*	3. Minimum Daily Value *(include units)*	4. Source *(see instructions)*

CONTINUED FROM THE FRONT	EPA ID Number *(copy from Item 1 of Form 1)*	*Form Approved OMB No xxxx-xxxx Approval expires xx-xx-xx*

C. Use the space below to list any of the pollutants listed in Table 2d-3 of the instructions which you know or have reason to believe will be discharged from any outfall. For every pollutant you list, briefly describe the reasons you believe it will be present.

1. Pollutant	2. Reason for Discharge

VI. ENGINEERING REPORT ON WASTEWATER TREATMENT *(fill out once per facility)*

A. If there is any technical evaluation concerning your wastewater treatment, including engineering reports or pilot plant studies, check the appropriate box below.

☐ Report Available ☐ No Report

B. Provide the name and location of any existing plant(s) which, to the best of your knowledge, resembles the design of this production facility.

Name	Location

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VII. OTHER INFORMATION *(Optional)*

Use the space below to expand upon any of the above questions or to bring to the attention of the reviewer any other information you feel should be considered in establishing permit limitations for the proposed facility. Attach additional sheets if necessary.

VIII. CERTIFICATION

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

A. Name and Official Title *(type or print)*	B. Phone No.
C. Signature	D. Date Signed

GROUP A

Biochemical Oxygen Demand (BOD)
Chemical Oxygen Demand (COD)
Total Organic Carbon (TOC)
Total Suspended Solids (TSS)
Flow
Ammonia (as N)
Temperature (winter)
Temperature (summer)
pH

GROUP B

Bromide
Total Residual Chlorine
Color
Fecal Coliform
Flouride
Nitrate-Nitrite (as N)
Oil and Grease
Phosphorus (as P) Total
Radioactivity
(1) Alpha, Total
(2) Beta, Total
(3) Radium, Total
(4) Radium 226, Total
Sulfate (as SO_4)
Sulfide (as S)
Sulfite (as SO_3)
Surfactants
Aluminum, Total
Barium, Total
Boron, Total
Cobalt, Total
Iron, Total
Magnesium, Total
Molybdenum, Total
Manganese, Total
Tin, Total
Titanium, Total

Section 1

Antimony, Total
Beryllium, Total
Chromium, Total
Lead, Total
Nickel, Total
Silver, Total
Zinc, Total
Phenols, Total
Arsenic, Total
Cadmium, Total
Copper, Total
Mercury, Total
Selenium, Total
Thallium, Total
Cyanide, Total

Section 2

2,3,7,8,Tetrachlorodibenzo-P-Dioxin

Section 3

GC/MS FRACTION* — VOLATILE COMPOUNDS

Acrolein
Benzene
Carbon Tetrachloride
Chlorodibramomethane
2-Chloroethylvinyl Ether
Dichlorobomomethane
1,2-Dichloroethane
1,2-Dichloropropane
Ethylbenzene
Methyl Chloride
1,1,2,2-Tetrachloroethane
Toluene
1,1,1-Trichloroethane
Trichloroethylene
Vinyl Chloride
Acrylonitirle
Bromoform
Chlorobenzene
Chloroethane
Chloroform
1,1-Dichloroethane
1,1-Dichloroethane
1,3-Dichloropropylene
Methyl Bromide
Methylene chloroethane
Tetrachloroethylene
1,2-Trans-Dichloroethylene
1,1,2-Trichloroethane

Table 2D-2

LINE DRAWING

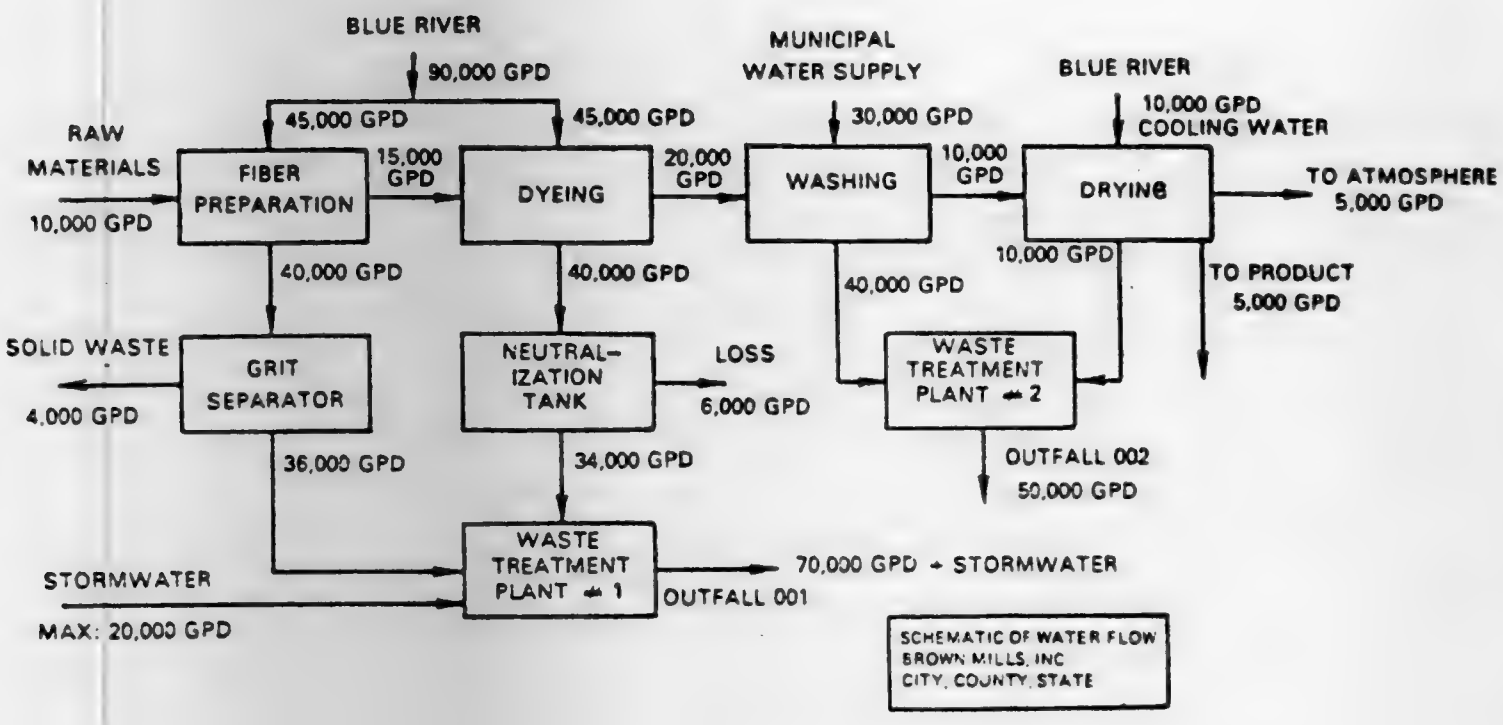

FIGURE 2d-1

GS/MS FRACTION — ACID COMPOUNDS

2-Chlorophenol
2,4-Dimethylphenol
2,4-Dinitro-phenol
4-Nitrophenol
Pentachlorophenol
2,4,6-Trichlorophenol
2,4-Dichlorophenol
4,6-Dinitro-O-Cresol
2-Nitrophenol
P-Chloro-M-Cresol
Phenol

GC/MS FRACTION — BASE/NEUTRAL COMPOUNDS

Acenaphthene
Anthracene
Benzo (a) Anthracene
3,5-Benzofluoranthene
Benzo (k) Fluoranthene
Bis (2-Chloroethyl) Ether Bis
Bis (2-Ethylhexyl) Phthalate
Butyl Benzyl Phthalate
4-Chlorophenyl Phenyl Ether
Dibenzo (a, h) Anthracene
1,3-Dichlorobenzene
3,3-Dichlorobenzidine
Dimethyl Phthalate
2,4-Dinitrotoluene
Di-N-Octyl Phthalate
Fluoranthene
Hexachlorobenzene
Hexachlorocyclopentadiene
Indeno (1,2,3-cd) Pyrene
Naphthalene
N-Nitro-sodimethylamine
N-Nitro-sodiphenylamine
Pyrene
Acenaphtylene
Benzidine
Benzo (a) Pyrene
Benzo (ghi) Perylene
Bis (2 Chloroethoxy) Methane
(2-Chloroisopropyl) Ether
4-Bromophenyl Phenyl Ether
2-Chloronaphthalene
Chrysene
1,2-Dichlorobenzene
1,4-Dichlorobenzene
Diethyl Phthalate
Di-N-Butyl Phthalate
2,6-Dinitrotoluene
1,2, Diphenylhydrazine (as Azobenzen)
Fluorene
Hexachlorobutadiene
Hexachloroethane
Isophorone
Nitrobenzene
N-Nitrosodi-N-Propylamine
Phenanthrene
1,2,4-Trichlorobenzene

GC/MS FRACTION — PESTICIDES

Aldrin
-BHC
-BHC
4,4' DDT
4,4'-DDD
-Endosulfan
Endosulfan Sulfate
Endrin Aldehyde
Heptachlor Epoxide
PCB-1254
PCB-1232
PCB-1260
Toxaphene
-BHC
-BHC
Chlordane
4,4' DDE
Dieldrin
-Endosulfan
Endrin
Heptachlor
PCB-1242
PCB-1221
PCB-1248
PCB-1016

*fractions defined in 40 CFR Part 136

Table 2d-2

PHYSICAL TREATMENT PROCESSES

1—A .....Ammonia Stripping
1—B .....Dialysis
1—C .....Diatomaceous Earth Filtration
1—D .....Distillation
1—E .....Electrodialysis
1—F .....Evaporation
1—G .....Flocculation
1—H .....Flotation
1—I .....Foam Fractionation
1—J .....Freezing
1—K .....Gas-Phase Separation
1—L .....Grinding *(Comminutors)*
1—M .....Grit Removal
1—N .....Microstraining
1—O .....Mixing
1—P .....Moving Bed Filters
1—Q .....Multimedia Filtration
1—R .....Rapid Sand Filtration
1—S .....Reverse Osmosis *(Hyperfiltration)*
1—T .....Screening
1—U .....Sedimentation *(Settling)*
1—V .....Slow Sand Filtration
1—W .....Solvent Extraction
1—X .....Sorption

CHEMICAL TREATMENT PROCESSES

2—A .....Carbon Adsorption
2—B .....Chemical Oxidation
2—C .....Chemical Precipitation
2—D .....Coagulation
2—E .....Dechlorination
2—F .....Disinfection *(Chlorine)*
2—G .....Disinfection *(Ozone)*
2—H .....Disinfection *(Other)*
2—I .....Electrochemical Treatment
2—J .....Ion Exchange
2—K .....Neutralization
2—L .....Reduction

BIOLOGICAL TREATMENT PROCESSES

3—A .....Activated Sludge
3—B .....Aerated Lagoons
3—C .....Anaerobic Treatment
3—D .....Nitrification-Denitrification
3—E .....Preaeration
3—F .....Spray Irrigation/Land Application
3—G .....Stabilization Ponds
3—H .....Trickling Filtration

OTHER PROCESSES

4—A .....Discharge to Surface Water
4—B .....Ocean Discharge Through Outfall
4—C .....Reuse/Recycle of Treated Effluent
4—D .....Underground Injection

SLUDGE TREATMENT AND DISPOSAL PROCESSES

5—A .....Aerobic Digestion
5—B .....Anaerobic Digestion
5—C .....Belt Filtration
5—D .....Centrifugation
5—E .....Chemical Conditioning
5—F .....Chlorine Treatment
5—G .....Composting
5—H .....Drying Beds
5—I .....Elutriation
5—J .....Flotation Thickening
5—K .....Freezing
5—L .....Gravity Thickening
5—M .....Heat Drying
5—N .....Heat Treatment
5—O .....Incineration
5—P .....Land Application
5—Q .....Landfill
5—R .....Pressure Filtration
5—S .....Pyrolysis
5—T .....Sludge Lagoons
5—U .....Vacuum Filtration
5—V .....Vibration
5—W .....Wet Oxidation

Table 2D-1

TOXIC POLLUTANTS AND HAZARDOUS SUBSTANCES REQUIRED TO BE IDENTIFIED BY APPLICANTS IF EXPECTED TO BE PRESENT

TOXIC POLLUTANT	HAZARDOUS SUBSTANCES	HAZARDOUS SUBSTANCES
Asbestos	Dichlorvos	Naled
	Diethyl amine	Napthenic acid
HAZARDOUS SUBSTANCES	Dimethyl amine	Nitrotoluene
	Dintrobenzene	Parathion
Acetaldehyde	Diquat	Phenolsulfonate
Allyl alcohol	Disulfoton	Phosgene
Allyl chloride	Diuron	Propargite
Amyl acetate	Epichlorohydrin	Propylene oxide
Aniline	Ethion	Pyrethrins
Benzonitrile	Ethylene diamine	Quinoline
Benzyl chloride	Ethylene dibromide	Resorcinol
Butyl acetate	Formaldehyde	Strontium
Butylamine	Furfural	Strychnine
Captan	Guthion	Styrene
Carbaryl	Isoprene	2,4,5-T (2,4,5-Trichlorophenoxyacetic acid)
Carbofuran	Isopropanolamine	TDE (Tetrachlorodiphenyl ethane)
Carbon disulfide	Kelthane	2,4,5-TP [2-(2,4,5-Trichlorophenoxy) propanoic acid]
Chlorpyrifos	Kepone	Trichlorofon
Coumpahos	Malathion	Triethanolamine
Cresol	Mercaptodimethur	Triethylamine
Crotonaldehyde	Methoxychlor	Trimethylamine
Cyclohexane	Methyl mercaptan	Uranium
2,4-D (2,4-Dichlorophenoxyacetic acid)	Methyl methacrylate	Vanadium
Diazinon	Methyl parathion	Vinyl acetate
Dicamba	Mevinphos	Xylene
Dichlobenil	Mexacarbate	Xylenol
Dichlone	Monoethyl amine	Zirconium
2,2-Dichloropropionic acid	Monomethyl amine	

TABLE 2d-3

1. Aceta
2. Aceti
3. Aceti
4. Aceto
5. Acety
6. Acety
7. Acrol
8. Acryl
9. Adipi
10. Aldrin
11. Allyl
12. Allyl
13. Alum
14. Amm
15. Amm
16. Amm
17. Amm
18. Amm
19. Amm
20 Amm
21. Amm
22. Amm
23. Amm
24. Amm
25. Amm
26. Amm
27. Amm
28. Amm
29. Amm
30 Amm
31. Amm
32 Amm
33. Amm
34. Amm
35. Amm
36. Amm
37. Amyl
38. Anilin
39. Antim
40. Antim
41. Antim
42. Antim
43. Antim
44. Antim
45. Arsen
46. Arsen
47. Arsen
48. Arsen
49. Arsen
50. Bariu
51. Benz
52. Benz
53. Benz
54. Benz
55. Benz
56. Beryl
57. Beryl
58. Beryl
59. Butyl
60. n-But
61. Butyl
62. Butyr
63. Cadm
64. Cadm
65. Cadm
66. Calci
67. Calci
68. Calci
69. Calci

HAZARDOUS SUBSTANCES

1. Acetaldehyde
2. Acetic acid
3. Acetic anhydride
4. Acetone cyanohydrin
5. Acetyl bromide
6. Acetyl chloride
7. Acrolein
8. Acrylonitrile
9. Adipic acid
10. Aldrin
11. Allyl alcohol
12. Allyl chloride
13. Aluminum sulfate
14. Ammonia
15. Ammonium acetate
16. Ammonium benzoate
17. Ammonium bicarbonate
18. Ammonium bichromate
19. Ammonium bifluoride
20. Ammonium bisulfite
21. Ammonium carbamate
22. Ammonium carbonate
23. Ammonium chloride
24. Ammonium chromate
25. Ammonium citrate
26. Ammonium fluoroborate
27. Ammonium fluoride
28. Ammonium hydroxide
29. Ammonium oxalate
30. Ammonium silicofluoride
31. Ammonium sulfamate
32. Ammonium sulfide
33. Ammonium sulfite
34. Ammonium tartrate
35. Ammonium thiocyanate
36. Ammonium thiosulfate
37. Amyl acetate
38. Aniline
39. Antimony pentachloride
40. Antimony potassium tartrate
41. Antimony tribromide
42. Antimony trichloride
43. Antimony trifluoride
44. Antimony trioxide
45. Arsenic disulfide
46. Arsenic pentoxide
47. Arsenic trichloride
48. Arsenic trioxide
49. Arsenic trisulfide
50. Barium cyanide
51. Benzene
52. Benzoic acid
53. Benzonitrite
54. Benzoyl chloride
55. Benzyl chloride
56. Beryllium chloride
57. Beryllium fluoride
58. Beryllium nitrate
59. Butylacetate
60. n-Butylphthalate
61. Butylamine
62. Butyric acid
63. Cadmium acetate
64. Cadmium bromide
65. Cadmium chloride
66. Calcium arsenate
67. Calcium arsenite
68. Calcium carbide
69. Calcium chromate
70. Calcium cyanide
71. Calcium dodecylbenzenesulfonate
72. Calcium hypochlorite
73. Captan
74. Carbaryl
75. Carbofuran
76. Carbon disulfide
77. Carbon tetrachloride
78. Chlordane
79. Chlorine
80. Chlorobenzene
81. Chloroform
82. Chloropyrifos
83. Chlorosulfonic acid
84. Chromic acetate
85. Chromic acid
86. Chromic sulfate
87. Chromous chloride
88. Cobaltous bromide
89. Cobaltous formate
90. Cobaltous sulfamate
91. Coumaphos
92. Cresol
93. Crotonaldehyde
94. Cupric acetate
95. Cupric acetoarsenite
96. Cupric chloride
97. Cupric nitrate
98. Cupric oxalate
99. Cupric sulfate
100. Cupric sulfate ammoniated
101. Cupric tartrate
102. Cyanogen chloride
103. Cyclohexane
104. 2,4-D acid (2,4-Dichlorophenoxyacetic acid)
105. 2,4-D esters (2,4-Dichlorophenoxyacetic acid esters)
106. DDT
107. Diazinon
108. Dicamba
109. Dichlobenil
110. Dichlone
111. Dichlorobenzene
112. Dichloropropane
113. Dichloropropene
114. Dichloropropene-dichloproropane mix
115. 2,2-Dichloropropionic acid
116. Dichlorvos
117. Dieldrin
118. Diethylamine
119. Dimethylamine
120. Dinitrobenzene
121. Dinitrophenol
122. Dinitrotoluene
123. Diquat
124. Disulfoton
125. Diuron
126. Dodecylbenzesulfonic acid
127. Endosulfan
128. Endrin
129. Epichlorohydrin
130. Ethion
131. Ethylbenzene
132. Ethylenediamine
133. Ethylene dibromide
134. Ethylene dichloride
135. Ethylene diaminetetracetic acid (EDTA)
136. Ferric ammonium citrate
137. Ferric ammonium oxalate
138. Ferric chloride
139. Ferric fluoride
140. Ferric nitrate
141. Ferric sulfate
142. Ferrous ammonium sulfate
143. Ferrous chloride
144. Ferrous sulfate
145. Formaldehyde
146. Formic acid
147. Fumaric acid
148. Furfural
149. Guthion
150. Heptachlor
151. Hexachlorocyclopentadiene
152. Hydrochloric acid
153. Hydrofluoric acid
154. Hydrogen cyanide
155. Hydrogen sulfite
156. Isoprene
157. Isopropanolamine dodecylbenzenesulfonate
158. Kelthane
159. Kepone
160. Lead acetate
161. Lead arsenate
162. Lead chloride
163. Lead fluoborate
164. Lead flourite
165. Lead iodide
166. Lead nitrate
167. Lead stearate
168. Lead sulfate
169. Lead sulfide
170. Lead thiocyanate
171. Lindane
172. Lithium chromate
173. Matathion
174. Maleic acid
175. Maleic anhydride
176. Mercaptodimethur
177. Mercuric cyanide
178. Mercuric nitrate
179. Mercuric sulfate
180. Mercuric thiocyanate
181. Mercurous nitrate
182. Methoxychlor
183. Methyl mercaptan
184. Methyl methacrylate
185. Methyl parathion
186. Mevinphos
187. Mexacarbate
188. Monoethylamine
189. Monomethylamine
190. Naled
191. Napthalene
192. Napthenic acid
193. Nickel ammonium sulfate
194. Nickel chloride
195. Nickel hydroxide
196. Nickel nitrate
197. Nickel sulfate
198. Nitric acid
199. Nitrobenezene
200. Nitrogen dioxide
201. Nitrophenol
202. Nitrotoluene
203. Paraformaldehyde

TABLE 2d–4

HAZARDOUS SUBSTANCES (continued)

204. Parathion
205. Pentachlorophenol
206. Phenol
207. Phosgene
208. Phosphoric acid
209. Phosphorus
210. Phosphorus oxychloride
211. Phosphorus pentasulfide
212. Phosphorus trichloride
213. Polychlorinated biphenyls (PCB)
214. Potassium arsenate
215. Potassium arsenite
216. Potassium bichromate
217. Potassium chromate
218. Potassium cyanide
219. Potassium hydroxide
220. Potassium permanganate
221. Propargite
222. Propionic acid
223. Propionic anhydride
224. Propylene oxide
225. Pyrethrins
226. Quinoline
227. Resorcinol
228. Selenium oxide
229. Silver nitrate
230. Sodium
231. Sodium arsenate
232. Sodium arsenite
233. Sodium bichromate
234. Sodium bifluoride
235. Sodium bisulfite
236. Sodium chromate
237. Sodium cyanide
238. Sodium dodecylbenzenesulfonate
239. Sodium fluoride
240. Sodium hydrosulfide
241. Sodium hydroxide
242. Sodium hypochlorite
243. Sodium methylate
244. Sodium nitrate
245. Sodium phosphate (dibasic)
246. Sodium phosphate (tribasic)
247. Sodium selenite
248. Strontium chromate
249. Strychnine
250. Styrene
251. Sulfuric acid
252. Sulfur monochloride
253. 2,4,5-T acid (2,4,5-Trichlorophenoxyacetic acid)
254. 2,4,5-T amines (2,4,5-Trichlorophenoxy acetic acid amines)
255. 2,4,5-T esters (2,4,5-Trichlorophenoxy acetic acid esters)
256. 2,4,5-T salts (2,4,5-Trichlorophenoxy acetic acid salts)
257. 2,4,5-TP acid (2,4,5-Trichlorophenoxy propanoic acid)
258. 2,4,5-TP acid esters (2,4,5-Trichlorophenoxy propanoic acid esters)
259. TDE (Tetrachlorodiphenyl ethane)
260. Tetraethyl lead
261. Tetraethyl pyrophosphate
262. Thallium sulfate
263. Toluene
264. Toxaphene
265. Trichlorofon
266. Trichloroethylene
267. Trichlorophenol
268. Triethanolamine dodecylbenzenesulfonate
269. Triethylamine
270. Trimethylamine
271. Uranyl acetate
272. Uranyl nitrate
273. Vanadium pentoxide
274. Vanadyl sulfate
275. Vinyl acetate
276. Vinylidene chloride
277. Xylene
278. Xylenol
279. Zinc acetate
280. Zinc ammonium chloride
281. Zinc borate
282. Zinc bromide
283. Zinc carbonate
284. Zinc chloride
285. Zinc cyanide
286. Zinc fluoride
287. Zinc formate
288. Zinc hydrosulfonate
289. Zinc nitrate
290. Zinc phenolsulfonate
291. Zinc phosphide
292. Zinc silicofluoride
293. Zinc sulfate
294. Zirconium nitrate
295. Zirconium potassium flouride
296. Zirconium sulfate
297. Zirconium tetrachloride

TABLE 2d–4 (continued)

[FR Doc. 84-25797 Filed 9-28-84; 8:45 am]
BILLING CODE 6560-50-C

federal register

Monday
October 1, 1984

Part IV

Federal Maritime Commission

46 CFR Parts 550, 552, 553, 555, 558, 559, 560, 561, 562, 564, 566, 568, and 569

Subchapter C Regulations Affecting Maritime Carriers and Related Activities in Domestic Offshore Commerce; Technical Changes; Final Rules

VOL 49 ISS 191 OCT 1 1984 UMI

FEDERAL MARITIME COMMISSION

46 CFR Parts 550, 552, 553, 555, 558, 559, 560, 561, 562, 564, 566, 568, and 569

Further Final Rules To Make Technical Changes in Subchapter C Regulations Affecting Maritime Carriers and Related Activites in Domestic Offshore Commerce

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: The Federal Maritime Commission is again making technical, non-substantive changes to Subchapter C involving the domestic offshore trades. The parts affected by this rulemaking are Parts 550, 552, 553 and 555 dealing with tariffs, rates and financial matters; and Parts 558, 559, 560, 561, 562, 564, 566, 568 and 569 involving agreement matters under the Shipping Act, 1916. The full-text rules, revised and set forth herein comprise Subchapter C in its entirety.

DATE: Effective October 31, 1984.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573, (202) 523–5725.

SUPPLEMENTARY INFORMATION:

Subchapter C of Chapter IV of Title 46, Code of Federal Regulations, was established by final rule at 49 FR 22289 (May 29, 1984) and contains regulations affecting maritime carriers and related activities in the domestic offshore commerce.

In further reviewing all of its regulations since the passage of the Shipping Act of 1984 on March 20, 1984, the Commission has found further technical changes necessary.

Accordingly, extensive changes in form are being made here to improve style, readability and understandability. No changes in substance, however, are included and, for this reason, the rules are promulgated as final, without the need for comments, although their effective date will be 30 days after publication in the **Federal Register**.

The Parts revised herein are [the "old" part number refers to the number in the October.1, 1983 edition of the CFR, Parts 400 to end]:

New Part

550 Publishing Filing and Posting of Tariffs in Domestic Offshore Commerce. [Old Part 531]
552 Financial Reports of Common Carriers by Water in the Domestic Offshore Trades. [Old Part 512]
553 Financial Exhibits and Schedules of Non-Vessel-Operating Common Carriers in the Domestic Offshore Trades. [Old Part 514]
555 Audits and Auditing Procedures in the Domestic Offshore Trades. [Old Part 513]
558 Exemption of Husbanding and Agency Agreements under the Shipping Act, 1916. [Old Part 520]
559 Exemption of Certain Agreement from the Requirements of Section 15, Shipping Act, 1916. [Old Part 524]
560 Filing of Agreements by Common Carriers and Other Persons Subject to the Shipping Act, 1916. [Old Part 522]
561 Time for Filing Certain Agreements under the Shipping Act, 1916. [Old Part 521]
562 Conference Agreement Provisions Relating to Concerted Activities under the Shipping Act, 1916. [Old Part 537]
564 Admission, Withdrawal and Expulsion Provisions of Steamship Conference Agreements under the Shipping Act, 1916. [Old Part 523]
566 Shippers' Requests and Complaints under the Shipping Act, 1916. [Old Part 527]
568 Self-Policing Requirements for Agreements under the Shipping Act, 1916. [Old Part 528]
569 Rules Governing the Right of Independent Action under the Shipping Act, 1916. [Old Part 529]

The technical and style changes to all the rules reflect changes in nomenclature and Commission organization, correction of typographical errors and removal of superfluous verbiage. To assist the user, various subdivisions of sections have been restructured and renumbered to facilitate citation. Also changed, where feasible, are references to the obsolete General Order system, "Provided, howevers", and gender specific terms. Further changes are made to the method of setting forth compliance with or exemption from the requirements of the Paperwork Reduction Act.

In Part 550, new exhibits have been prepared to facilitate understanding. The recodifications of Titles 46 and 49, United States Code, require citation changes in §§ 550.0(a)(5), 550.1(a), 550.1(e) and 550.2(w). Part 550 also now contains recent changes effectuated by separate publication in §§ 550.1(f) and 550.3(e).

Outdated and obsolete provisions have also been deleted. See *Old* §§ 512.5(f)(2); 512.6(b)(10); 513.5(d)(2); 537.2; 537.3; 523.2; 527.3; 527.7; 529.1 and 529.2.

The Federal Maritime Commission has determined that this rule is not a "major rule" as defined in Executive Order 12291 dated February 17, 1981, because it will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovations, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Chairman of the Federal Maritime Commission certifies that this rule will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units and small governmental jurisdictions.

List of Subjects

46 CFR Parts 550, 552, 553, and 555

Maritime carriers, Reporting and recordkeeping requirements, Rates.

46 CFR Parts 558, 559, 560, 561, 562, 564, 566, 568, and 569

Antitrust, Contracts, Maritime carriers, Reporting and recordkeeping requirements, Rates.

Corrections

These final rules are subject to review and editing of form before publication in the Code of Federal Regulations. Users are requested to notify the Commission of any omissions and typographical-type errors in order that corrections can be made before the Commission's CFR book goes to press in January, 1985.

For the reasons described in the preamble, and pursuant to the authority set forth in the Authority Citation for each Part, Parts 550, 552, 553, 555, 558, 559, 560, 561, 562, 564, 566, 568, and 569 of Subchapter C, Chapter IV of Title 46, Code of Federal Regulations, are revised to read as follows:

PART 550—PUBLISHING, FILING AND POSTING OF TARIFFS IN DOMESTIC OFFSHORE COMMERCE

Sec.
550.0 Scope.
550.1 Exemptions.
550.2 Definitions.
550.3 Filing of tariffs; general.
550.4 Form and preparation of tariffs.
550.5 Contents of tariffs.
550.6 Statement of rates and charges.
550.7 [Reserved].
550.8 Tariffs containing provisions for through intermodal transportation.

Sec.

550.9 Terminal rules, charges and allowances.
550.10 Amendments to tariffs.
550.11 Supplements to tariffs.
550.12 Cancellation of tariffs.
550.13 Suspension of tariff matter.
550.14 Governing tariffs.
550.15 Tariffs applicable to seasonal transportation service.
550.16 Index of tariffs.
550.17 Transfer of operations, transfer of control, and changes in carrier name.
550.18 Applications for special permission.
550.19 Special rules for bound tariffs filed pursuant to special permission authority.
550.91 OMB Control numbers assigned pursuant to the Paperwork Reduction Act.

Authority: 5 U.S.C. 553; sec. 14, 15, 16, 18(a), 21, 35, and 43 of the Shipping Act, 1916 (46 U.S.C. app. 812, 814, 815, 817(a), 820, 833a and 841a); and secs. 1, 2, 3(a), 3(b), 4 and 7 of the Intercoastal Shipping Act, 1933 (46 U.S.C. app. 843, 844, 845, 845a and 847).

§ 550.0 Scope.

(a) These regulations govern the publication, filing, and posting of tariffs for the transportation of property or passengers performed by common carriers by water in interstate commerce which are subject to the Shipping Act, 1916, as amended, including through transportation offered in conjunction with one or more common carriers not subject to said Shipping Act. Common carriers subject to the Shipping Act are those vessel operating and non-vessel-operating carriers providing transportation by water between:

(1) Any of the 48 contiguous states or the District of Columbia and Alaska or Hawaii;

(2) Any state or the District of Columbia and any territory, commonwealth, possession or district (excluding the District of Columbia);

(3) Alaska and Hawaii;

(4) Any territory, commonwealth, possession or district (excluding the District of Columbia) and any other such territory, commonwealth, possession, or district; and

(5) Places in the same district, territory, commonwealth or possession (excluding the District of Columbia), and which are not solely engaged in transportation subject to the jurisdiction of the Interstate Commerce Commission under 49 U.S.C. Chapter 105.

(b) Information obtained under this part is used to determine the propriety of the level of rates, fares, charges, and practices demanded, charged, collected or observed by carriers. Compliance is mandatory and failure of a tariff to conform with this part may result in rejection. Violations of the provisions of this part are also subject to a civil penalty of not more than $1,000 for each day such violation continues. (46 U.S.C. app. 844).

§ 550.1 Exemptions.

The following services are exempt from the tariff filing requirements of the Act and the rules of this part:

(a) Transportation subject to the jurisdiction of the Interstate Commerce Commission under 49 U.S.C. Chapter 105;

(b) Round trip passenger excursion voyages;

(c) Transportation by vessels with a cargo carrying capacity of 100 tons or less, or with an indicated *horsepower* of 100 or less, provided that such vessels:

(1) Are not employed by or under the common control or management of a domestic offshore carrier which operates vessels in excess of these limits;

(2) Are not operated as part of a through route with another domestic offshore carrier; and

(3) Are not performing lighterage services in connection with or on behalf of another domestic offshore carrier;

(d) Transportation of passengers, commercial buses carrying passengers, personal vehicles and personal effects by vessels operated by the State of Alaska between Seattle, Washington, and parts in Southeastern Alaska, provided that said personal vehicles and personal effects are not transported for the purpose of sale, lease, or other commercial activities;

(e) Transportation between the continental United States and Puerto Rico of bulk liquid cargoes in quantities of not less than 200,000 gallons per shipment (i.e., a single shipper to a single consignee), and such shipments are carried in tank vessels designed exclusively for bulk liquid cargoes and certified under regulations approved by the U.S. Coast Guard pursuant to 46 U.S.C. 3306.

(f) Transportation of used military household goods and personal effects by non-vessel-operating common carriers.

(g) Transportation between Bethel, Alaska and points in the Kuskokwim Bay region in the range from Platinum to Mekoryuk.

§ 550.2 Definitions.

The following shall apply to the regulations of this part and to all tariffs filed pursuant to them:

(a) "*Amendment*" means any change, alteration, correction or modification of an existing tariff, including a tariff supplement.

(b) "*Act*" or "*1916 Act*" means the Shipping Act, 1916, as amended (including the Intercoastal Shipping Act, 1933, and the Transportation Act of 1940).

(c) "*Carrier*" means any common carrier in interstate commerce. Commonly owned or controlled carriers operating in different transportation modes shall be considered separate carriers for purposes of this part (see paragraph (w) of this section).

(d) "*Class Rates*" means transportation rates applied to specific groups or classes of commodities which are established in accordance with a governing commodity classification scheme.

(e) "*Classification*" means a publication (not a rate tariff) establishing a scheme for grouping or classifying commodities and for applying an accompanying class rate tariff (or a section of a tariff containing class rates) to the various commodity classes established.

(f) "*Commission*" means the Federal Maritime Commission.

(g) "*Commodity Rates*" means the transportation rates applied to commodities specifically named or described in the tariff in which the rates are published.

(h) "*Domestic Offshore Carrier*" means a common carrier by water in interstate commerce as defined by section 1 of the 1916 Act.

(i) "*File, Filed, Filing (of Tariff Matter)*" means the actual receipt by the Federal Maritime Commission at its offices in Washington, D.C., including those received by electronic transmission. Electronic filings are those transmitted through the use of commercial data processing terminals and conforming to all the regulations applicable to permanent tariff filings.

(j) "*General Decrease*" means any change in rates, fares, or charges which will: (1) Result in a decrease in not less than 50 percent of the total rate, fare, or charge items in the tariffs per trade of any carrier, and (2) directly result in a decrease in gross revenues of said carrier for the particular trade of not less than 3 percent.

(k) "*General Increase*" means any change in rates, fares, or charges which will: (1) Result in an increase in not less than 50 percent of the total rate, fare, or charge items in the tariffs per trade of any carrier, and (2) directly result in an increase in gross revenues of said carrier for the particular trade of not less than 3 percent.

(l) "*Joint Rates*" means rates agreed upon by two or more carriers for transportation jointly offered over all or part of the routes of each participating carrier.

(m) *"Local Rates"* means rates for transportation between two points over the route of a single carrier, the application of which is not contingent upon a prior or subsequent movement of the cargo or passengers carried.

(n) *"Person"* includes individuals, firms, partnerships, associations, companies, corporations, joint stock associations, trustees, receivers, agents, assignees and personal representatives.

(o) *"Port"* means a place at which a domestic offshore carrier originates or terminates (by transshipment or otherwise) its actual ocean carriage of property or passengers as to any particular transportation movement.

(p) *"Post, Posted, Posting (of Tariff Matter)"* means the maintenance of a complete, up-to-date tariff at local and general offices of the carriers party to the tariff under conditions assuring its availability for inspection by members of the public.

(q) *"Project Rates"* means rates applicable to the transportation of materials and equipment to be employed in the construction or one-time development of a named facility used for a major governmental, charitable, manufacturing, resource exploitation, public utility or public service purpose, and also including disaster relief projects. Such construction or development must be undertaken by either the shipper or consignee named on the bill of lading and none of the materials or equipment covered shall be transported for the purpose of resale or other commercial distribution.

(r) *"Proportional Rates"* means transportation rates conditioned upon a prior or subsequent movement of the cargo or passengers carried.

(s) *"Round Trip Excursion Voyage"* means a single voyage which originates and terminates at the same port, does not permanently disembark passengers at any intermediate port, and does not call at any port outside of the United States, its territories, commonwealths, districts or possessions.

(t) *"Substituted Service"* means the occasional use of transportation facilities different from those which the publishing carrier normally and regularly offers to the public; those instances where transportation is performed by someone other than the publishing carrier due to unexpected operating exigencies. The offering or performing of a regular service by means of overland or air transportation over part of the publishing carrier's route, or by using a waterborne service not under the operational control of the publishing carrier, is an arrangement for through transportation and may not be described as substituted service.

(u) *"Tariff"* means a written document containing all existing and proposed rates, fares, charges, classifications, rules, regulations and practices governing the transportation of passengers or property, all or a segment of which is performed by a domestic offshore carrier (includes rate tariffs, governing tariffs, and all current amendments thereto).

(v) *"Tariff Matter, Tariff Material, Tariff Publication"* means a tariff or any portion thereof tendered for filing with the Commission pursuant to this part.

(w) *"Through Intermodal Transportation"* means transportation at joint rates over a through route by two or more carriers, at least one of which is, and one of which is not, a domestic offshore carrier. Through transportation entirely by water may be intermodal transportation for purposes of this part when one or more participating carrier(s) is subject to rate regulation pursuant to subchapter III of Chapter 105 of Title 49 of the United States Code.

(x) *"Through Rate"* means a total charge for transportation from origin to destination. It may be a local rate, a joint rate, or a combination of separately established rates.

(y) *"Through Route"* means continuous transportation between origin and destination for which a through rate is assessed and which is offered or performed by: (1) A single domestic offshore carrier offering service between port terminal areas; (2) two or more domestic offshore carriers; or (3) one or more domestic offshore carriers in connection with one or more other carriers.

(z) *Transshipment"* means the physical transfer of cargo from one carrier to another in the course of a through route where at least one of the exchanging carriers is a vessel-operating, domestic offshore carrier.

§ 550.3 Filing of tariffs; general.

(a) Every domestic offshore carrier shall file with the Commission and keep open to public inspection, tariffs showing its actual rates, fares and charges for or in connection with transportation between all points on its own route, and all points on any through route established in conjunction with other carriers. Such tariffs shall plainly show the places between which freight or passengers will be carried and shall contain any classification of freight and passenger accommodations affecting or determining the rates applicable to such transportation and shall state separately each terminal or other charge, privilege, or facility granted or allowed to shippers or passengers and any rules or regulations which in anywise change, affect, or determine any part of the total rates, fares or charges assessed or the value of service rendered to consignors, consignees or passengers.

(b) Tariff matter tendered for filing which fails to comply with the 1916 Act, this part, or an order of this Commission is subject to rejection. The Commission also may at any time direct the reissuance or cancellation of tariff matter which does not conform to the 1916 Act or this part.

(c) Tariffs may be filed only by a responsible official of, or a tariff agent appointed by, a domestic offshore carrier participating in the transportation offered therein. When a tariff agent is employed, a delegation of authority from each participating, domestic offshore carrier must be either on file with the Commission or submitted with the tariff matter tendered for filing.

(1) Delegations of tariff filing authority shall be written on the letterhead and signed by a responsible official of the carrier on whose behalf the agent is to act. Such a letter of appointment shall state that a tariff agent has been appointed as of a particular date, identify the agent by name and business address, indicate whether and under what circumstances any other person is authorized to serve as an alternate agent, and specifically set forth the agent's powers and duties to act for the carrier in tariff matters. Only one alternate agent may be appointed.

(2) More than one delegation of authority covering any one tariff is prohibited, except that governing tariffs filed pursuant to § 550.14 may be the subject of separate delegations. Submission of a subsequent delegation of authority covering a tariff, governing tariff or group of tariffs, shall automatically revoke any earlier delegation as to that tariff or tariffs on the day the subsequent delegation is filed, as evidenced by the Commission's receipt notation.

(3) A delegation of authority to a tariff agent may be revoked in whole or in part by filing a letter of revocation which clearly identifies the delegation of authority and the particular powers and duties being revoked, said letter of revocation to be in the same format as the letter appointing the agent.

(d)(1) Tariffs filed under this part shall be numbered consecutively, with a carrier's initial filing in any particular series being designated No. 1. Freight, passenger, and government tariffs shall be numbered in separate series. Freight tariffs shall be designated as "Tariff FMC–F No. ———;" passenger tariffs shall be designated as "Tariff FMC–P

No. ———;" tariffs governing government cargo or passengers shall be designated as "Tariff FMC–G No. ——— ;" and tariff indices shall be designated "FMC–I No. ———."

(2) Tariff submissions which are not numbered as required in paragraph (d)(1) of this section, may be accepted for filing on an occasional basis if accompanied by a letter clearly explaining the purpose and need for the deviation.

(e) Tariff matter will be received by the Commission at its Washington, D.C., offices on an around-the-clock basis. Receipt of tariff filings during other than normal business hours will be time stamped at a tariff mail drop in the lobby of the Commission's Washington, D.C. offices. Electronic tariff filings transmitted by electronic modes will be receipted by a date/time device on the receiving machine.

(f) Unless otherwise provided by the Commission, or this part, all tariff matter tendered for filing (including the tariffs of carriers entering a trade for the first time), shall bear an effective date which permits at least 30 days' notice of the filing. The 30-day notice period between filing date and effective date shall commence at 12:01 a.m. of the day of filing, as evidenced by the Commission's receipt notation. The tariff may take effect at 12:01 a.m. of the 31st day.

(g) Except as otherwise provided, tariff matter shall be transmitted to the Commission in duplicate, with both copies contained in a single package or envelope and with all postage or delivery charges prepaid.

(h) Tariff matter tendered for filing shall be transmitted to each subscriber to the publishing carrier's tariff by first-class mail, not later than the time the tendered material is transmitted to the Commission.

(1) Copies of individual tariff publications or regular subscriptions to an entire tariff filed pursuant to this part shall be promptly made available to any person requesting the same in writing. Subscriptions to a given tariff shall include all special permission requests which pertain to that tariff. Except as otherwise provided by the rules of this part, carriers may assess a reasonable charge for tariff copies and tariff subscriptions, i.e., not greater than the full cost of reproduction and delivery of the materials in question.

(2) The governor of any state, commonwealth or territory served by a domestic offshore carrier may request a carrier in writing to furnish a designated governmental official or office no more than two (2) copies of any tariff matter filed by the carrier which pertains to trades affecting the state, commonwealth or territory in question. Upon receipt of such a request, the carrier shall promptly provide the designated official or office with the requested copies of its existing tariff(s) and add the official or office to its list of tariff subscribers. No charge shall be made for this service, but such officials and officers shall be treated in the same fashion as paid subscribers in all other respects and are considered tariff subscribers for purposes of this part.

(i) Tariff matter tendered for filing must be accompanied by a letter of transmittal not to exceed 8½ inches by 11 inches in size, which shall:

(1) Fully identify the filing party (i.e., the publishing carrier or its tariff agent) including its name, business address and business telephone;

(2) Fully identify each tariff publication tendered, including the following information in tabular form: Carrier Name, Tariff No., Revision/ Page/Supplement/ No.;

(3) Describe the specific effect of each tariff change implemented by each tariff publication listed in paragraph (i)(2) of this section;

(4) Include or attach such certifications as are required by Part 552 of this chapter.

(5) Certify compliance with the requirements of paragraph (h) of this section; and

(6) Include or attach a delegation of authority from the publishing carrier(s) appointing the tariff filing agent (applicable only if the filing party is a tariff agent and an appropriate delegation of authority is not already on file).

(j) Letters of transmittal shall be tendered in duplicate. One copy will be receipted and returned to the filing party, but only if a self-addressed, stamped envelope is enclosed for that purpose.

(k) No domestic offshore carrier may publish any tariff matter which duplicates or conflicts with any other tariff or tariff provision to which said carrier is a party.

(1)(l) Tariff matter which fails to meet the requirements of the 1916 Act, this part, or an order of the Commission may be rejected after filing. Tariff matter may be rejected for failure of the filing carrier to comply with the provisions of Rule 67 of the Commission's Rules of Practice and Procedure (46 CFR 502.67) and/or Part 552 of this chapter. The filing party shall be notified in writing of the reason for the rejection and one copy of the rejected material will be returned to it.

(2) Rejected tariff material is void and its use is unlawful. The revision number or, in the case of an entire tariff, the series number, of a rejected tariff publication shall not be used again, nor shall the rejected publication be referenced in any subsequent tariff publication as being, or having been, cancelled, amended, or withdrawn. Tariff matter tendered in place of rejected material must bear the notation:

Issued in lieu of (*identify the rejected material*) rejected by the Federal Maritime Commission.

and must cancel any prior publication which the rejected material was originally intended to cancel.

(m) Acceptance of tariff matter does not establish the legality of the rates and practices described therein. The mere filing of a tariff does not excuse the publishing carrier from the obligations of the 1916 Act or this chapter, regardless of whether these obligations preceded or followed the acceptance of the tariff in question.

(n) Tariff matter filed with the Commission shall not be withdrawn by the publishing carrier.

(o) Domestic offshore carriers shall maintain their tariffs in a complete, accessible and usable form and shall keep them available for inspection by any member of the public during ordinary business hours.

(1) There shall be posted at each facility at which a domestic offshore carrier receives freight or passengers for transportation, or at which it employs a general or sales agent, a copy of all of that carrier's tariffs governing transportation to and from the facility in question.

(2) There shall be posted at the principal place of business of a domestic offshore carrier all of the tariffs under which that carrier offers transportation service subject to this part.

(3) Tariff publications shall be posted a minimum of 30 days prior to their effective date unless otherwise provided for by the 1916 Act, the Commission, or this part. Amendments (including supplements) which have been filed, but are not yet effective, shall be posted in a fashion which clearly identifies their prospective nature and shall not physically replace existing tariff matter until said amendments reach their effective date. The maintenance of a presently effective tariff in one binder and all filed, but not yet effective, tariff matter affecting that tariff in a second "proposed tariff changes" binder is recommended. Persons requesting to inspect a carrier's tariffs shall, upon reasonable notice, be provided sufficient instruction or assistance to allow them to ascertain both the present and

proposed rates and practices of the carrier.

(p)(1) Only tariffs of persons engaged in common carriage by water shall be filed. Tariffs shall not contain terms such as "Taken by Special Agreement or Arrangement Only," "Subject to Carrier's Option of Acceptance," or "Carried at Cargo Owner's Risk," which terms (unless accompained by sufficient qualifying language explaining a more limited interpretation) are clearly inconsistent with the legal responsibilities of a common carrier towards the shipping public.

(2) Tariff publications shall not contain rules purporting to limit their liability in a manner not authorized by law;

(3) The tariffs and delegations of authority of a carrier which ceases operations in a trade for more than 30 days (other than seasonal discontinuances as provided by § 550.15) shall be cancelled within 60 days after the cessation of operations.

§550.4 Form and preparation of tariffs.

(a) Tariffs shall be published in loose-leaf form. Pages shall be 8½ by 11 inches in size, and plainly and legibly printed, mimeographed, planographed or otherwise durably reproduced on paper equivalent to, or better than, offset book paper, sub. 100. Pages shall be printed on one side only, using not less than 8-point bold or full face type, except that 6-point type may be used for reference marks, explanations, column headings, or bills of lading. Original typewritten or proof sheets shall not be used for filing or posting.

(b) Tariff matter tendered for filing or used for posting shall not contain erasures or original alterations of any nature.

(c) A margin, without any printing or tariff matter thereon, of not less than three-quarters of an inch is required on the top, bottom, and binding edges of all tariff pages. A similar blank margin of not less than ¼ of an inch is required on the nonbinding edge of all pages.

(d) Tariff matter containing rates will be arranged in an orderly columnar fashion with vertical ruling separating columns of rates, rate bases, and commodity/item descriptions. Horizontal groupings will be done in a manner which clearly defines the rates, terms, conditions, etc., applicable to a given commodity or item with no more than six horizontal lines of type without a page-wide break or horizonal ruling. Exhibit No. 1 following this section demonstrates the required format.

(e) The first page of every tariff shall be the Title Page (see Exhibit No. 2 following § 550.5), and all pages subsequent to the Title Page shall be consecutively numbered, beginning with Page 1. The first edition of a page shall be designated as:

"Original Page No. ——" with subsequent revisions to be designated as "Revised Page No. ——." *(Show Revision No.).*

Revision of individual pages are to be published in a numerically consecutive order. Departures from such consecutive ordering may be accepted for filing on an occasional basis if accompanied by a letter clearly explaining the purpose and need for the deviation.

(f) Each tariff page shall be identified by printing the publishing carrier's name and the applicable FMC tariff designation at the top of the page.

(g) The page number, revision number and effective date of each page shall be printed in the upper right-hand corner of the page.

BILLING CODE 6730-01-M

EXHIBIT NO. 1 — §550.4

CAN MARINE LINES CO. FMC-F No. 1

ORIGINAL/REV	PAGE
Original	105
CANCELS	PAGE

DOMESTIC OFFSHORE FREIGHT TARIFF NO. 1

BETWEEN: UNITED STATES ATLANTIC COAST PORTS NAMED IN ITEM AND: PORTS IN THE COMMONWEALTH OF PUERTO RICO NAMED IN ITEM

EFFECTIVE DATE

CORR NO.

COMMODITY RATES

EXCEPT AS OTHERWISE PROVIDED HEREIN, RATES AND CHARGES ARE IN U.S. DOLLARS AND CENTS AND APPLY PER CUBIC FOOT (CFT.) OR PER 100 LBS (CWT.), WHICHEVER PRODUCES THE GREATER REVENUE. (FOR APPLICATION OF RATES, SEE RULE 1)

COMMODITY DESCRIPTION AND PACKAGING	RATES PER CFT.	RATES PER CWT.	ITEM
SPORTING GOODS, N.O.S.	1.41	4.27	1250
STATIONERY AND SUPPLIES, N.O.S., VIZ:			1260
Up to and including 10,000 pounds per shipment	1.34	4.53	
Over 10,000 pounds per shipment	1.30	4.53	
STRAW ARTICLES, N.O.S.	1.26	-----	1270
STOVES, ELECTRIC OR GAS	1.38	3.94	1280
SYNTHETIC RESINS, N.O.S.			1290
Up to and including 10,000 pounds	1.34	4.19	
Over 10,000 pounds	1.34	3.94	
TANKS, N.O.S. EMPTY	1.28	4.27	1300
TELEPHONE EQUIPMENT AND PARTS, N.O.S.	1.34	4.27	1310
THERMOSTAT METAL, N.O.S.	1.28	3.94	1320
TILES, CERAMIC OR VINYL, ON SKIDS OR IN CARTONS	1.34	4.27	1330
TOOLS, N.O.S.	1.34	4.27	1340
TOYS, N.O.S.	1.27	3.94	1350
TRACTOR PARTS, N.O.S.	1.34	4.45	1360

FOR EXPLANATION OF ABBREVIATIONS, REFERENCE MARKS AND SYMBOLS, SEE PAGE

§ 550.5 Contents of tariffs.

(a) The Title Page of every tariff shall contain the following information (Exhibit No. 2 following this section illustrates the required format):

(1) The operating name of the publishing carrier (or group of carriers) followed by an annotation identifying it as either a non-vessel-operating common carrier (NVOCC) or a vessel operating common carrier (VOCC).

(2) The FMC file number of all 1916 Act, section 15 agreements pertaining to the transportation service offered.

(3) The tariff series and number assigned pursuant to § 550.3(d)(1).

(4) A designation of any tariffs cancelled by the instant tariff (see § 550.12(a)). Cancellation designations shall be printed immediately under the assigned tariff number unless there are so many cancellations as to make this impractical. In such case, the designations of cancelled tariffs shall be shown on an interior page which is referenced on the Title Page in the position where the cancellation designations would otherwise appear.

(5) All ports or points from, to, or between which transportation is offered, or a reference to the interior page where a list of such ports or points can be found. Cities, towns or communities are to be listed, not street addresses.

(6) A description of each type of service offered, e.g., direct (no change of vessel), transshipment, etc.

(7) A description of each type of rate offered, *i.e.*, local, proportional, joint, through, class, commodity, or combinations thereof.

(8) Identification of any governing tariffs or reference to an internal tariff page containing this information (see § 550.14).

(9)(i) An effective date. When a revised Title Page is submitted, the effective date of the original Title Page shall also be shown.

(ii) An expiration notice (when applicable). If the tariff contains provisions which expire at a specific time, the expiration date shall be shown in the tariff items to which it applies and the existence of such an expiration date shall be indicated on the Title Page with a reference to the affected tariff item.

(10) The name, title and mailing address of the filing party.

(11) The operating name of each carrier participating in the tariff and the full address of its principal place of business, or a reference to an internal tariff page containing this information.

(12) A list of all supplements currently applicable to the tariff (see § 550.11).

(b) The body of the tariff shall contain, in the exact order named below, the following information:

(1) A table of contents and a complete index showing the location of all information necessary to accurately determine the complete rates, fares and charges applicable to the services offered by the tariff. Such index will list all such subjects of information alphabetically and show the item or rule numbers as well as the page numbers where they can be found.

(2) An alphabetically arranged list of carriers participating in the tariff by operating name. The full legal name (when different from the operating name) and the full address of its principal place of business shall also be shown for each participating carrier. The FMC numbers of all approved (1916 Act) section 15 agreements applicable to the transportation offered shall appear after the name of each carrier party to the agreement.

(3) A list of the ports or points from, to, or between which service shall be provided.

(4) The full street address of a receiving/disbursing freight station(s) at which cargo is or may be tendered/claimed by shippers using the service.

(5)(i) A single, complete, alphabetically arranged index of all commodities for which rates are published, showing the page or item number where each rate can be found.

(ii) A commodity index may be omitted where commodity rates are published in an alphabetical arrangement and the descriptions employed are sufficiently specific as to require no further breakdown other than that required to delineate different minimums or valuations.

(6)(i) A full explanation of any symbols, reference marks, or abbreviations employed. The following standard symbols and explanations are required for the purposes indicated:

▼ or (R) to denote reductions;

▲ or (A) to denote increases;

▲ or (C) to denote changes resulting in neither increases nor reductions in rates or charges;

● or (X) to denote no change in rate;

□ or (N) to denote reissued matters; and

(D) or (D) to denote deletions.

(ii) The symbols prescribed in paragraph (b)(6)(i) of this section shall not be used for any other purpose nor shall any other symbol be used for the above purposes.

(7) An alphabetical list of other tariff publications which govern the service being offered in any manner (see § 550.14), including their series and number designations.

(8) The rules and regulations affecting the transportation being offered. Specific rules shall be published to govern at least the following matters:

(i) *Application of rates.* A clear and definite statement of all services provided to shippers as being included in the published rates.

(ii) *Effective date.* A clear and definite statement of the time at which tariff changes become applicable to any particular shipment. In the case of joint rates (including those for through intermodal transportation), the rate applicable to any particular cargo movement shall be that rate which is in effect on the day the initiating carrier takes possession of the shipment.

(iii) *Heavy lift practices and charges.*

(iv) *Extra length practices and charges.*

(v) *Minimum bill of lading charges.*

(vi) *Payment of freight charges.* A clear and definite statement of the terms of payment for transportation services rendered, e.g., C.O.D., prepaid only, etc. If credit is extended, the rule must describe the credit terms offered and the conditions under which credit will be extended.

(vii) *Bills of lading.* A specimen copy of any bill of lading, contract of affreightment, or other document evidencing the transportation agreement between carrier and shipper shall be provided, unless a governing bill of lading tariff has been filed pursuant to § 550.14. Such shipping contracts shall indicate that they are subject to the terms and conditions of the carrier's Federal Maritime Commission tariffs and shall not contain provisions which

are more stringent than, or otherwise in conflict with, the terms of such tariffs.

(viii) *Freight forwarder compensation.* A statement of the exact rate or rates, if any, to be paid independent ocean freight forwarders (see also § 510.24(f) of this chapter).

(ix) *Application of surcharges and arbitraries.* A clear and definite statement of the method by which surcharges, arbitraries, or other similar charges are to be applied, e.g., in aggregate, by compounding, etc.

(x) *Minimum quantity rates (alternation of rates).* When two or more rates are applicable to the same commodity, depending upon the quantities shipped, there shall be a tariff rule stating:

When two or more freight rates are named for the carriage of goods of the same description, and the application is dependent upon the quantity of the goods shipped, the charges assessed against the smaller shipment shall not exceed those for any larger quantity.

(xi) *Ad valorem rates.* When an ad valorem rate is published, the exact method of computing the charge and the additional liability, if any, assumed by the carrier in consideration thereof shall be specified.

(xii) *Transshipment service.* When transshipment service is offered pursuant to agreements subject to section 15 of the 1916 Act, any tariff provisions required by the agreement itself or by Part 559 of this chapter shall be stated.

(xiii) *Hazardous cargo.* When rates for explosive, inflammable, corrosive or other dangerous materials are published (or the published rate tariff does not specifically prohibit carriage of such materials), rules governing their carriage shall be clearly stated unless a governing rules tariff has been filed pursuant to § 550.14.

(xiv) *Automobile measurement.* When rates for automobiles are published (or the published rate tariff does not specifically prohibit carriage of automobiles), the basis for applying these rates must be stated in terms of either weight or measurement, but not both. One of the following rules (i.e., (A) or (B)) must be employed in its entirety:

(A) Automobiles shall be rated by measure. The cubic measurement for the five most recent model years will be that prescribed by the manufacturer of the particular make and model as shown on pages ——— to ——— herein. (Alternatively, the carrier may state "as shown in Federal Maritime Commission publication, *Automobile Manufacturers' Measurements.*")

(*1*) Automobiles whose measurements are not shown above, shall be individually measured by the carrier. This fact shall be noted on the bill of lading.

(*2*) Automobiles which, because of additional accessories or equipment, vary in dimensions from the standard measurements shown above, shall be individually measured by the carrier. This fact shall be noted on the bill of lading along with the actual variation (in cubic feet) from the standard measurements.

(B) Automobiles shall be rated by weight. Each vehicle tendered for shipment shall be individually weighed on the carrier's scale. Where the carrier does not possess weighing facilities, the shipper shall have the vehicle weighed by a certified weighmaster and furnish the weighmaster's signed statement to the carrier.

(xv) *Container description.*

(A) When rates or charges for containerized or trailerized cargo are based upon the use of a standard size, type, or capacity container/trailer, or upon the use of specifically identified container/trailers, then the tariff shall state the exact size, type, capacity and identity of the container/trailer upon which said rates are based, and include a conversion formula or table which readily adjusts the rates or charges applicable to other standard container/trailers to those applicable to other container/trailers which might be provided by shippers or consignees or by the carrier itself, except that no conversion formula or table need be included when a tariff expressly precludes carrier and shipper/consignee alike from using nonstandard container/trailers. If referenced by the applicable tariff rule, this information may be set forth in a rate item or in a governing tariff filed pursuant to § 550.14.

(B) For purposes of this subdivision: (*1*) *"Container"* means a demountable freight carrying unit transported on ocean going vessels without wheels attached. (*2*) *"Trailer"* means a wheeled vehicle on or in which freight can be carried, transported by ocean going vessels without removing its wheels. (*3*) *"Capacity"* means the maximum cargo measure or weight available to a shipper using a given container/trailer. (*4*) *"Identity"* means the specific serial number(s) or code marking(s) affixed to the container/trailers of a given carrier.

(xvi) *Overcharge claims.* No tariff in the domestic offshore commerce shall limit the filing of overcharge claims with a carrier for private settlement to a period of less than two years after accrual of the cause of action, nor shall the acceptance of any overcharge claim be conditioned upon the payment of a fee or charge. No tariff in the domestic offshore commerce shall require that overcharge claims based on alleged error in weight, measurement or description of cargo be filed before the cargo has left the custody of the carrier. Tariffs shall contain a rule which states that shippers or consignees may file claims for the refund of freight overcharges resulting from errors in weight, measurement, cargo description or tariff application. This rule shall clearly indicate where and by what method such claims are to be filed with the carrier and shall further advise that such claims may also be filed with the Federal Maritime Commission. At a minimum, tariffs shall contain the following provisions:

(A) Claims seeking the refund of freight overcharges may be filed in the form of a complaint with the Federal Maritime Commission, Washington, D.C. 20573, pursuant to section 22 of the Shipping Act, 1916 (46 U.S.C. app. 821). Such claims must be filed within two years of the date the cause of action accrues.

(B) Claims for freight rate adjustments filed in writing shall be acknowledged by the carrier within twenty days of receipt by written notice to the claimant of the tariff provisions actually applied and claimant's rights under the Shipping Act, 1916.

(9) Additional rules which affect the application of the tariff shall follow immediately the rules specified above and shall be numbered consecutively, commencing with number 17. Special rules affecting particular items, rates or charges shall be expressly referenced in the item, rate or charge affected.

(10) Exceptions to classifications, rules, rates or charges shall be enumerated in the tariff to which they apply. Exceptions to particular items, rates, rules or charges must be set forth within each item, rate, rule or charge affected. General tariff exceptions may be published in a separate rule entitled "Exceptions to the Application of this Tariff."

BILLING CODE 6730-01-M

EXHIBIT NO. 2 — §550.5

[550.5(a)(3)]

[550.4(e)]

[550.5(a)(9)(i)]

FMC-F No. 1
ORIG/REV
ORIGINAL TITLE PAGE
CANCELS
EFFECTIVE DATE
CORRECTION NO.

CAN MARINE LINES CO.

[550.5(a)(1)] (A VESSEL OPERATING COMMON CARRIER)

DOMESTIC OFF-SHORE FREIGHT TARIFF NO. 1

NAMING

[550.5(a)(7)] LOCAL AND PROPORTIONAL COMMODITY RATES

ALSO

GOVERNING RULES, REGULATIONS AND CHARGES

APPLYING ON

GENERAL CARGO

BETWEEN	AND
[550.5(a)(5)] UNITED STATES ATLANTIC COAST PORTS NAMED IN ITEM OF TARIFF	PORTS IN THE COMMONWEALTH OF PUERTO RICO NAMED IN ITEM OF TARIFF
[550.5(a)(6)]	VIA DIRECT SERVICE

[550.5(a)(8)]	FOR REFERENCE TO GOVERNING PUBLICATIONS, SEE ITEM
[550.5(a)(2)]	APPLICABLE AGREEMENTS:
[550.5(a)(12)]	SUPPLEMENTS WHICH CONTAIN ALL CHANGES:
[550.5(a)(11)]	FOR LIST OF PARTICIPATING CARRIERS, SEE ITEM
[550.5(a)(9)(ii)]	FOR LIST OF ITEMS CONTAINING EXPIRATION DATES, SEE RULE
SUBSCRIPTION PRICE FOR TARIFF	
FOR EXPLANATION OF ABBREVIATIONS, REFERENCE MARKS AND SYMBOLS, SEE PAGE	
ISSUED	ORIGINAL TARIFF EFFECTIVE
ISSUED BY: [550.5(a)(10)]	PUBLISHED BY:

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BILLING CODE 6730-01-C

§ 550.6 Statement of rates and charges.

(a) All rates and charges shall be stated in a systematic and straightforward manner. Rates, charges, rules, regulations or classifications shall not be duplicative, conflicting or otherwise ambiguous when compared with items in the same tariff or in any other tariff to which the publishing carrier is a party.

(b) The correct application of rates shall be clearly and definitely stated in terms of an established unit of freight (e.g., per 100 pounds, ton of 2,000 pounds, ton of 2,240 pounds, cubic foot, etc.).

(c) Rates stated as "per barrel" or "per package" shall define the exact type, size and capacity of the package unit entitled to the stated rate. Clearly-worded rules for correctly determining the weights or measurements of such package units shall be included in the tariff.

(d) Rates which vary with the manner in which cargo is packed or delivered for shipment (e.g., loose, crated, palletized) shall include a clear statement governing their application.

(e) Rates published on a "weight or measurement" basis shall state whether the basis producing the greater or the lesser revenue to the carrier shall apply.

(f) Commodity rates shall displace any class rates which would otherwise be applicable. Commodity rates must be specific and shall not apply by implication, or otherwise, to analogous articles.

(g) Commodities and generic commodity groups on which rates are stated shall be listed alphabetically. When item numbers are published alongside commodities in the index, the item number shall be shown with the appropriate commodity wherever the commodity appears in the tariff.

(h) A commodity item may establish rates for several articles without naming them, but only if it references an item or rule in the same tariff (or a governing classfication filed pursuant to § 550.14) which does name the affected commodities.

(i) Rates for or to designated ports may be established by applying an arbitrary or differential charge based upon the rate applicable to a specified "base port", provided that any such arbitrary or differential is clearly defined and its referenced in the rate item affected.

(j) Commodity rates subject to minimum quantity requirements shall include a clear statement of such requirements in the commodity item description to which they apply.

(k)(1) Rates for the transportation of different, separately rated articles in mixed lots where no specific mixture of articles is required ("mixed shipment") shall be established by a general tariff rule which clearly defines such rates and the basis for their application.

(2) Rates for the transportation of different, separately rated articles in specified proportions as a single generic commodity (not "mixed shipments"), shall be established by a general tariff rule which clearly describes the mixture of articles required.

(l) The general tariff rule described in paragraphs (k)(1) and (k)(2) of this section shall require that the composition of the qualifying shipment be shown on the face of the bill of lading governing the movement, except that, if the shipment contains a greater number of different commodities than is required to qualify for the generic rate, the bill of lading description need show the shipment's composition only to the extent necessary to so qualify.

(M) Tariffs purporting to establish project rates shall:

(1) Include an exact description of the project which demonstrates that it is qualified for a "project rate" within the meaning of § 550.2(q);

(2) Include a list of the commodities to be transported under the project rate;

(3) Include a statement of the exact date upon which the project rate will expire;

(4) Include a statement that only proprietary materials actually employed in the project are eligible for the project rate and provide for the use of a bill of lading clause on all project rate cargo which shall state that:

> All materials included in this bill of lading are of a wholly proprietary nature and shall not be resold or otherwise commercially distributed at destination.

(5) Be accompanied by a separate economic justification demonstrating that the project rate will cover the carrier's variable costs and contribute to its fixed expenses; and

(6) Be accompanied by a separate certificate of service reciting the names of all domestic offshore carriers with FMC tariffs for transportation between the project rate ports (if no such carriers exist, then a statement is required to that effect) and stating that said carriers have been simultaneously mailed a copy of the tariff filing (exclusive of economic justification).

(n) Proportional rates must be accompanied by a clear statement of the circumstances under which, and the points between which, they shall apply. When no such statement is provided, a proportional rate shall be available in connection with any other rate to or from the proportional rate point in question.

(o) Tariffs published subject to a governing classification shall not state rates as a percentage of a base rate, but shall publish a specific rate for each class or percentage thereof for which service is proposed.

§ 550.7 [Reserved]

§ 550.8 Tariffs containing provisions for through intermodal transportation.

(a) In addition to the other requirements of this part, tariffs containing rates, charges, rules or regulations for through intermodal transportations shall:

(1) Contain a Title Page stating that the tariff pertains to through intermodal transportation.

(2) List, either on the Title Page or on an interior page referenced on the Title Page, all ports or points to, from and between which the rates apply and the ports through which cargo originating or terminating in such places shall move. Ports or points served shall be described by the name of the city or town which commonly identifies the actual area where freight or passengers are picked up or delivered.

(3) Describe the mode of transportation provided by each participating carrier, i.e., highway, railroad, air, water (FMC), and water (non-FMC).

(4) Contain a rule setting forth the liability and responsibility of each participating carrier, together with a specimen of the bill of lading or other contract of affreightment governing the intermodal service offered.

(5) State all through intermodal rates together with the port-to-port proportional rate collected by the domestic offshore carrier for ocean transportation. The port-to-port proportional rate may be shown either:

(i) In a column adjacent to the column containing the applicable through rate; or

(ii) Directly under the commodity description or the through rate.

(6) Separately state all charges collected by the domestic offshore carrier.

(b)(1) When through intermodal rates are constructed by combining domestic offshore rates with inland rates published in effective Interstate Commerce Commission (ICC) or Civil Aeronautics Board (CAB) tariffs, copies of the actual ICC or CAB tariff material may be incorporated into the required FMC tariff as a separate informational tariff section.

(2) The tariff format requirements of this part shall not apply to ICC and CAB tariff material tendered as a section of a through intermodal tariff, but only if each page thereof is clearly marked to indicate that it is for informational purposes only and if the pages also bear the tariff series and number designations of the FMC tariff to which they belong.

(3) Whenever the ICC or CAB tariff being incorporated is amended, canceled or otherwise altered, the corresponding informational sections of the FMC tariff shall be simultaneously and identically altered.

(c) A memorandum of every agreement or arrangement between a domestic offshore carrier and any other carrier establishing through intermodal transportation, but not subject to prior approval pursuant to section 15 of the 1916 Act, shall be filed concurrently with the filing of any through intermodal transportation tariff based upon such agreement or arrangement.

§ 550.9 Terminal rules, charges and allowances.

(a) All terminal privileges, facilities or services (hereinafter jointly referred to as "terminal services" for purposes of this section) provided to shippers, consignees or passengers shall be fully and completely described in the carrier's tariff, regardless of whether such services result in charges separately assessed and collected as additions to the carrier's basic transportation rate or are simply included within the basic transportation rate without differentiation.

(b) When additional charges are assessed for terminal services provided by the carrier or its agents, the carrier's tariff shall contain an appropriate provision separately stating the exact amount of such charges.

(c) When terminal services are performed or made available by a third party (not the carrier or its agents), and charges for such services are assessed against the account of the cargo or passenger, the carrier's tariff shall contain an appropriate provision advising cargo interests/passengers of this fact. This provision shall describe the terms and conditions under which such services will be made available and performed and specify how and by whom all applicable charges will be collected. Reference to an appropriate terminal tariff or other governing publication shall be sufficient to satisfy the requirements of this paragraph.

(d) When allowances or discounts are paid or otherwise made available to shippers, consignees or passengers in lieu of furnishing a terminal service, the carrier's tariff shall contain an appropriate provision separately stating and fully describing all such allowances or discounts. The exact amount of the allowances or discounts and the terms and conditions under which they are paid shall be included in the required tariff provision.

§ 550.10 Amendments to tariffs.

(a) All changes, additions, or deletions from a tariff shall be known as amendments and shall be filed in the manner prescribed by this section unless otherwise provided by the Commission or this part.

(b) Amendments establishing new or initial rates, or changing rates, fares, charges, rules, or other tariff provisions, which do not constitute a general increase or decrease in rates shall be posted and filed together with any supporting material required by 46 CFR Part 552 of this chapter at least 30 days prior to their effective dates, except that:

(1) Amendments extending actual service to additional ports at rates or fares already in effect for similar service at the ports being added may take effect on the same day they are filed and posted;

(2) Amendments adopting a tariff pursuant to §550.17 may take effect on the same day they are filed and posted;

(3) Amendments completely cancelling a tariff pursuant to § 550.12(a)(2) due to a cessation of all service by the publishing carrier between the ports or points listed in the cancelled tariff, may take effect on the same day they are filed and posted;

(4) Amendments changing only the name or address of the filing party may be filed and posted on not less than one day's notice;

(5)(i) Amendments in terminal rates, charges and provisions over which the carrier has no control may be filed and posted on not less than ten days' notice, but only if the filing occurs within 30 days after the changed terminal practice is actually implemented by the controlling party.

(ii) Amendments in terminal rates, charges and provisions over which the carrier has no control shall be accompanied by a justification statement fully describing the underlying action of a third party not subject to the carrier's control which makes the short notice tariff change necessary.

(iii) If based upon a change in the rates of a terminal operator, amendments in terminal rates, charges and provisions over which the carrier has no control must cite the name, series, and number designation, page number, item number and effective date of the operator's terminal tariff.

(6) Carriers may file and post on not less than one day's notice, amendments establishing additional terminal facilities for loading or discharging cargo at ports or harbors already served, but only if the rates to be charged at such facilities are the same as those currently applicable to comparable facilities of the carrier at the same port or harbor.

(7) Amendments announcing seasonal discontinuance or restoration of service may be filed and posted on not less than ten days' notice. Such amendments shall contain a brief statement announcing the date of discontinuance/restoration and may include no other tariff matter.

(c) Amendments changing rates, fares, charges, rules, or other tariff provisions, which constitute a general increase or decrease in rates, shall be posted and filed together with any supporting material required by Part 552 and § 502.67 of this chapter at least 60 days prior to their effective date.

(d) Amendments shall be made by reprinting the entire page upon which the changed tariff matter will be found. Amended pages shall be designated, in the upper right-hand corner, as revised pages and shall cancel the preceding edition of the same page; e.g., "1st revised page 10 cancels original page 10."

(e) Amendments to existing tariff provisions shall be indicated by the use of the symbols specified in § 550.5(b)(6)(i):

(1) When the same change is made in all, or substantially all, the rates or fares in an entire tariff (or in those printed on a single tariff page), the nature of the change may be indicated in boldface type at the top of the Title Page (or individual tariff page) in substantially the following form:

All rates or fares in this tariff (or supplement or on this page) are increases (reduction), except as otherwise indicated.

(2) When amendments deleting existing tariff matter alter the amount paid by the shipper/consignee, the effect of this change shall be indicated as required by § 550.5(b)(6)(i). In addition, the amendment shall state the provisions, if any, still applicable to the tariff matter affected by the deletion.

(3) When deleted tariff material is republished on a different page, the page from which it is deleted shall contain a specific reference to the page on which the relocated provisions can be found.

(f) Amendments effective upon lesser notice periods than those provided by paragraph (b) of this section (i.e., after

receipt of special permission authority granted by the Commission), shall contain the notation required by § 550.18(i).

(g) If amendments require the addition of pages at the end of a tariff, such pages shall be numbered consecutively with the last existing tariff page and shall be designated as "Original Page —— (insert next following page number)."

§ 550.11 Supplements to tariffs.

(a) A supplement is a particular type of tariff amendment which may be filed to accomplish the following tariff changes only:

(1) General rate changes applicable to all, or substantially all, commodities listed in the tariff;

(2) Transfers of operations or changes in carrier control or name pursuant to § 550.17;

(3) Implementation of a Commission suspension order pursuant to § 550.13(b);

(4) Changes in effective dates affecting an entire tariff;

(5) Cancellations of either an entire tariff or previous supplements to a tariff; partial cancellations of any type are not to be filed as supplements.

(b) No more than one active supplement affecting any given tariff item shall be permitted at any given time; e.g., only one general rate increase supplement may be on file at any one time.

(c) Tariffs shall contain no more than four active supplements.

(d) Supplements shall contain either a list of participating carriers which conforms with § 550.5(b)(2) or a statement that the participating carriers are "as shown in the tariff" or "as shown in tariff amended as follows."

(e) Tariff matter brought forward without change from one supplement to another shall be designated "reissued" and shall show the original effective date and the number of the supplement from which it was reissued.

(f) Supplements shall be numbered consecutively with the first to be issued designated number one: e.g., "Supplement No. 1 to FMC–F No. 3."

(g) The first page of every supplement shall:

(1) Contain the operating name of the publishing carrier as shown on the Title Page of the tariff being amended;

(2) Set out, in the upper right-hand corner and in the following order:

(i) The number of the supplement;

(ii) The series and number of the tariff being amended;

(iii) A statement (if applicable) that the supplement cancels a previous supplement or an entire tariff;

(iv) A statement indicating the numbers of all supplements currently in effect, e.g.:

Supplement No. 5 to FMC–F No. 3 cancels Supplement No. 2 FMC–F No. 3.

Supplements Nos 3, 4, and 5 contain all changes.

(3) Publish, in the upper right-hand corner, an effective date which conforms with §§ 550.10(b) and 550.10(c).

(h) The issuance of a supplement shall require the revision of the Title Page of the tariff being amended (see § 550.5(a)(12)).

(i) Supplements containing more than one page shall be consecutively numbered (with the first page being page number one), shall be bound firmly at the left-hand edge, and may be printed on both sides of the page.

§ 550.12 Cancellation of tariffs.

(a) An entire tariff may be cancelled by:

(1) The issuance of a similar tariff to take its place which contains a cancellation notice printed on the Title Page in accordance with § 550.5(a)(4);

(2) The issuance of a consecutively numbered supplement which contains a cancellation notice printed on its first page in accordance with § 550.11(g)(2)(iii).

(b) Cancellation of an entire tariff automatically cancels all amendments or supplements thereto. Cancellation by supplement is permitted even if the tariff being cancelled contains the maximum number of active supplements allowed by § 550.11(c).

(c) A cancelling publication shall state the tariff(s) applicable to those services, if any, offered under the cancelled tariff which will continue to be offered by the participating carrier(s) and state where these continued services may be found in such tariff(s). If cancellation changes the rates or charges for any continued services, each change shall be indicated on the cancelling publication by the uniform symbols of § 550.5(b)(6)(i).

§ 550.13 Suspension of tariff matter.

(a) The Commission may suspend from use any rate, fare, charge, classification, regulation, or practice for a period of up to 180 days beyond the time it would otherwise have lawfully taken effect.

(b) Upon receipt of an order suspending a tariff publication in whole or in part, the carrier shall immediately post and file a supplement which:

(1) Bears an effective date coinciding with that of the applicable suspension order;

(2) Contains a notice which specifically indicates the suspended portion(s) of the publication;

(3) Contains a notice which specifically states any tariff provisions which remain effective in lieu of the suspended provisions;

(4) Reproduces those portions of the order directed by the Commission to be so published, or, in the absence of such direction, reproduces the suspension order in its entirety.

(c)(1) Neither suspended matter nor matter continued in effect as a result of a suspension, may be amended, deleted or withdrawn except by order or special permission of the Commission, except that a tariff affected by a suspension order may be amended during the suspension period if the amendment does not affect the suspended materials.

(2) All post suspension amendments shall be accompanied by a notation immediately following the cancellation notation (see §§ 550.11(g)(2)(iii) and 550.11(g)(iv)) and which states: "* * * except portions under suspension in Docket No. ——."

(d) If, prior to receiving a suspension order, a carrier files an amendment reissuing, deleting, cancelling or amending any tariff matter named in a subsequent suspension order, the suspension supplement required by paragraph (b) of this section shall specifically cancel from such intervening amendment the reissued, deleted, cancelled or amended material in question.

(e)(1) Should the Commission vacate a suspension order earlier than the date to which the subject tariff publication was originally suspended, the filing carrier may file a vacating supplement stating the date upon which the previously suspended tariff matter will take effect.

(2) Vacating supplements, unless otherwise provided by the Commission, may take effect on one day's notice. Should a carrier elect not to publish a vacating supplement, the suspended provisions will take effect on the date to which they were originally suspended.

(3) Should an order suspending a tariff in its entirety be vacated, the vacating supplement shall contain no tariff material other than the notice of vacating.

(f) Should the Commission subsequently cancel all or any part of a previously suspended tariff publication, the publishing carrier shall effectuate the cancellation by filing upon not less than one day's notice (or such other period as the Commission may specify), a supplement or revised page stating the date upon which such suspended matter was ordered cancelled.

(g) If suspended tariff matter is not cancelled prior to its effective date, it shall take effect automatically and the tariff matter which was continued in effect during the suspension period shall be cancelled automatically.

(h) Suspension, vacating and cancellation supplements issued pursuant to this section may be issued without regard to the requirements of § 550.11.

§ 550.14 Governing tariffs.

(a)(1) When it is impractical to include governing rules (e.g., bills of lading/contracts of affreightment, classifications of freight, equipment registers, hazardous cargo rules and similar lengthy tariff matters) in a single rate tariff, these may be separately published and filed as one or more "rules tariffs."

(2) Governing tariffs may be used only when expressly referenced by name and series/number designation in the governed tariff of rates or fares as prescribed by §§ 550.5(a)(8) and 550.5(b)(7).

(b) Governing tariffs shall conform with all applicable provisions of § 550.5.

(c) A rule or regulation affecting freight rates or passenger fares may appear in only one governing tariff.

(d) A governing tariff containing a classification of commodities shall list all commodities in an orderly manner and a specific rating must be shown in connection with each commodity description employed. Rules applying to the classification must precede the list of commodities and shall be separately numbered. Such a classification is valid only in connection with and to the extent expressly provided for in the rate tariff(s) it governs.

§ 550.15 Tariffs applicable to seasonal transportation service.

Tariffs naming rates, fares or rules applicable to all water routes which are closed to navigation during part of a year shall:

(a) Publish provisions governing the handling of shipments which may arrive at the publishing carrier's facilities after the date service is discontinued, and

(b) Expressly provide for their own expiration at the close of the navigation season, or provide for a discontinuance/restoration of service by the publication, either on the Title Page or by an internal rule referenced on the Title Page, of provisions governing such seasonal discontinuance/restoration.

§ 550.16 Index of tariffs.

(a) Carriers participating in five or more active tariffs, either published in their own names or otherwise, shall publish, post and file an index of such tariffs designated as "FMC–I No. ——." A notice period is not required for tariff indices; they may take effect upon filing.

(b) The Title Page of an Index of Tariffs shall follow the requirements of § 550.5, except that it shall not contain the material required by § 550.5(a) (5), (6), (7), (9), and (11), i.e., scope, statement of service, statement of rate types, effective and expiration date, and list of participating carriers. In addition, the Title Page shall bear the following notation:

> This index contains a list of tariff publications in effect on (show publication date).

(c) The body of an Index of Tariffs shall list the following types of tariffs, as applicable, in the following order: specific commodities tariffs; general commodities tariffs; class tariffs; passenger tariffs; rules tariffs; miscellaneous tariffs.

(d)(1) Each tariff listed in an Index of Tariffs shall be accompanied by the following information, as applicable, arranged in a columnar manner: FMC series and number designation; operating name of publishing carrier; type of service and type of rates offered; and ports or points from, to and between which the tariff applies.

(2) Tariffs of each type named in paragraph (c) of this section shall be arranged in numerical order by FMC series and number designation.

(e)(1) Tariff indices shall be revised to reflect tariff changes within 30 days from the effective date of the addition or cancellation involved, either by filing and posting a supplement or by filing and posting a reissued index.

(2) Supplements to an Index of Tariffs shall be numbered consecutively, shall be arranged in the same order as the index, and shall show additions, modifications and cancellations by reference to the page and item numbers of the changed entries. Each new supplement shall bear the following notation on its Title Page:

> Supplement Nos. —— and —— contain changes in effect on date thereof, or which have been filed to become effective at a later date as shown within.

§ 550.17 Transfer of operations, transfer of control and changes in carrier name.

(a) Whenever a carrier performing an ongoing service pursuant to duly posted and filed tariffs either: sells its common carrier operations to another person; transfers working control of its business to another person; or changes its operating or legal name, the person legally entitled to control the ongoing common carrier operation (the "adopting carrier") shall simultaneously file:

(1) A one-page adoption notice numbered in the adopting carrier's FMC series, which states:

FMC–F (or –P or –G) No. ——

(operating name of adopting carrier)

Adoption Notice

The (operating name of adopting carrier) hereby adopts, ratifies, and makes its own, in every respect and as if the same had been originally filed and posted by it, all freight (or passenger, rules or other) tariffs, notices, divisions, authorities, delegations of authority, or other instruments whatsoever, including supplements or amendments thereto, filed with the Federal Maritime Commission by, or heretofore adopted by, the ——— (operating name of the carrier previously performing the adopted service) prior to ——— (effective date of change in operating control).

Issued by (Issuing Official as per § 550.3(d) of this part).

Effective Date (see § 550.10(2)). [and]

(2)(i) A consecutively numbered, revised Title Page to each tariff being adopted, which contains the following statement;

> Effective *(insert date)*, this tariff became the tariff of *(insert operating name of adopting carrier)* pursuant to its adoption notice published in its Tariff FMC *(insert series and number designation)*.

(ii) The revised Title Pages referred to in paragraph (a)(2)(i) of this section shall be accompanied by a letter of concurrence from an appropriate officer (not a tariff agent) of the previous carrier, stating the full details of the transaction necessitating the adoption, and the previous carrier's concurrence therein.

(b)(1) Tariffs adopted under this section shall be cancelled in their entirety within 90 days and shall not be supplemented or amended subsequent to adoption other than to accomplish said cancellation.

(2) The adopting carrier shall publish replacement tariffs under its own operating name and bearing its own consecutive FMC series and number designation to be effective the date following the last effective day of the cancelled tariff. The new tariff shall provide 30 days' notice of its effective date (see § 550.3(f)), and shall also cancel the adoption notice filed pursuant to paragraph (a) of this section.

(c) Tariffs naming participating carriers shall be amended within 90 days whenever any participating carrier transfers its operations, transfers control of its business, or changes its name, and the adopting carrier continues to participate in the service. The amendment shall delete all references to

the adopted carrier (or old name) and substitute references to the adopting carrier (or new name) in their place. Similarly, all delegations of authority adopted by a new carrier (or affected by a name change) shall be replaced within 90 days by new delegations of authority issued by and numbered in the series of the new carrier. Such amendments shall provide 30 days' notice of their effective date (see § 550.3(f)).

(d) Should a carrier enter receivership, or otherwise come under the control of a trustee, the notices, cancellations and tariffs required by paragraphs (a) and (b) of this section shall be filed in the FMC series of the previous carrier by the receiver or trustee appointed. When the receivership/trusteeship is terminated, the successor to the ongoing common carrier operations (if any) shall also publish all notices, cancellations and tariffs required by paragraphs (a) and (b) of this section.

(e) Adoption of only part of the service extended under a given rate tariff is forbidden. When less than an entire existing operation is transferred to a successor carrier (or new carrier name), all current tariffs must be cancelled or otherwise amended and the successor carrier must file and post its own tariff(s) upon the 30 days' notice required for any new service (see § 550.3(f)).

§ 550.18 Applications for special permission.

(a) Upon a showing of good cause, the Commission may permit rate changes or the issuance of new or initial rates to take effect on short notice, and otherwise waive the requirements of this part.

(1) Special permission requests for authority to correct typographical errors must specify the error involved, include a full statement of the attending circumstances, and be presented with reasonable promptness after issuance of the defective tariff publication.

(2) Other special permission requests shall state the specific rules from which relief is requested, the special circumstances requiring relief, and the beneficial results to be obtained from the requested waiver.

(3) An application for special permission shall be accompanied by a $90 filing fee.

(b) Except upon petition directly to the Commission, special permission authority shall not be granted to:

(1) Allow a carrier to change rates or other tariff provisions on less than full notice for the purpose of meeting competition, where the competitor in question altered its rates/provisions on full notice; or

(2) Modify a formal order of the Commission.

(c) Authority granted by special permission must be used in its entirety and only in the manner set forth in such special permission.

(d) Special permission authority must be applied for by the same person that filed the tariff publication for which special permission is sought.

(e) In addition to the information required by paragraph (a) of this section, an application for special permission shall contain:

(1) An exact copy of the tariff matter the applicant proposes to file, clearly designated as an exhibit to the application, but otherwise in the form required by this part. If the proposed amendment consists of rate changes, all points of origin and destination must be stated in the application if not otherwise included in the exhibit. Tariff series and number destinations (including supplements, if applicable) and all cancellations which would be made must be shown.

(2) The names of carriers known to maintain provisions competitive to those for which the applicant seeks relief and a certification signed by the filing party that all such carriers have been served with a copy of the special permission application. Service by first class mail, postage prepaid, correctly addressed to the intended recipient's principal place of business, and posted no later than the date of filing, is acceptable where personal service is impractical.

(3) The entire application shall be signed and its accuracy sworn to by the filing party at a place within the United States, its commonwealths, territories, or possessions, pursuant to 28 U.S.C. 1746 (Pub. L. 94–550). Immediately following the text of the application and immediately preceding the signature of the filing party, there shall appear the statement:

I declare under penalty of perjury that the foregoing is true and correct. Executed at (insert place of execution)
on (insert date of execution)

(f) Special permission applications (including attachments thereto) shall be filed in duplicate.

(g) Special permission applications shall be filed in substantially complete form at least five working days prior to the effective date of the proposed tariff filing, except that petitions for waiver of this requirement may be granted if they are sworn to in the manner described in paragraph (e)(3) of this section and demonstrate that a genuine emergency justifying a shorter notice period exists.

(h) The Commission may, upon the application of interested persons, or upon its own motion, establish or rescind special permission authorities as it sees fit.

(i) Tariff publications filed pursuant to a grant of special permission shall publish the following notation at the bottom of each page of such publication (at the bottom of the first page only in the case of supplements):

Published under authority of Federal Maritime Commission Special Permission No. ——.

§ 550.19 Special rules for bound tariffs filed pursuant to special permission authority.

(a) Such bound tariffs as may be permitted to be filed by special permission are subject to this section, in addition to those other sections in this part which govern tariff filing generally.

(b) All pages of bound tariffs shall be firmly and permanently fastened together on the left edge by an appropriate binding method. The simple insertion of one or two staples in the binding edge shall not suffice to meet this requirement, but the binding process known as saddle stitching is acceptable.

(c) Section 550.4(a) is waived to the extent it requires bound tariff pages to be printed on only one side.

(d) Section 550.4(g) is waived to the extent it requires an effective date to be published on other than the Title Page of a bound tariff.

(e) Sections 550.5(a) and 550.11 are waived to the extent they require the Title Page of a bound tariff to reflect all supplements either issued or in effect.

(f) Supplements shall be the only method of amending bound tariffs. In addition to the requirements of § 550.11, the following shall apply to bound tariff supplements:

(1) They shall refer specifically to the page and item designation of the tariff/supplement item to be amended;

(2) Amendments to a numbered or otherwise designated item must publish the amended item in its entirety;

(3) Amendments to items shall bear the same designation as the item being amended with a consecutive letter suffix, and shall show the cancellation of the prior item edition, e.g., "Item 10–A, cancels Item 10"; "Item 10–B cancels Item 10–A," etc.

§ 550.91 OMB control assigned pursuant to the Paperwork Reduction Act.

This section displays the control numbers assigned to information collection requirements of the Commission in this part by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1980, Pub. L. 96–511. The Commission intends that

this section comply with the requirements of section 3507(f) of the Paperwork Reduction Act, which requires that agencies display a current control number assigned by the Director of the Office of Management and Budget (OMB) for each agency information collection:

Section	Current OMB control No.
550.3 through 550.6	3072-0005
550.8 through 550.19	3072-0005

PART 552—FINANCIAL REPORTS OF VESSEL OPERATING COMMON CARRIERS BY WATER IN THE DOMESTIC OFFSHORE TRADES

Sec.

552.1 Purpose.
552.2 General requirements.
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552.91 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

Authority: 5 U.S.C. 553; secs. 18(a), 21, and 43 of the Shipping Act, 1916 (46 U.S.C. app. 817(a), 820, 841a); and secs. 1, 2, 3(a), 3(b), 4 and 7 of the Intercoastal Shipping Act, 1933 (46 U.S.C. app. 843, 844, 845, 845a and 847).

§ 552.1 Purpose.

(a) The purpose of this part is to establish methodologies that the Federal Maritime Commission will utilize in evaluating the reasonableness of rates in the domestic offshore trades filed by vessel operating common carriers (VOCCs) subject to the provisions of the Intercoastal Shipping Act, 1933 (46 U.S.C. app. 843, 844, 845, 845(a) and 847) and to provide for the orderly acquisition of data essential to this evaluation. Compliance is mandatory and failure to file the reports required under this part may result in denial of rate increases or rejection of tariff pages implementing rate changes or penalties of up to $100 for each day of such default (46 U.S.C. app. 820(a)).

(b) The methodology employed in each case will depend on the nature of the relevant carrier's operations and financial structure. In evaluating the reasonableness of a VOCC's overall level of rates, the Commission will use return on rate base as its primary standard. However, the Commission may also employ other financial methodologies in order to achieve a fair and reasonable result.

(c) In evaluating the reasonableness of a carrier's rates, the Commission may consider, in addition to the rate of return of the filing carrier, the effect which approval or disapproval of the rates will have on other carriers in the Trade.

(d) The Commission reserves to itself the right to employ other bases for allocation and calculation and to consider other operational factors in any instance where it is deemed necessary to achieve a fair and reasonable result.

§ 552.2 General requirements.

(a) All persons engaged in common carriage via cargo vessels in the domestic offshore trades (except persons engaged in intrastate operations in Alaska and Hawaii) and required by the Intercoastal Shipping Act, 1933, to file tariffs with the Commission, shall execute and file, in duplicate, Statement of Financial and Operating Data (designated as FMC Form No. 377 for tug and barge operators and FMC Form No. 378 for vessel operators) for each domestic offshore trade served, with:

Federal Maritime Commission, Bureau of Tariffs, 1100 L Street, NW., Washington, D.C. 20573

(b) Annual statements under this part shall be filed within 150 days after the close of the carrier's fiscal year and be accompanied by a company-wide balance sheet and income statement having a time period coinciding with that of the annual statements. A specific format is not prescribed for the company-wide statements.

(c)(1) Upon application, the Commission may grant reasonable extensions of the time limit prescribed by this section for filing the statements required by this part, provided that:

(i) The application for extension is received at least 15 days before the statements are due; and

(ii) The application states a specific date on or before which the required statements will be filed.

(2) The mere filing of an application for an extension will not necessarily act as a bar to the imposition of civil penalties for failure to comply with Commission regulations. Even in cases where extensions are granted, the Commission may suspend and investigate rates filed during the extension period.

(d) Upon application, the Commission may relieve a carrier from full compliance with this part and permit it to submit alternative data as the Commission deems acceptable, provided that:

(1) The application shows good cause and is accompanied by the data which the carrier proposes to submit in lieu of the required statements, or a description of that data; and

(2) The Commission finds compliance with this part unnecessary to fulfill its regulatory functions.

(e) Upon application, the Commission shall grant a waiver of the detailed reporting requirements to carriers which have earned gross revenues of $10,000,000 or less for the reporting period in a particular Trade and whose Trade revenues amount to 25 percent or less of the total revenue for the Trade in question. The application for waiver (Exhibit D) must be accompanied by a company-wide balance sheet and income statement. This waiver provision is applicable to annual reporting requirements and to filings of proposed rate changes in accordance with § 552.2(f).

(f) Whenever a carrier files with the Commission an increase in rates which would affect 50 percent or more of the rate items listed in all of its tariffs in a particular Trade, and which increase in rates would result in either: an increase of not less than 3 percent in the carrier's gross revenues in that Trade, or in an increase of less than 3 percent in the carrier's gross revenues in that Trade, but, when aggregated with other rate changes filed during the preceding twelve months which have also resulted in increases of less than 3 percent in the carrier's gross revenues in that Trade, would result in an increase of 9 percent or more in the carrier's gross revenues in that Trade, then such carrier shall simultaneously file in duplicate:

(1) Financial and operating data in support of proposed rate changes as follows:

(i) An *actual* midyear rate base exhibit (Exhibit A–a) and supporting schedules computed for a 12–month period commencing not more than fifteen (15) months prior to the date of filing the proposed rates;

(ii) A *projected* midyear rate base exhibit (exhibit A–p) and supporting schedules computed for a 12–month period commencing on the first day of the month following the date on which the rate changes are proposed to become effective;

(iii) An *actual* income account exhibit (Exhibit B–a) and supporting schedules covering the 12-month period used to calculate rate base in paragraph (f)(1)(i) of this section;

(iv) A *projected* income account exhibit (Exhibit B–p) and supporting schedules for the 12-month period commencing on the first day of the month following the date on which the changed rates are proposed to become effective (taking into account the effect of the proposed rate changes); and,

(v) *Actual* and *projected* rate-of-return exhibits (Exhibits C–a and C–p) coinciding with the time periods covered by the income statements furnished in response to paragraphs (f)(1)(iii) and (f)(1)(iv) of this section.

(2) The work papers described in § 552.4.

(g) If a carrier files proposed rate changes within six (6) months after the end of its fiscal year, it may furnish its annual report under this part for the fiscal year in lieu of the schedules of actual data required in §§ 552.2(f)(1)(i) and 552.2(f)(1)(iii). The requirement to furnish schedules pertaining to future operations under the proposed rate changes would not be affected by this substitution.

(h) When a proposed rate change is filed which does not meet the criteria set forth in § 552.2(f), the following certification shall be submitted simultaneously with the tariff material:

Certification

I, [type or print name of officer] of [name of reporting company] certify, under the penalties of 18 U.S.C. 1001, that the proposed rate increase submitted herewith is not required by § 552.2(f) of 46 CFR Part 552 to be accompanied by the financial and operating data described therein.

Signature: _____
Title: _____
Date: _____

(i) All financial and operating data filed in connection with proposed rate changes shall be made available to interested persons by the carrier upon request.

(j) Where it is necessary to allocate property, revenue (except *Net Passenger* and *Other Voyage* revenue), costs or expenses, the allocation shall be on a direct basis. If this is not practicable, allocation shall be made in the manner prescribed in § 552.6 However, if the gross revenue from *Other Services* does not exceed 5 percent of the total company gross revenue, no allocation of revenue and expense between *Other Services* and the *Service* (see definitions, §§ 552.5(a) and 552.5(b)) is required by this part. Further, if the gross revenue from *Other Cargo* does not exceed 5 percent of the total gross revenue from the *Service*, no allocation of revenue and expense between *Other Cargo* and *The Trade* (see definitions, §§ 552.5(c) and 552.5(e)) is required.

(k) All carriers subject to these filing requirements must comply fully with the instructions outlined in this part for the submission of specified data and with the methods prescribed for its preparation. A carrier may request relief from full compliance in accordance with the provisions of §§ 552.2(d) and 552.2(e). If a carrier has no information to report on a required schedule, it must submit a blank schedule with the word "NONE" printed across its face.

(l) With respect to the annual statements required by this part, all data shown must conform or be reconciled to the figures listed in the balance sheet and income statement filed therewith.

(m) All percentage calculations required by allocations herein shall be carried to two places beyond the decimal point (e.g., 97.54 percent).

(n) Whenever a carrier files an initial tariff, it shall simultaneously file a company-wide balance sheet and income statement together with the data required in Exhibit E. If a carrier is operating in another domestic offshore trade and has already filed the requisite annual data, only the data set forth in Exhibit E will be required.

(o) For the purpose of all reports required under this part, a carrier may employ terminated voyage or period accounting, at its election, and shall identify the method utilized. A carrier may change accounting methods for the purpose of such reports only with the prior written consent of the Commission.

(p) Related company assets employed in the Service shall be reported in the same manner as owned assets. Other intercompany transactions shall be shown net of intercompany profit and reported on the appropriate schedule. Any calculations involving intercompany accounts shall be included in the working papers.

§ 552.3 Certification.

The data required by this part shall be accompanied by a certification by the corporate officer responsible for the maintenance and accuracy of the books of account and financial records of the carrier, stating that:

(a) The books of account have been maintained in accordance with an appropriate system of accounts;

(b) The exhibits and schedules have been prepared from the regularly maintained books and records of the carrier;

(c) The records so maintained conform to, are reconciled to, or represent the actual financial data subject to the annual independent financial audit;

(d) The allocations have been made in accordance with the rules promulgated in this part; and,

(e) The financial and statistical data used are supported by an appropriate information gathering system having proper internal controls which have been tested for accuracy.

§ 552.4 Access to and audit of records.

(a) The carrier shall file with the Commission all work papers, properly cross-referenced and indexed, which were prepared in support of the exhibits and schedules. In addition, the books and records of the carrier and any related company whose financial data is included in any of the exhibits or schedules shall be made available for examination upon request by appropriate Commission personnel. Commission personnel shall be permitted to make copies of these records to the extent they deem necessary.

(b) For all proposed rate changes as described in § 552.2(f), the carrier shall submit a detailed description of the methods employed in projecting revenues.

(c) All exhibits and schedules submitted as part of the filing requirements are to include the work paper reference numbers so that amounts shown can be readily traced to the appropriate work papers.

§ 552.5 Definitions.

For the purpose of this part, the following terms are expressly limited to the definitions listed below:

(a) *"Voyage"* means a completed round trip from port of origin and return to port of origin. A voyage cannot be split to separately reflect outbound and inbound services. However, when a vessel is reassigned to a new United States basing point, then the voyage runs from the old United States port of origin to the new United States port of origin. Should a vessel sail outbound in the Service and then proceed to another service, the voyage will be considered to be terminated upon completion of the offloading of the last cargo in the Service. Carriers which are party to operating differential subsidy contracts may use Maritime Administration commencement and termination guidelines for the purposes of this part.

(1) Voyages generally are considered to be terminated on the completion of the latest occurring event of one of the following:

(i) Crew paid off;

(ii) Discharge of last inbound cargo;

(iii) Completion of repairs (excluding annual overhaul and emergency repairs); or

(iv) Midpoint in time of operations in which cargo is simultaneously on-loaded and off-loaded.

(2) Usually voyage termination will be considered to have happened at noon or midnight of the day on which the determining operation is completed. If a carrier has difficulty in applying this

definition of the word "voyage" to its operations, it may identify the method it uses to determine a voyage and explain the reasons for this alternative definition for the Commission's consideration and approval.

(b) *"The Service"* means those voyages and/or terminal facilities in which cargo subject to the Commission's regulation under Part 550 of this chapter is either carried or handled.

(c) *"The Trade"* means that part of the Service subject to the Commission's regulation under Part 550 of this chapter, more extensively defined below under "Domestic Offshore Trade."

(d) *"Other Services"* means those voyages or terminal facilities other than those in the relevant Service (e.g., a voyage to a foreign port on which no regulated cargo was carried, or a terminal facility in a foreign country).

(e) *"Other Cargo"* means that part of the Service not included in the Trade.

(f) *"Domestic Offshore Trade"* means the carriage of common carrier cargo under the terms of a tariff(s) on file with and regulated by the Commission between any one of the five areas of the Continental United States listed in paragraph (f)(1) of this section and one non-contiguous area of the United States (see paragraph (f)(2) of this section), or between two non-contiguous areas of the United States. Where service is offered to or from two or more areas at the same rates (e.g., Atlantic Coast to Puerto Rico and the Virgin Islands) and listed as such in a single tariff, the carriage of cargo to or from those two or more areas may be treated as one domestic offshore trade for the purposes of this part.

(1) The five areas of the Continental United States are:

(i) North Atlantic (Maine to, but not including, Hatteras, North Carolina);

(ii) South Atlantic (Hatteras, North Carolina to, but not including, Key West, Florida);

(iii) Gulf (Key West, Florida to and including Brownsville, Texas);

(iv) West Coast; and

(v) Great Lakes.

(2) The non-contiguous areas of the United States (including, but not limited to those) to which service is offered under the terms of tariffs on file with the Commission, are:

(i) American Samoa;

(ii) Northern Marianas;

(iii) Guam;

(iv) Johnston Island;

(v) Midway Island;

(vi) Alaska;

(vii) Hawaii;

(ix) U.S. Virgin Islands; and

(x) Wake Island.

(g) *"Cargo Vessel"* means a self-propelled or non-self-propelled vessel which transports cargo, but not including vessels which are authorized to carry more than 12 passengers.

(h) *"Cargo Cube"* means the product of the outside dimensions of a unit of cargo expressed in cubic feet. In computing cargo cube for containerized cargo, the outside dimensions of the container, trailer or other equipment shall be used. The height of equipment moving on wheels shall be measured from the ground to the highest point on the equipment. Empty equipment, such as containers, shall be included in the computation of cargo cube only if it is a revenue-producing unit of cargo. Where an operator finds it more convenient to accumulate such data in terms of twenty-foot equivalent units (TEU's) or metric quantities, these units may be used instead of cargo cube in all instances where cargo cube is cited in this part. Where any of these options are exercised, the operator shall modify the headings on the prescribed reporting forms to indicate the units in which the data is being reported and shall convert the data to TEU's where so provided in the schedules. For purposes of this part, carriers are not required to tape measure each unit (e.g., container, trailer, box, carton). However, the computation of cargo cube must be based upon careful consideration of all evidence available to the carrier, including documents, the opinions of experienced operating personnel, and sample measurements. In calculating the cube of containers, trailers, or other similar equipment, the carrier may assign a standard length, width and height to a given class of equipment, provided that the actual dimensions of each piece of equipment in the class vary no more than a foot from the standard dimensions adopted.

(i) *"Measurement Ton"*—Equals forty (40) cubic feet.

(j) *"Metric Measurement Ton"*—Equals 35.31 cubic feet or 1 cubic meter.

(k) *"Twenty-foot Equivalent Unit (TEU)"*—Equals 1,280 cubic feet, based on the standard 20' x 8' x 8' container.

(l) *"Cargo Cube Relationship"* means the ratio of total cargo cube for all cargo carried in the Trade to total cargo cube for all cargo carried in the Service.

(m) *"Cargo Cube Miles"* means the product of the cargo cube carried between each port of origin and destination, multiplied by the number of nautical miles representing the shortest navigable distance between the two ports as set forth in *Distance Between Ports* (Department of the Navy, Oceanographic Office), *Distance Between United States Ports* (U.S. Department of Commerce, Coast and Geodetic Survey) or, if not listed in either of these publications, as approved by the Commission. Where revenue derived from the carriage of passengers and Other Services is treated as a reduction of costs under § 552.6(c)(2)(iii), the cargo cube, if any, from which such revenue is derived shall be omitted from the cargo-cube mile calculations required herein.

(n) *"Cargo-Cube Mile Relationship"* means the ratio of cargo-cube miles for all cargo carried in the Trade to total cargo-cube miles for all cargo carried in the Service. Because the total of all cargo-cube miles will normally involve a figure of considerable magnitude, the data shall be submitted in terms of thousands of cargo-cube miles. Where the service of the carrier is solely between port pairs in the Trade, and where there are no significant mileage differences between all such port pairs and the ocean rates between all such port pairs are identical, the cargo-cube relationship may be used in lieu of the cargo-cube mile relationship.

(o) *"Vessel Operating Expense"* means:

(1) For carriers required to file Form FMC-378: the total of Direct Vessel, Port, Terminal and Container/Barge Expenses, less Other Revenue.

(2) For carriers required to file Form FMC-377: the total of Direct Vessel and Other Shipping Operations Expenses, less Other Revenue.

(p) *"Vessel Operating Expense Relationship"* means the ratio of total Trade Vessel Operating Expense to total Company Vessel Operating Expense.

(q) *"Related Companies"* means companies or persons that directly or indirectly (through one or more intermediaries) control, or are controlled by, or are under common control with, the reporting carrier. The term "control" shall include actual as well as legal control, whether maintained or exercised through (or by reason of) the circumstances surrounding organizational structure or operation, through (or by) common directors, officers, stockholders, voting trust(s), holding or investment company or companies, or through (or by) any other direct or indirect means, including the power to exercise control.

(r) *"Initial Tariff"* means the first filing of a tariff by a carrier in a specific domestic offshore trade, or the filing of a tariff in a Trade where the carrier does not have an active tariff.

(s) *"Trade Operating Expense"* means the total of all expenses shown on Exhibit B (Income Account), including Federal income taxes.

(t) *"Company Operating Expense"* means the total of all expenses shown on the company-wide income statement, including Federal income taxes.

(u) *"Operating Expense Relationship"* means the ratio of Trade Operating Expense to total Company Operating Expense.

§ 552.6 Forms.

(a) *General.* (1) The submission required by this part shall be submitted in the prescribed format and shall include General Information regarding carrier ownership and stockholders, as well as the following schedules as applicable:

Exhibit A—Rate Base and supporting schedules;
Exhibit B—Income Account and supporting schedules;
Exhibit C—Rate of Return and supporting schedules;
Exhibit D—Application for Waiver; and
Exhibit E—Initial Tariff Filing Supporting Data.

(2) Statements containing the required exhibits and schedules, are described in paragraphs (b), (c), (d), (e) and (f) of this section and are available upon request from the Commission. The required General Information, schedules and exhibits are contained in forms FMC–377 and FMC–378. For carriers required to file form FMC–378, the statements are based on the Uniform System of Accounts for Maritime Carriers prescribed by the Maritime Administration and the Interstate Commerce Commission. For carriers required to file Form FMC–377, the statements are based on the accounts prescribed by the Interstate Commerce Commission for carriers by Inland and Coastal Waterways. The schedules contained in these statements are distinguished from those contained in the Form FMC–378 statements by the suffix "A" (e.g., Schedule A–IV(A)).

(b) *Rate Base (Exhibits A and A(A)).*—(1) *Investment in Vessels (Schedules A–I and A–I(A)).* Each cargo vessel (excluding vessels chartered under leases which are not capitalized in accordance with § 552.6(b)(10)) employed in the Service for which a statement is filed shall be listed by name, showing the original cost to the carrier or to any related company, *plus* the cost of improvements, conversions, and alterations, *less* the cost of any deductions. All additions and deductions made during the period shall be shown on a gross and *pro rata* basis, reflecting the number of days they were applicable during the period. The result of these computations shall be called Adjusted Cost.

(i) The cargo vessels employed in the Service shall be categorized and treated separately as follows:

(A) For those cargo vessels employed exclusively in the Service for the entire period, inclusive of normal periodic lay-ups, the Adjusted Cost shall be included in the total to be allocated to the Trade. If a vessel is permanently withdrawn from the Service during the period and laid-up pending disposition and that vessel has been employed exclusively in the Service for the preceding 12 months, sixty days of the lay-up period may be assigned to the Service. If a vessel is withdrawn from the Service for renovation or converison, and if the carrier certifies that that vessel has been employed exclusively in the Service for the 12-month period immediately prior to withdrawal and will be employed exclusively in the Service for a period of at least 12 months after the renovation or conversion is completed, the Adjusted Cost shall be included in the total to be allocated to the Trade.

(B) For those cargo vessels employed in the Service for less than the entire period, the Adjusted Cost shall be prorated between voyages in the Service and voyages in Other Services. The total number of days of service excludes lay-up days and is therefore likely to be less than the number of days in the reporting period. Lay-up days of vessels in this category will normally be allocated to the respective Services on the same basis used in allocating the Adjusted Cost of such vessels, i.e., active days. However, if one or more of the vessels normally employed in the Service has been diverted temporarily to Other Services in lieu of incurring lay-up expense, no assignment of lay-up time to Other Services is required. That portion of the Adjusted Cost of the vessels not allocated to Other Services shall be included in the total to be allocated to the Trade.

(ii) The total of the adjusted cost of all vessels employed in the Service during the period which has not been allocated to Other Services, as required in § 552.6(b)(1)(i)(B), shall be distributed between Trade and Other Cargo in the cargo-cube mile relationship.

(2) *Accumulated Depreciation—Vessels (Schedules A–II and A–II(A)).* (i) Each cargo vessel (excluding vessels chartered under leases which are not capitalized in accordance with § 552.6(b)(10)) employed in the Service shall be listed separately, showing for each its depreciable life and residual value. For vessels owned the entire year, accumulated depreciation as of the beginning and the end of the year shall be reported and the arithmetic average computed. This amount shall be allocated to the Service and to the Trade in the same proportions as the cost of the vessel was allocated on Schedule A–I or A–I(A). If the depreciable life of any equipment installed on a vessel differs from the depreciation life of the vessel, the cost and the depreciation bases shall be set forth separately.

(ii) For any vessels disposed of during the period, a proportional reduction shall be made in accumulated depreciation corresponding to the similar deduction required by § 552.6(b)(1). The accumulated depreciation upon which the proportional reduction is calculated shall be the average of the accumulated depreciation at the beginning of the year and at date of disposal.

(iii) For any vessels acquired during the period, a proportional addition shall be calculated as one-half of the accumulated depreciation on that vessel at the end of the year.

(3) *Vessel Statistics (Schedules A–III and A–III(A)).* Carriers shall provide vessel statistics as required by Schedule A–III or A–III(A).

(4) *Investment in Other Property and Equipment (Schedules A–IV and A–IV(A)); Accumulated Depreciation Other Property and Equipment (Schedules A–V and A–V(A)).* (i) Actual investment, representing original cost to the carrier or to any related company, in other fixed assets employed in the Service shall be reported as of the beginning of the year. Accumulated depreciation for these assets shall be reported both as of the beginning and as of the end of the year. The arithmetic average of the two amounts shall also be shown and shall be the amount deducted from original cost in determining rate base. Additions and deductions during the period shall also be reported, and the carrier shall report as though all such changes took place at midyear, except for those involving substantial sums, which shall be prorated on a daily basis. Allocation to the Trade shall be based upon the actual use of the specific asset or group of assets within the Trade. For those assets employed in a general capacity, such as office furniture and fixtures, the vessel operating expense relationship shall be employed for allocation purposes. The basis of allocation to the Trade shall be set forth and fully explained.

(ii) With respect to any significant deductions, accumulated depreciation shall be proportionately reduced as required by § 552.6(b)(2)(ii).

(5) *Working Capital (Schedule A–VI).* Working capital for vessel operators shall be determined as average voyage expense. Average voyage expense shall

be calculated on the basis of the actual expenses of operating and maintaining the vessel(s) employed in the Service (excluding lay-up expenses) for a period represented by the average length of time of all voyages (excluding lay-up periods) during the period in which any cargo was carried in the Trade. Expenses for operating and maintaining the vessels employed in the Trade shall include: Direct Vessel Expense, Port Expense, Terminal Expense, Container/Barge Expense, Administrative and General Expense and Interest Expense allocated to the Trade as provided in §§ 552.6(c)(2), 552.6(c)(4) and 552.6(c)(5). For this purpose, if the average voyage, as determined above, is of less than 90 days duration, the expense of hull and machinery insurance and protection and indemnity insurance (accounts 730 and 732, respectively) shall be determined to be 90 days, provided that such allowance for insurance expense shall not, in the aggregate, exceed the total actual insurance expense for the period.

(6) *Working Capital (Schedule A–VI(A)).* Working capital for tug and barge operators shall be determined as the average monthly expense. Average monthly expense shall be equal to one-twelfth of the expense of the carrier during the relevant 12-month period, computed by adding gross Vessel Operating Expense, Administrative and General Expense-Net, Interest Expense, and Inactive Vessel Expense, each as allocated to the Trade, and dividing the total by 12.

(7) *Investment in Other Assets (Schedules A–VII and A–VII(A)); Accumulated Depreciation-Other Assets (Schedules A–VIII and A–VIII(A).* Any other assets claimed by the carrier as components of its rate base shall be set forth separately in a schedule. The basis of allocation to the Trade and computations of percentages employed shall be set forth and fully explained. Where other assets are subject to depreciation, the amount of accumulated depreciation to be subtracted from the original cost in determining the component of rate base shall be the arithmetic average of both the beginning and the end of the year. Capital Construction Funds and other special funds are specifically excluded from rate base.

(8) *Property and Equipment of Related Companies.* Property and equipment of related companies used by the filing carrier in the Trade shall be reported in accordance with §§ 552.6(b)(1), 552.6(b)(2), 552.6(b)(4) and 552.6(b)(7). The cost of such assets shall be that which is recorded on the books of the related company. Where such assets are included in the rate base, the profits or losses from intercompany transactions related to such assets are to be eliminated in accordance with § 552.6(c)(11).

(9) *Capitalization of Interest During Construction (Schedules A–IX and A–IX(A)).* (i) Interest shall be capitalized on all funds (including the carrier's own funds) actually employed in the design, engineering study, performance inspection, construction, reconstruction or reconditioning of a capital asset. Such asset shall be owned in the carrier's name or in the name of any of its related companies. Should a carrier capitalize interest on its assets or those of related companies, it shall produce any information related to these assets upon request of the Commission. Interest on funds expended shall be eligible for capitalization when all of the following conditions and requirements are met:

(A) The construction period is 12 months or greater. The construction period begins when construction work commences on the asset and ends when the asset is ready for use by the carrier. Strike periods during which construction is delayed for 8 or more consecutive days shall not be included in determining whether the 12-month requirement is met; and,

(B) Payments are made on a periodic basis during the period of design and construction.

(ii) Interest shall be calculated starting with the first payment and on each subsequent payment thereafter. The rate employed shall be the average prime rate for the month in which the payment is made, as set forth in the *Federal Reserve Bulletin.*

(iii) A detailed description of the interest calculations shall be submitted for each capital asset included in the rate base of the carrier in the first year of its inclusion. Such description shall be set forth on Schedule A–IX or A–IX(A), "Capitalization of Interest During Construction." Capitalized interest shall be included in the rate base when the asset is included in the rate base, in accordance with § 552.6(b), and in the same allocable amounts as the asset. A schedule shall be provided each time a rate base statement is submitted, setting forth the year in which an interest calculation statement was submitted for each asset which included capitalized construction interest in the rate base.

(iv) The effects of the interest-during construction provisions shall be applicable to all work completed after December 31, 1977.

(10) *Capitalization of Leases (Schedules A–X and A–X(A)).* Leased assets which are capitalized on the carrier's books and which meet the AICPA guidelines for capitalization may also be included in rate base. Schedule A–X or A–X(A), "Capitalization of Leases," shall be submitted setting forth pertinent information relating to the lease and the details of the capitalization calculation. Allocations to the Trade shall follow the requirements of § 552.6(b)(1) *Investment in Vessels,* or § 552.6(b)(4) *Other Property and Equipment.*

(c) *Income Account (Exhibits B and B(A).*—(1) *Operating Revenue (Schedules B–I and B–I(A)).* (i) Revenue allocated to the Trade shall include only revenue earned from the common carriage of cargo in the domestic offshore Trade during the period, except that minor amounts of other cargo may be considered trade cargo in accordance with § 552.2(j). Revenue figures shall be reported in total for the Trade and separately for each of the 15 inbound commodities (listed by tariff descriptions) producing the highest revenues for the inbound portion of the Trade, and for each of the 15 outbound commodities (listed by tariff descriptions) producing the highest revenues for the outbound portion of the Trade. Where fewer than 15 commodities account for at least 90 percent of the total revenue for either the inbound or outbound portion of the Trade, only those commodities need be separately reported. Where the same commodity is carried under several tariff designations having different rates (e.g., potatoes refrigerated, potatoes non-refrigerated, potatoes in bags, potatoes in containers), each of these tariff designations shall be considered as an individual commodity.

(ii) Where the applicable tariff establishes a single freight-all-kinds (FAK) rate for containers that may hold more than one commodity, individual commodity designations shall be disregarded in considering that tariff item for purposes of paragraph (c)(1)(i) of this section.

(2) *Vessel Operating Expense (Schedule B–II).* A vessel operating expense summary for the period in which any cargo was carried in the Service shall be submitted. Allocations to the Trade shall be on the following basis:

(i) For all voyages in the Service, vessel expense shall be allocated to the Trade in the cargo-cube mile or cargo cube relationship, as appropriate. Should any of the elements of vessel expense be directly allocable to specific cargo, such direct allocations shall be made and explained.

(ii) Port, terminal and container/barge expenses shall be assigned directly, to the extent possible, by ports at which incurred, to the Trade and Other Cargo, or otherwise allocated on the basis of cargo cube loaded and discharged at each port.

(iii) Passenger Revenue *less* passenger brokerage, Other Voyage Revenue and Other Shipping Operations Revenues shall be deducted from Vessel Operating Expense. Passenger Revenue—Net and Other Voyage Revenue should be allocated between the Trade and Other Cargo in the cargo-cube mile or cargo-cube relationship, as appropriate. Other Shipping Operations Revenue should be assigned directly, to the extent possible, or otherwise allocated on the basis of cargo cube loaded and discharged at each port. Any direct assignments shall be fully set forth and explained.

(3) *Vessel Operating Expense (Schedule B–IIA).* This schedule shall be submitted by tug and barge operators. where multiple barge units are towed by a single tug, vessel expense shall be allocated on the basis of the cargo-cube relationship.

(4) *Administrative and General Expense (Schedules B–III and B–III(A)).* Administrative and general expenses, *less* agency fees, commissions and brokerage earned, shall be allocated to the Trade using the vessel operating expense relationship. Direct assignments should be made where practical, particularly with respect to advertising expense related to the operation of passenger and combination vessels. Any direct assignment shall be set forth and explained. Charitable contributions shall not be allocated to the Trade. In those instances where a carrier is engaged in other business in addition to shipping, administrative and general expenses (A&G) should be allocated to each business in the ratio of total operating expenses for each business (*less* A&G and income taxes) to total company operating expenses (*less* A&G and income taxes).

(5) *Interest Expense and Debt Payments (Schedules B–IV and B–IV(A)).* This schedule shall set forth the total interest and debt payments, apportioned between principal and interest, short and long-term, on debt and lease obligations. Principal and interest shall be allocated to the Trade in the ratio that Trade rate base *less* working capital bears to company-wide assets *less* current assets. Where related company assets are employed by the filing company, the balance sheet figures on the related company's books for such assets shall be added to the company-wide total in computing the ratio. In those instances where interest expenses are capitalized in accordance with § 552.8(b)(9), a deduction shall be made for the amount so capitalized.

(6) *Inactive Vessel Expense (Schedules B–V and B–V(A)).* Inactive vessel expense shall, in general, be allocated by vessel on the same basis as the investment in such vessel is included in the rate base. Inactive vessel expense applicable to vessels not used in the Service shall be excluded.

(7) *Depreciation and Amortization (Schedules B–VI and B–VI(A)).* Depreciation and amortization of assets included in the rate base shall be allocated on the same bases as are the specific assets.

(8) *Construction-Differential Subsidy Refund (Schedule B–VII).* Construction differential subsidy refunds paid or payable to the Maritime Administration in connection with vessels employed on a part-time basis in the Service and applicable to the period for which a report is being made shall be allocated to the Trade in the ratio that the cargo-cube miles of cargo carried in the Trade bear to the total cargo-cube miles of cargo in the Service. Calculation of expenses incurred due to construction-differential subsidy refunds must be reported on Schedule B–VII.

(9) *Other Income or Expense (Schedules B–VIII and B–VIII(A)).* (i) Any other elements of income or expense, wholly or partially applicable to the Trade, shall be fully explained by a schedule showing details of allocation.

(ii) Operating-differential subsidy refunds under section 605(a) of the Merchant Marine Act, 1936, shall not be allocated to the Trade.

(10) *Provisions for Income Tax.* Federal, State, and other income taxes shall be listed separately. If the company is organized outside the United States, it shall indicate the entity to which it pays income taxes and the rate of tax applicable to its taxable income for the subject year. Federal, State and other income taxes shall be calculated at the statutory rate.

(11) *Related Company Transactions.* Income account transactions with related companies shall be shown net of intercompany profit on the appropriate schedule and allocated to the Trade on the same basis as other items in that schedule.

(d) *Rate of Return (Exhibits C and C(A)).*—(1) *General.* All carriers are required to calculate rate of return on rate base. However, the Commission or individual carriers, at the Commission's discretion, may also employ fixed charges coverage and/or operating ratios.

(2) *Return on Rate Base.* (i) The return on rate base will be computed by *dividing* Trade net income plus interest expense *by* Trade rate base.

(ii) The reasonableness of a carrier's return on rate base will be based on a comparative analysis of the carrier's projected return on rate base with the rate of return on total capital earned by comparable U.S. corporations. This technique, the comparable earnings test, is based on an analysis of the earnings of U.S. corporations over an extended period of time. From these time/series data, the average rate of return earned by U.S. corporations is computed, and, where appropriate, adjusted for current trends in rates of return, the cost of money and relative risk.

(3) *Fixed Charges Coverage Ratio.* (i) The fixed charges coverage ratio shall be computed by *dividing* the total of net income, interest expense, depreciation and amortization expense, and the provision for income taxes as allocated to the Trade *by* the Trade fixed charges. Fixed charges applicable to the Trade are the total of interest expense, principal payments, and capitalized lease obligations;

(ii) In order to evaluate the reasonableness of a carrier's fixed charges coverage ratio, the staff will analyze the debt-coverage ratios for a variety of entities including, but not limited to: (A) public utilities; (B) government-owned corporations; (C) rural electric cooperatives; (D) various municipal enterprises such as airports and hospitals; and (E) various sectors of the transportation industry, including subsidized and unsubsidized ocean carriers. The staff will analyze the subject carrier's debt-coverage ratio in light of the nature of its debt structure (i.e., long term or short term), the overall risk conditions facing the carrier and the market environment within which the carrier is operating.

(4) *Operating Ratio.* (i) The operating ratio will be computed by *dividing* total Trade expenses (adjusted for related company transactions) *by* total Trade revenue.

(ii) The reasonableness of a carrier's operating ratio will be determined by comparing it to the operating ratios of other regulated and non-regulated companies, adjusted for relative risk. In conjunction with the operating ratio, the staff may also consider other financial ratios, such as: (A) Current; (B) leverage; and (C) turnover. The carrier's stability in earnings as compared to that of other firms will also be considered.

(e) *Application for Waiver (Exhibits D and D(A)).* (1) Carriers requesting a waiver of the filing requirement of this part must submit an application (Exhibit

D) and the information required in § 552.2(e).

(2) The data submitted with the application must be certified by the corporate officer responsible for the maintenance and accuracy of the books of account and financial records of the carrier. The certificate shall be notarized and state that the data submitted with the application have been prepared from the regularly maintained books and records of the carrier and that, to the best of the certificant's knowledge, the facts submitted are true and correct.

(f) *Initial Tariff Filing Supporting Data (Exhibits E and E(A)).* (1) Carriers filing initial tariffs as defined in § 552.5(r) shall complete and file Exhibit E and the information required in § 552.2(n).

(2) The data submitted with the filing must be certified by the corporate officer responsible for the maintenance and accuracy of the books of account and financial records of the carrier. The certificate shall be notarized and state that the data have been prepared from the regularly maintained books and records of the carrier and that, to the best of the certificant's knowledge, the facts submitted are true and correct.

§ 552.91 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

This section displays the control numbers assigned to information collection requirements of the Commission in this part by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1980 Pub. L. 96–511. The Commission intends that this section comply with the requirements of section 3507(f) of the Paperwork Reduction Act which requires that agencies display a current control number assigned by the Director of OMB for each agency information collection requirement:

Section	Current OMB Control No.
552.2 (Form FMC–377)	3072–0029
552.2 (Form FMC–378)	3072–0030
552.2 through 552.4	3072–0008
552.6 (Form FMC–377)	3072–0029
552.6 (Form FMC–378)	3072–0030

PART 553—FINANCIAL EXHIBITS AND SCHEDULES OF NON-VESSEL-OPERATING COMMON CARRIERS IN THE DOMESTIC OFFSHORE TRADES

Sec.

553.1 Purpose.
553.2 General requirements.
553.3 Certification.
553.4 Access to and audit of records.
553.5 Definitions.
553.6 Forms.
553.91 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

Authority: 5 U.S.C. 553; secs. 18(a), 21 and 43 of the Shipping Act, 1916 (46 U.S.C. app. 817(a), 820, 841); and secs. 1, 2, 3(a), 3(b), 4 and 7 of the Intercoastal Shipping Act, 1933 (46 U.S.C. app. 843, 844, 845, 845a and 847).

§ 553.1 Purpose.

(a) The purpose of this part is (1) to establish the methodology that the Federal Maritime Commission (Commission) intends to follow in evaluating proposed rate changes in the domestic offshore trades submitted by non-vessel-operating common carriers (NVO's) subject to the provisions of the Intercoastal Shipping Act, 1933, and (2) to provide for the orderly acquisition of the data required for the methodology so established.

(b) The Commission will employ the operating ratio methodolgy when evaluating proposed rate changes by NVO's, except in any instance where, in its opinion, the application of the operating ratio creates an unreasonable result.

(c) Filing of the information is required only in those instances where the Commission institutes an investigation and hearing with respect to proposed rate changes. Compliance in those instances is mandatory and failure to file the required reports may result in penalties of up to $100 for each day of such default (46 U.S.C. app. 820).

§ 553.2 General requirements.

(a) The rules contained herein are those issued by the Commission to meet the specific requirements of the Intercoastal Shipping Act, 1933, as amended, and will be used to evaluate proposed rate changes in the domestic offshore trades. However, the Commission reserves to itself the right to employ other bases for allocation and calculation in any instances where, in its opinion, the application of the rules and regulations prescribed herein create unreasonable results.

(b) Whenever the Commission institutes an investigation and hearing to determine whether or not an increase or decrease in rates which would affect not less than 50 percent of the tariff items of that NVO in a particular Trade, or which would result in an increase or decrease or not less than 3 percent in its gross revenues in that particular Trade, is just and reasonable, the NVO shall file in duplicate, within 30 days of the publication in the **Federal Register** of the order instituting the investigation and hearing, the following:

(1) An *actual* company-wide balance sheet (Exhibit A–a) as of a date not more than three months prior to the date of filing the proposed rates.

(2) An *actual* statement of income (Exhibit B–a) and supporting schedules covering a 12-month period ending the same date as the balance sheet required in subparagraph (1) of this paragraph.

(3) A *projected* statement of income (Exhibit B–p) and supporting schedules for the 12-month period commencing on the first day of the month following the date on which the changed rates are proposed to become effective (taking into account the effect of the proposed changes); and

(4) *Actual* and *projected* operating ratios described in § 553.6(d) coinciding with the time periods covered by the statement of income required in paragraphs (b)(2) and (b)(3) of this section.

(5) A supplementary data exhibit (Exhibit C) described in § 553.6(e) corresponding to the date of the balance sheet furnished in response to paragraph (b)(1) of this section.

(6) The work papers described in § 553.4(b).

(c) Revenue (except Other Revenue) and costs shall be assigned directly whenever possible, otherwise allocation shall be made in the manner prescribed in § 553.6. However, if the gross revenue from Other Operations does not exceed 5 percent of the total company gross revenue, no segregation of revenue and expenses between Other Operations and the Trade (see definitions, § 553.5(b) and 553.5(c)) is required by this part.

(d) All NVO's subject to these requirements must comply in all material respects with the instructions outlined herein, both as to the submission of the specified exhibits and schedules and as to compliance with the methods prescribed for their preparation. If an NVO has nothing to report on a required schedule, it must submit the schedule with the word "NOTE" printed across its face.

(e) All percentage calculations required by allocations herein shall be carried to two places beyond the decimal point, (e.g., 97.54 percent).

§ 553.3 Certification.

The data required by this part shall be accompanied by a certification by the corporate officer responsible for the maintenance and accuracy of the books of account and financial records of the NVO, stating that:

(a) The books of account have been maintained in accordance with an appropriate system of accounts;

(b) The exhibits and schedules have been prepared from the regularly

maintained books and records of the NVO;

(c) The records so maintained conform to, are reconciled to, or represent the actual financial data subject to the annual independent financial audit;

(d) The allocations have been made in accordance with this part; and,

(e) The financial and statistical data used are supported by an appropriate information gathering system having proper internal controls which have been tested for accuracy.

§ 553.4 Access to and audit of records.

(a) Every NVO shall maintain its records and books of account in an orderly and systematic manner. These records must be kept in such manner as to permit the timely preparation of the exhibits and schedules described in § 553.6(a). As a minimum requirement, every NVO shall retain those records necessary to prepare the documents described in § 553.6(a) for a period of 3 years.

(b) Exhibits and schedules submitted as part of this requirement are to include: (1) All work papers, properly cross-referenced and indexed, which were prepared in support of the exhibits and schedules, and (2) a detailed description of the methods employed in projecting revenues.

(c) In addition, the books and records of the NVO and those of any related company whose financial data is included in any of the exhibits or schedules shall be made available upon request for examination by appropriate Commission personnel. Commission personnel shall be permitted to make copies of these records to the extent they deem necessary.

(d) All exhibits and schedules submitted as part of the filing requirements are to include the work paper reference numbers so that amounts shown can be readily traced to the appropriate work paper.

§ 553.5 Definitions.

For the purpose of this part, the following terms are expressly limited to the definitions listed below:

(a) "*The Service*" means all activities and operations of the NVO, including those regulated by the Commission.

(b) "*Other Operations*" means that part of the Service not subject to the Commission's jurisdiction under 46 CFR Part 550, such as cargoes moving in the foreign commerce of the United States or those regulated by the Interstate Commerce Commission.

(c) "*The Trade*" means that part of the Service subject to the Commission's jurisdiction under 46 CFR Part 550, and as defined under "Domestic Offshore Trade" (below).

(d) "*Domestic Offshore Trade*" means the transportation and handling of common carrier cargo under the terms of a tariff(s) on file with and regulated by the Commission between any one of the five areas of the Continental United States listed in paragraph (d)(1) of this section and one non-contiguous area of the United States listed in paragraph (d)(2) of this section or between two non-contiguous areas of the United States. Where service is offered to or from two or more areas at the same rates (e.g., Atlantic Coast to Puerto Rico and the Virgin Islands) and listed as such in a single tariff, the carriage of cargo to or from those two or more areas may be treated as one domestic offshore trade for the purpose of this part.

(1) The five areas of the Continental United States are:

(i) North Atlantic (Maine to, but not including Hatteras, North Carolina);

(ii) South Atlantic (Hatteras, North Carolina to, but not including Key West, Florida);

(iii) Gulf (Key West, Florida to and including Brownsville, Texas);

(iv) West Coast; and

(v) Great Lakes.

(2) The non-contiguous areas of the United States (including, but not limited to those) to which service is offered under the terms of tariffs on file with the Commission are:

(i) American Samoa;

(ii) Northern Marianas;

(iii) Guam;

(iv) Johnston Island;

(v) Midway Island;

(vi) Puerto Rico;

(vii) Alaska;

(viii) Hawaii;

(ix) U.S. Virgin Islands; and

(x) Wake Island.

(e) "*Cargo Cube*" means the product of the outside dimensions of a unit of cargo expressed in cubic feet. In computing cargo cube for containerized cargo, the outside dimensions of the container, trailer or other equipment shall be used. The height of equipment moving on wheels shall be measured from the ground to the highest point on the equipment. Empty equipment, such as containers, shall be included in the computation of cargo cube only if it is a revenue-producing unit of cargo. Where a NVO finds it more convenient to accumulate such data in terms of twenty-foot equivalent units (TEU's) or metric quantities, these units may be used instead of cargo cube in all instances where cargo cube is cited in this part. Where any of these options are exercised, the NVO shall modify the headings on the prescribed reporting forms to indicate the units in which the data is being reported. For purposes of this part, NVOs are not required to tape measure each unit (e.g., container, trailer, box, carton). However, the computation of cargo cube must be developed after careful consideration of all evidence available to the NVO, including loading documents, the opinions of experienced operating personnel, and sample measurements. In calculating the cube of containers, trailers, or other similar equipment, the NVO may assign a standard length, width and height to a given class of equipment, provided that the actual dimensions of each piece of equipment in the class vary no more than a foot from the standard dimensions.

(f) "*Measurement Ton*"—Equals forty (40) cubic feet.

(g) "*Metric Measurement Ton*"—Equals 35.31 cubic feet, based on the standard 20'x8'x8' container.

(h) "*Twenty-foot Equivalent Unit (TEU)*"—Equals 1,280 cubic feet, based on the standard 20'x8'x8' container.

(i) "*Cargo Cube Relationship*" means ratio of total cargo cube for all cargo carried in the Trade to total cargo cube for all cargo carried in the Service.

(j) "*Line-Haul Transportation*" means all transportation of freight on land other than pickup and delivery and local terminal operations. An example of this would be substituted service, i.e., charging the water rates but moving the cargo part of the way by land.

(k) "*Pickup and Delivery*" means the service provided by the NVO, or its agent, of picking up and delivering cargo from or to a shipper's or consignee's place of business or other location designated by the shipper or consignee pursuant to the NVO's tariff(s) on file with the Commission and not subject to regulation by any other regulatory body.

(l) "*Related Company*" means any company or person that directly or indirectly (through one or more intermediaries) controls, or is controlled by, or is under common control with, the reporting NVO. The term "control" shall include actual as well as legal control, whether maintained or exercised through (or by reason of) the circumstances surrounding organizational structure or operation, through (or by) common directors, officers, stockholders, voting trust(s), holding or investment company or companies, or through (or by) any other direct or indirect means, including the power to exercise control.

(m) "*Total Trade Operating Expenses*" means the total amount allocated to the Trade for the following expenses: ocean transportation, line-

haul transportation, pickup and delivery and terminal.

(n) *"Total Company Operating Expenses"* means the company-wide total of the following expenses: ocean transportation, line-haul transportation, pickup and delivery and terminal.

(o) *"Operating Expense Relationship"* means the ratio of total Trade operating expenses to total Company operating expenses.

§ 553.6 Forms.

(a) *General.* (1) The information required by this part shall be submitted in the prescribed format and shall include:

Exhibit A—Balance Sheet;
Exhibit B—Statement of Income and Supporting Schedules;
Exhibit C—Supplementary Data.

(2) The required exhibits and schedules are described in §§ 553.6(b), 553.6(c), 553.6(d) and 553.6(e), and are available upon request from the Director, Bureau of Tariffs, Federal Maritime Commission, Washington, D.C. 20573 (FMC Form 579).

(b) *Balance Sheet (Exhibit A).* The balance sheet shall be prepared from the NVO's books and records in accordance with generally accepted accounting principles and shall be accompanied by the appropriate footnotes.

(c) *Statement of Income (Exhibit B).* (1) A statement of income shall be prepared showing operating results of the Total Company, Other Operations and the Trade.

(2) *Operating Revenue (Schedule B–I).* (i) Revenue allocated to the Trade shall only be revenue earned from the common carriage of cargo in the domestic offshore trade during the period and other revenue as shown on Schedule B–1, except that minor amounts of other cargo may be considered Trade cargo in accordance with § 553.2(c). Revenue figures shall be reported in total for the Trade and separately for each of the 15 outbound and inbound commodities (listed by tariff descriptions) producing the highest revenues for that portion of the voyage. Where fewer than 15 commodities account for at least 90 percent of the total revenue for either the inbound or outbound portion of the voyage, only those commodities need be separately reported. Where the same commodity is carried under several tariff designations having different rates (e.g., potatoes refrigerated, potatoes nonrefrigerated, potatoes in bags, potatoes in containers), each of these tariff designations shall be considered as an individual commodity.

(ii) Where the applicable tariff establishes a single freight-all-kinds (FAK) rate for containers that may hold more than one commodity, individual commodity designations shall be disregarded in considering that tariff items for purposes of paragraph (c)(2)(i) of this section.

(3) *Ocean Transportation Expenses (Schedule B–II).* This schedule shall set forth the number of containers, cubic feet of cargo shipped and amounts paid or owed to each underlying ocean carrier for ocean transportation purchased for the carriage of cargo in Total, for Other Operations and for the Trade.

(4) *Line-Haul Transportation Expenses (Schedule B–III).* This schedule shall set forth the number of cubic feet of cargo carried and amounts paid or owed to motor carriers, railroads or other land carriers for the line-haul transportation of cargo in Total, for Other Operations and for the Trade.

(5) *Pickup and Delivery Expenses (Schedule B–IV).* This schedule shall set forth expenses incurred in the pickup and delivery of cargo in Total, for Other Operations and for the Trade. Assignments to the Trade shall be direct where possible; otherwise, on the cargo cube relationship by location. This schedule shall also set forth the basis under which pickup and delivery charges are assessed for the Trade (e.g., included in base rate or separate charge) and the amount of any charges paid to a related company for pickup and delivery services.

(6) *Terminal Expenses (Schedule B–V).* This schedule shall set forth in detail all expenses incurred in terminal operations for the loading and unloading of containers, the switching and transfer of cargo within the terminal area and any local trucking operations not included in line-haul or pickup and delivery expenses (e.g., between underlying carrier's terminal and the NVO's terminal) in Total, for Other Operations and for the Trade. Assignments to the Trade shall be direct where possible; otherwise, on the cargo cube relationship by location.

(7) *Administrative and General Expenses (Schedule B–VI).* This schedule shall set forth all aministrative and general expenses, including advertising and miscellanous taxes. Depreciation of equipment and amortization of leasehold improvements not assignable to pickup and delivery or terminal expenses shall be included in this schedule. Expenses not directly assigned to the Trade or Other Operations shall be allocated to the Trade on the operating expense relationship. Charitable contributions shall not be allocated to the Trade.

(8) *Other Income or Expense (Schedule B–VII).* Any other elements of income or expense shall be fully explained and supported by B–II "Other Income or Expense". Assignments to the Trade shall be direct where possible; otherwise, on the operating expense relationship. Should this type of assignment appear to be inequitable to either the Trade of Other Operations, a more equitable method shall be employed and the reasons fully explained.

(9) *Provisions for Income Taxes.* Federal, State, and other income taxes shall be listed separately. If the company is organized outside the United States, it shall indicate the entity to which it pays income taxes and the rate of tax applicable to its taxable income for the subject year. Federal, State and other income taxes shall be calculated at the statutory rate.

(10) *Extraordinary Items.* Income or losses of an extraordinary nature shall be set forth and described in an appropriate schedule which is reconcilable to the statement of income. Classification as an extraordinary item shall be in accordance with generally accepted accounting principles. In general, these amounts shall not be assigned or allocated to the Trade.

(11) *Related Company Transportation (Schedule B–VIII).* The net income (loss) after Federal income taxes from transactions in the Service with related companies shall be allocated to the Trade. Such allocations shall be made on the same basis as the specific expense was allocated to the Trade. Income taxes should be assigned to related company transactions based on the statutory tax rate. The methods employed shall be fully explained in Schedule B–VIII, "Related Company Transactions."

(d) *Operating Ratio.* (1) The operating ratio will be computed by *dividing* total Trade expenses (adjusted for related company transactions) *by* total Trade revenue.

(2) The reasonableness of an NVO's operating ratio will be determined by comparing it to the operating ratios of other regulated and non-regulated companies, adjusted for relative risk. In conjunction with the operating ratio, the staff may also consider other financial ratios, such as (i) current, (ii) leverage and (iii) turnover. The NVO's stability in earnings as compared to that of other firms will also be considered.

(e) *Supplementary Data (Exhibit C).* The supplementary data schedule shall set forth information concerning the

identity of and services offered by the NVO. Specific details are set forth in Exhibit D.

§ 553.91 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

This section displays the control numbers assigned to information collection requirements of the Commission in this part by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1980, Pub. L. 96–511. The Commission intends that this section comply with the requirements of section 3507(f) of the Paperwork Reduction Act, which requires that agencies display a current control number assigned by the Director of OMB for each agency information collection requirement:

Section	Current OMB control No.
553.2 (Form FMC–379)	3072–0032
553.2	3072–0031
553.3	3072–0031
553.4	3072–0031
553.6 (Form FMC–379)	3072–0032

PART 555—AUDITS AND AUDITING PROCEDURES IN THE DOMESTIC OFFSHORE TRADES

Sec.
555.1 Purpose.
555.2 Access to records.
555.3 Notice of audit.
555.4 Agents and auditors.
555.5 Confidentiality of information.
555.6 Penalty for disclosure.

Authority: 5 U.S.C. 553; and sec. 43 of the Shipping Act, 1916 (46 U.S.C. app. 841a).

§ 555.1 Purpose.

The purpose of this part is to establish rules governing audits by Federal Maritime Commission auditors of the books and records of carriers engaged in the domestic offshore trades of the United States and who are required to file periodic reports with the Commission pursuant to Part 552 of this Chapter. Such audits are necessary in order that the Commission may discharge its substantive regulatory responsibilities under the Intercoastal Shipping Act, 1933, and section 18(a) of the Shipping Act, 1916, by verifying the required reports.

§ 555.2 Access to records.

The Commission itself, or through duly accredited special agents or auditors, shall at all times have access to all documents, accounts, records, rates, charges, or correspondence used in the preparation of or pertaining to reports filed with the Commission and all underlying working papers (irrespective of by whom prepared) in support of all exhibits and schedules submitted to the Commission, and the Commission or its accredited special agents or auditors shall be permitted to make copies of such records to the extent they deem necessary.

§ 555.3 Notice of audit.

Notice that inspection of a carrier's books and records is desired for the purpose of audit shall be given by the Commission or its duly accredited special agents or auditors, and such inspection shall be at a place and time convenient to the carrier, but such inspection shall not be unduly delayed after reasonable notice is given to the carrier.

§ 555.4 Agents and auditors.

The terms "special agents" or "auditors" shall include any employee of the Commission's Bureau of Tariffs or any other employee of the Commission specifically designated by the Commission or the Director, Bureau of Tariffs.

§ 555.5 Confidentiality of information.

All information obtained by the Commission or its duly accredited special agents or auditors as a result of an inspection or audit carried out pursuant to the provisions of this part shall be withheld from public disclosure and shall be treated as "confidential information" in the files of the Commission; except that any confidential information derived from an inspection or audit may be utilized by the Commission as the basis for a formal proceeding instituted pursuant to section 22 of the Shipping Act, 1916, and/or sections 3 and 4 of the Intercoastal Shipping Act, 1933, and may also be utilized in such a proceeding.

§ 555.6 Penalty for disclosure.

Disclosure of information treated as "confidential" under the provisions of this part will be considered as a violation of Part 500 of this Chapter, which prohibits the misuse by Commission employees of official information obtained through or in connection with Government employment, which information has not been made available to the general public. A violation of Part 500 of this Chapter will result in disciplinary action, ranging from warning to removal. The Commission is of the view that disclosure of such confidential information would also be a violation of 18 U.S.C. 1905, and any disclosure prohibited by the provisions of this part will be referred by the Commission to the Department of Justice for such action as the Department deems appropriate.

Note.—Audits do not fall within the definition of collection of information requests or requirements under the Paperwork Reduction Act. See § 552.91 of this chapter for O.M.B. clearance numbers for reports required to be filed by common carriers in the domestic offshore trades.

PART 558—EXEMPTION OF HUSBANDING AND AGENCY AGREEMENTS UNDER THE SHIPPING ACT, 1916

Subpart A—Husbanding Agreements

Sec.
558.1 Purpose.
558.2 Definition.
558.3 Exemption.
558.4 Termination of approved husbanding agreements.
558.5 Compliance with the filing and approval requirements of section 15.

Subpart B—Agency Agreements

558.10 Purpose and scope.
558.11 Definition.
558.12 Exemption.
558.13 Termination of approved agency agreements.
558.14 Optional section 15 approval.

Authority: 5 U.S.C. 553; and secs. 15, 35 and 43 of the Shipping Act, 1916 (46 U.S.C. app. 814, 833a and 841a).

Subpart A—Husbanding Agreements

§ 558.1 Purpose.

(a) Section 15 of the Shipping Act, 1916 (46 U.S.C. app. 814), requires that certain agreements between common carriers by water and other persons subject to that Act be filed with and approved by the Commission prior to implementation. Section 35 of the 1916 Act, as pertinent in this context, provides that the Commission may by order or rule exempt any class of agreements between persons subject to the Act where it finds that such exemption will not impair effective regulation by the Commission, be unjustly discriminatory, or detrimental to commerce.

(b) In the interest of minimizing unnecessary delay in the implementation of routine husbanding agreements between persons subject to the 1916 Act and to avoid the cost of unnecessary regulation, the Commission is exempting certain husbanding agreements from the filing and approval requirements of section 15.

§ 558.2 Definition.

"Husbanding agreement," as used in this part, means an agreement between a common carrier by water and another person subject to the Shipping Act, 1916, through which the carrier contracts with an agent to handle routine vessel operating activities in port, such as

notifying port officials of vessel arrivals and departures; ordering pilots, tugs, and linehandlers; delivering mail; transmitting reports and requests from the Master to the owner/operators; dealing with passenger and crew matters; and providing similar services related to the above activities. The term does *not* include agreements which provide for the solicitation or booking of cargoes, signing contracts or bills of lading and other related matters, *nor* does it include agreements that prohibit the agent from entering into similar agreements with other carriers.

§ 558.3 Exemption.

Husbanding agreements between persons subject to the 1916 Act are hereby exempted from the filing and approval requirements of section 15. Exempted agreements shall be kept by the parties and shall be available for inspection by the Commission during the term of the agreement and two years thereafter.

§ 558.4 Termination of approved husbanding agreements.

Husbanding agreements which have received section 15 approval shall continue to be approved for the duration of their term or until terminated by the parties.

§ 558.5 Compliance with the filing and approval requirements of section 15.

Notwithstanding the provisions of this part, persons who desire approval of husbanding agreements may continue to submit such agreements to the Commission for section 15 consideration in accordance with ordinary filing procedures.

Subpart B—Agency Agreements

§ 558.10 Purpose and scope.

(a) Section 15 of the Shipping Act, 1916 requires that certain agreements between common carriers by water and other persons subject to that Act be filed with and approved by the Commission prior to implementation. Section 35 of the 1916 Act provides that the Commission, upon application or on its own motion, may by order or rule exempt for the future any class of agreements between persons subject to the Act, or any specified activity of such persons from any requirements of the Act, where it finds that such exemption will not substantially impair effective regulation by the Commission, be unjustly discriminatory, or detrimental to commerce.

(b) In the interests of minimizing unnecessary expense and delay in the implementation of agency agreements between persons subject to the Act, this part provides for the exemption of certain agency agreements from the filing and approval requirements of section 15.

(c) The exemption does not apply to agency agreements: (1) Where a common carrier is to be an agent for a competing carrier in the same trade, or (2) which permit an agency to enter into similar agreements with more than one carrier in a trade.

§ 558.11 Definition.

"Agency agreement," as used in this part, means an agreement between persons subject to the Shipping Act, 1916, which provides for the agent's solicitation and booking of cargoes, and signing contracts of affreightment and bills of lading, on behalf of a common carrier by water. Such an agreement may or may not also include husbanding service functions and other functions incidental to the performance of duties by agents including processing of claims, maintenance of a container equipment inventory control system, collection and remittance of freight and reporting functions.

§ 558.12 Exemption.

Agency agreements between persons subject to the Act except those: (a) Where a common carrier is to be an agent for a competing carrier in the same trade, or (b) which permit an agent to enter into similar agreements with more than one carrier in a trade, are exempted from the filing and approval requirements of section 15. Exempted agreements shall be kept on file by the parties and shall be available for inspection by the Commission during the term of the agreement and two years thereafter.

§ 558.13 Termination of approved agency agreements.

Agency agreements which have received section 15 approval shall continue to be approved for the duration of their term or until terminated by the parties. When such approved agreements are terminated by the parties, such parties shall immediately notify the Commission.

§ 558.14 Optional section 15 approval.

Notwithstanding the provisions of this part, persons who desire approval of agency agreements may continue to submit such agreements to the Commission for section 15 consideration in accordance with ordinary filing procedures.

Note.—In accordance with 44 U.S.C. 3506(c)(5), any information request or requirement in this part is not subject to the requirements of section 3507(f) of the Paperwork Reduction Act, because there are nine or fewer respondents.

PART 559—EXEMPTION OF CERTAIN AGREEMENTS FROM THE REQUIREMENTS OF SECTION 15, SHIPPING ACT, 1916

Sec.

559.1 Statement of policy and purpose.
559.2 Definitions.
559.3 Exemption of agreements.
559.4 Conditions for exemption of transshipment agreements.
559.5 Form of connecting carrier agreements.
559.6 Termination of approved transshipment agreements.
559.7 Optional Section 15 approval.
559.91 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

Authority: 5 U.S.C. 553; and secs. 15, 35 and 43 of the Shipping Act, 1916 (46 U.S.C. app. 814, 833a and 841a).

§ 559.1 Statement of policy and purpose.

(a) Section 35 of the Shipping Act, 1916 (46 U.S.C. app. 833a), provides that the Commission, upon application or on its own motion, may by order or rule exempt for the future any class of agreements between persons subject to the Act, or any specified activity of such persons from any requirement of the Shipping Act, 1916, or the Intercoastal Shipping Act, 1933, where it finds that such exemption will not substantially impair effective regulation by the Federal Maritime Commission, be unjustly discriminatory, or be detrimental to commerce.

(b) Compliance is mandatory and failure to meet these filing requirements will result in the party desiring exemption remaining bound by the approval requirements of section 15 of the Shipping Act, 1916 (46 U.S.C. app. 814).

§ 559.2 Definitions.

For the purposes of this part:

(a) *"Nonexclusive transshipment agreement"* means an agreement between a carrier serving a port of origin and a carrier serving a port of destination to establish a through route between such ports via an intermediate port at which the cargo is transferred, which agreement does not prohibit either carrier from entering into similar agreements with other carriers.

(b) *"Equipment interchange agreement"* means an agreement between two or more common carriers by water for the exchange of empty containers, chassis, empty LASH/SEABEE barges, and related equipment, which provides only for the transportation of the equipment as

required, payment therefor, management of the logistics of transferring, handling and positioning equipment, its use by the receiving carrier, its repair and maintenance, damages thereto, and liability incidental to the interchange of equipment, and no other subject.

(c) *"Joint policing agreement"* means an agreement between or among: two or more individual common carriers by water; two or more associations of common carriers by water each operating pursuant to an approved section 15 agreement; or one or more individual common carriers by water and one or more such associations; which agreement provides that its parties may discuss and agree upon any of the following activities concerning cargo inspection and/or self-policing services:

(1) Negotiations for and employment of such services,

(2) Establishment of rules and procedures relating thereto (including the collection of delinquent freight and other tariff charges),

(3) Allocation of the costs of such services, and

(4) The administration and management of such arrangements.

(d) *"Non-substantive agreement"* means an agreement between common carriers by water, acting individually or through approved agreements, which:

(1) Reflects changes in the:

(i) Name of any geographic locality stated therein;

(ii) Name of the agreement or the name of a party to the agreement;

(iii) Names and/or numbers of any other section 15 agreement, or designated provisions thereof referred to in the agreement;

(iv) Table of contents of an agreement;

(v) Date or amendment number through which agreements state they have been reprinted to incorporate prior revisions thereto or which corrects typographical and grammatical errors in the text of the agreement; or

(vi) Numbers or letters of articles or subarticles of agreements and references thereto in the text;

(2) Reflects changes in the titles or persons or committees designated therein or transfers the functions of such persons or committees to other designated persons or committees or which merely establishes a committee; or

(3) Concerns the procurement, maintenance, or sharing of office facilities, furnishings, equipment, supplies and personnel, including employees and contractors, the allocation and assessment of the costs thereof, or the provisions for the administration and management of such agreements by duly appointed individuals.

(e) *"Credit information agreement"* means an agreement between common carriers by water or their duly appointed representatives which provides only for the collection, compilation and exchange of credit experience information. Under such an agreement, the parties cannot discuss or agree on any matter which is required to be published in a tariff pursuant to the Shipping Act, 1916 or any rule published pursuant thereto.

(f) *"Military household goods agreement"* means an agreement between non-vessel-operating common carriers by water in the domestic offshore commerce of the United States concerning the joint loading of used military household goods and personal effects.

§ 559.3 Exemption of agreements.

(a) Agreements as defined in § 559.2 shall be exempt from the provisions of section 15; provided, (1) In the case of a nonexclusive transshipment agreement, the conditions contained in § 559.4 and the form requirements of § 559.5 are met; and (2) That a nonsubstantive agreement which modifies an agreement which is subject to the requirements of section 15 shall be filed with the Commission for informational purposes only within 30 days of its effective date.

(b) Agreements as defined in § 559.2(e) shall be kept by the parties and shall be available for inspection by the Commission during the term of the agreement and two years thereafter.

§ 559.4 Conditions for exemption of transshipment agreements.

(a) Conference agreements shall be modified, where necessary, to provide for transshipment arrangements within the scope of the applicable conference.

(b) Connecting carrier agreements shall be executed between the parties to the transshipment arrangement in the form set forth in § 559.5 and filed with the Commission for information but not for approval, or one party to the agreement may set forth a memorandum of rates and terms in substantially the same form as that provided below. In such case, the signature of the other carrier is not required. Two (2) copies shall be required for informational purposes.

(c) The applicable tariff or tariffs shall provide:

(1) The through rate;

(2) The routings (origin, transshipment and destination ports); additional charges, if any (i.e., port arbitrary and/or additional transshipment charges); and participating carriers; and

(3) A tariff provision substantially as follows:

The rules, regulations, and rates in this tariff apply to all transshipment arrangements between the publishing carrier or carriers and the participating connecting or feeder carrier. Participating connecting or feeder carriers, parties to transshipment arrangements, have agreed to observe the rules, regulations, rates, and routings established herein as evidenced by a connecting carrier agreement on file with the Commission.

§ 559.5 Form of connecting carrier agreements.

The form of connecting carrier agreement which must be filed with the Commission is as follows:

Connecting Carrier Agreement No. ————

Agreement between ———— (herein referred to as the publishing carrier), and ———— (herein referred to as the connecting carrier).

1. This agreement covers and is restricted to the transportation of

————

(General cargo or specified commodities) under through bills of lading issued by the ———— carrier in the trade from/between ports in ———— to/and ports in ———— with transshipment at ————.

2. The connecting carrier, insofar as its functions under this agreement are concerned, concurs in and shall comply with all the terms, conditions, rates, rules, regulations and transshipment routes of the applicable tariff(s) published by ———— (Carrier); identified as ———— (Tariff name); and filed with the Commission pursuant to section 18(a) of the Shipping Act, 1916.

or

2. The carriers party to this agreement shall comply with all terms, conditions, rates rules and regulations of their respectively applicable tariffs filed with the Commission pursuant to section 18(a) of the Shipping Act, 1916 or section 2 of the Intercoastal Shipping Act, 1933, and identified in paragraph 3 hereunder.

3. The through rate shall be apportioned on the basis of —— percent to the publishing carrier and —— percent to the connecting carrier.[1]

4. The expenses of transshipment of such cargo shall be absorbed on the basis of —— percent by the publishing carrier and —— percent by the connecting carrier.[1]

5. This agreement does not bind any of the parties hereto to transship exclusively with the other.

6. Any party to this agreement may terminate its participation herein by giving thirty (30), sixty (60), or ninety (90) days' written notice to the other. A copy of such

[1] Variable-paragraphs 3 and 4 may be modified or expanded to show more detail or minimum revenue to one party and, in the case of a combination of local rates, paragraph 3 shall identify the tariffs of each party by tariff name.

notice shall be promptly dispatched to the Commission.

7. This agreement shall terminate concurrently with the cancellation of the tariff referred to in clause 2 above, unless such tariff is superseded by a tariff containing the same terms, conditions, rules, and regulations, and transshipment routes as the tariff which it supersedes and cancels.

8. This agreement and/or any modification thereof shall not be effective prior to the effective date of the applicable tariff(s).[2]

9. (Optional) Each carrier will indemnify and hold the other carrier harmless from all expenses and liabilities it may incur which in any way may arise from or be connected with any loss, damage, delay or misdelivery of goods while in the possession or custody of such other carrier under this agreement, except for any such loss, damage, delay or misdelivery which is directly attributable to the neglect or willful misconduct of the other carrier, its agents, servants or employees.

Dated at —— this —— day of ————, 19——.

Publishing Carrier

By ————————————

(Name and title)

Connecting Carrier

By ————————————

(Name and title)

§ 559.6 Termination of approved transshipment agreements.

Approved transshipment agreements now on file with the Commission may be terminated and the transshipment operations continued pursuant to the requirements of this part.

§ 559.7 Optional section 15 approval.

Notwithstanding the provisions of this section, persons who desire approval of agreements otherwise exempt under this part may petition the Commission for section 15 determination in accordance with Part 560 of this chapter.

§ 559.91 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

This section displays the control numbers assigned to information collection requirements of the Commission in this part by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1980, Pub. L. 96–511. The Commission intends that this section comply with the requirements of section 3507(f) of the Paperwork Reduction Act, which requires that agencies display a current control number assigned by the Director of the Office of Management and Budget (OMB) for each agency information collection requirement:

[2] Whenever an agreement supersedes a previously approved agreement, the following sentence shall be added at the end of paragraph 8:

This agreement supersedes approved Federal Maritime Commission Agreement No. ——.

Section	Current OMB control No.
559.3	3072–0039
559.4	3072–0039
559.5	3072–0039

PART 560—FILING OF AGREEMENTS BY COMMON CARRIERS AND OTHER PERSONS SUBJECT TO THE SHIPPING ACT, 1916

Sec.

560.1 Purpose.
560.2 Definitions.
560.3 Filing of agreements.
560.4 Modifications.
560.5 Supporting statements.
560.6 **Federal Register** notice.
560.7 Comments and protests.
560.8 Disposition of agreement approval requests.
560.91 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

Authority: 5 U.S.C. 553; and secs. 15, 21, 22 and 43 of the Shipping Act, 1916 (46 U.S.C. app. 814, 820, 821 and 841a).

§ 560.1 Purpose.

(a) This part establishes procedures for: (1) Filing agreement approval requests pursuant to section 15, Shipping Act, 1916 (46 U.S.C. app. 814), including statements in support thereof; (2) filing comments and protests to such agreements, and reponsive pleadings thereto; and (3) the disposition of agreement approval requests. The purpose of this part is to ensure the fair, orderly and expeditious processing of agreement approval requests.

(b) Adherence with the statute and rules of the Commission is mandatory, and persons operating under agreements without prior Commission approval may be liable to penalties and damages for violations of the antitrust laws of the United States and may be subject to civil penalties of up to $1,000 for each day of such default (46 U.S.C. app. 814) and/or disapproval of agreements.

§ 560.2 Definitions.

For the purposes of the provisions in this part, the following definitions of terms used therein shall apply.

(a) *"Agreement"* means an agreement which is a written document and which reflects an understanding, arrangement, or undertaking, between two or more common carriers by water or other persons subject to the Shipping Act, 1916, which is required by section 15 of the Act to be filed with the Commission. The term "agreement" includes, but is not limited to, the following types:

(1) *Freight conference agreement.* An agreement which is denominated as a "conference" by the parties; or an agreement which will or could reasonably be expected to cause the parties to become a dominant force in the trade covered by the arrangement. Such agreements usually contain provisions for:

(i) The fixing of and adherence to uniform rates, charges, and practices relating to the receipt, carriage, and delivery of cargo for all members;

(ii) The filing in the name of the group of a common tariff or tariffs in which all members participate;

(iii) The appointment of a chairman or secretary to conduct the administrative affairs of the parties;

(iv) Such other matters as the parties may agree upon or as may from time to time be required by statute or by regulations of the Commission.

(2) *Rate agreement.* An agreement which is not, will not be, or cannot reasonably be expected to cause the parties to become a dominant factor in the commerce of the United States in the trade covered by the arrangement. Such agreements usually contain provisions for:

(i) The fixing and adherence to uniform rates, charges, and practices relating to the receipt, carriage, and delivery of cargo, for all members;

(ii) The filing in the name of the group of a common tariff or tariffs in which all members participate;

(iii) Such other matters the parties may agree upon or as may from time to time be required by statute or by regulations of the Commission.

(3) *Pooling agreement.* An agreement which provides for the division of the cargo carryings or earnings and/or losses among the parties in accordance with a fixed formula.

(4) *Joint service agreement.* An agreement which establishes a new and separate line or service to be operated by the parties as a joint venture. The new and separate service fixes its own rates, publishes its own tariffs, issues its own bills of lading, and acts generally as a single carrier.

(5) *Sailing agreement.* An agreement which establishes a schedule of ports which each carrier will serve and the frequency of each carrier's calls at those ports.

(6) *Transshipment agreement.* An agreement between a common carrier of freight by water serving a port of origin and a common carrier of freight by water serving a port of destination to establish a joint through rate in which both carriers participate between such ports.

(7) *Cooperative working agreement.* An agreement which establishes exclusive, preferential, or cooperative

working relationships which are subject to section 15 of the Shipping Act, 1916, but which do not fall precisely within any of the arrangements in paragraphs (a)(1) through (a)(6) of this section.

(b) *"Modification"* means an amendment to an approved agreement.

(c) *"Proponents"* means the parties to an agreement for which section 15 approval has been requested pursuant to this part.

§ 560.3 Filing of agreements.

Agreement approval requests shall be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573. Such requests shall consist of a true copy and 15 additional copies of the agreement and all supporting information. Requests shall also be accompanied by a letter of transmittal which summarizes the agreement's contents, and expressly requests Commission approval pursuant to section 15. The true copy shall be signed by each of the proponents personally or by an authorized representative, and shall show immediately below each signature the name, position, and authority of the signer. Requests for approval which do not meet the requirements of this section shall be rejected within 30 days of receipt.

§ 560.4 Modifications.

(a) A request for approval of an agreement modification shall be filed in accordance with § 560.3 and shall identify the page and paragraph to be amended and restate each such paragraph. The language to be excised should be struck through, but not obliterated, and the substituted language, if any, should be inserted directly following that which is to be excised. The new language should be underscored. If the modification does not completely replace approved provisions, the page or pages on which the proposed amendments will appear should be restated with the proposed amendments underscored and placed in proper sequence on the page.

(b) Whenever an approved agreement shall have been modified three times in the manner described in paragraph (a) of this section, the next succeeding modification shall be accomplished by restating the entire agreement, incorporating all previous modifications, and showing the latest change in the manner required by paragraph (a) of this section.

§ 560.5 Supporting statements.

An agreement submitted for approval may be accompanied by a supporting statement, signed by an authorized representative of the proponents, indicating the reasons which caused the making of the agreement and the results intended to flow from its implementation, or other facts or arguments which support approval. Affidavits or other evidence may be attached to such statements. Supporting statements, including all documents, affidavits or other evidence attached thereto, are public records. No claims of confidentiality will be allowed.

§ 560.6 "Federal Register" notice.

Requests for approval which are not rejected pursuant to § 560.3 shall be noticed in the **Federal Register**. The notice shall include:

(a) A short title for the agreement;

(b) The identity of the proponents;

(c) The Federal Maritime Commission agreement number;

(d) A concise summary of the agreement's contents;

(e) A statement that the agreement and any supporting statement, including all documents, affidavits, or other evidence attached thereto, are available for inspection at the Commission's offices;

(f) The final date for filing protests or comments regarding the agreement; and

(g) The name and address of the filing agent.

§ 560.7 Comments and protests.

(a) A comment is a written statement regarding the approvability of an agreement. Comments have no prescribed form or content and are not limited in any way, except by the time limits provided in the **Federal Register** notice. A written communication regarding the approvability of an agreement, not conforming to the requirements of paragraph (b) of this section, shall be considered a comment. Filing a comment shall not necessarily entitle a person to: (1) Any discussion of the comment in a Commission order disposing of the agreement; (2) the institution of any further Commission proceeding; or (3) participation in any further proceeding which may be instituted.

(b) A protest is a written opposition to the approval of an agreement which complies with the requirements of this paragaph. A protest also constitutes an undertaking by the protestant to actively participate as a party in any further proceeding concerning the agreement, and protestants shall be so named in any Commission hearing order which may be issued. Protests shall:

(1) Identify, with particularity, the reasons why the agreement, or any constitutent part, should be disapproved;

(2) Address the accuracy of any statements and conclusions submitted by the proponents pursuant to § 560.5;

(3) Allege facts which support the arguments made in paragraphs (b)(1) and (b)(2) of this section; and

(4) Specify the source or derivation of the facts alleged pursuant to paragraph (b)(3) of this section.

(c) A copy of all comments and protests filed with the Commission shall be served upon the filing agent identified in § 560.6(g) on the same date they are filed with the Commission. A certificate of service attesting that this requirement has been met shall be attached to the comment or protest.

(d) Within 15 days from the date that comments or protests are due (as specified by the **Federal Register** notice or as subsequently extended by the Commission), the proponents or their authorized representative may file a response to each such comment or protest with service to all persons which have filed comments or protests.

(e) Except as provided in this section and § 560.5, or except, in the case of an unprotested agreement, as the Director, Bureau of Agreements and Trade Monitoring may in his/her discretion initiate, or unless specifically requested in writing by the Commission, with copies to the proponents and persons which have filed protests or comments, no other written or oral communication concerning a pending agreement shall be permitted. Amendments or supplements to documents submitted pursuant to § 560.5 and this section shall be permitted in the discretion of the Commission upon a showing of good cause, except that, in no case shall such permission be granted where the agreement has been scheduled and noticed for an agency meeting pursuant to § 503.82 of this chapter. A change in material fact or in applicable law occurring after the submission of the initial statement, comment or protest will normally constitute good cause. Inquiries as to the status of agreements shall be made to the Secretary of the Federal Maritime Commission.

§ 560.8 Disposition of agreement approval requests.

(a) The Commission shall, by conditional or unconditional orders, approve, disapprove or institute further proceedings regarding agreements filed with it.

(b) Further proceedings regarding an agreement will be instituted when:

(1) The Commission, in its discretion, considers further inquiry advisable;

(2) A protest alleges material facts which, if true and reasonably subject to

proof on the basis of their source and derivation, and arguments advanced, would preclude approval of the agreement, except that no further proceeding will be instituted if the disputed factual issues are resolved by the proponents' acceptance of conditions imposed by a conditional order in accordance with paragraph (c) of this section;

(3) The proponents of an agreement which seemingly contravenes the standards of section 15 properly exercise their right to request a further hearing pursuant to paragraph (d)(2) of this section.

(c) The Commission may issue a conditional order prescribing modifications in the agreement necessary to obtain approval when the agreement: (1) Does or appears to contravene the standards of section 15 unless modified; and (2) if so modified, would be approvable without further proceedings. If conditions imposed by the Commission are met within the time specified by a conditional order, the revised version of the agreement will stand approved from the date of receipt. Notice of such date shall be given to proponents or their representative by the Commission.

(d) Failure to meet conditions imposed by the Commission will result in either: (1) The automatic disapproval of the agreement; or (2) the institution of further proceedings by the Commission either on its own initiative or, where the conditional order found that the agreement was unapprovable, pursuant to a request from proponents. Any such request shall include a detailed recital of the facts that they intend to prove at that hearing, a description of evidence intended to be used to prove those facts, and an explanation as to why the facts sought to be proven support the approval of the agreement. If a finding of unapprovability was made, the conditional order will expressly state the date upon which disapproval would take place.

(e) It is unlawful to carry out the provisions of a conditionally approved or disapproved agreement prior to approval by the Commission in this section.

§ 560.91 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

This section displays the control numbers assigned to information collection requirements of the Commission in this part by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1980, Pub. L. 96-511. The Commission intends that this section comply with the requirements of section 3507(f) of the Paperwork Reduction Act, which requires that agencies display a current control number assigned by the Director of the Office of Management and Budget (OMB) for each agency information collection requirement:

Section	Current OMB control No.
560.3 through 560.5	3072-0040
560.7	3072-0040
560.8	3072-0040

PART 561—TIME FOR FILING CERTAIN AGREEMENTS UNDER THE SHIPPING ACT, 1916

Sec.

561.1 Statement of Policy.
561.2 Time within which modifications and notices of cancellations must be filed.
561.3 Failure to file.

Authority: 5 U.S.C. 533; and secs. 15, 21 and 43 of the Shipping Act, 1916 (46 U.S.C. app. 814, 820 and 841a).

§ 561.1 Statement of policy.

Some approved agreements on file with the Commission contain a provision specifying the date for their termination. In some instances amendments have been filed with the Commission extending the termination date of such agreements only a short time before the agreement was due to expire. It is the responsibility of the Commission to disapprove, cancel or modify, by order, after notice and hearing, any agreement, or modification or cancellation thereof, whether or not previously approved by it, that it finds to be unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or to operate to the detriment of the commerce of the United States, or to be contrary to the public interest, or to be in violation of the Shipping Act, 1916, and to approve all other agreements, modifications, or cancellations. In order to discharge these responsibilities, sufficient time must be allowed for the Commission to comprehensively analyze and consider every agreement, modification and cancellation to determine whether or not it is lawful in the light of the above defined standards. Although the Commission may, from time to time, advise parties to agreements that the agreement is due to expire, parties to agreements cannot rely on Commission notice but are themselves solely responsible for the timely filing of amendments to extend agreements containing termination dates.

§ 561.2 Time within which modifications and notices of cancellations must be filed.

In effectuation of the policy set forth in § 561.1, all modifications and/or notices of cancellations of approved agreements between carriers, or between carriers and other persons subject to the Act, or between other persons subject to the Act, should be filed within the following specified times:

(a) Applications for extension of an approved agreement due to terminate by its own terms, should be filed so that the Commission will receive the application not less than one hundred twenty (120) days prior to the date on which the approved agreement would otherwise terminate.

(b) Modification of an approved agreement, other than as designated in paragraph (a) of this section, should be filed not less than one hundred twenty (120) days prior to the date it is intended that action will begin, change or cease as a result of the provision(s) of the modification.

(c) Notice of cancellation of an approved agreement should be filed not less than sixty (60) days prior to the effective date of cancellation.

§ 561.3 Failure to file.

Failure to file, at least one hundred twenty (120) days in advance of the termination date, an application for the extension of an approved agreement due to terminate by its own terms, could result in the approved agreement terminating prior to Commission action on the filed amendment.

Note.—This part does not contain separate collection of information requests or requirements. See § 560.91 of this chapter for OMB control numbers for the filing of agreements under the Paperwork Reduction Act.

PART 562—CONFERENCE AGREEMENT PROVISIONS RELATING TO CONCERTED ACTIVITIES UNDER THE SHIPPING ACT, 1916

Sec.

562.1 Statement of policy.
562.2 Proposed agreements.
562.3 Filing of minutes.
562.4 Retention of records.
562.91 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

Authority: 5 U.S.C. 553; and secs. 15, 21 and 43 of the Shipping Act, 1916 (46 U.S.C. app. 814, 820 and 841a).

§ 562.1 Statement of policy.

It is the responsibility of the Commission to insure that parties to agreements approved under section 15, Shipping Act, 1916 are at all times

complying with the requirements of that Act and that their operations are not detrimental to the commerce of the United States, contrary to the public interest or otherwise in violation of the Act. In order to discharge properly this responsibility, the Commission must be fully apprised of the manner in which operations are being and will be carried out and must require that meaningful reports on such activities be furnished the Commission. Compliance is mandatory and failure to file the required reports may result in disapproval of agreements or penalties of up to $100 for each day of such default (46 U.S.C. app. 820).

§ 562.2 Proposed agreements.

In effectuation of the policy set forth in § 562.1, all proposed conference agreements, agreements between or among conferences, and agreements whereby the parties are authorized to fix rates (except two-party rate-fixing agreements and except leases, licenses, assignments or other agreements of similar character for the use of marine terminal property or facilities) submitted to the Commission for approval shall contain a provision stating the manner in which the joint business of the parties may be carried out: i.e., full conference meeting, agents' meeting, principals' meeting, owners' meeting, through committees or subcommittees, telephone or oral polls, or through any other procedure by which the business of the joint parties may be conducted. This provision shall also include quorum requirements and the types of vote necessary to take various actions; i.e., majority, two-thirds, three-fourths, majority plus one, unanimous, etc.

§ 562.3 Filing of minutes.

(a) The parties to each approved conference agreement, agreement between or among conferences, or agreements whereby the parties are authorized to fix rates (except two-party rate-fixing agreements and except leases, licenses, assignments or other agreements of similar character for the use of marine terminal property or facilities) shall, through a designated official, file with the Federal Maritime Commission a report of all meetings describing all matters within the scope of the agreement which are discussed or taken up at any such meeting, and shall specify the action taken with respect to each such matter. For the purpose of this part, the term "meeting" shall include any meeting of parties to the agreement, including meetings of their agents, principals, owners, committees or subcommittes of the parties authorized to take final action in behalf of the parties. If the agreement authorizes final action by telephonic or personal polls of the membership, a report describing each matter so considered and the action taken with respect thereto shall be filed with the Commission. These reports need not disclose the identity of parties that propose actions, or the identity of parties that participated in the discussions of any particular matter.

(b) The reports subject to paragraph (a) of this section shall be filed with the Commission within 30 days after such meetings.

(c) The reports subject to paragraph (a) of this section shall be certified as to accuracy and completeness by the Conference Chairman, Secretary or other designated official.

(d) No report need be filed under paragraph (a) of this section with respect to any discussion of or action taken with regard to rates that, if adopted, would be required to be published in the Commodity Rate Section, Class Rate Section or Open Rate Section of the pertinent tariff on file with the Commission. This reporting exemption does not apply to (1) discussions involving general rate policy, general rate changes, the opening or closing of rates or the removal of items from a dual rate system, or (2) discussions involving items, that, if adopted, would be required to be published in other tariff sections as specified in Part 550 of this chapter.

§ 562.4 Retention of records.

(a) A record of the vote on each question voted on shall be retained by the parties for at least 2 years. These records may be retained by a single party to the agreement, or an administrative official of a conference or ratemaking agreement designated for that purpose.

(b) All reports or circulars, in whatever form, distributed to the parties, which relate to matters within the scope of the approved agreement, shall be retained by the parties for at least 2 years. This record may be retained by a single party to the agreement, or an administrative official of a conference or ratemaking agreement designated for that purpose.

§ 562.91 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

This section displays the control numbers assigned to information collection requirements of the Commission in this part by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1980, Pub. L. 96–511. The Commission intends that this section comply with the requirements of section 3507(f) of the Paperwork Reduction Act, which requires that agencies display a current control number assigned by the Director of the Office of Management and Budget (OMB) for each agency information collection requirement:

Section	Current OMB control No.
562.2 through 562.4	3072–0013

PART 564—ADMISSION, WITHDRAWAL AND EXPULSION PROVISIONS OF STEAMSHIP CONFERENCE AGREEMENTS UNDER THE SHIPPING ACT, 1916

Sec.

564.1 Statement of policy.
564.2 Provisions of conference agreements.
564.91 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

Authority: 5 U.S.C. 553; and secs. 15, 21 and 43 of the Shipping Act, 1916 (46 U.S.C. app. 814, 820 and 841a).

§ 564.1 Statement of policy.

(a) Section 15 of the Shipping Act, 1916, provides that no conference agreement shall be approved, nor shall continued approval be permitted for any agreement, which fails to provide reasonable and equal terms and conditions for admission and readmission to conference membership of other qualified carriers in the trade, or fails to provide that any member may withdraw from membership upon reasonable notice without penalty for such withdrawal.

(b) It is the responsibility of the Federal Maritime Commission under the Shipping Act, 1916, to determine that all conference agreements contain reasonable and equal terms and conditions for admission and readmission to conference membership to qualified carriers according to the requirements set forth in paragraph (a) of this section.

(c) Conference agreements that do not comply with this part may be disapproved, cancelled or modified (46 U.S.C. app. 814). Violations of the provisions of this part may also subject the conference members to a civil penalty of up to $1,000 for each violation (46 U.S.C. app. 831(c)).

§ 564.2 Provisions of conference agreements.

In effectuation of the policy set forth in § 564.1, conference agreements shall contain provisions substantially as follows:

(a)(1) Any common carrier by water which has been regularly engaged as a common carrier in the trade covered by this agreement, or who furnishes evidence of ability and intention in good faith to institute and maintain such a common carrier service between ports within the scope of this agreement, and who evidences an ability and intention in good faith to abide by all the terms and conditions of this agreement, may hereafter become a party to this agreement by affixing its signature thereto.

(2) Paragraph (a)(1) of this section will not preclude the conference from imposing legitimate conditions on membership, including but not necessarily limited to, the payment of an admission fee, payment of any outstanding financial obligations arising from prior membership, or the posting of a security bond or deposit. All such conditions must be made expressed terms of the conference agreement, filed with and approved by the Commission pursuant to section 15 of the Shipping Act, 1916.

(b) Every application for membership shall be acted upon promptly.

(c) No carrier which has complied with the conditions set forth in paragraph (a) of this section shall be denied admission or readmission to membership.

(d) Prompt notice of admission to membership shall be furnished to the Federal Maritime Commission and no admission shall be effective prior to the postmark date of such notice.

(e) Advice of any denial of admission to membership, together with a statement of the reasons therefor, shall be furnished promptly to the Federal Maritime Commission.

(f) Any party may withdraw from the conference without penalty by giving at least 30 days' written notice of intention to withdraw to the conference, except that action taken by the conference to compel the payment of outstanding financial obligations by the resigning member shall not be construed as a penalty for withdrawal.

(g) Notice of withdrawal of any party shall be furnished promptly to the Federal Maritime Commission.

(h) No party may be expelled against its will from this conference except for failure to maintain a common carrier service between the ports within the scope of this agreement (said failure to be determined according to the minimum sailing requirements set forth in this agreement) or for failure to abide by all the terms and conditions of this agreement.

(i) No expulsion shall become effective until a detailed statement setting forth the reason or reasons therefor has been furnished the expelled member and a copy of such notification submitted to the Federal Maritime Commission.

§ 564.91 OMB Control numbers assigned pursuant to the Paperwork Reduction Act.

This section displays the control numbers assigned to information collection requirements of the Commission in this part by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1980, Pub. L. 96–511. The Commission intends that this section comply with the requirements of section 3507(f) of the Paperwork Reduction Act, which requires that agencies display a current control number assigned by the Director of the Office of Management and Budget (OMB) for each agency information collection requirement:

Section	Current OMB control No.
564.2	3072–0038

PART 566—SHIPPERS REQUESTS AND COMPLAINTS UNDER THE SHIPPING ACT, 1916

Sec.

566.1 Statement of policy.
566.2 Definition.
566.3 Reports.
566.4 Resident representative.
566.5 Tariff provision.
566.91 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

Authority: 5 U.S.C. 553; and secs. 15, 18(a), 21 and 43 of the Shipping Act, 1916 (46 U.S.C. app. 814, 817(a), 820 and 841a).

§ 566.1 Statement of policy.

(a) Section 15 of the Shipping Act, 1916, provides that the Commission shall disapprove any agreement after notice and hearing on a finding of failure or refusal to adopt and maintain reasonable procedures for promptly and fairly hearing and considering shippers' requests and complaints.

(b) The Commission deems it to be its responsibility to see to it that ratemaking groups operating under approved section 15 agreements have adopted and are maintaining the reasonable procedures referred to in paragraph (a) of this section. This necessitates continuing observation of the manner in which such procedures are implemented.

(c) Compliance is mandatory and failure to file the required reports may result in disapproval of section 15 agreements or penalties of up to $100 for each day of such default (46 U.S.C. app. 820).

§ 566.2 Definition.

The phrase "shippers' requests and complaints," as used in this part, means any communication requesting a change in tariff rates, rules, or regulations; the protesting of, or objecting to, existing tariff rates, rules, or regulations; objecting to rate increases or other tariff changes; and protests against allegedly erroneous billings due to an incorrect commodity classification, incorrect weight or measurement of cargo, or other implementation of the tariff. Routine requests for rate information, sailing schedules, space availability, and the like are not included in the foregoing.

§ 566.3 Reports.

By January 31 of each year, each conference and each other body with rate-fixing authority under an approved agreement shall file with the Commission a report covering all shippers' requests and complaints received during the preceding calendar year or pending at the beginning of such calendar year. All such reports shall include the following information for each request or complaint:

(a) Date request or complaint was received.

(b) Identity of the person or firm submitting the request or complaint.

(c) Nature of request or complaint, i.e., rate reduction, rate establishment, classification, overcharge, undercharge, measurement, etc.

(d) If final action was taken, date and nature thereof.

(e) If final action was not taken, an identification of the request or complaint as "pending."

(f) If denied, the reason.

§ 566.4 Resident representative.

Conferences and other rate-making groups domiciled outside the United States shall designate a resident representative in the United States with whom shippers situated in the United States may lodge their requests and complaints. The resident representative shall maintain for a period of 2 years a complete record of requests and complaints filed with him by shippers and consignees situated in the United States and its territories. Conferences and other rate-making groups subject to this section may satisfy the reporting requirements of § 566.3 by reporting those requests and complaints filed with the resident agent appointed pursuant to the provisions of this section.

§ 566.5 Tariff provision.

Tariffs issued by or on behalf of conferences and other rate-making groups shall contain full instructions as to where and by what method shippers may file their requests and complaints, together with a sample of the rate request form, if one is used, or, in lieu thereof, a statement as to what supporting information is considered necessary for processing the request or complaint through conference channels. All changes made in such instructions shall be published in said tariffs, supplements thereto, or reissues thereof, in accordance with the tariff filing requirements of section 18(a) of the Shipping Act, 1916.

§ 566.91 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

This section displays the control numbers assigned to information collection requirements of the Commission in this part by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1980, Pub. L. 96–511. The Commission intends that this section comply with the requirements of section 3507(f) of the Paperwork Reduction Act, which requires that agencies display a current control number assigned by the Director of the Office of Management and Budget (OMB) for each agency information collection requirement:

Section	Current OMB Control No.
566.3 through 566.5	3072-0007

PART 568—SELF-POLICING REQUIREMENTS FOR AGREEMENTS UNDER THE SHIPPING ACT, 1916

Sec.

568.0 Purpose and scope.
568.1 General requirements.
568.2 Specific requirements: self-policing provisions.
568.3 Policing authorities (minimum requirements).
568.4 Impartial arbitrators (minimum requirements).
568.5 Reporting requirements.
568.6 Two party rate-fixing agreements.
568.7 Exemption from self-policing requirements.
568.8 Factors to be applied to the criteria for obtaining an exemption from self-policing requirements.
568.91 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

Authority: 5 U.S.C. 533; and secs. 14, 15, 16, 17, 18(a), 21, 35 and 43 of the Shipping Act, 1916 (46 U.S.C. app. 812, 814, 815, 816, 817(a), 820, 833a and 841a).

§ 568.0 Purpose and scope.

(a) Section 15 of the Shipping Act, 1916, prohibits the approval of agreements which are not adequately self-policed. It also contemplates that self-policing provisions be included in certain agreements subject to the Shipping Act, 1916, and that the Commission be kept informed of the manner in which such provisions are being implemented. The provisions of this part are designed to establish minimum standards for judging the adequacy of self-policing activities, assist ocean carriers obtain expeditious approval of their section 15 agreements insofar as self-policing is concerned, provide the Commission with reliable information concerning the nature and performance of self-policing systems, and curtail rebating and other malpractices by ocean carriers.

(b) This part shall apply to all conference and other rate-fixing agreements between common carriers by water in the domestic offshore commerce of the United States (hereafter referred to as "agreements"), whether or not previously approved by the Commission.

(c) Compliance is mandatory and failure to file the required reports may result in disapproval of section 15 agreements or penalties of up to $100 for each day of such default (46 U.S.C. app. 820).

§ 568.1 General requirements.

(a) Every agreement shall contain provisions establishing and describing a system for self-policing its members. These provisions shall describe the methods employed and the standards used to investigate, adjudicate, and penalize breaches of the agreement by the common carriers by water signatory thereto (hereafter referred to as "members"), and shall include within their scope the activities of all persons, firms, associations, or corporations that are agents, employees, or affiliates of members, or are otherwise subject to the control of a member, or which themselves control a member, or are commonly controlled by any person, firm, association, or corporation which controls a member (hereafter referred to as "associates").

(b) Self-policing provisions shall establish both a policing authority and an impartial "arbitrator" or "adjudicator" and describe the functions and authority of each entity. The impartial arbitrator shall be functionally separate and distinct from the policing authority.

(c) No self-policing system shall contain provisions which purport to:

(1) Deny access to or copies of any self-policing records, statistics, reports, or other information (including the identity of members) in contravention of a duly issued order of the Federal Maritime Commission (or a Commission employee with delegated authority to issue such orders); or

(2) Preclude any of its members from disclosing the nature and extent of their own involvement with the self-policing authority (e.g., any damages paid by the member) in any administrative or judicial proceeding to enforce the Shipping Act, 1916.

(d) Compliance with this part shall not relieve rate-fixing bodies of their absolute responsibility to adequately police their activities or preclude the Commission from disapproving an agreement when sufficient evidence of rebating or other malpractices exists to warrant a conclusion that the members' self-policing efforts have been inadequate.

§ 568.2 Specific requirements: self-policing provisions.

Agreements shall contain the following self-policing provisions:

(a) *Breaches (general);* A statement that any violation or breach of any provision of the agreement, or any tariff, rule or regulation promulgated thereunder (hereafter referred to as a "breach"), by any member of the agreement (directly or through an associate) shall subject such member to self-policing sanctions;

(b) *Permissible damages.* A statement specifying the maximum damages, or range of damages, or the method of calculating the damages, which may be assessed against members of the agreement upon finding that such members have committed a breach. Such statement may specify damages for specific breaches and a general category of breaches, or both, and may relate to each and every breach, or to the number of times the member has previously been found guilty of a breach;

(c) *Investigation of breaches.* An effective procedure for investigating all matters which are the subject of complaints or which otherwise suggest or allege the existence of breaches;

(1) The procedure shall require the self-policing authority to:

(i) Receive or gather information concerning breaches from any and all sources;

(ii) Make investigations both in response to complaints and upon its own initiative;

(iii) Examine, audit or inspect, upon demand, with or without notice and wherever located: Any books, records,

accounts, invoices, bills of lading or other documents, cargo, containers, ships, property, and facilities owned, used, or transported by any member of the agreement or its associates which may be relevant to the member's participation in the trade, except that examination of particularly identified materials may be postponed for a reasonable period, pending a prompt determination of relevancy by the impartial arbitrator under conditions which assure that the materials in question are sealed or otherwise kept unaltered during the determination period;

(iv) Adopt and publicize procedures for the filing of complaints;

(v) Compile and retain for at least 5 years a complete and thorough record of all its investigatory and prosecutorial activities, including a description of all complaints, the basis, nature and scope of all self-initiated investigations, and the disposition of all investigations.

(2) The procedure shall require all officers, employees, and associates (including officers, employees and controlling owners) of members to cooperate with, and freely provide information to, the policing authority and its agents;

(d) *Adjudication of breaches.* A procedure for adjudicating alleged breaches which affords accused members the right to a hearing before an impartial arbitrator. The impartial arbitrator shall adjudicate such claims solely and finally, either initially or upon review de novo on the record of an initial determination by the policing authority. "Review de novo on the record" requires the impartial arbitrator to have full authority to affirm, modify or set aside any finding of fact, conclusion of law, or penalty made or imposed by the policing authority;

(e) *Procedural guarantees.* A statement that fundamental fairness will be afforded all members accused of committing a breach (hereafter referred to as "the accused"), which includes the following specific procedural guarantees:

(1) The accused shall be charged in writing, within a reasonable time prior to the initial hearing, in a manner which fairly and clearly discloses the nature of the alleged breach. Such charges need not reveal the identity of the complainant;

(2) The accused shall be furnished with all evidence within a reasonable time prior to the initial hearing, in a manner which fairly and clearly discloses the nature of the alleged breach. Such charges need not reveal the identity of the complainant;

(3) The accused shall be given a full and fair opportunity to rebut or explain any evidence introduced against it and to present evidence which might show mitigating or extenuating circumstances;

(4) The impartial adjudicator shall receive and consider only that evidence which has been furnished to the accused by the self-policing authority or has been furnished by the accused in its defense;

(f) *Designated official.* A statement designating a particular officer or official of the rate-fixing body to be responsible for the filing and certifying of self-policing reports with the Commission in accordance with § 568.5.

§ 568.3 Policing authorities (minimum requirements).

(a) Policing authorities shall have an adequate and qualified staff, adequate facilities and an adequate budget.

(b) Policing authorities shall be headed by, and composed of, persons not otherwise employed by, having any financial interest in, or affiliated with, the conference or rate-fixing body established by the agreement or any member or associate thereof, except that:

(1) An individual or entity may act as the policing authority for more than one rate-fixing body;

(2) An independent certified public accountant (referred to hereafter as an ICPA) may act as the policing authority, even though it has a client which is a member of the agreement or an associate of such member, where such relationship is disclosed prior to being named as the policing authority and it is disqualified from acting as the policing authority with respect to the member which is, or whose associate is, a client of the ICPA. If the ICPA named as the policing authority discloses that it has a member of the agreement or an associate of such member as a client, an alternate policing authority must be appointed to receive and investigate any complaints against such member;

(3) Upon petition to the Commission, an exemption may be sought to allow one or more officers or employees of a rate-fixing body to act as the head of, or be assigned to duties under, the policing authority, if such person or persons are not otherwise employed by, affiliated with, or have any interest in, any member or any associate of a member. Petitions for exemption will not be lightly granted and must include a convincing showing that:

(i) The persons conducting self-policing activities are qualified and their self-policing activities would not substantially conflict with their other duties and responsibilities;

(ii) The agreement is so limited in scope that the retention of an independent self-policing authority would impose an unrealistic financial burden on the members. The number of members, the financial condition of the members, the nature and extent of the trade, the competitive circumstances prevailing in the trade, and other activities of the members both within and without the trade (e.g., participation in other agreements) are all relevant considerations;

(iii) The trade covered by the agreement has been relatively free of rebating or other conduct violative of the Shipping Act in the 5 years preceding the year when exemption is sought and is likely to continue to be characterized by a minimal level of such malpractices.

(c) The policing authority of each agreement shall be required to establish reasonable written procedures for the receipt and investigation of complaints which shall be made available to any person upon request. Such procedures may include special provisions for the handling of written complaints and for summary investigation of frivolous or incomplete allegations (whether written or not). These procedures may not, however, require that complaints be in writing or restrict the class of persons entitled to lodge a complaint.

(d) Policing authorities shall be required to investigate all complaints filed in accordance with their established procedures.

(e) Policing authorities shall be required to conduct self-initiated investigations whenever they receive information providing reasonable cause to do so and to periodically conduct self-initiated investigations into the activities of each member. All self-initiated investigations shall include, but not necessarily be limited to, the unannounced inspection of books, records, accounts, shipping documents, invoices, cargo, ships, containers, equipment, and facilities of the member and its associates.

(f) Policing authorities shall compile and retain for at least 5 years a sufficient written record of their activities to demonstrate compliance with this part. This record shall include:

(1) All complaints received (written or oral), the processing or case numbers assigned to each complaint, a description of the steps taken to investigate each complaint (including hearings or arbitration proceedings), copies or summaries of the evidence gathered, and the final disposition of each investigation;

(2) A chronological log summarizing all information (other than complaints) received or gathered which alleges or suggests the existence of a breach and describing the consideration given to this information, including all reports of unintentional cargo misdescriptions and mismeasurements, anonymous tips, and rumors of malpractices;

(3) A description of all self-initiated investigations, the processing or case numbers assigned to each investigation, a description of all investigatory measures employed (including hearings or arbitration proceedings), copies or summaries of the evidence gathered, and the final disposition of each investigation;

(4) A brief statement as to why each investigation was finally disposed of in the particular manner chosen. This statement shall include an exact description of any breach found to have occurred, any decision of the impartial arbitrator and the nature and amount of any penalty assessed and paid.

§ 568.4 Impartial arbitrators (minimum requirements).

(a) The impartial arbitrator shall be a totally disinterested person or entity, unaffiliated with the rate-fixing body or any member or associate thereof, and may be appointed on a permanent basis or selected on an ad hoc basis from a panel of arbitrators pursuant to traditional rules of commercial arbitration.

(b) The impartial arbitrator shall be vested with final authority to adjudicate disputes and assess damages within the scope of the self-policing system.

(c) The impartial arbitrator shall not perform any other duties under the self-policing system with regard to any matter before it for adjudication, including investigation or prosecution.

§ 568.5 Reporting requirements.

(a) Each rate-fixing body shall mail (air mail postage prepaid) or hand deliver a semiannual report to the secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before January 31 and July 31 of each year covering that body's self-policing and adjudicatory activities during the 6-month period immediately preceding the respective reporting month (i.e., January or June).

(b) Each semiannual self-policing report may exclude the identity of all parties to an allegation of breach, investigation or penalty assessment, but shall contain the following detailed information:

(1) The name and address of the self-policing body employed during the reporting period and a complete description of its staff, facilities, and budget, and the name and address of the impartial arbitrator employed during the reporting period and a description of its qualifications;

(2) The date, location (community or port area where inspection occurred) and nature of each examination or inspection (including audits) of cargo, facilities, shipping documents, or office records performed during the reporting period. The type and approximate number of accounts, documents, cargo containers, and other items inspected shall also be stated. Each such inspection shall be correlated to a particular investigation bearing a processing or case number;

(3) The number of cargo misdescriptions or mismeasurements detected by:

(i) The self-policing authority or any division thereof;

(ii) Any other organization retained by the rate-fixing body to make misrating determinations and regularly report them to the self-policing authority. When such a separate "misrating committee" or similar organization is employed by a rate-fixing body, the self-policing report shall also identify that organization by name and address, and provide a thorough description of its staffing (including other affiliations with the conference or its members), authority and routine activities, and describe the procedures by which it reports its findings to the self-policing authority;

(4) The number of breaches of the agreement (other than unintentional cargo misdescriptions and mismeasurements) which were detected through the investigation of complaints;

(5) The number of breaches of the agreement (other than unintentional cargo misdescriptions and mismeasurements) which were detected by self-initiated investigations.

(6) A thorough summary of the basis, nature, and scope of each investigation commenced during the reporting period, including any hearings or arbitration proceedings. Each investigation shall be identified by a processing number and the summary shall indicate whether the investigation was initiated by complaint or upon the initiative of the self-policing authority;

(7) A list of information received or gathered during the reporting period alleging or suggesting the existence of a breach, but which was not made the subject of an investigation;

(8) A list (by processing number) of investigations commenced in previous reporting periods and still pending, and a description of the action taken with respect to each during the reporting period (including hearings and arbitration proceedings);

(9) A list and description (by processing number) of all final actions taken with respect to investigations of any type. An action is not "final" unless:

(i) The investigation revealed insufficient evidence to establish a breach; or

(ii) The accused was assessed damages, either based on a voluntary settlement or a decision rendered by the policing authority or the impartial arbitrator.

(10) When a final action involves an assessment of penalties, the report shall also include:

(i) A detailed description of the alleged or adjudicated breach, the amount or type of penalty assessed, and whether the assessment was met;

(ii) A list of all other breaches (other than unintentional cargo misdescriptions and mismeasurements) committed by the member during the period subsequent to the effective date of this part, but not greater than 3 years prior to the final action in question.

(c) The report shall clearly indicate those final actions handled by the policing authority and those matters, including rulings on the relevancy of documents or things sought to be examined by the policing authority, handled by the impartial arbitrator.

(d) The reporting officer designated pursuant to § 568.2(f) shall certify under penalty of perjury that the semiannual report has been prepared by the self-policing authority specifically designated by the rate-fixing body to act in full accordance with the requirements of this part during the reporting period. The accuracy and completeness of the report shall be sworn to under penalty of perjury by the head of the designated self-policing authority.

(e) If there are no complaints, investigations, or final actions during the period, the report shall contain an express statement to this effect as to each category of information required by paragraph (b) of this section.

§ 568.6 Two-party rate-fixing agreements.

Rate-fixing agreements with no more than two signatory parties shall be exempt from the requirements of this part.

§ 568.7 Exemption from self-policing requirements.

(a) The provisions of this part require that every conference or other rate-fixing agreement between common carriers by water in the domestic offshore commerce of the United States shall contain provisions establishing

and describing a system for self-policing its members, including designation of a policing authority.

(b) Section 568.3(b) requires that policing authorities be headed by, and composed of, persons not otherwise employed by, having any financial interest in, or affiliated with the conference or rate-fixing body or any member or associate thereof. Provision is made in § 568.3(b)(3), however, for petition to the Commission for an exemption from this "independent neutral body" requirement to allow officers or employees of the conference or rate-fixing body to act as the head of, or be assigned to duties under, the policing authority if such person or persons are not otherwise affiliated with any conference member and the conference establishes that the specific factual conditions of § 568.3(b)(3) are present.

(c) Pending Commission action on the petition for exemption under paragraph (b) of this section, the petitioner is not relieved of the obligation to comply with the independent neutral body requirements of § 568.3(b). Unless and until the Commission grants an exemption, every conference or rate-fixing agreement must provide for the services of a policing authority that fully meets the requirements of § 568.3.

§ 568.8 Factors to be applied to the criteria for obtaining an exemption from self-policing requirements.

This section explains how the Commission applies the factors in § 568.3(b)(3) regarding exemption of conferences and rate-fixing bodies from the independent policing authority requirement of this part:

(a) *Qualifications of conference personnel.* (1) In evaluating the qualifications of a conference employee to perform the requisite self-policing activities, the Commission considers:

(i) Knowledge of, and experience in, the commercial and administrative aspects of the ocean liner industry;

(ii) Investigative/auditing experience and expertise; and

(iii) Current duties, if any, under the conference and elsewhere and whether those duties significantly interfere with the policing function.

(2) The following factors will be considered in determining whether an individual's self-policing activities, including annual audits of each member line, would be substantially affected by other duties and responsibilities:

(i) Number of agreement members;

(ii) Number of sailings, by member, in the trade;

(iii) Scope of agreement;

(iv) Location of carrier member's books and records;

(v) Extent of official duties, including regular attendance at membership meetings;

(vi) Whether the official serves in a similar role as Chairman or Secretary for other agreements;

(vii) The description of the intended self-policing program, including budget authorized;

(viii) Whether cargo inspection duties will be performed; and

(ix) Assistance from other staff member(s).

(b) *Unrealistic financial burden.* In evaluating assertions of an unrealistic financial burden, the Commission considers:

(1) Prospective cost/fee for neutral body self-policing;

(2) How the cost was determined;

(3) Whether the cost represents the lowest bid of a qualified neutral body;

(4) Revenues earned in the trade; and

(5) Any other relevant data which petitioner submits.

(c) *Trade relatively free of malpractices.* The Commission will consider assertions that a given trade has been relatively free of malpractices. The Commission recognizes, however, that prior self-policing systems, which only responded to complaints and did not initiate investigations, may not reflect the full extent of malpractices in a trade.

§ 568.91 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

This section displays the control numbers assigned to information collection requirements of the Commission in this part by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1980, Pub. L. 96-511. The Commission intends that this section comply with the requirements of section 3507(f) of the Paperwork Reduction Act, which requires that agencies display a current control number assigned by the Director of the Office of Management and Budget (OMB) for each agency information collection requirement:

Section	Current OMB control No.
568.1 through 568.3	3072-0003
568.5	3072-0003

PART 569—RULES GOVERNING THE RIGHT OF INDEPENDENT ACTION UNDER THE SHIPPING ACT, 1916

Sec.

569.1 Statement of policy.

569.2 Provisions of agreements.

569.3 Implementation of the right of independent action in tariff filing.

Authority: 5 U.S.C. 553; and secs. 15 and 43 of the Shipping Act, 1916 (46 U.S.C. app. 814 and 841a).

§ 569.1 Statement of policy.

(a) Section 15 of the Shipping Act, 1916, provides that no agreement between carriers not members of the same conference or conferences of carriers serving different trades that would otherwise be naturally competitive, shall be approved, nor shall continued approval be permitted, unless in the case of agreements between carriers, each carrier, or in the case of agreements between conferences, each conference, retains the right of independent action.

(b) It is the responsibility of the Commission under the Shipping Act, 1916, to insure that all such agreements contain a provision retaining the right of independent action.

§ 569.2 Provisions of agreements.

(a) In effectuation of the policy set forth in § 569.1, all agreements between carriers not members of the same conference or conferences of carriers serving trades that would otherwise be naturally competitive, shall contain provisions substantially as follows:

> The parties hereto (either carriers or conferences as the case may be) agree that with respect to any actions to be taken or procedures to be followed under this agreement, any party, after (insert here a period of time not to exceed ten days) may take action or follow procedures independent of those agreed upon.

(b) The parties may stipulate in the agreement whatever event should commence the running of the notice period, and the mode of communicating the decision to take independent action.

§ 569.3 Implementation of the right of independent action in tariff filing.

It is the policy of the Federal Maritime Commission to promptly resolve any controversies concerning the right of members of rate fixing agreements approved under section 15 of the Shipping Act, 1916, to take independent rate action pursuant to provisions of such agreements and to have such action implemented by amendment of the conference tariff on file with the Commission. In instances where there is a difference of opinion as to the tariff filing obligations or rights of agreement parties, a Commission determination will be made upon submission of the matter to the Commission. The submission may be made by any party to the agreement in accordance with § 502.69 of this chapter.

Note.—In accordance with 44 U.S.C. 3506(c)(5), any information request or requirement in this part is not subject to the requirements of section 3507(f) of the Paperwork Reduction Act, because there are nine or fewer respondents.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 84-25838 Filed 9-28-84; 8:45 am]

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Part V

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 942

Surface Coal Mining and Reclamation Operations Under a Federal Program for Tennessee; Final Rule

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 942

Surface Coal Mining and Reclamation Operations Under a Federal Program for Tennessee

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) of the Department of the Interior promulgates a Federal program for regulation of coal exploration and surface coal mining and reclamation operations on non-Federal and non-Indian lands in the State of Tennessee. This includes the surface operations and impacts incident to underground coal mining. This program is necessary in order to regulate surface coal mining activities because of the State's repeal of the Tennessee Coal Surface Mining Act and regulations effective October 1, 1984.

OSM also withdraws approval of the Tennessee regulatory program and separately has proposed to suspend Tennessee's Abandoned Mine Land Reclamation Plan. Approval of the State's regulatory program and Reclamation Plan on August 10, 1982, provided the State with exclusive responsibility for regulating surface coal mining activities and administering a reclamation program for restoring land and water resources adversely affected by past mining practices. The Federal Surface Mining Act, however, makes continued funding for the Reclamation Plan contingent on the State having an approved regulatory program.

EFFECTIVE DATE: October 1, 1984.

FOR FURTHER INFORMATION CONTACT: James A. Curry, Field Office Director, OSM, 530 Gay Street, S.W., Knoxville, TN 37902 (Telephone: (615) 673–4504); and Murray Newton, Chief, Branch of Regulatory Programs, Office of Surface Mining, Room 222, 1951 Constitution Avenue, N.W., Washington, DC 20240 (Telephone: (202) 343–5361).

SUPPLEMENTARY INFORMATION: This rulemaking is being made effective October 1, 1984 without the delayed effective date provided for by the Administrative Procedure Act, 5 U.S.C. 553. The repeal of the Tennessee Coal Surface Mining Act and regulations takes effect on October 1, 1984. Unless the Tennessee Federal program were made effective on that date, there would be no law governing coal mining in Tennessee. Therefore, OSM is making this Federal program effective on October 1, 1984, in order to avoid such a regulatory vacuum.

To assist the reader, this preamble is arranged as follows:

I. Withdrawal of State Program Approval
- A. Withdrawal of Regulatory Program Approval
- B. Proposed Suspension of Abandoned Mine Land Plan

II. Federal Programs Generally
III. Tennessee Federal Program
- A. Federal/State Program Interface and Transition
- B. Content and Organization of the Program
- C. Discussion of Program and Disposition of Comments

IV. Other Information

I. Withdrawal of State Program Approval

A. Withdrawal of Regulatory Program Approval

On August 10, 1982, the State of Tennessee received conditional approval of its permanent regulatory program. 47 FR 34753. On April 8, 1983, and again on August 17, 1983, the Director of OSM notified the Governor of Tennessee of problems identified in the State's implementation, maintenance and enforcement of its program, and sought corrective measures pursuant to 30 CFR Part 733. See the notice of public hearing at 48 FR 22541 (May 19, 1983). The State subsequently failed to adequately indicate its intent and capability to implement, maintain and enforce its regulatory program. By final rulemaking notice published on April 18, 1984 (49 FR 15496), OSM assumed direct Federal enforcement of the inspection and enforcement portions of the Tennessee regulatory program pursuant to 30 CFR 733.12 because of the State's failure to adequately implement certain parts of its program. The Tennessee statute and pertinent program regulations that OSM would be enforcing appeared in the **Federal Register** on May 18, 1984 (49 FR 21140).

By the State's action on May 16, 1984, most of the Tennessee Coal Surface Mining Law of 1980, Tennessee Code Annotated 59–8–301—59–8–339, was repealed effective October 1, 1984. The legislation also repealed the implementing regulations for the regulatory program effective the same date. With the State's action, Secretarial withdrawal of State regulatory program approval became a formality. Under Section 503(a)(1) of the Surface Mining Control and Reclamation Act of 1977 ("SMCRA" or the "Act"), 30 U.S.C. 1253(a)(1), to achieve and retain primacy a coal-producing State must have a law which provides for the regulation of surface coal mining and reclamation operations in accordance with the Act. Pursuant to 30 CFR 733.12(g), the Secretary is to withdraw program approval if the failure of the State to administer or enforce its program cannot be remedied by substitution of Federal enforcement of the program. The State's failure to have a surface mining law cannot be cured merely by substitution of Federal enforcement.

Therefore, OMS today withdraws approval of the Tennessee permanent regulatory program in full effective October 1, 1984. On and after that date, OSM will be the regulatory authority in Tennessee.

B. Proposed Suspension of Abandoned Mine Land Plan

Title IV of the Surface Mining Act establishes an Abandoned Mine Land (AML) program for the purposes of reclaiming and restoring land and water resources adversely affected by past mining. This program is funded by a reclamation fee imposed upon the production of coal. Lands and water eligible for reclamation are those that were mined or affected by mining and abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continuing reclamation responsibility under State or Federal law. Title IV provides that a State with an approved surface mining regulatory program may have an AML plan approved which gives it the responsibility and primary authority to implement the plan. Tennessee's plan was approved on August 10, 1982. 47 FR 34757.

Section 405(c) of the Act provides that the Secretary shall not approve, fund or continue to fund a State AML program unless that State has an approved State regulatory program pursuant to Section 503 of the Act. Regulations implementing this provision are found in 30 CFR 884.16 and 886.18. Upon withdrawal of regulatory program approval, the Director of OSM must suspend the AML plan.

If the Director determines that a State reclamation plan should be suspended and the AML grants terminated, the Director must notify the State by mail of the proposed action. The notice must state the reasons for the proposed action and provide the State 30 days to show cause why such action should not be taken. The Director will afford the State an opportunity for consultation, including a hearing, if requested, and performance of remedial action prior to suspension. The Director is notifying the Governor of Tennessee by letter of

OSM's intention to suspend Tennessee's Reclamation Plan. After 30 days of the Governor's receipt of this letter, the Director will notify the State that its Abandoned Mine Land Plan has been officially suspended.

Formal suspension of a State's Reclamation Plan will have the following consequences: (1) The State will no longer be eligible to receive its 50% allocation of the AML funds collected within the State; (2) funds which have been allocated to the State but remain unexpended for three years may be withdrawn by the Director and used in any eligible area in the country; and (3) OSM will conduct only limited reclamation efforts in the State addressing only the highest priority problems which threaten the public health and safety.

II. Federal Programs Generally

Under Section 504(a) of the Act, 30 U.S.C. 1254(a), the Secretary of the Interior (the Secretary) is required to promulgate a Federal program in a State for, among other reasons, the failure of a State granted primary regulatory responsibility to adequately implement, enforce and maintain its program. Upon promulgation of a Federal regulatory program, the Secretary becomes the regulatory authority.

Once a decision is made that a Federal regulatory program is necessary for a State, the Secretary must make several determinations in promulgating a program. Section 504(a) of the Act requires that the Secretary take into consideration the nature of the State's terrain, climate, biological, chemical, and other relevant physical conditions. This requirement is also set forth in the regulations for the promulgation of Federal programs, 30 CFR Part 7360. The Act (505(b)) and the regulations (30 CFR 736.22(a)(1)) also provide that if a State has more stringent land use and environmental protection laws or regulations, they shall not be construed to be inconsistent with the Act or the Secretary's regulations. The Secretary believes that the requirements of Section 505(b) can best be met by identifying any State laws and regulations which may impose more stringent environmental controls and by then listing them in the Federal program. If the State's laws or regulations establish more stringent standards than those of the Act or the Secretary's regulations in 30 CFR Chapter VII, or if the State regulates any aspect of the environment which neither the Act nor the Secretary's regulations protect, the Secretary would then specifically preserve those State standards in the Federal program. By identifying any State laws as more stringent than Federal surface coal mining statutory and regulatory standards, however, the Secretary would not be assuming any responsibility to enforce such State laws.

Also, in promulgating a Federal program, Section 504(g) of the Act specifies that any State statutes or regulations which regulate surface mining and reclamation operations are to be identified by the Secretary and will be superseded and preempted to the extent that they interfere with the achievement of the purposes and requirements of the Act and Federal program. This provision is reinforced by Section 505(a) which states that only inconsistent State laws shall be superseded by any provision of the Act or regulation. State statutes and rules regulating the same activities as those covered by the Federal law and regulations and which do not provide as much protection as do the Federal law and regulations are considered to interfere with achievement of the purposes of the Act. Accordingly, they must be identified and preempted.

Federal programs are based on the Secretary's permanent program regulations in 30 CFR Subchapters A, F, G, H, J, K, L, and M. The permanent program regulations implement five essential aspects of the surface coal mining regulatory program: permitting, performance standards, designation of lands as unsuitable for mining, bonding, and inspection and enforcement. These rules form the benchmark for the State regulatory programs since Section 503(a)(7) of the Act requires that the State's rules and regulations be consistent with the Secretary's regulations in order for a State to have a regulatory program approved.

The permanent program rules refer to the "regulatory authority." Under a Federal program, that is the Secretary. Act, 701(22). The Secretary has delegated his authority under the Act to the Assistant Secretary for Land and Minerals Management. Secretarial Order No. 3013 (November 9, 1977); Order No. 3099 (December 22, 1983). With limited exceptions, the Assistant Secretary has in turn redelegated all of this authority under the Act to the Director of OSM. 216 Departmental Manual 1 (November 9, 1977). Thus, the Director of OSM is the official directly responsible for the implementation of a Federal regulatory program.

The parts of the permanent regulatory program rules that must be included in a Federal program are listed in 30 CFR 736.22(b). They include the general requirements and definitions (Parts 700 and 701), the exemption for coal extraction incident to government-financed highway or other construction (Part 707), the designation of lands as unsuitable for surface mining (Parts 760, 761, 762, and 765), permits and permit applications (Subchapter G), small operator assistance (Subchapter K), inspection and enforcement (Parts 842, 843 and 845), and blaster training and certification (Subchapter M). In addition, the provisions in the permanent regulations on protection of employees (Subchapter P) and restrictions on financial interests (Part 706) are applicable to Federal employees who, in the instance of a Federal regulatory program, are directly enforcing the Act.

Federal programs are promulgated by means of cross-referencing the permanent program rules which set the substantive standards. The basis and purpose of these cross-referenced standards are set forth in the **Federal Register** preambles accompanying the final rules in which the standards were adopted. The Federal regulatory program for Tennessee replaces the current 30 CFR 942. Sections on various topics cross-reference the counterpart permanent program rules on those topics. For example, for general requirements for permits and permit applications, § 942.773 of the Tennessee Federal regulatory program cross-references 30 CFR Part 773 of the permanent program rules, stating that 30 CFR Part 773 "shall apply to any person who makes application for a permit for surface coal mining operations." Cross-referencing avoids duplication of the full text of the permanent regulatory program rules for each Federal program.

Where a particular permanent program regulation needed to be modified for use in the Tennessee Federal program, an additional paragraph has been added to modify the permanent regulatory program standards applicable in Tennessee or to add additional requirements or standards. Where more than one standard needed to be modified in any particular permanent program rule, additional paragraphs have been added to the Federal program section. For example, additional performance standards for Tennessee have been added to § 942.816 as paragraphs (b) through (h). This is one means of

implementing the mandate of Section 504(a) of the Act that in promulgating a Federal program the Secretary take into consideration relevant conditions in the State.

One effect of cross-referencing in a Federal program is that if a permanent program rule is revised, the corresponding Federal program rule would be similarly revised. However, the notice of proposed rulemaking would invite comments not only on the proposed rule generally, but also on how it might affect a particular Federal program. If certain changes were needed for a Federal program, then a separate provision would be added to the Federal program provision which is the counterpart to the permanent program rule.

Several provisions of the permanent program rules are already applicable to all Federal programs because they were fully promulgated for application to all regulatory programs and, therefore, need not be cross-referenced. Those provisions are 30 CFR Chapter VII, Subchapter P—Protection of Employees; Part 706—Restrictions on Financial Interests of Federal Employees; and Part 769—Petition Process for Designation of Federal Lands Unsuitable for Surface Coal Mining. 30 CFR Part 764—Designating Lands Unsuitable for Surface Coal Mining is included in this Federal program by cross-reference under § 942.764 to provide a petition process on non-Federal lands in Tennessee. Parts 810 and 840 are also not included because they are unnecessary for a Federal program.

III. Tennessee Federal Program

A. Federal/State Program Interface and Transition

The Federal program for Tennessee is the first such permanent program for a State in which approval of the State regulatory program has been withdrawn. Previously, Federal programs have been promulgated for States which have chosen not to submit programs. See, e.g., the Washington Federal program, 48 FR 7883 (February 24, 1983). In promulgating the previous Federal programs, State statutes and regulations which regulated an aspect of surface coal mining and reclamation were examined to determine whether there were any provisions which would either interfere with a Federal program or set more stringent environmental protection standards. In the case of Tennessee, however, except for retaining very limited authority (as explained below) to regulate surface coal mining and reclamation activities, the State, by passage of the repealing legislation, has chosen to remove itself from any regulatory function in that area.

The Tennessee legislation repealing the State regulatory program statute and regulations establishes several areas of limited State jurisdiction. Criminal penalties are established for any person who willfully and knowingly mines more than 25 tons of coal in any 12 successive calendar months without first obtaining a permit from the "primary regulatory authority pursuant to [the Federal Act] or without a permit for such mine obtained * * * prior to [October 1, 1984] * * *." Exemptions are then set for the extraction of coal incident to government-financed construction and construction operations affecting less than one acre where coal removal is an incidental part of the project.

Under Section 528(1) of the Federal Act, a landowner may remove coal for his noncommercial use free from regulation. Under Section 528(2) of the Act, surface coal mining operations affecting two acres or less are not subject to the Act. And, under Section 528(3), the extraction of coal as an incidental part of government-financed construction is exempt from regulation. Because of these exemptions in the Act, OSM cannot exercise any jurisdiction over such operations. Therefore, OSM is not preempting State regulation of surface coal mining activities which remove more than 25 but less than 250 tons of coal during a 12 successive calendar month period, which affect areas larger than one but less than two acres and which are not part of government-financed construction projects.

Tennessee's repealing legislation mentions the "primary regulatory authority," but does not define the term. Presumably, on October 1, 1984, the Secretary, acting through OSM, will become the "primary" regulatory authority, although the State may regard itself as such for those operations exempt from OSM jurisdiction. Since OSM cannot exert jurisdiction over surface coal mining activities affecting two acres or less, government-financed construction projects incidentally removing coal, or extraction by a landowner for his noncommercial use, OSM cannot issue permits for any such activities. Therefore, only those operations which have obtained a Federal permit under the Tennessee program, which come within the exemptions of Section 528 of the Act, or which are not surface coal mining operations as defined in Section 701(28) of the Act could be allowed to continue without presumably being in violation of the repealing legislation sanctions. Enforcement, nevertheless, would be a matter for the State to pursue where the operation is exempt under the Act. However, OSM retains the right to determine, on a case-by-case basis, whether any surface coal mining operation is affecting more than two acres, is incidental to a government-financed construction project or is conducted by a landowner for his noncommercial use. Furthermore, the Federal program requires a permit for any otherwise nonexempt operations affecting more than two acres. Failure to have such a permit is a violation of the Federal program and is subject to enforcement action by OSM.

The Secretary concludes, therefore, that the provisions of the repealing legislation discussed here do not interfere with achievement of the purposes of the Federal program. Those provisions are not preempted or superseded.

After promulgation of this Federal program, the State will also continue to regulate water quality under the National Pollutant Discharge Elimination System (NPDES). Section 508(a)(9) of the Federal Act requires an applicant to demonstrate how he will comply with, *inter alia*, applicable water quality laws, and Section 702(a)(3) provides that the Act shall not affect the Federal Water Pollution Control Act or any State laws enacted pursuant to that law. OSM's permanent program rules on water quality at 30 CFR 816.41(e) provide for surface water monitoring reporting consistent with the NPDES. Also, 30 CFR 816.42 requires compliance with applicable State and Federal water quality standards and effluent limitations set by the Environmental Protection Agency.

The State Board of Reclamation Review would continue to hear cases before it. Tenn. Code Ann. section 59–8–321. The repealing legislation modified its authority in only a limited way. Under the repealing legislation, the Board retains jurisdiction over (1) all persons who conducted surface coal mining prior to May 3, 1978 and who have not had their bonds fully released, and (2) all persons who have permits issued by the State and who have had bond forfeiture initiated against them. However, the legislation provides with respect to the latter category that if the Secretary exercises jurisdiction over such forfeitures, the retention of jurisdiction is removed.

With respect to the first category, OSM is not asserting jurisdiction over interim program bonds in Tennessee; therefore, Tennessee jurisdiction will not constitute interference with the

achievement of the Federal program's purposes. With respect to the second category, the assumption of Federal enforcement announced on April 18, 1984 (49 FR 15496), indicated that Federal inspectors would be conducting inspections on sites on which bond forfeiture had been initiated. In view of the fact that the State retains a bond made payable to it or has collateral in its possession, OSM will not assume jurisdiction over such sites for purposes of bond forfeiture so long as the State continues to proceed with bond collection and to undertake any reclamation work. Continued administrative action by the Board with respect to bond forfeitures will not interfere with the achievement of the purposes of a Federal program.

OSM has considered whether it can assume any responsibility over those interim program bonds for which the Tennessee Department of Health and Environment has not commenced forfeiture. There is no express requirement under the Act for a reclamation bond until a permanent program permit is to be issued (SMCRA section 509(a)). Although OSM may have authority under Section 201(c) of the Act to require interim program bonds, requiring assignment of existing interim program bonds now made payable to Tennessee could unreasonably interfere with existing contractual relationships. OSM therefore will not seek to assume responsibility over interim program bonds. Nevertheless, under Section 502(c) of the Act, such operations are subject to the interim program performance standards, as is being made clear by final § 942.701(b). OSM will continue to inspect such sites and, should a violation be detected, will take appropriate enforcement action.

One important consequence of the promulgation of a Federal program is the triggering of Federal laws and regulations which are made applicable through federal agency action. One such law is the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.* NEPA compliance is required for certain OSM actions taken after the promulgation of the program, although promulgation of the program itself is exempted from compliance with NEPA by section 702(d) of the Act. Other such laws are identified in 30 CFR 773.12. Compliance with those laws, as well as NEPA, may require that OSM obtain from a permit applicant information beyond that specified in 30 CFR Chapter VII, Subchapter G. Section 942.773(b)(6) has been adopted as proposed in order to allow OSM to require a permit applicant to furnish any additional information.

Section 504(d) of the Act directs the Secretary to undertake, immediately after promulgation of a Federal program, the review of permits issued under the State's previously approved program. With the assumption of Federal enforcement of the Tennessee program, OSM initiated intensive oversight of the State's permitting activities. Upon publication of this final rulemaking notice, that effort is being converted into a review of each permit issued under Tennessee's previously approved program. Where any review shows that a permit revision is required, OSM will give the permittee adequate notice and opportunity to make the required change.

The Federal rules in 30 CFR 774.11 now call for the review of each permit no later than midway through its term. 30 CFR 773.11(d) establishes a procedure for review in the instance of promulgation of a Federal Program. However, that section does not describe the permittee's rights and obligations after being notified that permit changes are necessary. Therefore, final § 942.773(d) (proposed § 942.776) has been adopted to describe the process by which OSM will review permits issued by Tennessee under its permanent regulatory program.

Section 942.773(d) differs somewhat from proposed § 942.776, principally with respect to the responsibilities of the Department's Office of Hearings and Appeals (OHA). The Director believes the decision to suspend or revoke a permit is more appropriately made by OSM, with any appeal then being brought before OHA. Proposed § 942.776 would have given OHA the responsibility for deciding whether to revoke or suspend a permit through their review of an OSM order to the permittees to show cause as to why the permit should not be suspended or revoked. As adopted, § 942.773(d)(3) instead allows the Office to suspend or revoke the permit; § 942.773(d)(4) then provides administrative and judicial review of such a decision in accordance with 30 CFR Part 775.

Under the recently repealed State Coal Surface Mining Law of 1980, Tenn. Code Ann. 59–8–355, operators in Tennessee were required to comply with the performance standards upon the effective date of the statute and regulations adopted pursuant to the statute. This scheme differs from that in the Federal Act, Sections 515 (a) and (b) of which require operators to adhere to permanent program standards upon the issuance of permits. Depending on the pace at which regulatory authorities have been able to process and issue permanent program permits, this can and has occurred much later than Secretarial approval of the regulatory program. Prior to final promulgation of this Federal program, OSM has enforced the performance standards of the Tennessee program whether or not an operator has been issued a permanent program permit, as long as such an operator has filed an application timely. However, on and after the effective date of this Federal program, the permanent program performance standards will be applicable only to those surface coal mining operations in Tennessee which have been issued permanent program permits—either by OSM or the State.

Permanent program permits issued by Tennessee will be reviewed as indicated above, and operators will be given adequate notice and opportunity to revise their permits where OSM determines that such revision is necessary. If there are any operators in Tennessee conducting surface coal mining and reclamation operations who have filed complete applications and have not had permits issued to them, then notwithstanding the provisions of the repealed 59–8–335, the Federal interim program standards, 30 CFR Chapter VII, Subchapter B, will be applicable; the permanent program performance standards will not be applicable to them until permit issuance. Section 942.701(b) has been adopted to make clear as proposed that the interim program rules are applicable to operations which do not have permanent program permits.

For operators who have posted reclamation bonds with the State under its permanent regulatory program or who have given the State collateral to guarantee reclamation, OSM will be reviewing the adequacy of those bonds in the permit review process. If it is determined that a bond amount is inadequate, OSM will notify the operator that additional bond must be posted. Section 942.800(b)(3) requires that the permittee either post a new bond which is payable to "The United States or the State of Tennessee" or provide an executed assignment of any existing acceptable bond adding the United States as payee.

OSM's notice assuming Federal enforcement of the Tennessee program stated that all bonds accepted by the State after that time would have to be made payable to "The United States or the State of Tennessee." 49 FR 15505. This will continue to be a requirement in the Federal program promulgated here today, so as to ease the transition in the

event that the State reassumes primary regulatory authority. All operators who have posted bonds with Tennessee for permits issued under the previously approved State program and against which forfeiture has not been initiated prior to October 1, 1984, will have to post new bonds or will have to execute assignments of the existing bonds. A provision has been added as § 942.800(b)(3) to establish these requirements. OSM is requiring that, not later than October 31, 1984, permittees change the payee of already-posted reclamation bonds to include the United States.

OSM will administer the Small Operator Assistance Program (SOAP) under Subchapter H, Part 795, of the permanent program rules which are cross-referenced in § 942.795. See 48 FR 2272 (January 18, 1983) and 48 FR 44780 (September 30, 1983). In response to a request by the Tennessee Division of Surface Mining, OSM published in the **Federal Register** a notice of its intent to assume responsibility for new SOAP activity effective August 6, 1984. See 49 FR 27506 (July 5, 1984). OSM has now assumed responsibility for administration of the SOAP and is accepting applications for assistance. OSM expects that all prior SOAP contracts awarded by the State will have been completed by October 1, 1984. Application forms for assistance can be secured from the Knoxville Field Office Director. Completed applications should also be submitted to that office. Any small operators notified through the OSM permit review that their permits need revision in connection with the determination of the probable hydrologic consequences or the result of test borings may apply for SOAP assistance in having the work done.

B. Content and Organization of the Program

The content and organization of the Federal program for Tennessee follows the permanent program regulations. But, as discussed above, instead of the full text appearing, each section includes only a reference to the pertinent program regulatory part. No provisions of Tennessee State law (other than those in the recently expired Coal Surface Mining Law) have been identified as being more stringent than the Federal standards, nor have any State laws or rules been identified as interfering with achievement of the purposes of the Federal program. Comment was specifically invited on whether there may be such State laws and regulations; none was identified. (Several Tennessee laws are identified in § 942.762(b) as laws upon which the Office will rely in considering petitions to designate or terminate designation of lands as unsuitable for surface coal mining.)

OSM has examined the Tennessee surface coal mining regulations in order to determine where and how the State chose to establish additional or more specific standards than those in OSM's revised permanent program regulations. Several such standards, involving revegetation success standards for bond release, diversions, sedimentation ponds, underdrains in excess spoil fills, and backfilling and grading timing requirements, were proposed to be added. This issue is discussed below under the "Performance Standards" portion of the preamble.

The content and organization of the proposed Tennessee Federal program are based on the following provisions of the Federal permanent program regulations, 30 CFR Chapter VII:

Subchapter A—General
Subchapter F—Areas Unsuitable for Mining
Subchapter G—Surface Coal Mining and Reclamation Operations Permits and Coal Exploration Systems Under Regulatory Programs
Subchapter H—Small Operator Assistance
Subchapter J—Bond and Insurance Requirements for Bonding of Surface Coal Mining and Reclamation Operations
Subchapter K—Permanent Program Performance Standards
Subchapter L—Permanent Program Inspection and Enforcement Procedures
Subchapter M—Training, Examination, and Certification of Blasters

Technical literature cited by OSM in the preambles to the permanent regulatory program (44 FR 14901–15309; March 13, 1979) and the regulatory reform rulemaking notices ending September 30, 1983, was relied upon in developing the Tennessee Federal program. The reader is referred to those preambles for a discussion of the basis and purpose of these permanent program rules referenced in the Tennessee program without substantive change.

The numbering system of the permanent program regulations has been incorporated into the numbering system for the Tennessee Federal program. Subchapter T in 30 CFR Chapter VII has been established to include regulatory programs by State in alphabetical order. Each State is assigned a part number; the regulatory program for Tennessee is assigned Part 942. The Federal program promulgated here today replaces the previous contents of that part. Program elements have been categorized under headings similar to the subchapter titles of the permanent program CFR parts.

C. Discussion of Program and Disposition of Comments

OSM proposed a Federal program for Tennessee on June 29, 1984 (49 FR 26898). In the preamble to the proposed program, OSM invited comments from all interested persons; announced a public hearing for August 3, 1984, in Knoxville, Tennessee; and set the close of the public comment period for August 8, 1984. OSM subsequently reopened the public comment period until September 5, 1984, and announced and held an additional public hearing on August 31, 1984, in Knoxville (49 FR 32860; August 17, 1984). OSM received comments or testimony from 36 persons. Relevant written or oral comments received are summarized below.

Many comments dealt with procedural or general matters such as the adoption of the State's approved program as the Tennessee Federal program, suspension of Tennessee's Abandoned Mine Land Plan, location of the permitting and assessment functions of the Tennessee Federal program, and use of technical guidelines in lieu of regulations. These comments are discussed in the next part of this rulemaking notice, entitled "General Discussion and Comments." Comments on the specific provisions of the program or on the permanent program rules as they apply to Tennessee are discussed under "Detailed Discussion and Comments."

(1) General Discussion and Comments

1. *Program Options.* Two options were offered for public comment in the proposed Federal program. The first option consisted of cross-referencing the Federal permanent program rules with several additions made to those rules as specified under each of the subject headings of the program parts. Option 2 would have added several more provisions to Option 1. The first would have placed a limitation on the definition of "coal loading facilities" in the definition of "support facilities" in 30 CFR 701.5. The others would have added specific detail to performance standards in four areas: diversions; sedimentation ponds; underdrains in excess spoil fill, and backfilling and grading timing requirements.

The limitation on the term "coal loading facilities" would have made clear to all operators of such facilities whether they were subject to regulation. Under proposed § 942.701(d), OSM jurisdiction have included those coal loading facilities which were "on a permit area"" and those which were "the first handling facility for raw coal after

it leaves the permit area of a mine." Thus, any tipple in Tennessee accepting raw coal from a mine would have been subject to regulation. As an alternative test, OSM solicited comments on using a geographic distance test to determine whether a tipple is subject to regulation. The definition in the Act refers to coal loading facilities being "at or near" the mine site, but it does not quantify that standard. The definition of "support facility" indicates that the phrase "resulting from or incident to" connotes an element of proximity. Thus, OSM could have set a particular distance from a mine as the limitation for asserting jurisdiction over coal tipples. OSM could also have adopted a geographic limit in conjunction with the functional test proposed in the option.

Comments received and OSM's disposition of this issue are discussed in Paragraph 47 of this preamble, "Special Performance Standards—Coal Preparation Plants Not Located Within the Permit Area of a Mine."

The performance standards under Option 2 sought comment on the possible addition of detailed standards in four areas: diversions, sedimentation ponds, underdrains in excess spoil fills, and backfilling and grading timing requirements. The proposed criteria for diversions, sedimentation ponds and underdrains for excess spoil fills were, for the most part, taken from the Tennessee program regulations. These, in turn, were based on the previous Federal permanent program regulations. As an alternative to the adoption of the criteria set out in Option 2, proposed § 942.816 (c), (d) and (e), OSM considered not providing any additional standards in the rules but instead issuing technical guidelines. If such guidelines were issued, an operator or engineer could rely on the guidelines for the design of a structure. Designs other than those in the guidelines would be approved on a case-by-case basis if the engineering is sound. A fourth performance standard setting timing requirements for backfilling and grading was offered under proposed § 942.816(f) of Option 2. They would have been the same standards as the previous unrevised Federal permanent program rules in § 816.101(a). See 44 FR 15395 (March 13, 1979).

a. Option 1. Little comment was received on this option. One commenter expressed general support for this option but also indicated that the alternative approach to Option 2, i.e., technical guidelines, has merit and should be carefully considered by OSM. Because of the general lack of support, OSM has decided not to adopt Option 1.

b. Option 2. Option 2 in the proposed rule included all the provisions in Option 1 and added detailed standards in four areas: diversions, sediment ponds, underdrains, and backfilling and grading. Several commenters expressed support for Option 2, while others suggested that OSM use technical guidelines instead of design standards as an alternative to Option 2.

After careful consideration, OSM has decided to adopt a modified Option 2 with the addition of certain other detailed standards discussed in the portion of the preamble pertaining to performance standards. While the Director retains his conviction that performance standards are preferable to design standards, and that giving the regulated community flexibility will foster innovative yet sound approaches to compliance, the Tennessee Federal program presents a unique set of circumstances. OSM has not previously promulgated a Federal program for a State which had been implementing an approved program of its own. The transition from State to Federal primacy offers the potential for confusion among all concerned over both the timing and the substance of required actions. The Director believes that the adoption of modified Option 2 in addition to the above standards is more likely to ease this transition.

OSM considered the proposed option of not adding design criteria, and instead deferring to the applicant's certifying registered professional engineer. OSM considered also publishing technical guidelines in non-regulatory form so that applicants would have the assurance that at least an OSM-approved design would be acceptable to the agency, yet would be able to submit any other design for OSM consideration. OSM would not, however, be able to publish such technical guidelines for another six months or more.

In other circumstances the Director would favor flexibility over specificity. Given the need to process a possibly large number of permit applications at the same time the Agency is reviewing all permits issued by Tennessee, the Director has chosen a modified Option 2. Thus, in several key areas operators will at least be dealing with performance standards which are (1) sufficiently similar to the former Tennessee provisions so as to be recognizable and familiar both to them and to their consultants, and (2) sufficiently specific so as to expedite operator compliance and OSM review.

2. *Adoption of Existing Tennessee State Program Regulations as the Tennessee Federal Program.* A number of commenters urged OSM to adopt the approved Tennessee State program regulations as the Tennessee Federal program. They argued that the approved Tennessee State program was designed to meet the needs of the State, and that OSM had already approved the requirements in this program. Several other commenters presented arguments on the opposite side of this issue, stating that OSM should not include any requirements which are not in the current Federal regulations.

OSM is not adopting the Tennessee program, the authorizing State legislation for which no longer exists. Further, while OSM did approve the more detailed provisions of the State program, this approval was based on OSM's recognition of the discretion given to regulatory authorities by the Surface Mining Control and Reclamation Act, and reflected the Federal regulations in place at the time. Approval of the State program provisions did not mean that OSM necessarily agreed that they were the only means of implementing the Act in Tennessee.

The Tennessee Federal program promulgated here today is a new regulatory program, not a revision or modification of the repealed Tennessee State program. Since the approval of the Tennessee State program, OSM has revised a substantial portion of its permanent rules to reflect the Office's view of the appropriateness of various regulatory provisions. Rather than basing the Tennessee Federal program on State program provisions which are not necessarily the only valid means of implementing the Act in Tennessee, OSM has used the current Federal regulations as its starting point in developing the new Tennessee Federal program. OSM has included those requirements which the Director believes are necessary to provide a workable program in Tennessee under the Federal law.

3. *Suspension of the Tennessee Abandoned Mine Land Plan.* Previous § 942.20 was omitted from the notice proposing the Tennessee Federal program. It has been included in this final program because OSM has not yet formally withdrawn approval of Tennessee's Reclamation Plan, although the Governor has been notified of the Office's intent to do so. Upon formal withdrawal of approval, § 942.20 will be removed.

Fourteen comments were received concerning the suspension of the Abandoned Mine Land Plan in Tennessee. Many commenters

expressed concern over cutbacks in abandoned mine land reclamation in Tennessee. These commenters urged that OSM develop a full Abandoned Mine Land (AML) Program in Tennessee and not limit involvement to emergencies. Two commenters contended that there is no legal requirements for OSM to limit the AML Federal program to emergencies. Several other commenters recommended that the abandoned mine land reclamation continue at the current or an increased level.

OSM's national policy guiding AML reclamation is to complete all priority 1 and 2 and emergency problems before addressing lower priorities. OSM's decision to conduct limited reclamation efforts in Tennessee addressing all the higher priority problems threatening public health and safety is consistent with this policy. In those programs where Title IV and Title V approvals are withdrawn, OSM's policy (notice of which was published in the **Federal Register** on March 15, 1983 (48 FR 10820)) provides for funding for other than emergency projects if the State is working to regain Title IV and Title V approval. Priorities 1 and 2 projects may be done at the discretion of the Secretary. In this regard, the Director notes that Tennessee has indicated its intention to obtain primacy again by the end of 1986.

A number of commenters expressed concern that Tennessee's share of funds collected may be diverted to other States.

Section 402(g)(2) of the Act provides that 50% of the funds collected annually in any State shall be allocated to that State pursuant to an approved Abandoned Mine Lands Program "provided, however, that if funds under this subparagraph (2) have not been expended within three years after their allocation, they shall be available for expenditure in any eligible area as determined by the Secretary." This provision of law has been implemented by the OSM policy statement referred to in the March 15, 1983, **Federal Register** notice cited above (48 FR 10820). Nevertheless, OSM and the Secretary will carefully consider the commenters' concerns before making any discretionary expenditure of these funds.

4. *Impact of Permanent Surface Mining Regulation Litigation on Tennessee Federal Program.* Litigation is currently pending in the United States District Court for the District of Columbia in which many of the recently amended or revised Federal permanent program regulations are being challenged. On July 6, 1984, District Court Judge Thomas Flannery issued the court's decision in so-called "Round I" of *In Re: Permanent Surface Mining Regulation Litigation II*, Civil Action No. 79-1144 (D.D.C., 1984). The decision dealt with regulations for mining on Federal lands, including the definition of "mining plan," State approval of permits, and exceptions to the scope of the definition of "Federal lands," as well as regulations covering offsite support facilities and the scope of the definition of "surface coal mining operations." Commenters stated that since the Federal regulations are being challenged, it would be better to adopt the current State regulations or the original Federal regulations as portions of the Tennessee Federal program.

OSM does not agree with these comments. It would be premature for OSM to substitute either prior Federal regulations or State regulations for validly issued Federal regulations simply because those regulations are being challenged in court. Those regulations remain valid unless and until set aside by a court. Should any regulations be invalidated, OSM will make any required modifications through future rulemaking. This matter is discussed further in paragraph 47, below.

5. *Transition Period from State Primacy to the Tennessee Federal Program.* One commenter offered assistance to OSM in implementing the Federal program in Tennessee and noted the need for the coal industry and coal industry consultants to be fully responsive to new permitting procedures and requirements in order to achieve timely permits. OSM agrees. During September, OSM scheduled and conducted workshops in Chattanooga, Crossville and Caryville to familiarize representatives of the coal industry with the Federal permit application and other permitting requirements.

The Tennessee Division of Surface Mining commented that the State will have a number of applications in process as of October 1, 1984. At the request of the operators and with the agreement of OSM, those applications will be transferred to OSM.

6. *Location of Tennessee Federal Program Functions.* One commenter recommended that both the inspection and enforcement and permitting and bonding functions be centered in one location.

OSM agrees with this comment. Both functions will be at OSM's Knoxville Field Office.

Another commenter requested that assessment of penalties be done in the Knoxville Field Office. OSM is considering this proposal but has not yet decided whether to relocate the assessment function from Washington. OSM notes, however, that any operator issued a violation and assessed a penalty may seek review of the proposed assessment in an informal conference held locally.

7. *National Environmental Policy Act (NEPA).* As stated in the preamble to the proposed Federal program for Tennessee, Section 702(d) of the Act provides that promulgation of a Federal program shall not constitute a major Federal action under the National Environmental Policy Act, 42 U.S.C. 4321.

One commenter objected to 42 U.S.C. 4332(c) of NEPA and cited the potential misuse of the requirements of this section. In view of the provisions of Section 702(d) of the Act, however, the comment is not germane to this rulemaking.

8. *Environmental Impacts of Permitting.* One commenter provided a copy of comments previously submitted to OSM concerning issues to be addressed in the process of evaluating the environmental impacts of permitting. These comments are being considered in the preparation of the document covering the environmental effects of permitting in Tennessee.

9. *Toll-Free Telephone Number.* A commenter requested that OSM establish a toll-free telephone number which citizens could call to report emergencies, obtain information or make complaints.

OSM appreciates the comment and is considering providing a toll-free number. However, a final decision has not been made at this time.

10. *National Pollutant Discharge Elimination System (NPDES).* The State of Tennessee has retained responsibility for the NPDES permit application under the Federal Water Quality Control Act. Several commenters suggested that since the NPDES process interacts so closely with SMCRA requirements and because it entails tasks which appear to be in large degree duplicative of the OSM permit approval process, a memorandum of understanding should be developed with the State of Tennessee.

OSM agrees. Discussions between OSM and the State have taken place and the State is drafting a proposed procedure for interaction between the State and OSM on water quality responsibilities.

11. *Purchase of Coal From Unpermitted Operators.* One commenter recommended retaining the Tennessee requirement that forbids coal buyers

from buying coal from unpermitted operators.

OSM has not accepted this suggestion. Such a prohibition would be a major departure from OSM's regulatory scheme and, consequently, should not be adopted in the Tennessee Federal program without having been proposed for public comment and discussion.

(2) Detailed Discussion and Comments

General. Section 942.700 has four subsections containing general statements on the scope and applicability of the program. No Tennessee laws have been identified as setting standards which are either more stringent than those in the Federal permanent program regulations or which interfere with achievement of the purposes of a Federal program. If any such laws are identified in the future they will be listed in separate additional paragraphs of this section.

Final § 942.701 makes clear the circumstances in which certain currently unpermitted operators may continue to operate until issuance or denial of their permanent program permits. Unless an operation has a permanent program permit, issued either by Tennessee or OSM, compliance with the interim program standards, Subchapter B of 30 CFR Chapter VII, is required, as is the operator's adequate response to OSM requests for any information needed to make a permit application complete. Compliance with the interim program standards can be required under the Act only until a permanent program permit is issued. SMCRA sections 515(a) and 516(b). Although, as explained above, the Tennessee statute and regulations were made applicable to all operations upon program approval, there is no authority under the Act for OSM to apply the permanent program standards until a permanent program permit is issued.

Proposed § 942.701(c) would have required OSM to make records available locally to the public "at the county courthouse or another appropriate public office within the county" of the surface coal mining operation, as well as at the nearest OSM Field Office. Cross-referenced 30 CFR 701.14 requires only that information be made available at the nearest OSM Field Office.

After careful consideration, OSM has concluded that 30 CFR 700.14 provides adequate access to records and that the proposed maintenance of documents at so many locations would have been unnecessarily burdensome and confusing. The Director has decided to adopt instead the same requirement in the Tennessee Federal program as appears in the cross-referenced 30 CFR 700.14. Accordingly, final section 942.701(e) (proposed Section 942.701(c)) provides that records shall be made available to the public at OSM's Knoxville Field Office, which is both the OSM Field Office nearest the Tennessee coalfields and the Office responsible for administering this Federal program.

12. *Definitions. Adjacent Area*—The definition of "adjacent area" remains unchanged from the definition in 30 CFR 701.5. One commenter suggested that the regulation define adjacent areas "as those lands contiguous to the permit area."

The present definition includes those lands contiguous to the permit area that could be expected to be adversely impacted by proposed mining operations, including probable impacts from underground workings. Therefore, no change in the definition is required.

Imminent Danger to the Health and Safety of the Public—One commenter suggested that a change be made in the definition of "imminent danger to the health and safety of the public" to include the protection of property.

The suggestion was rejected; the definition in 30 CFR 701.5 is taken verbatim from the Act.

13. *Applicability—The Two-Acre Exemption.* Section 942.701(a) cross-references several Federal regulations, including 30 CFR 700.11. This regulation sets out the extent of regulatory coverage along with specific exemptions from that coverage. Section 700.11(b) exempts the commercial extraction of coal where the operation has or will have an "affected area" of two acres or less. In the legislation repealing its regulatory program, Tennessee established several areas of continuing State jurisdiction. The State retains the authority to regulate through criminal penalties operations where any person willfully and knowingly mines more than 25 but less than 250 tons of coal in any twelve successive calendar months without obtaining a permit. Excepted from this coverage are projects which involve coal extracted incident to government-financed construction and operations affecting less than one acre where coal removal is an incidental part of the project. Two comments were received. One commenter contended that OSM should incorporate the lower jurisdictional thresholds used by Tennessee into the Tennessee Federal program, rather then the present 250 ton and two-acre limits. The commenter argued that the Federal statutory exemptions should be construed together with regulations found at 30 CFR 736.23(b), leading to the result of adopting the lower Tennessee limits.

OSM does not believe that such a construction is legally supportable. Section 736.23(b) directs that provisions of state law which provide for more stringent land use and environmental control and regulation of surface coal mining operations shall not be preempted and superseded by the Office and shall be incorporated into the State's Federal program. OSM believes that the question here is not one of stringency, but rather whether it has statutory authority to regulate certain classes of opreations. The State has retained authority to regulate where Congress has not given OSM authority to regulate; therefore, the State law does not interfere with the Federal program and will not be preempted or superseded. For this same reason, however, OSM cannot incorporate Tennessee's lower jurisdictional thresholds into the Federal program.

The other commenter stated that there are many locations in Tennessee where less than two-acre coal mining operations could be conducted but that it would not be economically feasible to permit such operations. The commenter implied, but did not specifically request that Tennessee's new law be preempted and superseded.

For the reasons stated previously, OSM has no authority to regulate operations which affect two acres or less and will not interfere with State law concerning such sites.

Areas Unsuitable for Mining. Section 942.761 through 942.764 establish the same provisions, where applicable, as 30 CFR Chapter VII, Subchapter F, Areas Unsuitable for Mining. The effective date for implementing the petition process for designating lands unsuitable for surface mining or for terminating designations has already passed. Section 504(a) of the Act, which defers applicability of Sections 522 (a), (c), and (d), is inapplicable since a State regulatory program was implemented in Tennessee. 30 CFR 736.15(b)(2). No separate section for Federal lands is included because 30 CFR Part 769 is directly applicable and need not be made a part of a Federal program. A paragraph has been added as § 942.762(b) to indicate that the Office will consider lands in Tennessee placed on the State's Natural Areas Registry; designated Natural Areas or Scenic Areas; lands adjoining Scenic Rivers and Scenic Trails in considering any petition to designate lands as unsuitable for surface mining or termination of such a designation. This consideration will be given in the context of lands as defined as "fragile" under 30 CFR 762.5.

A paragraph has been added, as § 942.764(b), to ensure that the State is notified of the designation of areas as unsuitable or for which designations are terminated. This notification will be provided as a courtesy since State agencies apparently will be regulating only limited aspects of surface coal mining operations.

14. *Previous State Decisions on Petitions for Lands Unsuitable for Mining.* The State has considered and decided two petitions to designate lands as unsuitable for surface coal mining. One petition was granted, the other denied. Both, however, are under administrative review. The Federal Act provides no guidance on the extent to which a decision by a State on a petition must be recognized by OSM in the situation at hand. Several commenters recommended that OSM ratify or accept the decision of the Tennessee Commissioner of Health and Environment on both of these, the "Flat Fork Watershed" and the "Douglas Branch" lands unsuitable petitions.

OSM has accepted these comments. OSM will implement these two decisions unless and until those decisions are altered as a result of administrative review or of any subsequent petitions to designate or to terminate a designation. See Section 942.764(c).

Two commenters suggested that OSM continue to use the present Tennessee lands unsuitable regulations, which are similar, but are not identical to OSM's.

OSM has not accepted these comments because of the minor differences between the regulations.

One commenter indicated that OSM's regulations contain no provision to delete certain areas from the permit area. The commenter was concerned that a mining operation may result in adverse impacts to churches, roads, schools, streams, State-owned or scenic areas, and other private or public property.

Section 522(e) of the Act prohibits or limits, subject to valid existing rights, mining in or near certain protected areas and structures, such as parks, schools and churches. Part 761 of the permanent program regulations (cross-referenced at § 942.761 of the Tennessee Federal program) implements these provisions. Therefore, no change was required or made.

One commenter questioned whether a subjective decision can be made as to which fragile lands can be repaired and restored.

OSM disagrees with the commenter's implied answer that such a decision cannot be made fairly, and believes that with the appropriate expertise a fair decision can be made.

One commenter believed that the proposed regulations place an undue burden on petitioners in providing supporting evidence with which most individuals will find it extremely difficult to comply under Tennessee conditions. The commenter suggested adopting the Tennessee regulations.

OSM has not accepted this comment. The supporting evidence required under Tennessee's former program and OSM's Federal program are comparable. The commenter offered no evidence that unique or unusual conditions exist in Tennessee which require accommodation in the Tennessee Federal program with respect to these issues.

Permits and Coal Exploration Approvals. Sections 942.772 through 942.795 establish the same provisions, where applicable and except as explained below, as 30 CFR Chapter VII, Subchapter G, Surface Coal Mining and Reclamation Operations Permits and Coal Exploration Systems Under Regulatory Programs.

15. *Deletion of §§ 942.770, 942.771 and 942.782 from Proposed Rulemaking.* Several commenters observed that proposed §§ 942.770 and 942.771 cross-referenced superseded permanent program regulations.

In revising its permanent program rules, OSM consolidated Parts 770 and 771 into final Part 773, and removed Part 782. 48 FR 44334, September 28, 1983. Also, Part 776, on coal exploration, was replaced by a new Part 772. 48 FR 40636; September 8, 1983. The necessary corrections have been made in the Tennessee Federal program as promulgated here today. Proposed § 942.776, on review of State permits has been redesignated § 942.773(d), and is discussed below.

16. *Coal Exploration.* Section 942.772 addresses the requirements for coal exploration. Several commenters requested that OSM retain the permit and bond requirement of the Tennessee State program for all who remove more than 25 tons of coal in a consecutive 12-month period. The commenters also expressed concern that the OSM term "substantially disturb" is too vague and that the 25 ton limitation would assist in reducing the number of "wildcat" mining operations. One of the above commenters cited 30 CFR 736.23 as requiring OSM to use the Tennessee rules in the Federal program.

OSM has not accepted these comments. The Tennessee program is repealed as of October 1, 1984; therefore, the cited State regulations are no longer in effect. OSM has statutory requirements with respect to the quantity of coal to be removed and the acreage disturbed. Written approval from OSM will be required if more than 250 tons of coal are removed during exploration; if the operator removes less than 250 tons of coal and there may be a substantial disturbance of the natural land surface during such exploration, written notice to OSM is required beforehand. See 30 CFR Part 772.

OSM has added a provision at § 942.772(b) requiring that any person who intends to use mechanized earth moving equipment or to utilize explosives to conduct coal exploration activities must file a written notice of intent with OSM. This provision is in addition to the requirements of 30 CFR 772(a)(11) requiring a written notice of intention to explore from a person intending to conduct coal exploration activities that will substantially disturb the natural land surface. There are a number of reasons for this provision. First, it will aid in enforcement against persons mining coal without a permit under the guise of conducting coal exploration, a practice said by commenters to be occurring in Tennessee. Further, use of mechanized earth moving equipment or explosives in the course of coal exploration is a fairly reliable indication that substantial disturbance to the natural land surface is likely to occur. Thus, it provides clear guidance to individuals conducting such activities that in every instance where mechanized earth moving equipment or explosives are used in exploration they have an obligation to file a written notice with OSM. It should be noted that the term "mechanized earthmoving" equipment will not necessarily cover persons who intend to conduct coal exploration activities through the use of core drilling equipment on existing roads, and that such activities may not require the filing of a notice of intent to explore.

In reference to the "vague" definition of "substantially disturb," the Director believes that OSM's definition is as specific as is practical given the variability of the environmental and technical factors involved.

Section 942.773(b) adds to the requirements under the corresponding permanent program rules in order to provide direction to the permit applicant. This section also establishes a procedure for the handling of permit applications. This is necessary in order to dispose of applications which are grossly deficient early in the processing, to provide a formal procedure for obtaining additional information, and to

indicate the procedure for determinations of completeness.

As proposed, final § 942.773(c) authorizes the Office to obtain permit information beyond that required under 30 CFR Part 773. Such additional information may be required in order to meet the obligations imposed on the Office under the Federal laws identified under 30 CFR 773.12. This provision also allows the Office to obtain information necessary to comply with the National Environmental Policy Act, as discussed above.

A section applicable only to the Tennessee Federal program has been added at § 942.773(d) (proposed as § 942.776) for the review of existing permanent program permits issued under the Tennessee State regulatory program. It is based on Section 504(d) of the Act. Section 773.11(d) of the permanent program rules, in part, implements this provision in the Act. However, there is no specific procedure set out in that regulation under which a permittee who is notified that a revision is required may obtain review of that determination. There is also no provision under which OSM may revoke or suspend the permit of a permittee who fails to conform his or her operation to the Federal program requirements.

Final Section 942.773(d) specifies generally that a State-issued permit is valid; specifies that such permits will be reviewed and if determined not to be in conformity with the Act, notice will be given and a period of time set for conforming the operation to the requirements of the Act; describes the permittee's rights to have such a determination reviewed; and specifies the procedures by which the Office may suspend or revoke the permit. Section 942.773(d) also specifies that the hearing OSM provides the permittee to contest the Office's determination is non-adjudicatory. Adjudicatory procedures become available in the administrative review process before the Department's Office of Hearings and Appeals.

17. *Permitting—Review of Tennessee Permanent Program Permits.* One commenter stated that OSM review of all permanent program permits is critical.

OSM agrees. Section 504(d) of the Act states that all permits issued by the State regulatory authority prior to the effective date of this program are valid, but subject to review by OSM. Section 942.773(d) (proposed as § 942.776) describes the process OSM will use to review all permanent program permits issued by the State of Tennessee. If a permit has been granted contrary to the requirements of the Act, the permittee will be notified and time periods specified to revise the permit and to conform any ongoing surface coal mining operations to the requirements of this part of the Act.

18. *Operators With Pending Permit Applications.* Several commenters were concerned with how OSM would address the issue of pending permit applications, renewals, and expiring permits during the transition period from State primacy to the Federal program. One commenter pointed out that many operators' permits will expire prior to the issuance of new permits. This commenter suggested that OSM develop a rule that would allow operators to continue to operate until the new permit is issued. The commenter further suggested that expiring permits be administratively extended to avoid creating undue hardships on the industry.

The Director is aware of at least three classes of operations in Tennessee which may be operating without permits through no fault of their own: (1) Those with expired or soon-to-expire Tennessee permits; (2) underground operators who have never received Tennessee permits; and (3) facilities covered by the July 6, 1984, District Court opinion cited above.

OSM is aware of the hardship to those operators mining on expired or expiring permits with renewals pending if they are not allowed to mine until they receive the renewal. OSM will address this problem in the following manner. Those operators who are mining on an expired permit or a permit that will expire prior to a new permit being issued will be allowed to continue mining if they submitted a permit application to the State within the time limits established by the Tennessee Division of Surface Mining. These operators will be allowed to continue to mine during the period their permit applications are being reviewed. They will be required to adhere to the performance standards in their previously-issued State permits, at least to the interim program performance standards, and will be subject to OSM inspection and enforcement. However, if during the permit review, the operator fails to submit information requested by OSM for a complete application, his interim operating authority will terminate. See § 942.701(b).

OSM is aware also of operators conducting underground coal mining activities in Tennessee who have not yet received permits. Tennessee allowed these underground operations to continue during State primacy while certain jurisdictional and procedural issues were clarified. For this reason, the Director believes it would be unreasonable to order these operations to shut down on the effective date of this Federal program. Therefore, unpermitted operators in Tennessee conducting underground coal mining operations on October 1, 1984, may be allowed to continue mining if they: (1) Apply to OSM for permits, or authorize transfer to OSM of any permit application pending with the State regulatory authority, within two months of the effective date of this Federal program and (2) if they respond satisfactorily to OSM requests for additional information for a complete permit application. However, if during the permit review, the operator fails to submit information requested by OSM for a complete application, his interim operating authority will terminate. See § 942.701(c).

Finally, the Director is aware of the uncertainty over the jurisdictional status of certain off-site facilities. Final section 942.701(a) has been modified to comply with the court's July 6, 1984, decision in *In Re: Permanent Surface Mining Regulation Litigation II*, Civil Action No. 79–1144 (D.D.C., 1984).

Operators of facilities which are covered by the District Court's ruling and who have not previously submitted permit applications to the State must submit permit applications to OSM within two months of the effective date of this program to be able to continue operations beyond eight months from that effective date. See § 942.701(d). Although the Tennessee State program required the submission of permit applications by these operations, jurisdictional questions prevented implementation. The "two month/eight month" requirement adopted here today is consistent with OSM's intended resolution of the problem on a national basis, as will be explained shortly in a suspension notice.

OSM is currently developing permit application forms for use in Tennessee. In the meantime, a prospective permit applicant should contact OSM's Knoxville Field Office in order to determine the format for an application.

19. *Permitting—Requirements for Permits and Permits Processing.* Section 942.773 cross-references Part 773, which includes Federal requirements for review of permit applications and of permits issued under a State program (30 CFR 773.11(d)).

One commenter suggested that the review should include notice to citizens, so that they might have opportunity to comment on these permits.

OSM rejects this comment. The State was required to have provided

opportunity for public comment during its permit review process. If, however, the Office determines that the State did not adequately address the requirements for public comments, the permittee will be required to do so (30 CFR 773.11(d)(2)).

The commenter also suggested that OSM should have a time limit that continues for only a few months after October 1, 1984, for review and completion of the State-issued permits and review of the bond.

OSM rejects this comment. Section 773.11(d)(2) states that a review of permits issued under the previously approved State program shall begin immediately after the promulgation of a Federal program. While OSM will conduct these reviews as quickly as possible, the workload for review and revision will necessarily control the time frame for completion of the task.

Another commenter suggested that OSM simply replace all existing State permits with OSM permits which contain appropriate findings, adequate bond determination and any conditions necessary to meet the requirements of the Federal program.

OSM rejects this comment. Section 504(d) of the Act envisions a review of each permit rather than a process of automatically converting State permits into Federal ones. Such a reissuance would serve no apparent purpose without a prior review. Thus, § 773.11(d)(2) requires that "immediately following promulgation of a Federal program, the Director shall review the permits issued under the previously approved State program to determine that the requirements of the Act, [Chapter VII], and the Federal program are not violated." The section goes on to state the procedures to be followed if the Director determines that a permit was granted contrary to the requirements of this Act.

Another commenter was concerned that 30 CFR 773.11 (b) and (c) be included in the Tennessee Federal program. These sections provide minimum requirements for submitting and reviewing permits and for coordinating with other laws.

Section 942.773 cross-references Part 773, thereby making §§ 773.11 (b) and (c) applicable to the Tennessee Federal program.

The same commenter also suggested that more specificity should be provided setting forth the information required pursuant to the National Environmental Policy Act (NEPA), 42 U.S.C. 4321.

OSM has not accepted this comment since information to comply with NEPA is required in §§ 942.773 (b)(6) and (c), which OSM believes are sufficiently clear.

20. *Permitting—OSM Coordination with Other Agencies and Laws.* Section 773.12 of OSM's permanent program rules, cross-referenced at § 942.773 of the Tennessee Federal program, lists other laws with which the Secretary will coordinate permitting activities. That coordination is required pursuant to § 504(h) of the Act. Among the acts cited in this section are the National Historic Preservation Act of 1966, the Endangered Species Act, the Fish and Widlife Coordination Act, the Migratory Bird Treaty Act, and the Bald Eagle Protection Act.

One commenter suggested that the Tennessee Historical Commission be instructed to comment only on known cultural resources and to not imply that there may be unknown cultural resources within the proposed permit area.

OSM has not accepted this comment, since the Agency has no authority to limit the jurisdiction of the Tennessee Historical Commission.

Another commenter stated that promulgation of a Federal program to regulate surface mining in Tennessee is clearly a Federal undertaking subject to the requirements of Section 106 and other pertinent sections of the National Historic Preservation Act (NHPA).

OSM is aware of the regulations (36 CFR Part 800) that prescribe the mechanisms for complying with Section 106 of NHPA. OSM will coordinate its review of each permit with the State Historic Preservation Officer (SHPO), as required by 30 CFR 773.13(a)(3)(ii). The Office is also attempting to negotiate a Programmatic Memorandum of Agreement with the Advisory Council on Historic Preservation to cover its responsibilities in Tennessee.

One commenter stated that the Tennessee Department of Conservation should be instructed to comment only on known protected species and not to imply that there may be unknown protected species within the proposed permit area. The commenter further stated that the intent of the regulation should be to protect the known protected species, not provide funding for research.

OSM does not accept the comment. In many cases, a proposed minesite may be within the range of a protected species even though it may not be known if the species is actually using the proposed minesite. This may have to be determined in order to comply with the requirements of one of the laws listed above. In such a case, comments of the type to which the commenter objected may be entirely appropriate. The coordination requirement is intended to ensure that applicable provisions of other laws are satisfied. This intent is best served by fostering complete and open communication from agencies working with those laws during the permit review process. Therefore, OSM believes it is not appropriate to attempt to prescribe how agencies may comment in their own areas of expertise.

21. *Permitting—Public Participation in Permit Processing.* Section 773.13(c) provides requirements for requesting and conducting informal conferences pertaining to decisions on permit applications. One commenter requested that OSM establish a policy of holding informal conferences on permit applications in the locality of the minesite. The commenter expressed concern that local citizens who are concerned with a permit have easy access to the informal conference.

OSM agrees. Section 773.13(c)(2)(i) requires OSM to hold the informal conference near the minesite upon request. OSM's practice however, has been to hold all informal conferences in the locality of the minesite; OSM will continue this practice under the Tennessee Federal program.

One commenter suggested that the application completeness determination under § 942.773(b) be made within five days of application submittal and that final action on the permit application should be taken within 120 days of OSM's determination that the application is administratively complete.

OSM rejects this comment. The Office must have the flexibility of establishing a permit review timetable that satisfies the permit review workload within a reasonable time. Although OSM plans to issue permits in the most expeditious manner possible the suggested time limits are arbitrary. Further, the adoption of such time limits would not create any rights to demand that a permit be issued within 120 days of the completeness determination. That is, such a limit would be directory rather than mandatory.

22. *Permitting—Length of Permit Review and Approval Process.* One commenter contended that the normal permit approval process from submittal date to approval date should vary from 120 to 180 days depending on the complexity of the permit application, but that in no event should the review and issuance process extend beyond 180 days.

OSM rejects this comment. Section 773.15(a) requires that the regulatory authority conduct its reviews and issue its written decision, "within a reasonable time." OSM, as the

regulatory authority, will strive to meet the time frame recommended by the commenter; however, due to the large number of permits to be reviewed, OSM may not be able to issue permits within those times.

Another commenter suggested that OSM identify and prioritize transition permits for immediate review and processing. Each permit should be given a priority number based on need and time frame. To expedite the review of these permits, the commenter suggested, a separate task force should be assigned for the review and approval process. The commenter further recommended that, depending on size and complexity of the permit application, OSM initially should consider approving only individual increments. this would reduce the size of acreage to approve and, in most cases, the technical review and complexities of the permit application. Also, this would allow OSM the flexibility of partial approval pending additional information prior to complete approval of the permit applications. As a result, the permittee could continue his existing operation without interruption and comply with additional permit requirements, if necessary, prior to any exploration.

OSM agrees in part with the commenter, particularly with respect to the desirability of establishing within the permitting process a system to address any special needs of permit applicants. While no specific language is being included in this rule, OSM will consider administrative procedures allowing the Office to be responsive to timing needs of permit applicants.

23. *Permitting—Operators with Pattern of Violations, Bond Forfeitures, and/or Past History of Illegal Mining Activities.* Section 773.15(b) of the cross-referenced rules requires that OSM make a finding that the applicant, or the operator specified in the application, does not have a demonstrated pattern of willful violations of the Act. One commenter suggested that OSM adopt the Tennessee provision that no operator who has forfeited a bond can get a permit.

OSM does not believe that the provision is necessary since 30 CFR 773.15(c)(3) requires OSM to deny a permit if any of the numerous requirements in this section are not met. These are sufficient to ensure that the requirements of the program are satisfied. Further, each operator must post a bond adequate to pay for reclamation. Operators who are unable to purchase surety bonds because they have previously forfeited such bonds, will have to post collateral bonds.

One commenter requested that adoption of the provisions of the Tennessee state program which denies permits to subcontractors who have had past violations, or who have had a past history of willful violations. Another Tennessee requirement recommended for adoption was that for denial of a permit to anyone who has been convicted of wildcatting.

OSM has rejected these comments. Section 773.15(b)(1) of the crossed-referenced rules adequately addresses the issue of permit denial for pattern(s) of violations.

Another commenter expressed concern that the Federal regulations concerning criteria for permit approval are not sufficient to ensure that a permit is denied if mining would adversely affect area residents. The commenter urged the adoption of Tennessee's regulations pertaining to criteria for permit approval or denial since they are more complete.

OSM disagrees with the comment and believes that the findings in the Federal regulations are adequate to ensure proper approval or denial of a proposed permit. OSM has chosen to require those findings identified in § 773.15(c) (1)–(11) of the cross-referenced rules, rather than listing a large number of possible findings. The Director believes that lengthening the list of required findings would not change the results of a permit review. Further, this issue has already been addressed in the rulemaking notice discussing the adoption of 30 CFR Part 773. For additional discussion, see 48 FR 44366 (September 28, 1983).

Section 773.19(c) of the cross-referenced rules provide Federal requirements for permit terms. One commenter requested that OSM not issue permits which exceed the expiration date of the NPDES permit, which has a maximum of five years.

OSM rejects this comment. Section 773.19(c) of the cross-referenced rules states that each permit shall be issued for a fixed term of five years or less, unless the requirements of § 778.17 of the cross-referenced rules are met. Section 778.17(b) of the cross-referenced rules states the necessary conditions for an applicant who wishes to have a term exceeding five years in order to obtain necessary financing for equipment and the opening of the operation.

24. *Permitting—Requirement of Number of Copies of Permit Applications to be Submitted to the Office.* Proposed § 942.773(b)(1) would have required that any person applying for a new permit submit five copies of the application to the Office. One commenter suggested that the regulation should require only one for the review process. The commenter argued that additional copies of the same application serve no purpose until the permit is issued.

OSM does not agree. After careful consideration of the Agency's needs, however, OSM has determined that five copies of a permit application should be required both for internal administrative needs and so that a simultaneous review of the application can be conducted by OSM and other interested Federal and State agencies. Therefore, the additional copies of the application do serve a purpose prior to permit issuance.

25. *Permitting—Premining Site Visit by OSM.* Section 773(b)(5) of the cross-referenced rules requires OSM to visit the proposed permit area to determine whether the mining and reclamation plan is consistent with actual site conditions. One commenter expressed support for this requirement.

26. *Permitting—Permit Revisions.* Section 942.774 provides procedures and requirements for permit revisions, renewal, and transfer, assignment or sale of permit rights.

Section 942.774(b) specifies that a "significant" revision of the permit requires public notice and a formal hearing if one is requested. Section 774.13(b) of the cross-referenced rules directs the regulatory authority to establish guidelines for a permit revision. Section 511(a)(2) of the Act provides that any significant alteration in the reclamation plan shall be subject to formal revision. The rule adopted here today provides that a change in the reclamation plan will be considered "significant" if it has the potential to affect the achievement of reclamation as specified in the approved plan.

Section 942.774(c) specifies a period of 30 days within which to submit written comments on an application for approval of a transfer, assignment or sale of a permit. There is no period set in 30 CFR 774.17.

One commenter argued that § 942.774 is unnecessary because ample time and opportunity will be provided to comment on mining operations prior to the permit being issued.

OSM rejects this comment. Section 942.774 is in compliance with 30 CFR Part 774, which sets the minimum requirements for a permit revision, renewal, and transfer.

One commenter stated that § 942.774 (b) and (c) should be more specific in addressing the requirements for permit revisions. The commenter stated that, at a minimum, the permittee should be required to submit an application for revision of a permit at least 90 days

prior to the date on which the changes are expected to be made, with no revisions allowed until the application has been approved. The commenter suggested that the provisions of Tennessee Regulations 0400–1–3–.17 should be included in the Tennessee Federal program.

OSM rejects this comment. The time necessary for review will vary depending upon the extent of the proposed revision. In any event, no revision, renewal, or transfer may take effect until it is approved by OSM.

Another commenter suggested that the definition of a significant revision found in § 942.774(b) is in reality no guideline. The commenter further recommended guidelines on this subject.

OSM is rejecting this comment at this time. The Director believes that the definition found in § 942.774(b) is sufficient to allow the regulatory authority to properly apply the "revision" regulations and review requirements. However, the Office will consider developing guidelines for this purpose if experience shows them to be needed.

One commenter stated that § 774.17 of the cross-referenced rules allows citizen comment concerning transfer, assignment, or sale of permit rights, but does not give a time period in which these comments may be submitted. The commenter suggests 30 days after publication of the newspaper advertisement.

Section 942.774(c) as proposed and adopted addresses this concern.

27. *Permitting—Permit Fees.* A permit fee is required under Section 507(a) of the Act and 30 CFR 777.17. OSM is in the process of developing a permit fee system pursuant to 30 CFR 777.17. Under section 507(a) of the Act, the fee charged an applicant may be less than, but cannot exceed, the actual or anticipated cost of reviewing, administering, and enforcing the permit. However, no fee schedule has yet been established for Federal programs generally, nor is one being adopted at this time for Tennessee. A rulemaking notice is expected to appear in the near future to set a fee schedule for Tennessee, other Federal programs and Federal lands permits.

One commenter expressed concern that OSM would have no control over cost and that any delay in the review process could potentially cause the applicant a financial hardship.

OSM will propose a permit fee rule in the near future. The commenter is addressing an issue more appropriately considered in that rulemaking. Applicants are put on notice that OSM may propose and adopt a rule charging actual costs retroactive to the effective date of this Federal program.

28. *Permitting—Identification of Other Interests.* One commenter stated that § 778.13(c) of the cross-referenced rules should require all owners of 10% or more of any stock in a company to be identified, instead of merely "principal shareholders."

OSM appreciates this comment but notes that § 700.5 ("Definitions") of the cross-referenced rules defines a principal shareholder as any person who is a record or beneficial owner of 10% or more of any class of voting stock.

One commenter stated that § 778.14 of the cross-referenced rules should include subcontractor's past history in a permit application to prevent operators who would otherwise not be allowed to mine from doing so under the names of other companies.

OSM rejects this comment. Section 942.778 states that minimum requirements for legal, financial, compliance, and related information shall apply to any person who makes application for a permit to conduct surface mining and reclamation operations. The applicant is responsible for the work performed by his subcontractors.

One commenter suggested keeping former § 778.19 which required that the identification and status of all other licenses and permits required by other agencies be included in the permit application.

This comment is rejected for the following reasons: Section 778.13(g) of the cross-referenced rules requires Mine Safety and Health Administration (MSHA) numbers for all mine associated structures that require MSHA approval. Section 778.13(d) of the cross-referenced rules requires a statement of any pending surface coal mining and reclamation operations permit application in the United States.

29. *Right-of-Entry Information.* Section 778.15(a) of the cross-referenced rules requires an applicant to provide a description of the documents upon which he bases his legal right to enter and begin surface coal mining and reclamation operations in the permit area. He is also required to state whether that right is the subject of pending litigation. Several commenters suggested that OSM require an operator to show his legal right to enter before a permit is issued. They were concerned that an application could contain false ownership information yet be approved by OSM.

OSM must make the findings at § 773.15(c)(1) of the cross-referenced rules that an application is complete and accurate before a permit is issued. Therefore, the information provided to comply with § 778.15(a) of the cross-referenced rules would be reviewed by OSM prior to permit issuance.

30. *Maps: General Requirements.* Sections 779.24 and 783.24 of the cross-referenced rules identify the information to be included on maps. Sections 779.25 and 783.25 further identify additional data to be on map plans and cross sections. One commenter urged OSM to prescribe standards for the map scale to be used and recommended that it be uniform for all maps.

OSM agrees with the commenters that map scale standards are needed. While OSM has not included such requirements in the Tennessee Federal program, the Office intends to prepare guidelines in the near future on mapping requirements for permit applicants.

31. *Blasting Plan.* One commenter contended that the requirements of § 780.13 of the cross-referenced rules, Blasting Plan, are far too vague to ensure the protection of nearby residents.

OSM has not accepted this comment because this same regulation also requires the applicant to comply with the requirements of Section 30 CFR 816.61 through 816.68 of the cross-referenced rules. These sections contain the general blasting requirements and specific requirements pertaining to preblasting surveys, blasting schedules, blasting signs, warnings and access control, control of adverse effects, and records of blasting operations, and provide adequate protection for nearby residents.

32. *Air Pollution Control Plan.* Section 780.15(b) of the cross-referenced rules requires an air pollution control plan for all mines "if required by the regulatory authority." One commenter suggested that OSM require an air pollution control plan for surface mining operations, underground mines and all coal-related facilities.

OSM has not accepted this suggestion. In its final rulemaking of January 10, 1983 (48 FR 1160), OSM adopted a narrower interpretation of Section 515(b)(4) of the Act. A more detailed discussion of this topic may be found in the above referenced Federal Register notice.

33. *Hydrologic Information.* Section 30 CFR 780.21(b)(1) of the cross-referenced rules addresses information required to establish a baseline for groundwater within the permit area. This section also allows the regulatory authority to request additional information on groundwater should the circumstances warrant. One commenter suggested that OSM require hydrologic information

"within one-half mile with respect to location and ownership and that testing be conducted if the owner desired, to provide baseline data."

OSM has not accepted this suggestion. The commenter did not indicate what the reference point is for the one-half mile distance; in many instances this could be well within the permit boundary of the operation. Further, OSM has the option of requesting additional information with no distance limitation should the baseline information indicate the need for this additional data.

Another commenter recommended that OSM require operators to submit a determination of probable hydrologic consequences (PHC) as a permit condition along with a cumulative hydrologic impact assessment.

PHC information is now required in § 780.21(f) of the cross-referenced rules as part of a permit application. The development of the cumulative hydrologic impact assessment is the responsibility of the regulatory authority under § 780.21(g). This assessment is based on information contained in the permit application, such as the applicant's PHC, and other available information which is representative of the area, and must be completed before the permit is issued.

34. *Steep Slope Mining.* Section 785.15(b) of the cross-referenced rules requires that an application for a permit for mining on steep slopes contain sufficient information to establish that the operation will be conducted consistent with the performance requirements of 30 CFR 826.12.

One commenter contended that the reference to 30 CFR 826.12 has resulted in a gap, since Part 826 was removed by an earlier rulemaking.

The commenter is correct. However, the May 24, 1983 **Federal Register** notice on Backfilling and Grading explains that the performance standards from 30 CFR 826.12 have been moved to 30 CFR 816.107. This notice also removed 30 CFR Part 826 in its entirety. The Office recognizes that this may result in confusion and has initiated steps to correct section 785.15 to show the appropriate cross-reference for steep slope mining. In implementing 30 CFR 785.15, OSM will look to the provisions of 30 CFR 816.107.

35. *Requirements for Special Categories of Mining.* Section 785.16(f) of the cross-referenced rules addresses the requirements for the granting of variances from returning mined land to approximate original contour (ACO) and provides that such variances may be granted only if specific rules are promulgated to cover such actions. One commenter assumed from this that OSM will not grant such variances, since OSM has not promulgated specific rules to govern these variances.

The commenter is incorrect. The permanent program regulations for granting variances from approximate original contour requirements (30 CFR 785.16(f)) provide that variances may be granted only if the regulatory authority has established specific rules to govern such variances. OSM has done so at 48 FR 39892; 30 CFR 816.133(d) (1) through (10) of the cross-referenced rules address the granting of variances and provide the specific criteria required by § 785.16(f). Therefore, no additional criteria are needed or included here.

Small Operator Assistance

Section 942.795 establishes the same standards for the small operators assistance program as are found in Part 795 of the permanent program rules. OSM expects during its administration of the SOAP in Tennessee that Federal funds will be sufficient to provide for the authorized services, and does not expect to exercise its option at 30 CFR 795.11(b). That option allows OSM to establish a formula for allocating limited funds to provide the services pursuant to Part 795.

OSM will award SOAP contracts to qualified laboratories utilizing a streamlined procurement system that complies with the Federal Acquisition Regulations. Prior to issuing a Request for Proposal, OSM will announce its intention through publication in the Commerce Business Daily. Unlike the procedures currently used by Tennessee to develop an independent list of qualified laboratories, OSM will qualify laboratories as part of its contracting process.

Bonding

Section 942.800 establishes the same provisions, where applicable, as 30 CFR Chapter VII, Subchapter J, Bonding and Insurance Requirements for Surface Coal Mining and Reclamation Operations.

A provision has been added as § 942.800(b) specifying the procedure that the Office will follow in reviewing the bonds posted by operators who obtained permanent program permits from Tennessee. If a bond amount is determined to be inadequate, notice will be given and the operator will have the option of replacing the existing bond with an adequate one or of posting an additional bond for the amount of the shortfall.

36. *Bond and Insurance Requirements for Surface Coal Mining and Reclamation Operations.* Section 942.800 cross-references Federal regulations found at 30 CFR Part 800. These regulations set out requirements for filing and maintaining bonds and insurance for surface coal mining and reclamation operations. Besides cross-referencing the Federal rule, the final rule states that the Office will review the adequacy of bonds posted with the State for previously issued permanent program permits. Under this provision, the Office will notify any permittee when it determines that the posted bond is inadequate and require that either a new bond in the correct amount be posted and made payable to "the United States or the State of Tennessee" or the original bond be modified to include the United States as co-payee and additional bond be posted to meet the necessary amount. OSM is adopting as proposed a provision requiring all permittees to modify their bonds to include the United States as co-payee within a specified time (30 days) after the effective date of the Tennessee Federal program without direct notice being sent to each individual permittee.

The preamble to the proposed rule contained a request for comments on the disposition of outstanding interim program bonds not in forfeiture proceedings by the effective date of the Federal program. Several comments were received.

One commenter objected to OSM reevaluating existing bonds arguing that the Federal law allows bond amount to be increased only if the disturbed area is increased or reclamation costs increase. Another commenter opposed requiring permittees to amend their bonds to add the United States as a co-payee. Other comments requested that the bonding requirements of the approved Tennessee State program be adopted. One commenter suggested that if sureties are allowed to reclaim sites that they should be required to meet a compliance schedule, as would an operator. This same commenter also requested that bond amounts in the Federal Program be set substantially higher than those previously set by the State.

OSM is adopting the regulation as it was proposed, except that it is also adopting as § 942.800(b)(3) the provision discussed in the preamble to the proposal requiring all permittees under the previously approved State program to modify their bonds to include the United States as co-payee within 30 days from the effective date of the Federal program.

The Office believes that this reevaluation of existing bonds is necessary in order to insure that sites operated during the Federal program

may be properly reclaimed if the operator defaults. Federal regulations at 30 CFR 800.15 require that bonds shall be adjusted to ensure the posted amount is adequate to cover the costs of reclamation under changing circumstances. Further, 30 CFR 800.16(b) requires that bonds be made "payable to the regulatory authority," which, upon the effective date of this Federal program, is OSM. Therefore, each permittee will be required to amend his bond or bonds if necessary to reflect the proper amount and to include the United States as co-payee. Permittees who fail to comply with this requirement will be subject to notices of violation for failure to comply with 30 CFR 800.16(b), cross-referenced at § 942.800 of the Tennessee Federal program.

The Office has studied the suggestions of the commenters that the bonding requirements found in the approved Tennessee State program be adopted in the Federal program. OSM has not adopted this comment. OSM believes that its current national regulations are sufficient for use in the Tennessee Federal program. Nothing in the administrative record for this rulemaking or in previous regulatory experience in Tennessee convinces the Office that its current rules will be inadequate in Tennessee to regulate bonding and insurance requirements.

Concerning the reclaiming of sites by sureties, OSM has the discretion to allow a surety to reclaim a site rather than to pay the proceeds of its posted bond. OSM intends to exercise this discretion only when a surety convinces the Office that the surety is capable of satisfying the reclamation plan for the site and agrees to perform the necessary work according to an agreed upon compliance schedule.

Regarding interim program bonds, a discussion of this subject is contained in the preamble to the proposed Tennessee Federal program (49 FR 26898). After careful examination of its authority under Federal law concerning interim program bonds, the Office has decided that it is required to take all appropriate enforcement action to see that interim program mining sites are reclaimed to applicable Federal standards, including the forfeiture of bonds where the United States is named co-payee.

One commenter expressed concern that OSM would not require bond amounts sufficient to cover reclamation costs.

Section 800.14 of the cross-referenced rules requires that OSM determine the amount of the bond and that the bond amount be sufficient to assure completion of the reclamation plan if the work has to be performed by OSM in the event of forfeiture. In no case will the total bond initially posted for the entire area under one permit be less than $10,000 (30 CFR 800.14(b)). OSM believes that its bond assessment procedures provide for adequate bonds to cover reclamation costs.

The commenter also suggested that provisions be placed in the regulations that control the percentage release and set specific time frames for bond release.

The requirements of § 800.40 of the cross-referenced rules contain the information necessary to satisfy this comment.

Performance Standards. Except where specifically modified for the Tennessee Federal program, § 942.815 through 942.828 make applicable the relevant provisions of 30 CFR Chapter VII, Subchapter K, Permanent Program Performance Standards. Additions to those standards have been adopted at §§ 942.816 and 942.817 as discussed below.

As noted above, § 942.816(b) specifies the performance standards with which a permittee would have to comply. Such a provision is necessary in light of the repeal of the State statute and regulations under which the Tennessee permits were issued. The rule provides that if the permit specifies site-specific standards with which compliance is required, then those standards would apply. However, if the permit is silent or if it references a provision of the repealed Tennessee State program, then the Federal program standards will apply. For example, if the State-issued permit specified the seeding rate for revegetating reclaimed land, then that standard would prevail. If, however, the permit does not so specify, then the standards set in the Federal program will be applicable unless and until they were modified through the permit review undertaken by OSM.

OSM has adopted the revegetation success criteria as proposed, in part because 30 CFR 816.116(a)(1) requires that the regulatory authority establish standards and statistically valid sampling techniques for the measurement of success. Final § 942.816(f) sets forth revegetation success standards and sampling techniques. For pasture or hay land the Office has adopted a standard of 90% ground cover. In addition to this ground cover requirement, final § 942.816(f) requires that the crop production must be equal to or greater than the average county yield as determined by the Tennessee Crop Reporting Service. The 90% standard is usually considered to be the minimum acceptable level of cover for pasture land and is a provision of the former Tennessee State regulatory program. OSM has included a production standard because ground cover alone may not always indicate the capability of reclaimed land to support livestock.

For areas developed as cropland, the Office has used average county yield as the standard for determining reclamation success. Such information will be taken from the Tennessee Crop Reporting Service. Adjustment for local yield variation within the county may be made for disease, pests and weather-induced variations and differences in crop management practices. The Office has adopted this standard because there is insufficient research and experience to establish the reliability of other methods. The rule requires crops to be grown on a representative portion of the permit area that would be sufficient in size to demonstrate successful soil restoration.

Final § 942.816(f)(3) requires 80% ground cover for areas developed for wildlife habitat, recreation, or forest products. The stocking requirement for woody plants will be approved by the Office on a case-by-case basis and specified in the mining and reclamation plan. In approving stocking rates, the Office will rely heavily upon recommendations of the State agencies responsible for the administration of forestry and wildlife programs. The Office believes that case-by-case approval will allow the flexibility necessary to accommodate the specialized requirements of various wildlife and forest management plans. Eighty percent ground cover is believed to be necessary to control erosion on steep terrain that is common to eastern Tennessee coal fields. In applying this and other ground cover standards, the Office will use the definition of ground cover that is in the permanent program rules at 30 CFR 701.5. By that definition, ground cover includes both the aerial parts of living vegetation and litter that is produced naturally on site.

Subparagraph (f)(4) adopts as proposed the requirement of Tennessee permanent program rules which prohibited bare areas larger than one-sixteenth of an acre in size and that total more than 10% of the area seeded. The Office believes that such a provision is necessary to avoid releasing bond on lands that meet the overall cover requirements of 80 or 90% ground cover, but still have localized areas that are not yet stabilized from soil erosion.

Subparagraph (f)(5) requires that the distribution of woody plants within the permit area be consistent with the post-mining land use. This is to ensure that

all growing space is effectively utilized for land uses such as timber production. It also requires mine operators to replant areas where the survival of woody plants was uneven.

Subparagraph (f)(6) specifies that the sampling techniques for measuring woody plant stocking and ground cover shall be in accordance with techniques approved by the Office. The rule also provides for the use of actual crop yields where cropland is the post-mining land use.

All of the above standards have also been adopted as proposed at § 942.817 for underground mining.

37. *Hydrologic Balance: Siltation Structures.* Section 816.46(c)(1)(iii) of the cross-referenced rules appears as proposed in Option 2 of the proposed Tennessee Federal program with modification. The final rule at § 942.816(d) incorporates only the proposed requirements for provision of storage volume of no less than 0.2 acre feet per disturbed acre draining into the basin unless the Office approves a lesser volume. The minimum storage volume is 0.1 acre feet per disturbed acre.

Three commenters suggested that OSM use technical guidelines with alternative designs or approaches for design criteria of sedimentation ponds in lieu of specific regulations. One commenter stated that additional design criteria in these regulations would limit consideration of other suitable techniques that would meet the performance criteria. The commenter went on to say that the design criteria in the approved State program were so rigid that they excluded basin designs from changing in a rapidly changing technology. This commenter recommended that OSM adopt the alternative to Option 2 of issuing technical guidelines in lieu of regulations on design criteria. This commenter was opposed to the requirement that sedimentation ponds be located as near as possible to the disturbed area; 100 feet from streams with a biological community; and be located on the flattest slope practicable but in no case on a slope greater than 20 degrees. This commenter also suggested that the design requirement for 24-hour detention time be eliminated since this requirement would result in basins being two to three times larger than necessary to meet performance standards. The commenter stated that a variance should be allowed for particle size as well as for site specific data and specific gravity. The Commenter also objected to the requirement of a nonclogging dewatering device.

Three commenters felt that the sedimentation pond design criteria of Option 2 should be incorporated in regulation rather than used as technical guidelines. They argued that design standards are reasonable and workable, and would make the program a more easily enforceable program; that engineers would otherwise tend to "rubber stamp" the construction of these facilities; and that such design standards would provide a measure of continuity from the State to the Federal program.

As explained earlier, OSM has decided to adopt only a standard modified from § 816.46(c)(1)(iii) for minimum storage volumes because the standards of § 816.46, for the most part, provide sufficient technical direction to operators while allowing them flexibility.

38. *Contour Mining.* Section 942.816(e)(1) establishes the timing in days or distance for the completion of rough backfilling and grading for contour mining operations.

Two commenters objected to the 60 days or 1500 linear feet limit on contour mine operations. The first commenter suggested unlimited time for completion of backfilling and grading as long as the mine site was free of violations, while the second commenter suggested a maximum of 90 days or 1500 linear feet.

OSM has chosen to use the standard of 60 days or 1500 linear feet for completion of rough backfilling and grading for Tennessee. This standard was previously established in the Federal permanent program regulations and has been adopted by several States as their standard. The final rule provides additional time for backfilling and grading if the operator can demonstrate the need.

39. *Area Mining.* Proposed § 942.816(f)(3), adopted as § 942.816(e)(2), deals with the timing of rough backfilling and grading for area surface mining operations.

One commenter objected to the use in the proposed rule of the term "strip" because of its negative connotation, and suggested that the term "surface" be used instead.

OSM has accepted this suggestion and modified § 942.816(e)(2) accordingly.

One commenter suggested that OSM allow final grading during the first favorable planting season.

OSM has not accepted this comment. This rule deals only with rough backfilling and grading; therefore, the suggestion is not germane.

One commenter stated that the four spoil ridge time was excessive and suggested a two spoil ridge limit instead. OSM rejects this suggestion since the four spoil ridge concept was the acceptable limit in the previous Federal permanent program regulations and the imposition of a more stringent standard now would be unreasonable.

One commenter stated that an operator should be allowed, when necessary, additional time for backfilling and grading, particularly for mountain top removal operations and hollow fills.

OSM agrees. In the final rule, a provision has been added under which OSM may grant additional time for backfilling and grading if the operator can demonstrate that additional time is necessary.

40. *Diversions: General Requirements.* Final § 942.816(c) specifies additional design criteria for diversions.

Three commenters were opposed to additional design criteria for diversions as given in Option 2 of the proposed rule. Each commenter was in favor of technical guidelines which would allow for variations based on sound engineering practices, and would encourage the use of changing technology. One commenter felt that the addition of design criteria in the regulations would limit the operator's flexibility. The use of technical guidelines would allow the coal industry alternative designs in meeting performance standards. One commenter stated that the addition of the proposed design criteria is not authorized by the Act and arbitrarily imposes standards on the operator that are without statutory authority or justification.

OSM disagrees with the commenters as follows:

(1) The regulations at 30 CFR 816.43(a)(4) (cross-referenced at final § 942.816(c)) give the regulatory authority latitude to specify design criteria for diversions to meet the requirements.

(2) The standards in the final rule are those which Tennessee adopted in the permanent regulatory program, and are based on a proper balance between site-specific flexibility and the need for adequate standards governing design to ensure the proper functioning of diversions.

(3) OSM, as the regulatory authority under a Federal program, may establish design criteria to meet performance standards by specifying both design and performance criteria to ensure that the requirements of the Act are met. Therefore, OSM considers it appropriate, at a minimum, to add the design criteria in the final rule at § 942.816(c).

Several commenters were in favor of the inclusion in regulations of design criteria for diversions. One commenter advocated inclusion of design standards on lining, freeboard, dissipators, and handling of spoil material and topsoil in addition to the criteria in § 942.816(c). The commenter stated that mere implementation in Tennessee of § 816.43(a)(4) of the cross-referenced rules was insufficient to assure that diversions "which protect the integrity of fills and coal waste piles as well as minimizing the run-off that the operator must control from the affected area, will be adequately designed."

OSM agrees with the commenters that additional design criteria pertaining to diversions should be included in the Federal program regulations and has modified § 942.816(c) accordingly. OSM's objective in § 942.816(c) is to achieve conditions after mining comparable to the premining conditions. The requirements adopted, including the additional design criteria of § 942.816(c) pertaining to diversions, will achieve this objective and at the same time will provide the operator with sufficient flexibility. The language in the final rule allows operators to make technical innovations and improvements to achieve these goals without specifying all aspects of stream channel reconstruction.

41. *Use of Explosives: General Requirements.* Section 816.61(d) of this chapter, made applicable through the cross-reference at final § 942.816, relates to blast design and requires the submission of an anticipated blast design for certain areas of blasting. One commenter suggested that OSM retain the Tennessee blasting regulation in repealed Tennessee regulation section 0400–1–14.36(6), which provides additional distance to prevent possible damage from blasting.

It should be pointed out that the above Tennessee regulation did not prohibit blasting from these areas but only required the approval of the regulatory authority for blasting within lesser distances. OSM must abide by the Federal court's ruling in this matter and cannot prohibit blasting within these areas. See *In Re: Permanent Surface Mining Regulation Litigation I*, No. 79–1144 (May 16, 1980; D.D.C.). However, OSM has required the blaster to take extra steps if needed to ensure prevention of damage.

42. *Use of Explosives: Preblast Survey.* Sections 816.62 (a) and (b) of the cross-referenced rules explain the procedure by which residents within ½ mile of the permit area may obtain a preblast survey. One commenter explained that Tennessee required a preblast survey for dwellings within 1000 feet of the permit area. This commenter felt that OSM should adopt the same requirement.

The Federal regulations must reflect the requirements of the Act, section 515(b)(15)(E) of which requires a preblast survey "upon the request of a resident or owner * * *." Therefore this suggestion is rejected.

43. *Use of Explosives: Blasting Schedule.* Section 816.64(a) of the cross-referenced rules specifies the times when an operator may blast and allows the regulatory authority to specify more restrictive times.

One commenter stated that repealed Tennessee Regulation 0400–114–.33, "Use of Explosives: Surface Blasting Requirements," should not be replaced by 30 CFR 816.66. The commenter also stated that the Tennessee regulation is more stringent and specific in that it prohibits detonation of blasts at night except under special conditions. The commenter recommended that the Tennessee rule with respect to the blasting schedule be retained in its entirety because it was more restrictive. The commenter also recommended that the prohibition on night blasting except under specific conditions be retained.

OSM has accepted both recommendations in part. Final § 942.816(h) has been adopted, in part, in response to the commenters' suggestion that night blasting be banned. That section prohibits blasting between sunset and sunrise, as well as restricting blasting to those times in the blasting schedule except in emergency situations where rain, lightning, or other atmospheric conditions, or operator or public safety requires unscheduled detonations. Finally, this section allows OSM to further limit blasting times.

The commenter also pointed out that the references to one inch per second peak particle velocity in the repealed Tennessee regulations were not consistent with a past court decision on the Federal regulations. The commenter is correct; 30 CFR 816.67(d) provides three alternative means of determining maximum peak particle velocities.

44. *Disposal of Excess Spoil: Drainage Control.* Final § 942.816 contains the requirements for underdrain systems through cross-reference to 30 CFR Part 816. This provision applies to all underdrain systems whether or not the disposal area falls within the definition of a head-of-hollow or valley fill. The requirements are consistent with section 515(b)(22)(D) of the Act.

Several commenters stated that specific design criteria for underdrains were essential and urged the incorporation of the design criteria in the repealed State program into the Tennessee Federal program to provide continuity from the State to the Federal program, because they are tailored to Tennessee and recognize regional mining conditions, and because they have met the Federal requirements and are familiar to industry and citizens. Further, the commenters noted the requirement in 30 CFR 816.71(f)(3) that underdrains "meet any design criteria established by the regulatory authority." Finally, the commenters argued that design criteria were "necessary for environmental and health reasons," and that omission of such criteria would leave a gap in the Federal program and would violate SMCRA requirements. Failure to provide design criteria they contended, would undermine successful enforcement of the performance standards.

One commenter stated that inclusion of design criteria for underdrains would be burdensome to the industry. Another commenter opposed the addition of detailed standards because they would limit consideration of other suitable techniques and would arbitrarily impose additional standards without statutory authority. This commenter proposed issuance of technical guidelines with various allowable alternatives.

OSM agrees with the commenters who favored no specific design requirements for underdrains other than those in 30 CFR 816.71, and is not adopting any additional performance standards for underdrains at this time. The Director believes that § 816.71(f)(3) of the cross-referenced rules provides adequate requirements for underdrains for the reasons set forth in the preamble of the final rule adopting § 8167.71. Successful enforcement of performance standards will be based upon the specific terms of the operation and reclamation plan that is incorporated in the permit, and is not dependent upon additional criteria in § 942.816.

45. *Revegetation Success Standards.* Final § 816.116(f) provides for the application of revegetation success standards in accordance with the approved postmining land use and sets minimum conditions for specific land use. Section 816.116(a)(1) of the cross referenced rules requires the regulatory authority to select standards for success and statistically valid sampling techniques for measuring success. Therefore the addition of revegetation success standards is required in the Federal program for Tennessee.

One commenter objected to the requirement in the proposed rule that vegetation species used for pasture have a demonstrated self-regeneration

capability. The same commenter objected to 80% initial ground cover with a 90% statistical confidence for areas with wildlife habitats. The commenter went on to say that the Federal standards require that only 70% success be achieved. The commenter requested that the proposed standard be modified to equal the Federal standard since it is excessive and more stringent than the Federal rule.

OSM disagrees with the commenter that the proposed revegetation success standard is more stringent than the Federal standard. The Federal rule provides for the application of success standards in accordance with the approved postmining land use and sets minimum conditions for specific land use. The provisions of 30 CFR 816.116(b) allow regulatory authorities flexibility to develop success standards that are tailored to conditions that exist within the State. The rule sets criteria that must be examined to determine success, but it is the regulatory authority's obligation to identify the particular procedures which will be followed. 30 CFR 816.116(b) has been written in a general form because of the variation in natural ground cover conditions throughout the States. Therefore, OSM, in its promulgation of a Federal program in Tennessee, is required to establish standards that are compatible with State conditions. OSM believes it has accomplished this in the final rule on vegetation success standards for Tennessee.

Several commenters felt that standards in addition to those in the proposed rule should be added to incorporate the specific fertilizer, mulch and planting requirements and evaluation set forth in the repealed Tennessee permanent program regulations. One commenter felt that revegetation is more difficult to obtain in contour mining found in Tennessee and that, therefore, the terrain of Tennessee necessitates more specific and stringent standards.

OSM believes that the final rule regarding revegetation success standards is sufficient for the Federal program in Tennessee as it requires specificity in some areas and allows flexibility in others.

46. *Establishment of Design Criteria for Roads.* Final § 942.816(g) provides minimum design standards for primary and ancillary roads.

One commenter stated that many of the performance standards of the proposed Federal program are weaker than the corresponding sections of the State program. He gave as an example the Federal standards pertaining to haul roads, specifically § 816.150(c) concerning design criteria for roads. He pointed out that this section, as well as other sections of the proposed Federal program, gives latitude to the regulatory authority in establishing design criteria.

OSM, as the regulatory authority, is not required to adopt design criteria for roads. OSM's responsibility is to see that any design submitted with a permit application will ensure that operators achieve the required performance standards. However, in response to the commenter concerning the need for design criteria for roads, OSM has revised § 942.816(g) to include specific performance standards for both primary and ancillary roads.

47. *Special Performance Standards—Coal Preparation Plants Not Located Within the Permit Area of a Mine.* Section 942.701 cross-references 30 CFR 701.5(a), "Definitions," under the permanent program. Included in 30 CFR 701.5(a) are the definitions of "coal preparation or coal processing," "coal prepartion plant," and "support facilities." These definitions were the subject of a recent District Court opinion in *In Re: Permanent Surface Mining Regulation Litigation II,* Civil Action No. 79–1144 (D.D.C., July 6, 1984).

The court ruled that the limitations placed on the Secretary's jurisdiction by these definitions improperly narrowed the regulatory scope of the Act. Specifically, the Court held that facilities which in any way leach, chemically process, or physically process coal should be regulated when located away from the minesite even if they do not separate coal from its impurities. The court also held that the test for determining what is a regulated support facility should include a functional test and not be based solely upon a proximity limitation. As a result of this ruling, regulations containing the definitions of "surface coal mining operations," "coal preparation or coal processing," and "coal preparation plant" were remanded to the Secretary to be revised in accordance therewith. Although the definition of "support facility" was not remanded, the court's Memorandum Opinion clearly indicated that it cannot stand.

Consistent with the court's decision, OSM is providing in this Federal program that the definitions of "surface coal mining operations" in § 700.5, and of "coal preparation or coal processing" and "coal preparation plant" at Section 701.5 include facilities which leach, chemically process, or physically process coal. Thus, facilities which crush, screen, or size coal will be regulated wherever located. Also, consistent with the court's decision, OSM has decided not to apply the definition of "support facilities" in § 701.5 of this chapter. Thus, the determination of which "support facilities" are regulated under paragraph (b) of the definition of "surface coal mining operations" at 30 CFR 700.5 will include consideration of the functional relationship of the facilities in question to other regulated activities.

Inspection and Enforcement Procedures. Sections 942.842, 942.843 and 942.845 establish the same provisions as 30 CFR Chapter VII, Subchapter L, Permanent Program Inspection and Enforcement Procedures. No changes were proposed or adopted in those procedures for the Tennessee Federal program.

48. *Federal Inspection and Monitoring.* Section 842.11 of the cross-referenced rules describes the requirements for Federal inspection. One commenter questioned OSM's authority to inspect coal exploration operations that do not create a substantial disturbance.

OSM has such authority. Although reclamation obligations apply only to those exploration operations that substantially disturb the land surface, it would be illogical to hold that the Office was prohibited from inspecting exploration operations to determine whether they were in fact meeting that test. Therefore, OSM rejects the comment.

Another commenter expressed a need for inspection, on weekends, evenings, and holidays as well as a need for a contact person at OSM during those times. The commenter explained that this is needed since "wildcatters" operate during these times.

OSM agrees. OSM has long had the requirement in 30 CFR 842.11(d)(1) that inspections be carried out on an irregular basis, including nights, weekends, and holidays. OSM has in the past and will continue to conduct inspections during these times as the need arises. The Director is reviewing the merits of providing to citizens a mechanism through which they could contact OSM at times outside normal working hours in connection with the possible installation of a toll free telephone number, as discussed under General Comments.

49. *Requests for Federal Inspections.* Section 842.12 of the cross-referenced rules provides requirements for requesting Federal inspections, including the conduct of the inspection, a requester's right to confidentiality, and the right of a person to be present during the inspection.

A commenter expressed the desire for OSM to have a system for keeping

confidential the identity of citizens making complaints.

OSM agrees with the commenter that confidentiality is important in the handling of citizen complaints. Such confidentiality is provided by 30 CFR 842.12, cross-referenced at 942.842 of the Tennessee Federal program. That section provides that the identity of individuals requesting a Federal inspection or providing information on a possible violation or imminent danger or harm shall remain confidential if requested by that person. OSM has procedures to handle citizen complaints confidentially which have been used for several years. These established procedures will be used in Tennessee.

50. *Cessation Orders.* A commenter asserted that 30 CFR 843.11(a)(2)(i), cross-referenced at Section 942.843 of the Tennessee Federal program, "forbids OSM from issuing" cessation orders to operators mining off their permit areas. The commenter was referring to a provision under which mining without a permit is made subject to cessation orders for causing significant imminent harm unless the operations "are an integral, uninterrupted extension of previously permitted operations" and the operator has filed "a timely and complete permit to conduct such operations."

The commenter's concern that OSM would be unable to cease such operations if necessary is unfounded. OSM could issue a notice of violation requiring any unpermitted operations to cease. If necessary, this could then be followed by a failure-to-abate cessation order. Further, the cited provision does not in any sense hinder or prohibit OSM from issuing a cessation order under 30 CFR 843.11(a)(1) to any operator who is creating an imminent danger to health and safety, or who is causing or can reasonably be expected to cause significant imminent harm.

Blaster Training and Certification. The proposed Tennessee Federal program cross-referenced 30 CFR Part 850. The final progam has been corrected to cross-reference the more appropriate (but proposed) 30 CFR Part 855, Certification of Blasters in Federal Program States and on Indian Lands. However, there are no substantive standards for a Federal program for blaster training and certification at present.

51. *Blaster Training and Certification.* One commenter stated that such a program "has been in limbo for years" and insisted that OSM provide such a program promptly.

OSM agrees and has recently proposed a Federal blaster certification program in the **Federal Register** (49 FR 35714; September 11, 1984). It should be pointed out that 30 CFR 850.12(b) requires the development and adoption of a blaster program within twelve months after implementation of a Federal program. OSM intends to comply with that requirement.

IV. Other Information

OSM has examined this Federal program according to the criteria of Executive Order 12291 (46 FR 3193, February 19, 1981) and has determined that it does not constitute a major rule. There would be no major economic impact through adoption of this rule. The coal mining industry in Tennessee is already subject to the regulatory standards similar to those imposed by the Federal program as adopted.

OSM has examined this Federal program pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, and determined that it will not have a significant impact on a substantial number of small entities. The impact is no different than the effect of the approval of the State regulatory program.

Section 702(d) of the Act provides that promulgation of a Federal program shall not constitute a major Federal action under the National Environmental Policy Act, 42 U.S.C. 4332. Thus, no Environmental Assessment is required for this rulemaking.

Office of Management and Budget Review

The recordkeeping and reporting requirements of this rule are the same as those of the permanent program regulations which have been approved by the Office of Management and Budget (OMB) under 44 U.S.C. 3507.

Subjects Affected by Rulemaking

In accordance with the **Federal Register** rule at 1 CFR 18.20, OSM has identified the following topics affected by the rulemaking:

List of Subjects in 30 CFR Part 942

Coal mining, Intergovernmental relations, Surface mining, Underground mining, Reporting and recordkeeping requirements.

Accordingly, 30 CFR Part 942 is amended as set forth herein.

Dated: September 25, 1984.

J. Steven Griles,

Acting Assistant Secretary, Land and Minerals Management.

1. Part 942 is revised to read as follows:

PART 942—TENNESSEE

Sec.

942.20 Approval of Tennessee reclamation plan for lands and waters affected by past coal mining.
942.700 Tennessee Federal program.
942.701 General.
942.707 Exemption for coal extraction incident to government-financed highway or other construction.
942.761 Areas designated unsuitable for surface coal mining by act of Congress.
942.762 Criteria for designating areas as unsuitable for surface coal mining operations.
942.764 Processes for designating areas unsuitable for surface coal mining operations.
942.772 Requirements for coal exploration.
942.773 Requirements for permits and permit processing.
942.774 Revision; renewal; and transfer, assignment, or sale of permit rights.
942.775 Administrative and judicial review of decisions.
942.777 General content requirements for permit applications.
942.778 Permit applications—Minimum requirements for legal, financial, compliance, and related information.
942.779 Surface mining permit applications—Minimum requirements for information on environmental resources.
942.780 Surface mining permit applications—Minimum requirements for reclamation and operation plan.
942.783 Underground mining permit applications—Minimum requirements for information on environmental resources.
942.784 Underground mining permit applications—Minimum requirements for reclamation and operation plan.
942.785 Requirements for permits for special categories of mining.
942.795 Small operator assistance program.
942.800 Bond and insurance requirements for surface coal mining and reclamation operations.
942.815 Performance standards—Coal exploration.
942.816 Performance standards—surface mining activities.
942.817 Performance standards—underground mining activities.
942.819 Special performance standards—Auger mining.
942.823 Special performance standards—Operations on prime farmland.
942.824 Special performance standards—Mountaintop removal.
942.827 Special performance standards—Coal preparation plants not located within the permit area of a mine.
942.828 Special performance standards—In situ processing.
942.842 Federal inspections.
942.843 Federal enforcement.
942.845 Civil penalties.
942.855 Certification of blasters.

Authority: Pub. L. 95–87, The Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 *et seq.*

§ 942.20 Approval of Tennessee reclamation plan for lands and waters affected by past coal mining.

The Tennessee Reclamation Plan, as submitted on March 24, 1982, is approved. Copies of the approved program are available at:

Office of Surface Mining Reclamation and Enforcement, 530 Gay Street, Suite 500, Knoxville, Tennessee 37902

State of Tennessee Department of Conservation, Division of Surface Mining and Reclamation, 305 West Springvale, Knoxville, Tennessee 37917

Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5315, 1100 'L' Street, NW. Washington, D.C. 20240.

§ 942.700 Tennessee Federal Program.

(a) This part contains all rules that are applicable to surface coal mining operations in Tennessee which have been adopted under the Surface Mining Control and Reclamation Act of 1977.

(b) Certain of the rules in this part cross-reference pertinent parts of the permanent program regulations in this chapter. The full text of a cross-referenced rule is in the permanent program rule cited under the relevant section of this part.

(c) This part applies to all surface coal mining operations in Tennessee conducted on non-Federal and non-Indian lands. To the extent required by Part 740 of this chapter, this part also applies to operations on Federal lands in Tennessee.

(d) The information collection requirements contained in this part have been approved by the office of Management and Budget under 44 U.S.C. 3507 and assigned the following clearance numbers: 1029–0007, 1029–0009, 1029–0032, 1029–0033, 1029–0034, 1029–0035, 1029–0036, 1029–0038, 1029–0039, 1029–0040, 1029–0041, 1029–0043, 1029–0047, 1029–0048, 1029–0049, 1029–0080.

§ 942.701 General.

(a)(1) Except as provided in paragraphs (a)(2) and (a)(3) of this section § 700.5, 700.11, 700.12, 700.13, 700.14, 700.15 and Part 701 of this chapter shall apply to coal exploration and surface coal mining and reclamation operations.

(2) The definition of "support facilities" in § 701.5 of this chapter shall not apply to surface coal mining and reclamation operations.

(3) The definitions of "surface coal mining operations" in § 700.5, and "coal preparation or coal processing" and "coal preparation plant" in § 701.5 of this chapter shall include facilities which leach, chemically process, or physically process coal.

(b) Surface coal mining and reclamation operations in Tennessee which do not have a permanent program permit issued by the State of Tennessee prior to the effective date of this program, but which filed a permit application on a timely basis and were allowed to operate under the Tennessee State program, may continue to operate until the Office issues or denies a permit if they: (1) Comply with subchapter B of this chapter until issuance or denial of a permit under this program; (2) authorize transfer to OSM of any permit application pending with the State regulatory authority; and (3) provide to the Office on a timely basis any requested additional information necessary to make a complete permit application.

(c) Persons engaged in underground mining activities which do not have and did not apply for a permanent program permit from the State of Tennessee prior to the effective date of this program, but which were allowed to operate under the Tennessee State program, may continue to operate beyond eight months after the effective date of this program if they: (1) Within two months of the effective date of this program apply to OSM for a permit; (2) comply with Subchapter B of this chapter until issuance or denial of a permit under this program; and (3) provide to the Office on a timely basis any requested additional information necessary to make a complete permit application.

(d) Persons operating facilities which leach, chemically process, or physically process coal which do not have a permanent program permit from the State of Tennessee prior to the effective date of this program, may continue to operate beyond eight months after the effective date of this program if they: (1) Within two months of the effective date of this program apply to OSM for a permit; (2) comply with Subchapter B of this chapter until issuance or denial of a permit under this program; and (3) provide to the Office on a timely basis any requested additional information necessary to make a complete permit application.

(e) Records required by § 700.14 of this chapter to be made available locally to the public shall be retained at OSM's Knoxville Field Office.

§ 942.707 Exemption for coal extraction incident to government-financed highway or other construction.

Part 707 of this chapter, Exemption for Coal Extraction Incident to Government-Financed Highway or Other Construction, shall apply to surface coal mining and reclamation operations.

§ 942.761 Areas designated unsuitable for surface coal mining by act of Congress.

Part 761 of this chapter, Areas Designated by Act of Congress, shall apply to surface coal mining and reclamation operations.

§ 942.762 Criteria for designating areas as unsuitable for surface coal mining operations.

(a) Part 762 of this chapter, Criteria for Designating Areas as unsuitable for Surface Coal Mining Operations, shall apply to surface coal mining and reclamation operations.

(b) In addition to the lands defined as fragile lands in § 762.5 of this chapter, the Office in evaluating any petition to designate lands as unsuitable or to terminate such designation will consider lands included on the Tennessee Natural Areas Registry under Tennessee Code Annotated (TCA) section 11–14–112, Natural Areas designated by the Tennessee General Assembly under TCA 11–14–108, areas adjoining Tennessee Scenic Rivers designated under TCA 11–13–101, and Scenic Trails designated under TCA 11–11–101.

§ 942.764 Process for designating areas unsuitable for surface coal mining operations.

(a) Part 764 of this chapter, State Process for Designating Areas Unsuitable for Surface Coal Mining Operations, shall apply to surface coal mining and reclamation operations.

(b) The Secretary shall notify the Tennessee Department of Health and Environment of any area designated unsuitable or for which such designation has been requested or terminated.

(c) Unsuitability designations made under the Tennessee State program shall remain valid unless and until terminated.

§ 942.772 Requirements for coal exploration.

(a) Part 772 of this chapter, Requirements for Coal Exploration, shall apply to any person who conducts coal exploration, except for § 772.11(a) regarding written notice of intention to explore, for which paragraph (b) of this section substitutes.

(b) *Notice of intent.* Any person who intends to conduct coal exploration operations outside a permit area during which 250 tons or less of coal will be removed and which may: (1) Substantially disturb the natural land surface, or (2) involve the use of mechanized earth moving equipment or explosives, shall, before conducting

such exploration, file with the regulatory authority a written notice of intention to explore.

§ 942.773 Requirements for permits and permit processing.

(a) Part 773 of this chapter, Requirements for Permits and Permit Processing, shall apply to any person who applies for a permit for surface coal mining and reclamation operations.

(b) In addition to the requirements of Part 773, the following permit application review procedures shall apply:

(1) Any person applying for a permit shall submit five copies of the application to the Office.

(2) The Office shall review an application for administrative completeness and acceptability for further review and shall notify the applicant in writing of the findings. The Office may:

(i) Reject a flagrantly deficient application, notifying the applicant of the findings;

(ii) Request additional information required for completeness stating specifically what information must be supplied and the date by which the information must be submitted; or

(iii) Judge the application administratively complete and acceptable for further review.

(3) Should the applicant not submit the information as required by § 942.773(b)(2)(ii) by the specified date, the Office may reject the application. When the applicant submits the required information by the specified date, the Office shall review it and advise the applicant concerning its acceptability.

(4) When the application is judged administratively complete, the applicant shall be advised by the Office to file the public notice required by § 773.13 of this chapter.

(5) A representative of the Office shall visit the proposed permit area to determine whether the operation and reclamation plans are consistent with actual site conditions. The applicant will be notified in advance of the time of the visit. At the time of the visit, the applicant shall have the locations of the proposed permit boundaries, topsoil storage areas, sediment control structures, roads, and other significant features contained in the application marked by flags.

(6) Adequacy of information to allow the Office to comply with the National Environmental Policy Act, 42 U.S.C. 4322, shall be considered in the determination of a complete application. The Office may require specific additional information from the applicant as any environmental review progresses when such specific information is needed. Failure to submit the additional information by the date(s) requested could result in disapproval of the application.

(c) In addition to the information required by subchapter G of this chapter, the Office may require an applicant to submit supplementary information to ensure compliance with applicable Federal laws and regulations other than the Act.

(d) *Review of Tennessee State program permits.* In lieu of the provisions of § 773.11(d)(2) of this chapter, the following shall apply:

(1) Beginning on the effective date of this program, the Office will review all permanent program permits issued by the State of Tennessee.

(2) If the Office determines that any State permit was granted contrary to the provisions of the Act, the Office will: (i) Notify the permittee in writing and state the reasons for its determination; (ii) provide the permittee a reasonable time within which to resubmit the permit application in whole or in part, as appropriate; (iii) provide the permittee a reasonable time within which to conform ongoing surface coal mining and reclamation operations to the requirements of this part; and (iv) provide the permittee with the opportunity for a non-adjudicatory hearing to contest the determination by the Office.

(3) If the permittee fails to resubmit the permit application or conform the ongoing surface coal mining and reclamation operations to the requirements of this part within the time specified, the Office may suspend or revoke the permit.

(4) The Office's suspension or revocation of a permit under paragraph (d)(3) of this section shall be subject to administrative and judicial review in accordance with the provisions of Part 775 of this chapter.

§ 942.774 Revision; renewal; and transfer, assignment, or sale of permit rights.

(a) Part 774 of this chapter, Revision; Renewal; and Transfer, Assignment, or Sale of Permit Rights, shall apply to any such actions involving surface coal mining and reclamation operations permits.

(b) Any revision to the approved mining or reclamation plan will be subject to review and approval by the Office. A significant revision to the reclamation plan will be subject to the public notice and hearing provisions of the program prior to approval and implementation. A change in the reclamation plan will be considered significant if it has the potential to affect the achievement of reclamation as specified in the approved plan.

(c) In addition to the requirements of Part 774 of this chapter, any person having an interest which is or may be adversely affected by a decision on the transfer, assignment, or sale of permit rights, including an official of any Federal, State, or local government agency, may submit written comments on the application to the Office within thirty days of either the publication of the newspaper advertisement required by § 774.17(b)(2) of this chapter or receipt of an administratively complete application, whichever is later.

§ 942.775 Administrative and judicial review of decisions.

Part 775 of this chapter, Administrative and Judicial Review of Decisions, shall apply to all decisions on permits.

§ 942.777 General content requirements for permit applications.

Part 777 of this chapter, General Content Requirements for Permit Applications, shall apply to any person who makes application for a permit to conduct surface coal mining and reclamation operations.

§ 942.778 Permit applications—Minimum requirements for legal, financial, compliance, and related information.

Part 778 of this chapter, Permit Applications—Minimum Requirements for Legal, Financial, Compliance, and Related Information, shall apply to any person who makes application for a permit to conduct surface coal mining and reclamation operations.

§ 942.779 Surface mining permit applications—Minimum requirements for information on environmental resources.

Part 779 of this chapter, Surface Mining Permit Applications—Minimum Requirements for Information on Environmental Resources, shall apply to any person who makes application to conduct surface coal mining and reclamation operations.

§ 942.780 Surface mining permit applications—Minimum requirements for reclamation and operation plan.

Part 780 of this chapter, Surface Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plan, shall apply to any person who makes application to conduct surface coal mining and reclamation operations.

§ 942.783 Underground mining permit applications—minimum requirements for information on environmental resources.

Part 783 of this chapter, Underground Mining Permit Applications—Minimum Requirements for Information on Environmental Resources, shall apply to any person who makes application to conduct underground coal mining operations.

§ 942.784 Underground mining permit applications—Minimum requirements for reclamation and operation plan.

Part 784 of this chapter, Underground Mining Permit Applications—Minimum requirements for Reclamation and Operation Plan, shall apply to any person who makes application for a permit to conduct underground coal mining operations.

§ 942.785 Requirements for permits for special categories of mining.

Part 785 of this chapter, Requirements for Permits for Special Categories of Mining, shall apply to each person who makes application for a permit to conduct certain categories of surface coal mining and reclamation operations as specified therein.

§ 942.795 Small operator assistance program.

Part 795 of this chapter, Small Operator Assistance Program, shall apply to any person making application for assistance under the small operator assistance program.

§ 942.800 Bond and insurance requirements for surface coal mining and reclamation operations.

(a) Except as provided in paragraph (b) of this section, Part 800 of this chapter, Bond and Insurance Requirements for Surface Coal Mining and Reclamation Operations Under Regulatory Programs, shall apply to any person conducting surface coal mining and reclamation operations.

(b) (1) The Office shall review the adequacy of the bonds for those operators who posted reclamation bonds with the State of Tennessee under its permanent regulatory program prior to the effective date of this program,who gave the State collateral to guarantee reclamation, or who was required to take either of these actions.

(2) Where the Office determines that a bond amount is inadequate it shall notify the operator that additional bond is required. The operator shall post the required bond or collateral in the amount and within the time required by the Office. All bonds shall be made payable to "The United States or the State of Tennessee."

(3) Not later than 30 days after the effective date of this program each permanent program permittee shall either: (i) Post an acceptable new bond in the required amount made payable to "The United States or The State of Tennessee" or (ii) provide an executed assignment of the required acceptable bond made payable to "The United States or The State of Tennessee."

§ 942.815 Performance standards—Coal exploration.

Part 815 of this chapter, Permanent Program Performance Standards—Coal Exploration, shall apply to any person who conducts coal exploration.

§ 942.816 Performance standards—Surface mining activities.

(a) Except as modified by paragraphs (b) through (h) of this section, Part 816 of this chapter, Permanent Program Performance Standards—Surface Mining Activities, shall apply to any person who conducts surface mining activities in the State of Tennessee.

(b) The permittee shall comply with the site-specific terms of the permit except that references to provisions of the Tennessee State program shall be read to require compliance with the relevant provisions of this part. Where the permit does not specify site-specific standards with which compliance is required, the permittee shall comply with the standards of this Part.

(c) *Diversions.* In lieu of the requirements of § 816.43(a)(4) of this chapter, diversion design shall incorporate the following requirements:

(1) Channel lining shall be designed using standard engineering practices to pass safely the design velocities. Riprap shall comply with the requirement of § 816.71(f)(3) of this chapter, except for sand and gravel.

(2) Freeboard shall be no less than 0.3 feet. Protection shall be provided for transition of flows and for critical areas such as swales and curves. Where the area protected is a critical area as determined by the Office, the design freeboard may be increased.

(3) Energy dissipators shall be installed when necessary at discharge points, where diversions intersect with natural streams and exit velocity of the diversion ditch flow is greater than that of the receiving stream.

(4) Excess excavated material not utilized in diversion channel geometry or regrading of the channel shall be disposed of in accordance with §§ 816.71 through 816.74 of this chapter.

(d) *Hydrologic Balance: Siltation Structures.* In lieu of the requirements of § 816.46(c)(1)(iii)(A) of this chapter, sedimentation ponds shall provide a storage volume of no less than 0.2 acre feet per disturbed acre draining into the basin. The Office may approve lesser sediment storage volumes equal to the sediment calculated to enter the pond between planned cleanout intervals upon submission and approval of a plan for removing sedimentation from the pond which includes a description of the equipment to be used. The minimum sediment storage volume shall be equal to 0.1 acre feet per disturbed acre.

(e) *Backfilling and grading: General requirements.* In addition to the requirements of § 816.102(a)(6) of this chapter, backfilling and grading shall proceed in accordance with the following timing requirements:

(1) *Contour mining.* Rough backfilling and grading shall follow coal removal by not more than 60 days or 1,500 linear feet.

(2) *Area mining.* Rough backfilling and grading shall be completed within 180 days following coal removal and shall not be more than four spoil ridges behind the pit being worked, the spoil from the active pit being considered the first ridge.

(3) The Office may grant additional time for rough backfilling and grading if the permittee can demonstrate, through the detailed written analysis under Section 780.18(b)(3) of this chapter, that additional time is necessary.

(f) *Revegetation: Standards for success.* In lieu of the requirements of § 816.116 (b)(1) through (b)(6) of this chapter, the following revegetation success standards and sampling techniques shall be used by the Office.

(1) For areas developed for use as pasture or hay production, the ground cover shall be at least ninety percent (90%) and crop production shall be equal to or greater than the average county yield as stated by the Tennessee Crop Reporting Service for the county in which the permit area is located.

(2) For areas developed for use as cropland, crop production shall be equal to or greater than the average county yield as stated by the Tennessee Crop Reporting Service for the county in which the permit area is located. Adjustment for local yield variation within the county may be made for disease, pests, weather-induced variations, and differences in crop management practices.

(3) For areas developed for wildlife habitat, recreational or forest products, the ground cover shall be at least eighty percent (80%) and the stocking of woody plants shall be at least equal the rate specified in the approved mining and reclamation plan.

(i) Minimum stocking levels and planting arrangements shall be specified by the Office on the basis of local and regional conditions and after consultation with the State agencies responsible for the administration of forestry and wildlife programs.

(ii) Trees and shrubs that will be used in determining the success of stocking and the adequacy of plant arrangement shall have utility for the approved postmining land use. At the time of bond release, such trees and shrubs shall be healthy, and at least eighty percent (80%) shall have been in place for at least three growing seasons. No trees and shrubs in place for less than two growing seasons shall be counted in determining stocking adequacy.

(iii) Vegetative ground cover shall not be less than that required to achieve the approved postmining land use.

(4) Bare areas shall not exceed one-sixteenth (1/16) acre in size and total not more than ten percent (10%) of the area seeded.

(5) Distribution of woody plants within the permit area shall be consistent with the post-mining land use.

(6) Sampling techniques for measuring woody plant stocking and ground cover shall be in accordance with techniques approved by the Office. Actual crop yields shall be used to determine production.

(g) *Roads.* In lieu of the requirements of section 816.150(c) of this chapter, roads shall be designed and constructed or reconstructed in compliance with the following standards in order to control subsequent erosion and disturbance of the hydrologic balance.

(1) *Primary Roads.* (i) Except for existing roads and where lesser grades are necessary to control site-specific conditions, the overall grades shall not exceed lv:10h (10 percent); the maximum pitch grade shall not exceed lv:6.5h (15 percent); and there shall be not more than three hundred (300) feet of pitch grade exceeding ten (10) percent within any consecutive one thousand (1,000) feet of primary roads. In no case shall there by any pitch grade over fifteen (15) percent.

(ii) Culvert spacing shall not exceed one thousand (1,000) feet on grades of zero (0) to three (3) percent, eight hundred (800) feet on grades of three (3) to six (6) percent, five hundred (500) feet on grades of six (6) to ten (10) percent, and three hundred (300) feet on grades of ten (10) percent or greater. Culverts shall be installed at closer intervals than the maximum in this part if required by the Office as appropriate for the erosive properties of the soil or to accommodate flow from small intersecting drainages. Culverts may be constructed at greater intervals than the maximum indicated in this part if approved by the Office upon a finding that greater spacing will not increase erosion.

(iii) Culverts shall be covered by compacted fill to a minimum depth of one foot.

(2) *Ancillary Roads.* (i) Field design methods may be utilized for ancillary roads.

(ii) Where lesser grades are necessary to control site-specific conditions overall grade shall not exceed lv:10h (10 percent). Pitch grade shall not exceed lv:5h (20 percent). There shall not be more than one thousand (1,000) consecutive feet of maximum pitch grade.

(iii) Ancillary roads may meander so as to avoid large growths of vegetation and other natural obstructions.

(iv) Compaction on road embankments shall be only to the extent necessary to control erosion and maintain the road.

(v) Temporary culverts and bridges shall be sized to safely pass the one (1) year, six (6) hour precipitation event.

(h) *Use of Explosives.* In lieu of the requirements of § 816.64(a)(2) of this chapter, all blasting shall be conducted between sunrise and sunset. Blasting may not be conducted at times different from those announced in the blasting schedule except in emergency situations where rain, lightning, or other atmospheric conditions, or operator or public safety requires unscheduled blasts. The Office may specify more restrictive time periods for blasting.

§ 942.817 Performance standards—Underground mining activities

(a) Part 817 of this chapter, Permanent Program Performance Standards—Underground Mining Activities, as modified by paragraphs (b)–(f) of this section, shall apply to any person who conducts underground mining activities in the State of Tennessee.

(b) The permittee shall comply with the site-specific terms of the permit except that references to provisions of the Tennessee State program shall be read to require compliance with the relevant provisions of this part. Where the permit does not specify site-specific standards with which compliance is required, the permittee shall comply with the standards of this Part.

(c) *Diversions.* In lieu of the requirements of § 817.43(a)(4) of this chapter diversion design shall incorporate the following requirements:

(1) Channel lining shall be designed using standards engineering practices to pass safely the design velocities. Riprap shall comply with the requirements of § 817.71(f)(3) of this chapter, except for sand and gravel.

(2) Freeboard shall be no less than 0.3 feet. Protection shall be provided for transition of flows and for critical areas such as swales and curves. Where the area protected is a critical area as determined by the Office, the design freeboard may be increased.

(3) Energy dissipators shall be installed when necessary at discharge points, where diversions intersect with natural streams and exit velocity of the diversion ditch flow is greater than that of the receiving stream.

(4) Excess excavated material not utilized in diversion channel geometry or regrading of the channel shall be disposed of in accordance with §§ 817.71 through 817.74 of this chapter.

(d) *Hydrologic balance: Siltation structures.* In lieu of the requirements of § 817.46(c)(1)(ii)(A) of this chapter, sedimentation ponds shall provide a storage volume of no less than 0.2 acre feet per distributed acre draining into the basin. The Office may approve less sediment storage volumes equal to the sediment calculated to enter the pond between planned cleanout intervals upon submission and approval of a plan for removing sediment from the pond which includes a description of the equipment to be used. The minimum sediment storage volume shall be equal to 0.1 acre feet per disturbed acre.

(e) *Revegetation: Standards for success.* In lieu of the requirements of § 817.116 (b)(1) through (b)(6) of this chapter, the following revegatation success standards and sampling techniques shall be used by the Office.

(1) For areas developed for use as pasture or hay production, the ground cover shall be at least ninety percent (90%) and crop production shall be equal to or greater than the average county yield as stated by the Tennessee Crop Reporting Service for the county in which the permit area is located.

(2) For areas developed for use as cropland, crop production shall be equal to or greater than the average county yield as stated by the Tennessee Crop Reporting Service for the county in which the permit area is located. Adjustment for local yield variation within the county may be made for disease, pests, weather-induced variations, and differences in crop management practices.

(3) For areas developed for wildlife habitat, recreational or forest products, the ground cover shall be at least 80 percent (80%) and the stocking of woody plants shall be at least equal to the rate specified in the approved mining and reclamation plan.

(i) Minimum stocking levels and planting arrangements shall be specified by the Office on the basis of local and regional conditions and after consultation with the State agencies responsible for the administration of forestry and wildlife programs.

(ii) Trees and shrubs that will be used in determining the success of stocking and the adequacy of plant arrangement shall have utility for the approved postmining land use. At the time of bond release, such trees and shrubs shall be healthy, and at least eighty percent (80%) shall have been in place for at least three growing seasons. No trees and shrubs in place for less than two growing seasons shall be counted in determining stocking adequacy.

(iii) Vegetative ground cover shall not be less than that required to achieve the approved postmining land use.

(4) Bare areas shall not exceed one-sixteenth (1/16) acre in size and total not more than ten percent (10%) of the area seeded.

(5) Distribution of woody plants within the permit area shall be consistent with the post-mining land use.

(6) Sampling techniques for measuring woody plant stocking and ground cover shall be in accordance with techniques approved by the Office. Actual crop yields shall be used to determine production.

(f) *Roads.* In lieu of the requirements of § 817.150(c) of this chapter, roads shall be designed and constructed or reconstructed in compliance with the following standards in order to control subsequent erosion and disturbance of the hydrologic balance.

(1) *Primary Roads.*

(i) Except for existing roads and where lesser grades are necessary to control site-specific conditions, the overall grade shall not exceed lv:10h (10 percent), the maximum pitch grade shall not exceed lv:6.5h (15 percent), and there shall be not more than three hundred (300) feet of pitch grade exceeding ten (10) percent within any consecutive one thousand (1,000) feet of primary roads. In no case shall there be any pitch grade over fifteen (15) percent.

(ii) Culvert spacing shall not exceed one thousand (1,000) feet on grades of zero (0) to three (3) percent, eight hundred (800) feet on grades of three (3) to six (6) percent, and five hundred (500) feet on grades of six (6) to ten (10) percent, and three hundred (300) feet on grades of ten (10) percent or greater. Culverts shall be installed at closer intervals than the maximum in this part if required by the Office as appropriate for the erosive properties of the soil or to accommodate flow from small intersecting drainages. Culverts may be constructed at greater intervals than the maximum indicated in this part if approved by the Office upon a finding that greater spacing will not increase erosion.

(iii) Culverts shall be covered by compacted fill to a minimum depth of one foot.

(2) *Ancillary Roads.* (i) Field design methods may be utilized for ancillary roads.

(ii) Where lesser grades are necesary to control site-specific condition, overall grade shall not exceed lv:10h (10 percent). Pitch grade shall not exceed 1v:5h (20 percent). There shall not be more than one thousand (1,000) consecutive feet of maximum pitch grade.

(iii) Ancillary roads may meander so as to avoid large growths of vegetation and other natural obstructions.

(iv) Compaction on road embankments shall be only to the exten necessary to control erosion and maintain the road.

(v) Temporary culverts and bridges shall be sized to safely pass the one (1) year, six (6) hour precipitation event.

§ 942.819 Special performance standards—Auger mining.

Part 819 of this chapter, Special Permanent Program Performance Standards—Auger Mining, shall apply to any person who conducts surface coal mining operations which include auger mining.

§ 942.823 Special performance standards—Operations on prime farmland.

Part 823 of this chapter, Special Permanent Program Performance Standards—Operations on Prime Farmland, shall apply to any person who conducts surface coal mining operations on prime farmland.

§ 942.824 Special performance standards—Mountaintop removal.

Part 824 of this chapter, Special Permanent Program Performance Standards—Mountaintop Removal, shall apply to any person who conducts surface coal mining and reclamation operations constituting mountaintop removal.

§ 942.827 Special performance standards—Coal preparation plants not located within the permit area of a mine.

Part 827 of this chapter, Permanent Program Performance Standards—Coal Preparation Plants Not Located Within the Permit Area of a Mine, shall apply to any person who conducts surface coal mining and reclamation operations which include the operation of a coal preparation plant not located within the permit area of a mine.

§ 942.828 Special performance standards—In situ processing.

Part 828 of this chapter, Special Permanent Program Performance Standards—In Situ Processing, shall apply to any person who conducts surface coal mining and reclamation operations which include the in situ processing of coal.

§ 942.842 Federal inspections.

Part 842 of this chapter, Federal Inspections, shall apply to all exploration and surface coal mining and reclamation operations.

§ 942.843 Federal enforcement.

Part 843 of this chapter, Federal Enforcement, shall apply regarding enforcement action on coal exploration and surface coal mining and reclamation operations.

§ 942.845 Civil penalties.

Part 845 of this chapter, Civil Penalties, shall apply to the assessment of civil penalties for violations on coal exploration and surface coal mining and reclamation operations.

§ 942.855 Certification of blasters.

Part 855 of this chapter, Certification of Blasters, shall apply to any person who conducts coal exploration or surface coal mining and reclamation operations.

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Part VI

Department of the Interior

Fish and Wildlife Service

Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Part 424

Listing Endangered and Threatened Species and Designating Critical Habitat; Amended Procedures To Comply With the 1982 Amendments to the Endangered Species Act; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 424

Listing Endangered and Threatened Species and Designating Critical Habitat; Amended Procedures To Comply With the 1982 Amendments to the Endangered Species Act

AGENCIES: Fish and Wildlife Service, Interior; National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service and the National Marine Fisheries Service (Services) amend Part 424 of Title 50 of the U.S. Code of Federal Regulations in order to comply with changes made in the Endangered Species Act of 1973 (Act) by the Endangered Species Act Amendments of 1982 (Amendments). Part 424 is amended to alter the procedures followed by the Services in determining whether species are endangered or threatened and in designating or revising critical habitat. Changes are made in the treatment of petitions from the public, mandatory time limits for various actions, standards under which determinations are made, and other procedural matters.

EFFECTIVE DATE: This rule takes effect on October 31, 1984.

ADDRESS: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Office of Endangered Species, U.S. Fish and Wildlife Service, 1000 North Glebe Road, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–2771), or Dr. Charles Karnella, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service, Washington, D.C. 20235 (202/634–7471).

SUPPLEMENTARY INFORMATION: The Services first adopted regulations governing the listing, delisting, and reclassification of species, and the designation and revision of critical habitat, on February 27, 1980 (45 FR 13022). These regulations are codified at 50 CFR Part 424. The Endangered Species Act Amendments of 1982 became law on October 13, 1982, making several changes in the required procedures to be followed under the Act.

In order to implement the changes of the Amendments, the Services proposed to amend 50 CFR Part 424 on August 8, 1983 (48 FR 36062). Comments were invited at that time from all interested parties, and the comment period on the proposal closed on October 7, 1983.

The present final rule essentially adopts the proposal of August 8, 1983. Some minor changes have been made in response to comments, as discussed below in the Summary of Comments and Recommendations. Some minor editorial changes have been made for the sake of clarity.

In addition the terms "endangered," "threatened," and "critical habitat" are not routinely capitalized in the final rule. This change from past practice is adopted to conform more closely with conventional English usage.

Changes made by the Amendments were designed to ensure that decisions in every phase of the listing process are based *solely* on biological considerations, and to prohibit considerations of economic or other nonbiological factors from affecting decisions regarding endangered or threatened status. The legislative history accompanying the Amendments makes it clear that, although economic considerations are relevant for the designation of critical habitat, such considerations should not be taken into account in deciding whether to list a given species. The listing process has been streamlined by reducing the time periods for adopting rules, by consolidating public meeting and hearing requirements, and by providing for the separation of critical habitat designations from the listing process when appropriate.

After receiving a petition to list, delist, or reclassify a species, the Secretary must now act "to the maximum extent practicable" within a 90-day period to publish a finding that the petition does or does not present substantial information indicating that the petitioned action may be warranted. The requirement to make such a finding within 90 days may be waived only if the devotion of staff resources to petition responses would interfere with actions needed to list other species in greater need of protection. Decisions to take one action rather than another must be made in conjunction with a scientifically-based priority system (such a system is embodied in U.S. Fish and Wildlife Service guidelines published September 21, 1983, 48 FR 43098).

Within 12 months of receiving a petition that presents "substantial scientific or commercial information," the Secretary must publish a proposed rule, determine that the petitioned action is not warranted, or determine that the action is warranted but that other listing, delisting, or reclassification actions preclude the preparation of a proposal. In any case, a notice of such findings must be published in the **Federal Register**. If a negative finding is made with regard to a petition, the finding is subject to judicial review.

The Amendments also provide that the 12-month time period may be extended only if the Secretary can demonstrate expeditious progress on other listings, delistings, and reclassifications. Any petition so extended is treated as if resubmitted, and an additional year is allowed for the required action. The justification for failure to propose an otherwise warranted petitioned species is subject to judicial review. Petitions to list, delist, or reclassify species that were pending at the time of passage of the Amendments are also covered by these new provisions.

Petitions to revise critical habitat, or to designate critical habitat concurrently with a listing, are not required to present economic information relevant to the proposed revision or designation. They will be treated in the same manner as other petitions except that the Services need not propose a revision supported by a petition containing substantial scientific information within 12 months of receipt. Rather, they must publish notice of an intended course of action.

Final action on listing, delisting, or critical habitat proposals now must be taken within 1 year of publication of the proposed rule, instead of 2 years as was previously allowed. A 6-month extension is permissible only if there exists substantial disagreement among specialists regarding the sufficiency or accuracy of the required biological data. This 6-month extension is not permissible to allow additional time to conduct economic or other analyses relating to critical habitat designations.

The Amendments restate the general requirement of concurrent listing and critical habitat designation for a given species but authorize listing without the latter in certain circumstances. If a critical habitat designation is found "not prudent," the listing can become final at any time during the 1-year (or 18-month) period. When scientific and commercial information indicates that prompt listing of the species is essential to its

conservation, but the analysis necessary to designate critical habitat has not been completed, the listing must be made final within the 1-year (or 18-month) period without designating critical habitat; the critical habitat segment of the proposal then would be completed and made final separately.

When critical habitat has been deemed "not determinable" within the 1-year (or 18-month) period, the initial 1-year period may be extended by not more than 1 additional year. At the end of the additional year, or earlier, critical habitat must be determined to "the maximum extent prudent." Revisions may be made as new information becomes available.

Finally, the Amendments require that if the Secretary adopts a rule over the objection of a State conservation agency or fails to take an action petitioned by such an agency, a written justification must be provided to the agency.

Summary of Comments and Recommendations

The Services received comments from the following individuals and organizations: the American Association of Port Authorities (AAPA); the Edison Electric Institute (EEI); the National Wildlife Federation (NWF); the Sierra Club, Hawaii Chapter (HSC); the Western Timber Association (WTA); the Wildlife Legislation Fund of America (WLFA); the Alabama Power Company (APC); Chevron U.S.A., Inc. (CUS); Conoco Inc., North American Production (CNAP); Middle South Services, Inc. (MSS); Texas Utility Services, Inc. (supporting the comments of EEI); the U.S. Department of Agriculture, Forest Service (USDA); the Office of the Assistant Secretary of Defense, Manpower, Reserve Affairs, and Logistics (DOD); the Department of Energy; the Office of Federal Activities of the U.S. Environmental Protection Agency (EPA); the Office of Environment and Energy, Department of Housing and Urban Development; the Office of Food and Natural Resources, Department of State (DS); Dr. Mark K. Johnson, of the School of Forestry and Wildlife Management, Louisiana State University; Mr. Richard W. Klukas, Wind Cave National Park; Dr. Lovett E. Williams; the Colorado River Water Conservation District (CRWCD); the Michigan State Department of Natural Resources; the Department of Environmental Resources of the Commonwealth of Pennsylvania; and the Office of Planning and Budget, State of Utah. Joint comments were submitted by the Environmental Defense Fund, Defenders of Wildlife, the Center for Environmental Education, the Humane Society of the United States, the Natural Resources Defense Council, the Friends of the Sea Otter, and the National Audubon Society (EDF).

Many comments expressed general approval of the proposal. Comments of a general nature are addressed below. More specific recommendations and responses follow, organized by the sections of the proposed rule to which they refer.

CUS, noting the Amendments' intention to expedite decisions on listings and delistings, encouraged the Services to avoid using the full time allotted to issue rules, and to especially avoid extensions of listing deadlines. The Services agree with the rationale presented in this comment, that both the species involved and industry project planning are best served by expeditious determinations of species' status. The Services intend listings and delistings to be processed as quickly as possible, consistent with the need to consider carefully all information in formulating rules. It is intended that the provisions for extending deadlines, contained in both the Act and the present procedural rules, will be invoked rarely and only in cases of real need to do so.

EDF expressed concern that determinations regarding the substantiality of petitions not be made according to the listing priority system previously published by the U.S. Fish and Wildlife Service (48 FR 43098, September 21, 1983). The Services regret any impression that may have been given in the preamble to the proposed listing regulations that determinations of substantiality of petitions would follow that priority system. Although considerations of priority may preclude prompt actions in response to petitions, it is not intended that they will affect the substantive finding that must be made regarding substantiality or the later finding that a petitioned action is or is not warranted.

EDF also recommended that a declaration be made that, "species the subject of 'pending proposals' previously withdrawn may be reproposed without regard to when the biological information was developed." The Services consider that this position is clear both in the amended Act and in the proposed regulations. Species withdrawn for purely administrative reasons under the 2-year limit on proposals, which is no longer contained in the Act, may be reproposed whenever information is available to support such a proposal.

Comments expressed contrary opinions with regard to the timing of critical habitat designations. Three (Dr. Gilbert, Mr. Klukas, WTA) held that delaying designation of critical habitat until after the listing of a species would likely benefit the species by expediting listing, while three others (AAPA, CRWCD, HSC) recommended that such designation regularly be concurrent with listing. The Services appreciate the concerns of those who believe that definition and designation of critical habitat in most cases slows the listing process. Although Congress, in passing the Amendments, clearly expressed the intention that the economic considerations connected to critical habitat designation not delay listing, other elements of the designation process clearly slow the pace of listing species. The Services also are aware of the concern that, if critical habitat is not designated concurrently with the listing of a species, potential conflicts may not be identified early enough to be satisfactorily resolved, or important areas of habitat may be inadvertently destroyed. It should be noted, however, that the Services may notify affected organizations and individuals of the habitat needs of species without going through the formal designation of critical habitat.

In making decisions regarding the timing and advisability of critical habitat designations, the Services will apply the requirements of the Act in a reasonable fashion. Legislative history makes clear that Congress intended designation of critical habitat to be beneficial to the conservation of species. Experience has shown, nevertheless, that precise identification of habitat of vulnerable species carries inherent risks of vandalism and taking. In some cases, these risks can be controlled through vigorous enforcement of Section 9 of the Act. In other cases, because of enforcement difficulties, or because no violation of Section 9 may be involved (as in taking of plants on non-Federal land or the destruction of plants even on Federal land without their reduction to possession), designation of critical habitat may have a net adverse effect on a species. It is this net effect, taking into account potential risks and benefits of a particular designation, that will guide the Services in decisions regarding the prudence of a particular designation. The timing of critical habitat designation is explicitly mandated in the Act, along with the possibility of deferring action for a limited time after listing a species when critical habitat is judged not to be determinable concurrently with listing. The latter deferral of designation can allow listings to go forward in a timely manner and critical habitat to be designated later. The Services believe

that these provisions of the Act are accurately reflected in the proposed and final listing regulations.

HSC recommended that provisions be made to include as part of the critical habitat "* * * those portions of the historic range of an endangered species which are still suitable for the species but, because of one or more perturbations to it, no longer occurs there but almost certainly could if such perturbations were removed or adequately ameliorated." The Services note that the Act and the listing regulations allow designation of areas outside the known range of a species when such areas are essential to the species' conservation. These provisions adequately allow for critical habitat designations in unoccupied portions of a species' historic range.

CRWCD recommended that, "* * * where a species listing proposal is known to conflict with a water (or other) resources development project, the agencies should consult closely with the affected entity." The Services agree that early contact and sharing of information with affected entities is desirable and is in the best interests of candidate species as well as sound project planning.

Subpart A—General provisions

Section 424.02 Definitions.

(b) *"Candidate"*—Several commenters (CUS, EDF, NWF, USDA) requested clarification of this term, particularly to differentiate between a candidate species being considered for listing and a species that has already been proposed to be listed. The definition has been altered in the final rule to make this point clear. As stated in the proposed rule, this term is included and defined to reflect the Fish and Wildlife Service's current practice of issuing consolidated notices of review, in which such species are identified.

(c) *"Conservation, conserve, and conserving"*—NWF recommended that this definition be altered to conform to that proposed to be placed at 50 CFR 402.2 (48 FR 29996, June 29, 1983). The Services believe that the two definitions are essentially equivalent and, inasmuch as that proposed at § 424.02 precisely follows the definition contained in the Act, this version is adopted here.

(d) *"Critical habitat"*—CNAP recommended that this definition be altered to require that a positive showing be made (presumably that an area designated is essential to a species' conservation) if critical habitat extends beyond the area actually occupied by a species, and that multiple-use management of critical habitat be provided for. The Services consider both recommendations to fall outside the scope appropriate for a definition. The former is adequately addressed in § 424.12(e). The latter recommendation is consistent with the provisions of the Act and policies of the Services. No limitation, express or implied, on multiple use of areas designated as critical habitat is contained in the Act or has been imposed by the Services, so long as such multiple use is consistent with section 7(a)(2) of the Act.

(e) *"Endangered species"*—CNAP indicated that, to be endangered, a species must be in danger of extinction throughout all or a significant portion of its range, and expressed concern over the, "* * * unjustified listing of subgroups or subspecies by location of a plentiful species (e.g., Tennessee River tributary 'snail darter' and 'Houstonian [sic] toad')." The Services note that both the snail darter (*Percina tanasi*) and the Houston toad (*Bufo houstonensis*) are recognized as full species and listed throughout their ranges. The Services further note that the Act explicitly allows for the listing of infraspecific taxa and, in the case of vertebrate species, populations as well. Thus, any change in this definition that would exclude such entities would be in conflict with the clear provisions of the Act.

(g) *"Plant"*—NWF recommended that this definition be altered to make it conform more closely to the definition of "wildlife" or "fish and wildlife" at § 424.02(n). The Services accept this recommendation for the sake of clarity and uniformity. The definition has been altered in the final rule. This is not viewed as a substantive change, inasmuch as the Services have always interpreted the two definitions as being comparable in scope.

(i) *"Secretary"*—CNAP questioned the appropriateness of having an authorized representative empowered to serve in the place of the Secretary in all cases. The representative referred to is an individual with clearly delegated authority from the Secretary to undertake the actions covered by this rule. Nothing in the Act hinders such a delegation. At present, these authorities have been delegated to the Assistant Secretary of the Interior for Fish and Wildlife and Parks, and the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce.

(k) *"Species"*—Dr. Williams suggested that the Services consider defining this term so that it does not use the term "subspecies," because of the lack of consensus among biologists as to its precise meaning and significance, and because of the likelihood that it would be misinterpreted by individuals lacking an adequate background in biology. The Services appreciate the possible uncertainty that could arise if the term "subspecies" were not interpreted carefully. However, the Act specifically includes this term within its definition of "species," so that its exclusion from the regulatory definition would not be warranted. The Services are confident that they have access to sufficient biological expertise to ensure that the definition of "species" will be interpreted in a manner consistent with accepted biological principles.

Several additional terms were suggested by NWF for inclusion and definition in this section. These were "maximum extent practicable," "promptly," "proposed species," and "substantial information." The Services believe that the first two of these are not used in the regulations in any specialized sense that differs from their common meanings, and that regulatory definition is unnecessary. "Proposed species" was recommended for inclusion solely to draw a distinction between it and "candidate." Inasmuch as this distinction is made in the altered definition of "candidate" finally adopted, the inclusion and definition of a new term is not necessary. The term "substantial information" has specific applicability to findings necessary with regard to petitions. Because of this specific and narrow applicability, it has been defined in § 424.14(b). Inclusion of this definition in § 424.02 is unnecessary and could be misleading.

Subpart B—Revision of the lists

Section 424.10 General.

EDF recommended that this section be broadened to extend the new petition procedures to petitions to designate experimental populations or to treat species as if listed because of similarity of appearance. The Services believe that Congress clearly expressed its intent with regard to the scope of the amended petition provisions, and applied different requirements to each class of petitions covered by the Act. Inasmuch as no provision was made to subject either experimental populations or similarity-of-appearance cases to specific listing procedures under the Act, the Services consider it appropriate to treat such petitions, if received, only under the relevant provisions of the Administrative Procedure Act (5 U.S.C. 553), as opposed to subsections 4 (a) and (b) of the Endangered Species Act.

Section 424.11 Factors for listing, delisting, or reclassifying species.

CNAP responded to this section that, "We do not agree that Congress in using the phrase 'solely on the basis of the best scientific data available to him' (ESA, section 4(b)) ever intended that every scarce creature or plant should be protected at all costs!" The Services note that the listing provisions of the Act, and the regulations intended to implement them, address the identification by the Secretary of species that qualify for the Act's protection. Insofar as these provisions consider the status of a species, Congress has clearly indicated its intention that any costs of eventual protection not be considered as part of the identification and listing process. The exemption procedures in section 7 of the Act are intended to effect any balancing of the costs involved against the value of protecting a species. These provisions of section 7, however, are completely independent of the identification and listing of species that are unlikely to survive without protection under the Act.

Dr. Williams questioned the possibility, allowed in § 424.11(a), of listing taxonomic groups of rank higher than species, noting that, "Taxa above the species level are not biological entities—they are merely components in somebody's classification scheme that reflects their beliefs concerning evolutionary affinities." The Services wish to clarify the intention, stated in the proposed and final regulation, that taxonomic groups at a rank higher than species will be listed only if all their constituent species individually meet the terms of the Act for listing. Listing of the taxon of higher rank then serves as a "short-hand" means of listing all its constituent species.

APC recommended that § 424.11(b) be altered to conform more closely to the wording of section 4(b)(1)(A) of the Act, by adding the material proposed to be located at § 424.11(f) and deleting the phrase "* * * without reference to possible economic or other impacts of such determination." The Services believe that no substantial change would result from adoption of such a recommendation, and that the rule as proposed more clearly expresses both the provisions of the Act and the instructive language of the Conference Report on the Amendments than would the recommended alternative.

CRWCD indicated concern that "* * * too little emphasis may have been given in the past to the quality and validity of the biological information used by agencies in the listing process." They noted the provision of § 424.11(b) requiring that the Services formulate listings based on the best available scientific and commercial information and recommended that listing decisions not be made on, "* * * shaky scientific foundations or biased analyses." The Services agree that listing decisions should not be made on the basis of faulty or inconclusive information, and affirm their intention to comply fully with relevant provisions of the Act and these regulations. It is their intention to base all listing decisions on the best information available to them when such decisions are made.

EPA recommended that language be added to the preamble of the final rule to clarify why a more precise definition of time is not included in § 424.11(d), which describes the period of time necessary to establish that a listed species has become extinct. The comment expressed understanding that this length of time might vary among the species concerned, in that some species are more cryptic than others. The Services agree and note that survey techniques appropriate to a given species in determining whether it has become extinct will require varying lengths of time to carry out. The Services intend to base delistings due to extinction upon conclusive evidence appropriate for the species in question.

EPA also recommended that § 424.11(d)(2) be altered to make it follow more closely the language of section 4(b)(1)(A) of the Act. This recommendation is accepted, and the final rule is so altered.

Section 424.12 Criteria for designating critical habitat.

CNAP expressed the opinion that, "* * * there must be a positive showing of need before a critical habitat larger than that currently occupied by the species to be protected can be designated." The Services agree that any designation of critical habitat must be based on a finding that such designated area contains features that are essential in order to conserve the species concerned. This finding of need will be a part of all designations of critical habitat, whether or not they extend beyond a species' currently-occupied range.

EEI supported the Services' intention to protect species from "* * * harm that might result if critical habitat were publicized." Nevertheless, the Institute recommended that private parties contemplating development or other activities be provided with information as to whether "non-designated critical habitat" could be affected. The Services note that the term "critical habitat" is not properly applied to an area that has not been formally designated as such by regulation. However, the Services intend to inform private parties of the habitat needs of listed species whenever a potential conflict is identified between contemplated development and the species' conservation, regardless of whether critical habitat has been designated for such species.

EPA recommended that criteria and examples of cases be provided in which it would not be prudent to designate critical habitat because designation would not be beneficial to the species concerned. The Services believe that such decisions must be made on a case-by-case basis. Because of the variations in circumstances, it is not possible to formulate strict criteria according to which decisions regarding the prudence of a critical habitat designation might be made. Nevertheless, it is possible to note some general considerations that may contribute to such decisions. As noted above in response to more general comments, the Services will examine the balance between risk to a species that might be a consequence of designating its critical habitat and benefits that the species might derive from such designation. The risks may be immediate and obvious, such as the taking of a species that has demonstrated commercial value, or more speculative, such as vandalism to a species' habitat as a consequence of wide public notification of its precise boundaries. Experience has also shown that listing of a species may stimulate commercial demand that could not have been predicted beforehand, and that designation of critical habitat may generate public antagonism that could lead to vandalism. Such possibilities will be considered in determining whether a particular designation of critical habitat is prudent. To the extent possible, the Services will attempt to undertake only those regulatory actions of net benefit to the conservation of species and their habitats. In those cases in which the possible adverse consequences would outweigh the benefits of designation of critical habitat, the Services may forego such designation as matter of prudence.

Dr. Williams suggested that designation of critical habitat not be considered determinable, "When habitat requirements are superfluous to the recovery requirements of the species." He noted that this would be appropriate in cases of species affected by such threats as pesticides, exotic animals, or hunting. The Services believe that such classes of threats are often related to habitat in the broad sense, noting that

the presence of a pesticide is an element of the habitat occupied by a species. In any event, such considerations are more properly addressed in determining whether designation is prudent, rather than whether critical habitat is determinable. In cases in which critical habitat designation would not be of benefit to a species, the Services believe that sufficient discretion exists under the Act and § 424.12(a)(1) to forego designation on grounds of prudence.

AAPA recommended deletion of proposed § 424.12(a)(2)(ii), because they failed to, "* * * see how a species can be determined to be endangered if its biological needs are not sufficiently well-known to allow identification of its critical habitat needs." The Services believe that it is possible to determine that a species is endangered or threatened, on the basis of its known and documented decline or evidence of threats to it, without knowing what precise habitat resources the species requires for survival and recovery. This is one reason for which the "determinable" standard was inserted by the Amendments and is reflected, with explanation, in the proposed and final regulations.

EEI recommended that § 424.12(e) be modified to allow designations of critical habitat outside the present geographical range of a species only when such designation is required to prevent the species' extinction. The Services believe that such a change would be inconsistent with the Act's purpose of conserving and recovering species as well as the definitions of critical habitat contained in the Act and these regulations, both of which allow designation of critical habitat beyond a species' known range when such designation is essential for the species' conservation. The Services also disagree with EEI's further statement in this regard that extensions beyond a species' present range are unlikely to occur without artificial assistance, and that such additions to critical habitat are more properly considered under those portions of the Act and proposed regulations treating experimental populations. Designations of critical habitat outside current range are normally undertaken when essential to a species' conservation and to provide for natural range expansion into adjacent suitable habitat or to assure proper management of resources. Neither of these cases is appropriately addressed under provisions governing the establishment of experimental populations.

APC recommended that provisions regarding analysis of impacts of critical habitat designation, proposed to be located at § 424.19, be relocated to § 424.12(c). The Services consider this inadvisable inasmuch as § 424.12 deals with both proposed and final rules to designate critical habitat. Current procedures call for the consideration of economic impacts only after publication of a proposed rule, so that placement of the relevant provisions in § 424.12 would be inappropriate. The final version of § 424.19 has been altered to reflect the proper timing of analyses of critical habitat designations. Reference to the economic considerations for final rules has been included in § 424.12.

EDF recommended that the Services, "* * * not foreclose the authority to designate critical habitat in foreign countries," as proposed in § 424.12(h). The Services believe that the clear instruction of the House Committee on Merchant Marine and Fisheries, contained in its report on the Amendments and implicitly accepted by the Committee of Conference, must control any consideration of designating critical habitat in foreign countries. The House report noted with approval an opinion of the Office of the Solicitor, Department of the Interior, that the Act does not contain authority to designate critical habitat in areas outside U.S. jurisdiction. Given this clear instruction in the legislative history of the Amendments and the original 1973 Act, the Services perceive no discretion to interpret the Act otherwise, and have retained § 424.12(h) in the final rule in order to clarify their position in this regard.

Section 424.13 Sources of information and relevant data.

NWF commented that the statement in the proposal that, "[T]he last sentence of this section would be deleted because a similar provision is proposed to be added to § 424.11(d)," was misleading and incorrect. The Services agree; the reference should have been to § 424.11(c). Inasmuch as this error was part of the section-by-section analysis, rather than the text of the proposed rule, no change in the final rule is necessary. The Services regret any misunderstanding that might have arisen.

EPA recommended that this section be revised to require that the Secretary consult with individuals, agencies, or sovereign nations whenever a specific interest in a species is known to exist on the part of such entities, rather than requiring such contacts only "as appropriate." The Services note that this provision was originally included in § 424.13 to reflect a former provision of section 4(b)(1) of the Act. Although the relevant portion of the Act was removed by the Amendments, the Services have retained the provision for consultation with affected parties. In the absence of any legislated requirement in the amended Act, however, the Services consider it inappropriate to make this provision any more stringent than it was in the proposed version.

Dr. Johnson suggested that the phrase, "if available" be inserted at the beginning of the second sentence of § 424.13, so that the Secretary may review only those data that are available. Inasmuch as a substantive review can only address information that is in hand, the Services believe this qualification to be unnecessary.

CNAP expressed the opinion that "interested parties" must specifically include any person affected by the proposed designation. The Services agree that such persons should be consulted in formulating any proposed change in the lists, and intend to do so. Inclusion of such a statement in the regulations, however, would imply that *only* such persons are to be consulted, and thus would tend to limit the scope of interested parties that might be consulted. The Services believe that such implied limitation would be inadvisable.

Section 424.14 Petitions.

NWF questioned the basis for applying different standards to petitions dealing with critical habitat than those applied to petitions regarding a species' listing. Section 4(b)(3) of the Act explicitly prescribes the different standards to be applied to such petitions; the Services follow the clear language of the Act in this case.

Dr. Johnson suggested that § 424.14(a) be altered to require that a petition contain substantial scientific or commercial information. The Services note that the paragraph in question is intended to identify those elements that must be included in a document for it to be considered a petition. Inasmuch as the Act requires that petitions be evaluated to determine whether they contain such substantial information, it would be contradictory to require such information in order for a document to be considered to be a petition.

NWF requested that a provision be added to this section to require the Secretary, when making a negative finding under § 424.14(b)(1), to so notify the petitioner in writing and explain any deficiencies of information in the petition, so that it could be corrected and resubmitted. Although the Services will notify petitioners of findings and point out the basis on which negative

findings are made, it may not be possible in all cases to furnish a petitioner with specific points of information that might be added to a petition in order for it to provide substantial information. The finding rests not on any artificial compliance with the general guidance of § 424.14(b)(2)(i)–(v), but upon a reasoned evaluation of the information presented and a judgment of whether or not it is sufficient to warrant a review of a species' status. As an example, a petition that failed to adequately establish the existence of a threat to a species recommended for listing could be judged not to have presented substantial information, but it would not necessarily be possible for the Services to detail the precise kinds of information that would be sufficient to document such threat. Because of the speculative nature of any such explanation, the Services do not consider it advisable to establish it as a requirement.

NWF also objected to § 424.14(b)(2)(i)–(v) as proposed, holding that the considerations presented would not always be germane or necessary to the evaluation of a petition. NWF therefore advocated inclusion of an additional paragraph stating that, "Items (b)(2)(i–v), while usually necessary for petition evaluation, shall not be required to demonstrate substantial information." The Services agree in principle with this comment, but do not believe the rule as proposed is unclear on this point. The paragraphs in question are intended only to provide a general guide to the kinds of information the Services believe are necessary to evaluate a petition. They do not establish strict requirements that must be met in order for a petition to be considered substantial, so that a specific qualification of the sort advocated by NWF would be unnecessary.

APC recommended that, in addition to the types of information to be considered in determining whether a petition presents substantial information under § 424.14(b)(2)(ii), the Secretary consider whether a petition describes, "* * * the features of economic and biologic importance of any recommended critical habitat."

The Services note that the Conference Report on the Amendments expressed the intention that petitioners not be required to provide economic information, other than evidence of trade, if any, in connection with a petition to list or delist a species or a petition to revise critical habitat. Thus, it would be inappropriate to require such information among that to be considered under § 424.14(b)(2). Proposed § 424.14(b)(2)(iii) was concerned with information bearing on the appropriateness and extent of any critical habitat designation recommended in a petition primarily concerned with the determination of a species' status. The Services believe that proposed paragraph (iii) adequately outlined the types of information to be considered in evaluating a recommended critical habitat designation on biological grounds. However, to make clear that such information need not be included in a petition in order for it to satisfy the requirement to present substantial information, the proposed paragraph has been removed from the list of considerations to be examined in determining substantiality. The information regarding the concurrent designation of critical habitat is requested from each petitioner but not required in two new concluding sentences to § 424.14(b)(2). The Act's requirement that the Secretary consider economic impacts of such a designation is interpreted as applying directly to the Services, and is not necessarily to be addressed in a petition in order for that petition to be judged substantial.

NWF commented in reference to § 424.14(b)(3) that, "* * * the proposed regulations do not discuss what happens when the Secretary makes a negative finding on a petition, and they completely ignore the judicial review process * * *." Section 424.14(b)(1) requires that any negative 90-day finding on a petition be published in the **Federal Register** with notification being sent to the petitioner. Such publication and notice will constitute the Services' final action with regard to such a petition. The Services recognize the mechanism established by the Amendments to provide judicial review of findings on petitions. This mechanism is in place and available independently of the regulations adopted in Part 424, which are intended to prescribe the procedures to be followed by the Services in implementing the Act. It would appear to be inappropriate and superfluous to provide for such review in the present regulations. The statute speaks for itself.

NWF requested that provisions be made in § 424.14(c) for notification to a petitioner to explain the reason for rejecting a petition to revise critical habitat. The Services note that notice of any negative finding under § 424.14(c) must be published in the **Federal Register**. As noted above in reference to § 424.14(b), the Services intend to notify a petitioner of the reasons for any negative finding regarding substantiality. Nevertheless, it would not be possible to detail in every case the exact type of additional information that would be required to make a positive finding, and the Services do not consider it advisable to mandate such explanation by regulation.

NWF also requested that a provision be added to § 424.14(c) that would make clear that a petition to revise critical habitat is not required to present economic information relevant to the revision recommended. The Services consider it to be clear that no such information is solicited in connection with any class of petition, and thus believe it to be unnecessary to expressly state that such information need not be provided by a petitioner. However, although the Services may not require the submission of economic data with a petition to revise critical habitat, they must consider the economic and other impacts of specifying a particular area as critical habitat before issuing a final rule.

APC recommended that § 424.14(c)(2) refer back to § 424.12(b) in setting out the types of information that must be considered in determining whether a petition to revise critical habitat presents substantial information, rather than establishing the separate standards proposed to be placed at § 424.14(c)(2)(i) and (ii). The Services believe that the standards applied to petitions are sufficiently different from those governing the overall designation of critical habitat that it could be confusing to accept APC's recommendation, and could imply that a higher standard would be applied in judging substantiality of such petitions than is intended by the Act. A petition may fall short of supplying all the information that would be necessary to issue a proposed rule, but still be judged to present substantial information indicating that a revision of critical habitat may be warranted. Inasmuch as the criteria of § 424.12 are aimed at the information needed by the Services to allow them to propose a rule, such critieria would be unnecessarily burdensome if applied to petition findings.

APC also recommended that § 424.14(d) be altered to include a statement that the Secretary designate critical habitat on the basis of the best scientific data available and after taking into consideration the economic and other impacts of the designation. The Services do not believe such a provision would be appropriately placed in § 424.14(d), which deals with petitions to designate critical habitat. The substance

of the recommendation is already provided for in §§ 424.12 and 424.19.

NWF requested that § 424.14(d) be expanded to indicate information standards, time limitations, and appeal provisions for petitions to designate new critical habitat. Because the Act imposes no specific standards for such petitions, the Services see no necessity to adopt such standards administratively. Properly considered, the Act's specific petition procedures appear to be intended as an attention-calling device to ensure that the Services take prompt and appropriate action when newly notified of a situation affecting the welfare of a species or of the apparent inappropriateness of some past listing or designation of critical habitat. Because consideration of designating critical habitat is an integral part of the process of listing a species, it is unlikely that a petition to designate critical habitat for a listed species will be intended to call the Services' attention to a situation of which they were previously unaware. It thus makes sense not to treat petitions to designate critical habitat under standards as stringent as those applied to other petitions.

Section 424.15 Notices of review.

CUS requested a clarification of what was meant by the statement that, "No legal consequences shall arise under the Act as a result of the designation of a species as a candidate for listing." This statement was intended to make clear that species so identified, but not proposed for listing, are not subject to the protections or prohibitions of the Act under sections 7 and 9.

HSC recommended that candidate species be given some legal protection to prevent destruction of the species or their habitats before a listing decision is made. The Services note that the Act makes no provisions for the legal protection of candidate species, and thus none can be afforded in these rules. Nevertheless, it is the belief of the Services, as also recommended by EDF, that such species should be taken into consideration in environmental planning under such laws as the National Environmental Policy Act. Such consideration, however, is not appropriately included in the present rule, which is intended only to govern listing procedures under the authority of the Endangered Species Act.

The Department of State requested that an alteration be made in the notification provisions of this section to ensure that notifications to foreign countries be made through the Secretary of State. This correction has been made in the final rule.

Section 424.16 Proposed rules.

NWF questioned the advisability of including a map in all proposals of critical habitat because of the possibility of thereby increasing the threat to a species by making public the area in which it occurs. When publication of maps would increase threats to species, the Services intend to forego entirely the designation of critical habitat as not prudent. Critical habitat designation will be proposed, and detailed maps published, only when it is judged that such designation will be to the net benefit of the species involved.

AAPA supported the provision contained in § 424.16(c)(1)(ii) for notifying local authorities, but recommended that it be broadened to include all jurisdictions within a local area. The Services intend to notify all known affected local authorities of proposed rules. Section 424.16(c)(1)(iii) has been modified to express this intent.

EPA requested that this section require notification of all appropriate Federal agencies. A provision has been added to the final rule at § 424.16(c)(1)(iii) to make clear that the Services will notify Federal agencies as well as private individuals and organizations known to be affected by a proposal. This is in keeping with existing administrative practice.

The State of Utah requested that provisions be made in § 424.16(c)(1)(vi) for publication of notice of any proposed rule in appropriate scientific journals. The Services note that § 424.16(c)(1)(v) requires notification of appropriate scientific organizations, as required in the Amendments. The Services believe that this provision adequately allows for notification of the scientific community.

NWF requested that § 424.16(c)(2) specifically provide that a comment period may be extended for good cause. The Services note that the paragraph in question provides only minimum periods for public comment, without any express or implied limitation of the maximum period that may be allowed. Nevertheless, the paragraph has been modified in the final rule in order to clarify the Secretary's discretion to extend or reopen a comment period on a proposed rule.

NWF also pointed out that the legislative history of the Amendments indicates that more than one public hearing may be held in connection with a proposed rule. Although the Services do not believe the proposed rule necessarily implied any limitation on the Secretary's discretion to hold more than one hearing, the final version of § 424.16(c)(3) has been modified to make this point clear.

Section 424.17 Time limits and required actions.

EDF requested that § 424.17(a)(1)(iii) (now at § 424.17(a)(1)(iv)) be expanded to indicate that the substantial disagreement concerning the sufficiency or accuracy of data, upon which a 6-month extension may be based, must be a disagreement among scientists knowledgeable about the species in question. The Services agree that this was the intention of the Amendments, and have modified the final rule to make this clear.

NWF recommended that the clarity of the rule would be improved if §§ 424.17(a)(1) (iii) and (iv) were reversed in order. The Services agree and have so modified the final rule.

Section 424.18 Final rules—general.

NWF recommended two minor changes in this section: (1) Specification that a final rule would take effect 30 days after publication, rather than, "not less than" 30 days, and (2) substitution of "proposed regulation" for "regulation" in § 424.18(c). In the first case, the Services note that final regulations adopted pursuant to Part 424 ordinarily do take effect 30 days following publication, but prefer not to make this a regulatory requirement. The second recommendation would conflict with the provisions of the Act as amended, which deal with the adoption, rather than proposal, of a regulation. The paragraph remains as proposed.

WLFA recommended that any justification provided a State agency under § 424.18(c) be required to, "* * * set forth the reasons that the State agency's position was rejected, in sufficient detail and with sufficient supporting data, that the agency may have an evidentiary basis for comparing its position with that of the Secretary." The Services do not believe that Congress intended to establish such a strict standard for justifications to State agencies. Rather, the Services interpret this provision of the Act to provide that State agencies be adequately informed of the basis for any action that is not in agreement with that agency's recommendation. Section 424.18(c) remains in the form proposed.

Section 424.19 Final rules—impact analysis of critical habitat.

MSS recommended that provisions for considering economic and other impacts of critical habitat designations be relocated to § 424.12, because the proposed placement, "* * * diminishes the weight to be given economic impacts in the designation of Critical Habitats."

The Services deliberately placed the substantive consideration of economic impacts of critical habitat designation in a section apart from that discussing the biological criteria for designating critical habitat. This was done in response to the expressed intent of Congress that economic considerations not affect or delay the listing of species. In that designations of critical habitat are customarily included in rules that list species, the consideration of economic impacts before issuance of a proposed rule could inappropriately delay proposal. Once a rule is proposed, however, the Services are ordinarily required to take final action within 1 year and, if economic analyses are not yet complete, must extend the critical habitat portion of a rule while making the listing final. Thus, if economic impacts are not considered until after the proposal stage, the possibility that economic considerations will prevent the listing of a species is reduced. The Services do not believe this represents a diminution in the weight given to the consideration of the economics of a designation, consideration of which will be completed once a proposed listing has been published. Moreover, since the Services expressly solicit public comment on the economic consequences of a given critical habitat proposal, the Services will have the benefit of such comments as they develop a final rule.

EPA requested clarification of the intended scope and methodology of any economic analysis performed on a designation of critical habitat, specifically asking whether environmental as well as economic impacts would be addressed and whether standard cost-benefit techniques would be used. EPA recommended that both classes of impacts be addressed and that the analytical methodology be cited in the final rule. The Services intend that analyses performed under this section will be focused primarily on the economic costs associated with designation, which was the intent of Congress in requiring such analyses. Consideration of biological impacts of critical habitat designation are more properly addressed in determining whether designation is prudent and will be of benefit to a species. The methodology and specific techniques employed have been developed and refined since economic considerations were first required by the 1978 Amendments to the Endangered Species Act. To fully address the issues at hand, these procedures must vary according to the specific area under review. Impacts should not be expected to remain static or to apply uniformly to all cases.

The Services' consideration of economic and other impacts resulting from the designation of critical habitat will cover all activities affecting or affected by the proposed critical habitat designation. The best available data on economic and other impacts must be gathered on the full scope of proposed critical habitat to assist the Services in determining whether adjustments should be made before the critical habitat designation is made final.

EPA requested that this section and § 424.12 be cross-referenced. For the reasons mentioned above in reply to a recommendation from MSS, the Services believe that it is advisable to keep separate the biological and economic considerations that lead to a final designation of critical habitat.

EPA also recommended that the provision of this section that prohibits the Secretary from excluding any area from critical habitat if so doing would result in extinction of the species concerned be altered to prohibit exclusion if so doing would "preclude the recovery of the species." The Services appreciate the inconsistency between the discretion allowed the Secretary in excluding areas from critical habitat and the stated purpose of the Act of providing not only for the survival of species, but for their recovery as well. Nevertheless, the Services must follow the provision of the Act that allows exclusions of certain areas from critical habitat so long as it will not result in extinction of the species concerned. It should be noted that this provision is permissive rather than prescriptive, and does not *require* exclusion of an area from critical habitat under any given set of circumstances.

Section 424.20 Emergency rules.

NWF recommended that this section include a provision that would require the Secretary to, "* * * publish emergency rules in the **Federal Register** within 10 days after they are issued [sic] * * *." The Services assume that this is intended to mean that emergency rules should be published within 10 days after being approved by the Secretary, inasmuch as issuance and publication are the same. The Services intend that emergency rules be published as quickly as possible after approval, but see no need to make this a regulatory requirement.

DOD recommended that this section contain a requirement to notify concerned Federal land managers of emergency rules. The provision for notification of State agencies of emergency rules is adopted directly from the Act. The Services do routinely notify affected Federal agencies as well when adopting emergency rules, but do not believe it necessary to make this a regulatory requirement, since inadvertent failure to comply with such a required notification could then cast doubt on the validity of a rule. Nevertheless, the Services will endeavor to notify Federal land managers of such emergency rules to the maximum extent possible.

Executive Order 12291, Paperwork Reduction Act, and Regulatory Flexibility Act

The Department of the Interior, as lead agency in the development of this rule, has determined that it is not a major rule as defined by Executive Order 12291; that the rule would not have a significant economic effect on a substantial number of small entities as described in the Regulatory Flexibility Act (Pub. L. 96–354); and that the rule does not contain any information collection or recordkeeping requirements as defined in the Paperwork Reduction Act of 1980 (Pub. L. 96–511).

National Environmental Policy Act

The Fish and Wildlife Service has determined that these proposed regulations are categorically excluded from National Environmental Policy Act (NEPA) requirements (Part 516 of the Departmental Manual, Chapter 6, Appendix I, section 1.4A.(3) categorically excludes the issuance of regulatory procedures when the impacts are limited to administrative or technological effects). This rule is procedural in nature, adopted in strict, non-discretionary compliance with the Amendments and will have no independent environmental consequences.

Author

The principal author of this rule is Dr. John J. Fay, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1975).

List of Subjects in 50 CFR Part 424

Administrative practice and procedure, Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulation Promulgation

Accordingly, Part 424 of Chapter IV of Title 50 of the U.S. Code of Federal Regulations is revised to read as set forth below:

PART 424—LISTING ENDANGERED AND THREATENED SPECIES AND DESIGNATING CRITICAL HABITAT

Subpart A—General Provisions

Sec.

424.01 Scope and purpose.
424.02 Definitions.

Subpart B—Revision of the Lists

424.10 General.
424.11 Factors for listing, delisting, or reclassifying species.
424.12 Criteria for designating critical habitat.
424.13 Sources of information and relevant data.
424.14 Petitions.
424.15 Notices of review.
424.16 Proposed rules.
424.17 Time limits and required actions.
424.18 Final rules—general.
424.19 Final rules—impact analysis of critical habitat.
424.20 Emergency rules.
424.21 Periodic review.

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. § 1531 *et seq.*).

Subpart A—General Provisions

§ 424.01 Scope and purpose.

(a) Part 424 provides rules for revising the Lists of Endangered and Threatened Wildlife and Plants and, where appropriate, designating or revising their critical habitats. Criteria are provided for determining species to be endangered or threatened and for designating critical habitats. Procedures for receiving and considering petitions to revise the lists and for conducting periodic reviews of listed species also are established.

(b) The purpose of these rules is to interpret and implement those portions of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), that pertain to the listing of species and the determination of critical habitats.

§ 424.02 Definitions.

(a) The definitions of terms in 50 CFR 402.02 shall apply to this Part 424, except as otherwise stated.

(b) "Candidate" means any species being considered by the Secretary for listing as an endangered or a threatened species, but not yet the subject of a proposed rule.

(c) "Conservation," "conserve," and "conserving" mean to use and the use of all methods and procedures that are necessary to bring any endangered or threatened species to the point at which the measures provided pursuant to the Act are no longer necessary. Such methods and procedures include, but are not limited to, all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and transplantation, and, in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved, may include regulated taking.

(d) "Critical habitat" means (1) the specific areas within the geographical area currently occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (i) essential to the conservation of the species and (ii) that may require special management considerations or protection, and (2) specific areas outside the geographical area occupied by a species at the time it is listed upon a determination by the Secretary that such areas are essential for the conservation of the species.

(e) "Endangered species" means a species that is in danger of extinction throughout all or a significant portion of its range.

(f) "List" or "lists" means the Lists of Endangered and Threatened Wildlife and Plants found at 50 CFR 17.11(h) or 17.12(h).

(g) "Plant" means any member of the plant kingdom, including, without limitation, seeds, roots, and other parts thereof.

(h) "Public hearing" means an informal hearing to provide the public with the opportunity to give comments and to permit an exchange of information and opinion on a proposed rule.

(i) "Secretary" means the Secretary of the Interior or the Secretary of Commerce, as appropriate, or their authorized representatives.

(j) "Special management considerations or protection" means any methods or procedures useful in protecting physical and biological features of the environment for the conservation of listed species.

(k) "Species" includes any species or subspecies of fish, wildlife, or plant, and any distinct population segment of any vertebrate species that interbreeds when mature. Excluded is any species of the Class Insecta determined by the Secretary to constitute a pest whose protection under the provisions of the Act would present an overwhelming and overriding risk to man.

(l) "State agency" means any State agency, department, board, commission, or other governmental entity that is responsible for the management and conservation of fish, plant, or wildlife resources within a State.

(m) "Threatened species" means any species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

(n) "Wildlife" or "fish and wildlife" means any member of the animal kingdom, including without limitation, any vertebrate, mollusk, crustacean, arthropod, or other invertebrate, and includes any part, product, egg, or offspring thereof, or the dead body or parts thereof.

Subpart B—Revision of the Lists

§ 424.10 General.

The Secretary may add a species to the lists or designate critical habitat, delete a species or critical habitat, change the listed status of a species, revise the boundary of an area designated as critical habitat, or adopt or modify special rules (see 50 CFR 17.40–17.48 and Parts 222 and 227) applied to a threatened species only in accordance with the procedures of this Part.

§ 424.11 Factors for listing, delisting, or reclassifying species.

(a) Any species or taxonomic group of species (e.g., genus, subgenus) as defined in § 424.02(k) is eligible for listing under the Act. A taxon of higher rank than species may be listed only if all included species are individually found to be endangered or threatened. In determining whether a particular taxon or population is a species for the purposes of the Act, the Secretary shall rely on standard taxonomic distinctions and the biological expertise of the Department and the scientific community concerning the relevant taxonomic group.

(b) The Secretary shall make any determination required by paragraphs (c) and (d) of this section *solely* on the basis of the best available scientific and commercial information regarding a species' status, without reference to possible economic or other impacts of such determination.

(c) A species shall be listed or reclassified if the Secretary determines, on the basis of the best scientific and commercial data available after conducting a review of the species' status, that the species is endangered or threatened because of any one or a combination of the following factors:

(1) The present or threatened destruction, modification, or curtailment of its habitat or range;

(2) Overutilization for commercial, recreational, scientific, or educational purposes;

(3) Disease or predation;

(4) The inadequacy of existing regulatory mechanisms; or

(5) Other natural or manmade factors affecting its continued existence.

(d) The factors considered in delisting a species are those in paragraph (c) of this section as they relate to the definitions of endangered or threatened species. Such removal must be supported by the best scientific and commercial data available to the Secretary after conducting a review of the status of the species. A species may be delisted only if such data substantiate that it is neither endangered nor threatened for one or more of the following reasons:

(1) *Extinction.* Unless all individuals of the listed species had been previously identified and located, and were later found to be extirpated from their previous range, a sufficient period of time must be allowed before delisting to indicate clearly that the species is extinct.

(2) *Recovery.* The principal goal of the U.S. Fish and Wildlife Service and the National Marine Fisheries Service is to return listed species to a point at which protection under the Act is no longer required. A species may be delisted on the basis of recovery only if the best scientific and commercial data available indicate that it is no longer endangered or threatened.

(3) *Original data for classification in error.* Subsequent investigations may show that the best scientific or commercial data available when the species was listed, or the interpretation of such data, were in error.

(e) The fact that a species of fish, wildlife, or plant is protected by the Convention on International Trade in Endangered Species of Wild Fauna and Flora (see Part 23 of this Title 50) or a similar international agreement on such species, or has been identified as requiring protection from unrestricted commerce by any foreign nation, or to be in danger of extinction or likely to become so within the foreseeable future by any State agency or by any agency of a foreign nation that is responsible for the conservation of fish, wildlife, or plants, may constitute evidence that the species is endangered or threatened. The weight given such evidence will vary depending on the international agreement in question, the criteria pursuant to which the species is eligible for protection under such authorities, and the degree of protection afforded the species. The Secretary shall give consideration to any species protected under such an international agreement, or by any State or foreign nation, to determine whether the species is endangered or threatened.

(f) The Secretary shall take into account, in making determinations under paragraph (c) or (d) of this section, those efforts, if any, being made by any State or foreign nation, or any political subdivision of a State or foreign nation, to protect such species, whether by predator control, protection of habitat and food supply, or other conservation practices, within any area under its jurisdiction, or on the high seas.

§ 424.12 Criteria for designating critical habitat.

(a) Critical habitat shall be specified to the maximum extent prudent and determinable at the time a species is proposed for listing. If designation of critical habitat is not prudent or if critical habitat is not determinable, the reasons for not designating critical habitat will be stated in the publication of proposed and final rules listing a species. A final designation of critical habitat shall be made on the basis of the best scientific data available, after taking into consideration the probable economic and other impacts of making such a designation in accordance with § 424.19.

(1) A designation of critical habitat is not prudent when one or both of the following situations exist:

(i) The species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of such threat to the species, or

(ii) Such designation of critical habitat would not be beneficial to the species.

(2) Critical habitat is not determinable when one or both of the following situations exist:

(i) Information sufficient to perform required analyses of the impacts of the designation is lacking, or

(ii) The biological needs of the species are not sufficiently well known to permit identification of an area as critical habitat.

(b) In determining what areas are critical habitat, the Secretary shall consider those physical and biological features that are essential to the conservation of a given species and that may require special management considerations or protection. Such requirements include, but are not limited to the following:

(1) Space for individual and population growth, and for normal behavior;

(2) Food, water, air, light, minerals, or other nutritional or physiological requirements;

(3) Cover or shelter;

(4) Sites for breeding, reproduction, rearing of offspring, germination, or seed dispersal; and generally,

(5) Habitats that are protected from disturbance or are representative of the historic geographical and ecological distributions of a species.

When considering the designation of critical habitat, the Secretary shall focus on the principal biological or physical constituent elements within the defined area that are essential to the conservation of the species. Known primary constituent elements shall be listed with the critical habitat description. Primary constituent elements may include, but are not limited to, the following: roost sites, nesting grounds, spawning sites, feeding sites, seasonal wetland or dryland, water quality or quantity, host species or plant pollinator, geological formation, vegetation type, tide, and specific soil types.

(c) Each critical habitat will be defined by specific limits using reference points and lines as found on standard topographic maps of the area. Each area will be referenced to the State(s), county(ies), or other local governmental units within which all or part of the critical habitat is located. Unless otherwise indicated within the critical habitat descriptions, the names of the State(s) and county(ies) are provided for information only and do not constitute the boundaries of the area. Ephemeral reference points (*e.g.*, trees, sand bars) shall not be used in defining critical habitat.

(d) When several habitats, each satisfying the requirements for designation as critical habitat, are located in proximity to one another, an inclusive area may be designated as critical habitat.

Example: Several dozen or more small ponds, lakes, and springs are found in a small local area. The entire area could be designated critical habitat if it were concluded that the upland areas were essential to the conservation of an aquatic species located in the ponds and lakes.

(e) The Secretary shall designate as critical habitat areas outside the geographical area presently occupied by a species only when a designation limited to its present range would be inadequate to ensure the conservation of the species.

(f) Critical habitat may be designated for those species listed as threatened or endangered but for which no critical habitat has been previously designated.

(g) Existing critical habitat may be revised according to procedures in this section as new data become available to the Secretary.

(h) Critical habitat shall not be designated within foreign countries or in other areas outside of United States jurisdiction.

§ 424.13 Sources of information and relevant data.

When considering any revision of the lists, the Secretary shall consult as appropriate with affected States, interested persons and organizations, other affected Federal agencies, and, in cooperation with the Secretary of State, with the country or countries in which the species concerned are normally found or whose citizens harvest such species from the high seas. Data reviewed by the Secretary may include, but are not limited to scientific or commercial publications, administrative reports, maps or other graphic materials, information received from experts on the subject, and comments from interested parties.

§ 424.14 Petitions.

(a) *General.* Any interested person may submit a written petition to the Secretary requesting that one of the actions described in § 424.10 be taken. Such a document must clearly identify itself as a petition and be dated. It must contain the name, signature, address, telephone number, if any, and the association, institution, or business affiliation, if any, of the petitioner. The Secretary shall acknowledge in writing receipt of such a petition within 30 days.

(b) *Petitions to list, delist, or reclassify species.* (1) To the maximum extent practicable, within 90 days of receiving a petition to list, delist, or reclassify a species, the Secretary shall make a finding as to whether the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted. For the purposes of this section, "substantial information" is that amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted. The Secretary shall promptly publish such finding in the **Federal Register** and so notify the petitioner.

(2) In making a finding under paragraph (b)(1) of this section, the Secretary shall consider whether such petition—

(i) Clearly indicates the administrative measure recommended and gives the scientific and any common name of the species involved;

(ii) Contains detailed narrative justification for the recommended measure, describing, based on available information, past and present numbers and distribution of the species involved and any threats faced by the species;

(iii) Provides information regarding the status of the species over all or a significant portion of its range; and

(iv) Is accompanied by appropriate supporting documentation in the form of bibliographic references, reprints of pertinent publications, copies of reports or letters from authorities, and maps.

The petitioner may provide information that describes any recommended critical habitat as to boundaries and physical features, and indicates any benefits and/or adverse effects on the species that would result from such designation. Such information, however, will not be a basis for the determination of the substantiality of a petition.

(3) Upon making a positive finding under paragraph (b)(1) of this section, the Secretary shall commence a review of the status of the species concerned and shall make, within 12 months of receipt of such petition, one of the following findings:

(i) The petitioned action is not warranted, in which case the Secretary shall promptly publish such finding in the **Federal Register** and so notify the petitioner.

(ii) The petitioned action is warranted, in which case the Secretary shall promptly publish in the **Federal Register** a proposed regulation to implement the action pursuant to § 424.16 of this Part, or

(iii) The petitioned action is warranted, but that—

(A) The immediate proposal and timely promulgation of a regulation to implement the petitioned action is precluded because of other pending proposals to list, delist, or reclassify species, and

(B) Expeditious progress is being made to list, delist, or reclassify qualified species,

in which case, such finding shall be promptly published in the **Federal Register** together with a description and evaluation of the reasons and data on which the finding is based.

(4) If a finding is made under paragraph (b)(3)(iii) of this Section with regard to any petition, the Secretary shall, within 12 months of such finding, again make one of the findings described in paragraph (b)(3) with regard to such petition, but no further finding of substantial information will be required.

(c) *Petitions to revise critical habitat.* (1) To the maximum extent practicable, within 90 days of receiving a petition to revise a critical habitat designation, the Secretary shall make a finding as to whether the petition presents substantial scienific information indicating that the revision may be warranted. The Secretary shall promptly publish such finding in the **Federal Register** and so notify the petitioner.

(2) In making the finding required by paragraph (c)(1) of this section, the Secretary shall consider whether a petition contains—

(i) Information indicating that areas petitioned to be added to critical habitat contain physical and biological features essential to, and that may require special management to provide for, the conservation of the species involved; or

(ii) Information indicating that areas designated as critical habitat do not contain resources essential to, or do not require special management to provide for, the conservation of the species involved.

(3) Within 12 months after receiving a petition found under paragraph (c)(1) of this section to present substantial information indicating that revision of a critical habitat may be warranted, the Secretary shall determine how he intends to proceed with the requested revision, and shall promptly publish notice of such intention in the **Federal Register.**

(d) *Petitions to designate critical habitat or adopt special rules.* Upon receiving a petition to designate critical habitat or to adopt a special rule to provide for the conservation of a species, the Secretary shall promptly conduct a review in accordance with the Administrative Procedure Act (5 U.S.C. 553) and applicable Departmental regulations, and take appropriate action.

§ 424.15 Notices of review.

(a) If the Secretary finds that one of the actions described in § 424.10 may be warranted, but that the available evidence is not sufficiently definitive to justify proposing the action at that time, a notice of review may be published in the **Federal Register.** The notice will describe the measure under consideration, briefly explain the reasons for considering the action, and solicit comments and additional information on the action under consideration.

(b) The Secretary from time to time also may publish notices of review containing the names of species that are considered to be candidates for listing under the Act and indicating whether sufficient scientific or commercial information is then available to warrant proposing to list such species, the names of species no longer being considered for listing, or the names of listed species being considered for delisting or reclassification. However, none of the substantive or procedural provisions of

the Act apply to a species that is designated as a candidate for listing.

(c) Such notices of review will invite comment from all interested parties regarding the status of the species named. At the time of publication of such a notice, notification in writing will be sent to State agencies in any affected States, known affected Federal agencies, and, to the greatest extent practicable, through the Secretary of State, to the governments of any foreign countries in which the subject species normally occur.

§ 424.16 Proposed rules.

(a) *General.* Based on the information received through §§ 424.13, 424.14, 424.15, and 424.21, or through other available avenues, the Secretary may propose revising the lists as described in § 424.10.

(b) *Contents.* A notice of a proposed rule to carry out one of the actions described in § 424.10 shall contain the complete text of the proposed rule, a summary of the data on which the proposal is based (including, as appropriate, citation of pertinent information sources), and shall show the relationship of such data to the rule proposed. If such a rule designates or revises critical habitat, such summary shall, to the maximum extent practicable, include a brief description and evaluation of those activities (whether public or private) that, in the opinion of the Secretary, if undertaken, may adversely modify such habitat, or may be affected by such designation. Any proposed rule to designate or revise critical habitat shall contain a map of such habitat. Any such notice proposing the listing, delisting, or reclassification of a species or the designation or revision of critical habitat shall also include a summary of factors affecting the species and/or critical habitat.

(c) *Procedures.*—(1) *Notifications.* In the case of any proposed rule to list, delist, or reclassify a species, or to designate or revise critical habitat, the Secretary shall—

(i) Publish notice of the proposal in the **Federal Register;**

(ii) Give actual notice of the proposed regulation (including the complete text of the regulation) to the State agency in each State in which the species is believed to occur, and to each county or equivalent jurisdiction therein in which the species is believed to occur, and invite the comment of each such agency and jurisdiction;

(iii) Give notice of the proposed regulation to any Federal agencies, local authorities, or private individuals or organizations known to be affected by the rule;

(iv) Insofar as practical, and in cooperation with the Secretary of State, give notice of the proposed regulation to list, delist, or reclassify a species to each foreign nation in which the species is believed to occur or whose citizens harvest the species on the high seas, and invite the comment of such nation;

(v) Give notice of the proposed regulation to such professional scientific organizations as the Secretary deems appropriate; and

(vi) Publish a summary of the proposed regulation in a newspaper of general circulation in each area of the United States in which the species is believed to occur.

(2) *Period of public comments.* At least 60 days shall be allowed for public comment following publication in the **Federal Register** of a rule proposing the listing, delisting, or reclassification of a species, or the designation or revision of critical habitat. All other proposed rules shall be subject to a comment period of at least 30 days following publication in the **Federal Register.** The Secretary may extend or reopen the period for public comment on a proposed rule upon a finding that there is good cause to do so. A notice of any such extension or reopening shall be published in the **Federal Register,** and shall specify the basis for so doing.

(3) *Public hearings.* The Secretary shall promptly hold at least one public hearing if any person so requests within 45 days of publication of a proposed regulation to list, delist, or reclassify a species, or to designate or revise critical habitat. Notice of the location and time of any such hearing shall be published in the **Federal Register** not less than 15 days before the hearing is held.

§ 424.17 Time limits and required actions.

(a) *General.* (1) Within 1 year of the publication of a rule proposing to determine whether a species is an endangered or threatened species, or to designate or revise critical habitat, the Secretary shall publish one of the following in the **Federal Register:**

(i) A final rule to implement such determination or revision,

(ii) A finding that such revision should not be made,

(iii) A notice withdrawing the proposed rule upon a finding that available evidence does not justify the action proposed by the rule, or

(iv) A notice extending such 1-year period by an additional period of not more than 6 months because there is substantial disagreement among scientists knowledgeable about the species concerned regarding the sufficiency or accuracy of the available data relevant to the determination or revision concerned.

(2) If an extension is made under paragraph (a)(1)(iv) of this section, the Secretary shall, within the extended period, take one of the actions described in paragraphs (a)(1) (i), (ii), or (iii) of this section.

(3) If a proposed rule is withdrawn under paragraph (a)(1)(iii) of this section, the notice of withdrawal shall set forth the basis upon which the proposed rule has been found not to be supported by available evidence. The Secretary shall not again propose a rule withdrawn under such provision except on the basis of sufficient new information that warrants a reproposal.

(b) *Critical habitat designations.* A final rule designating critical habitat of an endangered or a threatened species shall to the extent permissible under § 424.12 be published concurrently with the final rule listing such species, unless the Secretary deems that—

(1) It is essential to the conservation of such species that it be listed promptly; or

(2) Critical habitat of such species is not then determinable,

in which case, the Secretary, with respect to the proposed regulation to designate such habitat, may extend the 1-year period specified in paragraph (a) of this section by not more than one additional year. Not later than the close of such additional year the Secretary must publish a final regulation, based on such data as may be available at that time, designating, to the maximum extent prudent, such habitat.

§ 424.18 Final rules—general.

(a) *Contents.* A final rule promulgated to carry out the purposes of the Act will be published in the **Federal Register.** This publication will contain the complete text of the rule, a summary of the comments and recommendations received in response to the proposal (including applicable public hearings), summaries of the data on which the rule is based and the relationship of such data to the final rule, and a description of any conservation measures available under the rule. Publication of a final rule to list, delist, or reclassify a species or designate or revise critical habitat shall also provide a summary of factors affecting the species. A rule designating or revising critical habitat will also contain a description of the boundaries and a map of such habitat and will, to the maximum extent practicable, be accompanied by a brief description and evaluation of those activities (whether public or private) that might occur in the area and which, in the opinion of the

Secretary, may adversly modify such habitat or be affected by such designation.

(b) *Effective date.* A final rule shall take effect—

(1) Not less than 30 days after it is published in the **Federal Register**, except as otherwise provided for good cause found and published with the rule; and

(2) Not less than 90 days after (i) publication in the **Federal Register** of the proposed rule, and (ii) actual notification of any affected State agencies and counties or equivalent jurisdictions in accordance with § 424.16(c)(1)(ii).

(c) *Disagreement with State agency.* If a State agency, given notice of a proposed rule in accordance with § 424.16(c)(1)(ii), submits comments disagreeing in whole or in part with a proposed rule, and the Secretary issues a final rule that is in conflict with such comments, or if the Secretary fails to adopt a regulation for which a State agency has made a petition in accordance with § 424.14, the Secretary shall provide such agency with a written justification for the failure to adopt a rule consistent with the agency's comments or petition.

§ 424.19 Final rules—impact analysis of critical habitat.

The Secretary shall identify any significant activities that would either affect an area considered for designation as critical habitat or be likely to be affected by the designation, and shall, after proposing designation of such an area, consider the probable economic and other impacts of the designation upon proposed or ongoing activities. The Secretary may exclude any portion of such an area from the critical habitat if the benefits of such exclusion outweigh the benefits of specifying the area as part of the critical habitat. The Secretary shall not exclude any such area if, based on the best scientific and commercial data available, he determines that the failure to designate that area as critical habitat will result in the extinction of the species concerned.

§ 424.20 Emergency rules.

(a) Sections 424.16, 424.17, 424.18, and 424.19 notwithstanding, the Secretary may at any time issue a regulation implementing any action described in § 424.10 in regard to any emergency posing a significant risk to the well-being of a species of fish, wildlife, or plant. Such rules shall, at the discretion of the Secretary, take effect immediately on publication in the **Federal Register.** In the case of any such action that applies to a resident species, the Secretary shall give actual notice of such regulation to the State agency in each State in which such species is believed to occur. Publication in the **Federal Register** of such an emergency rule shall provide detailed reasons why the rule is necessary. An emergency rule shall cease to have force and effect after 240 days unless the procedures described in §§ 424.16, 424.17, 424.18, and 424.19 (as appropriate) have been complied with during that period.

(b) If at any time after issuing an emergency rule, the Secretary determines, on the basis of the best scientific and commercial data available, that substantial evidence does not then exist to warrant such rule, it shall be withdrawn.

§ 424.21 Periodic review.

At least once every 5 years, the Secretary shall conduct a review of each listed species to determine whether it should be delisted or reclassified. Each such determination shall be made in accordance with §§ 424.11, 424.16, and 424.17 of this Part, as appropriate. A notice announcing those species under active review will be published in the **Federal Register.** Notwithstanding this section's provisions, the Secretary may review the status of any species at any time based upon a petition (see § 424.14) or upon other data available to the Service.

Dated: July 18, 1984.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

Dated: August 22, 1984.

William G. Gordon,

Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration.

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Part VII

Department of Justice

Bureau of Prisons

28 CFR Part 545

Control, Custody, Care, Treatment, and Instruction of Inmates; Final Rule

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DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 545

Control, Custody, Care, Treatment, and Instruction of Inmates

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rule.

SUMMARY: The Bureau of Prisons is publishing its final rule on inmate work and performance pay. Some of the areas discussed include inmate work and program assignments, work conditions, performance pay, and achievement awards. The rule is intended to reduce inmate idleness, while allowing an inmate to improve and/or develop useful job skills, work habits, and experiences that will assist in post-release employment and ensure that activities necessary to maintain day-to-day operations of the institution are completed.

EFFECTIVE DATE: October 1, 1984.

ADDRESS: Office of General Counsel, Bureau of Prisons, Room 760, 320 1st Street NW., Washington, D.C. 20534.

FOR FURTHER INFORMATION CONTACT: Mike Pearlman, Office of General Counsel, Bureau of Prisons, phone 202/724-3062.

SUPPLEMENTARY INFORMATION: In this document the Bureau of Prisons is publishing its final rule on inmate work and performance pay. A proposed rule on this subject was published in the **Federal Register** April 29, 1983 (48 FR 19579 et seq.). Interested persons were invited to submit comments on the proposed rule. Members of the public may submit comments concerning the final rule by writing the previously cited address. These comments will be considered but will receive no response in the **Federal Register**.

The Bureau plans to implement its inmate work and performance pay rule on October 1, 1984, so as to coincide with the beginning of a new fiscal year. This will enable the Bureau to assess its performance pay program within an established time period. There were few public comments on the proposed rule, with these either encompassed within the final rule, determined beyond the scope of the Bureau to implement, or set aside for further study. For these reasons, the Bureau finds good cause under 5 U.S.C. 553(d) to make this rule effective without a delay in the effective date.

The Bureau of Prisons has determined that this rule is not a major rule for the purpose of EO 12291. The Bureau of Prisons has determined that EO 12291 does not apply to this rule since the rule involves agency management. After review of the law and regulations, the Director, Bureau of Prisons, has certified that this rule, for the purpose of the Regulatory Flexibility Act (Pub. L. 96-354), does not have a significant impact on a substantial number of small entities.

Summary of Changes

1. Section 545.20

In § 545.20(a), the word "useful" is substituted for "meaningful". Section 545.20(b) is reworded, with the term "outstanding" deleted. Other sections of the rule describe more specifically what is expected for an inmate to receive performance pay.

2. Section 545.21

Section 545.21(g) is reworded, although its intent is unchanged.

3. Section 545.23

In response to public comment, paragraph (c) is clarified by inserting the phrase, "to the extent medically possible".

4. Section 545.24

Because a work assignment may consist of a non-standard work week, final § 545.24(a) deletes the proposed rule's reference to the scheduled work day not exceeding eight hours. The final rule also deletes the specific reference to work in excess of eight hours being compensated at an overtime rate. An inmate who works beyond the scheduled work day is compensated at the inmate's prevailing rate of pay, and the inmate is eligible to receive bonus pay as set forth in § 545.27. Based on this deletion, final § 545.23(b)(6) refers to bonus pay (and special bonus pay) procedures, rather than the proposed rule's "overtime" procedures.

5. Section 545.25

Paragraph (a) is reworded, although its intent is unchanged. For purpose of clarification, the term "monitoring" is substituted for "supervision" in paragraph (c). In paragraph (e), the term "Central Office" is substituted for the misprinted "General Office" and the term "unallocated" is added to identify the nature of the funds retained.

6. Section 545.27

Paragraph (a) is modified to allow for an inmate to receive a copy of the inmate's position description upon request. Paragraph (b) is clarified by inserting the word "allotted" in referring to inmate work assignments. This clarification is necessary because in the event of prison overcrowding, an institution may have more inmates assigned to a work detail, as required by § 545.23, than it has allocated pay grades. Inmates in a work assignment for which there is no allocated pay grade are eligible for a temporary, flat rate of compensation, pending the opening of an allocated pay grade.

The first sentence of paragraph (c) is deleted, with each institution now being permitted to set their own monthly pay periods, e.g., by the month, or from the 10th of one month to the ninth of the following month. Paragraph (e) is modified. The terms "excellent", "satisfactory", or "unsatisfactory" are deleted and will be replaced by more descriptive guidelines. In addition, the final rule provides an expanded list of examples, rather than a specified list, of categories which may be examined in evaluating an inmate's work performance.

Section 545.27(f), Bonus pay, is expanded by adding the phrase "or appreciably contributed to the work assignment". The final rule also includes an example of a situation whereby an inmate is eligible for bonus pay. Section 545.27(g), Special bonus pay, is clarified by stating that the provision applies only to a "temporary job assignment" determined critical to the institution. The last sentence of both paragraph (f) and (g), which established upper limits on the amount of both bonus and special bonus pay, is deleted from the rule language, but is retained in the Bureau's internal directive as an implementing instruction to staff. Section 545.27(i) is new and requires that each inmate in performance pay status be notified of monthly earnings.

We believe the rule adequately addresses a comment that an inmate be paid for the time the inmate actually works. Section 545.27 (d) and (e)(1) are responsive to this comment, since they provide for an inmate to receive performance pay for that period of time during which the inmate is satisfactorily or better performing work. Thus, if an inmate's workday is seven and one-half hours, the inmate is eligible to receive compensation for seven and one-half hours.

7. Section 545.28

This section has been modified. The first paragraph of proposed § 545.28, now final § 545.28(a), states that an inmate who has worked full-time for 12 consecutive months on an institution work assignment is eligible for a one week (five-day), rather than the proposed rule's six-day, paid vacation at the inmate's prevailing hourly rate. This change recognizes that five days

constitutes the ordinary work week. The recommendation for vacation credit is made from the work supervisor, through the Department Head, to the Unit Team, which has the approval authority. The final rule deletes the proposed rule's reference to the Associate Warden as the approval authority. The Bureau is reassessing proposed paragraphs (a), the first sentence of (b), and (c)–(f) and has decided not to include these provisions in its final rule. Based on this determination, proposed § 545.28(g) becomes final § 545.28(c). The phrase "to continue" is deleted from final paragraph (c).

A commenter suggested that inmates working in non-UNICOR jobs should be paid for vacations and suggested that the rules on inmate performance pay were revised to bring them in line with existing UNICOR wages (see Part 345). While the Bureau has compared the two programs, it is not presently feasible to have identical provisions. Each system has a different focus. Federal Prison Industries (UNICOR) is a government corporation, in effect, a business, that sells goods to other departments or agencies of the United States, whereas the performance pay program focuses primarily on activities necessary to maintain the day-to-day operation of the institution. With respect to paying inmates working in non-UNICOR work assignments for their vacation, the final performance pay rule allows an inmate to take a vacation with pay. No determination has been made concerning an inmate being paid in lieu of taking the vacation. As previously stated, the Bureau is reassessing the entire area of inmate vacations. The Bureau anticipates republishing a proposed rule on this subject.

8. Section 545.29

Because achievement awards are given for educational participation, the final rule establishes the Education Department, rather than the inmate's unit team, as the approving authority for such awards.

9. Section 545.30

Paragraph (b) deletes the non-essential term "lump sum" and also provides an example of a non-monetary award (extra good time).

10. Section 545.31

A new section 545.31, Funds due deceased inmates, is being added to this rule on inmate work and performance pay. A similar section is included in the rule on Inmate Pay, Federal Prison Industries, Inc. (see Part 345, Subpart B). Section 545.31 provides for funds due an inmate for work performed and not yet paid to be made to a legal representative of the inmate's estate or in accordance with the laws of descent and distribution of the state of the inmate's domicile. This provision is intended to set forth the Bureau's statement of policy on funds due deceased inmates. For this reason, the Bureau finds good cause under 5 U.S.C. 553 to publish this section without a notice of proposed rulemaking, an opportunity for public comment, or a delay in effective date.

11. Section 545.32

Based on new § 545.31, proposed § 545.31 becomes final § 545.32.

A commenter, while supportive of the pay provisions in the Bureau's rule, strongly recommends that a percentage (up to 75%) of the inmate's earned compensation be used to render monetary restitution to crime victims and their families. Such a provision, however, is beyond the authority of the Bureau of Prisons and would require the enactment of federal legislation.

List of Subjects in 28 CFR Part 545

Prisoners.

Conclusion

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(q), 28 CFR Chapter V is amended as set forth below.

Dated: September 27, 1984.

Norman A. Carlson,

Director, Bureau of Prisons.

SUBCHAPTER C—INSTITUTIONAL MANAGEMENT

PART 545—WORK AND COMPENSATION

In Part 545, Subpart C is added to read as follows:

Subpart C—Inmate Work and Performance Pay Program

Sec.

545.20 Purpose and scope.
545.21 Definitions.
545.22 Institution work and performance pay committee.
545.23 Inmate work/program assignment.
545.24 Inmate work conditions.
545.25 Funding for, and allocation of performance pay.
545.26 Eligibility for performance pay.
545.27 Performance pay provisions.
545.28 Inmate vacations.
545.29 Achievement awards.
545.30 Special awards.
545.31 Funds due deceased inmates.
545.32 Training.

Authority: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 4126, 5006–5024, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

Subpart C—Inmate Work and Performance Pay Program

§ 545.20 Purpose and scope.

(a) The Bureau of Prisons operates an inmate work program within its institutions. To the extent practicable, the work program (1) reduces inmate idleness, while allowing the inmate to improve and/or develop useful job skills, work habits and experiences that will assist in post-release employment; and (2) ensures that activities necessary to maintain the day-to-day operation of the institution are completed. Sentenced inmates who are physically and mentally able to work are required to participate in the work program. When approved by the Warden or designee, educational or vocational training may be substituted for all or part of the work program.

(b) The Warden may recognize an inmate's work performance or productive participation in specified correctional programs by granting performance pay.

§ 545.21 Definitions.

(a) *Inmate.* For purposes of this rule, the term "inmate" refers to any person committed to, or in the custody of, the U.S. Attorney General.

(b) *Institution Work Assignment.* A work assignment which contributes to the day-to-day operation of the institution (e.g., carpentry, plumbing, food service).

(c) *Industry Assignment.* A Federal Prison Industries (UNICOR) work assignment.

(d) *Full-Time Work Assignment.* A work assignment to which an inmate is assigned for the entire scheduled work day.

(e) *Part-Time Work Assignment.* A work assignment to which an inmate is assigned for only a portion of the scheduled work day. Part-time work assignments are ordinarily made in conjunction with educational and vocational training programs.

(f) *Medically Unassigned.* An inmate who, because of medical restrictions, is unable to be assigned to any work program.

(g) *Light Duty Work Assignment.* A work assignment in which an inmate may, because of physical limitations, temporary or otherwise, only perform limited work functions, e.g., sedentary work, no prolonged standing, no lifting over 25 lbs., etc.

§ 545.22 Institution work and performance pay committee.

(a) The Warden at each Bureau of Prisons institution is to establish an Institution Inmate Work and Performance Pay Committee to administer the institution's work and performance pay program. The Committee is to be comprised of an Associate Warden, the Inmate Performance Pay Coordinator, and any other member(s) the Warden considers appropriate.

(b) The Committee is responsible for approving the following aspects of the institution's inmate work and performance pay program:

(1) Number of inmates on each work detail;

(2) Number of pay grades in each detail;

(3) Job descriptions;

(4) Performance standards;

(5) Budgeting for special act awards; and

(6) Bonus pay/special bonus pay procedures.

§ 545.23 Inmate work/program assignment.

(a) Each sentenced inmate who is physically and mentally able is to be assigned to an institutional or industrial work program. An inmate shall be assigned to an educational or vocational program, on either a full or part-time basis, where this involvement is mandated by Bureau policy (for example, Adult Basic Education (ABE) Program) or statute (for example, Youth Corrections Act). An inmate, for whom educational or vocational participation is not required by either policy or statute, may request and, upon approval of the Warden or designee, will be able to participate in an educational or vocational training program rather than work full-time.

(b) A pre-trail inmate may not be required to work in any assignment or area other than housekeeping tasks in the inmate's own cell and in the community living area. Unless the pre-trial inmate signs a waiver, the Warden may not permit the pre-trial inmate to work with convicted inmates or in any assignment or area other than housekeeping tasks (see Part 551, Subpart J).

(c) Medically unassigned inmates may be required, to the extent medically possible, to perform housekeeping tasks in the inmate's own cell and in the community living area.

(d) In making the work and/or program assignment(s), staff shall consider the inmate's capacity to learn, interests, requests, needs, and eligibility, and the availability of the assignment(s). An inmate's assignment shall be made with consideration of the institution's security and operational needs, and should be consistent with the safekeeping of the inmate and protection of the public.

§ 545.24 Inmate work conditions.

(a) The scheduled work day for an inmate in a federal institution ordinarily consists of a minimum of seven (7) hours.

(b) An inmate is expected to report to the place of assignment at the required time. An inmate may not leave an assignment without permission.

(c) An inmate, regardless of assignment, is expected to perform all assigned tasks diligently and conscientiously. Disciplinary action may be taken against an inmate who refuses to work, who otherwise evades attendance and performance standards in assigned activities, or who encourages others to do so.

(d) Work, vocational, and educational programs are to meet the appropriate minimum standards for health and safety. Safety equipment is to be available where needed.

(e) An inmate is expected to perform the work assignment in a safe manner, using safety equipment as instructed by the Work Supervisor. In the event of any work related injury, an inmate shall notify the Work Supervisor so that appropriate action (for example, medical attention, and submission of necessary reports) may be taken.

§ 545.25 Funding for, and allocation of performance pay.

The Board of Directors Federal Prison Industries (UNICOR) will fund the Bureau's performance pay program.

(a) The Assistant Director, Correctional Programs Division is responsible for overseeing the allocation of performance pay. The Assistant Director shall establish and, as necessary, periodically revise the performance pay hourly rate.

(b) Within the Central Office, the specific authority to allocate performance pay funds to each Region is delegated to the Administrator, Correctional Programs Branch.

(c) Within each Region, the Regional Correctional Programs Administrators are responsible for institution allocations and for monitoring of institution performance pay programs.

(d) Within each institution, each Department Head shall be credited with an equitable share of the performance pay money allocated to the institution.

(e) The Central Office, regional offices and institutions are authorized to hold limited unallocated performance pay in a reserve status. These reserve funds will be used to cover such contingencies as institution mission changes, payment of special act awards, and to cover fluctuations in population within the institutions.

§ 545.26 Eligibility for performance pay.

(a) An inmate may receive performance pay for accomplishments in one or more of the following areas:

(1) Institution work assignment;

(2) Adult Basic Education (ABE) program participation;

(3) General Educational Development (GED) participation;

(4) Apprenticeship training; and

(5) Vocational Training courses (approved by the Bureau of Prisons as certified vocational training instruction).

(b) An inmate is eligible for performance pay from the date of work or program assignment. An inmate is eligible to receive performance pay for each month that the inmate's performance justifies such payment.

§ 545.27 Performance pay provisions.

(a) The Warden shall ensure that all institution work assignments have standardized work descriptions. Each inmate work position is assigned one of four pay grade levels. Factors to consider in assigning a grade level to the specific work position include the position's educational and vocational requirements, physical demands, working conditions (exposed to dusts, odors, etc.), and the degree of responsibility held by the inmate worker. The inmate assigned to a specific work position shall sign, and, if requested, receive a copy of, that position description.

(b) In recognition of budgetary constraints and for the effective management of the overall performance pay program, the percentage of inmates assigned to each grade level is approximately as follows (Grade 1 is highest pay):

Grade 1—5% of the institution's allotted inmate work assignments;

Grade 2—15% of the institution's allotted inmate work assignments;

Grade 3—25% of the institution's allotted inmate work assignments; and

Grade 4—55% of the institution's allotted inmate work assignments.

(c) An inmate may receive performance pay only for that portion of the month that the inmate was working. Performance pay may not be awarded retroactively.

(d) An inmate is eligible to receive performance pay only for those hours during which the inmate is actually performing work or actively

participating in an educational or vocational training program. Absences from the inmate's scheduled assignment for such reasons as call-outs, visits sick call, interviews, or making telephone calls shall be deducted from the monthly number of hours worked and will accordingly reduce the amount of pay received by the inmate.

(e) Work Evaluation—At the end of each month the work detail/program supervisor shall compute on an evaluation form the hours worked by the inmate and the pay to be awarded. The supervisor shall also rate the inmate's performance over the past month in each of several categories. For example, an inmate may be rated in such categories as quality of work, quantity of work, initiative, ability to learn, dependability, response to supervision and instruction, safety and care of equipment, ability to work with others, and overall job proficiency.

(1) An inmate shall receive performance pay only for those hours during which the inmate is satisfactorily or better performing work or is actively participating in an educational/vocational program.

(2) An inmate's monthly pay shall be based on the grade and the number of hours during the month that the inmate's performance was satisfactory. The hourly rate may not be reduced for unsatisfactory performance; the inmate is either paid the hourly rate for an hour of at least satisfactory performance or receives no pay for an hour of unsatisfactory performance.

The work detail/program supervisor shall review the evaluation with the inmate and request that the inmate sign the evaluation form. If the inmate refuses to sign the form, the supervisor shall note this refusal on the evaluation and, if known, the reasons for refusal.

(f) Bonus pay—When the supervisor of an inmate worker or program participant believes the inmate has made exceptional accomplishments or appreciably contributed to the work assignment, the supervisor may recommend that the inmate receive a bonus. For example, an inmate who works in excess of the scheduled work day can qualify for bonus pay. Written justification for the bonus request must be forwarded to the Department Head for approval.

(g) Special bonus pay—An inmate may receive special bonus pay based on the inmate's exceptional work in a temporary job assignment, provided this assignment has been previously identified by the Warden, and approved by the Regional Director, as critical to the institution. When the supervisor of an inmate worker assigned to this temporary job assignment believes the inmate has performed exceptionally well, the supervisor may recommend that the inmate received a special bonus. Written justification for the special bonus request must be forwarded to the Department Head for approval.

(h) An inmate's performance pay, once earned, becomes vested.

(i) Each inmate in performance pay status shall be notified of monthly earnings.

§ 545.28 Inmate vacations.

(a) An inmate who has worked full-time for 12 consecutive months on an institution work assignment is eligible to take a five-day paid vacation at the inmate's prevailing hourly rate. A recommendation for an inmate to receive vacation credit is made by the inmate's work supervisor, through the Department Head, to the Unit Team, who shall approve the request if the inmate's work performance qualifies for vacation credit.

(b) Staff shall schedule an inmate's vacation so it is compatable with shop production and administrative support requirements.

(c) The Warden or designee may authorize an inmate to accumulate vacation credit when:

(1) The inmate is transferred to another institution for the benefit of the government or because of the inmate's favorable adjustment (custody reduction); or

(2) The inmate is placed in a new work assignment in the institution for the benefit of the government or institution, rather than solely at the inmate's request or because of the inmate's poor performance or adverse behavior.

§ 545.29 Achievement awards.

With prior approval of the Education Department, each inmate who completes Adult Basic Education, GED, Vocational Training, or related trades classroom work that is part of a certified apprenticeship program may be granted an achievement award from performance pay funds.

§ 545.30 Special awards.

(a) Inmates who perform exceptional services not ordinarily a part of the inmate's regular assignment may be granted a special award regardless of the inmate's work or program status. Examples of actions which may result in the inmate being considered for a special award are the following:

(1) An act of heroism;

(2) Voluntary acceptance and satisfactory performance of an unusually hazardous assignment.

(3) An act which protects the lives of employees or inmates, or the property of the United States. (This does not apply to informants.)

(4) Suggestions which result in substantial improvements or cost-savings in institutional programs or operations.

(5) Other exceptionally meritorious or outstanding services consistent with the general character of the preceding cases.

(b) The special award may be given in the form of a monetary payment in addition to any other award (e.g., extra good time) given.

(c) The Warden of each institution is empowered to approve special awards not exceeding $150. Awards in excess of this amount may not be made unless approved by the Regional Director.

§ 545.31 Funds due deceased inmates.

Funds due a deceased inmate for work performed and not yet paid shall be made to a legal representative of the inmate's estate or in accordance with the laws of descent and distribution of the State of the inmate's domicile.

§ 545.32 Training.

The Warden shall ensure that staff receive training on their roles in, and on the operation of, the work and performance pay program. The Warden shall also ensure that the inmate population is informed of the work and performance pay program, and of the hourly rates paid to inmate workers.

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Part VIII

Department of the Treasury

Internal Revenue Service

26 CFR Part 18

Special Election by Commodities Dealers and Options Dealers To Be an S Corporation; Temporary Regulation

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 18

[T.D. 7979]

Special Election by Commodities Dealers and Options Dealers To Be an S Corporation Under Section 102(d)(3) of the Tax Reform Act of 1984

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations relating to the time and manner of making the election under section 102(d)(3) of the Tax Reform Act of 1984—a special election by commodities dealers and options dealers to be an S corporation. These regulations provide guidance to persons making this election.

DATE: The regulations are effective September 28, 1984, and apply to elections made under section 102(d)(3) of the Tax Reform Act of 1984.

FOR FURTHER INFORMATION CONTACT: Gail H. Morse of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, Attention: CC:LR:T (LR–188–84), (202) 566–3297, not a toll free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains temporary regulations relating to the election under section 102(d)(3) of the Tax Reform Act of 1984 made by commodities dealers and options dealers that want to be an S corporation.

Guidance with respect to this election in the form of a temporary regulation was previously published in the **Federal Register** on September 10, 1984, at 49 FR 35486 (T.D. 7976). Section 5h.4(m) of those temporary regulations provided guidance to commodities dealers and options dealers that have as a taxable year the calendar year and that were small business corporations as of January 1, 1984. That section also provided that guidance for other commodities dealers and options dealers would be forthcoming. This temporary regulation provides that guidance. Rules for all commodities dealers and options dealers making the election under section 102(d)(3) of the Tax Reform Act of 1984 are contained in these temporary regulations.

Explanation of Provisions

Section 18.1362–1(c) provides rules and examples relating to the election by commodities dealers and options dealers to be an S corporation as provided under section 102(d)(3) of the Tax Reform Act of 1984. Such election must be filed by October 2, 1984. A corporation making the election will have as its taxable year that year which begins on a date set forth in § 18.1362–1(c)(1) and which ends in accordance with the principles of section 1378. Coordination with section 1256 is provided at § 18.1362–1(c)(3).

Special Analyses

The Commissioner of Internal Revenue has determined that this temporary regulation is not a major rule as defined in Executive Order 12291 or the Treasury and OMB implementation of the Order dated April 29, 1983. Accordingly, a Regulatory Impact Analysis is not required.

A general notice of proposed rulemaking is not required by 5 U.S.C. 553 for temporary regulations. Accordingly, the temporary regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

The collection of information requirements contained in this regulation have ben submitted to the Office of Management and Budget (OMB) in accordance with the requirements of the Paperwork Reduction Act of 1980. These requirements have been approved by OMB, control number 1545–0872.

Drafting Information

The principal author of these regulations is Gail H. Morse of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations both on matters of substance and style.

List of Subjects in 26 CFR Part 18

Income taxes, Subchapter S Revision Act of 1982.

Adoption of Amendments to the Regulations

Accordingly, the following temporary regulations are adopted under Part 18:

Section 18.1362–1 is amended by adding a new paragraph (c) at the end thereof to read as follows:

§ 18.1362–1 Election to be an S corporation.

* * * * *

(c) *Special election by commodities dealers and options dealers before October 2, 1984*—(1) A commodities dealer or an options dealer (as defined in section 1402(i)(2)) that is a small business corporation, as defined in section 1361, and that has been a small business corporation continuously since the beginning of such corporation's taxable year that includes July 18, 1984, may elect under section 102(d)(3) of the Tax Reform Act of 1984 to be an S corporation for a taxable year beginning on the first day of the corporation's taxable year that includes July 18, 1984, and ending on the date that corresponds to the last day of the permitted year approved pursuant to section 1378 and the regulations thereunder. A commodities dealer or options dealer that has not been a small business corporation continuously since the beginning of such corporation's taxable year that includes July 18, 1984, but that becomes a small business corporation before October 2, 1984, and remains a small business corporation until the date of election may elect under section 102(d)(3) of the Act to be an S corporation for a taxable year beginning on the date on which such corporation becomes a small business corporation (but only if the corporation remains a small business corporation until the date of election) and ending on the date that corresponds to the last day of the permitted year approved pursuant to section 1378 and the regulations thereunder.

(2) *Time and manner of making the election.* The election described in paragraph (c)(1) of this section shall be made by the commodities dealer or options dealer in the manner prescribed in § 18.1362–1(a). The election must be made on or before October 1, 1984. In addition to those requirements, the commodities dealer or options dealer must indicate on Form 2553 that the commodities dealer or options dealer is making an election to be an S corporation under section 102(d)(3) of the Act.

(3) *Coordination with section 1256.* If a commodities dealer or options dealer makes an election under section 102(d)(3) of the Act (relating to the subchapter S election) and makes an election under section 102(g)(2) of the Act (relating to the amendments made to section 1256 by section 102 of the Act), the term "taxable year which includes the date of enactment" as used in section 102(g)(2) shall be applied without regard to the election under section 102(d)(3). For purposes of section 102(h) (relating to installment payment of tax), the term "taxable year refered to in subsection (g)(2)" means the first taxable year (after applying the provisions of section 102(d)(3) and of

this paragraph (c)) to which the rules of section 1256, as amended by section 102 of the Act, apply.

(4) *Cross-reference.* Where a commodities dealer or options dealer makes an election under this paragraph (c) which results in a short taxable year, a return for the resulting short taxable year must be filed. See section 443 and the regulations thereunder. In the case of a short taxable year ending on or before October 1, 1984, which results from a corporation making an election under paragraph (c) of this section, the income tax return for such short taxable year shall be filed on or before December 17, 1984, with the service center where the corporation would normally file its return.

(5) *Examples.* The special election by commodities dealers and options dealers to be an S corporation may be illustrated by the following examples:

Example (1). (i) Corporation M, a calendar year taxpayer, has been a small business corporation since 1975. M makes the election under section 102(d)(3) of the Tax Reform Act of 1984 in accordance with the provisions of this paragraph (c), and files the election on October 1, 1984. On Form 2553, M chooses to retain its calendar year. M will be an S corporation for a taxable year beginning on January 1, 1984, and ending December 31, 1984. M will retain S corporation status until such status is terminated.

(ii) If Corporation M above was not a small business corporation until March 15, 1984, the election under section 102(d)(3) of the Act would be effective for a taxable year beginning on March 15, 1984, and ending December 31, 1984. In such case, this would result in two short taxable years, one (as a C corporation) beginning January 1, 1984, and ending March 14, 1984, and one (as an S corporation) beginning March 15, 1984, and ending December 31, 1984. M must file appropriate tax returns reflecting those short taxable years. If M also makes an election under section 102(g)(2) of the Act, the rules of section 1256, as amended by section 102 of the Act, apply to both short taxable years. If M also elects under section 102(h) of the Act, such election is made with respect to the short taxable year beginning January 1, 1984, and ending March 14, 1984, and the first installment prescribed by section 102(h) of the Act is due on December 17, 1984.

Example (2). Corporation N, a fiscal year taxpayer with a taxable year August 1 through July 31, has been a small business corporation since 1975. N makes the election under section 102(d)(3) of the Tax Reform Act of 1984 in accordance with the provisions of this paragraph (c), and files the election on October 1, 1984. Assume that Corporation N cannot establish a business purpose for a taxable year other than a calendar year, and thus indicates on Form 2553 that it is changing to a calendar taxable year. The election causes the following results: (1) N is an S corporation beginning on August 1, 1983, and has a short taxable year beginning on August 1, 1983, and ending on December 31, 1983; and (2) N's next taxable year is the calendar year 1984. The return for the short taxable year beginning August 1, 1983, and ending December 31, 1983, is due on December 17, 1984. If N also makes an election under section 102(g)(2) of the Act, the rules of section 1256, as amended by section 102 of the Act, apply to both the short taxable year beginning August 1, 1983 and ending December 31, 1983, and the calendar 1984 year. If N also elects under section 102(h) of the Act, such election is made with respect to the short taxable year beginning August 1, 1983, and ending December 31, 1983, and the first installment prescribed by section 102(h) of the Act is due on December 17, 1984.

Example (3). Corporation O, a fiscal year taxpayer with a taxable year March 1 through February 28, has been a small business corporation since 1975. O makes the election under section 102(d)(3) of the Tax Reform Act of 1984 in accordance with the provisions of this paragraph (c), and files the election on October 1, 1984. Assume that O cannot establish a business purpose for a taxable year other than a calendar year, and thus indicates on Form 2553 that it is changing to a calendar taxable year. The election is effective for a taxable year beginning March 1, 1984, and ending December 31, 1984.

Approved by the Office of Management and Budget under control number 1545–0872.

There is need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impractical to issue this Treasury decision with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

The Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805)

M. Eddie Heironimus,

Acting Commissioner of Internal Revenue.

Approved: September 27, 1984.

Charles E. McClure, Jr.,

Acting Assistant Secretary of the Treasury.

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Part IX

Federal Home Loan Bank Board

12 CFR Part 563

Brokered Deposits; Extension of Interim Rule on Limitations Applicable to Institutions With Low Net Worth

12 CFR Part 564

Brokered Deposits; Amendment of Effective Date

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 563

[No. 84-527]

Brokered Deposits; Extension of Interim Rule on Limitations Applicable to Institutions With Low Net Worth

Dated: September 26, 1984.

AGENCY: The Federal Home Loan Bank Board.

ACTION: Extension of interim final rule and request for comments.

SUMMARY: The Federal Home Loan Bank Board ("Board"), as operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC"), is extending the effective date of its interim final rule on acceptance of brokered deposits by institutions with low net worth. The current interim rule, which would have expired on October 1, 1984, is extended to February 1, 1985.

DATES: Effective October 1, 1984. Comments must be received by November 30, 1984.

ADDRESS: Comments should be addressed to: Director, Information Services Section, Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552.

FOR FURTHER INFORMATION CONTACT: Christopher P. Bolle, Attorney, (202) 377-7057, Regulations and Legislation Division, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: On March 26, 1984, the Board adopted a final rule limiting the extent of FSLIC insurance coverage on accounts placed by or through deposit brokers. *See* 49 FR 13003 (April 2, 1984). That rule has an effective date of October 1, 1984. On the same date, the Board also adopted an interim final rule limiting the amount of brokered deposits in institutions with low new worth to an amount equal to five percent of total deposits. *See* 49 FR 13012 (April 2, 1984) (as amended, 49 FR 18282 (April 30, 1984)). The interim rule was designed to prevent institutions with low net worth from acquiring excessive amounts of brokered deposits between the date of adoption of the insurance rule and its effective date. It therefore was a temporary rule, with an expiration date of October 1, 1984.

On June 20, 1984, the United States District Court for the District of Columbia ruled that the insurance rule was invalid, and enjoined the Board from enforcing the rule. *See F.A.I.C. Securities* v. *U.S., et al.*, Cir. Action No. 84-0959, June 20, 1984 (D.C. Cir.). The court did not, however, rule on the validity of the interim rule which was not at issue. The Board has appealed the court's decision to the United States Court of Appeals for the District of Columbia Circuit, but is concerned that final resolution of the case will not occur until after the October 1, 1984, expiration date of the interim rule.

The Board is therefore extending the effective period of the interim rule to February 1, 1985. The Board hopes that its appeal will have been resolved by that time. If that is not the case, the Board will at that time consider extending the interim rule further or taking some other action which will address its continuing concern about the deleterious effects that misuse of brokered deposits has upon savings institutions. Comments are solicited not only on the substance of the interim rule itself, but also on the question of its further extension should it be necessary for the Board to consider such action.

The Board finds that observance of the public notice and comment period set forth at 5 U.S.C. 552(b) and 12 CFR 508.11 and the delay of the effective date set forth at 5 U.S.C. 552(d) and 12 CFR 508.14 would be impractical and contrary to the public interest for the reasons described above.

List of Subjects in 12 CFR Part 563

Savings and loan associations.

Accordingly, the Federal Home Loan Bank Board hereby amends Part 563, Subchapter D, Chapter V, of Title 12 of the Code of Federal Regulations, as set forth below.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 563—OPERATIONS

Revise § 563.4(c) as follows:

§ 563.4 Brokered deposits.

* * * * *

(c) This section expires February 1, 1985.

(12 U.S.C. 1724, 1725, 1726, 1730)

By the Federal Home Loan Bank Board.

J.J. Finn,

Secretary.

[FR Doc. 84-26006 Filed 9-28-84; 12:00 pm]

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12 CFR Part 564

[No. 84-526]

Brokered Deposits, Amendment of Effective Date

Dated: September 28, 1984.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule and request for comments.

SUMMARY: The Federal Home Loan Bank Board ("Board"), as operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC"), is amending its rules with respect to insurance of accounts placed by or through deposit brokers (See 49 FR 13003 (April 2, 1984)), to postpone the effective date of that rule to February 1, 1985. This action is being taken to resolve confusion surrounding the status of the rule in light of ongoing litigation. Other portions of the rule would not be affected by this amendment.

DATE: Effective October 1, 1984. Comments must be received by November 5, 1984.

ADDRESS: Director, Information Services Section, Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552.

FOR FURTHER INFORMATION CONTACT: Christopher P. Bolle, Attorney, Office of General Counsel (202-377-7057), Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: On March 26, 1984, the Board, in conjunction with the Federal Deposit Insurance Corporation ("FDIC"), adopted in final form a rule limiting the insurance coverage on accounts placed by or through deposit brokers to $100,000 for all accounts in the same institution placed by or through a deposit broker (the "insurance rule"). See 49 Fed. Reg. 13,003 (April 2, 1984). In order to safeguard against possible liquidity crises brought on by this change in insurance coverage, the rule provided that it would apply only to accounts placed on or after October 1, 1984. This delayed effective date was intended to allow institutions, deposit brokers, and the public an opportunity to adjust to the effects of the rule.

Shortly after the adoption of the rule, suit was filed in the United States District Court for the District of Columbia, challenging the validity of the rule. On June 20, 1984, the Court ruled that the rule was invalid, and enjoined its enforcement. See *F.A.I.C. Securities* v. *U.S.*, CA No. 84-0959 (D.D.C. June 20, 1984). The Board has appealed the District Court decision, but does not anticipate a resolution in the Court of Appeals until early 1985.

Therefore, in order to alleviate uncertainty about the insurance coverage on brokered deposits pending resolution of the litigation, the Board is

hereby postponing the effective date of the insurance rule to February 1, 1985. This postponement will not affect provisions of § 564.12(b) concerning rollovers of funds deposited prior to March 26, 1984.

While the Board recognizes that the actual date of a final judgment on the *F.A.I.C.* suit cannot be predicted, it believes that it is necessary for a postponement of the effective date to be to a date certain, and the current litigation schedule suggests a reasonable possibility of resolution by February 1, 1985.

This rule is being adopted in final form because the Board finds that an immediate resolution of the issues in question is in the public interest, essential to effectuate the purposes of the rule, and is not prejudicial to the interest of any person.

Final Regulatory Flexibility Analysis

Pursuant to section 3 of the Regulatory Flexibility Act, Pub. L. 96–354, 94 Stat. 1164 (Sept. 19, 1980), the Board is providing the following regulatory flexibility analysis:

1. *Reasons, objectives and legal bases underlying the rule.* These elements have been incorporated elsewhere in the supplementary information regarding the rule.

2. *Small entities to which the rule would apply.* The rule would apply to insured institutions.

3. *Impact of the rule on small institutions.* The rule would alleviate uncertainty with respect to accounts issued by all insured institutions, to the extent that it would have any effect on such institutions.

4. *Overlapping or conflicting federal rules.* There are no federal rules that overlap. duplicate, or conflict with this rule.

5. *Alternatives to the rule.* Other alternatives would not resolve the uncertainty surrounding insurance coverage as efficiently as the rule.

List of Subjects in 12 CFR Part 564

Bank deposit insurance, Banks, Banking, Savings and loan associations.

Accordingly, the Board hereby amends part 564 of Title 12 of the Code of Federal Regulations as set forth below.

PART 564—SETTLEMENT OF INSURANCE

1. The authority citation for Part 564 is as follows:

Authority: 12 U.S.C. 1724, 1725, 1726, 1728, 1730.

2. Revise § 564.12(b) to read as follows:

§ 564.12 Accounts held by or established through intermediaries.

* * * * *

(b) Notwithstanding any other provision of this Part, funds invested in one or more accounts by or through a deposit broker shall be added to any other accounts placed by or through that deposit broker and insured up to $100,000 in the aggregate. This paragraph shall apply to all accounts opened, funds placed in existing accounts, and renewals of existing accounts, where such opening, placements, or renewal occurs on or after February 1, 1985, except that it shall not apply until:

(1) Either October 1, 1986, or the maturity date of the account, whichever is later, with respect to renewals of time deposits in existence on March 26, 1984, provided that: (i) only interests of persons in such accounts as of March 26, 1984, will be recognized for purposes of insurance coverage, and (ii) the identities and interests of such beneficial owners are reflected on the records of the insured institutions by June 30, 1984.

(2) February 1, 1985, with respect to accounts which have no specified maturity date; and

(3) The maturity date of the corresponding loan, with respect to renewals of accounts established prior to February 1, 1985, and held by a person who is, with respect to such accounts, a deposit broker under § 561.2a(a)(2), only if such renewal is mandatory under the terms of the account agreement or trust agreement governing the rights and obligations of the trustee or agent.

* * * * *

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 84–26145 Filed 9–28–84; 12:06 pm]

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FEDERAL REGISTER PAGES AND DATES, OCTOBER

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PARTS AFFECTED DURING OCTOBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last Listing September 28, 1984
1984

TABLE OF EFFECTIVE DATES AND TIME PERIODS—OCTOBER 1984

This table is for determining dates in documents which give advance notice of compliance, impose time limits on public response, or announce meetings.

Agencies using this table in planning publication of their documents must allow sufficient time for printing production.

In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or a holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

Dates of FR publication	15 days after publication	30 days after publication	45 days after publication	60 days after publication	90 days after publication
October 1	October 16	October 31	November 15	November 30	December 31
October 2	October 17	November 1	November 16	December 3	December 31
October 3	October 18	November 2	November 19	December 3	January 2
October 4	October 19	November 5	November 19	December 3	January 2
October 5	October 22	November 5	November 19	December 4	January 3
October 9	October 24	November 8	November 23	December 10	January 7
October 10	October 25	November 9	November 26	December 10	January 8
October 11	October 26	November 13	November 26	December 10	January 9
October 12	October 29	November 13	November 26	December 11	January 10
October 15	October 30	November 14	November 29	December 14	January 14
October 16	October 31	November 15	November 30	December 17	January 14
October 17	November 1	November 16	December 3	December 17	January 15
October 18	November 2	November 19	December 3	December 17	January 16
October 19	November 5	November 19	December 3	December 18	January 17
October 22	November 6	November 21	December 6	December 21	January 21
October 23	November 7	November 23	December 7	December 24	January 21
October 24	November 8	November 23	December 10	December 24	January 22
October 25	November 9	November 26	December 10	December 24	January 23
October 26	November 12	November 26	December 10	December 26	January 24
October 29	November 13	November 28	December 13	December 28	January 28
October 30	November 14	November 29	December 14	December 31	January 28
October 31	November 15	November 30	December 17	December 31	January 29

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

New units issued during the week are announced on the back cover of the daily **Federal Register** as they become available.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription to all revised volumes is $550 domestic, $137.50 additional for foreign mailing.

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Title	Price	Revision Date
1, 2 (2 Reserved)	$6.00	Jan. 1, 1984
3 (1983 Compilation and Parts 100 and 101)	7.00	Jan. 1, 1984
4	12.00	Jan. 1, 1984
5 Parts:		
1-1199	13.00	Jan. 1, 1984
1-1199 (Special Supplement)	None	Jan. 1, 1984
1200-End, 6 (6 Reserved)	6.00	Jan. 1, 1984
7 Parts:		
0-45	13.00	Jan. 1, 1984
46-51	12.00	Jan. 1, 1984
52	14.00	Jan. 1, 1984
53-209	13.00	Jan. 1, 1984
210-299	13.00	Jan. 1, 1984
300-399	7.50	Jan. 1, 1984
400-699	13.00	Jan. 1, 1984
700-899	13.00	Jan. 1, 1984
900-999	14.00	Jan. 1, 1984
1000-1059	12.00	Jan. 1, 1984
1060-1119	9.50	Jan. 1, 1984
1120-1199	7.50	Jan. 1, 1984
1200-1499	13.00	Jan. 1, 1984
1500-1899	6.00	Jan. 1, 1984
1900-1944	14.00	Jan. 1, 1984
1945-End	13.00	Jan. 1, 1984
8	7.00	Jan. 1, 1984
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1-199	13.00	Jan. 1, 1984
200-End	9.50	Jan. 1, 1984
10 Parts:		
0-199	14.00	Jan. 1, 1984
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400-499	12.00	Jan. 1, 1984
500-End	13.00	Jan. 1, 1984
11	7.50	Apr. 1, 1984
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200-299	14.00	Jan. 1, 1984
300-499	9.50	Jan. 1, 1984
500-End	14.00	Jan. 1, 1984
13	13.00	Jan. 1, 1984
14 Parts:		
1-59	13.00	Jan. 1, 1984
60-139	13.00	Jan. 1, 1984
140-199	7.00	Jan. 1, 1984
200-1199	13.00	Jan. 1, 1984
1200-End	7.50	Jan. 1, 1984
15 Parts:		
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300-399	13.00	Jan. 1, 1984
400-End	12.00	Jan. 1, 1984
16 Parts:		
0-149	9.00	Jan. 1, 1984
150-999	9.50	Jan. 1, 1984
1000-End	13.00	Jan. 1, 1984
17 Parts:		
1-239	14.00	Apr. 1, 1984
240-End	13.00	Apr. 1, 1984
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150-399	15.00	Apr. 1, 1984
400-End	6.50	Apr. 1, 1984
19	17.00	Apr. 1, 1984
20 Parts:		
1-399	7.50	Apr. 1, 1984
400-499	13.00	Apr. 1, 1984
500-End	14.00	Apr. 1, 1984
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1-99	9.00	Apr. 1, 1984
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170-199	12.00	Apr. 1, 1984
200-299	4.25	Apr. 1, 1984
300-499	14.00	Apr. 1, 1984
500-599	13.00	Apr. 1, 1984
600-799	6.00	Apr. 1, 1984
800-1299	9.50	Apr. 1, 1984
1300-End	6.00	Apr. 1, 1984
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23	13.00	Apr. 1, 1984
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500-699	6.00	Apr. 1, 1984
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1700-End	9.50	Apr. 1, 1984
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§§ 1.301-1.400	7.50	Apr. 1, 1984
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§§ 1.501-1.640	12.00	Apr. 1, 1984
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§§ 1.1201-End	17.00	Apr. 1, 1984
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300-499	9.50	Apr. 1, 1984
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600-End	5.50	Apr. 1, 1984
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500-899	8.00	July 1, 1983
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*190–399	13.00	July 1, 1984
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*630–699	12.00	July 1, 1984
700–799	7.50	July 1, 1983
800–999	9.50	July 1, 1984
1000–End	6.00	July 1, 1984
33 Parts:		
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200–End	7.00	July 1, 1983
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1–299	13.00	July 1, 1983
300–399	8.50	July 1, 1984
400–End	15.00	July 1, 1983
35	5.50	July 1, 1983
36 Parts:		
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200–End	12.00	July 1, 1983
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200–End	13.00	Oct. 1, 1983
CFR Index and Findings Aids	17.00	Jan. 1, 1984
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Complete set (one-time mailing)	155.00	1983
Subscription (mailed as issued)	200.00	1984
Individual copies	2.25	1984

[1] No amendments to this volume were promulgated during the period Apr. 1, 1980 to March 31, 1984. The CFR volume issued as of Apr. 1, 1980, should be retained.

[2] Refer to September 19, 1983, FEDERAL REGISTER, Book II (Federal Acquisition Regulation).

CFR ISSUANCES 1984

January–July 1984 Editions and Projected October, 1984 Editions

This list sets out the CFR issuances for the **January–July 1984** editions and projects the publication plans for the **October, 1984** quarter. A projected schedule that will include the **January, 1985** quarter will appear in the first **Federal Register** issue of January.

For pricing information on available 1983–1984 volumes consult the CFR checklist which appears every Monday in the Federal Register.

Pricing information is not available on projected issuances. Individual announcements of the actual release of volumes will continue to be printed in the **Federal Register** and will provide the price and ordering information. The weekly CFR checklist or the monthly List of CFR Sections Affected will continue to provide a cumulative list of CFR volumes actually printed.

Normally, CFR volumes are revised according to the following schedule:

Titles 1–16—January 1
Titles 17–27—April 1
Titles 28–41—July 1
Titles 42–50—October 1

All volumes listed below will adhere to these scheduled revision dates unless a notation in the listing indicates a different revision date for a particular volume.

*Indicates volume is still in production.

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22

23

24 Parts:
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1 (§§ 1.301–1.400)
1 (§§ 1.401–1.500)
1 (§§ 1.501–1.640)
1 (§§ 1.641–1.850)
1 (§§ 1.851–1.1200)
1 (§§ 1.1201–End)
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34 Parts:
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400–End*

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36 Parts:
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38 Parts:
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18–End*

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Agriculture Department
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Federal Aviation Administration
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Food and Drug Administration
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National Banks
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Federal Energy Regulatory Commission
Quarantine
Animal and Plant Health Inspection Service
Surface Mining
Surface Mining Reclamation and Enforcement Office

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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Title 3—

The President

Executive Order 12489 of September 28, 1984

Continuance of Certain Federal Advisory Committees

By the authority vested in me as President of the United States of America, and in accordance with the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C. App. I), it is hereby ordered as follows:

Section 1. Each advisory committee listed below is continued until September 30, 1985, unless terminated at a prior date by appropriate Executive order.

(a) Advisory Committee on Small and Minority Business Ownership; Executive Order No. 12190 (Small Business Administration).

(b) Committee for the Preservation of the White House; Executive Order No. 11145, as amended (Department of the Interior).

(c) Federal Advisory Council on Occupational Safety and Health; Executive Order No. 12196 (Department of Labor).

(d) President's Commission on White House Fellowships; Executive Order No. 11183, as amended (Office of Personnel Management).

(e) President's Committee on the Arts and the Humanities; Executive Order No. 12367 (National Endowment for the Arts).

(f) President's Committee on the International Labor Organization; Executive Order No. 12216 (Department of Labor).

(g) President's Committee on Mental Retardation; Executive Order No. 11776 (Department of Health and Human Services).

(h) President's Committee on the National Medal of Science; Executive Order No. 11287, as amended (National Science Foundation).

(i) President's Council on Physical Fitness and Sports; Executive Order No. 12345, as amended (Department of Health and Human Services).

(j) President's Economic Policy Advisory Board; Executive Order No. 12296 (Office of Policy Development).

(k) President's Export Council; Executive Order No. 12131 (Department of Commerce).

Sec. 2. The following advisory committee is continued until December 31, 1984: International Private Enterprise Task Force; Executive Order No. 12395 (Agency for International Development).

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Sec. 3. Notwithstanding the provisions of any other Executive order, the functions of the President under the Federal Advisory Committee Act that are applicable to the committees listed in Sections 1 and 2 of this Order, except that of reporting annually to the Congress, shall be performed by the head of the department or agency designated after each committee, in accordance with guidelines and procedures established by the Administrator of General Services.

Ronald Reagan

THE WHITE HOUSE,
September 28, 1984.

[FR Doc. 84-26328
Filed 10-1-84; 11:19 am]
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Rules and Regulations

Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Revision of Delegations of Authority; Dairy Promotion and Research Activities

AGENCY: Office of the Secretary, USDA.
ACTION: Final rule.

SUMMARY: This document amends the delegations of authority from the Secretary of Agriculture and general officers of the Department to assign responsibilities for implementing the Dairy and Tobacco Adjustment Act of 1983 with respect to dairy promotion and research activities.

EFFECTIVE DATE: October 2, 1984.

FOR FURTHER INFORMATION CONTACT: C.H. Plumb, Chief, Order Formulation Branch, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. (202) 447-6274.

SUPPLEMENTARY INFORMATION: This document delegates the authority for implementing the dairy promotion and research activities authorized by the Dairy and Tobacco Adjustment Act of 1983, Pub. L. 98-180, to the Under Secretary for International Affairs and Commodity Programs and the Assistant Secretary for Marketing and Inspection Services who in turn have redelegated their authority to the Administrator of the Foreign Agricultural Service and the Administrator of the Agricultural Marketing Service, respectively.

This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect thereto are impractical and contrary to the public interest, and good cause is found for making this rule effective less than 30 days after publication in the **Federal Register.** Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12291. Lastly, this action is not a rule as defined by Pub. L. 97-354, the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 2

Authority delegations (Government Agencies).

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Accordingly, Part 2, Title 7, Code of Federal Regulations is amended as follows:

1. The authority citation for Part 2 reads as follows:

Authority: 5 U.S.C. 301 and Reorg. Plan No. 2 of 1953, except as otherwise stated.

Subpart C—Delegations of Authority to the Deputy Secretary, the Under Secretary for International Affairs and Commodity Programs, the Under Secretary for Small Community and Rural Development, and Assistant Secretaries

2. Section 2.17 is amended by adding a new paragraph (a)(3)(xxvi) to read as follows:

§ 2.17 Delegations of authority to the Assistant Secretary for Marketing and Inspection Services.

* * * * *

(a) * * *
(3) * * *
(xxvi) Subtitle B of Title I and section 301(4) of the Dairy and Tobacco Adjustment Act of 1983 (7 U.S.C. 4501-4513, 4514(4)), except as delegated to the Under Secretary for International Affairs and Commodity Programs in § 2.21(d)(10).

* * * * *

3. Section 2.18 is amended by adding a new paragraph (a)(2) as follows:

§ 2.18 Reservations of Authority.

* * * * *

(a) * * *
(2) Appoint members of the National Dairy Promotion and Research Board established by Section 113(b) of the Dairy and Tobacco Adjustment Act of 1983 (7 U.S.C. 4504(b)).

* * * * *

4. Section 2.21 is amended by revising paragraph (d)(10) to read as follows:

§ 2.21 Delegations of authority to the Under Secretary for International Affairs and Commodity Programs.

* * * * *

(d) * * *
(10) Plan and carry out programs and activities under the foreign market promotion authority of the Wheat Research and Promotion Act (7 U.S.C. 1292 note); the Cotton Research and Promotion Act (7 U.S.C. 2101-2118); Section 610 of the Agricultural Act of 1970 (7 U.S.C. 2119); the Potato Research and Promotion Act (7 U.S.C. 2611-2627); the Egg Research and Consumer Information Act of 1974 (7 U.S.C. 2701-2718); the National Wool Act of 1954, as amended (7 U.S.C. 1781-1787); the Beef Research and Information Act, as amended, (7 U.S.C. 2901-2918); the Wheat and Wheat Foods Research and Nutrition Education Act (7 U.S.C. 3401-3417); and Subtitle B of Title I of the Dairy and Tobacco Adjustment Act of 1983 (7 U.S.C. 4501-4513). This authority includes determining the programs and activities to be undertaken and assuring that they are coordinated with the overall departmental programs to develop foreign markets for U.S. agricultural products.

* * * * *

Subpart F—Delegations of Authority by the Assistant Secretary for Marketing and Inspection Services

5. Section 2.50 is amended by adding a new paragraph (a)(3)(xxvi) and by revising paragraphs (b)(1) and (b)(2) as follows:

§ 2.50 Administrator, Agricultural Marketing Service.

(a) * * *
(3) * * *
(xxvi) Subtitle B of Title I and section 301(4) of the Dairy and Tobacco Adjustment Act of 1983 (7 U.S.C. 4501-4513, 4514(4)), except as specified in § 2.68(a)(29).

* * * * *

(b) * * *
(1) Taking final action on regulations under section 8c(15)(A) of the Agricultural Marketing Agreement Act

of 1937 (7 U.S.C. 608c(15)(A)), section 12(a) of the Cotton Research and Promotion Act (7 U.S.C. 2111(a)), section 311(a) of the Potato Research and Promotion Act (7 U.S.C. 2620(a)), and section 118(a) of the Dairy and Tobacco Adjustment Act of 1983 (7 U.S.C. 4509(a)).

(2) Issuing, amending, terminating, or suspending any marketing agreement or order or any provision thereof under the Agricultural Marketing Agreement Act of 1937, the Cotton Research and Promotion Act, the Potato Research and Promotion Act, or Subtitle B of Title I of the Dairy and Tobacco Adjustment Act of 1983.

Subpart H—Delegations of Authority by the Under Secretary for International Affairs and Commodity Programs

6. Section 2.68 is amended by revising paragraph (a)(29) to read as follows:

§ 2.68 Administrator, Foreign Agricultural Service.

(a) * * *

(29) Plan and carry out programs and activities under the foreign market promotion authority of the Wheat Research and Promotion Act (7 U.S.C. 1292 note); the Cotton Research and Promotion Act (7 U.S.C. 2102–2118); section 610 of the Agricultural Act of 1970 (7 U.S.C. 2119); the Potato Research and Promotion Act (7 U.S.C. 2611–2627); the Egg Research and Consumer Information Act of 1974 (7 U.S.C. 2701–2718); the National Wool Act of 1954, as amended (7 U.S.C. 1781–1787); the Beef Research and Information Act, as amended (7 U.S.C. 2901–2918); the Wheat and Wheat Foods Research and Nutrition Education Act (7 U.S.C. 3401–3417); and Subtitle B of Title I of the Dairy and Tobacco Adjustment Act of 1983 (7 U.S.C. 4501–4513). This authority includes determining the programs and activities to be undertaken and assuring that they are coordinated with the overall departmental programs to develop foreign markets for U.S. agricultural products.

* * * * *

For Subpart C:

Dated: September 14, 1984.

John R. Block,

Secretary of Agriculture.

For Subpart F:

Dated: September 18, 1984.

C.W. McMillan,

Assistant Secretary for Marketing and Inspection Services.

For Subpart H:

Dated: September 21, 1984.

Richard W. Goldberg,

Deputy Under Secretary for International Affairs and Commodity Programs.

[FR Doc. 84-26024 Filed 10-1-84; 8:45 am]
BILLING CODE 3410-01-M

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 84-344]

Gypsy Moth Regulated Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: This document affirms without change an interim rule which was published in the **Federal Register** on May 11, 1984, and which amended the list of gypsy moth regulated areas under the Federal Gypsy Moth and Browntail Moth Quarantine and Regulations by (1) redesignating areas in Maryland, Michigan, New York, Pennsylvania, Virginia, and West Virginia from gypsy moth low-risk areas to gypsy moth high-risk areas; (2) designating a previously nonregulated area in Maryland as a gypsy moth high-risk area; (3) designating previously nonregulated areas in California, Maryland, Washington, and West Virginia as gypsy moth low-risk areas; (4) deleting areas in California, North Carolina, Virginia, and Washington from the list of gypsy moth regulated areas; (5) removing all areas in Arkansas and Nebraska from the list of gypsy moth regulated areas; and, (6) removing Arkansas and Nebraska from the list of States quarantined because of gypsy moth. The quarantine and regulations impose restrictions on the interstate movement of certain articles from gypsy moth high-risk areas and gypsy moth low-risk areas. This action is necessary in order to prevent the artificial spread interstate of gypsy moth and to delete unnecessary restrictions on the interstate movement of certain articles.

EFFECTIVE DATE: October 2, 1984.

FOR FURTHER INFORMATION CONTACT: Gary E. Moorehead, Staff Officer, Field Operations Support Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 663, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782; 301–436–8295.

SUPPLEMENTARY INFORMATION:

Background

A document published in the **Federal Register** on May 11, 1984 (49 FR 19957–19965), set forth an interim rule amending §§ 301.45(a) and 301.45–2a of the Gypsy Moth and Browntail Moth Quarantine and Regulations (7 CFR 301.45 *et seq.*; hereinafter known as regulations). The document amended the regulations by (1) redesignating areas in Maryland, Michigan, New York, Pennsylvania, Virginia, and West Virginia from gypsy moth low-risk areas to gypsy moth high-risk areas; (2) designating a previously nonregulated area in Maryland as a gypsy moth high-risk area; (3) designating previously nonregulated areas in California, Maryland, Washington, and West Virginia as gypsy moth low-risk areas; (4) deleting areas in California, North Carolina, Virginia, and Washington from the list of gypsy moth regulated areas; (5) removing all areas in Arkansas and Nebraska from the list of gypsy moth regulated areas; and, (6) removing Arkansas and Nebraska from the list of States quarantined because of gypsy moth.

The amendment became effective on the date of publication. The document provided that the amendment was necessary as an emergency measure in order to prevent the artificial spread interstate of gypsy moth and to delete unnecessary restrictions on the interstate movement of certain articles.

Comments were solicited for 60 days after publication of the amendment. One written comment in support of the interim rule was received during this comment period. Further, the factual situation which was set forth in the document of May 11, 1984, still provide a basis for the amendment.

Executive Order 12291 and Regulatory Flexibility Act

The rule is issued in conformance with Executive Order 12291 and has been determined to be not a "major rule." Based on information complied by the Department, it has been determined that this interim rule will have an annual effect on the economy of approximately $25,000; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government

agencies, or geographic regions; and will not cause significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this rulemaking action, the Office of Management and Budget has waived the review process required by Executive Order 12291.

Mr. Bert W. Hawkins, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action affects the interstate movement of regulated articles from specified areas in the States of Arkansas, California, Maryland, Michigan, Nebraska, New York, North Carolina, Pennsylvania, Virginia, Washington, and West Virginia. Based on information compiled by the U.S. Department of Agriculture it has been determined that there are many hundreds of small entities that move regulated articles interstate from such States and many thousands of small entities that move regulated articles interstate from other States. However, based on such information, it has been determined that only approximately 175 small entities move regulated articles interstate from the specified areas affected by this action. Further, the annual overall economic impact from this action is estimated to be less than $25,000.

Paperwork Reduction Act

The regulations in this subpart contain no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507 *et seq.*).

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation, Gypsy moth.

PART 301—DOMESTIC QUARANTINE NOTICES

Accordingly, the interim rule published at 49 FR 19957–19965 on May 11, 1984, is adopted as a final rule.

Authority: Secs. 8 and 9, 37 Stat. 318, as amended (7 U.S.C. 161, 162); sections 105 and 106, 71 Stat. 32, 71 Stat. 33 (7 U.S.C. 150dd, 150ee); (7 CFR 2.17, 2.51, and 371.2(c)).

Done at Washington, D.C., this 27th day of September 1984.

William F. Helms,

Acting Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 84-26093 Filed 10-1-84; 8:45 am]

BILLING CODE 3410-34-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 140

Debt Collection; Correction

AGENCY: Small Business Administration.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule on debt collection which was published in the **Federal Register** on July 2, 1984 (49 FR 27138).

FOR FURTHER INFORMATION CONTACT: Martin Teckler, Deputy General Counsel, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416, (202) 653–6642.

PART 140—[CORRECTED]

The following corrections are made in FR Doc. 84–17123 appearing on 27138 in the issue of July 2, 1984:

1. On page 27140, column three, § 140.4(a)(1) is changed to read as follows:

§ 140.4 Salary offset

(a) * * *

(1) These salary deductions may be made only after the usual governmental collection procedures are tried and found to be unproductive.

2. On page 27142, column one, § 140.5(e) is redesignated as § 140.5(f), and the following new § 140.5(e), which was inadvertently omitted from the previous publication, is added to read:

§ 140.5 Administrative offset.

* * * * *

(e) Where another Federal agency certifies to SBA that such agency is owed a debt and that the debtor has been provided due process rights in accordance with the agency's own regulations, SBA may withhold money due the debtor from SBA to satisfy such debt. Prior to such offset, SBA will notify the debtor in writing of SBA's intention to withhold such money to satisfy a debt owed to the United States. Such notice will identify the nature of the debt owed and the agency to which it is owed, as well as the amount of the debt.

* * * * *

Dated: September 24, 1984.

James C. Sanders,

Administrator.

[FR Doc. 84-26017 Filed 10-1-84; 8:45 am]

BILLING CODE 6025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 83-NM-62-AD; Amdt. 39-4920]

Airworthiness Directives; Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) which requires structural inspections and repairs or replacements, as necessary, on certain Boeing Model 727 series airplanes to ensure continued airworthiness. The incidence of fatigue cracks on these airplanes is expected to increase as they approach and exceed the manufacturer's original design life goal. The AD is prompted by a structural reevaluation which has identified certain significant structural components in which cracks, if allowed to grow undetected, would result in a loss of structural integrity.

DATE: Effective November 1, 1984.

The incorporation by reference of certain publications listed is the regulations is approved by the Director of the **Federal Register** as of November 1, 1984.

ADDRESSES: The service documents may be obtained upon request from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information also may be examined at Federal Aviation Administration, Northwest Mountain Region, Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Don Gonder, Airframe Branch, ANM-120S, FAA, Northwest Mountain Region, Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington; telephone (206) 431-2927. Mailing address: Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD

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requiring the inspection and repair, as necessary, of the Structural Significant Items (SSI) listed in Boeing Document D6–48040–1, "Supplemental Structural Inspection Document" (SSID), Revision E, was published in the **Federal Register** on November 17, 1983 (48 FR 52319). The comment period closed on February 7, 1984.

Interested persons have been afforded an opportunity to participate in the making of the amendment. Due consideration has been given to all comments received.

The Air Transport Association of America (ATA) made several comments on behalf of its member operators. The ATA stated its position that no unsafe condition has been found to exist in the affected aircraft and therefore an AD is not justified under the intent of Federal Aviation Regulation (FAR) 39.1. The FAA does not agree. It is known that fatigue cracking will occur as airplanes reach and exceed their design life goal. It is also known that, unless structural inspections of the SSI's take into account crack growth rates and inspection intensity, cracks can grow to a critical size prior to detection. Critical size is defined as the crack length at which the residual strength of the structure would no longer support limit loads. The purpose of the AD is to ensure that inspections of SSI's are of sufficient frequency and intensity that fatigue cracks will be found prior to reaching critical size and, consequently, prior to structural failure and hazardous or catastrophic flight results. The criteria contained in FAR 39 do not require the FAA to wait until a failure occurs before issuing an airworthiness directive. On the contrary, the Federal Aviation Act of 1958 (Act) directs the Administrator to promote safety of flight by prescribing and revising from time to time necessary minimum standards and reasonable rules and regulations, giving full consideration to the duty resting upon air carriers to perform their services with the "highest possible degree of safety in the public interest" (see Sections 601 (a) and (b) of the Act). The aircraft affected by this rule are operated principally by air carriers. Furthermore, prior to Amendment 39–106 to Part 39 (30 FR 8826), the unsafe condition giving rise to an AD must have been found as a result of service experience. That amendment removed this restriction from the regulations and AD's are currently allowed to be issued for unsafe conditions "however and wherever found" (see preamble to Amendment 39–106). This includes unsafe conditions which are found based upon the type of analysis and/or testing done in the case of the SSI's for the Boeing 727.

The ATA further argued that there is sufficient regulatory authority under existing rules (FAR 121.79, 125.35, 135.17, 91.169, and 91.170) to require the incorporation of the SSID into an operator's existing maintenance program. For this reason, it was argued that the proposed AD would be redundant and that the FAA had not evaluated carefully enough this alternate method of accomplishing the same objective.

As indicated in Advisory Circular (AC) No. 91–56 on this subject, it was initially intended that SSID's would be primarily implemented through amendment of the operations specifications if an operator did not voluntarily incorporate the SSID into its maintenance program. However, experience relative to the development of and the criteria for the selection of SSI's subsequent to the issuance of the AC, has shown this is no longer practicable or appropriate. As noted in this AC, AD action is taken on those items that are determined to exhibit a potential unsafe condition from the SSID development program. The guidelines that were established by an industry steering committee for selecting SSID items (that is, SSI's), defined the items as those whose failure, if remained undetected, could result in the loss of the airplane. Paragraph 3.c of the AC states, in part, that portions of the SSID found to be applicable to all operators and of safety concern, as a result of a demonstrated problem, will be made mandatory under the existing AD system. Consequently, as a result of the criteria used to develop the SSID program, the SSID inspection items fit the situation described in Paragraph 3.c of the AC. In effect, the SSID program has resulted in two separate types of mandatory action. The first type is the requirement for inspection of the items for which analysis and/or testing have shown or demonstrated that an unsafe condition exists with potential of predictive hazardous consequences. This type is the subject of the inspections being adopted under this rule and applies to an established number of airplanes determined necessary by statistical methods to detect the unsafe condition before a catastrophic failure occurs. This established number of airplanes is identified as the candidate fleet. The second type is the requirement for inspection of items for which actual cracking has occurred and has been detected on in-service airplanes.

This second type applies to all airplanes, and is known as the fleet protection phase. In fact, AD's on the items of the first type will be superseded, through rulemaking procedures, by AD's of the second type when actual cracking is discovered and determined to be of such a nature to warrant a mandatory inspection of all airplanes. Moreover, an AD is the established mechanism by which foreign countries with whom the United States has bilateral agreements are notified of requirements for continued airworthiness of U.S. products.

In another comment, the ATA questioned the lack of information concerning how the size of the candidate fleet will be adjusted should the need arise. It is the FAA's position that the current candidate fleet will provide an adequate basis for evaluation for the immediate future and that it is premature to speculate on revising the candidate fleet at this time. However, should the need arise, such a revision would be accomplished in accordance with established rulemaking procedures.

One operator objected to the inclusion of service bulletins in Section 9 of the Boeing 727 SSID because this would automatically make these bulletins mandatory. The proposed AD specifically requires that the revision to an operator's maintenance program include and be implemented in accordance with Sections 5.0 and 6.0 of the SSID. These sections contain no requirement that the service bulletins listed in Section 9 be accomplished. Should it be necessary in the future to require mandatory accomplishment of a service bulletin listed in Section 9, a separate AD will be proposed, using normal rulemaking procedures.

Several commenters indicated confusion concerning the exemption allowed by Paragraph E. of the proposed AD. This paragraph provides that an operator would be exempt from the requirements of the AD if it acceptably incorporated the Boeing 727 SSID into its existing maintenance program. Acceptable incorporation includes the reporting requirement contained in Section 6.0 of the SSID. Failure to include such a requirement precludes the exemption. To clarify this point, a note to this effect has been added to the final rule.

It was also suggested that Paragraph E. be rewritten to allow for the incorporation of a supplemental inspection program which achieves the intent of the inspection and reporting requirements of Boeing Document D6–48040–1 (i.e., the Boeing 727 SSID). It is

the FAA's position that the incorporation of any such alternate program would be acceptable only when the specific alternative has been reviewed and approved by the cognizant FAA personnel. This option has been provided for by Paragraph D.

Finally, one comment concerned the requirement that cracked structure be repaired before further flight. It was suggested that only those cracks which exceed the limitations specified in FAA-approved data should be repaired prior to further flight. This is unacceptable. The manufacturer's analysis has shown that it is essential to safety of flight that all cracks in those ares which are structurally signficant as identified in the SSID either be repaired prior to further flight or be reviewed on a case-by-case basis.

Information collection requirements contained in this regulation have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and have been assigned OMB control number 2120–0056.

Approximately 281 airplanes of U.S registry and 37 U.S. operators will initially be affected by this AD. It is estimated that the implementation of the SSID program for a typical operator will take approximately 1000 manhours. It is also estimated that the average labor cost will be $35 per manhour. Based on these figures, the cost to implement the SSID program is estimated to not exceed $1,300,000.

The recurring inspection impact on the affected operators is estimated to be 500 manhours per airplane at an average labor cost of $35 per manhour. Based on these figures, the annual recurring cost of this AD is estimated to not exceed $5,000,000.

Based on the above figures, the total cost impact of this AD is estimated to not exceed $6,300,000 for the first year, and $5,000,000 for each year thereafter.

For these reasons, this rule is not considered to be a major rule under the criteria of Executive Order 12291, or a significant rule under DOT Regulatory Policies and Procedures. Few, if any, small entities within the meaning of the Regulatory Flexibility Act will be affected.

After careful review of the available data, including all of the comments received, the FAA has determined that air safety and the public interest require the adoption of the proposed rule, with the changes previously noted.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft, incorporation by reference.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Boeing: Applies to Model 727 series airplanes, certificated in all categories, listed in Section 3.0 of Boeing Document No. D6–48040–1, "Supplemental Structural Inspection Document" (SSID), Revision E. Compliance is required as indicated in the body of the AD.

To ensure the continuing structural integrity of the Model 727 fleet, accomplish the following, unless already accomplished:

A. Within one year after the effective date of the AD, incorporate a revision into the FAA approved maintenance inspection program which provides no less than the required damage tolerance rating (DTR) for each Structural Significant Item (SSI) listed in Boeing Document D6–48040–1, Revision E, or later FAA approved revisions. The required DTR value for each SSI is listed in the document. The revision to the maintenance program shall include and be implemented in accordance with the procedures in Sections 5.0 and 6.0 of the SSID.

B. Cracked structure shall be repaired before further flight in accordance with an FAA approved method.

C. Aircraft may be ferried in accordance with FAR 21.197 and 21.199 to a maintenance base for repair.

D. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

E. Operators who have acceptably incorporated Boeing Document No. D6–48040–1, Revision E, or later FAA approved revisions, into their approved maintenance program are exempt from the provisions of this AD.

Note.—Acceptable incorporation is considered to include the reporting requirements of Section 6.0 of the SSID.

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

This AD becomes effective November 1, 1984.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430 and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89)

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities because few, if any, Boeing Model 727 airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Seattle, Washington, on September 7, 1984.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 84–26012 Filed 10–1–84; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 91

[Docket No. 24258; Amdt. No. 91–184]

Flight Limitations in the Proximity of Space Flight Operations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This rule clarifies the applicability of the regulation which allows the Administrator to prohibit the operation of aircraft in a space flight recovery area. The amendment eliminates the reference to "recovery" to clarify that the regulation applies to space launch as well as recovery operations. The notice makes no substantive changes to existing law.

DATES: *Effective date:* September 27, 1984. Comments concerning provisions of this regulation must be submitted by November 1, 1984.

ADDRESS: Send comments on the rule in duplicate to the Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–204), Docket No. 24258, 800 Independence Avenue, SW., Washington, D.C. 20591. Comments may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. William C. Davis, Office of Air Traffic Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in this regulatory action by

submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions. Communications should identify the regulatory docket number and be submitted in duplicate to the above specified address. All communications received on or before the closing date for comments will be considered by the Administrator. Commenters who wish the FAA to acknowledge receipt of their comments must submit with those comments a self-addressed, stamped postcard on which the following statement is written: "Comments to Docket No. 24258." The postcard will be date/time stamped and returned to the commenter. The provisions in this rule may be changed in the light of comments received. All comments submitted will be available, both before and after closing date for the comments, in the Rules Docket for examination by interested persons. A report summarizing substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of Document

Any person may obtain a copy of this document by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attn: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington D.C. 20591, or by calling (202) 426-8058. Communications must identify the docket number.

Background

On March 18, 1965, the Administrator issued Special Federal Aviation Regulation (SFAR) No. 16 (31 FR 3706), that prohibited the flight of nonparticipating aircraft in recovery areas of the Gemini series of operations. With the completion of the Gemini flights, and after the National Aeronautics and Space Administration (NASA) stated that future space operations would require the same protection as had been provided for the Gemini project, the FAA issued Amendment No. 91-45 (32 FR 14312) on October 11, 1967. That amendment codified the provisions of SFAR No. 16 as Section 91.102 of the Federal Aviation Regulations (14 CFR 91).

Need for Amendment

Existing Section 91.102 prohibits the operation of aircraft, with certain exceptions, within areas designated by a Notice to Airmen (NOTAM) for "space flight recovery operations." It is the FAA's interpretation of the quoted provision that the term "recovery" applies not only to end-of-flight recovery, but also to the area designated for emergency recovery during the launch phase of the flight. In the preamble to Amendment No. 91-45, the FAA stated that flight prohibitions may remain in effect during the entire space flight so that the recovery area would be available in the event of an emergency. Emergency recovery operations are an integral part of any space launch operation. For example, if an emergency occurs immediately after a space flight launch from Kennedy Space Center, the space vehicle may have to be recovered offshore in international waters. An emergency recovery at the NASA Shuttle Landing Facility Airport becomes possible after the vehicle reaches a height that would allow it to glide to a landing. Both eventualities require that airspace around the launch site be protected from intruding aircraft during the launch phase. However, the existing reference in Section 91.102 to "recovery operations" may not constitute adequate notice to pilots that the Section 91.102 airspace restrictions apply during the launch phase of the flight. Since space shuttle operations began, there have been several aircraft incursions into the recovery area. During the space shuttle launch in September 1984, aircraft approached within 5 miles of the launch site, resulting in a launch delay or more than 6 minutes. Similar incidents in the future which might occur due to a misunderstanding of the applicability of Section 91.102 to the launch phases of space flights, could result in costly delays of shuttle operations and in potentially hazardous situations for pilots and space flight crews. Accordingly, the purpose of this action is to remove the potential for misinterpretation by eliminating the reference to "recovery" or any other particular phase of the space flight operation.

Need for Immediate Adoption

Because this regulation involves no substantive change from the FAA interpretation of the existing provisions of Section 91.102, and because the amendment will serve to prevent disruption of future space shuttle operations scheduled within the next 2 months, I find that notice and public procedure hereon are not in the public interest and that good cause exists for making the regulation effective immediately.

Because this amendment clarifies the scope of the existing rule, this document involves a rulemaking action which is not a major rule under Executive Order 12291 and is not a significant rule under Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). Further, for these reasons, I certify that, under the criteria of the Regulatory Flexibility Act, the amendment will not have a significant impact on a substantial number of small entities. In addition, the FAA has determined that the expected impact of this amendment is so minimal that it does not require an evaluation.

List of Subjects in 14 CFR Part 91

Air traffic control, Aircraft, Aviation safety.

The Amendment

PART 91—[AMENDED]

Accordingly, Part 91 of the Federal Aviation Regulations (14 CFR 91) is amended by revising § 91.102 to read as follows:

§ 91.102 Flight limitation in the proximity of space flight operations.

No person may operate any aircraft of U.S. registry, or pilot any aircraft under the authority of an airman certificate issued by the Federal Aviation Administration within areas designated in a Notice to Airmen (NOTAM) for space flight operations except when authorized by ATC, or operated under the control of the Department of Defense Manager for Manned Space Flight Support Operations.

(Secs. 307 and 313(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348, 1354(a)); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.45)

Issued in Washington, D.C., on September 25, 1984.

Donald D. Engen,

Administrator.

[FR Doc. 84-26081 Filed 9-27-84; 2:35 pm]
BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 389

[Docket Nos. RM83-72-000 and RM82-16-000]

Production Under Section 2(21) of the Natural Gas Policy Act of 1978; Information Collection Requirements Approved by OMB

September 25, 1984.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule; notice of OMB Control Number.

SUMMARY: On August 22, 1984, the Federal Energy Regulatory Commission issued a final rule (Order No. 391) in Docket Nos. RM83–72–000 and RM82–16–000, 49 FR 33,849 (August 27, 1984), amending its regulations governing first sales of pipeline production and first sales by pipeline affiliates. 18 CFR 260.3 governs the filing of FERC Form No. 11, Natural Gas Pipeline Company monthly statement. The Commission in Order No. 391 adopted certain minor changes to the filing requirements of Form No. 11 which require OMB approval under the Paperwork Reduction Act before becoming effective.

EFFECTIVE DATE: September 26, 1984.

FOR FURTHER INFORMATION CONTACT: Richard Mattingly, Producer Regulation Section, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol St. NE., Washington, D.C. 20426, (202) 357–9123.

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act, 44 U.S.C. 3501–3520 (1982) and the Office of Management and Budget's (OBM) regulations, 5 CFR Part 1320 (1983), require that OMB approve certain information collection requirements imposed by agency rule. OMB has approved the information collection requirements of 18 CFR 260.3 (Form No. 11) and issued Control Number 1902–0032 for that section. The rule promulgated by Order No. 391 becomes effective on September 26, 1984. However, the changes to Form No. 11 will become effective with the filing due on March 12, 1985, reporting data for January 1985.

PART 389—[AMENDED]

Accordingly, Part 389, Chapter I, Title 18, Code of Federal Regulations is amended as set forth below.

1. The authority citation for Part 389 continues to read as follows:

Authority: Paperwork Reduction Act, 44 U.S.C. 3501–3520 (1982).

§ 389.101 [Amended]

2. The table of OMB control numbers in § 389.101(b) is amended by inserting "260.3" in numerical order in the "section" column, and "0032" in the corresponding position in the "OMB control number" column.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–25990 Filed 10–1–84; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

[Regs. No. 4 and 16]

Federal Old-Age, Survivors, and Disability Insurance Benefits; Supplemental Security Income for the Aged, Blind, and Disabled; Reentitlement to Disability Benefits; Correction

AGENCY: Social Security Administration, HHS.

ACTION: Final rule; correction.

SUMMARY: This document corrects amendatory language in the final regulations implementing section 303 of Pub. L. 96–265, published May 29, 1984 (49 FR 22268) concerning trial work and extended eligibility for disabled claimants under the social security or supplemental security income programs. This action is necessary to correct erroneous paragraph references in the amendatory statement describing changes to § 404.902. Only the amendatory statement was incorrect, the paragraphs were correctly identified in the regulatory text as (r), (s), and (t).

FOR FURTHER INFORMATION CONTACT: Harry J. Short, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 594–7337.

In a **Federal Register** document, 84–14232, appearing in the **Federal Register** of May 29, 1984, pages 22268–75, amendatory item number 10 on page 22272, column one, is corrected to read as follows:

"10. Section 404.902 is amended by revising paragraphs (r) and (s) and adding a new paragraph (t) to read as follows. The introductory text of the section and paragraph (q) are reprinted for the convenience of the reader."

Dated: September 25, 1984.

Wallace O. Keene,

Acting Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 84–26008 Filed 10–1–84; 8:45 am]

BILLING CODE 4190–11–M

Food and Drug Administration

21 CFR Part 81

[Docket No. 76N/0366]

Provisional Listing of FD&C Red No. 3 and of FD&C Yellow No. 5 in Cosmetics and Externally Applied Drugs and of Their Lakes in Food and Ingested Drugs; Provisional Listing of FD&C Yellow No. 6 For Use in Food, Drugs, and Cosmetics; Provisional Listing of D&C Red No. 8, D&C Red No. 9, D&C Red No. 33, and D&C Red No. 36 in Drugs and Cosmetics; Postponement of Closing Dates

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is postponing the closing dates for the provisional listing of FD&C Red No. 3 and of FD&C Yellow No. 5 for use in coloring cosmetics and externally applied drugs and of the lakes of these color additives for use in coloring food and ingested drugs; of FD&C Yellow No. 6 for use in food, drugs, and cosmetics; and of D&C Red No. 8, D&C Red No. 9, D&C Red No. 33, and D&C Red No. 36 for use in drugs and cosmetics. The new closing date for the provisional listing of all of these color additives will be December 3, 1984. This postponement will provide additional time for the determination of the applicability of the statutory standard for the listing of color additives to the results of the scientific investigations of FD&C Red No. 3 FD&C Yellow No. 5 FD&C Yellow No.6, D&C Red No. 8, D&C Red No. 9, D&C Red No. 33, and D&C Red No. 36.

DATES: Effective September 30, 1984, the new closing date for FD&C Red No. 3 and its lakes, FD&C Yellow No. 5 and its lakes, FD&C Yellow No. 6, D&C Red No. 8, D&C Red No. 9, D&C Red No. 33, and D&C Red No. 36 will be December 3, 1984 .

FOR FURTHER INFORMATION CONTACT: Gerad McCowin, Center for Food Safety and Applied Nutrition (HFF–330), Food and Drug Adminstration, 200 C St. SW., Washington, DC 20204, 202–472–5676.

SUPPLEMENTARY INFORMATION: FDA established the current closing date of October 2, 1984, for the provisional listing of FD&C Red No. 3 and of FD&C Yellow No. 5 for use in cosmetics and in externally applied drugs and for the provisional listing of the use of the lakes of FD&C Red No. 3 and of FD&C Yellow No. 5 in food and ingested drugs by a rule published in the **Federal Register** of August 2, 1984 (49 FR 30926).

Additionally, the agency established the current closing date of October 2, 1984, for the provisional listing of FD&C Yellow No. 6 for use in foods, drugs, and cosmetics and of D&C Red No. 8, D&C Red No. 9, D&C Red No. 33 for use in drugs and cosmetics in that same **Federal Register** document. The agency had previously extended the closing dates for these color additives on several occasions. For a full procedural history of the provisional listing of these color additives, see 48 FR 45237 for FD&C Red No. 3, 48 FR 45760 for FD&C Yellow No. 5, 49 FR 13344 for FD&C Yellow No. 6, 48 FR 42807 for D&C Red No. 8, and D&C Red No. 9, and 48 FR 44773 for D&C Red No. 33.

FDA established the current closing date of September 30, 1984, for the provisional listing of the use of D&C Red No. 36 in drugs and cosmetics by a rule published in the **Federal Register** of March 27, 1981 (46 FR 18954).

FDA extended the closing dates for the provisional listing of each of these color additives and of the lakes of FD&C Red No. 3 and of FD&C Yellow No. 5 to permit the consideration of the scientific and legal aspects of the data concerning the safety of their provisionally listed uses. FDA expected that these closing dates would provide time for the preparation and publication of appropriate regulations in the **Federal Register** regarding the final decison on the petitions for the permanent listing of the aforementioned uses of these color additives and of the lakes of FD&C Red No. 3 and of FD&C Yellow No. 5.

The review of the data relevant to the provisionally listed uses of FD&C Red No. 3 and of FD&C Yellow No. 5 and their lakes, FD&C Yellow No. 6, D&C Red No. 8, D&C Red No. 9, D&C Red No. 33 has required more time than anticipated, however. Additional time is still needed to determine the applicability of the statutory standard for listing color additives to D&C Red No. 8, D&C Red No. 9, D&C Red No. 33, and FD&C Yellow No. 6 as well as to FD&C Red No. 3 and FD&C Yellow No. 5 and their lakes.

Because D&C Red No. 36 presents similar issues, FDA also finds that administrative effeciency will be served if the closing date of D&C Red No. 36 is made to coincide with that of the other six color additives. Therefore, the regulations set forth below will postpone the September 30, 1984 closing date for D&C Red No. 36 and the October 2, 1984 closing date for the provisionally listed uses of the other color additives until December 3, 1984.

This postponement will provide additional time for the preparation and publication of the appropriate **Federal Register** documents setting forth the decision on the petitions for the permanent listing of FD&C Red No. 3 and FD&C Yellow No. 5 for use in coloring cosmetics and externally applied drugs and of the lakes of FD&C Red No. 3 and FD&C Yellow No. 5 for use in coloring food and ingested drugs; for the permanent listing of FD&C Yellow No. 6 for use in food, drugs, and cosmetics; and for the permanent listing of D&C Red No. 8, D&C Red No. 9, D&C Red No. 33, and D&C Red No. 36 for use in coloring drugs and cosmetics. The continued use of these color additives for the short time needed for a fully coordinated review of the data and for the preparation of the **Federal Register** documents will not pose a hazard to the public health.

Because of the short time until the September 30 and October 2, 1984 closing dates, FDA concludes that notice and public procedure on these amendments are impracticable, and that good cause exists for issuing this postponement as a final rule. This final rule will permit the uninterrupted use of D&C Red No. 6, D&C Red No. 9, D&C Red No. 33, D&C Red No. 36, and FD&C Yellow No. 6, as well as FD&C Red No. 3, and FD&C Yellow No. 5 and their lakes until December 3, 1984. To prevent any interruption in the provisional listing of D&C Red No. 8, D&C Red No. 9, D&C Red No. 33, D&C Red No. 36, and FD&C Yellow No. 6, as well as FD&C Red No. 3 and FD&C Yellow No. 5 and their lakes and in accordance with 5 U.S.C. 553(d) (1) and (3), this regulation is being made effective on September 30, 1984.

List of Subjects in 21 CFR Part 81

Color additives, Color additives provisional list, Food, Comestic, Drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 701, 706 (b), (c), and (d), 52 Stat. 1055–1056 as amended, 74 Stat. 399–403 (21 U.S.C. 371, 376 (b), (c), and (d))) and the transitional provisions of the Color Additive Amendments of 1960 (Title II, Pub. L. 86–618, sec. 203, 74 Stat. 404–407 (21 U.S.C. 376, note)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 81 is amended as follows:

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

§ 81.1 [Amended]

1. In § 81.1 *Provisional lists of color additives*, by revising the closing dates for "FD&C Yellow No. 5," "FD&C Yellow No. 6," and "FD&C Red No. 3" in paragraph (a) to read "December 3, 1984" and by revising the closing dates for "D&C Red No. 8," "D&C Red No. 9," "D&C Red No. 33," and "D&C Red No. 36" in paragraph (b) to read "December 3, 1984."

§ 81.27 [Amended]

2. In § 81.27 *Conditions of provisional listing*, by revising the closing dates for "FD&C Yellow No. 5," "FD&C Yellow No. 6," "FD&C Red No. 3," "D&C Red No. 8," "D&C Red No. 9," "D&C Red No. 33," and "D&C Red No. 36" in paragraph (d) to read "December 3, 1984" and by revising the closing dates for "FD&C Red No. 3" and "D&C Red No. 33" in paragraph (e) to read "December 3, 1984."

Effective date. This final rule is effective September 30, 1984.

(Secs. 701, 706 (b), (c), and (d), 52 Stat. 1055–1056 as amended, 74 Stat. 399–403 (21 U.S.C. 371, 376 (b), (c), and (d)); sec. 203, 74 Stat. 404–407 (21 U.S.C. 376, note))

Dated: September 13, 1984.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-26184 Filed 9-28-84; 3:51 pm]

BILLING CODE 4160-01-M

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21 CFR Part 81

[Docket No. 76N-0366]

Provisional Listing of D&C Orange No. 17, D&C Red No. 19, and D&C Red No. 37 for Use in Externally Applied Drugs and Cosmetics; Postponement of Closing Dates

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is postponing the closing date for the provisional listing of D&C Orange No. 17, D&C Red No. 19, and D&C Red No. 37 for use as color additives in externally applied drugs and cosmetics. The new closing date will be December 3, 1984. This postponement will provide additional time for determining the applicability of the statutory standard for the listing of noningested color additives to the results of the scientific investigations of D&C Orange No. 17, D&C Red No. 19, and D&C Red No. 37.

DATES: Effective October 2, 1984, the new closing date for D&C Orange No. 17, D&C Red No. 19, and D&C Red No. 37 will be December 3, 1984.

FOR FURTHER INFORMATION CONTACT: Gerad McCowin, Center for Food Safety and Applied Nutrition (HFF-330), Food

and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5676.

SUPPLEMENTARY INFORMATION: FDA established the current closing date of October 2, 1984, for the provisional listing of D&C Orange No. 17, D&C Red No. 19, and D&C Red No. 37 for use in externally applied drugs and cosmetics by a final rule published in the **Federal Register** of August 2, 1984 (49 FR 30925). The agency had previously extended the closing dates for these color additives on several occasions. For a full procedural history of the provisional listing of these color additives, see 48 FR 38814 for D&C Red No. 19, and D&C Red No. 37 and 48 FR 44774 for D&C Orange No 17.

FDA extended the closing date for the provisional listing of these color additives on these occasions to permit consideration of the scientific and legal aspects of the submissions of the petitioner, the Cosmetic, Toiletry and Fragrance Association, Inc., in support of the safety of the external uses of these color additives. Although D&C Orange No. 17, D&C Red No. 19, and D&C Red No. 37 have been shown to be animal carcinogens upon ingestion, somewhat different questions are raised by the request to list these color additives for noningested use. It has taken more time to review the data involved in resolving these questions than the agency anticipated. Additional time is still needed to determine the applicability of the statutory standard for the listing of color additives for noningested use to D&C Orange No. 17, D&C Red No. 19, and D&C Red No. 37. The regulations set forth below will postpone the October 2, 1984 closing date for the provisionally listed use of these color additives until December 3, 1984. This postponement will also provide additional time for the preparation and the publication of **Federal Register** documents setting forth the final decision on the petitions for the permanent listing of these color additives for external use. The continued use of these color additives in externally applied products for the short time needed for the adequate review of the data and for the preparation of **Federal Register** documents that will announce the decision on these color additives will not pose a hazard to the public health.

Because of the short time until the October 2, 1984 closing date, FDA concludes that notice and public procedure on these amendments are impracticable, and that good cause exists for issuing the postponement as a final rule. This final rule will permit the uninterrupted use of these color additives until December 3, 1984. To prevent any interruption in the provisional listing of D&C Orange No. 17, D&C Red No. 19, and D&C Red No. 37 and in accordance with 5 U.S.C. 553(d)(1) and (3), this final rule is being made effective October 2, 1984.

List of Subjects in 21 CFR Part 81

Color additives, Color additives provisional list, Cosmetics, Drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 701, 706 (b), (c), and (d), 52 Stat. 1055–1056 as amended, 74 Stat. 399–403 (21 U.S.C. 371, 376 (b), (c), and (d))) and under the transitional provisions of the Color Additive Amendments of 1960 (Title II, Pub. L. 86–618; sec. 203, 74 Stat. 404–407 (21 U.S.C. 376, note)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 81 is amended as follows:

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

§ 81.1 [Amended]

1. In § 81.1 *Provisional lists of color additives*, by revising the closing date for "D&C Orange No. 17," "D&C Red No. 19," and "D&C Red No. 37" in paragraph (b) to read "December 3, 1984."

§ 81.27 [Amended]

2. In § 81.27 *Conditions of provisional listing*, by revising the closing date for "D&C Orange No. 17," "D&C Red No. 19," and "D&C Red No. 37" in paragraph (d) to read "December 3, 1984."

Effective date. This final rule shall be effective October 2, 1984.

(Secs. 701, 706 (b), (c), and (d), 52 Stat. 1055–1056 as amended, 74 Stat. 399–403 (21 U.S.C. 371, 376 (b), (c), and (d)); sec. 203, 74 Stat. 404–407 (21 U.S.C. 376, note))

Dated: September 13, 1984.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 84–26185 Filed 9–28–84; 3:51 pm]

BILLING CODE 4160–01–M

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21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs Not Subject to Certification; Colloidal Ferric Oxide Injection

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to codify a previously approved new animal drug application (NADA) sponsored by Philips Roxane, Inc. The NADA provides for use of colloidal ferric oxide injection in baby pigs for preventing or treating iron deficiency anemia.

EFFECTIVE DATE: October 2, 1984.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Center for Veterinary Medicine (HFV–130), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1414.

SUPPLEMENTARY INFORMATION: Philips Roxane, Inc., 2621 North Belt Highway, St. Joseph, MO 64502, is sponsor of NADA 39–281 which provides for intramuscular use of an iron dextrin complex in baby pigs for preventing or treating iron deficiency anemia. The drug was approved by letter dated January 10, 1969.

Approvals at that time were not codified by publication in the **Federal Register**. This action codifies the previously approved NADA but does not change the approved use of the drug. Because the application was approved before July 1, 1975, the sponsor is not required to submit a summary of the safety and effectiveness data and information under the freedom of information provisions of the animal drug regulations in 21 CFR 514.11(e)(2)(ii). However, a summary of the basis for approval is available upon request in accordance with 21 CFR 514.11(e)(2)(i).

The Center for Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 522

Animal drugs, injectable.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.83), Part 522 is amended in § 522.940 by revising paragraphs (b) and (c) to read as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§ 522.840 Colloidal ferric oxide injection.

* * * * *

(b)(1) *Sponsor.* See Nos. 010042 and 012481 in § 510.600(c) of this chapter.

(2) *Conditions of use.* It is used in baby pigs as follows:

(i) For the prevention of anemia due to iron deficiency, administer an initial intramuscular injection of 1 milliliter of the drug to each animal at any time between 2 to 5 days of age. Dosage may be repeated at 2 weeks of age.

(ii) For the treatment of anemia due to iron deficiency, administer an intramuscular injection of from 1 to 2 milliliters of the drug to each animal at any time between 5 to 28 days of age.

(c)(1) *Sponsor.* See No. 000010 in § 510.600(c) of this chapter.

(2) *Conditions of use.* It is used in baby pigs as follows:

(i) For prevention of iron deficiency anemia, administer an initial intramuscular injection of 1 milliliter of the drug per pig at 2 to 4 days of age. Dosage may be repeated at 14 to 21 days of age.

(ii) For treatment of iron deficiency anemia, administer an intramuscular injection of from 1 to 2 milliliters of the drug per pig.

Effective date: October 2, 1984.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: September 25, 1984.

Gerald B. Guest,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 84-26018 Filed 10-1-84; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs Not Subject to Certification; Iron Dextran Injection

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Medico Industries, Inc., providing for safe and effective use of an iron dextran injection for prevention or treatment of baby pig anemia due to iron deficiency.

EFFECTIVE DATE: October 2, 1984.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV-128), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4317.

SUPPLEMENTARY INFORMATION: Medico Industries, Inc., Elkan Estates, P.O. Box 338, Elwood, KS 66024, filed NADA 134-708 which provides for intramuscular use of an iron dextran injection for prevention or treatment of baby pig anemia due to iron deficiency. Based on the data and information submitted, the NADA is approved and the regulations are amended to reflect the approval. In addition, the regulation is revised editorially to reflect current format.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Center for Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 522

Animal drugs, injectable.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.83), Part 522 is amended by revising § 522.1182 to read as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§ 522.1182 Iron dextran complex injection.

(a)(1) *Specifications.* Each milliliter of sterile solution contains ferric hydroxide dextran complex equivalent to 100 milligrams of elemental iron. It contains 0.5 percent phenol as a preservative.

(2)(i) *Sponsor.* See No. 010271 in § 510.600(c) of this chapter.

(ii) *Conditions of use.* It is used in baby pigs as follows:

(*a*) For the prevention of anemia due to iron deficiency, administer an initial intramuscular injection of 75 to 150 milligrams of elemental iron to each animal at 2 to 4 days of age. Dosage may be repeated in 14 to 21 days.

(*b*) For the treatment of anemia due to iron deficiency, administer an intramuscular injection of 100 to 200 milligrams of elemental iron.

(3)(i) *Sponsor.* See No. 000856 in § 510.600(c) of this chapter.

(ii) *Conditions of use.* It is used in baby pigs as follows:

(*a*) For the prevention of anemia due to iron deficiency, administer an initial intramuscular injection of 100 milligrams of elemental iron to each animal at 2 to 4 days of age. Dosage may be repeated in 14 to 21 days.

(*b*) For the treatment of anemia due to iron deficiency, administer and intramuscular injection of 200 milligrams of elemental iron.

(4)(i) *Sponsor.* See Nos. 000845 and 012525 in § 510.600(c) of this chapter.

(ii) *Conditions of use.* It is used in baby pigs as follows:

(*a*) For the prevention of iron deficiency anemia, administer intramuscularly an amount of drug containing 100 to 150 milligrams of elemental iron to animals from 1 to 3 days of age.

(*b*) For the treatment of iron deficiency anemia, administer intramuscularly an amount of drug containing 100 to 200 milligrams of elemental iron per animal. Dosage may be repeated in 10 days to 2 weeks.

(b)(1) *Specifications.* Each milliliter of sterile solution contains ferric hydroxide in complex with dextran equivalent to 200 milligrams of elemental iron. It contains 0.5 percent phenol as a preservative.

(2)(i) *Sponsor.* See No. 015562 in § 510.600(c) of this chapter.

(ii) *Conditions of use.* It is used in baby pigs as follows:

(*a*) For prevention of baby pig anemia due to iron deficiency, intramuscularly inject 200 milligrams of elemental iron (1 milliliter) at 1 to 3 days of age.

(*b*) For treatment of baby pig anemia due to iron deficiency, intramuscularly inject 200 milligrams of elemental iron at the first sign of anemia.

Effective date. October 2, 1984.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: September 25, 1984.

Gerald B. Guest,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 84-26019 Filed 10-1-84; 8:45 am]

BILLING CODE 4160-01-M

PEACE CORPS

22 CFR Part 305

Eligibility and Standards for Peace Corps Volunteer Service

AGENCY: Peace Corps.

ACTION: Final rule.

SUMMARY: The Peace Corps is adopting this final rule to restate and update the requirements for eligibility for Peace Corps Volunteer service, and the factors considered in the assessment and selection of eligible applicants for training and service. A notice of proposed rulemaking was issued in the **Federal Register** in Volume 49, Number 134 on July 11, 1984 beginning at page 28255. No comments were received from the public.

EFFECTIVE DATE: November 1, 1984.

FOR FURTHER INFORMATION CONTACT: Alexander B. Cook, General Counsel, Telephone: (202) 254–3114 (voice). TTY: Telephone (202) 254–3290. Long Distance—(800) 424–8580, Extension 242 (Voice Extension to TTY) or dial above TTY local number with area code.

SUPPLEMENTARY INFORMATION: This rule revises and updates rules concerning eligibility for Peace Corps Volunteer service which were last published in the **Federal Register** on March 28, 1969 and currently appear at 22 CFR Part 305.

Statement of Effects

The Peace Corps has determined that this document is not a major rule under Executive Order 12291, and certifies that this document will not have a significant effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

List of Subjects in 22 CFR Part 305

Aged, Citizenship and naturalization, Civil rights, Nondiscrimination, Equal employment opportunity, Foreign aid, Handicapped, Political affiliation, Discrimination, Volunteers.

Subchapter III of Title 22 of the Code of Federal Regulations is amended as follows:

Part 305 is revised to read as follows:

PART 305—ELIGIBILITY AND STANDARDS FOR PEACE CORPS VOLUNTEER SERVICE

Sec.

305.1 Purpose and general guideline.
305.2 Eligibility.
305.3 Background investigations.
305.4 Selection standards.
305.5 Procedures.

Authority: Sec. 4(b), 5(a) and 22, 75 Stat 612, 22 USC 2504; E.O. 12137, May 16, 1979, Sec. 601 of the International Security and Development Cooperation Act of 1981. 95 Stat 1519 at 1540, Sec. 417(c)(1) of the Domestic Volunteer Service Act (42 U.S.C. 5057(c)(1)).

§ 305.1 Purpose and general guideline.

This subpart states the requirements for eligibility for Peace Corps Volunteer service and the factors considered in the assessment and selection of eligible applicants for training and service. In selecting individuals for Peace Corps Volunteer service under this subpart, as required by Section 5(a) of the Peace Corps Act, as amended, "no political test shall be required to be taken into consideration, nor shall there be any discrimination against any person on account of race, sex, creed, or color." Further, in accordance with Section 417(c)(1) of the Domestic Volunteer Service Act, as amended (42 U.S.C. 5057 (c)(1)) the nondiscrimination policies and authorities set forth in Section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16), Title V of the Rehabilitation Act of 1973 (29 U.S.C. 791 et seq.) and the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), are also applicable to the selection, placement, service and termination of Peace Corps Volunteers.

§ 305.2 Eligibility.

In addition to those skills, personal attributes and aptitudes required for available Volunteer assignments, the following are the basic requirements that an applicant must satisfy in order to receive an invitation to train for Peace Corps Volunteer service.

(a) *Citizenship.* The applicant must be a citizen of the United States or have made arrangements satisfactory to the Office of Marketing, Recruitment, Placement and Staging (MRPS) and the Office of General Counsel (D/GC) to be naturalized prior to taking the oath prescribed for enrollment as a Peace Corps Volunteer. (See Section 5[a] of the Peace Corps Act, as amended).

(b) *Age.* The applicant must be at least 18 years old.

(c) *Medical Status.* The applicant must, with reasonable accommodation, have the physical and mental capacity required of a Volunteer to perform the essential functions of the Peace Corps Volunteer assignment for which he or she is otherwise eligible, and be able to complete an agreed upon tour of service, ordinarily two years, without unreasonable disruption due to health problems. In determining what is a reasonable accommodation, the Peace Corps may take into account the adequacy of local medical facilities. In determining whether an accommodation would impose an undue hardship on the operation of the Peace Corps, factors to be considered include: (1) The overall size of the Peace Corps program with respect to the number of employees and/or Volunteers, size of budget, and size and composition of staff at post of assignment, (2) the nature and cost of the accommodation, and (3) the capacity of the host country agency to which the applicant would be assigned to provide any special accommodation necessary for the applicant to carry out the assignment.

(d) *Legal Status.* The applicant must not be on parole or probation to any court or have any court established or acknowledged financial or other legal obligation which, in the opinion of D/GC and MRPS, cannot be satisfied or postponed during the period of Peace Corps service.

(e) *Intelligence Background.* In accordance with longstanding Peace Corps policy, prior employment by any agency of the United States Government, civilian or military, or division of such an agency, whose exclusive or principle function is the performance of intelligence activities; or engaging in intelligence activities or related work may disqualify a person from eligibility for Peace Corps service. See Section 611 of the Peace Corps Manual.

(f) *Marital Status.* (1) Ordinarily, if an applicant is married or intends to marry prior to Peace Corps service, both husband and wife must apply and qualify for assignment at the same location. Exceptions to this rule will be considered by the Office of Volunteer Placement (MRPS/P) under the following conditions:

(2)(i) *Unaccompanied Married Applicant.* In order to qualify for consideration for Peace Corps service, a married applicant whose spouse does not wish to accompany him/her overseas must provide the Office of Placement (MRPS/P) with a notarized letter from the spouse acknowledging that he or she is aware of the applicant spouse's intention to serve as a Peace Corps Volunteer for two years or more and that any financial and legal obligations of the applicant to his or her spouse can be met during the period of Peace Corps service. In determining eligibility in such cases, MRPS/P will also consider whether the service of one spouse without the accompaniment of the other can reasonably be anticipated to disrupt the applicant spouse's service overseas.

(ii) In addition to satisfying the above requirements, a married applicant who is legally, or in fact, separated from his or her spouse, must provide MRPS/P with copies of any agreements or other

documentation setting forth any legal and financial responsibilities which the parties have to one another during any period of separation.

(3) *Divorced Applicants.* Applicants who have been divorced must provide MRPS/P with copies of all legal documents related to the divorce.

(g) *Dependents.* Peace Corps has authority to provide benefits and allowances for the dependent children of Peace Corps Volunteers who are under the age of 18. However, applicants with dependent children under the age of 18 will not be considered eligible for Peace Corps service unless MRPS/P determines that the skills of the applicants are essential to meet the requirements of a Volunteer project, and that qualified applicants without minor dependents are not available to fill the assignment.

(1) *Procedures for Placing Volunteers with Children.* The placement of any couple with dependent children must have the concurrence of the appropriate Country and Regional Director.

(2) If the applicant has any dependents who will not accompany him or her overseas, the applicant must satisfy MRPS/P and the General Counsel that adequate arrangements have been made for the care and support of the dependent during any period of training and Peace Corps service; that such service will not adversely affect the relationship between the applicant and dependent in such a way as to disrupt his or her service; and that he or she is not using Peace Corps service to escape responsibility for the welfare of any dependents under the age of 18.

(3) Married couples with more than two children or with children who are below two years of age are not eligible for Peace Corps service except in extraordinary circumstances as approved by the Director of the Peace Corps or designee.

(h) *Military Service.* Applicants with military or national guard obligation must provide MRPS/P with a written statement from their commanding officer that their presence will not be required by their military unit for the duration of their Peace Corps service, except in case of national emergency.

(i) *Failure to Disclose Requested Information.* Failure to disclose, and/or the misrepresentation of material information requested by the Peace Corps regarding any of the above described standards of eligibility may be grounds for disqualification or separation from Peace Corps Volunteer service. (See Section 284 of the Peace Corps Manual.)

§ 305.3 Background investigations.

Section 22 of the Peace Corps Act states that to ensure enrollment of a Volunteer is consistent with the national interest, no applicant is eligible for Peace Corps Volunteer service without a background investigation. The Peace Corps requires that all applicants accepted for training have as a minimum a National Agency Check. Information revealed by the investigation may be grounds for disqualification from Peace Corps service.

§ 305.4 Selection standards.

To qualify for selection for overseas service as a Peace Corps Volunteer, applicants must demonstrate that they possess the following personal attributes:

(a) *Motivation.* A sincere desire to carry out the goals of Peace Corps service, and a commitment to serve a full term as a Volunteer.

(b) *Productive Competence.* The intelligence and educational background to meet the needs of the individual's assignment.

(c) *Emotional Maturity/Adaptability.* The maturity, flexibility, and self-sufficiency to adapt successfully to life in another culture, and to interact and communicate with other people regardless of cultural, social, and economic differences.

(d) *Skills.* By the end of training, in addition to the attributes mentioned above, a Trainee must demonstrate competence in the following areas:

(1) *Language.* The ability to communicate in the language of the country of service with the fluency required to meet the needs of the overseas assignment.

(2) *Technical competence.* Proficiency in the technical skills needed to carry out the assignment.

(3) *Knowledge.* Adequate knowledge of the culture and history of the country of assignment to ensure a successful adjustment to, and acceptance by, the host country society. The Trainee must also have an awareness of the history and government of the United States which qualifies the individual to represent the United States abroad.

(e) *Failure to Meet Standards.* Failure to meet any of the selection standards by the completion of training may be grounds for deselection and disqualification from Peace Corps service.

§ 305.5 Procedures.

Procedures for filing, investigating, and determining allegations of discrimination on the basis of race, color, national origin, religion, age, sex, handicap or political affiliation in the application of any provision of this Part are contained in MS 293 (45 CFR Part 1225).

Signed at Washington, D.C. on September 25, 1984.

Loret Miller Ruppe,

Director, Peace Corps.

[FR Doc. 84-25927 Filed 10-1-84; 8:45 am]

BILLING CODE 6051-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 625

[FHWA Docket Nos. 79-31, 79-37, and 83-26]

National Standards for Traffic Control Devices; Manual on Uniform Traffic Control Devices

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule; Amendments to the Manual on Uniform Traffic Control Devices.

SUMMARY: This document contains notice of amendments to the Manual on Uniform Traffic Control Devices (MUTCD) which are being adopted by the Federal Highway Administrator for inclusion therein. The MUTCD is incorporated by reference in the design standards for Federal-aid highways in 23 CFR Part 625. It is also recognized in Part 655 as the national standard for traffic control devices on all public roads. The amendments affect various parts of the MUTCD and are intended to expedite traffic, improve safety and provide a more uniform application of highway signs, signals, and markings.

DATES: Effective December 31, 1984. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 1, 1984, and the amendments are approved as of December 31, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Philip O. Russell, Office of Traffic Operations, (202) 426-0411, or Mr. Michael J. Laska, Office of the Chief Counsel, (202) 426-0754, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: The MUTCD is available for inspection and copying as prescribed in 49 CFR Part 7, Appendix D. It may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 ($30.00).

This document contains the dispositions of proposals for changes in the MUTCD which were received or originated by the FHWA and published as a notice of proposed amendments on January 10, 1984, under FHWA Docket No. 83-26 (49 FR 1213). The FHWA had previously reviewed the proposed amendments and provided recommendations for their disposition in the notices. One item was published in a notice of proposed amendments, Docket No. 79-37, Notice 2 (47 FR 5238, February 4, 1982). One item was published in a notice of proposed amendments, Docket No. 79-31, Notice 2 (45 FR 68863, October 16, 1980).

Advance copies of the actual text of the changes to the MUTCD for all of these requests will be distributed to everyone currently appearing on the FHWA mailing list for MUTCD matters. Those wishing to be added to the mailing list and receive copies of the text changes should write to the Federal Highway Administration, Office of Traffic Operations, 400 Seventh Street, SW., Washington, D.C. 20590. Subscribers to the MUTCD will receive looseleaf text changes automatically from the Government Printing Office as part of the subscription service.

Discussion of Requests

These amendments are being processed in accordance with the rulemaking procedure of the Administrative Procedure Act (5 U.S.C. 553) and the Department of Transportation's regulatory policies and procedures.

Each request is assigned an identification number which indicates by Roman numeral, the primary organizational part of the MUTCD affected and, by Arabic numeral, the order in which the request was received.

There were 285 responses to FHWA Docket No. 83-26. One proposal concerning a symbol sign for locating libraries received an unusually large number of supporting comments from libraries and library associations. Except for that proposal, which is being deferred pending further study, most of the remaining comments were from 2 technical associations, 22 State highway agencies, and 8 other Government entities.

After review of the comments received in response to the notices and other information relating to the MUTCD and these proposals, the FHWA is amending the MUTCD by adopting the following requests for changes:

Adopted From FHWA Interpretation

(1) Request I-2 (Intr.)—Definition of the Term Roadway

Adopted From Notice of Proposed Amendments FHWA Docket 79-37, Notice 2

(2) II-55 Request (Chng.)—Symbolic PUSH BUTTON FOR WALK SIGNAL Sign

Adopted From Notice of Proposed Amendments FHWA Docket 83-26

(3) Request (3)II-75 (Chng.)—Sign Requirements for Two-Way Left Turn Only Lanes
(4) Request IV-20 (Chng.)—Peak Hour Delay and Volume Warrant
(5) Request IV-42 (Chng.)—Traffic Signal Design Configuration
(6) Request IV-43 (Chng.)—Four Hour Warrant for Traffic Signals
(7) Request IV-20 (Chng.)—Delete Use of Hand Signaling Flags
(8) Request IV-23 (Chng.)—Color of Barricade Supports
(9) Request IV-25 (Chng.)—Use of 28-inch Cones
(10) Request IV-26 (Intr.)—Detour Signing
(11) Request IV-28 (Chng.)—Identification of Channelizing Devices.

Adopted From Final Rule FHWA Docket 79-31, Notice 4

(12) Request IV-30 (Chng.)—Two-Lane, Two-Way Operation on One Roadway of a Normally Divided Highway

The following summarizes each approved request and the comments received with respect thereto:

(1) Request I-2 (Intr.)—Definition of the Term Roadway

This addition to Section 1A-9 incorporates the Uniform Vehicle Code definition of "roadway" which was in the 1971 MUTCD.

This addition will impose no additional costs.

Adopted Amendment From Notice of Proposed Amendments FWHA Docket 79-37, Notice 2

(2) Request II-55 (Chng.)—Symbolic PUSH BUTTON FOR WALK SYMBOL Sign

This amendment to Section 2B-37 adopts a symbol sign to be used as an alternate to the standard MUTCD word message regulatory sign R10-4, PUSH BUTTON FOR WALK SIGNAL.

Of the 23 commenters 20 favored adoption of symbol sign, however, several suggested that the symbol initially proposed was not ideal. The National Committee on Uniform Traffic Control Devices (NCUTCD) Symbol Task Force has now selected a design from among those considered.

This change will not impose any additional cost on or mandate any direct action by highway agencies.

Adopted Amendments From Notice of Proposed Amendments FHWA Docket 83-26

(3) Request II-75 (Chng.)—Sign Requirements for Two Way Left Turn Only Lanes

This amendment revises Section 2B-19 and 3B-12 to relax the present mandatory requirements while maintaining adequate means to inform the public of two way left turn lane operations.

Of the 21 commenters only two opposed the change. The proposed change will allow all States to comply including those which prefer to place only the number of signs determined by an engineering study and those who wish to require signing in excess of the guide.

Some have expressed concern that the proposed text only addressed the possibility of snow accumulations as obscuring the pavement marking whereas other elements might just as well obscure the markings.

To mitigate the concerns relative to obscured pavement markings the approved text has been revised to be more general.

This proposed change would relax the present requirement of the MUTCD while maintaining adequate means to inform the public of two way left turn lanes.

(4) Request IV-20 (Chng.)—Peak Hour Delay and Volume Warrants

The MUTCD will be amended by adding the NCUTCD's recommended Peak Hour Delay and Peak Hour Volume Warrants. These new warrants would be referred to as Warrant 10 and Warrant 11, respectively.

There were 26 comments, 17 of which were in favor of the request. One of the 17 included the NCUTCD, a highly representative body. Seven commenters were opposed to the request. However, of these seven, four agreed in principle with Peak Hour Delay and Volume Warrants but raised various questions concerning various parameters of the warrant, and in one case, its placement in the MUTCD.

This amendment provides greater latitude in evaluating the need for a signal installation, but does not impose any additional costs.

(5) Request IV-42 (Chng.)—Traffic Signal Design Configurations

Sections 4B-8, 4B-10, 4B-11, and 4B-12 are being amended to reflect the research results of National Cooperative Highway Research Program (NCHRP) Project 3-23, Guidelines for Uniformity in Traffic Control Design Configurations. These amendments provide minor changes in applications of 8-inch and 12-inch lenses, visibility and shielding of signal faces, number of signal faces and location of signal faces. The amendments are designed to provide greater uniformity and improve the performance of traffic signals.

These changes will impose some additional costs on State and local transportation agencies. To minimize these costs the FHWA is providing a 10-year implementation period.

A number of commenters did have individual comments, but there were not any predominate comments that would indicate a need for a change except (a) the Milwaukee, Wisconsin comment that requested a time period of 10 years rather than the proposed five years for implementing the required changes and (b) the Arizona Department of Transportation comment relating to proposed Section 4B-8, paragraph 2, subparagraph 3(c). The subparagraph would require 12-inch lenses for special problem approaches, such as those with conflicting or competing backgrounds, unless back plates are used. Arizona indicates that the proposed subparagraph is vague, could be applied to any intersection and duplicates subparagraph 4. FHWA also concurs with the Arizona recommendation and is therefore deleting subparagraph 3(c).

The proposed rule provided for dimming of traffic signals and no adverse comments were received. However, FHWA is delaying finalization of this provision pending its completion of dimming research and the subsequent establishment of standards (by others) that will define under what conditions signals can safely be dimmed.

(6) Request IV-43 (Chng.)—Four Hour Warrant for Traffic Signals

This amendment to the MUTCD will incorporate the NCUTCD's recommended Four Hour Warrant. This Warrant will be labeled Warrant 9 and added to Section 4C-10.1 of the MUTCD. The warrant reflects the results of several research and operational studies with input from a number of represented practitioners on the NCUTCD.

There were 25 commenters of which 16, including the NCUTCD, were in favor of the request. Seven commenters were opposed to the request. However, of these seven, four agreed in principle with a four hour warrant, but raised various questions concerning various parameters of the proposed warrant, or in one case, its placement in the MUTCD.

FHWA is therefore amending the MUTCD to provide greater latitude in evaluating the need for a signal installation. The revision does not impose any additional costs.

(7) Request VI-20 (Chng.)—Delete Use of Hand Signaling Flags

The amendment to Sections 6F-2 and 6F-4 adopts the sign paddle as the primary hand signaling device to control traffic through work areas except in unusual situations. The use of hand signaling flags is limited to emergency and single flagger situations only.

Of the 25 commenters 20 were in favor of adopting sign paddles as the primary hand signaling device. Most of those opposed, agreed with the preference for sign paddle throughout the MUTCD, but believe the hand flag should be allowed as an acceptable alternate. Overall, 22 of the 25 commenters concluded that paddles were equal to or better than flags. One responder stated that flags should be allowed whenever traffic can be controlled by one person. The text has been revised to recognize the special problem presented by one person traffic control and editorial changes will be made to other sections of the MUTCD affected by VI-20.

This proposed change will impose some additional cost, but will provide motorists with more positive guidance at work sites. The implementation period of 3 years will reduce the impact on highway agencies, contractors, and utility companies.

(8) Request VI-23 (Chng.)—Color of Barricade Supports

The amendment to Section 6C-8 deletes the color requirements for barricade supports (the components other than the rails).

Only 2 of 23 commenters were opposed to this change. They felt that the white colored member did in fact increase target value. The MUTCD minimum area for barricade rails is based on completed research of which support members were not a factor.

The amendment will reduce the cost of some barricades without significantly reducing their visibility.

(9) Request VI-25 (Chng.)—Use of 28-Inch Cones

This amendment to Section 6C-3 adopts a minimum height of 28 inches for cones used on freeways and other high speed roadways, whenever more conspicuous guidance is needed and for all facilities during hours of darkness.

Only 4 of the 24 commenters opposed this change. Several commenters on both sides felt that the change should have defined the term "high speed."

This amendment encourages engineering discretion in determining when to use 28-inch cones and will not impose additional costs.

(10) Request VI-26 (Chng.)—Detour Signing

This amendment of Sections 6B-8 and 6B-9 adopts more flexibility in determining the types of projects and types of roadways where detour signing should be used.

Nineteen of the 22 responders favored this change. Those who opposed the change felt that the motorist is always entitled to information concerning how to drive around road closures.

This change allows more engineering discretion in determining those situations that need detour signing. This amendment will reduce highway agency costs.

(11) Request VI-28 (Chng.)—Identification of Channelizing Devices

Section 6C-8 is amended to allow owner identification on the face of nonreflectorized barricade members.

There were 23 responders to this request. Two of the 21 who favored the change and one of the persons who opposed the change were concerned that the identification could be used as advertising. One commenter strongly favored the change as a way to deter theft.

This proposed change would not impose any additional costs.

Adopted From Final Rule FHWA Docket 79-31, Notice 4

(12) Request VI-30 (Chng.)—Two-Lane, Two-Way Operation on One Roadway of a Normally Divided Highway

The final rule which became effective on July 1, 1982 (47 FR 21778, May 20, 1982) amended the regulation on the traffic control design requirements for two-lane, two-way traffic on one roadway of a normally divided highway in highway and street work zones. The regulation does not stipulate further traffic control design requirements in this situation, but recommends that two-way traffic in the detour area be physically separated by traffic control devices under normal conditions. The regulation placed the primary responsibility for determining the appropriate traffic control details for each project on the State and local highway agencies.

This amendment illustrates the amended provision in Figure 6–8 Typical the Manual on Uniform Traffic Control Devices as amended herein. Application—4–lane divided highway where one roadway is closed. Section 6C–1 is being revised to direct attention to this and other typical applications of channelizing devices.

This amendment imposes no additional costs.

Deferred Actions

Action on the following requests proposed in Docket No. 83–26 are being deferred pending availability of additional research or study data:

(1) Request II–1 (Chng.)—Specific Service Signs
(2) Request II–60 (Chng.)—Preferential Lane Signing and Marking
(3) Request II–65 (Chng.)—Service Signing for Liquefied Petroleum Gas
(4) Request II–67 (Chng.)—Delete/Modify LIMITED SIGHT DISTANCE Sign
(5) Request II–76 (Chng.)—Supplemental Guide Signs for Traffic Generators Adjacent to Freeways
(6) Request II–77 (Chng.)—Guidelines for Selection of Control Cities
(7) Request II–78 (Chng.)—Library Symbol Sign
(8) Request II–83 (Chng.)—Memorial Signing for Highways
(9) Request II–84 (Chng.)—Trail Markers on Interstates
(10) Request II–85 (Chng.)—Delete Word Message Alternates to Symbols
(11) Request III–2 (Chng.)—Delineators on Tangent Freeways Not Required
(12) Request III–28 (Chng.)—Chevron Marker
(13) Request VI–24 (Chng.)—Minimum Lamp Candlepower of Arrow Panels

Denial Actions

Based on comments received from FHWA Docket 83–26, the FHWA has determined to deny the following request:

Request VI–21 (Chng.)—Minimum Mounting Height of Barricade Warning Lights

This proposal would have permitted the mounting of barricade lights in the top rail of barricades.

Information made available during rulemaking indicates that this proposal is not needed because manufacturers no longer produce barricades with lights in the rail. The FHWA is withdrawing further consideration of this request.

In consideration of the foregoing and under the authority of 23 U.S.C. 109(d), 315, and 402(a), and the delegation of authority in 49 CFR 1.48(b), the Federal Highway Administration hereby adopts

The Federal Highway Administration has determined that this document contains neither a major rule under Executive Order 12291 nor a significant rule under the regulatory policies and procedures of the Department of Transportation. As stated herein the economic impact of these amendments is so minimal as not to require preparation of a full regulatory evaluation. For the same reasons and under the criteria of the Regulatory Flexibility Act, it is certified that this action will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 23 CFR Part 625

Design standards, Grant programs—transportation, Highway and roads, Signs, Traffic regulations, Incorporations by reference.

PART 625—DESIGN STANDARDS FOR HIGHWAYS

The FHWA revises § 625.3(c)(1) to read as follows:

§ 625.3 Standards, specifications, policies, guides, and references.

* * * * *

(c) *Traffic Control.* (1) Manual on Uniform Traffic Control Devices for Streets and Highways, FHWA, 1978, as amended, 1985.[5]

* * * * *

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 and former OMB Circular A–95 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Issued: September 26, 1984.

L.P. Lamm,

Deputy Federal Highway Administrator, Federal Highway Administration.

[FR Doc. 84–26031 Filed 10–1–84; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 251

[Docket No. R–84–1138; FR–1198]

Coinsurance for the Construction or Substantial Rehabilitation of Multifamily Housing Projects; Correction

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule published in the **Federal Register** on Thursday, August 9, 1984 (49 FR 32016) which adds a new Part 251 to the Code of Federal Regulations. This action is necessary to correct an inadvertent minor error.

FOR FURTHER INFORMATION CONTACT: Ben McKeever, Regulations Division, Office of General Counsel, Department of Housing and Urban Development, Washington, D.C. 20410, (202) 755–7055. (This is not a toll-free telephone number.)

Accordingly, the Department is correcting 24 CFR Part 251, as published at 49 FR 32016, as follows:

§ 251.703 [Corrected]

On page 32034, column two, § 251.703, paragraph (a), "(a) For any units receiving section 8 assistance, until rents and charges for facilities and services must" is corrected to read "(a) To the extent that units in a project are occupied by assisted tenants and are subject to a section 8 Housing Assistance Payments Contract under Part 880, Part 881, Part 883, or Part 886, the unit rents and charges for facilities and services shall".

Dated: September 27, 1984.

Donald A. Franck,

Acting Assistant General Counsel for Regulations.

[FR Doc. 84–26037 Filed 10–1–84; 8:45 am]

BILLING CODE 4210–27–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 30

[OA–FRL–2677–7]

General Regulation for Assistance Programs; Corrections

AGENCY: Environmental Protection Agency.

ACTION: Final Rule; corrections.

SUMMARY: This document corrects the final General Regulation for Assistance Programs (40 CFR Part 30) that appeared at page 45056 in the **Federal Register** of Friday, September 30, 1983, (48 FR 45056). This action is necessary to:

1. Clarify the record keeping requirements in § 30.500(a)(5) for recipients subject to OMB Circular A–110;
2. Clarify what constitutes acceptable time records for recipients subject to OMB Circular A–21;
3. Incorporate the new requirements of OMB Circular A–124 on patent rights;
4. Reference the revised OMB Circular A–122;
5. Incorporate cross references to the Federal Acquisition Regulation; and
6. Correct typographical and other errors in the final rule.

FOR FURTHER INFORMATION CONTACT: Richard A. Johnson, Grants Administration Division (PM–216), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 382–5296.

SUPPLEMENTARY INFORMATION: In addition to correcting typographical and other inadvertent errors in the final rule, this document makes the following changes.

Section 30.308 Incurring costs.

We revised § 30.308 to allow recipients to incur costs between the date the award official signs the assistance agreement and the date the recipient signs the agreement provided the costs are identified in the agreement. We made this change because there are many instances when recipients need to incur costs before both parties sign the agreement. This provision was in the EPA's former general grant regulation and was inadvertently deleted from the final rule.

Sections 30.410 and 30.601 Definition of "lobbying."

We revised these sections to reference OMB's revised definition of "lobbying" in OMB Circular A–122, Attachment B (49 FR 18260, April 27, 1984).

Section 30.500 Time records for institutions of higher education.

We revised § 30.500(a)(5) to state that institutions of higher education may account for the distribution of salaries and wages of professorial or professional time spent on a particular assistance program by budgeted, planned, or assigned activity if the system used for wages and salaries meets the requirements in OMB Circular A–21, Transmittal Memorandum Number 1, July 23, 1982.

Sections 30.505, 30.1101, 30.1102, and 30.1103 Patent requirements.

We revised these sections to reference the changes in OMB Circular A–124 and to change the references for patent requirements for profit making organizations to the new Federal Acquisition Regulation. These changes make it clear that each assistance award is subject to the patent clause in OMB Circular A–124, Attachment A. Section 30.505 is changed to delete the requirement that recipients submit periodic invention reports whether or not the recipient has any inventions to report, but still requires that recipients report all inventions.

Section 30.532 Personal property requirements.

We revised § 30.532 to make it clear that nonprofit institutions of higher education conducting basic or applied research and non-profit organizations whose primary purpose is the conduct of scientific research are not required to follow the personal property disposal requirements in § 30.532. This change is made to comply with the requirements in OMB Circular A–110, Attachment N.

Dated: September 13, 1984.

Howard M. Messner,

Assistant Administrator for Administration and Resources Management.

Accordingly, the following corrections are made in FR Doc. 83–26458 appearing on page 45056 in the September 30, 1983, issue:

1. On page 45062, the title of § 30.518 is changed to read: What are the procedures for publishing scientific, informational, and educational documents?
2. On page 45062, the title of § 30.900 is changed to read: What measures may EPA take for non-compliance?
3. On page 45062, § 30.905, the title is changed to read: May I request a review of a termination or annulment?
4. On page 45062, the title of § 30.1001 is changed to read: Will EPA approve any exceptions to these regulations?
5. On page 45062, § 30.1220, the word "proposed" in the title is changed to "final."
6. On page 45062, § 30.1225, the word "proposed" in the title is changed to "final."

§ 30.102 [Corrected]

7. On page 45063, § 30.102(g), add a comma after the word "Compensation."

§ 30.200 [Corrected]

8. On page 45063, § 30.200, the definition for "Continuation award" is revised to read as follows:

Continuation Award. An assistance agreement after the initial award, for a project which has more than one budget period in its approved project period, or annual awards, after the first award, to State, Interstate, or local agencies for continuing environmental programs (see § 30.306).

9. On page 45063, § 30.200, the title of the definition of *Foreign grants* is changed to *Foreign awards.*

§ 30.202 [Corrected]

10. On page 45064, § 30.302(c), the last line is changed to read: "* * * fellowships, training, special investigations, surveys, studies, and most training assistance."

§ 30.302 [Corrected]

11. On page 45065, § 30.302(d)(2), the second to last line is changed by adding the word "quality" after the word "recipient's."

§ 30.306 [Corrected]

12. On page 45065, § 30.306(a), in lines 9 and 15 the words "make" and "award," respectively are changed to "makes" and "awards."

13. On page 45065, § 30.306(b)(5) is changed to read: "An invention report, if applicable; * * *"

§ 30.307 [Corrected]

14. On page 45065, § 30.307(a)(2), the fourth line is changed to add a comma after the word "Compensation."

15. On page 45065, § 30.308 is corrected to read as follows:

§ 30.308 When may I begin incurring costs?

(a) Except as permitted in § 30.306(d), paragraph (b) of this section, or other EPA regulations, the award official and you must sign the EPA assistance agreement before you incur costs.

(b) You may incur costs between the date the award official signs the assistance agreement and you sign the agreement, provided the costs are identified in the agreement and you do not change the agreement.

§ 30.410 [Corrected]

16. On page 45066, § 30.410(c) is changed to read:

(c) *Other non-profit institutions* must use OMB Circular A–122, as revised;

17. On page 45066, § 30.410(d) is changed to read:

(d) *Profit-making Organizations* must use Federal Acquisition Regulation 48 CFR Subparts 31.1 and 31.2;

§ 30.500 [Corrected]

18. On page 45066, § 30.500(a)(5) is changed to read:

(5) Time records and other supporting data. Institutions of higher education may account for the distribution of salaries and wages of professorial or professional staff by budgeted, planned, or assigned work activity if the system for wages and salaries meets the requirements in OMB Circular A–21;

§ 30.501 [Corrected]

19. On page 45067, § 30.501(d), line one is changed to read: "(d) If litigation, a claim, a dispute under Subpart L, or * * *."

20. On page 45067, § 30.501(d), line five, substitute the word "dispute" for the word "appeal."

§ 30.503 [Corrected]

21. On page 45067, § 30.503(e), line three, add the word "treatment" after the word "wastewater."

§ 30.505 [Corrected]

22. On page 45068, § 30.505(b), line four, add the word "and" after the word "period."

23. On page 45068, § 30.505(c), is revised to read as follows:

§ 30.505 What reports must I submit?

* * * * *

(c) *Invention Reports.* You must report all inventions to the award official (see Subpart K for details).

* * * * *

§ 30.518 [Corrected]

24. On page 45068, § 30.518(d), second line, the spelling of the word "refereed" is corrected.

25. On page 45068, § 30.518(d), last line, the spelling of the word "endorsement" is corrected.

§ 30.530 [Corrected]

26. On page 45069, § 30.530(a) line two is changed by inserting the words *"conducting basic or applied research"* after the word *"education."*

§ 30.53 [Corrected]

27. On page 45069, § 30.531, line two is changed by inserting the words "conducting basic or applied research" after the word "education."

28. On page 45069, § 30.532, the first paragraph is changed by adding the following two sentences before the first sentence in the opening paragraph: "Nonprofit institutions of higher education conducting basic or applied research and nonprofit organizations whose primary purpose is the conduct of scientific research are exempt from the following requirements. All other recipients must comply with the following requirements."

29. On page 45070, § 30.532(b) is changed to read:

§ 30.532 How do I dispose of personal property?

* * * * *

(b) EPA is entitled to compensation on nonexpendable personal property you purchased for more than $1,000. You may keep it, provided you compensate EPA for its proportionate share of the current fair market value. If you do not want to keep the property, your project officer will give you instructions for disposition."

* * * * *

30. On page 45070, § 30.532(c), first line, is changed to read: "If, at the end of your project, you * * *"

§ 30.535 [Corrected]

31. On page 45070, § 30.535(b), the reference to paragraph "(e)" in the first sentence is changed to reference paragraph "(f)".

32. On page 45070, § 30.535(f)(2)(i), add a ";" after the word "share" in the last line.

§ 30.540 [Corrected]

33. On page 45070, § 30.540(b), the last sentence is changed to read: "EPA will continue to audit subagreements under the . . . ."

§ 30.600 [Corrected]

34. On page 45070, § 30.600(c), is changed by deleting the words "* * * that requires the recipients of those subagreements * * *" from the eleventh and twelfth lines.

35. On page 45071, § 30.600(d), the cross reference to "Part 12" in the last line is changed to "Part 7".

36. On page 45071, § 30.600(e), the last sentence is changed to read: "See 40 CFR Part 7 and 8 for specific requirements."

37. On page 45071, § 30.600 (f), (g), and (h), add the following sentence as the last sentence in each paragraph: "See 40 CFR Part 7 for specific requirements."

38. On page 45071, § 30.601 is revised to read as follows:

§ 30.601 Are there restrictions on the use of assistance funds for advocacy purposes?

(a) You may not use assistance funds for:

(1) Lobbying or influencing legislation before Congress;

(2) Partisan or political advocacy purposes; or

(3) An activity whose objectives could affect or influence the outcome of an EPA regulatory or adjudicatory proceeding.

(b) For nonprofit recipient organizations other than educational institutions, EPA will implement § 30.601(a) (1) and (2) consistent with the requirements of OMB Circular A–122, as revised (see § 30.410(c)).

39. On page 45072, § 30.900 the title is changed to read "§ 30.900 What measures may EPA take for non-compliance?"

40. On page 45072, § 30.900, the first paragraph is changed by deleting the word "sanctions" from the fourth line.

41. On page 45072, § 30.900(e) is revised to read as follows:

§ 30.900 What measures may EPA take for non-compliance?

* * * * *

(e) Request that the Director, Grants Administration Division, debar or suspend you as an eligible recipient.

* * * * *

42. On page 45073, § 30.905 is changed to read as follows:

§ 30.905 May I request a review of a termination or annulment?

You may request a review of EPA's decision to terminate or annul an assistance agreement. Within thirty days after the notice of termination or annulment is issued, you must file a written request for review to the appropriate Assistant or Regional Administrator. Your request for review must follow the procedures under Subpart L of this part.

§ 30.906 [Corrected]

43. On page 45073, § 30.906, the second line of the title is changed to read "* * * suspension or debarment?"

§ 30.100 [Corrected]

44. On page 45073, § 30.1001, the title is changed to read: "Will EPA approve any exceptions to these regulations?"

45. On page 45073, § 30.1001(c), the word "grant" in the third line is changed to "awards".

§ 30.1005 [Corrected]

46. On page 45073, § 30.1005, the title is changed to read: "May I request a review of a deviation decision?"

47. On page 45073, § 30.1005, the first line is changed to read: "You may not request a review of a deviation. * * *"

§ 30.1101 [Corrected]

48. On page 45073, § 30.1101(a), the fourth and fifth lines are changed to read: "* * * of, and must comply with 35 U.S.C. Chapter 18 (1982), and the patent rights clause in OMB Circular A–124, Attachment A (49 FR 10393).

49. On page 45074, § 30.1101(b), the last sentence is changed to read: "See Federal Acquisition Regulation 48 CFR Part 27 and 48 CFR § 52.227–13 (49 FR 12972)."

50. On page 45074, § 30.1101(c), the last two lines are changed to read: "* * * with 35 U.S.C. Chapter 118 (1982) and the patent rights clause cited in § 30.1101(a)."

51. On page 45074, § 30.1102 is revised to read as follows:

§ 30.1102 What are my invention rights and my reporting requirements if my award is other than an award under section 6914 of RCRA?

You must report all inventions to the Award Official and decide whether you wish to retain domestic and/or foreign rights to your invention. You must report your invention and notify the Award Official of your decision within the time periods specified in the patent rights clause cited in § 30.1101(a). If you do not retain the rights to your invention, EPA may acquire the title from you. If you retain title, EPA acquires a royalty-free, irrevocable license to use the invention throughout the world by, and on behalf of, the Federal Government.

§ 30.1103 [Corrected]

52. On page 45074, § 30.1103, the cross reference in the sixth line is changed to read: ". . . (48 CFR 52.227–13) . . . ."

§ 30.1106 [Corrected]

53. On page 45074, § 30.1106(a), the ninth and tenth lines are changed to read: ". . . benefits and must comply with 35 U.S.C. Chapter 18 (1982) and the President's . . . ."

54. On page 45074, § 30.1106(a) is changed by adding the words "and § 30.1103" after "§ 30.1101(b)."

55. On page 45074, § 30.1106(a), the twelfth line is changed to read ". . . Policy of February 18, 1983, except that a . . . ."

§ 30.1108 [Corrected]

56. On page 45074, § 30.1108, the second sentence is changed to read: "However, in awards subject to 35 U.S.C. Chapter 18 (1982) the Administrator. . . ."

§ 30.1200 [Corrected]

57. On page 45074, § 30.1200(c), the first sentence is changed by adding "'s" after the word "official."

§ 30.1235 [Corrected]

58. On page 45075, § 30.1235, the first sentence is changed to read: "You may not request a review of:"

Appendix D—[Corrected]

59. On page 45076, Appendix D, item 17, is changed to read: "(17) Follow certain procedures to request a review of an Award Official's written final decision . . . ."

[FR Doc. 84–26031 Filed 10–1–84; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 61

[AD–FRL 2676–5]

National Emission Standards for Hazardous Air Pollutants; Amendments to Standard for Benzene Equipment Leaks; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: This document corrects portions of 40 CFR Part 61, Subpart V, that were published June 6, 1984 (49 FR 23498).

FOR FURTHER INFORMATION CONTACT: Mr. Fred Dimmick or Mr. Gilbert Wood, Standards Development Branch, Emission Standards and Engineering Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5578. This action is necessary to correct errors that appeared in the June 6, 1984, publication of 40 CFR Part 61, Subpart V.

Dated: September 17, 1984.

Joseph A. Cannon,

Assistant Administrator for Air and Radiation.

The following corrections are made in FR Document 84–14479 appearing on page 23498 in the issue of June 6, 1984:

1. On page 23509, bottom of column three; the estimated maximum lifetime risk numbers "4.5×10^{4} to about 4.2×10^{6}" are corrected to read "4.5×10^{-4} to about 4.2×10^{-4}."

§ 61.241 [Corrected]

2. On page 23514, column one, in § 61.241, in the definition for "In VOC service;" the CFR citation, "40 CFR 60.458(d)," is corrected to read "40 CFR 60.485(d)," and the term "in liquid service" is corrected to read "in heavy liquid service."

3. On page 23514, column two, in the definition for "Semiannual;" the phrase "for existing sources" is added to the end of the definition.

§ 61.242–1 [Corrected]

4. On page 23514, column two, § 61.242–1, paragraph (c)(1), the list of section numbers should also include "§ 61.242–6."

§ 61.242–2 [Corrected]

5. On page 23515, column one, § 61.242–2; paragraph (g) is added as follows:

* * * * *

(g) Any pump that is located within the boundary of an unmanned plant site is exempt from the weekly visual inspection requirement of paragraphs (a)(2) and (d)(4) of this section, and the daily requirements of paragraph (d)(5)(i) of this section, provided that each pump is visually inspected as often as practicable and at least monthly.

§ 61.242–3 [Corrected]

6. On page 23515, column one, § 61.242–3; paragraph (e)(1) is corrected to read: "(e)(1) Each sensor as required in paragraph (d) of this section shall be checked daily or shall be equipped with an audible alarm unless the compressor is located within the boundary of an unmanned plant site."

§ 61.242–4 [Corrected]

7. On page 23515, column two, § 61.242–4; paragraph (b)(1) is corrected by adding the following words to the end of the paragraph ", except as provided in § 61.242–10."

§ 61.242–8 [Corrected]

8. On page 23516, column two, § 61.242–8; the phrase ", except as provided in § 61.242–1(c)." is added at the end of paragraph (a).

§ 61.242–9 [Corrected]

9. On page 23516, column two, § 61.242–9; the phrase ", except as provided in § 61.242–1(c)." is added at the end of paragraph (a).

§ 61.242–11 [Corrected]

10. On page 23516, column three, § 61.242–11; the phrase ", except as provided in § 61.242–1(c)." is added at the end of paragraph (a).

§ 61.242–11 [Corrected]

11. On page 23516, column three, § 61.242–11, paragraph (d)(1); "1 consecutive hours" is corrected to read "2 consecutive hours."

§ 61.245 [Corrected]

12. On page 23518, column one, § 61.245, paragraph (b)(4)(i); "3ppm" is corrected to read 10 ppm.

13. On page 23518, column one, § 61.245, paragraph (c)(4); "655 upm" is corrected to read "500 ppm."

14. On page 23518, column two, § 61.245, paragraph (e)(3); "K = constant, 1.74×10^{7} * * *" is corrected to read "K = constant, 1.74×10^{-7} * * *".

15. On page 23519, column one, § 61.246; paragraph (e)(1) is revised as

follows: "(1) A list of identification numbers for equipment (except welded fittings) subject to the requirements of this subpart."

16. On page 23519, column three, § 61.247; a note is added to paragraph (b)(4) as follows:

"[Note.—Compliance with the requirements of § 61.10(c) is not required for revisions documented under this paragraph.]."

[FR Doc. 84-25172 Filed 10-1-84; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 233

[R5-FRL-2684-7]

Michigan Department of Natural Resources Section 404 Permit Program Approval

AGENCY: Environmental Protection Agency.

ACTION: Approval of State Program.

SUMMARY: The State of Michigan has submitted an application under Section 404(g) of the Clean Water Act for the approval of a program to regulate the discharge of dredged or fill material into certain waters of the United States within the State. After careful review of the application and comments received from the public, the Agency has determined that the State's program to regulate discharges of dredged or fill material meets the requirements of Section 404(h) of the Act. Therefore, this application is approved.

EFFECTIVE DATE: This regulation shall be promulgated for purposes of judicial review at 1:00 p.m. eastern daylight time on October 16, 1984, and shall become effective on that date.

FOR FURTHER INFORMATION CONTACT: Elmer D. Shannon, Chief, Dredge and Fill Section, Water Quality Branch, Water Division, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. PH (312) 886-6680. Copies of the responsiveness summary of the public hearing and public notice are available from the above address.

SUPPLEMENTARY INFORMATION: The Federal Clean Water Act (33 U.S.C. 1251 *et seq.*, hereinafter the "CWA") established the Section 404 Permit Program, under which the Secretary of the Army, acting through the Chief of Engineers of the U.S. Army Corps of Engineers (Corps), may issue permits for the discharge of dredged or fill material into waters of the United States at specified disposal sites. Section 404(g) of the CWA provides that the Governor of any State desiring to administer its own individual and general permit program for the discharge of dredged or fill material into waters of the United States (other than those waters which are presently used, or are susceptible for use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce shoreward to the ordinary high water mark, including all waters which are subject to the ebb and flow of the tide shoreward to their mean high water mark, or mean higher high water mark on the west coast, including wetlands adjacent thereto) within its jurisdiction may submit the Administrator of the USEPA a full and complete description of the program it proposes to establish and administer under State law, including a statement from the State Attorney General that the laws of the State provide adequate authority to carry out the described program. The Administrator is required to approve such submitted program unless the program does not meet the requirements of Section 404(h) of the CWA. Among other authorities, the State must have: (1) Adequate authority to issue permits which comply with all pertinent requirements of the CWA, including the guidelines developed under Section 404(b)(1); (2) adequate authority, including civil and criminal penalties, to abate violations of the permit or the permit program; and (3) authority to ensure that the Administrator, the public, any other affected State, and other affected agencies, are given notice of each application for permit and are provided an opportunity for a public hearing before a ruling on each such application. The regulations establishing the requirements for the approval of State 404 Permit Programs were published at 48 FR 14208 on April 1, 1983 (40 CFR Part 233)

On April 3, 1984, the State of Michigan completed the submission of an application under Section 404(g) for EPA approval of a program administered by the Michigan Department of Natural Resources (MDNR) to regulate the discharge of dredged or fill material into waters of the United States within the State. On April 10, 1984, EPA published notice of its receipt of the application, requested public comments, and scheduled a public hearing on the Michigan 404 Program submitted by the State (49 FR 14185). A public hearing was held on May 10, 1984, in Lansing, Michigan.

After careful review of this application, I have determined that the Michigan 404 Program submitted by the MDNR to regulate discharges of dredged or fill material meets the requirements of Section 404(h) of the CWA, and hereby approve it. The effect of this approval is to establish this program as the applicable regulatory program under the CWA for discharges of dredged or fill material into waters of the United States in Michigan that are not presently used, or susceptible for use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce shoreward to the ordinary high water mark, including wetlands adjacent thereto.

In this application, Michigan chooses not to assert jurisdiction over Indian lands or reservations for purposes of its 404 Program. Therefore, the Corps will continue to operate its 404 Program on any Indian lands or reservations.

Since this approval, in large part, simply ratifies State regulations and requirements already in effect under State law, EPA is publishing this approval, effective immediately. This will enable Michigan to begin immediately regulating discharges of dredged or fill material under the Federally approved program.

The terms listed below comprise a complete listing of the thesaurus terms associated with 40 CFR Part 233, which sets forth the requirements for a State requesting the authority to administer its own program to regulate discharges of dredged or fill material. The terms may not all apply to this particular notice.

List of Subjects in 40 CFR Part 233

Administrative practice and procedure, Reporting and recordkeeping requirements, Confidential business information, Water supply, Indians-lands, Intergovernmental relations Penalties, Confidential business information.

OMB Review

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I certify that approval by EPA under Section 404 of the Clean Water Act of the application by the Michigan Department of Natural Resources will not have a significant economic impact on a substantial number of small entities, since this rule only approves State actions. It imposes no new requirements on small entities.

Authority: 33 U.S.C. 1344, CWA 404.

Dated: August 1, 1984.

Alan Levin,

Acting Regional Administrator.

For the reasons set forth in the preamble, Title 40 of the Code of Federal Regulations is amended as follows:

PART 233—404 STATE PROGRAM TRANSFER REGULATIONS

1. Amend 40 CFR Part 233 by adding a new Subpart D and section 233.42 as follows:

Subpart D—Approved State Programs

§ 233.42 Michigan.

The applicable regulatory program for discharges of dredged or fill material into waters of the United States in Michigan that are not presently used, or susceptible for use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce shoreward to the ordinary high water mark, including wetlands adjacent thereto, except those on Indian lands, is the program administered by the Michigan Department of Natural Resources, approved by EPA, pursuant to Section 404 of the CWA. Notice of this approval was published in the **Federal Register** on [ ]; the effective date of this program is October 16, 1984.

This program consists of the following elements, as submitted to EPA in the State's program application.

(a) *Incorporation by reference.* The requirements set forth in the State statutes and regulations cited in this paragraph are hereby incorporated by reference and made a part of the applicable 404 Program under the CWA for the State of Michigan. This incorporation by reference was approved by the Director of the Federal Register on October 16, 1984.

(1) The Great Lakes Submerged Lands Act, MCL 322.701 *et seq.*, reprinted in Michigan 1983 Natural Resources Law.

(2) The Water Resources Commission Act, MCL 323.1 *et seq.*, reprinted in Michigan 1983 Natural Resources Law.

(3) The Goemaere-Anderson Wetland Protection Act, MCL 281.701 *et seq.*, reprinted in Michigan 1983 Natural Resources Law.

(4) The Inland Lakes and Stream Act, MCL 281.951 *et seq.*, reprinted in Michigan 1983 Natural Resources Law.

(5) The Michigan Administrative Procedures Act of 1969, MCL 24–201 *et seq.*

(6) An act concerning the Erection of Dams, MCL 281.131 *et seq.*, reprinted in Michigan 1983 Natural Resources Law.

(7) R 281.811 through R 281.819 inclusive, R 281.821, R 281.823, R 281.824, R 281.832 through R 281.839 inclusive, and R 281.841 through R 281.845 inclusive of the Michigan Administrative Code (1979 ed., 1982 supp.).

(b) *Other Laws.* The following statutes and regulations, although not incorporated by reference, also are part of the approved State-administered program:

(1) Administrative Procedures Act, MCLA 24.201 *et seq.*

(2) Freedom of Information Act, MCLA 15.231 *et seq.*

(3) Open Meetings Act, MCLA 15.261 *et seq.*

(4) Michigan Environmental Protection Act, MCLA 691.1201 *et seq.*

(c) *Memoranda of Agreement.* (1) The Memorandum of Agreement between EPA Region V and the Michigan Department of Natural resources, signed by the EPA Region V Administrator on December 9, 1983.

(2) The Memorandum of Agreement between the U.S. Army Corps of Engineers and the Michigan Department of Natural Resources, signed by the Commander, North Central Division, on March 27, 1984.

(d) *Statement of Legal Authority.* (1) "Attorney General Certification Section 404/State of Michigan", signed by Attorney General of Michigan, as submitted with the request for approval of "The State of Michigan 404 Program", October 26, 1983.

(e) The Program description and any other materials submitted as part of the original application or supplements thereto.

[FR Doc. 84-26055 Filed 10-1-84; 8:45 am]

BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 201-1, 201-4, 201-35, and 201-36

[FIRMR Temp. Regs. 64, Supp. 2; 71, Supp. 1; F-499, Supp. 1; F-500, Supp. 1; and B-6, Supp. 1]

Extension of Expiration Dates for Certain FIRMR Temporary Regulations

AGENCY: Office of Information Resources Management, GSA.

ACTION: Temporary regulations, extension of expiration dates.

SUMMARY: This temporary regulation extends the expiration dates of five Federal Information Resources Management Regulation (FIRMR) temporary regulations that were due to expire in fiscal year 1984. Codification of these temporary regulations will follow publication of the full text version of the FIRMR. The intent is to provide agencies and other users of the FIRMR with a clear transition of existing codified policies and procedures to the new full text version, separate from codification of these existing temporary regulations and new regulatory development.

DATES: Effective date: This regulation is effective September 1, 1984. Expiration date: This regulation expires on September 30, 1985.

FOR FURTHER INFORMATION CONTACT: David R. Mullins, Policy Branch (KMPP), Office of Information Resources Management, telephone (202) 566–0194 or FTS, 566–0194.

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981. GSA decisions are based on adequate information concerning the need for, and the consequences of the rule. The rule is written to ensure maximum benefits to Federal agencies. This is a Government-wide management regulation that will have little or no net cost effect on society.

List of Subjects in 41 CFR Parts 201–1, 201–4, 201–35, and 201–36

Archives and records, Classified information, Government information resources activities, Government procurement, Government property management, Computer technology, Telecommunications.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

In 41 CFR Chapter 201, Appendix A is amended by adding the following FIRMR Temporary Regulations: 64, Supplement 2; 71, Supplement 1; F–499, Supplement 1; F–500, Supplement 1; and B–6, Supplement 1. The text of the Supplements is identical. Therefore, it is being printed below only once. When published in the Code of Federal Regulations, the text will appear in FIRMR Temp. Reg. 64, Supp. 2. FIRMR Temp. Regs. 71, Supp. 1; F–499, Supp. 1; F–500, Supp. 1; and B–6, Supp. 1 will reference the text of FIRMR Temp. Reg. 64, Supp. 2.

Federal Information Resources Management Regulation—Temporary Regulation 3

To: Heads of Federal agencies

Subject: Extension of FIRMR temporary regulations [FIRMR Temp. Regs. 64, Supp. 2; 71, Supp. 1; F–499, Supp. 1; F–500, Supp. 1; and B–6, Supp. 1]

1. *Purpose.* This temporary regulation extends the expiration dates of five Federal Information Resources

Management Regulation (FIRMR) temporary regulations that were due to expire in fiscal year 1984.

2. *Effective date.* This regulation is effective September 1, 1984.

3. *Expiration date.* This regulation expires on September 30, 1985.

4. *Background.*

a. The FIRMR was effective April 1, 1984. The initial establishment of the FIRMR provides for the continued (but renumbered) use of Federal Procurement Regulation (FPR) Subparts 1–4.11, 1–4.12 and 1–4.13; Federal Property Management Regulation (FPMR) Subchapter F (Parts 101–35, 36, and 37); and certain provisions of FPMR Subchapter B as FIRMR provisions. FPR and FPMR temporary regulations that address ADP and telecommunications were designated as FIRMR temporary regulations. No changes in authorities, policies, or procedures were involved in these actions.

b. The full text of the referenced FPR/FPMR provisions are now being integrated into the FIRMR General Structure. To ensure that no substantive new material will be included in this phase of FIRMR publication, GSA is extending the expiration dates of FIRMR temporary regulations 64, 71, F–499, F–500 and B–6 that were due to expire in fiscal year 1984. Codification of these temporary regulations will follow publication of the full text version of the FIRMR.

5. *Explanation of changes/effect on other directives.* By supplemental action as set forth herein, the expiration date of the following temporary regulations is extended to September 30, 1985:

a. FIRMR Temporary Regulation 64 (including Supplement 1)
b. FIRMR Temporary Regulation 71
c. FIRMR Temporary Regulation F–499
d. FIRMR Temporary Regulation F–500
e. FIRMR Temporary Regulation B–6

6. *Agency actions.* Pending the codification of these temporary regulations into the FIRMR, agencies shall continue to follow the policies and procedures of the temporary regulations extended herein. Because only one copy of this multiple temporary regulation is being distributed in looseleaf form, distributees should make pen and ink notations on the pertinent temporary regulations.

7. *Distribution of this directive.* Because the FIRMR looseleaf edition distribution list has not yet been established, this FIRMR temporary regulation will be distributed to addressees on GSA's FPR and FPMR Subchapters B and F publication distribution lists. It is suggested that the directive be retained for continuing use until the provisions are incorporated into the FIRMR or are otherwise superseded or canceled.

8. *Information and assistance.* Inquiries should be directed to David R. Mullins, Policy Branch (KMPP), Office of Information Resources Management, Telephone (202) 566–0194 or FTS, 566–0194.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 84–26101 Filed 10–1–84; 8:45 am]

BILLING CODE 6820–25–M

DEPARTMENT OF ENERGY

48 CFR Ch. 9

Acquisition Regulations

AGENCY: Department of Energy.

ACTION: Final rule, corrections.

SUMMARY: This document will correct errors in the DOE Acquisition Regulation (DEAR) final rule published in the **Federal Register** on March 28, 1984, at 49 FR 11922. The corrections are not substantive but rather are in the nature of corrections of misspellings, corrections of erroneous citations, omissions of words, and the like discovered in the course of using the regulations. This rule also amends two sections of the DEAR by adding paragraphs which were inadvertently omitted when the DOE Procurement Regulations were converted to the DEAR. These additions are not substantively significant but an opportunity for comment is provided.

DATES: Comments must be received on or before November 1, 1984 to be considered. The rule will be effective October 1, 1984.

ADDRESSES: Comments should be addressed to the Department of Energy, Procurement Policy Branch (MA–421.1), 1000 Independence Avenue, SW., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: Mr. Richard B. Langston, Policy and Procedures Division (MA–421), Procurement and Assistance Management Directorate, (202) 252–8250.

SUPPLEMENTARY INFORMATION:

List of Subjects in 48 CFR Chapter 9

Government procurement.

Issued in Washington, D.C. on September 24, 1984.

Berton J. Roth,

Director, Procurement and Assistance Management Directorate.

The following corrections and amendments of a technical and editorial nature are made to 48 CFR Ch. 9, appearing in 49 FR 11922, published March 28, 1984.

Authority: Section 644 of the Department of Energy Organization Act, Pub. L. 95–91 (42 U.S.C. 7254); and section 148 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2168).

CHAPTER 9—DEPARTMENT OF ENERGY

By deleting the word "Headquarter's" in the title of Part 971 in the Table of Contents to read "Review and approval of contract action." (11936, column 1)

PART 901—FEDERAL ACQUISITION REGULATIONS SYSTEM

By inserting the word "Act" after the words "Atomic Energy" in the "Authority" paragraph at the end of the Table of Contents. (11936, column 2)

PART 902—DEFINITIONS OF WORDS AND TERMS

902.100 [Corrected]

By correcting the spelling of the word "duties" in the last sentence of the paragraph defining "Head of the Contracting Activity (HCA)." (11940, column 2)

PART 904—ADMINISTRATIVE MATTERS

904.404 [Corrected]

By changing the section reference from "9004.404" to "904.404." (11942, column 1)

904.601–70 [Corrected]

By inserting in paragraph 904.601–70(b) the words "or receipt of a subcontracting report" after the word "award." (11942, column 2)

PART 908—REQUIRED SOURCES OF SUPPLIES AND SERVICES

By changing the word "Administrative" to "Administration" in the Table of Contents for section 908.7001. (11945, column 3)

908.802 [Corrected]

By inserting a "period" at the end of the first sentence of paragraph 908.802(b). (11946, column 1)

908.1170 [Corrected]

By changing the date in paragraph 908.1170(a) from "November 1" to "December 1." (11946, column 2)

908.7101–2 [Corrected]

By changing the reference in paragraph 908.7101–2(a) from "109–39.51" to "109–38.51." (11946, column 3)

908.7101-3 [Corrected]

By changing the word "believe" in line 12 to "believed." (11947, column 1)

By changing the reference in the last line from "109-38.5101-4" to "109-38.5102-4." (11947, column 1)

908.7101-5 [Corrected]

By changing the reference in the last sentence from "109-38.5101-5" to "109-38.5102." (11947, column 2)

908.7101-6 [Corrected]

By changing the date in paragraph 908.7101-6(a) from "November 1" to "December 1." (11947, column 2)

908.7101-7 [Corrected]

By changing the word "number" in the last sentence of paragraph 908.7101-7(b) to "numbers." (11947, column 3)

908.7105 [Corrected]

By changing the reference in the last line from "109-25.302-2.50" to "109-25.302-2." (11947, column 3)

908.7106 [Corrected]

By changing the reference in the last line of paragraph 908.7106(a) from 41 CFR "109-25.302-2.50" to "109-25.302-2." (11947, column 3)

908.7111 [Amended]

By adding the following three paragraphs, at the end of the section. These citations were formally found at 41 CFR 9-5.5206-11(a) through (c).

(a) The Department of the Army has granted clearance for Federal agencies to procure, without further reference to or clearance from that Department, all arms and ammunition of types which are not peculiar to the military services, and which are readily procurable in the civilian market.

(b) Acquisition of arms and ammunition readily procurable in the civilian market shall be made in accordance with regular acquisition procedures.

(c) Acquisition of arms and ammunition which are peculiar to the military services shall be made by submission of order form to the Commanding General, Headquarters, U.S. Army Material Development and Readiness Command, 5001 Eisenhower Avenue, Alexandria, VA 22333.

PART 910—SPECIFICATIONS, STANDARDS, AND OTHER PURCHASE DESCRIPTIONS

910.004 [Corrected]

By changing the word "revolving" to "resolving" in paragraph 910.004(g)(2)(v). (11954, column 1)

PART 913—SMALL PURCHASE AND OTHER SIMPLIFIED PURCHASE PROCEDURES—[AMENDED]

By adding an "S" to the word "funds" in subpart 913.4 title in the Table of Contents. (11954, column 3)

PART 914—FORMAL ADVERTISING

914.407-70 [Corrected]

By inserting the word "the" between the words "of" and "Contracting" in paragraph 914.407-70(c). (11955, column 3)

PART 915—CONTRACTING BY NEGOTIATING

915.307 [Corrected]

By changing the word "Authority" to lower case "authority" in section title. (11957, column 2)

915.406-5 [Corrected]

By changing the phrase "offeror/bidder" or "bidder/offeror" to "offeror or bidder" in paragraphs (1) through (4) of the format of Representations and Certifications. (11958, column 1)

By inserting ", (i) and (ii)," after "(i)" in the first line of paragraph (3) of the format of Representations and Certifications. (11958, column 2)

By changing "DOD" to "DOE" in paragraph (3)(i), eighth line from top, in format of Representations and Certifications. (11958, column 2)

By changing the word "records" to "record" in last line of paragraph (4) in format of Representations and Certifications. (11958, column 2)

By changing the word "an" to "and" in line 6 of paragraph 915.406-5(a)(4). (11958, column 2)

915.504 [Corrected]

By changing the word "board" to "broad" in paragraph 915.504(b)(6)(iii)(B). (11959, column 3)

915.506-2 [Corrected]

By changing the references in paragraph 915.506-2(a) from "917.7203.3 (a) through (h)" and "917.7204(c)" to "917.7201-3" and "917.70 and 917.7203(c)(1) through (8)", respectively. (11960, column 2)

By changing the last paragraph reference "(g)" to "(f)". (11960, column 3)

915.612 [Corrected]

By changing the reference in paragraph 915.612(d) from "927.7003" to "927.7000." (11961, column 2)

915.805-70 [Corrected]

By inserting the word "or" after the word "condition" in paragraph 915.805-70(c)(1). (11962, column 3)

915.971-6 [Corrected]

By changing the reference in paragraph 915.971-6(b)(6) from "936.7200(b)(4)" to "936.7201." (11972, column 1)

By changing the reference in paragraph 915.971-6(c) from "915.971-5(f)" to "915.971-5(h)." (11972, column 1)

915.1002 [Corrected]

By changing the word "justifies" to "justify" in paragraph 915.1002(a). (11972, column 3)

By inserting "a" after the word "upon" in line 19 from the top of paragraph 915.1002(a). (11972, column 3)

PART 917—SPECIAL CONTRACTING METHODS

917.505-70 [Corrected]

By deleting the word "buy" where it appears in paragraphs 917.505-70 (b) and (c). (11975, columns 1 and 2)

917.7113 [Corrected]

By changing the reference in Appendix A, Article A-II(b) of 917.7113, from "917.7107-1(c)" to "917.7107-2(d)." (11987, column 2)

By changing the reference in Appendix A, Article A-II(c) of 917.7113, from "917.7107-1(e) to "917.7107-2(e)." (11987, column 2)

By changing the reference in Appendix B, Article B-VII of 917.7113, from "925.227-7700" to "952.227-77." (11988, column 1)

By changing the reference in Appendix B, Article B-VIII of 917.7113, from "952.227-7100" to "952.227-71." (11988, column 1)

By correcting punctuation in Appendix B, Article B-IX(b) of 917.7113, by changing the comma after the word "work" in line 5 to a period and then capitalizing the following word "Title." (11988, column 2)

917.7203-2 [Corrected]

By changing the section numbering from "917.7203-2" to "917.7203." (11992, column 3)

PART 922—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITION

922.470 [Corrected]

By changing the reference in paragraph 922.470(c)(2), from "(c)" to "(e)". (11998, column 3)

By changing the reference in the last line of 922.470(c)(4) from "909.5703(b)" to "909.570-3." (11998, column 3)

922.471 [Corrected]

By changing the reference in paragraph 922.471(g)(3) from "922.403–71(c)" to "922.470(e)". (11999, column 3)

922.472 [Corrected]

By changing the word "it" to the word "if" at the beginning of the third sentence of paragraph 922.472(b)(1). (12000, column 1)

922.803 [Corrected]

By correcting the spelling of the word "appropriate" in the third sentence of paragraph 922.803(d). (12000, column 3)

922.7001 [Corrected]

By changing the word "decision" to the word "decisions" in the third sentence of paragraph 922.7001(b). (12001, column 3)

By correcting the spelling of the word "practices" in the fourth sentence of paragraph 922.7001(e). (12002, column 3)

By inserting the word "to" after the word "as" in the last sentence of paragraph 922.7001(f)(1). (12002, column 3)

PART 925—FOREIGN ACQUISITION

925.102 [Corrected]

By changing the paragraph designation from "(a)(4)" to "(b)". (12003, column 3)

By changing the reference from "25.102(a)(4)" to "25.102(a)". (12003, column 3)

By correcting the spelling of the word "factually" in the first sentence. (12003, column 3)

PART 927—PATENTS, DATA AND COPYRIGHTS

927.402–3 [Corrected]

By changing the reference in paragraph 927.402–3(d)(3) from "925.7000" to "927.7000." (12007, column 2)

PART 931—CONTRACT COST PRINCIPLES AND PROCEDURES

931.205–32 [Corrected]

By changing the reference in paragraph 931.205–32(a) from "952.321–70" to "952.231–70." (12011, column 3)

PART 936—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

936.601 [Corrected]

By deleting the words ", and 915.412" in the last sentence of 936.601. (12017, column 2)

936.602 [Corrected]

By changing the reference in 936.602–2(a) from FAR "36.603" to "36.6." (12017, column 2)

By changing the word "Office" to "Official" in the last sentence in paragraph 936.602–2(a). (12017, column 2)

936.602–3 [Corrected]

By changing the word "of" to "to" in the first line of paragraph 936.602–3(a)(2) following the word "intention". (12017, column 3)

By changing the word "selection" to "selected" in line 17 of paragraph 936.602–3(e). (12018, column 1)

936.605 [Corrected]

By correcting the spelling of the word "proposals" in paragraph 936.605(c)(3). (12019, column 2)

936.7002–3 [Corrected]

By changing the word "approved" to "approve" in the fourth sentence of paragraph 936.7002–3(a). (12020, column 3)

936.7002–9 [Corrected]

By changing the letter "t" to the word "the" in the third sentence of paragraph 936.7002–9(a). (12021, column 2)

936.7301 [Corrected]

By removing the hyphen in the word "precautions" which appears in the alternate paragraph (a) of provision 7. (12024, column 1)

By correcting the spelling of the word "indebtedness" in the title of provision 8. (12024, column 1)

PART 943—CONTRACT MODIFICATIONS

943.170 [Corrected]

By correcting the spelling of the word "unexpended" in the last line of paragraph 943.170(c)(2). (12031, column 2)

PART 944—SUBCONTRACTING POLICIES AND PROCEDURES

944.307 [Corrected]

By placing a semicolon after the word "system" and before the word "notifications" in line 6 of paragraph 944.307(b). (12032, column 3)

By changing the reference from "944.305–3(b)" to "FAR 44.305–3(b)." (12032, column 3)

PART 945—GOVERNMENT PROPERTY

By deleting the "s" at the end of the word "Standards" where it appears in 945.608–2 in the Table of Contents. (12033, column 1)

945.104–70 [Corrected]

By correcting the spelling of the word "necessary" in paragraph 945.104–70(a)(6). (12033, column 3)

945.570–8 [Corrected]

By changing the date in paragraph 945.570–8(a) from "November 1" to "December 1." (12037, column 3)

945.608–2 [Corrected]

By changing the phrase "Chief, Property and Supply Branch," to "Director, Property and Supply Division," in paragraph 945.608–2(b)(1)(ii) (12038, column 2)

945.610–4 [Corrected]

By changing the reference from 41 CFR "109–43.4" to "109–43.5," and deleting the reference to "44.3," in 945.610–4 (12038, column 2)

PART 951—USE OF GOVERNMENT SOURCES BY CONTRACTORS

951.102 [Corrected]

By inserting the word "Management" between the words "Assistance" and "Directorate" in paragraph 951.102(c)(1). (12042, column 2)

PART 952—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

952.204–2 [Corrected]

By inserting the following title (italicized) "Responsibility." to paragraph (a) of the Security clause between "(a)" and "contractor's." (12044, column 1)

952.204–71 [Corrected]

By changing the word "Foreign" to lower case "foreign" in the section title. (12044, column 2)

By deleting the period after the abbreviation "Apr" in the clause title of 952.204–71. (12044, column 2)

952.204–72 [Corrected]

By deleting the period after the abbreviation "Apr" in the clause title of 952.204–72. (12044, column 3)

952.204–73 [Corrected]

By deleting the period after the abbreviation "Apr" in the clause title of 952.204–73. (12045, column 1)

952.208–70 [Corrected]

By changing the DOE Order reference from "1340.1" to "1340.1A" in the last sentence of the introductory paragraph. (12046, column 2)

By correcting the spelling of the word "document" in the last line of the first paragraph of the "Printing" clause. (12046, column 2)

952.215–70 [Amended]

By changing the citations for the "Small Business and Small, Disadvantaged Business Subcontracting

Plan" from "FAR 52219–9" to "19952.2–9" where they appear in the preamble to the solicitation provision and in paragraph (1) of the provision. (12049, column 2)

952.223–72 [Corrected]

By deleting the period after the abbreviation "Apr" in the clause title of 952.223–72. (12050, column 1)

952.223–75 [Corrected]

By changing the references in the first paragraph from " 'Radiation and Nuclear Criticality' " to " 'Radiation Protection and Nuclear Criticality' " and from "Nuclear Safety" to " 'Nuclear Facility Safety Applicability.' " (12050, column 2)

952.227–73 [Corrected]

By deleting the period after the abbreviation "Apr" in the clause title of 952.227–73. (12052, column 3)

952.227–75 [Corrected]

By deleting the period after the abbreviation "Apr" in the clause title of 952.227–75. (12052, column 3)

952.227–76 [Corrected]

By deleting the period after the abbreviation "Apr" in the clause title of 952.227–76. (12054, column 1)

952.227–77 [Corrected]

By deleting the period after the abbreviation "Apr" in the clause title of 952.227–77. (12054, column 2)

952.231–70 [Corrected]

By changing the reference "931.205–30" to "931.205–32" in the first line of the subsection. (12056, column 3)

952.236–70 [Corrected]

By changing the words "Check approved" to "Check and approve" in paragraph (2) of Title III of 952.236–70. (12059, column 2)

By changing the word "approve" to "approved" where it appears between the words "the" and "design" in paragraph (2) of Title III of 952.236–70. (12059, column 2)

By changing the word "records" to "record" in paragraph (9) of Title III of 952.236–70. (12059, column 3)

By adding the word "and" between "DOE" and "—— set(s)" in paragraph (9) of Title III. (12059, column 3)

952.236–72 [Corrected]

By changing the reference in the introductory paragraph from "936–202" to "936.202." (12059, column 3)

952.249–70 [Corrected]

By deleting the phrase "to perform or to make progress in performance is due to causes beyond the control and without the fault" in the "Termination" clause, paragraph (b)(2), line 8, after the word "fault" and before "or negligence of." (12060, column 2)

952.250–70 [Corrected]

By changing the reference in the introductory paragraph from "950.7" to "950.70". (12060, column 3)

By correcting the spelling of the word "contractual" in paragraph (a)(2) of the clause entitled "Nuclear Hazards Indemnity (Apr 1984)" of 952.250–70. (12061, column 1)

952.250–71 [Corrected]

By deleting the period after the abbreviation "Apr" in the title of the clause of 952.250–71. (12062, column 1)

PART 970—DOE MANAGEMENT AND OPERATING CONTRACTS

970.0404–1 [Corrected]

By changing the word "specifical" to "special" where it appears in (2) of "Restricted Data" definition. (12065, column 1)

970.0404–2 [Corrected]

By adding a period between "contracts" and "Regulations" in the third sentence in paragraph (b). (12065, column 1)

970.0404–4 [Corrected]

By changing the reference from "970.5204–53" to "952.204–70" in paragraph 970.0404–4(a)(2). (12065, column 2)

By changing the reference from "970.5204–4" to "970.5204–5" in paragraph 970.0404–4(b). (12065, column 2)

970.0803 [Corrected]

By changing the reference from "970.803–7(b)" to "970.0803(c)" in the first sentence of paragraph 970.0803(b). (12065, column 3)

By changing the incorrect reference from "970.803–7" to "970.0803(c)" in the last sentence of paragraph 970.0803(b). (12065, column 3)

970.0905 [Corrected]

By changing the reference from "909.5706" to "909.570–6" in paragraph 970.0905(a). (12066, column 1)

970.1901 [Corrected]

By changing the word "contractor" to "contractors" in the first sentence of paragraph (d). (12069, column 2)

970.2272 [Corrected]

By changing the reference from "920.2273" to "920.2272" in paragraph (a) of the "acknowledgment" in 970.2272(f). (12073, column 1)

By correcting a punctuation error by adding a semicolon and ending quotation marks after the word "contractors" and before "and" in paragraph (a) of the "acknowledgment" in 920.2272(f). (12073, column 1)

970.2273 [Corrected]

By changing the reference from "922.403–71(c)" to "922.470(e)" in paragraph 970.2273(a)(3). (12073, column 2)

By changing the reference from "(h)" to "920.2273(c)" at the end of paragraphs 970.2273 (a)(4), (a)(5) and (a)(6), respectively. (12073, column 3)

By changing the reference from "922.403–71(c)" to "922.470(e)" in paragraph 970.2273(c)(1). (12074, column 2)

By changing the reference from "922.403–7302(h)(4)" to "970.2273 (c)(4)" in paragraph 970.2273(c)(5). (12075, column 1)

970.2303–2 [Corrected]

By changing the titles in paragraph 970.2303–2(d) from " 'Radiation and Nuclear Criticality' " to " 'Radiation Protection and Nuclear Criticality' " and from "Nuclear Safety" to "Nuclear Facility Safety Applicability." (12075, column 3)

970.2501 [Amended]

By designating the existing paragraph as "(a)" and by adding the following paragraphs, formerly found at 41 CFR 9–50.601–2 (a) and (b).

"(b) Determinations of nonavailability under FAR 25.102 may be made by the Contracting Officer responsible for the administration of the contract.

(c) When a review has been made of the contractor's procurement system in accordance with subpart 944.3 and the contractor's procurement system has been approved, the Head of the Contracting Activity may authorize the contractor to make determinations of nonavailability for individual items under individual procurement actions. Each authorization shall be in writing and shall specify a dollar value limit for the aggregate of domestically unavailable items in individual procurement actions. Each authorization shall also specify the effective date, the activity, the division or facility authorized to make the determinations, the period the authorization covers, the extent of applicability, and any special conditions or requirements. Authorizations shall be no broader than other authorizations made pursuant to section 944.305. Authorizations for dollar value limits in excess of $25,000

shall require the prior concurrence of the Procurement Executive, Headquarters."

970.3102-2 [Corrected]

By changing the reference from "970.3102" to "970.3102-2" in paragraph 970.3102-2(b)(1). (12081, column 3)

970.3102-9 [Corrected]

By changing the reference from "970.4204-13" to "970.5204-13" in 970.3102-9. (12088, column 1)

970.4404 [Corrected]

By changing the reference from "930.70" to "931.70" in paragraph 970.4404(c)(1). (12093, column 1)

970.4405 [Corrected]

By correcting the spelling of the word "rescission" in paragraph 970.4405 (a)(4)(iv). (12093, column 1)

970.4407 [Corrected]

By changing the reference from "970.44-8" to "970.4408" in paragraph 970.4407(b)(1). (12093, column 3)

970.5101 [Corrected]

By deleting the comma after the word "Executive" in paragraph 970.5101(g). (12095, column 1)

970.5204-12 [Corrected]

By changing the word "Supervising" to "Supervisory" in the italicized title in paragraph 970.5204-12(b). (12096, column 2)

By changing the reference "970.2273" to "970.2272" in the title of the "Note" paragraph and in alternate paragraph (c) in 970.5204-12. (12096, column 2)

970.5204-13 [Corrected]

By inserting the reference "(See 970.3102-2)" after "$———" in paragraph 970.5204-13(d) (8) (i). (12097, column 1)

970.5204-21 [Corrected]

By removing the word "or" between the words "contractor" and "under" in paragraph 970.5204-21(d). (12102, column 2)

By adding an "s" to the word "cost" in the third sentence in paragraph 970.5204-21(d). (12102, column 3)

By changing the words "be not" to "not be" in the second line in paragraph 970.5204-21(f). (12102, column 3)

970.5204-24 [Corrected]

By inserting an "(a)" at the beginning of paragraph "(1)" of the Certified Cost or Pricing Data clause. (12103, column 3)

By redesignating paragraphs "(i)" and "(j)" as "(b)" and "(c)" after the "Note" at the end of the clause. (12104, column 2)

970.5204-27 [Corrected]

By changing the reference from "970.2273(b) (3)" to "970.2272(b) (3)" in paragraph 970.5204-27(a). (12105, column 1)

By changing the reference "970.2273(b) (4)" to "970.2272(b) (4)" in paragraph 970.5204-27(b). (12105, column 2)

970.5204-31 [Corrected]

By changing "of" to "or" at the end of the second sentence in paragraph 970.5204-31(b). (12105, column 3)

970.5204-33 [Corrected]

By inserting hyphens in the phrase "case-by-case" in the first paragraph of the clause under paragraph 970.5204-33(b). (12106, column 2)

970.5204-38 [Corrected]

By changing the reference from "970.2274" to "970.2273" in the introductory paragraph. (12106, column 2)

PART 971—REVIEW AND APPROVAL OF CONTRACT ACTIONS

By deleting the word "Headquarter's" in the title of Part 971 to read "Review and Approval of Contract Actions." (12107, column 3)

[FR Doc. 84-26105 Filed 10-1-84; 8:45 am]
BILLING CODE 6450-01-M

Proposed Rules

Federal Register
Vol. 49, No. 192
Tuesday, October 2, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 5

[Docket No. 84-33]

Rules, Policies and Procedures for Corporate Activities; Fees

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The proposed rule codifies the Office's procedures for determining fees for processing corporate filings under 12 CFR Part 5, and eliminates specific fee amounts appearing in 14 different subsections of Part 5. Under the proposal, the Office will publish a single schedule of all processing fees annually, and upon request, will provide copies of the analysis that underlies the fee schedule to interested parties. The proposal seeks to eliminate confusion that may result from annually amending 14 different subsections of Part 5.

DATE: Written comments must be submitted on or before November 1, 1984.

ADDRESS: Comments should be directed to: Docket No. [84-33], Communications Division, 3rd Floor, Office of the Comptroller of the Currency, 490 L'Enfant Plaza, East, SW., Washington, D.C. 20019, Attention: Lynette Carter. Comments will be available for public inspection and photocopying.

FOR FURTHER INFORMATION CONTACT: Randall J. Miller, Manager, Policy, Bank Organization and Structure, (202) 447-1184, Office of the Comptroller of the Currency.

SUPPLEMENTARY INFORMATION:

Background

As part of the Corporate Activities Review and Evaluation (CARE) program (45 FR 68586, October 15, 1980), the Office reviews its fee schedule for processing corporate filings annually. Policies and procedures for reviewing and amending corporate filing fees were described in the preamble to an amendment of 12 CFR Part 5 published March 13, 1984 (49 FR 16656). Among other things, the Office expressed the view that it is more equitable to place processing costs on parties making filings than to spread those costs among all national banks. Further, the Office adopted the policy of setting fees according to the typical cost of processing each type of filing so that each bank, as nearly as possible, bears the costs incurred by the Office as a result of processing.

In calculating fees, the Office first estimates the projected total costs of processing corporate applications for each forthcoming calendar year. Total cost includes salaries, benefits, travel costs, and overhead expenses associated with corporate filings processing. The total cost is then apportioned among the different types of filings based on the projected percentage of total staff time spent on each type. The projected average cost of each type of filing is determined by dividing the projected number of filings of each type into the projected total cost associated with processing each type. The projected average cost is the basis of the fee for the year.

The Proposal

It is proposed that the policies and procedures the Office has been following since 1981 to determine corporate filing fees be codified in 12 CFR 5.5. Under the proposal, the Office would continue to determine the projected average cost of processing each type of corporate filing by following the general procedures discussed above. The determination of projected average cost would be described in an average cost analysis report prepared by the Office. A copy of the report would be provided to any interested party upon request. A new fee schedule, based on the projected average cost, would be effective as of January 1 of each year.

In addition, references to specific fees that appear in 14 different subsections of 12 CFR Part 5 would be deleted. Instead, a fee schedule would be published in a "Notice of Comptroller of the Currency Fees" on December 1 of each year. This notice would be distributed to all national banks and other interested parties, and would be available upon request.

The proposed amendments to Part 5 set forth below do not include all the technical deletions of the individual subsections of part 5 containing specific fees. Those deletions will be included in any final rule that may result from this proposal.

The Office believes this proposal will benefit national banks by codifying the Office's policy and procedures for establishing a new corporate fee schedule and by eliminating confusion that may result from making annual amendments to the 14 different subsections of 12 CFR Part 5 that currently specify fees.

As an illustration of the proposed procedure, the following table lists actual current fees and hypothetical fees that could have been established for 1984 if the proposed procedures were followed.

Type of filing	(1) Current fee (dollars)	(2) Hypothetical 1984 fee (dollars)
Branch	900	1,000
CBCT	500	550
Merger (per bank)	1,500	1,800
Corporate Reorganization		
Interim bank	6,500	7,000
Non-interim (per bank)	1,500	1,700
New bank	6,500	7,700
New bank (in org.)	6,500	7,700
Conversion: State to National	2,500	3,000
New Federal branch	2,500	3,000
Operating subsidiary	150	175
Location change	500	550
Change in capital	(1)	800
Change in bank control	(1)	3,700
Fiduciary powers	(1)	1,200
Banker's bank	(2)	5,000
Banker's bank (in org.)	(2)	5,000
Bank Service Corporation	(2)	300
Conversion to a Federal branch	2,500	3,000
Additional Federal branch	500	550

[1] There is no fee charged for these filings at present.
[2] The office has published no fee for these filings. However, on a case-by-case basis, the Office has assessed banker's banks $13,000 (the new banks and new banks in organization fees) and has assessed bank service corporations $150 (the operating subsidiary fee.)

As a result of overall increases on Office expenses since 1980, the hypothetical 1984 fee schedule sets higher fees for each type of corporate filing. However, the Office handles corporate filings more efficiently because of processing changes implemented under the Office's CARE program. Therefore, when the hypothetical fee schedule is adjusted to account for the effects of inflation since 1980, the hypothetical fees are less than the current fees in all cases.

The hypothetical fee schedules includes fees for three types of corporate filings which previously had no fees—changes in capital, fiduciary powers, and changes in bank control. In the past, expenses incurred from processing these filings were recovered from other corporate filing fees. Consistent with the Office's policy of having the banks or individuals that make filings bear the cost of processing them, the Office proposes to charge separate fees for these three types in the future.

Regulatory Analyses

This proposed rule codifies the Office's existing policy which was the subject of public comment (45 FR 85042, December 24, 1980), and establishes procedures to amend the fee schedule annually according to this policy. Therefore, the Office has determined that the proposed rule is not a "major rule" as defined within Executive Order 12291 and does not require a regulatory impact analysis.

For the same reasons, the Comptroller finds that, pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. No. 96–354, 5 U.S.C. 601 *et seq.*), the proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 12 CFR Part 5

National banks, Fees.

PART 5—[AMENDED]

Authority and Issuance

The Comptroller of the Currency proposes to amend 12 CFR Part 5 as follows:

1. The authority citation for Part 5—Rules, Policies, and Procedures for Corporate Activities reads as follows:

Authority: 12 U.S.C. 1 *et seq.*

2. Section 5.5 is proposed to be revised to read as follows:

§ 5.5 Fees.

(a) Fees must accompany certain filings before thay will be accepted by the Office. Filing fees will be set at an amount necessary to recover the Office's projected total cost of processing corporate filings during the ensuing 12 months. Individual fees will be established by first apportioning the projected total cost of processing corporate filings among the different types of corporate filings according to the projected proportion of Office staff time spent processing the different types. A projected average processing cost will then be determined by dividing the projected total cost of processing the different types of corporate filings by the projected number of filings of each type. The projected average processing cost will form the basis of the new fee schedule. Each year, the Office will prepare a report on the determination of the projected average processing costs and the new filing fee schedule. The Office will make the report available to interested parties upon request. The new fee schedule will be published annually in the Notice of Comptroller of the Currency Fees, 12 CFR 8.9.

(b) Investigation fees may be charged at the rates established in 12 CFR Part 8.6 if the Office determines that special investigations or examinations are necessary to reach an informed decision on a given filing.

(c) Fees must accompany filings and must be paid by check payable to the Office of the Comptroller of the Currency.

Dated: September 10, 1984.

C.T. Conover,

Comptroller of the Currency.

[FR Doc. 84–26049 Filed 10–1–84; 8:45 am]

BILLING CODE 4810-33-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Parts 373 and 376

Distribution License Procedure; Hearings

AGENCY: Office of Export Administration, ITA, Commerce.

ACTION: Public hearings on proposed rules.

SUMMARY: On January 19, 1984, (49 FR 2264–2267), the Office of Export Administration (OEA) solicited public comments on a proposal to amend the "Distribution License" procedure, which authorizes exports from the United States of certain commodities under an international marketing program to consignees that have been approved in advance as foreign distributors or users.

Subsequently, OEA received comments, consulted informally with industry groups, performed audits of several Distribution License (DL) holders and foreign consignees, and conducted an extensive review of the entire DL procedure. As a result of the foregoing, OEA has determined that the changes incorporated into a new proposal (published in the **Federal Register** on September 12, 1984, docket no. 40110–4107) will not only materially strengthen controls on exports under the DL procedure, but will also alleviate burdens on the business community that would not have contributed to an enhanced export control program.

Prior to publishing final rules on the DL procedure, and in an effort to assist this review, the Department of Commerce is holding a series of public hearings across the nation. The purpose of these hearings will be to solicit the views of Distribution License holders and prospective holders on the proposed changes to the procedure.

DATES: The hearings will be held on October 9, 11, 16 and 18, 1984.

ADDRESSES: Meeting locations will be assigned individually by an appropriate District Office. For further details regarding hearing locations, see *Public Hearings* in the Supplementary Information portion of this document.

FOR FURTHER INFORMATION CONTACT: Betty Ferrell, Exporter Services Division, Office of Export Administration, (202) 377–3856.

SUPPLEMENTARY INFORMATION: License Holders and others wishing to attend the meetings in order to offer views and recommendations on the proposed DL procedure should prepare a brief five minute summary of their detailed comments. Ten (10) copies of the summary with detailed comments are required because of the scope and complexity of the issues involved. Each participant will be limited to no more than 20 minutes: five minutes to read the summary, with an additional 15 minutes for panel questions and answers. Statements will be read before a panel of senior Commerce Department officials and comments are confined to the proposed regulations.

Those desiring to address the panel must contact the District Office Director, noted below for each respective meeting. Companies may wish to send representatives that either are responsible for their compliance program or perform at a corporate executive level. Requests to appear should be made as early as possible by no later than five days prior to the scheduled meeting. The hearing calendar is as follows:

Public Hearing:

City, Date and District Office Director:

Boston, October 9, Francis O'Connor, (617) 223–2312

Minneapolis, October 11, Dr. Ronald E. Kramer, (612) 349–3339

Dallas, October 16, C. Carmon Stiles, (214) 767–0542

San Francisco, October 18, Betty D. Neuhart, (415) 556–5860

Meeting locations will be assigned individually by the appropriate District Office. Contact the Director listed above for details on each hearing. There will

be two sessions for each hearing: (1) morning 9:00 a.m.–12:00 noon, and (2) afternoon 1:00 p.m.–4:30 p.m.

For the benefit of individuals participating in these hearings, copies of the Proposed Amendments to the Distribution License Procedure will be available from the Commerce Department District Office. We encourage everyone with an interest in the Distribution License Procedure to attend these hearings.

Dated: September 27, 1984.

William T. Archey,

Acting Assistant Secretary for Trade Administration.

[FR Doc. 84-25886 Filed 10-1-84; 8:45 am]

BILLING CODE 3510-DT-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 210 and 229

[Release Nos. 33-6551; 34-21354; 35-23436; IC-14173 File No. S7-10-84]

Industry Segment and Other Interim Financial Reporting Matters

AGENCY: Securities and Exchange Commission.

ACTION: Notice of solicitation of additional comment.

SUMMARY: The Commission announces that it is soliciting additional information about the costs of presenting industry segment data for interim periods. The Commission is soliciting additional information in order to afford a basis for a more reasoned judgment as to the potential costs and benefits of its proposed rules.

DATE: Comments should be received by the Commission on or before October 24, 1984.

ADDRESSES: Comments should be submitted in triplicate to Shirley E. Hollis, Acting Secretary, Securities and Exchange Commission, Washington, D.C. 20549. Comment letters should refer to File No. S7-10-84. The questions used to solicit the additional information, responses thereto and all other comments will be available for public inspection at the Commission's Public Reference Room, 450 5th Street, NW., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: John W. Albert or Andrea E. Bader (202) 272-2130, Office of the Chief Accountant, Securities and Exchange Commission, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: On February 15, 1984 the Commission proposed rules which would require increased disclosures related to industry segment and other interim financial reporting matters.[1] The proposing release included a request for specific comment on the costs and benefits of the proposed rules. The Commission intends to contact previous commentators to solicit additional information as to the costs of presenting interim segment data as provided in the proposed rules. Cost data will be solicited from those commentators that indicated that they voluntarily present interim segment information as well as from other commentators.

The Commission is hereby notifying interested persons of its intention to solicit additional information regarding the costs to registrants of presenting interim segment data. Interested persons are also invited to provide information as to the costs of presenting interim period segment information. Such comments should include specific detail as to the particular elements of segment reporting for which costs are being estimated.

Dated: September 26, 1984.

By the Commission.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-26114 Filed 10-1-84; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 154

[Docket No. RM83-71-034]

Elimination of Variable Costs From Certain Natural Gas Pipeline Minimum Commodity Bill Provisions

September 26, 1984.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of Petition for Declaratory Order.

SUMMARY: On August 24, 1984, Pacific Offshore Pipeline Company (POPCO) filed a "Request for Clarification and Petition for Declaratory Order" with respect to the effect on POPCO's tariff of the Commission's Order No. 380 (49 FR 22778, June 1, 1984) and Order No. 380-A (49 FR 31259, August 6, 1984). These orders require the elimination from natural gas pipeline tariffs of any minimum commodity provisions that operate to recover variable costs. POPCO asserts that its cost-of-service tariff contains a flow-through provision on all fours with the Pacific Gas Transmission Company's (PGT) provision discussed in Order No. 380-A. Therefore, POPCO believes that its flow-through provision should also continue to be valid and operative. POPCO requests the Commission to issue an order clarifying Order Nos. 380 and 380-A and declaring that Section 6 of POPCO's Rate Schedule G-1 remains valid and operative after the effectiveness of the Commission's new minimum bill rule.

DATE: Comments on this filing are due on or before October 11, 1984.

ADDRESS: Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Kenneth F. Plumb, Secretary, 202-357-8400.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-25643 Filed 10-1-84; 8:45 am]

BILLING CODE 6717-01-M

[1] Securities Act Release No. 6514 [49 FR 6737; February 23, 1984].

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 658

[FHWA Docket No. 84-18]

Truck Size and Weight; Automobile Transporters

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: Public comment is requested by the Federal Highway Administration on length related issues with regard to automobile transporters, particularly their off-tracking characteristics. The purpose of this document is to consider alternatives to the provisions in the final rule published in the **Federal Register** on June 5, 1984 (49 FR 23302).

DATE: Comments on this docket must be received on or before December 3, 1984.

ADDRESSES: Submit written comments preferably in triplicate, to FHWA Docket No. 84-18, Federal Highway Administration, Room 4205, HCC-10, 400 Seventh Street, SW., Washington, D.C. 20590. All comments received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m., ET, Monday through Friday, except legal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Harold J. Brown, Office of Traffic

Operations (202) 426–1993 or Mr. David C. Oliver, Office of the Chief Counsel, (202) 426–0825, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION: A final rule implementing the truck size and weight provisions of the Surface Transportation Assistance Act of 1982 (STAA), Pub. L. 97–424, 96 Stat. 2097, was published in the **Federal Register** on June 5, 1984 (49 FR 23302). This document represented the culmination of major efforts by the FHWA to implement the truck size and weight provisions of the STAA. The final rule addresses, among many issues, automobile transporters pursuant to section 411(d) of the STAA.

As expressed in the June 5 final rule, the FHWA determined that auto transporters constituted special equipment and were not subject to the provisons of 23 CFR 658.13 (a) through (c). Section 658.13(d) provided final requirements relative to overall length and allowable overhang. The preamble stated that FHWA intended to issue a notice of proposed rulemaking (NPRM) that would address alternatives to the approach taken in the final rule. This advance notice is the first step in deciding whether to change the final rule.

The June 5 final rule provides that no State shall impose an overall length limit of less than 65 feet on automobile transporters and that vehicles with dimensions legally operating within the State on December 1, 1982, must be allowed to continue operation. Some industry representatives have stated that the rule fails to satisfy industry's basic understanding of the productivity gains intended under the provisions of the STAA. Various requests ranging from amending the rule to providing that no overall length be established by any State, to amending the rule to provide for minimum lengths in the range of 70 to 80 feet have been received from industry sources.

A substantial portion of the automobile transporter equipment in use does not possess the same operating characteristics as a common truck-tractor semitrailer vehicle. In some cases the power unit is termed a "stinger steered" unit because the fifth wheel is located on a drop frame located behind and below the drive axles of the power unit. In this type of configuration, three or more cargo units are located on the power unit with the balance loaded upon the semitrailer. It is understood that because the fifth wheel (articulation point) is so far rearward and extends from the rear of the truck, the stinger steered unit turns better and the trailer tracks more nearly the path of the tractor. This tracking characteristic considerably reduces trailer sweep, thus eliminating many turning problems inherent in the standard tractor semitrailer where the fifth wheel is mounted above the center of the drive axle of the tractor.

The FHWA is interested in receiving comments on the distinctions in operating characteristics between these vehicles and whether the regulations should be amended to provide for separate length guidelines. Specific information on the length of trailers used in both a standard auto carrier combination and in a stinger steered combination is requested.

Some States have requested that trailers in a conventional unit be subjected to the same restrictions as other tractor-semitrailer combinations, i.e., 48-foot semitrailer limits with no tractor or overall lengths specified. Preliminary indications are that a conventional auto transporter tractor, with its added cargo-carrying length, when pulling a 48-foot semitrailer with overhang and no overall length restriction, may have difficulty in negotiating some urban intersections. There could be severe encroachment onto shoulders and opposing lanes. The FHWA would like to receive comments from both the States and industry on the operating characteristics of such combinations.

On the other hand, those combinations utilizing the stinger steered mechanism appear capable of more wide-ranging operational capability. The 65-foot minimum provision in the rule has been construed by many States as a 65-foot maximum and this may have the effect of impeding productivity gains which otherwise could be realized through the use of stinger steered combinations. One proposal received from the industry advocated an amendment to the rule to allow stinger steered units to operate with minimum lengths of 75 feet plus overhang.

The FHWA is also soliciting comments on the subject of overhang. Section 658.13(d) of the final rule requires the States to allow a 3-foot front and a 4-foot rear overhang for automobile transporters. Due to confusion and numerous public comments which appear to indicate that the States are not uniformly implementing this provision, FHWA is considering several options to either clarify or ease the implementation of this provision including (1) no change; (2) amend the rule to state a single total overhang (e.g., 7 feet) which would allow the States some flexibility in distributing front and rear overhang; or (3) change the current front and rear values based upon our analysis of comments received. The FHWA requests comments from the States and industry on the adequacy of the current rule as well as any options which would ease implementation of this provision.

Finally, it has come to FHWA's attention that several companies transport power units via the saddlemount method utilizing a trailer designed exclusively for this type of movement. This combination resembles a "lowboy," in that it has a low ground clearance and usually tandem axles with 15-inch tires. In at least one version of this combination, there is a frame adapter, designed to straddle the frame of a tractor. The adapter has a number of rollers that allow it to roll along the top surface of the truck frame. The first tractor is driven onto the front of the trailer. The frame adapter and special skids allow additional units to be mounted. The FHWA would like to receive comments from the States and industry as to whether the rule should be amended to clarify whether such a combination is a saddlemount, a regular auto transporter, or a separate classification of specialized equipment.

Those desiring to comment on this advance notice of proposed rulemaking are asked to submit their views in writing. Comments will be available for public inspection both before and after the closing date at the above address. All comments received to this advance notice will be considered before further rulemaking action is undertaken.

The FHWA has determined, at this time, that this document contains neither a major rule under Executive Order 12291 nor a significant regulation under the regulatory policies and procedures of the Department of Transportation. This determination will be reevaluated and a draft regulatory evaluation will be prepared if necessary, based upon the data received in response to this notice.

Based upon the information available to FHWA at this time, the action taken in this rulemaking will not have significant economic impact on a substantial number of small entities.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on

Federal programs and activities apply to this program)

(Sec. 411 of Pub. L. 97-424, 96 Stat. 2150; 23 U.S.C. 315; 49 CFR 1.48)

List of Subjects in 23 CFR Part 658

Grant programs—transportation, Highways and roads, Motor carrier—size and weight.

Issued on: September 28, 1984.

L.P. Lemm,

Deputy Federal Highway Administrator, Federal Highway Administration.

[FR Doc. 84-26080 Filed 10-1-84; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 779, 780, 783, 784, 816 and 817

Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program; Preparation of Cross Sections, Maps and Plans by Land Surveyors

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) of the U.S. Department of the Interior (DOI) proposes to revise its rules governing: (1) The preparation and certification of cross sections, maps and plans required in permit applications for surface and underground coal mining; (2) the preparation and certification of general plans for sedimentation ponds, water impoundments, and coal processing waste banks, dams and embankments; and (3) the preparation and certification of detailed design plans for small impoundments. The proposed rule is needed to conform the existing rules with a November 4, 1983, amendment to the Surface Mining Control and Reclamation Act of 1977 (the Act). The amendment authorizes qualified, registered, professional, land surveyors to prepare cross sections, maps and plans in any State which authorizes land surveyors to prepare and certify such maps or plans. In addition, the proposed rule would eliminate an inconsistency in the existing rules regarding design certification of small impoundments.

DATES:

Written comments: Accepted until 5 p.m. eastern time on November 1, 1984.

Public hearings: Held only on October 30, 1984 at 9:30 a.m. local time.

Public meetings: Scheduled on request only.

ADDRESSES:

Written comments: Hand-deliver to the Office of Surface Mining, Administrative Record Room, 1100 L Street, NW., Washington, D.C.; or *mail* to the Office of Surface Mining, Administrative Record, 1951 Constitution Avenue, NW., Washington, D.C. 20240.

Public hearings: Washington, D.C.—Department of the Interior Auditorium, 18th and C Street, NW., Pittsburgh, Pennsylvania—the William S. Moorehead Federal Building, Room 2212, 1000 Liberty Avenue; and Denver, Colorado—Brooks Towers, 2d Floor Conference Room, 1020 15th Street.

Public meetings: OSM offices in Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Stanford J. Zeccolo, Division of Engineering Analysis, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, D.C. 20240; Telephone: 202-343-2184 (Commercial or FTS).

SUPPLEMENTARY INFORMATION:

I. Public Commenting Procedures
II. Background
III. Discussion of Proposed Rule
IV. Procedural Matters

I. Public Commenting Procedures

Written Comments

Written comments submitted on the proposed rule should be specific, should be confined to issues pertinent to the proposed rule, and should explain in detail the reason for any change that is recommended. OSM requests that commenters submit five copies of their comments (see "**ADDRESSES**"). Comments received after the close of the comment period (see "**DATES**") may not be considered or included in the Administrative Record for the final rule.

Public Hearings

Persons wishing to comment at a public hearing should contact the person listed under "**FOR FURTHER INFORMATION CONTACT**" by 5:00 p.m., eastern time, four working days prior to the scheduled date of the hearing. If no one requests to comment at a public hearing at a particular location by that date, the hearing will not be held. If only one person requests to comment, a public meeting rather than a hearing may be held and the results included in the Administrative Record.

If a hearing is held, it will continue until all persons wishing to testify have been heard. To assist the transcriber and ensure an accurate record, OSM requests that persons who testify at a hearing give the transcriber a written copy of their testimony. To assist OSM in preparing appropriate questions, OSM also requests that persons who plan to testify submit to OSM at the address previously specified for the submission of written comments (see "**ADDRESSES**") an advance copy of their testimony.

II. Background

Amendment to Section 507(b)(14) of the Act

As originally enacted, section 507(b)(14) of the Surface Mining Control and Reclamation Act of 1977 (the Act), 30 U.S.C. 1257(b)(14), required that certain cross sections, maps and plans in an application for a surface coal mining and reclamation permit be

> prepared by or under the direction of and certified by a qualified registered professional engineer, or professional geologist with assistance from experts in related fields such as land surveying and landscape architecture * * *.

This requirement was implemented in the existing permanent program regulations in §§ 779.25, 780.14, 780.25, 783.25, 784.16 and 784.23 of 30 CFR.

Prior to the Act, land surveyors in a number of States had been authorized by State law to prepare and certify cross sections, maps and plans. Under the Act, however, only an engineer or geologist could certify these documents.

To resolve this conflict with State law, the U.S. Congress on November 4, 1983, enacted an amendment to the Act that authorizes land surveyors to prepare and certify the cross sections, maps and plans required in a surface coal mining and reclamation permit (Sec. 115, Pub. L. 98-146, 97 Stat. 938 (1983)). The amendment provides that:

> Notwithstanding section 507(b)(14) of the Surface Mining Control and Reclamation Act of 1977 (Pub. L. 95-87), cross-sections, maps or plans of land to be affected by an application for a surface mining and reclamation permit shall be prepared by or under the direction of a qualified registered professional engineer or geologist, or qualified registered professional land surveyor in any State which authorizes land surveyors to prepare and certify such maps or plans.

The proposed rule would conform §§ 779.25, 780.14, 780.25, 783.25, 784.16 and 784.23 of 30 CFR with this statutory amendment and authorize qualified, registered land surveyors to prepare and certify cross sections, maps and plans in any State which grants the requisite authority.

While the amendment could be interpreted to authorize land surveyors only to *prepare* cross

sections, maps or plans, the proposed rule also would authorize surveyors to *certify* such documents. In view of the legislative history of the amendment, OSM tentatively has concluded that the Congress intended the term "prepared by" also to include authority for certification.

As discussed by Senator Byrd on the floor of the Senate, 129 Cong. Rec. S12411 (daily ed. Sept. 19, 1983) (emphasis added), the purpose of the amendment was to remedy

> conflicts with State laws [where the Act] preempts registered land surveyors from a lead role in the *preparation and certification* of maps, plans, and cross-sections * * *.
> * * * * * *
> The Surface Mining Control and Reclamation Act of 1977 authorizes registered professional engineers and geologists to perform design and planning work for mining projects. The act does not permit professional land surveyors to take the lead role in *preparing and certifying* mine maps and plans.

These and other references in the legislative history to both "preparing and certifying" strongly infer that the Congress intended to authorize qualified, registered, professional land surveyors to perform both of these functions as "lead professionals." If land surveyors were authorized merely to prepare, but not to certify, cross sections, maps and plans, their status as lead professionals and the intent of the amendment would be seriously impaired, if not entirely negated. Thus, the proposed rule would authorized qualified, registered, professional, land surveyors both to prepare and to certify cross sections, maps and plans.

Inconsistent Rules

The existing permanent program rules contain inconsistent provisions concerning certification of the design of small impoundments by land surveyors. The existing rules at 30 CFR 816.49(a)(2) and 817.49(a)(2) do not authorize land surveyors to certify the design of any impoundments, requiring instead that:

> The design of impoundments shall be certified by a qualified registered professional engineer as designed to meet the requirements of this part using current, prudent engineering practices and any design criteria established by the regulatory authority. The qualified registered professional engineer shall be experienced in the design and construction of impoundments.

Although these rules require that a qualified, registered, professional engineer certify the design of all impoundments, other permanent program rules authorize registered land surveyors to prepare and certify the design of small impoundments. Specifically, the existing rules at 30 CFR 780.25(a)(3) and 784.16(a)(3), which were adopted in March 1979, provide that:

> Each detailed design plan for a structure that does not meet the size or other criteria of § 77.216(a) of this title shall—
> (i) Be prepared by, or under the direction of, and certified by a qualified registered professional engineer or registered land surveyor except that all coal processing waste dams and embankments covered by §§ 816.81—816.84 [in 784.16: 30 CFR 817.81 through 817.84] shall be certified by a qualified registered professional engineer * * *.

Through reference to the introductory language of § 780.25(a) and 784.16(a), it is clear that the word "structure" in these rules includes a "water impoundment." Thus, contrary to §§ 816.49(a)(2) and 817.49(a)(2), §§ 780.25(a)(3) and 784.16(a)(3) presently authorize qualified registered land surveyors to prepare and certify detailed design plans for small impoundments that do not meet the size or other criteria of 30 CFR 77.216(a). The proposed rule would eliminate this inconsistency by revising §§ 816.49(a)(2) and 817.49(a)(2) to provide that the design of impoundments shall be certified in accordance with §§ 780.25(a) and 784.16(a), respectively.

OSM also has considered the option of revising §§ 780.25(a)(3) and 784.16(a)(3) to delete the authorization for surveyors to prepare and certify the design of certain impoundments. However, in view of the recent amendment to § 507(b)(14) of the Act it would appear that the intent of the Congress is to maintain rather than diminish the existing authority of land surveyors to certify designs. For this reason OMS tentatively has decided that the preferable way to remedy the inconsistency in the existing rules is not to reduce the authority granted to surveyors by §§ 780.25(a)(3) and 784.16(a)(3), but instead to reinstate the authority previously granted.

The proposed rule would not affect the existing requirement of 30 CFR 816.46(b)(3) that "[s]iltation structures * * * upon construction, shall be certified by a qualified registered professional engineer to be constructed as designed and as approved in the reclamation plan." It also would not affect the existing requirement of 30 CFR 816.49(a)(10), which governs the inspection of impoundments by a qualified, registered, professional engineer or other qualified professional specialist. These requirements are based on section 515(b)(10)(B)(ii) of the Act, and are not affected by the amendment to section 507(b)(14).

III. Discussion of Proposed Rule

Technical Amendments

Throughout the proposed rule, minor technical amendments have been made in the spelling, punctation and grammar of the affected provisions. These amendments improve the clarity of these provisions, but have no effect on their substantive requirements. Because of their limited effect, these technical amendments are not discussed in specific detail.

Substantive Amendments

PART 779—SURFACE MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR INFORMATION ON ENVIRONMENTAL RESOURCES

Section 779.25 Cross sections, maps and plans.

In existing § 779.25, the numbering of the paragraphs is incorrect. The introductory language relates to paragraphs (a) through (k), but not to paragraph (l). Therefore, the proposed rule would amend § 779.25 by redesignating the introductory language as paragraph (a), redesignating paragraphs (a) through (k) as paragraphs (a)(1) through (a)(11), redesignating paragraphs (k)(1) through (k)(3) as paragraphs (a)(11)(i) through (a)(11)(iii), and redesignating paragraph (l), the last paragraph, as paragraph (b).

Also in § 779.25, the proposed rule would revise new paragraph (b) to authorize qualified, registered, professional land surveyors to prepare and certify the cross sections, maps and plans included in a permit application as required by this section. Land surveyors would be given this authority only in States which authorizes land surveyors to prepare and certify such cross sections, maps and plans. In these States, the proposed rule would give qualified, registered, professional land surveyors the same authority to prepare and certify cross sections, maps and plans as previously had been granted only to qualified, registered, professional engineers and geologists.

To clarify that the words "qualified" and "registered" modify the term "professional geologist" as well as "professional engineer," the proposed rule would insert these words before the latter term in § 779.25(b).

PART 780—SURFACE MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR RECLAMATION AND OPERATION

Section 780.14 Operation plan: Cross sections, maps and plans.

Section 780.14 requires that each surface mining permit application contain specified maps and plans. Some of these maps and plans must be certified. Proposed § 780.14(c) would authorize certified, registered, professional land surveyors to prepare and certify these maps and plans in any State which grants land surveyors similar authority. In these States, the proposed rule would give qualified, registered, professional land surveyors the same authority to prepare and certify cross sections, maps and plans as previously had been granted only to qualified, registered, professional engineers and geologists.

For increased specificity, the exceptions stated verbally in § 780.14(c)(1) and (c)(2) of the existing rule instead would be cross-referenced by section number at the beginning of paragraph (c). The relevant exceptions appear in §§ 780.25(a)(2), 780.25(a)(3), 780.35(a), 816.71(b) and 816.81(c) of 30 CFR.

To remedy an apparent omission in the cross references to paragraph (b) in the existing rule, a reference to paragraph (b)(6) would be added to the existing references to paragraphs (b)(4), (5), (10) and (11). The water diversion, collection, conveyance, treatment, storage and discharge facilities covered by paragraph (b)(6) clearly are within the purview of "any settling or water treatment facility . . . constructed or natural drainways and the location of any discharges to any surface body of water" as recited in § 507(b)(14) of the Act, and thus within the purview of § 780.14(c).

To clarify that the words "qualified" and "registered" modify the term "professional geologist" as well as "professional engineer," the proposed rule would insert these words before the latter term in § 780.14(c).

Section 780.25 Reclamation plan: Impoundments and coal procession waste impounding structures.

Existing § 780.25 requires that each application for a surface coal mining and reclamation permit include a general plan for each proposed sedimentation pond, water impoundment, and coal processing waste bank, dam or embankment within the proposed permit area. Revised § 780.25(a)(1)(i) would provide that each general plan shall be prepared by, or under the direction of, and certified by a qualified registered professional engineer, professional geologist, or in any State which authorizes land surveyors to prepare and certify such cross sections, maps and plans, a qualified, registered, professional land surveyor, with assistance from experts in related fields such as landscape architecture.

In any applicable State, this would give qualified, registered, professional land surveyors the same authority to prepare and certify general plans as previously had been granted only to qualified, registered, professional engineers and geologists.

Revised § 780.25(a)(3)(i) would provide that each detailed design plan for a structure that does not meet the size or other criteria of § 77.216(a) of this title shall be prepared by, or under the direction of, and certified by a qualified, registered, professional engineer, or in any State which authorizes land surveyors to prepare such plans a qualified, registered, professional land surveyor, except that all coal processing waste dams and embankments covered by §§ 816.81—816.84 shall be certified by a qualified registered professional engineer. As compared to the existing rule, this would limit the jurisdictions where land surveyors were authorized to prepare the specified design plans to those States which authorize land surveyors to prepare such plans. This limitation is in keeping with the intent of the Congress in the recent amendment to § 507(b)(14) of the Act, which authorizes land surveyors to prepare cross sections, maps and plans only in States which grant corresponding authority under State law.

To clarify that the words "qualified" and "registered" modify the term "professional geologist" as well as "professional engineer," the proposed rule would insert these words before the latter term in § 780.25 (a)(1)(i) and (a)(3)(i).

PART 783—UNDERGROUND MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR INFORMATION ON ENVIRONMENTAL RESOURCES

Section 783.25 Cross sections, maps and plans.

Section 783.25 would be revised in the same way and for the same reasons as discussed previously for § 779.25.

PART 784—UNDERGROUND MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR RECLAMATION AND OPERATION

Section 784.16 Reclamation plan: Ponds, impoundments, banks, dams and embankments.

Except for substituting references to the corresponding rules for underground mining activities in §§ 817.81 and 817.84, § 784.16 would be revised in the same way and for the same reasons as discussed previously for § 780.25.

Section 784.23 Operation plan: Cross sections, maps and plans.

Except for substituting references to the corresponding rules for underground mining activities in §§ 784.16(a)(2), 784.16(a)(3), 784.19, 817.71(b) and 817.81(c), § 784.23 would be revised in the same way and for the same reasons as discussed previously for § 780.14.

PART 816—PERMANENT PROGRAM PERFORMANCE STANDARDS—SURFACE MINING ACTIVITIES

Section 816.49 Impoundments.

Section 816.49 would require that the design of impoundments be certified in accordance with § 780.25(a) of this chapter as designed to meet the requirements of this part using current, prudent engineering practices and any design criteria established by the regulatory authority. The qualified registered professional engineer or land surveyor would be required to have experience in the design and construction of impoundments.

The added reference to § 780.25(a) in § 816.49 would ensure consistency in the interpretation and enforcement of these two related sections. As provided in § 780.25, only a qualified, registered, professional engineer would be authorized to certify the design of an impoundment that met or exceeded the size or other criteria of § 77.216(a) of 30 CFR. For an impoundment that did not meet the size or other criteria of § 77.216(a), a qualified, registered professional land surveyor could certify the design in any State where land surveyors were authorized by State law to certify such designs.

PART 817—PERMANENT PROGRAM PERFORMANCE STANDARDS—UNDERGROUND MINING ACTIVITIES

Section 817.49 Impoundments.

Except for substituting a reference to the corresponding rule for underground mining activities in § 784.16(a), § 817.49

would be revised in the same way and for the same reasons as § 816.49.

IV. Procedural Matters

Federal Paperwork Reduction Act

The proposed rule contains no new information collection requirements. The information collection requirements in the affected sections of the existing rules were submitted to the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance numbers 1029–0035 (§ 779.25), 1029–0036 (§§ 780.14 and 780.25), 1029–0038 (§§ 783.25) 1029–0039 (784.16 and 784.23).

Executive Order 12291

The DOI has examined the proposed rule according to the criteria of Executive Order 12291 (February 17, 1981) and has determined that it is not major and does not require a regulatory impact analysis. Any negative economic impact on professional engineers or geologists would be offset by a corresponding positive impact on land surveyors. The estimated number of directly affected surveyors is 500, with a potential shift in income of $700,000 to $3.5 million annually.

Regulatory Flexibility Act

The DOI also has determined, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, that the proposed rule will not have a significant economic impact on a substantial number of small entities. While under the proposed rule some registered professional engineers or geologists who work in small business or are self-employed may lose work to professional land surveyors, any negative economic impact on engineers or geologists should be offset by a corresponding positive impact on surveyors who are similarly employed.

National Environmental Policy Act

OSM has prepared an environmental assessment (EA) on this proposed rule and has made an interim finding that the proposed rule would not significantly affect the quality of the human environment. The EA is on file in the OSM Administrative Record at the address listed previously (see "ADDRESSES"). An EA on the final rule will be completed and a final finding made on the significance of any resulting impacts prior to issuance of the final rule.

List of Subjects

30 CFR Part 779

Coal mining, Environmental protection, Reporting requirements, Surface mining.

30 CFR Part 780

Coal mining, Reporting requirements, Surface mining.

30 CFR Part 783

Coal mining, Environmental protection, Reporting requirements, Underground mining.

30 CFR Part 784

Coal mining, Reporting requirements, Underground mining.

30 CFR Part 816

Coal mining, Environmental protection, Reporting requirements, Surface mining.

30 CFR Part 817

Coal mining, Environmental protection, Reporting requirements, Underground mining.

Accordingly, it is proposed to amend 30 CFR Parts 779, 780, 783, 784, 816 and 817 as follows:

Dated: August 27, 1984.

Garrey Carruthers,

Assistant Secretary for Land and Minerals Management.

PART 779—SURFACE MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR INFORMATION ON ENVIRONMENTAL RESOURCES

1. The authority citation for Part 779 is revised to read as follows:

Authority: Pub. L. 95–87, 91 Stat. 445 (30 U.S.C. 1201 *et seq.*) and sec. 115, Pub. L. 98–146, 97 Stat. 938 (30 U.S.C. 1257), unless otherwise noted.

2. Section 779.25 is amended by redesignating the introductory language as paragraph (a), redesignating existing paragraphs (a) through (k) as paragraphs (a)(1) through (a)(11), redesignating paragraphs (k)(1) through (k)(3) as paragraphs (a)(11)(i) through (a)(11)(iii), and redesignating paragraph (l), the last paragraph, as paragraph (b).

3. In § 779.25, new paragraph (b) is revised to read as follows:

§ 779.25 Cross sections, maps and plans.

* * * * *

(b) Cross sections, maps and plans included in a permit application as required by this section shall be prepared by, or under the direction of, and certified by a qualified, registered, professional engineer, a qualified, registered, professional geologist, or in any State which authorizes land surveyors to prepare and certify such cross sections, maps and plans, a qualified, registered, professional land surveyor, with assistance from experts in related fields such as landscape architecture and shall be updated as required by the regulatory authority.

PART 780—SURFACE MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR RECLAMATION AND OPERATION PLAN

4. The authority citation for Part 780 is revised to read as follows:

Authority: Pub. L. 95–87, 91 stat. 445 (30 U.S.C. 1201 *et seq.*) and sec. 115, Pub. L. 98–146, 97 Stat. 938 (30 U.S.C. 1257), unless otherwise noted.

5. In § 780.14, paragraph (c) is revised to read as follows:

§ 780.14 Operation plan: Cross sections, maps and plans.

* * * * *

(c) Except as provided in §§ 780.25(a)(2), 780.25(a)(3), 780.35(a), 816.71(b) and 816.81(c), cross sections, maps and plans required under paragraphs (b)(4), (5), (6), (10) and (11) of this section shall be prepared by, or under the direction of, and certified by a qualified registered professional engineer, a qualified, registered, professional geologist, or in any State which authorizes land surveyors to prepare and certify such cross sections, maps and plans, a qualified, registered, professional land surveyor, with assistance from experts in related fields such as landscape architecture.

6. In § 780.25, paragraphs (a)(1)(i) and (a)(3)(i) are revised to read as follows:

§ 780.25 Reclamation plan: Ponds, impoundments, banks, dams and embankments.

(a) * * *

(1) * * *

(i) Be prepared by, or under the direction of, and certified by a qualified registered professional engineer, a qualified, registered, professional geologist, or in any State which authorizes land surveyors to prepare and certify such cross sections, maps and plans, a qualified, registered, professional land surveyor, with assistance from experts in related fields such as landscape architecture;

* * * * *

(3) * * *

(i) Be prepared by, or under the direction of, and certified by a qualified registered professional engineer, or in any State which authorizes land surveyors to prepare and certify such plans, a qualified, registered, professional land surveyor, except that all coal processing waste dams and embankments covered by §§ 816.81—

816.84 shall be certified by a qualified, registered, professional engineer;

* * * * *

PART 783—UNDERGROUND MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR INFORMATION ON ENVIRONMENTAL RESOURCES

7. The authority citation for Part 783 is revised to read as follows:

Authority: Pub. L. 95–87, 91 stat. 445 (30 U.S.C. 1201 *et seq.*) and sec. 115, Pub. L. 98–146, 97 Stat. 938 (30 U.S.C. 1257), unless otherwise noted.

8. Section 783.25 is amended by redesignating the introductory language as paragraph (a), redesignating existing paragraphs (a) through (k) as paragraphs (a)(1) through (a)(11), redesignating paragraphs (k)(1) through (k)(3) as paragraphs (a)(11)(i) through (a)(11)(iii), and redesignating paragraph (l), the last paragraph, as paragraph (b).

9. In § 783.25, new paragraph (b) is revised to read as follows:

§ 783.25 Cross sections, maps and plans.

* * * * *

(b) Cross sections, maps and plans included in a permit application as required by this section shall be prepared by, or under the direction of, and certified by a qualified, registered, professional engineer, a qualified, registered, professional geologist, or in any State which authorizes land surveyors to prepare and certify such cross sections, maps and plans, a qualified, registered, professional land surveyor, with assistance from experts in related fields such as landscape architecture and shall be updated as required by the regulatory authority.

PART 784—UNDERGROUND MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR RECLAMATION AND OPERATION PLAN

10. The authority citation for Part 784 is revised to read as follows:

Authority: Pub. L. 95–87, 91 Stat. 445 (30 U.S.C. 1201 *et seq.*) and sec. 115, Pub. L. 98–146, 97 Stat. 938 (30 U.S.C. 1257), unless otherwise noted.

11. Paragraphs (a)(1)(i) and (a)(3)(i) of section 784.16 are revised to read as follows:

§ 784.16 Reclamation plan: Ponds, impoundments, banks dams and embankments.

(a) * * *

(1) * * *

(i) Be prepared by, or under the direction of, and certified by a qualified, registered, professional engineer, a qualified, registered, professional geologist, or in any State which authorizes land surveyors to prepare and certify such cross sections, maps and plans, a qualified, registered, professional land surveyor, with assistance from experts in related fields such as landscape architecture;

* * * * *

(3) * * *

(i) Be prepared by, or under the direction of, and certified by a qualified, registered, professional engineer, or in any State which authorizes land surveyors to prepare such plans, a qualified, registered, professional land surveyor, except that all coal processing waste dams and embankments covered by §§ 817.81—817.84 shall be certified by a qualified registered professional engineer;

* * * * *

12. In § 784.23, paragraph (c) is revised to read as follows:

§ 784.23 Operation plan: Cross sections, maps and plans.

* * * * *

(c) Except as provided in §§ 784.16(a)(2), 784.16(a)(3), 784.19, 817.71(b) and 817.81(c), cross sections, maps and plans required under paragraphs (b)(4), (5), (6), (10) and (11) of this section shall be prepared by, or under the direction of, and certified by a qualified, registered, professional engineer, a qualified, registered, professional geologist, or in any State which authorizes land surveyors to prepare and certify such cross sections, maps and plans, a qualified, registered, professional land surveyor, with assistance from experts in related fields such as landscape architecture.

PART 816—PERMANENT PROGRAM PRFORMANCE STANDARDS—SURFACE MINING ACTIVITIES

13. The authority citation for Part 816 is revised to read as follows:

Authority: Pub. L. 95–87, 91 Stat. 445 (30 U.S.C. 1201 *et seq.*) and sec. 115, Pub. L. 98–146, 97 Stat. 938 (30 U.S.C. 1257), unless otherwise noted.

14. In § 816.49, paragraph (a)(2) is revised to read as follows:

§ 816.49 Impoundments.

(a) * * *

(2) *Design certification.* The design of impoundments shall be certified in accordance with § 780.25(a) of this chapter as designed to meet the requirements of this part using current, prudent engineering practices and any design criteria established by the regulatory authority. The qualified, registered, professional engineer or qualified, registered professional land surveyor shall be experienced in the design and construction of impoundments.

* * * * *

PART 817—PERMANENT PROGRAM PREFORMANCE STANDARDS—UNDERGROUND MINING ACTIVITIES

15. The authority citation for Part 817 is revised to read as follows:

Authority: Pub. L. 95–87, 91 Stat. 445 (30 U.S.C. 1201 *et seq.*) and sec. 115, Pub. L. 98–146, 97 Stat. 938 (30 U.S.C 1257), unless otherwise noted.

16. In § 817.49, paragraph (a)(2) is revised to read as follows:

§ 817.49 Impoundments.

(a) * * *

(2) *Design certification.* The design of impoundments shall be certified in accordance with § 784.25(a) of this chapter as designed to meet the requirements of this part using current, prudent engineering practices and any design criteria established by the regulatory authority. The qualified, registered, professional engineer or qualified, registered, professional land surveyor shall be experienced in the design and construction of impoundments.

* * * * *

[FR Doc. 84–25870 Filed 10–1–84; 8:45 am]
BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–5–FRL–2684–2]

Federal Assistance Limitations; State of Illinois

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Proposed rule; extension of the public comment period.

SUMMARY: On August 15, 1984, (49 FR 32601), USEPA proposed action on revisions to the draft Illinois 1982 ozone and carbon monoxide SIP. The State of Illinois requested an extension of the public comment period to allow a reasonable opportunity to comment on unresolved issues identified in the supplemental proposed rulemaking. Therefore, the public comment period is extended until October 13, 1984.

DATE: Comments must be received on or before October 13, 1984.

ADDRESSES: Comments should be submitted to: Gary V. Gulezian, Chief, Regulatory Analysis Section, Air and

Radiation Branch, Region V, U.S. Environmental Protection Agency (5AR-26), 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano, (312) 886-6035.

Dated: September 21, 1984

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 84-26060 Filed 10-1-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 65

[A-3-FRL-2684-4]

State and Federal Administrative Orders Permitting a Delay in Compliance With State Implementation Plan Requirements; Proposed Approval of an Administrative Order Issued by the Pennsylvania Department of Environmental Resources to Fitchburg Coated Products, Division of Litton Business Systems, Inc.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking; invitation for public comment.

SUMMARY: EPA has proposed to approve an Administrative Order issued by the Pennsylvania Department of Environmental Resources to Fitchburg Coated Products, Division of Litton Business Systems, Inc. The Order requires the company to bring air emissions from its paper coating facility in Moosic, Pennsylvania into compliance with certain regulations contained in the federally approved Pennsylvania State Implementation Plan (SIP) by April 9, 1985. Because the Order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a Delayed Compliance Order pursuant to the Clean Air Act (the Act). If approved by EPA, the Order will constitute an addition to the SIP. In addition, a source in compliance with an approved Order may not be sued under the federal enforcement or citizens suit provisions of the Act for violations of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment on EPA's proposed approval of the Order as a Delayed Compliance Order.

DATE: Written comments must be received on or before November 1, 1984.

ADDRESSES: Comments should be submitted to Director, Air Management Division, EPA Region III, Sixth & Walnut Streets, Philadelphia, Pennsylvania 19106. The State Order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT: Joseph S. Arena, Environmental Scientist, Enforcement Policy and State Coordination Section, Air Management Division, U.S. EPA Region III, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106, Telephone: (215) 597-6553).

SUPPLEMENTARY INFORMATION: Fitchburg Coated Products, Division of Litton Business Systems, Inc. (hereinafter "Fitchburg"), operates a paper coating facility at Moosic, Pennsylvania. The Order under consideration addresses emissions from the surface coating processes, which are subject to § 129.52 of Title 25 of the Pennsylvania Code. The regulations limit the emissions of Volatile Organic Compounds (VOC), and is part of the federally approved Pennsylvania State Implementation Plan. The Order requires final compliance with the regulation by April 9, 1985 through the use of low solvent coatings.

Because this Order has been issued to a major source of VOC emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a Delayed Compliance Order under section 113(d) of the Clean Air Act (the Act). EPA has reviewed the Order and has found that the Order does satisfy the requirements of this subsection.

EPA's review indicates that the Fitchburg facility is a major source of VOC emissions. The facility is unable to comply with regulations limiting emissions of VOCs codified at section 129.52 of Title 25 of the Pennsylvania Code, part of the federally approved State Implementation Plan, because low solvent coatings are still being developed. The Order requires compliance with the regulation by April 9, 1985, three years after April 9, 1982, the date by which compliance is otherwise required. Prior to issuance of the Order, Pennsylvania provided an opportunity for public comment and hearing on the Order. The Order contains expeditious increments of progress towards compliance and emission monitoring and reporting requirements and provides for interim emission reduction requirements to avoid an imminent and substantial endangerment to health. Pennsylvania has determined that the Order requires the facility to comply with the State Implementation Plan whenever it is temporarily able to do so. The Order notifies Fitchburg of its liability for noncompliance penalties under section 120 of the Clean Air Act, 42 U.S.C. 7420.

If the Order is approved by EPA, source compliance with its terms would preclude federal enforcement action under Section 113 of the Act against the source for violations of the regulation covered by the Order during the period the Order is in effect. Enforcement against the source under the citizen suit provisions of the Act (Section 304) would be similarly precluded. If approved, the Order would also constitute an addition to the Pennsylvania SIP. However, source compliance with the Order will not preclude assessment of any noncompliance penalties under Section 120 of the Act, unless the source is otherwise entitled to an exemption under Section 120(a)(2) (B) or (C).

All interested persons are invited to submit written comments on the proposed Order. Written comments received by the date specified above will be considered in determining whether EPA may approve the Order. After the public comment period, the Administrator of EPA will publish in the **Federal Register** the Agency's final action on the Order in 40 CFR Part 65.

List of Subjects in 40 CFR Part 65

Air pollution control.

(42 U.S.C. 7413, 7601)

Dated: September 20, 1984.

Stanley L. Laskowski,

Acting Regional Administrator, Region III.

[FR Doc. 84-26064 Filed 10-1-84; 8:45 am]

BILLING CODE 6560-50-M

Notices

Federal Register
Vol. 49, No. 192
Tuesday, October 2, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Scientific Advisory Board, Mount St. Helens National Volcanic Monument, Gifford Pinchot National Forest, Clark County, Vancouver, Washington; Meeting

The Mount St. Helens Scientific Advisory Board will meet at 9 a.m., October 24, 1984, at the Gifford Pinchot National Forest Supervisor's Office, 500 West 12th Street, Vancouver, Washington 98660, to develop scientific recommendations for the National Volcanic Monument relative to:

1. Discuss the Draft of the NVM Comprehensive Plan and begin development of the Board's recommendation(s).

2. Open discussion of topics of interests to the Advisory Board.

The meeting will be open to the public. Persons who wish to make a statement to the Board should notify Dr. Jack K. Winjum, Chairperson, c/o Gifford Pinchot National Forest, 500 West 12th Street, Vancouver, WA 98660, 206–696–7570. Written statements may be filed with the Board before or after the meeting.

Dated: September 26, 1984.

Allan O. Lampi,

Acting Regional Forester.

[FR Doc. 84-26048 Filed 10-1-84; 8:48 am]

BILLING CODE 3410-11-M

Joint Interchange Order Between Department of the Air Force and Department of Agriculture; Interchange of Administrative Jurisdiction of Department of the Air Force Lands and National Forest Lands

This is a notice of an interchange order which describes the interchange of administrative jurisdiction of 20 acres of land within the boundaries of the Pike National Forest, Colorado, from the Department of the Air Force to the Department of Agriculture and the interchange of administrative jurisdiction of 17.50 acres of land within the Pike National Forest, Colorado, from the Department of Agriculture to the Department of the Air Force.

The Interchange order describes the tracts briefly. Legal descriptions are on file in the Office of the Air Force Academy, Colorado Springs, Colorado, and the Office of the Forest Supervisor, Pike National Forest, Pueblo, Colorado. Therefore, the order is published as follows:

Dated: September 25, 1984.

F. Dale Robertson,

Assistant Chief.

Department of the Air Force

Department of Agriculture

United States Air Force Academy, Farish Memorial Recreation Annex Military Reservation and Pike National Forest, CO; Joint Order Interchanging Administrative Jurisdiction of Department of the Air Force Lands and National Forest Lands

By virtue of the authority vested in the Secretary of the Air Force and the Secretary of Agriculture by the Act of July 26, 1956 (70 Stat. 656; 16 U.S.C. 505a, 505b), it is hereby ordered as follows:

(1) The lands under the jurisdiction of the Department of the Air Force which are within the boundaries of the Pike National Forest, El Paso County, Colorado, and described as T. 12 S., R. 68 W., Sixth Principal Meridian, Section 17, N½SE¼NE¼, and containing 20.00 acres, more or less, are hereby transferred from the jurisdiction of the Secretary of the Air Force to the jurisdiction of the Secretary of Agriculture.

(2) The National Forest lands under the jurisdiction of the Department of Agriculture which are adjacent to the United States Air Force Academy, Farish Memorial Recreation Annex Military Reservation, El Paso County, Colorado, are described as T. 12 S., R. 68 W., Sixth Principal Meridian, Section 16, E½NE¼SE¼SW¼, NE¼SE¼SE¼SW¼; and Section 21, W½SW¼NW¼NW¼, W½NW¼ NW¼SW¼ and containing a total of 17.50 acres, more or less, are hereby transferred from the jurisdiction of the Secretary of Agriculture to the jurisdiction of the Secretary of the Air Force.

(3) Pursuant to section 2 of the aforesaid Act of July 26, 1956, the National Forest lands transferred to the Secretary of the Air Force by this order are hereafter subject only to the laws applicable to other military lands comprising the United States Air Force Academy, Farish Memorial Recreation Annex Military Reservation. The Department of the Air Force lands transferrd to the Secretary of Agriculture by this order are hereafter subject to the laws applicable to lands acquired under the Act of March 1, 1911 (36 Stat. 961), as amended.

This order will be effective as of date of publication in the **Federal Register**.

Dated: May 23, 1984.

John R. Block,

Secretary of Agriculture.

Dated: July 18, 1984.

Verne Orr,

Secretary of the Air Force.

[FR Doc. 84-26094 Filed 10-1-84; 8:45 am]

BILLING CODE 3410-11-M

CIVIL RIGHTS COMMISSION

Wisconsin Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Wisconsin Advisory Committee to the Commission will convene at 11:30 a.m. and will end at 1:30 p.m., on October 17, 1984, at the Federal Building, 517 East Wisconsin Avenue, Milwaukee, Wisconsin 53202. The purpose of the meeting is to discuss the Milwaukee school desegregation situation, the proposed project on Racial and Religious Violence, and other possible projects for FY' 85.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Midwestern Regional Office at (312) 353–7479.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 27, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84-26022 Filed 10-1-84; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Commission

Export Trade Certificate of Review; Correction

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of correction.

On September 20, 1984, the Department of Commerce issued an export trade certificate of review to Gerhardt's, Inc. (Application #84–00024). Notice of the issuance was published in the **Federal Register** on September 26, 1984 at 49 FR 37821. The notice erroneously omitted turbochargers, automatic lubrication systems, and starters as products the export trade of which was certified. This notice corrects that omission.

Accordingly, paragraph (1) captioned "Products" in the notice that appeared at page 37822 in the **Federal Register** of Wednesday, September 26, 1984 (49 FR 37822) is amended to read:

Gerhardt's expects to trade in diesel fuel injection systems; hydraulic, mechanical, pneumatic and electrical governors; automatic lubrication systems; turbochargers; starters, generators and alternators; industrial ignition systems; oilfield engines and parts; and engine accessories, instruments and test devices.

Dated: September 27, 1984.

Irving P. Margulies,

General Counsel.

[FR Doc. 84–26102 Filed 10–1–84; 8:45 am]

BILLING CODE 3510–DR–M

National Bureau of Standards

Announcing a Workshop for Implementors of ISO/NBS Open Systems Interconnection

The Institute for Computer Sciences and Technology at the National Bureau of Standards (NBS) announces five (5) workshops to discuss the continued development of ISO/NBS computer network protocols. The following constitutes the schedule for the workshops through September 1985. The dates are firm. The hosts are not confirmed.

November 7–9, 1984—(NBS), Marriott Hotel, 620 Lakeforest Blvd., Gaithersburg, Md., (301) 977–8900
January 22–24, 1985—(HIS), Phoenix, Ariz.
April 16–18, 1985—(BCS), Seattle, Wash.
June 25–27, 1985—(NCR), Dayton, Ohio
September 17–19, 1985—(NBS), Gaithersburg, Md.

The workshops will cover Protocols in six layers of the ISO Reference Model.

Attendance at the workshops is limited due to space requirements and the size of the conference facility; therefore, registration is on a first come, first served basis with recommended limitation of two participants per company. A registration fee will be charged for attending the workshop. Participants are expected to make their own travel arrangements and accommodations. NBS reserves the right to cancel any part of the workshop.

To register for the November 7–9 workshop, companies should telephone (301) 921–3537 and send a request on company letterhead to: OSI Workshop Series, Attn: Mary Lou Fahey or Joan Wyrwa, National Bureau of Standards, Bldg. 225, Rm B218, Gaithersburg, MD 20899.

The registration request must name the company representative(s) and specify the business address and telephone number for each participant. Registration requests must be received by close of business Wednesday, October 31, 1984. An NBS representative will confirm workshop registration reservations by telephone. For additional information, contact John Heafner (301) 921–3537.

Dated: September 27, 1984.

Ernest Ambler,

Director.

[FR Doc. 84–26041 Filed 10–1–84; 8:45 am]

BILLING CODE 3510–13–M

National Oceanic and Atmospheric Administration

Marine Mammals; National Marine Fisheries Service; Modification No. 1 to Permit No. 421

Notice is hereby given that pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), Scientific Research Permit No. 421 issued to Dr. Bruce R. Mate and Mr. James R. Harvey, Oregon State University, Newport, Oregon 97365, on June 22, 1983 (48 FR 2993), is modified as follows:

Section B–1 is changed to read:

"1. The animals described herein shall be taken by the means and for the purposes set forth in the application and in the modification request."

This modification becomes effective upon publication in the **Federal Register**.

The Permit as modified and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and
Regional Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way, N.E. BIN C15700, Seattle, Washington 98115.

Dated: September 6, 1984.

Richard B. Roe,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 84–26116 Filed 10–1–84; 8:45 am]

BILLING CODE 3510–22–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing Import Restraint Level for Certain Cotton, Wool and Man-Made Fiber Apparel Products From Mauritius

September 26, 1984.

ACTION: Establishing an import restraint level of 106,950 dozen for cotton, wool and man-made fiber knitwear apparel products in Categories 338, 339, 345, 438, 445, 446, 638, 639, 645, and 646, as a group, produced or manufactured in Mauritius and exported to the United States during the twelve-month period beginning on October 1, 1984 and extending through September 30, 1985.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924) and December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (FR 26622) and July 16, 1984 (FR 28754).

SUMMARY: The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of October 2 and 5, 1981 between the Governments of the United States and Mauritius establishes a twelve-month period of restraint for cotton, wool and man-made fiber knitwear apparel products in Categories 338, 339, 345, 438, 445, 446, 638, 639, 645, and 646, as a group, during the agreement period beginning on October 1, 1984 and extending through September 30, 1985. In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs, in accordance with the terms of the bilateral agreement, to prohibit entry into the United States for consumption and withdrawal from warehouse for consumption of textile products in Categories 338, 339, 345, 438, 445, 446, 638, 639, 645, and 646, as a group, produced or manufactured in Mauritius and exported during the twelve-month period, in excess of 106,950 dozen. The level has been adjusted by 8,050 dozen to account for carryforward used during the agreement year which began on October 1, 1983.

This letter and the actions taken pursuant to it are designed to implement all of the provisions of the bilateral agreement, but are not designed to assist only in the implementation of certain of its provisions.

EFFECTIVE DATE: October 1, 1984.

FOR FURTHER INFORMATION CONTACT: James Nader, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

September 26, 1984.

Committee for the Implementation of Textile Agreement

Commissioner of Customs,
Department of the Treasury,
Washington, D.C. 20229.

Dear Mr. Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of October 2 and 5, 1981, as amended, between the Governments of the United States and Mauritius, and in accordance with Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on October 1, 1984, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in Categories 338, 339, 345, 438, 445, 446, 638, 639, 645, and 646, as a group, produced or manufactured in Mauritius and exported during the twelve-month period beginning on October 1, 1984 and extending through September 30, 1985, in excess of 108,950 dozen.

In carrying out this directive textile products in Categories 338, 339, 345, 438, 445, 446, 638, 639, 645, and 646, as a group, which have been exported to the United States during the twelve-month period beginning on October 1, 1983 and extending through September 30, 1984, shall, to the extent of any unfilled balance, be charged against the level of restraint established for such goods during that twelve-month period. In the event the level of restraint establish for that period has been exhausted by previous entries, such goods shall be subject to the level set forth in this letter.

The level set forth above is subject to adjustment in the future according to the provisions of the bilateral agreement of October 2 and 5, 1981, between the Governments of the United States and Mauritius, which provide, in part, that (1) the level may be exceeded by not more than 10 percent for carryover and carryforward and (2) the two governments agree to consult on any question arising in the implementation of the bilateral agreement. Any appropriate adjustments under the provisions of the agreement, referred to above, will be made to you by letter.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924) and December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622) and July 16, 1984 (49 FR 28754).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The action taken with respect to the Government of Mauritius and with respect to imports of cotton, wool and man-made fiber textile products from Mauritius has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register**.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-26014 Filed 10-1-84; 8:45 am]

BILLING CODE 3510-DR-M

Import Restraint Limit for Certain Man-Made Fiber Textile Products Produced or Manufactured in Costa Rica

September 28, 1984.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on October 3, 1984. For further information contact Kyle Poole, Trade Reference Assistant (202) 377–4212.

Background

The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of February 7 and 8, 1984 between the Governments of the United States and Costa Rica establishes a restraint limit of 2,164,030 dozen for man-made fiber brassieres in Category 649, produced or manufactured in Costa Rica and exported during 1984. The letter to the Commissioner of Customs which follows this notice establishes this limit. The limit will be adjusted to account for merchandise in Category 649 imported during 1984 which has been exported after December 31, 1983.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), and July 16, 1984 (49 FR 28754).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

September 26, 1984.

Committee for the Implementation of Textile Agreements

Commissioner of Customs, Department of the Treasury, Washington, D.C. 20229.

Dear Mr. Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of February 7 and 8, 1984 between the Governments of the United States and Costa Rica; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on October 3, 1984, entry into the United States for consumption and withdrawal from warehouse for consumption of man-made fiber textile products in Category 649, produced or manufactured in Costa Rica and exported on and after January 1, 1984 and extending through December 31, 1984 in excess of 2,164,030 dozen.

Textile products in Category 649 which have been exported to the United States prior to January 1, 1984 shall not be subject to this directive.

Textile products in Category 649 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The level set forth above is subject to adjustment in the future according to the provisions of the bilateral agreement of February 7 and 8, 1984, which provide, in part, that: (1) The specific limit may be increased for carryover and carryforward and (2) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 F.R. 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), and July 16, 1984 (49 FR 28754).

In carrying out the above directions, the Commissioner of Customs should

construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this actions falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-26013 Filed 10-1-84; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on Soviet Imprecisely Located Targets for Strategic Systems; Advisory Committee Meeting

Summary

The Defense Science Board Task Force on Soviet Imprecisely Located Targets for Strategic Systems will meet in closed session on 7–8 November 1984 in the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will begin their study on how to hold Soviet imprecisely located targets at risk.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. 92–463, as amended (5 U.S.C. App. II (1982)), it has been determined that this DSB Panel meeting, concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly this meeting will be closed to the public.

Dated: September 26, 1984.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 84-26082 Filed 10-1-84; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

Privacy Act of 1974; Amendments to Notices for Systems of Records

AGENCY: Department of the Army, DOD.

ACTION: Deletion of and Amendments to Notices for Systems of Records.

SUMMARY: The Department of the Army proposes to delete 2 and amend 10 system notices for systems of records subject to the Privacy Act of 1974, as amended. Following identification of changes, amended notices are printed below in their entirety.

DATES: This action shall be effective without further notice on or before November 1, 1984 unless comments are received which would result in a contrary determination.

ADDRESSES: Comments may be submitted to Headquarters, Department of the Army, ATTN: DAAG–AMR–S, 2461 Eisenhower Avenue, Alexandria, VA 22331–0301.

FOR FURTHER INFORMATION CONTACT: Mrs. Dorothy Karkanen, Office of the Adjutant General, Headquarters, Department of the Army, at the above address; telephone: 703/325–6163.

SUPPLEMENTARY INFORMATION: The Army's systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** as follows:

FR Doc 83–12048 (48 FR 25502), June 6, 1983
FR Doc 83–18883 (48 FR 32046), July 13, 1983
FR Doc 83–24181 (48 FR 40291), September 6, 1983
FR Doc 83–28792 (48 FR 49086), October 24, 1983
FR Doc 84–1118 (49 FR 2006), January 17, 1984
FR Doc 84–2331 (49 FR 3506), January 27, 1984
FR Doc 84–3683 (49 FR 5170), February 10, 1984
FR Doc 84–6438 (49 FR 8993), March 9, 1984
FR Doc 84–11652 (49 FR 18600), May 1, 1984
FR Doc 84–14035 (49 FR 22122), May 25, 1984
FR Doc 84–15558 (49 FR 24045), June 11, 1984
FR Doc 84–16178 (49 FR 24914), June 18, 1984
FR Doc 84–16520 (49 FR 25499), June 21, 1984
FR Doc 84–17271 (49 FR 26625), June 28, 1984
FR Doc 84–18684 (49 FR 28754), July 16, 1984
FR Doc 84–19506 (49 FR 29812), July 24, 1984

The proposed amendments are not within the purview of the provisions of 5 U.S.C. 552a(o) which requires the submission of an altered system report.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

DELETIONS

AO314.30aDAAG

System name:

Nonappropriated Fund Instrumentality Membership Files (48 FR 25574), June 6, 1983.

Reason:

Records are covered by system notice AO301.07DAAG, Army Club Membership Files.

AO601.08aDAAG

System name:

Club Management Personnel Files (48 FR 25628), June 6, 1983.

Reason:

Records are covered by system notice AO807.05aDAPE, NAF Personnel Records.

AMENDMENTS

AO401.07aOSA

System name:

Media Contact Files (48 FR 25580), June 6, 1983.

Changes:

After "authority for maintenance of the system", add:

"Purpose(s): To maintain contact with public media representatives on issues of common interest."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete entry: substitute therefor: "See 'Blanket Routine Uses' at 48 FR 25503, June 6, 1983."

AO728.01DAAG

System name:

Retired Personnel Data File (48 FR 25699), June 6, 1983.

Changes:

System name:

Delete entry; substitute therefor: "Army Retirement Services Program Files".

System location:

Delete the second paragraph. Add the following: "Segments of this system exist at Headquarters, US Army Forces Command, Ft McPherson, GA; US Army Training and Doctrine Command, Ft Monroe, VA; Headquarters, Military District of Washington; and installations operating retiree councils and/or service activities."

Categories of individuals covered by the system:

Add: "and eligible members of their families; active and retired members of other uniformed services and their eligible family members in geographical areas where their parent organization does not offer services."

Categories of records in the system:

Delete entry; substitute therefor: "Retiree's name, grade, retirement class/date/code, SSN, branch of service, date of birth, component, years of service, percentage of disability, sex, and home address; biographical sketch of retirees seeking appointment to the Army Chief of Staff Retiree Councils comprising much of the above

information and supplemented by description of involvement in military and civic affairs since retirement, statement of willingness to serve pursuant to Army Regulation 608–25, correspondence between Army and applicant regarding acceptance/non-selection, active duty training orders; and similar relevant documents."

Authority for maintenance of the system:

Before "3966", insert "1588 and".
Add:

"Purpose(s):

To inform retirees and eligible members of their families of their rights, benefits, and privileges; pending legislation and policies affecting them; to provide the Army insight into problems and needs of the retirees."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete entries; substitute therefor: "See 'Blanket Routine Uses' at 48 FR 25503, June 6, 1983."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Add: "Paper records in file folders;".

Retention and disposal:

Delete entry; substitute therefor: "Magnetic tapes containing names and addresses of retirees are updated periodically to reflect current information; information is retained until no longer needed. Correspondence and documents related to the Army Chief of Staff Retiree Councils are retained 5 years following which they are destroyed by shredding."

Notification procedure:

Delete entry; substitute therefor: "Information may be obtained by writing to the System Manager, ATTN: Director, Personnel and Community Support Activities (DAAG–DP). Individual must furnish full name, address and telephone number, and sufficient details to locate the record."

Record access procedures:

Delete entries; substitute therefor: "Individuals desiring access to records pertaining to them in this system of records should write as indicated in "Notification procedure", providing information specified therein."

Contesting record procedures:

After "determinations", delete remainder and add: "are contained in Army Regulation 340–21 (32 CFR Part 505)."

Record source categories:

Delete entry; substitute therefor: "From the individual; Army records and reports."

A1012.03aTRADOC

System name:

Army School Student Files (48 FR 25729), June 6, 1983.

Changes:

Categories of records in the system:

In the first paragraph, after "aptitudes and personal qualities", add: "including corporate fitness results;".

After "Authority for maintenance of the System", add:

"Purpose(s):

To determine eligibility of students for attendance, monitor progress, record completion of academic requirements, and document courses which may be prerequisites for attendance/participation in other courses of instruction."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete entry; substitute therefor: "See 'Blanket Routine Uses' at 48 FR 25503, June 6, 1983."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Rention and disposal:

Change entry to read: "Individual and class academic records are destroyed after 40 years; collateral individual training records and Faculty Board files are destroyed after 1 year."

A1503.07aDAEN

System name:

Resettlement Files (48 FR 25767), June 6, 1983.

Changes:

System ID:

Delete "A1503.07a"; substitute therefor: "A1506.03a".

Categories of records in the system:

Delete entry; add: "Individual's application for relocation assistance; relevant correspondence; documents relating to the movement of displaced persons because of acquisition of real estate for Army military, civil works, or other Federal agency use."

After "Authority for maintenance of the system", add:

"Purpose(s):

To process applications for relocation assistance benefits and to consider appeals."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete entries; substitute therefor: "See 'Blanket Routine Uses' at 48 FR 25503, June 6, 1983."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Retention and disposal:

Delete entries substitute therefor: "Records are retained 10 years after final action or determination on appeals, following which they are destroyed by shredding."

Notification procedure:

Delete entry; substitute therefor: "Information may be obtained by writing to the System Manager, ATTN: DAEN–REH–O; individual must furnish full name, address and telephone number, state of residence at the time application was filed, other pertinent information that will assist in locating the records, and signature."

Record access procedures:

Delete entries; substitute therefor: "Individuals desiring access to records about themselves in this system of records should submit a rquest as indicated under 'Notification procedure', providing the information required therein."

Contesting record procedures:

After "determinations", delete remainder and add: "are contained in Army Regulation 340–21 (32 CFR Part 505)."

A1504.06aDAEN

System name:

Real Estate Outgrants (48 FR 25768), June 6, 1983.

Changes:

System ID:

Delete suffix "a".

After "Authority for maintenance of the system", add:

"Purpose(s):

To process outgrants; to record inspections of outgrants and determine grantees' compliance with terms and conditions of the grant."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete entries; substitute therefore: "See 'Blanket Routine Uses' at 48 FR 25503, June 6, 1983."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Retention and disposal:

Delete entry; substitute therefor: "Records are destroyed 3 years after termination of outgrant instrument."

System manager(s) and address:

Delete "Chief, Programs * * * Estate,".

Notification procedure:

Delete "from SYSMANAGER"; substitute therefor: "by writing to the System Manager, ATTN: Director of Real Estate; individual must provide full name, present address and telephone number, specifics concerning the outgrant, and signature."

Record access procedures:

Delete entry; substitute therefor: "Individuals desiring access to records about themselves in this system of records may write to the Chief of Engineers, Department of the Army, ATTN: Director of Real Estate, Washington, DC 20314, furnishing information as stated in 'Notification procedure'.

Record source categories:

Delete entry; substitute therefor: "From the individual; Army records and reports."

A1506.02aDAEN

System name:

Homeowners Assistance Case Files (48 FR 25769), June 6, 1983.

Changes:

System ID:

Change ID to "A1506.03b".

After "Authority for maintenance of the system", add:

"Purpose(s):

To process applications for homeowners assistance benefits and to consider appeals; to review market studies and appraisals; to review final title assemblies of deeds of conveyance to the Government for properties acquired under the program."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete the first two paragraphs.

Notification procedure:

Change to read: "Information may be obtained from the System Manager, ATTN: DAEN–REH–O at the above address. Individuals must provide their full name, current address and telephone number, name and location of the installation closed or announced for closure, and signature."

Record access procedures:

Delete entries; substitute therefor: "Individuals desiring access to records about themselves in this system of records should write to the System Manager, providing information listed under 'Notification procedure'.

Contesting record procedures:

After "determinations", delete remainder and add: "are contained in Army Regulation 340–21 (32 CFR Part 505)."

A1511.01aDAEN

System name:

Army Housing Information Management System (48 FR 25770), June 6, 1983.

Changes:

System ID: Change to read: "A1511.02".

After "Authority for maintenance of the system", add:

"Purpose(s):

To provide information relating to the management, operation, and control of the Army housing program; to provide necessary housing for military personnel, their dependents, and qualified civilian employees; to determine housing adequacy/suitability; to document cost data for alterations/repair of units; to establish rental rates; to provide guidance and referral service; to reflect liaison with real estate boards, brokers, and other Government agencies; to render reports; to investigate complaints and related matters."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete entry; substitute therefor: "See 'Blanket Routine Uses' at 48 FR 25503, June 6, 1983."

A1522.10aDAEN

System name:

Reservoir Permit Files (48 FR 25771), June 6, 1983.

Changes:

System ID:

Delete suffix "a".

After "Authority for maintenance of the system", add:

"Purpose(s):

Serves as a basis for lakeshore management and public use activity control."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete entry; substitute therefor: "See 'Blanket Routine Uses' at 48 FR 25503, June 6, 1983."

System manager(s) and address:

Delete "Chief of Recreation * * * Office,".

Notification procedure:

Delete entry; substitute therefore: "Individuals wishing to know whether or not this system of records contains information concerning them may inquire of the System Manager, ATTN: Chief, Construction/Operations Division, Civil Works Directorate; individual should furnish his/her full name, present address and telephone number, and specifics that will assist in locating the records."

Record access procedures:

Delete entry; substitute therefor: "Individuals desiring access to records about themselves should write as indicated in 'Notification procedure', providing information required therein."

Contesting record procedures:

After "determinations", delete remainder and add: "are contained in Army Regulation 340–21 (32 CFR Part 505)."

Record source categories:

Delete entry; substitute therefor: "From the individual; Army records and reports."

A1522.15aDAEN

System name:

General Permit Files (48 FR 24772), June 6, 1983.

Changes:

System ID:

Delete suffix "a".

After "Authority for maintenance of the system", add:

"Purpose(s)

Serves as the basis for decision by the Chief of Engineers or his designated representative to enforce the regulatory program."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete entries; substitute therefor: "Information from this system may be disclosed to:

"Department of Justice for possible criminal prosecution;

"Appropriate Federal agencies to solicit views regarding one's application, as required by Federal laws such as the National Environmental Quality Act of 1969 and the Fish and Wildlife Coordination Act."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Delete the first paragraph.

Storage:

Delete entry; substitute therefor: "Paper records in file folders; magnetic tapes/discs and printouts; microfilm."

Retrievability:

Delete entry; substitute therefor: "By individual's name."

System manager(s) and address:

Delete "Chief, Regulatory * * * Office,".

Notification procedure:

Delete entry; substitute therefor: "Information may be obtained by writing to the System Manager, ATTN: DAEN–CWO–N; individual must furnish full name, his/her current address and telephone number, and specifics that will assist in locating the records."

Record access procedures:

Delete entry; substitute therefor: "Individuals wishing to access records pertaining to themselves in this system of records should address an inquiry as stated in 'Notification procedure', providing information required therein."

Contesting record procedures:

After "determinations", delete remainder and add: "are contained in Army Regulation 340–21 (32 CFR Part 505)."

A1524.11DAEN

System name:

Violation Warning Files (48 FR 25772), June 6, 1983.

Changes:

After "Authority for maintenance of the system", add:

"Purpose(s):

To determine and take appropriate action with regard to violations of water resource development projects."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete entry; substitute therefor: "See 'Blanket Routine Uses' at 48 FR 25503, June 6, 1983."

Notification procedure:

Delete entry; substitute therefor: "Information may be obtained from the System Manager, ATTN: DAEN–PM; individual must furnish his/her full name, current address and telephone number, name of project that originated the violation/warning notice, and serial number thereon."

Record access procedures:

Delete entry; substitute therefor: "Individuals desiring access to records about themselves in this system of records should write to the System Manager, as indicated in 'Notification procedure', providing information required therein."

Contesting record procedures:

Delete entry; substitute therefor: "The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505)."

Record source categories:

Delete entry; substitute therefor: "Army records and reports."

Systems A0401.07aOSA, A0707.01DAAG, A1012.03aTRADOC, A1506.03aDAEN, A1504.08DAEN, A1506.03bDAEN, A1522.10DAEN, A1522.15DAEN, and A1524.11DAEN read as follows:

A0401.07aOSA

SYSTEM NAME:

Media Contact Files.

SYSTEM LOCATION:

Office of the Chief of Public Affairs, Headquarters, Department of the Army, The Pentagon, Washington, DC 20310 and their field operating agencies at Los Angeles, CA; Washington, DC; and Kansas City, MO; public affairs offices of Army Staff agencies, major commands, installations and activities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Journalists, authors, editors, columnists, researchers, news media representatives.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, telephone number, biographical data; public media affiliation; correspondence between the Army and the individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C., section 3012.

PURPOSE(S):

To maintain contact with public media representatives on issues of common interest.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See "Blanket Routine Uses" at 48 FR 25503, June 6, 1983.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Cards, papers in file folders.

RETRIEVABILITY:

By individual's surname.

SAFEGUARDS:

Information is accessed only by individuals having need therefor in the performance of official duties.

RETENTION AND DISPOSAL:

Records are destroyed when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Public Affairs, Headquarters, Department of the Army, The Pentagon, Washington, DC 20310.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager.

RECORD ACCESS PROCEDURE:

Individuals desiring access to records about themselves in this system of records may inquire of the System Manager, providing full name, present address, and telephone number.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the individual; newspapers, libraries, Army and Department of Defense records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

A0708.01DAAG

SYSTEM NAME:

Army Retirement Services Program Files.

SYSTEM LOCATION:

Office of The Adjutant General, Headquarters, Department of the Army, 2461 Eisenhower Avenue, Alexandria, VA 22331. Segments of this system exist at Headquarters, US Army Forces Command, Ft McPherson, GA; US Army Training and Doctrine Command, Ft Monroe, VA; Headquarters, Military District of Washington; and installations operating retiree councils and/or service activities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All retired Army personnel and eligible members of their families; active and retired members of other uniformed services and their eligible family members in geographical areas where their present organization does not offer services.

CATEGORIES OF RECORDS IN THE SYSTEM:

Retiree's name, grade, retirement class/date/code, SSN, branch of service, date of birth, component, years of service, percentage of disability, sex, and home address; biographical sketch of retirees seeking appointment to the Army Chief of Staff Retiree Councils comprising much of the above information and supplemented by description of involvement in military and civic affairs since retirement, statement of willingness to serve pursuant to Army Regulation 608–25, correspondence between Army and applicant regarding acceptance/non-selection, active duty training orders; and similar relevant documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C., sections 1588 and 3966.

PURPOSE(S):

To inform retirees and eligible members of their families of their rights, benefits, and privileges; pending legislation and policies affecting them; to provide the Army insight into problems and needs of the retirees.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See "Blanket Routine Uses" at 48 FR 25503, June 6, 1983.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders; magnetic tapes and printouts; microfiche.

RETRIEVABILITY:

By individual's surname.

SAFEGUARDS:

Information is accessed only by individuals having official need therefor, within buildings protected by security guards during non-duty hours.

RETENTION AND DISPOSAL:

Magnetic tapes containing names and addresses of retirees are updated periodically to reflect current information; information is retained until no longer needed. Correspondence and documents related to the Army Chief of Staff Retiree Councils are retained 5 years, following which they are destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

The Adjutant General, Headquarters, Department of the Army, 2461 Eisenhower Avenue, Alexandria, VA 22331.

NOTIFICATION PROCEDURE:

Information may be obained by writing to the System Manager, ATTN: Director, Personnel and Community Support Activities (DAAG–DP). Individual must furnish full name, address and telephone number, and sufficient details to locate the record.

RECORD ACCESS PROCEDURES:

Individuals desiring access to records pertaining to them in this system of records should write as indicated in "Notification procedure", providing information specified therein.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505)

RECORD SOURCE CATEGORIES:

From the individual; Army records and reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

A1012.03a TRADOC

SYSTEM NAME:

Army School Student Files.

SYSTEM LOCATION:

All Army schools, colleges, and training centers; addresses are in the appendix to Army system notices at 48 FR 25773, June 6, 1983.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Students who attend formal and/or non-resident course of instruction at Army schools, colleges, and training centers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual academic records consisting of courses attended, length of each, extent of completion and results; aptitudes and personal qualities, including corporate fitness results; grade and rating attained; and related information; collateral individual training records comprising information posted to the basic individual academic training record or other long-term records; faculty board files pertaining to class standing/rating/classification/proficiency of students; class academic records maintained by training instructors indicating attendance and progress of class members.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C., section 301.

PURPOSE(S):

To determine eligibility of students for attendance, monitor progress, record completion of academic requirements, and document courses which may be prerequisites for attendance/participation in other courses of instruction.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See "Blanket Routine Uses" at 48 FR 25503, June 6, 1983.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders, cards, computer magnetic tapes/discs; printouts.

RETRIEVABILITY:

By individual's name, SSN/military service number.

SAFEGUARDS:

Information is stored in locked cabinets or rooms, accessed only by authorized individuals having official need therefor.

RETENTION AND DISPOSAL:

Individual and class academic records are destroyed after 40 years; collateral individual training records and faculty board files are destroyed after 1 year.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, US Army Training and Doctrine Command, Ft Monroe, VA 23651.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager, ATTN: ATAG–FOIA, Ft Monroe, VA 23651.

RECORD ACCESS PROCEDURES:

Individuals desiring to access records pertaining to them in this system of records may write either to the commander of the appropriate school, college or training center, furnishing their full name, student number, course title and class number, or description of type training received and dates of attendance/enrollment.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the staff and faculty of appropriate school, college, or training center responsible for the instruction.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

A1506.03ADAEN

SYSTEM NAME:

Resettlement Files.

SYSTEM LOCATION:

Office, Chief of Engineers, Headquarters, Department of the Army, Washington, DC 22314; Engineer Division and District Office.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who apply for relocation assistance pursuant to Title II, Pub. L. 91–646.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's application for relocation assistance; relevant correspondence; documents relating to the movement of displaced persons because of acquisition of real estate for Army military, civil works, or other Federal agency use.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pub. L. 91–646.

PURPOSE(S)

To process applications for relocation assistance benefits and to consider appeals.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See "Blanket Routine Uses" at 48 FR 25503, June 6, 1983.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders; magnetic tape, cards, discs.

RETRIEVABILITY:

By applicant's surname.

SAFEGUARDS:

Records are maintained in areas accessible only to authorized persons having need therefor, within buildings protected by security guards.

RETENTION AND DISPOSAL:

Records are retained 10 years after final action or determination on appeals, following which they are destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Engineers, Headquarters, Department of the Army, Washington, DC 20314.

NOTIFICATION PROCEDURE:

Information may be obtained by writing to the System Manager, ATTN: DAEN–REH–O; individual must furnish full name, address and telephone number, state of residence at the time application was filed, other pertinent information that will assist in locating the records, and signature.

RECORD ACCESS PROCEDURE:

Individuals desiring access to records about themselves in this system of records should submit a request as indicated under "Notification procedure", providing the information required therein.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the individual; Army records and reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

A1504.08DAEN

SYSTEM NAME:

Real Estate Outgrants.

SYSTEM LOCATION:

Office, Chief of Engineers, Headquarters, Department of the Army, Washington, DC 20314; Engineer Division and District Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Grantees holding outgrants (leases, licenses, easements, permits, and consents) for use of Government real property, or permission (under consents) for use of property over which the Government holds easement interests.

CATEGORIES OF RECORDS IN THE SYSTEM:

Outgrant instruments and listings by number and name to include location, purpose, term and rental for each outgrant and an indication when grantees are not in compliance with terms of their outgrants.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C., sections 2667, 2668, 2669, 2672, 3012, 4777, 8012, and 9777; 16 U.S.C., sections 460d and 661, et seq; 30 U.S.C., section 185; 33 U.S.C., sections 558b and 558b–1; 40 U.S.C., sections 319 and 471 et seq.

PURPOSE(S):

To process outgrants; to record inspections of outgrants and determine grantees' compliance with terms and conditions of the grant.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Blanket Routine Uses at 48 FR 25503, June 6, 1983.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file cabinets; punch cards; magnetic tape/disc.

RETRIEVABILITY:

By outgrant number; by grantee's name.

SAFEGUARDS:

Records are maintained in areas accessible only to authorized persons having official need therefor, housed in buildings protected by security guards or lock when not in use. Information in automated media is further protected by physical security devices; access to or update of information in the system is protected through a system of passwords, thereby preserving integrity of data.

RETENTION AND DISPOSAL:

Records are destroyed 3 years after termination of outgrant instrument.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Engineers, Headquarters, Department of the Army, Washington, DC 20314.

NOTIFICATION PROCEDURE:

Information may be obtained by writing to the System Manager, ATTN: Director of Real Estate; individual must provide full name, present address and telephone number, specifics concerning the outgrant, and signature.

RECORD ACCESS PROCEDURES:

Individuals desiring access to records about themselves in this system of records may write to the Chief of Engineers, Department of the Army, ATTN: Director of Real Estate, Washington, DC 20314, furnishing information as stated in "Notification procedure".

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determination are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the individual; Army records and reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

A1506.03bDAEN

SYSTEM NAME:

Homeowners Assistance Case Files.

SYSTEM LOCATION:

Office, Chief of Engineers, Headquarters, Department of the Army, Washington, DC 20314. Segments of this system exist at Engineer Division and District Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Civilian employees and military personnel who apply for homeowners assistance benefits.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documents relating to the application of persons sustaining losses in real estate because of closure or reduction of military bases; e.g., employment verification; income and expense figures; information concerning offer to sell real property or similar written offer; negotiator's report; title evidence and opinions, surveys, leases; Certificate of Inspection and Possession; Payment and Closing Sheet and Receipt for US Treasurer's Check; market impact data; insurance and tax data; Disclaimer by Person of Possession; DOD Form 1607 (Application for Homeowner Assistance); FHA Form 1174 (Transmittal of Recorded Deed and Title Assembly-Military Acquisition); appraisal reports, docket sheets, questionnaires, copies of deeds and mortgages, mortgate settlement data; evidence of proof of ownership and occupancy of residence, applicant appeals and final decisions thereon; comparable forms and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966, Pub. L. 89–754 (80 Stat. 1255, 1290), as amended.

PURPOSE(S):

To process applications for homeowners assistance benefits and to consider appeals; to review market studies and appraisals; to review final title assemblies of deeds of conveyance to the Government for properties acquired under the program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Department of Housing and Urban Development/FHA: In assuming custody of acquired homes, to manage and dispose of such properties on behalf of the Secretary of Defense.

FHA/Veterans Administration: In accepting subsequent purchaser in private sales when property is encumbered by a mortgage loan guaranteed or insured by them.

Department of Justice: In reviewing final title and deeds of conveyance to the Government for properties acquired under the program, pursuant to their responsibilties under Pub. L. 91–393.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders; magnetic tapes/discs; cards.

RETRIEVABILITY:

By applicant's surname.

SAFEGUARDS:

All information is protected by physical security devices which include guards to the buildings and limited access only to authorized personnel having official need therefor. Access to or update of information in automated media is by a system of passwords, thereby preserving integrity of the data.

RETENTION AND DISPOSAL:

Files are destroyed 10 years after final action or decision on appeals, as applicable.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Engineers, Headquarters, Department of the Army, Washington, DC 20314.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager, ATTN: DAEN–REH–O at the above address. Individuals must provide their full name, current address and telephone number, name and location of the installation closed or announced for closure, and signature.

RECORD ACCESS PROCEDURES:

Individuals desiring access to records about themselves in this system of records should write to the System Manager, providing information listed under "Notification procedure".

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

A1511.02DAEN

SYSTEM NAME:

Army Housing Information Management System.

SYSTEM LOCATION:

Office, Chief of Engineers, Headquarters, Department of the Army, Washington, DC 20314; housing managers at Army installations worldwide.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military personnel, their dependents; Department of Defense or other key civilian personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications for on/off post housing containing name, service/SSN, rank/grade and date, service data, organization of assignment, home address and telephone number, locator data, appropriate travel orders, records reflecting housing availability/assignment/termination, eligibility of civilians for loan to purchase housing, referral services, property inventories, hand receipts, and issue slips, cost control, job orders, survey data, reports of liaison with real estate boards, realtors, brokers and other Government agencies, other management reports

regarding the Army housing system, complaints and investigations, and similar relevant documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C., sections 133 and 2674; DOD Instructions 1100.16, 4165.27, 4165.34, 4165.43, 4165.44, 4165.47, and 4165.51.

PURPOSE(S):

To provide information relating to the management, operation, and control of the Army housing program; to provide necessary housing for military personnel, their dependents, and qualified civilian employees; to determine housing adequacy/suitability; to document cost data for alterations/repair of units; to establish rental rates; to provide guidance and referral service; to reflect liaison with real estate boards, brokers, and other Government agencies; to render reports; to investigate complaints and related matters.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See "Blanket Routine Uses" at 48 FR 25503, June 6, 1983.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records; cards; computer tapes, discs, printouts, and cards.

RETRIEVABILITY:

By individual's surname, facility name or number.

SAFEGUARDS:

Records are maintained in areas accessible only to authorized persons having official need therefor, housed in buildings protected by security guards or lock when not in use. Information in automated media is further protected by physical security devices; access to or update of information in the system is protected through a system of passwords, thereby preserving integrity of data.

RETENTION AND DISPOSAL:

Installation troop housing and tenancy files are destroyed after 3 years; cost control files are destroyed 11 years after last entry; leasing/rental rate files are destroyed after 10 years; housing referral service files are destroyed after 5 years; off-post rental housing reports and/or complaints/investigations are destroyed 5 years after completion at office having Army-wide responsibility (other offices: 3 years).

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Engineers, Headquarters, Department of the Army, Washington, DC 20314.

NOTIFICATION PROCEDURE:

Information may be obtained from the Director of Industrial Operations, Office of the Chief of Engineers or his counterpart in District/Division Engineer Offices providing housing service.

RECORD ACCESS PROCEDURES:

An individual's request may be addressed to the Director of Industrial Operations at the appropriate installation, and contain his/her name and address and last assignment location.

CONTESTING RECORD PROCEDURES:

The Army's rules of access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the individual, his/her personnel records, tenants/landlords and realty activities, financial institutions, and previous employers/commanders.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

A1522.10DAEN

SYSTEM NAME:

Reservoir Permit Files.

SYSTEM LOCATION:

Army Corps of Engineers Project Offices; addresses may be obtained from the System Manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for permits, permittees and persons having done unauthorized work at Corps of Engineers water resource development projects.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications for permits, permits and letters of comment from the general public.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

16 U.S.C., section 460d; 31 U.S.C., section 483a; 42 U.S.C., sections 4321, 4331–4335, 4341–4347; 33 U.S.C., section 1251 et seq; Executive Order 11752.

PURPOSE(S):

Serves as a basis for lakeshore management and public use activity control.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See "Blanket Routine Uses" at 48 FR 25503, June 6, 1983.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file cabinets.

RETRIEVABILITY:

By applicant name and permit number.

SAFEGUARDS:

Records are maintained in areas accessible only to authorized personnel having official need therefor.

RETENTION AND DISPOSAL:

Reservoir permits are destroyed 1 year following expiration of permit.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Engineers, Headquarters, Department of the Army, Washington, DC 20314.

NOTIFICATION PROCEDURE:

Individuals wishing to know whether or not this system of records contains information concerning them may inquire of the System Manager, ATTN: Chief, Construction/Operations Division, Civil Works Directorate; individual should furnish his/her full name, present address and telephone number, and specifics that will assist in locating the records.

RECORD ACCESS PROCEDURES:

Individuals desiring access to records about themselves should write as indicated in "Notification procedure", providing information required therein.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the individual; Army records and reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

A1522.15DAEN

SYSTEM NAME:

General Permit Files.

SYSTEM LOCATION:

Office, Chief of Engineers, Headquarters, Department of the Army, Washington, DC 20314; segments exist at Engineer Division and District Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals applying for permits, permittees, and persons having done unauthorized work in navigable waters.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications for permits, permits, written comments from the general public, state, local and Federal agencies, similar relevant documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 9, 10, and 14, River and Harbor Act of March 3, 1899; Section 404, Federal Water Pollution Control Act Amendments of 1972; Section 103, Marine Protection, Research and Sanctuaries Act of 1972.

PURPOSE(S):

Serves as the basis for decision by the Chief of Engineers or his designated representative to enforce the regulatory program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information from this system may be disclosed to:

Department of Justice for possible criminal prosecution;

Appropriate Federal agencies to solicit views regarding one's application, as required by Federal laws such as the National Environmental Quality Act of 1969 and the Fish and Wildlife Coordination Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders; magnetic tapes/discs and printouts; microfilm.

RETRIEVABILITY:

By individual's name.

SAFEGUARDS:

Access is restricted to designated persons having official need for the information in the performance of official duties. Records are maintained in buildings protected by security guards.

RETENTION AND DISPOSAL:

Fill and bank protection files are permanent. Dock permit files are destroyed 2 years after removal of the structure. Dredging and dumping permit files are destroyed 2 years after revocation or expiration. General permit files are permanent in field offices and destroyed 3 years in Office, Chief of Engineers Headquarters. Rejected permit applications are destroyed 1 year after disapproval. Non-action construction permit files are destroyed 2 years after expiration of permit.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Engineers, Headquarters, Department of the Army, Washington, DC 20314.

NOTIFICATION PROCEDURE:

Information may be obtained by writing to the System Manager, ATTN: DAEN–CWO–N; individual must furnish full name, his/her current address and telephone number, and specifics that will assist in locating the records.

RECORD ACCESS PROCEDURE:

Individuals wishing to access records pertaining to themselves in this sytem of records should address an inquiry as stated in "Notification procedure", providing information required therein.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the applicant, local and state governments, the general public, Department of the Interior, Environmental Protection Agency, National Oceanic and Atmospheric Administration, Department of Justice.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

A1524.11DAEN

SYSTEM NAME:

Violation Warning Files.

SYSTEM LOCATION:

Corps of Engineers offices world-wide; addresses may be obtained from the System Manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who violate the provisions of Chapter III, Parts 313 or 327 of Title 36, CFR which govern public use of water resource development projects administered by the Corps of Engineers.

CATEGORIES OF RECORDS IN THE SYSTEM:

DD Form 1805 (Violation Notice), or Engineer Form 4381 (Warning Citation); relevant correspondence between the Corps of Engineers and the individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 234 of the Flood Control Act of 1970 (Pub. L. 91–611); 84 Stat. 1818.

PURPOSE(S):

To determine and take appropriate action with regard to violations of water resource development projects.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See "Blanket Routine Uses" at 48 FR 25503, June 6, 1983.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

By individual's surname.

SAFEGUARDS:

Records are accessible only to designated individuals having official need therefor, located in buildings protected by security guards.

RETENTION AND DISPOSAL:

Records are destroyed by shredding 1 year after case is closed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Engineers, Headquarters, Department of the Army, Washington, DC 20314.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager, ATTN: DAEN–PM; individual must furnish his/her full name, current address and telephone number, name of project that originated the violation/warning notice, and serial number thereon.

RECORD ACCESS PROCEDURE:

Individuals desiring access to records about themselves in this system of records should write to the System Manager, as indicated in "Notification procedure", providing information required therein.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

Army records and reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 84-25880 Filed 10-1-84; 8:45 am]
BILLING CODE 3810-01-M

Army Medical Research and Development Advisory Committee, Subcommittee on Medical Defense Against Chemical Agents; Partially Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix, sections 1–15), announcement is made of the following Subcommittee meeting:

Name of Committee: United States Army Medical Research and Development Advisory Committee, Subcommittee on Medical Defense Against Chemical Agents.

Date of meeting: October 29 & 30, 1984.

Time and place: 0830 hours, Room 14, US Army Medical Research Institute of Chemical Defense, Aberdeen Proving Ground, MD.

Proposed agenda: This meeting will be open to the public from 0830–1000 hours October 29, 1984 for the administrative review and discussion of the scientific research program of the US Army Medical Research Institute of Chemical Defense. Attendance by the public at open sessions will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), U.S. Code, title 5 and sections 1–15 of Appendix, the meeting will be closed to the public from 1000–1600 hrs on October 29, and from 0830–1600 hrs on October 30, for the review, discussion and evaluation of individual programs and projects conducted by the US Army Medical Research and Development Command, including consideration of personnel qualifications and performance, the competence of individual investigators, medical files of individual research subjects, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Col. Richard Lindstrom, US Army Medical Research Institute of Chemical Defense, Aberdeen Proving Ground, MD 21010 (301/671–2833) will furnish summary minutes, roster of Subcommittee members and substantive program information.

Philip Z. Sobocinski,

Colonel, MSC, Assistant Deputy Commander.

[FR Doc. 84-26089 Filed 10-1-84; 8:45 am]
BILLING CODE 3710-08-M

DEPARTMENT OF ENERGY

Notice of Intent To Prepare an Environmental Assessment and Conduct Public Scoping Meetings for Remedial Actions at the Inactive Uranium Mill Tailings Site at Lakeview, OR

AGENCY: Department of Energy.

ACTION: Notice is given that the Department of Energy (DOE) intends to prepare an environmental assessment (EA) to assess the environmental implications of remedial actions to be performed on the inactive uranium mill tailings pile and vicinity properties at Lakeview, Oregon. An EA is being prepared because it is not clear that impacts from the remedial actions would significantly affect the quality of the human environment. Thus, notice is also given that should the DOE determine that an environmental impact statement (EIS) is required under the National Environmental Policy Act (NEPA), a Notice of Intent will be published in the **Federal Register**; however, the scoping meetings for the EA will also serve as the scoping meetings for the EIS.

SUMMARY: The DOE announces its intent to prepare an EA in accordance with Council on Environmental Quality regulations 40 CFR 1508.9 to provide environmental input into the selection of an appropriate remedial action in connection with uranium mill tailings and other residual radioactive materials at the inactive mill, vicinity properties, and open lands contaminated by tailings, in Lakeview, Oregon. The DOE's proposed action is to perform remedial action pursuant to Pub. L. 95–604, the Uranium Mill Tailings Radiation Control Act of 1978.

Such remedial actions consist of those measures taken to stabilize or control the mill tailings to the extent necessary to ensure that the radiological and non-radiological impacts from the mill tailings do not exceed the standards (40 CFR Part 192) for the protection of the public health, safety, and environment promulgated by the Environmental Protection Agency (EPA). The EA will consider the options of remedial action and no remedial action. In addition, the EA will consider stabilization of tailings in their present location and removal of the tailings to either of two new disposal sites. The DOE is serving as the lead agency for preparation of the EA; the Nuclear Regulatory Commission (NRC) will participate as a cooperating agency.

The DOE invites interested agencies, organizations, and members of the general public to submit comments or suggestions for consideration in preparation of the EA. Comments or suggestions are requested to assist the DOE in identifying environmental issues and the appropriate scope of the alternatives. Comments may be submitted by mail or presented at the scoping meetings to be held in Lakeview, Oregon on October 3, 1984. Oral and written comments will be given equal consideration. On completion of the EA and a proposed determination of need for an EIS, their availability will be announced in the **Federal Register** and local news media and comments will be solicited. Comments on the EA and proposed determination will be considered in preparing the final determination of need for an EIS.

ADDRESS: Written comments or suggestions on the scope of the EA and requests to speak at the scoping meeting may be submitted to Mr. James A. Morley, Uranium Mill Tailings Project Office, Department of Energy, 5301 Central Avenue, NE, Suite 1700, Albuquerque, New Mexico 87108, (505) 844–3941. Envelopes should be marked "EA for Lakeview tailings remedial action."

General information on the EA preparation process may be obtained from the Office of Environmental Compliance, Office of the Assistant Secretary for Policy, Safety, and Environment, U.S. Department of Energy, ATTN: Mr. Steven R. Woodbury, Room 3G–089, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C. 20585, (202) 252–4610.

DATES: Written comments postmarked by October 30, 1984 will be considered in the preparation of the EA. Comments postmarked after that date will be considered to the maximum extent practicable. Scoping meetings will be held in Lakeview, Oregon, on October 3, 1984. Requests to speak at this meeting should be received by J.A. Morley at the above address by October 1, 1984. Requests to speak may also be made during registration for the meeting.

Background Information

In 1978 the U.S. Congress passed the Uranium Mill Tailings Radiation Control Act, Pub. L. 95–604. In this Act the Congress found that uranium mill tailings may pose a potential and significant radiation health hazard to the public and directed the DOE to designate processing sites for remedial action to remove this potential hazard. The DOE has designated 24 sites for remedial action, including the former mill at Lakeview, Oregon. Public Law

95–604 requires that the DOE carry out remedial action at each site in cooperation with other agencies and with the States and Indian tribes affected by the action.

The NRC's statutory responsibilities include consulting with the DOE over a range of subjects concerning the conduct of the remedial action, concurring with the selected remedial action and with any cooperative agreement with a State or Indian tribe, and licensing the long-term maintenance and monitoring of each tailings-disposal site after the remedial action is completed. The NRC will participate as a cooperating agency in the preparation of the EA.

In addition, the EPA was given the responsibility to set standards to protect public health, safety, and the environment at the tailings sites and the disposal sites. Any remedial action must be in accordance with these EPA standards. The EPA published final standards governing the cleanup and disposal of the mill tailings and other residual radioactive materials in the Federal Register of January 5, 1983 (48 FR 590).

Pursuant to Pub. L. 95–604, the DOE and the State of Oregon entered into a cooperative agreement, effective July 24, 1984, to implement a remedial action program at the former Lakeview uranium mill site. The State of Oregon will assist the DOE in scoping, scoping meetings, meetings of the EA, and in connection with other NEPA process matters.

The Lakeview mill site and tailings are located in south-central Oregon, in Lake County. The closest town is Lakeview, one mile to the southeast. Klamath Falls is about 96 miles west of the site. The site is about 16 miles north of the California-Oregon border.

The 258-acre Lakeview site, as designated by the DOE, is in portions of Sections 3, 4, 9, and 10, Township 39 South, Range 20 East, Washington Meridian, at 42 deg 12 min 43 sec north latitude and 120 deg 22 min 09 sec west longitude.

During the 1958 to 1961 period of operations, 130,000 tons of ore averaging 0.15 percent U_3O_8 were treated; 171 tons of uranium oxide were sold to the Atomic Energy Commission (AEC). The mill treated ores from the White King and Lucky Lass mines located in southern Lake County, Oregon.

The mill was built and operated by the Lakeview Mining Company in 1958. The owners of this firm were also the owners of the Gunnison Mining Company, which operated the mill at Gunnison, Colorado. Both companies were acquired in 1961 by Kerr-McGee Oil Industries through its subsidiary, Kermac Nuclear Fuels Corporation. Between 1960 and 1966 the property had five owners.

In 1968 the Lakeview site was obtained by Atlantic Richfield Company, which initiated in 1974 and subsequently performed a cleanup operation on the site under a plan approved by the Oregon State Health Division. By 1977 the mill buildings and their immediate surroundings had been decontaminated to meet the then existing requirements of the Oregon Regulations for the Control of Radiation. The property was sold on March 6, 1978, to Precision Pine Company, the current owner, which uses the site and structures as a lumber mill and stockpile for sawdust and scrap waste.

The total designated site area covers 258 acres. This includes the active sawmill area, the tailings (30 acres) and the evaporation ponds (approximately 64 acres). The tailings have been stabilized with an earth cover 18 to 24 inches thick. The pile is almost square with a very flat surface, although the stabilization cover has pockets that trap moisture. This cover is supporting a vigorous growth of vegetation. The average depth of the tailings, including cover, is estimated to be 3.7 feet. An earthen dike was formed around the tailings area before the tailings were originally deposited. The tailings have been fenced with a hog-wire type of fence, and radiation signs are posted. There is also a barbed-wire fence around the entire site.

The mill building and other structures reportedly were decontaminated, along with the machinery and other salvageable items that have been removed. Materials from the final decontamination of the mill buildings and surrounding areas have been placed on the southeastern portion of the tailings pile and stabilized in the same manner as the remainder of the tailings.

The areas to the north and west of the site are generally swampy during much of the year due to the high water table. To the east and west of the site, the land is swampy during the spring and early summer, but dries out later in the summer and remains dry until winter.

Precision Pine Company stores bark, wood chips, and sawdust on the northwest evaporation pond. Precision Pine Company has built an addition onto the northern end of the original mill building. Two new buildings also have been constructed on the mill site near the old mill building; one of these is located directly over the former ore storage area.

The DOE has made preliminary assessments of the tailings pile at Lakeview and of possible remedial actions. Geotechnical evaluation of the area indicated seven active faults or fault zones with potential for disruption of the site. The area also has high subsurface heat flows with three hot springs and more than 40 geothermal wells nearby. These factors together indicate the existence of a potential hazard which could jeopardize the integrity of on-site stabilization during the project's design life (200–1,000 years). Because of this potential hazard, the DOE, in concert with the State of Oregon, embarked on a process for the selection of alternate disposal sites. This process investigated several areas in which tailings might safely be permanently disposed of in compliance with the EPA standards. During the process, the public had opportunity to provide input through a local task force. On the basis of this cooperative public process, two sites were selected for detailed analysis in the EA. The DOE has initiated an extensive data gathering program at the tailings site and both alternate disposal sites for characterization purposes.

In order to proceed with the selection of an appropriate remedial action, the DOE will prepare an EA that will analyze the impacts of a range of reasonable alternatives. After the completion of the NEPA process, the plan for remedial action on the Lakeview tailings will be selected, probably in 1985. Remedial action could then begin in 1986, subject to the appropriation of sufficient funds by the Congress and by the State of Oregon to cover the remedial action coasts.

Preliminary Identification of Environmental Issues

Major issues to be analyzed during the preparation of the EA will include:

1. Exposures to radiation that the public and the workers on the project will receive during remedial actions.
2. Exposures to radiation from hypothetical accidents that could release radioactive meterial.
3. Impacts on surface and ground waters.
4. Impacts on transportation networks, including changes in traffic patterns and volumes.
5. Impacts of accidents other than effects arising from releases of radioactive material.
6. Impacts of seismic events and potential geothermal disruption on the stabilized pile.

Other issues to be analyzed will include:

1. Changes in air quality caused by dust and other pollutants.

2. Impacts on soils and mineral resources.
3. Impacts on plants and animals.
4. Changes in land use.
5. Changes in noise levels during the remedial actions.
6. Impacts on scenic, historic, and cultural resources.
7. Changes in population and effects on housing, social structure, public services, and economic structure in the communities near the affected areas.
8. Exected use of energy and other resources.

These lists are not intended to be all inclusive nor to be a predetermination of impacts.

Analyses of the listed effects will be made for the mill-tailings site, the disposal sites, the transportation routes, and (to the extent feasible) the sites where cover material is obtained. The analyses will cover both the time when remedial action is in progress and the time after it has been completed.

Preliminary Definition of Alternatives

The DOE will consider all reasonable alternatives and their environmental impacts. The alternative actions presently proposed for analysis in the EA are briefly listed below. This list will be finalized following the scoping process.

Alternative 1: No Action

Under this alternative, the tailings pile would be left in place; no further measures would be taken to control or stabilize the tailings.

Alternative 2: Stabilization in Place

This alternative consists of decontaminating Lakeview vicinity properties and consolidating all residual radioactive materials removed from such properties with the tailings pile at the former mill site. All mill tailings and residual radioactive materials would then be stabilized at the site, including the emplacement of cover material to reduce the radon flux in accordance with prescribed EPA standards.

Alternative 3: Decontamination of the Former Lakeview Site and Removal of the Tailings to a New Disposal Site

This alternative involves selecting a site for stabilization and control of the tailings and other residual radioactive materials other than the former mill site. All residual radioactive materials removed from vicinity properties and the uranium mill tailings pile would be transported to one of the following sites:

a. *Collins Ranch site*—Range 19E, Township 38S, Section 12. This area, located approximately six miles north of Lakeview, is on lands adjacent to the Fremont National Forest and ranges in elevation from 4,880 to 5,000 feet. The area is characterized by gently sloping terrain without perennial streamflow. Ground cover consists of sagebrush and bunch grasses in undisturbed areas. Soils display a cement pan having only slight erosion potential. The area is used for grazing.

b. *Flynn Ranch site*—Range 22E, Township 38S, Section 14. Located about 21 road miles east of Lakeview, this area is to the north of the Warner Highway (U.S. 140) and to the west of the road to Plush. Area elevation ranges from 5,800 to 5,925 feet. The area has gently sloping terrain and is without perennial streamflow. The area supports a good ground cover of sagebrush and bunch grasses. The area is used for grazing.

Comments and Scoping Meeting

The DOE invites all interested parties to submit written comments or suggestions on the EA and to attend the scoping meetings. The purpose of the meetings and of the request for written comments are to provide the DOE, the NRC, and the State with as much information from as many viewpoints as possible and to provide interested persons with opportunities to express their views. The DOE will then determine, in consultation with the NRC and the State, the scope of the issues to be addressed in the EA and will identify the significant issues related to the remedial action.

Public scoping meetings will be held in Lakeview, Oregon, on October 3, 1984. The time and place will be announced in local news publications or also may be obtained from J.A. Morley at the address given above.

Persons desiring to make oral comments at the meetings should mail their request to J.A. Morley at the above address and should write "Lakeview scoping meetings" on the envelope. They should notify the DOE before October 1, 1984 of their desire to speak, so that the DOE may schedule the presentations.

The DOE will establish procedures governing the conduct of the meetings. The meetings will not be conducted as evidentiary hearings, and those who choose to make statements may not be cross-examined by other speakers. To ensure that everyone who wishes to speak has a chance to do so, five minutes will be allotted to each speaker. Depending on the number of persons requesting to be heard, the DOE may allow longer times for representatives of organizations; persons wishing to speak on behalf of an organization should identify the organization in their request. Persons who have not submitted a request to speak in advance may register to speak at the scoping meetings; they will be called on to present their comments if time permits.

Written comments and suggestions for issues to be addressed in the EA should be sent to J.A. Morley at the address given above by October 30, 1984. Written comments will be considered and given equal weight with oral comments in the preparation of the EA.

On the completion of the EA and proposed determination of need for an EIS, notice of their availability will be announced in the **Federal Register**, and the Department of Energy will again solicit comments. Persons who do not desire to submit comments or suggestions during the scoping period but who wish to receive a copy of the EA when it is issued should notify J.A. Morley at the above address. Persons seeking further information may inquire at either of the addresses given above.

Transcripts of the scoping meetings will be prepared by the DOE. Members of the public may inspect the transcripts of the scoping meetings at the following locations:

Freedom of Information Reading Room, Room 1E-190, Forrestal Building, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585
Energy Resource Center, 1333 Broadway, Oakland, CA 94612
Chicago Office Library, 9800 South Cass Avenue, Argonne, IL 60639
Energy/Environmental Center, Denver Public Library, 1357 Broadway, Denver, CO 80210
Idaho Office Library, 550 Second Street, Idaho Falls, ID 83401
Grand Junction Area Office Library, P.O. Box 2567, Grand Junction, CO 81502
National Atomic Museum, Kirtland Air Force Base East, Albuquerque, NM 87115
Nevada Office Library, 2753 South Highland Drive, Las Vegas, NV 89114
Oak Ridge Office Library, Federal Building, Oak Ridge, TN 37830
Richland Office Library, Federal Building, Richland, WA 99352
Savannah Office Library, Savannah River Plant, Aiken, SC 29801
Oregon State Library, State Library Building, Salem, OR 97310
Lakeview County Library, 513 Center Avenue, Lakeview, OR 97630

Dated at Washigton, D.C., on September 26, 1984.

Jan W. Mares,

Assistant Secretary for Policy, Safety, and Environment.

[FR Doc. 84-26236 Filed 10-1-84; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[Docket No. ERA-FC-80-011; OFC Case No. 62002-9026-05-12]

Exxon Co., U.S.A.; Modification

Correction

In FR Doc. 84-25476 beginning on page 37831 in the issue of Wednesday, September 26, 1984, make the following correction:

On page 37832, first column, in the second paragraph, last line, "November 26, 1984" should have read "December 26, 1984".

BILLING CODE 1505-01-M

J.R. Adams f/d/b/a/ J.R. Adams Oil Co.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to John R. Adams, f/d/b/a/ J.R. Adams Oil Company. This Proposed Remedial Order alleges pricing violations in the amount of $539,551.00 plus interest in connection with the resale of refined petroleum products at prices in excess of those permitted under 10 CFR Part 212 during the time period January 1974 through May 1975.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Mary Johnson, Economic Regulatory Administration, Department of Energy, 1341 W. Mockingbird Lane, Suite 200E, Dallas, Texas 75247 or by calling (214) 767-7483. Within fifteen (15) days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, Department of Energy, Forrestal Building, 1000 Independence Avenue, SW., Room: 6E-066, Washington, D.C. 20585, in accordance with 10 CFR 205.193.

Issued in Dallas, Texas on the 14th day of September, 1984.

Ben Lemos,

Director, Dallas Field Officer, Economic Regulatory Administration.

[FR Doc. 84-26107 Filed 10-1-84; 8:45 am]

BILLING CODE 6450-01-M

Eason Oil Co.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of Proposed Remedial Order which was issued to Eason Oil Company, 2601 N.W. Expressway, Oklahoma City, Oklahoma 73112. This Proposed Remedial Order charges Eason with pricing violations in the amount of $4,130,365.00 connected with the sale of gasoline, kerosene, gas oil, natural gas liquids and natural gas liquids products at prices in excess of those permitted by 10 CFR 212, Subpart E during the period September 1, 1973 through December 31, 1979.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Mary Johnson, Economic Regulatory Administration, Department of Energy, 1341 W. Mockingbird Lane, Suite 200E, Dallas, Texas 75247 or by calling (214) 767-7483. Within fifteen (15) days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearing and Appeals, Department of Energy, Forrestal Building, 1000 Independence Avenue, SW., Room: 6E-055, Washington, D.C. 20585, in accordance with 10 CFR 205.193.

Issued in Dallas, Texas on the 14th day of September, 1984.

Ben Lemos,

Director, Dallas Field Office, Economic Regulatory Administration.

[FR Doc. 84-26108 Filed 10-1-84; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-FC-84-020; OFP Case No. 55338-9256-01-12]

Acceptance of Petition for Exemption and Availability of Certification; Willamette Industries, Inc., Hawesville, KY Facility

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice.

On August 21, 1984, Willamette Industries, Inc. (Willamette) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting a permanent emergency purposes exemption from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 *et seq.*) ("FUA" or "the Act") for a new boiler to be located at its Hawesville, Kentucky facility. Title II of FUA prohibits both the use of petroleum and natural gas as a primary energy source in any new major fuel burning installation (MFBI) consisting of a boiler. Final rules setting forth criteria and procedures for petitioning for exemptions from the prohibitions of Title II of FUA are found in 10 CFR Parts 500, 501, and 503. Final rules governing the emergency purposes exemption are found at 10 CFR 503.39.

The project for which the exemption is requested consists of a package, emergency standby natural gas/oil-fired boiler with the capacity to generate 175,000 pounds per hour of steam at a pressure of 625 psig.

ERA has determined that the petition is sufficient to support an ERA determination, and it is therefore accepted pursuant to 10 CFR 501.3 and 501.63. ERA retains the right, however, to request additional relevant information from Willamette at any time during the proceeding, as circumstances may require. A review of the petition is provided in the **SUPPLEMENTARY INFORMATION** section below.

As provided for in sections 701 (c) and (d) of FUA and 10 CFR 501.31 and 501.33, interested persons are invited to submit written comments in regard to this petition and any interested person may submit a written request that ERA convene a public hearing. The public file containing a copy of this Notice of Acceptance and Availability of Certification, as well as other documents and supporting materials on this proceeding, is available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E-190, Washington, D.C. 20585, from 8:00 a.m. to 4:00 p.m., Monday through Friday, except Federal holidays.

ERA will issue a final order granting or denying the petition for exemption from the prohibitions of the Act within six months after the end of the period for public comment and hearing, unless ERA extends such period. Notice of any such extension, together with a statement of reasons therefor, would be published in the **Federal Register.**

DATE: Written comments are due on or before November 16, 1984. A request for a public hearing must be made within this same 45-day period.

ADDRESSES: Fifteen copies of written comments or a request for a public hearing shall be submitted to: Case Control Unit, Office of Fuels Programs, Room GA-033, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Docket No. ERA-FC-84-020 should be printed on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:
Ken Workman, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue, SW., Room GA-093, Washington, D.C. 20585, Phone (202) 252-9624
Steve Ferguson, Office of the General Counsel, Department of Energy, Forrestal Building, Room 6A-113, 1000 Independence Avenue, SW., Washington, D.C. 20585, Phone (202) 252-6947.

SUPPLEMENTARY INFORMATION: Title II of FUA prohibits the use of natural gas or petroleum in new MFBI's that consist of a boiler unless an exemption for such use has been granted by ERA. Willamette has filed a petition with ERA requesting a permanent emergency purposes exemption to permit the use of these fuels as the primary energy source in the proposed new package standby boiler to be located at its Hawesville, Kentucky facility. The new unit will operate during periods when any of the two boilers at the existing facility are shut down or turned down in order to ensure continued facility production which would otherwise be reduced due to interruption of alternate fuel supplies, equipment failures, imminent equipment failures, temporary environmental restrictions, and other qualifying emergency conditions. The unit will generate 175,000 lbs/hr steam at 625 psig.

Section 212(e) of the Act and 10 CFR 503.39 provide for a permanent emergency purposes exemption from the prohibitions of Title II of FUA. In accordance with the requirements of § 503.39(a), Willamette has certified to ERA that:

1. It will operate and maintain the proposed unit for emergency purposes only; and

2. The use of a mixture of petroleum or natural gas and an alternate fuel in the proposed boiler for which an exemption under 10 CFR 503.38 would be available, would not be economically or technically feasible.

In accordance with the evidentiary requirements of § 503.39(c) (and in addition to the certifications discussed above), Willamette has included as part of its petition:

1. Exhibits containing the basis for the certifications described above; and

2. Environmental certifications, as required under 10 CFR 503.13(b).

On February 23, 1982, DOE published in the Federal Register (47 FR 7976) a notice of the amendment to its guidelines for compliance with the National Environmental Policy Act of 1969 (NEPA). Pursuant to the amended guidelines, the grant or denial of certain FUA permanent exemptions, including the permanent exemption for emergency purposes, is among the classes of actions that DOE has categorically excluded from the requirement to prepare an Environmental Impact Statement or an Environmental Assessment pursuant to NEPA (categorical exclusion).

This classification raises a rebuttable presumption that the grant or denial of the exemption will not significantly affect the quality of the human environment. Willamette has certified that it will secure all applicable permits and approvals prior to commencement of operation of the new unit under exemption. ERA will review the completed environmental checklist submitted by Willamette pursuant to 10 CFR 503.13(b), together with other relevant information. Unless it appears during the proceeding on Willamette exemption request that the grant or denial of the exemption will significantly affect the qualify of the human environment, it is expected that no additional environmental review will be required.

As provided in 10 CFR 501.3(b)(4), the acceptance of the petition by ERA does not constitute a determination that Willamette is entitled to the exemption requested. That determination will be based on the entire record of this proceeding, including any comments received during the public comment period provided for in this notice.

Issued in Washington, D.C. on September 20, 1984.

Robert L. Davies,

Director, Coal & Electricity Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 84-26108 Filed 10-1-84; 8:45 am]

BILLING CODE 6460-01-M

Federal Energy Regulatory Commission

[Docket No. 3294.002]

American Hydro Power Corp.; Surrender of Preliminary Permit

September 26, 1984.

Take notice American Hydro Power Corporation, Permittee for the New Hope Project No. 3294 located on the Delaware River in Bucks County, Pennsylvania, and Hunterdon County, New Jersey, has requested that its preliminary permit be terminated. The preliminary permit was issued on September 23, 1983, and would have expired on August 31, 1985. The Permittee states that because the site owner refuses to negotiate seriously concerning development of the site, and for other reasons, it is uneconomical for it to continue to pursue development of this site at this time.

American Hydro Power Corporation's request was filed on September 7, 1984. The surrender of the permit for Project No. 3294 is in the public interest and will become effective thirty days from the date of issuance of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26006 Filed 10-1-84; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 7179-002, 7180-002]

F and T Services Corp.; Surrender of Preliminary Permits

September 26, 1984.

Take notice that F and T Services Corporation, Permittee for the Wallace Lake Dam Project No. 7179 and the Pat Mayse Lake and Dam Project No. 7180, has requested that its preliminary permits be terminated. The permits were issued on February 24, 1984, and would have expired on July 31, 1985. The Wallace Lake Dam Project No. 7179 would have been located on the Wallace Lake in Caddo and Desoto, Counties, Louisiana. The Pat Mayse Lake and Dam Project No. 7180 would have been located on the Pat Mayse Lake in Lamar County, Texas.

The Permittee filed its requests on August 22, 1984, and the surrender of the preliminary permits for Project Nos. 7179 and 7180 is deemed effective 30 days from the date of issuance of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26098 Filed 10-1-84; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6475-004]

Frontier Land and Power; Surrender of Exemption From Licensing

September 26, 1984.

Take notice that Frontier Land and Power, Exemptee for the Upper Camp Creek Project No. 6475, has requested that its exemption from licensing be terminated. The exemption from licensing for Project No. 6475 was issued on February 24, 1984. The project would have been located on Camp Creek in Butte County, California.

The Exemptee filed its request on August 27, 1984, and the surrender of its exemption from licensing for Project No. 6475 is deemed accepted as of August

27, 1984, and effective as of 30 days after the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26069 Filed 10-1-84; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4241-002]

Hydro Development, Inc.; Surrender of Exemption

September 6, 1984.

Take notice that Hydro Development, Inc., Exemptee for the proposed Volcano Creek Hydroelectric Project No. 4241, has requested that its exemption be terminated. The exemption was issued on January 20, 1983. The project would have been located on Volcano Creek in Placer County, California. The Exemptee filed its request on August 3, 1984, and the surrender of the exemption for Project No. 4241 is deemed accepted as of August 3, 1984, and effective 30 days after the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26071 Filed 10-1-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-73-002]

K N Energy, Inc.; Petition To Amend

September 26, 1984.

Take notice that on August 30, 1984, K N Energy, Inc. (Petitioner), Lakewood, Colorado 80215, filed in Docket No. CP83-73-002, a petition to amend the Commission's order issued August 25, 1983, in Docket Nos. CP83-73-000 and CP83-73-002, pursuant to section 7(c) of the Natural Gas Act so as to authorize service to E.S.E. Alcohol's D.D.G. (distillers dried grain) dryer, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that the Commission's order of August 25, 1983, authorized service to E.S.E. Alcohol's plant near Leoti, Kansas, exclusive of the D.D.G. dryer. Petitioner states that it sought authority in its application, as amended, to serve the D.D.G. dryer as a priority 3(b) usage rather than as an essential agricultural use. It is explained that the exclusion of service to the D.D.G. dryer was the result of the litigation in another FERC proceeding of the ability of customer to waive its Natural Gas Policy Act of 1978 Title IV rights, *Arkansas Louisiana Gas Co.*, Docket No. TC83-6-000 (Arkla).

Petitioner states that on July 3, 1984, the Commission issued and order in the *Arkla* case which approved a direct sale customer's waiver of classification as an essential agricultural user and that as a result, Petitioner seeks an amendment of the certification order so as to authorize service to the D.D.G. dryer as a priority 3(b) use.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before Oct. 16, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26072 Filed 10-1-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-526-002]

National Fuel Gas Supply Corp.; Petition To Amend

September 26, 1984.

Take notice that on September 11, 1984, National Fuel Gas Supply Corporation (Petitioner), 308 Seneca Street, Oil City, Pennsylvania 16301, filed in Docket No. CP83-526-002 a petition to amend the order issued November 10, 1983, in Docket No. CP83-526-000 pursuant to section 7(c) of the Natural Gas Act so as to authorize Petitioner to extend the term and modify certain conditions of the off-system sale of natural gas to Public Service Electric & Gas Company (PSE&G) for its system supply, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is explained that Petitioner was authorized by the Commission's order of November 10, 1983, to sell up to 50,000 Mcf of natural gas per day under its Rate Schedule I-1 to PSE&G during a term exten ding from the issuance of the order through October 31, 1984. Petitioner now proposes to sell a maximum of 10,234,084 dt equivalent of gas to PSE&G during the period, November 1, 1984, through October 31, 1985. The maximum daily quantity would continue to be 50,000 dt, subject to increase at the sole discretion of Petitioner, upon the request of PSE&G when transportation is available. Petitioner states that it would continue to make such sales on an interruptible basis pursuant to its Rate Schedule I-1 under a new service agreement attached to a precedent agreement dated September 5, 1984. Petitioner states that the Rate Schedule I-1 rate is its 100 percent load factor rate and is currently $3.9149 per dt.

Petitioner states that the continued sale of gas would be made on terms consistent with each criterion in the Commission's *Statement of Policy* on off-system sales issued April 25, 1983, in Docket No. PL82-3-000. Petitioner submits that its Rate Schedule I-1 rate is consistent with the net economic benefit test for on-system customers even though it is lower than Petitioner's average system load factor rate. Petitioner submits further that its 100 percent load factor rate is appropriate because (1) the proposed sale made at the Rate Schedule I-1 rate would not be made at a price lower than is available to on-system customers, (2) the proposed sale would reduce Petitioner's existing average cost of gas, and (3) the Commission has determined in its *Order Granting Rehearing* issued September 16, 1983, in Docket No. CP83-217-001 that the Rate Schedule I-1 rate was appropriate in a similar circumstance.

Petitioner states further that the gas sold would be delivered to PSE&G through the facilities of Transcontinental Gas Pipe Line Corporation (Tansco), Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), and/or Texas Eastern transmission Corporation (TETCO). Petitioner would deliver such gas to Transco at Petitioner's Wharton interconnection in Potter County, Pennsylvania, to Tennessee at Petitioner's Ellisburg interconnection in Potter County, Pennsylvania, and/or to TETCO at Petitioner's Windridge interconnection in Greene County, Pennsylvania, and the transporter(s) would transport and redeliver the gas on an interruptible basis pursuant to self-implementing authorization under Section 284.101, *et seq.*, of the Commission's Regulations to existing delivery points in PSE&G's service territory.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before Oct. 16, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the

Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26073 Filed 10-1-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP84-672-000]

Panhandle Eastern Pipe Line Co.; Request Under Blanket Authorization

September 26, 1984.

Take notice that on August 29, 1984, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP84-672-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas for Borden Chemical, Division of Borden, Inc. (Borden), under the certificate issued in Docket No. CP83-83-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Panhandle proposes to transport up to 2,000 Mcf of gas per day, less fuel reduction, for Borden hereunder. Panhandle states that the gas to be transported would be purchased from Kaiser-Francis Oil Company (Kaiser-Francis) and would be used as boiler fuel and for waste gas incineration at Borden's Illiopolis, Illinois, chemical plant. Panhandle indicates that the gas to be purchased by Borden is not released gas and that such supplies are being sold at a price which would not exceed maximum lawful prices under the Natural Gas Policy Act of 1978. It is further stated that Panhandle would receive gas at the existing interconnection with Kaiser Francis in Ellis County, Oklahoma, and a to-be-constructed interconnection between their faciltites in Cimarron County, Oklahoma. Panhandle would then transport and redeliver such gas to Illinois Power Company at an existing sales station in Christian County, Illinois. Illinois Power, a distribution company, would make ultimate delivery to Borden. This transportation service is said to be for a primary term of six months and month to month thereafter.

Panhandle states that it would charge its current on-system transportation rate of 42 cents, plus 1.24 cents GRI surcharge, for each million Btu equivalent of gas delivered hereunder.

In addition, Panhandle avers that upon implementation "flexible authority" Panhandle would file a report with the Commission within 30 days, providing, where applicable:

(i) A copy of the gas purchase contract between the end-user and the seller;

(ii) A statement as to whether the supply is attributable to gas under contract to and released by a pipeline or distributor and if so, the identification of the parties, and specification of the current contract to each category;

(iii) A statement of the Natural Gas Policy Act of 1978 (NGPA) pricing categories of the added supply, if released gas, and the volumes attributable to each category;

(iv) A statement that the gas is not committed or dedicated to interstate commerce within the meaning of NGPA Section 2(18);

(v) The location of the receipt/delivery points being added or deleted. For deletions the producer/supplier name would be provided;

(vi) Where an intermediary participates in the transaction between the end-user and the seller, the information required by § 157.209(c)(1)(ix) of the Commission's Regulations;

(vii) The identity of any other pipeline involved in the transportation.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26075 Filed 10-1-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP84-694-000]

Panhandle Eastern Pipe Line Co.; Request Under Blanket Authorization

September 26, 1984.

Take notice that on September 5, 1984, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP84-694-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Keystone Steel and Wire Company (Keystone) under the certificate issued in Docket No. CP83-83-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

It is indicated that Keystone has entered into a gas purchase agreement dated June 29, 1984, with Magic Circle Energy Corporation (Magic Circle) to acquire gas which would be used by Keystone at its Bartonville, Illinois, plant for use at its wire mill galvanizing furnace, steel mill reheat furniture, miscellaneous process heat and steam boiler plant. In order for Keystone to receive its gas, it is stated that Keystone has entered into a gas transportation agreement dated June 29, 1984, with Panhandle. Panhandle states that the gas to be transported is not gas released by Panhandle. Pursuant to the terms of the transportation agreement, Panhandle proposes to transport 3,425 Mcf on an average day, 6,500 Mcf on a peak day and 1,250,125 Mcf on an annual basis on behalf of Keystone. Panhandle explains that it would receive the gas from Magic Circle in Woods County, Oklahoma, and redeliver the gas, less a four percent reduction for fuel, to Central Illinois Light Company (CILCO) at an existing sales station in Tazewell County, Illinois. It is indicated that CILCO would deliver the gas to Keystone's Bartonville plant; it is further indicated that CILCO is an existing jurisdictional customer served by Panhandle and that Keystone is an existing end-use customer of CILCO. Panhandle states that it would construct and operate a measuring station and appurtenant facilities at the point of receipt between Panhandle and Magic Circle at an approximate cost of $6,500; Keystone would reimburse Panhandle for the cost of these facilities. Panhandle explains it would charge Keystone a rate based on Panhandle's currently effective OST Tariff. It is indicated that the OST rate would be determined as follows:

For each day of service hereunder, the Contract Entitlement Transportation Quantity (CETQ) shall be equal to the contract demand under CILCO's service agreement with Panhandle, less the sum of (1) the actual quantity of gas sold to CILCO by Panhandle on such day, and (2) the total quantity of PanMark gas delivered to CILCO on such day.

(a) The OST rate, applicable to service within the CETQ is currently 42 cents, plus 1.24 cents GRI surcharge, for each MMBtu redelivered at the point of redelivery.

(b) To the extent the total quantity of all transport gas delivered on any day exceeds the CETQ, the rate applicable to such excess volume of transport gas shall be the OST–E rate, currently 87 cents, plus 1.24 cents GRI surcharge, for each MMBtu redelivered at the point of redelivery.

In addition, Panhandle requests "flexible authority" to add or delete sources of supply or receipt/delivery points herein. Panhandle states that with 30 days of the addition or deletion of any gas suppliers and/or receipt/delivery points, it would file the following information in this docket, where applicable, to changes in service:

(1) A copy of the gas purchase contract between the seller and the end-user;

(2) A statement as to whether the supply is attributable to gas under contract to and released by a pipeline or distributor, and if so, identification of the parties and specification of the current contract price;

(3) A statement of the Natural Gas Policy Act of 1978 (NGPA) pricing categories of the added supply, if released gas, and the volumes attributable to each category;

(4) A statement that the gas is not committed or dedicated within the meaning of the NGPA Section 2(18);

(5) Location of the receipt/delivery points being added or deleted;

(6) Where an intermediary participates in the transaction between the seller and end-user, the information required by § 157.209(c)(ix); and

(7) Identity of any other pipeline involved in the transportation.

Panhandle states that the transportation service commenced July 27, 1984, for a term of 120 days pursuant to automatic authorization. Panhandle further indicates that the authorization it seeks herein would extend from the date the automatic authorization expires until the earlier of: (1) 18 months from the effective date of the gas transportation agreement, (2) termination of authorization as provided by Subpart F of Part 157 of the Commission's Regulations or (3) termination of the transportation agreement by either party.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–26076 Filed 10–1–84; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 7843–001]

Power Development Systems, Inc.; Surrender of Preliminary Permit

September 26, 1984.

Take notice that Power Development Systems, Inc., Permittee for the Doe Run Hydroelectric Project No. 7843, has requested that its preliminary permit be terminated. The permit was issued on May 3, 1984, and would have expired on October 31, 1985. The project would have been located on the Doe Run Creek in Meade County, Kentucky.

The Permittee filed its request on August 23, 1984, and the surrender of the preliminary permit for Project No. 7843 is deemed effective 30 days from the date of issuance of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–26077 Filed 10–1–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP84–690–000]

Seagull Energy Corp.; Application

September 26, 1984.

Take notice that on August 30, 1984, Seagull Energy Corporation (Seagull Energy), 1100 Louisiana Street, Houston, Texas 77002, filed in Docket No. CP84690–000 an application pursuant to § 284.127 of the Commission's Regulations and section 311(a) of the Natural Gas Policy Act of 1978 (NGPA) for authorization to transport natural gas on behalf of Seagull Interstate Corporation (Seagull Interstate), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Seagull Energy states that it owns and operates an intrastate pipeline known as the Cavallo line which extends from Matagorda Island Block 526–L to Matagorda Island Block 520–L, all in Texas state waters. Seagull Energy explains that it has entered into a transportation agreement with its subsidiary, Seagull Interstate, to transport gas that would be owned by Florida Gas Transmission Company (FGT) through the Cavallo line to an existing interconnection with facilities owned by Houston Pipe Line Company (HPL) in Matagorda Island Block 520–L. It is submitted that the term of the transportation agreement is for 10 years and from year-to-year thereafter unless terminated by either party upon 30 days prior written notice at the end of the primary term or at the end of any year thereafter. The estimated volumes to be transported are 75 billion Btu of gas per day, with greater volumes to be transported if Seagull Energy has available pipeline capacity.

It is stated that Seagull Energy proposes to charge Seagull Interstate the same rate it charges other interstate companies who utilize the Cavallo line for Section 311(a) service, which is currently 10.0 cents per million Btu. Seagull Energy submits that said rate is fair and equitable for the service rendered.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 16, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–26078 Filed 10–1–84]

BILLING CODE 6717–01–M

[Docket No. CP84-676-000]

Seagull Interstate Corp.; Application

September 28, 1984.

Take notice that on August 30, 1984, Seagull Interstate Corporation (Seagull Interstate), 1100 Louisiana Street, Houston, Texas 77002, filed in Docket No. CP84-676-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necesssity authorizing the construction and operation of certain pipeline and related facilities in offshore Texas and the transportation of gas for a limited term for Florida Gas Transmission Company (FGT), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Seagull Interstate proposes to construct and operate seven miles of 16-inch pipeline from Matagorda Island Block 555-L, which lies in Federal waters in the outer continental shelf, to an existing intrastate pipeline referred to as the Cavallo line, owned by Seagull Energy Corporation (Seagull Energy) in Matagorda Island Block 526-L, which lies in Texas state waters, all in Matagorda Island Area, offshore Texas. The new facility would be referred to as the New Seagull Interstate Facility. Seagull Interstate estimates the cost of constructing the proposed facilities to be $6,000,000, which would be financed by loans and contributions of capital to be made by Seagull Energy, the parent company of Seagull Interstate.

Seagull Interstate also proposes to provide transportation service for a limited term for the account of FGT. It is stated that Seagull Interstate would transport up to 75 billion Btu of natural gas per day, or greater quantities depending upon pipeline capacity availability, for FGT from Matagorda Island Block 528-L and 555-L by utilizing its proposed New Seagull Interstate Facility to Seagull Energy's Cavallo line. It is explained that at that point, FGT's gas would be delivered into the Cavallo line for transportation by Seagull Energy pursuant to Section 311(a) of the Natural Gas Policy Act of 1978 to facilities owned by Houston Pipe Line Company (HPL) in Matagorda Island Block 520-L, offshore Texas. It is stated that HPL in turn would provide the additional transportation service under Section 311(a) for ultimate redelivery of FGT's gas into its system. Seagull Interstate submits that the transportation service provided by Seagull Interstate is for a limited term, with pregranted abandonment of 10 years, and from year-to-year thereafter until terminated on 30 days notice by either party.

It is stated that Seagull Interstate would charge FGT 13.0 cents for each million Btu of gas transported, which includes a 3-cent per million Btu charge for the transportation service by Seagull Interstate through the new Seagull Interstate Facility and a 10.0 cents per million Btu charge for the transportation service by Seagull Energy through the Cavallo line. It is asserted that the FGT transportation agreement provides, however, that the total rate to be paid by FGT would not exceed 13.0 cents for each million Btu transported. It is further explained that the FGT transportation agreement also contains a provision that gives Seagull Interstate the right to seek authorization for an adjustment of Seagull Energy's rates and charges as may be needed to assure Seagull Interstate a just and reasonable rate provided that it may not do so more than once during any two-year period beginning after the first two years of service.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 16, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Seagull Interstate to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26079 Filed 10-1-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP84-52-000]

TXO Production Corp.; Petition To Reopen Final Well Category Determination and Request for Withdrawal of Application

September 26, 1984.

In the matter of State of Oklahoma NGPA Section 108 Determination, TXO Production Corp., State 16-1 Well, FERC ID No. 80-20899.

On September 11, 1984, TXO Production Corporation (TXO), filed with the Federal Energy Regulatory Commission (Commission) a petition to reopen and a request to withdraw its application for a final well category determination pursuant to § 275.202 of the Commission's regulations (18 CFR 275.202 (1983)). Under the affirmative determination made by the Oklahoma Corporation Commission, natural gas from the State 16-1 well located in Section 16, Township 17 North, Range 17 West, in Dewey County, Oklahoma, qualifies as stripper well gas under section 108 of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301-3432 (1982). This determination became final on March 17, 1980, pursuant to section 503(d) of the NGPA and § 275.202(a) of the Commission's regulations. Gas produced from this well is sold to Delhi Gas Pipeline Corporation.

TXO requests the reopening of this final determination so that it can withdraw its application for said determination on the basis that the State 16-1 well produced natural gas in excess of the 60 Mcf/day limit prescribed by section 108(b) of the NGPA and therefore does not qualify as a section 108 stripper gas well.

TXO states that, through a review of current and past well determinations TXO discovered that the State 16-1 well was dually completed to the Oxwego zone, a gas zone, and the Red Fork zone, an oil zone; each zone has a separate meter; application for stripper category determination was made based on reading of the meter for production from the Oswego zone only; production form the Red Fork zone includes crude oil; and well production of nonassociated natural gas from both zones exceeded the stripper gas qualifying guidelines as

set forth under NGPA Section 108. Therefore, TXO requests that the Commission find good cause exists under sections 501(a) and 503(d) of the NGPA to reopen and vacate the final well determination for the State 16–1 well and to permit the withdrawal of TXO's application under NGPA Section 108.

TXO believes tha section 108 of the NGPA and the regulations implementing that section require that a well must produce at its maximum efficient rate of flow no more than an average of 60 Mcf per day of nonassociated natural gas during a 90-day production period, and the nonassociated natural gas is defined as natural gas which is not produced in association with crude oil. TXO further asserts that if all the material facts had been known, an application under section 108 would not have been submitted for the subject well.

The Commission hereby gives notice that the question of whether refunds, plus interest calculated under § 154.102(c) (18 CFR 154.102(c) (1983)), will be required as a matter which is subject to the review and final determination of the Commission.

Any person desiring to be heard or to make any protest to the requested reopening and withdrawal should file, within 30 days after this notice is published in the **Federal Register** with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of Rule 214 or 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211 (1983)). All protests filed will be considered but will not make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–26080 Filed 10–1–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP84–703–000]

Texas Eastern Transmission Corp.; Application

September 26, 1984.

Take notice that on September 10, 1984, Texas Eastern Transmission Corporation (Applicant), P.O. Box 2521, Houston, Texas 77252, filed in Docket No. CP84–703–000 an application pursuant to section 7(c) of the Natural Gas Act for a limited-term certificate of public convenience and necessity authorizing the transportation of natural gas in interstate commerce for United States Steel Corporation (USS), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that USS has purchased quantities of natural gas from Carnegie Natural Gas Company (Carnegie) which USS desires to have transported to its Fairless Works Plant located in Bucks County, Pennsylvania, for use as fuel oil displacement gas. Applicant proposes to receive from Carnegie, by displacement, quantities of natural gas of up to 37,200 dt equivalent of gas per day at the existing point of interconnection between Applicant and Carnegie located at Applicant's meter station 1275 in Greene County, Pennsylvania, or at other mutually agreeable points of receipt from Carnegie, and to transport and redeliver equal quantities to Philadelphia Electric Company (Philadelphia), for the account of USS, at existing points of interconnection between Applicant and Philadelphia designated as Applicant's M&R Station 035 located in Delaware County, Pennsylvania, Applicant's M&R Station 036 located in Montgomery County, Pennsylvania, or at other mutually agreeable points of delivery to Philadelphia. Applicant indicates that Philadelphia would in turn transport, on behalf of USS, and redeliver such quantities of natural gas to USS at USS's Fairless Works Plant located in Bucks County, Pennsylvania.

Applicant proposes to transport the stated quantities of natural gas under its currently effective Rate Schedule TS–2, FERC Gas Tariff, Fourth Revised Volume No. 1. Applicant indicates that on July 14, 1983, the Commission issued its Order Approving Settlement in *Texas Eastern Transmission Corporation*, Docket Nos. RP83–35–000, *et al.*, 24 FERC ¶ 61,065, in which it approved transportation of natural gas for fuel oil displacement under Applicant's Rate Schedule TS–2. Applicant proposes to charge USS its currently effective TS–2 (Fuel Oil Displacement) transportation rate of 16.76 cents per dt transported for USS and to reduce volumes received for transportation for shrinkage by 4 percent for the period November 16 through April 15 of each year and by 3 percent for the period April 16 through November 15 of each year.

Applicant requests a limited-term certificate with pregranted abandonment authorization expiring February 13, 1984.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 16, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission or its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–26082 Filed 10–1–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. G–1657–000]

Texas Gas Transmission Corp.; Petition To Amend

September 28, 1984.

Take notice that on September 7, 1984, Texas Gas Transmission Corporation (Texas Gas), P.O. Box 1160, Owensboro, Kentucky 42302, filed in Docket No. G–1657–000 a petition to amend the order issued November 6, 1951, In Docket No. G–1657 as amended, pursuant to section 7(c) of the Natural Gas Act so as to reduce the maximum volumes of gas sold to Olin Corporation (Olin), adjust the minimum bill provisions and implement various other changes under a direct sale contract with Olin, all as more fully set forth in the petition to amend which is on file with the

Commission and open to public inspection.

Texas Gas proposes to implement changes in its direct sale contract with Olin for use at Olin's Doe Run Chemical Plant located in Meade County, Kentucky. Specifically, Texas Gas proposes to reduce the maximum sales quantity to 4,500 Mcf per day. In addition, Texas Gas proposes to adjust its minimum bill provision to reflect the reduced volumes. Texas Gas also proposes to increase the overrun penalty from $10.00 to $15.00 per Mcf and to interrupt deliveries to Olin consistent with Section 10 of its FERC Gas Tariff, Third Revised Volume No. 1 or as required by any valid order of any governmental agency having jurisdiction. Texas Gas also requests that the reduction in sales be made effective retroactive to December 31, 1983.

Texas Gas states that the decrease was requested by Olin because of recently implemented conservation measures at the plant.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before Oct. 16, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26083 Filed 10-1-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-495-000]

Corporate Energy Management, Inc.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

September 26, 1984.

On September 14, 1984, Corporate Energy Management, Inc. (Applicant), of 13391 Mahoning Avenue, P.O. Box 338, North Jackson, Ohio 44451 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The facility will be located at the Bates College, Lewistown, Maine 04240. The primary energy source will be biomass in the form of wood waste. The Electric power production capacity will be 210 kilowatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26087 Filed 10-1-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-402-000]

Harrisburg Energy Co.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

September 26, 1984.

On July 10, 1984, Harrisburg Energy Company (Applicant), of Box 6287, Wyomissing, Pennsylvania 19610, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. Supplementary information was filed on September 10, 1984. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located at Walnut and N. Ninth Street, Harrisburg, Pennsylvania. The primary energy sources will be natural gas and diesel fuel. The facility will include two dual fuel engine generators with waste heat recovery boilers. The electric power production capacity will be approximately 12,840 kilowatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene of protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26079 Filed 10-1-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-496-000]

OLS Energy-UC Berkeley; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

September 26, 1984.

On September 18, 1984, OLS Energy-UC Berkeley (Applicant), of 450 Sansome-Suite 210, San Francisco, California 94111, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located at the University of California, Berkeley, California. The primary energy source will be natural gas. The facility will consist of a combustion turbine generator unit rated 20,300 kilowatts, and a supplementary-fired waste heat boiler supplying a back pressure steam turbine generator unit rated 3,200 kilowatts. The back pressure steam will supply the University's process heating load. Initial construction of the facility is planned for September 1985.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to

become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26074 Filed 10-1-84; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[Docket No. ECAO-CD-81-2; A-FRL 2684-5]

Draft Air Quality Criteria Document for Lead; Availability

AGENCY: Environmental Protection Agency.

ACTION: Notice of Availability of Second External Review Draft.

SUMMARY: The existing Air Quality Criteria Document for Lead (EPA-600/8-77-017) is being updated and revised pursuant to to sections 108 and 109 of the Clean Air Act, as amended, 42 U.S.C. 7408 and 7409, and will be used as a basis for review and, as appropriate, revision of the National Ambient Air Quality Standards (NAAQS) for lead. As part of this process, EPA is making available for public comment the second external review draft of the revised Air Quality Criteria for Lead.

ADDRESSES: The second external review draft is being issued in four volumes. (See **"SUPPLEMENTARY INFORMATION"** for details on the contents of each volume.) To receive the second external review draft, interested parties should contact the ORD Publications Center, CERI-FRN, U.S. Environmental Protection Agency, 26 W. St. Clair St., Cincinnati, OH 45268 [(513) 684-7562]. Provide your name, mailing address, and the EPA document number, EPA-600/8-83-028B.

Note.—All persons who received a copy of the first external review draft through CERI will automatically receive a copy of the second external review draft. If such persons experience and unreasonable delay in receiving the second external review draft, please contact CERI.

EPA requests that all comments be prepared according to the review comment guidelines attached to the second external review draft and submitted in writing to the Project Manager, Air Quality Criteria for Lead, Environmental Criteria and Assessment Office, MD-52, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711. The draft document will also be available for public inspection and copying at the EPA Library, Waterside Mall, 401 M Street, SW., Washington, DC 20460.

DATES: The Agency will make this document available for public comment on or about October 15, 1984. Comments must be received by close of business on December 14, 1984 or postmarked by that date.

SUPPLEMENTARY INFORMATION: As indicated above, the second external review draft will be released in four volumes. Volume I will contain the Executive Summary and Conclusions (Chapter 1) for the entire document. Volume II will contain Chapters 2 through 8, which includes the introduction for the entire document and chapters that discuss background information on physical and chemical properties of lead; sources of emission, transport, transformation, and fate; ambient concentrations and potential human exposures; and the effects of lead on ecosystems. Volume III will contain Chapters 9 through 11, dealing with measurement of lead in biologic tissues; uptake, distribution, metabolism and excretion of lead, and assessment of human exposure and absorption of lead. Volume IV will contain Chapters 12 and 13, the former chapter focusing on characterization of the health effects of lead and the latter chapter providing an integrative, interpretive evaluation concerning lead exposure and health risks, taking into account information presented in preceding chapters of the document.

Previous drafts of the revised document have already been reviewed by scientific experts in workshop forums, by the public during the comment period on the first external review draft (October 15, 1983—February 15, 1984), and by the Clean Air Scientific Advisory Committee (CASAC) of EPA's Science Advisory Board. The second external review draft reflects consideration of all comments and suggested revisions received during these reviews. Although comments are invited on all portions of the current draft, it should be noted that while Chapters 2 through 7, 9, and 10, have been updated and editorially improved, they remain essentially the same as in the first external review draft. The public's attention is therefore directed to Chapters 1, 8, 11, 12, and 13, where significant revisions have been made in response to comments.

After receipt of public comments on the second external review draft, CASAC will hold a public meeting to review the document. Advance notice of the time and place of the meeting will be provided in a subsequent **Federal Register** announcement.

All public comments received, as well as the Agency's response to these comments, will be included in the docket established for the review of the lead document (Docket No. ECAO-CD-81-2). The docket is available for inspection and copying between the hours of 8:00 a.m. and 4:00 p.m. at EPA headquarters in the Central Docket Section, A-130, Gallery 1, West Tower, Waterside Mall, 401 M Street, sW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Dr. David Weil, U.S. Environmental Protection Agency, Environmental criteria and Assessment Office, MD-52, Research Triangle Park, NC 27711 [(919) 541-4163].

Dated: September 24, 1984.

Carl R. Gerber,

Acting Assistant Administrator for Research and Development.

[FR Doc. 84-28052 Filed 10-1-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

[Docket No. 83-38]

Notice of Inquiry and Intent To Review Regulation of Ports and Marine Terminal Operators

AGENCY: Federal Maritime Commission.

ACTION: Notice of availability of report of inquiry officer—Part I.

SUMMARY: The purpose of this Notice is to announce that the Report of the Inquiry Officer in this proceeding is available and may be obtained through Commissioner Setrakian, at the address and telephone number listed below.

FOR FURTHER INFORMATION CONTACT: Robert Setrakian, Commissioner, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573, (202) 523-5721.

SUPPLEMENTARY INFORMATION: None.

Robert Setrakian,

Inquiry Officer.

[FR Doc. 84-28113 Filed 10-1-84; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review by OMB

September 26, 1984.

Background

Notice is hereby given of the submission of proposed information collection(s) to the Office of

Management and Budget (OMB) for its review and approval under the Paperwork Reduction Act (Title 44 U.S.C. Chapter 35) and under OMB regulations on Controlling Paperwork Burdens on the Public (5 CFR Part 1320). A copy of the proposed information collection(s) and supporting documents is available from the agency clearance officer listed in the notice. Any comments on the proposal should be sent to the OMB desk officer listed in the notice. OMB's usual practice is not to take any action on a proposed information collection until at least ten working days after notice in the **Federal Register**, but occasionally the public interest requires more rapid action.

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Cynthia Glassman—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202–452–3829)

OMB Desk Officer—Judith McIntosh—Officer of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503 (202–395–6880)

Request for Revision to an Existing Report

1. Report title: Annual Report of International Fiduciary Activities
Agency form number: FFIEC 006
OMB Docket number: 7100–0160
Frequency: Annual
Reporters: State member banks and foreign banking affilates of U.S. banking organizations
Small businesses are not affected.

General description of report: This information collection is mandatory [12 U.S.C. 248(a)(1), 325, 334, 602, 625, and 1844] and is given confidential treatment [5 U.S.C 552(b)(8)].

This report provides the only available known source of the volume of trust or fiduciary activities of foreign banking affiliates of U.S. banking organizations. The information reported is used for supervisory purposes. This report was formerly titled, "Interagency Survey of Corporate Foreign Fiduciary Activities."

Board of Governors of the Federal Reserve System, September 26, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-26000 Filed 10-1-84; 8:45 am]

BILLING CODE 6210-01-M

Agency Forms Under Review by OMB

September 26, 1984.

Background

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act of 1980, as per 5 CFR 1320.9, "to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320.9." Board-approved collections of information will be incorporated into the official OMB inventory of currently approved collections of information. A copy of the SF 83 and supporting statement and the approved collection of information instrument(s) will be placed into OMB's public docket files. The following forms, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collection, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority.

DATE: Comments must be received within fifteen working days of the date of publication in the **Federal Register**.

ADDRESS: Comments, which should refer to the OMB Docket number (or Agency form number in the case of a new information collection that has not yet been assigned an OMB number), should be addressed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, D.C. 20551, or delivery to room B–2223 between 8:45 a.m. and 5:15 p.m. Comments received may be inspected in room B–1122 between 8:45 a.m. and 5:15 p.m., except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information, 12 CFR 261.6(a).

A copy of the comments may also be submitted to the OMB desk officer for the Board: Judith McIntosh, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT:

A copy of the proposed form, the request for clearance (SF 83), supporting statement, instructions, transmittal letter, and other documents that will be placed into OMB's public docket files once approved may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer—Cynthia Glassman—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202–452–3829)

Request for Extension Without Revision

1. Report title: Registration as a Transfer Agent and for Amendment to Registration
Agency form number: TA–1
OMB Docket number: 7100–0099
Frequency: On occasion
Reporters: State member banks, bank holding companies, and nondeposit trust company subsidiaries of bank holding companies
Small businesses are not affected

General description of report: Respondent's obligation to reply is mandatory [12 CFR § 208.8(f)(2)]; a pledge of confidentiality is not promised.

Uniform form for registration as a transfer agent, and for amendments to the registration form to update certain items when changes occur. Fulfills the statutory registration requirements for entities acting as transfer agent, plus enables certain basic information changes to be brought to the attention of the supervisory agency.

Board of Governors of the Federal Reserve System, September 26, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-26000 Filed 10-1-84; 8:45 am]

BILLING CODE 6210-01-M

Banc One Corp., et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted through the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for

inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 22, 1984.

A. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Banc One Corporation*, Columbus, Ohio; to engage *de novo* through its subsidiary, Banc One Leasing Corporation, Columbus, Ohio, in making, acquiring, selling and servicing, for its own account and the account of others, loans and other extensions of credit including agricultural loans, commercial and industrial loans, and consumer loans. This application is for the expansion of the geographic scope of activities to include the State of Indiana. These activities would be conducted from an office located in Indianapolis, Indiana. Comments on this application must be received not later than October 16, 1984.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *First Railroad & Banking Company of Georgia*, Augusta, Georgia; to engage *de novo* through its subsidiary, CMC Group, Inc., in the following activities: consumer installment loans secured by notes or household goods; first and second mortgage loans up to $25,000, and sales finance contracts up to $1,500; sales of credit life and accident health Insurance in connection with credit transactions; and sale of American Express money orders. These activities will be conducted at offices located in South Boston, Virginia; Danville, Virginia; and Lynchburg, Virginia, under the name Capitol Credit Plan of Virginia, Inc., and in West Columbia, South Carolina; and Greenville, South Carolina under the name of Capitol Credit Plan of South Carolina, Inc.

C. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Wells Fargo & Company*, San Francisco, California; to engage *de novo* through its subsidiary, Wells Fargo Investment Advisors, San Francisco, California, in acting as investment or financial advisor to institutional and other fiduciary accounts with respect to their portfolio investments.

Board of Governors of the Federal Reserve System, September 26, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-26031 Filed 10-1-84; 8:45 am]

BILLING CODE 6210-01-M

Bank Leumi Le-Israel Corp., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than October 24, 1984.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Bank Leumi Le-Israel Corporation*, New York, New York; to become a bank holding company by acquiring 99.19 percent of the voting shares of Bank Leumi Trust Company of New York, New York.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Benton Financial Corporation*, Fowler, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of Fowler State Bank, Fowler, Indiana.

2. *First Evergreen Corporation*, Evergreen Park, Illinois; to acquire 100 percent of the voting shares of Clear Bancorp, Inc., Chicago, Illinois, thereby indirectly acquiring Clearing Bank, Chicago, Illinois.

3. *FSB Holding Co.*, Kalona, Iowa; to acquire 80 percent or more of the voting shares of West Chester Savings Bank, West Chester, Iowa.

Board of Governors of the Federal Reserve System, September 26, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-26032 Filed 10-1-84; 8:45 am]

BILLING CODE 6210-01-M

Boatmen's Bancshares, Inc.; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under section 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in section 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased

competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 19, 1984.

A. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Boatmen's Bancshares, Inc.*, St. Louis, Missouri; to merge 100 percent of the voting shares of CharterCorp, Kansas City, Missouri, thereby indirectly acquiring the following banks: First National Bank of Kansas City, Kansas City; CharterBank St. Louis N.A., St. Louis; CharterBank Webster Groves Trust Company, Webster Groves; CharterBank of Jennings, Jennings; CharterBank of Carthage, Carthage; CharterBank of Ward Parkway N.A., Kansas City; CharterBank Springfield N.A., Springfield; CharterBank Lee's Summit, Lee's Summit; CharterBank Aurora, Aurora; CharterBank of Overland, Overland; CharterBank Cassville N.A., Cassville; CharterBank Butler, Butler; Livestock National Bank, Kansas City; CharterBank Independence, Independence; CharterBank Marshall, Marshall; CharterBank DeSoto, DeSoto; CharterBank Belton, Belton; CharterBank Lebanon N.A., Lebanon; CharterBank of Ladue, Ladue; CharterBank Clinton, Clinton; CharterBank Excelsior Springs, Excelsior Springs; CharterBank Lexington, Lexington; CharterBank Boonville N.A., Boonville; CharterBank Richmond N.A., Richmond; CharterBank Lockwood, Lockwood; CharterBank Nevada, Nevada; and CharterBank Raytown, Raytown, all located in Missouri.

Boatmen's Bancshares, Inc., has also applied to acquire Charter Bankers Life Insurance Company, Kansas City, Missouri, thereby engaging in underwriting credit life, accident and health insurance.

Board of Governors of the Federal Reserve System, September 26, 1984.

James McAfee,

Associate Secretary of the Board

[FR Doc. 84-26033 Filed 10-1-84; 8:45 am]

BILLING CODE 6210-01-M

Manufacturers Hanover Corp. et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 18, 1984.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Manufacturers Hanover Corporation*, New York, New York; to engage *de novo* through its subsidiary, Manufacturers Hanover Securities Corporation, Chicago, Illinois, in providing securities brokerage services, related securities activities pursuant to the Board's Regulation T (12 CFR Part 220), and activities incidental thereto such as offering custodial services, individual retirement accounts, and cash management services. All such securities brokerage services would be restricted to buying and selling securities solely as agent for the account of customers and would not include securities underwriting or dealing or offering investment advice or providing research services. These activities would be conducted worldwide.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Indiana National Corporation*, Indianapolis, Indiana; to engage *de novo* through its subsidiary, Indiana Mortgage Corporation, Indianapolis, Indiana, in mortgage lending and servicing, real property leasing, real estate appraising, management counsulting, and acting as a agent or broker with respect to life, accident and health insurance directly related to extensions of credit by Indiana National Corporation or any of its subsidiaries and credit life insurance activities. This application is to expand the geographic scope of activities to include the entire United States.

C. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Republic Banking Corporation of Florida*, Miami, Florida; to engage *de novo* through its subsidiary, Rebank Mortgage Corporation, Miami, Florida, in arranging mortgage financing, acting as mortgage broker, servicing mortgage loans, and extending mortgage credit. These activities will be conducted in the Florida counties of Dade, Broward, Palm Beach, and Monroe.

D. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Firstier, Inc.*, Omaha, Nebraska; to expand the geographic scope of its mortgage banking subsidiary, Firstier Mortgage Co., Omaha, Nebraska, by opening a new office in Grand Island, Nebraska, which would serve the State of Nebraska.

E. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *First Community Bancshares, Inc.*, Houston, Texas; to engage *de novo* through its subsidiary, First Community Leasing, Houston, Texas, in leasing

personal or real property, and acting as broker, agent and adviser in connection with the leasing of such property within the United States.

Board of Governors of the Federal Reserve System, September 26, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 28034 Filed 10-1-84; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Oregon; Motorized Vehicles on Public Lands; Restriction of Use

Notice is hereby given relating to the use of off-road vehicles on public lands in accordance with the authority and requirements of Executive Order 11644 and 11989, and regulations contained in 43 CFR Part 8340. The following described lands under the administration of the Bureau of Land Management are designated as open, limited or closed to off-road motorized vehicle use.

The 2,657,210 acre area affected by the designations is known as the Southern Malheur Resource Area, which includes public lands in Malheur and Harney Counties, Oregon. These designations are made as a result of resource management decisions made in the 1983 Southern Malheur Resource Area Management Framework Plan. Public comments generated from press releases to newspapers, radio and television and those generated from five public meetings influenced the designation decisions. These designations are published as final today. Under 43 CFR 4.21, an appeal may be filed within 30 days with the Interior Board of Land Appeals.

a. *Open Designation.* Areas which are designated as open comprise 1,671,270 acres. Open designation was determined to be appropriate for these public lands as off-road use of motorized vehicles is essential for the conduct of authorized resource uses and the management of those uses.

a. *Limited Designation.* Vehicle travel in the following areas is restricted to identified roads and trails, year-long.

1. Stockade Research Natural Area (RNA)–1,880 acres. The area is located approximately 46 miles north/northwest of Burns Junction, Oregon, from Oregon State Highway 78. Limited vehicle access was determined necessary to preserve the vegetative cell needs of the RNA as identified by the Oregon Natural Heritage Data Base.

2. Lower Oywhee River (proposed National Wild and Scenic River)–169,600 acres. The area of designation is located approximately 35 miles west/southwest of Jordan Valley, Oregon. Limited vehicle access designation was determined necessary to preserve and protect, wilderness values associated with the Lower Owyhee Canyon (3–110) and Saddle Butte (3–111) Wilderness Study Area (WSA's); Riparian Management Areas on Birch Creek, Owyhee River and Bogus Creek; the Saddle Butte Lava Tubes and Owyhee River Areas of Critical Environmental Concern (ACEC's); Sand Springs Wild Horse Herd Management Area; and the river recreational values associated with the proposed Owyhee National Wild and Scenic River.

3. Clarks Butte (proposed Research Natural Area)–39,360 acres. This area is located approximately 21 miles west of Jordon Valey, Oregon. Limited vehicle access designation was established to preserve and protect wilderness values within the Clark Butte (3–120) WSA and botanical and zoologic values identified with the proposed RNA.

4. Sheephead–285,040 acres. The area of designation is located four miles northwest of Burns Junction, Oregon, off State Highway 78. Limited vehicle access designation was determined necessary to protect and preserve wilderness values on all or portions of five WSA's, Sheepshead Mountain (2–72c), Wildcat Canyon (2–72d), Alvord Desert (2–72f), Palomino Hills (3–114), and Bowden Hills (3–118). ORV designation also includes two Wild Horse Herd Management Areas, Sheepshead and Coyote Lakes.

5. Crooked Creek–1,280 acres. The area of ORV designation consists of three detached parcels of public land located along Crooked Creek, approximately seven, eleven, and eighteen miles respectively, southwest of Rome, Oregon. The limited vehicle access designation was determined necessary to preserve and protect those resource values associated with portions of the Crook Creek Riparian Management Area and portions of the Sand Springs Wild Horse Herd Management Area.

6. Upper Owyhee River (proposed National Wild and Scenic River)–299,320 acres. This area is located approximately two and one-half miles southeast of Rome, Oregon. The limited access designations were determined necessary to preserve and protect wilderness values in the Upper West Little Owyhee (3–173) and Owyhee Canyon (3–195) WSA's and to protect riparian vegetation of the Little Owyhee River Riparian Management Area. The limited access ORV designation also preserves those resource values associated with the Owyhee River ACEC and recreation values related to the proposed Owyhee National Wild and Scenic River.

7. Whitehorse—189,460 acres. This area of limited vehicle access is located approximately twelve miles west of McDermitt, Nevada. A limited access designation was determined necessary to preserve and protect wilderness values of Willow Creek (3–156), Disaster Peak (3–153), Fifteen Mile Creek (3–162), Oregon Canyon (3–157), and Twelve Mile Creek (3–162) WSA's, and to protect riparian values of Corral Canyon Creek, Cottonwood Creek, Doolittle Creek, Fifteen Mile Creek, Indian Creek, Lime Canyon Creek, McDermitt Creek, Oregon Canyon Creek, Sage Creek, Twelve Mile Creek, Whitehorse Creek, and Willow Creek Riparian Management Areas. This area also includes those resource values associated with the Whitehorse Basin ACEC.

c. *Closed Designation.* There are no lands identified for permanent vehicle closure within the Southern Malheur Resource Area under this designation order.

These designations become effective upon publication in the **Federal Register** and will remain in effect until rescinded or modified by the Authorized Officer. Decisions to designate the identified lands resulted from multiple resource conflict analysis conducted through land use planning and guidelines from the Interim Management Policy concerning Wilderness Study Areas.

For further information concerning these designations, contact the Bureau of Land Management, P.O. Box 700, Vale, Oregon 97918, (503) 473–3144.

Pearl M. Parker,

District Manager.

[FR Doc. 84–26027 Filed 10–1–84; 8:45 am]

BILLING CODE 4310–33–M

[NM–68250]

Navajo Relocation Exchange; Amended Notice; Dona Ana County, NM

AGENCY: Bureau of Land Management Interior.

ACTION: Amended notice of intent to do a planning amendment and notice of realty action designating public lands for transfer out of Federal ownership in exchange for private lands selected by the Navajo Tribe for relocation purposes.

The original notice given in the **Federal Register** on Friday, July 6, 1984, Vol. 49, No. 131, Page 26827 has been amended to include additional lands for transfer out of Federal ownership in exchange for private lands selected by the Navajo Tribe for relocation purposes. An additional public meeting has been scheduled to receive comments regarding the planning to be completed. The list of lands includes those in the original notice and the additional lands to be included in the planning amendment and for transfer out of Federal ownership.

SUMMARY: Under the provisions of sections 4 and 28 of the Navajo and Hopi Indian Relocation Amendment Act, 1980, 25 U.S.C. 640d–10 and 25 U.S.C. 640d–28, the Navajo Tribe filed a selection application on June 30, 1983, for private lands in Apache County, Arizona, to be acquired by exchange for public lands in New Mexico. Interest has been expressed by an Arizona private landowner to select the following public lands for part of the compensation for the lands selected in Arizona by the Navajo Tribe:

New Mexico, Principal Meridian

Township 28 South, Range 2 East, N.M.P.M.,
Sec. 12: Lot 6, E½ Lot 7, E½ Lot 10, Lot 11, E½SW¼NE¼, SE¼NE¼, N½NE¼;
Sec. 21: All;
Sec. 22: All;
Sec. 23: SW¼NW¼, W½SW¼;
Sec. 26: NW¼NE¼, S½NE¼, NW¼, S½;
Sec. 27: All;
Sec. 28: All;
Sec. 33: All;
Sec. 34: All;
Sec. 35: All;
Township 29 South, Range 2 East, N.M.P.M.,
Sec. 1: All;
Sec. 3: All;
Sec. 4: All;
Sec. 9: All;
Sec. 10: All;
Sec. 11: All;
Sec. 12: All;
Sec. 13: Lots 1, 2, 3, 4, N½;
Sec. 14: Lots 1, 2, 3, 4, N½;
Sec. 15: Lots 1, 2, 3, 4, N½.
Township 28 South, Range 3 East, N.M.P.M.,
Sec. 7: Lots 1, 2, 3, 4, 5, 6, 7, E½W½, W½E½, SE¼SE¼;
Sec. 8: Lot 1;
Sec. 17: Lots 1, 2, 3, 4, SW¼NW¼, W½SW¼, SE¼SW¼;
Sec. 18: Lot 1, S½ Lot 3, Lot 4, E½W½, E½;
Sec. 31: Lot 1, 2, 3, 4, E½W½, E½;
Sec. 33: NW¼NE¼, NW¼, S½;
Sec. 34: NW¼SW¼, S½SW¼.
Township 29 South, Range 3 East, N.M.P.M.,
Sec. 3: NW¼NE¼, S½NE¼, NW¼, S½;
Sec. 4: All;
Sec. 5: All;
Sec. 6: All;
Sec. 7: All;
Sec. 8: All;
Sec. 9: All;
Sec. 10: All;
Sec. 11: All;
Sec. 14: Lots 1, 2, 3, 4, N½;
Sec. 15: Lots 1, 2, 3, 4, N½;
Sec. 16: NW¼NW¼, NE¼NE¼;
Sec. 17: Lots 1, 2, 3, 4, N½;
Sec. 18: Lots 1, 2, 3, 4, N½.

Comprising 21,231.23 acres, more or less located in Dona Ana County, New Mexico.

This Notice constitutes a Scoping Notice as required by the National Environmental Policy Act (40 CFR 1501.7) for a Plan Amendment. The action is to determine whether or not the above described lands will be considered as part of the Navajo-Hopi Exchange.

The lands identified for the Plan Amendment in New Mexico are in Las Cruces/Lordsburg Resource Area, Las Cruces District. Disciplines to be represented are realty, threatened and endangered plants and animals and cultural values.

DATE: A public meeting regarding this Plan Amendment is scheduled for October 25, 1984, at 1:30 p.m., at Branigan Memorial Library, 200 E. Picacho, Las Cruces, New Mexico 88001. A draft Plan Amendment/Assessment will be printed and made available to the public for a 30-day review and comment period. It is anticipated that this document will be released in December of 1984.

In addition to the Scoping Notice and in accordance with the regulations in 43 CFR 2201.1(b), publication of this notice will segregate the public lands, as described above, to the extent that they will not be subject to appropriation under the public land laws, including the mining laws, but not the mineral leasing laws or Geothermal Steam Act.

The segregation of the above described lands shall terminate upon issuance of a document of conveyance to such lands to the private landowners or upon publication in the **Federal Register** of a notice of termination of the segregation; or the expiration of 2 years from the date of publication, whichever occurs first.

FOR FURTHER INFORMATION CONTACT: Inquiries, comments or protests to the segregation of the lands not previously identified in the July 6, 1984 **Federal Register** should be addressed to the Indian Project Manager, Indian Project Office, 2708 N. 4th St., Suite B–5, Flagstaff, Arizona 86001, or the Las Cruces District Manager, Las Cruces District Office, 317, North Main, Las Cruces, New Mexico 88004.

Dated: September 24, 1984.

Monte G. Jordan,

Associate State Director.

[FR Doc. 84–26097 Filed 10–1–84; 8:45 am]

BILLING CODE 4310–32–M

[M–58045]

Conveyance and Order Providing for Opening of Public Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Conveyance and Order Providing for Opening of Public Lands in Valley County, Montana.

SUMMARY: Notice is hereby given that pursuant to section 206 of the Act of October 21, 1976 (43 U.S.C. 1716 (1976)), the following described land was conveyed to Norris Opheim of Opheim, Montana.

Principal Meridian, Montana

T. 36 N., R. 41 E.,
Sec. 7, N½SE¼.
Containing 80.00 acres.

In exchange for the above land, the United States acquired the following described land in Valley County, Montana:

Principal Meridian, Montana

T. 35 N., R. 37 E.,
Sec. 26, N½NE¼.
Containing 80.00 acres.

SUPPLEMENTARY INFORMATION: Subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law, the lands reconveyed to the United States are hereby opened to the operation of the public land laws. All valid applications received at or prior to November 5, 1984, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

The United States owns the mineral rights by reservations in earlier patents. Therefore, these lands have been and continue to remain open to operation of the mining laws and the mineral leasing laws.

FOR FURTHER INFORMATION CONTACT: Edward H. Croteau, Chief, Lands Adjudication Section, BLM, Montana State Office, P.O. Box 36800, Billings, Montana 59107, Phone: (406, 657–6082.

Dated: September 24, 1984.

John A. Kwiatkowski,

Deputy State Director, Division of Lands & Renewable Resources.

[FR Doc. 84-26026 Filed 10-1-84; 8:45 am]

BILLING CODE 4310-DN-M

[M 58048]

Conveyance and Order Providing for Opening of Public Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Conveyance and Order Providing for Opening of Public Lands in Blaine County, Montana.

SUMMARY: This order will open the lands reconveyed to the United States in an exchange under the Act of October 21, 1976, 43 U.S.C. 1701, et seq., to the operation of the public land laws. Title to all minerals in the offered land has always been in the name of the United States. The government reserved oil, gas and coal on the lands transferred to the private party.

DATE: At 9 a.m. on November 21, 1984, the lands reconveyed to the United States shall be open to the operation of the public lands laws, subject to valid existing rights, the provision of existing withdrawals and the requirements of applicable law. The segregation of the public land that was subsequently transferred to the private party, which was created by the Notice of Realty Action published in the **Federal Register** on September 26, 1983 (48 FR 43735), terminated on issuance of the quitclaim deed on September 10, 1984.

FOR FURTHER INFORMATION CONTACT: Edward H. Croteau, Chief, Lands Adjudication Section, BLM, Montana State Office, P.O. Box 36800, Billings, Montana 59107, Phone: (406) 657-6082.

SUPPLEMENTARY INFORMATION: Notice is hereby given that pursuant to section 206 of the Act of October 21, 1976 (43 U.S.C. 1716, the following described land was conveyed to Wasyl Hrychiw, also known as William Hirsch:

Principal Meridian, Montana

T. 35 N., R. 21 E.,
Sec. 35, W½NE¼, E½NW¼, SE¼SW¼ and SE¼SE¼.
Containing 240 acres.

In exchange for the above land, the United States acquired the surface estate of the following described land in Blaine County, Montana:

Principal Meridian, Montana

T. 33 N., R. 22 E.,
Sec. 6, lots 6 and 7, S½NE¼, NE¼SW¼ and SE¼;
Sec. 7, NE¼NE¼; and
Sec. 8, lot 4.
Containing 437.51 acres.

At 9 a.m. on November 21, 1984, the above described lands that were conveyed to the United States will be open to the operation of the public land laws.

Dated: September 24, 1984.

John A. Kwiatkowski,

Deputy State Director, Division of Lands & Renewable Resources.

[FR Doc. 84-26025 Filed 10-1-84; 8:45 am]

BILLING CODE 4310-DN-M

Minerals Management Service

Outer Continental Shelf Oil and Gas Lease Sales; List of Restricted Joint Bidders; Chevron U.S.A., Inc.

Pursuant to the authority vested in the Director of the Minerals Management Service by the joint bidding provisions of 30 CFR 256.41, each entity within one of the following groups shall be restricted from bidding with any entity in any other of the following groups at Outer Continental Shelf oil and gas lease sales to be held during the bidding period from November 1, 1984, through April 30, 1985. The List of Restricted Joint Bidders published in the **Federal Register** on March 30, 1984, at 49 FR 12767 covered the bidding period of May 1, 1984, through October 31, 1984.

Group I: Chevron U.S.A. Inc.; Chevron Corporation; Gulf Oil Corporation.

Group II: Exxon Corporation.

Group III: Mobile Oil Corporation; Mobil Oil Exploration and Producing Southeast Inc.; Mobil Producing Texas and New Mexico Inc; Superior Oil Company.

Group VI: MTS Limited Partnership (Mesa Petroleum Co., Texaco Inc., Sequoia Petroleum Inc.); Texaco Inc.; Getty Oil Company.

Group V: Shell Offshore Inc.; Shell Oil Company; Shell Western E&P Inc.

Dated: September 25, 1984.

William D. Bettenberg,

Director, Minerals Management Service.

[FR Doc. 84-26057 Filed 10-1-84; 8:45 am]

BILLING CODE 4310-MR-M

Outer Continental Shelf; Southern California; Oil and Gas Lease Sale 80; Correction

On Monday, September 17, 1984, at 49 FR 36476, the Notice for the Southern California Outer Continental Shelf (OCS) Oil and Gas Sale 80 was published in the **Federal Register**. A typographical error occurred in the list of split blocks for OCS Leasing Map No. 6B, Channel Islands. The acreage listed for one block was incorrect. This acreage is part of paragraph 12(b) appearing at page 36478. Block 46N62W contains 455.64 acres.

In paragraph 13(b), under *Stipulation No. 9—Protection of Biological Resources*, a block listed under subparagraph (i) appearing at page 36483 is not being offered in the Sale. That block, in OCS Leasing Map No. 6B, Channel Islands, 44N54W, should be deleted from that paragraph.

Dated: September 26, 1984.

John B. Rigg,

Acting Director, Minerals Management Service.

[FR Doc. 84-26058 Filed 10-1-84; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; ARCO Oil and Gas Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development operations coordination document (DOCD).

SUMMARY: Notice is hereby given that ARCO Oil and Gas Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 6156, Block 116, High Island Area, offshore Texas. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Sabine Pass, Texas.

DATE: The subject DOCD was deemed submitted on September 24, 1984.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Ms. Angie Gobert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838-0876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to Sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information

contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: September 24, 1984.

John L. Rankin,

Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 84-26100 Filed 10-1-84; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; Samedan Oil Corp.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development operations coordination document (DOCD).

SUMMARY: Notice is hereby given that Samedan Oil Corporation has submitted a DOCD describing the activities it proposes to conduct on Leases OSS–G 5669 and 5670, Blocks 18 and 33, respectively, West Delta Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Venice, Louisiana.

DATE: The subject DOCD was deemed submitted on September 24, 1984. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the DOCD from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, *Attention OCS Plans*, Post Office Box 44396, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Ms. Angie Gobert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838–0876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to Sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to Section 930.61 of Title 15 of the CFR, that the Coastal Management Section 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised Section 250.34 of Title 30 of the CFR.

Dated: September 24, 1984.

John L. Rankin,

Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 84-26099 Filed 10-1-84; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

National Park System Advisory Board, History Areas Committee; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act, as amended, that a meeting of the History Areas Committee of the National Park System Advisory Board will be held on October 22, 1984, commencing at 9:00 a.m. in Boston, Massachusetts.

At this meeting the History Areas Committee will meet to consider potential National Historic Landmarks as follows:

1. *Theme Study:* Man in Space—24 nominations;
2. *Theme Study:* Architecture—11 nominations;
3. *Theme Study:* World War II in the Pacific—21 nominations; and miscellaneous sites related to broad topics as recreation, presidential sites, ships and boats, military affairs, literature, and social and humanitarian movements. The formal recommendations of the Committee will be made to the National Park System Advisory Board on October 25, 1984, in Boston, Massachusetts. No formal action by the Secretary of the Interior will be sought until after the Advisory Board has considered the recommendations of its History Areas Committee and acted thereon.

The meeting will be open to the public. However, facilities and space to accommodate members of the public are limited and persons will be accommodated on a first-come-first-served basis. Any member of the public may file with the committee a written statement concerning the matters to be considered.

Persons wishing further information concerning this meeting, who wish to submit written statements, may contact Mr. Benjamin Levy, History Division, National Park Service, Washington, D.C. (202–343–8164).

Summary minutes of the meeting will be available for public inspection 4 to 6 weeks after the meeting in Room 4209, 1100 L Street NW., Washington, D.C.

Dated: September 26, 1984.

David L. Jervis,

Acting Associate Director, Planning and Development, National Park Service.

[FR Doc. 84-26084 Filed 10-1-84; 8:45 am]

BILLING CODE 4310-70-M

Gateway National Recreation Area; Advisory Commission Meeting

AGENCY: Gateway Advisory Commission, National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the date of the forthcoming meeting of Gateway Advisory Commission. Notice of this meeting is required under the Federal Advisory Committee Act.

DATE: October 16, 1984, commencing at 3 p.m.

ADDRESS: Theodore Roosevelt Birthplace NHS, 28 East 20th Street, New York, New York.

FOR FURTHER INFORMATION CONTACT: Robert W. McIntosh, Jr., Superintendent, Gateway National Recreation Area, Headquarters, Building No. 69, Floyd Bennett Field, Brooklyn, New York 11234, (718) 338–3578.

SUPPLEMENTARY INFORMATION: The Advisory Commission was established by Public Law 92–592, to meet and consult with the Secretary of the Interior on general policies and specific matters relating to the development of Gateway National Recreation Area. The agenda for the meeting will include: (1) Land Protection Plan—Discussion; (2) Fountain Avenue Landfill Update; (3) Park Police Budget Status; (4) Other

Business That May Come Before The Board.

The meeting will be open to the public. The facility at which the meeting will be held is considered physically accessible. If interpretive services for the deaf or hearing impaired will be needed, they should be requested within five working days before the meeting. Facilities and space to accommodate members of the public are limited, and persons will be accommodated on a first-come, first-served basis.

Any member of the public may file with the Commission a written statement concerning agenda items to be discussed. The statement should be addressed to the Commission, c/o Gateway National Recreation Area, Building No. 69, Headquarters, Floyd Bennett Field, Brooklyn, New York 11234. Minutes of the meeting will be available for inspection four weeks after the meeting at Gateway National Recreation Area Headquarters Building in Brooklyn, New York.

Dated: September 20, 1984.

Robert W. McIntosh, Jr.,

Superintendent, Gateway National Recreation Area.

[FR Doc. 84-26097 Filed 9-28-84; 8:45 am]

BILLING CODE 4310-70-M

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before September 21, 1984. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by October 17, 1984.

Carol D. Shull,

Chief of Registration, National Register.

ALABAMA

Mobile County

Mobile, *Beal-Gaillard House (19th Century Spring Hill Neighborhood TR)*, 111 Myrtlewood Lane
Mobile, *Center-Gaillard House (19th Century Spring Hill Neighborhood TR)*, 3500 The Cedars
Mobile, *Collins-Marston House (19th Century Spring Hill Neighborhood TR)*, 4703 Old Shell Rd.
Mobile, *Collins-Robinson House (19th Century Spring Hill Neighborhood TR)*, 56 Oakland Ave.
Mobile, *Pfau-Creighton Cottage (19th Century Spring Hill Neighborhood TR)*, 3703 Old Shell Rd.
Mobile, *Sodality Chapel (19th Century Spring Hill Neighborhood TR)*, 4307 Old Shell Rd.
Mobile, *St. Paul's Episcopal Chapel (19th Century Spring Hill Neighborhood TR)*, 4051 Old Shell Rd.
Mobile, *Stewartfied (19th Century Spring Hill Neighborhood TR)*, 4307 Old Shell Rd.

ALASKA

Bristol Bay Division

King Salmon vicinity, *Fure's Cabin*, Katmai National Park and Preserve

CALIFORNIA

Imperial County

Pilot Knob 18, M-6 (Earth Figures of California-Arizona Colorado River Basin TR),

FLORIDA

Monroe County

Key Largo vicinity, *Carysfort Lighthouse*, Key Largo National Marine Sanctuary

LOUISIANA

Lincoln Parish

Ruston, *James, T.L., House*, 504 N. Vienna St.

Madison Parish

Tallulah vicinity, *Crescent Plantation*, S. of Tallulah off LA 602

St. Charles Parish

Kenner vicinity, *LaBranche Plantation Dependency*, SW of Kenner off LA 48

St. Mary Parish

Patterson vicinity, *Calumet Plantation House*, W. of Patterson on LA 182

OHIO

Coshocton County

Coshocton, *Old Union School*, 310 Sycamore St.
Canal Lewisville, *Lamberson-Markley Houses*, 713 Main St.

Cuyahoga County

Cleveland, *Benedict, Sarah, House (Upper Prospect MRA)*, 3751 Prospect Ave.
Cleveland, *Central YMCA (Upper Prospect MRA), 2200 Prospect Ave.*
Cleveland, *Cermak Building*, 3503 E. 93rd St.
Cleveland, *Cleveland Packard Building (Upper Prospect MRA)*, 5100—5206 Prospect Ave.
Cleveland, *Cook Building (Upper Prospect MRA)*, 4600—4800 Prospect Ave.
Cleveland, *Dixon Hall Apartments (Upper Prospect MRA)*, 3814 Prospect Ave.
Cleveland, *Ensworth, Jeremiah, House (Upper Prospect MRA)*, 3214 Prospect Ave.
Cleveland, *Gaensslen, Phillip, House (Upper Prospect MRA)*, 3056 Prospect Ave.
Cleveland, *Gifford, Dr. William, House (Upper Prospect MRA)*, 3047 Prospect Ave.
Cleveland, *Ireland, Joseph, House (Upper Prospect MRA)*, 2074 E. 36th St.
Cleveland, *Montana Apartments (Upper Prospect MRA)*, 2061 E. 36th St.
Cleveland, *Neff Apartments (Upper Prospect MRA)*, 3806 Prospect Ave.
Cleveland, *Ohio Bell Henderson-Endicott Exchange Building (Upper Prospect MRA)*, 5400—5420 Prospect Ave.
Cleveland, *Plaza Apartments (Upper Prospect MRA)*, 3206 Prospect Ave.
Cleveland, *Southworth House (Upper Prospect MRA)*, 3334 Prospect Ave.
Cleveland, *Tavern Club (Upper Prospect MRA)*, 3522 Prospect Ave.
Cleveland, *Templar-Farrell Motor Sales Building (Upper Prospect MRA)*, 3134 Prospect Ave.
Cleveland, *Trinity Cathedral Church Home (Upper Prospect MRA)*, 2227 Prospect Ave.
Cleveland, *United Motor Service Building (Upper Prospect MRA)*, 4019 Prospect Ave.
Cleveland, *Walker and Weeks Office Building (Upper Prospect MRA)*, 2341 Carnegie Ave.
Cleveland, *Zion Lutheran Church (Upper Prospect MRA)*, 2062 E. 30th St.
Cleveland, *Zion Lutheran School (Upper Prospect MRA)*, 2074 E. 30th St.
East Cleveland, *St. Paul's Episcopal Church of East Cleveland*, 15837 Euclid Ave.

Erie County

Kelleys Island, *Beatty, Louis, House*, South Shore Dr.

Franklin County

Columbus, *Ohio Institution for the Education of the Deaf and Dumb*, 408 E. Town St.

Hamilton County

Cincinnati, *Melbourne Flats*, 39 W. McMillan St.
Cincinnati, *Peters-Kupferschmid House*, 2167 Grandin Rd.
Cincinnati, *Procter and Collier-Beau Brummell Building*, 440 E. McMillan St.

Mahoning County

Poland, *South Main Street District (Boundary Increase)*, 101 and 111 S. Main St.
Youngstown, *Jones Hall, Youngstown State University*, 410 Wick Ave.

Montgomery County

Dayton, *Independent Order of Oddfellows, Dayton Lodge No. 273*, 8 LaBelle St.

Summit County

Akron, *Gayer, Jacob M., House*, 406 Sumner St.

Washington County

Little Hocking, *Sawyer-Curtis House*, off U.S. 50

PENNSYLVANIA

Chester County

Exton, *Ball and Ball Building (West Whiteland Township MRA)*, 463 W. Lincoln Hwy
West Chester, *Ashbridge, David, Log House (West Whiteland Township MRA)*, 1181 King Rd.

TEXAS

Ellis County

Waxahachie, *Strickland-Sawyer House*, 500 Oldham St.

Harris County

Houston, *Palmer, Edward Albert, Memorial Chapel and Autry House*, 6221 and 6265 Main St.

WASHINGTON

Douglas County

Waterville, *Waterville Hotel*, 102 S. Central St.

Pierce County

Sumner, *Williams, Herbert, House*, 1711 E. Elm St.

Sumner, *Williams, Herbert, House*, 15003 E. Elm St.

Tacoma, *Engine House No. 4*, 220—224 E. 26th St.

[FR Doc. 84-26000 Filed 9-28-84; 8:45 am]

BILLING CODE 4310-70-M

National Park System Advisory Board; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the National Park System Advisory Board will be held in Boston, Massachusetts, October 25 and 26, 1984.

In its general sessions starting at 9:00 am the Advisory Board will consider administrative matters pertaining to the Board; receive and discuss the report of the History Areas Committee; make recommendations on proposed national historic landmark designations; and review and discuss policy and management issues affecting the National Park System. The meetings will be open to the public. Space and facilities to accommodate members of the public are limited and persons will be accommodated on a first-come-first-served basis. Any member of the public may file with the Advisory Board a written statement concerning matters to be discussed. Persons wishing further information concerning this meeting or who wish to submit written statements may contact Barbara Brown, Advisory Boards and Commissions, National Park Service, Washington, D.C. (202–343–2012).

Summary minutes of the meeting will be available for public inspection 10 to 12 weeks after the meeting in Room 3328, Interior Building, 18th and C Streets, NW., Washington, D.C.

Dated: September 26, 1984.

David L. Jarvis,

Associate Director Planning and Development, National Park Service.

[FR Doc. 84-26086 Filed 10-1-84; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 347 (Sub 1)]

Nationwide Coal Rate Guidelines

AGENCY: Interstate Commerce Commission.

ACTION: Change in starting time for oral argument.

SUMMARY: The Commission has scheduled an oral argument in Ex Parte No. 347 (Sub-No. 1) for October 4, 1984. The oral argument will begin at 9:30 a.m. instead of 10:00 a.m. as previously announced at 49 FR 36174, September 14, 1984.

ADDRESS: The oral argument will be heard in Hearing Room A at the Interstate Commerce Commission Building, 12th & Constitution Avenue NW., Washington, DC 20423.

This notice is issued under the authority of 49 U.S.C. 10321 and 5 U.S.C. 553.

Decided: September 26, 1984.

By the Commission.

James H. Bayne,

Secretary.

[FR Doc. 84-26109 Filed 10-1-84; 8:45 am]

BILLING CODE 7035-01-M

[Sec. 5a Application No. 34; Amend. No. 6]

Middlewest Motor Freight Bureau, Inc.; Agreement

AGENCY: Interstate Commerce Commission.

ACTION: Notice of decision and request for comment.

SUMMARY: Middlewest Motor Freight Bureau, Inc. (MWB), has filed, pursuant to Section 14(e) of the Motor Carrier Act of 1980, an application for approval of its ratemaking agreement under 49 U.S.C. 10706(b). Because some modifications are required before the agreement receives final approval, and because of the new and complex questions involved in determining whether the agreement is consistent with the Act and the decision implementing it, the Commission solicits public comment on its interpretation and application of specific rate bureau provisions. Copies of MWB's proposed amended agreement are available for public inspection and copying at the Office of the Secretary, Interstate Commerce Commission, 12th St. and Constitution Ave., NW., Washington, DC, 20423, and from MWB's representatives:

Roland Rice, Rice, Carpenter & Carraway, Suite 1301, 1600 Wilson Blvd., Arlington, VA 22209

F.H. Lynch, Jr., P.O. Box 647, Kansas City, MO 64141

Copies of the complete Commission decision are available for inspection and copying at the Interstate Commerce Commission, or may be purchased from TS Info-systems, Inc., Room 2227, Interstate Commerce Commission Building, 12th St. and Constitution Ave., NW., Washington, DC, 20423; or call toll-free (800) 424–5403, or (202) 289–4357 in the Washington, DC, metropolitan area.

DATES: Comments from interested persons are due November 1, 1984. Replies are due on November 16, 1984.

ADDRESS: An original and fifteen copies, if possible, of comments should be sent to: Section 5a application No. 34, Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC, 20423.

FOR FURTHER INFORMATION CONTACT: Ken Schwartz, (202) 275–7956;

or

Howell I. Sporn, (202) 275–7691.

SUPPLEMENTARY INFORMATION: Middlewest Motor Freight Bureau (MWB) has filed an application for approval of its proposed amended collective ratemaking agreement as required by Section 14(e) of the Motor Carrier Act of 1980, Pub. L. 96–296 (1980). Since filing its application, MWB has been obligated to observe the requirements of the Act and the standards set forth in Ex Parte No. 297 (Sub-No. 5), *Motor Carrier Rate Bureaus-Implementation of Pub. L. 96–296*, 364 I.C.C. 464 (1980) and 364 I.C.C. 921 (1981) in order to enjoy antitrust immunity for certain activities.

We have provisionally approved MWB's agreement as consistent with 49 U.S.C. 10706(b) and Ex Parte No. 297 (Sub—No. 5), *supra*, subject to certain modifications including the following subject areas: identificaion and description of member carriers; right of independent action; final disposition of cases; single-line rates; and zone of freedom and released rates. We have also offered comments and imposed requirements concerning the agreement generally. MWB has been directed to file a revised agreement conforming to the imposed conditions within 120 days of service of the decision provisionally approving the agreement.

In light of the complexity of interpretation involved in determining whether the agreement is consistent with the Act and Ex Parte No. 297 (Sub-

No. 5), *supra*, we request applicant and other interested parties to comment on our interpretation of the controlling statutory and administrative criteria generally, and their application to MWB's agreement in particular.

A copy of any comments filed shall also be served on MWB, which shall have 15 days from the expiration of the comment period to reply. These comments will be considered in conjunction with our review of the modifications that MWB must submit to the Commission as a condition precedent to final approval of its agreement.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

This notice and accompanying decision are issued pursuant to 49 U.S.C. 10321 and 10706 and 5 U.S.C. 553.

Decided: September 21, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett, Gradison, Simmons, Lamboley, and Strenio. Vice Chairman Andre concurs in the release of this proposed notice for comment by interested parties, but reserves judgment on its merits until comment has been received. Commissioners Simmons, Lamboley, and Strenio did not participate.

James H. Bayne,

Secretary.

[FR Doc. 84-26112 Filed 10-1-84; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30523]

Rail Carriers; Alabama Industrial Railroad, Inc.; Exemption From 49 U.S.C. 10329(a)(1), 10746, and 11301

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts the Alabama Industrial Railroad, Inc. from the provisions of 49 U.S.C. 10329(a)(1), 10746, and 11301.

DATES: This decision is effective on October 1, 1984. Petitions to reopen must be filed by October 22, 1984.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

Decided: September 25, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett, Gradison, Simmons, Lamboley and Strenio. Commissioners Lamboley and Strenio did not participate.

James H. Bayne,

Secretary.

[FR Doc. 84-26110 Filed 10-1-84; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30525]

Rail Carriers; Cheney Railroad Company, Inc.; Exemption From 49 U.S.C. 10329(a)(1), 10746, and 11301

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts the Cheney Railroad Company, Inc., from the provisions of 49 U.S.C. 10329(a)(1), 49 U.S.C. 10746, and 49 U.S.C. 11301.

DATES: This decision is effective on November 1, 1984. Petitions to stay must be filed by October 12, 1984. Petitions for reconsideration must be filed by October 22, 1984.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

Decided: September 25, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett, Gradison, Simmons, Lamboley and Strenio. Commissioners Lamboley and Strenio did not participate.

James H. Bayne,

Secretary.

[FR Doc. 84-26111 Filed 10-1-84; 8:45 am]

BILLING CODE 7035-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-285]

Omaha Public Power District; Notice of Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering granting a time extension to an interim relief already granted from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components" to the Omaha Public Power District, licensee for the Fort Calhoun Station, Unit No. 1. The ASME Code Requirements are incorporated by reference into the Commission's rules and regulations in 10 CFR Part 50.

Environmental Assessment

Identification of Proposed Action

By letter dated September 30, 1983, the Commission granted relief, on an interim basis until September 26, 1984, from those inservice testing requirements of the ASME Code for the pumps and valves that the licensee requested. The proposed action is to extend the interim relief period from September 26, 1984 to September 26, 1985.

The Need for the Proposed Action

The licensee was granted interim relief based on the assumption that the staff's reviews would be completed by September 26, 1984. The staff's review is not yet complete. Thus, if the interim relief is not extended beyond September 26, 1984, the licensee will be in violation of the Commission's regulations. A one year interim relief extension should allow the staff adequate time to complete this review.

Environment Impact of the Proposed Action:

We have evaluated the environmental impacts related to a one year interim relief extension. Our evaluation of the proposed interim relief extension indicates that the extension will not, in anyway, reduce the integrity of safety systems. Accordingly, postaccident radiological releases will not be greater than previously determined nor does the proposed time extension for interim relief otherwise affect radiological plant effluents, and there is no significant increase in occupational exposures. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with this proposed interim relief extension.

With regard to potential non-radiological impacts, the proposed interim relief extension involves systems located entirely within the restricted area as define in 10 CFR Part 20. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed interim relief extension.

Alternative Use of Resources

This action involves no use of resources not previously considered in the Final Environmental Statement (construction permit and operating license) for the Fort Calhoun Station, Unit No. 1.

Agencies and Persons Consulted

The NRC staff did not consult other agencies or persons. The NRC staff has initiated this action because the staff review is not yet complete and the licensee should not be penalized because the staff work is not complete.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed interim relief extension.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the Commission's letter to the licensee dated September 30, 1983, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska.

Dated at Bethesda, Maryland this September 20, 1984.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director of Licensing Office of Nuclear Reactor Regulation.

[FR Doc. 84-26087 Filed 10-1-84; 8:45 pm]
BILLING CODE 7590-01-M

[Docket Nos. 50-277 and 50-278]

Philadelphia Electric Co., et al.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of Appendix E to 10 CFR 50 to the Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company and Atlantic City Electric Company (the licensees) for the Peach Bottom Atomic Power Station, Units 2 and 3, located in York County, Pennsylvania.

Environmental Assessment

Identification of Proposed Action

The exemption would permit the extension of the emergency preparedness exercise at the Peach Bottom Atomic Power Station, Units 2 and 3, from June to October 1984. The proposed exemption is in accordance with the licensees' request for exemption dated March 20, 1984.

The Need for the Proposed Action

10 CFR 50.54(q) requires a licensee authorized to operate a nuclear power reactor to follow and maintain in effect emergency plans which meet the standards of § 50.47(b) and the requirements of Appendix E to 10 CFR Part 50. Section IV.F.3 of Appendix E requires each licensee of a nuclear power facility to conduct a biennial emergency preparedness exercise and to include participation by appropriate State and local government agencies, for State and local governments which have fully participated in a joint exercise since October 1, 1982. Previously, Section IV.F.1 required annual exercises.

By letter dated March 20, 1984, the licensee requested an exemption from the annual requirement and permission to conduct the exercise during October 1984. The licensee requested a change in the scheduled date of the exercise as a result of a consensus reached among the participants at a Federal Emergency Management Agency (FEMA) Region III meeting with utilities, State and local governments on January 10, 1984. A small-scale emergency preparedness exercise was conducted on June 28, 1983 which involved limited local participation. An exemption from the requirements for State and local government participation in the 1983 exercise was granted in November 1983. The last full-scale exercise was conducted in June 1982. The period involved exceeds the two-year period provided by the Commission's revised rule for States and local government which participated in exercises since October 1982. Thus, the proposed exercise date of October 1984 would require exemption from the requirement of Appendix E to 10 CFR Part 50.

The licensee stated that conducting the exercise during October would permit testing of expected revisions to the Maryland offsite plans based on recently reviewed FEMA comments, testing of significant revisions to municipal plans in Pennsylvania, and testing of revisions to Lancaster and York Counties' plans based upon their recent Three Mile Island Nuclear Station exercise (November 1983). Furthermore, an extension to October would permit the licensee to test an alternate proposed emergency operations facility location that would not be ready for a June exercise. In addition, the exercise would be performed during a different season (Fall as opposed to Spring).

Environmental Impacts of the Proposed Action

The proposed exemption affects only the timing of the emergency preparedness exercise and, therefore, does not affect the risk of facility accidents. Thus, post-accident radiological releases will not differ from those determined previously and the proposed exemption does not affect facility radiological effluents, or any significant occupational exposures. Likewise, the exemption does not affect facility nonradiological effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant radiological or nonradiological environmental impacts associated with the proposed exemption. Since the Commission has concluded that there is no measurable environmental impact associated with the proposed exemption, any alternatives either will have no environmental impact or will have greater environmental impact. The principal alternative to the exemption would be to require literal compliance with Section IV.F of Appendix E to 10 CFR Part 50. Such an action would not enhance the protection of the environment.

Alternative Use of Resources

This action does not involve the use of resources not considered previously in connection with the Final Environmental Statement relating to this facility, *(Final Environmental Statement related to the Operation of Peach Bottom Atomic Power Station, Units 2 and 3, April 1973).*

Agencies and Persons Consulted

The Commission's staff reviewed the licensee's request, the FEMA document discussed above, the FEMA Final Report of the 1982 and 1983 exercises at Peach Bottom Atomic Power Station and a memorandum from FEMA to Philadelphia Electric Company dated January 17, 1984, that supports the October 1984 exercise schedule. The Commission's staff did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption.

Based upon the environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the request for exemption dated March 20, 1984, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and

Walnut Streets, Harrisburg, Pennsylvania.

Dated at Bethesda, Maryland, this 21st day of September, 1984.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Divisions of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 84-26086 Filed 10-1-84; 8:45 am]

BILLING CODE 7590-01-M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

SUMMARY OF PROPOSAL(S):

(1) Collection title: Application and Claim for RUIA Benefits Unpaid at Death.

(2) Form(s) submitted: ID-28(a)(1), SI-62 and UI-63.

(3) Type of request: Revision of a currently approved collection.

(4) Frequency of use: On occasion.

(5) Respondents: Individuals or households.

(6) Annual responses: 3,625.

(7) Annual reporting hours: 572.

(8) Collection description: The collection obtains the information needed by the Board to pay, under section 2(g) of the RUIA, benefits under that Act accrued but not paid because of the death of the employee.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the proposed forms and supporting documents may be obtained from Pauline Lohens, the agency clearance officer (312-751-4692). Comments regarding the information collection should be addressed to Pauline Lohens, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Robert Fishman (202-395-6880), Office of Management and Budget, Room 3201, New Executive Office Building, Washington, D.C. 20503.

Pauline Lohens,

Director of Information and Data Management.

[FR Doc. 84-26040 Filed 10-1-84; 8:45 am]

BILLING CODE 7905-01-M

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

SUMMARY OF PROPOSAL(S):

(1) Collection title: Supplemental Information on Accident and Insurance.

(2) Form(s) submitted: SI-1c, SI-5 and ID-30k(1).

(3) Type of request: Revision of a currently approved collection.

(4) Frequency of use: On occasion.

(5) Respondents: Individuals or households, Businesses or other for-profit.

(6) Annual responses: 25,600.

(7) Annual reporting hours: 2,134.

(8) Collection description: The RUIA provides for recovery of sickness benefits paid if the employee receives a settlement for the same injury for which benefits were paid. The collection obtains identifying information about the person or company responsible for such payments and information needed for determining the amount of the Board's entitlement.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the proposed forms and supporting documents can be obtained from Pauline Lohens, the agency clearance officer (312-751-4692). Comments regarding the information collection should be addressed to Pauline Lohens, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Robert Fishman (202-395-6880), Office of Management and Budget, Room 3201, New Executive Office Building, Washington, D.C. 20503.

Pauline Lohens,

Director of Information and Data Management.

[FR Doc. 84-26038 Filed 10-1-84; 8:45 am]

BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-6015]

Applied Data Research, Inc.; Application To Withdraw From Listing and Registration

September 25, 1984.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

(1) Since Applied Data Research, Inc. has listed and is trading its Class B common stock on the New York Stock Exchange ("NYSE"), it wishes to withdraw this stock from listing on the Amex. Applied Data Research, Inc. states that it has considered the direct and indirect costs and expenses attendant on maintaining the dual listing of its Class B common stock on the NYSE and Amex and does not see any particular advantage in the dual trading of its stock. This application relates solely to the withdrawal from listing of the company's Class B stock from the Amex and shall have no effect upon the continued listing of such stock on the NYSE. The Amex has posed no objection in this matter.

Any interested person may, on or before October 17, 1984, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-26044 Filed 10-1-84; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-5767]

Circuit City Stores, Inc.; Application To Withdraw From Listing and Registration

September 25, 1984.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and

registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

(1) Circuit City Stores, Inc. ("Company") has listed and is trading its common stock on the New York Stock Exchange ("NYSE"). The Company wishes to withdraw its stock from listing on the Amex. The Company states that it has considered the direct and indirect costs and expenses attendant on maintaining the dual listing of its common stock on the NYSE and Amex, and does not see any particular advantage in the dual trading of its stock. This application relates solely to the withdrawal from listing of the Company's common stock from the Amex and shall have no effect upon the continued listing of such stock on the NYSE. The Amex has posed no objection in this matter.

Any interested person may, on or before October 17, 1984, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-26043 Filed 10-1-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 23435; 70-7018]

Columbus and Southern Ohio Electric Co. and Conesville Coal Preparation Co.; Proposal To Organize and Acquire Capital Stock of New Wholly Owned Coal Washing Subsidiary

September 25, 1984.

Columbus and Southern Ohio Electric Company ("C&SOE"), a public utility subsidiary of American Electric Power Company, Inc. ("AEP"), 215 North Front Street, Columbus, Ohio, 43215, a registered holding company, has filed a proposal pursuant to Sections 6, 7, 9, 10, 12(b) and 13(b) of the Public Utility Holding and Rules 45(c), 90 and 91 thereunder.

C&SOE proposes to organize and to acquire the capital stock of a new wholly owned subsidiary, to be known as Conesville Coal Preparation Company ("CCPC"), the principal business of which would be to provide coal washing services for C&SOE's Conesville Generating Station.

The Conesville Coal Preparation Plant ("Plant") is being constructed in Coshocton County, Ohio on a site contiguous to the Conesville Generating Station near Conesville, Ohio. The completion of the construction of the Plant is scheduled for the fourth quarter 1984.

It is projected that 2 million tons of coal will be beneficiated annually at the Plant for use in Units 1–4 at the Conesville Generating Station. The primary source of the raw coal which will be beneficiated at the Plant will be from the Simco-Peabody Company, a coal mining company adjacent to the plant. The Simco-Peabody Company is a joint venture between the Peabody Coal Company, a nonaffiliate of C&SOE and AEP, and Simco, Inc., a wholly owned subsidiary of C&SOE. Any additional raw coal required will be secured from producers in the general proximity of the Plant.

Coal processed at the Plant will be primarily consumed at C&SOE's Conesville Generating Station, however, it may also be consumed at C&SOE's other generating stations.

It is proposed that C&SOE's investment in CCPC will be represented by a combination of common equity, comprised of common stock and cash capital contributions, and a long-term loan in proportions equal to the equity-debt ratio of C&SOE as of June 30, 1984. The capitalization ratios of C&SOE as of June 30, 1984 were 46.3% equity including preferred, preference and common equity, and 53.7% for long-term debt.

The long-term loan by C&SOE to CCPC will be evidenced by one or more unsecured promissory notes ("Note" or "Notes") of CCPC, payable December 31, 2014. It is proposed that the interest rate per annum, on each Note issued by CCPC shall, in each case, be equal to the rate determined in the following manner:

(i) If C&SOE has issued and sold First Mortgage Bonds within a period of 30 days preceding or 30 days following any investment in CCPC, then the rate per annum on the Note issued by CCPC shall equal the effective cost to C&SOE of such series of First Mortgage Bonds;

(ii) If no such series of C&SOE's First Mortgage Bonds have been issued and sold within the 30-day period preceding or 30-day period following each investment, then the rate per annum on each Note issued by CCPC shall equal the average effective cost of comparable quality first mortgage bonds issued and sold by other electric utility companies within the 30-day period preceding each investment in CCPC;

(iii) If no series of comparable quality first mortgage bonds have been issued and sold within the 30-day period preceding each investment in CCPC, then the rate per annum on each Note issued by CCPC shall equal the average effective cost of comparable quality first mortgage bonds issued and sold by other electric utility companies within the 30-day period following each investment in CCPC.

Each Note issued by CCPC shall be payable at any time without penalty.

The return on equity applicable to the proposed capital contribution of C&SOE to CCPC shall be based on and equal to the weighted average of the effective cost of C&SOE's Preferred and Preference Stock and the rate of return on common equity determined and allowed by the Federal Energy Regulatory Commission ("FERC") in the most recent wholesale rate proceeding involving C&SOE. The effective cost of C&SOE's Preferred and Preference Stock shall be equal to the cost determined in the following manner:

(i) If C&SOE has issued and sold a series of Preferred Stock within a period of 30 days preceding or 30 days following any equity investment in CCPC, then the effective cost of C&SOE's Preferred Stock shall equal the effective cost to C&SOE of such series of Preferred Stock;

(ii) If no such series of C&SOE's Preferred Stock has been issued and sold within the 30-day period preceding or 30-day period following each additional equity investment, then the effective cost of C&SOE's Preferred Stock shall equal the average effective cost of comparable quality series of preferred stock issued and sold by other electric utility companies in the 30-day period preceding each equity investment in CCPC;

(iii) If no series of comparable quality preferred stock has been issued and sold in the 30-day period preceding each equity investment in CCPC, then the effective cost of C&SOE's Preferred Stock shall equal the average effective cost of comparable quality series of preferred stock issued and sold by other electric utility companies within the 30-day period following each equity investment of CCPC.

There is presently no applicable FERC order issued in a wholesale rate proceeding involving C&SOE. In the

absence of a FERC order during the two calendar years preceding the current calendar year, it is proposed that the rate of return on common equity, commencing June 39, 1984 be 14.7%, which would approximate the return on common equity most recently found to be fair and authorized by the Public Utilities Commission of Ohio ("PUCO") in a C&SOE retail electric rate proceeding decide on December 20, 1983 (Case No. 83-314-EL-AIR).

Calculation of the allowable return on the equity capital of CCPC, excluding retained earnings, shall be based on the latest FERC allowed return on common equity of C&SOE as of the beginning of each calendar year; that is, the return with respect to any particular calendar year would be fixed at a single rate, to be adjusted only if necessary, on January 1 of each succeeding calendar year. In the absence of an applicable FERC order, it is proposed that the return on the equity capital of CCPC, excluding retained earnings, shall be based upon, and no greater than, the return on common equity of C&SOE allowed by the PUCO in the most recent retail electric rate proceeding as of the beginning of each calendar year.

Upon receiving Commission approval, C&SOE proposes to complete the initial steps necessary to incorporate CCPC in Ohio and will from time to time, as required, subscribe for and purchase up to 1,000 shares of Common Stock of CCPC, make capital contributions and loans to CCPC on the basis proposed herein in an aggregate amount equal to the completion cost of the Plant, currently estimated at $35 million. CCPC will be a direct subsidiary of C&SOE and an indirect subsidiary of AEP within the meaning of Section 2(a)8 of the Act.

The initial officers of CCPC and Board of Directors will consist of C&SOE and AEP System senior executives.

C&SOE and AEP Service Corporation propose to perform all necessary financial, accounting, and internal auditing functions for CCPC, utilizing those accounting systems which are economically justifiable under the circumstances. The accounts of CCPC will also be subject to audit by the independent auditors of C&SOE. CCPC will use portions of accounting systems presently employed by AEP Service Corporation and coal companies in the AEP System to account for costs.

The AEP System company providing services for or materials to CCPC will utilize cost accounting procedures designed to identify rapidly all direct and indirect costs, including overheads, which are applicable to the work being performed by or with AEP System company personnel, material, or other assets. A Service Agreement will be entered into by CCPC and AEP Service Corporation. The AEP System company providing services for or materials to CCPC will account for, allocate and charge its costs of providing services and personnel to CCPC on a full cost reimbursement basis utilizing a work order system, modified as appropriate, in accordance with the Uniform System of Accounts for Mutual and Subsidiary Service Companies.

All transactions between CCPC and other AEP System companies will be at cost in compliance with Rule 90 and 91 promulgated under the Act. CCPC will become a member of the AEP consolidated group for purposes of the filing of consolidated federal income tax returns, and will be allocated a portion of the AEP System's consolidated federal income tax liability in accordance with applicable requirements of Rule 45(c).

The proposal and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by October 22, 1984, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants at the addresses specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered and will receive a copy of any notice or order issued in this matter. After said date, the proposal, as filed or as it may be amended, may be authorized.

For the Commission, by the Office of Public Utility Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-28042 Filed 10-1-84; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-8315]

Decom Systems Inc.; Application To Withdraw From Listing and Registration

September 25, 1984.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the Pacific Stock Exchange, Inc. ("PSE").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

(1) Decom Systems Inc. ("DSI") has requested to withdraw its common stock and common stock purchase warrants from listing and registration on the PSE in order to become eligible for trading in NASDAQ. DSI states that it believes that NASDAQ trading will result in a more active market for DSI's securities.

Any interested person may, on or before October 17, 1984, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-28045 Filed 10-1-84; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-7859]

IRT Property Co.; Application To Withdraw From Listing and Registration

September 25, 1984.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

(1) IRT Property Company ("Company") has listed and is trading on the New York Stock Exchange ("NYSE"). The Company wishes to withdraw its stock from listing on the Amex. The Company states that it has reviewed the direct and indirect costs and expenses attendant on maintaining the dual listing of its common stock on

the NYSE and Amex, and does not see any particular advantage in the dual trading of its stock. This application relates solely to the withdrawal from listing of the Company's common stock from the Amex and shall have no effect upon the continued listing of such stock on the NYSE. The Amex has posed no objection in this matter.

Any interested person may, on or before October 17, 1984, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-26046 Filed 10-1-84; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-6678]

Ohio-Sealy Mattress Manufacturing Co.; Application To Withdraw From Listing and Registration

September 25, 1984.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

(1) The Ohio-Sealy Mattress Manufacturing Company merged on June 15, 1984 into a subsidiary of The Ohio Mattress Company. The company has stated in its application with the Commission that upon the effectiveness of the merger, the applicant's common stock was converted on a share-for-share basis into Ohio Mattress common stock. Trading in the common stock of Ohio Mattress commenced on July 11, 1984 on the New York Stock Exchange and, concurrently, trading in the common stock of the applicant was suspended on the Amex. The Amex has informed the company that it has no objection to the withdrawal of the company's stock from listing on the Amex.

Any interested person may, on or before October 17, 1984, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-26047 Filed 10-1-84; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 2170]

New York; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration on September 25, 1984, I find that the Counties of Allegany and Steuben and the adjacent County of Yates constitute a disaster loan area because of damage from severe storms and flooding which occurred on August 11-14, 1984. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on November 26, 1984, and for economic injury until June 25, 1985, at: Disaster Area 1 Office, Small Business Administration, 15-01 Broadway, Fair Lawn, New Jersey 07410, or other locally announced locations.

Interest rates are:

	Percent
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses without credit available elsewhere	4.000
Businesses (EIDL) without credit available elsewhere	4.000
Other (Non-profit organizations including charitable and religious organizations)	10.500

The number assigned to this disaster is 217006 for physical damage and for economic injury the number is 620700.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: September 26, 1984.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 84-26016 Filed 10-1-84; 8:45 am]

BILLING CODE 8025-01-M

Oregon; Region X Advisory Council; Meeting

The Small Business Administration Region X Advisory Council, located in the geographical area of Portland, Oregon, will hold a public meeting at 10:00 a.m., on Thursday and Friday, October 11-12, 1984, at the Red Lion Motor Inn, 200 North Riverside, Medford, Oregon, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call Stewart L. Rollins, District Director, U.S. Small Business Administration, 1220 S.W. 3rd, Room 676, Portland, Oregon 97204, (503) 294-5221.

Dated: September 19, 1984.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 84-26015 Filed 10-1-84; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Delegation of Authority No. 155; Public Notice 917]

Soviet-Eastern European Research and Training Act; Delegation of Authority

By virtue of the authority vested in me by the Soviet-Eastern European Research and Training Act of 1983, Title VIII of Pub. L. 98-164, 22 U.S.C. 4501 et seq. (hereinafter "the Act"), and by section 4 of the Act of May 26, 1949 (63 Stat. 111, 22 U.S.C. 2658), it is directed as follows:

1. *Functions Delegated to the Director of the Bureau of Intelligence and Research.*

(a) The functions of the Chairman of the Soviet-Eastern European Advisory Committee conferred upon the Secretary by section 804 of the Act are hereby delegated to the Director of the Bureau of Intelligence and Research.

(b) The function of making payments conferred upon the Secretary by section 805 of the Act is hereby delegated to the Director of the Bureau of Intelligence and Research.

(2). *Technical Provisions.*

(a) As used in this delegation of authority the word "function" includes any duty, obligation, power, authority,

responsibility, right, privilege, discretion or activity.

(b) Any reference in this delegation of authority to any act, order, determination, delegation of authority, regulation or procedure shall be deemed to be a reference to such act, order, determination, delegation of authority, regulation, or procedure as amended from time to time.

(c) Notwithstanding any other provision of this delegation of authority, the Secretary of State or the Deputy Secretary of State may at any time exercise any function delegated by this delegation of authority.

(d) Any officer to whom functions are delegated by this delegation of authority may, to the extent consistent with law:

(1) Redelegate such functions and authorize their successive redelegation; and

(2) Promulgate such rules and regulations as may be necessary to carry out such functions.

Dated: September 21, 1984.

George P. Shultz,

Secretary of State.

[FR Doc. 84-26008 Filed 10-1-84; 8:45 am]

BILLING CODE 4710-35-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Notice No. 84-15]

Advisory Commission on the Reorganization of the Metropolitan Washington Airports; Meeting

Notice is hereby given of the third meeting of the Advisory Commission on the Reorganization of the Metropolitan Washington Airports, an advisory committee reporting to the Secretary of Transportation. The Commission is charged with developing a plan for the transfer of the Metropolitan Washington Airports, Washington National and Dulles International, from the federal government to an appropriate state, local, or interstate governmental body. Its charter was published in the **Federal Register** of June 18, 1984 (49 FR 24967).

The Commission first met July 25 to organize and discuss the scope of the approach to its work. At the second meeting (August 7), the members discussed options for the type of organization to operate the airports and the manner in which interested jurisdictions could be represented on its governing board. The Commission also held a public hearing September 12.

The third meeting will be held at the same time and place as the first two: 10:00 a.m. in room 2230 of the Department of Transportation headquarters building (Nassif Building), 400 Seventh Street, SW., Washington, D.C.

Summary agenda for the October 17 meeting:

I. Presentations on the Greater Cincinnati International Airport and airports operated by the Port Authority of New York and New Jersey.
II. Review of initial financial analyses to be provided by Wheat, First Securities and Salomon Brothers.
III. Further discussion of alternate structures for a new airport authority.
IV. Related matters, as raised by the members.

The meeting will be open to the public. Press will be asked to register at the door.

Additional information may be obtained from the Commission's office at: Room 9413, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590 or by calling 202-472-7934.

Issued at Washington, D.C. on September 27, 1984.

Gregory Wolfe,

Executive Director.

[FR Doc. 84-26080 Filed 10-1-84; 8:45 am]

BILLING CODE 4910-62-M

Research and Special Programs Administration

Technical Hazardous-Liquid Pipeline Safety Standards Committee; Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. App. 1), notice is hereby given of a meeting of the Technical Hazardous-Liquid Pipeline Safety Standards Committee on November 1, 1984, at 9 a.m. in Room 3442, Nassif Building, 400 Seventh Street, SW., Washington, D.C., 20590.

The purpose of the meeting is to develop a report on the technical feasibility, reasonableness, and practicability of two proposed amendments of the Hazardous-Liquids Pipline Safety Standards (49 CFR Part 195) and to discuss proposed changes to existing recordkeeping and accident reporting requirements, as follows:

Part I: Proposed Amendments of 49 CFR Part 195

1. Nondestructive testing of girth welds (§ 195.234(e)): Testing only 90 percent of welds made at certain locations would be permitted when testing 100 percent is impracticable.

2. Definition of rural gathering lines (§ 195.1(b)(4): The exception of rural gathering lines from Part 195 requirements would be clarified by proposed new definitions of "rural" and "gathering line."

Part II: Recordkeeping and Accident Reporting

1. The committee will informally discuss proposed changes to requirements for recordkeeping and retention (§§ 195.266, 195.310, and 195.404) and accident reporting (Subpart B of Part 195).

Attendance is open to the public, but limited to the space available. With approval of the chair of the Committee, members of the public may present oral statements on any items scheduled for discussion. Due to the limited time available, each person who wants to make an oral statement is requested to notify Betty Clark, Room 8409, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590, telephone 202-426-1640, of the topics to be addressed and the time requested to address each topic. The chair may deny any request to present an oral statement and may limit the time of any oral presentation. Members of the public may present written statements to the committee before or after any session of the meeting.

Dated: September 27, 1984.

Richard L. Beam,

Associate Director for Pipeline Safety Regulation, Materials Transportation Bureau.

[FR Doc. 84-26085 Filed 10-1-84; 8:45 am]

BILLING CODE 4910-60-M

Technical Pipeline Safety Standards Committee: Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. App. 1), notice is hereby given of a meeting of the Technical Pipeline Safety Standards Committee on October 30, 1984, at 9:00 a.m. in Room 3443, Nassif Building, 400 Seventh Street S.W., Washington, D.C. 20590.

The purpose of the meeting is to discuss and develop a report on the technical feasibility, reasonableness, and practicability of the following proposed amendment to safety standards:

- Ovality of field bends in steel pipe.

The Committee will also discuss the following regulatory projects:

1. Monitoring external corrosion control.

2. Impact of class locations as defined in § 192.5(d)(2) on maximum allowable operating pressure requirements of § 192.611(a).

3. Qualification of pipeline welders.

4. Damage prevention program for gas pipelines.

Attendance is open to the public, but limited to the space available. With approval of the chair of the Committee, members of the public may present oral statements on any items scheduled for discussion. Due to the limited time available, each person who wants to make an oral statement is requested to notify Betty Clark, Room 8409, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, telephone 202–426–1640, of the topics to be addressed and the time requested to address each topic. The chair may deny any request to present an oral statement and may limit the time of any oral presentation. Members of the public may present written statements to the Committee before or after any session of the meeting.

Dated: September 27, 1984.

Richard L. Beam,

Associate Director for Pipeline Safety Regulation, Materials Transportation Bureau.

[FR Doc. 84-26083 Filed 10-1-84; 8:45 am]

BILLING CODE 4910-60-M

Technical Pipeline Safety Standards Committee/Technical Hazardous Liquid Pipeline Safety Standards Committee; Joint Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. App. 1), notice is hereby given of a joint meeting of the Technical Pipeline Safety Standards Committee and the Technical Hazardous Liquid Pipeline Safety Standards Committee on October 31, 1984, at 9 a.m. in Room 3442, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

The purpose of the meeting is to present information and data to enable the advisory committees to assist and advise the Administrator of the Research and Special Programs Administration in the evaluation of the DOT pipeline safety program.

Attendance is open to the public, but limited to the space available. With approval of the Executive Director of the Committees, members of the public may present oral statements on the subject. Due to the limited time available, each person who wants to make an oral statement is requested to notify Betty Clark, Room 8409, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, telephone 202–426–1640, of the topics to be addressed and the time requested to address each topic. The presiding officer may deny any request to present or oral statement and may limit the time of any oral presentation. Members of the public may present written statements to the Committee before or after any session of the meeting.

Dated: September 27, 1984.

Richard L. Beam,

Associate Director for Pipeline Safety Regulation, Materials Transportation Bureau.

[FR Doc. 84-26084 Filed 10-1-84; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1984 Rev., Supp. No. 1]

Hartford Fire Insurance Co. and Twin City Fire Insurance Co.; Surety Companies Acceptable on Federal Bonds; Correction

The list of states in which Hartford Fire Insurance Company and Twin City Fire Insurance Company are licensed for surety business was listed, respectively, at 49 FR 27254 and 49 FR 27261 (July 2, 1984) as:

Hartford Fire Insurance Company

All except AK, CZ, CT, DE, ID, IA, KS, ME, MD, MI, MN, MT, NV, NJ, NM, ND, OR, Puerto Rico, RI, SC, SD, UT, Virgin Islands, WA, WY.

Twin City Fire Insurance Company

CA, CT, DC, LA, VA, WV.

The lists are hereby corrected to:

Hartford Fire Insurance Company

All except CZ.

Twin City Fire Insurance Company

All except CZ, Guam, Puerto Rico, Virgin Islands.

Federal bond approving officers should annotate their reference copies of Treasury Circular 570, 1984 Revision, at pages 27254 and 27261 to reflect the corrections.

Questions concerning this correction notice may be directed to the Surety Bond Branch, Finance Division, Department of the Treasury, Washington, DC 20226. Telephone (202) 634–5745.

Dated: September 21, 1984.

W.E. Douglas,

Commissioner, Bureau of Government Financial Operations.

[FR Doc. 84-26023 Filed 10-1-84; 8:45 am]

BILLING CODE 4810-35-M

UNITED STATES INFORMATION AGENCY

Delegation of Authority; Office of Director

[Delegation Order No. 84-8]

Pursuant to the authority vested in me by Section 5 of Reorganization Plan No. 2 of 1977, I hereby designate the following officers in order of precedence to serve as Acting Director and to exercise all of the functions of Director during the Director's absence or disability or during a vacancy in the Office of Director:

The Associate Director for Management;

The Associate Director for Educational and Cultural Affairs.

This Delegation of Authority is effective immediately and shall remain in effect until rescinded or superseded in writing by the Director.

Dated: September 25, 1984.

Charles Z. Wick,

Director.

[FR Doc. 84-26036 Filed 10-1-84; 8:45 am]

BILLING CODE 8230-01-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Garrison Diversion Unit Commission; Business Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Commission meeting:

Name: Garrison Diversion Unit Commission.

Date: Wednesday, October 17 and, if necessary, Thursday, October 18, 1984.

Time: 8–11 a.m. and 1:30–5 p.m. (Wednesday) and 8 a.m. (Thursday).

Place: Room 708, Hart Senate Office Building, Washington, D.C. 20510.

Contact person: James C. Wiley, Staff Director, (202) 453–4787.

Purpose: Business meeting: Opening remarks by Senator Mark Andrews; business items related to schedules and locations of future meetings and hearings, and other matters at the discretion of the Chairman: and presentation of alternatives to the existing Garrison Diversion Unit Plan.

The Commission will recess for a luncheon briefing from State Department officials on Canadian issues at 12 p.m.

Public participation: Any interested person may attend and observe the meeting.

Transcripts: A transcript of the meeting will be available for public

review at the Commission offices, Room 603, 300 Seventh Street, SW., Washington, D.C., between 8:30 a.m. and 4 p.m., Monday through Friday.

Dated: September 28, 1984.

Robert N. Broadbent,

Federal Representative.

[FR Doc. 84-26318 Filed 10-1-84; 10:54 am]

BILLING CODE 4310-10-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

Voting Rights Certification; Williamsburg County, SC

In accordance with section 6 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973, I hereby certify that in my judgment the appointment of examiners is necessary to enforce the guarantees of the Fifteenth Amendment to the Constitution of the United States in Williamsburg County, South Carolina. This county is included within the scope of the determination of the Attorney General and the Director of the Census made on August 6, 1965, under section 4(b) of the Voting Rights Act of 1965 and published in the **Federal Register** on August 7, 1965 (30 FR 9897).

Dated: September 28, 1984.

William French Smith,

Attorney General of the United States.

[FR Doc. 84-26320 Filed 10-1-84; 11:03 am]

BILLING CODE 4410-01-M

Voting Rights Certification; Calhoun County, SC

In accordance with section 6 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973, I hereby certify that in my judgment the appointment of examiners is necessary to enforce the guarantees of the Fifteenth Amendment to the Constitution of the United States in Calhoun County, South Carolina. This county is included within the scope of the determination of the Attorney General and the Director of the Census made on August 6, 1965, under section 4(b) of the Voting Rights Act of 1965, and published in the **Federal Register** on August 7, 1965 (30 FR 9897).

Dated: September 28, 1984.

William French Smith,

Attorney General of the United States.

[FR Doc. 84-26322 Filed 10-1-84; 11:03 am]

BILLING CODE 4410-01-M

Voting Rights Act Certification; Richland County, SC

In accordance with section 6 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973, I hereby certify that in my judgment the appointment of examiners is necessary to enforce the guarantees of the Fifteenth Amendment to the Constitution of the United States in Richland County, South Carolina. This county is included within the scope of the determination of the Attorney General and the Director of the Census made on August 6, 1965, under section 4(b) of the Voting Rights Act of 1965, and published in the **Federal Register** on August 7, 1965 (30 FR 9897).

Dated: September 28, 1984.

William French Smith,

Attorney General of the United States.

[FR Doc. 84-26321 Filed 10-1-84; 11:03 am]

BILLING CODE 4410-01-M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 192
Tuesday, October 2, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

CIVIL AERONAUTICS BOARD

[M-412, 9/27/84]

TIME AND DATE: 10:00 a.m., October 4, 1984.

PLACE: Room 1027 (Open), Room 1012 (Closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of Items Adopted by Notation.
2. Docket 42329, International baggage liability notice: Petition of USAir. (Memo 2509, OCG, BDA, BIA, OCCCA)
3. Docket 38807, Obligation of carriers to provide adequate service at eligible points. (OGC, BDA, OCCCA)
4. Docket 42406, Petition for Review of Staff Action by Metroflight, Inc., of fuel cost adjustments made by BDA in subsidy rates for Enid, Ponca City, and Stillwater, Oklahoma, and Paris, Texas, and McAlester, Oklahoma. (Memo 2503, BDA, OC, OCCCA, OGC, BCAA)
5. Docket EAS-647 and Docket Essential Air Service at Ponce, Puerto Rico. (Memo 2515, BDA, OCCCA, OC)
6. Docket 40271 and 40205, Provision of essential air service by Simmons Airlines, Inc., at Sault Ste. Marie, Michigan and at Manitowoc, Wisconsin. (Memo 2510, OEA, BDA, OC, OCCCA)
7. Docket EAS-597 and 38818, Essential air service at Montpelier/Barre, Vermont. (Memo 2016, BDA, OCCCA, OC)
8. Dockets EAS-633, 42389 and 42390, Essential Air Service Determination for Pago Pago, American Samoa and 90-day notice and exemption request of SPIA to reduce service at Pago Pago below EAS level. (Memo 227-J, BDA, OCCCA)
9. Docket 41255, Air Kentucky Airlines' 90 day notice of its intent to suspend service at Mount Vernon, Illinios. (BDA)
10. Commuter carrier fitness determination of Maui Airlines (BDA)
11. Docket 42321, Application of Hawaii One Corporatrion for a certificate authorizing it to engage in interstate and overseas scheduled air transportation of persons, property and mail. (Memo 2504, BDA)
12. Commuter carrier fitness determination of Air University, Inc. d/b/a Eagle Airline. (Memo 2513, BDA)
13. Docket 42412, Motion of Braniff, Inc. to withhold information from public disclosure for a limited period. (Memo 2520, OGC, BIA, BDA, BCAA, OEA)
14. Draft Notice of Proposed Rulemaking to revise and reissue Part 375, Navigation of Foreign Civil Aircraft within the U.S. (BIA, OGC)
15. Docket 40269, *Visit USA Fare/Export Inland Contract Rate Investigation*—Prorate Issue. (OGC)
16. Report on Fiji. (BIA)
17. Report on LACAC. (BIA)
18. Report on Canada. (BIA)
19. Report on Argentina. (BIA)
20. Report on France. (BIA)
21. Report on Greece. (BIA)
22. Report on Brazil. (BIA)
23. Report on Peru. (BIA)
24. Discussion on Costa Rica. (BIA)
25. Negotiations with ECAC. (BIA)

STATUS: 1-14 Open, 15-25 Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, The Secretary, (202) 673-5068.

[FR Doc. 84-26188 Filed 9-28-84; 3:27 pm]

BILLING CODE 6320-01-M

2

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, October 5, 1984.

PLACE: 2033 K Street, NW., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Market Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,

Acting Secretary of the Commission.

[FR Doc. 84-26132 Filed 9-28-84; 11:35 am]

BILLING CODE 6351-01-M

3

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., Wednesday, October 10, 1984.

PLACE: 2033 K Street, NW., Washington, D.C., 5th Floor Conference Room.

STATUS: Open.

MATTERS TO BE CONSIDERED: Application of the MidAmerica Commodity Exchange for designation as a contract market in Copper.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,

Acting Secretary of the Commission.

[FR Doc. 84-26133 Filed 9-28-84; 11:35 am]

BILLING CODE 6351-01-M

4

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, October 12, 1984.

PLACE: 2033 K Street, NW., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Market Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,

Acting Secretary of the Commission.

[FR Doc. 84-26134 Filed 9-28-84; 11:35 am]

BILLING CODE 6351-01-M

5

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, October 19, 1984.

PLACE: 2033 K Street, NW., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Market Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,

Acting Secretary of the Commission.

[FR Doc. 84-26135 Filed 9-28-84; 11:35 am]

BILLING CODE 6351-01-M

6

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., Monday October 22, 1984.

PLACE: 2033 K Street, NW., Washington, D.C., 5th Floor Hearing Room.

STATUS: Open.

MATTERS TO BE CONSIDERED: Briefing by the National Futures Association.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Acting Secretary of the Commission.

[FR Doc. 84–26136 Filed 9–28–84; 11:35 am]

BILLING CODE 6351–01–M

7

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., Friday October 26, 1984.

PLACE: 2033 K Street, NW., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Financial Audit Review.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Acting Secretary of the Commission.

[FR Doc. 84–26137 Filed 9–28–84; 11:35 am]

BILLING CODE 6351–01–M

8

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, October 26, 1984.

PLACE: 2033 K Street, NW., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Market Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Acting Secretary of the Commission.

[FR Doc. 84–26138 Filed 9–28–84; 11:35 am]

BILLING CODE 6351–01–M

9

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., Monday, October 29, 1984.

PLACE: 2033 K Street, NW., Washington, D.C., 5th Floor Hearing Room.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agricultural Options Contracts.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Acting Secretary of the Commission.

[FR Doc. 84–26139 Filed 9–28–84; 11:35 am]

BILLING CODE 6351–01–M

10

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:00 a.m., Wednesday, October 3, 1984.

LOCATION: Third Floor Hearing Room, 1111—18th Street, NW., Washington, D.C.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

1. Asbestos in the Home—Briefing

The staff will brief the Commission on recent knowledge of the nature and extent of the problem of asbestos materials in the home and on FY 1985 plans relative to this project.

2. Status Report on Metal Chimney Project

The staff will brief the Commission on the status of activities within the metal chimney project. Specifically, the report concerns: (1) Results of the fire, investigation study, (2) status of laboratory test and efforts to collect used metal chimneys, (3) preliminary data from the consumer use survey for solid fuel burning appliances, (4) information on industry activities, (5) outreach activities, and (6) a discussion of future work.

FOR A RECORD MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: (301) 492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207, (301) 492–6800.

Sheldon D. Butts,

Deputy Secretary.

September 26, 1984.

[FR Doc. 26141 Filed 9–28–84; 11:35 am]

BILLING CODE 6355–01–M

11

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, October 4, 1984.

LOCATION: Third Floor Hearing Room, 1111–18th Street, NW., Washington, D.C.

STATUS: Closed to the Public.

MATTERS TO BE CONSIDERED:

Enforcement Matter OS# 4754

The staff will brief the Commission on matters related to enforcement matter OS# 4754.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: (301) 492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westward Ave., Bethesda, Md. 20207, (301) 492–6800.

Sheldon D. Butts,

Deputy Secretary.

September 26, 1984.

[FR Doc. 84–26142 Filed 9–28–84; 11:35 am]

BILLING CODE 6355–01–M

12

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 4:50 p.m. on Wednesday, September 26, 1984, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to adopt a resolution approving certain agreements necessary to effectuate the permanent assistance plan for Continental Illinois National Bank and Trust Company of Chicago, Chicago, Illinois.

At that same meeting, the Board of Directors also considered a proposal for financial assistance to facilitate a voluntary merger of savings banks (names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(4), (c)(8), and (c)(9)(A)(ii) of the Government in the Sunshine Act" (5 U.S.C. 522b (c)(4), (c)(8), and (c)(9)(A)(ii))).

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by director C.T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii) and (c)(9)(B)).

Dated: September 27, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84–26140 Filed 9–28–84; 11:35 am]

BILLING CODE 6714–01–M

13

FEDERAL MARITIME COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: September 28, 1984, 49 FR 38437.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9:00 a.m., October 3, 1984.

CHANGE IN THE MEETING: Addition of the following item to the open session:

1. Docket No. 83–38: Notice of Inquiry and Intent to Review Regulation of Ports and Marine Terminal Operators—Consideration of Report of Commissioner Setrakian.

Francis C. Hurney,

Secretary.

[FR Doc. 84–26143 Filed 9–28–84; 11:35 am]

BILLING CODE 6730–01–M

14

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

Cancellation Notice

Due to a lack of quorum, the National Commission on Libraries and Information Science has cancelled its meeting scheduled for October 3 and 4, 1984, at the Capitol Holiday Inn, 500 C Street, SW., Washington, D.C.

CONTACT PERSON FOR MORE INFORMATION: Toni Carbo Bearman, Executive Director.

Toni Carbo Bearman,

Executive Director.

September 26, 1984.

[FR Doc. 84–26109 Filed 9–28–84; 9:56 am]

BILLING CODE 7527–01–M

15

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of October 1, 1984, at 450 Fifth Street, NW., Washington, D.C.

Closed meeting will be held on Wednesday, October 3, 1984, at 10:00 a.m. and 2:30 p.m. An open meeting will be held Thursday, October 4, 1984, at 2:30 p.m., in Room 1C30.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10).

Chairman Shad and Commissioners Cox, Marinaccio and Peters voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Wednesday, October 3, 1984, at 10:00 a.m., will be:

Institution of administrative proceeding of an enforcement nature.

The subject matter of the closed meeting scheduled for Wednesday, October 3, 1984, at 2:30 p.m., will be:

Formal orders of investigation.

Institution of administrative proceedings of an enforcement nature.

Settlement of administrative proceedings of an enforcement nature.

The subject matter of the open meeting scheduled for Thursday, October 4, 1984, at 2:30 p.m., will be:

1. Consideration of whether to issue two releases:

(1) Adopting amendments to Rule 17Ad–1 and 17Ad–2 under the Securities Exchange Act of 1934. These amendments would require transfer agents that handle depository-eligible securities issues to process or transfer 90% of all routine items within five business days of receipt. For further information, contact Sandra A. Sciole at (202) 272–2855.

(2) Proposing amendments to Rules 17Ad–5 and 17AD–10 under the Securities Exchange Act of 1934. The proposed amendment to Rule 17Ad–5 would require registered transfer agents to respond to security-holder inquiries regarding unpaid dividend and interest claims within certain time frames. The proposed amendment to Rule 17Ad–10 would expand the time frame within which transfer agents must buy-in securities in the event of certain actual physical overissuances and would clarify certain operational aspects of the rule. For further information, please contact Ester Saverson, Jr. at (202) 272–2906.

2. Consideration of the appropriate regulation of proprietary over-the-counter automation systems. For further information, please contact Robert Colby at (202) 272–2405.

3. Consideration of issues raised by trading securities through personal computer brokerage systems. For further information, contact Robert Colby at (202) 272–2405.

4. Consideration of whether to grant the proposal by Georgia Power Company to sell to Gulf Power Company, both subsidiaries of The Southern Company, a registered holding company, a 25% interest in Unit 3 of the Robert W. Scherer coal-fired generating plant now under construction. Among the issues to be discussed will be the objections to the sale by two intervenors, the Georgia Consumers' Utility Counsel and Ratewatch and their request for a hearing. For further information, please contact Grant Guthrie at (202) 272–7677.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Angela Hall at (202) 272–3085.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84–26179 Filed 9–28–84; 1:43 pm]

BILLING CODE 8010–01–M

16

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of October 1, 8, 15, and 22, 1984.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, D.C.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of October 1

Tuesday, October 2

10:00 a.m.
Briefing/Possible Vote on USC 2.206 Petition on TMI–1 Emergency Feedwater (Public Meeting)

2:00 p.m.
Continuation of 9/5 Discussion of Indian Point Probabilistic Risk Assessment (Public Meeting)

Wednesday, October 3

2:00 p.m.
Discussion of Reexamination of Exemption Process (Public Meeting)

Thursday, October 4

10:00 a.m.
Discussion/Possible Vote on Full Power Operating License for Callaway-1 (Public Meeting)

3:30 p.m.
Affirmation Meeting (Public Meeting)
a. Diablo Canyon—Joint Intervenors' Request for a Hearing on PG&E's Request for an Extension of the Low-Power License
b. Petition for Stay of Part 70 License

Week of October 8

Tentative

Tuesday, October 9

10:00 a.m.
Discussion of Severe Accident Program for Nuclear Power Reactors—Revised Policy Statement 1984 Public Meeting)

2:00 p.m.
Discussion of Proposed Rule on Decommissioning Nuclear Facilities (Public Meeting)

Wednesday, October 10

10:00 a.m.
Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 & 6)

Thursday, October 11

2:00 p.m.
Periodic Meeting with Advisory Committee on Reactor Safeguards (ACRS) (Public Meeting)

3:30 p.m.
Affirmation Meeting (Public Meeting) (if needed)

Friday, October 12

10:00 a.m.
NUMARC Briefing on Fitness for Duty, Training and Requirements for Senior Managers (Public Meeting)

Week of October 15

Tentative

Tuesday, October 16

10:00 a.m.
Discussion of Material False Statements—Policy Options (Public Meeting)
2:00 p.m.
Discussion of QA Report to Congress (Public Meeting)

Thursday, October 18

3:30 p.m.
Affirmation Meeting (Public Meeting) (if needed)

Week of October 22

Tentative

Monday, October 22

2:00 p.m.
Status of NTOL's (Public Meeting)

Tuesday, October 23

10:00 a.m.
Semi-Annual Briefing on Appraisal of Operating Experience (Public Meeting)
2:00 p.m.
Briefing and Discussion on the Hearing Process (Public Meeting)

Wednesday, October 24

10:00 a.m.
Discussion/Possible Vote on Full Power Operating License for Catawa (Public Meeting)
2:00 p.m.
Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 & 6)

Thursday, October 25

3:30 p.m.
Affirmation Meeting (Public Meeting) (if needed)

TO VERIFY THE STATUS OF MEETINGS CALL: (Recording)—(202) 634–1498.

CONTACT PERSON FOR MORE INFORMATION: Julia Corrado (202) 634–1410.

George T. Mazuzan,
Office of the Secretary.

[FR Doc. 84-26209 Filed 9-28-84; 4:13 pm]
BILLING CODE 7590-01-M

17

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

INSTITUTE OF MUSEUM SERVICES

Correction

FR Doc. 84–25852, which announced a meeting of the National Museum Services Board on November 9, 1984, appeared in the Notices section on page 38389 in the issue of Friday, September 28, 1984. It should have appeared in the Sunshine Act Meetings section.

BILLING CODE 1505-01-M

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federal register

Tuesday
October 2, 1984

Part II

Environmental Protection Agency

40 CFR Parts 232 and 233
404 Program Definitions and Permit Exemptions; 404 State Program Regulations; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 232 and 233

[OFA-FRL-2472-1]

404 Program Definitions and Permit Exemptions; 404 State Program Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to revise its regulations containing procedures and criteria used in approving, revising and withdrawing approval of state 404 programs and containing program definitions and rules for exemptions from permitting under 404(f)(1). Many states have expressed concerns with the existing regulation (40 CFR Part 233), finding it overly burdensome and restrictive. The proposed revision will provide the states more flexibility in program design and administration while still meeting the requirements and objectives of the Clean Water Act (the Act).

DATES: This proposed rule has a 60 day comment period. Comments must be received by December 3, 1984.

ADDRESS: Comments should be addressed to Dr. Allan Hirsch, Office of Federal Activities (A-104), Environmental Protection Agency, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Lori Williams, Office of Federal Activities (A-104), U.S. Environmental Protection Agency, Washington, D.C. 20460, (202) 382-5043.

SUPPLEMENTARY INFORMATION:

Background

The Army Corps of Engineers (Corps) has been responsible for protecting the navigable waters of the United States since enactment of the River and Harbor Act of 1899. While maintenance and enhancement of navigation were the focus of the River and Harbor Act, in 1968 the Corps expanded its permit review criteria to include fish and wildlife, conservation, pollution, aesthetics, ecology, and other public interest factors.

In 1972, amendments to the Federal Water Pollution Control Act of 1948 were enacted, establishing a number of related programs to restore and maintain the physical, chemical, and biological integrity of the nation's water. Section 404 of the Amendments established a permit program regulating the discharge of dredged or fill material into "navigable waters," which were defined as "waters of the United States" in section 502. The Corps interpreted the term "navigable waters" to refer simply to the navigable waters regulated under the River and Harbor Act. A 1975 federal district court decision (*NRDC* v. *Calloway*) held the Corps' definition of navigable waters to be inconsistent with the 1972 Amendments. The court ordered the Corps to regulate under section 404 all the waters of the United States subject to federal jurisdiction under the commerce clause of the Constitution.

This expansion of the Corps' jurisdiction under section 404 was controversial. Some states perceived an intrusion by the federal government into the traditional province of state and local authority regarding land, water, and resource use. Others felt that the federal program would duplicate state activities. Prompted by such concerns, Congress in the 1977 Amendments to the Federal Water Pollution Control Act, now known as the Clean Water Act (the "Act"), gaves states the option of assuming the 404 permit program in certain waters, subject to EPA approval. If a state assumes this permitting responsibility, its jurisdiction includes: all waters within its border except (1) those which are subject to the ebb and flow of the tide plus adjacent wetlands and (2) waters which are presently used or may be susceptible to use (through reasonable improvement) to transport interstate or foreign commerce plus adjacent wetlands. The Corps retains jurisdiction over all waters which states cannot assume. The Act prescribed minimum requirements which states must meet before exercising their option to assume the program, and assigned program approval and oversight responsibility to EPA. These requirements are generally modelled after those applicable to state assumption of the National Pollution Discharge Elimination System (NPDES) program under section 402 of the Act.

On May 19, 1980, EPA promulgated regulations to establish procedures and criteria for approval/disapproval of state programs and for monitoring a state program after program approval. These regulations were issued as part of EPA's Consolidated Permit Regulations (CPR) (40 CFR Parts 122-124) governing five separate permit programs. In addition to the 404 State Program Regulations, four other programs were included in the CPR: The Hazardous Waste Management (HWM) program under Subtitle C of the Resource Conservation and Recovery Act, the Undergound Injection Control (UIC) program under Part C of the Safe Drinking Water Act, the National Pollution Discharge Elimination System (NPDES) program under section 402 of the Clean Water Act, and the Prevention of Significant Deterioration (PSD) program under section 165 of the Clean Air Act.

Reasons for Proposing Changes

Since promulgation of the existing regulations in May 1980, Michigan is the only State to assume the 404 permitting responsibility. In October 1980, EPA sponsored a 404 State Program Workshop which was attended by representatives from 35 states. These regulations were the subject of much comment and concern at this workshop. States have continued to express their concern since that time. Many state officials find the implementing regulations too burdensome and restrictive. State concerns center on rigid mandatory requirements, excessive paperwork burdens, intrusive federal oversight, general lack of flexibility, and the confusing format of the regulation itself.

In addition to the regulations, states cite the lack of available federal funding and the split jurisdiction with the Corps as the major impediments to program assumption. Funding and extent of state assumable waters are beyond the scope of this regulation, since addressing these problems would require statutory amendments. Because revision to the regulations requires no statutory amendments, EPA began reviewing the regulations to identify ways of allowing the states more flexibility and initiative in program design with more constructive federal oversight of program implementation.

Subsequent to EPA's initiation of work on revision of the regulations, the Presidential Task Force on Regulatory Relief, in response to these and other concerns about the section 404 program, targeted various aspects of the 404 program for review, including the CPR. The Task Force stated "[t]he original intent of EPA's consolidated permit program was to systemize and streamline permit procedures; * * * [h]owever, actual implementation of the regulations has resulted in greatly increased complexity, including often unnecessary procedural requirements and information burdens." On May 7, 1982, the Task Force released its recommendations for the 404 program and directed EPA to rewrite these regulations to provide for " * * * simplified procedures for state assumption of the Section 404 program."

EPA approached the regulatory reform of the 404 state program regulations in two phases. The first phase addressed

the complicated organization of the CPR. On April 1, 1983, EPA promulgated five regulations, one for each of the programs which had previously been included in the CPR. This reissuance of the regulations did not include any substantive changes in the regulations, but simply restated previous CPR requirements in a new format which made the regulations less complex, easier to use, and easier to reform.

This proposed rulemaking is the second phase of reform of the 404 state program regulations. It proposes revised state program regulations with substantive changes which simplify the requirements for program assumption and administration.

Major Features of the Proposed Regulation

We are proposing to divide the regulations into two parts, the first (Part 232) containing definitions and exemptions relating to both the federal and state run 404 program and the second part (Part 233) dealing with state programs only.

PART 232—PROGRAM DEFINITIONS AND EXEMPTIONS FROM PERMIT REQUIREMENTS

Part 232 of these regulations contains definitions of general applicability and provisions implementing the exemptions from permit requirements under section 404(f). This part applies to both the federally administered and state administered programs.

Section 232.2 Definitions.

Many of the terms defined in § 232.2 are also defined in other section 404 implementing regulations, particularly in the 404(b)(1) Guidelines (40 CFR Part 230) and the Regulatory Programs for the Corps (33 CFR Parts 320–330). It has been suggested that repeating these definitions is unnecessary and duplicative. However, to ensure consistent interpretation and implementation of these regulations by the states assuming the section 404 permitting program, we are republishing the definitions in § 232.2 of these proposed regulations. Before these regulations are promulgated as final regulations, EPA will determine the most logical arrangement for these definitions.

Several of these definitions, particularly those relating to jurisdiction and scope of the program, have received considerable attention in comments to EPA and Corps' **Federal Register** Notices. These definitions (fill material, waters of the United States, and wetlands) have been the subject of much review and discussion between Army and EPA. A final decision on revision of these definitions has not yet been reached. Therefore, this proposed regulation uses the definitions for these terms as they were originally published in the 1980 regulations (40 CFR Part 122), except for the definition of "fill material," which is reserved. "Fill material" was addressed in the settlement agreement of *National Wildlife Federation* v. *Marsh* (D.D.C. Civil No. 82–3632). Army and EPA are working to revise the definition of fill material in response to the settlement agreement. If a decision is made to revise any of the remaining definitions in the 404(b)(1) Guidelines and in the Corps regulations such revised definitions will also be incorporated in the State Program Regulations following completion of rulemaking.

Section 232.3 Activities not requiring permits.

Because EPA's regulation defining activities exempted under section 404(f) was originally included in the Consolidated Permit Regulations, many readers had the mistaken impression that these exemptions were applicable only to state administered programs. This is not so. These permit exemptions are applicable to both federal and state administered programs. By placing these permit exemptions in Part 232, we hope this confusion will be resolved.

Minor changes have been made to the organization of this section to make it easier to read. In addition, language has been added in parts of this section to clarify meaning. For example, the wording of § 232.3(d)(3)(i)(D) has been revised to change the time for removal of stream blockages to one year from the date of discovery. The wording of § 232.3(c)(3) has been changed to incorporate language of the settlement agreement of *NWF* v. *Marsh*. This language clarifies the extent to which irrigation-related facilities are exempt. This provision is, of course, still subject to the limitations in § 232.3(b). Fills associated with beaver dams may also qualify for the minor drainage exemption from permitting under § 232.3(d)(3)(i)(D). It should be noted that ancillary activities, such as deepening the channel and depositing material in the adjacent wetlands, are not exempted by that provision. These changes are not intended to alter the scope of exemptions identified in sections 404 (f) and (r) of the Act.

PART 233—STATE PROGRAM REGULATIONS

Part 233 of these regulations contains the procedures and criteria used in approving, revising, withdrawing approval of, and overseeing state 404 programs. This part contains the criteria under which submissions for program approval will be evaluated. This part also includes the procedures for federal oversight of an approved state program.

The reforms incorporated into this proposed rule are in response to comments from state officials and in keeping with the directives of the Task Force on Regulatory Relief. The approach used is intended to provide more flexibility in state program approval and implementation, and to reduce federal oversight once a state assumes the program, while ensuring protection of aquatic resources in accordances with the requirements for the Act.

The following discussion attempts to elaborate on and clarify the intent of the proposed rulemaking. Topics that may be of particular interest are identified and comments on various aspects of this regulation are solicited.

Subpart A—General

Section 233.4 Conflict of interest.

This section is basically unchanged from the existing 404 and NPDES regulations. Membership on the board or body which approves permits is limited to persons who have not received a significant portion of income in the previous 2 years from permit holders or applicants for permits. While this may restrict program administration options for some states, we feel it is necessary to avoid the potential for conflict of interest in decisions on state-issued permits.

Subpart B—Program Approval

Section 233.20 Elements of a program submission.

This section is basically unchanged from the existing regulations. Certain basic information and analyses are needed for the EPA's Regional Administrator to evaluate states' capability to administer a program and to make a decision to approve or disapprove a states' request for program approval.

Section 233.21 Program Description.

Some changes have been made in this section. In many cases, the basic information required as part of the program description remains unchanged, but the level of detail has been lessened. For example, the existing regulations require a description of the state agency staff who will administer the program, including the number, occupations, and general duties of the employees, and an itemization of the sources and amounts of funding available to the state for the

first two years after approval. These proposed revisions require only a description of the funding and manpower that will be available for program administration, without specifying the details of that description. The state would now have the flexibility to identify and provide sufficient information for EPA's determination of adequacy. Of course, if insufficient information is provided by the state, EPA will have to request additional information from the state, which could delay the processing of the state's submission for program approval.

Other information needs in this section are handled in a similar manner. The basic information is still required, but the specificity of required detailed information is lessened.

Section 233.24 Memorandum of Agreement (MOA) with Secretary.

This proposal simplifies the requirements and procedures in this MOA. The existing regulations contain the requirement that this MOA include procedures for joint processing section 404 permits from the state and section 10 (River and Harbor Act) permits from the Corps. This proposal eliminates this requirement. While we feel that these joint permit processing procedures are highly beneficial to the regulated public, requiring that they be implemented goes beyond the requirements for approval of a state 404 program. However, we do recommend that states investigate the possibility of joint processing.

The MOA specifies a very important facet of states' assumption of the 404 permitting responsibility. It provides the delineation between state assumed waters and Corps retained waters. The Corps retains jurisdiction over (1) those waters which are subject to the ebb and flow of the tide plus adjacent wetlands and (2) waters which are currently used or may be susceptible to use (through reasonable improvement) to transport interstated or foreign commerce plus adjacent wetlands. While this generic description is understood by most people, it may be difficult to apply to specific water bodies. The MOA is used to identify particular waters which are assumed by the state and those which are retained by the Corps.

Section 233.25 Procedures for approving state programs.

This section imposes requirements and procedures on EPA's handling of a state's submission for program approval. These requirements are not imposed upon the states. The existing requirements remain basically unchanged, with the exception of some simplification of the public participation requirements.

This proposal also reflects EPA's policy on the State Program Approval Process, which places the responsibility for state program approval with the Regional Administrator with input from Headquarters offices.

Section 233.26 Procedures for revison of state programs.

A number of changes to this section are being proposed. First, in the existing regulations, the Administrator must approve all revisions to an approved state program. Under this proposed regulation, the Regional Administrator will review and approve program revisions.

In addition, the proposal clarifies the changes which may be approved through an abbreviated procedure. Minor program revisions may be approved by the Regional Administrator using abbreviated procedures, since there is no compelling need for minor revisions to go through formal review procedures in order to assure nationwide consistency. Substantial program revisions must follow formal procedures including consultation with the Corps and Fish and Wildlife Service (FWS), (and National Marine Fisheries Service (NMFS), if appropriate); public notice public comment; and public hearing if there is significant public interest. Substantial program revisions include, but are not limited to, revisions that affect the area of jurisdiction, scope of activities regulated, criteria for review of permit applications, public participation or enforcement capability.

Subpart C—Permit Requirements

Section 233.4 General permits.

Under section 404(e) of the Act, general permits may be issued for similar activities which will cause only minimal adverse environmental effects when performed separately and will have only minimal cumulative adverse effects on the environmental. General permits must comply with the section 404(b)(1) Guidelines, which contain the substantive environmental criteria which must be applied in reviewing all applications for dredged or fill material discharge under the Act.

These proposed regulations simplify the requirements for issuance of general permits. The existing regulations require the permit to limit, for any single operation authorized under a general permit, the maximum quantity of material to be discharged, the types of material to be discharged, depth of fill permitted, maximum extent to which an area may be modified, and size and types of structures that may be constructed. This proposal simply requires that the permit contain a specific description of the activities authorized which is sufficient to assure that the basic requirements of any general permit are met, that is, that the activities are similar in nature, will cause only minimal adverse environmental effects when performed separately, that there be minimal cumulative adverse effects on the environment, and that the activities are in accordance with the 404(b)(1) Guidelines.

The existing regulations contain a notification requirement prior to any activity commencing pursuant to a general permit. The discharger must notify the state at least 30 days in advance of the date when work is scheduled to start. This proposal eliminates this requirement and replaces it with the provision that advance notification may or may not be required by the state on a permit-by-permit basis depending on the activities or geographic area of the general permit. States will still be expected to require advance notification when necessary to monitor the activities, but will have the flexibility to dispense with such reporting where it is not necessary.

Some confusion apparently exists on state assumption of existing Corps' general permits. Subsequent to program approval, states are entitled to administer general permits already issued by the Corps in state regulated waters or may issue new general permits. The Director retains the right to require any discharger covered by a general permit to apply for an individual permit and may also revoke any general permit administered under the state program.

Subpart D—Program Operation

Section 233.60 Application for a permit.

This proposal is substantially simplified from the existing regulations. It eliminates the publicity and preapplication consultation provisions. Since these provisions are not specifically required by the statute, we are proposing to delete them from the regulation. States may still elect to retain this provision within their programs on their own initiative.

This proposal attempts to increase flexibility in the information required in a state permit application. Instead of requiring a long list of mandatory information on every state application form, this proposal more generally requires the state to obtain information

sufficient to evalute the environmental impacts of the project adequately and to assure compliance with the 404(b)(1) Guidelines. The amount of information and types of drawings required may vary with the size of the proposed activity, the location of the proposed activity, the presence of toxic substances, and the degree of environmental impact. Large projects with a higher risk of environmental damage will, in all circumstances, require more detailed information to ascertain potential impacts and evaluate possible alternatives.

While flexibility is incorporated in this section, certain specific information needs should be noted. These include name, address, and telephone number of the applicant; names and addresses of adjoining property owners; a complete description of the proposed activity (project location, description of completed project, maps and site plans, alternatives); and information about the discharge material and disposal site to evaluate compliance with the 404(b)(1) Guidelines.

Section 233.61 Coordination requirements.

The Director must solicit comments from any other state whose waters may be affected by a proposed discharge. Comments and recommendations from other affected states should be given serious consideration in the permit decisionmaking process. If the Director does not accept the recommendations of another state, he must notify that state and the Regional Administrator of his failure to accept the recommendations and his reasons for not accepting the recommendations. If the Regional Administrator does not agree with the rationale presented, the Regional Administrator's concerns can be incorporated into his comments on or objections to the permit application.

Section 233.62 Public notice.

Some changes have been made in this section. The existing regulations require that notice be published in the largest circulation newspaper(s) reasonably calculated to cover the area affected by the activity. This appears to be a problem for some states both from a legal and financial basis. This proposal requires the state to provide notice reasonably calculated to cover the area affected by the activity. However, we stress that the method of notice must be sufficient that all persons reasonably affected by the activity be informed of the activity.

Section 233.62 Public hearing.

A public hearing should be held whenever the Director determines that there is a significant degree of public interest in a permit application. Any interested person, during the public comment period, may request a public hearing. If the issues sought to be raised are immaterial, the Director may conclude that the degree of public interest is not "significant."

Section 233.64 Making a decision on the permit application.

The Act prohibits the discharge of dredged or fill material except in compliance with section 404. The permitting authority (either the Corps or an approved state) approves discharges at particular sites through application of the 404(b)(1) Guidelines, which are the substantive environmental criteria for dredged and fill material discharges under the Act.

This section, which is essentially unchanged, requires the Director to review all permit applications to ensure they comply with the 404(b)(1) Guidelines or equivalent state environmental criteria. This does not require states to adopt criteria which are an exact duplicate of the Guidelines, as long as those adopted include environmental review criteria which are at least as stringent as the Guidelines. Under section 510 of the Act, states have the right to enforce more stringent state requirements if they so desire.

Section 233.67 Signatures on permit applications and reports.

No changes have been made in this section. The language in this section is the result of a settlement agreement (*NRDC* v. *EPA*, and consolidated cases [No. 80–1607]). While this section may be unnecessarily complex for the typical 404 permit situation, we have not made any changes in the settlement language at this time; we will, of course, consider any comments received and, if warranted, make appropriate changes in the final regulation.

Subpart E—Compliance Evaluation and Enforcement

Section 233.71 Requirements for enforcement authority.

The Act authorizes federal penalties, which remain applicable when a state is administering an approved state program. The Act also specifies that, to have its program approved, a state must have the authority to "abate violations * * * including civil and criminal penalties and other ways and means of enforcement." The Act does not specify that a state must have penalties equal to the federal penalties or at any other particular level. The minimum amounts specified in this proposal are amounts for which the state must have the authority to seek penalties; they need not be assessed by the state for every violation. Each penalty assessed should be appropriate to the violation.

State programs operate under state law. When a state takes an action against a violation of its state law, it does so under state law, in state court, and seeks state penalties authorized under state law. EPA operates under federal law, and enforces in federal court pursuant to section 309 of the Act. State program assumption does not eliminate EPA's authority to enforce against violations. Thus, a discharge without a permit or which violates a condition in a state permit can be prosecuted by EPA under § 309 and be subject to the federal penalties or it can be prosecuted by the state under state law and be subject to state penalties. Congress expected that EPA would defer to state enforcement efforts as long as they were adequate. EPA may also take enforcement action where the state requests federal assistance. EPA also retains the right to overfile if the state's actions are inadequate. Obviously, this latter option is not the most satisfactory from either the federal or state point of view. To avoid it, states should have authority to assess adequate fines which are sufficient to discourage violation of state law.

The existing regulations require that states have the authority to assess penalties of specific amounts in order to obtain approval of their state 404 programs. These amounts are approximately half those EPA is authorized to seek. These state penalty provisions have been the subject of much concern and controversy, as many states are apparently unable to meet these requirements. While we are appreciative of the states' problems, we are also reluctant to lower the monetary penalties to a point where they are ineffective as an enforcement mechanism. Additionally, EPA must ensure a minimum level of consistency between the federal 404 programs to achieve the objectives of the Act.

To accomplish this in a more flexible way, EPA is proposing a new mechanism by which the Regional Administrator may approve a program even if these monetary penalty authority requirements are not met, if the state has an alternative, demonstrably effective method of ensuring compliance. States must demonstrate that the alternative method will be as stringent and as effective as an

enforcement program meeting the monetary penalty requirements before it will be approved.

We are aware of some alternate enforcement programs that might qualify for waiver of the requirement for authority to assess specific monetary penalties. One such program has a strong, effective restoration requirement for unpermitted activities. When a Notice of Violation is issued, a copy is sent to the Clerk of the city or town where the property is located, to be recorded in the Land Evidence Records. Once recorded, the notice serves as a lien on the property. This notice remains in place until the violation is resolved, providing a mechanism by which the state ensures compliance with restoration orders. Of course, in assessing the adequacy of such a mechanism, EPA will look at the actual track record on violations as well as the mechanism itself.

Since the minimum state penalty authority in the existing regulations has proven to be a significant impediment to state program assumption, we are proposing flexibility in the required enforcement authorities. However, national consistency in administration of state programs is an important consideration in review and approval of state program submissions. Thus, while we are proposing a waiver of required monetary penalty authority, approval of an alternative enforcement mechanism will be the exception and not the rule. States should work to meet the existing monetary penalty requirements. Alternate enforcement programs will be rigorously evaluated for demonstrated effectiveness before a waiver of penalty requirements will be granted.

We do want to stress that each state is unique in its program and its resources. What may qualify as an approvable alternative enforcement program in one state may not be approvable in another state.

Section 233.72 Program reporting.

This proposal significantly reduces the program reporting burden on the states. The existing regulations require that the state submit quarterly noncompliance reports and an annual report to EPA. The quarterly reports must contain names, location and permit number of each noncomplying permittee; a brief description and date of each instance of noncompliance, which should include any unauthorized discharge of dredged or fill material or noncompliance with permit conditions; and description of investigations conducted and any enforcement actions taken or contemplated. The annual report should assess the cumulative impact of the state's permit program on the integrity of state regulated waters. The annual report should include number and nature of individual permits issued, including location and nature of water body where permitted activity is sited; the number of acres of each category of water filled; the number and nature of permits denied, modified, revoked and reissued, or terminated; number and nature of emergency permits; approximate number of persons discharging under general permits and an estimate of cumulative impacts of these activities.

This proposal eliminates the requirements for quarterly reports and redirects the annual report toward the state's evaluation of its program administration. The annual report should identify any problems encountered by the state in administering its program and recommendations for resolving these problems. Certain basic information must still be included within the annual report, including such items as number and nature of individual and general permits issued, modified, or denied; number and nature of enforcement actions taken; estimate of extent of activities regulated by general permit; an assessment of the cumulative impact of the state's permit program on the integrity of the state regulated waters; evaluation of trends within the state regulated waters; and identification of areas of particular concern and/or interest within the state.

Subpart F—Federal Oversight

Oversight Policy

We recognize that some states perceive the federal oversight role subsequent to program approval as intrusive and meddlesome. We do not intend this to become reality. Since 404(j) provides for federal oversight, Congress obviously intended some federal oversight subsequent to approval of a state program. However, EPA wants to assure states that we have confidence in states' ability to effectively administer approved programs. We are soliciting comments on possible methods to alleviate these concerns. We expect that use of the waiver of federal review (§ 233.81) will lessen federal involvement in processing state permit applications subsequent to program approval. We anticipate issuing guidance to our Regional Administrators on federal oversight of approved state programs. This guidance should include a discussion on decreasing federal oversight with time. Once it becomes apparent that a state is satisfactorily administering its approved program, we need not review as many individual permit applications.

Section 233.80 Review of and objection to state permits.

This proposal simplifies these procedures and reduces requirements applicable to the states. The existing regulations require prompt transmission by the state to the Regional Administrator (by certified mail) and to the Corps, FWS, and NMFS of a copy of all complete permit applications, notice of every action taken by the state relating to consideration of every permit action, copy of each draft permit, and copy of any issued permits. This proposal requires the state to send these copies to the EPA Regional Administrator who will send them to the Corps, FWS, and NMFS.

The existing regulations refer to review of draft permits for individual and general permits. This proposal eliminates the draft permit requirement for individual permits. Federal review of individual permits will be based on the public notice. This in no way prevents the Director from preparing a draft permit and transmitting it to EPA for review if the Director feels this action is advisable on any individual permit.

Section 233.81 Waiver of review.

Section 404(k) provides for the waiver of federal review of any "category of discharge." The categories of discharge for which waiver of federal review will be granted are included in the state's program submission (§ 233.23 Memorandum of Agreement with the Regional Administrator). These categories of discharges are negotiated with the Regional Administrator prior to program assumption. It is anticipated that use of the waiver provision will reduce workload and paperwork and focus federal resources where they are most needed and appropriate.

The existing regulations approach the waiver of federal review in a negative fashion by listing what cannot be waived. The new wording makes it explicit that, except for specific limitations, any category of discharge is eligible for consideration for waiver. Categories of discharge which are obvious ones to consider under this waiver provision include categories of discharge which are similar in nature and which have only minimal impacts individually and cumulatively. Many such discharges are already covered by Corps general or nationwide permits and generally do not require federal review on a routine basis. (It should be noted, however, that some Corps general permits, notably the "avoidance

of duplication" ones, do require predischarge notification and Corps review of each discharge.) Of course, the discharges eligible for waiver are not limited to those covered by general permit. In addition, we anticipate that, based on our experience with particular state programs, we will be able to add new categories of waived discharges to those originally specified in the MOA at the time of program approval.

Section 233.62 Withdrawal of program approval.

Under the statute, the Administrator may withdraw program approval when a state program no longer complies with the statute and implementing regulations. Obviously, withdrawal of approval of a state program is an action that will not be considered without good cause. Program approval will not be withdrawn for minor reasons, but may be withdrawn for such things as repeated issuance of permits that do not conform to the requirements of this part, failure to regulate activities required to be regulated, failure of the state's enforcement program to comply with other requirements of this part, or failure of the state's program to comply with other requirements of this part, including material changes in the state's statutes or regulations. If the state voluntarily transfers the program back to the Corps, the Regional Administrator and the Director shall come to an agreement on publication of notice of the transfer. In most cases, except for severe financial constraints, the state should be responsible for publishing the notice of transfer.

Request for Comments

While EPA is soliciting comments on any and all aspects of this proposed rule, we would like to identify particular parts of these proposed regulations that commenters may wish to address.

This proposed regulation retains the conflict of interest provision (§ 233.4) contained in the existing regulations. We realize that this provision may create a problem for some states. In particular, we note that the exemption for state officials involved in both granting and holding a permit does not extend to county or municipal officials. We would be interested in comments from states on whether this or another conflict of interest requirement constitutes a problem for them, and if so, we welcome suggestions for resolving such problems.

This proposal retains the settlement agreement language for signatures on permit applications and reports. This language may be overly complex for the 404 program. States may have effective alternative means of assuring that top level managers are responsible for the accuracy of material contained in permit applications and monitoring reports. We would be interested in receiving suggestions on how this language could be simplified.

This proposal includes a provision for an abbreviated procedure for approval of minor revisions to an approved state program. While substantial program revisions must be approved by the Regional Administrator after formal review procedures, minor program revisions can be approved by the Regional Administrator using abbreviated procedures. Examples of substantial program revisions are given. We would be interested in receiving suggestions as to what program revisions should be considered minor and should be subjected to only an abbreviated review and whether "minor" should be defined in the regulation.

The requirement for authority to assess specific monetary penalties has been a major impediment to program assumption. This proposal includes a new provision by which the Regional Administrator may approve a program even if these monetary penalty authority requirements are not met, if the state has an alternate, effective method of ensuring compliance. It woud be very useful to us in developing the final regulation if states who may plan to rely on this provision would describe in their comments any alternate, effective means of ensuring compliance which they might intend to rely on.

Pursuant to 404(j), a federal oversight role must be established and maintained subsequent to program assumption. We are interested in receiving comments on how to maintain an effective oversight role without being perceived as meddlesome. How can the federal presence help states administer their approved programs?

Regulatory Analysis

Since these proposed State Program Regulations are revisions which, for the most part, provide regulatory relief, we have determined that they are not a major rule requiring a Regulatory Impact Analysis under Executive Order 12291.

This proposal was submitted to the Office of Management and Budget (OMB) for review as required under Executive Order 12291. Any comments from OMB and any EPA responses to those comments are available for public inspection by contacting the person listed in the "FOR FURTHER INFORMATION CONTACT" section at the beginning of this notice.

This proposed regulation has been reviewed under the provisions of section 3(a) of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* and it has been determined that this proposal does not contain provisions which would have a significant adverse impact on a substantial number of small entities. Since this revision to 40 CFR Part 233 would reduce paperwork, reporting requirements, application information requirements, these revised regulations would be beneficial to small entities. Thus, a detailed Regulatory Flexibility Analysis is not required.

The information collection requirements in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* Comments on these requirements should be submitted to the Office of Information and Regulatory Affairs of OMB, marked "Attention: Desk Officer for EPA." The final rule will respond to any OMB or public comments on the information collection requirements.

Dated: September 21, 1984.

William D. Ruckelshaus,

Administrator.

List of Subjects

40 CFR Part 232

Intergovernmental relations, Water pollution control.

40 CFR Part 233

Administrative practice and procedure, Reporting and recordkeeping requirements, Confidential business information, Water pollution control, Indian lands, Intergovernmental relations, Water supply, Waterways, Navigation, Penalties.

Authority: 33 U.S.C. 1344.

For the reasons set out in the preamble, EPA proposes to add a new Part 232, and revise Part 233 to read as follows:

PART 232—404 PROGRAM DEFINITIONS; EXEMPT ACTIVITIES NOT REQUIRING 404 PERMITS

Sec.

232.1 Purpose and scope of this part.
232.2 Definitions.
232.3 Activities not requiring permits.

Authority: Clean Water Act, 33 U.S.C. 1251 *et seq.*

§ 232.1 Purpose and scope of this part.

(a) Part 232 contains definitions applicable to the section 404 program for discharges of dredged or fill material. These definitions apply to both the

federally operated program and state administered programs after program approval. This part also describes those activities which are exempted from regulation.

(b) Regulations prescribing the substantive environmental criteria for review of section 404 permits appear at 40 CFR Part 230. Regulations establishing procedures to be followed by the EPA in denying or restricting a disposal site appear at 40 CFR Part 231. Regulations containing the procedures and policies used by the Corps in administering the 404 program appear at 33 CFR Parts 320–330. Regulations specifying the procedures EPA will follow, and the criteria EPA will apply in approving, reviewing, and withdrawing approval of section 404 state programs appear at 40 CFR Part 233.

§ 232.2 Definitions.

(a) *Administrator* means the Administrator of the Environmental Protection Agency or an authorized representative.

(b) *Application* means a form for applying for a 404 dredge or fill permit.

(c) *Approved program* means a state program which has been approved by the Regional Administrator under Part 233 of this chapter or which is deemed approved under section 404(h)(3), 33 U.S.C. 1344(h)(3).

(d) *Best management practices* (BMPs) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the United States from discharges of dredged or fill material. BMPs include methods, measures, practices, or design and performance standards, which facilitate compliance with the section 404(b)(1) Guidelines (40 CFR Part 230), effluent limitations or prohibitions under section 307(a), and applicable water quality standards.

(e) *Discharge of dredged material* means any addition of dredged material into waters of the United States. The term includes, without limitation, the addition of dredged material to a specified discharge site located in waters of the United States and the runoff or overflow from a discharge site. Discharges of pollutants into waters of the United States resulting from the onshore subsequent processing of dredged material that is extracted from any commercial use (other than fill) are not included within this term and are subject to section 402 of the Act even though the extraction and deposit of such material may require a permit from the Corps or the state section 404 program.

(f) *Discharge of fill material* means the addition of fill material into waters of the United States. The term generally includes, without limitation, the following activities: placement of fill that is necessary to the construction of any structure; the building of any structure or impoundment requiring rock, sand, dirt, or other materials for its construction; site-development fills for recreational, industrial, commercial, residential, and other uses, causeways or road fills; dams and dikes; artificial islands; property protection and/or reclamation devices such as riprap, groins, seawalls, breakwaters, and revetments; beach nourishment; levees; fill for structures such as sewage treatment facilities, intake and outfall pipes associated with power plants and subaqueous utility lines; and artificial reefs.

(g) *Dredged material* means material that is excavated or dredged from waters of the United States.

(h) *Effluent* means dredged material or fill material, including return flow from confined sites.

(i) *Fill material* (reserved).

(j) *General permit* means a permit authorizing a category of discharges of dredged or fill material under the Act. General permits are for categories of discharge which are similar in nature, will cause only minimal adverse environmental effects when performed separately, and will have only minimal cumulative adverse effect on the environment.

(k) *Owner or operator* means the owner or operator of any activity subject to regulation under the 404 program.

(l) *Permit* means a written authorization issued by an approved state to implement the requirements of Part 233, or by the Corps under 33 CFR Parts 320–330. When used in these regulations "permit" includes "general permit" as well as individual permit.

(m) *Person* means an individual, association, partnership, corporation, municipality, state or federal agency, or an agent or employee thereof.

(n) *Regional Administrator* means the Regional Administrator of the appropriate Regional Office of the Environmental Protection Agency or the authorized representative of the Regional Administrator.

(o) *Secretary* means the Secretary of the Army acting through the Chief of Engineers.

(p) *State regulated waters* means those waters of the United States in which the Corps suspends the issuance of section 404 permits upon approval of a state's section 404 permit program by the Administrator under section 404(h). The Secretary shall retain jurisdiction over those waters of the United States which are presently used, or are susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce shoreward to thier ordinary high water mark including adjacent wetlands and all waters which are subject to the ebb and flow of the tide shoreward to their mean high water mark including adjacent wetlands. All other waters of the United States in a state with an approved program shall be under jurisdiction of the state program, and shall be identified in the program description as required by Part 233.

(q) *"Waters of the United States"* means:

(1) All waters which are currently used, were in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.

(2) All interstate waters including interstate wetlands.

(3) All other waters, such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetland, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation, or destruction of which would or could affect interstate or foreign commerce including any such waters:

(i) Which are or could be used by interstate or foreign travelers for recreational or other purpose; or

(ii) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or

(iii) Which are used or could be used for industrial purposes by industries in interstate commerce.

(4) All impoundments of waters otherwise defined as waters of the United States under this definition;

(5) Tributaries of waters identified in paragraphs (1)–(4) of this subsection;

(6) The territorial sea; and

(7) Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (1)–(6) of this subsection.

Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the Act (other than cooling ponds as defined in 40 CFR § 423.11(m) which also meet the criteria of this definition) are not waters of the United States.

(r) *Wetlands* means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that

under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

§ 232.3 Activities not requiring permits.

Except as specified in paragraphs (a) and (b) of this section, any discharge of dredged or fill material that may result from any of the activities described in paragraph (c) of this is not prohibited by or otherwise subject to regulation under this part.

(a) If any discharge of dredged or fill material resulting from the activities listed in paragraph (c) of this section contains any toxic pollutant listed under section 307 of the Act, such discharge shall be subject to any applicable toxic effluent standard or prohibition, and shall require a section 404 permit.

(b) Any discharge of dredged or fill material into waters of the United States incidental to any of the activities identified in paragraph (c) of this section must have a permit if it is part of an activity whose purpose is to convert an area of the waters of the United States into a use to which it was not previously subject, where the flow or circulation of waters of the United States may be impaired or the reach of such waters reduced. Where the proposed discharge will result in significant discernable alterations to flow or circulation, the presumption is that flow or circulation may be impaired by such alteration.

Note.—For example, a permit will be required for the conversion of a cypress swamp to some other use or the conversion of wetland from silvicultural to agricultural use when there is a discharge of dredged or fill material into waters of the United States in conjunction with construction of dikes, drainage ditches or other works of structures used to effect such conversion. The conversion from a wetland silvicultural operation to an upland silvicultural operation requires a permit. A discharge which elevates the bottom of waters of the United States without converting it to dry land does not thereby reduce the reach of, but may alter the flow or circulation of, waters, of the United States.

(c) The following activities are exempt from section 404 permit requirements, except as specified in subsection (a) and (b) of this section:

(1)(i) Normal farming, silviculture and ranching activities such as plowing, seeding, cultivating, minor drainage, and harvesting for the production of food, fiber, and forest products, or upland soil and water conservation practices, as defined in paragraph (d) of this section.

(ii)(A) To fall under this exemption, the activities specified in paragraph (c)(1) of this section must be part of an established (i.e., ongoing) farming, silviculture, or ranching operation, and must be in accordance with definitions in paragraph (d). Activities on areas lying fallow as part of a conventional rotational cycle are part of an established operation.

(B) Activities which bring an area into farming, silviculture or ranching use are not part of an established operation. An operation ceases to be established when the area on which it was conducted has been converted to another use or has lain idle so long that modifications to the hydrological regime are necessary to resume operation. If an activity takes place outside the waters of the United States, or if it does not involve a discharge, it does not need a section 404 permit whether or not it is part of an established farming, silviculture or ranching operation.

(2) Maintenance, including emergency reconstruction of recently damaged parts of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, bridge abutments or approaches, and transportation structures. Maintenance does not include any modification that changes the character, scope, or size of the original fill design. Emergency reconstruction must occur within a reasonable period of time after damage occurs in order to qualify for this exemption.

(3) Construction or maintenance of farm or stock ponds or irrigation ditches or the maintenance (but not construction) or drainage ditches. Discharges associated with siphons, pumps, headgates, wingwalls, weirs, diversion structures, and such other facilities as are appurtenant and functionally related to irrigation ditches are included in this exemption.

(4) Construction of temporary sedimentation basins on a construction site which does not include placement of fill material into waters of the United States. The term "construction site" refers to any site involving the erection of buildings, roads, and other discrete structures and the installation of support facilities necessary for construction and use of such structures. The term also includes any other land areas which involve land-disturbing excavation activities, including quarrying or other mining activities, where an increase in the runoff of sediment is controlled through the use of temporary sedimentation basins.

(5) Any activity with respect to which a state has an approved program under section 208(b)(4) of the Act which meets the requirements of section 208(b)(4) (B) and (C).

(6) Construction or maintenance of farm roads, forest roads, or temporary roads for moving mining equipment, where such roads are constructed and maintained in accordance with best management practices (BMPs) to assure that flow and circulation patterns and chemical and biological characteristics of waters of the United States are not impaired, that the reach of the waters of the United States is not reduced, and that any adverse effect on the aquatic environment will be otherwise minimized. The BMPs which must be applied to satisfy this provision include the following baseline provisions:

(i) Permanent roads (for farming or forestry activities), temporary access roads (for mining, forestry, or farm purposes) and skid trails (for logging) in waters of the United States shall be held to the minimum feasible number, width, and total length consistent with the purpose of these operations, and local topographic and climatic conditions;

(ii) All roads, temporary or permanent, shall be located sufficiently far from streams or other water bodies (except for portions of such roads which must cross water bodies) to minimize discharges of dredged or fill material into waters of the United States;

(iii) The road fill shall be bridged, culverted, or otherwise designed to prevent the restriction of expected flood flows;

(iv) The fill shall be properly stabilized and maintained to prevent erosion during and following construction;

(v) Discharges of dredged or fill material into waters of the United States to construct a road fill shall be made in a manner that minimizes the encroachment of trucks, tractors, bulldozers, or other heavy equipment within waters of the United States (including adjacent wetlands) that lie outside the lateral boundaries of the fill itself;

(vi) In designing, constructing, and maintaining roads, vegetative disturbance in the waters of the United States shall be kept to a minimum;

(vii) The design, construction and maintenance of the road crossing shall not disrupt the migration or other movement of those species of aquatic life inhabiting the water body;

(viii) Borrow material shall be taken from upland sources whenever feasible;

(ix) The discharge shall not take, or otherwise affect a threatened or endangered species as defined under the Endangered Species Act, or the critical habitat of such species;

(x) Discharges into breeding and nesting areas for migratory waterfowl,

spawning areas, and wetlands shall be avoided if practicable alternatives exist;

(xi) The discharge shall not be located in the proximity of a public water supply intake;

(xii) The discharge shall not occur in areas of concentrated shellfish production;

(xiii) The discharge shall not occur in a component or proposed component of the National Wild and Scenic River System;

(xiv) The discharge of material shall consist of suitable material free from toxic pollutants in toxic amounts;

(xv) All temporary fills shall be removed in their entirety and the area restored to it original elevation; and

(xvi) Borrow ditches adjacent to roads constructed in wetlands shall be discontinuous, or, if continuous, shall provide drainage for the roadbed only and shall not significantly impair the flow or reduce the reach of the wetland.

(d) For purpose of paragraph (c)(1) of this section, cultivating, harvesting, minor drainage, plowing, and seeding are defined as follows:

(1) Cultivating means physical methods of soil treatment employed within established farming, ranching and silviculture lands on farm, ranch, or forest crops to aid and improve their growth, quality, or yield.

(2) Harvesting means physical measures employed directly upon farm, forest, or ranch crops within established agricultural and silvicultural lands to bring about their removal from farm, forest, or ranch land, but does not include the construction of farm, forest, or ranch needs.

(3)(i) Minor drainage means:

(A) The discharge of dredged or fill material incidental to connecting upland drainage facilities to waters of the United States, adequate to effect the removal of excess soil moisture from upland croplands. Construction and maintenance of upland (dryland) facilities, such as ditching and tiling, incidental to the planting, cultivating, protecting, or harvesting of crops, involve no discharge of dredged or fill material into waters of the United States, and as such never require a section 404 permit;

(B) The discharge of dredged or fill material for the purpose of installing ditching or other such water control facilities incidental to planting, cultivating, protecting, or harvesting of rice, cranberries or other wetland crop species, where these activities and the discharge occur in waters of the United States which are in established use for such agricultural and silvicultural wetland crop production;

(C) The discharge of dredged or fill material for the purpose of manipulating the water levels or regulating the flow or distribution of water within existing impoundments which have been constructed in accordance with applicable requirements of the Act, and which are in established use for the production of rice, cranberries, or other wetland crop species.

Note.—The provisions of paragraphs (d)(3)(i) (B) and (C) of this section apply to areas that are in established use exclusively for wetland crop production as well as areas in established use for conventional wetland/non-wetland crop rotation (e.g., the rotations of rice and soybeans) where such rotation results in the cyclical or intermittent temporary dewatering of such areas.

(D) The discharge of dredged or fill material incidental to the emergency removal of sandbars, gravel bars, or other similar blockages which are formed during flows or other events, where such blockages close or constrict previously existing drainageways and, if not promptly removed, would result in damage to or loss of existing crops or would impair or prevent the plowing, seeding, harvesting or cultivating of crops on land in established use for crop production. Such removal does not include enlarging or extending the dimensions of or changing the bottom elevations of the affected drainageway or changing the bottom formation under the blockage. Removal must be accomplished within one year after such blockages are discovered in order to be eligible for exemption.

(ii) Minor drainage in waters of the United States is limited to drainage within areas that are part of an established farming or silviculture operation. It does not include drainage associated with the immediate or gradual conversion of a wetland to a non-wetland (e.g., wetland species to upland species not typically adapted to life in saturated soil conditions), or conversion from one wetland use to another (for example, silviculture to farming). In addition, minor drainage does not include the construction of any canal, ditch, dike or other waterway or structure which drains or otherwise significantly modifies a stream, lake, swamp, bog or any other wetland or aquatic area constituting waters of the United States. Any discharge of dredged or fill material into the waters of the United States incidental to the construction of any such structure or waterway requires a permit.

(4) Plowing means all forms of primary tillage, including moldboard, chisel, or wide-blade, plowing, discing, harrowing, and similar physical means used on farm, forest or ranch land for the breaking up, cutting, turning over, or stirring of soil to prepare it for the planting of crops. Plowing does not include the redistribution of spoil, rock, sand, or other surficial materials in a manner which changes any area of the waters of the United States to dryland. For example, the redistribution of surface materials by blading, grading, or other means to fill in wetland areas is not plowing. Rock crushing activities which result in the loss of natural drainage characteristics, the reduction of water storage and recharge capabilities, or the overburden of natural water filtration capacities do not constitute plowing. Plowing does not involve a discharge of dredged or fill material.

(5) Seeding means the sowing of seed and placement of seedlings to produce farm, ranch, or forest crops and includes the placement of soil beds for seeds or seedlings on established farm and forest lands.

(e) Federal projects which qualify under the criteria contained in section 404(r) of the Act are exempt from section 404 permit requirements, but may be subject to other state or federal requirements.

PART 233—STATE SECTION 404 PROGRAM ASSUMPTION REGULATIONS

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Authority: Clean Water Act, 33 U.S.C. 1251 *et seq.*

Subpart A—General

§ 233.1 Purpose and scope.

(a) This part specifies the procedures EPA will follow, and the criteria EPA will apply in approving, reviewing, and withdrawing approval of state programs under section 404 of the Act.

(b) Except as provided in § 232.3 the state program must regulate all discharges of dredged or fill material into state regulated waters. Partial state programs under section 404 are not approvable. However, in many cases states will lack authority to regulate activities on Indian lands. This lack of authority does not impair a state's ability to obtain full program approval in accordance with this part, i.e., inability of a state to regulate activities on Indian lands does not constitute a partial program. The Secretary will administer the program on Indian lands if the state does not seek authority to regulate activities on Indian lands.

(c) Nothing in this part precludes a state from adopting or enforcing requirements which are more stringent or more extensive, or from operating a program with greater scope, than required under this part. Where an approved state program has a greater scope than required by federal law, the additional coverage is not part of the federally approved program and is not subject to federal oversight.

§ 233.2 Definitions.

The definitions in Parts 230 and 232, as well as the following definitions, apply to this part.

(a) *Corps* means the U.S. Army Corps of Engineers

(b) *FWS* means the U.S. Fish and Wildlife Service

(c) *Interstate agency* means an agency of two or more states established by or under an agreement or compact approved by the Congress, or any other agency of two or more states having substantial powers or duties pertaining to the control of pollution.

(d) *NMFS* means the National Marine Fisheries Service

(e) *State* means any of the 50 states, the District of Columbia, Guam, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

(f) *State Director (Director)* means the chief administrative officer of any state or interstate agency operating an approved program, or the delegated representative of the Director. If responsibility is divided among two or more state or interstate agencies, Director means the chief administrative officer of the state or interstate agency authorized to perform the particular procedure or function to which reference is made.

(g) *State 404 Program* or *state program* means a state program which has been approved by EPA under section 404 of the Act to regulate the discharge of dredged material and fill material in certain waters as defined in § 232.3(p).

§ 233.3 Confidentiality of information.

(a) Any information submitted to EPA pursuant to these regulations may be claimed as confidential by the submitter at the time of submittal and a final determination as to that claim will be made in accordance with the procedures of 40 CFR Part 2 and paragraph (c) of this section.

(b) Any information submitted to the Director may be claimed as confidential in accordance with state law, subject to paragraphs (a) and (c) of this section

(c) Claims of confidentiality for the following information will be denied:

(1) The name and address of any permit application or permittee,

(2) Effluent data,

(3) Permit application, and

(4) Issued permit.

§ 233.4 Conflict of interest.

(a) State 404 programs shall ensure that any board or body which approves all or portions of permits shall not include as a member any person who receives, or has during the previous 2 years received, a significant portion of income directly or indirectly from permit holders or applicants for a permit.

(1) For the purposes of this paragraph:

(i) "Board or body" includes any individual, including the Director, who has or shares authority to approve all or portions of permits either in the first instance, as modified or reissued, or on appeal.

(ii) "Significant portion of income" means 10 percent or more of gross personal income for a calendar year, except that it means 50 percent or more of gross personal income for a calendar year if the recipient is over 60 years of age and is receiving that portion under retirement, pension, or similar arrangement.

(iii) "Permit holders or applicants for a permit" does not include any department or agency of a state government, such as a Department of Parks or a Department of Fish and Wildlife.

(iv) "Income" includes retirement benefits, consultant fees, and stock dividends.

(2) For the purposes of this subparagraph, income is not received "directly or indirectly from permit holders or applicants for a permit" when it is derived from mutual fund payments, or from other diversified investments for which the recipient does not know the identity of the primary sources of income.

Subpart B—Program Approval

§ 233.20 Elements of a program submission.

Any state that seeks to administer a 404 program under this part shall submit to the Regional Administrator at least two copies of the following:

(a) A letter from the Governor of the State requesting program approval.

(b) A complete program description, as set forth in § 233.21.

(c) An Attorney General's statement, as set forth in § 233.22.

(d) A Memorandum of Agreement with the Regional Administrator, as set forth in § 233.23.

(e) A Memorandum of Agreement with the Secretary, as set forth in § 233.24.

(f) Copies of all applicable state statutes and regulations

§ 233.21 Program description.

The program description, as required under § 233.20 shall include:

(a) A description of the scope and structure of the program;

(b) A description of the state permitting, administrative, judicial review, and other applicable procedures;

(c) A description of the basic organization and structure of the state agency (or agencies) which will have responsibility for administering the program. If more than one state agency is responsible for the administration of the program, the description shall address the responsibilities of each agency and how the agencies intend to coordinate administration and evaluation of the program;

(d) A description of the funding and manpower which will be available for program administration;

(e) Copies of permit appplication forms, permit forms, reporting forms;

(f) A description of the state's compliance evaluation and enforcement program;

(g) A description of the state regulated waters with a comparison of state and federal definitions of wetlands; and

(h) A description of the specific best management practices requirements proposed to be used to satisfy the exemption provisions of section 404(f)(1)(E) of the Act for construction or maintenance of farm roads, forest roads, or temporary roads for moving mining equipment.

§ 233.22 Attorney General's statement.

(a) Any state that seeks to administer a program under this part shall submit a statement from the State Attorney General (or the attorney for those states or interstate agencies which have independent legal counsel), that the laws of the state, or an interstate compact, provide adequate authority to carry out the program and meet the applicable requirements of this part. This statement shall cite specific statutes and administrative regulations which are lawfully adopted at the time the statement is signed and which shall be fully effective by the time the program is approved, and, where appropriate, judicial decisions which demonstrate adequate authority. The attorney signing the statement required by this section must have authority to represent the state agency in court on all matters pertaining to the state program.

(b) If a state seeks approval of a program covering activities on Indian lands, the statement shall contain an analysis of the state's authority over such activities.

(c) The State Attorney General's statement shall contain a legal analysis of the effect of state law regarding the prohibition on taking private property without just compensation on the successful implementation of the state's program.

(d) In those states where more than one agency has responsibility for administering the State Program, the statement must include certification that each agency has full authority to administer the program within its category of jurisdiction and that the state, as a whole, has full authority to administer a complete state section 404 program.

§ 233.23 Memorandum of Agreement with Regional Administrator.

(a) Any state that seeks to administer a program under this Part shall submit a Memorandum of Agreement executed by the Director and the Regional Administrator. The Memorandum of Agreement shall become effective when the Regional Administrator approves the state program.

(b) The Memorandum of Agreement shall set out the state and federal responsibilities for program administration and enforcement. These shall include, but not be limited to:

(1) Provisions specifying classes and categories of permit applications for which EPA will waive review (as specified in § 233.81.)

(2) Provisions specifying the frequency and content of reports, documents and other information which the state may be required to submit to EPA in addition to the annual report. The state shall also allow EPA to routinely review state records, reports and files relevant to the administration and enforcement of the approved program.

(3) Provisions addressing EPA and state roles and coordination with respect to compliance monitoring and enforcement activities.

(4) Provisions addressing modification of this Memorandum of Agreement.

§ 233.24 Memorandum of Agreement with the Secretary.

Before a state program is approved under this Part, the Director shall enter into a Memorandum of Agreement with the Secretary. The Memorandum of Agreement shall include at a minimum:

(a) A description of waters of the United States within a state over which the Secretary retains jurisdiction as identified by the Secretary;

(b) Procedures whereby the Secretary will, upon program approval, transfer to the state pending section 404 permit applications in state regulated waters and other relevant information not already in the possession of the Director.

(c) An identification of all general permits issued by the Secretary, the terms and conditions of which the state intends to administer and enforce upon receiving approval of its program, and a plan for transferring responsibility for these permits to the state.

§ 233.25 Procedures for approving state programs.

(a) The statutory review period (120 days) shall commence on the date of receipt of a complete state program submission as set out in § 233.20 of this Part. EPA shall determine whether the submission is complete within 30 days and shall notify the state of its determination.

(b) If the state significantly changes its program submission, the statutory review period shall begin again upon the receipt of a revised submission.

(c) Within 10 days of receipt of a complete state section 404 program submission, the Regional Administrator shall provide copies of the state's submission to the Corps, FWS, and NMFS (both Headquarters and appropriate Regional organizations.)

(d) After determining that a state program submission is complete, the Regional Administrator shall publish notice of the state's application in the **Federal Register**, and in enough of the largest newspapers in the state to attract statewide attention. The Regional Administrator shall mail notice to persons known to be interested in such matters. Existing state, EPA, FWS, Corp, and NMFS mailing lists may be used as a basis for this mailing. However, failure to mail all such notices shall not be grounds for invalidating approval (or disapproval) of an otherwise acceptable (or unacceptable) program. This notice shall:

(1) Provide for a comment period of not less than 45 days during which interested members of the public may express their views on the state program;

(2) Provide for a public hearing within the state to be held no less than 30 days after notice of hearing is published in the **Federal Register**;

(3) Indicate where and when the state's submission may be reviewed by the public;

(4) Indicate whom an interested member of the public should contact with any questions; and

(5) Briefly outline the fundamental aspects of the state's proposed program, and the process for EPA review and decision.

(e) Within 90 days of EPA's receipt of a complete program submission under § 233.20, the Corps, the FWS, and NMFS shall submit to EPA any comments on the state program.

(f) Within 120 days of receipt of a complete program submission under § 233.20, unless an extension is agreed to by the state, the Regional Administrator shall approve or disapprove the program based on the requirements of this Part and the Act and taking into consideration all comments received. The Regional Administrator will prepare a responsiveness summary of significant comments received and his response to these comments. The Administrator shall respond individually to comments

received from the Corps, FWS, and NMFS.

(g) If the Regional Administrator approves the state's section 404 program he or she shall notify the state and the Secretary and publish notice in the **Federal Register**. The Secretary shall suspend the issuance of section 404 permits in state regulated waters by the Corps within the State.

(h) If the Regional Administrator disapproves the state program based on the requirements of this Part and the Act, the Regional Administrator shall notify the state of the reasons for the disapproval and of any revisions or modifications to the state program which are necessary to obtain approval.

§ 233.26 Procedures for revision of state programs.

(a) The state must keep the Regional Administrator informed of any changes to the state's statutory or regulatory authority or any other changes which are significant to administration of the program.

(b) Any approved program which requires revision because of a modification to this Part or to any other applicable federal regulation shall be revised within 1 year of the date of promulgation of such regulation, except that if a state must amend or enact a statute in order to make the required revision, the revision shall take place within two years;

(c) If the state transfers all or part of the responsibility for administration of the state program to any other state agency, the agency to which the program is transferred is not authorized to administer the program until approved under paragraph (d)(2) of this section.

(d) Approval of revision of a state program shall be accomplished as follows:

(1) The state shall submit a modified program description, or other documents which the Regional Administrator determines to be necessary to evaluate whether the program complies with the requirements of this part.

(2) Notice of approval of program changes which are not substantial revisions may be given by a letter from the Regional Administrator to the State Governor or his designee.

(3) Whenever the Regional Administrator determines that the proposed revision is substantial, he shall publish notice, provide opportunity for a public hearing on the proposed revision, and consult with the Corps, FWS, and NMFS. The Regional Administrator shall approve or disapprove the proposed revision based on the requirements of this part and of the Act and shall publish notice of his decision in the **Federal Register**. For purpose of this paragraph, substantial revisions include, but are not limited to, revisions such as those that affect the area of jurisdiction, scope of activities regulated, criteria for review of permits, public participation, or enforcement capability.

(4) Substantial program changes shall become effective upon the approval of the Regional Administrator.

(e) Whenever the Regional Administrator has reason to believe that circumstances have changed with respect to a state program, he may request, and the state shall provide, a supplemental Attorney General's statement, program description, or such other documents or information as are necessary to evaluate the program's compliance with this part and the Act.

Subpart C—Permit Requirements

§ 233.40 Prohibitions.

No permit shall be issued by the Director in the following circumstances:

(a) When the permit does not comply with the requirements of the Act, or regulations thereunder, including the section 404(b)(1) Guidelines (Part 230 of this Chapter);

(b) When the Regional Administrator has objected to issuance of the permit under § 233.80 and the objection has not been resolved;

(c) When the proposed discharge would be in an area which has been prohibited, withdrawn, or denied as a disposal site by the Administrator under section 404(c) of the Act, or when the discharge would fail to comply with a restriction imposed thereunder.

(d) If the Secretary determines, after consultation with the Secretary of the Department in which the Coast Guard is operating, that anchorage and navigation of any of the navigable waters would be substantially impaired.

§ 233.41 General permits.

(a) Under section 404(h)(5) of the Act, states may, after program approval, administer and enforce general permits previously issued by the Secretary in state regulated waters.

(b) The Director may issue a general permit for categories of similar activities if he determines that the regulated activities will cause only minimal adverse environmental effects when performed separately and will have only minimal cumulative adverse effects on the environment. Any general permit issued shall be in compliance with the section 404(b)(1) Guidelines.

(c) In addition to the conditions specified in § 233.43, each general permit shall contain:

(1) A description of the type(s) of activities which are authorized, including limitations for any single operation. The description should be detailed enough to ensure that the requirements of paragraph (b) of this section are met. (This subparagraph supercedes § 233.43(c)(1) for general permits.)

(2) A precise description of the geographic area to which the general permit applies, including limitations on the type(s) of water where operations may be conducted sufficient to ensure that the requirements of paragraph (b) of this section are met.

(d) Prenotification or reporting requirements may be required by the Director on a permit-by-permit basis as appropriate.

(e) The Director may, without revoking the general permit, require any person under a general permit to apply for an individual permit.
This discretionary authority will be based on concerns for the aquatic environment as expressed in the 404(b)(1) Guidelines (40 CFR Part 230). This provision in no way affects the legality of activities undertaken pursuant to the general permit prior to notification by the Director of such requirement.

§ 233.42 Emergency permits.

(a) Notwithstanding any other provision of this Part the Director may issue a temporary emergency permit for a discharge of dredged or fill material if unacceptable harm to life or severe loss of property is likely to occur before a permit could be issued or modified under procedures normally required.

(b) Emergency permits shall include limitations as to duration (typically 90 days), restoration, and scope of activity.

(c) The emergency permit may be terminated at any time with out process (§ 233.66) if the Director determines that termination is necessary to protect human health or the environment.

(d) The Director shall consult by telephone with the Regional Administrator, Corps, FWS and NMFS about issuance of an emergency permit.

(e) The emergency permit may be oral or written. If oral, it must be followed within 5 days by a written emergency permit. A copy of the written permit shall be sent to the Regional Administrator.

(f) Notice of the emergency permit shall be published and public comments solicited in accordance with § 233.62 as soon as possible but not later than 10 days after the issuance date.

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§ 233.43 Permit conditions.

(a) For each permit the Director shall establish conditions which assure compliance with all applicable statutory and regulatory requirements, including the 404(b)(1) Guidelines, applicable state water quality standards and relevant national toxic effluent guidelines.

(b) Section 404 permits shall be effective for a fixed term not to exceed 5 years.

(c) Each 404 permit shall include conditions meeting or implementing the following requirements:

(1) A specific identification and complete description of the authorized activity including name and address of permittee, location of discharge and type(s) and amount(s) of material to be discharged. (This section is not applicable to general permits.)

(2) Only the activities specifically described in the permit are authorized.

(3) Duty to comply with all conditions of the permit even if that requires halting or reducing the permitted activity to maintain compliance.

(4) The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

(5) Duty to inform the Director of any known actual or expected noncompliance.

(6) Duty to provide such information to the Dirctor as he requests to determine compliance status or whether cause exists for permit modification.

(7) Monitoring, reporting and recordkeeping requirements as needed to safeguard the aquatic environment. (Such requirements will be determined on a case-by-case basis but at a minimum shall include monitoring and reporting of leachates, reporting of noncompliance, planned changes, or transfer.)

(8) Inspection and Entry. The permittees shall allow the Director, or an authoarized representative, at reasonable times to:

(i) Enter upon the permittee's premises where a regulated activity is located or where records must be kept under the conditions of the permits;

(ii) Have access to, and copy, any records that must be kept under the conditions of the permit;

(iii) Inspect operations regulated or required under the permit; and

(iv) Sample or monitor, for the purposes of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

§ 233.44 Effect of a permit.

(a) The issuance of a permit does not convey any property rights of any sort, or any exclusive privilege.

(b) The issuance of a permit does not authorize any injury to persons or property or invasion of other private rights, or any infringement of state or local law or regulations.

(c) The issuance of a permit does not preempt any federal, state, or local law or requirement.

Subpart D—Program Operation

§ 233.60 Application for a permit.

(a) Except when an activity is authorized by a general permit issued pursuant to § 233.41 or is exempt from the requirements to obtain a permit under § 232.3, any person who proposes to discharge dredged or fill material into state regulated waters shall complete, sign, and submit a permit application to the Director. Persons proposing to discharge dredged or fill material under the authorization of a general permit must comply with any reporting requirement of the general permit.

(b) A complete application shall include:

(1) Name, address, telephone number of the applicant and name(s) and address(es) of adjoining property owners, if known.

(2) A complete description of the proposed activity including such information as project location, purpose, a description of the completed project, maps and site plans, and alternatives.

(3) Information about the discharge material and the disposal site needed to evaluate compliance with 40 CFR Part 230, including: (i) Origin and composition of the discharge material, (ii) the physical, chemical, and biological characteristics and uses of the disposal site.

(c) The level of detail shall be reasonably commensurate with the type and size of discharge, proximity to critical areas, likelihood of presence of long-lived toxic chemical substances, and potential level of environmental degradation.

Note.—EPA encourages states to provide permit applicants guidance regarding the level of detail of information and documentation required under this subsection. This guidance can be provided either through the application form or on an individual basis. The state is also encouraged to advise the applicant of any other federal, state, or local approvals which are required for the project.

§ 233.61 Coordination requirements.

(a) If a state has a statewide section 208(b)(4) regulatory program, the Director shall assure that the 404 and 208(b)(4) programs complement and are coordinated with each other. The Director shall clearly define the geographic coverage and the activities covered by the 208(b)(4) regulatory program(s) in the state.

(b) State section 404 permits shall be coordinated with federal and federal-state water related planning and review processes.

(c) The state shall have a Continuing Planning Process approved under section 303(e) of the Act.

(d) If a proposed discharge may affect the biological, chemical or physical integrity of the waters of any state(s) other than the state in which the discharge occurs, the Director shall provide an opportunity for such state(s) to submit written comments within the public comment period and to suggest additional permit conditions. If these recommendations are not accepted by the Director, he shall notify the affected state and the Regional Administrator in writing of his failure to accept these recommendations, together with his reasons for so doing.

Note.—States are encouraged to receive and use information developed by the FWS as part of the National Wetlands Inventory as it becomes available.

§ 233.62 Public notice.

(a) *Scope.* (1) The Director shall give public notice of the following actions:

(i) Receipt of a permit application.

(ii) Preparation of a draft general permit.

(iii) Consideration of a major modification to a permit.

(iv) Scheduling of a public hearing.

(2) Public notices may describe more than one permit or action.

(b) *Timing.* (1) Public notice of a permit application or the preparation of a draft general permit shall allow at least 30 days for public comment.

(2) Public notice of public hearing shall be given at least 30 days before the hearing.

(3) The Regional Administrator may approve a program with shorter public notice timing if the Regional Administrator determines that sufficient public notice is provided for.

(c) *Methods.* Public notice of activities described in paragraph (a)(1) of this section shall be given by the following methods:

(1) By mailing a copy of a notice to the following persons (any person otherwise entitled to receive notice under this paragraph may waive his or her rights to receive notice for any classes and categories of permits):

(i) The applicant.

(ii) Any state agency with jurisdiction over the activity or the disposal site, whether or not the agency issues a permit.

(iii) Any reasonably ascertainable owner of property adjoining the property where the regulated activity will occur.

(iv) Persons on appropriate existing mailing lists.

(v) Any state or areawide agency responsible for plan development under sections 208(b)(2), 208(b)(4), or 303(e) of the Act.

(vi) Any state whose waters may be affected by the proposed discharge.

(2) By providing notice in such ways reasonably calculated to cover the area affected by the activity.

(d) All public notices shall contain the following minimum information:

(1) Name and address of the office processing the permit in question;

(2) Name and address of the permit applicant and, if different, the address or location of the activity(ies) regulated by the permit;

(3) The name, address and telephone number of a person to contact for further information;

(4) A brief description of the comment procedures and procedures to request public hearing;

(5) A complete description of the proposed activity(ies), including purpose, location, scope, type and quantity of materials, and reasonably foreseeable environmental effects.

(6) The name and water quality standards classification, if applicable, of the receiving waters into which the discharge is proposed.

(e) During the public comment period any interested person may submit written comments on the draft general permit or the 404 permit application.

(f) Notice of public hearing shall also contain the following information.

(1) Reference to the date of any pervious public notices relating to the permit;

(2) Time, date and place of hearing;

(3) Brief description of the nature and purpose of the hearing.

§ 233.63 Public hearing.

(a) Any interested person may request a public hearing during the public comment period as specified in § 233.62. Requests shall be in writing and shall state the nature of the issues proposed to be raised at the hearing.

(b) The Director shall hold a public hearing whenever he determines there is a significant degree of public interest in a permit application or a draft general permit(s). He may also hold a hearing, at his discretion, whenever he determines a hearing may be useful to a decision on the permit application.

(c) Any person may submit oral or written statements and data concerning the permit application or draft general permit. The public comment period shall automatically be extended to the close of any public hearing under this section. The Presiding Officer may also extend the comment period at the hearing.

(d) A tape recording or written transcript of the hearing shall be made.

§ 233.64 Making a decision on the permit application.

(a) The Director will review all applications for compliance with the 404(b)(1) Guidelines and/or equivalent state environmental criteria as well as any other applicable state laws.

(b) The Director will consider all comments received in response to the public notice and public hearing, if a hearing is held. All comments, as well as the record of any public hearing, will be made part of the official file on the application.

(c) After the Director has completed his review of the permit application and consideration of comments, the Director will determine in accordance with the record and applicable regulations whether or not the permit should be issued. No permit shall be issued by the Director in circumstances which do not meet the requirements in § 233.4. The Director shall prepare a written determination on each application outlining his decision and the rationale for the decision, including a response to comments. The determination shall be dated, signed, and included in the official record prior to final action on the application. The official record shall be open to the public.

§ 233.65 Issuance and effective date of permit.

(a) If the Regional Administrator comments on a permit application or draft general permit under § 233.80, the Director shall follow the procedures specified in that section.

(b) If the Regional Administrator does not comment on a permit application or draft general permit, the Director shall make a final permit decision after the close of the public comment period and shall notify the applicant.

(1) If the decision is to issue a permit, the permit becomes effective when it is signed by the Director and the applicant.

(2) If the decision is to deny the permit, the Director will notify the applicant in writing of the reason(s) for denial.

§ 233.66 Modification, suspension or revocation of permits.

(a) *General.* The Director may reevaluate the circumstances and conditions of a permit either on his own motion, or at the request of the permittee or of a third party and initiate action to modify, suspend, or revoke a permit if he determines that sufficient cause exists. The factors to be considered in determining sufficient cause include any of the following:

(1) Permittee's noncompliance with any of the terms and conditions of the permit;

(2) The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time;

(3) Information that activities authorized by a general permit are having more than minimal individual or cumulative adverse effect on the environment, or that the permitted activities are more appropriately regulated by individual permits;

(4) Circumstances relating to the authorized activity have changed since the permit was issued, and justify changed permit conditions or temporary or permanent cessation of any discharge controlled by the permit;

(5) Any significant information relating to the activity authorized by the permit if such information was not available at the time the permit was issued and would have justified the imposition of different permit conditions or denial at the time of issuance.

(6) Revisions to applicable statutory or regulatory authority, including toxic effluent standards or prohibitions or water quality standards.

(b) *Procedures.* (1) Except as provided in paragraph (b)(2) of this section, when the Director initiates action to revoke a permit, reinstate it, or to reissue it with modification, he shall follow the procedures for processing a permit application or draft general permit. When permit modification is proposed, only the conditions subject to modification need be reopened.

(2) *Minor modifications of permits.* The Director may, upon the consent of the permittee, use abbreviated procedures to modify a permit to make the following corrections or allowance for changes in the permitted activity:

(i) Correct typographical errors;

(ii) Require more frequent monitoring or reporting by the permittee;

(iii) Allow for a change in ownership or operational control of a project or activity where the Director determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the

current and new permittees has been submitted to the Director.

(iv) Minor modification of project plans that do not significantly change the character, scope, and/or purpose of the project or result in significant change in environmental impact.

(v) Extent the term of a permit, so long as the modification does not extend the term of the permit beyond 5 years from its original effective date, and does not result in any increase in the amount of dredged or fill material to be discharged.

(c) *Suspension.* Nothing in these regulations prohibits the Director from suspending a permit after preparing a written determination and finding that immediate suspension is needed to protect against imminent threats to human health or imminent and significant environmental damage. The Director will notify the permittee in writing, by the most expeditious means available, that the permit has been suspended with the reasons therefore, and order the permittee to stop those activities previously authorized by the suspended permit. The permittee will also be advised that following this suspension, a decision will be made to revoke, reinstate, or reissue the permit with modification, following the procedures in paragraph (b).

§ 233.67 Signatures on permit applications and reports.

(a) All permit applications shall be signed as follows:

(1) For a corporation: by a responsible corporate officer. For the purposes of this section, a responsible corporate officer means: (i) A president, secretary, treasurer, vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25,000,000 (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with the applicant's corporate procedures.

(2) For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

(3) For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official.

(4) For an individual: By the owner of the property and, if different, by the person who desires to undertake the proposed activity.

(b) All reports required by permits, and other information requested by the Director, shall be signed by a person described in paragraph (a) of this section, or by a duly authorized representative of that person. A person is a duly authorized representative only if: (1) The authorization is made in writing to the Director by a person described in subsection (a) of this section, and (2) the authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of project foreman, or position of equivalent responsibility.

(c) *Changes to authorization.* If an authorization under paragraph (b) of this section is no longer accurate, a new authorization must be submitted to the Director prior to or together with any reports, information, or applications to be signed by an authorized representative.

(d) Any person signing a document under subsections (a) or (b) of this section shall make the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

§ 233.68 Continuation of expiring permits.

A Corps 404 permit does not continue in force beyond its expiration date under federal law if, at that time, a state is the permitting authority. States authorized to administer the 404 Program may continue Corps or state-issued permits until the effective date of the new permits, if state law allows. Otherwise, the discharge is being conducted without a permit from the time of expiration of the old permit to the effective date of a new state-issued permit, if any.

Subpart E—Compliance Evaluation and Enforcement

§ 233.70 Requirements for compliance evaluation program.

(a) In order to abate violations of the permit program, the state shall maintain a program designed to identify persons subject to regulation who have failed to obtain a permit or to comply with permit conditions.

(b) The Director and state officers engaged in compliance evaluation shall have authority to enter any site or premises subject to regulation or in which records relevant to program operation are kept in order to copy any records, inspect, monitor or otherwise investigate compliance with the state program.

(c) The state program shall provide for inspections to be conducted, samples to be taken and other information to be gathered in a manner that will produce evidence admissible in an enforcement proceeding.

(d) The state shall maintain a program for receiving and ensuring proper consideration of information submitted by the public about violations.

§ 233.71 Requirements for enforcement authority.

(a) Any state agency administering a program shall have authority:

(1) To restrain immediately and effectively any person from engaging in any unauthorized activity;

(2) To sue to enjoin any threatened or continuing violation of any program requirement;

(3) To assess or sue to recover civil penalties and to seek criminal remedies, as follows:

(i) The agency shall have the authority to assess or recover civil penalties for discharges of dredged or fill material without a required permit or in violation of any 404 permit condition in an amount of at least $5,000 per day of such violation.

(ii) The agency shall have the authority to seek criminal fines against any person who willfully or with criminal negligence discharges dredged or fill material without a required permit or violates any standard or limitation of any permit issued under section 404 in the amount of at least $10,000 per day of such violation.

(iii) The agency shall have the authority to seek criminal fines against any person who knowingly makes false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under section 404 of the Act, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under the permit, in an amount of at least $5,000 for each instance of violation.

(b) The maximum civil penalty or criminal fine may be assessed for each violation and, if the violation is continuous, shall be assessable up to the

maximum amount for each day of violation.

(c) The civil penalty assessed, sought, or agreed upon by the Director under § 233.71(a)(3) shall be appropriate to the violation.

Note.— To the extent that state judgments or settlements provide penalties in amounts which EPA believes to be subtantially inadequate in comparison to the amounts which EPA would require under similar facts, EPA may, when authorized by section 309 of the Act, commence separate action for penalties.

(d) The Regional Administrator may approve a state program where the state lacks authority to recover penalties of the levels required under paragraph (a)(3)(i)-(iii) of this section only if the Regional Administrator determines that the state has an alternate, demonstrably effective method of ensuring compliance.

(e) Any state administering a program shall provide for public participation in the state enforcement process by providing either:

(1) Authority which allows intervention as a right in any civil or administrative action to obtain remedies specified in paragraph (a)(3), of this section by any citizen having an interest which is or may be adversely affected; or

(2) Assurance that the state agency or enforcement authority will:

(i) Investigate and provide written responses to all citizen complaints submitted pursuant to state procedures.

(ii) Not oppose intervention by any citizen when permissive intervention may be authorized by statute, rule, or regulation; and

(iii) Publish notice of and provide at least 30 days for public comment on any proposed settlement of a state enforcement action.

§ 233.72 Program reporting.

(a) The Director shall submit to the Regional Administrator within 90 days after completion of the annual period, a draft annual report evaluating the state's administration of its program, identifying problems the state has encountered in the administration of its program and recommendations for resolving these problems. Items that should be addressed in the annual report include an assessment of the cumulative impacts of the state's permit program on the integrity of the state regulated waters; and evaluation of trends within the state regulated waters; identification of areas of particular concern and/or interest within the state; the number and nature of individual and general permits issued, modified, denied; number and nature of enforcement actions taken; and an estimation of extent of activities regulated by general permits.

(b) Within 30 days or receipt of the draft annual report, the Regional Administrator will complete review of the report and transmit comments, questions, and requests for additional evaluation and/or information to the State Director.

(c) Within 30 days of receipt of the Regional Administrator's comments, the Director will finalize the annual report, incorporating and/or responding to the Regional Administrator's comments, and transmit the final report to the Regional Administrator.

(d) Upon acceptance of the annual report, the Regional Administrator shall publish notice of availability of the final annual report in the **Federal Register.**

(e) The period for annual reports shall be established in the Memorandum of Agreement with the Regional Administrator (§ 233.23.)

Subpart F—Federal Oversight

§ 233.80 Review of and objection to state permits.

(a) The Director shall promptly transmit to the Regional Administrator:

(1) A copy of the public notice for any complete permit applications received by the Director, except those for which permit review has been waived under § 233.81. The state shall supply the Regional Administrator with copies of public notices for permit applications for which permit review has been waived whenever requested by EPA.

(2) Notice of every significant action taken by the state agency related to the consideration of any permit application.

(3) A copy of a draft general permit whenever the state intends to issue a general permit.

(4) A copy every issued permit.

(b) The Regional Administrator shall provide a copy of each public notice for which review has not been waived under § 233.81 and each draft general permit to the Corps, FWS, and NMFS, within 10 days of receipt. These agencies shall notify the Regional Administrator within 15 days of their receipt if they wish to comment on the public notice or draft general permit. Such agencies should submit their evaluation and comments to the Regional Administrator within 50 days of such receipt. The final decision to comment, object or to require permit conditions shall be made by the Regional Administrator. (These times may be shortened by mutual agreement of the affected agencies and the state.)

(c) If the information provided is inadequate to determine whether the permit application or draft general permit meets the 404(b)(1) Guidelines and requirements of the Act, the Regional Administrator may, within 30 days of receipt, request the Director to transmit to the Regional Administrator the complete record of the permit proceeding before the state, or any portions of the record, or other information, including a supplemental application, that the Regional Administrator determines are necessary for review.

(d) If the Regional Administrator intends to comment upon, object to, or make recommendations with respect to a permit application or draft general permit, he shall notify the Director of his intent within 30 days of receipt. If the Director has been so notified, the permit shall not be issued until after the receipt of such comments or 90 days of the Regional Administrator's receipt of the public notice or draft general permit, whichever comes first.

(e) If the Regional Administrator has given notice to the Director under subsection (d) of this section, he shall submit to the Director, within 90 days of receipt of the public notice or draft general permit, a written statement of his comments, objections, recommendations, the reasons for the comments, objections, or recommendations; and the actions that must be taken by the Director in order to eliminate any objections. Any such objection shall be based on the requirements of section 404, including the 404(b)(1) Guidelines. The Regional Administrator shall make available a copy of any comment, objection, or recommendation to the permit applicant.

(f) When the Director has received an EPA objection to a permit application or draft general permit under this section, he shall not issue the permit unless he has taken the steps required by the Regional Administrator to eliminate the objection.

(g) Within 90 days of receipt by the Director of an objection by the Regional Administrator, the state or any interested person may request that the Regional Administrator hold a public hearing on the objection. The Regional Administrator shall conduct a public hearing whenever requested by the state proposing to issue the permit, or if warranted by significant public interest based on requests received.

(h) If a public hearing is held under paragraph (g) of this section, the Regional Administrator shall, following that hearing, reaffirm, modify, or withdraw the objection, and notify the Director of this decision.

(1) If the Regional Administrator withdraws his objection, the Director may issue the permit.

(2) If the Regional Administrator does not withdraw the objection, the Director must issue a permit revised to satisfy the Regional Administrator's objection or notify EPA of its intent to deny the permit within 30 days of receipt of the Regional Administrator's notification.

(i) If no public hearing is held, under paragraph (g) of this section, the Director within 90 days of receipt of the objection either issue the permit revised to satisfy EPA's objections or notify EPA of its intent to deny the permit.

(j) In the event that the Director neither satisfies EPA's objections nor denies the permit, the Secretary shall process the permit application according to the procedures set forth in 33 CFR Part 325.

§ 233.81 Waiver of review.

(a) The MOA with the Regional Administrator shall specify the categories of discharge for which EPA will waive federal review of state permit applications. After program approval, the MOA may be modified when appropriate to specify additional categories of discharge for which EPA will waive review. In either case, the Regional Administrator shall consult with the Corps, FWS, and NMFS prior to specifying such categories.

(b) With the following exceptions, any category of discharge is eligible for consideration for waiver:

(1) General permits;

(2) Discharges with reasonable potential for affecting endangered or threatened species as determined by FWS;

(3) Discharges with reasonable potential for adverse impacts on waters of another state;

(4) Discharges known or suspected to contain toxic pollutants in toxic amounts (303(a)(1) of the Act) or hazardous substances in reportable quantities (311 of the Act);

(5) Discharges located in proximity of a public water supply intake;

(6) Discharges within critical area established under state or federal law, including but not limited to national and state parks, fish and wildlife sanctuaries and refuges, wilderness areas and preserves, sites identified or proposed under the National Historic Preservation Act, components or proposed components of the National Wild and Scenic Rivers System.

(c) The Regional Administrator retains the right to terminate a waiver as to future permit actions at any time by sending the Director written notice of termination.

§ 233.82 Withdrawal of program approval.

(a) A state with a program approved under this part may voluntarily transfer program responsibilities required by federal law to the Secretary by taking the following actions, or in such other manner as may be agreed upon with the Administrator.

(1) The state shall give the Administrator and the Secretary 180 days notice of the proposed transfer. The state shall also submit a plan for the orderly transfer of all relevant program information not in the possession of the Secretary (such as permits, permit files, reports, permit applications) which are necessary the Secretary to administer the program.

(2) Within 60 days of receiving the notice and transfer plan, the Administrator and the Secretary shall evaluate the state's transfer plan and shall identify for the state any additional information needed by the federal government for program administration.

(3) At least 30 days before the transfer is to occur the Administrator shall publish notice of transfer in the Federal Register and in a sufficient number of the largest newspapers in the state to provide statewide coverage, and shall mail notice to all permit holders, permit applicants, other regulated persons and other interested persons on appropriate EPA, Corps and state mailing lists.

(b) The Administrator may withdraw program approval when a state program no longer complies with the requirements of this Part, and the state fails to take corrective action. Such circumstances include the following:

(1) When the state's legal authority no longer meets the requirements of this part, including:

(i) Failure of the state to promulgate or enact new authorities when necessary; or

(ii) Action by a state legislature or court striking down or limiting state authorities.

(2) When the operation of the state program fails to comply with the requirements of ths part, including:

(i) Failure to exercise control over activities required to be regulated under this part, including failure to issue permits;

(ii) Issuance of permits which do not conform to the requirements of this part; or

(iii) Failure to compy with the public participation requirements of this part.

(3) When the state's enforcement program fails to comply with the requirements of this part, including:

(i) Failure to act on violations of permits or other program requirements;

(ii) Failure to seek adequate enforcement penalties or to collect administrative fines when imposed, or to implement alternative enforcement methods approved by the Administrator; or

(iii) Failure to inspect and monitor activities subject to regulation.

(4) When the state program fails to comply with the terms of the Memorandum of Agreement required under § 233.23.

(c) The following procedures apply when the administrator orders the commencement of proceedings to determine whether to withdraw approval of a state program:

(1) *Order.* The Administrator may order the commencement of withdrawal proceedings on his or her own initiative or in response to a petition from an interested person alleging failure of the state to comply with the requirements of this Part as set forth in § 233.33. The Administrator shall respond in writing to any petition to commence withdrawal proceedings. He may conduct an informal review of the allegations in the petition to determine whether cause exists to commence proceedings under this paragraph. The Administrator's order commencing proceedings under this paragraph shall fix a time and place for the commencement of the hearing and shall specify the allegations against the state which are to be considered at the hearing. Within 30 days the state shall admit or deny these allegations in a written answer. The party seeking withdrawal of the state's program shall have the burden of coming forward with the evidence in a hearing under this paragraph.

(2) *Definition.* For purposes of this paragraph the definition of "Administrative Law Judge," "Hearing," "Hearing Clerk," and "Presiding Officer" in 40 CFR 22.03 apply in addition to the following:

(i) "Party" means the petitioner, the state, the Agency, and any other person whose request to participate as a party is granted.

(ii) "Person" means the Agency, the state and any individual or organization having an interest in the subject matter of the proceedings.

(iii) "Petitioner" means any person whose petition for commencement of withdrawal proceedings has been granted by the Administrator.

(3) Procedures.

(i) The following provisions of 40 CFR Part 22 [Consolidated Rules of Practice] are applicable to proceedings under this paragraph:

(A) § 22.02—(use of number/gender);

(B) § 22.04(c)—(authorities of Presiding Officer);
(C) § 22.06—(filing/service of rulings and orders);
(D) § 22.09—(examination of filed documents);
(E) § 22.19(a), (b) and (c)—(prehearing conference);
(F) § 22.22—(evidence);
(G) § 22.23—(objections/offers of proof);
(H) § 22.25—(filing the transcript); and
(I) § 22.26—(findings/conclusions).
(ii) The following provisions are also applicable:
(A) Computation and extension of time.
(*1*) Computation. In computing any period of time prescribed or allowed in these rules of practice, except as otherwise provided, the day of the event from which the designated period begins to run shall not be included. Saturdays, Sundays, and Federal legal holidays shall be included. When a stated time expires on a Saturday, Sunday or legal holiday, the stated time period shall be extended to included the next business day.
(*2*) Extensions of time. The Administrator, Regional Administrator, or Presiding Officer, as appropriate, may grant an extension of time for the filing of any pleading, document, or motion: (*i*) Upon timely motion of a party to the proceeding, for good cause shown and after consideration of prejudice to other parties, or (*ii*) upon his own motion. Such a motion by a party may only be made after notice to all other parties, unless the movant can show good cause why serving notice is impracticable. The motion shall be filed in advance of the date on which the pleading, document or motion is due to be filed, unless the failure of a party to make timely motion for extension of time was the result of excusable neglect.
(*3*) The time for commencement of the hearing shall not be extended beyond the date set in the Administrator's order without approval of the Administrator.
(B) Ex parte discussion of proceeding. At no time after the issuance of the order commencing proceedings shall the Administrator, Regional Administrator, Judicial Officer, Regional Judicial Officer, Presiding Officer, or any other person who is likely to advise these officials in the decisions on the case, discuss ex parte the merits of the proceeding with any interested person outside the Agency, with any Agency staff member who performs a prosecutorial or investigative function in such proceeding or a factually related proceeding, or with any representative of such person. Any ex parte memorandum or other communication addressed to the Administrator, Regional Administrator, Judicial Officer, Regional Judical Officer, or the Presiding Officer during the pendency of the proceeding and relating to the merits thereof, by or on behalf of any party shall be regarded as argument made in the proceeding and shall be served upon all other parties. The other parties shall be given an opportunity to reply to such memorandum or communication.
(C) *Intervention.*—(*1*) *Motion.* A motion for leave to intervene in any proceeding conducted under these rules of practice must set forth the grounds for the proposed intervention, the position and interest of the movant and the likely impact that intervention will have on the expeditious progress of the proceeding. Any person already a party to the proceeding may file an answer to a motion to intervene, making specific reference to the factors set forth in the foregoing sentence and paragraph (b)(3)(ii)(C)(*3*) of this section, within ten (10) days after service of the motion for leave to intervene.
(*2*) However, motions to intervene must be filed within 15 days from the date the notice of the Administrator's order is first published.
(*3*) *Disposition.* Leave to intervene may be granted only if the movant demonstrates that: (*i*) His presence in the proceeding would not unduly prolong or otherwise prejudice the adjudication of the rights of the original parties; (*ii*) the movant will be adversely affected by a final order; and (*iii*) the interests of the movant are not being adequately represented by the original parties. The intervenor shall become a full party to the proceeding upon the granting of leave to intervene.
(*4*) *Amicus curiae.* Persons not parties to the proceeding who wish to file briefs may so move. The motion shall identify the interest of the applicant and shall state the reasons why the proposed amicus brief is desirable. If the motion is granted, the Presiding Officer or Administrator shall issue an order setting the time for filing such brief. An amicus curiae is eligible to participate in any briefing after his motion is granted, and shall be served with all briefs, reply briefs, motions, and orders relating to issues to be briefed.
(D) *Motions*—(1) *General.* All motions, except those made orally on the record during a hearing, shall: (*i*) Be in writing; (*ii*) state the grounds therefor with particularity; (*iii*) set forth the relief or order sought; and (*iv*) be accompanied by any affidavit, certificate, other evidence, or legal memorandum relied upon. Such motions shall be served as provided by (b)(4) of this section.
(2) *Response to motions.* A party's response to any written motion must be filed within ten (10) days after service of such motion, unless additional time is allowed for such response. The response shall be accompanied by any affidavit, certificate, other evidence, or legal memorandum relied upon. If no response is filed within the designated period, the parties may be deemed to have waived any objection to the granting of the motion. The Presiding Officer, Regional Administrator, or Administrator, as appropriate, may set a shorter time for response, or make such other orders concerning the disposition of motions as they deem appropriate.
(*3*) *Decision.* The Administrator shall rule on all motions filed or made after service of the recommended decision upon the parties. The Presiding Officer shall rule on all other motions. Oral argument on motions will be permitted where the Presiding Officer, Regional Administrator, or the Administrator considers it necessary or desirable.
(*4*) *Record of proceedings.* (*i*) The hearing shall be either stenographically reported verbatim or tape recorded, and thereupon transcribed by an official reporter designated by the Presiding Officer;
(*ii*) All orders issued by the Presiding Officer, transcripts of testimony, written statements of position, stipulations, exhibits, motions, briefs, and other written material of any kind submitted in the hearing shall be a part of the record and shall be available for inspection or copying in the Office of the Hearing Clerk, upon payment of costs. Inquiries may be made at the Office of the Administrative Law Judges, Hearing Clerk, 401 M Street, SW., Washington, D.C. 20460;
(*iii*) Upon notice to all parties the Presiding Officer may authorize corrections to the transcript which involve matters of substance;
(*iv*) An original and two (2) copies of all written submissions to the hearing shall be filed with the Hearing Clerk;
(*v*) A copy of each such submission shall be served by the person making the submission upon the Presiding Officer and each party of record. Service under this paragraph shall take place by mail or personal delivery;
(*vi*) Every submission shall be accompanied by an acknowledgement of service by the person served or proof of service in the form of a statement of the date, time and manner of service and the names of the persons served, certified by the person who made service; and
(*vii*) The Hearing Clerk shall maintain and furnish to any person upon request,

a list containing the name, service address, and telephone number of all parties and their attorneys or duly authorized representatives.

(5) *Participation by a person not a party.* A person who is not a party may, in the discretion of the Presiding Officer, be permitted to make a limited appearance by making an oral or written statement of his/her position on the issues within such limits and on such conditions as may be fixed by the Presiding Officer, but he/she may not otherwise participate in the proceeding.

(6) *Rights of parties.* (*i*) All parties to the proceeding may:

(*A*) Appear by counsel or other representative in all hearing and pre-hearing proceedings;

(*B*) Agree to stipulations of facts which shall be made a part of the record.

(7) *Recommended decision.* (*i*) Within 30 days after the filing of proposed findings and conclusions and reply briefs, the Presiding Officer shall evaluate the record before him/her, the proposed findings and conclusions and any briefs filed by the parties and shall prepare a recommended decision, and shall certify the entire record, including the recommended decision, to the Administrator.

(*ii*) Copies of the recommended decision shall be served upon all parties.

(*iii*) Within 20 days after the certification and filing of the record and recommended decision, all parties may file with the Administrator exceptions to the recommended decision and a supporting brief.

(8) *Decision by Administrator.* (*i*) Within 60 days after certification of the record and filing of the Presiding Officer's recommended decision, the Administrator shall review the record before him and issue his own decision.

(*ii*) If the Administrator concludes that the State has administered the program in conformity with the Act and this part, his decision shall constitute "final agency action" within the meaning of 5 U.S.C. § 704.

(*iii*) If the Administrator concludes that the State has not administered the program in conformity with the Act and regulations, he shall list the deficiencies in the program and provide the State a reasonable time, not to exceed 90 days, to take such appropriate corrective action as the Administrator determines necessary.

(*iv*) Within the time prescribed by the Administrator the State shall take such appropriate corrective action as required by the Administrator and shall file with the Administrator and all parties a statement certified by the State Director that appropriate corrective action has been taken.

(*v*) The Administrator may require a futher showing in addition to the certified statement that corrective action has been taken.

(*vi*) If the State fails to take appropriate corrective action and file a certified statement thereof within the time prescribed by the Administrator, the Administrator shall issue a supplementary order withdrawing approval of the State program. If the State takes appropriate corrective action, the Administrator shall issue a supplementary order stating that approval of authority is not withdrawn.

(*vii*) The Administrator's supplementary order shall constitute final Agency action within the meanings of 5 U.S.C. 704

(d) Withdrawal of authorization under this section and the Act does not relieve any person from complying with the requirements of State law, nor does it affect the validity of actions taken by the State prior to withdrawal.

[FR Doc. 84-25935 Filed 10-1-84; 8:45 am]

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federal register

Tuesday
October 2, 1984

Part III

Department of Energy

Federal Energy Regulatory Commission

18 CFR Part 271
Collection of Section 110 Allowances After January 1, 1985; Proposed Rule

VOL 49 ISS 192 OCT 2 1984 UMI

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM84-22-000]

Collection of Section 110 Allowances After January 1, 1985

September 28, 1984.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is proposing to amend its regulations issued under section 110 of the Natural Gas Policy Act of 1978 (NGPA). The Commission proposes only to update the years that govern cost-of-service data employed to compute the amounts to be collected for costs incurred to perform certain production-related activities.

DATE: An original and 14 copies of comments must be filed by November 1, 1984. A public hearing will be held on October 11, 1984. Requests to participate in the public hearing must be submitted by October 9, 1984.

ADDRESS: All filings should refer to Docket No. RM84-22-000 and should be addressed to:

Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT:

Peter Roidakis, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8307;

Ken Malloy, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8033;

SUPPLEMENTARY INFORMATION:

I. Introduction

The Federal Energy Regulatory Commission (Commission) is proposing to amend its regulations, 18 CFR 271.1104 (1983), issued under section 110 of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3320 (1982). The Commission proposes only to update the years that govern cost-of-service data employed to compute the amounts to be collected for costs incurred to perform certain production-related activities.

II. Background

The Commission's regulations in § 271.1104 implementing section 110 of the NGPA permit a first seller to collect an amount to recover certain allowances for costs incurred to perform production-related activities. The regulations define production-related costs [1] and provide guidelines as to how a first seller may qualify for the allowances. A first seller may be eligible to collect these allowances in excess of the otherwise applicable maximum lawful price of the natural gas sold. In promulgating its rules, the Commission established two types of production-related allowances, generic and case-specific. Generic allowances were developed for delivery and compression.[2]

Production-related costs other than delivery and compression, such as costs incurred to treat, liquefy, or condition gas are determined by the first seller based on a cost-of-service methodology in the regulations.[3] This methodology is based on operation and maintenance expenses, net plant investment, depreciation, rate of return, and taxes. 18 CFR 271.1104(d)(3) (1983).

Both the rule establishing generic allowances and the rule establishing the cost-of-service allowance stated that the Commission might reevaluate these allowances after 1985.[4] The Commission does not believe that it is necessary to revisit the methodology for determining either the generic or the cost-of-service allowances. Such reevaluation would be premature at this time for two reasons. First, because inflation has been relatively modest since the Commission established the current allowances in January 1983, the need for an inflation-based adjustment for the generic allowances is minimized. Second, the Commission's experience indicates that developing allowances for production-related costs is both time consuming and complex. Since these allowances may be significantly affected by deregulation on January 1, 1985, the Commission believes that even if it revisits the methodology in the future, it should do so only after it can better calculate the effects of deregulation on natural gas markets. Therefore, the generic allowances for delivery and compression and the same methodology for determining the cost-of-service allowance for costs other than delivery and compression remain in effect.

III. Discussion

The Commission's regulations in § 271.1104(d) establish a cost-of-service methodology that applies to the computation of NGPA section 110 allowances other than those for delivery and compression. The Commission's regulations provide that a first seller collecting the cost-of-service allowance must use the data for the years 1981 and 1982 for operation and maintenance expenses and tax expenses or 1983 and 1984 for net plant investment, depreciation, and rate of return costs to compute the annual cost-of-service. Apparently, because the cost-of-service allowance refers to 1983 and 1984, there has been some question whether the Commission intended that the methodology be used for allowances after 1984. The Commission clarifies that its regulations so provide.

While the Commission will not revisit the cost-of-service methodology in general at this time, it is proposing to allow first sellers eligible to collect these allowances to include more current cost data for 1985 and each calendar year beyond. The Commission is proposing to update the methodology in order to reflect more accurately the seller's actual current cost-of-service. This would ensure that the current cost-of-service methodology will automatically take account of any increase or decrease in costs.

Accordingly, the Commission proposes to substitute references to the years 1983 and 1984 with the year 1985 and each calendar year thereafter. Also, the Commission proposes to update any reference to a certain year, as appropriate. For example, the current regulations § 271.1104(d)(3)(A)(*1*) provide that one of the expenses included in the average annual cost-of-service is operation and maintenance. That part of the regulation reads as follows:

Operation and maintenance expenses developed for each of the years 1983 and 1984

---

[1] Section 271.1104(c)(7) of the Commission's regulations defines "production-related costs" as costs other than production costs that are incurred to deliver, compress, treat, liquefy, or condition natural gas.

[2] Delivery Allowances Under section 110 of the Natural Gas Policy Act of 1978, and Compression Allowances under section 110 of the Natural Gas Policy Act of 1978, 48 FR 5180 (Feb. 3, 1983) (Interim Rule); 48 FR 44495 (Sept. 29, 1983) (Final Rule and Order Granting in Part and Denying in Part Rehearing of Interim Rule); 49 FR 56 (Jan. 3, 1984) (Order Denying Application for Rehearing and of Order No. 334 and Denying Requests for Stay of Order No. 334).

[3] Regulations Implementing section 110 of the Natural Gas Policy Act of 1978 and Establishing Policy Under the Natural Gas Act, 48 FR 5152 (Feb. 3, 1983) (Order No. 94-A) (Final Rule and Order on Rehearing of Order No. 94); 48 FR 24039 (May 31, 1983) (Order No. 94-C) (Order Denying Rehearing and Denying Petitions for Stay); 49 FR 505 (Jan. 5, 1984) (Order No. 94-E) (Clarification of Order No. 94).

[4] Delivery Allowances Under Section 110 of the Natural Gas Policy Act of 1978, and Compression Allowances Under Section 110 of the Natural Gas Policy Act of 1978, 48 FR at 5184; Regulations Implementing Section 110 of the Natural Gas Policy Act of 1978 and Establishing Policy Under the Natural Gas Act, 48 FR at 5167.

on the basis of actual expenses incurred in 1981 and 1982, as available, and estimates of future expenses;

The Commission proposes to amend that portion of the regulation by changing the data base years as follows:

Operation and maintenance expenses developed for the year 1985 and each calendar year thereafter on the basis of actual expenses incurred in the last two years, as available, and estimates of future expenses;

The Commission is proposing to similarly amend the other four components of the methodology.

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires certain statements, descriptions, and analyses of proposed rules that will have a "significant economic impact on a substantial number of small entities." 15 U.S.C. 603(a) (1982). The Commission is not required to make such an analysis if it certifies that a proposed rule will not have a "significant economic impact on a substantial number of small entities."

There are approximately 10,000 natural gas producers in the United States, many of which would be classified as small entities, under the appropriate RFA definition.[5] This proposed rule may affect these entities by requiring them to amend the data used to calculate the cost-of-service allowance after January 1, 1985. The Commission does not believe that the burden imposed by the proposal will have a "significant economic impact" within the meaning of the RFA. Accordingly, the Commission certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

V. Comment Procedures

The Commission invites interested persons to submit written comments, data, views, and other information concerning the matters set out in this notice. An original and 14 copies of such comments should be filed with the Commission by November 1, 1984. Comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C.20426 and should refer to Docket No. RM84–22–000. All written submissions will be placed in the Commission's public files and will be available for public inspection through the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E. Washington, D.C. 20426, during regular business hours.

In addition, an opportunity for a public hearing to receive oral comments will be afforded, if requested, in accordance with section 502(b) of the NGPA. If a hearing is requested, it will be held on October 11, 1984 (and October 12, 1984, if necessary) in conjunction with the hearing for Docket No. RM84–14–000 dealing with deregulation under section 121 of the NGPA. 49 FR 36399 (Sept. 17, 1984).

Any person requesting an opportunity to appear to give oral comments must file with the Secretary a request to do so by October 9, 1984. Requests should indicate the amount of time required for the oral presentation. Persons participating should, if possible, bring 25 copies of their presentation to the hearing.

This hearing will not be of a judicial or evidentiary type. There will be no cross-examination of persons presenting statements. However, the panel may question such persons and any interested person may submit questions to the presiding officer to be asked of persons making statements. The presiding officer will determine whether the question is relevant and whether the time limitations permit it to be presented. Any further procedural rules will be announced by the presiding officer at the hearing. Transcripts of the hearing will be available in the public file for this proceeding, Docket No. RM84–22–000, in the Commission's Division of Public Information.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive prices.

In consideration of the foregoing, the Commission proposes to amend Part 271, Subchapter H, Chapter I, Title 18 Code of Federal Regulations as set forth below.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

1. The authority citation for Part 271 reads as follows:

Authority: Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432.

2. Section 271.1104(d)(3)(A) is revised to read as follows:

§ 271.1104 Production-related costs.

* * * * *

(d) * * *

(3) * * *

(A) The average annual cost of service is to be computed on the basis of the following:

(*1*) Operation and maintenance expenses developed for the year 1985 and each calendar year thereafter on the basis of actual expenses incurred in the last two years, as available, and estimates of future expenses;

(*2*) An average annual net plant investment developed for the year 1985 and each calendar year thereafter using the amount of undepreciated investment as of January 1, 1981, for facilities in operation on that date, or such later date as the facility becomes operational, and depreciating the investment, using the amount of depreciation booked annually for the particular facility or for that class of investment, whichever method is used by the company;

(*3*) An average annual depreciation expense for the year 1985 and each calendar year thereafter computed from the annual amounts used to depreciate the plant investment; and

(*4*) After tax earnings at an amount no greater that 15.0 percent times the average annual net plant investment for the year 1985 and each calendar year thereafter, with taxes computed using the debt/equity ratios of the company's overall capital structure unless it can be demonstrated that the facility was financed by a particular source of capital, in which case taxes should be computed consistent with the particular financing arrangement used.

(*5*) Taxes other than income taxes for each of the years 1985 and each calendar year thereafter on the basis of actual taxes paid in the last two years, as available, and estimates of future taxes.

* * * * *

[FR Doc. 84–26305 Filed 10–1–84; 11:28 am]

BILLING CODE 6717–01–M

[5] 5 U.S.C. 601(3) *citing to* section 3 of the Small Business Act, 15 U.S.C. 632 (1982). Section 3 of the Small Business Act defines small business concern as a business which in independently owned and operated and which is not dominant in its field of operation.

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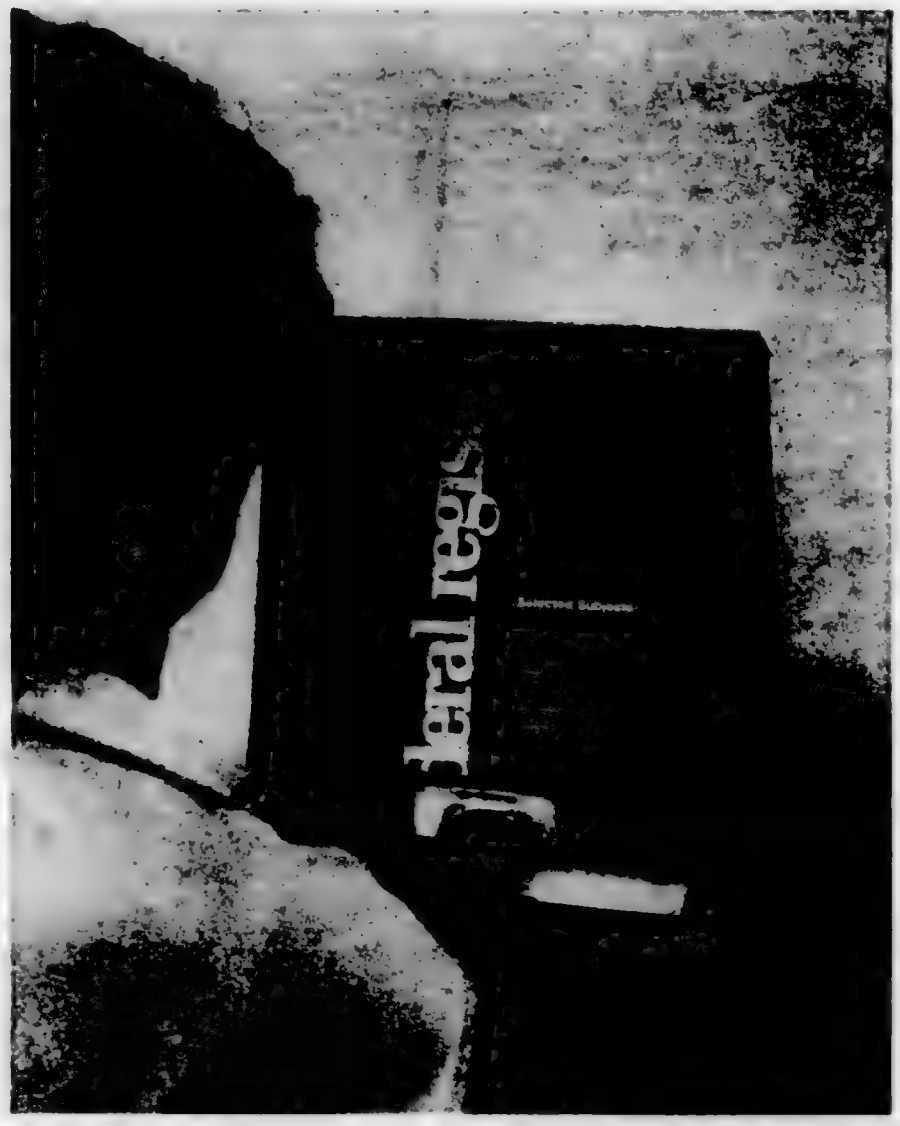

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Quarantine
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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
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DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 272 and 273

[Amdt. No. 251]

Food Stamp Program; 1981 and 1982 Work Registration, Job Search and Voluntary Quit Amendments

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This rule implements statutory provisions which were incorporated in the proposed Work Registration, Job Search and Voluntary Quit rule published on May 24, 1983. The provisions implemented are sections 1310 and 1311 of the 1981 Food Stamp and Commodity Distribution Amendments, and sections 157, 158 and 159 of the Food Stamp Act Amendments of 1982. Section 1310 of the 1981 Act changes the requirement to register for work from once every six months to once every twelve. Section 1311 mandates disqualification for participating households whose primary wage earners voluntarily quit their jobs, and adds lack of adequate child care for children between ages of six and twelve as good cause for refusing to accept an offer of employment. This section also establishes that failure to comply with comparable work requirements of Title IV of the Social Security Act or Federal-State unemployment compensation system should be considered the same as failure to comply with food stamp work requirements, and exempts from work registration a parent or household member responsible for the care of a dependent child under the age of six, rather than twelve. Section 157 of the 1982 Amendments gives State agencies the option to apply job search requirements at the time of application, section 158 lengthens the disqualification period for a voluntary quit from 60 to 90 days and extends the definition of a voluntary quit without good cause to include Federal, State, or local government employees who have been dismissed from their jobs because of participation in a strike against the government entity involved, and section 159 eliminates the work registration exemption for a parent or caretaker of a child in a household where another parent is subject to the work registration requirements.

DATE: This final rule is effective November 2, 1984 and is to be implemented by State agencies no later than January 2, 1985.

FOR FURTHER INFORMATION CONTACT: Judith M. Seymour, Supervisor, Eligibility and Certification Section, Program Design and Rulemaking Branch, Family Nutrition Programs, Food and Nutrition Service, USDA, Alexandria, VA 22302. Phone (703) 756–3429.

SUPPLEMENTARY INFORMATION:

Classification

Executive Order 12291

This rule has been reviewed under Executive Order 12291 and Secretary's Memorandum No. 1512–1. The Department has classified this rule as non-major. The rule's effect on the economy will be less than $100 million. The rule will have no effect on costs or prices. Competition, employment, investment, productivity, and innovation will remain unaffected. There will be no effect on the competition of United States-based enterprises with foreign-based enterprises.

Regulatory Flexibility Act

This action has been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354, Stat. 1164, September 19, 1980). Robert E. Leard, Administrator of the Food and Nutrition Service, has certified that this rule does not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the reporting and recordkeeping requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. The OMB approval number for these requirements is 0584–0122.

Background

This rule finalizes several statutory changes in the work registration exemptions, makes job search at the time of application a State agency option, and lengthens the period of ineligibility for a voluntary quit. These changes were published in proposed form on May 24, 1983 and are non-discretionary. Of the comments received on the May 24, 1983 proposal, eleven dealt with the statutorily mandated provisions.

As required by the 1981 Food Stamp and Commodity Distribution Amendments (Pub. L. 97–98, 95 Stat. 1282, December 22, 1981), this rule disqualifies participating households whose primary wage earners voluntarily quit their jobs, and denies food stamp participation to households containing a member who failed to comply with comparable work registration requirements in the Work Incentive Program or unemployment compensation programs. The rule also makes three other changes in work registration which are mandated in the 1981 amendments. First, non-exempt participants are required to register for work once every twelve months after initial registration, rather than every six months. Second, the rule exempts from work registration a parent or other household member who is responsible for the care of a dependent child under the age of six, rather than age twelve as under existing regulations. Finally, the rule adds a requirement that good cause for refusing to accept an offer of suitable employment shall include the lack of adequate child care for children who have reached the age of six, but are under the age of twelve. As required by the Food Stamp Act Amendments of 1982, the rule lengthens the disqualification period for a voluntary quit from 60 to 90 days and applies the voluntary quit provisions to Federal, State or local government employees who have been dismissed from their jobs because of participation in a strike against the government entity, allows State agencies to impose job search at the time of application, and deletes the exemption from work registration for a parent or caretaker of a child in a

household where another parent is subject to the work registration requirements.

Work Registration, Job Search and Voluntary Quit

Two of the mandatory provisions in the May 24, 1983 Work Registration, Job Search and Voluntary Quit proposal which received comments were the section on State agency treatment of comparable work requirements, and job search at the time of application. All of the Congressionally mandated provisions remain unchanged from the proposed rule.

Failure To Comply With Comparable Requirements

Section 1311 of the 1981 amendments pertains to households which contain a member who is exempted from the food stamp work registration requirements because he or she is subject to and complying with a work registration requirement under Title IV of the Social Security Act or a State or Federal unemployment compensation program's work registration requirements. The section mandates that if the member fails to comply with a requirement which is comparable to a food stamp work registration or job search requirement, the household shall be treated as though the member had failed to comply with the corresponding food stamp requirement. This rule implements this provision. Four State agency commenters objected to the provision claiming that they do not keep track of or have access to compliance information of other work programs. We do not believe it will be necessary to obtain such information. If a household member fails to comply with a comparable work program, he or she would be sanctioned by that program, leading to a decrease in household income. Within 10 days of being informed that the reason for the decrease in income is due to noncompliance with an alternate work program, the State agency shall provide the household with a notice of adverse action. There is no requirement in this rule that the Food Stamp Program disqualification period coincide with the disqualification period imposed by the other program.

Optional Job Search at Time of Application

Section 157 of the Food Stamp Act Amendments of 1982 permits State agencies to apply job search requirements at the time households apply for participation in the Program. Previously, job search requirements did not begin until after the household was certified. Seven commenters expressed concern that job search at the time of application could cause delays in processing the household's food stamp application. If a State agency decides to initiate job search at application, certification should not be delayed due to the fulfillment of job search responsibilities. Several commenters also suggested that households eligible for expedited service should be exempted from applicant job search altogether. It is highly unlikely that beginning job search at the time of application would jeopardize receipt of benefits which must be available for pickup no later than the close of business on the fifth calendar day following application.

Implementation

The statutorily mandated work registration, job search and voluntary quit provisions of this rule, amending portions of section 273.7, were published in proposed form on May 24, 1983. These provisions shall apply to new applicants no later than January 2, 1985. The provisions shall be applied to participating households at the time of their recertification, or at any other time they have office contact.

List of Subjects

7 CFR Part 272

Alaska, Civil rights, Food stamps, Grant programs—social programs, Reporting and recordkeeping requirements.

7 CFR Part 273

Administrative practice and procedures, Aliens, Claims, Food stamps, Fraud, Grant programs/social programs, Penalties, Reporting and recordkeeping requirements, Social security, Students.

Accordingly, 7 CFR Parts 272 and 273 are amended as follows:

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

1. In § 272.1, a new paragraph (g)(63) is added to read as follows:

§ 272.1 General terms and conditions.

* * * * *

(g) Implementation. * * *

(63) Amendment No. 251. State agencies shall implement the program changes required by this amendment as follows:

(i) State agencies shall apply the work registration, job search, and voluntary quit provisions of this rule, amending portions of § 273.7, to new applicants no later than January 2, 1985. The provisions shall apply to participating households at recertification or at the time of office contact for any other reason.

* * * * *

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

2. Section 273.7 is amended as follows:

a. Paragraph (a) is amended by removing the word "six" in the second sentence and inserting in its place the word "twelve."

b. Paragraph (b)(1)(iv) is amended by removing the "12" in the first sentence and the "12th" in the second sentence and substituting in their places "6" and "6th"; paragraph (b)(1)(v) is removed and paragraphs (b)(1)(vi) through (b)(1)(ix) are redesignated (b)(1)(v) through (b)(1)(viii) respectively.

c. Introductory paragraph (f) is revised.

d. The text of paragraph (g) is redesignated as paragraph (g)(1), a new heading for paragraph (g)(1) and a new paragraph (g)(2) are added.

e. Paragraph (m) is revised.

f. In paragraph (n) the introductory text has been revised; the heading of paragraph (n)(1) is revised; paragraphs (n)(1)(i) and (n)(1)(iii) are removed; paragraphs (n)(1) (ii) and (iv) are redesignated (n)(1) (iv) and (vii) respectively; and new paragraphs (n)(1) (i), (ii), (iii), (v), and (vi) are added. Newly designated paragraph (n)(1)(vii) is amended by removing the word "second" and inserting in its place the word "third".

The revisions and additions read as follows:

§ 273.7 Work registration requirements.

* * * * *

(f) *Job Search.* Persons required to register for work shall be subject to the appropriate job search requirements. The State agency may require Program applicants, as well as Program participants to conduct job search. The appropriate requirement shall be established at the time of the initial assessment interview (which may be at application and at subsequent interviews. If it is known or determined from available information that the work registrant would be exempt from actively engaging in a job search, no assessment interview will be required. Failure to comply with the job search requirements, without good cause, shall result in household disqualification or denial, as established in paragraph (g) of this section. A State agency opting to require job search of applicants shall not delay or deny the application

pending proof of compliance with this requirement.

* * * * *

(g) *Failure to Comply.* (1) *Noncompliance with Food Stamp Program regulations.* * * *

(2) *Failure to comply with a comparable WIN or unemployment compensation work requirement.* A household containing a member who was exempt from work registration in accordance with paragraph (b)(1)(iii) or (b)(1)(vi) of this section because he or she was registered for work under WIN or unemployment compensation and who fails to comply with a WIN or unemployment compensation requirement comparable to a food stamp work registration or job search requirement shall be treated as though the member had failed to comply with the corresponding food stamp requirements.

(i) If the State agency learns that a household member has refused or failed without good cause to comply with a WIN or unemployment compensation requirement, the State agency shall determine whether the requirement was comparable. Similarly, if the household reports the loss or denial of AFDC or unemployment compensation or if the State agency otherwise learns of such loss or denial, the State agency will determine whether the loss or denial was caused by a determination by the administering agency that a household member refused or failed without good cause to comply with the work requirement and, if so, whether the requirement was comparable to the work registration or job search requirement. The WIN or unemployment compensation requirement shall not be considered comparable if it places responsibilities on the household which exceed those imposed by the food stamp work registration requirements.

(ii) If the State agency determines that the requirement is comparable, the entire household shall be disqualified in accordance with the following provisions. The State agency shall provide the household with a notice of adverse action as specified in § 273.13 within 10 days after learning of the household member's noncompliance with the unemployment compensation or WIN requirement. The notice shall comply with the requirements of § 273.7(g)(1). A household shall not be disqualified from participation if the noncomplying member meets one of the work registration exemptions provided in § 273.7(b) other than the exemptions provided in paragraphs (b)(1)(iii) and (b)(1)(v) of that section. Household members who fail to comply with a non-comparable WIN or unemployment compensation requirement shall lose their exemption under § 273.7(b) (iii) and (v), and must register for work if required to do so in § 273.7(a).

(iii) If the State agency determination of noncompliance with a comparable WIN or unemployment compensation work requirement leads to a denial or termination of the household's food stamp benefits, the household has a right to appeal the decision in accordance with the provisions of § 273.7(g)(1).

(iv) A disqualified household may resume participation in the Program in accordance with paragraph (h) of this section.

* * * * *

(m) *Determining good cause.* The State agency shall be responsible for determining good cause in those instances where the work registrant has failed to comply with the work registration, job search, and voluntary quit requirements of this section. In determining whether or not good cause exists, the State agency shall consider the facts and circumstances, including information submitted by the household member involved and the employer. Good cause shall include circumstances beyond the member's control, such as, but not limited to, illness, illness of another household member requiring the presence of the member, a household emergency, the unavailability of transportation, or the lack of adequate child care for children who have reached age six but are under age 12.

(n) *Voluntary quit.* No household whose primary wage earner voluntarily quit his or her most recent job without good cause shall be eligible for participation in the Program as specified below. At the time of application, the State agency shall explain to the applicant the consequences of the household's primary wage earner quitting his or her job without good cause.

(1) *Determining whether a voluntary quit occurred and application processing.*

(i) When a household files an application for participation, or when a participating household reports the loss of a source of income, the State agency shall determine whether any household member voluntarily quit his or her job. Benefits shall not be delayed beyond the normal processing times specified in section 273.2 pending the outcome of this determination. This provision applies only if the employment involved 20 hours or more per week or provided weekly earnings equivalent to the Federal minimum wage multiplied by 20 hours; the quit occurred within 60 days prior to the date of application or anytime thereafter; and the quit was without good cause. Changes in employment status that result from reducing hours of employment while working for the same employer, terminating a self-employment enterprise or resigning from a job at the demand of the employer will not be considered a voluntary quit for purposes of this section. An employee of the Federal Government, or of a State or local government who participates in a strike against such government, and is dismissed from his or her job because of participation in the strike, shall be considered to have voluntarily quit his or her job without good cause.

(ii) In the case of an applicant household, the State agency shall determine whether any currently unemployed (i.e. employed less than 20 hours per week or receiving less than weekly earnings equivalent to the Federal minimum wage multiplied by 20 hours) household member who is required to register for work has voluntarily quit his or her most recent job within the last 60 days. If the State agency learns that a household has lost a source of income after the date of application but before the household is certified, the State agency shall determine whether a voluntarily quit occurred.

(iii) In the case of a participating household, the State agency shall determine whether any household member voluntarily quit his or her job while participating in the Program.

* * * * *

(v) Upon a determination that the primary wage earner voluntarily quit employment, the State agency shall determine if the voluntary quit was with good cause as defined in § 273.7(n)(3). In the case of an applicant household, if the voluntary quit was without good cause, the household's application for participation shall be denied and sanction imposed for 90 days, starting from the date of application. The State agency shall provide the applicant household with a notice of denial in accordance with § 273.2(g)(3). The notice shall inform the household of the proposed period of disqualification; its right to reapply at the end of the 90 day period; and of its right to a fair hearing. In the case of participating households, benefits shall be terminated for a period of 90 days, in accordance with paragraph (n)(1)(iv) of this section.

(vi) If the State agency determines that the primary wage earner of a participating household voluntarily quit his or her job, while participating in the

Program, the State agency shall provide the household with a notice of adverse action as specified in § 273.13 within 10 days after the determination of a voluntary quit is made. Such notification shall contain the proposed period of disqualification and shall specify that the household may reapply at the end of the disqualification period. Except as otherwise specified in this paragraph, the disqualification period shall be for three months or 90 days beginning with the first of the month after all normal procedures for taking adverse action have been followed. The 90 day disqualification period may be converted to a three calendar month period only for participating households. For those households which leave the Program before the sanction can be levied, the sanction shall not be imposed until the household returns to the Program. Each household has a right to a fair hearing to appeal a reduction or termination of benefits due to a determination that the household's primary wage earner voluntarily quit his or her job without good cause. If the participating household requests a fair hearing and the State agency determination is upheld, the disqualification period shall begin the first of the month after the hearing decision is rendered.

* * * * *

(91 Stat. 958 (7 U.S.C. 2011–2029))

(Catalog of Federal Domestic Assistance Program No. 10.551, Food Stamps)

Dated: September 27, 1984.

Robert E. Leard,

Administrator.

[FR Doc. 84-26227 Filed 10-2-84; 8:45 am]

BILLING CODE 3410-30-M

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. 84-353]

Importation of Grapefruits, Oranges, and Tangerines from Mexico

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document amends the "Subpart—Fruits and Vegetables" quarantine and regulations by adding a methyl bromide treatment and other provisions which provide a means for allowing the importation into the United States of grapefruits, oranges, and tangerines from Mexico without presenting a significant risk of causing the introduction of fruit flies of the genus *Anastrepha*.

EFFECTIVE DATE: September 26, 1984. Written comments concerning this interim rule must be received on or before December 3, 1984.

ADDRESSES: Written comments should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, Animal and Plant Health Inspection Service, USDA, Room 728 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Written comments received may be inspected in Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: C. M. Amyx, Senior Staff Officer, Technology Assessment and Development Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 600, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8896.

SUPPLEMENTARY INFORMATION:

Background

The "Subpart—Fruits and Vegetables" quarantine and regulations (contained in 7 CFR 319.56 *et seq.* and referred to below as the regulations), among other things, regulate the importation of grapefruits, oranges, and tangerines into the United States from Mexico because of fruit flies of the genus *Anastrepha*. These fruits flies can ruin the marketability of the fruit.

Under the regulations, grapefruits, oranges, and tangerines from Mexico have been prohibited from being imported into the United States unless, among other things, they were treated against fruit flies of the genus *Anastrepha*. The only approved treatments in the regulations for this purpose have been an ethylene dibromide treatment, a vapor heat treatment and a cold treatment (See §§ 319.56–2d, 319.56–2e and 319.56–2g). Because of action recently taken by the Environmental Protection Agency, ethylene dibromide treatments are no longer available for such fruits imported into the United States (49 FR 22083–22085). Also, the cold treatment and the vapor heat treatment are not commercially feasible because of lengthiness and construction costs associated with cold treatment, and because of the high energy and labor costs associated with using vapor heat treatments.

Importers have requested that action be taken to amend the regulations to establish commercially feasible procedures against fruit flies of the genus *Anastrepha* that would allow importations of grapefruits, oranges, and tangerines from Mexico to continue.

Based on a review of this situation, it has been determined that the regulations should be amended to add a methyl bromide treatment and other provisions in a new § 319.56–2u which would provide a means for allowing the importation into the United States of grapefruits, oranges, and tangerines from Mexico. Based on research and experience, it has been determined that these provisions would be adequate to allow the fruits to be imported into the United States without presenting a significant risk of causing the introduction of fruit flies of the genus *Anastrepha*. Further, it appears that these provisions would provide commercially feasible procedures for the importation of these fruits. The new § 319.56–2u reads as follows:

§ 319.56–2u Administrative Instructions: Conditions for importation of grapefruits, oranges, and tangerines from Mexico.

(a) *Approved Treatment.* Fumigation with methyl bromide at normal atmospheric pressure in approved chambers, in accordance with the following procedure, is hereby approved as a condition of entry under permit, through ports specified in the permit, for lots of grapefruits, oranges, and tangerines grown in Mexico. This treatment is specific for fruit flies of the genus *Anastrepha* known to exist in Mexico.

(1) A lot of grapefruits, oranges, or tangerines grown in Mexico shall be eligible for fumigation if a representative sample of fruit, selected from the lot, has been cut, inspected, and not found to indicate a level of infestation of fruit flies of 0.5% or above for the lot.

(2) Fumigation shall be in an approved fumigation chamber at normal atmospheric pressure as follows:

Temperature of fruit pulp	Methyl bromide dosage (ounces per 1,000 cubic feet or grams per cubic meter)	Exposure period (hours)
70 °F to 85 °F (21 °C–29 °C)	40	2.0

The chamber load shall not exceed 80 percent of the chamber's volume. Fumigation chambers shall be approved for use if found by an inspector to be adequate to meet the requirements of this treatment.

(3) The fumigation shall be conducted under the supervision of an inspector. The unloading of the fruit from the means of conveyance, delivery of the fruit to an approved fumigation chamber, the fumigation of the fruit, and any other handling of the fruit before or after fumigation shall be in accordance with safeguards determined by an inspector to be necessary to prevent the introduction into the United States of fruit flies.

(b) *Costs.* All costs of treatment and required safeguards and supervision, other than costs for the services of the supervising inspector during regularly assigned hours of duty and at the usual place of duty, shall be borne by the owner of the fruit or the owner's representative.

(c) *Department not responsible for damage.* Damage may be sustained on oranges and tangerines, and damage to all fruits may result from inexactness or carelessness in using the approved treatment. The Department does not accept responsibility for any damage sustained through or in the course of treatment, or because of posttreatment safeguards.

(d) *Ports of Entry.* (1) Grapefruits, oranges, and tangerines which are accompanied by a valid certificate that has been issued by an inspector and that represents that they have been treated in Mexico in accordance with the treatment provisions in this section may enter the United States only at a port of entry listed in § 319.37–14(b) of this chapter and specified in the import permit. Grapefruits, oranges, and tangerines which are to be treated in the United States may enter the United States only at a port of entry listed in § 319.37–14(b) of this chapter and specified in the import permit, except that they may not enter, stop at, or pass through ports south of Baltimore, Maryland, or in California."

Based on research, the Department has determined that grapefruits, oranges, and tangerines inspected and fumigated as set forth above would not present a significant risk of introducing fruit infested with fruit flies of the genus *Anastrepha* known to exist in Mexico into the United States.

Specifically, research has shown that fumigation with methyl bromide at the levels prescribed in new § 319.56–2u is adequate to destroy all life stages of fruit flies of the genus *Anastrepha* occurring in low levels. A low level of infestation is that level occurring in a lot of fruit to be less than 0.5%. The inspection and sampling procedures are designed to detect with infestation in lots of fruit at levels of 0.5% or above. Lots of fruit from which samples have been drawn, inspected, and found to indicate levels of infestations of fruit flies at 0.5% or above in the lot will not be eligible for fumigation because the Department cannot be assured that the treatment would be adequate to prevent the introduction and establishment of fruit flies of the genus *Anastrepha* in the United States. Fumigation is required for lots of fruit from which samples have been drawn, inspected, and found to indicate levels of infestation of less than 0.5% to insure that fruit flies of the genus *Anastrepha* will not be introduced or established in the United States.

The provisions concerning handling before and after fumigation are designed to ensure that noninfested fruit does not become infested during handling, and to ensure that any fruit flies present in nonfumigated fruit do not escape prior to fumigation. Further, the fumigation is required to be conducted under the supervision of an inspector to ensure compliance with the fumigation procedures.

The provisions concerning costs and damage reflect the Department's policies on these matters.

The ports of entry listed in § 319.37–14(b) have inspectors on duty who would be able to take the necessary actions concerning the importation of the fruit. Also, the port of entry provisions are designed to protect against the possibility of fruit flies escaping in a citrus producing area prior to fumigation.

Also, it should be noted that any importation of grapefruits, oranges, or tangerines from Mexico must comply with the provisions of "Subpart —Citrus Canker—Mexico (7 CFR 319.27 *et seq.*).

Emergency Action

Harvey L. Ford, Deputy Administrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine, has determined that an emergency situation exists which warrants publication of this interim rule without prior opportunity for public comment. As noted above, ethylene dibromide is no longer available as a treatment for grapefruits, oranges, or tangerines imported into the United States, and the vapor heat and cold treatments are not commercially feasible as a treatment for such fruit. Therefore, it is necessary to add the new provisions to the regulations on an emergency basis in order to continue to allow the importation of grapefruits, oranges, and tangerines from Mexico.

Further, pursuant to the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest; and good cause is found for making this interim rule effective upon signature. Comments will be solicited for 60 days after publication of this document, and a final document discussing comments received and any amendments required will be published in the **Federal Register** as soon as possible.

Executive Order and Regulatory Flexibility Act

The interim rule is issued in conformance with Executive Order 12291 and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that this interim rule will not have a significant effect on the economy; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The addition of the new provisions for grapefruits, oranges, and tangerines from Mexico will allow the importation of these fruits from Mexico to continue. Almost all importers and sellers of the affected articles are involved with a wide range of commodities. Activities involving these articles comprise an insignificant portion of such businesses.

Under the circumstances referred to above, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 7 CFR Part 319

Agricultural commodities, Imports, Plant pests, Plant diseases, Plants (agriculture), Quarantine, Transportation, Fruit.

PART 319—FOREIGN QUARANTINE NOTICES

Accordingly, "Subpart—Fruits and Vegetables" quarantine and regulations in 7 CFR subpart 319.56 (7 CFR 319.56 *et seq.*) is amended by adding a new § 319.56–2u to read as follows:

§ 319.56–2u Administrative instructions; Conditions for importation of grapefruits, oranges, and tangerines from Mexico.

(a) *Approved Treatment.* Fumigation with methyl bromide at normal atmospheric pressure in approved chambers, in accordance with the following procedure, is hereby approved as a condition of entry under permit, through ports specified in the permit, for lots of grapefruits, oranges, and tangerines grown in Mexico. This treatment is specific for fruit flies of the genus *Anastrepha* known to exist in Mexico.

(1) A lot of grapefruits, oranges, or tangerines grown in Mexico shall be eligible for fumigation if a representative sample of fruit, selected from the lot, has been cut, inspected, and not found to indicate a level of infestation of fruit flies of 0.5% or above for the lot.

(2) Fumigation shall be in an approved fumigation chamber at normal atmospheric pressure as follows:

Temperature of fruit pulp	Methyl bromide dosage (ounces per 1,000 cubic feet or grams per cubic meter)	Exposure period (hours)
70 °F to 85 °F (21 °C-29°C)	40	2 0

The chamber load shall not exceed 80 percent of the chamber's volume. The fumigation chambers shall be approved for use if found by an inspector to be adequate to meet the requirements of this treatment.

(3) The fumigation shall be conducted under the supervision of an inspector. The unloading of the fruit from the means of conveyance, delivery of the fruit to an approved fumigation chamber, the fumigation of the fruit, and any other handling of the fruit before or after fumigation shall be in accordance with safeguards determined by an inspector to be necessary to prevent the introduction into the United States of fruit flies.

(b) *Costs.* All costs of treatment and required safeguards and supervision, other than costs for the services of the supervising inspector during regularly assigned hours of duty and at the usual place of duty, shall be borne by the owner of the fruit or the owner's representative.

(c) *Department not responsible for damage.* Damage may be sustained on oranges and tangerines, and damage to all fruits may result from inexactness or carelessness in using the approved treatment. The Department does not accept responsibility for any damage sustained through or in the course of treatment, or because of posttreatment safeguards.

(d) *Ports of Entry.* Grapefruits, oranges, and tangerines which are accompanied by a valid certificate that has been issued by an inspector and that represents that they have been treated in Mexico in accordance with the treatment provisions in this section may enter the United States only at a port of entry listed in § 319.37–14(b) of this chapter specified in the import permit. Grapefruits, oranges, and tangerines which are to be treated in the United States may enter the United States only at a port of entry listed in § 319.37–14(b) of this chapter and specified in the import permit, except that they may not enter, stop at, or pass through ports south of Baltimore, Maryland, or in California.

Authority: Secs. 8 and 9, 37 Stat. 318, as amended (7 U.S.C. 161, 162); Secs. 105, 106, 71 Stat. 32, 33 (7 U.S.C. 150dd, 150ee); 7 CFR 2.17, 2.51, 371.2(c).

Done at Washington, DC this 26th day of September 1984.

William F. Helms,

Acting Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 84–26222 Filed 10–2–84; 8:45 am]

BILLING CODE 3410-34-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[C-3068, C-3069, C-3105, and C-3106]

Sperry Corp., DKG Advertising, Inc., North American Philips Corp. and McCaffrey and McCall, Inc.; Prohibited Trade Practices and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Orders terminating show cause proceeding.

SUMMARY: In Orders terminating Show Cause Proceeding, FTC declined to modify the "reasonable" provision in individual consent orders issued against two manufacturers of electric shavers for black men and their advertising agencies. This provision barred the companies from claiming, without a reasonable basis consisting of two well-controlled clinical studies, that their products reduced or alleviated "razor bumps," a skin condition affecting many black men. The Commission asserted that while its Show Cause Orders had solicited from the four companies and other interested parties evidence that one well-controlled clinical study would satisfy the "reasonable basis" requirement and serve the public interest, lesser substantiation was not warranted in this case. Commission's review of the entire record, including public comments and complaint counsel's memoranda, together with the alleged improper conduct of respondents in the past, indicated that the "reasonable basis" requirement of two well-controlled clinical tests should not be modified.

DATES: Orders Terminating Show Cause Proceeding issued September 21, 1984.

FOR FURTHER INFORMATION CONTACT: B/411–8, Elizabeth T. Guarino, Washington, D.C. 20580. (202) 376–8617.

SUPPLEMENTARY INFORMATION: In the Matter of Sperry Corporation, a corporation; In the Matter of DKG Advertising, Inc., a corporation; In the Matter of North American Philips Corporation, a corporation; and In the Matter of McCaffrey and McCall, Inc., a corporation.

List of Subjects in 16 CFR Part 13

Shavers, Trade practices.

(Sec. 6, 38 Stat. 731; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Order Terminating Show Cause Proceeding; Sperry Corp., a Corporation

Commissioners: James C. Miller III, Chairman, Michael Pertschuk, Patricia P. Bailey, George W. Douglas, Terry Calvani.

On March 8, 1983, the Federal Trade Commission issued a Show Cause Order instructing respondent Sperry Corporation to show cause, if any, why a Decision and Order issued against the company on July 17, 1981, should not be reopened and modified. The July 17, 1981, cease and desist order prohibited Sperry Corporation from claiming that the Black Man's Shaver or any other product reduces or treats a painful medical condition known as pseudofolliculitis barbae (or "razor bumps") unless the company possesses and relies on a reasonable basis consisting of two well-controlled clinical studies. In its Show Cause Order the Commission solicited evidence from respondent and any other interested party as to whether one well-controlled clinical study would satisfy the reasonable basis requirement contained in the order and as to whether it would be in the public interest to replace the existing two clinicals requirement with a one clinical test requirement.

Our review of the entire record of this proceeding, including the eight public comments received and complaint counsel's extensive memorandum, leads us to conclude that, although a different level of substantiation might be appropriate in other circumstances, two clinical studies represents the appropriate level of substantiation that should be required in this order. In arriving at this conclusion we have, among other things, weighed the benefits of having two well-designed tests, such as increased certainty that claims based on the tests are accurate, against the costs saved by requiring only one such test. The significance of these factors varies from case to case. Here, the benefits are self-evident and substantial. Requiring two tests will significantly reduce the risk that the respondent will disseminate inaccurate claims concerning a product that not only fails to treat a serious and painful medical condition as advertised but may actually prolong or exacerbate the condition. In contrast, savings the company might achieve by conducting one fewer test appear modest since the relatively low cost of conducting a

second test would not greatly exceed the cost of a single test that included additional procedural safeguards needed to enhance its reliability, such as those proposed by complaint counsel and the experts who commented. Finally, respondent's past conduct, as alleged in the complaint, of making false and unsubstantiated claims for its product on the basis of inadequate and flawed testing warrants imposition of a more rigorous substantiation requirement to provide additional assurance that the respondent will not engage in such conduct in the future.

For these reasons, we are unpersuaded that the public interest would be served by a reduction in the level of substantiation required under this order. We therefore direct that the show cause proceeding instituted on March 8, 1983, be terminated and that no modification be made to the Decision and Order issued against Sperry Corporation on July 17, 1981.

By the Commission.

Issued: September 21, 1984.

Order Terminating Show Cause Proceeding; DKG Advertising, Inc., a Corporation

Commissioners: James C. Miller III, Chairman, Michael Pertschuk, Patricia P. Bailey, George W. Douglas, Terry Calvani.

On March 8, 1983, the Federal Trade Commission issued a Show Cause Order instructing respondent DKG Advertising, Inc. to show cause, if any, why a Decision and Order issued against the company on July 17, 1981, should not be reopened and modified. The July 17, 1981, cease and desist order prohibited DKG Advertising, Inc. from claiming that the Black Man's Shaver or any other product reduces or treats a painful medical condition known as pseudofolliculitis barbae (or "razor bumps") unless the company possesses and relies on a reasonable basis consisting of two well-controlled clinical studies. In its Show Cause Order the Commission solicited evidence from respondent and any other interested party as to whether one well-controlled clinical study would satisfy the reasonable basis requirement contained in the order and as to whether it would be in the public interest to replace the existing two clinicals requirement with a one clinical test requirement.

Our review of the entire record of this proceeding, including the eight public comments received and complaint counsel's extensive memorandum, leads us to conclude that, although a different level of substantiation might be appropriate in other circumstances, two clinical studies represents the appropriate level of substantiation that should be required in this order. In arriving at this conclusion we have, among other things, weighed the benefits of having two well-designed tests, such as increased certainty that claims based on the tests are accurate, against the costs saved by requiring only one such test. The significance of these factors varies from case to case. Here, the benefits are self-evident and substantial. Requiring two tests will significantly reduce the risk that the respondent will disseminate inaccurate claims concerning a product that not only fails to treat a serious and painful medical condition as advertised but may actually prolong or exacerbate the condition. In contrast, savings the company might achieve by conducting one fewer test appear modest since the relatively low cost of conducting a second test would not greatly exceed the cost of a single test that included additional procedural safeguards needed to enhance its reliability, such as those proposed by complaint counsel and the experts who commented. Finally, respondent's past conduct, as alleged in the complaint, of making false and unsubstantiated claims for its product on the basis of inadequate and flawed testing warrants imposition of a more rigorous substantiation requirement to provide additional assurance that the respondent will not engage in such conduct in the future.

For these reasons, we are unpersuaded that the public interest would be served by a reduction in the level of substantiation required under this order. We therefore direct that the show cause proceeding instituted on March 8, 1983, be terminated and that no modification be made to the Decision and Order issued against DKG Advertising, Inc. on July 17, 1981.

By the Commission.

Issued: September 21, 1984.

Commissioners: James C. Miller III, Chairman, Michael Pertschuk, Patricia P. Bailey, George W. Douglas, Terry Calvani.

Order Terminating Show Cause Proceeding; North American Philips Corp., a Corporation

On March 8, 1983, the Federal Trade Commission issued a Show Cause Order instructing respondent North American Philips Corporation to show cause, if any, why a Decision and Order issued against the company on March 7, 1983, should not be reopened and modified. The March 7, 1983, cease and desist order prohibited North American Philips Corporation from claiming that the Black Pro shaver or any other electric shaver, drug, or device reduces or treats a painful medical condition known as pseudofolliculitis barbae (or "razor bumps") unless the company possesses and relies on a reasonable basis consisting of two well-controlled clinical studies. In its Show Cause Order the Commission solicited evidence from respondent and any other interested party as to whether one well-controlled clinical study would satisfy the reasonable basis requirement contained in the order and as to whether it would be in the public interest to replace the existing two clinicals requirement with a one clinical test requirement.

Our review of the entire record of this proceeding, including the eight public comments received and complaint counsel's extensive memorandum, leads us to conclude that, although a different level of substantiation might be appropriate in other circumstances, two clinical studies represents the appropriate level of substantiation that should be required in this order. In arriving at this conclusion we have, among other things, weighed the benefits of having two well-designed tests, such as increased certainty that claims based on the tests are accurate, against the costs saved by requiring only one such test. The significance of these factors varies from case to case. Here, the benefits are self-evident and substantial. Requiring two tests will significantly reduce the risk that the respondent will disseminate inaccurate claims concerning a product that not only fails to treat a serious and painful medical condition as advertised but may actually prolong or exacerbate the condition. In contrast, savings the company might achieve by conducting one fewer test appear modest since the relatively low cost of conducting a second test would not greatly exceed the cost of a single test that included additional procedural safeguards needed to enhance its reliability, such as those proposed by complaint counsel and the experts who commented. Finally, respondent's past conduct, as alleged in the complaint, of making false and unsubstantiated claims for its product on the basis of inadequate and flawed testing warrants imposition of a more rigorous substantiation requirement to provide additional assurance that the respondent will not engage in such conduct in the future.

For these reasons, we are unpersuaded that the public interest would be served by a reduction in the level of substantiation required under this order. We therefore direct that the show cause proceeding instituted on March 8, 1983, be terminated and that no modification be made to the Decision

and Order issued against North American Philips Corporation on March 7, 1983.

By the Commission.

Issued: September 21, 1984.

Order Terminating Show Cause Proceeding; McCaffrey and McCall, Inc., a Corporation.

Commissioners: James C. Miller III, Chairman, Michael Pertschuk, Patricia P. Bailey, George W. Douglas, Terry Calvani.

On March 8, 1983, the Federal Trade Commission issued a Show Cause Order instructing respondent McCaffrey and McCall, Inc. to show cause, if any, why a Decision and Order issued against the company on March 7, 1983, should not be reopened and modified. The March 7, 1983, cease and desist order prohibited McCaffrey and McCall, Inc. from claiming that the Black Pro shaver or any other electric shaver, drug, or device reduces or treats a painful medical condition known a pseudofolliculitis barbae (or "razor bumps") unless the company possesses and relies on a reasonable basis consisting of two well-controlled clinical studies. In its Show Cause Order the Commission solicited evidence from respondent and any other interested party as to whether one well-controlled clinical study would satisfy the reasonable basis requirement contained in the order and as to whether it would be in the public interest to replace the existing two clinicals requirement with a one clinical test requirement.

Our review of the entire record of this proceeding, including the eight public comments received and complaint counsel's extensive memorandum, leads us to conclude that, although a different level of substantiation might be appropriate in other circumstances, two clinical studies represents the appropriate level of substantiation that should be required in this order. In arriving at this conclusion we have, among other things, weighed the benefits of having two well-designed tests, such as increased certaintly that claims based on the tests are accurate, against the costs saved by requiring only one such test. The significance of these factors varies from case to case. Here, the benefits are self-evident and substantial. Requiring two tests will significantly reduce the risk that the respondent will disseminate inaccurate claims concerning a product that not only fails to treat a serious and painful medical condition as advertised but may actually prolong or exacerbate the condition. In contrast, savings the company might achieve by conducting one fewer test appear modest since the relatively low cost of conducting a second test would not greatly exceed the cost of a single test that included additional procedural safeguards needed to enhance its reliability, such as those proposed by complaint counsel and the experts who commented. Finally, respondent's past conduct, as alleged in the complaint, of making false and unsubstantiated claims for its product on the basis of inadequate and flawed testing warrants imposition of a more rigorous substantiation requirement to provide additional assurance that the respondent will not engage in such conduct in the future.

For these reasons, we are unpersuaded that the public interest would be served by a reduction in the level of substantiation required under this order. We therefore direct that the show cause proceeding instituted on March 8, 1983, be terminated and that no modification be made to the Decision and Order issued against McCaffrey and McCall, Inc. on March 7, 1983.

By the Commission.

Issued: September 21, 1984.

Emily H. Rock,

Secretary.

[FR Doc. 84-26144 Filed 10-2-84; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 154

[Docket Nos. RM83-71-032 and 033]

Elimination of Variable Costs From Certain Natural Gas Pipeline Minimum Commodity Bill Provisions

Issued: September 28, 1984.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order granting rehearing solely for the purpose of further consideration.

SUMMARY: On July 30, 1984, the Federal Energy Regulatory Commission (Commission) issued Order No. 380–A (28 FERC ¶ 61,175; 49 FR 31259 (August 6, 1984)) which denied rehearing and granted in part Applications for Stay of Order No. 380 (27 FERC ¶ 61,318; 49 FR 22778 (June 1, 1984)). Order No. 380 amended the Commission's regulations by adding a new § 154.111 that requires the elimination from natural gas pipeline tariffs of any minimum commodity provisions that operate to recover variable costs. Two persons have filed petitions for rehearing of Order No. 380–A. In order to afford additional time for consideration of the issues raised in the petitions, the Commission is granting rehearing of Order No. 380–A for the limited purpose of further consideration.

EFFECTIVE DATE: September 28, 1984.

FOR FURTHER INFORMATION CONTACT: Fred Wolgel, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357–8033.

SUPPLEMENTARY INFORMATION:

Pipeline Rates: Rehearing

Before Commissioners: Raymond J. O'Connor, Chairman; Georgiana Sheldon and Oliver G. Richard III.

Order Granting Rehearing Solely for the Purpose of Further Consideration

The Commission has received two petitions for rehearing and clarification of Order No. 380–A.[1] Order No. 380–A denied rehearing and granting in part applications for stay of Order No. 380.[2] Order No. 380 amended the Commission's regulations by adding a new § 154.111 that requires the elimination from natural gas pipeline tariffs of any minimum commodity provisions that operate to recover variable costs.

Indiana Gas requests that the Commission clarify that the fixed cost associated with minimum commodity bill charges should be treated as a fixed cost in a pipeline's calculation of its minimum commodity bill and flowed through as a fixed cost to a downstream pipeline and included in its minimum commodity bill.

Transwestern seeks rehearing on the exemption of Canadian pre-built pipelines from the operation of the rule

[1] Elimination of Variable Costs from Certain Natural Gas Pipeline Minimum Commodity Bill Provisions, 49 FR 31259 (August 6, 1984) (Order Denying Rehearing and Granting in Part Applications for Stay, issued July 30, 1984).

The two petitions are: (1) Application for Rehearing of Indiana Gas Company, Inc., of Order No. 380–A (Indiana Gas) (Docket No. RM83–71–032); and (2) Request of Transwestern Pipeline Company for Rehearing of Order No. 380–A (Transwestern) (Docket No. RM83–71–033).

The Commission also received a Request for Clarification and Petition for Declaratory Order by Pacific Offshore Pipeline Company (POPCO) (Docket No. RM83–71–034). POPCO seeks clarification of the rule and a declaratory order confirming that Order No. 380 does not affect the validity of certain provisions of POPCO's tariff. Although filed pursuant to § 385.713 (the section governing petitions for rehearing), the Commission will treat the POPCO filing as a petition for declaratory order under § 385.712 of the Commission's regulations.

[2] Elimination of Variable Costs from Certain Natural Gas Pipeline Minimum Commodity Bill Provisions, 49 FR 22778 (June 1, 1984) (final rule issued May 25, 1984), 27 FERC ¶61,318.

In order to afford additional time for consideration of the issues raised in these two petitions, it is necessary to grant rehearing of Order No. 380–A for the limited purpose of further consideration.

The Commission orders:

Rehearing of Order No. 380–A is hereby granted for the limited purpose of further consideration. As provided in Rule 713(d) [3] of the Commission's rules of practice and procedure, no answers to the request for rehearing will be entertained by the Commission.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–26308 Filed 10–2–84; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 10

[T.D. 84–211]

Refund of Duties on Imported Watches and Watch Movements

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document finalizes an interim Customs Regulations amendment to reflect a new incentive designed by the Congress to stimulate watch assembly activity in the U.S. insular possessions. The new incentive is in the form of a production incentive certificate entitling the holder (or another party to which it has transferred some or all of its entitlement) to secure the refund of duties paid to Customs on specified watches, watch movements, (including solid state watches and watch movements) and watch parts entered into the U.S. during a 3-year period beginning 2 years before the issue date of the certificate of entitlement. This incentive is being administered jointly by the Departments of Commerce and Interior and by Customs.

EFFECTIVE DATE: November 2, 1984.

FOR FURTHER INFORMATION CONTACT:

Betty L. Colburn, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–5307) or

Richard Seppa or Frank Creel, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230 (202–377–1660).

SUPPLEMENTARY INFORMATION:

Background

Pub. L. 97–446, an Act, "to reduce certain Customs duties, to suspend temporarily certain duties, to extend certain existing suspensions of duties, and for other purposes", was approved on January 12, 1983.

The Act provides a new incentive designed to stimulate watch assembly activity in the U.S. insular possessions (i.e., U.S. Virgin Islands, Guam, American Samoa). The new incentive is in the form of a production incentive certificate which can be used to secure the refund of duties paid on specified watches, watch movements, and watch parts entered during a 3-year period beginning 2 years before the issue date of the certificate. This certificate is to be issued to eligible producers by March 1 of each calendar year.

Because the legislation became effective on January 27, 1983, the interim Customs Regulations amendment was published as T.D. 84–16 in the **Federal Register** on January 12, 1984 (49 FR 1480), and became effective on that date. No comments were received in response to the interim amendment.

The incentive is administered jointly by the Departments of Commerce and Interior and by Customs. Copies of International Trade Administration, Form ITA–360, Certificate of Entitlement to Secure the Refund of Duties on Watches and Watch Movements, are issued by Commerce/Interior and kept by the insular producers on their premises or at another location approved in advance by the Departments.

To obtain a refund, Form ITA–361, A Request for Refund of Duties on Watches and Watch Movements, must be presented by the certificate holder (or, because the certificate entitlements are transferable, by another party legally entitled to a portion or all of the entitlement) to a Customs official at the port of entry where the articles were entered. The documentation accompanying the request form must include a copy of the import entry, providing proof that duty was paid on the watches and watch movements.

The Form ITA–360 certificate expires 1 year from its date of issuance. A refund request made by either the insular producer itself or by a transferee named by the insular producer on Form ITA–361 must be filed within this 1-year period. This expiration date applies equally to all refund requests, whether a single request for the entire amount specified in the Form ITA–360 certificate or multiple requests for partial amounts. Refund requests will be accepted until either the amount specified in the certificate is depleted or until the certificate expires.

A request for refund on Form ITA–361 must be filed at the port where the watch import entry was originally filed, then forwarded to the appropriate Customs regional office of that port for payment and disbursement of copies. Every effort will be made to expedite the processing of these refunds. A fee of 1 percent will be deducted by Customs from each refund request as reimbursement to salaries and expenses of those Customs personnel processing the request. This figure has been reduced from 5 percent because Customs administrative costs were not as high as originally anticipated.

This document finalizes the interim amendment to Part 10, Customs Regulations (19 CFR Part 10), which added a new § 10.181 to provide a procedure to secure the refund of duties on watches and watch movements for watch producers in the U.S. insular possessions. The Department of Commerce drafted rules for the issuance and handling of certificates and the transfer of entitlements as contained in 15 CFR Part 303.

Other than reducing the fee deducted by Customs, the interim amendment is being adopted without change.

Executive Order 12291

Because the amendment does not meet the criteria for a "major rule" as defined by section 1(b) of E.O. 12291, the regulatory impact analysis prescribed by section 3 of the E.O. is not required.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act, relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604), are not applicable to this amendment because it has not had a significant economic impact on a substantial number of small entities nor imposed, or otherwise caused, a significant increase in the reporting, recordkeeping, or other compliance burdens since January 27, 1983. Accordingly, it is certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This amendment is not subject to the Paperwork Reduction Act of 1980, Pub. L. 96–511. Forms ITA–360 and 361 do not

[3] 18 CFR 385.713.

require OMB approval numbers because there are fewer than 10 respondents using the forms.

Drafting Information

The principal author of this document was James S. Demb, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from Commerce, Interior, and other Customs offices participated in its development.

List of Subjects in 19 CFR Part 10

Customs duties and inspection, Imports.

Amendment to the Regulations

PART 10—[AMENDED]

§ 10.181 [Amended]

The interim amendment to Part 10, Customs Regulations (19 CFR Part 10), published as T.D. 84–16 in the **Federal Register** on January 12, 1984 (49 FR 1480), which added a new center heading and new § 10.181, is adopted as a final rule with the following change. In paragraph (f) of § 10.181, the figure "5" is removed and, in its place, the figure "1" inserted.

William von Raab,
Commissioner of Customs.

Approved: September 12, 1984.

Edward T. Stevenson,
Acting Assistant Secretary of the Treasury.

[FR Doc. 84-26215 Filed 10-2-84; 8:45 am]
BILLING CODE 4820-02-M

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19 CFR Parts 18, 123, and 144

[T.D. 84-212]

Customs Regulations Amendments Relating to the Transportation of Bonded Merchandise

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to provide more control over imported merchandise transported in-bond from the port of entry to the port of destination or port of exportation. It is also designed to prevent abuses of the lay order period and general order procedures.

In-bond transportation refers to merchandise moved under contract (bond) guaranteeing delivery to Customs and payment of duties and taxes. With few exceptions, existing regulations do not set a time for receipt and delivery of in-bond merchandise by a forwarding carrier, or notification to Customs of the arrival of the merchandise at the port of destination or exportation. As a result, the security of the merchandise is jeopardized and there are abuses of the lay order period and the general order procedure.

These amendments establish time periods for the receipt, delivery, and notification to Customs of arrival of imported merchandise transported in-bond within the United States. They also provide that presentation to Customs of the in-bond document accompanying the merchandise will be acceptable as proof of delivery, and that the new in-bond control system will be applicable to truck shipments of in-bond merchandise transiting the United States to Canada or Mexico.

EFFECTIVE DATE: November 2, 1984.

FOR FURTHER INFORMATION CONTACT:

Operational Aspects: J. Bradley Lund, Office of Inspection and Control (202–566–5354);

Entry Aspects: Jerry Laderberg, Entry Procedures and Penalties Division (202–566–5765);

Bond Aspects: William Lawlor, Carriers, Drawback and Bonds Division (202–566–5865); U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

SUPPLEMENTARY INFORMATION:

Background

Under sections 552 and 553, Tariff Act of 1930, as amended (19 U.S.C. 1552, 1553), any merchandise arriving at a port of entry in the United States, other than merchandise the importation of which is prohibited, may be entered without appraisement or payment of Customs duty for: (1) Transportation in-bond to any other port of entry; or (2) transportation in-bond through the United States for exportation. Either transportation must be made under the rules and regulations prescribed by the Secretary of the Treasury, most of which are set forth in Part 18, Customs Regulations (19 CFR Part 18).

The Customs Regulations do not specifically provide for the time of receipt, delivery, or notification to Customs of arrival of merchandise transported in-bond, except for transit air cargo and merchandise being transported for exportation (§§ 6.21 and 18.20, Customs Regulations (19 CFR 6.21, 18.20)). As a result, the security of the merchandise and compliance with Customs laws and regulations are jeopardized. Abuses of the lay order period and the general order procedures (whereby merchandise which is landed but not covered by a permit for its release is allowed to remain on the dock or unloading area for a period of 5 days before it is deposited in a public store or general order warehouse) have also resulted from Customs failure to provide specific time limits for the movement of imported in-bond merchandise through the United States.

After extensive study of this problem over several years, by notice published in the **Federal Register** on October 14, 1983 (48 FR 46812), amendments to Parts 18, 123, and 144, Customs Regulations, were proposed. That notice proposed the following:

(1) An amendment to § 18.2(a), Customs Regulations, to provide that within 5 working days after presentation of an entry for merchandise to be transported in-bond, the forwarding carrier would be required to take receipt of the merchandise provided the lay order period or any extension of that period had expired and no other entry had been filed. If the forwarding carrier failed to take receipt of the merchandise in the required period, the transportation entry would be canceled and the merchandise treated as unclaimed as of the date of original arrival.

(2) An amendment to § 18.2(c), Customs Regulations, to provide that, except for transit air cargo provided for in § 6.21, Customs Regulations, bonded merchandise destined to a final port in the United States, or for exportation from the United States, would be required to be delivered to Customs at the port of destination or exportation within 30 days, if transported by land, or within 60 days if transported on board a vessel in the U.S. coastwise trade, after the date of receipt by the forwarding carrier at the port of origin. Failure to comply with this time limit would constitute an irregular delivery and subject the initial bonded carrier to penalties under § 18.8, Customs Regulations.

(3) An amendment to §§ 18.2(d) and 18.7(a), Customs Regulations, to require a carrier delivering bonded merchandise to surrender the in-bond manifest to the district director within 2 working days, after arrival of any portion of the in-bond shipment at the port of destination or delivery of the merchandise to the exporting carrier at the port of exportation. As noted above, failure to comply with this time limit would constitute an irregular delivery and subject the initial bonded carrier to applicable penalties under § 18.8, Customs Regulations.

(4) An amendment to § 18.8, Customs Regulations, to provide that an acceptable proof of proper delivery of bonded merchandise to Customs at the port of destination or exportation would be a properly receipted copy of the in-

bond document (the appropriate Customs Form 7512 or 7520, or the carnet).

(5) An amendment to § 18.2(b), Customs Regulations, to provide that the in-bond document and Customs control card (Customs Form 7512–C, Transportation Entry and Manifest of Goods) be prepared by the carrier, shipper, or any of the parties named in § 18.11(b), Customs Regulations, whenever merchandise is being transported in-bond. The Customs in-bond document thus prepared may then be signed by the carrier or any of the parties named in § 18.11(b), Customs Regulations.

(6) An amendment to the Customs Regulations to delete the words "in duplicate" after the words "Customs Form 7512–C" wherever they appear in the Customs Regulations and to substitute the word "destination" for "duplicate" wherever that word appears in the Customs Regulations in reference to the second part of Customs Form 7512–C. Several other editorial changes and conforming amendments to Part 18, Customs Regulations, were also proposed. These amendments to the general provisions contained in §§ 18.1–18.8 apply to merchandise in transit through the United States to foreign countries (§§ 18.20–18.24, Customs Regulations), and merchandise withdrawn from warehouse for transportation or transportation and exportation (§§ 144.36 and 144.37, Customs Regulations).

The proposed in-bond control system also was to apply to baggage in transit from port-to-port in Canada or Mexico through the United States (§ 123.64, Customs Regulations), and truck shipments transiting the United States, except when otherwise provided. An additional paragraph to § 123.42, Customs Regulations, was proposed to accomplish this purpose.

Interested parties had until December 13, 1983, to submit written comments. Nine comments were received in response to the notice. A discussion of these comments and our responses follow.

Discussion of Comments

Most of the comments oppose at least some of the time limits placed upon the in-bond transportation of merchandise through the United States. The reason most often given for this opposition was the inability to adhere to the time limits because of circumstances beyond the carrier's control. These circumstances ranged from non-cooperation of the broker or other bonded carrier to acts of God, such as inclement weather.

Specific comments and our responses are as follows:

Comment: Movement of merchandise wholly or partially by barge may be impeded by ice or low water, thereby precluding delivery to the port of exportation or destination within the 30 or 60-day time limit. Also, the 30-day time limit is too short for certain rail traffic which may be restricted to movement during daylight hours.

Response: These conditions may be considered a circumstance beyond the carrier's control, upon which the district director, in his discretion, may mitigate any penalties or cancel the claim for liquidated damages incurred for late deliveries.

Comment: Allowing the fowarding carrier 5 days in which to take receipt of the merchandise being transported in-bond (after presentation of an entry for the merchandise and expiration of the lay order period and any extensions thereof) is unnecessary and could result in cargo sitting on the dock for long periods of time. This would continue the importing carrier's obligation under his bond.

Response: Although on occasion merchandise may remain on the dock for a long period, in most instances the importing carrier would not allow bonded merchandise it delivers to sit on the dock for an extended period. Customs believes that the exigencies of commerce require that the importing carrier be *allowed* an additional 5 days beyond the lay order period to arrange for the further transportation of the merchandise.

As to the continuation of the importing carrier's bond obligation while the merchandise is sitting on the dock, we note that the importing carrier has control over this situation. It could require the fowarding carrier to sign off on the in-bond transportation document (Customs Form 7512) which would extinguish its (the importing carrier's) bond obligation.

Comment: An operator of a limited use short route pipeline extending from a seaport to a contiguous country border location complains that the special nature of its operation often results in the imported material remaining in its pipeline in the United States for over 30 days. Since this company cannot always complete a transit movement within 30 days of the in-bond entry, it suggests that an exclusionary provision be added to § 18.2(c)(2), Customs Regulations, for merchandise transported by pipeline.

Response: While we recognize that the above problem exists, especially with regard to imported oil which may sit in a shore tank for a long period of time before it is sent through the pipeline or remain in the pipeline for some time after initial entry, we do not believe this occurs enough to warrant an exclusion from the regulation. A district director may use his discretionary authority to grant extensions of time to the pipeline operator for the in-transit movement of the merchandise through the pipeline.

Comment: Because of some misunderstanding between the broker who files the in-bond entry and the carrier who picks up the merchandise, the carrier may fail to receipt for the merchandise.

Response: This is a private matter between the broker and the carrier. It does not involve Customs.

Comment: The requirement that the carrier surrender the manifest to Customs within 2 days of arrival of the shipment at the port of destination is unreasonable because Customs may not be able to respond to the carrier's request for examination for up to 5 days.

Response: The commenter is confusing the issue here. The carrier need only deliver the manifest to Customs within the 2-day period to relieve itself of liability for failure to deliver the manifest. It does not have to wait for physical examination by Customs of the cargo to present the manifest.

One commenter suggested that the carrier's receipt of a copy of the in-bond document (Customs Form 7512) presented to Customs would help in resolving liquidated damages claims. While we agree with this comment, we note that this would only provide proof that the carrier has satisfied his obligation to report the arrival of the merchandise. It would not relieve it of liability for shortages, misdelivery, etc., under § 18.8, Customs Regulations.

Another commenter noted that the proposal did not provide a separate paragraph for merchandise delivered from a warehouse, as in present § 18.2(a)(2). We have remedied this by redesignating existing § 18.2(a)(2) as § 18.2(a)(3).

After careful analysis of the comments received and further review of the matter, it has been determined to adopt the proposal with the modification to § 18.2(a), as stated above.

Executive Order 12291

It has been determined that these amendments are not a "major rule" within the criteria provided in section 1(b) of E.O. 12291, and therefore no regulatory impact analysis is required.

Regulatory Flexibility Act

Pursuant to the provisions of section 605(b) of the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601 et seq.), it is hereby certified that the regulations set forth in this document will not have a significant economic impact on a substantial number of small entities. Accordingly, they are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Drafting Information

The principal author of this document was Susan Terranova, Regulations Control Branch, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects

19 CFR Part 18

Common carriers, Customs duties and inspection, Exports, Freight forwarders, Imports, Surety bonds.

19 CFR Part 23

Canada, Mexico, Motor carriers.

19 CFR Part 144

Warehouses.

Amendments to the Regulations

Parts 18, 123, and 144, Customs Regulations (19 CFR Parts 18, 123, 144), are amended as set forth below:

PART 18—TRANSPORTATION IN BOND AND MERCHANDISE IN TRANSIT

1. Paragraph (a), the first sentence of paragraph (b), and paragraphs (c) and (d) of § 18.2 are revised to read as follows:

§ 18.2 Receipt by carrier, manifest.

(a)(1) *Merchandise other than from warehouse delivered to bonded carrier.* Except as set forth in paragraph (a)(2) of this section, within 5 working days after presentation of an entry for merchandise to be transported in-bond, the forwarding carrier shall take receipt of the merchandise if any lay order period and extension thereof have expired and no other entry is filed. If the forwarding carrier fails to take receipt of the merchandise within the prescribed period, the transportation entry shall be canceled and the merchandise shall be treated as unclaimed as of the date of original arrival.

(2) When merchandise is delivered to a bonded carrier for transportation in-bond, the merchandise shall be laden on the conveyance under supervision of a Customs officer unless—

(i) The transporting conveyance is not to be sealed with Customs seals, or

(ii) the lading inspector accepts the check of the carrier as to the merchandise laden. The carrier's receipt shall be given immediately to the lading inspector on the Customs in-bond document (the appropriate Customs Form 7512 or 7520, or the carnet) covering the merchandise. In the case of a carnet, the receipt shall be given on the appropriate vouchers in the following form:

Received the cargo listed herein for delivery to Customs at the indicated port of destination or exportation, or for direct exportation.

Name of Carrier (or Exporter)_____

Attorney-in-fact or Agent of Carrier (or Exporter) _____

Date_____

(3) *Merchandise delivered from warehouse.* When merchandise is delivered from a warehouse to a bonded carrier for transportation in bond, supervision of lading shall be accomplished in accordance with the procedure set forth in § 19.6(b) of this chapter.

(b) A Customs in-bond document, containing a description of the merchandise, and Customs control card (Customs Form 7512–C), shall be prepared by the carrier or any of the parties named in § 18.11(b), whenever merchandise is being transported in bond. The Customs in-bond document thus prepared shall then be signed by the carrier or any of the parties named in § 18.11(b). * * *

(c)(1) After the merchandise has been laden and the in-bond carrier or his agent has receipted the in-bond document, either Customs Form 7512 or 7520 (in duplicate), together with either the related Customs Form 7512–C (destination) or the carnet (which cannot be used in conjunction with Customs Form 7512–C) shall be delivered as a manifest to the conductor, master, or person in charge to accompany the merchandise to its port of destination or exportation. If more than one conveyance is used to transport the merchandise, the Customs Form 7512–C (destination) shall accompany the first conveyance, and two copies of Customs Form 7512 shall accompany each conveyance as a manifest of the merchandise transported by that conveyance. A TIR carnet (see § 18.3(b)) shall not be used if more than one conveyance is required.

(2) Except transit air cargo provided for in § 6.21 of this chapter, bonded merchandise destined to a final port of destination in the United States, or for export from the United States, shall be delivered to Customs at the port of destination or exportation within 30 days after the date of receipt by the forwarding carrier at the port of origin, if transported on land. If the merchandise is transported on board a vessel engaged in the United States coastwise trade, delivery to Customs at the port of destination or exportation shall be within 60 days after the date of receipt by the forwarding carrier at the port of origin. Failure to deliver the merchandise within the prescribed period shall constitute an irregular delivery and the initial bonded carrier shall be subject to applicable penalties (see § 18.8).

(d) Promptly, but no more than 2 working days after the arrival of any portion of the in-bond shipment at the port of destination, the delivering carrier shall surrender the in-bond manifest (the in-bond document and related Customs Form 7512–C (destination) or the carnet) to the district director as notice of arrival of the merchandise. If the in-bond manifest is lost in transit, the in-bond carrier shall report the arrival of the merchandise within the prescribed period and shall be responsible for obtaining copies of the original in-bond manifest. Failure to surrender the in-bond manifest or report the arrival of bonded merchandise within the prescribed period shall constitute an irregular delivery and the initial bonded carrier shall be subject to applicable penalties (see § 18.8).

2. Section 18.3(b) is revised to read as follows:

§ 18.3 Transshipment;[3] transfer by bonded cartmen.

* * * * *

(b) When bonded merchandise, other than merchandise covered by a TIR carnet, is to be transshipped to more than one conveyance, the carrier or any of the parties named in § 18.11(b) shall prepare for each such conveyance two additional copies of the Customs Form 7512 which accompanied the merchandise to the place of transshipment. The Customs Form 7512 and Customs Form 7512–C (destination) which accompanied the shipment to the place of transshipment shall be presented to the district director there. The Customs officer supervising the transshipment shall execute a certificate of transfer on all copies of the Customs Form 7512. The original copies of the Customs Form 7512 and the related Customs Form 7512–C (destination) shall be delivered to the conductor, master, or person in charge of the first conveyance. Two additional copies of the Customs Form 7512 shall be delivered to the person in charge of each additional conveyance in which the merchandise is

forwarded for delivery to the district director at the port of destination or exportation.

* * * * *

3. Section 18.7(a) is revised to read as follows:

§ 18.7 Lading for exportation; verification of.

(a) Promptly, but no more than 2 working days, after arrival of any portion of the in-bond shipment at the port of exportation, the delivering carrier shall surrender the in-bond manifest (the in-bond document and related Customs Form 7512–C (destination) or the carnet) to the district director as notice of arrival of the merchandise. If the in-bond manifest is lost in transit, the in-bond carrier shall report the arrival of the merchandise within the prescribed period and shall be responsible for obtaining copies of the original in-bond manifest. Failure to surrender the in-bond manifest or report the arrival of bonded merchandise within the prescribed period shall constitute an irregular delivery and the initial bonded carrier shall be subject to applicable penalties (see § 18.8).

* * * * *

4. Section 18.8(a) is revised to read as follows:

§ 18.8 Liability for shortage, irregular delivery, or nondelivery; penalties.

(a) The initial bonded carrier shall be responsible for shortage, irregular delivery, or nondelivery at the port of destination or exportation of bonded merchandise received by it for carriage. An acceptable proof of proper delivery of bonded merchandise to Customs at the port of destination or exportation is a properly receipted copy of the in-bond document (the appropriate Customs Form 7512 or 7520, or the carnet). When sealing is waived, any loss found to exist at the port of destination or exportation shall be presumed to have occurred while the merchandise was in the possession of the carrier, unless conclusive evidence to the contrary is produced.

* * * * *

5. The last sentence of paragraph (b) of § 18.13 is revised to read as follows:

§ 18.13 Procedure; manifest.

* * * * *

(b) * * * Two copies of Customs Form 7520 and the related Customs Form 7512–C (destination) shall be delivered to the carrier to accompany the baggage and shall be delivered by the carrier to the district director at the port of destination as a notice of arrival.

* * * * *

§ 18.20 [Amended]

6. Section 18.20(c) is amended by removing the last sentence.

(R.S. 251, as amended (19 U.S.C. 66), sections 552, 553, 557, 623, 624, 46 Stat. 742, as amended, 744, as amended, 759, as amended (19 U.S.C. 1552, 1553, 1557, 1623, 1624))

PART 123—CUSTOMS RELATIONS WITH CANADA AND MEXICO

1. Sections 123.42 (c)(1) and (d) are amended by removing the word "(duplicate)" and inserting, in its place, the word "(destination)".

2. Section 123.42 is further amended by adding a new paragraph (g) to read as follows:

§ 123.42 Truck shipments transiting the United States.

* * * * *

(g) *Forwarding procedure.* Except as otherwise provided in this section, merchandise transported in trucks shall be forwarded in accordance with the general provisions for transportation in bond (§§ 18.1–18.8 of this chapter).

§ 123.64 [Amended]

3. Section 123.64(b) is amended by removing the word "(duplicate)" and inserting, in its place, the word "(destination)".

(R.S. 251, as amended (19 U.S.C. 66), sections 552, 553, 557, 623, 624, 46 Stat. 742, as amended, 744, as amended, 759, as amended (19 U.S.C. 1552, 1553, 1557, 1623, 1624))

PART 144—WAREHOUSE AND REWAREHOUSE ENTRIES AND WITHDRAWALS

§§ 144.36 and 144.37 [Amended]

Section 144.36(c) and § 144.37(a) are amended by removing the words, "in duplicate".

(R.S. 251, as amended (19 U.S.C. 66), sections 552, 553, 557, 623, 624, 46 Stat. 742, as amended, 744, as amended, 759, as amended (19 U.S.C. 1552, 1553, 1557, 1623, 1624))

Alfred R. De Angelus,

Acting Commissioner of Customs.

Approved: September 12, 1984.

Edward T. Stevenson,

Acting Assistant Secretary of the Treasury.

[FR Doc. 84–26216 Filed 10–2–84; 8:45 am]

BILLING CODE 4820–02–M

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19 CFR Part 171

[T.D. 84–210]

Customs Regulations Amendment Regarding Petitions for Remission of Certain Conveyance Forfeitures

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document implements, on a permanent basis, an interim amendment to the Customs Regulations which provides for a 30-day time limit for submission of petitions for relief from interested parties in matters involving the seizure/forfeiture of conveyances in certain instances. Before the interim regulations were issued on March 12, 1984, parties were permitted a 60-day period to submit petitions, irrespective of the character of the alleged violation.

It was necessary to implement the change because of the dramatic increase in seizures of conveyances used to facilitate the illegal importation of drugs and firearms. This amendment is necessary in order to expand the effectiveness of Customs drug smuggling enforcement efforts and to provide for the expeditious disposition of seized conveyances.

EFFECTIVE DATE: October 3, 1984.

FOR FURTHER INFORMATION CONTACT: Harriett D. Blank, Office of Regulations and Rulings, Miscellaneous Penalties Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–5746).

SUPPLEMENTARY INFORMATION:

Background

The National Narcotics Intelligence Consumers Committee has documented that the supply of illegal drugs to the U.S. market and the subsequent extent of drug abuse has reached monumental proportions. Illegal drugs generated an estimated $80 billion in retail sales in 1980, a 23 percent increase from 1979. The severity of the drug abuse problem, the preponderance of drug users and the major increases in the volume of illegal drug importations in the U.S. are indicated by the significant increase in drug-related deaths, medical care, arrests, and seizures. The Customs Service is playing an increasingly significant role in the Administration's war on drugs. In fact, Customs seizes more conveyances than any other Federal agency. The increased effectiveness of the enforcement efforts places a significant burden on Customs in that the seized conveyances must be stored and maintained, often for extended periods of time.

In order to address this growing problem, it was necessary to take immediate action. Therefore, the Customs Regulations were amended on an interim basis by the publication of T.D. 84–60 on March 12, 1984 (49 FR 9166), to provide an expedited petition process for cases involving certain

conveyance seizures. Specifically, § 171.12, Customs Regulations (19 CFR 171.12), was amended to provide that petitions for relief from the seizures of conveyances involved in the illegal transportation of any amount of heroin, 5 pounds or more of cocaine, 10 pounds or more of hashish, 250 pounds or more of other controlled substances, or firearms in a quantity clearly in excess of personal use needs, must be filed within 30 days from the date of mailing of the notice of fine, penalty, or forfeiture.

Analysis of Comments

Only 6 comments were received in response to the publication of the interim regulations. Five of these were from banks or companies in the business of financing conveyances.

All commenters urged restoration of the 60-day petition period, but provided no documentation to substantiate their contention that a 30-day period would prove to be a burden on them. Section 171.13, Customs Regulations (19 CFR 171.13), as amended by T.D. 84–92, published in the **Federal Register** on April 25, 1984 (49 FR 17754), specifies which evidence a lienholder must submit with a petition for relief, and provides examples. The type of evidence specified is the kind of information a lienholder most certainly must require at the time a loan is granted. Customs believes the required information can easily be forwarded to Customs within the 30-day period.

After consideration of the comments received and further review of this matter, it has been determined advisable and necessary to implement the interim regulations set forth in T.D. 84–60 as a final rule.

Inapplicability of Notice and Delayed Effective Date Provision

Because of the ongoing problems associated with the delayed disposition of conveyances seized in connection with the illegal importation of certain drugs and firearms, it was determined that, pursuant to 5 U.S.C. 553(b)(3)(b), notice and public procedure were inapplicable and unnecessary. Accordingly, this amendment was adopted on an interim basis effective March 12, 1984. Because it has been effective since that date, good cause exists for dispensing with a delayed effective date pursuant to 5 U.S.C. 553(d)(3).

E.O. 12291 and Regulatory Flexibility Act

Inasmuch as Customs does not believe that the amendment meets the criteria for a "major rule" within the meaning of section 1(b) of E.O. 12291, a regulatory impact analysis has not been prepared.

Pursuant to the provisions of section 5 of the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601 *et seq.*), it is hereby certified that the regulation will not have a significant economic impact on a substantial number of small entities within the meaning of the Act. Accordingly, the amendment is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Drafting Information

The principal author of this document was Larry L. Burton, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects in 19 CFR Part 171

Administrative practice and procedure, Law enforcement, Penalties, Seizures, and forfeitures.

Amendments to the Regulations

Part 171, Customs Regulations (19 CFR Part 171), is amended as set forth below.

PART 171—FINES, PENALTIES, AND FORFEITURES

Section 171.12 is amended by: (1) Redesignating paragraph (c) as paragraph (d);, (2) redesignating paragraph (d) as paragraph (e); (3) adding a new paragraph (c); and (4) revising paragraph (b) to read as follows:

§ 171.12 Filing of Petition.

* * * * *

(b) *When filed.* Except as provided in paragraph (c) of this section, or unless additional time has been authorized as provided in § 162.32(a) of this chapter, petitions for relief shall be filed within 60 days from the date of mailing of the notice of fine, penalty, or forfeiture incurred.

(c) *Petitions for remission of forfeitures of certain conveyances.* Petitions for remission of forfeiture of a conveyance seized in connection with the illegal importation of any amount of heroin, 5 pounds or more of cocaine, 10 pounds or more of hashish, 250 pounds or more of other controlled substances, or firearms in a quantity clearly in excess of personal use needs, shall be filed within 30 days from the date of mailing of the notice of fine, penalty, or forfeiture incurred.

* * * * *

(R.S. 251, as amended sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

William von Raab,

Commissioner of Customs.

Approved: September 12, 1984.

Edward T. Stevenson,

Acting Assistant Secretary of the Treasury.

[FR Doc. 84–26214 Filed 10–2–84; 8:45 am]

BILLING CODE 4820–02–M

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19 CFR Part 172

[T.D. 84–209]

Customs Regulations Amendment Relating to Relief From Certain Liquidated Damages Claims

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to provide that claims for liquidated damages for the failure to file timely entry summaries after the release of merchandise under an entry or an immediate delivery permit are to be demanded and cancelled pursuant to guidelines published by the Commissioner of Customs. This change is necessary in order to have the regulations reference the guidelines, thereby ensuring uniform and consistent disposition of these liquidated damages claims.

EFFECTIVE DATE: November 2, 1984.

FOR FURTHER INFORMATION CONTACT: Jeremy Baskin, Miscellaneous Penalties Branch, Office of Regulations and Rulings, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20220 (202–566–5746).

SUPPLEMENTARY INFORMATION:

Background

In accordance with section 484, Tariff Act of 1930, as amended (19 U.S.C. 1481), and Part 142, Customs Regulations (19 CFR Part 142), merchandise may be released from Customs custody before the deposit of duty and the submission of complete entry documentation. When an importer elects to use this procedure, the entry summary, together with the deposit of estimated duties and taxes due, must be submitted to Customs within 10 working days of release of the merchandise. An importer filing the entry summary late is subject to a demand under his Customs bond for liquidated damages in the amount of the value of the merchandise plus the duties and taxes owing. In such cases, under section 623, Tariff Act of 1930, as amended (19 U.S.C. 1623), and Part 172, Customs Regulations (19 CFR Part 172), the importer is afforded the opportunity

to petition for relief from the payment of liquidated damages.

Customs initially set forth guidelines for the disposition of violations of the timely entry summary filing requirement by T.D. 80–298, published in the Customs Bulletin on December 24, 1980. These guidelines, however, resulted in certain inequities, prompting Customs to revise them. New guidelines were initially set forth in Manual Supplement 4400–11, issued to all Customs offices on April 20, 1983. They were subsequently published as Treasury Decision 83–117 in the Customs Bulletin dated June 1, 1983. They will be included in the 1985 revision of the Customs Fines, Penalties, and Forfeitures Handbook.

The new guidelines retained the basic concept of the previous guidelines under which the petitioner has two options available to him in resolving the demand for liquidated damages.

Under option 1, the violator may pay a specified sum within 60 days of the date of receipt of notice of the demand for liquidated damages and the case will be closed. By electing this option, the violator waives his right to file a petition. He may, however, file a petition after payment of the claim if he does so in accordance with the Customs Regulations and if he has some new fact or information which merits consideration. Under this option, for a dutiable entry where the entry summary is filed late, the specified sum will be $50 plus interest on the withheld duties at the rate of 0.1 percent (.001) per calendar day that the entry summary and/or duty were late. The specified sum for an entry for which there are not withheld duties (including a duty-free entry and a dutiable entry rejected, refiled late with no withheld duties) will be $50.

Under option 2, the violator may file a petition; but he generally would not be granted more relief than he would receive by paying the specified sum of option 1. If the entry summary is late by less than 30 days, the district director will grant further relief only when the petitioner has demonstrated either that the violation did not occur, or that the violation was the result of Customs error. If the entry summary is late by 30 days or more, the district director may consider the following factors in response to a petition for relief:

1. The circumstances causing the delay;
2. The extent of the lateness;
3. The amount of duty withheld;
4. The past record of the violator in filing entry summaries timely; and
5. The violator's lack of intent to file his entry summary late (an uncorroborated statement to this effect will generally be insufficient).

Ordinarily, mitigation granted under option 2 will not be in an amount less than the specified sum of option 1 unless the petitioner has presented extraordinary mitigating factors which justify such action.

Section 172.22(d), Customs Regulations (19 CFR 172.22(d)), provides for the manner in which a district director may act upon applications for relief from liquidated damages claims assessed for the failure to file timely an entry summary after release of merchandise under an entry or an immediate delivery permit. Section 172.22(d)(1) presently provides, in part, that if a district director is satisfied that the delay in filing the entry summary was not deliberate, he may cancel the claim for liquidated damages upon the payment of an appropriate sum which shall not exceed 10 percent of the duty assessed, but which shall not be less than $25. If the situation warrants, authority to exceed 10 percent of the duty is vested in the Commissioner of Customs by § 172.22(d)(3).

Customs is amending § 172.22(d) to state that claims for liquidated damages for the failure to file timely entry summaries after the release of merchandise under an entry or an immediate delivery permit shall be demanded and cancelled pursuant to guidelines published by authority of the Commissioner.

Section 172.22(d) is also amended to provide that, in the case of an entry summary which has not been filed, the district director may not grant relief from a claim for liquidated damages until the entry summary has been filed.

A notice of proposed rulemaking on this subject was published in the **Federal Register** on July 27, 1983 (48 FR 34081), inviting public comments. A discussion of the five comments received and our responses follow.

Discussion of Comments

Comment: The guidelines should be incorporated in the Customs Regulations, so as to make them subject to review by the general public. Also, regulations which are based upon guidelines not made part of the regulations violate the Administrative Procedure Act.

Response: We disagree. Guidelines are a matter of administrative discretion as granted by section 623(c), Tariff Act of 1930, as amended (19 U.S.C. 1623(c)). To publish guidelines as inviolate standards would remove the element of discretion granted to the Secretary of the Treasury, and would therefore be contrary to the statute.

Also, the omission of the guidelines from the regulations does not violate the Administrative Procedure Act. No mitigation guidelines are published in the regulations themselves. The 19 U.S.C. 1497 and 19 U.S.C. 1592 guidelines are published as appendices to the regulations. Moreover, all such guidelines are readily available to the general public and will be incorporated in the Fines, Penalties, and Forfeitures Handbook, a public document.

Comment: The new guidelines bar any use of discretion by the district director in deciding the mitigated amount to be paid by the violator. Also, § 172.22(d)(3), Customs Regulations, is inequitable in that it permits the district director, upon approval of the Commissioner, to take a mitigated amount in excess of the amount provided for by the guidelines. Section 172.22(d)(2) is inequitable in that it restricts cancellation of liquidated damages without payment of any mitigated amount to those cases in which the violation occurs *solely* because of Customs delay in returning the documents necessary to file an entry summary to the importer or broker. It does not take into account Customs contributory error.

Response: We disagree. First, the guidelines provide for discretion on the part of the district director in setting the mitigated amount in cases where the entry summary is filed 30 days late or more. In cases where the lateness is less than 30 days, there are very few reasons for the late filing other than the negligence of the importer or broker. In these cases, the district director intentionally was not given discretion in setting the mitigated amount, to discourage frivolous petitions.

Secondly, § 172.22(d)(3) does not permit the district director to take a mitigated amount greater than that set by the guidelines. Section 172.22(d)(3) provides that the case shall be referred to the Commissioner for disposition if the district director believes an amount in excess than that established in accordance with the guidelines is warranted. The decision as to an appropriate mitigated amount in such cases will be made by the Commissioner, not the district director.

Finally, we do not believe that § 172.22(d)(2) is inequitable because of its failure to consider Customs contributory error in a late filing violation. Customs cannot contribute to a late filing violation. If Customs error led to the petitioner's failure to file the entry timely, then Customs *caused* the late filing and cancellation of the claim for liquidated damages would be warranted under this regulation.

Comment: The basic $50 mitigated amount is too high and bears no relation to the loss of interest on duty that is deposited late along with the entry summary.

Response: The loss of the use of duty is not the sole reason for the penalty payment in these cases. While timely duty payment is important, the guidelines are also intended to deter the late filing of entry documentation and to partially compensate the Government for the administrative expenses incurred. The entry documentation is necessary for statistical and merchandise control purposes. Taking this into consideration, the $50 basic mitigated amount is fair. This amount, moreover, was established by Customs after consultation with the importing public, including brokers.

Comment: The mitigation guidelines should specify what type of data might "satisfy" the district director that the violation occurred solely because of delays by Customs in returning the necessary documents to the importer or broker.

Response: The commenter apparently is concerned about cases in which (1) entry summaries are presented to Customs but never returned to the importer or (2) entry summaries are delivered to Customs but claimed not to have been received.

This problem was resolved by issuing instructions to all Customs field offices, in Manual Supplement 4400–11, dated April 20, 1983, requiring institution of a date-stamping or receipt system, whereby entry summaries are stamped as received in front of the person filing the entry summary, or a receipt (validated broker copy) provided to the entry summary filer, as requested. Thus, the importer or broker would be able to prove timely filing of the entry summary, and any claim for liquidated damages for late filing would be cancelled by Customs.

Comment: Section 172.22(d)(3) permits certain cases to be forwarded to the Commissioner for disposition. This ordinarily means a delegate of the Commissioner. However, no delegation order to a subordinate exists.

Response: Customs Delegation Order No. 1 (Revision 1), Amended (T.D. 80–63), expressly provides for delegation to the Director, Office of Regulations and Rulings, at Customs Headquarters, of the authority granted the Commissioner of Customs by Treasury Department Order No. 165, Revised (T.D. 53654), to make decisions in liquidated damages cases. The Customs Delegation Order further provides for the redelegation of this authority from the Director, Office of Regulations and Rulings, to appropriate division directors and branch chiefs within the Office of Regulations and Rulings.

Comment: The proposed amendment, if promulgated, would have a significant economic impact on a substantial number of small entities, i.e., brokers. The provisions of the Regulatory Flexibility Act are therefore applicable.

Response: The amendment does not change any current economic impact upon brokers. Also, late filing liabilities generally are not assessed against brokers. Rather, they are assessed against importers of record who are ultimately liable, as principals on the entry bond, for any claims for liquidated damages.

Comment: The late filing mitigation guidelines, like the 19 U.S.C. 1497 and 1592 mitigation guidelines, should be published as an appendix to the Customs Regulations.

Response: Because of the legal complexity of the 19 U.S.C. 1497 and 1592 mitigation guidelines, they have been published as appendices to the Customs Regulations. The late filing guidelines do not involve such complexity. As with other non-complex guidelines, they are not included in the Customs Regulations, but are published in the Fines, Penalties, and Forfeitures Handbook, which is available to the public.

Upon consideration of the comments received, and further review of the matter, it has been determined advisable not to incorporate the late filing guidelines in the Customs Regulations, but to adopt the amendment as proposed.

Executive Order 12291

This amendment does not meet the criteria for a "major rule" as defined by section 1(b) of E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

Regulatory Flexibility Analysis

The provisions of the Regulatory Flexibility Act, relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604), are not applicable to this amendment because it will not have a significant economic impact on a substantial number of small entities.

Accordingly, it is certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this rule will not have a significant economic impact on a substantial number of small entities.

Drafting Information

The principal author of this document was Susan Terranova, Regulations Control Branch, Customs Headquarters. However, personnel from other Customs offices participated in its development.

List of Subjects in 19 CFR Part 172

Customs duties and inspection, Imports, Administrative practice and procedure, Penalties.

Amendment to the Regulations

Part 172, Customs Regulations (19 CFR Part 172), is amended as set forth below.

Approved: September 12, 1984.

Edward T. Stevenson,

Acting Assistant Secretary of the Treasury.

Alfred R. De Angelus,

Acting Commissioner of Customs.

PART 172—LIQUIDATED DAMAGES

Section 172.22(d) is revised to read as follows:

§ 172.22 Special cases acted on by district director of Customs.

* * * * *

(d) *Failure to file timely entry summary after release under entry or immediate delivery permit.* (1) If an entry summary for merchandise not subject to quota has not been timely filed after release under an entry or under a special permit for immediate delivery, the district director shall issue a demand for liquidated damages in accordance with § 142.15 or 142.27 of this chapter, and in accordance with guidelines published by the authority of the Commissioner of Customs. The demand shall be cancelled in accordance with guidelines published by the authority of the Commissioner of Customs.

(2) If the district director is satisfied that the violation occurred solely because of a delay in the return by Customs to the importer or broker of documents necessary to file the entry summary, he may cancel such liquidated damages without payment.

(3) If collection of an amount greater than that established in accordance with this section appears warranted, the case shall be forwarded to the Commissioner of Customs for disposition.

(4) In the case of an entry summary which has not been filed, the district director may not grant relief from a demand for liquidated damages until the entry summary has been filed.

(R.S. 251, as amended, sec. 484, 46 Stat. 722, as amended, sec. 618, 46 Stat. 757, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1484, 1618, 1624))

[FR Doc. 84-26213 Filed 10-2-84; 8:45 am]

BILLING CODE 4820-02-M

Internal Revenue Service

26 CFR Part 1

[T.D. 7980]

Income Tax; Tertiary Injectant Expenses

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final Income Tax Regulations relating to the allowance of a deduction for tertiary injectant expenses. In general, tertiary injectants are used to enhance the recovery of oil from a reservoir by use of certain enumerated methods. Changes to the applicable tax law were made by the Crude Oil Windfall Profit Tax Act of 1980. The regulation provides guidance to taxpayers using tertiary recovery methods for the enhanced recovery of oil.

DATES: The regulations are effective for taxable years beginning after December 31, 1979.

FOR FURTHER INFORMATION CONTACT: David R. Haglund of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3297).

SUPPLEMENTARY INFORMATION:

Background

On January 14, 1983, the **Federal Register** published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 193 of the Internal Revenue Code of 1954 (48 FR 1761). The amendments were proposed to conform the regulations to section 251(a)(1) of the Crude Oil Windfall Profit Tax Act of 1980 (94 Stat. 286). Three comments on the proposed amendments were received, and a public hearing was held on May 17, 1983. After consideration of all comments regarding the proposed amendments, those amendments are adopted as revised by this Treasury decision.

Tertiary Injectant Expenses

In general, tertiary injectants are used to enhance the recovery of oil from a reservoir by use of certain enumerated methods. Before the enactment of section 193, tertiary injectant expenses were required to be capitalized if the expenditures increased or enhanced the value of the reservoir beyond the year of injection by augmenting the recoverable amount of hydrocarbons. Section 193 allows as a deduction from gross income an amount equal to the qualified tertiary injectant expenses of the taxpayer. The final regulations allow the deduction for the later of—

(1) The taxable year in which the injectant is injected, or

(2) The taxable year in which the expenses are paid or incurred.

Under section 193, the term "qualified tertiary injectant expense" means, in general, any cost paid or incurred for any tertiary injectant which is used as part of a tertiary recovery method. Section 193 does not allow a deduction, however, for expenses allocable to recoverable hydrocarbons in an injectant containing "more than an insignificant amount" of hydrocarbons. The proposed regulations provided that the special rule for recoverable hydrocarbons applied only if recoverable hydrocarbons constituted at least 25 percent of the value of the injectant. One comment suggested that volume rather than value be used as the measurement standard. Another comment suggested that weight be used as the measurement standard. The final regulations retain value as the measurement standard because the other standards give an advantage to taxpayers combining heavy or high-volume components of little value with hydrocarbons.

One comment suggested that hydrocarbons be considered non-recoverable if their value as recovered is significantly reduced from their value as injected. The final regulations take this point into account by looking to the fair market value that the injected hydrocarbons will have upon recovery.

The final regulations provide that an injectant contains more than an insignificant amount of recoverable hydrocarbons if the fair market value of the hydrocarbon component of the injectant, in the form in which it is recovered, eqals or exceeds 25 percent of the cost of the injectant. If an injectant contains more than an insignificant amount of recoverable hydrocarbons, the amount deductible under section 193 shall be limited to the cost of the injectant reduced by the lesser of—

(i) The value of the hydrocarbon component in the form in which it is recovered, or

(ii) The cost to the taxpayer of the hydrocarbon component.

The final regulations provide that all hydrocarbons are presumed to be recoverable at their full value unless the taxpayer can show otherwise. An estimate based on generally accepted engineering practices may provide evidence of limitations on the amount and value of recoverable hydrocarbons. One of the comments stated that it is difficult to distinguish between injected hydrocarbons and those naturally occurring in the reservoir and cited studies that have indicated that between 0 and 60 percent of the hydrocarbons are recoverable. The comment suggested that the regulations should contain a provision which would presume that 30 percent of the hydrocarbons are recoverable unless the taxpayer shows otherwise. In view of the wide disparity in actual recoverability of hydrocarbons in different circumstances, such a presumption would be inappropriate.

The final regulations also clarify the definition of "hydrocarbon" in the proposed regulations. The regulations make clear that the term "hydrocarbon" includes *all forms of* natural gas or crude oil. This change conforms the definition in the regulations to the discussion of the term in the legislative history (S. Rep. No. 96-394, 96th Cong., 1st Sess. 98 (1979)). The final regulations also make clear that condensate from any source is a hydrocarbon for purposes of section 193. The proposed regulation provided expressly that the term hydrocarbon *includes* condensate "from gas wells"; this specific provision was not intended to exclude condensate from other sources from the definition.

A tertiary recovery method is any method enumerated in subparagraphs (1) through (9) of § 212.78(c) of the June 1979 energy regulations. Under the regulations a taxpayer may also use any method for which the taxpayer has obtained the approval of the Associate Chief Counsel (Technical) under section 4993(d)(1)(B) for purposes of chapter 45 of the Internal Revenue Code, any method which is approved in the regulations under section 4993(d)(1)(B), or any other method to provide tertiary enhanced recovery for which the taxpayer obtains the approval of the Associate Chief Counsel (Technical) for purposes of section 193.

Non-Applicability of Executive Order 12291

The Treasury Department has determined that this regulation is not subject to review under Executive Order 12291 or the Treasury and OMB implementation of Order dated April 29, 1983.

Regulatory Flexibility Act

No general notice of proposed rulemaking is required by 5 U.S.C. 553(b) for interpretative regulations. Accordingly, the Regulatory Flexibility Act (5 U.S.C. Chapter 6) does not apply and no Regulatory Flexibility Analysis is required for this rule.

Drafting Information

The principal author of these regulations was David R. Haglund of the Legislation and Regulations Division of the Office of the Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects in 26 CFR Part 1.61–1—1.281–4

Income taxes, Taxable income, Deductions, Exemptions.

Adoption of Amendments to the Regulations

PART 1—[AMENDED]

Accordingly, 26 CFR Part 1 is amended as follows:

A new § 1.193–1 is added to read as follows:

§ 1.193–1 Deduction for tertiary injectant expenses.

(a) *In general.* Subject to the limitations and restrictions of paragraphs (c) and (d) of this section, there shall be allowed as a deduction from gross income an amount equal to the qualified tertiary injectant expenses of the taxpayer. This deduction is allowed for the later of—

(1) The taxable year in which the injectant is injected, or

(2) The taxable year in which the expenses are paid or incurred.

(b) *Definitions*—(1) *Qualified tertiary injectant expenses.* Except as otherwise provided in this section, the term "qualified tertiary injectant expense" means any cost paid or incurred for any tertiary injectant which is used as part of a tertiary recovery method.

(2) *Tertiary recovery method.* "Tertiary recovery method" means—

(i) Any method which is described in subparagraphs (1) through (9) of section 212.78(c) of the June 1979 energy regulations (as defined by section 4996(b)(8)(C)),

(ii) Any method for which the taxpayer has obtained the approval of the Associate Chief Counsel (Technical), under section 4993(d)(1)(B) for purposes of Chapter 45 of the Internal Revenue Code,

(iii) Any method which is approved in the regulations under section 4993(d)(1)(B), or

(iv) Any other method to provide tertiary enhanced recovery for which the taxpayer obtains the approval of the Associate Chief Counsel (Technical) for purposes of section 193.

(c) *Special rules for hydrocarbons*—(1) *In general.* If an injectant contains more than an insignificant amount of recoverable hydrocarbons, the amount deductible under section 193 and paragraph (a) of this section shall be limited to the cost of the injectant reduced by the lesser of—

(i) The fair market value of the hydrocarbon component in the form in which it is recovered, or

(ii) The cost to the taxpayer of the hydrocarbon component of the injectant. Price levels at the time of injection are to be used in determining the fair market value of the recoverable hydrocarbons.

(2) *Presumption of recoverability.* Except to the extent that the taxpayer can demonstrate otherwise, all hydrocarbons shall be presumed recoverable and shall be presumed to have the same value on recovery that they would have if separated from the other components of the injectant before injection. Estimates based on generally accepted engineering practices may provide evidence of limitations on the amount or value of recoverable hydrocarbons.

(3) *Significant amount.* For purposes of section 193 and this section, an injectant contains more than an insignificant amount of recoverable hydrocarbons if the fair market value of the recoverable hydrocarbon component of the injectant, in the form in which it is recovered, equals or exceeds 25 percent of the cost of the injectant.

(4) *Hydrocarbon defined.* For purposes of section 193 and this section, the term hydrocarbon means all forms of natural gas and crude oil (which includes oil recovered from sources such as oil shale and condensate).

(5) *Injectant defined.* For purposes of applying this paragraph (c), an injectant is the substance or mixture of substances injected at a particular time. Substances injected at different times are not treated as components of a single injectant even if the injections are part of a single tertiary recovery process.

(d) *Application with other deductions.* No deduction shall be allowed under section 193 and this section for any expenditure—

(1) With respect to which the taxpayer has made an election under section 263(c) or

(2) With respect to which a deduction is allowed or allowable under any other provision of chapter 1 of the Code.

(e) *Examples.* The application of this section may be illustrated by the following examples:

Example (1). B, a calendar year taxpayer who uses the cash receipts and disbursements method of accounting, uses an approved tertiary recovery method for the enhanced recovery of crude oil from one of B's oil properties. During 1980, B pays $100x for a tertiary injectant which contains 1,000y units of hydrocarbon; if separated from the other components of the injectant before injection, the hydrocarbons would have a fair market value of $80x. B uses this injectant during the recovery effort during 1981. B has not made any election under section 263(c) with respect to the expenditures for the injectant, and no section of chapter 1 of the Code other than section 193 allows a deduction for the expenditure. B is unable to demonstrate that the value of the injected hydrocarbons recovered during production will be less than $80x. B's deduction under section 193 is limited to the excess of the cost for the injectant over the fair market value of the hydrocarbon component expected to be recovered ($100x—$80x = $20x). B may claim the deduction only for 1981, the year of the injection.

Example (2). Assume the same facts as in example (1) except that through engineering studies B has shown that 700y units or 70 percent of the hydrocarbon injected is nonrecoverable. The recoverable hydrocarbons have a fair market value of $24x (30 percent of $80x). The recoverable hydrocarbon portion of the injectant is 24 percent of the cost of the injectant ($24x divided by $100x). The injectant does not contain a significant amount of recoverable hydrocarbons. B may claim a deduction for $100x, the entire cost of the injectant.

Example (3). Assume the same facts as in example (1) except that through laboratory studies B has shown that because of chemical changes in the course of production the injected hydrocarbons that are recovered will have a fair market value of only $40x. B may claim a deduction for $60x, the excess of the cost of the injectant ($100x) over the fair market value of the recoverable hydrocarbons ($40x).

Example (4). B prepares an injectant from crude oil and certain non-hydrocarbon materials purchased by B. The total cost of the injectant to B is $100x, of which $24x is attributable to the crude oil. The fair market value of the crude oil used in the injectant is $27x. B is unable to demonstrate that the value of the crude oil from the injectant that will be recovered is less than $27x. The injectant contains more than an insignificant amount of recoverable hydrocarbons because the value of the recoverable crude oil ($27x) exceeds $25x (25 percent of $100x, the cost of the injectant). Because the cost to B of the hydrocarbon component of the injectant ($24x) is less than the fair market value of the hydrocarbon component in the form in which it is recovered ($27x), the cost rather than the value is taken into account in the adjustment required under paragraph (c)(1) of this section. B's deduction under section 193 is limited to the excess of the cost of the injectant over the cost of the hydrocarbon component ($100x—$24x = $76x).

This Treasury decision is issued under the authority contained in Secs. 193 and 7805 of the Internal Revenue Code of 1954 (94 Stat.

286, 26 U.S.C. 193; 68A Stat. 917, 26 U.S.C. 7805, respectively).

Approved: September 21, 1984.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Ronald A. Pearlman,

Acting Assistant Secretary of the Treasury.

[FR Doc. 84-26225 Filed 10-2-84; 8:45 am]

BILLING CODE 4830-01-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR 1601

706 Agencies; Handling of Employment Discrimination Charges

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule.

SUMMARY: The Equal Employment Opportunity Commission amends its regulations designating certain State and local fair employment practices agencies (706 Agencies) so that they may handle employment discrimination charges within their jurisdictions, filed with the Commission. Publication of this amendment effectuates the designation of the Topeka, Kansas Human Relations Commission as a 706 Agency.

EFFECTIVE DATE: October 3, 1984.

FOR FURTHER INFORMATION CONTACT: Hollis Larkins, Equal Employment Opportunity Commission, Office of Program Operations, Special Services Staff, 2401 E Street, NW., Washington, D.C. 20507, telephone 202/634-6806.

SUPPLEMENTARY INFORMATION:

List of Subjects in 29 CFR Part 1601

Administrative practice and procedure, Equal employment opportunity, Intergovernmental relations.

PART 1601—PROCEDURAL REGULATIONS

Accordingly, Title 29, Chapter XIV of the Code of Federal Regulations, 29 CFR 1601.74(a) is amended by adding in alphabetical order the following agency:

§ 1601.74 Designated and notice agencies.

(a) * * * Topeka, Kansas Human Relations Commission * * *.

* * * * *

(Sec. 713(a) 78 Stat. 265 (42 U.S.C. 2000e 12(a))

Signed at Washington, D.C. this 19th day of September 1984.

For the Commission.

John D. Schmeizer,

Legal Advisor to Program Director.

[FR Doc. 84-25861 Filed 10-2-84; 8:45 am]

BILLING CODE 4570-06-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

Consideration of Amendments to the Kentucky Permanent Program Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: This document amends 30 CFR 917 by approving an amendment to the Kentucky permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). The amendment pertains to auger mining on pre-mined lands. Additionally, the Director is deferring action on an amendment relating to operations involving the crushing, screening or loading of coal. Action is being deferred until OSM can evaluate fully any impact the District court decision in *Permanent Surface Mining Regulation Litigation II* will have on its rule pertaining to support facilities and preparation plants.

EFFECTIVE DATE: The approval of these program amendments is effective on October 3, 1984.

FOR FURTHER INFORMATION CONTACT: W. H. Tipton, Director, Kentucky Field Office, Office of Surface Mining, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504. Telephone: (606) 233-7327.

SUPPLEMENTARY INFORMATION:

I. Background

On May 28, 1982, OSM received, pursuant to the 30 CFR 732.17 State program amendment procedures, certain revisions to the State rules and laws. On July 23, 1982, OSM published a notice in the **Federal Register** announcing receipt of the amendments to the Kentucky program and inviting public comment thereon (47 FR 31890-31896). The public comment period ended August 23, 1982. A public hearing was held August 12, 1982. OSM published a second notice in the **Federal Register** on September 8, 1982, announcing receipt of provisions to satisfy conditions (k) and (l), and inviting public comment on whether the proposed amendments corrected these deficiencies (47 FR 39536-39537). The public comment period ended October 8, 1982. A public hearing scheduled September 22, 1982, was not held because no one expressed a desire to present testimony.

On January 4, 1983 (48 FR 245-252), OSM published a notice in the **Federal Register** which (1) Removed and amended certain conditions; (2) approved certain other program amendments; (3) deferred Secretarial action on the following proposed Kentucky rule revisions: 405 KAR 7:020 Section 1(86), 8:050 Section 2, 16:020 Section 4 and 16:190 Section 2(2); (4) deferred Secretarial action on the following proposed Kentucky statutory revisions: KRS 350.060 Sections 5(21) and 5(22), 350.093(2), and 350.062(9), contained in Senate Bill 218; (5) approved certain clarifications to the Kentucky program contained in a letter from the State, dated June 18 1982; (6) deferred Secretarial action on the clarification in the June 18, 1982, letter relating to incidental boundary revisions; and (7) deferred Secretarial action on whether the material submitted by Kentucky satisfied condition (1).

On May 13, 1983 (48 FR 21574-21579), OSM published a notice in the **Federal Register** which (1) removed condition (1); (2) approved amendments to KRS 350.062(9) and 350.093(2), and 405 KAR 16:020 Section 4; and (3) created two new conditions of approval, relating to the deferral of contemporaneous reclamation (KRS 350.093(2) and 405 KAR 16:020 Section 4) and the definition of "principal shareholder" (KRS 350.060 Section 5(g) and 405 KAR 7:020 Section 1(86)).

On April 28, 1983 (48 FR 19314-19322), OSM published a notice in the **Federal Register**, effective May 27, 1983, revising its rules for conducting auger mining. On May 5, 1983 (48 FR 20392-20402), OSM published a notice in the **Federal Register**, effective June 6, 1983, amending its rules applicable to support facilities and coal preparations plants. These OMS rule revisions relate to certain of the items listed above on which the Secretary deferred action in the January 4, 1983 **Federal Register** notice as follows: (1) 405 KAR 8:050 Section 2 and 16:190 Section 2(2), and KRS 350.060 Section 5(21) (augering), and (2) KRS 350.060 Section 5(22) (support facilities and coal preparation plants). On June 13, 1983, OSM reopened the public comment period on the above Kentucky amendments relating to augering, support facilities and coal preparation plants to allow the public

time to review and comment on the Kentucky amendments as they related to the OSM rule changes (48 FR 27101–27102). On July 11, 1983, OSM reopened the public comment period on these Kentucky amendments for an additional 15 days (48 FR 31668–31669).

On September 16, 1983 (48 FR 41720–41735), OSM published a notice in the **Federal Register** amending its rules on remining. On October 31, 1983, OSM received additional material from Kentucky, responding to four issues raised by OSM regarding the Kentucky amendments relating to augering, support facilities and coal preparation plants. This material consisted of an explanatory letter and a legal opinion, dated October 26, 1983, addressing crusher and loader jurisdiction and augering on previously mined areas. OSM also received a number of emergency regulations including revisions to 405 KAR 16:190 and 18:190, regarding requirements for adequate drainage on backfilled areas and criteria for determining reasonably available spoil to backfill highwalls to the extent practical and feasible. On November 30, 1983, OSM reopened the public comment period on the above amendments as they relate to the revised OSM remining rules and the October 31, 1983, material submitted by Kentucky. The comment period closed on December 30, 1983 (48 FR 54080).

II. Secretary's Findings

Finding 1

The Secretary finds that the program amendments to KRS 350.060 Section 5(21), and 405 KAR 8:050 Section 2, 16:190 Section 2(2), Section 7(2) (a) and (e), Section 7(3), and 18:190 Section 5(2) (a) and (e), and Section 5(3), as clarified by the October 26, 1983 legal opinion on augering on pre-mined lands, are no less effective than 30 CFR 785.20, 817.106(a)(1), 819.19(b), and the OSM definitions of "reasonably available spoil" and "adverse physical impact" at 30 CFR 701.5.

The Federal regulations at 30 CFR 785.20 and Part 819 contain OSM's general augering requirements, and 30 CFR 819.19(b) contains OSM's requirements for auger mining on remined lands. KRS 350.060 Section 5(21), and 405 KAR 8:050 Section 2, 16:190 Section 7(3) and 18:190 Section 5(3), when read in conjunction with the above legal opinion and 405 KAR 16:190 Section 7(2) (a) and (e), and 18:190 Section 5(2) (a) and (e), contain the same requirements for augering on previously mined lands as those in 30 CFR 785.20 and 819.19(b).

On September 16, 1983, OSM promulgated, *inter alia*, definitions of "adverse physical impact" and "reasonably available spoil" at 30 CFR 701.5 (48 FR 41734). The State has promulgated a definition of "adverse physical impact" at 405 KAR 16:190 Section 7(2)(a) and 18:190 Section 5(2)(a) which is exactly the same as the OSM definition. Kentucky has also promulgated a definition of "reasonably available spoil" at 405 KAR 16:190 Section 7(2)(e) and 18:190 Section 5(2)(e) which is the same as the OSM definition except for the following sentence: "For this purpose, the permit area shall include all such spoil in the immediate vicinity of the mining operation." This sentence can be found in OSM's performance standards for backfilling and grading on previously mined areas at 30 CFR 817.106(a)(1). The Secretary finds that these two State definitions are no less effective than the OSM definitions at 30 CFR 701.5 and 817.106(a)(1).

Finding 2

The Director has decided to defer action on Kentucky's amendment to revise KRS 350.060 Section 5(22) pertaining to support facilities and coal preparation plants.

In Permanent Surface Mining Regulation Litigation II, Civil Action No. 79–1144 in The United States District Court for the District of Columbia, OSM's regulations at 30 CFR 700.5 pertaining to the definition of a surface coal mining operation and 30 CFR 701.5 pertaining to the definition of coal preparation and coal processing and coal preparation plant were remanded to the Secretary for revision. The Court found that the Secretary has jurisdiction under SMCRA to regulate these offsite facilities including processing plants and remanded the pertinent definitions to be corrected. Until OSM has evaluated fully the impacts of the Court's order, the Director believes it appropriate to defer action on Kentucky's amendment.

III. Public Comments

Comments received pertaining to coal preparation plants, coal processing and support facilities and support facilities will be answered when OSM takes final action on Kentucky's amendment. As explained in the Director's Finding number 2, OSM is deferring action on this matter.

The Comments listed below pertain to the amendments being approved in this notice.

1. The Appalachian Research and Defense Fund of Kentucky, Inc. (ARDFK) stated that KRS 350.060 Section 5(21) on augering on previously mined lands fails to limit its applicability to pre-existing areas as of August 3, 1977, the date of enactment of SMCRA. According to the commenter, an operator could conceivably place spoil from an operation in a fill, and later decide to auger claiming that sufficient spoil is not "reasonably available." The commenter asserted that SMCRA plainly does not extend to post-Act disturbances.

OSM can find no language in SMCRA or the Federal regulations, however, which restricts auger mining on pre-mined lands to those areas disturbed prior to August 3, 1977, and the commenter cited no such language. Further, if an operator were to wait long enough to begin auger mining in such an area, spoil may not be "reasonably available" because the area may be stabilized and revegetated. In such a case, the operator must properly seal all holes and backfill the highwall to a minimum of four feet above the coal seam being mined under KRS 350.060 Section 5(21). This State requirement is no less effective than that at 30 CFR 819.19(b)(3)

Further, in the September 16, 1983, **Federal Register** notice, revising OSM's remining rules, OSM states (48 FR 41723):

> OSM disagrees that the definition of "previously mined area" is vague and has rejected the suggestion the the definition "previously mined area" be limited only to lands mined prior to August 3, 1977, and which were inactive for some period of time prior to remining. However, neither the proposal nor the final definition allows ongoing operations variances from the requirements for backfilling and grading or approximate original contour (AOC) restoration in areas not adversely impacted by past mining. In the case of any coal mine developed on or after May 3, 1978, the effective date of the interim regulatory program, reclamation in accordance with the Act's standards is required. This rule does not relieve the continuing obligations of former operators with regard to any site. Thus, there is no unjustifiable exemption from the approximate original contour operation.
>
> Nevertheless, the final rule recognizes that there may have been some mining which occurred after August 3, 1977, that was not reclaimed in accordance with the requirements for return to AOC. Such operations could include unpermitted mines; mines exempt under section 528 of the Act; and mines in existence between August 3, 1977, and May 3, 1978, or which qualified for the special exemption of § 710.12. Thus, while the AML program established by Title IV of the Act establishes the overall objective of reclamation of abandoned mined lands, the basis for this final rule is not limited to lands eligible for funding under that program. Furthermore, inclusion of lands disturbed and

improperly reclaimed since the Act was enacted in the definition of "previously mined area" will not result in damage to the environment because in every instance where sufficient spoil is reasonably available, highwalls must be eliminated.

2. The Kentucky Coal Association (KCA) stated that the term "reasonably available spoil" in 405 KAR 16:190 Section 2(2)(c) should not be used to require the operator to use spoil from the downslope of previously mined lands. KCA contents that in the majority of cases this material has stabilized and should not be disturbed.

On October 31, 1983, Kentucky submitted amendments to 405 KAR 16:190 and 18:190 which include a definition of "reasonably available spoil" at 405 KAR 16:190 Section 7(2)(e) and 18:190 Section 5(2)(e). The State definition is the same as the OSM definition at 30 CFR 701.5, promulgated in the **Federal Register** on September 16, 1983 (48 FR 41734), except that the Kentucky definition includes the following additional sentence: "For this purpose, the permit area shall include all such spoil in the immediate vicinity of the mining operation." This sentence can be found in OSM's performance standards for back-filling and grading on previously mine areas at 30 CFR 817.106(a)(1). In Finding 1, above, OSM found the Kentucky definition to be no less effective than the OSM rules. The revisions to the Federal and State programs remedy the commenter's concern. Since spoil from the downslope of previously mined lands which has stabilized is not "accessible and available for use", it need not be used in operations involving augering on previously mined lands.

3. ARDFK commented that the State's proposals would allow auger mining on previously mined areas under less stringent controls than augering on new sites, particularly with regard to the requirement to completely backfill and regrade the area to its original contour before mining. According to the commenter, the proposal violates the Federal Act, existing OSM rules, and goes beyond OSM rules at 30 CFR 816.106.

OSM disagrees with this comment because the Kentucky rules place the same controls on operations involving augering on new and remined areas. Kentucky regulations at 405 KAR 8:050 Section 2(2)(c) requires compliance with all applicable requirements of KRS Chapter 350 and regulations under Title 405, Chapter 7 through 24. Additionally, 405 KAR 16:190 Section 2(1)(a) and 18:190 Section 2(1)(a) require that *all* disturbed areas, including new and remined sites, shall be returned to the AOC. This requirement is no less effective than to the OSM backfilling and grading requirements at 30 CFR 816.102(a)(1) (which replaced 30 CFR 816.106).

4. ARDFK claimed that the Kentucky statute and regulations on augering on pre-mined lands fail to: do all that is possible short of total highwall elimination, address long term stability problems occassioned by the further disturbance of highwalls, and address the leaving of potentially sizeable highwall remnants.

OSM disagrees with this comment. First, KRS 350.060 Section 5(21) provides for the issuance of permits upon a demonstration by the applicant that the proposed surface coal mining operation on a previously mined area will provide for reduction or elimination of the highwall, or reduction or abatement of adverse impacts resulting from past mining activities. Second, 405 KAR 16:190 Section 7(3) and 18:190 Section 5(3) require highwall elimination to the maximum extent technically practical. Finally, 405 KAR 16:190 Section 2(1)(a) and 18:190 Section 2(1)(a) further require that backfilling and grading be done to achieve a minimum static safety factor of 1.3 to ensure long term stability.

5. ARDFK charged that the proposed Kentucky provisions for augering on pre-mined lands are deficient because they fail to require the operator to demonstrate that sufficient spoil is not available prior to obtaining a variance.

OSM disagrees with this comment. Kentucky's regulations at 405 KAR 16:190 Section 7(3) requires such demonstration in writing and therefore, 405 KAR 16:190 Section 7(3) is no less effective than 30 CFR 819.19(b).

6. ARDFK commented, in regard to Kentucky's proposed reaugering provisions, that a permittee who proposes to leave highwall remnants must demonstrate that such highwall will be stable in the long term, and that this stability must be proven through geotechnical analysis.

Kentucky's regulations at 405 KAR 8:050 Section 2(2)(c) requires compliance with the requirements of Chapters 7 through 24 for the issuance of a permit for augering on previously mined lands. Kentucky's standard at 405 KAR 20:060 Section 2(3) requires, in part, that the permittee must demonstrate to the State, using standard geotechnical analysis, that the minimum static factor of safety for stability of all portions of the reclaimed land is at least 1.3. This State requirement, therefore, is no less effective than OSM's at 30 CFR 819.19(b)(1).

7. ARDFK claimed that mandatory diversion of all drainage above the highwall, through ditches capable of carrying a 14 hour, 100 year design storm event, must be required.

OSM disagrees with this comment. There is no such requirement in the Federal regulations and, therefore, OSM is without authority to require the State program to have such a provision.

8. ARDFK commented that use of the term "physically impacted" in 405 KAR 16:190 Section 2(2)(c) is unclear. According to ARDFK, the State must require that the permittee stabilize any highwall adversely impacted, whether through direct physical impact or as a proximate result of reaugering.

On September 16, 1983, OSM promulgated a definition of "adverse physical impact" at 30 CFR 701.5 (48 FR 41734). In the material submitted on October 31, 1983, the State deleted 405 KAR 16:190 Section 2(2)(c) and included a definition of "adverse physical impact" at 405 KAR 16:190 Section 7(2)(a) and 18:190 Section 5(2)(a) which is exactly the same as the OSM definition.

9. ARDFK charged that the proposed Kentucky statute and rules regarding augering on pre-mined lands and OSM's revised rules at 30 CFR 819.19(b) expressly violated SMCRA, Section 515(b)(3), which requires that all affected areas be regraded to achieve the approximate original premining contour.

OSM disagrees with this comment. As stated above in response to comment number 3, the Kentucky rules require that all affected areas be regraded to achieve the approximate original premining contour.

10. ARDFK alleged that the Kentucky proposals on augering on pre-mined lands fall short of requiring the operator to do all that is technically practical. The statute and regulations speak in terms of utilizing all "reasonably" available spoil to backfill the highwall "to the extent practical and feasible." According to the commenter, this language is susceptible to a reading that would allow the operator to limit material recovery to that which is economically convenient.

As stated above in response to comment number 2, Kentucky has promulgated an acceptable definition of "reasonably available spoil" at 405 KAR 16:190 Section 7(2)(e) and 18:190 Section 5(2)(e). OSM believes that the Kentucky definition makes it clear that the operator may not limit material recovery to that which is economically convenient.

11. ARDFK claimed that the Kentucky proposals on augering on pre-mined lands fail to include a requirement that

backfill be designed by a qualified registered professional engineer to have a minimum static safety factor of at least 1.3 as required by 30 CFR 819.19(b)(1).

OSM disagrees with this comment. First, as stated above in response to comment number 6, 405 KAR 16:190 Section 2(1)(a), 18:190 Section 2(1)(a) and 8:050 Section 2(2)(c) require that backfill have a minimum static safety factor of at least 1.3 on operations involving augering on pre-mined lands. Second, the October 26, 1983 legal opinion from the State of Kentucky makes it clear that a qualified registered professional engineer must submit the backfilling plans for auger mining operations.

12. ARDFK commented that both KRS 350.060 Section 5(21) and 405 KAR 8:050 allow the permittee to reauger if he/she demonstrates that the operation will reduce the highwall *or* past adverse effects, or stabilize or enhance the area. Maximum highwall elimination must be the absolute minimum in *all* cases. If sufficient spoil does not exist, further disturbances should not be permitted. According to the commenter, the State proposal fails to require that the permittee, in all cases, backfill and regrade to the maximum extent possible.

While 405 KAR 8:050 Section 2(2)(c) does not require the maximum elimination of highwalls, it does provide for the issuance of a permit to auger mine on previously mined lands if the permittee demonstrates that the mining operation will provide for reduction or elimination of the highwall. Kentucky regulations at 405 KAR 16:190 Section 7(3) and 18:190 Section 5(3) require elimination of highwalls to the maximum extent technically practical. Further, as stated above in response to comment number 2, Kentucky has proposed a definition of "reasonably available spoil" which acceptably limits the meaning of the phrase "practical and feasible." For these reasons, OSM believes the commenter's concern is not well founded.

13. ARDFK alleged that the State proposals on reaugering fall short of 30 CFR 819.19(b)(3) in failing to require that backfill material be non-acid and non-toxic forming in nature.

OSM disagrees. First, KRS 350.050 Section 5(21) and 405 KAR 16:190 Section 7(3)(a) require backfilling of the highwall to a minimum of four (4) feet above the coal seam being mined. Second, 405 KAR 16:190 Section 7(3)(a) and 18:190 Section 5(3)(a) require noncombustible, non-acid, non-toxic forming material be used for cover. Additionally, 405 KAR 16:190 and 18:190 Section 3(1)(b) of the State rules further provide that where necessary the regulatory authority may require a thicker than four foot cover using non-toxic material. The Kentucky rules are, therefore, no less effective than 30 CFR 819.19(b)(3).

14. ARDFK commented that the State proposals on reaugering are less effective than 30 CFR 819.19(b)(3) because they fail to require the grade of the backfill to be compatible with the post-mining land use, and to provide adequate drainage and long-term stability.

OSM disagrees. First, 405 KAR 16:190 Section 2(1)(b) and 18:190 Section 2(1)(b) require that backfill be placed to support the approved post-mining land use. Second, 405 KAR 16:190 Section 2(1)(a) and 18:190 Section 2(1)(a) require a long-term static safety factor of 1.3. This requirement is no less effective than 30 CFR 819.19(b)(1). Finally, in the proposed Kentucky rules submitted to OSM on October 31, 1983, the State, at 405 KAR 16:190 Section 7(3)(c) and 18:190 Section 5(3)(c), requires that backfill shall provide adequate drainage and long-term stability in addition to being graded to a slope which is compatible with the post-mining land use.

15. ARDFK stated that Kentucky's reaugering proposals require less effort on the part of the operator to secure "available spoil." According to the commenter, OSM recognized that an operator who is remining by augering could design a permit area so as to minimize his/her responsibility for pre-existing spoil retrieval, and included a requirement in its auger mining rules that such permit areas include "spoil in the immediate vicinity."

As explained above in the response to comment number 2, Kentucky has proposed a definition of "reasonably available spoil" at 405 KAR 16:190 Section 7(2)(e) and 18:190 Section 5(2)(e). That definition includes "spoil or suitable coal mine waste material located in the permit area," and is no less effective than the OSM definition at 30 CFR 701.5 and the performance standards at 30 CFR 817.106(a)(1).

16. Kentucky Coal Association (KCA) disagreed with Kentucky's requirement to use all reasonably available spoil material to backfill the highwall in reaugering operations. KCA also disagreed with the four-foot minimum backfill requirement and stated that it should be replaced with a requirement to adequately backfill with reasonably available spoil such that the coal seam is covered.

OSM disagrees. Kentucky's regulations pertaining to these issues provides standards that are no less effective than the Federal standards. See discussion contained in comment numbers 2, 12, and 13.

17. ARDFK challenged the legality of the Kentucky amendments on augering on previously mined lands in light of Federal law, and attached its reply challenging the Secretary's rule permitting a variance from the approximate original contour standard for remining (*In Re: Permanent Surface Mining Regulation Litigation*, C.A., No. 79-1144). Additionally, ARDFK requested that OSM condition approval of the Kentucky amendments to 405 KAR 16:190 and 18:190 on augering on previously mined lands upon the outcome of *In Re: Permanent Surface Mining Regulation Litigation II*, C.A., No. 79-1144.

Since ARDFK submitted its comment, the court has upheld the Federal rules pertaining to variances from the AOC standard in certain remining situations. In the decision filed July 6, 1984, the court held that the Federal regulations are consistent with SMCRA and that the challenge to these regulations was not well founded, therefore, OSM will not condition its approval on the challenge to its regulations.

Approval of Program Amendments

Accordingly, the revisions to 405 KAR 8:050 Section 2; 16:190 Section 2(2), Section 7(2) (a) and (e), Section 7(3); 18:190 Section 5(2) (a) and (e) and Section 5(3) are hereby approved pursuant to 30 CFR 732.17.

The Federal regulations at 30 CFR 917.15 are amended to indicate approval of these program amendments. The approval of the amendments to the Kentucky program are effective October 3, 1984.

Additional Findings

1. *Compliance with the National Environmental Policy Act:* Pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental document need be prepared on this rulemaking as State program decisions are exempt from compliance with the National Environmental Policy Act, 42 U.S.C. 4321 *et seq.*

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Section 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.C.S. 601 *et seq.*). This rule does not impose any new requirements; rather, it ensures that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 917

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Accordingly, 30 CFR Part 917 is amended as set forth herein.

Dated: September 27, 1984.

Wesley R. Booker,

Acting Director, Office of Surface Mining.

PART 917—KENTUCKY

Accordingly, Part 917 of Title 30 is amended as follows:

* * * * *

1. 30 CFR 917.15 is amended to add paragraph (j) to read as follows:

§ 917.15 Approval of Amendments to State Regulatory Program.

* * * * *

(j) The following amendments are approved effective October 3, 1984: 405 KAR 8:050 Section 2; 16:190 Section 2(2), Section 7(2) (a) and (e), Section 7(3); 18:190 Section 5(2) (a) and (e) and Section 5(3).

Authority: Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*)

[FR Doc. 84–26162 Filed 10–2–84; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–9–FRL–2685–4]

Approval and Promulgation of Implementation Plans; State of California

AGENCY: Environment Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: Today's notice approves a number of volatile organic compound (VOC) regulations for the State of California, and removes a number of conditions of approval for the State of California. These regulations were submitted to EPA in order to satisfy specific Part D requirements of the Clean Air Act. EPA has evaluated these regulations and determined that they are in conformance with the requirements of the Clean Air Act, 40 CFR Part 51 and EPA policy.

DATE: This action is effective November 2, 1984.

ADDRESSES: A copy of today's revision to the California State Implementation Plan is located at: The Office of the Federal Register, 1100 "L" Street, NW., Room 8401, Washington, D.C. 20408, Public Information Reference Unit, EPA, 401 M Street, S.W., Washington, DC. 20406.

FOR FURTHER INFORMATION CONTACT: David P. Howekamp, Director, Air Management Division, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94015, Attn: Thomas Rarick, (415) 974–7641.

SUPPLEMENTARY INFORMATION:

Background

Part D of the Clean Air Act requires States to revise their State Implementation Plan for all areas that have not attained the National Ambient Air Quality Standards. In order to assist States in meeting the stationary source VOC control requirements of the Act, EPA has published a number of Control Techniques Guidelines (CTGs) which provide recommendation for control limitations which are believed to represent Reasonably Available Control Technology (RACT).

On February 8, 1984, (49 FR 4795) and May 31, 1984 (49 FR 22669), EPA published Notices of Proposed Rulemaking (NPR) concerning CTG and non-CTG VOC regulations. These Notices should be used as a reference for this final rulemaking notice. The NPRs proposed to approve thirty-four VOC regulations for the Bay Area Air Quality Management District (AQMD), Fresno County Air Pollution Control District (APCD), El Dorado County APCD, Kings County APCD, Madera County APCD, Merced County APCD, Sacramento County APCD, San Diego County APCD, Shasta County APCD, South Coast, AQMD, Yolo-Solano APCD, and Yuba County APCD.

Public Comments

No comments were received on the February 8, 1984 and May 31, 1984 Notices of Proposed Rulemaking.

EPA Actions

In this notice, EPA takes final action to approve the following rules under Section 110 of the Clean Air Act, since they satisfy the requirements of Section 110 and Part D of the Act and EPA policy.

July 19, 1983, Submittals

Fresno County APCD

Rule 409.4 Surface Coating of Manufactured Metal Parts and Products

Merced County APCD

Rule 409.4 Surface Coating of Manufactured Metal Parts and Products
Rule 409.5 Cutback Asphalt Paving Materials
Rule 411 Gasoline Transfer Phase I
Rule 411.1 Gasoline Transfer Phase II

Sacramento County APCD

Rule 17 Surface Coating of Manufactured Metal Parts and Products

San Diego County APCD

Rule 67.3 Coating of Metal Parts and Products
Rule 67.4 Can and Coil Coating Operations
Rule 67.6 Solvent Cleaning Operations

Shasta County APCD

Rule 3.3(b) Gasoline Loading and Transfer
Rule 3.4(d) Industrial Use of Organic Solvents
Rule 3.15(c) Cutback Asphalt Paving Materials

August 2, 1983, Submittals

Kings County APCD

Rule 414.4 Pumps and Compressor Seals at Petroleum Refineries

Yuba County APCD

Rule 3.9 Storage of Petroleum Products

August 30 1983, Submittals

Bay Area AQMD

Regulation 8—Organic Compounds
Rule 30 Semiconductor Manufacturing

Stanislaus County APCD

Rule 409.1 Architectural Coatings

Yolo-Solano APCD

Rule 2.13(1) Graphic Arts

October 27, 1983, Submittals

Bay Area AQMD

Regulation 8-1—Organic Compounds
Rule 3 Architectural Coatings
Rule 9 Vacuum Processing Systems
Rule 10 Process Vessel Depressurization
Rule 20 Graphic Arts

Rule 22 Valves and Flanges at Chemical Plants
Rule 25 Pump and Compressor Seals at Petroleum Refineries and Chemical Plants
Rule 28 Pressure Relief Valves at Petroleum Refineries and Chemical Plants

El Dorado County APCD

Rule 224 Cutback Asphalt Paving Material
Rule 225 Solvent Cleaning Operations

Madera County APCD

Rule 416 Storage of Petroleum Distillates or Light Crude Oil

San Diego County APCD

Rule 67.9 Aerospace Coating

South Coast AQMD

Rule 1113 Architectural Coatings
Rule 1122 Solvent Cleaners (Degreasers)
Rule 1136 Wood Furniture and Cabinet Coatings
Rule 1141 Control of Reactive Organic Gases from Resin Manufacturing
Rule 1145 Plastics, Rubber and Glass Coatings and Adhesives

EPA conditionally approved *San Diego County APCD, Rule 67.3, Coating of Metal Parts and Products* in a June 4, 1982 (47 FR 24307) NFR. Final action to remove the condition of plan approval is being taken in this notice. However, EPA remains concerned about provision of San Diego's Rule 67.3 which exempts the coating of marine vessels from the requirements of the rule. EPA is currently working with the San Diego County APCD and affected industries to determine if emission reductions can be reasonably achieved from marine vessel coating operations.

EPA conditionally approved *Bay Area AQMD, Rule 25, Pump and Compressor Seals at Petroleum Refineries* in a July 6, 1982 (47 FR 29669) NFR. In addition, EPA conditionally approved *Madera County APCD, Rule 411, Storage of Petroleum Distillates and Light Crude Oil* in a May 7, 1982 (47 FR 19694) NFR. Revisions to these two VOC rules were submitted by the State on October 27, 1983. The deficiencies in the two VOC rules have now been corrected. Final action to remove the conditions of plan approval is being taken in this notice.

Regulatory Process

The Office of Management and Budget has exempted these rules from the requirements of section 3 of Executive Order 12291.

Under section 307(b)(1) of the Clean Air Act, any petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements.

Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1982.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Authority: Secs. 110, 129, 171–178, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410, 7429, 7501 to 7508, and 7601(a)).

Dated: September 27, 1984.

William D. Ruckelshaus,

Administrator.

Subpart F of Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. Section 52.220 is amended by adding new paragraphs (c)(137)(ii)(C), (iii)(B), (iv)(B), (vi)(B) and (xi); (c)(140)(i)(B), (iii)(B) and (iv); (c)(148)(i)(B), (ii)(B), (iv)(B), (vi)(B) and (viii); and (c)(150) (i) and (ii) as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *
(137) * * *
(ii) * * *
(C) New or amended Rules 409.4, 409.5, 411 and 411.1.
(iii) * * *
(B) Amended Rule 17.
(iv) * * *
(B) Amended Rules 67.3, 67.4 and 67.6.
* * * * *
(vi) * * *
(B) Amended Rules 3.3(b), 3.4(d) and 3.15(c).
* * * * *
(xi) Fresno County APCD.
(A) Amended Rule 409.4.
* * * * *
(140) * * *
(i) * * *
(B) New Regulation 8, Rule 30.
* * * * *
(iii) * * *
(B) Amended Rule 409.1.
(iv) Yolo-Solano APCD.
(A) Amended Rule 2.13(1).
* * * * *
(148) * * *
(i) * * *
(B) Amended Regulation 8, Rules 3, 9, 10, 20, 22, 25 and 28.
(ii) * * *
(B) New Rules 224 and 225.
* * * * *
(iv) * * *
(B) New Rule 67.9.
* * * * *
(vi) * * *
(B) New or amended Rules 1113, 1122, 1136, 1141 and 1145.
* * * * *
(viii) Madera County APCD.
(A) Amended Rule 416.
* * * * *

(150) Revised regulations for the following APCD's submitted August 2, 1983, by the Governor's designee.
(i) Kings County APCD.
(A) New Rule 414.4.
(ii) Yuba County APCD.
(A) Amended Rule 3.9.
* * * * *

2. Section 52.232 is amended by removing and reserving paragraphs (a)(4)(v) and (7)(ii), and revising paragraph (a)(10)(ii) as follows:

§ 52.232 Part D conditional approval.

(a) * * *
(4) * * *
(v) [Reserved]
* * * * *
(7) * * *
(ii) [Reserved]
* * * * *
(10) * * *
(ii) * * *

(A) For the APCDs indicated below, by September 7, 1982, the State must either: (1) Provide an adequate demonstration that the following regulations represent RACT, (2) Amend the regulations so that they are consistent with the CTG, or (3) Demonstrate that the regulations will result in VOC emission reductions which are within five percent of the reductions which would be achieved through the implementation of the CTG recommendations.

Merced County APCD

Rule 409.3, "Organic Solvent Degreasing Operations"

Tulare County APCD

Rule 410.3, "Organic Solvent Degreasing Operations"

* * * * *

[FR Doc. 84-26175 Filed 10-2-84; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 52

[EPA Docket No.: AM601DC; A-3-FRL-2685-5]

Approval and Promulgation of Implementation Plans; 1982 Ozone and Carbon Monoxide State Implementation Plan for the District of Columbia

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA is today approving the 1982 District of Columbia State Implementation Plan (SIP) revision for Ozone (O_3) and Carbon Monoxide (CO) except for the Inspection and Maintenance (I/M) portion. This revision, except as noted, meets all the requirements of the Clean Air Act and EPA policy. The O_3/CO revision provides for attainment and maintenance of the primary National Ambient Air Quality Standards (NAAQS) for O_3 and CO as required under Part D of the Clean Air Act Amendments of 1977.

EFFECTIVE DATE: November 2, 1984.

ADDRESSES: Copies of the revision and the accompanying support documents are available during normal business hours at the following offices:

U.S. Environmental Protection Agency, Region III, Air Management, Division, Curtis Building, Sixth and Walnut Streets, Philadelphia, PA 19106, Attn: Patricia Gaughan (3 AM11)

Department of Consumer and Regulatory Affairs, Enviromental Control Division, 5010 Overlook Avenue, SW., Washington, D.C. 20032

Public Information Reference Unit, U.S. Environmental Protection Agency, EPA Library, Room 2922, 401 M Street, SW., Washington, D.C. 20460

The Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, DC 20408

FOR FURTHER INFORMATION CONTACT: Jacqueline Pine at the EPA address stated above or call 215/597-4554.

SUPPLEMENTARY INFORMATION: The Clean Air Act Amendments of 1977 added a new Part D to Title I of the Act. Under this Part, the States had to revise their SIPs for all nonattainment areas and submit the revision to EPA by January 1, 1979 (Section 171-178 of the Clean Air Act, Section 129(c) (uncodified) of Pub. L. 95-95). The revised plan had to provide for attainment by December 31, 1982, except in the case of O_3 or CO, where an extension of the deadline up to December 31, 1987 was possible if States demonstrated they could not attain the standard by the December 31, 1982 deadline. States which requested and later received extensions were required to submit a second SIP revision providing for attainment by the new deadline.

District of Columbia Submittals

The District of Columbia submitted in December, 1978, an initial SIP revision for the entire District area, which was designated as nonattainment for O_3 and CO. The District requested that EPA extend its attainment date for these standards until December 31, 1987. EPA approved this request and the initial plan on December 16, 1981 (46 FR 61254).

The District submitted a draft revision to its O_3/CO SIP on July 8, 1982. EPA published a Notice of Availability on October 20, 1982 (47 FR 46711). The District submitted the final draft SIP revision on November 8, 1982. EPA proposed disapproval of this plan on February 3, 1983 (48 FR 5066) because of several major deficiencies.

On December 28, 1982, and April 15, 1983, the District submitted a final SIP revision for ozone and carbon monoxide. EPA proposed approval of this final plan on December 7, 1983 (48 FR 54833), but requested additional information for two sections of the Ozone SIP. Also under this notice, EPA withdrew the proposed disapproval of February 3, 1983. Today's notice approves the O_3/CO SIP except for the I/M portion.

Description of the Ozone SIP

Ozone (O_3) is formed from various precursors, primarily oxides of nitrogen and a class of reactive hydrocarbons called volatile organic compounds (VOC's). VOC emissions are controlled to reduce ozone concentrations. The entire District of Columbia is designated as a nonattainment area for O_3, and the attainment date is December 31, 1987.

The 1982 District of Columbia SIP for O_3 combines a mix of both stationary and mobile source strategies to achieve emission reductions and can be divided into six sections:

1. Emissions Inventory
2. Demonstration of Attainment/ Modeling
3. Reasonable Further Progress
4. Stationary Source Controls
5. Transportation Control Measures
6. Inspection and Maintenance (I/M)

On December 7, 1983, [48 FR 54833], EPA proposed approval of the O_3 plan but requested additional information for the Stationary Source Controls and I/M sections. The District submitted information on both these sections which EPA has reviewed. Results of the review indicate approval of the Stationary Source Controls section, however, no action is being taken on the I/M section at this time. The approvability of the I/M portion rests on a change in the District's regulation governing its sticker issuance procedures and will be addressed in a future rulemaking notice. Therefor, only the first five sections listed above of the District's O_3 SIP satisfy the requirements for an acceptable plan and are approved today.

Description of the Carbon Monoxide SIP

Transportation sources, especially automobiles, are responsible for 93 percent of CO emissions in this area. CO is monitored at 10 sites throughout the region. Violations of the 8-hour standard have been recorded in areas of high traffic density. The entire District of Columbia is currently designated as nonattainment for CO. The attainment date for the District is December 31, 1987.

CO concentrations are expected to decrease significantly by 1987 due to a continuation of the Federal Motor Vehicle Control program and implementation of vehicle I/M. In order to determine expected concentrations of CO in 1987, the District performed several analyses of CO emissions. These included use of several techniques for modeling highway CO concentrations, and a modeling analysis of the primary point source of CO emissions (the Solid Waste Reduction Center). These analyses, which were submitted as part of the SIP, demonstrate that standards for CO will be attained by 1987. The plan also contains an adequate demonstration of Reasonable Further Progress (RFP). EPA approves the District's CO plan excluding the I/M portion.

Additional Requirements

1. *Conformity of Federal Actions.* Compliance with section 176(c) of the Clean Air Act requires a close cooperative effort between all agencies granted Federal funding.

Routine procedures which are part of the basic planning process performed by the Metropolitan Washington Council of Governments (COG) and the State and local governments will ensure that no projects will be constructed or implemented which will produce emissions that are inconsistent with the adopted SIP. Compliance with Sections 176(c) and 316 also requires the use of consistent population projections in all Federal funding activities. COG has developed a "Cooperative Forecasting

Process" which fills this need and is approved.

2. *Consultation with State and Local Officials.* During the preparation of the 1982 SIP, the District, via the COG planning process, insured the continued involvement of the public and all appropriate government agency officials. Opportunity was given for all interested parties to participate in the development of the transportation plan and other elements of the SIP. This section is approved.

3. *Conformance with other Requirements of Section 172 of the Clean Air Act.* Section 172(b) of the Clean Air Act requires that certain items be included in all SIP revisions. Most of these requirements have been addressed above. The following is a discussion of the remaining requirements which EPA has determined to have been adequately addressed and are hereby approved:

(a) *Commitment of Financial and Manpower Resources*—The District has committed adequate financial manpower resources to carry out the programs established in the 1982 SIP.

(b) *Analysis of Effects*—The District submitted an analysis of the effects the SIP will have on air quality, health, welfare, the economy, energy and society. In general, there are few negative effects, and these will be minimal. The majority of the effects of the plan on each of the above-mentioned criteria will be neutral or positive.

(c) *Contingency Plan*—EPA's January 1981 policy also requires States to develop a process for identifying and implementing additional transportation control measures that can be used in the event that there is an unanticipated shortfall in emission reductions. The COG plan includes a list of measures which will be considered in each circumstance and describes the process which will be used to make up any future shortfalls.

Response to Comments

Comments were submitted by the District of Columbia regarding EPA's proposed action on their 1982 O_3/CO SIP. Three issues were addressed in letters submitted by the District on February 6, June 28, and July 13, 1984.

First in the February 6 letter, the District did not agree with the VOC emission reduction targets as proposed in the December 7, 1983 **Federal Register**. They felt that a set of revised emission targets developed and approved by COG in the Spring of 1983 were final and could be used in their plan for reasonable further progress. However, these revised targets were approved for planning purposes on an interim basis and were intended to be used later in future SIP revisions. Also, since the new emission targets had not been officially submitted as a SIP revision, nor was a public hearing held, EPA cannot consider these revised emission targets as a part of this action. The District, in their letter dated June 28, 1984, confirmed that the original reduction target of approximately 10 tons per day, as initially proposed for approval, is currently acceptable and will be incorporated into the District's 1982 SIP. Also in the letter, the District has indicated that they plan to submit at a later date, following a public hearing, a revised SIP to incorporate the newly calculated emission target of 35 tons per day. Therefore, the current emission reduction target for the District will remain at approximately 10 tons per day until a subsequent SIP revision is submitted and is approved by EPA.

The second issue dealt with Stationary Source Control. It was unclear as to whether or not the District would be using an existing VOC regulation for the control of two graphic arts plants. EPA requested additional information from the District on this subject. The Mayor's February 6 letter confirmed that the present regulation, in effect since 1974, is applicable for the control of volatile organic compound emissions from printing plants and that the District will be controlling these facilities under the present regulation. This regulation has been determined by EPA to meet RACT requirements.

The third issue addressed by the District was in response to their Inspection and Maintenance program. In the proposed rulemaking, it stated that the District must submit additional information on their audit and surveillance procedures and on their procedures used in the issuance of approval and rejection stickers. The District stated in their February 6 letter that the required additional information on their I/M program had been submitted to EPA and they felt that it satistied the requirements for the 1982 SIP revision. EPA has reviewd this material and approves the District's audit and surveillance procedures but found the procedures used in the issuance of approval and rejection stickers unacceptable for an effective I/M program. Under Chapter 6, Title 18 of the District's Municipal Regulations (recodified), there is a possibility that a vehicle might currently qualify for both an approval sticker (Section 603.1) because it meets all safety requirements, and a rejection sticker (Section 604.1) because it does not meet the emission standards. EPA has requested that the District amend its regulations to clarify its legal authority in this area. A letter dated July 13, 1984 submitted by the District included a draft of the proposed revised regulation. EPA believes that this revision, if adopted, would resolve this problem. It is EPA's understanding that the D.C. Department of Public Works will propose and finalize this revised regulation within approximately two months, and that this will subsequently be submitted as a SIP revision by the D.C. Department of Consumer and Regulatory Affairs. Based on this understanding, EPA is taking no action on the I/M portion of the SIP at this time. The approvability of the I/M portion of the SIP will be addressed in a separate notice at a later date subsequent to the District's adoption and submittal of the amendment to Title 18 of their Municipal Regulations.

Plan Review

EPA has determined that all portions of the District's Part D SIP submittal except for the I/M portion, meet the requirements of Section 110 and Part D of the Clean Air Act and 40 CFR Part 51. EPA has made this determination using the criteria published in the **Federal Register** on January 22, 1981 (46 FR 7182). These criteria supplement the "General Preamble" for SIP revisions for nonattainment areas, which was published on April 4, 1979 (44 FR 20372).[1] EPA's review is documented in a Technical Support Document which is available at the offices listed under "**ADDRESSES**" above.

Rulemaking Action

EPA approves the 1982 O_3/CO SIP, excluding the I/M section, for District of Columbia. In conjuction with the Administrator's approval, 40 CFR Part 52.470 (Identification of Plan) of Subpart J (District of Columbia) is revised to incorporate the approved portions of this SIP revision into the District's SIP.

General

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator has certified the SIP approvals under Sections 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities. See 45 FR 8709 (January 27, 1982).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit within 60 days of today. This action may not be

[1] EPA published four additional notices supplementing the General Preamble in 1979: July 2, 1979 (44 FR 38583), August 28, 1979 (44 FR 50371), September 17, 1979, (44 FR 53761), and November 23, 1979 (44 FR 67182)

challenged later in proceedings to enforce its requirements [See 307 (B)(2)].

Under Executive Order 12291, today's action is not "major." It has been submitted to the Office of Management and Budget for review.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Authority: 42 U.S.C. 7401–7626.

Note.—Incorporation by Reference of the State Implementation Plan for the District of Columbia was approved by the Director of the Office of the Federal Register of July 1, 1982.

Dated: September 27, 1984.

William D. Ruckelshaus,

Administrator.

PART 52—[AMENDED]

Title 40, Part 52, Subpart J of the Code of Federal Regulations is amended as follows:

Subpart J—District of Columbia

Section 52.470 is amended by adding paragraph (c)(25) to read as follows:

§ 52.470 Identification of plan.

* * * * *

(c) * * *

(25) Plan revision, excluding the required vehicle emission inspection program, providing for attainment of the Ozone and Carbon Monoxide Standards, submitted by the District of Columbia on December 28, 1982 and April 15, 1983.

[FR Doc. 84–26176 Filed 10–2–84; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 52

[EPA Docket Numbers AM016DE, AM017DE, and AM018DE [1]; A–3–FRL–2685–6]

Approval and Promulgation of Implementation Plans; Approval of Revisions to the Delaware State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice announces the Administrator's approval of a revision to the Delaware State Implementation Plan (SIP). This revision, submitted on September 26, 1983, consists of the addition of three sections to the Delaware Regulations Governing the Control of Air Pollution. These additions will: (1) Establish an alternate opacity limit for existing catalytic cracking units, (2) require a minimum combustion temperature of 1400 °F and a temperature indicating device in the secondary chamber of incinerators used for the destruction of pathological waste and (3) specify emission limits of volatile organic compounds (VOC) in "pounds of VOC per gallon of deposited solids."

EFFECTIVE DATE: November 2, 1984.

ADDRESSES: Copies of the SIP revision and the accompanying support documents are available for public inspection during normal business hours at the following offices:

U.S. Environmental Protection Agency, Region III, Air Programs Branch, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106, Attn: Patricia Gaughan (3AM11).

Environmental Control and Air Resources, Department of Natural Resources, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19901, Attn: Mr. Robert R. French.

Copies of the SIP revision are available for public inspection during normal business hours at the following offices:

Public Information Reference Unit U.S. Environmental Protection Agency; EPA Library, Room 2922, 401 M Street, SW., Washington, DC 20460.

The Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, DC 20480.

FOR FURTHER INFORMATION CONTACT: Jacqueline Pine (3AM13) at the EPA address cited above or telephone 215/597–4554.

SUPPLEMENTARY INFORMATION: On September 26, 1983, the State of Delaware submitted Secretarial Orders proposing the adoption of three new sectons to the Delaware Regulations Governing the Control of Air Pollution. Delaware requested this submittal be processed as a revision to their State Implementation Plan. The sections to be added are as follows:

(1) Section 2.3 is added to Regulation Number XIV, VISIBLE EMISSIONS, and exempts any existing catalytic cracking unit from the 20% opacity limit as set forth in Section 2.1 of the same regulation and permits opacities up to 50% provided that the source demonstrates that it meets the applicable emission standard. In accordance with Section 3 (Regulation No. XIV) the Secretary may grant an alternate opacity to a source upon demonstration that it meets the applicable mass emission standard.

The addition of subsection 2.3 to Regulation XIV specifically applies to the existing catalytic cracking unit at the refinery of the Getty Refining and Marketing Company in Delaware City. Test results from this unit demonstrate that it complies with the applicable mass emission standard with opacities of up to 50 percent. Any future units though, will be treated individually and will be subject to the appropriate standards.

(2) Section 2.3 is added under Section 2 to Regulation Number VII, PARTICULATE EMISSIONS FROM INCINERATION, which requires a minimum combustion temperature off 1400 °F and a temperature indicating device in the secondary chamber of incinerators used for the destruction of pathological waste. The temperature will ensure adequate destruction of pathogens and a pyrometer or other temperature indicating device will aid the operators in ensuring proper combustion temperatures.

(3) Section 9 of Regulation Number XXIV, CONTROL OF VOLATILE ORGANIC COMPOUND EMISSIONS, adds Table I(a) which states allowable VOC emission rates for various coating lines, and subsection 9.7 which calculates emission limits in "pounds of volatile organic compounds per gallon of deposited solids." The procedure and equation used in determining the emission limits as found in Table I(a) are consistent with the guidelines of the U.S. Environmental Protection Agency and will not relax any regulatory standards.

The State of Delaware provided proof that, after adequate public notice, a public hearing was held regarding the proposed revisions on June 16, 1983 in Delaware City. On April 30, 1984, EPA proposed approval of these revisions in the **Federal Register** (49 FR 18316). No comments were received during the 30-day public comment period.

EPA Evaluation

The regulations listed above have been reviewed by EPA and are acceptable as written.

Conclusion

The Administrator's decision to approve the proposed revisions was based on a determination that the amendments meet the requirements of Section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption and Submittal of State Implementation Plans.

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[1] Due to a recent reorganization at the EPA Region III Office, the prefix to the docket numbers has changed from the previous "AW" designation to "AM."

As a result of EPA's decision to approve these revisions to the Delaware SIP, 40 CFR 52.420 (Identification of Plan) is being revised as shown below.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this action is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2), the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Note.—Incorporation by reference of the State Implementation Plan for the State of Delaware was approved by the Director of the Office of Federal Register on July 1, 1982.

(42 U.S.C. 7401–7642)

Dated: September 27, 1984.

William D. Ruckelshaus,

Administrator.

PART 52—[AMENDED]

Part 52 of Title 40, Code of Federal Regulations is amended as follows:

Subpart I—Delaware

1. In § 52.420 Identification of Plans, paragraph (c)(33) is added as follows:

§ 52.420 [Amended]

* * * * *

(c) * * *

(33) A revision submitted by the State of Delaware on September 26, 1983 consisting of amendments to Section 2.3 of Regulation Number XIV, Section 2.3 of Regulation Number VII, and Section 9.7 and Table I(a) to Regulation Number XXIV of the Delaware Regulations Governing the Control of Air Pollution.

[FR Doc. 84-26177 Filed 10-2-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[Region II, Docket No. 40; A-II-FRL-2685-7]

New Jersey; Approval and Promulgation of Revision to the State Implementation Plan for Ozone and Carbon Monoxide

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice announces that the Environmental Protection Agency is approving a request by New Jersey to revise its State Implementation Plan (SIP) for the attainment and maintenance of the ozone and carbon monoxide national ambient air quality standards. The revision will result in the inclusion in the SIP of three state regulations relating to the operation of the New Jersey motor vehicle emission inspection and maintenance program. These regulations, which previously had been adopted by the State on an emergency basis, have now been made permanent. Such action was committed to by New Jersey in its 1982 SIP revision as required by the Clean Air Act.

EFFECTIVE DATE: This action is effective on October 3, 1984.

ADDRESSES: A copy of the submittals from New Jersey are available for inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region II Office, Air Programs Branch, 26 Federal Plaza, Room 1005, New York, New York 10278

U.S. Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, D.C. 20460

Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20408.

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, U.S. Environmental Protection Agency, 26 Federal Plaza, New York, New York 10278, (212) 264–2517.

SUPPLEMENTARY INFORMATION: On September 26, 1983, January 27, 1984 and February 1, 1984 New Jersey submitted information supplementing an earlier revision to the New Jersey State Implementation Plan (SIP) for attainment and maintenance of the ozone and carbon monoxide national ambient air quality standards. This earlier SIP revision was approved by the Environmental Protection Agency (EPA) on November 9, 1983 (48 FR 51472). New Jersey's recent submittals concerned regulations related to the State's motor vehicle emissions inspection and maintenance (I/M) program, specifically:

- Operating procedures for private inspection stations,
- Mechanic certification requirements, and
- Specifications for exhaust gas analyzers.

The September 26, 1983 submittal consisted of regulations adopted in emergency form. The January 27, 1984 and February 1, 1984, submittals consisted of three permanently adopted regulations for inclusion into the SIP. New Jersey also submitted a State law (Pub. L. 1983, Chapter 417, c236) which has a minor effect on two of the regulations. Further information on these regulations can be found in both the November 9, 1983 **Federal Register** action mentioned earlier and in a May 15, 1984 (49 FR 20502) **Federal Register** notice proposing their approval. EPA received no comments on its May 15, 1984 proposed rulemaking action.

Today's notice approves New Jersey's January 27 and February 1, 1984 SIP revision requests and incorporates the three regulations into the SIP. EPA finds good cause to make this action immediately effective since these regulations have been adopted by the State and are currently in effect.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under section 307(b)(1) of the Clean Air Act, judicial review of this action is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged in civil or criminal proceedings brought by EPA to enforce these requirements.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen oxides, Lead, Particulate matter, Carbon monoxide, and Hydrocarbons.

(Sec. 110, 172, and 301, Clean Air Act, as amended (42 U.S.C. 7410, 7502, and 7601))

Note.—Incorporation by reference of the Implementation Plan for the State of New Jersey was approved by the Director of the Federal Register on July 1, 1982.

Dated: September 27, 1984.

William D. Ruckelshaus,

Administrator, Environmental Protection Agency.

PART 52—[AMENDED]

Title 40, Chapter I, Subchapter C, Part 52, Code of Federal Regulations is amended as follows:

Subpart FF—New Jersey

1. Amend § 52.1570 by adding new paragraph (c)(37) as follows:

§ 52.1570 Identification of plan.

* * * * *

(c) * * *

(37) Three permanently adopted regulations were submitted on January 27, 1984 and February 1, 1984 regarding the operation of the inspection and maintenance program. These regulations pertain specifically to operating procedures for private inspection stations (New Jersey Administrative Code (N.J.A.C.) 13:20–33.1, 33.2, 33.50, and 33.51.), mechanic certification requirements (N.J.A.C. 13:20–32.4, 32.14, and 32.15), and specifications for exhaust gas analyzers (N.J.A.C. 7:27–15.1).

* * * * *

[FR Doc. 84-26178 Filed 10-2-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 123

[OW-1-FRL-2685-2]

Approval of Rhode Island's NPDES Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of approval of Rhode Island's application to participate in the National Pollutant Discharge Elimination System (NPDES) program.

SUMMARY: On September 17, 1984 the Regional Administrator for the Environmental Protection Agency (EPA), Region I, approved Rhode Island's request to administer the National Pollutant Discharge Elimination System (NPDES) program within the State.

FOR FURTHER INFORMATION CONTACT: Bernard Sacks, U.S. Environmental Protection Agency, Water Management Division, Compliance Branch (WCM–2103), John F. Kennedy Building, Boston, MA 02203, (617) 223–7057.

SUPPLEMENTARY INFORMATION: The Clean Water (33 U.S.C. 1251 *et seq.*) established the National Pollutant Discharge Elimination System (NPDES) program under which permits are issued for the discharge of pollutants from point sources into the waters of the United States. Initially, the Environmental Protection Agency (EPA) issues these permits. States may be authorized to administer the NPDES program for discharges into navigable waters within their jurisdiction if EPA determines that the State program satisfies the requirements of section 402(b) of the Clean Water Act. With the passage of the 1977 amendments to the Clean Water Act, State NPDES programs must include a pretreatment program and the authority to regulate Federal facilities. On July 6, 1984, EPA published notice of Rhode Island's request to administer the NPDES program in the **Federal Register** (49 FR 28273). A public hearing was held on August 22, 1984, in Providence, Rhode Island, to solicit comments on the proposed authorization of the Rhode Island program.

No comments were received at the public hearing. During the public comment period no comments were received objecting to the approval of Rhode Island's NPDES program. The one comment received during the public comment period and the one comment received after the public comment period closed supported approval of Rhode Island's program.

In support of its application for NPDES program approval, Rhode Island has submitted to EPA copies of the relevant statutes and regulations. The State has also submitted a statement by the Attorney General certifying, with appropriate citations to the statutes and regulations, that the State has adequate legal authority to administer the State NPDES program as required by 40 CFR Parts 123 and 403. EPA has concluded, upon reviewing all of these submitted materials, that the State has adequate legal authority to (1) administer the NPDES permitting program, including the authority to carry out the program described in the program description and to meet the requirements of 40 CFR Part 123 and (2) administer the pretreatment program, including the authority to perform each of the activities set forth in § 403.10(f)(1)(i)–(vii).

The State of Rhode Island has also submitted to EPA a program description which sets forth a description of the scope structure, coverage and procedures of the State program, permit revision schedules, compliance tracking and enforcement procedures; a description of the organization and structure of Rhode Island Department of Environmental Management, and a description of the personnel and resources to be dedicated to the program. Based upon this information, EPA has concluded that the State's program description meets the requirements of 40 CFR 123.22, including the necessary staffing and resources required by 40 CFR 123.22(b)(1)–(3) and 403.10(f)(3) to administer the NPDES program. In addition, as demonstrated by Rhode Island's regulations and program description, EPA has concluded that the State has the necessary pretreatment procedures consistent with 40 CFR 403.10(f)(2).

The State of Rhode Island has also submitted to EPA a Memorandum of Agreement (MOA) which sets forth provisions for the transfer of information between EPA and Rhode Island, the modification of the MOA, information and responsibilities on permit review and issuance, pretreatment, compliance monitoring and inspection, enforcement, and confidentiality of information. Based upon this information, EPA has concluded that the MOA meets the requirements of 40 CFR 123.24.

Today's **Federal Register** notice is to announce the approval of Rhode Island's NPDES program, including its pretreatment program and Federal facilities authority. Rhode Island's approved program is primarily based upon the following statutory and regulatory authorities: R.I. General Laws Section 10–20–1 *et seq.*, entitled "State Environmental Rights"; R.I. General Laws Section 46–12–1 *et seq.*, entitled "Water Pollution"; R.I. Pollution Elimination System Permit Regulations, effective July 16, 1984; R.I. Pretreatment Regulations, effective July 16, 1984; Water Quality Regulations for Water Pollution Control, effective November 19, 1981. In addition, Rhode Island's statutory and regulatory authorities include: R.I. General Laws Section 36–14–1 *et seq.*, entitled "Conflict of Interest"; R.I General Laws Section 38–2–1 *et seq.*, entitled "Access to Public Records"; R.I. General Laws Section 42–17–1 *et seq.*, entitled "Department of Environmental Management"; R.I General Laws Section 42–35–1 *et seq.;* entitled "Administrative Procedures"; R.I. General Laws Section 42–46–1 *et seq.;* entitled "Open Meetings"; Administrative Rules of Practice and Procedure for Department of Environmental Management, effective November 12, 1984; Files and Records—Public Access Rules and Regulations for the Department of Environmental Management, effective September 1, 1978; Regulations Implementing Rhode Island Conflict of Interest Law, effective May 26, 1977; and Underground Injection Control Program Rules and Regulations, effective May 21, 1984.

"Federal Register" Notice of Approval of State NPDES Program or Modification

Under the NPDES Permit Regulations (*See* 40 CFR 123.61) EPA will provide **Federal Register** notice of actions by the Agency approving or modifying a State NPDES program. The following table

will provide the public with an up-to-date list of the status of NPDES permitting authority throughout the country.

STATE NPDES PROGRAM STATUS

	Approved State NPDES permit program	Approved to regulate Federal facilities	Approved State pretreatment program
Alabama	10-19-79	10-19-79	10-19-79
California	05-14-73	05-05-78	
Colorado	03-27-75		
Connecticut	09-26-73		06-03-81
Delaware	04-01-74		
Georgia	06-28-74	12-06-80	03-12-81
Hawaii	11-28-74	06-01-79	06-12-83
Illinois	10-23-77	09-20-79	
Indiana	01-01-75	12-09-78	
Iowa	08-10-78	08-10-78	06-03-81
Kansas	06-28-74		
Kentucky	06-30-83	09-30-83	06-30-83
Maryland	09-05-74		
Michigan	10-17-73	12-09-78	06-07-83
Minnesota	06-30-74	12-06-78	07-16-79
Mississippi	05-01-74	01-28-83	05-13-82
Missouri	10-30-74	06-26-79	06-03-81
Montana	06-10-74	06-23-81	
Nebraska	06-12-74	11-02-79	09-07-84
Nevada	08-19-75	06-31-78	
New Jersey	04-13-82	04-13-82	04-13-83
New York	10-28-75	06-13-80	
North Carolina	10-19-75		06-14-82
North Dakota	06-13-75		
Ohio	03-11-74	01-28-83	07-27-83
Oregon	09-26-73	03-02-79	03-12-81
Pennsylvania	06-30-78	06-30-78	
Rhode Island	09-17-84	09-17-84	09-17-84
South Carolina	06-10-75	09-26-80	04-09-82
Tennessee	12-26-77		06-10-83
Vermont	03-11-74		03-16-82
Virgin Islands	06-30-74		
Virginia	03-31-75	02-09-82	
Washington	11-14-73		
West Virginia	05-10-82	05-10-82	05-10-82
Wisconsin	02-04-74	11-26-79	12-24-80
Wyoming	01-30-75	05-16-81	

Review Under the Regulatory Flexibility Act and Executive Order 12291

Under the Regulatory Flexibility Act, EPA is required to prepare a Regulatory Flexibility Analysis for all rules which may have significant impact on a substantial number of small entities. The approval of the Rhode Island NPDES permit program merely transfers responsibility for administration of the NPDES program from the Federal to the State government. No new substantive requirements are established by this action. Therefore, this notice does not effect a significant number of small entities. It does not trigger the requirement of a Regulatory Flexibility Analysis. The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Dated: September 17, 1984.

Michael R. Deland,

Regional Administrator, Region I.

[FR Doc. 84-26173 Filed 10-2-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 13

[Gen. Docket No. 83-322]

Requirements for Licensed Operators in Various Radio Services; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; Correction.

SUMMARY: This document corrects errors appearing in the Report and Order in this proceeding concerning requirements for licensed operations in various radio services, published on May 16, 1984, 49 FR 20658.

FOR FURTHER INFORMATION CONTACT: Leonard Langley, Radio Operator Branch, (202) 632-7240.

SUPPLEMENTARY INFORMATION:

Erratum

In the Matter of Requirements for Licensed Operators in Various Radio Services; General Docket 83-322.

Released: September 24, 1984.

On May 3, 1984, the Commission released a Report and Order (FCC 84-56) in the captioned proceeding, published in the **Federal Register** on May 16, 1984, (49 FR 20658).

In the Appendix of that document, § 13.25 of the Rules was amended by revising paragraph (a). There was no mention of the fact that the section heading was also revised. The heading for § 13.25 is revised to read:

* "Examination Credit for Licenses Held."

In addition, the caption of this proceeding appeared incorrectly in the **Federal Register** as "Requirements for Licensed *Operations* in Various Radio Services." It should read "* * * *Operators* * * *"

Federal Communications Commission

William J. Tricarico,

Secretary.

[FR Doc. 84-28125 Filed 10-2-84; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 84-441; RM-4659]

FM Broadcast Station in Jasper, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns FM Channel 265A to Jasper, Texas, as its second FM allocation, at the request of Jasper Broadcasting Company.

DATE: Effective: December 3, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the Matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Jasper, Texas) MM Docket No. 84-441, RM-4659.

Adopted: September 19, 1984.

Released: September 2, 1984.

By the Chief, Policy and Rules Division

1. The Commission has under consideration the *Notice of Proposed Rule Making*, 49 FR 20313, published May 14, 1984, proposing the assignment of Channel 265A to Jasper, Texas, as its second FM allocation. The *Notice* was issued in response to a petition filed by Jasper Broadcasting Company ("petitioner"). Supporting comments were filed by the petitioner reaffirming its intention to apply for the channel, if assigned.

2. The Commission believes that the public interest would be served by the assignment of Channel 265A to Jasper, Texas, in order to provide that community with its second FM allocation. The transmitter site is restricted to 4.3 km (2.7 miles) north of the city to avoid short spacing to FM Station KTQQ (Channel 265A), Sulphur, Louisiana.

3. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and sections 204(b) and 0.283 of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective December 3, 1984, the FM Table of Assignments, § 73.202(b) if the Rules, is amended with respect to the following community:

City	Channel No.
Jasper, Texas	265A, 272A

4. It is further ordered, That this proceeding is terminated.

5. For further information, contact Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082, 47 U.S.C. 154, 303)

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division; Mass Media Bureau.

[FR Doc. 84-26124 Filed 10-2-84; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 650

[Docket No. 31222-246]

Atlantic Sea Scallop Fishery; Continuation of Adjusted Meat Count and Shell Height Standards

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of continuation of adjusted meat count and shell height standards.

SUMMARY: NOAA continues the temporary adjustment of its meat count and shell height standards for the Atlantic sea scallop fishery. The present average meat-count standard of 35 meats per pound (minumum shell height of 3⅜ inches) is continued through September 30, 1985. Continuation of this standard will eliminate the potential for inconsistencies in management measures imposed on Canadian and U.S. sea scallop fishermen that would adversely affect the U.S. domestic fishery if the standard reverted to 30 meats per pound. The adjustment allows U.S. fishermen to harvest sea scallops at sizes smaller than would be allowed in the absence of the continued adjustment.

EFFECTIVE DATES: October 1, 1984, through September 30, 1985.

FOR FURTHER INFORMATION CONTACT: Carol Kilbride (Scallop Management Coordinator), 617-281-3600, extension 244.

SUPPLEMENTARY INFORMATION: The regulations (50 CFR Part 650) implementing the Fishery Management Plan for Atlantic Sea Scallops (FMP) (47 FR 35990, August 18, 1982) require the Director, Northeast Region, National Marine Fisheries Service (Regional Director), to review the status of the Atlantic sea scallop resource on a continuing basis.

In the spring of 1983, the Regional Director, following consultation with the New England Fishery Management Council (Council), implemented the findings of his first annual report by temporarily adjusting the management standards to allow harvest of sea scallops at 35 meats per pound (3⅜ inch shell height) through December 31, 1983 (48 FR 23434, May 25, 1983).

The fishery regulations at 50 CFR 650.22(b)(5) require the Regional Director to review adjustments of the standards and permit the Regional Director to renew a temporary adjustment upon making a finding consistent with the criteria for initial adjustment specified in 50 CFR 650.22(c). The criteria which must be met include: (1) The objective of the scallop FMP would be achieved more readily and be better served through an adjustment of the prevailing standards; (2) the recommended alteration in the standards would not reduce expected catch over the following year by more than 5% from that which would have been expected under the prevailing standard; (3) the recommended standards for meat count and shell height are consistent with each other; and (4) inconsistencies exist in the management measures applied to sea scallop stocks in areas harvested by both domestic and foreign fishermen, and those inconsistencies provide foreign fishermen with an advantage over domestic fishermen which can be demonstrated to adversely affect the domestic fishery. These criteria were met in December 1983, and the 35 meats per pound standard was therefore continued through May 15, 1984 (48 FR 57496, December 30, 1983). An extension through September 30, 1984 (49 FR 21058, May 18, 1984) was based on the same criteria.

The Regional Director has found that the criteria specified in 50 CFR 650.22(c) continue to be met and has therefore determined to renew the management standards adjustment to permit the harvest of sea scallops at an average meat count of 35 meats per pound (3⅜ inch shell height) size during the period from October 1, 1984, through September 30, 1985.

Other Matters

This action is taken under the authority of 50 CFR Part 650, and is taken in compliance with Executive Order 12291.

(16 U.S.C. 1801 *et seq.*)

List of Subjects in 50 CFR Part 650

Fisheries, Reporting and recordkeeping requirements.

Dated: September 28, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 84-26187 Filed 9-28-84; 3:55 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 49, No. 193
Wednesday, October 3, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Public Notice of Availability of Program Plan to Review Effectiveness of LWR Regulatory Requirements in Limiting Risk

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability.

SUMMARY: The NRC staff intends to initiate a review of the risk importance of current regulatory requirements for Light Water Reactors (LWR). This program is being initiated to identify current regulatory requirements which, if deleted or appropriately modified, would improve the efficiency or effectiveness of NRC's regulatory program for nuclear power plants without adversely affecting safety. Initially, this program will systematically assess the risk importance of selected current regulations in 10 CFR Part 50 and related regulatory requirements. The NRC staff is seeking public comment on the Program Plan prepared by the staff to describe the review program.

ADDRESS: A copy of the Program Plan is available for public inspection and copying in the NRC Public Document Room, 1717 H Street NW., Washington, DC. Copies may also be obtained by writing to Dr. Anthony Tse at the address listed below.

FOR FURTHER INFORMATION CONTACT: Dr. Anthony N. Tse, Regulatory Analysis and Materials Risk Branch, Division of Risk Analysis and Operations, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555; telephone: (301) 443-7920.

SUPPLEMENTARY INFORMATION: At the direction of the Executive Director for Operations, the NRC staff has initiated a program to identify current regulatory requirements which, if deleted or appropriately modified, would improve the efficency and effectiveness of the NRC regulatory program for nuclear power plants without adversely affecting safety. A number of existing programs [1] assess the adequacy of present regulations. However, these programs are not specifically designed to weed out existing regulations or regulatory requirements which do not reduce risk significantly. Initially, this program is designed to (1) systematically screen all current regulatory requirements associated with 10 CFR Part 50 and to assess the importance of selected requirements based first on their contribution to assuring that nuclear power plants are safely designed, constructed, and operated and second on their impact on licensee, applicant, and NRC resources, and (2) identify and propose appropriate modifications to eliminate duplication, inconsistency or unnecessary requirements and thus focus available NRC and industry resources more directly and precisely on the significant safety areas and issues.

Prime candidates for modification will be (1) old regulatory requirements which in light of present knowledge may no longer be considered risk important or whose risk importance may have been reduced substantially by the implementation of newer requirements and (2) areas in which there are large safety margins or conservatisms which can be reduced without measurably increasing the level of risk. In such cases modification could produce a significant safety benefit, since the attention and resources of licensees, applicants, and the NRC that are now directed to these areas could be redirected to other areas of greater safety significance.

The initial work, to be completed in FY 1985, will include a survey of regulatory requirements associated with 10 CFR Part 50 to categorize them according to their relative safety significance. In a parallel effort, several requirements that appear to be good candidates for modification or elimination will be evaluated in detail to assess their safety benefits and the NRC and industry costs of implementation. At the end of 1985, the NRC will ascertain the usefulness of this program and determine whether any of the identified candidates should be pursued further in a rulemaking.

As part of the program, the NRC will solicit suggestions from the regulated industry as to candidate requirements that might be eliminated or modified to improve the effectiveness and the efficiency of the regulatory program. The NRC will also consider any other public comments received. All suggestions will be evaluated by the staff, but none will be considered as petitions for rulemaking or as formal comments that require response. Any petitions for rulemaking must be submitted as directed in § 2.802 of 10 CFR Part 2 of the Commission regulations.

Any suggestions would be welcomed and should be sent to Dr. A.N. Tse.

Dated at Washington, DC, this 17th day of September 1984.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 84-26088 Filed 10-2-84; 8:45 am]

BILLING CODE 7590-01-M

[1] Examples include (1) the Generic Issue and Unresolved Safety Issue programs; (2) programs and tasks that would be guided by the Severe Accident Policy Statement when issued; (3) the Integrated Safety Assessment Program for operating reactors, (4) the operating experience review by the Office for Analysis and Evaluation of Operational Data; and (5) the many studies, analyses, test and experiments supported by the Office of Research.

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 5

[Docket No. 84-34]

Rules, Policies, and Procedures for Corporate Applications; Bank Service Corporations

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: Section 709 of the Garn-St Germain Depository Institutions Act of 1982 (Pub. L. 97-320, October 15, 1982) amended the Bank Service Corporation Act. This amended act states that under certain circumstances national banks must obtain the prior approval of the Office of the Comptroller of the Currency ("Office") for the investment in a bank service corporation.

This proposal describes Office policies governing bank service corporations and sets forth procedures

for obtaining required approvals of the Office. The proposal requires a national bank, under certain circumstances, to notify the Office, by letter, of its intent to invest in a bank service corporation. If a notifying bank has not received a decision within 90 days after the Office has acknowledged receipt of a technically complete letter, then final approval may be assumed granted.

DATE: Written comments must be submitted on or before December 3, 1984.

ADDRESSES: Comments should be directed to: Docket No. 84–34, Communications Division, 3rd Floor, 490 L'Enfant Plaza East, SW., Washington, D.C. 20219, Attention: Lynette Carter. Comments will be available for public inspection and photocopying at the same location.

The collection of information requirements contained in the proposed rule have been submitted to the Office of Management and Budget (OMB) for review under 44 U.S.C. 3504(h). Comments specifically addressing those information collection requirements should be submitted to: Office of Management and Budget, 726 Jackson Place, NW., Washington, D.C. 20500, Attention: Desk Officer for the Office of the Comptroller of the Currency; and should also be directed to this Office at the above address.

FOR FURTHER INFORMATION CONTACT: Randall J. Miller, Manager, Policy, Bank Organization and Structure, or Mickey Fenyk-King, Financial Analyst, Bank Organization and Structure, Office of the Comptroller of the Currency, (202) 447–1184.

SUPPLEMENTARY INFORMATION:

Introduction

The Bank Service Corporation Act ("Act"), codified at 12 U.S.C. 1861 *et seq.*, was significantly amended by Section 709 of the Garn-St Germain Depository Institutions Act of 1982 (Pub. L. 97–320, October 15, 1982). Under the amended Act, a national bank may invest up to 10 percent of paid-in and unimpaired capital and umimpaired surplus in a bank service corporation as defined in 12 U.S.C. 1861(b)(2). All investments in bank service corporations may not exceed 5 percent of a bank's total assets. Depending upon the circumstances, a bank service corporation may provide services authorized by the amended Act to depository institutions or to any person. Bank service corporations may not take deposits.

Type of Bank Service Corporations

National banks may invest in four types of bank service corporations. They are:

1. A bank service corporation that will provide only the services described in section 1863 of the amended Act and that will provide such services only for depository institutions. The services listed in section 1863 include the following:

Check and deposit sorting and posting, computation and posting of interest and other credits and charges, preparation and mailing of checks, statements, notices, and similar items, or any other clerical, bookkeeping, and accounting, statistical, or similar functions performed for a depository institution.

2. A bank service corporation owned exclusively by one or more national banks and providing services, other than those services described in section 1863, but limited to services that national banks are legally authorized to provide. Such service may be provided to any person. All shareholder national banks must be located in the same state and service corporation may provide services only at those locations in the state where the shareholder banks could be authorized to perform such services. This type of bank service corporation is discussed primarily in 12 U.S.C. 1864(d).

3. A bank service corporation owned by one or more national banks and one or more state chartered banks and providing services, other than those services described in section 1863, but limited to services that both the state banks and legally authorized to provide. Such services may be provided to any person. All state and national shareholder banks must be located in the same state and the service corporation may provide services only at those locations in the state where the shareholder banks could be authorized to perform such services. This type of bank service corporation is discussed primarily in 12 U.S.C. 1864(e).

4. A bank service corporation owned by one or more national banks or by national and state banks that, pursuant to the authority contained in 12 U.S.C. 1864(f), provides services that the Federal Reserve Board has determined by regulation to be permissible for bank holding companies under Section 4(c)(8) of the Bank Holding Company Act. Services may be provided to any person. Shareholder banks need not be located in the same state. The activities performed by this type of service corporation must be in compliance with the applicable provisions of federal and state branching law.

Regulatory Approvals for National Banks Desiring to Invest in Bank Service Corporations

No prior approval is required for a national bank to invest in the first (12 U.S.C. 1863) type of bank service corporation described above. The prior approval of the Office is required for a national bank to invest in the second (12 U.S.C. 1864(d)) and third (12 U.S.C. 1864(e)) types of bank service corporation. The prior approval of the Federal Reserve Board is required for a national bank to invest in the fourth (12 U.S.C. 1864(f)) type. Moreover, no existing bank service corporation may perform any new activity under the authority of the regulations promulgated pursuant to section 4(c)(8) of the Bank Holding Company Act without the approval of the Federal Reserve Board.

The Office recognizes that some bank service corporations in which national banks propose to invest may meet the requirements of either the second (12 U.S.C. 1864(d)) or third (12 U.S.C. 1864(e)) type of bank service corporation *and* the fourth (12 U.S.C. 1864(f)) type of bank service corporation. That is, some bank service corporations may perform activities that are permissible for national banks (and meet the other requirements of 12 U.S.C. 1864 (d) or (e)), and are also contained in the regulations promulgated by the Federal Reserve Board pursuant to section 4(c)(8) of the Bank Holding Company Act. In such situations, a national bank has the option of proceeding under the authority contained in 12 U.S.C. 1864 (d) or (e), requiring application to this Office for approval of the national bank's investment; or proceeding under the authority contained in 12 U.S.C. 1864(f), requiring application to the Federal Reserve Board for approval of the national bank's investment.

Proposed Office Application Procedures

For those situations where prior approval from the Office is required for a national bank to invest in a bank service corporation, the Office proposes that national banks seeking such approval file a letter with the District Office in the district where the principal office of the national bank is located. The letter must describe the name and location of the service corporation and the services to be performed. In addition, the letter should demonstrate that the amount invested in a bank service corporation is 10 percent or less of the bank's paid-in and unimpaired capital and unimpaired surplus; that the aggregate amount invested in all bank service corporations is 5 percent or less

of the bank's total assets; that all shareholder banks will be located in the same state; and that the services to be performed by the service corporation are to be performed only at locations in the state at which the national bank shareholder could be authorized to perform such services.

Upon receipt of the letter requesting approval, the Office will send an acknowledgement to the bank. At this time the Office will begin a review of the letter to check for completeness. If all information necessary to render a decision is contained in the letter, the Office will inform the bank that the request is "complete" and a 90-day decision period has begun. However, during this review period the Office may find it necessary to request additional information in order to render a decision. The 90-day decision period will not begin until all necessary information is received and the bank is so informed of receipt of a "complete" letter.

Generally, the Office will render a final decision on the proposed investment within 90 days of the date the Office acknowledges receipt of a technically complete letter requesting approval. When the Office does not render a final decision within 90 days, the investment may be deemed approved and the bank may proceed to invest in the bank service corporation after the 90-day period. The investment in the bank service corporation may not be made prior to receiving approval from the Office or expiration of the 90-day period, whichever is sooner.

For banks not subject to special supervisory concerns, approval for investment in a bank service corporation will generally be granted provided that: (1) The services to be performed by the service corporation are legally permissible; (2) the services are performed only at locations in the state at which the shareholder banks could be authorized to perform such services; and, (3) the investment conforms with the 10 percent of capital and surplus and the 5 percent of total asset limitations in the statute.

For banks subject to supervisory concerns, the Office generally will base its decision upon additional factors including: (1) An assessment of the financial and managerial resources and future prospects of the bank and the bank service corporation, including, but not limited to, the financial capability of the bank to make the proposed investment; (2) a review of any banking practices determined by the Office to be unsafe and unsound; and, (3) any other information the Office considers relevant for the circumstances.

The Office is concerned about the safe and sound operation of national banks and affiliated corporations including bank service corporations. Under the proposal, such concerns are always addressed for banks subject to supervisory concerns, and may be grounds for denial of the proposed investment, or for approval subject to special conditions.

Supervision and Examination

Pursuant to 12 U.S.C. 1867, as amended, the Bank Service Corporation Act specifically provides that a bank service corporation in which a national bank is the "principal investor," as defined by 12 U.S.C. 1861(b)(7), will be subject to examination and regulation by the Office to the same extent as a national bank. The principal investor of a bank service corporation is the bank that has the largest dollar amount invested in the capital stock of the service corporation. In any case where two or more insured banks have equal dollar amounts invested in a bank service corporation, the corporation, prior to commencing operations, must select one of the insured banks as its principal investor and must then notify that bank's appropriate Federal banking agency, as defined in 12 U.S.C. 1861(b)(1), of its choice within five business days of its selection.

Regulatory Analysis

The Office's experience during the time since passage of the amended Bank Service Corporation Act suggests that the Office is likely to receive fewer than ten applications per year. In addition, the processing fee for these applications is nominal; currently $150. In view of these factors and pursuant to Section 605(b) of the Regulator Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601 *et seq.*), the Office finds that the proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities.

For the reasons cited above, the Office has determined that the proposed rule does not constitute a major rule within the meaning of Executive Order 12291.

List of Subjects in 12 CFR Part 5

National banks, Bank service corporations.

Authority and Issuance

The Comptroller of the Currency proposes to amend 12 CFR Part 5 as follows:

PART 5—[AMENDED]

1. The authority citation for Part 5—Rules, Policies, and Procedures Corporate Activities is revised to read as follows:

Authority: 12 U.S.C. 1 *et seq.*; 12 U.S.C. 93a.

2. A new § 5.35 is added as follows:

§ 5.35 Bank service corporations.

(a) *Authority.* 12 U.S.C. 1867, 93a.

(b) *Rules of General Applicability.* Section 5.8, 5.10, and 5.11 do not apply to requests for approval to invest in bank service corporations.

(c) *Definitions.* The terms "bank service corporation," "depository institution," "invest," and "principal investor," as used in this section, shall have the same meaning and content as given such terms in 12 U.S.C. 1861.

(d) *General.* National banks are authorized to invest in bank service corporations pursuant to 12 U.S.C. 1862. However, a national bank may not invest more than ten percent of its paid in and unimpaired capital and its unimpaired surplus in a bank service corporation. Also, no national bank may invest more than five percent of its total assets in bank service corporations.

(e) *Policy and Procedures.* The Office will consider requests under 12 U.S.C. 1865(a) to invest in a bank service corporation in accordance with the following requirements.

(1) *Notification.* (i) No regulatory approval is required for a national bank to invest in a bank service corporation that will perform only the services described in 12 U.S.C. 1863 and performs such services only for depository institutions.

(A) The approval of this Office is required for a national bank to invest in a bank service corporation that performs any service under the authority of 12 U.S.C. 1864 (d) or (e).

(B) The approval of the Federal Reserve Board is required for a national bank to invest in a bank service corporation that performs any service under the authority of 12 U.S.C. 1864(f).

(C) If a bank service corporation in which a national bank proposes to invest performs services that are authorized both by 12 U.S.C. 1864 (d) or (e) and 12 U.S.C. 1864(f), the bank should determine which subsection it desires to proceed under and must receive approval as described in paragraphs (e)(1)(i)(A) or (e)(1)(i)(B), depending upon its choice.

(ii) When Office approval is required, the national bank should file a letter with the District Office in the district where the principal office of the bank is located. The letter must describe the name and location of the service corporation and the services to be performed. In addition, the letter must

demonstrate that the amount invested in a bank service corporation is 10 percent or less of the bank's paid-in and unimpaired capital and unimpaired surplus and that the total amount invested in all bank service corporations is 5 percent or less of total assets. Finally, the letter should demonstrate, pursuant to 12 U.S.C. 1864 (b) and (d) or (e), that the investing banks are all located in the same state; and that the services to be performed by the service corporation are to be performed only at locations in the state at which the national bank shareholder(s) could be authorized to perform such services. The Office may require additional information from any applicant bank. In particular, for national banks subject to supervisory concerns, the Office may consider additional information including: (A) The financial and managerial resources and future prospects of the bank and bank service corporation, including the financial capability of the bank to make the proposed investment; (B) any information needed to review and address unsafe and unsound banking practices; and (C) any other information the Office considers appropriate for the circumstances.

(2) *90-Day Decision Time Period.* The Office will render a final decision on the proposed investment within 90 days of the date the Office acknowledges receipt of a technically complete letter requesting approval. A technically complete letter will include the information required under paragraph (e)(1)(ii) of this section. If the Office fails to render a decision within 90 days after the date the Office acknowledges receipt of a technically complete letter, the investment may be deemed approved.

(3) *Conditions for Approval.* For banks not subject to supervisory concerns, approval for investment in a bank service corporation generally will be granted provided that: (i) The services performed by the service corporation are legally permissible for a national bank; (ii) the services are performed only at locations in the state at which the national bank shareholder(s) could be authorized to perform such services; (iii) the amount of the investment conforms with the 10 percent and 5 percent limitations noted in paragraph (d); and (iv) the investing banks are all located in the same state. For banks subject to supervisory concerns the request may be denied or it may be approved subject to conditions considered appropriate by the Office.

(f) *Examination and Supervision.* Each bank service corporation in which a national bank is the principal investor shall be subject to examination and supervision by the Office in the same manner and to the same extent as the shareholder bank.

(g) *Fees.* [Reserved]

(h) *Forms.* None.

(Approved by the Office of Management and Budget under Control Number ————.)

Dated: August 9, 1984.

C.T. Conover,

Comptroller of the Currency.

[FR Doc. 84-26117 Filed 10-2-84; 8:45 am]

BILLING CODE 4810-33-M

CIVIL AERONAUTICS BOARD

14 CFR Part 399

[Policy Statement Docket 38585; PSDR-70B, PSDR-75-B]

Statements of General Policy

AGENCY: Civil Aeronautics Board.

ACTION: Termination of rulemaking.

SUMMARY: The CAB has proposed several changes in its rules concerning joint fares and interlining of airlines for their domestic service. The CAB's authority over these fares was terminated by the Airline Deregulation Act. This notice ends that rulemaking.

DATE: September 26, 1984.

FOR FURTHER INFORMATION CONTACT: Joanne Petrie, Rules & Legislation Division, Office of the General Counsel, Civil Aeronautics Board. 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION: In 1981, American Airlines filed a petition for rulemaking, asking that airlines be exempted from the then joint fare requirements of the Board. These requirements set specified formulas by which airlines divided the fares for travel on two or more carriers. The formula was believed necessary at the time because carriers were required by the Act to interline with each other.

By PSDR-70 (46 FR 29719, June 3, 1981), the Board proposed three options to help the transition to fair deregulation: (1) The elimination of mandatory joint fares; (2) a requirement for interlining with all if a carrier interlines with one; and (3) the continuation of mandatory joint faires only in markets served by commuters.

Comments and reply comments were filed by Air New England, Air Oregon, American, Big Sky, Crown, Delta, Eastern, Northwest, Ozark, Pacific Southwest, Piedmont, Republic, Suburban, TWA, United, USAir, Western, U.S. Dept. of Transportation, U.S. Dept. of Justice, Arizona Department of Transportation, Public Utilities Commission of California, Illinois Department of Transportation, Michigan Aeronautics Commission, Minnesota and the Department of Transportation, Nebraska, New York State, Oregon, Beaumont Chamber of Commerce, Brown County, Wisconsin, Cedar Rapids Municipal Airport, City of Kansas City, Missouri, City of Fort Wayne Aviation Commission, Lawton, Ponca City, Oklahoma, Portland Convention Association, Reading Municipal Airport Authority, Richland-Lexington Airport Commission, St. Joseph Airport Authority, American Society of Travel Agents, and the Commuter Airline Association of America.

By PSDR-75 (47 FR 16795, April 20, 1982), the Board additionally proposed to require airlines to provide interline service in Hawaii upon request if they interline at all until the end of 1982. Comments were filed by the Commonwealth of Purerto Rico, the Regional Airline Association, and United Airlines.

The authority to regulate joint fares (section 1002 of the Federal Aviation Act) and the statutory requirement for mandatory interlining (section 404) were eliminated for domestic passenger transportation as of January 1, 1983, by the Airline Deregulation Act. Cargo transportation has also been exempted from these requirements. Since the underlying authority for this rulemaking has been eliminated by statute or by exemption, the Board is ending this proceeding.

Regulatory Flexibility Act

The Board certifies that this action will not have a significant economic impact on a substantial number of small entities, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605). While the initial proposals may have had a significant impact, the Airline Deregulation Act removed the authority and necessity to act on the proposals.

List of Subjects in 14 CFR Part 399

Administrative practice and procedure, Advertising, Air carriers, Antitrust, Archives and records, Consumer protection, Freight forwarders, Grant programs—transportation, Hawaii, Motor carriers, Puerto Rico, Railroads, Reporting and recordkeeping requirements, Travel agents, Virgin Islands.

Accordingly, the rulemaking proceeding in Docket 38585 is terminated and the docket closed.

By the Civil Aeronautics Board.

Phillis T. Kaylor,

Secretary.

[FR Doc. 84-26211 Filed 10-2-84; 8:45 am]
BILLING CODE 6320-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[File No. 842-3207]

Biopractic Group, Inc.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices, and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require a Riegelsville, Pa. corporation to stop representing that any drug or device provides relief from the inflammation and joint stiffness associated with arthritis and other musculoskeletal ailments, unless such claims are substantiated by competent and reliable evidence. The company would also be barred from making unsubstantiated claims that any drug or device has been praised as an effective treatment for arthritis and similar conditions by doctors, medical centers and athletic teams, or has been reported in magazines or on TV and radio to be a breakthrough in pain management. The order would additionally require the company to maintain records substantiating claims covered by the order, and to send a copy of the order to all personnel involved in the preparation of advertising and promotional materials.

DATE: Comments must be received on or before December 3, 1984.

ADDRESS: Comments should be directed to: FTC/Office of the Secretary, Room 136, 6th St. and Pa. Avenue, NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Nancy Warder, Federal Trade Commission, B-407, Washington, D.C. 20580. (202) 376-8720.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

List of Subjects in 16 CFR Part 13

Over the counter drugs, Trade practices.

Agreement Containing Consent Order To Cease and Desist

The Federal Trade Commission having initiated an investigation of certain acts and practices of Biopractic Group, Inc., a corporation, and it now appearing that Biopractic Group, Inc., hereinafter sometimes referred to as proposed respondent, is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed by and between Biopractic Group, Inc., by its counsel and duly authorized officers, and counsel for the Federal Trade Commission that:

1. Proposed respondent Biopractic Group, Inc., is a corporation with its office and principal place of business located at 328 Easton Road, Riegelsville, Pennsylvania 18077.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to-order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order comtemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

8. By its acceptance of this agreement and the issuance of the proposed complaint and order contemplated thereby, the Federal Trade Commission takes no position on the legality of the marketing of Therapeutic Mineral Ice, or of any other food, drug or device covered by the proposed order under the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 301 *et seq.*

Order

I

It is ordered that respondent Biopractic Group, Inc., a corporation, its successors, assigns, officers, representatives, agents, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of any "drug" or "device," as those terms are defined in the Federal Trade Commission Act, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing that such product

a. Provides relief from the inflammation and joint stiffness that characterizes arthritis and other musculoskeletal ailments;

b. Stimulates the beta-endorphins present in the human body;

c. Has been praised as an effective treatment for arthritis and other musculoskeletal ailments by medical doctors, leading medical centers, professional atheletic teams, or Olympic teams; or

d. Has been reported to be a breakthrough in pain management in articles in newspapers, magazines, or in television or radio news reports;

unless at the time of the dissemination of such representation respondent possesses and relies upon adequate substantiation for such representation, including, for the representations described in subparts a and b, competent and reliable scientific or medical evidence in the form of at least two independently conducted, well-controlled, double-blinded clinical studies that conform to acceptable designs and protocols, are conducted by persons who are qualified by training and experience to conduct such studies, and substantiate the representations made by the respondent. Provided, however, with respect to any such representation set forth in subparts a and b above for over-the-counter drugs, if the Food and Drug Administration publishes any tentative or final standard which establishes conditions under which a product is safe and effective, then, in lieu of the two double-blinded clinical studies, respondent may possess and rely upon such standard (until such standard is superseded) if it substantiates the representation.

II

It is further ordered that respondent maintain, for at least three (3) years beyond the last dissemination of any advertisement or promotional material covered by this order, complete business records demonstrating compliance with this order. Such records shall include, but not be limited to, copies of the dissemination schedules for all advertisements and promotional materials; and documents that substantiate or that contradict or qualify any claim made in advertising, promoting or selling any product covered by this order.

III

It is further ordered that respondent notify the Commission at least thirty (30) days prior to the effective date of any proposed change in Biopractic Group, Inc., such as dissolution, assignment or sale, resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

IV

It is further ordered that the respondent shall forthwith distribute a copy of this order to each of its operating divisions, and to all present and future personnel, agents, or representatives who are engaged in the preparation and dissemination of advertisements and promotional materials and that the respondent shall secure from each such person a signed statement acknowledging receipt of the order.

V

It is further ordered that the respondent shall, within sixty (60) days after this order becomes final, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Biopractic Group, Inc. (Biopractic).

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

Paragraph Six of the complaint alleges that Biopractic has represented that Therapeutic Mineral Ice has been praised as an effective treatment for arthritis and other musculoskeletal ailments by doctors, medical centers, and athletic teams, including the United States and Russian Olympic track teams. Paragraph Six also alleges that Biopractic has represented that Therapeutic Mineral Ice has been reported to be an important breakthrough in pain management by the Associated Press and other media. According to Paragraph Seven of the complaint, both representations are false.

In addition, Paragraph Eight alleges that Biopractic has represented that Therapeutic Mineral Ice relieves the inflammation and stiffness characteristic of arthritis and other musculoskeletal ailments and stimulates the production of beta-endorphins. According to Paragraph Ten Biopractic did not have a reasonable basis for either representation at the time it was made.

The proposed consent order contains various provisions designed to remedy the alleged advertising violations.

Paragraph I of the proposed order prohibits Biopractic from making any of the four representations about Therapeutic Mineral Ice that Biopractic is alleged to have made in Paragraphs Six and Eight of the complaint about any drug or device unless it possesses adequate substantiation. In the case of the representations about the ability of any drug or device to relieve the inflammation and stiffness of arthritis and other musculoskeletal diseases or to stimulate beta-endorphins, the substantiation must be in the form of two well-controlled clinical trials unless the Food and Drug Administration has published a tentative or final standard establishing the safety and efficacy of the drug or device and this standard substantiates the claim.

Paragraph II of the proposed order requires Biopractic to maintain records of dissemination schedules and substantiation related to the requirements of the proposed order for three (3) years after the dissemination of any advertisements. Paragraph III requires Biopractic to notify the Commission at least thirty (30) days prior to any proposed corporate change that may affect compliance obligations under the proposed order. Paragraph IV requires Biopractic to distribute a copy of the order to each of its operating divisions and personnel involved in the preparation of advertising and promotional materials, and Paragraph V requires Biopractic to file a compliance report with the Commission sixty (60) days after the proposed order becomes final.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to

constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Emily H. Rock,

Secretary.

[FR Doc. 84-26148 Filed 10-2-84; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 4

Proposed Customs Regulations Amendments Relating to the Entry and Clearance of Vessels

AGENCY: Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations regarding the entry and clearance of vessels. There has been a lack of uniformity in the application of the entry and clearance requirements of the navigation laws to vessels engaged in the lightering of import and export cargo between the U.S. and vessels located beyond the territorial waters of the U.S. This document proposes a clarification of the applicability of the entry and clearance requirements to lighters and other vessels engaged in certain transactions.

Specifically, the document proposes two basic changes. First, a vessel would be required to make entry at a customhouse within 48 hours after arrival in the U.S. if the vessel is returning from another vessel on the high seas after either (1) transporting export merchandise out of the U.S. and transshipping the merchandise to that vessel; or (2) transporting import merchandise to the U.S. after receiving the merchandise from that vessel. Second, an exception would be made to the provision that no vessel shall be cleared for the high seas. It would become necessary for a vessel to obtain clearance if it was bound for another vessel on the high seas to either (1) transship export merchandise which it has transported from the U.S. to that vessel; or (2) receive import merchandise from that vessel and transport the merchandise to the U.S.

DATES: Comments should be received on or before December 3, 1984.

ADDRESS: Comments (preferably in triplicate) may be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Paul G. Hegland, Carriers, Drawback and Bonds Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5706).

SUPPLEMENTARY INFORMATION:

Background

Formal entry of a vessel is now required by section 434 (if an American vessel) or section 435 (if a foreign vessel), Tariff Act of 1930, as amended (19 U.S.C. 1434, 1435). These entry requirements of the navigation laws are derived from provisions of the Act of March 2, 1979 (e.g., setion 2774, Revised Statutes of the United States). Regulations implementing these entry requirements are set forth in §§ 4.3 and 4.9, Customs Regulations (19 CFR 4.3, 4.9). Clearance of a vessel is required by section 4197, Revised Statutes, as amended (46 U.S.C. 91). This requirement is derived from § 93 of the Act of March 2, 1979. Regulations implementing the clearance requirement are set forth in §§ 4.40–4.75, Customs Regulations (19 CFR 4.60–4.75).

These vessel entry and clearance requirements of the navigation laws are basic to the proper discharge of primary missions of Customs (i.e., (1) assessment and collection of import duties and taxes, and (2) control of carriers, persons, and articles entering or departing the U.S. and the enforcement of statutory restrictions and prohibitions). Clarification of the applicability of the entry and clearance requirements is considered necessary because of technological advances in water transportation and in the transportation of cargo since the Act of March 2, 1799. This is especially true in recent years with the increased use of vessels to transport import and export cargo between the U.S. and foreign countires via locations on the high seas beyond the territorial waters of the U.S. At those locations the import and export cargo is transshipped to and from lighters and other vessels arriving from and departing for the U.S. with the cargo.

Section 434, Tariff Act of 1930, as amended (19 U.S.C. 1434), uses the language "arriving in the United States from a foreign port or place" and section 4197, Revised Statutes, as amended (46 U.S.C. 91), uses the term "bound to a foreign port." Clarification of these phrases is essential to a proper application of the law. This is particularly true with regard to lighters and other vessels arriving in the U.S. with import cargo transshipped from a vessel on the high seas or bound out of the U.S. with export cargo for transshipment to a vessel on the high seas.

If the entry and clearance requirements of the navigation laws are not applicable to lighters and other vessels transporting import and export cargo in and out of the U.S. from and to vessels located on the high seas, it would be, at least theoretically, possible for the bulk of the import and export cargo of the U.S. to be transported in vessels not subject to statutory entry and clearance requirements upon arrival at or departure from the U.S. This would clearly be contrary to the legislative purpose sought to be accomplished by the entry and clearance requirements of the navigation laws and would create severe problems for Customs in carrying out the missions of the agency.

An advance notice of proposed rulemaking (ANPRM) regarding this subject was published in the **Federal Register** on October 14, 1983 (48 FR 46808). That document contains a complete discussion of the initial proposal and relevant court decisions.

Discussion of Comments Received in Response to ANPRM

In response to the ANPRM, nine comments were received from individuals and organizations in the importing community. Eight commenters were in favor of the ideas proposed in the ANPRM. A discussion of the comments follows:

The one commenter opposed to the proposals cautioned that an overly broad or imprecise rulemaking could place unnecessary administrative and financial burdens on the industry and create additional tasks for Customs officers in the Gulf Coast area causing them to overlook other responsibilities or to retard an already slow import/export process. The commenter stated that it believes that Customs present regulations adequately ensure that import duties are paid and statutory prohibitions are enforced but, recognizing Customs concern with the control and documentation of goods and personnel transferred between U.S. ports and international destinations, the commenter suggested several regulatory alternatives which it felt would be less burdensome than the propoals in the ANPRM but still sufficient to satisfy Customs objectives. The four regulatory alternatives suggested by the commenter are:

1. A vessel leaving a U.S. port to lighter foreign cargo for delivery to U.S. ports should not be subject to any further regulatory requirements because such a lightering vessel is entered as if arriving from a foreign port;

2. A vessel leaving a U.S. port to top off a larger vessel with cargo destined for a foreign port should be required to deliver to Customs a report containing information describing the lightering vessel and its crew, the lightered vessel, the proposed location of the delivery, and the quantity and type of cargo to be delivered. A supplemental report would be required on the return of the vessel, after completion of the lightering, only if there were a significant short delivery or if any personnel or goods were brought back from the lightered vessel;

3. A vessel or aircraft delivering stores, supplies, spare parts, or crew members to a vessel in international waters should be required to give 6 to 24 hours advance notice to Customs of the departure of the supply vessel or aircraft and file immediately with the attending Customs inspector or, if none attending, within 1 working day of departure, a report containing information describing the vessel or aircraft leaving the U.S. and its crew, the receiving vessel, the proposed delivery location, the number of packages of goods in bond, the approximate weight and general description of the domestic stores, supplies, and spare parts, and the names of personnel transported in the supply vessel or aircraft who are to join or visit the receiving vessel. On its return to a U.S. port, the supply vessel or aircraft should file with Customs a report describing the supply vessel or aircraft, the number of packages of goods landed from the receiving vessel, the names of personnel landing from the receiving vessel, and the names of visitors returning from the receiving vessel. (The commenter noted that bonded goods in transit are already supervised by Customs and should require no further action and that goods and personnel being landed would be subject to existing Customs procedures.)

4. Vessels engaged in offshore bunkering operations should be required to file with Customs, within 1 working day of departure from the loading terminal, a report containing information describing the bunkering vessel and its crew, the bunker products on board, the vessel to be bunkered, the location of the bunkering, and the expected date of the bunkering. Such vessels should, within 4 working days of each offshore delivery, file with Customs a report containing information describing the receiving vessel and the bunkers delivered.

Customs does not believe that the regulatory alternatives suggested by the commenter would satisfactorily address the problems stated in the ANPRM. The first situation described by the commenter, in which a vessel departs a U.S. port to lighter foreign cargo from a vessel on the high seas and returns the cargo to the U.S., is addressed by the changes considered in the ANPRM. Contrary to the commenter's contentions, if such a vessel were a U.S.-flag vessel, it would not be required to make entry as if arriving from a foreign port (19 U.S.C. 1434), although the *cargo*, of course, would be required to be entered. Furthermore, to control the movement of a vessel lightering cargo destined for the U.S. from a vessel on the high seas, Customs needs notice (i.e., clearance) of the vessel's departure and the information and procedures included in vessel clearance, as well as the information and procedures included in vessel entry, upon the vessel's return from the high seas with the import cargo.

The second situation described by the commenter, in which a vessel departs a U.S. port with foreign-destined (export) cargo which it lighters onto a vessel on the high seas and then returns to a U.S. port, is also addressed in the ANPRM. In this situation, Customs also needs the information and procedures included in vessel entry and clearance. Adoption of the commenter's suggestion would result in new Customs forms and procedures, rather than use of existing forms and procedures, as the changes considered in the ANPRM would. Thus, the commenter's suggestion could result in more confusion for vessel operators and Customs officers.

The third and fourth situations described by the commenter, involving the transportation of stores, supplies, spare parts, or crew members to a vessel on the high seas, would not be affected by the changes considered. The ANPRM stated that Customs is considering the applicability of the entry and clearance requirements to the transportation by lightering vessels of: (1) export merchandise out of the U.S. to a point on the high seas where the merchandise is transshipped to a vessel for transportation foreign; and (2) import merchandise to the U.S. after transshipment on the high seas from vessels which have transported the merchandise to that point from a foreign country. A vessel arriving in the U.S. to lade bunkers, stores, supplies, spare parts, or crew members under certain circumstances, is exempt from entry by statute (19 U.S.C. 1441(4)) and from clearance by regulation (19 CFR 4.60(b)(3)), if the vessel departs within 24 hours without having landed or taken on board any passengers, or any merchandise other than the bunkers, stores, supplies, or spare parts, and if the report required by 19 U.S.C. 1441(4) is made to Customs. Because such a vessel would be exempt from entry and clearance, assuming that it meets the requirements of 19 U.S.C. 1441(4), Customs believes that such vessel business transacted *outside* U.S. territorial waters also should be exempt from entry and clearance.

Another commenter stated that vessels transacting business with other vessels on the high seas should be required to pay tonnage tax at the rate governed by the location at which the business is transacted. The commenter suggested that guidelines for collection of regular tonnage tax at the $.02 or the $.06 rate should be issued by Customs Headquarters for specific latitudes and longitudes in the Atlantic and Pacific Oceans. The commenter feels that adoption of the changes considered in the ANPRM would result in better vessel and cargo control, improved statistics on bunkers, more tonnage tax and vessel entry and clearance fees being collected, and better statistics concerning vessel movements.

Because the $.02 regular tonnage tax rate is applicable to vessels arriving from a foreign port or place in North America, Central America, the West Indies, the Bahama Islands, the Bermuda Islands, Newfoundland, or the coast of South America bordering on the Caribbean Sea (considered to include the mouth of the Orinoco River) (section 4.20(a), Customs Regulations), Customs does not believe that special guidelines are necessary for the determination whether the $.02 or $.06 regular tonnage tax rate would be applicable to a vessel arriving in the U.S. after lightering another vessel on the high seas. Virtually all of such lightering activities would occur nearer either the U.S. or a foreign location subject to the $.02 regular tonnage tax rate than a foreign location subject to the $.06 regular tonnage tax rate. The proposed amendments to Part 4, Customs Regulations, contained in this document include an amendment to make the $.02 regular tonnage tax rate applicable to vessels entered in any port of the U.S. from the high seas adjacent to the U.S. or the foreign locations subject to the $.02 regular tonnage tax rate.

One commenter was concerned that the changes discussed in the ANPRM would affect vessels operating between the U.S. and a deepwater port. These vessels include service and bunker vessels which operate solely for the benefit of tankers using the deepwater port, providing supplies and transportation for the tankers and their crews, and mooring launches and

workboat/maintenance vessels used for functions of the deepwater port's marine terminal. The commenter stated that none of these vessels are used to transport import or export merchandise to or from vessels on the high seas. The vessel operations described by the commenter are clearly not within the purview of the considered changes.

Another commenter gave four suggestions which are as follows: (1) the transshipment site should be indicated by latitude and longitude on all formal entry documents; (2) the importing vessel should be subject to all applicable fees and tonnage taxes; (3) the transshipped quantities must agree with the original bills of lading; and (4) the history of the cargo shipment should be clearly documented on the Customs Form 1302 since more than one transfer may occur.

Although Customs agrees with all of the suggestions, the first, third and fourth suggestions are not being included as part of the proposed amendments in this document because they are in the nature of operational matters which would be the subject of a Customs Directive if the amendments are adopted. The second suggestion is included within the proposed amendments.

The other commenters enthusiastically supported the proposed changes. They felt that there is a definite need for clarification in this area and establishing definite guidelines would simplify procedures relative to entry and clearance of lightering vessels.

Discussion of Proposed Amendments to Part 4

Part 4, Customs Regulations, relates to vessels in foreign and domestic trade. It is proposed to amend § 4.3, which relates to vessels required to make entry, by adding a new paragraph (c). This change is necessary because a vessel would be required to make entry at a customhouse within 48 hours after arrival in the U.S. if the vessel is returning from another vessel on the high seas after either (1) transporting export merchandise out of the U.S. and transshipping the merchandise to that vessel; or (2) transporting import merchandise to the U.S. after receiving the merchandise from that vessel.

It is proposed to amend § 4.9(a), which relates to formal entry of vessels, by adding the parenthetical phrase "(see § 4.3(c))" after the words "foreign port or place". This change is necessary to alert interested persons to a new vessel entry requirement.

It is proposed to amend § 4.20(a), which relates to tonnage taxes, by adding the words "or the high seas adjacent to the United States or the above listed foreign locations" after the listing of various foreign ports and places. This change is necessary because the definition of a "foreign port or place", from which vessels should be entered in a port of the U.S., would now include the *high seas* adjacent to the U.S. as well as the *high seas* adjacent to other parts of North America, Central America, the West Indies, the Bahama Islands, the Bermuda Islands, Newfoundland, and the coast of South America bordering on the Caribbean Sea (considered to include the mouth of the Orinoco River). Thus, vessels transacting business with other vessels on the high seas in these geographic areas and then making entry at ports in the U.S. would be required to pay tonnage tax at the rate governed by the location at which the business is transacted.

It is proposed to amend § 4.60(e), which relates to vessels bound for foreign ports and therefore required to clear, by requiring a vessel to be cleared for the high seas only if it was bound for another vessel on the high seas to either (1) transship export merchandise which it has transported from the U.S. to that vessel; or (2) receive import merchandise from that vessel and transport the merchandise to the U.S.

Executive Order 12291

This document will not result in a regulation which is a "major rule" as defined by § 1(b) of Executive Order 12291.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to these amendments because the rule, if adopted, will not have a significant economic impact on a substantial number of small entities nor impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that the rule, if adopted, will not have a significant economic impact on a substantial number of small entities.

Comments

Before adopting this proposal, consideration will be given to any written comments, preferably in triplicate, that are submitted timely to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552) and § 1.6, Treasury Department Regulations (31 CFR 1.6) and § 103.11(b)), Customs Regulations (19 CFR 103.11(b)), on regular business days between 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Room 2426, Customs Headquarters, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Authority

This document is issued under the authority of R.S. 251, as amended, 2793, as amended, 4197, as amended, 4219, as amended, 4225, as amended, sec. 3, 23 Stat. 119, as amended, secs. 434, 435, 441, 624, 46 Stat. 78112, as amended, 712, as amended, 759, 58 Stat. 705, 76 Stat. 72; 5 U.S.C. 301, 19 U.S.C. 66, 288, 1434, 1435, 1441, 1624, 42 U.S.C. 269, 46 U.S.C. 3, 91, 111, 121, 123, 128, 2103, 8103, Gen. Hdnte. 11, Tariff Schedules of the United States (19 U.S.C. 1202).

Drafting Information

The principal author of this document was James S. Demb, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects in 19 CFR Part 4

Cargo vessels, Exports, Fishing vessels, Freight, Harbors, Passenger vessels, Reporting requirements, Seamen, Tonnage taxes, Vessels.

Proposed Amendments to the Regulations

It is proposed to amend Part 4, Customs Regulations (19 CFR Part 4), as set forth below.

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

1. It is proposed to amend § 4.3 by adding a new paragraph (c) to read as follows:

§ 4.3 Vessels required to enter.

* * * * *

(c) For purposes of the vessel entry requirement in this section and § 4.9, a "foreign port or place" shall include a vessel on the high seas when the vessel arriving in the United States is returning from the vessel on the high seas after having—

(1) Transported export merchandise out of the United States to the vessel on the high seas and their transshipped the merchandise to that vessel; or

(2) Transported import merchandise to the United States from the vessel on the high seas after having there received the merchandise from that vessel.

§ 4.9 [Amended]

2. It is proposed to amend the second sentence of § 4.9(a) by adding the parenthetical phrase "(see § 4.3(c))" after the words "foreign port or place."

§ 4.20 [Amended]

3. It is proposed to amend the first sentence of § 4.20(a) by removing the word "or" after the word "Newfoundland," and adding the words "on the high seas adjacent to the United States or the above listed foreign locations" after the words "Orinoco River),".

4. It is proposed to amend § 4.60 by revising paragraph (e) to read as follows:

§ 4.60 Vessels required to clear.

* * * * *

(e) No vessel shall be cleared for the high seas, *except*, a vessel bound to another vessel on the high seas to—

(1) Transship export merchandise which it has transported from the United States to the vessel on the high seas; or

(2) Receive import merchandise from the vessel on the high seas and transport the merchandise to the United States.[23]

Approved: September 12, 1984.

William von Raab,

Commissioner of Customs.

Edward T. Stevenson,

Acting Assistant Secretary of the Treasury.

[FR Doc. 84-26217 Filed 9-28-84; 8:45 am]

BILLING CODE 4820-02-M

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19 CFR Parts 6 and 24

Proposed Customs Regulations Amendments Relating to Progressive Clearance of Aircraft

AGENCY: Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations relating to progressive clearance for airlines that comingle domestic (stopover) passengers, who arrived on an earlier flight and have already cleared Customs at their first United States port of arrival and are continuing on to another United States destination, with international passengers who are arriving at their first United States port of arrival and have not yet cleared Customs. The amendments, if adopted, would implement progressive clearance procedures to be followed by airlines which would enable Customs to be reimbursed for the additional cost of reinspecting domestic (stopover) passengers at the same time the international passengers are being inspected for the first time.

DATES: Comments must be received on or before December 3, 1984.

ADDRESS: Comments (preferably in triplicate) should be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, Room 2426, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT:

Operational Aspects: Vincent J. Dantone, Office of Inspection and Control, (292-566-5607).

Legal Aspects: John Mathis, Carriers, Drawback and Bonds Division, (202-566-5706) U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

SUPPLEMENTARY INFORMATION:

Background

Generally, Customs inspects passengers when they arrive at their first port of arrival in the United States. If a plane carrying international passengers who have not yet cleared Customs stops temporarily at a port of arrival in the United States to pick up domestic (stopover) passengers, who arrived on an earlier flight and have already cleared Customs, before continuing to a final United States destination, standard Customs procedure is to inspect all arriving international passengers before the domestic passengers board the plane. This procedure eliminates the comingling of domestic passengers, who have already cleared Customs, with international passengers who have not cleared Customs. As a result, all passengers heading for the final United States destination have cleared Customs and there is no possibility of international passengers passing contraband to domestic passengers not subject to further inspection, or other such fraudulent practices.

However, the increasingly high cost to the airlines of having their planes wait on the ground at the initial location while the international passengers are inspected before the boarding of the domestic passengers, has prompted the airlines to request that inspection of the international passengers be deferred to the final destination. In such a case Customs would be required to reinspect the domestic passengers due to the commingling of inspected and uninspected passengers.

Pursuant to these requests, Customs has entered into voluntary agreements with several airlines that specify compliance with specific requirements before approval will be granted by Customs for the progressive clearance of flights when inspected domestic (stopover) passengers are commingled with international passengers who have not yet cleared Customs. Information regarding specific carriers that have signed these agreements may be obtained from Customs.

One of the requirements of each agreement is that the airlines reimburse Customs for the additional costs of reinspection at the rate of $2.00 per domestic (stopover) passenger. The airlines have agreed to pay this progressive clearance fee and Customs may assess it pursuant to the User Charges Statute (31 U.S.C. 9701), which states that a Federal agency is required to charge appropriate fees to recover the costs of special services provided by that agency. The fees must be fair and based on the costs to the Government, value to the recipient, public policy or interest served, and other pertinent facts. This fee is in addition to any other charges currently incurred, except overtime reimbursed by the airlines under the Customs overtime laws (19 U.S.C. 267, 1451). In those cases where Customs is reimbursed by the airlines under 19 U.S.C. 1451, the fee will not be charged.

In addition to paying the reinspection fee, the airlines must also: (1) Arrange for the checked baggage of all passengers requiring reinspection on the previously-described flights to be off-loaded and made available for examination in the Federal inspection area at the destination port (intermediate or final) where an inspection is to take place; (2) notify, in writing, all stopover passengers, prior to boarding, that they will be subject to full reinspection by Customs; (3) provide to the domestic (stopover) passenger a Customs declaration identified by the words "Domestic Flight". The domestic (stopover) passenger is only required to complete Items 1-4 on the declaration; and (4) make available to Customs the permit to proceed and/or the general declaration, which clearly indicates the number of domestic (stopover) passengers to be reinspected upon arrival at the destination port (intermediate or final) where an inspection of passengers is to take place. An airline that wishes to terminate the permit to proceed granted upon compliance with these requirements must provide Customs a minimum of 30 days written notice before a scheduled change.

Comments

Although this procedure went into effect as of January 1, 1984, based on

[23] Collectors may permit vessels to proceed to sea to adjust compasses, try out new machinery, clean tanks, etc, without requiring formal clearance.

voluntary agreements with the affected airlines, before adopting the regulation as a permanent rule, consideration will be given to any written comments timely submitted to the Commissioner of Customs. Comments submitted will be made available for public inspection in accordance with § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on normal business days between the hours of 9:00 a.m. to 4:30 p.m. at the Regulations Control Branch, Customs Service Headquarters, Room 2426, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Executive Order 12291

It has been determined that these proposed amendments are not a "major rule" within the criteria provided in section 1(b) of E.O. 12291, and therefore, no regulatory impact analysis is required.

Regulatory Flexibility Act

Although Customs does not believe that these amendments, if adopted, will have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601–612), we will contine to review this matter and will consider any comments submitted thereon before issuing a final rule.

Authority

These amendments are proposed under the authority of R.S. 251, as amended, sec. 624, 46 Stat. 759, 5 U.S.C. 301, 19 U.S.C. 66, 1467, 1624, 31 U.S.C. 483a, 9701, Gen. Hdnote 11, Tariff Schedules of the United States (19 U.S.C. 1202).

Drafting Information

The principal author of this document was Glen E. Vereb, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Lists of Subjects

19 CFR Part 6

Air carriers, Air transportation, Aircraft, Airports, Freights.

19 CFR Part 24

Customs fees, Accounting.

Proposed Amendments to the Regulations

It is proposed to amend Parts 6 and 24, Customs Regulations (19 CFR Parts 6, 24), as set forth below.

PART 6—AIR COMMERCE REGULATIONS

1. It is proposed to amend Part 6 by adding a new paragraph (f) to § 6.9 to read as follows:

§ 6.9 Residue cargo and passengers not previously cleared.

* * * * *

(f) Airlines that commingle domestic (stopover) passengers; that is, passengers who have already cleared Customs at their first United States port of arrival and are continuing on another aircraft to a second United States destination, with international passengers who are arriving at their first United States port of arrival and have not yet cleared Customs must comply with certain requirements before being issued a permit to proceed. These requirements are as follows:

(1) The domestic (stopover) passengers must be transported on United States-registered aircraft, or on foreign-registered aircraft of the same foreign airline that brought them into the United States.

(2) Pay a $2.00 charge per domestic (stopover) passenger reinspected in the United States (See § 24.12 of this chapter).

(3) Arrange for the checked baggage of all passengers requiring reinspection on the previously-described flights to be off-loaded and made available for examination in the Federal inspection area at the destination port (intermediate or final) where an inspection is to take place.

(4) Notify, in writing, all stopover passengers, prior to boarding at the reinspection point, that they will be subject to full reinspection by Customs. This written notification will contain the following language: "Notice to all boarding passengers; You are boarding an aircraft on which passengers will be arriving in the U.S. from foreign destinations. These passengers have not yet cleared U.S. Customs. Accordingly, you will be subject to a full reinspection by Customs at your final U.S. port of entry."

(5) Provide to the domestic (stopover) passengers a Customs declaration identified by the words "Domestic Flight". The domestic (stopover) passenger is only required to complete Items 1–4 on that declaration.

(6) Make available to Customs the permit to proceed and/or the general declaration, which clearly indicates the number of domestic (stopover) passengers to be reinspected upon arrival at the destination port (intermediate or final), as otherwise required by law, where an inspection of passengers is to take place.

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

2. It is proposed to amend Part 24 by adding a new pargraph (d) to § 24.12 to read as follows:

§ 24.12 Customs fees; charges for storage.

* * * * *

(d) Pursuant to the progressive clearance procedures set forth in § 6.9(f) of this chapter, when airlines commingle domestic (stopover) passengers, who have already cleared Customs at their first United States port of arrival and are continuing on to another United States destination, with international passengers who are arriving at their first United States port of arrival and have not yet cleared Customs, a progressive clearance fee of $2.00 per domestic (stopover) passenger reinspection in the United States will be charged by Customs to the affected airlines to offset the additional cost to Customs of reinspecting passengers who have already been cleared in the United States. The fee is in addition to any other charges currently incurred, such as overtime services, but will not apply to passengers reinspected on an overtime basis if the cost of performing such reinspection is reimbursed to Customs in accordance with 19 U.S.C. 1451. The fee will not apply to the reinspection of non-revenue passengers, including but not limited to, employees of the carrier and their dependents, deadhead crew, employees of other carriers who may be assessed a service charge by the transporting carrier, and other persons to whom the carrier is authorized to provide free transportation pursuant to 14 CFR Part 223. The airline industry will be notified at least 90 days in advance of the date of any change in the amount of the fee necessitated by either an increase or decrease in costs to Customs, but no new fee shall take effect before January 1, 1986.

Alfred R. De Angelus,

Acting Commissioner of Customs.

Approved: September 12, 1984.

Edward T. Stevenson,

Acting Assistant Secretary of the Treasury.

[FR Doc. 84-26218 Filed 10-2-84; 8:45 am]

BILLING CODE 4820-02-M

19 CFR Part 19

Proposed Customs Regulations Amendment Relating to the Relocation or Alteration of Container Stations

AGENCY: Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations to provide a procedure for the relocation or alteration of an approved container station and the payment of an appropriate fee to Customs to reflect the services provided. The provision for relocation and alteration of container stations is necessary to conform the regulations concerning container stations to those concerning bonded warehouses, wherein relocation or alteration is provided for, and to recover Customs costs for services rendered. The fee requirement is necessary because of the policy that Federal agencies charge appropriate fees for providing special benefits to identifiable recipients above and beyond those which accrue to the general public.

DATE: Comments must be received on or before December 3, 1984.

ADDRESS: Comments (preferably in triplicate) may be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, Room 2426, U.S. Customs Service, 1301 Constitutional Avenue, NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Donald Thompson, Office of Cargo Enforcement and Facilitation, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–5354).

SUPPLEMENTARY INFORMATION:

Background

Container stations are secured areas within the U.S. into which containers of imported merchandise may be moved for the purpose of opening the container and delivering the contents before an entry is filed with Customs or duty is paid. A container station serves as a central location at a port for processing containerized merchandise which otherwise could not be handled timely at the dock, wharf, pier, or bonded carrier's terminal.

Sections 19.40 through 19.49, Customs Regulations (19 CFR 19.40–19.49), set forth the procedures for the establishment and use of container stations. To establish a container station under § 19.40, Customs Regulations, an application must be filed with the district director of Customs. Before the application may be approved, Customs must: (1) Determine that the application is in proper form; (2) survey the premises to determine that all physical requirements are met; (3) perform a background investigation of the applicant and the applicant's officers and employees; (4) prepare a report of that investigation; and (5) review the application, survey, and background investigation report, and prepare a response to the applicant.

Customs recently amended § 19.40, to provide that a fee, calculated in accordance with § 24.17(d), Customs Regulations (19 CFR 24.17(d)), must accompany an application to establish a container station. The amendment was published in the **Federal Register** on March 9, 1983, as T.D. 83–56 (48 FR 9853). The fee is based upon the amount of time the average service requires of the Customs officers performing the service. It is in accord with 31 U.S.C. 9701, under which a Federal agency may charge appropriate fees to recover the costs of services provided by that agency.

Although the present regulations provide for the establishment of a container station and the collection of an establishment fee, they do not make any provision for the relocation or alteration of a container station, as they do for a bonded warehouse. Section 19.3(a), Customs Regulations (19 CFR 19.3(a)), provides for the relocation or alteration of bonded warehouses. It is proposed to amend § 19.40, to provide not only for the establishment of a container station, upon payment of a fee, but also the relocation or alteration of a container station within the same Customs district, also upon payment of a fee. The fee for relocation and alteration would be $382, which is equivalent to the fee charged for such services at a bonded warehouse. By T.D. 84–45, published in the **Federal Register** on February 21, 1984 (49 FR 6433), this was the fee established by Customs to reimburse it for services relating to the relocation or alteration of a bonded warehouse. The services provided by Customs in altering or relocating a container station are essentially the same as those provided in altering or relocating a bonded warehouse.

As with the fee charged for establishing a container station, which was included in T.D. 83–56, the fee for relocating or altering a container station would be revised periodically to reflect increased costs for Customs services. A schedule listing the revised fees to be charged by Customs for relocating or altering a container station, as well as establishing a container station, would be published in the **Federal Register** and Customs Bulletin. The fee schedule would remain in effect until changed.

Comments

Before adopting this proposal, consideration will be given to any written comments timely submitted to Customs. Comments submitted will be made available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552) and § 1.6, Treasury Department Regulations (31 CFR 1.6), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Room 2426, Customs Headquarters, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Authority

This amendment is proposed under the authority of R.S. 251, as amended, 77A, Stat. 14, sec. 499, 46 Stat. 728, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1202 (Gen. Hdnts. 1–6, 11, 12, Tariff Schedules of the United States) 1499, 1624).

Regulatory Flexibility Act

Pursuant to the provisions of the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601 *et seq.*), is is hereby certified that if adopted, the proposed amendment set forth in this document will not have a significant economic impact on a substantial number of small entities. Accordingly, it is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Executive Order 12291

This document does not meet the criteria for a "major rule" as specified in section 1(b) of E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

Drafting Information

The principal author of this document was Susan Terranova, Regulations Control Branch, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects in 19 CFR Part 19

Customs duties and inspection, Imports, Freight, Container stations.

Proposed Amendment

It is proposed to amend Part 19, Customs Regulations (19 CFR Part 19), as set forth below:

PART 19—CUSTOMS WAREHOUSES, CONTAINER STATIONS AND CONTROL OF MERCHANDISE THEREIN

It is proposed to amend § 19.40 in the following manner:

§ 19.40 Establishment, relocation or alteration of container stations.

* * * * *

1. It is proposed to revise the section heading to read as set forth above.

2. It is proposed to amend the first sentence of paragraph (a) by removing the reference to "paragraph (b)" and inserting, in its place, the reference to "paragraph (c)".

3. It is proposed to redesignate paragraphs (b)(1) and (b)(2) as paragraphs (c)(1) and (c)(2), and to add a new paragraph (b) to read as follows:

* * * * *

(b) Alterations to or relocation of a container station within the same district may be made with the permission of the district director of the district in which the facility is located. An application to alter or relocate a container station shall be accompanied by the fee required by paragraph (c) of this section.

* * * * *

4. It is proposed to revise the text of proposed redesignated paragraph (c)(1) to read as follows:

* * * * *

(c)(1) Customs shall charge a fee to establish, relocate or alter a container station, and publish a general notice in the **Federal Register** and Customs Bulletin setting forth a fee schedule, to be revised periodically to reflect increased costs, to establish, relocate or alter the container station. The published revised fee schedule shall remain in effect until changed.

Approved: September 12, 1984.

* * * * *

William von Raab,

Commissioner of Customs.

Edward T. Stevenson,

Acting Assistant Secretary of the Treasury.

[FR Doc. 84-26219 Filed 10-2-84; 8:45 am]

BILLING CODE 4820-02-M

Internal Revenue Service

26 CFR Part 1

[LR-35-81]

Transfers of Oil and Gas Properties by Individuals to Corporations; Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the eligibility of percentage depletion on qualified oil or gas property transferred by an individual to a qualified transferee corporation. Changes to the applicable tax law were made by section 3 of the Act of December 28, 1980 (94 Stat. 3511) and section 202(d) of the Technical Corrections Act of 1982 (96 Stat. 2396). The regulations would provide necessary guidance to individuals to comply with the law as amended.

DATES: Written comments and requests for a public hearing must be delivered or mailed by December 3, 1984. The amendments are effective for transfers in taxable years after December 31, 1974, but only for purposes of applying section 613A of the Internal Revenue Code of 1954 to periods after December 31, 1979.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-35-81), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: David R. Haglund of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3297).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 613A(c)(10) of the Internal Revenue Code of 1954 relating to the eligibility of percentage depletion on qualified oil or gas property transferred by an individual to a qualified transferee corporation. These amendments are proposed to conform the regulations to section 3 of the Act of December 28, 1980 (94 Stat. 3511) and section 202(d) of the Technical Corrections Act of 1982 (96 Stat. 2396). The amendments are to be issued under the authority contained in sections 613A(c)(10)(J) and 7805 of the Internal Revenue Code of 1954 (94 Stat. 3513, 26 U.S.C. 613A(c)(10)(J); 68A Stat. 917, 26 U.S.C. 7805).

Explanation of Provisions

Section 613A(c)(10) provides an exception to the general rule under section 613A(c)(9) which denies percentage depletion to the transferee of a proven oil or gas property. The exception applies to a transfer by an individual of qualified property to a qualified transferee corporation solely in exchange for stock in the corporation. Qualified property is defined as oil or gas property for which there has not been a prior transfer to which section 613A(c)(9) applied and the transferor has made an election to apply section 613A(c)(10). Qualified property is also defined to include a certain amount of cash and necessary production equipment associated with a well which is in place when the well is transferred. The proposed regulation defines the term "oil and gas property" to have the same meaning for purposes of section 613a(c)(10) as it has for section 614. The proposed regulations also provide that if there is more than one transferor all of the transferors must elect.

A qualified transferee corporation is defined in the statute as a corporation all of the outstanding stock of which has been issued to individuals solely in exchange for qualified property held by such individuals. The proposed regulations provide that the stock received by the individual must be in proportion to his interest in the property prior to the transfer (including cash contribution). Moreover, an otherwise "qualified transferee corporation" which subsequently issues stock in exchange for nonqualified property will be treated as if it never had been a qualified transferee corporation.

Section 613A(c)(10)(C) requires the transferor's tentative quantity to be reduced by the transferor's pro rata share of the corporation's depletable quantity. The transferor's pro rata share of the corporation's depletable quantity is equal to that portion of the corporation's depletable quantity which is allocable to production from property transferred to the corporation under the section 613A(c)(10)(A) exception plus a certain percentage of the portion of the corporation's depletable quantity which is allocable to all other property. In determining the portion of the corporation's depletable quantity which is allocable to production from property transferred to the corporation under 613A(c)(10)(A), the proposed regulations provide that production attributable to property transferred by other transferors as well as by the taxpayer shall be taken into account for this purpose.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written requests to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**.

The collection of information requirements contained in this notice of proposed rulemaking have been

submitted to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act. Comments on these requirements should be sent to the Office of Information and Regulatory Affiars of OMB, Attention: Desk Officer for Internal Revenue Service, New Executive Office Building, Washington, D.C. 20503. The Internal Revenue Service requests that persons submitted comment on these requirements to OMB also send copies of those comments to the Service.

Regulatory Flexibility Act and Executive Order 12291

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. Although this document is a notice of proposed rulemaking that solicits public comments, the Internal Revenue Service has concluded that the regulations proposed herein are interpretive and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Drafting Information

The principal author of these proposed regulations was David R. Haglund of the Legislation and Regulations Division of the Office of the Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects in 26 CFR 1.611–0—1.638–2

Income taxes, Natural resouces, Deduction, Exclusions from income.

Proposed Amendments to the Regulation

PART 1—[AMENDED]

Section 1.613A–3 of the notice of proposed rulemaking appearing in the **Federal Register** for May 13, 1977 (42 FR 24279— is revised by redesignating paragraphs (i) and (j) as paragraphs (j) and (k), respectively, and by inserting new paragraph (i), to read as follows:

§ 1.613A–3 Exemption for independent producers and royalty owners.

* * * * * *

(i) *Treatment of transfer of oil or gas property by individuals to corporations*—(1) *In general.* Paragraph (h) of this section shall not apply to a transfer by an individual of qualified property (as defind in paragraph (i)(5) of this section) to a qualified transferee corporation (as defined in paragraph (i)(4) of this section) solely in exchange for stock in the corporation.

(2) *1,000-barrel limit for corporation.* A tentative quantity, not exceeding 1,000 barrels per day, shall be determined for the qualified transferee corporation under this section.

(3) *Transferor's tentative quantity reduced*—(i) *In general.* The tentative quantity for the transferor (and his family as defined in paragraph (i)(7)(ii) of this section) for any period shall be reduced by the transferor's pro rata share of the corporation's depletable quantity for such period.

(ii) *Pro rata share.* For purposes of paragraph (i)(3)(i) of this section, a transferor's pro rata share for any period shall be—

(A) In the case of production from property (including property transferred by other transferors) to which paragraph (i)(1) of this section applies, that portion of the corporation's depletable quantity which is allocable to production from such property, and

(B) In the case of production from all other property, that portion of the corporation's depletable quantity which is allocable to the production from such property, multiplied by a fraction the numerator of which is the fair market value of the transferor's stock in the corporation, and the denominator of which is the fair market value of all stock in the corporation.

(iii) *Depletable quantity.* For purposes of this paragraph, a corporation's depletable quantity for any period is the lesser of—

(A) Such corporation's tentative quantity for such period (determined under paragraphs (b) and (g) of this section), or

(B) Such corporation's average daily production for such period.

The corporation's depletable quantity is subject to reduction under paragraph (i)(6) of this section.

(iv) The provisions of this subparagraph may be illustrated by the following examples:

Example (1). On January 1, 1981, A and B, two unrelated individuals, transferred qualified property to a newly formed corporation in a transaction which satisfies the requirements under section 613A(c)(10) of the Code and § 1.613A–3(i). A and B timely file their respective elections under paragraph (i)(9) of this section. A transferred $20X worth of unproven oil property and received 20 percent of the stock of the corporation having a fair market value of $20X. B transferred $80X worth of proven oil property and received 80 percent of the stock of the corporation having a fair market value of $80X. In 1981 the corporation had an average daily production of 600 barrels from the transferred property. During 1981 the corporation had no oil and gas property other than the property transferred under paragraph (i) of this section. Under paragraph (i)(3)(iii) of this section the corporation's depletable quantity is 600 barrels per day. Both A and B would each have their respective tentative quantities reduced by 600 barrels per day under paragraph (i)(3)(ii)(A) of this section.

Example (2). In 1982, the corporation in example (1) purchased unproven oil property and in 1983 the property came into production. The corporation had an average daily oil production of 800 barrels in 1983. The average daily quantity was made up of 600 barrels per day from qualified property and 200 barrels per day from the "other property" purchased in 1982. The corporation's depletable oil quantity is 600 barrels per day under paragraph (i)(3)(iii) of this section. Both A and B would each have their respective tentative quantities reduced by 600 barrels per day under paragraph (i)(3)(ii)(A) of this section. Under paragraph (i)(3)(ii)(B) of this section, A would have his depletable quantity reduced by an additional 40 barrels per day (20 percent (A's allocable share of the fair market value of all the stock in the corporation) of the 200 barrels per day production from "other property") for a total reduction of 640 barrels per day. Similarly B would have his depletable quantity reduced by an additional 160 barrels per day (80 percent (B's allocable share of the fair market value of all the stock in the corporation) of the 200 barrels per day production from "other property") for a total reduction of 760 barrels per day.

(4) *Qualified transferee corporation defined.* For purposes of this paragraph, the term "qualified transferee corporation" means a corporation all of the outstanding stock of which has been issued to individuals solely in exchange for qualified property held by such individuals. Stock of a "qualified transferee corporation" may at no time be issued for property which is not "qualified property." Where property is transferred to a corporation by two or more persons in exchange for stock, the stock received by each must be in proportion to his interest in the property immediately prior to the transfer (including cash contribution within the limits prescribed in paragraph (i)(5) of this section). If the stock is received in disproportion to such interest, the requirement that stock be issued by the corporation to the transferor solely in exchange for qualified property will not be met. For purposes of this paragraph, an otherwise "qualified transferee corporation" which subsequently issues stock in exchange for nonqualified property will be treated as if it never

had been a qualified transferee corporation. For example, if a corporation issues stock to its employees in exchange for services, the corporation will not be a "qualified transferee corporation." Any percentage depletion deductions previously taken by the corporation on the transferred proven property will be disallowed. In addition, the transferor's tentative quantity shall be treated as if it was never subject to any reduction by reason of paragraph (i)(3) of § 1.613A–3.

(5) *Qualified property defined.* For purposes of this paragraph, the term "qualified property" includes both proven oil or gas property (as defined in paragraph (p) of § 1.613A–7) and unproven oil or gas property with respect to which the transferor has made an election to have this paragraph apply (see paragraph (i)(9) of this section). The term "oil and gas property" has the same meaning as under section 614 of the Code. However, the term "qualified property" does not include proven oil or gas property to which there has been a prior transfer to which paragraph (h) of this section applied. The term also includes cash (not to exceed $1,000 in the aggregate) which one or more individuals transfers to the corporation and necessary production equipment associated with a well which is in place when the well is transferred. The term "necessary production equipment" includes, for example, the "Christmas tree", casings, pumping equipment, flowlines, separators, storage tanks, salt water disposal equipment, and other equipment essential for the efficient and effective production of oil and gas from a well.

(6) *Transferor must retain stock during lifetime.* If at any time during his lifetime any transferor disposes of stock in the corporation (other than to a member of his family), then the depletable quantity of the corporation (determined without regard to this subparagraph) shall be reduced (for all periods on or after the date of the disposition) by an amount which bears the same ratio to such quantity as the fair market value the stock so disposed bears to the aggregate fair market value of all stock of the corporation on such date of disposition. Disposition of stock in the corporation by reason of the death of a transferor will not reduce the depletable quantity of the corporation. Reduction of the corporation's depletable quantity is not required even if the recipient (other than the transferor's spouse) of such stock disposes of the stock. However, if stock transferred to the transferor's spouse by reason of the death of the transferor ceases to be held by the spouse, the transferor shall be treated as having disposed of such stock at the time of such cessation for purposes of this subparagraph.

(7) *Special rules relating to family of transferor*—(i) *In general.* For purposes of this paragraph—

(A) The issuance of stock to a member of the family of the transferor shall be treated as issuance of stock to the transferor, and

(B) During the lifetime of the transferor, stock transferred to a member of the family of the transferor shall be treated as held by the transferor.

If stock described in the preceding sentence ceases to be held (whether or not by reason of death) by a member of the family of the transferor, the transferor shall be treated as having disposed of such stock at the time of such cessation.

(ii) *Family defined.* For purposes of this paragraph, the members of the family of an individual include only his spouse and minor children (and only so long as they maintain that status).

(8) *Property subject to liabilities.* For purposes of this paragraph, section 357 of the Code shall be applied as if—

(i) References to section 351 of the Code include references to paragraph (i)(1) of this section, and

(ii) The reference in subsection (a)(1) of section 357 of the Code to the nonrecognition of gain includes a reference to the nonapplication of paragraph (h) of this section.

(9) *Election*—(i) *In general.* The election under this paragraph is made by filing a statement with the director of the Internal Revenue Service Center with whom the transferor files his or her return. The statement, headed "SECTION 613A(c)(10)—ELECTION" must indicate that the taxpayer is electing to apply the provisions of section 613A(c)(10). The statement also must include the taxpayer's and any other transferor's name, address and identification number of the transferee corporation, and the due date, including extensions, for filing the Federal income tax return of the transferee corporation. The taxpayer must provide the transferee corporation a copy of the statement of election, which the corporation shall attach to its Federal income tax return. The election by the individual taxpayer (transferor) must be made on or before the due date, including extensions, for filing the transferee corporation's income tax return for the first taxable year ending after the date of the transfer (or if later, December 28, 1980) of the qualified property to the qualified transferee corporation.

(ii) *Multiple transferors.* If there is more than one transferor, each of the transferors must make the election. If one of the transferors does not make the election, then the corporation would not be a "qualified transferee corporation" since not all of its stock would have been issued solely in exchange for qualified property. See paragraph (i)(5) of § 1.613A–3 for a definition of qualified property.

(iii) *Subsequent transferor.* If there is a later transfer of property to a qualified transferee corporation, the subsequent transferor must make the election. Earlier transferors do not need to make the election at that time if they are not then making a transfer.

(10) *Effective date.* The provisions of this paragraph apply to transfers in taxable years ending after December 31, 1974, but only for purposes of applying section 613A of the Code to periods after December 31, 1979.

* * * * *

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 84–26224 Filed 10–2–84; 8:45 am]

BILLING CODE 4830–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 65

[Docket No. DCO/IV/8403; A–4–FRL–2685–3]

State and Federal Administrative Orders Permitting a Delay in Compliance With State Implementation Plan Requirements; Proposed Approval of an Administrative Order Issued by the Memphis and Shelby County Health Department to Sandusky-Memphis Metal Cabinets, Inc.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposed to approve an Administrative Order issued by the Memphis and Shelby County Health Department (MSCHD) to Sandusky-Memphis Metal Cabinets, Inc. (SMCI). The Order requires SMCI to bring air emissions from its paint-spray booth and curing oven in Millington, Tennessee, into compliance with air pollution control regulations contained in the federally approved Tennessee State Implementation Plan (SIP) by November 1, 1984. Because the Order has been issued to a minor source of air

pollution and permits a delay in compliance with provisions of the SIP, the Administrative Orders is effective as a Delayed Compliance Order under the Clean Air Act (the Act) unless disapproved by EPA. If approved by EPA, the Order will constitute an addition to the SIP. In addition, a source in compliance with an approved Order may not be sued under the federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment on EPA's proposed approval of the Order as a Delayed Compliance Order.

DATE: Written comments must be received on or before November 2, 1984.

ADDRESSES: Comments should be submitted to Director, Air and Waste Management Division, EPA, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365. The State Order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT: Mr. Floyd Ledbetter, Chief, Northern Compliance Unit, Air Compliance Section, Air Management Branch, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365, Telephone Number (404) 881–4298.

SUPPLEMENTARY INFORMATION: SMCI operates a metal cabinet coating operation, consisting of a paint-spray booth and curing oven for the purpose of finishing household metal cabinets at its facility located at 4815 Biloxi Street, Millington, Tennessee 38053. Calculations made by the MSCHD from Respondent's August 25, 1980, permit application indicated that VOC emissions were in excess of the allowable limit. VOC content of the coating was calculated to be 4.82 pounds per gallon of coating, as applied, excluding water. SMCI did not comply with the original compliance date of November 1, 1981, and in April 1982, requested an extension until December 15, 1982, at a level of 2.8 pounds of VOC per gallon of coating. MSCHD issued an operating permit on May 20, 1982, which allowed the additional time. In April 1983, SCMI notified the MSCHD that they could not comply with the 3.0 pounds per gallon regulation. On February 27, 1984, EPA issued a Notice of Violation (NOV) to SCMI and followed that on March 28, 1984, with a corrected NOV. In April 1984, the MSCHD submitted a draft DCO for SMCI and Region IV responded with comments outlining corrections needed. On May 25, 1984, the MSCHD issued a NOV and draft DCO. This draft was revised and re-issued on August 8, 1984, and signed by SMCI and returned on August 21, 1984. The signed DCO was submitted by the MSCHD to the State of Tennessee, on August 28, 1984, and transmitted to EPA for publication on September 12, 1984.

The Order under consideration addresses VOC emissions from a paint-spray booth and curing oven. These emission points are subject to the Shelby County Air Pollution Control Code, Section 3–22, Reference 1200–3–18–.15 of the Tennessee Air Quality Control Act (TAQCA). These regulations limit the emissions of VOC's and are part of the federally approved Tennessee State Implementation Plan. The Order requires final compliance with the above regulation by November 1, 1984, through the construction or installation of control equipment, reformulation or equipment modifications.

On or after November 1, 1984, the Respondent shall not allow VOC emissions from the metal cabinet coating operation to exceed 3.0 pounds per gallon of coating on a daily basis as applied, excluding water, and 0.68 pounds of VOC per cabinet. The source has consented to the terms of the Order and has agreed to meet the Order's increments during the period of this informal rulemaking.

The source is required to submit a final compliance report. If any delay is anticipated in meeting said final compliance SMCI shall immediately notify the MSCHD in writing of the anticipated delay and reasons therefor. Notification of the delay shall not excuse the delay.

As an interim control measure, VOC emissions from the paint-spray booth and curing oven shall not exceed 4.73 pounds per gallon of coating on a daily basis and 1.94 pounds of VOC per cabinet, as applied, excluding water, between the effective date of the Order and November 1, 1984.

Because this Order has been issued to a minor source of VOC emissions and permits a delay in compliance with the applicable state air pollution control regulation(s), it must be reviewed by EPA as a Delayed Compliance Order under Section 113(d) of the Clean Air Act (the Act). EPA may approve the Order only if it satisfies the appropriate requirements of this subsection. EPA has tentatively determined that the above-referenced Order satisfies these legal requirements.

If the submitted Administrative Order is approved by EPA, source compliance with its terms would preclude federal enforcement action under Section 113 of the Act against the source for violations of the regulation(s) covered by the Order during the period the Order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the Order would also constitute an addition to the Tennessee SIP. Compliance with the proposed Order will not exempt the company from the requirements contained in any subsequent revision to the SIP which are approved by EPA.

All interested persons are invited to submit written comments on the proposed Order. Written comments received by the date specified above will be considered in determining whether EPA may approve the Order. After the public comment period, the Administrator of EPA will publish in the **Federal Register** the Agency's final action on the Order in 40 CFR Part 65.

(42 U.S.C. 7413, 7601)

List of Subjects in 40 CFR Part 65

Air pollution control.

Dated: September 24, 1984.

John A. Little,

Deputy Regional Administrator, Region IV.

[FR Doc. 84–26174 Filed 10–2–84; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[CC Docket No. 84–800]

Authorized Rates of Return for the Interstate Services of AT&T Communications and Exchange Telephone Carriers; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comment/reply comment period.

SUMMARY: This extension of time for comments and reply comments will allow interested parties to prepare better pleadings in this proceeding involving the rates of return for certain interstate services, published on August 17, 1984 (49 FR 32871). This proceeding is designed to promote just and reasonable rates and to avoid unnecessary regulatory burdens.

DATES: Comments are due on November 9, 1984. Reply comments are due on December 10, 1984.

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ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Warren Lavey, Common Carrier Bureau, 202-632-6910.

SUPPLEMENTARY INFORMATION:

Order

In the Matter of Authorized Rates of Return for the Interstate Services of AT&T Communications and Exchange Telephone Carriers; CC Docket No. 84-800.

Adopted September 25, 1984.
Released September 26, 1984.

By the Chief, Common Carrier Bureau.

1. The NYNEX Telephone Companies request by motion (dated September 13, 1984) that the Commission provide an additional 60 days for interested parties to submit comments and reply comments in this proceeding. The petition cites the number, importance, and complexity of the issues in this proceeding. NYNEX also describes the need for more time to work with experts as well as to prepare quantitative analyses. Comments in support of this motion were filed by Pacific Bell and Nevada Bell, Continental Telecom Inc., the Ameritech Operating Companies, the Bell Atlantic Companies, and the United States Telephone Association.

2. We are persuaded by these pleadings that some additional time may be necessary for parties to develop their comments and reply comments. Accordingly, we grant an extension of 25 days for comments, from October 15 to November 9, 1984. We grant an extension of 25 days for reply comments from November 15, to December 10, 1984. So Ordered.

Jack D. Smith,

Chief, Common Carrier Bureau.

[FR Doc. 84-26128 Filed 10-2-84; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 2

[General Docket Nos. 84-689 and 84-690]

Amendment of the Commission's Rules To Allocate Spectrum for, and To Establish Other Rules and Policies Pertaining to, a Radiodetermination Satellite Service; Correction

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; correction.

SUMMARY: The following Regulatory Flexibility Analysis, Appendix D, was inadvertently omitted from the *Notice of Proposed Rulemaking* in Gen. Docket No. 84-689, concerning a Radiodetermination Satellite Service, published on September 18, 1984. (49 FR 36512).

ADDRESS: Federal Communications Commission, 1919 M Street, NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

For questions concerning the proposed allocation: Melvin J. Murray, Office of Science and Technology, (202) 653-8168.

For questions concerning application or application processing procedures: Ronald J. Lepkowski, Satellite Radio Branch, (202) 634-1624.

SUPPLEMENTARY INFORMATION:

Erratum

In the matter of amendment of the Commission's rules to allocate spectrum for, and to establish other rules and policies pertaining to, a radiodetermination satellite, service (Gen. Docket No. 84-689, RM-4426); in the matter of policies and procedures for the licensing of space and earth stations in the radiodetermination satellite service (Gen. Docket No. 84-690); in the matter of the application of Geostar Corp., for authority to construct, launch and operate space stations in the radiodetermination satellite service (File Nos. 2191-DSS-P/L-83, 2192- DSS-P/L-83, 2193-DSS-P/L-83, 2194-DSS-P/L-83).

Released: September 21, 1984.

The attached Regulatory Flexibility Analysis is added to the *Notice of Proposed Rulemaking*, FCC 84-319 (released September 7, 1984) as Appendix D.

William J. Tricarico,

Secretary, Federal Communications Commission.

Appendix D.—Regulatory Flexibility Analysis

I. Reason for Action

In this proceeding we seek to develop a record and to solicit comments on proposed rules. The proposed rules are in response to a petition for rulemaking.

II. Objectives

The proceeding will solicit comments on the public interest benefits of the proposed rules in accordance with fulfilling the mandate of section 303 of the Communications Act of 1934, as amended, to provide new uses for radio that will benefit the public.

III. Legal Basis

The legal basis for soliciting comments on these proposals to change our rules is found in sections 4 and 303 of the Communications Act.

IV. Description, Potential Impact and Number of Small Facilities Affected

The proposed rules contained herein would require the relocation of approximately 160 licensees in the auxiliary broadcast and private radio services from the 2483.5-2500 MHz band. The band would be reallocated for use by the proposed radiodetermination satellite system. Because there are a number of other frequency bands available for these licensees and because relocation could be accomplished at minimal cost, we do not aniticipate that the proposed relocation would be an economic burden to any licensee. However, we invite affected parties to submit comments if they perceive an economic impact resulting from the proposed relocation.

V. Recording, Record Keeping and Other Compliance Requirements

No additional requirements would be imposed if proposed rule changes are adopted.

VI. Federal Rules Which Overlap, Duplicate or Conflict With the Proposed Rules

None.

VII. Any Significant Alternative Minimizing Impact on Small Entities and Consistent With Stated Objectives

There is no significant alternative.

[FR Doc. 84-26128 Filed 10-2-84; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 90

[PR Docket 84-884; FCC 84-423]

Amendment of the Commission's Rules Regarding the Telephone Maintenance Radio Service

AGENCY: Federal Communications Commission.

ACTION: Notice of inquiry.

SUMMARY: The Commission has adopted a Notice of Inquiry requesting public comments on eligibility and operations in the Telephone Maintenance Radio Service (47 CFR 90.81), one of the Private Land Mobile Radio Services. This action is taken because the January 1, 1984 divestiture of the Bell Operating Companies by American Telephone & Telegraph Co. raises questions which require us to seek public comment. These questions include the issue of the division of VHF and UHF frequencies between the wireline carriers and microwave carriers; and the question of whether the Telephone Maintenance Radio Service should be reoriented to give preference to the Maintenance of local exchange service facilities.

DATES: Comments are due by December 5, 1984; reply comments are due by January 4, 1985.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT:
Harold Salters, Private Radio Bureau, (202) 632–7597.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 90

Private land mobile radio services, Radio.

Notice of Inquiry

In the matter of amendment of section 90.81 of the Commission's Rules regarding the Telephone Maintenance Radio Service: PR Docket No. 84–884.

Adopted: September 13, 1984.
Released: September 26, 1984.

By the Commission: Commissioners Rivera and Patrick absent.

1. This proceeding is initiated by the Commission to solicit public comment that will enable us to determine what amendments, if any, should be proposed to the Rule governing eligibility and operations in the Telephone Maintenance Radio Service. We undertake this Inquiry because the Rule governing the Telephone Maintenance Radio Service must be reevaluated in light of the massive changes that have recently occurred in the telecommunications industry in the wake of the 1984 divestiture of the Bell Operating Companies (BOCs) by the American Telephone and Telegraph Company (AT&T).

2. The Telephone Maintenance Radio Service is one of the twenty-three radio services which together constitute the Private Land Mobile Radio Services governed by Part 90 of the Commission's Rules (47 CFR 90.1 *et seq.*) The Telephone Maintenance Radio Service was established in 1958 by the First Report and Order in Docket 11991. 42 FCC 820, 831–2. Fecilities in the Telephone Maintenance Radio Service are used for the transmission of communications related to the construction, repair, maintenance or operation of communications common carrier facilities. At the time this rule was promulgated, the majority of communications common carrier facilities, both interexchange (long distance) and local exchange, were owned by AT&T directly or its Bell Operating Companies.

3. Today, eligibility in the Telephone Maintenance Radio Service is limited to communications common carriers offering wireline or wireline and radio communications service to the public for hire (hereinafter referred to as the wireline carriers), and radio communications common carriers authorized in the Point-to-Point Microwave Radio Service under Part 21 of the Commission's Rules, 47 CFR 21.700 *et seq.*, (hereinafter referred to as the microwave carriers).[1] The wireline carriers have available for their exclusive use two low-band VHF (very high frequency) frequencies, two high-band VHF frequencies and six frequency pairs at 450–470 MHz in the UHF (ultra high frequency) band used for mobile relay operations. The microwave carriers (e.g. MCI, GTE Sprint, Western Union, etc.) have available twelve frequency pairs in the UHF band which they must share with eligibles in the Power, Petroleum, Forest Products and Manufacturers Radio Services.[2] In the 470–512 MHz band (Subpart L of Part 90) and the 800 MHz band (Subparts M and S of Part 90) there is no division of frequencies between wireline carriers and microwave carriers, nor are there any frequencies allocated for the Telephone Maintenance Radio Service's exclusive use.

4. We note that the current division of frequencies effectively allocates exclusive frequencies for the use of wireline carriers while it offers no exclusive frequencies to the microwave carriers who must share their frequencies with the Power, Petroleum, Forest Products and Manufacturers Radio Services. Indeed, because many of the wireline carriers themselves hold authorizations in the Point-to-Point Microwave Radio Service, they consequently hold authorizations on the twelve Telephone Maintenance frequency pairs on which the microwave carriers have primary eligibility. Additionally, any wireline common carrier can apply, pursuant to 47 CFR 90.81(d)(4), for authorizations on these 12 "microwave carrier" frequency pairs when all of the base and mobile frequencies on the six "wireline" frequency pairs are assigned within 35 miles of the proposed base station. Yet the microwave carriers are denied the option of applying for "wireline" frequencies when all their "microwave" frequency pairs are assigned in their geographic area.

5. Frequencies were allocated to the Telephone Maintenance Radio Service in order to allow duly authorized communications common carriers to construct, repair, maintain and operate their facilities. When the rule was promulgated in 1958, AT&T and its 22 operating companies provided both local exchange telephone service and interexchange service, and leased customer premises equipment to subscribers. Hence, no distinction was made in our rule between the use of Telephone Maintenance Radio Service frequencies for the construction and repair of exchange service facilities (e.g., from the central office to the subscriber, known as the "local loop"), the construction and repair of interexchange facilities (long distance lines) and the installation and repair of customer premises equipment. As the years passed, other common carriers began offering interexchange communications services using facilities in the Point-to-Point Microwave Radio Service. Recognizing that these microwave carriers had similar construction and maintenance requirements as AT&T and its BOCs, we made frequencies available to the microwave carriers, albeit on a non-exclusive basis, as described in paragraph 3, *infra*.

6. On January 8, 1982, however, the structure of the telecommunications industry was radically changed as the Justice Department and AT&T reached an agreement to terminate the Government's antitrust litigation against AT&T. In the judicially approved consent decree between the Justice Department and AT&T, AT&T was required to divest itself of the 22 wholly-owned Bell Operating Companies.[3] These 22 BOCs were to remain separate corporations but were also to be grouped into seven geographically contiguous systems each owned by a holding company.[4] The customer premises equipment part of the decree [5] transferred the ownership of all terminal equipment owned by the BOCs to AT&T and forbade the BOCs to manufacture equipment. But it did not forbid them to reeenter the terminal-equipment market by selling or leasing equipment that the BOC could buy on the open market. Divestiture occurred on January 1, 1984.

7. In February 1983, the Commission commenced a proceeding in CC Docket 83–115 concerning whether the separate subsidiary requirements set forth in the Computer II decisions [6] and Cellular

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[1] *See* 47 CFR 90.81(a).

[2] *See* 47 CFR 90.81(c), (d)(1) and (d)(4). The Power, Petroleum, Forest Products and Manufacturers Radio Services, together with the Telephone Maintenance Radio Service, constitute five of the ten radio services in the Industrial Radio Services. *See* 47 CFR 90.59–90.81.

[3] AT&T also has stated that it intends to sell its interests in Southern New England Telephone Company and Cincinnati Bell, Inc. although it was not required to do so under the consent decree.

[4] *U.S.* v. *American Telephone and Telegraph Co.*, 552 F. Supp. 131 (D.D.C. 1982), *aff'd sub nom. Maryland* v. *United States*, 103 S. Ct. 1240 (1983).

[5] 552 F. Supp. 189–93.

[6] Amendment of Section 64.702 of the Commission's Rules and Regulations, *Final Decision*, 77 FCC 2d 384 (1980), *Modified on Reconsideration*, 84 FCC 2d 50 (1980), *Modified on Further Reconsideration*, 88 FCC 2d 512 (1981), *aff'd sub nom. CCIA* v. *FCC*, 693 F.2d 198 (D.C. Cir. 1982), *cert. denied*, 103 S. Ct. 2109 (1983).

mobile decisions [7] should be applied to the BOCs in the aftermath of their divestiture by AT&T. In our *Report and Order* in that proceeding,[8] we determined that each of the seven divested Regional BOCs must form a separate subsidiary if it wants to sell or lease customer premises equipment.

Areas of Inquiry

8. The Commission, therefore, is seeking comments on the following questions:

Division of Frequencies

(1) In light of the divestiture of its BOCs, AT&T is no longer in the business of providing local exchange telephone service. It is now an interexchange carrier operating in competition with the microwave carriers who also provide interexchange service. Should AT&T continue to be eligible in the Telephone Maintenance Radio Service under the classification of wireline carrier? [9] Should AT&T be "grandfathered" to use the frequencies available for wireline carriers, and if so, for how long? Should all the VHF and UHF frequencies now allocated to the Telephone Maintenance Radio Service be made available to both wireline and microwave carriers on an equal basis?

(2) If not, should wireline carriers continue to be able to use frequencies in the microwave carriers' frequency pool or should microwave carriers also have access to frequencies in the wireline carrier pool.

(3) If the division of frequencies is removed, should interservice frequency coordination continue to be required on the twelve UHF frequency pairs in the 450–470 MHz band shared with the Power, Petroleum, Forest Products and Manufacturers Radio Services?

(4) Should additional spectrum be allocated to the Telephone Maintenance Radio Service in order to meet the communications requirements of both wireline and microwave carriers?

(5) Are there any current problems existing between and among wireline and microwave carriers in the 470–512 MHz band and the 800 MHz band, where there is no division of frequencies?

Role of the Telephone Maintenance Radio Service

(1) The Telephone Maintenance Radio Service was primarily established to provide for the maintenance and operation of basic transmission facilities. Should the maintenance of local exchange service facilities (i.e. the local loop) have precedence over the maintenance of interexchange service facilities (long distance lines)?

(2) Should the limitation 1 (wireline) frequencies only be allocated for maintenance and repair of local exchange service?

(3) Should the limitation 4 (microwave) frequencies only be allocated for maintenance and repair of interexchange facilities?

(4) Should Telephone Maintenance Radio Service frequencies be available for use by AT&T Information Systems and the separated subsidiaries of the BOCs who market and install customer premises equipment?

(5) Should Telephone Maintenance Radio Service freqencies be available for use by the separated subsidiaries of both AT&T and the BOCs who provide enhanced services?

(6) Should those communications common carriers on whom no separate subsidiary requirement has been imposed (i.e., GTE, Cincinnati Bell & Southern New England Telephone, etc.) be allowed to use their Telephone Maintenance facilities to maintain and repair both their basic transmission facilities and customer premises equipment?

Economic Impacts on Independent Telephone Companies and Rural Telephone Companies

If the division of frequencies between wireline and microwave carriers were removed, what would the economic impact, either beneficial or adverse, be on smaller independent telephone companies and rural telephone companies and cooperatives?

Administrative

9. We recognize the broad scope of this Inquiry and encourage commenters to raise points regarding the future of the Telephone Maintenance Radio Service that may go beyond the specific questions posed here. Respondents are encouraged to provide detailed information, based on their actual operating experiences, when addressing the matters raised by the Inquiry so the Commission can have a full record before it prior to possibly proposing rules in this proceeding.

10. Accordingly, the Commission adopts this *Notice of Inquiry*, under the authority contained in sections 4(i) and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 403. Pursuant to the procedures set out in § 1.415 of the Commission's Rules, 47 CFR 1.415, interested persons may file comments on or before December 5, 1984 and reply comments on or before January 4, 1985. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file and the fact of the Commission's reliance on such information is noted in any subsequent actions.

11. In accordance with the provisions of § 1.419 of the Commission's Rules, 47 CFR 1.419, formal participants shall file an original and five copies of their comments and other materials. Participants wishing each Commissioner to have a personnal copy of their comments should file an orginal and 11 copies. Members of the general public who with to express their interest by participating informally may do so by submitting one copy. All comments will be given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

12. Point of contact on this matter is Harold Salters, Land Mobile and Microwave Division, Private Radio Bureau, (202) 632–7597.

Federal Communications Commissio n.

William J. Tricarico,

Secretary.

[FR Doc. 84–26266 Filed 10–2–84; 8:45 am]

BILLING CODE 6712–01–M

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[7] Cellular Communications Systems, *Report and Order*, CC Docket 79–318, 86 FCC 2d 469 (1981), *Modified on Reconsideration*, 89 FCC 2d 58 (1982), *Further Modified on Reconsideration*, 90 FCC 2d 571 (1982), *Appeal dismissed sub nom. United States v. FCC*, Civ. No. 82–1526 (D.C. Cir. March 3, 1983).

[8] CC Docket 83–115 *et al.*, Policy and Rules Concerning the Furnishing of Customer Premises Equipment, Enhanced Services and Cellular Communications Services by the Bell Operating Companies, *Notice of Proposed Rule Making*, 48 FR 13056 (March 29, 1983); *Report and Order* (BOC Separation Order), FCC 83–552, 49 FR 1190 (January 10, 1984); *Memorandum Opinion and Order on Reconsideration*, FCC 84–252, 49 FR 26056 (June 26, 1984). *Appeal dismissed sub nom. Illinois Bell Telephone Co., et al. v. FCC*, Nos. 84–1145, 84–1382, 84–1475 (7th Cir. June 29, 1984).

[9] As a point of reference, see our discussion of the "Wireline Carrier" classification in *Revision and Update of Part 22 of the Public Mobile Radio Services Rules*, CC Docket 80–57, 95 FCC 2d 769, 772–3 (1983).

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1152

[Ex Parte No. 274 (Sub-8A)]

Exemption of Out of Service Lines; Discontinuance of Service and Trackage Rights

AGENCY: Interstate Commerce Commission.

ACTION: Proposed rule.

SUMMARY: The Commission seeks comments on whether 49 CFR 1152.50(b) should be modified to provide that a complaint filed with any United States District Court regarding cessation of service over a railroad line should also serve to remove the line from eligibility for exemption. The proposal is contained in a petition for reconsideration (treated as a petition for reopening) filed by the Utah Department of Business Regulation, Division of Public Utilities. Petitioner states that, since any State or governmental entity may file a complaint in a United States District Court regarding the failure of a common carrier to maintain service pursuant to 49 U.S.C. 11505(a), no basis exists to distinguish between complaints filed with this Commission or with a Federal court. The petition is available for inspection at the Commission's headquarters in Washington, DC.

DATES: Comments are due November 2, 1984.

ADDRESSES: An original and 15 copies of any comments referring to Ex Parte No. 274 (Sub-No. 8A) should be sent to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: In a decision served April 20, 1984, *Exemption of Out Of Service Rail Lines*, 1 I.C.C. 2d. 55 (1984), the Commission exempted from the requirements of 49 U.S.C. 10903–10905 the abandonment or discontinuance of service and trackage rights over rail lines that have been out of service for at least 2 years. The regulations are codified at 49 CFR Part 1152.

On May 10, 1984, the Utah Department of Business Regulation, Division of Public Utilities (Utah), filed a petition for reconsideration of the Commission's decision. Because Utah was not a party in this proceeding, it has no standing to seek reconsideration. Accordingly, we are treating Utah's petition as a petition for reopening of the decision.

Utah requests that the Commission modify 49 CFR 1152.50(b) to provide that a complaint filed with any United States District Court regarding cessation of service over any line would also serve to preclude application of the proposed exemption to that line. Petitioner states that, since any State or governmental entity may file a complaint in a United States District Court regarding the failure of a common carrier to maintain service pursuant to 49 U.S.C. 11505(a), no basis exists to distinguish between complaints filed with this Commission or with a Federal court. Utah proposes that subsection (b) be modified as shown in the appendix.

The Commission is requesting comments on the proposed change.

This action is taken under the authority of 49 U.S.C. 10321 and 10505, and 5 U.S.C. 553.

The Secretary of the Commission (see 49 CFR 1011.7(h)) has certified that this action will not have significant economic impact on a substantial number of small entities because this proposal merely eliminates the effect of an exemption in a contested abandonment.

This action will not significantly affect either the quality of the human environment or energy conservation.

List of Subjects in 49 CFR Part 1152

Administrative practice and procedure, Railroads.

Dated: September 25, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett, Gradison, Simmons, Lamboley and Strenio. Commissioners Lamboley and Strenio did not participate.

James H. Bayne,

Secretary.

[FR Doc. 84–26159 Filed 10–2–84; 8:45 am]

BILLING CODE 7035–01–M

Notices

Federal Register
Vol. 49, No. 193
Wednesday, October 3, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Forms Under Review by Office of Management and Budget

September 28, 1984.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Redcution Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Tile of the information collection; (3) Form number(s), if appliable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from:

Department Clearance Officer, USDA, OIRM, Room 404–W Admin. Bldg, Washington, D.C. 20250, (202) 447–2118.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, ATTN: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

New

• Forest Service
Landscape Assessment Questionnaire
One time effort
Individuals or households; 3,200 responses, 3,200 hours, not applicable under 3504(h)
Arthur W. Magill (415) 449–3715

• Human Nutrition Information Service
Development and Testing of Food Portion Measurement Guides for Use in Dietary Intake Surveys
On occasion
Individuals or households; 200 responses, 100 hours; not applicable under 3504(h)
Patricia M. Guenther (301) 436–5618

Extension

• –Animal and Plant Health Inspection Service
Record of Disposition of Dogs or Cats
VS Form 18–6, 18–6A (Continuation sheet) Recordkeeping, Small businesses or organizations; 15,504 recordkeeping, 15,504 hours; not applicable under 3504(h)
Dr. W.C. Stewart (301) 436–7833

• Food Safety and Inspection Service
Regulations Governing Meat Inspection, Part 309.16, Livestock suspected of having biological residues
On occasion
Individuals or households, Farms, Businesses or other for-profit, Federal agencies or employees, Small businesses or organization; 435,000 responses, 16,700 hours; not applicable under 3504(h)
Roy Purdie, Jr. (202) 447–5372

• Rural Electrification Administration
Community Development Survey
REA Form 627
Annually
Small businesses or organizations; 1,648 responses, 824 hours; not applicable under 3504(h)
John T. Barringer, Jr. (202) 382–9450

Revision

• Farmers Home Administration
7 CFR 1930–C, Management and Supervision of Multiple Family Housing
Borrowers and Grant Recipients
FmHA 4444–8, 444–27A, 1930–5 thru 8, 1944–25 and 1944–27 and 1944–29
Recordkeeping, On occasion, Monthly
Individuals or households, State or local governments, Farms, Businesses or other for-profit, Non-profit institutions; Small businesses or organizations; 1,549,040 responses, 629,882 hours; not applicable under 3504(h)
Bill Daniel (202) 382–1619

Reinstatement

• Farmers Home Administration
7 CFR 1901–K, Certificates of Beneficial Ownership and Insured Notes
FmHA 471–7
On occasion
Individuals or households, Businesses or other for-profit; 350 responses, 125 hours; not applicable under 3504(h)
Tom Kalil (202) 475–4708

Jane A. Benoit,
Acting Departmental Clearance Officer.

[FR Doc. 84–26231 Filed 10–2–84; 8:45 am]
BILLING CODE 3410–01–M

Section 22 Import Fees; Determination of Quarterly Import Fees On Sugar

AGENCY: Office of the Secretary, USDA.

ACTION: Notice.

SUMMARY: Headnote 4(c) of Part 3 of the Appendix to the Tariff Schedules of the United States (TSUS) requires the Secretary of Agriculture to determine on a quarterly basis the amount of the fees which shall be imposed on imports of raw and refined sugar (TSUS items 956.05, 956.15, and 957.15) under the authority of Section 22 of the Agricultural Adjustment Act of 1933, as amended. This notice announces those determinations for the fourth calendar quarter of 1984.

EFFECTIVE DATE: October 1, 1984.

FOR FURTHER INFORMATION CONTACT: Robert G. Harper, Foreign Agricultural Service, Department of Agriculture, Washington, D.C. 20250, (202–382–9061)

SUPPLEMENTARY INFORMATION: By Presidential Proclamation No. 5164, dated March 19, 1984, Headnote 4 of Part 3 of the Appendix to the TSUS was amended to provide that quarterly adjusted fees shall be imposed on imports of raw and refined sugar (TSUS items 956.05, 956.15, and 957.15). Paragraph (c)(ii) of Headnote 4 provides that the quarterly adjusted fee for item 956.15 shall be the amount by which the average of the adjusted daily spot (domestic) price quotations for raw sugar for the 20 consecutive market days

immediately preceding the 20th day of the month preceding the calendar quarter during which the fee shall be applicable (as reported by the New York Coffee, Sugar, and Cocoa Exchange), expressed in United States cents per pound, in bulk, is less than the market stabilization price. The market stabilization price for the fourth calendar quarter of 1984 is 21.57 cents per pound. However, whenever the average of the daily spot price quotations for 10 consecutive market days within any calendar quarter: (1) Exceeds the market stabilization price by more than one cent, the fee then in effect shall be decreased by one cent; or (2) is less than the market stabilization price by more than one cent, the fee then in effect shall be increased by one cent. Paragraph (c)(i) of Headnote 4 further provides that the quarterly adjusted fee for items 956.05 and 957.15 shall be the amount of the fee for item 956.15 plus one cent.

The average of the adjusted daily spot (domestic) price quotations for raw sugar for the applicable period prior to the fourth calendar quarter of 1984 has been calculated to be 21.769 cents per pound. This results in a fee of 0.00 cent per pound for item 956.15, since the adjusted average spot price is greater than 21.57 cents. Accordingly, the fee for items 956.05 and 957.15 for the fourth calendar quarter of 1984 is 1.00 cent per pound.

Headnote 4(c) rquires the Secretary of Agriculture to determine and announce the amount of the quarterly fees no later than the 25th day of the month preceding the calendar quarter during which the fees shall be applicable. The Secretary is also required to certify the amounts of such fees to the Commissioner of Customs and file notice thereof with the **Federal Register** prior to the beginning of the calendar quarter during which the fees shall be applicable. This notice is therefore being issued in order to comply with the requirements of Headnote 4(c).

Notice

Notice is hereby given that, in accordance with the requirements of Headnote 4(c) of Part 3 of the Appendix to the Tariff Schedules of the United States, it is determined that the quarterly adjusted fees for raw and refined sugar (TSUS items 956.05, 956.15, and 957.15) for the fourth calendar quarter of 1984 shall be as follows:

Item	Fee
956.05	1.00 cent per lb.
956.15	0.00 cent per lb.
957.15	1.00 cent per lb

The amounts of such fees have been certified to the Commissioner of Customs in accordance with paragraph (c)(v) of Headnote 4.

Signed at Washington, D.C. on September 28, 1984.

Richard E. Lyng,

Acting Secretary of Agriculture.

[FR Doc. 84-26199 Filed 9-28-84; 4:07 pm]

BILLING CODE 3410-10-M

North Carolina Forest Development Program; Determination of Primary Purpose of Program Payments for Consideration as Excluable From Income Under Section 126 of the Internal Revenue Code of 1954, as Amended

AGENCY: Office of the Secretary, USDA.

ACTION: Notice of determination.

SUMMARY: The Secretary of Agriculture has determined that payments made to landowners under the North Carolina Forest Development Program are made primarily for purposes of improving forests. This determination, which is made in accordance with section 126 of the Internal Revenue Code of 1954, as amended, and the provisions of 7 CFR Part 14, permits recipients of these payments to exclude some or all of them from gross income for Federal income tax purposes if certain other conditions are met.

FOR FURTHER INFORMATION CONTACT: Frederick A. Dorrell, Director, Cooperative Forestry, Forest Service, USDA, P.O. Box 2417, Washington, DC 20013, (703) 235-2212.

SUPPLEMENTARY INFORMATION: Section 126 of the Internal Revenue Code of 1954, as added by the Revenue Act of 1978 and amended by the Technical Corrections Act of 1979, provides that certain payments made under State programs may be eligible for exclusion from gross income if certain determinations are made. The Secretary of Agriculture must determine whether payments made under a State program, as described in Section 126(a)(10), are "made primarily for the purpose of conserving soil and water resources, protecting or restoring the environment, improving forests, or providing a habitat for wildlife." In making this determination, the Secretary of Agriculture must evaluate each program according to criteria set forth in 7 CFR Part 14.

One such program carried out by the State of North Carolina is the Forest Development Program which is authorized by the Forest Development Act (N.C. Gen. Stat. §§ 113A-176 *et seq.*). This program is designed to provide technical and financial assistance to private landowners who seek to increase the supply of timber from private forest lands. The program is adminsitered by the State of North Carolina Department of Natural Resources and Community Development through its Division of Forest Resources. A private individual, group, association, or corporation which owns land suitable for forestry purposes is considered to be an eligible landowner for the purpose of receiving financial assistance under the program.

Cost-share payments are made under the program for the satisfactory installation for forestry practices developed primarily to meet a definite need to accomplish one or more of the following:

(a) Reforestation of cutover, nonstocked, understocked, or unmerchantable forest stands.

(b) Timber stand improvement.

Eligible practices for which cost-share assistance is made available under the program are: Site preparation for planting, seeding, or natural regeneration; tree planting and seeding; and timber stand improvement.

The authorizing legislation, regulations, and operating procedures for the Forest Development Program of the State of North Carolina have been carefully examined by the agencies of the U.S. Department of Agriculture using the criteria set forth in 7 CFR Part 14. The Department has concluded that the cost-share payments made under this program are made to provide financial assistance to agricultural landowners in carrying out policies which will improve forests. A "Record of Decision, North Carolina Forest Development Program: Primary Purpose Determination for Federal Tax Purposes" has been prepared and is available upon request from Cooperative Forestry, Forest Service. Requests may be sent to the address listed above.

Determination

Therefore, it has been determined in accordance with Section 126(b)(1) of the Internal Revenue Code of 1954, as amended, and 7 CFR Part 14, that all cost-share payments made for forest improvement practices under the Forest Development Program of the State of North Carolina are made primarily for the purposes of improving forests.

Signed at Washington, DC, on September 14, 1984.

Richard E. Lyng,

Acting Secretary of Agriculture.

[FR Doc. 84-26220 Filed 10-2-84; 8:45 am]

BILLING CODE 3410-01-M

Virginia Reforestation of Timberlands Program; Determination of Primary Purpose of Program Payments for Consideration as Excludable From Income Under Section 126 of the Internal Revenue Code of 1954, as Amended

AGENCY: Office of the Secretary, USDA.

ACTION: Notice of determination.

SUMMARY: The Secretary of Agriculture has determined that payments made to landowners under the Virginia Reforestation of Timberlands Program are made primarily for purposes of improving forests. This determination, which is made in accordance with section 126 of the Internal Revenue Code of 1954, as amended, and the provisions of 7 CFR Part 14, permits recipients of these payments to exclude some or all of them from gross income for Federal income tax purposes if certain other conditions are met.

FOR FURTHER INFORMATION CONTACT: Frederick A. Dorrell, Director, Cooperative Forestry, Forest Service, USDA, P.O. Box 2417, Washington, DC 20013, (703) 235-2212.

SUPPLEMENTARY INFORMATION: Section 126 of the Internal Revenue Code of 1954, as added by the Revenue Act of 1978 and amended by the Technical Corrections Act of 1979, provides that certain payments made under State programs may be eligible for exclusion from gross income if certain determinations are made. The Secretary of Agriculture must determine whether payments made under a State program, as described in section 126(a)(10), are "made primarily for the purpose of conserving soil and water resources, protecting or restoring the environment, improving forests, or providing a habitat for wildlife." In making this determination, the Secretary of Agriculture must evaluate each program according to criteria set forth in 7 CFR Part 14.

One such program carried out by the State of Virginia is in accordance with the Reforestation of Timberlands Act authorized by Va. Code §§ 10-90.20 *et seq.* (1950). The Virginia Reforestation of Timberlands Program provides technical and financial assistance to private landowners for promoting maximum continuous production of pine timber under a multiple forest resource use concept. The program is administered by the State Forester under the supervision of the Director of the Virginia State Department of Conservation and Economic Development. An eligible entity is a private individual, association, or corporation owning land suitable for growing timber.

Cost-share payments are made under the program for the satisfactory installation of forestry practices developed primarily to meet a definite need to accomplish one or more of the following:

(a) Reforestation of land suitable for the growing of timber.

(b) Release of natural or artificial reproduction from overtopping vegetation.

Eligible cost-share practices are: site preparation to prepare land for reforestation; reforestation by natural or artificial means by sowing of seeds or planting seedlings; and release of commercially important pine species or pine reproduction from overtopping vegetation.

The authorizing legislation, regulations, and operating procedures for the Reforestation of Timberlands Cost-Share Program of the State of Virginia have been carefully examined by the agencies of the Department of Agriculture using the criteria set forth in 7 CFR Part 14. The Department has concluded that the cost-share payments made under this forestry cost-share program are made to provide financial assistance to agricultural landowners in carrying out practices which will improve forests. A "Record of Decision, Virginia Reforestation of Timberland Act Cost-Share Program: Primary Purpose Determination for Federal Tax Purposes" has been prepared and is available upon request from Cooperative Forestry, Forest Service. Requests may be sent to the address listed above.

Determination

Therefore, it has been determined in accordance with Section 126(b)(1) of the Internal Revenue Code of 1954, as amended, and 7 CFR Part 14 that all cost-share payments made for conservation practices under the Reforestation of Timberlands Program of the State of Virginia are made primarily for the purposes of improving forests.

Signed at Washington, DC, on September 28, 1984.

Richard E. Lyng,

Acting Secretary.

[FR Doc. 84-26223 Filed 10-2-84; 8:45 am]

BILLING CODE 3410-01-M

Agricultural Stabilization and Conservation Service

Rural Clean Water Program (RCWP) Payments; Revised Determination of Primary Purpose for Amounts That May Be Excluded Under Section 126 of the Internal Revenue Code of 1954, as Amended

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Notice of revised determination.

SUMMARY: This notice revises a determination published in the Federal Register on August 23, 1983 (48 FR 38263) which provided that certain Federal payments made to farmers under the Experimental Rural Clean Water Program (RCWP) are deemed to have been made primarily for purposes of conserving soil and water resources, protecting and restoring the environment, improving forests, or providing a habitat for wildlife. The purpose of the revision is to specify that all payments made for those conservation practices approved under the RCWP after February 20, 1980, including payments to farmers in the Tillamook Bay (Oregon) RCWP project area, are made primarily for those specified purposes.

FOR FURTHER INFORMATION CONTACT: Director, Conservation and Environmental Protection Division, Agricultural Stabilization and Conservation Service (ASCS), U.S.D.A., P.O. Box 2415, Washington, D.C. 20013, (202) 447-6221.

SUPPLEMENTARY INFORMATION: This action has been reviewed in accordance with Executive Order 12291 and Departmental Regulation 1512-1 and has been classified as "nonmajor." It has been determined that these program provisions will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; and (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program to which this notice applies are: Title—Rural Clean Water Program; Number—10.068; as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice of revised determination since there is no requirement that a notice of proposed rulemaking be published pursuant to 5 U.S.C. 553 or any other provision of law with respect to the subject matter of this determination.

Section 126 of the Internal Revenue Code of 1954, as amended by the Revenue Act of 1978 and the Technical Corrections Act of 1979, provides that certain payments which are made to persons under designated programs administered by the Department of Agriculture may be eligible for exclusion from gross income if certain determinations are made. One such determination involves the Secretary of Agriculture who must determine whether certain cost-share payments issued to persons under designated programs listed in Section 126(a) are "made primarily for the purpose of conserving soil and water resources, protecting or restoring the environment, improving forests, or providing a habitat for wildlife." In making any such determination, the Secretary of Agriculture must evaluate each of those designated programs based upon criteria set forth at 7 CFR Part 14.

Section 126(a)(9) of the Internal Revenue Code of 1954, as amended, provides for the exclusion of payments made under any small watershed program administered by the Secretary of Agriculture and determined by the Secretary of the Treasury to be substantially similar to the programs listed in sections 126(a) (1) through (8). A small watershed is defined in the Temporary Income Tax Regulations as a watershed or subwatershed that does not exceed 250,000 acres and does not include any single structure providing more than 12,500 acre-feet of floodwater detention capacity, nor more than 25,000 acre-feet of total capacity.

The Department of Agriculture was advised in a letter dated August 23, 1982, from the Commissioner of the Internal Revenue Service that the Experimental Rural Clean Water Program authorized by the Agriculture, Rural Development and Related Agencies Appropriations Acts for fiscal years 1980 and 1981 (Pub. L. 96–108 and 96–528) is a program under which payments may be considered for exclusion from gross income under section 126(a)(9) as a small watershed program if the Secretary of Agriculture certifies that payments in connection with "small watersheds" as defined in the Temporary Income Tax Regulations (46 FR 27636) which were issued by the Internal Revenue Service, Department of Treasury, are made primarily for the purpose of conservation. The Temporary Income Tax Regulations provide that a "small watershed" could not be one that exceeds 250,000 acres. Since one of the 21 RCWP projects funded to date, the Tillamook Bay project in Oregon, exceeds 250,000 acres, the Commissioner further advised the Department on August 23, 1982, that this project was not a "small watershed" and that recipients of RCWP payments in this project did not qualify for tax exclusion under section 126(a)(9) of the Internal Revenue Code of 1954, as amended. As a result, the determination published on August 23, 1983, excluded recipients of RCWP cost-share payments in that area for consideration for tax exclusion under section 126(a)(9).

Thereafter, the Commissioner sent a letter to the Department on October 11, 1983, stating that, although the Tillamook Bay watershed exceeds 250,000 acres, none of its subwatersheds exceeds such figure. As a result, the Commissioner concluded that the payments received by farmers under the project are eligible for exclusion from gross income under section 126(a)(9). Accordingly, the purpose of this revised determination is to certify that all payments made to farmers under the RCWP after February 20, 1980, including those made to farmers in the Tillamook Bay project, are made primarily for the purpose of conserving soil and water resources, protecting or restoring the environment, improving forests, or providing a habitat for wildlife.

The RCWP authorizing legislation, regulations, and operating procedures have been carefully examined using the criteria established by the Department under 7 CFR Part 14 for making "primary purpose" determinations. It has been concluded that all payments made under the RCWP are made for the purpose of providing financial assistance to agricultural producers for carrying out enduring conservation and environmental enhancement measures. A "Rural Clean Water Program (RCWP) Record of Decision: Primary Purpose Determination for Federal Tax Purposes" has been prepared and is available upon request from the Conservation and Environmental Protection Division, ASCS.

Determination

Therefore, it has been determined that, in accordance with section 126(b)(1) of the Internal Revenue Code of 1954, as amended, all payments made for those conservation practices approved under the Experimental Rural Clean Water Program (RCWP) after February 20, 1980, are made primarily for the purpose of conserving soil and water resources, protecting or restoring the environment, improving forests, or providing a habitat for wildlife.

Signed at Washington, D.C., on September 24, 1984.

John R. Block,

Secretary of Agriculture.

[FR Doc. 84-26221 Filed 10-2-84; 8:45 am]

BILLING CODE 3410-05-M

Soil Conservation Service

Sandy Creek Watershed, NC; Environmental Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Sandy Creek Watershed, Cumberland County, North Carolina.

FOR FURTHER INFORMATION CONTACT: Coy A. Garrett, State Conservationist, Soil Conservation Service, 310 New Bern Avenue, Room 535 Federal Building, Raleigh, North Carolina 27601, telephone 919–755–4210.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Coy A. Garrett, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for flood control and watershed protection. The planned works of improvement include 15.9 miles of channel improvement and accelerated technical assistance for land treatment.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and

interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Coy A. Garrett.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated September 24, 1984.

George C. Norris,

Deputy State Conservationist.

[FR Doc. 84-26209 Filed 10-2-84; 8:45 am]

BILLING CODE 3410-16-M

ARMS CONTROL AND DISARMAMENT AGENCY

General Advisory Committee; Closed Meeting

In accordance with the Federal Advisory Committee Act, as amended, the U.S. Arms Control and Disarmament Agency announces the following meeting:

Name: General Advisory Committee on Arms Control and Disarmament.

Date: October 18 and 19, 1984.

Time: 9:00 a.m. each day.

Place: State Department Building, Washington, D.C.

Type of Meeting: Closed.

Contact Person: Dr. Charles M. Kupperman, Executive Director of the General Advisory Committee, Room 5927, U.S. Arms Control and Disarmament Agency, U.S. Washington, D.C. 20451, telephone (202) 632-5176.

Purpose of Advisory Committee: To advise the Director of the U.S. Arms Control and Disarmament Agency on arms control and disarmament policy and activities, and from time to time to advise the President and the Secretary of State respecting matters affecting arms control, disarmament, and world peace.

Agenda: Will include the following discussions and presentations:

October 18

A.M. and P.M.—Strategic Modernization and Strategic Defense.

October 19

A.M.—Executive Session.

Reason for Closing: The GAC members will be reviewing and discussing matters specifically required by Executive Order to be kept secret in the interest of national defense and foreign policy.

Authority to Close Meeting: The closing of this meeting is in accordance with a determination by the Director of the U.S. Arms Control and Disarmament Agency dated September 4, 1984, made pursuant to the provisions of section 10(d) of the Federal Advisory Committee Act as amended.

John E. Grassle,

Committee Management Officer.

[FR Doc. 84-25955 Filed 10-2-84; 8:45 am]

BILLING CODE 6820-32-M

CIVIL AERONAUTICS BOARD

Announcement of Approval of Reporting Requirements by the Office of Management and Budget Under the Paperwork Reduction Act (44 U.S.C. 35)

On September 18, 1984, the Office of Management and Budget approved the extension of the following reporting requirement:

Report of Aircraft Operating Expenses and Related Statistics—Approved through December 31, 1984, under OMB No. 3024-0058.

Robin A. Caldwell,

Chief, Information Management Division, Office of Comptroller.

September 24, 1984.

[FR Doc. 84-26195 Filed 10-2-84; 8:45 am]

BILLING CODE 6320-01-M

[Docket 42254]

Complaint of Western Airlines, Inc., Against Continental Air Lines, Inc.; and Assignment of Proceeding

This proceeding has been assigned to Chief Administrative Law Judge Elias C. Rodriguez. Future communications should be addressed to him.

Dated Washington, D.C., September 24, 1984.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 84-26196 Filed 10-2-84; 8:45 am]

BILLING CODE 6320-01-M

[Order 84-9-52]

Fitness Determination; Enterprise Airlines, Inc.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of commuter air carrier fitness determination; order to show cause.

SUMMARY: The Board is proposing to find that Enterprise Airlines is fit, willing, and able to provide commuter air carrier service under section 419(c)(2) of the Federal Aviation Act, as amended, and that the aircraft used in this service conform to applicable safety standards.

Responses: All interested persons wishing to respond to the Board's tentative fitness determination shall file their responses with the Special Authorities Division, Room 915, Civil Aeronautics Board, Washington, D.C. 20428, and serve them on all persons listed in Attachment A to the order. Responses shall be filed no later than October 10, 1984.

FOR FURTHER INFORMATION CONTACT: Nicholas Collins, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673-5216.

SUPPLEMENTARY INFORMATION: The complete text of Order 84-9-52 is available from the Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 84-9-52 to that address.

By the Civil Aeronautics Board: September 18, 1984.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-26194 Filed 10-2-84; 8:45 am]

BILLING CODE 6320-01-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed; Week Ended September 21, 1984

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, tentative order, or in appropriate cases a final order without further proceedings.

Date filed	Docket No.	Description
Sept. 19, 1984	42504	Illamna Air Taxi, Inc., c/o William J. Miller, Bill Miller Associates, Suite 301 G Street, NW., Washington, D.C. 20005. Application of Illamna Air Taxi, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests a certificate of public convenience and necessity for an indefinite term to engage in unrestricted interstate air transportation of persons, property and mail in passenger and cargo service within the State of Alaska between and among the terminal point Anchorage, Alaska, the fifteen intermediate points listed in Exhibit B (Proposed Service Area) and the terminal point Portage Creek, Alaska. Conforming Applications, Motions to Modify Scope and Answers may be filed by October 17, 1984.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-26193 Filed 10-2-84; 8:45 am]

BILLING CODE 6320-01-M

Agency Information Collection Activities Under OMB Review for Domestic Cargo Transportation

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Proposed Collection of Information under the Provisions of the Paperwork Reduction Act (44 U.S.C. 35).

SUMMARY: The Civil Aeronautics Board is requesting the Office of Management and Budget's approval of the extension of the collection of information in Part 291 of the Board's Economic Regulations for domestic all-cargo air carriers.

DATE: September 27, 1984.

FOR FURTHER INFORMATION CONTACT: Bernard Stankus, Data Requirements Section, Information Management Division, Office of Comptroller, Civil Aeronautics Boad, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673-6042.

SUPPLEMENTARY INFORMATION: Agency Clearance Officer from Whom a Copy of the Collection of Information and Supporting Documents is Available: Robin A. Caldwell, (202) 673-5922.

How Often the Collection of Information Must Be Filed: On occasion.

Who is Asked or Required to Report: All-cargo carriers.

Estimate of Number of Annual Responses: 75.

Estimate of Number of Annual Hours Needed to Complete the Collection of Information: 85.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-26212 Filed 10-2-84; 8:45 am]

BILLING CODE 6320-01-M

Agency Information Collection Activities Under OMB Review for Oversales

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Proposed Reporting Requirement under the Provision of the Paperwork Reduction Act (44 U.S.C. 35).

SUMMARY: The Civil Aeronautics Board is requesting the Office of Management and Budget's approval of the extension of the requirement that carriers maintain boarding priority criteria and submit written statements containing the boarding priority to passengers who have been denied boarding and who hold confirmed space.

DATE: September 25, 1984.

FOR FURTHER INFORMATION CONTACT: Bernard Stankus, Data Requirements Section, Information Management Division, Office of Comptroller, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-6042.

SUPPLEMENTARY INFORMATION: Agency Clearance Officer from Whom a Copy of the Collection of Information and Supporting Documents is Available: Robin A. Caldwell (202) 673-5922.

How Often the Collection of Information Must Be Filed: On occasion.

Who is Asked or Required to Report: U.S. and foreign air carriers operating scheduled service that enplanes passengers in the United States.

Estimate of Number of Annual Responses: 141.

Estimate of Number of Annual Hours Needed to Complete the Reporting Requirement: 28.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-26210 Filed 10-2-84; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Office of the Secretary

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census

Title: Survey of Income and Program Participation-(SIPP) 1985 Panel Wave 1

Form Number: Agency—5190-5800, 5001, 5103, 5105; OMB—0607-0425

Type of Request: Revision of a currently approved collection

Burden: 32,380 respondents; 149,520 reporting hours

Needs and Uses: SIPP collects information on the distribution of income received directly as money or indirectly as in-kind benefits and the effect of tax and transfer programs on this income distribution. The survey provides statistics for the Executive and Legislative Branches, such as multiple recipiency of benefits of major government programs, to support policy analysis.

Affected Public: Individuals or Households

Frequency: Three times a year

Respondent's Burden: Voluntary

OMB Desk Officer: Timothy Sprehe, 395-4814.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, N.W., Wasington, D.C. 20230.

Written comments and recommendations for the proposed information collection should be sent to Timothy Sprehe, OMB Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Dated: September 28 1984.

Edward Michals,

Departmental Clearance Officer.

[FR Doc. 84-26271 Filed 10-2-84; 8:45 am]

BILLING CODE 3510-CW-M

Performance Review Board; Member

Below named individual is eligible to serve on the Performance Review Board in accordance with the Economic and Statistical Affairs Senior Executive Service Performance Appraisal System:

William A. Cox.

Edward A. McCaw,

Executive Secretary, Economic and Statistical Affairs, Performance Review Board.

[FR Doc. 84-26238 Filed 10-2-84; 8:45 am]

BILLING CODE 3510-BS-M

National Oceanic and Atmospheric Administration

Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Notice.

SUMMARY: The Groundfish Management Team of the Pacific Fishery Management Council will meet in Portland, OR, on October 8–11, 1984, to draft final specifications of acceptable biological catch, optimum yields and harvest guidelines for several groundfish species; evaluate and draft management options for 1985; and develop minimum by-catch levels. For further information contact Joseph C. Greenley, Executive Director, Pacific Fishery Management Council, 526 S.W. Mill St., Portland, OR 97201, telephone: (503) 221–6352.

Dated: September 27, 1984.

Ronald Finch,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 84-25192 Filed 10-2-84; 8:45 am]

BILLING CODE 3510-22-M

Marine Fisheries Advisory Committee; Meeting That Is Partially Closed to the Public

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice.

SUMMARY: .

Time and Date: The meeting will convene October 16, 1984, at 2:00 p.m. and adjourn at approximately 4:30 p.m. on October 18, 1984.

Place: Howard Johnson's Motor Lodge, 320 Washington Street, Newton, Massachusetts.

Status: As required by section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1982), notice is hereby given of a meeting of the Marine Fisheries Advisory Committee (MAFAC). Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public. MAFAC was established by the Secretary of Commerce on February 17, 1971, to advise the Secretary on matters pertinent to the Department's responsibilities for living marine resources and on means to facilitate cooperation between public and private interests in these matters.

Matters To Be Considered

Portions Open to the Public

October 16, 1984 (2:00–6:00 p.m.) Atlantic Coast anadromous fisheries panel. Panel members will include representatives from the Department of Commerce (National Marine Fisheries Service, NOAA), the Atlantic Sea Run Salmon Commission, the Department of the Interior (Fish and Wildlife Service), State Fish Directors, and Assistant Counsel, Senate Committee on Environment and Public Works, discussing the maintenance, enhancement, restoration, and protection of anadromous fisheries resources.

October 17, 1984 (8:30 a.m. to 5:30 p.m.) Two anadromous fisheries panels. Panel members will include representatives from the Federal Energy Regulatory Commission, the Northwest Power Planning Council, the Potomac Electric Power Company, the Weyerhauser Company, the Department of Agriculture, the Department of Commerce (National Marine Fisheries Service, NOAA), and the California Department of Fish and Game, discussing the maintenance, enhancement, restoration, and protection of anadromous fisheries resources. October 18, 1984 (8:30–10:30 a.m. and 2:30–3:30 p.m.) Reports will be made on the habitat conservation policy and Federal fisheries responsibilities. MAFAC subcommittee reports will be made by the Subcommittee chairpersons.

Portion Closed to the Public

October 18, 1984 (3:30–4:30 p.m.). Consider and discuss the living marine resources proposals of the NOAA fiscal year 1986 budget.

SUPPLEMENTARY INFORMATION: The Assistant Secretary of Administration of the Department of Commerce, with concurrence of the General Counsel, formally determined on September 28, 1984, pursuant to section 10(d) of the Federal Advisory Committee Act, that the agenda item to be covered during the closed session may be exempt from the provisions of the Act relating to open meetings and public participation therein, because the item will be concerned with matters that are within the purview of 5 U.S.C. 552b(c)(9)(B) as information the premature disclosure of which will be likely to significantly frustrate the implementation of proposed agency action. (A copy of the determination is available for public inspection and duplication in the Central Reference and Records Inspection Facility, Room 6628, Department of Commerce.) All other portions of the meeting will be open to the public.

FOR FURTHER INFORMATION OR COPIES OF MINUTES CONTACT: Ann Smith, Executive Secretary, Marine Fisheries Advisory Committee, National Marine Fisheries Service, NOAA, Washington, D.C. 20235. Telephone: (202) 634–7220.

Dated: September 28, 1984.

William G. Gordon,

Assistant Administrator for Fisheries.

[FR Doc. 84-26191 Filed 10-2-84; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing an Import Restraint Limit for Certain Man-Made Fiber Textile Products, Produced or Manufactured in Pakistan

September 28, 1984.

On August 20, 1984 a notice was published in the **Federal Register** (49 FR 33043), announcing that, on July 30, 1984, the United States Government, under Article 3 of the Arrangement Regarding International Trade in Textiles, had requested the Government of Pakistan to enter into consultations concerning exports to the United States of man-made fiber work gloves in Category 631pt. (only T.S.U.S.A. numbers 704.3215, 704.8525, 704.8550 and 704.9000), produced or manufactured in Pakistan.

Consultations have not resulted in agreement. The United States Government has decided therefore, to control, pending a mutually satisfactory solution, imports of man-made fiber textile products in Category 631pt. (work gloves in T.S.U.S.A. numbers 704.3215, 704.8525, 704.8550, and 704.9000), produced or manufactured in Pakistan and exported during the twelve-month period which began on July 30, 1984 and extends through July 29, 1985, at a level of 78,256 dozen pairs.

Accordingly, in the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of man-made fiber textile products in Category 631pt. (work gloves).

The United States remains committed to finding a solution concerning this category. Should such a solution be reached in consultations with the Government of Pakistan, further notice will be published in the **Federal Register.**

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), and July 16, 1984 (49 FR 28754).

Effective Date: October 4, 1984.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

September 28, 1984.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on October 4, 1984, entry into the United States for consumption and withdrawal from warehouse for consumption of man-made fiber textile products in Category 631pt.[1], produced or manufactured in Pakistan and exported during the twelve-month period which began on July 30, 1984 and extends through July 29, 1985, in excess of 78,256 dozen pairs.[2]

Textile products in Category 631pt.[1] which have been exported to the United States prior to July 30, 1984 shall not be subject to this directive.

Textile products in Category 631pt.[1] which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The Committee for the Implementation of Textile Agreements has determined that these actions falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-26181 Filed 10-2-84; 8:45 am]

BILLING CODE 3510-DR-M

[1] In Category 631, only T.S.U.S.A. numbers 704.3215, 704.8525, 704.8550, and 704.9000.

[2] The restraint limit has not been adjusted to reflect any imports, exported July 29, 1984.

Announcing a New Official of the Government of the Socialist Republic of Romania Authorized to Issue Export Visas

September 28, 1984.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on October 4, 1984. For further information contact James Nader, International Trade Specialist (202) 377-4212.

Background

The Government of the Socialist Republic of Romania has notified the United States Government that Petre Boldisor is authorized to issue export visas under the terms of the Bilateral Cotton Textile Agreement of January 28 and March 31, 1983, and the Bilateral Wool and Man-Made Fiber Textile Agreement of September 3 and November 3, 1980, as amended, replacing Sirbu Remus Alexandru, who will no longer issue these documents. A complete list of currently authorized officials follows this notice.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

Officials authorized by the Government of the Socialist Republic of Romania to issue visas for textile and apparel products exported to the United States:

Atanasiu Bogdan
Petre Boldisor
Horjan Dan
Oncescu Florin
Lungu Gheorghe
Mateescu Jeni
Linc Mircea
Tomulescu Petre

[FR Doc. 84-26182 Filed 10-2-84; 8:45 am]

BILLING CODE 3510-DR-M

Increasing the Import Restraint Level for Certain Man-Mad Fiber Apparel Products Produced or Manufactured in Mexico

October 1, 1984.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on October 5, 1984. For further information contact Eve Anderson, International Trade Specialist, (202) 377-4212.

Background

The Government of the United States and Mexico have agreed to further amend their Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of February 26, 1979, as amended and extended, to establish a designated consultation level of 1 million dozen pairs for man-made fiber hosiery in Category 632, produced or manufactured in Mexico and exported during 1984. The following letter to the Commissioner of Customs establishes this newly agreed level.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), and July 16, 1984 (49 FR 28754).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

October 1, 1984.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This letter further amends, but does not cancel, the directive of December 9, 1983, which established import restraint limits for certain categories of cotton, wool and man-made fiber textile products, produced or manufactured in Mexico and exported during 1984.

Effective on October 5, 1984, the directive of April 9, 1984 is hereby amended to increase the restraint level for Category 632 to 1,000,000 dozen pairs.[1]

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-26327 Filed 10-2-84; 8:45 am]

BILLING CODE 3510-DR-M

[1] The level has not been adjusted to reflect any imports exported during 1984. Merchandise exported during 1984 and imported during the period which began on February 1 and extended through April 12, 1984 amounted to 341,078 dozen pairs.

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COMMODITY FUTURES TRADING COMMISSION

Exchange Proposal to Trade Commodity Options

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions for trading commodity options on the Chicago Board of Trade silver futures contract.

SUMMARY: The Chicago Board of Trade ("CBOT") has submitted an application to trade options on commodity futures contracts for silver under the three-year pilot program adopted by the Commodity Futures Trading Commission ("Commission"). The Commission believes that public comment on the proposal is in the public interest and is consistent with its option regulations and with the purposes of the Commodity Exchange Act.

DATE: Comments must be received on or before November 2, 1984.

ADDRESS: Interested persons should submit their views and comments to Jean A. Webb, Acting Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Reference should be made to the CBOT Silver options contract.

FOR FURTHER INFORMATION CONTACT: Richard Shilts, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, (202)254–7303.

SUPPLEMENTARY INFORMATION: The Commission has previously adopted regulations to govern a three-year pilot program under which options on certain commodity futures contracts are permitted to be traded on domestic boards of trade designated by the Commission as contract markets for options trading (46 FR 54500 (November 3, 1981)). Initially, the pilot program provided that each board of trade would be approved for trading in no more than one futures option contract. Under the initial provision, the CBOT was designated by the Commission as a contract market for U.S. Treasury bond options. These regulations were subsequently amended to allow the approval of two options on certain futures contracts for each domestic board of trade (48 FR 41575 (September 16, 1983)).[1]

CBOT has applied for contract market designation, pursuant to section 6 of the Commodity Exchange Act, 7 U.S.C. 8 (1982), ("Act") and Commission Regulation § 33.5, to trade options on silver futures contracts.

A copy of the terms and conditions of the proposed CBOT option on silver futures contracts will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254–6314.

Other materials submitted by CBOT in support of its application for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1983)), except to the extent that they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the terms and conditions of the proposed futures contract, or with respect to other materials submitted by CBOT in support of its application, should send such comments to Jean A. Webb, Acting Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, by November 2, 1984. Such comment letters will be publicly available except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9.

Issued in Washington, D.C. on September 27, 1984.

Jean A. Webb,

Acting Secretary of the Commission.

[FR Doc. 84-26121 Filed 10-2-84; 8:45 am]

BILLING CODE 6351-01-M

[1] The Commission has further amended the regulations governing the option pilot program to permit boards of trade to be designated for up to five options on certain futures contracts (49 FR 33641 (August 24, 1984)). The rule amendment was transmitted to Congress on August 29, 1984 and will become effective upon the expiration of 30 calendar days of continuous session of Congress but not before further notice of the effective date is published in the **Federal Register**. In addition, the Commission has amended its regulations to permit each board of trade to be designated in up to two options on domestic agricultural futures contracts in addition to the five permissible designations noted above (49 FR 2752 (January 23, 1984)).

Chicago Rice and Cotton Exchange: Proposed Amendments Relating to the Cotton Futures Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed contract market rule changes and proposed recommencement of trading.

SUMMARY: The Chicago Rice and Cotton Exchange ("CRCE" or "Exchange") has submitted a proposal to revise its cotton futures contract. Since the cotton contract is now dormant within the meaning of Commission Rule 5.2, the CRCE is also seeking Commission approval pursuant to the requirements of Rule 5.2 to recommence trading under the revised terms and conditions. The Commodity Futures Trading Commission ("Commission") has determined that these matters are of major economic significance and that, accordingly, publication of these matters is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATE: Comments must be received on or before November 2, 1984.

ADDRESS: Interested persons should submit their views and comments to Jean A. Webb, Acting Secretary, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581. Reference should be made to the CRCE cotton futures contract.

FOR FURTHER INFORMATION CONTACT: Fred Linse, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, (202) 254–7303.

SUPPLEMENTARY INFORMATION: The CRCE has submitted a proposal to amend its cotton futures contract. In addition, because the cotton contract is now dormant within the meaning of Commission Rule 5.2 (47 FR 29515 (July 7, 1982)), the Exchange is also seeking Commission approval pursuant to the requirements of Rule 5.2 to recommence trading in cotton futures contracts under the revised terms and conditions.

The CRCE is proposing major revisions to the terms and conditions of the cotton contract which the Exchange believes would more clearly define the contract as a short staple cotton contract. These revisions include: (1) A change in the par delivery grade and staple on the contract to grade strict low middling light spotted, $3\frac{1}{32}$ inch staple from the contract's current par specifications of grade strict low

middling (white), one-inch staple; (2) a change in the deliverable staples to 3 9/32 inch, 3 1/32 inch, and one-inch lengths from the contract's current deliverable staples of 3 1/32 inch, one-inch and 3 3/32 inch lengths; (3) a revision in the deliverable grades of cotton which would no longer permit the delivery of cotton grading strict middling light spotted, good middling light spotted and middling white and above; (4) increases in the penalties based on the age of the inspection certificate; (5) the elimination of any expiration date for the certificate, compared with the current rule which does not allow for continued certification past 15 months; (6) the adoption of a $4.00 charge to the seller for failing to provide the buyer with a complete set of samples following the delivery of cotton on the contract; and (7) a proposed requirement specifying tht each certificated bale must be identified as either rain-grown or non-rain-grown cotton and that delivery of a mixed-bale delivery lot of rain-grown and non-rain-grown cotton is prohibited.

Because the existing cotton contract is currently dormant within the meaning of Commission Rule 5.2, the CRCE is proposing to recommence trading in the contract under the above noted revisions to the terms and conditions in accordance with the requirements of Rule 5.2. The Exchange submits that the revised cotton contract would more closely reflect and price short staple cotton, thus increasing the pricing and hedging utility of the contract for short staple cotton producers, merchandisers, and commercial users.

The Commission believes the CRCE's proposal to recommence trading in the revised cotton futures contract in accordance with Commission Rule 5.2 is of major economic significance. The Exchange ceased to list trading months in June 1983. Accordingly, the Commission believes that resumption of trading in the contract raises questions concerning its overall conformity with cash market practices and its economic purpose.

In addition to the proposed recommencement of trading in cotton, CRCE also plans to amend several existing contract terms and conditions, as noted above. The Commission believes that these proposed contract revisions are of major economic significance because of their potential effects on deliverable supplies and the hedging and pricing characteristics of the cotton contract.

Comments with regard to the CRCE's plans both to recommence trading and to amend certain contract terms and conditions would assist the Commission in determining whether these proposals should be approved.

In accordance with section 5a(12) of the Commodity Exchange Act, as amended, 7 U.S.C. 7a(12) (1982), the Commission has determined that the proposed rule amendments submitted by the CRCE concerning its cotton futures contract and its intention to seek approval for the recommencement of trading under the revised terms and conditions are of major economic significance. Accordingly, the CRCE's proposed amendments will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581. Copies can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254–6314.

Other materials submitted by CRCE in support of its proposed rules may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1983)). Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the proposed amendments should send comments to Jean A. Webb, Acting Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, by November 2, 1984. Such comment letters will be publicly available except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9.

Issued in Washington, D.C., on September 28, 1984.

Jean A. Webb,

Acting Secretary of the Commission.

[FR Doc. 84–26254 Filed 10–2–84; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

International Program; Invitation To Comment on the Solicitation for Movement of International Air Unaccompanied Baggage Under the Direct Procurement Method (DPM)

AGENCY: Military Traffic Managment Command, DOD.

ACTION: Notice

SUMMARY: The Military Traffic Management Command is considering soliciting rates for standardization of shipments of international commercial air unaccompanied baggage moving via DPM. Your comments are requested for inclusion in our analysis.

This standardization will eliminate the present Memorandum of Understanding dated January 14, 1981. As part of the MTNC review, comments from the air freight forwarders/carriers, as well as any other interested persons or agencies, are being solicited for the following proposed provisions:

A. Air freight forwarders/carriers will be requested to submit a single factor rate to include the following services:

(1) Pickup shipment at local contractor at origin.

(2) Air transportation from nearest airport at origin to destination area.

(3) Processing of shipment through appropriate customs.

(4) Expeditious movement and delivery to ultimate destination as directed by the installation transportation officer.

b. The air freight forwarder/carrier submitting the most favorable offer will be awarded all traffic moving from the origin point via DPM commercial air. The government reserves the right to use any method of shipment, i.e., DPM, MAC, Code 8, when it is in the government's best interest.

c. Rates submitted will be for a 6-month period with an option for cancellation at designated periods within the cycle.

This invitation consists of ideas and issues identified by MTMC.

Any air freight forwarder/carrier interested in participating in the program must write to this office in order to receive a copy of the solicitation.

DATES: Submit written comments by November 20, 1984.

FOR FURTHER INFORMATION CONTACT: LTC Robert P. Coleman, HQ, Military Traffic Management Command, ATTN: MT–PPC (Room 408), 5611 Columbia Pike, Falls Church, Virginia 22041, (202) 756–2383.

Address comments to: HQ, Military Traffic Management Command, ATTN: MT–PPC (Room 408), 5611 Columbia Pike, Falls Church, Virginia 22041, (File: Int'l DPM Air).

This request for comments and the resulting determinations are being made under the authority of 10 U.S.C. 2301–

2314 and DOD Directives 4500.9 and 4500.34.

John O. Roach, II,

Army Liaison Officer with the Federal Register.

[FR Doc. 84-26300 Filed 10-2-84; 8:45 am]

BILLING CODE 3710-08-M

Solicitation for Movement of Unaccompanied Baggage

AGENCY: Military Traffic Management Command, DOD.

ACTION: Notice of invitation to comment on the proposed solicitation covering shipments of unaccompanied baggage (UB) (Code 8) originating at Quantico Marine Base, Virginia, to American embassies worldwide.

SUMMARY: The Military Traffic Management Command (MTMC) is considering issuing a solicitation covering shipments of unaccompanied baggage (UB) (Code 8) originating at Quantico Marine Base, Virginia, to American embassies worldwide. These shipments are currently moving under One-Time-Only procedures. As part of the MTMC proposals, comments from the ITGBL participants, as well as any other affected or interested persons or agencies, are being solicited. The solicitation would contain the following provisions:

a. Shipments and Volume Information: Presently there are between 60–80 members transferred each 6 weeks to embassies worldwide. The number of shipments and estimated tonnage for each destination would be provided each solicitation period.

b. Rates: Separate rates for each country would be solicited for a 6-month period. Carriers would be able to cancel at designated times as in the ITGBL program. Carriers would be required to submit offers for all countries included in the solicitation. Failure to do so will be considered as nonresponsive.

c. Award Procedures: The solicitation award will be made to the one carrier submitting the lowest overall offer. Carrier offers will be totaled based on the rate submitted and estimated tonnage for each destination. The carrier receiving the award will be expected to handle 100 percent of the traffic.

d. Alternate Carrier: One alternate carrier will be named to handle overflow. In the event of a tie a drawing will be held.

e. Unsatisfactory Services: If the primary carrier is disqualified or withdraws rates, the alternate carrier would be offered all tonnage. Any withdrawal or disqualification will be considered in future awards of traffic.

It is anticipated that this method of obtaining rates will provide better service to the member. Carriers can plan in advance for shipments. Local agents at origin as well as destination will be aware of projected work load. Carriers/forwarders will have the advantage of negotiating favorable rates with air carriers/forwarders. The work load for Cameron Station, the office responsible for arranging shipments, and MTMC will be reduced by the elimination of numbers One-Time-Only solicitations.

Please furnish comments by November 20, 1984. Responses will be considered by MTMC prior to preparation of a solicitation. We plan to issue a solicitation during January for rates to become effective April 1, 1985. A solicitation mailing list is being prepared. Carriers interested in this program should write to this office in order to receive a copy of the solicitation.

FOR FURTHER INFORMATION CONTACT: LTC Robert P. Coleman, HQ, Military Traffic Management Command, ATTN: MT-PPC (Room 408), 5611 Columbia Pike, Falls Church, Virginia 22041, (202) 756-1164.

Address comments to: HQ, Military Traffic Management Command, ATTN: MT-PPC (Room 408), 5611 Columbia Pike, Falls Church, Virginia 22041. (File: Quantico Solicitation).

This request for comments and the resulting determinations are made under the authority of 10 U.S.C. 2301–2314 and DOD Directives 4500.5 and 4500.34.

John O. Roach II,

Army Liaison Officer with the Federal Register.

[FR Doc. 84-26301 Filed 10-2-84; 8:45 am]

BILLING CODE 3710-08-M

Department of the Air Force

USAF Scientific Advisory Board; Meeting

September 27, 1984.

The USAF Scientific Advisory Board Weapons and Concepts Panel of the Ad Hoc Committee on Options for Attack of Strategic Relocatable Targets scheduled for 9 October 1984 has been changed. The Panel will meet on 8 October 1984. All other information as published in the **Federal Register** on September 12, 1984, Vol. 49, No. 178, FR Doc. 84-24046, remains the same.

For further information contact the Scientific Advisory Board Secretariat at (202) 697-4811.

Norita C. Koritko,

Air Force Federal Register Liaison Officer.

[FR Doc. 84-25208 Filed 10-2-84; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Army Medical Research and Development Advisory Committee, Subcommittee on Bacterial Diseases; Partially Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix, Sections 1–15), announcement is made of the following Subcommittee meeting:

Name of Committee: United States Army Medial Research and Development Advisory Committee, Subcommittee on Bacterial Diseases.

Date of Meeting: October 29 & 30, 1984.

Time & Place: 0830 hours, Room 3092, Walter Reed Army Institute of Research, Washington, DC.

Proposed Agenda: This meeting will be open to the public from 0830–0945 hours October 29, for the administrative review and discussion of the scientific research program of the Bacterial Diseases Group, Walter Reed Army Insitute of Research. Attendance by the public at open sessions will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), US Code, Title 5 and Sections 1–15 of Appendix, the meeting will be closed to the public from 1000–1630 hrs on October 29, and from 0900–1200 hrs on October 30, for the review, discussion and evaluation of individual programs and projects conducted by the US Army Medical Research and Development Command, including consideration of personnel qualifications and performance, the competence of individual investigators, medical files of individual research subjects, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Howard Noyes, Associate Director for Research Management, Walter Reed Army Institute of Research Bldg 40, Room 1111, Walter Reed Army Medical Center, Washington, DC 20307-5100 (202/576-2436) will furnish summary minutes, roster of Subcommittee

members and substantive program information.

Philip Z. Sobocinski,

Colonel, MSC, Assistant Deputy Commander.

[FR Doc. 84-26202 Filed 10-2-84; 8:45 am]

BILLING CODE 3710-08-M

Department of the Navy

Naval Research Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given that the Naval Air Development Center (NADC) Review Team of the Naval Research Advisory Committee (NRAC) Panel on Laboratory Oversight will meet on October 18, 1984, at the Naval Air Development Center, Warminster, Pennsylvania. The meeting will commence at 8:00 a.m. and terminate at 4:30 p.m. on October 18, 1984. The entire meeting will be closed to the public.

The purpose of the meeting is to examine the scientific, technical and engineering health of NADC. These matters constitute classified information that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense and is in fact properly classified pursuant to such Executive order. The classified and nonclassified matters to be discussed are so inextricably interwined as to preclude opening any portion of the meeting. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting contact: Commander M. B. Kelley, U.S. Navy, Office of Naval Research (Code 100N), 800 North Quincy Street, Arlington, VA 22217, Telephone number (202) 696-4870.

Dated: September 28, 1984.

William F. Roos, Jr.,

Lieutenant, JAGC, U.S. Naval Reserve, Federal Register Liaison Officer.

[FR Doc. 84-26180 Filed 10-2-84; 8:45 am]

BILLING CODE 3810-AE-M

Naval Research Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given that the Naval Research Advisory Committee Panel on Long-Term Goals for RDT&E will meet on October 23, 1984, at the Office of Naval Research, Room 616, 800 North Quincy Street, Arlington, Virginia. Sessions of the meeting will commence at 9:00 a.m. and terminate at 5:00 p.m. on October 23, 1984. All sessions of the meeting will be closed to the public.

The purpose of the meeting is to review previously received briefing material and hold discussions relative to goal setting and planning process for the Navy's Technology Base. These matters constitute classified information that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense and is in fact properly classified pursuant to such Executive order. The classified and nonclassified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meetings be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting contact: Commander M. B. Kelley, U.S. Navy, Office of Naval Research (Code 100N), 800 North Quincy Street, Arlington, VA 22217, Telephone number (202) 696-4870.

Dated: September 28, 1984.

William F. Roos, Jr.,

Lieutenant, JAGC, U.S. Naval Reserve, Federal Register Liaison Officer.

[FR Doc. 84-26226 Filed 10-2-84; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF ENERGY

Office of the Secretary

Voluntary Agreement and Plan of Action To Implement the International Energy Program; IEA Industry Advisory Board; Meeting

In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(i)), the following meeting notices are being provided.

I. A meeting of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held on October 9 and 10, 1984, at the offices of the IEA, 2, rue Andre Pascal, Paris, France, beginning at 3:00 P.M. on October 9. The agenda for the meeting is as follows:

1. Opening remarks.
2. Approval of the Record Note of IAB meeting of June 25, 1984.
3. Corespondence and communications with IEA and Reporting Companies.
4. Report from Subcommittee C.
5. Issues related to the Fifth Allocation Systems Test, including company participation in the Design Group.
6. Stocks and supply disruptions.
7. Industry Supply Advisory Group staffing and work program.
8. IAB organization, leadership and succession (at the request of Ente Nazionale Idrocarburi).
9. Date of next meeting and future business.

II. A meeting of the IAB will be held on October 11, 1984, at the offices of the IEA, 2, rue Andre Pascal, Paris, France, beginning at 10:00 A.M. The purpose of this meeting is to permit attendance by representatives of U.S. company members of the IAB at a meeting of the IEA's Standing Group on Emergency Questions (SEQ) which is scheduled to be held at the aforesaid location on that date. The agenda for the meeting is under the control of the SEQ. It is expected that the following draft agenda will be followed.

1. Adoption of the Draft Agenda (IEA/SEQ/A(84)3).
2. Summary record of the 48th Meeting (IEA/SEQ/M(84)2).
3. AST-5.

(a) Extending the scope of AST-5 (IEA/SEQ(84)50); and

(b) Formation of a Technical Sub-Group.

4. Emergency Preparedness:

(a) Follow-up on the Governing Board Decision on stocks and supply disruptions (IEA/SEQ(84)51);

(b) Programs for collecting information on minimum operating requirements (IEA/SEQ(84)49);

(c) Changes in available supplies and "extra oil" during an emergency (IEQ/SEQ(84)21 1st Revision); and

(d) Review of emergency response programmes (oral report).

5. Oil Supply and Demand:

(a) End September Assessments (IEA/SEQ(84)53 and IEA/SEQ/(84)54);

(b) Quarterly Oil Forecast (IEA/SEQ(84)52); and

(c) Base Period Final Consumption (3Q83-2Q84) (IEA/SEQ(84)55).

6. Any other business.
7. Date of the next meeting.

As provided in section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act, these meetings will not be open to the public.

Issued in Washington, D.C., October 1, 1984.

Eric J. Fygi,

Deputy General Counsel.

[FR Doc. 84-26440 Filed 10-2-84; 10:50 am]

BILLING CODE 6450-01-M

Determination To Utilize the American Statistical Association Committee on Energy Statistics

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463) and 41 CFR 101-6.1015, I hereby certify that the utilization of the American Statistical Association Committee on Energy Statistics is necessary and in the public interest in connection with the performance of duties imposed on the Department of Energy by law. This determination follows consultation with the Committee Management Secretariat of the General Services Administration.

The purpose of the committee is to provide advice on a continuing basis to the Administrator of the Energy Information Administration (EIA), including:

a. Periodic reviews of elements of EIA information collection and analysis programs and the provision of recommendations;

b. Advice on priorities of technical and methodological issues in the planning, operation, and review of EIA statistical programs; and

c. Advice on matters concerning improved energy modeling and forecasting tools, particularly regarding their functioning, relevancy and results.

Further information concerning this Committee can be obtained from Gloria Decker (202-252-6090).

Dated: September 28, 1984.

K. Dean Helms,

Advisory Committee Management Officer

[FR Doc. 84-26235 Filed 10-2-84; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Isthmus Trading Corp.; and Richard Gonzales; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Isthmus Trading Corporation and Richard Gonzales. This Proposed Remedial Order alleges pricing violations in the amount of $4,127,925.19 plus interest in connection with the resale of crude oil at prices in excess of those permitted under 10 CFR Part 212 during the time period April 1980 through December 1980.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Mary Johnson, Economic Regulatory Administration, Department of Energy, 1341 W. Mockingbird Lane, Suite 200E, Dallas, Texas 75247 or by calling (214) 767-7483. Within fifteen (15) days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, Department of Energy, Forrestal Building, 1000 Independence Avenue, SW., Room: 6E-005, Washington, D.C. 20585, in accordance with 10 CFR 205.193.

Issued in Dallas, Texas on the 14th day of September 1984.

Ben Lemos,

Director, Dallas Field Office, Economic Regulatory Administration.

[FR Doc. 84-26232 Filed 10-2-84; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

American Statistical Association Committee on Energy Statistics; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub L. 92-463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: American Statistical Association's Committee on Energy Statistics, a utilized Federal Advisory Committee.

Date and time: Thursday, October 18, 1984, 1:30 p.m.-5:00 p.m. Friday, October 19, 1984, 9:00 a.m.-3:30 p.m.

Place: Quality Inn Capitol Hill, 415 New Jersey Avenue, NW., Washington, DC 20001

Contact: Mr. Morris Gold, EIA Committee Liaison, U.S. Department of Energy, Energy Information Administration, EI-72, Washington, DC 20585, Telephone: (202) 252-8312.

Purpose of Committee: To advise the Department of Energy, Energy Information Administration (EIA), on EIA technical statistical issues and to enable the EIA to benefit from the Committee's expertise concerning other energy statistical matters.

Tentative Agenda

Thursday, October 18, 1984

A. Opening Remarks
B. Major Topics:
1. Introduction of Information Technology Into EIA
   a. In the Collection Process
   b. In Report Preparation
   c. In the Dissemination Process
   d. In Document Control
2. Issues Surrounding Full Implementation of the Data Resources Directory
3. Update: PART Report (Public Comments—10 Minute rule)

Friday, October 19, 1984

4. Performance Statistics for EIA Data
5. GAMS Documentation and IFFS/GAMS Interface
6. Imputation of Price Data for the Uranium Marketing Activity Survey
7. Planning for a New Manufacturing Energy Consumption Survey
8. Developing Regional Clusters Based on State Level Data
9. Update: Confidentiality Issues (Public Comments—10 minute rule)

C. Topics for Future Meetings

Public Participation

The meeting is open to the public. The chairperson of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Written statements may be filed with the committee either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Mr. Morris S. Gold, EIA Committee Liaison, at the address or telephone number listed above. Requests must be received at least five days prior to the meeting. Reasonable provisions will be made to include such presentations on the agenda.

Transcripts

Available for public review and copying at the Public Reading Room, (Room 1E-190), 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-6460, between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday.

Issued at Washington, D.C. on September 28, 1984.

K. Dean Helms,

Advisory Committee Management Officer

[FR Doc. 84-26234 Filed 10-2-84; 8:45 am]

BILLING CODE 6450-01-M

Western Area Power Administration

Stampede Project Power Availability; Call for Power Allocation Applications; Announcement of Proposed Allocation Criteria

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of power availability; notice of application format and content requirements; announcement of proposed allocation criteria; Notice of power marketing plan hearing dates—Washoe Project, California.

SUMMARY: As part of the Washoe Project, the United States Bureau of Reclamation (Bureau) is currently constructing the Stampede Powerplant, which is a 3.65 megawatt (MW) hydroelectric facility. The Bureau estimates the Stampede Powerplant will be commercially operable by the fall of 1985. Pursuant to section 302 of the Department of Energy Organization Act, 42 U.S.C. 7152, the Western Area Power

Administration (Western) will market the energy to be produced by the Stampede Powerplant. Western hereby announces that Stampede Powerplant energy will be available on or about September 1985, and solicits applications for such energy based on allocation criteria which will evolve from the proposed allocation criteria herein.

DATES AND ADDRESSES: Applications for allocation of Stampede Powerplant energy will be received by Western from November 1, 1984, through February 1, 1985. Applications should be mailed or delivered to: Mr. David G. Coleman, Area Manager, Sacramento Area Office, Western Area Power Administration, Department of Energy, 2800 Cottage Way, Sacramento, CA 95825.

A public information/comment forum will be held at 10 a.m. on Thursday, November 1, 1984, in the Maple and Oak Rooms at the Peppermill Inn and Casino, Convention Center, 2707 South Virginia, Reno, Nevada. The information/comment forum will provide interested parties with an opportunity to comment on the proposed allocation criteria as well as for Western and the Bureau to provide any additional information regarding the Stampede Powerplant and the associated energy allocation.

The following is a tentative schedule for the Stampede Project power marketing process:

Event	Date
FEDERAL REGISTER—Notice of power availability; proposed Power Marketing Plan	Oct. 1984
Public information and comment forum	Nov. 1, 1984
Application submittal period	Nov. 1, 1984, to Feb. 1, 1985.
FEDERAL REGISTER—Final Power Marketing Plan	Ap. 1985
FEDERAL REGISTER—Proposed allocation	May 1985.
Comment period (comment forum)	June 1985 to July 1985.
FEDERAL REGISTER—Final allocation	July 1985.

FOR FURTHER INFORMATION CONTACT: Mr. David G. Coleman at (916) 484–4251 or at the previously stated address.

Notice of Power Availability

The Stampede Powerplant is expected to begin commercial operation in the fall of 1985. Depending on reservoir operation criteria, approximately 5,620,000 Kilowatthours per year (kWh/yr) to 14,700,000 kWh/yr of nonfirm electric energy will be made available at the Stampede Switchyard as it is generated by the 3.65 MW (installed) generation facilities at the Stampede Reservoir in Sierra County, California. Amounts of energy available from the Stampede facility will be reduced to the extent of any allocation to designated project loads of the Washoe Project, Stampede Division.

Any applicant designated to receive Stampede energy must make contractual arrangements to take delivery of such energy at the Stampede Switchyard.

An additonal aspect of this project is that all nonproject use power allocated pursuant to this marketing program shall be withdrawable upon 6 months' notice for the purpose of reallocation to project loads. This is significant because the Bureau may seek congressional authorization to designate the Sierra Pacific Power Company as a project load for the purpose of establishing a settlement with regard to certain water rights litigation currently in progress on the Truckee-Carson River System.

Description of Project

1. *Location:* Stampede Dam and Reservoir are located on the Little Truckee River in Sierra County, California, about 11 miles northeast of the town of Truckee. The dam and reservoir are part of the Stampede Division of the Washoe Project which is operated by the Bureau. Construction of the dam and powerplant was authorized by the Act of August 1, 1956 (70 Stat. 775).

2. *Project facilities:* Two Francis-type turbines, one of 3 MW and another of .65 MW, will be constructed at the river outlet works of the Stampede Dam. The powerplant will be operated as an unattended plant. An automatic means for maintaining relatively constant downstream water releases in the event of unit shutdown will be provided. Downstream flow regime will not change because of powerplant operation.

A switchyard about 30 feet by 40 feet will be built adjacent to the powerplant. The switchyard will have a three-phase transformer, power circuit breaker, disconnect switches, and steel structures for the transmission line takeoff structure. A three-phase transformer will step the voltage up from generator voltage to 60 kilovolts (kV) for delivery to the nearby Sierra Pacific Power Company transmission line.

A 60–kV transmission line approximately ⅛ mile in length will be built by Western in a southerly direction to the Sierra Pacific Power Company 60-kV line. The necessary takeoff structure at the transformer will be built by the Bureau.

3. *Reservoir operation:* Because of present litigation over water supplies in the Truckee-Carson River system, two reservoir operation scenarios were developed to depict the potential range of future reservoir operation.

The first scenario represents an approximation of the reservoir operation based on a decision rendered on October 22, 1982, in the lawsuit *Carson-Truckee Water Conservancy District, et al.* vs. *Watt*, 549 F. Supp. 704 (D. Nev. 1982), which requires that Stampede Reservoir be operated primarily for the benefit of the Pyramid Lake Fishery. The second scenario reflects a release from the present "fish flow" operation of assocaited water projects on the Truckee-Carson River system which are also currently under litigation. The second scenario enables municipal and industrial water to be served from the Stampede Powerplant and thereby enhances power production. This second scenario may never be achieved in the Stampede Powerplant's actual operation.

The first scenario would produce approxiamtely 5,620,000 kWh/yr under existing reservoir operation conditions and represents the minimum power generation alternative, whereas the second scenario would produce about 14,700,000 kWh/yr and represents the optimum power production possibility. Power production by the Stampede Powerplant is expected to occur primarily in March through June under average water conditions.

Initial Assessment of the Potential Range of the Energy Repayment

Rate: Given the uncertainty of future Stampede Reservoir operation, a preliminary assessment of the potential annual repayment obligation as well as the cost of energy was made to assist interested parties in determining the benefit of applying for the allocation of the project energy.

a. Under the first water operations scenario, an estimated annual repayment obligation of $380,100 would result in an equivalent levelized cost of energy at the stampede Switchyard of approximately 67.6 mills per kilowatthours.

b. Under the second water operations scenario, an estimated annual repayment obligation of $380,100 would result in an equivalent levelized cost of energy at the Stampede Switchyard of approximately 25.9 mills per kilowatthours.

Given the resulting unit energy price based on the levelized cost, Western anticipates structuring the repayment rate for the Stampede energy such that the initial years' incremental energy price will be competitive with alternative energy rates available to the allottee; provided that, the total present worth payment will remain equivalent to the levelized cost repayment over the

Stampede facilities 50-year repayment period.

Future notice and public information forum will provide further definition of the energy rates and billing methodology.

Notice of Call For Applications: Parties interested in being considered as a candidate for the allocation of Stampede Powerplant energy should submit an application in the format specified below to the address specified in the "Dates and Addresses" section of this notice.

The cover sheet of the application must be completed as follows:

Western Area Power Administration,
Sacramento Area Office,
Application for Stampede Powerplant Power Application,
Applicant's Name: _____
Official Contact Person: _____
Address: _____
Phone: _____

The following to be completed by Western:

Certified Mail Receipt Number: _____
Date Received: _____
Time: _____
Signed: _____
Title: _____

The Type of information to be submitted is detailed below. The information should be submitted in the sequence listed below. If information is "not available," so indicate, but if reasonable estimates can be provided, please do so. If an area of data requested is "not applicable," please so indicate. Western will return applications it deems to be deficient. Such applications with a statement of deficiencies will be returned as soon as is practicable, but no later than 10 working days from the date the application was received by Western. The application receipt date for the resubmitted application shall be the new date received by Western and not the date of the original submittal.

Western does not require the application to be spiral or perfectly bound or with hard cover. A typed original and five copies, with the cover sheet as specified previously, should be submitted by certified mail to the address stated above.

The burden of ensuring consistency of content of all six copies rests with the applicant. Errors in data or missing pages are not the responsibility of Western. The data to be included in the application are enumerated below.

Applicant Profile Data

1. *Preference classification.* A statement of whether the applying organization is claiming classification as a preference entity under Reclamation law and pertinent statutes, particularly section 9(c) of the Reclamation Project Act of 1939, 43 U.S.C. section 485h(c).

2. *Organization.* A brief description of the organization that will interact with Western on contract and billing matters.

3. *Loads.*

a. Number and type of customers served (residential, commercial, industrial, military, agricultural, or other).

b. Maximum demand and energy use for 1982, 1983, and 1984.

c. Twenty-four hour load profile curves for winter and summer peak days in 1982, 1983, and 1984. Estimates are acceptable if actual data is not available.

d. 1982–1984 average annual and monthly load factors for your total system. Projected load factors, if available, for the 1985 to 1995 period.

e. Projected monthly capacity and energy demand, 1985–1995. Indicate forecasting method and basic assumptions.

4. *Resources.*

a. List of operating generation resources: capacity, location, and 1983 and 1984 capacity factors.

b. Percent of total capacity and energy supplied by source, including purchased power resources for 1983 and 1984.

c. Status of power supply contracts.

d. A list and brief description of future planned resources including expected on-line dates.

5. *Transmission.* A brief description of the extent of your organization's transmission and distribution systems including major interconnections and voltages.

6. *Rate schedules and power costs.*

a. Summarize and/or attach your organization's existing effective rate schedules, and, where pertinent, indicate any proposed or pending modification of such schedules.

b. Approximation of future power costs from purchased power resources as well as existing and planned facilities.

7. Name, address, and phone number of any person or consulting firm used in the preparation of this application.

8. Any other information the applicant wishes to include and which may be used by Western in considering the application.

9. The signature and title of an appropriate official who is able to attest to the validity of the data submitted and who is authorized to submit the application.

Proposed Power Marketing Plan

Western proposes to allocate the entire output of Stampede Powerplant to one entity because of the quantity and nonfirm nature of the powerplant output and transmission constraints. To assure repayment of the applicable project costs, the successful applicant will be required to enter into a take-or-pay contract with Western for the powerplant output. The term of the contract will probably be for 20 to 40 years if the allottee is a preference entity under Reclamation Law. If no preference entity is able to take the power, Western may sell the power to a nonpreference entity under a short-term take-or-pay contract with withdrawal provisions to meet future preference customer requirements. The successful applicant will be solely responsible for obtaining any additional contractual arrangements to take and utilize the Stampede Powerplant energy.

Western proposes to utilize the following criteria in determining the entity which will receive the Stampede Powerplant energy allocation:

1. Applicant must be ready, able, and willing to take and utilize the Stampede Powerplant energy by the fall of 1985. To satisfy the ready, able, and willing requirement, the applicant must be ready and willing to contract with Western, and must be functioning as an electric utility by having the utility responsibility for electric service to consumers in its service area. This generally requires the applicants to have ownership, administration, maintenance and operation of the electrical distribution system in its area.

2. Subsequent to the allocation of Stampede energy to designated project loads, preference will be given to entities identified as "preference entities" under Reclamation Law and pertinent statutes, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)).

3. Greater consideration shall be giver to entities not receiving Federal power allocations by the fall or 1985.

Reason: Western's allocation of power to those eligible entities who are not currently customers of Western allows for the most widespread use of its power and is in consonance with the intent of Reclamation Law.

4. Applicants serving a comparatively large proportion of residential customers will be given greater consideration than those serving proportionately large amounts of power to commercial, industrial, or single-use customers.

Reason: Residential customers are more impacted by high energy costs caused by scarce fuel resources than industrial and commercial customers who generally are more able to absorb energy costs within their production or sales costs.

5. Preference will be given to applicants who are able, or are more likely to have the ability, to take the project nonfirm energy at the Stampede Switchyard and utilize the nonfirm energy. Western will consider factors such as the applicant's proximity to the facility, transmission paths available to the applicant from the Stampede Switchyard, and the composition of the applicant's power system or contractual arrangements which would complement or support the utilization of nonfirm energy.

Reason: Because of the nonfirm and seasonal nature of the Stampede Powerplant generation, Western will evaluate the relative abilities of the applicants to effectively take and utilize such energy in their system. Applicants expected to incur significant losses, wheeling, or other support service costs might use the Stampede energy less beneficially.

6. Greater consideration may be given to those applicants in which the allocation would be expected to produce more significant benefits in the area of economic and rate relief.

Reason: It is Western's intent to allocate Stampede energy to an entity which would be expected to translate such an allocation into the most beneficial use. Evidence or expectation of economic and/or rate relief are direct indications of such beneficial use.

Parties to Come to Terms Within 6 Months of the Final Allocation

Notice: Unless otherwise agreed by Western, if the applicant selected to receive Stampede Powerplant energy and Western do not execute an agreement within 6 months of the final allocation notice, then Western may reallocate such energy based on the previously submitted applications or via a new power marketing plan.

Availability of Information

All brochures, studies, comments, letters, memorandums, and other documents made or kept by Western for the purpose of developing the power marketing plan are and will be available for inspection and copying at the Sacramento Area Office, Western Area Power Administration, 2800 Cottage Way, Sacramento, California 95825, (916) 484–4251.

Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act of 1980 (5 U.S.C. et seq.) each agency, when required by 5 U.S.C. 553 to publish a proposed rule, is further required to prepare and make available for public comment an initial regulatory flexibility analysis to describe the impact of the proposed rule on small entities. Western has determined that: (1) This rulemaking relates to services offered by Western and, therefore, is not a rule within the purview of the Regulatory Flexibility Act; (2) there will be only a few qualifying applicants which will be small entities; and (3) the impacts of an allocation from Western would not cause an adverse economic impact to such entities. The requirements of the act can be waived if the head of the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. For the reasons cited above, the Administrator of Western certifies that the proposed allocation criteria to be published herein is not a rule under the Regulatory Flexibility Act and will not, if promulgated have a significant economic impact on a substantial number of small entities. The Administrator's certification is published herewith.

Determination Under Executive Order 12291

Pursuant to Executive Order 12291 of February 17, 1981 (46 FR 13193, February 19, 1981), each agency is to determine whether a rule it intends to propose is a "major rule." Western has determined that for the purposes of Executive Order 12291, this proposed power marketing plan is not a major rule because:

1. It will not have an annual effect on the economy of $100 million or more;

2. It will not result in a major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and

3. It will not have significant adverse effects on competition, employment, investment, productivity innovation, or on the ability of the United States based enterprises to compete with foreign-based enterprises in domestic or export markets.

In addition to those determinations, Western has received an exemption from the Office of Management and Budget for sections 3, 4, and 7 of Executive Order 12291, and, therefore, is not required to prepare a regulatory impact statement for rules of this nature.

Environmental Assessment

Western is in the process of evaluating the potential environmental impacts of this power marketing plan, pursuant to the National Environmental Policy Act. The results of these analyses will be presented in the Federal Register notice proposed for April 1985, which will also announce the final power marketing plan.

Certification of Compliance With the Regulatory Flexibility Act of 1980

I, Robert L. McPhail, Administrator of the Western Area Power Administration, certify that the "proposed Power Marketing Plan" for the Stampede hydroelectric facility is not a rule within the meaning of the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 et seq.), will not have a significant economic impact on a substantial number of small entities, and therefore, complies with the requirements of the Regulatory Flexibility Act without the preparation of a regulatory flexibility analysis.

Issued at Golden, Colorado, September 25, 1984.

Robert L. McPhail,

Administrator.

[FR Doc. 84-26233 Filed 10-2-84; 8:45 am]
BILLING CODE 6450-01-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirements Submitted to Office of Management and Budget for Review

September 26, 1984.

The Federal Communications Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511.

Copies of the submission are available from Doris Peacock, Agency Clearance Officer, (202) 632–7513. Persons wishing to comment on these information collections should contact Marty Wagner, Office of Management and Budget, Room 3235 NEOB, Washington, D.C. 20503, (202) 395–4814.

- OMB No. 3060–0161

Title: Section 73.61, AM directional antenna field measurements
Action: Revision
Respondents: Business (including small businesses)
Estimated Annual Burden: 1,500 Recordkeepers; 72,000 Hours

- OMB No. 3060–0311

Title: Section 76.54, Significantly viewed signals; method to be followed for special showings
Action: Extension
Respondents: Businesses (including small businesses)
Estimated Annual Burden: 20 Respondents; 40 Hours

- OMB No. 3060–0252

Title: Section 83.115, Retention of radio station logs
Action: Extension

Respondents: Individuals, state or local governments, non-profit institutions, and businesses (including small businesses)
Estimated Annual Burden: 10,150 Recordkeepers, 5,075 Hours

• OMB No. 3060–0266
Title: Section 83.405, Special provisions applicable to ship-radar stations
Action: Extensions
Respondents: Individuals, state or local governments, non-profit institutions, and businesses (including small businesses)
Estimated Annual Burden: 800 Recordkeepers; 2,880 Hours

• OMB No. 3060–0198
Title: Section 87.97, Posting operator licenses
Action: Extension
Respondents: Individuals, state or local governments, non-profit institutions, and businesses (including small businesses)
Estimated Annual Burden: 77,800 Recordkeepers; 7,780 Hours

• OMB No. 3060–0222
Title: Section 97.88, Operation of a station by remote control
Action: Extension
Respondents: Individuals, state or local governments, non-profit institutions, and businesses (including small businesses)
Estimated Annual Burden: 500 Recordkeepers; 100 Hours

• OMB No. 3060–0203
Title: Section 97.90, System network diagram required
Action: Extension
Respondents: Individuals, state or local governments, non-profit institutions, and businesses (including small businesses)
Estimated Annual Burden: 200 Recordkeepers; 20 Hours.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc 84–26131 Filed 10–2–84; 8:45 am]
BILLING CODE 6712–01–M

[MM Docket No. 84–896; File No. BMPCT–830909KK]

Application; Joseph Patrick Williams (WKWR–TV), Cookeville, TN; Extension of Time to Construct; Memorandum Opinion and Order

Adopted: September 21, 1984.
Released: September 27, 1984.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it for consideration: (a) The above-captioned application of Joseph Patrick Williams (Williams) for an extension of time within which to construct a new commercial television station, WKWR–TV, Channel 28, Cookeville, Tennessee; (b) a petition to revoke the construction permit, filed by Joseph Albrecht, editor and publisher of the *Herald-Citizen*, a daily newspaper in Cookeville; (c) the Bureau's action of February 13, 1984, which: (1) Denied Williams' extension application; (2) cancelled his construction permit; (3) deleted his call sign; and (4) dismissed as moot Albrecht's petition; (d) Williams' March 14, 1984, petition for reconsideration of that action; and (e) related pleadings.

Background

2. Williams' application for the underlying construction permit was granted on April 9, 1982, and he had until October 9, 1983, within which to construct the facility. On August 19, 1983, Albrecht filed his petition to revoke, in support of which he argued that Williams publishes, owns, and is Advertising Director of the Cookeville *Dispatch*, a newspaper of daily circulation in Cookeville, and that his ownership of a television station there is in violation of § 73.3555(c)(3) of the Commission's Rules.[1] Albrecht further maintained that members of Williams' family, notably his mother, Osia Williams, are intimately involved in the ownership and/or control of both the television permittee and the newspaper, and he urged the Commission to pierce this veil of control. In further support of his contention as to the joint ownership of the television permittee and the newspaper, Albrecht argues that Osia Williams is responsible for arranging the financing for the station and that the *Dispatch* has advertised for five persons "to train in the areas of newspaper and broadcast sales." Finally, Albrecht argued that Williams cannot provide Cookeville with the type of diversified programming which is the objective of the Commission's licensing process, but provided no specific information on that question.

3. In opposition, Williams contended that he has no "ownership" interest in the *Dispatch* and that, although he is on salary as an advisor to the newspaper, he has no management role and makes no management decisions. Rather, he maintained that his mother owns, operates, and controls the newspaper as a sole proprietorship. Williams further argued that he advertised for salespeople to train in newspaper and broadcast sales because "a salesperson should be versed in all aspects of broadcast and print advertising in order to be able to identify media advertising and to tailor the concepts toward [the particular type of advertising]." Williams also contended that he permits the use of his name as publisher on the newspaper's masthead, but he failed to address Albrecht's charges that he is, in fact, the Publisher and Advertising Director of the *Dispatch*.

4. Less than one month after Albrecht filed his petition to revoke, Williams, on September 9, 1983, requested an extension of time within which to construct the station. In support of his request, he stated that, when his construction permit was granted, he was "a complete neophyte in the field of television, barely knowing one end of a camera from the other [and] had absolutely no idea how to go about building a television station." He further stated that it was not until April, 1983, that he first met with manufacturers to determine what needed to be purchased. At the time Williams filed his extension application, he stated that equipment had been ordered with an expected delivery date of October, 1983.

5. On February 13, 1984, the Bureau denied Williams' application for an extension of time within which to construct the station and, in doing so, found that he had not demonstrated circumstances beyond his control or other matters that might warrant grant of additional time. The Bureau also noted that Williams had not provided any documentation to indicate that equipment was ordered, from whom it was ordered, when it was ordered, or when delivery was promised. The Bureau further found that no showing had been made as to what, if anything, had been paid toward the costs of construction or what progress, if any, had been made in actual construction. Consequently, Williams' application was denied, his construction permit was cancelled, his call sign was deleted, and Albrecht's petition to revoke was dismissed as moot. Williams' petition for reconsideration followed on March 14, 1984.

6. In support of his petition, Williams argues that an application for extension of time within which to construct may

[1] Section 73.3555(c)(3) provides that:

[N]o license for an AM, FM, or TV broadcast station shall be granted to any party * * * if such party directly or indirectly owns, operates, or controls a daily newspaper and the grant of such license will result in * * * the Grade A contour for the TV station, computed in accordance with § 73.684, encompassing the entire community in which such newspaper is published.

Note 6 to the Rule further provides that:

[F]or the purposes of this section a daily newspaper is one which is published four or more days per week, which is in the English language and which is circulated generally in the community of publication. A college newspaper is not considered as being circulated generally.

be granted, consistent with the public interest in the expeditious inauguration of service, upon one of two grounds: (1) The applicant must demonstrate that construction was delayed by unforeseen circumstances beyond his control, or (2) it must show that other matters outweigh the detriment caused by delay in construction. In determining whether "other matters" justify the grant of an extension application, Williams notes that, in *Hymen Lake*, 56 F.C.C. 2d 379 (Rev. Bd. 1975), the Review Board cited the following factors as having been previously considered by the Commission:

(a) A firm commitment by the permittee or by his proposed assignee to construct, *Island Telerodio Service, Inc.*, 22 F.C.C. 2d 43 (1970); (b) institution of a first local radio service, *Beacon Radio, Inc.*, 18 F.C.C. 2d 648 (1969); (c) the extension would expedite the construction of UHF service, *Onondaga UHF–TV, Inc.*, 21 F.C.C. 2d 525 (1970); (d) whether construction had begun, equipment had been ordered, personnel had been hired and were on the payroll, *John J. Tibiletti*, 28 F.C.C. 2d 493 (1971); (e) that the permittee proceeded in good faith in the construction of its proposed station, *John J. Tibiletti, supra*; (f) whether the grant of the extension would further the Commission's goal of diversification of control of the media, and also allow a good faith permittee to recover his expenses from the assignee, *Daniel Enterprises, Inc.*, 21 F.C.C. 2d 565 (1970); (g) whether the permittee has made substantial progress in the construction of its proposed station, *Hubbard Broadcasting, Inc.*, 13 F.C.C. 2d 56 (1968); and (h) recoupment by the permittee-assignor of out-of-pocket expenses incurred in prosecuting its application under circumstances where there is an assignee which has made a firm commitment to build, *MG–TV Broadcasting Co. v. F.C.C.*, 408 F.2d 1257 (D.C. Cir. 1968).

7. Williams contends that, not only has he encountered circumstances beyond his control in the construction of his station, but that there are "other matters" here which would justify grant of his extension application. In attempting to demonstrate this, he has, for the first time, provided a detailed accounting of exactly what steps he has taken toward the actual construction of the station. Shortly after the grant of his construction permit, Williams became aware of the fact that his proposed tower was structurally incapable of supporting the weight of the antenna. Accordingly, he immediately entered into negotiations with the Cookeville noncommercial educational television station WCTE(TV) to sidemount on that station's existing tower. He argues, however, that a series of delays beyond his control have frustrated his acquisition of that site. He first alleges that the tower manufacturer took longer than anticipated in determining whether the tower could physically support his antenna. Then, since the State Legislature was not in session, he encountered difficulty in securing the requisite approval of the lease agreement with the educational station. Finally, Williams argues that Albrecht raised his cross-ownership concerns before the State Department of Education, which has deferred its approval of the site lease until Albrecht's objection has been resolved. In the event the WCTE(TV) site proved to be unavailable, Williams, on July 15, 1983, acquired an option to purchase yet a third site and has subsequently conducted negotiations with the Atlas Tower Co. of Oklahoma for the erection of a 1,100 foot tower there on short notice. In addition, Williams contends that, in June, 1983, he ordered his equipment from NEC America, Inc. and deposited approximately $60,000 as partial payment. The transmitter, he states, has been built and shipped from Japan and is presently in storage in New York awaiting delivery to Cookeville, and his antenna has been partially built. Williams also states that he has an understanding with J. & S. Sites Construction Company of Cookeville for the design and lease of a studio. In sum, Williams contends that he has taken great strides toward the construction of the station and that he should not be faulted for his failure to construct in the face of Albrecht's petition to revoke. Once that petition is resolved, Williams has pledged to have the station on the air within 180 days.

8. Williams further states that the reason he did not initially document what equipment was ordered, when and from whom it was ordered, or when delivery was promised is because the application form does not request such information. Rather, he argues, the application asks only why construction has not been completed. He further contends that denial of a station's first extension request is unprecedented and should not be done without first affording the applicant an opportunity to make a more complete showing. In any case, he contends that it was evident from pleadings in response to the petition to revoke that he was, in fact, actively pursuing the construction of the station. For instance, he argues that he has already indicated that he has rented an office from which to conduct the station's business, has hired an engineer, and has arranged for the financing of the project. Consequently, he contends that reinstatement of his construction permit and restoration of his application to pending status are warranted.

9. In opposition, Albrecht maintains that the pendency of the petition to revoke cannot be considered to be a circumstance beyond Williams' control preventing him from constructing the station and cites *Harold A. Jahnke*, 74 F.C.C. 2d 276 (Rev. Bd. 1978), in support of that conclusion.[3] With respect to the existence of "other matters" that might warrant grant of the extension, Albrecht states that, while the Commission recognizes a "firm commitment" by the permittee to complete construction, where there appears to be the financial stability to undertake the construction of the station. *Mekaoy Co.*, 48 R.R. 2d 815 (1980). In that regard, Albrecht reiterates the economic ties between Williams and the *Dispatch* and notes that Williams and his parents have signed security notes as primary debtors for $250,000 worth of equipment, supplies, and inventory for the newspaper, an indebtedness which allegedly damages his financial capacity to construct the station. Albrecht further argues that the government has filed a tax lien for more than $66,000 against Osia Williams for failure to pay quarterly withholding and social security taxes for *Dispatch* employees. Albrecht contends that the tax lien would affect the financial fortunes of all the members of the Williams family and that Williams, therefore, no longer has the financial capability to construct the station.

10. Albrecht adds that, although an extension is generally allowed where it is shown that construction has begun, equipment has been ordered, personnel have been hired, and a construction site has been procured, such is not the case here. Albrecht notes that Williams has only an option for the land and has only negotiated with the Atlas Tower Company for the possible purchase of a tower. He further argues that Williams has not submitted evidence of the sale or purchase of equipment but, rather, has submitted only price quotations. Albrecht, therefore, concludes that no steps toward actual construction have been taken and that grant of the extension application based only on these preliminary actions would be unwarranted.

[3] In *Jahnke*, a construction permit had been granted conditioned on the permittee's reimbursement of another station for costs incurred in switching frequencies. The permittee subsequently sought to await resolution of its petition to remove that condition before commencing construction of its own station. The Review Board found, however, that reliance on the pendency of the petition constituted a business determination on the part of the permittee and was not a circumstance beyond its control warranting an extension.

11. Albrecht further alleges that the Commission has granted extensions of time where such a grant would further the Commission's goal of diversification of control of the media, but he contends that, with Williams' connection to the *Dispatch*, such is not the case here. Although Albrecht states that an extension may be granted to allow a permittee to recoup out-of-pocket expenses made in connection with the construction process, such a reason does not obtain where such reimbursement is the only factor to be considered. *Continental Summit Television Corp.*, 27 F.C.C. 2d 945 (Rev. Bd. 1971). Finally, Albrecht rejects Williams' contention that his petition should be granted in order to expedite the growth of UHF television. He notes that, in *Community Telecasters of Cleveland, Inc.*, 58 F.C.C. 2d 1296 (Rev. Bd. 1976), *rev. denied*, Mimeo No. 69530 (released May 13, 1977), *affirmed without opinion, sub nom., Community Telecasters of Cleveland, Inc.* v. *F.C.C.*, 574 F.2d 636 (D.C. Cir. 1978), the Commission determined that it would be more advantageous to deny an extension request, thereby denying the advent of UHF service in the market, and wait for a more qualified applicant to undertake construction. Albrecht contends that the Commission should come to the same conclusion here and, accordingly, urges denial of Williams' petition.

Discussion

12. Section 73.3598(a) of the Rules provides a television permittee with 18 months within which to complete construction, and it is within the Commission's discretion to extend that time upon a showing of circumstances beyond the permittee's control or other matters sufficient to justify such an extension. 47 CFR 73.3534(a). The Commission has never had a policy of automatically granting first extension requests, as Williams suggests, nor have we, as a rule, afforded television permittees an opportunity to supplement their showings before making adverse determinations. That is not to say, however, that we have never requested such information, for we have done so in situations where further information is needed in order to make a decision. No further data was elicited here, however, because Williams had made it clear that, after 18 months, no equipment had yet been delivered.[3] Further, he failed to demonstrate circumstances beyond his control or other matters warranting grant of an extension. Accordingly, based strictly on his initial representations, Williams' extension application was properly denied. Upon reconsideration, however, he has submitted, for the first time, a lengthy chronology of the progress of construction as well as a copy of a letter to his equipment supplier, whereby he accepted the supplier's price quotations and promised to submit a down payment of $60,000 ($10,000 of which had already been paid) upon the supplier's approval of Williams' financial statement. While the Courts have long decried against a party such as Williams sitting back and hoping "that a decision will be in its favor and then when it isn't, [parrying] with an offer of more evidence," *Colorado Radio Corporation* v. *F.C.C.*, 118 F.2d 24 (D.C. Cir. 1941), we believe that the ordering of the equipment is sufficient to warrant reinstatement of the application, thereby permitting a full exploration of the facts concerning Williams' failure to construct and a determination, *inter alia*, of whether the circumstances that prevented construction were beyond the permittee's control.

13. The fact that Williams may have no ownership interest in the newspaper does not avoid the proscriptions of our multiple ownership rules. The rules proscribe operation or control as well as ownership. In his initial application for a construction permit, Williams stated that he owned several newspapers in Tennessee, including the *Dispatch*, but in a subsequent affidavit, disavowed that claim. It is unclear however, as to why he claimed to have an ownership interest in the newspaper if, in fact, he had none. The only indication by Williams that he might be the publisher of the *Dispatch* appears in the affidavit to the public notice of the filing of his application for a construction permit:

> Pat Williams of the City of Cookeville, County of Putnam, State of Tennessee, first being duly sworn, deposes and says that he is President of Dispatch Publishing Company, a corporation existing under the Laws of the State of Tennessee; that said corporation is publisher of THE DISPATCH, a daily newspaper of general circulation published in the City of Cookeville, County of Putnam, State of Tennessee.

Moreover, the masthead of the newspaper itself indicates that Williams is the publisher, and now Albrecht has submitted documentation that Williams, doing business as the *Dispatch*, has signed security agreements for the lease and purchase of equipment, supplies, and inventory for the *Dispatch*.

14. Williams had a continuing obligation, since the day he filed his application for a construction permit, to make a complete and accurate disclosure to the Commission as to his other media interests. It appears that he has not done so. Instead, we are left with conflicting and confusing indications that he may be deeply involved with the newspaper at managerial levels. For instance, although the newspaper masthead indicates that Williams is the publisher, the affidavit of publication states that the publisher is a corporation of which Williams is the president. Williams, on the other hand, alleges that he merely "permits" the use of his name as publisher on the masthead. This cryptic explanation, however, does little to resolve the uncertainties as to Williams' official involvement with the *Dispatch*.

Although Williams purports to be able to exercise no managerial functions, it now appears that he has the authority to incur heavy debt on behalf of the newspaper—a power clearly inconsistent with a role as advisor. Furthermore, Williams has offered no explanation as to why he would initially represent that he had ownership interests in several newspapers and then recant that representation, declaring that he never, in fact, had any such interests. All of these facts were known to Williams after Albrecht's petition was filed, but Williams has steadfastly refused to address them and neither explicitly admitted nor denied that he is the publisher of the *Dispatch*. This conduct suggests that Williams may have attempted to conceal material facts from the Commission and may have attempted to deceive or mislead the Commission. His statements that he has no managerial functions, that he is only a salaried advisor, and that his mother owns, operates, and controls the newspaper suggest the possibility that Williams has made misrepresentations to the Commission. Under these circumstances, questions arise as to whether there is any common ownership, operation, or control of the television station and the newspaper which would be inconsistent with § 73.3555(c)(3) of the Commission's Rules and whether Williams made misrepresentations to the Commission, was lacking in candor, or attempted to deceive or mislead the Commission. An evidentiary hearing is, therefore, required to resolve these questions, and Williams' extension application will be designated for hearing on appropriate issues, including one to determine

[3] Although Williams admitted that no equipment had been delivered, he did not document his assertion that it had so much as been ordered, and we faulted him for that omission in our denial of his extension application. While it it true that such documentation is not specifically requested on FCC Form 701, Section 73.3534 of the Rules requires a "specific and detailed showing," and Williams made no such showing.

whether he has the requisite character qualifications to remain a Commission permittee.[4]

Conclusion and Order

15. For the reasons stated, the Commission is unable to find that grant of the application would serve the public interest, and it must, therefore, be designated for hearing on the issues specified below.

16. Accordingly, it is ordered, That Williams' petition for reconsideration is granted, his construction permit and call sign are reinstated, and his application for an extension of time is restored to pending status.

17. It is further ordered, That the petition to revoke, considered as an informal objection, and the informal objection filed by Joseph Albrecht are granted to the extent indicated above.

18. It is further ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above-captioned application of Joseph Patrick Williams is designated for hearing in a proceeding to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine the identity of the publisher of the Cookeville *Dispatch* and whether Joseph Patrick Williams, at any time since September 2, 1981, has occupied any position of responsibility with the Cookeville *Dispatch* newspaper.

2. To determine whether Joseph Patrick Williams made misrepresentations to the Commission, was lacking in candor in his dealings with the Commission, concealed material facts from the Commission, or attempted to deceive or mislead the Commission.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, whether Joseph Patrick Williams has the requisite character qualifications to remain a Commission permittee.

4. To determine, in light of the evidence adduced pursuant to the issue 1 above, whether, at any time since September 2, 1981, there has been any common ownership, operation or control of Station WKWR–TV and the *Dispatch* and, if so, whether such ownership, operation or control is consistent with § 73.3555(c)(3) of the Commission's Rules.

5. To determine, whether circumstances beyond the permittee's control prevented construction or whether there are other matters sufficient to warrant grant of the extension application.

6. To determine, in light of the evidence adduced pursuant to the foregoing issues, whether a grant of the application would serve the public interest, convenience, and necessity.

19. It is further ordered, That Joseph Albrecht is made a party respondent in this proceeding.

20. It is further ordered, That Joseph Albrecht shall proceed with the initial presentation of evidence with respect to Issue 2, and the applicant shall then proceed with its evidence on all issues and shall have the burden of proof on all issues.

21. It is further ordered, That, in the event that presiding Administrative Law Judge resolves the above issues in Williams' favor, the Administrative Law Judge shall order the construction permit granted for a period not to exceed six months after the Initial Decision is final.

22. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicant and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

Federal Communications Commission.

James C. McKinney,

Chief, Mass Media Bureau.

[FR Doc. 84–26127 Filed 10–2–84; 8:45 am]

BILLING CODE 6712–01–M

[4] Albrecht's allegations with respect to the involvement of Osia Williams and other members of the family with the television station are not supported by facts sufficient to warrant examination in the hearing. If Albrecht has evidence to support these allegations, he may move to enlarge issues to determine the real party in interest in the television station.

[Report No. 1479]

Petitions for Reconsideration and Clarification of Actions in Rule Making Proceedings

September 25, 1984.

The following listings of petitions for reconsideration and clarification filed in Commission rulemaking proceedings is published pursuant to CFR 1.429(e). Oppositions of such petitions for reconsideration and clarification must be filed within 15 days after publication of this Public Notice in the **Federal Register** Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: The Western Union Telegraph Co. Revisions to Tariffs F.C.C. Nos. 240 and 258 filed with Transmittal No. 7346; Tariffs F.C.C. Nos. 268 and 269 filed with Transmittals Nos. 7347 and 7348; Revisions to Tariffs F.C.C. Nos. 229, 240, 254, 258, 260, 263 and 268 filed with Transmittal No. 7417 (*Telex/TWX Investigation*) (CC Docket No. 78–97, Phase II)

Interconnection Arrangements Between and Among the Domestic and International Record Carriers. (CC Docket No. 82–122)

Filed By: Alexander P. Humphrey for ITT World Communications, Inc., FTC Communications, Inc., RCA Global Communications, Inc., TRT Telecommunications Corp & Western Union International, Inc., on 8–30–84.

Arthur H. Simms, Attorney for The Western Union Telegraph Company on 9–10–84.

Subject: Communications satellite Corporation. Revisions to Tariffs F.C.C. No. 101 Implementing the Second Memorandum Opinion and Order in CC Docket No. 80–634. (CC Docket No. 80–634, Transmittal Nos. 507 & 510)

Filed By: Alexander P. Humphrey, Attorney for RCA Global Communications, Inc., on 9–4–84.

Subject: Allowing the Public Direct Remote Access of Commission Computer Data Bases. (Gen Docket No. 83–483).

Filed By: Thomas J. McCabe, Attorney for CompComm, Inc., on 9–17–84. James R. Cooke, Attorney for Moffet, Larson & Johnson, P.C., on 9–17–84.

Subject: Amendment of Part 74 of the Commission's Rules and Regulations in regard to the Instructional Television Fixed Service. (MM Docket No. 83–523, RM's 2954, 2603, 2609 & 3057)

Filed By: Robert A. Woods, Lawrence M. Miller & Michael L. Volkov, Attorneys for Arizona Board of Regents for Arizona State University (KAET–TV), Arizona Board of Regents for the University of Arizona (KUAT–AM/FM/TV), Board of Trustees of Michigan State University (WKAR–TV), Detroit Educational Television Foundation (WTVS–TV), Educational Television Association of Metropolitan Cleveland (WVIZ–TV), Mohawk-Hudson Council on Educational Television, Inc., (WMHT–TV/FM), The Public Broadcasting Foundation of Northwest Ohio (WGTE–TV–FM), The Public Broadcasting Foundation of Northwest Ohio (WGTE–TV/FM & WGLE (FM)), Western New York Public Broadcasting

Association (WNED–AM/FM/TV), & WJCT, Inc (WJCT–TV/FM) on 9–14–84.

Richard D. Marks & Todd D. Gray, Attorneys for The Instructional Television Fixed Service permittees and other public telecommunications entities on 9–14–84.

Subject: Amendment of § 73.3555, (formerly §§ 73.35, 73.240, and 73.636) of the Commission's Rules Relating to Multiple Ownership of AM, FM and Television Broadcast Stations. (Gen Docket No. 83–1009)

Filed By: Marvin Rosenberg, Attorney for Hubbard Broadcating, Inc., (KSTP–TV), on 9–4–84.

David Honig, Attorney for the National Black Media Coalition on 9–4–84.

James T. Victory, President for Victory Television, Inc., on 9–7–84.

Thomas J. Dougherty, Preston R. Padden & Gene P. Belardi, Attorneys for Metromedia, Inc., on 9–10–84.

John A. Rafter, Werner K. Hartenberger & Suzanne M. Perry, Attorneys for Cox Communications, Inc., on 9–10–84.

John D. Lane & Ramsey L. Woodworth, Attorneys for Westinghouse Broadcasting and Cable, Inc., on 9–10–84.

Phillip A. Corvo, Executive Director for the National Association of Television Program Executives, Inc., on 9–10–84.

Arthur Scheiner, Dennis Lane, Ronald L. Olson, Nancy Y. Bekavac, Bradley S. Phillips, Michael R. Gardner, James P. Denvir and Anne Asbill Attridge, Attorneys for Motion Picture Association of America, Inc., on 9–10–84.

Marvin M. Grieve, President for the Association of Program distributors on 9–10–84.

James L. Winston, Executive Director and General Counsel for the National Association of Black Owned Broadcasters on 9–18–84.

Note.—A waiver of the page limit on reconsideration petitions has been requested by the Motion Picture Association of America in Gen Docket No. 83–1009, and is hereby granted. The page limit on responsive pleadings is also waived. Moreover, in view of the complexity of the issues involved, the time for filing responsive pleadings in extended until October 15, 1984 in Gen Docket No. 83–1009.

William J. Tricarico,

Secretary, Federal Communication Commission.

[FR Doc. 84–26130 Filed 10–2–84; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for approval in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Type: Revision of 3067–0142
Title: Hazard Identification, Capability Assessment, and Multi-Year Development Plan (HICA/MYDP)
Abstract: FEMA needs consistent information on the status of State/local emergency management and the impact of FEMA funds on improving capability. HICA/MYDP data will establish nationwide baseline on State/local hazards, current capability, and resource requirements. Data will be used to set program priorities, prepare the budget, and allocate funds.
Type of Respondents: State or Local Governments
Number of Respondents: 5,056
Burden Hours: 56,400

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley, (202) 287–9906, 500 C. Street, SW., Washington, D.C. 20472.

Comments should be directed to Mike Weinstein, Desk Officer for FEMA, Office of Information and Regulatory Affairs, OMB, Rm. 3235, New Executive Office Building, Washington, D.C. 20503.

Dated: September 26, 1984

Walter A. Girstantas,

Director, Administrative Support

[FR Doc. 84–26183 Filed 10–2–84; 8:45 am]

BILLING CODE 6718–01–M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License; Cunningham & Murray, Inc., et al; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act, 1984 (46 U.S.C. app. 1718 and 46 CFR Part 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Tariffs, Federal Maritime Commission, Washington, D.C. 20573.

Cunningham & Murray, Inc., c/o Richard Murray Company, 123 West Bay Street, Savannah, GA 31412, Officers: Edward F. Murray, Jr., Vice President, Martin H. Cunningham, President, Suzanne K. Edenfield, Treasurer, Isom J. McClure, Secretary

AMFRAN International Forwarding, Inc., RFD 1, Box 712 B, Gendron Road, Plainfield, CT 06374, Officers: Francis Raineau, Director, Shelley Serrill, President, Patricia Bourque, Secretary

Rotra, Inc., c/o 372 Greystone Court, Bensenville, IL 60106, Officer: Robertus W. Van Gent, President.

By the Federal Maritime Commission.

Dated: September 28, 1984.

Francis C. Hurney,

Secretary.

[FR Doc. 84–26153 Filed 10–2–84; 8:45 am]

BILLING CODE 6730–01–M

Ocean Freight Forwarder License; International Transportation Concepts, Inc.; Revocations

Notice is hereby given that the following ocean freight forwarder licenses have been revoked by the Federal Mari ime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR Part 510.

License No	Name/address	Date revoked
2744	International Transportation Concepts, Inc., 515 Main Street, Cincinnati OH 45202	Sept. 14, 1984

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 84–26154 Filed 10–2–84; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Capital City Bank Group, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than October 25, 1984.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Capital City Bank Group, Inc.*, Tallahassee, Florida; to acquire 100 percent of the voting shares of Levy County Bancorporation, Chiefland, Florida, thereby indirectly acquiring Levy County State Bank, Chiefland, Florida.

B. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Northwest Wisconsin Banco, Inc.*, Spooner Wisconsin; to become a bank holding company by acquiring 100 percent of the voting shares of Midwestern Banco, Inc., Spooner, Wisconsin, thereby indirectly acquiring Bank of Spooner, Spooner, Wisconsin.

C. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *First Beeville Financial Corporation*, Beeville, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Beeville, Beeville, Texas.

2. *Medina Valley Bancshares, Inc.*, Devine, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Medina Valley State Bank, Devine, Texas.

Board of Governors of the Federal Reserve System, September 27, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-26164 Filed 10-2-84; 8:45 am]

BILLING CODE 6210-01-M

Shell Rock Bancorporation, et al.; Applications to Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the office of the Board of Governors not later than October 27, 1984.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Shell Rock Bancorporation*, Shell Rock, Iowa; to engage *de novo* in the making or acquiring of loans or other extensions of credit such as would be made by a commercial financial company, including commercial loans secured by a borrower's inventory, accounts receivable, or other assets. These activities would be performed in the State of Iowa.

B. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Jena Bancshares, Inc.*, Jena, Louisiana; to engage *de novo* through its subsidiary, United Louisiana Consumer Finance Corporation, Jena, Louisiana in consumer finance activities.

C. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, Californai 94105:

1. *PV Financial*, Modesto, California; to engage *de novo* through its subsidiary, Western Valley Mortgage Company, Modesto, California, in making mortgage loans and the acquiring, packaging, and discounting of personal and business mortgages through the secondary mortgage market.

Board of Governors of the Federal Reserve System, September 27, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-26165 Filed 10-2-84; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Agency Information Collection Activities Under OMB Review; Trade Regulation; Consumer Protection; Funeral Industry

AGENCY: Federal Trade Commission.

ACTION: Application to OMB under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) for review of information collection requirements contained in the Funeral Industry Practices trade regulation rule.

SUMMARY: The FTC is requesting OMB review under 5 CFR 1320.14 of recordkeeping and public disclosure requirements contained in its Funeral Industry Practices trade regulation rule. The request is for a three-year extension of the existing OMB approval, No. 3084-0024. The provisions in question have not been changed since taking effect in early 1984.

DATES: Comments on these requests for OMB review must be submitted on or before November 3, 1984.

ADDRESSES: Send comments to Mr. Don Arbuckle, Office of Information Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, D.C. Copies of the applications may be obtained from: Public Reference Branch, Room 130, Federal Trade Commission, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Christian S. White, Assistant General

Counsel, Federal Trade Commission, Washington, D.C. 20580, (202) 523–3776.

By direction of the Commission.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 84-26130 Filed 10-3-84; 8:45 am]

BILLING CODE 6750-01-M

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period:

Transaction	Waiting period terminated effective
(1) 84-0802—Cronus Industries Incorporated's proposed acquisition of voting securities of Metallic—Braden Building Corporation, (Scott C. Lewis, UPE).	Sept. 10, 1984.
(2) 84-0803—Cronus Industries, Incorporated's proposed acquisition of voting securities of Metallic—Braden Building Corporation (James C. Lewis, UPE).	Do.
(3) 84-0844—Laferge Coppee S. A.'s proposed formation of a joint venture corporation, Heartland Lysine, Incorporated.	Do.
(4) 84-0845—Laferge Coppee S. A.'s proposed formation of a joint venture corporation, Heartland Lysine, Incorporated.	Do.
(5) 84-0868—Tenneco, Incorporated's proposed acquisition of voting securities of Creole Gas Pipeline Corporation, (A. J. Brooks, Jr., UPE).	Do.
(6) 84-0870—Ashland Oil Incorporated's proposed acquisition of assets of United States Steel Corporation.	Do.
(7) 84-0890—Bassett Furniture Industries, Incorporated's proposed acquisition of voting securities of IMPACT Furniture, Incorporated.	Do.
(8) 84-0893—Keystone Group, Incorporated's proposed acquisition of assets of Brandt Corporation, (Zilber Ltd., Joseph J. Zilber, UPE).	Do.
(9) 84-0808—Japson Industries, Incorporated's (Robert S. Japson, Jr., UPE) proposed acquisition of voting securities of Bristol Compressors, Incorporated.	Sept. 12, 1984.
(10) 84-0813—Waste Management, Incorporated's proposed acquisition of voting securities of SCA Services, Incorporated.	Do.
(11) 84-0835—Pay Less Drug Stores Northwest, Incorporated's proposed acquisition of assets of Pay'n Save Corporation	Do.
(12) 84-0875—DMG, Incorporated's proposed acquisition of voting securities of The Mohawk Rubber Company, (Equity Group Holdings, UPE).	Do.
(13) 84-0876—Equity Group Holdings' proposed acquisition of voting securities of DMG Incorporated.	Do.
(14) 84-0877—John Hancock Mutual Life Insurance Company's proposed acquisition of voting securities of Unigard Mutual Insurance Company	Do.
(15) 84-0904—Pullman Transportation Company, Incorporated's proposed acquisition of voting securities of REDM Industries, Incorporated.	Do.
(16) 84-0905—Pullman Transportation Company, Incorporated's proposed acquisition of voting securities of REDM Industries, Incorporated	Do.
(17) 84-0868—Independence Health Plan, Incorporated's proposed acquisition of voting securities of General Medical Centers, Incorporated, (Greatwest Hospitals, Incorporated, UPE)	Sept. 13, 1984
(18) 84-0896—Saratoga Partners, L. P.'s proposed acquisition of voting securities of Capital City Products Company, (The Quaker Oats Company, UPE)	Do.
(19) 84-0899—Kimberly-Clark Corporation's proposed acquisition of voting securities of Spenco Medical Corporation, Don-Way, Ltd., (Wayman R. Spence, UPE).	Sept. 14, 1984
(20) 84-0869—American Trust Company of Hawaii, Incorporated's (UPE to be formed—American Operating Company of Hawaii Incorporated) proposed acquisition of voting securities of Bishop Trust Company, (Midland Bank, plc, UPE).	Do.
(21) 84-0906—The Limited Incorporated's proposed acquisition of voting securities of Atherton Industries, Incorporated, (Lucky Stores, Incorporated, UPE)	Sept. 17, 1984.
(22) 84-0914—Grand Metropolitan Public Limited Company's proposed acquisition of voting securities of Quality Care Incorporated.	Do
(23) 84-0921—The Dun & Bradstreet Corporation's Incorporated's proposed acquisition of voting securities of Thomas National Group Incorporated	Sept. 18, 1984.
(24) 84-0847—Support Systems, Incorporated's proposed acquisition of assets of UHI Corporation, (Shigetomo Katayama, UPE)	Sept. 19, 1984
(25) 84-0891—Rochester and Pittsburgh Coal Company's proposed acquisition of voting securities of Florence Mining Company, (The North American Coal Corporation, UPE).	Do.
(26) 84-0923—Ralston Purina Company's proposed acquisition of voting securities of ITT Continental Banking Company, (ITT Corporation, UPE)	Do.
(27) 84-0884—Kirby Exploration Company's proposed acquisition of assets of Petro-Lewis Corporation	Sept. 20, 1984
(28) 84-0895—McWane, Incorporated's (James R. McWane, UPE) proposed acquisition of assets of M & H Operation of Dresser, (Dresser Industries Incorporated, UPE)	Do.
(29) 84-0944—Thomson, McKinnon Incorporated's proposed acquisition of voting securities of Schneider, Bernet & Hickman, Incorporated	Do
(30) 84-0945 Owens-Illinois Incorporated's proposed acquisition of voting securities of Health Care and Retirement Corporation of America.	Do

FOR FURTHER INFORMATION CONTACT: Patricia A. Foster, Compliance Specialist, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, D.C. 20580, (202) 523–3894.

By direction of the Commission.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 84-26131 Filed 10-2-84; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Consumer Participation; Open Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following consumer participation meetings:.

Detroit District Office, chaired by Jack Dempster, Director of Compliance. The topics to be discussed are Aspartame, Evaluation of Prototype Graphic Medical Record Cards, and Evaluation of Constituent Feedback.

Date: Tuesday, October 9, 1984, 9 a.m. to 10 a.m.

Address: Food and Drug Administration, 1560 East Jefferson Ave., Detroit, MI 48207.

For Further Information Contact: Marian Williams, Acting Consumer Affairs Officer, Food and Drug Administration, 1560 East Jefferson Ave., Detroit, MI 48207, 313–226–6273.

Seattle District Office, charird by K. A. Hansen, District Director. The topic to be discussed is Food Irradiation.

Date: Tuesday, October 30, 1984, 1:30 p.m.

Address: Federal Office Building and U.S. Courthouse, Rm. 589, 550 West Fort St., Boise, ID.

For Further Information Contact: Ellen M. Miller, Consumer Affairs Officer, Food and Drug Administration, 5009 Federal Office Building, Seattle, WA 98174, 206–442–1311.

Philadelphis District Office, chaired by Loren Y. Johnson, District Director, and Jack B. Ogun, Director, Division of Drugs, Devices, and Cosmetics, Pennsylvania Department of Health. The topic to be discussed is Health Fraud.

Date: Thursday, November 1, 1984, 9:30 a.m.

Address: Pittsburgh Federal Building, Rm. 2212, 1000 Liberty Ave., Pittsburgh, PA 16222.

FOR FURTHER INFORMATION CONTACT: Theresa A. Young, Consumer Affairs Officer, Food and Drug Administration, 1204 U.S. Customhouse, 2d and Chestnut Sts., Philadelphia, PA 19106, 215–597–0837.

SUPPLEMENTARY INFORMATION: The purpose of these meetings is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's District Offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: September 27, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-26188 Filed 10-2-84; 8:45 am]

BILLING CODE 4160-01-M

Health Resources and Services Administration

Health Maintenance Organizations; Basic Health Services; Exclusion of In Vitro Fertilization

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice; exclusion from basic health services provided by health maintenance organizations.

SUMMARY: This notice of a decision by the Director, Office of Health Maintenance Organizations (OHMO), to allow federally qualified HMOs the option of excluding *in vitro* fertilization from the basic health services they are required to provide their members.

FOR FURTHER INFORMATION CONTACT: Frank H. Seubold, Ph.D., Associate Director for Health Maintenance Organizations, Bureau of Health Maintenance Organizations and Resources Development, Room 9–05, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4106.

SUPPLEMENTARY INFORMATION: Section 1302(1) of the Public Health Service Act (42 U.S.C. 300e–1) gives the Secretary the authority to exclude from the basic health services a qualified HMO is required to provide a health service which she determines is unusual, infrequently provided, and not necessary for the protection of individual health. The authority for such determinations has been delegated to the Director, Office of Health Maintenance Organizations. As a result of several applications from HMOs under 42 CFR 110.102(d)(16), the regulations corresponding to this provision of section 1302(1), the Director, OHMO, has determined that federally qualified HMOs may exclude *in vitro* fertilization from the basic health services they are required to provide their members because this service, at the present time, is unusual, infrequently provided, and not necessary for the protection of individual health.

Dated: September 25, 1984.

Robert Graham, M.D.,

Administrator, Assistant Surgeon General.

[FR Doc. 84-26122 Filed 10-2-84; 8:45 am]

BILLING CODE 4160-15-M

Health Maintenance Organizations; Qualified List

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice; qualified health maintenance organizations.

SUMMARY: This notice sets forth the names, addresses, service areas, and dates of qualification of entities determined by the Secretary to be federally qualified health maintenance organizations (HMOs).

FOR FURTHER INFORMATION CONTACT: Frank H. Seubold, Ph.D., Associate Director for Health Maintenance Organizations, Bureau of Health Maintenance Organizations, and Resources Development, Room 9–05, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4106.

SUPPLEMENTARY INFORMATION: Regulations (42 CFR 110.605(d)) issued under Title XIII of the Public Health Service Act (the Act) require that a list and description of all newly qualified HMOs be published on a periodic basis in the **Federal Register.** This notice is an accumulation of information regarding those HMOs that have been qualified since the last such list was published on August 31, 1984. There are three categories of qualified HMOs: operational, transitionally qualified, and preoperational (see 42 CFR 110.602 and 110.603).

The following entities have been determined to be qualified HMOs under section 1310(d) of the Act (42 U.S.C. 300e–9(d)):

Operational Qualified Health Maintenance Organizations: 42 CFR 110.603(a))

1. United Medical Plan of Virginia, Inc. (Director Contract Model, see section 1310(b)(2)(B) of the Act), 4202 Park Place, Court A Glenn Allen, Virginia 23060. The service area comprises the counties of Chesterfield, Dinwiddie, Goochland, Hanover, Henrico, King William, New Kent, Nottoway, Pawhatan, and Prince George; the cities of Colonial Heights, Hopewell, Petersburg, and Richmond; and the following zip codes:

Ruther Glen	22546
Amelia	23002
Bumpass	23024
Charles City	23030
Dabneys	23042
Gum Springs	23065
Mannboro	23105
Ruthville	23147

Date of qualification: June 28, 1984.

Transitionally Qualified Health Maintenance Organizations; 42 CFR 110.603(b)

2. Health Wise (Individual Practice Association Model, see Section 1310(b)(2)(A) of the Act), 2455 Parley's Way, P.O. Box 25185, Salt Lake City, Utah 84125. The service area comprises the counties of Davis, Salt Lake, and Weber, and the following zip codes:

84003	84061
84013	84062
84017	84068
84018	84071
84024	84074
84029	84301
84032	84302
84033	84307
84036	84214
84043	84319
84049	84328
84050	84339
84055	84340
84057	84601–04
84058	84660
84060	84663

Date of qualification: August 8, 1984.

Qualified Regional Components; 42 CFR 110.603(e)

3. Health Care Plus, Inc., Hutchinson, Kansas (Individual Practice Association Model, see section 1310(b)(2)(A) of the Act), an operational qualified regional component of Health Care Plus, Inc., Wichita, Kansas 67218. The service area comprises Reno County.

Date of qualification: August 17, 1984.

4. Health Care Plus, Inc., Salina, Kansas (Individual Practice Association Model, see Section 1310(b)(2)(A) of the Act), an operational qualified regional component of Health Care Plus, Inc., Wichita, Kansas 67218. The service area comprises Saline County.

Date of qualification: August 17, 1984.

Files containing detailed information regarding qualified HMOs will be available for public inspection between the hours of 8:30 a.m. and 4:30 p.m. on Tuesdays and Thursdays, except for Federal holidays, in the Office of Health Maintenance Organizations, Bureau of Health Maintenance Organizations and Resource Development, Department of Health and Human Services, Rm. 9–11 Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Questions about the qualification review process or requests for information about qualified HMOs should be sent to the same office.

Dated: September 25, 1984.

Robert Graham, M.D.,

Administrator, Assistant Surgeon General.

[FR Doc 84-26123 Filed 10-2-84; 8:45 am]

BILLING CODE 4160-15-M

Public Health Service

Privacy Act of 1974; Altered System of Records

AGENCY: Public Health Service, HHS.

ACTION: Notification of a major alteration of Privacy Act system of records 09–37–0001, Office of the Assistant Secretary for Health Correspondence Control System, HHS/OASH/OM.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, the Public Health Service (PHS) is publishing notice of a proposal to alter system of records 09–37–0001, "Office of the Assistant Secretary for Health Correspondence Control System, HHS/OASH/OM."

The purpose of the alteration is to add a new subsystem to this umbrella system of records. PHS invites interested persons to submit comments to the proposed alteration on or before November 2, 1984.

ADDRESS: Comments should be addressed to: Staff Assistant to the Deputy Assistant Secretary for Population Affairs, Office of Population Affairs/PHS, Room 1351, HHS North Bldg., 330 Independence Avenue, SW., Washington, D.C. 20201.

Comments may be inspected at the above address from 9:00 a.m. to 4:00 p.m., Monday through Friday.

DATE: PHS has sent a Report of Altered System to the Congress and to the Office of Management and Budget (OMB) on September 21, 1984. The alteration of this system of records will become effective 60 days from the date submitted to OMB, unless PHS receives comments on the revision which would result in a contrary determination.

FOR FURTHER INFORMATION CONTACT: Ms. Dorothea E. de Zafra, PHS Privacy Act Officer, Room 17–81, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, telephone (301) 443–2004. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Office of the Assistant Secretary for Health (OASH), in the Department of Health and Human Services (DHHS), Public Health Service (PHS), currently maintains system of records 09–37–0001, "Office of the Assistant Secretary for Health Correspondence Control System, HHS-OASH/OM." The purpose of this umbrella system of records is to control and track all correspondence documents addressed or directed to the Assistant Secretary for Health (ASH) or his subordinates, as well as response documents initiated in the Public Health Service Executive Secretariat, the National Center for Health Statistics, and the National Center for Health Services Research. OASH is proposing to alter this system of records by adding another correspondence subsystem in the Office of Population Affairs (OPA).

OPA is responsible for programs of national importance in the fields of population dynamics, fertility, sterility, family planning, and adolescent pregnancy, and directs population and family planning activities in PHS. The Office is under the direction of the Deputy Assistant Secretary of Population Affairs, who is the principal advisor to the Assistant Secretary for Health on population affairs.

The OPA correspondence log is organized chronologically, and numbers are assigned to each document for identification. An alphabetical cross-reference system also allows retrieval by name of correspondent. The number of individuals in this subsystem will depend on the number of correspondence documents received; OPA is estimating a yearly figure of 3,500.

The addition of this new subsystem requires changes in the "System Location" and "System Manager(s) and Address" categories. We are also making minor changes in the "Categories of Records in the System" and in the "Storage" section. Furthermore, we are reformatting the "Safeguards" category to enhance the clarity and specificity of the system notice.

This system notice was last published in the **Federal Register** on November 29, 1983 (48 FR 53793–53794). We are publishing the system notice in its entirety below to incorporate the proposed alteration and modifications.

Dated: September 24, 1984.

Peter J. Bensano,

Acting Deputy Assistant Secretary for Health Operations and Director, Office of Management.

09–37–0001

SYSTEM NAME:

Office of the Assistant Secretary for Health Correspondence Control System HHS/OASH/OM.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Public Health Service Executive Secretariat, Room 710H, Hubert H. Humphrey Building, 200 Independence Ave. SW., Washington, D.C. 20201

Office of Population Affairs, OASH, 300 Independence Ave., SW., Washington, D.C. 20201

National Center for Health Statistics, Room 2–19, 3700 East-West Highway, Hyattsville, MD 20782

National Center for Health Services Research, Park Building, Room 3–28, 5600 Fishers Lane, Rockville, Maryland 20857.

and

Federal Records Center, 4205 Suitland Road, Washington, D.C. 20409.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have contacted either the Assistant Secretary for Health, the Surgeon General, a Deputy Assistant Secretary, or a PHS Staff Office Director, or have been contacted in writing by one of these officials.

CATEGORIES OF RECORDS IN THE SYSTEM:

Hard copies of the actual correspondence, 3 x 5 card file, and computer or word processor print-out and tape or disk control system records of that correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301. Departmental Regulations.

PURPOSE(S):

To control and track all correspondence documents addressed or directed to the Assistant Secretary for Health or his subordinates as indicated above, as well as documents initiated by them, in order to assure timely and appropriate attention.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Correspondence records are maintained in hard copy. Control records are maintained in 3 x 5 card file and on computer or word processor print-out, tape, and disk.

RETRIEVABILITY:

Hard copy records are indexed alphabetically by name of addressee and date of outgoing correspondence; or by name of sender and date of incoming correspondence; or by subject. Records may also be cross-referenced.

SAFEGUARDS:

1. Authorized Users: Office directors, correspondence assistants, and professional and support staff with designated functional responsibilities directly relating to the purpose of the correspondence.

2. Procedural Safeguards: Confidential and/or sensitive documents are either handcarried or transmitted in sealed envelopes. Employees who handle correspondence are instructed to observe established office procedures to protect correspondence documents from unauthorized access. The computerized subsystem is protected by passwords assigned to specific correspondence assistants; passwords are changed periodically; the password is changed when a correspondence assistant terminates employment.

3. Physical Safeguards: 24-hour guard service in buildings, locked rooms after office hours, lockable file cabinets, word processing disks are off-loaded and stored when not in use.

4. These safeguards are in accordance with chapter 45–13 in the Department's General Administration Manual, supplementary chapter PHS.hf: 45–13, and with Part 6 of the Department's ADP Systems Security Manual.

RETENTION AND DISPOSAL:

Records may be retired to a Federal Records Center and subsequently disposed of in accordance with the Office of the Assistant Secretary for Health records control schedule. The records control schedule may be obtained by writing to the appropriate System Manager at the address for that official which is indicated under System Location above.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Public Health Service Executive Secretariat (address as above), Staff Assistant to the Deputy Assistant Secretary for Population Affairs (address as above); Director, National Center for Health Statistics (address as above; Director, National center for Health Services Research (address as above).

Policy coordination is provided by: Director, Office of Organization Management Systems, Office of Management, Room 17–51 Parklawn Building, 5600 Fishers Land, Rockville, MD 20857.

NOTIFICATION PROCEDURE:

Inquiries should indicate the name of the individual with whom the Office of the Assistant Secretary for Health corresponded, the date of the incoming correspondence, if any, and the date of the outgoing correspondence. Inquiries should be addressed to the appropriate System Manager, listed above, not to the policy coordination official.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters must state that they are who they claim to be, and understand that obtaining information under false pretenses is subject to a maximum statutory penalty of $5,000.00 dollars.

Requesters may also ask for an accounting of disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURES:

Contact the appropriate System Manager at the address for that official specified under System Location above, and reasonably identify the record, specify the information to be contested, the corrective action sought, and the reason for seeking the correction, with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant.

RECORD SOURCE CATEGORIES:

Records are derived from incoming correspondence to, and the outgoing correspondence of, the Assistant Secretary for Health or his subordinates as indicated above.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 84–28120 Filed 10–2–84; 8:45 am]
BILLING CODE 4160–17–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Presidential Commission on Indian Reservation Economies; Work Session; Meeting

AGENCY: Presidential Commission on Indian Reservation Economies.

ACTION: Notice.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given of a work session of the Presidential Commission on Indian Reservation Economies at the Tsa-La-Gi Lodge in Tahlequah, Oklahoma, October 17–19, 1984.

The purpose of the work session will be to discuss administrative reports, programmatic findings and such matters as may be presented by Members and staff of the Commission.

Attendance by the public will be limited to space available.

FOR FURTHER INFORMATION CONTACT: Eric Rudert, Deputy Director, Presidential Commission on Indian Reservation Economies, at 1717 H Street, Northwest, Washington, D.C. 20006. Telephone: 202–653–2436.

Eric Rudert,

Deputy Director.

[FR Doc. 84–28197 Filed 10–2–84; 8:45 am]
BILLING CODE 4310–02–M

Bureau of Land Management

[ES 32123A, Michigan]

Proposed Reinstatement of a Terminated Oil and Gas Lease

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed Reinstatement of a Terminated Oil and Gas Lease.

SUMMARY:

1. Federal oil and gas lease ES 32123A terminated automatically by operation of Law on April 1, 1984 (30 U.S.C. 188).

2. A petition for reinstatement of ES 32123A was filed by West Bay Exploration Company (Lessee) under section 31 D of the Mineral Leasing Act of 1920, as amended by the Federal Oil and Gas Royalty Management Act of 1982 (96 Stat. 2447).

3. The Lessee has met all the following requirements of reinstatement:

(a) $500—Reimbursement of Department Administrative Cost
(b) $296—Back Rental Payments
(c) $136—Estimated Publication Cost.

4. The proposed reinstatement of the lease would be under the same terms and conditions of the original lease, except the rental will be increased to $5.00 per acre per year, and royalty increased to 16⅔ percent beginning April 1, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Johnson, Bureau of Land Management, Eastern States Office, 350 South Picket Street, Alexandria, Virginia 22304, (703) 235-3630.

G. Curtis Jones, Jr.,
State Director.

[FR Doc. 84-25104 Filed 10-2-84; 8:45 am]
BILLING CODE 4310-GJ-M

Albuquerque District, NM; District Advisory Council Meeting

September 25, 1984.

AGENCY: Bureau of Land Management, Interior.

ACTION: District Advisory Council Meeting.

SUMMARY: The BLM Albuquerque District Advisory Council will meet November 7, 1984, in the Holiday Inn at 2915 W. Highway 66, Gallup, New Mexico. The session on November 7 will begin at 10:00 a.m. with an overview presentation on issues related to Navajo occupancy and use of public lands in the federal coal region south of Farmington.

The Council will discuss Navajo occupancy and use of public land in the San Juan Basin. Council recommendations may follow.

Statements by the public to members of the Council may be made at 1:30 p.m., November 7.

This Council is managed in accordance with the Federal Advisory Committee Act of 1972, the Federal Land Policy and Management Act of 1976, and the Rangeland Improvement Act of 1976. Minutes of the meeting will be prepared and made available for review withn 30 days following the meeting.

Michael F. Reitz,
Associate District Manager.

[FR Doc. 84-26204 Filed 10-2-84; 8:45 am]
BILLING CODE 4310-FB-M

Richfield District Grazing Advisory Board Meeting and Tour

AGENCY: Bureau of Land Management, Interior.

ACTION: Richfield District Grazing Advisory Board Meeting and Tour.

SUMMARY: Notice is hereby given, in accordance with Pub. L. 94-579, that the District Grazing Advisory Board will meet on November 8, 1984 at 9:00 a.m. in the Richfield District Office. The field trip will leave the District Office at 2:00 p.m. to review the grasshopper damage to key winter range.

Agenda for the meeting will be:

1. Welcome new members and elect new officers.
2. The grasshopper situation.
3. New range projects for FY 85.
4. The grazing fee study.
5. The Piute Indian proposal for grazing management.
6. Grazing procedure on NPS lands.
7. Repeated trespass problems (willful—non-willful).
8. Arrange next meeting.

The meeting and field trip are open to the public. Interested persons may attend the field trip and should provide their own transportation. Those individuals wishing to make oral statements during the meeting need to notify the District Manager, Bureau of Land Management, 150 East 900 North, Richfield, Utah 84701.

Dated: September 25, 1984.

Donald L. Pandleton,
District Manager.

[FR Doc. 84-26207 Filed 10-2-84; 8:45 am]
BILLING CODE 4310-04-M

Area of Critical Environmental Concern (ACEC) Designations

AGENCY: Bureau of Land Management, Interior.

ACTION: Designation of the Black Butte/Guffey Butte Archaeologica District ACEC and the Owyhee River Bighorn Sheep Habitat Area ACEC.

SUMMARY: The Boise District BLM has designated the above named areas as areas of critical environmental concern (ACEC) during past land use planning efforts. The Black Butte/Guffey Butte Archaeological District ACEC was designated in the Kuna Management Framework Plan (MFP) which was completed March 30, 1983. The Owyhee River Bighorn Sheep Habitat Area ACEC was designated in the Bruneau and Owyhee MFPs which were also completed on March 30, 1983. The ACECs were approved under the planning regulations (43 CFR 1600) which were in effect from September 6, 1979 through July 4, 1983. The ACEC recommendations were included in material presented at MFP open house meetings held in Boise, Idaho on December 14 and 15, 1981

The Black Butte/Guffe Buttee Archaeological District ACEC is a 32,000 acre area along the Snake River. Its boundary corresponds with the existing Snake River Birds of Prey Natural Area boundary. The area has over 100 important historic and prehistoric cultural resource sites. Sites include the Swan Falls Dam, Guffey townsite and railroad bridge, Halverson Bar mining settlement, the Wees Bar petroglyph field, Schellbach Cave (the first scientifically excavated site in Idaho) and many others.

Surveys indicate that adverse impacts to the sites have accelerated in recent years, primarily as a result of increased visitor use. Indirect impacts to the sites are also occurring due to vehicle use, camping activities and livestock use. A cultural resource management plan will be developed for the area that will identify specific site protection requirements. A use supervision program will be initiated and interpretive measures such as signs and brochures will also be developed to protect this important and critical area.

The Owyhee River Bighorn Sheep Habitat Area ACEC is a 180,000 acre area located along the Owyhee River and its tributaries in southwest Idaho. The area was designated an ACEC to protect and enhance bighorn sheep habitat and to protect natural and scenic values in the area. Approximately 400 California bighorn sheep occur in a portion of the area and the potential exists for the reintroduction of bighorn sheep in another portion of the area. The area contains numerous rugged, deep canyons which have exceptional scenic quality. The Owyhee River is a popular river for early spring whitewater boating.

Major management actions to protect existing and potential bighorn sheep habitat areas and the natural and scenic values within the ACEC include the following:

(1) Activities or developments which would impair the scenic quality of the area are not allowed.

(2) Vehicle use is allowed only on designated roads and trails.

(3) The management priority for the canyons is for bighorn sheep and other wildlife.

(4) Livestock water sources are not developed within one mile of bighorn sheep habitat unless the potential adverse impacts to bighorns can be avoided or mitigated.

(5) Use of the Owyhee River by boaters is restricted to levels that do not adversely impact the bighorn sheep.

(6) No surface occupancy is allowed for oil and gas and geothermal exploration or development.

(7) The area will be recommended for withdrawal from the 1872 mining laws.

FOR FURTHER INFORMATION CONTACT: Maps or additional information on these areas may be obtained by writing the Boise District BLM, 3948 Development Avenue, Boise, Idaho 83705 or by calling Ted Milesnick at 208–334–1582 or FTS 554–1582.

Dated: September 26, 1984.

Martin J. Zimmer,

District Manager.

[FR Doc. 84–26305 Filed 10–2–84; 8:45 am]

BILLING CODE 4310–GG–M

[OR 36742 A and B]

Oregon; Realty Action Direct Sale of Public Land in Josephine County

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Direct Sale of Public Land in Josephine County, Oregon.

SUMMARY: The following revested Oregon and California Railroad Grant (O&C) Land has been examined and identified as being suitable for disposal by sale under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713), at no less than the appraised fair market value.

Bidder	Legal description	Acreage	Value
Robert and Betty R. Wheeler OR 36742A.	T. 36 S., R. 7 W., Wil. Mer., sec. 13, lot 11.	2.36	$1,500
Claude R. and Laurel J. Williams OR 36742B.	T. 36 S., R. 7 W., sec. 13, lot 12.	2.36	$1,500

Except for the provisions of section 203 of the Federal Land Policy and Management Act of 1976, (90 Stat. 2750; 43 U.S.C. 1713), the above described lands are hereby segregated from appropriation under the public land laws, including the mining laws.

The sale will be held on Wednesday, December 5, 1984 at 1:00 P.M. in the Medford District's Oregon Room, 3040 Biddle Road, Medford, Oregon 97504.

The sale is consistent with publicly supported Bureau planning. The sale involves an isolated parcel surrounded by private land. The parcel is difficult and uneconomical to manage and is not suitable for management by another Federal department or agency. The public interest would be served by offering this land for sale.

Direct Sale Procedure

The parcels identified by Serial Nos. OR 36742A (Lot 11), and OR 36742B (Lot 12), are being offered using direct sale procedures (43 CFR 2711.3–2(b). The land will be sold at fair market value to the adjacent landowners without bidding. If the parcels are not sold, they will be withdrawn from public sale.

Federal law requires that all bidders be U.S. citizens, 18 years of age or more, a state or state instrumentality authorized to hold property, or in the case of corporations, be authorized to own real estate in the state in which the sale is offered. Proof of these requirements shall accompany all sale bids.

Terms and Conditions o. This Sale Are

1. Both the Williams and the Wheelers will be required to submit a deposit of either cash, bank draft money order, or any combination, for not less than 30 percent of the appraised value. The remainder of the full appraised price must be submitted prior to the expiration of 180 days from the date of the sale. Failure to submit the remainder of the full appraised price shall result in the cancellation of the sale and forfeiture of the 30 percent deposit.

2. Acceptance or rejection of the William's or Wheeler's offer to purchase will be in writing within 30 days from the date of the sale. Prior to the expiration of this 30 day period, the Authorized Officer conducting this sale may refuse to accept the offers or may withdraw the tract of public land from sale according to 43 CFR 2711.3–1 (f) and (g).

3. Reservations to the title or patent shall be as follows:

a. Both parcels will be subject to all existing rights including Josephine County's Gunnell Road Right-of-Way (43 U.S.C. 1718).

b. All minerals will be reserved to the United States (43 U.S.C. 1719).

c. The right to access and development for ditches and canals on behalf of the United States shall be reserved (43 U.S.C. 945).

Detailed information concerning the sale, including the planning documents, environmental assessment, land report and fair market appraisal, is available for review at the Bureau of Land Management, Medford District Office, 3040 Biddle Road, Medford, Oregon 97504, or by calling Jim Badger, Area Realty Specialist, (503) 776–3941.

For a period of 45 days from the date of this notice, interested parties may submit comments regarding the proposed action. Comments shall reference Serial Number OR 36742 A & B. Any adverse comments will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of the Interior.

Dated: September 24, 1984.

Hugh R. Shera,

District Manager.

[FR Doc. 84–26200 Filed 10–2–84; 8:45 am]

BILLING CODE 4310–33–M

[OR–35082]

Conveyance of Public Lands; Order Providing for Opening of Lands, Oregon

Correction

In FR Doc. 84–24890, appearing on page 36935 in the issue of Thursday, September 20, 1984, make the following correction:

In the second column, eleventh line of the land description under the heading **Willamette Meridian**, "SW½ and W¼SE¼" should have read "SW¼ and W½SE¼".

BILLING CODE 1505–01–M

National Park Service

Women's Rights National Historical Park; Meeting

AGENCY: Women's Rights NHP Advisory Commission, National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the date of the forthcoming meeting of Women's Rights NHP Advisory Commission. Notice of this meeting is required under the Federal Advisory Committee Act.

DATES: October 25, 1984, Public Forum, October 26, 1984, 9:00 a.m. to 4:00 p.m.; 4:00 p.m. to 6:00 p.m.; 9:00 a.m. to 12:00 p.m.

ADDRESS: Women's Rights National Historical Park, 116 Fall Street, P.O. Box 70, Seneca Falls, New York 13148.

FOR FURTHER INFORMATION CONTACT: Judy Hart, Superintendent, Women's Rights National Historical Park, 116 Fall Street, P.O. Box 70, Seneca Falls, New York 13148, (315) 568–2991.

Dated: September 21, 1984.

Steven H. Lewis,

Deputy Regional Director, North Atlantic Region.

[FR Doc. 84–26190 Filed 10–2–84; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–205 (Preliminary)]

Import Investigations; Carbon Steel Wire Rod From The German Democratic Republic

AGENCY: International Trade Commission.

ACTION: Institution of preliminary investigation and scheduling of a conference to be held in connection with the investigation.

SUMMARY: The United States International Trade Commission hereby gives notice of the institution of investigation No. 731–TA–205 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury or the establishment of an industry in the United States is materially retarded, by reason of imports from the German Democratic Republic of carbon steel wire rod, provided for in item 607.17 of the Tariff Schedules of the United States (TSUS), which are alleged to be sold at less than fair value.

EFFECTIVE DATE: September 26, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. C. F. Cleary, Office of Investigations, U.S. International Trade Commission, 701 E Street, N.W., Washington, D.C. 20436, telephone 202–523–0439.

SUPPLEMENTARY INFORMATION:

Background.— This investigation is being instituted in response to a petition filed on September 26, 1984, by Atlantic Steel Company, Continental Steel Corporation, Georgetown Steel Corporation, North Star Steel Co.-Texas, and Raritan River Steel Company. The Commission must make its determination in this investigation within 45 days after the date of the filing of the petition, or by November 13, 1984 (19 CFR § 207.17).

Participation.—Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's Rules of Practice and Procedure (19 CFR § 201.11), not later than seven (7) days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairwoman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service of documents—The Secretary will compile a service list from the entries of appearance filed in this investigation. Any party submitting a document in connection with the investigation shall, in addition to complying with § 201.8 of the Commission's rules (19 CFR § 201.8), serve a copy of each such document on all other parties to the investigation. Such service shall conform with the requirements set forth in § 201.16(b) of the rules (19 CFR § 201.16(b)).

In addition to the foregoing, each document filed with the Commission in the course of this investigation must include a certificate of service setting forth the manner and date of such service. This certificate will be deemed proof of service of the document. Documents not accompanied by a certificate of service will not be accepted by the Secretary.

Written submissions.— Any person may submit to the Commission on or before October 23, 1984, a written statement of information pertinent to the subject matter of this investigation (19 CFR § 207.15). A signed original and fourteen (14) copies of such statements must be submitted (19 CFR § 201.8).

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately, and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of section 201.6 of the Commission's rules (19 CFR § 201.6). All written submissions, except for confidential business data, will be available for public inspection.

Conference.—The Director of Operations of the Commission has scheduled a conference in connection with this investigation for 9:30 a.m. on October 19, 1984, at the U.S. International Trade Commission Building, 701 E Street, NW, Washington, D.C. Parties wishing to participate in the conference should contact Mr. Cleary (202–523–0439), not later than October 17, 1984, to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Public inspection.—A copy of the petition and all written submissions, except for confidential business data, will be available for public inspection during regular hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street, NW, Washington, D.C.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and B (19 CFR Part 207), and part 201, subparts A through E (19 CFR Part 201).

This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR § 207.12).

Issued: September 28, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–26253 Filed 10–2–84; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–189]

Import Investigations; Certain Optical Waveguide Fibers; Commission Decision Denying Application for Interlocutory Review

AGENCY: International Trade Commission.

ACTION: Denial of respondents' application for interlocutory review of the presiding officer's ruling (Order No. 18) denying respondents' motion (Motion 189–15) to declare the above-referenced investigation "more complicated" under section 337(b)(1) of the Tariff Act of 1930 and Commission rule 210.15.

Authority: Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and 19 CFR 210.60(b).

SUPPLEMENTARY INFORMATION: On August 20, 1984, respondents Sumitomo Electric Industries, Ltd., and Sumitomo Electric U.S.A. Inc., (Sumitomo) filed an application for Commission review, under Commission rule 210.60(b), of the presiding officer's denial of their motion to designate the above-referenced investigation "more complicated" under section 337(b)(1) and Commission rule 210.15. (Order No. 18, July 20, 1984, denying Motion No. 189–15.) On August 27, 1984, complainant Corning Glass Works (Corning) filed an answer in opposition to the application for review.

Copies of the presiding officer's ruling, the application for review, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: Wayne Herrington, Esq., Office of General Counsel, U.S. International Trade Commission, telephone 202–523–0480.

Issued: September 25, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–26251 Filed 10–2–84; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 731-TA-204 (Preliminary)]

Import Investigations; Grand and Upright Pianos From the Republic of Korea

AGENCY: International Trade Commission.

ACTION: Institution of preliminary antidumping investigation and scheduling of a conference to be held in connection with the investigation.

EFFECTIVE DATE: The United States International Trade Commission hereby gives notice of the institution of preliminary antidumping investigation No. 731-TA-204 under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from the Republic of Korea of grand and upright pianos, provided for in items 725.01 and 725.03 of the Tariff Schedules of the United States, which are alleged to be sold in the United States at less than fair value.

FOR FURTHER INFORMATION CONTACT: Mr. Bruce Cates, Investigator, U.S. International Trade Commission, 701 E Street, N.W., Washington, D.C. 20436, telephone 202-523-0369.

SUPPLEMENTARY INFORMATION:

Background.—This investigation is being instituted in response to a petition, filed on September 21, 1984, on behalf of Aeolian Pianos, Inc., Memphis, TN, Baldwin Piano & Organ Co., Cincinnati, OH, Kohler & Campbell, Inc., Granite Falls, NC, and Sohmer & Co. Inc., Ivoryton, CT. The Commission must make its determination in this investigation within 45 days after the date of the filing of the petition, or by November 5, 1984 (19 CFR 207.17).

Participation.—Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided for in section 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than seven (7) days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairwoman, who shall determine whether to accept the late entry for good cause shown by the persons desiring to file an entry.

Service of documents.—The Secretary will compile a service list from the entries of appearance filed in this investigation. Any party submitting a document in connection with the investigation shall in addition to complying with § 20.18 of the Commission's rules (19 CFR 201.8), serve a copy of each such document on all other parties to the investigation. Such service shall conform with the requirements set forth in § 201.16(b) of the rules (19 CFR 201.16(b), as amended by 47 FR 33682, Aug. 4, 1982).

In addition to the foregoing, each document filed with the Commission in the course to this investigation must include a certificate of service setting forth the manner and date of such service. This certificate will be deemed proof of service of the document. Documents not accompanied by a certificate of service will not be accepted by the Secretary.

Written submission.—Any person may submit to the Commission on or before October 18, 1984, a written statement of information pertinent to the subject matter of this investigation (19 CFR 207.15). A signed original and fourteen (14) copies of such statements must be submitted (19 CFR 201.8).

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately, and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of section 201.6 of the Commission's rules (19 CFR 201.6). All written submissions, except for confidential business data, will be available for public inspection.

Conference.—The Director of Operation of the Commission has scheduled a conference to be held in connection with this investigation for 9:30 a.m., on October 16, 1984, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. Parties wishing to participate in the conference should contact Mr. Bruce Cates (202-523-0369), not later than 1:00 p.m., October 15, 1984, to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each as collectively allocated one hour within which to make an oral presentation at the conference.

Public inspection.—Copies of the petition and all written submissions, except for confidential business data, will be available for public inspection during regular hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C.

For further information concerning the conduct of this investigation and rules and general application, consult the Commission's Rules of Practices and Procedure, part 207, subparts A and B (19 CFR part 207, as amended by 47 FR 33682, Aug. 4, 1982), and part 201, subparts, A through E (19 CFR part 201, as amended by 47 FR 33682, Aug. 4, 1982).

This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

Issued: September 25, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-26256 Filed 10-2-84; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 731-TA-184, 186, and 187 (Final)]

Import Investigations; Potassium Chloride From East Germany, Spain, and the U.S.S.R.

AGENCY: International Trade Commission.

ACTION: Institution of final antidumping investigations and scheduling of a hearing to be held in connection with the investigations.

SUMMARY: As a result of affirmative preliminary determinations by the U.S. Department of Commerce that there is a reasonable basis to believe or suspect that imports from East Germany, Spain, and the U.S.S.R. of potassium chloride, provided for in item 480.50 of the Tariff Schedules of the United States, are being, or are likely to be, sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Tariff Act of 1930 (19 U.S.C. 1673), the United States International Trade Commission hereby gives notice of the institution of investigations Nos. 731-TA-184, 186, and 187 (Final) under section 735(b) of the act (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise. Unless the investigations are extended, the Department of Commerce will make its final dumping determinations in these cases on or before November 20, 1984, and the Commission will make its final injury determinations by January 9, 1985 (19 CFR 207.25).

EFFECTIVE DATE: September 12, 1984.

FOR FURTHER INFORMATION CONTACT: Larry Johnson (202-523-0127), Office of Investigations, U.S. International Trade Commission.

SUPPLEMENTARY INFORMATION:

Background.—On May 14, 1984, the Commission determined, on the basis of the information developed during the course of its preliminary investigations, that there was a reasonable indication that an industry in the United States was materially injured by reason of alleged LTFV imports of potassium chloride from East Germany, Spain, and the U.S.S.R. The preliminary investigations were instituted in response to a petition filed on March 30, 1984, by counsel on behalf of AMAX Chemical, Inc., and Kerr-McGee Chemical Corp.

Participation in the investigations.—Persons wishing to participate in these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than 21 days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairwoman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Upon the expiration of the period for filing entries of appearance, the Secretary shall prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations, pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)). Each document filed by a party to these investigations must be served on all other parties to the investigations (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service (19 CFR 201.16(c)).

Staff report.—A public version of the staff report containing preliminary findings of fact in these investigations will be placed in the public record on November 13, 1984, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing.—The Commission will hold a hearing in connection with these investigations beginning at 10:00 a.m., on November 27, 1984, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on November 20, 1984. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 9:30 a.m., on November 21, 1984, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is November 23, 1984.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. All legal arguments, economic analyses, and factual materials relevent to the public hearing should be included in prehearing briefs in accordance with section 207.22 (19 CFR 207.22). Posthearing briefs must conform with the provisions of section 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on December 4, 1984.

Written submissions.—As mentioned, parties to these investigations may file prehearing and posthearing briefs by the dates shown above. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations on or before December 4, 1984. A signed original and fourteen (14) true copies of each submission must be filed with the Secretary to the Commission in accordance with section 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of section 201.6 of the Commission's rules (19 CFR 201.6).

For further information concerning the conduct of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and C (19 CFR Part 207), and part 201, subparts A through E (19 CFR Part 201).

This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

By order of the Commission.

Issued: September 28, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-26252 Filed 10-2-84; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 731-TA-202 and 203 (Preliminary)]

Import Investigations; Tubular Metal Framed Stacking Chairs From Italy and Taiwan; Determinations

On the basis of the record[1] developed in the subject investigations, the Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of tubular steel framed stacking chairs,[2] provided for in item 727.70 of the Tariff Schedules of the United States, from Italy (investigation No. 731-TA-202 (preliminary)), which allegedly are being, or are likely to be, sold in the United States at less than fair value (LTFV);[3] and that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of such merchandise from Taiwan (investigation No. 731-TA-203 (preliminary)).

Background

On August 10, 1984, petitions were filed in proper form with the Commission and the Department of Commerce by counsel on behalf of Frazier Engineering Inc., Greenfield, Indiana, alleging that imports of tubular metal framed stacking chairs from Italy and Taiwan are being sold in the United States at LTFV within the meaning of section 731 of the Tariff of 1930 (19 U.S.C. 1673). Accordingly, effective August 10, 1984, the Commission instituted preliminary antidumping investigation Nos. 731-TA-202 and 203 (preliminary) under section 733(a) of the Act to determine whether there is a reasonable indication that an industry in

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[1] The "record" is defined in § 207.2(i) of the Commission's *Rules of Practice and Procedure* (19 CFR § 207.2(i)).

[2] The petition and the Commerce Department's notice of the scope of investigation, 49 FR 35166-67 (1984), identified the product as metal stacking chairs. On September 17, 1984, petitioner amended the petition by substituting "steel" for "metal." The Commission has been advised by Commerce that it has accepted petitioner's amendment, and that this amendment will be reflected in the Department's notice of its preliminary determination. The scope of the Commission's investigation of imports is governed by Commerce's definition. 19 CFR 207.17

[3] Commissioners Eckes and Lodwick determine that there is a reasonable indication of material injury by reason of imports from Italy.

S-054999 0031(02)(02-OCT-84-15:38:32)

the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise.

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was duly given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the **Federal Register** on August 17, 1984 (49 FR 32912). The conference was held in Washington, D.C., On August 31, 1984. The Commission's determinations in these investigations were made in an open "Government in the Sunshine" meeting held on September 19, 1984.

The Commission transmitted its report on this investigation to the Secretary of Commerce on September 24, 1984. A public version of the Commission's report, *Tubular Metal Framed Stacking Chairs From Italy and Taiwan (investigation Nos. 731–TA–202 and 203 (preliminary)*, USITC Publication 1581, 1984), contains the views of the Commission and information developed during the investigations.

Issued: September 24, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–26255 Filed 10–2–84; 8:45 am]

BILLING CODE 7020–02–M

[332–188]

The Internationalization of the Automobile Industry and Its Effects on the U.S. Automobile Industry

AGENCY: International Trade Commission.

ACTION: Place of public hearing.

SUMMARY: Notice is hereby given that the public hearing in this matter will be held beginning on Tuesday, December 4, 1984 (to be continued on December 5, 1984, if required), in Detroit, Michigan, at the Westin Hotel, located in the Renaissance Center, beginning at 10:00 a.m.

Notice of the investigation and hearing was published in the **Federal Register** of August 15, 1984 (49 FR 32694).

Issued: September 21, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–26250 Filed 10–2–84; 8:45 am]

BILLING CODE 7020–02–M

Request for Public Comment on Termination of Countervailing Duty Investigation Concerning Amoxicillin Trihydrate and Its Salts From Spain

AGENCY: International Trade Commission.

ACTION: Request for comments on proposed termination of countervailing duty investigation under section 104(b) of the Trade Agreements Act of 1979.

SUMMARY: The Trade Agreements Act of 1979, subsection 104(b)(1), requires the Commission in the case of a countervailing duty order issued under section 303 of the Tariff Act of 1930, upon the request of a government or group of exporters of merchandise covered by the order, to conduct an investigation to determine whether an industry in the United States would be materially injured, or threatened with material injury, or whether the establishment of such industry would be materially retarded, if the order were to be revoked. On June 17, 1982, the Commission received a request from the Government of Spain for the review of the countervailing duty order on amoxicillin trihydrate and its salts from Spain (T.D. 79–211). Notice of the countervailing duty order was published on July 27, 1979, in the **Federal Register** (44 FR 44154).

The Commission received a letter on September 13, 1984, from Biocraft Laboratories, Inc., the original petitioner for the countervailing duty order, stating that it withdraws its request for the imposition of countervailing duties under the above-referenced countervailing duty order.

In light of the legislative history of section 704(a) of the Tariff Act of 1930 indicating Congress' expectation that the Commission will permit public comment prior to termination, the Commission requests written comments from persons concerning the proposed termination of the investigation on amoxicillin trihydrate and its salts from Spain. These written comments must be filed with the Secretary to the Commission no later than 30 days after publication of this notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Ms. Vera Libeau, Office of Investigations, telephone 202–523–0368.

Issued: September 28, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–26263 Filed 10–2–84; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–151]

Import Investigations; Certain Apparatus for Flow Injection Analysis and Components Thereof; Order To Extend Time for Determining Whether To Review Initial Determination and To Show Cause Why Investigation Should Not Be Terminated as Abated

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has extended the time for determining whether to review the presiding officer's initial determination in the above-captioned investigation until November 2, 1984. The Commission also ordered the Commission investigative attorney to show cause why the investigation should not be terminated as having abated. The Commission ordered that such showing be made by written submission to be filed with the Office of the Secretary by October 9, 1984, and that the respondents may file a response by October 19, 1984.

Authority: The authority for the Commission's action is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) and in §§ 210.53–210.56 of the Commission's Rules of Practice and Procedure (47 FR 25134, June 10, 1982 and 48 FR 9242, March 4, 1983; and codified at 19 CFR 210.53–210.56).

SUPPLEMENTARY INFORMATION: On April 2, 1984, the presiding officer filed an initial determination that there is a violation of section 337 in the importation and sale of certain apparatus for flow injection analysis and components thereof. The investigation was suspended on May 2, 1984, pending outcome of a reexamination proceeding in the U.S. Patent and Trademark Office, which was completed on August 28, 1984. A review of the reexamination certificate suggests that this investigation should be terminated as having abated.

Copies of the Commission's Action and Order and all other non-confidential documents filed in connection with this investigation are available for inspection during offical business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: Wayne W. Herrington, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0480.

Issued: September 27, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-26261 Filed 10-2-84; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-184]

Import Investigations; Certain Foam Earplugs; Initial Determination Terminating Respondent on the Basis of Settlement Agreement

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondent on the basis of a settlement agreement: S.S. Trading Co., Ltd.

SUMMARY: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on September 26, 1984.

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

Written Comments

Interested persons may file written comments with the Commission concerning termination of the aforementioned respondent. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, D.C. 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Rudy J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202-523-0176.

Issued: September 26, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-26260 Filed 10-2-84; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-185]

Import Investigations; Certain Rotary Wheel Printing Systems; Initial Determination Terminating Respondent on the Basis of Settlement Agreement

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondent on the basis of a settlement agreement: Matsushita Electric Industrial Co., Ltd. and Matsushita Electric Corp. of America.

SUMMARY: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on September 17, 1984.

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, telephone 202-523-0161.

Written Comments

Interested persons may file written comments with the Commission concerning termination of the aforementioned respondent. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, D.C. 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commision and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone, 202-523-0176.

Issued: September 28, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-26259 Filed 10-2-84; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-174]

Import Investigations; Certain Woodworking Machines; Decision Not To Review Initial Determination Terminating Respondent on the Basis of a Consent Order; Issuance of Consent Order

AGENCY: International Trade Commission.

ACTION: The Commission has determined not to review the presiding officer's initial determination (ID) (Order No. 24) terminating respondent American Machine and Tool Co. as a respondent in the above-capitioned investigation on the basis of a consent order.

Authority: Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and 19 CFR 210.51(c) and 210.53(h).

SUMMARY: On August 13, 1984, complainant Delta International Corp. and respondent American Machine and Tool Co. jointly moved (Motion No. 174-34) to terminate this investigation as to respondent American Machine and Tool Co. on the basis of a consent order.

The Commission has received neither a petition for review of the I.D. nor comments from Government agencies or the public.

Termination of the investigation as to respondent American Machine and Tool Co. on the basis of the consent order furthers the public interest by conserving Commission resources and those of the parties involved.

Copies of the presiding officer's ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade

Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: Hannelore V.M. Hasl, Esq., Offoce of the General Counsel, U.S. International Trade Commission, telephone 202–523–0959.

By order of the Commission.

Issued: September 26, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–26262 Filed 10–2–84; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 731–TA–154 (Final)]

Import Investigations; Cold-Rolled Carbon Steel Sheet From Brazil; Determination

On the basis of the record [1] developed in the subject investigation, the Commission determines, pursuant to section 735(b)(1) of the Tariff Act of 1930 (19 U.S.C. 1673(b)(1)), that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United Sates is not materially retarded, by reason of imports from Brazil of cold-rolled carbon steel sheet, provided for in item 607.83 of the Tariff Schedules of the United States, which have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV). [2 3]

Background

The Commission instituted this investigation effective July 11, 1984, following a final determination by the Department of Commerce that imports of certain cold-rolled carbon steel sheet from Brazil were being sold in the United States at LTFV.[4]

Notice of the Commission's investigation and of a hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the **Federal Register** on August 1, 1984 (49 FR 30806). The public hearing was held in Washington, D.C. on August 16, 1984, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its report on this investigation to the Secretary of Commerce on September 24, 1984. A public version of the Commission's report, *Cold-Rolled Carbon Steel Sheet from Brazil* (investigation No. 701–TA–154 (Final), USITC Publication 1579, September 1984), contains the views of the Commission and information developed during the investigation.

Issued: September 24, 1984.

By Order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–26265 Filed 10–2–84; 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–18; Sub–60X]

Rail Carriers; the Chesapeake and Ohio Railway Co.; Abandonment and Discontinuance of Service Exemption in Fayette County, WV; Exemption

The Chesapeake and Ohio Railway Company (C&O) has filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Adandonments*, as modified by *Exemption of Out of Service Rail Lines*, 1 I.C.C. 2d 55, decided April 16, 1984. C&O will abandon its line or railroad known as the Powellton Branch between Point of Switch 208+18.3 at Elkridge Junction and Valuation Station 256+72.4 at the end of the line, a distance of 0.92 mile in Fayette County, WV. C&O will discontinue service over its line of railroad known as the Powell Subdivision between Point of Switch 3448+24 at or near Mt. Carbon and Valuation Station 149+46 at the end of the line near Elkridge, also in Fayette County, a distance of approximately 6.95 miles.

C&O has certified that (1) no local traffic has moved over the lines for at least 2 years, (2) overhead traffic is not handled on the lines, and (3) no formal complaint, filed by a user of rail service on the line, or by a state or local governmental entity acting on behalf of a user, regarding cessation of service over the line, either is pending with the Commission, or has been decided in favor of a complainant within the 2-year period preceding this notice. The Public Service Commission (or equivalent agency) in West Virginaia has been notified in writing at least 10 days prior to the filing of this notice. *See Exemption of Out of Service Rail Lines*. 366 I.C.C. 885 (1983).

As a condition to use of this exemption, any employees affected by the abandonment or discontinuance of service shall be protected pursuant to *Oregon Short Line R. Co.—Abandonment—Goshen*, 366 I.C.C. 91 (1979).

The exemption will be effective on November 2, 1984 (unless stayed pending reconsideration). Petitions to stay the effective date of the exemption must be filed by October 15, 1984, and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by October 23, 1984, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicants' representatives:

Rene J. Gunning, Suite 2204, 100 North Charles Street Baltimore, MD 21201

Peter J. Shudtz, P.O. Box 6419, Cleveland, OH 44101

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio*.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: September 26 1984.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 84–26161 Filed 10–2–84; 8:45 am]

BILLING CODE 7035–01–M

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[1] The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

[2] The Department of Commerce also determined, pursuant to sec. 735(a)(3) of the act (19 U.S.C. 1673d(a)(3)), that critical circumstances exist in this investigation. The Commission's negative determination of material injury is also a negative finding, pursuant to Section 735(b)(4)(A) of the act (19 U.S.C. 1673d(b)(4)(A)), with respect to critical circumstances.

[3] Commissioner Eckes makes a further determination that, on the basis of the record in this investigation No. 731–TA–154 (Final), the material injury is not be reason of massive imports of cold-rolled carbon steel sheet from Brazil over a relatively short period and it is not necessary that the duty provided for in Section 731 be imposed retroactively on these imports in order to prevent such injury from recurring.

[4] On Apr. 26, 1984, Commerce made a preliminary negative LTFV determination in this investigation (49 FR 18024). On July 11, 1984, however, Commerce made a final affirmative LTFV determination covering cold-rolled carbon steel sheet imported from Brazil except that produced and sold by Companhia Siderurgica Paulista (Cosipa) and Companhia Siderurgica Nacional (CSN) (49 FR 28298). These 2 firms were found to have deminimis LTFV margins and were, therefore, excluded from Commerce's affirmative determination. Similarly, imports from these 2 firms were not within the scope of the Commission's investigation.

[Finance Docket No. 30401]

Rail Carriers; Chicago & North Western Transportation Co.; Abandonment; Exemption in McHenry County, IL

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts the abandonment of a 0.1 mile segment of Chicago and North Western Transportation Company track in McHenry County, IL, from the requirement of prior approval under 49 U.S.C., 10903 *et seq.*, subject to employee protection conditions.

DATES: This exemption is effective on November 2, 1984. Petitions to stay must be filed by October 15, 1984, and petitions for reconsideration must be filed by October 23, 1984.

ADDRESSES: Send pleadings referring to Finance Docket No. 30401 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423
(2) Myles L. Tobin, Chicago and North Western Transportation Co., One North Western Center, Chicago, IL 60606.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the decision write to T.S. InfoSystems, Inc., Interstate Commerce Commission, Room 2227, Washington, DC 20423, or call 289–4357 (DC Metropolitan area) or toll free (800) 424–5403.

Decided: September 25, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett, Gradison, Simmons, Lamboley, and Strenio. Commissioner Sterrett dissented. Commissioners Lamboley and Strenio did not participate.

James H. Bayne,

Secretary.

[FR Doc. 84-25160 Filed 10-3-84; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB–3; Sub-45X]

Rail Carriers; Missouri Pacific Railroad Co.; Abandonment Exemption; in Ellsworth and Rice Counties, KS

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirement of prior approval under 49 U.S.C. 10903 *et seq.* the abandonment by the Missouri Pacific Railroad Company of 13.7 miles of rail line in Ellsworth and Rice Counties, KS, subject to employee protective conditions.

DATES: This exemption shall be effective on November 2, 1984. Petitions for stay must be filed by October 15, 1984, and petitions for reconsideration must be filed by October 23, 1984.

ADDRESSES: Send pleadings referring to Docket No. AB–3 (Sub-No. 45X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.
(2) Petitioner's representative: Jeanna L. Regier, 1416 Dodge Street, Omaha, NE 68179.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the decision write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (DC Metropolitan area) or toll free (800) 424–5403.

Decided: September 25, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett, Gradison, Simmons, Lamboley, and Strenio. Commissioner Lamboley and Strenio did not participate.

James H. Bayne,

Secretary.

[FR Doc. 84-25158 Filed 10-2-84; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB–38; Sub-21X]

Rail Carriers; Oregon Short Line Railroad Company and Union Pacific Railroad Co.; Abandonment and Discontinuance Exemption; Ada County, ID

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of 49 U.S.C. 10903 *et seq.* the abandonment by Oregon Short Line Railroad Company and the discontinuance of service by Union Pacific Railroad Company over 0.12 miles of railroad extending from milepost 1.36 to milepost 1.48 at Boise, Ada County, ID, subject to standard labor protective conditions.

DATES: This exemption shall be effective on November 2, 1984. Petitions for stay must be filed by October 15, 1984, and petitions for reconsideration must be filed by October 23, 1984.

ADDRESSES: Send pleadings referring to Docket No. AB–38 (Sub-No. 21X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423
(2) Petitioner's representative: Joseph D. Anthofer, 1416 Dodge Street, Omaha, NE 68179.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423 or call 289–4357 (DC Metropolitan area) or toll free (800) 424–5403.

Decided: September 26, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett, Gradison, Simmons, Lamboley, and Strenio. Commissioners Lamboley and Strenio did not participate.

James H. Bayne,

Secretary.

[FR Doc. 84-25160 Filed 10-3-84; 8:45 am]

BILLING CODE 7035-01-M

[No. AB–55; Sub-113X]

Rail Carriers; Seaboard System Railroad Inc.; Abandonment Exemption in Harlan County, KY

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of 49 U.S.C. 10903 *et seq.* the abandonment by Seaboard System Railroad, Inc. of approximately 5,232 feet of rail line between Valuation Stations 373+13 and 425+45.5 in Harlan County, KY, subject to standard labor protective conditions. Tariff changes may be made effective on not less than 10 days' notice.

DATES: This exemption is effective October 3, 1984. Petitions to reopen must be filed by October 23, 1984.

ADDRESSES: Send pleadings referring to No. AB–55 (Sub-No. 113X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423
(2) Charles M. Rosenberger, Seaboard System Railroad, Inc., 500 Water Street, Jacksonville, FL 32202.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in

the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (DC Metropolitan area) or toll-free (800) 424–5403.

Decided: September 25, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett, Gradison, Simmons, Lamboley and Strenio. Commissioners Lamboley and Strenio did not participate.

James H. Bayne,

Secretary.

[FR Doc. 84–26155 Filed 10–2–84; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 30322; Sub-1]

Rail Carriers; Southern Pacific Transportation Co.—Abandonment and Discontinuance of Trackage Rights Exemption in Butte and Yuba Counties, CA

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of prior approval under 49 U.S.C. 10903 *et seq.*, the (1) abandonment by Southern Pacific Transportation Company (SP) of 0.41 miles of rail line; and (2) discontinuance of rail service by SP over 23.51 miles of Union Pacific Railroad Company, in Butte and Yuba Counties, CA, subject to standard employee protective conditions.

DATES: This exemption shall be effective on November 2, 1984.

ADDRESSES: Send pleadings referring to Finance Docket No. 30322 (Sub-No. 1) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423

(2) Petitioner's representative Gary A. Laakso, Southern Pacific Bldg., One Market Plaza, San Francisco, CA 94105.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (DC Metropolitan area) or toll free (800) 424–5403.

Decided: September 25, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett, Gradison, Simmons, Lamboley and Strenio. Commissioners Lamboley and Strenio did not participate.

James H. Bayne,

Secretary.

[FR Doc. 84–26157 Filed 10–2–84; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Antitrust Division

Proposed Termination of Final Judgments; Electric Storage Battery Co., et al.

Notice is hereby given that Exide Corporation ("Exide"), previously known as ESB Incorporated ("ESB") and, prior to that, The Electric Storage Battery Company, has filed a motion for an order terminating the Final Judgments entered in *United States* v. *The Electric Storage Battery Company, et al.*, No. 31–225 (S.D.N.Y.) on November 24, 1947 and *United States* v. *INCO Limited, et al.*, Civil Action No. 76–152 (E.D. Pa.) on January 30, 1978. (Civil Action No. 76–152 was subsequently transferred to the United States District Court for the Southern District of New York and docketed as 84 Civ. 1264.) The plaintiff, the United States of America, has consented to the entry of such an order, but has reserved the right to withdraw its consent for seventy (70) days.

The 1947 Final Judgment settled a civil action filed on May 16, 1945, which alleged that The Electric Storage Battery Company and its wholly-owned subsidiary, Willard Battery Company (of Cleveland) had conspired with British and German battery manufacturers, beginning in 1891, to divide world markets for electric storage batteries.

The 1947 Final Judment, as later modified, provided that, among other things, the defendants:

1. Were enjoined from adopting, adhering to, furthering or continuing any course of conduct for the purpose or with the effect of maintaining, reinstating or reviving any of the alleged illegal agreements;

2. Were enjoined from misusing certain patents (all of which have now expired) for the purpose of allocating markets;

3. Were required to grant any applicant a nonexclusive license for certain patents (all of which have now expired) without condition, except payment of a reasonable royalty, and were enjoined from conditioning patents, know-how or trademark rights on the grantee's agreeing not to compete with defendants;

4. Were enjoined from engaging in certain activities with the British and German co-cospirators, including restrictions upon trade or exchange of exclusive patents and know-how, and acquisitions in the electric storage battery field;

5. Were required to sever certain ties with Chloride (the British co-conspirator) and restrictions were placed on the stock which The Electric Storage Battery Company held in Chloride; and

6. Were subjected to restrictions relating to use of trademarks, trade names or other designations.

The 1978 Final Judgment settled a civil action filed on April 5, 1976, which alleged that the acquisition of ESB, now Exide, by International Nickel Company of Canada, Limited (now INCO Limited) in 1974 violated section 7 of the Clayton Act by removing INCO as a potential entrant into the United States battery market.

The 1978 Final Judgement required that for a period of ten years the United States or the court approve any acquisition by INCO or ESB of any battery manufacturer. The judgment also required the defendants to license, royalty free, technology and patents relating to an advanced battery design known as the controlled Micro-Geometry electrode (CMG) battery.

The Department has filed with the Court a memorandum setting forth the reason why the Department believes that termination of the judgments would serve the public interest. Copies of the complaints and final judgments, Exide's motion papers, the stipulation containing the Government's consent, the Department's memorandum and all further papers filed with the court in connection with this motion will be available for inspection in the Legal Procedure Unit of the Antitrust Division, Room 7416, Department of Justice, 10th Street and Pennsylvania Avenue, NW., Washington, D.C. 20530 (telephone 202–633–2481), and at the Office of the Clerk of the United States District Court for the Southern District of New York, United States Courthouse, Foley Square, New York, New York 10007 (telephone 212–791–0108). Copies of any of these materials may be obtained from the Legal Procedure Unit upon request and payment of the copying fee set by Department of Justice regulations.

Interested persons may submit comments regarding the proposed termination of the Final Judgments to the Department. Such comments must be received within sixty days, and will be filed with the court. Comments should be addressed to John W. Clark, Chief,

Special Trial Section, Antitrust Division, Department of Justice, Washington, D.C. 20530 (telephone 202–724–6335).

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 84–26196 Filed 10–2–84; 8:45 am]

BILLING CODE 4410–01–M

LIBRARY OF CONGRESS

Federal Library Committee; Change in Name and Membership

AGENCY: Library of Congress, Federal Library Committee.

ACTION: Change in name and membership.

SUMMARY: Notice is given of a change in the name of the Federal Library Committee to the Federal Library and Information Center Committee and a resultant change in the Committee's membership.

DATES: July 1, 1984.

ADDRESS: Federal Library and Information Center Committee, Library of Congress, Washington, D.C. 20540.

FOR FURTHER INFORMATION CONTACT: James A. Riley, Executive Director, Federal Library and Information Center Committee, Library of Congress.

SUPPLEMENTARY INFORMATION: The Federal Library Committee was established in 1965. The Congress of the United States approved the appropriation of funds for a secretariat's office at the Library of Congress. The Committee is hereby reorganized and renamed the Federal Library and Information Center Committee (FLICC), in recognition of the need for continued cooperation and concerted action within the federal library and information center community.

Functions

The Committee makes recommendations on federal library and information policies, programs, and procedures to federal agencies and to others concerned with libraries and information centers.

The Committee coordinates cooperative activities and services among federal libraries and information centers and serves as a forum to consider: (1) Issues and policies that affect federal libraries and information centers, (2) needs and priorities in providing information services to the Government and to the Nation at large, (3) efficient and cost-effective use of federal library and information resources and services.

Furthermore, the Committee promotes (1) improved access to information, (2) continued development and use of the Federal Library and Information Network (FEDLINK), (3) research and development in the application of new technologies to federal libraries and information centers, (4) improvements in the management of federal libraries and information centers, and (5) relevant education opportunities.

Designation of Members

Representatives of departments and agencies are designated by the Secretary of each department or the head of each agency. Permanent and rotating members are authorized to speak for the department or agency on library and information center matters.

The Chairman of the Committee is The Librarian of Congress or his designee. The Committee meets quarterly and when called by the Chairman. In addition to official representatives (see below), other observers or agency representatives or guests may be invited to meetings by the Chairman.

An Executive Director is appointed by the Chairman to conduct the work of the Committee.

Membership

Permanent members of the Federal Library and Information Center Committee are:

The Librarian of Congress
The Director of the National Agricultural Library
The Director of the National Library of Medicine

and a representative from each of the executive departments:

Agriculture
Commerce
Defense
Education
Energy
Health and Human Services
Housing and Urban Development
Interior
Justice
Labor
State
Transportation
Treasury

and a representative from each of the following agencies:

Administrative Offices of the U.S. Courts
Defense Technical Information Center (Department of Defense)
Government Printing Office
National Aeronautics and Space Administration
National Archives and Records Service
National Science Foundation
National Technical Information Service (Department of Commerce)
Office of Scientific and Technical Information (Department of Energy)
Smithsonian Institution
Supreme Court of the United States
U.S. Information Agency
Veterans Administration

Ten additional voting members are selected by FLICC permanent members from the three branches of government, independent agencies, boards, committees, and commissions. These members serve two-year terms on a rotating basis. In addition to the permanent representative from the Department of Defense, one non-voting member is selected from each of the military services (U.S. Air Force, U.S. Army, U.S. Navy). These service members, who serve for two years, are selected by the permanent Department of Defense member from names provided by the Committee.

One representative from each of the following agencies is invited as an observer to Committee meetings:

General Accounting Office
General Services Administration
Joint Committee on Printing
National Commission on Libraries and Information Science
Office of Management and Budget

Termination

Continuance of the Committee is subject to biennial review.

Daniel J. Boorstin,

The Librarian of Congress.

[FR Doc. 84–26237 Filed 10–2–84; 8:45 am]

BILLING CODE 1410–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Procedures for Meetings

Background

Procedures to be followed with respect to meetings conducted pursuant to the Federal Advisory Committee Act by the Nuclear Regulatory Commission's Advisory Committee on Reactor Safeguards, which were published September 28, 1983 (48 FR 44291), are renewed by this notice. These procedures are set forth in order that they may be incorporated by reference in future individual meeting notices.

The Advisory Committee on Reactor Safeguards (ACRS) is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a nuclear power reactor facility and on certain other nuclear safety matters. The

Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements from members of the public to be considered as part of the Committee's information gathering procedure, they are not adjudicatory hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety and Licensing Board as part of the Commission's licensing process. ACRS reviews do not normally encompass matters pertaining to environmental impacts other than those pertaining to radiological safety. ACRS full Committee and Subcommittee meetings are conducted in accordance with sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.).

General Rules Regarding ACRS Meetings

An agenda is published in the **Federal Register** for each full Committee meeting and for each Subcommittee meeting which is partially or fully open to public attendance. Practical considerations may dictate some alterations in the agenda. The Chairman of the Committee or Subcommittee which is meeting is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incomplete session from one day to the next.

With respect to public participation in ACRS meetings, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda items may do so by providing a readily reproducible copy at the beginning of the meeting. When meetings are held at locations other than Washington, D.C., reproduction facilities are usually not available. Accordingly, 15 additional copies should be provided for use at such meetings. Comments should be limited to safety-related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy addressed to the Designated Federal Official specified in the **Federal Register** notice for the individual meeting in care of the ACRS, NRC, Washington, D.C. 20555. Comments postmarked no later than one calendar week prior to a meeting will normally be received in time for reproduction, distribution and consideration at the meeting.

(b) Persons desiring to make an oral statement at the meeting should make a request to do so prior to the beginning of the meeting, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Committee will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman.

(c) Further information regarding topics to be discussed, whether a meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call, on the working day prior to the meeting, to the Office of the Executive Director of the Committee (telephone 202–634–3265, ATTN: the Designated Federal Official specified in the Federal Register Notice for the meeting) between 8:15 a.m. and 5:00 p.m., Washington, D.C. time.

(d) Questions may be asked only by ACRS Members, Consultants and Staff.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will be allowed while the meeting is in session at the discretion of the Chairman to a degree that is not disruptive to the meeting. When use of such equipment is permitted, appropriate measures will be taken to protect proprietary or privileged information which may be in documents, folders, etc., being used during the meeting. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept.

(f) A copy of the transcript of the open portions of the meeting where factual information is presented will be available at the NRC Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, for inspection within one week following the meeting. A copy of the minutes of the meeting will be available at the same location on or before three months following the meeting. Copies may be obtained upon payment of appropriate charges.

Special Provisions When Proprietary Sessions Are To Be Held

If it is necessary to hold closed sessions for the purpose of discussing matters involving proprietary information, persons with agreements permitting access to such information may attend those portions of ACRS meetings where this material is being discussed upon confirmation that such agreements are effective and relate to the material being discussed.

The Executive Director of the ACRS should be informed of such an agreement at least three working days prior to the meeting so that it can be confirmed and a determination made regarding the applicability of the agreement to the material that will be discussed during the meeting. The minimum information provided should include information regarding the date of the agreement, the scope of material included in the agreement, the project or projects involved, and the names and titles of the persons signing the agreement. Additional information may be requested to identify the specific agreement involved. A copy of the executed agreement should be provided to the Designated Federal Official prior to the beginning of the meeting.

Dated: September 28, 1984.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 84-26239 Filed 10-2-84; 8:45 am]

BILLING CODE 7590-01-M

Applications for Licenses to Export Nuclear Facilities or Materials

Pursuant to 10 CFR 110.70(b) "Public notice of receipt of an application" please take notice that the Nuclear Regulatory Commission has received the following applications for export licenses. Copies of the applications are on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, NW., Washington, D.C.

A request for a hearing or petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register**. Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, the Secretary, U.S. Nuclear Regulatory Commission, and the Executive Secretary, U.S. Department of State, Washington, D.C. 20520.

In its review of applications for licenses to export production or utilization facilities, special nuclear materials or source material, noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the facility or material to be exported. The table below lists all new major applications.

Dated this 20th day of September 1984 at Besthesda, Maryland.

For the Nuclear Regulatory Commission.

Marvin R. Peterson,

Acting Assistant Director, Export/Import and International Safeguards, Office of International Programs.

NRC EXPORT APPLICATIONS

Name of applicant, date of application, date received, application number	Material type	Material in kilograms		End-use	Country of destination
		Total element	Total isotope		
Westinghouse Electric Corp., Sept. 11, 1984, Sept. 12, 1984, XSNM02165, Amend No. 01	3.7 percent	Additional 17,928	Additional 664	Amend to increase quantity for Eurodif's inventory for potential resale.	France.
Poco Graphite, Aug. 7, 1984, Sept. 11, 1984, XMAT0306.	Graphite	750 short tons.		For general commercial application	Various countries.
Poco Graphite, Aug. 24, 1984, Sept. 11, 1984, XMAT0307.	do	100 short tons.		do	Norway, Finland, Singapore, Australia.
Poco Graphite, Aug. 24, 1984, Sept. 11, 1984, XMAT0308.	do	75 short tons.		do	Austria, Mexico, Peru, Hong Kong, Venezuela, Dominican Republic.

[FR Doc. 84-25728 Filed 10-2-84; 8:45 am]

BILLING CODE 7555-01-M

[Docket No. 40-8452]

Bear Creek Uranium Co.; Final Finding of No Significant Impact Regarding Renewal of Source and Byproduct Material License SUA-1310 for Operation of Bear Creek Project in Converse County, WY

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of finding of no significant impact.

SUMMARY:

(1) *Proposed Action.* The U.S. Nuclear Regulatory Commission (the Commission) is issuing a renewed Source and Byproduct Material License No. SUA-1310 authorizing Bear Creek Uranium Company to conduct uranium milling operations at their Bear Creek Project located in Converse County, Wyoming.

(2) *Reasons for Finding of No Significant Impact.* The Commission's Uranium Recovery Field Office has prepared an Environmental Impact Appraisal for the proposed action. Based on this appraisal, the Commission has determined that an Environmental Impact Statement for this particular action is not warranted.

The Environmental Impact Appraisal performed by the Commission's staff evaluated potential impacts to land use, air quality and ground water quality. The appraisal also evaluated potential impacts on-site and off-site due to routine radiological releases. Finally, the staff considered the results of the licensee's effluent and environmental monitoring program as well as the licensee's proposals to continue that program. Documents used in preparing the appraisal included routine effluent and environmental monitoring data submitted pursuant to 10 CFR Part 40, Subsection 40.65; the licensee's Environmental Report of June 30, 1982; the Application for Renewal; the licensee's 1981 Tailings Management Plan; and the Safety Evaluation Report prepared by the Commission staff for this renewal.

Based on these evaluations, the Commission's staff has determined that the activities proposed under the renewed license will not have a significant effect on the quality of the human environment. The specific reasons for this determination are as follows:

(a) Impacts to land use are expected to be negligible. In addition, all disturbed land will be reclaimed following cessation of operations.

(b) Mill emissions from the process stacks have not resulted in airborne radionuclide concentrations at perimeter air monitoring stations in excess of Maximum Permissible Concentrations for unrestricted areas.

(c) Despite the occurrence of seepage from the tailings impoundment, ground water radionuclide concentrations have historically been only small fractions of 10 CFR Part 20 values.

(d) Continued operation of the Bear Creek mill will result in individual radiological doses to the bone, lung and whole body at the nearest residence in the prevailing wind direction which are well below the EPA 40 CFR Part 190 standard of 25 mrem/year.

This finding, together with the environmental appraisal setting forth the basis for the finding and other related environmental documents are available for public inspection and copying at the Commission's Uranium Recovery Field Office at 730 Simms Street, Golden, Colorado and at the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C.

Dated at Denver, Colorado, this 27th day of September, 1984.

For the Nuclear Regulatory Commission.

Harry J. Pettengill,

Chief, Licensing Branch 2, Uranium Recovery Field Office, RIV.

[FR Doc. 84-26245 Filed 10-2-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-155]

Consumers Power Co., Big Rock Plant; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of Appendix R to 10 CFR Part 50 to Consumers Power Company (the licensee) for the Big Rock Point Plant, located at the licensee's site near Charlevoix, Michigan.

Environmental Assessment

Identification of Proposed Action

The exemption would permit cables run in conduit for the alternate shutdown system and the reactor depressurization system to be located with less than 20 feet of separation. The proposed exemption is in accordance with the licensee's request for exemption dated June 1, 1984.

The Need for the Proposed Action

Section III.G.2 of Appendix R to 10 CFR Part 50 requires appropriate

separation of cables of redundant trains of equipment required for safe shutdown. Appropriate separation for alternate shutdown system and reactor depressurization system cables on the steam drum enclosure wall would be 20 feet without intervening combustibles or a non-combustible radiant energy shield. The licensee has determined that provision of the required separation would not signicantly enhance the fire protection afforded the cables.

Environmental Impacts of the Proposed Action

In support of the proposed exemption, the licensee described how the proposed cable routing provides an equivalent degree of fire protection in comparison to the separation criteria of Appendix R to 10 CFR Part 50. Therefore, there will be no increased risk of an accident which might release radioactivity nor any increase in normal plant radiological effluents. Therefore, the Commission concludes that there are no significant radiological environmental imapcts associated with this proposed exemption.

The proposed exemption involves only systems located entirely within the restricted area as defined in 10 CFR Part 20. Also, the proposed exemption does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed exemption.

The principal alternative to the proposed action would be to deny the exemption and require the licensee to provide the prescribed separation. There is no significant environmental impact associated with this alternative action.

Alternate Use of Resources

This action does not involve the use of resources beyond the scope of resources used during normal plant operation.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the request for exemption dated June 1, 1984, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the North Central Michigan College, 1515 Howard Street, Petoskey, Michigan 49770.

Dated at Bethesda, Maryland, this 31st day of August.

For the Nuclear Regulatory Commission.

Gus C. Lainas,

Acting Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc.84-26240 Filed 10-3-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-369, 50-370; License Nos. NPF-9, NPF-17, EA 84-37]

Duke Power Co. (McGuire Units 1 and 2); Order Imposing Civil Monetary Penalty

I

Duke Power Company (the "licensee") is the holder of Operating License Nos. NPF-9 and NPF-17 issued by the Nuclear Regulatory Commission (the "Commission") which authorizes the licensee to operate the McGuire facility Units 1 and 2, in accordance with the conditions specified therein. The licenses were issued on July 8, 1981 and May 27, 1983, respectively.

II

A special inspection of the licensee's activities was conducted during the period September 29, 1983 through October 9, 1983. As a result of this inspection, it appears that the licensee has not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalty was served upon the licensee by letter dated June 8, 1984. The Notice stated the nature of the violations, requirements of the Commission that the licensee had violated, and the amount of the civil penalty proposed for Violation I in the Notice. A response dated July 6, 1984 to the Notice of Violation and Proposed Imposition of Civil Penalty was received from the licensee.

III

Upon consideration of Duke Power Company's reponse and the statements of fact, explanation, and argument contained therein, as set forth in the Appendix to this Order, the Director of the Office of Inspection and Enforcement has determined that Violation I occurred as stated, and the penalty proposed for Violation I set out in the Notice of Violation and Proposed Imposition of Civil Penalty should be imposed.

IV

In view of the foregoing and pursuant to section 234 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2282, Pub. L. 96-295), and 10 CFR 2.205, it is hereby ordered that:

The licensee pay the civil penalty in the amount of Forty Thousand Dollars ($40,000) within the thirty days of the date of this Order, by check, draft, or money order, payable to the Treasurer of the United States and mailed to the Director, Office of Inspection and Enforcement, USNRC, Washington, D.C. 20555.

V

The licensee may, within thirty days of the date of this Order, request a hearing. A request for a hearing shall be addressed to the Director, Office of Inspection and Enforcement. A copy of the hearing request shall also be sent to the Executive Legal Director, USNRC, Washington, DC 20555. If a hearing is requested, the Commission will issue an Order designating the time and place of hearing. If the licensee fails to request a hearing within thirty days of the date of this Order, the provisions of this Order shall be effective without further proceedings and, if payment has been been made by that time, the matter may be referred to the Attorney General for collection.

VI

In the event the licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

a. Whether the licensee was in violation of the Commission's requirements as set forth in Violation I of the Notice of Violation and Proposed Impositions of Civil Penalty referenced in Section II above, and

b. Whether, on the basis of such violation, this Order should be sustained.

Dated at Bethesda, Maryland, this 26th day of September 1984.

For the Nuclear Regulatory Commission.

Richard D. DeYoung,

Director, Office of Inspection and Enforcement.

Appendix.—Evaluations and Conclusions

The violation and associated civil penalty are identified in the Notice of Violation and Proposed Imposition of Civil Penalty dated June 8, 1984. The Office of Inspection and Enforcement's evaulations and conclusions regarding the licensee's response dated July 6, 1984, are presented below.

Restatement of the Violation

I. Violation Assessed a Civil Penalty

Technical Specification 6.8.1 states in part:

Written procedures shall be established, implemented, and maintained covering the activities referenced below:

a. The applicable procedures recommended in Appendix A of Regulatory Guide 1.33, Revision 2, February 1978;

b. The applicable procedures required to implement the requirements of NUREG–0737; * * *.

Plant test procedure PT/2/A4208/01B requires that the containment spray recirculation valve 2NS–8 be locked closed at the conclusion of the test, and a second independent verification by a second qualified individual of the valve position is required at the conclusion of the test.

Contrary to the above, on September 14, 1983, at the conclusion of test PT/2/A4208/01B, the Unit 2 containment spray recirculation valve, 2NS–8, was locked open instead of closed as required by plant test procedure PT/2/A4208/01B. The second independent verification by a second qualified operator of the position of valve 2NS–8 failed to detect that the value was incorrectly positioned.

This is a Severity Level III violation (Supplement I). (Civil Penalty—$40,000)

Licensee Comments and NRC Evaluations

I. *Licensee Comment:* An effective independent verification program at McGuire was in effect.

NRC Evaluation: McGuire had in place some aspects of an independent verification program developed in response to TMI Action Plan item I.C.6. The full implementation of all lessons learned from Oconee was not scheduled to be completed until January 1984, due to the implementation time required for such a commitment. McGuire also had in place control measures for independent verification that covered the test performed by September 14, 1983, regarding valve 2NS–8 being locked open instead of closed (Step 12.2.3 of PT/1/A4208/01B). Had the independent verification control measures been properly implemented at the valve location by the responsible individual, the independent verification program might have been effective. Instead, the independent verification required by the approved procedure was conducted from, and signed off as completed by the individuals in the control room. Therefore, we cannot agree that an effective independent verification program at McGuire was in effect at the time of the violation. It is also apparent from the nature of the violation that key individuals who routinely performed safety-related activities were not properly trained by Duke Power Company (DPC) in the procedures for the implementation of NUREG 0737, item I.C.6.

II. *Licensee Comment:* No specific feature of the independent verification program is identified as being the cause of the incident.

NRC Evaluation: We agree that the NRC did not identify a specific feature of the independent verification program as being the cause of the incident. DPC must determine the cause and take appropriate action to correct it. The NRC will not determine for DPC the specific cause of a problem nor how to correct it. Pursuant to 10 CFR 2.201, licensees are required in response to a Notice of Violation to identify the cause of the specific violation. Therefore, DPC has the responsibility to identify problems, correct them, and continue to operate the plant in a responsible and safe manner.

Nevertheless, Station Directive 3.1.28, Revision 9, requires that independent verification be performed by two different persons, at different times, to determine the position of valves as required. The manner in which Step 12.2.3 of PT/1/A4208/01B was "independently verified" on September 14, 1983 was a violation of the station Directive 3.1.28, Revision 9.

This indicates that, if an aspect of DPC's program needs to be emphasized, it might be the lack of understanding of the acceptable methods of applying independent verification.

III. *Licensee Comment:* It appears that the sole basis for the proposed civil penalty is that the incident occurred as a result of personnel error.

NRC Evaluation: The incident (locking the valve in the open position) may have occurred as a result of personnel error. However, had an independent verification program been properly implemented at the valve location, a violation would not have occurred. The intent of an independent verification program, when properly implemented, should be to preclude a personnel error from going undetected.

IV. *Licensee Comment:* Committed actions as a result of the Oconee incidents in early 1983 were in the process of being fully implemented at McGuire. As such, it is incorrect for the NRC to conclude that such actions were ineffective.

NRC Evaluation: The violation was based upon what occurred at the time of the incidents and on those procedures which were in place at that time. The violation demonstrates a failure to effectively implement the independent verification program at McGuire.

V. *Licensee Comment:* The NRC asserts that the proposed civil penalty is to emphasize the concern for an effective independent verification program and the need for Duke to provide additional attention to the administrative controls for operation. In light of the actions that have been taken by Duke in this matter well before the Notice was issued, and in view of the overall above average performance of McGuire personnel, the proposed civil penalty is punitive in nature rather than encouraging good licensee performance.

NRC Evaluation: The events constituting Violation I reveal that DPC did not have an effective independent verification program at the time of the incident. Moreover, the process of implementing actions to correct detected deficiencies does not in and of itself constitute an effective program. The civil penalty is proposed for violations which occurred on the date specified. Corrective actions you have since taken are relevant with respect to a civil penalty only when prompt and extensive, which was not the case here. The proposed penalty is to emphasize the NRC's concern for an effective independent verification program and the need for DPC to provide additional attention to the administrative controls for operation. In that regard, the penalty is not considered to be punitive but a measure to encourage good licensee performance.

VI. *Licensee Comment:* Corrective action taken by DPC was not accurately assessed and reflected in the severity level assigned to the violation.

NRC Evaluation: As described in the NRC Enforcement Policy, 10 CFR Part 2, Appendix C, the severity level of a violation is determined by the safety significance. Consideration of corrective actions affects only the amount of the penalty.

VII. *Licensee Comment:* DPC believes that it is unrealistic to expect any independent verification program to provide 100% assurance of the correctness of a condition.

NRC Evaluation: Although an absolute "zero error" in implementing independent verification is unrealistic, every possible effort must be made to achieve this ideal limit. The civil penalty imposed reflects the seriousness with which the NRC regards inadequate independent verification.

NRC Conclusions: Based on our evaluation as indicated above, plant personnel failed to follow an approved

procedure and to implement the requirements of NUREG–0737 by performing a proper independent verification of a recirculation valve position for a containment spray pump. In addition, this condition went unnoticed because the second independent valve position verification check was improperly performed and failed to identify that the valve was mispositioned. Further, the staff's evaluation discloses that this violation of NRC requirements has been properly categorized as a Severity Level III and that no justification has been presented for withdrawal or mitigation of the civil penalty.

[FR Doc. 84–26241 Filed 10–2–84; 8:45 am]
BILLING CODE 7590–01–M

[Docket No. 40–8584]

Minerals Exploration Co.; Final Finding of No Significant Impact Regarding the Renewal of Source and Byproduct Material License SUA–1350 for Operation of the Sweetwater Uranium Mill in Sweetwater County, WY

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of finding of no significant impact.

SUMMARY:

(1) *Proposed Action.* The U.S. Nuclear Regulatory Commission (the Commission) is issuing a renewed Source and Byproduct Material License SUA–1350 authorizing Minerals Exploration Company to operate a uranium mill at their Sweetwater site located in the Red Desert area of Sweetwater County, Wyoming.

(2) *Reasons for finding of No Significant Impact.* The Commission's Uranium Recovery Field Office has prepared an Environmental Impact Appraisal for the proposed action. Based on this appraisal, the Commission has determined that an Environmental Impact Statement for this particular action is not warranted.

The Environmental Impact Appraisal performed by the Commission's staff evaluated potential impacts on surface and ground water due to mill accidents and seepage, reclamation and decommissioning activities. Additionally, the appraisal evaluated potential impacts on-site and off-site due to radiological releases which may occur during the course of the proposed operations. Documents used in preparing the appraisal included operational data from the licensee's milling activities, the licensee's Environmental Report of April 1984, the groundwater hydrology information submitted by the licensee, and the Safety Evaluation Report prepared by the Commission staff for the Minerals Exploration Company, Sweetwater Uranium milling operation.

Based on these evaluations, the Commission's staff has determined that the proposed operations will not have a significant effect on the quality of the human environment. Specific reasons for making this determination are as follows:

(a) The ground water monitoring system and the seepage mitigation measures which are being implemented at the Sweetwater Uranium Mill are capable of minimizing any impact to the ground water.

(b) Radiological releases from the proposed operations will be small and will be continously monitored.

(c) Environmental monitoring is comprehensive enough to detect any significant radiological release from the milling operation.

(d) Radioactive wastes will be disposed of in a tailings pond which will be reclaimed in accordance with applicable federal law and state regulations.

This finding, together with the environmental appraisal setting forth the basis for the finding and other related environmental documents are available for public inspection and copying at the Commission's Uranium Recovery Field Office at 730 Simms Street, Golden, CO and at the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C.

Dated at Denver, Colorado, this 27th day of September 1984.

For the Nuclear Regulatory Commission.

Harry J. Pettengill,

Chief, Licensing Branch 2, Uranium Recovery Field Office, RIV.

[FR Doc. 84–26244 Filed 10–2–84; 8:45 am]
BILLING CODE 7590–01–M

[Docket No. 50–416 OLA; (ASLBP No. 84–497–04 OL)]

Mississippi Power & Light Company, et al. (Grand Gulf Nuclear Station, Unit No. 1); Memorandum and Order (Terminating Proceeding)

September 28, 1984.

On August 30, 1984, the Licensing Board issued a Show Cause Order requiring the sole Intervenor, Jacksonians United for Livable Energy Policies (JULEP), to show cause why its contentions should not be dismissed for its failure to prosecute the intervention. JULEP had taken no discovery and had failed to file a status report by August 1, 1984, as ordered by the Board, or thereafter.

On September 20, 1984, the Board received a written confirmation from JULEP of its decision to withdraw from the proceeding, which it had previously expressed to NRC Staff counsel.

The withdrawal of the only intervenor removes both the need and the occasion for evidentiary hearings in this proceeding. There are no longer any matters which the parties wish to resolve in this proceeding and, consequently, there is no issue to be heard by the Board.

Dismissal of this proceeding would be consistent with the Commission's requirements which do not contemplate a hearing on an application for an amendment to an operating license in the absence of any matters in controversy or any request for hearing by interested persons (*see* 10 CFR 2.104, 2.105, 2.714, 50.58(b) and 50.91) and is consistent with the general powers of the presiding officer under 10 CFR 2.718.

Order

For all of the foregoing reasons and based upon the entire record in this proceeding, it is, this 28th day of September, 1984, Ordered: That this proceeding, begun with the publication of a notice of opportunity for hearing on October 26, 1983 at 48 FR 49608, is hereby terminated.

Dated: September 28, 1984, Bethesda, Maryland.

The Atomic Safety and Licensing Board.

James H. Carpenter,

Administrative Judge.

Peter A. Morris,

Administrative Judge.

Herbert Grossman,

Chairman, Administrative Judge.

[FR Doc. 84–26243 Filed 10–2–84; 8:45 am]
BILLING CODE 7590–01–M

[Docket No. 40–2259]

Pathfinder Mines Corp.; Final Finding of No Significant Impact Regarding the Renewal of Source and Byproduct Material License SUA–672 for Operation of the Lucky Mc Mill in Freemont County, WY

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of finding of no significant impact.

SUMMARY:

(1) *Proposed Action.* The U.S. Nuclear Regulatory Commission (the Commission) is issuing a renewed Source and Byproduct Material License

SUA–762 authorizing Pathfinder Mines Corporation to operate a uranium mill at their Lucky Mc site located in the Gas Hills Area of Eastern Freemont County, Wyoming.

(2) *Reasons for finding of No Significant Impact.* The Commission's Uranium Recovery Field Office has prepared an Environmental Impact Appraisal for the proposed action. Based on this appraisal, the Commission has determined that an Environmental Impact statement for this particular action is not warranted.

The Environmental Impact Appraisal performed by the Commission's staff evaluated potential impacts on surface and ground water due to mill accidents and seepage, reclamation and decommissioning activities. Additionally, the appraisal evaluated potential impacts on-site and off-site due to radiological releases which may occur during the course of the proposed operations. Documents used in preparing the appraisal included operational data from the licensee's Lucky Mc milling activities, the licensee's Environmental Report of December 1982, the licensee's submittal of August, 1984 and the Safety Evaluation Report prepared by the Commission staff for the Pathfinder Mines Corporation, Lucky Mc milling operation.

Based on these evaluations, the Commission's staff has determined that the proposed operations will not have a significant effect on the quality of the human environment. Specific reasons for making this determination are as follows:

(a) The ground water monitoring system and the seepage mitigation measures in effect at the Lucky Mc Mill are sufficient to minimize any impact on ground water.

(b) Radiological releases from the proposed operations will be small and will be continuously monitored.

(c) Environmental monitoring is comprehensive enough to detect any significant radiological release from the milling operation.

(d) Radioactive wastes will be disposed of in a tailings pond which will be reclaimed in accordance with applicable federal and state regulations.

This finding, together with the environmental appraisal setting forth the basis for the finding and other related environmental documents are available for public inspection and copying at the Commission's Uranium Recovery Field Office at 730 Simms Street, Golden, CO and at the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C.

Dated at Denver, Colorado, this 27th day of September, 1984.

For the Nuclear Regulatory Commission.

Harry J. Pettengill,

Chief, Licensing Branch 2, Uranium Recovery Field Office, RIV.

[FR Doc. 84-26247 Filed 10-2-84; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 40–6622]

Pathfinder Mines Corp.; Final Finding of No Significant Impact Regarding the Renewal of Source and Byproduct Material License SUA–442 for Operation of the Shirley Basin Uranium Mill in Carbon County, WY.

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of finding of no significant impact.

SUMMARY:

(1) *Proposed Action.* The U.S. Nuclear Regulatory Commission (the Commission) is issuing a renewed Source and Byproduct Material License SUA–442 authorizing Pathfinder Mines Corporation to operate a uranium mill at their Shirley Basin site located in Carbon County, Wyoming.

(2) *Reasons for finding of No Significant Impact.* The Commission's Uranium Recovery Field Office has prepared an Environmental Impact Appraisal for the proposed action. Based on this appraisal, the Commission has determined that an Environmental Impact Statement for this particular action is not warranted.

The Environmental Impact Appraisal performed by the Commission's staff evaluated potential impacts on surface and ground water due to mill accidents and seepage, reclamation and decommissioning activities. Additionally, the appraisal evaluated potential impacts on-site and off-site due to radiological releases which may occur during the course of the proposed operations. Documents used in preparing the appraisal included operational data from the licensee's Shirley Basin Mill, the licensee's Environmental Report of August 1982, the groundwater hydrology reports preapared by the licensee, and Safety Evaluation Report prepared by the Commission staff for the Pathfinder Mines Corporation, Shirley Basin uranium milling operation.

Based on these evaluations, the Commission's staff has determined that the proposed operations will not have a significant effect on the quality of the human environment. Specific reasons for making this determination are as follows:

(a) The ground water monitoring system and the seepage mitigation measures being implemented at the Shirley Basin Uranium Mill are sufficient to minimize any impact on ground water.

(b) Radiological releases from the proposed operations will be small and will be continuously monitored.

(c) Environmental monitoring is comprehensive enough to detect any significant radiological release from the milling operation.

(d) Radioactive wastes will be disposed of in a tailings pond which will be reclaimed in accordance with applicable federal and state regulations.

This finding, together with the environmental appraisal setting forth the basis for the finding and other related environmental documents are available for public inspection and copying at the Commission's Uranium Recovery Field Office at 730 Simms Street, Golden, CO and at the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C.

Dated at Denver, Colorado, this 27th day of September, 1984.

For the Nuclear Regulatory Commission.

Harry J. Pettengill,

Chief, Licensing Branch 2, Uranium Recovery Office, RIV.

[FR Doc. 84-26248 Filed 10-3-84; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 40–6659]

Petrotomics Co.; Final Finding of No Significant Impact Regarding the Renewal of Source and Byproduct Material License SUA–551 for Operation of the Shirley Basin Uranium Mill in Carbon County, WY

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of finding of no significant impact.

SUMMARY:

(1) *Proposed Action.* The U.S. Nuclear Regulatory Commission (the Commission) is issuing a renewed Source and Byproduct Material License SUA–551 authorizing Petrotomics Company to operate their Shirley Basin Uranium Mill located in Carbon County, Wyoming.

(2) *Reasons for Finding of No Significant Impact.* The Commission's Uranium Recovery Field Office has prepared an Environmental Impact Appraisal for the proposed action. Based on this appraisal, the Commission has determined that an Environmental

Impact Statement for this particular action is not warranted.

The Environmental Impact Appraisal performed by the Commission's staff evaluated potential impacts on surface and ground water due to mill accidents and seepage, reclamation and decommissioning activities. Additionally, the appraisal evaluated potential impacts on-site and off-site due to radiological releases which may occur during the course of the proposed operations. Documents used in preparing the appraisal included operational data from the licensee's Shirley Basin Uranium Mill, the licensee's Environmental Report of April 1, 1981, the groundwater hydrology reports prepared by the licensee, and Safety Evaluation Report prepared by the Commission staff for the Petrotomics Company, Shirley Basin uranium milling operation.

Based on these evaluations, the Commission's staff has determined that the proposed operations will not have a significant effect on the quality of the human environment. Specific reasons for making this determination are as follows:

(a) The ground water monitoring system and the seepage mitigation measures that are in effect at the Shirley Basin Uranium Mill are sufficient to minimize any impact to the ground water.

(b) Radiological releases from the proposed operations will be small and will be continuously monitored.

(c) Environmental monitoring is comprehensive enough to detect any significant radiological release from the milling operation.

(d) Radioactive wastes will be disposed of in a tailings pond which will be reclaimed in accordance with applicable federal and state regulations.

This finding, together with the environmental appraisal setting forth the basis for the finding and other related environmental documents are available for public inspection and copying at the Commission's Uranium Recovery Field Office at 730 Simms Street, Golden, CO and at the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C.

Dated at Denver, Colorado, this 27th day of September, 1984.

For the Nuclear Regulatory Commission.

Harry J. Pettengill,

Chief, Licensing Branch 2, Uranium Recovery Field Office, RIV.

[FR Doc. 84-26248 Filed 10-2-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 40-8084]

Rio Algom Mining Corp.; Final Finding of No Significant Impact Regarding the Renewal of Source and Byproduct Material License SUA-1119 for Operation of Lisbon Uranium Mill in San Juan County, UT

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of finding of no significant impact.

SUMMARY:

(1) *Proposed Action.* The U.S. Nuclear Regulatory Commission (the Commission) is issuing a renewed Source and Byproduct Material License SUA-1119 authorizing Rio Algom Mining Corp. to operate a uranium mill at their Lisbon site located in the San Juan County, Utah.

(2) *Reasons for finding of No Significant Impact.* The Commission's Uranium Recovery Field Office has prepared an Environmental Impact Appraisal for the proposed action. Based on this appraisal, the Commission has determined that an Environmental Impact statement for this particular action is not warranted.

The Environmental Impact Appraisal performed by the Commission's staff evaluated potential impacts on surface and ground water due to mill accidents and seepage, reclamation and decommissioning activities. Additionally, the appraisal evaluated potential impacts on-site and off-site due to radiological releases which may occur during the course of the proposed operations. Documents used in preparing the appraisal included operational data from the licensee's Lisbon Mill, the Licensee's renewal application dated December 1982, as revised, and ground water hydrology reports prepared by the licensee.

Based on these evaluations, the Commission's staff has determined that the proposed operations will not have a significant effect on the quality of the human environment. Specific reasons for making this determination are as follows:

(a) The ground water monitoring system and the seepage mitigation measures being implemented at the Lisbon Mill are sufficient to minimize any impact on ground water.

(b) Radiological releases from the proposed operations will be small and will be continuously monitored.

(c) Environmental monitoring is comprehensive enough to detect any significant radiological release from the milling operation.

(d) Radioactive wastes will be disposed of in a tailings pond which will be reclaimed in accordance with applicable federal and state regulations.

This finding, together with the environmental appraisal setting forth the basis for the finding, and other related environmental documents are available for public inspection and copying at the Commission's Uranium Recovery Field Office at 730 Simms street, Golden, CO and at the Commission's Public Document Room at 1717 H Street, NW., Washington, DC.

Dated at Denver, Colorado, this 27th day of September, 1984.

For the Nuclear Regulatory Commission.

Harry J. Pettengill,

Chief, Licensing Branch 2, Uranium Recovery Field Office, RIV.

[FR Doc. 84-26246 Filed 10-2-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-362, License No. NPF-15, EA 84-34]

Southern California Edison Co., San Onofre Nuclear Generating Station Unit 3; Order Imposing Civil Monetary Penalty

I

Southern California Edison Company (the "licensee") is the holder of Facility Operating License No. NPF-15 (the "license") issued by the Nuclear Regulatory Commission (the "Commission") which authorizes the licensee to operate the San Onofre Nuclear Generating Station, Unit 3, in accordance with the conditions specified therein. The license was issued on November 15, 1982. The facility consists of a pressurized water reactor (PWR) located at the licensee's site at San Clemente, California.

II

A special inspection of the licensee's activities under the license was conducted during the period March 17 through March 29, 1984. As a result of this inspection, it appears that the licensee has not conducted its activities in full compliance with the conditions of its license. A written Notice of Violation and Proposed Imposition of Civil Penalty was served upon the licensee by letter dated May 16, 1984. The Notice states the nature of the violations, the requirements of the Commission that the licensee had violated, and the amount of civil penalty proposed for the violations. An answer dated June 15, 1984, and supplemented by letter dated August 13, 1984, to the Notice of Violation and

Proposed Imposition of Civil Penalty was received from the licensee.

III

Upon consideration of Southern California Edison Company's response and the statements of fact, explanation, and argument contained therein, as set forth in the Appendix to this Order, the Director, Office of Inspection and Enforcement, has determined that the penalty proposed for the violations designated in the Notice of Violation and Proposed Imposition of Civil Penalty should be mitigated by 50% based upon the licensee's prompt and extensive corrective action, including initiatives to improve management and supervisory effectiveness.

IV

In view of the foregoing and pursuant to section 234 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2282, Pub. L. 96-295), and 10 CFR 2.205, it is hereby ordered that:

The licensee pay a civil penalty in the amount of One Hundred Twenty-five Thousand Dollars ($125,000) within thirty days of the date of this Order, by check, draft, or money order, payable to the Treasurer of the United States and mailed to the Director of the Office of Inspection and Enforcement, USNRC, Washington, D.C. 20555.

V

The licensee may, within thirty days of the date of this Order, request a hearing. A request for a hearing shall be addressed to the Director, Office of Inspection and Enforcement. A copy of the hearing request shall also be sent to the Executive Legal Director, USNRC, Washington, D.C. 20555. If a hearing is requested, the Commission will issue an Order designating the time and place of hearing. Upon failure of the licensee to request a hearing within thirty days of the date of this Order, the provisions of this Order shall be effective without further proceedings and, if payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

(a) Whether the licensee was in violation of the Commission's requirements as set forth in the Notice of Violation and Proposed Imposition of Civil Penalty referenced in Section II above; and

(b) Whether on the basis of such violation, this Order should be sustained.

Dated at Bethesda, Maryland, this 24th day of September 1984.

For the Nuclear Regulatory Commission

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

Appendix—Evaluation and Conclusions

On May 16, 1984 the NRC issued a Notice of Violation and Proposed Imposition of Civil Penalty (NOV) to Southern California Edison Company (SCE) for violations identified at the San Onofre Nuclear Generating Station Unit 3. Southern California Edison Company's responses to the Notice, dated June 15, 1984 and August 13, 1984, have been reviewed by the staff.

SCE admits the violations cited in the Notice of Violation. However, the licensee contends that the violation not assessed a civil penalty should not be considered an independent violation from the violations assessed a civil penalty and, therefore, should be withdrawn. In addition, the licensee objects to the proposed civil penalty and requests that it be remitted. The licensee's assertions and the NRC's evaluations and conclusions follow.

Licensee's Objection and Request for Remission of Civil Penalty

The licensee sets forth several assertions as the basis for the request for remission of the civil penalty proposed in the NOV. Notwithstanding that during the Enforcement Conference on May 7, 1984 and in the letter transmitting the NOV and the NRC Regional Adminstrator's primary focus was on the need for improvement in management, the licensee's response dated June 15, 1984 seemed to be directed toward the adequacy of administrative controls in the nature of the exiting written procedures for controlling activities at the licensee's San Onofre facilities, with only a reference to a document given to the Senior Resident Inspector concerning steps to improve individual management and supervisory effectiveness. Although inadequacies in the licensee's procedures involving administrative controls were identified during our evaluation of the violations, the NRC is primarily concerned with the overall management controls at San Onofre. No matter how excellent written procedures may be, management must be involved in the day-to-day work activities to assure that personnel using the procedures are properly trained and supervised so that everyone in the organization understands management's attitude and commitment to safe operations and compliance with regulatory requirements.

To ensure that the licensee fully understood the NRC's main concerns related to the effectiveness of management personnel responsible for the operation of the nuclear facility, the Director, Office of Inspection and Enforcement, the Regional Administrator, and other members of the NRC staff met with the Chairman of the Board and Chief Executive Officer, the President, and other responsible managers of the licensee on August 8, 1984. The licensee explained that the Regional Administrator's primary focus at the meeting on May 7, 1984 had not gone unheeded and set forth actions that had been taken to improve management. These actions were further described in its supplemental response dated August 13, 1984.

The licensee's assertions in its June 15 response appear to result from a misunderstanding of the terms "management controls." This was resolved by the August 8, 1984 meeting. However, these assertions are discussed below for the record.

Licensee Assertion 1

The NRC letter from J.B. Martin to D.J. Fogarty dated May 16, 1984 does not accurately or fairly characterize the adequacy of the licensee's management and administrative controls. It concludes that inadequate controls contributed substantially as an underlying cause of the inoperability of the San Onofre Unit 3 Containment Spray System (CSS when Unit 3 entered Mode 3 on March 4, 1984. Inoperability of the Unit 3 CSS was not caused by inadequate administrative controls. Inoperability of the Unit 3 CSS was caused by an individual personnel error in the development of the checklist to be utilized to verify proper system alignment of the CSS prior to entering Mode 3 on March 4, 1984. No administrative control program can completely eliminate individual personnel errors; it can only serve to:

1. Minimize the possibility of an error by providing for activities to be performed in documented, reviewed methods by properly trained and qualified individuals, and

2. Promptly detect any error by independent verification, check or review of activities.

NRC Evaluation

Inoperability of the Unit 3 CSS was caused by inadequate administrative controls. The NRC staff agrees that personnel error was a strong contributor. As pointed out in licensee assertion 5, the licensee's administrative controls allowed a trained and qualified individual to develop a checklist (differing from that in the standard

operating procedure) without requiring an independent review or check to minimize the possibility of error in the checklist. This violates the two fundamental objectives upon which the licensee's administrative control program is based, as stated above. Had an independent check of the qualified individual's work in developing the checklist been required and performed, the individual's error would likely have been identified and the violation of NRC requirements because of personnel error could have been avoided.

Conclusion

The licensee's administrative controls were not adequate in that procedures allowed one individual to develop and implement a checklist (differing from that in the standard operating procedures) to realign the containment spray system without requiring an independent review or verification of the checklist for adequacy and correctness.

Licensee Assertion 2

The NRC letter indicated that two additional recent events, the unplanned operation of the Unit 2 CSS and the failure to reconnect electrical leads on the Unit 3 Plant Protection System following surveillance testing, were the result of failure of licensee's management control system. These two events are also each the result of individual personnel errors. The fact that the events were recognized, corrected, and reported as soon as they were, in the absence of procedural improvements, rather than remaining undetected for considerably longer periods of time as has occurred at other facilities, reflects positively on the licensee's personnel's diligence in the performance of their duties.

NRC Evaluation

A management control system is those measures established to assure that activities important to nuclear safety are conducted and performed properly. A management control system certainly includes, but is not necessarily limited to, administrative control, training, and supervision. Although procedural improvements shown to be necessary or desirable by initial performance of a procedure or an evolution may not be evidence of inadequate administrative controls, the circumstances associated with the events cited above did evidence an inadequate management control system in that personnel apparently had not received adequate training. In addition, supervision was not appropriately required during the times the activities were performed to assure that weaknesses in the procedures were identified. In the events cited above, had the individuals performing the activity received the appropriate training and had supervision been more involved, the probability of the events occurring would have been less. The fact that the events were repetitive in nature further demonstrates the need for procedural improvements as well as the need for increased management involvement.

NRC Conclusion

The causes were the result of weaknesses in the licensee's management control system.

Licensee Assertion 3

Similarly, improvement in management and administrative controls is not accurately or fairly characterized in the NRC letter which indicated that such controls have not improved as expected over the past year based on evaluation of NRC enforcement actions since January 1983.

Startup periods necessarily represent periods in which new programs and controls (as well as systems and equipment) are exercised and improvements and refinements are sought and implemented. The fact that events during this startup period revealed areas where improvements in administrative control were warranted should not be viewed as evidence that such control has not improved. The fact that corrective actions from these events have prevented recurrence, and that the March 4, 1984 Unit 3 CSS inoperability could not have reasonably been prevented by corrective actions indicated by past events, demonstrates that administrative controls have, in fact, been improved.

Review of NRC enforcement actions against Units 2 and 3 since January 1983, indentified as the basis for the NRC conclusion that the licensee's controls have not improved as expected, reveals the fact that enforcement actions have, in fact, been reduced. During each of the two most recent six-month periods (January 1984–June 1984 and July 1983–December 1983) items of noncompliance have numbered two or three per six-month period as compared with nine in the prior six-month period (January 1983–June 1983) and ten in the next prior six-month period (July 1982–December 1982). Therefore, on the basis of NRC enforcement actions alone, administrative controls have dramatically improved.

The NRC letter identifies inadequate procedures, failure to follow procedures, and inadequate operator knowledge of regulatory requirements and systems status as being the apparent causes of most violations during the past year. Such causes, so broadly stated, are fundamental to nearly all activities at a nuclear generating station. Therefore, nearly any error could be characterized as resulting from one or more of these causes, regardless of the adequacy of administrative controls. The conclusion that administrative controls are inadequate or unimproved on the basis that these broadly stated causes still result in error is not appropriate.

NRC Evaluation

The NRC Notice of Violation and Proposed Imposition of Civil Penalty dated December 8, 1983 concerning the inoperability of portions of the emergency core cooling system involved the development of a valve lineup checklist by engineering personnel that was not appropriately reviewed and approved prior to implementation by the operations staff. There, as in this case, the status of the plant safety systems was affected without the benefit of a formal documented second review or check by qualified individuals.

The NRC Notice of Violation and Proposed Imposition of Civil Penalty dated March 23, 1983 included violations not assessed civil penalties that involved violations of regulatory requirements designed to assure that temporary changes to systems and procedures are appropriately reviewed and approved.

After each of these events the licensee developed corrective actions that, if properly implemented, appeared adequate to provide additional assurance that the safe operation of the facility would be accomplished in accordance with approved written procedures; and that when changes were made, the changes would be appropriately reviewed, approved and documented.

The number of enforcement actions has not decreased to the degree expected by the NRC, especially in regard to enforcement actions involving the inoperability of ECCS equipment. As evidenced by the stated violation, the controls in place apparently have not improved sufficiently to prevent violations in this area. Thus, corrective actions taken by the licensee were not adequate with regard to both administrative and management controls.

NRC Conclusion

The corrective action in response to the two NRC Notices of Violations and proposed imposition of civil penalties discussed above should have resulted in

significant management action to assure that operations involving nuclear safety were accomplished pursuant to approved procedures as prescribed in the Technical Specifications and that personnel involved in these operations understood that a single individual does not have the authority to change a procedure without proper approval.

Licensee Assertion 4

The NRC letter indicates that on at least two occasions on March 2, 1984, there were opportunities for operating personnel to detect isolation of the Unit 3 CSS prior to entering Mode 3 on March 4, 1984. Review of circumstances surrounding each of the evolutions characterized as opportunities reveals that opportunity existed only as a hypothetical possibility and not as a consequence of activities performed in response to procedural or regulatory requirements.

NRC Evaluation

The NRC staff agrees that the opportunities to detect the misposition of the valves did not exist as a consequence of activities performed in response to procedural or regulatory requirements. However, the NRC staff believes that trained, qualified, and property supervised operations personnel should always be alert to the available instrumentation to monitor operability of equipment and/or abnormal conditions. In this case, the flow-rate meter did not indicate flow and was not checked. In addition, from a practical standpoint, whether equipment is being operated for technical specification compliance or for some other function, it is prudent to monitor system paramenters to prevent damaging equipment.

The valve positions verified in the monthly surveillance check are the minimum number acceptable. In performing the walk-down of these valves, the opportunity exists to identify other potentially mispositioned valves that could affect the operability of the systems. The intent of the surveillance should be to ensure that the system is aligned for proper operation, not just to satisfy procedural or regulatory requirements.

NRC Conclusion

Opportunities did exist for reasonable licensee personnel to detect the mispositioned valves between March 4, 1984 and March 17, 1984.

Licensee Assertion 5

Administrative Procedure S023–0–35, which allowed operations personnel to specify the performance of a portion of a valve alignment checklist prescribed by procedure, was not in violation of Technical Specification 6.8.3 as indicated in the NRC letter and the associated Inspection Report.

Neither regulatory guidance nor the licensee's Technical Specifications require the omission of procedural steps, considered not applicable by an individual authorized and qualified to perform the procedure, to be considered to be a procedure change. Consequently the licensee's administrative controls:

1. Permit the identification of procedural steps which are not applicable to a desired procedural evolution,

2. Do not require their treatment as procedural changes, and

3. Do permit the designation of partial checklists which are not treated as procedural changes.

The licensee's review of administrative controls at several other nuclear power stations revealed that they, too, do not treat authorized procedural step omission or designation of partial checklists as procedure changes. Therefore, although the partial checklist developed and implemented on March 2, 1984 was not properly developed or adequately reviewed, its development and execution did not violate Technical Specification 6.8.3.

NRC Evaluation

The contention that an omission of a portion of an approved procedure required by the facility technical specifications does not constitute "change" if authorized by an individual who holds an NRC Senior Operator's License is without merit.

First, as normally used, the word "change" means to alter, modify, vary or to make different in some particular. Consequently, if a portion of a procedure is omitted, the procedure has been altered and modified to vary from and be different from the original and, therefore, is changed.

Second, the NRC staff recognizes that, on occasion, a need may arise that necessitates an immediate change to a procedure required for the safe operation of the facility. To provide for this contingency, the facility technical specifications permit such changes, provided the change is reviewed and approved by two members of the plant management staff, one of whom is a licensed senior reactor operator, the intent of the procedure is not altered, and a subsequent review by responsible management is performed. These requirements are not only fundamental to quality assurance for operation of a nuclear power plant, but seem to represent only common sense for assuring things are performed properly, i.e., someone does the work, someone checks the work, and then the product of the work is used in the perscribed manner. The NRC does not condone the omission of procedure steps as identified at the San Onofre facility.

Finally, the three Notices of Violation accompanying Notices of Proposed Imposition of Civil Penalties sent to the licensee involving operations of San Onofre Nuclear Generating Stations Units Nos. 2 and 3 during 1983 and 1984 involved the issues of adherence to approved written procedures that were required to perform licensed activities. The regulatory requirements mandating the activities that must be performed in accordance with licensee approved written procedures, and the method whereby changes to such procedures may be made, are clear and appropriately defined.

NRC Conclusion

Omissions of steps from an approved procedure constitute changes in the procedure and must be made in accordance with the provisions of Technical Specification 6.8.3.

Licensee Assertion 6

Factors influencing the magnitude of proposed civil penalties, as established in 10 CFR Part 2, Appendix C, as revised, March 8, 1984, have not been properly assessed.

Clearly, the identified violation was neither willful nor a flagrant NRC-identified violation. CSS inoperability at Unit 3 on March 4, 1984, is not repeated poor performance in an area of concern.

Also, the March 4, 1984 Unit 3 CSS inoperability does not represent a serious breakdown in management controls. The event represents an individual personnel error which does not warrant a conclusion that management controls are inadequate.

The conditions which give cause for the NRC to apply its full enforcement authority are not present in these circumstances and, therefore, calculation of a civil penalty on a per day basis is inappropriate.

A review of past enforcement actions taken by the NRC for similar violations confirms the conclusion that a civil penalty should not be assessed on a per day basis at San Onofre. At Alabama Power Company's Farley Unit 2 Station, the CSS remained valved out for as long as 17 months during which time the reactor was in Modes 1 through 4, based on misinterpretation of valve position. At Consolidated Edison's Indian Point 2 Station, the CSS remained valved out for 36 days while the reactor was made

critical five times, based on erroneous initial and independent verification of valve position by two different operators. Enforcement actions at neither Farley nor Indian Point 2 were assessed on per day basis.

NRC Evaluation

As previously discussed, the NRC has proposed imposition of civil penalties on two occasions in 1983 for the licensee's failure to properly control activities affecting engineered safeguards systems. The apparent underlying cause of these violations, and of the violations under consideration, was inadequate management control of operating activities. To emphasize the concern the NRC places upon these violations, and the apparent cause, the use of daily civil penalties was warranted.

As previously mentioned, a daily civil penalty was proposed at San Onofre because this was the third recent violation at San Onofre in which the apparent underlying cause involved inadequate management controls and the second violation involving containment cooling systems since the beginning of 1983. The other cases had neither a similar enforcement history nor a significant lack of management control in the violation.

NRC Conclusion

Use of NRC enforcement authority was appropriate in this case.

Licensee Assertion 7

10 CFR Part 2, Appendix C, Section V.B.I. provides for a reduction of up to 50% of the base civil penalty when a licensee identifies the violation and promptly reports the violation to the NRC. In addition, 10 CFR Part 2, Appendix C, Section V.B.2 states, "unusually prompt and extensive corrective action may also result in reducing the proposed civil penalty as much as 50% of the base value." No reference is made in the Notice of Violation to our prompt reporting, immediate corrective actions, or subsequently developed extensive and effective corrective action.

NRC Evaluation

Although NRC was aware that the licensee was initiating some action to improve the effectiveness of the management and supervisory personnel responsible for operating the nuclear facilities, the full extent of those actions was not fully appreciated until the August 8, 1984 meeting between the NRC and the licensee. The licensee's actions were subsequently set forth in the licensee's supplemental response to the Notice of Violation and Imposition of Civil Penalty dated August 13, 1984.

Conclusion

The licensee's prompt and extensive corrective actions, including the initiatives to improve the effectiveness of the management and supervisory personnel responsible for operating the nuclear facilities warrant mitigation of the proposed civil penalty by 50%.

Licensee Request for Withdrawal of Violation II

SCE admits that on March 15, 1984, at approximately 0421, the train B diesel generator was made inoperable (placed in maintenance lockout) while both trains of the CSS were inoperable as described in Item A, above. However, SCE contends this citation should not be considered an independent violation from Item A and should, therefore, be withdrawn. During the period March 15 to March 16, when the condition described above occurred, SCE was not aware, nor was sufficient information available as a consequence of activities performed in response to procedural or regulatory requirements, such that SCE should have been aware of the inoperability of the CSS. Had SCE been aware of the inoperability of the CSS, SCE would have immediately restored the system to operable status, as demonstrated by operator action on March 17 when the condition was discovered, and what has been identified as a separate violation would not have occurred.

Prior to removing Train B Diesel Generator from service at 0421 on March 15, 1984, operators reviewed equipment control records of inoperable equipment to assure all required systems, subsystems, trains, components, and devices that depend on the Train A Diesel were operable. The review did not identify the CSS as being inoperable.

NRC Evaluation

The NRC recognized that the violation was a consequence of not having the CSS operable, but because of the safety significance of the violation, the violation was cited separately without a civil penalty. Under the circumstances of this case, the NRC has concluded that the violation should be withdrawn. However, this action should not be read as a diminished NRC concern with the underlying cause of the inoperability.

NRC Conclusion

The subject violation is withdrawn.

[FR Doc. 84-26242 Filed 10-2-84; 8:45 am]
BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 14175; 812-5816]

Criterion Acceptance Corp.; Filing of Application for an Order Exempting Applicant

September 28, 1984.

Notice is hereby given that Criterion Acceptance Corporation ("Applicant"), 5055 Keller Springs Road, Dallas, Texas, 75380, filed an application on April 4, 1984, and an amendment thereto on September 20, 1984, for an order of the Commission pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") exempting Applicant from all provisions of the Act to enable it to issue bonds without regard to the percentage of GNMA Certificates (defined below) securing any issue, or of Applicant's assets taken as a whole, which are represented by "whole pool" GNMA Certificates. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below, and to the Act for the text of all applicable sections.

According to the application, Applicant, a Colorado corporation, is an indirect, wholly owned subsidiary of Wood Bros. Homes, Inc. ("Wood Bros."), a Delaware corporation and a builder of single-family homes. Applicant states that it was incorporated for the limited purpose of, and does not intend to engage in any business or investment activities other than, (1) acquiring, owning, holding and pledging GNMA certificates based on and backed by pools of single family residence mortgages that are either insured by the Federal Housing Administration or guaranteed by the Veterans Administration ("GNMA Certificates") and certain other collateral as described below, (2) issuing bonds secured by such pledge and (3) investing on an interim basis the cash proceeds of such GNMA Certificates and other collateral pending distribution to bondholders. Applicant does not intend to issue publicly any equity securities or any debt securities other than the bonds described below. Applicant states that all of its outstanding stock is owned by Criterion Financial Corporation, a wholly owned subsidiary of Wood Bros.

Applicant states that it has entered into an Indenture ("Single Maturity Bond Indenture") with First National Bank of Minneapolis, as trustee, pursuant to which Applicant has issued various series of GNMA-Collateralized Bonds ("Single Maturity Bonds").

Applicant states that each series of Single Maturity Bonds is (or, in the case of future series, will be as a condition to issuance) secured by entirely separate collateral consisting of GNMA Certificates and a small portion of other collateral as described below. Applicant states that the Single Maturity Bond Indenture requires that the GNMA Certificates deposited to secure each series meet certain rigid, mathematical tests approved by Standard & Poor's Corporation ("S&P") in connection with their assigning a rating of "AAA" to the Single Maturity Bonds. Applicant represents that this rating is required by the Single Maturity Bond Indenture as a condition of issuance for each series. It is represented that the tests assure that such GNMA Certificates deposited as collateral (a) will at each point in time throughout the life of the series have an aggregate outstanding principal amount which (with an optional adjustment for graduated payment GNMA Certificates) will be at least equal to the aggregate principal amount of the bonds of the series outstanding at such time, less whatever amount is then held in the Redemption Fund (described below) for the series and available to redeem outstanding bonds, and (b) will at each point in time throughout the life of the series be sufficient to generate a cash flow from such point forward which (together with certain other collateral, described below, required to be deposited in respect of graduated payment GNMA Certificates) (i) will effect amortization of the bonds of the series then outstanding through redemption and payment at their stated maturity and (ii) will support all interest payments required to be made on such bonds.

Applicant states that the graduated payment GNMA Certificates, which are GNMA Certificates with respect to which, during the first several years after issuance, a declining portion of the interest otherwise due is converted to additional principal. Applicant further states that such conversion reflects an identical conversion of interest to principal on the underlying mortgages, the purpose being to provide for a more desirable payment schedule for the mortgagor. In the case of any series of Single Maturity Bonds secured by one or more graduated payment GNMA Certificates, Applicant is required at the time of issuance of the series to make a deposit (not from bond proceeds) to the Debt Service Fund in the full amount of the sum of all resulting interest shortfalls on each such GNMA Certificate, plus any amount necessary to ensure redemption of a required principal amount of bonds of the series if such GNMA Certificate should prepay during the graduation period. Applicant states that the amount deposited to the Debt Service Fund is expected to total approximately 9% of the principal amount of each graduated payment GNMA Certificate included within the collateral for each series. Applicant further states that the Single Maturity Bond Indenture permits this deposit to consist of a letter of credit issued by a bank qualified by S&P for the purpose of its "AAA" rating of the bonds.

The application states that, in addition to the above collateral, the Single Maturity Bond Indenture requires that each series be secured by a Reserve Fund in an amount approximately equal to 1% of the principal amount of the series and that this Reserve Fund deposit may consist of a letter of credit issued by a bank qualified by S&P. Applicant states that the letters of credit each permit, and the Single Maturity Bond Indenture requires, the trustee to make a drawing for the full balance of the letter of credit in the event that the issuing bank ceases to meet the qualifications laid down by S&P. Applicant further states that the Single Maturity Bond Indenture expressly prohibits the GNMA Certificates and any other collateral pledged as security for any one series of bonds to be pledged as security for any other series or any other indebtedness.

Applicant states that the amounts deposited in the Redemption Fund for each series as required by the Single Maturity Bond Indenture, are first available to honor requests by bondholders for redemption. If insufficient requests are received, amounts in the Redemption Fund are applied to mandatory redemptions by lot. Applicant states that such redemptions are required whenever it would be the case that, within two months or less, the cash flow from the GNMA Certificates securing the series would be insufficient to support the series. Applicant states that Redemption Fund moneys may only be invested in short-term U.S. Government securities and other cash equivalents approved by S&P, and only for the limited period of time between receipt of such proceeds and payment to bondholders.

Applicant plans to continue issuing, from time to time, additional series of Single Maturity Bonds. Applicant also intends in the future to issue one or more series of GNMA-collateralized bonds ("Multiple Maturity Bonds") that would have different maturities within each series. Applicant states that each individual series of Multiple Maturity Bonds will be secured by entirely separate collateral consisting principally of GNMA Certificates. Applicant states that the GNMA Certificates used to secure each separate series will have an aggregate outstanding principal amount which (with a possible adjustment for graduated payment GNMA Certificates) will be at least equal to the aggregate principal amount of the bonds of the series outstanding. Applicant also states that the GNMA Certificates will be sufficient to generate a cash flow which (together with a Debt Service Fund to be deposited in respect of graduated payment GNMA Certificates) will amortize principal and interest on the bonds of the series then outstanding through their respective stated maturities. Applicant represents that each series of Multiple Maturity Bonds will in addition be secured by a Reserve Fund and that the Debt Service Fund and Reserve Fund deposits for each series of Multiple Maturity Bonds are not expected for any series to total more than approximately 10% of the principal amount of the series. Applicant states that the Debt Service and Reserve Funds may each consist of a letter of credit issued by a qualified Bank pursuant to the requirements described above with respect to the Single Maturity Bonds.

Applicant expects that the Multiple Maturity Bonds will not be redeemable at the option of the holder. Applicant states that moneys deposited in the Redemption Fund would be applied immediately to pro rata partial principal payments on, or mandatory by-lot redemptions of, the Multiple Maturity Bonds in order of maturity. Applicant represents that the Multiple Maturity Bonds Indenture will expressly prohibit any collateral pledged thereunder for one series of Bonds to be pledged as security for any other series or any other indebtedness. Applicant represents that the Multiple Maturity Bonds, as a condition of issuance, will be rated by S&P in its highest applicable rating category ("AAA").

Applicant states that it expects that all of the GNMA Certificates representing mortgages on Wood Bros. homes will continue to be "whole pool" certificates whether the exemption is granted or not. Applicant represents that in the event that the application requested is granted, Applicant will, in selecting GNMA Certificates to collateralize its bond issues, give

preference first to GNMA Certificates backed by mortgages on Wood Bros. homes (to the extent such Certificates are available at the time), second to other recently issued, non-discount, whole pool GNMA Certificates, and third to recently issued, non-discount, partial pool GNMA Certificates, in each case to the extent such certificates are available at an acceptable price. Applicant states that it does not presently intent to include any deeply discounted GNMA Certificates in any of its bond issues.

Applicant believes that the requested exemption from all provisions of the Act is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant asserts that the public interest will be served by expanding the sources of funds available to finance the purchase of new housing by home-owners and lessening the financing costs to them. Applicant believes that its current activities are such as to exempt it from the Act under Section 3(c)(5)(C). However, if Applicant's proposed activities would not be considered consistent with the Section 3(c)(5)(C) exemption, Applicant believes that its proposed activities are not among those which the Act was intended to regulate.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than October 22, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by ceritificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-26267 Filed 10-2-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21362; SR-CBOE-84-22]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Filing and Order Granting Accelerated Partial Approval of Proposed Rule Change and Amendment No. 1

September 28, 1984.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on August 8, 1984, the Chicago Board Options Exchange, Incorporated ("CBOE"), LaSalle at Van Buren, Chicago, IL 60605 filed with the Securities and Exchange Commission the proposed rule change described herein. On September 13, 1984, the CBOE filed with the Commission Amendment No. 1 to the proposed rule change. The Commission is publishing this notice to solicit comments on the amended proposed rule change from interested persons.

In its rule filing, CBOE proposes to: (1) Allow the introduction of new index options series until the beginning of the month in which the series would expire; (2) establish intervals between strike prices for series of index options of $5.00 or more, regardless of the value of the underlying index; and (3) allow the introduction of as many as seven strike prices upon the introduction of a new expiration month for index options. The CBOE states that the first portion of its proposal is intended to conform CBOE's rules to similar rule changes of the New York ("NYSE") and American ("Amex") Stock Exchanges.[1] The Exchange indicates that the purpose of the second portion of the proposed rule change is to codify the existing interpretation of CBOE Rule 24.9.[2] The CBOE also states that the purpose of the third portion of the proposed rule change is to "permit necessary flexibility to add sufficient number of strike prices so that appropriate spreading strategies can be implemented by traders." In this regard, CBOE explains that the volatility of certain index option contracts requires the listing of a substantial number of strike prices when a new series is listed in order to permit these spreading strategies. CBOE indicates that the statutory basis for all three portions of the proposed rule change is Section 6(b)(5) of the Act.

Publication of the proposal is expected to be made in the **Federal Register** during the week of October 1, 1984. Interested persons are invited to submit written data, views and arguments concerning the proposed rule change within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR-CBOE-84-22.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference, 450 Fifth Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal offices of the CBOE.

The Commission finds that the first portion of the proposed rule change—the portion allowing the introduction of new index option series until the beginning of the month in which the series would expire—is identical to proposed rule changes of the Amex and NYSE recently approved by the Commission.[3] For the reasons identified in the order approving the NYSE proposal, the Commission finds that this first portion of CBOE's proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 of the Act and the rules and regulations thereunder.

As CBOE explains in its filing, the second portion of the proposed rule change reflects the CBOE's existing policy with respect to strike price intervals for index options. The Commission previously has approved $5.00 intervals regardless of index value for each index option proposed by CBOE on an index-by-index basis.[4]

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[1] The Commission approved the NYSE rule change on June 19, 1984 (Securities Exchange Act Release No. 21087, June 19, 1984; 49 FR 26173); and the Amex rule change was approved on June 27, 1984 (Securities Exchange Act Release No. 21110, June 27, 1984, 49 FR 27391).

[2] CBOE Rule 24.9 states that the CBOE shall establish fixed exercise price intervals for index options, without specifying what those intervals shall be.

[3] *See* note 1, *supra*.

[4] *See* Securities Exchange Act Release Nos. 19284, November 22, 1983, (S&P 100); 19907, June 24, 1983, (S&P 500); 20173, September 13, 1983, (S&P Office & Business Equipment Index); 20191, September 16,

Continued

The Commission's previous approvals of $5.00 strike price intervals, regardless of underlying index value, were based not upon a consideration of factors unique to each index, but rather upon a recognition of the fact that index values tend as a general matter to be less volatile than the prices of individual stocks.[5] For this reason the Commission found that fixed five point intervals for index options was less likely to result in a large number of possibly illiquid index options series than would fixed five point intervals for individual stock options.[6] Based on this reasoning, which is applicable to index options generally, we find that replacing an index-by-index consideration of fixed five point intervals with a standing rule establishing exercise price intervals of $5.00 or more is consistent with the requirements of the Act, and, in particular, Section 6 thereunder.[7]

The Commission finds good cause for approving the first portion of the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in that this part of the proposed rule change is identical to an NYSE proposal that was published for comment and recently approved by the Commission. The Commission also finds good cause for approving the second part of the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in that this part of the proposed rule change consists chiefly of a codification of an existing CBOE policy that has been previously approved by the Commission.[8]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the portion of the proposed rule change permitting the introduction of new index options series until the beginning of the month in which the series would expire; and the portion of the proposed rule change establishing strike price intervals for index options of $5.00 or more, are approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-26286 Filed 10-2-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 14174; 811-3727]

Pension Hedge Fund Inc.; Application Declaring That Applicant Has Ceased To Be an Investment Company

September 27, 1984.

Notice is hereby given that Pension Hedge Fund Inc. (the "Applicant"), 100 Park Avenue, New York, NY 10017, registered under the Investment Company Act of 1940 (the "Act") as an open-end, non-diversified, management investment company, filed an application on March 27, 1984, for an order of the Commission, pursuant to section 8(f) of the Act, declaring that it has ceased to be an investment company. All interested persons are referred to the application of file with the Commission for a statement of the representations contained therein, which are summarized below, and are referred to the Act and the rules thereunder for the text of the relevant provisions.

Applicant states that it is a corporation incorporated under the laws of Maryland. It further states it was registered under the Act on May 9, 1983, and filed a registration statement on that same date. According to the application, the registration statement became effective on September 8, 1983, and a public offering of shares of Applicant's common stock was commenced on that date or shortly thereafter. Applicant represents that each of its eight shareholders redeemed its shares of Applicant and, in connection with such redemptions, Applicant distributed $987,564.14 per share to its shareholders on February 23, 1984.

Applicant states that, at a meeting held on February 23, its board of directors authorized the dissolution of Applicant and authorized Applicant's counsel to take the steps necessary to effectuate the dissolution. Applicant states that no proxy materials were distributed to security-holders in connection with the dissolution, and no proxy materials were filed with the Commission. Applicant intends to file articles of dissolution (to be adopted by Applicant's board of directors) in the State of Maryland and to file other reports, affidavits, certificates, and other materials as required as soon as practicable after the date of the application.

Applicant represents that, as of the date of filing of the application, it had no assets, no liabilities, and no shareholders, and it was not a party to any litigation or administrative proceedings. Applicant further represents that it is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding-up of its affairs.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than October 22, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-26172 Filed 10-2-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21361; File Nos. SR-CBOE-84-15 and SR-CBOE-84-16]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc., Extension of Deadline for Agency Action With Respect to Proposed Rule Changes

September 27, 1984.

The Chicago Board Options Exchange, Incorporated ("CBOE") submitted on May 3, 1984, two proposed rule changes pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").

1983. [S&P 0:1 (Integrated International) Industry Index]; and 20717, March 6, 1984, (S&P Transportation and Telecommunications Indices), 47 FR 53981, 48 FR 30614, 43248, 44306, and 49 FR 9528.

[5] CBOE's rules, like those of other options exchanges, establish strike price intervals for stock options of $5.00 if the price per share of the underlying stock is less than $100.00 and $10.00 if the price per share of underlying stock is $100.00 or more.

[6] *See* Securities Exchange Act Release No. 20191, September 16, 1983, 48 FR 44306 (approving five point intervals for the S&P Oil (Integrated International) Industry Index Option. The Commission also noted in that order that the Amex uses five point strike price intervals for all of its index options.

[7] As the Commission noted in its order approving five point intervals for the S&P Oil (Integrated International) Industry Index Option (*see id.*), as the value of an index increases the volatility of the index in raw (but not necessarily in percentage) terms may be expected to increase, in which event strike price intervals of greater than $5.00 might become desirable. Under its proposal, the CBOE will have discretion to increase strike price intervals to greater than $5.00. The Commission believes such flexibility provides the CBOE the necessary authority to address any increases in the volatility of its indices.

[8] *See* note 5 *supra*.

The first proposal (SR–CBOE–84–15) provides that in the event there is more than one candidate for the position of chairman of the executive committee, a plurality of the exchange's membership voting at an annual election meeting shall determine who will fill the office.[1] The second proposal (SR–CBOE–84–16) would amend the exchange's constitution to increase the size of the board of directors from 21 to 24, by increasing from 6 to 9 the number of directors on the board.[2] The CBOE amended both of these proposed rule changes on June 21, 1984. Both amendments expanded upon the statements of purpose and statutory bases for the proposed rule changes initially filed with the Commission.

By letter dated August 16, 1984, the CBOE consented to a 30-day extension of time, from August 22 to September 24, 1984, for Commission action on the proposed rule changes.[3] During the period of this extension, the Division of Market Regulation requested that the CBOE respond to several questions concerning the proposed rule changes.[4] The exchange responded to these inquiries by letter dated September 18, 1984 ("September 18 letter").[5]

Both of the proposed rule changes raise numerous and complex issues concerning the structure of the CBOE Board of Directors and exchange governance.[6] Indeed, the method by which the proposed rule changes were initiated is highly unusual in that the changes were approved by the CBOE members over the opposition of the CBOE Board of Directors. While the Commission recognizes the need of the CBOE to have these issues resolved in a timely manner,[7] it believes that the nature of the issues involved requires a more studied analysis than is practicable within the time period to which the exchange has consented voluntarily. Moreover, additional time is necessary in order to permit the staff to evaluate the contents of the information provided by CBOE in the September 18 letter. Therefore, the Commission finds that, pursuant to Section 19(b)(2), there is good cause to extend the deadline for agency action until December 22, 1984.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84–26169 Filed 10–2–84; 8:45 am]

BILLING CODE 8010–01–M

[1] Notice of the proposed rule change was given in Securities Exchange Act Release No. 21122 (July 6, 1984); 49 FR 29174 (July 18, 1984.)

[2] Notice of the proposed rule change was given in Securities Exchange Act Release No. 21121 (July 6, 1984.); 49 FR 29173 (July 18, 1984).

[3] Letter to Eneida Rosa, Branch Chief, Division of Market Regulation, from Anne Taylor, Secretary and Associate General Counsel, CBOE.

[4] *See* letter to Anne Taylor, Secretary and Associate General Counsel, CBOE, from Holly Hasley Smith, Division of Market Regulation, dated September 4, 1984.

[5] *See* letter to Holly Hasley Smith, Division of Market Regulation, from Anne Taylor, Secretary and Associate General Counsel, CBOE.

[6] Section 6(b)(3) of the act specifically directs the Commission to insure that an exchange's rules provide for the "fair" administration of the exchange.

[7] In their extension letter, *see* note 3, *supra*, the CBOE expressed concern that the Commission act on the proposed rule changes before its December elections. The Commission will, of course, act on the proposals as expeditiously as possible.

[Release No. 21358; SR–CBOE]

Self Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Approving Proposed Rule Change

September 27, 1984.

The Chicago Board Options Exchange, Incorporated ("CBOE") LaSalle at Van Buren, Chicago, IL 60605, submitted on July 19, 1984, copies of a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19(b)–4 thereunder, to revise CBOE's policies and procedures with regard to granting exemptions to position and exercise limits under CBOE Rules 4.11 and 4.12. Under the proposed change, decisions granting or denying exemptions are not subject to review under Chapter XIX of the CBOE rules regarding hearings and reviews. In addition, the proposed policy emphasizes the informality of the exemption process, provides for public posting of a list of granted exemptions and specifies the purpose of the exemptive process.

Notice of the proposed rule change, together with the terms of substance of the proposed rule change, was given by the issuance of a Commission Release (Securities Exchange Act Release No. 21240, August 14, 1984) and by publication in the **Federal Register** (49 FR 33388, August 22, 1984). No comments were received with respect to the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6, and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84–26171 Filed 10–2–84; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–21353; File Nos. SR–PSDTC–84–13; SR–PCC–84–11]

Self-Regulatory Organizations; Filing of Proposed Rule Changes by the Pacific Securities Depository Trust Company and Pacific Clearing Corp.

September 26, 1984.

On August 30, 1984, the Pacific Securities Depository Trust Company ("PSDTC") and the Pacific Clearing Corporation ("PCC") filed proposed rule changes with the Securities and Exchange Commission (SR–PCC–84–11 and SR–PSDTC–84–13) pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1). The proposed rule changes seek permanent approval for existing pilot programs that extend the time period for settlement of securities transactions in PCC's and PSDTC's Continuous Net Settlement ("CNS") Systems in connection with certain exchange and tender offers. In April 1984, the Commission authorized PCC and PSDTC to establish these programs on a pilot basis.[1] The Commission is publishing this Notice to solicit comment.

The proposed rule changes would establish the pilot programs as permanent programs but would not change the operational aspects of those programs. The pilot programs currently permit PCC participants to submit liability notices to PCC for not more than the total number of shares in their long positions on PCC's settlement statements after allocation on the morning of the fifth business day following the expiration of selected tender or exchange offers. Similarly, PSDTC participants may submit appropriate instructions to PSDTC on or before the fifth day following expiration of these designated tender or exchange offers. As a result, PCC and PSDTC members are permitted to continue to net securities in the CNS system for a longer period of time, thereby reducing

[1] Securities Exchange Act Release No. 20836, 49 FR 14,614 (April 12, 1984).

the number of securities certificates that must be physically delivered.

PCC and PSDTC state in their filings that the proposed rule changes are consistent with section 17A(b)(3)(F) of the Act in that they promote the prompt and accurate clearance and settlement of securities transactions. In addition, PCC and PSDTC state their belief that the proposed rule changes assure the safeguarding of securities and funds in their custody or control or for which they are responsible.

To assist the Commission in determining whether to approve the proposed rule changes or to institute disapproval proceedings, you are invited to submit written data, views and arguments concerning the submissions within 21 days after the date of publication in the Federal Register. If you decide to comment on these filings, please file six copies of your views in writing with the Secretary of the Commission, Securities and Exchange Commission, 450 5-th Street, NW., Washington, DC 20549. Reference should be made to File Nos. TSR-PSDTC-84-13 and SR-84-PCC-84-11.

Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule changes which are filed with the Commission, and all other written communications relating to the proposed rule changes between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 5th Street, NW., Washington, DC 20549. Copies of the filings and of any subsequent amendments also will be available for inspection and copying at the principal office of PSDTC and PCC.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-26167 Filed 10-2-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21357; SR-NASD-84-24]

Self-Regulatory Organization; National Association of Securities Dealers, Inc.; Filing and Order Granting Accelerated Approval of Proposed Rule Change

September 27, 1984.

The National Association of Securities Dealers, Inc. ("NASD"), 1735 K Street, NW., Washington, D.C. 20006, submitted on September 25, 1984, copies of a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("act") and Rule 19b-4 thereunder, to provide a rebate for subscribers of a portion of the fees derived from the sale of NASDAQ/National Market System Last Sale Information. The rebate shall be made by means of a credit of $7.00 to the October and December invoices for any terminal that was in service on June 1, 1984.

The NASD states that during fiscal year 1984, net income for Market Services, Inc., an NASD subsidiary, is expected to exceed the accumulated amount of net operating losses, start up expenses, and investment tax credits. In accordance with Section H of Part IV of Schedule D of the NASD's By-Laws, the Board of Governors of the NASD approved a rebate of $7.00 per terminal per subscriber invoice for the months of October and December 1984. To the extent that projected revenues may continue to exceed costs to a significant degree, the NASD anticipates that the Board of Governors may revisit this area and consider the rebating of excess revenues to subscribers on an annualized basis. This approach, if approved, would be filed with the Commission by means of a separate rule filing.

Interested persons are invited to submit written data, views and arguments concerning the proposed rule change within 21 days after the date of publication in the Federal Register. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR-NASD-84-24.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the NASD.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD and, in particular, the requirements of Section 15A, and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the rule change, in that the proposed rule change will enable the NASD to establish a needed tax liability before the end of its fiscal year. NASD Market Services, Inc. is on the accrual method of accounting for tax purposes and has been advised by tax counsel that it is necessary to establish this liability as of September 30, 1984, in order to make the proposed rebate available to subscribers.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-26170 Filed 10-2-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21359; File No. SR-OCC-84-14]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change of the Options Clearing Corporation

September 27, 1984.

On August 29, 1984, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1) The Options Clearing Corporation ("OCC") filed with the Commission a proposed rule change establishing a Delivery-Versus-Payment System (the "DVP System") for settling foreign currency options exercises. The Commission is publishing this notice to solicit comment on the proposal.

OCC has designed new OCC Rule 1606A and its related Credit and Security Agreement (the "Agreement") with its correspondent bank to relieve a financing burden imposed on clearing members by OCC's foreign currency option exercise settlement procedures under current OCC Rule 1606. OCC must give its correspondent bank foreign currency delivery instructions, which may be irrevocable, two business days before exercise settlement date. Accordingly, OCC requires receiving clearing members to pay their net U.S. dollar exercise settlement amounts two business days before exercise settlement date.[1] Although this

[1] For the sake of simplicity, this notice assumes that receiving clearing members, who are clearing

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requirement protects OCC from clearing members' failure to pay U.S. funds, it forces clearing members to incur financing costs for the two day advance payment of U.S. dollars.

To reduce such receiving clearing member financing costs,[3] OCC has instituted a DVP System for large foreign currency deliveries. The DVP System relies on a guarantee by a clearing member's agent bank, rather than on advance payment by the clearing member, to protect OCC from the member's failure to pay its U.S. dollar settlement amount. Additionally, OCC's proposal conforms to current practice several OCC rules governing the regular foreign currency exercise settlement procedure.

The DVP System

Under Rule 1606A, a clearing member electing to use the DVP System submits to OCC a DVP Authorization for the amount to be settled by DVP. The clearing member must do this by noon, Central Time, on the day that OCC isues the related Exercise Settlement Report.[3] The DVP Authorization instructs the clearing member's agent bank ("agent bank") to guarantee, via international bank wire, delivery of the designated U.S. dollar settlement amount [4] to OCC's correspondent bank on the exercise settlement date. If a DVP Authorization meets OCC's criteria, OCC approves the authorization by endorsing it. OCC then returns it to the clearing member. To be approved by OCC, a DVP Authorization must: (i) Agree with OCC's records of the clearing member's settlement obligations on the applicable exercise settlement date; (ii) be addressed to an OCC-approved agent bank; and (iii) not cause the agent bank's outstanding guarantees under DVP Authorizations to exceed its credit limit set by OCC's correspondent bank.[5]

If OCC accepts the DVP Authorization, it issues by the opening of business the next day an amended Exercise Settlement Report, omitting the obligations to be settled by DVP.[6] The remaining obligations on that Report are settled pursuant to regular exercise settlement procedures of Rule 1606.[7] The clearing member then delivers the approved DVP Authorization to its agent bank. The agent bank, two business days before exercise settlement date, must send to OCC's correspondent bank a grarantee wire agreeing in all respects with the DVP Authorization. If OCC's correspondent bank receives such a timely guarantee message, OCC's correspondent bank then delivers the quantity of foreign currency due from OCC to the agent bank on exercise settlement date. Under the Agreement between OCC and OCC's correspondent bank, the correspondent bank assumes the risk of loss from failure of a clearing member's agent bank to honor its guarantee.

If OCC's correspondent bank does not receive a timely guarantee message from the agent bank, or if that message differs from the DVP Authorization, OCC will revoke acceptance of the DVP Authorization. If this occurs, OCC immediately will notify the clearing member and its agent bank and will release the agent bank from liability under its guarantee. OCC then will direct the clearing member to settle its exercise settlement obligations under OCC Rule 1606. If this occurs and the recalculated Exercise Settlement Report reflects increased clearing member U.S. dollar payment obligations, the member must pay the additional amount by 2:00 p.m. Central Time on the DVP Authorization revocation date.

Changes to Regular Settlement Procedures

The proposal clarifies OCC's regular Rule 1606 foreign currency settlement procedures in several respects. First, the proposal amends OCC Rule 1606 to enable delivering clearing members to use the international bank wire services of OCC-approved banks for the delivery of foreign currency. OCC has approved the use of certain interbank telecommunication systems, including one operated by the Society for Worldwide Interbank Financial Telecommunication ("S.W.I.F.T."). Therefore, this change merely conforms OCC's rules to current practice. Second, amended OCC Rule 1607 permits clearing members to deliver and to receive foreign currency through multi-currency accounts outside the "country of origin," *i.e.*, outside the country whose currency underlies the option being settled. However, because foreign currency may only be withdrawn from these accounts at a bank branch in the country of origin, OCC deems the use of such accounts to satisfy its requirement that foreign currency be delivered in the country of origin. Third, amended OCC Rule 1609 provides OCC with additional flexibility when a clearing member fails to meet its foreign currency settlement obligations. In extraordinary circumstances,[8] the rule authorizes OCC to accept delivery of foreign currency receivable by a defaulting member and to use that currency as security for a short-term loan pending payment by the defaulting member. This change does not restrict OCC's authority to sell out the foreign currency at any time, and OCC will do so if the defaulting clearing member ultimately fails to pay.[9]

OCC believes that the proposal is consistent with Section 17A of the Act because it reduces clearing members' financing costs related to foreign currency settlement obligations. Also, OCC states that the proposal reduces OCC's risk of financial loss by substituting the credit of clearing members' agent banks for that of the clearing members and by imposing the risk of the agent banks' default on OCC's correspondent bank. Therefore, OCC believes that the proposal facilitates the prompt and accurate clearance and settlement of foreign currency option exercises and assures the safeguarding of funds and securities in OCC's custody or control or for which OCC is responsible.

The rule change has become effective pursuant to section 19(b)(3)(A) of the

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members entitled to receive foreign currency, will have a reciprocal U.S. dollar payment obligation. *I.e.*, also will be paying clearing members. Because OCC nets clearing members' settlement obligations under OCC Rule 1605, receiving or delivering clearing members can either be paying or collecting members.

[3] Interpretation and Policy No. 1 to Rule 1606A states that the DVP System will be limited to certain receiving clearing members until further notice. Initially, the DVP System will be operated on a limited basis as a pilot program.

[4] Rule 1606A(a) restricts use of the DVP System to settlements of 100 or more units of trading, or such lesser amounts as OCC authorizes. For the present, OCC has reduced the minimum settlement amount for DVP System use to 40 or more units of trading.

[4] A receiving clearing member's DVP Authorization must designate an amount of foreign currency corresponding to exercises and assignments reflected on that day's Exercise Settlement Report. Pursuant to Rule 1606A(c) the U.S. dollar settlement amount must correspond to the actual exercise prices.

[5] Exhibit II to the Agreement lists the currently approved agent banks and their respective credit limits.

[6] If OCC rejects a DVP Authorization, the clearing member must follow the regular settlement procedures of Rule 1606.

[7] If the clearing member fails to meet settlement obligations reflected on the amended Exercise Settlement Report, OCC may revoke acceptance of the DVP Authorization. In that case, OCC will immediately notify the clearing member's agent bank and send the clearing member a revised Exercise Settlement Report including the amount previously designated for DVP settlement. If the agent bank has already guaranteed delivery, OCC's correspondent bank will release the agent bank from any further obligation pursuant to that guarantee.

[8] *E.g.*, when a financially sound clearing member experiences a temporary problem with its financing arrangements.

[9] Even if OCC holds the foreign currency as security, the defaulting clearing member may be required to pay additional margin to OCC, and would be liable to OCC for the cost of financing the short-term loan.

Act and Rule 19b–4(e). The Commission may summarily abrogate the rule change at any time within 60 days of its filing if it appears to the Commission that abrogation is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Written comments may be submitted within 21 days after this notice is published in the **Federal Register.** Please refer to File No. SR–OCC–84–14 and file six copies of comments with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Material on the rule change, other than material that may be withheld from the public under 5 U.S.C. 552, is available at the Commission's Public Reference Room and at the principal office of OCC.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84–26108 Filed 10–2–84; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Alabama; Region IV; Birmingham Regional Advisory Council; Meeting

The Small Business Administration, Region IV Advisory Council located in the geographical area of Birmingham, Alabama, will hold a public meeting 2:00 p.m.—5:00 p.m., on Tuesday, October 23, 1984, in the Montgomery Civic Center, Montgomery, Alabama, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call James C. Barksdale, District Director, U.S. Small Business Administration, 908 South 20th Street, Room 202, Birmingham, Alabama, (205) 254–1341.

Dated: September 27, 1984.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 84–26276 Filed 10–2–84; 8:45 am]

BILLING CODE 8025–01–M

California; Region IX Advisory Council; Public Meeting

The Small Business Administration Region IX Advisory Council, located in the geographical area of Fresno, California, will hold a public meeting at 9:00 a.m. on November 7, 1984, at the Fresno District Office, 2202 Monterey Street, Suite 108, Fresno, California, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call Peter J. Bergin, District Director, U.S. Small Business Administration, 2202 Monterey Street, Suite 108, Fresno, California 93721, (209) 487–5791.

Dated: September 26, 1984.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 84–26272 Filed 10–2–84; 8:45 am]

BILLING CODE 8025–01–M

Colorado; Region VIII Advisory Council; Public Meeting

The Small Business Administration Region VIII Advisory Council, located in the geographical area of Denver, Colorado, will hold a public meeting at 8:30 a.m. on Friday, November 16, 1984, at the U.S. Custom House, 721 19th Street, Room 158, Denver, Colorado 80202, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call Eugene Uccellini, District Director, U.S. Small Business Administration, 721 19th Street, Denver, Colorado 80202–2599, (303) 837–2607.

Dated: September 27, 1984.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 84–26277 Filed 10–2–84; 8:45 am]

BILLING CODE 8025–01–M

Missouri; Region VII St. Louis District Advisory Council; Public Meeting

The Small Business Administration Region VII St. Louis District Advisory Council, located in the geographical area of St. Louis and Eastern Missouri, will hold a public meeting at 10:00 a.m. on Thursday, October 18, 1984, at McDonnell Douglas Corporation, World Headquarters Building, McDonnell Boulevard and Airport Road, St. Louis, Missouri, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Robert L. Andrews, District Director, U.S. Small Business Administration, 815 Olive Street—Room 242, St. Louis, Missouri 63101–(314) 425–6600.

Dated: September 27, 1984.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 84–26273 Filed 10–2–84; 8:45 am]

BILLING CODE 8025–01–M

Missouri; Region VII Advisory Council; Public Meeting

The Small Business Administration Region VII Advisory Council, located in the geographical area of Kansas City, Missouri, will hold a public meeting at 9:00 a.m. on Thursday, November 8, 1984, at the Professional Building, 1103 Grand Avenue, (5th Floor), Kansas City, Missouri, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call Patrick E. Smythe, District Director, U.S. Small Business Administration, Sixth Floor, Professional Building, 1103 Grand Avenue, Kansas City, Missouri 64106, (816) 374–5557.

Dated: September 27, 1984.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 84–26274 Filed 10–2–84; 8:45 am]

BILLING CODE 8025–01–M

New York; Region VII Advisory Council; Public Meeting

The Small Business Administration Region II Advisory Council, located in the geographical area of Syracuse New York, will hold a public meeting at 9:00 a.m. on Thursday November 8, 1984, at the James M. Hanley Federal Building, 100 S. Clinton Street, Room 1117, (11th Floor), Syracuse, New York, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call J. Wilson Harrison, District Director, U.S. Small Business Administration, 100 South Clinton Street, Room 1071, Syracuse, New York 13260 (315) 423–5371.

Dated: September 27, 1984.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 84–26275 Filed 10–2–84; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–84–18]

Petitions for Exemption; Summary of Petitions Received, Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before October 23, 1984.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. ———, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue SW., Washington, D.C. 20591; telephone (202) 426-3644.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on September 27, 1984.

Richard Beitel,

Acting Assistant Chief Counsel, Regulations and Enforcement Division.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
22633	Virgin Islands Seaplane Shuttle, Inc.	14 CFR 135.175(a).	To extend Exemption 3487A, which terminates on 10/31/84, and which allows petitioner to conduct day, VFR flights in large, multiengine aircraft without approved airborne weather radar equipment installed.
24182	Age of Enlightenment Aviation.	14 CFR 21.181...	To allow the operation of a B707-321 aircraft utilizing the provisions of a minimum equipment list
22473	Ransome Airlines.	Portions of 14 CFR Part 93.	To extend Exemption No. 3752A which permits scheduled air taxis to conduct two reservation-free operations per hour at Washington National Airport on portions of runways under certain limitations and conditions.
20406	Lockheed-California	14 CFR 25.103(c)(1) and 25.1581.	To permit the amended type certification of the L-1101 aircraft (S/N 193U-1201 & 193U-1203) with an overspeed warning tolerance 6 knots greater than allowed by the FAR and a flight manual whose performance criteria are computed from British Civil Air Regulations criteria rather than FAR criteria.
24249	Aloha Airlines....	14 CFR 91.303...	To allow petitioner to operate one Stage 1 Boeing 737 in noncompliance with the operating noise rules until "hush kits" are installed.
17709	Sohio Alaska Petroleum Co.	Portions of 14 CFR Parts 21, 43 and 91.	To Extend Exemption No. 2566D which allows petitioner to operate certain B-727 airplanes utilizing the provisions of a minimum equipment list and allows them to maintain these aircraft under an approved continuous maintenance and inspection program.
20779	Pan American and Department of International Affairs.	Portions of 14 CFR Parts 21, 43, 91 and 121.	To extend Exemption No. 3674 which allows petitioner to operate two U.S.-registered B-747 aircraft utilizing the provisions of an FAA-approved minimum equipment list and Pan American's continuous airworthiness maintenance program.
24212	David M. Hendrick.	14 CFR 65.91(c)(1).	To allow petitioner to apply for an Inspection Authorization even though his mechanic certificate has not been continuously in effect for 3 years.
24210	ICB International.	14 CFR 121.3.....	To allow petitioner to operate as a domestic air carrier, a flag carrier, and as a supplemental carrier without having its own air carrier operating certificate when using aircraft wet leased from Connie Kalitta Services, Inc.
23336	Simulator Training.	14 CFR 61.63 and 61.57.	To extend Exemption No. 3681 which allows trainees to complete a practical test for the issuance of a type rating to be added to any private, commercial, or airline transport pilot certificates, including those items and procedures approved for testing in an airplane simulator as set forth under the heading of nonvisual simulators in Appendix A of Part 61.

DISPOSITIONS OF PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
13416	Sierra Academy of Aeronautics	14 CFR 63.39(b)(2)	To allow applicants, whom petitioner is training in preparation for the flight engineer practical test, to take the normal procedures portion of the practical test in an appropriate simulator in lieu of taking that portion of the test in an airplane in flight. *Granted 9/19/84.*
15194	Compania Mexicana De Aviacion, S.A.	14 CFR 21.181	To amend Exemption No. 2195 by adding three leased U.S.-registered McDonnell Douglas DC-10-15 aircraft (N10031, N10045, N1003W currently operated under Exemption No. 3261, as amended, to the list of four U.S.-registered Boeing 727 (B-727-2J7) aircraft currently operated under Exemption 2195, as amended, and by extending its termination date to January 31, 1987. Exemption 2195, as amended permits the petitioner to operate its leased U.S.-registered B-727-2J7 aircraft using a Federal Aviation (FAA)-approved minimum equipment list (MEL) Exemption No. 3261, as amended permits the petitioner to operate its leased U.S-registered DC-10-15 aircraft using an FAA-approved continuous airworthiness maintenance program and an FAA-approved MEL. *Granted 9/21/84.*
24097	New England Airlines	14 CFR 135.243(a)	To allow petitioners pilots to serve as pilots in command during scheduled commuter air taxi operations on their only scheduled commuter route between Westerly-Block Island-Westerly in Rhode Island, without holding an airline transport pilot certificate. *Denied 9/12/84.*
24194	United Airlines	14 CFR 43.3 and 43.7	To allow petitioner to pool UAL-owned DC-10-30 components, which are non-common to DC-10-10 components on UAL aircraft, with DC-10-30 components maintained by Canadian Pacific Air Lines, Ltd. (CPA). Also, to allow UAL to use CPA-owned engines on its DC-10-30 aircraft and APU's on its DC-10-10 and DC-10-30 aircraft. *Granted 9/24/84.*
24162	Zamba Airways Corp	14 CFR 21.181	To allow petrtioner to operate leased DC-10-30 aircraft utilizing the provisions of a minimum equipment list. *Partial Grant 9/18/84.*
24172	Air Panama	14 CFR 21.181	To allow petitioner to operate leased DC-10-40 aircraft, N1440S, utilizing the provisions of a minimum equipment list *Granted 9/18/84.*
23728	Houston Helicopters, Inc.	14 CFR SFAR 29-4	To amend Exemption 3903 which would eliminate the condition that each crewmember who operates under the authority of the exemption must have been previously authorized to operate a Bell 212 aircraft under SFAR 29 prior to March 2, 1983. *Granted 9/19/84.*
17145	United Airlines	14 CFR 121.665 & 121.697 (a), (b)	To allow petitioner permanent exemption to use a computerized load manifest that displays and prints the name of the responsible agent in lieu of the requirements for a signature. *Partial Grant 9/19/84.*

DISPOSITIONS OF PETITIONS FOR EXEMPTION—Continued

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
23878	Surinam Airways	Portions of 14 CFR Parts 21 and 91	To amend Exemption 3920 which allows operations utilizing and FAA-approved minimum equipment list, to correctly reflect the authorized aircraft as N1809. Also, to allow eight additional DC-8-60 aircraft to be operated under the exemption. *Granted 9/21/84.*
23893	Golden Nugget Hotel	14 CFR 91.307	To allow operation in the United States, under service to small communities exemption, of specified two-engine airplanes identified by registration and serial number, that have not been shown to comply with the applicable operating noise limits as follows: Until not later than January 1, 1988: 1 DC-9. *Granted 9/24/84.*
24226	Aeronaves De Mexico (Aeromexico)	14 CFR 91.307	To allow operation in the United States, under a service to small communities exemption, of specified two-engine airplanes identified by registration and serial number, that have not been shown to comply with the applicable operating noise limits as follows: Until not later than January 1, 1988: 8 DC-9. *Granted 9/21/84.*
23418	All Star Airlines	14 CFR 91.307	To allow operation in the United States, under a service to small communities exemption, of specified two-engine airplanes identified by registration and serial number, that have not been shown to comply with the applicable operating noise limits as follows: Until not later than January 1, 1988: 3 DC-9. *Granted 9/21/84.*
24087	Midwest Express Airlines, Inc	14 CFR 91.307	To allow operation in the United States, under a service to small communities exemption, of specified two-engine airplanes identified by registration and serial number, that have not been shown to comply with the applicable operating noise limits as follows: Until not later than January 1, 1988: 3 DC-9. *Granted 9/21/84.*
23997	General Air Services	14 CFR 91.303	To allow petitioner to operate DC-8 and CV880 aircraft in noncompliance with the operating noise limits through December 31, 1987. *Denied 8/14/84.*
24025	Systems Analysis & Research Corp., and AVMARK.	14 CFR 91.303	To allow the continued operation of four-engined aircraft until December 31, 1987, in noncompliance with the operating noise limits. *Denied 9/17/84.*
20334	Evergreen Helicopters, Inc	14 CFR 135.261(b)	To amend Exemption 3886 to extend the exemption to apply to all of petitioners wholly owned subsidiaries. The exemption allows the operation of helicopters in service without meeting the flight and duty-time limitations. *Denied 9/12/84.*
24184	KLM Royal Dutch Airlines	14 CFR 21.181	To allow petitioner to operate a leased B-747-306 aircraft utilizing the provisions of a minimum equipment list. *Granted 9/12/84.*
24137	Delta Airlines	14 CFR 121.434(c)	To allow transitioning pilots-in-command to acquire operating experience on a "Train to proficiency" basis instead of the 25 hours (reduceable) for initial operating experience. *Denied 9/12/84.*
23712	Arizona Coors	Portions of 14 CFR Part 91	To permit petitioner to operate tethered passenger-carrying hot-air balloons, not equipped with automatic rapid deflation devices which activate if a balloon escapes its moorings. *Closed—Exemption not required. 9/11/84.*
24058	Angwin Aviation, Inc	14 CFR 91.303	To allow petitioner to operate a Stage 1 DC-8 airplane in noncompliance with the operating noise limits unless January 1, 1988 or until one year after FAA approval of quite nacelles for the DC-8. *Denied 9/12/84.*
24108	Fair Air, Inc	14 CFR 91.303	To allow petitioner to operate one Stage 1 CV-880 aircraft until December 31, 1987, in noncompliance with the operating noise limits. *Denied 9/12/84.*
24027	Servicio De Carga Aerae S.A., d/b/a Central America Air Cargo.	14 CFR 91.303	To allow petitioner to operate Stage I four-engine aircraft to/from Miami Airport until January 1, 1988, in noncompliance with the operating noise limits. *Denied 9/7/84.*
24131	Windwalkers Air Country Club	14 CFR 91.303	To allow petitioner to operate one Stage 1 Boeing 720 aircraft until December 31, 1987, in noncompliance with the operating noise limits. *Denied 9/11/84.*
23851	The Soaring Society of America, Inc	14 CFR 43.9	To permit pilots to make an entry in the aircraft's records each time a different pilot reassembles the aircraft rather than each time the aircraft is reassembled. *Granted 9/25/84.*
23981	Aeromar Airlines	14 CFR 91.303	To allow petitioner to operate DC-8 and Boeing 707 aircraft in noncompliance with the operating noise limits through December 31, 1987. *Denied 9/11/84.*
23474	Asan. Europenne	14 CFR 25.1397(a)	To change the anticollision light color coordinate upper limit requirements for aviation red from a "y" value of 0.335 to 0.350 and a "z" value of 0.002 to 0.020 as defined by the Planckian radiator scale. *Denied 8/21/84.*
24125	Henson Airlines	14 CFR 121.503, 121.505, & 121.515	To allow petitioner to conduct operations under Part 121 utilizing the flight and duty time requirements of § 135.261 for its Shorts 330 pilots. *Denied 9/6/84.*
20254	Royal Airlines, Inc	14 CFR 135.225(e)(1)	Extension of Exemption 3082B, to allow petitioners' aircraft to takeoff from Polk Army Airfield, Fort Polk, Louisiana, under instrument flight rule conditions with one-half statute-mile visibility. *Granted 9/10/84.*
22539	Air Methods, Inc	14 CFR 43.3(g)	To allow petitioner's, appropriately trained and certificated pilots to remove, check, and reinstall magnetic chip detector plugs installed on Allison 250 series turbine engines aircraft transmissions, and tail rotor gearboxes of its Bell 206 L-1/L-3 aircraft. *Granted 9/11/84.*
12468	Petroleum Helicopters, Inc	14 CFR 43.3(b)	To extend Exemption No. 1821H which permits petitioner's appropriately trained and certificated pilots to remove, check, and reinstall magnetic chip detector plugs on the Allison 250-C series turbine engine, tail rotor gear boxes, and transmissions installed in its Bell Model 206 and Boelkow Model BO-105 helicopters. *Granted 9/11/84.*
84-ASW-20	Bell Helicopter Textron, Inc	14 CFR 27.695(a)(1)	To allow type certification of the Bell Model 400 normal category helicopter without considering the effects of a jammed hydraulic control actuator spool valve in the neutral position. *Granted 8/24/84.*
24235	Seagull Air Hawaii Inc	14 CFR 135.158(a)	To permit petitioner to operate its DeHavilland 114-2X (DH-114-2X) aircraft N714R without an operable pilot heat indication system. *Granted 9/12/84.*
24126	Advanced Aircraft Corp	14 CFR 21.195(a)	To allow petitioner to conduct market surveys, sales demonstrations, and customer crew training under an experimental certificate. *Denied 9/12/84.*
20378	Beckett Aviation Corp	14 CFR 61.58(c)	To extend the 9/30/84 termination date of Exemption 3067 which allows petitioner to complete the entire 24-month pilot-in-command proficiency check in an FAA-approved flight simulator. *Granted 9/25/84.*

[FR Doc. 84-26118 Filed 10-2-84; 8:45 am]

BILLING CODE 4910-13-M

Maritime Administration

[Docket No. S-763]

Participation by Vessels Built With Construction-Differential Subsidy in the Carriage of Crude Oil in the Domestic Trade; Application of ARCO Transportation Co.

Notice is hereby given that by application of September 20, 1984, ARCO Transportation Company (ARCO) requested permission under section 506 of the Merchant Marine Act, 1936, as amended, and Part 250 of Title 46 of the Code of Federal Regulations, for its owned vessel, ARCO SPIRIT to operate for six months in the Alaskan oil trade. The 262,000 deadweight ton ARCO SPIRIT which was built with construction-differential subsidy (CDS), would carry crude oil from Valdez, Alaska, to Panama. The vessel would be under time charter to Exxon Shipping Company (Exxon) or Standard Oil Company (Sohio) during the six-month period and would commence Alaskan service on or about November 15 to December 15, 1984. ARCO has received inquiries from Exxon and Sohio for the use of the ARCO SPIRIT in the Valdez-Panama trade. ARCO anticipates finalizing charter arrangements with either Exxon or Sohio if this waiver is granted because of the need for tonnage in this trade.

By letter dated September 21, 1984, the Associate Administrator for Maritime Aids requested additional information on the charter of the vessel. ARCO responded by letter dated September 24, 1984, advising that they have a charter with Exxon which is effective upon the grant of a section 506 waiver. In addition, ARCO stated the reasons that they believe that there are definite requirements for the vessel commencing between November 15 and December 15. Finally, the company mentioned the high cost of repositioning the vessel from the U.S. Gulf.

Interested parties may inspect the application in the Office of the Secretary, Maritime Administration Room 7300A, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

Any person, firm, or corporation who is a "competitor," as defined in § 250.2 of the regulations as set forth in 46 CFR Part 250 published in the **Federal Register** issue of June 29, 1977 (42 FR 33035), and desires to protest such application for carriage of oil in the domestic trade from Alaska to Panama should submit such protest in writing, in triplicate, to the Secretary, Maritime Administration, Washington, D.C. 20590.

Protests must be received within five working days after the date of publication of this Notice in the **Federal Register**. If a protest is received, the applicant will be advised of such protest by telephone or telegram and will be allowed three working days to respond in a manner acceptable to the Maritime Administrator. Within five working days after the due date for the applicant's response, the Maritime Administrator will advise the applicant, as well as those submitting protests, of the action taken, with a concise written explanation of such action. If no protest is received concerning the application, the Maritime Administrator will take such action as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 20.800 Construction-Differential Subsidy (CDS))

Dated: September 28, 1984.

By Order of the Maritime Administrator.

Georgia P. Stamas,

Secretary.

[FR Doc. 84-26230 Filed 10-2-84; 8:45 am]

BILLING CODE 4910-81-M

[Docket S-761]

Boston VLCC Tankers, Inc. VI; Application for Permission Under Section 506 of the Merchant Marine Act, 1936, as Amended for the Maryland To Operate in Domestic Trade

Notice is hereby given that Boston VLCC Tankers, Inc. VI (Boston VI) by application dated September 20, 1984, has applied for written permission under section 506 of the Merchant Marine Act, 1936, as amended (Act) and in accordance with 46 CFR Part 250, for its vessel, MARYLAND, to operate in the Alaskan oil trade for six months. The 265,000 deadweight ton MARYLAND, which was built with construction-differential subsidy, woul carry crude oil from Valdez, Alaska, to Panama for transshipment and/or from Valdez direct to the U.S. Gulf or Caribbean for oncarriage only to a U.S. port. Boston VI states that suitable Jones Act vessels of competitors are not available for the carriage of this cargo at present.

The MARYLAND is chartered by Boston VI to Maryland Tankers, Inc., which in turn has chartered it to Pierce Tanker Corporation for a term ending on or about March 31, 1986. Pierce in turn has had the vessel continuously under charter to Exxon Shipping Co. since October 1983. First loading of the vessel at Valdez would commence on or about October 1, 1984.

By letter dated September 21, 1984, the Associate administrator for Maritime Aids requested additional information on the charter of the vessel. Counsel for the applicant, by letter dated September 24, 1984, transmitted a copy of the charter between Pierce and Exxon covering the MARYLAND. The Associate Administrator for Maritime Aids, by letter of September 25, 1984, requested further information on the vessel's utilization and loading date. On September 27, 1984, the applicant advised that the Exxon charter-provided that the "intended trade for the Vessel is Valdez to Panama or U.S. Gulf or U.S. Atlantic Coast." In addition, they stated they were not in a position to seek section 506 permission until the PRINCE WILLIAM SOUND and MOBIL ARCTIC were fixed.

Interested parties may inspect the application in the Office of the Secretary, Maritime Administration Room 7300A, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

Any person, firm, or corporation who is a "competitor," as defined in § 250.2 of the regulations as set forth in 46 CFR Part 250 published in the **Federal Register** issue of June 29, 1977 (42 FR 33035), and desires to protest such application for carriage of oil in the domestic trade from Alaska to Panama should submit such protest in writing, in triplicate, to the Secretary, Maritime Administration, Washington D.C. 20590.

Any person, firm or corporation who desires to protest such application for carriage of oil in the domestic trade from Alaska directly to the U.S. Gulf should submit such protest in writing, in triplicate, to the Secretary, Maritime Administration, Washington, D.C. 20590.

Protests must be received within five working days after the date of publication of this Notice in the **Federal Register**. If a protest is received, the applicant will be advised of such protest by telephone or telegram and will be allowed three working days to respond in a manner acceptable to the Maritime Administrator. Within five working days after the due date for the applicant's response, the Maritime Administrator will advise the applciant, as well as those submitting protests, of the action taken, with a concise written explanation of such action. If no protest is received concerning the application, the Maritime Administrator will take such action as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 20.800 Construction-Differential Subsidy (CDS))

Dated: October 28, 1984.

By Order of the Maritime Administrator.

Georgia P. Stamas,

Secretary.

[FR Doc. 84-26229 Filed 10-2-84; 8:45 am]

BILLING CODE 4910-81-M

[Docket No. S-762]

Archon Shipping Inc.; Application for Permission Under Section 506 of the Merchant Marine Act, 1936, as Amended for the Brooklyn To Operate in the Alaskan Oil Trade

Notice is hereby given that Archon Shipping Inc. (Archon), by letter dated September 21, 1984, has applied for written permission under section 506 of the Merchant Marine Act, 1936, as amended (Act), and in accordance with 46 CFR Part 250 for its bareboat chartered vessel, BROOKLYN, to operate in the Alaskan oil trade. The 225,000 DWT vessel, which was built with construction-differential subsidy, would transport oil on consecutive or non-consecutive voyages for a period totaling not more than six months, such voyages to take place within a period of twelve consecutive months commencing November 1, 1984 or, in the alternative, for a period of six consecutive months to commence between November 1 and November 15, 1984. The vessel is to be employed in the transportation of oil from Valdez, Alaska, to Panama for transshipment, for oncarriage only to a U.S. port. The vessel is under long-term time charter to American Petrofina, Incorporated (Fina) but would be sub-time chartered to SPC Shipping, Inc., a subsidiary of Standard Oil Company of Ohio (SOHIO) for the six-month period. Based on information furnished by Fina and SOHIO, Archon indicates that suitable Jones Act vessels of competitors will not be available for the carriage of this oil.

Interested parties may inspect the application in the Office of the Secretary, Maritime Administration Room 7300A, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

Any person, firm, or corporation who is a "competitor," as defined in § 250.2 of the regulations as set forth in 46 CFR Part 250 published in the **Federal Register** issue of June 29, 1977 (42 FR 33035), and desires to protest such application for carriage of oil in the domestic trade from Alaska to Panama should submit such protest in writing, in triplicate, to the Secretary, Maritime Administration, Washington, D.C. 20590.

Protests must be received within five working days after the date of publication of this Notice in the **Federal Register**. If a protest is received, the applicant will be advised of such protest by telephone or telegram and will be allowed three working days to respond in a manner acceptable to the Maritime Administrator. Within five working days after the due date for the applicant's response, the Maritime Administrator will advise the applicant, as well as those submitting protests, of the action taken, with a concise written explanation of such action. If no protest is received concerning the application, the Maritime Administrator will take such action as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 20.800 Construction-Differential Subsidy (CDS))

Dated: September 28, 1984.

By Order of the Maritime Administrator.

Georgia P. Stamas,

Secretary.

[FR Doc. 84-26228 Filed 10-2-84; 8:45 am]

BILLING CODE 4910-81-M

Research and Special Programs Administration

[Docket No. 84-6W; Notice1]

Tennessee Gas Pipeline Co.; Waiver of Requirement to Bury Plastic Pipe

The Tennessee Gas Pipeline Company, a Division of Tenneco Inc., (Tennessee) proposes to lay approximately 3.75 miles of one 3-inch or two 2-inch plastic pipelines to serve the town of Provencal, Louisiana, temporarily while the regular service tap is out of service. By a letter-petition dated September 13, 1984, Tennessee requests that the Office of Pipeline Safety Regulation (OPSR) grant a temporary waiver to Tennessee from the burial requirement of 49 CFR 192.321(a) to allow the installation of this temporary plastic pipe above ground. The relevant facts, as set forth in the petition, are repeated hereinafter:

In order to facilitate hydrostatic testing of its 500-1 pipeline in Natchitoches Parish, Louisiana, to accommodate a class location change, Tennessee must take the portion between Main Line Valve (MLV) 500-1 and MLV 501-1 out of service. The town of Provencal, Louisiana, is served from a tap on this valve section approximately 3.75 miles north of MLV 501-1. The 20-inch 500-1 line runs roughly south from Compressor Station 40 near Natchitoches, Louisiana, to Compressor Station 823 near Kinder, Louisiana.

It is anticipated that the valve section will be out of service for 1 to 2 weeks, and some means of supplying gas during this period to the town of Provencal must be provided. The alternatives available are: (1) To lay a temporary pipeline (either steel or plastic pipe) from the pressured blowoff south of MLV 501-1 3.75 miles to the present sales meter station, or (2) supplying the town from tank trucks containing either compressed natural gas (CNG) or liquefied natural gas (LNG). Tennessee considers all of these alternatives, if properly executed, equally safe in a broad context.

The approximate costs of these alternatives are:

Plastic Pipeline	[1] $10,000
Steel Pipeline	[1] $85,000
CNG	50,000
LNG	[2] 50,000-100,000

[1] Includes installation and removal.
[2] Depending on location and availability.

The plastic pipeline is easily the most attractive alternative and can be accomplished the quickest.

Therefore, Tennessee proposes to install approximately 3.75 miles of dual 2-inch or a single 3-inch plastic pipe, above ground, from a point near its MLV 501-1 to the present point of delivery to the town of Provencal, Louisiana. The pipe will be designed, installed, tested, operated, and maintained in accordance with 49 CFR Part 192, except for § 192.321(a). The operating pressure will be 80 psig. In addition to the requirements of 49 CFR Part 192, Tennessee will install temporary markers along the plastic pipeline at intervals of approximately 100 yards and patrol the pipeline twice a week, but at intervals no greater than 5 days, while it is in service. Tennessee believes that the requirement of § 192.321(e) (locator wire) is not applicable since the pipe will not be undeground.

The plastic pipeline will be laid on the right-of-way of Tennessee's 500-1 line and its entire length will be in remote, rolling, wooded terrain. There are no road crossings or agricultural activities along this right-of-way. There are no buildings along this portion of the 500-1 line and part of it is in the Kisatchie National Forest. It is anticipated that the plastic pipe will not be subjected to excess temperature due to solar radiation as the gas entering the pipe will be very cool, being at ground temperature in the 20-inch pipe and will have a significant drop in temperature due to pressure reduction from 400-500 psig to 80 psig.

The hydrostatic test is scheduled for late October or early November 1984 and Tennessee requested that this Application for Waiver be considered

expeditiously, and be granted by October 22, 1984.

In consideration of the foregoing, OPSR decided to grant the waiver primarily because the purpose of burying plastic pipe is to avoid long-term degradation of the plastic due to ultra-violet exposure, and the line will be in service for less than a month. Also, it appears from the pipeline's location and additional safety precautions to be conducted by Tennessee that this installation will involve no threat to the safety of the general public or Tennessee employees.

Section 3(d) of the Natural Gas Pipeline Safety Act of 1968, as amended (49 U.S.C. 1672(d)), authorizes waivers from compliance with the Federal gas pipeline safety standards after notice and opportunity for hearing. Section 3(c) further provides that the provisions of subchapter II of chapter 5 of Title 5 of the United States Code shall apply to all actions waiving compliance with any standard. Therefore, in accordance with 5 U.S.C. 553(b), in view of the need for a waiver, the absence of a significant safety issue, and the brief time involved, prior notice and public procedure on the granting of this waiver would not be in the public interest.

Accordingly, by this order, Tennessee Gas Pipeline Company is hereby granted a temporary waiver from compliance with 49 CFR 192.321(a) with regard to either one 3-inch or two 2-inch plastic pipelines described above. The waiver is effective immediately and terminates 30 days after the pipeline or pipelines are placed in service.

(49 U.S.C. 1672(d); 49 CFR 1.53; Appendix A of Part 1, and Appendix A of Part 106)

Issued in Washington, D.C., on September 28, 1984.

Richard L. Beam,

Associate Director for Pipeline Safety Regulation, Materials Transportation Bureau.

[FR Doc. 84-26258 Filed 10-2-84; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Public Information Collection Requirements Submitted to OMB for Review

Date: September 26, 1984.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB (listed by submitting bureau(s)), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained by calling the Treasury Bureau Clearance Officer listed under each bureau. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 7225, 1201 Constitution Avenue, N.W., Washington, D.C. 20220.

Internal Revenue Service

OMB Number: 1545-0123
Form Number: IRS Form 1120, Schedule D (1120), Schedule PH (1120)
Type of Review: Revision
Title: U.S. Corporation Income Tax Return, Capital Gains and Losses, Computation of U.S. Personal Holding Company Tax

OMB Number: New
Form Number: IRS Form 8275
Type of Review: New
Title: Disclosure Statement Under Section 6661(b)(2)(B)(ii)

OMB Number: New
Form Number: IRS Form 1120-A
Type of Review: New
Title: U.S. Short-Form Corporation Income Tax Return

Clearance Officer: Garrick Shear (202) 566-6254, Room 5571, 1111 Constitution Avenue, N.W., Washington, D.C. 20244.

OMB Reviewer: Norman Frumkin (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Alcohol, Tobacco and Firearms

OMB Number: 1512-0133
Form Number: ATF F 4721 (5400.8)
Type of Review: Reinstatement
Title: Explosives Delivery Record

OMB Number: New
Form Number: None
Type of Review: New
Title: Registration and Record of Vinegar Vaporizing Plants (REC 5110/09)

Clearance Officer: Howard Hood (202) 566-7077, Bureau of Alcohol, Tobacco and Firearms, Room 2228, Federal Building 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20226.

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Bureau of the Public Debt

OMB Number: 1535-0008
Form Number: PD 1938
Type of Review: Revision
Title: Request for Reissue of U.S. Savings Bonds/Notes During the Lives of Both Co-Owners

OMB: Number 1535-0012
Form Number: PD 1455
Type of Review: Extension
Title: Request by Feduciary for Reissue of Untied States Savings Bonds/Notes

OMB Number: 1535-0004
Form Number: PD 1522
Type of Review: Extension
Title: Special Form of Request for Payment of Untied States Savings and Retirement Securities Where Use of a Detached Request is Authorized

OMB Number: 1535-0006
Form Number: PD 2458
Type of Review: Extension
Title: Certificate of Entitlement—United States Savings and Retirement Securities and Checks after Administration of Decedent's Estate

OMB Number: 1535-0009
Form Number: PD 1851
Type of Review: Tevision
Title: Request for Reissue of United States Savings Bonds/Notes in Name of Trustee of Personal Trust Estate

Clearance Officer: Paula Spedden (202) 634-5295, Bureau of the Public Debt, Room 420, Vanguard Building, 1111 20th Street, N.W., Washington, D.C. 20226.

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Joseph F. Maty,

Departmental Reports, Management Office.

[FR Doc. 84-26270 Filed 10-2-84; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

Dated: September 26, 1984.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB (listed by submitting bureau(s)), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained by calling the Treasury Bureau Collection Officer listed under each bureau. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 7225, 1201 Constitution Avenue, N.W., Washington, D.C. 20220.

Internal Revenue Service

OMB Number: 1545-0184
Form Number: IRS Form 4797
Type of Review: Extension
Title: Supplemental Schedule of Gains and Losses

OMB Number: 1545-0012
Form Number: IRS Form 11

Type of Review: Revision
Title: Special Tax Return and Application for Registry
Clearance Officer: Garrick Shear (202) 566–6254, Room 5571, 1111 Constitution Avenue, N.W., Washington, D.C. 20224
OMB Reviewer: Norman Frumkin (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Alcohol, Tobacco and Firearms

OMB Number: New
Form Number: None
Type of Review: New
Title: Registration and Record of Vinegar Vaporizing Plants (REC 5110/09)
Clearance Officer: Howard Hood (202) 566–7077, Bureau of Alcohol, Tobacco and Firearms, Room 2228, Federal Building, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20226
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

[FR Doc. 84-26208 Filed 10-3-84; 8:45 am]
BILLING CODE 4810-25-M

VETERANS ADMINISTRATION

Agency Form Under OMB Review

AGENCY: Veterans Administration.
ACTION: Notice.

SUMMARY: The Veterans Administration has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document contains an extension and lists the following information: (1) The Department or Staff Office issuing the form; (2) The title of the form; (3) The agency form number, is applicable; (4) How often the form must be filled out; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to fill out the form; and (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies.

ADDRESSES: Copies of the form and supporting document may be obtained from Patricia Viera, Agency Clearance Officer (732), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 389–2146. Comments and questions about the items on this list should be directed to the VA's OMB Desk Officer, Dick Eisinger, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395–7316.

DATES: Comments on the information collection should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: September 28, 1984.
By direction of the Administrator.
Dominick Onorato,
Associate Deputy Administrator for Information Resources Management.

Extension

1. Department of Veterans Benefits
2. Report of Accidental Injury
3. VA Form 21–4176
4. On occasion
5. Individuals or households
6. 4,400 responses
7. 2,200 hours
8. Not applicable.

[FR Doc. 84-26163 Filed 10-2-84; 8:45 am]
BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 193
Wednesday, October 3, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL COMMUNICATIONS COMMISSION

Deletion of Agenda Item From September 26 Closed Meeting

September 26, 1984.

The following item has been deleted from the list of agenda items scheduled for consideration at the September 26, 1984 Closed Meeting and previously listed in the Commission's Notice of September 19, 1984.

Agenda, Item No., and Subject

Hearing—3—Application for Review in the United Broadcasting Company, Inc., Washington, D.C. FM radio comparative renewal proceeding (BC Docket Nos. 80-479 to 80-481).

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84-26339 Filed 10-1-84; 11:51 am]

BILLING CODE 6712-01-M

2

INTERNATIONAL TRADE COMMISSION

[USITC SE-84-46]

TIME AND DATE: 3:30 p.m., Wednesday, October 10, 1984.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary.
5. Investigation 337-TA-165 (Certain Alkaline Batteries)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-26354 Filed 10-1-84; 10:05 am]

BILLING CODE 7020-02-M

3

POSTAL RATE COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, October 4, 1984.

PLACE: Conference Room, Room 500, 2000 L Street, NW., Washington, DC.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Docket No. MC84-1, Mail Classification Schedule, 1984, Special Fourth Class Mail.

CONTACT PERSON FOR MORE INFORMATION: Charles L. Clapp, Secretary, Postal Rate Commission, Room 500, 2000 L Street, NW., Washington, D.C. 20268. Telephone (202) 254-3880.

Charles L. Clapp,

Secretary.

[FR Doc. 84-26377 Filed 10-1-84; 3:52 pm]

BILLING CODE 7715-01-M

4

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: (49 FR 36468 9/17/84).

STATUS: Closed meeting.

PLACE: 450 Fifth Street, NW., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Wednesday, September 12, 1984.

CHANGE IN THE MEETING: Additional item.

The following additional item was considered at a closed meeting held on Tuesday, September 18, 1984, at 10:00 a.m.:

Regulatory matter bearing enforcement implications.

Chairman Shad and Commissioners Treadway, Cox, Marinaccio and Peters determined that Commission business required the above change and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: David Martin at (202) 272-2179.

Shirley E. Hollis,

Acting Secretary.

September 28, 1984.

[FR Doc. 84-26338 Filed 10-1-84; 11:51 am]

BILLING CODE 8010-01-M

5

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: (49 FR 37893 9/26/84)

STATUS: Closed meeting.

PLACE: 450 Fifth Street, NW., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Thursday, September 20, 1984.

CHANGE IN THE MEETING: Additional items.

The following additional items were considered at a closed meeting held on Tuesday, September 25, 1984, at 10:00 a.m.

Settlement of injunctive actions.

Chairman Shad and Commissioners Cox, Marinaccio and Peters determined that Commission business required the above change and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: David Powers at (202) 272-2091

Shirley E. Hollis,

Acting Secretary.

September 28, 1984.

[FR Doc. 84-26340 Filed 10-1-84; 11:51 am]

BILLING CODE 8010-01-M

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federal register

Wednesday
October 3, 1984

Part II

Department of Defense

General Services Administration

National Aeronautics and Space Administration

48 CFR Parts 5, 6, 14, and 15

Federal Acquisition Regulation (FAR); Competition in Contracting; Extension of Comment Period and Notice of Public Meeting

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 5, 6, 14, and 15

Federal Acquisition Regulation (FAR); Competition in Contracting; Extension of Comment Period on Proposed Regulatory Revisions

AGENCIES: Department of Defense, General Services Administration, and National Aeronautics and Space Administration.

ACTION: Extension of comment period on proposed changes to the FAR.

SUMMARY: As announced in 49 FR 38680 dated October 1, 1984, the Defense Acquisition Regulatory Council and the Civilian Agency Acquisition Council are making available for public and Government agency review and comment proposed changes to the FAR to implement the Competition in Contracting Act, Title VII of Pub. L. 98–369. This document extends the comment period to provide additional time for comments.

DATE: This document extends the comment period to October 9, 1984.

ADDRESS: The proposed changes are available at and comments are to be submitted to the General Services Administration; FAR Secretariat (VR), 18th & F Streets, NW., Room 4041, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Roger M. Schwartz, Director, FAR Secretariat, (202) 523–4755.

Dated: October 2, 1984.

Roger M. Schwartz,

Director, FAR Secretariat.

[FR Doc. 84–26466 Filed 10–2–84; 1:33 pm]

BILLING CODE 6820–61–M

48 CFR Parts 5, 6, 14, and 15

Federal Acquisition Regulation (FAR); Competition in Contracting; Open Meeting

AGENCIES: Department of Defense, General Services Administration, and National Aeronautics and Space Administration.

ACTION: Notice of public meeting.

SUMMARY: Notice is hereby given that the Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council will hold a public meeting on proposed changes to the FAR resulting from the Competition in Contracting Act, Title VII of Pub. L. 98–369. Interested parties wishing to make comments may call the point of contact below to be placed on the agenda. Speakers are requested to furnish written copy of their comments at the time of the meeting.

DATE: The meeting will be held on October 9, 1984, from 9:00 a.m. to 12:00 noon.

ADDRESS: The meeting will be held at the Defense Logistics Agency Auditorium, Cameron Station, Bldg. 3, Room 3B247, 5010 Duke Street, Alexandria, Virginia.

FOR FURTHER INFORMATION CONATACT: Roger M. Schwartz, Director, FAR Secretariat, (202) 523–4755.

Dated: October 2, 1984.

Roger M. Schwartz,

Director, FAR Secretariat.

[FR Doc. 84–26467 Filed 10–2–84; 1:33 pm]

BILLING CODE 6820–61–M

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Federal Register

Vol. 49, No. 193

Wednesday, October 3, 1984

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H.R. 1437 / Pub. L. 98-425

California Wilderness Act of 1984 (Sept. 28, 1984; 98 Stat. 1619) Price: $1.25

S. 38 / Pub. L. 98-426

Longshore and Harbor Workers' Compensation Act Amendments of 1984 (Sept. 28, 1984; 98 Stat. 1639) Price: $1.25

S. 2418 / Pub. L. 98-427

To authorize and direct the Librarian of Congress, subject to the supervision and authority of a Federal, civilian, or military agency, to proceed with the construction of the Library of Congress Mass Book Deacidification Facility, and for other purposes. (Sept. 28, 1984; 98 Stat. 1656) Price: $1.00

S. 2155 / Pub. L. 98-428

Utah Wilderness Act of 1984 (Sept. 28, 1984; 98 Stat. 1657) Price. $1.00

S.J. Res. 336 / Pub. L. 98-429

To proclaim October 23, 1984, as "A Time of Remembrance" for all victims of terrorism throughout the world. (Sept. 28, 1984; 98 Stat. 1664) Price: $1.00

H.R. 9 / Pub. L. 98-430

Florida Wilderness Act of 1983 (Sept. 28, 1984; 98 Stat. 1665) Price: $1.00

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Designating the week of September 30 through October 6, 1984, as "National High-Tech Week". (Sept. 28, 1984; 98 Stat. 1670) Price: $1.00

S. 1735 / Pub. L. 98-432

Shoalwater Bay Indian Tribe—Dexter-by-the-Sea Claim Settlement Act (Sept. 28, 1984; 98 Stat. 1671) Price: $1.00

H.J. Res. 153 / Pub. L. 98-433

To designate the week beginning October 7, 1984, as "National Children's Week". (Sept. 28, 1984; 98 Stat. 1674) Price: $1.00

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S.J. Res. 304 / Pub. L. 98-436

To designate the month of October 1984 as "National Quality Month". (Sept. 28, 1984; 98 Stat. 1681) Price: $1.00

S.J. Res. 254 / Pub. L. 98-437

To designate the month of October 1984 as "National Down's Syndrome Month". (Sept. 28, 1984; 98 Stat. 1683) Price: $1.00

S.J. Res. 227 / Pub. L. 98-438

Designating the week beginning November 11, 1984, as "National Women Veterans Recognition Week". (Sept. 28, 1984; 98 Stat. 1685) Price: $1.00

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 966

[Amdt. No. 3]

Tomatoes Grown in Florida; Interim Amendment No. 3 to Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to rule.

SUMMARY: This interim regulation requires that tomatoes shipped from the regulated area be packed at permanent nonportable facilities. This should help to maintain quality standards and result in fewer order violations by eliminating field-packed tomatoes.

DATE: Interim rule effective October 10, 1984; comments received by November 9, 1984, will be considered prior to issuance of a final regulation.

ADDRESSES: Comments should be sent to Hearing Clerk, Room 1077–S, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written comments shall be submitted and they will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Robert F. Matthews, Vegetable Branch, F&V, AMS, USDA, Washington, D.C. 20250 (202) 447–5764.

SUPPLEMENTARY INFORMATION: This interim rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "nonmajor" rule. Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

Marketing Agreement No. 125 and Order No. 966, both as amended (7 CFR Part 966) regulate the handling of tomatoes grown in designated counties of Florida. The program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The Florida Tomato Committee, established under the order, is responsible for its local administration.

Because requirements under this program have changed infrequently, in September 1982 the committee recommended, and the Secretary approved, a regulation which continues in effect from marketing season to marketing season unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the committee or other information available to the Secretary.

At its annual meeting at Marco Island on September 7, 1984, the committee recommended the regulation be continued but with three changes. These changes specify that tomatoes must be packed with proper equipment and at the registered handler's facilities. Also, a new definition for "adequate facilities" is added.

For a number of years many handlers have packed tomatoes in the field or in primitive sheds without the benefit of the kind of grading and sizing equipment used by the larger packing houses. These smaller, transient handlers glean from the tomato fields whatever the regular harvesting crews miss or pass by. They are sometimes local residents who often salvage those tomatoes too ripe to ship any great distance and offer them in local, nearby markets within the regulated area. More often, however, they are itinerant handlers from adjoining or nearby States who buy from the producer a field of tomatoes previously harvested and pack the salvageable fruit in whatever containers are available.

Handlers who pack and distribute their tomatoes solely within the regulated area are neither required to register with the Florida Tomato Committee nor to have their tomatoes inspected. Handling regulation § 966.323 specifically requires that only tomatoes for shipment outside the regulated area must meet the grade, size, container and inspection requirements unless exempted.

The order specifies in § 966.60 that handlers register with the Florida Tomato Committee upon applying for inspection. Once this is done the handler is then a registered handler as defined in § 966.113. Since all tomatoes leaving the regulated area must be inspected, and since a handler must register with the committee in order to secure inspection, all handlers of tomatoes leaving the area are required to be registered handlers.

The current handling regulation § 966.323 requires only that a registered handler have the tomatoes inspected and certified prior to being shipped out of the regulated area. This amends § 966.323 to require that in addition to inspection, all regulated tomatoes be packed at the facilities of a registered handler and further that the "adequate facilities" set forth in § 966.113 be defined as those being in a permanent location using nonportable equipment. The effect of this rule will be that henceforth all tomatoes shipped from the regulated area must be packed in a packing house or facility or a permanent nonportable nature. This will eliminate field packing operations for all but those tomatoes marketed locally within the area.

It is the belief of the committee that requiring standardized packing facilities should help reduce marketing order violations in the form of interstate movement of off-size, off-grade or uninspected tomatoes.

Findings

After consideration of all relevant matters including the proposal recommended by the Florida Tomato Committee, it is hereby found and determined that the amendment, as hereinafter set forth, will tend to effectuate the declared policy of the act.

It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this regulation until 30 days after publication in the **Federal Register** (5 U.S.C. 553) and good cause exists for making these regulatory provisions effective as specified in that (1) shipments of the 1984–85 crop tomatoes grown in the production area are expected to begin on or about the effective date herein and

this regulation should be applicable to all shipments during the season; (2) the regulation was recommended by the committee following discussion at an open meeting; and (3) information regarding these requirements and the effective date has been disseminated among growers and handlers in the production area.

This interim regulation is effective during the period October 10, 1984, through December 31, 1984. It is hereby proposed that a final regulation, with requirements the same as those specified herein, be effective from January 1, 1985, through June 15, 1985. Interested persons may comment on this proposal through November 9, 1984. All comments received will be considered prior to issuance of a final regulation.

List of Subjects in 7 CFR Part 966

Marketing agreements and orders, Tomatoes, Florida.

PART 966—[AMENDED]

Section 966.323 (47 FR 58213, 48 FR 26757 and 48 FR 52027) is hereby further amended by revising paragraphs (a)(2)(i), (a)(3)(ii), and (e) to read as follows:

§ 966.323 Handling regulation.

* * * * *

(a) *Grade, size, container and inspection requirements.*

* * * * *

(2) *Size.* (i) Tomatoes shall be at least $2^{13}/_{32}$ inches in diameter and be sized with proper equipment in one or more of the following ranges of diameters. Measurements of diameters shall be in accordance with the methods prescribed in § 51.1859 of the U.S. Standards for Grades of Fresh Tomatoes.

* * * * *

(3) *Containers.* * * *

(ii) Each container or lid shall be marked to indicate the designated net weight and must show the name and address of the registered handler (as defined in § 966.7) in letters at least one-fourth (¼) inch high, and such containers must be packed at the registered handler's facilities.

* * * * *

(e) *Definitions.* "Hydroponic tomatoes" means tomatoes grown in solution without soil; "greenhouse tomatoes" means tomatoes grown indoors. A "Certified Tomato Repacker" is a repacker of tomatoes in the regulated area who has the facilities for handling, regarding, resorting and repacking tomatoes into consumer size packages and has been certified as such by the committee. "Adequate facilities" as referred to in the definition of registered handler in §§ 966.7 and 966.113 are defined as those being in a permanent location with nonportable equipment for the proper grading, sizing and packing of tomatoes. * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: September 28, 1984.

Thomas R. Clark,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 84-26379 Filed 10-3-84; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Parts 371, 373, 390 and 399

[Docket No. 40925-4125]

Foreign Policy Controls on Exports to Iran

AGENCY: Office of Export Administration, International Trade Administration, Commerce.

ACTION: Interim rule with request for comments.

SUMMARY: The Office of Export Administration (OEA) maintains controls on exports to countries that have repeatedly provided support for acts of international terrorism, including Iran. Effective September 28, 1984, OEA restricted exports to Iran of aircraft, helicopters, and certain other goods and technology destined for military end-users or for military end-uses (September 28, 1984, 49 FR 38243–38245).

This rule clarifies the recently issued restrictions and makes additional changes consistent with those restrictions. It prohibits the use of General License GLR for exports to Iran, and amends two entries on the Commodity Control List (a listing of all items subject to U.S. export controls) by adding a specific statement that a validated license is required for such exports to Iran. Also, the provisions covering special licensing procedures are amended by stating that exports to Iran are not authorized under certain procedures (Project License, Distribution License, Service Supply Procedure, and the Aircraft and Vessel Repair Station Procedure).

Finally, the General Order prohibiting the use of special licensing procedures for designated aircraft parts and accessories intended for Iranian aircraft is modified to:

(1) Clarify that the Order applies to outstanding as well as future authorizations;

(2) Defer for 15 days the effective date of the restriction on aircraft parts and accessories for regularly scheduled civilian airlines; and

(3) Preclude the use of special licensing procedures for shipments of all items to Iran.

DATES: This rule is effective October 4, 1984. Comments must be received by December 3, 1984.

ADDRESS: Written comments (six copies) should be sent to: Betty Ferrell, Exporter Services Division, Office of Export Administration, U.S. Department of Commerce, P.O. Box 283, Washington, D.C. 20044.

FOR FURTHER INFORMATION CONTACT: Vincent Greenwald, Exporter Services Division, Office of Export Administration, Telephone: (202) 377–3856.

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements and Invitation to Comment

In connection with various rulemaking requirements, the Office of Export Administration has determined that:

1. Since this regulation involves a foreign affairs function, the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring a notice of proposed rulemaking, an opportunity for public participation and a delay in effective date are inapplicable.

However, because of the importance of the issues raised by these regulations, this rule is issued in interim form and comments will be considered in developing final regulations.

These regulations may be revised before the end of the comment period. Accordingly, the Department encourages interested persons who desire to comment to do so at the earliest possible time to permit the fullest consideration of their views.

2. Applicants for the validated export license required by this rule will use Form ITA–622P. This Form has been approved by the Office of Management and Budget under control number 0625–0001.

3. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

4. Because this rule is being issued with respect to a foreign affairs function, it is not subject to Executive Order No. 12291 (46 FR 13193, February 19, 1981), "Federal Regulation."

The period for submission of comments will close December 3, 1984. The Department will consider all

comments received before the close of the comment period in developing final regulations. Comments received after the end of the comment period will be considered if possible, but their consideration cannot be assured. The Department will not accept public comments accompanied by a request that part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. The Department will return such comments and materials to the person submitting the comments and will not consider them in the development of final regulations.

All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, the Department requires comments in written form. Oral comments must be followed by written memoranda, which will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public record concerning these regulations will be maintained in the International Trade Administration Freedom of Information Records Inspection Facility, Room 4001, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Washington, D.C. 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Patricia L. Mann, International Trade Administration Freedom of Information Officer, at the above address or by calling (202) 377–3031.

List of Subjects in 15 CFR Parts 371, 373, 390 and 399

Advisory committees, Exports.

Accordingly, the Export Administration Regulations (15 CFR Parts 368–399) are amended as follows:

PART 371—[AMENDED]

1. In § 371.17, the last sentence of the introductory paragraph is revised to read as follows:

§ 371.17 General License GLR; Return or Replacement of Certain Commodities.

* * * This GLR procedure applies to all destinations except Country Groups S and Z, and Iran.

* * * * *

PART 373—[AMENDED]

2. Section 373.2(b)(8) is revised to read as follows:

§ 373.2 Project License.

* * * * *

(b) * * *

(8) The project involves shipments to Libya or Iran.

* * * * *

3. Section 373.3(a)(1)(ii) is revised to read as follows:

§ 373.3 Distribution License.

* * * * *

(a) * * *

(1) * * *

(ii) All countries in Country Group V, except Afghanistan, Iran and the People's Republic of China.

* * * * *

4. Section 373.7(c)(1) is revised to read as follows:

§ 373.7 Service Supply Procedure.

* * * * *

(c) *Destinations.*

(1) *Country Groups S and Z and Iran.* No export or reexport may be made, directly or indirectly, under the provisions of section 373.7 to Country Group S or Z or Iran. Furthermore, no equipment owned or controlled by, or under lease or charter to, a country in Country Group S or Z or Iran or a national of any such country, may be serviced under the provisions of this SL procedure.

* * * * *

5. Section 373.8(a)(2) is revised to read as follows:

§ 373.8 Aircraft and Vessel Repair Station Procedure.

* * * * *

(a) * * *

(1) * * *

(2) *Foreign Importer.* As used in this section, a "Foreign Importer" is a person or firm located in any foreign country except Country Groups Q, S, W, Y, or Z, or Afghanistan or Iran, that is either—

* * * * *

Supplement No. 1—[Amended]

6. In Supplement No. 1 to Part 373, "Commodities Excluded from Certain Special Licensing Procedures," the entry reading "1460, 5460, 6460" is amended by revising the phrase "Syria, Libya, or the People's Democratic Republic of Yemen" to read "the People's Democratic Republic of Yemen, Syria, Iran or Libya."

Supplement No. 3—[Amended]

7. In Supplement No. 3 to Part 373, "Computer Consignee Destinations (List B)," the word "Iran" is removed.

PART 390—[AMENDED]

8. Section 390.6 is revised to read as follows:

§ 390.6 General Order Preventing the Use of Special Licensing Procedures for Aircraft Controlled by Iran.

Effective September 28, 1984, the special licensing procedures (including outstanding or future authorizations) described in Part 373 may not be used to provide aircraft parts and accessories (Export Control Commodity Numbers 1460, 4460, 5460, 6460, 1485, and 1501(a), (b)(1) and (c)(1)) intended for aircraft (wherever located) owned, operated, or controlled by, or under charter or lease to Iran, or any of its nationals; except that for regularly scheduled civilian airlines, such procedures may be used up to (two weeks after publication). Except as stated above, effective (publication date), such procedures (including outstanding and future authorizations) may not be used for any shipments to Iran.

PART 399—[AMENDED]

Supplement No. 1—[Amended]

9. In Supplement No. 1 to § 399.1 (the Commodity Control List), in Commodity Group 4, Transportation Equipment, ECCN 5460F is amended by revising the *Validated License Required* paragraph to read as follows:

5460F Other nonmilitary aircraft and demilitarized military aircraft valued at $3,000,000 each or more.

Controls for ECCN 5460F

* * * * *

Validated License Required: Country Groups SZ, Syria, the People's Democratic Republic of Yemen, Iran, the Republic of South Africa and Namibia.

* * * * *

10. In Supplement No. 1 to § 399.1 (the Commodity Control List), in Commodity Group 4, Transportation Equipment, ECCN 6460F is amended by revising the *Validated License Required* paragraph to read as follows:

6460F Other aircraft and helicopters.

Controls for ECCN 6460F

* * * * *

Validated License Required: Country Groups SZ, Iran, the Republic of South Africa and Namibia.

* * * * *

(Secs. 203, 206, Pub. L. 95–223, Title II, 91 Stat. 1626, 1628 (50 U.S.C. 1702, 1704), Executive Order No. 12470 of March 30, 1984 (49 FR 13099, April 3, 1984)).

Dated: October 2, 1984.

James K. Pont,

Acting Director, Office of Export Administration, International Trade Administration.

[FR Doc. 84-26534 Filed 10-3-84; 5:03 pm]

BILLING CODE 3510-DT-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Dkt. 9172]

David Porter; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires a Springfield, Missouri operator of retail grocery stores, among other things, to cease engaging in any concerted action to impede the collection or dissemination of comparative price information. For a period of five years, Mr. Porter is prohibited from requiring price checkers to purchase items to be priced as a condition of allowing them to price check; denying price checkers the same access to his stores as is provided to customers; or coercing any price checker, publisher or broadcaster to refrain from collecting or reporting comparative price information. Mr. Porter is also required, upon the resumption of price reporting by TeleCable of Springfield, to reimburse the company $250 per week for program costs up to $1,000 or for three years from the effective date of the order; and to notify consumers of the broadcast through posted signs and newspaper ads.

DATES: Complaint issued December 16, 1983; Order issued September 7, 1984.[1]

FOR FURTHER INFORMATION CONTACT: Patricia A. Bremer, P/752–4, Washington, D.C. 20580. (202) 724–1256.

SUPPLEMENTARY INFORMATION: On Monday, June 25, 1984, there was published in the **Federal Register**, 49 FR 25881, a proposed consent agreement with analysis In the Matter of David Porter, an individual, trading and doing business as Porter's So-Lo Markets, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth below in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR part 13, are as follows: Subpart—Coercing and Intimidating: § 13.365 Employees of competitors. Subpart—Combining or conspiring: § 13.384 Combining or conspiring; § 13.395 To control marketing practices and conditions; § 13.475 To restrict competition in buying. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533–20 Disclosures; § 13.533–25 Displays in-house.

List of Subjects in 16 CFR Part 13

Grocery stores, Trade practices.

(Sec. 6, 39 Stat. 721; 15 U.S.C. 46. Interprets or applies section 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Emily H. Rock,

Secretary.

[FR Doc. 84-26147 Filed 10-3-84; 8:45 am]

BILLING CODE 6750-01-M

16 CFR Part 13

[Dkt. 9172]

Smitty's Super Markets, Inc.; Prohibited Trade Practices and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires a Springfield, Missouri operator of retail grocery stores, among other things, to cease engaging in any concerted action to impede the collection or dissemination of comparative price information. For a period of five years, the company is prohibited from requiring price checkers to purchase items to be priced as a condition of allowing them to price check; denying price checkers the same access to its stores as is provided to customers; or coercing any price checker, publisher or broadcaster to refrain from collecting or reporting comparative price information. The company is also required to offer to reimburse TeleCable up to $1,000 for the broadcast of a comparative grocery price information program. Should the station elect to broadcast such a program, the firm is further required to post signs and place newspaper ads notifying the public that such a program is being broadcast.

DATE: Complaint issued December 16, 1983; Order issued September 7, 1984.[1]

FOR FURTHER INFORMATION CONTACT: Patricia A. Bremer, P/752–4, Washington, D.C. 20580. (202) 724–1256.

SUPPLEMENTARY INFORMATION: On Tuesday, May 29, 1984, there was published in the **Federal Register**, 49 FR 22337, a proposed consent agreement with analysis In the Matter of Smitty's Super Markets, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth below in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Coercing and Intimidating: § 13.365 Employees of competitors. Subpart—Combining or Conspiring: § 13.384 Combining or conspiring; § 13.395 To control marketing practices and conditions; § 13.475 To restrict competition in buying. Subpart—Corrective Actions and/or Requirements: § 13.533 corrective actions and/or requirements; § 13.533–20 Disclosures; § 13.533–25 Displays in-house.

List of Subjects in 16 CFR Part 13

Grocery stores, Trade practices.

(Sec. 6, 39 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Emily H. Rock,

Secretary.

[FR Doc. 84-26146 Filed 10-3-84; 8:45 am]

BILLING CODE 6750-01-M

[1] Copies of the Complaint and the Decision and Order filed with the original document.

[1] Copies of the Complaint and the Decision and Order filed with the original document.

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 5

Preference in Employment

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Indian Affairs is amending its Preference in Employment Regulations by extending the application of Indian preference to persons of the Osage Tribe of Oklahoma, who are at least one-quarter degree Indian ancestry, whose rolls were closed by an act of Congress. This is in the best interest of the individuals employed and those seeking employment, who are descendants of the Osage Tribe.

This amendment extends the expired date of July 17, 1984, for one additional year to permit the tribe to organize and to establish current membership standards. The extended period of time is necessary so as to not deny persons who received preference based on the quarter-degree standard. The quarter-degree standard will remain applicable for one year or until the Osage Tribe has formally organized and established membership standards, whichever comes first.

EFFECTIVE DATE: October 4, 1984.

FOR FURTHER INFORMATION CONTACT: Ms. Pattie Fulgham, Division of Personnel Management, Bureau of Indian Affairs, Department of the Interior, Washington, D.C. 20245, telephone number (202) 343–9306.

SUPPLEMENTARY INFORMATION: The authority to issue rules and regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9). This final rule is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Indians as defined in the Indian Reorganization Act of June 18, 1934, receive employment preference in appointments in the Bureau of Indian Affairs. The preference conferred in 25 U.S.C. 472 must be applied in the filling of every vacant position within the Bureau of Indian Affairs. *Freeman* v. *Morton*, 499F.2d 492 (D.C. Cir. 1974). The Secretary issued a final rule for the definition of an Indian on January 17, 1978, including a variance to the statute. A fifth criterion was added to apply to three of the Five Civilized Tribes of Oklahoma (Choctaw, Creek and Chickasaw Tribes) and the Osage Tribe whose rolls were closed by Acts of Congress and who had not as yet reorganized so as to establish current membership standards. Many such persons have received preference based on the one-quarter degree standard previously established by the Secretary. In order that they are not now deprived of that eligibility and made to meet the one-half degree standard, the tribes were allowed 3 years, until July 17, 1981, in which to organize. The Osage Tribe is the only remaining Tribe that has not organized.

On July 17, 1981, the Bureau of Indian Affairs published a final rule (46 FR 37044) to amend 25 CFR Part 5, Preference in Employment. Paragraph (e) of § 5.1 specifies the date of July 17, 1984, as the final date for making appointments of persons of one-quarter degree Indian ancestry. The time limit is hereby extended for one year from the date of publication of this document in the **Federal Register** to permit the Osage Tribal Council the additional time to organize and to establish current membership standards for purposes of Indian preference employment for their tribal members in the Bureau of Indian Affairs.

Osage Tribal persons, who are employed by the Bureau of Indian Affairs and who received preference in any previous appointment, will continue to be preference eligibles so long as they are continuously employed.

In accordance with 5 U.S.C. 553(a)(2), because this final rule applies to the Bureau of Indian Affairs' personnel management practices, the rulemaking requirements contained in 5 U.S.C. 553 are not applicable. This rule extends the time limit for employment with the Bureau to persons of the Osage Indian Tribe, only. Accordingly, this regulation is issued as a final rule and will become effective upon the date of the publication in the **Federal Register**.

The primary author of this document is Mercedes Lewis, Personnel Staffing Specialist, Division of Personnel Management, Bureau of Indian Affairs, telephone number (202) 343–9306.

The Department of the Interior has determined that this document is not a major rule and does not require a regulatory analysis under Executive Order 12291. This rule involves potential Osage Tribal members only, who would be seeking Federal employment in the BIA. There is no other tribe affected. The Office of Management and Budget (O.M.B.) has informed us that the information collections contained in 25 CFR Part 5 need not be reviewed by them under the Paperwork Reduction Act, Pub. L. 96–511.

The Department of the Interior has determined that this document does not have a significant economic effect on a substantial number of small entities. This rule affects only persons of the Osage Tribe of Indians.

List of Subjects in 25 CFR Part 5

Employees, Government employees, Indians.

PART 5—[AMENDED]

Paragraph (e) of § 5.1 of Part 5 of Chapter I of Title 25 of the Code of Federal Regulations is hereby revised to read as follows:

§ 5.1 Definitions.

* * * * *

(e) For one (1) year or until the Osage Tribe has formally organized, whichever comes first, effective October 4, 1984, a person of at least one-quarter degree Indian ancestry of the Osage Tribe of Indians, whose rolls were closed by an act of Congress.

* * * * *

Dated: September 14, 1984.

John W. Fritz,

Deputy Assistant Secretary, Indian Affairs.

[FR Doc. 84–26149 Filed 10–3–84; 8:45 am]

BILLING CODE 4310–02–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CDG13 84–12]

Drawbridge Operation Regulations; Duwamish Waterway, WA

AGENCY: Coast Guard, DOT.

ACTION: Temporary deviation from rule.

SUMMARY: The Coast Guard is continuing and modifying the temporary regulations published in the **Federal Register** on July 26, 1984 (49 FR 30071) governing the operation of the highway drawbridge across the Duwamish West Waterway at Southwest Spokane Street and the highway drawbridge across the Duwamish Waterway at First Avenue South, both in Seattle, Washington. This change will extend closed period exemptions to include additional classes of vessels. This change is being made because information received in response to the previous temporary regulations indicated that additional classes of vessels could be exempted from closed period restrictions without significantly affecting vehicular traffic flow. Since this action will accommodate the anticipated needs of

vehicular traffic and reduce the burden of lengthy closed periods of marine traffic, its impact is expected to be minimal. This action will allow the Coast Guard additional time to evaluate the effects of the temporary change before proposing a permanent change.

EFFECTIVE DATE: This rule becomes effective on 19 September 1984. It terminates on 18 November 1984.

ADDRESSES: Comments should be mailed to Commander (oan), Thirteenth Coast Guard District, 915 Second Avenue, Seattle, Washington, 98174. The comments and other materials referenced in this notice will be available for inspection and copying in Room 3564 at this address. Normal office hours are between 8 a.m. and 4: 30 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: John E. Mikesell, Chief, Bridge Section, Aids to Navigation Branch (Telephone: (206) 442–5864).

SUPPLEMENTARY INFORMATION: Interested persons are invited to comment on this temporary deviation by submitting written views, comments, data, or arguments. Persons submitting comments should include their names and addresses, identifying the bridge, and give reasons for concurrence with or any recommended change in the temporary deviations. Persons desiring acknowledgement that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

The Commander, Thirteenth Coast Guard District, will evaluate all communications received and determine a course of final action on this temporary deviation. Any future proposed regulations or final rulemaking may be changed in light of the comments received.

Drafting Information

The drafters of this notice are: John E. Mikesell, project officer, and Lieutenant Aubrey W. Bogle, project attorney.

Discussion of Temporary Rule

Since 1978 when the northernmost of the two Spokane Street bridges across the Duwamish West Waterway was struck by a vessel and subsequently removed, three hour morning and evening closed periods have been in effect for the remaining Spokane Street bridge and the First Avenue South bridge. Prior to that time two hour closed periods had been in effect. Extending the two hour closed periods to three hours and eliminating closed period exemptions for vessels of 5,000 tons and over was necessary to accommodate the increase in peak hour vehicluar flows caused by the elimination of the four travel lanes of the damaged bridge.

A new high level, six-lane, fixed span, highway bridge has been constructed over the Duwamish Waterway and was recently opeened to traffic. The six lanes of the high level bridge and the four lanes of the existing Spokane Street bridge provide ten lanes for vehicular traffic in the Spokane Street corridor. This is two more than existed before the 1978 accident which resulted in removal of the northernmost Spokane Street bridge. This six lanes of the high level bridge provide for unobstructed traffic flow between West Seattle and Seattle. The four lanes of the Spokane Street bridge primarily provide access from the west to the businesses on Harbor Island.

Navigation interests who use the Duwamish Waterway requested that the Coast Guard reduce the length of the closed periods once the highlevel bridge was fully open to traffic. The Commander, Thirteenth Coast Guard District approved a temporary change to the operating regulations which restored the regulations that were in effect prior to the 1978 accident. The temporary regulations were published in the **Federal Register** on July 26, 1984 (49 FR 30071) and were in effect from July 7, 1984 through September 4, 1984. They provided that the draws of the Southwest Spokane Street bridge and the First Avenue South bridge need not open for the passage of vessels, except for vessels of 5,000 tons or more, from 6:30 a.m. to 8:30 a.m. and 3:45 p.m. to 5:45 p.m., Monday through Friday, except Federal holidays. The purpose of the temporary regulations was to evaluate the effects of the change before proposing a permanent rule change.

Three comments were received by the Coast Guard in response to the temporary regulations. One commercial user of the waterway recommended that closed period restrictions for both the Southwest Spokane Street and First Avenue South bridges be eliminated completely for commercial vessels regardless of size. The local port authority and a group of commercial waterway users requested that the exemption to closed period restrictions for the Southwest Spokane Street bridge be extended to include vessels of 1,000 gross tons and over. Another user of the waterway indicated that the 5,000 gross ton exemption should be made permanent.

Because of the relatively low traffic volumes on the Southwest Spokane Street bridge and the existence of an alternate route through the Spokane Street corridor, it appears that an operating regulation that exempts vessels of 1,000 gross tons and over, vessels towing vessels of 1,000 gross tons and over, and vessels proceeding to pick up vessels of 1,000 gross tons or over for towing, would provide for the reasonable needs of navigation and not unreasonably affect vehicular traffic movement in the Spokane Street corridor. With the high volume of vehicular traffic on the First Avenue South bridge, the 5,000 gross ton exemption seems more appropriate.

To test the reasonableness of this proposal, the Coast Guard is continuing and modifying the temporary regulations governing operation of the Southwest Spokane Street bridge and the First Avenue South bridge to extend closed period exemptions to include additional classes of vessels.

Economic Assessment and Certification

These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and non-significant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. This is based on the improvement to vehicular traffic flow brought about by the new high level bridge between Seattle and West Seattle, and the fact that the high level bridge provides an alternate, uninterrupted route for vehicular traffic during periods when the other bridges across the waterway may be required to open for the passage of vessels. Based on the foregoing, closed period openings of the Southwest Spokane Street and First Avenue South bridges for the authorized classes of vessels should not have a significant effect on vehicular traffic movement. Since the economic impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Temporary Regulations

In consideration of the foregoing, Part 117 of Title 33 of Code of Federal Regulations is amended by revising § 117.1041(a)(1) to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.1041 Duwamish Waterway.

(a) * * *

(1) The draws of the Southwest Spokane Street bridge, mile 0.3, and the First Avenue South bridge, mile 2.5, need not be opened for the passage of vessels from 6:30 a.m. to 8:30 a.m. and 3:45 p.m. to 5:45 p.m., Monday through Friday, except Federal holidays, except as follows:

(i) The draws of the Southwest Spokane Street bridge shall open at any time for a vessel of 1,000 gross tons and over, a vessel towing a vessel of 1,000 gross tons and over, and a vessel proceeding to pick up a vessel of 1,000 gross tons and over for towing.

(ii) The draws of the First Avenue South bridge shall open at any time for a vessel of 5,000 gross tons and over, a vessel towing a vessel of 5,000 gross tons and over, and a vessel proceeding to pick up a vessel of 5,000 gross tons and over for towing.

(33 U.S.C. 499; 33 CFR 117.43; 49 CFR 1.46(c)(5); 33 CFR 1.05–1(g)(3))

Dated: September 19, 1984.

R.R. Garrett,

Captain, U.S. Coast Guard, Acting Commander, 13th Coast Guard District.

[FR Doc. 84–26301 Filed 10–3–84; 8:45 am]

BILLING CODE 4910–14–M

GENERAL SERVICES ADMINISTRATION

41 CFR Ch. 201

[FIRMR Temp. Reg. 51, Supplement 3]

Telecommunications Acquisitions

AGENCY: Office of Information Resources Management, GSA.

ACTION: Temporary regulation.

SUMMARY: This supplement to the Federal Information Resources Management Regulation (FIRMR) Temp. Reg. 51, provides a blanket delegation of multi-year contracting authority to executive agencies for the acquisition of telephone systems with a system life cost of up to $25,000. The blanket delegation of authority is intended for use by Federal agencies having small local offices located throughout the 50 states, and primarily in rural areas. The authority will reduce agency paperwork burdens in acquiring cost effective small local telephone systems. The regulation also extends the expiration date of Temp. Reg 51, including Supplement 2.

DATES: *Effective date:* September 30, 1984, but may be observed earlier.

Expiration date: October 30, 1984.

Comments due: January 2, 1985.

ADDRESS: Comments should be addressed to: General Services Administration (KMPP), Washington, D.C. 20405.

FOR FURTHER INFORMATION CONTACT: John F. Stewart, Policy Branch (KMPP), Office of Information Resources Management, telephone (202) 566–0194 or FRS, 566–0194.

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981. GSA decisions are based on adequate information concerning the need for, and the consequences of the rule. The rule is written to ensure maximum benefits to Federal agencies. This is a Government-wide management regulation that will have little or no net cost effect on society.

List of Subjects in 41 CFR Part 201–4

Government information resources activities, Government procurement, and Telecommunications contracting.

(Sec. 205(c), 64 Stat. 390; 40 U.S.C 486(c))

In 41 CFR Chapter 201, the following FIRMR temporary regulation supplement is added to Appendix A at end of the chapter.

Federal Information Resources Management Regulation

Temporary Regulation 51

Supplement 3

July 12, 1984.

TO: Heads of Federal agencies

SUBJECT: Telecommunications acquisitions

1. *Purpose.* This supplement to FIRMR Temp. Reg. 51, formerly designated FPR Temp. Reg. 51, adds a new section to FIRMR Subpart 201–4.13 which will provide a blanket delegation of multi-year contracting authority to executive agencies for the acquisition of telephone systems with a system life cost of up to $25,000. It also extends the expiration date of Temp. Reg. 51, including Supplement 2.

2. *Effective Date.* September 30, 1984, but may be observed earlier.

3. *Expiration Date.* October 30, 1984.

4. *Background.*

a. Many Federal agencies have small local offices located throughout the 50 states, primarily in rural areas. These offices obtain telephone service from local telephone companies under monthly lease arrangements. Generally, it is not economical for GSA to provide local service at these locations.

b. The basic acquisition policy at these locations is not changed; i.e., agencies are required to obtain telephones competitively to the maximum extent practicable. For these locations the lowest cost alternative will generally be purchase. However, situations may exist where neither purchase nor month-to-month rental will be in the best interest of the Government. Multi-year contracting authority will permit another acquisition alternative for telephone service at these locations.

5. *Explanation of changes.* Section 201–4.1307 is added to provide a blanket delegation of GSA's multi-year contracting authority, as follows:

§ 201–4.1307 Delegation of multi-year contracting authority for small systems.

(a) In order to provide for the economical and efficient acquisition of small telecommunication systems, executive agencies are authorized under 40 U.S.C. 481(a)(3) to enter into multi-year contracting arrangements subject to the following conditions.

(1) Each agency electing to exercise the delegation shall establish management and control procedures coordinated by the agency designated senior official for information resources management activities and the agency senior procurement executive.

(2) The authority may be used for requirements only within the 50 States.

(3) The telephone systems must be at locations where requirements can be satisfied by systems smaller than those described in § 201–37.202(a), formerly designated FPMR § 101–37.202(a) (generally, less than 25 lines or 50 telephones).

(4) The system life shall not exceed 5 years.

(5) The system life cost shall not exceed $25,000.

(6) The authority shall not be used where GSA consolidated local telephone service is available.

(b) The blanket delegation is to the agency head and may be redelegated. GSA reserves the right to review an agency's exercise of this delegated authority. The GSA Assistant Administrator for Information Resources Management may change the conditions regarding the exercise of the authority by a particular agency or component thereof, including withdrawal of the authority. (Any changes will be in writing, will cite this § 201–4.1307, will state the effective date and scope of the change, and will be directed to the designated senior official of the applicable agency.)

6. *Distribution of this directive.* Because the FIRMR looseleaf edition distribution list has not yet been established, this FIRMR temporary regulation will be distributed to addressees on GSA's FPR and FPMR Subchapters B and F publication distribution lists. It is suggested that the directive be retained for continuing use until the provisions are incorporated into the FIRMR or are otherwise superseded or canceled.

7. *Agency actions.* Pending the issuance of a permanent amendment of the Federal Information Resources Management Regulation, agencies shall follow the policies and procedures in this temporary regulation.

8. *Information and assistance.* Inquiries should be directed to John F. Stewart, Policy Branch (KMPP), Office of Information Resources Management, telephone (202) 566–0194 or FTS, 566–0194.

9. *Submission of Comments.* The views of agencies and other interested parties are invited regarding the effect or impact of this regulation and the policy and procedures that should be adopted in the future. All comments received within 90 days after publication in the **Federal Register** will be considered. Comments should be addressed to General Services Administration (KMPP), Washington, DC 20405.

Ray Kline,

Acting Administrator of General Services

[FR Doc. 84–26306 Filed 10–3–84; 8:45 am]

BILLING CODE 6820–25–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

45 CFR Part 3

Conduct of Persons and Traffic on the National Institutes of Health Federal Enclave

AGENCY: National Institutes of Health, HHS.

ACTION: Final rule.

SUMMARY: The National Institutes of Health hereby amends the regulations governing the conduct of persons and traffic on the NIH Federal Enclave. This amendment revises references to the acreage which comprises the National Institutes of Health to reflect the acquisition by purchase of the Convent operated by the Sisters of the Visitation of Washington. In addition, this amendment makes several clarifying changes and adds an informational reference to other regulations that apply to the Enclave.

EFFECTIVE DATE: October 1, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Lowell D. Peart, NIH Regulations Officer, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205. (301–496–4606)

SUPPLEMENTARY INFORMATION: This rule makes technical changes to the definition of Enclave in § 3.1 which includes a reference to the total acreage comprising the National Institutes of Health over which the United States exercises exclusive jurisdiction. With funds provided in Pub. L. 98–139, the NIH recently purchased approximately eleven additional acres of property which bordered the NIH enclave. This added parcel of land is designated as The Mary Woodard Lasker Center for Health Research and Education by Pub. L. 98–297. The additional property increased the total acreage at NIH from about 307 to about 318 acres.

This technical amendment revises the acreage and acquisition dates set forth in the definition of "Enclave" to reflect acquisition of the newly acquired property. Exclusive Federal jurisdiction over this parcel vested by operation of law upon date of acquisition, under the terms of the Maryland statute ceding exclusive jurisdiction to the United States, the Act of March 31, 1953, Chapter 158 (Md. Code Ann. art. 96, sec. 34(1979)).

A second correction is based upon the earlier deletion of references in 45 CFR Part 3 to the applicability of the regulations to the Public Health Service Staten Island Hospital. This change was published in the January 12, 1983 issue of the **Federal Register** (48 FR 1312). However, the plural reference in § 3.2(a) to the "Directors for their respective enclave" was inadvertently not corrected. In addition, an informational reference to other regulations applicable to the Enclave is added to this paragraph.

Public rulemaking procedures and delayed effective date are omitted as unnecessary because these amendments are technical and clarifying changes, and are not substantive.

The following statements are provided for the information of the public:

1. As required by Executive Order 12291, Section (3)(g)(1), the proposal has been reviewed against the criteria in Section 1(b) of the Executive Order, and does not meet the test for "a major rule."

2. These regulations do not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act, Pub. L. 96–354, since these regulations are technical in nature and simply revise the existing NIH Enclave regulations to reflect explicitly acquisition of an additional parcel, correct an error, and add an informational reference to regulations published elsewhere in the CFR.

List of Subjects in 45 CFR Part 3

Federal buildings and facilities, Government property, Traffic regulations.

Therefore, Part 3 of Title 45 of the Code of Federal Regulations, is hereby amended as set forth below:

Dated: September 27, 1984.

James B. Wyngaarden,

Director, National Institutes of Health

PART 3—[AMENDED]

1. The authority citation for Part 3 is revised to read as follows:

Authority: Secs. 1–5, 62 Stat. 281, as amended, 75 Stat. 574 (40 U.S.C. 318–318d); sec. 205, 63 Stat. 389, as amended, 64 Stat. 591, 76 Stat. 414 (40 U.S.C. 486); Delegation of Authority, 33 FR 604.

2. The definition of the term "Enclave" in § 3.1 is revised to read as follows:

§ 3.1 Definitions.

* * * * *

"Enclave" means the area, containing about 318 acres, acquired by the United States in several parcels in the years 1935 through 1983, and any future acquisitions, comprising the National Institutes of Health (NIH) located in Montgomery County, Maryland and over which the United States acquires exclusive criminal jurisdiction under the Act of March 31, 1953, Chapter 158, Laws of Maryland 1953 (Md. Code Ann., art. 96, section 34 (1979)) or other laws of the State of Maryland.

* * * * *

3. The second sentence of paragraph (a) of § 3.2 is revised to read as follows:

§ 3.2 Applicability.

(a) * * * The regulations prescribe penal sanctions in § 3.61, and are in addition to: (1) Any administrative rules prescribed by the Director under Title 5 U.S. Code 301; (2) the General Services Administration Regulations in 41 CFR Part 101–20.3 relating to conduct on Federal property; and (3) § 73.735–305 of this title applicable to employees, to the extent that those rules and regulations are consistent with the provisions of this

part (in the event of a conflict this part shall control).

* * * * *

[FR Doc. 84-26323 Filed 10-3-84; 8:45 am]
BILLING CODE 4140-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 107, 108 and 109

[CGD 83-067]

Updates of References to 46 U.S.C. in 46 CFR Subchapter IA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Numerous general maritime shipping laws related to vessels and seamen were recently codified and enacted into postive law as Subtitle II of Title 46, United States Code (46 U.S.C. 2101 through 13110). The purpose of this final rule is to amend the authority citations and references in 46 CFR Subchapter IA to conform with the changes to Title 46 U.S.C.

EFFECTIVE DATE: October 4, 1984.

FOR FURTHER INFORMATION CONTACT: LCDR D.L. Crede, Project Manager, Office of Merchant Marine Safety, 202-426-2197.

SUPPLEMENTARY INFORMATION: Pub. L. 98-89, August 26, 1983, revised and consolidated over 300 statutes related to vessel inspections, marine casualties, licenses and documents issued to seamen, manning of vessels, seamen protection and relief, identification of vessels and state boating safety programs. In their place Pub. L. 98-89 enacted an organized statement of the law concerning marine safety and the welfare of seamen as Subtitle II of Title 46 U.S.C. The revision and consolidation did not substantially affect the authority of the Coast Guard to promulgate regulations covered by this final rule. Regulations in effect under a statute repealed by Pub. L. 98-89 continue in effect under the corresponding provision of Pub. L. 98-89. The repeal of so many of the older statutes by the enactment of Pub. L. 98-89, however, makes it desirable to amend Title 46 of the Code of Federal Regulations where citations or references are made to Title 46 U.S.C.

This rule amends 46 CFR Subchapter IA by changing the citations and references therein to conform with the changes to Title 46 U.S.C. Citations and references to statutes repealed by Pub. L. 98-89 are replaced with citations and references to the corresponding parts of Pub. L. 98-89. Amendments for correcting the citations and references in other subchapters of Title 46 CFR will be published as they are developed.

Because this amendment is merely editorial, the Coast guard finds that notice and comments under 5 U.S.C. 553(b) are unnecessary. This revision is effective immediately under 5 U.S.C. 553(d) because it is not a substantive rule.

This amendment is promulgated under 46 U.S.C. 2103, 2104 (a), 3306, 3707, 3714, 4104, 4302, 6101, 6301, 7101, 7701, 8101, 8105, 9102, 10104, 12121, 13109; 49 CFR 1.4(b)(1)(ii), and 1.46. This amendment is strictly limited to updating citations and it is not to be interpreted or understood as a direct or indirect repromulgation, reaffirmation, revision or approval of the current CFR text. While every effort has been made to check the accuracy of each citation this is not a final determination of the applicability of any citations to any regulations. These issues will be addressed gradually in the scheduled review of all existing regulations.

Drafting Information

The principal persons involved in drafting this document are Eugene Holler, and LCDR D.L. Crede, Project Managers, Office of Merchant Marine Safety, and Michael N. Mervin, Project Counsel, Office of the Chief Counsel.

Regulatory Evaluation

This final rule is considered to be non-major under Executive Order 12291 and non-significant under the DOT regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this final rule has been found to be so minimal that further evaluation is unnecessary. This rulemaking merely corrects the citations and references to Title 46 U.S.C. There is no change to current Coast Guard regulations or procedures.

Regulatory Flexibility Evaluation

Since the impact of this final rule is expected to be minimal, the Coast Guard certifies that it will not have a significant economic impact on a substantial number of small entities.

List of Subjects

46 CFR Part 107

Continental shelf, Oil and gas exploration, Marine safety, Marine resources.

46 CFR Part 108

Continental shelf, Oil and gas exploration, Marine safety, Marine resources.

46 CFR Part 109

Continental shelf, Oil and gas exploration, Marine safety, Marine resources.

In consideration of the foregoing, the Coast Guard hereby amends Subchapter IA of Chapter I of Title 46 Code of Federal Regulations as set forth below.

PART 107—INSPECTION AND CERTIFICATION

1. The authority citation following the table of contents is revised to read as follows:

Authority: 46 U.S.C. 2104; 2106; 3301; 3306; 3318; 46 App. U.S.C. 86; 43 U.S.C. 1333(d); 49 CFR 1.46 (b) and (n).

§ 107.201 [Amended]

2. § 107.201(a) is amended by removing "46 U.S.C. 367, 391, 395 and 399" and inserting in its place "46 U.S.C. 3301, 3307 and 3309."

3. § 107.201(b) is amended by removing "46 U.S.C. 367, 391, 395 and 399" and inserting in its place "46 U.S.C. 3301, 3307 and 3309."

4. § 107.201(c) is amended by removing "46 U.S.C. 435" and inserting in its place "46 U.S.C. 3308."

5. § 107.201(d) is amended by removing "46 U.S.C. 435" and inserting in its place "46 U.S.C. 3308."

6. § 107.201(e) is amended by removing "46 U.S.C. 435" and inserting in its place "46 U.S.C. 3308 and 3313."

§ 107.223 [Amended]

7. § 107.223 is amended by removing "46 U.S.C. 399" and inserting in its place "46 U.S.C. 3309."

PART 108—DESIGN AND EQUIPMENT

8. The authority citation following the table of contents is revised to read as follows:

Authority: 46 U.S.C. 2104; 2106; 3301; 3306; 3318; 46 App. U.S.C. 86; 43 U.S.C. 1333(d); 49 CFR 1.46 (b) and (n).

9. All authority citations following individual sections in Part 108 are removed.

PART 109—OPERATIONS

10. The authority citation following the table of contents is revised to read as follows:

Authority: 46 U.S.C. 2104; 2106; 3301; 3306; 3318; 46 App. U.S.C. 86; 43 U.S.C. 1333(d); 49 CFR 1.46 (b) and (n). Section 411 and 413 also issued under 46 U.S.C. 6101. Section 431 also issued under 46 U.S.C. 11301.

11. All authority citations following individual sections in Part 109 are removed.

§ 109.433 [Amended]

12. § 109.433 Note is amended by removing "R.S. 4290 (46 U.S.C. 201)" and inserting in its place "46 U.S.C. 11301" and by removing "R.S. 4291 (46 U.S.C. 202)" and inserting in its place "46 U.S.C. 11302."

Dated: September 27, 1984.

B.G. Burns,

Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc. 84-25362 Filed 10-3-84; 8:45 am]

BILLING CODE 4910-14-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Amdt. No. 1 to Fourteenth Revised Service Order No. 1474]

Various Railroads Authorized To Use Tracks and/or Facilities of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor (Richard B. Ogilvie, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Amendment No. 1 to Fourteenth Revised Service Order No. 1474.

SUMMARY: Pursuant to Section 122 of the Rock Island Railroad Transition and Employee Assistance Act, Pub. L. 96-254, this order authorizes various railroads to provide interim service over the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor (Richard B. Ogilvie), Trustee, and to use such tracks and facilities as are necessary for operations. This order permits carriers to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

EFFECTIVE DATE: 11:59 p.m., September 30, 1982, and continuing in effect until 11:59 p.m., November 30, 1984, unless otherwise modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M.F. Clemens, Jr., (202) 275-1559.

List of Subjects in 49 CFR Part 1033

Railroads.

Decided: September 25, 1984.

Upon further consideration of Thirteenth Revised Service Order No. 1474 (49 FR 33270 and good cause appearing therefor:

§ 1033.1474 [Amended]

It is ordered, § 1033.1474 *Various Railroads Authorized to use Tracks and/or Facilities of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor (Richard B. Ogilvie, Trustee),* Fourteenth Revised Service Order No. 1474 is amended by substituting the following paragraph (n) for paragraph (n) thereof:

* * * * *

(n) *Expiration date.* The provisions of this order are extended for an additional period of time, and shall expire at 11:59 p.m., November 30, 1984, unless otherwise modified, amended or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., September 30, 1984.

This action is taken under authority of 49 U.S.C. 10304-10305 and section 122, Pub. L. 96-254.

This amendment shall be served upon the Association of American Railroads, Transportation Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members J. Warren McFarland, Bernard Gaillard, and John H. O'Brien.

James H. Bayne,

Secretary.

[FR Doc. 84-26331 Filed 10-3-84; 8:45 am]

BILLING CODE 3610-22-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 654 and 658

[Docket No. 40558-4082]

Stone Crab Fishery and Shrimp Fishery of the Gulf of Mexico

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of fishing restrictions for stone crab and shrimp.

SUMMARY: NOAA adjusts the configuration of the restricted fishing areas and closed periods in the fishery conservation zone (FCZ) off Pasco, Hernando and Citrus Counties, Florida. This action is provided for by the existing regulations. The intended effect is to allow orderly conduct of the shrimp and stone crab fisheries and to avoid serious conflict between the participants of these fisheries.

EFFECTIVE DATE: October 5, 1984.

FOR FURTHER INFORMATION CONTACT: Donald W. Geagan, 813-893-3722.

SUPPLEMENTARY INFORMATION: The fishery management plans for the stone crab and shrimp fisheries of the Gulf of Mexico (FMPs) provide for the adjustment of closed fishing areas and time periods in the FCZ off Pasco, Hernando, and Citrus Counties, Florida based upon the recommendations of the Tri-County Committee (Committee). The FMPs also require that the Committee's recommendations be reviewed by the Gulf of Mexico Fishery Management Council's (Council) Ad Hoc Advisory Panel (Panel) consisting of stone crab and shrimp fishermen from the three counties and other fishermen that fish in the tri-county area. Implementing rules at 50 CFR 654.24 and 50 CFR 658.24 (49 FR 30713, August 1, 1984, respectfully) prescribe the authority for this procedure.

The Committee and Panel developed recommendations for zoning and closed fishing periods for both Federal and State waters. These were submitted to the Council and the Florida Department of Natural Resources for implementation in waters under their respective jurisdictions. The Council reviewed the recommendations and following public comment determined that the proposal is fair and equitable to both stone crab and shrimp fishermen. The Secretary of Commerce has concluded that the recommendations are consistent with the objectives of the FMPs, the Magnuson Fishery Conservation and Management Act, and other applicable law. The zoning configuration is similar to that implemented under emergency regulations (48 FR 46057 and 48 FR 56394) for the 1983-1984 stone crab season with one minor deviation. However, the closed fishing periods for the participating fisheries vary considerably. The implemented zones and fishing periods are effective October 5 through May 20 of each fishing year. Compatible regulations have been implemented by the State of Florida.

Other Matters

This action is taken under the authority of 50 CFR 654.24 and 50 CFR 658.24, and in compliance with Executive Order 12291.

List of Subjects at 50 CFR Parts 654 and 658

Fisheries, Reporting and recordkeeping requirements.

Dated: October 1, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

For reasons set forth in the preamble, 50 CFR Parts 654 and 658 are revised as follows:

1. The authority citation for Parts 654 and 658 reads as follows:

Authority: 16 U.S.C. 1801 *et seq.*

PART 654—STONE CRAB FISHERY

2. Section 654.23 is amended by revising paragraph (b)(1) to read as follows:

§ 654.23 Area restrictions.

* * * * *

(b)(1)(i) No person may place stone crab traps in that part of the FCZ identified as Zone IV (Figure 3) during the period 0001 hours October 5 to 2400 hours December 1 and during the period 0001 hours April 2 to 2400 hours May 20. Zone IV is bounded by a continuous line connecting points expressed by latitude and longitude (LORAN notations are unofficial, and are included only for the convenience of fishermen):

ZONE IV

Point	Latitude	Longitude	Loran chain 7980		
			X	Y	Z
V	26°41'39" N.	82°54'08" W.	31303.0	45183.1	62961.5
E	26°41'39" N.	82°55'18" W.	31301.0	45193.1	62970.0
O	26°30'51" N.	82°55'06" W.	31242.7	45104.3	62970.0
S	26°30'51" N.	82°52'54" W.	31247.6	45086.8	62955.0
Z	26°37'44" N.	82°53'02" W.	31284.3	45143.0	62955.0

Thence northerly along the State boundary to point V.

(ii) No person may place stone crab traps in that part of the FCZ identified as Zone V (Figure 3) during the period 0001 hours October 5 to 2400 hours November 30 and during the period 0001 hours March 16 to 2400 hours May 20. Zone V is bounded by a continuous line connecting points expressed by latitude and longitude (LORAN notations are unofficial and are included only for the convenience of fishermen):

ZONE V

Point	Latitude	Longitude	Loran chain 7980		
			X	Y	Z
W	26°49'25" N.	82°55'49" W.	31341.2	45260.0	62971.2
G	26°48'55" N.	82°56'19" W.	31337.8	45260.0	62975.0
F	26°41'39" N.	82°56'06" W.	31299.2	45199.1	62975.0
V	26°41'39" N.	82°54'08" W.	31303.00	45183.1	62961.5

Thence northerly along the State boundary to point W.

* * * * *

PART 658—SHRIMP FISHERY OF THE GULF OF MEXICO

3. Section 658.23 is amended by revising paragraph (b)(1) to read as follows:

§ 658.23 Stone crab area restrictions.

* * * * *

(b)(1)(i) Between 0001 hours October 5 to 2400 hours May 20 each year, it is unlawful to fish for shrimp in the following two areas of the FCZ (see Figure 4):

(A) That part of the FCZ identified as Zone I and bounded by a continuous line connecting points expressed by latitude and longitude (LORAN notations are unofficial and are included only for the convenience of the fishermen):

ZONE I

Point	Latitude	Longitude	Loran chain 7980		
			X	Y	Z
X	28°55'20" N.	83°00'08" W	31365.0	45342.8	63000.0
C	28°26'01" N.	82°59'45" W	31206.7	45103.6	63000.0
D	28°26'01" N.	82°56'47" W	31213.2	45080.0	62980.8
T	28°27'43" N.	82°55'07" W	31226.2	45080.0	62970.0
E	28°41'39" N.	82°55'18" W	31301.0	45193.1	62970.0
F	28°41'39" N.	82°56'06" W	31299.2	45199.1	62975.0
G	28°48'55" N.	82°56'19" W	31337.8	45260.0	62975.0
W	29°49'25" N.	82°55'49" W	31341.2	45260.0	62971.2

Thence northerly along the State boundary to point X

(B) That part of the FCZ identified as Zone III and bounded by a continuous line connecting points expressed by latitude and longitude (LORAN notations are unofficial and are included only for the convenience of the fishermen):

ZONE III

Point	Latitude	Longitude	Loran chain 7980		
			X	Y	Z
Z	28° 37' 44" N.	82° 53' 02" W	31284.3	45143.0	62955.0
S	28° 30' 51" N.	82° 52' 54" W	31247.6	45086.8	62955.0
U	28° 30' 51" N.	82° 52' 02" W	31249.5	45080.0	62949.5
Y	28° 31' 28" N.	82° 51' 28" W	31253.9	45080.0	62945.4

Thence northerly along the State boundary to point Z.

(ii) It is unlawful to fish for shrimp in that part of the FCZ identified as Zone IV (see Figure 4) during the period 0001 hours December 2 to 2400 hours April 1. Zone IV is bounded by a continuous line connecting points expressed in latitude and longitude (LORAN notations are unofficial and are included only for the convenience of the fishermen):

ZONE IV

Point	Latitude	Longitude	Loran chain 7980		
			X	Y	Z
V	28°41'39" N.	82°54'08" W	31303.0	45183.1	62961.5
E	28°41'39" N.	82°55'18" W	31301.0	45193.1	62970.0
O	28°30'51" N.	82°55'06" W	31242.7	45104.3	62970.0
S	28°30'51" N.	82°52'54" W	31247.6	45086.8	62955.0
Z	28°37'44" N.	82°53'02" W	31284.3	45143.0	62955.0

Thence, northerly along the State boundary to point V

(iii) It is unlawful to fish for shrimp in that part of the FCZ identified as Zone V (see Figure 4) during the period 0001 hours December 1 to 2400 hours March 15. Zone V is bounded by a continuous line connecting points expressed as latitude and longitude (LORAN notations are unofficial and are included for the convenience of the fishermen):

ZONE V

Point	Latitude	Longitude	Loran chain 7980		
			X	Y	Z
W	28°49'25" N.	82°55'49" W	31341.2	45260.0	62971.2
G	28°48'55" N.	82°56'19" W	31337.8	45260.0	62975.0
F	28°41'39" N.	82°56'06" W	31299.2	45199.1	62975.0
V	28°41'39" N.	82°54'08" W	31303.0	45183.1	62961.5

Thence, northerly along the State boundaries to point W

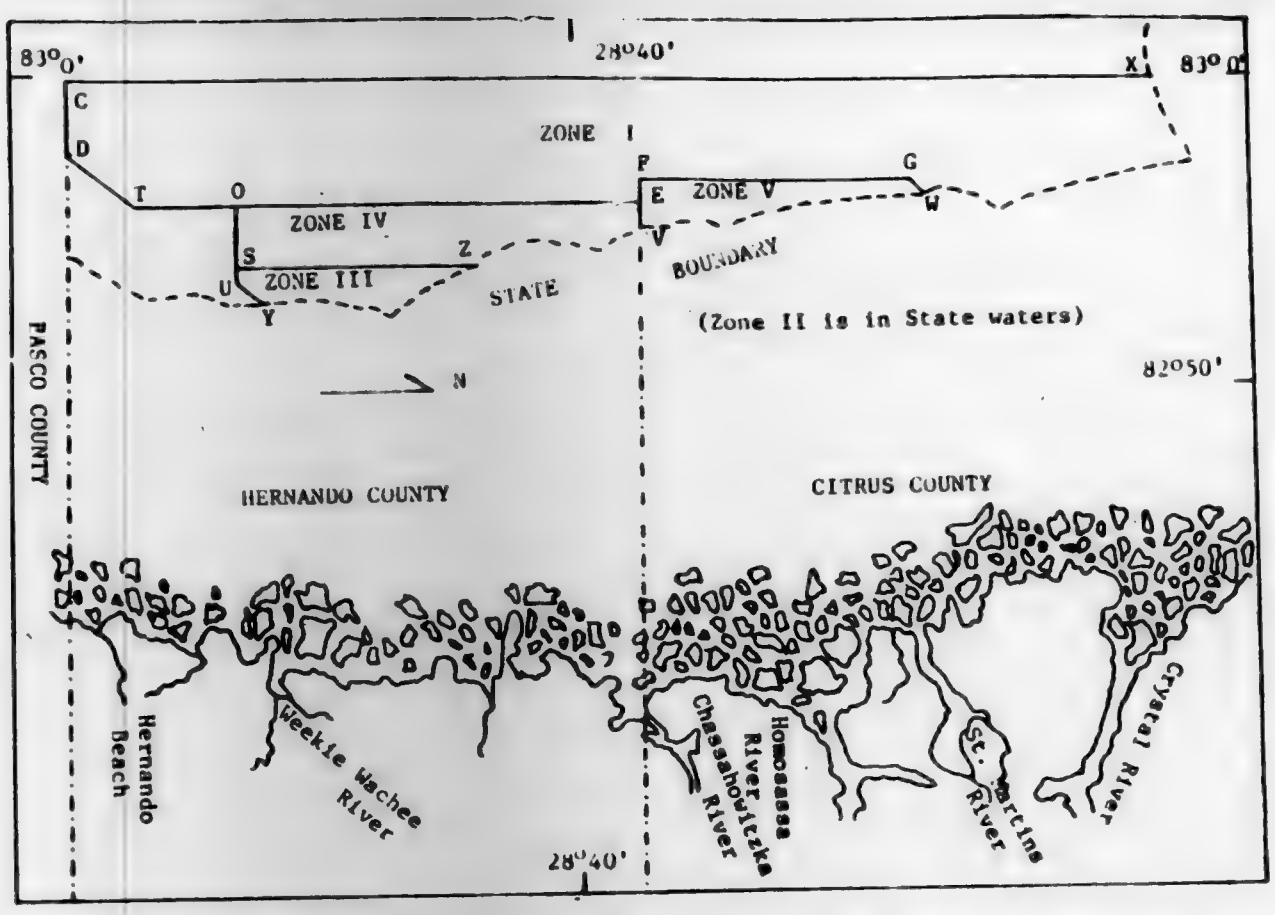

Figure 3 Chart delineating areas closed to fishing for shrimp or stone crabs (not to scale, for illustrative purposes only).

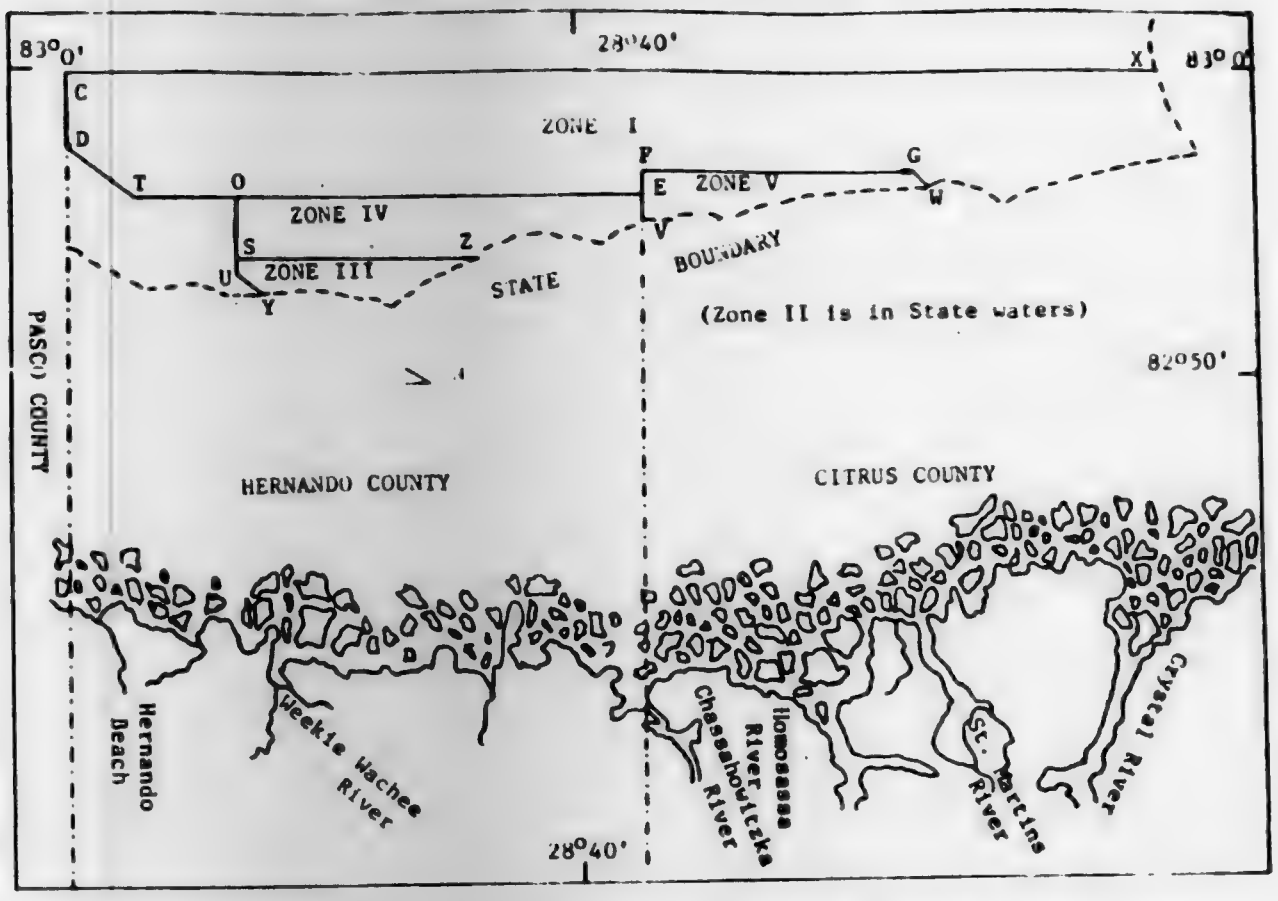

Figure 4 Chart delineating areas closed to fishing for shrimp or stone crabs (not to scale, for illustrative purposes only).

[FR Doc. 84-26393 Filed 10-1-84; 4:52 am]
BILLING CODE 3510-22-C

Proposed Rules

Federal Register
Vol. 49, No. 194
Thursday, October 4, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 58

United States Standards for Grades of Dry Buttermilk

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Extension of time for filing comments on proposed rule.

SUMMARY: This action extends the time for filing written comments on proposed changes in the U.S. Standards for Grades of Dry Buttermilk. The proposed changes were published in the **Federal Register** by the Agricultural Marketing Service on July 27, 1984 (49 FR 30205). A request for additional time for comments was made by Kraft, Inc.

DATE: Comments should be received by November 26, 1984.

ADDRESS: Comments (four copies) should be sent to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20205.

FOR FURTHER INFORMATION CONTACT: Richard W. Webber, Head, Standardization Section, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-7473.

SUPPLEMENTARY INFORMATION: On July 27, 1984, the Agricultural Marketing Service published in the **Federal Register** (49 FR 30205) a document proposing to amend the U.S. Standards for Grades of Dry Buttermilk by changing the title of the standard and the definition of the product to update and accurately describe the product covered by the standard. Also, the document proposed editorial and format changes which would modernize the standard and make it consistent with other U.S. grade standards for dairy products. There were no changes in grade criteria proposed.

The public was invited to submit comments on the proposed amendments by September 25, 1984. A request was made by Kraft, Inc., for additional time to assess the potential impact of the proposal upon its business and the industry and to submit appropriate comments. Since the Department is interested in receiving meaningful comments an extension of the comment period is being granted.

Comments (four copies) should be sent to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250. Comments should reference the date and page number of the **Federal Register** in which the proposal was published and comments will be made available for public inspection in the Office of the Hearing Clerk during regular business hours.

List of Subjects in 7 CFR Part 58

Food grades and standards, Dairy products.

(Agricultural Marketing Act of 1946, Secs. 203 205, 60 Stat. 1087, as amended, and 1090, as amended; 7 U.S.C. 1622, 1624)

Signed at Washington, D.C. on: October 1, 1984.

Eddie F. Kimbrell,

Acting Administrator.

[FR Doc. 84-26378 Filed 10-3-84; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 985

Spearmint Oil Produced in the Far West; Proposed Salable Quantities and Allotment Percentages for the 1985-86 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This is a proposal to establish the quantity of spearmint oil produced in the Far West, by class, that may be purchased from, or handled for, producers by handlers during the 1985-86 marketing year which begins June 1, 1985. This action is taken under the marketing order for spearmint oil produced in the Far West to promote orderly marketing conditions. The proposal was recommended by the Spearmint Oil Administrative Committee which works with USDA in administering the order.

DATE: Comments due November 5, 1984.

ADDRESS: Comments should be sent to the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written material should be submitted, and they shall be made available for public inspection at the office of the Hearing Clerk, during regular business hours.

FOR FURTHER INFORMATION CONTACT: Frank M. Grasberger, Acting Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-5053.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum No. 1512-1 and has been classified a "non-major" rule under criteria contained therein.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

The proposed salable quantity and allotment percentage for each class of spearmint oil would be established in accordance with the provisions of Marketing Order No. 985, regulating the handling of spearmint oil produced in the Far West, hereinafter referred to as the "order". The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The proposal was recommended by the Spearmint Oil Administrative Committee, which works with the USDA in administering the order.

The Committee met in August rather than October in response to requests by producers in Idaho. Idaho producers normally plant their spearmint roots in the fall of the year and should know earlier than other spearmint producers what allotment percentages will be in effect for next season so they can develop their planting plans for the ensuing marketing year.

The salable quantity and allotment percentage proposed for each class of spearmint oil for the 1985-86 marketing year beginning June 1, 1985, are based upon recommendations of the Committee and the following data and estimates:

(1) "Class I" Oil (Scotch Spearmint):

(A) Estimated carryin on June 1, 1985—23,783 pounds.

(B) Estimated trade demand (domestic and export) for the 1985–86 marketing year, based on an average of producer sales for 1980–81, 1981–82, and 1983–84—781,248 pounds.

(C) Recommended desirable carryout on May 31, 1986—100,000 pounds.

(D) Salable quantity required from 1985 production—857,465 pounds.

(E) Total allotment bases for "Class 1" Oil—1,625,127 pounds.

(F) Computed allotment percentage—52.8 percent.

(G) The Committee's recommendation for the salable quantity—861,317 pounds.

(H) Recommended allotment percentages—53 percent.

(2) "Class 3" Oil (Native Spearmint):

(A) Estimated carryin on June 1, 1985—50,000 pounds.

(B) Estimated trade demand (domestic and export) for the 1985–86 marketing year based on an average of sales for the past four years averaged with the handler estimates for 1985–86—909,876 pounds.

(C) Recommended desirable carryout on May 31, 1986—75,000 pounds.

(D) Salable quantity required from 1985 production—934,876 pounds.

(E) Total allotment bases for "Class 3" Oil—1,793,085 pounds.

(F) Computed allotment percentage—52.1 percent.

(G) The Committee's recommendation for the salable quantity—932,404 pounds.

(H) Recommended allotment percentage—52 percent.

The salable quantity is the total quantity of each class of oil which handlers may purchase from or handle on behalf of producers during a marketing year. Each producer is allotted a share of the salable quantity by applying the allotment percentage to his allotment base for the applicable class.

When the order was established in 1980, producer stocks of spearmint oil were very large and producer prices severely depressed. Volume regulations in effect under the order since that time have aided in reducing these burdensome stocks and in creating a more stable market for each class of oil. The Committee's objective with its proposal for 1985–86 is to balance supplies with needs to maintain a stable market for each class of 1985-crop oil and promote orderly marketing. The Committee's recommendations are based on expectations of continued strong sales of spearmint oil during the 1985–86 marketing year.

Pursuant to the order, the Committee will issue additional allotment bases to both new and existing producers later in 1984 for the 1985–86 marketing year. New producers will be issued allotment bases in units of 2,011 pounds for "Class 1" Oil and 2,219 pounds for "Class 3" Oil. Additional allotment bases for existing producers will be divided equally, by class of oil, among all producers who request such additional base and have the ability to produce the additional spearmint oil referable to such base. The issuance of the additional allotment bases will increase the total of "Class 1" Oil allotment bases by 22,693 pounds and "Class 3" Oil by 18,916 pounds.

List of Subjects in 7 CFR Part 985

Marketing agreements and orders, Spearmint oil.

PART 985—[AMENDED]

Therefore, the proposal is to add a new § 985.205 under Subpart—Salable Quantities and Allotment Percentages to read as follows: (The following provisions will not be published in the Code of Federal Regulations).

§ 985.205 Salable quantities and allotment percentages—1985–86 marketing year.

The salable quantity and allotment percentage for each class of spearmint oil during the marketing year which begins June 1, 1985, shall be as follows:

(a) "Class 1" Oil—a salable quantity of 861,317 pounds, and an allotment percentage of 53 percent.

(b) "Class 3" Oil—a salable quantity of 932,404 pounds, and an allotment percentage of 52 percent.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–647)

Dated: October 1, 1984.

Thomas R. Clark,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 84-26380 Filed 10-3-84; 8:45 am]

BILLING CODE 3410-02-M

Commodity Credit Corporation

7 CFR Part 1434

Honey Price Support Regulations Governing 1982 and Subsequent Crops; Amdt. 3

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The purpose of this proposed rule is to revise the regulations governing the Honey Price Support Program to provide that, beginning with 1984 crop honey, the quality and color of honey delivered to the Commodity Credit Corporation (CCC) shall be determined in accordance with Agricultural Stabilization and Conservation Service (ASCS) Specifications for Unprocessed Honey. Currently, honey is graded according to the United States Standards for Grades of Extracted Honey which is a criterion for processed honey. This action will provide for more realistic and equitable grading of unprocessed honey which is acquired by the CCC under the price support loan and purchase program.

DATE: Submit comments by December 3, 1984.

ADDRESS: Interested persons should submit comments to Director, Cotton, Grain, and Rice Price Support Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Ross D. Ballard, (202) 447–7988. A copy of the ASCS Specifications for Unprocessed Honey is available for review from the above-named individual.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Departmental Regulation No. 1512–1 and has been classified "not major." This rule has been classified "not major" since it will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the federal assistance program to which this proposed rule applies to are: Commodity Loans and Purchases; 10.051, as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to the rule since CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Currently, the regulations governing the Honey Price Support Program provide that the United States Standards for Extracted Honey are to be used to determine the quality and color of raw, extracted honey acquired by CCC. These standards were developed

for processed honey. Unprocessed honey often contains substances, such as pollen, wax, and comb, which do not affect the quality of raw honey. The Agricultural Marketing Service has developed the ASCS Specifications for Unprocessed Honey in cooperation with the ASCS staff in Washington, D.C., and field locations. The specifications were developed to equitably determine the quality of unprocessed honey delivered to CCC in settlement of honey price support loan and purchase agreements. The specifications will be available at local county ASCS offices. Accordingly, it is proposed that the regulations governing the price support program be amended to provide that ASCS Specifications for Unprocessed Honey shall be used to grade unprocessed honey delivered to CCC under the price support loan and purchase program.

List of Subjects in 7 CFR Part 1434

Honey, Loan programs—agriculture, Price support programs, Warehouse.

PART 1434—[AMENDED]

Proposed Rule

Accordingly, it is proposed that 7 CFR 1434.17 (b) and (c) be revised to read as follows:

§ 1434.17 Determination of quality.

* * * * *

(b) *Quality for settlement*—(1) *Farm storage in eligible containers.* When honey is delivered to CCC in eligible containers from farm storage, its quality and color shall be determined by the Processed Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service (AMS), in accordance with the ASCS Specifications for Unprocessed Honey on the basis of samples drawn by ASCS representatives supervising delivery. Samples shall not be drawn until the producer has designated all lots. Single containers shall not be considered as lots unless necessitated by color or floral source. The cost of quality and color determination for a maximum of four lots shall be for the account of CCC.

(2) *Identity-preserved warehouse-stored.* When honey stored identity-preserved in containers in an approved warehouse is delivered to CCC, its grade, and color shall be determined by the Processed Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service (AMS), in accordance with the ASCS Specifications for Unprocessed Honey on the basis of samples drawn by ASCS representatives supervising delivery. The cost of such determination shall be for the account of CCC.

(c) *Segregation by color.* Table honey in eligible containers shall, insofar as is practicable, be segregated into lots by color to conform with the color categories which are set forth in the ASCS Specifications for Unprocessed Honey. If a lot of honey is not segregated so that it can be certified as one color in accordance with the ASCS Specifications for Unprocessed Honey, the rate of settlement for honey delivered under a loan or purchase agreement shall be based on the darkest color shown on the inspection certificate. However, if the inspection certificate at time of delivery to CCC shows that a farm-stored or identity-preserved warehouse-stored lot of honey contains more than 2 colors and if the number of samples of the darkest color shown on such certificate is not more than one-sixth of the total number of samples, the color for the purpose of settlement shall be the next lighter color than the darkest color.

* * * * *

(Sec. 4, 62 Stat. 1070, as amended (15 U.S.C. 714b); sec. 5, 62 Stat. 1072, as amended (15 U.S.C. 714c); secs. 201, 401, 63 Stat. 1052, as amended, 1054, as amended (7 U.S.C. 1446, 1421))

Signed at Washington, D.C. on September 27, 1984.

Everett Rank,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 84-26166 Filed 10-3-84; 8:45 am]

BILLING CODE 3410-05-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 34

Industrial Radiography Radiation Surveys and Licensee's Performance Inspection Program

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission is proposing to amend its regulations that apply to industrial radiography. The proposed rule would require industrial radiography licensees to perform an additional survey of any radiography device at any time the device is put into storage, and would change an existing recordkeeping requirement. Currently, each licensee must record the required survey of the device made after the last exposure before storage. The proposed rule deletes this recordkeeping requirement and substitutes a requirement that a record of the new storage survey be maintained. The proposed rule would also require that each license application describe the program the licensee will use to evaluate the performance of each radiographer and radiographer's assistant at intervals not exceeding 3 months to ensure that they are following the Commission's regulatory requirements and the licensee's operating and emergency procedures when performing radiography. This action is intended to provide additional assurance that radiographic operations are conducted safely.

DATE: Submit comments by November 18, 1984. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESSES: Send comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, ATTN: Docketing and Service Branch. Hand deliver comments to: Room 1121, 1717 H Street NW., Washington, DC, between 8:15 a.m. and 5:00 p.m. Examine comments received and the regulatory analysis at: NRC Public Document Room, 1717 H Street NW., Washington, DC. Obtain regulatory analysis (single copy) from: Donald O. Nellis, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 427–4588.

FOR FURTHER INFORMATION CONTACT: Donald O. Nellis, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 427–4588.

SUPPLEMENTARY INFORMATION: The Nuclear Regulatory Commission is considering three amendments to its regulations pertaining to industrial radiography. One amendment would require licensees to perform an additional radiation survey of the radiographic exposure device at the time of storage, delete an existing requirement to record the radiation survey made of the device immediately after the last exposure prior to storage, and add a requirement to make and maintain a record of the storage survey. This amendment to § 34.43 would provide a method of ensuring that the sealed source is in the proper position within the device when the device is stored. The second amendment would revise § 34.11(d) to specify that each license application must describe a program by which the licensee will evaluate the performance of each radiographer and radiographer's assistant at intervals not exceeding 3 months. This amendment would clarify

the requirements for the description of the in-house inspection program that the applicant must provide in the license application. The third amendment provides a definition of "storage area" in § 34.2, *"Definitions"*. This definition is provided so that it is clear at what locations the storage survey is to be made. Interested persons are invited to comment on any or all of the proposed amendments.

Radiation Survey and Record

The Commission received a petition for rulemaking, assigned Docket No. PRM–34–3, from the Chicago Bridge and Iron Company. The Commission requested comments on the petition in the **Federal Register** on November 23, 1982 (47 FR 52722). As discussed below, this proposed rule would in effect grant the petition. The petitioner suggested an amendment of 10 CFR 34.43(c) that would require that each licensee survey a radiographic exposure device when it is placed in storage. This survey would be made using a radiation survey instrument at a point on the surface of the device specified by the licensee in its operating procedures. This last survey would occur at or near the place of storage, and would provide a record showing that the radiographic exposure device had been stored with the sealed source in a safe location within the device.

Under the current regulations, § 34.43(b) requires that, after each radiographic exposure, the radiographer perform a radiation survey of the radiographic device to ensure that the sealed source has been returned to its shielded position. Paragraph (c) of § 34.43 requires that the radiographer record the results of the survey following the last radiographic exposure made before locking the device and ending direct surveillance of the operation. This survey is made where the device is last used before storage. The licensee must keep a record of the survey for 2 years.

The petitioner contends that because no check of the sealed source position is required, the current regulation does not ensure safe storage of the sealed source in the radiographic device, yields equivocal records, and is inconvenient. More specifically, the petitioner contends that the device may be subject to rough handling when being moved under field conditions from the area of use to the area of storage. If the source were dislodged during the movement to the storage area, the radiographer might store the device with the sealed source outside of its proper location within the device. The petitioner contends that, by requiring that the radiographer make the final survey at the time of storage and at a point on the device specified by the licensee in its operating procedures, the recorded exposure rate would provide unequivocal assurance that the source was properly located within the device, and would also provide a check on the decay of the sealed source and the constancy of the survey instrument. The petitioner also contends that it is easier to record the survey data at the location of storage than at the location of use because of weather and work conditions that are encountered in field radiography.

The Commission received one telephone and three written comments on the petition. Three commenters concurred completely with the petition. One commenter said that the survey should be made at the sealed source outlet port with the safety plug installed. One commenter said that licensees should not be required to submit modified procedures for review until it was time for them to renew their licenses.

The petitioner's suggested amendment would eliminate the requirement that the last-use survey be recorded, and put in its place a requirement that a time-of-storage survey be made and recorded. Although the Commission is aware of only one overexposure that was caused by failure of the locking mechanism (NUREG/BR–0024, p. 153, case 46 [1]) followed by moving the radiographic device, several incidents have been observed where radiographic devices were stored with the source in an unshielded position caused by failure to lock the mechanism. The probability of occurrence and the consequences of this type of event seem to be of sufficient magnitude to justify the time-of-storage survey requirement suggested by the petitioner. In addition it is considered to be a good safety practice to survey at the time of storage, and many radiographers include this survey in their routine procedures. Therefore, the Commission agrees that it is desirable to require that the time-of-storage survey be made and recorded. However, this would not relieve licensees from requiring that radiographers make a survey immediately after the last exposure and before transport to the place of storage, although no record of the last use survey would be required.

The Commission also agrees that the measurement of the exposure rate at a point on the surface of a device, during the storage survey, would provide additional assurance that the sealed source was properly stored within the device as well as data on source decay and instrument operability useful to both the licensee and NRC inspectors. However, storage survey procedures should also be consistent with the survey procedure required after each exposure. Therefore, the proposed amendment would require that the time-of-storage survey be made around the entire circumference of the radiographic exposure device, consistent with existing survey procedures (10 CFR 234.43(b)), and that the survey include a measurement of the radiation exposure rate at the source outlet port with the safety plug installed, as recommended by one commenter.

A record of the time-of-storage survey result would provide assurance to the Commission that the radiographer had surveyed the device after the last exposure. The Commission agrees that it may be more convenient to record the results of a survey taken at the location of storage than one taken in the field, and that this storage survey record may be more important to safety.

Since the time-of-storage survey and record procedure are similar to the currently required last-use survey and record procedure, licensees would not be required to submit modified procedures for review. If the Commission implements the proposed rule, a copy will be sent to each licensee. A cover letter will inform the licensee that the new survey and record method should be used and that a license amendment need not be requested.

Performance Inspection of Radiographers and Radiographers' Assistants

In order to receive a specific license for radiography, the applicant presently must have an in-house inspection program to ensure that radiographers and radiographer's assistants are following NRC regulatory requirements and the licensee's operating and emergency procedures. The in-house inspection must be conducted by the licensee every 3 months. This requirement was intended to be explicit in § 34.11(d) of the Commission's rules.

The Commission intends that the applicant describe in the license application the program that will be used to inspect the work methods of each radiographer and radiographer's assistant during an actual radiographic operation to ensure that each individual is following applicable regulatory requirements and operating and emergency procedures. Each inspection

[1] Copies of NUREG/BR–0024 may be obtained from the GPO Sales Program Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492–7333.

would be conducted by having an individual who knows the applicable requirements and procedures observe each worker during an actual radiographic exposure to ensure that each worker is following the requirements and procedures. The proposed rule clarifies this requirement. Some license applicants and licensees believe that a system of spot checks of some radiographers and radiographers' assistants is sufficient to meet the requirement of existing regulation. The Commission does not agree that a system of spot checks is adequate to provide assurance that radiographers are working safely. The Commission is proposing that the regulation be revised to specify that a description of the inspection program be included in license applications and that the inspection program provide for the inspection of the work methods of each radiographer and radiographer's assistant actively engaged in radiography, at intervals not to exceed 3 months. If a radiographer has not participated in a radiographic operation for more than three months, the rule provides that individual's performance will be observed and recorded the next time he or she participates in a radiographic operation.

Environmental Impact: Categorical Exclusion

The NRC has determined that this proposed regulation is the type of action described in categorical exclusion 10 CFR 51.22(c)(3) (i) and (iii). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this proposed regulation.

Paperwork Reduction Act Statement

This proposed rule amends information collection requirements that are subject to the Paperwork Reduction Act (44 U.S.C. 3051 et seq.). This rule has been submitted to the Office of Management and Budget for review and approval of the paperwork requirements as part of the 1983 renewal for 10 CFR Part 34. Approval of the paperwork requirement was granted 08/10/83, OMB No. 3150–0007.

Regulatory Analysis

The Commission has prepared a regulatory analysis on this proposed regulation. This analysis examines the costs and benefits of the alternatives considered. The analysis is available for inspection in the Public Document Room, 1717 H Street NW., Washington, DC. Single copies of the analysis may be obtained from Donald O. Nellis, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 427–4588.

Public comment on the analysis is requested. Comments may be submitted to the NRC as indicated under the **ADDRESSES** heading.

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that this rule, if adopted, will not have a significant economic impact on a substantial number of small entities. The NRC has currently issued 369 licenses for the performance of industrial radiography that would be affected by this proposed rule. Although a substantial number of these licensees would be considered small entities, the proposed requirements are not expected to have a significant economic impact on these licensees.

The proposed radiation survey and record amendment requires an additional survey upon storage of the radiographic device, which is considered a minimal regulatory burden. The amendment substitutes a storage survey record requirement for the currently required last use survey record, which imposes no additional regulatory burden. The quarterly performance inspection of each radiographer and radiographer's assistant is already required of license applicants. The proposed rule clarifies what information must be submitted with a license application.

The additional time-of-storage survey is estimated to cost about $150.00 per radiographer per year. This is based on each radiographer working 250 days each year, at two locations each day, and estimate that it takes about 0.01 hours to complete a storage survey, and that the hourly wage for the average radiographer, plus overhead, is $30.00. Each survey can be estimated to cost approximately 30 cents. The benefit of this additional survey requirement is significantly increased assurance that radiographic sources are safety stored in the shielded position.

Since the quarterly performance inspection of radiographers is already required by license condition, there will be no new or additonal burden on NRC licensees. The total cost of the quarterly performance inspection program, whether required by license condition or regulation, is about $120 per worker each year, assuming each inspection takes one-half hour of worker time and one-half hour of inspector time.

The NRC does not believe these costs constitute a significant economic impact on small entities. However, the Commission is seeking comments and suggested modifications, especially from small entities, because of the widely differing conditions under which many licensees operate.

Any small entity subject to this regulation which determines that, because of its size, it is likely to bear a disproportionate adverse economic impact should notify the Commission of this in a comment that indicates the following:

(a) The licensee's size in terms of annual income or revenue and number of employees;

(b) How the proposed regulation would result in a significant economic burden upon the licensee as compared to that on a large licensee;

(c) How the proposed regulations could be modified to take into account the licensee's differing needs of capabilities; and

(d) Whether the assumptions that a radiographer works an average of two locations a day and that a radiation survey takes about 0.01 hour to complete accurately reflect the licensees' actual work experience.

List of Subjects in 10 CFR Part 34

Packaging and containers, Penalty, Radiation protection, Radiography, Reporting and recordkeeping requirements, Scientific equipment, Security measures.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C 553, the NRC is proposing to adopt the following amendments to 10 CFR Part 34.

PART 34—LICENSES FOR RADIOGRAPHY AND RADIATION SAFETY REQUIREMENTS FOR RADIOGRAPHIC OPERATIONS

1. The authority citation for Part 34 is revised to read as follows:

Authority: Secs. 81, 161, 182, 183, 68 Stat. 935, 948, 953, 954, as amended (42 U.S.C. 2111, 2201, 2232, 2233); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

Section 34.32 also issued under sec. 206, 88 Stat. 1246 (42 U.S.C. 5846).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 34.22, 34.23, 34.24, 34.25 (a), (b) and (d), 34.28, 34.29, 34.31 (a) and (b), 34.32, 23.33 (a), (c) and (d), 34.41, 34.42, 34.43 (a) (b) and (c) and 34.44 are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); and §§ 34.11 (d), 34.25 (c) and (d), 34.26, 34.27, 34.28(b), 34.29(c), 34.31(c), 34.33 (b) and (e) and 34.43(d) are issued under sec. 1610, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

§§ 34.2, 34.11, 34.22, 34.28, 34.29, 34.31–34.33, 34.43–34.44, 34.51 and Appendix A [Amended]

2. Remove the authority citations following §§ 34.2, 34.11, 34.22, 34.28, 34.29, 34.31, 34.32, 34.33, 34.43, 34.44, 34.51, and Appendix A.

3. In § 34.2 paragraphs (g) and (h) are redesignated as paragraphs (h) and (i), and a new paragraph (g) is added to read as follows:

§ 34.2 Definitions.

* * * * *

(g) "Storage area" means any location, facility, or special vehicle at or in which a radiographic exposure device or storage container is secured, when not in use, by lock or physical barrier so as to prevent accidental exposure, tampering with or unauthorized removal of the device.

* * * * *

4. In § 34.11, paragraph (d) is revised to read as follows:

§ 34.11 Issuance of specific licenses for use of sealed sources in radiography.

* * * * *

(d) The applicant has established and submits a description of an in-house inspection program adequate to ensure that the Commission's regulatory requirements and the applicant's operating and emergency procedures are followed by radiographers and radiographers' assistants. The inspection program must:

(1) Include observation of and recording of the performance of each radiographer and radiographer's assistant during an actual radiographic operation at intervals not to exceed three months;

(2) Provide that, if a radiographer and radiographer's assistant has not participated in a radiographic operation for more than three months since the last inspection, that individual's performance must be observed and recorded the next time the individual participates in a radiographic operation; and

(3) Include retention of inspection records for two years on performance of radiographers and radiographer's assistants.

* * * * *

5. Section 34.43 is revised to read as follows:

§ 34.43 Radiation surveys.

(a) The licensee shall ensure that at least one calibrated and operable radiation survey instrument is available at the location of radiographic operations whenever radiographic operations are being performed, and at the storage area as defined in § 34.2(g) whenever a radiographic exposure device is being placed in storage.

(b) The licensee shall ensure that a survey with a calibrated and operable radiation survey instrument is made after each exposure to determine that the sealed source has been returned to its shielded position. The entire circumference of the radiographic exposure device must be surveyed. If the radiographic exposure device has a source guide tube, the survey must include the guide tube.

(c) The licensee shall ensure that a survey with a calibrated and operable radiation survey instrument is made at the time a radiographic exposure device is placed in a storage area to determine that the sealed source is in its shielded position. The entire circumference of the radiographic exposure device must be surveyed. In addition, for devices having a source outlet port, a measurement of the radiation exposure rate at this outlet port, with the safety plug installed, must be taken.

(d) The licensee shall ensure that a record of the survey required in paragraph (c) of this section, including the measurement of the radiation exposure rate at the source outlet port, with the safety plug installed, is made and is maintained for two years.

Dated at Bethesda, Maryland, this 27th day of August, 1984.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 84-26367 Filed 10-3-84; 8:45 am]

BILLING CODE 7590-01-M

LIBRARY OF CONGRESS

Copyright Office

37 CFR Ch. II

[RM 84-6]

Implementation of the Semiconductor Chip Protection Act of 1984; Inquiry and of Public Hearing

AGENCY: Library of Congress, Copyright Office.

ACTION: Notice of inquiry and of public hearing.

SUMMARY: This notice of inquiry and of a public hearing is issued to advise the public that the Copyright Office of the Library of Congress will institute a rulemaking proceeding to implement certain provisions of the Semiconductor Chip Protection Act of 1984, provided that the bill is enacted before the 98th Congress adjourns. Different bills (S. 1201 and H.R. 5525) have passed the Senate and the House of Representatves. By this notice, the Copyright Office invites public comment, views and information to assist it in the preparation of regulations on specific issues such as the nature of identifying material to be deposited in connection with an application for registration of a claim to protection in a mask work and recommended methods for affixation and positions of mask work notice.

Since the time available to complete a regulatory proceeding on the registration of mask works in the Copyright Office and other related matters is limited in the pending bills, the comment period set in this notice is accordingly short.

DATES: The hearing will be held on October 18, 1984 in Washington, D.C. Anyone desiring to testify should submit a request by letter or telephone no later than October 16, 1984. To assist the Copyright Office in scheduling witnesses, we urge the public scrupulously to observe the date for requesting time to testify, even if written statements are submitted later. Ten copies of written statements should be received by the Copyright Office by 4:00 p.m., October 16, 1984, if at all possible. In any case, persons who testify should file written statements no later than October 31, 1984. Interested persons who do not wish to testify should submit ten copies of written statements by October 31, 1984.

ADDRESSES: Hearing location: The hearing will be held on October 18, 1984 in the Dining Room, A, LM–620 of the James Madison Memorial Building of the Library of Congress, First and Independence Ave., SE., Washington, D.C., beginning at 9:30 a.m.

Written requests to present testimony and ten copies of written statements, supplementary statements, or comments, should be submitted as follows: If sent by mail, address to: Library of Congress, Department D.S., Washington, D.C. 20540.

If delivered by hand, copies should be brought to: Office of General Counsel, James Madison Memorial Building, Room 407, First and Independence Avenue, SE., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Dorothy Schrader, General Counsel, U.S. Copyright Office, Library of Congress, Washington, D.C. 20559, (202) 287–8380.

SUPPLEMENTARY INFORMATION: At the time this notice was prepared for publication, the Senate and the House of Representatives had passed two different bills (S. 1201 and H.R. 5525) to afford protection for "mask works" (defined as a "series of related images" in the Senate bill and "2-dimensional

and 3-dimensional features of shape, pattern, and configuration" in the House bill). The Senate bill would amend the Copyright Act of 1976, title 17 of the United States Code, Chapters 1–8 by adding "mask works" as a new category of copyrightable subject matter, and make other consequential amendments. The House bill would create a new, sui generis form of protection for "mask works," independent of and apart from the Copyright Act, based on an amalgam of intellectual property law principles, but predicated more on copyright-type principles than any other single field of intellectual property. Both bills have many features in common, and have the common objective of affording protection against unauthorized reproduction and distribution of the intellectual work represented by the creation of semiconductor chip products. H.R. 5525 if enacted would be codified as chapter 9 of title 17 U.S.C.

Given the importance of the legislation and the absence of any known opposition to the principle of protection for "mask works," it appears likely that a bill will be enacted into law before the 98th Congress adjourns. The Register of Copyrights is designated as the administrator of the law in both bills. Since the Copyright Office will probably have only a short period of time after enactment to begin administration of the new law, the Office has decided to request written comment by October 31, 1984 and to hold a public hearing in Washington, D.C. on October 15, 1984. The purpose of this notice is to solicit public comment with respect to administration of the contemplated law, especially with respect to forms, regulations governing registration, deposit, notice, fees, and similar matters. The administrative provisions of both bills are similar, but the House version (H.R. 5525) requires additional rulemaking by the Office. The public is invited to comment on either bill's administrative provisions; for the sake of simplicity, the background information that follows focuses upon the specific provisions of the House bill.

Section 902 of the proposed Semiconductor Chip Protection Act of 1984[1] provides generally that mask works that are original and are neither staple, commonplace, nor familiar in the semiconductor industry, nor variations thereof that are combined in an unoriginal way, are eligible for protection under new chapter 9 of title 17 of the United States Code. As a condition of protection, however, section 908(a) stipulates that protection of a mask work under chapter 9 terminates "if application for registration of a claim of protection in the mask work is not made * * * within two years after the date on which the mask work in first commercially exploited." In accordance with section 905 and the other provisions of proposed chapter 9, the owner of a mask work enjoys the exclusive rights to do and to authorize any of the following:

(1) To reproduce the mask work by optical, electronic or any other means;

(2) To import or distribute a semiconductor chip product in which the mask work is embodied; and

(3) To induce or knowingly to cause another person to do any of the acts described in paragraphs (1) and (2).

The owner of exclusive rights in a mask work for which registration has been made under section 908, or for which an application for registration has been or is eligible to be filed, may transfer the rights in whole or in part. Where there are conflicting transfers of exclusive rights, section 903(c) provides that "the transfer first executed shall be void as against a subsequent transfer which is made for a valuable consideration and without notice of the first transfer, unless the first transfer is recorded in the Copyright Office within three months after the date on which it is executed, bu in no case later than the day before the date of such subsequent transfer."

Another aspect of the protection of mask works under chapter 9, is the provision in section 909 for a mask work notice. Unlike the copyright notice required pursuant to chapter 4 of title 17 of the United States Code, the affixation of the mask work notice, as set forth in section 909(b), is optional.

With respect to registration of claims of protection of mask works, the recordation of transfers of exclusive rights, and recommended methods of affixation and positions of the mask work notice, the Register of Copyrights is responsible for adopting regulations to assist owners and users of mask works in carrying out the intent of Congress to extend protection to this new form of creative work. Although specific grants of regulatory authority are made in connection with issues such as the mask work notice, there is a general reference in section 908(b) to the provisions of chapter 7 of title 17 relating to the regulatroy authority of the Register. Under section 702 of title 17 U.S.C., the Register of Copyrights is authorized "to establish regulations not inconsistent with law for the administration of the functions and duties made the responsibility of the Register under this title." It also proivdes that "[a]ll regulations established by the Register under this title are subject to the approval of the Librairan of Congress."

This notice of inquiry is made in order to assist the Register in drafting regulations for the implementation of the proposed Semiconductor Chip Protection Act of 1984. The issues addressed in this notice are of specific concern to the Copyright Office in instituting a rulemaking proceeding; and the Office invites public comment, views and information on the subjects noted below. There may be additional matters in connection with the proposed Semiconductor Chip Protection Act not listed below that a member of the public would like to bring to the attention of the Copyright Office. Public comment is invited on the following issues as well as any other issues that may be of assistance to the Office in implementing any new law to protect mask works. Depending upon the date of enactment and the delay allowed to prepare for implementation in relation to the deadlines established for public comment, the Office may not be able fully to consider public comments before printing registration forms and adopting interim administrative practices. Any comments received will be given full consideration in subsequent reviews of Office forms, practices and procedures.

Public Comment Invited on the Following Issues

1. *Registration form.* Section 908(c) of chapter 9 requires that an application for regisration of a mask work in the Copyright Office be made on a form prescribed by the Register of Copyrights and include "any information regarded by the Register of Copyrights as bearing upon the preparation or identification of the work, the existence or duration of protection, or ownership of the work."

The Register has long experience in preparing forms for registration of claims in works subject to copyright. Generally, the information required of an applicant on such forms has been limited. In view of the unique character of mask works, however, it is not clear whether a more detailed registration record would be beneficial to the public. While the Office fully understands that originality rather than priority of creation entitles claimants to protection, it is the act of registration that establishes legal protection. Moreover, since virtually all "mask works" may be based knowingly on earlier mask work design components and since earlier designs may be well-known in the semiconductor chip industry, it may be useful and in public interest for the

[1] Any reference to sections are to H.R. 5525.

Office to require an applicant to describe with some specificity the nature and scope of the mask work for which registration of a claim is sought. Where a prior work has been substantially reproduced in a second mask work, should there be a clear indication in an application form of the portions reproduced and the new material added?

2. *Filing fee for registration and fees for other services.* The Register of Copyrights is authorized pursuant to section 908(d) to "set reasonable fees for the filing of applications to register claims to protection in mask works under this chapter [chapter 9], and for other services relating to the administration of this chapter or rights under this chapter, taking into consideration the cost of providing those services, the benefits of a public record, and statutory fee schedules under this title [title 17 U.S.C.]."

With the exception of the fee for filing of an application for registration, the Register is inclined to prescribe, by regulation, that the fees for copyright services established under section 708 of title 17, apply, where appropriate, to services rendered by the Copyright Office under chapter 9. For the filing of an application for registration, however, the Office believes a slightly higher fee is required. Current thinking is to set the filing fee at twenty dollars ($20). The copyright registration fee of ten dollars ($10) allows the Office to recover less than 30% of the processing costs for copyright claims. Pursuant to the proposed new authority under chapter 9, the fee should allow recovery of a much higher percentage of costs, but less than full recovery of costs.

3. *Application for registration.* Section 903(a) provides that the exclusive rights in a protected mask work vest in the owner of the mask work; and "owner" of a mask work is defined in section 901 as "the author of the mask work, the legal representatives of a deceased author or of an author under a legal incapacity, the employer of an author who created the mask work for the employer in the case of a work made within the scope of the author's employment, or a person to whom the rights of the author or of such employer are transferred * * *."

In light of the above provisions, the Copyright Office intends, at this point, to allow only the initial owner of all of the exclusive rights in a mask work, or a person who has obtained ownership of all rights in the work initially belonging to such owner, to be identified in an application as the "claimant" for purposes of registration. Unlike the requirements for registration of copyright claims, an application would not be accepted from an "author" who was not also an "owner" of a mask work, or from one who claims to own less than all exclusive rights. Transfers of less than all rights could, however, be recorded.

As a general rule, the Copyright Office plans to accept only one application for registration for the same version of a particular mask work. The Office invites comments as to whether and under the circumstances an owner of a mask work should be allowed to register an intermediate form of a semiconductor chip product, beyond the "technical drawing" stage (where application under the Copyright Act might be possible). If applications are allowed in such cases, the Office tentatively believes it must require a clear statement in subsequent application forms that an earlier registration has been made for particular version of a mask work fixed in specific layers of a semiconductor chip product. This provision appears necessary since, under section 904(a), protection for a mask work begins on the date of registration or first commercial exploitation. If multiple applications are allowed, different parts of a semiconductor chip product could be protected for varying periods. Should the Office encourage or discourage this development? Are there any safeguards or conditions that should be applied to protect the public interest, other than clear disclosure of the basis of the claim? What statements or descriptions of the basis of claiming are appropriate for mask works?

Under H.R. 5525, note that once a mask work fixed in a semiconductor chip product has been commercially exploited an application may be submitted only for that version and not an earlier intermediate form of the product.

4. *Deposit copy and identifying material.* One of the more difficult issues under consideration by the Copyright Office is the type of deposit to require for registration of a claim of protection in a mask work. Section 908(d) of the Act requires that the Register "specify the identifying material to be deposited in connection with the claim for registration." Although not directly applicable to the issue of deposit for registration, a statement in the report of the Senate Committee on the Judiciary to accompany S. 1201, S. Rep. No. 98–425, 98th Cong., 2d Sess. 19 (1984), provides some guidance. The Senate Committee clearly noted that "deposit of chips in the Library of Congress would serve no useful purpose." The Copyright Office concurs in this view.

The question remains, however, what material should be required for deposit purposes that would clearly identify the mask work for which protection is claimed. Public comment, views and information on this issue would be most helpful. Perhaps earlier "drawings" on mylar sheets, if available, would sufficiently identify a mask work produced from the drawings for purposes of registration in the Copyright Office, or should more detailed representations be required?

In the case of semiconductor chip products, would it be practical to allow an applicant to deposit the required identifying material in some machine-readable form such as a magnetic tape, perhaps in combination with mylar sheets? If this type of deposit were permitted, the semiconductor industry may be asked to furnish, or at least advise the Office on the acquisition and operation of equipment needed to effectively process the deposited material. Any additional costs involved would also have to be taken into account in determining the filing fee for registration. The Office hopes to work closely with representatives of the semiconductor industry in establishing deposit procedures that will provide an adequate public record, while not placing an undue burden on owners of mask works.

5. *Mask work notice.* A regulation on recommended methods of affixation and placement of a mask work notice relates directly to the forms in which the owner of a mask work anticipates the work will be commercially exploited.

The over-all standard set in § 201.20(c)(1) of 37 CFR with respect to the manner of affixation and position of the copyright notice may also be applied in the mask work notice. Section 201.20(c)(1) provides generally that "the acceptability of a notice depends upon its being permanently legible to an ordinary user of the work under normal conditions of use, and affixed to the copies in such manner and position that, when affixed, it is not concealed from view upon reasonable examination." In applying this standard to mask works, the acceptability of a notice would vary depending on the nature of the material object in which the work was fixed. For example, where the coordinates of a mask work are reproduced in a magnetic tape or disc, the mask work notice should be embodied in the mask work fixed in the tape or disc in such a form that it would be reasonably visible to a user "under normal conditions of use," or permanently affixed to the housing or

container. The Copyright Office is particularly interested in receiving comments concerning the affixation and placement of a mask work notice in connection with this and other forms in which a mask work may be reproduced.

In the usual case, a mask work will be fixed in a semiconductor chip product. For such works, reasonable notice would depend on the location of the chip product in normal use. Where a chip product is normally concealed in use, would affixation of a mask work notice on the permanent housing or container for the mask work constitute reasonable notice of protection?

6. *Publication of registrations made in the Copyright Office.* A final determination of the type of publication that should be made of registrations of claims of protection of mask works must await a decision on the nature of the identifying material required for deposit. As a preliminary matter, however, the Office asks whether a complete record of a registration, including any forms and material deposited in the Copyright Office, should be made available to the public, in advance of specific requests. Although a publication along the lines of the *Official Gazette* of the U.S. Patent and Trademark Office may not be appropriate or useful, perhaps something more than the current *Catalog of Copyright Entries* would provide a useful service to the public. If the Copyright Office decides to require a detailed description of the nature and scope of a mask work claim in an application for registration, perhaps this and other information relevant to a particular work could be made readily available to the public on a semiannual basis in a machine-readable form. Comment is invited.

(17 U.S.C. 702)

List of Subjects in 37 CFR Ch. II

Mask works, Semiconductor chips.

Dated: October 1, 1984.

David Ladd,

Register of Copyrights.

Approved by.

Donald C. Curran,

Associate Librarian of Congress.

[FR Doc. 84-26405 Filed 10-3-84; 8:45 am]
BILLING CODE 1410-03-M

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37 CFR Part 201

[Docket RM 84-4]

Compulsory License for Cable Systems; Public Hearing on Status of Low Power Television Stations

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice of public hearing.

SUMMARY: This notice is issued to inform the public that the Copyright Office of the Library of Congress is reviewing its interpretation of section 111 of the Copyright Act concerning whether the signals of low power television stations should be treated as "local" or "distant" signals for purposes of computing cable television copyright royalties in certain cases. This notice invites participation in a public hearing intended to elicit comments, views, and information which will assist the Office in this review of the status of low power television stations.

DATES: The hearing will be held on October 12, 1984 in Washington, D.C. Anyone desiring to testify should contact the Office of the General Counsel, Copyright Office at (202) 287-8380 by October 11, 1984. Ten copies of written statements should be submitted to the Copyright Office by 4:00 p.m. on October 11, 1984, if possible, and in any case no later than October 22, 1984. Comments are also invited from persons who do not wish to testify by October 22, 1984.

ADDRESSES: Hearing location: The hearing will be held on October 12, 1984 in Dining Room A, LM-620 (Yellow Quadrant) of the James Madison Memorial Building, Library of Congress, First and Independence Ave., SE., Washington, D.C., beginning at 10:00 a.m.

Ten copies of written statements, supplementary statements, or comments should be submitted as follows:

If sent by mail—Library of Congress, Department D.S., Washington, D.C. 20540.

If delivered by hand: Office of the General Counsel, Copyright Office, James Madison Memorial Building, Room 407, First and Independence Ave., Washington, D.C.

All requests to testify should clearly identify the individual or group desiring to testify.

FOR FURTHER INFORMATION CONTACT: Dorothy Schrader, General Counsel, Copyright Office, Library of Congress, Washington, D.C. 20559. (202) 287-8380.

SUPPLEMENTARY INFORMATION: Section 111(c) of the Copyright Act of 1976, title 17 of the United States Code, established a compulsory licensing system under which cable systems may make secondary transmissions of copyrighted works. The compulsory license is subject to various conditions, including the requirements that cable systems file Statements of Account semi-annually and pay statutory royalty fees in accordance with section 111(d)(2) and as adjusted by the Copyright Royalty Tribunal in accordance with section 801(b)(2).

A question has arisen regarding the status of low power television stations under the Copyright Act's definition of the "local service area of a primary transmitter." That definition establishes the demarcation between so-called "local" and "distant" signals under the cable compulsory license. The demarcation is critically important since large cable systems, whose semiannual gross receipts exceed $214,000, compute their copyright royalties beyond the minimum fee [1] on the basis of distant signal carriage (the "distant signal equivalent" formula is applied).

The definition of local service area is found in section 111(f):

"The 'local service area of primary transmitter,' in the case of a television broadcast station, comprises the area in which such station is entitled to insist upon its signal being retransmitted by a cable system pursuant to the rules, regulations, and authorizations of the Federal Communications Commission in effect on April 15, 1976, * * *

The FCC rules in effect on April 15, 1976, did not require low power television stations to be carried by cable systems. Under the law as written, the difference in local and distant signals is arguably frozen as of April 15, 1976. The Committee on the Judiciary explained that they used this date in the relevant section 111(f) definition since they believed "that any such change for copyright purposes, which would materially affect the royalty fee payments provided in the legislation, should only be made by an amendment to the statute." H.R. Rep. No. 1476, 94th Cong., 2d Sess. 99 (1976).

Within the past year, the Copyright Office, in correspondence with representatives of cable systems, has advised them that low power television stations, which on April 15, 1976 were not subject to the Federal Communications Commission's "must-carry" rules and are even now not subject to them, would presumably be classified as "distant" signals under the definition in 17 U.S.C. 111(f). Most recently, members of Congress and representatives of The American Low Power Television Association, Low Power Technology, Inc., Low Power Television, Inc., Community Broadcasters of America, Inc., The

[1] All cable systems pay a minimum fee for the privilege of making secondary transmissions, irrespective of gross receipts or actual distant signal carriage. 17 U.S.C. 111(d) (B)(i), (C) and (D).

Radio and Television Commission of the Southern Baptist Convention, The American Christian Television System, Inc., ACTS Satellite Network, Inc., Kentucky New Era, Inc., Shoblom Broadcasting, Inc. and John Boler have asked the Copyright Office to reconsider on an urgent basis the status of low power television stations under the definition of "local service area of primary transmitter."

In response to these requests, the Copyright Office has decided to hold a public hearing on October 12, 1984 for the purpose of eliciting comment on the correct interpretation of the Copyright Act as it relates to the status of signals of low power television stations retransmitted by cable systems. Comment is specifically invited in two areas: (1) If a cable system retransmits a low power television signal, should the signal be characterized as "local" or "distant" for purposes of applying the distant signal equivalent value formula? If the response is that the signal should be considered "local," how are the limits of the station's "local service area" defined and by what authority? (2) If a cable system retransmits a low power television station on the basis of a voluntary license from the station and all owners of copyright in all copyrighted works transmitted by the low power television station have granted explicit voluntary licenses for the secondary transmission by cable, must the cable system nevertheless specify that carriage in its Statement of Account and pay copyright royalties under the compulsory license, (assuming the cable system retransmits at least one additional broadcast signal), or is the retransmission of such a low power television station outside the cable compulsory license since all copyright owners have consented voluntarily to the retransmission?

(17 U.S.C. 111; 702)

List of Subjects in 37 CFR Part 201

Cable television, Copyright.

Dated: October 1, 1984.

David Ladd,

Register of Copyrights.

Approved by:

Donald C. Curran,

Acting Librarian of Congress.

[FR Doc. 84-26404 Filed 10-3-84; 8:45 am]

BILLING CODE 1410-03-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[WH-FRL-2686-1]

Vermont; Final Authorization of State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of Tentative Determination on Application of Vermont for Final Authorization, Public Hearing, and Public Comment Period.

SUMMARY: Vermont has applied for final authorization under the Resource Conservation and Recovery Act (RCRA). EPA has reviewed Vermont's application and has made the tentative decision that Vermont's hazardous waste program satisfies all of the requirements necessary to qualify for final authorization. Thus, EPA intends to grant final authorization to the State of Vermont to operate its program in lieu of the federal program.

Vermont's application for final authorization is available for public review and comment, and a public hearing will be held to solicit comments on the tentative decision if significant public interest is expressed.

DATES: If significant public interest is expressed in holding a hearing, a public hearing is scheduled for November 14, 1984. EPA reserves the right to cancel the public hearing if significant public interest in holding a hearing is not communicated to EPA by telephone or in writing by November 5, 1984. EPA will determine by November 6, 1984, whether there is significant interest to hold the public hearing. Vermont will participate in the public hearing held by EPA on this subject if a hearing is to be held. All written comments on Vermont's final authorization application must be received by the close of business on November 16, 1984.

ADDRESSES: Copies of Vermont's final authorization application are available during regular business hours at the following addresses for inspection:

Agency of Environmental Conservation, Division of Water Resources and Environmental Engineering, Air and Solid Waste Program, Heritage II Building, 79 River Street, Montpelier, Vermont 05602, Telephone (802) 828-3395.

U.S. EPA Headquarters Library, PM-211A, 401 M Street SW., Washington, D.C. 20460 (202) 382-5926.

U.S. EPA Region I Library, JFK Federal Building, Room E 121, Boston, Massachusetts 02203, Contact: Peg Nelson (617) 223-5791.

Written comments on the application and written or telephone communication of interest in EPA's holding a public hearing on the Vermont application must be sent to: Mary Jane O'Donnell, State Waste Programs Branch, U.S. EPA, Room 409, JFK Federal Building, Boston, Massachusetts 02203 (617) 223-1927.

If you wish to find out whether or not EPA will hold a public hearing on the Vermont application based upon EPA's decision that there was significant public interest in such a hearing, write or telephone after November 6, 1984, the contact person listed below or Anne Whiteley, Vermont Agency of Environmental Conservation, Heritage II Building, 79 River Street, Montpelier, Vermont 05602 (802) 828-3395.

If significant public interest is expressed, EPA will hold a public hearing on Vermont's application for final authorization on Wednesday, November 14, 1984 at 10:00 a.m. at the Pavillion Auditorium, Pavillion Building, 109 State Street, Montpelier, Vermont 05602.

For further information contact: Mary Jane O'Donnell, State Waste Programs Branch, U.S. EPA, Room 409, JFK Building, Boston, Massachusetts (617) 223-1927.

SUPPLEMENTAL INFORMATION:

A. Background

Section 3006 of the Resource Conservation and Recovery Act (RCRA) allows EPA to authorize state hazardous waste programs to operate in the State in lieu of the federal hazardous waste program. Two types of authorization may be granted. The first type, known as "interim authorization", is a temporary authorization which is granted if EPA determines that the state program is "substantially equivalent" to the federal program (Section 3006(c), 42 U.S.C., 6226(c)). EPA's implementing regulations at 40 CFR 271.121-127.137 established a phase approach to interim authorization: Phase I, covering the EPA regulations in 40 CFR Parts 260-263 and 265 (universe of hazardous wastes, generator standards, transporter standards and standards for interim status facilities) and Phase II, covering the EPA regulations for permitting hazardous waste management facilities. Phase II has three components. Phase IIA covers general permitting procedures and technical standards for containers, tanks, surface impoundments, and waste piles. Phase IIB covers incinerator facilities, and Phase IIC addresses landfills and land treatment facilities. By statute, all

interim authorizations expire on January 26, 1985. Responsibility for the hazardous waste program returns (reverts) to EPA on that date if the State has not received final authorization.

The second type of authorization is a "final authorization" that is granted by EPA if the Agency finds that the state program: (1) Is "equivalent" to the federal program, (2) is granted by EPA if the Agency finds that the State is consistent with the federal program and other state programs, and (3) provides for adequate enforcement (section 3006(b), 42 U.S.C. 6226(b)). States need not to have obtained interim authorization in order to qualify for final authorization. EPA regulations for final authorization appear at 40 CFR 271.1–271.23.

B. Vermont

The State of Vermont received Phase I interim authorization on January 8, 1981 and Phase II interim authorization on January 24, 1984. Vermont submitted their draft application on final authorization on January 4, 1984. EPA's comments on the final authorization application was forwarded to the State on March 16, 1984. EPA raised a number of issues concerning the Vermont draft application and the ability of the state program to demonstrate equivalence to the federal program. On July 9, 1984, Vermont submitted a complete application for final authorization in response to EPA's comment letter. Prior to the submission of the complete application to EPA, Vermont solicited public comment and held a public hearing on June 15, 1984. No member of the public attended and no public comments were received.

On August 23, 1984, EPA transmitted its comments to the State on their complete application. EPA identified a number of issues that needed further clarification and also questioned the ability of the state program to demonstrate equivalence to the EPA program. The major issues are as follows:

1. *Interagency Coordination:* The Vermont Agency of Environmental Conservation, the Vermont Department of Health, and the Vermont Department of Agriculture regulate certain portions of the Vermont Hazardous Waste Program. EPA requested clarification of the administrative coordination procedures of these three agencies. EPA also requested that the Directors of the three agencies sign the Memorandum of Agreement with EPA.

2. *Accumulation Time:* The Vermont regulations did not contain a provision equivalent to 40 CFR 262.34(a)(2) and 40 CFR 262.34(a)(3) which outline generators marking and labelling requirements for tanks and containers. EPA felt that Vermont's regulations in this particular area were less stringent than EPA's regulations.

3. *Attorney General's Statement:* EPA felt a number issues needed further clarification in the Attorney General's Statement.

On August 31, 1984, Vermont responded to EPA's August 23, 1984 letter in the form of a revised application. The following discussion indicates how Vermont responded to EPA's major concerns.

1. *Interagency Coordination:* Vermont responded to some of EPA's concern through a Memorandum of Understanding with the agencies that have responsibilities for hazardous waste management. Vermont has agreed to submit to EPA by December 1, 1984 a Memorandum of Understanding and a Memorandum of Agreement, signed by the various state directors, which responds to EPA's concerns.

2. *Accumulation Time:* Vermont has promulgated regulations which respond to EPA's concerns regarding marking and labelling of tanks and containers. These regulations became effective on September 13, 1984. With this change Vermont's regulations on accumulation time became equivalent to EPA's regulation.

3. *Attorney General's Statement:* Vermont responded to EPA's concern regarding their Attorney General's Statement.

Thus, EPA tentatively intends to grant final authorization to Vermont to operate its program in lieu of the federal program. Copies of Vermont's application are available for inspection at the locations indicated in the "**ADDRESSES**" section of this notice.

In making its final decision, EPA will consider all public comments on the tentative determination and the measures taken by the State to address EPA's concerns. Issues raised by the public comments may be the basis for a decision to deny final authorization to Vermont. EPA expects to make a final decision on whether or not to approve Vermont's program by January 7, 1985 and will give notice of it in the **Federal Register.**

It is possible that the schedule for EPA's final decision could be changed if substantial amendments are made to Vermont's application in response to public comments. This is because 40 CFR 271.5(c) provides that if the state's application materially changes during EPA's review period, the statutory review period begins again upon receipt of the revised submission. The State and EPA may also extend the review period by agreement (see 40 CFR 271.5(d)). EPA will give notice of its final decision or of a change in schedule in the **Federal Register** by January 7, 1985. That notice will include a summary of the reasons for the final decision, if made at that time, and a response to all major comments received during the public comment period.

Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. The authorizations suspends the applicability of certain federal regulations in favor of the state program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Executive Order 12291

The Office of Management and Budget (OMB) has exempted this rule from the requirements of Section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 271

Hazardous materials, Indian lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Intergovernmental relations, Penalties, and Confidential business information.

Authority: This notice is issued under the authority to Sections 2002(a), and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

Dated: September 13, 1984.

Michael R. Deland,

Regional Administrator.

[FR Doc. 84–26346 Filed 10–3–84; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. 6599]

Proposed Flood Elevation Determinations; Missouri

Correction

In FR Doc. 84–12053 beginning on page 19343 in the issue of Monday, May 7, 1984, make the following corrections:

On page 19350, column four of the table "Location" entry thirteen, second line, "Road" should read "Pond"; also in

entry thirty-five, "About .50 miles upstream of" should appear before "Missouri Highway D".

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 173

[Docket No. HM-172B; Notice No. 84-12]

Cylinder Retester Identification Procedures

AGENCY: Materials Transportation Bureau (MTB), Research and Special Programs Administration, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: MTB proposes to revise the Hazardous Materials Regulations (HMR): (1) To establish new procedures under the periodic retesting of cylinders which would require that cylinders be marked with the cylinder retester's identification number to provide means for the identification of the retesters who retested a particular cylinder, and (2) to expand the functions performed by approval agencies to include inspections other than manufacturer related testing specified under Part 178.

DATE: Comments must be received no later than January 3, 1985.

ADDRESSES: *Address comments to:* Dockets Branch, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590. Comments should identify the docket and notice number and be submitted in five copies. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed stamped post card. The Dockets Branch is located in Room 8426 of the Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590. Public dockets may be reviewed between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: David E. Henry, Office of Hazardous Materials Regulation, Research and Special Programs Administration, Washington, D.C. 20590, (202) 472-5982.

SUPPLEMENTARY INFORMATION: On August 17, 1978, MTB amended § 173.34(e)(1) to require, as pertinent here, that:

> Each person who represents that he performs retesting [of cylinders] in accordance with [paragraph (e)] must have a retester's identification number issued by the MTB or have a valid Bureau of Explosives approval issued prior to August 17, 1978. Such persons holding a B or E approval without a termination date must obtain a retester's identification number from MTB before December 31, 1979. [Docket HM-163; 43 FR 36445; August 17, 1978.]

This action was part of an overall program to withdraw all delegations of authority previously made to the Bureau of Explosives (B of E). At the time, MTB believed that the cylinder retest verification and approval functions being performed by the B of E could be performed by persons qualified as independent inspection agencies as provided in § 173.300a under the direction of MTB. MTB believes the soundness of its actions relative to cylinder retesting have been substantiated by the favorable experience of the independent inspection program since August 1978. It is primarily this experience which is the foundation of the proposals in this notice.

To assure the continuity of the cylinder oversight responsibility, MTB developed procedures and requirements for retesters to assure that cylinder hydrostatic retesting would be performed by qualified retesters. These procedures and requirements are available to prospective cylinder retesters upon request from MTB.

The cylinder retest approval procedures require a prospective applicant to request, in writing, an application form and a list of participating independent inspection agencies approved under § 173.300a. The applicant must make arrangements to have an independent inspection agency perform an inspection of his cylinder retest facility. Based upon a favorable recommendation from the independent agency, and other data demonstrating that the applicant has capabilities in both personnel and equipment to retest cylinders, the applicant is issued a cylinder retester identification number by MTB. Each retester identification number is valid for five-years. Conditions contained in each document granting a retester identification number include the following:

a. Limits on the types of cylinders that may be retested.

b. A requirement that testing must be performed by or in the presence of a designated hydrostatic test operator whose performance has been witnessed by the independent inspection agency, or one who has been qualified in a program acceptable to MTB.

c. A requirement that a copy of the document which grants the retester his identification number must be maintained adjacent to the testing apparatus, and a copy of the document must be signed by the facility manager and returned to MTB within 20 days of receipt by the facility.

d. A requirement that the retester notify MTB within 20 days of any change in management, equipment, or designated testers.

Requirements for notification of changes in management pertain only to those management employees directly responsible for supervision of the retesting. Depending on the size and organization of some companies, MTB believes it may be advantageous for some retesters to maintain a centralized personnel listing of all testing personnel throughout the company. Consequently, in place of notification, a retester may be permitted to maintain a current listing, with qualifications, of each person who conducts retesting by making a written request and securing written acceptance by MTB. Similarly, notification of changes in equipment is required only for replacement of a component which would cause the cylinder hydrostatic retest equipment to be different from that observed and recommended by the independent inspection agency.

In addition, the retester is required to request authorization from MTB to retest cylinders other than those upon which the inspector's report was based.

The above description of the current retester qualification program is intended to serve two purposes. First, it is presented to offer notice that the program exists and to explain its operation, so as to avoid expanding the already voluminous provisions of § 173.34(e) through codification of these procedures therein. It should be noted that a general recodification of § 173.34 is being developed by MTB, and this action is consistent with that effort. Secondly, it is necessary to describe the current program and procedures in order to provide a basis for the additional requirements proposed below.

It is proposed to enable MTB to specify certain special conditions in addition to the standard conditions, based on its review of the applicant's retest program and the completed report of the independent inspection agency. If special conditions were specified, the applicant would be given 20 days to submit written comments on those conditions to MTB. Pending a decision by MTB on the applicant's request for adjustments, the applicant could proceed with its retesting program if it complied with all conditions contained in the issuance document, including those special conditions being challenged.

The other proposed new provision (which would appear as an amendment

to § 173.34(e)) is that upon the successful completion of each retest, the retester would be required to stamp the cylinder with his identification number and the date of retest. MTB believes this proposal is important because it would identify the person who performed the test. The application of the retest markings could not adversely affect other required markings on the cylinder.

In proposing to adopt the procedures and requirements discussed above, and to give full effect to the program generally, it is necessary to propose a change to § 173.300a to reflect the fact that independent inspection agencies approved thereunder would be eligible to perform inspections in functional areas other than the currently stated limitation manufacturer's testing under Part 178. As proposed, an approved independent inspection agency could perform inspection functions as required by any provision in the Hazardous materials Regulations (49 CFR Parts 171–189) for which it has been qualified.

MTB requests that persons commenting on this notice include any information that they may have concerning the difficulties, and burdens experienced by currently authorized cylinder retesters in meeting the conditions of their registration. MTB also requests that any special problems concerning corporate organizations (i.e., centralized programs or decentralized programs) be brought to our attention.

a. *Non-Major Rule.* MTB has determined that this proposed regulation would not be a "major rule" under the terms of Executive Order 12291 or a significant regulation under DOT's regulatory policy and procedures (44 FR 11034), nor require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 et seq.).

b. *Paperwork Reduction Act.* Information collection requirements contained in this regulation which pertain to the procedures that cylinder retesters must follow are not yet approved by OMB. The requests for OMB approval will be submitted in the near future.

c. *Impact on Small Entities.* Based on limited information available concerning size and nature of entities likely to be affected by this proposal, I certify that this proposal would not, if promulgated, have a significant economic impact on a substantial number of small entities because the overall economic impact of this proposal would be minimal. A regulatory evaluation and environmental assessment are available for review in the docket.

List of Subjects in 49 CFR Part 173

Hazardous materials transportation, Packaging and containers.

In consideration of the foregoing, Part 173 would be amended as follows:

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

1. In § 173.34, the introductory text to paragraph (e), (e)(1), (e)(6) and Note 1 in paragraph (e)(9) would be revised to read as follows:

§ 173.34 Qualification, maintenance and use of cylinders.

* * * * *

(e) *Periodic retesting of cylinders.* Each cylinder that becomes due for periodic retest specified in the following table and exceptions, must be retested in conformance with the applicable requirements of this paragraph.

* * * * *

(1) This periodic retest must include a visual internal and external examination in accordance with CGA Pamphlet C–6, and a test by interior hydrostatic pressure in a water jacket or other apparatus of suitable form for determination of the expansion of the cylinder. The internal inspection may be omitted for cylinders of the type and in the service described under paragraphs (e) (9) and (10) of this section.

(i) No person may represent that he has retested a DOT specification cylinder under this section, by marking the cylinder with a test date or by any other means, unless that person holds a current retester's identification number issued by the MTB pursuant to that person's application and a recommendation from an independent inspection agency qualified under § 173.300a of this subchapter. Under its terms, a retester's identification number is valid for five years from the date of issuance, and may be renewed upon application and submitted at least 90 days prior to expiration of the current authorization in the manner of the original issuance. Application may be obtained upon request from the Office of Hazardous Materials Regulation, U.S. Department of Transportation, Washington, D.C. 20590.

(ii) The marking of a test date on a DOT specification cylinder is considered to be a certification by the person affixing the date that all applicable requirements of this section have been met with respect to that cylinder. The equipment used for retesting under this section must be maintained in the condition and the capabilities demonstrated by the retester in complying with the cylinder retester's criteria approved by the Associate Director for HMR.

(iii) No cylinder required to be retested in accordance with this paragraph, or paragraphs (e) (9) or (10) of this section, may be used for the transportation of a hazardous material unless it has been retested successfully under this section, and the retester has marked the cylinder by stamping the cylinder retester identification number and date of retest plainly and permanently into the metal of the cylinder or on a metal plate which must be permanently secured to the cylinder.

* * * * *

(6) Each cylinder passing retest must be marked with the cylinder retester's identification number set in a square pattern between the month and year of the retest date, in not less than ⅛-inch characters with the first character occupying the upper left corner of the square pattern. The second character must be in the upper right position, the third in the lower right, and the fourth in the lower left. Example: A cylinder retested in May, 1984, and approved by a retester who has been issued identification number A123 would be stamped:

A 1
5 84
3 2

Stamping must be in accordance with the location requirements of the specification. Date of previous tests must not be obliterated. Cylinders which are subject to the requirements under subparagraphs (8), (9) (modified hydrostatic test only), (10), and (12) are not required to be marked with a retester's identification number.

(9) * * *

Note 1.—Cylinders requalified by the modified hydrostatic test method or external inspection shall be marked after each retest or reinspection by stamping the date of retest or reinspection on the cylinders followed by the symbol E (external inspection) or S (modified hydrostatic test method) as appropriate.

* * * * *

2. In § 173.300a, paragraph (d) would be amended by adding a sentence at the end of the paragraph to read as follows:

§ 173.300a Approval of independent inspection agency.

(d) * * * After approval, the Associate Director for HMR may authorize, upon request, the independent inspection agency to perform other inspections and functions for which the Associate Director for HMR finds the applicant to be qualified. Such

additional authorizations will be noted on each inspector's approval documents.

* * * * *

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53, App. A. to Part 1)

Issued in Washington, D.C. on September 27, 1984.

Alan I. Roberts,

Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 84-26342 Filed 10-3-84; 8:45 am]
BILLING CODE 4910-60-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Reopening of Comment Period on Proposed Endangered Status and Critical Habitat for the Alabama Beach Mouse, Perdido Key Beach Mouse, and Choctawhatchee Beach Mouse

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: The Service gives notice that the comment period on the proposal to determine endangered status and critical habitat for the Alabama beach mouse, Perdido Key beach mouse, and Choctawhatchee beach mouse will be reopened to allow for a review of two papers by several well-known mammalogists and taxonomists.

DATES: The public comment period is reopened October 4, 1984. Comments on the proposal must be received by November 5, 1984.

ADDRESSES: Comments and materials concerning the proposal should be sent to the Endangered Species Field Supervisor, U.S. Fish and Wildlife Service, 2747 Art Museum Drive, Jacksonville, Florida 32207. Comments and materials will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. David J. Wesley, Endangered Species Field Supervisor, at the above address (telephone 904/791-2580 or FTS 946-2580).

SUPPLEMENTARY INFORMATION:

Background

The Alabama beach mouse (*Peromyscus polionotus ammobates*), Perdido Key beach mouse (*P. p. trissyllepsis*), and Choctawhatchee beach mouse (*P. p. allophrys*) are small mammals restricted to the Gulf Coast sand dune habitat between Fort Morgan, Baldwin County, Alabama, and Shell Island, Bay County, Florida. The three subspecies are threatened through the destruction of their sand dune habitat by residential and commercial development, recreation activity, and tropical storms. In the **Federal Register** of June 7, 1984 (49 FR 23794-23804), the Service issued a proposed determination of endangered status and critical habitat for the three mammals. The period for submission of public comments on the proposal was originally scheduled to last until August 6, 1984. In the **Federal Register** of August 13, 1984 (49 FR 32321), the Service scheduled a public hearing for August 28, 1984, and extended the comment period until September 7, 1984.

During the public comment period, June 7 through September 7, 1984, the Service received numerous comments. Of particular interest to the Service are two papers questioning the subspecific designation of the three beach mice. These papers are:

Dawson, W.D. 1984. A challenge to the subspecific taxonomy of *Peromyscus polionotus*. Unpublished paper, Univ. South Carolina, 35 pp.

Griswold, K.E. Undated. A review of taxonomic status and population dynamics of *Peromyscus polionotus* from western Florida and eastern Alabama. Unpublished paper, Louisiana Tech Univ., 22 pp. (Submitted to the U.S. Fish and Widlife Service on August 28, 1984)

These two papers were prepared by consultants retained by development interests.

The Service desires to make its final decision on the best scientific and commercial information available. Thus, the Service reopens the comment period on the proposal to allow for a review of the two papers by several well-known mammalogists and taxonomists. Also, since development is imminent on a portion of the proposed critical habitat, the Service has initiated discussions with the Alabama Department of Environmental Management and representatives of the Broadmoor Group to protect beach mice. The reopening of the comment period will allow information on this and subsequent discussions to be included in the administrative record. Minutes of meetings with the Broadmoor Group and correspondence relating to such meetings will be included in the administrative record. Written comments concerning the proposal and particularly the taxonomic questions may not be submitted until November 5, 1984, to the Field Station, address given above.

Author

The primary author of this notice is Ms. Robin H. Fields of the Jacksonville Endangered Species Field Station, address given below.

Authority

The authority for this section is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*; Pub. L. 93-205, 87 Stat. 884; Pub. L. 94-359, 90 Stat. 911; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1225; Pub. L. 97-304, 96 Stat. 1411).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Dated: September 27, 1984.

James W. Pulliam, Jr.,

Regional Director.

[FR Doc. 84-26344 Filed 10-3-84; 8:45 am]
BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 49, No. 194
Thursday, October 4, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committees on Administration, Regulation; Public Meetings

Committee on Administration

Date: Tuesday, October 23, 1984. Time: 9:00 a.m. Location: 400 Maryland Avenue, SW., Room 7002, Wash., D.C. Agenda: Discussion of a draft recommendation to agencies and Congress on administrative settlement of tort and other monetary claims, based in part on a study by Prof. George Bermann of Columbia University School of Law. Contact: Charles Pou, Jr., 202–254–7065.

Committee on Regulation

Date: Wednesday, October 17, 1984. Time: 9:00 a.m. Location: Suite 500, Office of the Administrative Conference, 2120 L Street, NW., Wash., D.C. Agenda: (1) Review of second draft report of consultant Dean Richard J. Pierce of the University of Pittsburgh School of Law. Dean Pierce's report is entitled "Regulation, Deregulation, Federalism and Administrative Law." Dean Pierce has also submitted a second draft of a proposed recommendation. This project will center on the criteria and procedures appropriate for use when a federal agency that is in the process of deregulating an activity must decide whether regulation of the same activity by the states should also be limited. (2) Decision on whether to go forward at this time with a proposed recommendation on representation by economic and financial experts, or to combined this topic with a larger study of representation by non-lawyers in all types of agency proceedings. Contact: William C. Bush, 202–254–7065.

Public Participation

Attendance at the committee meetings is open to the public, but limited to the space available. Persons wishing to attend should notify the contact person at least two days in advance of the meeting. The committee chairman may permit members of the public to present appropriate oral statements at the meeting. Any member of the public may file a written statement with a committee before, during, or after the meeting. Minutes of the meetings will be available on request to the contact persons. The contact persons' mailing address is: Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, D.C. 20037. These meetings are subject to the Federal Advisory Committee Act (Pub. L. 92–463).

Dated: October 2, 1984.

Richard K. Berg,

General Counsel.

[FR Doc. 84-26459 Filed 10-3-84, 8:45 am]

BILLING CODE 6110-01-M

CIVIL AERONAUTICS BOARD

Fitness Determination of Air Caribe International, Inc.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Commuter Air Carrier Fitness Determination—Order 84–9–70, Order to Show Cause.

SUMMARY: The Board is proposing to find that Air Caribe International, Inc. is fit, willing, and able to provide commuter air carrier service under section 419(c)(2) of the Federal Aviation Act, as amended, and that the aircraft used in this service conform to applicable safety standards.

Responses

All interested persons wishing to respond to the Board's tentative fitness determination shall file their responses with the Special Authorities Division, Room 915, Civil Aeronautics Board, Washington, D.C. 20428, and serve them on all persons listed in Attachment A to the order. Responses shall be filed no later than October 15, 1984.

FOR FURTHER INFORMATION CONTACT: Mary Catherine Terry, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673–5088.

SUPPLEMENTARY INFORMATION: The complete text of Order 84–9–70 is available from the Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 84–9–70 to that address.

By the Civil Aeronautics Board: September 24, 1984.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-26401 Filed 10-3-84, 8:45 am]

BILLING CODE 6320-01-M

Fitness Determination of Kobrin Airways, Inc.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Commuter Air Carrier Fitness Determination—Order 84–9–57, Order to Show Cause.

SUMMARY: The Board is proposing to find that Kobrin Airways, Inc. is fit, willing, and able to provide commuter air carrier service under section 419(c)(2) of the Federal Aviation Act, as amended, and that the aircraft used in this service conform to applicable safety standards.

Responses

All interested persons wishing to respond to the Board's tentative fitness determination shall file their responses with the Special Authorities Division, Room 915, Civil Aeronautics Board, Washington, D.C. 20428, and serve them on all persons listed in Attachment A to the order. Responses shall be filed no later than October 15, 1984.

FOR FURTHER INFORMATION CONTACT: Barbara P. Dunnigan, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673–5918.

SUPPLEMENTARY INFORMATION: The complete text of Order 84–9–57 is available from the Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 84–9–57 to that address.

By the Civil Aeronautics Board: September 19, 1984.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-26402 Filed 10-3-84, 8:45 am]

BILLING CODE 6320-01-M

[Dockets 42224 and 42254]

Complaint of Frontier Holdings, Inc., Against Continental Air Lines, Inc. and Complaint of Western Air Lines, Inc., Against Continental Air Lines, Inc.; Prehearing Conference

Notice is herby given that a prehearing conference in the above-captioned consolidated proceeding will be held on October 17, 1984, at 9:30 a.m. (local time) in Room 1027, 1825 Connecticut Avenue, NW., Washington, D.C., before Chief Administrative Law Judge Elias C. Rodriguez.

In order to facilitate the conduct of the conference, the parties are instructed to submit one copy to each party and two copies to the Chief Judge of their respective (1) proposed issues and stipulations; (2) proposed requests for information and evidence; (3) statement of position; and (4) proposed procedural dates. The submissions shall be served by October 11, 1984 (actual date of delivery, not mailing date).

Dated at Washington, D.C., September 28, 1984.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 84-26403 Filed 10-3-84; 8:45 am]

BILLING CODE 6320-01-M

Order Establishing International Cargo Rate Flexibility Policy

The Board, by Policy Statement PS-109, effective February 27, 1983, adopted a policy of not suspending international cargo rate changes within a specified zone, except in extraordinary circumstances. That policy, implemented by Regulation ER-1322, effective February 27, 1983 (14 CFR Part 221), eliminates the requirement of economic justification for international cargo rates which are within Board established zones of flexibility. As stated in ER-1322, the Board has taken action to allow air carriers to respond more quickly to changing costs and competitive conditions.

In establishing the SFRL for the two-month period starting October 1, 1984, we have projected nonfuel costs based on the year ended June 30, 1984, and have determined fuel prices on the basis of experienced monthly fuel cost levels as reported to the Board.

By Order 84-9-86 cargo rates may be increased by the following adjustment factors over the April 1, 1982, level:

Atlantic	1.0228
Western Hemisphere	1.0593
Pacific	.9871

Copies of the Board's order are available from the C.A.B. Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, DC 20428. Persons outside the metropolitan area may send a postcard request.

For Further Information Contact: John D. Coakley, (202) 673-5196.

By the Civil Aeronautics Board: September 28, 1984.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-26399 Filed 10-3-84; 8:45 am]

BILLING CODE 6320-01-M

Order Establishing Standard Foreign Fare Level

The International Air Transportation Competition Act (IATCA), Pub. L. 96-192, requires that the Board establish a Standard Foreign Fare Level (SFFL) by adjusting the SFFL base periodically by percentage changes in actual operating costs per available seat-mile. The SFFL thus computed becomes the benchmark for measuring the statutory nonsuspend zone similar to the zone of reasonableness established by the Airline Deregulation Act and set forth in sec. 1002(d) of the Federal Aviation Act of 1958, as amended. Order 80-2-69 established the first interim SFFL and subsequent Order 84-7-81 established the currently effective two-month SFFL applicable through September 30, 1984.

In establishing the SFFL for the two-month period starting October 1, 1984, we have projected nonfuel costs based on the year ended June 30, 1984, and have determined fuel prices on the basis of experienced monthly fuel cost levels as reported to the Board.

By Order 84-9-87 fares may be increased by the following adjustment factors over the October 1, 1979, level:

Atlantic	1.1291
Latin America	1.2428
Pacific	1.2373
Canada	1.2172

Copies of the Board's order are available from the C.A.B. Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, DC 20428. Persons outside the metropolitan area may send a postcard request.

For Further Information Contact: Robert I. Stein, (202) 673-5116.

By the Civil Aeronautics Board: September 28, 1984.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-26400 Filed 10-3-84; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Articles of Quota Cheese; Quarterly Determination and Listing of Foreign Government Subsidies

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Publication of Quarterly Update of Foreign Government Subsidies on Articles of Quota Cheese.

SUMMARY: The Department of Commerce, in consultation with the Secretary of Agriculture, has prepared a quarterly update to its annual list of foreign government subsidies on articles of quota cheese. We are publishing the current listing of those subsidies that we have determined exist.

EFFECTIVE DATE: October 1, 1984.

FOR FURTHER INFORMATION CONTACT: Patricia W. Stroup or Susan E. Silver, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION: Section 702(a) of the Trade Agreements Act of 1979 ("the TAA") requires the Department of Commerce ("the Department") to determine, in consultation with the Secretary of Agriculture, whether any foreign government is providing a subsidy with respect to any article of quota cheese, as defined in section 701(c)(1) of the TAA, and to publish an annual list and quarterly updates of the type and amount of those subsidies.

The Department has developed, in consultation with the Department of Agriculture, information on subsidies (as defined in section 702(h)(2) of the TAA) being provided either directly or indirectly by foreign governments on articles of quota cheese.

In the current quarter the Department has determined that the subsidy amounts have changed for each of the countries for which subsidies were identified in our July 1, 1984, quarterly update to our annual subsidy list. The appendix to this notice lists the country, the subsidy program of programs, and the gross and net amount of each subsidy on which information is currently available.

The Department will incorporate additional programs which are found to constitute subsidies, and additional information on the subsidy programs listed, as the information is developed.

The Department encourages any person having information on foreign

government subsidy programs which benefit articles of quota cheese to submit such information in writing to the Deputy Assistant Secretary for Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230.

This determination and notice are in accordance with section 702(a) of the TAA (19 U.S.C. 1202 note).

Dated: September 27, 1984.

Alan F. Holmer,

Deputy Assistant Secretary, Import Administration.

APPENDIX—QUOTA CHEESE SUBSIDY PROGRAMS

Country and program(s)	Gross[1] subsidy (cents per pound)	Net[2] subsidy (cents per pound)
Belgium: European Community (EC) Restitution Payments	0	0
Canada:		
Export Assistance on Swiss Cheese	26.5	26.5
Export Assistance on Aged Cheddar N/Ov. 2.27 Kg/pkg	26.5	26.5
Export Assistance on NSPF Cheeses	26.5	26.5
Denmark: EC Restitution Payments	1.5	1.5
Finland:		
Export Subsidy	43.7	43.7
Indirect Subsidies	15.4	15.4
Total	59.1	59.1
France: EC Restitution Payments	3.2	3.2
Ireland: EC Restitution Payments	0	0
Italy: EC Restitution Payments	14.5	14.5
Luxembourg: EC Restitution Payments	0	0
Netherlands: EC Restitution Payments	0	0
Norway:		
Indirect (Milk) Subsidy	15.2	15.2
Consumer Subsidy	33.7	33.7
Total	48.9	48.9
Switzerland: Deficiency Payments	62.3	62.3
U.K.: EC Restitution Payments	0	0
W. Germany: EC Restitution Payments	0	0

[1] Defined in 19 U.S.C. 1677(5).
[2] Defined in 19 U.S.C. 1677(6).

[FR Doc. 84-26330 Filed 10-3-84; 8:45 am]
BILLING CODE 3510-DS-M

[C-201-001]

Leather Wearing Apparel From Mexico; Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Countervailing Duty order.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on leather wearing apparel from Mexico. The review covers the period January 1, 1983, through June 30, 1983.

As a result of the review, the Department has preliminarily determined the total bounty or grant to be zero for 17 firms and 2.71 percent *ad valorem* for all other firms. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: October 4, 1984.

FOR FURTHER INFORMATION CONTACT: Stephen Nyschot, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On December 1, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 54261) the final results of its last administrative review of the countervailing duty order on leather wearing apparel from Mexico and announced its intent to conduct the next administrative review. As required by section 751(a)(1) of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of Mexican leather wearing apparel. Such merchandise is currently classifiable under items 791.7620, 791.7640 and 791.7660 of the Tariff Schedules of the United States Annotated. These products include leather coats and jackets for men, boys, women, girls and infants, and other leather apparel products including leather vests, pants and shorts. Also included are outer leather shells and parts and pieces of leather wearing apparel.

The review covers the period January 1, 1983, through June 30, 1983, and eight programs: CEDI, FOMEX, CEPROFI, FOGAIN, FONEI, state tax incentives, import duty reductions and exemptions and National Industrial Development Plan ("NIDP") preferential discounts.

Analysis of Programs

(1) CEDI

The Certificado de Devolucion de Impuesto ("CEDI") is a certificate issued by the Government of Mexico in an amount equal to a percentage of the value of exported goods. The CEDI certificates may be used to pay a wide range of federal tax liabilities (including payroll taxes, value added taxes, federal income taxes, and import duties). The CEDI rate was 15 percent for the period January 1, 1982, through August 25, 1982, and zero after the Mexican government suspended the CEDI program for all exports on or after August 26, 1982. Therefore, CEDI benefits were not available for exports during the period of review.

(2) FOMEX

The Fund for the Promotion of Exports of Mexican Manufactured Products ("FOMEX") is a trust of the Mexican Treasury Department, with the National Bank of Foreign Trade acting as trustee for the program since August 1, 1983. The National Bank of Foreign Trade, through financial institutions, makes FOMEX loans available at preferential rates to manufacturers and exporters of goods for two purposes: pre-export (production) financing and export financing. We consider both export and pre-export FOMEX loans export subsidies since these loans are given only on merchandise destined for export.

For FOMEX pre-export loans, given in Mexican pesos, we found that the annual interest rate the financial institutions charged borrowers was 8 percent during the period of review.

We used as a benchmark for the commercial interest rate in Mexico the nominal interest rates published by the Banco de Mexico in the *Indicadores Economicos*. This benchmark rate was used first in the Department's Final Affirmative Countervailing Duty Determination on bricks from Mexico (49 FR 19564, May 8, 1984) and its use represents a change from our previous practice in which we used the annual effective rates published in the same source. Based on this information, we preliminarily determine that, during the period of review, comparable peso-denominated loans were available commercially at 61.63 percent. The resultant interest differential during the period of review is 53.63 percent. Since the Mexican government was unable to identify the FOMEX pre-export loans applicable to exports destined to the U.S., we allocated the benefit from all pre-export loans over the value of total exports to all markets during the period.

On this basis, we preliminarily determine the amount of bounty or grant from FOMEX pre-export loans to be 2.17 percent *ad valorem* during the period. There were no FOMEX export loans for this merchandise during the period of review.

(3) FOGAIN

The Guarantee and Development Fund for Medium and Small Industries ("FOGAIN") is a program that provides long-term loans to all small and

medium-size firms in Mexico. However, the interest rates vary under the program depending on whether a small or medium-size business has been granted priority status, and whether a business is located in a zone targeted for industrial growth.

We determine this program to be countervailable, to the extent it provides financing on terms inconsistent with commercial considerations, because of priority status granted to certain small and medium-size businesses based on the type of merchandise produced, and/or to those located in particular zones. Without these conditions which limit the availability of the program, FOGAIN would not be counteravailable, because all small and medium-size firms in Mexico are at a minimum eligible to receive FOGAIN loans at the least beneficial interest rate available under the program. Thus the program is countervailable to the extent that the interest received by a small or medium-size firm is below the least beneficial rate which a firm can receive under FOGAIN.

The interest rates on these loans are also subject to change over the life of the loans, and we therefore treated these loans as a series of short-term loans. To determine the bounty or grant, we used as our benchmark the least beneficial interest rate that would have been available under FOGAIN. We allocated the benefit amount over total sales for the period. On this basis we calculated a bounty or grant of 0.54 percent *ad valorem*.

(4) Other Programs

We also examined the following programs and preliminarily find that leather wearing apparel firms did not use them during the period of review.

(A) Certificates of Fiscal Promotion ("CEPROFI")
(B) State Tax Incentives
(C) Fund for Industrial Development ("FONEI")
(D) Import Duty Reductions and Exemptions
(E) National Industrial Development Plan ("NIDP") Preferential Discounts

Firms Not Receiving Any Benefits

In this case the Department has established a certification process that would allow a rate of assessment and of cash deposit of estimated countervailing duties of zero for those firms certified and verified as having neither applied for nor received countervailable benefits. We have received certificates from 17 firms stating that they neither applied for nor received benefits under the eight programs during the period of review and would not do so in the future. We have also received certificates from the Mexican government stating that these 17 firms did not receive benefits under these programs during the period of review. Those 17 firms are:

(1) Antonio Hurtado
(2) Confecciones Generales, S.A. de C.V.
(3) Delfina Diaz
(4) Elegance de Baja California, S.A.
(5) Fernando Nila
(6) Hector Garcia
(7) Jesus Jasso
(8) Jesus Rivera
(9) Jose Mora
(10) Jose Sotelo
(11) Juan Altamirano
(12) Karen International, S.A. de C.V.
(13) Luis Bravo
(14) Manufacturas Industriales de Nogales, S.A.
(15) Pedro Zaragosa
(16) Rosa Ramos
(17) Victor Velazco

Preliminary Results of Review and Tentative Determination Not To Revoke in Part

As a result of our review, we preliminarily determine the total bounty or grant during the period of review to be zero for the 17 certified firms listed above, and 2.71 percent *ad valorem* for all other firms. The Department intends to instruct the Customs Service to assess no countervailing duties on shipments of this merchandise from the 17 certified firms and countervailing duties of 2.71 percent of the f.o.b. invoice price on shipments from all other firms exported on or after January 1, 1983, and on or before June 30, 1983.

As provided by section 751(a)(1) of the Tariff Act, the Department intends to instruct the Customs Service not to collect a cash deposit of estimated countervailing duties on shipments of this merchandise from the 17 certified firms and to collect 2.71 percent of the entered value on shipments from all other firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. These deposit requirements shall remain in effect until publication of the next administrative review.

The Department has received a request, pursuant to § 355.42 of the Commerce Regulations, that the countervailing duty order be revoked with respect to Manufacturas Industriales de Nogales, S.A. ("MINSA"), Elegance de Baja California, S.A., and Karen International, S.A. That request is based on the grounds that, upon the completion of this administrative review, leather wearing apparel manufactured and exported by these three firms will have been without the benefit of a net subsidy for at least a two-year period.

The Department does not believe the countervailing duty order should be revoked with respect to these three firms. Section 355.42 of the Commerce Regulations provides that the Secretary may act to revoke an order if he determines that "a subsidy * * * is no longer being bestowed * * * and is satisfied that there is no likelihood of resumption of the subsidy * * *."

There are at least nine programs which we have found countervailable and which continue to be applicable to leather wearing apparel, namely the eight programs covered in this review as well as the Article 94 loans program found countervailable in the final determination on cement from Mexico (48 FR 43063, September 21, 1983). CEDI has been suspended, but not eliminated, and the other eight programs remain in effect. As long as these programs are still in existence and usable by manufacturers or exporters of leather wearing apparel, we cannot be satisfied that there is "no likelihood of resumption of the subsidy," and therefore, preliminarily determine that the order should not be revoked with respect to these three firms.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in such written comments or at a hearing.

This administrative review and notice are in accordance with sections 751 (a)(1) and (c) of the Tariff Act (19 U.S.C. 1675 (a)(1), (c)) and §§ 355.41 and 355.42 of the Commerce Regulations (19 CFR 355.41, 355.42).

Dated: September 27, 1984.

Alan F. Holmer,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 84-26329 Filed 10-3-84; 8:45 am]
BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Issuance of Permit; Southwest Fisheries Center

On July 27, 1984, Notice was published in the **Federal Register** (49 FR 30222) that an application had been filed with the National Marine Fisheries Service by the Southwest Fisheries Center, National Marine Fisheries Service, P.O. Box 271, La Jolla, California 92038, to take four (4) California sea lions (*Zalophus californianus*) for the purpose of scientific research.

Notice is hereby given that on September 27, 1984, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a Scientific Research Permit to the Southwest Fisheries Center, subject to certain conditions set forth therein.

The Permit and related documents are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C., and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: September 27, 1984.

Richard B. Roe,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 84-26317 Filed 10-3-84; 8:45 am]

BILLING CODE 3510-22-M

Receipt of Application for Permit; Sea World, Inc.

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name: Sea World, Inc. (P2"O").

b. Address: 1720 South Shores Road Mission Bay, San Diego, California 92109.

2. Type of Permit: Public Display.

3. Name and Number of Animals: False killer whale (Pseudorca crassidens), 2.

4. Type of Take: Import.

5. Location of Activity: Import from Japan.

6. Period of Activity: 3 years.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

Dated: September 27, 1984.

Richard B. Roe,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 84-26316 Filed 10-3-84; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing Import Control Limits for Certain Cotton, Wool and Man-Made Fiber Products Produced or Manufactured in the Republic of Korea

October 1, 1984.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on October 5, 1984. For further information contact Ross Arnold, International Trade Specialist (202) 377–4212.

Background

On May 14 and 25 and June 5 and 14, 1984, the Government of the United States requested consultations with the Government of the Republic of Korea with respect to other woven fabrics, n.e.s., of man-made fibers in Category 614, wool dresses in Category 436, cotton underwear in Category 352, man-made fiber swimwear in Category 659pt. (only T.S.U.S.A numbers 379.2340, 379.3170, 379.9100, 379.9570, 383.1290, 383.2235, 383.8300, 383.8400 and 383.9255), wool knit shirts and blouses in Category 438 and wool headwear in Category 459pt. (only T.S.U.S.A. numbers 702.7500 and 702.8000). This request was made on the basis of the agreement of December 1, 1982, as amended, between the Governments of the United States and the Republic of Korea relating to trade in cotton, wool and man-made fiber textiles and textile products.

The purpose of this notice is to advise the public that, inasmuch as no solution has been agreed upon in consultations with the Government of the Republic of Korea, the Government of the United States is establishing import restraint limits for cotton, wool and man-made fiber textile products in the foregoing categories, exported during the twelve-month period which began on January 1, 1984, as provided under the terms of the bilateral agreement. Should a different solution be reached in consultations with the Government of the Republic of Korea, further notice will be published in the **Federal Register**.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), and July 16, 1984 (49 FR 28754).

SUPPLEMENTARY INFORMATION: On December 16, 1983 a letter from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs was published in the **Federal Register** (48 FR 55894), which established import restraint limits for certain specified cotton, wool and mand-made fiber textile products, produced or

manufactured in the Republic of Korea and exported during the twelve-month period which began on January 1, 1984. In the letter which follows this notice additional limits are being established for Categories 352, 436, 438, 459pt., 614 and 659pt., exported during 1984. The limits have not been adjusted to account for any imports exported during 1984. These charges will be made as the data become available.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

October 1, 1984.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of December 13, 1983 concerning cotton, wool and man-made fiber textile products, produced or manufactured in the Republic of Korea and exported during 1984.

Effective on October 5, 1984, paragraph 1 of the directive of December 13, 1983 is hereby further amended to incude the following limits for cotton, wool and man-made fiber textile products in Categories 352, 436, 438, 459pt.[1], 614 and 659pt.[2], produced or manufactured in Korea and exported during 1984.

Category	12-mo. restraint limit [3]
352	101,389 dozen.
436	12,854 dozen.
438	60,960 dozen.
459 pt.[1]	455,988 pounds.
614	17,854,487 square yards.
659 pt.[2]	426,654 pounds.

[1] In Category 459, only T.S.U.S.A. numbers in 702.7500 and 702.8000.

[2] In Category 659, only T.S.U.S.A. numbers in 379.2340, 379.3170, 379.9100, 379.9570, 383.1920, 383.2235, 383.8300, 383.8400 and 383.9255.

[3] The restraint limits have not been adjusted to account for any imports exported during 1984.

Textile products in the foregoing categories which have been exported to the United States prior to January 1, 1984 shall not be subject to this directive.

Textile products in the foregoing categories which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-26326 Filed 10-3-84; 8:45 am]

BILLING CODE 3510-DR-M

[1] In Category 459, only T.S.U.S.A. numbers in 702.7500 and 702.8000.

[2] In Category 659, only T.S.U.S.A. numbers in 379.2340, 379.3170, 379.9100, 379.9570, 383.1920, 383.2235, 383.8300, 383.8400 and 383.9255.

DEPARTMENT OF DEFENSE

Office of the Secretary

Privacy Act of 1974; Amendments to Systems of Records Notice

AGENCY: Office of the Secretary, Defense.

ACTION: Notice of amendments to systems of records.

SUMMARY: The Office of the Secretary of Defense proposes to amend two notices for systems of records subject to the Privacy Act of 1974. The specific changes to the notices being amended are set forth below, followed by the systems notices, as amended, published in their entirety.

DATE: This shall be effective without further notice November 5, 1984, unless comments are received which would result in a contrary determination.

ADDRESS: Send any comments to the System Manager identified in the system notice.

FOR FURTHER INFORMATION CONTACT: Norma Cook, Privacy Act Officer, ODASD(A), Room 5C-315, Pentagon, Washington, D.C. 20301-1155, Telephone 202/695-0970.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense (OSD) systems of records notices as prescribed by the Privacy Act of 1974, Title 5, United States Code Section 552a (Pub. L. 93-579; 44 Stat. 1896, *et seq.*) have been published in **Federal Register** at:

FR Doc. 83-12048 (48 FR 25827) June 6, 1983
FR Doc. 83-4418 (49 FR 6145) February 17, 1984
FR Doc. 83-17736 (49 FR 27802) July 5, 1984
FR Doc. 83-20096 (49 FR 30580) July 31, 1984
FR Doc. 83-22569 (49 FR 33700) August 24, 1984
FR Doc. 83-24410 (49 FR 36133) September 14, 1984

The proposed amendments are not within the purview of the provisions of 5 U.S.C. 552a(o) of the Act which requires the submission of an altered system report.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense

AMENDMENTS

DMRA&L 01.0

System name:

Teacher Correspondence Files (48 FR 25832, June 6, 1983).

Changes:

Delete second and third words of fourth line under *"System Location"* and add "installations".

Add the following heading *"PURPOSE(S)"* before the heading *Routine Uses of Records Maintained in the System, Including Categories of Users and Purposes of Such Uses:*

Add the followng paragraph under the above heading. "The collected information is used by the Teacher Recruitment Section to maintain accurate record of correspondence with individuals making inquiry to Section, any individual records might be transferred to any component of the Department of Defense having a need to know in the performance of official business."

Delete the heading *"Routine Uses of Records Maintained in the System, Including Categories of Users and Purposes of Such Uses."*

Delete the heading *"Internal Users, Uses, and Purposes."*

Delete the Paragraph under the above heading.

Delete The heading *"External Users, Uses, and purposes"* and add the heading *"Routine Uses of Records Maintained in the System, Including Categories of Users and Purposes of Such Uses."*

Delete the first four words in paragraph under the above heading.

Delete fifth word of sentence under *"Retention and Disposal"* and add words "one to three".

Delete last word of third line under *"System Manager(s) and Address* and add "MI&L" and add "4000" at end of line.

Add "400" at end of first paragraph under Record Access Procedures."

DMRA&L 02.0

System name:

Educator Application Files (48FR 25832, June 6, 1983).

Changes:

Delete last line under "*System location*" and add "Control Data Corporation/Bureau Information

Services (CDC/BIS) located in Lakewood, Ohio."

Delete second word under *"Routine uses of records maintained in the system including categories of users, uses and purposes of such uses,"* and add "CDC/BIS."

Delete ninth word of seventh paragraph under heading *"Physical safeguards"* and add "CDC/BIS," delete second word of line twelve of the above heading and add "CDC/BIS."

Delete fifth word of third line under heading *"Romote terminal access"* and add "CDC/BIS," delete sixth word of fifth line of the above heading and add "CDC/BIS."

Delete seventh word of third-line under heading *"storage media"* and add "CDC/BIS."

Delete fifth word of second line under heading *"Risk analysis"* and add "CDC/BIS."

Delete fourth and fifth words of second line under heading *"Retention and disposal"* and add "2 years," delete sixth word of fourth paragraph under the above heading and add "CDC/BIS."

Delete last word under heading *"System manager(s) and address"* and add "0690."

Delete last word under heading *"notification procedures"* and add "0690."

Revised systems DMRA&L 01.0 and DMRA&L 02.0 read as follows:

DMRA&L 01.0

SYSTEM NAME:

Teacher Correspondence Files.

SYSTEM LOCATION:

Teacher Recruitment Section, Staffing Branch, Office of Dependents Schools, Office of Assistant Secretary of Defense (Manpower, Installations, and Logistics), Room 120, Hoffman Building, 2461 Eisenhower Avenue, Alexandria, Virginia 22331.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any individual with whom or about whom the Teacher Recruitment Section has correspondence.

CATEGORIES OF RECORDS IN THE SYSTEM:

File contains all correspondence received from and responses to individuals writing the Teacher Recruitment Section.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

20 U.S.C 901–907.

PURPOSE(S):

The collected information is used by the Teacher Recruitment Section To maintain accurate record of correspondence with individuals making inquiry to Section, any individual records might be transferred to any component to the Department of Defense having a need to know the performance of official business.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

To law enforcement or investigatory authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.

See Office of the Secretary of Defense (OSD) Blanket Routine Uses at the head of this Component's published system notices.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in individual's file folders.

RETRIEVABILITY:

Filed alphabetically by either the last name of the correspondent or the last name of the employee/applicant the correspondence concerns.

SAFEGUARDS:

Building employes security guards, office locked during nonbusiness hours.

RETENTION AND DISPOSAL:

Files are retained for one to three years.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Dependents Schools, Office of the Assistant Secretary of Defense (MI&L), Pentagon, Washington, D.C. 20301–4000.

NOTIFICATION PROCEDURE:

Information may be obtained from: Chief, Teacher Recruitment Section, DOD, Office of Dependents Schools, Room 120, Hoffman Building, 2461 Eisenhower Avenue, Alexandria, Virginia 22331, Telephone: 202–325–0885.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to: Teacher Recruitment Section, Office of Dependents Schools, Office of the Assistant Secretary of Defense (MI&L), Pentagon, Washington, D.C. 20301–4000.

Written requests for information should contain full name and address of the individual.

For personal visits, the individual should be able to provide some acceptable identification such as driver's license or other identification card.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access to records and for contesting contents and appealing initial determination by the individual concerned are contained in 32 CFR part 286b and OSD Administrative Instruction No. 81.

RECORD SOURCE CATEGORIES:

Correspondence initiated by the individual or by others on his or her behalf and replies.

EXEMPTION CLAIMED UNDER THIS SYSTEM:

None.

DMRA&L 02.0

SYSTEM NAME:

Educator Application Files.

SYSTEM LOCATION:

Manual and automated records are maintained at the Teacher Recruitment Section, Personnel Division, Department of Defense Dependents Schools (DoDDS), Hoffman Building I, 2461 Eisenhower Avenue, Alexandria, Virginia 22331 and manual records at the Five DoDDS regional personnel offices. A terminal is located in the Hoffman Building complex. Automated records are maintained at the main computer site which is operated by the control data Corporation/Bureau Information Services (CDC/BIS) located in Lakewood, Ohio.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Prospective teachers applying for position within the DoDDS system and current DoDDS teachers and educators applying for either interregional transfers or positions in the DoDDS Educator Career Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Prospective Teachers: Files contain all papers and forms relating to the individual's application for employment to include Personal Qualification Statement (SF 171), Supplemental Application of Employment with DoDDS (DS Form 5010), Professional Evaluation, DoDDS (DS Form 5011), DoDDS-Application Index (DS Form 5012), interviewer's worksheets, official college transcripts, copy of teaching certificates, copy of birth certificate, and correspondence to or concerning the applicant.

Interregional Transfer Applicants: Files contain all papers and forms relating to the individual's applications. A coded worksheet developed by the regional staff is provided to the central personnel office for processing (remainder of material retained at the

region). Also included are miscellaneous worksheets and correspondence relating to the application.

Educator Career Program Applicants: Files contain all paper and forms relating to the individual's application to include: DoDDS Educator Career Program Application (DS Form 5080), DoDDS Assessment of Potential (DS Form 5081), DoD Education Career Program Rating Sheet (DS Form 5082) and miscellaneous worksheets and correspondence relating to the application.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

20 U.S.C. 902, 903 and 931.

PURPOSE(S):

Teacher Recruitment Section and Regional Offices: To determine qualifications and make selections of candidates for vacant positions within the DoDDS system (including new teachers, interregional transfers, and Educator Career Program positions), to review types of experience, educational background, evaluation of previous employers, professional credentials, to interviewers' ratings.

Department of the Army, Air Force, and Navy Staff agencies and Commands: To complete processing of hired individuals, to obtain Office of Personnel Management National Agency-Check, medical examination, passports; to arrange transportation and shipment/storage of household goods; and to provide gaining Civilian Personal Offices necessary documentation for placing individual on rolls.

Any individual's records in a system of records might be transferred to any Component of the Department of Defense having a need to know in the performance of official business.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, USES AND PURPOSES OF SUCH USES:

The CDC/BIS which operates the automated system.

See Office of the Secretary of Defense (OSD) Blanket Routine Uses at the head of this Component's published system notices.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders are stored at the DoDDS personnel office or regional offices; some files are supported by automated files which are maintained on disks and/or taps at the central computer site.

RETRIEVABILITY:

The manual files are filed alphabetically by name. The automated records are indexed by name or system assigned number (asigned chronologically upon input). Also, any combination of data in the automated file can be used to select individual records. Only authorized individuals (i.e., personnel staffing specialists) are provided user identification numbers and passwords to access the system via terminal.

SAFEGUARDS:

Paper records are maintained in files which are accessible only to authorized personnel.

a. *Description of automated process.* Current hardcopy records of information and disks are maintained in the DoDDS personnel office where access can be controlled. The office is locked after normal duty hours and building is secured by a private security force. Hardcopy records of interregional transfer applicants and a portion of the Career Educator applicants are maintained in the regional offices in locked cabinets and/or locked offices where access can be controlled and which are locked after normal duty hours. Approved special requests for data can be supported by ad hoc inquiry. Any combination of data can be used to select individual records for special processing.

b. *Physical safeguards.* A high-speed remote batch terminal, used for this system, is located in the DoDDS personnel office. The office is secured after normal duty hours to preclude unauthorized access. Access to the personnel terminal and all hardcopy records are controlled by office personnel. Access to automated data files by terminal is controlled by the use of a user ID and password system. The central computer site is owned and operated by the CDC/BIS which has a complex security system. The site is guarded 24 hours a day, year-round, and employs a system of electronic locks, alarm systems closed-circuit television, and intercom devices to preclude access by unauthorized personnel. All visitors are registered, escorted, and accounted for a all times. CDC/BIS has a back-up power supply so that the system will remain on-line during power shortages. Back-up tapes are run daily, weekly, and monthly and stored in fireproof vaults. A second copy of monthly tapes is stored in an off-site vault with 24-hour security.

c. *Remote terminal access.* Access to the terminal is controlled by the use of user identification numbers and passwords. The passwords are initially assigned by CDC/BIS; however, the user is immediately instructed to change it to something only known to him/her. Only through a complex internal checking system, can authorized CDC/BIS personnel access the password in the event it is lost or forgotten by the user. The password can be changed as frequently as desired and is now changed every 6 months or upon the departure of employee which has knowledge of it.

d. *Storage Media.* Hardcopy files are stored in the personnel office or in regional offices. Disks used in the personnel office are also stored there. Data retained CDC/BIS is on disks and magnetic tape.

e. *Risk analysis.* The main computer site is adequately secure for storage of personal information. CDC/BIS is bound to uphold all provisions of the Privacy Act in accoredance with GSA contract procedures. The terminal is protected so that unauthorized access to information can be prevented.

RETENTION AND DISPOSAL:

Prospective Teachers: Records are retained for recruitment period (no more than 2 years). For nonselected applicants, portions are returned to applicant for future use and portions are destroyed unless the applicant has indicated a desire to reapply in which case portions of the file are retained until the next recruitment period. Records of selected applicants are forwarded to the Departments of the Army, Air Force, and Navy as appropriate for processing.

Interregional Transfer Applicants: File is retained for 1 year and destroyed.

Career Educator Program Applicants: Applicants are retained for 2 years (unless updated by applicant) and destroyed.

Automated Records: Back-up tapes at CDC/BIS are erased every 6 months via complete overwriting. Archive tapes after release by user are degaussed. When released by user, all bytes used for data which are on disk are automatically reset to 0 before anyone may use the storage space. Disks used on the terminal in the personnel office are erased when no longer needed and reused (i.e., never leave the office and are never used by another system).

SYSTEM MANAGER(S) AND ADDRESS:

Ms. Marilee Sprenkle, Chief, Teacher Recruitment Section, Office of Dependents Schools, 2461 Eisenhower Avenue, Alexandria, Virginia 22331, Telephone (202) 325-0690.

NOTIFICATION PROCEDURES:

Information may be obtained from: Chief, Teacher Recruitment, DoD Dependents Schools, Room 120, 2461 Eisenhower Avenue, Alexandia, Virginia 22331, Telephone: (202) 325–0590.

RECORD ACCESS PROCEDURES:

Requests from individuals for their own files should be sent to the address indicated in "Notification Procedure" section, above. Written requests for information should contain the full name and address of the individual and a notarized signature.

CONTESTING RECORD PROCEDURES:

The agency rules for access to records and for contesting contents and appealing initial determination by the individual concerned are contained in 32 CFR Part 286b, and OSD Administrative Instructions No. 81.

RECORD SOURCE CATEGORIES:

Information is obtained from the individuals concerned, current and past employers, and educational institutions.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Parts of this system may be exempt under 5 U.S.C. 552a(k)(5). (See 32 CFR Part 286b (OSD Admin. Inst No. 81).)

[FR Doc. 84-26325 Filed 10-3-84; 8:45 am]

BILLING CODE 3810-01-M

Organization of the Joint Chiefs of Staff; National Defense University Board of Visitors; Meeting

AGENCY: National Defense University, Department of Defense.

ACTION: Notice of meeting.

SUMMARY: The President of the National Defense University has scheduled a meeting of the National Defense University Board of Visitors.

DATE: The meeting will be held from 9:00–11:45 a.m. and 1:30–4:00 p.m., Friday, November 9, 1984.

ADDRESS: The meetings will be held in the Hill Conference Center, Theodore Roosevelt Hall (Bldg. 61), Fort Lesley J. McNair, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: The Director, University Plans and Programs, National Defense University, Fort Lesley J. McNair, Washington, D.C. 20319–6000. To reserve space, interested persons should write or phone (693–7129).

SUPPLEMENTARY INFORMATION: The discussions will include progress and plans for the National Defense University and curricula, faculty, and students of the Industrial College of the Armed Forces, the National War College, and the Armed Forces Staff College. The meeting is open to the public, but the limited space available for observers will be allocated on a first-come, first-served basis.

Dated: September 27, 1984.

P.H. Means,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

[FR Doc. 84-26324 Filed 10-3-84; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

USAF Scientific Advisory Board; Meeting

September 27, 1984.

The USAF Scientific Advisory Board Ad Hoc Committee on the Military Aerospace Platform will meet in the ANSER Building, 3 Crystal Gateway, Arlington, VA on October 25–26, 1984.

The purpose of the meeting is to obtain an understanding of technologies and design features of various aerospace industry concepts for a military aerospace platform/transatmospheric vehicle. The meeting will convene from 8:30 a.m. to 5:00 p.m. on October 25 and from 8:00 a.m. to 3:30 p.m. on October 26.

The meeting concerns matters listed in section 552(c) of Title 5, United States Code, specifically subparagraphs (1) and (4) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202–697–8845.

Norita C. Koritko,

Air Force Federal Register Liaison Officer.

[FR Doc. 84-26311 Filed 10-3-84; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

Privacy Act of 1974; Amendment to Notices for Systems of Records

AGENCY: Department of the Army, DOD.

ACTION: Amendments to Notices for Systems of Records.

SUMMARY: The Department of the Army proposes to amend 19 systems notices for systems of records subject to the Privacy Act of 1974, as amended. Following identification of changes, amended notices are printed below in their entirety.

DATES: This action shall be effective without further notice November 5, 1984, unless comments are received which would result in a contrary determination.

ADDRESS: Comments may be submitted to Headquarters, Department of the Army, ATTN: DAAG–AMR–S, 2461 Eisenhower Avenue, Alexanderia, VA 22331–0301.

FOR FURTHER INFORMATION CONTACT: Mrs. Dorothy Karkanen, Office of The Adjutant General, Headquarters, Department of the Army, at the above address; telephone: 703/325–6163.

SUPPLEMENTARY INFORMATION: The Army's systems or records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** as follows:

FR Doc 83–12046 (48 FR 25502), June 6, 1983
FR Doc 83–18883 (48 FR 32046), July 13, 1983
FR Doc 83–24161 (48 FR 40291), September 6, 1983
FR Doc 83–28792 (48 FR 49088), October 24, 1983
FR Doc 84–1118 (49 FR 2006), January 17, 1984
FR Doc 84–2331 (49 FR 3506), January 27, 1984
FR Doc 84–3683 (49 FR 5170), February 10, 1984
FR Doc 84–6438 (49 FR 8993), March 9, 1984
FR Doc 84–11652 (49 FR 18600), May 1, 1984
FR Doc 84–14035 (49 FR 22122), May 25, 1984
FR Doc 84–15558 (49 FR 24045), June11, 1984
FR Doc 84–16178 (49 FR 24914), June 18, 1984
FR Doc 84–16520 (49 FR 25499), June 21, 1984
FR Doc 84–17271 (49 FR 26625), June 28, 1984
FR Doc 84–18684 (49 FR 28754), July 16, 1984
FR Doc 84–19506 (49 FR 29812), July 24, 1984

The proposed amendments are not within the purview of the provisions of 5 U.S.C. 522a(o) which requires the submission of an altered system report.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

AMENDMENTS

A0239.01DAAG

System name:

Request for Information Files (48 FR 25560), June 6, 1983.

Changes:

After "Authority for maintenance of the system", add:

"Purpose(s):

To control administrative processing of requests for information either pursuant to the Freedom of Information Act or to Executive Order 12356, including appeals from denials."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete entry; substitute therefor: "See 'Blanket Routine Uses' at 48 FR 22503, June 6, 1983."

A0240.01DAAG

System name:

Privacy Case Files (48 FR 25561), June 6, 1983.

Changes:

After "Authority for maintenance of the system", add:

"Purpose(s):

To process and coordinate individual requests for access and amendment of personal records; to process appeals on denials of requests for access or amendment to personal records by the data subject against agency rulings; and to ensure timely response to requestors."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete entry; substitute therefor: "See 'Blanket Routine Uses' at 48 FR 25503, June 6, 1983."

A0241.01HQDA

System name:

HQDA Correspondence and Control/ Central Files System (48 FR 49087), October 24, 1983.

Changes:

After "Authority for maintenance of the system", add:

"Purpose(s):

To control correspondence, document actions taken, and locate records for reference purposes."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete the first paragraph. Substitute therefor: "See 'Blanket Routine Uses' at 48 FR 25503, June 6, 1983." At the beginning of the second paragraph, insert: "Note: Disclosure * * * records."

A0305.10aDACA

System name:

Joint Uniform Military Pay System—Active Army (JUMPS–AA) (48 FR 40298), September 6, 1983.

Changes:

After "Authority for maintenance of the system", add:

"Purpose(s):

To provide basis for computing each active member's pay entitlements, to provide a history of pay transactions, and to answer inquiries and claims pertaining to such entitlements."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete the first paragraph.

A0305.10bDACA

System name:

Joint Uniform Military Pay System-Reserve Components-Army (48 FR 40299), September 6, 1983.

Changes:

After "Authority for maintenance of the system", add:

"Purpose(s):

To maintain a record of member's drill attendance, entitlements and deductions in order to compute and disburse his/her pay while keeping a record of taxes and disbursements other than those to the members."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete the first paragraph.

A0305.10dDACA

System name:

Health Program Pay and Reimbursement System (48 FR 25568), June 6, 1983.

Changes:

System name:

Delete present title; substitute therefor: "Health Professions Scholarship Program".

System location:

Delete entry; substitute therefor: "Fitzsimmons Army Medical Center, Denver CO 80240. A segment of this system exists at the Army Medical Department Personnel Support Agency, 1900 Half Street, SW, Washington, DC 20324."

Categories of records in the system:

Delete entry; substitute therefor: "Contract between the Army and the University participating in the Health Professions Scholarship Program; tuition payments; individual's military pay records, cost data work sheets, active duty military pay vouchers, personal financial history records, monthly payroll listings of current members showing entitlements and deductions, bank identification data for deposit of pay, member's permanent home address, current mailing address and telephone number, orders to active duty, student's elective to defer entry on active duty, and similar relevant documents."

After "Authority for maintenance of the system", add:

"Purpose(s):

To establish the pay account of students accepted into the Health Professions Scholarship Program; to determine appropriate pay, deductions, reimburable expenses, taxes and disbursements."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete entry; substitute therefor: "Information may be disclosed to:

"Department of the Treasury: To record check issue data, taxable earnings and taxes withheld.

"States and cities/counties which have an agreement with the Department of the Army: To verify tax liability against member's state and city/county tax returns.

"Social Security Administration: To record earned wages by member under the Federal Insurance Contributions Act."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Retention and disposal:

Delete entry; substitute therefor: "Individual pay records are retained at the Finance and Accounts Office, Fitzsimmons Army Medical Center while reservist is enrolled in the Health Professions Scholorship Program. Upon member's completion of program, records are forwarded to the U.S. Army Finance and Accouinting Center, Indianapolis, IN 46249 for recoupment determination."

System manager(s) and address:

Delete entry; substitute therefor: "The Surgeon General, Headquarters, Department of the Army, Washington, DC 20310."

Notification procedure:

Add: "so long as reservist is enrolled in the Scholarship Program. Thereafter, information may be obtained from the Commander, Army Medical Department Personnel Support Agency, Washington, DC 20324."

Record access procedures:

Delete entries; substitute therefor: "Individuals desiring access to records concerning themselves in this system of records may write as indicated under 'Notification procedure', providing his/her full name, present address and telephone number, and sufficient detail to locate the record."

Contesting record procedures:

Delete entry; substitute therefor: "The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505)."

Record source categories:

Delete entries; substitute therefor: "From the individual; university/college in which student is enrolled; Army records and reports."

A0306.01aDACA

System name:

Civilian Employee Pay System (48 FR 40301), September 6, 1983.

Changes:

System ID:

Delete suffix "a".

After "Authority for maintenance of the system", add:

"Purpose(s):

To provide basis for computing civilian pay entitlements; to record history of pay transactions; to record leave accrued and taken, bonds due and issued, taxes paid; to answer inquiries, and process claims."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete the first paragraph.

A0306.02aDACA

System name:

Nonappropriated Fund Employee Pay System (48 FR 40302), September 6, 1983.

Changes:

System ID:

Delete suffix "a".

System location:

Delete information following "entities;".

After "Authority for maintenance of the system", add:

"Purpose(s):

To calculate the net pay due each employee; to provide a history of pay transactions, entitlements and deductions; to maintain a record of leave accrued and taken; to keep a schedule of bonds due and issued; to record taxes paid; to respond to inquiries and/or claims."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete entry; substitute therefor: "Data required by law, e.g., employees' earnings, taxes withheld, Federal Insurance Contributions Act contributions, are provided to the Treasury Department, the Social Security Administration, Internal Revenue Service, states and cities which have an agreement with the Department of the Army to receive taxable earnings information."

A0309.05aDAAG

System name:

Resosurce Management and Cost Accounting Files (48 FR 25572), June 6, 1983.

Changes:

System ID:

Delete suffix "a".

System location:

Delete "44 FR 74011, * * * 1979"; substitute therefor: "48 FR 25773, June 6, 1983."

After "Authority for maintenance of the system", add:

"Purpose(s):

To project manpower and monetary requirements; to allocate available resources to specific projects; to schedule workload and assess progress; to project future organizational milestones; to evaluate individual performance and equipment efficiency; to set standards and methods; to record and control personnel and equipment utilization; to document inventories; to; interpolate training needed by unit or individual; to monitor use of overtime; to control and monitor obligations and expenditures of Government funds; to provide audit trail; to generate statistical reports of workload and production levels and other trends within the organization; and to provide other accounting and monitoring reports."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete entry; substitute therefor: "See 'Blanket Routine Uses' at 48 FR 25503, June 6, 1983."

A0314.08DACA

System name:

Check Cashing Privilege Files (48 FR 40303), September 6, 1983.

Changes:

After "Authority for maintenance of the system", add:

"Purpose(s):

To determine individuals to be denied check cashing privileges at installation check cashing facilities."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete entry; substitute therefor: "See 'Blanket Routine Uses' at 48 FR 25503, June 6, 1983."

A0314.09aDACA

System name:

Nonappropriated Fund Accounts Receivable System (48 FR 40304), September 6, 1983.

Changes:

System ID:

Delet suffix "a".

After "Authority for maintenance of the system", add:

"Purpose(s):

To maintain current rosters as subsidiary records for accounts receivable and cash accountability control; to provide monthly statements to customers; to provide ledger balances for activity financial statements; to prepare listing of accounts 30, 60, and 90 days; to answer inquiries on account status and specific transactions."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delet entry; substitute therefor: "See 'Blanket Routine Uses' at 48 FR 25503, June 6, 1983."

A0314.24DAAG

System name:

Nonappropriated Fund Employee Insurance and Retirement Files (48 FR 40304), September 6, 1983.

Changes:

After "Authority for maintenance of the system", add:

"Purpose(s):

To substantiate initial enrollment and subsequent changes in the NAF Group Insurance and Retirement Plan; to verify monthly deductions and to compute annuities, refunds, and death benefits."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete entry; substitute therefor: "See 'Blanket Routine Uses' at 48 FR 25503, June 6, 1983."

A0319.04DACA

System name:

Validation Files (48 FR 25575), June 6, 1983.

Changes:

After "Authority for maintenance of the system", add:

"Purpose(s):

To obtain data for determining propriety and validity of Army financial transactions."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete entry; substitute therefor: "See 'Blanket Routine Uses' at 48 FR 25503, June 6, 1983."

Notificaiton procedure:

After "from", delete remainder and add the following: "the System Manager. Individuals should furnish their full name, SSN, current address and telephone number."

Record access procedures:

Delete entries; substitute therefor: "Individuals desiring access to information concerning themselves should write to the System Manager, providing information required under 'Notification procedure'."

Contesting record procedures:

After "determinations", delete remainder and substitute therefor: "are contained in Army Regulation 340–21 (32 CFR Part 505)."

A0319.06DACA

System name:

Household Goods Shipment Excess Cost Collection File (48 FR 25575), June 6, 1983.

Changes:

After "Authority for maintenance of the system", add:

"Purpose(s):

To establish liability and issue notices of amounts due the United States for excess household goods shipments."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete entry; substitute therefor: "See 'Blanket Routine Uses' at 48 FR 25503, June 6, 1983."

Notification procedure:

After "from", delete remainder and add the following: "the System Manager. Individuals should furnish their full name, SSN, current address and telephone number."

Record access procedures:

Delete entries; substitute therefor: "Individuals desiring access to information concerning themselves should write to the System Manager, providing information required under 'Notification procedure'."

Contesting record procedures:

After "determinations", delete remainder and substitute the following: "are contained in Army Regulation 340–21 (32 CFR Part 505)."

A0319.07DACA

System name:

FHA Mortgage Payment Insurance Files (48 FR 40305), September 6, 1983.

Changes:

After "Authority for maintenance of the system", add:

"Purpose(s):

To determine the amount of insurance payments and to control authorized payments."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete entry; substitute therefore: "See 'Blanket Routine Uses' at 48 FR 25503, June 6, 1983."

A0319.10DACA

System name:

Conversion Files (48 FR 25576), June 6, 1983.

Changes:

After "Authority for maintenance of the system", add:

"Purpose(s):

To evaluate claim and, if approved, issue Treasury check to claimant."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete entry; substitute therefore: "See 'Blanket Routine Uses' at 48 FR 25503, June 6, 1983."

Notification procedure:

After "from", delete remainder and add the following: "the System Manager. Individuals should furnish their full name, SSN, current address and telephone number."

Record access procedures:

Delete entries; substitute therefor: "Individuals desiring access to information concerning themselves should write to the System Manager, providing information required under 'Notification procedure'."

Contesting record procedures:

After "determinations", delete remainder and substitute the following: "are contained in Army Regulation 340–21 (32 CFR Part 505)."

Record source categories:

Change entry to read: "From the individual, Government agencies, records and reports."

A0319.11DACA

System name:

Disbursing Office Establishment and Appointment Files (48 FR 25577), June 1983.

Changes:

After "Authority for maintenance of the system", add:

"Purpose(s):

To obtain data in the appointment or termination of deputies and bond issuing agents and the appointment or termination of other than Finance Corps officers as accountable officers and special disbursing agents."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete entry; substitute therefore: "See 'Blanket Routine Uses' at 48 FR 25503, June 6, 1983."

Notification procedure:

After "from", delete remainder and add the following: "the System Manager. Individuals should furnish their full name, SSN, current address and telephone number."

Record access procedures:

Delete entries; substitute therefor: "Individuals desiring access to information concerning themselves should write to the System Manager, providing information required under 'Notification procedure'."

Contesting record procedures:

After "determinations", delete remainder and substitute the following: "are contained in Army Regulation 340–21 (32 CFR Part 505)."

A0319.13DACA

System name:

Bankruptcy Processing Files (48 FR 40305), September 6, 1983.

Changes:

After "Authority for maintenance of the system", add:

"Purpose(s):

To obtain data for submitting claims of the Army to the Department of Justice for filing with the bankruptcy court and controlling financial transactions on pay accounts."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete entry; substitute therefore: "See 'Blanket Routine Uses' at 48 FR 25503, June 6, 1983."

Notification procedure:

Delete information following "System Manager". Add: "Individuals must furnish their full name, SSN, current address and signature."

Record access procedures:

Change entry to read: "Individuals desiring access to information concerning themselves should write to the System Manager, providing information required under 'Notification procedure'."

A0319.14DACA

System name:

Pecuniary Charge Appeal Files (48 FR 25578), June 6, 1983.

Changes:

After "Authority for maintenance of the system", add:

"Purpose(s):

To obtain data for determining the propriety of the pecuniary liability fuling."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete entry; substitute therefore: "See 'Blanket Routine Uses' at 48 FR 25503, June 6, 1983."

Notification procedure:

After "from", delete remainder and add the following: "the System Manager. Individuals should furnish their full name,SSN, current address and telephone number."

Record access procedures:

Delete entries; substitute therefor: "Individuals desiring access to information concerning themselves should write to the System Manager, providing information required under 'Notification procedure'."

CONTESTING RECORD PROCEDURES:

After "determinations", delete remainder and substitute the following: "are contained in Army Regulation 340–21 (32 CFR Part 505)."

RECORD SOURCE CATEGORIES:

Change entry to read: "From Army records and reports."

As revised, Systems A0239.10 DAAG, A0240.01 DAAG, A0241.01 HQDA, A0305.10 DACA, A0305.10b DACA, A0305.10d DACA, A0306.01 DACA, A0306.02 DACA, A0309.05 DAAG, A0314.08 DACA, A0314.09 DACA, A0314.24 DAAG, A0319.04 DACA, A0319.06 DACA, A0319.07 DACA, A0319.10 DACA, A0319.11 DACA, A0319.13 DACA, and A0319.14 DACA read as follows:

A0239.01DAAG

SYSTEM NAME:

Request for Information Files.

SYSTEM LOCATION:

These records exist at Headquarters, Department of the Army, starff and field operating agencies, major commands, installations and activities receiving requests to access records pursuant to the Freedom of Information Act, or to declassify documents pursuant to Executive Order 12356. They also exist in offices of Initial Denial Authorities (see Army Regulation 340–17) when an individual's request is denied. Upon appeal of that denial, record is maintained in the Secretary of the Army's Office of General Counsel. Official mailing addresses are in the appendix following the Army's inventory of system notices, at 48 FR 25773, June 6, 1983.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any individual who requests an Army record under the Freedom of Information Act, or requests mandatory review of a classified document pursuant to Executive Order 12356.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's request, related papers, correspondence between office of receipt and records custodians, Army staff offices and other government agencies; retained copies of classified or other exempt materials; and other selective documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 552: Freedom of Information Act, as amended by Pub. L. 93–502; Executive Order 12356.

PURPOSE(S):

To control administrative processing of requests for information either pursuant to the Freedom of Information Act or to Executive Order 12356, including appeals from denials.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See "Blanket Routine Uses" at 48 FR 25503, June 6, 1983.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders; microfilm.

RETRIEVABILITY:

By requestor's surname.

SAFEGUARDS:

Records are maintained in areas accessible only to authorized personnel who are properly trained and have official need therefor.

RETENTION AND DISPOSAL:

Records reflecting granted requests are destroyed after 2 years. When requests have been denied, records are retained for 5 years, except that, if appeals result, records are retained 4 years after final denial by the Army or 3 years after final adjudication by the courts, whichever is later

SYSTEM MANAGER(S) AND ADDRESS:

The Adjutant General, Headquarters, Department of the Army, 2461 Eisenhower Avenue, Alexandria, VA 22331.

NOTIFICATION PROCEDURE:

Requests should be addressed to the custodian of the record sought; if unknown, write to: HQDA (DAAG–AMR–S), 2461 Eisenhower Avenue, Alexandria, VA 22331.

RECORD ACCESS PROCEDURES:

Written requests should be addressed to the office that processed the initial inquiry or access request. Individual may obtain assistance from the System Manager. Personal visits may be made to the office maintaining the records upon presentation of acceptable identifiction such as valid driver's license, and furnishing verbal information that can be verified.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the individual, Army organizations, Department of Defense components, and other Federal, State, and local government agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The majority of records in this system are not exempted. Copies of documents residing in the Office of an Initial Denial Authority having a law enforcement mission which fall within (j)(2) are exempted from the following provisions of Title 5 U.S.C. 552a: (c)(3), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(5), (e)(8), (f), and (g). Copies of documents maintained by other Initial Denial Authorities not having a law enforcement mission which fall within 5 U.S.C., section 552a (k)(1) through (k)()7) are exempt from the following provisions of Title 5 U.S.C. 552a: (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), and (f).

AO240.01DAAG

SYSTEM NAME:

Privacy Case Files.

SYSTEM LOCATION:

These records exist at Headquarters, Department of the Army, staff and field operating agencies, major commands, installations and activities receiving Privacy Act requests. They also exist in offices of Access and Amendment Refusal Authorities (see Army Regulation 340–21) when an individual's request to access and/or amend his/her record is denied. Upon appeal of that denial, record is maintained by the DA Privacy Review Board. Official mailing addresses are in the appendix following the Army's inventory of system notices, at 48 FR 25773, June 6, 1983.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who request information concerning themselves which is in the custody of the Department of the Army, including requests to amend such records pursuant to Title 5 U.S.C. 552a(d) (Privacy Act of 1974), as amended.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documents which notify requestors of the existence of records on them, providing or refusing access to or amendment of records, acting on appeals or refusals to provide access to or amend records, and providing or developing information for use in litigation. Included are requests, approval and refusal actions, appeals and actions on appeals, including DA Privacy Review Board minutes and actions, copies of the requested and amended/unamended records, statements of disagreement, and related documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3012; 5 U.S.C. 552a.

PURPOSE(S):

To process and coordinate individual requests for access, and amendment of personal records; to process appeals on denials of requests for access or amendment to personal records by the data subject against agency rulings; and to ensure timely response to requestors.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See "Blanket Routine Uses" at 48 FR 25503, June 6, 1983.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders; microfilm.

RETRIEVABILITY:

By name of requestor on whom the records pertain.

SAFEGUARDS:

Records are accessed by custodian of the record system and by persons responsible for servicing the record system in performance of their official duties. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Offices of Access and Amendment Refusal Authorities: Approved requests, unappealed refusals and refusals fully over-ruled by appellate authorities: Destroy after 4 years; refusals upheld in whole or in part by appellate authorities: Destroyed after 10 years, provided legal proceedings are completed.

Offices of appellate authorities: Appeals adjudicated fully in favor or requestor: Destroyed after 4 years. Appeals refused in full or in part: Destroyed after 10 years provided legal proceedings are completed.

Other offices: destroyed after 4 years.

SYSTEM MANAGER(S) AND ADDRESS:

The Adjutant general, Headquarters, Department of the Army, ATTN: DAAG–AMR–S), 2461 Eisenhower Avenue, Alexandria, VA 22331.

NOTIFICATION PROCEDURE:

Requests should be addressed to the custodian of the record sought; if unknown, write to: HQDA (DAAG–AMR–S) at the above address.

RECORD ACCESS PROCEDURE:

Written requests should be addressed to the office that processed the initial inquiry, access request, or amendment request. Individual may obtain assistance from the System Manager. Personal visits may be made to the office maintaining the records upon presentation of acceptable identification such as valid driver's license, and furnishing verbal information that can be verified from the individual's case file.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the individual, Army organizations, Department of Defense components, and other Federal, state, and local government agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The majority of records in this system are not exempted. Copies of documents residing in the office of an Access and Amendment Refusal Authority having a law enforcement mission which fall within (j)(2) are exempted from the following provisions of Title 5 U.S.C. 552a: (c)(3), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(5), (e)(8), (f), and (g). Copies of documents maintained by the DA Privacy Review Board and by those Access and Amendment Refusal Authorities not having a law enforcement mission which fall within 5 U.S.C., section 552a (k)(1) through (k)(7) are exempted from the following provisions of Title 5 U.S.C., section 552a: (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), and (f).

A0241.01HQDA

SYSTEM NAME:

HQDA Correspondence and Control/ Central Files System.

SYSTEM LOCATION:

Office, Secretary of the Army; Office, Chief of Staff; Headquarters, Department of the Army Staff agencies. Addresses are listed in the appendix to the Army's inventory of system notices at 48 FR 25773, June 6, 1983.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who either initiated, or are the subject of, communications with the Headquarters, Department of the Army.

CATEGORIES OF RECORDS IN THE SYSTEM:

Inquiries, with referrals and responses, and other communications pertaining to any function or subject involving or of interest to Headquarters, Department of the Army level. Records may include, but are not restricted to, complaints, appeals, grievances, investigations, alleged improprieties, personnel actions, medical reports, intelligence, and similar matters. They may be either specific or general in nature and may include such personal information as an individual's name, SSAN, date and/or place of birth, description of events or incidents of a sensitive or privileged nature, commendatory or unfavorable data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C., section 3012; 5 U.S.C., section 301.

PURPOSE(S):

To control correspondence, document actions taken, and locate records for reference purposes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See "Blanket Routine Uses" at 48 FR 25503, June 6, 1983.

Note.—Disclosure of information from documents or records which properly become part of another system of records will be as authorized in the "routine uses" portion of that system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and/or microfiche in Office, Secretary of the Army, Office, Chief of Staff Army, and those Army Staff (ARSTAF) agencies having primary functional responsibility for the subject matter being addressed. Selected identification data are stored in the automated index central computer facility.

RETRIEVABILITY:

Paper records are retrieved by date; microfiche is retrieved by subject (based on Alpha Numeric Filing System) and within the subject, is individually identified by cartridge number, year and sequence number and personal names if appropriate. Primary access to the automated index is accomplished through a document control number.

SAFEGUARDS:

Records are controlled; access to information from specified documents is restricted to persons who have been designated by their agency to have official need for the information in the performance of their duties. ARSTAF agencies are linked to the automated index by on-line terminals, thereby sharing a common data base, but do not have access to the record itself.

File areas within the Secretariat and the Office, Chief of Staff and certain ARSTAF file areas are protected by electronic surveillance systems with combination lock doors; all other file areas (within ARSTAF) are protected consistent with the sensitivity of Privacy Act data included therein. Users of the system receive training designed to preclude misuse or unauthorized disclosure of information.

RETENTION AND DISPOSAL:

Non-policy documents are kept 10 years. They are converted to microform and destroyed after verification that the microform is an acceptable substitute for the original document. The hard copy and microform remain in current files area for 2 years after completion of action, then are retired to the Washington National Records Center (WNRC).

Policy action files are permanent. Original documents are converted to microform. The hard copy and microform remain in current files area for 2 years, then are retired to WNRC. The hard copy is destroyed at a future date after the microform is properly certified to meet archival standards set by General Services Administration.

Information in the automated index is kept permanently. At the beginning of each calendar year the index of all permanent documents added to the central file that year is transferred to tape. The tape is kept in-house to support Army operations and is destroyed when no longer needed for current operations. A duplicate copy of that tape is transferred to the Machine Readable Archives, National Archives and Records Service, GSA.

SYSTEM MANAGER(S) AND ADDRESS:

The Administrative Assistant to the Secretary of the Army: for OSA records.

The Director of the Army Staff: For Communications directed to the Office of the Chief of Staff, Army.

Heads of Army Staff agencies: For records in their functional areas.

All of the above officials are located in The Pentagon, Washington, DC 20310 (except for the Chief of Engineers who is located at the Pulaski Building, Washington, DC 20314).

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system contains information about them should contact the System Manager having functional responsibility or interest. Inquiries should include full name, SSN, current address, details that will assist in identifying the records sought, and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records should address their inquiry as outlined in "Notification procedure".

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the individual; correspondence emanating withing the Army Secretariat, the Office, Chief of Staff, and ARSTAF agencies; other Federal agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Portions of the records in this system may be exempted under 5 U.S.C., section 552a (k)(1) through (k)(7) from the following provisions of Title 5 U.S.C., section 552a: (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), and (f). Documents are generated by other elements of the Army or are received from other agencies and individuals. Because of the broad scope of the contents of this system and since the introduction of documents is largely unregulatable, specific portions or documents that may require an exemption cannot be predetermined. Therefore, and to the extent that such material is received and maintained, selected individual documents may be exempted from disclosure under any of the provisions of subsections (k)(1) through (k)(7), Title 5 U.S.C. 552a.

AO305.10sDACA

SYSTEM NAME:

Joint Uniform Military Pay System-Active Army (JUMPS–AA).

SYSTEM LOCATION:

Centralized at U.S. Army Finance and Accounting Center, Indianapolis, IN 46249. Decentralized segments exist at Army Finance and Accounting Offices world-wide.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All active duty military personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual military pay records, casual payment receipts, substantiating documents, temporary pay records,

transmittal letters, locator files, financial data record folders, miscellaneous pay files, and personal financial records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

37 U.S.C. 101 et seq.

PURPOSE(S):

To provide basis for computing each active member's pay entitlements, to provide a history of pay transactions, and to answer inquiries and claims pertaining to such entitlements.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information from this system may be disclosed to:

Treasury Department: To record check and bond issue data and taxable earnings and taxes withheld from military personnel.

Social Security Administration: To record earned wages by member under the Federal Insurance Contributions Act.

Veterans Administration: To record the collection of premiums for National Service Life Insuance and to transfer contributions to Post Vietnam Era Veterans Education Account.

Cities and States which have an agreement with the Department of the Army: To verify tax liability against members's state and city income tax returns.

American Red Cross: To assist military personnel and their dependents in determining the status of monthly pay, dependents' allotments, loans, and related financial transactions.

Department of Health and Human Services: The name, rank and SSN of each member of the Armed Forces on active duty to the Inspector General for comparison with appropriate rolls reflecting recipients of Aid to Families with Dependent Children.

City of New York: Department of Income Maintenance: Name and address of allottees whose ZIP Codes are in New york City and dollar amount of allotments for the purpose of detecting and curtailing fraud and abuse in Federal Assistance Programs, specifically Aid to Families with Dependent Children, and Food Stamps.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and bulk storage, cord files, computer magnetic tapes and paper printouts, and microfilm.

RETRIEVABILITY:

By SSN, name, and substantiating document number.

SAFEGUARDS:

The US Army Finance and Accounting Center employs security guards. An employee badge and visitor registration system is in use. Records are maintained in area accessible only to authorized personnel who are properly screened, cleared and trained. Access to computer magnetic tape files is restricted to the member's servicing finance and accounting officer. Computer equipment and files are located in a separate secure area. Within finance and accounting offices Armywide, access in limited to designated personnel having official need for the information in the performance of their duties.

RETENTION AND DISPOSAL:

Individual military pay records are converted to microfiche which are retained for 56 years. Other records are retained for varying periods but total retention does not exceed 56 years; disposition if to Federal Records Centers; destruction thereafter is by burning or shedding.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, US Army Finance and Accounting Center, Indianapolis, IN 46249.

NOTIFICATION PROCEDURE:

Information may be obtained from either the appropriate finance and accounting office or the Commander, US. Army Finance and Accounting Center, Indianapolis, IN 46249. Individual must furnish full name, SSN, military status, and home address.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the Comnmander, US Army Finance and Accounting Center, ATT: FINCP, Indianapolis, IN 46249 or the appropriate finance and accounting officer, and should contain the information indicated in "Notification procedure". In addition, information may be obtained by calling 317/542-2891.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340-21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From Department of Defense staff and field installations, the Social Security Administration, financial institutions, the Treasury Department, and automated systems interface.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

AO350-10bDACA

SYSTEM NAME:

Joint Uniform Military Pay System-Reserve Components---Army.

SYSTEM LOCATION:

Centralized at US Army Finance and Accounting Center, Indianapolis, IN 46249. Decentralized segments exist at Army Finance and Accounting Office world-wide.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All members of the US Army National Guard and US Army Reserve who are drawing inactive duty training pay.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual military pay records, substantiating documents, transmitting letters, index cards, financial data record folders, miscellaneous military pay vouchers, personal financial history records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

37 U.S.C., section 101 et seq.

PURPOSE(S):

To maintain of record of member's drill attendance, entitlements and deductions in order to compute and disburse his/her pay while keeping a record of taxes and disbursements other than those to the member.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information from this system may be disclosed to:

Treasury Department: To record check issue data, taxable earnings and taxes withheld.

Individual States of the US: To furnish wages earned for the calendar year; these data are furnished to the state of home record.

Army National Guard Bureau: To furnish budget data to account for every expenditure within categories established.

Individual National Guard States Associations: To furnish a report and an associated check regarding state sponsored life insurance premium withheld.

American Red Cross: To assist military personnel and their dependents in determining the status of monthly pay, dependents' allotments, loans, and related financial transactions.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and bulk storage; cards, computer magnetic tape and paper printouts, microfiche.

RETRIEVABILITY:

By SSN, name of the member, and document number.

SAFEGUARDS:

The US Army Finance and Accounting Center employs security guards. An employee badge and visitor registration system is in use. Records are mainained in areas accessible only to authorized personnel who are properly screened, cleared and trained. Access to computer magnetic tape files is restricted to the members' servicing finance and accounting officer. Computer equipment and files are located in a separate secure area. Within finance and accounting offices, Army-wide, access is limited to designated personnel having official need for the information in the performance of their duties.

RETENTION AND DISPOSAL:

Individual military pay records are converted to microfiche which are retained for 56 years. Other records are retained for varying periods but total retention does not exceed 56 years; dispositon is to Federal Records Centers; destruction thereafter is by burning or shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, US Army Finance and Accounting Center, Indianapolis, IN 46249.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager. Individuals may also contact US Property and Fiscal Officer, Army National Guard of each state and/or the District of Columbia, Puerto Rico and the Virgin Islands. Individuals may also contact the finance and accounting officer at Ft Indiantown Gap, PA; Ft McPherson, GA; Ft Riley, KS; Presidio of San Francisco, CA. These finance and accounting officers are responsible for US Army Reserve pay accounts only. Individuals must provide full name, SSN, and military status.

RECORD ACCESS PROCEDURES:

Requests should be addressed to the Commander, US Army Finance and Accounting Center, ATTN: FINCP, Indianapolis, IN 46249 or telephoned to 317/542-2891 and should contain the information indicated in "Notification procedure".

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340-21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

The source of all data to establish and maintain JUMPS-RC-Army originates at unit level; i.e., all units of US Army National Guard and US Army Reserve which perform inactive duty training and whose members receive drill pay as a result of this training furnish the data to support the system.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

A0305.10dDACA

SYSTEM NAME:

Health Professions Scholarship Program.

SYSEM LOCATION:

Fitzsimmons Army Medical Center, Denver, CO 80240. A segment of this system exists at the Army Medical Department Personnel Support Agency, 1900 Half Street, SW, Washington, DC 20324.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members of the US Army Reserve who are enrolled in the Army Health Professions Scholarship Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contract between the Army and the University participating in the Health Professions Scholarship Program; tuition payments; individual's military pay records, cost data work sheets, active duty military pay vouchers, personal financial history records, monthly payroll listings of current members showing entitlements and deductions, bank identification data for deposit of pay, member's permanent home address, current mailing address and telephone number, orders to active duty, student's elective to defer entry on active duty, and similar relevant documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C., Chapter 104, et seq.; Pub. L. 92-426.

PURPOSE(S):

To establish the pay account of students accepted into the Health Professions Scholarship Program; to determine appropriate pay, deductions, reimbursable expenses, taxes and disbursements.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information may be disclosed to:

Department of the Treasury: To record check issue data, taxable earnings and taxes withheld.

States and cities/counties which have an agreement with the Department of the Army: To verify tax liability against member's state and city/county tax returns.

Social Security Administration: To record earned wages by member under the Federal Insurance Contributions Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders; magnetic tapes; computer printouts; microfilm; ledger cards.

RETRIEVABILITY:

By member's name, SSN.

SAFEGUARDS:

Information is accessible only to authorized personnel having official need therefor. Records are stored in secured buildings protected by Military Police/security guards.

RETENTION AND DISPOSAL:

Individual pay records are retained at the Finance and Accounts Office, Fitzsimmons Army Medical Center while reservist is enrolled in the Health Professions Scholarship Program. Upon completion of program, member's records are forwarded to the US Army Finance and Accounting Center, Indianapolis, IN 46249 for recoupment determination.

SYSTEM MANAGER(S) AND ADDRESS:

The Surgeon General, Headquarters, Department of the Army, Washington, DC 20310.

NOTIFICATION PROCEDURE:

Information may be obtained from the Finance and Accounting Officer, Fitzsimmons Army Medical Center, Denver, CO 80240 so long as reservist is enrolled in the Scholarship Program. Thereafter, information may be obtained from the Commander, Army Medical Department Personnel Support Agency, Washington DC 20324.

RECORD ACCESS PROCEDURES:

Individuals desiring access to records concerning themselves in this system of records may write as indicated under "Notification procedure", providing his/her full name, present address and telephone number, and sufficient detail to locate the record.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the individual; university/college in which student is enrolled; Army records and reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

AO306.01DACA

SYSTEM NAME:

Civilian Employee Pay System.

SYSTEM LOCATION:

Army Finance and Accounting Offices world-wide and US Property and Fiscal Offices in the US, Puerto Rico, Virgin Islands, and the District of Columbia having civilian payroll responsibilities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Civilian employees and contract teachers employed by Department of the Army, Office, Secretary of Defense, and specified elements of the Navy and Air Force.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employee's pay, leave, and retirement records; individual withholding/deduction authorization for dependents, allotments, health benefits, savings bonds, etc; tax exemption certificates; personal exception and indebtedness papers; statements of charges, claims, repatriated payment files; roster of authorized timekeepers and signature cards; payroll and retirement control and working paper files; unemployment compensation data request; reports of retirement fund deductions; management narrative and statistical reports relating to pay, leave, and retirement.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 6 General Accounting Office Policy and Procedures Manual for Guidance of Federal Agencies.

PURPOSE(S):

To provide basis for computing civilian pay entitlements; to record history of pay transactions; to record leave accured and taken, bonds due and issued, taxes paid; to answer inquiries and process claims.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information may be disclosed: To the Office of Personnel Management: To record monies paid into Federal Retirement Fund and to provide information pertaining to health benefits.

To the Treasury Department: To record checks and bonds issued.

To the Social Security Administration: To report earned wages by employees under the Federal Insurance Contributions Act.

To the Internal Revenue Service: To record taxable earnings and taxes withheld.

To states and cities: To provide taxable earnings of employees to those states and cities which have entered into an agreement with the Department of the Army and the Treasury Department.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and bulk storage; card files, computer magnetic tapes, discs and printouts, and microfilm.

RETRIEVABILITY:

Automated records are retrieved by SSN within payroll block; manual records are retrieved by surname within payroll block.

RETENTION AND DISPOSAL:

Individual pay record files are permanent; they are retained at installation while member is actively employed. They are forwarded to new installation when member is transferred to another Army activity. When employee transfers to another agency under the Department of Defense not serviced by Army or separates from Federal Service, record is forwarded to the Office of Personnel Management. Microfilm of manually maintained individual retirement records is sent to the National Personnel Records Center after 3 years.

Personnel exceptions and indebtedness files are permanent. These documents are filed in individual's Official Personnel Folder (OPF). Upon separation or transfer, if OPF is not on file locally, records are forwarded to National Personnel Records Center, General Services Administration, St Louis, MO 63118.

Repatriated personnel payment files are permanent; forwarded to National Personnel Records Center after 3 years.

Subsistence and quarters rate deviation files are permanent; they are retired on discontinuance of the installation.

Retention periods vary for other records according to category of record. The minimum retention period is 2 years and the maximum period is 12 years, after which records are destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Comptroller of the Army, Headquarter, Department of the Army, Washington, DC 20310.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager, US Army Finance and Accounting Offices, or if National Gaurd technician, from the National Guard Bureau, 5600 Columbia Pike, Falls Church, VA 22041, or from US Property and Fiscal Offices.

RECORD ACCESS PROCEDURES:

Requests for access should be addressed as indicated in "Notification procedure", and should include individual's full name, SSN, current address, and signature.

CONTESTING RECORD PROCEDURES.

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the individual, former employers, DOD Staff agencies and field commands, Social Security Administration, Treasury Department, financial organizations, and automated systems interface.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

AO306.02DACA

SYSTEM NAME:

Nonappropriated Fund Employee Pay System.

SYSTEM LOCATION:

Decentralized segments at installations/activities world-wide having nonappropriated fund entities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All civilian employees of the Department of the Army who are paid from nonappropriated funds and who are under exclusive control of the Secretary of the Army or his designees but not paid from appropriated funds or not otherwise excluded; authorized, voluntary off-duty enlisted or officer personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual records of appointment or assignment; officially authenticated time and attendance records, supported by substantiating documents; individual leave records, payroll control files, individual withholding authorization files, withholding tax exemption certificate files, withholding tax files, savings bond schedule files, other deduction type files, payroll journal and check register, earnings statement, earnings records, tips received, pay check stub or envelopes, subsistence and quarters files, unemployment compensation data request files, health, hospitalization, and life insurance files, income tax withheld, employer and employee Federal Insurance Contributions Act files, Federal Unemployment Insurance tax files, Employer Quarterly Federal Tax Return, state tax files, city tax files, Fair Labor Standards Act files, and total employer liability for accrued leave at separation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C., section 2105, 5531, 5533; Pub. L. 92–203; Fair Labor Standards Act.

PURPOSE(S):

To calculate the net pay due each employee; to provide a history of pay transactions, entitlements and deductions; to maintain a record of leave accrued and taken; to keep a schedule of bonds due and issued; to record taxes paid; to respond to inquiries or claims.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Data required by law, e.g., employees' earnings, taxes withheld, Federal Insurance Contributions Act contributions, are provided to the Treasury Department, the Social Security Administration, Internal Revenue Service, states and cities which have an agreement with the Department of the Army to receive taxable earnings information.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosure pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and bulk storage, card files, magnetic tapes, discs, and computer printouts.

RETRIEVABILITY:

By individual's surname and SSN within each nonappropriated fund activity payroll.

SAFEGUARDS:

Files are maintained in areas accessible only to designated personnel who have need therefor in the performance of official duties.

RETENTION AND DISPOSAL:

Individual pay records are permanent; they are forwarded to the National Personnel Records Center after 3 years. They are retained at installation while member is actively employed; forwarded to new installation when member is transferred. Upon separation, or termination of employment, files are placed in an inactive status and retained 18 months after close of pay year.

Leave records are retained 10 years and then destroyed.

Individual insurance and retirement records are destroyed 6 years after termination of involvement with nonappropriated fund activity.

Other management and accounting information reports are retained from 1 to 3 years before destruction.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, US Army Finance and Accounting Center, Indianapolis, IN 46249.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager, ATTN: FINCD. Individual should furnish full name, SSN, period and location of employment, and signature.

RECORD ACCESS PROCEDURE:

Requests from individuals should be sent to the System Manager, furnishing details required by "Notification procedure".

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the individual, Time and Attendance reports, former employers, Social Security Administration, Treasury Department, DOD staff agencies and field installations, Government benefit programs, servicing civilian personnel offices.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

AO309.05DAAG

SYSTEM NAME:

Resource Management and Cost Accounting Files.

SYSTEM LOCATION:

Headquarters, Department of the Army, Staff and field operating agencies, major commands, installations and activities. Official mailing addresses are contained in the appendix to the Army's inventory of system notices published at 48 FR 25773, June 6, 1983.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military and civilian personnel assigned/attached to the organization.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records by individual of man-hours applied to the accomplishment of assigned tasks or projects. Specific data elements include name, SSN/employee identification number, organizational element, military rank/civilian grade, job title, clearance status, rating data, regular/overtime wage rates, regular/overtime hours worked, hours of leave taken, record of official travel, project

code, accounting code and cost data, workload units accomplished, file references and related information, and records control data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 10 U.S.C. 3012.

PURPOSE(S):

To project manpower and monetary requirements; to allocate available resources to specific projects; to schedule workload and assess progress; to project future organizational milestones; to evaluate individual performance and equipment efficiency; to set standards and methods; to record and control personnel and equipment utilization; to document inventories; to interpolate training needed by unit or individual; to monitor use of overtime; to control and monitor obligations and expenditures of Government funds; to provide audit trail; to generate statistical reports of workload and production levels and other trends within the organization; and to provide other accounting and monitoring reports.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See "Blanket Routine Uses" at 48 FR 25503, June 6, 1983.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Punch cards, magnetic tapes, cards, or discs; microform, miccrofiche, computer printouts and paper records.

RETRIEVABILITY:

By individual's name, SSN or employee identification number; information may also be accessed by a non-personal data element such as project code, cost accounting code, or organizational element.

SAFEGUARDS:

Automated systems employ computer hardware/software safeguard features. All records are maintained in controlled areas, within buildings/rooms which are secured during non-duty hours. Personal information is accessed only by individuals who have need therefor in their official duties.

RETENTION AND DISPOSAL:

Magnetic media are erased after 1 year; manual records are destroyed after 1 year by pulping, tearing, or shredding.

SYSTEM MANAGER(S) AND ADDRESS:

The Adjustant General, Headquarters, Department of the Army, 2461 Eisenhower Avenue, Alexandria, VA 22331.

NOTIFICATION PROCEDURE:

Individuals desiring to know whether this system contains information on them should contact the agency head/installation commander of the Department of the Army organization to which they are (or were) assigned/employed and should furnish full name, SSN, office believed to have the record, and time frame, any other information which will assist in locating the information, and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information from this system of records should address an inquiry as indicated in "Notification procedure", providing the information required therein.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

Employee time cards; organization manpower rosters; individual personnel and training records; production records; travel orders; unit inventory records; and other relevant Army documents and reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

AO314.08DACA

SYSTEM NAME:

Check Cashing Privilege Files.

SYSTEM LOCATION:

All Army installations/activities with facilities to cash checks.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons whose checks, written at Army facilities, have been dishonored and/or whose check cashing privileges have been suspended or revoked.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documents related to advancing, revoking, or suspending, restoring and general supervison of check cashing privileges. Included are letters to individuals about bad checks, warnings that a recurrence in issuing a bad check may result in withdrawing check cashing privileges, notices from banks that the bank was in error, notices to activities that check cashing privileges have been suspended or restored for certain individuals, returned checks, lists of persons whose privileges have been suspended or withdrawn, and related papers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3012.

PURPOSE(S):

To determine individuals to be denied check cashing privileges at installation check cashing facilities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See "Blanket Routine Uses" at 48 FR 25503, June 6, 1983.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Cards, paper records in file folders, computer tapes.

RETRIEVABILITY:

By individual's name or SSN.

SAFEGUARDS:

Files are maintained in areas accessible only to authorized persons having an official need therefor in the performance of official duties.

RETENTION AND DISPOSAL:

Destroyed 3 years after individual has made restitution for dishonored check.

SYSTEM MANAGER(S) AND ADDRESS:

Comptroller of the Army, US Army Finance and Accounting Center, Ft Benjamin Harrison, IN 46249.

NOTIFICATION PROCEDURE:

Information may be obtained from the installation commander where check was cashed.

RECORD ACCESS PROCEDURES:

Individuals desiring access to records pertaining to themselves should write to the installation commander, furnishing full name, SSN, details relevant to the incident, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are

contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the dishonored check, the individual, banking facilities.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

AO314.09DACA

SYSTEM NAME:

Nonappropriated Fund Accounts Receivable System.

SYSTEM LOCATION:

Nonappropriated fund activities at Army installations world-wide.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and past members of Officer or Noncommissioned Officer Club facilities whose accounts show balances other than zero; persons using Post billeting facilities on a fee paid basis (bachelor officer quarters, visitor officer quarters and guesthouse facilities) and persons no longer using such facilities whose accounts have other than zero balances; any individual having a statement of account for the billing period, individuals occupying government housing at any military installation; individual class B telephone subscribers; members, customers or civilians having 30 day credit terms for "charge" sales and/or dues obligations to NAF activities; all persons whose accounts have been dishonored by banking institutions and their checks returned to NAF activities; individuals who have cash loans charged to their accounts.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, SSN, rank, amount of charges, billings of items or services furnished, subsidiary ledgers containing detail of services billed and paid by individual; work order forms, invoice listings, monthly receipt vouchers, date and method of payment, file of billings associated with returned/dishonored checks, and relevant similar documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 66; 10 U.S.C. 2481 and 3012; 5 U.S.C. 5101; Pub. L. 216, section 401; Pub. L. 784, section 113.

PURPOSE(S):

To maintain current rosters as subsidiary records for accounts receivable and cash accountability control; to provide monthly statements to customers; to provide ledger balances for activity financial statements; to prepare aged listing of accounts receivable, 30, 60, and 90 days; to answer inquiries of members on account status and specific transactions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See "Blanket Routine Uses" at 48 FR 25503, June 6, 1983.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tapes and/or discs by account in numerical and alphabetical order; computer hard copy printouts filed in binders; copies of statements filed in folders.

RETRIEVABILITY:

By customer name and SSN.

SAFEGUARDS:

Records are maintained in lock-type cabinets within storage areas accessible only to authorized personnel.

RETENTION AND DISPOSAL:

Destroyed after 3 years following audit with no exceptions or irregularities disclosed.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, US Army Finance and Accounting Center, Indianapolis, IN 46249.

NOTIFICATION PROCEDURE:

Individuals may submit written request to the custodian of nonappropriated funds activities at the installation where record is believed to exist.

RECORD ACCESS PROCEDURES:

Individuals desiring access to records pertaining to them in this system should write to the appropriate nonappropriated fund activity custodian, furnishing full name, SSN, and account number.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From daily transaction registers/journals received from billeting officer, signal officer, and/or club officers.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

AO314.24DAAG

SYSTEM NAME:

Nonappropriated Fund Employee Insurance and Retirement Files.

SYSTEM LOCATION:

The Adjutant General's Office, Headquarters, Department of the Army, 2461 Eisenhower Avenue, Alexandria, VA 22331.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Army nonappropriated fund Group Insurance and Retirement Plan.

CATEGORIES OF RECORDS IN THE SYSTEM:

Monthly and cumulative insurance and retirement deductions for each employee; name, and SSN.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pub. L. 95–595; 28 U.S.C. 401a.

PURPOSE(S):

To substantiate initial enrollment and subsequent change in the NAF Group Insurance and Retirement Plan; to verify monthly deductions and to compute annuities, refunds, and death benefits.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See "Blanket Routine Uses" at 48 FR 25503, June 6, 1983.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosure pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tapes/discs, microfiche, paper records.

RETRIEVABILITY:

By individual's surname within each NAF activity.

SAFEGUARDS:

Records are located in controlled areas within building having security guards; information is accessed only by individuals who are properly cleared and trained and have need therefor in the performance of official duties.

RETENTION AND DISPOSAL:

Records are permanent; retained in active file until individual terminates employment, retires or is deceased; held 1 additional year and subsequently retired to the Washington National Records Center, Suitland, MD.

SYSTEM MANAGER(S) AND ADDRESS:

The Adjutant General, Headquarters, Department of the Army, 2461 Eisenhower Avenue, Alexandria, VA 22331.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager, ATTN: DAAG–NFI, 2461 Eisenhower Avenue, Alexandria, VA 22331.

RECORD ACCESS PROCEDURES:

Individuals should address requests as specified in "Notification procedure", furnishing their full name, SSN, NAF activity in which employed, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the individual; NAF personnel officers.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

AO319.04DACA

SYSTEM NAME:

Validation Files.

SYSTEM LOCATION:

US Army Finance and Accounting Center, Indianapolis, IN 46249.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any Army military member or Department of Army civilian or former military member or individual suspected of fraud or improper payment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Reports of investigation, copies of vouchers/orders/notices of exception/ military pay orders/certificates of dependency, sworn statements, and correspondence between the Comptroller of the Army, US General Accounting Office, Department of the Army staff agencies, US Army Criminal Investigation Command, and/or other governmental agencies.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101.

PURPOSE(S):

To obtain data for determining propriety and validity of Army financial transactions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See "Blanket Routine Uses" at 48 FR 25503, June 6, 1983.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

By individual's surname.

SAFEGUARDS:

Building employs security guards. Records are maintained in areas accessible only to authorized personnel having official need therefor.

RETENTION AND DISPOSAL:

Records are destroyed after 3 years.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, US Army Finance and Accounting Office, Indianapolis, IN 46249.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager. Individuals should furnish their full name, SSN, current address and telephone number.

RECORD ACCESS PROCEDURES:

Individuals desiring access to information concerning themselves should write to the System Manager, providing information required under "Notification procedure".

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

Federal Bureau of Investigation, Criminal Investigation Detachments, finance officers, Provost Marshals and individuals.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

AO319.06DACA

SYSTEM NAME:

Household Goods Shipment Excess Cost Collection Files.

SYSTEM LOCATION:

US Army Finance and Accounting Center, Indianapolis, IN 46249.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Army and Air Force members who have shipped excess household goods.

CATEGORIES OF RECORDS IN THE SYSTEM:

Government bills of lading, supporting documents, and copy of excess cost billing.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C., 301.

PURPOSE(S):

To establish liability and issue notices of amounts due the United States for excess household goods shipments.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See "Blanket Routine Uses" at 48 FR 25503, June 6, 1983.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper in file folders.

RETRIEVABILITY:

By service number/SSN.

SAFEGUARDS:

Building employ security guards. An employee badge and visitor registration system is utilized. Records are maintained in areas accessible only to authorized personnel who are properly screened, cleared, and trained

RETENTION AND DISPOSAL:

Records are destroyed after 6 years.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, US Army Finance and Accounting Center, Indianapolis, IN 46249.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager. Individuals should furnish their full name, SSN, current address and telephone number.

RECORD ACCESS PROCEDURES:

Individuals desiring access to information concerning themselves should write to the System Manager, providing information required under "Notification procedure".

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From paid Government bills of lading.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

A0319.07DACA

SYSTEM NAME:

FHA Mortgage Payment Insurance Files.

SYSTEM LOCATION:

US Army Finance and Accounting Center, Indianapolis, IN 46249.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any Army military member with more than 2 years of active duty service who applies for an FHA loan.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's application, certificate of eligibility, record of payments, notices of termination of eligibility, and correspondence with FHA and other Government offices.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C., 3101.

PURPOSE(S):

To determine the amount of insurance payments and to control authorized payments.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See "Blanket Routine Uses" at 48 FR 25503, June 6, 1983.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

By Army member's surname.

SAFEGUARDS:

Building employs security guards. Records are maintained in areas accessible only to authorized persons having official need therefor in the performance of their duties.

RETENTION AND DISPOSAL:

Record are destroyed 10 years after final separation of the individual from the Army.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, US Army Finance and Accounting Center, Indianapolis, IN 46249.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager. Individuals should furnish their full name, SSN, current address and telephone number.

RECORD ACCESS PROCEDURES:

Individuals desiring access to information concerning themselves should write to the System Manager, providing information required under "Notification procedure".

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the applicant, his/her commanding officer, FHA, and other government records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

A0319.10DACA

SYSTEM NAME:

Conversion Files.

SYSTEM LOCATION:

US Army Finance and Accounting Center, Indianapolis, IN 46249.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active and former members of the Armed Services and civilians who file military payment certificate (MPC) claims and/or foreign currency claims.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's application for exchange of military payment certificates; letter request for exchange of MPC and foreign currency; military pay vouchers; substantiating documents such as receipts; and correspondence between the US Army Finance and Accounting Center and claimant, and other Army and Government agencies.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3012.

PURPOSE(S):

To evaluate claim and, if approved, issue Treasury check to claimant.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See "Blanket Routine Uses" at 48 FR 25503, June 6, 1983.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

By claimant's surname.

SAFEGUARDS:

Building employs security guards. Records are maintained in areas accessible only to authorized personnel having official need therefor in the performance of their duties.

RETENTION AND DISPOSAL:

Records are destroyed 10 years after final action on claim.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, US Army Finance and Accounting Center, Indianapolis, IN 46249.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager. Individuals should furnish their full name, SSN, current address and telephone number.

RECORD ACCESS PROCEDURES:

Individuals desiring access to information concerning themselves should write to the System Manager, providing information required under "Notification procedure".

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the individual; Government agencies, records and reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

AO319.11DACA

SYSTEM NAME:

Disgursing Office Establishment and Appointment Files.

SYSTEM LOCATION:

US Army Finance and Accounting Center, Indianapolis, IN 46249.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Army military members or Department of Army civilians who are appointed a deputy or bond issuing agent; individuals appointed an accountable officer or special disbursing agent.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include Department of the Army Form 1866 (Designation and Appointment of Deputy to Disbursing Officer), USAFAC Form 35–12FL (Certification as Issuing Agent of US Savings Bonds), USAFAC Form 35–13FL Issuing Agent) and letter requests for the approval and appointment of other than Finance Corps officers as accountable officers and special disbursing agents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3012.

PURPOSE(S):

To obtain data in the appointment or termination of deputies and bond issuing agents and the appointment termination of other than Finance Corps officers as accountable officers and special disbursing agents.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See "Blanket Routine Uses" at 48 FR 25503, June 6, 1983.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

By individual's surname.

SAFEGUARDS:

Building employs security guards. Records are maintained in areas accessible only to authorized personnel having official need therefor in the performance of their duties.

RETENTION AND DISPOSAL:

Records are destroyed 10 years after revocation of appointment.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, U.S. Army Finance and Accounting Center, Indianapolis, IN 46249.

NOTIFICATION PROCEDURE:

Information may be obtained by writing to the System Manager, Individual should furnish their full name, SSN, current address and telephone number.

RECORD ACCESS PROCEDURES:

Individuals desiring access to information concerning themselves should write to the System Manager, providing information required under "Notification procedure".

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

Finance and Accounting Officers.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

AO319.13DACA

SYSTEM NAME:

Bankruptcy Processing Files.

SYSTEM LOCATION:

US Army Finance and Accounting Center, Indianapolis, IN 46249.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Army military members or Department of Army civilian employees for whom bankruptcy notice has been received.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's court notices; financial statements; certificates for deductions; agreements; military pay vouchers; correspondence between the Judge Advocate General, U.S. Attorney, U.S. District Courts, and other government agencies relevant to the proceeding.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3012.

PURPOSE(S):

To obtain data for submitting claims of the Army to the Department of Justice for filing with the bankruptcy court and controlling financial transactions on pay accounts.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See "Blanket Routine Uses" at 48 FR 25503, June 6, 1983.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

By individual's surname.

SAFEGUARDS:

Building employes security guards. Records are maintained in areas accessible only to designated persons having official need therefor in the performance of their duties.

RETENTION AND DISPOSAL:

Records are destroyed 5 years after conclusion of bankruptcy proceedings.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, US Army Finance and Accounting Center, Indianapolis, IN 46249.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager, Individual must furnish full name, SSN, current address, and signature.

RECORD ACCESS PROCEDURE:

Individuals desiring access to information concerning themselves should write to the System Manager, providing information required under "Notification procedure".

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From courts, government records, and similar documents and sources relevant to the proceeding.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

A0315.14DACA

SYSTEM NAME:

Pecuniary Charge Appeal Files.

SYSTEM LOCATION:

US Army Finance and Accounting Center, Indianapolis, IN 46249.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Army military members or civilian employees held pecuniarily liable for charges for which an appeal is filed.

CATEGORIES OF RECORDS IN THE SYSTEM:

Reports of investigations, copies of vouchers, certificates, statements and correspondence between Department of the Army staff agencies and other Government agencies.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3012.

PURPOSE(S):

To obtain data for determining the propriety of the pecuniary liability ruling.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See "Blanket Routine Uses" at 48 FR 25503, June 6, 1983.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

By individual's surname.

SAFEGUARDS:

Building employs security guards. Records are maintained in areas accessible only to authorized personnel having official need therefor in the performance of their duties.

RETENTION AND DISPOSAL:

Records are destroyed 10 years after close of case.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, US Army Finance and Accounting Center, Indianapolis, IN 46249.

NOTIFICATION PROCEDURE:

Information may be obtained by writing to the System Manager. Individual must provide full name, SSN current address and telephone number.

RECORD ACCESS PROCEDURE:

Individuals desiring access to information concerning themselves should write to the System Manager, providing information required under "Notification procedure".

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From Army records and reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 84–28337 Filed 10–3–84; 8:45]

BILLING CODE 3810–01–M

DEPARTMENT OF EDUCATION

National Advisory Council on Vocational Education; Meeting Change

AGENCY: National Advisory Council on Vocational Education, Department of Education.

ACTION: Amendment of notice.

SUMMARY: This notice is intended to notify the general public of change of meeting site for the October 9 meeting of the Council published in FR Vol. 49, No. 189, September 27, 1984, page 38178. The address should read: National Alliance of Business Conference Room, 5th Floor, 1015 15th St., NW., Washington, D.C.

Signed at Washington, D.C. on October 1, 1984.

James W. Griffith,

Executive Director.

[FR Doc. 84–28386 Filed 10–3–84; 8:45 am]

BILLING CODE 4000–01–M

Assessment Policy Committee, National Assessment of Educational Progress (NAEP); Meeting

AGENCY: Department of Education.

ACTION: Notice of Meeting.

SUMMARY: The Secretary of Education announces a meeting of the Assessment Policy Committee of the National Assessment of Educational Progress (NAEP). The purpose of the meeting is to provide guidance and direction to the MAEP project which is supported by the National Institute of Education. The entire meeting will be open to the public and interested persons are invited to attend.

DATE: October 13, 1984, 8:30 a.m. to 5:00 p.m.

Location: Hyatt Regency New Orleans, Poydras at Loyola Avenue New Orleans, LA 70140.

FOR FURTHER INFORMATION CONTACT: Dr. Douglas Rhodes, Associate Director, National Assessment of Educational Progress, CN 6710, Princeton, NJ 08541–6710, (800–233–0267).

SUPPLEMENTARY INFORMATION: One of the primary purposes of NAEP is to assess the performance of children and young adults in the basic skills of reading, mathematics, and communication. The Assessment Policy Committee (APC) is established by section 405(k)(2)(A) of the General Education Provisions Act, 20 U.S.C. 1221e. The committee is responsible for the design of NAEP, including the selection of learning areas to be assessed, the development and selection of goal statements and assessment items, the assessment methodology, the form and content of the reporting, and dissemination of results, and studies to evaluate and improve the form and utilization of the National Assessment.

The Agenda for the meeting includes—

- The design for the 1986 Assessment;
- The nature of technical assistance NAEP offers to states;
- The role of the APC; and
- Proposals for new projects.

In order to assure adequate seating arrangements and to obtain an advance copy of the final agenda, persons may contact Dr. Douglas Rhodes at the address cited above.

(Catalog of Federal Domestic Assistance Number 84.117, Educational Research and Development)

Dated: October 1, 1984.

Donald J. Senese,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 84–28364 Filed 10–3–84; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Alaska Power Administration

Eklutna Project; Order Confirming, Approving, and Placing Increased Power Rates in Effect on an Interim Basis

AGENCY: Alaska Power Administration, Department of Energy.

ACTION: Notice of Rate Order, Eklutna Project, Alaska.

SUMMARY: Notice is given of a Rate Order, No. APA–6, by the Deputy Secretary of the Department of Energy, under Delegation Order No. 0204–108, placing increased power rates into effect October 1, 1984, on an interim basis for power marketed by the Alaska Power

Administration from the Eklutna Project, Alaska. The rate order involves wholesale rate schedules A–F9 for firm power and A–N10 for nonfirm power and A–W1 for wheeling. The increased rates will produce an increase of $1,038,500 which is equivalent to approximately 50 percent more than the amount produced by rates previously in effect. The rates are subject to confirmation and approval by the Federal Energy Regulatory Commission on a final basis.

FOR FURTHER INFORMATION CONTACT:

Gordon J. Hallum, Chief, Power Division, Alaska Power Administration, Department of Energy, P.O. Box 50, Juneau, Alaska 99802, (907) 586–7405

J. Emerson Harper, Acting Director, Office of Power Marketing Coodination, CE–90, Department of Energy, James Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–1040.

SUPPLEMENTARY INFORMATION: Rate Schedules A–F9 and A–N10, applicable to wholesale customers, supersede Rate Schedules A–F8 and A–N7. Rate Schedules A–F8 and A–N7 were confirmed and approved by order of the Federal Energy Regulatory Commission (FERC), Docket No. EF80–1011, issued August 3, 1981. FERC approval of Schedules A–F8 and A–N7 expires December 31, 1984.

Issued in Washington, DC, September 25, 1984.

Danny J. Boggs,

Deputy Secretary.

Order Confirming and Approving Power Rates on an Interim Basis

September 25, 1984.

Pursuant to the authority vested in the Secretary of Energy and by sections 203(a), 301(b), 302(a), 402(e), 641, 642, 643, and 644 of the Department of Energy Organization Act (Pub. L. 95–91) and by Delegation Order No. 0204–108, the Deputy Secretary of the Department of Energy has been delegated on a non-exclusive basis the authority to confirm, approve, and place in effect on an interim basis power and transmisssion rates for the Alaska, Southeastern, Southwestern, and Western Area Power Administrations for such periods as he or she may provide. The Federal Energy Regulatory Commission has been delegated the authority to confirm and approve on a final basis or to disapprove rates developed by the Administrator under the delegation. This rate order is issued pursuant to the delegation to the Deputy Secretary.

Background

The Eklutna Project was completed by the U.S. Bureau of Reclamation in 1955. The Alaska Power Administration has operated and maintained the project since 1967. The Eklutna Project is a single-purpose project comprised of a dam, reservoir, 30,000–kW hydroelectric plant, 45 miles of 115–kV transmission lines, and four substations serving the Anchorage and Palmer areas. All project costs are allocated to power. The entire output of the project is under contract with three preference customers in the Anchorage-Palmer area. Pursuant to a 1989 negotiated operating agreement with its three firm power customers, APA annually allocates 153,000,000 kWh to the three customers. Allocations are: 25,500,000 kWh to Matanuska Electric Association; 45,900,000 kWh to Chugach Electric Association; and the remaining 81,600,000 kWh to the City of Anchorage, all on a take-or-pay basis. The allocations are subject to adjustment due to extended curtailment of service from uncontrollable forces, including inadequate supply of water for power generation.

Rate Schedules A–F8 and A–N7 for the Eklutna Project were confirmed and approved by order of the Federal Energy Regulatory Commission, Docket No. EF80–1011, issued August 3, 1981. The rate schedules expire December 31, 1984. Existng rates produce approximately $2,057,100 annually.

Schedule A–F8 for wholesale firm power service, available to wholesale power customers, provided for a charge of 12.5 mills/kWh for all firm energy, with no capacity charge.

Schedule A–N7 for wholesale nonfirm power service, available to firm power customers normally maintaining their own generating facilities, provided for a charge of 6.0 mills/kWh for all nonfirm energy, with no capacity charge.

Schedule A–W1 for wheeling power is a new provision for a uniform wheeling charge for all three Eklutna Project customers.

As reqired by DOE Order No. RA 6102.2, two repayment studies, a current repayment study showing a continuation of the existing rates and a revised power repayment study, were prepared in January 1984. The studies showed that an increase in project rates to 19 mills/kWh for firm energy and 10 mills/kWh for nonfirm energy are necessary for production of revenues sufficient to amortize the project investment and pay annual expenses. Based on the repayment studies, an increase in annual revenues of $1,038,500 was proposed for a 5-year period beginning October 1, 1984. The increase is approximately 50 percent.

Public Notice and Comment

Opportunities for public review and comment on the proposed increased rates were announced by notice in the **Federal Register** on May 8, 1984, and by paid advertisement in Anchorage and Plamer, Alaska, newspapers on June 7 through June 12, 1984. The three project customers were notified by mail. Each customer also received a copy of the proposal. The proposal was discussed with each of the customers individually on May 29 and 30, and with all three together on June 12, 1984. On the evening of June 12, 1984, a public information/comment forum was held, but there were no attendees from the public. Opportunity for oral presentation of views was afforded at the forums. Written comments were invited for a period of 30 days after the date of the public comment forum.

Environmental Impact

Alaska has reviewed the possible environmental impact of the rate adjustment under consideration and has concluded that, because the increased rates would not significantly affect the quality of the human environment within the meaning of the Environmental Policy Act of 1969, the proposed action is not a major Federal action for which preparation of an Environmental Impact Statement is required.

Availability of Information

Information regarding this rate adjustment, including studies, comments, transcripts, and other supporting material, is available for public review in the offices of the Alaska Power Administration, Room 825, Federal Building, 709 West Ninth Street, Juneau, Alaska 99802, and in the Office of the Director of Power Marketing Coordination, James Forrestal Building, Room 6B–104, 1000 Independence Avenue, SW., Washington, DC. 20585.

Submission to the Federal Energy Regulatory Commission (FERC)

The rates herein confirmed, approved, and placed in effect on an interim basis, together with supporting documents, will be submitted promptly to the Federal Energy Regulatory Commission for confirmation and approval on a final basis.

Order

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby confirm

and approve on an interim basis, effective October 1, 1984, Rate Schedules A–F9, A–N10, and A–W1. These rates shall remain in effect on an interim basis for a period of 12 months unless such period is extended or until the FERC confirms and approves the rates on a final basis.

Issued at Washington, DC this 25th day of September, 1984.

Danny J. Boggs,

Deputy Secretary.

[FR Doc. 84-26300 Filed 10-3-84; 8:45 am]
BILLING CODE 6450-01-M

Office of Conservation and Renewable Energy

[Case No. DW-003]

Energy Conservation Program for Consumer Products; Petition for Waiver of Dishwasher Test Procedure From ANDI–CO Appliances, Inc.

AGENCY: Conservation and Renewable Energy Office, DOE.

SUMMARY: Today's notice publishes a "Petition for Waiver" from ANDI–CO Appliances, Incorporated (ANDI–CO) of Fort Lee, New Jersey, requesting a waiver from the existing Department of Energy (DOE) test procedure for dishwashers. ANDI–CO is petitioning as the agent for AEG Household Appliances, a foreign manufacturer of dishwashers. ANDI–CO plans to import certain models of dishwashers manufactured by AEG Household Appliances to the United States. These dishwashers utilize an electrical supply voltage of 240 volts and, in their normal mode, use cold water input only and heat it to a designated program-selected temperature. The petition requests DOE to grant relief from the test procedure requirement relating to the electrical supply voltage specified for testing, the inlet water temperature specified for testing, and the procedure for calculating per-cycle energy consumption. DOE is soliciting comments, data, and information respecting the petition.

DATE: DOE will accept comments, data and information not later than November 5, 1984.

ADDRESS: Written comments and statements shall be sent to: Department of Energy, Office of Conservation and Renewable Energy, Case No. DW–003, Mail Stop CE–113, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT:

Michael J. McCabe, U.S. Department of Energy, Office of Conservation and Renewable Energy, Mail Station CE–113, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–9127.

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station CE–12, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–9513.

Background

The Energy Conservation Program for Consumer Products (other than automobiles) was established pursuant to the Energy Policy and Conservation Act (EPCA), Pub. L. 94–163, 89 Stat. 917, as amended by the National Energy Conservation Policy Act (NECPA), Pub. L. 95–619, 92 Stat. 3266, which requires DOE to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including dishwashers. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchasing decisions. These test procedures appear at 10 CFR Part 430, Subpart B.

DOE has also prescribed procedures by which manufacturers may petition for waiver of test procedure requirements for a particular basic model of a product covered by a test procedure and the Assistant Secretary for Conservation and Renewable Energy may temporarily waive such test procedure requirements for such basic model. Waivers may be granted when one or more design characteristics of a basic model either prevent testing of the basic model according to the prescribed test procedure or lead to results so unrepresentative of the model's true energy consumption as to provide materially inaccurate comparative data. These waiver procedures appear at 10 CFR 430.27. Waivers generally remain in effect until final test procedure amendments become effective, resolving the problem that is the subject of the waiver.

Dishwashers are one of the products covered by the Federal Trade Commission's (FTC) Appliance Labeling Program. The energy consumption of dishwashers, as determined using DOE's test procedure, forms the basis of the estimated annual operating cost figures which FTC requires manufacturers of dishwashers to disclose on an Energy Guide label on each unit to assist consumers in making a dishwasher purchasing decision.

ANDI–CO filed a Petition for Waiver from the DOE test procedure for dishwashers on the grounds that the procedure gives materially inaccurate estimates of the energy consumed by its Favorit Model 263 and 265 dishwashers, which are designed to operate with an electrical supply voltage of 240 volts and with cold inlet water. ANDI–CO states that its present plans call for the importation of 100 of these dishwasher models for test marketing purposes. The petition points out that the DOE test procedure for dishwashers does not provide for testing units designed to operate with an electrical supply voltage of 240 volts. The test procedure only provides for testing dishwashers designed to operate with an electrical supply voltage of 115 volts. Further, the petition alleges that the test procedure requirement that measurement of energy consumption be based on an inlet water temperature of either 140 °F or 120 °F and a nominal water heater temperature rise of 90 °F or 70 °F, respectively, yields an inaccurate estimate of the annual operating cost of dishwashers designed to operate with cold inlet water.

Pursuant to paragraph (b) of 10 CFR 430.27, DOE is hereby publishing the "Petition for Waiver" in its entirety. The petition contains no confidential information. DOE solicits comments, data, and information respecting the petition.

Issued in Washington, D.C., September 20, 1984.

Pat Collins,

Acting Assistant Secretary, Conservation and Renewable Energy.

August 12, 1984.

ANDI–CO Appliances Inc.

Assistant Secretary for Conservation and Renewable Energy,
United States Department of Energy, 1000 Independence Ave. SW., Washington, D.C.

Dear Sir: Pursuant to 430.27 of Chapter 10 of the Code of Federal Regulations: we hereby request a waiver from testing and labeling of our *Favorit Model 263 & 265* dishwashers. For purposes of this application ANDI–CO is acting as "the agent" for AEG Household Appliances: "the manufacturer".

The Model 263 and the Model 265 are in fact the same design from both a mechanical and electrical viewpoint. The number variation designates a color difference. Although this appliance falls within the definition of a "dishwasher" it has certain unique design features not commonly found in appliances of American manufacture. This German dishwasher has:

(1) An electrical supply of 240 volts. Appendix C to Subpart B of Part 430 specifies a test condition of 115 volts.

(2) These units can be classified as water heating dishwashers. It commonly heats its own water and is not dependent upon domestic demand hot water supply. In its normal mode it uses cold water input only and heats it to the designated program

selected temperature. It can however use hot water input if there is a demand hot water system available with idle capacity.

(3) In principal this unit was designed to be independent of hot water systems. As you are aware there exist certain "off peak" demand hot water systems so consequently this unit was designed to take advantage of this concept and system if it was available. However, the key point is that the provisions of paragraph 23 of the testing conditions does not represent the normal conditions of operation.

(4) The calculation of per/cycle water energy consumption using electrically heated water is of course possible. However, the format of calculation as specified in paragraph 4.1 would need to be modified to correctly reflect the actual operation of this dishwasher.

(5) The design purpose of a water heating dishwasher has as its engineering basis the reduction of the capacity requirements of domestic hot water heaters. The obvious advantages of not using demand hot water combined with the additional advantage of using "off peak" hot water (should it be economically available) makes energy usage comparisons based on the present regulations for standard dishwashers-inequitable.

Accordingly, for the above reasons we hereby request a waiver from the testing and labeling requirements for these units. A preliminary brochure is enclosed. Our present plans are for the importation of 100 of these units for test marketing purposes.

Sincerely,

George W. Ullrich, P.E.,

Executive Vice President.

cc: Michael J. McCabe.

[FR Doc. 84-26386 Filed 10-3-84; 8:45 am]

BILLING CODE 6450-01-M

[F-013]

Energy Conservation Program for Consumer Products; Petition for Waiver of Furnace Test Procedures From the Coleman Co., Inc.

AGENCY: Conservation and Renewable Energy Office DOE.

SUMMARY: Today's notice publishes a "Petition for Waiver" from The Coleman Company, Inc. (Coleman) of Wichita, Kansas, requesting a waiver from the existing Department of Energy (DOE) test procedures for furnaces. Coleman manufactures residential and commercial heating appliances. The petition requests DOE to grant relief from the test procedure relating to the blower time delay specification for Coleman's 2900 model series gas furnaces. Coleman seeks to test using a blower delay time of 20 seconds instead of the specified 1.5 minutes. DOE is soliciting comments, data, and information respecting the petition.

DATE: DOE will accept comments, data and information not later than November 5, 1984.

ADDRESSES: Written comments and statements shall be sent to: Department of Energy, Office of Conservation and Renewable Energy, Case No. F-013, Mail Stop CE-112, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT:

Michael J. McCabe, U.S. Department of Energy Office of Conservation and Renewable Energy, Mail Station, CE-112, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 252-9127

Eugene Margolis, Esq., U.S. Department of Energy Office of General Counsel, Mail Station GC-12, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-9513.

Background

The Energy Conservation Program for Consumer Products (other than automobiles) was established pursuant to the Energy Policy and Conservation Act (EPCA), Pub. L. 94-163, 89 Stat. 917, as amended by the National Energy Conservation Policy Act (NECPA), Pub. L. 95-619, 92 Stat. 3266, which requires DOE to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including furnaces. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchasing decisions. These test procedures appear at 10 CFR Part 430, Subpart B.

DOE has amended the prescribed test procedures by adding to CFR 430.27, Petitions for Waiver, to allow the Assistant Secretary for Conservation and Renewable Energy temporarily to waive test procedures for a particular basic model. 45 FR 64108 (September 26, 1980). Waivers may be granted when one or more design characteristics of a basic model either prevent testing of the basic model according to the prescribed test procedures or lead to results so unrepresentative of the model's true energy consumption as to provide materially inaccurate comparative data. Waivers generally remain in effect until final test procedure amendments become effective, resolving the problem that is the subject of the waiver.

Coleman's petition seeks a waiver from the DOE test provisions that require a 1.5 minute time delay between the ignition of the burner and the starting of the circulating air blower. Instead, Coleman requests the allowance to test using a 20 second blower time delay when testing its 2900 model series gas furnaces. Coleman states that since the 20 second delay is indicative of how the 2900 models actually operate and since such a delay results in an improvement in efficiency of approximately 0.5%, the waiver should be granted.

Under specific circumstances, the DOE test procedures contain exceptions which allow testing with blower delay times of less than the prescribed 1.5 minute delay. Coleman indicates that it is unable to take advantage of any of these exceptions for the 2900 model series.

Pursuant to paragraph (b) of 10 CFR 430.27, DOE is hereby publishing the "Petition for Waiver" in its entirety. The petition contains no confidential information. DOE solicits comments, data, and information respecting the petition.

Issued in Washington, D.C., September 27, 1984.

Pat Collins,

Acting Assistant Secretary, Conservation and Renewable Energy.

July 31, 1984.

Coleman Company, Inc.

Assistant Secretary for Conservation and Solar Energy,
United States Department of Energy, Washington, D.C.

Re: Petition for Waiver

Gentlemen: This is a petition for waiver which is being submitted pursuant to Title 10 CFR 430.27. Waiver is requested from the condensing furnace test procedure found at Appendix N to Subpart B of Part 430 which requires a 1.5 minute time delay between burner on and circulating air blower on. This is a request for authorization to use a delay of 20 seconds instead of 1.5 minutes.

The Coleman Company, Inc. manufactures a line of condensing furnaces comprising the 2900 model series. In order to achieve maximum energy efficiency from these units, the circulating air blower is activated 20 seconds after burner on. This change of state occurs approximately when the stack temperature reaches thermal equilibrium and saves a substantial amount of heat energy. Under the appendix N procedures, stack temperature in the 2900 series models is allowed to overshoot thermal equilibrium and a substantial amount of heat energy escapes out the vent. This energy waste would never occur in an actual installation. If this petition is granted, the true blower on delay time (t-) would be used in the calculations.

The standard test procedures do not give Coleman credit for this energy savings which averages approximately 0.5%. A 0.5% improvement is a reduction of 5% of the energy loss and we are of the opinion that this 5% savings is significant and that the prescribed test procedures, by prohibiting The Coleman Company from taking credit for the saved energy, distort the facts so as to provide materially inaccurate comparative data.

Confidential test data is available which confirms the 5% waste energy savings

claimed above. That data can be made available to you so long as it is protected by the Department of Energy from disclosure to others.

We are presently unaware of any other manufacturers who offer furnaces which include the timed on blower feature described and who are unable to take advantage of the exceptions presently recited in Appendix N to the regulations.

Please contact me for additional information.

Very truly yours,

Harold J. Pfountz,

Corporate Attorney.

cc: Bill Harrigill.

[FR Doc. 84-26387 Filed 10-3-84; 8:45 am]

BILLING CODE 6450-01-M

Automotive Propulsion Research and Development; Automotive Technology Development Contractors' Coordination Meeting

AGENCY: Department of Energy.

ACTION: Notice of meeting.

SUMMARY: The Department of Energy will hold the Automotive Technology Development Contractors' Coordination Meeting on automotive propulsion systems, and members of the public are hereby invited to attend as observers. Papers will be presented on the current state of research and development on automotive propulsion systems and on alternative fuels.

DATES: October 29–November 2, 1984.

ADDRESS: Hyatt Regency Dearborn Hotel, Dearborn, Michigan.

FOR FURTHER INFORMATION CONTACT: Ms. Anne Marie Zerega, U.S. Department of Energy, Mail Station CE–131, 1000 Independence Avenue, SW., Washington, D.C. 20585, Telephone: (202) 252–8053.

SUPPLEMENTARY INFORMATION: Today's notice follows through on a statement in the notice of proposed regulations (43 FR 31929, 21932 (July 24, 1978)) under section 304(f) of the Department of Energy Act of 1978—Civilian Applications (Act), 15 U.S.C. 2703(f) (1970), in which the Department of Energy (DOE) announced its intention to open meetings to public attendance. Section 304(f) requires the DOE to issue administrative regulations prescribing procedures, standards, and criteria for review and certification of automotive propulsion research and development to be funded by new grants, cooperative agreements, or contracts, or as new DOE or agency projects under the Act. The purpose of the review and certification process is to insure that research and development newly funded under the Act will supplement rather than supplant, duplicate, displace, or lessen the same activities in the private sector.

The final regulations (43 FR 55228, November 24, 1978) provide for notice to the public of proposed research and development and an opportunity to file written objections. To enable the public to avail itself of the opportunity to participate in the review and certification process, the DOE stated in the notice of the proposed regulations that it would give notice of meetings, such as the one announced today, since relevant information is to be presented.

Below is a preliminary agenda:

Date	Topic	Session
Oct. 29	United States/Canadian Joint Session on Alternative Fuels.	Morning.
	Alcohol Fuels	
	Alcohol, Liquid Hydrocarbon and Gaseous Fuels.	Afternoon.
Oct. 30	Stirling Technology Session No. 1	Morning.
	Stirling Technology Session No. 2	Afternoon.
Oct. 31	Program Overview and Industry Prespective Update.	Morning.
	Heavy Duty Transport Technology No. 1	
	Heavy Duty Transport Technology No. 2	Afternoon.
Nov. 1	Gas Turbine Technology Session.	Morning.
	Ceramic Technology Session No. 1	Afternoon.
Nov. 2	Ceramic Technology Session No. 2.	Morning.

Meeting registration is scheduled to be held from:

8:00 a.m.–3:00 p.m. (Monday, October 29 through Thursday, November 1).

8:00 a.m.–9:00 a.m. (Friday, November 2).

Registrants at the meeting pay an $85.00 registration fee which includes admission to all technical sessions, refreshments, and subsequently a copy of the report of the proceedings. Members of the public may register and pay the fee if they wish to avail themselves of these services and materials. However, if they do not, they are free simply to attend meeting sessions and listen to the proceedings. Members of the public intending to respond to this notice are requested to so advise the information contact named above in advance so that appropriate seating arrangements can be made.

Issued in Washington, D.C., September 20, 1984.

Pat Collins,

Acting Assistant Secretary, Conservation and Renewable Energy.

[FR Doc. 84-26388 Filed 10-3-84; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Case Nos. 50154-6010-01-82, 50154-6010-02-82]

Availability of Tentative Staff Analysis; Powerplant and Industrial Fuel Use Act of 1978

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of Availability of Tentative Staff Analysis.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of the availability of the Tentative Staff Analysis on the pending prohibition order proceeding relating to the Baltimore Gas and Electric Company's (BG&E) Brandon Shores Generating Units 1 and 2 (hereafter referred to as Brandon Shores 1 and 2) located in Anne Arundel County, Maryland.

The proposed prohibition order for Brandon Shores 1 and 2, issued on October 9, 1979 (44 FR 59264, October 15, 1979), will, if finalized, prohibit the units from burning petroleum or natural gas as a primary energy source. ERA's Tentative Staff Analysis concludes that the findings of technical capability and financial feasibility required by former section 301(b) of FUA can be made, and accordingly, recommends that a final prohibition order be issued to Brandon Shores 1 and 2. The Tentative Staff Analysis does not represent ERA's decision to issue a final prohibition order, however. That decision will be made following the expiration of the comment period established below, and will be based upon the evidence contained in the entire record of the proceeding, including any comments received in response to this notice. The prohibition order procedures for facilities electing continued coverage under former section 301 of FUA[1] are

[1] The Omnibus Budget Reconciliation Act of 1981, Pub. L. 97–35 (OBRA), which became law on August 13, 1981, amended Title III of FUA in several important respects, including the limitation of DOE's unilateral authority to issue orders prohibiting the use of petroleum and natural gas or certain mixtures including these fuels as a primary energy source in an existing electric powerplant. Under former section 301, DOE could order the involuntary conversion of such powerplants. On October 1, 1981, ERA issued final rules pursuant to OBRA (46 FR 48118), providing procedures whereby an existing powerplant issued a proposed prohibition order under former section 301(b) of (c) of FUA as of August 13, 1981, the date of enactment of OBRA, could elect to continue the current prohibition order proceeding under the provisions of the former section 301. In accordance with the procedures provided, BG&E on November 9, 1981, notified ERA of its election to have Brandon Shore 1 and 2 remain subject to former section 301(b) of FUA and thus to become an electing powerplant as defined in 10 CFR 500.2.

found at 10 CFR 501.51, and 504.6. Additional information on the proceeding and a discussion of the Tentative Staff Analysis appear in the **SUPPLEMENTARY INFORMATION** section, below.

DATES: Written comments on the proposed prohibition order and the Tentative Staff Analysis are due on or before October 18, 1984. A request for a public hearing must be made within the same 14 day period. (See explanation of comment period in the **SUPPLEMENTARY INFORMATION** section below.)

ADDRESSES: Fifteen copies of written comments or any requests for a public hearing should be submitted to: Economic Regulatory Administration, Case Control Unit (Fuel Use Act), Room GA–033, 1000 Independence Avenue, SW., Washington, D.C. 20585.

ERA Case Nos. 50154–6010–01–82 and 50154–6010–02–82 should be printed clearly on the outside of the envelope and on the document contained therein.

FOR FURTHER INFORMATION CONTACT:

Robert L. Davies, Department of Energy, Economic Regulatory Administration, Office of Fuels Programs, Coal and Electricity Division, Forrestal Building, Room GA–045, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–1316.

Steven E. Ferguson, Department of Energy, Office of General Counsel, Forrestal Building, Room 6D–033, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–6947.

The public file containing a copy of the Tentative Staff Analysis and all other documents and supporting materials related to the proceeding is available for inspection upon request Monday through Friday from, 8:00 a.m. to 4:00 p.m., at the Department of Energy, Freedom of Information Reading Room, Forrestal Building, Room 1E–190, 1000 Independence Avenue, SW., Washington D.C. 20585, Phone (202) 252–6020.

SUPPLEMENTARY INFORMATION: The issuance of the proposed prohibition order to Brandon Shores 1 and 2 commenced a proceeding designed to prohibit the use of petroleum or natural gas as the primary energy source in these units if the required findings of section 301(b) of FUA (as then effective), discussed below, could be made. In accordance with 10 CFR 501.51(b), the publication of the proposed prohibition order would have commenced an initial three month public comment period, during which interested parties, including BG&E, could challenge ERA's initial finding that Brandon Shores 1 and 2 have or previously had the technical capability to use coal as their primary energy source. As noted in the section entitled Comments and Public Hearing Procedures of the proposed prohitition order, pursuant to section 501.51(b)(6), subsequent to the date of this order, ERA received a request from BG&E to reduce the initial comment period from three months to a period of 45 days. ERA granted this request. Separate notice of this decision was published on the same day as the proposed prohibition order (44 FR 59264, October 15, 1979). Additionally, the interested parties were required to furnish ERA with any evidence bearing upon the other statutory findings which former section 301(b) of FUA requires ERA to make prior to the issuance of a final prohibition order to Brandon Shores 1 and 2. BG&E was required by the then-effective 10 CFR 501.51(b)(3), during this period, to identify any exemptions for which it believed Brandon Shores 1 and 2 might qualify, but was not required to submit evidence supporting the claim of entitlement to any exemption at that time. The initial public comment period on the Brandon Shores 1 and 2 proposed prohibition order expired on November 29, 1979. No comments contrary to ERA's initial finding were received. However, BG&E did submit evidence relating to other statutory findings that ERA has to make under former section 301(b) and identified a potential exemption qualification that might be asserted against the application of the final prohibition order to Brandon Shores 1 and 2. The potential exemption qualification was noted and identified in the Notice of Intention to Proceed cited below.

On the basis of the evidence available to it following the expiration of the initial comment period, ERA determined to continue with the order proceeding concerning Brandon Shores 1 and 2, and accordingly, issued its Notice of Intention to Proceed with the proceeding on September 5, 1980 (45 FR 59941, September 11, 1980). This action commenced a three-month public comment period, which expired on December 12, 1980.

Tentative Staff Analysis: Summary

Since the expiration of the second comment period, the ERA staff has prepared a Tentative Staff Analysis in which it concludes that the findings required by former section 301(b) of FUA can be made and supported on the basis of reliable, probative and substantial evidence in the complete administrative record. The required findings include the initial finding that, under former section 301(b)(1), the powerplant has or previously had the technical capability to use coal as a primary energy source; the finding under former section 301(b)(2) that the powerplant could have the technical capability to use coal (if it does not currently have such capability) without substantial physical modification of the unit or substantial reduction in its rated capacity; and the finding under former section 301(b)(3) that it is financially feasible to use coal as the primary eneregy source in the powerplant.

Finding of Technical Capability

The finding of technical capability for Brandon Shores 1 and 2 is based upon design specifications which indicate that the units were designed and constructed to burn either oil or coal as their primary energy source.

They are identical 628 megawatt (MW) generating facilities whose main boilers are Carolina RBE–64 type single arrangement, dry bottom models manufactured by Babcock and Wilcox. Both units were to have been oil fired, but provisions were made in the original design for them to be converted to coal, although no coal firing equipment was initially installed.

The net rated output of each unit will probably be 620 MW when burning compliance coal, 8 MW being allotted to auxiliary power for the operation of coal pulverizers and additional fans. Neither the additional equipment nor the potential anticipated derating is "substantial" within the meaning of 10 CFR 504.6(c)–(e), in absence of evidence to the contrary.

Accordingly, the evidence of record cited above supports ERA's initial finding under former section 301(b)(1) of FUA that Brandon Shores 1 and 2 have or previously had the technical capability to use coal as a primary energy source. The evidence will also support an ERA finding under former section 301(b)(2) of FUA that each unit has the technical capability to use coal as its primary energy source without (a) substantial physical modifications of the powerplant, or (b) substantial reductions in the unit's rated capacity.

Finding of Financial Feasibility

The finding of financial feasibility is based upon calculations prepared by the Analysis Branch of the Office of Fuels Conversion using the general cost calculation formula prescribed by 10 CFR 504.12, which indicated that the use of coal as the primary energy source for Brandon Shores 1 and 2 will not substantially exceed the cost of using imported petroleum. In accordance with

former 10 CFR 504.6(f)(1),[1] the ERA staff, therefore presumed that the use of coal as the primary energy source for the unit is financially feasible. Furthermore, the staff review of the entire record did not reveal any potential inability on the part of BG&E to raise the necessary capital to finance these units.

Procedures

The publication of this Notice of Availability would normally commence a 45-day written comment period on the Tentative Staff Analysis. BG&E has, however, by letter dated August 24, 1984 requested that the public comment periods be reduced to the minimum period permitted under ERA regulations which is 45 days from the time of publication of the proposed orders (10 CFR 501.01(b)(8)). This minimum had, at the time of BG&E's request, been exceeded. Accordingly, ERA, in granting BG&E's request, is hereby giving notice of a reduced comment period of 14 days provided for the purpose of receiving comments on the proposed prohibition orders and the Tentative Staff Analysis. The comment period shall commence with the publication of this Notice. Any requests for a public hearing must also be made during this 14-day period. If a hearing is requested, it will be held in accordance with Subpart C of 10 CFR Part 501.

The Tentative Staff Analysis does not constitute a decision by ERA to issue a final prohibition order to Brandon Shores 1 and 2.

At the close of the comment period established by this notice, ERA shall determine whether the final prohibition order will be issued, based upon its review of the entire administrative record of the proceedings, as required by 10 CFR 501.51(c). Any final prohibition order issued, together with a summary of the basis therefor, will be published in the **Federal Register**. The final order shall take effect no earlier than sixty days after such publication.

Issued in Washington, D.C., on September 27, 1984.

Robert L. Davies,

Director, Coal and Electricity Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 84-26085 Filed 10-3-84; 8:45 am]

BILLING CODE 6450-01-M

[1] Former 10 CFR 504.6(f)(1), which continues to be applicable to electing powerplants (SEE: 47 FR 22385, May 24, 1982), is found at 46 FR 253662, 53668.

[ERA Docket No. 84-10-NG]

Natural Gas Imports, the Washington Water Power Co.; Application to Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of Application for Authorization to Import Natural Gas from Canada.

SUMMARY: Economic Regulatory Administration (ERA) gives notice of receipt on September 14, 1984, of the application of the Washington Water Power Company to import, at a proposed rate of U.S. $2.70 per MMBtu, up to 15,000 Mcf per day (approximately 2.6 Bcf per year) of Canadian natural gas for a term of two years from November 1, 1984, through October 31, 1986. The imported volumes are to be purchased from Amoco Canada Petroleum Company Ltd. (Amoco Canada) and transported by Westcoast Transmission Co., Ltd. (Westcoast) to the international boundary near Sumas, Washington. Washington Water Power requests that authorization be granted by October 31, 1984.

The application is filed with ERA pursuant to Section 3 of the Natural Gas Act and DOE Delegation Order No. 0204-111. Protests, motions to intervene, notices of interventions, and written comments are invited.

DATE: Protests, motions to intervene or notices of intervention, as applicable, and written comments are to be filed no later than 4:30 p.m., on October 24, 1984.

FOR FURTHER INFORMATION CONTACT:

Tom Dukes, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA-007, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-9590

Diane Stubbs, Office of General Counsel, Natural Gas and Mineral Leasing, U.S. Department of Energy, Forrestal Building, Room 6E-042, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-6667

SUPPLEMENTARY INFORMATION:

Washington Water Power Company (Washington Water Power) is a combination electric and gas utility that provides gas at retail to residential, commercial, and industrial customers in eastern Washington and northern Idaho. It currently purchases substantially all of its natural gas from Northwest Pipeline Corporation (Northwest) whose system covers much of the applicant's service area.

The applicant seeks authorization to import up to 15,000 Mcf per day of Canadian gas for a term of two years for one industrial and two institutional customers. An agreement entered into September 11, 1984, by Washington Water Power and Amoco Canada provides for the purchase of 10,100 Mcf of natural gas per day on a best-efforts, interruptible basis at a cost of $2.70 per MMBtu (U.S.) for a one-year term commencing November 1, 1984, and terminating October 31, 1985. However, the contract would allow the applicant to purchase up to 15,000 Mcf gas per day if agreed to by Amoco Canada. The parties may extend the term of the contract for additional one-year periods and, if they do, the contract requires them to redetermine the contract price 60 days prior to the beginning of any additional period. Under the agreement, Amoco Canada will pay Westcoast for the cost of transporting the gas from the Pointed Mountain Field (British Columbia) to the U.S./Canadian border.

According to the application, no new facilities will be required to implement the proposed import. Northwest Pipeline Corporation (Northwest) will transport the gas from the point at which its existing transmission system interconnects with that of Westcoast near Sumas, Washington, to the Vancouver, Washington, area and then to the applicant's service area in northeast Washington. Nortwest holds a blanket certificate from the Federal Energy Regulatory Commission issued under Docket No. CP82-433-000 to transport natural gas. Washington Water Power's existing distribution system will be used to complete the ultimate delivery of the gas. No final agreement had been reached between Amoco Canada and Westcoast and between Northwest and the applicant on transportation charges and services at the date of the applicant's filing.

Washington Water Power proposes to sell the imported gas to one industrial and two institutional customers. The chart below, a variation of the chart contained in Exhibit A to the gas purchase agreement, identifies the three customers, maximum daily and anticipated annual contract quantities, and the applicant's take-and-pay obligations with respect to both daily and annual quantities.

	Maximum daily rate (Mcf)	Take and pay factor (Mcf)	Annual contract quantities (Mcf)	Contractual take and pay quantities (Mcf)
Washington State University	2,500	0	900,000	0
Fairchild Air Force Base	2,500	1,100	400,000	400,000

	Maximum daily rate (Mcf)	Take and pay factor (Mcf)	Annual contract quantities (Mcf)	Contract take and pay quantities (Mcf)
Northwest Alloys, Inc	4,100	2,740	1,200,000	1,000,000
Total	10,100	3,840	2,580,000	1,400,000

In its application, Washington Water Power asserts that without the contribution of gas sales from the three prospective customers, gas costs to all of its gas customers will increase approximately 1.3 percent. It also asserts that prices to existing customers will have to be raised for any subsequent increase in the applicant's fixed costs unless new customers can be added and fixed costs spread more widely. Thus, the applicant concludes that its proposed importation is of direct economic benefit not only to the three specific customers, but to the remaining 75,000 customers on its system as well.

Washington Water Power maintanis that the volumes it plans to import will be competitive and not inconsistent with the public interest. The applicant cites that its existing gas cost from Northwest of $3.81 per MMBtu is $1.11 higher than the proposed rate of $2.70 per MMBtu offered by Amoco Canada. The applicant also notes that not only is the imported gas well below the current Canadian border price of $4.40, but significantly lower than the $3.25 per MMBtu composite cost of the fuels (coal and gas) now being used by the three proposed customers. Therefore, Washington Water Power consideres itself to be in full conformance with the February 1984 policy guidelines and delegation orders issued by the Secretary of Energy.

The decision of the application will be made consistent with the Secretary of Energy's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served in the primary consideration in determining whether it is in the public interest. Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant has asserted that this import arrangement is competitive. Parties opposing the arrangement bear the burden of overcoming this asserting.

Other Information

In respnse to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any peson wishing to become a party to the proceeding and to have the written comments considered as the basic for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received by persons who are not parties will be considered in determining the approapriate procedural action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. They should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA-033-B, RG-43, Forrestal Building 1000 Independence Avenue, SW., Washington, D.C. 20585. They must be filed no later than 4:30 p.m., October 24, 1984. A 20-day comment period has been provided in order to allow sufficient time to evaluate the application and any responses to this notice before the proposed November 1, 1984, effective date of applicant's contract with Amoco Canada.

The Administrator intends to develop a decisional record on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or a trail-type hearing. Any request to file additional written comments shoud explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevent to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trail-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all praties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR Part 590.316.

A copy of Washington Water Power Company's application is available for inspection and copying in the Natural Gas Division Docket Room, GA-033-B, at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, exept Federal holidays

Issued in Washington, D.C., On September 28, 1984.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 84-26306 Filed 10-3-84; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. RP84-132-000]

Algonquin Gas Transmission Co.; Filing To Comply With the Requirements of Commission Order No. 380

September 28, 1984.

Take notice that Algonquin Gas Transmission Company ("Algonquin Gas") on September 14, 1984, tendered for filing the following tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1:

Original Sheet No. 241
Third Revised Sheet No. 200
Original Sheets No. 232-240
Original Sheets No. 242-299

Algonquin Gas states that such tariff sheets are being filed to comply with Commission Order No. 380 which requires pipeline company tariffs be restated to show purchased gas cost separately from other charges. Sheet No. 241 contains the identification of the gas cost; Sheet No. 200 contains a revised Index to the Rate Sheets to identify Sheet No. 241. Original Sheets No. 232-240 and Original Sheets No. 242-299 are reserved for future use. The proposed effective date of such tariff sheets is September 14, 1984 which is the same that Order No. 380 requires a filing of restatement with the Commission.

Algonquin Gas further states that its Rate Schedule WS-1 contains a minimum commodity charge. The impact of Order No. 380 requires two adjustments to that rate schedule: (i) The removal of variable gas purchased costs from the minimum commodity charge; and (ii) the expansion of the purchased gas cost adjustment provision to recover a cost of gas purchased component from Texas Eastern

Transmission Corporation. To effectuate these required changes, Algonquin Gas, in addition, rendered for filing the following two tariff sheets:

First Revised Sheet No. 311
First Revised Sheet No. 631

Algonquin Gas also filed as an alternative to First Revised Sheet No. 631, First Revised Sheet No. 313 which places the purchased gas cost adjustment provision directly in Rate Schedule WS–1.

Algonquin Gas proposes the revised WS–1 tariff sheets to be effective November 16, 1984, which is the commencement of the next winter delivery season under Rate Schedule WS–1.

In the event Order No. 380 is declared illegal Algonquin Gas reserves the right to revert back to the tariff provisions which have been effective since service commencement, but which are being modified by Order No. 380.

Algonquin Gas notes that a copy of this filing is being served upon each affected party and interested state commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protest should be filed on or before October 9, 1984. Protest will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–26280 Filed 10–3–84; 8:45 am]
BILLING CODE 6717–01–M

[Docket No. CP84–703–001]

Carnegie Natural Gas Co.; Application

September 27, 1984.

Take notice that on September 14, 1984, Carnegie Natural Gas Company (Carnegie), 800 Regis Avenue, Pittsburgh, Pennsylvania 15236, filed in Docket No. CP84–703–001 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Carnegie to add and delete delivery points to an existing customer, United States Steel Corporation (U.S. Steel), all as set forth more fully in the application on file with the Commission and open to public inspection.

Carnegie requests that the subject application be considered as a companion application to Texas Eastern Transmission Company's (TETCO) pending aplication filed in Docket No. CP84–703–000. Carnegie states that its primary customer, U.S. Steel, has entered into certain agreements with TETCO for the transportation of contractually committed gas from Carnegie in Greene County, Pennsylvania, to its Fairless Plant in eastern Pennsylvania. TETCO has requested authority to provide this service by displacement in Docket No. CP84–703–000.

Carnegie further states that its existing certificate authority does not specifically authorize it to change delivery points or points of receipt of natural gas within Green County, Pennsylvania. Carnegie therefore requests authority to add and delete points of receipt and points of delivery to U.S. Steel in Greene County, Pennsylvania, from time to time without need to seek further Commission authorization, provided that such changes would not cause Carnegie to exceed its present total contractual sales volume to U.S. Steel.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 17, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 of 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission of its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Carnegie to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–26280 Filed 10–3–84; 8:45 am]
BILLING CODE 6717–01–M

[Project No. 6680–001]

City of Sebastopol; Surrender of Preliminary Permit

September 28, 1984.

Take notice that the City of Sebastopol, Permittee for the Bean Creek Power Project, FERC No. 6680, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 6680 was issued on May 11, 1983, and would have expired on October 31, 1984. The project would have been located on Bean Creek, in Butte County, California.

The City of Sebastopol filed the request on September 17, 1984, and the surrender of the preliminary permit for Project No. 6680 is deemed accepted as of September 17, 1984, and effective as of 30 days after the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–26291 Filed 10–3–84; 8:45 am]
BILLING CODE 6717–01–M

[Project No. 7369–001]

Coggin Municipal Light Plant; Surrender of Preliminary Permit

September 27, 1984.

Take notice that Coggin Municipal Light Plant, Permittee for the proposed Coralville Mill Dam Hydro Project No. 7369, has requested that its preliminary permit be terminated. The permit was issued on October 27, 1983, and would have expired March 31, 1985. The project would have been located on the Iowa River in Johnson County, Iowa. The Permittee cites that the proposed project is not economically feasible as the reason for the surrender request.

The Permittee filed its request on September 17, 1984, and the surrender of the preliminary permit for Project No.

7369 is deemed accepted 30 days from the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-28281 Filed 10-3-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-2-21-002]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

September 26, 1984.

Take notice that Columbia Gas Transmission Corporation (Columbia) on September 18, 1984 tendered for filing the following proposed changes to its FERC Gas Tariff, Original Volume No. 1, to be effective on September 1, 1984:

Substitute Ninety-fifth Revised Sheet No. 16
Substitute Fourth Revised Sheet No. 16B
Substitute Fourth Revised Sheet No. 16C
Substitute Thirty-third Revised Sheet No. 64

Columbia states that the foregoing tariff sheets are being filed in compliance with Ordering Paragraph (B) of the Commission's Order issued August 31, 1984, which directs Columbia to file revised tariff sheets to reflect the downward modification to the rates of its pipeline suppliers contained in its original filing of July 31, 1984.

The instant filing reflecting this revision provides for (1) a revised increase in current Purchase Gas Cost Applicable to Sales Rate Schedules in the amount of $148,812,450, which is $6,198,428 less than that filed on July 31, 1984, and (2) a revised Purchased Gas Surcharge Applicable to Rate Schedule SGES in the amount of $1,783,585, which is $9,279 less than that filed on July 31, 1984.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before October 4, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of Columbia's filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-28282 Filed 10-3-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA85-1-44-000 and TA85-1-44-001]

Commercial Pipeline Co., Inc.; PGA Filing

September 28, 1984.

Take notice that on September 21, 1984, Commercial Pipeline Co., Inc. ("Commercial") tendered for filing its 46th Revised Sheet No. 3A, superseding 45th Revised Sheet No. 3A reflecting Purchased Gas Adjustments and Total Rate as shown below.

	Current adjustment	Cumulative adjustment	Surcharge adjustment	Total rate
(Base)	$(.6361)	$.0071	$.0367	$4.5007
(Excess)	$(.6513)	$.0076	$.0367	$4.6097

The effective date of Commercial's filing is October 23, 1984.

Commercial states that this filing reflects adjustments in its purchased gas cost to provide for the tracking of a corresponding PGA adjustment by Commercial's sole supplier, Northwest Central Pipeline Corporation. The filing also reflects surcharge adjustments in accordance with Commercial's PGA.

Copies of the filing were served on Commercial's FERC jurisdictional customers, the Kansas Corporation Commission and the Missouri Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such petitions or protests should be filed on or before October 9, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-28292 Filed 10-3-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-140-000]

Consolidated Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

September 28, 1984.

Take notice that Consolidated Gas Transmission Corporation (Consolidated) on September 21, 1984, filed a proposed change to its FERC Gas Tariff, Original Volume No. 1. The change, shown on First Revised Sheet No. 51, is proposed to be effective October 1, 1984, and provides for the discretionary waiver of the billing demand ratchet which is now a part of Consolidated's RQ Rate Schedule.

The waiver provision could allow Consolidated to sell up to 695,000 Dt of gas over the upcoming winter heating season by encouraging certain RQ customers to abandon their winter load management programs in favor of taking more gas at existing tariff rates.

Consolidated requests a waiver of the thirty-day notice requirement and any of the Commission's Rules and Regulations deemed necessary to permit the revised tariff sheet to become effective as proposed.

Copies of the filing were served upon Consolidated's jurisdictional customers as well as interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, and 385.211). All such petitions or protests should be filed on or before October 9, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-28293 Filed 10-3-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER78-414-010]

Delmarva Power and Light Co.; Compliance Filing

September 28, 1984.

Take notice that on September 17, 1984, Delmarva Power and Light Company submitted its Refund Compliance Report regarding Docket

No. ER78-414, pursuant to the letter order of August 17, 1984 in this docket.

The filing contains reports of refund nuclear disposal costs collected prior to December 1, 1978 and the rate refund report for the four non-settling resale customers. These refunds were made on August 31, 1984.

A copy of this filing has been mailed to each affected resale customer, to the parties of record and to each of the Company's State Public Service Commissions.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before October 16, 1984. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26294 Filed 10-3-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP84-46-000]

El Paso Natural Gas Co.; Petition To Reopen Final Well Category Determination and Request for Withdrawal

State of Texas, NGPA Section 108 Determination, El Paso Natural Gas Company, Yoes A #1 well, FERC JD No. 84-33180.

September 27, 1984.

On August 15, 1983, El Paso Natural Gas Company (El Paso) filed with the Federal Energy Regulatory Commission (Commission) a petition to reopen and a request to withdraw its application for a final well category determination under § 275.202 of the Commission's regulations.[1] El Paso requests the reopening of a determination that qualifies natural gas produced from the Yoes A #1 well, located in Gray County, Texas, as stripper well natural gas under section 108 of the Natural Gas Policy Act of 1978 (NGPA).[2] The Commission received the Texas Railroad Commission (Texas) determination on May 11, 1984, and the determination became final on June 25, 1984.

El Paso requests reopening of the determination on the basis that the Yoes A #1 well produced natural gas during the initial qualifying period in excess of the limits prescribed by section 108(b) of the NGPA and § 271.805 of the Commission's regulations.

El Paso states that it filed an application for a section 108 determination under the deferred determination procedure set forth in § 271.807(c) of the Commission's regulations. El Paso based the application upon production from the subject well during three- and twelve-month periods ending in November 1983 and the twelve-month period ending in January 1984. In June 1984, El Paso discovered that its production summary erroneously indicated that the subject well had 31 production days for January 1984, when, in fact, the well produced for only nine days in January 1984. According to El Paso, when the twelve-month average daily production rate is recalculated using the correct data for the period ending January 1984, the well does not qualify as a stripper well under the requirement of § 271.807(c). Therefore, El Paso requests that the Commission reopen the final section 108 determination and allow El Paso to withdraw its application. El Paso states that, upon withdrawal of its application, it will refund any overcollections.

The Commission hereby gives notice that the question of whether refunds, plus interest as computed under § 154.102(c)[3] will be required is a matter which is subject to the review and final determination of the Commission.

Any person desiring to be heard or to make any protest to the requested reopening and withdrawal should file, within 30 days after this notice is published in the **Federal Register** with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of Rule 214 or 211 of the Commission Rules of Practice and Procedure.[4] All protests filed will be considered but will not make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26287 Filed 10-3-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES83-52-001]

Gulf States Utilities Co.; Application

September 28, 1984.

Take notice that on September 14, 1984, Gulf States Utilities Company filed an application with the Federal Energy Regulatory Commission, pursuant to section 204 of the Federal Power Act, seeking to increase the guarantee of the pollution control revenue bonds to be issued by the Parish of West Feliciana, State of Louisiana, to finance construction of pollution control facilities from $285,000,000 to $304,500,000 and to enter into lease or purchase and other agreements related thereto.

Any person desiring to be heard or to make any protest with reference to the application should file a motion to intervene or protest on or before October 12, 1984, with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26286 Filed 10-3-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-568-000]

Gulf States Utilities Co.; Order Accepting for Filing and Suspending Rates, Granting Interventions, Denying Motions To Reject, Granting Summary Disposition in Part, and Establishing Hearing and Price Squeeze Procedures

Issued: September 28, 1984.

Before Commissioners: Raymond J. O'Connor, Chairman; Georgiana Sheldon and Oliver G. Richard III.

On July 30, 1984, Gulf States Utilities Company (GSU) tendered for filing a proposed two-step increase in rates for firm power service to 14 wholesale customers.[1] The "interim rates" would increase revenues by approximately $23.7 million (30.5%), based on the calendar year 1984 test period. The "proposed rates" would increase overall revenues by an additional $5.9 million, representing a total increase of approximately $29.6 million (38%). Approximately $4.6 million, or 15% of the proposed increase, reflects the inclusion in rate base of construction work in progress (CWIP) other than CWIP associated with pollution control and fuel conversion facilities. GSU also proposes revisions to its fuel adjustment clause pursuant to Commission Order No. 352. III *FERC Statutes and*

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[1] 18 CFR 275.202 (1983).

[2] 15 U.S.C. 3301-3432 (1982).

[3] 18 CFR 154.102(c) (1983).

[4] *Id.* §§ 385.214 or 211.

[1] *See* Attachment for rate schedule designations and affected customers.

Regulations ¶ 30,525 (1983). GSU requests an effective date for both sets of rates of September 28, 1984. If it is determined that the proposed rates should be suspended for more than one day, GSU asks that the alternate interim rates be put into effect. If, however, the proposed rates and the interim rates would be suspended for the same period, the company requests that the interim rates be deemed withdrawn.

Notice of GSU's filing was published in the **Federal Register**,[2] with comments due on or before August 20, 1984. Timely motions to intervene were filed by certain Louisiana municipal customers of GSU (the Louisiana Towns);[3] Sam Rayburn G&T, Inc. (SRGT); the Sam Rayburn Municipal Power Agency (SRMPA); the City of College Station, Texas; the City of Caldwell, Texas; the Kirbyville Light and Power Company (Kirbyville); and Dow Chemical Company (Dow). The City of Newton, Texas, filed a motion to intervene one day late, Sam Rayburn Dam Electric Cooperative, Inc. (SRDEC) filed a late intervention on September 4, 1984, and Brazos Electric Power Cooperative, Inc. (Brazos) moved to intervene on September 13, 1984. As customers of GSU, both Brazos and SRDEC assert that good cause exists to allow intervention because of the interest of each in the outcome of the proceeding and because the conduct of the proceeding will not be adversely affected by allowing each to participate.

The Louisiana Towns urge that the filing be rejected for failure to comply with the Commission's filing regulations, including the requirement for adequate workpapers to substantiate cost figures used in the filing. The Louisiana Towns also contend that GSU has not provided sufficient detail in its filing to allow a determination as to whether the amounts claimed as CWIP for pollution control facilities for nuclear generation are consistent with the Commission's policies as set forth in Opinion No. 110, *Louisiana Power & Light Company*, 14 FERC ¶ 61,075 (1981). The Towns request that the filing be rejected because of these deficiencies, or at least, that the filing not be assigned a filing date until the deficiences have been remedied.

In the absence of rejection, the Louisiana Towns request that GSU's proposed rates be suspended for five months, alleging that the proposed rates are coupled with various practices that are anticompetitive and that the proposed rates would create a price squeeze. The Towns allege that GSU has been pursuing a practice of attempting to tie various of the Towns to long-term contracts and non-cost-based termination penalties, thereby precluding them from taking advantage of lower cost power supply opportunities. The Towns ask for a separate expedited hearing on the question of GSU's practices in contracting with the Towns for wheeling service or full or partial requirements service and for expedited hearing of their price squeeze allegations.

In addition, the Towns raise a number of cost of service issues, including: (1) Inclusion in rate base of generating equipment and land that is purportedly not used and useful; (2) the claimed rate of return on equity; (3) the capital structure proposed by GSU; (4) the proposed amortization period for cancelled plant; (5) the proposed demand allocation method; (6) GSU's allocation of transmission and distribution facilities; (7) the inclusion of general advertising, sales, and customer information expenses in the wholesale cost of service; (8) the classification of certain maintenance expenses as demand-related; (9) the depreciation rates proposed by GSU; (10) inclusion of non-qualifying pollution control CWIP in rate base, as noted previously; and (11) the claimed cash working capital allowance. The Towns finally argue that GSU's interim rates should be suspended for five months as a matter of policy on the ground that to allow the filing of lower alternate rates undercuts the suspension policy adopted by the Commission in *West Texas Utilities Company*, 18 FERC ¶ 61,189 (1982).

The motions to intervene filed by College Station, SRMPA, and SRDEC all raise, in identical language, cost of service issues that are identified by the Louisiana Towns. The motions request that GSU's proposed rates be suspended for five months. They further request rejection of GSU's interim rates on the ground that no extraordinary circumstance has been shown that would justify their acceptance for filing.

Brazos, Newton, Caldwell, and Kirbyville also raise cost of service issues identified by the Louisiana Towns and request rejection or a maximum suspension of both the interim and the proposed rates. Newton, Caldwell, and Kirbyville also allege price squeeze.

SRGT (a generation and transmission cooperative) also requests rejection or a five month suspension. Further, SRGT seeks summary disposition with regard to: (1) The inclusion in rate base of certain plant and equipment held for future use that is purportedly not used and useful; (2) GSU's classification of steam power generation expenses as energy-related, rather than demand-related; and (3) GSU's characterization of certain CWIP in rate base as being related to pollution control. SRGT alleges price squeeze and contends that extraordinary circumstances exist to consider price squeeze in determining a suspension period.[4] SRGT also requests that expedited price squeeze procedures be followed in this case. SRGT contends that GSU's interim rates should be rejected as inconsistent with the Commission's policy against the filing of interim rates during a suspension period (citing *El Paso Electric Company*, 27 FERC ¶ 61,125 (1984)) and the objective of encouraging utilities to file cost-based rates. SRGT also urges that the Commission investigate GSU's purchased power costs arising from GSU's purchases from the Southern Company system. Finally, SRGT alleges that it is improper, under Commission Order No. 298, III *FERC Statutes and Regulations* ¶ 30,455 (1983), for SRGT to pay rates based upon inclusion of CWIP in rate base, when it has given notice to GSU of its intention to reduce its purchases from GSU and to replace them with power from its own generation or from other sources.

Dow seeks leave to intervene in order to protect its interest as a potential seller of capacity and energy to GSU from cogeneration facilities; Dow refers to Docket No. ER82-5790-000, *Southern Company Services, Inc.*, 27 FERC ¶ 61,444 (1984), where it intervened to question GSU's purchase of power and energy from the Southern Companies in lieu of possible purchases from cogenerators such as Dow. Dow cites the Commission's earlier order in *Southern Company Services, Inc.*, 26 FERC ¶ 61,360 (1984), for the proposition that any claim as to the prudence of GSU's purchase from the Southern Companies "is properly an issue in the rate proceeding in which passthrough is sought." Dow states that, although it has been electrically isolated from GSU, an interconnection between Dow and GSU has recently been completed, with operation expected to start in the near future.

GSU responded to the interventions of the Louisiana Towns, SRGT, SRMPA, College Station, Newton, Caldwell, Kirbyville, and Dow and separately

[2] 49 FR 32451 (1984).

[3] The Louisiana Towns are Abbeville, Erath, Gueydan, Kaplan, Rayne, St. Martinville, and Welsh. On September 24, 1984, the Louisiana Towns amended their pleading with a revised price squeeze analysis.

[4] In support of this contention, SRGT asserts that GSU's retail rates are 26% lower than the proposed wholesale rates and that this fact establishes a *prima facie* showing of price squeeze.

responded to the interventions of SRDEC and Brazos. GSU states that it does not oppose the intervention of any movant except Dow. GSU denies that any basis has been shown for rejection of the filing. While conceding that it unintentionally included one parcel of land in rate base, the company contends that this addition to rate base has a minimal impact of its wholesale cost of service. In all other respects, GSU denies the allegations of the intervenors and asserts that the requested relief is unwarranted.

In opposing Dow's motion to intervene, GSU argues that Dow has shown no basis for intervention. It contends that Dow is neither a customer of GSU nor a customer of any of GSU's wholesale customers and that Dow's only interest is as a potential supplier of electricity to GSU. Although GSU conceds that the Commission has said that the prudence of Dow's purchase from the Southern Companies may be raised as an issue in a GSU rate case, the company contends that Dow does not have standing to raise the issue. GSU contends that Dow is not an entity whose interests would be directly affected by the outcome of the rate proceeding, and that its participation is not necessary to the public interest, since other intervenors have raised the question of GSU's purchased power costs.

Discussion

Under Rule 214(c)(1) of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the unopposed motions to intervene serve to make the Louisiana Towns, SRGT, SRMPA, College Station, Caldwell, and Kirbyville parties to this proceeding. In addition, given the early stage of this proceeding, the asserted interests of the various movants, and the apparent absence of any undue delay or prejudice, we find that good cause exists to grant the late interventions of SRDEC, Brazons, and Newton.

With respect to Dow's motion to intervene, we believe that good cause has shown to grant intervention, notwithstanding GSU's opposition. We note that Dow's concerns may have some relevance in this case and may not be adequately represented by any other intervenor.

We shall deny the motions for rejection of the filing, or for issuance of a deficiency letter. Our review of the filing indicates that the submittal is in substantial compliance with the Commission's filing requirements and that not other basis for rejection has been shown.[5]

With respect to SRGT's requests for summary disposition on the questions of GSU's inclusion in rate base of certain items as plant held for future use and GSU's classification of certain maintenance expenses, we decline to take summary action at this time, since the issues appear to involve questions of fact more appropriately resolved in the context of an evidentiary proceeding. However, we shall order summary disposition with respect to the nuclear facility pollution control CWIP clamied in GSU's filing. The Commission has made clear in Opinion No. 110 that only certain, limited facilities at a nuclear plant would qualify as pollution control CWIP full includible in rate base.[6] Because GSU has failed to specify the components of its pollution control CWIP balances, we are unable to determine whether GSU's claimed CWIP in rate base meets the criteria of Opinion No. 110. Since the cost of service impact may be substantial, we shall require GSU to provide the details of its pollution control CWIP balances, to exclude any amounts that do not qualify, and to file revised rates accordingly.

We are not persuaded that the Louisiana Towns have presented an adequate basis for ordering a separate, formally expedited hearing on the questions of GSU's allegedly anticompetitive contractual provisions and contracting practices and we shall deny their request at this time.[7] We believe that the remaining concerns expressed by the intervenors present questions of fact to be resolved at hearing.

Our preliminary review of GSU's filing indicates that the proposed rates (including the proposed revisions to GSU's fuel adjustment clause) [8] have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept GSU's submittal for filing, as modified by summary disposition, and we shall suspend its operation as ordered below.

In *West Texas Utilities Company*, Docket No. ER82-23-000, 18 FERC ¶ 61,189 (1982), we explained the Commission's suspension policy, noting that rate filings would ordinarily be suspended for one day where preliminary review indicates that the proposed increase may be unjust and unreasonable but may not generate substantially excessive revenues, as defined in *West Texas*. Our review of GSU's rates suggests that the interim and proposed rates may not yield substantially excessive revenues.[9] Since the same suspension period would therefore be ordered for both the proposed and interim rates, we shall deem the interim rates to have been withdrawn, as requested by GSU. Accordingly, we shall suspend the proposed rates, as modified by summary disposition, for one day from 60 days after filing, to become effective on September 30, 1984, subject to refund.[10]

In light of the price squeeze allegations raised by the intervenors, we shall institute price squeeze proceedings and phase them in accordance with our policy and practice established in *Arkansas Power & Light Company*, Docket No. ER79-339, 8 FERC ¶61,131 (1979).[11]

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[5] We have previously accepted for filing phased rate increases and have stated that such increases are not inconsistent with the Commission's suspension policy as explained in *West Texas Utilities Company*, 18 FERC ¶ 61, 189 (p.82). See, e.g., Jersey Central Power & Light Company, 19 FERC ¶ 61,208 (1982) at 61,403. We do not find persuasive the intervenors' arguments that Commission policy requires the rejection or maximum suspension of GSU's interim rates.

[6] In Opinion No. 110, the Commission disallowed as qualifying pollution control CWIP all radiation control facilities and found that only limited facilities at a nuclear plant (such as systems for treatment of sanitary wastes, chemical treatment and oil separation systems for nonradiation liquid wastes, and air and waste monitoring systems) would qualify as pollution-control CWIP.

[7] However, pursuant to Ordering Paragraph (H) below, the presiding judge designated in this proceeding will have the discretion to establish any appropriate procedural dates.

[8] While the proposed fuel clause complies with the basic directives of Order No. 352, its reliability standard is quite broad. Further investigation is warranted as to how GSU proposes to implement its reliability criteria and as to whether the clause should be made more specific.

[9] Contrary to the intervenor's assertions, we do not believe that any party has alleged extraordinary circumstances here so as to cause us to deviate from our consistent position that unproved price squeeze allegations generally will not be considered as a separate factor in determining suspension periods. *See e.g., Virginia Electric and Power Company*, 28 FERC ¶ 61,113 (1984). Nor can we concur in the suggestion that all of the competitive concerns expressed, in combination, warrant a different suspension decision.

[10] We note that GSU's proposed effective date for the proposed rates falls one day short of the statutory 60 day notice period and that the company has not requested waiver of the notice requirements. Therefore, the suspension period ordered here has been measured from September 29, 1984.

[11] We are not convinced by the pleadings that departure from the established phasing practice is appropriate. As indicated in ordering paragraph (I) below, the presiding judge is authorized to modify the designated phased procedures or to expedite the price squeeze proceedings upon a showing of good cause. However, we would expect such a decision only in extraordinary circumstances.

The Commission orders:

(A) The interventions of SRDEC, Brazos, Newton, and Dow are hereby granted, subject to the Commission's Rules of Practice and Procedure.

(B) The requests for issuance of a deficiency letter or rejection of all or any part of the filing and for initiation of separate expedited proceedings are hereby denied.

(C) GSU shall file within thirty (30) days of the date of this order the details of the pollution control CWIP balances in its filing. GSU shall file, at the same time, revised rates, in the event that it has included non-qualifying amounts of pollution control CWIP in the rate base upon which its original rates were based.

(D) The intervenors' remaining motions for summary disposition are hereby denied.

(E) GSUs proposed rates and fuel adjustment clause are hereby accepted for filing, as modified by paragraph (C) above, and are suspended, to become effective, subject to refund, on September 30, 1984. The interim rates are deemed withdrawn.

(F) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of GSU's rates.

(G) The Commission staff shall serve top sheets in this proceeding within ten (10) days of the date of this order.

(H) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding, to be held within approximately fifteen (15) days after service of top sheets, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure (18 CFR, Part 385).

(I) The Commission hereby orders initiation of price squeeze procedures and further orders that this proceeding be phased so that the price squeeze procedures begin after issuance of a Commission opinion establishing the rate which, but for consideration of price squeeze, would be just and reasonable. The presiding judge may modify this schedule for good cause shown. The price squeeze portion of this case shall be governed by the procedures set forth in § 2.17 of the Commission's regulations as they may be modified prior to the initiation of the price squeeze phase of this proceeding.

(J) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

Gulf States Utilities Company

[Docket No. ER84-568-000]

RATE SCHEDULE DESIGNATIONS

Designations	Other party and description
Supplement No. 21 to Rate Schedule FERC No. 128 (Supersedes Supplement No. 17).	Cajun Electric Power Cooperative, Inc., Rate Schedule—WSD.
Supplement No. 16 to Rate Schedule FPC No. 110 (Supersedes Supplement No. 14).	Kirbyville Light and Power Company, Rate Schedule—WSD.
Supplement No. 16 to Rate Schedule FPC No. 111 (Supersedes Supplement No. 14).	Town of Gueyden, Rate Schedule—WSD.
Supplement No. 10 to Rate Schedule FPC No. 112 (Supersedes Supplement No. 9).	City of Caldwell, Rate Schedule—WSD.
Supplement No. 16 to Rate Schedule FPC No. 114 (Supersedes Supplement No. 14).	Town of Kaplan, Rate Schedule—WSD.
Supplement No. 16 to Rate Schedule FPC No. 114 (Supersedes Supplement No. 14).	Town of Welsh, Rate Schedule—WSD.
Supplement No. 11 to Rate Schedule FPC No. 115 (Supersedes Supplement No. 10).	City of Newton, Rate Schedule—WSD.
Supplement No. 16 to Rate Schedule FPC No. 118 (Supersedes Supplement No. 14).	Town of St. Martinville, Rate Schedule—WSD.
Supplement No. 9 to Rate Schedule FPC No. 120 (Supersedes Supplement No. 8).	Town of Erath, Rate Schedule—WSD.
Supplement No. 8 to Rate Schedule FPC No. 123 (Supersedes Supplement No. 7).	City of College Station, Rate Schedule—WST.
Supplement No. 15 to Rate Schedule FERC No. 126 (Supersedes Supplement No. 13).	Brazos Electric Power Cooperative, Inc., Rate Schedule—WSD.
Supplement No. 16 to Rate Schedule FERC No. 126 (Supersedes Supplement No. 14).	Brazos Electric Power Cooperative, Inc., Rate Schedule—WST.
Supplement No. 10 to Rate Schedule FERC No. 127 (Supersedes Supplement No. 8).	Town of Rayne, Rate Schedule—WST.
Supplement No. 5 to Supplement No. 4 to Rate Schedule FERC No. 129 (Supersedes Supplement No. 4 to Supplement No. 4).	Sam Rayburn Dam Electric Cooperative (City of Liberty), Rate Schedule—WST.
Supplement No. 10 to Rate Schedule FERC No. 129 (Supersedes Supplement No. 9).	Sam Rayburn Dam Electric Cooperative, Rate Schedule—WSD.
Supplement No. 5 to Rate Schedule FERC No. 139 (Supersedes Supplement No. 3).	Town of Abbeville, Rate Schedule—WST.

[FR Doc. 84-26295 Filed 10-3-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-574-000]

Holyoke Water Power Co. and Holyoke Power and Electric Co.; Order Conditionally Accepting for Filing and Suspending Rates, Noting Intervention, Granting Waiver, Deferring Action on Motion To Reject, and Establishing Hearing Procedures

Issued: September 28, 1984.

Before Commissioners: Raymond J. O'Connor, Chairman; Georgiana Sheldon and Oliver G. Richard III.

On July 31, 1984, Holyoke Water Power Company (HWP) and Holyoke Power and Electric Company (HP&E) (referred to together as the Companies) tendered for filing amendments to the three power contracts under which the net capacity of the Mount Tom fossil-fired generating plant in Holyoke, Massachusetts is sold at wholesale.[1] Under the first of three agreements, HWP sells the entire output of the plant to HP&E, its wholly-owned subsidiary, and in turn HP&E sells 39% of the output back to HWP. Under the second power contract, HP&E sells approximately 23% of the output to Western Massachusetts Electric Company (WMEOC), an affiliate of HWP and HP&E in Northeast Utilities system. Under the third contract, HP&E sells the remaining 38% of Mount Tom's output to New England Power Company (NEP), which is not affiliated with the Northeast Utilities system.

The proposed amendments provide for changes in the current formula rates which increase charges from HWP to HP&E for 100% of the Mount Tom output by approximately $5.4 million (41%) based on the calendar 1984 test period. HP&E, in turn, proposes to pass these increased charges through to HWP, WMECO, and NEP. Changes in the formula rates include: (1) An increased return on common equity; (2) a revision of the method for allocating Administrative and General expenses; (3) a revision to the calculation of cash working capital; (4) various adjustments to rate base components to reflect current Commission policies; (5) inclusion of a component to amortize deferred income tax deficiency; (6) inclusion of a late payment charge; and (7) inclusion of a provision for recovery of regulatory expenses related to the Mount Tom unit. In support of the proposed changes, HWP states that certain costs are underrecovered and other costs are not being recovered at all under the present rate formula.

[1] *See* Attachment for rate schedule designations.

HWP requests waiver of various specific filing requirements contained in § 35.13 of our regulations on the grounds that the information required is not applicable to unit sale agreements. The Companies request that the proposed amendments become effective on September 30, 1984, but if the Commission finds that suspension is appropriate, they further request that all of the amendments be given identical suspension periods.

Notice of the Companies' submittal was published in the **Federal Register**,[1] with comments due on or before August 23, 1984. NEP filed at timely protest and motion to intervene. NEP requests that the Commission reject the Companies' filing on the grounds that the underlying contractual provisions do not provide for unilateral rate change filings and the submittal therefore violates the *Mobile-Sierra*[2] doctrine. In the alternative, NEP requests that the filing be suspended for five months.

According to NEP, its contract with HP&E clearly prohibits any unilateral filings to increase the rates payable by NEP. NEP also argues that the proposed amendments do not base charges exclusively on costs attributable to the Mount Tom unit and are therefore inconsistent with the contract's original objective "to allow recovery * * * of the specific costs associated with financing, building, and operating the Mount Tom Unit * * *." Absent rejection, NEP requests a five month suspension because the filing "lacks supporting documentation, and the increase is excessive and unlawful."

In an answer filed on September 7, 1984, the Companies oppose either rejection or a five month suspension. According to the Companies, the contract provisions relied upon by NEP do not prohibit unilateral rate changes. Rather, in their view, section 6.06(a) of the contract clearly permits unilateral filings as the parties intended. If the Commission does not concur in the Companies' reading of the contract, the Companies seek a hearing on factual issues purportedly raised by NEP's references to the parties' intent in originally negotiating the unit sale contract.

Discussion

Under Rule 214 of our Rules of Practice and Procedure, NEP's timely intervention services to make it a party to this proceeding. 18 CFR 385.214.

The *Mobile-Sierra* issue raised by NEP requires the Commission to review the subject contracts, as well as various state laws referred to by the parties, to determine whether HP&E is contractually prohibited from tendering its proposed changes in rate to NEP under section 205 of the Federal Power Act. Because this inquiry cannot be concluded in the short time period available for preliminary action on the Companies' filings, the *Mobile-Sierra* determination will be made in a subsequent order. Additionally, we will of our own accord, undertake an examination of the contractual language of the HP&E contracts with HWP and WMECO as well, since the relevant provisions of those contracts are similar to the provisions in the HP&E/NEP contract. Pending such an examination, we shall conditionally accept for filing the proposed amendments to each of the contracts.[4]

As noted, the Companies have requested waiver of certain cost of service filing requirements. We conclude that good cause exists to waive these requirements because the filing contains cost support adequate for review of the Mount Tom unit costs.

Our preliminary review of the Companies' filings and the pleadings indicates that the submittals have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall conditionally accept the contract amendments for filing and we shall suspend them as ordered below.

In *West Texas Utilities Co.*, 18 FREC ¶ 61,189 (1982), we noted that rate filings would ordinarily be suspended for five months where preliminary review indicates that the proposed rates may be unjust and unreasonable and may generate substantially excessive revenues, as defined in *West Texas*. Our preliminary review of the current filings suggests that the rates may result in substantially excesive revenues. Accordingly, the proposed amendments will be suspended for five months to become effective on February 28, 1985, subject to refund.

The Commission orders:

(A) A decision on NEP's motion to reject the proposed HP&E/NEP amendments is deferred until a later order.

(B) The Companies' request for waiver of specified filing requirements, as discussed above, is granted.

(C) The proposed HWP/HP&E, HP&E/NEP, and HP&E/WMECO amendments are conditionally accepted for filing and suspended for five months from the proposed effective date, to become effective on February 28, 1985, subject to refund.

(D) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR Chapter I), a public hearing shall be held concerning the justness and reasonableness of HWP's and HP&E's rates.

(E) The Commission staff shall serve top sheets in this proceeding within ten (10) days of the date of this order.

(F) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days after service of top sheets, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. The presiding judge is authorize to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(G) The Secretary shall promptly publish this order in the **Federal Register**.

By the Commission.

Kenneth F. Plumb,

Secretary.

Rate Schedule Designation

[Docket No. ER84-574-000]

Designation and Other Party

Holyoke Water Power Company

(1) Supplement No. 4 to Rate Schedule FPC No. 2—Holyoke Power and Electric Company

Holyoke Power and Electric Company

(2) Supplement No. 5 to Rate Schedule FPC No. 1—New England Power Company

(3) Supplement No. 4 to Rate Schedule FPC No. 2—Western Massachusetts Electric Company

[1] 49 FR 32 859 (August 15, 1984).

[2] *United Gas Pipe Line Co.* v. *Mobile Gas Service Corp.*, 350 U.S. 332 (1956); *FPC* v. *Sierra Pacific Power Co.*, 350 U.S. 348 (1956).

[4] As discussed below, we would suspend the amendments for five months in any event. Therefore, a temporary deferral of action on the contract issue should not prejudice the parties in any way

(4)Supplement No. 4 to Rate Schedule FPC No. 3—Holyoke Water Power Company

[FR Doc. 26297 Filed 10-3-84; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 7176-003]

Hydro-Cor, Inc.; Surrender of Preliminary Permit

September 26, 1984.

Take notice that Hydro-Cor, Inc., Permittee for the Roaring River Waterpower Project No. 7176 has requested that its preliminary permit be terminated. The Preliminary Permit was issued on October 24, 1983, and would have expired on September 30, 1985. The project would have been located on Roaring River within the Mt. Hood National Forest in Clackamas County, Oregon.

Hydro-Cor, filed the request on September 4, 1984, and the surrender of the preliminary permit for Project No. 7176 is deemed accepted as of September 4, 1984, and effective as of 30 days after the date of this notice.

Kenneth Plumb,

Secretary.

[FR Doc. 84-26283 Filed 10-3-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ES84-74-000]

Idaho Power Co.; Application

September 28, 1984.

Take notice that on September 18, 1984, Idaho Power Company filed an application with the Federal Energy Regulatory Commission seeking authority, pursuant to section 204 of the Federal Power Act, to issue not more than 1,000,000 shares of Common Stock pursuant to its Employee Savings Plan.

Any Person Desiring to be heard or to make any protest with reference to the application should file a motion to intervene or protest on or before October 18, 1984, with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26296 Filed 10-3-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER84-569-000]

Interstate Power Co.; Order Accepting for Filing and Suspending Rates, Granting Intervention, Ordering Summary Disposition, Denying Motion for Acceptance of Substitute Tariff Sheets, and Establishing Hearing and Price Squeeze Procedures

Issued: September 28, 1984.

Before Commisioners: Raymond J. O'Connor, Chairman; Georgiana Sheldon and Oliver G. Richard III.

On July 30 1984, Interstate Power Company ("Interstate") tendered for filing a proposed rate increase to twenty municipal customers locaterd in Iowa, Illinois, and Minnesota.[1] The proposed rates would increase revenues by approximately $666,600 (8.43%) based on the calendar 1984 test period. Interstate has requested an effective date of October 1, 1984, for the proposed rates.

Notice of Interstates's filing was published in the **Federal Register**,[2] with comments due on or before August 22, 1984. On August 21, 1984, the City of Blue Earth Minnesota ("Blue Earth") filed a motion to intervene. Ascerting that it has had insufficient opportunity to conduct a comprehensive analysis of Interstate's filing, Blue Earth states that it may later seek rejection of the filing or other relief, including a review of issues such as cost of capital, operating expenses, cost allocation, and rate design.

On August 22, 1984, eight of the municipal customers affected by the proposed increase ("Municipals")[3] filed a motion to intervene and requested that the proposed increase be suspended for five months and set for hearing. In support of their requests, the Municipals allege that Interstate has not developed its cost of service properly, citing, *inter alia*, the claimed rate of return and cash working capital allowance,[4] and the allocation of administrative and general expenses and general plant expenses. In addition, the Municipals allege that the proposed rates may create a price squeeze. On September 13, 1984, the Municipals amended their motion to include as additional intervenors the Cities and Villages of Albany, Illinois; Readlyn and Sabula, Iowa; and Truman, Minnesota. The Municipals also proposed additional adjustments with respect to taxes payable and deferred taxes, and continued to request that Interstate's proposed increase be suspended for five months and set for hearing.

On September 20, 1984, Interstate filed an answer to the Municipals' amended motion, and also filed a motion for waiver of the notice requirements and for an order accepting the filing of substitute tariff sheets.[5] Interstate states that it agrees with the calculations presented in the Municpals' amended motion with respect to two issues: (1) Interest synchronization, and (2) the make-up provision relating to deferred income taxes under the so-called *South Georgia* method.[6] Interstate therefore proposes to reduce its cost of service and rate proposal by $117,533 ($61,578 associated with interest synchronization and $55,955 associated with the make-up for deferred taxes) and requests summary disposition on these two items.

On September 21, 1984, the Municipals responded to Interstate's motion or substitution and waiver. The intervenors oppose Interstate's pleading only insofar as it seeks waiver of notice for the amended tariff sheets.

Discussion

Under Rule 214(c)(1) of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the unopposed motions to intervene serve to make Blue Earth and the Municipals listed in footnote 3, *supra*, parties to this proceeding. In addition, given the early stage of this case, the similarity of interest of the additional four Cities and Villages identified in the Municipals' September 13 motion, and the apparent absence of undue delay or prejudice, we find that good cause exists to permit the additional Cities and Villages to intervene out of time.

We shall deny Interstate's request to substitute its amended tariff sheets inasmuch as they do not go far enough to correct clear errors in the filing. Instead, we shall direct Interstate to file revised rates and cost statements that include three specific summary dispositions as well as a corrected computation of the make-up provision for deferred taxes. We note first that Interstate has improperly included in

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[1] *See* Attachment A for customers and rate schedule designations.

[2] 49 FR 32254 (August 13, 1984).

[3] Cities and Villages of Strawberry Point, McGregor, Bellevue, Independence, Guttenberg, Fairbanks, and Fredericksburg, Iowa, and St. Charles, Minnesota.

[4] We observe that the Municipals' reliance on the proposed working capital assumption reflected in Docket No. RM84-9-000 is premature pending a final determination in that rulemaking docket.

[5] Insofar as Interstate's pleading seeks to answer the Municipals' August 22 intervention and motions, Interstate is untimely and those portions of its pleading will be disregarded.

[6] *See South Georgia Natural Gas Co.*, Docket No. RP77-32, Letter Order issued May 8, 1978; *see also* Order No. 144, Docket Nos. RM-80-42, *et al.*, FERC Statutes and Regulations ¶ 30,254, at 31,560, n. 115 (May 6, 1981).

rate base certain deferred losses resulting from its withdrawal from participation in the Carroll County Nuclear Facility. Whether or not some amortization of such costs is otherwise appropriate, rate base inclusions of the deferred amounts contravenes well-established Commission precedent.[7] Second, Interstate has failed to synchronize test period fuel expenses and revenues. This failure to synchronize also disregards consistent Commission precedent.[8] Finally, as conceded by Interstate, its original filing neglected to synchronize test year interest expense used in its income tax calculation with the interest portion of the company's claimed rate of return. Again, Commission precedent is clear;[9] for tax allowance purposes, the interest expense should be computed as the product of the weighted cost of debt used for rate of return purposes and the allocated rate base. Having reviewed the amended filing submitted by Interstate on September 20, we are satisfied that the company has now computed the interest synchronization correctly. However, correction for the other other two issues should also be reflected immediately in Interstate's rates given the related dollar impact. Furthermore, we are not persuaded that the company has properly computed its make-up provision relating to deferred taxes. Insofar as that issue is concerned, Interstate should confer with the Commission staff before submitting further rate amendments pursuant to this order.[10]

Our preliminary review of Interstate's filing and the pleadings indicates that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept Interstate's submittal for filing, as modified by summary disposition, and we shall suspend the proposed rates as ordered below.

In *West Texas Utilities Company*, 18 FERC ¶ 61,189 (1982), we explained the Commission's suspension policy, noting that rate filings would ordinarily be suspended for five months where preliminary review indicates that the proposed rates may be unjust and unreasonable and may generate substantially excessive revenues, as defined in *West Texas*. Because our preliminary review suggests that Interstate's filing, after summary disposition, may result in substantially excessive revenues, we shall suspend the proposed rates for five months from the proposed effective date, to become effective, as modified, on March 1, 1985, subject to refund.

In light of the price squeeze allegation raised by the Municipals, we shall institute price squeeze proceedings and phase them in accordance with our policy and practice established in *Arkansas Power & Light Company*, 8 FERC ¶ 61,131 (1979).

The Commission orders:

(A) Interstate's motion for acceptance of its substitute tariff sheets is hereby denied.

(B) Summary disposition is hereby ordered, as discussed above, with respect to: (1) Inclusion in rate base of deferred losses from the disposition of the Carroll County Nuclear Facility; (2) failure to synchronize the test year interest expense used in the income tax calculation with the interest portion of the claimed rate of return; and (3) failure to synchronize test year fuel expenses and revenues. Within forty-five (45) days of the date of this order, Interstate shall file revised cost of service statements and revised rates which reflect these summary dispositions as well as a correct computation of the make-up provision for deferred taxes.

(C) The municipals' untimely motion for intervention on behalf of the Cities and Villages of Albany, Readlyn, Sabula, and Truman is hereby granted, subject to the Commission's Rules of Practice and Procedure.

(D) Interstate's proposed rates are hereby accepted for filing, as modified consistent with Ordering paragraph (B) above, and are suspended for five months, to become effective, subject to refund, on March 1, 1985.

(E) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of Interstate's rates.

(F) The Commission's trial staff shall serve top sheets in this proceeding within ten (10) days of the date of this order.

(G) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding, to be held within approximately fifteen (15) days after service of top sheets, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure (18 CFR Part 385).

(H) The Commission hereby orders initiation of price squeeze procedures and further orders that this proceeding be phased so that the price squeeze procedures begin after issuance of a Commission opinion establishing the rate which, but for consideration of price squeeze, would be just and reasonable. The presiding judge may modify this schedule for good cause shown. The price squeeze portion of this case shall be governed by the procedures set forth in § 2.17 of the Commission's regulations as they may be modified prior to the initiation of the price squeeze phase of this proceeding.

(I) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

Interstate Power Co. Rate Schedule Designations

[Docket No. ER84-569-000]

Designation and Tariff Customers

Sixth Revised Sheet No. 1 to FPC Electric Tariff Original Volume No. 1 (Supersedes Fifth Revised Sheet No. 1): City of Fairbanks, Iowa; City of Readlyn, Iowa; City of Grafton, Iowa; City of Guttenberg, Iowa; City of Lawler, Iowa; City of Dundee, Minnesota; City of Alta Vista, Iowa; Village of Hanover, Illinois; City of Rushford, Minnesota; City of Fredericksburg, Iowa; City of St. Charles, Minnesota; Village of Albany, Illinois; City of Sabula, Iowa

Designation and Other Party

Supplement No. 7 to Rate Schedule FPC No. 120 (Supersedes Supplement No. 6), City of Bellevue, Iowa

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[7] *E.g., New England Power Company*, Opinion No. 49, 8 FERC ¶ 61,054, at 61,175–78 (1979); *reh. denied*, Opinion No. 49–A, 10 FERC ¶ 61,279 (1980); *aff'd sub nom. NEPCO Municipal Rate Committee v. FERC*, 668 F.2d 1327, 1332–35 (1981); *cert. denied*, 457 U.S.

[8] *E.g., Utah Power & Light Company*, Opinion No. 113, 14 FERC ¶ 61,162, at 61,297–98, 61,302, n. 12 (1981); *reh. denied*, Opinion No. 113–A, 15 FERC ¶ 61,076 (1981).

[9] *E.g., Public Service Company of New Mexico*, Opinion No. 133, 17 FERC ¶ 61,123, at 61,249–50 (1981); *reh. denied*, Opinion No. 133–A, 18 FERC ¶ 61,036 (1982); *appeal pending*, 10th Cir. Nos. 82–1146, *et al.* (petition for review filed February 3, 1982).

[10] In view of our decision, we do not reach the company's request for waiver of notice or the Municipals' objections to that request.

Supplement No. 6 to Rate Schedule FPC No. 116 (Supersedes Supplement No. 5), City of Blue Earth, Minnesota
Supplement No. 5 to Rate Schedule FPC No. 110 (Supersedes Supplement No. 4), City of Independence, Iowa
Supplement No. 6 to Rate Schedule FPC No. 104 (Supersedes Supplement No. 5), City of McGregor, Iowa
Supplement No. 7 to Rate Schedule FPC No. 115 (Supersedes Supplement No. 6), City of Strawberry Point, Iowa
Supplement No. 5 to Rate Schedule FPC No. 107 (Supersedes Supplement No. 4), Village of Truman, Minnesota
Supplement No. 7 to Rate Schedule FERC No. 123 (Supersedes Supplement No. 6), City of Windom, Minnesota

[FR Doc. 84-26298 Filed 10-3-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER83-548-001]

Kansas City Power & Light Co.; Refund Report

September 27, 1984

Take notice that on September 17, 1984, Kansas City Power and Light Company (KCPL) submitted for filing its refund report pursuant to a settlement agreement approved by the Commission on August 17, 1984.

KCPL was ordered by the Commission to issue refunds within thirty (30) days of the date of the settlement agreement.

KCPL states that refund checks were mailed to all customers and a copy of its compliance report was sent all customers and to each State Commission within whose jurisdiction the wholesale customers distribute and sell electric energy at retail.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before October 16, 1984. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26284 Filed 10-3-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER84-136-000]

Kentucky West Virginia Gas Co.; Proposed Change in FERC Gas Tariff

September 28, 1984.

Take notice that Kentuky West Virginia Gas Company (Kentucky West) on September 14, 1984, tendered for filing its Second Revised Sheet No. 27, and Tenth Revised Sheet No. 27A to its FERC Gas Tariff, First Revised Volume No. 1, to become effective August 15, 1984.

Kentucky West states that this filing is in accordance with Section 154.111 of the Commission Regulations promulgated by Order No. 380, issued May 25, 1984.

Copies of this filing were served upon the Company's jurisdictional customers or interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such petitions or protests should be filed on or before October 9, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26300 Filed 10-3-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP84-141-000]

Midwestern Gas Transmission Co.; Tariff Filing

September 28, 1984.

Take notice that on September 24, 1984, Midwestern Gas Transmission Company (Midwestern), tendered for filing the following tariff sheets to Original Volume No. 1 of its FERC Gas Tariff to be effective on October 24, 1984:

First Revised Sheet No. 1
Eleventh Revised Sheet Nos. 5 and 6
Original Sheet Nos. 32 through 34
Original Sheet Nos. 100 through 102
A Sheet Reserving Original Sheet Nos. 35 through 82 for Future Use
A Sheet Reserving Original Sheet Nos. 103 through 150 for Future Use

Midwestern states that the purpose of these tariff sheets is to implement its Rate Schedules IT-1 and IT-2, applicable to all transportation service for qualified shippers pursuant to §§ 157.45, 157.209 and Part 284 of the Commission's regulations including transportation service for end users pursuant § 157.209 (a), (b)(1), and (b)(2) of the Commission's pre-existing regulations.

Midwestern further states that copies of the filing have been mailed to all of its customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such petitions or protests should be filed on or before October 9, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26301 Filed 10-3-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TA85-1-47-000 and TA85-1-47-001]

MIGC, Inc.; Proposed Purchased Gas Adjustment Rate Change

September 28, 1984.

Take notice that on September 17, 1984, MIGC, Inc. tendered for filing copies of Thirty-First Revised Sheet No. 32 and Sixth Revised Sheet No. 32-A to its FERC Gas Tariff Original Volume No. 1, as required by the Commission's Rules and Regulations under the Natural Gas Act.

MIGC's Thirty-First Revised Sheet No. 32 and Sixth Revised Sheet No. 32-A provide for a Purchased Gas Adjustment rate decrease of 65.97¢ per MMBtu effective November 1, 1984 in order: (1) To provide for a current gas cost adjustment to permit MIGC to reflect the lower cost of gas purchases which it is currently incurring (Table II); (2) to provide for an adjustment to MIGC's unrecovered Puchased Gas Cost Account as of July 31, 1983 and July 31, 1984 (Table III); (3) to recover carrying charges as permitted under FERC Order No. 47 (Table V) as set forth in MIGC's First Revised Sheet No. 31-A, (4) to set forth projected incremental pricing surcharges to become effective November 1, 1984 (Sixth Revised Sheet No. 32-A);[1] and (5) to reflect a surcharge

[1] None of MIGC's sale-for-resale customers has reported a MSAC for any prior month determined in

Continued

to permit MIGC to recover production related charges pursuant to FERC Order No. 94–A. 18 CFR 271.1100, *et seq.* (Table IV). MIGC further requests authority to pass-on gas cost decreases due to renegotiation of contracts for gas deregulated on January 1, 1985, and reflecting elimination of Order No. 94–A charges on January 1, 1985.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211). All such petitions or protests should be filed on or before October 9, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26302 Filed 10-3-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-684-000]

Mountain Fuel Resources, Inc.; Application

September 27, 1984.

Take notice that on August 31, 1984, Mountain Fuel Resources, Inc. (Applicant), 79 South State Street, Salt Lake City, Utah 84147, filed in Docket No. CP84-684-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing it to construct and operate one main-line tap and related facilities for a specific transaction and to add or delete unspecified receipt, delivery, and redelivery points in the future as may be required for transportation or sales of natural gas by Applicant, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant proposes to construct and operate one three-inch tap and related metering facilities on its transmission Main Line No. 64 in Uinta County, Wyoming, in order to deliver up to 200 Mcf of natural gas per day to Mountain Fuel Supply Company (Mountain Fuel) under Applicant's Rate Schedules CD–1 and X–33 for ultimate sale to Amoco Production Company (Amoco) by Mountain Fuel. Applicant states that Amoco requires this gas supply during periods when all wells serving its Chicken Creek central facility, located in Uinta County, Wyoming, are shut in. Applicant further states that the proposed sale and transportation service to Mountain Fuel would not cause it to exceed the maximum daily quantities authorized under its CD–1 and X–33 rate schedules. The proposed specific tap and related metering facilities are estimated to cost $15,760. Applicant would be reimbursed by Mountain Fuel for all such costs related to the proposed tap.

In addition to the above, Applicant requests flexible authority to add or delete (1) points of delivery under its sales Rate Schedule CD–1 and points of redelivery under its transportation Rate Schedule X–33 (CD–1/X–33 delivery points) and (2) points of receipt under its Rate Schedule X–33.

Applicant states that the addition or deletion of CD–1/X–33 delivery points under the flexible authority requested would be restricted to those areas served by Applicant's interstate transmission system in which Mountain Fuel provides service to end-users and that service through such new CD–1/X–33 delivery points would depend on the available capacity in its transmission system. It is further explained that daily deliveries through CD–1/X–33 delivery points, including those added under the requested flexible authority, would not exceed Mountain Fuel's authorized entitlements.

Applicant additionally requests flexible authority to add and delete receipt points under Rate Schedule X–33 by agreement with Mountain Fuel. Applicant states that addition of X–33 receipt points would depend on the capacity available in its transmission system and upon: (1) Mountain Fuel as the producer-shipper, receiving abandonment authorization where required by the Natural Gas Act, or (2) applicant submitting evidence that the gas in question is not subject to the Commission's abandonment jurisdiction under the Natural Gas Act by operation of the Natural Gas Policy Act of 1978 section 601(a)(1) (A) or (B).

Applicant proposes to file annual tariff revisions on or before May 1 of each year setting forth additions and deletions of receipt, delivery and redelivery points made during the previous calendar year under such authority.

Further, Applicant proposes to construct any new facilities that may be required to connect additional sources of supply or to effect the delivery of natural gas to or on behalf of Mountain Fuel, under blanket authorization granted to Applicant in Docket No. CP82–491–000.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 17, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26285 Filed 10-3-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-691-000]

Northern Natural Gas Company, Division of InterNorth, Inc.; Notice of Application

September 27, 1984.

Take notice that on September 4, 1984, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP84–691–000

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the manner prescribed by § 282.504(d)(2) of the Commission's Regulations.

an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon and remove one 340 horsepower compressor unit located in Clark County, Kansas, all as more fully set forth in the application which is on file with the Commission.

Northern states that due to declining volume production behind the Clark County No. 2 Subsystem, operation of 340 horsepower compressor unit has become unnecessary. It is explained that in 1978, volume production from the Clark County No. 2 Subsystem was approximately 23,000 Mcf of gas per day compared to current volume production of 13 MMcf per day.

Northern proposes to utilize said compressor elsewhere in Northern's system or sell it to a potential buyer.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 17, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26286 Filed 10-3-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA85-1-37-000 and TA85-1-37-001]

Northwest Pipeline Corp.; Change in Rates Pursuant to Purchased Gas Cost Adjustment

September 28, 1984.

Take notice that on September 14, 1984, Northwest Pipeline Corporation ("Northwest") tendered for filing a proposed change in rates applicable to service rendered under rate schedules affected by and subject to Article 16, Purchased Gas Cost Adjustment Provision ("PGA"), of its FERC Gas Tariff, First Revised Volume No. 1. Such change in rates is for the purpose of: (1) Reflecting changes in Northwest's estimated cost of purchased gas and (2) projecting incremental surcharges to be assessed Northwest's affected direct and sales for resale customers pursuant to Order 49. Northwest has included as part of this change in rates, costs associated with its pipeline-owned production valued at the NGPA rates consistent with the decision of the United States Supreme Court in *Public Service Commission of the State of New York* v. *Mid-Louisiana Gas Co., et al.*

The current PGA adjustment, for which notice is given herein, aggregates to a decrease of 2.003¢ per therm for all rate schedules affected by and subject to the PGA. The annualized change in Northwest's rates is a decrease of $55.1 million. The proposed rate change described above is reflected on Sixteenth Revised Sheet No. 10. In accordance with the proposed changes to section 16 of its General Terms and Conditions, which are being filed concurrently herewith in partial settlement of Docket Nos. TA84-2-37-000 and 001, Northwest has made no change to the currently effective surcharge rate. The above referenced tariff sheet assumes a reduction in the price of Canadian natural gas in November 1, 1984 from $4.40 per MMBtu to approximately $3.40 per MMBtu. Northwest also tendered Alternate Sixteenth Revised Sheet No. 10 which it requests be made effective in the event the Commission approves Alternate Fifteenth Revised Sheet No. 10 which was filed on August 13, 1984 in Docket No. RP81-47-012 (Remand).

Northwest also tendered for filing and acceptance Ninth Revised Sheet No. 10-B which sets forth revised projected incremental surcharges.

Northwest has requested an effective date of November 1, 1984 for the above referenced tariff sheets.

Northwest has requested waiver of its currently effective tariff provisions to permit use of a forward-looking rather than historical purchase and sales level in determining the changes in annualized purchased gas cost and to allow continued amortization of the deferred account balance on an annual basis in accordance with Northwest's proposed changes to section 16 of its General Terms and Conditions.

A copy of this filing has been served on all parties of record in Docket No. RP72-154, upon all jurisdictional customers, and affected state regulatory commissions.

Any persons desiring to be heard or protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such petitions or protests should be filed on or before October 9, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26303 Filed 10-3-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-137-009]

Transcontinental Gas Pipe Line Corp.; Tariff Filing

September 28, 1984.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) on September 17, 1984, tendered for filing certain revised tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1 and Original Volume No. 2. The sheets are proposed to become effective on November 1, 1984 and were filed in accordance with Article X of Transco's "Settlement Agreement As To Rates" approved by Commission order dated July 25, 1984 in Docket No. RP83-137. The revised tariff sheets reflect a "tracking" rate reduction of 0.3¢ per dt in the commodity rate or delivery charge

of Transco's sales and long-haul transportation rate shedules.

Article X of the settlement agreement provides for adjustments to Transco's jurisdictional rates to give effect to inclusion in rate base of any decreases in the amount of Transco's outstanding advance payments after March 31, 1984. The rate reduction proposed is occasioned by a decrease of $12,924,584 in the advance payment balance of Transco from that which existed in Transco's settlement agreement in Docket No. RP83-137 approved by the Commission on July 25, 1984.

Transco further states that copies of the instant filing have been mailed to each of its customers, and State Commissions and other parties to Docket No. RP83-137.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such petitions or protests should be filed on or before October 9, 1984. Protest will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26304 Filed 10-3-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES84-73-000]

The Union Light, Heat and Power Co.; Application

September 28, 1984.

Take notice that on September 17, 1984, the Union Light, Heat and Power Company filed an application with the Federal Energy Regulatory Commission seeking authority, pursuant to section 204 of the Federal Power Act, to issue not more than $19 million of unsecured notes and commercial paper on or before December 31, 1986, with final maturity on or before December 31, 1986.

Any person desiring to be heard or to make any protest with reference to the application should file a motion to intervene or protest on or before October 17, 1984, with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26278 Filed 10-3-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. EF84-2011-012; EF84-2021-009; and EF84-2031-000]

U.S. Department of Energy, Bonneville Power Administration; Petition for Extension of Interim Approval of Wholesale Power and Transmission Rates and for Consolidation of Dockets

September 27, 1984.

Take notice that on September 14, 1984 the United States Department of Energy, Bonneville Power Administration (BPA), submitted for filing a petition for extension of interim approval of wholesale power and transmission rates and for consolidation of dockets.

BPA requests an extension of interim approval, or preferably final approval, of its 1983 proposed wholesale power rates. Interim approval was granted October 20, 1983 and will expire on October 31, 1984. The Hanford Unit power contract rate will also expire on the above date.

BPA also requests that its UFT-1, UFT-2, ET-2 and TGT-1 transmission rate schedule be granted final confirmation and approval for the maximum five-year period allowed by 18 CFR 300.1(b)(5). BPA states that none of these four contractually established rate schedules will be changed in the 1985 BPA transmission rate proposal and that it would be more efficient to obtain Commission approval for a full five years.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 9, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26268 Filed 10-3-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-576-000]

Wisconsin Power and Light Co.; Order Accepting for Filing and Suspending Rates, Denying Motion To Reject, Ordering Summary Disposition, Granting Motion for Summary Disposition in Part, Noting Interventions, and Establishing Hearing and Price Squeeze Procedures

Issued: September 28, 1984.

Before Commissioners: Raymond J. O'Connor, Chairman; Georgiana Sheldon and Oliver G. Richard III.

On August 1, 1984, Wisconsin Power and Light Company (WP&L) tendered for filing a proposed two-step increase in its W-1, W-2 and W-3 rates for service to 37 wholesale customers.[1] Based on a calendar year 1985 test period, the proposed "interim" rates would increase revenues by approximately $8.3 million (15%) and the proposed "final" rates would increase revenues by an additional $1.6 million, representing a total increase of $9.9 million (18%). Approximately $682,000, or 7% of the proposed increase, reflects the inclusion in rate base of construction work in progress (CWIP) other than CWIP associated with pollution control and fuel conversion facilities. WP&L proposes to implement its interim rates on January 1, 1985, after a three month suspension from its proposed affective date of October 1, 1984, in accordance with the terms of a settlement agreement reached in Docket No. ER83-429-000. However, the company also has agreed that, pending final Commission order and implementation of the proposed final rates, its proposed interim rate increase will track WP&L's retail rate for large industrial customers. Accordingly, WP&L has submitted lower interim rates (referred to as "under bond" rates) which track the current retail rate level. WP&L intends to track future increases in the retail rate level by requesting corresponding increases in its under bond rates up to the level of its proposed interim rates. The currently proposed under bond rates would increase revenues by $1.9 million annually. In further accordance with the

[1] *See* Attachment for rate schedule designations and affected customers.

settlement agreement, WP&L requests that the final rates become effective prospectively after final Commission order. To the extent that it might have failed to comply, WP&L also requests waiver of the Commission's filing requirements.

Notice of the filing was published in the **Federal Register** with comments due on or before August 24, 1984. The Madison Gas and Electric Company (MGE), the Municipal Wholesale Power Group (MWPG),[2] and the Adams-Marquette Electric Cooperative, Central Wisconsin Electric Cooperative, Columbus Rural Electric Cooperative, Waushara County Electric Cooperative, Inc., and Rock County Electric Cooperative Association (Cooperatives) filed timely motions to intervene. MGE states that it purchases power from WP&L as a municipal customer but raises no substantive issues.

MWPG requests that the Commission recognize the contractual restraints imposed by two settlement agreements and applicable to WP&L's filing.[3] Contending that the company improperly performed the price squeeze analysis required as one limitation on the proposed interim rate levels,[4] WMPG further requests that the Commission reject WP&L's filing as not in compliance with its settlement agreements or, alternatively, order summary disposition and require that the interim rates be reduced accordingly. Finally, MWPG requests a five month suspension of the proposed interim rates to become effective on March 1, 1985,[5] and alleges price squeeze.

In their motion to intervene, the Cooperatives, which comprise all of WP&L's W–2 customers, state that WP&L's price squeeze analysis indicates that an interim rate *decrease* is required for the W–2 wholesale customers, instead of the proposed zero level interim rate increase. Although the settlement agreement stipulating a price squeeze-based limitation on the interim rates was executed only between WP&L and its W–1 and W–3 customers, the Cooperatives contend that the settlement provisions should be equally applied to the W–2 class. In addition, the Cooperatives request a five month suspension of the proposed rates.[6]

On September 10, 1984, WP&L filed separate responses to the interventions of MWPG and the Cooperatives. In response to MWPG's intervention, WP&L states that it agrees with MWPG that the South Beloit wholesale revenues should not have been included in its preliminary price squeeze analysis. WP&L has excluded the net South Beloit wholesale revenues from its revised price squeeze analysis filed with its response and states that it will supplement its original filing to reflect, for all of its wholesale customers, the revised interim rate increase indicated by its revised price squeeze analysis. However, WP&L disagrees with the MWPG proposal that interruptible retail industrial revenues must also be excluded. While accepting certain cost of service adjustments made by MWPG, including the reversal of the demand and energy allocators, the company denies that the other adjustments are appropriate and opposes MWPG's request for a five month suspension.

Similarly, WP&L denies the Cooperatives' allegations and opposes their request for a maximum suspension. With regard to the Cooperatives' claim that the W–2 interim rates should reflect a decrease, WP&L asserts that the W–2 customers are bound to their own settlement agreement with the company in Docket No. ER83–429–000, which made no provision for a decrease in the agreed-to settlement rates on the basis of a price squeeze analysis and that, in any case, the Cooperatives have made no showing of anticompetitive effect. However, the company does not object to limiting the W–2 interim rate increase on the basis of the preliminary price squeeze analysis stipulated to by WP&L and its W–1 and W–3 customers.

Discussion

Pursuant to Rule 214(c)(1) of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the unopposed motions to intervene of MGE, MWPG, and the Cooperatives serve to make them parties to this proceeding.

Our review of WP&L's filing indicates that the company has failed to apply the correct wholesale allocators in deriving its wholesale cost of service. Specifically, as acknowledged by the company in response to MWPG's pleading, WP&L has applied the demand allocator to energy-related expenses and the energy allocator to demand-related expenses. Although WP&L's allocation error is not substantial enough to affect our suspension analysis, it does result in revenue levels which fail to meet the revenue constraints imposed by the settlement agreement WP&L reached in Docket No. ER83–429–000. Therefore, we shall direct WP&L to revise its cost of service study and proposed under bond and interim rates to reflect the proper allocators and revenue constraints.

As to MWPG's claim that WP&L improperly performed the required price squeeze evaluation for its interim rates, we note that MWPG based its allegation on company workpapers which were not included with WP&L's submittal. Therefore, while WP&L has admitted that it improperly included the South Beloit wholesale revenues in its comparative revenue analysis, we are unable to determine whether inclusion of interruptible revenues is appropriate.[7]

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[2] The following WP&L customers are represented by MWPG in this proceeding: the Cities and Villages of Black Earth, Brodhead, Columbus, Evansville, Hazel Green, Juneau, Lodi, Mt. Horeb, New Glarus, Pardeeville, Plymouth, Princeton, Reedsburg, Sauk City, Sheboygan Falls, Stoughton, Sun Prairie, and Wisconsin Rapids, Wisconsin; the Wisconsin Public Power Incorporated SYSTEM for its delivery points at Boscobel, Cuba City, Muscoda, Waunakee and Waupun, Wisconsin; and Pioneer Power & Light Company.

[3] The contractual limitations on the filing, arise from a 1977 settlement agreement between WP&L and its W–1 and W–3 wholesale customers in Docket No. ER77–347, which was approved by the commission by order issued on April 6, 1983, 23 FERC ¶ 61,109, and a 1983 settlement agreement between WP&L and its W–1 and W–3 customers filed in Docket No. ER83–429–000, and approved by order issued on June 21, 1984, 27 FERC ¶ 61,503. They include: (1) The two-tier filing requirement; (2) the permisible effective dates for the proposed rates; (3) the provisions to increase the interim rates to track retail rate increases; (4) the restrictions on interim rate levels; and (5) the requirement to perform an initial price squeeze analysis consistent with the Commission trial staff's methodology used in Docket No. ER77–347.

[4] Specifically, MWPG alleges that WP&L erred in its calculation of revenues from its large industrial rate, by including retail interruptible revenues and WP&L's sales to its South Beloit subsidiary.

[5] In support of its request for a maximum suspension, MWPG raises issues including: (1) Depreciation rates; (2) whether the submittal discriminates among the wholesale classes in favor of the W–2 class; (3) the proposed fuel adjustment clause changes; (4) nuclear fuel storage and decommissioning costs; (5) the proposed rate of return on equity and capital structure; (6) purchased power cost; (7) development of wholesale demand projections; (8) allocation of revenue credits for interruptible loads; (9) fuel stocks; (10) classification of production operation and maintenance and production salaries and wages; (11) labor expenses; (12) wholesale allocations to total company plant and expenses; (13) allocation of retail regulatory expenses; and (14) the proposed income tax calculation.

[6] In support of their request for a five month suspension, the Cooperatives cite several issues, including: (1) Inclusion in rate base of the Edgewater No. 5 Generating Unit prior to its in-service date of March 1, 1985; (2) the amount of CWIP claimed; (3) the proposed cash working capital allowance; (4) the amount claimed for materials and supplies; (5) adjustment of rate base for arbitrage revenues; (6) the inflation adjustment used to develop expense projections; and (7) the proposed allocation of administrataive and general expenses.

[7] We note that the price squeeze evaluation method adopted by the settlements preceded the interruptible service now provided to WP&L's large industrial retail customers and that the correct treatment of interruptible revenues depends on WP&L's treatment of related costs in developing the revenue requirement.

Accordingly, we shall deny MWPG's motion to reject, but direct WP&L to correct its filing to reflect the exclusion of the South Beloit revenues from its preliminary price squeeze analysis, as suggested by the company. We shall reserve for hearing the issue regarding the appropriate treatment of retail interruptible revenues in developing the comparable retail return.[8]

Based on our preliminary review of WP&L's filing and the pleadings, we find that WP&L's proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept WP&L's proposed rates for filing, as modified by summary disposition, and suspend them as ordered below.

In *West Texas Utilities Company*, 18 FERC ¶ 61,189 (1982), we explained the Commission's suspension policy and noted that rate filings would ordinarily be suspended for one day where preliminary review indicates that the rates may be unjust and unreasonable but may not produce substantially excessive revenues, as defined in *West Texas*. In this case, our review indicates that WP&L's proposed interim rates may not yield substantially excessive revenues, and we would normally suspend the rates for one day. However, pursant to the terms of the 1983 settlement agreement and WP&L's request, we shall suspend the lower under bond rates, as modified by summary disposition, for three months, to become effective on January 1, 1985.[9] The proposed final rates will become effective prospectively after final Commission order.

Finally, with respect to MWPG's concerns as to price squeeze, we shall institute phased price squeeze procedures as set forth in *Arkansas Power and Light Company*, 8 FERC ¶ 61,131 (1979).

The Commission orders:

(A) MWPG's motion to reject is hereby denied.

(B) Summary disposition is hereby ordered, as noted in the body of this order, with respect to WP&L's application of the wholesale allocators and exclusion of the South Beloit revenues from WP&L's comparative revenue analysis. Within thirty (30) days of this order, WP&L shall file revised cost statements and rates reflecting these summary dispositions. MWPG's remaining request for summary disposition is hereby denied.

(C) WP&L's proposed rates are hereby accepted for filing; the under bond rates, as modified by summary disposition, are suspended for three months, to become effective, subject to refund, on January 1, 1985; tracking increases in the under bond rates, up to the level of the proposed interim rates, as modified by summary disposition, may be requested pursuant to interim rate motions; the proposed final rates may become effective prospectively only after final Commission order.

(D) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of WP&L's rates.

(F) The Commission staff shall serve top sheets in this proceeding on or before October 10, 1984.

(E) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference is this proceeding to be held within approximately fifteen (15) days after service of tops sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Captial Street, NE., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(G) The Commission hereby orders initiation of price squeeze procedures and further orders that this proceeding be phased so that the price squeeze procedures begin after issuance of a Commission opinion establishing the rate which, but for consideration of price squeeze, would be just and reasonable. The presiding judge may order a change in this schedule for good cause shown. The price squeeze portion of this case shall be governed by the procedures set forth in § 2.17 of the Commission's regulations as they may be modified prior to the initiation of the price squeeze phase of this proceeding.

(H) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

ATTACHMENT—WISCONSIN POWER & LIGHT COMPANY RATE SCHEDULE DESIGNATIONS

[Docket No. ER84-576-000]

Customers	Supplement No.	Rate schedule No.	Supersedes supplement No
W-1 Customers:			
Wisconsin Public Power Incorporated SYSTEM	6	132	4
Do	7	132	5
W-2 Customers:			
Adams-Marquette Electric Cooperative	15	112	14
Central Wisconsin Electric Cooperative	4	133	4
Columbus Electric Cooperative	8	128	7
Waushara County Electric Cooperative	8	129	7
Rock County Electric Cooperative	5	130	4
W-3 Customers:			
City of Evansville	23	29	22
Village of Gresham	24	31	23
Village of New Glarus	23	39	22
Village of Hustiford	22	71	21
City of Sun Prairie	22	73	21
City of Plymouth	21	75	20
City of Brodhead	23	83	22
Village of Sauk City	20	84	19
City of Juneau	20	86	19
City of Benton	20	88	19
City of Reedsburg	20	89	19
Village of Hazel Green	19	91	18
Village of Mt. Horeb	20	92	19
Village of Black Earth	14	116	13
Village of Prairie du Sac	20	95	19
City of Wisconsin Dells	13	125	12
City of Sheboygan Falls	4	131	3
City of Lodi	19	101	18
Village of Pardeville	18	102	17
Village of Wonewoc	16	107	15
Village of Mazomanie	16	108	15
Village of Belmont	16	110	15
Village of Footville	16	111	15
City of Stoughton	14	115	13
Pioneer Power & Light Company	14	118	13
City of Princeton	13	121	12
City of Columbus	12	126	11
Cross Plains Electric Company	13	117	12
City of Shullsburg	11	120	10
City of Wisconsin Rapids	12	122	11
City of Richland Center	5	134	4

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BILLING CODE 6717-01-M

[8] With respect to the Cooperatives' adjustments to WP&L's cost of service, we note: (1) That WP&L has included the Edgewater No. 5 plant in rate base for only 10 months of the test year to reflect the March 1, 1985 in-service date; and (2) that the company has properly limited the CWIP claimed in rate base to 50%, in accordance with § 35.28(c)(3) of our regulations. The Cooperatives' remaining adjustments present questions of fact to be resolved in the context of the evidentiary hearing ordered below.

[9] This effective date is constatent with the 1983 settlement agreement which provides for an effective date of January 1, 1985, inclusive of any Commission-ordered suspension period. Inasmuch as we have found the entire interim rate level to warrant only a nominal suspension, we will allow future under bond rate increases tracking the retail rates to be requested pursuant to a company motion for implementation of interim rates, subject to refund. Such a motion should be accompanied by appropriate data to support the earned return parity provisions of the settlement agreements.

[Project No. 7557-001]

Wyoming Hydro Assoc.; Surrender of Preliminary Permit

September 27, 1984.

Take notice that Wyoming Hydro Associates, Permittee for the proposed Meeks Cabin Dam Hydro Project No. 7557, has requested that its preliminary permit be terminated. The permit was issued on February 13, 1984, and would have expired July 31, 1985. The project would have been located on the Blacks Fork River in Unita County, Wyoming. The Permittee cites that the proposed project is not economically feasible as the reason for the surrender request.

The Permittee filed its request on September 18, 1984, and the surrender of the preliminary permit for Project No. 7557 is deemed accepted 30 days from the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26289 Filed 10-3-84; 8:45 am]

BILLING CODE 6717-01-M

Southeastern Power Administration

Order Confirming and Approving Power Rates on an Interim Basis; Georgia-Alabama Projects' Rates

AGENCY: Southeastern Power Administration (SEPA), DOE.

ACTION: Notice of Approval on an Interim Basis of Georgia-Alabama Projects' Rates.

SUMMARY: On September 26, 1984, the Deputy Secretary confirmed and approved, on an interim basis, eight replacement Rate Schedules, GAMF-1-D, GAMF-2-D, ALA-1-D, MISS-1-D, SC-1-D, SC-2-D, CAR-1-E, and CAR-2-D, for Georgia-Alabama Projects' power. The rates were approved on an interim basis through September 30, 1985, and are subject to confirmation and approval by the Federal Energy Regulatory Commission on a final basis.

DATES: Approval of rates on an interim basis is effective on October 1, 1984.

FOR FURTHER INFORMATION CONTACT:

Leon Jourolmon, Jr., Director, Division of Fiscal Operations, Southeastern Power Administration, Department of Energy, Samuel Elbert Building, Elberton, Georgia 30635.

J. Emerson Harper, Acting Director, Office of Power Marketing Coordination, CE-90, Department of Energy, James Forrestal Building, 1000 Independence Ave., SW., Washington, D.C. 20585.

SUPPLEMENTARY INFORMATION: The Federal Energy Regulatory Commission by Order issued February 29, 1984, in Docket No. EF83-3011 confirmed and approved Wholesale Power Rate Schedules GAMF-1-C, GAMF-2-C, ALA-1-C, MISS-1-C, SC-1-C, SC-2-C, CAR-1-D, and CAR-2-C through September 30, 1984. Rate Schedules GAMF-1-D, GAMF-2-D, ALA-1-D, MISS-1-D, SC-1-D, SC-2-D, CAR-1-E, and CAR-2-D replace respectively the approved wholesale power rate schedules.

Issued in Washington, D.C., September 26, 1984.

Danny J. Boggs,

Deputy Secretary.

Department of Energy Deputy Secretary

[Rate Order No. SEPA-20]

Order Confirming and Approving Power Rates on an Interim Basis

September 26, 1984.

In the Matter of: Southeastern Power Administration—Georgia-Alabama Projects' Power Rates.

Pursuant to sections 302(a) and 301(b) of the Department of Energy Organization Act, Pub. L. 95-91, the functions of the Secretary of the Interior and the Federal Power Commission under section 5 of the Flood Control Act of 1944, 16 U.S.C. 825s, relating to the Southeastern Power Administration (SEPA) were transferred to and vested in the Secretary of Energy. By Delegation Order No. 0204-108, effective December 14, 1983, 48 FR 55664 (December 14, 1983), the Secretary of Energy delegated to the Administrator the authority to develop power and transmission rates, and delegated to the Deputy Secretary the authority to confirm, approve, and place in effect such rates on an interim basis and delegated to the Federal Energy Regulatory Commission (FERC) the authority to confirm and approve on a final basis or to disapprove rates developed by the Administrator under the delegation. This rate order is issued pursuant to the delegation to the Deputy Secretary.

Background

Power from the Georgia-Alabama System of Projects is presently sold under Wholesale Power Rate Schedules GAMF-1-C, GAMF-2-C, ALA-1-C, MISS-1-C, SC-1-C, SC-2-C, CAR-1-D, and CAR-2-C. All of these rate schedules were approved by the Federal Energy Regulatory Commission (FERC) on February 29, 1984, for a period ending September 30, 1984.

Public Notice and Comment

Opportunities for public review and comment on the Rate Schedules proposed for use during the period October 1, 1984, through September 30, 1985, were announced by Notice published in the **Federal Register** on July 10, 1984, and all customers were notified by mail. A Public Information and Comment Forum was held in Atlanta, Georgia, on August 16,1984, and written comments were invited by the Notice through August 31, 1984. Oral comments were presented at the forum and written comments were received prior to August 31, 1984. There were no substantive comments received. All comments were evaluated by SEPA.

Discussion

System Repayment

An examination of SEPA's system power repayment study, prepared in July 1984, for the Georgia-Alabama System of Projects, reveals that with an annual revenue increase of $8,744,000 over the current revenues shown in a June 1984 SEPA repayment study, all system power costs are paid within their repayment life. Additionally, Rate Schedules GAMF-1-D, GAMF-2-D, ALA-1-D, MISS-1-D, SC-1-D, SC-2-D, CAR-1-E, and CAR-2-D are designed so as to produce revenue adequate to recover all system power costs on a timely basis. The Administrator of SEPA has certified that the rates are consistent with applicable law and that they are the lowest possible rates to customers consistent with sound business principles.

Rate Design

Because the rates are to be in efffect for only a one-year period, SEPA attempted to increase rates ratably for those cost increases caused by increased generating costs. The proposed rate schedules were drawn on the basis of increasing all rates by an identical 18 percent. However, the increased wheeling costs were passed directly to the affected customers.

Environmental Impact

SEPA has reviewed the possible environmental impacts of the rate adjustment under consideration and has concluded with Departmental concurrence that, because the increased rates would not significantly affect the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, the proposed action is not a major Federal action for which preparation of an Environmental Impact Statement is required.

Availability of Information

Information regarding these rates including studies, and other supporting materials is available for public review in the offices of Southeastern Power Administration, Samuel Elbert Building, Elberton, Georgia 30635, and in the Office of the Director of Power Marketing Coordination, James Forrestal Building, 1000 Independence Avenue, SW., Room 6B104, Washington, D.C. 20585.

Submission to the Federal Energy Regulatory Commission

The rates hereinafter confirmed and approved on an interim basis, together with supporting documents, will be submitted promptly to the Federal Energy Regulatory Commission for confirmation and approval on a final basis for a period beginning October 1, 1984, and ending no later than September 30, 1985.

Order

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby confirm and approve on an interim basis, effective October 1, 1984, attached Wholesale Power Rate Schedules GAMF-1-D, GAMF-2-D, ALA-1-D, MISS-1-D, SC-1-D, SC-2-D, CAR-1-E, and CAR-2-D. The rate schedules shall remain in effect on an interim basis through September 30, 1985, unless such period is extended or until the FERC confirms and approves them or substitute rate schedules on a final basis.

Issued in Washington, D.C., this 26th day of September 1984.

Danny J. Boggs,

Deputy Secretary.

Wholesale Power Rate Schedule CAR-2-D

Availability: This rate schedule shall be available to the Duke Power Company (hereinafter called the Company).

Applicability: This rate schedule shall be applicable to electric capacity generated at the Hartwell Project (hereinafter called the Project) and sold under contract between the Government and the Company.

Character of Service: Electric capacity delivered to the Company will be three-phase alternating current at a nominal frequency of 60 cycles per second and will be delivered at approximately 230,000 volts where the Company's transmission line is connected to the bus at Hartwell.

Monthly Rate: The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge: $1.41 per kilowatt per billing month for dependable capacity made available to the Company for its own use.

Billing Month: The billing month for power sold under this schedule shall end at 12:00 midnight on the 20th day of each calendar month.

Power Factor: The Company shall take capacity and energy from the Government at such power factor as will best serve the Company's system from time to time, provided that the Company shall not impose a power factor of less than .85 lagging on the Government's facilities which requires operation contrary to good operating practice or results in overload or impairment of such facilities or unreasonably interferes with the delivery of capacity and energy by the Government to the Company and to its other Customers.

Service Interruption: When delivery to the Company is interrupted or reduced due to conditions on the Government's system which have not been arranged for and agreed to in advance, the charge for dependable capacity will be reduced as to the kilowatts of such capacity which have been interrupted or reduced in the proportion that the number of declaration hours during such period of interruption or reduction bears to the total number of declaration hours during the period covered by such charge.

October 1, 1984.

Wholesale Power Rate Schedule CAR-1-E

Availability: This rate schedule shall be available to public bodies and cooperatives (any one of which is hereinafter called the Customer) in North Carolina and South Carolina to whom power may be wheeled pursuant to contract between the Duke Power Company (hereinafter called the Company) and the Government.

Applicability: This rate schedule shall be applicable to power and accompanying energy generated at the Hartwell, Clarks Hill, and Richard B. Russell Projects (hereinafter called the Projects) and sold in wholesale quantities.

Character of Service: The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 cycles per second delivered at the delivery points of the Customer on the Company's transmission and distribution system. The voltage of delivery will be maintained within the limits established by the state regulatory commission.

Monthly Rate: The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge: $3.10 per kilowatt of total contract demand.

Energy Charge: 5.06 mills per kilowatt-hour.

Energy to-be Furnished by the Government: The Government will sell to the customer and the customer will purchase from the Government a portion of the energy available to the Company area from the Projects in any billing month determined by multiplying the total energy available less six and one-half percent losses by the ratio of the customer's contract demand to the sum of the contract demands of all customers served under this rate schedule.

Billing Month: The billing month for power sold under this schedule shall end at 12:00 midnight on the 20th day of each calendar month.

Conditions of Service: The customer shall at its own expense provide, install, and maintain on its side of each delivery point the equipment necessary to protect and control its own system. In so doing, the installation, adjustment and setting of all such control and protective equipment at or near the point of delivery shall be coordinated with that which is installed by and at the expense of the Company on its side of the delivery point.

October 1, 1984.

Wholesale Power Rate Schedule SC-2-D

Availability: This rate schedule shall be available to any of the following whose requirements or a portion thereof the Government shall contract to supply by delivery from the South Carolina Public Service Authority's (hereinafter called the Authority) system: a municipality or county located in part or completely within the Authority's service area, owning its own transmission or distribution system, and desiring to purchase capacity and energy from the Government for resale to the public in its territory; Central Electric Cooperative, Incorporated; or an electric cooperative not a member of Central, operating under the laws of the State of South Carolina, and located in part or completely within the service area of the Authority desiring to purchase capacity and energy from the Government for resale to ultimate consumers under the provisions of said laws (any one of such municipalities, counties, or cooperatives is hereinafter called the Customer).

Applicability: This rate schedule shall be applicable to power and accompanying energy generated at the

Clarks Hill or the Richard B. Russell Projects (hereinafter called the Projects) and sold in wholesale quantities.

Character of Service: The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 cycles per second delivered at the delivery points of the Customer on the Authority's transmission and distribution system. The voltage of delivery will be maintained within the limits established by the state regulatory commission.

Monthly Rate: The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge: 1$1.41 per kilowatt of total contract demand.

Energy Charge: 5.06 mills per kilowatt-hour.

Energy to be Furnished by the Government: The Government will sell to the Customer and the Customer will purchase from the Government energy from the Project each billing month up to a total amount annually of 4,500 hours per kilowatt of contract demand.

For billing purposes, the energy allocated on an annual basis to accompany the Customer's contract demand as assigned to individual delivery points shall be allocated in equal quantities each day throughout the year. Such Customer shall be billed by the Government by delivery points for its contract demand and for its accompanying monthly energy allocation in amounts determined by multiplying its respective daily allocation by the number of days in the billing month. The quantity of energy to be billed under this rate schedule in any billing month shall be the quantity considered to have been transmitted for the account of the Government by the Authority.

Billing Month: The billing month for power sold under this rate schedule shall end at 12:00 midnight on the last day of each calendar month.

Conditions of Service: The Customer shall at its own expense provide, install, and maintain on its side of ech delivery point the equipment necessary to protect and control its own system. In so doing, the installation, adjustment and setting of all such control and protective equipment at or near the point of delivery shall be coordinated with that which is installed by and at the expense of the Authority on its side of the delivery point.

Service Interruption: When the energy delivery to the Customer's system for the account of the Government is reduced or interrupted for 1 hour or longer, and such reduction or interruption is not due to conditions on the Customer's system, the demand charge for the month shall be appropriately reduced.

October 1, 1984.

Wholesale Power Rate Schedule SC–1–D

Availability: This rate schedule shall be available to the South Carolina Public Service Authority (hereinafter called the Customer).

Applicability: This rate schedule shall be applicable to power and accompanying energy generated at the Clarks Hill or Richard B. Russell Projects (hereinafter called the Projects) and sold in wholesale quantities.

Character of Service: Electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 cycles per second and shall be delivered at a nominal voltage of 115,000 volts at the 115 kv bus of the Project power plant. The actual operating voltage of the Government shall, within the limits of good operating practice, be suitable for operation with the Customer's system.

Monthly Rate: The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge: $1.41 per kilowatt per billing month for dependable capacity made available to the Customer for its own use.

$0.39 per kilowatt per billing month for standby capacity made available, plus $0.048 per kilowatt per calendar day (or fraction thereof) for such capacity as the Customer actually utilizes.

Energy Charge: 4.16 mills per kilowatt-hour for energy declared for the peak period hours and for energy made available to meet stream flow requirements.

3.11 mills per kilowatt-hour for dump energy.

Energy Sold to the Customer: The Customer shall purchase and pay for all dump energy made available by the Government and accepted by the Customer. Additionally, the Customer shall purchase and pay for all energy, exclusive of dump energy, declared and made available from the Project to the Customer's system over and above such energy made available for transmission to the Government's other preference customers.

Billing Month: All project energy shall be accounted for on a weekly basis and the total quantities of energy billed monthly shall be the sum of the weekly quantities. Energy declared or made available for any week which falls within 2 billing months shall be divided between the months on the basis of weekly schedules for energy delivery furnished by the Customer.

The billing month for power sold under this rate schedule shall end at 12:00 midnight on the last day of each calendar month.

Power Factor: The Customer shall not impose a power factor of less than .85 lagging on the Government's facilities which requires operation contrary to good operating practice or results on overload or impairment of such facilities.

Service Interruption: When capacity made available to the Customer's system is reduced or interrupted for 1 hour or longer, and such reduction or interruption is not agreed to in advance nor due to conditions on the Purchaser's system, the monthly demand charge for dependable capacity shall be reduced for each on-peak hour (the nearest number of whole hours) that such capacity is reduced or interrupted, by an amount equal to $1.41 divided by the number of peak hours in the billing month times the reduction, in kilowatts, of such capacity; and the amount of energy previously scheduled and not taken during the time of interruption shall be placed in storage to the Customer's account. If the Customer advises the Government within 1 working day after a day in which energy is placed in storage that it does not desire to retain ownership of such energy, the ownership of the energy will revert to the Government and the Customer shall not be obligated to pay for such energy.

October 1, 1984.

Wholesale Power Rate Schedule MISS–1–D

Availability: This rate schedule shall be available to the South Mississippi Electric Power Association (hereinafter called the Cooperative).

Applicability: This rate schedule shall be applicable to power and accompanying energy generated at the Allatoona, Buford, Clarks Hill, Walter F. George, Hartwell, Millers Ferry, West Point, Robert F. Henry, Carters, and Richard B. Russell Projects and sold under contract between the Cooperative and the Government.

Character of Service: The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 Hertz and shall be delivered at points of interconnection between the

Cooperative and Mississippi Power Company.

Monthly Rate: The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge: $1.41 per kilowatt of total contract demand.

Energy Charge: 5.06 mills per kilowatt-hour for scheduled energy.

Additional Wheeling Charge: $0.16 per kilowatt of total contract demand.

Contract Demand: The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Cooperative is entitled to receive.

Energy To Be Furnished by the Government: The Government will sell to the Cooperative and the Cooperative will purchase from the Government those quantities of energy specified by contract as available to the Cooperative for scheduling on a weekly basis. Energy quantities for a billing month shall be the energy scheduled by the Cooperative for the month.

Billing Month: The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Power Factor: The Cooperative shall take capacity and energy from the Government at such power factor as will best serve the Cooperative's system from time to time; provided, that the Cooperative shall not impose a power factor of less than .85 lagging on the Government's facilities which requires operation contrary to good operating practice or results in overload or impairment of such facilities.

Service Interruption: When capacity and energy delivery to the Cooperative's system for the account of the Government is reduced or interrupted and such reduction is not due to conditions on the Cooperative's system or has not been planned and agreed to in advance, the demand charge for the month for capacity made available shall be reduced as to the kilowatts of such capacity which have been interrupted or reduced in accordance with the following formula:

$$\text{Number of kilowatts unavailable for at least 12 hours in any calendar day} \times \frac{\$1.41}{\text{Number of days in billing month}}$$

October 1, 1984.

Availability: This rate schedule shall be available to the Alabama Electric Cooperative, Incorporated (hereinafter called Cooperative).

Applicability: This rate schedule shall be applicable to power and accompanying energy generated the Allatoona, Buford, Clarks Hill, Walter F. George, Hartwell, Millers Ferry, West Point, Robert F. Henry, Carters, and Richard B. Russell Projects and sold under contract between the Cooperative and the Government.

Character of Service: The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 Hertz and shall be delivered at the Walter F. George Project or other points of interconnection between the Cooperative and Alabama Power Company.

Monthly Rate: The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge: $1.41 per kilowatt of total contract demand.

Energy Charge: 4.16 mills per kilowatt-hour for schedule energy.

Contract Demand: The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Cooperative is entitled to receive.

Energy To Be Furnished by the Government: The Government will sell to the Cooperative and the Cooperative will purchase from the Government those quantities of energy specified by contract as available to the Cooperative for scheduling on a weekly basis. Energy quantities for a billing month shall be the energy scheduled by the Cooperative for the month.

Billing Month: The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Power Factor: The Cooperative shall take capacity and energy from the Government at such power factor as will best serve the Cooperative's system from time to time; provided, that the Cooperative shall not impose a power factor of less than .85 lagging on the Government's facilities which requires operation contrary to good operating practice or results in overload or impairment of such facilities.

Service Interruption: When capacity and energy delivery to the Cooperative's system for the account of the Government is reduced or interrupted and such reduction is not due to conditions on the Cooperative's system or has not been planned and agreed to in advance, the demand charge for the month for capacity made available shall be reduced as to the kilowatts of such capacity which have been interrupted or reduced in accordance with the following formula:

$$\text{Number of kilowatts unavailable for at least 12 hours in any calendar day} \times \frac{\$1.41}{\text{Number of days in billing month}}$$

October 1, 1984.

Wholesale Power Rate Schedule GAMF–2–D

Availability: This rate schedule shall be available to the Georgia Power Company, the Alabama Power Company, the Mississippi Power Company, and the Gulf Power Company (any one of which is hereinafter called the Company).

Applicability: This rate schedule shall be applicable to electric capacity available from the Allatoona, Buford, Clarks Hill, Walter F. Geroge, Hartwell, Millers Ferry, West Point, Robert F. Henry, Carters, and Richard B. Russell Projects (hereinafter called the Projects) and sold under contract between the Government and the Company.

Character of Service: Electric capacity and energy delivered to the Company will be three-phase alternating current at a nominal frequency of 60 Hertz and will be delivered at mutually agreeable points in the vicinity of the Projects' power stations at approximately 115,000 volts, except that delivery from the Hartwell and Carters Projects will be at approximately 230,000 volts or at points of interconnection between the Companies.

Monthly Rate: The monthly rate for capacity sold under this rate schedule shall be:

Demand Charge: $1.41 per kilowatt per billing month for monthly dependable capacity made available to the Company for its own use.

Monthly dependable capacity is the monthly capacity, specified by contract, which based on past water records would be available for scheduling by the Companies within the energy limitations also specified by contract, except during the worst water period of record and except for a few minor short-term reductions under flood conditions.

Billing Month: The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Power factor: The Company shall take capacity and energy from the Government at such power factor as will best serve the Company's system from time to time, provided that the Company shall not impose a power factor of less than .85 lagging on the Government's facilities which requries operation contrary to good operating practice or results in overload or impairment of such facilities or unreasonably

interferes with the delivery of capacity and energy by the Government to the Company and to its other customers.

Service Interruption: When delivery of capacity to the Company is interrupted or reduced due to conditions on the Government's system which have not been arranged for and agreed to in advance, the demand charge for capacity made available will be reduced as to the kilowatts of such capacity which have been interrupted or reduced in accordance with the following formula:

$$\text{Number of kilowatts unavailable for at least 12 hours in any calendar day} \times \frac{\$1.41}{\text{Number of days in billing month}}$$

October 1, 1984.

Wholesale Power Rate Schedule GAMF–1–D

Availability: This rate schedule shall be available to public bodies and cooperatives (any one of which is hereinafter called the Customer) in Georgia, Alabama, southeastern Mississippi, and panhandle Florida owning distribution systems, to whom power may be wheeled pursuant to contracts between the Government and, respectively, the Georgia Power Company, Alabama Power Company, Mississippi Power Company, and Gulf Power Company (any one of which is hereinafter called the Company).

Applicability: This rate schedule shall be applicable to the sale at wholesale of power and accompanying energy generated at the Allatoona, Buford, Clarks Hill, Walter F. George, Hartwell, Millers Ferry, West Point, Robert F. Henry, Carters and Richard B. Russell Projects and sold under appropriate contracts between the Government and the Customer and to any deficiency energy purchased by the Government from the Companies.

Character of Service: The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 Hertz delivered at the delivery points of the Customer on the Company's transmission and distribution system. The voltage of delivery will be maintained within the limits established by the state regulatory commission.

Monthly Rate: The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge: $1.41 per kilowatt of total contract demand.

Energy Charge: 5.06 mills per kilowatt-hour.

Additional Wheeling Charge: $0.16 per kilowatt of total contract demand.

Contract Demand: The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Customer is entitled to receive.

Energy to be Furnished by the Government: The Government will sell to the Customer and the Customer will purchase from the government energy each billing month equivalent to an annual energy quantity specified by contract and prorated on an equal daily amount throughout the year. The Customer's contract demand and accompanying energy will be allocated proportionately to its individual delivery points served from the Company's system.

Billing Month: The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Conditions of Service: The Customer shall at its own expense provide, install, and maintain on its side of each delivery point the equipment necessary to protect and control its own system. In so doing, the installation, adjustment, and setting of all such control and protective equipment at or near the point of delivery shall be coordinated with that which is installed by and at the expense of the Company on its side of the delivery point.

Service interruption: When energy delivery to the Customer's system for the account of the Government is reduced or interrupted for 1 hour or longer, and such reduction or interruption is not due to conditions on the Customer's system, the demand charge for the month shall be appropriately reduced.

October 1, 1984.

[FR doc. 84–26389 Filed 10–3–84; 8:45 am]
BILLING CODE 6450–01–M

FEDERAL MARITIME COMMISSION

Tampa Port Authority and Port Sutton Inc.

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in section 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 221–010647.

Title: Tampa Terminal Agreement.

Parties:

Tampa Port Authority (TPA)
Port Sutton, Inc. (Sutton)

Synopsis: The agreement provides for the sale by Sutton to TPA of developed leased properties consisting of 76.5 acres of improved land including the improvements thereon; the adjacent docks, mooring facilities and 175.45 acres of undeveloped land; and all associated lease rights and benefits. The agreement further provides for TPA to receive an option from Sutton on 128 acres of additional undeveloped land.

By Order of the Federal Maritime Commission.

Dated: October 1, 1984.

Francis C. Hurney,

Secretary.

[FR Doc. 84–26341 Filed 10–3–84; 8:45 am]
BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Citicorp and Citicorp Holding, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications

must be received not later than October 25, 1984.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Citicorp*, New York, New York and *Citicorp Holdings, Inc.*, Wilmington, Delaware; to acquire 100 percent of the voting shares of Citibank (Nevada), N.A., a *de novo* bank.

B. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Ohio Bancorp*, Youngstown, Ohio; to acquire 100 percent of the voting shares of The Potters Bank & Trust Company, East Liverpool, Ohio.

C. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *CB&T Financial Corp.*, Fairmont, West Virginia; to acquire 100 percent of the voting shares of Clarksburg Community Bank, Clarksburg, West Virginia.

2. *CB&T Financial Corp.*, Fairmont, West Virginia; to acquire 100 percent of the voting shares of Stonewall National Bank, Weston, West Virginia.

D. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *FNB Newton Bankshares, Inc.*, Covington, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank of Newton County, Covington, Georgia.

2. *Independent Community Banks, Inc.*, Winter Park, Florida; to acquire 100 percent of the voting shares of First National Bank, Seminole County, Longwood, Florida, a *de novo* bank.

E. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *FBOP Corporation*, Oak Park, Illinois; to become a bank holding company by acquiring 84.3 percent of the voting shars of First Bank of Oak Park, Oak Park, Illinois.

2. *PTC Financial Corporation*, Peru, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of The Peru Trust Company, Peru, Indiana.

F. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Evergreen Bancorporation, Inc.*, Kalispell, Montana; to become a bank holding company by acquiring 80.6 percent of the voting shares of First National Bank of Whitefish, Whitefish, Montana and 80.6 percent of the voting shares of First National Bank of Eureka, Eureka, Montana.

G. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Commerce Bancshares of Roswell, Inc.*, Roswell, New Mexico; to become a bank holding company by acquiring 80 percent of the voting shares of Valley Bank of Commerce, Roswell, New Mexico.

2. *Texarkana National Bancshares, Inc.*, Texarkana, Texas; to acquire 100 percent of the voting shares of Texarkana National Bank-Central Plaza, Texarkana, Texas, a *de novo* bank.

3. *Texas Commerce Bancshares, Inc.*, Houston, Texas; to acquire 100 percent of the voting shares of Texas Commerce Bank-San Antonio NW, N.A., San Antonio, Texas, a *de novo* bank.

Board of Governors of the Federal Reserve System, September 28, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-26362 Filed 10-3-84; 8:45 am]

BILLING CODE 6210-01-M

Mark Twain Bancshares, Inc., et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 25, 1984.

A. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Mark Twain Bancshares, Inc.*, St. Louis, Missouri; to engage *de novo* through its subsidiary, Mark Twain Brokerage Services, Inc., St. Louis, Missouri, in securities brokerage activities in the St. Louis and Kansas City banking markets.

2. *Mark Twain Bancshares, Inc.*, St. Louis, Missouri; to engage *de novo* through its subsidiary Mark Twain Mortgage Company, St. Louis, Missouri, in real estate appraisal activities.

B. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Janesville Holding Company*, Janesville, Minnesota; to engage *de novo* in extending credit to insiders.

2. *American Bancorporation Holding Company*, Brainerd, Minnesota; to engage *de novo* through its subsidiary, CreditAmerica Lending and Thrift Company, Brainerd, Minnesota, in industrial banking activities.

Board of Governors of the Federal Reserve System, September 28, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-26361 Filed 10-3-84; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Federal Telecommunication Standards; Inquiry

AGENCY: Office of Information Resources Management, General Services Administration.

ACTION: Notice for comment on proposed standard.

SUMMARY: The purpose of this notice is to solicit the views of Federal agencies, industry, the public, and State and local governments on a Federal Telecommunications Standards (FED-

STD) proposed for adoption: FED–STD 1005A, "Telecommunications: Coding and Modulation Requirements for 2,400 Bit/second Modems".

DATE: Comments are due on or before January 2, 1985.

ADDRESS: Send comments to National Communications System, Office of Technology and Standards, Washington, DC 20305–2010.

FOR FURTHER INFORMATION CONTACT: Mr. Robert M. Fenichel, National Communications System, telephone (202) 692–2124.

SUPPLEMENTARY INFORMATION:

1. The General Services Administration (GSA) is responsible under the provisions of the Federal Property and Administrative Services Act of 1949, as amended, for the Federal Standardization Program. On August 14, 1972, the Administrator of General Services designated the National Communications System (NCS) as the responsible agent for the development of Federal telecommunication standards for NCS interoperability and the computer-communication interface.

2. Prior to the adoption of proposed Federal standards, it is important that proper consideration be given to the needs and views of Federal agencies, industry, the public, and State and local governments.

3. Request for copies of the July 6, 1984 draft of FED–STD 1005A should be directed to the National Communications System, Office of Technology and Standards, Washington, DC 20305–2010.

Dated: September 26,1984.

Francis A. McDonough,

Deputy Assistant Administrator for Federal Information Resources Management.

[FR Doc. 84–26150 Filed 10–3–84; 8:45 am]

BILLING CODE 6820–25–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[516 DM 6, Appendix 7]

National Environmental Policy Act; Revised Implementing Procedures

AGENCY: Department of the Interior.

ACTION: Notice of revised instructions for the National Park Service.

SUMMARY: This notice announces a revised appendix to the Department's National Environmental Policy Act (NEPA) procedures for the National Park Service (NPS). The revised appendix includes instructions for traditional NPS functions and for functions assumed by NPS with the abolishment of the Heritage Conservation and Recreation Service (HCRS). It replaces the present Appendices 3 and 7 to Chapter 6 of part 516 of the Departmental Manual (516 DM 6) which prescribes the Department's NEPA procedures. The Department's procedures were published in the **Federal Register** on April 23, 1980 (45 FR 27541) and revised on May 21, 1984 (49 FR 21437). Appendix 3 for HCRS was published on November 20, 1980 (45 FR 76801), the current Appendix 7 for NPS was published on January 5, 1981 (46 FR 1042), and the proposed revised Appendix was published on March 12, 1984 (49 FR 9273).

EFFECTIVE DATE: October 4, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Bruce Blanchard, Director of Environmental Project Review, Office of the Secretary, Department of the Interior, Washington, D.C. 20240; Telephone (202) 343–3891, FTS 343–3891. For NPS, contact Mr. David Jervis, Chief, Environmental Compliance Division, (202) 343–2163, FTS 343–2163.

SUPPLEMENTARY INFORMATION: This revised appendix to the Departmental Manual (516 DM 6, Appendix 7) provides specific NEPA compliance instructions to the National Park Service. In particular it provides information about NPS organizational responsibilities for NEPA compliance, advice to applicants, actions normally requiring the preparation of an EIS, and categorical exclusions from the NEPA process. The revision consolidates in one appendix the NPS NEPA responsibilities and updates and revises the instructions to reflect the NPS's continued experience with the NEPA process.

The appendix must be taken in conjunction with the Departmental procedures (516 DM 1–6) and the Council on Environmental Quality Regulations Implementing the Procedural Provisions of the National Environmental Policy Act (40 CFR Parts 1500–1508). In addition, the NPS has prepared a handbook of technical guidance, NEPA Compliance Guideline (NPS–12), on how to apply these procedures to its programs..

We received three comments on the proposed revision (49 FR 9273, March 4, 1984) from the electric utility industry which supported the categorical exclusions pertaining to transmission lines. We have added categorical exclusions for minor boundary changes (7.4A(3)) and concurrence with actions categorically excluded by other Departmental bureaus (7.4A(11)). These additions are consistent with Appendix 1 to 516 DM 2 and conform with other bureau apendices, and are subject to the exceptions to categorical exclusions contained in Appendix 2 to 516 DM 2. Other minor clarifying and technical changes have also been made to the Appendix. The Department welcomes any further comments to help improve the NEPA process in the National Park Service.

Dated: September 28, 1984.

Joseph W. Gorrell,

Deputy Assistant Secretary, Policy, Budget and Administration.

516 DM 6, Appendix 7

National Park Service

7.1 NEPA Responsibilities

A. The Director is responsible for NEPA compliance for National Park Service (NPS) activities.

B. Regional Directors are responsible to the Director for integrating the NEPA process into all regional activities and for NEPA compliance in their regions.

C. The Denver Service Center performs most major planning efforts for the National Park Service and integrates NEPA compliance and environmental considerations with project planning, consistent with direction and oversight provided by the appropriate Regional Director.

D. The Environmental Compliance Division (Washington), which reports to the Associate Director—Planning and Development, serves as the focal point for all matters relating to NEPA compliance; coordinates NPS review of NEPA documents prepared by other agencies; and provides policy review and clearance for NPS EISs. Information concerning NPS NEPA documents or the NEPA process can be obtained by contacting this office.

7.2 Guidance to Applications

Actions in areas of NPS jurisdiction that are initiated by private or non-Federal entities include the following:

A. Minerals. Mineral exploration, leasing and development activities are not permitted in most units of the National Park System. There are exceptions where mineral activities are authorized by law and all mineral activities conducted under these exceptions require consulation with and evaluation by officials of the NPS and are subject to NEPA compliance. Some procedures whereby mineral activities are authorized are outlined below. For site-specific proposals, interested parties should contact the appropriate NPS Regional Director for a determination of whether authorities for conducting other types of mineral activities in particular areas exist and, if

so, how to obtain appropriate permits. For further information about NPS minerals policy, interested parties should contact the Energy, Minerals Division (Denver, Colorado).

(1) Mining Claims and Associated Mining Operations.

All units of the National Park System are closed to mineral entry under the 1872 Mining Law, and mining operations associated with mining claims are limited to the exercise of valid prior existing rights. Prior to conducting mining operations on patented or unpatented mining claims within the National Park System, operators must obtain approval of the appropriate NPS Regional Director. The Regional Directors base approval on information submitted by potential operators that discusses the scope of the proposed operations, evaluates the potential impacts on park resources, identifies measures that will be used to mitigate adverse impacts, and meets other requirements contained in 36 CFR Part 9, Subpart A, which governs mining operations on mining claims under the authority of the Mining in the Parks Act of 1976.

(2) Non-Federal Mineral Rights.

Privately-held oil, gas and mineral rights on private land or split estates (Federally-owned surface estate and non-Federally owned subsurface estate) exist within some park unit boundaries. Owners of outstanding subsurface oil and gas rights are granted reasonable access on or across park units through compliance with 36 CFR Part 9, Subpart B. These procedures require an operator to file a plan of operations for approval by the appropriate NPS Regional Director. An approved plan of operations serves as the operator's access permit.

(3) Federal Mineral Leasing and Mineral Operations.

(a) Leasing of Federally-owned minerals is restricted to five national recreation areas in the National Park System, where leasing is authorized in the enabling legislation of the units. According to current regulations (43 CFR 3100.0–3(g)(4); 43 CFR 3500.0–3(c)(7)). These areas are: Lake Mead, Glen Canyon, Ross Lake, Lake Chelan and Whiskeytown National Recreation Areas. However, Lake Chelan was designated in 1981 as an "excepted area"; under the regulations and is closed to mineral leasing. The Bureau of Land Management (BLM) issues leases on these lands and controls and monitors operations Applicable general leasing and operating procedures for oil and gas are contained in 43 CFR Part 3100, et set. and for minerals other tham oil and gas in 43 CFR Part 3500, et seq. Within units of the National Park System, the NPS, as the surface management agency, must consent to the permitting and leasing of park lands and concur with operating conditions established in consultation with the BLM. Leases and permits can only be granted upon a finding by the NPS Regional Director that the activities authorized will not have a significant adverse effect on the resources and administration of the unit. The NPS can also require special lease and permit stipulations for protecting the environment and other park resources. In addition, the NPS participates with BLM in preparing environmental analyses of all proposed activities and in establishing reclamation requirements for park unit lands.

(b) Glen Canyon National Recreation Area is the only unit of the National Park System containing specal tar sands areas as defined in the Combined Hydrocarbon Leasing Act of 1981. In accordance with the requirements of this Act, the BLM has promulgated regulations governing the conversion of existing oil and gas leases located in special tar sands areas to combined hydrocarbon (oil, gas and tar sands) leases and for instituting a competitive combined hydrocarbon leasing program in the special tar sands areas. Both of these activities, lease conversions and new leasing, may occur within the Glen Canyon NRA provided that they take place commensurate with the unit's minerals management plan and that the Regional Director of the NPS makes a finding of no significant adverse impact on the resources and administration of the unit or on other contiguous units of the National Park System. If the Regional Director does not make such a finding, then the BLM cannot authorize lease conversions or issue new leases within the Glen Canyon NRA. The applicable regulations are contained in 43 CFR 3140.7 and 3141.4–2, respectively. Intra-Departmental procedures for processing conversion applications have been laid out in a Memorandum of Understanding (MOU) between the BLM and the NPS. For additional information about combined hydrocarbon leasing, interested parties should contact the Energy Mining and Minerals Division (Denver, Colorado).

B. Grazing. Grazing management plans for NPS units subject to legislatively-authorized grazing are normally prepared by the NPS or jointly with the BLM. Applicants for grazing allotments must provide the NPS and/or the BLM with such information as may be required to enable preparation of environmental documents on grazing management plans.

Grazing is also permitted in some NPS areas as a condition of land acquisition in instances where grazing rights were prior to Federal acquisition. The availability of these grazing rights is limited and information should be sought through individual Park Superintendents.

C. Permits, Rights-of-Way, and Easements for Non-Park Uses. Informational requirements are determined on a case-by-case basis, and applicants should consult with the Park Superintendent before making formal application. The applicant must provide sufficient information on the proposed non-park use, as well as park resources and resource-related values to be affected directly and indirectly by the proposed use in order to allow the Service to evaluate the application, assess the impact of the proposed use on the NPS unit and other environmental values, develop restrictions/stipulations to mitigate adverse impacts, and reach a final decision on issuance of the instrument. Authorities for such permits, rights-of-way, etc., are found in the enabling legislation for individual National Park System units and 16 U.S.C. 5 and 79 and 23 U.S.C. 317. Right-of-way and easement regulations are found at 36 CFR Part 14. Policies concerning regulation of special uses are described in the NPS Management Policies Notebook.

D. Archaeological Permits. Permits for the excavation or removal of archaeological resources on public and Indian lands owned or administered by the Department of the Interior, and by other agencies that may delegate this responsibility to the Secretary, are issued by the Director of the NPS. These permits are required pursuant to the Archaeological Resources Protection Act of 1979 (Pub. L. 96–95) and implementing regulations (43 CFR Part 7), whenever materials of archaeological interest are to be excavated or removed. These permits are not required for archaeological work that does not result in any subsurface testing and does not result in the collection of any surface or subsurface archaeological materials. Applicants should contact the Departmental Consulting Archeologist in Washington about these permits.

E. Federal Aid. The NPS administers financial and land grants to States, local governments and private organizations/individuals for outdoor recreation acquisition, development and planning (Catalog of Federal Domestic Assistance (CFDA #15.916), historic preservation (DCDA #15.904), urban park and recreation recovery (CFDA #15.919) and Federal surplus real property for park,

recreation and historic monument use (CFDA #15.403).

The following program guidelines and regulations list environmental requirements which applicants must meet:

(1) Land and Water Conservation Fund Grants Manual, Part 650.2;

(2) Historic Preservation Grants-in-Aid Manual, Chapter 4;

(3) Urban Park and Recreation Recovery Guidelines, NPS–37;

(4) Policies and Responsibilities for Conveying Federal Surplus Property (draft) Manual, Part 271.

Copies of documents related to the Land and Water Conservation Fund and the Historic Preservation Fund have been provided to all State Liaison Officers for out-door recreation and all State Historic Preservation Officers. Copies of these and documents related to the Urban Park and Recreation Recovery Program are available for inspection in each NPS Regional Office as well as the NPS Office of Public Affairs in Washington, D.C.

Many State agencies which seek NPS grants may prepare related EISs pursuant to section 102(2)(D) of NEPA. Such agencies should consult with the appropriate NPS Regional Office.

F. Conversion of Acquired and Developed Recreation Lands

The NPS must approve the conversion of certain acquired and developed lands prior to conversion. These include:

(1) All State and local lands and interests therein, and certain Federal lands under lease to the States, acquired or developed in whole or in part with monies from the Land and Water Conservation Fund Act are subject to section 6(f) of the Act which requires approval of conversion of use.

(2) All recreation areas and facilities (as defined in section 1004), developed or improved, in whole or in part, with a grant under the Urban Park and Recreation Recovery Act of 1978 (Pub. L. 95–625, Title 10) are subject to section 1010 of the Act which requires approval for a conversion to other than public recreation uses.

(3) Most Federal surplus real property which has been conveyed to State and local governments for use as recreation demonstration areas, historic monuments or public park and recreation areas (under the Recreation Demonstration Act of 1942 or the Federal Property and Administrative Services Act of 1949, as amended) are subject to approval of conversion of use.

(4) All abandoned railroad rights-of-way acquired by State and local governments for recreational and/or conservation uses with grants under section 809(b) of the Railroad Revitalization and Regulatory Reform Act of 1976, are subject to approval of conversion of use.

Application for approval of conversion of the use of these lands must be submitted to the appropriate Regional Director of the NPS. Early consultation with the Regional Office is encouraged to insure that the application is accompanied by any required environmental documentation. If the property was acquired through the Land and Water Conservation Fund, then the application must be submitted through the appropriate State Liaison Officer for Outdoor Recreation. If the property was acquired under the Federal Property and Administrative Services Act of 1949, as amended, approval of an application for conversion of use must also be concurred in by the General Services Administration.

7.3 Major Actions Normally Requiring Environmental Impact Statements

A. The following types of NPS proposals will normally require the preparation of an EIS:

(1) Wild and Scenic River proposals;

(2) National Trail proposals;

(3) Wilderness proposals;

(4) General Management Plans for major National Park System units;

(5) Grants, including multi-year grants, whose size and/or scope will result in major natural or physical changes, including interrelated social and economic changes and residential and land use changes within the project area or its immediate environs.

(6) Grants which foreclose other beneficial uses of mineral, agricultural, timber, water, energy or transportation resources important to National or State welfare.

B. If for any of these proposals it is initially decided not to prepare an EIS, and EA will be prepared and made available for public review in accordance with section 1501.4(e)(2).

7.4 Categorical Exclusions

In addition to the actions listed in the Departmental categorical exclusions in Appendix 1 of 516 DM 2, many of which the Service also performs, the following NPS actions are designated categorical exclusions unless the action qualifies as an exception under Appendix 2 to 516 DM 2:

A. Actions Related to General Administration (1) Changes or amendments to an approved action when such changes would cause no or only minimal environmental impact.

(2) Land and boundary surveys.

(3) Minor boundary changes.

(4) Reissuance/renewal of permits, rights-of-way or easements not involving new environmental impacts.

(5) Conversion of existing permits to rights-of-way, when such conversions do not continue or initiate unsatisfactory environmental conditions.

(6) Issuance, extensions, renewals, reissuance or minor modifications of concession contracts or permits not entailing new construction.

(7) Commercial use licenses involving no construction.

(8) Leasing of historic properties in accordance with 36 CFR Part 18 and NPS–38.

(9) Preparation and issuance of publications.

(10) Modifications or revisions to existing regulations, or the promulgation of new regulations for NPS-administered areas, provided the modifications, revisions or new regulations do not:

(a) Increase public use to the extent of compromising the nature and character of the area or causing physical damage to it;

(b) Introduce noncompatible uses which might compromise the nature and characteristics of the area, or cause physical damage to it;

(c) Conflict with adjacent ownerships or land uses; or

(d) Cause a nuisance to adjacent owners of occupants.

(II) At the direction of the NPS responsible official, actions where NPS has concurrence or coapproval with another bureau and the action is a categorical exclusion for that bureau.

B. Plans, Studies and Reports (1) Changes or amendments to an approved plan, when such changes would cause no or only minimal environmental impact.

(2) Cultural resources maintenance guides, collection management plans and historic furnishings reports.

(3) Interpretive plans (interpretive prospectuses, audio-visual plans, museum exhibit plans, wayside exhibit plans).

(4) Plans, including priorities, justifications and strategies, for non-manipulative research, monitoring, inventorying and information gathering.

(5) Statements for management, outlines of planning requirements and task directives for plans and studies.

(6) Technical assistance to other Federal, State and local agencies or the general public.

(7) Routine reports required by law or regulation.

(8) Authorization, funding or approval for the preparation of Statewide Comprehensive Outdoor Recreation Plans.

(9) Adoption or approval of surveys, studies, reports, plans and similar documents which will result in recommendations or proposed actions which would cause no or only minimal environmental impact.

(10) Preparation of internal reports, plans, studies and other documents containing recommendations for action which NPS develops preliminary to the process of preparing a specific Service proposal or set of alternatives for decision.

(11) Land protection plans which propose no significant change to existing land or visitory use.

(12) Documents which interpret existing mineral management regulations and policies, and do not recommend action.

C. Actions Related to Development (1) Land acquisition within established part boundaries.

(2) Land exchanges which will r ot lead to significant changes in the use of land.

(3) Routine maintenance and repairs to non-historic structures, facilities, utilities, grounds and trails.

(4) Routine maintenance and repairs to cultural resource sites, structures, utilities and grounds under an approved Historic Structures Preservation Guide or Cyclic Maintenance Guide; or if the action would not adversely affect the cultural resource.

(5) Installation of signs, displays, kiosks, etc.

(6) Installation of navigation aids.

(7) Establishment of mass transit systems not involving construction, experimental testing of mass transit systems, and changes in operation of existing systems (e.g., routes and schedule changes).

(8) Replacement in kind of minor structures and facilities with little or no change in location, capacity or appearance.

(9) Repair, resurfacing, striping, installation of traffic control devices, repair/replacement of guardrails, etc., on existing roads.

(10) Sanitary facilities operation.

(11) Installation of wells, comfort stations and pit toilets in areas of existing use and in developed areas.

(12) Minor trail relocation, development of compatible trail networks on logging roads or other established routes, and trail maintenance and repair.

(13) Upgrading or adding new overhead utility facilities to existing poles, or replacement poles which do not change existing pole line configurations.

(14) Issuance of rights-of-way for overhead utility lines to an individual building or well from an existing line where installation will not result in significant visual intrusion and will involve no clearance of vegetation other than for placement of poles.

(15) Issuance of rights-of-way for minor overhead utility lines not involving placement of poles or towers and not involving vegetation management or significant visual intrusion in an NPS-administered area.

(16) Installation of underground utilities in previously disturbed areas having stable soils, or in existing utility right-of-way.

(17) Construction of minor structures, including small improved parking lots, in previously disturbed or developed areas.

(18) Construction or rehabilitation in previously disturbed or developed areas, required to meet health or safety regulations, or to meet requirements for making facilities accessible to the handicapped.

(19) Landscaping and landscape maintenance in previously disturbed or developed areas.

(20) Contruction of fencing enclosures or boundary fencing posing no effect on wildlife migrations.

D. Actions Related to Visitor Use (1) Carrying capacity analyses.

(2) Minor changes in amounts or types of visitor use for the purpose of ensuring visitor safety or resource protection in accordance with existing regulations.

(3) Changes in interpretive and environmental education programs.

(4) Minor changes in programs and regulations pertaining to vistor activities.

(5) Issuance of permits for demonstrations, gatherings, ceremonies, concerts, arts and crafts shows, etc., entailing only short-term or readily mitigable environmental disturbance.

(6) Designation of trailside camping zones with no or minimal improvements.

E. Actions Related to Resource Management and Protection (1) Archeological surveys and permits, involving only surface collection or small-scale test excavations.

(2) Day-to-day resource management and research activities.

(3) Designation of environmental study areas and research natural areas.

(4) Stabilization by planting native plant species in disturbed areas.

(5) Issuance of individual hunting and/or fishing licenses in accordance with State and Federal regulations.

(6) Restoration of noncontroversial native species into suitable habitats within their historic range, and elimination of exotic species.

(7) Removal of park resident individuals of non-threatened/endangered species which pose a danger to visitors, threaten park resources or become a nuisance in areas surrounding a park, when such removal is included in an approved resource management plan.

(8) Removal of non-historic materials and structures in order to restore natural conditions.

(9) Development of standards for, and identification, nomination, certification and determination of eligibility of properties for listing in the National Register of Historic Places and the National Historic Landmark and National Natural Landmark Programs.

F. Actions Related to Grant Programs (1) Proposed actions essentially the same as those listed in paragraphs A–E above.

(2) Grants for acquistion of areas which will continue in the same or lower density use with no additional disturbance to the natural setting.

(3) Grants for replacement or renovation of facilities at their same location without altering the kind and amount of recreational, historical or cultural resources of the area; or the integrity of the existing setting.

(4) Grants for construction of facilities on lands acquired under a previous NPS or other Federal grant provided that the development is in accord with plans submitted with the acquisition grant.

(5) Grants for the construction of new facilities within an existing park or recreation area, provided that the facilities will not:

(a) Conflict with adjacent ownerships or land use, or cause a nuisance to adjacent owners or occupants; e.g., extend use beyond daylight hours;

(b) Introduce motorized recreation vehicles;

(c) Introduce active recreation pursuits into a passive recreation area;

(d) Increase public use or introduce noncompatible uses to the extent of compromising the nature and character of the property or causing physical damage to it; or

(e) Add or alter access to the park from the surrounding area.

(6) Grants for the restoration, rehabilitation, stabilization, preservation and reconstruction (or the authorization thereof) of properties listed on or eligible for listing on the National Register of Historic Places, at their same location and provided that such actions:

(a) Will not alter the integrity of the property or its setting;

(b) Will not increase public use of the area to the extent of compromising the nature and character of the property; and

(c) Will not cause a nuisance to adjacent property owners or occupants.

[FR Doc. 84-26384 Filed 10-3-84; 8:45 am]
BILLING CODE 4310-70-M

Bureau of Land Management

[U-48777]

Completion of Management Framework Plan Amendment; Emery County, UT

AGENCY: Bureau of Land Management, Interior.

ACTION: Completion of San Rafael Management Framework Plan Amendment (MFP).

SUMMARY: The Moab District, San Rafael Resource Areas has completed the amendment of the San Rafael MFP to add the following: "Dispose of land identified through annexation by the town of Emery as needed for community expansion and development. Disposal methods may include R&PP lease/sale, public sale or other appropriate methods. The area totals 170.18 acres."

SUPPLEMENTARY INFORMATION: The amendment process was started with publication of the Notice of Intent in the February 15, 1984 **Federal Register** which initiated a public comment period ending March 5, 1984.

The decision will be implemented 30 days after date of publication of this notice.

Any person who participated in the planning process and has an interest which may be adversely affected by the amendment of the MFP may protest approval of the amendment. A protest may raise only those issues which were submitted for the record to the BLM during the planning process. The protest shall be filed with the Director of BLM within 30 days of publication of this notice. The protest shall contain: (1) The name, mailing address, telephone number, and interest of the person filing the protest; (2) a statement of the issue or issues being protested; (3) a statement of the part or parts of the plan being protested; (4) a copy of all documents addressing the issue or issues that were submitted during the planning process by the protesting party or an indication of the date the issue or issues were discussed for the record; and (5) a concise statement explaining why the protestor believes that the State Director's decision is wrong. The Director will issue a decision in writing on the protest. Protest should be sent to the Director, Department of the Interior, Bureau of Land Management, 18th and C Streets, NW., Washington, D.C. 20240.

For further information concerning the decision, contact Samuel R. Rowley, Area Manager, San Rafael Resource Area, P.O. Drawer AB, Price, Utah 84501. A copy of the planning amendment/environmental assessment is available for review at the San Rafael Resource Area office listed above and at the Moab District Office, P.O. Box 970, Moab, Utah, 84532.

Dated: September 25, 1984.

C. Delano Backus,

Acting District Manager.

[FR Doc. 84-26810 Filed 10-3-84; 8:45 am]
BILLING CODE 4310-DQ-M

[C-0125220, C-0127157]

Colorado; Proposed Continuation of Reclamation Withdrawals

September 26, 1984.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Reclamation proposes that the two existing land withdrawals made in connection with the Bostwick Park Project be continued for 20 years. The national forest lands in both withdrawals will remain closed to surface entry and mining. They have been and remain open to mineral leasing.

DATE: Comments should be received within 90 days of publication date.

ADDRESS: All comments should be addressed to State Director, Colorado State Office, 2020 Arapahoe Street, Denver, Colorado 80205.

FOR FURTHER INFORMATION CONTACT: Richard D. Tate, Colorado State Office, 303-294-7626.

The Bureau of Reclamation proposes that the existing land withdrawals made by public land orders 3945 and 4001, dated March 7, and May 16, 1966, respectively, be continued for a period of 20 years in accordance with section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714.

These two orders currently withdraw 810 acres of national forest land. The land is located in the Uncompahgre National Forest, in T. 46 N., R. 6 W., New Mexico Principal Meridian, Colorado.

The purpose of the withdrawals is to protect the Silver Jack Reservoir and Recreation Area, Bostwick Park Project, and segregate the land from surface entry and mining, but not from mineral leasing. No change is proposed in the purpose or segregative effect of the withdrawals.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuation may present their views in writing to the State Director, Colorado State Office.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued and, if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register.** The existing withdrawal will continue until such final determination is made.

Robert D. Dinsmore,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84-26308 Filed 10-3-84; 8:45 am]
BILLING CODE 4310-JB-M

Malad Management Framework Plan and the Cassia Resource Management Plan; Intent To Amend

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given in accordance with 43 CFR 1610.2(c) that the Burley District is proposing to amend the Malad Management Framework Plan and the Cassai Resource Mangement Plan to allow disposal of certain parcels of public land. The scope of this amendment is limited to public land south of Interstate 86 in the following townships:

Boise Meridian, Idaho

T. 9 S., R. 28 E.;
T. 9 S., R. 29 E.;
T. 9 S., R. 30 E.;
T. 10 S., R. 29 E.;
T. 10 S., R. 30 E.;
T. 10 S., R. 31 E.

The general location of this area is 10 to 15 miles southwest of American Falls in Power and Cassia Counties.

An environmental assessment will be prepared by an interdisciplinary team which will determine the impacts of the plan amendment and the potential land disposal action.

SUPPLEMENTARY INFORMATION: The issue to be addressed by the planning amendment is the proposed disposal of 2750 acres of public land. This acreage of public land is made up primarily of small, isolated parcels and has potential

for disposal under the sale criteria in section 203 of FLPMA. The existing land use plans and applicable maps are available for review at the Burley District Office, Burley, ID.

DATES: The public is invited for a period of 60 days from the date of publication of this notice to submit written and oral comments to the following address: Terrance M. Costello, Deep Creek Area Manager, BLM, Rt. 3, Box 1, Burley, ID 83318; (208) 678–5514. The proposed decision and the time and place of any public meetings will be announced at a later date.

Dated: September 28, 1984.

John S. Davis,

District Manager.

[FR Doc. 84-26313 Filed 10-3-84; 8:45 am]

BILLING CODE 4310-GG-M

[M–61261 and M–61262]

Montana; Modified Competitive Sales of Public Land in Garfield and Richland Counties

AGENCY: Bureau of Land Management, Miles City District Office, Interior.

ACTION: Notice of Realty Actions M–61261 and M–61262, Modified Competitive Sales of Public Land in Garfield and Richland Counties, Montana.

SUMMARY: The following described lands have been examined and identified as suitable for disposal by sale pursuant to section 203 of the Federal Land Policy and Management Act of 1976, U.S.C. 1713, at no less than fair market value.

Parcel No. 1—M–61261—Appraised Value $7,000

Principal Montana Meridian

T. 16 N., R. 43 E., Section 6: Lots 12, 13, NE¼SE¼ containing 107.82 acres.

Principal Montana Meridian

T. 24 N., R. 52 E., Section 26: S½NE¼, NE¼SE¼ containing 120.00 acres.

The land will be offered for sale by sealed bid only utilizing modified competitive bidding procedures on December 5, 1984 at 1:30 p.m. at Montana State Office, Bureau of Land Management, 222 North 32nd Street, P.O. Box 31434, Billings, Montana 59107–1434.

John Schlepp of Cohagen, Montana, is the authorized grazing permittee and will be the designated bidder on Parcel No. 1, M–61261. These public lands are one 40 acre tract and one 67.82 acre tract located approximately 13 miles northeast of Cohagen, Montana. Both tracts are isolated, difficult and uneconomical to manage as part of the public lands and are not suitable for management by another federal agency. Both tracts are rough sagebrush/native grasslands. Physical access via vehicle is possible over ranch trails during dry weather. There is no legal access to either parcel. The tract in Lots 12, 13 is fenced on the west boundary and there are no other range improvements. The tract in NE¼SE¼ is fenced on the east boundary.

Lazy D Bar Seven Ranch Inc. (Bernard Pritchet) of Lambert, Montana, the authorized grazing permittee, will be the designated bidder on Parcel No. 2, M–61262. This 120 acre subsection is an "L" shaped tract approximately 11 miles northeast of Richey, Montana. This 120 acres is isolated, difficult and uneconomical to manage as part of the public lands and is not suitable for management by another federal agency. Topography is rolling to rough. Vegetation is native grasses with a few scattered brush species in a drainage on the south side of the tract. Physical access via vehicle is possible on a ranch trail during dry weather. There is no legal access. There is no water and there are no range improvements. A boundary fence is on the east side.

The proposed sales are consistent with the Bureau's planning system. The Garfield County Commissioners were contacted on February 7, 1984, and the Richland County Commissioners were contacted on February 29, 1984, of the proposed sales and both groups concur there is no need for a hearing. The transfer of the parcels into private ownership will benefit the public interest by providing for better land management.

Terms and Conditions: The terms and conditions applicable to the sales are:

1. All minerals will be reserved to the United States, together with the right to explore, prospect for, mine, and remove same under applicable law and regulations;

2. A right-of-way for ditches or canals will be reserved to the United States in accordance with 43 U.S.C. 945;

3. The sale of these lands will be subject to all valid existing rights and reservations of record.

DATES: For a period of 45 days from the date of publication of this notice, interested parties may submit comments to the District Manager, Bureau of Land Management, P.O. Box 940, Miles City, Montana 59301. Any adverse comments will be evaluated by the BLM Montana State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become a final determination of the Department of the Interior.

FOR FURTHER INFORMATION CONTACT: Information relating to the sale, including the land report and environmental assessment is available for review at the Miles City District Office, west of Miles City, Montana.

SUPPLEMENTARY INFORMATION:

Bidder Qualifications: The bidder must be a U.S. citizen or, in the case of a corporation, subject to the laws of any state of the U.S. A state, state instrumentality or political subdivision submitting a bid must be authorized to hold property. Any other entity submitting a bid must be legally capable of holding and conveying lands or interests therein under the laws of the State of Montana. Bids must be made by the principal or his agent.

Bid Standards: No bid will be accepted for less than the appraised fair market value and bids must be individually submitted for either Parcel No. 1 (M–61261) or Parcel No. 2 (M–61262).

Method of Bidding: The land will be sold by sealed bid. Each bid must be accompanied by a certified check, postal money order, bank draft, or cashier's check made payable to the U.S. Department of Interior, Bureau of Land Management for not less than 10 percent or more than 30 percent of the amount bid. Sealed bids will be received at the Montana State Office, Bureau of Land Management, until 1 p.m., December 5, 1984. Sealed bids will be opened in the Montana State Office, 222 North 32nd Street, Billings, Montana.

The sealed bid envelope must be addressed as follows: Cashier—Sealed Bids, Public Land Sale M– , P.O. Box 31434, Billings, Montana 59107–1434.

If two or more envelopes containing valid bids of the same amount are received, the determination of which is to be considered the highest bid shall be by supplemental biddings. The designated high bidders shall be allowed to submit oral or sealed bids as designated by the authorized officer. The highest qualifying sealed bid shall then be publicly declared.

Modified Competitive Bidding: For a period of 30 days following the date of the sale, John Schlepp of Cohagen, Montana, the designated bidder for Parcel No. 1, and Lazy D Bar Seven Ranch, Inc. of Lambert, Montana, the designated bidder for Parcel No. 2, will be offered the right to meet the highest qualifying bid. The designated bidder must submit a bid of at least the fair market value prior to the sale date in

order to be considered under the modified bidding provisions. If either meets the highest bid on the respective parcel(s), the land will be sold to the designated bidder(s) and the other high bid will be returned. If either designated bidder refuses to meet the highest bid or to submit any bid at all prior to the sale date, the modified competitive bidding provisions shall be waived.

Sale Continuation: In the event these parcels are not sold at the original designated sale offering, the parcel(s) will then be available for sale over the counter on a first come, first served basis at the Montana State Office, Bureau of Land Management, 222 North 32nd Street, Billings, Montana. Sealed bids will only be opened each Wednesday.

Final Details: Once a high bid is accepted, the successful bidder shall submit the remainder of the full bid price within 180 days. Failure to submit the required amount within the 180-day time period will result in forfeiture of the deposit and the lands will be offered to the next qualifying bidder.

Dated: September 27, 1984.

Ray Brubaker,

District Manager.

[FR Doc. 84-26314 Filed 10-3-84; 8:45 am]

BILLING CODE 4310-DN-M

New Mexico; Small Holding Claim Cancellations

September 25, 1984.

New Mexico Principal Meridian

T. 20 N., R. 9 E.,
Sec. 1: SHC 6201, Tr. 1 and Tr. 2.
T. 20 N., R. 10 E.,
Sec. 9: SHC 6211, Tr. 2.

The above listed small holding claims in Township 20 North, Ranges 9 and 10 East, surveyed by William B. Douglas and Chas. W. Devendorf in 1918, were cancelled September 18, 1984, with the areas returning to the public domain by this action.

T. 21 N., R. 9 E.,
Sec. 26: SHC 6267, Tr. 1, SHC 6268, Tr. 1 and SHC 6270, Tr. 1.;
Sec. 34: SHC 6190, Tr. 1 and SHC 6191, Tr. 1.;
Sec. 36: SHC 5492, Tr. 2, SHC 5984, Tr. 1, SHC 6200, Tr. 1 and Tr. 2, SHC 6207, Tr. 1 and SHC 6212, Tr. 1.

The above listed small holding claims in Township 21 North, Range 9 East, surveyed by Oscar B. Walsh and Chas. W. Devendorf in 1922, were cancelled September 24, 1984, with the areas returning to the public domain by this action.

Gary S. Speight,

Chief, Branch of Cadastral Survey.

[FR Doc. 84-26312 Filed 10-3-84; 8:45 am]

BILLING CODE 4310-FB-M

[OR-20239, OR-20240]

Oregon; Proposed Continuation of Withdrawals

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Reclamation proposes that two land withdrawals for the Klamath Reclamation Project continue for an additional 50 years. The land(s) would remain closed to surface entry and mining but has been and would remain open to mineral leasing.

ADDRESS: Comments should be sent to: Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503-231-6905.

The Bureau of Reclamation proposes that the existing land withdrawals made by the Secretarial Orders of June 20, 1922, and February 21, 1946, be continued for a period of 50 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714.

The land(s) involved is located approximately 33 miles southeast of Klamath Falls and totals 1,155.71 acres within T. 41 S., R. 14 E., W.M., Klamath County, Oregon.

The purpose of the withdrawals is to protect the proposed Boundary Dam and Reservoir, Klamath Recreation Project. The withdrawals segregate the land(s) from operation of the public land laws generally, including the mining laws, but not the mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawals.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuation may present their views in writing to the undersigned officer at the address specified above.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President and Congress, who will determine whether or not the withdrawals will be continued and if so, for how long. The final determination on the continuation of the withdrawals will be published in the **Federal Register.** The existing withdrawals will continue until such final determination is made.

Dated: September 24, 1984.

Champ C. Vaughan, Jr.,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84-26309 Filed 10-3-84; 8:45 am]

BILLING CODE 4310-33-M

[U-52427]

Realty Action; Sale of Public Lands; Emery County, UT

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action, U-52427, Sale of Public Lands in Emery County, Utah.

SUMMARY: The following described parcel of land has been examined and identified as suitable for disposal by sale under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713) (FLPMA) using competitive bidding procedures (43 CFR 2711.3-1, 2) at no less than the appraised fair market value. Bids at less than such value will be rejected as required by FLPMA.

Legal description	Acreage	Value
Salt Lake Meridian: T. 18 S., R. 8 E., sec. 1, lots 3 and 4	80.21	$12,000

Sale will be by competitive sale method at no less than the appraised fair market value.

Sealed bids will be accepted at the San Rafael Resource Area Office, P.O. Drawer AB, 900 North 7th East, Price, Utah 84501, until 11 a.m. on November 30, 1984, at which time the bids will be opened.

The terms and conditions applicable to this sale are:

1. A right-of-way will be reserved for ditches and canals constructed by the authority of the United States (Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945).

2. All minerals, including oil and gas, will be reserved to the United States with the right to explore, prospect for, mine, and remove under applicable law, and such regulations as the Secretary of Interior may prescribe.

3. Patent will be subject to all valid existing rights and reservations of record.

If not sold on the day of the sale, the parcel will remain available for sale each Monday from 10 a.m. to 11 a.m. until sold or withdrawn until May 27, 1985.

Additional information concerning the land, terms and conditions of sale, and bidding instruction may be obtained from Laurelle Hughes, Area Realty Specialist at above address, (801) 637–4584, or Brad Groesbeck, Moab District Office, P.O. Box 970, Moab, Utah 84532, (801) 259–6111.

SUPPLEMENTARY INFORMATION: For a period of 45 days from the date of this notice, interested parties may submit comments regarding the proposed action. Any adverse comments will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of the Interior.

The BLM reserves the right to accept or reject any and all offers, or withdraw any land or interest in land from sale if, in the opinion of the Authorized Officer, consummation of the sale would not be fully consistent with section 203(g) of FLPMA or other applicable laws.

Upon publication of the Notice of Realty Action in the **Federal Register**, the lands will be segregated from all forms of appropriation under the public land laws, including the mining and mineral leasing laws. This segregation shall terminate upon issuance of patent or other document of connveyance, upon publication in the **Federal Register** of a termination of segregation, or 270 days from the date this Notice is published in the **Federal Register**, whichever occurs first.

Dated: September 25, 1984.

C. Delano Backus,

Acting District Manager.

[FR Doc. 84-26307 Filed 10-3-84; 8:45 am]

BILLING CODE 4310-GG-M

[F-14884-A]

Alaska Native Claims Selection; Kwik, Inc.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance (DIC) under the provisions of sections 12(a) and 12(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1611 (1976), will be issued to Kwik, Incorporated, for approximately 1.25 acres. The lands involved are within the Seward Meridian, Alaska:

T. 4 S., R. 81 W.

Upon issuance, the DIC will be published once a week, for four (4) consecutive weeks, in The Tundra Drums. For information on how to obtain copies, contact the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest which is adversely affected by the decision shall have until November 5, 1984, to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements in 43 CFR Part 4, Subpart E (1983) (as amended, 49 FR 6371, February 21, 1984) shall be deemed to have waived their rights.

Ruth Stockie,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 84-26347 Filed 10-3-84; 8:45 am]

BILLING CODE 4310-JA-M

[OR 37195]

Realty Action; Competitive Sale of Public Land in Klamath County, OR

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Competitive Sale of Public Land In Klamath County, Oregon.

SUMMARY: The following Public Domain Land has been examined and identified as being suitable for disposal by public sale under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713), at no less than the appraised fair market value shown. The parcel is isolated, difficult and uneconomical to manage as part of the public lands and are not suitable for management by another Federal department or agency. The sale is consistent with the Bureau's planning efforts and the public interest will be served by offering this land for sale.

The following parcel of land will be offered for sale using competitive bid procedures (43 CFR 2711.3–1).

Legal description	Acreage	Appraisal value
T. 40 S., R. 8 E., Will. Mer., sec. 17: SW¼SE¼	40.0	$16,000

Except for the provisions of section 203 of the Federal Land Policy and Management Act of 1976, (90 Stat. 2750; 43 U.S.C. 1713), the above described land is hereby segregated from appropriation and the public land laws, including the mining laws.

Sales Procedure

The sale will be held on December 5, 1984, at 1:00 p.m. in the Medford District's Oregon Room, 3040 Biddle Road, Medford, Oregon 97504.

Sealed written bids will be considered only if received by the Bureau of Land Management, 3040 Biddle Road, Medford, Oregon 97504, before 11:30 a.m. on December 5, 1984, the date of the opening.

All bidders must be 18 years of age or over and U.S. citizens, a state or state instrumentality authorized to hold property, or in the case of corporations, be authorized to own real estate in the state in which the sale is being offered. Proof of these requirements shall accompany all sale bids.

A written bid should be submitted and accompanied by a certified check, postal money order, bank draft, or cashier's check made payable to the Department of the Interior—BLM for at least thirty percent (30%) of the amount bid and shall be enclosed in a sealed envelope clearly marked "Bid for Public Land Sales, Sale Parcel Number OR 37195 Klamath County, Oregon, December 5, 1984."

If two or more envelopes are received containing valid bids of the same amount, the successful bid will be determined by drawing. The drawing will be held by the authorized officer immediately following the opening of the bids.

The successful bidder will be required to pay the remainder of the sale price within 180 days. Failure to submit the full sale price within 180 days will disqualify the apparent high bidder and the thirty percent (30%) will be forfeited and disposed of an other receipts of the sale. The land will then be offered to the next highest bidder.

All bids will be either returned, accepted, or rejected within 30 days of the sale date.

If the parcel is not sold on the day of the sale it will remain available for sale until sold. Sealed bids will be solicited on the parcel at the Medford District Office during regular business hours

(8:00 a.m. to 4:45 p.m.). The sealed bids will be opened January 4, 1985 and every first Friday of each subsequent month until the land is sold.

Terms and Conditions

Patent issued as a result of the sale will be subject to all valid and existing rights and will contain the following reservation:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945).

2. All minerals will be reserved to the United States (43 U.S.C. 1719).

Detailed information concerning the sale, including the planning documents, environmental assessment, land report and fair market appraisal is available for review at the Bureau of Land Management, Medford District Office, 3040 Biddle Road, Medford, Oregon 97504, or by calling Don Kreitner, Area Realty Specialist at (503) 776–3923.

For a period of 45 days from the date of this notice, interested parties may submit comments regarding the proposed action. Comments shall reference Serial Number OR 37195. Any adverse comments will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of the Interior.

Dated: September 28, 1984.

David W. Taylor,

Acting District Manager.

[FR Doc. 84–26353 Filed 10–3–84; 8:45 am]

BILLING CODE 4310–33–M

[OR 36351–G.H.J.; OR 37434]

Oregon; Realty Action; Competitive and Direct Sale of Public Lands; in Harney and Grant Counties

The following described parcels of land have been examined and identified as suitable for disposal by sale under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713) at no less than the appraised fair market value shown (the appraised values are shown for the competitive sales only in that the appraisal for the direct sale has not yet been completed—the appraisal for this tract will be complete prior to the sale date and said sale will also be at no less than fair market value):

Parcel No.	Legal description	Acreage	Appraised value
(1) OR 36351–G.	T.33 S., R. 30 E., W.M., sec. 23: S½, Harney County, OR.	320	$15,300
(2) OR 36351–H.	T. 33 S., R. 30 E., W.M. sec. 24: All, Harney County, OR.	640	30,700
(3) OR 36351–J.	T. 33 S., R. 30 E., W.M., sec. 27: NW¼SE¼, Harney County, OR.	40	1,900
(4) OR 7434.	T. 12 S., R. 34 E., W.M., sec. 27: NW¼SE¼; sec.34: NW¼SE¼, Grant County, OR.	80	.....

Except for the provisions of section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713), the above described lands are herby segregated from appropriation under the public land laws, including the mining laws.

The sale will be held on Wednesday, December 5, 1984, at 10:00 a.m., at the Burns District Office, Bureau of Land Management, 74 South Alvord, Burns, Oregon, 97720.

The sale is consistent with publicly supported Bureau planning. The sale involves isolated land completely surrounded by private land, that is difficult and uneconomcial to manage as part of the public lands, and is not suitable for management by another Federal department or agency. The public interest will be served by offering this land for sale.

Sale Parcel No. 4, OR–37434, will be offered for direct sale to Mr. Robert Kimberling, at no less than fair market value. The tracts offered are completely surrounded by private land owned by Mr. Kimberling, with no legal accress for the public. Refusal or failure by Mr. Kimberling to purchase the tracts on the date of the sale shall constitute a waiver of his purchase rights, as described herein.

Sale Parcels 2, 3, and 4 (OR 36351–G, H, J) will be offered for sale at public auction through competitive bidding procedures provided for at 43 CFR Subpart 2711.

The declared high bidder will be required to deposit 30% of the full bid price immediately at the sale. Failure to deposit this sum will result in disqualification as the high bidder. The authorized officer shall then determine whether to accept the next bid, withdraw the public lands from the market, or reoffer then for sale at a later date.

All minerals in the land will be reserved to the United States in accordance with section 209(a) of the Federal Land Policy and Management Act of 1976. Rights-of-way for ditches and canals will be reserved to the United States under 43 U.S.C. 945. Patents will be issued subject to all valid existing rights and reservations or record. Legal access is not guaranteed to the tracts offered for sale.

The Federal Land Poloicy and Management Act requires that bidders must be citizens of the United States, 18 years of age or over, or, in the case of a corporation, subject to the laws of any State of the United Sates. Bids may be made by a principal or his duly qualifed agent. Bids must be for all land within the specified tract.

Sealed bids are the only acceptable method of bidding. Bids may be made either my mail or personally at the sale. All bids will only be considered if received by the Burns District Office prior to 10:00 a.m. on December 5, 1984. Bids must be in sealed envelopes accompanied by a certified check, poseal money order, bank draft, or cashier's chek made payable to the Bureau of Land Managaement for not less than 30% of the amount of the bid. The sealed bid envelopes must be marked in the Lower left-hand corner "Sealed Bid, Public Land Sales OR–36351, Parcel(s) "G", "H", and/or "J". Also, print the sale date on the envelope.

If two (2) or more valid sealed bids in the same amount are received and they are the high bid, the tied high bidders will be immediately notified and given 20 days to submit a new sealed bid.

The successful high bidder will be required to submit full payment for the balance of the bid within 180 days from the date of the sale. Failure to submit such payment within the 180-day period shall result in the cancellation of the sale and bid deposit shall be forfeited. All unsuccessful sealed bids will be returned within 30 days from the sale date. If no bids for the land are received on the sale date, the sale will be adjourned and those parcels not sold pursuant to the Notice of Realty Action shall remain available for sale on a continuing basis until sold, or withdrawn from sale. Unsold parcels will continue to be available for sale, but only on a sealed bid basis. Sealed bids for available unsold parcels will be opened at 10:00 a.m. on the first Wednesday of each month. Priority will not be given to first filed bids.

Detailed information concerning this land sale, including the land-use planning documents, land reports, environmental assessments and the record of public comments is available for review at the Burns District Office at the location and address previously noted. Telephone inquiries can be placed to the District Office (503) 573–

5241 between 7:45 a.m and 4:30 p.m. P.S.T.

For a period of 45 days from the date of this notice, interested parties may submit comments to the Distict Manager, Burns District Office, U.S. Bureau of Land Management, 74 South Alvord, Burns, Oregon 97720. Any adverse comments received as a result of the Notice of Realty Action or notification to the Congressional Committees and Delegations pursuant to Pub. L. 97–394 will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become a final determination of the Department of the Interior. Interested parties should continue to check with the District Office to keep themselves advised of any changes.

Dated: September 24, 1984.

Joshua L. Warburton,

District Manager.

[FR Doc. 84-26850 Filed 10-3-84; 8:45 am]

BILLING CODE 4310-33-M

[OR 37197, OR 37198, and OR 37199]

Realty Action; Modified Competitive Sale of Public Land in Jackson County OR

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Modified Competitive Sale of Public Land in Jackson County, Oregon.

The following revested Oregon and California Railroad Grant (O&C) Land has been examined and identified as being suitable for disposal by public sale under section 203 of the Federal Land Policy and Management Act of 1976, (90 Stat. 2750; 43 U.S.C. 1713), at no less than the appraised fair market value shown. The parcels are difficult and uneconomical to manage as part of the public lands and are not suitable for management by another Federal department or agency. The sale is consistent with Bureau planning efforts, and the public interest will be served by offering these parcels for sale.

The following parcels of land will be offered for sale using modified competitive bidding procedures (43 CFR 2711.3–2).

Serial No. and designated bidder	Legal description	Acreage	Value
OR 37197, Mr. & Mrs. Richard Troon, Mr. & Mrs. Melvin Saul, Mr. & Mrs. Charles W. Sears.	T. 37 S., R. 4 W., WM, sec. 31, Lot 1.	0.78	$400
OR 37198, Mr & Mrs Richard Troon, Mr & Mrs. Melvin Saul, Mr. & Mrs. Gerald E. Kubli, Mr. & Mrs. Charles W. Sears.	T. 37 S., R. 4 W., WM, sec. 31, Lot 1	4.87	$2,400
OR 37199, Messr. John & Frank Brown, K. & Josephine Kubli, Mr. & Mrs. David Simmens, Mrs. Vance Kubli, Hal Skudstad, Grace Fenner, Martyn Nelson.	T. 37 S., R. 4 W., WM.	14.77	$4,250

Except for the provisions of section 203 of the Federal Land Policy and Management Act of 1976, (90 Stat. 2740; 43 U.S.C. 1713), the above described lands are hereby segregated from appropriation and the public land laws, including the mining laws.

Modified Competitive Sale Procedure

The sale will be held on December 5, 1984, at 1:00 p.m. in the Medford District's Oregon Room, 3040 Biddle Road, Medford, Oregon 97504.

The parcels serialized as OR 37197, OR 37198 and OR 37199, will be offered for sale by sealed bids only, using modified competitive bidding procedures. Preference rights are being offered to the contiguous landowners, which have been identified as designated bidders. Bids will be accepted only from the designated bidders. To exercise the preference right, the designated bidder must submit a proper bid. Failure to submit a proper bid, at the time of sale will constitute a waiver of the preference right. No bid will be accepted for less than the appraised value.

Sealed bids must be accompanied by certified check, postal money order, bank draft, or cashier's check made payable to the Department of the Interior—BLM for not less than thirty percent (30%) of the amount bid. The sealed envelope must be clearly marked "Bid for Public Land Sales, Sale Parcel No. OR 3719——Jackson County, Oregon, December 5, 1984.

If two or more envelopes are received containing valid bids of the same amount, the successful bid will be determined by drawing. The drawing will be held by the authorized officer immediately following the opening of the bids.

The successful bidder will be required to pay the remainder of the sale price within 180 days. Failure to submit the full sale price within 180 days will disqualify the apparent high bidder and the thirty percent (30%) will be forfeited and disposed of as other receipts of the sale. The land will then be offered to the next highest bidder.

All bids will be either returned, accepted, or rejected within 30 days of the sale date according to 43 CFR 2711.3–1(f)(g). If the parcels are not sold they will be withdrawn from public sale.

Sealed bids, delivered or sent by mail, must be received at the BLM, Medford District Office, 3040 Biddle Road, Medford, Oregon 97504 before 11:30 a.m., December 5, 1984.

Federal law requires that all bidders be U.S. citizens, 18 years of age or more, a state or state instrumentality authorized to hold property, or in the case of corporations, be authorized to own real estate in the state in which the sale is offered.

Terms and Conditions

Patents issued as a result of the sale will be subject to all valid existing rights and will contain the following reservations:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945).

2. All minerals will be reserved to the United States (43 U.S.C. 1719).

3. Parcel serialized Number OR 37199 (Lot 9) will be subject to a reservation for Jackson County's Kubli Road (43 U.S.C. 1719).

Detailed information concerning the sale, including the planning documents, environmental assessment, land report and fair market appraisal, is available for review at the Bureau of Land Management, Medford District Office, 3040 Biddle Road, Medford, Oregon 97504, or by calling Ward Brookwell, Area Realty Specialist, (503) 776–4274.

For a period of 45 days from the date of this notice, interested parties may submit comments regarding the proposed action. Comments shall reference Serial Numbers of the parcels. Any adverse comments will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of the Interior.

Dated: September 28, 1984.

David W. Taylor,

Acting District Manager.

[FR Doc. 84-26854 Filed 10-3-84; 8:45 am]

BILLING CODE 4310-33-M

Minerals Management Service

Development Operations Coordination Document; Chevron, U.S.A. Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Chevron-U.S.A. Inc. has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 4410, Block 553, West Cameron Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Cameron, Louisiana.

DATE: The subject DOCD was deemed submitted on September 27, 1984. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the DOCD from the Minerals Management Service.

ADDRESS: A copy of the subject DOCD is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9:00 a.m. to 3:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, *Attention OCS Plans*, Post Office Box 44396, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Mr. Michael J. Tolbert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838–0875.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: September 27, 1984.

John L. Rankin,

Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 84-26352 Filed 10-3-84; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; Exxon Co., U.S.A.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given the Exxon Company, U.S.A. has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 2560, Block 630, West Cameron Area, Offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Intracoastal City, Louisiana.

DATE: The subject DOCD was deemed submitted on September 27, 1984.

ADDRESS: A copy of the subject DOCD is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838–0875.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendment of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Services makes information contained in DOCDs available to affected states, executive of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: September 27, 1984

John L. Rankin,

Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 84-26351 Filed 10-3-84; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Gettysburg National Military Park, PA; Sale of Real Property

AGENCY: Gettysburg National Military Park, National Park Service, Interior.

ACTION: Notice of sale of real property.

SUMMARY: This notice publishes the intent of the National Park Service to solicit bids for the sale, with deed restrictions, of land and improvements within the boundary of Gettysburg National Military Park, Gettysburg, PA.

DATE: The sales solicitation will be issued on or about October 15, 1984 with sealed bids due on or about November 5, 1984.

ADDRESS: Contracting Officer, National Park Service, Gettysburg National Military Park, Gettysburg, PA 17325.

FOR FURTHER INFORMATION CONTACT: Anna Lacher-May, Contracting Officer, Gettysburg National Military Park, Gettysburg, PA 17325, (717) 334–1124.

SUPPLEMENTARY INFORMATION: The following additional information is provided regarding the proposed sale:

Legal Description of the Property

"Red Patch (Dillman House) is within Gettysburg National Military Park, at 64 S. West Confederate Avenue Gettysburg, PA.

Its Boundaries are as Follows:

Beginning at a U.S. marker at corner of lands of State Armory and West Confederate Avenue; thence along West Confederate Avenue North 12½ degrees East, 150 feet to an iron pin at corner of lands of Roy Enock, thence along said lands of Roy Enock South 74 degrees East, 277.5 feet to a stake at corner of lands of Lida Hooper Kepner; thence along lands of the said Lida Hooper Kepner South 13½ degrees West, 150 feet to a stake at corner of lands of State Armory; thence along said lands of State Armory; thence along said lands of State Armory North 74 degrees West, 274.6 feet to the U.S. marker, the place of

beginning. Contains 0.96 acre, more or less.

The interest is being sold in fee subject to the following deed restrictions:

The purpose of these restrictions is to perpetuate and preserve the architecturally significant facade and surrounding grounds of the structure known as Red Patch. Restrictions hereby imposed upon the use of the described land (Tract 03–105) and the acts which said grantee so covenant to do and to refrain from doing upon said land are set forth as follows:

1. The use of these lands and buildings, including such outbuildings and gardens incidental thereto, shall be limited to one or a combination of the following purposes: Single or multiple family residence; Professional offices; Youth hostel; or Tourist lodge or; Bed and Breakfast: accommodations.

2. Interior design and layout may be changed, improved, or reconstructed to accommodate the above permitted uses by the grantee.

3. Routine and necessary maintenance will be performed on Red Patch to perpetuate, in good condition, the existing exterior appearance of the building provided that no significant change in any original (1900) architectural feature is made without written permission of the Superintendent. New Materials may be used to replace in-kind any deteriorated, exterior structural features. Restoration of the historic, exterior appearance, including paint scheme, is encouraged after required consultation with the Superintendent.

4. If the dwelling is destroyed or rendered uninhabitable by fire or any other reason, the National Park Service retains the option of its discretion to repurchase all the grantee's right, title, and interest in these lands in the event the grantee does not wish to reconstruct the exterior of Red Patch to its previous appearance.

5. If the dwelling is destroyed or rendered uninhabitable and the grantee wishes to reconstruct the exterior to its previous appearance in the same location, all construction drawings must be approved by the Superintendent in writing before any work begins. During the clean up and construction period, not to exceed one year, a trailer or other temporary dwelling may be placed upon the land for residential purposes.

6. The land shall be maintained in its present acreage and not be split or subdivided into smaller parcels.

7. No new structures or outbuildings may be constructed or installed without the approval of the Superintendent.

8. There shall be no rights-of-way for access or for any other purpose constructed, maintained, or developed into, on, over, under, and across these lands except as used in connection with permitted uses by the grantee.

9. No public utilities, installations or facilities shall be placed on the land, except the construction and maintenance of facilities usual to normal domestic and residential property.

10. These lands and buildings shall at all times be kept in a neat and orderly condition, and no garbage, trash, inoperative motor vehicles, sewage, and other unsightly, offensive, or noxious material shall be allowed to accumulate thereon.

11. No sign, billboard, or outdoor advertising shall be displayed or placed upon the land except for signs not larger than one square foot indicating residence or notice of private or restricted access, and one sign not greater than 36" x 50" erected for the following purposes:

(a) To advertise an activity permitted in paragraph I above, (b) to advertise the property for sale or rental, and (c) to advertise products raised thereon on appropriate occasions. In addition, the following shall be adhered to: (a) No animated, neon, revolving signs;

(b) Illumination shall be indirect or shielded to prevent glare;

(c) No free standing sign shall be more than 9 feet high overall; and

(d) Signs shall be at least 14 feet from any vehicle right-of-way and not obstruct clear view of traffic; (e) No sign shall hinder free ingress or egress from any door, window, or fire escape. Any exceptions to these requirements, and all sign designs must be approved in writing by the Superintendent.

12. No mineral or oil and gas or similar development shall be allowed on the land, and no topsoil, sod, gravel, or other resources thereof shall be removed for sale or use off the premises.

13. The general topography of the landscape shall be maintained in its present condition and no excavation or topographic changes shall be made without prior approval of the Superintendent.

14. The Superintendent or his authorized representative, shall be permitted, at reasonable times and upon prior appointment with the grantee, to enter upon said lands in order to ascertain compliance with the restrictions and covenants of this instrument.

15. Any action requiring the approval of the Superintendent shall be acted upon within 30 days of receipt of the written request. If no response is sent by registered mail, within 30 days, the grantee may consider the request approved. All approvals required shall be obtained from the Superintendent, Gettysbury National Military Park, Gettysburg, Pennsylvania, 17325.

The fair market value of this interest is $55,000. Bids below the fair market value will not be accepted.

Appointments to see the interest or to review the government's appraisal may be made with: Ms. Anna Lacher-May, Gettysburg National Memorial Park, Gettysburg, Pennsylvania 17325; Telephone (717) 334–1124.

No former owner has a preference right to this interest.

Each bid must be accompanied by an earnest money deposit of 10% of the amount of the bid.

The interest is offered for sale on an *"ALL CASH BASIS ONLY"* and the successful bidder will be required to tender full payment within sixty (60) days after notification by the National Park Service of acceptance of the offer.

All terms and conditions of the sale will be included in the sales solicitation.

Dated: September 26, 1984.

James W. Coleman, Jr.,

Regional Director, Mid-Atlantic Region.

[FR Doc. 84–26383 Filed 10–3–84; 8:45 am]

BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30551]

Chicago South Shore and South Bend Railroad—Securities Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of prior approval under 49 U.S.C. 11301 the conversion by Chicago South Shore and South Bend Railroad of its issued and outstanding common stock and the issuance of $5 million in preferred stock and a promissory note in a principal amount of $20 million.

DATES: This exemption will be effective on September 28, 1984. Petitions to reopen must be filed by October 24, 1984.

ADDRESSES: Send pleadings referring to Finance Docket No. 30551 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representative: Paul A. Cunningham, Pepper, Hamilton & Scheetz, 1777 F Street, N.W., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT:
Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION:
Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (DC Metropolitan Area) or toll free (800) 424–5403.

Decided: September 28, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett, Gradison, Simmons, Lamboley and Strenio. Commissioners Lamboley and Strenio did not participate.

James H. Bayne,

Secretary.

[FR Doc. 84–28332 Filed 10–3–84; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 30554]

Iowa Interstate Railroad, Ltd.—Lease and Operate—Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: Pursuant to 49 U.S.C. 10505, the Commission exempts Iowa Interstate Railroad, Ltd. from the requirements of: (1) 49 U.S.C. 10901, in connection with its proposed lease and operation and subsequent purchase of approximately 552 miles of rail line, accessory branches, and overhead operating rights between Blue Island, IL, and Council Bluffs, IA; and (2) 49 U.S.C. 11301, in connection with its proposed issuance of securities and assumption of obligations.

DATES: This exemption is effective on September 28, 1984. Petitions to reopen are due on October 24, 1984.

ADDRESSES: Send pleadings referring to Finance Docket No. 30554 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423
(2) Petitioner's representative: Harold L. Kaplan, Mayer, Brown, & Platt, 231 South LaSalle St., Chicago, IL 60604.

FOR ADDITIONAL INFORMATION CONTACT:
Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION:
Additional information is contained in the Commission's decision. To obtrain a copy of the full decision write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or dial 289–4357 (DC Metropolitan area), or toll free (800) 424–5403.

Decided: September 28, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett, Gradison, Simmons, Lamboley, and Strenio. Commissioners Lamboley and Strenio did not participate.

James H. Bayne,

Secretary.

[FR Doc. 84–28333 Filed 10–3–84; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–3 (Sub-44X)]

Missouri Pacific Railroad Company—Abandonment—Between Natchez, MS and Vidalia, LA

On July 10, 1984, Missouri Pacific Railroad Company (MP) filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments*, to abandon railroad service from Natchez, MS, over the Mississippi River, to Vidalia, LA. MP stated that: (1) at Vidalia, the tracks extended between mileposts 651.6 and 652.1, and between mileposts 0.0 and 0.6, a total distance of 1.1 miles; (2) car ferry operations occurred over about 1 mile of the Mississippi River; and (3) at Natchez, the tracks extended between mileposts 0.0 and 2.1, between mileposts 0.4 and 1.3, and between mileposts 0.0 and 0.4, a total distance of 3.4 miles. MP certified that no local traffic moved over any of the line segments for at least 2 years and that any overhead traffic could be rerouted over other lines.

On July 30, 1984, the Commission served a Notice of Exemption that permitted MP to abandon the line segments without filing an application under 49 U.S.C. 10903–04. The exemption was effective on August 29, 1981.[1]

On August 28 and 29, 1984, respectively, the Commission received letters from the Brotherhood of Locomotive Engineers and MP stating that the segment of track in Natchez between mileposts 0.0 and 2.1 did not meet the exemption criteria because local traffic had moved over the line within the past 2 years. MP requested that the Commission issue a modified Notice of Exemption to exclude the 2.1-mile segment from exemption authorization. On September 10, 1984, the Mississippi Public Service Commission (MPSC) submitted a letter stating that the Commission was obligated to dismiss MP's entire notice of exemption under the rules governing the processing of exempt abandonments. MPSC also requested that MP be barred from taking any action to abandon the involved lines in the future. MP replied, arguing that for a number of reasons, only the 2.1-mile segment should be deleted from exemption authorization, and that the rules do not bar it from filing appropriations notices in the future.

49 CFR 1152.50(d)(3) states: "If the notice of exemption contains false or misleading information, the use of this exemption is void *ab initio* and the Commission shall *summarily reject* the exemption notice." (Emphasis added.)

The rules governing abandonment exemptions for out of service lines do not provide for partial rejection of erroneously filed notices of exemption nor, conversely, for publication of a modified notice when false information in the original notice is discovered. *See Exemption of Out of Service Rail Lines*, 366 I.C.C. 885 (1983). Accordingly, MP's notice of exemption filed July 10, 1984, is rejected, and the Commission's Notice of Exemption served July 30, 1984, is void.

MP may file a new notice of exemption to abandon the lines that have been involved in this proceeding. The regulations do not bar MP from filing a single notice of exemption to abandon more than one line segment, nor do they bar MP from filing (at one time) a series of individual notices to abandon related line-segements.

This notice is effective upon publication.

Decided: September 24, 1984.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 84–28334 Filed 10–3–84; 8:45 am]

BILLING CODE 7035–01–M

[1] On August 29, 1984, the Commission denied a petition filed by the Mississippi Public Service Commission to stay and reconsider the exemption.

[Ex Parte No. 388 (Sub-26)]

Intrastate Rail Rate Authority—Oklahoma

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Decision.

SUMMARY: The Commission has extended the provisional certification of the Oklahoma Corporation Commission under 49 U.S.C. 11501(b) to regulate Oklahoma intrastate rail transportation. This extension will permit Oklahoma to modify its standards and procedures as required by the full decision.

DATE: Oklahoma's provisional certification will expire December 3, 1984, unless prior to that date Oklahoma files the required revised standards and procedures.

FOR FURTHER INFORMATION CONTACT:
Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION:
Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (DC Metropolitan area) or toll free (800) 424–5403.

Decided: September 26, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners, Sterrett, Gradison, Simmons, Lamboley, and Strenio. Commissioner Simmons dissented in part with a separate expression. Commissioners Lamboley and Strenio did not participate.

James H. Bayne,

Secretary.

[FR Doc. 84-26336 Filed 10-3-84; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-6 (Sub-214)]

Burlington Northern Railroad Co.; Abandonment in Whitman County, WA and Latah County, ID; Findings

The Commission has issued a certificate authorizing Burlington Northern Railroad Company to abandon a line of railroad extending from milepost 75.66 near Palouse, WA to milepost 82.68 near New Viola, ID, a total distance of 7.02 miles in Whitman County, WA and Latah County, ID. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) a financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB–OFA". Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.

James H. Bayne,

Secretary.

[FR Doc. 84-26478 Filed 10-3-84; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Applied Research Grants; Notice of Solicitations

The National Institute of Justice is soliciting proposals for applied research grants in the following areas:

Programs	Due dates (1985)
Crime Control Theory and Policy	Jan. 9 and May 15.
Drugs, Alcohol and Crime	Jan. 16 and May 22.
Violent Criminal Behavior	Jan. 23 and June 5.
Classification Prediction, Methodology Development.	Jan. 30 and June 12.

Multiple awards are planned in each area. Descriptions of the programs and the application processes may be obtained from the National Criminal Justice Reference Service. Interested organizations should write to: NCJRS, P.O. Box 6000, Rockville, Maryland 20850. Attn: Program Solicitations.

Dated: September 28, 1984.

James K. Stewart,

Director.

[FR Doc. 84-26345 Filed 10-3-84; 8:45 am]

BILLING CODE 4410-18-M

Drug Enforcement Administration

[Docket No. 83-35]

Darrow Drug, Inc.; Revocation of Registrations

On October 26, 1983, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued to Darrow Drug, Inc. (Respondent) of 400 West Chelton Avenue, Philadelphia, Pennsylvania 19144, an Order to Show Cause proposing to revoke Respondent's DEA Certificate of Registration AD2458140. The statutory predicate for the proposed action was the controlled substance-related felony conviction of Theodore Ain, R.Ph., the owner of Darrow Drug, Inc. Respondent, through counsel, requested a hearing on the issues raised by the Order to Show Cause.

The hearing in this matter was held in Washington, D.C. on April 5, 1984. Administrative Law Judge Francis L. Young presided. During the prehearing phase, Judge Young granted a motion made by Government counsel that the proceedings include consideration of DEA Certificate of Registration AD2454940 issued January 18, 1984, in response to an application submitted on behalf of Respondent pharmacy by Florence S. Ain, wife of Theodore Ain.

On June 18, 1984, Judge Young issued his opinion and recommended findings of fact, conclusions of law, ruling and decision. In compliance with 21 CFR 1316.65(b), as amended, copies of the Administrative Law Judge's opinion were served on the Respondent and Government counsel. On July 9, 1984, the Respondent filed exceptions to Judge Young's opinion. On July 16, 1984, the Administrative Law Judge transmitted the record of these proceedings, including Respondent's exceptions, to the Administrator. The Administrator has considered this record in its entirety and, pursuant to 21 CFR 1316.67, hereby issues his final order in this matter, based upon findings of fact and conclusions of law as hereinafter set forth.

The Administrative Law Judge found that the Pennsylvania Bureau of Narcotic Investigations and Drug Control (Bureau) began an investigation of Preludin (phenmetrazine) diversion in Philadephia in January 1980. Preludin is a Schedule II controlled substance. On March 20, 1981, an undercover agent of the Bureau and a proven reliable informant approached a woman who became an unwitting participant in the investigation. It was agreed that she would obtain 1,000 Preludin tablets for them at a cost of $4.00 each. On March 27, 1981 and April 9, 1981, the undercover agent and the informant picked up the woman, and drove her, at her direction, to Respondent pharmacy. Each time, she entered the pharmacy, went to the pharmacy counter and met with Theodore Ain. On both occasions, Agents observed Ain hand the woman a brown paper bag later found to contain 500 Preludin tablets. On neither occasion did she present a prescription for Preludin to Theodore Ain.

The Administrative Law Judge further found that between mid-June and early-August of 1981, an agent of the Bureau conducted an audit of the Preludin records at Darrow Drug. Respondent pharmacy did not have the biennial inventory of its Schedule II controlled substances, which it is required to have by DEA regulations. Therefore, the agent assigned a zero base initial inventory for purposes of conducting the audit. Using official DEA order forms and invoices from the wholesale drug company that supplied Darrow Drug, the agent determined that the pharmacy should have been able to account for 31,000 dosage units of Preludin received during the period June 11, 1979 to June 11, 1981. The agent reviewed the prescriptions for Preludin on file at Respondent pharmacy, evidencing lawful sales of the drug, and counted the quantity of it on hand on June 11, 1981. The result showed a shortage of 19,380 Preludin tablets or 62% of the total number for

which the pharmacy was accountable. During the audit, it was also noted that there were no prescriptions for Preludin in the pharmacy's files in the name of the woman who obtained the drug for the undercover agent.

On November 23, 1981, Theodore Ain, R.Ph. was convicted in the Philadelphia Municipal Court, Commonwealth of Pennsylvania, of two counts of illegal delivery of controlled substances in violation of Pennsylvania law. These are felony convictions relating to controlled substances. Therefore, there is a lawful basis for the revocation of Respondent's registration. 21 U.S.C. 824(a)(2). DEA has consistently held that the registration of a corporate registrant may be revoked upon a finding that a natural person who is an owner, officer or key employee, or who has some responsibility for the operation of the registrant's controlled substance business, has been convicted of a felony offense relating to controlled substances. See: *Lawson & Sons Pharmacy and Fenwick Pharmacy*, 48 FR 16140 (1983); *Homestead Pharmacy of Boston, Inc.*, Docket No. 83–33, 49 FR 7304 (1984); *Drug Mart, Inc.*, Docket No. 83–17, 49 FR 13928 (1984); *Bourne Pharmacy, Inc.*, Docket No. 83–32, 49 FR 32816 (1984).

Judge Young noted that at the time of Ain's illegal sales of Preludin, Ain owned 45% of the stock of the Respondent pharmacy, his wife, Florence owned 45% and the remaining 10% was owned by Theodore Ain's mother. Ain transferred his 45% of the stock to his wife after his arrest. Consequently, Florence Ain now owns 90% of the stock while Theodore Ain's mother owns 10% of it. According to Mr. Ain, his wife now runs the store. Mr. Ain goes to the pharmacy occasionally to help out when needed, but he does not work as a pharmacist. There is a new registered pharmacist who is now the managing pharmacist of Darrow Drug. Judge Young believed however that it is quite likely that Mr. Ain will continue to be active in the operation of Respondent pharmacy. Mr. Ain did not indicate any planned activity or occupation which will keep him out of the pharmacy or otherwise engaged.

At the hearing in this matter, Theodore Ain stated that Darrow Drug is an asset to the community. It is located in a high-crime area and is one of the few general service pharmacies open after 7:00 p.m. in Philadelphia. Theodore Ain has no record of any other problem with his handling of controlled substances with the State, city or any other regulatory agency except for the instances mentioned previously.

Mr. Ain admitted that he sold some quantity of controlled substances to the aforementioned woman, but claims that he did so only out of fear for his own safety and that of his family. Mr. Ain testified that the woman who obtained the Preludin and her male companion had threatened him and that he had been assaulted. The Administrative Law Judge concluded that this indicates that Mr. Aín, the person responsible for handling the controlled substances at Darrow Drug, has been unable in the past to exercise effective control in this high-crime area. Judge Young stated that there was no showing that Mrs. Ain or the present pharmacist, is any more willing or able to stand up to such threats and assaults in the future than Mr. Ain was in the past. Judge Young further stated that whether Mr. Ain illegally sold dangerous drugs out of fear, or whether he did it for profit, controlled substances should no longer be available in this particular high-crime area pharmacy. Accordingly, the Administrative Law Judge recommended that the registrations of Darrow Drug be revoked.

After reviewing Judge Young's recommendation and Respondent's exceptions, the Administrator believes that Respondent pharmacy's registrations must be revoked. The Administrator adopts the recommended rulings, findings of fact, conclusions of law and decision of the Administrative Law Judge in their entirety. The Administrator accords no weight at all to the testimony of Theodore Ain that he sold the Preludin on these occasions out of fear. Mr. Ain can hardly be believed, given the huge quantity of Preludin for which the pharmacy could not account and the fact that the Preludin was in a paper bag ready for sale when the woman appeared on March 27 and April 9, 1981. The Administrator agrees with the Administrative Law Judge that Ain's statements were often vague and his answers often evasive, deomonstrating a remarkably selective memory.

Having concluded that there is a lawful basis for the revocation of Respondent pharmacy's registrations, and having further concluded that under the facts and circumstances presented in this case the registrations should be revoked, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that DEA Certificates of Registration AD2458140 and AD2454940, previously issued to Darrow Drug, Inc., be, and they hereby are, revoked, effective November 5, 1984.

Dated: October 1, 1984.

Francis M. Mullen, Jr.,

Administrator.

[FR Doc. 84–26383 Filed 10–3–84; 8:45 am]

BILLING CODE 4410–09–M

Bureau of Prisons

Modification to List of Bureau of Prisons Institutions

AGENCY: Bureau of Prisons, Justice.

ACTION: Notice.

SUMMARY: Attorney General Order No. 646–76 (41 FR 14805), as amended, classifies and lists the various Bureau of Prisons institutions. Attorney General Order No. 960–81, Reorganization Regulations, published in the **Federal Register** October 27, 1981 (at 46 FR 52339 et seq.) delegated to the Director, Bureau of Prisons, in 28 CFR 0.96(r), the authority to establish and designate Bureau of Prison institutions. A consolidated listing of Bureau institutions was published in the **Federal Register** March 5, 1982 (at 47 FR 9754). Amendments to this listing were published in the **Federal Register** October 21, 1983 (at 48 FR 48975) and April 30, 1984 (at 49 FR 18388). An updated, consolidated list is being published at this time. Modifications to the previous listings include designating a Federal Prison Camp at Duluth, Minnesota, a Federal Correctional Institution at Loretto, Pennsylvania, and a Federal Medical Center at Rochester, Minnesota.

EFFECTIVE DATE: Federal Prison Camp, Duluth, Minnesota—October 12, 1983; Federal Correctional Institution, Loretto, Pennsylvania—October 31, 1984; Federal Medical Center, Rochester, Minnesota—October 15, 1984.

FOR FURTHER INFORMATION CONTACT: Mike Pearlman, Office of General Counsel, Bureau of Prisons, 320 First Street N.W., Washington, D.C. 20534 (202–724–3062).

SUPPLEMENTARY INFORMATION: This notice is not a rule within the meaning of the Administrative Procedure Act, 5 U.S.C. 551(4), the Regulatory Flexibility Act, 5 U.S.C. 601(2), or Executive Order No. 12291, Section 1(a).

By virtue of the authority vested in the Attorney General in 18 U.S.C. 4001, 4003, 4042, 4081, and 4082 and delegated to the Director, Bureau of Prisons by 28 CFR 0.96(r), it is hereby ordered as follows:

The following institutions are established and designated as places of confinement for the detention of persons held under authority of any Act of Congress, and for persons charged with

or convicted of offenses against the United States or otherwise placed in the custody of the Attorney General of the United States.

A. The Bureau of Prisons institutions at the following locations are designated as U.S. Penitentiaries:

(1) Atlanta, Georgia;
(2) Levenworth, Kansas;
(3) Lewisburg, Pennsylvania;
(4) Lompoc, California;
(5) Marion, Illinois; and
(6) Terre Haute, Indiana.

B. The Bureau of Prisons institutions at the following locations are designated as Federal Correctional Institutions:

(1) Alderson, West Virginia;
(2) Ashland, Kentucky;
(3) Bastrop, Texas;
(4) Butner, North Carolina;
(5) Danbury, Connecticut;
(6) El Reno, Oklahoma;
(7) Englewood, Colorado;
(8) Fort Worth, Texas;
(9) La Tuna, Texas;
(10) Lexington, Kentucky;
(11) Loretto, Pennsylvania;
(12) Memphis, Tennessee;
(13) Milan, Michigan;
(14) Morgantown, West Virginia;
(15) Otisville, New York;
(16) Oxford, Wisconsin;
(17) Petersburg, Virginia;
(18) Pleasanton, California;
(19) Ray Brook, New York;
(20) Safford, Arizona;
(21) Sandstone, Minnesota;
(22) Seagoville, Texas;
(23) Talladega, Alabama;
(24) Tallahassee, Florida;
(25) Terminal Island, California; and
(26) Texarkana, Texas.

C. The Bureau of Prisons institutions at the following locations are designated as Federal Prison Camps:

(1) Allenwood, Pennsylvania;
(2) Big Spring, Texas;
(3) Boron, California;
(4) Duluth, Minnesota;
(5) Eglin Air Force Base, Florida; and
(6) Maxwell Air Force Base/Gunter Air Force Station, Montgomery, Alabama.

D. The Bureau of Prisons institutions at the following locations are designated as Metropolitan Correctional Centers:

(1) Chicago, Illinois;
(2) Miami, Florida;
(3) New York, New York;
(4) San Diego, California; and
(5) Tucson, Arizona.

E. The Bureau of Prisons institution at Springfield, Missouri is designated as the U.S. Medical Center for Federal Prisoners.

F. The Bureau of Prisons institution at Rochester, Minnesota is designated as the Federal Medical Center.

Norman A. Carlson,
Director, Bureau of Prisons.

[FR Doc. 84-26336 Filed 10-3-84; 8:45 am]
BILLING CODE 4410-01-M

MERIT SYSTEMS PROTECTION BOARD

Publication of Decisions of the United States Merit Systems Protection Board, Volume 12 (October 1, 1982 Through December 31, 1982)

AGENCY: Merit Systems Protection Board.

ACTION: Notice of Issuance of Volume 12, Board Decisions Volumes.

SUMMARY: The Board announces the publication of the 12th in its series of indexed decisions volumes which may be purchased through the Superintendent of Documents.

EFFECTIVE DATE: October 4, 1984.

FOR FURTHER INFORMATION CONTACT: Ada R. Kimsey, Merit Systems Protection Board, (202) 653–8891.

SUPPLEMENTARY INFORMATION: Included in this hard-cover book are Board final orders and precedential interlocutory orders, indexed under the MSPB key-number system. To purchase the volume, contact the Superintendent of Documents, Government Printing Office, Washington, DC 20401. The Stock Number is 062–000–00017–1 and the cost $16. Earlier volumes are out of print except for Volumes 5–7 (January through September 1981), Stock Number 062–000–00011–2, $40 for the three. Volume 13 is being printed and will be announced in the Federal Register when available.

Other Board publications include *The Digest*, a monthly summary and listing of opinions and orders, and "Federal Employee Appeals Decisions," quarterly microfiche and paper index of initial decisions issued in the regional offices. Further, the Board has published a special edition of initial decisions resulting from the air traffic controller strike of 1981: "Federal Employee Appeals Decisions, Air Traffic Controller Cases." This one-time special issuance of microfiche is accompanied by a paper index consisting of a subject section and lead-case section. To subscribe to *The Digest* at $21 per year, contact the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (Stock Number 062–000–80001–1).

To purchase the quarterly microfiche at $150 per year, contact the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161 (Stock Number PB84–922700). The special edition of air traffic controller cases is also available at $150 from NTIS (Stock Number PB83–922750).

In addition, visitors may view orders, initial decisions, the published volumes, and *The Digest* in the library at MSPB headquarters, 1120 Vermont Ave., N.W., Washington, D.C. 20419.

Dated: September 29, 1984.

For the Board.

Herbert E. Ellingwood,
Chairman.

[FR Doc. 84-26315 Filed 10-3-84; 8:45 am]
BILLING CODE 7400-01-M

NATIONAL SCIENCE FOUNDATION

Minority Research Initiation Program; Announcement

AGENCY: National Science Foundation.

ACTION: Notice of program announcement (NSF 84–75).

SUMMARY: This notice sets forth the program announcement for the National Science Foundation's Minority Research Initiation (MRI) Program.

EFFECTIVE DATE: This Announcement supersedes the Minority Research Initiation Program Announcement (NSF 80–42). Changes incorporated here represent extensions and additions to the earlier program announcement rather than changes in program orientation. This announcement should be used in preparing all future MRI proposals submitted to NSF as of the date of this publication.

FOR FURTHER INFORMATION CONTACT: Dr. Roosevelt Calbert, Program Director, Minority Research Initiation, Room 1144, Division of Research Initiation and Improvement, National Science Foundation, Washington, D.C. 20550 (202/357–7350).

SUPPLEMENTARY INFORMATION: The National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), authorizes the National Science Foundation to initiate and support scientific research and programs to strengthen scientific research potential

Minority Research Initiation

The National Science Foundation's mandate to ensure the vitality of the Nation's scientific enterprise includes responsibility for the quality, distribution and effectiveness of the human resource base in science and engineering. The Minority Research Initiation (MRI) program is part of the

Foundation's overall effort to promote full utilization of all highly qualified scientists and engineers. The objectives of MRI are to encourage the establishment of independent research projects by minority scientists and engineers and to increase the participation of minority researchers in all programs of the Foundation.

The MRI program accepts research proposals in all scientific and engineering disciplines supported by the Foundation.[1] Prospective investigators are encouraged to discuss the process of developing proposals with the MRI program director and the NSF program officers in the research disciplines.

The Foundation's discipline-focused research programs manage the peer review process for MRI proposals and help monitor MRI awards. In addition, investigators meet with program officers in their disciplines at least once during the duration of the award. Through this procedure, MRI provides an entry point to the principal research support activities of the Foundation.

Eligibility

Proposals may be submitted to the MRI program by minority scientists and engineers who (a) hold full-time faculty or research-related positions at colleges or universities in the United States, its possessions and territories and (b) have not previously received Federal research support as faculty members. Previous research support in such non-faculty positions as faculty associate, post-doctoral associate or graduate research assistant does not exclude an applicant from eligibility. The term "minority" as used in this program announcement refers to those ethnic minority groups that are significantly underrepresented in advanced levels of science and engineering, i.e., Blacks, Native Americans, Mexican Americans, Puerto Ricans, Alaskan Natives (Eskimo or Aleut), and Native Pacific Islanders (Polynesian or Micronesian). Investigators must be nationals of the United States.[2] Those who have questions about their eligibility for this program should call the MRI Program Director at (202) 357–7492.

The Foundation welcomes proposals on behalf of all eligible scientists and engineers, and strongly encourages eligible women, minorities, and physically handicapped persons to compete fully in this and all NSF programs.

Award Size and Duration

Research initiation projects normally will be supported for a period up to three years and may be extended for up to two additional years of support without additional peer review, if warranted by evidence of publications, invited lectures, seminars or other outcomes demonstrating the significance and promise of the research to date.

There is no upper limit on the size of MRI grants. However, the size of awards will be consistent with the general level of awards in the Foundation's research programs in the relevant disciplines.

Research initiation grants are nonrenewable. Subsequent proposals must be submitted directly to the appropriate disciplinary research programs.

Proposal Preparation and Submission

General

Proposals submitted in response to this announcement should be prepared in accordance with instructions in the NSF booklet *Grants for Scientific and Engineering Research* (NSF 83–57), using copies of the forms included in its appendices II–IV. This publication, and the NSF *Guide to Programs*, which briefly describes the foundation's research programs, are available at most institutions or may be obtained without cost by callling (202) 357–7861 or by writing to: Forms and Publications Unit, Room 232, National Science Foundation, Washington, D.C. 20550.

Cover Page

The cover page of proposals should include the following statement at the top: "This Proposal is in Response to the Minority Research Initiation Progam Announcement." In addition, under the cover page heading "For Consideration by NSF Organizational Unit," the applicant should specify *both* MRI and the appropriate disciplinary research program.

Eligibility Statement

On a separate sheet, placed immediately after the proposal cover page, each applicant must sign a statement that he or she meets the eligibility requirements set forth in the MRI program announcement.

Department Head Statement

The MRI proposal must contain a signed statement by the Department Head indicating: an endorsement of the research initiation application, the normal full-time teaching load of the applicant during the past academic year at the present institution, the anticipated teaching load during the grant duration, and an assurance that the investigator will have the research time and other resources necessary to accomplish the goal of the proposed project.

Budget

MRI awardees will meet with the program officers in their research discipline at least during the duration of the award. The budget should include a line item for a two-day trip to Washington, D.C. Per diem should be requested in accordance with institutional policies, or in the absence of such policies, at the rate of $75 per day. Support may also be requested for travel to professional meetings or conferences that would enhance the investigator's ability to perform the research, plan extensions of it, or disseminate its results.

Proposal Submission

Twenty copies of the proposal (including the copy bearing signatures) are to be mailed in a single package to:

Data Support Services Section
Attention: MRI
National Science Foundation
Washington, D.C. 20550

No specific deadlines or target dates apply to proposals submitted under this announcement. Applicants are advised that reviewing and processing of proposals normally require 6 to 9 months.

Proposal Evaluation

NSF program officers in the disciplines of the proposed research will arrange for peer review of proposals, in accordance with usual NSF standards and procedures. (See *Grants for Scientific and Engineering Research* for description of standard proposal evaluation criteria.) Final award recommendations will be made by the MRI program director based on review results, recommendations of NSF program officers, and relative merit (a) between competing MRI proposals in specialized areas and (b) between all competing MRI proposals.

After final decisions are made, verbatim copies of reviews, excluding

[1] NSF will not normally support research on the etiology, diagnosis, or treatment of physical or mental disease, abnormality, or malfunction in human beings or animals. Animal models of such conditions, the development and testing of drugs, or other procedures for their treatment also generally are not eligible for Foundation support. Investigators are encouraged to contact the MRI program director, if uncertain whether the proposed research could be funded by the Foundation.

[2] The term "national of the United States" designates a citizen of the Unites States or a native resident of a prossession of the United States, such as American Samoa. It does not refer to a citizen of another country who has applied for United States citizenship.

identity of reviewers, will be mailed to each investigator.

NSF Grant Policies and Procedures

MRI grants are administered in accord with the terms and conditions of NSF F.L. 200, *Grant General Conditions*, copies of which may be requested from the NSF Forms and Publications Unit. More comprehensive information is contained in the NSF *Grant Policy Manual (Revised)*, available through the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

In the event that the submitting organization has never been the recipient of an NSF award, it is recommended that appropriate administrative officials become familiar with the NSF policies and procedures contained in the NSF *Grant Policy Manual*, which are applicable to most NSF awards. If a proposal is recommended for an award, the NSF Division of Grant and Contracts will request certain organizational, management, and financial information. These requirements are contained in Chapter III of the *Manual*.

The Foundation provides awards for research in the sciences and engineering. The awardee is wholly responsible for the conduct of such research and preparation of the results for publication. The Foundation, therefore, does not assume responsibility for such findings or their interpretation. See appropriate sections of the *Grant Policy Manual* for required acknowledgements and disclaimer statements.

MRI Inquiries

General inquiries concerning the MRI program should be made to the MRI Program Director, Division of Research Initiation and Improvement, Room 1144, National Science Foundation, Washington, D.C. 20550; telephone (202) 357–7350.

In accordance with Federal statutes and regulations and NSF policies, no person on grounds of race, color, age, sex, national origin, or physical handicap shall be excluded from participation in, denied the benefits of, or be subject to discrimination under any program or activity receiving financial assistance from the National Science Foundation.

The National Science Foundation has TDD (Telephone Device for the Deaf) capability which enables individuals with hearing impairment to communicate with the Division of Personnel and Management for information relating to NSF programs, employment, or general information. This number is (202) 357–7492.

Inquiries relating to the specific area of research should be directed to the cognizant NSF program officer. A directory of Foundation research programs may be found in Appendix VIII of *Grants for Scientific and Engineering Research* and in NSF *Guide to Programs*.

Other Programs of Interest

Program	Telephone (area code 202)
Research Improvement in Minority Institutions (RIMI)	357–7350
Small College Faculty Research Opportunity Awards (RCA)	357–7456
Research Opportunities for Women (ROW)	357–7734
NSF Visiting Professorships for Women (VPW)	357–7734
Presidential Young Investigator Awards (PYI)	357–7536
Research at Undergraduate Institutions (RUI)	357–7456

(The Catalog of Federal Domestic Assistance number for this program is 47.057, Minority Research Initiation)

Dated: October 1, 1984.

Dr. Alexander J. Morin,

Director, Division of Research Initiation and Improvement, National Science Foundation.

[FR Doc. 84–26372 Filed 10–3–84; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for Physics; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463 the National Science Foundation announces the following meeting:

Name: Advisory Committee for Physics.

Date and time: October 22, 1984: 10:00 a.m.–6:00 p.m. (Open); October 23, 1984: 8:30 a.m.–Noon (Closed); 1:00 p.m.–5:00 p.m. (Open).

Place: National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550, Room 540 each day.

Type of meeting: Part Open.

Contact person: Dr. Marcel Bardon, Director, Division of Physics, National Science Foundation, Washington, D.C. 20550. Telephone (202) 357–7985.

Summary of minutes: May be obtained from Mrs. Phyllis Hurley, Division of Physics, National Science Foundation, Washington, D.C. 20550.

Purpose of Committee: To provide advice and recommendations concerning support for research in physics.

Agenda

October 22, 1984

10:00 a.m.–6:00 p.m. (Open).—Discussion of surveys of subdisciplines of physics and priorities among them.

October 23, 1984

8:30 a.m.–Noon (Closed).—Discussion of grants and declinations in the Physics Division.

October 23, 1984

1:00 p.m.–5:00 p.m. (Open).—Continuation of Monday's discussions.

Reason for closing: The Committee will be discussing grants and declinations and peer review documentation pertaining to applicants. These discussions are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Dated: October 1, 1984.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 84–26375 Filed 10–3–84; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Biochemistry; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting.

Name: Advisory Panel for Biochemistry.

Date: Monday and Tuesday, October 22, and 23, 1984, from 9:00 am to 5:00 pm.

Place: Room 338, National Science Foundation, 1800 G Street, NW, Washington, DC 20550.

Type of meeting: Closed.

Contact person: Arnold Revzin, Program Director, Biochemistry Program, Room 329–D, Telephone: (202) 357–7945.

Purpose of advisory panel: To provide advice and recommendations concerning support for Biochemistry research proposals.

Agenda

To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b (c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer

pursuant to provisions of section 10(d) of Pub. L. 463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF on July 6, 1979.

Dated: October 1, 1984.

Rebecca Winkler,

Committee Management Officer.

[FR Doc. 84-26373 Filed 10-3-84; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Social and Developmental Psychology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Social and Developmental Psychology.

Date and time: October 22-23, 1984: 9:00 a.m. to 5:00 p.m. each day.

Place: Room 643, National Science Foundation, 1800 G Street, NW., Washington, D.C.

Type of meeting: Closed.

Contact person: Dr. Jean B. Intermaggio, Program Director, Social and Developmental Psychology, Room 320, National Science Foundation, Washington, D.C. 20550—202-357-9485.

Purpose of advisory panel: To provide advice and recommendations concerning support for research in Social and Developmental Psychology.

Agenda

To review and evaluate research proposal as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d), of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Dated: October 1, 1984.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 84-26374 Filed 10-3-84; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-304]

The Commonwealth Edison Co., Zion Nuclear Station, Unit 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an extension to the schedular requirements of 10 CFR 50.49 to Commonwealth Edison Company (the licensee), for the Zion Nuclear Station, Unit No. 2, located at the licensee's site in Zion, Illinois.

Environmental Assessment

Identification of Proposed Action

The extension would extend the deadline for final environmental qualification of electrical equipment within the scope of the rule from the end of the 1984 refueling outage to the end of the next refueling outage, scheduled to start September 1, 1985, but in any event, no later than November 30, 1985. The proposed extension is in accordance with the licensee's request dated June 27, 1984.

The Need for the Proposed Action

10 CFR 50.49(g) requires a licensee to complete final environmental qualification of electrical equipment within the scope of the rule by the end of the second refueling outage after March 31, 1982 or by March 31, 1985, whichever is earlier. The refueling outage which ended on July 10, 1984, is the second refueling outage of the Zion Nuclear Station, Unit 2 since March 31, 1982. The June 27, 1984 letter explains how the licensee intends to achieve final qualification of the equipment and describes why the design and procurement time would not permit replacement of the equipment during the 1984 outage.

Environmental Impacts of the Proposed Action

The purpose of the final environmental qualification of electrical equipment required by 10 CFR 50.49 is to ensure that electrical equipment which is needed to achieve safe shutdown or mitigate a reactor accident is capable of performing properly under the environmental conditions which might occur (for example, high temperature and pressure) during an accident. The environmental impact of delaying final qualification is the slightly increased risk of radiological releases during the next approximately twelve months of power operation which could be associated with a reactor accident if the equipment failed due to the accident environment.

To ensure that this risk is minimized and to justify continued operation, the licensee has adopted interim compensatory measures. These measures provide reasonable assurance that an accident would be properly mitigated even though the final qualification of the equipment is not complete. Therefore, this incremental risk is quite low and the releases, if they did occur, would be bounded by releases which have been previously determined as possible consequences for other accidents at the Zion Nuclear Station, Unit 2. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with this proposed extension.

The proposed extension does not affect nonradiological plant effluents or other nonradiological environmental impacts. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed extension.

The principal alternative to the proposed action would be to deny the extension and not permit reactor operation until final qualification was complete. Such an action would preclude the insignificant incremental risk described above. However, such denial would result in the loss of approximately twelve months of full power generation, which represents a large adverse impact.

Alternative Use of Resources

This action involves no use of resources not previously considered in the Final Environmental Statement (Operating License) for the Zion Nuclear Station, Unit 2.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed extension.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for extension dated June 27, 1984 which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C.,

and at the Local Public Document Room, Zion-Benton Public Library, District, 2600 Emmans Avenue, Zion, Illinois 60099.

Dated at Bethesda, Maryland this 25th day of September 1984.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 84-26369 Filed 10-3-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-247]

Consolidated Edison Co. of New York, Inc.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of Appendix R to 10 CFR Part 50 to the Consolidated Edison Company of New York, (the licensee), for the Indian Point Nuclear Generating Plant, Unit No. 2, located in Westchester County, New York.

Environmental Assessment

Identification of Proposed Action

The exemption would relax the technical requirements in the following plant area:

1. Containment Spray Pump Room and Primary Water Makeup Pump Room (Fire Zones 2/2A).
2. Waste Storage and Drumming Station (Zone 6A).
3. Switchgear Room (Zone 14).
4. Screen Well Area (Zone 22).
5. Yard Manhole No. 21.
6. Reactor Coolant Pump—Oil Collection Tanks.
7. Component Cooling Pump Room (Zone 1).
8. Auxiliary Boiler Feed Pump Room (Zone 23).
9. Piping and Electrical Tunnel, Piping Penetration Area (Zone 1A).
10. Charging Pump Room (Zone 5).
11. Corridor (Zone 7A).
12. Valve Room and Stairwell (Zone 13A).
13. Control Room (Zone 15).
14. Valve Room and Corridor (Zones 18A and 3A).
15. Electric Penetration Area (Zone 74A).

The exemption would grant additional time for the installation and testing of emergency lighting.

The exemption is responsive to the licensee's application for exemption dated July 13, 1983, as supplemented by letters dated July 29 and September 29, 1983 and July 5, 1984.

The Need for the Proposed Action

The proposed exemption is needed because the features described in the licensee's request regarding the existing fire protection at the plant for these items are the most practical method for meeting the intent of Appendix R and literal compliance would not significantly enhance the fire protection capability.

Environmental Impacts of the Proposed Action

The proposed exemption will provide a degree of fire protection that is equivalent to that required by Appendix R for the eight areas of the plant such that there is no increase in the risk of fires at this facility. Consequently, the probability of fires has not been increased and the post-fire radiological releases will not be greater than previously determined nor does the proposed exemption otherwise affect radiological plant effluents. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with this proposed exemption.

With regard to potential non-radiological impacts, the proposed exemption involves features located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed exemption.

Alternative Use of Resources

This action involves no use of resources not previously considered in the Final Environmental Statement (construction permit and operating license) for the Indian Point Nuclear Generating Plant, Unit No. 2.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for exemption dated July 13, 1983 and supplements dated July 29 and September 29, 1983 and July 5, 1984, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Local Public Document Room, White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

For the Nuclear Regulatory Commission.

Dated at Bethesda, Maryland this 28th day of August 1984.

Gus C. Lainas,

Acting Director, Division of Licensing.

[FR Doc. 84-26370 Filed 10-3-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-247 and 50-286]

Consolidated Edison Co. of New York, Inc. and Power Authority of the State of New York; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of Appendix E to 10 CFR Part 50 to the Consolidated Edison Company of New York and the Power Authority of the State of New York, (the licensees), for the Indian Point Nuclear Generating Plant, Unit Nos. 2 and 3, at the licensees' site in Westchester County, New York.

Environmental Assessment

Identification of Proposed Action

The exemption would permit the extension of the emergency preparedness exercise at the Indian Point Station from March 9, 1984 to November 30, 1984. The proposed exemption is in accordance with the licensees' request for exemption dated April 9, 1984.

The Need for the Proposed Action

10 CFR 50.54(q) requires a licensee authorized to operate a nuclear power reactor to follow and maintain in effect emergency plans which meet the standards of § 50.47(b) and the requirements of Appendix E to 10 CFR Part 50. Section IV.F of Appendix E requires each licensee to conduct emergency preparedness exercises at each site at least annually.

By letter dated April 9, 1984, the licensees requested that an exemption be granted from the annual requirements of Section IV.F.1.a, of Appendix E by requesting a one-time extension until at least November 30, 1984 to conduct the 1984 emergency exercise. The licensees based this request for exemption on a full-scale exercise with the State of New York, Putnam County, Orange County, and Westchester County (with the

exception of certain transportation arrangements) on March 9, 1983. In Westchester County, transportation arrangements were satisfactorily demonstrated to FEMA in a separate exercise held on August 23, 1983. On August 24, 1983, another exercise was conducted for the purpose of demonstrating implementation of New York State Department of Health (NYDOH) interim compensating measures for Rockland County.

Environmental Impacts of the Proposed Action

The proposed exemption affects only the scheduling of the annual emergency preparedness exercise and does not affect the risk of facility accidents. Thus, post-accident radiological releases will not differ from those determined previously, the proposed exemption does not otherwise affect facility radiological effluents, or any significant occupational exposures. Likewise, the exemption does not affect facility non-radiological effluents and has no other environmental impact. Therefore, the Commission concludes there are no measurable radiological or non-radiological environmental impacts associated with the proposed exemption.

Since the Commission has concluded there is no measurable environmental impact associated with the proposed exemption, any alternatives either will have no environmental impact or will have a greater environmental impact. The principal alternative to the exemption would be to require literal compliance with Section IV.F of Appendix E to 10 CFR Part 50. Such an action would not enhance the protection of the environment and would result in unnecessary expenditure of State and local government resources.

Alternative Use of Resources

This action does not involve the use of resources not considered previously in connection with the Final Environmental Statements relating to this facility. "Final Environmental Statement related to operation of Indian Point Nuclear Generating Plant," September 1972.

Agencies and Persons Consulted

The Commission's staff reviewed the licensees' request, the FEMA finding dated April 24, 1983, the New York State Disaster Preparedness Commission letter dated May 25, 1984, and the New York Public Interest Research Group, Inc. letter dated May 31, 1984. The NRC staff did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for exemption dated April 9, 1984, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Local Public Document Room, White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Dated at Bethesda, Maryland this 26th day of September 1984.

For The Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulations.

[FR Doc. 84-26368 Filed 10-3-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-327 and 50-328]

Tennessee Valley Authority; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering granting of relief from the requirements of Section XI of the ASME Boiler and Pressure Vessel Code as allowed by 10 CFR 50.55a to Tennessee Valley Authority for the Sequoyah Nuclear Plant, Units 1 and 2, located in Hamilton County, Tennessee.

Environmental Assessment

Identification of Proposed Action

The proposed action would provide relief from hydrostatic testing requirements of the ASME Code/Section XI for the deletion of feedwater drain valves and the capping of the 1½" lines. The proposed relief is in response to the licensee's request of July 30, 1984 and September 8, 1984.

The Need for the Proposed Action

Two drain valves are leaking excessively. TVA has concluded these drain valves and several others are unnecessary in the main feedwater system for plant operations. They are to be eliminated and the lines capped. The proposed relief is needed because performing the hydrostatic test after the capping of the lines is impractical to perform. To accomplish the test would require flooding the secondary side of each steam generator along with the 32-inch main steam lines to the outboard isolation valves. Also, the main steam safety and power-operated relief valves would require gagging to perform the test.

Environmental Impacts of the Proposed Action

The proposed relief will provide alternate examinations such that there is adequate assurance of the integrity of the capped lines described in the licensee's request. Consequently, the probability of an accident has not been increased and the post-accident radiological releases will not be greater than previously determined nor does the proposed relief otherwise affect radiological plant effluents. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with this proposed relief. With regard to potential non-radiological impacts, the proposed relief involves changes within the restricted area defined in 10 CFR Part 20. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed relief.

Alternative Use Of Resources

This action involves no use of resources not previously considered in the Final Environmental Statement for the Sequoyah Nuclear Station.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed relief.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the licensee's letters dated July 30 and September 18, 1984. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the Chattanooga-Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Dated at Bethesda, Maryland, this 25th day of September 1984.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 84-26371 Filed 10-3-84; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF THE FEDERAL INSPECTOR FOR THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM

Final Rate Base Determination

Issued: September 28, 1984.

AGENCY: Office of the Federal Inspector (OFI) for the Alaska Natural Gas Transportation System.

ACTION: Final Determination.

FOR FURTHER INFORMATION CONTACT: J. Richard Berman (202) 275-1100.

The Federal Inspector has issued a Final Determination on the expenditures incurred by Northern Border Pipeline Company related to the Eastern Leg of the Alaska Natural Gas Transportation System during the period April 1, 1982 through December 31, 1982. The Final Determination affirms a Tentative Determination issued by the Office of Audit and Cost Analysis on July 30, 1984.

This is a final OFI action under section 202(a) of Reorganization Plan No. 1 of 1979.

Dated: September 28, 1984.

John T. Rhett,

Federal Inspector.

[FR Doc. 84-26370 Filed 10-3-84; 8:45 am]

BILLING CODE 6115-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Implementation of Modifications in Specialty Steel Import Relief

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: This notice permits the withdrawal from warehouse for consumption of a quantity of certain stainless steel bar, presently subject to quota.

EFFECTIVE DATE: September 28, 1984.

FOR FURTHER INFORMATION CONTACT: Maria T. Springer, Office of the United States Trade Representative (202) 395-4948.

SUPPLEMENTARY INFORMATION: Presidential Proclamation 5074 of July 19, 1983 (48 FR 33233), provides for the temporary imposition of increased tariffs and quantitative restrictions on certain stainless steel and alloy tool steel imported into the United States. Headnote 10(d), part 2A of the Appendix to the Tariff Schedules of the United States (TSUS) authorizes the U.S. Trade Representative to adjust the restraint level for any such steel to be exceeded during any restraint period.

Accordingly, I have determined that an amount not to exceed one and one-quarter short ton of the following stainless steel bar, provided for in Tariff Schedules of the United States (TSUS) item 926.11, may be entered for consumption or withdrawn from Customs bonded warehouse, in excess of the restraint level provided for the period July 20, 1984–October 19, 1984, for the "Other" foreign country category:

Round stainless steel bar, centerless ground, not less than 2.342 millimeters and not more than 2.350 millimeters in diameter, 3 meters in length, containing, in addition to iron, each of the following elements by weight in the amount specified:

Carbon: not less than 0.40 percent not more than 0.47 percent;
Manganese: 0.50 percent
Sulfur: 0.005 percent;
Phosphorus: 0.019 percent;
Silicon: 0.35 percent;
Chromium: not less than 12.0 percent not more than 13.0 percent;
Nickel: 0.30 percent;
Copper: 0.05 percent;
Molybdenum: 0.04 percent;
Aluminum: 0.01 percent;

and certified by the importer of record or the ultimate consignee at the time of entry for use in the manufacture dental burs.

In addition, an identical amount shall be deducted from the quota quantity allocated to the "Other" foreign country category for TSUS item 926.11 for the restraint period October 20, 1984–January 19, 1985. This determination supersedes the provisions of the notice of October 20, 1983 (48 FR 48888), to the extent inconsistent herewith.

William E. Brock,

United States Trade Representative.

[FR Doc. 84-26319 Filed 10-3-84; 8:45 am]

BILLING CODE 3190-01-M

[Docket No. 301-20]

Air Courier Conference of America; Hearing on Proposed Action

The Office of the United States Trade Representative (USTR) has scheduled a public hearing pursuant to sec. 304(b)(1) of the Trade Act of 1974, as amended (19 U.S.C. 2414(b)(1)) for October 24, 1984. The purpose of the hearing will be to provide an opportunity for interested parties to present their views concerning proposed recommendations to the President for action under sec. 301(a) in relation to the issues raised by the petition filed by the Air Courier Conference of America.

On November 7, 1983, USTR decided to initiate an investigation under sec. 301 on the basis of a petition filed by the Air Courier Conference of America (48 FR 52664). The petition alleged that the Argentine postal administration, an istrumentality of the Government of Argentina, restricted the international air transportation of time-sensitive commercial documents and thus acted in a manner that was unjustifiable, unreasonable, or discriminatory and a burden or restriction on U.S. commerce. Under sec. 304(a)(1)(d) USTR is required to make a recommendation as to what, if any, action the President should take in this matter no later than November 7, 1984. Before recommending that the President take action, USTR must provide an opportunity for interested parties to present views. If requested, USTR must hold a public hearing. On September 26, 1984 the petitioner requested USTR to hold such a hearing.

The Section 301 Committee therefore invites interested parties to present their views as to what, if any, action USTR should recommend to the President in this case. The following actions have been proposed by the petitioner:

(1) Termination of the Express Mail Agreement between the U.S. Postal Service and the Argentine postal administration;

(2) Suspension of benefits accruing to Argentina under the Generalized System of Preferences;

(3) Imposition of fees on Encotel or its agents in the performance of services in the United States;

(4) Suspension, withdrawal or prevention of the application of, or refraining from the proclamation of benefits of trade agreement concessions including, but not limited to the following:

(a) Graduated reduction in tariff rates pursuant to Tokyo Round tariff negotiations;

(b) Intelpost agreement;

(c) Agreement relating to investment guarantees.

In addition, the 301 Committee invites public comment on the question of reducing or eliminating the quota allocation applicable to imports of specialty steel products from Argentina (see 48 FR 4888) for the purpose of reassigning any such allocation to another foreign supplier.

In accordance with 15 CFR 2006.9 requests to present oral testimony should be submitted to the Chairman,

Section 301 Committee, Office of the United States Trade Representative, 600 17th St., NW., Washington, D.C. 20506 no later than October 19, 1984. Written briefs accompanying oral testimony must be submitted no later than Oct. 22 and must conform to the requirements of 15 CFR 2006.8. Those interested parties who do not wish to present oral testimony but nevertheless wish to present written views should submitt written briefs in accordance with 15 CFR 2006.8 no later than October 24, 1984.

In accordance with 15 CFR 2006.8(c), all written briefs should be sent to the Chairman, Section 301 Committee at the above address.

Jeanne S. Archibald,

Chairman, Section 301 Committee

[FR Doc. 84-26505 Filed 10-3-84; 8:45 am]

BILLING CODE 3190-01-M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Economic Forecasting Advisory Committee; Regular Meeting Notice

AGENCY: Economic Forecasting Advisory Committee of the Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of meeting to be held pursuant to the Federal Advisory Committee Act, 5 U.S.C. Appendix I, 1-4. Activities will include:

- Committee workplan.
- Status of Regional Economic Model.
- Summary of responses to staff working paper and questionnaire.
- Review of other forecasts.
- Discussion of scenarios and assumptions for Council forecasts.
- Public comment.

Status: Open.

SUMMARY: The Northwest Power Planning Council hereby announces a forthcoming meeting of its Economic Forecasting Advisory Committee.

DATE: Tuesday, October 9, 1984; 9:00 a.m.

ADDRESS: The meeting will be held at the Council's Central Office, 700 SW. Taylor; Suite 200, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Debbie Kitchin, (503) 222-5161.

Edward Sheets,

Executive Director.

[FR Doc. 84-26357 Filed 10-3-84; 8:45 am]

BILLING CODE 6000-66-M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Request for Termination of Supplementary Medical Insurance
(2) *Form(s) submitted:* G-718
(3) *Type of request:* Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection
(4) *Frequency of use:* On occasion
(5) *Respondents:* Individuals or households
(6) *Annual responses:* 550
(7) *Annual reporting hours:* 92
(8) *Collection description:* The Board administers the Medicare program for persons covered by the Railroad Retirement system. The request will obtain the information needed by the Board to terminate an individual's supplementary medical insurance under the program.

Additional Information or Comments

Copies of the proposed forms and supporting documents may be obtained from Pauline Lohens, the agency clearance officer (312-751-4692). Comments regarding the information collection should be addressed to Pauline Lohens, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Robert Fishman (202-395-6880), Office of Management and Budget, Room 3201, New Executive Office Building, Washington, DC 20503.

Pauline Lohens,

Director of Information and Data Management.

[FR Doc. 84-26355 Filed 10-3-84; 8:45 am]

BILLING CODE 7905-01-M

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Application for reimbursement for Hospital Insurance Services in Canada
(2) *Form(s) submitted:* AA-104
(3) *Type of request:* Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection
(4) *Frequency of use:* On occasion
(5) *Respondents:* Individuals or households
(6) *Annual responses:* 175
(7) *Annual reporting hours:* 29
(8) *Collection description:* The Board administers the Medicare program for persons covered by the Railroad Retirement system. The collection obtains the information needed to determine eligibility for and amount due for covered hospital services received in Canada.

Additional Information or Comments

Copies of the proposed forms and supporting documents can be obtained from Pauline Lohens, the agency clearance officer (312-751-4692). Comments regarding the information collection should be addressed to Pauline Lohens, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Robert Fishman (202-395-6880), Office of Management and Budget, Room 3201, New Executive Office Building, Washington, D.C. 20503.

Pauline Lohens,

Director of Information and Data Management.

[FR Doc. 84-26356 Filed 10-3-84; 8:45 am]

BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review of Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272-2142.

Upon Written Request Copy Available From: Securities and Exchange Commission, Office of Consumer Affairs, Washington, D.C. 20549.

Notice of Submission
1984 Research Forum Questionnaire
No. 270-266

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), the Securities

and Exchange Commission has submitted for clearance a voluntary questionnaire to be sent to various users of the Commission's disclosure documents in connection with the Commission's Research Forum to be held on November 28, 1984. The questionnaire elicits the views of participants in the Forum as to the topics of importance to financial analysts and to investors concerning data in filings made with the Commission. The number of affected entities is approximately 45. Submit comments to OMB Desk Officer: Ms. Katie Lewin, (202) 395-7231, Office of Information and Regulatory Affairs, Room 3235 NEOB, Washington, D.C. 20503.

Dated: September 28, 1984.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-25995 Filed 10-3-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 14177 (812-5901)]

Cash Accumulation Trust; Application for Order Exempting Applicant

October 1, 1984.

Notice is hereby given that Cash Accumulation Trust ("Applicant"), One New York Plaza, New York, New York, 10004, an open-end, diversified management investment company, on behalf of its National Tax Exempt Fund (the "Fund"), filed an application on July 23, 1984, and an amendment thereto on August 21, 1984, for a Commission order, pursuant to section 6(c) of the Act, exempting Applicant from the provisions of section 12(d)(3) of the Act to the extent necessary to permit Applicant, on behalf of the Fund, to acquire rights to resell portfolio securities to brokers and dealers. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of the provisions cited in the application.

Applicant states that it was organized as a series fund under the name "Thompson McKinnon Money Market Series Trust" and that on June 18, 1984, Applicant's name was changed to Cash Accumulation Trust. According to the application, the Fund is a "money market fund" whose investment objective is current income, preservation of capital and liquidity. Applicant states that the Fund will pursue this objective by investing primarily in high quality short-term debt securities the interest on which is, in the opinion of bond counsel for the issuers at the time of issuance, exempt from Federal income taxation ("Municipal Securities"). Applicant states that it seeks to maintain a par share net asset value of $1.00 for the Fund. Applicant states further that it intends to use the amortized cost method of valuing the Fund's portfolio.

Applicant states that it may purchase Municipal Securities together with the right to resell them to the seller at an agreed-upon price or yield within a specified period prior to the maturity date of such securities. Such rights are known as "puts". Applicant states that it will acquire puts solely to promote portfolio liquidity. Applicant states further that it will not acquire puts on behalf of the Fund with the intention of exercising such puts when the exercise price exceeds the current value of the underlying security. Applicant represents that, if the exercise price of a put should exceed the current value of the underlying Municipal Securities, Applicant may refrain from exercising the put to avoid causing the issuer to sustain a loss and jeopardizing Applicant's business relationship with the issuer.

Applicant submits that the Fund's managers believe that puts will enable the Fund more readily to dispose of portfolio securities to meet redemption requirements or to invest in other, more attractive securities. Applicant states that the Fund's shareholders require the ability to receive same-day redemption proceeds and that the cash needed to meet net redemptions of Fund shares must be obtained immediately from maturing portfolio securities or settlements arranged contemporaneously with sales of securities. Applicant submits that, because maturity dates of Municipal Securities are not as frequent as those of taxable money market instruments, the Fund cannot always rely on maturing portfolio securities to obtain the cash needed to meet redemptions. Applicant further submits that, unless prior arrangements assuring immediate liquidity have been made, the negotiation of same-day settlements on sales of portfolio securities within the brief time available is often impossible or may require the Fund to receive a less favorable price for a security. Applicant states that other investment techniques used by taxable money-market funds to obtain liquidity are not as freely available to the Fund because they are either prohibitively expensive or would produce undesirable taxable income.

Applicant represents that all puts acquired by the Fund will have the following features: (1) They will be in writing and will be physically held by the Fund's custodian; (2) they may be exercisable by the Fund solely at the Fund's option at any time prior to the maturity of the underlying Municipal Security; (3) they will be entered into only with brokers, dealers, and banks who in the investment adviser's opinion present a minimal risk of default; (4) the Fund's right to exercise puts will be unconditional and unqualified; (5) although puts will not be transferable, Municipal Securities purchased subject to such commitments could, at any time, be sold to a third party, even though the commitment was outstanding; and (6) the exercise price of puts will be (i) the Fund's cost of the Municipal Securities subject to the obligation (excluding any accrued interest which the Fund paid on their acquisition), less any market premium or plus any amortized market or original issue discount during the period the Fund owned the securities, plus (ii) all interest accrued on the securities since the last interest payment date during the period the securities were owned by the Fund. The amount payable under a put thus will be substantially the same as the value of the underlying security valued on an amortized cost basis.

Applicant expects that puts will generally be available without the payment of any specified direct or indirect consideration. However, if necessary and advisable, the Fund will pay for puts either separately in cash or by paying a higher price for portfolio securities subject to the commitment.

As a matter of policy, the total amount paid by the Fund in either manner for outstanding puts in its portfolio will not exceed ½ of 1% of the value of the Fund's total assets calculated immediately after any puts are acquired.

Applicant asserts that it will be very difficult if not impossible to evaluate the likelihood of exercise of the potential benefit of a put. Furthermore, market quotations generally are not readily available for puts. Accordingly, puts will be deemed to have a fair value of zero, regardless of whether any direct or indirect consideration was paid. Applicant states that, where the Fund has paid for a put, its cost will be reflected as unrealized depreciation for the period during which the commitment is held, and such cost will be reflected as realized gain or loss when the put is exercised or expires upon the maturity of the underlying Municipal Security.

Applicant asserts that the acquisition of puts will not affect the per share net asset value of the Fund and will not pose new investment risks but rather will improve the Fund's liquidity and ability to meet redemptions. Applicant

states that it intends to enter into puts only with brokers, dealers and banks which, in the opinion of Applicant's investment adviser (the "Adviser") present a minimal risk of default. The Adviser intends to periodically evaluate the credit of issuers selling puts to the Fund. Applicant does not believe that the risks involved in the acquisition of puts from commercial banks.

The Fund's proposed acquisition of puts from brokers or dealers would generally be prohibited by section 12(d)(3) of the Act. Applicant maintains, however, that the acquisition of puts poses no new investment risks, will not meaningfully expose the Fund's assets to "the entrepreneurial risks of the investment banking business" nor require Applicant to evaluate the credit of brokers or dealers in determining its net asset value. Applicant asserts that, because the Fund may dispose of the Municipal Security subject to a put, the Fund's loss upon a default by the issuer will be limited to the difference between the price at which the put's issuer agreed to buy the Municipal Security and the market value of the Municipal Security. Applicant further asserts that a put will present substantially less risk than an unsecured obligation of a broker-dealer or a bank. Applicant submits that, because a put will be valued at zero, and the underlying security at amortized cost, the failure or inability of an issuer of a put to repurchase the underlying security will have no effect on Applicant's portfolio value.

Applicant states that the Internal Revenue Service ("IRS") has previously issued a revenue ruling to the effect that a registered investment company will be the owner of Municipal Securities subject to puts and that the interest on the securities will be tax-exempt to the company.

However, Applicant understands that the IRS no longer issues private letter rulings as to whether or not the Fund would be the owner of Municipal Securities subject to puts for tax purposes. Applicant states that there is no assurance that the IRS will not change the position previously announced in the revenue ruling.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than October 23, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personnally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-26397 Filed 10-3-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 23438 (70-6458)]

Indiana & Michigan Electric Co.; Proposal To Dispose of and Acquire Pollution Control Facilities

September 28, 1984.

Indiana & Michigan Electric Company ("I&ME"), a subsidiary of American Electric Power Company, Inc. ("AEP"), One Summit Square, Fort Wayne, Indiana, 46801, a registered holding company, has proposed a transaction with this Commission subject to sections 9(a), 10, and 12 (b) and (d) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 44 thereunder.

By order dated June 11, 1980 (HCAR No. 21618), the Commission authorized I&ME to dispose of and acquire certain pollution control systems ("Project") at its Rockport Generating Station ("Plant"), under construction near the City of Rockport in Spencer County, Indiana ("City") to comply with prescribed environmental control standards of the State of Indiana. I&ME's disposition and acquisition was undertaken in connection with the issuance by the City of pollution control revenue bonds in the amount of $40 million to finance the Project (HCAR No. 21642, June 25, 1980). This represented a portion of I&ME's estimated cost of $150 million, for its 50% obligation for the Project shared with AEP Generating Company also a subsidiary of AEP (HCAR No. 23399, August 17, 1984).

It is now proposed that the City will issue and sell an additional series of bonds in a principal amount of up to $110,000,000 ("Series B Bonds") to cover the estimated remaining portion of the cost of construction of the Project. The proceeds of the sale of the Series B Bonds will be deposited by the City with Lincoln National Bank and Trust Company of Fort Wayne, as Trustee ("Trustee"), under the indenture between the City and such Trustee, ("Indenture"), to be amended by a First Supplemental Indenture, pursuant to which the Series B Bonds are to be issued and secured.

Proceeds received by I&ME in reimbursement of its cost of construction of the Project are to be applied to the payment of maturing long-term debt and outstanding bank loans of I&ME and for construction and other corporate purposes. At June 30, 1984, such outstanding bank loans of I&ME amounted to $1,700,000.

It is contemplated that the Series B Bonds will be sold by the City pursuant to arrangements with an underwriter or a group of underwriters. In accordance with the laws of the State of Indiana, the interest rate to be borne by the Series B Bonds will be fixed by or on behalf of the common council of the City. While I&ME will not be a party to the underwriting arrangement for the Series B Bonds, an Agreement of Sale between the City and I&ME, dated June 1, 1980, will provide that the terms of Series B Bonds an their sale by the City shall be satisfactory to I&ME. I&ME understands that interest on the Series B Bonds will be exempt from federal income taxation under the provisions of section 103 of the Internal Revenue Code of 1954, as amended. It is not possible to predict precisely the interest rate which may be obtained in connection with the issuance of the Series B Bonds. However, I&ME has been advised that, depending on maturity and other factors, the annual interest rates on obligations, interest on which is so tax exempt, historically have been and can be expected at the time of issuance of the Series B Bonds to be 2½% to 5% lower than the rates of obligations of like tenor and comparable quality, interest on which is fully subject to federal income tax.

The Series B Bonds will be dated as of the date of issuance, will bear interest therefrom payable at maturity and will mature on October 28, 1985. It is expected that the Series B Bonds will not be redeemable at the option of the City prior to April 28, 1985 except under certain circumstances.

The proposal and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by October 22, 1984, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the applicant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the

issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered and will receive a copy of any notice or order issued in this matter. After said date, the proposal, as filed or as it may be amended, may be authorized.

For the Commission, by the Office of Public Utility Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-26004 Filed 10-3-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 14178 (812-5119)]

Southwest Funding Corp.; Filing of Application for an Order Pursuant to Section 6(c) of the Act Exempting Applicant From All Provisions of the Act

October 1, 1984.

Notice is hereby given that Southwest Funding Corp. ("Applicant"), 165 Broadway, New York, NY, 10080, a Delaware corporation, filed an application on January 26, 1983, and amendments there to on November 17, 1983, July 13, 1984, and September 18, 1984, for a restated order, pursuant to section 6(c) of the Investment Company Act of 1940 ("Act"), exempting Applicant from all of the provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

Applicant represents that its sole business will be issuing and selling its promissory notes and utilizing the net proceeds of sale thereof (i) to make advances (the "Advances") to United States customers of Mercantile National Bank at Dallas ("Mercantile") that participate in Applicant's promissory note program (the "Borrowers") or (ii) to make deposits (the "Deposits") with other banks (the "Banks") owned by Mercantile Southwest Corporation, Mercantile's corporate parent. Substantially all of Applicant's assets will consist of (i) promissory notes issued by the Borrowers (the "Advance Notes") evidencing the obligations of the Borrowers to repay to Applicant indebtedness of the Borrowers arising from the Applicant's Advances to them and (ii) certificates of deposit (the "Certificates of Deposit") evidencing deposits made by Applicant with the Banks. Each Advance Note issued by a Borrower to Applicant and each Certificate of Deposit issued by a Bank to Applicant will be supported by a separate irrevocable letter of credit (the "letter of Credit") issued in favor of the holder of the Advance Note or Certificate of Deposit by Mercantile for the account of that Borrower or Bank. None of Applicant's outstanding common stock is, or in the future will be, owned by Mercantile, any of the Borrowers, any of the Banks, or any of their affiliates. The current owner of all of Applicant's issued and outstanding common stock proposes to sell all of such common stock to Bettina Investments, Inc., Gordon Enterprises, Inc., and J-Bran Investments, Inc., Texas corporations owned by Texas residents, none of which is an affiliate of Mercantile, the Banks, the Borrowers, or an affiliate of any of them. As a condition to the sale, each corporation will represent that it is not an "investment company" within the meaning of the Act. Applicant states that there has been, and undertakes that in the future there will be, no public offering of Applicant's common stock or of any other equity security of Applicant.

According to the application, Applicant proposes to issue and sell (i) in public transactions, short-term negotiable promissory notes of the type exempt from the registration requirements of the Securities Act of 1933 (the "Securities Act") by virtue of section 3(a)(3) thereof and generally referred to as commercial paper (the "Commercial Paper Notes") and (ii) in non-public transactions exempt from the registration requirements of the Securities Act pursuant to the private placement exemption of subsecton 4(2) of the Securities Act, medium-term promissory notes (the "Medium Term Notes"). Advances and Deposits made from the proceeds of the sale of Commercial Paper Notes will be used by the Borrowers and the Banks to finance "current transactions" within the meaning of section 3(a)(3) of the Securities Act. Applicant believes, on the basis of estimates provided by Mercantile, that in the first year in which Commercial Paper Notes and Medium-Term Notes are issued the face amount of Commercial Paper Notes and the principal amount of Medium-Term Notes outstanding will average an aggregate amount of approximately $200,000,000.

The application indicates that the Commercial Paper Notes will be sold in minimum denominations of $100,000. Applicant undertakes not to market the Commercial Paper Notes before receiving an opinion of counsel to the effect that the proposed offering is exempt from the registration requirements of the Securities Act. Applicant does not request Commission review or approval of counsel's opinion, and the Commission expresses no opinion concerning the availability of any such exemption.

Applicant states that the Commercial Paper Notes will be offered publicly, through one or more major dealers, only to the types of sophisticated and largely institutional investors that ordinarily participate in the commercial paper market and that, while an announcement of the establishment of the commercial paper facility may be made as a matter of record, the offering will not be advertised. Applicant undertakes to ensure that each dealer in the Commercial Paper Notes will furnish each offeree memoranda describing the businesses of Mercantile and Applicant and providing the most recent annual and quarterly financial information for Mercantile. Applicant represents that the memoranda prepared by each dealer will be updated as promptly as practicable to reflect any material adverse changes in the financial status of Applicant or of Mercantile and will be at least as comprehensive as memoranda customarily used in offering commercial paper. Applicant consents to having the granting of its requested order expressly conditioned upon its compliance with the undertakings in the previous two sentences. The Medium-Term Notes will be sold in minimum denominations of not less than $150,000, pursuant to the private placement exemption of section 4(2) of the Securities Act. Applicant undertakes not to issue and sell any Medium-Term Notes prior to receiving an opinion of counsel that that exemption is applicable to the transactions in which the Medium-Term Notes are proposed to be sold. Applicant does to request Commission review or approval of counsel's opinion and the Commission expresses no opinion concerning the availability of any such exemption.

Applicant undertakes that prior to their issuance, the Commercial Paper Notes, and any future offering of Applicant's debt securities, will have received one of the three highest investment grade ratings from at least one nationally-recognized statistical rating organization and Applicant's counsel shall have certified that the rating was received. However, Applicant understands that no such rating shall be required to be obtained with respect to an issue of Medium-Term Notes or other debt securities of Applicant if, in the opinion of Applicant's counsel, an exemption is available for the issue pursuant to subsection 4(2) of the Securities Act of Regulation D promulgated thereunder.

Applicant undertakes that, in respect of any future offerings of Applicant's debt securities, it will obtain an opinion of counsel or a "no-action" letter issued by the staff of the Commission to the effect that the proposed offering is in compliance with, or entitled to an exemption from, the registration provisions of the Securities Act.

According to the application, Morgan Guaranty Trust Company of New York ("Depositary") will act as issuing and paying agent for the Commercial Paper Notes and the Medium-Term Notes (the "Depositary"), and Mercantile has consented to the appointment of the Depositary. As trustee for the benefit of holders of the Commercial Paper Notes and the Medium-Term Notes, the Depositary will receive an assignment of all of Applicant's rights to payments of the Advance Notes and the Certificates of Deposit and all of Applicant's rights under the Leters of Credit attached thereto. The Depositary will receive proceeds from Applicant's sale of the Commercial Paper Notes and the Medium-Term Notes and will collect payments made in respect of the Advance Notes and the Certificates of Deposits upon maturity.

Applicant states that it will advance all of the net proceeds from sales of the Commercial Paper Notes and Medium-Term Notes to the Borrowers and the Banks. Applicant represents that it will enter into an agreement with each Borrower pursuant to which Applicant will agree to make Advances to the Borrower solely from the net proceeds of the Commercial Paper Notes or the Medium-Term Notes. Each Borrower and Mercantile will enter into a loan agreement pursuant to which Mercantile will agree (i) to issue, for the account of the Borrower, Letters of Credit, to be attached to each Advance Note, in favor of the Applicant as the holder of the Advance Note for the value of the Advance evidenced by the Advance Note and (ii) to make loans (the "Loans") to the Borrower. For each Borrower the aggregate amount of Commercial Paper Notes and of Medium-Term Notes issued to fund Advances to such Borrower, disbursements under the Letters of Credit issued for its account and the Loans will not be permitted to exceed a designated amount specified for that Borrower. Each Borrower will agree to pay the Advance Notes it issues to Applicant, any disbursements made under the Letters of Credit issued for the Borrower's account and any Loans made to the Borrower. In addition, Applicant will enter into an agreement with Mercantile pursuant to which Mercantile may request Applicant to make deposits with one or more of the Banks solely from the net proceeds of the sale of the Commercial Paper Notes or the Medium-Term Notes. Mercantile will agree to issue for the account of each Bank Letters of Credit to be attached to each Certificate of Deposit evidencing a Deposit in favor of Applicant as holder of the Certificate of Deposit. For each Bank, the aggregate amount of Commercial Paper Notes and Medium-Term Notes issued to obtain funds to make Deposits with such Bank and the amount of disbursements made by Mercantile under the Letters of Credit issued for the account of such Bank will not be permitted to exceed an amount designated for that Bank.

According to the application, the Advances of certain of the Borrowers may be secured. Any Borrower required by the Applicant or Mercantile to secure the Borrower's obligations to pay the Advance Notes, Letter of Credit disbursement and the Loans to Applicant and Mercantile will execute and deliver to Mercantile a security agreement pursuant to which the Borrower will pledge and assign to Mercantile, individually and as collateral agent for Applicant as the holder of the Advance Notes, a security interest in certain assets of the Borrower (the "Collateral") having a value equal to or greater than the principal amount of the Advance Notes, Letter of Credit disbursements and the outstanding Loans. The Collateral may include, among other things, merchandise acquired with the proceeds of the Advances or mortgage notes secured by mortgages on real estate, cash collateral and Government National Mortgage Association securities. While initially the Collateral will be held by Mercantile as collateral agent for Applicant as the holder of the Advance Notes, Applicant's interest in the Collateral, together with all Applicant's rights in the Advance Notes and all its rights to receive payment thereon and all its rights under the Letters of Credit, will be assigned to the Depositary as trustee for the benefit of the holders of the Commercial Paper Notes, in the case of Advances made from the net proceeds of the sale of Commercial Paper Notes, and as trustee for the benefit of the holders of the Medium-Term Notes, in the case of Advances made from the net proceeds of the sale of Medium-Term Notes.

According to the application, maturing Commercial Paper Notes will be paid by the Depositary with funds received either from (i) payments made by Borrowers under Advance Notes issued with respect to Advances of the net proceeds of the sale of Commercial Paper Notes, (ii) payments made by the Banks under Certificates of Deposit issued with respect to Deposits of the net proceeds of the sale of Commercial Paper Notes, (iii) the net proceeds of sales of Commercial Paper Notes or (iv) the proceeds of any Support Credit, described below, issued in respect of the Commercial Paper Notes. Similarly, maturing Medium-Term Notes will be paid by the Depositary with funds received either from (i) payments made by Borrowers under Advance Notes issued with respect to Advances of the net proceeds of the sale of Medium-Term Notes, (ii) payments made by the Banks under Certificates of Deposit issued with respect to Deposits of the net proceeds of the sale of Medium-Term Notes, (iii) the net proceeds of sale of Medium-Term Notes or (iv) the proceeds of any Support Credit, as described below, issued in respect of the Medium-Term Notes.

Applicant further states that while it anticipates that each Advance Note and each Certificate of Deposit will have the same maturity date as the Commercial Paper Notes or Medium-Term Notes issued by Applicant to obtain funds to make the Advances or Deposits, it may acquire Advance Notes and Certificates of Deposit which have maturity dates different from those of the Commercial Paper Notes or Medium-Term Notes issued by Applicant to obtain funds to make the attendant Advances or Deposits. Applicant represents that in any instance in which Commercial Paper Notes or Medium-Term Notes mature prior to or after the related Advance Notes or Certificates of Deposit, Mercantile will either issue Irrevocable letters of credit in favor of Applicant or make available irrevocable lines of credit to Applicant (collectively, the "Support Credit"), in an amount equal to the amount due in respect of the Commercial Paper Notes or the Medium-Term Notes issued to obtain funds to make the Advances or Deposits. Applicant Indicates that its rights to receive payment under the Support Credit will be assigned to the Depositary as trustee for the holders of the Commercial Paper Notes and the medium-Term Notes. Applicant further represents that in the event that an Advance Note or a Certificate of Deposit matures prior to the maturity of the Commercial Paper Notes Medium-Term Notes issued to obtain funds to make the related Advance or Deposit, the proceeds from the repayment of that Advance Note or Certificate of Deposit shall either be used to make additional

Advances or Deposits of the same type as that evidenced by the matured Advance Note or matured Certificate of Deposit or be temporarily held, pending use of the proceeds to pay amounts due on the related Commercial Paper Notes or Medium-Term Notes, in Obligations issued by, or the Principal of and interest on which are fully guaranteed by, the United States or agencies or instrumentalities thereof, or in obligations of Mercantile (the "Temporary Holdings"). Applicant undertakes that during any of its fiscal years the average daily aggregate principal amount of the Temporary Holdings (including any such proceeds held as cash) shall not exceed ten percent of the average daily balance of the aggregate principal or face amount of the Commercial Paper Notes and Medium-Term Notes outstanding.

Applicant avers that it will receive assurances from each Borrower that it is not an investment company as defined in Section 3 of the Act. Applicant asserts that each Borrower would be one permitted to directly issue and sell debt securities without registering under the Act as an investment company and that each Bank could itself directly issue and sell commercial paper notes and certificates of deposit in public offerings or issue and sell medium-term notes in non-public offerings in the United States without compliance with the Act's registration provisions. Based upon representations and advice received by Applicant from Mercantile and the Banks, Applicant represents that the transactions contemplated hereunder comply with all applicable banking laws, rules and regulations.

Applicant contends that the holders of the Commercial Paper Notes and of the Medium-Term Notes do not require the protections accorded investors under the Act. Applicant maintains that the assignment to the Depositary, as trustee for the holders of the Medium-Term Notes, of Applicant's rights under the irrevocable Letters of Credit issued by Mercantile and attached to each of the Advance Notes and the Certificates of Deposit, of Applicant's rights under the Support Credit in the case of Advances or Deposits maturing after the related Commercial Paper Notes or Medium-Term Notes, and of Applicant's rights to the Collateral, if any, securing the Borrowers' obligations to pay those Advance Notes, supports the payment of those Advance Notes and adequately protects the holders. In addition, applicant contends that its operations do not lend themselves to the kinds of abuses the Act was intended to prevent.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than October 23, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-26396 10-3-84; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket No. IRA 28]

Prince George's County, MD; Application for Inconsistency Ruling; Public Notice and Invitation To Comment

AGENCY: Materials Transportation Bureau (MTB), Research and Special Programs Administration (RSPA), Department of Transportation (DOT).

ACTION: Public Notice and Invitation to Comment.

SUMMARY: The Government of Prince George's County, Maryland (the County) has applied for an administrative ruling as to whether Section 18-187 of the County Code dated August 10, 1982, governing the shipment and transportation of radioactive materials, into, within, through and out of the County is inconsistent with the Hazardous Materials Transportation Act (HMTA) and the Hazardous Materials Regulations (HMR) issued thereunder and, therefore, preempted under section 112(a) of the HMTA.

DATE: Comments received on or before November 20, 1984, will be considered before an administrative ruling is issued by the Associate Director for Hazardous Materials Regulation.

ADDRESSES: The application and any comments received may be reviewed in the Dockets Branch, Office of Information Services, Room 8426, Nassif Building, 400 7th Street, SW., Washington, D.C. 20590. Comments on the application may be submitted to the Dockets Branch at the above address. Indicate Docket Number IRA-28 on your submission. Three copies are requested. A copy of each comment must also be sent to Ms. Joyce. B. Hope, Associate County Attorney, County Administration Building, Upper Marlboro 20772; and that fact certified to at the time the comment is submitted to the Dockets Branch. [The following format is suggested; "I hereby certify that copies of this comment have been sent to Ms. Joyce B. Hope at the address noted in the **Federal Register.**"]

FOR FURTHER INFORMATION CONTACT: Kathy M. Sachen, Office of the Chief Counsel, Research and Special Programs Administration, 400 7th Street, SW., Washington, D.C. 20590, telephone 202-755-4972.

SUPPLEMENTARY INFORMATION:

1. Background

The HMTA (49 U.S.C. 1801 *et seq.*) at section 112(a) (49 U.S.C. 1811(a)) expressly preempts "any requirement of a State of political subdivision thereof, which is inconsistent with any requirement," of the HMTA or the HMR issued thereunder. Section 112(b) (49 U.S.C. 1811(b)) provides that an inconsistent State of political subdivision requirement ceases to be preempted, however, if upon application the Secretary of Transportation determines that the requirement in question: (1) Provides an equal or greater level of protection to the public than the HMTA or the HMR; and (2) does not unreasonably burden commerce.

Procedural regulations implementing section 112 of the HMTA are codified at 49 CFR 107.201-107.225. These regulations provide for the issuance of inconsistency rulings and nonpreemption determinations. Briefly, an inconsistency ruling is an administrative opinion as to the relationship between a State or political subdivision requirement and a requirement of the HMTA or the HMR. Section 107.209(c) sets forth the following factors which are considered in determining whether a State or political subdivision requirement is inconsistent:

(1) Whether compliance with both the State political subdivision requirement and the Act

or the regulations issued under the Act is possible; and

(2) The extent to which the State or political subdivision requirement is an obstacle to the accomplishment and execution of the Act and the regulations issued under the Act.

If the State or local requirement is found to be inconsistent with the HMTA or the HMR, the State or locality may seek a nonpreemption determination, i.e., waiver of preemption. Pursuant to section 112(b) of the HMTA (49 U.S.C. 1811(b)), the Secretary may waive preemption upon a showing that such requirement "(1) affords an equal or greater level of protection to the public than is afforded by the requirements of [the HMTA] or of regulations issued under [the HMTA] and (2) does not unreasonably burden commerce." However, since this proceeding is for an inconsistency ruling, comments relating to the criteria for waiver of preemption are premature and will not be considered.

2. The Application for Inconsistency Ruling

On May 5, 1983, the Government of Prince George's County, Maryland (the county) filed an application for an administrative ruling seeking a determination whether Prince George's County Code Section 18–187, restricting the movement of radioactive materials into, within, through, and out of the County is inconsistent with the HMTA or the Hazardous Materials Regulations (HMR) issued thereunder. The Prince George's County Code Section 18–187 is included as an Appendix to this document. In their application, the County claimed that certain subsections of the section are consistent with HMR, but offered no determination as to consistency of the remaining subsections. The subsections submitted as being consistent with the HMR are as follows: 18–187 (b)(2), (b)(4), (b)(6), (b)(7); 18–187 (c)(1)(B), (c)(2); 18–187(d)(i)(A) and 18–187(f).

The following is a summary of the Code Section. Subsection (a) states the purposes of the local requirement and sets forth the findings on which its adoption was premised. Subsection (b) sets forth definitions of terms used in the Section. Subsection (c) imposes an obligation on the carrier to obtain a "Certificate of Emergency Transport" for the transportation of certain materials and sets out the information that must be provided in order to obtain it. Subsection (d) covers the issuance of the certificate of emergency transport. Subsection (e) contains bonding requirements, and subsection (f) subjects on a violator of any provision of the section to a $1,000 fine.

The Federal rules with which County Code Section 18–187 will be compared for consistency are those involving the highway routing of radioactive materials. On January 19, 1981, the MTB issued a final rule (46 FR 5298) entitled "Radioactive Materials; Routing and Driver Training Requirements," commonly known by its docket number, HM–164. In relevant part, HM–164 provided that highway carriers of "large quantity" radioactive materials (such as spent nuclear fuel) are required to use "preferred routes," which are defined as Interstate System highways or alternative highway routes designated by the States that provide an equal or greater level of safety as compared with the Interstate System.

The term "large quantity" was subsequently changed to "highway route controlled quantity" in a final rule published on March 10, 1983 (48 FR 10218) under docket number HM–169. The revision was necessary to ensure the compatibility of the HMR with the latest revised international standards for transport of radioactive materials. There are some differences between the old values for "large quantity" and the new values for "highway route controlled quantity", and the differences are relevant to this proceeding insofar as the County Code Section 18–187 may rely on the now obsolete definition of "large quantity."

In addition to the routing rules, HM–164 adopted an Appendix A to Part 177 of the HMR which sets forth Departmental policy regarding the preemptive effects of the routing rules. The Appendix provides that DOT generally regards State and local requirements to be inconsistent if they:

- Prohibit the highway transport of large quantity radioactive materials without providing for an alternative highway route for the duration of the prohibition;
- Require additional or special personnel, equipment, or escort;
- Require additional or different shipping paper entries, placards, or other hazard warning devices;
- Require filing route plans or other documents containing information that is specific to individual shipments;
- Require prenotification;
- Require accident or incident reporting other than as immediately necessary for emergency assistance; or
- Unnecessarily delay transportation.

Appendix A is not a regulation which imposes obligations to act. It is DOT's interpretation of the general preemptive effect of its regulation on state and local requirements. It was not intended to replace the two-prong test for determining the inconsistency of an existing state or local rule. Rather, it was intended to advise state and local governments contemplating rulemaking action as to the likelihood of such actions being deemed inconsistent. Therefore, while references to Appendix A are not determinative of inconsistency, they serve to illustrate the basis for the Departmental policy set forth therein.

3. Public Comment

Comments should be restricted to the following issue: Whether Prince George's County Code Section 18–187 is inconsistent, in whole or in part, with the HMTA or the HMR.

Persons intending to comment on the application should examine the HMTA (49 U.S.C. 1801–1812); the HMR (49 CFR Parts 171–179); the inconsistency rulings at 43 FR 16954, 44 FR 75566 (on appeal 45 FR 71881), 46 FR 18918, (on appeal, 47 FR 18457), 47 FR 1231, 47 FR 51991, and 48 FR 760; the procedures governing the Department's consideration of applications for inconsistency rulings (49 CFR 107.201–.211); and Prince George's County Code Section 18–187 which is provided as Appendix A to this notice.

Appendix A—Text of Prince George's County Code Section 18–187

Adopted by the County Council of Prince George's County, Maryland, August 10, 1982.

Section 18–187 Transport of radioactive materials.

(a) Purposes and findings.

(a) The purposes of this Section are:

(A) To provide minimum standards and regulations insuring the safe shipment and transportation of radioactive materials into, within, through, and out of Prince George's County.

(B) To regulate the transport of hazardous radioactive wastes through Prince George's County.

(2) The Council of Prince George's County finds that:

(A) The increasing production of hazardous radioactive wastes and other radioactive materials has led to increased transportation of these wastes and materials and to increased occurrences of transportation accidents involving the release of radioactivity to the environment.

(B) While it is unknown exactly how many and what kinds of radioactive shipments are transported into, within, through, and out of Prince George's County, there is persuasive evidence

that the volume of these shipments and their levels of hazard are substantial and are expected to increase rapidly in the foreseeable future.

(C) There is currently no monitoring of many of these shipments enroute, by either federal or Prince George's County officials, and the federal capabilities for enforcement of compliance with federal safety regulations are inadequate unless supplemented by state or local action.

(D) There is, therefore, a significant threat to public health and safety and to the environment form the shipment of hazardous radioactive wastes and other radioactive materials into, within, through, and out of Prince George's County.

(b) Definitions. For the purpose of this act and unless otherewise required by the context:

(1) The term "curie" means an expression of the quantity of radiation in terms of the number of atoms which disintegrate per second; a curie is that quantity of radioactive materials which decays such that thirty-seven billion atoms disintegrate per second.

(2) The term "large quantity radioactive materials" means a quantity the aggregate radioactivity of which exceeds that specified in Volume 10 of the Code of Federal Regulations (CFR) part 71 entitled, "Packaging of Radioactive Material for Transport"; Section 71.4(j).

(3) The term "millicurie" means one-thousandth of a curie.

(4) The term "person" means any individual, partnership, or corporation engaged in the transportation of passengers or property, as common, contract, or private carrier, or freight forwarder.

(5) The term "radioactive" means spontaneously emitting ionizing radiation. Materials in which the estimated specific gravity is not greater than 0.002 microcuries per gram of material and in which the radioactivity is essentially uniformly distributed are not considered to be radioactive.

(6) The term "radioactive material" means any material or combination of materials which spontaneously emits ionizing radiation. Materials in which the estimated specific activity is not greater than 0.002 microcuies per gram of material and in which the radioactivity is essentially uniformly distributed are not considered to be radioactive materials.

(7) The term "transport" is limited to transportation by rail or highway by any mode or type of vehicle or carrier.

(c) Transporting of radioactive material.

(1) No person shall transport into, within, throught, or out of Prince George's County any of the following materials unless a "Certificate of Emergency Transport" has been issued by the County Executive or his designee:

(A) Plutonium isotopes in any quantity and form exceeding two grams or twenty (20) curies, whichever is less;

(B) Uranium enriched in the isotope U-235 exceeding twenty-five (25) atomic percent of the total uranium content in quantities where the U-235 content exceeds one kilogram;

(C) Any elements with atomic number eighty-nine (89) or greater, the activity of which exceeds twenty (20) curies;

(D) Spent reactor fuel elements or mixed fission products associated with such fuel elements the activity of which exceeds twenty(20) curies;

(E) Large quantity of radioactive materials;

(F) Any quantity, arrangement, and packaging combination of fissile material specified by the United States Nuclear Regulatory Commission as a "Fissile Class III" shipment in 10 CFR 571.4(d)(3) relating to packaging of radioactive materials for transport;

(G) Any shipment or transportation of radioactive material that is required by any federal or Prince George's County regulating agency to be accompanied by an escort for safety reasons.

(2) Prior to transporting such materials, such person shall apply to the County executive or his designee for a "Certificate for Emergency Transport" and shall provide the County Executive with the following information:

(A) Name of shipper;

(B) Name of carrier;

(C) Type and quantity of radioactive material or waste;

(D) Proposed date and time of shipment;

(E) Starting point, schedule route, and destination; place and time of any stops; unscheduled stops prohibited;

(F) Name of designee or receiver;

(G) Any other information required by the County Executive which is reasonably related to the aforegoing information.

(3) No certificate may be issued for the transportation of radioactive waste or spent nuclear fuel of any kind into, within, or through Prince George's County primarily or solely for storage or disposal in the State of Maryland unless the storage or disposal is authorized by the Secretary under Section 689B of Article 43 of the Annotated Code of Maryland.

(d) Issuance of certificate of emergency transport.

(1) The County Executive or his designee shall not issue a certificate to any person for the shipment or transportation of radioactive materials unless:

(A) There is a showing that the radioactive material has been or will be containerized and packaged, and all warning labels affixed to the outer container holding the radioactive material and that the vehicle transporting such material will be operated and equipped in conformity with the regulations of the United States Department of Transportation, the United States Nuclear Regulatory Commission, or any other federal or County agency having jurisdiction regardless of whether the shipment is being made within, into, or out of Prince George's County; and

(2) No certificate shall be issued without a finding that appropriate procedures and precautions exist to protect Prince George's County and its inhabitants in the event of a transportation accident.

(3) Such certificate shall be granted upon a finding that the transporting of such material shall be accomplished in a manner necessary to protect public health and safety of the citizens of the County.

(4) Such certificate shall be granted or denied not later than three (3) days, Saturdays, Sundays, and national holidays excluded, after such person has applied for such certificate, except that if the County Executive or his designee determines that additional time is required to evaluate such application, the County Executive or his designee shall notify such person not later than such three (3) day period that such additional time is required. The County Executive or his designee may require changes in dates, routes, or time for the transporting of such material or the use of escorts in the transporting of such material if necessary to protect the public health and safety.

(5) The County Executive shall adopt regulations to carry out the provisions of this Section and shall establish a certificate fee schedule commensurate with the cost of administering the provisions of this Section.

(e) Bonding.

(1) No "Certificate of Emergency Transport" shall be issued until the applicant has filed with the County Executive a bond sufficient to protect Prince George's County from the costs of cleanup, decontamination, and immediate and residual health costs arising from radiation exposure. The amount of this bond shall be determined by the County Executive.

(2) All or part of this bond may be waived by the County Executive or his designee upon proof that the applicant

has made adequate provisions for bearing the costs of cleanup, decontamination, health care, and related expenses. The County Executive may issue rules and procedures for such bonding and for waivers of the bonding requirement.

(f) Penalties.

Any person who violates any provisions of this Section or the terms of the "Certificate of Emergency Transport" shall be subject to a fine of not more than One Thousand Dollars ($1,000) for each violation.

(CB–8–1980).

Issued in Washington, D.C. on September 27, 1984.

Alan I. Roberts,

Associate Director, Hazardous Materials Regulation.

[FR Doc. 26343 Filed 10–3–84; 8:45 am]

BILLING CODE 4910–60–M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 194
Thursday, October 4, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Tuesday, October 9, 1984, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Application for Federal deposit insurance:

Farmers Savings Bank, an operating noninsured State-chartered bank located on Main Street, Frederika, Iowa.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 46,114—The Greenwich Savings Bank, New York, New York
Case No. 46,115–SR—State Bank of Prairie City, Prairie City, Iowa
Case No. 46,116–SR—Hohenwald Bank & Trust Co., Hohenwald, Tennessee
Memorandum and Resolution re: East Texas Bank & Trust Company, Longview, Texas

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications, requests, or actions involving administrative enforcement proceedings approved by the Director or an Associate Director of the Division of Bank Supervision and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Discussion Agenda:

Memorandum and resolution re: Proposed amendments to Part 332 of the Corporation's rules and regulations, entitled "Powers Inconsistent with Purposes of Federal Deposit Insurance Law," which amendments will govern insured banks' direct and indirect involvement in insurance brokerage and underwriting, real estate brokerage and underwriting, securities brokerage, EDP services, or travel services.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: October 2, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84-26502 Filed 10-2-84; 3:53 pm]

BILLING CODE 6714-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Tuesday, October 9, 1984, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b (c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Request for reconsideration of a previous denial of an application for consent to purchase assets and assume liabilities and establish branches:

Live Stock State Bank, Mitchell, South Dakota, an insured State nonmember bank, for reconsideration of a previous denial of an application for consent to purchase the assets of and assume the liability to pay deposits made in five branches of United National Bank, Sioux Falls, South Dakota, and for consent to establish those offices as branches of Live Stock State Bank.

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Memorandum and Resolution re: Coles County National Bank of Charleston, Charleston, Illinois.

Memorandum re: Development of an automated system for the payment of insured deposits in closed banks.

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550–17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: October 2, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84–28503 Filed 10–2–84; 3:54 pm]

BILLING CODE 6714–01–M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Change in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Monday, October 1, 1984, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Mr. Michael A. Mancusi, acting in the place and stead of Director C.T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matter:

Memorandum and Resolution re: Delegation of Authority to the Director of the Division of Bank Supervision to Conduct Special Examinations of Insured State Member Banks Pursuant to Section 10(b) of the Federal Deposit Insurance Act.

By the same majority vote, the Board further determined that no earlier notice of this change in the subject matter of the meeting was practicable.

Dated: October 1, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84–28504 Filed 10–2–84; 3:54 pm]

BILLING CODE 6714–01–M

4

NATIONAL CREDIT UNION ADMINISTRATION

TIME AND DATE: 9:30 a.m., Tuesday, October 9, 1984.

PLACE: 1776 G Street, NW., Washington, D.C. 20456, Filene Board Room, 7th Floor.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Open Meeting.
2. Review of Central Liquidity Facility Lending Rate.
3. Final Rule: Implementing the NCUSIF Capitalization Legislation.
4. Consideration of the Operating Fee for Calendar Year 1985.

RECESS: 10:30 a.m.

TIME AND DATE: 10:45 a.m., Tuesday, October 9, 1984.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Closed Meeting.
2. Termination of Outstanding Cease and Desist Order. Closed pursuant to exemptions (8) and (9)(A)(ii).
3. Personnel Actions. Closed pursuant to exemptions (2) and (6).

FOR MORE INFORMATION CONTACT: Rosemary Brady, Secretary of the Board, telephone (202) 357–1100.

Rosemary Brady,

Secretary of the Board.

[FR Doc. 84–28480 Filed 10–2–84; 12:48 p.m.]

BILLING CODE 7535–01–M

5

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, October 18, 1984.

PLACE: Suite 316, 1825 K Street, NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Mr. Earl R. Ohman, Jr., (202) 634–4015.

Dated: October 2, 1984.

Earl R. Ohman, Jr.,

Acting General Counsel.

[FR Doc. 84–28441 Filed 10–2–84; 10:59 am]

[BILLING CODE 7600–01–M]

6

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of October 8, 1984, at 450 Fifth Street, NW., Washington, D.C.

An open meeting will be held on Thursday, October 11, 1984, at 10:00 a.m., in Room 1C30, followed by a closed meeting.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10).

Chairman Shad and Commissioners Cox, Marinaccio and Peters voted to consider the items listed for the closed meeting in closed session.

The subject matter of the open meeting scheduled for Thursday, October 11, 1984, at 10:00 a.m., will be:

1. Consideration of a proposal by the New York stock Exchange, Inc. ("NYSE") to allow NYSE specialists to use options on their specialty stocks for hedging purposes. For further information, please contact Alden Adkins at (202) 272–2843.
2. Consideration of whether to propose for public comment Rule 26a–3 under the Investment Company Act of 1940, which would provide variable annuity separate accounts with exemptive relief in connection with the deduction of mortality and expense risk charges. For further information, please contact Jeffrey S. Puretz at (202) 272–3010.
3. Consideration of whether to adopt: (i) Rule 2a19–1 under the Investment Company Act of 1940 ("Act") to exempt from the definition of "interested person", under certain conditions, any investment company director who would be considered "interested" solely because he is a registered broker or dealer or an affiliated person of a registered broker or dealer; (ii) Rule 10b–1 under the Act to define the term "regular broker or dealer" as used in Section 10(b) of the Act and in Form N–1R, the annual report for management investment companies; and (iii) technical amendments to investment company registration statement forms to reflect the adoption of Rule 10b–1. For further information, please contact Brian M. Kaplowitz at (202) 272–3024.

The subject matter of the closed meeting scheduled for Thursday, October 11, 1984, following the 10:00 a.m. open meeting, will be:

Formal orders of investigation.
Institution of injunctive actions.
Institution of administrative proceedings of an enforcement nature.
Settlement of administrative proceeding of an enforcement nature.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: David Wescoe at (202) 272–2092.

Shirley E. Hollis,

Acting Secretary.

October 1, 1984.

[FR Doc. 84–28462 Filed 10–2–84; 12:48 pm]

BILLING CODE 8010–01–M

VOL
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federal register

Thursday
October 4, 1984

Part II

Small Business Administration

13 CFR Part 123

Disaster Loans; Economic Injury; Final Rule

VOL 49 ISS 194 OCT 4 1984 UMI

SMALL BUSINESS ADMINISTRATION

13 CFR Part 123

Disaster Loans; Economic Injury

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: This final rule implements a section of the Omnibus Budget Reconciliation Act of 1984 which authorizes the Small Business Administration to provide disaster assistance to alleviate economic injury caused by currency devaluation and monetary adjustment in a country contiguous to the United States.

EFFECTIVE DATE: October 4, 1984.

FOR FURTHER INFORMATION CONTACT: Bernard Kulik, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416, Telephone: (202) 653-6879.

SUPPLEMENTARY INFORMATION: As part of the Small Business Administration's (SBA) implementation of Title III of the Omnibus Budget Reconciliation Act of 1984, Pub. L. 98-270, signed April 18, 1984 (98 Stat. 157), SBA is hereby adding a new Subpart E to Part 123 of Title 13, Code of Federal Regulations, to implement new subsection 7(b)(4) of the Small Business Act (Act). New subsection 7(b)(4) authorizes loans and the refinancing of certain previously made SBA business loans to small business concerns which SBA determines to be unable to obtain credit elsewhere (§ 123.60) and which are located in an area of economic dislocation that results from the drastic fluctuation in the currency of a country contiguous to the United States and adjustments in the regulation of its monetary system.

On August 14, 1984, at 49 FR 32530, SBA published proposed regulations concerning currency fluctuation disaster assistance. Consistent with congressional intent that SBA implement the new legislation concerning disaster loans as quickly as possible, the public was afforded 15 days to comment on the proposed regulations. SBA received seven comments on that publication, several of which represented groups potentially affected by these regulations. SBA has carefully reviewed all comments. Where appropriate, SBA has made changes to the regulations in response to the comments received. A detailed analysis of the issues raised by these comments and whether or not SBA adopted the suggested changes in these final regulations have been made a part of this Supplementary Material.

Overview of the Currency Fluctuation Loan Program

Pursuant to new subsection 7(b)(4) of the Act, SBA may make loans to small business concerns, which the Agency determines to be unable to obtain credit elsewhere, if such concerns are located in an area of economic dislocation caused by the drastic fluctuation in the currency of a country contiguous to the United States and by adjustments in the regulation of that country's monetary system. The Governor of a State may certify to such economic injury, and to the need for such disaster loan assistance, where such financial assistance is not available on reasonable terms.

The Governor's request for a designation of such area of dislocation must show that at least 25 small concerns in a county, previously financially sound, have suffered economic injury of such magnitude that without this assistance they may become insolvent, or be unable to return to their former level of operation within six months (§ 123.61). The regulation defines substantial economic injury as a drop of a least 40 percent in income from operations or working capital which causes the business to be unable to meet its financial obligations (§ 123.62). Most small businesses are eligible, if they demonstrate that they have suffered an injury due to the harmful event stated in the designation, but a business which has changed ownership after the event is not eligible. Proceeds of these loans may be used only to alleviate the specific economic injury caused by the designated event (§ 123.63).

Review of Public Comments

Subsection 123.61(a) sets forth requirements for designation of an area of economic dislocation due to currency fluctuation including requirements that the Governor of a State certify that at least 25 small business concerns have suffered substantial economic injury in a county or smaller political subdivision. Commenters were concerned that the 25 small business concern minimum was too restrictive and that such a threshold would preclude assistance to affected small businesses in sparsely populated counties adjacent to counties where affected small businesses qualify for assistance.

SBA believes the regulations, as proposed, are proper regarding these requirements. SBA established the impact factor for designation at 25 because of the limitation imposed by the Act that program costs not exceed $100 million per year in fiscal years 1984 through 1986. The inclusion of a lower impact factor would jeopardize the effective allocation of program resources over projected demand. In addition, the SBA policy of providing assistance to only primary counties is in conformity with SBA's disaster designated procedures for economic injury loans in areas where disaster damage is insufficient for an SBA physical disaster declaration. Therefore, SBA has maintained the requirements set forth in the proposed regulation.

Subsection 123.61(c) defines currency fluctuation as a rise in value, during a 30-day period, of more than 40 percent in the conversion rate of United States currency to that of the contiguous country. One commenter questioned whether successive devaluations of less than 40 percent would qualify under the regulation. Another questioned whether continuous devaluations, each greater than 40 percent, would qualify as separate disasters. The regulations require a 40 percent or greater rise in value in the conversion rate of U.S. currency during a 30-day period. This means that continuous devaluations of greater than 40 percent in the aggregate are only eligible when the 40 percent threshold is met within 30 days. In deciding whether successive currency devaluations will be considered a single disaster, SBA focuses on whether or not the devaluations meeting the 40 percent threshold have been continuous. SBA will consider devaluations which meet the threshold over consecutive 30-day periods a single disaster. Similarly, SBA may consider qualifying devaluations over intermittent 30-day periods to be continuous, and therefore, a single disaster.

Several comments indicated that the definition of currency fluctuation was unclear in its reference to the rise in value of U.S. currency. For example, some commenters were concerned that the result of a calculation based on the percentage increase in the value of U.S. currency would be greater than a calculation based on the percentage decrease in the value of the contiguous country's currency. Some commenters also noted that it would be difficult to make the calculation if multiple conversion rates were involved. Also, some commenters preferred the description of currency fluctuation found in the Omnibus Budget Reconciliation Act of 1984 to that proposed in the regulations.

In response to the comments, SBA has changed its regulations to define more precisely what constitutes a rise in value of more than 40 percent in the conversion rate of U.S. currency to that

of the contiguous country's currency. The amended regulation states that the rise in value must represent at least a 40 percent increase in the exchange rate of foreign currency per U.S. dollar. The calculation of increase uses the exchange rate according to trading among banks in amounts of $1 million and more, as quoted at 3 p.m. Eastern time by Bankers Trust Co. This rate is published daily in the *Wall Street Journal*.

The comments indicated some confusion about how exchange freezes relate to the § 123.61(c) definition of currency fluctuation. One commenter suggested that the criteria include the effects from lost business activity with a neighboring country. Another commenter stated that SBA rules should extend disaster assistance to victims of either currency fluctuations or exchange freezes. The Act requires, however, that both drastic currency fluctuations and adjustments in the regulation of the contiguous country's monetary system must be present to establish eligibility. Exchange freezes are but one example of regulatory adjustments which are required to be present before an event can be considered for designation as a disaster.

The definition of "substantial economic injury" for the purposes of Subpart E is set forth in § 123.62. The proposed rules for this section established a 40 percent criteria relative to profit from operations, cash position or operating costs. This definition was the subject of the greatest amount of public criticism. Many commenters questioned the inclusion of specific variables, especially the profit variable, and the use of thresholds of 40 percent as appropriate criteria for establishing substantial economic injury. Several commenters suggested using a decrease in sales as an alternate and more verifiable measure of economic injury. Others believed that profit decreases should be evaluated, but only in conjunction with other criteria. Still others expressed concern that a specific threshold of 40 percent decrease in profits was inflexible and unfair. Their view was that it penalized those small businesses with marginal profits or significant debt repayment. One commenter said profits could too easily be manipulated to achieve predetermined results. Additionally, two commenters stated that a 40 percent increase in operating costs criteria was a poor indicator of substantial economic injury.

In response to those comments, SBA has rewritten this section eliminating the criteria for increase in operating costs and changing the terms "profit from operations" and "cash position" to the more commonly understood terms "income from operations" and "working capital," respectively. Accordingly, the measure of substantial injury now addresses either of two conditions: At least a 40 percent decrease in income from operations or a 40 percent decrease in working capital (as adjusted for frozen accounts receivable or similar accounts).

SBA believes that a decrease in sales is not as meaningful a measure as income from operations because the former disregards a firm's ability to adjust costs of goods sold and expenses with changes in sales. The measure of income from operations, however, recognizes the effect of cost adjustments. Income from operations also takes into account increased operating expenses such as interest which may be occasioned by additional borrowing. It also takes into account decreased gross margins which are brought about by the dislocation. Other dislocation effects not measured by decrease in income such as debt repayment will be shown in decreased working capital (as adjusted for frozen accounts receivable and similar accounts).

One commenter presented a hypothetical case in which a minor change in profits resulted in a firm's insolvency. SBA emphasizes that the regulations are drafted to address only material changes which result in an otherwise financially sound firm's inability to pay its current liabilities. Minor financial changes which occasion such an inability to meet obligations may be indications of causes of the firm's financial instability which are ineligible for assistance under this program.

Commenters expressed concern that § 123.62 could permit undeserving small businesses to apply for assistance. For example, in 1982 immediately prior to the devaluation, businesses along the Mexican border experienced a substantial increase in profits because Mexican consumers purchased more than normal in anticipation of the devaluation. The commenters feared SBA would be assisting them to maintain an unusually high income from operations. Another commenter believed that the increase in 1982 would warrant a period longer than six months to show the proper effect. Commenters cautioned SBA to guard against manipulation of numbers in order to qualify an undeserving business improperly.

SBA believes, however, that the requirement that the economic injury must be directly attributable to the dislocation and must result in the inability of the small business to meet its obligations as they mature is sufficient to guard against any abuse in this area. SBA has also retained in the final rule the six-month minimum period for measurement of economic injury. Such a period is necessary so that an applicant can select a representative time frame that allows for the effects of seasonal fluctuations. SBA has retained its standard safeguards to insure that applicants submit correct information.

Paragraph § 123.63(c) sets forth provisions for refinancing loans and other credit. Under the regulation, only refinancing of SBA direct loans previously made to the applicant to alleviate the effect of currency fluctuation is permitted. Two comments objected to this limitation and requested that the regulation allow refinancing of the SBA guaranteed portion of loans made for the same purpose. While the Act specifically authorizes refinancing, it prohibits SBA from reducing the exposure of any other lender. Therefore, only SBA direct loans are eligible for refinancing under this subpart and the regulations remain as originally proposed.

Also in § 123.63, SBA has corrected an error regarding the use of loan proceeds for upgrading. Loans authorized by this subpart are to be used for working capital, to pay the liabilities that the eligible small business could have paid were it not for the currency fluctuation. Therefore, upgrading is not an eligible use of the proceeds of Currency Fluctuation Loans and the Regulations have been amended to reflect that fact.

One commenter objected to the $100,000 limitation on Currency Fluctuation Loans, particularly in light of the $500,000 limit on loans relating to the Payment-In-Kind program. Since the Act sets the limitation at $100,000 for this type of loan, the limitation cannot be raised by regulation.

Two commenters expressed concern that SBA's application process might require applicants to furnish extensive and costly financial documents in order to establish their economic injury within the guidelines. Applicant requirements are set forth in § 123.63(g). Under those requirements, the applicant is requested to furnish only information necessary to process the application and establish economic injury. In requesting such information, SBA makes every possible attempt to meet its responsibility to request information which is readily available or prepared at minimum

expense. Therefore, SBA normally requests standard business records which are necessary, usual and customary to meet the applicant's internal recordkeeping and tax compliance requirements.

Regulatory Impact

This final regulation is not a major rule for purposes of E.O. 12291. However, for purposes of Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, it is likely to have a significant economic impact on a substantial number of small entities. Consequently, for purposes of section 604 of that Act, the following information is offered:

1. The objectives and legal basis for this final rule, as well as a detailed description of the issues raised by public comments and the Agency's resolution of such issues is set forth above.

2. The regulations will apply to all small businesses which apply for asistance pursuant to section 7(b)(4) of the Small Business Act.

3. There are no reporting or recordkeeping requirements specifically inherent in this proposal. However, applicants will be required to substantiate the requests for assistance.

4. There are no Federal rules which duplicate, conflict, or overlap this final rule.

5. There are no significant alternatives to this regulation. In each instance in which SBA has provided a substantive requirement in the regulation, it was either in response to a specific statutory requirement (§ 123.61 (a) and (c)) or consistent with the implementation of SBA's other economic injury disaster loan program procedures which have proven to be administratively sound and equitable based upon extensive administrative experience (§§ 123.61(b), 123.62, and 123.63).

This rule is intended, as mentioned above, to implement certain provisions of Pub. L. 98–270. As such, it will permit the dispensing of up to $100 million in disaster assistance, and provide for the orderly administration of the terms and conditions of such dispensation to qualified recipients. There are no monetary costs or adverse effects inherent in this rule.

The approval number of the reporting and recordkeeping requirement under the Paperwork Reduction Act is noted in the text of this regulation.

List of Subjects in 13 CFR Part 123

Disaster assistance, Loan programs/business, Small businesses.

PART 123—[AMENDED]

Accordingly, pursuant to sections 5(b)(6) and 7(b)(4) of the Act, 15 U.S.C. 634 and 636, a new Subpart E is added to Part 123 of Title 13 of the Code of Federal Regulations as follows:

Subpart E—Currency Fluctuation Loans

Sec.
123.60 Introduction.
123.61 Designation.
123.62 Substantial economic injury.
123.63 Loan conditions.

Authority: Sec. 7(b)(4) of the Small Business Act, 15 U.S.C. 634, 636, Pub. L. 98–270, Title III.

Subpart E—Currency Fluctuation Loans

§ 123.60 Introduction.

This subpart applies to loans made for substantial economic injury caused by drastic currency fluctuation and adjustments in the regulation of the monetary system in a country contiguous to the continental United States, commencing on or after January 1, 1982. These loans are available only for small concerns suffering such injury and meeting the size standards of Part 121 of this chapter as of the time (stated in the relevant designation) when the economic injury commenced, which are located within the designated area, and which are unable to obtain Credit Elsewhere (as defined in § 123.3). For additional eligibility requirements, see § 123.61(a) of this part.

§ 123.61 Designation.

(a) *Request for designation.* A designation of an area of economic dislocation caused by drastic currency fluctuations and adjustments in the regulation of the monetary system of a country contiguous to the continental United States shall be requested by the Governor of the State in which the economic dislocation is claimed to have injured small business concerns. The Governor's request must cite the specific drastic fluctuation in the value of the currency and the adjustment in the regulation of the monetary system of the contiguous country, and must certify that:

(1) At least twenty-five small business concerns located in a county or smaller political subdivision of the State have directly suffered substantial economic injury as a result of these events;

(2) These concerns were financially sound prior to these events;

(3) These concerns are in need of financial assistance that is not otherwise available on reasonable terms; and

(4) The injury is of such magnitude that without the loans provided by this program these concerns would become insolvent or be unable to return quickly (within 6 months after the commencement of these events) to their former level of operation.

(b) *Processing.* The request, together with supporting documentation, shall be sent by the Governor to the Regional Office serving the region wherein the State is located within 6 months of the commencement of these events, or 60 days from the effective date of this regulation, whichever comes later. The Administrator may extend the time for filing a request where the extent of the dislocation could not reasonably be ascertained within the stated time. The Regional Office will forward the request and documentation to the appropriate Disaster Area Office where the request will be evaluated and forwarded to SBA's Central Office. The Administrator will take final action and, if a request is approved, publish a notice of designation of the currency-related economic dislocation area(s) in the **Federal Register.**

(OMB Control No. 3245–0121)

(c) *Definition of currency fluctuation.* For purposes of this Subpart, drastic currency fluctuation means a rise in value, during a 30 day period, of more than 40 percent in the conversion rate of United States currency to that of a country contiguous to the continental United States together with an adjustment in the regulation of the monetary system of the national government of the contiguous country. The rise in value of U.S. currency is determined by calculating the increase in the exchange rate of foreign currency per U.S. dollar according to trading among banks in amounts of $1 million and more, as quoted at 3 p.m. Eastern time each business day by Bankers Trust Co. This rate is published daily in the *Wall Street Journal.*

§ 123.62 Substantial economic injury.

Substantial economic injury, for purposes of this subpart, means:

(a) *Income from operations.* A decrease of at least 40 percent in income from operations over a period of at least 6 months subsequent to the claimed injury as compared with a similar period for the fiscal year preceding that in which the claimed injury occurred, and which is directly attributable to such injury and results in the inability of the small business to meet its obligations as they mature and to pay ordinary and necessary operating expenses; or

(b) *Working capital.* A decrease in working capital (adjusted for frozen accounts receivable or similar accounts) of at least 40 percent over a period of at least 6 months subsequent to the claimed injury as compared with a similar period in the preceding fiscal year, also attributable and with the result as described in the preceding paragraph; or

(c) *Other.* A reasonable expectation of (a) or (b) above.

§ 123.63 Loan conditions.

(a) *Eligibility of applicants.* Applicants otherwise eligible under § 123.60 shall be able to demonstrate that their substantial economic injury is directly (proximately) due to the cause stated in the designation. Small concerns regardless of their business activity are eligible to apply for these loans, except for multilevel sales distribution plans of the "pyramid" type, [see § 120.2(d)(12) of this Chapter], media of any description [see § 120.2(d)(4)], gambling [see § 120.2(d)(5)], financing [see § 120.2(d)(6)], speculative ventures (e.g., mineral exploration) [see § 120.2(d)(2)], rental property [see § 120.2(d)(7)], and illegal activities [see § 120.2(d)(9)]. All non-profit groups are ineligible. Consumer and marketing cooperatives are ineligible. Other cooperatives are eligible only if each of the owners would itself qualify as a small business concern under Part 121 of the chapter.

(b) *Ineligible loss.* If a small concern was established or has undergone a substantial change of ownership (more than 50%) after the impending economic injury became apparent and no contract of sale existed at the time, the owner shall be deemed to have assumed that risk, and not to have incurred an economic injury. Loss of anticipated profits or a drop in sales which is not injury-related, is not considered an economic injury. Evidence of loss or injury and of the cause thereof, satisfactory to SBA, must be provided by the applicant.

(OMB Control No. 3245–0017)

(c) *Use of proceeds.* (1) Proceeds of loans under this subpart may be used for the alleviation of the specific economic injury, and for working capital necessary to carry the concern until resumption of normal operations, but not to exceed that which the business could provide had the currency fluctuation not occurred. Refunding of SBA direct loans previously made to the applicant to alleviate the effect of currency fluctuation is permitted.

(2) Proceeds of a loan under this subpart may not be used to refinance any other (non-SBA) loans, or credit, nor for the payment of dividends or other disbursements to owners, partners, officers or stockholders unless they constitute reasonable remuneration and are directly related to their performance of services; to reduce loans provided, guaranteed or insured by another Federal agency or a small business investment company licensed under the Small Business Investment Act. No part of the proceeds of any loan under this subpart shall be used, directly or indirectly, to pay any obligations resulting from a Federal, state or local tax, criminal fine or penalty, or any civil fine or penalty for non-compliance with a law, regulation or order of a Federal, state, regional, or local agency or similar matter.

(3) Each borrower shall use the loan proceeds for the purposes set forth in the loan authorization. Any loan recipient who wrongfully applies loan proceeds shall be civilly liable to SBA in an amount equal to one and one-half times the original amount of the loan (Pub. L. 92–385, approved August 16, 1972; 86 Stat. 554).

(d) *Use of other assets.* Applicants must use personal and business assets to the greatest extent possible without incurring undue personal hardship, before disbursement of funds under this section.

(e) *Loan amount.* No loan under this subpart shall exceed $100,000.

(f) *Interest.* Loans under this section shall bear interest at a rate not to exceed 8 percent.

(g) *Other requirements.* For application requirements see § 123.7; for record keeping requirements see § 123.18; for terms of loans, see § 9(a); for types of loans, see § 123.4; for service fees, see § 123.6 of this Part.

(Catalog of Federal Domestic Assistance Program No. 59.039, Currency Devaluation Disaster Loans)

Dated: September 20, 1984.

Robert A. Turnbull,

Acting Administrator.

[FR Doc. 84–26392 Filed 10–3–84; 8:45 am]
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Presidential Documents

Title 3—

The President

Proclamation 5240 of October 3, 1984

National Community Leadership Week, 1984

By the President of the United States of America

A Proclamation

Local communities form the foundation of our Nation. Our Federal system of government is based on the determination of the people of the United States to govern themselves, to the extent possible, in small entities capable of responding quickly and effectively to particular community values and needs.

Qualified and well-trained leadership at all levels of government, but particularly in our local communities, is essential to the maintenance and strengthening of our democratic institutions. Throughout the United States, many communities have established programs to help citizens identify and discharge the responsibilities involved in leadership positions assumed in their own communities. These programs have produced thousands of talented and well-trained local leaders who are aware of the unique problems confronting their communities and are well-prepared to devise innovative solutions for those problems.

The Congress of the United States, by House Joint Resolution 574, has designated the week beginning September 9, 1984, as "National Community Leadership Week" and has authorized and requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning September 9, 1984, as National Community Leadership Week.

IN WITNESS WHEREOF, I have hereunto set my hand this third day of October, in the year of our Lord nineteen hundred and eighty-four, and of the Independence of the United States of America the two hundred and ninth.

Ronald Reagan

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Presidential Documents

Proclamation 5241 of October 3, 1984

Emergency Medicine Week, 1984

By the President of the United States of America

A Proclamation

Each year an estimated nine million people in this country sustain injuries which require immediate medical attention. Two groups of dedicated Americans provide this kind of medical care: emergency department personnel, who provide care in trauma centers, and emergency medical technicians and paramedics, most of them volunteers, who provide prehospital emergency care.

These emergency medical personnel throughout our Nation are specialists trained to handle illnesses and injuries which threaten life or limb. They must be available daily on a 24-hour basis to all patients who need medical aid. The efforts of these trained men and women have saved thousands of lives.

Vast improvements in emergency medicine have been made in the past fifteen years, and emergency department personnel have completed extensive training and continuing education to keep up with these improvements. The Departments of Transportation and Health and Human Services, together with State and local governments, have provided radio communications systems, equipment, and training courses for emergency medical personnel. These advances make it possible to respond quickly to the needs of the injured and to transport them to appropriate hospital emergency medical facilities within the "Gold Hour" after the injury. This is the time when emergency medical care is most effective in saving lives.

We salute the Nation's emergency medical services personnel: those who staff the ambulances, those who provide medical control, and those physicians and nurses in the trauma centers whose daily efforts are devoted to emergency medicine. We all depend upon their skills and dedication.

The Congress, by House Joint Resolution 545, has designated the week of September 16 through 22, 1984 as "Emergency Medicine Week" and has authorized and requested the President to issue a proclamation in honor of this observance.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week of September 16 through September 22, 1984 as Emergency Medicine Week.

IN WITNESS WHEREOF, I have hereunto set my hand this third day of October, in the year of our Lord nineteen hundred and eighty-four, and of the Independence of the United States of America the two hundred and ninth.

Ronald Reagan

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Presidential Documents

Proclamation 5242 of October 3, 1984

World War I Aces and Aviators Day, 1984

By the President of the United States of America

A Proclamation

Ever since the Revolutionary War, Americans have heroically served their country in times of conflict. World War I, "the war to end all wars," began over seventy years ago in August 1914. The war spawned a new breed of warrior, the aviator, who engaged in single combat high above the conflict on the ground. The truly remarkable Americans who pioneered in this new form of military combat defended the skies of Europe with valor and distinction until the end of the war in 1918.

Some of these aviators achieved the title "Ace" by gaining at least five confirmed victories over opponents in the air. As aviators capable of great concentration and decisive action, they possessed what today we would call "the right stuff." Among America's greatest World War I Aces, Eddie Rickenbacker, Frank Luke, Raoul Lufbery and George Vaughn shot down a total of 78 enemy aircraft.

There are about sixty known surviving Aces of World War I. They meet periodically to share memories of a conflict familiar to many Americans only through history books. All Americans should express their gratitude and respect for these gallant air warriors for their extraordinary feats in defense of liberty.

The Congress, by Senate Joint Resolution 333, has designated September 21, 1984, as "World War I Aces and Aviators Day" and has authorized and requested the President to issue a proclamation in observance of this event.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim September 21, 1984 as World War I Aces and Aviators Day.

IN WITNESS WHEREOF, I have hereunto set my hand this third day of October, in the year of our Lord nineteen hundred and eighty-four, and of the Independence of the United States of America the two hundred and ninth.

Ronald Reagan

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Presidential Documents

Proclamation 5243 of October 3, 1984

National Adult Day Care Center Week, 1984

By the President of the United States of America

A Proclamation

Progress in medical science and the generally rising level of health care available from birth onwards have been among our Nation's greatest achievements in this century. As a result, more people are living to an old age than ever before.

The corollary to this achievement is an increase in the incidence of chronic illnesses affecting people as they age. Those who suffer these illnesses may require care over a long period of time, a fact which tests our Nation's ability to provide older Americans the kind of care that will allow them to continue to live independently in their communities.

The rapid growth of adult day care centers is a reflection of increasing community interest in developing long-term alternatives in community settings. Adult day care centers provide comprehensive personal, medical, and therapeutic help and also assist older people and the handicapped in achieving maximum levels of independence and social interaction. They provide much needed support for families as they care for their loved ones. Many adult day care centers throughout the country have recognized the vital needs of older people and the desire that many of them have to remain in their own homes as long as possible.

To increase public awareness of the importance of these centers, the Congress, by House Joint Resolution 505, has designated the week beginning September 23, 1984, as "National Adult Day Care Center Week" and has authorized and requested the President to issue a proclamation in observance of this event.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning September 23, 1984, as National Adult Day Care Center Week.

IN WITNESS WHEREOF, I have hereunto set my hand this third day of October, in the year of our Lord nineteen hundred and eighty-four, and of the Independence of the United States of America the two hundred and ninth.

Ronald Reagan

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Presidential Documents

Proclamation 5244 of October 3, 1984

Child Health Day, 1984

By the President of the United States of America

A Proclamation

America as never before is the land of opportunity for all our children. But for some, that opportunity is denied by illness or disability. Although our health care system is the envy of the world, disease or accident can still deprive many of our children of this birthright of opportunity.

Today, we celebrate tremendous accomplishments in child health. The significant and steady decline in infant mortality, and the great strides in preventing such diseases as polio or measles, are proud examples of what can be accomplished by a free and vibrant medical care system.

On this Child Health Day, 1984, however, we must dedicate ourselves to increasing our efforts. Past achievements only suggest that greater things can be accomplished in the future. We must dedicate ourselves to making further progress in reducing infant mortality for our whole society, and we must also seek to reduce infant mortality in those areas where the level is higher than the national average.

There also are severely handicapped infants who require not only the love and support of their families but who also must have the help of many groups in their communities—doctors, hospitals, health departments, providers of health care, and others—if they are to thrive.

There are teenage mothers and teenagers who become involved with abuse of alcohol and other substances—all these young people need our help and attention. During the coming year, it is my hope that we can continue to demonstrate what a free, energetic, and enlightened society can do cooperatively to protect and improve the health status of our Nation's most vital asset, our children.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, pursuant to a joint resolution approved May 18, 1928, as amended (36 U.S.C. 143), do hereby proclaim Monday, October 1, 1984, as Child Health Day, 1984.

IN WITNESS WHEREOF, I have hereunto set my hand this third day of October, in the year of our Lord nineteen hundred and eighty-four, and of the Independence of the United States of America the two hundred and ninth.

Ronald Reagan

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Presidential Documents

Proclamation 5245 of October 3, 1984

National Birds of Prey Conservation Week, 1984

By the President of the United States of America

A Proclamation

This Nation has been blessed with a rich variety of wildlife, including more than fifty kinds of hawks, falcons, eagles, vultures, and owls. Known as birds of prey, these species possess extraordinary beauty, strength, and power of flight. Inhabiting virtually every territory, often coexisting with man, they are a vital part of many natural systems and contribute significantly to the quality of the human environment.

From time immemorial, the history of mankind has been intertwined with birds of prey. The silent flight of the owl, the breathtaking swoop of the falcon across a mountain cliff, the effortless soaring of vultures over the plains, and the often spectacular passage of hawks on migration have captured the imagination of Americans. Since 1782, the Bald Eagle has served as the National Emblem of the United States.

As our country continues to grow and develop, we must remember our natural heritage and the need to provide future generations with opportunities to experience the excitement of a majestic eagle, a plummeting falcon, or the haunting call of an owl at night. The prosperity of this Nation rests upon both our material wealth and those values that enrich the quality of life. The preservation and propagation of our magnificent birds of prey will mean that these noble creatures will continue to awe and inspire generations of Americans yet unborn.

To emphasize the efforts of the many Americans who share appreciation for birds of prey and the need for their continued welfare, the Congress, by Senate Joint Resolution 230 approved July 3, 1984, has designated the week of October 7 through October 13, 1984, as "National Birds of Prey Conservation Week" and authorized and requested the President to issue a proclamation for this observance.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week of October 7 through October 13, 1984, as National Birds of Prey Conservation Week. I encourage all Americans to observe this week by participating in appropriate ceremonies and activities planned by government agencies, individuals, and private associations and institutions thoughout the country to promote the appreciation and conservation of birds of prey.

IN WITNESS WHEREOF, I have hereunto set my hand this third day of October, in the year of our Lord nineteen hundred and eighty-four, and of the Independence of the United States of America the two hundred and ninth.

Ronald Reagan

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Presidential Documents

Proclamation 5246 of October 3, 1984

National Neighborhood Housing Services Week, 1984

By the President of the United States of America

A Proclamation

America's neighborhoods, composed of individuals of diverse racial, ethnic, social, religious, and economic backgrounds, stand as a tribute to our Nation's democratic traditions and beliefs.

The preservation and improvement of the residential, commercial, and other facilities in neighborhoods throughout our country are essential to the strength of America's families and businesses. These have been and will continue to be the goals of the Neighborhood Housing Services programs.

Neighborhood Housing Services programs are partnerships of local residents, business leaders, and government officials. They have generated over two billion dollars in reinvestment funds to revitalize and preserve our country's neighborhoods. The success of these programs depends largely on the spirit of cooperation and voluntarism that is a hallmark of American life.

In recognition of those who have contributed their time, money, and energy to the preservation of our neighborhoods, the Congress, by House Joint Resolution 566, has designated the week beginning October 7, 1984, as "National Neighborhood Housing Services Week" and has authorized and requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning October 7, 1984, as National Neighborhood Housing Services Week, and I call upon the people of the United States and interested groups and organizations to observe this week with appropriate activities and events.

IN WITNESS WHEREOF, I have hereunto set my hand this third day of October, in the year of our Lord nineteen hundred and eighty-four, and of the Independence of the United States of America the two hundred and ninth.

Ronald Reagan

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Rules and Regulations

Federal Register
Vol. 49, No. 195
Friday, October 5, 1984

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 315

Career and Career-Conditional Employment

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is revising regulations on the probationary period for managers and supervisors to eliminate an unintended obligation for agencies to promote certain employees who fail to complete the required probation. The new regulation applies to nonsupervisory and nonmanagerial employees who move into *lower* grade supervisory or managerial positions. If these employees fail to successfully complete the required probationary period, under this new regulation they would be entitled to reassignment at the grade level of the supervisory or managerial position. Previously, the agency was required to return these individuals to the grade from which they were demoted.

EFFECTIVE DATE: November 5, 1984.

FOR FURTHER INFORMATION CONTACT: Ellen Russell, (202) 632–6817.

SUPPLEMENTARY INFORMATION: Proposed regulations were published in the **Federal Register** on November 30, 1982 (47 FR 53875), for a public comment period of 60 days. OPM received written comments from 16 Federal agencies, 2 labor organizations, 1 professional organization, and 5 individuals. As explained below, OPM has clarified portions of the proposed regulations based on the comments received.

Authority To Regulate

Several commenters questioned OPM's authority to issue these regulations, arguing that they appear to conflict with 5 U.S.C. 3321(b)(2). This subsection provides that individuals who fail supervisory or managerial probation are entitled to return to a position of no lower grade and pay than the one the employee left to accept the supervisory or managerial position. It is plain, however, that 5 U.S.C. 3321(b)(2) does not entitle an individual who has failed to complete supervisory probation to be returned to his or her former position or equivalent if such a return would *require* the promotion of the employee. As explained fully in the legislative history, the statute is designed to provide a trial period for new supervisors and managers after which those who are unsuccessful will not have to undergo stigmatizing performance-based action procedures. Since performance-based action procedures are necessary only with removal or reduction in grade or pay, the situation contemplated by the statute was one in which an employee fails to complete probation after being promoted into a supervisory position.

Reassignment or Repromotion

The majority of agencies that commented favored eliminating the requirement to promote an employee who fails to complete the required probation. They recommended that the regulation permit employees to be reassigned or repromoted on a case-by-case basis. Several commenters believed, however, that an individual who voluntarily moves to a lower grade supervisory position should be entitled as a matter of equity to be repromoted if he or she fails probation. Under the final regulation, an employee would be entitled to reassignment at the grade level of the supervisory or managerial position. Eligibility for repromotion would then be in accordance with Federal Personnel Manual Chapter 335, Promotion and Internal Placement.

Effect on Retained Grade or Pay

Several commenters questioned whether the regulation affected an employee's eligibility for retained grade and pay resulting from an involuntary demotion not for cause. The final regulations do not affect an individual's right to retained grade or pay.

Effect on Movement Between Agencies

One commenter questioned whether the proposed regulation would cover an employee who moves to a lower grade position in a different agency. The regulations apply regardless of whether the employee moved to a lower grade supervisory or managerial position in the same or different agency.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule as defined under Section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation applies only to Federal agencies.

List of Subjects in 5 CFR Part 315

Administrative practice and procedure, Government employees, Handicapped, Veterans.

U.S. Office of Personnel Management.
Donald J. Devine,
Director.

Accordingly, OPM is amending 5 CFR Part 315 by revising § 315.907 to read as follows:

PART 315—CAREER AND CAREER-CONDITIONAL EMPLOYMENT

§ 315.907 Failure to complete the probationary period.

(a) Satisfactory completion of the prescribed probationary period is a prerequisite to continued service in the position. An employee who, for reasons of supervisory or managerial performance, does not satisfactorily complete the probationary period is entitled to be assigned, except as provided in paragraph (b) of this section, to a position in the agency of no lower grade and pay than the one the employee left to accept the supervisory or managerial position.

(b) A nonsupervisory or nonmanagerial employee who is demoted into a position in which probation under § 315.904 is required and who, for reasons of supervisory or managerial performance, does not satisfactorily complete the probationary period is entitled to be assigned to a position at the same grade and pay as the position in which he or she was

serving probation. The employee is eligible for repromotion in accordance with Federal Personnel Manual Chapter 335, Promotion and Internal Placement.

(c) The agency must notify the employee in writing that he or she is being assigned in accordance with this section.

(5 U.S.C. 3321)

[FR Doc. 84-26488 Filed 10-4-84; 8:45 am]
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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 484]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 230,000 cartons during the period October 7–13, 1984. Such action is needed to provide for orderly marketing of fresh lemons for the period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: October 7, 1984.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

This final rule is issued under Marketing Order No. 910, as amended (7 CFR Part 910) regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy currently in effect. The committee met publicly on October 2, 1984, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports that lemon demand is steady.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the Act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

PART 91—[AMENDED]

Section 910.784 is added as follows:

§ 910.784 Lemon Regulation 484.

The quantity of lemons grown in California and Arizona which may be handled during the period October 7, 1984, through October 13, 1984, is established at 230,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: October 3, 1984.

Thomas R. Clark,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 84-26660 Filed 10-4-84; 8:45 am]
BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 84-CE-30-AD; Amendment 39-4931]

Airworthiness Directives; Beech Models A36TC and B36TC Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), AD 84-08-04, applicable to Beech Models A36TC and B36TC airplanes and codifies the corresponding emergency AD letter dated April 25, 1984, into the **Federal Register**. This AD requires modification or replacement of the Beech P/N 101–389011–55 check valve, if installed, within 25 hours time-in-service and repetitive inspections until this action is accomplished. Loss of lubrication and engine failure has occurred due to blockage of this valve. The required action will preclude the valve blockage.

EFFECTIVE DATE: October 15, 1984, to all persons except those to whom it has already been made effective by priority letter from the FAA dated April 25, 1984.

Compliance: As prescribed in the body of the AD.

ADDRESSES: Beechcraft Mandatory Service Bulletin 2027 applicable to this AD may be obtained from Beech Aircraft Corporation, Wichita, Kansas 67201. A copy of the information is also contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Jack Pearson, ACE–140W, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946–4427.

SUPPLEMENTARY INFORMATION: Instances have been reported of engine damage and power loss on a Beech Model 36TC airplane due to loss of lubrication because the engine oil was forced overboard through the turbocharger impeller shaft seal and exhaust pipe. This was caused by blockage of the Beech P/N 101–389011–55 check valve end cap by carbon. The airplane manufacturer has made available an improved P/N 101–389011–69 check valve assembly not subject to this blockage for replacement of the P/N 101–389011–55 check valve assembly and instructions for modification of the P/N 101–389011–55 check valve to the P/N 101–389011–69 configuration. Instructions are also given for interim repetitive inspections to be accomplished until the check valve is modified/replaced.

The FAA determined that this is an unsafe condition that may exist in other airplanes of the same type design, thereby necessitating the AD. It was also determined that an emergency condition existed, that immediate corresponding action was required and that notice and public procedure thereon was impractical and contrary to the public interest. Accordingly, the FAA

notified all known registered owners of the airplanes affected by this AD by priority mail letter dated April 25, 1984. The AD became effective immediately as to these individuals upon receipt of that letter and is identified as AD 84-08-04. Since the unsafe condition described therein may still exist on other Beech Models A36TC and B36TC airplanes, the AD is being published in the **Federal Register** as an amendment to Part 39 of the Federal Aviation Regulations (14 CFR Part 39) to make it effective to all persons who did not receive the letter of notification. Because a situation still exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket under the caption **ADDRESSES** at the location identified.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD.

Beech: Applies to Model A36TC (S/Ns EA-1 thru EA-241 (Modified in accordance with Beech Service Instructions No. 1191), and EA-243 thru EA-272), and Model B36TC (S/Ns EA-242, EA-273 thru EA-382, EA-384 thru EA-396, EA-398 thru EA-404, EA-406 thru EA-409, EA-411 thru EA-415 and EA-418) airplanes certificated in any category.

Compliance: Required as indicated, unless already accomplished. To prevent loss of engine oil due to blockage of the turbocharger oil return line check valve, accomplish the following:

(a) Prior to further flight after the effective date of this AD:

(1) Inspect the turbocharger oil return line check valve per Beechcraft Service Bulletin No. 2027 to determine if a P/N 101-389011-55 check valve is installed. This valve may be identified by the blue color and the P/N on the valve outlet end fitting.

(i) If a Beech P/N 101-389011-55 check valve is not installed, the airplane may be returned to service without further action.

(ii) If a Beech P/N 101-389011-55 check valve is installed, prior to return to service and within each additional, five hours time-in-service until replaced, inspect and clean this valve in accordance with Beech service Bulletin No. 2027.

(b) Within the next 25 hours time-in-service after the effective date of this AD on airplanes on which a Beech P/N 101-389011-55 check valve is installed, modify this part to, or replace it with, a Beech P/N 101-389011-69 check valve in accordance with Beech Service Bulletin No. 2027.

(c) The repetitive inspections in paragraph (a)(ii) are not required when a Beech P/N 101-389011-69 check valve is installed.

(d) An equivalent method of compliance with the AD may be used if approved by the Manager, Wichita Aircraft Certification Office, Room 100, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946-4400.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); § 11.89 of the Federal Aviation Regulations (14 CFR 11.89))

This amendment becomes effective on October 15, 1984, to all persons except those to whom it has already been made effective by priority letter from the FAA dated April 25, 1984, and is identified as AD 84-08-04.

Issued in Kansas City, Missouri, on September 28, 1984.

Murray E. Smith,

Director, Central Region.

[FR Doc. 84-26434 Filed 10-4-84; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 84-CE-23-AD; Amendment 39-4929]

Airworthiness Directives; DeHavilland Models DHC-2 MK I, (L-20A, YL-20, U-6 and U-6A) MK II Beaver, and MK III Turbo Beaver Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) applicable to DeHavilland Models DHC-2 MK I (L-20A, YL-20, U-6 and U-6A) MK II and MK III series airplanes which supersedes AD 83-05-03. It continues in effect inspection and replacement requirements of AD 83-05-03 and incorporates requirements for a specific DHC-2, MK II, S/N 80 airplane currently under Canadian registry, but eligible for import into the United States. After AD 83-05-03 was issued the FAA became aware that instructions on the necessary action to assure the continued airworthiness of this airplane were not contained in that AD. This superseding AD corrects this inadvertent omission and makes other minor clarifying changes.

EFFECTIVE DATE: October 12, 1984.

Compliance: As prescribed in the body of the AD.

ADDRESSES: DeHavilland Service Bulletin (S/B) No. 2/3, reissued May 13, 1983, S/B No. 2/34, Revision A, dated May 13, 1983, and S/B No. TB/9, reissued May 14, 1982, applicable to this AD may be obtained from DeHavilland Aircraft of Canada, Limited, Downsview, Ontario, Canada M3K 1Y5. A copy of this information is also contained in the Rules Docket, FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Lester Lipsius, New York Aircraft Certification Office, ANE-172, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581; Telephone No. (516) 791-6220.

SUPPLEMENTARY INFORMATION: The manufacturer initiated fatigue tests in 1964 and has established and published retirement times and inspection instructions, updated as the need became apparent on wing strut assemblies used on early design airplanes of the DeHavilland DHC-2 series. The FAA made compliance with these mandatory by issuing AD 71-22-01, Amendment 39-1319 (36 FR 20417). The manufacturer continued the fatigue tests with later designed components and has completed fatigue testing of three different design wing strut assemblies utilizing a complete wing with representative portions of the fuselage.

Data obtained provides a basis for more accurate prediction of the safe service lives of the wing lift strut assemblies which may be installed on the DeHavilland DHC-2 series airplanes. Also, the investigation of a 1981 accident involving a DeHavilland Model DHC-2 MK I airplane disclosed evidence of fatigue damage and failure of a wing upper lift strut fitting. Following this, the manufacturer issued

DeHavilland Service Bulletin No. 2/3 reissued May 13, 1983, and DeHavilland Service Bulletin No. 2/34, Revision A, dated May 13, 1983, recommending an accelerated retirement schedule for early design wing strut assemblies. These Service Bulletins also established a comprehensive retirement schedule covering all design wing strut assemblies on DHC–2 series airplanes used for various operations. With Service Bulletin No. TB/9, reissued May 14, 1982, all Bulletins contain the manufacturer's recommendations pertaining to wing strut assembly inspections and retirement times based on latest available data on all DeHavilland DHC–2 series wing strut assemblies. Also, the FAA has determined that for purposes of clarity, the military model designation should be added to the applicability statement. Transport Canada, who has responsibility and authority to maintain the continuing airworthiness of these airplanes in Canada, has classified the above mentioned Service Bulletins and the actions recommended therein by the manufacturer as mandatory to assure the continued airworthiness of the affected airplanes. On airplanes operated under Canadian registration, this action has the same effect as an AD on airplanes certified for operation in the United States. The FAA relies upon the certification of Transport Canada combined with FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness and conformity of products of this design certificated for operation in the United States.

The FAA has examined the available information related to the issuance of DeHavilland Service Bulletins No. 2/3, reissued May 13, 1983, No. 2/34, Revision A, dated May 13, 1983, and No. TB/9, reissued May 14, 1982, and the mandatory classification of these Service Bulletins by Transport Canada. Based on the foregoing, the FAA has determined that the condition addressed by DeHavilland and Transport Canada is an unsafe condition that may exist on other products of this type design certificated for operation in the United States. Also, the FAA finds that the condition described herein is an emergency that requires the immediate adoption of this regulation. Accordingly, notice and public procedure hereon are impractical and contrary to the public interest and good cause exists for making this amendment effective in less than 30 days. Therefore, an AD is being issued superseding AD 83–05–03 which requires inspections of wing lift strut upper fittings and accelerated replacement times for certain part numbered wing lift struts on DeHavilland Models DHC–2 MK I (L–20A, YL–20, U–6 and U–6A), MK II, and MK III airplanes.

The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of the Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket under the caption **ADDRESSES** at the location identified.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD.

DeHavilland: Applies to Models DHC–2 MK I (L–20A, YL–20, U–6 and U–6A), MK II (S/N 80) Beaver, and MK III Turbo Beaver series airplanes, certificated in any category.

Compliance: Required as indicated, unless already accomplished.

Note.—The compliance dates specified in paragraphs (b) & (c) below were established by superseded AD 83–05–03 Amendment 39–4576, effective March 7, 1983.

To prevent failure of the wing lift strut, accomplish the following:

(a) For ex-military airplanes with wing lift strut assemblies C2W545A/C2W546A and for airplanes fitted with ex-military strut assemblies C2W545A/C2W546A, comply with paragraphs (1) and (2) below within the next 100 hours time-in-service after the effective date of this AD, unless already accomplished within the last 400 hours time-in-service, and thereafter at intervals not to exceed 500 hours time-in-service from the last inspection.

(1) Detach each wing lift strut assembly from the attachment fitting on the wing. Ensure that each radius is smooth and blends smoothly into the lug without machine marks or nicks. Using a dye-penetrant method with at least a 10-power glass or an FAA approved equivalent method, inspect the lift strut upper fitting for cracks with particular attention given to the ⅛-inch radius junction of the lug to the attachment flanges.

(2) If a crack, mark, or nick is found in the radius, replace the lift strut assembly before further flight with unused strut assemblies C2W1103A and C2W1104A, or with C2W1115–1 and C2W1115–2 for the MK I and MK III airplanes, and only with C2W1147 and C2W1148 strut assemblies for the MK II (S/N 80) airplane.

(b) For MK I airplanes with wing lift strut assemblies C2W545A/C2W546A, comply on or before July 15, 1983, unless already accomplished, with the requirements of the "COMPLIANCE" Section in DeHavilland Service Bulletin No. 2/34, Revision A, dated May 13, 1983.

(c) For MK I airplanes with wing lift strut assemblies C2W469a/C2W470A, C2W473A/C2W474A and C2W685A/C2W686A, comply on or before January 1, 1984, unless already accomplished, with the requirements of the "COMPLIANCE" Section in DeHavilland Service Bulletin No. 2/34, Revision A, dated May 13, 1983.

(d) For the MK II (S/N 80) airplane within 30 days after application for U.S. Registry, replace the earlier strut assemblies C2W573 and C2W574, unless already accomplished, with strut assemblies C2W1147 and C2W1148.

(e) For MK I and MK II (S/N 80) airplanes, comply as follows with the wing strut assembly retirement times in DeHavilland Service Bulletin No. 2/3, reissued May 13, 1983.

(1) For aircraft engaged in normal operations at maximum gross weigth of 5100 lb., comply with paragraphs 2.1 and 2.2 of the Service Bulletin.

(2) For aircraft engaged in "special-purpose operations" at maximum gross weight of 5100 lb., comply with paragraphs 3.1 and 3.2 of the Service Bulletin.

(3) For aircraft engaged in operations at gross weight in excess of 5100 lb., comply with paragraphs 4.1, 4.2 and 4.3 of the Service Bulletin.

(f) For MK III airplanes, comply as follows with the wing strut assembly retirement times in DeHavilland Service Bulletin No. TB/9, reissued May 14, 1982.

(1) For airplanes engaged in normal operations at maximum gross weight of 5100 lb., or 5370 lb. with tip tanks full, comply with paragraphs 2.1 and 2.2 of the Service Bulletin.

(2) For airplanes engaged in "special-purpose low level operations" at maximum gross weight of 5100 lb., or 5370 lb. with tip tanks full, comply with paragraphs 3.1 and 3.2 of the Service Bulletin.

(g) Replace modified or repaired strut assemblies identified in paragraphs 5.1 and 5.2 of Service Bulletin No. 2/3, reissued May 13, 1983, in accordance with the times prescribed therein.

(h) Whenever new wing strut assemblies are installed, the following new attachment bolts must be used:

AN180C–26 or AN180–26—Bolt-strut, lower attachment

C2W497—Bolt-strut, upper attachment.

(i) A special flight permit may be issued in accordance with FAR 21.197 to operate the airplane to a location where the requirements of this AD may be accomplished.

(j) An equivalent method of compliance with this AD may be used if approved by the Manager, New York Aircraft Certification Office, ANE-170, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581; Telephone (516) 791-6660.

This AD supersedes AD 83-05-03, Amendment 39-4576.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), and 1421 and 1423); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); § 11.89 of the Federal Aviation Regulations (14 CFR 11.89))

This amendment becomes effective on October 12, 1984.

Issued in Kansas City, Missouri, on September 27, 1984.

Murray E. Smith,

Director, Central Region.

[FR Doc 84-29430 Filed 10-4-84; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 72-CE-2-AD; Amendment 39-4930]

Airworthiness Directives; Cessna Models 150, 172, 177, 182, 205, 206, 207, and 210 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises Airworthiness Directive (AD) 72-03-03, Amendment 39-1468, applicable to certain Cessna Models 150, 172, 177, 182, 205, 206, 207, and 210 airplanes by adding an alternate means of compliance using currently available parts. The original actuator assemblies and parts required to modify these actuators are no longer available. The revision will allow the operator of these airplanes to install available new improved actuators to correct the problem addressed by the AD.

EFFECTIVE DATE: October 15, 1984.

Compliance: As prescribed in the body of the AD.

ADDRESSES: Cessna Service Letters SE70-16 dated June 12, 1970; SE72-12 dated January 21, 1972; SE72-2 (Supplement #1) dated March 24, 1972; SE72-17 dated May 5, 1972; and SE72-17 (Revision 1) dated January 12, 1973, may be obtained from Cessna Aircraft Company, Post Office Box 1521, Wichita, Kansas 67201; Telephone (316) 865-9111. A copy of this information is also contained in the Rules Docket, Office of the Regional Counsel, FAA, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Douglas W. Haig, Aerospace Engineer, ACE-120W, FAA, Wichita Aircraft Certification Office, Room 100, 1801 Airport Road, Wichita, Kansas 67209; Telephone (316) 946-4409.

SUPPLEMENTARY INFORMATION: AD 72-03-03, Amendment 39-1468 (37 FR 12219, 12220), applicable to certain Cessna Models 150, 172, 177, 182, 205, 206, 207, and 210 airplanes requires inspections and modification of the flap actuator assembly. This AD was issued to correct a condition which caused sudden flap retractions and lack of positive operation of the flaps. At that time the manufacturer developed service kits to correct the problem and the FAA made installation of the appropriate kit mandatory by AD 72-03-03. Subsequently the manufacturer designed new flap actuators and discontinued production of the parts in the service kits required by this AD. Thus, parts to modify and service the original actuators are no longer available. Since the installation of the improved actuators will correct the problem addressed by AD 72-03-03, it is being revised to permit the use of newer design flap actuators in lieu of parts and actuators no longer available. This will prevent the unnecessary and unintentional grounding of airplanes because of lack of parts to comply with the original AD requirements.

This amendment updates the AD by incorporating presently available corrective action that provides an equal or improved level of safety to that established by the original AD. It imposes no additional burden on any person. Therefore, notice and public procedure hereon are unnecessary, and it may be made effective in less than 30 days.

The FAA has determined that the revision will impose no additional cost on the owners of the affected airplanes. Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291, and (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the Rules Docket at the location given under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly and pursuant to the authority delegated to me by the Administrator, AD 72-03-03, Amendment 39-1468, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13), is revised as follows:

Revise existing paragraph (d) to read as follows:

(d) On or before January 1, 1983, modify the applicable aircraft in accordance with Cessna Service Letter SE72-2 dated January 21, 1972, and Cessna Service Letter SE72-2, Supplement 1, dated March 24, 1972, or alteratively Cessna Service Letter SE72-17 (Revision 1) dated January 12, 1973.

Note.—The snubbers installed on certain airplanes per Cessna Service Letter SE72-2, Supplement 1, are not required with actuators specified by Cessna Service Letter SE72-17 (Revision 1).

Add a new paragraph (f) which reads as follows:

(f) An equivalent method of compliance with the AD may be used if approved by Manager, Wichita Aircraft Certification Office, Room 100, 1801 Airport Road, Wichita, Kansas 67209, telephone (316) 946-4400.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); § 11.89 of the Federal Aviation Regulations (14 CFR 11.89)).

This amendment becomes effective October 15, 1984.

Issued in Kansas City, Missouri, on September 28, 1984.

Murray E. Smith,

Director, Central Region.

[FR Doc. 84-29432 Filed 10-4-84; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 75

[Airspace Docket No. 83-AGL-30]

Alteration of Jet Route J-83, Spartanburg, SC and Appleton, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment alters the description of Jet Route J-83 between Spartanburg, SC, and Appleton, OH. The alteration results in a direct route between Spartanburg and Appleton. This action eliminates a dogleg, reduces the route mileage flown by the users, and reduces controller workload associated with pilots' requests to operate direct between these points.

DATES: Effective date—0901 GMT, December 20, 1984. Comments must be received on or before November 19, 1984.

ADDRESSES: Send comments on the rule in triplicate to: Director, FAA, Great Lakes Region, Attention: Manager, Air Traffic Division, Docket No. 83–AGL–30, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Air Traffic Rules Branch (AAT–230), Airspace—Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8526.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves changing the description of J–83 between Spartanburg, SC, and Appleton, OH, and, thus, was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

The Rule

The purpose of this amendment to § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) is to amend the description of J–83 between Spartanburg, SC, and Appleton, OH. This action was inadvertently omitted from the proposal and subsequent rule that extended and realigned Jet Route J–186 from Toccoa, GA, direct to Appleton, OH (Docket No. 83–ASO–42). Section 75.100 of Part 75 of the Federal Aviation Regulations was republished in Handbook 7400.6 dated January 3, 1984.

Under the circumstances presented, the FAA concludes that there is an immediate need for a regulation to amend the description of J–83 in order to afford users the collective benefits of the amendment of J–186 and this action. Therefore, I find that notice or public procedure under 5 U.S.C. 553(b) is contrary to the public interest and that good cause exists for making this amendment effective coincident with the next charting date.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 75

Jet routes, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) is amended, as follows:

J–83 [Amended]

By removing "INT Spartanburg 341° and Appleton, OH, 184° radials; Appleton;" and substituting "Appleton, OH;"

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983)); and 14 CFR 11.69)

Issued in Washington, D.C., on September 28, 1984.

John W. Baier,

Acting Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 84–26428 Filed 10–4–84; 8:45 am]

BILLING CODE 4910–13–M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1030

Revision to Financial Interest Reporting Requirements

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Consumer Product Safety Commission is amending its Employee Standards of Conduct to add certain positions to the list of positions required to file statements of employment and financial interests.

DATE: This regulation is effective October 5, 1984.

FOR FURTHER INFORMATION CONTACT: Joseph F. Rosenthal, Office of the General Counsel, Consumer Product Safety Commission, Washington, D.C. 20207. Telephone 301–492–6980.

SUPPLEMENTARY INFORMATION: Section 1030.611 of Title 16 of the Code of Federal Regulations specifies the positions required to submit a Confidential Statement of Employment and Financial interests (CPSC Form 219). The statements are used to ascertain possible employee conflicts of interest. Submission of these forms by employees in positions such that their individual decisions could have an economic impact on private enterprises is mandated by Executive Order 11222 and regulations promulgated by the Office of Personnel Management.

16 CFR 1030.611(q) required submission by "All Merit Pay positions and all Contract Specialists grade 7 and above" in the Commission's Directorate for Administration. This requirement was imposed because all contract specialists, regardless of grade, have opportunities to favor personal interests in the administration of contracts. The Commission has determined that its contract professionals fall in three different job classifications, and that their minimum grade level is 5. The Commission is, therefore, amending 16 CFR 1030.611(q) to include "Contract Specialists, Purchasing Agents, and Procurement Assistants, grade 5 and above."

16 CFR 1030.611(r) required submission by "all investigative positions grade 5 and above, all other positions grade 13 and above" in the Commission's Regional Offices. The Commission has determined that there are compliance officers at grade 12 who are responsible for developing cases against violators of the Commission's laws and regulations. Their

recommendation to initiate an enforcement action are reviewed by supervisors and may be overruled, but it is not always feasible for supervisors to effectively review compliance officers' choices of violations to be pursued or their development of individual cases. The Commission is, therefore, amending 16 CFR 1030.611(r) to include "all compliance positions grade 12 and above."

Since this rule relates solely to internal agency management, pursuant to 5 U.S.C. 553 the Commission finds that notice and other public procedures with respect to this rule are impractical and contrary to the public interest, and good cause is found for making this rule effective immediately upon publication in the **Federal Register**. Further, this action is not a rule as defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612, and thus is exempt from the provisions of that Act.

List of Subjects in 16 CFR Part 1030

Government Employees, Conflict of Interest.

PART 1030—[AMENDED]

Accordingly, Part 1030 of Title 16 of the Code of Federal Regulations is amended as shown:

1. The authority citation for Part 1030 is as follows:

Authority: E.O. 11222, 30 FR 6469, 3 CFR 1964–1965 Comp., p. 306; 5 CFR 735.101 et seq.; Pub. L. 95–521, 92 Stat. 1824, as amended by Pub. L. 96–19, 93 Stat. 37 (5 U.S.C. App.).

2. Section 1030.611 is amended by revising paragraphs (q) and (r) to read as follows:

§ 1030.611 Positions requiring submission of statement of employment and financial interests.

* * * * *

(q) *Directorate for Administration.* All Merit Pay positions and all Contract Specialists, Purchasing Agents, and Procurement Assistants, grade 5 and above.

(r) *Regional Offices.* All investigative positions grade 5 and above; all compliance positions grade 12 and above; all other positions grade 13 and above.

* * * * *

Dated: September 27, 1984.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 84–26538 Filed 10–4–84; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 2, 154, 201, 270, and 271

[Docket Nos. RM83–72–000 and RM82–16–000]

Pipeline Production Under Section 2(21) of the Natural Gas Policy Act of 1978

Issued: August 29, 1984.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; correction.

SUMMARY: This document corrects unintentional omissions from the Final Rule in Docket Nos. RM83–72–000 and RM82–16–000 relating to first sales of pipeline production under the Natural Gas Policy Act of 1978. That final rule was issued on August 22, 1984, and appears in the **Federal Register** on August 27, 1984, (49 FR 33,849).

FOR FURTHER INFORMATION CONTACT: Michael A. Stosser, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357–8033.

SUPPLEMENTARY INFORMATION: The following corrections are made in FR Doc. 84–22613 appearing on page 33849 of the issue of August 27, 1984:

1. On page 33849, column two, second paragraph of the "**SUMMARY**" section, the word "old" in the second sentence is corrected to read "certain".

2. Footnotes 26–41 are redesignated as footnotes 27–42 respectively.

3. On page 33853, column 1, first full paragraph, the second sentence is corrected to read: "If this cost-of-service determination exceeds the otherwise applicable NGPA maximum lawful price, the Commission will examine such valuation on a case-by-case basis pursuant to the requirements of NGPA sections 104(b)(2) and 109(b)(2).[26]".

4. A new footnote 26 is added on page 33853, column 1, to read as follows:

[26] *See generally,* Order Terminating Rulemaking and Repealing Special Relief Regulations, 49 FR 21910 (May 23, 1984). This discussion, however, does not pertain to rate settlements previously approved by the Commission. *See infra* Section IV.C.1.

5. On page 33859, column one, in the 14th amendatory section, the regulatory text of § 270.203(b) is corrected to read as follows:

§ 270.203 Pipeline, distributor, and affiliate production

* * * * * *

(b) *Intracompany transfer*—(1) *First sales by interstate pipelines.* A transfer, at the wellhead, of gas produced by an interstate pipeline company's production divisional unit to its transmission divisional unit is that pipeline's first sale under the NGPA. It must be evidenced in an intracompany operating statement.

(2) *First sales by intrastate pipelines.* A transfer, at the wellhead, of gas produced by an intrastate pipeline company's production divisional unit to its transmission divisional unit is that pipeline's first sale under the NGPA.

(3) *First sales by a local distribution company.* A transfer, at the wellhead, of gas produced by a local distribution company's production unit is that company's first sale under the NGPA.

* * * * *

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–26518 Filed 10–4–84; 8:45 am]

BILLING CODE 6717–01–M

18 CFR Parts 35, 301, and 389

[Docket No. RM84–16–000; Order No. 400]

Methodology for Sales of Electric Power to Bonneville Power Administration

Issued: October 1, 1984.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) approves the Bonneville Power Administration's (BPA's) new methodology for determining the average system cost (ASC) of an investor-owned utility's (IOU's) resources under the Northwest Power Act (NPA or Act). The new methodology will determine the rates at which certain utilities sell power to BPA under the power exchange program in section 5 of the NPA. The new methodology differs from the existing methodology primarily by excluding income taxes from a utility's ASC and by substituting for the return on equity the embedded cost of long-term debt.

EFFECTIVE DATE: This rule is effective October 1, 1984.

FOR FURTHER INFORMATION CONTACT: Jan Macpherson, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street,

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NE., Washington, D.C. 20426, (202) 357-8033.

SUPPLEMENTARY INFORMATION:

Before Commissioners: Raymond J. O'Connor, Chairman; Georgiana Sheldon and Oliver G. Richard III.

I. Introduction

The Federal Energy Regulatory Commission (Commission) approves the Bonneville Power Administration's (BPA's) new methodology for determining the average system cost (ASC) of an investor-owned utility's (IOU's) resources under the Northwest Power Act (NPA or Act).[1] The new methodology will determine the rates at which certain utilities sell power to BPA under the power exchange program in section 5 of the NPA. The new methodology differs from the existing methodology primarily by excluding income taxes from a utility's ASC and by substituting for the return on equity the embedded cost of long-term debt.

II. Background

A. The Statutory Scheme

Section 5(c) of the NPA provides for a power exchange program which is designed to make the benefit of BPA's relatively low preference power rates available to residential customers of IOUs in the Pacific Northwest.[2] When the NPA was passed, there was a shortage of BPA power, which had forced BPA not to sell power to the IOUs. This led to large disparities between the rates paid by the IOUs' residential customers and the residential customers of publicly-owned utilities in the region. Because the amount of inexpensive power that BPA can produce could not be increased, Congress provided for an "exchange" of power between the IOUs and BPA.

Under the exchange program, an IOU may sell power to BPA at the ASC of the utility's resources. BPA then sells the same amount of power to the utility at BPA's preference rate, which is generally lower. The power "exchange" in section 5(c) is generally a paper transaction; BPA makes a payment to the IOU for the difference between the IOU's ASC and BPA's preference rate. The IOUs must pass this benefit on to their customers. Thus, the ASC-based rate, compared to BPA's preference rate, determines the level at which the residential customers participate in the sharing of the low-cost Federal power. BPA's direct service industrial customers (DSIs), including large aluminum companies, pay the entire cost of this subsidy through its BPA rates, until July 1, 1985. After that time, some of this cost will also be apportioned among other BPA customers.

The NPA does not define ASC. It does expressly require, however, that the methodology for determining ASC must exclude the cost of additional resources to serve a utility's new large single load or to meet new loads outside the region and the cost of generating facilities which are terminated before beginning to operate. (NPA section 5(c)(7) (A), (B), and (C)).

The Commission's role in this exchange program is two fold. First, under section 5(c)(7) of the NPA, BPA must develop a methodology for determining a utility's ASC (after consulting with various affected groups). The Commission must "review and approve" the methodology. Neither the statute nor its legislative history explains the nature of this review.

The Commission's second role in the exchange program arises from its Federal Power Act (FPA)[3] responsibility to review the wholesale rates of individual IOUs. The Commission must review the rates for such sales from the IOUs to BPA which are based on the ASC methodology. The Commission's existing rules (18 CFR 35.30 and 35.31 (1983)) state that the Commission will approve under the FPA any sale to BPA that is based on correct application of an approved methodology.

BPA has discerned problems with the methodology that the Commission previously approved. In order to revise the methodology, BPA began consultation procedures for changing the ASC methodology last autumn. It instituted rulemaking procedures and formulated a new methodology after providing for considerable public participation. BPA submitted the new methodology to the Commission on June 5, 1984, with a request for interim approval by July 1, 1984.[4] Although the Commission decided not to grant interim approval, it gathered and analyzed public comment on the merits of the new methodology and began its review of the Administrator's Record of Decision.[5]

B. Description of Methodology Approved in This Rule

The new methodology is similar to the old methodology in many respects. The most controversial differences are the use of the IOUs' weighted cost of long-term debt securities rather than a return on equity to determine a return component of ASC and the exclusion of State and Federal income taxes. Other significant differences are as follows.

First, the new methodology retains the "jurisdictional approach" under which retail rate orders of regulatory agencies are used as the primary source of data for computing the ASC for IOUs participating in the exchange. However, BPA will independently determine the validity of all data submitted in ASC filings. Second, the new methodology includes current transmission costs in the calculation of ASC, with a review of all future transmission plant additions to ensure that they are not redundant of the existing transmission grid. Third, the new methodology excludes all construction work in progress from the calculation of ASC. Fourth, the new methodology simplifies procedures for functionalizing costs between subsidized generation and transmission accounts and nonsubsidized distribution and "other" accounts.

The new methodology will also be "phased in" in order to minimize the retail rate effects of the change. Under the phase-in procedure, from the effective date of this rule the actual ASC subsidy for each participating utility will be the average of the ASC in effect on July 1, 1984, and the ASC which would result from applying the new methodology. On July 1, 1985, the new methodology will become the exclusive means of determining the ASC of each IOU.

The material BPA submitted to the Commission also contained provisions governing when BPA can propose any further changes to the methodology and the timetable for BPA's review of ASC

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[1] Pacific Northwest Electric Power Planning and Conservation Act, 16 U.S.C. 839–839h (1982).

[2] H.R. Rep. No. 976, 96th Cong., 2d Sess. 35 (1980).

[3] Federal Power Act, 16 U.S.C. 792–828c (1982).

[4] On June 8, 1984, the Commission issued a Notice of Proposed Interim Rule and Notice of Proposed Rulemaking which proposed interim approval of the new methodology, effective July 1, 1984, and solicited public comments on whether BPA's reasons for requesting such an interim rule were adequate. 49 FR 24146 (June 12, 1984). This notice also proposed to issue a final rule at a later date after giving the public more time to comment on the substance of the new methodology

[5] The Commission requested comments by July 16, 1984, on whether it should approve the methodology. BPA did not file substantive comments until July 30, 1984. It also informed interested persons of the need to utilize the Commission's protests and intervention procedures in order to be heard. 49 FR 25208 (June 19, 1984). The Commission regards all persons commenting in this proceeding equally. Intervention is unnecessary in rulemakings. Also, in the interest of fairness and completeness, it has determined to consider both BPA's late comment and the subsequent response by the IOUs.

The Commission received from the Pacific Northwest Generating Company and the DSIs petitions for rehearing of its decision not to grant interim approval. These requests, and the objections to them submitted by the Pacific Power and Light Company, are obviated by this order. The Commission does not need to consider their merits any further.

forms submitted to it by utilities. These provisions are not contained in this rule. As explained in the Commission's rule approving the old methodology, the NPA empowers the Commission to review the methodology itself, not BPA's related procedures. 48 FR 46,971 (October 17, 1983).

The material BPA submitted to the Commission includes a requirement that the IOUs submit ASC forms based on the new methodology within 20 days after the methodology is approved by the Commission. If an IOU files late, its ASC is deemed zero until it files. The Commission is giving effect to this enforcement mechanism. The ASC methodology is a formula rate and any change that does not conform to the approved methodology within a reasonable time cannot be considered just and reasonable. The Commission will deter to the Administrator's procedures to implement the transition to the new methodology.

III. Major Issues

A. Commission Review in Light of Deference Due BPA

In its rule approving the existing methodology, the Commission discussed the nature of its review of the ASC methodology:

> The Commission's role of reviewing the actual ASC methodology under section 5(c)(7) of the Northwest Power Act is limited in nature. It is BPA's responsibility to formulate the methodology in the first instance * * *. The Commission reviews and approves or disapproves the methodology proposed by BPA * * * It appears that Congress intended for the Commission to disapprove the methodology only if the Commission determines that the methodology is inconsistent with the Northwest Power Act. Under this view, disapproval is not warranted only on the basis that there are some areas in which the Commission believes the methodology could be improved * * *.[6]

Thus, if the methodology is based on a reasonable interpretation of the NPA, the Commission should approve it, even if it is not the interpretation that the Commission itself would have adopted. This is similar to the kind of deference courts afford to statutory interpretations by agencies entrusted with administration of a statute.

The Supreme Court has made it clear that BPA is generally entitled to considerable deference both for its interpretations of the NPA and its policy judgments under the NPA. In *Aluminum Co. of America* v. *Central Lincoln Peoples' Utility District, et al.*, 104 S. Ct. 2472, 2480–2483 (1984), the Court noted that the interpretation of the NPA by the agency charged with administering the statute, BPA is entitled to substantial deference and should be upheld if it is reasonable, even if it is not the interpretation that the court would have reached if the question had arisen in the first instance in Court.[7] The Court held that BPA is particularly entitled to deference because of the complexity of the NPA and BPA's involvement in its drafting. Although BPA's interpretation in the *Central Lincoln* case was a contemporaneous construction, which is not the case with the new methodology, the Court's decision is particularly apt for the Commission's decision here.

The commenters present a variety of theories concerning the nature of the deference the Commission should accord BPA. The IOUs argue that the Commission should not rubber-stamp the methodology. This general principle is undoubtedly correct; the Commission would not approve the methodology if it were based on an unreasonable interpretation of the statute, if it were inconsistent with a correct interpretation, or if it represented policy decisions that are clearly contrary to the NPA.

The Commission recognizes, as several commenters point out, that its expertise in setting wholesale power rates makes its appellate review responsibilities in this case somewhat different than what might be expected from a court. While the NPA no doubt contemplates use of that expertise here, the Commission is not reviewing a traditional Federal Power Act rate in this instance. The residential exchange program established under the NPA is a unique ratemaking scheme. Congress did not invoke the standards of ratemaking that the Commission customarily applies. In fact, it appears to have allowed the BPA Administrator greater flexibility to accomplish the objectives of the statute than any similar scheme with which the Commission is familiar.

Contrary to the inferences drawn by some commenters, ASC-based rates are not traditional FPA rates, even though the Commission will review them under the FPA. There are, consequently, serious questions about how searching the Commission's review can be, legally. The courts have made it clear that an agency is entitled to change its legal interpretation and its policy judgments as long as it recognizes and explains that change.[8]

BPA's first ASC methodology, which the Commission approved on an interim basis in 1981, addressed several issues of first impression under the NPA. It therefore provided for later amendments to accommodate experience under section 5. Its decision in this case, if reasonable under the NPA, should be treated by the Commission just as its first decision implementing section 5. If anything, BPA's three-year experience with the regional economics of the exchange program should improve its ability to fulfill the legislative purposes of the NPA. The Commission believes that even if BPA's new methodolgy constitutes, as commenters claim, an abrupt change from the previous methodology, the Administrator is entitled to no less deference. He is administering a complex program that involves a sensitive balancing of several regional economic interests.

On the other side, BPA argues that the only standard the Commission may apply in reviewing the methodology is ensuring that the three items the NPA specifically says must be excluded [9] are actually excluded. The Commission finds this interpretation of its responsibility under the NPA contrary to the statute and otherwise illogical. The three specific exclusions identified by BPA are not the only standards suggested by the NPA. First among the NPA requirements, the methodology must establish rates under section 5 that are based on the "average system cost" of each IOU's "resources". The NPA does not relieve the Commission from ensuring that this directive is followed by BPA in every case. Moreover, Commission review under BPA's suggested standard would allow BPA to set the ASC at zero permanently and still expect Commission approval on the basis that the costs listed in section 5(c)(7) would be excluded.

In sum, the Commission sees no reason to abandon the view it adopted when it approved the existing methodology. While the Commission must reach an independent judgment as to whether the methodology is based on a reasonable interpretation of the NPA, BPA is owed considerable deference for

[6] 48 FR 46970–46971 (October 17, 1984).

[7] The Commission is guided by a similar principle of deference to an administering agency in other contexts as well. Power Authority of the State of New York, *et al.* v. FERC, No. 83–4051 (2d Cir. Aug. 15, 1984); *See also* Connecticut Fund for the Environment v. EPA, 696 F.2d 169, 173 (2d Cir. 1982); EPA v. National Crushed Stone Association, 449 U.S. 64, 83 (1980); Udall v. Tallman, 380 U.S. 1, 16 (1965).

[8] Motor Vehicle Manufacturers Ass'n v. State Farm Mutual Automobile Insurance Co., 103 S. Ct. 2856 (1983).

[9] Under section 5(c)(7), the methodology cannot include: (1) The cost of resources to serve new large single loads, (2) the cost of resources to serve loads outside the region occurring after the NPA, or (3) terminated plant costs.

its interpretations of the NPA and any reasonable policy choices under that Act.

As discussed in this order, the Commission does not necessarily agree with all features of the methodology or BPA's arguments supporting them. BPA advances alternative arguments, some that are strong and some that are not. The Commission is nevertheless approving the methodology because it conforms to the provisions of the NPA. The Commission finds no compelling basis in the comments for arriving at a different result.

B. Whether ASC Determination Is Traditional Cost-Based Ratemaking

Numerous commenters argue that the new ASC methodology is contrary to the NPA because it violates basic principles of traditional FPA cost-based ratemaking. These commenters focus particularly on the BPA's substitution in the ASC of the cost of long-term debt for a return on equity and on the exclusion of income taxes from the methodology. In traditional cost-based ratemaking terms, these elements of the methodology are unconventional. The Commission's examination of the statute does not reveal any requirement that ASC-based rates must reflect a specific range of costs. Nor does it require the kind of cost treatment familiar to the Commission under its primary jurisdictional statutes.

Section 5(c) of the NPA provides only that a utility may sell power to BPA at "the average system cost of that utility's resources in each year" (section 5(c)(1)) and that the ASC "shall be determined by the Administrator on the basis of a methodology developed for this purpose in consultation with the [Pacific Northwest Electric Power and Planning] Council, the Administrator's customers, and appropriate State regulatory bodies in the region * * *" (section 5(c)(7)). The legislative history states that Congress intended to allow the IOUs' residential customers to:

> Share in the economic benefits of the lower-cost Federal resources marketed by BPA [the Act] will provide these consumers *wholesale rate parity* with residential consumers of preference utilities in the region.[10]

In other words, by establishing the exchange program, the Congress was addressing the gross disparity between the rates paid by residential customers of the IOUs and those paid by the residential customers of the preference utilities. That disparity arose because BPA could not sell its preference rate power to the IOUs. There is little else in the NPA or its history to guide the Commission with respect to the propriety of the BPA ratemaking approach. What is clear is that BPA alone is authorized to determine average system cost.

In his decision, the Administrator states that:

> The Act did not necessarily contemplate subsidizing all costs that result in rate disparity between public and private utilities. Rather, it assumes the differences inherent in the different forms of business organization will remain.[11]

BPA argues that, if BPA rather than the customers of the IOUs were to pay for the IOUs return on equity the costs associated with income taxes by means of the exchange program the customers of the IOUs would benefit disproportionately from the exchange program. Basic differences between the profit-making, tax-paying IOUs and the publicly-owned utilities that now receive preference power were not intended by Congress to be eradicated by the ASC methodology, claims BPA.

The sharing of preference power loosely referred to by commenters as providing "wholesale rate parity" in accord with the legislative history, was recognized by this Commission as the basic goal behind section 5(c).[12] While no commenter seriously disputes this conclusion, it is not clear what "wholesale rate parity" means. BPA states that it "simply means that the wholesale rate used for BPA's paper sales under the exchange program is to be the same rate used for actual sales to BPA preference customers." IOUs contend that "wholesale rate parity" means that the ASC "must contain all other wholesale power cost items" except those excluded under sections 5(c)(7) (A), (B) and (C). This approach would require BPA to recognize in the ASC all but the prohibited cost-of-service items. Unfortunately, these conflicting arguments do not advance the inquiry very far, considering how various regulatory commissions apply different ratemaking approaches to ascertain the cost of service.

Congress chose the Administrator to determine cost of utility resources. Had the Congress intended that the Administrator must follow State commission determinations of a utility's resource costs, if could have easily included this requirement in the statute or simply left the Administrator out altogether and let the State commissions develop the ASC methodology. This was not done. The Administrator was chosen to develop a methodology to determine ASC, subject only to this Commission's review. Therefore, the IOUs cannot logically maintain that the ASC must exactly equal the retail rates set by the State commissions, minus distribution costs and the costs specifically excluded under sections 5(c)(7) (A) and (B) and (C).

The Commission finds that BPA reasonably construes the NPA not to require payment of every cost that an IOU incurs. The Commission finds tenable BPA's argument that Congress did not intend to place IOU customers and the customers of publicly-owned utilities on precisely the same ground by eliminating every financial difference between the IOUs and the publicly-owned utilities. The Congress sought to make BPA's relatively cheap power available to everyone in the region. It did so by providing a mechanism that eliminated BPA's previous shortage of preference power by means of IOU power sales back to BPA at ASC-based rates. This subsidy scheme does not necessarily require that IOU customers be able to obtain cost benefits that are predicated on absorption by BPA, and subsequently the DSIs or other BPA customers, of costs that IOUs incur by virtue of their for-profit status, particularly taxes.

Payment of tax expenses and a return on equity is a necessary incident of purchasing power from an IOU. There is, in the Commission's opinion, nothing in the vague notion of "wholesale rate parity" that is necessarily designed to eliminate this characteristic of IOUs as it affects the exchange program.[13] In the absence of legislative directives to the contrary, the Commission believes the Administrator must make the benefits of BPA preference power widely available, as appropriate, in light of the need to balance all the interests in the region, including those of the ultimate bill-payers. BPA has a fundamental responsibility to ensure that the program will be self-supporting, viable, and equitable for *all* parties affected. The Commission cannot substitute its judgment on such issues.

BPA makes several additional arguments above to support its proposal to exclude State and Federal income

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[10] H.R. Rep. No. 976, 96th Cong., 2d Sess. 35 (1980) [emphasis added]. *See also* S. Rep. No. 272, 96th Cong., 1st Sess. 27–28 (1979).

[11] BPA Record of Decision at 60.

[12] 48 FR 46970 (Oct. 17, 1983).

[13] The language of NPA section 5(c) appears to contradict the view that there is a necessary relationship between the amount of the subsidy received by IOUs and the achievement of "wholesale rate parity." Under that section BPA may sell power to a participating utility but it need not purchase back power from the utility if BPA can buy replacement power less expensively from other sources. In this event, BPA provides *no subsidy*, yet it engages in a section 5 exchange transaction.

taxes from ASC and use the weighted cost of long-term debt instead of a return on equity as the rate of return. BPA contends its use of the long-term debt cost surrogate effectively excludes terminated plant costs that surreptitiously tended to inflate the equity returns granted by state regulators. The Act specifically excludes terminated plant cost from ASC. BPA has determined how best to guard against undetectable violation of this legislative directive. The Commission nevertheless has reservations, from a ratemaking perspective. Long-term debt costs are almost always lower than equity costs and they may not be entirely appropriate as proxies for the cost of equity.

The Commission finds that BPA's approach does not violate the NPA, however. Its justification for using a substitute for equity costs is reasonable, particularly because it is designed to obtain strict compliance with the Act. The Commission will therefore defer to BPA on this issue. The Commission nevertheless finds unpersuasive BPA's other argument in support of a substitution for an equity return, that the exchange program eliminates the risk of default by residential and small farm ratepayers. That risk is never significant.

BPA's rationale for excluding income taxes from ASC hinges primarily on its concern that IOU's tax expenses not be spread among BPA's regional customers. IOUs believe that wholesale rate parity requires payment of all IOU costs, including taxes. State and Federal income taxes are a necessary cost of producing power, they point out. Citing the three specific exclusions in section 5(c)(7), the companies argue that, since income taxes are not one of the items excluded, they must be included.

Once again, although the Commission finds both that the IOUs' interpretation is plausible and that BPA's decision to allow a proxy for equity return while disallowing taxes on such profits is somewhat contradictory, it believes that disapproval of the new methodology would be justified only if the exclusions were totally unsupportable under the statute. The Commission is not persuaded that any limitation on BPA's discretion to exclude or include specific IOU costs can be inferred from the exclusions of section 5(c)(7). Because it perceives no discernible contravention of the letter or spirit of the NPA, the Commission is therefore approving the methodology.

IV. Other Issues

1. BPA's Authority To Initiate Procedures To Change Methodology

The IOUs contend that their contracts with BPA prohibit BPA from proposing any change in the ASC methodology until one year after final Commission approval of the methodology.[14] BPA began the consultation process for the pending revisions on October 7, 1983. This allegedly breaches this provision and therefore violates the *Mobile-Sierra* doctrine, under which "[r]ate filings consistent with contractual agreements are valid; rate filings inconsistent with contractual obligations are invalid."[15] This principle was violated, say the IOUs, because BPA undertook to revise the methodology less than one year after "final" Commission action on the existing methodology. This supposedly illegal action by BPA also prevented adequate assessment of the operation of the existing methodology, state these commenters.

BPA makes several contrary arguments about the applicability of this doctrine to this case. BPA points out that these are government, not private, contracts, that the NPA, not the FPA, governs in this instance, that there is no unilateral attempt by a utility to change existing rates because BPA is not a utility for FPA purposes, and that the methodology is a means of computing a subsidy level, not a rate. Finally, BPA points out that the consultation process began more than two years after the Commission's interim approval of the existing methodology.

As with other FPA concepts, the Commission believes that the *Sierra-Mobile* doctrine fits uncomfortably in these circumstances. In the final analysis, the Commission must conclude that the contract language at issue is not reviewable by this Commission. The Commission therefore yields to BPA's interpretation on this matter. The Commission has stated that, under section 5, it can review only the methodology.[16] Even if the Commission were to find that it has authority to interpret the provision, "[a]n agency's interpretation of its own regulation is controlling unless plainly erroneous or inconsistent,"[17] whether or not a regulation is incorporated by reference into a contract.

2. Allegations of Bias

Several commenters allege that the Administrator of BPA predetermined the outcome of BPA's rulemaking. These commenters suggest that, as a result of this bias, the Commission should subject the methodology to a higher degree of scrutiny.

The Commission recognizes that the Administrator's decision is controversial. The nature of the public interests involved requires that the Administrator deal fairly with all parties and comply with applicable statutory procedures. The Commission notes, however, that section 5 of the NPA provides for Commission review of the methodology, not the abstract fairness of BPA's decisionmaking. Whether the Administrator rendered an unfair decision is a question for the courts. The necessary demonstration of an "unalterably closed mind" on the matter[18] is a difficult test to meet, in any event. The Commission's function in this case is to ensure compliance with the NPA in terms of the end result achieved. Congress left the conduct of the ratemaker's art to the Administrator.

3. BPA's Request for a July 1, 1984, Effective Date

As it proposed when requesting interim Commission approval,[19] BPA continues to request that the Commission make the revised methodology effective as of July 1, 1984. At this juncture, retroactive rulemaking would be required. Although BPA submitted several grounds for requesting a July 1, 1984, effective date, the most important reason that remains applicable is that the BPA rates to its DSI customers (rates which charge to the DSIs an amount equivalent to the subsidies paid IOUs under section 5) after July 1, 1985, will be permanently set by statute on the basis of rates in effect during the preceding 12 months. BPA has also alleged that, if the cost of the exchange program is not reduced, BPA may not be able to set reasonable rates for its power and its rates may go

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[14] The methodology states that BPA may initiate procedures to change the methodology no sooner than "one year after the immediately previous ASC methodology has been adopted by Bonneville and approved by the FERC." Section 12 of the contracts makes this language "a part of this contract." Each contract is on file with Commission as a rate schedule.

[15] Public Service Co. of New Mexico *v.* FPC, 557 F.2d 227, 229 (10th Cir. 1977), citing Richmond Power and Light Co. *v.* FPC, 481 F.2d 480, 493 (D.C. Cir. 1973), *cert. denied*, 414 U.S. 1068 (1973). *See generally*, United Gas Pipe Line Co. *v.* Mobile Gas Service Corp., 350 U.S. 332 (1956); FPC *v.* Sierra Pacific Power Co., 350 U.S. 348 (1956).

[16] 48 FR 46970 (October 17, 1984).

[17] *Production Tool Corp.*, 688 F.2d 1161, 1170 (7th Cir. 1982).

[18] Association of National Advertisers, Inc. *v.* FTC, 627 F.2d 1151 (D.C. Cir. 1979) *cert. denied*, 447 U.S. 921 (1980).

[19] Letter of May 25, 1984, from the Administrator of BPA to the Chairman of this Commission.

so high that loads decline, jeopardizing BPA's full cost recovery.

Rulemakings such as the promulgation of the methodology generally have prospective effect only. There is no bar to retroactive rulemaking, provided that various equitable considerations are taken into account. For example, the administrative policy, in part a readjustment of the DSI floor rate, must outweigh any potential inequity. The Commission has less difficulty deciding this issue than with a related problem.[20] Both the permissability and advisability of making the new methodology retroactive is complicated by the fact that the ASC rates established under it are subject to Commission review under section 205 of the FPA.

The Commission has generally construed very narrowly its authority to engage in retroactive ratemaking under the FPA.[21] It is unclear whether the Commission may exercise more discretion to put rates into effect retroactively under the NPA than the FPA but, if it may not, there is little to be accomplished by making the methodology, under which the rates are set, retroactive. If the Commission were to allow the rates to be retroactively effective, the result would be to reduce the rates paid by BPA since July 1 for purchases of power from the IOUs. As a result, participating IOUs might owe refunds of some of their subsidies. State law or regulatory policy, however, may prohibit the IOUs from recovering these refunds from retail customers.

BPA wishes to reduce the cost of the exchange program so as to ensure that its own customers' rates remain reasonable and their demand for power does not decline. The Commission searches the record in vain, however, for data that shows the impact of the methodology on the DSI floor rate or the size of the contribution that a July 1, 1984, effective date would make to BPA's cost recovery. These factors incline the Commission to regard the retroactive effective date as relatively inconsequential, in addition to posing a potentially troublesome cost-recovery problem for the IOUs.

In light of these considerations, the Commission will approve the new methodology prospectively only. The actual delay that might affect DSI floor rates will, in any event, be only about three months.

[20] *See* Retail, Wholesale and Department Store Union v. NLRB, 466 F.2d 380, 390 (D.C. Cir. 1972) and SEC v. Chenery, 332 U.S. 194, 203 (1947).

[21] *See generally*, City of Piqua, Ohio v. FERC, 610 F.2d 950 (D.C. Cir. 1979).

4. Procedural Issues

The NPA requires that the methodology be developed in consultation with affected groups. It does not specify what form this consultation should take, however. Several commenters argue that the consultation that took place differed from the bilateral negotiations used to formulate the original methodology and that the notice and comment procedures used were inadequate to qualify as a consultation.

This issue also relates to the adequacy of the BPA procedures used to formulate the methodology and not the adequacy of the methodology itself. It appears to the Commission that all affected parties had an opportunity to confer with the Administrator, make their views known, and to try to affect the nature of the methodology that was developed. This Commission will nevertheless avoid looking beyond the methodology itself to ascertain whether any procedural inequities occurred. The parties to the BPA proceedings are far from dependent on this Commission to raise or rectify fundamental problems of fairness.

Several commenters contend that the new methodology must or should be reviewed by a joint state board under section 9(g) of the NPA. The commenters argue that the legislative history requires the Commission to convene a joint state board to review, not only rates, but the methodology as well.[22]

The Commission need not convene a joint state board to review the new methodology under section 9(g). The Commission must convene a joint state board when reviewing sales of power to BPA by an IOU. The history of section 9(g), in which the joint state board is established, refers specifically to the Commission's review of individual IOUs' rates for sales to BPA, not the methodology. If Congress intended to mandate that a joint state board review each methodology, it could have done so by statutory directive, as it did in section 9(g).

The Commission could have exercised its discretion to convene a joint state board to review the new methodology. There is no compelling reason to invoke this mechanism. The methodology has been developed after almost a year of consultations, negotiations and hearings, attended by virtually the same parties that make up a joint state board. Further review by those parties would be duplicative at this point.

Many commenters, most notably the IOU's residential customers, request that public hearings be held because of the significant increase in rates that would result from the new methodology. Further hearings are not required under the NPA or the Administrative Procedure Act.[23] Moreover, there is little reason to hold further hearings. Prior to the ASC methodology being submitted to the Commission, it was subject to seven months of BPA proceedings, including on-the-record negotiating sessions and the opportunity for interested parties to present oral and written comments. The Commission has also afforded ample opportunity to submit comments on the methodology. The entities with a substantial stake in the outcome of this proceeding have submitted comments, and those requesting hearings have not explained what benefits further hearings would provide that are not provided by written comments.

5. Phase-In of the New Methodology

BPA has proposed that the new methodology be phased in to cushion the IOUs' ratepayers from any sudden change. Under BPA's proposal, beginning with the effective date of this rule, the actual ASC payments BPA makes to an IOU would be "the average of the ASC in effect on July 1, 1984, and the ASC calculated under the new methodology." The new methodology would completely control ASC payments beginning July 1, 1985. BPA claims that the authority for this phase-in is inherent in its authority under section 5:

> The purpose of the residential exchange subsidy is to provide rate relief to the residential customers of exchanging utilities. It would be anomalous if the Administrator were not able to consider the effects of a change in methodology on the retail ratepayers.[24]

On one hand, BPA believes that the phase-in provision is not part of the methodology itself and therefore not subject to the Commission's approval.[25] On the other hand, the DSIs, while also arguing that the phase-in is not part of the ASC methodology, state that the Commission can disapprove it without disapproving the methodology. Moreover, the DSIs believe that the phase-in is illegal because, when BPA replaces the old with the new methodology, it thereby determines that particular costs are not a proper costs of "resources" under section 5. BPA is

[22] H.R. No. 979, 96th Cong., 2d Sess. 47 (Sept. 1980).

[23] Notice and comment procedures satisfy the hearing requirements of federal agency rulemakings. United States v. Florida East Coast Ry. Co., 410 U.S. 224 (1973).

[24] BPA record at 94.

[25] Comments of July 30, 1984.

thereafter without authority to pay even partially for such costs, they claim.

The Commission views the phase-in as an integral feature of the methodology. The phase-in provision would govern the rates paid by BPA to the IOUs for nearly one year. It would achieve important regulatory policies that bear on both retail customers of the IOUs and the DSIs. For the phase-in to operate, the Commission must have found both the new and existing interpretations and policy decisions to be consistent with the NPA. It has, in fact, done so. By establishing a new methodology, BPA is not repudiating the existing one as contrary to the NPA. The Commission therefore perceives no reason why BPA cannot move gradually from one legally sound position to another, combining them in the interim to achieve reasonable regulatory objectives.

6. BPA's Continuing Cost Review

The new methodology, provides that BPA will engage in ongoing determinations of the appropriateness of the costs and loads submitted in each IOU's ASC forms. BPA promises to pay ony the ASC it determines appropriate, unless compelled to do otherwise by the Commission or a court.

The Administrator's Record of Decision explains that such independent determinations will solve problems with State Commission determinations utilized under the existing methodology, notably the inclusion in the equity component of rates of cost that are excluded by statute from the ASC. The Administrator states that he "is responsible for ASC determination and this responsibility cannot be delegated to state regulatory officials."[26]

In response, the IOUs believes that this standardless provision allows BPA to act arbitrarily to exclude costs found appropriate in State regulatory proceedings. It appears that the fundamental objection of the IOUs is that BPA wishes to change the methodology on an ad hoc basis, without standards or Commission review. This, they say, violates Congress' intention that there be a methodology for determining ASC.

The Commission appreciates that the jurisdictional costing approach in both the old and revised methodologies creates difficulties for the Administrator. While these might be better resolved by adopting a different method of determining specific costs, BPA is apparently unwilling, for obvious good reasons, to engage in the extensive regulatory determinations that would otherwise be required. On the other hand, the IOUs have legitimate concerns about this aspect of the methodology. By this provision, BPA has afforded itself greater discretion and flexibility than might be necessary to address the problem BPA anticipates.

Despite its reservations, the Commission will approve this provision, on the understanding that BPA intends to utilize this review of State-determined costs for very limited purposes, that is, to ascertain whether the NPA would be violated by the wholesale incorporation of cost information reported by the IOUs. Indeed, by using the cost of long-term debt as a substitute for equity return, BPA has already solved the major problem to which this provision might otherwise be applied. It is not the Commission's intent that the review provision be used to amend the methodology or to develop a policy inconsistent with its overall provisions. Moreover, the Commission expects that any such departure would be presented to it at the time it reviews any rate filed under the new methodology. Therefore, the Commission finds this aspect of the methodology acceptable.

7. Transmission Costs

The new methodology includes the costs of transmission facilities which either: (1) Began service before July 1, 1984, or (2) are directly required to integrate resources to the transmission service grid. If an IOU constructs facilities more expensive than those needed to interconnect to the BPA system, the additional cost would not be included in the IOU's ASC.

BPA views this as a compromise because section 5 does not require BPA to pay IOUs for any transmission costs. NPA section 3(19) does not treat transmission facilities as "resources", unlike generating facilities and conservation measures. As a matter of policy, BPA would include transmission costs that "reflect integration of generating resources." BPA includes all existing transmission in service as of July 1, 1984, to avoid the difficult determination of whether existing facilities meet this test. Finally, BPA believes that inclusion of these costs will help cushion the impact that the new methodology would have on the rates of residential and small farm ratepayers.

The IOUs object to this cost treatment and claim that, because transmission is a wholesale cost, and BPA's preference rate includes transmission costs, all transmission costs must be included in ASC to achieve wholesale rate parity.

The Commission is confident that BPA has struck an equitable balance on this issue and has not contravened the NPA by including transmission costs. Although the NPA does not speak to the subsidization of transmission costs, it appears at least as plausible to contend that Congress committed the issue to BPA discretion as it is to argue that, by its silence, Congress meant to exclude transmission costs. The Commission sees no reason to overrule the Administrator here.

8. Construction Work in Progress

Several commenters contend that the exclusion of construction work in progress (CWIP) from the exchange rate defeats wholesale rate parity because BPA includes CWIP, notably for Washington Public Power Supply System plants, in its preference rate. BPA excluded CWIP to avoid the difficulty of retroactively adjusting the ASC if CWIP costs were incurred for a plant that was later terminated. Commenters claim that this was not a problem under the old methodology and that no change is therefore needed.

BPA notes, however, that the State regulatory commissions in the Pacific Northwest do not allow CWIP in rate base. Because BPA is relying on the cost data produced by these commissions for their own proceedings, the inclusion of CWIP in ASC-based rates would be inappropriate. This is a policy choice that the NPA arguably leaves to the Administrator. This Commission finds the BPA justification to be adequate.

9. Time for Filing Rates With BPA

BPA submitted to the Commission a requirement that the IOUs must file rates with BPA under the new methodology within 20 days of the Commission's approval of this rule. The penalty for a utility's failure to file on time is to have its ASC deemed zero. The rates are submitted for Commission approval under the FPA after filing with BPA.

The Commission's view of this enforcement mechanism is twofold. First, the Commission believes that, as some commenters argue, 20 days may have been too little time within which to marshal the data needed for an ASC filing, if the Commission had made the new methodology effective on July 1, 1984, less than one month after BPA made it public. The affected IOUs have now had almost four months to study the methodology and begin formulating the required data, much of which is already on file with BPA. This aspect of the BPA filing requirement is therefore a reasonable means of ensuring swift implementation of the methodology. The participating IOUs must now file new

[26] BPA Record of Decision, at 36.

rates with BPA if a new methodology is approved (the new definition of "exchange period" provides for this). For provisions such as the phase-in, such prompt filing is necessary.

The second part of this provision—the zero ASC provision—is more troublesome. The Commission believes that the Administrator lacks authority, absent Commission approval of a rate change, to deem a utility's ASC to be zero and to rule in effect that the rate under the existing, approved methodology is thereby ended and uncollectible. A utility is entitled under the FPA to charge an approved rate only so long as it remains the effective filed rate, however. The currently effective rate for sales to BPA are FPA rates. The Commission has maintained that, just as the methodology must conform to the NPA, IOU exchange rates must conform to the Methodology. (§ 35.31(b))

In response to this difficulty, the Commission points out that, by approving BPA's changes in the methodology, it is amending the requisite structure of the IOUs' rates and thereby an essential condition under which the IOUs participate in the program. Under the NPA and FPA, participating IOUs must have rates on file that conform to the approved methodology. If participating IOUs do not file new rates to conform to the methodology, they will no longer have effective rates on file with the Commission. In light of this, the Administrator's filing provision is unnecessary as a means of enforcing compliance. It does, however, provide a suitable procedural mechanism for accomplishing this objective and the Commission therefore adopts this procedure as applies to IOU filings. In order that IOUs that file with BPA on a timely basis can be deemed to have a new effective rate on file with the Commission at the time of filing with BPA, the Commission will require from any such participating IOU a notice of timely filing. Timely filing will determine whether a participating IOU will have *any* rate on file between the date on which the Commission approves the methodology and the date on which the IOU files with BPA or on which its ASC is otherwise deemed zero by BPA. (§ 35.30(b)).

V. Summary of the Rule

Part 301 codifies BPA's ASC methodology. The Administrator's language is included here and is amended only as needed to conform to the Commission's style and format. Any IOU filing in conformance with the methodology or other interested person should be aware that the Commission is *not* publishing in Part 301 several procedural provisions that relate to filing with BPA or to internal BPA procedures. Those persons should contact the Administrator for such information.

The Commission procedures that govern filing of ASC-based rates with the Commission under the FPA are found in 18 CFR 35.30. These provisions are not affected by this rule.

Section 301.1(b) sets forth the definitions related to the ASC: "average system cost," "contract system cost," "contract system load," "cost," "exchange period," "jurisdiction," "new large single load," "regional power sales customers," "test period," "state commission," "file," and "review period."

Section 301.1(c) refers participating utilities to the Administrator's procedural filing requirements for all ASC-based rates. It also states that each utility must file a completed Appendix I for each regional jurisdiction for the initial period, and for each jurisdictional rate change or commencement of a rate change proceeding. BPA shall use this filing to determine the utility's exchange rate for the applicable period.

Appendix I to Part 301 follows the rule and contains forms or schedules with explanatory footnotes that make up the ASC methodology itself. These schedules are filled out by each utility for a specific test period and for each jurisdiction in which it operates and are submitted to BPA. The four schedules of the Appendix are: Plant investment, rate base, and Rate of return; Weighted Average cost of long-term debt; Expenses; and Average system cost.

VI. Regulatory Flexibility Act Statement

The Regulatory Flexibility Act (RFA) [27] requires certain statements, descriptions, and analyses of rules that will have "a significant economic impact on a substantial number of small entities." [28] The Commission is not required to make an RFA analysis if it certifies that the rule will not have such an impact.[29]

The investor-owned utilities which are participating in the exchange program are not small entities.[30] Moreover, the number of utilities participating in the exchange is not substantial. Only nine utilities whose rates are under this Commission's jurisdiction are participating in the exchange program.

For these reasons, the Commission certifies under the RFA that this rule will not have a significant economic effect on a substantial number of small entities.

VII. Effective Date

The Commission finds good cause under section 553(d)(3) of the APA to make this rule effective immediately, rather than 30 days after publication. The long-term impact on the rates of the DSIs of delaying early implementation of the new methodology justifies immediate effectiveness. This long-term impact arises from section 7(c)(2) of the NPA, which provides that beginning in July 1, 1985, BPA's rates to the DSIs shall not be less than the rates in effect for the preceding contract year.

This rule is effective October 1, 1984. Pursuant to the Paperwork Reduction Act of 1980, 44 U.S.C. Part 35 (1982), the information collection requirements of this rule have been approved by the Office of Management and Budget under OMB Control No. 19020096. Part 389 of the Commission's regulations is accordingly amended to include this control number in the Commission's list of control numbers.

List of Subjects

18 CFR Part 35

Electric power rates, Electric utilities, Reporting requirements.

18 CFR Part 301

Electric power rates, Electric utilities, Reporting and recordkeeping requirements.

18 CFR Part 389

Paperwork Reduction Act, Reporting and recordkeeping requirements.

In consideration of the foregoing, the Commission amends Parts 35, 301 and 389 of Title 18, Chapter I, *Code of Federal Regulations*, as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 35—[AMENDED]

4. In § 35.30, paragraph (b)(2) is revised to read as follows:

§ 35.30 General provisions.

* * * * *

(b) *Effectiveness of rates.* * * *

(2) Except as otherwise provided under this section, the ASC ordered by

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[27] 5 U.S.C. 601–612 (1982).

[28] *Id.*, Sections 603, 604.

[29] *Id.*, Section 605(b).

[30] *Id.* Section 601(3), citing to section 3 of the Small Business Act, 15 U.S.C. 632 (1982), which defines "small business concern" as a business which is independently owned and operated and which is not dominant in its field of operation. *See also* SBA's revised Small Business Size Standards, 49 FR 5024 (Feb. 9, 1984) (to be codified at 13 CFR Part 121).

the Commission will be deemed in effect from the beginning of the relevant exchange period, as defined in § 301.1(b)(95) of this chapter. For any initial exchange period after the Commission approves a new ASC methodology, the ASC will be effective retroactively under this paragraph only if the utility files its new ASC within the time allowed under BPA procedures. Any utility that files a revised ASC with BPA in accordance with this paragraph must promptly file with the Commission a notice of timely filing of the new ASC.

* * * * *

(Federal Power Act, 16 U.S.C. 792–828c (1976 and Supp. IV (1980)) and Pacific Northwest Electric Power Planning and Conservation Act, 16 U.S.C. 830–839h (Supp. IV (1980)))

PART 301—[AMENDED]

1. Part 301 is amended by revising paragraphs (b), (c) and (d) in § 301.1 to read as follows:

§ 301.1 Average system cost methodology.

(a) * * *

(b) *Definitions.* For purposes of this section the following definitions apply:

(1) "Average system cost" ("ASC") means for each jurisdiction and each exchange period the quotient obtained by dividing Contract Systems Costs by Contract System Load.

(2) "Contract System Costs" means the Utility's Costs for production and transmission resources, including power purchases and conservation measures, which Costs are includable in, jurisdictionally allocated by, and subject to the provisions of Appendix 1. Contract System Costs do not include Costs excluded from ASC by section 5(c)(7) of the Northwest Power Act.

(3) "Contract System Load" means the firm energy load used by the State Commission for the purpose of establishing retail rates, adjusted pursuant to the Average System Cost Methodology rule.

(4) "Costs" means the aggregate dollar amount or any portion of the amount allowed or relied upon by the State Commission to determine the test period revenue requirement for the Utility in a Jurisdiction.

(5) "Exchange Period" means the period of time during which a Utility's jurisdictional retail rate schedules are in effect, commencing with the effective date of these schedules and ending with the effective date of new retail rate schedules in the Jurisdiction; provided that no Exchange Period shall commence prior to or extend beyond the term of the Utility's Residential Purchase and Sales Agreement. For the purposes of any initial Appendix 1 filing, the Exchange Period shall commence on the date such Appendix 1 is filed and end with the effective date of the next retail rate change.

(6) "Jurisdiction" means the service territory of the exchanging Utility within which a State Commission has authority to approve the retail rates.

(7) "New Large Single Load" means that load defined in section 3(13) of the Northwest Power Act, and as determined by BPA as specified in power sales contracts with its customers.

(8) "Regional Power Sales Customer" means any entity that contracts directly with BPA for the purchase of power delivery in the region as defined by section 3(14) of the Northwest Power Act.

(9) "Test Period" means the time period (not less than 12 months) used by the State Commission to determine Cost for retail ratemaking.

(10) "State Commission" means a State regulatory body, preference utility governing body, or other entity authorized to establish retail electric rates in a Jurisdiction.

(11) "File" or "filed" means that the Appendix 1 has been:

(i) Hand delivered to the Division of Financial Requirements; Bonneville Power Administration; Portland, Oregon; or

(ii) Mailed to BPA by certified mail, return receipt requested, to the following address:

Bonneville Power Administration,
Division of Financial Requirements,
Routing: DN, P.O. Box 3621, Portland, Oregon 97208

and has been received by BPA. An Appendix 1 shall be considered to be filed as of the date of the postmark on the certified mailing.

(12) "Review Period" means that period of time during which a Utility's Appendix 1 is under review by the Administrator. The review period begins when an Appendix 1 is Filed and ends two hundred and ten (210) days after the Utility Filed its Appendix 1.

(c) *Phase-In.* For the period beginning with the effective date of this rule and ending June 30, 1985, a utility's ASC will be the average of the ASC in effect on July 1, 1984 and the ASC calculated under this section. Beginning July 1, 1985, each utility's ASC will be calculated exclusively under this section.

(d) *Filing Procedures.* The procedures established by the Administrator provide the filing requirements for all utilities that file an Appendix 1.

(1) Appendix 1 is a form that identifies Contract System Costs and Contract System Load and permits the calculation of ASC.

(2) For each Exchange Period and for each regional Jurisdiction in which a Utility provides service, the Utility shall complete and file three copies of Appendix 1, in accordance with the Administrator's procedures and § 35.30 of this chapter.

2. Part 301 is further amended by revising Appendix I to § 301.1 to read as follows:

Appendix I to § 301.1—Average Systems Cost Methodology

Appendix 1 is the form on which a Utility participating in a Residential Purchase and Sale Agreement shall report its Contract System Costs and other necessary data for the calculation of ASC.

The form consists of four schedules that shall be completed by the Utility in accord with these instructions and the provisions of the footnotes following the schedules. Any items not applicable to the Utility shall be so identified.

The schedules are as follows:

Schedule 1—Plant Investment/Rate Base/ Rate of Return
Schedule 2—Weighted Average Cost of Long Term Debt
Schedule 3—Expenses
Schedule 4—Average System Cost

The filing Utility shall reference and attach workpapers that support Costs, including details of allocation and functionalization.

All references to the Commission accounts are to the Commission Uniform System of Accounts as of July 1, 1984. The Costs includable in the attached schedules are those includable by reason of the definitions in the Commission accounts. If the Commission accounts are later revised or renumbered, any changes shall be incorporated into this form by reference, except to the extent that BPA determines that a particular change results in a change in the type of Costs allowable for exchange purposes. If the Utility does not follow the Commission accounts, its filing must include a reconciliation between its accounts and the items allowed as Contract System Costs.

BPA may require the Utility to account for purchased power transactions with affiliated entities as though the affiliated entities were owned in whole or in part by the Utility, if necessary to properly determine and/or functionalize the Utility's Costs.

A utility operating in more than one Jurisdiction shall allocate its total system Costs among Jurisdictions in accord with the same allocation methods and procedures used by the State Commission to establish jurisdictional Costs and resulting revenue requirements. Appendix 1 shall include details of the allocation. This allocation also

accomplishes the exclusion of the Costs of additional resources to meet loads outside the region, as required by section 5(c)(7) of the Northwest Power Act.

All schedule entries and supporting data shall be in accord with generally accepted accounting principles and practices as these principles and practices apply to the electric utility industry.

APPENDIX 1

SCHEDULE 1.—BONNEVILLE POWER ADMINISTRATION, RESIDENTIAL PURCHASE AND SALE AGREEMENT—AVERAGE SYSTEM COST METHODOLOGY TEST PERIOD

[Plant investment rate base/rate of return (thousands)]

Line No.	Items	Total to be functionalized	Functionalization		
			Production	Transmission	Other
	(1)	(2)	(3)	(4)	(5)
	Production Plant:				
1	Steam production, 310-316				
2	Nuclear production, 320-325				
3	Hydraulic production 330-336				
4	Other production plant, 340-346				
5	Total production plant				
6	Transmission plant, 350-359 [a]				
7	Distribution plant, 360-373 [b]				
8	Intangible plant, 301-303 [c]				
9	General plant, 389-399 [c]				
10	Electric plant-in-service				
	Less:				
11	Depreciation Reserve, 108				
12	Steam plant				
13	Nuclear plant				
14	Hydraulic plant				
15	Other plant				
16	Transmission plant [a]				
17	Distribution plant [b]				
18	General plant [c]				
19	Amortization reserve 111 [c]				
20	Total depreciation and amortization				
21	Total net plant				
22	Nuclear fuel 120.3-120.4 less 120.5				
23	Accumulated deferred debits 186 [c]				
24	Cash working capital [b]				
25	Materials and supplies 151-157, 163 [c]				
	Less:				
26	Accumulated deferred investment tax credit/255 [c]				
27	Accumulated deferred income taxes/281-283 [c]				
28	Other accumulated deferred credits/253, 257-257 [c]				
29	Customer contributions and aid to construction/252 [c]				
30	Other 108, 134, various [c] [d]				
31	Total rate base				
32	Times rate of return at ——— pct. [e]				

SCHEDULE 2.—BONNEVILLE POWER ADMINISTRATION, RESIDENTIAL PURCHASE AND SALE AGREEMENT— AVERAGE SYSTEM COST METHODOLOGY, TEST PERIOD

[Weighted average cost of long-term debt]

Line No.	Items	Date of issue	Date of maturity	Interest rate	Face amount	Premium	Discount	Issue expense	Net proceeds	Interest expense
		(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1										
2										
3										
4										
5										
6										
7										
8										
9										
10										
11										
12										
13										
14										
15										
16	Weighted average cost of long-term debt									

SCHEDULE 3.—BONNEVILLE POWER ADMINISTRATION, RESIDENTIAL PURCHASE AND SALE AGREEMENT—AVERAGE SYSTEM COST METHODOLOGY TEST PERIOD

[Expenses (thousands)]

Line No.	Items	Total to be functionalized	Functionalization		
			Production	Transmission	Other
	(1)	(2)	(3)	(4)	(5)
	Production:				
1	Fuel, 501, 518, 547				
2	Purchased power, 555				

SCHEDULE 3.—BONNEVILLE POWER ADMINISTRATION, RESIDENTIAL PURCHASE AND SALE AGREEMENT—AVERAGE SYSTEM COST METHODOLOGY TEST PERIOD—Continued

[Expenses (thousands)]

Line No.	Items (1)	Total to be functionalized (2)	Functionalization		
			Production (3)	Transmission (4)	Other (5)
	Operations and Maintenance:				
3	Steam, 500, 502–514				
4	Nuclear, 517, 519–532				
5	Hydro, 535–545				
6	Other, 546, 548–554				
7	Total production expenses				
8	Transmission, 560–573 [a]				
9	Distribution, 580–598 [b]				
10	Customer accounting, 901–905 [j]				
11	Customer assistance, 907–910 [j]				
	Administrative and General:				
	Account No.:				
12	920				
13	921				
14	922				
15	923				
16	924				
17	925				
18	926				
19	927				
20	928				
21	929				
22	930.1				
23	930.2				
24	931				
25	932				
26	Total A and G				
27	Total operations and maintenance				
28	Depreciation and amortization, 403–407				
29	Steam production plant				
30	Nuclear production plant				
31	Hydraulic production plant				
32	Other production plant				
33	Transmission plant [a]				
34	Distribution plant [b]				
35	General plant [j]				
36	Amortization [j]				
37	Total depreciation and amortization				
38	Taxes other than income taxes 408, 409 [j]				
39	Federal income tax [j]				
40	State income tax [j]				
41	Other expenses [j]				
	LESS:				
42	Sales for resale revenue 447				
43	Other operating revenues 450–456 [j]				
44	Billing credits [c]				
45	Total operating expenses				
46	Return from schedule1				
47	Other adjustments				
48	Total cost				

SCHEDULE 3A.—BONNEVILLE POWER ADMINISTRATION, RESIDENTIAL PURCHASE AND SALE AGREEMENT—AVERAGE SYSTEM COST METHODOLOGY TEST PERIOD

[Taxes other than income taxes (thousands)]

Line No.	Items (1)	Total to be functionalized (2)	Functionalization		
			Production (3)	Transmission (4)	Other (5)
	Federal:				
1	Insurance contributions				
2	Unemployment				
	State:				
	California:				
3	Property				
4	Unemployment				
	Oregon:				
5	Property				
6	Tn-met				
7	Lane county				
8	Unemployment				
9	Regulatory commission				
	Washington:				
10	Property				
11	Unemployment				
12	Generating tax				
13	Pollution control credit				
3a	Revenue and business				
	Idaho:				
14	Property				
	Montana:				

SCHEDULE 3A.—BONNEVILLE POWER ADMINISTRATION, RESIDENTIAL PURCHASE AND SALE AGREEMENT—AVERAGE SYSTEM COST METHODOLOGY TEST PERIOD—Continued

[Taxes other than income taxes (thousands)]

Line No.	Items (1)	Total to be functionalized (2)	Functionalization		
			Production (3)	Transmission (4)	Other (5)
15	Property				
16	Unemployment				
	Wyoming:				
17	Property				
18	Unemployment				
	Utah:				
19	Property				
20	Local—Occupation and franchise				
21	In-lieu taxes				
22	Other				
23	Total				

Note:
1. Supporting workpapers are to be attached.
2. Footnotes referenced on Schedule 3 will be relied upon in determining ASC.

SCHEDULE 3B.—BONNEVILLE POWER ADMINISTRATION, RESIDENTIAL PURCHASE AND SALE AGREEMENT—AVERAGE SYSTEM COST METHODOLOGY TEST PERIOD

[Other included items (thousands)]

Line No.	Items (1)	Total to be functionalized (2)	Functionalization		
			Production (3)	Transmission (4)	Other (5)
	Operating revenues:				
1	Sales for resale 447				
2	1				
3	2				
4	Total				
	Other Operating Revenues 450–456[f]				
5	Acct. 450				
6	Acct. 451				
7	Acct. 452				
8	Acct. 453				
9	Acct. 454				
10	Acct. 455				
11	Acct. 456				
12	Total other revenues				

Note:
1. Supporting workpapers are to be attached.
2. Footnotes referenced on Schedule 3 will be relied upon in determining ASC.

SCHEDULE 4.—BONNEVILLE POWER ADMINISTRATION, RESIDENTIAL PURCHASE AND SALE AGREEMENT—AVERAGE SYSTEM COST METHODOLOGY TEST PERIOD

[Average system cost]

Line No.	Items (1)	Amounts (2)
1	Contract system costs:	
2	Production cost (from schedule 3)	
3	Transmission cost (from schedule 3)	
4	Less excluded load costs[f]	
5	Total contract system costs	
6	Contract system load:	
7	Total load (MWh)	
8	Less:	
9	Nonfirm adjustment (MWh)	
10	Other adjustments (MWh)	
11	Net load (MWh)	
12	Plus:	
13	Distribution losses (MWh)[g]	
14	Total net load (MWh)	
15	Less:	
16	Excluded load (MWh)[f]	
17	Excluded load Dist. losses (MWh)	
18	Total contract system load (MWh)	
19	Average system cost (Mills/kWh) (line 5/line 18)	

Average System Cost Methodology Footnotes

[g] Transmission plant and the associated cost to be used in the calculation to the average system cost (ASC) are limited to:

(1) For transmission plant in service as of July 1, 1984, transmission plant will be as defined by the Federal Energy Regulatory Commission Uniform System of Accounts and will include radial transmission lines.

(2) For transmission plant commencing service after July 1, 1984, transmission plant costs which can be exchanged are limited to transmission that is directly required to integrate resources to the transmission system grid. Specifically, transmission costs which can be exchanged are limited to the lesser of the costs of transmission facilities required to transmit power from the generating resource to the exchanging utility's system or the sum of the costs of the transmission facilities required to integrate the generating resource to the BPA system and the wheeling costs necessary to wheel the power to the exchanging utility's system. If the utility chooses to construct facilities which are more costly than the facilities required to interconnect to the BPA system, the total costs to be exchanged shall be no greater than the facility costs that would have been incurred to interconnect with the BPA system.

[b] Distribution plant means all land, structures, conversion equipment, lines, line transformers, and other facilities employed between the primary source of supply (i.e., generating station, point of receipt in the case of purchased power) and of delivery to customers, which are not includable in transmission system, as defined in footnote a(1), whether or not such land, structures, and facilities are operated as part of a transmission system or as part of a distribution system. Stations that change electricity from transmission to distribution voltage shall be classified as distribution stations.

Where poles or towers support both transmission and distribution conductors, the poles, towers, anchors, guys, and rights-of-way shall be classified as transmission facilities. The conductors shall be classified as transmission or distribution facilities according to the purpose for which they are used. Land (other than rights-of-way) and structures used jointly for transmission and distribution purposes shall be classified as transmission or distribution according to their major use.

[c] Contract System Costs shall reflect the costs and the revenues arising from conservation and/or retail rate schedules implemented to induce conservation, and for which the utility receives billing credits. These billing credit revenues shall be functionalized on the same basis as the cost of the related conservation measures.

[d] The overall rate of return to be applied to a utility's Exchange Period rate base as shown in Appendix 1 shall be equal to its weighted average cost of long term debt. The utility's overall rate of return times rate base will equal the utility's return provided that if depreciation is not used for jurisdictional ratesetting, then return will be equal to the lessor of: (1) Interest expense plus depreciation, or (2) debt service and revenue financed captial expenditures. In no event will the sum of Contract System Cost and Distribution/Other costs be greater than the revenue requirement used to set rates.

[e] A tax-exempt utility may include in-lieu taxes up to an amount that is comparable, for each unit of government paid in-lieu taxes, with taxes that would have been paid by a nontax exempt utility to that unit of government. In no event shall the utility's regional total in column 2 be greater than the actual amount paid or the amount used to determine the total revenue requirement for the test period. In-lieu taxes shall be functionalized according to a direct analysis included with the Appendix 1 or to Distribution/Other.

[f] The cost of additional resources sufficient to serve any New Large Single Load that was not contracted for, or committed to, prior to September 1, 1979, is to be determined as follows:

(1) To the extent that any New Single Loads are served by dedicated resources, at the cost of those resources, including applicable transmission;

(2) In the amount that New Large Single Loads are not served by dedicated resources, at BPA's New Resources rates as established from time to time pursuant to section 7(f) of the Regional Act and as applicable to the utility, and applicable BPA transmission charges if transmission costs are excluded in the determination of BPA's New Resource rate, to the extent such costs are recovered by the utility's retail rates in the applicable jurisdiction; and

(3) To the extent that New Large Single Loads are not served by dedicated resources plus the utility's purchases at the new Resource Rate, the costs of such excess load shall be determined by multiplying the kilowatt-hours not served under subsections (1) and (2) above by the cost (annual fixed plus variable cost, including an appropriate portion of general plant, administrative and general expense and other items not directly assignable) per kilowatt-hour of all baseload resources and long term power purchases (five years or more in duration), as allowed in the regulatory jurisdiction to establish retail rates during the Exchange Period, exclusive of the following resources and purchases: (a) Purchases at the New Resources rate pursuant to section 7(f) of the Act; (b) purchases at the Federal Base System rate, pursuant to section 5(c) of the Act; (c) resources sold to BPA, pursuant to section 6(c)(1) of the Act; (d) dedicated resources specified in footnote k(1) of this methodology; (e) resources and purchases committed to the utility's load as of September 1, 1979, under a power requirements contract or that would have been so committed had the utility entered into such a contract; and (f) experimental or demonstration units or purchases therefrom. Transmission needed to carry power from such generation resources or power purchases shall be priced at the average cost of transmission during the Exchange Period.

(4) Any kilowatt-hours of New Large Single Loads not met under subsection (1), (2), or (3) above will be assumed to be supplied from the most recently completed or acquired baseload resource(s) or long term power purchase(s), exclusive of dedicated resources and experimental or demonstration resources or purchases therefrom, that are committed to the utility's load as of September 1, 1979, under a power requirements contract. The cost of these generation resources and long-term power purchases and the transmission cost associated with these resources or purchases will be calculated as specified in subsection (3) above.

(5) If the New Large Single Load is served on any energy or capacity interruptive basis, the utility shall prepare a calculation subject to review by BPA of the fixed (if any) and variable costs of providing such service, except that the amount excluded from ASC for the New Large Single Load shall not be less than the transmission and generation cost included in the retail rate charged the New Large Single Load.

[g] The losses shall be the distribution energy losses occurring between the transmission portion of the utility's system and the meters measuring firm energy load. Losses shall be established according to a study (engineering, statistical and other) that is submitted to BPA by the exchanging utility subject to review by BPA. This study shall be in sufficient detail so as to accurately identify average distribution losses associated with the utility's total load, excluded loads, and the residential load. Distribution losses shall include losses associated with distribution substations, primary distribution facilities, distribution transformer, secondary distribution facilities and service drops.

[h] Cash Working Capital greater than 1/8th Operations and Maintenance expenses less fuel and purchased power expenses is functionalized to Distribution/Other. The remainder of Cash Working Capital shall be functionalized on the basis of Operations and Maintenance expenses less fuel and purchased power.

[i] Conservation costs are costs of measures or resources for which power is (or is planned to be) saved by means of physical improvements, alterations, devices, or other installations which are measurable in units. A contract charge paid pursuant to BPA's long term conservation contract will be an allowable conservation cost in Average System cost. Only conservation cost funded by the utility will be functionalized to Production in the Utility's Average System Cost. Conservation costs incurred to promote changes in consumer behavior including costs attributable to audits, brochures, advertising pamphlets, leaflets, and similar items, or required by a government entity through building code provisions or programmatic conservation costs in lieu of building code provisions, will be functionalized to Distribution/Other. Conservation surcharges imposed pursuant to section 4(f)(2) of the Northwest Power Act, or other similar surcharges or penalties imposed on a Utility for failure to meet required conservation efforts will also be functionalized to Distribution/Other. Conservation and associated costs must be generally consistent with the Regional Council's resource plan as determined by the Administrator.

Functionalization:

Except for those accounts that are required to be functionalized under subsection III(C) below, functionalization of each account included in the Utility's ASC shall be by either, but not both, of the following two methods:

(1) Direct analysis, or (2) according to the specific functionalization ratios applied to the various Uniform System of Accounts. These two methods are described below in subsections III(A) and III(B), respectively.

I. Rules

(A) If a Utility has previously functionalized an account by direct analysis as set forth in subsection III(A) below, the utility is not allowed to use the specific functionalization ratio method without prior approval from BPA.

(B) the Utility must submit with its ASC filing any and all workpapers, documents, or other materials that demonstrate that the functionalization under its direct analysis assigns costs based upon the actual and/or intended functional use of those items. Failure to submit such documentation will result in the entire account being functionalized to Distribution/Other.

(C) For Accounts 389, 390, 391 and 392 and Accounts 920, 921, 922, 930.2 and 932, the utility may functionalize these accounts using one, but not any combination, of the following functionalization methods, whichever assigns the highest cost to the Production and Transmission function:

1. Subsection III(A) described below;
2. Subsection III(B) described below; or
3. For publicly-owned and cooperative utilities that have neither generation facilities nor affiliated generation organization over which the utility exercises over half of the voting rights, 10 percent of gross plant investment may be assigned directly to Production and 10 percent of labor costs assigned to Production. The remainder of Accounts 389, 390, 391, and 392 will be functionalized using Transmission and Distribution Gross Plant Ratios excluding General Plant.

The remainder of Accounts 920, 921, 922, 930.2 and 932 will be functionalized usiing the Labor Ratio for Transmission and Distribution, and the balance assigned to Distribution/Other.

II. Definitions

For purposes of subsections III(A) and III(B) *Labor Ratios* is defined as the ratios which assign costs on a pro rata basis using salary and wage data for production, transmission, and distribution/other functions included in the Test Period costs on which Appendix 1 is based. If however, this information is unavailable, comparable data shall be used for the most recent calendar year as reported on the Federal Energy Regulatory Commission Form 1 (at page 355), or similar document for those utilities not required to file Federal Energy Regulatory Commission Form 1.

III. Functionalization Methods

(A) By direct analysis which assigns costs to either the production, transmission, or distribution function of the utility. Such analysis is subject to BPA review and approval.

(B) According to the following specific functionalization methods:

Account and Functionalization Method

1. Rate Base Accounts:

310–373 (Plant in Service)—Functionalize directly according to the Federal Energy Regulatory Commission System of Accounts.
389 (Land and Land Rights)—Functionalize on the ratios of Production, Transmission and Distribution Gross Plant excluding General Plant.
390 (Structures and Improvements)—Functionalize on the ratios of Production, Transmission and Distribution Gross Plant excluding General Plant.
391 (Office Furniture and Equipment)—Labor ratios.
392 (Transportation Equipment)—Functionalize on the ratio of Transmission and Distribution Gross Plant excluding General Plant.
393 (Stores Equipment)—Functionalize on the ratio of Production, Transmission and Distribution Gross Plant excluding General Plant.
394 (Tools, Shop and Garage Equipment)—Functionalize on the ratio of Production, Transmission and Distribution Gross Plant excluding General Plant.
395 (Laboratory Equipment)—Functionalize on the ratio of Production, Transmission and Distribution Gross Plant excluding General Plant.
396 (Power Operated Equipment)—Functionalize on the ratio of Production, Transmission and Distribution Gross Plant excluding General Plant.
397 (Communication Equipment)—Functionalize on the ratio of Production, Transmission and Distribution Gross Plant excluding General Plant.
398 (Miscellaneous Equipment)—Functionalize to Distribution/Other.
399 (Other Tangible Property)—Functionalize on the ratio of Production, Transmission and Distribution Gross Plant excluding General Plant.
301–303 (Intangible Plant)—Functionalize on the ratio of Production, Transmission and Distribution Gross Plant excluding General Plant.
114 (Acquisition Adjustment)—Labor Ratios.
105 (Plant Held for Future Use)—Functionalize on the ratio of Production, Transmission and Distribution Gross Plant excluding General Plant.
120.2–120.4 less 120.5 (Nuclear Fuel)—Functionalize to Production.
186 (Miscellaneous Debits)—Labor Ratios.
252 (Customer Advances)—Functionalize to Distribution/Other.
253 (Other Deferred Credits)—Functionalize to Distribution/Other.
255 (Accumulated Deferred Investment Tax Credits)—Functionalize to Distribution/Other.
257 (Unamortized Gain on Reacquired Debt)—Functionalize on the ratio of Production, Transmission and Distribution Gross Plant excluding General Plant.
281–283 (Accumulated Deferred Income Taxes)—Functionalize to Distribution/Other.
151–152 (Fuel Stock)—Functionalize to Production.
153–157, 163 (Materials and Supplies)—Functionalize on the ratio of Transmission and Distribution Gross Plant including General Plant.
106 (Completed Construction not Classified)—Functionalize on the ratio of Production, Transmission and Distribution Gross Plant excluding General Plant.
124 (Other Investment)—Functionalize to Distribution/Other.
184 (Clearing Accounts)—Labor Ratios.
Other Rate Base Accounts—Functionalize to Distribution/Other.

2. Expense Accounts:

501–577 (Fuel, Purchased Power and Power Production Expenses)—Functionalize to Production.
560–573 (Transmission Expenses)—Functionalize to Transmission.
580–598 (Distribution Expenses)—Functionalize to Distribution/Other.
901–905 (Customer Accounts Expenses)—Functionalize to Distribution/Other.
907 (Customer Service Information Expenses-Supervision)—Functionalize to Distribution/Other.
908–910 (Other Customer Service Information Expenses)—Functionalize to Distribution/Other.
911–916 (Sales Expenses)—Functionalize to Distribution/Other.
920 (Administrative & General Salaries)—Labor Ratios.
921 (Office Supplies & Expenses)—Labor Ratios.
922 (Administrative Expenses Transferred-Cr.)—Labor Ratios.
923 (Outside Services Employed)—Labor Ratios.
924 (Property Insurance)—Functionalize on the ratio of Production, Transmission, and Distribution Gross Plant including General Plant.
925 (Injuries & Damages)—Labor Ratios.
926 (Employee Pensions & Benefits)—Labor Ratios.
927 (Franchise Requirements)—Functionalize to Distribution/Other.
928 (Regulatory Comm. Fees & Expenses)—Functionalize to Distribution/Other.
929 (Duplicate Charges-Cr.)—Labor Ratios.
930.1 (General Advertising)—Functionalize to Distribution/Other.
930.2 (Miscellaneous General Expenses)—Functionalize to Distribution/Other.
931 (Rents)—Functionalize to Distribution/Other.

3. *Revenue Accounts:*

447 (Sales For Resale)—Functionalize to Production.
450–455 (Other Operating Revenues)—Functionalize to Production.
456 (Wheeling Revenues)—Functionalize to Transmission.

(C) The Following Accounts Shall be Functionalized as Follows:

107, 120.1 (CWIP)—Functionalize to Distribution/Other.

108 (PIS Depreciation Reserve)—The same functionalization used for accounts 310–373, Plant in Service (PIS).
108 (General Plant Depreciation Reserve)—Functionalize according to the General Plant ratio.
111 (Accumulated Amortization)—The same functionalization used for accounts 301–303, Intangible Plant.
256 (Deferred Gain from Disposition of Utility Plant)—The same functionalization used for account 105, Electric Plant Held for Future Use.
403–407 (PIS Depreciation Expense)—The same functionalization used for accounts 310–373, Plant in Service.
408.1 (Other Taxes)—With the exception of property taxes and labor related taxes, all taxes will be functionalized to Distribution/Other. Property taxes will be functionalized using the gross plant ratio including general plant. Labor related taxes will be functionalized using labor ratios.
409.1, 410.1, 411.1, 411.4 (Income Taxes)—Functionalize to Distribution/Other.
932 (Maintenance of General Plant)—Functionalize according to the ratio developed from the functionalized totals of accounts 390, 391, 397 and 398.
411.6, 411.7 (Gain from Disposition of Utility Plant)—The same functionalization used for account 105, Plant Held for Future Use.
3031E

(Pacific Northwest Electric Power Planning and Conservation Act, 16 U.S.C. 839–839h)

PART 389—[AMENDED]

§ 389.101 [Amended]

3. The Table of OMB Control Numbers in § 389.101(b) is amended by inserting "35.30" in numerical order in the section column, and "19020096" in the corresponding position in the OMB Control Number Column.

(Paperwork Reduction Act (44 U.S.C. 3501–3510))

[FR Doc. 84-26424 Filed 10-4-84; 8:45 am]
BILLING CODE 6717-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

Schedules of Controlled Substances; Temporary Placement of Bromazepam, Camazepam, Clobazam, Clotiazepam, Cloxazolam, Delorazepam, Estazolam, Ethyl Loflazepate, Fludiazepam, Flunitrazepam, Haloxazolam, Ketazolam, Loprazolam, Lormetazepam, Medazepam, Nimetazepam, Nitrazepam, Nordiazepam, Oxazolam, Pinazepam, and Tetrazepam into Schedule IV

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Finale rule.

SUMMARY: This final rule is issued by the Administrator of the Drug Enforcement Administration to temporarily place twenty-one (21) benzodiazepine substances into Schedule IV of the Controlled Substances Act (CSA) [21 U.S.A. 801 *et seq.*]. The 21 benzodiazepine substances are bromazepam, camazepam, clobazam, clotiazepam, cloxazolam, delorazepam, estazolam, ethyl loflazepate, fludiazepam, flunitrazepam, haloxazolam, ketazolam, loprazolam, lormetazepam, medazepam, nimetazepam, nitrazepam, nordiazepam, oxazolam, pinazepam, and tetrazepam. This temporary scheduling action is required in order for the United States to discharge its obligations under the Convention on Psychotropic Substances, 1971. The effects of this rule will be to require that the manufacture, distribution, dispensing, security, registration, record keeping, reporting, inventory, exportation and importation of each of the 21 benzodiazepines are subject to controls for Schedule IV substances. The temporary scheduling order for each substance shall remain in effect until the process of permanent scheduling, pursuant to sections 201 (a) and (b) [21 U.S.C. 811 (a) and (b)] of the CSA, is completed.

EFFECTIVE DATE: November 5, 1984.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug Control Section, Drug Enforcement Administration, Washington, DC 20537, Telephone: (202) 633–1366.

SUPPLEMENTARY INFORMATION:

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Narcotics, Prescription drugs.

By notice of March 29, 1984, the Secretary-General of the United Nations advised the Secretary of State of the United States that the Commission on Narcotic Drugs (CND) has decided that the above 21 benzodiazepine substances be added to Schedule IV of the Convention on Psychotropic Substances, 1971.

In a letter dated May 1, 1984, the Assistant Secretary for Health, on behalf of the Secretary of the Department of Health and Human Services (DHHS), advised the Administrator of the Drug Enforcement Administration that the 21 benzodiazepines be controlled in CSA Schedule IV, using authority provided by sections 201(d)(3)(B) and 201(d)(4) (A) and (C) of the CSA. This allows for the issuance of a temporary order controlling a substance in Schedule IV or V, depending upon whichever is most appropriate to carry out the minimum United States obligations, within the time period required by paragraph 7 of article 2 of the Convention, that is, within 180 days after the date of the CND communication. The findings pursuant to sections 201 (a), (b) and 202(b) which concern an assessment of the abuse potential for each of the 21 benzodiazepines are neither established nor required for this temporary scheduling order.

On Wednesday, August 1, 1984, a notice was published in the **Federal Register** (49 FR 30748–9) proposing to temporarily place the 21 benzodiazepines into Schedule IV of the CSA. By this action, the United States would be in compliance with the drug control treaty, the Convention on Psychotropic Substances, 1971. All interested persons were given until August 31, 1984 to submit any comments or objections regarding the proposal. No comments or objections were received in response to the proposal nor were there any requests for a hearing.

Therefore, under the authority vested in the Attorney General by section 201(d)(4) (A) and (C) of the CSA (21 U.S.C. 811(d)(4) (A) and (C)) and delegated to the Administrator of the Drug Enforcement Administration by regulations of the Department of Justice (28 CFR Part 0.100), the Administrator hereby orders that paragraph (c) of § 1308.14 be amended by revising the list of controlled substances to read as follows:

§ 1308.14 Schedule IV.

* * * * *

(c) * * *

(1) Alprazolam	2882
(2) Barbital	2145
(3) Bromazepam	2748
(4) Camazepam	2749
(5) Chloral betaine	2460
(6) Chloral hydrate	2465
(7) Chlordiazepoxide	2744
(8) Clobazam	2751
(9) Clonazepam	2737
(10) Clorazepate	2768
(11) Clotiazepam	2752
(12) Cloxazolam	2753
(13) Delorazepam	2754
(14) Diazepam	2765
(15) Estazolam	2756
(16) Ethchlorvynol	2540
(17) Ethinamate	2545
(18) Ethyl loflazepate	2758
(19) Fludiazepam	2759
(20) Flunitrazepam	2763

(21) Flurazepam..... 2767
(22) Halazepam..... 2762
(23) Haloxazolam..... 2771
(24) Ketazolam..... 2772
(25) Loprazolam..... 2773
(26) Lorazepam..... 2885
(27) Lormetazepam..... 2774
(28) Mebutamate..... 2800
(29) Medazepam..... 2836
(30) Meprobamate..... 2820
(31) Methohexital..... 2264
(32) Methylphenobarbital (mephobarbital)..... 2250
(33) Nimetazepam..... 2837
(34) Nitrazepam..... 2834
(35) Nordiazepam..... 2838
(36) Oxazepam..... 2835
(37) Oxazolam..... 2839
(38) Paraldehyde..... 2585
(39) Petrichloral..... 2591
(40) Phenobarbital..... 2285
(41) Pinazepam..... 2883
(42) Prazepam..... 2764
(43) Temazepam..... 2925
(44) Tetrazepam..... 2886
(45) Triazolam..... 2887

* * * * *

Effective Dates for applicable regulations:

All regulations applicable to each of the 21 benzodiazepines as temporarily controlled substances in Schedule IV of the CSA are effective on November 5, 1984, except as otherwise provided below:

1. *Registration.* Any person who manufactures, distributes, imports or exports any of the 21 benzodiazepines or who engages in research or conducts instructional activities, must apply for registration by November 5, 1984, to conduct such activities in accordance with Parts 1301 and 1311 of Title 21 of the Code of Federal Regulations.

2. *Security.* Each of the 21 benzodiazepines must be manufactured, distributed and stored in accordance with §§ 1301.71–1301.76 of Title 21 of the Code of Federal Regulations.

3. *Labeling and Packaging.* All labels and labeling for commercial containers of each of the 21 benzodiazepines must comply with the requirements of §§ 1302.03–1302.05 and 1302.08 of Title 21 of the Code of Federal Regulations by February 4, 1985.

4. *Inventory.* Every registrant required to keep records who possesses any quantity of any of the 21 benzodiazepines must take inventories pursuant to §§ 1304.11–1304.19 of Title 21 of the Code of Federal Regulations, of all stocks of these substances on hand.

5. *Records and Reports.* All registrants required to keep records and submit reports pursuant to Part 1304 of Title 21 of the Code of Federal Regulations shall do so regarding each of the 21 benzodiazepines.

6. *Prescriptions.* None of the 21 benzodiazepines can be prescribed since none have attained accepted medical use in treatment status in the United States, as would be indicated by approval of a new drug application by the Foods and Drug Administration.

7. *Importation and Exportations.* All importation and exportation of each of the 21 benzodiazepines shall be in compliance with Part 1312 of Title 21 of the Code of Federal Regulations.

8. *Criminal Liability.* The Administrator, Drug Enforcement Administration, hereby orders that any activity with respect to each of the 21 benzodiazepines not authorized by, or in violation of, the Controlled Substances Act or the Controlled Substances Import and Export Act, conducted after (November 5, 1984) shall be unlawful, except that any person who is not now registered to handles each benzodiazepine but who is entitled to registration under such Acts may continue to conduct normal business or professional practice with any of the 21 benzodiazepines between the date on which this rule is published and the date which the person obtains or is denied registration provided that the application for such registration is submitted on or before November 5, 1984.

Pursuant to 5 U.S.C. 605(b), the Administrator certifies that the placement of the 21 benzodiazepines into Schedule IV of the CSA will have no impact upon small businesses or other entities whose interests must be considered under the Regulatory Flexibility Act (Pub. L. 96–354). This action involves the initial control of substances with no legitimate medical use in the United States and must be carried out in order to fulfill United States international treaty obligations, in any event.

In accordance with the provisions of 21 U.S.C. 811(d), this scheduling action is a formal rulemaking that is required by United States obligations under international convention, that is, the Convention on Psychotropic Substances, 1971. Such formal proceedings are conducted pursuant to the provisions of 5 U.S.C. 556 and 557, and as such, have been exempted from the consultation requirements of Executive Order 12991 (46 FR 13193).

Dated: October 1, 1984.

Francis M. Mullen, Jr.,

Administrator, Drug Enforcement Administration.

[FR Doc. 84–26380 Filed 10–4–84; 8:45 am]
BILLING CODE 4410–09–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 244

Wind River Reservation Game Code

September 24, 1984.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Interim rule and request for comments.

SUMMARY: The Bureau of Indian Affairs is publishing an interim rule for a new program which will establish a controlled wildlife hunting program on the Wind River Reservation in order to conserve, protect and increase the existing wildlife in the reservation area. Studies conducted on the Wind River Reservation indicate that certain species of wildlife are in danger of being hunted to the point where normal propagation and recovery will not occur unless a Game Code is implemented. Immediate implementation of a Game Code will provide conservation efforts to assure future wildlife habitation on the reservation.

DATES: This interim rule will become effective October 5, 1984. Comments must be received no later than November 5, 1984.

ADDRESSES: Send written comments to Sidney L. Mills, Director, Office of Trust Responsibilities, Code 200, Bureau of Indian Affairs, Department of the Interior, 1951 Constitution Avenue, NW., Washington, D.C. 20245.

FOR FURTHER INFORMATION CONTACT: Gary Rankel, Fish and Widlife Resources Specialist, Office of Trust Responsibilities, Bureau of Indian Affairs, telephone number (202) 343–4004.

SUPPLEMENTARY INFORMATION: This interim rule is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8. The objective of this rule is to establish a Game Code on the Wind River Reservation which will conserve, protect and eventually increase the wildlife on the Reservation.

The Wind River Reservation encompasses 1,886,556 acres in Fremont and Hot Springs counties in Wyoming. The Reservation was orginally granted to the Shoshone Tribe by the Fort Bridger Treaty of 1863. In 1878, the Arapahoe Tribe was temporarily placed on the Reservation. The temporary status gradually became permanent and the Reservation is now shared by both tribes, *see Shoshone Tribe* v. *United*

States, 299 U.S. 476 (1937). The hostility which existed between the two tribes in early times has diminished but they continue to govern themselves separately. Each tribe has its own tribal council, and there is a joint business council of members from each tribe to conduct the business for the Reservation as a whole.

The topography of the Wind River Reservation varies from 4,200 feet at Boysen Reservoir to over 13,000 feet in the Wind River Mountains in the western part of the Reservation. The diversity of the topography provides excellent habitat for waterfowl and big and small game animals.

The fact that each tribe has it own council and governs itself separately has contributed to the necessity of this Game Code. In 1980, the Shoshone Tribe approved a Game Code for the Reservation, but the Arapahoe Tribe did not approve on the basis that the Code was too restrictive. In 1983, there was an extensive kill of big game animals on the Reservation. Again, the Arapahoe Tribe refused to accept a Game Code for the Reservation. In view of the requests by the Shoshone Tribe and studies conducted by the U.S. Fish and Wildlife Service, Lander, Wyoming, the Bureau of Indian Affairs has determined that a Game Code is needed on the Wind River Reservation. The U.S. Fish and Wildlife Service studies indicate that, unless a Game Code is adopted on the Wind River Reservation, wildlife could be reduced to a point where normal propagation and recovery will not occur.

This interim rule is intended for use only until it can be replaced with permanent regulations made with proper notice and public procedures. Comments are, therefore, invited on the interim rule for a period of 30 days after their publication. Upon consideration of the comments, permanent regulations will be developed and promulgated.

In order to permit hunting during the upcoming autumn hunting season for 1984, these regulations are issued on an emergency basis and may be subject to modification by the Wind River Agency Superintendent. Modifications will be advertised through local newspapers, postings on bulletin boards located at the Wind River Reservation Agency Headquarters, Post Office and tribal headquarters, and through other routine communications procedures. Therefore, the Department of the Interior has determined that good cause exists to make these regulations effective immediately under the exception provided for in 5 U.S.C. 553(d)(3).

The Department finds that there is an immediate need to protect reservation wildlife resources. The hunting season on the Reservation has already begun, and the studies conducted by the U.S. Fish and Wildlife Service indicated that in the absence of a Game Code wildlife could be reduced to a point where normal propagation and recovery will not occur. The Department thus finds that notice and comment procedures prior to making the rule effective are impracticable, unnecessary, and contrary to the public interest under 5 U.S.C. 553(b)(B).

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291. Because the program will be confined to a localized area (Wind River Reservation Area) the economic effects will be relatively insignificant and essentially no detectable economic fluctuation will occur either on or outside the reservation. Over time, discernable economic gain imposed through licensing will be directed into wildlife management and research by existing employees. Conversely, a short-term economic loss may be manifested only through a reduction in supplemental food availability on a case-by-case basis. Consequently, the potential for significant economic impact is diminished to the point of being undetectable.

The Department of the Interior certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The interim rule will affect only a small percentage of the total United States population: approximately 5,505 enrolled members of the Wind River Reservation. The interim rule will not have any effect on other United States based enterprises because the rule only provides the regulations for the hunting program on the Wind River Reservation, and there are no competing products or services involved.

The information collection requirements contained in § 244.17 have been approved by the Office of Management and Budget as required by 44 U.S.C. 3504(h) *et seq.*, and have been assigned approval number 1076–0085.

The primary author of this document is Dave Pennington, Billings Area Office, Bureau of Indian Affairs, Billings, Montana, telephone number (406) 657–6325.

Because of the need to promulgate these regulations on an emergency basis if the wildlife resources of the Wind River Reservation are to be protected, there has been insufficient time to prepare an environmental impact statement or assessment. An environmental impact statement or assessment, as appropriate, will be prepared before these regulations are made permanent (i.e., after the notice and comment period).

List of Subjects in 25 CFR Part 244

Indian-lands, Wildlife-animals, and Hunting.

Subchapter J of Title 25 of the Code of Federal Regulations is amended by adding a new Part 244 to read as follows:

PART 244—WIND RIVER RESERVATION GAME CODE

Sec.

244.1 Purpose and information collection.
244.2 Definitions.
244.3 Administration and supervision.
244.4 Closed areas, pre-Sundance season, and predatory and small game season.
244.5 Waterfowl hunting.
244.6 Endangered species.
244.7 Protected species of birds and mammals.
244.8 Trapping regulations.
244.9 Authorized enforcement officers.
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Authority: 43 U.S.C. 1457; 25 U.S.C. 2, 9; Reorganization Plan No. 3 of 1950 (64 Stat. 1262); 18 U.S.C. 1165; Lacey Act Amendments of November 16, 1981, 16 U.S.C. 3372; Treaty of Fort Bridger, July 3, 1868 (15 Stat. 673); 5 U.S.C. 301.

§ 244.1 Purpose and information collection.

(a) The purpose of these regulations is to ensure proper wildlife management and protection on the Wind River Indian Reservation while concurrently providing the opportunity for tribal members to utilize the wildlife resources. This Game Code will remain in full force and effect until such time that it is replaced by a Code jointly adopted by the Shoshone and Arapahoe Tribes.

(b) The information collection requirements contained in § 244.17 have

been approved by the Office of Management and Budget under 44 U.S.C. 3504(h) and assigned clearance number 1076–0085. This information will be collected to support the Wind River Agency Superintendent in managing and regulating the harvest of wildlife on the Reservation. The information will be used to identify eligible participants in the hunting program. Response is mandatory for exercise of hunting privileges.

§ 244.2 Definitions.

As used in this part:

"Aircraft" means any flying machine whether fixed-wing or helicopter.

"Antlered Deer" means any antlered mule deer, or whitetail deer, including deer with spikes.

"Any Elk" means an elk of any age and of either sex.

"Area Director" means the Director of the Billings Area Office of the Bureau of Indian Affairs.

"Authorized Officer" means any law enforcement officer of the Department of the Interior, and any other person authorized by this Part to enforce these regulations.

"Bag Limit" means the maximum limit, in number amount, of a particular species of wildlife, which may lawfully be taken by one person in one day.

"Big Game" means any one of the following species of animals: elk, mule deer, whitetail deer, bighorn sheep, moose, antelope, black and grizzly bear, and mountain lion.

"Buck Antelope" means a male antelope with horns longer than his ear.

"Bureau" means Bureau of Indian Affairs (BIA).

"Carcass" means the dead body of an animal or parts thereof.

"Closed Season" means the time during which wildlife may not be lawfully taken.

"Cross-Country Vehicles" means those vehicles designed or used to travel on the snow or across the terrain, including, but not limited to, snow cats, snowmobiles, all-terrain vehicles, four-wheel drive vehicles and dirt bikes.

"Drift Fence" means the main North to South barbed wire fence constructed by the Civilian Conservation Corps (CCC) in 1936 to control livestock movement on the Wind River Reservation.

"Falconry" means the taking of wildlife with birds of prey.

"Fur-Bearing Animals" means muskrats, racoons, marten, mink, beaver, badger and weasel.

"Harass" means to chase, shoot at, or, in any other manner, intentionally disturb wildlife.

"Hunting" means to take any bird or animal by any means.

"License" means a written document granting authority to engage in specific activities covered in this Code.

"Member" means any enrolled member of the Shoshone or Arapahoe Indian Tribes.

"Nongame Animals" means all wild animals except big game, small game, fur-bearing animals, predatory animals, and aquatic wildlife.

"Nongame Birds" means all birds except upland game birds and migratory game birds.

"Non-Member" means any individual who is not enrolled in either the Shoshone or Arapahoe Tribes.

"Pollution of Water" means the discharge or dumping into any stream or body of water, or depositing within such distance that it may be carried into such water, any poisonous, deleterious, or polluting substance or waste that is or may be injurious to aquatic or non-aquatic wildlife, domestic animals or human beings.

"Predatory Animals" means foxes, skunks, and coyotes.

"Pre-Sundance" means the designated period of time before the Sundance ceremony.

"Reservation" means the Wind River Indian Reservation.

"Road" means any maintained road that has been used by the public.

"Scientific Collection Permit" means a special permit issued for the taking of wildlife specimens for scientific purposes.

"Small Game" means any of the following species of mammals: cottontail rabbit, jack rabbit, snowshoe hare, marmot (rock chuck) and prairie dog.

"Snowmobile" means any motorized vehicle designed for travel on snow and/or ice and steered and supported in whole or in part by skis, belts, cleats, runners, or low pressure tires.

"Sundance" means the annual religious ceremony approved by the Arapahoe and Shoshone Tribal Councils.

"Superintendent" means the Superintendent of the Wind River Agency, Bureau of Indian Affairs.

"Tag" or "Big Game Tag" means an identification device issued for attachment to the carcass of big game animals.

"Take" or "Taking" means pursuing, shooting, shooting at, hunting, netting (including placing or setting any net or other capturing device), killing, capturing, snaring, or trapping wildlife, or attempting any of the foregoing.

"Trapping" means the taking of wildlife in any manner except with gun or implement in hand.

"Upland Game Bird" means any of the following species of birds: sage grouse, blue grouse, ruffed grouse, hungarian (gray) partridge, chukar, pheasant, mourning dove and rock dove.

"Waterfowl" means all species of ducks and geese (not including swans) of the Order Anseriformes.

"Wildlife" means any wild forms of birds and mammals including their nests and eggs.

"Wildlife Area" means an area established by the Department of the Interior—BIA for special wildlife protection, research, or management practices.

§ 244.3 Administration and supervision.

(a) The Billings Area Office Director is authorized by the Assistant Secretary for Indian Affairs to be the official in charge of the Game Code. Local administration of the program will be the responsibility of the Wind River Agency Superintendent.

(b) When Part 244 is published in the **Federal Register**, the Wind River Agency Superintendent shall establish the hunting season, define the hunting areas, set the permit fees and establish season limits for all wildlife hunting for the 1984 season. The Superintendent shall after consultation with the Tribes, establish the hunting season, define the hunting areas, set the permit fees and establish season limits for all wildlife hunting on or before June 1 of each year thereafter. Also, on or before June 1, the Area Director shall notify the Tribal Councils, in writing, and publish in the Riverton Ranger newspaper, the explicit hunting program for that year, and the Superintendent shall post such hunting program on bulletin boards located at the Reservation Agency headquarters, Post Office and tribal headquarters.

(c) The Area Director is authorized to make in-season and emergency changes when necessary to ensure proper implementation of the Game Code. The Superintendent is responsible for having each emergency or in-season adjustment published in the local newspaper as a legal notice, and post each such adjustment on bulletin boards located at the Reservation Agency headquarters, Post Office and tribal headquarters, at least twenty-four hours before it becomes effective.

§ 244.4 Closed areas, pre-Sundance season, and predatory and small game season.

(a) *Closed areas.* The following areas are closed to all big game hunting:

(1) The Wind and Big Wind Rivers, Little Wind River, South and North Forks of the Little Wind River below the "Drift Fence", and the Popo Agie River;

(2) Land below the "Drift Fence"; and

(3) The Wind River Canyon proper.

(b) *Pre-Sundance deer and elk season.* The Superintendent shall establish an open season for male deer and male elk before the Sundance ceremony. Hunting of does, fawns, cows or calves shall be prohibited. Sundance participants (hunting) must be verified by an elder of the Sundance prior to obtaining a permit from the Superintendent. Permittees must report harvest information to the Superintendent. (See Section 244.17(e)(6) for reporting requirements.)

(c) *Predatory and small game season and bag limit(s).* Hunting shall be open all year for predatory and small game animals. There is no bag limit for predatory and small game animals.

§ 244.5 Waterfowl hunting.

Hunting of waterfowl on the Reservation must comply with the rules and regulations promulgated under the Federal Migratory Bird Treaty Act.

§ 244.6 Endangered species.

The following list of species are Federally classified as endangered or threatened with extinction and are protected from all hunting, taking or harassment on the Reservation:

(a) Bald Eagle,
(b) Black-Footed Ferret,
(c) Gray Wolf,
(d) Grizzly Bear, and
(e) Whooping Crane.

§ 244.7 Protected species of birds and mammals.

The following species of birds and mammals are completely protected from any hunting, trapping, shooting or taking on the Reservation:

(a) Golden Eagle;

(b) All species of hawks and falcons (Order Falconiformes);

(c) All species of owls (Order Strigiformes);

(d) Whistling and trumpeter swans (Order Anseriformes—Sub-family Cygninae);

(e) All species of migratory shorebirds, wading birds, and seabirds including loons, grebes, cormorants, herons, egrets, pelicans, cranes, curlews, plovers, avocets, phalaropes, sandpipers, gulls, and terns (orders Gaviiformes, Podicipediformes, Pelicaniformes, Ciconiiformes, Gruiformes [Family Gruidae], and Charadriiformes);

(f) All species of songbirds including woodpeckers, swallows, swifts, hummingbirds, nighthawks, kingfishers, jays, ravens, wrens, thrushes, chickadees, bluebirds, vireos, warblers, blackbirds and sparrows (orders Caprimulgiformes, Apodiformes, Piciformes, and Passeriformes); and

(g) Lynx, river otter, wolverine, fisher, marten, and bobcat.

§ 244.8 Trapping regulations.

Trapping will be allowed only in areas designated by the Wind River Agency Superintendent. The Superintendent will establish the trapping season each year and list the animals that can be trapped. Each trapper must obtain a trapping permit from the Superintendent. Also, each trapper must identify individual traps with a metal tag bearing his name. The Superintendent shall designate which trapped animal needs a pelt tag and the Superintendent shall set the cost of the pelt tag.

§ 244.9 Authorized enforcement officers.

Department of the Interior peace officers and other officers designated by the Bureau shall have the authority and the duty to enforce the provisions of the Game Code, and shall be referred to in this Code as "Authorized Officers."

§ 244.10 Violations of game code.

(a) Any person who violates any provision of this Game Code shall be subject to prosecution in federal court under applicable laws, e.g., 18 U.S.C. 1165 and the Lacey Act Amendments of November 16, 1981, 16 U.S.C. 3371. Any member who has committed a violation of this Code shall be subject to a fine of not more than $10,000, or to imprisonment of not more than one year, or to a combination of both fine and imprisonment per offense.

(b) Any wildlife taken, or firearms, vehicles, or other equipment used in violation of this Code may be confiscated as provided for under 16 U.S.C. 3374.

§ 244.11 Hunting by non-members prohibited.

There shall be no hunting by persons other than enrolled members of the Shoreshone and Arapahoe Tribes on any Indian land of the Reservation. Non-enrolled spouses of tribal members are not allowed to hunt.

§ 244.12 Firearms restrictions.

For hunting big game, the use of firearms with a barrel bore diameter of less than .23 (23/100) of an inch, or chambered to fire a cartridge less than two inches in overall length, will not be allowed. Firearms for hunting upland game birds (excluding blue and ruffed grouse) and waterfowl are restricted to shotguns of twelve (12) gauge or smaller. Ten (10) gauge shotguns are allowed only for goose hunting. The use of fully automatic weapons or devices designed to silence or muffle the sound of any firearm for hunting any wildlife is prohibited.

§ 244.13 Prohibited hunting procedures.

The following hunting procedures are illegal and prohibited on the Reservation.

(a) *Hunting with aircraft or motor vehicle.* No person shall pursue, harass, hunt, shoot, or kill any wildlife with, from, or by use of aircraft or motorized vehicle (truck, automobile, motorcycle, all terrain vehicle or vehicle designed for travel over snow).

(b) *Use of artificial light.* No person shall hunt, pursue or kill any game animal or game bird, through the use of any artificial light or lighting device (including spotlights, and automobile, snowmobile, all terrain vehicle and motorcycle headlights).

(c) *Sale of game and blood antlers.* No person shall sell, offer for sale, or barter, or have in possession with intent to sell, any wildlife, blood antlers or any edible portion of any game animal or bird. No person shall obtain by sale or barter, any wildlife, blood antlers or any edible portion of any game animal or bird.

(d) *Wanton waste of game.* (1) No person who takes any upland game bird, waterfowl, or big game animal, shall abandon or intentionally or needlessly allow to go to waste, any portion thereof. The failure of any person to properly dress and care for any big game animal killed by that person, and, if the carcass is reasonably accessible, the failure to take or transport the carcass to the camp of that person, and there properly care for the carcass within 48 hours after killing, is prima facie evidence of a violation (see § 244.10).

(2) No person shall abandon edible portions of a big game animal or game bird at a meat processing plant. The leaving of edible portions of a big game animal at a processing plant for more than 90 days shall be considered prima facie evidence of a violation. The owners or operator in charge of any meat processing plant shall immediately report the violation to the Superintendent. Notwithstanding any other provision of this Code, the owner of the plant is entitled to all or a portion of the abandoned meat, or to the proceeds of sale by ruling of Federal Court of any meat abandoned, up to the amount of reasonable processing and storage charges, following a conviction or within a reasonable time after the violation is reported.

(e) *Shooting from or across roads.* No person shall fire any firearm from, upon, along or across any public road or highway.

(f) *Hunting big game with dogs.* No person shall use dogs to track, chase, kill, or in any other way hunt big game animals. Dogs so used or observed harassing big game animals may be shot by enforcement officers to protect big game animals.

(g) *Use of poisons.* The use of any poisons to take any wildlife is prohibited.

(h) *Unlawful possession of wildlife.* It shall be unlawful to possess any wildlife or parts thereof unless it can be shown by the possessor that he or she has the requisite license and/or tags or other express written authorization by the BIA to hunt or take such animal, or that the animal was given to the possessor by a licensed hunter or trapper.

(i) *Hunting with the firearm while intoxicated or under influence of a controlled substance.* (1) It shall be unlawful for any person intoxicated or under the influence of a controlled substance to carry a firearm (loaded), or to take any wildlife.

(2) It shall be unlawful for any person to handle or discharge a firearm in a careless or reckless manner, or with wanton disregard for the safety of human life and property.

(j) *Aiding in concealment of wildlife unlawfully taken or possessed.* No person shall knowingly aid or assist in the concealment of any wildlife that has been unlawfully taken or is unlawfully possessed.

(k) *Hunting on private property or near buildings without permission.* (1) No person shall hunt, trap or discharge firearms upon the private property of another without knowledge and consent of the property owner.

(2) No person shall hunt or discharge firearms within 200 yards of an occupied building, whether on privately-owned or Tribal land, without the consent of the person(s) occupying such building.

(l) *Destruction of private or public property.* No person shall deface, shoot at, or destroy public or private property, including signs, fences, livestock or improvements.

(m) *Hiring another to hunt or hunting for remuneration.* No person shall hire another person to hunt game for him or her, nor shall any person hunt game animals for another in return for payment of goods, services, or money.

§ 244.14 Hunters required to wear colored clothing.

No person shall hunt any big game animal without wearing, in a visible manner, exterior garments of a fluorescent orange color, which shall include a hat, and either a shirt, vest, jacket, coat, sweater or other upper body garment.

§ 244.15 Hunting hours.

No person shall pursue, shoot, kill or attempt to take any wildlife between ½ hour after sunset of one day and ½ hour before sunrise of the next day.

§ 244.16 Age restrictions.

The following age restrictions shall apply for hunting on Indian lands on the Reservation.

(a) The minimum age to take any big game animal is 14 years.

(b) No person under 12 years of age may take any game bird, small game, waterfowl or predator unless accompanied by an adult.

(c) Non-enrolled children of enrolled members may take wildlife, but, at age 16, non-enrolled children lose all tribal hunting and trapping rights.

§ 244.17 Permit requirements, costs and procedures.

The following permit program will be implemented for qualified persons to hunt on Indian lands on the Reservation.

(a) *Requirements.* (1) No person shall be allowed to take or attempt to take any wildlife without a proper permit and tags (see § 224.18) in their possession. Also, no person taking or attempting to take wildlife on the Reservation shall fail or refuse to exhibit their permit(s) to an authorized officer upon request.

(2) State of Wyoming hunting licenses shall not be required for enrolled tribal members hunting on Indian lands of the Reservation.

(b) *Permit costs.* Permit fees for hunting on Indian lands on the Reservation will be established annually and published by the Superintendent and will be used for the purposes of administering this game code.

(c) *Procedures.* (1) Permits (licenses) shall be issued in the name of the Department of the Interior—BIA. Each permit shall be signed by the permittee in ink on the face thereof. Any permit not signed is invalid. With each permit authorizing the taking of wildlife, the Bureau shall provide such tags as required. Tags shall be attached in a manner prescribed by the Superintendent.

(2) It shall be unlawful for any person to obtain and sign, as a permittee in any one permit year, more than one tag for the taking of each authorized big game species.

(3) The Bureau may issue a duplicate permit, provided that the person requesting such duplicate permit furnishes the information deemed necessary. A fee of $2.00 shall be collected for each duplicate permit issued.

(d) *Permit conditions required.* All persons to whom permits are issued by the Bureau shall be required to sign permit conditions before any such permit shall be valid. The permit conditions shall be in the form provided by § 244.17(e). The permit conditions shall be signed by the applicant in the presence of the person issuing the permit.

(e) *Permit conditions.* Permit conditions shall be printed on the back of all permits and shall take the following form:

(1) I hereby agree as consideration for the granting of this permit, that the following terms and conditions govern my use of the permit.

(2) I agree to obey all Federal laws and regulations.

(3) I consent to the absolute and exclusive jurisdiction of Federal Court for any disputes arising from my use of resources administered by the Federal Government.

(4) I understand that taking of wildlife on the Wind River Reservation is conditioned on my obedience of Federal laws and regulations and that violation of such laws and regulations makes me subject to arrest, Federal court action, loss of present and future permits and seizure of property as security for payment of potential financial obligations to the Department of the Interior.

(5) I understand that willfully using wildlife resources contrary to the terms of Federal law or regulation, constitutes theft of Federal assets and is a violation of Federal law.

(6) I agree to return all unused tags within 20 days after close of the season. For each tag used to tag a harvested animal, the following information must be provided to the Superintendent no later than 20 days after the close of the big game season:

(i) Species of animal killed.

(ii) Sex of animal killed.

(iii) If a deer or elk, list number of points, or if a spike.

(iv) Date animal was killed.

(v) Approximate location of kill.

(7) For each tag a hunter does not return or for which the above harvest information is not provided, either in person or by mail, to the Superintendent within the allotted time frame, loss of hunting privileges for one or more big game seasons, will result. This information is needed to obtain a profile of the big game harvest to aid in setting future seasons and properly manage big game on the Reservation.

(8) The front of the permit form shall contain the following words, "I have read and hereby agree to abide by the Wind River Reservation Game Code and Permit conditions as stated on the

reverse. This permit is not valid unless signed in ink in the presence of designated official."

(f) *Revocation and denial of right to obtain permit: Notice.* In addition to or as an alternative to pursuing the other remedies provided by this Code, the Superintendent, after notice, may suspend or revoke, for a period not to exceed five years, the permit and privilege to take wildlife of any person who:

(1) Unlawfully takes or possesses wildlife.

(2) Carelessly uses a firearm or other weapon.

(3) Destroys, injures, or molests livestock, or damages or destroys crops, personal property, notices, signboards, or other improvements while taking wildlife.

(4) Before any such suspension or revocation, the Superintendent shall notify the person whose privileges may be suspended to appear and show cause why they should not be suspended.

(5) The Superintendent shall maintain the names and addresses of persons whose permits have been revoked or suspended, and the periods for which they have been denied the right to secure permits.

(g) *Obtaining a permit by fraud or misrepresentation.* (1) No person shall, by fraud or misrepresentation, obtain a permit to take wildlife, and any permit thus obtained is null and void from the date of issuance thereof.

(2) It shall be unlawful for any person to issue a permit of any kind to a person whose privileges to obtain that permit has been suspended or revoked. Any permit issued to a person whose privilege to have that permit has been revoked or suspended, shall be void.

(h) *Transportation permits.* A person may transport big game legally taken by another person provided that the big game has attached to it a permit for the taking of that game endorsed by the person who took it. Wildlife shall be transported in such a manner that it may be inspected by authorized persons upon demand until the wildlife is processed. No person shall possess more than one bag or possession limit of any species of wildlife, except for the purpose of transportation. The Superintendent can be contacted for information on transporting game off of the Reservation.

§ 244.18 Civil penalties.

In addition to or as an alternative to pursuing the other remedies provided by this Code, violators shall be subject to the Civil Penalty provisions of 16 U.S.C. 3142(g). The rules and procedures for the assessment of civil penalties and forfeitures included in 50 CFR Parts 11 and 12 shall be followed by the Superintendent in referring cases to the Office of the Solicitor, Department of the Interior.

§ 244.19 Tagging procedure for harvested big game and some fur-bearing animals.

(a) Tags are required for hunting big game and some fur-bearing animals on the Reservation. The Superintendent shall publish a list on or before June 1 of the animals that can be hunted with required tags.

(b) Upon application for a big game permit, tags will be issued for each species for which a permit is issued. Each tag shall bear the permittee's big game permit number and name of the species for which it is issued. Tags are not transferable. Evidence of sex must remain attached to the carcass in the field and during transportation. Big game tags shall be carried by the permittee at all times while hunting. No big game animal shall be transported, stored, or possessed unless the tag has been securely attached.

§ 244.20 Restrictions on motor vehicle use, posting of notices and exceptions.

(a) *Motor vehicle use.* When the Superintendent determines that the operation of motor vehicles within a certain area is or may be damaging to wildlife reproduction, wildlife management, wildlife habitat, or special studies, the Superintendent may post notices closing the area(s) to motor vehicles for a designated period of time, *Provided That*: All roads in the area shall remain open unless specifically closed.

(b) *Notices of restrictions, posting and publication.* For all areas specified pursuant to § 244.(20a), the Superintendent shall cause notice of the restrictions, prohibitions or permitted uses of such area to be posted, prior to the effective date of such changes in use, the main roads and highways entering such area and at such locations as the Area Director deems appropriate. In addition to the posted notices required by § 244.20(a), the Superintendent shall cause a notice of such restrictions, prohibitions, or permitted uses, together with a description of the area, to be published in the local newspaper prior to the effective date of such changes in use.

(c) *Roadless area.* In compliance with 25 CFR Part 265, no person shall drive any motor-operated vehicle in the designated Wind River Roadless Area. Also, it is illegal to operate any motor-operated vehicle cross-country on Federal lands where cross-country driving is prohibited.

(d) *Exceptions.* The restrictions, prohibitions or permitted uses established in § 244.19(a) shall not apply to:

(1) Public employees acting within the scope of their employment.

(2) Holders of valid licenses or permits. Holders of such licenses and permits shall be limited to the specified purposes and area of travel for which such licenses or permits were issued or granted.

(3) A licensed hunter who enters an area solely to pick up a big game animal which he/she has legally killed.

(4) Emergency situations, such as fire or other disasters, or when otherwise necessary to protect life or property.

§ 244.21 Interference with persons engaged in authorized activities.

Disturbing, molesting or interfering with any employee of the United States or of any local or state government employee engaged in official business, or with any private person engaged in the pursuit of an authorized activity on the Reservation is prohibited.

§ 244.22 False personation.

(a) Whoever falsely assumes or pretends to be an officer or employee acting under the authority of the United States or any department, agency or office thereof, and acts as such, or in such pretended character demands or obtains any money, paper, document or thing of value, shall be fined not more than $1,000 or imprisoned not more than three years, or both.

(b) Whoever falsely represents himself/herself to be an officer, agent, or employee of the United States, and in such assumed character arrests or detains any person or in any manner searches the person, buildings or other property of any person, shall be fined not more than $1,000 or imprisoned not more than three years, or both.

§ 244.23 Expenditures of funds, source and functions.

The Area Director and Superintendent may expend such funds as may become available from funds appropriated to carry out the provisions of this Game Code, including, but not limited to, expenditures for:

(a) Investigations and surveys of actual or possible wildlife habitat damage by motor vehicles and the study of areas to be recommended for cross-country vehicle use.

(b) Posting notices of restrictions, prohibitions and permitted uses of motor vehicles.

(c) Providing maps.

(d) An information and education program on wildlife habitat preservation and restoration.

(e) The enforcement of the provisions of this Game Code or any rule or regulation adopted pursuant to this Code.

§ 244.24 Taking birds.

No person shall take or injure any bird or harass any bird upon its nest, or remove the nest or eggs of any bird, except as may occur in normal horticultural and agricultural practices and as may be authorized by the Area Director. Nothing in this Code shall be construed to prohibit the taking of such birds for scientific purposes.

§ 244.25 Other prohibited activities.

Except as otherwise provided by this Code, in addition to all other activities prohibited, while hunting, by this Code, it shall be unlawful for any person to:

(a) Destroy or deface signs, tables, improvements, crops, or personal or real property;

(b) Destroy, remove, injure or cut any green tree on the Reservation without written BIA authorization;

(c) Cut, damage, or destroy any fence on the Reservation;

(d) Hunt big game on the Reservation without a valid permit in possession;

(e) Take big game in excess of the number permitted by Bureau regulations or hunt big game during a period of the year not permitted by Bureau regulations;

(f) Hunt big game in any manner or place not permitted by Bureau regulations;

(g) Enter upon land closed to entry while hunting, fishing, camping, or hiking or while travelling on the Reservation;

(h) Detach or remove, or attempt to detach or remove from the carcass of a big game animal, a portion thereof for the purpose of misrepresenting or concealing the species or sex of the animal;

(i) Use any explosive compound or corrosive, narcotic, poison or other deleterious substance for the purpose of taking, stunning, or killing, birds, small game or big game;

(j) Take, possess, transport, buy, sell or offer for sale any migratory bird taken on the Reservation, except as permitted by this Code or other Federal regulations;

(k) Carry, transport, or possess devices for taking game within or upon a game refuge, except as permitted by this Code or other Federal regulations;

(l) Enter any special use area of the Reservation without a proper Special Use Permit;

(m) Disobey a lawful order of any authorized officer; or

(n) Cross-country ski, snowmobile, sled, tube or toboggan in key wildlife winter critical habitat areas closed to such activities upon public notice from the Superintendent.

Kenneth L. Smith,

Assistant Secretary—Indian Affairs.

[FR Doc. 84-26844 Filed 10-4-84; 8:45 am]

BILLING CODE 4310-02-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7981]

Income Tax; Taxable Years Beginning After December 31, 1953; Limitation on Aggregate Amount of Private Activity Bonds

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary income tax regulations relating to the tax exempt status of private activity bonds. This action is necessary because of changes to the applicable tax law made by the Tax Reform Act of 1984. These regulations affect all purchasers and governmental issuers of tax exempt private activity bonds. In addition, the text contained in the temporary regulations set forth in this document serves as the text of the proposed regulations cross-referenced in the notice of proposed rulemaking in the Proposed Rules section of this issue of the **Federal Register**.

DATE: The temporary regulations are effective in general for governmental obligations issued after December 31, 1983.

FOR FURTHER INFORMATION CONTACT: Mitchell H. Rapaport of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3590).

SUPPLEMENTARY INFORMATION:

Background

This document contains temporary regulations relating to the limitation on the aggregate amount of private activity bonds that may be issued by a governmental unit under section 103(n) of the Internal Revenue Code of 1954 as amended by section 621 of the Tax Reform Act of 1984 ("the Act") (Pub. L. 98-369; 98 Stat. 915). Further, new §§ 1.103(n)-1T through 1.103(n)-6T are added by this document to Part 1 of Title 26 of the Code of Federal Regulations. The temporary regulations provided by this document will remain in effect until superseded by final regulations on this subject.

Explanation of Provisions

Section 103(n) of the Internal Revenue Code of 1954 provides that a private activity bond issued as part of an issue shall not be treated as an obligation described in section 103(a) if the aggregate amount of private activity bonds issued by the issuing authority during the calendar year exceeds such authority's private activity bond limit for the calendar year. Section 103(n), in effect, provides a ceiling on the aggregate amount of private activity bonds that may be issued within a State during a single calendar year.

In general, the term "private activity bond" means industrial development bonds or student loan bonds the interest on which is tax exempt under section 103(a). There are three principal exceptions to this general definition, however.

First, obligations described in section 103(b)(4)(A) to provide residential rental projects and housing program obligations issued under the United States Housing Act of 1937 are not private activity bonds.

Second, obligations that are part of an issue substantially all of the proceeds of which are to be used to provide a facility described in section 103(b)(4) (C) or (D) (other than a parking facility) are not private activity bonds if the property described in those subparagraphs is owned for Federal income tax purposes generally by, or on behalf of, a governmental unit. This exception applies only to certain large, one-time projects that are traditionally thought of as public facilities and only if a governmental unit owns the facility. For this reason, for purposes of § 1.103(n)-2T, the term "facility" has been construed broadly. Thus, § 1.103(n)-2T provides, generally, that this exception to the definition of the term private activity bond will not apply unless the entire facility is owned by a governmental unit. Although the statute provides no exceptions to this rule, the regulations set forth certain limited exceptions.

In determining whether a facility is owned by a governmental unit, all facts and circumstances will be considered. Nevertheless, for purposes of this exception, property will not be treated as owned by a lessee of that property solely because of the length of the lease

if the lessee elects not to claim depreciation or an investment credit with respect to the property. This special rule only applies in situations where the lessee is the owner solely because of the length of the lease; if for Federal income tax purposes generally a non-governmental lessee is the owner of the property other than solely by reason of the length of the lease, the fact that the lessee elects not to claim depreciation or an investment credit with respect to the leased property will not prevent the obligations involved from being private activity bonds. In addition, even if a govenmental unit is the owner of property for Federal income tax purposes generally, the governmental unit will not be treated as the owner of the property for purposes of this exception where the property is leased to a non-governmental entity under a lease that provides for significant front end loading of rental accruals or payments.

The third principal exception to the definition of the term "private activity bond" is that obligations issued to refund any other issue of governmental obligations described in section 103(a) are not private activity bonds. This exception for refunding obligations only applies to the extent that the aggregate amount of the refunding obligation does not exceed the outstanding principal amount of the refunded obligation; any excess is treated as the proceeds of a private activity bond (unless one of the other exceptions to the definition of private activity bond applies to the excess). In the case of obligations to refund student loan bonds, the refunding obligation exception will not apply if the refunding obligations have the effect of extending the maturity of the prior issue beyond the statutorily specified limit.

Section 631(a) of the Act provides that Code section 103(n), in general, applies to obligations issued after December 31, 1983. Section 103(n) does not apply to an issue of obligations, however, if there was an inducement resolution for the project prior to June 19, 1984, and the issue is issued before January 1, 1985.

Section 631(a)(3) of the Act requires that issuing authorities allocate a portion of their private activity bond limits to certain projects described in an inducement resolution that existed prior to October 19, 1983. The temporary regulations provide that in order for a project to qualify for the rights granted by section 631(a)(3), a substantial user of the project must notify the issuing authority by December 31, 1984, as to the year in which the obligations to provide the project will be required to be issued. This rule is intended to provide issuing authorities with notice so that they will be able to determine the amount of the private activity bond limit available for other projects. If the obligations are not issued during the calendar year in which the substantial user stated that such obligations would be required, the project will lose its priority under section 631(a)(3). This rule does not, however, prevent an issuing authority from allocating a portion of its private activity bond limit for a later year to that project.

If the amount of obligations required by all projects that meet the requirements of section 631(a)(3) of the Act exceeds the issuing authority's private activity bond limit, priority shall be provided first to those projects for which substantial expenditures were incurred before October 19, 1983. Issuers may define the term "substantial expenditures" in any reasonable manner based on the relevant facts and circumstances and the issuing authority's private activity bond limit.

The temporary regulations provide a formula for determining the State ceiling. In general, the State ceiling is equal to the greater of $200 million or an amount equal to $150 multiplied by the State's population. Section 103(n) and the temporary regulations provide a formula for allocating the State ceiling among the State agency or agencies that are authorized to issue private activity bonds and the other issuing authorities within the State. This formula is based on population. The effect of the formula is to set at zero the private activity bond limit for issuing authorities other than general purpose governmental units, *e.g.*, States, cities, and counties. These provisions are consistent with the intent of Congress that the decision as to what types of projects should be financed is best made by the appropriate State or local government. This formula prevents the occurrence of anomalous results, such as a general purpose governmental unit having little or no private activity bond limit due to the fact that a special purpose governmental unit or a constituted authority empowered to issue private activity bonds on behalf of the general purpose governmental unit has jurisdiction over a slightly smaller area than the general purpose governmental unit.

Although issuing authorities other than general purpose governmental units will be allocated private activity bond limits of zero, a general purpose governmental unit generally is free to assign all or any portion of its private activity bond limit to any authority empowered to issue private activity bonds on its behalf and to any special purpose governmental unit within the State deriving sovereign powers from it. Under the allocation formula provided in section 103(n) (2) and (3), however, most other assignments are prohibited. A special rule is provided, however, for regional authorities empowered to issue private activity bonds on behalf of more than one governmental unit.

Under section 103(n)(6) a State may provide a formula for allocating the State ceiling different from the formula specified by section 103(n) (2) and (3). Any such formula, however, will not cause any outstanding obligation that complied with section 103(n) when issued retroactively to fail to comply with section 103(n). A State may not increase or decrease the State ceiling amount by providing a different allocation.

Section 103(n) permits an issuing authority to elect to carry forward its unused private activity bond limit for any calendar year. The carryforward must be for a specific carryforward project. The carryforward permits the issuing authority to issue private activity bonds in later years for the carryforward project; such obligations will count against the carryforward (to the extent thereof) and not against the issuing authority's private activity bond limit for the year in which the obligations are issued until the carryforward amount is exhausted.

Section 103(n)(12) provides that the interest on a private activity bond allocated a portion of the State ceiling shall not be exempt from tax under section 103(a) unless the public official responsible for such allocation certifies under penalties of perjury that such private activity bond was not allocated a portion of the private activity bond limit in consideration of any bribe, gift, gratuity, or direct or indirect contribution to any political campaign. Section 1.103(n)–5T specifies the requirements for making this certification.

Format

These temporary regulations are presented in the form of questions and answers. The questions and answers are not intended to address comprehensively the issues raised by section 103(n). Taxpayers may rely for guidance on these questions and answers, which the Internal Revenue Service will follow in resolving issues arising under section 103(n). No inference, however, should be drawn regarding questions not expressly raised and answered.

Non-Applicability of Executive Order 12291

The Commissioner of Internal Revenue has determined that this temporary rule is not a major rule as defined in Executive Order 12291 and that a regulatory impact analysis is not required.

Regulatory Flexibility Act

A general notice of proposed rulemaking is not required by 5 U.S.C. 553 for temporary regulations. Accordingly, the temporary regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

Paperwork Reduction Act

The collection of information requirements contained in these regulations has been submitted to the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act of 1980. These requirements have been approved by OMB under control number 1545–0874.

Drafting Information

The principal author of these temporary regulations is Mitchell H. Rapaport of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, on matters of both substance, and style.

List of Subjects in 26 CFR 1.61–1 Through 1.281–4

Income taxes, Taxable income, Deductions, Exemptions.

Amendments to the Regulations

For the reasons set out in the preamble, Part 1 of Title 26 of the Code of Federal Regulations is amended to read as follows:

PART 1—[AMENDED]

New §§ 1.103(n)–1T through 1.103(n)–6T are added following § 1.103–16 to read as follows:

§ 1.103(n)–1T Limitation on aggregate amount of private activity bonds.

Q–1: What does section 103(n) provide?

A–1: Interest on an issue of private activity bonds will not be tax exempt unless the aggregate amount of bonds issued pursuant to that issue, when added to (i) the aggregate amount of private activity bonds previously issued by the issuing authority during the calendar year and (ii) the portion of that year's private activity bond limit that the issuing authority has elected to carry forward to a future year, does not exceed the issuing authority's private activity bond limit for that calendar year. See A–4 of § 1.103(n)–4T with respect to private activity bonds issued under a carryforward election.

Q–2: What is the effective date of section 103(n)?

A–2: In general, section 103(n) applies to private activity bonds issued after December 31, 1983. Section 103(n) does not apply to any issue of obligations, however, if there was an inducement resolution (or other comparable preliminary approval) for the project before June 19, 1984, and the issue for such project is issued before January 1, 1985. An issue of obligations will be considered to be issued for the project pursuant to the inducement resolution in existence before June 19, 1984, to the extent that the nature, character, and purpose of the facility has not changed in any material way, and to the extent that the capacity of the facility has not increased materially; in addition, the issue of obligations must be for the same or a related initial owner, manager, or operator. See § 1.103–10(e) for the definition of related persons. See A–16 of § 1.103(n)–3T with respect to certain projects preliminarily approved before October 19, 1983. The transitional rules provided by section 631(c) of the Tax Reform Act of 1984 do not apply to section 103(n). See § 1.103–13(b)(6) for the rules relating to the date of issue of obligations.

Q–3: If an issue of private activity bonds causes the issuer's private activity bond limit to be exceeded, what is the effect on that issue?

A–3: If an issue of private activity bonds causes the issuing authority's private activity bond limit to be exceeded, no portion of that issue will be treated as obligations described in section 103(a), and interest paid on the issue will be subject to Federal income taxation.

Q–4: If an issue of private activity bonds causes the issuer's private activity bond limit to be exceeded, what is the effect on previous issues of private activity bonds that met the requirements of section 103(n) when issued?

A–4: Private activity bonds issued as part of an issue that met the private activity bond limit when issued continue to meet the requirements of section 103(n) even though a subsequent issue causes the aggregate amount of private activity bonds issued by an issuing authority to exceed the authority's private activity bond limit for the calendar year.

Example. The following example illustrates the provisions of A–3 and A–4 of this § 1.103(n)–1T:

Example. The State ceiling for State Z for 1986 is $200 million. City M, within the State, and State Z itself are authorized to issue private activity bonds. Under the allocation formula provided by the Governor of State Z, City M has a private activity bond limit of $50 million; the balance of the State ceiling is allocated to State Z. On June 1, 1986, City M issues a $75 activity bonds. On September 1, 1986, State Z issues a $150 million issue of private activity bonds. Based on these facts, the obligations of City M do not meet the requirements of section 103(n) since the aggregate amount of private activity bonds issued by City M in 1986 exceeded its private activity bond limit for such year; thus, such obligations are not described in section 103(a). That the State Z issue caused the aggregate amount of private activity bonds issued in the State during 1986 to exceed the State ceiling does not cause such obligations to fail to meet the requirements of section 103(n).

Q–5: What is the aggregate amount of private activity bonds issued as part of an issue?

A–5: The aggregate amount of private activity bonds issued as part of an issue is the face amount of the issue.

§ 1.103(n)–2T Private activity bond defined.

Q–1: What is the definition of the term "private activity bond"?

A–1: In general, for purposes of §§ 1.103(n)–1T through 1.103(n)–6T, the term "private activity bond" means any industrial development bond or student loan bond the interest on which is exempt from tax under section 103(a) (without application of section 103(n)). See § 1.103–7(b) for the definition of the term "industrial development bond." See A–17 of this § 1.103(n)–2T for the definition of the term "student loan bond." There are five exceptions to the general definition of the term "private activity bond"; the exceptions include the exception for the Texas Veterans' Bond Program, the residential rental property exception, the exception for certain facilities described in section 103(b)(4) (C) or (D), and the refunding obligation exception. These exceptions are described in A–2 through A–16 of this § 1.103(n)–2T. In addition, the term "private activity bond" does not include any issue of obligations if there was an inducement resolution (or other comparable preliminary approval) for the project before June 19, 1984, and the issue for that project is issued before January 1, 1985. See A–2 of § 1.103(n)–1T.

Q–2: To which obligations does the exception for the Texas Veterans' Bond Program apply?

A–2: The term "private activity bond" does not include general obligation bonds issued under the Texas Veterans' Bond Program if the proceeds of the issue, other than an amount that is not a major portion of the proceeds, are used to make loans of up to $20,000 for the purchase of land for purposes authorized by such program as in effect on June 19, 1984. The use of the proceeds may be established by the affidavit of the veteran receiving the loan. For purposes of this exception to the definition of the term "private activity bond," the use of more than 25 percent of the proceeds of an issue of obligations will constitute the use of a major portion of such proceeds.

Q–3: To which obligations does the residential rental property exception apply?

A–3: The term "private activity bond" does not include any obligation issued to provide projects for residential rental property (including property functionally related and subordinate to any such facility), as described in section 103(b)(4)(A) and § 1.103–8(b). In addition, the term "private activity bond" does not include any housing program obligation under section 11(b) of the United States Housing Act of 1937.

Q–4: To which obligations does the exception for certain facilities described in section 103(b)(4) (C) or (D) apply?

A–4: Section 103(n)(7)(C) provides that the term "private activity bond" does not include any obligation issued as part of an issue to provide convention or trade show facilities, as described in section 103(b)(4)(C) and § 1.103–8(d) (including property functionally related and subordinate to any such facilities), if the property so described is owned by, or on behalf of, a governmental unit. In addition, the term "private activity bond" does not include any obligation issued as part of an issue to provide airports, docks, wharfs, mass commuting facilities, or storage or training facilities directly related to any of the foregoing facilities, as described in section 103(b)(4)(D) and § 1.103–8(e) (including property functionally related and subordinate to any such facilities), if the property so described is owned by, or on behalf of, a governmental unit. See § 1.103–8(a)(3), in general, for the definition of the term "functionally related and subordinate." For purposes of this exception to the definition of the term "private activity bond," the term "mass commuting facilities" includes "qualified mass commuting vehicles," as defined in section 103(b)(9), that are associated with a mass commuting facility described in § 1.103–8(e)(2)(iv). Obligations issued as part of an issue to provide parking facilities, as described in section 103(b)(4)(D), are not excepted from the definition of the term "private activity bond;" however, parking facilities may be functionally related and subordinate to another facility described in section 103(b)(4) (C) or (D).

Q–5: When is property described in section 103(b)(4) (C) or (D) owned by, or on behalf of, a governmental unit?

A–5: In general, property described in section 103(b)(4) (C) or (D) will be considered to be owned by a governmental unit if a governmental unit is the owner of the property for Federal income tax purposes generally. See A–5 of § 1.103(n)–3T for the definition of the term "governmental unit". In general, property described in section 103(b)(4) (C) or (D) will be considered to be owned on behalf of a governmental unit if a constituted authority empowered to issue obligations on behalf of a governmental unit is the owner of the property for Federal income tax purposes generally. Whether the property is owned by, or on behalf of, a governmental unit will be determined on the basis of the facts and circumstances of each particular case. The fact that the governmental unit's or constituted authority's obligation to pay principal and interest on an obligation is limited to revenues from fees collected from users of the property provided with the proceeds of such obligation will not, in itself, cause such property to be treated as not owned by, or on behalf of, the governmental unit. In order to qualify for the exception described in section 103(n)(7)(C), the property must be owned by, or on behalf of, the governmental unit throughout the term of the issue. See A–10 of this § 1.103(n)–2T with respect to the consequences of a transfer of ownership.

Q–6: Will property described in section 103(b)(4) (C) or (D) that is leased to a non-governmental entity be treated as owned by, or on behalf of, a governmental unit if the lessee is the owner of the property for Federal income tax purposes generally solely by reason of the length of the lease?

A–6: If property, or any portion thereof, is leased to a non-governmental entity and if, for Federal income tax purposes generally, the lessee is the owner of the property solely by reason of the length of the lease, then, for purposes of §§ 1.103(n)–1T through 1.103(n)–6T (but not for other Federal income tax purposes, such as whether payments under the lease constitute deductible rental payments), the governmental unit will be treated as the owner of the property if the lessee elects not to claim depreciation or an investment credit with respect to such property. See A–7 of this § 1.103(n)–2T for the rules describing the method of making this election. For purposes of §§ 1.103(n)–1T through 1.103(n)–6T, the term "non-governmental entity" means a person other than a governmental unit or a constituted authority empowered to issue obligations on behalf of a governmental unit. The fact that a non-governmental entity lessee elects not to claim depreciation or an investment credit with respect to property does not, however, ensure that the property will be treated as owned by, or on behalf of a governmental unit for purposes of §§ 1.103(n)–1T through 1.103(n)–6T. Thus, for example, if the lessee is the owner of the property for Federal income tax purposes generally other than solely because of the length of the lease, the obligations issued as part of the issue are private activity bonds notwithstanding that the lessee elected not to claim depreciation or an investment credit with respect to the property.

Similarly, even if a governmental unit is the owner of property for Federal income tax purposes generally, the property will not be treated as owned by, or on behalf of, a governmental unit for purposes of §§ 1.103(n)–1T through 1.103(n)–6T if the lease under which such property is leased to a non-governmental entity provides for significant front end loading of rental accruals or payments. See A–12 of this § 1.103(n)–2T with respect to significant front end loading of rental accruals or payments.

Q–7: What must a lessee do in order to elect not to take depreciation or an investment credit with respect to property described in section 103(b)(4) (C) or (D)?

A–7: The lessee must make the election at the time the lease is executed. The election must include a description of the property with respect to which the election is being made; the name, address, and TIN of the issuing authority; the name, address, and TIN of the lessee; and the date and face amount of the issue the proceeds of which are to be used to provide the property. The election must be signed by the lessee, if a natural person, or by a duly authorized official of the lessee. The issuing authority must be provided with a copy of the election. The issuing authority and the lessee must retain copies of the election in their respective records for the entire term of the lease. In addition, the lease, and any publicly recorded document recorded in lieu of such lease, must state that neither the lessee nor any successor in interest under the lease may claim depreciation or an

investment credit with respect to such property. This election may be made with respect to property whether or not such property otherwise would be eligible for depreciation or an investment tax credit. See section 7701(a)(41) for the definition of the term "TIN."

Q–8: Is the election not to claim depreciation or an investment credit revocable?

A–8: No, the election is irrevocable. In addition, the election is binding on all successors in interest under the lease regardless of whether the obligations remain outstanding. If a successor in interest claims depreciation or an investment credit with respect to property for which such an election has been made, such property will be considered transferred to a non-governmental entity. See A–10 of this § 1.103(n)–2T with respect to the consequences of such a transfer.

Q–9: Where obligations are issued to provide all or any portion of a facility described in section 103(b)(4) (C) or (D), must all of the property described in section 103(b)(4) (C) or (D) that is part of such facility be owned by, or on behalf of, a governmental unit in order for such obligations to qualify for the exception to the definition of the term "private activity bond" provided in section 103(n)(7)(C)?

A–9: Generally, yes. If obligations are issued to provide all or any portion of a facility described in section 103(b)(4) (C) or (D), the obligations comprising such issue will not qualify for the exception to the definition of the term "private activity bond" provided in section 103(n)(7)(C) unless all of the property described in section 103(b)(4) (C) or (D) that is part of (or functionally related and subordinate to) the facility being financed is owned by, or on behalf of, a governmental unit throughout the term of the issue. For this purpose, the facility being financed will be construed to include the entire airport, dock, etc., under consideration and not merely the part of the facility being provided with the proceeds of the issue. For example, the term facility, when used in reference to an airport, will be considered to include all property that is part of, or included in, that airport under § 1.103–8(e)(2)(ii)(*a*), including all property functionally related and subordinate thereto under § 1.103—8 (a)(3) and (e)(2)(ii)(*b*). Thus, if the proceeds of an issue are used to provide a hangar at an airport described in section 103(b)(4)(D), that airport is considered as being financed with such issue, and if any portion of that airport, including property functionally related and subordinate thereto, is treated as owned by a non-governmental entity, that issue does not qualify for the exception of the definition of the term "private activity bond" provided in section 103(n)(7)(C).

There are three exceptions to this rule, however. First, if any property otherwise would be considered part of the facility financed and such property was not provided with proceeds of any obligation described in section 103(a), such property will not be considered part of the facility being financed.

Second, if any property otherwise would be considered part of the facility being financed and such property was part of such facility on or before October 5, 1984, such property will not be considered part of the facility being financed. For this purpose, property will be considered part of the facility on or before October 5, 1984, if any person was under a binding contract to acquire or construct such property to be a part of such facility on October 5, 1984.

Third, property will not be considered part of the facility being financed if such property (i) is land, a building, a structural component of a building, or other structure (other than tangible personal property (other than an air conditioning or heating unit)) and such property is not physically supported by, does not physically support, and is not physically connected to any property provided with the proceeds of obligations that qualify for the exception to the definition of the term "private activity bond" provided in section 103(n)(7)(C), or (ii) is tangible personal property (other than an air conditioning or heating unit). For this purpose, contiguous parcels of land will not be considered to support, to be supported by, or to be physically connected to each other, and insignificant physical connections (such as a connection by a sidewalk) will be disregarded. For purposes of this A–9, the term "tangible personal property" shall have the meaning given to it under section 48(a)(1)(A) and § 1.48–1(c).

Examples. The following examples illustrate the provisions of A–9 of this § 1.103(n)–2T:

Example (1). On January 1, 1986, Governmental Unit M issues industrial development bonds to provide an airport, as described in section 103(b)(4)(D), which will consist of land, runways, a terminal and a functionally related and subordinate hotel. The hotel will be leased to N, a non-governmental entity. The lease does not call for significant front end loading of rental accruals or payments. For Federal income tax purposes generally, M will own the entire airport except that N will be the owner of the hotel solely by reason of the length of the lease. N properly elects not to claim depreciation of an investment credit with respect to the hotel. The industrial development bonds are not private activity bonds.

Example (2). The facts are the same as in Example (1) except that N does not make the election and claims depreciation with respect to the hotel. The entire issue of industrial development bonds is treated as an issue of private activity bonds.

Example (3). The facts are the same as in Example (2) except that the hotel is provided other than with the proceeds of an obligation described in section 103(a). The issue for the remainder of the airport qualifies for the exception to the definition of the term "private activity bond" provided in section 103(n)(7)(C).

Example (4). The facts are the same as in Example (2) except that the hotel, including the hotel parking lot, the hotel grounds, and the parcel of land on which they rest, are provided with a separate issue of industrial development bonds. There are no significant connections between the hotel and the airport. The issue for the hotel is an issue of private activity bonds. The issue for the remainder of the airport qualifies for the exception to the definition of the term "private activity bonds" provided in section 103(n)(7)(C).

Example (5). The facts are the same as Example (4) except that the hotel is constructed upon land provided with the proceeds of the issue used to provide the remainder of the airport. Both issues are treated as issues of private activity bonds.

Example (6). On June 30, 1983, construction began on the City NN airport, which consists of land, runways, a terminal, and hangars. Corporation XX (a non-governmental entity) owns for Federal income tax purposes generally several of the hangars, which it financed with obligations described in section 103(a) issued on June 30, 1983. On March 1, 1985, at a time when XX still owns the hangars, City NN issues an issue of obligations described in section 103(b)(4)(D) to enlarge the terminal at the City NN airport. City NN will own the addition to the terminal for Federal income tax purposes generally. The obligations comprising the March 1, 1985, issue will not be private activity bonds.

Q–10: What are the consequences if a governmental unit ceases to be treated as owning property described in section 103(b)(4) (C) or (D) where the property was provided by obligations that were not private activity bonds on the date of issue due to the exception provided in section 103(n)(7)(C)?

A–10: The obligations outstanding on the date such ownership ceases are private activity bonds and are treated as if they are the last private activity bonds issued by the issuer in the calendar year in which the transfer of ownership occurs. Thus, if the aggregate amount of bonds issued pursuant to such issue, when added to the aggregate amount of the other private activity bonds actually issued or treated as issued under this A–10 by the issuer during such year and the amount of any carryforward

elections made during the year, exceeds the issuer's private activity bond limit for such year, the obligations are not described in section 103(a) as of the date on which transfer of ownership occurs; if such obligations do not comply with the requirements of section 103(n), the obligations will be treated as not described in section 103(a) as of the date such ownership ceases. However, if on the date of issue the issuer intended to transfer ownership of such property to a non-governmental entity during the term of the issue, then the obligations are treated as the last private activity bonds actually issued or treated as issued under this A–10 by the issuer during the year in which such obligations were actually issued; if such obligations do not comply with the requirements of section 103(n), the obligations will be treated as not described in section 103(a) as of the date of issue. The exception to the definition of the term "private activity bond" for facilities described in section 103(b)(4) (C) and (D) only applies if the property is owned by, or on behalf of, a governmental unit while all or any part of the issue or any refunding issue remains outstanding.

If all or a portion of the property is sold to a non-governmental entity for its fair market value and all of the proceeds from the sale (except for a de minimis amount less than $5,000) are used within six months to redeem outstanding obligations, the obligations will not be treated as private entity bonds.

Q–11: What are the consequences if private activity bonds are issued to provide additions to a facility that was provided with obligations that were not private activity bonds when issued by virtue of the exception provided in section 103(n)(7)(C) and such additions are not treated as owned by a governmental unit?

A–11: In order to qualify for the exception to the definition of the term "private activity bond" for obligations described in section 103(b)(4) (C) or (D), all of the property described in section 103(b)(4) (C) or (D) that is part of the facility provided with the proceeds generally must be owned by, or on behalf of, a governmental unit. See A–9 of this § 1.103 (n)–2T. However, if the proceeds of an issue of private activity bonds are used to make additions to a facility (other than additions that are not considered to be part of the facility under A–9 of this § 1.103(n)–2T) that was provided with another issue of industrial development bonds that were not private activity bonds when issued by virtue of the exception provided in section 103(n)(7)(C), then the prior issue will not cease to qualify for that exception. Nevertheless, for purposes of determining the aggregate amount of private activity bonds issued during the year that the issue to provide the addition to the previously financed facility is issued, the portion of the prior issue outstanding on the date of issue of the issue to provide the addition will be treated as part of the issue to provide the addition.

Example. The following example illustrates the provisions of A–11 of this § 1.103 (n)–2T:

Example. On March 1, 1986, City P issues a $100 million issue of industrial development bonds to provide an airport, as described in section 103(b)(4)(D). City P uses substantially all of the proceeds to acquire land and to construct runways and a terminal on that land. No other property is constructed on the land. City P is the owner of the land and the terminal for Federal income tax purposes generally. Thus, the obligations comprising the March 1, 1986, issue are not private activity bonds when issued. On September 1, 1988, City P leases a portion of the land adjacent to the terminal to Corporation V (a non-governmental entity) under a true lease for Fderal income tax purposes. City P's private activity bond limit for 1988 is $100 million, and as of September 30, 1988, City P has not issued any private activity bond during 1988. On September 30, 1988, City P issues a $20 million issue of industrial development bonds, the proceeds of which are to be used to construct a hotel that is functionally related and subordinate to the airport. The hotel is to be constructed on the land that P leased to Corporation V. The hotel will be owned by Corporation V for Federal income tax purposes generally. On September 30, 1988, the outstanding face amount of the March 1, 1986, issue is $100 million. Although the obligations comprising the March 1, 1986, issue will not become private activity bonds as a result of the subsequent issue, on September 30, 1988, City P is treated as issuing a $120 million issue of private activity bonds. Since that amount exceeds City P's private activity bond limit, the $20 million issue of private activity bonds issued on September 30, 1988, does not meet the requirements of section 103(n). In addition, any subsequent issuance of private activity bonds by City P during 1988 will fail to meet the requirements of section 103(n). The March 1, 1986, issue continues to be described in section 103(a).

Q–12: Section 103(n)(7)(C)(iv) provides that the exception for certain facilities described in section 103(b)(4) (C) or (D) shall not apply in any case where the facility is leased under a lease that has significant front end loading of rental accruals or payments. What does "significant front end loading of rental accruals or payments" mean?

A–12: Where a lease requires rental payments that are significantly higher in the early years of the lease than in later years, the lease calls for significant front end loading of rental accruals or payments. A lease that provides for flat rental payments during the entire lease term does not violate the prohibition against significant front end loading of rent. In addition, a lease may provide for adjustments in rent for inflation or deflation, provided that such adjustments are to be made on the basis of a generally recognized price index. In addition, a lease may provide that rental payments are to be determined, in whole or part, based on a percentage of income, production, etc., provided that the percentage rate is kept constant (or increases) over the term of the lease and that the threshold, if any, above which the percentage applies is kept constant (or decreases) over the term of the lease. Thus, for example, a lease that requires rental payments throughout the term of the lease of $100,000 per year plus 5 percent of the gross income from the facility in excess of $500,000 does not violate the prohibition against significant front end loading of rent.

Examples. The following examples illustrate the provisions of A–4 through A–12 of this § 1.103(n)–2T:

Example (1). On February 1, 1985, County Z issues obligations with a term of 30 years. Substantially all of the proceeds of the obligations are to be used to provide a trade show facility as described in section 103(b)(4)(C). Z leases the entire facility to Corporation S. For Federal income tax purposes generally, S is treated as the owner of the facility solely by reason of the length of the lease. The lease provides that the lessee will elect not to claim depreciation or an investment credit with respect to the facility and that S will provide Z with a copy of the election. S makes the election, retains it in its records, and provides County Z with a copy. The lease provides that neither the lessee nor any successor in interest will claim a deduction for depreciation or an investment credit with respect to such facility. The obligations are not private activity bonds on the date of issue, provided that the lease does not call for significant front end loading of rental accruals or payments.

Example (2). The facts are the same as in Example (1) except that on February 1, 1986, S assigns the lease to Corporation T. For its taxable year ending March 31, 1986, Corporation T claims depreciation with respect to the trade show facility. The obligations outstanding on the date Corporation T claims depreciation on its Federal income tax return are treated as the last private activity bonds actually issued or treated as issued by County Z during 1986, and such obligations must comply with the requirements of section 103(n). In addition, Corporation T is not entitled to claim depreciation or an investment credit with respect to the trade show facility during the balance of the term of the lease and will be subject to the applicable penalties for so claiming depreciation.

Example (3). The facts are the same as in Example (1) except that the obligations are redeemed on January 31, 1998; on January 31,

1999, S assigns the lease to Corporation X; and on its Federal income tax return for calendar year 1999, Corporation X claims depreciation with respect to the facility. The obligations are not private activity bonds provided that the lease does not call for significant front end loading of rental accruals or payments. However, X is not entitled to claim depreciation or an investment credit with respect to the trade show facility during the balance of the term of the lease and will be subject to the applicable penalties for so claiming those items.

Q–13: To which obligations does the refunding obligation exception apply?

A–13: The term "private activity bond" does not include any refunding obligation to the extent specified in this A–13. The term "refunding obligation" means an obligation that is part of an issue of obligations the proceeds of which are used to pay any principal or interest on any other issue of obligations described in section 103(a) (referred to as the prior issue). The term "refunding obligation" does not include any obligations issued more than 180 days before the prior issue is discharged ("advance refundings"). The exception for refunding obligations only applies to the extent that the aggregate amount of the refunding issue does not exceed the outstanding face amount of the prior issue, or portion thereof, being refunded. Thus, for example, in the case of an obligation part of the proceeds of which are to be used to refund a prior issue of private activity bonds and part of the proceeds of which are to be used to provide a pollution control facility under section 103(b)(4)(F), those proceeds to be used to refund all or any part of the principal amount of the prior issue are not the proceeds of a private activity bond; the balance of the proceeds are the proceeds of a private activity bond. The refunding obligation exception does not apply to obligations to the extent that amounts are used to pay the costs of issuing refunding obligations. If an issue of obligations consists of both obligations that qualify for the refunding obligation exception and private activity bonds that do not meet the requirements of section 103(n), the entire issue is treated as consisting of obligations not described in section 103(a).

Q–14: Does the refunding obligation exception apply to obligations issued to refund a prior issue of student loan bonds?

A–14: In the case of any student loan bond, the refunding obligation exception applies only if, in addition to the requirements stated in A–13 of this § 1.103(n)–2T, the maturity date of the funding obligation is not later than the later of (i) the maturity date of the obligation to be refunded, or (ii) the date 17 years after the date on which the refunded obligation was issued (or, in the case of a series of refundings, the date on which the original obligation was issued).

Q–15: What is the "maturity date" of an obligation?

A–15: For purposes of section 103(n), the "maturity date" of an obligation is the date on which interest ceases to accure and the obligation may either be paid or redeemed without penalty. The date is determined without regard to optional redemption dates (including those at the option of holders). If the issuer is required by the obligations or the indenture to redeem portions of obligations or to make payments of principal with respect to obligations in specified amounts and at specified times, such mandatory redemptions or payments shall be treated as separate obligations.

Q–16: Where private activity bonds are refunded with other obligations described in section 103(a), does the refunding obligation exception apply to the extent that the aggregate amount of the refunding obligations exceeds the outstanding principal amount of the prior issue due to the use of a portion of the proceeds of the refunding issue to fund a reasonably required reserve or replacement fund?

A–16: Whether the prior issue was issued prior to January 1, 1984, or thereafter, the refunding obligation exception to the definition of the term "private activity bond" only applies to the extent that the aggregate amount of the refunding obligation does not exceed the outstanding principal amount of the prior issue. Thus, the additional obligations issued to provide for a reasonably required reserve or replacement fund are private activity bonds.

Q–17: What is a "student loan bond"?

A–17: The term "student loan bond" means an obligation that is issued as part of an issue all or a major portion of the proceeds of which are to be used directly or indirectly to finance loans to individuals for educational expenses. For purposes of this A–17, the use of more than 25 percent of the proceeds of an issue of obligations to finance loans to individuals for educational expenses will constitute the use of a major portion of such proceeds in such manner.

§ 1.103(n)–3T Private activity bond limit.

Q–1: What is the "State ceiling"?

A–1: In general, the State ceiling applicable to each State and the District of Columbia for any calendar year prior to 1987 shall be the greater of $200 million or an amount equal to $150 multiplied by the State's (or the District of Columbia's) population. In the case of any territory or possession of the United States, the State ceiling for any calendar year prior to 1987 shall be an amount equal to $150 multiplied by the population of such territory or possession. In the case of calendar years after 1986, the two preceding sentences shall be applied by substituting "$100" for "$150." In the case of any State that had an excess bond amount for 1983, the State ceiling for calendar year 1984 shall be the sum of the State ceiling determined under the general rule plus 50 percent of the excess bond amount for 1983. The excess bond amount for 1983 is the excess (if any) of (i) the aggregate amount of private activity bonds issued by issuing authorities in such State during the first 9 months of calendar year 1983 multiplied by 4/3, over (ii) the State ceiling determined under the general rule for 1984. For purposes of determining the State ceiling amount applicable to any any State for calendar year 1984, an issuer may rely upon the State ceiling amount published by the Treasury Department for such calender year. However, an issuer may compute a different excess bond amount for 1983 where the issuer or the State in which the issuer is located has made a more accurate determination of the amount of private activity bonds issued by issuing authorities in the issuer's State during 1983. See A–7 of this § 1.103(n)–3T for rules regarding a State containing constitutional home rule cities.

Q–2: What is the private activity bond limit for a State agency?

A–2: Under section 103(n)(2) the private activity bond limit for any agency of the State authorized to issue private activity bonds for any calendar year shall be 50 percent of the State ceiling for such year unless the State provides for a different allocation. For this purpose, the State is considered an agency. See, however, A–17 of this § 1.103(n)–3T with respect to the penalty for failure to comply with the requirements of section 631(a)(3) of the Tax Reform Act of 1984.

Q–3: How is private activity bond limit determined where a State has more than one agency?

A–3: If any State has more than one agency (including the State) authorized to issue private activity bonds, all such agencies shall be treated as a single agency for purposes of determining the aggregate private activity bond limit available for all such agencies. Each of the State agencies is treated as having jurisdiction over the entire State. Therefore, under A–6 of this § 1.103(n)–3T the aggregate private activity bond

limit for all the State agencies is allocated to the State since it possesses the broadest sovereign powers of any of the State agencies. Each other State agency's private activity bond limit is zero until it is assigned part of the private activity bond limit of another governmental unit pursuant to these regulations.

Q–4: What is a State agency?

A–4: A State agency is an agency authorized by a State to issue private activity bonds on behalf of the State. In addition, a special purpose governmental unit that derives its sovereign powers from the State and may exercise its sovereign powers throughout the State is a State agency. See A–5 of this § 1.103(n)–3T for the definition of the term "special purpose governmental unit." The term "State agency" does not include issuing authorities empowered by a State at the request of another governmental unit within the State to issue private activity bonds to provide facilities within the jurisdiction of such other governmental unit. For example, if County O requests the legislature of State P to create an issuing authority empowered to issue obligations to provide pollution control facilities in County O, the authority is not a State agency.

Examples. The following examples illustrate the provisions of A–3 and A–4 of this § 1.103(n)–3T:

Example (1). For 1987 State Q has a State ceiling of $200 million. Neither the Governor nor the legislature of State Q has provided a formula for allocating the State ceiling different from that provided by section 103(n)(2) and (3). State Q has authorized the following State agencies to issue private activity bonds on its behalf: Authority M, Authority N, and Authority O. The aggregate private activity bond limit available for State agencies of State Q is $100 million. As of January 1, 1987, none of this aggregate private activity bond limit has been assigned to any of Authorities M, N, or O. On January 1, 1987, Authority M issues $25 million of private activity bonds. During 1987, the duly authorized official designated by State Q to allocate the aggregate private activity bond limit among the three authorities does not allocate any of the State's private activity bond limit to Authority M. The January 1, 1987, issue does not meet the requirements of section 103(n) since Authority M has no private activity bond limit for 1987.

Example. (2) Under the laws of State U, only the State legislature can create constituted authorities empowered to issue private activity bonds on behalf of governmental units within State U. Authority R was created by the State U legislature at the request of County X. Authority R is a constituted authority empowered to issue private activity bonds on behalf of County X to provide facilities located in County X. Authority S was created by the legislature to issue private activity bonds to provide pollution control facilities throughout the State. Authority S is a State agency as defined in A–4 of this § 1.103(n)–3T. Authority R it is not a State agency.

Q–5: What is a governmental unit?

A–5: The term "governmental unit" has the meaning given such term by § 1.103–1. For purposes of §§ 1.103(n)–1T through 1.103(n)–6T, a governmental unit is either a general purpose governmental unit or a special purpose governmental unit. The term "general purpose governmental unit" means a State, territory, possession of the United States, the District of Columbia, or any general purpose political subdivision thereof. The term "general purpose political subdivision" denotes any division of government that possesses the right to exercise police powers, the power to tax, and the power of eminent domain and that is governed, at least in part, by popularly elected officials (*e.g.*, county, city, town, township, parish, village). The term "special purpose governmental unit" means any governmental unit as defined in § 1.103–1 other than a general purpose governmental unit. For example, a sewer authority with the power of eminent domain but without police powers is a special purpose governmental unit. A constituted authority empowered to issue private activity bonds on behalf of a governmental unit is not a governmental unit.

Q–6: What is the private activity bond limit for a general purpose governmental unit other than a State, the District of Columbia, a territory, or a possession?

A–6: The private activity bond limit for any such general purpose governmental unit for any calendar year is an amount equal to the general purpose governmental unit's proportionate share of 50 percent of the State ceiling amount for such calendar year. See A–10 of this § 1.103(n)–3T with respect to the rules for providing a different allocation. The proportionate share of a general purpose governmental unit is an amount that bears the same ratio to 50 percent of the State ceiling for such year as the population of the jurisdiction of such general purpose governmental unit bears to the population of the entire State, District of Columbia, territory, or possession in which its jurisdiction falls. See, however, A–17 of this § 1.103(n)–3T with respect to the penalty for failure to comply with the requirements of section 631(a)(3) of the Tax Reform Act of 1984. See A–9 of this § 1.103(n)–3T with respect to the private activity bond limit of issuing authorities other than general purpose governmental units.

Q–7: What is the private activity bond limit for a general purpose governmental unit in a State with one or more constitutional homes rule cities?

A–7: The private activity bond limit for a constitutional home rule city for any calendar year is an amount equal to the constitutional home rule city's proportionate share of 100 percent of the State ceiling amount for the calendar year. The proportionate share of a constitutional home rule city is an amount that bears the same ratio to the State ceiling for such year as the population of the jurisdiction of such constitutional home rule city bears to the population of the entire State. The private activity bond limit for issuers other than constitutional home rule cities is computed in the manner described in A–2 through A–6 of this § 1.103(n)–3T, except that in computing the private activity bond limit for issuers other than such constitutional home rule cities, the State ceiling amount for any calendar year shall be reduced by the aggregate private activity bond limit for all constitutional home rule cities in the State. The term "constitutional home rule city" means, with respect to any calendar year, any political subdivision of a State that, under a State constitution that was adopted in 1970 and effective on July 1, 1971, had home rule powers on the first day of the calendar year. See, however, A–17 of this § 1.103(n)–3T with respect to the penalty for failure to comply with the requirements of section 631(a)(3) of the Tax Reform Act of 1984.

Q–8: How is the private activity bond limit of an issuing authority determined under section 103(n)(3) when there are overlapping jurisdictions?

A–8: If an area is within the jurisdiction of two or more governmental units, that area will be treated as only within the jurisdiction of the governmental unit having jurisdiction over the smallest geographical area. However, the governmental unit with jurisdiction over the smallest geographical area may enter into a written agreement to allocate all or a designated portion of such overlapping area to the governmental unit having jurisdiction over the next smallest geographical area. Where two or more issuing authorities, whether governmental units or constituted authorities, have authority to issue private activity bonds and both issuing authorities have jurisdiction over the identical geographical area, that area will be treated as only within the jurisdiction of the one having the broadest sovereign powers. However, the issuing authority having the broadest sovereign powers may enter into a written agreement to

allocate all or a designated portion of such area to the one with the narrower sovereign powers. All written agreements entered into pursuant to this A–8 must be retained by the assignee in its records for the term of all private activity bonds it issues in each calendar year to which such agreement applies. See A–9 of this § 1.103(n)–3T with respect to the private activity bond limit of issuing authorities other than general purpose governmental units.

Q–9: What is the private activity bond limit of an issuing authority (other than a State agency) that is not a general purpose governmental unit?

A–9: A constituted authority empowered to issue private activity bonds on behalf of a governmental unit is treated as having jurisdiction over the same geographical area as the governmental unit on behalf of which it is empowered to issue private activity bonds. Since a governmental unit has broader sovereign powers than a constituted authority empowered to issue private activity bonds on its behalf, a constituted authority has a private activity bond limit under section 103(n) (2) and (3) of zero. Similarly, a special purpose governmental unit is treated for purposes of section 103(n) as having jurisdiction over the same geographical area as that of the general purpose governmental unit or units from which the special purpose governmental unit derives its sovereign powers. Since a general purpose governmental unit has broader sovereign powers than a special purpose governmental unit, a special purpose governmental unit has a private activity bond limit under section 103(n) (2) and (3) of zero. An issuer of qualified scholarship funding bonds, as defined in section 103(e), is treated for purposes of section 103(n) as issuing on behalf of the State or politicial subdivision or subdivisions that requested its organization or its exercise of power to issue bonds. See A–13 and A–14 of this § 103(n)–3T with respect to assignments of private activity bond limit. For purposes of §§ 1.103(n)–1T through 1.103(n)–6T, a special purpose governmental unit shall be considered to derive its authority from the smallest general purpose governmental unit that—

(i) Enacts a specific law (e.g., a provision of a State constitution, charter, or statute) by or under which the special purpose governmental unit is created, or

(ii) Otherwise empowers, approves, or requests the creation of the special purpose governmental unit, or

(iii) Appoints members to the governing body of the special purpose governmental unit,

and within which general purpose governmental unit falls the entire area in which such special purpose governmental unit may exercise its sovereign powers. If no one general purpose governmental unit meets such criteria (e.g., a regional special purpose governmental unit that exercises its sovereign powers within three counties pursuant to a separate ordinance adopted by each such county), such special purpose governmental unit shall be considered to derive its sovereign powers from each of the general purpose governmental units comprising the combination of smallest general purpose governmental units within which falls the entire area in which such special purpose governmental unit may exercise its sovereign powers and each of which meets (i), (ii), or (iii) above.

Q–10: Does the issue comply with the requirements of section 103 (n) under the following circumstances? Based on the most recent estimate of the resident population of State Y published by the Bureau of the Census before the beginning of 1988, the State ceiling for State Y is $200 million. Based on the same estimate, the population of City Q is one-fourth of the population of State Y. No part of the geographical area within the jurisidiction of City Q is within the jurisdiction of any other governmental unit with jurisdiction over a smaller geographical area. There are no consitutional home rule cities in State Y. Neither the Governor nor the legislature of State Y has provided a different formula for allocating the State ceiling than that provided by section 103(n) (2) and (3); thus, City Q's private activity bond limit for 1988 is $25 million (.25 × .50 × $200 million). As of March 1, 1988, City Q has issued $15 million of private activity bonds during calender year 1988, none of which were issued pursuant to a carryforward election made in a prior year. On March 1, 1988, City Q will issue $5 million of private activity bonds to provide a pollution control facility as described in section 103(b)(4) (F). C, a duly authorized official of City Q responsible for issuing the bonds, provides a statement that will be included in the bond indenture or a related document providing that—

(i) Under section 103(n) (2) and (3) of the Internal Revenue Code, City Q has a private activity bond limit of $25 million for calendar year 1988 (.25 × .50 × $200 million), none of which has been assigned to it by another governmental unit,

(ii) State Y has not provided a different method of allocating the State ceiling,

(iii) City Q has not assigned any portion of its private activity bond limit to a constituted authority empowered to issue private activity bonds on its behalf, or to any other governmental unit,

(iv) City Q has not elected to carry forward any of its private activity bond limit for 1988 to another calendar year, nor has City Q in any prior year made a carryforward election for the pollution control facility,

(v) The aggregate amount of private activity bonds issued by City Q during 1988 is $15 million, and

(vi) The issuance of $5 million of private activity bonds on March 1, 1988, will not violate the requirements of section 103 (n) and the regulations thereunder.

In addition, C provides the certification described in section 103 (n) (12) (A).

A–10: Based on these facts, the issue meets the requirements of section 103(n) and §§ 1.103(n)–1T through 1.103(n)–6T. See § 1.103–13(b)(8) for the definition of the terms "bond indenture" and "related documents."

Q–11: May a State provide a different formula for allocating the state ceiling?

A–11: A State, by law enacted at any time, may provide a different formula for allocating the State ceiling among the governmental units in the State (other than constitutional home rule cities) having authority to issue private activity bonds, subject to the limitation provided in A–12 of this § 1.103(n)–3T. The governor of a State may proclaim a different formula for allocating the State ceiling amoung the governmental units in such State having authority to issue private activity bonds. The authority of the governor to proclaim a different formula shall not apply after the earlier of (i) the first day of the first calendar year beginning after the legislature of the State has met in regular session for more than 60 days after July 18, 1984, and (ii) the effective date of any State legislation dealing with the allocation of the State ceiling. If, on or before either date, the governor of any State execrcises the authority to provide a different allocation, such allocation shall be effective until the date specified in (ii) of the immediately preceding sentence. Unless otherwise provided in a State constitutional amendment or by a law changing the home rule provisions adopted in the manner provided by the State constitution, the allocation of that portion of the State ceiling that is allocated to any constitutional home rule city may not be changed by the governor or State legislature unless sucn city agrees to such different allocation.

Q–12: Where a State provides an allocation formula different from that

provided in section 103 (n) (2) and (3), which allocation formula applies to obligations issued prior to the adoption of the different allocation formula?

A–12: Where a State provides a different allocation formula, the determination as to whether a particular bond issue meets the requirements of section 103(n) will be based upon the allocation formula in effect at the time such bonds were issued. The amount that may be reallocated pursuant to the later allocation formula is limited to the State ceiling for such year reduced by the amount of private activity bonds issued under the prior allocation formula in effect for such year.

Q–13: May an issuing authority assign a portion of its private activity bond limit to another issuing authority if the governor or legislature has not provided for an allocation formula different from that provided in section 103(n) (2) and (3)?

A–13: Except as provided in this A–13 or in A–6, A–14, or A–15 of this § 1.103(n)–3T, no issuing authority may assign, directly or indirectly, all or any portion of its private activity bond limit to any other issuing authority, and no such attempted assignment will be effective. However, a general purpose governmental unit may assign a portion of its private activity bond limit to (i) a constituted authority empowered to issue private activity bonds on behalf of the assigning governmental unit, and (ii) a special purpose governmental unit deriving sovereign powers from the governmental unit making the assignment. In addition, a State may assign a portion of its private activity bond limit to a constituted authority empowered to issue private activity bonds on behalf of any governmental unit within such State and to any governmental unit within such State. Finally, an issuing authority that is assigned all or a portion of the private activity bond limit of a governmental unit pursuant to the immediately preceding two sentences may assign such amount or any part thereof to the governmental unit from which it received the assignment. None of these permissible types of assignments shall be effective, however, unless made in writing by a duly authorized official of the governmental unit making the assignment and a record of the assignment is maintained by the assignee for the term of all private activity bonds it issues in each calendar year to which such assignment applies. None of these permissible types of assignments shall be effective if made retroactively; provided, however, that retroactive assignments may be made during 1984. In addition, except as provided in A–15 of this § 1.103(n)–3T, a purported assignment by a governmental unit of a portion of its private activity bond limit to an issuing authority will be ineffective to the extent that private activity bonds issued by such authority provide facilities not located within the jurisdiction of the governmental unit making the assignment, unless the sole beneficiary of the facility is the governmental unit attempting to make the assignment. Similarly, except as provided in A–15 of this § 1.103(n)–3T, a governmental unit may not allocate a portion of its private activity bond limit to an issue of obligations to provide a facility not located within the jurisdiction of that governmental unit unless the sole beneficiary of the facility is the governmental unit attempting to allocate its private activity bond limit to the issue. If an issuing authority issues an issue of obligations a portion of the proceeds of which are to be used to provide a facility not within its jurisdiction other than one described in the immediately preceding sentence, that issue will not meet the requirements of section 103(n) unless an issuing authority within the jurisdiction of which the facility is to be located specifically allocates a portion of its private activity bond limit to such issue equal to the amount of proceeds to be used to provide such facility.

Q–14: May an issuing authority assign a portion of its private activity bond limit to another issuing authority if the governor or legislature has provided for an allocation formula different from that provided in section 103(n) (2) and (3)?

A–14: Yes, under certain conditions. In providing a different formula for allocating the State ceiling, a State may permit an issuing authority to assign all or a portion of its private activity bond limit to other issuing authorities within the State, provided that such assignment is made in writing and a record of that assignment is maintained by the assignee in its records for the term of all private activity bonds it issues in each calendar year to which such assignment applies and a record of that assignment is maintained during such period by the public official responsible for making allocations of the State ceiling to issuing authorities within the State. The preceding sentence will only apply where the different formula expressly permits such assignments. Notwithstanding this A–14, no assignments may be made to regional authorities without compliance with the provisions of A–15 of this § 1.103(n)–3T.

Q–15: May a general purpose governmental unit assign a portion of its private activity bond limit to a regional authority empowered to issue private activity bonds on behalf of two or more general purpose governmental units?

A–15: Yes, under certain conditions. In order for an issue of private activity bonds issued by such a regional authority to meet the requirements of section 103(n), each of the governmental units on behalf of which the regional authority issues private activity bonds must assign to the regional authority a portion of its private activity bond limit based on the ratio of its population to the aggregate population of all such governmental units. The governmental unit within the jurisdiction of which the facility to be provided by the private activity bonds will be located, however, may elect to treat the regional authority as if it were a constituted authority empowered to issue such obligations solely on behalf of that governmental unit and, therefore, may assign a portion of its limit to the authority solely to provide the facility within its jurisdiction. Similarly, if a facility will solely benefit one governmental unit, that governmental unit may make the election described in the preceding sentence. In addition, any of the governmental units on behalf of which the regional authority issues private activity bonds, other than the governmental unit within the jurisdiction of which the facility will be located, may elect to be treated as if it had not empowered the authority to issue that issue of private activity bonds on its behalf. In providing a different formula for allocating the State ceiling, a State may permit a governmental unit to assign all or a portion of its private activity bond limit to a constituted authority empowered to issue private activity bonds on behalf of two or more governmental units, all of which are located within the State. The preceding sentence will only apply where the different formula expressly so provides. The principles of this A–15 shall not apply to any regional authority created with a principal purpose of avoiding the restrictions provided in A–13 or A–14 of this § 1.103(n)–3T. The principles of this A–15 shall also apply to a special purpose governmental unit providing facilities located within the jurisdiction of two or more general purpose governmental units from which it derives sovereign powers.

Examples. The following examples illustrate the provisions of A–6 through A–15 of this section:

Example (1). Authority ZZ is empowered by City Y to issue obligations on its behalf to

provide financing for pollution control facilities located within the jurisdiction of City Y and the geographical area within 10 miles of the limits of City Y. Authority ZZ has no sovereign powers. Although the authority of Authority ZZ to issue obligations enables it to provide facilities located outside of the jurisdiction of City Y, Authority ZZ is treated as having jurisdiction over the same geographical area as City Y. Since City Y has broader sovereign powers than Authority ZZ, under section 103(n)(3) Authority ZZ has a private activity bond limit of zero. On March 31, 1985, Authority ZZ issues $5 million of private activity bonds. City Y has not assigned any portion of its private activity bond limit to Authority ZZ. Thus, the March 31, 1985, issue of private activity bonds is treated as an issue of obligations not described in section 103(a), and the interest on such obligations is subject to Federal income taxation.

Example (2). In 1972, State S, State T, and State V empowered Authority Z to issue industrial development bonds on behalf of the three States and to provide port facilities in a harbor serving residents of all three States. S, T, and V have populations of 1,000,000, 2,000,000, and 7,000,000, respectively. Authority Z will issue $100 million of private activity bonds on September 1, 1985, to finance construction of a dock to be located in State S. The obligations will not meet the requirements of section 103(n) unless S, T, and V assign a portion of their private activity bond limits to Authority Z pursuant to one of three methods. First, S, T, and V may assign $10 million, $20 million, and $70 million, respectively, of their private activity bond limits to Authority Z for this issue. Second, S, T, and V may assign $100 million, $0, and $0, respectively, of their private activity bond limits to Authority Z for this issue. Third, either T or V (but not S) may allocate $0 of its private activity bond limit to Authority Z for purposes of this issue, and the remaining two States may allocate the $100 million based upon their respective populations. For instance, if T were to allocate $0 for purposes of this issue, S and V must allocate $12.5 million and $87.5 million, respectively, of their private activity bond limits to Authority Z.

Q–16: Must an issuing authority allocate any of its private activity bond limit to certain preliminarily approved projects?

A–16: Yes. Section 631(a)(3) of the Tax Reform Act of 1984 provides that, with respect to certain projects preliminarily approved by an issuing authority before October 19, 1983, the issuing authority shall allocate its share of the private activity bond limit for the calendar year during which the obligations are to be issued first to those projects. For purposes of this A–16 and A–17 and A–18 of this § 1.103(n)–3T, a general purpose governmental unit will be treated as having preliminarily approved a project if the project was preliminarily approved by it, by a constituted authority empowered to issue private activity bonds on its behalf, or by a special purpose governmental unit treated as having jurisdiction over the same geographical area as the general purpose governmental unit. Thus, if a project was approved by a constituted authority, the governmental unit on behalf of which such issue is to be issued must assign a portion of its private activity bond limit to the authority pursuant to section 631(a)(3) of the Act. If a project was preliminarily approved by a constituted authority empowered to issue private activity bonds on behalf or more than one general purpose governmental unit or a special purpose governmental unit that derives its sovereign powers from more than one general purpose governmental unit, the project will be considered approved by each of such general purpose governmental units in proportion to their relative populations. The projects that receive priority under section 631(a)(3) of the Act and this A–16 are those with respect to which—

(i) There was an inducement resolution (or other comparable preliminary approval) for a project before October 19, 1983, by an issuing authority,

(ii) A substantial user of the project notified such issuing authority—

(A) By August 17, 1984, that it intended to claim its rights under section 631(a)(3) of the Tax Reform Act of 1984, and

(B) By December 31, 1984, as to the calendar year in which it expects the obligations to provide the project to be issued, and

(iii) Construction of such project began before October 19, 1983, or a substantial user was under a binding obligation on that date to incur significant expenditures with respect to the project.

For purposes of the preceding sentence, the term "significant expenditures" means expenditures that equal or exceed the lesser of $15 million or 20 percent of the estimated cost of the facilities. An issuing authority may require, as part of the submission required by (ii)(B) of this A–16, that a substantial user specify the aggregate amount of private activity bonds necessary for the project. Section 631(a)(3) does not apply to a project to the extent that the aggregate amount of obligations required for such project exceeds the amount, if any, provided for in the inducement resolution or resolutions in existence with respect to such project before October 19, 1983, or in the statement that may be required by the issuing authority as part of the submission required by (ii)(B) of this A–16. Similarly, section 631(a)(3) does not apply to a project to the extent of any material change in its nature, character, purpose, or capacity. Section 631(a)(3) does not apply to a project if the owner, operator, or manager of such project is not the same (or a related person) as the owner, operator, or manager named in the latest inducement resolution with respect to such project in existence before October 19, 1983. Section 631(a)(3) of the Act does not apply to any project if the obligations to provide the project are not issued in the year specified in the submission required by (ii)(B) of this A–16. In addition, section 631(a)(3) of the Act does not apply to any project to the extent that the amount of obligations to be issued for such project exceeds the share of the State ceiling to which the issuing authority that authorized the project is entitled as determined under section 103(n) (2) and (3) without regard to any alternative formula for allocating the State ceiling. The requirements of section 631(a)(3) will not apply where a State statute specifically so provides.

Q–17: What is the penalty for failure to comply with the requirements of section 631(a)(3) of the Act?

A–17: If any issuing authority fails to comply with the requirements of section 631(a)(3) of the Act, its private activity bond limit for the calendar year following the year in which the failure occurs shall be reduced by the amount of private activity bonds with respect to which the failure occurs. This penalty applies whether the issuing authority's private activity bond limit is determined under the formula provided under section 103(n) (2) and (3) or a different formula provided under section 103(n)(6). The penalty is imposed on the issuing authority that failed to comply with the requirements of section 631(a)(3) or, if in the year in which the penalty is imposed the issuing authority does not have a sufficient private activity bond limit to absorb the entire penalty, on the general purpose governmental unit treated as having jurisdiction over the same geographical area as the issuing authority. For purposes of this A–17, the general purpose governmental unit's private activity bond limit includes the private activity bond limit of each issuing authority treated as having preliminarily approved the project under A–16 of this § 1.103(n)–3T. Thus, for example, if a governmental unit failed to comply with the requirements of section 631(a)(3) of the Act with respect to a $5 million issue to be issued in 1985, and that governmental unit is assigned $15 million of the State ceiling for 1986

pursuant to a formula provided under section 103(n)(6), that governmental unit has a private actiyity bond limit of $10 million for 1986. Similarly, where a project that was preliminarily approved by an issuing authority that is not a governmental unit qualifies for $10 million of priority under section 631(a)(3) of the Act is not allocated a total of $10 million by the governmental unit on behalf of which the issuing authority is empowered to issue private activity bonds, the issuing authority's private activity bond limit, if any, for the year following this failure is reduced by $10 million; if the issuing authority's private activity bond limit for the year following the failure is less than $10 million, the private activity bond limit of the governmental unit on behalf of which the private activity bonds would have been issued had the failure not occurred (including if necessary, on a proportionate basis, the private activity bond limit purported to have been assigned to each of the other constituted authorities empowered to issue private activity bonds on behalf of the governmental unit and each special purpose governmental unit deriving all or part of its sovereign powers from the governmental unit) is reduced by the difference between $10 million and the reduction made in the issuing authority's private activity bond limit with respect to such failure.

Q–18: Will a penalty be assessed for failure to allocate private activity bond limit to all projects that meet the requirements section 631(a)(3) if the amount of obligations required by all such projects preliminarily approved by (or treated as having been preliminarily approved by) an issuing authority exceeds the private activity bond limit of such issuing authority?

A–18: No penalty will be assessed if priority is given to those eligible projects for which substantial expenditures were incurred before October 19, 1983. An issuer may define the term "substantial expenditures" in any reasonable manner based on the relevant facts and circumstances and its private activity bond limit.

Examples. The following examples illustrate the provisions of A–16 through A–18:

Example (1). On October 1, 1983, County S approved an inducement resolution for the issuance of up to $30 million of industrial development bonds to provide a pollution control facility described in section 103(b)(4)(F) for Corporation R. On October 5, 1983, R contracted with Corporation Q to begin construction of the pollution control facility immediately, and construction began on October 10, 1983. Not later than August 17, 1984, Corporation R notified County S that it intended to seek priority under section 631(a)(3) of the Tax Reform Act of 1984. In addition, prior to December 31, 1984, Corporation R notified County S that it expected the County to issue $25 million of industrial development bonds for its project during calendar year 1985. Under section 103(n)(3), County S has a private activity bond limit of $50 million for calendar year 1985, and neither the Governor nor the legislature of the State has provided a different allocation formula under section 103(n)(6). There are no other projects approved by County S that have rights under section 631(a)(3). On March 1, 1985, County S issues $25 million of industrial development bonds for the pollution control facility for Corporation R. If County S allocates less than $25 million of its private activity bond limit to that project, its private activity bond limit for 1986 will be reduced by the difference between $25 million and the amount County S actually allocates to the project.

Example (2). The facts are the same as in Example (1) except that during 1984 Corporation R fails to notify County S of the year in which it expects the obligations to be issued. Upon such failure the pollution control facility no longer qualifies for priority under section 631(a)(3), and County S will not be penalized if it does not not allocate any of its private activity bond limit for 1985, or any future year, to that project.

Example (3). The facts are the same as in Example (1) except that under section 103(n)(3) County S has a private activity bond limit of $10 million for 1985. County S will not be penalized if it allocates $10 million of its private activity bond limit to the project.

Example (4). The facts are the same as in Example (3) except that on December 31, 1984, the Governor of the State provides a different allocation from that provided under section 103(n) (2) and (3). (The State has not enacted a statute specifically providing that section 631(a)(3) does not apply.) The different allocation provides that the entire State ceiling is allocated to the State and that the State will allocate the State ceiling to issuing authorities for specific projects on a first-come, first-served basis. Corporation R qualifies for the special rights granted by section 631(a)(3) of the Tax Reform Act to the extent of County S's private activity bond limit as determined under section 103(n)(3), *i.e.*, $10 million. If the State fails to assign to County S $10 million of the State ceiling or if County S, after receiving such assignment, fails to allocate $10 million of private activity bond limit to the project, County S's private activity bond limit (if any) for 1986 will be reduced by the difference between $10 million and the amount of private activity bond limit allocated to the project.

Example (5). The facts are the same as in Example (1) except that Corporation R notifies County S that it only requires $15 million for the pollution control facility, County S only issues $15 million of private activity bonds for the pollution control facility, and County S only allocates $15 million of its private activity bond limit to such obligations. County S will not be penalized for not allocating more than $15 million of its private activity bond limit to Corporation R even though the original inducement resolution provided for up to $25 million.

§ 1.103(n)–4T Elective carryforward of unused private activity bond limit.

Q–1: May an issuing authority carry forward any of its unused private activity bond limit for a calendar year?

A–1: In any calendar year after 1983 in which an issuing authority's private activity bond limit exceeds the aggregate amount of private activity bonds issued during such calendar year by such issuing authority, such issuing authority may elect to treat all, or any portion, of such excess as a carryforward for any one or more projects described in A–5 of this § 1.103(n)–4T (carryforward projects).

Q–2: How is the election to carry forward an issuing authority's unused private activity bond limit made?

A–2: An issuing authority may make the election by means of a statement, signed by a duly authorized public official responsible for making allocations of such issuing authority's private activity bond limit, that the issuing authority elects to carry forward its unused private activity bond limit. The statement shall be mailed to the Internal Revenue Service Center, Philadelphia, Pennsylvania 19255, prior to the end of the calendar year with respect to which the issuing authority has the unused private activity bond limit. The statement is to be titled "Carryforward election under section 103(n)." The statement shall contain the following information:

(i) The name, address, and TIN of the issuing authority,

(ii) The issuing authority's private activity bond limit for the calendar year,

(iii) The aggregate amount of private activity bonds issued by the issuing authority during the calendar year for which the election is being made,

(iv) The unused private activity bond limit of the issuing authority, and

(v) For each carryforward project—

(A) A description of the project, including its address and the general type of facility (*e.g.*, an airport described in section 103(b)(4)(D)),

(B) The name, address, and TIN of the initial owner, operator, or manager, and

(C) The amount to be carried forward for the project.

In the case of a carryforward election for the purpose of issuing student loan bonds, the election need not include the address of the facility or the name, address, and TIN of the initial owner, operator, or manager of the project but shall state that the carryforward election is for the purpose of issuing student loan bonds.

Q–3: Is a carryforward election revocable?

A–3: Any carryforward election, and any specification contained therein, shall be irrevocable after the last day of the calendar year in which the election is made. Thus, for example, obligations issued to finance a carryforward project with a different initial owner, operator, or manager from the owner, operator, or manager specified in the carryforward election shall not be issued purusant to such carryforward election. An insubstantial deviation from a specification contained in a carryforward election shall not prevent obligations from being issued pursuant to such carryforward election. In addition, where a carryforward election is made with respect to more than one carryforward project, a substantial deviation with respect to one carryforward project shall not prevent obligations from being issued pursuant to such carryforward election with respect to the other carryforward projects.

Q–4: How is a carryforward used?

A–4: Any private activity bonds issued during the three calendar years (six calendar years in the case of a project described in section 103(b)(4)(F)) following the calendard year in which the carryforward election was first made with respect to a carryforward project shall not be taken into account in determining whether the issue meets the requirements of section 103(n). If, however, the amount of private activity bonds issued for the carryforward project exceeds the amount of the carryforward elected with respect to the project, then the portion of the issue that exceeds the carryforward shall be taken into account in determining whether the issue meets with the requirements of section 103(n); if that portion of the issue does not meet the requirements of section 103(n) then the entire issue is treated as consisting of obligations not described in section 103(a). Carryforwards elected with respect to any project shall be used in the order of the calendar years in which they arose. Thus, for example, if an issuing authority makes carryforward elections in 1986 and 1988 for a carryforward project and issues private activity bonds for that project in 1989 and 1990, the obligations issued in 1989 will be applied to the 1986 carryforward election to the extent thereof.

Q–5: For what projects may a carryforward election be made?

A–5: A carryforward election may be made for any project described in section 103(b) (4) or (5), and for the purpose of issuing student loan bonds. Thus, for example, an issuing authority may elect to carry forward its unused private activity bond limit in order to provide a sports facility described in section 103(b)(4)(B). In addition, a governmental unit may elect to carry forward its unused private activity bond limit in order to issue qualified scholarship funding bonds. An issuing authority may not, however, elect to carry forward its unused private activity bond limit in order to issue an exempt small issue of industrial development bonds under section 103(b)(6).

§ 1.103 (n)–5T Certification of no consideration for allocation.

Q–1: Who must certify that there was no consideration for an allocation?

A–1: Section 103(n)(12)(A) provides that, with respect to any private activity bond allocated any portion of the State ceiling, the private activity bond will not be described under section 103(a) unless the public official, if any, responsible for such allocation ("responsible public official") certifies under penalties of perjury that to the best of his knowledge the allocation of the State ceiling to that private activity bond was not made in consideration of any bribe, gift, gratuity, or direct or indirect contribution to any political campaign. With respect to any issue of private activity bonds, the responsible public official is the official or officer of the issuing authority that in fact is responsible for choosing which individual projects will be allocated a portion of the State ceiling. If a body of several individuals is responsible for such choices, any one member of such body qualifies as the responsible public official.

Q–2: What is the penalty for willfully making an allocation in consideration of any bribe, gift, gratuity, or direct or indirect contribution to any political campaign?

A–2: Section 103(n)(12)(B) provides that any person willfully making an allocation of any portion of the State ceiling in consideration of any bribe, gift, gratuity, or direct or indirect contribution to any political campaign will be subject to criminal penalty as though the allocation were a willful attempt to evade tax imposed by the Internal Revenue Code.

§ 1.103 (n)–6T Determinations of population.

Q–1: What is the proper method for determining population?

A–1: All determinations of population must be made with respect to any calendar year on the basis of the most recent census estimate (whether final or provisional) of the resident population of the State or other governmental unit published by the Bureau of the Census in the "Current Population Reports" series before the beginning of the calendar year.

However, determinations of the population of a general purpose governmental unit (other than a State, territory, or possession) within a State, territory, or possession may not be based on estimates that do not contain estimates for all of the general purpose governmental units within such State, territory, or possession. Thus, a county may not determine its population on the basis of a census estimate that does not provide an estimate of the population of the other general purpose governmental units within the State (*e.g.*, cities, towns). If no census estimate is available for all such general purpose governmental units, the most recent decennial census of population may be relied on.

Example: The following example illustrates the provisions of A–1 of this § 1.103(n)–6T:

Example. County Q is located within State R. There are no constitutional home rule cities in State R. State R has not adopted a formula for allocating the State ceiling different from the formula provided in section 103(n) (2) and (3). The geographical area within the jurisdiction of County Q is not within the jurisdiction of any other governmental unit having jurisdiction over a smaller geographical area. As of December 31, 1984, the Bureau of the Census has published the following estimates of resident population: "Current Population Reports; Series P–25: Population Estimates and Projections, Estimates of the Population of States: July 1, 1981–1983" and "Current Population Reports; Series P–26: Local Population Estimates: Population of State R, Counties, Incorporated Places, and Minor Civil Divisions: July 1, 1981–1982." The most recent population estimate for State R available prior to 1985 provides population estimates as of July 1, 1983. The most recent population extimates for County Q available prior to 1985 is the estimate for July 1, 1982. Assuming that the State ceiling for State R for 1985 is in excess of $200 million (*i.e.*, $150 multiplied by the estimated population of State R as of July 1, 1983, exceeds $200 million), County Q may determine its private activity bond limit by using the following formula:

P = $150 × .5 × W × Y/Z, where,
P = County Q's private activity bond limit,
W = the July 1, 1983, population estimate for State R,
Y = the July 1, 1982, population estimate for County Q, and
Z = the July 1, 1982, population estimate for State R.

If the State ceiling for State R is not in excess of $200 million, County Q may determine its private activity bond limit by using the following formula:

P = $200,000,000 × .5 × Y/Z, where
P, Y, and Z have the same meaning as above.

There is a need for immediate guidance with respect to the provisions

contained in this Treasury decision. For this reason it is found impracticable to issue it with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

This Treasury decision is issued under the authority contained in sections 103(n) and 7805 of the Internal Revenue Code of 1954 (98 Stat. 916, 26 U.S.C. 103(n); 68A Stat. 917, 26 U.S.C. 7805).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: September 14, 1984.

Ronald A. Pearlman,

Acting Assistant Secretary of the Treasury.

[FR Doc. 84-26507 Filed 10-3-84; 4:22 pm]

BILLING CODE 4830-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 181 and 183

[CGD 83-012]

Certification, Safe Loading and Flotation Standards

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule amends the Certification Regulations in Subpart B of Part 181 and the Safe Loading and Flotation Standards in Subparts C, E, G and H of Part 183 of Title 33, Code of Federal Regulations. The Coast Guard undertook a review of its regulations governing construction standards which apply to the manufacture of recreational boats in an effort to reduce the burden of existing regulations without sacrificing safety. Based upon the review effort, several sections have been determined to no longer be necessary, or have limited value in improving boating safety. These amendments revise or remove these sections of the Certification regulations and the Safe Loading and Flotation Standards to relieve the regulatory burden upon recreational boat manufacturers. Changes in the actual weights of currently manufactured outboard motors are reflected in the table used to determine safe loading capacities and the amount of required flotation material and require the installation of additional flotation material in some boats.

EFFECTIVE DATE: April 3, 1985, except Table 4 in Subpart H which will be effective July 1, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Alston Colihan, Office of Boating, Public, and Consumer Affairs (G-BBS/43), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593, (202) 426-1065, between 8 a.m. and 4 p.m. Monday through Friday, except holidays.

SUPPLEMENTARY INFORMATION: The Coast Guard published a notice of proposed rulemaking in the **Federal Register** on April 12, 1984 (49 FR 14538). An extension of the comment period for the notice was published in the **Federal Register** on June 7, 1984 (49 FR 23663). Interested persons were invited to participate in this rulemaking by submitting relevant comments. No comments were received. The National Boating Safety Advisory Council was consulted and its opinions and advice have been considered in the formulation of these amendments. The transcripts of the proceedings of the National Boating Safety Advisory Council at which this rule was discussed are available for examination in Room 4304, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. The minutes of the meetings are available from the Executive Director, National Boating Safety Advisory Council, c/o Commandant (G-BBS), U.S. Coast Guard, Washington, D.C. 20593.

This document is in furtherance of Executive Order No. 12291. It removes those sections of the Certification Regulations in Subpart B of Part 181 and the Safe Loading and Flotation Standards in Subparts C, E, G and H of Part 183 that do not significantly contribute to boating safety.

Drafting Information

The principal persons involved in drafting these amendments are Mr. Alston Colihan, Project Manager, Office of Boating, Public, and Consumer Affairs, and LT Sandra Sylvester, Project Attorney, Office of the Chief Counsel.

Discussion of Comments

No comments were received on the proposal.

Regulatory Evaluation

These regulations are considered to be nonmajor under the provisions of section 2 of Executive Order No. 12291 and are nonsignificant in accordance with the guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of May 22, 1980). The Coast Guard estimates that 2,000 boat models have a rated capacity of more than 550 pounds of persons. The elimination of the requirement for conducting the dry stability test for each of these models will result in an estimated total savings to the boating industry of $200,000 per year. The amendments to the Flotation Standard would result in only minor increases in the costs of manufacturing some boats. Using 1982 sales estimates, forty percent of the 236,000 outboard boats manufactured will be subject to an increase in the amount of flotation material required using the new Table 4 in Subpart H. Some boats with low horsepower ratings will require less flotation material because the weights for those motors have decreased. As a result, performing calculations in accordance with the Flotation Standard using the new Table 4 in Subpart H will amount to an average increased cost of $8.00 per boat.

Since the cost per boat is minimal, in accordance with section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164), it is certified that this rule will not have a significant economic impact on a substantial number of small entities. Boat builders have until July 1, 1986 before the change to Table 4 in Subpart H becomes effective and any design modifications necessary to accommodate additional flotation material can be incorporated in normal model year changes within this two year period.

List of Subjects in 33 CFR Parts 181 and 183

Marine safety.

In consideration of the foregoing, Parts 181 and 183 of Title 33, Code of Federal Regulations are amended to read as follows:

PART 181—MANUFACTURER REQUIREMENTS

1. By removing and reserving § 181.15(c) and revising § 181.15(d) to read as follows:

§ 181.15 Contents of labels.

* * * * *

(c) [Reserved]

(d) Except as provided in paragraph (e) of this section, the manufacturer may, in addition to the information required by paragraphs (a) and (b) of this section, display on the certification label any or all of the following information:

* * * * *

PART 183—BOATS AND ASSOCIATED EQUIPMENT

2. By revising § 183.39(a) to read as follows:

§ 183.39 Persons capacity: Inboard and inboard-outdrive boats.

(a) The persons capacity in pounds marked on a boat that is designed to use one or more inboard engines or inboard-outdrive units for propulsion must not exceed:

(1) The maximum weight capacity determined under § 183.33 for the boat; or

(2) For boats with a maximum persons capacity less than 550 pounds, the maximum persons capacity determined in the following manner:

* * * * *

3. By revising § 183.41(a) to read as follows:

§ 183.41 Persons Capacity: Outboard boats.

(a) The persons capacity in pounds marked on a boat that is designed to use one or more outboard motors for propulsion must not exceed:

(1) The maximum weight capacity determined under § 183.35 for the boat minus the motor and control weight, battery weight (dry), and full portable fuel tank weight from Table 4 of Subpart H of this Part; or

(2) For boats with a maximum persons capacity less than 550 pounds, the maximum persons capacity determined in the following manner:

* * * * *

Subpart E—Flotation—[Reserved]

4. Part 183 is amended by removing and reserving Subpart E (§§ 183.61–183.67).

5. Effective July 1, 1986 Table 4 in Subpart H is revised to read as follows:

TABLE 4.—WEIGHTS (POUNDS) OF OUTBOARD MOTOR AND RELATED EQUIPMENT FOR VARIOUS BOAT HORSEPOWER RATINGS

Boat horsepower rating	Motor and control weight		Battery weight		Full portable fuel tank weight	1+3+5
	Dry	Swamped	Dry	Submerged		
	Column No.					
	1	2	3	4	5	6
0.1 to 2	25	20				25
2.1 to 3.9	40	34				40
4.0 to 7	60	52			25	85
7.1 to 15	90	82	20	11	50	160
15.1 to 25	125	105	45	25	50	220
25.1 to 45	170	143	45	25	100	315
45.1 to 80	235	195	45	25	100	380
80.1 to 80	280	235	45	25	100	425
80.1 to 145	405	352	45	25	100	550
145.1 to 275	430	360	45	25	100	575
275.1 and up	605	538	45	25	100	750
TRANSOMS DESIGNED FOR TWIN MOTORS						
50.1 to 90	340	286	90	50	100	530
90.1 to 120	470	390	90	50	100	660
120.1 to 160	560	470	90	50	100	750
160.1 to 290	810	704	90	50	100	1000
290.1 to 550	860	760	90	50	100	1050
550.1 and up	1210	1076	90	50	100	1400

(46 U.S.C. 4302; 49 CFR 1.46(n)(1))

Dated: August 27, 1984.

A.D. Breed,

Commodore, U.S. Coast Guard, Chief, Office of Boating, Public, and Consumer Affairs.

[FR Doc. 84-26365 Filed 10-4-84; 8:45 am]

BILLING CODE 4910-14-M

VETERANS ADMINISTRATION

38 CFR Parts 5, 8, 13, and 17

Revocation of Obsolete Regulations

AGENCY: Veterans Administration.

ACTION: Final rule; Revocation.

SUMMARY: The Veterans Administration is revoking a number of obsolete and superfluous regulations. The provisions of these regulations have been either incorporated into other regulations or have been made obsolete by subsequently enacted legislation.

EFFECTIVE DATE: September 28, 1984.

FOR FURTHER INFORMATION CONTACT: Nancy C. McCoy, Chief, Directives Management Division, Paperwork Management and Regulations Service (731), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 389–2308.

SUPPLEMENTARY INFORMATION: The Veterans Administration is revoking 38 CFR 5.50, 8.185, 8.186, 13.500 17.951, 17.952 and 17.953. The sections are listed showing current provisions:

Section 5.50 (forfeiture)—superseded by §§ 3.900–3.905.

Sections 8.185 and 8.186 (certain NSLI dividends and premium refunds)—no longer needed.

Section 13.500 (certain disbursements from personal funds of patients)—superseded by § 13.108(b).

Section 17.951 (hospital, domiciliary care and medical treatment)—superseded by §§ 17.31(b)(4), 17.36(b), 17.47(c)(1), 17.60 and 17.115.

Section 17.952 (determination of mental competency of certain members of the Uniformed Services)—no longer needed

Section 17.953 (hospital and medical services for veterans suffering from noncompensable peacetime service-connected disabilities)—superseded by §§ 17.30, 17.47.

The Veterans Administration finds that this action is not included within the term "major rulemaking" as set forth in section 1(a)(3) of Executive Order 12291, Federal Regulation. This action is a purely administrative matter. In addition, this action has no effect under the Regulatory Flexibility Act (15 U.S.C. 601–612).

Under the authority of the Administrator of Veterans Affairs as set forth in 38 U.S.C. 210, sections 5.50, 8.185, 8.186, 13.500, 17.951, 17.952 and 17.953 are hereby revoked and reserved.

Dated: September 28, 1984.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

[FR Doc. 84-26458 Filed 10-4-84; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[WH-FRL-2686-8]

North Dakota Decision on Final Authorization of State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of Final Determination on Application of North Dakota for Final Authorization.

SUMMARY: North Dakota has applied for final authorization under the Resource Conservation and Recovery Act (RCRA). EPA has reviewed North Dakota's application and has reached a final determination that North Dakota's hazardous waste program satisfies all of the requirements necessary to qualify for final authorization. Thus, EPA is granting final authorization to the State to operate its program in lieu of the Federal program.

EFFECTIVE DATE: Final Authorization for North Dakota shall be effective at 1:00 p.m. on October 19, 1984.

FOR FURTHER INFORMATION CONTACT: Henry C. Schroeder, EPA/Region 8, 1860 Lincoln Street, Denver, Colorado 80295, Telephone: (303) 844–2221.

SUPPLEMENTARY INFORMATION: Section 3006 of the Resource Conservation and Recovery Act (RCRA) allows the Environmental Protection Agency (EPA) to authorize State hazardous waste programs to operate in the State in lieu of the Federal hazardous waste program. To qualify for final authorization, a State's program must (1) be "equivalent" to the Federal program; (2) be consistent with the Federal program and other State programs; and (3) provide for adequate enforcement [Section 3006(b) of RCRA, 42 U.S.C. 6226(b)].

On March 14, 1984, North Dakota submitted a complete application to obtain final authorization to administer the RCRA program. On July 10, 1984, EPA published a tentative decision announcing its intent to grant North Dakota final authorization. Further background on the tentative decision to grant authorization appears at Vol. 49, No. 133, **Federal Register**, Page 28076, July 10, 1984.

Along with the tentative determination EPA announced the availability of the application for public comment and the date of a public hearing on the application. The public hearing was held on August 14, 1984. Four positive statements were received and no adverse comments.

The tentative determination to authorize the State of North Dakota was made based on North Dakota's commitment to provide additional materials to EPA. The materials were presented and reviewed in time for the public to review, and adequately addressed EPA's prior concerns as follows:

EPA stated that the State statute contains an in existence date for interim status about eight months later than EPA's; July 1, 1981 as opposed to November 19, 1980. This needed to be remedied by changing the date during the next legislative session or agreeing, in the MOA, to change regulations and permit affected facilities within one year of any new waste listings by EPA.

North Dakota has committed in the MOA to change regulations and permit affected facilities within one year of any new waste listings by EPA. The State Attorney General has certified that the State can make this commitment. This assures that no facility will qualify for interim status under State law for whom a permit would be required under Federal law.

Decision

After reviewing the public comment and the changes the State has made to its application/program since the tentative decision, I conclude that North Dakota's application for final authorization meets all of the statutory and regulatory requirements established by RCRA. Accordingly, North Dakota is granted final authorization to operate its hazardous waste program. This means that North Dakota now has the responsibility for permitting treatment, storage and disposal facilities within its borders and carrying out the other aspects of the RCRA program. North Dakota also has primary enforcement responsibility, although EPA retains the right to take enforcement actions under sections 3008, 7003, and 3013 of RCRA.

Compliance With Executive Order 12291

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 505(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. The authorization effectively suspends the applicability of certain Federal regulations in favor of Utah's program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 271

Hazardous materials, Indian lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Intergovernmental relations, Penalties, Confidential business information.

Authority: This notice is issued under the authority of section 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: October 2, 1984.

John G. Welles,

Regional Administrator.

[FR Doc. 84-26602 Filed 10-4-84; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3100, 3200, 3470, and 3500

[Circular No. 2554]

Oil and Gas Leasing; Geothermal Resources Leasing; Coal Management Provisions and Limitations; and Leasing of Solid Minerals Other Than Coal and Oil Shale; Amendment Changing the Collection Process for Mineral Leases

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking will amend the existing regulations covering the procedures for collection of bonus and rental payments required in connection with mineral leases issued by the Bureau of Land Management. The final rulemaking will transfer the bonus and rental payments after the payment for the initial year for six categories of lands that were excluded by the final rulemaking that appeared in the **Federal Register** on March 27, 1984 (49 FR 11636).

EFFECTIVE DATE: January 1, 1985.

ADDRESS: Any inquiries or suggestions should be sent to: Director (140), Bureau of Land Management, 1800 C Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Robert C. Bruce, (202) 343–8735.

SUPPLEMENTARY INFORMATION: A final rulemaking which implemented the provisions of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701–1757) and a Memorandum of Understanding between the Bureau of Land Management and the Minerals Management Service dealing with the question of remittances in connection with mineral leases issued by the Bureau of Land Management was published in the **Federal Register** on March 27, 1984 (49 FR 11636). That final rulemaking required that the bonus and rental remittances made after the initial payment should be made to the Minerals Management Service. The final rulemaking excluded six categories of

lands from this requirement. This exclusion resulted in confusion among lessees as to where they should send their bonus and rental payments. As a result of the concerns expressed by several lessees, the Department of the Interior carefully reexamined the question of the need to have a different payment requirement for the six categories of lands excluded by the final rulemaking of March 27, 1984. It was determined that the bonus and rental remittances on the excluded lands could be paid to the Minerals Management Service. This final rulemaking will require that all bonus and rental remittances made after the initial remittance be made to the Minerals Management Service. Provisions have been made to notify the approximately 3,000 lease holders that will be affected by this final rulemaking to make their remittances to the Minerals Management Service.

This change is being issued as a final rulemaking because it is an administrative change, one that imposes no new burdens on the public. Holders of mineral leases on the six categories of lands covered will continue to have to remit required payments, but with this amendment will make all payments after the initial payment to the Minerals Management Service, rather than the Bureau of Land Management.

The principal author of this final rulemaking is Robert C. Bruce, Office of Legislation and Regulatory Management, Bureau of Land Management.

It is hereby determined that this rulemaking does not constitute a major action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

The changes made by this final rulemaking will affect equally all entities, large or small. The impact will be insignificant since it only requires a change in the agency within the Department of the Interior to whom the required remittances payable after lease issuance are made in connection with mineral leases issued by the Bureau of Land Management on six identified categories of lands.

This final rulemaking contains no additional information collection requirements requiring approval by the Office of Management and Budget under 44 U.S.C. 3501 et seq.

List of Subjects

43 CFR Part 3100

Administrative practice and procedure, Environmental protection, Mineral royalties, Public Lands—classification, Public lands—mineral resources, Surety bonds.

43 CFR Part 3200

Environmental protection, Geothermal energy, Mineral royalties, Public lands—classification, Public lands—mineral resources, Surety bonds.

43 CFR Part 3470

Coal, Mineral royalties, Mines, Public lands—mineral resources, Surety bonds.

43 CFR Part 3500

Mineral royalties, Public lands—mineral resources, Surety bonds.

Under the authority of the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands, as amended (30 U.S.C. 351–359), the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.), the Geothermal Steam Act of 1970 (30 U.S.C. 1001–1025), the Federal Coal Leasing Amendments Act of 1976, as amended (90 Stat. 1083–1092) and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), Groups 3100, 3200, 3400 and 3500, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below.

Dated: September 28, 1984.

J. Steven Griles

Acting Assistant Secretary of the Interior.

PART 3100—[AMENDED]

§ 3103.1–2 [Amended]

1. Section 3103.1–2(a) is amended by:

A. Amending paragraph (1) by removing the last sentence thereof in its entirety; and

B. Amending paragraph (2) by removing the phrase "for nonproducing leases not covered by paragraph (a)(1) of this section".

PART 3200—[AMENDED]

§ 3205.1–2 [Amended]

2. Section 3205.1–2(a) is amended by:

A. Amending paragraph (1) by removing the last sentence thereof in its entirety; and

B. Amending paragraph (2) by removing the phrase "not covered by paragraph (a)(1) of this section".

PART 3470—[AMENDED]

§ 3473.1–2 [Amended]

3. Section 3473.1–2(a) is amended by:

A. Amending paragraph (1) by removing the last sentence thereof in its entirety; and

B. Amending paragraph (2) by removing the phrase "not covered by paragraph (a)(1) of this section".

PART 3500—[AMENDED]

§ 3503.1–2 [Amended]

4. Section 3503.1–2 (a) is amended by:

A. Amending paragraph (1) by removing the last sentence thereof in its entirety; and

B. Amending paragraph (2) by removing the phrase "not covered by paragraph (a)(1) of this section".

[FR Doc. 84–26442 Filed 10–4–84; 8:45 am]

BILLING CODE 4310–84–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 87

[General Docket No. 84–186; RM–4077; FCC 84–446]

Aeronautical Flight Test Telemetering Operations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document amends the Commission's rules that govern aeronautical flight test telemetering operations. This action is taken to conform our rules with the Final Acts of the 1979 World Administrative Radio Conference and to address a petition filed by the Aerospace & Flight Test Radio Coordinating Council. The amended rules would expand aeronautical flight test telemetering operations to the 2310–2390 MHz band and modify the technical criteria that govern such operations.

EFFECTIVE DATE: November 5, 1984.

FOR FURTHER INFORMATION CONTACT: William P. Berges, Private Radio Bureau, (202) 632–7175.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 2

Communications equipment. Aeronautical stations.

Report and Order (Proceeding Terminated)

In the matter of amendment of Parts 2 and 87 of the Commission's rules regarding aeronautical flight test telemetry, Gen. Docket No. 84-186, RM-4077.

Adopted: September 26, 1984.
Released: September 28, 1984.

By the Commission.

1. This Report and Order amends Parts 2 and 87 of the Commission's rules to permit the operation of aeronautical flight test telemetering airborne stations (flight test telemetry stations) in the 2310–2390 MHz band.[1] It also clarifies the rules that govern such operations in the bands 1435–1535 MHz and 2310–2390 MHz.

Background

2. On February 24, 1984, the Commission adopted a Notice of Proposed Rule Making (Notice) proposing to amend the Commission's flight test telemetry rules.[2] This action was taken to conform our rules with the Final Acts of the 1979 World Administrative Radio Conference (WARC–79) and to address a petition (RM–4077) filed by the Aerospace & Flight Test Radio Coordinating Council (AFTRCC).[3] In the Notice we stated that Government agencies and non-Government FCC licensees are currently authorized to use flight test telemetry frequencies in the 1435–1535 MHz band on a shared, coordinated basis. The frequencies between 1435–1485 MHz are assigned primarily for the flight testing of unmanned aircraft or their major components, and the frequencies between 1485–1535 MHz are assigned primarily for the flight testing of manned aircraft and missiles or their major components. Flight test telemetry licensees are normally authorized to operate on 1 MHz bandwidth channels but upon showing of need operations on wider bandwidths are permitted. In recent years the number and complexity of flight tests have increased substantially and have caused congestion in the 1435–1535 MHz band. As a result, in WARC–79 the United States supported the use of the 2310–2390 MHz band on a primary basis for flight test telemetry operations and the proposal was adopted. On November 8, 1983, the Commission amended § 2.106 of the rules (Table of Frequency Allocations) to allocate the 2310–2390 Mhz band primarily to aeronautical flight test telemetering and associated telecommand operations.[4] The Table also affords primary status to the Government Radiolocation Service in this band.

3. In response to AFTRCC's petition the Commission proposed to make the following changes to the rules that govern the licensing and operation in the flight test telemetry frequencies:

(a) Make the 2310–2390 MHz band available for assignment to flight test telemetry stations.

(b) Eliminate restrictions in the flight test telemetry service specifying certain frequencies for manned and others for unmanned operations.

(c) Specify a maximum power limitation of 25 watts at the output terminals of flight test telemetry transmitters.

(d) Authorize the use of ground-to-air telecommand operations in the flight test telemetry bands.

(e) Authorize the use of 1, 3 and 5 MHz bandwidth channels on a routine basis in the flight test telemetry service, and conform with the international Radio Regulations by requiring flight test telemetry transmitters installed after January 1, 1985, and all such transmitters in operation after January 1, 1990, to have a frequency tolerance of 0.002%.

(f) Retain the current rules defining the bandwidth of flight test telemetry stations.

(g) Not require applicants to provide spectrum occupancy photographs of their stations to the frequency advisory committee.

(h) Add emission limitations for digitally modulated (F9Y) flight test telemetry stations identical to those currently applied to F9 stations.

(i) Require the frequency advisory committee to coordinate frequency assignment requests with the responsible Government Area Frequency Coordinator.

Comments and Discussion

4. The following parties filed comments in this proceeding: (a) AFTRCC, (b) American Radio Relay League, Incorporated (ARRL), and (c) Southern California Repeater and Remote Base Association (SCRRBA). Reply comments were filed by AFTRCC. The issues raised in this proceeding were also reviewed by an ad hoc committee (Ad Hoc 185) formed by the Interdepartment Radio Advisory Committee (IRAC).[5]

Amateur Allocation

5. ARRL and SCRRBA had filed petitions for reconsideration in Gen. Docket No. 80–739 requesting that the secondary allocation of the 2310–2390 MHz band for the Amateur Radio Service be retained. In their comments in this proceeding, ARRL reiterated its request that the Amateur Radio Service retain its secondary allocation of the band. SCRRBA argued that it was premature to take final action in this proceeding until the petitions for reconsideration were resolved. AFTRCC opposed the use of the 2310–2390 MHz band by the Amateur Radio Service.

6. In a Memorandum Opinion and order in Gen. Docket No. 80–739, released July 2, 1984, FCC 84–306, the Commission denied the ARRL and SCRRBA petitions for reconsideration. Therefore, the issues raised by ARRL and SCRRBA regarding a secondary allocation of the 2310–2390 MHz band for the Amateur Radio Service are moot. Accordingly, we are amending the rules to implement the allocation of the 2310–2390 MHz band for flight test telemetry operations as proposed.

Frequencies for Manned and Unmanned Operations

7. The Notice proposed to eliminate the division of frequencies between manned and unmanned vehicles. We felt this change would provide greater flexibility and permit more efficient use of the bands by frequency coordinators and flight test officers. There was no opposition to this proposal. Therefore, for the reasons stated in the Notice we are amending the rules as proposed.

Power Limitation

8. The Commission's rules currently provide that the power of any station in the Aviation Services must not be greater than the minimum required for satisfactory operation.[6] In its petition AFTRCC recommended that the Commission's rules be amended to authorize a maximum power limitation of 25 watts at the antenna input of flight test telemetry stations. AFTRCC requested this power limitation to

[1] Flight test telemetry stations are used to transmit diagnostic test data during the research and development phases of manned and unmanned aircraft, booster rockets and other expendable vehicles, or their major components. This includes operations associated with the launching and re-entry into the earth's atmosphere of manned or unmanned objects undergoing flight tests, as well as any incidental orbiting prior to re-entry.

[2] Gen. Docket No. 84–186, released March 2, 1984, FCC 84–57, 49 FR 8455.

[3] AFTRCC is a trade association of major entities engaged in the design and manufacture of Government and non-Government aircraft, space vehicles and their major components. AFTRCC is recognized by the Commission as the frequency advisory committee for non-Government flight test telemetry station assignments. See *Report and Order*, Docket No. 18234, adopted January 8, 1969, 15 FCC 2d 831.

[4] See *Second Report and Order*, General Docket No. 80–739, released December 8, 1983, FCC 83–511; 49 FR 2357, January 19, 1984.

[5] Ad Hoc 185 is a committee formed by IRAC to review the issues in this proceeding for Government users of the flight test telemetry bands.

[6] See § 87.63(a), 47 CFR 87.63(a).

prevent adjacent channel interference. In the Notice we pointed out it would be very difficult for the Commission to enforce a maximum power limitation at the antenna input. Consequently, we proposed rules specifying a maximum power limitation of 25 watts at the output terminals of flight test telemetry transmitters.[7]

9. In its comments AFTRCC argued that the Commission's proposed rules do not satisfy the 25 watt antenna input power limitation recommended in its petition. AFTRCC stated that the Commission's proposal would provide less than 25 watts at the antenna input because in many cases the transmitter power of flight test telemetry stations is fed to more than one antenna. Also, large flight vehicles may require long cables between the transmitter and antenna, which attenuate substantially the power available at the antenna input. Therefore, AFTRCC urged the Commission to adopt rules consistent with the petition's recommendation.

10. As indicated in the Notice, a maximum power limitation measured at the antenna input would be impractical to enforce. It would also be dificult to type accept transmitters with differing performance characteristics, depending upon their ultimate application.

After careful review of this issue, we conclude that there is no need to impose more restrictive power limitations on flight test stations. AFTRCC coordinates all non-Government flight test frequency assignments and as the frequency coordinator it has the discretion to recommend disapproval of flight test telemetry operations seeking to employ excessive power. Thus it is preferable to retain this flexible arrangement rather than impose an unsatisfactory standard. Therefore, we are not adopting the more restrictive power limitation proposed in the Notice.

Telecommand Operations

11. In response to AFTRCC's request the Notice proposed to amend the rules to authorize the use of the 1435–1535 MHz and the 2310–2390 MHz bands for ground-to-air telecommand communications. Telecommand communications were defined to include only ground-to-air transmissions directly associated with the support of telemetering functions authorized in these bands. The following examples of telecommand operations were noted: (a) In-flight, real-time reformatting of airborne data systems; (b) time code synchronization; (c) in-flight programming of peculiar flight test equipment, i.e., excitation of aircraft control surfaces to determine flutter characteristics of aircraft; (d) merging of data from ground telemetry systems, such as event markings, with the airborne transmitted data; and (e) presentation to the test pilot of critical flight information that is obtained when the flight test telemetry data are processed on the ground. Additionally, the Notice questioned whether telecommand operations should be segregated on designated segments of the telemetry bands or assigned adjacent to the telemetry channels authorized for the particular flight test vehicle in order to prevent co-channel and adjacent channel interference.[8]

12. In its comments AFTRCC argued that the term "telecommand" is too broad and that the proposed rules do not adequately define the scope of the intended "uplink" telemetry operations. For example, AFTRCC feared the bands could be used to control unmanned remotely piloted vehicles (RPV's). AFTRCC recommends limiting the use of such "uplink" communications to transmit data or directions to onboard flight test systems under the control of the vehicle's crew.[9] Additionally, AFTRCC recommended that such "uplink" communications not be restricted to specific channels in the telemetry bands.

13. We believe that the proposed rules adequately limit and define the use of the bands for ground-to-air telecommand communications. In Gen. Docket No. 80–739, the Commission modified US276 in the Table of Frequency Allocations to read as follows: "Use of the band 2310–2390 MHz by the mobile service is limited to aeronautical telemetering and associated *telecommand* operations for flight testing of manned or unmanned aircraft, missiles * * *." (emphasis added). It was also indicated that US78 which pertains to the use of the 1435–1535 MHz band would be modified in the instant proceeding.[10] Thus we used the term "telecommand" to be consistent with previous actions. Further, the proposed rule §§ 87.5, 87.331(e), and 87.338(a) limit telecommand transmissions in the 1435–1535 MHZ and 2310–2390 MHz bands to those operations that are associated directly with the support of flight test telemetering authorized in these bands. In summary, the telecommand operations proposed in this proceeding must meet two criteria: (a) They must be associated with the diagnostic information transmitted by flight test telemetry stations of manned or unmanned flight vehicles provided such information is for the test vehicle or its major components, and (b) the information transmitted by the telecommand stations must be in a format similar to the one used by flight test telemetry stations, i.e., of an analog or digital data type, uniquely distinguished from the types used for voice and video transmissions. Therefore, we do not believe the proposed rules expand the authorized use of the bands to include all forms of telecommand operations as feared by AFTRCC. However, we concur with AFTRCC's view that there is no need to restrict telecommand operations to specific channels. Accordingly, we are amending the rules relating to telecommand operations as proposed.

Bandwidth and Frequency Stability

14. The Notice proposed to authorize the use of 1, 3 and 5 MHz bandwidth channels on a routine basis in the flight test telemetry service to accommodate high speed data transmissions by flight test telemetry stations. There was no objection to this proposal. Therefore, we are amending the rules as proposed to provide greater flexibility for the subject licensees.

15. AFTRCC's petition recommended expanding the 0.003% frequency tolerance to transmitters operating in the 2310–2390 MHz band. Because the international Radio Regulations will require all transmitters operating in the telemetry bands to have a frequency tolerance of 0.002% after January 1, 1990, the Notice proposed the following implementation schedule: (a) Transmitters installed prior to January 2, 1985, must have a frequency tolerance of 0.003%; (b) transmitters installed after January 2, 1985, must have a frequency tolerance of 0.002%; and (c) all transmitters in operations after January 1, 1990, must have a frequency tolerance of 0.002%. In its comments AFTRCC pointed out that the inventory of 0.003% frequency tolerance transmitters maintained by aerospace manufacturers may not be depleted by January 1, 1985, when the proposed frequency tolerance of 0.002% would go into effect. Accordingly, we are adopting rules to require a frequency tolerance of 0.002% for all transmitters *manufactured* after January 1, 1985. After January 1, 1990, all transmitters operating in the telemetry bands must have a frequency tolerance of 0.002% regardless of their date of manufacture.

[7] See paragraph 11 in the Notice.

[8] See paras. 14. of the Notice and B.1. and B.8. in the Appendix of the *Notice*.

[9] See AFTRCC comments pages 6, 7 and 8.

[10] See, *Second Report and Order*, Docket No 80–739, *supra* at paras 49 and 54.

Definition of Bandwidth

16. In its petition AFTRCC argued that the various definitions and standards which specify the channel bandwidth of flight test telemetry stations in the Commission's rules and National Telecommunications and Information Administration (NTIA) manuals are confusing. AFTRCC sought a single definition for bandwidth and revision of the factors in § 2.202(g) of the Commission's rules that are used to compute the bandwidth of flight test telemetry stations.[11] In the Notice we noted that the terms of these definitions are interrelated but have different meanings. We tentatively concluded not to adopt the changes recommended by AFTRCC but we requested comments on this issue.

17. AFTRCC commented that the changes recommended in its petition would present realistically the bandwidth that is actually used and state more accurately the amount of spectrum actually occupied by each telemetry system with no change to the spectrum congestion. As a result, the recommended changes would facilitate assignment or scheduling of adjacent channels during the same operating period.

18. The gist of this problem is that flight test telemetry stations assigned adjacent frequency channels experience interference when they are operating in geographic proximity. This is a natural phenomenon which is neither unique to nor properly solved by redefining the bandwidth of flight test telemetry stations. In radio services where the Commission or other industry organizations coordinate frequency assignments, this type of interference is prevented by specifying separation distances for stations operating on adjacent frequency channels.[12] AFTRCC and flight test schedulers can develop similar standards and procedures to prevent this problem. We continue to believe that although the subject terms are interrelated the different meanings are necessary. For example: necessary bandwidth is defined as the width of the frequency band which is sufficient to ensure the transmission of information at the required rate and quality under specified conditions. Necessary bandwidth has an absolute constant value which is used to determine the channel bandwidth that a station is authorized for its operation. Occupied bandwidth is the width of a frequency band in which above and below its center the emissions are attenuated at a prescribed rate. Utilizing a single definition of "bandwidth" for all these terms would do little to alleviate adjacent channel interference. Accordingly, we will retain the bandwidth definitions and factors currently specified in the rules.

Spectrum Occupancy Photographs

19. AFTRCC also requested the Commission to require applicants for flight test telemetry frequencies to provide spectrum occupancy photographs of their stations. These photographs could be used by the frequency coordinators to assist in selecting the optimum frequencies for the applicants, verify at the test range that each telemetry station is operating within its authorized emission limits, and supply channel schedulers with an accurate measurement of the actual spectrum used by any station. In the Notice we stated that the standards for computing the occupied bandwidth and emission limitations of flight test telemetry transmitters can be determined using §§ 87.67 and 2.202(g) of the rules. Spectrum occupancy photographs submitted during the licensing application process would not necessarily verify whether a station is operating within its authorized emission limits. Such verification can only be accomplished at the test range during pre-flight tests. Furthermore, we believed that the majority of prospective flight test telemetry licensees submit their applications for approval before they procure their transmitters. We concluded that rules requiring submission of spectrum occupancy photographs with the license application would impose an unnecessary burden on the users. Although we did not propose to implement AFTRCC's recommendation we invited comments on this issue.

20. AFTRCC conceded that spectrum occupancy photographs would not necessarily verify whether a station is operating within its authorized emission limits. However it argued that spectrum photographs would be used as a record showing the legally authorized bandwidth. AFTRCC also claimed that applicants purchase or select their transmitters before making application since the manufacturer and model of their equipment is required by the frequency coordinators to act on frequency requests. Therefore, tests to obtain the spectrum photographs can be performed either by the user or the transmitter manufacturer. AFTRCC requested the rules include at least a recommendation that spectrum photographs be submitted to assist in field selection and scheduling.

21. We consider that adoption of rules to satisfy this recommendation would impose a unique and unduly burdensome requirement on the flight test telemetry radio users. The Commission's rules (§ 87.71 (e) and (f)) adopted at request of a previous AFTRCC petition (RM–2075) sufficiently defined the emission limitation standards and can be used to determine the authorized bandwidth of flight test telemetry stations.[13] The rules permit licensees in every radio service to alter the emission profiles of their stations provided they do not exceed the limitation standards of their assigned channels. Considering that compliance with these standards can be verified using conventional techniques we have concluded that submission of spectrum occupancy photographs by applicants is not necessary. Congestion can be prevented by proper assignment of frequencies during the frequency coordination process and appropriate scheduling of flight tests. Frequency coordinators and flight test range schedulers, however, may request at their discretion that flight test telemetry licensees provide spectrum occupancy photographs of their stations prior to flight tests.

Emission Limitations

22. The Notice proposed to correct the omission of the emission limitations for digitally modulated (F9Y) stations in § 87.67 of the rules. No opposition was made to this proposal. Therefore, we are correcting the rules to add the F9Y emission limitations as proposed.

Coordination with the Government

23. Currently AFTRCC coordinates frequency assignment requests with the responsible Government Area Frequency Coordinator on an informal basis. The Notice proposed to require such coordination to minimize the potential for interference in the shared Government and non-Government bands. There was no opposition to the proposal. For the reasons stated in the Notice, we are amending the rules as proposed.

Conclusion

24. There rule amendments implement a new allocation for flight test telemetry operations adopted at the 1979 World Administrative Radio Conference, and revise certain operating and licensing

[11] See AFTRCC petition RM–4077, filed March 17, 1982 at page 18 and Appendix C.

[12] For example for adjacent frequency channel separation of FM broadcast and TV stations see § 73.207, 73.213 and 73.610, 47 CFR 73.207, 73.213, and 73.610.

[13] See *Report and Order*, Docket No. 20802, 63 FCC 2d 526, adopted January 4, 1977.

procedures as requested by the frequency advisory committee for the aerospace industry. These frequency bands are primarily utilized by very large organizations which manufacture aircraft or major aircraft components. No economic impact on small entities is expected. Consequently, in accordance with section 605(b) of the Regulatory Flexibility Act of 1980 (Pub. L. 96-354) the Commission hereby certifies that these rules as promulgated will not have a significant impact on a substantial number of small entities.

25. For the reasons stated above, it is ordered, That under the authority contained in sections 4(i) and 303 (c), and (r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303 (c), and (r), the Commission's rules are amended as set forth in the attached Appendix A, effective November 5, 1984.

26. It is further ordered, That a copy of this Report and Order shall be sent to the Chief Counsel for Advocacy of the Small Business Administration.

27. It is further ordered, That this proceeding is terminated.

28. Regarding questions on matters covered in this document contact William P. Berges, (202) 632-7175.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Parts 2 and 87 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 2—FREQUENCY ALLOCATION AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

In § 2.106 Footnote US78 is revised to read as follows:

§ 2.106 Table of frequency allocations.

* * * * *

US78. The frequencies between 1435 and 1535 MHz will be assigned for aeronautical telemetry and associated telecommand operations for flight testing of manned or unmanned aircraft and missiles, or their major components. Permissible usage includes telemetry associated with launching and reentry into the earth's atmosphere as well as any incidental orbiting prior to reentry of manned objects undergoing flight tests. The following frequencies are shared with flight telemetering mobile stations: 1444.5, 1453.5, 1501.5, 1515.5, 1524.5 and 1525.5 MHz. In the band 1530-1535 MHz, the Maritime Mobile-Satellite Service will be the only primary service after January 1, 1990.

* * * * *

PART 87—AVIATION SERVICES

1. Section 87.5 is amended by revising "Aeronautical telemetering mobile station", by adding after "Aeronautical telemetering mobile station" a new definition for "Aeronautical telemetering telecommand station", by adding after "Fixed station" two new definitions for "Flight telemetering mobile station" and "Flight telemetering telecommand station", and by adding after "Survival craft station" a new definition for "Telecommand" to read as follows:

§ 87.5 Definition of terms.

* * * * *

Aeronautical telemetering mobile station. A telemetering mobile station used for transmitting data directly related to the airborne testing of the vehicle (or major components), on which the station is installed.

Aeronautical telemetering telecommand station. A station used for the telecommand of aeronautical telemetering mobile stations.

* * * * *

Flight telemetering mobile station. A telemetering mobile station used for transmitting data from an airborne vehicle, excluding data related to airborne testing of the vehicle itself (or major components thereof).

Flight telemetering telecommand station. A station used for the telecommand of flight telemetering mobile stations.

* * * * *

Telecommand. The use of telecommunication for the transmission of signals to initiate, modify or terminate functions of equipment at a distance.

* * * * *

2. In § 87.65 paragraph (f) is revised to read as follows:

§ 87.65 Frequency stability.

* * * * *

(f) The carrier frequency of transmitters operating in the 1435-1535 MHz and 2310-2390 MHz bands manufactured before January 2, 1985, must remain within 0.003 percent of the assigned frequency. The carrier frequency of transmitters operating in the 1435-1535 MHz and 2310-2390 MHz bands manufactured after January 1, 1985, must remain within 0.002 percent of the assigned frequency. After January 1, 1990, the carrier frequency of transmitters operating in the 1435-1535 MHz and 2310-2390 MHz bands must remain within 0.002 percent of the assigned frequency regardless of the date of their manufacture.

3. In § 87.67 footnote 8 in paragraph (b) is revised and a new paragraph (f) is added to read as follows:

§ 87.67 Types of emission.

* * * * *

(b) * * *

[8] The authorized bandwidth is equal to the necessary bandwidth for frequency or digitally modulated transmitters used in aeronautical telemetering and associated aeronautical telemetering telecommand stations operating in the 1435-1535 MHz and 2310-2390 MHz bands. The necessary bandwidth must be computed in accordance with Part 2 of this chapter.

* * * * *

(f) Emissions for assignments in the 1435-1535 MHz and 2310-2390 MHz bands will be designated according to their class and necessary bandwidth.

4. In § 87.71 the introductory text of paragraphs (a), (e) and (f) are revised to read as follows:

§ 87.71 Emission limitations.

(a) When using transmissions other than single sideband (A3A, A3H, or 3A3J), or frequency modulation (F9) or digital modulation (F9Y) by telemetry and telecommand stations in the frequency bands 1435-1535 MHz and 2310-2390 MHz, the mean power of the emission must be attenuated below the mean output power of the transmitter as follows:

* * * * *

(e) [1] When using frequency modulated transmissions (F9) or digitally modulated transmissions (F9Y) for telemetry or telecommand in the 1435-1535 MHz and 2310-2390 MHz frequency bands with an authorized bandwidth equal to or less than 1 MHz:

* * * * *

(f) [1] When using frequency modulated transmissions (F9) or digitally modulated transmissions (F9Y) for telemetry or telecommand in the 1435-1535 MHz and 2310-2390 MHz frequency bands with an authorized bandwidth greater than 1 MHz:

* * * * *

5. In § 87.331 paragraphs (e) and (g) are revised to read as follows:

§ 87.331 Frequencies available.

* * * * *

(e) Frequencies in the bands 1435-1535 MHz and 2310-2390 MHz will be assigned primarily for telemetry and telecommand operations associated with the flight test of manned or unmanned aircraft and missiles or their major components. Permissible uses include telemetry and telecommand associated with the launching and reentry into the earth's atmosphere as

well as any incidental orbiting prior to reentry of manned or unmanned objects undergoing flight tests. In the 1435–1535 MHz band the following frequencies are shared with flight telemetering mobile stations: 1444.5, 1453.5, 1501.5, 1515.5, 1524.5 and 1525.5 MHz. In the 2310–2390 MHz band all other mobile telemetering and telecommand uses shall be secondary. The Maritime Mobile-Satellie Service will be the only primary service in the 1530–1535 MHz band after January 1, 1990.

* * * * *

(g) Aeronautical telemetering mobile stations operating in the bands 1435–1535 MHz and 2310–2390 MHz will normally be authorized channel bandwidths of 1, 3 or 5 MHz. Applications for channels with greater bandwidths will be considered. Each channel assignment will be centered on frequencies at standard intervals of 1 MHz, beginning at 1435.5 MHz in the 1435–1535 MHz band and 2310.5 MHz in the 2310–2390 MHz band.

6. In § 87.334 paragraphs (a)(1), (a)(2) and (c)(1) are revised to read as follows:

§ 87.334 Frequency coordination.

(a) * * *

(1) A report based on a field study, indicating the degree of probable interference to existing stations operating in the same area. The applicant must consider all prior coordinations and assignments on the requested frequency or frequencies within 200 miles of the proposed area of operation.

(2) A written statement must be included with the report saying that a notice of intention to file such application has been provided to all existing licensees within the frequency and mileage limits contained in paragraph (a)(1) of this section. The notice of intention to file must contain the following information: the frequency and emission description, power and area of operation of transmitter, gain and description of antenna system, and altitude of proposed operation. Copies of the written statement and notice of intention to file must also be provided to the frequency advisory committee defined in paragraph (c)(2) of this section.

* * * * *

(c)(1) In lieu of the report and written statement required by paragraphs (a) (1) and (2) of this section, a statement from the frequency advisory committee may be submitted. Taking into account the frequency or frequencies requested or the proposed changes in the authorized station the committee shall forecast the probable interference of the proposal to existing stations. The committee shall consider all prior coordinations and assignments on the requested frequency or frequencies within 200 miles of the proposed area of operation. The committee must coordinate in writing all requests for frequencies or proposed operating changes in the 1435–1535 MHz and 2310–2390 MHz bands with the responsible Government Area Frequency Coordinators listed in the NTIA "Manual of Regulations & Procedures for Radio Frequency Management". The committee must recommend frequencies which will result in the least amount of interference to proposed and existing stations. The committee may comment on the technical factors and recommend conditions or restrictions to prevent interference.

* * * * *

7. New § 87.338 is added to read as follows:

§ 87.338 Telecommand operations.

(a) Aeronautical telemetering telecommand stations will be authorized in the 1435–1535 MHz and 2310–2390 MHz bands only for transmissions directly supporting the telemetering functions authorized in these bands.

(b) Aeronautical telemetering telecommand stations are limited to an authorized bandwith of 1 MHz and must use antennas having a half power beamwidth of no more than 8° and a front-to-back ratio of at least 20 dB.

[FR Doc. 84-26447 Filed 10-4-84; 8:45 am]
BILLING CODE 6712-01-M

GENERAL SERVICES ADMINISTRATION

48 CFR Ch. 5

Disputes and Appeals; Rules of the GSA Board of Contract Appeals

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Final rule; correction.

SUMMARY: The incorrect change number was published in FR Doc. 84–24155, September 13, 1984, page 35938, [49 FR 35938]. The correct change number should read "[APD 2800.12 CHGE 3]".

EFFECTIVE DATE: September 27, 1984.

FOR FURTHER INFORMATION CONTACT: Carol A. Farrell, Office of GSA Acquisition Policy and Regulations, (202) 523–3822.

Authority: 40 U.S.C. 486(c).

Dated: September 27, 1984.

William B. Ferguson,

Acting Assistant Administrator for Acquisition Policy.

[FR Doc. 84-26463 Filed 10-4-84; 8:45 am]
BILLING CODE 6820-61-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 571, 574, and 575

[Docket No. 84-11; Notice 1]

Corrections of Errors in Code of Federal Regulations

Correction

In FR Doc. 84–26001, beginning on page 38610 in the issue of Monday, October 1, 1984, make the following correction: On page 38613, in the first column, the graph coordinates described in the third line of text below Figure 1 should have read "$x_j y_j$ (j=0, 1, . . . 8)".

BILLING CODE 1505-01-M

Proposed Rules

Federal Register
Vol. 49, No. 195
Friday, October 5, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Ch. I

[Summary Notice No. Pr-84-10]

Petitions for Rulemaking; Summary of Petitions Received and Dispositions of Petitions Denied or Withdrawn

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for rulemaking and of dispositions of petitions denied or withdrawn.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing and disposition of petitions for rulemaking (14 CFR Part 11), this notice contains a summary of certain petitions requesting the initiation of rulemaking procedures for the amendment of specified provisions of the Federal Aviation Regulations and of denials or withdrawals of certain petitions previously received. The purpose of this notice is to improve the public's awareness of this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and be received on or before January 3, 1985.

ADDRESS: Send comments on the petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. ———, 800 Independence avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916 FAA Headquarters Building (FOB-10A), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (b) and (f) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C. on October 1, 1984.

John Cassady,
Assistant Chief Counsel, Regulations and Enforcement Division.

PETITIONS FOR RULEMAKING

Docket No	Petitioner	Description of petition
23345	AOPA/EAA	Description of Petition: To revise the regulations to permit the certification, operation, and maintenance of a new category of aircraft within the standard airworthiness classification, termed "primary aircraft," and to provide for the issuance of a new experimental certificate known as "personal use." Regulations affected: 14 CFR Parts 1.1, 21.22 (new), 21.33, 21.35, 21.175, 21.181, 21.191, 43.3, 43.7(g) (new), Appendix A to Part 43, 91.43, and 91.169 Petitioner's Reason for Rule: Adoption of this petition should lower the cost of certain small aircraft not used to carry passengers or cargo for hire. Part 23 applies to certification of all small aircraft, regardless of simplicity or intended use. Adoption of this petition would be consonant with the Congressional intent to establish standards, rules, regulations, and certificates appropriate to the differences between air trasnportation and other air commerce. The proposal would extend the scope of permissible special maintenance for owners of primary aircraft who can demonstrate competency to perform specific tasks in connection with the inspection and maintenance of their aircraft.

[FR Doc. 84-26425 Filed 10-4-84; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 84-CE-31-AD]

Airworthiness Directives; Beech Models A23-19, 19A, M19A, B19, 23, A23, A23A, B23, C23, A23-24, A24, A24R, B24R, and C24R Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This Notice proposes to adopt a new Airworthiness Directive (AD), applicable to Beech Models A23-19, 19A, M19A, B19, 23, A23, A23A, B23, C23, A23-24, A24, A24R, B24R, and C24R airplanes. This AD would require installation of a decal and a fuel selector valve handle stop per Beechcraft Service Instructions No. 1095, Revision 1.

The fuel selector valve handle has been found out of a tank position detent during investigations of accidents which occurred after loss of engine power on one or more of the applicable model airplanes. The installation of the fuel selector valve stop and instructional placard will prevent or reduce the possibility of the inadvertent selection of the "off" position detent.

DATE: Comments must be received on or before November 27, 1984.

ADDRESSES: Beechcraft Service Instructions No. 1095, Revision 1, applicable to this AD may be obtained from Beech Aircraft Corporation, Post Office Box 85, Wichita, Kansas 67201 or the Rules Docket at the addresses below. Send comments on the proposal in duplicate to Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 84-CE-31-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Jack Pearson, Aerospace Engineer, Wichita Aircraft Certification Office, ACE-140W, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946-4427.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on

or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. Comments are specifically invited on the overall regulatory, economic, environmental and energy aspects of the proposed rule. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 84–CE–31–AD, Roon 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Discussion

Investigations of accidents involving Model B19, C–23 and C–24 airplanes following loss of engine power indicated that fuel starvation occurred as a result of the pilot's mispositioning the fuel selector. The fuel selector valve has four detent positions. These are located at 90° angles from each other and are "L Tank, R Tank, Off, Off" in this seqence. The fuel selector valve handle is larger in size than the pointer indicator located 180° opposite the handle. A pilot unfamiliar with or inadequately checked out in the airplane may inadvertently select an "off" position by mistaking the handles as the pointer indicator while attempting to switch tanks. To minimize the possibility of the pilot inadvertently turning the fuel selector valve to an "off" detent position, Beech Aircraft Corporation incorporated a fuel handle stop and instructional placard in airplanes now being produced. It has also made available in Beechcraft Service Instructions No. 1095, Revision 1, parts and instructions for modifying inservice airplanes to this configuration.

Since the condition described is likely to exist or develop in other Beech Models A23–19, 19A, M19A, B19, 23, A23, A23A, B23, C23, A23–24, A24, A24R, B24R, and C24R airplanes of the same design, the AD would require installation of a fuel selector valve stop and decal per Beechcraft Service Instructions No. 1095, Revision 1. The FAA has determined there are approximately 4,192 airplanes affected by the proposed AD. The cost of modifying these airplanes in accordance with the proposed AD is estimated to be $106.30 per airplane. The total cost is estimated to be $454,000 to the private sector. The cost of compliance with this proposal is so small and those small entities owning the affected airplane own so few that the cost of compliance will not constitute a significant financial burden on any small entity.

Therefore, I certify that this action: (1) Is not a major rule under the provisions of Executive Order 12291, (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and (3) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation has been prepared for this action and has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES".

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new AD:

Beech: Applies to Models 23 (S/N M–2, M–4 thru M–554); A23 (S/N M–3, M–555 thru M–900); A23A (S/N M–901 thru M–1094); A23–19 (S/N MB–1 thru MB–288); A23–24 (S/N MA–1 thru MA–363); A24 (S/N MA–364 thru MA–368); 19A (S/M MB–289 thru MB–460); M19A (S/N MB–461 thru MB–480); B19 (S/N MB–481 thru MB–905); B23 (S/N M–1095 thru M–1284); C23 (S/N M–1285 thru M–2223); A24R (S/N MC–2 thru MC–150); B24R (S/N MC–152 thru MC–448, MC–450, MC–451); C24R (S/N MC–449, MC–452 thru 701) airplanes certificated in any category.

Compliance: Required within the next 100 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent the inadvertent selection of a fuel selector "off" position, accomplish the following:

(a) Modify the fuel selector guard by incorporating the Selector Stop, Part Number 169–820041–9 and appropriate decal as identified by criteria in Beechcraft Service Instructions No. 1095, Revision 1.

(b) Airplanes may be flown in accordance with FAR 21.197 to a location where the AD may be accomplished.

(c) An equivalent means of compliance with the AD may be used, if approved, by the Manager, Wichita Aircraft Certification Office, Federal Aviation Administration, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946–4400.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C 1354(a), 1421 and 1423); 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and § 11.85 of the Federal Aviation Regulations (14 CFR 11.85))

Issued in Kansas City, Missouri, on September 28, 1984.

Murray E. Smith,

Director Central Region.

[FR Doc. 84–26431 Filed 10–4–84; 8:45 am]

BILLING CODE 4910–13–M

CIVIL AERONAUTICS BOARD

14 CFR Parts 302, 389, and 399

[PDR–88, ODR–27, PSDR–83; Procedural Regs., Organization Regs., Policy Statements; Docket 42497]

Rules of Practice in Board Proceedings; Fees and Charges for Special Services; and Statements of General Policy

Dated: September 18, 1984.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The CAB proposes to revise its requirements and procedures for applying for exemptions under section 416(b) of the Federal Aviation Act. The revisions simplify the application procedures and provide for service of a notice of application instead of the application itself. Service requirements would also be reduced or, in some cases, eliminated. The length of time for answers to exemption applications would be increased to 15 days. A policy statement concerning duration of exemption authority would be eliminated as inconsistent with current Board practice.

DATES: Comments by: November 19, 1984. Reply comments by: December 4, 1984.

Comments and information received after this date will be considered by the Board only to the extent practicable.

Requests to be put on the Service List by: October 22, 1984.

The Docket Section prepares the Service List and sends it to each person listed. These persons then serve comments on all others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 42497, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple

copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Nancy Pitzer Trowbridge, Regulatory Affairs Division, Bureau of International Aviation, 202–673–5134, or John Craig Weller, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; (202) 673–5442.

SUPPLEMENTARY INFORMATION: Section 416(b) of the Federal Aviation Act gives the Board the authority to exempt persons, or certain classes of persons, from provisions of the Act or Board regulations. Subpart D of Part 302 of the Board's Procedural Regulations contains the procedures to be followed in filing requests for such exemptions and specifies the evidence to be submitted in support of such requests.

Section 389.25 of the Board's Organization Regulations contains a list of processing fees for various Board actions, including the filing of exemption requests. Part 399 contains statements of general Board policy.

The Board is not proposing to change its rules regarding the filing of exemption requests. The Board is proposing these changes because the present rules are out of date and inconsistent with the changes made by the Airline Deregulation Act and the International Air Transportation Competition Act of 1979.

Under the proposal, Subpart D would include a new CAB form which would be used instead of the formal application procedures for authority involving ten or fewer flights. The Board has found that such limited requests by carriers that have already been found fit are usually noncontroversial and uncontested. When the Board believes closer scrutiny is required, it may docket the application and subject it to further procedures. Therefore, simplified procedures that will reduce burdens on applicants and shorten processing time for the Board's staff are appropriate. The use of these simplified procedures is subject to restrictions to prevent their abuse.

The service requirements for exemption applications would also be reduced under this proposal. The present service requirements in Subpart D are quite lengthy and burdensome to applicants. The Board has tentatively concluded that these existing service requirements are overly detailed. Almost identical changes to the service requirements for U.S. air carrier certificates and foreign air carrier permit applications were proposed in EDR–467/PDR–65, 48 FR 41430, September 13, 1983. Comments received were generally favorable, and the Board adopted those changes on August 2, 1984. PR–264, 49 FR 33441, August 23, 1984.

Applicants for scheduled interstate or overseas authority will be required to serve all U.S. air carriers (including commuters) that publish schedules in the Offical Airline Guide (OAG) for the city-pair market(s) covered by the application, as well as local airport authorities. Applicants for scheduled foreign air transportation authority would be required to serve those U.S. carriers (including commuters) that publish schedules in the OAG for the country-pair markets(s) involved. Those applicants seeking charter-only authority would usually have no service requirement, provided the application was timely filed. Those applicants for charter-only authority filing on short notice (less than 16 days) would be subject to more substantial service requirements as the normal period for answers would not be available.

In all cases, the proposed rules would require an applicant to serve only a notice of the application instead of the entire application itself. This procedure is now used for foreign air carrier permit applications and the Board has adopted it for certificate applications as well. PR–264, 49 FR 33441, August 23, 1984.

These reduced service requirements will ease the burden on applicants and, at the same time, the Board believes they will still provide adequate notice to carriers that might be affected by an application. The Board will publish weekly a list of applications filed. The proposal also extends the time allowed for an answer to an application from 10 to 15 days. This should allow affected carriers ample time to consult the Board's weekly list and prepare a response if needed.

The Board is also proposing a number of other changes in Subpart D at this time. An applicant would only be required to show that the exemption requested is consistent with the public interest. This standard is contained in the Airline Deregulation Act and would replace the "undue burden" standard of the present rule.

Applications for exemption concerning section 403 of the Act, tariffs, or Board regulations concerning tariffs (other than waivers filed under Supart Q of Part 221) could be filed by letter or, upon good cause, by cablegram, telegram or telephone. Such applications would not be docketed in most cases, although they would be included in the Board's weekly list of applications.

Finally, the applicability of Subpart D would be broadened to include exemptions to foreign air carriers and requests for exemptions to permit cabotage under certain specific emergency conditions. These changes would conform the Board's exemption rules with provisions of the Airline Deregulation Act.

In addition to the changes in Subpart D of Part 302, the Board is also proposing related changes in two other parts of the Board's rules. Part 389 lists the fees charged by the Board for various filings or services. In particular, § 389.25 sets out a schedule of processing fees for certain documents that may be filed with the Board. The Board proposes to change three of the codes contained in this schedule.

The first change relates to Code 23 which specifies the fee for filing applications for exemption from section 403 of the Act. The amount charged for such applications is based upon the fact that now all section 403 exemption applications are docketed. Docketed applications require more staff hours to process than undocketed applications. Because the Board now proposes that most section 403 exemption applications would be undocketed, a corresponding change to the filing fee schedule is appropriate. Section 389.25 (Code 23) would be amended to provide for different fees for docketed and undocketed section 403 exemption applications. The fee for docketed applications would remain unchanged at $53. A new fee of $16 would be added for undocketed applications. This figure is based on the assumption that the number of staff hours required to process an undocketed section 403 exemption request would generally be the same as is required for processing applications for free and reduced-rate air transportation. *See*, § 389.25 (Code 50).

The second change concerns applications for exemption from sections 401 and 402 of the Act. Codes 24 and 25 list the fees for filing exemption requests for 10 or fewer flights, or more than 10 flights, respectively. Code 26 provides for an additional fee if the exemption request is filed less than 10 days before the requested effective date. This 10-day time period corresponds to the normal time for answers to an exemption application, which is specified in § 302.406. Because the Board is now proposing to lengthen the time for answers to exemption applications to 15 days, a corresponding change in § 389.25 (Code 26) is also required. The additional charge specified in § 389.25 (Code 26) would apply to applications

filed less than 15 days prior to the effective date requested.

The last proposed change to the filing fee schedule is a housekeeping matter. Code 10 sets forth the fee for filing section 403 exemption applications relating to interstate and overseas air transportation. As of January 1, 1983, tariffs are no longer required for interstate and overseas air transportation; therefore, such exemptions are not required. Consequently, the Board proposes to remove and reserve Code 10.

Part 399 of the Board's rules contains statements of general policy that the Board has adopted. Section 399.18 states what was formerly the Board's policy concerning the duration of fixed-term route authority granted by exemption, and the renewal of such authority. Section 302.909 of the Board's Procedural Rules specifies the procedures for renewal of such fixed-term exemption authority. The Board now proposes to remove and reserve both these sections.

This proposal will conform the rules and policy statements to the procedures and policies the Board has been following since adoption of the Airline Deregulation Act. It is consistent with the other changes being proposed in Part 302.

Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b), the Board certifies that none of these proposed changes will, if adopted, have a significant impact on a substantial number of small entities. Most small U.S. carriers are already exempted by Part 298 of the Board's rules from the certificate requirements of section 401 of the Act. Most small foreign air carriers are Canadian charter air taxi operators, which follow a simplified registration procedure specified in Part 294 of the rules. The procedures the Board is proposing here will not have a significant impact on the remaining small U.S. or foreign carriers because the proposals considerably reduce both filing and service requirements.

Paperwork Reduction Act

The collection-of-information requirements in this proposal are subject to the Paperwork Reduction Act, Pub. L. 96–511, 44 U.S.C. Chapter 35. These requirements have been submitted to the Office of Management and Budget for review and comment. Persons may submit comments on the collection-of-information requirements to OMB and to the Board. Comments sent to OMB should be addressed to: Office of Information and Regulatory Affairs, ATTN: Desk Office of Civil Aeronautics Board, Office of Management and Budget, Washington, D.C. 20503.

List of Subjects in Parts 302, 389, and 399

Administrative practice and procedure, Advertising, Air carriers, Air rates and fares, Antitrust, Archives and records, Authority Delegations, Consumer protection, Freight forwarders, Grant program-transportation, Hawaii, Motor carriers, Puerto Rico, Railroads, Reporting requirements, Travel agents, Virgin Islands.

Proposed Rule

Accordingly, the Civil Aeronautics Board proposes to amend 14 CFR Part 302, *Rules of Practice in Board Proceedings*, Part 389, *Fees and Charges for Special Services*, and Part 399, *Statements of General Policy*, as follows:

PART 302—[AMENDED]

1. 14 CFR Part 302, Subpart D, would be revised to read:

Subpart D—Rules Applicable to Exemption Proceedings

Sec.

302.400 Applicability.
302.401 Filing of application.
302.402 Contents of application.
302.403 Service of application.
302.404 Posting of application.
302.405 Dismissal or rejection of incomplete application.
302.406 Answers to applications for exemption.
302.407 Replies to answers.
302.408 Request for hearing.
302.409 Exemptions on the Board's initiative.
302.410 Emergency exemptions.

Subpart D—Rules Applicable to Exemption Proceedings

§ 302.400 Applicability.

This subpart sets forth the rules applicable to proceedings for exemptions under sections 101(3), 416(b)(1), 416(b)(3), and 416(b)(7) of the Federal Aviation Act. It also provides for the granting of emergency exemptions. The provisions of Subpart A of this part also apply to such proceedings where not inconsistent with this subpart. Proceedings for the issuance of exemptions by regulation are subject to the provisions governing rulemaking.

§ 302.401 Filing of application.

(a) Except as provided in paragraphs (b) and (c) of this section, applications for exemption shall conform to the requirements of §§ 302.3 and 302.4.

(b) Applications for exemption from section 401 or 402 of the Act (and section 403 of the Act if accompanying the former) which involve 10 or fewer flights may be submitted to the Regulatory Affairs Division, Bureau of International Aviation on CAB Form 302. However, CAB Form 302 may not be used for:

(1) Applications filed under section 416(b)(7) of the Act;

(2) Applications by persons who do not have either:

(i) An effective air carrier certificate or foreign air carrier permit from the Board, or

(ii) A properly completed application for such a certificate or permit, and an effective exemption from the Board for operations similar to those proposed;

(3) Successive applications for the same or similar authority that would total more than 10 flights; or

(4) Any other application for which the Board decides the requirements of §§ 302.3 and 302.4 are more appropriate. Upon a showing of good cause, an application may be filed by cablegram, telegram, or telephone. All telephone requests must be confirmed by written application within three business days of the original request.

(c) Applications for exemption from section 403 of the Act, tariffs (except for waivers filed under Subpart Q of Part 221 of this Chapter), or Board regulations concerning tariffs may be submitted by letter. Three copies of such applications shall be sent to the International Rates and Fares Division, Bureau of International Aviation. Upon a showing of good cause, the application may also be filed by cablegram, telegram, or telephone. All telephone requests must be confirmed by written application within three business days of the original request.

(d) Applications filed under paragraph (a) of this section shall be docketed and any additional documents filed shall be identified by the assigned docket number.

(e) Applications filed under paragraph (b) or (c) of this section will normally not be docketed. The Board may require such applications to be docketed if appropriate. The Board will list the names and addresses of all persons filing such applications, and will briefly describe the authority sought, in its weekly list of applications filed.

§ 302.402 Contents of application.

(a) *Title.* An application filed under § 302.401(a) shall be entitled "Application for Exemption," and shall state if the application involves renewal and/or amendment of existing exemption authority.

(b) *Factual statement.* Each application shall state:

(1) The section(s) of the Act or the rule, regulation, term, condition, or limitation from which exemption is requested;

(2) The proposed effective date and duration of the exemption;

(3) A description of how the applicant proposes to exercise the authority (for example, applications for exemption from section 401 or 402 of the Act should include at least: Places to be served; equipment types, capacity and source; type and frequency of service; and other operations which the proposed service will connect with or support); and

(4) Any other facts the applicant relies upon to establish that the proposed service will be consistent with the public interest.

(c) *Supporting evidence.* (1) Each application shall be accompanied by:

(i) A statement of economic data, or other matters or information that the applicant desires the Board to officially notice;

(ii) Affidavits, or statements under penalty of perjury, establishing any other facts the applicant wants the Board to rely upon; and

(iii) Information showing the applicant is qualified to perform the proposed services.

(2) In addition to the information required by paragraph (c)(1) of this section, an application for exemption from section 401 or 402 of the Act (except exemptions under section 416(b)(7)) shall state whether the authority sought is governed by a bilateral agreement or by principles of comity and reciprocity. Applications by foreign carriers shall state whether the applicant's homeland government grants U.S. carriers authority similar to that requested. If so, the application shall state whether the fact of reciprocity has been established by the Board and cite the pertinent finding. If the fact of reciprocity has not been established by the Board, the application shall include documentation to establish such reciprocity.

(d) *Emergency cabotage.* Applications under section 416(b)(7) of the Act shall, in addition to the information required in paragraphs (b) and (c) of this section, contain evidence showing that:

(1) Because of an emergency created by unusual circumstances not arising in the normal course of business, traffic in the markets requested cannot be accommodated by air carriers holding certificates under section 401 of the Act;

(2) All possible efforts have been made to accommodate the traffic requested by using the resources of such air carriers (including, for example, the use of foreign aircraft, or sections of foreign aircraft, that are under lease or charter to such air carriers, and the use of such air carriers' reservation systems to the extent practicable);

(3) The authority requested is necessary to avoid undue hardship for the traffic in the market that cannot be accommodated by air carriers holding certificates under section 401 of the Act; and

(4) In any case where the inability to accommodate traffic in a market results from a labor dispute, the grant of the requested exemption will not result in an undue advantage to any party to the dispute.

(e) *Renewal applications.* An application requesting renewal of an exemption that is intended to invoke the automatic extension provisions of 5 U.S.C. 558(c) shall comply with, and contain the statements and information required by, Part 377 of this chapter.

(f) Record of service. An application shall list the parties served as required by § 302.403.

§ 302.403 Service of application.

(a) *Manner of service.* An application for exemption shall be served as provided by § 302.8.

(b) *General requirements.* Except for an application for exemption from sections 403 and 404 of the Act, an applicant shall serve on the persons listed in paragraph (c) of this section a notice that the application has been filed, and, upon request, shall promptly provide those persons with copies of the application and any supporting documents. (Applicants filing CAB Form 302 may serve a copy of the form instead of a notice.) The notice must clearly state the authority sought, the due date for responsive pleadings, and that copies of the application will be supplied upon request. Responsive pleadings shall be filed in accordance with paragraph (c) of this section.

(c) *Person to be served.* (1) Applicants for scheduled interstate or overseas air transportation authority shall serve (i) all U.S. air carriers (including commuter air carriers) that publish schedules in the "Official Airline Guide" or the "Air Cargo Guide" for the city-pair market(s) specified in the application, (ii) local airport authorities at each point specified in the application, and (iii) any other person who has filed a pleading in a related proceeding under section 401 or 416 of the Act.

(2) Applicants for scheduled foreign air transportation authority shall serve (i) all U.S. air carriers (including commuter air carriers) that publish schedules for the country-pair market(s) specified in the application in the "Official Airline Guide" or in the "Air Cargo Guide" and (ii) any other person who has filed a pleading in a related proceeding under section 401, 402, or 416 of the Act.

(3) Applicants for charter-only or nonscheduled-only authority shall serve any person who has filed a pleading in a related proceeding under section 401, 402, or 416 of the Act. However, applicants that file less than 16 days prior to the proposed start of service must also serve (i) those U.S. carriers (including commuter carriers) that are known to be operating in the general market(s) at issue and (ii) those persons who may be presumed to have an interest in the subject matter of the application.

(d) *Additional service.* The Board may, in its discretion, order additional service made on any other person.

§ 302.404 Posting of application.

A copy of every application for exemption shall be posted in the Board's Docket Section and listed in the Board's weekly list of applications filed.

§ 302.405 Dismissal or rejection of incomplete application.

(a) *Dismissal or rejection.* The Board may dismiss or reject any application for exemption that does not comply with the requirements of this part.

(b) *Additional data.* The Board may require the filing of additional data with respect to any application for exemption, answer, or reply.

§ 302.406 Answers to applications for exemption.

Within 15 days after the filing of an application for exemption, any person may file an answer in support of or in opposition to the grant of a requested exemption. Such answer shall set forth in detail the reasons why the exemption should be granted or denied. An answer shall include a statement of economic data or other matters the Board is requested to officially notice, and shall be accompanied by affidavits establishing any other facts relied upon.

§ 302.407 Replies to answers.

Within seven days after the last day for filing an answer, an applicant may file a reply to one or more answers.

§ 302.408 Request for hearing.

The Board will not normally conduct formal hearings concerning applications for exemption. However, the Board may, in its discretion, order a hearing on an application. Any applicant, or any party opposing an application, may request a hearing. Such a request shall set forth in detail the reasons why the filing of

affidavits or other written evidence will not permit the fair and expeditious disposition of the application. A request relying on factual assertions shall be accompanied by affidavits establishing such facts. If the Board orders a hearing, the procedures in Subpart A of this part shall apply.

§ 302.409 Exemptions on the Board's initiative.

The Board may grant exemptions on its own initiative when it finds that such exemptions are required by the circumstances and consistent with the public interest.

§ 302.410 Emergency exemptions.

(a) *Applicability.* When required by the circumstances and consistent with the public interest, the Board may take action, without notice, on exemption applications prior to the expiration of the normal period for filing answers and replies. When required in a particular proceeding, the Board may specify a lesser time for the filing of answers and replies, and notify interested persons of this time period.

(b) *Applications.* (1) applications for emergency exemption need not conform to the requirments of Subparts A and D of this part (except as provided in this section and in § 302.402(d) concerning emergency cabotage requests). However, an application for emergency exemption must normally be in writing and must state in detail the facts and evidence that support the application, the grounds for the exemption, and the public interest basis for the authority sought. In addition, the application shall state specific reasons that justify departure from the normal exemption application procedures. The application shall also identify those persons notified as required by paragraph (c) of this section. The Board may require additional information from any applicant before acting on an application.

(2) The Board will consider oral requests, including telephone requests, for emergency exemption authority under this section in circumstances that do not permit the immediate filing of a written application. All oral requests must, however, provide the information required in paragraph (b)(1) of this section, except that actual evidence in support of the application need not be tendered when the request is made. All oral requests must be confirmed by written application, together with all supporting evidence, within three business days of the original request.

(c) *Notice.* Except when the Board decides that no notice need by given, applicants for emergency exemption shall notify, as appropirate, those persons specified in § 302.403(c) of this subpart. Such notification shall be made in the same manner, contain the same information, and be dispatched at the same time, as the application made to the Board.

§ 302.909 [Removed]

2. 14 CFR Part 302 would be amended by removing and reserving §302.909.

PART 389—[AMENDED]

14 CFR Part 389 would be amended by removing and reserving Code 10, adding Codes 23a and 23b and revising Code 26 in § 389.25 to read:

§ 389.25 Schedule of processing fees.

Code	Document	
	. . . . .	
	Foreign Air Transportation (U.S. and Foreign Carriers)	
	Exemption:	
23	Section 403	
23a	Docketed	53
23b	Undocketed	16
	. . . . .	
26	Filed less than 15 days before effective date requested.	17
	. . . . .	

PART 399—[AMENDED]

§ 399.18 [Removed]

1. 14 CFR Part 399 would be amended by removing and reserving § 399.18.

(Secs. 101, 203, 204, 401, 402, 403, 404, 406, 412, 416, 901, 1001, 1002, 1005, Pub. L. 85-726, as amended, 72 Stat. 737, 742, 743, 754, 757, 758, 760, 770, 771, 783, 788, 794; 49 U.S.C. 1301, 1323, 1324, 1371, 1372, 1373, 1374, 1376, 1382, 1386, 1471, 1481, 1482, 1485; Reorganization Plan No. 3, 75 Stat. 837, 26 FR 5989; E.O. 11514, Pub. L. 91-80 (42 U.S.C. 4321); 84 Stat. 772, 39 U.S.C. 5402)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

BILLING CODE 7035-01-M

CAB Form 302
(9–84)

UNITED STATES OF AMERICA
CIVIL AERONAUTICS BOARD
WASHINGTON, D.C.

APPLICATION FOR SHORT-TERM EXEMPTION AUTHORITY

(See Instructions on Reverse Side)

DO NOT WRITE – FOR OFFICIAL USE ONLY

Disposition of Application:

- ☐ Approved.
- ☐ Approved, subject to condition(s) on reverse.
- ☐ Disapproved/Dismissed/Rejected for reason(s) cited on reverse.

Under delegated authority _____

Effective from _____ to _____

Director, Bureau of International Aviation

The applicant requests an exemption under §416(b) of the Act to conduct short-term exemption operations as provided for in Subpart D of Part 302, or as provided by Board order. Answers are due by _____.

Operations performed under this exemption are subject to the terms, conditions and limitations of the applicant's certificate/permit, to Part 121/129 of the Federal Aviation Regulations and any additional terms or conditions attached and/or specified on reverse.

1. Name of Applicant:

(For foreign applicants) Specify Nationality:

2. Send Exemption To:

a. Name and Address:

b. Telephone No.

3. Applicant seeks Exemption from the Section of the Act noted below:

☐ 401 ☐ 402 ☐ Other _____

4. To satisfy fitness eligibility requirements (see §302.401(b)(2), cite order number of effective certificate/permit _____; or cite docket number of pending certificate/permit application _____; and order number of effective exemption authority _____.

5. Dates of Flights Under This Exemption Application:

6. Planned Routing of Flights (indicate non-traffic stops by asterisks):

7. No. of Flights _____ and type:

☐ Passenger ☐ Scheduled
☐ Cargo ☐ Charter
☐ Mail ☐ Nonscheduled (cargo)

For passenger flights: number of passengers to be carried _____.

If cargo to be carried, weight and description of cargo:

8. Aircraft Make, Model, and Capacity:

9. Country in Which Aircraft is Registered:

10. If application is being filed late, state reasons for lateness:

11. If applicant is confirming an oral request, state date requested _____.

(continue on back)

12. Purpose of Flights:

13. Public Interest Basis for Authority Sought:

14. For Foreign Applicants Only — Does the nation which is the domicile of the applicant grant to United States carriers a privilege similar to that requested herein? _____
If so, has the fact of such reciprocity been established with the Civil Aeronautics Board? _____
If the fact has not been established with the Civil Aeronautics Board, provide documentation to establish such reciprocity.

15. Other Information Requested by the Board, or Additional Information Applicant Wishes the Board to Officially Notice:

CERTIFICATION

I hereby certify that the information contained herein is true and correct to the best of my knowledge, and that the parties on the attached list were served a copy of this application in accordance with Subpart D of Part 302:

(Date) (Signature and title of authorized officer)

DO NOT WRITE — FOR OFFICIAL USE ONLY

Exercise of this authorization is subject to the following condition(s)
OR Application is disapproved/dismissed/rejected for the following reason(s):

INSTRUCTIONS

1. Prepare an original and two copies of this application according to Subpart D of Part 302 of the Board's Regulations, or order of the Board requiring the use of this form. If extra space is required to complete an item, continue on a separate sheet of paper.

2. Send the application to: "Civil Aeronautics Board, Bureau of International Aviation, Washington, D.C. 20428. Attention: Regulatory Affairs Division, B–58. If required by regulation or order, also send a copy of application to Director of Flight Operations, Federal Aviation Administration, Washington, D.C. 20591.

[FR Doc. 84-26535 Filed 10-4-84; 8:45 am]
BILLING CODE 7035-01-C

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-144-84]

Limitation on Aggregate Amount of Private Activity Bonds; Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: This document provides proposed regulations that relate to the tax exempt status of private activity bonds. Changes to the applicable tax law were made by the Tax Reform Act of 1984 (Pub. L. 98-369; 98 Stat. 915). These regulations affect all purchasers and governmental issuers of tax exempt private activity bonds. In addition, in the Rules and Regulations portion of this **Federal Register**, the Internal Revenue Service is issuing temporary regulations that relate to the tax exempt status of private activity bonds. The text of those temporary regulations also serves as the comment document for this proposed rulemaking.

DATES: Written comments and requests for a public hearing must be delivered or mailed by December 4, 1984.

The regulations are proposed to be effective, in general, for obligations issued after December 31, 1983.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-144-84), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Mitchell H. Rapaport of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3590).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations in the Rules and Regulations portion of this issue of the **Federal Register** add new §§ 1.03(n)-1T through 1.103(n)-6T to Part 1 of Title 26 of the Code of Federal Regulations. The final regulations, which this document proposes to be based on those temporary regulations, would be added to Part 1 of Title 26 of the Code of Federal Regulations. Sections 1.103(n)-1T through 1.103(n)-6T would become § 1.103-17. For the text of the temporary regulations, see FR Doc. 84-26507 (T.D. 7981) published in the Rules and Regulations portion of this issue of the **Federal Register**. The preamble to the temporary regulations explains the addition to the regulations.

The regulations interpret the provisions of section 103(n) of the Code, which provides that a private activity bond issued as part of an issue shall be treated as an obligation not described in section 103(a) if the aggregate amount of bonds issued by the issuing authority during the calendar year exceeds such issuing authority's private activity bond limit for such calendar year.

These regulations are proposed to be issued under the authority contained in section 103(n) and section 7805 of the Internal Revenue Code (98 Stat. 915, 26 U.S.C. 103(n); 68A Stat. 917, 26 U.S.C. 7805).

Non-Applicability of Executive Order 12291

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291 and that a regulatory impact analysis therefore is not required.

Regulatory Flexibility Act

Although this document is a notice of proposed rulemaking that solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6.).

Drafting Information

The principal author of these proposed regulations is Mitchell H. Rapaport of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, on matters of both substance and style.

Comments and Requests for a Public Hearing

Before the adoption of these proposed regulations, consideration will be given to any written comments that are submitted (preferably eight copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**. The collection of information requirements contained herein have been submitted to the Office of Management and Budget (OMB) for review under section 350(h) of the Paperwork Reduction Act. Comments on the requirements should be sent to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for Internal Revenue Service, New Executive Office Building, Washington, D.C. 20503. The Internal Revenue Service requests persons submitting comments to OMB also to sent copies of the comments to the Service.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 84-26508 Filed 10-2-84; 4:22 pm]

BILLING CODE 4830-01-M

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26 CFR Part 1

[LR-169-79]

Investment Credit for Commuter Highway Vehicles

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to special rules for computing the investment credit for commuter highway vehicles. The Energy Tax Act of 1978 enacted special rules for determining the amount of that credit and for the recapture of that credit. The regulations would provide the public and Internal Revenue Service personnel with the guidance needed to comply with and administer the law.

DATES: Written comments and requests for a public hearing must be delivered or mailed by December 4, 1984. The amendments are proposed to be effective for commuter highway vehicles acquired and placed in service on or after November 9, 1978 and before January 1, 1986.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-169-79), Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Michel A. Dazé of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, Attention: CC:LR:T (202-566-3458).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 46(c)(6) and 47(a)(4) of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 241 of the Energy Tax Act of 1978 (92 Stat. 3192) and are to be issued under the authority contained in Code sections 38(b) (76 Stat. 963; 26 U.S.C. 38(b)) and 7805 (68A Stat. 917; 26 U.S.C. 7805)

Commuter Highway Vehicle

A commuter highway vehicle qualifies for an investment credit equal to 10 percent of the full cost or basis of the vehicle, as long as the vehicle has a useful life of 3 years or more. If the vehicle is section 38 property but does not qualify as a commuter highway vehicle, it would not be eligible for the full investment credit unless it is at least five-year recovery property, or if not recovery property, it has a useful life of seven years or more. A commuter highway vehicle is defined in section 46(c)(6)(B). The vehicle must have a seating capacity of eight adults, determined without regard to the driver's seat. Furthermore, the taxpayer must reasonably expect that at least 80 percent of the vehicle's mileage use will be to provide commuter transportation. Commuter transportation is transportation provided to the taxpayer's employees between their residences and their places of employment. This transportation must be provided on trips during which the number of employees transported for this purpose is at least one-half of the adult seating capacity. A leased vehicle does not qualify under section 46(c)(6)(B) as a commuter highway vehicle for a lessor if used to transport the employees of the lessee between their residences and places of employment. To qualify for the credit, the commuter highway vehicle must be acquired and placed in service on or after November 9, 1978 and before January 1, 1986. In addition, the taxpayer must elect to have the vehicle treated as a commuter highway vehicle.

Recapture

Section 47(a)(4) provides for a recalculation of the investment credit if the vehicle is not used as a commuter highway vehicle. That use is measured according to the percentage of total mileage driven for commuting purposes (as defined in proposed § 1.46–10(d)). As noted above, the percentage must equal 80 percent or more; otherwise, the investment credit will be recalculated as if the vehicle were never a commuter highway vehicle.

The percentage of commuter miles is determined on a taxable-year basis, taking into account all mileage driven in each taxable year any portion of which falls within the first 36 months of the vehicle's operation.

Regulatory Flexibility Act and Executive Order 12291

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (perferably eight copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**.

The collection of information requirements contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act. Comments on these requirements should be sent to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for Internal Revenue Service, New Executive Office Building, Washington, D.C. 20503. The Internal Revenue Service requests that persons submitting comments on these requirements to OMB also send copies of those comments to the Service.

Drafting Information

The principal author of these proposed regulations in Yerachmiel E. Weinstein of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

List of Subjects in 26 CFR Part 1

Income taxes, Tax liability, Tax rates, Credits.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 1 are as follows:

PART 1—[AMENDED]

Paragraph 1. A new § 1.46–10 is added in the appropriate place. As added, the new section reads as follows:

§ 1.46–10 Commuter highway vehicles.

(a) *In general.* Section 46(c)(6) provides that the applicable percentage to determine qualified investment under section 46(c)(1) for a qualifying commuter highway vehicle is 100 percent. A qualifying commuter highway vehicle is a vehicle (defined in paragraph (b) of this section)—

(1) Which is acquired by the taxpayer on or after November 9, 1978,

(2) Which is placed in service by the taxpayer before January 1, 1986, and

(3) With respect to which the taxpayer makes an election under paragraph (g) of this section.

(b) *Definition of commuter highway vehicle.* A commuter highway vehicle is a highway that meets the following requirements:

(1) The vehicle is section 38 property in the hands of the taxpayer. The rule of section 48(d), allowing a lessor to elect to treat the lessee of new section 38 property as having acquired the property, applies to commuter highway vehicles. If the vehicle is leased and that election is made, the lessee is treated as the taxpayer under this section. However, if that election is not made, the lessor, and not the lessee, is treated as the taxpayer under this section.

(2) The vehicle must meet the seating capacity requirement of paragraph (c) of this section; and

(3) The taxpayer reasonably expects to meet the commuter use requirement of paragraph (d) of this section for at least the first 36 months after the vehicle is placed in service.

(c) *Seating capacity.* A commuter highway vehicle must have a seating capacity of at least 8 adults in addition to the driver's seat.

(d) *Commuter use requirement.* A vehicle meets the commuter use requirement only if at least 80 percent of the miles the vehicle is driven are for trips to transport the taxpayer's

employees between their residences and their places of employment. A trip for this purpose includes driving the vehicle before or after employees are in the vehicle, so long as the mileage driven is necessary either to pick up or drop off passengers or to park the vehicle in its regular parking space. A trip does not include miles driven solely for maintenance or to refuel the vehicle. A trip is not considered to transport the taxpayer's employees between their residences and their places of employment unless at least one-half the seating capacity (defined in paragraph (c) of this section) is used to seat employees of the taxpayer. In no event is the driver counted as an employee of the taxpayer.

(e) *Definition of employee.* An employee in this section is the same as in section 3121 (d) (definition of employee for withholding purposes).

(f) *Transportation between employee's residence and place of employment.* An employee is transported between that employee's residence and place of employment even if that place of employment is not the same as any of the other employees transported, and even if picked up or dropped off at some central point between that residence and place of employment. An employee is not transported between that employee's residence and place of employment if the transportation is of the type that a deduction would be allowed under § 1.162–2 were the employee providing it, such as the transportation from one work site to another after beginning work for the day.

(g) *Election.* A taxpayer must elect to have the vehicle treated as a qualifying commuter highway vehicle on the return for the taxable year in which the vehicle is placed in service. The election may be made only if the vehicle actually meets the commuter use requirement under paragraph (d) of this section for that taxable year. It must be made on or before the due date (including extensions) of that return. The election is effective as of that due date.

Par. 2. Section 1.47–1 is amended by:

1. Inserting, in the first sentence of paragraph (a)(1)(i) of that section, "or is a qualifying commuter highway vehicle (as defined in paragraph (a) of § 1.46–10) which undergoes a change in use (as defined in paragraph (m)(2) of this section)" immediately following "(as defined in paragraph (g) of § 1.46–3)", and

2. By reserving paragraphs (i), (j), (k), and (l) and by adding a new paragraph (m) to read as follows:

§ 1.47–1 Recomputation of credit allowed by section 38.

* * * * *

(i) [Reserved].

(j) [Reserved].

(k) [Reserved].

(l) [Reserved].

(m) *Commuter highway vehicles*—(1) *Recomputed qualified investment.* (i) If a qualifying commuter highway vehicle (as defined in § 1.46–10(a)) undergoes a change in use but does not cease to be section 38 property, qualified investment for that vehicle is recomputed as if the vehicle was section 38 property which is not a qualifying commuter highway vehicle for its entire useful life.

(ii) The following example illustrates this paragraph (m)(1).

Example. X Corporation, a calendar year taxpayer, acquired and placed in service on January 1, 1982, a qualifying commuter highway vehicle with a basis of $10,000 and which qualified as three year recovery property under section 168(c)(2)(A)(i). The amount of qualified investment for the vehicle under section 46(c) (1) and (6) is $10,000. For the taxable year 1982, X Corporation's credit earned was $1,000 (10 percent of $10,000) and X Corporation was allowed under section 38 a $1,000 credit against its 1982 tax liability. During the taxable year 1984, the vehicle undergoes a change in use but does not cease to be section 38 property. The vehicle is treated as section 38 property which is not a qualifying commuter highway vehicle for its entire useful life. The recomputed qualified investment for the vehicle is $6,000 (60 percent of $10,000) and X Corporation's recomputed credit earned is $600 (10 percent of $6,000). The income tax imposed by chapter 1 of the Code on X Corporation for 1984 is increased by the $400 decrease in its credit earned for 1982 ($1,000—$600).

(2) *Change in use*—(i) A qualifying commuter highway vehicle undergoes a change in use if the vehicle does not meet the commuter use requirement (as defined in § 1.46–10(d)) for each computation period.

(ii) Each of the following is a computation period:

(A) The period beginning on the date the vehicle was placed in service and ending on the last day of the taxpayer's taxable year in which the vehicle was placed in service;

(B) Each of the taxpayer's taxable years beginning after the date the vehicle was placed in service and ending before the end of the first 36 months after the vehicle was placed in service; and

(C) The period ending at the end of the first 36 months after the vehicle was placed in service and beginning on the first day of the taxpayer's taxable year in which the end of those first 36 months falls.

(iii) The following example illustrates this paragraph (m)(2).

Example (1). (*a*) Z Corporation, a calendar year taxpayer, acquired and placed in service a qualifying commuter highway vehicle on January 15, 1979. Z Corporation used the vehicle as set forth in the following table:

Taxable year ending	Total miles	Commuter miles	Ratio
1979	10,000	9,000	.90
1980	10,000	8,000	.80
1981	10,000	8,000	.80
1982 (1–14)	1,000	100	.10

(*b*) The first computation period begins on the date the vehicle is placed in service, in this example 1–15–79, and ends 12–31–79. In that computation period, the ratio of commuter miles to total miles is .90 (9,000 miles ÷ 10,000 miles). Therefore, the vehicle meets the commuter use requirement for that period and has not undergone a change in use. Similar calculations for the computation periods 1–1–80 to 12–31–80 and 1–1–81 to 12–31–81 produce the same result.

(*c*) As of the computation period beginning 1–1–82 and ending 1–14–82, the ratio of commuter use to total mileage is .10 (100 miles ÷ 1,000 miles). Since that ratio is less than .80, the vehicle does not meet the commuter use requirement for the period and the vehicle has undergone a change in use.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 84–26608 Filed 10–4–84; 8:45 am]

BILLING CODE 4830–01–M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

45 CFR Part 1180

Institute of Museum Services; Federal Financial Assistance

AGENCY: Institute of Museum Services, NFAH.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Institute of Museum Services issues proposed amendments to regulations relating to certain of its programs of Federal financial assistance. The regulations as amended implement the Museum Services Act. The amendments make technical and other changes in the eligibility conditions and other terms for the administration of the General Operating Support and Museum Assessment programs for museums and remove unneeded provisions.

DATE: Comments must be received on or before November 19, 1984.

ADDRESS: Comments should be addressed to Michele Rossi, Confidential Assistant to the Director, Institute of Museum Services, Room 510,

1100 Pennsylvania Ave., NW, Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT: Michele Rossi. Telephone: (202) 786–0536.

SUPPLEMENTARY INFORMATION:

A. General Background

The Museum Services Act ("the Act"), which is Title II of the Arts, Humanities and Cultural Affairs Act of 1976, was enacted on October 8, 1976 and amended on December 4, 1980 and May 31, 1984.

The purpose of the Act is stated in Section 202 as follows:

It is the purpose [the Museum Services Act] to encourage and assist museums in their educational role, in conjunction with formal systems of elementary, secondary, and post-secondary education and with programs of non-formal education for all age groups; to assist museums in modernizing their methods and facilities so that they may be better able to conserve our cultural, historic and scientific heritage, and to ease the financial burden borne by museums as a result of their increasing use by the public.

The Act establishes an Institute of Museum Services (IMS) consisting of a National Museum Services Board and a Director.

The Act provides that the National Museum Services Board shall consist of fifteen members appointed for fixed terms by the President with the advice and consent of the Senate. The Chairman of the Board is designated by the President from among the appointed members. Members are broadly representative of various museums, including museums relating to science, history, technology, art, zoos, and botanical gardens; of the curatorial, educational and cultural resources of the United States; and of the general public. In addition to the members appointed by the President, the following serve as members of the Board; the Chairman of the National Endowment for the Arts, the Chairman of the National Endowment for the Humanities, the Secretary of the Smithsonian Institution, and the Director of the National Science Foundation. The Board has the responsibility for establishing the general policies of the Institute. The Director is authorized, subject to the policy direction of the Board, to make grants under the Act to museums.

IMS is an independent agency placed in the National Foundation on the Arts and the Humanities (National Foundation). Pub. L. 97–100, December 23, 1981, Pub. L. 97–394, December 30, 1982, Pub. L. 98–306, May 31, 1984.

The Act lists a number or illustrative activities for which grants may be made, including assisting museums to meet their administrative costs for preserving and maintaining their collections, exhibiting them to the public and providing education programs to the public.

B. Need for Amendments

IMS regulations for the IMS General Operating Support (GOS) and Special Project Support (SP) programs were published in full on June 17, 1983 (48 FR 27727). Amendments were published for FY 1984 on April 10, 1984, 49 FR 14108 (miscellaneous amendments) and June 15, 1984, 49 FR 24731 (waiver of certain requirements). Regulations for the Museum Assessment Program were published on January 26, 1984 at 49 FR 3182. Further amendments to these regulations are needed in order to implement policy directions of the Board with respect to these programs.

C. Amendment by Amendment Analysis

Overall the amendments are designed to reduce applicant burden, simplify administration and provide needed clarification.

1. *Definition of "museum".* Amendment No. 1, revises § 1180.3(d) to clarify the status of institutions which carry out museum functions such as exhibition of objects to the general public but not as a primary purpose of the institution. Ordinarily institutions which fall within the statutory definition of museum in section 210 of the Museum Services Acts can demonstrate that they have as a primary purpose the exhibition of objects to the general public. Section 1180.3(d)(1) (as it would be revised by the amendment) expresses this principle and is reflective of language which has been included in IMS regulations since the inception of the program. Section 1180.3(d)(2) recognizes that some institutions which carry out museum functions as a significant, separate, distinct, and continuing portion of their activities may not be able to demonstrate such a primary purpose but nonetheless qualify as museums. Section 1180.3(d)(2) sets forth the information which such an institution must submit in order to establish its eligibility. Taken as a whole, the proposed section reflects the current practice of IMS and is designed to clarify the matter in light of Board consideration at its July 20 meeting.

2. *Eligibility.* Amendment No. 2 revises § 1180.5 (relating to eligibility and burden of proof) and removes current provisions relating to receipt of Challenge Grants (§ 180.5(g)) and receipt of assistance in more than three out of five years (§ 1180.5(f)). Language in the Fiscal Year 1984 appropriation legislation precluded the enforcement of the rule relating to receipt of Challenge Grant funds (§ 1180.5(g)) on the ground that current levels of funding render it unnecessary. Similar language is contained in the current version of the Fiscal Year 1985 legislation. Language regarding receipt of GOS and Special Projects in the same year is removed since Special Projects will not be awarded in fiscal year 1985. See Amendment No. 3.

3. *Special Projects.* Amendment No. 3 removes sections in Subpart A of the IMS grants regulations relating to Special Projects as funds for this category of assistance will not be available in Fiscal Year 1985.

4. *Likely size of grants.* Section 1180.9(a) is amended by Amendment No. 4 to make clear that information regarding the likely size of grants will be contained in the **Federal Register** program announcement rather than in the regulations for each year. Because these figures are based on annual appropriation levels which may not be established until after the beginning of the fiscal year in question, inclusion of figures in the permanent regulations is impracticable.

5. *Deferral authority.* Amendment No. 5 is designed to continue the authority of the Director to defer the audit requirements for small museums previously published in the **Federal Register**, 49 FR 24731.

6. *Conforming Amendment.* Amendment No. 6 makes conforming amendments in § 1180.12 to reflect the removal of Special Projects provisions.

7. *Cost sharing.* A technical amendment is made to § 1180.16(b) to permit a museum to use information from its most recently completed fiscal year for which financial information is available in establishing the percentage of its non-federal operating income represented by the grant for which it is applying.

8. *Museum Assessment Program (MAP).* Amendment No. 8 revises regulations for the MAP to reflect changes in the program authorized by the Board. The changes will permit initiation of a new category of MAP assistance as well as facilitate simplification of program administration. The $600 limitation on individual awards is replaced by a $1,000 limitation.

D. Invitation to Comment.

Interested persons are invited to submit comments and recommendations regarding these proposed regulations. Written comments and recommendations may be sent to the address given at the beginning of this document. All comments submitted on or before November 19, 1984, will be considered before the Director issues final regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, at the Institute of Museum Services, Room 510, 1100 Pennsylvania Ave., NW., Washington, D.C. between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

E. Executive Order 12291

These proposed amendments have been reviewed in accordance with Executive Order 12291. They are classified as non-major because they do not meet the criteria for major regulations established in the Order.

F. Regulatory Flexibility Act Certification

The Director certifies that these amendments will not have a significant economic impact on a substantial number of small entities.

To the extent that they affect States and State agencies they will not have an impact on small entities because States and State agencies are not considered to be small entities under the Regulatory Flexibility Act.

These amendments will affect certain museums receiving Federal financial assistance under the Museum Services Act. However, they will not have a significant economic impact on the small entities affected because they do not impose excessive regulatory burdens or require unnecessary Federal supervision. They impose minimal requirements to ensure the proper expenditure of grant funds.

List of Subjects in 45 CFR Part 1180

Grant programs, Museums, National boards, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance No. 43.301, Museum Services Program)

Dated: September 24, 1984.

Susan Phillips,

Director, Institute of Museum Services.

Dated: September 24, 1984.

C. Douglas Dillon,

Chairman, National Museum Services Board.

The Institute of Museum Services proposes to amend Part 1180 of Subchapter E of Chapter XI of Title 45 of the Code of Federal Regulations as set forth below:

SUBCHAPTER E—INSTITUTE OF MUSEUM SERVICES

PART 1180—GRANTS REGULATIONS

1. Section 1180.3(d) is revised to read as follows:

§ 1180.3 Definition of museum.

* * * * *

(d)(1) Except as set forth in paragraph (d)(2) of this section, an institution exhibits objects to the general public for the purposes of this section if such exhibition is a primary purpose of the institution.

(2) An institution which does not have as a primary purpose the exhibition of objects to the general public but which can demonstrate that it exhibits objects to the general public on a regular basis as a significant, separate, distinct, and continuing portion of its activities, and that it otherwise meets the requirements of this section, may be determined to be a museum under this section. In order to establish its eligibility, such an institution must provide information regarding the following:

(i) The number of staff members devoted to museum functions as described in paragraph (a) of this section.

(ii) The period of time that such museum functions have been carried out by the institution over the course of the institution's history.

(iii) Appropriate financial information for such functions presented separately from the financial information of the institution as a whole.

(iv) The percentage of the institution's total space devoted to such museum functions.

(v) Such other information as the Director requests.

(3) The Director uses the information furnished under paragraph (d)(2) of this section, in making a determination regarding the eligibility of such an institution under this section.

2. Section 1180.5 is revised to read as follows:

§ 1180.5 Eligibility and burden of proof—Who may apply.

(a) A museum located in any of the fifty States of the Union, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, Guam, or the District of Columbia may apply for a grant under the Act.

(b) No museum is eligible to apply for funding available under the Act unless it has provided museum services, including exhibiting objects to the general public on a regular basis, for at least two years prior to application.

(c) A public or private nonprofit agency which is responsible for the operation of a museum may, if necessary, apply on behalf of the museum.

(d) A museum operated by a department or agency of the Federal Government is not eligible to apply.

(e) An applicant has the burden of establishing that it is eligible for assistance under these regulations.

§§ 1180.8, 1180.11(f) and 1180.14 [Removed]

3. Sections 1180.8, 1180.11(f), and 1180.14 (relating to Special Projects) are removed and reserved. The table of contents is revised accordingly.

4. Section 1180.9(a) is revised to read as follows:

§ 1180.9 Likely size of grants and allocation of funds among activities.

(a) It is anticipated that no museum will receive for General Operating Support more than an amount to be specified by notice in the **Federal Register** for each fiscal year.

* * * * *

5. Section 1180.11(c)(4) is revised to read as follows:

§ 1180.11 Basic requirements which a museum must meet to be considered for funding.

* * * * *

(c) * * *

(4) The Director is authorized to defer the audit requirement set forth in subparagraph (2) in the case of a museum with non-federal operating income of $50,000 or less, exclusive of the value of non-cash contributions (in the appropriate fiscal period preceding the fiscal period for which the determination is made) if the Director finds that exceptional circumstances justify a deferral and that the grant of the deferral will not be inequitable to other applicants. A deferral may be granted only upon those conditions and in light of those assurances which the Director deems appropriate in order to ensure that the purposes of this paragraph are achieved. The authority to grant deferrals, unless renewed under this subparagraph, expires on September 30, 1985.

6. Section 1180.12 is revised to read as follows and the table of contents is revised accordingly:

§ 1180.12 How applications are judged.

(a) To select grantees and determine the amount of their awards, IMS rates competitive applications under the applicable criteria stated in § 1180.13. Normally, these applications are first evaluated by field reviewers, panels of experts, or both. Final determinations as to the award of grants are made by the Director after review by the Board.

(b) To achieve diversity in the distribution of assistance, the Institute may consider the location, size and discipline of the applicant in addition to the criteria in § 1180.13.

7. Section 1180.16(b) is revised to read as follow:

§ 1180.16 IMS share of the cost of a proposal.

* * * * *

(b) Subject to the amount specified under § 1180.9(a), IMS normally does not make grants for more than: (1) 10 percent of a museum's non-federal operating income for its most recently completed fiscal year for which financial information is available or (2) $5,000, whichever is greater. (See § 1180.11) A different figure may be specified by notice published in the **Federal Register**. Non-federal operating income may be increased by an amount reflecting the reasonable and conservative value of volunteer services contributed in such most recently completed fiscal year

* * * * *

8. Subpart D of Part 1180 is revised to read as follows and the table of contents is revised accordingly:

Subpart D—Museum Assessment

Sec.
1180.70 Purpose of program.
1180.71 Eligibility.
1180.72 Allowable costs.
1180.73 Form of assistance; limitation on amount.
1180.74 Conditions of participation.
1180.75 Funding and award procedures.
1180.76 Responsibility of a museum.

Subpart D—Museum Assessment

§ 1180.70 Purpose of program.

The Director of the Institute of Museum Services makes grants under this subpart to assist museums in carrying out institutional assessments. The grants enable museums to obtain technical assistance in order to evaluate their programs and operations by generally accepted professional standards. The Director may make grants for separate categories of assessment activities and establish conditions for receipt of assistance for such separate categories.

§ 1180.71 Eligibility.

(a) A museum as defined in § 1180.3 may apply for assessment assistance under this subpart.

(b) A museum which receives a grant for assessment assistance under this subpart for a fiscal year may not receive another grant for the same category of assessment assistance in the same or a subsequent fiscal year.

§ 1180.72 Allowable costs.

A museum may use a grant under this subpart for expenses of institutional assessment, such as registration fees, surveyor honorariums, travel and other expense of a surveyor, and technical assistance materials.

§ 1180.73 Form of assistance; limitation on amount.

(a) The Director makes payments to a museum under this subpart in advance.

(b) The amount of a grant to a museum under this subpart may not exceed $1,000.

§ 1180.74 Conditions of participation.

The Director considers an application (on a form supplied by IMS) by a museum for a grant under this subpart for assessment assistance only of:

(a) The museum requests assessment from an appropriate professional organization as defined in this section, and

(b) That organization notifies IMS that the request for the assessment assistance is complete and that the museum is eligible to participate.

An appropriate professional organization for purposes of this subpart means: (1) The American Association of Museums or (2) other professional organizations that are determined to be capable of arranging for a program of assessment services for a category of museums and are so designated by notice published in the **Federal Register**.

§ 1180.75 Funding and award procedures.

(a) The Director approves applications meeting the requirements of this subpart on a first-come, first-served basis, in the order in which it is determined by IMS that such requirements (including all application requirements) have been met, until a date in the fiscal year to be established by publication in the **Federal Register**.

(b) There are no selection criteria.

(c) Section 1180.16 (IMS share of the cost of a proposal) does not apply to grants under this subpart.

(d) A museum receiving assistance under this subpart need not submit a financial report of a performance report.

(e)(1) Except as provided in § 1180.71 and paragraph (e)(2) of this section Subparts A, B, and C of Part 1180 of Title 45 CFR do not apply to the Museum Assessment Program.

(2) The following sections do apply to the Museum Assessment program: Sections 1180.5(a); 1180.5(c); 1180.5(d); 1180.5(e); 1180.15; 1180.44; 1180.47; and 1180.51–1180.56.

§ 1180.76 Responsibility of a museum.

Except in unusual circumstances, a museum which receives a grant under this subpart must take the steps normally expected of it to complete the assessment process for which it has received assistance. Section 1180.13(i) (a criterion for evaluation of general operating support applications) applies to the use of funds under this subpart.

(20 U.S.C. 961–968)

[FR Doc. 84–26519 Filed 10–4–84; 8:45 am]
BILLING CODE 7036–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 68

[CC Docket No. 84–885; FCC 84–424]

Deregulatory Options and Streamlined Application Processing

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission is proposing several changes in its Part 68 equipment registration program that would streamline application processing and eliminate unnecessary or outmoded regulations. The Commission has proposed to eliminate the mandatory twenty-day waiting period contained in § 68.202, 47 CFR 68.202, prior to granting Part 68 applications, and the requirement of § 68.106(a) that consumers report to telephone companies the FCC registration number and ringer equivalence number of terminal equipment. Equipment-to-equipment specifications contained in § 68.502, 47 CFR 68.502, and environmental stress tests for equipment packaging contained in § 68.302(c)(1), 47 CFR 68.302(c)(1), are also proposed for elimination.

DATES: Interested parties may file comments on or before November 5, 1984, and reply comments on or before November 20, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Patrick Donovan, Common Carrier Bureau, Federal Communications

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Commission, Washington, D.C., 20554, (202) 634–1832.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 68

Communications equipment, Communications common carriers, Administrative practice and procedure.

Notice of Proposed Rulemaking

In the Matter of Revisions to Part 68 of the Commission's Rules; Deregulatory Options and Streamlined Application Processing With Respect to Part 68 of the Commission's Rules; CC Docket No. 84–865.

Adopted: September 13, 1984.
Released: September 26, 1984.

By the Commission: Commissioner Quello concurring and issuing a statement; Commissioners Rivera and Patrick absent.

1. Part 68 of the Commission's rules governs the terms and conditions for connection of customer provided terminal equipment to the telephone network. Part 68 is designed to assure consumers and manufacturers that their equipment may be connected to the network without causing harm.[1] These rules concern generally conditions of use of terminal equipment, registration procedures, conditions for registration, and complaint procedures. The Commission has reviewed Part 68 and has determined that certain rules may no longer be needed. Deletion of these rules will streamline application processing, and reduce the regulatory burden on both registration applicants and the public. The Commission has previously indicated its intention to streamline Part 68. *A Reexamination of Technical Regulations*, Gen. Docket 893–114, FCC 83–67, released March 18, 1983. *See also Federal Communications Commission List of Rules and Regulations to be Reviewed Pursuant to section 610 of the Regulatory Flexibility Act During 1983–1984*, Gen. Docket No. 84–361, FCC 84–135, released April 12, 1984.

2. *Elimination of Public Notice Period.* Section 68.202(a) of the rules provides that the Commission will issue public notices of the filing and grant of applications for equipment registration and that no grant will be made until twenty days from the date of the public notice of the filing of the application. Section 68.204 provides that comments on the application may be filed during the twenty-day public notice period and replies within ten days of the filing date of comments. Under this framework, the Commission currently receives, processes and grants approximately three thousand Part 68 applications per year. An application is initially reviewed for sufficiency and completeness, and is generally either accepted for filing and placed on public notice for the twenty-day period or returned to the applicant for corrections. It is rare that an application will be accepted for filing and not subsequently granted. Some Part 68 applications, such as those for minor modifications of registered equipment, do not even require Commission approval. Indeed, in the last five years virtually no comments have been filed on any Part 68 application, except where specifically requested by the Commission by separate public notice. *See* Public Notice, October 14, 1982, Viking Electronics, Inc., File No. 100–CX–82 concerning registration of coin-operated telephones.

3. In view of this experience, we believe that the § 68.202(a) twenty-day public notice period is no longer justified. Instead, we propose to issue public notice of Part 68 applications accepted for filing and, once processing has been completed, to issue a final public notice containing the registration number. Under this procedure, streamlined by removal of the twenty-day waiting period, a typical Part 68 application would be granted at least twenty days earlier, i.e. processing would commence on acceptance of the application for filing. We believe that the complaint procedures set forth in Subpart E of Part 68 are adequate to protect the network from interconnection of potentially harmful equpment. *Automation Electronics, Inc.*, 63 F.C.C. 2d 940 (1977).

4. *Notification to the telephone company of connection of customer provided equipment.* Under § 68.106(a) of the rules, a customer is required to notify the telephone company prior to connection or final disconnection of customer provided terminal equipment, and to provide the telephone company the FCC registration number and ringer equivalence number.[2] At the time this rule section was adopted, there had been no experience with the Part 68 registration program or wide-spread provision and connection of terminal equipment by consumers. Section 68.106(a) was adopted as a precaution to insure that only properly registered equipment would be connected to the network. Now that the FCC equipment registration program is well established, and there is little or no market for unregistered terminal devices, we do not believe that there is a significant risk that without § 68.106(a) consumers will connect unregistered or otherwise harmful devices to the telephone network. Furthermore, it is unclear to what extent this provision is currently being enforced by carriers. While the ringer equivalence number on registration labels remains useful, particularly to consumers, it is our understanding that telephone carriers generally do not maintain records on the total ringer equivalence on each line.[3] In short, our experience suggests that the utility of the reporting requirements of § 68.106(a) no longer warrants the rule's existence as a mandatory requirement. We believe that an unnecessary burden on the consumer and the carrier can be eliminated by amending § 68.106(a) to provide that the customer must provide the carrier with the FCC registration number and ringer equivalence number only when requested to do so, e.g. where the carrier has reason to believe that unregistered or malfunctioning terminal equipment may be connected. If deemed necessary by the carrier, consumer information of the type routinely supplied in introductory portions of telephone directories can adequately educate the consumer of the need to employ only FCC registered terminal equipment and to comply with ringer equivalence limitations. *See* footnote 3, *infra*. With these safeguards, the carrier will be able to continue to maintain the integrity of the network. We request comment on this proposed rule change.[4]

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[1] For a history of Part 68, see Memorandum Opinion and Order in Docket Nos. 19528, 20774 and 21182, 70 F.C.C. 2d 1800 (1979).

[2] Section 68.106(a), 47 CFR 68.106(a), states in part: Customers connecting terminal equipment or protective circuitry to the telephone network shall, before such connection is made, give notice to the telephone company of the particular line(s) to which such connection is made, and shall provide to the telephone company the FCC registration and Ringer Equivalence of the Registered terminal equipment or registered protective circuitry. The customer shall give notice to the telephone company upon final disconnection of such equipment or circuitry from the particular line(s).

[3] "Ringer equivalence" relates to the current drawn from the telephone company facilities by a terminal device. In most areas of the United States, telephone carriers provide sufficient ringing current to ring up to five standard telephones, i.e. a ringer equivalence of five. If more than five telephones are placed on a line, the telephone company cannot guarantee proper ringing.

[4] In Petitions Seeking Amendment of Part 68 of the Commission's Rules Concerning Connection of Telephone Equipment, Systems and Protective Apparatus to the Telephone Network (First Report and Order), CC Docket No. 81–216, FCC 84–182, released May 18, 1984, *reconsideration pending*, the Commission amended Part 68 to create *inter alia* notice/documentation requirements for subscriber installation, connection, or reconfiguration of premises wiring. *Id.* paras. 57–62. *See* 47 CFR 68.213(e). Comments are solicited on whether this issue should be revisited by the Commission in view of our proposal to eliminate the notice requirements of § 68.106(a). Commenting parties are also requested to advise the Commission of whether a prior notification requirement should be maintained for registered telephone systems, as opposed to

Continued

5. *Connectors.* Subpart F of Part 68 sets forth technical descriptions of authorized plugs, jacks and adapters for network connections of registered terminal equipment. These include descriptions of equipment-to-equipment connections which were originally intended to assure a means of connection of customer provided terminal equipment to other equipment provided by the telephone carrier in conjunction with transmission services. However, with the detariffing of customer premises equipment (CPE), telephone companies no longer provide terminal equipment in conjunction with transmission services.[5] The interconnection of various components of CPE, therefore, is not properly a concern of Part 68. Accordingly, we propose to eliminate the technical descriptions set forth in rules § 68.502(a)(2)–(3), 68.502(b)(2)–(6), 68.502(c)(2), 68.502(d)(2)–(4), 68.502(e)(7)–(8), and descriptions in § 68.502(f)(1) pertaining to jacks referred to as RJ33M, RJ34M, and RJ35M. Comments are sought on this proposed rule change. The Commission does not envision at this time elimination of the standard modular jack specifications contained in § 68.500 or network connection specifications set forth in § 68.502.

6. *Environmental Shock Tests.* Section 68.302 imposes as a condition of registration that equipment comply with the technical standards for registration both before and after the administration of certain enumerated electrical and mechanical stresses. These stresses are intended primarily to assure compliance of the equipment with Part 68 following shipment from the manufacturer to the customer. We believe that the marketplace itself is an adequate mechanism for assuring that devices are constructed and packaged to survive handling common in the telephone equipment industry. The same incentive of the manufacturer to produce a device that functions on delivery serves to assure the integrity of the device under Part 68 with respect to shock stresses. We propose, therefore, to delete § 68.302(c)(1) of the rules.

Regulatory Flexibility Act Initial Analysis

7. *Reason for Action.* The Commission is initiating this rulemaking proceeding because of the need to eliminate unnecessary rules and regulations and improving application procedures with respect to Part 68 of the Commission's rules.

8. *The objective.* The objective of this notice of proposed rulemaking is to initiate a rulemaking and seek public comment on proposed amendments to Part 68 indicated in this decision. The Commission will adopt amendments to Part 68 which will eliminate unnecessary regulations and streamline and improve application processing.

9. *Legal Basis.* Legal action as proposed is in furtherance of Section 1 of the Communications Act of 1934, as amended which requires the Commission to ensure in so far as possible a rapid, efficient nationwide telecommunications system.

10. *Description, potential impact and number of small entities affected.* The Commission's proposal to eliminate the twenty day mandatory waiting period for application processing will benefit small terminal equipment manufacturers by speeding disposition of Part 68 applications. Similarly, elimination of unnecessary rules and regulations will relieve the regulatory burden to which small businesses would otherwise be subject.

11. *Recording, recordkeeping and other compliance requirements.* No additional paperwork will be required by the proposals set forth in this proceeding.

12. *Federal rules which overlap, duplicate or conflict with this rule.* None.

13. *Any significant alternatives minimizing impact on small entities and consistent with stated objective.* The Commission's alternative would be to retain unnecessary rules and regulations and to not take steps to improve application processing. For the reasons indicated in this decision, we believe these alternatives are inconsistent with the public interest.

14. *Comments are Solicited.* Written comments are requested on the Initial Regulatory Flexibility Analysis. These comments must be filed in accordance with the same filing deadlines set for comments on the other issues in this notice of proposed rulemaking, but they must have a separate and distinct heading designating them as responses to the regulatory flexibility analysis. The Secretary shall send a copy of the Notice to the Chief Counsel for Advocacy of the Small Business Administration in accordance with section 603(a) of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*).

Ex Parte Presentations

15. For purposes of this non-restricted informal rulemaking proceeding members of the public are advised that *ex parte* contacts are permitted from the time of issuance of a notice of proposed rulemaking until the time a draft order proposing a substantive disposition of such proceeding is placed on the Commission's Sunshine Agenda. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and oral arguments) between a person outside the Commission and a Commissioner or a decision-making member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any written comments previously filed in the proceeding must prepare a written summary of that presentation which must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official(s) receiving the oral presentation. Each *ex parte* presentation discussed above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. *See generally* §1.1231 of the Commission's rules, 47 CFR 1.1231. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

16. Accordingly, pursuant to sections 1, 4, 201–05, 215, 218, 220, 313, 309(e)-(h) and 412 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154, 201–205, 215, 218, 220, 313, 309(e)-(h), and 412, and 5 U.S.C. 553, notice is hereby

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simple terminal devices such as telephones, answering machines, and speakerphones. The registration number for registered telephone systems is coded to indicate, to the telephone company and others, the degree of network protection offered by the system and by devices connected behind the system.

[5] *See* Amendment of § 64.702 of the Commission's Rules and Regulations (Second Computer Inquiry), 77 F.C.C.2d 384 (1980) (Final Decision), *reconsideration*, 84 F.C.C.2d 50 (1980), *further reconsideration*, 88 F.C.C.2d 512 (1981), *aff'd sub nom.* CCIA v. FCC, 693 F.2d 198 (D.C. Cir. 1982), *cert. denied* 103 S. Ct. 2109 (1983); Procedures for Implementing the Detariffing of Customer Premises Equipment and Enhanced Services (Second Computer Inquiry), Report and Order, CC Docket No. 81–893, FCC 83–551, released December 15, 1983, *reconsideration pending.* Some embedded CPE owned by independent telephone companies continues to be provided on a tariffed basis. The Commission has indicated in CC Docket No. 81–893 that it will create a framework for the detariffing of this CPE. Notice of Proposed Rulemaking, 94 F.C.C.2d 76 (1983). Second Further Notice of Proposed Rulemaking, FCC 84–238, released June 20, 1984.

provided of proposed rule changes in Part 68 of the Commission's rules, 47 CFR Part 68, in accordance with the discussion and delineation of issues herein.

17. It is further ordered, that the Secretary shall cause a copy of this order to be printed in the Federal Register.

18. Interested parties may file comments on or before November 5, 1984, and reply comments on or before November 20, 1984. In accordance with § 1.419 of the Commission's rules, 47 CFR 1.419, an original and five copies of all comments shall be furnished to the Commission. All submissions in this proceeding will be available for public inspection during regular business hours in the Commission's public reference room.

(Secs. 1, 4, 201–05, 48, Stat., as amended, 1066, 1082; 47 U.S.C. 154, 201–205)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 68—[AMENDED]

It is proposed to Amend Part 68 of the Commission's Rules and Regulations (Chapter I of Title 47 of the Code of Federal Regulations, Part 68) as follows:

1. Section 68.106(a) is revised as follows:

§ 68.106 Notification to telephone company.

(a) *General.* The telephone company may request the FCC Registration Number and Ringer Equivalence Number of all terminal equipment and protective circuitry connected to particular identified line(s).

§ 68.202 [Amended]

2. Section 68.202(a) is amended by removing the sentence: "No grant will issue before 20 days from the date of the public notice of the filing of the application."

§68.204 [Removed]

3. Section 68.204 is removed.

§ 68.302 [Amended]

4. Section 68.302(c)(1.) is removed.

5. In § 68.504, paragraphs (a) and (b) are removed. The section heading is revised, and an introductory paragraph is added, and the Unilateral Patent License Agreement is retained. The new section heading and introductory paragraph read as follows:

§ 68.504 Unilateral Patent License Agreement.

The unilateral license agreement set out herein shall be used for all patent license agreements for standard plugs and jacks.

* * * * *

September 13, 1984.

Concurring Statement of FCC Commissioner James H. Quello

In re: Notice of Proposed Rulemaking to streamline application processing under Part 68 of the rules and to eliminate unnecessary regulations.

While I am generally in favor of streamlining our processes for the benefit of the public and this agency, I am concerned that here we may be proposing to walk away from some rules that have continued utility. Performing my own imprecise cost/benefit analysis, it seems likely that some of the rules which this *Notice* proposes to eliminate might well have benefits far above their costs.

For example, equipment-to-equipment connections are now made in a standard manner which, it seems to me, permits the public to be confident that when telephone attachments are purchased they can be quickly and easily interconnected. I fail to see the burden imposed by such equipment-to-equipment rules. Also, certain stress tests now are required for packaged equipment so as to increase the likelihood that it will reach the consumer still in compliance with our registration program. I find this burden to be very reasonable and the benefit considerable.

Perhaps I can be persuaded by the comments in this proceeding that the costs are higher than my preliminary analysis indicates or that the benefits are not significant. I will review those comments with interest.

[FR Doc. 84-26448 Filed 10-4-84; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 84-688; RM-4718]

FM Broadcast Station in University, MS; Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of reply comment period.

SUMMARY: Action taken herein, at the request of the University of Mississippi, extends the reply comment period to respond to a proposal to assign FM Channel 221A to University, Mississippi.

DATE: Reply comments are due on or before October 4, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of section § 73.202(b), table of assignments, FM Broadcast Stations. (University, Mississippi) (MM Docket No. 84–688, RM–4718).

Order Granting Extension of Time To File Reply Comments

Adopted: September 25, 1984.
Released: September 27, 1984.
By the Chief, Policy and Rules Division.

1. On July 10, 1984, the Commission adopted the *Notice of Proposed Rule Making*, 49 FR 29419, published July 20, 1984, proposing the assignment of FM Channel 221A to University, Mississippi, as that community's first local FM service. Comments were filed September 6, 1984, and the date for filing reply comments is September 20, 1984.

2. On September 17, 1984, counsel for the University of Mississippi ("University"), requested a two-week extension of time for filing reply comments. University states that comments filed by the Mississippi Authority for Educational Television ("Authority"), seeking an alternative channel for University, has prompted representatives of the University and Authority to schedule a meeting to work out the conflict between the two organizations. University believes that at the conclusion of the meeting, both parties will have reached a mutually satisfactory agreement and that the reply comments will represent the consensus of the parties and eliminate the need for adversary pleadings.

3. Generally, it is the policy of the Commission not to routinely grant extension requests, pursuant to the provisions of § 1.46(a) of the Rules. However, we believe it would be in the public interest to provide an extension here to permit the parties to come to an agreement in order to aid the Commission in resolving the issues in this proceeding.

4. Accordingly, it is ordered, that the subject request for an extension of time in which to file reply comments is granted.

5. The date for filing reply comments is extended to and including October 4, 1984.

6. This action is taken pursuant to section 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§0.204(b) and 0.283 of the Commissions Rules.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84-26452 Filed 10-4-84; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Review for Eight Species of Foreign Turtles

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of review.

SUMMARY: Notice is hereby given that the U.S. Fish and Wildlife Service has evidence on hand to warrant a review of the status of eight species of foreign turtles to determine whether they should be proposed for listing as endangered or threatened species under provisions of the Endangered Species Act of 1973, as amended. The common and scientific names and ranges are provided in the table below. The threats that are believed to be causing declines in these species include habitat alteration, collection of eggs and/or adults for food, and collection for the pet trade. Some are known from very few specimens and are confined to limited geographic ranges. The Service seeks additional information on these turtles, including possible threats to them and their habitats.

DATES: Comments and materials relating to the status of these species should be submitted by January 3, 1985.

ADDRESSES: Interested persons or organizations are requested to submit comments to the Associate Director—Federal Assistance (OES), U.S. Fish and Wildlife Service, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–2771).

SUPPLEMENTARY INFORMATION:

Background

Common name	Scientific name	Range
Batagur, painted	*Callagur borneoensis*	Indonesia, Malaysia, Thailand.
Tortoise, Celebes	*Geochelone forsteni*	Indonesia.
Turtle, Brazilian sideneck	*Phrynops hogei*	Brazil.
Turtle, Cat Island	*Pseudemys felis*	Bahamas.
Turtle, Chaco sideneck	*Platemys pallidipectoris*	Argentina, Bolivia, Paraguay.
Turtle, Inagua Island	*Pseudemys malonei*	Bahamas.
Turtle, Kavalai forest or cane	*Heosemys silvatica*	India.
Turtle, South American red-lined	*Pseudemys scripta callirostris*	Colombia, Venezuela.

A brief description of these species and their problems is as follows:

Painted Batagur

The painted batagur is a large estuarine turtle which inhabits coastal regions in southern Thailand, West Malaysia, and the islands of Borneo and Sumatra. According to Groombridge (1982), the turtle is very rare in Thailand, with the status unknown in Borneo and Sumatra; in West Malaysia, the species is "widespread but generally depleted and heavily exploited." While adults are not regularly exploited, the chief threat to the species comes from the taking of its eggs for food; in some areas, licensed egg collectors take nearly every egg deposited. The species has a low reproductive potential and stereotyped nesting habits which make *Callagur* susceptible to such depredation. For additional references, see Groombridge (1982), Moll (1976), and Siow and Moll (1982).

Celebes Tortoise

This species appears to be very rare and localized in distribution and restricted to Celebes. Biologists have spent considerable amounts of time in the area without seeing any specimens, and very few local residents appear to be familiar with the tortoise. According to Groombridge (1982), the only recent sighting is of four specimens in central Celebes in and near the Morowali Reserve. Some biologists believe that *G. forsteni* may be based on released *G. travancorica* and thus not a valid species, but this remains to be clarified.

Brazilian Sideneck Turtle

This apparently rare turtle was described on the basis of a single specimen whose place of collection was of questionable validity. Based on 14 additional specimens, Rhodin *et al.* (1982) believe the species to be confined to low-lying areas in the Rio Paraiba drainage, Rio de Janeiro state and southern Minas Gerais, and the Rio Itapemirim, Brazil. The range of this turtle is quite restricted, and the turtle appears very rare. According to Mittermeier *et al.* (1980), the Rio Paraiba is experiencing pollution and siltation, and some of the tributaries have dried up.

Cat Island Turtle

This freshwater turtle is confined to small (2.5 km^2) Cat Island in the Bahamas. It has been considered to be a rare species (Ross, 1982; Groombridge, 1982), although studies by other biologists indicate the population may be larger than originally believed. Reproduction is believed to depend on adequate rainfall.
Threats to the species include exploitation for food, collection as pets, and habitat destruction due to the potential for development.

Chaco sideneck turtle

Little is known about this rare turtle whose range is centered in the Argentinian and Paraguayan Chaco; less than 10 specimens are known (Groombridge, 1982), although some have appeared in the pet trade. According to Groombridge (1982), "the apparent extreme rarity of the species coupled with current pet market pressures may represent a threat."

Inagua Island Turtle

This species is known only from Great Inagua Island and on New Providence Island, where it is introduced. The best estimate of population size is about 200–500 individuals (In Groombridge, 1982). This species may be affected in terms of reproductive success by the natural mortality associated with inadequate rainfall, and occasionally by take for pets or predation from feral animals.

Kavalai Forest or Cane Turtle

Until relatively recently (Groombridge, 1982) only two specimens of this turtle were known. It was rediscovered by Vijaya (1982) and subsequent searches have revealed an apparent small viable population (Vijaya, 1983; Groombridge *et al.*, 1983). The species is used as food, at least occasionally, by local people, and is threatened by possible modification of its rain forest habitat. This species is confined to the hill rain forest in southwest India.

South American Red-Lined Turtle

This medium sized fresh water turtle is confined to the lower Magdalena and Sinu drainages of northern Colombia and northwest Venezuela. Populations, once abundant, are now considered depleted throughout its range, with some local extinction, although the status in Venezuela is uncertain. According to Groombridge (1982), the turtle and its eggs are heavily used for food, hatchlings are gathered in large numbers for the tourist trade to be made into trinkets, and habitat may be locally lost or destroyed by fire. Mass exploitation of the turtles may now have ceased, but large numbers are still reported available in Europe.

Because of the information outlined above, the U.S. Fish and Wildlife Service believes that there are sufficient data to conduct a review of the status of

these foreign turtles to determine whether protection under provisions of the Endangered Species Act of 1973, as amended, may be warranted. The Service is therefore soliciting any additional information, reports, or published literature which may aid in this decision.

Literature Cited

Groombridge, B. 1982. The IUCN Amphibia-Reptilia Red Data Book. Part 1. Testudines, Crocodylia, Rhynchocephalia. IUCN, Gland, Switzerland. 426 pp.

Groombridge, B., E.O. Moll, and J. Vijaya. 1983. Rediscovery of a rare Indian turtle. Oryx 17(3):130–134.

Mittermeier, R.A., A.G.J. Rhodin, R. da Rocha e Silva, and N. Araujo de Oliveira. 1980. Rare Brazilian sideneck turtle. Oryx 15(5):473–475.

Moll, E.O. 1976. West Malaysian turtles: utilization and conservation. Herpetol. Rev. 7(4): 163–166.

Rhodin, A.G.J., R.A. Mittermeier, and R. da Rocha e Silva. 1982. Distribution and taxonomic status of *Phrynops hogei*, a rare chelid turtle from southeastern Brazil. Copeia 1982(1):179–181.

Ross J.P. 1982. The Cat Island turtle. Oryx 16(4): 349–351.

Siow Kuan Tow and E.O. Moll. 1982. Status and conservation of estuarine and sea turtles in west Malaysia waters. Pp. 339–347. In: K.A. Bjorndal (ed.), Biology and Conservation of Sea Turtles, Smithsonian Institution Press, Washington, D.C.

Vijaya, J. 1982. Rediscovery of the forest cane turtle (*Heosemys silvatica*) of Kerala. Hamadryad 7(3):2–3.

Vijaya, J. 1983. Second search for cane turtles *Heosemys silvatica* in Kerala. Hamadryad 8(1):20.

Author

This notice of review was prepared by Dr. C. Kenneth Dodd, Jr., Office of Endangered Species (703/235–1975).

Authority

The authority for this action is the Endangered Species Act (16 U.S.C. 1531 *et seq.*; Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Dated: September 21, 1984.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 84–26445 Filed 10–4–84; 8:45 am]
BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 49, No. 195
Friday, October 5, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

CIVIL AERONAUTICS BOARD

[Docket 42262]

Westates Airlines Fitness Investigation; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on October 12, 1984, at 10:00 a.m. (local time) in Room 1027, 1825 Connecticut Ave., NW., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, D.C., October 2, 1984.

Ronnie A. Yoder,

Administrative Law Judge.

[FR Doc. 84-26538 Filed 10-4-84; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

President's Commission on Industrial Competitiveness; Meetings

AGENCY: Office of Economic Affairs, Commerce.

ACTION: Notice of meetings.

SUMMARY: This notice announces the forthcoming meetings of the President's Commission on Industrial Competitiveness (Commission). The Commission was established by Executive Order 12428 on June 28, 1983 and its charter was approved on August 23, 1983. The Commission shall review means of increasing the long-term competitiveness of United States industries at home and abroad, with particular emphasis on high technology, and provide appropriate advice to the President through the Cabinet Council on Commerce and Trade and the Department of Commerce.

Time and place: On October 23, 1984, from 8:30–12:00 the four subcommittees of the Commission (Research, Development and Manufacturing, International Trade and Marketing, Human Resources and Capital Resources) will meet in the second floor meeting rooms of the Westin Galleria Hotel, 13340 North Dallas Parkway, Dallas, Texas, to review respective inputs to the final Commission report.

On October 23, 1984, from 1:00–4:30 the full Commission will meet in the Preston II Room, on the third floor of the Westin Galleria Hotel (at the above address) to discuss recommendations forwarded by the subcommittees and the final report.

On October 24, 1984, from 8:30–4:00 a continuation of the full Commission meeting will take place in the Preston II Room, on the third floor of the Westin Galleria Hotel at the above address.

Public participation: The meetings will be open to public attendance. A limited number of seats will be available for the public on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT: J. Paul Royston, President's Commission on Industrial Competitiveness, 736 Jackson Place, NW., Washington, DC 20503, telephone: 202–395–4527.

Dated: October 2, 1984.

Egils Milbergs,

Executive Director, President's Commission on Industrial Competitiveness.

[FR Doc. 84-26539 Filed 10-4-84; 8:45 am]

BILLING CODE 3510-18-M

Bureau of the Census

Service Annual Survey; Notice of Consideration

The Bureau of the Census hereby gives notice that we plan to conduct the Service Annual Survey in 1985. This survey conducted under Title 13, United States Code, sections 182, 224, and 225 asks for data on operating receipts for 1984 (and 1983 for newly included areas) for selected service industries. This survey is the only continuing source available on a timely basis for developing estimates of service operating receipts. Such as survey, if conducted, shall begin not earlier than December 31, 1984.

The Bureau has received information and recommendations that show the data will have significant application to the information needs of the public, the firms operating in these service industries, and governmental agencies, and that the data are not publicly available from nongovernmental sources.

The Bureau needs reports only from a selected miminum level sample of service firms in the United States, with probability of selection based on receipts size. The sample will provide, with measurable reliability, statistics on the subject specified above.

You may request copies of the proposed forms and a description of the collection methods through the Director, Bureau of the Census, Washington, D.C. 20233.

Any suggestions or recommendations concerning the content of the proposed survey will receive consideration if submitted in writing to the Director, Bureau of the Census, on or before December 3, 1984.

Dated: October 1, 1984.

John R. Keane,

Director, Bureau of the Census.

[FR Doc. 84-26488 Filed 10-4-84; 8:45 am]

BILLING CODE 3510-07-M

Census Advisory Committee on Agriculture Statistics; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463 as amended by Pub. L. 94–409), we are giving notice that the Census Advisory Committee on Agriculture Statistics will convene on October 31, 1984, at 9 a.m. The Committee will meet in Room 2424, Federal Building 3, at the Bureau of the Census in Suitland, Maryland.

This Committee advises the Director, Bureau of the Census, concerning the kind of information that should be obtained from respondents associated with agricultural production; prepares recommendations regarding the contents of agricultural reports; and presents the views and needs for data of major agricultural organizations and their members, and other suppliers of agricultural statistics.

The Committee is composed of 20 members appointed by the presidents of the nonprofit organizations having representatives on the Committee, and a representative from the U.S. Department of Agriculture.

The agenda for the meeting, which is scheduled to adjourn at 4 p.m. is: (1) Introductory remarks by the Director, Bureau of the Census; (2) current Census Bureau activities and legislative situation; (3) 1982 Census of Agriculture

data on diskettes—format and use, and priority for final data; (4) 1982 Census of Agriculture coverage; (5) update on United States Department of Agriculture/Census Bureau information sharing; (6) 1987 Standard Industrial Codes revisions; (7) 1987 Census of Agriculture discussion, including (a) review of the current program, (b) content issues, and (c) changing needs for tabulated data; (8) Committee recommendations; and (9) election of chairperson-elect.

The meeting will be open to the public, and a brief period will be set aside for public comment and questions. Extensive questions or statements must be submitted in writing to the Committee Control Officer at least 3 days before the meeting.

Persons planning to attend and wishing additional information concerning this meeting or who wish to submit written statements may contact the Committee Control Officer, Mr. George Pierce, Agriculture Division, Bureau of the Census, Room 3009, Federal Building 4, Suitland, Maryland. (Mail address: Washington, D.C. 20233.) Telephone (301) 763–7731.

Dated: October 1, 1984.

John G. Keane,

Director, Bureau of the Census.

[FR Doc. 84–26487 Filed 10–4–84; 8:45 am]

BILLING CODE 3510–07–M

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments; Yale University et al.

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR Part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with § 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No. 84–256. Applicant: Yale University School of Medicine, 333 Cedar Street, P.O. Box 3333, New Haven, CT 06510. Instrument: Electron Microscope, Model EM 410LS with Accessories. Manufacturer: Philips Electronic Instruments, The Netherlands. Intended use: Research in the field of cell biology and experimental pathology and medicine involving the study of cells, tissues and subcellular components. The instrument will be used to visualize the fine structural organization of normal cells and tissues as well as those subjected to experimental manipulations. Basic research experiments on the organization of kidney, liver, pituitary cells and cells in culture to determine the localization of proteins in order to understand cellular regulatory processes. The instrument will also be used in training graduate students and postdoctoral trainees in electron microscopy. Application Received by Commissioner of Customs: September 7, 1984.

Docket No. 84–284. Applicant: Augustana Hospital and Health Care Center, 2035 N. Lincoln Avenue, Chicago, IL 60614. Instrument: Kinetic Polarization Fluorometer with Spare Parts. Manufacturer: Photochemical Research Associates, Inc., Canada. Intended use: Investigation of lymphocyte fluorescence Polarization. The difference in lymphocyte sub-population response to common mitogens will be studied by measuring the fluorescence polarization of fluorescent probes associated with these lymphocytes. The objectives of these experiments are to: (a) Develop a diagnostic test for early cancer detection and (b) verify in a clinical sense the quality of such a diagnostic test. Application Received by Commissioner of Customs: August 27, 1984.

Docket No. 84–287. Applicant: University of California, Los Angeles, Jules Stein Eye Institute, 800 Westwood Plaza, Room B–168, Los Angeles, CA 90024. Instrument: Photo-Rotating Slit Lamp System, Model SL–45. Manufacturer: TOPCON Deutschland GmbH, West Germany. Intended use: Study of human cataract and the progression of this disease in man. The objectives of these studies are to understand the causes and mechanisms which produce cataract in man, and to devise methods and drugs which can prevent or delay the onset of cataracts. Application Received by Commissioner of Customs: August 27, 1984.

Docket No. 84–289. Applicant: Center for Ulcer Research & Education Foundation, VA/Wadsworth, Building 115, Room 203, Los Angeles, CA 90073. Instrument: Electron Microscope, Model EM 109 with Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use: Studies of normal, experimental and diseased gastrointestinal tissues from animal and man. These studies will be conducted to provide an ultrastructural analysis of (1) those mucosal cells which are involved in the regulation and generation of acid, and (2) extrinsic (vagal) and intrinsic (enteric) nerves which control gastric motility and secretion. Application Received by Commissioner of Customs: August 27, 1984.

Docket No. 84–291. Applicant: Harvard University, Purchasing Department, 1350 Massachusetts Avenue, Cambridge, MA 02138. Instrument: Optical Microscope, Model Laborlux 12 POL. Manufacturer: Leitz, West Germany. Intended use: Studies of diamonds in various states of strain to determine the fundamental properties such as phonon spectra and relate this to the stresses in the diamond. Further studies will be conducted to understand how to design and select diamonds which can be used as anvils in high pressure devices. Students in Physics 383, 384 Low Temperature Physics of Quantum Fluids and Solids will use the instrument for research in physics at low temperature and high pressure. Application Received by Commissioner of Customs: August 27, 1984.

Docket No. 84–292. Applicant: University of Rochester, Strong Memorial Hospital, 601 Elmwood Avenue, Rochester, NY 14642. Instrument: Blood Irradiator Cesium-137 Source, Model Gammacell—1000 and Sample Container. Manufacturer: Atomic Energy of Canada, Ltd., Canada. Intended use: Research purposes: Irradiation of blood for blood bank use. Irradiation of homografts. Radiation survival of dividing cell studies. Cell preparation for mixed leukocyte reaction. Testing of blood-cell leukocyte activity. Application Received by Commissioner of Customs: August 27, 1984.

Docket No. 84–293. Applicant: Regents of the University of California, Materiel Management Department, Riverside, CA 92521. Instrument: Electromagnetic Soil Conduct Meter, Model EM 38. Manufacturer: Geonics Limited, Canada. Intended use: The instrument will be used to measure the soil salinity in irrigated fields. The objective is to relate this to the variability of irrigation water infiltration into soil and water uptake by plants to determine the most cost effective size of on-farm drainage water evaporation ponds. Educational purposes—Training of extension farm advisors on the alternative methods, including the electromagnetic meter, to determine soil salinity. Application Received by Commissioner of Customs: August 27, 1984.

Docket No. 84–294. Applicant: University of Maryland School of Medicine, 660 West Redwood Street, Baltimore, MD 21201. Instrument: Time-resolved Spectrofluorometer System, Model 199S and Accessories. Manufacture: Edinburgh Instruments, Ltd., United Kingdom. Intended use: Studies of fluorescent organic substances, biological macromolecules, proteins, membranes, and chemicals. Experiments will consist of analysis of membrane-bound proteins, effects of red-edge excitation of fluorescence and anisotropy decays, calmodulin, hemoglobin, ATPase. Application Received by Commissioner of Customs: August 27, 1984.

Docket No. 84–296: Applicant: Whitehead Institute for Biomedical Research, Nine Cambridge Center, Cambridge, MA 02142. Instrument: Electron Microscope, Model EM 410LS with Accessories. Manufacturer: N.V. Philips, The Netherlands. Intended use: Research in the areas of growth and development of biological tissues. Application Received by Commissioner of Customs: September 12, 1984.

Docket No. 84–297. Applicant: U.S. Department of Energy, EG&G Idaho, Inc., P.O. Box 1625, Idaho Falls, ID 83415. Instrument: Electron Microscope, Model EM 420. Manufacturer: N.V. Philips, The Netherlands. Intended use: Investigation of the microstructural features of metals, ceramics and polymers. Application Received by Commissioner of Customs: September 12, 1984.

Docket No. 84–310. Applicant: University of Virginia, Chemistry Department, McCormick Road, Charlottesville, VA 22901. Instrument: Nanosecond Fluorometer System, Model 510B. Manufacturer: Photochemical Research Associates, Inc., Canada. Intended use: Study of the luminescent probes that are chemically or ionically attached or adsorbed by a variety of organized and condensed media. They include cyclodextrins, micelles and bilayers. The properties studied will be lifetimes, quantum yields, binding interactions, and quenching phenomena. These results will be used to design model solar energy conversion schemes. The instrument will also be used to teach students modern methods of photochemistry and to apply these techniques to problems related to solar energy conversion and basic inorganic chemistry. Application Received by Commissioner of Customs: September 13, 1984.

Docket No. 84–312. Applicant: Medical College of Ohio at Toledo, Department of Pathology, 3000 Arlington Avenue, Toledo, OH 43699. Instrument: Electron Microscope, Model EM 410LS with Accessories, Manufacturer: N.V. Philips, The Netherlands. Intended use: Investigation of a variety of materials including mouse lung tumors, rat kidney, newt liver and tail tissue, animal and human cell cultures, and various diseased human tissues. Most of the experiments will involve morphologic evaluation of tissues, although immunocytochemistry investigation for cell makers is also to be done. The instrument will also be used for training pathology residents and graduate students in the course Diagnostic Electron Microscopy. Application Received by Commissioner of Customs: September 13, 1984.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84–26437 Filed 10–4–84; 8:45 am]

BILLING CODE 3510–DS–M

[C–533–055]

Oleoresins From India; Final Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of Final Results of Administrative Review of Countervailing Duty Order.

SUMMARY: On August 14, 1984, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on oleoresins from India. The review covers the period January 1, 1983, through December 31, 1983.

We gave interested parties and opportunity to comment on the preliminary results. We received no comments. Based on our analysis, the final results of the review are the same as the preliminary results.

EFFECTIVE DATE: October 5, 1984.

FOR FURTHER INFORMATION CONTACT: Bernard Carreau, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On August 14, 1984, the Department of Commerce ("the Department") published in the **Federal Register** (49 FR 32430) the preliminary results of its administrative review of the countervailing duty order on oleoresins from India (44 FR 21009, April 9, 1979). The Department has now completed that administrative review, in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of Indian oleoresins, which are determined by the Customs Service to be ineligible for duty-free treatment under GSP. Oleoresins are flavoring extracts, fruit flavors, essences, esters, and oils not containing alcohol, and not in ampules, capsules, tablets, or similar forms. Such merchandise is currently classifiable under items 450.2010, 450.2015, 450.2025, and 450.2040 of the Tariff Schedules of the United States Annotated. The review covers the period January 1, 1983, through December 31, 1983, and the following programs:

(1) A rebate upon export of indirect taxes under the Cash Compensatory Support Program; (2) a pre-shipment export loans program; (3) income tax deductions through the Export Markets Development Allowance; and (4) grants under the Market Development Assistance program.

Final Results of the Review

We gave interested parties an opportunity to comment on the preliminary results. We received no comments. Based on our analysis, the final results of our review are the same as the preliminary results.

On December 30, 1982, the International Trade Commission ("ITC") notified the Department that the Indian government had requested an injury determination for this order under section 104(b) of the Trade Agreements Act of 1979. Should the ITC find that there is material injury or likelihood of material injury to an industry in the United States, the Department will instruct the Customs Service to assess countervailing duties, in the amount of the estimated duties required to be deposited, on all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after December 30, 1982, and through the date of the ITC's notification to the Department of its determination.

The Department will instruct the Customs Service to collect a cash deposit of estimated countervailing duties, as provided for by section 751(a)(1) of the Tariff Act, of 2.85 percent of the entered value on any shipments of non-GSP Indian oleoresins entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until

publication of the final results of the next administrative review. The Department intends to begin immediately the next administrative review.

The Department encourages interested parties to review the public record and submit applications for protective orders as early as possible after the Department's receipt of the requested information.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: September 28, 1984.

Alan F. Holmer,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 84-26469 Filed 10-4-84; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Mid-Atlantic and South Atlantic Fishery Management Councils; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: The Mid-Atlantic and South Atlantic Fishery Management Councils will convene joint public meetings on October 24–26, 1984, to discuss the Surf Clam and Ocean Quahog Fishery Management Plan (FMP), Striped Bass and Swordfish FMPs; joint venture policy and other fishery management and administrative matters. The joint Council meetings will take place at the Cavalier, 42nd and Atlantic Avenue, Virginia Beach, VA; telephone: 804–525–8555. A detailed agenda will be available to the public around October 12, 1984. The Mid-Atlantic Council may also convene a closed session to discuss employment and/or national security matters.

In addition, the Scientific and Statistical Committee of the Mid-Atlantic Fishery Management Council will convene a public meeting on October 10, 1984, at the Best Western Airport Inn, Philadelphia International Airport, Philadelphia, PA, to discuss surf clam and ocean quahog quotas for 1985; vessel ID project; the Striped Bass FMP and other fishery-related matters.

These meetings may be lengthened or shortened depending upon progress on agenda items.

For further information contact the Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19901; telephone: 302–674–2331, or the Executive Director, South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC; telephone: 803–571–4366.

Dated: October 1, 1984.

Roland Finch,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 84-26468 Filed 10-4-84; 8:45 am]

BILLING CODE 3510-22-M

New England Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The New England Fishery Management Council will convene a public meeting to discuss measures to be included in the fishery management plan for the multi-species fishery in the New England and Mid-Atlantic areas of the fishery conservation zone. Other Council business may be discussed also as time permits. The public meeting will convene on October 10, 1984, at approximately 9:30 a.m., will adjourn at approximately 6 p.m., or upon conclusion of the agenda, and will take place at the Holiday Inn, Peabody, MA. For further information on seating arrangements, changes to the agenda, and or written comments, contact the Executive Director, New England Fishery Management Council, Suntaug Office Park, 5 Broadway (Route One), Saugus, MA 01906; telephone: (617)–231–0422.

Dated: October 1, 1984.

Roland Finch,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 84-26470 Filed 10-4-84; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Extending Coverage of Export Visa Requirement To Include Certain Non-Apparel Textiles and Textile Products of Cotton, Wool and Man-Made Fibers Produced or Manufactured in Indonesia

October 2, 1984.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on November 15, 1984. For further information contact James Nader, International Trade Specialist (202) 377–4212.

Background

Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 21, 1981, as amended, the Governments of the United States and the Republic of Indonesia have agreed to amend the existing export visa requirement to include non-apparel products in Categories 300–329 and 360–369, 400–429 and 464–469 and 600–627 and 665–669. This coverage is in addition to the coverage of cotton, wool and man-made fiber apparel products in Categories 330–359, 432–459, and 630–659, described in the notice published in the **Federal Register** on February 6, 1980 (45 FR 8084). The visa stamp is not being changed and the officials of the Government of the Republic of Indonesia who are authorized to issue visas also remain unchanged at this time.

The expanded coverage will be effective for non-apparel products of cotton, wool and man-made fibers, produced or manufactured in Indonesia and exported on and after November 15, 1984. Non-apparel merchandise exported before November 15, 1984 will not be denied entry for lack of a visa until February 15, 1985.

A description of the textile categories in terms of T.S.U.S.A. numbers was in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), and July 16, 1984 (49 FR 28754).

Ronald I. Levin,

Acting Chariman, Committee for the Implementation of Textile Agreeements.

October 2, 1984.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the letter of February 1, 1980 concerning cotton, wool and man-made fiber apparel products in Categories 330–359, 431–459 and 630–659, produced or manufactured in the Republic of Indonesia.

Effective on November 15, 1984, the directive of February 1, 1980 is hereby further amended to require that cotton, wool and man-made fiber textiles and textile products in Categories 300–329 and 360–369, 400–429 and 464–469, and 600–627 and 665–669, produced or manufactured in Indonesia and exported to the United States on and after November 15, 1984 must be visaed in order to be entered into the United States for consumption, or withdrawn from warehouse

for consumption. Merchandise in these categories which has been exported before November 15, 1984 shall not be denied entry for lack of a visa until February 15, 1985. The visa stamp and officials authorized by the Government of the Republic of Indonesia to issue visas are not being changed at this time.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), and July 16, 1984 (49 FR 28754).

The action taken with respect to the Government of the Republic of Indonesia and with respect to imports of cotton, wool and man-made fiber textiles and textile products from Indonesia has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-26436 Filed 10-4-84; 8:45 am]

BILLING CODE 3510-DR-M

Adjusting the Import Limits for Man-Made Fiber Textile Products From the People's Rpublic of China

October 2, 1984.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on October 9, 1984. For further information contact Jane Corwin, International Trade Specialist (202)377–4212.

Background

A CITA directive establishing import limits for specified categories of cotton and man-made fiber textile products, including Category 635 and 640, produced or manufactured in the People's Republic of China and exported during the twelve-month period which began on January 1, 1984, was published in the **Federal Register** on December 22, 1983 (48 FR 56626). Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 19, 1983, the Government of the People's Republic of China has notified the Government of the United States of its intention to use flexibility in the form of swing to be applied to the current-year limits for these categories. The limit for Category 640 is being reduced accordingly to account for swing being applied to Category 635.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924) and December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622) and July 16, 1984 (49 FR 28754).

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

October 2, 1984.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of December 19, 1983 from the Chairman of the Committee for the Implementation of Textile Agreements which established levels of restraint for certain specified categories of cotton and man-made fiber textile products, produced or manufactured in the People's Republic of China and exported during 1984.

Effective on October 9, 1984, the directive of December 19, 1983 is hereby further amended to adjust the previously established levels of restraint for Categories 635 and 640 to the following under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 19, 1983: [1]

Category	Adjusted 12-mo. level of restraint [1]
635	404,223 doz.
640	1,046,407 doz.

[1] The levels have not been adjusted to reflect any imports exported after December 31, 1983.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-28501 Filed 10-4-84; 8:45 am]

BILLING CODE 3510-DR-M

[1] The Agreement provides, in part, that (1) with the exception of Category 315, and specific limit may be exceeded by not more than 5 percent of its square yards equivalent total, provided that the amount of the increase is compensated for by an equivalent square yard equivalent decrease in one or more other specific limits in that agreement year; (2) the specific limits for certain categories may be increased for carryforward, and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

Adjusting Import Limits for Certain Apparel Products From the Republic of the Philippines

October 2, 1984.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on October 9, 1984. For further information contact Carl Ruths, International Trade Specialist (202) 377–4212.

Background

A CITA directive dated December 16, 1983 (48 FR 56425), as amended, established limits for certain categories of cotton, wool and man-made fiber textile products, including Categories 333/334, 335T, 336T, 337, 338/339, 340, 341, 347, 433, 443, 631pt., (work gloves in TSUSA numbers 704.3215, 704.8525, and 704.9000), 636NT, 652NT and 659T, produced or manufactured in the Philippines and exported during the agreement year which began on January 1, 1984. Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of November 24, 1982 between the Governments of the United States and the Republic of the Philippines, the 1984 limits for Categories 333/334, 335T, 338/339, 340, 341T, 341NT, 347, 433, 443, 631pt., 636NT and 652NT are being increased by the application of carryover, carryforward and swing. As consequence of the swing adjustments, the limits for Categories 336T, 337T, 337NT and 659T are being reduced. Carryforward, to the extent used in 1984, will be deducted from the 1985 limits of the affected categories.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), and July 16, 1984 (49 FR (28754).

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

October 2, 1984.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of December 16, 1983 from the Chairman of the Committee for the

Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in the Philippines and exported during 1984.[1]

Effective on October 9, 1984, paragraph 1 of the directive December 16, 1983 is hereby further amended to include adjusted restraint limits for the following categories:

Category	Adjusted 12-mo. restraint limit [2]
333/334	91,263 dozen.
335T	44,814 dozen.
336T	377,077 dozen.
337T	336,164 dozen.
337NT	29,155 dozen.
338/339	809,906 dozen.
340	291,718 dozen.
341T	80,404 dozen.
341NT	111,572 dozen.
347	303,643 dozen.
433	3,693 dozen.
443	2,486 dozen.
631pt. [3]	448,000 dozen pairs.
636NT	50,242 dozen.
652NT	706,537 dozen.
659T	3,719,406 dozen.

[1] The limits have not been adjusted to reflect any imports exported after December 31, 1983.
[2] In Category 631 only TSUSA numbers 704.3215, 704.8525, and 704.9000.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exeption to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-26489 Filed 10-4-84; 8:45 am]

BILLING CODE 3510-DR-M

CONSUMER PRODUCT SAFETY COMMISSION

Manufacturers of Chain Saws and Saw Chain; Meeting

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of meeting.

SUMMARY: The Commission has scheduled a public meeting with manufacturers of chain saws and saw chain to discuss methods for marketing, advertising and promoting the safety features that will be used to meet the requirements of the draft revised American National Standards Institute (ANSI) B 175 "Standard for Chain Saws."

DATES: (1) The meeting will begin at 10:00 a.m. on October 16, 1984 (2) requests from chain saw and saw chain manufacturers to participate, and copies of their presentations, should be received by the Office of the Secretary no later than October 9, 1984.

ADDRESSES: The meeting will be held in the third floor conference room at 1111 18th Street, NW., Washington, D.C.

Requests from manufacturers to participate, and copies of their presentations, should be submitted to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 492-6800. For further information contact: Carl Blechschmidt, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 492-6554.

SUPPLEMENTARY INFORMATION: For some time, the Commission has been working with industry for the adoption of an amendment to the ANSI Standard to address the hazard of chain saw kickback. This work has culminated in a draft standard which will soon be sent out for final comment.

One major requirement of the standard is that chain saws must have at least two separate features to reduce the hazard of kickback, such as a bar tip guard, reduced kickback saw chain, reduced kickback guide bar, chain brake, etc. The Commission is interested in receiving information and views from chain saw and saw chain manufacturers pertaining to the advertisement, promotion and marketing of those features. Therefore, the Commission has scheduled a meeting with the manufacturers of saw chain and chain saws for 10:00 am, October 16, 1984, in the third floor conference room at 1111 18th Street, NW., Washington, D.C.

The purpose of the meeting is to gain information concerning how these separate features may be promoted, marketed, advertised, and labeled. The Commission is also interested in obtaining information on how these features can be identified by a consumer and how they may be advertised by dealers.

The Commission is contacting chain saw and saw chain manufacturing firms known to be manufacturing these products concerning the meeting. Representatives of these firms who want to participate should call or write Sadye E. Dunn, Secretary, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 492-6800, no later than October 9, 1984. Copies of the participants presentations should be provided to the Secretary by that date. It may be necessary for the Commission to impose time limitations on the presentations of the participants or to limit duplicative or irrelevant comments. The meeting will consist of presentations by the participants, followed by questions by the Commissioners.

Dated: October 2, 1984.

Sheldon D. Butts,

Deputy Secretary, Consumer Product Safety Commission.

[FR Doc. 84-26537 Filed 10-4-84; 8:45 am]

BILLING CODE 6355-01-M

[1] The agreement, provides in part, that: (1) Specific limits may be exceeded during the agreement year by designated percentages; (2) specific limits may be adjusted for carryover and carryforward; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

COPYRIGHT ROYALTY TRIBUNAL

[Docket No. 84-1]

1983 Cable Royalty Distribution

AGENCY: Copyright Royalty Tribunal.

ACTION: Notice.

FOR FURTHER INFORMATION CONTACT: Edward W. Ray, Acting Chairman, Copyright Royalty Tribunal, 1111 20th Street, NW., Room 450, Washington, D.C. 20036, (202) 653-5175.

SUMMARY: In accordance with 17 U.S.C. 111(d)(5)(B), the Copyright Royalty Tribunal (Tribunal) directs that claimants to royalty fees paid by cable operators for secondary transmissions during 1983 shall submit not later than November 15, 1984 any comments concerning whether a controversy exists with regard to the distribution of the 1983 royalty fees. Claimants shall, at the same time, advise the Tribunal of their views concerning hearing schedules and procedures if the Tribunal determines that a controversy exists.

Dated: October 1, 1984.

Edward W. Ray,

Acting Chairman.

[FR Doc. 84-26495 Filed 10-4-84; 8:45 am]

BILLING CODE 1410-09-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP84-703-000]

Texas Eastern Transmission Corp.; Application

September 26, 1984.

Take notice that on September 10, 1984, Texas Eastern Transmission Corporation (Applicant), P.O. Box 2521, Houston, Texas 77252, filed in Docket No. CP84-703-000 an application pursuant to section 7(c) of the Natural Gas Act for a limited-term certificate of public convenience and necessity authorizing the transportation of natural

gas in interstate commerce for United States Steel Corporation (USS), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that USS has purchased quantities of natural gas from Carnegie Natural Gas Company (Carnegie) which USS desires to have transported to its Fairless Works Plant located in Bucks County, Pennsylvania, for use as fuel oil displacement gas. Applicant proposes to receive from Carnegie, by displacement, quantities of natural gas of up to 37,200 dt equivalent of gas per day at the existing point of interconnection between Applicant and Carnegie located at Applicant's meter station 1275 in Greene County, Pennsylvania, or at other mutually agreeable points of receipt from Carnegie, and to transport and redeliver equal quantities to Philadelphia Electric Company (Philadelphia), for the account of USS, at existing points of interconnection between Applicant and Philadelphia designated as Applicant's M&R Station 035 located in Delaware County, Pennsylvania, Applicant's M&R Station 036 located in Montgomery County, Pennsylvania, or at other mutually agreeable points of delivery to Philadelphia. Applicant indicates that Philadelphia would in turn transport, on behalf of USS, and redeliver such quantities of natural gas to USS at USS's Fairless Works Plant located in Bucks County, Pennsylvania.

Applicant proposes to transport the stated quantities of natural gas under its currently effective Rate Schedule TS–2, FERC Gas Tariff, Fourth Revised Volume No. 1. Applicant indicates that on July 14, 1983, the Commission issued its Order Approving Settlement in *Texas Eastern Transmission Corporation*, Docket Nos. RP83–35–000, *et al.*, 24 FERC ¶ 61,065, in which it approved transportation of natural gas for fuel oil displacement under Applicant's Rate Schedule TS–2. Applicant proposes to charge USS its currently effective TS–2 (Fuel Oil Displacement) transportation rate of 16.76 cents per dt transported for USS and to reduce volumes received for transportation for shrinkage by 4 percent for the period November 16 through April 15 of each year and by 3 percent for the period April 16 through November 15 of each year.

Applicant requests a limited-term certificate with pregranted abandonment authorization expiring February 13, 1985.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 16, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determinig the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–26429 Filed 10–4–84; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 3178–002]

Public Utility District No. 1 of Mason County, Wash.; Intent To Prepare Environmental Impact Statement and Notice of Scoping Session and Public Meeting

September 28, 1984.

The Public Utility District of Mason County, Washington (PUD) filed on August 9, 1983, an application for license for the Hamma Hamma Project No. 3178–002. The project would be located on the Hamma Hamma River in Mason County, Washington.

Public notice of the application was issued by the Commission on May 21, 1984. The application has been mailed to federal and state agencies for their review and comment. The Commission's staff has determined that issuance of a license for the PUD's proposed hydroelectric project would constitute a major federal action significantly affecting the quality of the human environment.

The staff therefore intends to prepare an environmental impact statement in accordance with the National Environmental Policy Act. Possible alternatives to the proposed action will be addressed.

Scoping Session

Interested persons and agencies are invited to participate in the scoping meeting to discuss the environmental impacts expected from the proposed Hamma Hamma Project. The scoping session will be held at 10:00 a.m. on Tuesday, October 16, 1984, in Hearing Room 2866 of the Jackson Federal Building, 915 Second Avenue, Seattle, Washington. The scoping session will be convened by the Commission's staff. The purpose of the scoping session is to enable interested persons and agencies to discuss with the Commission's staff environmental impacts and other matters which should be included in the environmental impact statement.

Public Meeting

Interested officials and members of the public are invited to express their views about the project at a public meeting. The public meeting will be held at 7:30 p.m. on Monday, October 15, 1984, at the Hoodsport Fire Hall in Hoodsport, Washington. The meeting will be conducted by the Commission's staff. Persons may give their statements at the meeting orally or in writing. Earlier on the same day the Commission's staff will conduct an inspection of the proposed project area.

The public meeting will be recorded by a stenographer, and all statements (oral or written) will become part of the public meeting record. In addition, the public meeting record will remain open until November 16, 1984, and anyone may submit written comments on the project until that time. Comments should be addressed to Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, and should clearly show the project name (Hamma Hamma) and number (Project No. 3178–002) on the first page.

For further information, please contact Quentin Lawson at (202) 357–8494, or Frank Karwoski at (202) 376–1761.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–26430 Filed 10–4–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP83-151-004]

Carnegie Natural Gas Co.; Application

October 2, 1984.

Take notice that on August 27, 1984,[1] Carnegie Natural Gas Company (Applicant), 800 Regis Avenue, Pittsburgh, Pennsylvania 15236, filed in Docket No. CP83-151-004 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing a limited-term sale of natural gas to New Jersey Natural Gas Company (New Jersey Natural) for resale, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell for resale up to 40,000 dt equivalent of natural gas per day on a best-efforts basis to New Jersey Natural for system supply for a period not to exceed one year. Applicant proposes to deliver the gas for the account of New Jersey Natural in Green County, Pennsylvania, at Texas Eastern Transmission Corporation's (Texas Eastern) measuring stations 008 or 1275 or other mutually agreeable existing interconnection. Texas Eastern is said to have agreed to transport the gas for and to New Jersey Natural at a mutually agreeable point.

The proposed sale price of the gas would be equal to that paid to Texas Eastern at 100 percent load factor plus 3 cents per dt.

Applicant states that sales in its Pittsburgh market area have declined and that they are below its take-or-pay obligation to Texas Eastern. Applicant proposes to continue the sale of New Jersey Natural to alleviate this situation. It is stated that the gas proposed to be sold would come exclusively from Applicant's high pressure system which serves only United States Steel Corporation and that a reduction in such deliveries would have no rate or service effect on Applicant's customers served from its low pressure system.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 22, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26049 Filed 10-4-84; 8:45 am]

BILLING CODE 6717-01-M

[1] The application was initially tendered for filing on August 27, 1984; however, the fee required by § 159.1 of the Regulations under the Natural Gas Act (18 CFR 159.1) was not paid until August 30, 1984; thus, filing was not completed until the latter date

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[Project No. 7204-001]

Cascade Area Council, Inc.; Surrender of Preliminary Permit

Take notice that Cascade Area Council, Inc. Permittee for the Neal Creek Project No. 7204, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 7204 was issued on October 31, 1983, and would have expired on March 31, 1985. The project would have been located on Neal Creek, near Jordan in Linn County, Oregon.

Cascade Area Council, Inc. filed the request on September 24, 1984, and the surrender of the preliminary permit for Project No. 7204 is deemed accepted as of September 24, 1984, and effective as of 30 days after the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26410 Filed 10-4-84; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 7606-001]

Charles Gresham and Rich Gresham; Surrender of Preliminary Permit

September 28, 1984.

Take notice that Charles and Rich Gresham, Permittees for the Harvey Creek Project No. 7606, have requested that their preliminary permit be terminated. The preliminary permit for Project No. 7606 was issued on January 25, 1984, and would have expired on June 30, 1985. The project would have been located on Harvey Creek, near Metaline Falls, in Pend O'Reille County, Washington. Charles Gresham filed the request on September 17, 1984, and the surrender of the preliminary permit for project No. 7606 is deemed accepted as of September 17, 1984, and effective as of 30 days after the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26411 Filed 10-4-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP81-163-002]

Columbia Gas Transmission Corp.; Petition To Amend

October 2, 1984.

Take notice that on September 20, 1984, Columbia Gas Transmission Corporation (Petitioner), 1700 MacCorkle Avenue, SE. Charleston, West Virginia 25314, filed in Docket No. CP81-163-002 a petition to amend the order issued October 2, 1981, in Docket No. CP81-163-000 pursuant to section 7(c) of the Natural Gas Act so as to authorize an extension of the term of the transportation service authorized therein for an additional three-year period to expire November 20, 1987, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

On January 29, 1981, Petitioner states it filed an application for a certificate of public convenience and necessity authorizing the transportation of natural gas for Union Carbide Corporation (UCC). It is asserted that UCC had excess ethane available and to avert the loss of this excess energy proposed to exchange and equivalent amount of hydrocarbon fule with Petitioner. Petitioner states that it agreed to receive liquid ethane at its Cobb compressor station in Big Sandy District, Kanawha County, West Virginia, and deliver thermally equivalent quantities of natural gas to Sugar Bowl Pipe Line for UCC's account by a reduction in Petitioner's scheduled receipts of gas at

the outlet of Exxon's Garden City plant in St. Mary Parish, Lousisana. Commission authorization for this transportation was for a term ending November 20, 1984.

Petitioner states that it now seeks authority to continue the transportation of up to 16,200 dt equivalent of gas per day on a best-efforts basis for an additional three-year period. Petitioner states that the amendment includes the provision that for all ethane delivered by UCC to Petitioner, Petitioner would reduce its scheduled receipts at the outlet of Exxon's Garden City plant in St. Mary Parish, Louisiana, and direct that equivalent quantities of natural gas be delivered to Acadian Pipeline, the successor company to Sugar Bowl Pipe Line. Acadian Pipeline would make the ultimate delivery to UCC's plant in Taft, Louisiana, it is explained.

Petitioner proposes at transportation charge of 43.15 cents per dt which would become effective November 1, 1984, pending final disposition of Petitioner's rate filing in Docket No. RP84–75–000. Additionally, Petitioner proposes to retain for company-use and unaccounted-for gas 2.43 percent of the total quantity of gas delivered into its system, also pending final disposition for Docket No. RP84–75–000.

Petitioner also proposes to charge the General R&D Funding Unit of the Gas Research Institute which it states is currently 1.21 cents per dt equivalent and is set forth in Petitioner's Rate Schedule TS–1.

Any persons desiring to be heard or to make any protest with reference to said petition to amend should on or before October 22, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the approporiate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–26412 Filed 10–4–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP61–92–014]

El Paso Natural Gas Co.; Petition To Amend

October 2, 1984.

Take notice that on September 12, 1984, El Paso Natural Gas Company (Petitioner), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP 61–92–014 a petition to amend the order issued in Docket No. CP61–92–000 on January 11, 1965,[1] as amended, pursuant to section 7(c) of the Natural Gas Act so as to authorize the establishment of (1) two new delivery points between Petitioner and Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), (2) a specified area of interest and the exchange of natural gas from such area under the authorized exchange arrangement between Petitioner and Northern, and (3) blanket authorization for the addition and deletion of delivery points from time to time, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that by Commission order issued January 11, 1965, as amended, in Docket Nos. CP61–92 and CP61–139, Petitioner and Northern respectively, received permanent certificate authorization to construct and operate certain facilities and deliver natural gas, on an exchange basis, by use of existing capacity in either Petitioner's or Northern's gathering system at certain designated points in Moore, Ochiltree, Hemphill, Hockley, and Yoakum Counties, Texas, and Beaver, Roger Mills and Woodward Counties, Oklahoma, all pursuant to a 1963 services agreement, dated August 17, 1962 between Petitioner and Northern.

Petitioner further states that Northern has advised Petitioner that it has certain quantities of natural gas, which quantities of natural gas have been acquired by Northern under various gas purchase agreements, that Northern desires to make available for delivery to Petitioner under the 1963 services agreement. It is said that in order that Northern may deliver its natural gas volumes available from the Arrington 4–64 and 4–53 wells located in Hemphill County, Texas, to Petitioner under the 1963 services agreement, Petitioner and Northern have entered into an amendatory agreement, dated July 26, 1983, wherein the parties have agreed to revise Exhibit A to the 1963 services agreement to reflect the proposed additional delivery points. It is said further that natural gas delivered by Northern to Petitioner at the Arrington 4–64 and Arrington 4–53 wells would be commingled with natural gas purchased by Petitioner and delivered into Petitioner's system through existing facilities owned and operated by Petitioner; therefore, no additional facilities are required.

Petitioner states that as set forth in the proposed Sixth Revised Exhibit A to special Rate schedule Z–1, Northern may cause the delivery of up to 1,000 Mcf of natural gas per day to Petitioner at each of the two (2) delivery points, which gas Petitioner would receive and subsequently transport and redeliver to Northern as a part of the total exchange volumes now authorized under special Rate Schedule Z–1.

Petitioner further states that inasmuch as Petitioner and Northern contemplate having available additional gas supplies which would be located in close proximity to the other party's respective existing gathering system, Petitioner and Northern have entered into an amendatory agreement dated January 13, 1984, further amending the 1963 services agreement to establish a specified "area of interest" provision. therefore, Petitioner requests that the amended authorization requested therein, when issued, specifically permit (i) the exchange of natural gas from additional delivery points which may be attached to the respective gathering system, of each party as the natural gas at such point becomes available to Petitioner and Northern in the area of interest including the Arrington 4–64 and Arrington 4–53 wells located in Hemphill County, Texas, and (ii) the addition of such points of interconnection as may be required between the parties in the area of interest. In addition, Petitioner requests blanket authorization for the deletion of delivery points and points of interconnection from the exchange arrangement as may be mutually agreed to from time to time by Petitioner and Northern. It is said that in the event facilities subject to the jurisdiction of the commission are required to be installed by Petitioner for the purpose of effectuating the exchange of natural gas from additional delivery points or points of interconnection in the specified area of interest, as requested, Petitioner would propose to do so under its existing blanket authorization granted in Docket No. CP82–435–000 by order issued September 8, 1982.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

Oct. 22, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26413 Filed 10-4-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TC84-14-000 et al.]

Mississippi River Transmission Corp., et al.; Tariff Sheet Filings

October 1, 1984.

Take notice that the following pipelines [1] have filed revised tariff sheets to become effective November 1, 1984, pursuant to § 281.204(b)(2) of the Commission's Regulations, which section requires interstate pipelines to update their respective index of entitlements annually to reflect changes in priority 2 entitlement (Essential Agricultural Users).

Pipeline and Docket No.

(1) Mississippi River Transmission Corporation, TC84-14-000, Filed: September 14, 1984; Third Revised Sheet No. 75; Second Revised Sheet No. 76; Second Revised Sheet No. 77; Third Revised Sheet No. 78; Second Revised Sheet No. 79 of FERC Gas Tariff, Second Revised Volume No. 1

(2) K N Energy, Inc. TC84-15-000, Filed: September 14, 1984; Eighth Revised Sheet Nos. 33 through 37; Sixth Revised Sheet Nos. 38 through 49; Third Revised Sheet Nos. 50 through 53; Original Sheet No. 54 of FERC Gas Tariff, Third Revised Volume No. 1.

(3) Tennessee Gas Pipeline Company, a Division of Tenneco Inc., TC84-16-000 Filed: September 14, 1984; Original Sheet Nos. 43A, 46, 47, 48, 49, 90A, 90B, 90C, and 125A; First Revised Sheet Nos. 20, 35, 44, 51, 52, 113A, 130, 132, and 133; Second Revised Sheet Nos. 17, 28, 45, 70, and 75; Third Revised Sheet Nos. 12, 14, 19, 30, 33, 98 and 135; Fourth Revised Sheet Nos. 104, 126, and 134; Fifth Revised Sheet No. 121; Sixth Revised Sheet Nos. 92 and 93; Eighth Revised Sheet No. 2 of FERC Gas Tariff, Original Volume No. 1A

(4) El Paso Natural Gas Company, TC84-18-000, Filed: September 14, 1984; Second Revised Sheet No. 329 of FERC Gas Tariff, First Revised Volume No. 1; Sixteenth Revised Sheet No. 1-M.3 of FERC Gas Tariff, Third Revised Volume No. 2; Sixteenth Revised Sheet No. 7-MM.3 of FERC Gas Tariff, Original Volume No. 2A

(5) Florida Gas Transmission Company, TC84-19-000, Filed: September 17, 1984; 1st Revised Sheet No. 30; 1st Revised Sheet No. 31; 1st Revised Sheet No. 32; 1st Revised Sheet No. 33; 1st Revised Sheet No. 34; 1st Revised Sheet No. 35; 1st Revised Sheet No. 37 of FERC Gas Tariff, First Revised Volume No. 1

(6) Arkansas Louisiana Gas Company, TC84-20-000, Filed: September 17, 1984; 6th Revised Sheet No. 3E; 6th Revised Sheet No. 3F; 6th Revised Sheet No. 3G; 6th Revised Sheet No. 3H; 6th Revised Sheet No. 3I; 6th Revised Sheet No. 3J of FERC Gas Tariff, First Revised Volume No. 1

(7) Eastern Shore Natural Gas Company, TC84-21-000, Filed: September 17, 1984; Sixth Revised Sheet No. 424 of FERC Gas Tariff, Original Volume No. 1

(8) Colorado Interstate Gas Company, TC84-22-000, Filed: September 17, 1984; Fifth Revised Sheet No. 61H of FERC Gas Tariff, Original Volume No. 1

(9) North Penn Gas Company, TC84-23-000, Filed: September 18, 1984; Third Revised Sheet No. 12K; Third Revised Sheet No. 12L of FERC Gas Tariff, First Revised Volume No. 1.

Any person desiring to be heard or to make any protest with reference to said tariff sheet filings should on or before October 15, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

Appendix

Mississippi River Transmission Corporation, 9900 Clayton Road, St. Louis, Missouri 63124

K N Energy, Inc., P.O. Box 608, Hastings, Nebraska 68901

Tennessee Gas Pipeline Company, a Division of Tenneco Inc., Tenneco Building, P.O. Box 2511, Houston, Texas 77001

El Paso Natural Gas Company, P.O. Box 1492, El Paso, Texas 79978

Florida Gas Transmission Company, Box Number 44, Winter Park, Florida 32790-0044

Arkansas Louisiana Gas Company, P.O. Box 21734, Shreveport, Louisiana 71151

Eastern Shore Natural Gas Company, P.O. Box 615, Dover, Delaware 19903-0615

Colorado Interstate Gas Company, P.O. Box 1087, Colorado Springs, Colorado 80944

North Penn Gas Company, 76-80 Mill Street, Port Allegany, Pennsylvania 16743.

[FR Doc. 84-26414 Filed 10-4-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-679-000]

Public Service Company of New Mexico; Application

October 1, 1984.

Take notice that on August 31, 1984, Public Service Company of New Mexico (Applicant), Alvarado Square, Albuquerque, New Mexico 87158, filed in Docket No. CP84-679-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the acquisition of pipeline transmission and related facilities and the transportation and sale of natural gas through such facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant is stated to be an electric utility operating in New Mexico, selling electricity retail and wholesale, and providing wheeling services to other utilities. Applicant seeks authorization from the Commission to acquire certain interstate natural gas pipeline and related New Mexico facilities of Western Gas Interstate Company (WGI), a wholly owned subsidiary of Southern Union Company (Southern Union), and to continue the transmission and sales operations performed by WGI through such facilities. WGI allegedly owns and operates jurisdictional transmission facilities through and by which it transports and sells natural gas for resale in interstate commerce in Texas, Oklahoma and New Mexico.

Applicant indicates that the proposed acquisition arises out of an April 12, 1984, settlement and agreement of the "New Mexico Natural Gas Antitrust Litigation," MDL No. 403 (N. Mex.), an action wherein numerous plaintiffs, including Applicant, charged that the

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[1] Addressees of the pipelines are listed in the Appendix hereto.

natural gas agreements between defendants Southern Union, *et al.*, and producers in the San Juan Basin of New Mexico led to artifically inflated prices. Applicant states that its complaint, filed June 9, 1981, sought similar redress for the alleged conspiracy to fix the price of natural gas at the wellhead for distribution in New Mexico in violation of the Sherman Act, 15 U.S.C. 1, *et seq.* (1982).

Applicant contends that a purchase and sale agreement executed on April 12, 1984, in accordance with the aforementioned settlement agreement, provides that Southern Union sell to Applicant all of its properties and assets relating to the distribution, gathering, transmission, and storage of natural gas in New Mexico, including the tangible properties, plant and equipment of WGI located in New Mexico, in particular, WGI's Antelope Ridge facilities. According to Applicant, it would acquire all rights of WGI with respect to operation of Antelope Ridge. The purchase price of the WGI facilities is said to be the original cost net of accumulated depreciation, less certain operational liabilities. Applicant intends to transfer the acquired interest to a subsidiary to be created by Sunbelt Mining Company, Inc. (Sunbelt). Sunbelt is a wholly owned subsidiary of Applicant engaged in the mining and sale of coal. Applicant asks that any certificate issued by the Commission be issued in the name of the Sunbelt subsidiary.

Applicant states that WGI's Antelope Ridge facilities were previously authorized by the Commission to be constructed and operated pursuant to a certificate, as amended, in *Transwestern Pipeline Company, et al.*, 5 FERC ¶ 61,101 (November 3, 1978) and 9 FERC ¶ 61,332 (December 10, 1979). Applicant also maintains that in Docket No. CP84–623–000 WGI requested permission and approval to abandon these facilities pursuant to Section 7(b) of the Natural Gas Act. Applicant indicates that the Antelope Ridge facilities consist of 2.1 miles of 4-inch pipeline, a 750 horsepower compressor, and appurtenant facilities.

Applicant states that it would operate such acquired facilities in the same manner as authorized in the original certificates, *supra*, and would perform the same transportation and sales services heretofore performed by WGI at Antelope Ridge. The rates, charges, terms and conditions of such service, it says, would be identical to those under existing Rate Schedule G–R to WGI's FERC Gas Tariff. Applicant indicates that WGI currently provides interstate transmission and sales service through the Antelope Ridge facilities to Gas Company of New Mexico (GCNM). According to Applicant, GCNM would be acquired by Applicant under the settlement and would be operated as one of its divisions. It is represented that the purchase and sale agreement requires Applicant to receive Commission authorization to continue the service currently performed by WGI as a condition precedent to consummation of the acquisition transaction.

Applicant asserts that the settlement and purchase agreements give Applicant the authority to attempt renegotiations of the San Juan Basin gas purchase agreements. These renegotiated contracts, it contends, coupled with transmission and distribution of intrastate as supplies in New Mexico by a company based in New Mexico, would ultimately lead to cheaper gas costs for New Mexico consumers.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 22, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedures herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–26415 Filed 10–4–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP84–680–000]

Public Service Company of New Mexico; Application

October 1, 1984.

Take notice that on August 31, 1984, Public Service Company of New Mexico (Applicant), Alvarado Square, Albuquerque, New Mexico 87158, filed in Docket No. CP84–680–000 an application pursuant to section 7(c) of the Natural Gas Act and § 284.222 of the Commission's Regulations for a blanket certificate of public convenience and necessity authorizing the transportation and sale of natural gas in interstate commerce and the assignment of contractual rights to natural gas to the same extent and in the same manner that intrastate pipelines are authorized to engage in such activities under sections 311 and 312 of the Natural Gas Policy Act of 1978, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant indicates that the Application arises out of an April 12, 1984, settlement and agreement of the "New Mexico Natural Gas Antitrust Litigation," MDL No. 403 (N.Mex.), an action wherein numerous plaintiffs, including Applicant, charged the defendants Southern Union Company (Southern Union), among others, conspired to fix the price of natural gas at the wellhead for distribution in New Mexico in violation of the Sherman Act, 15 U.S.C. 1, *et seq.* (1982).

Applicant contends that a purchase and sale agreement executed on April 12, 1984, in accordance with the aforementioned settlement agreement, provides that Southern Union sell to Applicant all of its properties and assets relating to the distribution, gathering, transmission, and storage of natural gas in New Mexico, including the facilities of Gas Company of New Mexico (GCNM), the New Mexico distribution division of Southern Union. According to Applicant, GCNM would be operated as one of its divisions (GCNM–PNM).

Applicant states that GCNM–PNM would be primarily a natuaral gas distribution company with facilities located entirely within the State of New Mexico. It is indicated that Applicant must receive Commission authorization

to continue the services currently performed by GCNM pursuant to a blanket certificate issued to GCNM in Docket No. CP80–331 (May 8, 1981) as a condition precedent to consummation of the acquisition transaction.

Applicant asserts that in Docket No. G–15186 GCNM was exempt under section 1(c) of the Natural Gas Act. Applicant has accordingly sought similar exemption from the Commission for its prospective GCNM–PNM division by its pending application filed in Docket No. CP84–683–000.

Applicant maintains that, under Commission Order No. 63 (January 3, 1980) and § 284.222 of the Regulations thereunder, Hinshaw companies may participate in arrangements permitted under sections 311 and 312 of the Natural Gas Policy Act for the transportation, sale, and assignment of natural gas by intrastate pipelines. Citing an ability and willingness to perform the acts required by Order No. 63 and the applicable regulations, Applicant seeks the issuance of a blanket certificate for the performance of such services by GCNM–PNM.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 22, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to these proceeding. Any person wishing to become a party to proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedures herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–26418 Filed 10–4–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP84–681–000]

Public Service Company of New Mexico; Application

October 1, 1984.

Take notice that on August 31, 1984, Public Service Company of New Mexico (Applicant), Alvarado Square, Albuquerque, New Mexico 87158, filed in Docket No. CP84–681–000 an application pursuant to section 7(c) of the Natural Gas Act and § 284.127 of the Commission's Regulations for prior authorization to transport natural gas under its Order No. 63 blanket certificate[1] all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant indicates that pursuant to a purchase and sale agreement, executed on April 12, 1984, in compliance with settlement of the "New Mexico Natural Gas Antitrust Litigation", MDL No. 403 (N. Mex.), Southern Union Company (Southern Union) is to sell to Applicant all of its properties and assets relating to the distribution, gathering, transmission, and storage of natural gas in New Mexico, including the facilities of Gas Company of New Mexico (GCNM), the New Mexico distribution division of Southern Union. According to Applicant, it would succeed to all rights and obligations of GCNM and would operate GCNM as one of its divisions (GCNM–PNM).

Applicant states that GCNM–PNM would be primarily a natural gas distribution company with facilities located entirely within the State of New Mexico. It is indicated that Applicant must receive Commission authorization to continue the services currently performed by GCNM pursuant to a blanket certificate issued to GCNM in Docket No. CP80–331 (May 8, 1981), as a condition precedent to consummation of the acquisition transaction.

Applicant asserts that GCNM is currently exempt under section 1(c) of the Natural Gas Act, Docket No. G–15186 (July 28, 1958), and Applicant has accordingly sought similar exemption from the Commission for its prospective GCNM–PNM division by concurrent application filed in Docket No. CP84–683–000. On the same day, Applicant filed an application in Docket No. CP84–680–000 for a blanket certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act and § 284.222 of the Commission's Regulations to engage in the transportation and sale of natural gas to the same extent as provided by sections 311 and 312 of the Natural Gas Policy Act of 1978 for intrastate pipelines.

Applicant requests prior authorization for GCNM–PNM to engage in a transportation service on behalf of El Paso Natural Gas Company (EPNG), as part of a larger transportation service involving the delivery of gas purchased by Arizona Public Service Company (APSC) from Southern Union Gathering Company (Gathering Company). It is intended that a wholly-owned subsidiary of Applicant would acquire the capital stock of Gathering Company under the terms of the settlement agreement.

Specifically, Applicant seeks authorization to transport, on a self-executing basis, up to 4.2 billion Btu of gas per day through the GCNM–PNM facilities. Applicant notes that the gas would ultimately be delivered to Chemonics, Inc. Arizona Agrochemical Company (Agrochem) for use as feedstock in the manufacture of fertilizer at its Phoenix, Arizona, plant and for other agricultural uses. The services currently performed by GCNM are said to be identical to the services to be performed by GCMM–PNM.

Applicant states that title to the gas would at all times remain with APSC. Admitting that its proposed transportation service may not qualify as a self-executing transaction inasmuch as the gas to be transported is not for its system supply for resale, it submits this application for prior Commission approval.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 22, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to

[1] Application for such blanket certificate is pending in Docket No. CP84–680–000.

participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26417 Filed 10-4-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-682-000]

Public Service Company of New Mexico; Application

October 1, 1984.

Take notice that on August 31, 1984, Public Service Company of New Mexico (Applicant), Alvarado Square, Albuquerque, New Mexico 87158, filed in Docket No. CP84-682-000 an application pursuant to section 7(c) of the Natural Gas Act and § 284.127 of the Commission's Regulations for prior authorization to transport natural gas under its Order No. 63 blanket certificate,[1] all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant indicates that pursuant to a purchase and sale agreement, executed on April 12, 1984, in compliance with settlement of the "New Mexico Natural Gas Antitrust Litigation", MDL No. 403 (N. Mex.), Southern Union Company (Southern Union) is to sell to Applicant all of its properties and assets relating to the distribution, gathering, transmission, and storage of natural gas in New Mexico, including the facilities of Gas Company of New Mexico (GCNM), the New Mexico distribution division of Southern Union. According to Applicant, it would succeed to all rights and obligations of GCNM and would operate GCNM as one of its divisions (GCNM-PNM).

Applicant states that GCNM-PNM would be primarily a natural gas distribution company with facilities located entirely within the State of New Mexico. It is indicated that Applicant must receive Commission authorization to continue the services currently performed by GCNM pursuant to a blanket certificate issued to GCNM in Docket No. CP80-331 (May 8, 1981) as a condition precedent to consummation of the acquisition transaction.

Applicant asserts that GCNM is currently exempt under section 1(c) of the Natural Gas Act, Docket No. G-15186 (July 28, 1958), and Applicant has accordingly sought similar exemption from the Commission for its prospective GCNM-PNM division by concurrent application filed in Docket No. CP84-683-000. On the same day, Applicant filed an application in Docket No. CP84-680-000 for a blanket certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act and § 284.222 of the Commission's Regulations to engage in the transportation and sale of natural gas to the same extent as provided by sections 311 and 312 of the Natural Gas Policy Act of 1978 for intrastate pipelines.

Applicant requests prior authorization for GCNM-PNM to engage in a transportation service on behalf of El Paso Natural Gas Company, as part of a larger transportation service involving the delivery of gas purchased by Cominco American Incorporated (Cominco) from Southern Union Gathering Company (Gathering Company). It is intended that a wholly owned subsidiary of Applicant would acquire the capital stock of Gathering Company under the terms of the settlement agreement.

Specifically, Applicant seeks authorization to transport, on a self-executing basis, up to 45 billion Btu of gas per day through the GCNM-PNM facilities. Applicant notes that the gas would ultimately be delivered to Cominco for use as feedstock in the manufacture of fertilizer at it Borger, Texas, plant and for other agricultural uses. The services currently performed by GCNM are said to be identical to the services to be performed by GCNM-PNM.

Applicant states that title to the gas would at all times remain with Cominco. Admitting that its proposed transportation service may not qualify as a self-executing transaction inasmuch as the gas to be transported is not for its system supply for resale, it submits this application for prior Commission approval.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 22, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26418 Filed 10-4-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-683-000]

Public Service Company of New Mexico;

October 1, 1984.

Take notice that on August 31, 1984 Public Service Company of New Mexico (Applicant), Alvarado Square, Albuquerque, New Mexico 87158, filed in Docket No. CP84-683-000 an application pursuant to section 1(c) of the Natural Gas Act for a declaration of exemption from the provisions of the Natural Gas Act and the rules and regulations of the Commission thereunder, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant indicates that the application arises out of an April 12, 1984, settlement and agreement of the "New Mexico Natural Gas Antitrust Litigation," MDL No. 403 (N. MEX.), an action wherein numerous plaintiffs, including Applicant, charged that defendant Southern Union Company (Southern Union), among others, conspired to fix the price of natural gas at the wellhead for distribution in New Mexico in violation of the Sherman Act, 15 U.S.C. 1, *et seq.* (1982).

Applicant contends that a purchase and sale agreement executed on April 12, 1984, in accordance with the aforementioned settlement agreement, provides that Southern Union sell to Applicant all of its properties and assets relating to the distribution, gathering, transmission, and storage of natural gas in New Mexico, including the facilities of Gas Company of New Mexico (GCNM), the New Mexico distribution division of Southern Union. According to Applicant, GCNM would be operated as one of its divisions (GCNM-PNM).

Applicant states that GCNM-PNM would be primarily a natural gas distribution company with facilities located entirely within the State of New Mexico, consisting of seven separate service areas. It is indicated that Applicant must receive Commission authorization to continue the services currently performed by GCNM pursuant to a blanket certificate issued to GCNM in Docket No. CP80-331 (May 8, 1981) as a condition precedent to consummation of the acquisition transaction.

[1] Application for such blanket certificate is pending in Docket No. CP84-680-000.

Applicant asserts that GCNM is currently exempt under section 1(c) of the Natural Gas Act, Docket No. G–15186 (July 28, 1958), and seeks similar exemption from the Commission for its prospective GCNM–PNM division. It is stated that the services to be performed by GCNM–PNM would be identical to those currently performed by GCNM.

Applicant maintains that it is eligible for the exemption inasmuch as all of the gas purchased by Applicant within or at the boundary of New Mexico is and would be consumed within New Mexico, and inasmuch as Appliant's natural gas rates, services, and facilities, including GCNM–PNM, are and will be subject to regulation by the New Mexico Public Service Commission.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 22, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26419 Filed 10-4-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-708-000]

Southern Natural Gas Co.; Application

October 2, 1984.

Take notice that on September 13, 1984, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP84–708–000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon by sale to Atlantic Richfield Company (Atlantic Richfield) certain metering, pipeline and appurtenant facilities located in the Carthage field area, Panola County, Texas, all as more fully set forth in the application on file with the Commission and open to public inspection.

Southern States that it owns twelve meter stations in Carthage field together with pipeline and appurtenant facilities connecting said meter stations to the pipeline system of United Gas Pipe Line Company (United), which meter stations were costructed in order for United to transport, on behalf of Southern, gas purchased by Southern from ARCO Oil and Gas Company, a Division of Atlantic Richfield (ARCO), in Carthage field. It is explained that Southern and ARCO have amended the gas sales agreement covering gas delivered through the subject metering facilities to provide for a new central point of delivery to Southern. On September 13, 1983, in Docket No. CP83–390–000, Southern states that it was authorized under the prior notice procedure of Subpart F of Part 157 of the Commission's Regulations to construct facilities to connect the new central point of delivery in Carthage field to Southern's main pipeline system. Since the facilities authorized in Docket No. CP83–390–000 are now completed and have been placed in service, Southern indicates that it no longer requires the transportation of its Carthage field gas by United or the use of the subject facilities for the implementation of that service. Accordingly, southern submits that the abandonment of the facilities as proposed by Southern would permit it to eliminate the operation and maintenance expenses associated with such facilities.

Atlantic Richfield has agreed to purchase from Southern for the sum of $56,400 the subject metering, pipeline and apurtenant facilities for use in the gathering system that ARCO is constructing in Carthage field, it is stated. Southern indicates that the subject facilities have a depreciated value of $233,984.05. Southern further states that the abandonment of the subject facilities by sale to Atlantic Richfield would represent a cost savings for Southern since Southern would not be required to conduct salvage operations in order to abandon said facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 22, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to particpate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Southern to appear or be represented at the hearning.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26421 Filed 10-4-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-711-000]

Southern Natural Gas Co.; Request Under Blanket Authorization

October 1, 1984.

Take notice that on September 17, 1984, Southern Natural Gas Company (Southern), First National Southern Natural Building, Birmingham, Alabama, 35203, filed in Docket No. CP84–711–000 a request pursuant to §§ 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) to reassign volumes of gas from the one delivery point to another under the certificate issued in Docket No. CP82–406–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Southern explains that it makes sales of natural gas to the City of LaGrange (LaGrange) pursuant to the terms of a service agreement between Southern and LaGrange dated September 3, 1969. According to Southern, there are two delivery points located in LaGrange, Troup County, Georgia. Southern states that the first delivery point is the LaGrange Area Station No. 1, located in Southern's Rate Zone 3, and the second is the LaGrange Area Station No. 2, located in Southern's Rate Zone 2. It is

stated that the request for authorization is made pursuant to section(3)(c)(ii) of Article 3 of the Stipulation and Agreement in Docket No. RP83–58, *et al.*, approved by order dated August 21, 1984, wherein Southern agreed to a reduction of 1,224 Mcf of gas in the Zone 3 contract demand and a corresponding increase of 1,224 Mcf of gas in LaGrange's contract demand in Zone 2.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–26422 Filed 10–4–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP84–713–000]

Transcontinental Gas Pipe Line Corp.; Request Under Blanket Authorization

October 1, 1984.

Take notice that on September 17, 1984, Transcontinental Gas Pipe Line Corporation (Transco), Post Office Box 1396, Houston, Texas 77251, filed in Docket No. CP84–713–000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Federal Paper Board Company, Inc. (Federal Paper Board), under the certificate issued in Docket No. CP82–426–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Transco persons to transport up to 15,000 dt equivalent of natural gas per day for Federal Paper Board for a term ending June 30, 1985. It is stated that the gas would be purchased from McCormick Oil and Gas Company (McCormick) in the North Rucias Field, Brooks County, Texas, and would be used as boiler fuel and process gas at Federal Paper Board's Riegelwood, North Carolina, plant. It is indicated that Transco would receive the gas at existing interconnections with McCormick in the North Rucias Field and would redeliver equivalent volumes (less quantities retained for compressor fuel and line loss make-up) at existing interconnections with North Carolina Natural Gas Corporation, the distributor serving Federal Paper Board's plant in Riegelwood, North Carolina.

It is stated that Transco would charge the currently applicable transportation rate in accordance with its Rate Schedule T–II, FERC Gas Tariff, Second Revised Volume No. 1.

Transco also requests authorization in Docket No. CP84–713–000 to provide "flexible authority" on behalf of Federal Paper Board to add and/or delete sources of gas and/or receipt or delivery points. With respect to such "flexible authority", Transco states that it would undertake within 30 days of the addition or deletion of any gas suppliers and/or receipt or delivery points, to file with the Commission the following information:

(1) A copy of the gas purchase contract between the seller and Federal Paper Board;

(2) A statement as to whether the supply is attributable to gas under contract to and released by a pipeline or distributor, and if so, identification of the parties and specification of the current contract price;

(3) A statement of the Natural Gas Policy Act of 1978 (NGPA) pricing categories of the added supply, if released gas, and the volumes attributable to each category;

(4) A statement that the gas is not committed or dedicated within the meaning of the NGPA section 2(18);

(5) Location of the receipt/delivery points being added or deleted;

(6) Where an intermediary participates in the transaction between the seller and end-user, the information required by § 157.209(c)(ix) of the Commission's Regulations; and

(7) Identity of any other pipeline involved in the transaction.

Transco submits that any changes made pursuant to such "flexible authority" would be on behalf of the same end-user, Federal Paper Board, for use at the same end-use location and would remain within the maximum daily and annual levels proposed herein.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–26423 Filed 10–4–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP82–127–004]

Transcontinental Gas Pipe Line Corp. and United Gas Pipe Line Co.; Petition To Amend

October 2, 1984.

Take notice that on August 29, 1984, Transcontinental Gas Pipe Line Corporation (Transco), Post Office Box 1396, Houston, Texas 77251, and United Gas Pipe Line Company (United), Post Office Box 1478, Houston, Texas 77001, hereinafter jointly referred to as Petitioners, filed in Docket No. CP82–127–004 a petition to amend the order issued on April 15, 1982, in Docket No. CP 82–127–000, issuing a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, which authorized the transportation and exchange of natural gas between the Petitioners, so as to authorize: (1) An additional source of gas supply, and (2) include two additional points of delivery, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioners state that pursuant to a transportation agreement dated September 24, 1981, they currently exchange a daily contract demand quantity of up to 6 billion Btu of gas and, from time to time, receive additional quantities if capacity is available. It is stated that such gas is currently exchanged by or for the account of the Petitioners from various points in Texas, Louisiana and Mississippi.

By amendatory agreement dated August 12, 1982, Petitioners propose to include Cotton Petroleum Corporation's Sarver No. 1 Well in Leleux Field, Vermilion Parish, Lousisiana, as a source of supply for United, together with a corresponding delivery point downstream of Transco's Southwest Gas Leleux Meter on Transco's 6-inch pipeline in Leleux Field, Vermilion Parish, Louisiana.

By a second amendatory agreement dated August 12, 1983, Petitioners further propose to include a new delivery point at United's existing pipeline facilities in Livingston Parish, Louisiana, to receive Transco's existing source of supply.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 22, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-25407 Filed 10-4-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-560-000]

Union Electric Co.; Order Accepting for Filing and Suspending Rates, Granting Motion for Waiver of Regulations, Denying Motion to Reject, Granting Intervention, and Establishing Hearing and Price Squeeze Procedure

Issued September 28, 1984.

Before Commissioners: Raymond J. O'Connor, Chairman; Georgiana Sheldon and Oliver G. Richard III.

On July 25, 1984, as amended on August 6, 1984, and August 16, 1984, Union Electric Company (Union) submitted for filing proposed changes in its rates for service to 23 wholesale customers under its Electric W-3 and W-4 Wholesale Tariff.[1] Union proposes to consolidate all of its wholesale tariffs into one tariff, which would include both full requirements and partial requirements rates.[2] The proposed rates would increase revenues by approximately $36.9 million (74%) based on the calendar 1985 test period. Alternatively, Union proposes to phase in the rates over a period of five years in order to mitigate the effect of the increase on its customers. Under this proposal, in 1985, the first full year after the proposed rates would take effect, the increase would be approximately $12.5 million (25%), with annual escalations of about 8% for years two through five. Union's proposed phase-in plan calls for: (1) Delayed realization of cash return on a portion of the common equity capital used to finance the Callaway Nuclear Plant (Callaway); (2) more rapid amortization of certain nuclear fuel credits received in payment for abrogation of a fuel contract; (3) substituting units-of-production depreciation for straight line depreciation during the first three years of Callaway's operation; and (4) accelerating the amortization of certain accumulated deferred income taxes related to Callaway. Union also filed a motion for waiver of the Commission's regulations, prescribed by Order No. 144, 15 FERC ¶ 61,133 (1981), *reh. denied.* Order No. 144-A, 18 FERC ¶ 61,163 (1982), in order to allow the company to implement its proposed accounting treatment of deferred income taxes. Union proposes to make the first phase increase effective on October 1, 1984, but requests that it be suspended until January 15, 1985, or the in-service date of Callaway, whichever is later. Union further requests that the Commission take no immediate action on its waiver request, but that the waiver request be considered during this proceeding.

Notice of Union's filing was published in the Federal Register with comments due on or before August 16, 1984. 49 Fed Reg. 31484 (1984). The Secretary of the Army (the Army) filed a timely protest and motion to intervene on behalf of the Iowa Army Ammunition Plant (IAAP), Middletown, Iowa, which is a customer of Union. The Army requests a hearing, contending that: (1) Union's increased reserve capacity, as a result of bringing the Callaway Plant on line, may be excessive; and (2) Union's proposal to reduce demand intervals from 60 to 15 minutes would permit an aberrational load peak incurred within a 15-minute period to be reflected in billings for the entire month, which would be both unrealistic and a deterrent to energy conservation. The Army also contends that changes in the demand intervals could produce hidden rate increases which may not have been quantified in Union's present filing.

On August 17, 1984, the Wholesale Customers' Defense Group (WDG) [3] filed a motion to intervene out of time, a motion to reject, a request for a five month suspension, and a protest. In support of its motion to reject, the WDG claims that application of the proposed rate schedule would effectively abrogate the City of Kennett's existing interruptible service contract, in violation of the *Mobile-Sierra* doctrine and the Commission's order approving the merger of Union with its former subsidiaries. (25 FERC ¶ 61,394 (1983). If the Commission does not reject the proposed filing as to interruptible customers, WDG requests that we require Union to maintain the interruptible rates until the company demonstrates under section 206 of the Federal Power Act both that the interruptible tariff should be withdrawn and that the proposed partial requirements tariff is an appropriate substitute. The WDG also seeks rejection based on the allegedly anticompetitive intent and effect of the proposed requirements that W-3 customers take 95% of their power from Union, that W-4 customers maintain outside capacity of 25%, and that all customers enter into five-year contracts before service may begin.

The WDG further contends that Union's filing is deficient inasmuch as it lacks certain supporting workpapers and relevant portions of Union's Missouri retail rate filing, which are allegedly necessary to determine if Union has adhered to the stipulations of a March 1984 Settlement Agreement between the parties.

In support of its suspension request, the WDG raises several cost of service issues including: prudence of the investment in the Callaway Plant; parallel normalization of the same expenses in Union's calculation of unfunded income tax liability and deferred taxes, purportedly resulting in a double recovery; calculation of interest expense for tax purposes; the amount and method of calculating decommissioning costs; rate of return on equity; Union's inclusion of operating reserves in rate base; Union's inclusion in rate base of certain plant held for future use; and use of a 15-minute demand interval. The WDG further contends that a maximum suspension is justified, because the proposed tariff would cause irreparable harm to the

[1] See Attachment for rate schedule designations and affected customers. The two amendments consist of corrections which do not affect the proposed rate levels or the cost of service.

[2] Union states that its consolidation of rate schedules is necessary as a result of the recent merger of its former subsidiaries into Union and the need to provide consistent factors in assigning costs to its customers.

[3] The WDG consists of the Missouri Cities of Centralia, Clarksville, Farmington, Fredericktown Hannibal, Jackson, Kennett, Kirkwood, Malden, Marceline, Owensville, Perry, Rolla, and St. James Citizens Electric Corporation of Missouri; and the City of West Point, Iowa.

wholesale customers whose interruptible service and rates would be terminated, and because the proposed W–4 customers will need time to either obtain new power sources or adjust their operations. Finally, the WDG contends that the rates proposed by Union are discriminatory and will result in a price squeeze.

On August 31, 1984, Union filed an answer in opposition to the motions of the WDG.[4] Concerning the motion to reject, Union disputes the WDG's *Sierra-Mobile* argument, stating that, by the terms of the contract between Kennett and Missouri Utilities Company (MU, Union's former subsidiary), the terms of service to Kennett are modifiable under section 205 of the Federal Power Act. Union contends that the service to Kennett is not what is typically thought of as "interruptible," because the contract provides an incentive (via a demand charge penalty) for Kennett to voluntarily interrupt its own take when a new peak is reached, rather than giving Union any contractual right to interrupt such service. Union further claims that the proposed W–4 partial requirements service is a reasonable alternative to the SFR–1 rate under which Kennett was served by MU. Union contends that the question of the reasonableness of the rate for service to Kennett does not merit outright rejection of the company's filing. Rather, it should be the subject of a hearing.

With respect to the WDG's motion to reject as to other W–4 customers, Union states that the rates for service to Jackson and Malden are the same as those for Kennett, while the rate schedules for the other three W–4 customers contain no interruptible provisions. Union further contends that the Commission, by its order approving the merger of Union and its subsidiaries, did not intend to insulate wholesale customers from any Callaway-related rate increase, and that those costs have nothing to do with the merger. Union also argues that the WDG's alternative request to treat the filing as a section 206 filing is not supported by any authority.

In response to the WDG's opposition to the requirement that a W–3 customer must take at least 95% of its power from Union, the company argues that the 95% requirement is consistent with the terms of the current W–3 tariff, which provide that a customer must take "all or substantially all" of its power from the company. Union further states that the proposed tariff does not prohibit customers from taking more than 50% of their power from other sources. Rather, it provides that those taking more would be served under the W–4 rate. Union contends that a prior WDG objection to the 5-year contract provision was rejected by the Commission in Opinion No. 94, Docket No. ER77–614, 12 FERC ¶ 61,239 (1980), *aff'd, Union Electric Co.* v. *FERC*, 668 F.2d 389, 398 (8th Cir. 1981). Finally, Union denies all of the WDG's allegations relating to the sufficiency of the filing, the request for a maximum suspension, price squeeze, and price discrimination.

[4] Union, while noting that the WDG's motion to intervene was untimely, states that it does not object to the WDG's intervention on that basis.

Discussion

The timely filed intervention of the Army serves to make it a party to this proceeding pursuant to Rule 214(c)(1) of the Commission's Rules of Practice and Procedure (18 CFR 385.214). In view of the fact that Union does not object to the WDG's intervention and given the early stage of this case, we find that good cause exists to grant the WDG's motion to intervene out of time.

We question the WDG's claim that the proposed filing eliminates interruptible service. The present service (assumed by Union from its former subsidiary, Missouri Utilities Company (MU), after merger) is not interruptible and is in fact, by its own terms firm. The present service is "interruptible" only insofar as the customers (Kennett, Jackson, and Malden) were allowed to peak shave to avoid being billed for MU's purchased demand expenses from Union. Since MU no longer exists to purchase from Union, the "interruptible" provision appears to be meaningless.[5]

In addition, we note that MU's 1974 contract with Kennett provides for unilateral modification by the company.[6] Thus, we perceive no reason why the *Mobile-Sierra* doctrine would preclude this filing. We also find, particularly in light of Union's response to WDG's pleading, that the tariff provisions challenged as anticompetitive present questions of fact best resolved in the context of an evidentiary proceeding. With respect to the WDG's contention that the filing is deficient, we find that Union's submittal substantially complies with the Commission's filing requirements. Accordingly, we shall deny the WDG's motion to reject.

Our preliminary review of the instant filing and the pleadings indicates that Union's rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the rates for filing and suspend them as ordered below.

Rate phase-in plans are a relatively new concept and are intended to mitigate the impact to customers of rate shock caused by sudden, sizable increases in rates due to the addition of a new major generating plant or other facility. Union cites instances where five State commissions have approved phase-in plans for electric utilities since 1983.[7] Union has indicated that, although the elasticity of electricity prices is not known, it is likely that an increase of this magnitude might reduce purchases by the customers to the point that Union would be unable to earn its authorized return in any event.

We view that phase-in as a potentially beneficial alternative to Union's "traditional" rates insofar as it mitigates the impact of a substantial rate increase and the potential for price squeeze on Union's wholesale customers.[8] However, the phase-in plan involves other ratemaking and accounting adjustments that we have not had time to fully evaluate. We shall therefore accept the phase-in plan for filing and suspend it for one day, since the rates for the first year do not appear to be substantially excessive,[9] to become effective on January 15, 1985, or the in-service date of the Callaway Nuclear Plant, whichever is later. However, we hereby set for hearing the issue of the phase-in itself as well as the level of the proposed rates. We also set for hearing the specific amounts, amortization periods, etc. that should be included in the phase-in plan. We also note that the unit of production depreciation method, for example, must be properly integrated with the fuel adjustment clause to prevent double recovery of depreciation costs.[10]

We shall also grant waiver at least initially of Order No. 144 and § 35.25 of the regulations in order to permit Union

[5] We note that the parties were required to adhere to this provision until this superseding filing was made for the reasons set forth in our earlier order. 28 FERC ¶ 61,239.

[6] Section 2 of the contract provides, in relevant part: The terms of this agreement, including the rates and General Rules and Regulations, are subject to modification from time to time to conform to any change made by Company or ordered by the Federal Power Commission which shall become effective under the Power Act.

[7] Pennsylvania, New Mexico, Illinois, New York, and South Carolina.

[8] We note that Union has filed phase-in rates at the retail level.

[9] *See West Texas Utilities Company*, 18 FERC ¶ 61,189 (1982).

[10] Any necessary action with respect to accounting procedures proposed by Union will be dealt with in a separate letter directive from the Office of the Chief Accountant.

to use a more rapid amortization of deferred income taxes.

Since other companies may wish to propose deferral and subsequent recoupment of revenues in other situations, we also take this opportunity to note that the Commission will decide to accept or reject other phase-in plans on a case-by-case basis and that our initial acceptance of any ratemaking or accounting treatment in this filing is not to be construed as precedent for other situations.

Union's rate filing presents the Commission with its first opportunity to consider a phased-in rate increase. It may well be the first of many such proposals. The Commission recognizes that proposals to phase plant in service to a utility's rate base raise profound issues about the nature of what has hitherto been a traditional aspect of public utility regulation. Such proposals carry with them the potential for substantial, long-term modification of existing relationships between utilities' ratepayers and stock-holders.

Given the impact that our action on phase-in proposals may have on both groups and on the industry itself, it is essential that this Commission's actions on them result in a consistent and predictable framework for dealing with them. We therefore direct the Commission's staff, and invite the other parties to this proceeding, to present the Commission with as comprehensive a treatment as possible of the policy issues raised by phase-in proposals.

In light of the WDG's price squeeze allegations, we shall institute price squeeze procedures and phase those proceedings in accordance with the Commission's policy and practice established in *Arkansas Power and Light Company*, 8 FERC ¶ 61,131 (1979).

The Commission orders:

(A) The WDG's untimely intervention is hereby granted, subject to the Commission's Rules of Practice and Procedure.

(B) The WDG's motion to reject Union's rates is hereby denied.

(C) Union's motion for waiver of the Commission's regulations is hereby granted, as discussed in the body of this order, for good cause shown.

(D) Union's phase-in rates are hereby accepted for filing and suspended, with the first phase to become effective, subject to refund, as of January 15, 1985, or the in-service date of the Callaway Nuclear Plant, whichever date is later. Each successive phase shall take effect, subject to refund, in one-year intervals beginning one year after the first phase rate increase takes effect. Union shall advise the Commission within fifteen (15) days after each rate phase takes effect.

(E) Pursuant to authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of Union's rates.

(F) The Commission staff shall serve top sheets in this proceeding within ten (10) days of the date of this order.

(G) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days after service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, D.C. 20426. Such conference shall be held for purposes of establishing a procedural schedule. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(H) The Commission hereby orders initiation of price squeeze procedures and further orders that this proceeding be phased so that the price squeeze procedures begin after issuance of a Commission opinion establishing the rate which, but for consideration of price squeeze, would be just and reasonable. The presiding judge may modify this schedule for good cause shown. The price squeeze portion of this case shall be governed by the procedures set forth in § 2.17 of the Commission's regulations as they may be modified prior to the initiation of the price squeeze phase of this proceeding.

(I) The Secretary shall promptly publish this order in the **Federal Register**.

By the Commission.

Kenneth F. Plumb,

Secretary.

UNION ELECTRIC COMPANY RATE SCHEDULE DESIGNATIONS

(Docket No. ER84-560-000)

Designation	Description
(1) FERC Electric Tariff, Original Volume No. 5 (Supersedes FPC Electric Tariff Original Volume No.2, FERC Electric Tariff Volume Nos. 3,4, and all supplements under Electric Rate Schedules FPC No. 86, FERC Nos. 107, 108, 109, 110, 111, 112, 113 and 115).	W-3/W-4 Tariff, Full and Partial Requirements Original Sheet Nos. 1 through 24 including Original Schedule Nos. 5 and 7 for 1st Year Phase-in
(2) 1st Revised Sheet Nos. 5 and 7 under FERC Electric Tariff, Original Volume No. 5 (Supersedes Original Sheet Nos. 5 and 7).	2nd Year Phase-In
(3) 2nd Revised Sheet Nos. 5 and 7 under FERC Electric Tariff, Original Volume No. 5 (Supersedes 1st Revised Sheet Nos. 5 and 7).	3rd Year Phase-In
(4) 3rd Revised Sheet Nos. 5 and 7 under FERC Electric Tariff, Original Volume No. 5 (Supersedes 2nd Revised Sheet Nos. 5 and 7).	4th Year Phase-In
(5) 4th Revised Sheet Nos. 5 and 7 under FERC Electric Tariff, Original Volume No. 5 (Supersedes 3rd Revised Sheet Nos. 5 and 7).	5th Year Phase-In
(6) Service Agreement under FERC Electric Tariff, Original Volume No. 5 (Redesignation of Electric Rate Schedule FERC No. 107).	Clarksville Contract Dated Sept. 4, 1973, Effective Feb. 19, 1974
(7) Service Agreement under FERC Electric Tariff, Original Volume No. 5 (Redesignation of Electric Rate Schedule FERC No. 108).	Centralia Contract Date Aug. 20, 1974, Effective Jan. 3, 1975
(8) Service Agreement under FERC Electric Tariff, Original Volume No. 5 (Redesignation of Electric Rate Schedule FERC No. 109).	Kahoka Contract Dated May 12, 1975, Effective May 12, 1975
(9) Service Agreement under FERC Electric Tariff, Original Volume No. 5 (Redesignation of Electric Rate Schedule FERC No. 110).	Perry Contract Date Feb. 1, 1977, Effective Feb. 1, 1977
(10) Service Agreement under FERC Electric Tariff, Original Volume No. 5 (Redesignation of Electric Rate Schedule FERC No. 111).	Owensville Contract Date June 8, 1981, Effective Oct. 1, 1981
(11) Service Agreement under FERC Electric Tariff, Original Volume No. 5 (Redesignation of Electric Rate Schedule FERC No.112).	Marceline Contract Dated Oct. 19, 1981, Effective Mar. 1, 1982
(12) Service Agreement under FERC Electric Tariff, Original Volume No. 5 (Redesignation of Electric Rate Schedule FERC No. 113).	Linneus Contract Dated Nov. 12, 1981, Effective Dec. 7, 1981
(13) Service Agreement under FERC Electric Tariff, Original Volume No. 5 (Redesignation of Electric Rate Schedule FERC No. 115).	California Contract Dated Apr. 18, 1977, Effective Sept. 2, 1977

UNION ELECTRIC COMPANY RATE SCHEDULE DESIGNATIONS—Continued

[Docket No. ER84-580-000]

Designation	Description
(14) Service Agreement under FERC Electric Tariff, Original Volume No. 5 (Redesignation of Electric Rate Schedule FPC No. 86).	Hannibal Contract: Dated July 5, 1973, Effective June 1, 1973.

All previously designated Service Agreements under FERC Electric Tariff, Original Volume Nos. 3 and 4 have been redesignated as Service Agreements under Tariff Volume No. 5.

[FR Doc. 84-26408 Filed 10-4-84; 8:45 am]

BILLING CODE 6717-01

[Docket No. ER84-579-000]

AEP Generating Co.; Order Accepting for Filing and Suspending Rates, Granting Late Intervention, Denying Requests To Reject or To Consolidate, Granting Waiver, and Establishing Hearing Procedures

Issued: October 1, 1984.

Before Commissioners: Raymond J. O'Connor, Chairman; Georgiana Sheldon and Oliver G. Richard III.

On August 2, 1984, AEP Generating Company (AEGCO) tendered for filing two unit sale agreements with Indiana and Michigan Electric Company (I&M) and Kentucky Power Company (KEPCO).[1] AEGCO, I&M, and KEPCO are all subsidiaries of American Electric Power Company (AEP). AEGCO and I&M each own 50 percent of the Rockport Unit No. 1, a new coal-fired generating plant, and will own 50 percent of Rockport Unit No. 2, which is scheduled for completion in 1988. Under the proposed agreements, AEGCO will sell I&M and KEPCO 35 percent and 15 percent, respectively, of the total capacity of Rockport Unit No. 1. The unit sale agreements provide for a formula rate which AEGCO proposes to implement as of the date of commercial operation of Rockport Unit No. 1 (now estimated to be early in December, 1984). However, with respect to the I&M contract, AEGCO requests waiver of the notice requirements so that the part of the agreement related to billings and payment for test power and energy may be made effective on or about September 1, 1984, the earliest expected date on which test power will be available for sale by AEGCO to I&M.[2]

Notice of AEGCO's filing was published in the **Federal Register** with responses due on or before August 24, 1984. A timely notice of intervention was filed by Kentucky Public Service Commission. Timely motions to intervene were filed by the Attorney General of Kentucky (Attorney General); Virginia Electric and Power Company (VEPCO); the Indiana and Michigan Municipal Distributors Association[3] and the City of Auburn, Indiana (together, IMMDA); the Indiana Municipal Power Association (IMPA);[4] and a group of industrial customers of KEPCO (the industrial customers).[5] An untimely motion to intervene and protest was filed by the Residential Patrons of KEPCO (Residential Customers).[6]

The Attorney General alleges that the AEGCO/KEPCO agreement represents an attempt to circumvent the recent decision of the Kentucky Commission denying KEPCO's application to acquire an ownership interest in Rockport and finding that KEPCO can purchase capacity less expensively through the AEP Pool. The Attorney General therefore requests that AEGCO's filing be dismissed or, in the alternative, suspended and set for hearing.

IMMDA raises a number of issues including rate of return, synchronization of income taxes and interest expense, the design of the formula rate, late payment charges, and I&M's need for additional capacity. IMMDA asks for an investigation and a one day suspension.

IMPA also requests a one day suspension, as well as consolidation with I&M's general rate case in Docket Nos. ER84-589-000, ER84-590-000, and ER84-591-000. In support of its request for suspension, IMPA questions the requested rate of return and capitalization. With regard to consolidation, IMPA alleges that there are questions of fact common to all the proceedings involving I&M, specifically mentioning rate of return.

The industrial customers move for rejection of the filing or a five month suspension of the AEGCO/KEPCO agreement. In support of rejection, the industrial customers allege that the Kentucky Commission has subject matter jurisdiction with regard to the unit sale agreement and that the principles of res judicata and collateral estoppel apply to that agency's decision. The Residential Customers also refer to the Kentucky Commission's action and request that the filing be dismissed or suspended and set for hearing.

While VEPCO has not raised any substantive issues, it notes that it is currently negotiating a unit sale agreement with AEGCO for power from Rockport Unit No. 1, for a period beginning January 1, 1987, at a rate which would be based on the rates contained in the proposed AEGCO/I&M agreement.

On September 10, 1984, AEGCO, KEPCO, and I&M filed a joint answer to the various interventions. They object to intervention by the Residential Customers on the grounds that they have not shown any interest which cannot be adequately represented by the Kentucky Attorney General. AEGCO, KEPCO, and I&M also dispute the jurisdictional arguments advanced by the Attorney General and the industrial customers.

Discussion

Under Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the Kentucky Commission's notice of intervention and the timely interventions of the Attorney General, IMMDA, IMPA, the industrial customers, and VEPCO serve to make them parties to this proceeding. In addition, given the early stage of this proceeding, the lack of prejudice to the

[1] See Attachment for rate schedule designations

[2] AEGCO requested that the AEGCO/KEPCO agreement be accepted conditionally, to be made effective only if KEPCO failed to receive a certificate of convenience and necessity from the Kentucky Public Service Commission to purchase 15% ownership share in the plant itself. That triggering event has occurred. By order dated August 2, 1984, the Kentucky Commission denied KEPCO's application for such a certificate on the ground that KEPCO could acquire the needed capacity at substantially lower cost by purchases through the AEP Power Pool.

[3] IMMDA includes the Cities and Towns of Avilla, Bluffton, Columbia City, Garrett, Gas City, Mishawaka, New Carlisle and Warren, Indiana, and the Cities of Niles, South Haven, and Sturgis, Michigan.

[4] IMPA purchases electricity from I&M for resale to its 26 members, including the Cities of Richmond and Anderson, Indiana, and the Town of Frankton, Indiana, which were formerly served directly by I&M.

[5] Air Products and Chemicals, Inc., Ashland Oil Inc., Huntington Alloys, Inc., Kentucky Electric Steel Co., Chisholm Mine (Pickands Mather & Co., Managing Agent), and Scotts Branch Mine (A Joint Venture, Scotts Branch Co., Managing Agent).

[6] The Residential customers consist of three individual KEPCO customers (Bert Diamond, Ruth Scott, and John Henry Ward) and the Concerned Citizens of Martin County, Inc., stated to be representing other KEPCO customers

existing parties, and the potential interest in this proceeding stated by the Residential Customers, we find that good cause exists to permit them to intervene out of time notwithstanding the opposition to their intervention by AEGCO, I&M, and KEPCO.

The request for rejection of AEGCO's filing will be denied. While the Kentucky Commission has jurisdiction to consider the appropriateness of KEPCO's acquisition of new facilities, the jurisdictional issue before this Commission is whether the proposed rates and terms for AEGCO's sales of power to I&M and KEPCO are just and reasonable. There is no overlap or conflict between these regulatory roles. Notwithstanding a decision of the Kentucky Commission regarding power supply altenatives that might be available to KEPCO, we have an independent responsibility to evaluate the reasonableness of the proposed wholesale agreements.

IMPA's motion for consolidation with Docket Nos. ER84-589-000, ER84-590-000, and ER84-591-000 also will be denied. AEGCO, VEPCO, the Kentucky Commission, the Attorney General, and the Residential Customers are not parties to the I&M wholesale rate cases. In addition, it appears that rate of return and capital structure may be the only issues common to all proceedings. In our view, there is insufficient commonality of issues and parties to justify consolidation.

Our preliminary review of AEBCO's filing and the pleadings indicates that the submittal has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the agreements for filing and suspend them as ordered below.[7]

In West Texas Utilities Co., 18 FERC ¶ 61,189 (1982), we noted that rate filings would ordinarily be suspended for one day where preliminary review indicates that he proposed rates may be unjust and unreasonable but may not generate substantially excessive revenues, as defined in *West Texas*. Our preliminary review suggests that AEGCO's filing may not, at least in early years, yield substantially excessive revenues. Further, we conclude that good cause exists to waive the notice requirements so that billings for test power and energy may commence when test power and energy become available. Accordingly, we shall suspend the proposed rates for a nominal period, to become effective, subject to refund, as provided in Ordering Paragraph (D) below.

The Commission Orders

(A) The Residential Customers' untimely motion to intervene is granted, subject to the Commission's Rules of Practice and Procedure.

(B) The motions to reject AEGCO's filing are hereby denied.

(C) AEGCO's motion for waiver of notice is hereby granted.

(D) AEGCO's proposed rates are hereby accepted for filing and are suspended, with the provisions applicable to test energy rates to take effect, subject to refund, upon the initiation of sales of test energy, and the balance of AEGCO's submittal to become effective, subject to refund, on the date that commercial service from Rockport Unit No. 1 commences. AEGCO shall advise the Commission of the date on which sales of test energy commence and the date on which service under the full cost of service formula commences within fifteen (15) days after each such date.

(E) IMPA's motion for consolidation of this proceeding with Docket Nos. ER84-589-000, ER84-590-000, and ER84-591-000 is hereby denied.

(F) Pursuant to the authority contained in and subject to the jursidiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR Chapter I), a public hearing shall be held concerning the justness and reasonableness of AEGCO's rates.

(G) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days from the date of this order, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(H) The Secretary shall promptly publish this order in the **Federal Register**.

By the Commission.

Kenneth F. Plumb,

Secretary.

AEP GENERATING CO., RATE SCHEDULE DESIGNATIONS

[Docket No. ER84-579-000]

Designation	Description/other party
(1) Rate schedule FERC No. 1.	Unit power agreement, Indiana & Michigan Electric Co.
(2) Supplement No. 1 to rate schedule FERC No. 1.	Sample Power Bill Co.
(3) Rate schedule FERC No. 2.	Unit power agreement, Kentucky Power Co.
(4) Supplement No. 1 to rate schedule FERC No. 1.	sample Power Bill.

[FR Doc. 84-26509 Filed 10-4-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA85-1-20-000 and TA85-1-20-001]

Algonquin Gas Transmission Co.; Tariff Filing Under Purchased Feedstock Adjustment Clause

October 1, 1984.

Take notice that Algonquin Gas Transmission Company ("Algonquin Gas") on September 14, 1984, tendered for filing Fifth Revised Sheet No. 202 pursuant to its Rate Schedule SNG-1 Purchased Feedstock Adjustment Clause, as contained in its FERC Gas Tariff, Second Revised Volume No. 1, decreasing the applicable rate by 19.51¢ per MMBtu reflecting a lower cost of feedstock for the 1984-85 season. The adjustment is filed to be effective as of October 16, 1984.

Algonquin Gas notes that a copy of this filing is being served upon all affected parties and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 9, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file

[7] We note that AEGCO has characterized its submittal as comprising initial rate schedules among the parties. Even if we were to accept this characterization, we have previously concluded that the Commission has the authority to suspend initial rates under section 205 of the Federal Power Act. *See Middle South Energy, Inc.* 23 FERC ¶ 61,277, at 61,572 (1983).

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26810 Filed 10-4-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-701-000]

Cranberry Pipeline Corp.; Application

October 3, 1984.

Take notice that on September 6, 1984, Cranberry Pipeline Corporation (Applicant), 1400 Charleston National Plaza, Charleston, West Virginia 25325, filed in Docket No. CP84-701-000 an application pursuant to section 311 of the Natural Gas Policy Act of 1978 (NGPA) and § 284.127 of the Commission's Regulations authorizing Applicant to transport natural gas for Consolidated Gas Supply Corporation (Consolidated) for a period in excess of two years, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that pursuant to the terms of an exchange agreement dated August 18, 1983, it would transport not more than 5,000 dt equivalent of gas per day for Consolidated. Applicant states that pursuant to a corporate reorganization and subject to an order of the Commission granting Cabot Corporation (Cabot) authority to abandon a related sale and exchange, it has requested the subject authority to transport gas under Section 311 of the NGPA for a period in excess of two years. Applicant further states that the August 18, 1983, exchange agreement replaces Cabot's multi-well agreement in Rate Schedule No. 6 certificated by the Commission in Docket No. G-5236.

Applicant avers that the proposed service would extend for a primary term ending March 1, 1986, and thereafter until terminated by either party upon twelve months notice. Applicant further avers that it seeks rate approval pursuant to § 284.123(b)(2) of the Commission's Regulations and that there is no charge to either party for the exchange.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 23, 1984, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26811 Filed 10-4-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-138-000]

Lawrenceburg Gas Transmission Corp.; Proposed Change in FERC Gas Tariff

October 1, 1984.

Take notice that on September 20, 1984 Lawrenceburg Gas Transmission Corporation (Lawrenceburg) tendered for filing one (1) revised gas tariff sheet to its FERC Gas Tariff, First Revised Volume No. 1, to become effective September 13, 1984:

Thirty-fourth Revised Sheet No. 4

Lawrenceburg states that its tariff sheet was filed to comply with Commission Order No. 380 issued May 25, 1984 which required that purchased gas costs be stated separately in all pipeline sales tariffs.

Copies of this filing were served upon Lawrenceburg's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rule 211 or Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 9, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to the proceeding must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26812 Filed 10-4-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-705-000]

Natural Gas Pipeline Co., of America; Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Application

October 3, 1984.

Take notice that on September 11, 1984, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, P.O. Box 1208, Lombard, Illinois 60148, and Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, jointly referred to as Applicants, filed in Docket No. CP84-705-000 a joint application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon a certain gas exchange service, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants state that they agreed to undertake a delayed exchange of up to 109,500,000 Mcf of gas at various points offshore Louisiana and onshore Texas and Louisiana, over a period of eight years pursuant to an exchange agreement dated July 15, 1969. Applicants further state that the Commission issued an order on December 8, 1969, in Docket Nos. CP70-56 (Natural) and CP70-57 (Tennessee) authorizing the delayed exchange between Applicants and the construction and operation of certain facilities in Wharton and Brooks Counties, Texas, to implement the exchange. It is indicated that on November 16, 1977, this order was amended to authorize a revised exchange agreement and the extension of the term of the exchange until December 31, 1978, and year to year thereafter, the addition of eight exchange points, and the elimination of daily volume limitations, and the exchange of gas on a gas-for-gas basis.

Applicants herein propose to abandon the aforementioned exchange as of December 31, 1982. It is explained that volumes of gas exchanged under the agreement were in balance by December 31, 1982. Applicants state that they have determined and agreed that termination of the exchange agreement is in the best interests of both parties and have, therefore terminated the exchange agreement as of December 31, 1982, and have done so by a letter agreement dated May 12, 1983. It is further stated that the Applicants do not propose to abandon any facilities and that the facilities constructed by Applicants in Wharton and Brooks Counties would be retained. Applicants indicate that upon approval of the abandonment requested

herein, they would delete Rate Schedule X-22 and X-24 from Natural's and Tennessee's respective tariffs.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 23, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed wthin the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26513 Filed 10-4-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-693-000]

Northern Natural Gas Co., Division of InterNorth, Inc.; Application

October 3, 1984.

Take notice that on September 4, 1984, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP84-693-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon and remove one 500 horsepower compressor unit located in Finney County, Kansas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northern states that the station suction pressure at the Finney County No. 3 gathering station needed to be lowered to achieve the desired volume requirements from the Finney County No. 3 gathering station for the 1983/84 heating season and thereafter.

Consequently, Northern states that it performed certain modifications at the Finney County No. 3 gathering station to achieve the desired suction pressure at the compressor station. As a result of such modifications, Unit No. 2, a 500 horsepower compressor unit was no longer required and as such was idled, it is explained.

Northern asserts that the proposed abandonment of the 500 horsepower compressor unit would serve the public interest since said compressor is no longer needed and consequently serves no useful purpose.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 23, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulation under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any persons wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules and Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion for intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion of leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Northern to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26514 Filed 10-4-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-710-000]

Northwest Central Pipeline Corp.; Application

October 3, 1984.

Take notice that on September 14, 1984, Northwest Central Pipeline Corporation (Northwest Central), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP84-710-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon the Driftwood Compressor Station and appurtenant facilities in Barber County, Kansas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northwest Central requests authorization to abandon the Driftwood Compressor Station by reclaiming certain facilities and leaving in place other facilities. The station, it is explained, contains one 230 horsepower compressor unit and appurtenant facilities. Northwest Central states that the facilities were installed in 1964 to compress natural gas purchased in the area to enable such gas to enter into its Barber County 20-inch pipeline. Northwest Central avers that such facilities are no longer necessary since there is excess horsepower available in the area, and system piping allows all gas in the Driftwood area to be compressed by other existing field compressors in Barber County. Northwest Central estimates that its cost to reclaim these facilities would be $12,311, and states that the estimated salvage value of the facilities is $42,760.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 23, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding.

Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in an subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandoment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Northwest Central to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26515 Filed 10-4-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA85-1-43-000 and 001]

Northwest Central Pipeline Corp.; Proposed Changes in FERC Gas Tariff

October 1, 1984.

Take notice that Northwest Central Pipeline Corporation (Northwest Central) on September 20, 1984, tendered for filing Second Revised Sheet No. 6 and Fourth Revised Sheet Nos. 7 and 8 to its FERC Gas Tariff, Original Volume No. 1. Northwest Central states that pursuant to the Purchased Gas Adjustment in Article 21 and the Incremental Pricing Provisions in Article 24 of its FERC Gas Tariff, it proposes to increase its rates effective October 23, 1984, to reflect:

(1) A 7.11¢ per Mcf decrease in the Cumulative Adjustment due to a decrease in Northwest Central's projected gas purchase costs.

(2) A 14.17¢ per Mcf increased Surcharge Adjustment (to a negative 13.71¢ per Mcf from a negative 27.88¢ per Mcf) to amortize the Deferred Purchased Gas Cost Subaccount balance.

(3) A .20¢ per Mcf decreased Advance Payment Rate Adjustment (to a negative 1.29¢ per Mcf from a negative 1.09¢ per Mcf) in compliance with the Stipulation and Agreement in Docket No. RP82-114-000, *et al.*

This filing reflects the continuation of a pattern of gas purchases designed to produce a purchased gas cost at a level which will permit gas to be sold competitively in Northwest Central's markets.

Northwest Central states that copies of its filing were served on all jurisdictional customers, interested state commissions and all parties to the proceedings in Docket No. RP82-114-000.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before October 9, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26516 Filed 10-4-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-519-001]

Rural Energy Systems, Inc., Applicant; Northern Natural Gas Company, Division of InterNorth Inc.; Iowa Public Service Company, Respondents; Amendments

October 3, 1984.

Take notice that on August 27, 1984, Rural Energy Systems, Inc. (Applicant), P.O. Box 511, Dakota City, Nebraska 68731, filed in Docket No. CP84-519-001 an amendment to its pending application filed on June 26, 1984, in Docket No. CP84-519-000 pursuant to section 7(a) of the Natural Gas Act so as to reflect the level of service requested by Applicant, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

In Docket No. CP84-519-000, Applicant requested a connection to Northern Natural Gas Company, a Division of InterNorth, Inc.'s (Northern) facilities near Dakota City, Nebraska, for the purpose of selling gas to Applicant's parent company, IBP Inc. (IBP), and, if able, to other customers and residences in the area. Applicant then explained that the gas required would be 5,800 Mcf for a peak day requirement in the third year of operation and 1,000,000 Mcf per year for the third annual requirement. Based on these estimates, Applicant filed as part of its application in Docket No. CP84-519-000 Exhibit N—*Reserves, expenses income* and Exhibit P-*Rates.*

Applicant in a September 18, 1984, supplement now states that it does not intend to purchase all of its expected gas requirements from Northern. It is indicated that the service desired would be a partial 907 Mcf per day firm gas sales service under Northern's Rate Schedule CD-1 (Zone 2) and a transportation service up to 2,093 Mcf per day under Northern's End User Transportation Rate Schedule EUT-1. As a result, Applicant amended its Exhibits N and P in order to reflect the 3,000 Mcf per day level of service now desired. For the described service, Applicant alleges that the delivered price to IBP would be the cost of service for firm sales to IBP.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before October 23, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 156.9). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. Persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26517 Filed 10-4-84; 8:45 am]

BILLING CODE 6717-01-M

Western Area Power Administration

Salt Lake City Area; Revised Proposed General Power Marketing Criteria and Allocation Criteria; Corrections

In **Federal Register** Volume 49, No. 172, September 4, 1984, make the following corrections:

On page 34901: In the first column in the third full paragraph, first line, change "1983" to "1938".

In the second column in item 4, tenth line, change the word "abaout" to "about".

On page 34902: In the third column, sixth line, change the word "Contract" to "Control".

On page 34903: In the third column in the third paragraph, tenth line, change the word "mandtory" to "mandatory".

On page 34904: In the third column, in the first paragraph, last line, change the word, "perference" to "preference".

On page 34907: In the second column, sixth line, change the word "bublic" to "public".

In the third column in the first full paragraph, twenty-third line, add a comma after the word "Congress".

On page 34908: In the first column in the first full paragraph, twenty-fourth line, delete the letter "s" following the apostrophe in the word "statutes's".

On page 34915: In the first column in the first full paragraph, tenth line, change the word "Northen" to "Northern".

On page 34916: In the first column in the second full paragraph, fourth line, change the word "intergration" to "integration".

On page 34919: In the third column in item 5.b., fourth line, change the word "negotiations" to "negotiating".

In the third column in item 5.c., fifth line, change the word "enterprise" to "Enterprise".

In the second column, in line 3 of the third paragraph, change 4,425,674 kWh to 1,472,945 kWh, and in line 4 change 1,959,243 kWh to 1,132,616 kWh.

On page 34920: In the first line of the first column, change 1, 472,945 kWh to 4,425,674 kWh.

In the second line of column 1, change 1,132,616 kWh to 1,959,243 kWh.

In the first column in the second paragraph of item 6.b., fifth line, change the work "Association," after the word "Power".

In the second column in item 1.a. tenth line, change the word "seasonably" to "seasonally".

On page 34924: In the second column in the second pargraph, seventeenth line, change the word "povide" to "provide".

On page 34925: In the second column it item 3 sixth line, change the word "avarage" to "average".

On page 34926: In the second column in the fourth paragraph, tenth line, change the word "opition" to "option".

On page 34927: In the third column in the continuation paragraph, fourth line, change the word "Particpating" to "Participating".

In the second column in item B.1., continue the first paragraph in the third column under the second line in item B.1 in the second column.

In the second column item A.1., continue the continuation paragraph and last two paragraphs in the third column under the third line in item A.1. in the second column.

On page 34928: In the first column in item D, fourth line, change the word "Grando" to "Grande".

In the second column, first line, change the word "the" to "that".

In the second column in the continuation paragraph, thirteenth line, change the word "resource" to "resources".

In the second column in item E, sixth line, change the period after the word "priority" to a colon.

In the second column in item E, seventeenth line, change the word "recongized" to "recognized".

In the second column in item A.2., fourth line, change the word "aviod" to "avoid".

On page 34929: in the first column in the continuation paragraph, last line, change the word "Customer" to "customer".

In the second column, fourth line, change the word "Intergrated" to "Integrated".

In the second column in item 1.b., second line, change the word "delivey" to "delivery".

In the second column in item 2.a, sixth line, change the word "agreement" to "agreements".

On page 34931: In the third column in the title in the first paragraph, third line, change the word "Resoruces" to "Resources".

On page 34933: In the first column in the third paragraph, third line, change the word "commitment" to "commitments".

On page 34937: In the eighth column labeled "DIFFERENCE (MWH)", last line, change the number "-53,645." to "-53,645.4".

On page 34941: In the fifth column labeled "RES POOL 5 ALLOCATION (MWH)", change to first line of the column heading from "RES POOL 5" to "RES POOL 6".

In the sixth column labeled "RES POOL 3 ALLOCATION (MWH)", change the first line of the column heading from "RES POOL 3" to "RES POOL 4".

In the eighth column labeled "RES POOL 5 ALLOCATION (MW)", change the first line of the column heading from "RES POOL 5" to "RES POOL 6".

In the ninth column labeled "RES POOL 3 ALLOCATION (MW)", change the first line of the column heading from "RES POOL 3" to "RES POOL 4".

Issued in Golden, Colorado, September 25, 1984.

Robert L. McPhail,

Administrator.

[FR Doc. 84-26521 Filed 10-4-84; 8:45 am]

BILLING CODE 6560-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-59172; TSH-FRL 2686-5]

Certain Chemicals; Test Marketing Exemption Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5 (a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipts, are discussed in EPA's final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722. This notice, issued under section 5(h)(6) of TSCA, announces receipt of two applications for exemptions, provides a summary, and requests comments on the appropriateness of granting each of the exemptions.

DATE: Written comments by: October 22, 1984.

ADDRESS: Written comments, identified by the document control number "[OPTS-59172]" and the specific TME number should be sent to: Document Control officer (TS-793), Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E-201, 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M Street, SW, Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the TMEs received by EPA. The complete non-confidential document is available in the Public Reading Room E–107 at the above address.

TME 84–83

Close of Review Period. November 11, 1984.

Manufacturer. Confidential.

Chemical. (G) Polymonocyclic urethane.

Use/Production. (G) Industrial coating having a non-dispersive use. Prod. range: 53,700 kg/75 days.

Toxicity Data. No data on the TME substance submitted.

Exposure. Manufacture and processing: Dermal, a total of 16 workers, up to 8 hrs/da, up to 26 da/yr.

Environmental Release/Disposal. 10 to 129 kg/batch released to land. Disposal by incineration and landfill.

TME 84–84

Close of Review Period. November 10, 1984.

Manufacturer. Confidential.

Chemical. (G) Succinate ester.

Use/Production. (G) Dispersive use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by publicly owned treatment works (POTW).

Dated: October 1, 1984.

Linda A. Travers,

Acting Director, Information Management Division.

[FR Doc. 84–26485 Filed 10–4–84; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–2686–3]

Availability of Environmental Impact Statement Filed September 24, 1984, Through September 28, 1984, Pursuant to 40 CFR 1506.9

Responsible Agency

Office of the Federal Activities, General Information (202) 382–5073 or (202) 382–5075.

EIS No. 840422, Final, COE, AL, MS, Tennessee-Tombigbee Waterway, Wildlife Mitigation Feasibility Study, Due: Nov. 5, 1984, Contact: Joseph Wilson (205) 694–4110.

EIS No. 840435, Draft, AFS, VA, WV, George Washington National Forest Land and Resource Management Plan, Due: Jan. 18, 1984, Contact: Malcolm Cockerman (703) 433–2491.

EIS No. 840436, Final, BLM, ND, North Dakota Livestock Grazing Management Plan, Due: Nov. 5, 1984, Contact: Raymond Altop (701) 225–9148.

EIS No. 840437, Final, BLM, NM, Roswell Resource Area, Rangeland Management Plan, Due: Nov. 5, 1984, Contact: Linda Rundell (505) 624–1790.

EIS No. 840438, Draft, FHW, HI, Alii Highway Construction, Kailu-Kona to Keauhou, Hawaii County, Due: Nov. 19, 1984, Contact: H. Kusumoto (808) 546–5150.

EIS No. 840439, Draft, HUD, NY, Norstar Plaza Development (UDAG), Albany County, Due: Nov. 19, 1984, Contact: Vincent McArdle (518) 447–8311.

EIS No. 840440, Final, NOA, MA, Waquoit Bay National Estuarine Sanctuary, Designation, Barnstable County, Due: Nov. 5, 1984, Contact: Dr. Nancy Foster (202) 634–4236.

EIS No. 840441, DSuppl, FHW, VA, I–664 Construction, Hampton, Newport News and Suffolk, Due: Nov. 19, 1984, Contact: James Tumlin (804) 771–2371.

EIS No. 840442, Draft, FWS, AK, Isembek National Wildlife Refuge, Management Plan, Due: Dec. 7, 1984, Contact: William Knauer (907) 786–3399.

EIS No. 840443, Draft, BLM, ID, NV, Jarbidge Resources Area, Resource Management Plan, Due: Jan. 4, 1985, Contact: Ted Milesnick (208) 334–1582.

EIS No. 840444, Draft, NOA, AL, Weeks Bay National Estuarine Sanctuary, Designation, Baldwin County, Due: Nov. 19, 1984, Contact: Dr. Nancy Foster (202) 634–4236.

EIS No. 840445, Draft, AFS, GA, Chattahoochee-Oconee National Forests, Land and Resource Management Plan, Due: Feb. 1, 1985, Contact: W. Pat Thomas (404) 536–0541.

EIS No. 840446, Draft, AFS, WA, Mount St. Helens National Volcanic Monument, Comprehensive Management Plan, Gifford Pinchot National Forest, Due: Dec. 5, 1984, Contact: Ed Osmond (206) 696–7524.

EIS No. 840447, Draft, SCS, MD, Goldsboro Watershed Multipurpose Plan, Caroline County, Due: Nov. 19, 1984. Contact: Gerald Calhoun (301) 344–4160.

EIS No. 840448, Draft, USN, CA, Port Chicago Highway, Main Street and Waterfront Road, Explosive Safety Closure, Naval Weapons Station, Contra Costra County, Due: Nov. 19, 1984, Contact: Dana Sakamoto (415) 877–7573.

EIS No. 840449, Final, AFS, CA, GU, HI, TT, Pacific Southwest Region Management Standards, Guidelines and Planning Goals, Due: Nov. 5, 1984, Contact: Jon Kennedy, (415) 556–3379.

EIS No. 840450, Final, COE, Co, Getty and Cities Service Shale Oil Projects, Construction/Operation, Permit, Garfield County, Due: Nov. 5, 1984, Contact: Arthur Williams (918) 440–2541.

Dated: October 2, 1984.

Allan Hirsch,

Director, Office of Federal Activities.

[FR Doc. 84–26530 Filed 10–4–84; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–51539; TSH–FRL 2686–4]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of twenty-five PMNs and provides a summary of each.

DATES: Close of Review Period:

PMN 84–1205, 84–1206 and 84–1207, December 19, 1984

PMN 84–1208, 84–1209, 84–1210, 84–1211, 84–1212, 84–1213, 84–1214, 84–1215, 84–1216, 84–1217 and 84–1218, December 23, 1984

PMN 84–1219, December 24, 1984

PMN 84–1220, 84–1221, 84–1222, 84–1223, 84–1224, 84–1225, 84–1226, 84–1227, 84–1228 and 84–1229, December 25, 1984

Written comments by:

PMN 84–1205, 84–1206 and 84–1207, November 19, 1984

PMN 84–1208, 84–1209, 84–1210, 84–1211, 84–1212, 84–1213, 84–1214, 84–1215, 84–1216, 84–1217 and 84–1218, November 23, 1984

PMN 84–1219, November 24, 1984

PMN 84–1220, 84–1221, 84–1222, 84–1223, 84–1224, 84–1225, 84–1226, 84–1227, 84–1228 and 84–1229, November 25, 1984.

ADDRESS: Written comments, identified by the document control number "[OPTS–51539]" and the specific PMN number should be sent to: Document Control Officer (TS–793), Chemical Information Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E–201, 401 M St., SW., Washington, DC 20460 (202–382–3532).

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett,

Premanufacture Notice Management Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–611, 401 M St., SW., Washington, DC 20460 (202–382–3729).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E–107 at the above address.

PMN 84–1205

Manufacturer. American Hoechst Corporation.

Chemical. (S) Benzeneamine, 2-hydroxy-5-((2-sulfooxyethyl) sulfonyl)-.

Use/Production. (S) Dye intermediate. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: Dermal, a total of 3 workers, up to 2 hrs/da, up to 8 da/yr.

Environmental Release/Disposal. No release.

PMN 84–1206

Importer. American Hoechst Corporation.

Chemical. (S) Benzenemethanamine, 3-methoxy-.

Use/Import. (G) Open, non-dispersive. Import range: Confidential.

Toxicity Data. No data submitted.

Exposure. Use: Dermal, up to 4–6 persons/shift, up to 500 manhours/yr.

Environmental Release/Disposal. No release.

PMN 84–1207

Manufacturer. Dresser Industries, Inc.

Chemical. (G) Titanium zirconium lignosulfonate.

Use/Production. (G) Oil well drilling fluid additive. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: Inhalation, a total of 1 worker, up to 4 hr/da, up to 12 da/yr.

Environmental Release/Disposal. 0 to 250 lbs/yr released to dust.

PMN 84–1208

Manufacturer. Confidential.

Chemical. (G) Copolymer from poly(alkylene carbomonocyclic dicarboxylate) and disubstituted carbomonocycle.

Use/Production. (G) Processing aid, coating and formed articles. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: Dermal.

Environmental Release/Disposal. 5 kg/day incinerated.

PMN 84–1209

Manufacturer. Confidential.

Chemical. (S) Polymer of hydroxy ethyl acrylate, Desmodure W, Duracarb 140–600 and glycerine.

Use/Production. (G) Used in a closed system. Prod. range: 9,000–15,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 6 workers, up to 1 hr/da.

Environmental Release/Disposal. Minimal release to air. Disposal by licensed landfill.

PMN 84–1210

Manufacturer. Confidential.

Chemical. (S) Polymer of maleic anhydride and jeffamine M–600.

Use/Production. (G) Used in a closed system. Prod. range: 700–1,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: Dermal, a total of 6 workers, up to 1 hr/da.

Environmental Release/Disposal. Minimal release to air. Disposal by licensed landfill.

PMN 84–1211

Manufacturer. Confidential.

Chemical. (G) Reaction product of alkyldiamine and excess formaldehyde.

Use/Production. (S) Site-limited chemical intermediate. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. No exposure.

Environmental Release/Disposal. No release.

PMN 84–1212

Manufacturer. Confidential.

Chemical. (G) Alkyl diamino polyacetonitrile.

Use/Production. (S) Site-limited chemical intermediate. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: Dermal.

Environmental Release/Disposal. 60 kg/batch released. Disposal by on-site fluid bed incinerator.

PMN 84–1213

Manufacturer. Confidential.

Chemical. (G) Sodium salt of alkyldiaminopolycarboxylic acid.

Use/Production. (S) Site-limited chemical intermediate. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: Dermal, a total of 3 workers, up to 1 hr/da.

Environmental Release/Disposal. No release.

PMN 84–1214

Manufacturer. Confidential.

Chemical. (G) Acrylic copolymer.

Use/Production. (S) Acrylic copolymer converted to paint. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 84–1215

Manufacturer. Confidential.

Chemical. (G) Alkyd copolymer.

Use/Production. (S) Copolymer is converted into paint. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 84–1216

Manufacturer. Confidential.

Chemical. (G) Acrylic copolymer.

Use/Production. (S) Resins are formulated into paints. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 84–1217

Manufacturer. Confidential.

Chemical. (G) Alkyd base for an alkyd modified acrylic copolymer.

Use/Production. (G) Base is used in finished product, never leaves plant. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 84–1218

Manufacturer. Lawter International Inc.

Chemical. (G) Polymer of aliphatic diamine and unsubstitued aromatic and aliphatic acids.

Use/Production. (S) Industrial resin for flexographic printing inks. Prod. range: 30,000–60,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Maufacture: Dermal, a total of 5 workers, up to 3 hrs/da, up to 12 da/yr.

Environmental Release/Disposal. 2 released to air. Disposal by navigable waterway.

PMN 84–1219

Manufacturer. The Dow Chemical Company.

Chemical. (G) Substituted pyridine.

Use/Production. (G) Contained use. Prod. range: Confidential.

Toxicity Data. Actue oral: Between 250 and 500 mg/kg; Acute dermal: Between 500 and 1,000 mg/kg; Irritation:

Skin—Nonirritant; Eye—Slight; Inhalation: High vapor pressure: LC_{50} 48 hr (Daphnia Magna): 45 MG/l; LC_{50} 96 hr (Fathead Minnow): 9.7 MG/l.

Exposure. Confidential.

Environmental Release/Disposal. Release to air and land. Disposal by navigable waterway after waste treatment and incineration.

PMN 84–1220

Manufacturer. Confidential.

Chemical. (G) Disubstituted piperazine.

Use/Production. (G) Chemical intermediate. Prod. range: 0.2 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: Dermal, a total of 3 workers, up 0.3 hrs/da, up to 2 da/yr.

Environmental Release/Disposal. No release. Less than 0.01 kg/batch incinerated.

PMN 84–1221

Manufacturer. Confidential.

Chemical. (G) Disubstituted benzothiazole salt.

Use/Production. (G) Contained use in commercial products. Prod. range: 0.15 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: Dermal and inhalation, a total of 8 workers, up to 0.4 hr/da, up to 5 da/yr.

Environmental Release/Disposal. 0 to 0.001 kg/batch released to water. 0.001 kg/bath disposed of by biological treatment and less than 0.01 kg/batch incinerated.

PMN 84–1222

Manufacturer. Confidential.

Chemical. (G) Polymer of substituted methacrylic acid and polydimethylsiloxane.

Use/Production. (G) Product finish coating for open, nondispersive use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 84–1223

Manufacturer. The C.P. Hall Company.

Chemical. (G) Aliphatic ester.

Use/Production. (S) Industrial lubricant. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 84–1224

Manufacturer. The C.P. Hall Company.

Chemical. (G) Aliphatic polyester.

Use/Production. (S) Industrial plasticizer. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 84–1225

Manufacturer. The C.P. Hall Company.

Chemical. (G) Aliphatic polyester.

Use/Production. (S) Industrial plasticizer. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 84–1226

Manufacturer. Allied Corporation.

Chemical. (G) Substituted amine-boron compound.

Use/Production. (G) Destructive use. Prod. range: Confidential.

Toxicity Data. Acute oral: Between 3 and 10 ml/kg; Irritation: Skin-Corrosive.

Exposure. Manufacture: A total of 1 worker.

Environmental Release/Disposal. Confidential.

PMN 84–1227

Manufacturer. Ethyl Corporation.

Chemical. (G) Halogenated aromatic substituted alkane.

Use/Production. (S) Site-limited intermediate in process to produce a reactive flame retardant co-monomer. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by company owned brine wells.

PMN 84–1228

Manufacturer. Confidential

Chemical. (G) Polyisoalkoxyalkanol.

Use/Production. (G) Solvent. Prod. range: Confidential.

Toxicity Data. LC_{50} 96 hr (Fathead minnow): 3,200 mg/l.

Exposure. Manufacture: A total of 3 workers.

Environmental Release/Disposal. Release to air. Disposal by incineration.

PMN 84–1229

Manufacturer. Confidential.

Chemical. (G) Polyisoalkoxyalkanol.

Use/Production. (G) Solvent. Prod. range: Confidential.

Toxicity Data. LC_{50} 96 hr (Fathead minnow): 4,700 mg/l.

Exposure. Manufacture: A total of 3 workers.

Environmental Release/Disposal. Release to air. Disposal by incineration.

Dated: October 1, 1984.

Linda A. Travers,

Acting Director, Information Management Division.

[FR Doc. 84-26484 Filed 10-4-84; 8:45 am]

BILLING CODE 6560-50-M

[OMS–FRL–2686–7]

Fuels and Fuel Additives; Waiver Application

AGENCY: Environmental Protection Agency ("EPA").

ACTION: Notice.

SUMMARY: On March 14, 1984, counsel for Ethanol Plus, Ltd. submitted an application for a waiver of the prohibition on introduction into commerce of certain fuels and fuel additives set forth in section 211(f) of the Clean Air Act ("Act"). EPA published notice of the application and solicited comments on it at 49 FR 18171 (Apr. 27, 1984). Counsel for Ethanol Plus, Ltd. withdrew the application on September 7, 1984. The Administrator of EPA has therefore terminated consideration of the application without making a determination on the application.

ADDRESS: Copies of information relative to this application are available for inspection in public docket EN–84–01 at the Central Docket Section (LE–131) of the EPA, Gallery I—West Tower, 401 M Street, SW., Washington, D.C. 20460, (202) 382–7548, between the hours of 8:00 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Alan P. Loeb, Attorney-Advisor, Field Operations and Support Division (EN–397), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 382–2655.

SUPPLEMENTARY INFORMATION: Section 211(f)(1) of the Act makes it unlawful, effective March 31, 1977, for any manufacturer of a fuel or fuel additive to first introduce into commerce, or to increase the concentration in use of, any fuel or fuel additive for use in light duty motor vehicles manufactured after model year 1974 which is not substantially similar to any fuel or fuel additive utilized in the certification of any model year 1975, or subsequent model year, vehicle or engine under section 206 of the Act. EPA has defined

"substantially similar" at 46 FR 38528 (July 28, 1981).

The application submitted by Ethanol Plus, Ltd. sought a waiver for a fuel additive containing anhydrous ethanol, isopropanol and a metal deactivator, to be blended with unleaded gasoline at up to 10% additive per gallon of unleaded gasoline. The Act allowed the Administrator of EPA until September 10, 1984 (180 days from the date of receipt of the application) to grant or deny this application.

Counsel for Ethanol Plus, Ltd. withdrew the application in a letter to the Administrator of EPA on September 7, 1984. Because this date falls within the time allowed for the Administrator to make a determination on the application, and because no determination had been made at the time the applicant withdrew the application, EPA accepted the withdrawal and immediately terminated this proceeding without action on the application.

Dated: September 27, 1984.

John C. Topping, Jr.,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 84-26480 Filed 10-4-84; 8:45 am]

BILLING CODE 6560-50-M

[FRL No. 2683-4]

Nonconformance Penalty Negotiated Rulemaking Advisory Committee; Meeting

As required by the Federal Advisory Committee Act (Pub. L. 94-463), we are giving notice of the next meeting of the Nonconformance Penalty Negotiated Rulemaking Advisory Committee.

It will be held in Washington, D.C., on Friday, October 12th, from 9:00 a.m. until resolution of the outstanding issues, at the offices of the American Trucking Association (ATA) located at 430 First Street SE., third floor. The purpose of the meeting is to attempt to reach consensus on the issues involved in establishing nonconformance penalties.

If interested in attending or receiving more information, please contact Chris Kirtz at (202) 382-7565.

This notice is late. The reason for the late notice is administrative oversight.

Dated: October 3, 1984.

Milton Russell,

Assistant Administrator for Policy, Planning and Evaluation.

[FR Doc. 84-26540 Filed 10-4-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

New TV Station; Community Educational Television Inc. and Diocese of Fresno Education Corp.; Hearing Designation Order

[MM Docket Nos. 84-911, 84-912; File Nos. BPET-840427KQ, BPET-840629KN]

In the matter of applications of Community Educational Television Inc. (MM Docket No. 84-911, File No. BPET-840427KQ), Diocese of Fresno Education Corp. (MM Docket No. BPET-840629KN), for construction permit, Visalia, CA.

Adopted: September 26, 1984.
Released: September 28, 1984.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications of Community Educational Television Incorporated (CET), and Diocese of Frenso Education Corporation (Diocese) for authority to construct a new noncommercial educational television station on Channel 49*, Visalia, California.

2. Applicants for new broadcast stations are required to give local notice of the filing of their applications, in accordance with § 73.3580 of the Commission's Rules. They must then file proof of publication of such notice or certify that they have or will comply with the public notice requirement. We have no evidence that either CET or Diocese has published the required notice. Each applicant will, therefore, be required to file with the presiding Administrative Law Judge a certification of compliance with § 73.3580 within 120 days after the release of this Order.

3. No determination has been made that the tower height and location proposed by CET [1] would not constitute a hazard to air navigation. Accordingly, an appropriate issue will be specified.

4. Section 73.685(f) of the Commission's Rules requires an applicant proposing to use a directional antenna to include a tabulation of relative field pattern, oriented so that 0° corresponds to True North and tabulated at least every 10° plus any minima or maxima. CET has not supplied this data. Accordingly, the applicant will be required to submit an amendment with the appropriate information, to the presiding Administrative Law Judge and a copy to the TV Branch, Mass Media Bureau, within 20 days after this Order is released.

[1] The Commission is not in receipt of FAA's determination for the tower proposed by CET

5. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant would serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

6. Accordingly, it is ordered, that pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether there is a reasonable possibility that the tower height and location proposed by Community Educational Television Incorporated would constitute a hazard to air navigation.

2. To determine the extent to which each applicant's proposed operation will be integrated into the overall cultural and educational objectives of the respective applicants;

3. To determine the manner in which each applicant's proposed operation meets the needs of the community to be served;

4. To determine whether the factors in the record demonstrate that one applicant will provide a superior non-commerical educational broadcast service.

5. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

7. It is further ordered, that Community Educational Television Incorporated and Diocese of Fresno Education Corporation shall each file a certification with the presiding Administrative Law Judge that it has or will publish local notice of the filing of its application, within 20 days after the date of release of this Order.

8. It is further ordered, that the Federal Aviation Administration is made a party respondent to this proceeding with respect to issue 1.

9. It is further ordered, that Community Educational Television Incorporated shall submit an amendment providing the information required by § 73.685(f) of the Commission's Rules, to the presiding Administrative Law Judge and a copy to TV Branch, Mass Media Bureau, within 20 days after the date of the release of this Order.

10. It is further ordered, that to avail themselves of the opportunity to be heard, the applicants and the party respondents herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

11. It is further ordered, that the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Video Services Division, Mass Media Bureau.

[FR Doc. 84-26448 Filed 10-4-84; 8:45 am]

BILLING CODE 6712-01-M

[File No. BPCT-840103KF, et al.]

New TV Stations; Lake Worth Communications, et al; Hearing Designation Order

In the matter of applications of Dan Mahoney (File No. BPCT-840103KF), Lake Worth Communications (MM Docket No. 84-907, File No. BPCT-840306KJ), Minority Television of Lake Worth, Inc. (MM Docket No. 84-908, File No. BPCT-840209KF), Lake Worth Broadcasting Corporation (MM Docket No. 84-909, File No. BPCT-840306KF), Hispanic Broadcasting, Inc. (MM Docket No. 84-910, File No. BPCT-840306KE), For construction permit for new TV Station, Lake Worth, Florida.

Adopted: September 26, 1984.
Released: September 28, 1984.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it: (1) The above-captioned mutually exclusive applications of Dan Mahoney (Mahoney), Minority Television of Lake Worth, Inc. (Minority), Lake Worth Broadcasting Corp. (LWBC), Hispanic Boradcasting, Inc. (Hispanic), and Lake Worth Communications (LWC)[1] for authority to construct a new commercial television station on Channel 67, Lake Worth, Florida; (2) petitions to deny the Mahoney and LWBC applications, filed by Malrite of Florida, Inc. (Malrite), licensee of Station WFLX-TV, West Palm Beach, Florida; and (3) informal objections to the Mahoney and LWC applications, filed by the Association of Maximum Service Telecasters, Inc. (AMST).

2. On March 5, 1984, Malrite filed a petition to deny Mahoney's application and on June 4, 1984, LWBC's application. Malrite's petition against LWBC alleged that LWBC had no reasonable assurance of the availability of its proposed site. On June 15, 1984, Malrite filed a letter withdrawing its petition against LWBC. LWBC had amended its application on March 29, 1984, to propose a different site. Malrite's petition against Mahoney alleged that Mahoney had no reasonable assurance of the availability of his proposed site, was not financially qualified, was short-spaced to another allocation, his engineering was defective, and that Mahoney did not file an EEO statement. By letter dated September 20, 1984, Mahoney requested that his application be dismissed. In view of the foregoing, Mahoney's application will be dismissed, and Malrite's petitions will be dismissed as moot.

3. *AMST Objections.* On March 6, 1984, AMST filed an informal objection to the application of Mahoney, and on June 4, 1984, to LWC's application, on the grounds that both proposed sites are short-spaced to the reference point for Channel 63, Boca Raton, and to the site proposed by each of the three applicants for that channel. LWC filed an amendment on September 18, 1984, changing its antenna site to a location which meets Commission's minimum mileage separation requirements. Mahoney's application will be dismissed in accordance with his request. Therefore, the objections filed by AMST against LWC and Mahoney will be dismissed as moot.

4. Section 73.685(f) of the Commission's Rules requires an applicant proposing to use a directional antenna to include a tabulation of relative field pattern, oriented so that 0° corresponds to True North and tabulated at least every 10° plus any minima or maxima. LWBC has not supplied this data, and the information submitted by Hispanic is tabulated every 15°. Accordingly, each of these applicants will be required to submit an amendment with the appropriate information, to the presiding Administrative Law Judge and a copy to the TV Branch, Mass Media Bureau, within 20 days after the date of the release of this Order.

5. No determination has been made that the tower heights and locations proposed by the applicants would not constitute a hazard to air navigation. Accordingly, an appropriate issue will be specified.

6. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

7. Accordingly, it is ordered, that the application of Dan Mahoney is dismissed.

8. It is further ordered, that pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications of Minority, LWBC, LWC, and Hispanic, are designated for hearing in a consolidated proceeding before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether there is a reasonable possiblity that the tower height and location proposed by each of the applicants would constitute a hazard to air navigation.

2. To determine which of the proposals would, on a comparative basis, best serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

9. It is further Ordered, that the Federal Aviation Administration is made a party respondent to this proceeding with respect to issue 1.

10. It is further ordered, that the objections to the Mahoney and Lake Worth Communications applications, filed by AMST, are dismissed, as moot.

11. It is further ordered, that the petition to deny the applications of Mahoney and LWBC, filed by Malrite, are dismissed.

12. It is further ordered, that the petition for leave to amend, filed by LWC, is dismissed, as moot.

13. It is further ordered, that LWBC and Hispanic shall each submit an amendment providing the information required by § 73.685(f) of the Commission's Rules, to the presiding Administrative Law Judge and a copy to the TV Branch, Mass Media Bureau, within 20 days of the date of the release of this Order.

14. It is further ordered, that, to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant, to § 1.221(c) of the Commission's Rules, in

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[1] On September 18, 1984, LWC petitioned for leave to amend to change its transmitter site. Since the amendment was filed in response to the Commission's request, the petition was unnecessary and will be dismissed as moot.

person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

15. It is further ordered, that the applicants herein shall, pursuant to § 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communication Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 84-26459 Filed 10-4-84; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket Nos. 84-899, et al.; File Nos. BPH-831025AA, et al.]

New FM Stations; Applications for Consolidated Hearing; Peter Edward Hunn, et al.

1. The Commission has before it the following mutually exclusive applications for a new FM stations:

Applicant, city, and State	File No.	MM Docket No.
A. Peter Edward Hunn; Saranac Lake, NY.	BPH-831025AA	84-899
B. DGR Communications, Inc.; Saranac Lake, NY.	BPH-840217AG	84-900
C. Michelle Walker and Ronald Baptist, d/b/a Tree-Ester Communications, Ltd.; Saranac Lake, NY.	BPH-840217AM	84-901

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Comparative, A, B, C
2. Ultimate, A, B, C

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, NW., Washington, D.C. 20554. Telephone (202) 632-6334.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 84-26451 Filed 10-4-84; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket Nos. 84-913, et al.; File Nos. BPCT-840514KG, et al.]

New TV Stations; San Joseph Broadcasting, Inc., et al.; Hearing Designation Order

In the matter of applications of San Joseph Broadcasting, Inc. (MM Docket No. 84-913, File No. BPCT-840514KG), Morro Rock Resources, Inc. (MM Docket No. 84-914, File No. BPCT-840618KG), Skagit Valley Publishing Co. (MM Docket No. 84-915, File No. BPCT-840710KE), for construction permit for new TV Station, Provo, Utah.

Adopted: September 26, 1984.

Released: September 28, 1984.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications of San Joseph Broadcasting, Inc. (San Joseph),[1] Morro Rock Resources, Inc. (Morro Rock), and Skagit Valley Publishing Co. (Skagit) for authority to construct a new commercial television station on Channel 16, Provo, Utah.

2. The effective radiated visual power, antenna height above average terrain and other technical data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would be served by each. Consequently, the areas and populations which would receive television service of 64 dBu (Grade B) or greater intensity, together with the availability of other Grade B television services in such areas, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to any of the applicants.

3. San Joseph proposes to use a directional antenna. Section 73.685(e) of the Commission's Rules limits the maximum-to-minimum ratio of a UHF directional antenna to 15 dB. San Joseph proposes a directional antenna with maximum-to-minimum ratio of 18 dB, but no waiver has been requested. Accordingly, an issue regarding this matter will be specified.

4. Section 73.685(f) of the Commission's Rules requires an applicant proposing to use a directional antenna to include a tabulation of relative field pattern, oriented so that 0° corresponds to True North and tabulated at least every 10° plus any minima or maxima. San Joseph has not supplied this data. Accordingly, San Joseph will be required to submit an amendment with the appropriate information, to the presiding Administrative Law Judge and a copy to the TV Branch, Mass Media Bureau, within 20 days after the date of the release of this Order.

5. No determination has been made that the tower height and location proposed by Skagit would not constitute a hazard to air navigation. Accordingly, an appropriate issue will be specified.

6. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant would serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

7. Accordingly, it is ordered, that pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to San Joseph whether circumstances exist which would warrant a waiver of § 73.685(e) of the Commission's Rules.

2. To determine whether there is a reasonable possibility that the tower height and location proposed by Skagit would constitute a hazard to air navigation.

[1] August 30, 1984, was the "cut-off" date ("B" date) for the filing of minor amendments as of right. By amendment dated August 31, 1984, San Joseph sought to amend its application to supply a missing signature and accompanied its amendment by a petition for leave to amend in the apparent belief that the amendment was late-filed. On September 13, 1984, Morro Rock filed an opposition to the petition for leave to amend. In fact, however, the amendment bears the stamp of the Commission's Secretary showing that it was filed on August 30, 1984. Consequently, it was timely filed and both pleadings will, therefore, be dismissed as moot.

3. To determine which of the proposals would, on a comparative basis, best served the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

8. It is further ordered, that San Joseph shall submit an amendment providing the information required by § 73.685(f) of the Commission's Rules, to the presiding Administrative Law Judge and a copy to TV Branch, Mass Media Bureau, within 20 days after the date of the release of this Order.

9. It is further ordered, that the pleadings filed herein by San Joseph and Morro Rock are dismissed as moot.

10. It is further ordered, that the Federal Aviation Administration is made a party respondent to this proceeding with respect to Issue 2.

11. It is further ordered, that to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

12. It is further ordered, that the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 84-26449 Filed 10-4-84; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for approval in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Type: Extension of 3067-0011

Title: FEMA Summer Shelter Survey Employment Questionnaire

Abstract:

Form is used to get pertinent information i.e., phone numbers, Veteran's preference status and their choice of areas for employment in the shelter survey program. Upon receipt of the completed questionnaire selections are made on the basis of the information supplied and the final examination score received on the SST course.

Type of respondents: Individuals or Households, State or Local Governments, Federal Agencies or Employees, Small Businesses or Organizations

Number of respondents: 1,000

Burden hours: 110

Copies of the above information collection clearance package can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley, (202) 287-9906, FEMA Reports Clearance Officer, 500 C. St., SW., Washington, D.C. 20472.

Written comments and recommendations for the proposed information collection package should be sent to Linda Shildy, FEMA Reports Officer, and to Mike Weinstein, Desk Officer, OMB Reports Management Branch, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Dated: October 1, 1984.

Walter A. Girstantas,

Director, Administrative Support.

[FR Doc. 84-26438 Filed 10-4-84; 8:45 am]

BILLING CODE 6718-01-M

[Docket No.: FEMA-REP-1-CT-1]

The Connecticut State and Local Emergency Preparedness Plans Site-Specific for the Haddam Neck Nuclear Power Station; Certification of FEMA Findings and Determination

In accordance with the Federal Emergency Management Agency (FEMA) rule 44 CFR Part 350, the State of Connecticut submitted its plans relating to the Haddam Neck Nuclear Power Station to the Director of FEMA Region I on September 4, 1981, for FEMA review and approval. On September 28, 1983, the Regional Director forwarded his evaluation to the Associate Director for State and Local Programs and Support in accordance with § 350.11 of the FEMA rule. Included in this evaluation is a review of the State and local plans around the Haddam Neck facility; an evaluation of the joint exercises conducted on February 6, 1982, April 23, 1983, and May 12, 1984, in accordance with § 350.9 of the FEMA rule; and a public meeting held on May 5, 1982, to discuss the site-specific aspects of the State and local plans around the Haddam Neck Nuclear Power Station in accordance with § 350.10 of the FEMA rule.

Based on the evaluation by the Regional Director and the review by the FEMA Headquarters staff, I find and determine that, subject to the condition stated below, the State and local plans and preparedness for the Haddam Neck Nuclear Power Station are adequate to protect the health and safety of the public living in the vicinity of the plant. These offsite plans and preparedness are assessed as adequate in that they provide reasonable assurance that appropriate protective actions can be taken offsite in the event of a radiological emergency and are capable of being implemented. The condition for the above approval is that the adequacy of the public alert and notification system already installed and operational must be verified as meeting the standards set forth in Appendix 3 of the Nuclear Regulatory Commission/FEMA criteria of NUREG-0654/FEMA-REP-1, Revision 1.

FEMA will continue to review the status of offsite plans and preparedness associated with the Haddam Neck Nuclear Power Station in accordance with § 350.13 of the FEMA rule.

For further details with respect to this action, refer to Docket File FEMA-REP-1-CT-1 maintained by the Regional Director, FEMA Region I, J.W. McCormack Post Office and Courthouse Building, Room 442, Boston, Massachusetts 02109.

Dated: October 1, 1984.

For the Federal Emergency Management Agency.

Samuel W. Speck,

Associate Director, State and Local Programs and Support.

[FR Doc. 84-26439 Filed 10-4-84; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Extension of Comment Period and Delay of Implementation Date; Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks (FFIEC Form 002)

AGENCY: Federal Financial Institutions Examination Council (FFIEC).

ACTION: Notice of extension of public comment period and delay of implementation date.

VOL 49 ISS 195 OC 5 1984 UMI

SUMMARY: The FFIEC, in response to requests, is now formally extending for 51 days from September 10, 1984, the period for public comment on the proposed revision of the Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks (FFIEC Form 002). The end of the comment period will now be October 31, 1984. Earlier the comment period was informally extended from September 10, 1984 to September 30, 1984.

In conjunction with the extension of the public comment period, the FFIEC is also delaying the implementation date of the revised Report. The proposed implementation date is now June 30, 1985. Implementation of the report previously had been set for March 31, 1985.

The current reporting requirements for U.S. branches and agencies of foreign banks will remain in effect until the revision is implemented.

DATE: Comments should be received on or before October 31, 1984.

ADDRESS: Comments should be sent to Robert J. Lawrence, Executive Secretary, Federal Financial Institutions Examination Council, Eighth Floor, 490 L'Enfant Plaza, SW, Washington, DC 20219.

FOR FURTHER INFORMATION CONTACT: Stanley J. Sigel, Reports Task Force, Board of Governors of the Federal Reserve System, (202) 452-2696.

Dated: October 1, 1984.

Robert J. Lawrence,

Executive Secretary, FFIEC.

[FR Doc. 84-26458 Filed 10-4-84; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL MARITIME COMMISSION

Filing and Approval of Agreement

The Federal Maritime Commission hereby gives notice that on September 18, 1984, the following agreement was filed with the Commission pursuant to section 5, Shipping Act of 1984, and was deemed approved that date, to the extent it constitutes an assessment agreement as described in paragraph (d) of section 5, Shipping Act of 1984.

Agreement No.: 201-002631-004.

Title: New Orleans Assessment Agreement.

Parties:

The New Orleans Steamship Association (NOSA)

International Longshoremen's Association, AFL-CIO (ILA)

Synopsis: Agreement No. 201-002631-004 amends the basic agreement between the members of NOSA and the ILA to reflect the increased assessments agreed to by NOSA to meet the current funding requirements of the Guaranteed Annual Income plan which has been established between NOSA and the ILA.

By Order of the Federal Maritime Commission.

Dated: October 2, 1984.

Francis C. Hurney,

Secretary.

[FR Doc. 84-26455 Filed 10-4-84; 8:45 am]

BILLING CODE 6730-01-M

Inactive Tariffs; Erratum

The following carriers are hereby withdrawn from the list of cancelled inactive tariffs published in the **Federal Register**, September 4, 1984 (**Federal Register** Notice—Vol. 49, No. 172, page 34960):

Caribbean Container Services, Inc.—FMC 1,

National Shipping Co. of Saudi Arabia—FMC 4 and 5,

First International Shipping Co.—FMC 1.

Caribbean Container Services, Inc., by letter dated May 10, 1984, notified the Bureau of Tariffs that its tariff is active and that service is currently being offered. Despite that notification and a follow-up letter received on September 7, 1984, confirming the active status of the tariff, the carrier's name was inadvertently included on the list of tariffs to be cancelled.

The National Shipping Co. of Saudi Arabia confirmed in letter of April 19, 1984, that service is contemplated in the future and requested that its tariffs be maintained in an active status. The carrier's name was inadvertently included on the list of tariffs to be cancelled.

First International Shipping Co. in a telephone conversation with a member of the Commission staff, requested that its tariff remain in an active status and that a confirming letter would be forthcoming. However, since the letter, dated August 21, 1984, failed to arrive until September 4, 1984, subsequent to the reply date specified in the **Federal Register** Notice, the tariff was included in the cancellation notice.

In view of the above, the freight tariffs of Caribbean Container Services, Inc., FMC 1, First International Shipping Co., FMC 1 and National Shipping Co. of Saudi Arabia, FMC 4 and 5 are deleted from the list of cancelled inactive tariffs as published in **Federal Register** Notice, Vol. 49, No. 172, page 34960. The notice of cancellation insofar as it applies to the foregoing tariffs is hereby rescinded.

Therefore, it is ordered, that the tariffs shown above be continued in an active status and the tariffs be retained in the Commission's active files.

It is further ordered, that this Order be published in the **Federal Register.**

By the Commission pursuant to authority delegated by section 9.04 of Commission Order No. 1 (Revised) dated November 12, 1981.

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 84-26454 Filed 10-4-84; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Consumer Advisory Council; Meeting of Consumer Advisory Council

The Consumer Advisory Council will meet on Wednesday, October 24, Thursday, October 25, and Friday, October 26. The meeting, which will be open to public observation, will take place in Terrace Room E of the Martin Building. The October 24 session is expected to begin at 1:00 p.m. and to continue until 5:00 p.m. The October 25 session is expected to begin at 9:00 a.m. and to continue until 5:00 p.m., with a lunch break from 1:00 to 2:00 p.m. The October 26 session is expected to begin at 9:00 a.m. and to conclude at noon. The Martin Building is located on C Street, Northwest, between 20th and 21st Streets in Washington, D.C.

The Council's function is to advise the Board on the exercise of the Board's responsibilities under the Consumer Credit Protection Act and on other matters on which the Board seeks its advice. Time permitting, the Council will discuss the following topics:

1. *Board's Regulation B—Equal Credit Opportunity.* Discussion of the Board's review of Regulation B under its Regulatory Improvement Project.

2. *Status Reports from the Council's Ad Hoc Committees.* Briefing by Council committees on their activities on:

- Service Charges and Lifeline Services.
- Emerging Technologies in the Financial Services Industry.
- Incentives for Institutions to Achieve Exemplary Performance under the Community Reinvestment Act.
- Integration of Electronic Fund Transfer/Truth in Lending Laws.
- Alternative Rate Mortgages and Variable Rate Lending.

3. *Board's Response to Issuance of the Federal Trade Commission's Credit Practices Rule.* Discussion of the FTC's Credit Practices Rule and whether the Board should adopt a substantially similar rule for banks.

4. *Public Policy on Credit Card Surcharges and Cash Discounts.* Discussion of legislative alternatives

and public policy governing the imposition of surcharges on credit card purchases and the provision of discounts for cash purchases.

5. *Regulatory and Enforcement Policies in Consumer Matters.* Discussion of (1) how to achieve greater uniformity among the federal regulatory agencies in setting and enforcing consumer financial protection policies; and (2) how to better coordinate federal efforts with state regulatory agencies.

6. *Truth in Savings.* Discussion of the question whether there is a need for federal truth in savings legislation in light of recent deregulatory actions regarding savings instruments.

7. *Regulatory Update.* Status of recent Board regulatory actions in the area of consumer financial services.

Other matters previously considered by the Council or initiated by Council members also may be discussed.

Persons wishing to submit to the Council their views regarding any of the above topics may do so by sending written statements to Ms. Ann Marie Bray, Secretary, Consumer Advisory Council, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. Comment must be received no later than close of business Friday, October 19, and must be of a quality suitable for reproduction.

Information with regard to this meeting may be obtained from Mr. Joseph R. Coyne, Assistant to the Board, at (202) 452–3204.

Board of Governors of the Federal Reserve System, October 1, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84–26443 Filed 10–4–84; 8:45 am]

BILLING CODE 6210–01–M

Saver's Bancorp, Inc., et al.; Formations of, Acquisitions by , and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and section 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than October 25, 1984.

Federal Reserve Bank of Boston (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Saver's Bancorp, Inc.,* Littleton, New Hampshire; to acquire 51 percent of the voting shares of Belknap Bank & Trust, Belmont, New Hampshire.

Federal Reserve Bank of St. Louis (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Southwest Arkansas Bancshares, Inc.,* Lockesburg, Arkansas; to become a bank holding company by acquiring 88 percent of the voting shares of Bank of Lockesburg, Lockesburg, Arkansas.

Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Mid Continent Bancshares, Inc.,* Blue Springs, Missouri; to become a bank holding company by acquiring 94 percent of the voting shares of Ray County Bank, Richmond, Missouri, and 89 percent of the voting shares of Bank of Jacomo, Blue Springs, Missouri.

Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Austin Colony, Inc.,* Lake Jackson, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of First National bank of Lake Jackson, Lake Jackson, Texas.

2. *Stone Oak Bankshares, Inc.,* San Antonio, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Stone Oak National Bank, San Antonio, Texas.

Board of Governors of the Federal Reserve System, October 1, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84–26444 Filed 10–4–84; 8:45 am]

BILLING CODE 6210–01–M

American Bancshares, Inc.; Formation of; Acquisition by; or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.24) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than October 12, 1984.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *American Bancshares, Inc.,* Cookeville, Tennessee: to acquire at least 80 percent of the voting shares of Peoples Bank of Crossville, Crossville, Tennessee.

Board of Governors of the Federal Reserve System, October 4, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84–26678 Filed 10–4–84; 10:47 am]

BILLING CODE 6210–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on Septmber 28.

Public Health Service

National Institutes of Health; National Heart Lung and Blood Institute

Subject: Longitudinal Study of Coronary Heart Disease Risk Factors in Young Adults (CARDIA)—New
Respondents: Individuals

Centers for Disease Control

Subject: Risk Factors for Lower Respiratory Tract Illness in Children of Day Care Center Age—New
Respondents: Individuals
Subject: Survey of Areas Colsed or Restricted Because of Toxic Substance Contamination—New
Respondents: States

Office of the Assistant Secretary for Health

Subject: Inventory/Assessment of Public and Professional Education Courses and Information Related to Disaster Medical Response (Request for Concept Clearance)—New
Respondents: State/local governments; non-profit institutions

Health Resources and Services Administration

Subject: Application Guidelines for Designation and Grant Award and Reporting Systems for SHPDAs (0915–0058)—Extension No Change
Respondents: State/local governments
OMB Desk Officer: Fay S. Iudicello

Health Care Financing Administration

Subject: Ambulatory Surgical Center Request for Certification, The Ambulatory Surgical Center Survey Report Form and Paperwork Requirements in 42 CFR 416.43 and 416.47 (0938–0266) (HCFA–377 and HCFA)—Extension
Respondents: Ambulatory Surgical Centers, State Survey Agencies
OMB Desk Officer: Fay S. Iudicello

Human Development Services:

Subject: State Plan for Foster Care and Adoption Assistance (Title N–E) (0960–0141)—Reinstatement
Respondents: States
Subject: Child Welfare Services State Plan (0960–0142)—Reinstatement
Respondents: States
OMB Desk Officer: Robert J. Fishman
Office of the Secretary:
Subject: Evaluation of the Uses of the HHS/USDA Dietary Guidelines—New
Respondents: Users of Dietary Guidelines
OMB Desk Officer: Robert J. Fishman

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202–245–6511.

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503. Attn: (name of OMB Desk Officer).

Dated: September 28, 1984.

Wallace O. Keene,

Acting Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 84–25481 Filed 10–4–84; 8:45 am]
BILLING CODE 4150–04–M

Centers For Disease Control

Prospective Cohort and Industrial Hygiene Study of Mild Steel Welders; Open Meeting

The following meeting will be convened by the National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control (CDC) and will be open to the public for observation and participation, limited only by the space available:

Date: October 25, 1984.
Time: 9 a.m.–12 noon.
Place: Room 138, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.
Purpose: To discuss the research protocol for a 5-year prospective medical and industrial hygiene study of mild steel welders. Viewpoints and suggestions from industry, organized labor, academia, other government agencies, and the public are invited. Formal presentations should be accompanied by written text. Informal comments and questions will also be entertained during the meeting.

Additional information may be obtained from: Paul Hewett, Division of Respiratory Disease Studies, NIOSH, CDC, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505, Telephones: FTS: 923–4421. Commercial: 304/291–4421.

Dated: October 1, 1984.

William C. Watson Jr.,

Acting Director, Centers for Disease Control.

[FR Doc. 84–26400 Filed 10–4–84; 8:45 am]
BILLING CODE 4160–19–M

National Institutes of Health

Board of Scientific Counselors of the National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases (NIADDK), October 11, 12, and 13, 1984. National Institutes of Health, Building 2, Room 102, Bethesda, Maryland 20205.

This meeting notice is being published later than the required time period because the majority of the members, as well as the Executive Secretary of the Board, are unable to attend the regularly scheduled November meeting.

This meeting will be open to the public from 8:00 p.m. to 10:10 p.m. on October 11, from 9:00 a.m. to 12:05 p.m. and from 2:05 p.m. to 4:24 p.m. on October 12, from 9:00 a.m. to 10:30 a.m. and October 13. The open portion of the meeting will be devoted to scientific presentations by various laboratories of the NIADDK Intramural Research Program. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 7:30 p.m. to 8:00 p.m. on October 11, from 12:05 p.m. to 2:00 p.m. and 4:25 p.m. to adjournment on October 12, and from 10:30 a.m. to adjournment on October 13, for the review, discussion and evaluation of individual intramural programs and projects conducted by the NIADDK, including consideration of personal qualifications and performance, the competence of individual investigators, and similar items, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Summaries of the meeting and rosters of the members will be provided by the Committee Management Office, National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases, Building 31, Room 9A46, Bethesda, Maryland 20205. Further information concerning the meeting may be obtained by contacting the office of Dr. Jesse Roth, Executive Secretary, Board of Scientific Counselors, National Institutes of Health, Building 10, Room 9N–222, Bethesda, Maryland 20205, (301) 496–4128.

Dated: October 2, 1984.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 84–26566 Filed 10–4–84; 8:45 am]
BILLING CODE 4140–01–M

Public Health Service

National Toxicology Program Board of Scientific Counselors' Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of a meeting of the National Toxicology Program (NTP)

Board of Scientific Counselors, U.S. Public Health Service, in the Conference Center, Building 101, South Campus, National Institute of Environmental Health Sciences, Research Triangle Park, North Carolina, on November 2, 1984.

The meeting will be open to the public from 9:00 a.m. until adjournment. The primary agenda item is the completion of peer review on draft technical reports of long-term toxicology and carcinogenesis studies from the National Toxicology Program. Reviews will be conducted by the Technical Reports Review Subcommittee of the Board in conjunction with an *ad hoc* Panel of Experts.

Draft technical reports on the following chemicals (listed alphabetically with Chemical Abstracts Service registry numbers, routes of administration, and NTP chemical managers for each study) are scheduled to be peer reviewed on November 2.

Since NTP policy requires that a data audit be performed with a summary of the audit report included in the appendix of the technical report prior to peer review, there is the possibility that not all of the technical reports listed below will be reviewed at this meeting.

Chemical (CAS Registry No.)	Route	Chemical manager (telephone No.)
Chlorinated Trisodium Phosphate (56802-99-4).	Gavage	Dr. C.E. Whitmire (919-541-2934)
3-Chloro-2-Methylpropene (563-47-3).	Gavage	Dr. P. Chan (919-541-7561).
Dimethyl Morpholino Phosphoramidate (597-25-1).	Gavage	Dr. P. Chan (919-541-7561).
Isophorone (78-59-1).	Gavage	Dr. D. Bucher (919-541-4532).

In addition, a brief post data update will be presented to the Panel on the toxicology and carcinogenesis study of benzyl acetate (CAS No. 140-11-4). The technical report (TR# 250) was approved by the Panel on June 29, 1983.

A brief discussion will be held as to how best to bring up for peer review the reports on the data from the remaining long-term toxicology and carcinogenesis studies performed at Gulf South research Institute.

The Executive Secretary, Dr. Larry G. Hart, Office of the Director, National Toxicology Program, P.O. Box 12233, Research Triangle Park, North Carolina 27709, telephone (919-541-3971), FTS 629-3971, will furnish final agenda, rosters of subcommittee and panel members, and other program information prior to the meeting; and summary minutes subsequent to the meeting.

Dated: September 28, 1984.

David P. Rall, M.D., Ph.D.,

Director, National Toxicology Program.

[FR Doc. 84-26453 Filed 10-4-84; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-84-1435; FR-2002]

Neighborhood Development Demonstration Program; Announcement of Fund Availability for Fiscal Year 1984; Revision

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of Fund Availability; revision.

SUMMARY: This document revises the application due date of October 15, 1984 stated in the original notice published in the **Federal Register** of Thursday, August 23, 1984 on page 33494 (49 FR 33494), to November 1, 1984.

DATES: Effective October 5, 1984.

Application due date: November 1, 1984.

FOR FURTHER INFORMATION CONTACT: Mrs. Connie Southerland, Department of Housing and Urban Development, Washington, D.C., at (202) 755-5662.

SUPPLEMENTARY INFORMATION: This postponement of the application due date is necessary because the Department experienced unexpected delays in the preparation and printing of the Request for Grant Applications, and we want to assure that applicants have sufficient time to obtain and complete that form.

Dated: September 20, 1984.

DuBois L. Gilliam,

Acting General Deputy Assistant Secretary for Community Planning and Development.

[FR Doc. 84-26506 Filed 10-4-84; 8:45 am]

BILLING CODE 4210-29-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Availability of the Final Environmental Impact Statement and Proposed Resource Management Plan for the Coast Valley Planning Area, Bakersfield District, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability.

SUMMARY: Notice is hereby given of the availability of the Final Environmental Impact Statement/Proposed Resource Management Plan (EIS/RMP) for 517,000 acres of BLM-administered public land within the Coast/Valley Planning Area, encompassing Kern, Kings, San Luis Obispo, Santa Barbara, Tulare, and Ventura counties in California.

SUPPLEMENTARY INFORMATION: The issues addressed in the RMP are: (1) Land tenure adjustment; (2) livestock grazing; (3) minerals; (4) recreation use; (5) special land and resource use needs; and (6) water quality and watershed protection.

The Proposed Plan concerns multiple use management on 517,000 acres of public land in six Management Areas. This plan is a refinement of the proposed action presented in the Draft EIS/RMP published May, 1984. A total of 24 interested citizens, federal and state agencies, and private organizations submitted written comments on the Draft EIS/RMP.

The Proposed Plan represents a commitment to the protection of sensitive resources while allowing for multiple resource utilization and production. This proposal was developed as a result of: Public input and needs; other federal, state, county, and local land use plans; the planning goals as stated in the Draft EIS/RMP; and necessary consistency with current Bureau policy and guidelines.

1. Land Tenure Adjustment—Environmentally review approximately 43,920 acres for land tenure adjustment.

2. Livestock Grazing—Manage I (Improve) category allotments for 450 to 550 pounds of residual mulch on slopes of 0 to 50% depending on the allotment. Continue present authorization of 9,952 AUMs for M (Maintain) and C (Custodial) category allotments.

3. Minerals—Maintain 514,550 acres open to mineral leasing, location, and disposal (sales). Lease 3,020 acres with no surface occupancy and close to mineral location.

4. Recreation Use—Close 50 acres to ORV use. Develop walk-in access to Caliente Mountain.

5. Special Land and Resource Use Needs—Designate four ACECs and two Research Natural Areas. Nominate one National Natural Landmark.

6. Water Quality and Watershed Protection—Protect all existing water sources. No construction on slopes exceeding 70%.

Five alternatives are considered in addition to the Proposed Plan. They are: Emphasize Protection; Combined

Emphasis; Emphasize Production; Present Management (No Action); and the Proposed Action. The Final EIS/RMP includes a summary of the alternatives and the environmental consequences of each alternative as well as a detailed discussion of the Proposed Plan and the rationale for its selection.

Copies of the Final EIS/RMP are available for review at the following BLM offices, public libraries, and university/college libraries:

U.S. Bureau of Land Management, Caliente Resource Area, 520 Butte St., Bakersfield, CA 93305, (805) 861–4236
U.S. Bureau of Land Management, Bakersfield District Office, 800 Truxtun Ave., Rm. 311, Bakersfield, CA 93301, (805) 861–4191
Avenal Branch Library, 501 E. Kings, Avenal, CA 93204, (209) 386–5741
Beale Memorial Library, 1315 Truxtun Ave., Bakersfield, CA 93301, (805) 861–2135
Foster E. P. Library, 651 E. Main, Ventura, CA 93001, (805) 648–2715
San Luis Obispo County Library, 888 Morro, San Luis Obispo, CA 93401, (805) 549–5991
Santa Barbara Central Branch Library, 1021 E. Anacapa, Santa Barbara, CA 93101, (805) 962–7653
Visalia County Library, 200 W. Oak St., Visalia, CA 93291, (209) 733–8440
Bakersfield College Library, 1801 Panorama Dr., Bakersfield, CA 93305, (805) 395–4462
California State-Bakersfield Library, 9001 Stockdale Hwy., Bakersfield, CA 93309, (805) 833–3172
California State-Fresno Library, 5241 N. Maple Ave., Fresno, CA 93740, (209) 294–2335
California State-Northridge Library, Northridge, CA 91324, (213) 885–2285
Cal. Polytechnic State Univ. Library, San Luis Obispo, CA 93401, (805) 546–2649
Univ. of California-Berkeley Library, Berkeley, CA 94720, (415) 642–6657
Univ. of California-Los Angeles Library, 405 Hilgard Ave., W. Los Angeles, CA 90024, (213) 825–1323
Univ. of California-Santa Barbara Library, Santa Barbara, CA 93106, (805) 961–2311 or 961–2477.

DATES: All parts of this plan may be protested. Protests should be sent to the Director, Department of the Interior, Bureau of Land Management, 18th and C Streets, NW., Washington, D.C. 20240, prior to October 29, 1984 (the end of the 30–day protest period) and should include the following information.

—The name, mailing address, telephone number, and interest of the person filing the protest.
—A statement of the issue or issues being protested.
—A statement of the part or parts being protested.
—A copy of all documents addressing the issue or issues that were submitted during the planning process by the protesting or an indication of the date the issue or issues were discussed for the records.
—A short concise statement explaining why the BLM State Director's proposed decision (Proposed Plan) is wrong.

At the end of the 30–day protest period, a Record of Decision (ROD) will be developed outlining the approval process and the final resource management plan decisions excluding any portions of the plan under protest. Approval of those portions under protest will be withheld until final action has been completed on such protests. The ROD will be published in December, 1984.

FOR FURTHER INFORMATION CONTACT: Glen Carpenter, Area Manager, Bureau of Land Management, Caliente Resource Area, 520 Butte Street, Bakersfield, CA 93305, (805) 861–4236.

Dated: September 20, 1984.

Rory Raschen,

Associate District Manager.

[FR Doc. 84-25880 Filed 10-4-84; 8:45 am]

BILLING CODE 4310-40-M

Availability of Draft Resource Management Plan and Environmental Impact Statement; Spokane District, Spokane, WA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: Notice is hereby given of the availability of the Draft Environmental Impact Statement/Resource Management Plan for 307,603 acres of BLM administered lands within Spokane District encompassing all of the public lands in 19 counties of eastern Washington, except for 10,000 acres in Asotin County which are managed by the Baker Resource Area, Vale District, Baker, Oregon.

SUPPLEMENTARY INFORMATION: The issues and concerns addressed in the RMP are livestock grazing, land tenure adjustment, access, and recreation. The proposed action or preferred alternative, concerns multiple-use management on 307,603 acres of BLM administered land in the 19 counties of eastern Washington. It would emphasize the management, production, and use of renewable resources on the majority of the public lands in the Spokane RMP area. Management would be directed toward providing a flow of renewable resources from the public lands on a sustained yield basis. This alternative represents the Bureau's favored management approach.

Grazing leases would be authorized at the 1982 total preference level of 30,183 AUM's. There would be management systems developed, maintained, or revised for 16 I (improve) category allotments.

This alternative would develop AMPs and/or CRMPs for the I allotments to establish livestock use levels, grazing systems, seasons of use, and range improvements to accomplish multiple use objectives of livestock forage production, wildlife habitat, and watershed needs. CRMPs for the leased public land outside the I allotments would be developed. A moderate level of livestock use to maintain or protect other resource values would be emphasized. Authorized livestock use would initially remain at currently authorized levels for the 16 I category allotments but would be adjusted through collection and analyses of monitoring data to achieve 50% utilization of key forage species.

There would be 44,443 acres of commercial forestland on which the sustained harvest level is based. The sustainable harvest level would be approximately 3.98 MM bd. ft. annually or 39.8 MM bd. ft. for a ten year period. Minor forest products would be sold where consistent with other resource values.

There would be 8,720 acres identified for acquisition and approximately 300 acres per year identified for disposal. Exchanges and transfers to other Federal agencies would take place when natural resource values would benefit.

Three alternatives are considered in addition to the proposed action. They are: Maximize Protection, Maximize Production, and Present Management (No Action). A discussion of the affected environment is briefly summarized and the environmental consequences occurring from the Proposed Action and each alternative are documented in the EIS.

FOR FURTHER INFORMATION CONTACT: Joseph K. Buesing, District Manager, Spokane District, East 4217 Main Avenue, Spokane, Washington.

Copies of the DEIS are available for review at the following offices and libraries:

U.S. Bureau of Land Management, Spokane District Office, East 4217 Main Avenue, Spokane, Washington 99202

U.S. Bureau of Land Management, Wenatchee Resource Area Office, 1133 N. Western Avenue, Wenatchee, Washington 98801
U.S. Bureau of Land Management, Vale District Office, P.O. Box 700, Vale, Oregon 97918
U.S. Bureau of Land Management, Vale District, Baker Resource Area, P.O. Box 987, Baker, Oregon 97814
U.S. Bureau of Land Management, Coeur d'Alene District Office, 1808 N. Third Street, Coeur d'Alene, Idaho 83814
Eastern Washington University Library, Cheney, Washington 99004
Washington State Library, State Library Building, Olympia, Washington 98504
Spokane Public Library, Main Library, West 906 Main Avenue, Spokane, Washington 99202

A limited supply of copies of the RMP are available upon request to the Spokane District Manager.

DATES: Written comments concerning issues pertinent to the Spokane Resource Management Plan/ Environmental Impact Statement will be accepted for 90 days following publication of this Notice of Availability.

No public meetings have been scheduled. However if the responses that are received from the public indicate a need for additional clarification of issues or other points brought out in the draft, meeting will be scheduled. Notification of time and place for these meetings will be made through the local news media.

Dated: September 30, 1984.

Joseph K. Buesing,

District Manager.

[FR Doc. 84-26435 Filed 10-4-84; 8:45 am]

BILLING CODE 4310-33-M

National Park Service

Availability and Public Meeting Draft Land Protection Plan, Draft General Management Plan/Development Concept Plan and Environmental Assessment; Chaco Culture National Historical Park; NM

Pursuant to the National Environmental Policy Act of 1969, Title 40 of the Code of Federal Regulations, Chapter 1 of Title 36 of the Code of Federal Regulations, the final interpretive rule for Preparation of Land Protection Plans printed in the **Federal Register** on May 11, 1983 (48 FR 21121), and section 506 of Pub. L. 96-550, the National Park Service has prepared a Draft Land Protection Plan, and Draft General Management Plan/ Development Concept Plan and Environmental Assessment for Chaco Culture National Historical Park, McKinley and San Juan Counties, New Mexico.

The Draft General Management Plan/ Development Concept Plan and Environmental Assessment, which revises and updates the existing General Management Plan of 1979, outlines a proposal and alternative management strategies and assesses their impacts to insure all reasonable ways of achieving the intent of Congress and the management objectives of the recently enlarged Chaco Culture National Historical Park. The Draft Land Protecton Plan identifies the means necessary to provide sufficient resource protection and provide for public use and enjoyment of Chaco's resources; to establish priorities for land protection; to provide for manageable resource areas through land protection strategies; and to provide a strategy and priority listing for the expenditure of acquisition funds.

Copies of the Draft Land Protection Plan, and Draft General Management Plan/Development Concept Plan and Environmental Assessment are available, while supplies last, from Chaco Culture National Historical Park, Star Route 4, Box 6500, Bloomfield, New Mexico 87413; and the National Park Service, Southwest Region, Post Office Box 728, Santa Fe, New Mexico 87501.

Reading copies of the documents are available at the following locations: In Albuquerque, New Mexico at the National Park Service's Division of Cultural Research, Southwest Cultural Resurces Center, University of New Mexico; in Aztec, New Mexico at Aztec Ruins National Monument; in Santa Fe, New Mexico in the Public Affairs Office, National Park Service, Southwest Regional Office, 1100 Old Santa Fe Trail; and the Division of Planning and Design, Room 347, Pinon Building, 1220 South St. Francis Drive; in Bloomfield, New Mexico at Chaco Culture National Historical Park, Star Route 4, Box 6500; and in Farmington, New Mexico: at the Farmington Library, 302 North Orchard Avenue.

A Public Meeting is scheduled for November 1, 1984, at the Sheraton Old Town Hotel, 800 Rio Grande Boulevard, N.W., Albuquerque, New Mexico, beginning at 7:00 p.m.

Anyone wishing to provide comments on the draft plans for Chaco Culture National Historical Park are invited to ask questions or submit suggestions or revisions to the plans at the Public Meeting, or, provide written comments to the National Park Service, Southwest Region, Post Office Box 728, Santa Fe, New Mexico 87501, by November 29, 1984.

Dated: September 26, 1984.

Robert I. Kerr,

Regional Director, Southwest Region.

[FR Doc. 84-26474 Filed 10-4-84; 8:45 am]

BILLING CODE 4310-70-M

Availability Draft Land Protection Plan; El Morro National Monument; NM

Pursuant to the National Environmental Policy Act of 1969, Title 40 of the Code of Federal Regulations, Chapter 1 of Title 36 of the Code of Federal Regulations, and the final interpretive rule for Preparation of Land Protection Plans printed in the **Federal Register** on May 11, 1983 (48 FR 21121), the National Park Service has prepared a Draft Land Protection Plan for El Morro National Monument, Cibola County, New Mexico.

The Draft Land Protection Plan addresses the protection of 238.80 acres within the authorized boundaries that have not been acquired. It considers alternate means of protection, establishes priorities, provides for public use and safety and identifies what land or interests in land need to be in Federal ownership in order to achieve management purposes consistent with the intent of the Presidential Proclamation and legislation authorizing the park.

Copies of the Draft Land Protection Plan are available from El Morro National Monument, Ramah, New Mexico 87321; and the Southwest Regional Office, National Park Service, Post Office Box 728, Santa Fe, New Mexico 87501, and will be sent upon request.

Anyone wishing to submit comments on the Draft Land Protection Plan should provide them to the Superintendent, El Morro National Monument, at the address provided above, within 30 days from the publication date of this notice.

Dated: September 24, 1984.

Robert I. Kerr,

Regional Director, Southwest Region.

[FR Doc. 84-26473 Filed 10-4-84; 8:45 am]

BILLING CODE 4310-70-M

Availability Draft Land Protection Plan; Carlsbad Caverns National Park; NM

Pursuant to the National Environmental Policy Act of 1969, Title 40 of the Code of Federal Regulations, Chapter 1 of Title 36 of the Code of Federal Regulations, and the final interpretive rule for Preparation of Land Protection Plans printed in the **Federal**

Register on May 11, 1983 (48 FR 21121), the National Park Service has prepared a Draft Land Protection Plan for Carlsbad Caverns National Park, Eddy County, New Mexico.

The Draft Land Protection Plan addresses the protection of 320 acres within the established boundaries that have not been acquired. It considers alternate means of protection, provides, for public use and safety and identifies what land or interests in land need to be in Federal ownership in order to achieve management purposes consistent with the intent of the Presidential Proclamation and legislation authorizing the park.

Copies of the Draft Land Protection Plan are available from Carlsbad Caverns/Guadalupe Mountains National Parks, 3225 National Parks Highway, Carlsbad, New Mexico, 88220; and the Southwest Regional Office, National Park Service, Post Office Box 728, Santa Fe, New Mexico 87501, and will be sent upon request.

Anyone wishing to submit comments on the Draft Land Protection Plan should provide them to the Superintendent, Carlsbad Caverns/Guadalupe Mountains National Parks, at the address provided above, within 30 days from the publication date of this notice.

Dated: September 24, 1984.

Robert L. Kerr,

Regional Director, Southwest Region.

[FR Doc. 84-26672 Filed 10-4-84; 8:45 am]

BILLING CODE 4310-70-M

Martin Luther King, Jr., National Historic Site and Preservation District Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Commission Act that a meeting of the Martin Luther King, Jr., National Historic Site Advisory Commission will be held at 10:30 a.m. on Tuesday, October 23, 1984, at The Martin Luther King, Jr., Center for Non-Violent Social Change, Inc., Freedom Hall, Room 261, 449 Auburn Avenue, NE., Atlanta, Georgia 30312.

The purpose of the Martin Luther King, Jr., National Historic Site Advisory Commission is to consult with the Secretary of the Interior on matters of planning, development and administration of the Martin Luther King, Jr., National Historic Site. The purpose of this meeting will be to update the Commission on park planning and operations.

The members of the Advisory Commission are as follows:

Mr. William Allison, Chairman
Mr. John H. Calhoun, Jr.
Dr. Elizabeth A. Lyon
Mr. C. Randy Humphrey
Mrs. Christine King Farris
Mr. Handy Johnson, Jr.
Mr. James Patterson
Mrs. Freddye Scarborough Henderson
Mrs. Millicent Dobbs Jordan
Mr. John W. Cox
Reverend Joseph L. Roberts, Jr.
Mrs. Coretta Scott King, Ex-Officio Member
Director, National Park Service, Ex-Officio Member

The meeting will be open to the public; however, facilities and space for accommodating members of the public are limited. Any member of the public may file with the Commission a written statement concerning the matters to be discussed.

Persons wishing further information concerning the meeting or who wish to submit written statements may contact Randolph Scott, Superintendent, Martin Luther King, Jr., National Historic Site, 522 Auburn Avenue, NE., Atlanta, Georgia 30312; Telephone 404/221-5190. Minutes of the meeting will be available approximately 4 weeks after the meeting.

Dated September 26, 1984.

Robert M. Baker,

Regional Director, Southeast Region.

[FR Doc. 84-26673 Filed 10-4-84; 8:45 am]

BILLING CODE 4310-85-M

National Capital Region, Public Affairs; Public Meeting

Correction

In FR Doc. 84-25260 appearing on page 37480 in the issue of Monday, September 24, 1984, make the following correction: In the third column, first line, "December 3" should have read "December 13".

BILLING CODE 1505-01-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-52 (Sub-34X)]

The Atchison, Topeka and Santa Fe Railway Co. and the Gulf and Inter-State Railway Co. of Texas; Abandonment and Discontinuance of Service in Chambers County, TX; Exemption

The Atchison, Topeka and Santa Fe Railway Company (AT&SF) and the Gulf and Inter-State Railway Company of Texas, (G&I) filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments*. The line involved is known as the Silsbee District of the Southern Division, extending from milepost 46.0 to milepost 49.0, a distance of 3.0 miles, near Stowell, in Chambers County, TX. AT&SF will discontinue service and G&I will abandon the line.

AT&SF and G&I have certified (1) that no local traffic has moved over the line for at least 2 years and that any overhead traffic on the line can be rerouted over other lines, and (2) that no formal complaint filed by a user of rail service on the line (or by a State or local governmental entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or has been decided in favor of the complainant within the 2-year period. The Public Service Commission (or equivalent agency) in Texas has been notified in writing at least 10 days prior to the filing of the notice. See *Exemption of Out of Service Rail Lines*, 366 I.C.C. 885 (1983).

As a condition to use of this exemption, any employees affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

The exemption will be effective on November 5, 1984 (unless stayed pending reconsideration). Petitions to stay the effective date of the exemption must be filed by October 15, 1984, and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by October 25, 1984, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission must be sent to AT&SF and G&I's representative: Michael W. Blaszak, 80 East Jackson Boulevard, Chicago, IL 60604.

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio*.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: September 28, 1984.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 84-26476 Filed 10-4-84; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-52 (Sub-35X]

The Atchison, Topeka & Santa Fe Railway Co.; Abandonment in Yavapai County, AZ; Exemption

The Atchison, Topeka and Santa Fe Railway Company (AT&SF) filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments.*

The line to be abandoned is a portion of line known as the Clarkdale District of the Albuquerque Division and extends from milepost 38.13 to milepost 38.57, a distance of 0.44 miles in Yavapai County, AZ.

AT&SF have certified (1) that no local traffic has moved over the line for at least 2 years, and that any overhead traffic on the line can be rerouted over other lines, and (2) that no formal complaint filed by a user of rail service on the line (or by a State or local governmental entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or has been decided in favor of the complainant within the 2-year period. The Public Service Commission (or equivalent agency) in Arizona has been notified in writing at least 10 days prior to the filing of the notice. See *Exemption of Out of Service Rail Lines,* 366 I.C.C. 885 (1983).

As a condition to use of this exemption, any employees affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979).

The exemption will be effective on November 5, 1984 (unless stayed pending reconsideration). Petitions to stay the effective date of the exemption must be filed by October 15, 1984, and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by October 25, 1984, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission must be sent to Santa Fe's representative: Michael W. Blaszak, 80 East Jackson Boulevard, Chicago, IL 60604.

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio.*

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: September 26, 1984.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 84-26477 Filed 10-4-84; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-6 (Sub-206)]

Burlington Northern Railroad Co.; Abandonment in Nemaha County, NE; Findings

The Commission has found that the public convenience and necessity permit the Burlington Northern Railroad Company to abandon a 9.42 mile portion of its line of railroad between milepost 47.70 near Johnson, NE, and milepost 38.28, near Auburn, NE, all in Nemaha County, NE. A certificate will be issued authorizing this abandonment unless within 15 days after this publication the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Louis E. Gitomer, no later than 10 days from publication of this Notice. Any offer previously made must be resubmitted within this 10-day period.

Information and procedures regarding financial assistance for continued rail services are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

James H. Bayne,

Secretary.

[FR Doc. 84-26478 Filed 10-4-84; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-26 (Sub-28X)]

Southern Railway Co.; Abandonment Exemption in Troutman, NC; Exemption

The Southern Railway Company filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments.* The segment of line to be abandoned is between milepost 038.8 and milepost 039.0 +372 feet, in Troutman, NC.

Southern certifies that (1) no local traffic has moved over the line for at least 2 years and overhead traffic is not moved over the line[1] and (2) no formal complaint filed by a user of rail service over the line (or by a State or local entity acting in behalf of such user) regarding cessation of service over the line is either pending with the Commission or has been decided in favor of the complaint within the 2-year period. The North Carolina utilities Commission has been notified in writing at least 10 days prior to the filing of this notice. See *Exemption of Out of Service Rail Lines,* 366 I.C.C. 885 (1983).

As a condition to use of this exemption, any employee affected by the abandonment will be protected pursuant to *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979).

The exemption will be effective on November 4, 1984 (unless stayed pending reconsideration). Petitions to stay the effective date of the exemption must be filed by October 15, 1984, and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by October 25, 1984, with: Office of the Secretary Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Nancy S. Fleischman, Norfolk Southern Corporation, Suite 740, Washington, DC 20036.

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio.*

A notice to the parties will be issued if the exemption is conditioned upon environmental or public use conditions.

Decided: September 27, 1984.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 84-26475 Filed 10-4-84; 8:45 am]

BILLING CODE 7035-01-M

[1] Southern indicates that no traffic has originated or terminated on this line segment for the past 20 years. This segment of track is not used to provide rail service. Its primary use is for switching, for which other arrangements have been made.

DEPARTMENT OF JUSTICE

Office of the Attorney General

[Order No. 1070-84]

President's Commission on Organized Crime; Meetings

AGENCY: Department of Justice.

ACTION: Notice.

SUMMARY: This notice announces five forthcoming meetings of the President's Commission on Organized Crime. This notice also sets forth a summary of the agenda for the five meetings, together with an explanation of why the first two

meetings will be closed to the public. Notice of these meetings is required by the Federal Advisory Committee Act, 5 U.S.C. App. I, section 10(a)(2).

DATES:

October 22, 1984, 11:00 a.m. to 12:30 p.m. (closed meeting).
October 22, 1984, 2:00 p.m. to 5:00 p.m. (closed meeting).
October 23, 1984, 10:00 a.m. to 1:30 p.m. (public hearing).
October 24, 1984, 10:00 a.m. to 1:30 p.m. (public hearing).
October 25, 1984, 10:00 a.m. to 1:30 p.m. (public hearing).

ADDRESSES: Room 317, United States Courthouse, Foley Square, New York, New York 10007 (October 22, morning closed meeting); the Conference Room, Federal Hall, 26 Wall Street, New York, New York 10005 (October 22, afternoon closed meeting); the Rotunda, Federal Hall, 26 Wall Street, New York, New York 10005 (October 23, 24, and 25, public hearings).

FOR FURTHER INFORMATION CONTACT: James D. Harmon, Jr., Executive Director and Chief Counsel, President's Commission on Organized Crime, 1425 K Street NW., Suite 700, Washington, D.C. 20005; (202) 786–3515.

SUPPLEMENTARY INFORMATION: The first closed meeting on October 22 will be conducted to permit certain members of the Commission to be briefed concerning procedures for the handling and storage of classified and sensitive information by the Commission and its staff. Pursuant to the authority vested in him by section 8 of Pub. L. 98–368, the Chairman of the Commission has determined that this briefing is exempted from the public hearing requirements of the Federal Advisory Committee Act by 5 U.S.C. 552b(c)(1), which is incorporated by reference into the Federal Advisory Committee Act.

The second closed meeting on October 22 will be conducted to discuss several matters. The Commission will be briefed concerning the investigation by the Commission staff of the organized criminal groups whose illegal activities are to be described at the public hearings. This briefing is likely to include repeated references to specific individuals who are confidential sources for the Commission, or who are alleged to be direct participants in illegal activities but whose participation will not specifically be discussed by witnesses at the public hearing. The physical safety of these individuals could be placed in jeopardy if the identities of the witnesses and the time and place of their testimony were to be made public in advance of the public hearings. Pursuant to the authority vested in him by section 8 of Pub. L. 98–368, the Chairman of the Commission has determined that these discussions are exempted from the public meeting requirements of the Federal Advisory Committee Act by 5 U.S.C. 552b(c) (5) and (7) (C), (D), and (F), which is incorporated by reference into the Federal Advisory Committee Act.

The Commission will also discuss a number of issues specifically concerning the Commission's issuance of subpoenas. It will discuss, for example, issues relating to certain individuals who have already been, or may be, served with subpoenas by the Commission, and who are to testify in depositions conducted by the staff of the Commission or in public hearings conducted by the Commission. Pursuant to the authority vested in him by section 8 of Pub. L. 98–368, the Chairman of the Commission has determined that this discussion is exempted from the public meeting requirements of the Federal Advisory Committee Act by 5 U.S.C. 552b(c)(10), which is incorporated by reference into the Federal Advisory Committee Act.

The October 23, 24, and 25 meetings, which are open to the public and press, are for the purpose of receiving testimony concerning the activities conducted by organized criminal groups of Asian origin in the United States operating as part of networks extending to Asia and Europe. The Commission will solicit testimony concerning the scope of activities of such groups, the manner in which their operations are conducted, and the effectiveness of Federal and state statutes and agencies in dealing with such groups. In particular, the Commission will solicit testimony from Federal, state, and local prosecutors and investigators and from private citizens concerning the origins and historical background of these groups, the impact that such groups have had on local communities throughout the United States and on the U.S. economy as a whole, and the experience of U.S. and foreign law enforcement authorities in seeking to reduce that impact and to counteract the growing influence of such groups. Members of the public who wish to present written statements to the Commission are invited to send such statements to the President's Commission on Organized Crime, 1425 K Street NW., Suite 700, Washington, D.C. 20005.

Dated: October 2, 1984.

William French Smith,

Attorney General.

[FR Doc. 84–26557 Filed 10–4–84; 8:45 am]

BILLING CODE 4410–01–M

Bureau of Prisons

National Institute of Corrections Advisory Board; Meeting

Notice is hereby given that the National Institute of Corrections Advisory Board will meet on October 22, 1984, starting at 8:30 a.m., at the Sheraton National Hotel, Columbia Pike and Washington Blvd., Arlington, Virginia, 22204. At this meeting (one of the regularly scheduled triannual meetings of the Advisory Board), the Board will receive its subcommittees' reports and recommendations as to future thrusts of the Institute.

Raymond C. Brown,

Director.

[FR Doc. 84–26465 Filed 10–4–84; 8:45 am]

BILLING CODE 4410–05–M

DEPARTMENT OF LABOR

Office of the Assistant Secretary for Veterans Employment and Training

Solicitation for Grant Application; Job Training Partnership Act, Title IV, Part C, Program Year 1984

AGENCY: Office of the Assistant Secretary for Veterans Employment and Training, Labor.

ACTION: Notice.

SUMMARY: This notice sets forth the procedures and schedule for the Solicitation for Grant Application (SGA) for the operation of employment and training programs to meet the employment and training needs of Hispanic, Black and other minority veterans in accordance with Title IV, Part C of the Job Training Partnership Act (JTPA).

DATE: The SGA will be available for issuance to interested applicants on or about October 15, 1984.

The closing date for receipt of grant applications in response to the SGA is November 13, 1984, by no later than 4:30 p.m., prevailing Washington, D.C. time.

ADDRESS: A copy of the SGA may be obtained by written request only, including two self-addressed mailing labels, to the following address: U.S. Department of Labor, Office of Procurement Services, Frances Perkins Building, Room S–5526, 200 Constitution Avenue NW., Washington, D.C. 20210, RE: SGA–IV–Minority.

FOR FURTHER INFORMATION CONTACT: Ms. Particia Challenger, Office of Procurement Services at the above address. Telephone (202) 523–6246.

SUPPLEMENTARY INFORMATION: The Office of the Assistant Secretary for Veterans' Employment and Training, Department of Labor, announces the availability of $750,000.00 to implement programs to meet the employment and training needs of minority veterans who are service-connected disabled veterans, veterans of the Vietnam era, and veterans who are recently separated from military service under Title IV, Part C, of JTPA.

Applications for funds under this SGA will be accepted from public agencies, community-based organizations, units of local and state government, private for profit and non-profit organizations that possess the requisite understanding and capabilities to conduct an effective program for targeted minority veterans.

The SGA contains proposed funding levels for grant awards up to $375,000.00 each for projects in the following categories:

1. Employment and Training Program(s) to meet the employment and training needs to Hispanic Veterans who are Vietnam era, service-connected disabled or recently separated from military service veterans.

2. Employment and Training Program(s) to meet the employment and training needs of Black and other minority veterans who are Vietnam era, service-connected disabled or recently separated from military service veterans.

Applications must be received by the Office of Procurement Services, Room S–5526, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, D.C. 20210 not later than 4:30 p.m., prevailing Washington, D.C. time on November 13, 1984.

Award of funds will be made through a competitive discretionary process utilizing the criteria for award specified in the solicitation. It is anticipated that grant awards will be made on or about December 1, 1984.

Signed at Washington, D.C., this 2nd day of October 1984.

Donald E. Shasteen,

Deputy Assistant Secretary for Veterans' Employment and Training.

[FR Doc. 84–26532 Filed 10–4–84; 8:45 am]

BILLING CODE 4510–79–M

Employment and Training Administrative

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 15, 1984.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 15, 1984.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213.

Signed at Washington, D.C. this 28th day of September 1984.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (Union/workers or former workers of)—	Location	Date received	Date of petition	Petition No.	Articles produced
Cannon Shoe Company-Hagerstown Shoe Co. Div. (workers).	Hagerstown, MD	9/27/84	9/24/84	TA–W–15,473	Shoes, dress, men's.
Duolite International Inc. (workers)	Redwood City, CA	9/18/84	9/6/84	TA–W–15,474	Ion exchange resins.
Eaton Corp (workers)	Shelbyville, TN	9/27/84	9/20/84	TA–W–15,475	Transmissions, heavy, truck.
Fishing Vessel "Meriuccius" (Co.)	Fort Bragg, CA	9/28/84	9/20/84	TA–W–15,476	Rock cod, dover trawnfishing, catching and selling.
Joseph M. Herman Shoe Co. (workers)	Pittsfield, ME	9/24/84	9/20/84	TA–W–15,477	Shoes—work.
Miller, Hess & Co., Inc. (workers)	Akron, PA	9/17/84	9/7/84	TA–W–15,478	Shoes—Women's sport & casual.
National Dress Co. (ILGWU)	Belleville, NJ	9/27/84	9/24/84	TA–W–15,479	Dress, blouses—ladies.
Phelps—Dodge Corp., New Cornelia Branch (workers)	Ajo, AZ	9/18/84	9/14/84	TA–W–15,480	Copper ore—mining & processing.
(The) Selmer Co. (UAW)	Elkhart, IN	8/22/84	8/15/84	TA–W–15,481	Clarinets and flutes.
Seneca Foundry, Inc. (workers)	Webster City, IA	9/24/84	9/20/84	TA–W–15,482	Castings, iron, grey.
Stokes Molded Products (URW)	Trenton, NJ	9/21/84	9/10/84	TA–W–15,483	Cases, battery, rubber, hard, extrusion, plastic.
Tanglewood Manufacturing (workers)	Lakeland, GA	9/21/84	9/14/84	TA–W–15,484	Outerwear, winter, heavy, men's & ladies'.

[FR Doc. 84–25531 Filed 10–4–84; 8:45 am]

BILLING CODE 4510–30–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Combined Subcommittees on GESSAR II/Reliability and Probabilistic Assessment; Meeting

The ACRS Subcommittees on GESSAR II/Reliability and Probabilistic Assessment will hold a combined meeting on October 18 and 19, 1984, at the Holiday Inn-Airport, 9901 La Cienega Blvd., Los Angeles, CA.

The meeting will be open to public attendance except those portions that may be closed to discuss proprietary information regarding the General Electric Standard Safety Analysis Report.

The agenda for the subject meeting shall be as follows:

Thursday, October 18, 1984—8:30 a.m. until the conclusion of business

Friday, October 19, 1984—8:30 a.m. until the conclusion of business

This will be the first in a series of meetings to review the General Electric

Standard Safety Analysis Report to extend the Final Design Approval so that it will be applicable to future plants. The discussions on the first day will focus on deterministic standard review plan type issues. The discussions on the second day will focus on the GESSAR II treatment of severe accidents and the Probabilistic Risk Assessment performed in connection with the GESSAR II design. The PRA treatment of internal events will be considered.

Oral statements may be presented by members of the public with concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the General Electric Company, NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Richard Major (telephone 202/634–1413) between 8:15 a.m. and 5:00 p.m., EDT. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: October 2, 1984.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 84-26022 Filed 10-4-84; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-261]

Carolina Power & Light Co.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendment to Facility Operating License No. DPR–23, issued to Carolina Power and Light Company (the licensee), for operation of the H. B. Robinson Steam Electric Plant Unit No. 2 located in Darlington County, South Carolina.

The amendment would modify the technical specifications to:

A. Allow additional control rod evolutions as follows: (1) Rod drive mechanism timing test, (2) control rod exercise, and (3) positioning of control rods associated with the control bank to <5 steps withdrawn. The additional evolutions could be made while the containment integrity is not intact but only while maintaining a shutdown margin of >1% Δ k/k. This shutdown margin is required in the current Technical Specification. The control rod evolutions requested to be added to the Technical specification is in addition to the rod drop tests currently allowed in Technical specification 3.6.1.c.

B. Correct editorials and errors in TS 3.6.2 and 3.6.3 changing pressure units from "psi" to "psig" and in the basis for TS 3.6 removing the statements "under any circumstances" and "in any occurrence."

These revisions to the technical specifications would be made in response to the licensee's application for amendment dated August 1, 1984.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870). Examples of actions likely to involve no significant hazards considerations are:

(i) A purely administrative change to technical specifications: For example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature.

(vi) A change which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in same way a safety margin, but where the results change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan.

Change A—Control Rod Drive Tests

Although the abnormal rod configurations during these tests may result in some small increase to the probability of a previously analyzed accident (i.e. a boron dilution transient), they will not cause an unsafe situation because of the requirement in the Technical Specification to maintain the reactor >1% Δ k/k shutdown margin when containment integrity is not established.

Limiting transients resulting from these control rod evolutions have been analyzed in the unpdated Final Safety Analysis Report (FSAR) and in the Plant Transient Analysis for H. B. Robinson Unit 2 at 2300 Mwt with Increased $F^N_{\Delta H}$, XN–NF–84–74. The purpose of containment integrity is to prevent the release of radioactivity in the unlikely event of an accident. In cold shutdown, the transient of concern is a boron dilution event. The >1% Δ k/k shutdown requirement allows sufficient time to identify this transient prior to going critical with rods withdrawn as allowed by this specification.

Based on the above review this change maintains the Current Technical Specification limit of >1% Δ k/k and thus is clearly within all acceptable criteria and is similar to example (vi) above. On this basis, the staff proposes to determine that this amendment involves no significant hazards considerations.

Change B—Editorial Corrections and Errors

These changes correct an error (psi to psig) and delete editorial phrases in the TS basis.

This change matches example (i) above. On this basis, the staff proposes to determine that this amendment involves no significant hazards considerations.

Therefore, based on these considerations and the three criteria given above, the Commission has made a proposed determination that the amendment request involves no significant hazards considerations.

The Commission is seeking public comments on this proposed determination of no significant hazards considerations.

The Commission has determined that failure to act in a timely way would result in extending the licensee's shutdown for steam generator repair and core reload. The licensee's startup is several months ahead of schedule.

Therefore, the Commission has insufficient time to issue its usual 30-day notice of the proposed action for public comment.

If the proposed determination becomes final, an opportunity for a hearing will be published in the **Federal Register** at a later date and any hearing request will not delay the effective date of the amendment.

If the Commission decides in its final determination that the amendment does involve a significant hazards consideration, a notice of opportunity for a prior hearing will be published in the **Federal Register** and, if a hearing is granted, it will be held before any amendment is issued.

The Commission is seeking public comments on this proposed determination of no significant hazards considerations. Comments on the proposed determination may be telephoned to Steven A. Varga, Chief of Operating Reactors Branch No. 1, by collect call to 301-492-8035 or submitted in writing to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch. All comments received by October 17, 1984 will be considered in reaching a final determination. A copy of the application may be examined at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29535.

Dated at Bethesda, Maryland, this 28th day of September, 1984.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 28823 Filed 10-4-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-409]

Dairyland Power Cooperative (La Crosse Boiling Water Reactor); Exemption

I

Dairyland Power Cooperative (DPC) (the licensee) is the holder of Provisional Operating License No. DPR-45 which authorizes operation of the La Crosse Boiling Water Reactor (LACBWR). This provides, among other things, that it is subject to all rules, regulations and orders of the Commission now or hereafter in effect. The facility is a boiling water reactor rated at 165 megawatts (thermal) and is located at the licensee's site located in Vernon County, Wisconsin.

II

Section 50.54(o) of 10 CFR Part 50 requires that primary reactor containments for water cooled power reactors be subject to the requirements of Appendix J to 10 CFR part 50. Appendix J contains the leakage test requirements, schedules, and acceptance criteria for tests of the leak-tight integrity of the primary reactor containment and systems and components which penetrate the containment. Appendix J was published on February 14, 1973 and in August 1975, each licensee was requested to review the extent to which its facility met the requirements.

Appendix J requires that full-pressure tests of airlocks be performed every six months and if airlock doors are opened during periods when containment integrity is required, that airlocks shall be tested within three days of being opened or once every three days, during periods of frequent openings.

By letters dated September 9, 1975, December 21, 1976, and September 26, 1980, Dairyland Power Cooperative stated the differences between the ongoing airlock leakage test program at La Crosse and the Appendix J requirements. The September 26, 1980 submittal requested an exemption from 10 CFR Part 50, Appendix J. By letter dated August 24, 1982, the NRC staff deferred the resolution of the airlock issue to the ongoing Systematic Evaluation Program (SEP). The La Crosse plant has two airlocks; a personnel airlock and a smaller emergency airlock. The SEP addressed the airlock issue in NUREG-0827, Integrated Plant Safety Assessment for the La Crosse Boiling Water Reactor, issued in June 1983. Section 4.22 of NUREG-0827 states:

The licensee's request to continue to test containment airlocks every 4 months does not satisfy the requirements of Appendix J to 10 CFR Part 50. A reduced pressure test of airlock door seals or other positive means to verify the integrity of the seals within 72 hours of opening or every 72 hours during periods of frequent openings is necessary to satisfy the testing requirements of Appendix J.

In the approximately 15 years that the La Crosse containment airlock door seals have been tested (every 4 months), the tests have not detected a failed door seal caused by seal degradation or damage resulting from airlock use. The failures that have occurred were due to improper testing or damage which resulted from the test* * *.

Each airlock door has a single seal. The volume of the airlock is such that even a low-pressure test would require approximately 24 hours so that meaningful results could be obtained. In view of the favorable testing experience, the staff concludes that a modification to provide the capability to perform a leakage test every 72 hours is not warranted.

The licensee has proposed, in a letter dated June 2, 1983, to perform a visual inspection of all airlock door seals within 72 hours of each opening, but not more than every 72 hours, and to replace seals periodically in accordance with the manufacturer's recommendations. The visual inspections will begin in August 1983. The Technical Specification changes are scheduled to be submitted by January 1984. The staff finds this acceptable.

The above discussion relates to the personnel airlock, but is also applicable to the emergency airlock. The emergency airlock is slightly smaller, but still requires about 16 hours to complete a meaningful leak test. The licensee submitted the required Technical Specification amendment request on December 19, 1983. The license amendment will be implemented separately from this exemption.

Subsequently, on July 15, 1983, during a leakage test the inner door gasket of the personnel airlock came out of its seat. During these tests the inner door gasket is most prone to failure, since the test pressure is applied from the opposite direction than the door is designed to seal against. Strongbacks are installed on the containment side of the inner door to help hold it shut against the gasket. In Reportable Occurrence 83-06, dated August 10, 1983, the licensee concluded that the failure was due either to aging of the gasket or to inadequate tigthening of the strongbacks on the inner door. The NRC staff has reviewed this occurrence and concludes that since the door gaskets have been placed on a periodic replacement schedule, this event does not alter the staff's conclusion made in NUREG-0827.

Therefore, since (1) full pressure tests are performed more frequently than

required by Appendix J, (2) visual inspections will be performed every three days, (3) the door seals will be replaced periodically, and (4) past testing history indicates adequate performance of door seals; the staff concludes that the licensee's alternative actions will provide reasonable assurance that airlock leakage will not exceed acceptable levels.

Additionally, a limited probabilistic risk analysis was done as part of the Systematic Evaluation Program (SEP) (NUREG–0827, Appendix D) which concluded that airlock testing was of low significance since the probability of excessive leakage through the airlock is small in comparison to the overall, probability of excessive containment leakage.

III

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest. Therefore, the Commission hereby approves the following exemption:

Exemption is granted from the requirements of Appendix J Section III.D.2.b.iii provided that;

(a) Leakage test of containment airlocks ar performed every four (4) months,

(b) Door seals on containment airlocks are visually inspected for degradation after each opening but not required more often than once every 72 hours, and

(c) Door seals on containment personnel and emergency airlocks are replaced periodically in accordance with manufacturer's recommendations.

Pursuant to 10 CFR 51.32, the Commission has determined that the issuance of the exemption will have no significant impact on the environment (August 24, 1984, 49 FR 33766).

Dated at Bethesda, Maryland, this 27th day of September 1984.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 84-26525 Filed 10-4-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-344 (SFP Amendment) (ASLBP No. 84-496-05 LA)]

Portland General Electric Co. et al. (Trojan Nuclear Power Plant); Hearing

September 28, 1984.

Before administrative judges: Helen F. Hoyt, Chairperson, Dr. Peter A. Morris, Dr. Oscar H. Paris.

1. In a "Memorandum and Order Following Prehearing Conference" issued June 25, 1984 (unpublished) we ruled that the evidentiary hearing on the Operating License Amendment to allow expansion of the spent fuel pool of the Trojan Nuclear Power Plant pursuant to 10 CFR 2.104(a) and 2.105(a)(4)(i) would commence at 9:00 a.m. on October 10, 1984, in Portland, Oregon. Please be advised that the hearing will be held at the Masonic Temple, 1119 SW. Park Avenue, at Park Avenue and Main Street, in the "Commandry" on the 2nd floor. All parties or their counsel are directed to attend and participate.

2. The Public is invited to attend and observe. Pursuant to 10 CFR 2.715(a) persons who are not parties to the proceeding will be provided an opportunity to make a limited appearance by presenting a brief oral or written statement. Oral statements will be heard at such time as will be announced by the Board at the beginning of the hearing. Written statements will be received by the Board until the record is closed and may be mailed directly to the Board at: Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

3. The Board will provide another opportunity for limited appearances at a later time, if any person who wishes to appear in person is unable to do so during the week of October 10, 1984. Such person should petition for the hearing to be reconvened for the purpose of receiving additional oral limited appearance statements. That petition must show that insufficient notice made it impossible for the petitioner to make a statement during the week of October 10, 1984 and must be filed prior to November 1, 1984. A person who is not a party to the proceeding may make only one limited appearance statement.

It is so ordered.

Bethesda, Maryland.

For the Atomic Safety and Licensing Board.

Oscar H. Paris,

Administrative Judge.

[FR Doc. 84-26534 Filed 10-4-84; 8:45 am]

BILLING CODE 7590-01-M

PENSION BENEFIT GUARANTY CORPORATION

Public Information Collection Request Submitted for OMB Review

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of information request submitted for OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act and its implementing regulations, agencies are required to submit information requests to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public of such a submission. The effect of this notice is to advise the public that the PBGC has requested OMB approval of the collection of information from multiemployer pension plan sponsors adopting plan amendments that are subject to section 4220 of the Employee Retirement Income Security Act of 1974, as amended.

ADDRESSES: All written comments should be addressed to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for the Pension Benefit Guaranty Corporaton, 3208 New Executive Office Building, Washington, D.C. 20503. The proposed information request will be available for public inspection at the PBGC Communications and Public Affairs Department, Suite 7100, 2020 K Street, NW, Washington, D.C. 20006, between the hours of 9:00 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: John Carter Foster, Multiemployer Regulations Group, Corporate Policy and Regulations Department (611), 2020 K Street, NW, Washington, D.C. 20006; (202) 254–4860. [This is not a toll-free number.]

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1980, codified at Chapter 35 of Title 44 of the United States Code, establishes policies and procedures for controlling paperwork burdens imposed by federal agencies on the public. The Act vests the Office of Management and Budget ("OMB") with regulatory responsibility over these burdens, and that agency has promulgated rules on the clearance of information collections. These rules are found at 5 CFR Part 1320. These rules require the publication in the **Federal Register** of this notice that the Pension Benefit Guaranty Corporation ("PBGC") is seeking clearance of the information request described below.

The PBGC seeks approval by OMB of the information requests contained in a rule that prescribes the procedures to be used by multiemployer plan sponsors submitting plan amendments to the PBGC under section 4220 of the Employee Retirement Income Security Act of 1974, as amended. This rule is designated, "Procedures for PBGC Approval of Plan Amendments" and, when issued, will be located at 29 CFR Part 2677.

Issued at Washington, D.C. on this 27th day of September 1984.

C.C. Tharp,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 84-26468 Filed 10-4-84; 8:45 am]

BILLING CODE 7708-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 14180; (812-5815)]

Hiram Walker Commercial Paper, Inc., Filing of Application for an Order Exempting Applicant

October 2, 1984.

Notice is hereby given that Hiram Walker Commercial Paper, Inc. ("Applicant"), 1201 Pennsylvania Avenue, NW., Post Office Box 7566, Washington, D.C. 20044, a Delware corporation, filed an application on April 3, 1984, and an amendment thereto on September 10, 1984, for an order of the Commission pursuant to section 6(c) of the Investment Company Act of 1940 ("Act"), exempting Applicant from all provisions of the Act. All interested persons are referred to the applicant file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of those provisions of the Act relevant to the application.

Applicant states that its sole business will consist of issuing and selling Applicant's commercial paper notes ("commercial paper notes") and other debt securities and advancing the net proceeds of sales thereof to Hiram Walker Resources Ltd., a corporation organized under the laws of the Province of Ontario, Canada (the "Borrower"), and certain of its direct and indirect subsidiary corporation in the United States. According to Applicant, substantially all its assets will consist of promissory notes issued to Applicant by the Borrower or its subsidiaries ("loan notes") evidencing the obligations of the Borrower or its subsidaries to repay to Applicant indebtedness of the Borrower or its subsidiaries arising by reason of advances made to the Borrower or its subsidiaries by Applicant from the net proceeds of sales of the commercial paper notes or from the proceeds of borrowings (the "Borrowings") made by Applicant from the Atlanta Agency (the "Agency") of The Toronto-Dominion Bank (the "Bank"). Payment of amounts owned by Applicant in respect of each commercial paper note will be supported by an irrevocable letter of credit to be issued by the Agency of the Bank in favor of the holders of such commercial paper notes or in favor of the bank or trust company named as depository.

Applicant represents that none of its outstanding common stock is, or in the future will be, owned by the Bank or by the Borrower, or by any affiliate of either of them. Applicant further represents that there has been, and undertakes that in the future there will be, no public offerings of Applicant's common stock or of any other equity security of Applicant.

Applicant states that the Borrower is one of the largest corporations in Canada, engaged primarily in the distilled spirits, natural resources and gas distribution business. Applicant states that the Bank, the fifth largest bank in Canada as ranked by deposits at October 31, 1983, provides a wide range of financial services to businesses, governments, financial institutions and individuals. Applicant states that the Agency is licensed under and regulated by the Financial Institutions Code of Georgia (the "Georgia Code") as an international banking corporation.

Applicant asserts that its commercial paper notes will be exempt from the registration requirements of the Securities Act of 1933 (the "Securities Act") by virtue of section 3(a)(2) or 3(a)(3) thereof. Applicant states that the commercial paper notes will be sold in minimum denominations of $100,000 (U.S.), will have a maturity not exceeding 270 days, and will neither be payable on demand prior to maturity nor eligible for any extension, renewal, or automatic "rollover" at the option of either the holder or Applicant. Applicant undertakes not to market any commercial papernotes prior to receiving an opinion of counsel to the effect that the proposed offering on commercial paper is exempt from the registration requirements of the Securities Act by virtue of sections 3(a)(2) or 3(a)(3) thereof. Applicant further undertakes that, in respect of any future offerings of Applicant's debt securities other than the commercial paper notes, it will comply with, or rely upon the availability of an exemption from the registration requirements of the Securities Act.

According to Applicant, the commercial paper notes will be offered through one or more major dealers, only to the types of sophisticated and largely institutional investors that ordinarily participate in the commercial paper market. Applicant states that while an announcement of the establishment of the commercial paper facility may be made as a matter of record, the offering will not be advertised. Applicant undertakes to insure that each dealer in the commercial paper notes will furnish to each offeree, memoranda describing the businesses of the Bank, Applicant and the Borrower and providing the most recent annual finanical information for the Bank and the Borrower, together with a description of the material differences between the Canadian accounting principles utilized in the preparation of the financial statements of the Bank and generally accepted accounting principles as applied in the United States. Applicant represents that the memoranda prepared by each dealer will be updated as promptly as practicable to reflect material adverse changes in the financial status of the Applicant, the Borrower or the Bank and will be at least as comprehensive as memoranda customarily used in offering commercial paper in the United States.

Applicant represents that the commercial paper notes will be supported by a master leter of credit in the full amount payable under all of the commercial paper notes and the Agency will be required to provide funds to the depository in an amount sufficient to satisfy the Agency's obligations under the letter of credit. Applicant further represents that any other debt securities it issues will also be supported by an irrevocable letter of credit or unconditional guarantee of a bank or other financial institution the unsecured senior debt securities of which have the highest investment grade rating of a nationally recognized statistical rating organization. In addition, Applicant represents that, prior to their issuance, the commercial paper notes and any other debt securities issued by Applicant will have received one of the three highest investment grade ratings from at least two nationally recognized statistical rating organizations, and counsel to Applicant will have certified that the ratings were received. However, no such support or rating will be required to be obtained with respect to an issue of Applicant's debt securities other than commercial paper notes if, in the opinion of counsel, an exemption is available for the issue pursuant to subsection 4(2) of the Securities Act.

Applicant states that it will enter into a credit agreement ("credit agreement") pursuant to which Applicant will agree to make advances to the Borrower or its subsidiaries solely from the net proceeds of the sale of the commercial paper notes or from the net proceeds of the Borrowings from the Agency. Applicant further states that the Borrower will use the proceeds of the advances for the repayment of indebtness or for other general corporate purposes.

According to the application, the Borrower or its subsidiary will agree to repay Applicant on the maturity date of each advance made to the Borrower or its subsidiary the principal amount thereof, together with interest thereon payable from time to time in an amount sufficient to enable the Applicant to meet it obligations to the Agency and to satisfy its other liabilities in connection with the transactions. Applicant states that each advance made to the Borrower or its subsidiary by Applicant pursuant to the credit agreement will be evidenced by a loan note issued by the Borrower or subsidiary. Each advance will mature on or after the fifth anniversary of the advance and, other than in the event of default under the credit agreement, no mandatory prepayment of any advance will be required, although the Borrower or its subsidiary may elect to prepay an advance in whole or in part.

Applicant states it will be required, pursuant to a pledge and security agreement, to assign and pledge to the Bank acting through the Agency, for its own benefit and for the ratable benefit of the depository and the holders from time to time of the commercial paper notes, all of Applicant's right, title and interest in the repayment obligations of the Borrower and its subsidiaries in respect of the advances. Furthermore, it is represented that during any fiscal year of Applicant, the average daily aggregate principal amount of Applicant's assets, exclusive of any such assets which consist of notes or other obligations of the Borrower or its subsidiaries, will not exceed ten percent of the average daily balance of the aggregate principal face amount of the commercial paper notes, Borrowings and other debt securities outstanding during such fiscal year.

In support of the requested relief, Applicant states that approval of the application is necessary or appropriate in the public interest. Applicant states that the Borrower and its subsidaries would be permitted to directly issue and sell debt securities in the United States without registering under the Act as an investment company. According to the application, although the Borrower and its subsidaries would itself be permitted to directly issue commercial paper in public offerings in the United States without compliance with the Act's registration provisions, under current Canadian law interest due on commercial paper issued by the Borrower in the United States would be subject to a fifteen percent Canadian non-resident withholding tax, and, accordingly, would not be competitive with commercial paper offered in the United States by other issuers. Applicant states that Applicant, the Borrower and the Bank believe that the Borrower's financing objectives can, however, be fulfilled by the establishment of a program whereby a company, such as Applicant, issues commercial paper and advances the proceeds to the Borrower and its subsidiaries. Applicant further states that such a program would enable the Borrower and its subsidiaries to expeditiously gain access to the attractive rates available in the commercial paper market and provide the Borrower and its subsidiaries with an efficient and reliable source of United States dollars without the imposition of the Canadian non-resident withholding tax of fifteen percent, and that prior to the commencement of the program, both Canadian counsel to the Borrower and the Canadian tax authorities will have confirmed the availability of an exemption from the Canadian non-resident withholding tax for financing facility of the type to be established by Applicant.

Applicant also submits that approval of the application would be consistent with the protection of investors. Applicant asserts that its limited business purpose and its obligation to invest only in the loan notes, none of which will be an obligation of an investment company, as well as the irrevocable support of the commercial paper notes by the letter of credit to be issued by the Agency, obviate the need for the regulatory safeguards povided by the Act. Applicant further asserts that the holders of Applicant's commercial paper notes do not require the protections accorded investors under the Act. Applicant states that the letter of credit of the Agency supporting the repayment of the commercial paper notes will be an obligation of the Bank, whose commercial paper notes are currently rated in the highest investment category by Moody's Investors Service, Inc., and by Standard & Poor's Corporation. Applicant also asserts that the characteristics of the commercial paper notes themselves limit the possible exposure of investors. Finally, Applicant contends that the exemption sought in the application would be consistent with the purposes fairly intended by the policy and provision of the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than October 26, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-26527 Filed 10-4-84; 8:45 a.m]

BILLING CODE 8010-01-M

[Release No. 21365; File No. ODD-84-1]

Trans Canada Options Inc. et al.; the Risks and Uses of Listed Canadian Options

October 2, 1984.

In the matter of Trans Canada Options Inc., The Exchange Tower, 2 First Canadian Place, Toronto, Canada M5X 1J2; The Toronto Stock Exchange, The Exchange Tower, 2 First Canadian Place, Toronto, Canada M5X J2; The Montreal Exchange, 800 Victoria Square, Montreal, Quebec, Canada H4Z 1A9; Vancouver Stock Exchange, 609 Granville Street, Vancouver, British Columbia, Canada V7Y 1H1.

On July 13, 1984, Trans Canada Options Inc. ("TCO") the Toronto, Montreal, and Vancouver Stock Exchanges ("Exchanges") submitted preliminary copies of an options disclosure document to the Commission pursuant to Rule 9b-1 of the Securities Exchange Act of 1934 ("Act"). The disclosure document discusses the risks and uses of Canadian exchange-traded put and call options available to United States investors. On September 10, 1984, the Exchanges and TCO filed five copies of Amendment No. 1 to the disclosure document.

Rule 9b-1 provides that an options market must file five preliminary copies of an options disclosure document with the Commission at least 60 days prior to the date definitive copies are furnished to customers unless the Commission determines otherwise having due regard to the adequacy of the information disclosed and the protection of investors. This provision is intended to permit the Commission either to accelerate or extend the time period before definitive copies of a disclosure

document may be distributed to the public.

The Commission has reviewed the disclosure document, and finds that it is consistent with the protection of investors and in the public interest to allow the distribution of the disclosure document as of the date of this order.[1]

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-25528 Filed 10-4-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-21360; File No. SR-CBOE-84-26]

Self-Regulatory Organization; Proposed Rule Change; Chicago Board Options Exchange, Inc.; Relating to Simplified Arbitration

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on August 15, 1984 the Chicago Board Options Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Text of the Proposed Rule Change

Additions are italicized; deletions are bracketed.

Simplified Arbitration

Rule 18.4 (a) Any dispute, claim or controversy, arising between a public customer(s) and an associated person or a member subject to arbitration under this Code involving a dollar amount not exceeding **[**$2,500.00**]** *$5,000*, exclusive of attendant costs and interest, shall upon demand of the customer(s) or by written consent of the parties, be arbitrated as hereinafter provided.

(b) No change.

[(c) The claimant shall pay the sum of $15.00 upon filing of the Submission Agreement. The final disposition of this sum shall be determined by the arbitrator.**]**

[1] Rule 9b-1 provides that the use of an options disclosure document shall not be permitted unless the options class to which the document relates is the subject of an effective registration statement on Form S-20 under the Securities Act of 1963. On July 24, 1984, the Commission, pursuant to delegated authority, declared effective TCO's Form S-20 registration statement covering the options described in the Listed Canadian Options Disclosure Document. *See* File No. 2-89458.

[(d)**]** *(c)* The claimant shall pay the sum of $15.00 upon filing of the Submission Agreement *if the amount in controversy is $1,000 or less, $25.00 if the amount in controversy is more than $1,000, but $2,500 or less, or $100.00 if the amount in controversy is more than $2,500 but does not exceed $5,000.* The final disposition of this sum shall be determined by the arbitrator. The Director of Arbitration shall endeavor to serve promptly, by mail or otherwise, on the Respondent(s) one (1) copy of the Submission Agreement and one (1) copy of the Statement of Claim. The Respondent(s) shall, within twenty (20) calendar days from receipt of service, file with the Director of Arbitration one (1) executed Submission Agreement and one (1) copy of the Respondent's answer, together with supporting documents. The Answer shall designate all available defenses to the Claim and may set forth any related Counterclaim and/or related Third Party Claim the Respondent(s) may have against the Claimant or any other person. If the Respondent(s) has interposed a Third Party Claim, the Director of Arbitration shall endeavor to serve promptly by mail or otherwise a copy of same, together with a copy of the Submission Agreement on such Third Party who shall respond in the manner herein provided for response to the Claim. If the Respondent(s) files a related Counterclaim exceeding **[**$2,500.00**]** *$5,000*, the arbitrator may refer the claim, counterclaim and/or Third Party Claim, if any, to a panel of three (3) or five (5) arbitrators in accordance with § 18.10 of this Code, or, he may dismiss the Counterclaim and/or Third Party Claim, without prejudice to the Counterclaimant(s) and/or Third Party Claimant(s) pursuing the Counterclaim and/or Third Party Claim in a separate proceeding.

Time Limitation Upon Submission

Rule 18.6 No dispute, claim or controversy shall be eligible for submission to arbitration under this Code where six (6) year shall have elapsed from the occurrence or event giving rise to the act or the dispute, claim or controversy. This section shall not extend applicable statutes of limitation, *nor shall it apply to any case which is directed to arbitration by a court of competent jurisdiction.*

Tolling of Time Limitation(s) for the Institution of Legal Proceedings and Extension of Time Limitation(s) for Submission to Arbitration

Rule 18.9 (a) Where permitted by law, the time limitation(s) which would otherwise run or accrue for the institution of legal proceedings, shall be tolled when **[**all the parties shall have filed duly executed Submission Agreements upon the dispute, claim or controversy submitted to arbitration**]** *a duly executed Submission Agreement is filed by the Claimant(s).* The tolling shall continue for such period as the Exchange shall retain jurisdiction upon the matter submitted.

(b) *The six (6) year time limitation upon submission to arbitration shall not apply when the parties have submitted the dispute, claim or controversy to a court or competent jurisdiction. The six (6) year time limitation shall not run for such period as the court shall retain jurisdiction upon the matter submitted.*

Peremptory Challenges

Rule 18.12 **[**In an arbitration proceeding being heard by a panel consisting of more than one (1) arbitrator, each party shall have the right to one (1) peremptory challenge.**]** *In any arbitration proceeding, each party shall have the right to one (1) peremptory challenge. In arbitrations where there are multiple Claimants, Respondents and/or Third Party Respondents, the Claimants shall have one peremptory challenge, the Respondents shall have one peremptory challenge and the Third Party Respondents shall have one peremptory challenge, unless the Director of Arbitration determines that the interests of justice would best be served by awarding additional peremptory challenges. Unless extended by the Director of Arbitration,* a party wishing to exercise a peremptory challenge must do so by notifiying the Director of Arbitration in writing within five (5) business days of notification of the identity of the persons named to the panel. *There shall be unlimited challenges for cause.*

Initiation of Proceedings

Rule 18.15 xcept as otherwise provided herein, an arbitration proceeding under this Code shall be instituted as follows:

(a) No change.

(b) Answer-Defenses, Counterclaims and/or Crossclaims

(1) The Respondent(s) shall within twenty (20) business days from receipt of service file with the Director of Arbitration one (1) executed Submission Agreement and one (1) copy of the Respondent's(s') Answer. The Answer shall **[**designate all available defenses to the statement of claim and**]** *specify all available defenses and relevant facts that will be relied upon at hearing* and may set forth any related Counterclaim

the Respondent(s) may have against the Claimant and any third-party claim against any other party or person upon any existing dispute, claim or controversy to arbitration under this Code.

(2) ***(i) A Respondent, Responding Claimant, Cross-Claimant or Third-Party Respondent who pleads only a general denial as an answer may, upon written objection by the adversary party before the hearing to the Director of Arbitration, in the discretion of the arbitrators, be barred from presenting any facts or defenses at the time of the hearing.***

(ii) A Respondent, Responding Claimant, Cross-Claimant or Third-Party Respondent who fails to specify all available defenses and relevant facts in such party's answer, may, upon objection by the adversary party, in the discretion of the abritrators, be barred from presenting the facts or defenses not included in such party's answer at the hearing.

Old (b)(2) becomes (b)(3), (b)(3) becomes (b)(4), and (b)(4) becomes (b)(5)

(c) Joining and Consolidation— ***Multiple Parties***

(1) With respect to any dispute, claim or controversy submitted to arbitration, any party or person eligible to submit a claim under this Code shall have the right to proceed in the same arbitration against any other party or person upon any claim directly related to such dispute.

(2) For purposes of this subsection, the Director of Arbitration shall be authorized to determine preliminaryily whether a claim is directly related to the matter in dispute and to join any other party to the dispute and to consolidate the matter for hearing and award purposes. ***In arbitrations where there are multiple Claimants, Respondents and/or Third Party Respondents, the Director of Arbitration shall be authorized to determine preliminarily whether such parties should proceed in the same or separate arbitrations.***

(3) All final determinations with respect to joining, [and] ***consolidation and multiple parties*** **under this subsection shall be made by the arbitration panel.**

Amendments

Rule 18.29 [No amendment to the pleadings shall be permitted after receipt of a responsive pleading except upon the consent of the arbitrators and upon such terms and conditions as they may direct.] ***(a) After the filing of any pleadings, if a party desires to file a new or different pleading, such change must be made in writing and filed with the Director of Arbitration. The Director of Arbitration shall endeavor to serve promptly by mail or otherwise upon all other parties a copy of said change. The other parties may, within ten (10) business days from the receipt of service, file a response with the Director of Arbitration.***

(b) After a panel has been appointed, no new or different pleading may be filed except for a responsive pleading as provided for in (a) above or with the panel's consent.

Schedule of Fees

Rule 18.33 (a) At the time of filing a Submission Agreement, a Claimant shall deposit with the Association the amount indicated below unless such a deposit is specifically waived by the Director of Arbitration.

Amount in Dispute (Exclusive of interest and expenses)	*Deposit*
[$2,500 or less...See Simplified Arbitration, Rule 18.4]	
$1,000 or less	*$15*
Above $1,000—but not exceeding $2,500	$25
Above $2,500—but [less than] *not exceeding* $5,000	$100
Above $5,000—but [less than] *not exceeding* $10,000	$200
Above $10,000—but [less than] *not exceeding* $20,000	[$250] *$300*
Above $20,000—but [less than] *not exceeding* $100,000	[$350] *$500*
Above $100,000—	[$550] *$750*

Where the amount in dispute is $10,000 ***or less,*** **no additional deposits shall be required despite the number of sessions. Where the amount in dispute is** ***above*** **$10,000 [or more] and multiple sessions are required, the arbitrators may require any of the parties to make additional deposits for each additional session. In no event shall the aggregate amount deposited per session exceed the amount of the initial deposit** ***as set forth in the above schedule.***

(b) The arbitrators, in their awards, may determine the amount chargeable to the parties as forum fees (fees) and shall determine by whom such fees shall be borne. Where the amount in dispute is [less than] $10,000 ***or less,*** **total fees to the parties shall not exceed the amount deposited. Where the amount in dispute is** ***above*** **$10,000 [or more] but [less than] does not exceed $20,000, the maximum fee shall be [$250]** ***$300*** **per session. Where the amount in dispute is** ***above*** **$20,000 [or more] but [less than]** ***does not exceed*** **$100,000, the maximum fee shall be [$350]]** ***$500*** **per session. Where the amount in dispute is** ***above*** **$100,000 [or more] the maximum fee shall be [$550]** ***$750*** **per session. In no event shall the fees assessed by the arbitrators exceed [$550]** ***$750*** **per session. In no event shall the fees assessed by the arbitrators exceed [$500]** ***$750*** **per session. Amounts deposited by a party shall be applied against fees, if any. If the fees are not assessed against a party who had made a deposit, the deposit will be refunded.**

(c) If the dispute, claim or controversy does not involve or disclose a money claim, the amount to be deposited by the claimant shall be $100, or such amount as the Director of Arbitration or the panel of arbitrators may require but shall not exceed [$500] ***$750.***

(d) No change.

(e) No change.

(f) ***The arbitrators may assess forum fees and Rule 18.23 costs in any matter settled or withdrawn subsequent to the commencement of the first session.***

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C) below.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

Chapter 18 of Exchange rules incorporates the Uniform Code of Arbitration developed by the Securities Industry Conference on Arbitration and approved by the Securities and Exchange Committee. The Code establishes a uniform system of arbitration procedures used by the exchanges and the NASD. In response to experience gained in administering the arbitration program, the following amendments to the Code are proposed.

Rule 18.4 prescribes the small claims procedure. This Section of the Code will be amended to raise the limit on the small claims proceedings from $2,500 to $5,000 exclusive of interest and costs.

Rule 18.6 will be amended to prevent the time limitation on submissions from barring the submission of a claim which is directed to arbitration by a court.

The amendments to Rule 18.9 provide that, where permitted by law, the statute of limitations will be tolled when a claimant, rather than all parties, files a submission agreement. The amendments also add a subsection to extend the 6-

year limitation on submissions for such period of time as a court may retain jurisdiction over the dispute.

Rule 18.12 is amended to provide for additional peremptory challenges in the discretion of the Arbitration Director where there are multiple claimants or respondents. The rule also will state explicitly that there will be unlimited challenges for cause.

There are two amendments to Rule 18.15. The first specifically authorizes the arbitrators to bar a respondent from presenting a defense if the respondent has submitted only a general denial or if the response fails to specify all available defenses. The second change permits the Arbitration Director to sever arbitrations where there are multiple claimants.

Rule 18.29 has been amended to specify how amendments to pleadings should be made.

Rule 18.33 establishes a new fee schedule. In general, it slightly increases filing fees in certain cases in order to help defray expenses of administering the arbitration program.

The proposed rules changes are consistent with the requirements of the Securities Exchange Act of 1934 in that they will clarify the administrative procedures used in the arbitration program, enhancing the effectiveness of that program.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will not impose any burden on competition not necessary or appropriate in furtherance of the purpose of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and agruments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by October 26, 1984.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: September 27, 1984.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-26529 Filed 10-4-84; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Nebraska; Region VII Advisory Council; Public Meeting

The Small Business Administration RegionVII Advisory Council, located in the geographical area of Omaha, Nebraska, will hold a public meeting from 10:00 a.m., to 2:30 p.m., on Monday, October, 15, 1984, at the office of the District Director, U.S. Small Business Administration, 19th and Farnam, Omaha, Nebraska 68102, to discuss such matter as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call Rick Budd, District Director, U.S. Small Business Administration, 19th and Farnam, Omaha, Nebraska 68102; phone (402) 221-4691.

Dated: September 20, 1984.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 84-26491 Filed 10-4-84; 8:45 am]

BILLING CODE 8025-01-M

New Hampshire; Region I Advisory Council; Meeting

The Small Business Administration Region I Advisory Council, located in the geographical area of Concord, New Hampshire, will hold a public meeting at 10:00 a.m., on Wednesday, October, 24, 1984, in the Concord National Bank Board Room, Concord National Bank, 43 N. Main and Warren Streets, Concord, New Hampshire, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call William Phillips, District Director, U.S. Small Business Administration, 55 Pleasant Street, Concord, New Hampshire 03301, (603) 224-4041.

Dated: September 20, 1984.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 84-26492 Filed 10-4-84; 8:45 am]

BILLING CODE 8025-01-M

New Jersey; Region II Advisory Council; Public Meeting

That Small Business Administration, Region II Newark District Advisory Council, located in the geographical area of Newark, New Jersey, will hold a public meeting at 9:00 AM on Thursday, November 1, 1984, at the Ramada Inn, 38 Valley Road, Clark, New Jersey 07066, to discuss such business as may be presented by members and the staff of the Small Business Administration or others attending. For further information, write or call Andrew P. Lynch, District Director, U.S. Small Business Administration, 60 Park Place, Newark, New Jersey 07102, (201) 645-3580.

Dated: September 20, 1984.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 84-26493 Filed 10-4-84; 8:45 am]

BILLING CODE 8025-01-M

Small Business Investment Co.; Maximum Annual Cost of Money to Small Business Concerns

13 CFR 107.302 (a) and (b) limit the maximum annual Cost of Money (as defined in 13 CFR 107.3) that may be imposed upon a Small Concern in connection with Financing by means of Loans or through the purchase of Debt Securities. The cited regulation incorporates the term "FFB Rate", which is defined elsewhere in 13 CFR 107.3 in terms that require SBA to publish, from time to time, the rate charged by the

Federal Financing Bank on ten-year debentures sold by Licensees to the Bank. Notice of this rate is generally published each month.

Accordingly, Licensees are hereby notified that effective October 1, 1984, and until further notice, the FFB Rate to be used for computation of maximum cost of money pursuant to 13 CFR 107.302 (a) and (b) is 12.645% per annum.

13 CFR 107.302 does not supersede or preempt any applicable law imposing an interest ceiling lower than the ceiling imposed by its own terms. Attention is directed to section 308(i) of the Small Business Investment Act, as amended by section 524 of Pub. L. 96–221, March 31, 1980 (94 Stat. 161), to that law's Federal override of State usury ceilings, and to its forfeiture and penalty provisions.

Dated: October 2, 1984.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 84–26490 Filed 10–4–84, 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF STATE

[Public Notice 919]

Schedule of Cost Comparison Studies

In accordance with OMB Circular A–76 (Revised), Performance of Commercial Activities, Supplement, Part I, Chapter 1, Section C.,1.,b., this notice announces the schedule of cost comparison studies for the Department of State. The studies listed will begin in October and November, 1984. Additional studies will be scheduled for fiscal years 1985 through 1987.

FOR FURTHER INFORMATION CONTACT: A–76 Coordinator, Office of Management Operations, Room 7427, Department of State, Washington, DC 20520; Tel. (202) 632–1368.

Dated: September 28, 1984.

Willard A. De Pree,

Director, Office of Management Operations.

DEPARTMENT OF STATE INVENTORY OF COMMERCIAL ACTIVITIES

Name of activity	Location of activity	Description of activity	Approximate number of FTEs	Date of last review	Review date start
		Less than 10 FTEs			
M/COMP/FO automation and communications	Arlington, Va	Systems management of financial operations computer facility	3		October 1984
		More than 10 FTEs			
OC/P	Washington, D.C. and Newington, Va	Preparation and dispatch of unclassified diplomatic pouches	32		Do.
M/COMP/FO special accounts and collections	Arlington, Va	Billing and collection of accounts receivable. Accounting and reporting of trust accounts and working capital fund	26		November 1984
OC/T	Washington, D.C.	Operation of automated printing and reproduction facility	19		Do.
CA/PPT automated records branch	do	Process passport applications including microfilming and indexing	50		October 1984

Additional activities will be scheduled for FY 85–87.

[FR Doc. 84–26464 Filed 10–4–84, 8:45 am]

BILLING CODE 4710–25–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Notice 84–16]

Commercial Space Transportation Advisory Committee; Announcement of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App. I), notice is hereby given of a meeting of the Commercial Space Transportation Advisory Committee. The meeting will take place on Monday, October 22, 1984, from 9:00 a.m. to 5:00 p.m. ET, and Tuesday, October 23, 1984 from 8:30 a.m. to 12:00 noon ET, in Room 2230 of the Department of Transportation Headquarters Building, 400 Seventh Street, SW., Washington, D.C. This will be the first meeting of the Committee, which will address background, organizational, licensing/regulatory, legislative, and policy issues related to the commercial development of expendable launch vehicles. The members of the committee are:

William Rector, Vice President, General Dynamics;

Norman Augustine, Vice President, Martin-Marietta;

Adolph Medica, Executive Vice President, Chemical Systems, United Technology/Aerojet;

Lionel Alford, Vice President for Aerospace, Boeing;

Donald (Deke) Slayton, President, Space Services, Inc., and former astronaut;

David Grimes, Chairman and Chief Technical Officer, Transpace Carriers;

Leonard Cormier, President, Transpace, Inc.;

Jerry Simonoff, Vice President, Citicorp Industrial Credit, Inc.;

Jonathan Conrad, Sconset Group;

Diana Josephson, President, Space America;

Robert Roney, Vice President, Space and Communications, Hughes;

Bernard Schriever, General, United States Air Force (Retired), consultant to the aerospace industry;

Gregg Fawkes, National Chamber Foundation;

George Robinson, Smithsonian Institution;

Kip Hawley, White House liaison to State and local governments;

Gerald Mossinghoff, United States Commissioner of Patents and Trademarks;

Dr. Jerry Grey, Editor, American Institute of Aeronautics and Astronautics, and consultant to the space industry;

Joel Alper, President, Comsat World Systems Division, Communications Satellite Corporation;

Ronald F. Stowe, Vice President, Government and Commercial Affairs, Satellite Business Systems;

Daniel A. Ruskin, Vice President, Government Requirements, Lockheed Missiles;

T. Allan McArtor, Vice President, Satellite Systems Division, Federal Express Corporation; and
Alton Slay, President, Slay Enterprises, Inc.

This meeting is open to the interested public, but may be limited to the space available. Additional information may be obtained from the DOT Office of Commercial Space Transportation, Room 10401, 400 Seventh Street, SW., 20590, Contact: Leah G. Levy, Telephone 202/426-5770.

Please Note.—New security procedures restrict admittance to the Department of Transportation Building. Your admittance will be facilitated if you call the telephone number above before arrival.

Issued in Washington, DC, on October 3, 1984.

Jennifer L. Dorn,

Director, Office of Commercial Space Transportation.

[FR Doc. 84-26676 Filed 10-4-84; 10:21 am]

BILLING CODE 4910-62-M

Federal Aviation Administration

Flight Service Station at Lone Rock, WI; Closing

Notice is hereby given that on or about October 8, 1984, the Flight Service Station at Lone Rock, Wisconsin, will be closed. Services to the general aviation public of Lone Rock, Wisconsin, Flight Plan Area, formerly provided by this office, will be provided by the Flight Service Station in Green Bay, Wisconsin. This informaion will be reflected in the FAA Organization Statement the next time it is reissued.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354)

Issued in Des Plaines, IL, on September 28, 1984.

Paul K. Bohr,

Director, Great Lake Region.

[FR Doc. 84-26430 Filed 10-4-84; 8:45 am]

BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA) Special Committee 149; Airborne Distance Measuring Equipment (DME); Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 149 on Airborne Distance Measuring Equipment (DME) to be held on October 24-26, 1984 in the RTCA Conference Room, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of the Eighth Meeting Held on August 8-10, 1984; (3) Report on Coordination with the European Organization for Civil Aviation Electronics (EUROCAE) Working Group 25; (4) Report on Coordination with RTCA Special Committee 151 on Airborne MLS Area Navigation Equipment; (5) Review Task Assignments From Previous Meeting; (6) Review Ninth Draft of Committee Report on Minimum Operations Performance Standards for Airborne Distance Measuring Equipment; and (7) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, D.C. 20005; (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on September 27, 1984.

Karl F. Bierach,

Designated Officer.

[FR Doc. 84-26428 Filed 10-4-84; 8:45 am]

BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA) Special Committee 150; Minimum System Performance Standards for Vertical Separation Above Flight Level 290; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 150 on Minimum System Performance Standards for Vertical Separation Above Flight Level 290 to be held on October 29-31, 1984 in the RTCA Conference Room, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeing is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of the Seventh Meeting Held on July 17-19, 1984; (3) Review of Draft Committee Report; (4) Review and Discussion of Working Group Activities on System Performance Requirements, Altimetry System Errors, and Flight Technical Errors; and (5) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, D.C. 20005, (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on September 27, 1984.

Karl F. Bierach,

Designated Officer.

[FR Doc. 84-26427 Filed 10-4-84; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

List of Countries Requiring Cooperation With an International Boycott

Correction

In FR Doc. 84-25502 appearing on page 37889 in the issue of Wednesday, September 26, 1984, in the list of countries, "Lebanon" should appear between "Kuwait" and "Libya".

BILLING CODE 1505-01-M

Internal Revenue Service

Commissioner's Advisory Group; Open Meeting

There will be a meeting of the Commissioner's Advisory Group on November 1 & 2, 1984. The meeting will be held in Room 3313 of the Internal Revenue Service Building. The building is located at 1111 Constitution Avenue NW., Washington, D.C. The meeting will begin at 9:00 a.m. on Thursday, November 1, and 9:00 a.m. on Friday, Novembre 2. The agenda will include the following topics:

Thursday, November 1, 1984

Recapitulation of Topics considered by this Advisory Group
Service Center Operations
Auto Collect

Friday, November 1, 1984

Penalty Provisions
Issuance of "Friendly" Summons
Pre-Filing Programs.

The meeting, which will be open to the public, will be in a room that accommodates approximately 50 people. If you would like to have the Committee consider a written statement, please call

or write to Frederic P. Williams, Acting Assistant to the Deputy Commissioner, 1111 Constitution Avenue NW., Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Frederic P. Williams, Acting Assistant to the Deputy Commissioner, (202) 566–4143 (Not toll free).

James I. Owens,

Acting Commissioner.

[FR Doc. 84-26487 Filed 10-4-84; 8:45 am]

BILLING CODE 4830-01-M

UNITED STATES INFORMATION AGENCY

Reporting and Information Collection Requirements Under OMB Review

AGENCY: United States Information Agency.

ACTION: Notice of reporting requirements submitted for OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed or established reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission. USIA is requesting approval for a three year extension of the approval for the use of our Form IAP–37, "Exchange Visitor Program Application."

DATE: Comments must be received by November 9, 1984.

Copies: Copies of the request for clearance (SF–83), supporting statement, instructions, transmittal letter and other documents submitted to OMB for review may be obtained from the USIA Clearance Officer. Comments on the item listed should be submitted to the Office of Information and Regulatory Affairs of OMB, Attention Desk Officer for USIA.

FOR FURTHER INFORMATION CONTACT: Agency Clearance Officer, Charles N. Canestro, United States Information Agency, M/M, 301 Fourth Street SW., Washington, DC 20547, telephone (202) 485–8676. And OMB review: Michael Weinstein, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, telephone (202) 395–4814.

SUPPLEMENTARY INFORMATION: Exchange Visitor Program Application.

Abstract

This information collection is intended to permit private businesses, government agencies and public and private educational institutions to apply for the authority to bring students, scholars, professors, trainees and international visitors to the United States as Exchange Visitors on the Exchange Visitor Visa J–1. Information is used to evaluate prospective Exchange Visitor sponsors.

Dated: October 2, 1984.

Charles N. Canestro,

Management Analyst, Federal Register Liaison.

[FR Doc. 84-26498 Filed 10-4-84; 8:45 am]

BILLING CODE 8230-01-M

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation of Authority of December 17, 1982 (47 FR 57600, December 27, 1982), I hereby determine that the objects to be included in the exhibit, "Degas: The Dancers" (included in the list [1] filed as a part of this determination) imported from abroad for the temporary exhibition without profit within the United States are of cultural significance. These objects are imported pursuant to a loan agreement between The National Gallery of Art, Washington, D.C., and foreign lenders. I also determine that the temporary exhibition or display of the listed exhibit objects at the National Gallery of Art, Washington, D.C., beginning on or about November 22, 1984, to on or about March 10, 1985, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register.**

Dated: October 3, 1984.

Thomas E. Harvey,

General Counsel and Congressional Liaison.

[Fr Doc. 84-26502 Filed 10-4-84; 8:45 am]

BILLING CODE 8230-01-M

[1] An itemized list of objects included in the exhibit is filed as part of the original document.

VETERANS ADMINISTRATION

Scientific Review and Evaluation Boards; Health Services Research and Development; and Rehabilitation Research and Development; Charter Renewals

This is to give notice in accordance with the Federal Advisory Committee Act (Pub. L. 92–463) that charters for the above-named committees have been renewed by the Administrator of Veterans Affairs for a two year period beginning September 7, 1984 through September 7, 1986.

Dated: September 26, 1984.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc 84-26457 Filed 10-4-84; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 195
Friday, October 5, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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Federal Election Commission	2
Federal Energy Regulatory Commission	3
Federal Reserve System	4
Merit Systems Protection Board	5, 6
National Transportation Safety Board	7
Pacific Northwest Electric Power and Conservation Planning Council	8

1

FEDERAL COMMUNICATIONS COMMISSION

Deletion of Agenda Item From September 26th Open Meeting

The following item has been deleted at the request of the Mass Media Bureau from the list of agenda items scheduled for consideration at the September 26, 1984, Open Meeting and previously listed in the Commission's Notice of September 19, 1984.

Agenda, Item, and Subject

Mass Media—3—Title: Amendment of Parts 2, 73 and 76 of the Commission's Rules to Authorize the Transmission of Teletext by TV Stations. Summary: The Commission will consider a *Memorandum Opinion and Order* to address petitions for reconsideration filed by sixteen parties concerning its *Report and Order* authorizing television stations to operate teletext services (BC Docket 81-741).

Mass Media—7—Title: Applications of CBS, Inc., Direct Broadcast Satellite Corporation, Graphic Scanning Corporation, RCA American Communications, Inc., and Western Union Telegraph Company for modification of their construction permits to establish Interim Direct Broadcast Satellite Systems and those parties' demonstrations of due diligence in the implementation of their proposed systems, and requests of Satellite Television Corporation, United States Satellite Broadcasting Co., Inc. and Dominion Video Satellite, Inc. for further modification of their Direct Broadcast Satellite System construction permits. Summary: The Commission considers these modification applications and due diligence demonstrations to determine which of the applicants have met the Commissions' requirements and will be assigned DBS channels and orbital positions, as well as the further modification requests by three permittees already assigned channels and orbital positions. The Commission also considers comments by various parties regarding the sufficiency of some of the due diligence demonstrations.

Common Carrier—1—Title: Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities Authorizations Therefor: Sixth Report and Order (CC Docket No. 79-252). Summary: The Commission will consider whether to adopt a Report and Order that outlines steps for further implementation of its policy of forbearance from requirement of tariffs and facilities authorizations applications from carriers subject to competition.

Common Carrier—2—Title: Memorandum Opinion and Order in the Matters of Pacific Bell, Southern Bell and South Central Bell, Southwestern Bell, New York Telephone and New England Telephone, New Jersey Bell, Northwestern Bell, and Pacific Northwest Bell Petitions for Waiver of § 64.702 of the Commission's Rules and Regulations To Provide Certain Types of Protocol Conversion Within Their Basic Telephone Networks. Summary: The Commission will consider whether to waive the *Computer II* Rules to enable the petitioning Bell Operating Companies to provide certain types of protocol conversion within their telephone networks, specifically X.25-to-X.75 protocol conversion.

Common Carrier—3—Title: Second Report and Order, General Docket No. 80-112. Summary: The Commission will consider adopting rules to allow the use of lotteries for the selection of Multichannel Multipoint Distribution Service licensees.

William J. Tricarico,
Secretary, Federal Communications Commission.

[FR Doc. 84-26129 Filed 10-3-84; 3:23 pm]
BILLING CODE 6712-01-M

2

FEDERAL ELECTION COMMISSION

DATE AND TIME: Wednesday, October 10, 1984, 10:00 a.m.

PLACE: 1325 K Street, NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED: Compliance. Litigation. Audits. Personnel.

DATE AND TIME: Thursday, October 11, 1984, 10:00 a.m.

PLACE: 1325 K Street, NW., Washington, D.C. (Fifth Floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates of future meetings
Correction and approval of minutes
Eligibility for candidates to receive Presidential Primary Matching Funds
Draft Advisory Opinion #1984-46
Rod Johnston, Wisconsin State Senator
Finance Committee Report
Routine administrative matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, 202-523-4065.

Mary W. Dove,
Administrative Secretary.

[FR Doc. 84-26561 Filed 10-3-84; 11:10 am]
BILLING CODE 6715-01-M

3

FEDERAL ENERGY REGULATORY COMMISSION

October 3, 1984.

TIME AND DATE: 10:00 A.M., OCTOBER 10, 1984.

PLACE: 825 NORTH CAPITOL STREET, NE., ROOM 9306, WASHINGTON, D.C. 20426.

STATUS: OPEN.

MATTERS TO BE CONSIDERED: AGENDA.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, Telephone: (202) 357-8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Division of Public Information.

Consent Power Agenda

799th Meeting—October 10, 1984

Regular Meeting (10:00 a.m.)

CAP-1: Project No. 2738-009, New York State Electric & Gas Corporation
CAP-2: Project No. 7136-001, Jay R. Bingham and Lawrence J. McMurtrey
CAP-3: Project No. 7800-000, Turlock Irrigation District & Modesto Irrigation District
CAP-4: Project No. 4182-001, Cogeneration, Inc.
CAP-5: Docket No. QF83-175-003, James A. Drake and Miller's Plant Farm—Foliage and Chrysanthemum Division of Dustin, Oklahoma, Inc.
CAP-6: Docket No. ER84-344-003, Maine Yankee Atomic Power Company
CAP-7: Docket No. ER80-363-007, Delmarva Power & Light Company
CAP-8: Docket No. ER84-604-000, Southwestern Public Service Company

CAP–9: Docket No. ER84–491–000, North County Resource Recovery Associates
CAP–10: Docket No. ER81–187–004, Public Service Company of New Mexico
CAP–11: Docket No. ER84–236–002, El Paso Electric Company
CAP–12: Docket No. ER84–416–000, Nevada Power Company
CAP–13: Docket No. ER82–257–000, Kansas Gas and Electric Company
CAP–14: Docket No. EL84–30–000, Gulf States Utilities Company
CAP–15: Docket No. FA84–6–000, Ohio Edison Company
CAP–16: Project No. 8150–000, Burr Courtright
CAP–17: Project No. 8151–000, Burr Courtright

Consent Miscellaneous Agenda

CAM–1:
Docket Nos. Rm83–72–001, 002, 003, 004, 005, 006, 007, 008 and 009, First Sales of Pipeline Production Under Section 2(21) of the Natural Gas Policy Act of 1978
Docket Nos. RM82–16–001, 002, 003, 004, 005, 006, 007, 008 and 009, First Sales by Affilates
CAM–2: Docket No. RM79–76–222, (Pennsylvania-5), High-Cost Gas Produced From Tight Formations
CAM–3: Docket No. RM79–76–217, (Virginia-3), High-Cost Gas Produced From Tight Formations
CAM–4: Docket No. GP79–118–000, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. v. Highland Resources, Inc.

Consent Gas Agenda

CAG–1:
Docket Nos. RP83–113–013, RP83–113–014, RP83–113–015 and RP83–113–016, Pacific Gas Transmission Company
Docket No. RP83–135–004, Pacific Interstate Transmission Company
Docket No. RP83–136–003, Pacific Offshore Production Company
Docket No. RP84–28–001, Pacific Interstate Offshore Company
Docket No. RP83–139–005, El Paso Natural Gas Company
Docket Nos. RP81–130–014, RP81–130–015 and RP81–130–016, Transwestern Pipeline Company
CAG–2: Omitted
CAG–3: Docket No. TA84–2–21–002 (PGA84–2a), Columbia Gas Transmission Corporation
CAG–4: Docket No. TA84–2–2–000 (PGA84–2 and IPR84–2), East Tennessee Natural Gas Company
CAG–5: Docket No. TA84–1–48–000, ANR Pipeline Company
CAG–6: Docket No. FA84–9–001, Northwest Pipeline Corporation
CAG–7: Docket No. ST84–647–000, Mississippi Fuel Company
CAG–8: Docket No. ST83–76–001, Producer's Gas Company
CAG–9: Docket Nos. RI74–188–040 and RI75–21–035, Independent Oil & Gas Association of West Virginia
CAG–10: Docket No. CI84–483–001, Pogo Producing Company
CAG–11: Docket No. CI80–284–001, Southern Union Gathering Company
CAG–12: Docket Nos. CI84–485–001 and CI84–485–002, Amoco Production Company
CAG–13: Docket Nos. G–2500–000, G–2500–001, G–2500–002, G2500–003, G–2500–004 and G–2500–005, Commonwealth Gas Pipeline Corporation and Columbia Gas Transmission Corporation
CAG–14: Docket No. CP83–502–014,Tennessee Gas Pipeline Company, A divison of Tenneco Inc.
CAG–15: Omitted
CAG–16: Docket No. CP84–578–000, Panhandle Eastern Pipe Line Company
CAG–17: Docket Nos. CP80–86–001, CP80–86–002, CP80–86–003, CP80–86–005 and CP82–494–000, Natural Gas Pipeline Company of America
CAG–18:
Docket No. CP84–67–001, Pelican Interstate Gas System (Successor to Pelican Interstate Gas Corporation)
Docket No. CP84–68–001, Bayou Interstate Pipeline System (Successor to Bayou Interstate Pipeline Corporation)

I. Licensed Project Matters

P–1: Reserved

II. Electic Rate Matters

ER–1:
(A) Docket No. QF84–124–000, Texas Industries, Inc.
(B) (1) Docket No. QF83–428–001, Applied Energy Services, Inc.
(2) Docket No. QF84–305–000, R.J. Reynolds Tobacco Company
(3) Docket No. QF84–381–001, International Paper Company
(4) Docket No. QF84–403–000, AES Geismar, Inc.
(5) Docket No. QF84–429–000, Pacific Thermonetics, Inc.
(6) Docket No. QF84–435–000, AES Sims Bayou, Inc.
(7) Docket No. QF84–423–000, Hemphill Power and Light Company
ER–2: Docket No. EC84–20–000, Niagara Mohawk Power Corporation
ER–3:
(A) Docket Nos. ER82–462–001, ER82–539–000, ER82–734–000, ER82–810–000, ER83–127–000, ER83–540–000, ER83–573–000, ER83–748–000, ER84–163–000, ER884–042–000, ER84–347–000, and ER84–403–000, Portland General Electric Company
Docket Nos. ER82–448–001, ER82–715–000, ER83–044–000, ER83–045–000, ER83–046–000, ER83–187–000, ER83–334–000, ER83–541–000, ER83–567–000, ER83–706–000, ER84–040–000, ER84–198–000, and ER84–305–000, Puget Sound Power and Light Company
Docket Nos. ER82–618–001, ER82–622–000, ER82–661–000, ER83–241–003, ER83–867–000, and ER83–712–000, Idaho Power Company
Docket Nos. ER83–382–001, ER84–026–000, and ER84–156–000, Montana Power Company
(B) Docket Nos. ER84–606–000, and ER84–546–000, Pacific Power & Light Company
(C) Docket No. ER84–610–000, CP National Corporation
ER–4: Docket No. EL84–40–000, United Illuminating Company
ER–5: Docket No. EL84–18–000 Arkansas Power & Light Company

Miscellaneous Agenda

M–1: Reserved

Gas Agenda

I. Pipeline Rate Matters

RP–1: Docket Nos. RP84–16002, RP84–21–003 and RP84–86–001, Locust Ridge Gas Company
RP–2: Docket No. RP83–18–000, Texas Eastern Transmission Corporation v. North Alabama Gas District
RP–3:
Docket No. ST84–630–001, Delhi Gas Pipeline Corporation
Docket No. ST84–898–001, PGC Pipeline, a Division of LPC Energy, Inc.

II. Producer Matters

CI–1: Reserved

III. Pipeline Certificate Matters

CP–1: Docket No. CP84–2–000, Columbia Gas Transmission Corporation
CP–2: Docket No. CP83–25–000, Inter-City Minnesota Pipelines Ltd.

Kenneth F. Plumb,
Secretary

[FR Doc. 84–26622 Filed 10–3–84; 3:56 pm]
BILLING CODE 6717–01–M

4

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Wednesday, October 10, 1984.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: October 2, 1984.

James McAfee,
Associate Secretary of the Board.

[FR Doc. 84–26533 Filed 10–3–84; 9:10 am]
BILLING CODE 6210–01–M

5

MERIT SYSTEMS PROTECTION BOARD

Addition of Item to the August 27, 1984 Agenda

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Tuesday, July 31, 1984, 49 FR 30626.

CHANGE IN THE MEETING: The following items were added to the agenda of the closed meeting of August 27, 1984:

1. *Shuman* v. *Department of Treasury*, MSPB Docket No. SE04328410073.
2. *Gende* v. *Department of Justice, Bureau of Prisons*, MSPB Docket No. CH07528410223.

For the Board.

Dated: October 3, 1984.

Stephen E. Manrose,
Acting Clerk of the Board.

[FR Doc. 84-26810 Filed 10-3-84; 3:21 pm]
BILLING CODE 7400-01-M

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MERIT SYSTEMS PROTECTION BOARD

TIME AND DATE: 9:30 a.m., Monday, October 15, 1984.

PLACE: Eighth Floor, 1120 Vermont Avenue, NW., Washington, D.C. 20419

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. *Shrider* v. *U.S. Postal Service*, MSPB Docket No. CH07518310454.
2. *Hall* v. *U.S. Postal Service*, MSPB Docket No. DA07528210720.
3. *Oxley* v. *Department of Commerce*, MSPB Docket No. DC03518310771.
4. *Facer* v. *Department of Energy*, MSPB Docket No. DC03518310289.
5. *Mazzolla* v. *Department of Labor*, MSPB Docket No. BN03518310086.
6. *Phelps* v. *Department of Labor*, MSPB Docket No. DE03518210200.
7. *Hataaja* v. *Department of Labor*, MSPB Docket No. CH03518210565.
8. *Hagan* v. *U.S. Postal Service*, MSPB Docket No. BN07528310018.
9. *Bogdanowicz* v. *Department of the Army*, MSPB Docket No. PH07528110587.
10. *Egan* v. *Department of the Navy*, MSPB Docket No. SE07528310257.
11. *Peterson* v. *Department of the Navy*, MSPB Docket No. BN07528410010.
12. *Ferby & Jackson* v. *U.S. Postal Service*, MSPB Docket No. AT07528211068.
13. *West* v. *Department of Energy*, MSPB Docket No. DA752B8100003.
14. *Brann* v. *U.S. Postal Service*, MSPB Docket No. NY07528410079.
15. *Walton* v. *Department of the Navy*, MSPB Docket No. PH07528310654.
16. *Lappin* v. *Department of Justice*, MSPB Docket No. SF07528090112.
17. *Billings* v. *Department of Transportation*, MSPB Docket No. CH07528410244.
18. *Doe* v. *Department of the Air Force*, MSPB Docket No. DA07528310714.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Stephen E. Manrose, Acting Clerk of the Board, (202) 653-7200.

For the Board.

Dated: October 3, 1984.

Stephen E. Manrose,
Acting Clerk of the Board.

[FR Doc. 84-26811 Filed 10-3-84; 3:21 p.m.]
BILLING CODE 7400-01-M

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NATIONAL TRANSPORTATION SAFETY BOARD

[NM-84-30]

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 49 FR 35710, September 11, 1984.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9 a.m., Tuesday, September 18, 1984.

CHANGE IN MEETING: A majority of the Board determined by recorded vote that the business of the Board required revising the agenda of this meeting and that no earlier announcement was possible. The following items were discussed in open session:

1. *Recommendation* to the National Oceanic and Atmospheric Administration regarding clear air turbulence.
2. *Letter* to the Canadian Aviation Safety Board regarding design problem on passenger service carts.
3. *Recommendation* to the Federal Aviation Administration regarding its Hazardous Inflight Weather Advisory System (HIWAS).
4. *Recommendation* for a public hearing in connection with the investigation of highway hazardous materials accident involving the overturn of a RISS International tractor-semitrailer at Denver, Colorado, on August 1, 1984.

The following item was deleted from the agenda:

4. *Railroad Accident Report*—Collision of Amtrak Train No. 301 on Illinois Central Gulf Railroad with Marquette Motor Service Terminals, Inc., Delivery Truck, Wilmington, Illinois, July 28, 1983.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, (202) 382-6525.

Dated: October 3, 1984.

H. Ray Smith, Jr.,
Federal Register Liaison Officer.

[FR Doc. 84-26813 Filed 10-3-84; 3:34 pm]
BILLING CODE 7533-01-M

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PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

(Northwest Power Planning Council)

ACTION: Notice of meeting to be held pursuant to the Government in the Sunshine Act (5 U.S.C. 552b).

STATUS: Open. There will be an Executive Session to discuss pending litigation and personnel matters.

TIME AND DATE: October 10, 1984, 10:00 a.m. and October 11, 1984, 9:00 a.m.

PLACE: Red Lion Downtowner, Albion-Aspen Room, 1800 Fairview Avenue, Boise, Idaho.

MATTERS TO BE CONSIDERED:

1. Annual Business Meeting and Election of Officers.
2. Final Decision on Amendments to the Columbia River Basin Fish and Wildlife Program.
3. Status Report on Installation of Fish Passage Facilities in the Yakima River Basin.
4. Presentation of BPA Analysis of WNP 1 & 3.
5. Presentation of Northwest Conservation Act Coalition's Analysis of WNP 1 & 3.
6. Staff Presentation of Issue Paper on Possible Exemptions to Council's Model Conservation Standards.
7. Council Business.

Note.—Public comment will follow each agenda item; however, the comment period on the proposed fish and wildlife amendments (Agenda Item 2) ended August 10, 1984. For that reason, no additional comments will be taken at this meeting on those proposals.

FOR FURTHER INFORMATION CONTACT: Ms. Bess Wong, (503) 222-5161.

Edward Sheets,
Executive Director.

[FR Doc. 84-26545 Filed 10-3-84; 9:40 am]
BILLING CODE 6000-00-M

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Friday
October 5, 1984

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions; Notice

VOL 49 ISS 195 OC 5 1984 UMI

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 5.1 (including the statutes listed at 36 FR 306 (1970) following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations. Procedure for Predetermination of Wage Rates, 48 FR 19533 (1983) and of Secretary of Labor's Orders 9–83, 48 FR 35736 (1983), and 6–84, 49 FR 32473 (1984). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 5.1 (including the statutes listed at 36 FR 306 (1970) following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations. Procedure for Predetermination of Wage Rates, 48 FR 19533 (1983) and of Secretary of Labor's Order 6–84, 49 FR 32473 (1984). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Program Operations, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Arizona: AZ83–5102	Mar. 4, 1983.
Colorado:	
CO83–5113	July 15, 1983.
CO84–5003	Feb. 24, 1984.
District of Columbia: DC84–3009	Apr. 6, 1984.
Florida: FL83–1016	Apr. 1, 1983.
Maryland: MD81–3052	Aug. 14, 1981.
Massachusetts:	
MA84–3007	Apr. 6, 1984.
MA84–3008	Mar. 30, 1984.
MA84–3010	Apr. 6, 1984.
New Jersey: NJ84–3020	July 27, 1984.
New York: NY83–3018	May 20, 1984.
Wisconsin:	
WI83–2041	May 13, 1983.
WI83–2068	Sept. 2, 1983.
WI83–2078	Oct. 7, 1983.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the number of the decisions being superseded.

California: CA84–5001 (CA84–5022)	Mar. 30, 1984.
Louisiana: LA84–4024 (LA84–4059)	Apr. 20, 1984.
Missouri:	
MO83–4066 (MO84–4080)	Jan. 6, 1984.
MO84–4096 (MO84–4096)	Jan. 13, 1984.
MO84–4095 (MO84–4097)	Do.
Pennsylvania:	
PA81–3068 (PA84–3037)	Sept. 25, 1981.
PA81–3090 (PA84–3037)	Dec. 18, 1981.
PA81–3073 (PA84–3037)	Oct. 2, 1981.
PA81–3076 (PA84–3037)	Oct. 9, 1981.
PA81–3081 (PA84–3037)	Oct. 23, 1981.
Texas:	
TX83–4079 (TX84–4057)	Oct. 21, 1983.
TX80–4068 (TX84–4056)	Nov 7, 1980.

Signed at Washington, D.C., this 28th day of September 1984.

James L. Valin,

Assistant Administrator.

BILLING CODE 4510-27-M

DECISION NO. AZ83-5102 - MOD. #10
(48 FR 9424 - March 4, 1983)
Maricopa County, Arizona

	Basic Hourly Rates	Fringe Benefits
Change:		
Ironworkers	$16.25	5.44

DECISION NO. CO83-5113 - MOD #5
(48 FR 32451 - July 15, 1983)
Adams, Arapahoe, Boulder, Clear Creek, Denver, Douglas, Eagle, Elbert, Gilpin, Grand, Jefferson, Lake, Larimer, Morgan, Park, Summit and Weld Counties, Colorado

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Sheet Metal Workers:		
Jobs over 100,000 sq. feet	$16.03	3.53 +3%
Jobs 100,000 sq. feet or less	15.25	3.53 +3%

DECISION NO. C084-5003- MOD. #1
(49-FR-7066-February 24, 1984)
El Paso County, Colorado

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Electrician	$16.12	2.31+3%

DECISION NO. DC84-3009- MOD. #6
(49 FR 13800-April 6,1984)
DISTRICT OF COLUMBIA, MARYLAND-MONTGOMERY & PRINCE GEORGES COUNTIES, THE D.C. TRAINING SCHOOL, VIRGINIA-INDEPENDENT CITY OF ALEXANDRIA & ARLINGTON & FAIRFAX COUNTIES.

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ELECTRICIANS	$16.05	3%+ 3.05

DECISION NO. FL83-1016- MOD. #7
(48 FR 14307-April 1,1983)
Dade County, Florida
Building Construction

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
CARPENTERS & SOFT FLOOR LAYERS	$14.90	1.63

DECISION NO. MD81-3052- MOD. # 1
(46 FR 41324-August 14, 1981)
Allegany, Garrett, & Washington Counties, Maryland

OMIT FROM AREA OF COVERAGE
Allegany & Garrett Counties, Maryland

DECISION NO. MA84-3007 - MOD. #4
(49 FR 13804 - April 6, 1984)
Berkshire, Franklin, Hampshire, and Hampden Counties, Mass.

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BRICKLAYERS, CEMENT MASONS; PLASTERERS; STONEMASONS; MARBLE; TILE & TERRAZZO WORKERS; POINTERS; CLEANERS & CAULKERS		
Area 3	16.00	2.13
CARPENTERS, SOFT FLOOR LAYERS; DRYWALL CARPENTERS; LATHERS	15.53	2.92
LINE CONSTRUCTION		
Areas 1, 2 & 3:		
Traffic Control, Illumination & Maintenance:		
Linemen, technicians & cable splicers	17.20	2.90+ 4.75%
Equipment operator	14.62	2.90+ 4.75%
Driver groundman	12.90	2.90+ 4.75%
Groundman	12.04	2.90+ 4.75%
Railroad Construction (including electrical distribution, transmission lines, substation and signal construction:		
Lineman, cable splicers & dynamite man	17.95	2.90+ 4.75%
Heavy equipment operator	16.16	2.90+ 4.75%
Equipment operator tractor trailer driver, & field mechanic	15.26	2.90+ 4.75%
Driver groundman	13.46	2.90+ 4.75%
Groundman	9.87	2.90+ 4.75%
Plumbers & Steamfitters		
Area 2	18.10	3.59
Area 3	16.82	4.29+c
Sheet metal workers	15.66	5.09
Painters:		
Brush & Tapers	13.86	3.09
Spray & Sandblasting	17.43	3.09
Swing stage and steel riding under 40'	14.05	3.09
Swing stage and steel riding over 40'	14.36	3.09
Sign painters	13.44	2.05

DECISION NO. MA84-3008 - MOD. #2 (49 FR 12889 - March 30, 1984) Worcester County, Mass.	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ASBESTOS WORKERS	17.98	2.92
BOILERMAKERS	18.16	3.691
BRICKLAYERS, CEMENT MASONS, PLASTERERS and STONEMASONS		
Area 2	17.46	4.42
Area 4	17.05	3.55
ELECTRICIANS		
Area 2	15.90	4.30+ 3%
Area 3	16.50	1.81+ 11%
IRONWORKERS	18.05	4.25
LABORERS		
Wrecking:		
Group 1	10.50	2.80
Group 2	13.60	2.80
Group 3	13.70	2.80
Group 4	13.85	2.80
Group 5	14.10	2.80
Group 6	14.35	2.80
LINE CONSTRUCTION		
Lineman	18.00	2.60+ 4.375+d.
Equipment Operator	15.30	2.60+ 4.375+d
Driver Groundman	14.40	2.60+ 4.375+d
MARBLE, TILE & TERRAZZO WORKERS		
Area 1	17.80	3.45
PAINTERS:		
Areas 1, 2, and 3:		
Sign Painters, Erectors and Fabricators	13.44	2.05
Area 1:		
Brush and Tapers	13.86	3.09
Spray & Sandblasting	17.43	3.09
Swing & chair work and steel riding under 40 ft.	14.05	3.09
Swing and chair work and steel riding 40 ft. and over	14.36	3.09
Area 3:		
Brush	16.08	3.55
Wall Coverings	16.33	3.55
Spray; Sandblasting	18.08	3.55
Steel	18.08	3.55
Repaint	13.67	3.55
Residential	12.06	3.55
SHEET METAL WORKERS		
Area 2	15.66	5.09
TERRAZZO FINISHERS	18.50	1.50

DECISION NO. MA84-3010 MOD. NO. 2 (49 FR 13809 - April 6, 1984) Essex, Suffolk, Middlesex, Norfolk, Bristol, Plymouth, Barnstable, Dukes, Nantucket Counties, Massachusetts	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Asbestos Workers		
Area	$18.56	4.33
Boilermakers	18.16	3.691
Bricklayers; Cement Masons (except in areas 2, 3, 4, 5, 7 & 8); Plasterers; Stonemasons; Pointers; Caulkers and Cleaners:		
Area 1, 2, & 3	18.01	3.87
Area 4		
Except Plasterers	18.41	3.47
Plasterers	17.75	4.15
Area 5, 6, 7	18.51	3.37
Area 8 & 9	19.36	2.52
Area 10	17.46	4.42
Area 11	17.80	4.05
Area 12	17.46	4.42
Area 13	18.41	3.47
Area 14	17.66	4.22
Carpenters		
Area 1	15.81	4.32
Area 2	16.06	4.25
Area 3	15.91	4.40
Area 4	17.86	4.70
Cement Masons:		
Areas 1, 6, 9, 10, 11, 12, 13, 14, 15 & 16- See Bricklayers		
Area 2	18.50	3.53
Area 3, 4 & 5	19.25	2.85
Electricians:		
Area 1:		
Contracts under $40,000	14.95	3.15+ 3%
Contracts over $40,000	16.95	3.15+ 3%
Area 3	16.75	4.55+ 3%
Area 5	16.50	1.81+ 11%
Area 6	19.70	4.68+ 3%
Area 7	17.35	30%
ELECTRICIANS:		
Area 8	16.00	4.75+ 3%
Area 9	15.75	2.25+ 17.5%
Area 11	19.23	17.5%
Ironworkers:		
Area 1	15.39	6.31
Area 2	18.25	4.25
Area 3	18.05	4.25
LABORERS (WRECKING):		
Class I	10.50	2.80
Class II	13.60	2.80
Class III	13.70	2.80
Class IV	13.85	2.80
Class V	14.10	2.80
Class VI	14.35	2.80
LINE CONSTRUCTION:		
Lineman	18.00	2.60+c +4.375%.
Equipment Operators & Cablemen	15.30	2.60+c +4.375%.
Driver Groundmen	14.40	2.60+c +4.375%
Groundman	9.90	2.60+c +4.375%
Marble, Tile & Terrazzo Workers	17.80	3.45
PAINTERS:		
Sign Painters (Statewide)	13.44	2.05
Area 1:		
New Construction:		
Brush; Taper	17.45	5.77
Spray; Sandblast	18.45	5.77
Steel	20.50	5.77
REPAINT:		
Brush; Taper	15.72	5.77
Spray; Sandblast	16.72	5.77
Steel	20.50	5.77
Area 2:		
Brush; Taper; Paperhanging	17.31	4.75
Sandblasting; swing stage	18.31	4.75
Spray; Steel	18.81	4.75
Repaint up to 3 stories (including basements and sub-basements) and new housing 2 stories and less:		

DECISION NO. MA83-3010 - Mod. No. 2, CONT'D:

	Basic Hourly Rates	Fringe Benefits
PAINTERS: AREA		
AREA 2 (Cont'd)		
Brush; Taper; Paperhanging	14.71	4.78
Sandblasting; Swing stage	15.56	4.78
Spray; Sandblast; Steel	15.99	4.78
AREA 3:		
Brush	16.08	3.55
Wall Coverings	16.33	3.55
Spray; Sandblast	18.08	3.55
Steel	18.08	3.55
Repaint	13.67	3.55
Residentialq	12.06	3.55
STEAMFITTERS:		
AREA 1:		
Plumbers:	18.98	5.75
Repairs; Replacing defective fixtures, appliances and defective piping, valves or fittings serving same (which means the fixtures and appliances in a single family house, one apartment, or not more than one group of fixtures in same building that tie into the same soil or waste stack. Replacing of pipe limited to piping in the same immediate area of items served by the piping.)	18.03	5.75
Area 8:		
Plumbers & Steamfitters	18.64	3.48
Sheet metal Workers		
Area 2	14.38	3.65+ 3%
Terrazzo Finishers	18.50	1.50

DECISION NO. NJ84-3020 - MOD. #4
(49 FR 30280 - July 27, 1984)
Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Monmouth, Ocean and Salem Counties, New Jersey

OMIT:

ROOFERS:
Zone 1:
All rates and classifications

ADD:

ROOFERS:
ZONE 1:

	Basic Hourly Rates	Fringe Benefits
Shingle, slate and tile Mechanic II for shingle, slate or tile work - handles and transports all materials, tools and equipment; clean-up debris	13.92	2.25
All other work	6.25	2.25
Mechanic II for all other work - handles and transports all materials, tools and equipment; clean-up debris	19.57	2.93+p
	8.25	2.93+p

FOOTNOTE:
p. Paid Holiday: Election Day.

DECISION NO. NY83-3018 - MOD. #8
(48 FR 22870 - May 20, 1983)
DUTCHESS, ORANGE, SULLIVAN & ULSTER COUNTIES, NEW YORK

CHANGE:

	Basic Hourly Rates	Fringe Benefits
LABORERS (BUILDING):		
ULSTER; ORANGE; SULLIVAN:		
Class 1	15.55	3.45
Class 2	13.80	3.45
Class 3	14.55	3.45

DECISION NO. WI83-2041 - MOD. #4
(48 FR 21811 - May 13, 1983)
Statewide Wisconsin

DELETE:
Landscaper from Group I Laborers all areas

ADD:
Laborer:

	Basic Hourly Rates	Fringe Benefits
Landscaper (all areas)	$9.00	1.75

DECISION NO. WI83-2068 - MOD. #5
(48 FR 40096 - September 2, 1983)
Milwaukee, Ozaukee, Waukesha, & Washington Counties, Wisconsin

ADD:
Laborers:

	Basic Hourly Rates	Fringe Benefits
Landscapers	$9.00	1.75

DECISION NO. WI83-2078 - MOD. #7
(48 FR 45919 - October 7, 1983)
Columbia, Dane, Iowa, and Sauk Counties, Wisconsin

ADD:
Residential Sheet Metal Workers:

	Basic Hourly Rates	Fringe Benefits
Dane County	$11.07	4.00

SUPERSEDEAS DECISION

STATE: California
COUNTIES: Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tuolumne, Yolo and Yuba
DECISION NUMBER: CA84-5022 DATE: Date of Publication
Supersedes Decision No. CA84-5001 dated March 30, 1984, in 49 FR 12873.
DESCRIPTION OF WORK: Building; Heavy (excluding Water Well Drilling); Highway; and Residential projects (excluding Alpine, Butte, Colusa, Fresno, Glenn, Kings, Lake, Lassen, Madera, Mendocino, Modoc, Plumas, Shasta, Sierra, Siskiyou, Stanislaus, Tehama, Trinity Counties). This decision does not include the installation of solar energy systems.
*Excludes Tulare County Building construction only.

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$23.85	$5.61
BOILERMAKERS:		
Boilermakers	21.60	4.25
Boilermaker-Blacksmith, storage tank erection	17.25	4.00
Boilermaker-Blacksmith, storage tank repair	16.05	4.00
BRICKLAYERS; Stonemasons:		
Area 1	19.75	7.25
Area 2	19.90	4.95
Area 3	17.65	3.30
Area 4	16.53	2.82
Area 5	19.27	3.53
Area 6	20.10	3.87
Area 7	17.57	3.89
BRICK TENDERS:		
Area 1	13.55	3.46
Area 2	15.19	6.18
Area 3	16.24	4.91
Area 4	16.24	4.91
Area 5	17.24	4.91
Area 6	14.19	6.10
Area 7	15.55	4.45
Area 8	16.05	4.45
Area 9 (Residential construction 2 stories or less)	13.55	4.96
CARPENTERS:		
Area 1:		
Carpenters	20.27	6.455
Hardwood Floorlayers; Shinglers; Power Saw Operators; Saw Filers; Shinglers; Steel Scaffold Erector & Steel Shoring	20.42	6.455
Millwrights	20.27	7.455
Piledrivermen	19.38	8.885
CARPENTERS (Cont'd):		
Area 2:		
Carpenters	$17.64	$6.455
Hardwood Floorlayers; Power Saw Operator; Saw Filers; Shinglers; Steel Scaffold Erectors & Steel Shoring	17.79	6.455
Millwrights	18.54	7.455
Piledrivermen	19.38	8.885
Area 3 (Residential)	11.80	6.205
Area 4 (Residential)	12.00	6.205
CEMENT MASONS:		
Cement Masons	16.02	6.18
Swing or Slip Form Scaffolds; Mastic, Magnesite, gypsum, epoxy, polyester, resin and all composition	16.27	6.18
DIVERS:		
Divers	31.63	8.485
Diver Tender	20.38	8.485
Assistant Tender	19.38	8.485
DRYWALL INSTALLER/LATHER:		
Area 1:		
Drywall Installer/Lather	20.05	6.485
Drywall Stocker, Scrapper & Clean-up	10.15	3.335
Area 2:		
Drywall Installer/Lather	17.89	6.485
Drywall Stocker, Scrapper & Clean-up	9.07	3.335
ELECTRICIANS:		
Area 1	22.56	7.298 +3%
Area 2:		
Electricians	15.80	3.38 +3%

	Basic Hourly Rates	Fringe Benefits
ELECTRICIANS (Cont'd):		
Area 2 (Cont'd):		
Cable Splicers	$17.38	$3.38 +3
Residential Electrician	12.30	3.35 +3%
Area 3	16.01	4.41 +3%
Area 4:		
Building contracts over $100,000:		
Electricians	20.03	5.15 +3%
Cable Splicers	22.53	5.15 +3%
Building contracts $100,000 or less:		
Electricians	16.03	3.65 +3%
Cable Splicers	18.03	3.65 +3%
Residential Electrician	10.25	3%+.25
Area 5:		
Electrician	25.16	5.45 +3%
Cable Splicer	27.16	5.45 +3%
Area 6:		
Electricians	17.00	5.44 +3%
Cable Splicers	18.36	5.44 +3%
Area 7:		
Electricians	18.40	4.06 +3%
Cable Splicers	20.24	4.06 +3%
Residential Electrician	10.00	1.01 +3%
Area 8:		
Electricians	22.85	4.74 +3%
Cable splicers	25.14	4.74 +3%
Area 9:		
Electricians	15.37	4.45 +3.25%
Cable Splicers	16.91	4.45 +3.25%
ELECTRICIANS (Cont'd):		
Area 9 (Cont'd):		
Residential Electrician	$9.25	$1.15 +3%
Area 10:		
Electrician	18.89	7.68 +3%
Cable Splicer	21.25	7.68 +3%
Residential Electrician	9.45	4.12 +4%
Area 11:		
Building contracts over $100,000:		
Electricians	23.34	5.05 +3%
Cable Splicers	26.26	5.05 +3%
Building contracts $100,000 or less; and Residential construction:		
Electricians	17.57	5.05 +3%
Area 12:		
Electricians	24.40	6.35 +3%
Cable Splicers	27.45	6.35 +3%
Area 13:		
Electrician	25.965	7.26 +3%
Cable Splicer	29.21	7.26 +3%
Area 14:		
Electrician	25.00	5.42 +3%
Area 15	20.81	4.41 +3%
ELEVATOR CONSTRUCTORS:		
Mechanics	29.39	3.29 +a
Helpers	20.57	3.29 +a
Probationary Helpers	14.695	

	Basic Hourly Rates	Fringe Benefits
GLAZIERS:		
Area 1	$20.92	$5.66
Area 2	15.75	6.44
Area 3 (Residential)	10.00	2.72
Area 4 (Residential)	9.82	1.70
Area 5	18.83	3.89
Area 6	13.58	3.04
Area 7	20.06	6.11
IRONWORKERS:		
Fence Erectors	17.16	8.78
Reinforcing, Ornamental and Structural	18.05	8.78
LINE CONSTRUCTION:		
Area 1:		
Groundman	18.87	5.45 +3%
Line Equipment Operator	22.64	5.45 +3%
Lineman	25.16	5.45 +3%
Cable Splicers	27.16	5.45 +3%
Area 2 (Zone 1):		
Group 1	20.03	3.00 +3½%
Group 2	18.11	3.00 +3½%
Group 3	16.35	3.00 +3½%
Group 4	15.61	2.30 +3½%
Group 5	13.66	2.30 +3½%
Group 6	13.66	2.30 +3½%
Group 7	12.84	2.30 +3½%
Zone Differential (add to Zone 1 rate):		
Zone 2 - $2.40		
Zone 3 - 3.15		
Zone 4 - 3.90		
Zone 5 - 5.15		
Area 3:		
Groundmen	17.38	4.21 +3%
Linemen	18.20	4.21 +3%

	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION (Contd)		
Area 4:		
Groundmen	$14.86	$4.24 +3½%
Line Equipment Operators	17.83	4.24 +3½%
Linemen	19.81	4.24 +3½%
Cable Splicers	22.29	4.24 +3½%
Area 5:		
Groundmen	11.60	2.75 +3½%
Linemen	15.47	2.75 +3½%
Cable Splicers	17.02	2.75 +3½%
Area 6:		
Groundman	14.17	6.30 +3%
Linemen, Technicians; Equipment Operators	18.89	7.48 +3%
Cable Splicers	21.25	7.48 +3%
Area 7:		
Groundman & Truck Driver	14.68	4.09 +3%
Linemen	22.30	4.09 +3%
Cable Splicers	22.30	4.09 +3%
Area 8:		
Groundmen	12.57	4.41 +3%
Linemen; Equipment Operators	15.71	4.41 +3%
Cable Splicers	17.28	4.41 +3%
Area 9:		
Groundmen and Truck Drivers	18.42	7.29% +3%
Linemen	22.56	7.29% +3%
Heavy Equipment Operators	22.10	7.29% +3%

	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION (Contd)		
Area 10:		
Groundmen	$16.14	$4.75 +4%
Equipment Operators	18.16	4.75 +4%
Linemen	20.18	4.75 +4%
Cable Splicers	22.20	4.75 +4%
Area 11:		
Groundmen	21.25	5.42 +3%
Line Equipment Operators	22.50	5.42 +3%
Linemen	25.00	5.42 +3%
Area 12:		
Groundman	13.60	4.66 +3%
Heavy Equipment Operators	15.30	5.04 +3%
Linemen	17.00	5.41 +3%
Cable Splicers	18.36	5.41 +3%
Area 13:		
Groundmen	22.07	7.26 +3%
Linemen; Technicians	25.965	7.26 +3%
Cable Splicers	29.21	7.26 +3%
Area 14:		
Groundmen	18.70	5.75 +3%
Linemen; Line Equipment Operators	22.00	5.75 +3%
Cable Splicers	24.75	5.75 +3%
Area 15:		
Groundmen	18.28	4.74 +3%
Heavy Equipment Operator	20.57	4.74 +3%
Linemen	22.85	4.74 +3%
Cable Splicers	25.14	4.74 +3%

	Basic Hourly Rates	Fringe Benefit
MARBLE SETTERS	$20.75	$7.15
MARBLE FINISHERS:		
Area 1	14.81	4.82
PAINTERS:		
Area 1:		
Brush	13.39	4.60
Spray	14.14	4.60
Sandblaster; Scaffold; Sheetrock; Structural Steel; Swing Stage; Taper	13.79	4.60
Area 2:		
Brush; Roller; Taper	15.22	1.59
Bazooka Operators; Paperhangers; Sandblasters; Spray; Structural Steel	15.72	1.59
Area 3:		
Brush	16.20	2.57
Hazardous Coating	17.20	2.57
Sandblasting; Spray; Taping	16.70	2.57
Area 4:		
Brush	21.23	4.70
Tapers	22.03	4.70
Residential Painter	17.32	4.70
Area 5:		
Brush	21.23	4.70
Tapers	22.03	4.70
Residential Painter	17.32	4.70
Area 6:		
Brush and Roller	17.45	1.95
Paperhanger; Sandblaster; Spray; Taper	17.95	1.95
Brush - steel; Brush-Swing Stage up to 40 ft.	17.70	1.95
Spray - steel; Spray-Swing Stage up to 40 ft.	18.20	1.95
Area 7:		
Brush	20.43	4.68
Drywall Finisher	21.43	4.68
Paperhangers	21.43	4.68
Sandblasting; Spray; Steam Cleaning	20.93	4.68

	Basic Hourly Rates	Fringe Benefits
PAINTERS (Cont'd):		
Area 8:		
Brush; Pot Tenders; Rollers	$9.80	$1.35
Sandblaster; Spray; Structural Steel; Swing Stage; Tapers	10.30	1.35
Area 9:		
Brush Paperhangers and Spray (coating)	19.79	5.38
Spray	20.54	5.38
Tapers (paint)	20.29	5.38
Area 10:	20.18	5.38
Brush and Roller	12.00	2.41
Paperhangers; Sandblasters; Spray; Structural Steel; Swing Stage; Tapers	12.24	2.41
PARKING LOT STRIPING WORK and/or HIGHWAY MARKERS:		
Area 1:		
Traffic Delineating Device Applicator	14.48	b+1.65
Striper; Traffic Surface Sandblaster; Wheel Stop Installer	13.95	b+1.65
Slurry Seal Operation:		
Mixer Operator	13.95	b+1.65
Applicator Operator; Shuttleman and Squeegee Man	12.37	b+1.65
Top Man	10.39	b+1.65
Area 2:		
Slurry Seal Operation:		
Applicator Operator	10.60	b+1.55
Mixer Operator	12.37	b+1.55
Squeegee Man	10.60	b+1.55
Top Man	8.91	b+1.55
Striper	13.57	b+1.55
Traffic Delineating Device Applicator; Traffic Surface Sandblaster; Wheel Stop Installer	12.37	b+1.55
PLASTERERS:		
Area 1	19.63	5.88
Area 2	$20.18	$7.65
Area 3	16.06	5.91
Area 4	16.63	5.44
Area 5	17.92	8.25
Area 6	16.55	6.94
Area 7	18.81	3.61
Area 8	14.30	7.45
PLASTERERS' TENDERS:		
Area 1	17.95	5.15
Area 2	16.85	5.01
Area 3	19.09	4.93
Area 4	17.50	4.05
Area 5	14.95	2.70
PLUMBERS:		
Area 1	26.42	5.88
Area 2	25.86	7.34
PLUMBERS; STEAMFITTERS:		
Area 1	19.72	6.71
Area 2	20.34	2.43
Area 3	26.64	8.30
Area 4	22.03	6.35
Area 5	26.40	5.84
Area 6	16.47	9.45
Area 7	24.97	11.00
Area 8	23.36	6.47
ROOFERS:		
Area 1:		
Roofers	17.00	8.62
Mastic Workers; Kettlemen (2 kettles without pumps)	17.25	8.62
Bitumastic; Coal Tar Build-up; Enameler; Pipewrappers	19.00	8.62
Area 2	16.94	3.15
Area 3:		
Roofers (slate, tile and composition)	14.75	3.64
Enameler and Pitch	16.25	3.64
Area 4	14.95	3.85
Area 5:		
Roofers	16.10	7.65
Mastic Workers; Kettlemen (2 kettles without pumps)	16.35	7.65
Bitumastic; Coal Tar Pitch; Enamelers; Pipewrappers	18.10	7.65

	Basic Hourly Rates	Fringe Benefits
ROOFERS (Cont'd):		
Area 6	$19.10	$4.00
Area 7:		
Roofers	16.80	6.40
Mastic Workers; Kettlemen (2 kettles without pumps)	17.05	6.40
Bitumastic; Coal Tar; Enamelers; Pipewrappers	18.80	6.40
Area 8:		
Roofers (slate, tile & composition)	14.90	7.64
Enameler & Pitch	17.65	7.64
Area 9:		
Roofer; Kettleman (1 kettle)	16.23	6.22
Kettlemen (2 kettles)	17.23	6.22
Bitumastic; Coal Tar; Enamelers; Mastic & Pitch	18.23	6.22
SHEET METAL WORKERS:		
Area 1	26.36	6.36
Area 2	16.93	4.67
Area 3	18.38	4.94 +12%
Area 4	21.46	7.50
Area 5	18.05	4.42
Area 6	26.66	6.09
Area 7	18.38	4.22
Area 8	26.19	6.76
Area 9	26.24	6.30
Area 10	22.92	6.86
Area 11	25.64	9.21
SOFT FLOOR LAYERS:		
Area 1	16.01	3.00
Area 2	16.74	1.58
Area 3	17.69	5.66
Area 4	11.96	2.27
Area 5	17.85	6.50
SPRINKLER FITTERS:		
Area 1	26.72	7.29
Area 2	21.87	3.23
STEAMFITTERS:		
Area 1	29.16	4.92
TERRAZZO WORKERS:		
Area 1	$19.80	$7.15
TILE SETTERS:		
Area 1	22.01	4.32
Area 2	18.02	3.05
TERRAZZO WORKERS and TILE SETTERS:		
Area 1	16.45	4.55
Area 2	20.51	3.69
TERRAZZO FINISHERS:		
Area 1:		
Base Machine Operator	16.72	3.95
Terrazzo Finishers	16.02	3.95
TILE FINISHERS:		
Area 1	13.90	4.73

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

LABORERS:	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
TUNNEL & SHAFT LABORERS:			
Group 1	$18.59		
Group 2	18.14		
Group 3	17.88		
Group 4	17.71		
LABORERS:	AREA 1	AREA 2	AREA 3
Group 1	15.56	14.56	12.11
Group 1-a	15.78$	14.78$	12.31
Group 1-b	*	*	*
Group 1-c	15.61	14.61	12.16
Group 1-d	15.81	14.81	12.36
Group 1-e	16.11	15.11	12.59
Group 1-f	16.14$	15.14$	12.62
Group 1-g **			
Group 2	15.41	14.41	11.98
Group 3	15.31	14.31	11.88
Group 4	9.00	9.00	8.46
Gunsite Laborers:			
Group 1	16.02	15.02	12.52
Group 2	15.43	14.43	12.00
Group 3	15.31	14.31	11.88
Wrecking Work:			
Group 1	15.56	14.56	12.11
Group 2	15.41	14.41	11.98
Group 3	15.31	14.31	11.98

*See Group 1-b under the group descriptions.
**(Contra Costa County only).....$15.76

FRINGE BENEFITS:
$5.11

Basic Hourly Rates	Fringe Benefit

POWER EQUIPMENT OPERATORS*:	AREA 1	AREA 2			
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Group 1	$14.96	$16.96			
Group 2	15.49	17.49			
Group 3	15.80	17.80			
Group 4	16.61	18.61			
Group 5	16.92	18.92			
Group 6	17.14	19.14			
Group 7	17.38	19.38			
Group 8	18.03	20.03			
Group 9	18.35	20.35			
Group 10	18.69	20.69			
Group 10-A	18.87	20.87			
Group 11	19.12	21.12			
Group 11-A	20.84	22.84			
Group 11-B	21.25	23.25			
Group 11-C	21.73	23.73			

FRINGE BENEFITS:
$8.98.

*Residential Construction 3 stories and under to be paid the Area 1 rate.

DREDGING - SCHEDULE I
Clamshell and Dipper Dredging (New Construction):

	AREA 1	AREA 2	AREA 3	AREA 4
Group 1	$14.30	$15.63	$16.02	$16.42
Group 2	15.65	16.98	17.37	17.77
Group 3	17.01	18.34	18.73	19.13
Group 4	19.68	21.01	21.40	21.80
Group 4-A	20.08	21.41	21.80	22.20

DREDGING - SCHEDULE II
Hydraulic Suction Dredging and all other Dredging:

Group A-1	14.09	15.35	15.71	16.09
Group A-2	15.45	16.76	17.16	17.54
Group A-3	16.26	17.72	18.12	18.50
Group A-4	17.60	18.98	19.35	19.74

FRINGE BENEFITS:
$8.56

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS:		
DREDGING (Cont'd)		
TOW BOATS:		
Work on self-propelled vessels (except Skiffs powered by outboard motors) engaged in towing vessels and water borne craft or in the transportation by water of personnel, materials, equipment and supplies:		
Deckhand/Mechanics	$10.86	$3.37
Operator Mechanic/ Watch Engineer	12.17	3.86
Work on self-propelled vessels):		
Boat Operators	12.17	3.86
PILEDRIVING:		
Group 1	15.03	8.98
Group 1A	15.53	8.98
Group 1B	15.85	8.98
Group 2A	15.85	8.98
Group 2B	16.67	8.98
Group 2C	16.99	8.98
Group 2D	17.22	8.98
Group 3	17.44	8.98
Group 3A	18.10	8.98
Group 4	18.92	8.98
Group 5	19.19	8.98
Group 6	20.90	8.98
STEEL ERECTION:		
Group 1	15.74	8.98
Group 2	16.30	8.98
Group 3	17.86	8.98
Group 4	18.06	8.98
Group 4A	18.54	8.98
Group 5	19.30	8.98
Group 6	19.94	8.98
Group 7	20.40	8.98
Group 8	20.84	8.98
Group 9	22.42	8.98

	Basic Hourly Rates	Fringe Benefits
TRUCK DRIVERS:		
Group 1	$16.30	$ 6.54
Group 2	16.38	6.54
Group 3	16.40	6.54
Group 4	16.41	6.54
Group 5	16.42	6.54
Group 6	16.43	6.54
Group 7	16.45	6.54
Group 8	16.47	6.54
Group 9	16.48	6.54
Group 10	16.50	6.54
Group 11	16.51	6.54
Group 12	16.55	6.54
Group 13	16.56	6.54
Group 14	16.57	6.54
Group 15	16.60	6.54
Group 16	16.61	6.54
Group 17	16.62	6.54
Group 18	16.64	6.54
Group 19	16.65	6.54
Group 20	16.66	6.54
Group 21	16.71	6.54
Group 22	16.74	6.54
Group 23	16.75	6.54
Group 24	16.84	6.54
Group 25	16.85	6.54
Group 26	16.85	6.54
Group 27	16.88	6.54
Group 28	16.90	6.54
Group 29	16.94	6.54
Group 30	16.95	6.54
Group 31	16.98	6.54
Group 32	17.04	6.54
Group 33	16.97	6.54
Group 34	17.19	6.54
Group 35	17.29	6.54
Group 36	17.34	6.54
Group 37	17.49	6.54
Group 38	17.64	6.54

FOOTNOTES:

a. Employer contributes 8% of basic hourly rate for over 5 years' service, and 6% of basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit. Six Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day

b. Employer contributes $.32 per hour to Holiday Fund plus $.22 per hour to Vacation Fund for the first year of employment; 1 year but less than 5 years $.42 per hour to Vacation Fund; 5 years but less than 10 years $.60 per hour to Vacation Fund; over 10 years $.80 per hour to Vacation Fund

AREA DESCRIPTIONS

BRICKLAYERS; STONEMASONS:
Area 1: Del Norte, Humboldt, Lake, Marin, Mendocino, Napa, San Francisco, San Mateo, Siskiyou, Solano, Sonoma, and Trinity Cos.
Area 2: Alameda and Contra Costa Counties
Area 3: Fresno, Kings, Madera, Mariposa, and Merced Counties
Area 4: Butte, Colusa, El Dorado, Glenn, Lassen, Modoc, Nevada, Placer, Plumas, Sacramento, Shasta, Sierra, Sutter, Tehama, Yolo, and Yuba Counties
Area 5: Monterey and Santa Cruz Counties
Area 6: San Benito and Santa Clara Counties
Area 7: Alpine, Amador, Calaveras, San Joaquin, Stanislaus, and Tuolumne Counties

BRICK TENDERS:
Area 1: Amador, El Dorado, Nevada, Placer, Sacramento, and Yolo Cos.
Area 2: San Francisco and San Mateo Counties
Area 3: Frenso, Kings, Madera, and Tulare Counties
Area 4: Remaining Counties
Area 5: Marin County
Area 6: Alameda and Contra Costa Counties
Area 7: Santa Cruz County
Area 8: San Benito and Santa Clara Counties
Area 9: (Residential construction of 2 stories or less) Monterey and Napa Counties

CARPENTERS:
Area 1: Alameda, Contra Costa, Marin, Napa, San Benito, San Francisco, San Mateo, Santa Clara, Solano and Sonoma Counties
Area 2: Alpine, Amador, Butte, Calaveras, Colusa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Madera, Mariposa, Mendocino, Merced, Modoc, Monterey, Nevada, Placer, Plumas, Sacramento, San Joaquin, Santa Cruz, Shasta, Sierra, Siskiyou, Stanislaus, Sutter, Tehama, Trinity, Tuolumne, Yolo and Yuba Counties
Area 3: (Residential) Calaveras, Mariposa and Merced Counties
Area 4: (Residential) Del Norte and Humboldt Counties

AREA DESCRIPTIONS

DRYWALL INSTALLERS/LATHERS:
Area 1: Alameda, Contra Costa, Marin, Monterey, Napa, San Benito, San Francisco, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma Counties
Area 2: Remainder of Counties

ELECTRICIANS:
Area 1: Alameda County
Area 2: Alpine, Amador, Colusa, El Dorado, Nevada, Placer, Sacramento, Sierra, Sutter, Yolo and Yuba Counties

Area 3: Butte and Glenn Counties; Lassen County (excluding the Sierra Army Depot (Herlong)); Modoc, Plumas, Shasta, Siskiyou, Tehama and Trinity Counties
Area 4: Calaveras and San Joaquin Counties
Area 5: Contra Costa County
Area 6: Del Norte and Humboldt Counties
Area 7: Fresno, Kings, Madera, and Tulare Counties
Area 8: Lake, Marin, Mendocino, and Sonoma Counties
Area 9: Mariposa, Merced, Stanislaus, and Tuolumne Counties
Area 10: Monterey, San Benito, and Santa Cruz Counties
Area 11: Napa and Solano Counties
Area 12: Santa Clara County
Area 13: San Francisco County
Area 14: San Mateo County
Area 15: Sierra Army Depot (Herlong) in Lassen Counties

GLAZIERS:
Area 1: Alameda, Contra Costa, Monterey, Napa, San Benito, Santa Clara, and Santa Cruz Counties
Area 2: Alpine, Amador, Butte, Calaveras, Colusa, El Dorado, Glenn, Lassen, Modoc, Nevada, Placer, Plumas, Sacramento, San Joaquin, Shasta, Sierra, Siskiyou, Solano, Stanislaus, Sutter, Tehama, Tuolumne, Yolo, and Yuba Counties
Area 3: (Residential) Sutter and Yuba Counties
Area 4: (Residential) Amador, Calaveras, El Dorado, Nevada, Placer, Sacramento, San Joaquin, Solano, Tuolumne, and Yolo Counties
Area 5: Fresno, Madera, Mariposa, Merced, Kings, and Tulare Counties
Area 6: Del Norte and Humboldt Counties
Area 7: Lake, Marin, Mendocino, San Francisco, San Mateo, and Sonoma Counties

LINE CONSTRUCTION:
Area 1: Contra Costa County
Area 2: Del Norte, Modoc, and Siskiyou Counties:
Group 1: Cable Splicer, Leadman Pole Sprayer
Group 2: Lineman, Pole Sprayer, Heavy Line Equipment Man, Certified Lineman Welder
*Group 3: Tree Trimmer
Group 4: Line Equipment Man
Group 5: Head Groundman, Powderman, Jackhammer Man
*Group 6: Head Groundman (Chipper)
Group 7: Groundman
*Groups 3 and 6 receive BASE RATE (ZONE 1) ONLY (no Zone Differential)

AREA DESCRIPTIONS (Cont'd)

LINE CONSTRUCTION: (Cont'd)
Area 2: (Cont'd)
Zone Definitions: Zone 1: 0 to 3 miles radius from the geographical center of Alturos and Yreka, California
Zone 2: 3 to 20 miles radius
Zone 3: 20 to 35 miles radius
Zone 4: 35 to 50 miles radius
Zone 5: Over 50 miles radius
BASE RATE (ZONE 1) is paid when working out of employer's Permanent Shop
Area 3: Fresno, Kings, Madera, and Tulare Counties
Area 4: Calaveras and San Joaquin Counties
Area 5: Mariposa, Merced, Stanislaus, and Tuolumne Counties
Area 6: Monterey, San Benito, and Santa Cruz Counties
Area 7: Napa and Solano Counties
Area 8: Butte, Glenn, Lassen, Plumas, Shasta, Tehama, and Trinity Cos.
Area 9: Alameda County
Area 10: Amador, Colusa, Sacramento, Sutter, Yolo, and Yuba Counties; Alpine, El Dorado, Nevada, Placer, and Sierra Counties (those portions west of the Main Sierra Mountain Watershed)
Area 11: San Mateo County
Area 12: Humboldt County
Area 13: San Francisco County
Area 14: Santa Clara County
Area 15: Lake, Marin, Mendocino, and Sonoma Counties

MARBLE FINISHERS:
Area 1: Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Glenn, Humboldt, Lake, Lassen, Marin, Mendocino, Modoc, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Sutter, Tehama, Trinity, Yolo and Yuba Counties

PAINTERS:
Area 1: Alpine, Amador, Calaveras, and San Joaquin Counties
Area 2: Fresno, Kings, Madera, and Tulare Counties
Area 3: Mariposa, Merced, Stanislaus, and Tuolumne Counties
Area 4: San Benito, San Mateo, and Santa Clara Counties
Area 5: Monterey and Santa Cruz Counties
Area 6: Lassen County (that portion that lies eastward of Highway #395, northward to and including Honey Lake); Lake Tahoe Area
Area 7: Lake, Marin, Mendocino, San Francisco, and Sonoma Counties
Area 8: Butte, Colusa, and Glenn Counties; Lassen County (excluding the extreme SE corner); Modoc, Plumas, Shasta, Siskiyou, Sutter, Tehama, Trinity, and Yuba Counties
Area 9: Alameda, Contra Costa, El Dorado, Napa, Nevada, Placer, Sacramento, Sierra, Solano, and Yolo Counties (excluding portions of Counties in the Lake Tahoe Area)
Area 10: Del Norte and Humboldt Counties

AREA DESCRIPTIONS (Cont'd)

PARKING LOT STRIPING WORK and/or HIGHWAY MARKERS:
Area 1: Fresno, Kings, and Tulare Counties
Area 2: Remaining Counties

PLASTERERS:
Area 1: Alameda and Contra Costa Counties
Area 2: San Francisco and San Mateo Counties
Area 3: Alpine, Amador, Butte, Calaveras, Colusa, El Dorado, Glenn, Lassen, Modoc, Nevada, Placer, Plumas, Sacramento, San Joaquin, Shasta, Sierra, Siskiyou, Sutter, Tehama, Trinity, Yolo and Yuba Cos.
Area 4: Del Norte, Humboldt, Lake, Marin, Mendocino, Napa, Solano, and Sonoma Counties
Area 5: San Benito, Santa Clara, and Santa Cruz Counties
Area 6: Fresno, Kings, Madera, and Tulare Counties
Area 7: Monterey County
Area 8: Mariposa, Merced, Stanislaus, and Tuolumne Counties

PLASTERERS' TENDERS:
Area 1: Alameda and Contra Costa Counties
Area 2: Fresno, Kings, Madera, and Tulare Counties
Area 3: San Francisco and San Mateo Counties
Area 4: Monterey County
Area 5: Napa County

PLUMBERS:
Area 1: Alameda County
Area 2: Contra Costa County

PLUMBERS; STEAMFITTERS:
Area 1: Amador County (northern half); El Dorado, Nevada, Sacramento, and Yolo Counties (excluding Lake Tahoe Area), Sierra County
Area 2: Lake Tahoe Area
Area 3: Marin, Mendocino, San Francisco, and Sonoma Counties
Area 4: Alpine County; Amador County (southern portion); Butte, Calaveras, Colusa, Fresno, Glenn, Kings, Lassen, Madera, Mariposa, Merced, Modoc, Monterey, Plumas, San Joaquin, Santa Cruz, Shasta, Sierra, Siskiyou, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, and Yuba Counties
Area 5: Lake, Napa, and Solano Counties
Area 6: Del Norte and Humboldt Counties
Area 7: San Benito and Santa Clara Counties
Area 8: San Mateo County

ROOFERS:
Area 1: Alameda and Contra Costa Counties
Area 2: Alpine, Calaveras, Mariposa, Merced, San Joaquin, Stanislaus, and Tuolumne Counties

AREA DESCRIPTIONS (Cont'd)

ROOFERS: (Cont'd)
Area 3: Butte, Colusa, El Dorado, Glenn, Lassen, Modoc, Placer, Plumas, Shasta, Sierra, Siskiyou, Sutter, Tehama, Trinity, and Yuba Counties
Area 4: Fresno, Kings, Madera, and Tulare Counties
Area 5: Lake, Marin, Mendocino, Napa, Solano, and Sonoma Counties
Area 6: Monterey and Santa Cruz Counties
Area 7: San Francisco and San Mateo Counties
Area 8: Amador, Sacramento and Yolo Counties
Area 9: San Benito and Santa Clara Counties

SHEET METAL WORKERS:
Area 1: Alameda and Contra Costa Counties
Area 2: Alpine, Calaveras, and San Joaquin Counties
Area 3: Amador, Butte, Colusa, El Dorado, Glenn, Modoc, Plumas, Sacramento, Shasta, Sierra, Siskiyou, Sutter, Tehama, Yolo, and Yuba Counties
Area 4: Monterey and San Benito Counties
Area 5: Del Norte, Humboldt and Trinity Counties
Area 6: San Mateo County
Area 7: Fresno, Kings and Madera Counties
Area 8: San Francisco County
Area 9: Lake, Marin, Mendocino, Napa, Solano and Sonoma Counties
Area 10: Santa Cruz County
Area 11: Santa Clara County

SOFT FLOOR LAYERS:
Area 1: Alpine, Amador, Butte, Calaveras, Colusa, El Dorado, Glenn, and Lassen Counties (excluding Honey Lake Area); Merced County (east of San Joaquin River); Plumas, Sacramento, San Joaquin, Shasta, Stanislaus, Sutter, Tehama, Trinity, Tuolumne, Yolo, and Yuba Counties; El Dorado, Nevada, Placer, and Sierra Counties (those portions excluding Lake Tahoe Area)
Area 2: Honey Lake Area and Lake Tahoe Area
Area 3: Lake, Marin, Mendocino, Merced, Monterey, San Benito, San Francisco, San Mateo, Santa Clara, Santa Cruz and Sonoma Counties
Area 4: Del Norte and Humboldt Counties
Area 5: Alameda, Contra Costa, Napa and Solano Counties

SPRINKLER FITTERS:
Area 1: Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, and Sonoma Counties
Area 2: Remaining Counties

STEAMFITTERS:
Area 1: Alameda and Contra Costa Counties

AREA DESCRIPTIONS (Cont'd)

TERRAZZO WORKERS:
Area 1: Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Napa, San Francisco, San Mateo, Siskiyou, Solano, Sonoma, and Trinity Counties

TILE SETTERS:
Area 1: Alameda, Butte, Colusa, Contra Costa, Del Norte, El Dorado, Glenn, Humboldt, Lake, Lassen, Marin, Mendocino, Modoc, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Mateo, Santa Clara, Shasta, Sierra, Siskiyou, Solano, Sonoma, Sutter, Tehama, Trinity, Yolo, and Yuba Counties
Area 2: Alpine, Amador, Calaveras, San Joaquin, Stanislaus, and Tuolumne Counties

TERRAZZO WORKERS and TILE SETTERS:
Area 1: Fresno, Kings, Madera, Mariposa, Merced, and Tulare Counties
Area 2: Monterey and Santa Cruz Counties

TERRAZZO FINISHERS:
Area 1: Alameda, Alpine, Amador, Butte, Calaveras, Contra Costa, Del Norte, El Dorado, Glenn, Humboldt, Lake, Lassen, Marin, Mendocino, Modoc, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Sutter, Tehama, Trinity, Yolo and Yuba Counties

TILE FINISHERS:
Area 1: Alameda, Alpine, Amador, Butte, Calaveras, Contra Costa, Del Norte, El Dorado, Glenn, Humboldt, Lake, Lassen, Marin, Mendocino, Modoc, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Sutter, Tehama, Trinity, Yolo and Yuba Counties

LABORERS

Area 1: Alameda, Contra Costa, Marin, San Francisco, San Mateo and Santa Clara Counties
Area 2: Del Norte, El Dorado, Fresno, Humboldt, Kings, Lake, Madera, Mendocino, Monterey, Napa, Nevada, Placer, Sacramento, San Benito, San Joaquin, Santa Cruz, Solano, Sonoma, and Yolo Counties
Area 3: Alpine, Amador, Butte, Calaveras, Colusa, Glenn, Lassen, Mariposa, Merced, Modoc, Plumas, Shasta, Sierra, Siskiyou, Stanislaus, Sutter, Tehama, Trinity, Tuolumne and Yuba Counties

LABORERS (Cont'd)

TUNNEL and SHAFT WORK

Group 1: Diamond Driller; Groundman; Gunite and Shotcrete Nozzlemen; Rodmen; Shaft Work and Raise (below actual or excavated ground level)

Group 2: Bit Grinder; Blaster; Drillers, Powderman-heading; Cherry Pickermen - where car is lifted; Concrete Finisher in Tunnel; Concrete Screed Man; Grout Pumpman and Potman; Gunite and Shotcrete Gunmen and Potmen; Headermen; High Pressure Nozzleman; Miners - Tunnel, including Top and Bottom Man on Shaft and Raise Work; Nipper Nozzleman on slick line; Sandblaster-Potman (work assignment interchangeable); Steel Form Raisers and Setters; Timberman, Retimberman - wood or steel or substitute materials therefore; Tugger

Group 3: Cabletender; Chucktender; Powderman - Primer House; Vibratormen, Pavement Breakers

Group 4: Bull Gang - Muckers, Trackmen; Concrete Crew - includes rodding and spreading; Dumpmen (any method); Grout Crew Reboundmen; Swamper

LABORERS

Group 1: Asphalt Ironers and Rakers; Asphalt Spreader Boxes (all types); Barko, Wacker and similar type Tampers; Buggymobile; Chainsaw, Faller, Logloader and Bucker; Compactors of all types; Concrete and Magnesite Mixer, 1/2 yd. and under; Concrete Pan Work; Concrete Saw; Concrete Sander; Cribber and/or Shoring; Cut Granite Curb Setter; Form Raisers; Slip Forms; Green Cutters, Headerboardmen, Hubsetters, Aligners; Jackhammer Operators; Jacking of Pipe over 12 inches; Jackson and similar type Compactors; Kettlemen, Potmen and Men applying asphalt, lay-kold, creosote, lime, caustic and similar type materials; Lagging, Sheeting, Whaling, Bracing, Trenchjacking, hand-guided Lagging Hammer; Magnesite, Epoxyresin, Fiberglass, Mastic Workers (wet or dry); Perma Curbs; Precast-manhole Setters; Cast-in-place Manhole Form Setters; Pressure Pipe Tester; Pavement Breakers and Spaders, including Tool Grinder; Pipelayers, Caulkers, Banders, Pipewrappers, Conduit Layers, Plastic Pipelayers; Post Hole Diggers, air, gas, and electric; Power Broom Sweepers; Power Tampers of all types (except as shown in Group 2); Ram Set Gun and Stud Gun; Riprap-stonepaver and Rock-slinger, including placing of sacked concrete and/or sand (wet or dry); Rotary Scarifier, Multiple Head Concrete Chipper; Davis Trencher, 300 or similar type (and all small Trenchers); Roto and Ditch Witch; Roto-tiller; Sandblasters, Potmen, Gunman, Nozzleman; Signalling and Rigging; Tank Cleaners; Tree Climbers; Vibrascreed, Bull Float in connection with Laborers' work; Vibrators; Dripak-it Machine; High Pressure Blow Pipe (1½" or over, 100 lbs. pressure and over); Hydro Seeder and similar type; Laser Beam in connection with Laborers' work

LABORERS (Cont'd)

Group 1(a): Joy Drill Model TWH-2A; Gardener-Denver Model DH143 and similar type drills; Track Drillers; Jack Leg Drillers; Diamond Drillers; Wagon Drillers; Mechanical Drillers, all types regardless of type or method of power; Multiple Unit Drills; Blasters and Powdermen; all work of loading, placing and blasting of all power and explosives of whatever type regardless of method used for such loading and placing; High Scalers (including drilling of same); Tree Topper; Bit Grinder

Group 1(b): Sewer Cleaners receive an additional $4.00 per day, $5.00 per day on recently active large diameter sewers or sewer manholes

Group 1(c): Burning and Welding in connection with Laborers' work

Group 1(d): Repair Trackmen and Road Beds (cut and cover work of subway after the temporary cover has been placed)

Group 1(e): Laborers on general construction work on or in Bell Hole Footings and Shaft

Group 1(f): Wire Winding Machine in Connection with Guniting or Shotcrete - Aligner

Group 1(g): Pipelayers; Caulkers; Sanders; Pipewrappers; Conduit Layers and Plastic Pipelayers; Pressure Pipe Tester, no joint pipe and stripping of same, including repair of voids; Precast Manhole Setters; Cast-in-Place Manhole Form Setters

Group 2: Asphalt Shovelers; Cement Dumpers and handling dry cement or gypsum; Choke-setter and Digger (clearing work); Concrete Bucket Dumper and Chuteman; Concrete Chipping and Grinding; Concrete Laborers (wet or dry); Chuck Tender; High Pressure Nozzleman, Adductors; Groutcrew; Hydraulic Monitor (over 100 lbs. pressure); Loading and unloading, carrying and hauling of all rods and materials for use in reinforcing concrete construction; Pittsburgh Chipper and similar type Brush Shredders; Sloper; Singlefoot, hand held, Pneumatic Tamper; All pneumatic, air, gas and electric tools not listed in Groups 1 through 1(f); Jacking of Pipe under 12 inches

Group 3: All Cleanup work of debris, grounds and buildings including but not limited to street cleaners; Cleaning and washing windows; Construction Laborers including Bridge and General Laborers; Dumpman; Load Spotter; Fire Watcher; Street Cleaners; Gardeners, Horicultural and Landscape Laborers; Jetting; Limbers; Brush Loaders; Filers, Maintenance Landscape Laborers on new construction; Maintenance, Repair Trackmen and Road beds; Streetcar and Railroad Construction Track Laborers; Temporary air and water lines, Victaulic or similar; Tool Room Attendant; Fence Erectors; Guardrail Erectors; Pavement Markers (button setters)

Group 4: Brick Cleaners; Lumber Cleaners

LABORERS (Cont'd)

GUNNITE

Group 1: Nozzleman (including Gunman, Potman); Rodmen, Groundman

Group 2: Reboundman

Group 3: General Laborers

WRECKING WORK

Group 1: Skilled Wrecker (removing and salvaging of sash, windows, doors, plumbing and electric fixtures)

Group 2: Semi-skilled Wrecker (salvaging of other building materials)

Group 3: General Laborer (includes all cleanup work, loading lumber, loading and burning of debris)

POWER EQUIPMENT OPERATORS
AREAS I and II

Group 1: Assistants to Engineers (Brakeman; Fireman; Heavy Duty Repairman Tender; Oiler; Deckhand; Signalman; Switchman; Tar Pot Fireman); Partsman (heavy duty repair shop parts room)

Group 2: Compressor Operator; Concrete Mixer (up to and including 1 yd.); Conveyor Belt Operator (tunnel); Fireman Hot Plant; Hydraulic Monitor; Mechanical Conveyor (handling building materials); Mixer Box Operator (concrete plant); Pump Operator; Spreader Boxman (with screeds); Tar Pot Fireman (power agitated)

POWER EQUIPMENT OPERATORS (Cont'd)
AREAS I and II (Cont'd)

Group 3: Box Operator (bunker); Helicopter Radioman (Signalman); Motorman; Locomotive (30 tons or under); Oiler; Ross Carrier (construction job site); Rotomist Operator; Screedman (except asphaltic concrete paving); Self-propelled, automatically applied concrete curing machine (on streets, highways, airports and canals); Trenching Machine (maximum digging capacity 5 ft. depth); Tugger Hoist, single drum; Truck Crane Oiler; Boiler Tender

Group 4: Ballast Jack Tamper; Ballast Regulation; Ballast Tamper Multipurpose; Boxman (asphalt plant); Elevator Operator (inside); Fork Lift or Lumber Stacker (construction job site); Line Master; Material Hoist (1 drum); Shuttlecar; Tie Spacer; Towermobile

Group 5: Compressor Operator (over 2); Concrete Mixers (over 1 yd.); Concrete Pumps or Pumpcrete Guns; Generators; Grouting Machine; Pressweld (air operated); Pumps (over 1); Welding Machines (powered other than by electricity)

Group 6: BLH Lima Road Pactor or similar; Boom Truck or Dual Purpose A-Frame Truck; Concrete Batch Plants (wet or dry); Concrete Saws (self-propelled unit) on streets, highways, airports and canals; Drilling and Boring Machinery, vertical and horizontal (not to apply to Waterliners, Wagon Drills or Jackhammers); Gradesetter, Grade Checker (mechanical or otherwise); Highline Cableway Signalman; Locomotives (steam of over 30 tons); Maginnis Internal Full Slab Vibrator (on airports, highways, canals and warehouses); Mechanical Finishers (concrete) (Clary, Johnson, Bidwell Bridge Deck or similar types); Mechanical Burm, Curb and/or Curb and Gutter Machine, concrete or asphalt; Portable Crusher; Post Driver (M-1500 and similar); Power Jumbo Operator (setting slip forms, etc. in tunnels); Roller (except asphalt); Screedman (Barber-Greene and similar) (asphaltic concrete paving); Self-propelled Compactor (single engine); Self-propelled Pipeline Wrapping Machine, Perault, CMC, or similar types; Slip Forms Pumps (lifting device for concrete forms); Small Rubber Tired Tractor; Surface Heater; Self-propelled Power Sweeper; Self-propelled Tape Machine; Auger-type drilling equipment, up to and including 30 ft. depth digging capacity M.R.C.

Group 7: Concrete Conveyor or Concrete Pump, Truck or equipment mounted (boom length to apply); Concrete Conveyor, building site; Deck Engineers; Dual Drum Mixer; Fuller Kenyon Pump and similar types; Gantry Rider (or similar); Hydra-hammer (or similar); Material Hoist (2 or more drums); Mechanical Finishers or Spreader Machine (asphalt, Barber-Greene and similar); Mine or Shaft Hoist; Mixermobile; Pavement Breaker with or without Compressor Combination; Pipe Bending Machine (pipelines only); Pipe Cleaning Machine (tractor propelled and supported); Pipe Wrapping Machine (tractor propelled and supported); Refrigeration Plant; Roller Operator (finish asphalt); Self-propelled boom type lifting device (center mount) (10 tons or less M.R.C.); Self-propelled Elevating Grader Plane; Slusher Operator; Small Tractor (with boom); Soil Tester; Truck type Loader; Welding Machines (gasoline or diesel)

POWER EQUIPMENT OPERATORS (Cont'd)
AREAS I and II (Cont'd)

Group 8: Armor-Coater (or similar); Asphalt Plant Engineer; Cast-in-place Pipe Laying Machine; Combination Slusher and Motor Operator; Concrete Batch Plant (multiple units); Dozer; Heading Shield Operator; Heavy Duty Repairman and/or Welder; Ken Seal Machine (or similar); Kolman Loader; Loader (up to 2 yds.); Mechanical Trench Shield; Portable Crushing and Screening Plants; Push Cat; Rubber Tired Earth-moving Equipment (up to and including 45 cu. yds. "struck" M.R.C) (Euclids, T-Pulls, DW-10, 20, 21, and similar); Rubber Tired Dozer; Self-propelled Compactor with Dozer; Sheepfoot; Timber Skidder (rubber tired or similar equipment); Tractor drawn Scraper; Tractor; Trenching Machine; Tri-batch Paver; Tunnel Mole Boring Machine; Welder; Woods-mixer (and other similar Pugmill equipment)

Group 9: Canal Finger Drain Digger; Chicago Boom; Combination Mixer and Compressor (Gunite); Combination Slurry Mixer and/or Cleaner; Highline Cableway (5 tons and under); Lull Hi-lift or similar (20 ft. or over); Mucking Machine (rubber tired, rail or track type); Tractor (with boom) (D-6 or larger and similar)

Group 10: Boom-type Backfilling Machine; Bridge Crane; Cary-lift (or similar); Chemical Grouting Machine, truck mounted; Combination Backhoe and Loader (up to and including 1/2 cu. yd. M.R.C.); Derrick (2 operators required when swing engine remote from Hoist); Derrick Barges (except excavation work); Do-mor Loader; Adams Elegrader; Elevating Grader; Heavy Duty Rotary Drill Rig (including Caisson Foundation work and Euclid Loader and similar type; Robbins type drills; Koehring Skooper (or similar); Lift Slab Machine; (Vagtborg and similar types); Loader (2 yds. up to and including 4 yds.); Locomotive, 100 tons (single or multiple units); Multiple Engine Earthmoving Machine (Euclids, Dozers, etc.)(no tandem Scraper); Pre-stress Wire Wrapping Machine; Reservoir-debris Tug (self-propelled floating); Rubber-tired Scraper, Self-loading (paddle wheels, etc.); Shuttle Car (reclaim station); Single engine Scraper over 45 yds.; Soil Stabilizer (P & H or equal); Sub-grader (Gurrier or other automatic type); Tractor, Compressor Drill Combination; Track Laying type Earth Moving Machine (single engine with Tandem Scrapers); Train Loading Station; Trenching Machine, multi-engine with sloping attachment, Jeffco or similar; Vacuum Cooling Plant; Whirley Crane (up to and including 25 tons)

Group 10-A: Backhoe (Hydraulic)(up to and including 1 cu. yd. M.R.C.); Backhoe (cable)(up to and including 1 cu. yd. M.R.C.); Combination Backhoe and Loader (over 3/4 cu. yd. M.R.C.); Continuous Flight Tie Back Auger (Crane attached/separate controls); Cranes not over 25 tons, Hammerhead and Gantry; Gradalls (up to and including 1 cu. yd.); Power Blade Operator (single engine); Power Shovels, Clamshells, Draglines (up to and including 1 cu. yd. M.R.C.)(Long Boom Pay); Rubber-tired Scraper, self-loading (Paddle Wheel, twin engine); Self-propelled Boom-type lifting device (center mount)(over 10 tons up to and including 25 tons); CMI Dual Lane Auto Grader SP-30 or similar

POWER EQUIPMENT OPERATORS (Cont'd)
AREAS I and II (Cont'd)

Group 11: Automatic Concrete Slip-form Paver (Gradesetter, Screedman); Automatic Railroad Car Dumper; Canal Trimmer with ditching attachments; Cary Lift, Campbell or similar, Continuous Flight Tie Back Auger (Crane attached, single controls); Cranes (over 25 tons up to and including 125 tons); Drott Travelift 650-A-1 or similar (45 ton or over); Euclid Loader when controlled from the Pullcat; Highline Cableway (over 5 tons); Loader (over 4 cu. yds., up to and including 12 cu. yds.); Miller Formless M-900 Slope Paver or similar (Grade Setter required); Multiple Engine Scraper (when used as Push Pull); Power Blade Operator (multi-engine); Power Shovels, Clamshells, Draglines, Backhoes, Gradalls (over 1 cu. yd. and up to and including 7 cu. yds. M.R.C., Long Boom Pay); Rubber-tired Earthmoving Machines (multiple propulsion power units and two or more Scrapers) (up to and including 75 cu. yds. Struck M.R.C.); Self-propelled Compactor Boom-type lifting device (center mount) (over 25 tons M.R.C.); Single engine Rubber-tired Earthmoving Machines (with Tandem Scrapers); Slip-form Paver (concrete or asphalt) (Screedman required); Tandem Cats; Tower Cranes Mobile (including rail mounted); Trencher (pulling attached shield); Tower Cranes, Universal Liebher and similar types (in the erection, dismantling and moving of equipment); Wheel Excavator (up to and including 750 cu. yds. per hour); Whirley Crane (over 25 tons); Multi-earthmoving Equipment (up to and including 75 cu. yds. "struck" M.R.C.); Truck mounted Hydraulic Crane when remote control equipped (over 10 tons up to and including 25 tons)

Group 11-A: Band Wagons (in conjunction with wheel excavator); Cranes (over 125 tons); Loader (over 12 cu. yds., up to and including 18 cu. yds.); Power Shovels, Clamshells, Backhoes, Gradalls, and Draglines (over 7 cu. yds. M.R.C.); Rubber-tired Multi-purpose Earth Moving Machines (2 units over 75 cu. yds. "struck" M.R.C.); Wheel Excavator (over 750 cu. yds. per hour)

Group 11-B: Loader (over 18 yards)

Group 11-C: Operator of Helicopter (when used in erection work); Remote controlled Earthmoving equipment

POWER EQUIPMENT OPERATORS (Cont'd)

DREDGING

AREA DEFINITIONS FOR SCHEDULES I and II

Four Centers designated: City Halls of Oakland, San Francisco, Sacramento and Stockton, California
Area 1: Up to 20 road miles from said Centers
Area 2: More than 20 road miles to and including 30 road miles from said Centers
Area 3: Outside of 30 road miles from said Centers
Area 4: An area extending 25 road miles from shoreline of Lake Tahoe

SCHEDULE I
CLAMSHELL and DIPPER DREDGING (New Construction)

Group 1: Bargeman; Deckhand; Fireman; Oiler

Group 2: Deck Engineers; Deck Mate

Group 3: Welder; Mechanic Welder; Watch Engineer

Group 4: Clamshell Operator (up to and including 7 cu. yds. M.R.C.) (Long Boom Pay)

Group 4A: Clamshell Operator (over 7 cu. yds. M.R.C.) (Long Boom Pay)

SCHEDULE II
HYDRAULIC SUCTION DREDGING and all other CLAMSHELL and DIPPER DREDGING

Group A-1: Bargeman; Deckhand; Leveehand; Fireman; Oiler

Group A-2: Winchman (Stern Winch on Dredge); Deck Engineer

Group A-3: Watch Engineer; Welder; Welder Mechanic; Deckmate; Booster Pump Operator (Mud Cat)

Group A-4: Leverman; Clamshell Operator

PILEDRIVING

Group 1: Assistant to Engineer (Fireman, Oiler, Deckhand)

Group 1A: Compressor Operator

Group 1B: Assistant to Engineer (Truck Crane Oiler)

Group 2A: Tugger Hoist Operator (hoisting material only)

Group 2B: Forklift Operator

POWER EQUIPMENT OPERATORS (Cont'd)
PILEDRIVING (Cont'd)

Group 2C: Compressor Operator (over 2); Generators; Pumps (over 4); Welding Machines (powered by other than electricity)

Group 2D: A-Frames

Group 3: Deck Engineer (Deck Engineer Operator required when deck engine is used); Self-propelled Boom-type lifting device (center mount) (10 ton capacity or less M.R.C.)

Group 3A: Heavy Duty Repairman and/or Welder

Group 4: Operating Engineer in lieu of Assistant to Engineer tending boiler or compressor attached to Crane Piledriver; Operator of Piledriving Rigs, Skid or Floating and Derrick Barges (Assistant to Engineer required); Operator of diesel or gasoline power Crane Piledriver (without boiler) up to and including 1 cu. yd. rating (Assistant to Engineer required); Self-propelled Boom-type lifting device (center mount) (over 10 tons up to and including 25 tons); Truck Crane Operator (up to and including 25 tons) (hoisting material only) (Assistant to Engineer required)

Group 5: Operator of diesel or gasoline powered Crane Piledriver (with boiler) over 1 cu. yd. rating (Assistant to Engineer required); Operator of Crane (with steam, flash boiler, pump or compressor attached) (Group 4 Engineer required); Operator of steam powered Crawler or Universal type Driver (Raymond or similar) (Assistant to Engineer required) Truck Crane Operator (over 25 tons) (hoisting material or performing Piledriving work) (Assistant to Engineer required); Self-propelled Boom-type lifting device (center mount) (over 25 tons) (Assistant to Engineer required)

Group 6: Cranes (over 125 tons) (Assistant to Engineer required)

STEEL ERECTION

Group 1: Assistant to Engineer (Oiler)

Group 2: Compressor Operator, Generator, gasoline or diesel driven (100 K.W. or over) (structural steel or tank construction only)

Group 3: Compressors, Generators and/or Welding Machines or combination (2 to 6) (Over 6 additional Engineers required) (structural steel or tank erection only)

Group 4: Heavy Duty Repairman, Tractor Operator

Group 4A: Combination Heavy Duty Repairman and/or Welder

POWER EQUIPMENT OPERATORS (Cont'd)
STEEL ERECTION (Cont'd)

Group 5: Boom Truck or Dual Purpose A-Frame Truck; Boom Cat; Chicago Boom; Crawler Cranes and Truck Cranes (15 tons M.R.C. or less) (Assistant to Engineer required); Self-propelled Boom type lifting device (center mount) (10 ton capacity or less M.R.C.); Single drum Hoist; Tugger Hoist

Group 6: Cary Lift, Campbell or similar; Crawler Cranes and Truck Cranes (over 15 tons M.R.C.) (Assistant to Engineer required); Derricks (2 Operators when swing engine remote from hoist); Gantry Rider (or similar equipment); Highline Cableway (Signalman required); Self-propelled Boom-type lifting device (center mount) (over 10 tons up to and including 25 tons); Tower Cranes Mobile including rail mounted (Assistant to Engineer required); Tower Cranes, Universal Liebher and similar types (in the erection, dismantling and moving of equipment there shall be an additional Operating Engineer)

Group 7: Self-propelled Boom-type lifting device (center mount) (over 25 tons) (Assistant to Engineer required)

Group 8: Cranes (over 125 tons) (Assistant to Engineer required)

Group 9: Helicopter Operator

TRUCK DRIVERS

Group 1: Bulk Cement Spreader (w/wo Auger, under 4 yds. water level); Bus or Manhaul Driver; Concrete Pump Machine; Concrete Pump Truck (when Flat Rack Truck is used appropriate Flat Rack rate shall apply); Dump (under 4 yds. water level); Dumpcrete Truck (under 4 yds. water level); Dumpster (under 4 yds. water level); Escort or Pilot Car Driver; Hipper Truck (when Flat Rack Truck is used appropriate Flat Rack rate shall apply); Pickups; Skids (Debris Box, under 4 yds. water level); Team Drivers; Trucks (Dry Pre-batch Concrete Mix, under 4 yds. water level); Warehousemen

Group 2: Teamster Oiler and/or Greaser and/or Service Man

Group 3: Bulk Cement Spreader (w/wo Auger, 4 yd. and under 6 yds. water level); Dump (4 yds. and under 6 yds. water level); Dumpcrete (4 yds. and under 6 yds. water level); Dumpster (4 yds. and under 6 yds. water level); Skids (Debris Box, 4 yds. and under 6 yds. water level); Single Unit Flat Rack (2 axle unit); Industrial Lift Truck (mechanical Tailgate); Trucks (Dry Pre-batch Concrete Mix, 4 yds. and under 6 yds. water level)

Group 4: Jetting Truck and Water Truck (under 2,500 gallons)

Group 5: Road Oil Trucks or Boot Man

TRUCK DRIVERS (Cont'd)

Group 6: Lift Jitneys, Fork Lift

Group 7: Transit Mix, Agitator (under 6 yds.)

Group 8: Fuel and/or Grease Truck Driver or Fuelman

Group 9: Vacuum Truck, under 3,500 gallons

Group 10: Scissor Truck; Single unit Flat Rack (2 axle unit); Industrial Lift Truck (mechanical tailgate); Small rubber tired tractor (when used within Teamsters' jurisdiction)

Group 11: Jetting Truck and Water Trucks, 2,500 gallons and under 4,000 gallons

Group 12: Combination Winch Truck with Hoist; Transit Mix Agitator (6 yds. and under 8 yds.)

Group 13: Vacuum Truck, 3,500 gallons and under 5,500 gallons

Group 14: Rubber-tired Muck Car (not self-loaded)

Group 15: Bulk Cement Spreader (w/wo Auger, 6 yds. and under 8 yds. water level); Dump (6 yds. and under 8 yds. water level); Dumpcrete (6 yds. and under 8 yds. water level); Dumpster (6 yds. and under 8 yds. water level); Skids (Debris Box, 6 yds. and under 8 yds. water level); Trucks (Dry Pre-batch Concrete Mix, 6 yds. and under 8 yds. water level)

Group 16: A-Frame, Winch Truck; Buggymobile; Jetting and Water Truck (4,000 gallons and under 5,000 gallons); Rubber tired Jumbo

Group 17: Heavy Duty Transport (high bed)

Group 18: Ross Hyster and similar Straddle Carrier

Group 19: Transit Mix Agitator (8 yds. through 10 yds.)

Group 20: Vacuum Truck (5,500 gallons and under 7,500 gallons)

Group 21: Jetting Truck and Water Truck (5,000 gallons and under 7,000 gallons)

Group 22: Combination Bootman and Road Oiler

Group 23: Transit Mix Agitator (over 10 yds. through 12 yds.)

Group 24: Bulk Cement Spreader (w/wo Auger, 8 yds. and including 12 yds. water level); Dump (8 yds. and including 12 yds. water level); Dumpcrete (8 yds. and including 12 yds. water level); Self-propelled Street Sweeper with self-contained refuse bin; Skids (Debris Box, 8 yds. and including 12 yds. water level); Snow Go and/or Snow Plow; Truck (Dry Pre-batch Concrete Mix, 8 yds. and including 12 yds. water level)

TRUCK DRIVERS (Cont'd)

Group 25: Heavy Duty Transport (Gooseneck Lowbed)

Group 26: Transit Mix Agitator (over 12 yds. through 17 yds.)

Group 27: Ammonia Nitrate Distributor Driver and Mixer; Bulk Cement Spreader (w/wo Auger, over 12 yds. and including 18 yds. water level); Dump (over 12 yds., and including 18 yds. water level); Dumpcrete over 12 yds. and including 18 yds. water level); Dumpster (over 12 yds. and including 18 yds. water level); Truck (Dry Pre-batch Concrete Mix, over 12 yds. and including 18 yds. water level)

Group 28: Double Gooseneck (7 or more axles); Heavy Duty Transport Tiller Man

Group 29: P.B. or similar type self-loading Truck

Group 30: Transit Mix Agitator (over 14 yds. through 16 yds.)

Group 31: Bulk Cement Spreader (w/wo Auger, over 18 yds. and including 24 yds. water level); Combination Dump and Dump Trailer; Dump (over 18 yds. and including 24 yds. water level); Dumpcrete (over 18 yds. and including 24 yds. water level); Dumpster (over 18 yds. and including 24 yds. water level); Skid (Debris Box, over 18 yds. and including 24 yds. water level); Transit Mix Agitator (over 12 yds. through 16 yds.); Trucks (Dry Pre-batch Concrete Mix, over 18 yds. and including 24 yds. water level)

Group 32: Bulk Cement Spreader (w/wo Auger, over 24 yds. and including 35 yds. water level); Dump (over 24 yds. and including 35 yds. water level); Dumpcrete (over 24 yds. and including 35 yds. water level); Dumpster (over 24 yds. and including 35 yds. water level); DW 10's, 20's, 21's and other similar Cat type, Terra Cobra, LeTournapulls, Tournarocker, Euclid and similar type equipment when pulling Fuel and/or Grease Tank Trailers or other misc. Trailers; Skids (Debris Box, over 24 yds. and including 35 yds. water level); Trucks (Dry Pre-batch Concrete Mix, over 24 yds. and including 35 yds water level)

Group 33: Truck Repairman

Group 34: Bulk Cement Spreader (w/wo Auger, over 35 yds. and including 50 yds. water level); Dump (over 35 yds. and including 40 yds. water level); Dumpcrete (over 35 yds. and including 50 yds. water level); Dumpster (over 35 yds. and including 50 yds. water level); Skids (Debris Box, over 35 yds. and including 50 yds. water level); Trucks (Dry Pre-batch Concrete Mix, over 35 yds. and including 50 yds. water level)

Group 35: DW 10's 20's, 21's and other similar Cat type, Terra Cobra, LeTournapulls, Tournarocker, Euclid and similar type equipment when pulling Aqua/Pak or Water Tank Trailers

TRUCK DRIVERS (Cont'd)

Group 36: Bulk Cement Spreader (w/wo Auger, over 50 yds. and under 65 yds. water level); Dump (over 50 yds. and under 65 yds. water level); Dumpcrete (over 50 yds. and under 65 yds. water level); Dumpster (over 50 yds. and under 65 yds. water level); Helicopter Pilot (when transporting men or materials); Skids (Debris Box, over 50 yds. and under 65 yds. water level); Trucks (Dry Pre-batch Concrete Mix, over 50 yds. and under 65 yds. water level)

Group 37: Bulk Cement Spreader (w/wo Auger, over 65 yds. and including 80 yds. water level); Dump (65 yds. and including 80 yds. water level); Dumpcrete (over 65 yds. and including 80 yds. water level); Dumpster (over 65 yds. and including 80 yds. water level); Skids (Debris Box, 65 yds. and including 80 yds. water level); Trucks (Dry Pre-batch Concrete Mix, 65 yds. and including 80 yds. water level)

Group 38: Bulk Cement Spreader (w/wo Auger, over 80 yds. and including 95 yds. water level); Dump (over 80 yds. and including 95 yds. water level); Dumpcrete (over 80 yds. and including 95 yds. water level); Dumpster (over 80 yds. and including 95 yds. water level); Skids (Debris Box, over 80 yds. and including 95 yds. water level); Trucks (Dry Pre-batch Concrete Mix, over 80 yds. and including 95 yds. water level)

AREA DESCRIPTIONS
FOR
POWER EQUIPMENT OPERATORS
AREAS I and II

**AREA I: All areas included in the description defined below which is based upon Township and Range Lines of AREAS I and II.

Commencing in the Pacific Ocean on the extension of the Southerly line of Township 19S.
Thence Easterly along the Southerly line to Township 19S, crossing the Mt. Diablo Meridian to the S.W. corner of Township 19S, range 6E, Mt. Diablo Base Line and Meridian,
Thence Southerly to the S.W. corner of township 20S, range 6E,
Thence Easterly to the S.W. corner of township 20S, range 13E,
Thense Southerly to the S.W. corner of township 21S, range 13E,
Thence Easterly to the S.W. corner of township 21S, range 17E,
Thence Southerly to the S.W. corner of township 22S, range 17E,
Thence Easterly to the S.E. corner of township 22S, range 17E,
Thence Southerly to the S.W. corner of township 23S, range 18E,
Thence Easterly to the S.E. corner of township 23S, range 18E,
Thence Southerly to the S.W. corner of township 24S, range 19E, falling on the Southerly Line of Kings County, thence Easterly along the Southerly Boundary of Kings County and the Southerly Boundary of Tulare County, to the S.E. corner of township 24S, range 29E,

AREA DESCRIPTIONS (Cont'd)
FOR
POWER EQUIPMENT OPERATORS
AREAS I and II

Thence Northerly to the N.E. corner of township 21S, range 29E,
Thence Westerly to the N.W. corner of township 21S, range 29E,
Thence Northerly to the N.E. corner of township 13S, range 28E,
Thence Westerly to the N.W. corner of township 13S, range 28E.
Thence Northerly to the N.E. corner of township 11S, range 27E,
Thence Westerly to the N.W. corner of township 11S, range 27E,
Thence Northerly to the N.E. corner of township 10S, range 26E,
Thence Westerly to the N.W. corner of township 10S, range 26E,
Thence Northerly to the N.E. corner of township 9S, range 25E,
Thence Westerly to the N.W. corner of township 9S, range 25E,
Thence Northerly to the N.E. corner of township 8S, range 24E,
Thence Westerly to the N.W. corner of township 8S, range 24E,
Thence Northerly to the N.E. corner of township 6S, range 23E,
Thence Westerly to the S.E. corner of township 5S, range 19E,
Thence Northerly to the S.E. corner of township 5S, range 19E,
Thence Westerly to the N.W. corner of township 5S, range 19E,
Thence Northerly to the N.E. corner of township 3S, range 18E,
Thence Westerly to the N.W. corner of township 3S, range 18E,
Thence Northerly to the N.E. corner of township 2S, range 17E,
Thence Westerly to the N.W. corner of township 2S, range 17E,
Thence Northerly crossing the Mt. Diablo Baseline to the N.E. corner of township 2N, range 16E,
Thence Westerly to the N.W. corner of township 2N, range 16E,
Thence Northerly to the N.E. corner of township 3N, range 15E,
Thence Westerly to the N.E. corner of township 3N, range 15E,
Thence Northerly to the N.E. corner of township 4N, range 14E,
Thence Westerly to the N.W. corner of township 4N, range 14E,
Thence Northerly to the N.E. corner of township 5N, range 13E,
Thence Westerly to the N.E. corner of township 5N, range 13E,
Thence Northerly to the N.E. corner of township 10N, range 12E,
Thence Easterly to the S.E. corner of township 11N, range 14E,
Thence Northerly to the N.E. corner of township 11N, range 14E,
Thence Westerly to the N.E. corner of township 11N, range 10E,
Thence Northerly to the N.E. corner of township 15N, range 10E,
Thence Easterly to the S.E. corner of township 16N, range 11E,
Thence Northerly to the N.E. corner of township 16N, range 11E,
Thence Easterly to the S.E. corner of township 17N, range 14E,
Thence Southerly to the S.W. corner of township 14N, range 14E,
Thence Easterly to the S.E. corner of township 14N, range 15E,
Thence Southerly to the S.W. corner of township 13N, range 16E,
Thence Easterly to the S.E. corner of township 13N, range 16E,
Thence Southerly to the S.W. corner of township 12N, range 17E,
Thence Easterly along the Southern Line to township 12N to the Eastern Boundary of the State of California, to the State of California to the N.E. corner of township 17N, range 18E,
Thence Westerly to the N.W. corner of township 17N, range 11E,
Thence Northerly to the N.E. corner of township 20N, range 10E,

AREA DESCRIPTIONS (Cont'd)
FOR
POWER EQUIPMENT OPERATORS
AREAS I and II

Thence Westerly to the N.W. corner of township 20N, range 20E,
Thence Northerly to the N.E. corner of township 21N, range 9E,
Thence Westerly to the N.W. corner of township 21N, range 9E,
Thence Northerly to the N.E. corner of township 22N, range 8E,
Thence Westerly to the N.W. corner of township 27N, range 8E,
Thence Northerly to the S.W. corner of township 27N, range 8E,
Thence Easterly to the S.E. corner of township 27N, range 8E,
Thence Northerly to the N.E. corner of township 28N, range 8E,
Thence Westerly to the N.W. corner of township 28N, range 7E,
Thence Northerly to the N.E. corner of township 30N, range 6E,
Thence Westerly to the N.W. corner of township 30N, range 1E,
Thence Northerly along the Mt. Diablo Meridian to the N.E. corner of Township 34N, range 1W,
Thence Westerly to the N.W. corner of township 34N, range 6W,
Thence Southerly to the N.E. corner of township 32N, range 7W,
Thence Westerly to the N.W. corner of township 32N, range 7W,
Thence Southerly to the S.W. corner of township 30N, range 7W,
Thence Easterly to the S.E. corner of township 30N, range 7W,
Thence Southerly to the S.W. corner of township 16N, range 6W,
Thence Easterly to the S.E. corner of township 16N, range 6W,
Thence Southerly to the S.W. corner of township 14N, range 5W,
Thence Westerly to the S.E. corner of township 14N, range 7W,
Thence Northerly to the N.E. corner of township 14N, range 7W,
Thence Westerly to the N.W. corner of township 14N, range 7W,
Thence Northerly to theN.E. corner of township 15N, range 8W,
Thence Westerly to the S.E. corner of township 16N, range 12W,
Thence Northerly to the N.E. corner of township 16N, range 12W,
Thence Westerly to the N.W. corner of township 16N, range 12W,
Thence Northerly to the N.E. corner of township 18N, range 12W,
Thence Westerly to the N.W. corner of township 18N, range 14W,
Thence Southerly to the S.W. corner of township 18N, range 14W,
Thence Easterly to the S.E. corner of township 18N, range 14W,
Thence Southerly to the S.W. corner of township 16N, range 13W,
Thence Westerly to the N.W. corner of township 15N, range 14W,
Thence Southerly to the S.W. corner of township 14N, range 14W,
Thence Easterly to the S.E. corner of township 17N, range 14W,
Thence Southerly to the S.W. corner of township 13N, range 13W,
Thence Easterly to the S.E. corner of township 13N, range 13W,
Thence Southerly to the S.W. corner of township 11N, range 12W,
Thence Easterly to the S.E. corner of township 11N, range 12W,
Thence Southerly along the Eastern Line to range 12W, to the Pacific Ocean excluding that portion of Northern California within Santa Clara County included within the following line:
Commencing at the N.W. corner of township 6S, range 3E, Mt. Diablo Baseline and Meridian:
Thence in a Southerly direction to the S.W. corner of township 7S, range 3E,
Thence in a Easterly direction to the S.E. corner of township 7S, range 4E,
Thence in a Northerly direction to the N.E. corner of township 6S, range 4E,

AREA DESCRIPTIONS (Cont'd)
for
POWER EQUIPMENT OPERATORS
AREAS I and II

Thence in a Westerly direction to the N.W. corner of township 6S, range 3E, to the point of beginning which portion is a part of Area 2.

AREA 1: also includes that portion of Northern California within the following lines:
Commencing in the Pacific Ocean on a extension of the Southerly line to township 2N, Humboldt Baseline and Meridian:
Thence Easterly along the Southerly line to Township 2N, to the S.W. corner of Township 2N, range 1W,
Thence Southerly to the S.W. corner of township 1N, range 1W,
Thence Easterly along the Humboldt Baseline to the S.W. corner of township 1N, range 2E,
Thence Southerly to the S.W. corner of township 2S, range 2E,
Thence Easterly to the S.E. corner of township 2S, range 2E,
Thence Southerly to the S.W. corner of township 4S, range 3E,
Thence Easterly to the S.E. corner of township 4S, range 3E,
Thence Northerly to the N.E. corner of township 2S, range 3E,
Thence Westerly to the N.W. corner of township 2S, range 3E,
Thence Northerly crossing the Humboldt Baseline to the S.W. corner of township 1N, range 3E,
Thence Easterly along the Humboldt Baseline to the S.E. corner of township 1N, range 3E,
Thence Northerly to the N.E. corner of township 9N, range 3E,
Thence Westerly to the N.W. corner of township 9N, range 2E,
Thence Northerly to the N.E. corner of township 10N, range 1E,
Thence Westerly along the Northerly line to township 10N, into the Pacific Ocean.

AREA 1: also includes that portion of Northern California included within the following lines:
Commencing at the Northerly boundary of the State of California at the N.W. corner of township 48N, range 7W, Mt. Diablo Baseline and Meridian:
Thence Southerly to the S.W. corner of township 44N, range 7W,
Thence Easterly to the S.E. corner of township 44N, range 7W,
Thence Southerly to the S.W. corner of township 43N, range 6W,
Thence Easterly to the S.E. corner of township 43N, range 5W,
Thence Northerly to the N.E. corner of township 48N, range 5W, on the Northerly boundary of the State of California,
Thence Westerly along the Northerly boundary of the State of California to the point of beginning.

AREA II: All areas not inlcuded within AREA I as defined.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii))

SUPERSEDEAS DECISION

STATE: Louisiana

PARISHES: ZONE 1-Jefferson,Orleans & St. Bernard; ZONE 2-Bossier & Caddo; ZONE 3-Calcasieu & Strategic Petroleum Reserve in Cameron Par.; ZONE 4-Beauregard,Cameron (excluding Strategic Petroleum Reserve) & Jefferson Davis; ZONE 5-Allen; ZONE 6 -Plaquemines; ZONE 7-St. Charles

DECISION NO. LA84-4059

DATE: Date of Publication

Supersedes Decision No. LA84-4024, dated April 20, 1984 in 49 FR 16928.

DESCRIPTION OF WORK: Heavy and Highway Projects (does not include building structures in rest area projects).

	Basic Hourly Rates	Fringe Benefits
BOILERMAKERS	$16.125	2.95
BRICKLAYERS & STONEMASONS:		
ZONES 1, 6 & 7	$14.50	2.04
ZONE 2	12.30	1.70
ZONES 3, 4 & 5	13.67	2.32
CARPENTERS & PILEDRIVERMEN:		
ZONE 1	14.31	2.60
ZONE 2	12.97	1.78
ZONE 3	13.15	1.60
ZONE 4	9.11	1.60
ZONE 5	11.19	1.60
ZONE 6	11.19	2.60
ZONE 7	12.28	2.60
CEMENT MASONS:		
ZONE 1	13.22	1.68
ZONE 2	12.90	.85
ZONE 3	14.94	
ZONE 4	8.07	
ZONE 5	10.15	
ZONE 6	10.15	1.68
ZONE 7	11.42	1.68
ELECTRICIANS:		
ZONES 1, 6, & 7		
Electricians	16.15	1.68 +9%
Cable Splicers	16.15	1.68 +9%
ZONE 2:		
Electricians	15.25	2.40 +4%
Cable Splicers	15.75	2.40 +4%
ZONES 3, 4 & 5:		
Electricians	17.70	2.00+ 3-5/10%
Cable Splicers	18.20	2.00+ 3-5/10%
IRONWORKERS:		
ZONE 1	14.54	2.43
ZONE 2	12.95	2.56
ZONE 3	14.29	2.42
ZONE 4	9.11	2.42
ZONE 5	11.19	2.42
ZONE 6	11.19	2.43
ZONE 7	12.13	2.43
LABORERS:		
ZONE 1:		
Asphalt overlay projects	8.52	1.08
All other work	9.57	1.08
ZONE 2	8.20	.80
ZONE 3	9.46	1.04
ZONE 4	5.99	1.04
ZONE 5	7.55	1.04
ZONES 6 & 7	7.55	1.08
LINE CONSTRUCTION:		
ZONES 1, 6 & 7:		
GROUP 1-Linemen	16.15	1.68 +9%
GROUP 2-Op. hole digging equip.; op. tractor with winch & derrick; op. line truck with winch & derricks working hot lines	75%JR	1.68 +9%
GROUP 3-Op. using hole truck & trailer or pole hauling & setting truck not in energized lines)	65%JR	1.68 +9%
GROUP 4-Op. using truck without winch	45%JR	1.68 +9%
GROUP 5-Groundmen	50%JR	1.68 +9%
ZONE 2:		
GROUP 1-Linemen; ops.	15.25	2.40+ 3-3/4%
GROUP 2-Cable Splicer	15.75	2.40+ 3-3/4%
GROUP 3-Groundmen	12.65	2.40+ 3-3/4%

	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION (CONT'D)		
ZONES 3, 4 & 5:		
GROUP 1-Linemen; ops.	17.70	2.00+ 3-1/10%
GROUP 2-Cable Splicer	18.20	2.00+ 3-1/10%
GROUP 3-Groundmen	15.70	2.00+ 3-1/10%
PAINTERS:		
ZONES 1, 6 & 7:		
GROUP 1-Painters	13.235	2.115
GROUP 2-Spray	13.61	2.115
GROUP 3-Industrial	15.535	2.115
ZONE 2 & Allen Parish (northeast corner north of Rt. 10)-All painters	10.50	1.10
ZONES 3, 4 & 5 (Allen Par. except northeast corner):		
Bridges, water towers, radio & TV towers	16.00	.60
All other work	14.00	.60
PLUMBERS & PIPEFITTERS:		
ZONES 1, 6 & 7:	16.80	2.43
ZONE 2	15.19	3.14
ZONES 3, 4 & 5	17.98	3.00
POWER EQUIPMENT OPERATORS:		
ZONE 1:		
Asphalt overlay projects:		
GROUP 1	12.98	2.50
GROUP 2	13.23	2.50
GROUP 3	12.73	2.50
GROUP 4	12.73	2.50
GROUP 5	12.73	2.50
Other Work:		
GROUP 1	14.56	2.50
GROUP 2	14.81	2.50
GROUP 3	14.31	2.50
GROUP 4	10.73	2.50
GROUP 5	8.59	2.50
ZONE 2 - GROUP 1	13.33	2.20
GROUP 2	13.58	2.20
GROUP 3	13.08	2.20
GROUP 4	9.55	2.20
GROUP 5	7.64	2.20
ZONE 3 - GROUP 1	14.56	2.50
GROUP 2	14.81	2.50
GROUP 3	14.31	2.50
GROUP 4	10.73	2.50
GROUP 5	8.59	2.50
ZONE 4 - GROUP 1	9.36	2.50
GROUP 2	9.61	2.50
POWER EQUIPMENT OPERATORS: (Cont'd):		
GROUP 3	9.11	2.50
GROUP 4	6.83	2.50
GROUP 5	5.47	2.50
ZONES 5 & 6:		
GROUP 1	11.44	2.50
GROUP 2	11.69	2.50
GROUP 3	11.19	2.50
GROUP 4	8.39	2.50
GROUP 5	6.71	2.50
ZONE 7:		
GROUP 1	12.58	2.50
GROUP 2	12.83	2.50
GROUP 3	12.33	2.50
GROUP 4	9.25	2.50
GROUP 5	7.40	2.50
SHEET METAL WORKERS:		
ZONES 1, 6 & 7:	15.47	3.03+3%
ZONE 2	13.92	1.83+3%
ZONES 3, 4 & 5	17.28	3.12+3%
TRUCK DRIVERS:		
ZONE 1:		
Asphalt overlay projects	8.53	1.20
All other work	9.82	1.20
ZONE 2	10.00	
ZONE 3	9.75	1.10
ZONE 4	7.33	1.10
ZONE 5	9.41	1.10
ZONE 6	9.41	.70
ZONE 7	10.15	1.20

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS
GROUP 1 - 60 ton crane & over, crane with 125 ft. boom
GROUP 2 - Crane with 175 ft. boom
GROUP 3 - Crane all types; derricks; deck winches (2); hi-ho & similar type equipment; 3 drums (or more) stabilizers; pulls all types; concrete mixer 1 yd. & over; all pavers; ditching or trenching machines (track type); mechanics & equipment welders; well point system; hoist, 2 drums or more; hoist, 1 drum, 40 vertical ft. or more; scrapers, bulldozers, rubber tired or track other than farmtype; scoopmobiles; motor patrol; gradeall; rollers on hot mix; asphalt paving machines, front end loaders, other than farmtype, 1 cu. yd. or over; shovels & backhoes, all types & equivalent equipment; piledrivers; sideboom cats
GROUP 4 - 2 drums & single drum stabilizers; front end loaders under 1 cu. yd.; A-frame truck except when handling steel or pipe; finishing machines (concrete); power subgraders; 2 tractors (crawler type); 1 drum hoist under 40 vertical ft.; firemen; concrete spreader; pugmill, bituminous distributor on surface treatment & equivalent equipment; bullfloats & equivalent equipment; job grease man; unit op.; work boats not requiring licensed ope.; inboard-outboard motored crew boats; concrete mixer under 1 yd.; spray curing machines; roller on subgrade; 1 air compressor over 125 cu. ft.; form graders; asphalt finisher screed man; pump over 4"; scale op.; crusher op.; concrete jointing machines; concrete saw; tack machines & equivalent equipment; pumpcrete; electric elevator (inside); oiler-driver; farmtype rubber tired tractor, with attachment, except backhoes; kolum buff & similar equipment; form lifts 10 ton capacity & under; batch, plant op., oiler on crane using air to drive piles, fireman operating steam valve, unit ops.; oiler-driver
GROUP 5 - Oiler

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)(A)).

SUPERSEDEAS DECISION

STATE: Missouri COUNTY: Greene
DECISION NO.: MO84-4060 DATE: Date ofPublication
Supersedeas Decision No. MO83-4086 dated January 6, 1984 in 49 FR 993.
DESCRIPTION OF WORK: Building projects,(excluding single family homes and apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits
Asbestos Workers	16.92	2.25
Boilermakers	17.345	3.25
Bricklayers, Stonemasons & Tuck Pointers	13.62	1.45
Carpenters:		
Carpenters	13.13	1.60
Millwrights & Pile-drivermen	13.38	1.60
Cement Masons	12.75	
Electricians:		
Electricians	14.35	9% + 1.89
Cable Splicers	14.95	9% + 1.89
Elevator Constructors:		
Elevator Constructors	16.89	a+2.69
Elevator Constructors, Prob. Helpers	50%JR	
Helpers	70%JR	a+2.69
Glaziers, Outside	16.50	b
Ironworkers	14.25	3.25
Laborers:		
Group 1	10.20	1.95
Group 2	10.48	1.95
Group 3	10.63	1.95
Group 4	10.80	1.95
Marble Masons, Tile Layers & Terrazzo Workers	13.07	1.45
Painters:		
Brush & Roller	13.73	1.28
Spray, Sandblasting, Tapers, & paperhangers	14.23	1.28
Plasterers	12.75	
Plumbers & pipefitters	15.92	1.35
Roofers	12.00	.66
Sheet Metal Workers	16.18	1.95
Tile Finishers	10.85	

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS:		
Group 1	13.13	2.60
Group 2	12.65	2.60
Group 3	12.05	2.60
Group 4	11.45	2.60
TRUCK DRIVERS:		
Warehouseman, pickup driver, flatbed, single axle, dump truck-single & double axle, oiler, greaser	10.50	c+1.10
Flat bed-double axle, wheel tractor (when used for towing), semi-truck drivers and low boys	10.55	c+1.10
Heavy hauling, A-frame and winch trucks, fork trucks, hydro-lift, hydraulically operator aerial lifts	10.65	c+1.10
Mechanics	10.70	c+1.10

LABORERS CLASSIFICATION DEFINITIONS

Group 1 - Common labor, handling and carrying of reinforcing steel pumps of all types and heaters
Group 2 - Asphalt raker, crusher feederman, cement finisher tender, jackhammer and air tool operator, power tamper operator, pipe layer (concrete or clay), sand blast and gunnite nozzlemen, vibrator operator, wagon drill operator, cat-drill operator, and all work of a semi-skilled nature not listed
Group 3 - Mason tenders: Including plasterers tender, mortar mixer and fork lift operator
Group 4 - Powderman

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

Group 1 - Crane, dragline, derrick, drum or tower hoist (2 drum), power shovel or back hoe (on tracks), piledriver, power blade, motor patrol, mechanic, hydraulic, self-propelled crane, stinger or cherry picker crane
Group 2 - Bulldozer, dirt scoop or pan, elevating grader, drum or tower hoist (1-drum), loader (track or rubber tire), tractor pusher, roller (asphalt), tractor or backhoe (on rubber tires), tractor (compaction roller or pull blade track)
Group 3 - Fork lift, roller, tractor (compaction roller or pull blade-rubber tire), distributor, (bituminous), finishing machine (concrete paving), concrete saw (self-propelled), air compressor (600 cu. ft. or over)
Group 4 - Oiler, oiler-driver

FOOTNOTE: a - Employer contributes 8% of basic hourly rate for over 5 years' service, and 6% of basic hourly rate for 6 months to 5 years Vacation Pay Credit, also 7 Paid Holidays.

b - 1 Paid Holiday (Labor Day)

c - $51.00 per/week

"Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)".

SUPERSEDEAS DECISION

STATE: Missouri
DECISION NUMBER: MO84-4098
COUNTIES: Jasper, McDonald & Newton
DATE: Date of Publication
Supersedes Decision No. MO84-4096 dated January 13, 1984 in 49 FR 1850.
DESCRIPTION OFWORK: Building Projects (excluding single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	16.92	2.25
BOILERMAKERS	17.345	3.25
BRICKLAYERS; STONEMASONS	13.00	1.70
CARPENTERS:		
Carpenters and Lathers	12.27	1.50
Millwrights and Pile-drivermen	12.52	1.50
ELECTRICIANS	13.09	1.67+ 8%
ELEVATOR CONSTRUCTORS:		
Mechanics	16.89	2.69+a
Helpers	70%JR	2.69+a
Probationary Helpers	50%JR	
GLAZIERS	15.04	.25
IRONWORKERS	14.60	2.67
LINE CONSTRUCTION:		
Lineman	17.03	1.00+ 8-1/2%
Linemen Operators	16.24	1.00+ 8-1/2%
Groundman	11.03	1.00+ 8-1/2%
Groundman, Powderman	11.91	1.00+ 8-1/2%
PAINTERS:		
Brush, Roller, Tapers, Floor Tile and Carpet Layers, Paperhangers	13.02	.60
Spray	13.52	.60
PLASTERERS	13.05	
PLUMBERS & PIPEFITTERS	13.72	2.13
ROOFERS	12.00	.66
SHEET METAL WORKERS	16.18	1.95
LABORERS:		
General Laborers	10.20	1.75
Mason & Plaster Tenders & Powderman	10.65	1.75
POWER EQUIPMENT OPERATORS:		
Group 1	13.13	2.60
Group 2	12.65	2.60
Group 3	12.05	2.60
Group 4	11.45	2.60
TRUCK DRIVERS:		
Pick-up or station wagon	10.80	.95
Flat bed; dump under 5 tons	10.90	.95
Dump, tandem (over 5 tons; winch, semi-trailer; and lowboy	11.17	.95
Transit mix	11.13	.95
Euclids or other similar equipment	11.17	.95

FOOTNOTE
a. Employer contributes 8% of basic hourly rate for over 5 years' service and 6% of basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit, also 7 Paid Holidays.

LABORERS CLASSIFICATIONS

Group 1: General Laborers, Carpenter Tenders, Trackmen, Wreckers handling and carrying of reinforced steel

Group 2: Pipelayers (conduit pipe, sewer tile, drain tile, duct line with mains); Air Tool Operators; Pier Hole Diggers (over 10'); Vibrators; Jackhammer; Chipping Hammer Operator (air or electric); Asphalt Rakers; Mastic Kettlemen; Sandblasting; Gunnite Nozzlemen; Cutting Torch and Welders; Barco; Jackson or similar Tamp Operators; Powderman

Group 3: Plasterers and Mason Tenders

POWER EQUIPMENT OPERATORS CLASSIFICATIONS

Group 1: Crane; Dragline; Derrick; Drum or Tower Hoist (2 drum); Power Shovel or Back Hoe (on tracks); Piledriver; Power Blade; Motor Patrol; Mechanic; Hydraulic, self-propelled Crane; Stringer or Cherry Picker Crane

Group 2: Bulldozer; Dirt Scoop or Pan; Elevating Grader; Drum or Tower Hoist (1 drum); Loader (track or rubber tire); Tractor, Pusher Roller (asphalt); Tractor or Back Hoe (on rubber tires); Tractor (Compaction Roller or Pull Blade Track)

Group 3: Fork Lift; Roller; Industrial Tractor; Tractor (Compaction Roller or Pull Blade, rubber tire); Distributor (Bituminous); Finishing Machine (concrete paving); Concrete Saw (self-propelled); Air Compressor (600 cu. ft. or over)

Group 4: Oiler; Oiler, driver

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii))

SUPERSEDEAS DECISION

STATE: Missouri COUNTIES: Pettis and Saline
DECISION NO.: MO84-4097 DATE: Date of Publication
Supersedes Decision NO. MO84-4095 dated January 13, 1984 in 49 FR 1848.
DESCRIPTION OF WORK: Building projects, (excluding single family homes and apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	17.29	4.35
BOILERMAKERS	17.345	3.25
BRICKLAYERS, STONEMASONS, TILE LAYERS	14.50	.50
CARPENTERS (PETTIS COUNTY):		
Carpenters & Lathers	13.25	1.28
Millwrights	13.75	1.28
Piledrivers	13.375	1.28
CARPENTERS (SALINE COUNTY):		
Carpenters & Lathers	13.55	2.07
Millwrights & Pile-drivermen	15.05	2.07
CEMENT MASONS	13.98	
ELECTRICIANS (PETTIS CO.):		
Contracts not exceeding 2000 man hours	15.18	2.51+ 10%
Contracts exceeding 2000 man hours	16.18	2.51+ 10%
ELECTRICIANS (SALINE CO.):		
Contracts not exceeding 2000 man hours	14.58	2.51+ 10%
Contracts exceeding 2000 man hours	16.18	2.51+ 10%
ELEVATOR CONSTRUCTORS:		
Elevator Constructors	16.89	2.69+a
Elevator Constructors' Helpers	70%JR	2.69+a
Elevator Constructors' Helpers (Prob.)	50%JR	
GLAZIERS	14.25	2.96+ 17.14%
IRONWORKERS	14.25	3.25
PAINTERS:		
Brush	14.25	
Spray; Sandblasting	15.25	
Machine taping; outside work on swing stages, window jacks, with belts or boatswain's chair	14.75	
PIPEFITTERS	17.44	3.22
PLASTERERS	13.66	
PLUMBERS	16.02	2.70
ROOFERS	16.48	2.91
SHEET METAL WORKERS	16.75	2.78
MARBLE & TILE SETTERS	17.52	6%+ 1.02
TILE SETTERS FINISHERS	14.40	
TERRAZZO WORKERS	15.31	9.25%
TERRAZZO FINISHERS	13.58	
TERRAZZO BASE MACHINE OP.	13.93	
LABORERS (PETTIS CO.):		
GROUP 1	9.825	2.90
GROUP 2	9.925	2.90
GROUP 3	10.15	2.90
LABORERS (SALINE CO.):		
GROUP 1	9.95	2.15
GROUP 2	10.10	2.15
GROUP 3	10.25	2.15
POWER EQUIPMENT OPERATORS		
Building Construction		
GROUP 1	15.86	2.85
GROUP 2	15.51	2.85
GROUP 3:		
(a)	10.45	2.85
(b)	13.61	2.85
(c)	11.25	2.85
(d)	13.86	2.85
GROUP 4	16.11	2.85
GROUP 5	15.76	2.85
GROUP 6	16.36	2.85
GROUP 7:		
(a)	15.71	2.85
(b)	15.46	2.85
(c)	13.46	2.85
GROUP 8	16.86	2.85
GROUP 9	16.36	2.85

LABORERS CLASSIFICATION DEFINITIONS PETTIS COUNTY

GROUP 1 - Carpenter tenders; track men; wreckers (alterations or entire project); reinforcingrod carriers; all other general laborers
GROUP 2 - Plumber laborers; stonemasons tenders; air tool operators; sewer work; water lines; conduit pipe; drain tile & duct lines; batter board man or pipe & ditch work; pier hole men working below ground; vibrator man; scaleman; jackhammer; chipping hammer operators; material batch hopper man; spreader or screed man on asphalt machine; brush feeders on pulverizers; swinging scaffold; cement handlers (bulk or sack); laser beam man; chain or concrete saw
GROUP 3 - Plaster tenders; hod carriers; brick tenders; cutting torch & burner men; asphalt rakers; barco tamper; jackson or any similar tamps; power buggy operator; powderman; mastic kettlemen; sandblasting & gunnite nozzleman; head pipe layer on sewer work; men working in tunnels; head formsetters & stringline men; hot tar applicator

LABORERS CLASSIFICATION DEFINITIONS SALINE COUNTY

GROUP 1 - Common labor, wire mesh handlers or setters, carpenter tender; trackman; flagmen; signalmen; salamander tenders; floor cleaners; landscape men; sod layers; wreckers (for alteration or entire projects)
GROUP 2 - Plumber laborers (conduit pipe, sewerwork, drain tile & duct lines, digging & back filling); power tool operators; pier hole diggers (over 10 ft.); vibrator, jackhammer & chipping hammer operators; chain saw operators, concrete saw operators; brush feeders on pulverizers; reinforcing steel handlers; air tamp operators; ditch witch operators; swinging scaffolds; cutting torch or burner men; georgia buggies (self-propelled); fork lift, hoseman; insulation men
GROUP 3 - Fork lift (masonry); brick tenders; plasterer tenders; stone mason tenders; barco, Jackson or similar tamp operators; asphalt raker; powdermen; mastic hot kettlemen; sandblasting & gunite nozzle men; wagon & churn drill operators

POWER EQUIPMENT OPERATORS:

GROUP I - Asphalt paver and spreader; asphalt plant mixer operator; asphalt plant operator; back fillers; backhoe; barber-greene loader; blade-power; boats-power; boilers (2); boring machines; cableways; cherry pickers; chip spreader; concrete ready-mixed plant, portable (job site); concrete mixer paver; crane-overhead; crusher, rock; derricks and derricks cars (power operated); ditching machines; dozers; dredges - any type power; grade-all similar type; hoist, endless chain-power operated with power travel; loaders; mechanic and welder; mucking machine; orange peels; pumps - material; push cats; scoops; self-propelled rotary drill; shovel, power; side boom; skimmer scoop; testhole machine; throttle man

POWER EQUIPMENT OPERATORS: (CONT'D):

GROUP II - Boilers (1); Brooms - power operated; chip spreader (front man); clef plane operator; compressors (1) 125' or over; concrete saws, self-propelled); crab - power operated; curb finishing machine; fireman on rigs; flex plane, floating machine; form grader; greaser; hoist, endless chain - power operated; hopper - power operated; hydra hammer; lad-a-vator - similar type; rollers; siphons, jets, and jennies; sub-grader; tractors over 50 h.p.; compressors (2) 125' ft. or over not more than 20' apart; compressors-tandem; compressors single, truck mounted; elevator; finishing machine
GROUP III:
(a) Oilers
(b) Fork lift - mansonry
(c) Oiler driver
(d) A-frame trucks; fork lift-all types (except masonry); mixers (w/side loaders); pumps (w/well points) dewatering systems, test or pressure pumps; tractors (except when hauling material) less than 50 h.p.
GROUP IV
Clamshells, 100 ft. of boom or over (excluding jib); crane or rigs, 100 ft. of boom or over (excluding jib); draglines, 100 ft. of boom or over (excluding jib); pile drivers, 100 ft. of boom or over (excluding jib)
GROUP V
Hoists-each additional drum over 1 drum
GROUP VI
Crane or rigs, over 200 ft. of boom
GROUP VII
Ready Mixed Concrete Plants:
(a) Crane operator
(b) Loader operator & plant man
(c) Conveyor operator
GROUP VIII
Master Mechanic
GROUP IX
Crane-tower or climbing

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: PENNSYLVANIA

COUNTIES: LEBANON, LYCOMING, NORTHUMBERLAND, SCHUYLKILL & SULLIVAN

DECISION NO. PA84-3037

DATE: DATE OF PUBLICATION

Supersedes Decision Nos: PA81-3068, dated September 25, 1981, in 46 FR 47403; PA81-3090, dated December 18, 1981, in 46 FR 61813; PA81-3073, dated October 2, 1981, in 46 FR 48853; PA81-3076, dated October 9, 1981, in 46 FR 50236; PA81-3081 dated October 23, 1981, in 46 FR 52808.

DESCRIPTION OF WORK: Building Erection and Foundation Excavation, (does not include single family homes or apartments up to and including 4 stories), (Excluding Sewage and Water Treatment Plant Projects.)

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS		
Zone 1	17.91	2.04
Zone 2	16.33	2.31
BOILERMAKERS	20.88	2.415
BRICKLAYERS & STONEMASONS		
Zone 1	14.22	1.73
Zone 2	12.25	2.565
Zone 3	14.00	1.95
Zone 4	13.84	2.91
Zone 5	14.65	2.06
CARPENTERS		
Zone 1	14.50	2.55
Zone 2	13.72	2.55
Zone 3	14.99	2.55
CEMENT MASON:		
Zone 1	13.79	1.65
Zone 2	13.87	2.60
Zone 3	11.90	
Zone 4	13.20	.01
Zone 5	13.84	2.91
ELECTRICIANS		
Zone 1	13.06	3.57+ 3%
Zone 2	15.41	1.83+ 3 1/4%
Zone 3	15.75	1.05+ 3%
Zone 4	15.99	2.70+ 3%
Zone 5	16.46	1.89+ 3%
Zone 6	15.93	1.83+ 3%
ELEVATOR CONSTRUCTORS	15.90	3.29+ a+b
ELEVATOR CONSTRUCTORS HELPERS	11.13	3.29+ a+b
ELEVATOR CONSTRUCTORS HELPER (PROB.)	7.95	
GLAZIERS		
Zone 1	13.04	2.90
Zone 2	14.04	1.465
Zone 3	13.51	1.66
IRONWORKERS:		
Zone 1	17.265	4.25
Zone 2	17.40	3.75
Zone 3		
Structural & Ornamental	17.85	3.60
Reinforcing	17.85	3.60
LABORERS		
Zone 1		
Class 1	9.75	1.20
Class 2	9.85	1.20
Zone 2		
Class 1	9.10	1.50
Class 2	9.25	1.50
Zone 3		
Class 1	10.45	1.53
Class 2	10.92	1.53
Class 3	9.85	1.53
Class 4	10.92	1.53
Zone 4		
Class 1	9.10	1.20
Class 2	9.30	1.20
Zone 5		
Class 1	12.87	2.80
Class 2	13.27	2.80
Class 3	13.07	2.80
Class 4	13.19	2.80
LATHERS	14.50	2.55
LEAD BURNERS	10.75	.66+c
LINE CONSTRUCTION		
Zone 1		
Linemen, dynamite man, heavy equipment ops.	15.99	.80+3 3/8%
Winch Truck operators	11.29	.80+3 3/8%
Groundman	10.00	.80+3 3/8%
Zone 2		
Linemen & cable splicers	15.06	.80+3 3/8%
Winch truck operators	10.54	.80+3 3/8%
Groundmen	9.04	.80+3 3/8%

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	Basic Hourly Rates	Fringe Benefits
MARBLE SETTERS		
Zone 1	14.22	1.73
Zone 2	14.00	1.95
Zone 3	13.84	2.91
Zone 4	14.65	2.06
MILLWRIGHTS	16.57	2.55
PAINTERS:		
Zone 1		
Brush	12.30	2.70
Structural Steel	13.96	2.70
Tapers	12.96	2.70
Zone 2		
Brush	12.15	2.25
Structural Steel	13.20	2.25
Spray	13.20	2.25
Zone 3		
Brush	11.97	1.30
Structural Steel	12.42	1.30
Spray	12.72	1.30
PILEDRIVERMEN	14.82	6.16+d
PLASTERERS:		
Zone 1	14.20	
Zone 2	13.20	.01
Zone 3	13.84	2.91
Zone 4	13.79	1.65
Zone 5	13.87	2.60
PLUMBERS		
Zone 1	16.72	2.44
Zone 2	15.24	3.95
Zone 3	17.05	2.39
Zone 4	13.38	3.59
POWER EQUIPMENT OPERATORS:		
Group 1	16.52	26.6% +h
Group 2	16.23	26.6% +h
Group 3	15.17	26.6% +h
Group 4	14.52	26.6% +h
Group 5	13.26	26.6% +h
Group 6	12.36	26.6% +h
ROOFERS:		
Zone 1	14.55	2.00
Zone 2	12.76	2.10
Zone 3		
Shingle, Slate, and Tile	13.92	2.55
Mechanic II (for shingle, slate, or tile work) - handles and transports all materials, tools and equipment; clean-up debris	6.25	2.55
All other work	19.57	2.93+e
Mechanic II (for all other work) - handles and transports all materials, tools and equipment; clean-up debris	8.25	2.93+e
SHEET METAL WORKERS		
Zone 1	15.73	4.92
Zone 2	15.92	2.00
SPRINKLER FITTERS	16.92	3.23
SOFT FLOOR LAYERS	12.29	2.55
STEAMFITTERS		
Zone 1	16.72	2.44
Zone 2	14.79	4.35
Zone 3	17.05	2.39
Zone 4	18.38	3.59
TERRAZZO WORKERS		
Zone 1	14.15	2.02
Zone 2	14.00	1.95
Zone 3	12.84	2.91
Zone 4	14.35	2.06
TILE SETTERS		
Zone 1	14.15	2.02
Zone 2	14.00	1.95
Zone 3	12.84	2.91
TRUCK DRIVERS		
Zone 1	9.10	1.50
Zone 2		
Pick-ups, dump, flat trucks to & including 2 highway license plates	9.47	f+g
Transit-mix, winch trucks, tractor trailers, all types euclids, ross lumber carriers & truck over 2 plates	9.72	f+g

AREA COVERED BY ASBESTOS WORKERS ZONES

Zone 1 - Lebanon & Schuylkill
Zone 2 - Lycoming, Northumberland & Sullivan

AREA COVERED BY BRICKLAYERS & STONE MASONS

Zone 1 - Lebanon County
Zone 2 - Lycoming County
Zone 3 - Northumberland County
Zone 4 - Schuylkill County
Zone 5 - Sullivan County

AREA COVERED BY CARPENTERS ZONES

Zone 1 - Lebanon & Schuylkill Counties
Zone 2 - Lycoming, Northumberland Counties; Remainder of Sullivan County
Zone 3 - Benton Air Force Base, in Sullivan County.

AREA COVERED BY CEMENT MASONS ZONES

Zone 1 - East of Route 105, in Lebanon County
Zone 2 - West of Route 105, in Lebanon County
Zone 3 - Lycoming & Sullivan Counties
Zone 4 - Northumberland County
Zone 5 - Schuylkill County

AREA COVERED BY ELECTRICIANS ZONES

Zone 1 - Lycoming County; Western part of Sullivan County; Delaware, Lewis and Trubut Twps., in Northumberland County.
Zone 2 - Lebanon County; Pine Grove and Tremont Twps. in Schuylkill County
Zone 3 - Remainder of Northumberland and Schuylkill Counties
Zone 4 - Eastern part of Sullivan County
Zone 5 - Townships in Schuylkill County, North Manheim, South Manheim, West Brunswick, Wayne, Washington, Pottsville, Schuylkill Haven
Zone 6 - Townships in Schuylkill County North Union, East Union, West Mahony, (excluding Frackville Bourough), Mahony, Delano, Kline, Rush, Ryan, Blythe, Schuylkill, Walker Rahn, East Brunswick and West Penn.

AREA COVERED BY GLAZIERS ZONES

Zone 1 - Sullivan County
Zone 2 - Schuylkill County; Twps. in Northumberland County, Edgewell, Ralph, Knulpmont, Coal, Marion Heights; Twps. in Berks County; Bethel, Jackson, Millcreek, Lebanon, E. of Rte. 72 Heidlberg and Richland.
Zone 3 - Remainder of Lebanon and Northumberland Counties.

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AREA COVERED BY IRONWORKERS ZONES

Zone 1 - Lebanon, Lycoming, Northumberland Counties
Zone 2 - Schuylkill County
Zone 3 - Sullivan County

AREA COVERED BY LABORERS ZONES

Zone 1 - Lebanon County
Zone 2 - Lycoming County; Northumberland County; North of Susquehanna River
Zone 3 - Northumberland County; South of the Susquehanna River
Zone 4 - Schuylkill County
Zone 5 - Sullivan County

AREA COVERED BY LINE CONSTRUCTION

Zone 1 - Lycoming, Luzerne, Northumberland and Schuylkill Counties
Zone 2 - Lebanon County

AREA COVERED BY MARBLE SETTERS ZONES

Zone 1 - Lebanon County
Zone 2 - Northumberland County
Zone 3 - Schuylkill County
Zone 4 - Sullivan County

AREA COVERED BY PAINTERS ZONES

Zone 1 - Luzerne, Northumberland, Sullivan Counties, Twps. in Schuylkill County, North Union, East Union, Union, Mahonoy, West Mahonoy, Butler, Kline, Delano, Ryan, Rush, Rahn, West Penn., and City of Tamaqua
Zone 2 - Remainder of Schuylkill county; and (East of Route 72 in Lebanon County)
Zone 3 - West of Route 72 in Lebanon County

LABORERS CLASSIFICATIONS DEFINITIONS

Zone 1
Class 1 - General Laborers
Class 2 - Operator of Jackhamer, paving breading and other pneumatic, electrical and mechanical tools, laying of all clay, terra cotta, ironstone vitrified concrete or non-metallic pipe and the making of joints for same, wagon drill operator, cofferdam (below 10') tunnel free air, handling and using cutting or burning torches in the wrecking of buildings blasters, plasterer tenders, mason tenders scaffold builders and removal of power buggies

LABORERS CLASSIFICATION DEFINITIONS (CONTINUED)

Zone 2
Class 1 - General Laborers
Class 2 - Operator of Jackhammer, paving and other pneumatic electrical and mechanical tools, laying of all clay, terra cotta, ironstone, vitrified concrete or non-metallic pipe and the making of joints for same wagon drill operator, cofferdam (below 10'). Tunnel free air, handling and using cutting or burning torches in the wrecking of buildings, blasters, plasterer tenders, mason tenders, scaffold builders and removal of power buggies

Zone 3
Class 1 - General Laborers: Air, fuel and electric tool operators and all other pneumatic and mechanical tools, including blowpipe and vaccum cleaners. Cassion workers (top men), pipelayers for all clay, terra cotta, ironstone, vitrified concrete on non-metallic pipe & making of joints for same. Power-buggy, precast slab placers & signal men, blaster helper, excavation of all foundation, digging of trenches, piers and manholes. Wrecking and moving of all structures. Underpinning & shoring, stripping, dismantling, oiling & moving of concrete forms, loading and carrying, of reinforcing steel, handling & distribution of lumber, and all other building materials to stock piles, unloading, carrying, distribution, and laying of precast concrete slabs and planks for flooring & roofing, general cleanup & removal of refuge, debris, and all scrap material(s), vibrator operator (concrete placing - whole power is supplied by compressed air, electric, gasoline & any other means):

Class 2 - Semi-Skilled: Caisson worker (bottom men), blasters, wagon air track and diamond point drill operators, buring torches, green cutting machine (nozzle men), and steam jenny. Plasterer & cement mason tenders, machine mixers, plasterer pump and scaffold builders (excluding masonry scaffolding). Sand blasting (nozzle man):

Class 3 - Nursery Workers, window washers, floor scrubbers, and watchmen. Tenders of propane gas burners, salamander(s), smudge pots, tool room workers. Fire watch:

Class 4 - Mason Tenders: (Brick & Block), machine mixers, motorized stockers, scaffold builders (masonry), motor pump, conveyors, mechanical cleaners and sandblasting for masonry and masonry equipment.

Zone 4
Class 1 - General Laborers
Class 2 - Operator of jackhammer, paving breaking & other pneumatic, electric & mechanical tools laying of all clay, terra cotta, ironstone, vitrified concrete or nom-metallic pipe & the making of joints for same wagon drill operators, cofferdams (below 10"), tunnel free air handling & using cutting or burning torches in the wrecking of building, blasters, plasterer-tenders, mason tenders scaffold builders and removal & power buggies

LABORERS CLASSIFICATION DEFINITIONS (CONTINUED)

Zone 5
Class 1 - General Laborers
Class 2 - Mason Tenders including scaffold builders
Class 3 - Semi-skilled: Pneumatic, electrical & mechanical tool ops., under the jurisdiction of the laborers - 2" pumps-non-metallic pipelaying & making of joints clay, terra cotta, ironstone, vitrified concrete, handling of burning torches, asphalt or other hot materials, cement finishers & blaster helpers, power buggies, walk along hoist
Class 4 - Plasters tenders, blasters & wagon drill operators

POWER EQUIPMENT OPERATORS CLASSIFICATIONS DEFINITIONS

Group 1: Machines doing hook work, any machine handling machinery, cable spinning machines, helicopters, machines similar to the above

Group 2: All types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, hoist with two towers, paver 21E and over, all types overhead cranes, building hoists (double drum) gradalls, mucking machines in tunnel, all front end loaders 3-½ c.y. and over, tandem scrapers, pipin type backhoes, boat Captains, batch plant operators (concrete) drills, self-contained rotary drills, fork lifts 20 ft. lift and over machine to the above

Group 3: Covenyors, building hoist (single drum) scrapers and tournapulls, spreaders, high or lew pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt plant engineers, roller (high grade finishing), ditch witch type trencher, all leaders under 3-½ c.y. mechanic welders, motor patrols, drill helpers self-contained rotary drills, helpers self-contained rotary drills, core drill operator, forklift trucks under 20 ft. lift, machines similary to the above

Group 4: Welding machines, well points, compressors, pumps, heaters, fram tractors, form line graders, fine grade machines, road finishing machines concrete breaking machines, rollers, seam pulverzing mixer, power broom, seeding spreader, tireman (for power equipment) machines similar to above.

Group 5: Fireman, grease truck

Group 6: Oilers and deck hands (personnel boats), core drill helper

AREA COVERED BY PLASTERERS ZONES

Zone 1 - Lycoming & Sullivan Counties
Zone 2 - Northumberland
Zone 3 - Schuylkill
Zone 4 - Lebanon County (East of Route 501)
Zone 5 - Lebanon County (West of Route 501)

DECISION NO. PA84-3037

AREA COVERED BY PLUMBERS ZONES

Zone 1 - Lycoming & Sullivan Counties
Zone 2 - Schuylkill County
Zone 3 - Northumberland County; Lebanon County, (West of Route 501)
Zone 4 - Lebanon County (East of Route 501)

AREA COVERED BY ROOFERS ZONES

Zone 1 - Lycoming & Sullivan Counties; Remainder of Northumberland County Townships in Schuylkill Countyy, Barry Branch, Butler, East Union, Eldred, Foster, Fraily, Hegins, Hubley, Kline, New Castle, North Union, Porter, Rahn, Reilly, Rush, Fremont, Union, Upper Mahantango, West Penn:

Zone 2 - Townships in Labanon County; Anniville, Cold Springs, East Hanover, North Anniville, North Cornwall, North Londonderry, South Anniville, South Londonderry, Union, West Cornwall: Townships in Northumberland County: Coal, East Cameron, Jackson, Jordan, Little Mahony, Lower Augusta, Upper Mahony, Point Rockfeller, Shamokin, Upper Mahony, Washington, West Cameron, Zerbe

Zone 3 - Remainder of Labanon County; and Remainder of Schuylkill County.

AREA COVERED BY SHEET METAL ZONES

Zone 1 - Lebanon County
Zone 2 - Lycoming, Northumberland, Schuylkill & Sullivan Counties

AREA COVERED BY STEAMFITTERS ZONES

Zone 1 - Lycoming & Sullivan Counties
Zone 2 - Schuylkill County
Zone 3 - Northumberland County; Lebanon County, (West of Route 501)
Zone 4 - Lebanon County; (East of Route 501)

AREA COVERED BY TERRAZZO WORKERS ZONES

Zone 1 - Lebanon County
Zone 2 - Northumberland County
Zone 3 - Schuylkill County
Zone 4 - Sullivan County

AREA COVERED BY TILE SETTERS ZONES

Zone 1 - Lebanon County
Zone 2 - Northumberland County
Zone 3 - Schuylkill County

DECISION NO. PA84-3037

AREA COVERED BY TRUCK DRIVERS ZONES

Zone 1 - Lycoming County
Zone 2 - Lebanon County

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer contributes 8% basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

b. Six paid holidays: A through F, plus the Friday after Thanksgiving Day.

c. 8 Paid holidays, A through F, and Washington's Birthday, Good Friday and Christmas Eve, provided the employee has worked 45 full days for the employer during the 120 days prior to the holiday and is available for work the days preceding and following the holiday.

d. Paid Holidays: Washington's Birthday; Good Friday; Memorial Day; Labor Day; Presidential Election Day; Veterans Day; Thanksgiving Day and Christmas Day.

e. Paid Holiday: Independence Day;

f. $93.03 per month for employees who have worked sixty hours or more during the month.

g. $57.89 per month for employees who have worked sixty hours or more during the month.

h. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, provided the employee works the day before and after the holiday.

Welders - Rate for craft

"Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii))."

SUPERSEDEAS DECISION

STATE: Texas COUNTY: Bowie
DECISION NO. TX84-4057 DATE: Date of Publication
Supersedes Decision No. TX83-4079, dated 10/21/83 in 48 FR 48910
DESCRIPTION OF WORK: Building Projects (does not include single family homes & apartments up to & including 4 stories). (Use current heavy & highway General Wage Determination to Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	16.71	2.935
BOILERMAKERS	16.125	2.95
BRICKLAYERS	8.15	.79
CARPENTERS:		
Carpenters	12.20	.05
Millwrights	15.15	.05
Piledrivermen	13.25	.05
CEMENT MASONS	6.82	
ELECTRICIANS	14.52	1.50+ 3-1/4%
ELEVATOR CONSTRUCTORS:		
Mechanics	16.025	2.69+a
Helpers	70%JR	2.69+a
Helpers (Prob.)	50%JR	
GLAZIERS	5.30	
IRONWORKERS:		
Ironman	9.40	2.55
All other classification	10.75	2.55
LABORERS, UNSKILLED	3.70	
LINE CONSTRUCTION:		
Linemen	15.10	1.00+ 3-1/2%
Cable splicers	15.55	"
Hole digger op.,heavy equip. ops.(or pole cat equivalent);powderman	13.74	-
Line truck driver(winch)	12.38	-
Jackhammer man	11.33	-
Groundman	10.12	-
Truck driver(flat bed, ton & half & under)	10.72	"
PAINTERS	5.50	
PLUMBERS & PIPEFITTERS	14.60	1.85
ROOFERS	5.71	
SHEET METAL WORKERS	5.99	
SOFT FLOOR LAYERS	7.50	
SPRINKLER FITTERS	16.17	3.23
TRUCK DRIVERS	5.00	
POWER EQUIPMENT OPERATOR:		
GROUP 1	7.265	2.30
GROUP 2	15.17	2.30
GROUP 3	15.57	2.30
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.		

FOOTNOTE FOR ELEVATOR CONSTRUCTORS
a - 1st 6 mos.-none; 6 mos. to 5 yrs.-6%; over 5 yrs.-8% of basic hourly rate: Also following 7 Paid Holidays: New Years' Day,Memorial Day, Independence Day,Labor Day,Thanksgiving Day, the Friday after Thanksgiving Day, Christmas Day

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS
GROUP 1 - Oiler-Fireman
GROUP 2 - Air compressor,Pumps,Welding Machines,Throttle Valves,Light Plants;Conveyor;Mason Drill,Elevators Building;Form Graders;Hoist,Single Drum;Ford Tractor including blade & mower on rear;Mixers,less than 14 cu. ft.;Screening Plants;Crushing Plants;Fork Lifts(short under 25 ft.);Concrete Pumps(all types);Bobcat type equipment
GROUP 3 - Ford Tractor or like with any attachment(except blade & mower on rear);Drilling Machine(all types);Scoopmobile;Hoist,two drums or more;Forklifts(over 25 ft.);Winch truck; Six Wheel Truck, when used continuously for 5 days;Mixermobile;Locomotives;Mixer,14 cu. ft. or over;Blade Graders,self-propelled;Cableways;Crane-power operated to 100 ft.;Derricks, power operated(all types);Gradall;Hy-Ho;Hop-To;Paving Mixers(all types);Pile Drivers; Mobile Concrete Mixers over 14 cu. ft.;Bulldozers;Loaders,Tractovators;Scrapers & Pulls; Welders:Trenching Machines;Roller,ten tons or over;Air Compressors & Air Tugger;Boilers, two or more fired by one man

SUPERSEDEAS DECISION

STATE: Texas COUNTY: Harrison
DECISION NO. TX84-4058 DATE: Date of Publication
Supersedes Decision No. TX80-4088, dated 11/7/80 in 45 FR 74364
DESCRIPTION OF WORK: Building Projects (does not include single family homes & apartments up to & including 4 stories). (Use current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	BASIC HOURLY RATE	FRINGE BENEFITS
BRICKLAYERS & STONEMASONS	$13.06	
CARPENTERS	10.67	
ELECTRICIANS:		
Electricians	14.35	1.00+7-1/4%
Cable splicers	14.70	1.00+7-1/4%
GLAZIERS	9.55	
IRONWORKERS	9.47	
LABORERS	5.37	
LATHERS	12.34	
PAINTERS	11.50	
PLUMBERS & PIPEFITTERS	10.16	
ROOFERS	9.16	
SHEET METAL WORKERS	9.55	
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.		

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

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Part III

Environmental Protection Agency

Issuance of Final General NPDES Permit for Portions of Deep Seabed Mining Exploration Activities in the Pacific Ocean; Notice

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ENVIRONMENTAL PROTECTION AGENCY

[OW-FRL-2685-8]

Issuance of Final General NPDES Permit for Portions of Deep Seabed Mining Exploration Activities in the Pacific Ocean

AGENCY: Environmental Protection Agency, Region 9.

ACTION: Notice of Final General NPDES Permit.

SUMMARY: The Environmental Protection Agency (EPA) Regional Administrator of Region 9 is today issuing a final general National Pollutant Discharge Elimination System (NPDES) permit for certain discharges from vessels or other floating craft subject to the Deep Seabed Hard Mineral Resources Act (DSHMRA) engaged in deep seabed mining exploration activities under the DSHMRA in the Pacific Ocean. On August 29, 1983, EPA provided notice of a draft general NPDES permit (48 FR 39144–39152) for these discharges. A public hearing was held October 6, 1983 in San Francisco, California; the comment period closed October 20, 1983. This general permit establishes effluent limitations, standards, prohibitions and other conditions on discharges from these activities, except for any discharge from the initial mining tests which is not covered by this permit. The area to be covered by this general permit is located within that portion of the deep seabed in the Pacific Ocean between 110 degrees West and 180 degrees West longitude an 5 degrees North and 20 degrees North latitude.

This final general permit is based on the administrative record available for public review in Region 9 of the Environmental Protection Agency. The fact sheet and response to comments (Appendix A) sets forth the principal facts and the significant factual, legal, and policy questions considered in the development of the permit. A copy of the final permit (NPDES Number HIG100001) is published as required by 40 CFR 122.28(b)(2)(iii).

EFFECTIVE DATE: This general permit shall be effective on October 5, 1984. This general permit and authorization to discharge shall expire on October 5, 1989.

ADDRESS: Notification requirements and requests should be sent to the Regional Administrator in care of the Director, Water Management Division (W–1), Region 9, U.S. Environmental Protection Agency, Attention: Deep Seabed Mining General Permit, 215 Fremont Street, San Francisco, California 94105.

FOR FURTHER INFORMATION CONTACT: Eugene E. Bramley (W–5–1), Region 9, U.S. Environmental Protection Agency, 215 Fremont Street, San Francisco, California 94105 (Telephone No. (415) 974–8330).

FACT SHEET AND SUPPLEMENTARY INFORMATION

I. Background

A. General Permits

Section 402 (33 U.S.C. 1342) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 *et seq.*) (the Clean Water Act (CWA)) authorizes EPA to issue NPDES permits for the purpose of regulating the discharge of pollutants to navigable waters.

Section 301(a) of the CWA (33 U.S.C. 1311(a)) provides that the discharge of pollutants is unlawful except in accordance with a NPDES permit. EPA's regulations authorize the issuance of general NPDES permits to categories of discharges (40 CFR 122.28). EPA may issue a single general permit to a category of point sources located within the same geographic area whose discharges warrant similar pollutant control measures. The Director of an NPDES permit program (in this case the Regional Administrator) is authorized to issue a general NPDES permit, according to criteria contained in 40 CFR 122.28(a)(2)(ii), if there are a number of point sources operating in a geographic area that:

1. Involve the same or substantially similar types of operations;
2. Discharge the same types of wastes;
3. Require the same effluent limitations or operating conditions;
4. Require the same or similar monitoring requirements; and
5. In the opinion of the Director, are more appropriately controlled under a general permit than under individual permits.

As in the case of individual permits, violation of any condition of a general NPDES permit constitutes a violation of the CWA and subjects the discharger to the penalties specified in section 309 of the CWA (33 U.S.C. 1319). Any owner or operator authorized to discharge by a general permit may be excluded from coverage by applying for an individual permit. This request may be made by submitting a MPDES permit application together with the reasons supporting the request to the Regional Administrator. In addition, the Regional Administrator may require any person who is authorized to discharge under this general permit to apply for and obtain an individual permit. Any interested person may petition the Regional Administration to take this action. However, an individual NPDES permit will not be issued for a deep seabed mining exploration facility to be covered by this general NPDES permit unless it can be demonstrated that inclusion under the general permit is clearly inappropriate. The Regional Administrator may consider the issuance of individual permits according to the criteria in 40 CFR 122.28(b)(2). These criteria include:

1. The discharge(s) is a significant contributor of pollution;
2. The discharger is not in compliance with the terms and conditions of the general permit;
3. A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source;
4. Effluent guidelines are subsequently promulgated for the point sources covered by the general permit;
5. A Water Quality Management Plan containing requirements applicable to such point sources is approved; or
6. The requirements listed in 40 CFR 122.28(a) and identified in the previous paragraphs are not met.

However, changes in pollutant control or abatement technology, effluent guidelines, or water quality standards affecting a large number of the covered point sources may be more appropriately addressed through modification, or revocation and reissuance of the final general permit.

B. Deep Seabed Mining Exploration Activities in the Pacific Ocean

Manganese nodules containing nickel, cobalt, manganese and copper have been the subject of commercial interest for nearly 25 years. In 1980, the Deep Seabed Hard Mineral Resources Act (DSHMRA) (30 U.S.C. 1401 *et seq.*) was enacted. The DSHMRA authorized the National Oceanic and Atmospheric Administration (NOAA) to issue licenses for exploration to United States citizens after July 1, 1981. In preparation of issuance of licenses for exploration, in September 1981 NOAA issued deep seabed mining regulations for exploration licenses at 15 CFR Part 970, a final Programmatic Environmental Impact Statement (PEIS) and a final Technical Guidance Document (TGD).

Section 109(e) of the DSHMRA (30 U.S.C. 1419(e)) provides that any discharge of a pollutant from a vessel or other floating craft subject to the DSHMRA is subject to the provisions of the Clean Water Act. A more detailed discussion of jurisdiction and the legal requirement to issue this permit is

contained in the response to comments contained in Appendix A.

EPA advised NOAA of its intention to issue a general NPDES permit to cover deep seabed mining exploration activities which are covered by NOAA deep seabed mining regulations for exploration licenses contained in 15 CFR Part 970. 46 FR 45982 (September 15, 1981).

On November 3, 1982, EPA Region 9 sent a letter to over 600 individuals indicating our intent to issue this general permit which would authorize discharges from vessels or other floating craft engaged in exploration activities, which are more fully described in the DSHMRA and NOAA regulations, including prospecting, mapping, surveying, collection of data and collection of samples. Discharges from initial test mining will not be authorized at this time.

NOAA has received applications from four consortia [Ocean Mining Associates (OMA), Ocean Manageament, Inc. (OMI), Kennecott Consortium (KCON) and Ocean Minerals Company (OMCO)] to engage in exploration activities in the Northeastern Equatorial Pacific Ocean within the seabed generally known as the Clarion-Clipperton Fracture Zone. 47 FR 27583–27584 (June 25, 1982), 47 FR 47903 (October 28, 1982), 48 FR 50386–50387 (November 1, 1983), 49 FR 3108 (January 25, 1984) and 49 FR 20359–20360 (May 14, 1984). On August 29, 1984, NOAA issued exploration licenses to three of the consortia.

On August 29, 1983, EPA provided notice of a draft general NPDES permit (48 FR 39144–39152) for these discharges. (The permit number of the proposed permit was HI0111287. The permit number of the final permit is HIG100001.) A public hearing was held October, 1983 in San Francisco, California; the comment period closed October 20, 1983.

The application of the general permit program to a vessel or other floating craft used in deep seabed mining exploration operations is particularly appropriate as these facilities will have limited operations at any given location. These types of operations require a permitting decision which will allow maximum flexibility, i.e., the ability to move efficiently from one (1) location to another within the general permit area without having to apply for and obtain a new permit. The permittee engaged in exploration activities under the DSHMRA entering the areas to be covered by this permit will simply be required to notify EPA of their intent to be covered.

General permits eliminate, for EPA, the time consuming and resource intensive process of reviewing and evaluating individual permit applications, and similiarly eliminate for the industry the regulatory burden of applying for and obtaining individual permits. In addition, environmental monitoring can be defined by area and imposed on all facilities operating within a permit area, providing EPA a better mechanism to evaluate possible environmental degradation.

II. Nature of Discharges From Vessels or Other Floating Craft Engaged in Deep Seabed Mining Exploration Activities

This general permit authorizes and permits ten (10) separate types of discharges from a vessel or other floating craft subject to the DSHMRA engaged in exploration activites under 15 CFR Part 970, including, but not limited to exploration activities enumerated in section 101(a)(2) of the DSHMRA (30 U.S.C. 1411(a)(2)), and in NOAA regulations at 15 CFR 970.103(a)(2), except for any discharge from the initial mining tests.

Discharges will not be authorized from initial mining tests. "Initial mining test" means the taking from the deep seabed of such quantities of any hard mineral resource as are necessary for the design, fabrication and testing of equipement which is intended to be used in the commercial recovery and processing of such resource. (See section 4(5)(B) of the DSHMRA (30 U.S.C. 1403(5)(B) and NOAA regulations at 15 CFR 970.101(i)(2).)

A NPDES permit for discharge from the initial mining tests will not be prepared at this time. These activities will be dealt with by EPA under the CWA when dealing with the NPDES permitting decision for the initial mining tests. There are three (3) reasons for this decision. First, after review of the applications for exploration licenses submitted to NOAA and after discussions with NOAA, it appears that any initial mining tests would occur between 1987 and 1990. This general NPDES permit is being issued in 1984 and will expire in 1989. Therefore, initial mining tests may not even occur during the term of this permit. Second, it is not clear how the initial mining tests would differ from tests described in the PEIS issued by NOAA in September 1981. The exact timing of NPDES permits for these activities is uncertain at this time, but EPA intends to prepare a general NPDES permit or individual NPDES permit(s) or modify the then existing general NPDES permit (as appropriate) for discharges from the initial mining tests when the details of the test plans concerning these tests are submitted to NOAA as required by 15 CFR 970.204(a). Third, the PEIS and regulations issued by NOAA in September 1981, identified three (3) at-sea activities during exploration activities that have the potential for significant adverse environmental impact and are enumerated at 15 CFR 970.701(b)(2). In the PEIS, NOAA provided generic data evaluating the effect of surface and benthic discharges from mining system tests on the marine environment according to EPA's Ocean Discharge Criteria contained at 40 CFR 125.122. This generic data supplemented by site specific data, should facilitate any EPA decision which may be required under section 403 of the CWA (33 U.S.C. 1343) in dealing with the NPDES permitting decision for the initial mining tests. EPA encourages the consortia to develop and submit this information to NOAA as specified in the TGD in a timely manner because EPA may be basing its NPDES permitting decision for the initial mining tests in a large part on such information.

The general permit does not authorize discharge from a vessel or other floating craft subject to the DSHMRA engaged in commercial recovery under a permit issued by NOAA. EPA will work with NOAA to develop appropriate individual or general NPDES permits to deal with such discharges at the appropriate time. This general permit does not authorize discharge of manganese nodule procesing wastes.

This general permit provides authorization of discharges from a vessel or other floating craft subject to the DSHMRA engaged in exploration activities under 15 CFR Part 970, including, but not limited to exploration activities enumerated in section 101(a)(2) of the DSHMRA (30 U.S.C. 1411(a)(2)), and in NOAA regulations at 15 CFR 970.103(a)(2), except for any discharge from the initial mining tests. EPA intends that these discharges are authorized when the vessel or other floating craft is actively engaged in exploration activities within the general permit area under the DSHMRA. EPA does not intend for this permit to cover discharges from a vessel or other floating craft when the vessel or other floating craft is traveling to or from the sites where exploration is conducted as EPA does not believe the vessel or other floating craft is engaged in exploration activities under the DSHMRA at those times.

The discharges which accompany exploratory operations are discussed below. The exploration activities for which discharge of pollutants are authorized by the permit fall into

categories which have been judged by NOAA to have no potential for significant environmental impact at 15 CFR 970.701(a). EPA had reviewed NOAA's determination and concurs with this judgment. EPA believes these ten (10) types of discharges are the only discharges that occur during exploration activities except for the initial mining tests. EPA invited comment on the appropriateness of nine (9) types of discharges for regulation, along with any types of discharges, including discharge from the samplers used by the consortia to convey sediment and nodule samples to the surface for collection, that may have been omitted. Due to a comment that it is possible there will be a discharge from sampling devices, EPA is also authorizing a discharge from sampling devices. Detailed comments on these issues and EPA's response is contained in the response to comments.

EPA Region 9 has characterized discharges 001–009 as "ancillary" type discharges which are typical of those which normally occur from a vessel or other floating craft. All nine (9) of these types of discharges contain no or de minimus amounts of process wastes, raw materials, toxic wastes, hazardous wastes or oil and grease. Discharges of these types are typically discharged overboard with the treatments as specified below, and have been determined by EPA to not cause either violation of marine water quality or unreasonable degradation of marine waters.

EPA Region 9 has included discharge 010, sampling device discharge, in this final permit. Any discharge which would occur from the sampling devices are typical of those which normally occur from oceanographic research samplers and would contain no or de minimus amounts of homogeneous raw materials obtained from the ocean environment. EPA has determined this discharge, as limited in this permit, will not cause either violation of marine water quality or unreasonable degradation of marine waters.

Discharge #001—Deck Drainage

Deck drainage includes all waste resulting from vessel washings, deck washings, tank cleaning operations, and run-off from curbs, gutters, and drains including drip pans and wash areas.

Discharge #002—Sanitary Wastes

Sanitary wastes include human body waste discharged from toilets and urinals. These wastes are treated prior to discharge.

Discharge #003—Domestic Wastes

Domestic wastes (also referred to as "kitchen and shower discharge" or "grey water") includes materials discharged from galleys, sinks, showers, and laundries. These are normally released directly overboard without treatment, or with minimal grinding to assure that no floating solids are present, because soaps and detergents interfere with the operation of the oil/water separator and adversely affect bacterial sewage treatment systems.

Discharge #004—Water Distillation Discharge

Water distillation discharge means wastewater associated with the process of creating fresh water from seawater. Seawater is processed through one (1) of several different types of distillation units to obtain potable water. In the desalinization process, the normal constituents of seawater are concentrated to about twice their normal concentration. No additional chemicals are added during the distillation operation and the waste is discharged without treatment.

Discharge #005—Boiler Blowdown

Boiler blowdown means the discharge of recirculating water from boilers to remove ionic concentrations contained in the water, preventing the further buildup of concentrations exceeding limits established by best engineering practice. This discharge is released directly overboard without treatment.

Discharge #006—Fire Control System Test Water

Fire control system test water is seawater discharged during periodic testing of the fire control system. This discharge is released during the training and testing of personnel in fire protection.

Discharge #007—Cooling Water

Cooling water means once through non-contact cooling water. Non-contact cooling water is seawater used to cool electricity generating equipment. The temperature of seawater is increased a maximum of 3 °C (5 °F) over ambient and no chemical treatment is required. This discharge is released directly overboard without treatment.

Discharge #008—Uncontaminated Ballast Water

Ballast water means water used by the vessel or other floating craft for stability. Seawater is introduced into or removed from ballast water to maintain the proper ballast floater level and ship draft during operations. No chemicals are introduced and ballast water is discharged without treatment.

Discharge #009—Uncontaminated Bilge Water

Bilge water means water that accumulates in the bilge of the vessel or other floating craft. Bilge water is discharged without treatment.

Discharge #010—Sampling Device Discharge

Sampling device means any sampling device, including, but not limited to box cores, dredges and baskets, used to obtain samples of and/or from the deep seabed. Under proper operation and maintenance, any discharge from the sampling device during the conveyance of the sampling device to the surface for retrieval, will contain no or de minimus amounts of homogeneous raw materials obtained from the ocean environment.

The exploration activities covered by section 4(5) of the DSHMRA (30 U.S.C. 1403(5)) and NOAA regulations at 15 CFR 970.101(i)(1) may include grab sample and surveying activities at the ocean floor.

Before issuing the proposed permit, EPA reviewed the licenses applications submitted by the consortia to NOAA and did not believe there would be any discharge from the various samplers to be used in conveying the sediment and nodule samples to the surface for collection. For this reason, EPA neither listed this as a possible discharge nor developed technology-based effluent limitations for such a discharge in the proposed permit. EPA solicited comment on the issue whether there would be discharges from the various samplers, and if so, appropriate technology-based effluent limitations for such discharges and stated that if comments indicated there would be a discharge from the various samplers, EPA would develop effluent limitations to control these discharges, and evaluate the effect of these limitations on marine water quality criteria and Ocean Discharge Criteria, in the final permit.

A commenter indicated there could be a discharge of nodule fragments and bottom sediments into the water column from various sampling devices as a sample was being brought to the surface for retrieval. EPA has contacted the Ocean Minerals and Energy Division of NOAA, who informed us that if the sampling devices are well operated and maintained, that there is little or no leakage or washing action of sediments and/or nodules to the water column when the samplers are being brought to the surface. However, there is a potential for discharge of sediments

and/or nodules to the water column if the sampling devices are not properly operated and maintained. Due to the fact that there may in fact be such a discharge, EPA is authorizing discharge from sampling devices in the final permit and has designated this as discharge 010. A definition of sampling device has been provided in Part III.D.28 of the permit. The limitations and conditions imposed on this discharge are discussed later in this notice.

In obtaining the grab samples and in conducting surveying activities at the ocean floor, there may be disturbances of sediments at the ocean floor, which EPA does not believe to be discharges from point sources subject to the CWA.

III. Conditions in the Final General NPDES Permit

A. Geographic Area of the Final General NPDES Permit

The final general NPDES permit issued today is applicable to discharges from a vessel or other floating craft subject to the DSHMRA engaged in exploration activities under 15 CFR Part 970, including, but not limited to exploration activities enumerated in Section 101(a)(2) of the DSHMRA (30 U.S.C. 1411(a)(2)) and in NOAA regulations at 15 CFR 970.103(a)(2), except for any discharge from the initial mining tests. The authorized discharge sites include all the area of the Pacific Ocean between 110 degrees West and 180 degrees West longitude and 5 degrees North and 20 degrees North latitude that lies within the definition of the deep seabed as defined in section 4(4) of the DSHMRA (30 U.S.C. 1403(4)) and in NOAA regulations at 15 CFR 970.101(h), including, but not limited to, the Northeastern Equatorial Pacific Ocean within the seabed generally known as the Clarion-Clipperton Fracture Zone. The authorized discharge sites specifically excludes all areas which lie within the territorial seas of the State of Hawaii.

The permittee shall be the U.S. citizen, as defined in section 4(14) of the DSHMRA (30 U.S.C. 1403(14)) and in NOAA regulations at 15 CFR 970.101(t), engaged in exploration activities as enumerated in this permit.

Section 3(a) of the DSHMRA (30 U.S.C. 1402(a)) contains a specific disclaimer of extraterritorial sovereignty. EPA in no way intends to exert jurisidiction over any activity other than the discharge from any vessel or other floating craft subject to the DSHMRA. This permit only regulates U.S. citizens engaged in exploration activities under NOAA regulations contained in 15 CFR Part 970, including, but not limited to exploration activities enumerated in section 101(a)(2) of the DSHMRA (30 U.S.C. 1411(a)(2)), and in NOAA regulations at 15 CFR 970.103(a)(2), except for any discharge from the initial mining tests, as enumerated in this permit. The nations of Mexico (Islas de ReVillagigeda), France (Clipperton Island) and Kiribati (Washington and Fanning Islands) have territory in or near the Pacific Ocean area encompassed between 110 degress West and 180 degrees West longitude and 5 degress North latitude. A portion of the State of Hawaii is also located within these same coordinates, as are Johnston Atoll, Kingman Reef and Palmyra Atoll. Accordingly, EPA has limited the area covered by the general permit to those areas (1) within the above enumerated coordinates and (2) within the deep seabed as defined by section 4(4) of the DSHMRA (30 U.S.C. 1403(4)) and NOAA regulations at 15 CFR 970.101(h). "Deep seabed" is defined by the DSHMRA and NOAA regulations as

> The seabed, and the subsoil thereof to a depth of ten [10] meters, lying seaward of the outside—(1) the Continental Shelf of any nation; and (2) any area of national resource jurisidiction of any foreign nation, if such area extends beyond the Continental Shelf of such nation and such jurisdiction is recognized by the United States.

The definition excludes authorization of discharge to any area that does not lay seaward of and outside—(1) the Continental Shelf of any nation; and (2) any area of national resource jurisdiction of any foreign nation, if such area extends beyond the Continental Shelf of such nation and such jurisdiction is recognized by the United States.

In addition, this final general NPDES permit specifically excludes the territorial seas of the State of Hawaii from the area in which discharges are authorized. This is consistent with the definition of the Continental Shelf contained in section 4(2) of the DSHMRA (30 U.S.C. 1403(2)) and in NOAA regulations at 15 CFR 970.101(f), which excludes the territorial seas. The State of Hawaii issues NPDES permits, through the Hawaii Department of Health, to discharges within the State of Hawaii, which includes the territorial seas.

B. Application of the General Permit Program

EPA has determined that discharges from a vessel or other floating craft engaged in exploration activities under the DSHMRA operating within the areas described in this final permit are more appropriately controlled by a general NPDES permit than by individual permits. In accordance with 40 CFR 122.28(a)(2)(ii), these facilities involve the same or substantially similar types of operations, discharge the same types of wastes, require the same effluent limitations or operating conditions, require the same monitoring requirements, and in the opinion of the Regional Administrator, are more appropriately controlled under a general NPDES permit than under individual permits. The regulations at 40 CFR 122.28(a)(1) require the general permit to cover a category of dischargers within a geographical area. This general permit covers the entire area covered by the NOAA PEIS issued in September 1981, which encompasses those portions of the Pacific Ocean, that lie within the definition of deep seabed, between 110 degrees West and 180 degrees West longitude and 5 degrees North and 20 degrees North latitude, as "[a]ny other appropriate division or combination of boundaries." 40 CFR 122.28(a)(1)(vii). Additionally, as discussed earlier, the provisions for general permits allow EPA to address the cumulative effects of multiple facilities operating in one (1) geographic area, and provide a better mechanism to impose an area wide monitoring program that may more effectively assess potential environmental degradation. The ability of general permits to address area wide concerns may become particularly important in permitting initial mining tests and commercial recovery phases of deep seabed mining activities.

Vessels authorized to discharge in accordance with this permit will remain at any one (1) location for a limited period of time in conducting exploratory activities. The general permit allows these facilities the flexibility to move within the permitted area without applying for and obtaining a new permit. Due to EPA's definition of "new discharger" in 40 CFR 122.2 which includes existing mobile point sources which move to a new location, most, if not all facilities covered by this general permit will be new dischargers. The effluent limitations and conditions for discharges 001–009 contained in the general permit are standard limitations provided for ancillary discharges from mobile point sources in Region 9. The effluent limitations and conditions for discharge 010 contained in the general permit requires the proper operation and maintenance of the sampling devices. EPA regulations, as applied to new dischargers, do not allow for a compliance schedule (40 CFR 122.47(a)(2)) and require compliance within ninety (90) days (40 CFR 122.29(d)(4)). Therefore, the general

permit is the best regulatory mechansim available to EPA to impose uniform effluent limitations and conditions upon all facilities entering the permit area.

The Regional Administrator has concluded that discharges authorized under the effluent limitations and conditions of this permit will not cause unreasonable degradation of the marine environment (See Section H. Ocean Discharge Criteria). This determination is based on a review of all the material available for a determination of all issues related to this general permit. The only discharges that will be authorized by this general permit are ancillary discharges or de minimus discharges from sampling devices which, subject to the technology-based effluent limitations and conditions, will not cause unreasonable degradation to the marine environment. Possible concerns regarding the effects and impacts of discharges from the initial mining tests will be dealt with at the appropriate time.

Under section 403 of the CWA (33 U.S.C. 1343), this permit contains a reopener clause (authorized by 40 CFR 125.123(d)(4)) which requires the Regional Administrator to modify or revoke this general permit if new data indicates that continued discharges may cause unreasonable degradation of the marine environment. Permit modification or revocation will be conducted in accordance with 40 CFR 122.62, 122.64 and 124.5 pursuant to Part III.B.5 of the general permit.

The documents particularly applicable to this permit decision include:

(1) NOAA. Final Programmatic Environmental Impact Statement, Deep Seabed Mining, September 1981.

(2) NOAA. Final Technical Guidance Document, Deep Seabed Mining, September 1981.

(3) NOAA—Final Rules. Deep Seabed Mining Regulations for Exploration Licenses, 15 CFR Part 970, as amended.

(4) Various License Applications by Four Consortia, 1982.

(5) NOAA. Deep Seabed Mining, Draft Environmental Impact Statements on Issuing Exploration Licenses to the Four Consortia, May, 1984.

(6) NOAA. Deep Seabed Mining, Final Environmental Impact Statements on Issuing Exploration Licenses to the Four Consortia, July 1984.

C. Covered Facilities

This general permit authorizes discharges from existing sources and "new dischargers" (40 CFR 122.2) from vessels or other floating craft subject to the DSHMRA engaged in exploration activities under 15 CFR Part 970, including, but not limited to exploration activities enumerated in section 101(a)(2) of the DSHMRA (30 U.S.C. 1411(a)(2)) and in NOAA regulations at 15 CFR 970.103(a)(2), except for any discharge from the initial mining tests. EPA has not promulgated new source performance standards (NSPS) for this activity pursuant to Section 306 of the CWA (33 U.S.C. 1316). If NSPS are ever promulgated, EPA may have an obligation under section 511(c)(1) of the CWA (33 U.S.C. 1371(c)(1)) and the National Environmental Policy Act (NEPA) (33 U.S.C. 4321, *et seq.*) to do an environmental assessment for all general NPDES permits (covering new sources).

This general permit does not authorize discharge from the initial mining tests. This general permit does not authorize discharge from a vessel or other floating craft subject to the DSHMRA engaged in commercial recovery under a permit issued by NOAA. This general permit does not authorize discharge of manganese nodule processing wastes. Separate NPDES permits must be obtained from the appropriate permitting authority for all these discharges, unless general NPDES permits have been issued to cover these activities.

D. Notification by Permittees

Individual permit applications are not required to be submitted by permittees entering the general permit area. However, Parts I.A–I.B of the general permit requires each permittee operating in the general permit area to notify the Regional Administrator of Region 9 in writing of the commencement and termination of discharges from each facility. This written notification must be made at least fourteen (14) days prior to the commencement of discharges and include the permittee's name and address, a description of the exploration activities and accompanying discharges and the general area in which the exploration will take place. The marine call letters assigned to the exploration vessel must also be furnished to provide EPA a means of locating the vessel at any time. Failure to provide this written notificaion means that the facility is not authorized to discharge under this general permit. Changes in the geographic area of exploration which become necessary during the course of exploration must be reported in the annual monitoring report submitted pursuant to Part II.C.4 of the permit. The permittee shall also notify the Regional Administrator upon permanent termination of operations.

E. Expiration and Termination Dates

Section 301(b)(1) of the CWA (33 U.S.C. 1311(b)(1)) requires the application of effluent limitations representing best practicable control technology currently available (BPT) by July 1, 1977. Section 301(b)(2) of the CWA (33 U.S.C. 1311(b)(2)) requires that all permits effective or issued after July 1, 1984, contain effluent limitations representing best available technology economically achievable (BAT) and best conventional pollutant control technology (BCT) for all categories and classes of point sources. This permit contains technology-based effluent limitations found by the Regional Administrator to be BAT and/or BCT (BAT/BCT). This permit also contains best management practices (BMPs) authorized by section 304(e) of the CWA (33 U.S.C. 1314(e)) found by the Regional Administrator to control spillage and/or leaks from the sampling devices. (See F. Technology-Based Effluent Limitations.) The general permit has an expiration date of October 5, 1989.

F. Technology-Based Effluent Limitations

The CWA requires all dischargers to meet effluent limitations based on the technological capacity of discharges to control the discharge of their pollutants. EPA has promulgated neither effluent limitations guidelines regulations under section 304(b) or the CWA (33 U.S.C. 1314(b)) nor best management practices under section 304(e) of the CWA (33 U.S.C. 1314(e)) for discharges from deep seabed mining exploration activities. Therefore, the technology-based effluent limitations applicable to these discharges, including the BMPs for discharge 010, have been developed for this permit using best professional judgment (BPJ) as authorized by section 402(a)(1) of the CWA (33 U.S.C. 1342(a)(1)) and EPA regulations at 40 CFR 125.3. As proposed on August 29, 1983, this permit included BPT effluent limitations because EPA believed the permit would be issued before June 30, 1984. Due to the fact the final permit was not issued until today, BPT effluent limitations are not included in the final permit. However, BAT/BCT effluent limitations, developed on a BPJ basis, are included in this permit.

The general permit has an expiration date after June 30, 1984, which requires the permit to contain effluent limitations to meet BAT and/or BCT. EPA reviewed the statutory requirements for BAT and BCT contained in the CWA and is not aware of any other treatment

technologies available for these ancillary discharges that will result in more stringent effluent limitations than those for BPT. The only viable more stringent treatment technology would involve a no discharge requirement which cannot be justified for such facilities due to the mobile nature and extreme distrance from shore of these facilities, along with the cost of imposing such a requirement on these facilities. Therefore, using best professional judgment, EPA finds that any and all requirements necessary to meet BAT and/or BCT effluent limitations for the ancillary discharges in this general permit are equal to those for BPT. EPA invited comment as to the appropriateness of this decision in the proposal and received no comments on this issue.

The BAT/BCT effluent limitations for deck drainage, sanitary wastes and domestic wastes (outfalls 001, 002 and 003, respectively) in the general permit are based upon BPT effluent limitations guidelines regulations promulgated on April 13, 1979, for the Offshore Subcategory of the Oil and Gas Point Source Category (40 CFR Part 435, Subpart A). The limitations are identical to those imposed by Region 9 on ancillary discharges from exploratory drilling operations for oil and gas operations on the Outer Continental Shelf off Southern California in a final general BPT NPDES permit (Southern California OCS General Permit) issued in 1982 and modified and reissued in 1983. 47 FR 7312 (February 18, 1982) and 48 FR 55029 and 55031 (December 8, 1983). The BAT/BCT limitation for deck drainage specifies "no discharge of free oil." The BAT/BCT limitation for sanitary wastes requires that the concentration of chlorine be maintained as close to 1.0 mg/1 as possible from facilities housing ten (10) or more persons. For those facilities that are intermittently manned or for facilities permanently manned by nine (9) or fewer persons, the BAT/BCT limitation for sanitary wastes is "no floating solids as a result of the discharge of these wastes." Additionally, this general NPDES permit provides that any facility using an approved marine sanitation device that complies with section 312 of the CWA (33 U.S.C. 1322) and EPA regulations at 40 CFR Part 140 shall be in compliance with requirements for sanitary waste discharges in the final permit. The BAT/BCT limitation for domestic wastes is "no floating solids as a result of the discharge of these wastes." The monitoring requirements for deck drainage, sanitary wastes and domestic wastes are very similar to the monitoring requirements for these discharges from offshore oil drilling operations in Region 9. EPA has reduced the monitoring requirements, from those proposed, for deck drainage in response to public comments. Compliance with the effluent limitation for deck drainage ("no discharge of free oil") is determined through the "laboratory sheen test". The permittee shall make visual observations for the presence of free oil in the discharge using the laboratory sheen test. The final permit requires that a representative sample of deck drainage be sampled once every two (2) months, or once per voyage if the voyage is shorter than two (2) months, and analyzed for oil using the laboratory sheen test. The laboratory sheen test means those procedures which involve diluting one (1) part whole effluent, collected just prior to discharge, with nine (9) parts ambient seawater. This mixture shall be maintained as close as possible to ambient seawater temperature while being stirred mechanically with a magnetic stirrer for fifteen (15) minutes, after which time the permittee shall make a visual observation for the presence of free oil (sheen) on the surface. This protocol is in part derived from the Environmental Protection Technology Series EPA–R2–72–039, "The Appearance and Visibility of Thin Oil Films on Water". The *Development Document for Interim Final Effluent Limitations Guidelines and Proposed New Source Performance Standards for the Oil and Gas Extraction Point Source Category*, September, 1976 (Development Document) discussed BPT technology to obtain compliance with limitations for deck drainage, sanitary and domestic wastes. The same BAT/BCT limitations are imposed here since the nature of the discharges and the impact on the receiving waters are similar. Compliance with the limitations is attainable as these operations and the technology to obtain compliance are the same or similar to those used in offshore drilling operations.

The BAT/BCT limitations for miscellaneous discharges [water distillation discharge (outfall 004), boiler blowdown (outfall 005), fire control system test water (outfall 006), cooling water (outfall 007), uncontaminated ballast water (outfall 008) and uncontaminated bilge water (outfall 009)] are identical to those imposed by Region 9 in the Southern California OCS General Permit for similar miscellaneous discharges, i.e., "no discharge of free oil." The same limitations are imposed here since the nature of the discharges and the impact on the receiving waters are similar. Compliance with the limitations is attainable as these operations and the technology to obtain compliance are the same or similar to those used in offshore drilling operations. EPA has changed the monitoring requirements for these miscellaneous discharges in response to public comments that there is little or no potential for contamination of these discharges.

The permittee still must comply with the effluent limitations of no discharge of free oil for these discharges; compliance is determined using the visible sheen test as defined in Part III.D.21 of this permit.

Earlier in this notice, EPA discussed the addition of discharge 010, which authorizes a discharge from sampling devices. EPA has determined that proper operation and maintenance of the sampling devices will result in no or de minimus quantities of sample, which consists of homogeneous raw materials obtained from the ocean floor (sediments and/or nodules), to be discharged by leakage or washing from the sampling device to the ocean environment when the sampler is being retrieved from the ocean floor. EPA has also determined that if the sampling devices are not properly operated and maintained, there is a potential for discharge of sediments and/or nodules to the water column by spillage and/or leakage upon retrieval of the samplers. EPA believes the most appropriate manner in which to control such discharges, and to prevent spillage and/or leakage of quantities of materials for the sampling devices, is through a best management practice which requires the sampling device to be properly operated and maintained. The proper operation and maintenance of the sampling devices is attainable and within the technological capabilities of the dischargers. EPA believes that, in fact, the proper operation and maintenance of the sampling devices will be done as a matter of course due to the exploratory and scientific nature of the activities to be undertaken by the consortia. This condition is contained in Part II.3.b of the permit. EPA has also established a monitoring and reporting requirement (in Part II.3.c of the permit) that requires the permittee to estimate the quantity of material discharged from the sampling devices each month; the estimated quantity is to be reported in the yearly discharge monitoring report.

No effluent limitations for other pollutants have been established in this general permit as they are normally reduced incidently with the removal or reduction of another pollutant

parameter, or do not represent a threat to marine water quality.

G. Other Discharge Limitations and Permit Conditions

In addition to the technology-based effluent limitations contained in the general permit, the following limitations and conditions are also imposed:

(1) There shall be no discharge of floating solids or visible foam in other than trace amounts;

(2) There shall be no discharge of toxic materials which, after allowance for initial mixing as provided by the Ocean Discharge Criteria (40 CFR Part 125, Subpart M), exceed applicable marine water quality criteria (45 FR 79318, November 28, 1980); and

(3) The permittee is required to minimize the discharge of dispersants, surfactants, and detergents except as necessary to comply with the safety requirements of the Occupational Safety and Health Administration and the U.S. Coast Guard. This restriction applies to tank cleaning and other operations which do not directly involve the safety of workers. The restriction is imposed because these chemicals: (1) Disperse and emulsify oil thereby enhancing its toxicity, (2) reduce the effectiveness of the oil/water separator, and (3) make the detection of an oil discharge more difficult.

The final general NPDES permit also contains requirements regarding monitoring and records (Part II.C), reporting requirements (Part II.D), operation and maintenance of pollution controls (Part III.A), general conditions (Part III.B) and additional general permit conditions (Part III.C). These requirements contain conditions imposed by the CWA and/or EPA regulations. The permit conditions, as specified, reflect requirements as they currently exist. Commenters expressed concern about certain of these requirements. The specific comments and EPA's response is contained in the response to comments contained in Appendix A.

EPA has developed this gereral NPDES permit and notice in cooperation with NOAA. NOAA had expressed concern with regard to certain conditions of the draft general NPDES permint, especially conditions regarding inspection and entry and reporting requirements. The proposed and final premit provides that the permittee shall allow EPA entry and inspection of facilities regulated by the permit. One commenter also expressed concern abut EPA's right of entry to foreign flag vessels. As discussed further in Appendix A, Part II.C.9 of the final premit provides EPA right of entry: this provision was derived from Section 308 of the CWA (33 U.S.C. 1318) and NPDES regulations at 40 CFR 122.41(i). EPA will coordinate with the consortia and NOAA regarding any requirements for inspection and entry of the vessel or other floating craft. EPA believes that present communications systems will allow the permittees to comply, in a timely manner, with any reporting requirements contained in the final permit.

H. Ocean Discharge Criteria

Section 403 of the CWA (33 U.S.C. 1343) requires that a NPDES permit for discharges into ocean waters be issued in compliance with EPA's guidelines for determining the degradation of marine waters. The Ocean Discharge Criteria, which are contained at 40 CFR Part 125, Subpart M, set forth specific criteria for a determination of unreasonable degradation that must be addressed prior to the issuance of a NPDES permit. If sufficient information is unavailable on the proposed discharge or on its potential effects to make a reasonable judgment the Director (in this case the Regional Administrator) may require the applicant to submit additional information. If EPA determines that there will be no unreasonable degradation, the permit may be issued. If a determination of unreasonable degradation cannot be made, the Regional Administrator must then determine whether a discharge will cause irreparable harm of the marine environment. In assessing the probability of irreparable harm, the Regional Administrator is requird to make a reasonable determination that the discharger operating under a premit with monitoring requirements and effluent limitations in place, will not cause permanent and significant harm to the environment. If further data gathered through monitoring indicates that the continued discharge of a pollutant will produce unreasonable degradation, the discharge must be halted or additional permit limitations established.

EPA regulations at 40 CFR 125.122 identify ten (10) factors which are to be considered in making the determination of unreasonable degradation. These factors include: (1) the quantities, composition and potential for bioaccumulation or persistence of the pollutants to be discharged; (2) the potential transport of such pollutants by biological, physical or chemical processes; (3) the compositon and vulnerability of the biological communities which may be exposed to such pollutants including the presence of unique species or communities, or the presence of species identified as endangered or threatened pursuant to the Endangered Species Act, or the presence of those species critical to the structure and function of the ecosystem such as those important for the food chain; (4) the importance of the receiving water area to the surrounding biological community, including the presence of spawning sites, nursery/forage areas, migratory pathways or areas necessary for other funcitons or critical stages in the life cycle of an organism; (5) the existence of special aquatic sites including but not limited to marine sanctuaries and refuges, parks, national and historic monuments, national seashores, wilderness areas and coral reefs; (6) the potential impacts on human health through direct and indirect pathways; (7) existing or potential recreational and commercial fishing, including finfishing and shellfishing; (8) any applicable requirements of an approved Coastal Zone Management Plan; (9) such other factors relating to the effects of the discharge as may be appropriate; and (10) marine water quality criteria developed pursuant to section 304(a)(1) of the CWA (33 U.S.C. 1314(a)(1)).

The ancillary discharges from discharges 001–009 that are limited by this general NPDES permit are typical discharges from a vessel or other floating craft which are usually not subject to permitting requirements as a "discharge of a pollutant" under section 502(12) of the CWA (33 U.S.C. 1362(12)). Discharge 010 authorizes discharges of de minimus quantities of materials from sampling devices, when the samplers are being properly operated and maintained, upon retrieval of the sampling devices from the ocean floor. Section 109(e) of the DSHMRA (30 U.S.C. 1419(e)) requires that these discharges, in addition to the potentially more significant mining discharges, be subject to the CWA. The final permit contains technology-based effluent limitations and conditions on these discharges.

The Regional Administrator has concluded that discharges from a vessel or other floating craft engaged in deep seabed mining exploration activities, including, but not limited to exploration activities enumerated in section 101(a)(2) of the DSHMRA (30 U.S.C. 1411(a)(2) and in NOAA regulations at 15 CFR 970.103(a)(2), excluding discharges from the initial mining tests which are not covered by this permitting action, operating under the effluent limitations and conditions of this permit will not cause unreasonable degradation of the marine environment. One commenter expressed concern regarding

this determination; the specific comments and EPA's response are contained in Appendix A. The limitations for discharges 001–009 are identical to those imposed by Region 9 on the same ancillary discharges for exploratory drilling operations in the Southern California OCS General Permit issued in 1982 and modified and reissued in 1983. The determinations made pursuant to section 403(c) of the CWA (33 U.S.C. 1343(c)) with regard to Ocean Discharge Criteria in the Southern California OCS General Permit determined that all discharges, including these ancillary discharges, would not cause unreasonable degradation. Proper operation and maintenance of sampling devices should prevent or minimize discharge of any materials from the sampling devices upon retrieval from the ocean floor. The only discharges authorized by this general permit are ancillary discharges and de minimus discharges from sampling devices which, subject to the technology based effluent limitations and conditions, will not cause unreasonable degradation to the marine environment. Possible concerns regarding the effects and impacts of discharges from the initial mining tests will be subjected to rigorous determinations under the Ocean Discharge Criteria by EPA at the appropriate time.

Factor 1 addresses the quantities, composition and potential for bioaccumulation or persistence of the pollutants to be discharged. The pollutants from discharges 001–009 that will be discharged under the limitations and conditions of this general permit will consist of minor quantities of oil and grease, non-floating solids from domestic wastes, concentrated constitutents of seawater from water distillation units and minimal boiler blowdown. Any discharge from sampling devices that will be discharged under the limitations and conditions of this general permit will consist of de minimus quantities of homogeneous raw materials obtained from the ocean floor (sediments and/or nodules). Discharges of these pollutants, under the conditions of the permit, have no potential for bioaccumulation or persistence.

Factor 2 addresses the potential transport of such pollutants by biological, physical or chemical processes. Any potential for transport of the pollutants discharged under the limitations and conditions of this general permit causes a continued reduction in toxicity.

Factor 3 addresses the composition and vulnerability of the biological communities which may be exposed to such pollutants including the presence of unique species of communities, or the presence of species identified as endangered or threatened pursuant to the Endangered Species Act (16 U.S.C. 1531 *et seq.*) (ESA), or the presence of those species critical to the structure and function of the ecosystem such as those important for the food chain. In 1981 and 1982, the U.S. Fish & Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS), NOAA respectively, presented biological opinions to the Office of Ocean Minerals and Energy (OME), NOAA regarding the effects on threatened or endangered species or their designated critical habitat of proposed deep seabed mining regulations for exploration licenses and the applications submitted by the consortia for exploration licenses. Copies of all opinions are contained in the administrative record for this permit. These actions were initiated pursuant to section 7 of the ESA (16 U.S.C. 1536). These biological opinions identify six (6) species of whales and four (4) species of turtles found within or near the general permit area which are Federally listed endangered or threatened species, and could potentially be affected by the discharge activities to be authorized by this permit. Following is a listing of the identified species:

Humpback whale, *Megaptera novaeangliae*,
Blue whale, *Balaenoptera musculus*,
Sperm whale, *Physeter catadon*,
Sei whale, *Balaenoptera borealis*,
Fin whale, *Balaenoptera physalus*,
Right whale, *Eubalaena spp.*,
Green sea turtle, *Chelonia mydas*,
Hawksbill sea turtle, *Eretmochelys imbricata*,
Loggerhead sea turtle, *Caretta caretta*,
Leatherback sea turtle, *Dermochelys coriacea*.

The opinions presented by the USFWS and NMFS, NOAA generally concluded that exploration activities woud not jeopardize the continued existence of listed species or result in the destruction or adverse modification of critical habitat. As indicated above, these opinions covered even more activities than are covered in this general permit, which only deals with ancillary discharges which are typical of those from a vessel or other floating craft and de minimus quantities of materials from sampling devices. EPA has reviewed the conclusions on NOAA and believes that discharges under the effluent limitations and conditions in this permit are consistent with the ESA.

In addition, EPA provided a copy of the draft general permit and notice to both the USFWS and NMFS, NOAA advising them of the draft general permit and requested an evaluation of EPA's conclusion that the proposed permit would not affect threatened or endangered species. The USFWS responded that NMFS, NOAA had jurisdiction of all species of concern. NMFS, NOAA agreed with the conclusions of EPA. The responses of each agency are included in the administrative record and their opinions were fully considered.

Factor 4 addresses the importance of the receiving water area to the surrounding biological community, including the presence of spawning sites, nursery/forage areas, migratory pathways or areas necessary for other functions or critical stages in the life cycle of an organism. This factor is intended to ensure that potential impacts on spawning sites, nursery/forage areas, migratory pathways, or other critical functions are evaluated. The previous discussion on factor 3 dealing with the ESA revealed that both the NMFS, NOAA and USFWS concluded that these exploratory activities would not jeopardize the continued existence of listed species or result in the destruction or adverse modification of critical habitat. Due to the fact that the general permit will only deal with ancillary discharges and de minimus discharges from sampling devices which are limited by effluent limitations and conditions, EPA expects no unreasonable degradation to non-resident species or critical habitats.

Factor 5 addresses the existence of special aquatic sites including, but not limited to, marine sanctuaries and refuges, parks, national and historic monuments, national seashores, wilderness areas and coral reefs. In the PEIS, NOAA stated that there are no such sites in the area to be encompassed by this general permit. However, on January 13, 1984, NOAA proposed designation of the Hawaii Humpback Whale National Marine Sanctuary (49 FR 1788) which, in the area near the permitted area, applies to those waters found within the 100 fathom isobath around the Island of Hawaii. (Other notices appear at 49 FR 3523 (Jan. 27, 1984) and 49 FR 4030 (Feb. 1, 1984).) This general permit only authorizes discharges in the area of the Pacific Ocean between 110 degrees West and 180 degrees West longitude and 5 degrees North and 20 degrees North latitude that lies within the definition of the deep seabed as defined in section 4(4) of the DSHMRS (30 U.S.C. 1403(4)) and in NOAA regulations at 15 CFR 970.101(h). The deep seabed excludes any area that lies within the Continental Shelf, which includes areas to a depth of

200 meters. Therefore, any exploration activities authorized by the DSHMRA, and discharges authorized by this permit, would occur in those areas of the Pacific Ocean outside of a depth of 200 meters, which is deeper than 100 fathoms. Therefore, no discharges would occur within the proposed Hawaii Humpback Whale National Marine Sanctuary. In addition, due to the nature of the discharges to be authorized by this permit (which are ancillary discharges which are typical of those from a vessel or other floating craft and de minimus discharges from sampling devices), EPA believes there are no activities to be authorized by this permit which would be prohibited or regulated by the eventual designation of the Hawaii Humpback Whale National Marine Sanctuary. Due to these facts, there will not be unreasonable degradation of the marine environment due to factor 5 of the Ocean Discharge Criteria.

Factor 6 addresses the potential impacts on human health through direct and indirect pathways. Due to the fact this general permit only deals with ancillary discharges that are subject to the effluent limitations and conditions and are typical of those from a vessel or other floating craft and de minimus discharges or raw materials from sampling devices back onto the ocean environment, EPA does not expect any potential impacts on human health through direct or indirect pathways.

Factor 7 addresses existing or potential recreational and commercial fishing, including finfishing and shellfishing. The PEIS stated that five (5) United States and Japanese tuna and billfish industries were conducted in the area encompassed by this general permit and that the activities would not be affected by mining tests. EPA has reviewed this conclusion and believes that since this general permit only deals with ancillary discharges which are typical of those from a vessel or other floating craft and de minimus discharges of raw materials from sampling devices back into the ocean environment, EPA does not expect any impact by the discharges, as limited in the permit, on existing or potential recreational and commercial fishing, including finfishing and shellfishing.

Factor 8 addresses any applicable requirements of an approved Coastal Zone Management Plan (CZMP). In the PEIS, NOAA determined that the discharges in the area to be authorized under this general permit will not directly impact the coastal areas of any State. For the draft permit, EPA had reviewed this determination and concurred with NOAA's findings with regard to direct impact and had determined there would be no potential impact on the CZMP of the State of Hawaii, the only State within the vicinity of the permitted area. This finding was based on representations by NOAA that any exploration activity for which discharges will be authorized by this permit will occur a considerable distance from the State of Hawaii, including the territorial seas. Therefore, due to this fact, there would not be any unreasonable degradation of the marine environment due to factor 8 of the Ocean Discharge Criteria.

However, EPA was advised that a consistency determination under section 307(c)(3)(A) Subpart D of the Coastal Zone Management Act (16 U.S.C. 1451 *et seq.*) (CZMA) (16 U.S.C. 1456(c)(3)(A) Subpart D) was required. EPA submitted a written statement of consistency with the Hawaii Coastal Zone Management Program (CZMP) to the Hawaii Department of Planning and Economic Development (Hawaii DPED), which is the approved State agency for CZMP in Hawaii. On August 30, 1984, the Hawaii DPED responded with a statement of concurrence with EPA's consistency certification. However, the concurrence was conditioned upon the Hawaii DPED being informed of anticipated or unanticipated bypasses. As such, a condition (Part I.E) was added to the final general permit which requires that dischargers notify the Hawaii DPED of anticipated or unanticipated bypasses of treatment facilities.

Factor 9 addresses such other factors relating to the effects of the discharge as may be appropriate. Due to the fact that this general permit contains effluent limitations and conditions on the ancillary discharges that are typical of those from a vessel or other floating craft and de minimus discharges of raw materials from sampling devices back into the ocean environment, EPA has determined that there are no other factors relating to the effects of these discharges that are appropriate.

Factor 10 addresses marine water quality criteria developed pursuant to section 304(a)(1) of the CWA (33 U.S.C. 1343(a)(1)). Factor 10 requires that EPA identify conventional, non-conventional and toxic pollutants in the discharge to be permitted and establish that numeric units in applicable marine water quality criteria will be met with permit limitations in place. All dischargers that comply with the effluent limitations and conditions in Part II.B.2. of this general permit will comply with all applicable marine water quality criteria developed pursuant to section 304(a)(1) of the CWA (33 U.S.C. 1343(a)(1)).

I. Oil Spill Requirements

Section 311 of the CWA (33 U.S.C. 1321) prohibits the discharge of oil and hazardous materials in harmful quantities. In the 1978 amendments of section 311 of the CWA (33 U.S.C. 1321), Congress clarified the relationship between this section and discharges permitted under section 402 of the CWA (33 U.S.C. 1342). It was the intent of Congress that routine discharges permitted under section 402 of the CWA (33 U.S.C. 1342) be excluded from section 311 of the CWA (33 U.S.C. 1321). Discharges permitted under section 402 of the CWA (33 U.S.C. 1342) are not subject to section 311 of the CWA (33 U.S.C. 1321) if they are:

1. In compliance with a permit under section 402 of the CWA (33 U.S.C. 1342);

2. Resulting from circumstances identified, reviewed and made part of the public record with respect to a permit issued or modified under section 402 of the CWA (33 U.S.C. 1342), and subject to a condition in such permit; or

3. Continuous or anticipated intermittent discharges from a point source, identified in a permit or permit application under section 402 of the CWA (33 U.S.C. 1342), which are caused by events occurring within the scope of the relevant operating or treatment systems.

To help clarify the relationship between discharges permitted under section 402 of the CWA (33 U.S.C. 1342) and section 311 of the CWA (33 U.S.C. 1321) discharges, EPA has compiled the following list of discharges which it considers to be regulated under section 311 of the CWA (33 U.S.C. 1321) rather than under a section 402 (33 U.S.C. 1342) permit. The list is not to be considered all-inclusive.

1. Discharges of contaminated ballast water or contaminated bilge water,

2. Discharges from burst or ruptured pipelines, manifolds, pressure valves or atmospheric tanks,

3. Discharges from pumps or engines,

4. Discharges from vessel launching and receiving equipment, and

5. Spills of diesel fuel during transfer operations.

In addition, one commenter indicated there is a potential for disposal of petroleum products in the domestic waste system. EPA believes such a discharge would be subject to section 311 of the CWA (33 U.S.C. 1321); therefore, EPA has not imposed limitations in this NPDES permit on the domestic waste system to prevent such a discharge.

J. Effective Date

In the Administrative Procedure Act (5 U.S.C. 551 *et seq.*) (APA), 5 USC 553(d) requires publication of a substantive rule not less than 30 days before its effective date. However, 5 U.S.C. 553(d)(3) provides an exception to this requirement for good cause found and published with the rule. EPA finds good cause to make this final general permit effective upon publication. This general permit authorizes discharges from deep seabed mining exploration vessels; discharge without this permit is a violation of the CWA. On August 29, 1984, NOAA issued exploration licenses to three consortia, allowing further exploration. To delay the effective date of this general permit could result in discharges in violation of the CWA. Therefore, EPA finds good cause to make this general permit effective immediately. (The requirements for effective dates of NPDES permits found in 40 CFR 124.15 are not applicable to general permits due to different appeal procedures for general permits.)

K. Appeal Procedures

Appeal of the issuance of this general NPDES permit, or any conditions of this permit, is available in a Court of Appeals under section 509(b)(1)(F) of the CWA (33 U.S.C. 1369(b)(1)(F)). EPA regulations (40 CFR 124.71(a)) do not allow a request for an evidentiary hearing on EPA issued general NPDES permit. EPA regulations (40 CFR 124.111(a)(3)) do not allow a request for a non-adversary panel proceeding as this procedure was not used in processing the draft general NPDES permit.

IV. Other Legal Requirements

A. The Endangered Species Act

The ESA requires that each Federal Agency shall ensure that any of their actions, such as permit issuance, do not jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modifications of their habitats. In 1981 and 1982, the USFWS and the NMFS, NOAA respectively, presented biological opinions to the OME, NOAA regarding the effects on threatened or endangered species or their designated critical habitat of proposed deep seabed mining regulations for exploration licenses and the applications submitted by the consortia for exploration licenses. Copies of all opinions are contained in the administrative record for this permit. These actions were initated pursuant to section 7 of the ESA (16 U.S.C. 1536). These biological opinions identify six (6) species of whales and four (4) species of turtles found within or near the general permit area which are Federally listed endangered or threatened species, and could potentially be affected by the discharge activities to be authorized by this permit. The opinions presented by the USFWS and NMFS, NOAA generally concluded that exploration activities would not jeopardize the continued existence of listed species or result in the destruction or adverse modification of critical habitat. As indicated above, these opinions covered even more activities that are covered in this general permit, which only deals with ancillary discharges which are typical of those from a vessel or other floating craft and de minimus quantities of materials from sampling devices. EPA has reviewed the conclusion of NOAA and believes that discharges under the effluent limitation and conditions in this permit are consistent with the ESA.

In addition, EPA provided a copy of the draft general permit and notice to both the USFWS and NMFS, NOAA advising them of the draft general permit and requested an evaluation of EPA's conclusion that the proposed permit would not affect threatened or endangered species. The USFWS responded that NMFS, NOAA had jurisdiction of all species of concern. NMFS, NOAA agreed with the conclusions of EPA. The responses of each agency are included in the administrative record and their opinions were fully considered.

EPA will continue both formal and/or informal consultation with NMFS, NOAA and USFWS with respect to any activities not now covered by their opinions. Additionally, EPA will initiate consultation should new information reveal impacts not previously considered if the activities are modified in a manner beyond the scope of the original opinion or should the activities affect a newly listed species. For a discussion of the affected species and the previous biological opinions, see Part III.H. Ocean Discharge Criteria.

B. The Costal Zone Management Act

The CZMA and its implementing regulations (15 CFR Part 930) require that any federally licensed or permitted activity affecting the coastal zone of a State with an approved CZMP be determined to be consistent with the CZMP. In the PEIS, NOAA determined that the discharges in the area to be authorized under this general permit will not directly impact the coastal areas of any State. For the draft permit, EPA had reviewed this determination and concurred with NOAA's findings with regard to direct impact and had determined there would be no potential impact on the CZMP of the State of Hawaii, the only State within the vicinity of the permitted area. This finding was based on representations by NOAA that any exploration activity for which discharges will be authorized by this permit will occur a considerable distance from the State of Hawaii, including the territorial seas. Therefore, due to this fact, there would be no unreasonable degradation of the marine environment due to factor 8 of the Ocean Discharge Criteria.

However, EPA was advised that a consistency determination under section 307(c)(3)(A) Subpart D of the Coastal Zone Management Act (16 U.S.C. 1451 *et seq.*) (CZMA) (16 U.S.C. 1456(c)(3)(A) Subpart D) was required. EPA submitted a written statement of consistency with the Hawaii Coastal Zone Management Program (CZMP) to the Hawaii Department of Planning and Economic Development (Hawaii DPED), which is the approved State agency for CZMP in Hawaii.

On August 30, 1984, the Hawaii DPED responded with a statement of concurrence with EPA's consistency certification. However, the concurrence was conditioned upon the Hawaii DPED being informed of anticipated or unanticipate bypasses. As such, a condition (Part I.E) was added to the final general permit which requires that dischargers notify the Hawaii DPED of anticipated or unnanticipated bypasses of treatment facilities.

C. The Marine Protection, Research and Sanctuaries Act

The Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 *et seq.* and 16 U.S.C. 1431 *et seq.*) (MPRSA) regulates the dumping of all types of materials into ocean waters and establishes a permit program for ocean dumping. In addition the MPRSA establishes the Marine Sanctuaries Program implemented by NOAA, which requires NOAA to designate ocean waters as marine sanctuaries for the purpose of preserving or restoring their conservation, recreational ecological or aesthetic values.

Section 301(f) of the MPRSA (16 U.S.C. 1432(f)) requires that the Secretary of Commerce, after designation of a marine sanctuary, consult with other Federal agencies, and issue necessary regulations to control any activities permitted within the boundaries of the marine sanctuary. It also provides that no permit, license, or other authorization issued pursuant to any other authority shall be valid unless the Secretary shall certify that the permitted activity is consistent with the purpose of the

marine sanctuaries program and can be carried out within its promulgated regulations. On January 13, 1984, NOAA proposed designation of the Hawaii Humpback Whale National Marine Sanctuary (49 FR 1788) which, in the area near the permitted area, applies to those waters found within the 100 fathom isobath around the Island of Hawaii. (Other notices appear at 49 FR 3523 (January 27, 1984) and 49 FR 4030 (February 1, 1984).) This general permit only authorizes discharges in the area of the Pacific Ocean between 110 degrees West and 180 degrees West longitude and 5 degrees North and 20 degrees North latitude that lies within the definition of the deep seabed as defined in section 4(4) of the DSHMRA (30 U.S.C. 1403(4)) and in NOAA regulations at 15 CFR 970.101(h). The deep seabed excludes any area that lies within the Continental Shelf, which includes areas to a depth of 200 meters. Therefore, any exploration activitiess authorized by the DSHMRA, and discharges authorized by this permit, would occur in those areas of the Pacific Ocean outside of a depths of 200 meters, which is deeper than 100 fathoms. Therefore, no discharges would occur within the proposed Hawaii Humpback Whale National Marine Sanctuary. In addition, due to the nature of the discharges to be authorized by this permit (which are ancillary discharges which are typical of those from a vessel or other floating craft and de minimus discharges from sampling devices), EPA believes there are no activities to be authorized by this permit which would be prohibited or regulated by the eventual designation of the Hawaii Humpback Whale National Marine Sanctuary.

D. Economic Impact (Executive Order 12291)

The Office of Management and Budget (OMB) has exempted this action from the review requirement of Executive Order 12291 pursuant to section 8(b) of the order.

E. Paperwork Reduction Act

EPA has reviewed the requirements imposed on regulated facilities in this final general permit under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) (PRA). The information collection requirements of this permit have already been approved by OMB in submissions made for the NPDES permit program under the provisions of the CWA. Furthermore, since less than ten (10) persons are subject to this general permit, EPA does not believe that this permit contains any information collection requests within the meaning of the PRA.

F. Regulatory Flexibility Act

Facilities authorized to discharge by this general permit will of necessity be, or be funded by, large capital ventures. In September 1981, NOAA issued a final regultory flexibility analysis for the NOAA regulations for deep seabed mining exploration licenses. NOAA estimated an investment of $1 billion per consortia will be needed to reach full-scale commercial recovery. Because of the large scale and high cost of these operations, it is very unlikely that small businesses will or could enter the market. Several small businesses might join together, or with large firms, in a cooperative effort, or be contractors or subcontractors for an individual consortium. However, in this instance, the costs of meeting the requirements of this permit would be shared by all the members of the consortium, and no noe (1) small business would be significantly affected.

This permit requires no special sampling or monitoring requirements, except for residual chlorine in sanitary waste discharges, using a test procedure which is available at minimal cost. If the facility is intermittently manned or manned by nine (9) or fewer people, this requirement is waived. Furthermore, facilities that have an approved (under section 312 or the CWA (33 U.S.C. 1322)) marine sanitation device are deemed to be in compliance with the requirements of this permit and need not monitor or report residual chlorine in their sanitary waste discharges. Compliance with the effluent limitation for deck drainage (no discharge of free oil) is determined through the laboratory sheen test, requiring that a representative sample of deck drainage be sampled once every two (2) months, or once per voyage if the voyage is shorter than two (2) months, and analyzed for oil using the laboratory sheens test. It is expected that the laboratory sheen test would require an initial cost of approximately $250 and an annual operating cost of $50 (exclusive of labor cost). Flow rates for deck drainage, sanitary wastes and domestic wastes are to be estimated once per month. The permit requires no discharge of free oil for miscellaneous discharges; compliance is determined using a visible sheen test. This permit also requires proper operation and maintenance of sampling devices to prohibit or minimize the discharge of materials from the sampling devices; the permittee is required to estimate the quantity of material discharged from the sampling device each month. All the discharges shall not contain floating solids, visible foam or highly toxic compounds.

After review of the facts presented in the notice printed above, I hereby certify, pursuant to the provisions of 5 U.S.C. 605(b), that this general permit will not have a significant impact on a substantial number of small entities. Furthermore, the permit reduces a significant administrative and financial burden on regulated sources because it does not require the filing of application forms to appy for authorization to discharge. This permit merely requires written notification from the permittees to EPA stating the commencement and termination of discharges from the facility.

Dated: September 24, 1984.

John Wise,

Acting Regional Administrator, Region 9.

Appendix A—Response to Public Comments

A public hearing was held on October 6, 1983, in San Francisco, California to receive public comment regarding the inssuance of the general NPDES permit covering certain discharges from vessels engaged in exploration activities pursuant to the Deep Seabed Hard Mineral Resources Act (DSHMRA). Numerous comments were submitted to EPA at the public hearing and during the public comment period which closed on October 20, 1983. The following parties responded with comments:

Michael Herz, for the Oceanic Society,
Clifton Curtis, for the Center for Law and Social Policy,
United States Coast Guard,
State of Hawaii, Department of Land and Natural Resources and
National Oceanic and Atmospheric Administration, National Marine Fisheries Service.

The following parties testified at the October 6 public hearing:

Wesley Chesbor, Humboldt County (California) Supervisor for the Third District,
W.D. Greenfield, for Ocean Minerals Company,
Roy Gregory deGiere, for the Joint Committee on Fisheries and Aquaculture, Sacramento, California and
Michael Herz, for the Oceanic Society and the following individual: Benjamin Van Cleve Andrews, II.

The following party submitted comments which were received after the close of the comment period on October 20, 1983:

University of Hawaii at Manoa.

Comments presented during the public comment period and at the public hearing were reviewed by EPA and

considered in the formulation of the final decision regarding the proposed permit. Our response to these comments is as follows:

Comment: Commenters argued that the issuance of the proposed permit is not authorized by existing legislation and serves no environmental purpose. Section 109(e) of the DSHMRA (30 U.S.C. 1419(e)) provides that the discharge of pollutants from vessels subject to the DSHMRA is also subject to the provisions of the Clean Water Act (CEA). A commenter contended, however, that a detailed reading of the CWA and NPDES regulations, along with the legislative history of section 109(e) of the DSHMRA (30 U.S.C. 1419(e)), indicates that Congress intended that routine discharges from survey vessels, engaged only in data and sample collection, should not be subject to NPDES requirements. One commenter stated that EPA did have authority under section 109(e) of the DSHMRA (30 U.S.C. 1419(e)) to issue this permit.

Reponse: EPA has determined jurisdiction exists to issue this permit and is doing so today. Section 109(e) of the DSHMRA (30 U.S.C. 1419(e)) states:

> For the purposes of this chapter, any vessel or other floating craft engaged in commercial recovery or exploration shall not be deemded to be "a vessel or other floating craft" under section 502(12)(B) of the Clean Water Act and any discharge of a pollutant from such vessel or other floating craft shall be subject to the Clean Water Act.

Section 502(12)(B) of the CWA (33 U.S.C. 1362(12)(B)) states:

> The term "discharge of a pollutant" and the term "discharge of pollutants" each means any addition of any pollutant to the waters of the contigous zone or the ocean from any point source other than from a vessel or other floating craft.

A literal reading of the DSHMRA and the CWA indicates that any discharge from vessels engaged in exploration under the DSHMRA is subject to the requirements of the Cleam Water Act, including NPDES requirements. EPA believes it is clear that vessels engaged in oceanographic research for the purpose of resource evaluation are engaged in exploration under the DSHMRA; in fact, one commenter representing one of the consortia made such a statement at the public hearing.

The NPDES regulations do not eliminate the requirement of a NPDES permit for such discharges. The regulations in 40 CFR 122.2(a) codify the normal exclusion of dischargers from a vessel or other floating craft contained in section 502(12)(B) of the CWA (33 U.S.C. 1362(12)(B)) and provide for certain dishcarges that do not require a NPDES permit. The regulation in 40 CFR 122.3(a) continues however, to provide exceptions for those discharges which would not require a NPDES permit and states that, "[t]his exclusion does not apply * * * to other discharges when the vessel is operating in a capacity other than as a means of transporation such as when used as an emergy or mining facility. * * *" EPA has determined that vessels engaged in exploration under the DSHMRA are being operated in a capacity other than as a means of transportation, and therefore are not subject to the regulatory exclusion from NPDES requirements.

Congress did not indicate explicitly whether routine discharges from survey vessels, engaged in only data and sample collection, should or should not be subject to NPDES requirements. However, EPA believes that such vessels would be engaging in exploration activities as defined by the DSHMRA and therefore would not be eligible for the exclusion provided by section 502(12)(B) of the CWA (33 U.S.C. 1362(12)(B)). As such, EPA believes it is necessary to issue this permit in order to comply with the requirements of the DSHMRA and the CWA. For this reason, EPA believes it is legally required to issue this permit and is doing so today, even though there is a low potential for environmental degradation as a result of discharges from these operations. EPA also routinely subjects similar discharges from offshore drillships and drilling rigs and seafood processing vessels to NPDES requirements.

Comment: A commenter pointed out that the definition of exploration in the DSHMRA includes data and sample collection and in addition in section 4(5)(B) (30 U.S.C. 1403(5)(B)), "the taking from the deep seabed of such quantities of any hard mineral resource as are necessary for the design, fabrication, and testing of equipment which is intended to be used in the commercial recovery and processing of such resource." Since the permit does not authorize discharges from the initial testing of mining equipment, the commenter suggested that the vessels would not be engaging in exploration as defined by the DSHMRA and as such, an NPDES permit would not be appropriate.

Response: It is true that the permit does not authorize discharges from at-sea testing of mining equipment. Such discharges could include a discrete discharge from the collector at or near the ocean floor and a surface discharge of material brought up from the ocean floor along with the nodules. EPA disagrees, however, that a discharge must engage in all of the activities outlined in the definition of exploration to be considered to be engaging in exploration.

Comment: A specific period of time should be required in Part II.D.1 of the permit for advance notice of activities which could result in noncompliance with permit requirements. This would provide EPA lead time to assess the impacts.

Response: Condition II.D.1 is a standard requirement for all NPDES permits issued by EPA (40 CFR 122.41(1)(2)). EPA does not believe that additional requirements are needed in light of the low potential for environmental degradation from the proposed operations.

Comment: Monitoring reports should be submitted more frequently then once/year.

Response: Monitoring frequencies and frequencies for submittal of monitoring reports represent a balance between the need for periodic demonstration of compliance with permit limits and the costs associated with sampling, analysis and reporting. EPA believes that the frequency of submittal of monitoring reports is appropriate given the low potential for environmental degradation due to the nature and characteristics of these discharges.

Comment: A commenter suggested various additional or different reporting requirements for Parts I.A. and II.D.2 of the permit with regard to potential discharges other than the nine (9) [currently ten (10)] discharges authorized by the permit.

Response: The permit does not authorize discharges other than those listed in the permit. EPA solicited comments as to the existence of discharges other than those proposed to be authorized by this permit and added another discharge in response to comments. Discharges other than the ten (10) authorized by the permit would be in violation of the Clean Water Act. If other discharges are found to exist, EPA will take appropriate action to modify this permit or issue another general or individual NPDES permit (as appropriate) to authorize and regulate the discharges.

Comment: Concern was expressed by a commenter regarding EPA's ability to enforce the provisions of the permit given the size of the permit area and the remoteness of the discharge sites. The development of a specific enforcement plan was recommended. Also, the problem of enforcement on foreign flag vessels should be addressed.

Response: In response to this comment, EPA has changed the definition of permittee in this general permit to be the U.S. citizen, as defined in section 4(14) of the DSHMRA (30 U.S.C. 1403(14)) and in NOAA regulations at 15 CFR 970.101(t), engaged in exploration activities as enumerated in this permit. Condition I.A of the permit requires that the marine call letters assigned to an exploration vessel be provided to EPA with notice of commencement of operations. This will allow EPA to locate a given vessel at any time and conduct an inspection of the vessel to determine compliance with the permit requirements. Condition II.C.9 of the general permit requires permittees to allow "the Regional Administrator, or an authorized representative" to board the permittee's vessel to inspect and monitor facilities and operations regulated by the permit. This provision, which was derived from section 308 of the CWA (33 U.S.C. 1318) and 40 CFR 122.41(i), will require the permittee to ensure when contracting for the services of a survey vessel (U.S. or foreign flag), that EPA inspectors would be allowed to board the vessel. As such, EPA believes that compliance with permit conditions can be assured. EPA's compliance and monitoring activities would be supplemented by those of the National Oceanic and Atmospheric Administration (NOAA) and the U.S. Coast Guard. Section 101(a) of the DSHMRA (30 U.S.C. 1411(a)) requires deep seabed explorers to obtain exploration licenses from NOAA which includes terms, conditions and restrictions on the licensed activities. Section 114 of the DSHMRA (30 U.S.C. 1424) requires NOAA licensees to allow NOAA observers to board exploration vessels to monitor exploration activities. The vessels would also be subject to Coast Guard regulations pertaining to pollution control.

Comment: Commenters disputed EPA's determination pursant to section 403(c) of the CWA (33 U.S.C. 1343(c)) that the proposed discharges would not cause unreasonable degradation of the marine environment. A monitoring program in accord with 40 CFR 125.123 (c) and (d) was recommended.

Response: EPA has reviewed the section 403(c) (33 U.S.C. 1343(c)) determination made for the draft permit and has again determined that discharges operating under the effluent limitations and conditions for this permit will not cause unreasonable degradation of the marine environment, thereby allowing the permit to be issued. The discharges which will be authorized by the permit are discharges with the normal operation of a ship and de minimus quantities of materials from sampling devices. EPA is not aware of any evidence indicating that these discharges would cause unreasonable degradation of the marine environment and has made this finding of no unreasonable degradation. For this reason, EPA has not required an additional monitoring program for section 403(c) of the CWA (33 U.S.C. 1343(c)) as required by 40 CFR 125.123(c). The final permit, however, does contain a reopener clause, in accordance with 40 CFR 125.123(d)(4), which allows the permit to be modified or revoked at any time if, on the basis of any new data, the Regional Administrator determines that continued discharges may cause unreasonable degradation of the marine environment.

Comment: Concern was expressed by several commenters regarding possible modification of the general permit to authorized discharges from mining activities for polymetallic sulfides on the Gorda Ridge, located off the coast of Northern California and Southern Oregon.

Response: This permit applies to discharges from vessels engaged in exploration activities subject to the Deep Seabed Hard Mineral Resources Act. These vessels would be exploring for manganese nodules within a specified rectangular area of the Pacific Ocean (110 to 180 degrees West longitude and 5 to 20 degrees North latitude). This area does not include the Gorda Ridge and is a considerable distance from the Gorda Ridge. Lease activity for exploration and development of polymetallic sulfides is being handled by the Minerals Management Service of the Department of the Interior under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 *et seq.*). The permit modification procedures at 40 CFR 122.62, 122.64 and 124.5 would be followed by EPA if this permit were ever modified to authorize discharges from mining activities in any other area. These procedures include formal public notice as well as notice to affected Federal, State and local agencies and all groups and individuals who have expressed an interest in such permits in the past. A public hearing would be held in the event of a significant degree of public interest.

Comment: The State of Hawaii requested that the definition of territorial seas (Part III.D.25) include the interisland channel waters as well as waters within three (3) miles of the shoreline.

Response: The northern boundary of the general permit area is 20 degrees North latitude. Only the southern portion of the Island of Hawaii is located within this area. As such, most iterisland channel waters are already excluded from the general permit area.

On November 28, 1974, EPA transferred the authority to issue NPDES permits for discharges to the navigable waters of the State of Hawaii to the Hawaii Department of Health under section 402(b) of the CWA (33 U.S.C. 1342(b)). The definition of "[n]avigable waters" in section 502(7) of the CWA (33 U.S.C. 1362(7)) includes territorial seas. The definition of "territorial seas" contained in Part III.D.25 of the permit is that contained in section 502(8) of the CWA (33 U.S.C. 1362(8)). EPA believes the State's authority to issue NPDES permits is derived from Hawaii Rev. Stat. § 342–33 which limits the State's authority to "state waters". "State waters" includes coastal waters (Hawaii Rev. Stat. § 342–31(6)) which is defined as "all waters surrounding the islands of the State from the coast of any island to a point three miles seaward from the coast * * * " (Hawaii Rev. Stat. § 342–31(1)). In addition, the U.S. Court of Appeals for the Ninth Circuit affirmed a holding of the U.S. District Court for the District of Hawaii that "the boundaries of Hawaii to be the Islands plus a three-mile belt around each." *Island Airlines, Inc.* v. *CAB*, 352 F. 2d 735, 736 (9th Cir. 1965). Therefore, EPA is not changing the definition of the territorial seas of the State of Hawaii.

Comment: Several commenters stated the monitoring requirements and frequencies are excessive in view of the limited environmental impacts which would be expected from the discharges. In particular, monitoring of the deck drainage was stated to be time consuming, possibly dangerous and meaningless. Commenters also stated that many of the discharges would be uncontaminated and are adequately controlled by U.S. Coast Guard and other regulations. In particular, it was stated (1) the discharge of oil in discharges from ships, such as deck drainage, is already adequately regulated by the U.S. Coast Guard, (2) no oil would be expected in discharges 004–007 and (3) the regulation of sewage discharges should be consistent with Annex IV to MARPOL 73/78. Therefore, EPA should not impose additional requirements on such discharges in the general permit.

Response: As previously stated, EPA believes that the Deep Seabed Hard Mineral Resources Act requires the issuance of an NPDES permit to

authorize the discharges in compliance with the Clean Water Act. The permit requirements pertaining to oil and grease in the discharges are consistent with the requirements of the CWA. In addition, section 311(a)(2) of the CWA (33 U.S.C. 1321(a)(2)) states that discharges in compliance with an NPDES permit are not subject to section 311 of the CWA (33 U.S.C. 1321) liability.

However, the monitoring requirements and frequencies in the final permit were reduced from those in the proposed permit in response to public comment and testimony that the proposed monitoring requirements were excessive. The monitoring requirements in the final permit do not represent an excessive burden on regulated facilities.

The final permit requires that a representative sample of deck drainage be sampled once every two (2) months, or once per voyage if the voyage is shorter than two (2) months, and analyzed for "free oil" using the laboratory sheen test. Deck drainage need not be sampled at every discrete discharge location.

The requirements for sampling and analysis of discharge 004–009 have been deleted in view of the limited potential for contamination of these sources. However, compliance with the requirement of no discharge of free oil is determined using the visible sheen test discussed in Part III.D.21 of the permit.

It should also be noted that for sanitary wastes, Condition II.B.4 of the permit provides that any facility using a marine sanitation device approved under section 312 of the CWA (33 U.S.C. 1322) shall be deemed to be in compliance with the permit. Such sanitation devices must comply with EPA regulations at 40 CFR Part 140 and U.S. Coast Guard regulations at 33 CFR Part 159. Annex IV to MARPOL 73/78 is not currently in effect and EPA believes that the former regulations are more appropriate for controlling this discharge.

Comment: The mining consortia have applied to NOAA for licenses to explore in specific areas within the overall area in which discharges would be authorized by the proposed permit. This information is confidential at this time. However, when the information becomes public in the future, a commenter suggested that the general permit should be modified to limit discharges to the areas requested in the applications. This would ensure the preservation of greater area for "stable reference areas."

Response: EPA has left the geographic area of the permit unchanged for two (2) reasons. First, the impact of the discharges is very limited in relation to the considerable size of the permit area. EPA does not believe that the discharges authorized by the permit are a threat to the preservation of stable reference areas. Second, additional mining concerns may apply for licenses from NOAA to explore in new areas during the life of the permit. The discharges from vessels of additional consortia would be similar or the same as for the four (4) existing consortia. EPA has made its findings and conclusions based on activities in the entire permit area. If discharge sites were limited as the commenter proposed, discharges from such operations would require additional permit modifications or the issuance of additional permits. EPA believes that the discharges are adequately regulated by one (1) general permit and that considerable Agency resources would be unnecessarily expended in processing additional permits or permit modifications.

Comment: Concern was expressed by a commenter that deck drainage could be contaminated by residue from samples taken from the ocean floor.

Response: A representative of a consortium has indicated that box core samples would be well contained on the survey vessel. EPA believes the consortia will be careful in preserving the integrity of samples that are placed on the deck of the vessels. For these reasons, EPA has not established any additional limitations on deck drainage. In any event, the nature and quantity of material that is residue from the samples which might be washed overboard in deck drainage is likely to be very limited and not have any appreciable environmental effects.

Comment: Sampling of the ocean floor for the nodules could result in a discharge of pollutants not covered by the general permit. Nodule fragments and bottom sediments could be released into the water column as a sample was being brought to the surface. In addition, concern was expressed concerning retrieval of large nodule samples during exploration.

Response: EPA does not believe disturbances of sediments on the ocean floor by sampling and surveying activities to be discharges from a point source subject to the NPDES requirements of the CWA. In the fact sheet for the draft permit, EPA indicated that it did not believe there would be any discharge from the samplers used in conveying the sediment and nodule samples to the surface for collection, and invited specific comment on this conclusion. This commenter indicated there would be a discharge of nodule fragments and bottom sediments into the water column from various sampling devices as a sample was being brought to the surface for retrieval. EPA has contacted the Ocean Mineral and Energy Division of NOAA, who informed EPA that if the sampling devices are properly operated and maintained, that there is little or no leakage or washing action of sediments and/or nodules to the water column when the samplers are being brought to the surface. However, there is a potential for discharge of sediments and/or nodules to the water column if the sampling devices are not properly operated and maintained. In addition, NOAA has indicated that exploration licenses will better define the nature of sampling to be allowed under the exploration licenses. However, due to the fact that there may in fact be such a discharge, EPA is authorizing discharge from sampling devices in the final permit and has designated this as discharge 010. A definition of sampling devices has been provided in Part III.D.28 of the permit. EPA has established a "best management practice" of proper operation and maintenance of the sampling device to prohibit or minimize discharge from the sampling device as the appropriate effluent limitation and condition to control such a discharge. Further discussion of this discharge, along with the conditions and monitoring requirements established for this discharge, is contained in the "FACT SHEET" portion of this notice. EPA is imposing this condition without additional opportunity for notice and comment because this issue was specifically discussed in the proposed permit.

Comment: "Free oil" should be limited in domestic wastes as well as deck drainage to prevent the routine disposal of petroleum products in domestic waste systems.

Response: The permit requirements for domestic wastes in this general permit are the same as the requirements for domestic waste discharges from offshore oil exploratory vessels. Based on several years of operating experience, these limits have been shown to be adequate and appropriate for the case of offshore oil exploratory vessels. In addition, EPA believes disposal of petroleum products in the domestic waste system could be handled under section 311 of the CWA (33 U.S.C. 1321). Since treatment opportunities and environmental impacts related to this discharge are likely to be similar for the two (2) cases, EPA believes that the permit requirements for the deep seabed survey

vessels are appropriate. As such, the limits in the final permit were not changed.

Comment: The "laboratory sheen test" is inadequate as a means for regulating the discharge of oil in wastewater. Numeric limits should be included in the permit.

Response: EPA has retained the "laboratory sheen test" to regulate the discharge of oil and grease as there is no evidence that it is not appropriate. EPA believes that only a very limited potential exists for environmental degradation from these discharges and that more precise effluent limitations and monitoring requirements are not necessary. It should be noted that this limit was developed for and is believed to be adequate for similar discharges from offshore oil facilities, where the potential for contamination is substantially greater.

Comment: The permit should specify more precisely what activities would be authorized by the permit.

Response: The purpose of this permit is to authorize and regulate the discharge of pollutants from vessels engaged in certain exploration activities rather than to specify exactly what exploration activities are allowed. However, the discharge limitations do place some constraints on exploration activities. The discharge of pollutants from at-sea tests of mining equipment prototypes is not authorized by the permit. Discharges from such equipment would include an ocean floor discharge from the nodule collector and a surface discharge of material brought to the surface along with the nodules. Discharges which are authorized by the permit are discharges associated with the normal operation of a ship and de minimus quantities of materials from sampling devices. Exploration activities consistent with this constraint include those activities listed at 15 CFR 970.701(a) and consist primarily of sample and miscellaneous data collection.

Comment: A commenter stated EPA does not have copies of the consortia's complete license applications to NOAA, and therefore the record for the NPDES permit is not complete; this situation does not allow for complete evaluation of this permit.

Response: The DHMRA and NOAA regulations provide that complete copies of the non-confidential portions of the license applications are available for review at NOAA in Washington, D.C. NOAA is the lead Federal agency in dealing with deep seabed issues and provides for public input in NOAA licensing activities and regulation development. EPA believes that, due to the nature of the discharges that are being authorized by this permit, the materials available for review in the administrative record for this permit are adequate for a complete evaluation of the permit.

General NPDES Permit—Authorization To Discharge Under the National Pollutant Discharge Elimination System [NPDES Permit Number HIG100001]

In compliance with the provisions of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 *et seq.*; the "Act"), the following discharges are authorized:

Deck Drainage (Discharge 001).
Sanitary Wastes (Discharge 002).
Domestic Wastes (Discharge 003).
Water Distillation Discharge (Discharge 004).
Boiler Blowdown (Discharge 005).
Fire Control System Test Water (Discharge 006).
Cooling Water (Discharge 007).
Uncontaminated Ballast Water (Discharge 008).
Uncontaminated Bilge Water (Discharge 009).
Sampling Device Discharge (Discharge 010).

From a vessel or other floating craft subject to the Deep Seabed Hard Mineral Resources Act (30 U.S.C. 1401 *et seq.*; "DSHMRA") engaged in exploration activities under National Oceanic and Atmospheric Administration ("NOAA") Deep Seabed Mining Regulations for Exploration Licenses ("NOAA regulations") contained at 15 CFR Part 970, including, but not limited to exploration activities enumerated in section 101(a)(2) of the DSHMRA (30 U.S.C. 1411(a)(2)), and in NOAA regulations at 15 CFR 970.103(a)(2), except for any discharge from the initial mining tests, to receiving waters named the Pacific Ocean, in accordance with effluent limitations, monitoring and reporting requirements and other conditions set forth in Parts I, II, and III thereof.

The permittee shall be the U.S. citizen, as defined in section 4(14) of the DSHMRA (30 U.S.C. 1403(14)) and in NOAA regulations at 15 CFR 970.101(t), engaged in exploration activities as enumerated in this permit. Any permittee who fails to notify the Regional Administrator of his intent to be covered by this general permit as described in Part I is not authorized to discharge to the specified waters unless an individual NPDES permit has been issued to the facility by the Environmental Protection Agency ("EPA"), Region 9.

The authorized discharge sites include all the area of the Pacific Ocean between 110 degrees West and 180 degrees West longitude and 5 degrees North and 20 degrees North latitude that lies within the definition of the deep seabed as defined in section 4(4) of the DSHMRA (30 U.S.C. 1403(4)) and in NOAA regulations at 15 CFR 970.101(h)), including, but not limited to, the Northeastern Equatorial Pacific Ocean within the seabed generally known as the Clarion-Clipperton Fracture Zone. The authorized discharge sites specifically excludes all area which lies within the territorial seas of the State of Hawaii.

In accordance with EPA regulations contained at 40 CFR 125.123(d)(4), promulgated under section 403 of the Act (33 U.S.C. 1343), this permit shall be modified or revoked at any time if, on the basis of any new data, the Regional Administrator determines that continued discharges may cause unreasonable degradation of the marine environment. Permit modification or revocation will be conducted in accordance with EPA regulations contained at 40 CFR 122.62 122.64, and 124.5.

This permit does not authorize discharges from "new sources" as defined in EPA regulations at 40 CFR 122.2.

The final general permit shall become effective on October 5, 1984.

This permit and the authorization to discharge shall expire at midnight, October 5, 1989.

Signed this 24th day of September 1984.

John Wise,

Acting Regional Administrator, Region 9.

Part I. Notification Requirements

A. Commencement of Operations

Written notification of commencement of operations including the name and address of permittee, a description of the exploration activities and accompanying discharges and the general area in which the exploration will take place, shall be provided to the Regional Administrator at least fourteen (14) days prior to initiation of discharges. The marine call letters assigned to the exploration vessel shall also be provided. Any changes in the geographic area of exploration necessary during the course of the exploration, shall be reported in the annual monitoring report submitted pursuant to Part II.C.4 of this permit.

B. Termination

The permittee shall notify the Regional Administrator upon permanent termination of operations.

C. Submission of Notification Requirements and Reports

Reports and notifications required herein, shall be submitted directly to the Regional Administrator of Region 9 at the following address: Director, Water Management Division (W-1), Region 9, Environmental Protection Agency, Attention: Deep Seabed Mining General Permit, 215 Fremont Street, San Francisco, California 94105.

D. Effective Date for Monitoring And Reporting Requirements

The monitoring and reporting requirements in this permit shall take effect upon commencement of discharge. The first (1st) report is due on the twenty-eighth (28th) day of the twelfth (12th) month from the day the Regional Administrator receives notification of commencement of operations. Subsequent reports are due every twelve (12) months thereafter.

E. Submission of Bypass Notification Reports to the Hawaii Department of Planning and Economic Development

Bypass notification reports as required by Part III.A.4(c) (1) and (2) of this permit shall also be submitted to the Director of the Hawaii Department of Planning and Economic Development at the following address and/or telephone: Director, Hawaii Department of Planning and Economic Development, P.O. Box 2359, Honolulu, HI 96804, Telephone (808) 548-8727.

Part II. Effluent Limitations, Monitoring and Reporting Requirements

A. Effluent Limitations and Monitoring Requirements

1. During the period beginning the date notification of commencement of operations is received by the Regional Administrator and lasting through the expiration date of the permit, the permittee is authorized to discharge from outfall serial numbers 001–003.

a. Such discharges shall be limited and monitored by the permittee as specified below.

Serial numbers/outfalls	Effluent characteristics	Discharge limitation	Monitoring requirements	
			Measurement frequency	Sample type
001—Deck Drainage	Flow Rate (MGD)	(1)	Once/month	Estimate.
002—Sanitary Wastes	....do		....do	Do.
	Residual Chlorine	1.0 mg/l [2]	Once/month	Discrete
003—Domestic Wastes	Flow Rate (MGD)	(3)	Once/month	Estimate.

[1] There shall be no discharge of free oil as a result of this discharge. The permittee shall make visual observation for the presence of free oil in this discharge using the "laboratory sheen limit" defined in Part III.D.17 of this permit. This test shall be conducted on a representative sample of deck drainage once every two (2) months, or once per voyage if the voyage is shorter than two (2) months, for this discharge, if this discharge occurs.

[2] Minimum of 1.0 mg/l and maintained as close to this concentration as possible. This requirement is not applicable to facilities intermittently manned or to facilities permanently manned by nine (9) or fewer persons, in which case there shall be no floating solids as a result of the discharge of these wastes.

[3] There shall be no floating solids as a result of the discharge of these wastes.

b. Samples taken in compliance with monitoring requirements specified above shall be taken at a sampling point prior to commingling with any other waste stream or entering Pacific waters. In cases where sanitary and domestic wastes are mixed prior to discharge, and sampling of the sanitary waste component stream is infeasible, the discharge may be sampled after mixing. In such cases, the discharge limitation shown above for sanitary wastes shall apply to the mixed waste stream.

2.a. During the period beginning the date notification of commencement of operations is received by the Regional Administrator and lasting through the expiration date of the permit, the permittee is authorized to discharge from outfall(s) serial number(s) 004–009 (miscellaneous discharges). Discharge:

004—Water Distillation Discharge
005—Boiler Blowdown
006—Fire Control System Test Water
007—Cooling Water
008—Uncontaminated Ballast Water
009—Uncontaminated Bilge Water

b. There shall be no discharge of free oil as a result of this discharge as defined in Part III.D.21 of this permit.

3.a. During the period beginning the date notification of commencement of operations is received by the Regional Administrator and lasting through the expiration date of the permit, the permittee is authorized to discharge from outfall serial number 010 (sampling device discharge).

b. The permittee shall at all times properly operate and maintain all sampling device(s) to prohibit or minimize the discharge of pollutants, including sediments and/or nodules, from the sampling device(s).

c. The permittee shall estimate the quantity of material discharged from the sampling device(s) each month.

b. Other Discharge Limitations

1. Floating Solids or Visible Foam

There shall be no discharge of floating solids or visible foam in other than trace amounts.

2. Highly Toxic Compounds

There shall be no discharge of toxic substances which, after allowance of initial mixing as provided by the Ocean Discharge Criteria (40 CFR Part 125, Subpart M), exceed applicable marine water quality criteria (45 FR 792318, November 28, 1980).

3. Surfactants, Dispersants, and Detergents

The discharge of surfactants, dispersants, and detergents shall be minimized except as necessary to comply with the safety requirements of the Occupational Safety and Health Administration and the U.S. Coast Guard.

4. Sanitary Wastes

Any facility using a marine sanitation device that complies with the pollution control standards and regulations under Section 312 of the Act (33 U.S.C. § 1322) shall be deemed to be in compliance with permit limitations for sanitary waste discharges until such time as the device is replaced or does not comply with such standards and regulations.

For facilities continuously manned by nine (9) or fewer persons or only intermittently manned by any number of persons, there shall be no floating solids as a result of the discharge of these wastes.

C. Monitoring and Records

1. Representative Sampling

Samples and measurements taken for the purpose of monitoring shall be representative of the volume and nature of the monitored activity.

2. Monitoring Procedures

Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit.

3. Penalties for Tampering

The Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be

maintained under this permit shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than six (6) months per violation, or by both.

4. Reporting of Monitoring Results

The permittee shall be responsible for submitting monitoring results for each vessel or other floating craft from which a discharge occurs.

If there is more than one (1) facility, the outfalls shall be designated in the following manner: 101, 102, 103, etc. for the first (1st) facility; 201, 202, 203, etc. for the second (2nd) facility; etc.

If any category of waste has more than one (1) discharge point, the limitations apply to each discharge point and shall be reported as XXXA, XXXB, XXXC, etc. (101A, 101B, 101C, etc.). This requirement does not apply to the laboratory sheen test for deck drainage (outfall 001), for which a representative sample is allowed.

Monitoring results obtained during the previous twelve (12) months shall be summarized and reported on a Discharge Monitoring Report Form (EPA No. 3320–1) (DMR).

If any category of waste (outfall) is not applicable due to the type of operation no reporting is required for that particular outfall. Only DMR's representative of the activities occurring need to be submitted. Information indicating the type of operation should be provided with the DMR's.

5. Additional Monitoring by the Permittee

If the permittee monitors any pollutant or parameter more frequently than required by this permit, using test procedures approved under 40 CFR Part 136 or as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR.

6. Averaging of Measurements

Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in the permit.

7. Retention of Records

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, and copies of all reports required by this permit for a period of at least three (3) years from the date of the sample, measurement, or report. This period may be extended by request of the Regional Administrator at any time.

8. Record Contents

Records of monitoring information shall include:

(a) The date, place, and time of sampling or measurements;

(b) The individual(s) who performed the sampling or measurements;

(c) The date(s) analyses were perfomed;

(d) The individual(s) who performed the analyses;

(e) The analytical techniques or methods used; and

(f) The results of such analyses.

9. Inspection and Entry

The permittee shall allow the Regional Administrator, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

(a) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

(b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

(c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

(d) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

D. Reporting Requirements

1. Anticipated Noncompliance

The permittee shall give advance notice to the Regional Administrator of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

2. Monitoring Reports

Monitoring results shall be reported at the intervals specified in Part I.D and in Part II.A of this permit.

3. Twenty-Four (24) Hour Reporting of Noncompliance

The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within twenty-four (24) hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within five (5) days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including dates and times, and, if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

The following shall be included as information which must be reported within twenty-four (24) hours:

(a) Any unanticipated bypass which exceeds any effluent limitations in the permit;

(b) Any upset which exceeds any effluent limitations in the permit; and

(c) Violation of a maximum daily discharge limitation for any toxic pollutant or hazardous substance, or any pollutant specifically identified as the method to control a toxic pollutant or hazardous substance, listed as such by the Regional Administrator in the permit to be reported within twenty-four (24) hours.

Reports should be made to the telephone number: (415) 974–8289. The Regional Administrator may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

4. Other Noncompliance

The permittee shall report all instances of noncompliance not reported under Part II.D.3 at the time monitoring reports are submitted. The reports shall contain the information listed in Part II.D.3.

5. Signatory Requirements

All reports or information submitted to the Regional Administrator shall be signed and certified in accordance with 40 CFR 122.22 as amended at 48 FR 39619 (Sept. 1, 1983).

6. Availability of Reports

Except for data determined to be confidential under 40 CFR Part 2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Regional Administrator. As required by the Act, permit applications, permits, and effluent data shall not be considered confidential.

7. Penalties for Falsification of Reports

The Act provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than $10,000 per

violation, or by imprisonment for not more than six (6) months per violation, or by both.

Part III. Operation and Maintenance of Pollution Controls, General Conditions, Additional Conditions and Definitions

A. Operation and Maintenance of Pollution Controls

1. Proper Operation and Maintenance

The permittee shall at all times properly operate and maintain all facilites and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance includes, but is not limited to, effective performance, adequate funding, adequate permittee staffing and training, adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.

2. Duty to Halt or Reduce Activity

Upon reduction, loss, or failure of the treatment facility, the permittee shall, to the extent necessary to maintain compliance with its permit, control production or all discharges or both until the facility is restored or an alternative method of treatment is provided. This requirement applies, for examle, when the primary source of power of the treatment facility fails or is reduced or lost.

3. Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permittee activity in order to maintain compliance with the conditions of this permit.

4. Bypass of Treatment Facilities

(a) *Definitions.* (1) "Bypass" means the international diversion of waste streams from any portion of a treatment facility.

(2) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(b) *Bypass not exceeding limitations.* The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient opration. These bypasses are not subject to the provisions of paragraphs (c) and (d) of this section.

(c) *Notice*—(1) *Anticipated bypass.* If the permittee knows in advance of the need for a bypass, the permittee shall submit prior notice, if possible, at least ten (10) days before the date of the bypass.

(2) *Unanticipated bypass.* The permittee shall submit notice of an unanticipated bypass as required in Part II.D.3 (24–hour notice).

(d) *Prohibition of bypass.* (1) Bypass is prohibited, and the Regional Administrator may take enforcement action against the permittee for bypass, unless:

(A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if the permittee could have installed adequate back-up equipment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(C) The permittee submitted notices as required under paragraph (c) of this section.

(2) The Regional Administrator may approve an anticipated bypass, after considering its adverse effects, if the Regional Administrator determines that it will meet the three (3) conditions listed above in paragraph (d)(1) of this section.

5. Upset Conditions

(a) *Definition.* "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(b) *Effect of an upset.* An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of paragraph (c) of this section are met. No determination, made during administrative review of claims that noncompliance was caused by an upset, and before an action for noncompliance, is final administrative action subject to judicial review.

(c) *Conditions necessary for a demonstration of upset.* A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An upset occurred and that the permittee can identify the specific cause(s) of the upset;

(2) The permitted facility was at the time being properly operated;

(3) The permittee submitted notice of the upset as required in Part II.D.3 (24-hour notice); and

(4) The permittee complied with any remedial measures required under Part III.B.4 (duty to mitigate).

(d) *Burden of proof.* In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

6. Removed Substances

Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in a manner such as to prevent any pollutant from such materials for entering navigable waters.

B. General Conditions

1. Duty to Comply

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action or for requiring a permittee to apply for and obtain an individual NPDES permit.

2. Duty to Comply With Toxic Effluent Standards

The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the Act (133 U.S.C. 1317(a)) for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

3. Penalties for Violations of Permit Conditions

The Act provides that any person who violates a permit condition implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Act (33 U.S.C. 1311, 1312, 1316, 1317, 1318, 1328, or 1345) is subject to a civil penalty not to exceed $10,000 per day of such violation. Any person who willfully or negligently violates permit conditions implementing

sections 301, 302, 303, 306, 307, 308 of the Act (33 U.S.C. 1311, 1312, 1313, 1316, 1317, or 1318) is subject to a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than one (1) year, or both.

4. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

5. Permit Actions

This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

6. Civil and Criminal Liability

Except as provided in permit conditions on "Bypasses" (Part III.A.4) and "Upsets" (Part III.A.5), nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance.

7. Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under section 311 of the Act (33 U.S.C. 1321).

8. State Laws

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or regulation under authority preserved by section 510 of the Act (33 U.S.C. 1370).

9. Property Rights

The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State, or local laws or regulations.

10. Severability

The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

C. Additional General Permit Conditions

1. When the Regional Administrator May Require Application for an Individual NPDES Permit

The Regional Administrator may require any person authorized by this permit to apply for and obtain an individual NPDES permit when:

(a) The discharge(s) is a significant contributor of pollution;

(b) The discharger is not in compliance with the conditions of this permit;

(c) A change has occurred in the availability of the demonstrated technology or practices for the control or abatement of pollutants applicable to the point source;

(d) Effluent limitation guidelines are promulgated for point sources covered by this permit;

(e) A Water Quality Management Plan containing requirements applicable to such point source is approved; or

(f) The point source(s) covered by this permit no longer:

(1) Involve the same or substantially similar types of operations;

(2) Discharge the same types of wastes;

(3) Require the same effluent limitations or operating conditions;

(4) Require the same or similar monitoring; and

(5) In the opinion of the Regional Administrator, are more appropriately controlled under a general permit than under individual NPDES permits.

The Regional Administrator may require any permittee authorized by this permit to apply for an individual NPDES permit only if the permittee has been notified in writing that a permit application is required.

2. When an Individual NPDES Permit May be Requested

(a) Any permittee authorized by this permit may request to be excluded from the coverage of this general permit by applying for an individual permit. The permittee shall submit an application together with the reasons supporting the request to the Regional Administrator.

(b) When an individual NPDES permit is issued to a permittee otherwise subject to this general permit, the applicability of this permit to that permittee is automatically terminated on the effective date of the individual permit.

D. Definitions

1. "Annual average" means the average of all discharges sampled and/or measured during a calendar year in which daily discharges are sampled and measured, divided by the number of discharges sampled and/or measured during such year.

2. "Ballast water" means water used by the vessel or other floating craft for stability.

3. "Bilge water" means water that accumulates in the bilge of the vessel or other floating craft.

4. "Boiler blowdown" means the discharge or recirculating water from boilers to remove ionic concentrations contained in the water, preventing the further buildup of concentrations exceeding limits established by best engineering practice.

5. "CFR" means the Code of Federal Regulations.

6. For flow rate measurements, a "composite sample" means the arithmetic mean of no fewer than eight (8) individual measurements taken at equal intervals for twenty-four (24) hours or for the duration of the discharge, whichever is shorter.

For measurements other than flow rate, a composite sample means a combination of no fewer than eight (8) individual samples obtained at equal time intervals for twenty-four (24) hours or for the duration of the discharge, whichever is shorter.

7. "Continental Shelf" means the seabed and subsoil of the submarine areas adjacent to the coast, but outside the area of the territorial sea, to a depth of 200 meters or, beyond that limit, to where the depth of the superjacent waters admits to the exploitation of the natural resources of such submarine area; and the seabed and subsoil of similar submarine areas adjacent to the coast of islands. (See section 4(2) of the DSHMRA (30 U.S.C. 1403(2)) and NOAA regulations at 15 CFR 970.101(f).)

8. "Cooling water" means once through non-contact cooling water.

9. "Daily maximum" means the average concentration of the parameter specified during any twenty-four (24) hour period that reasonably represents the twenty-four (24) hour period for the purposes of sampling.

10. "Deck drainage" means all waste resulting from vessel washings, deck washings, tank cleaning operations, and run-off from curbs, gutters, and drains including drip pans and wash areas.

11. "Deep seabed" means the seabed, and the subsoil thereof to a depth of ten (10) meters, lying seaward of and outside—(1) the Continental Shelf of any

nation; and (2) any area of national resource jurisdiction of any foreign nation, if such area extends beyond the Continental Shelf of such nation and such jurisdiction is recognized by the United States. (See section 4(4) of the DSHMRA (30 U.S.C. 1403(4)) and NOAA regulations at 15 CFR 970.101(h).)

12. A "discrete sample" means any individual sample collected in less that fifteen (15) minutes.

13. "Domestic wastes" includes discharges from galleys, sinks, showers, and laundries.

14. "EPA" means the U.S. Environmental Protection Agency.

15. "Fire control system test water" is seawater discharged during periodic testing of the fire control system.

16. "Initial mining test" means the taking from the deep seabed of such quantities of any hard mineral resources as are necessary for the design, fabrication and testing of equipment which is intended to be used in the commercial recovery and processing of such resource. (See section 4(5)(B) of the DSHMRA (30 U.S.C. 1403(5)(B)) and NOAA regulations at 15 CFR 970.101(i)(2).) Such testing is allowable under NOAA licenses; commercial recovery is not.

17. "Laboratory sheen test" means those procedures which involves diluting one (1) part whole effluent, collected just prior to discharge, with nine (9) parts ambient seawater. This mixture shall be maintained as close as possible to ambient seawater temperature while being stirred mechanically with a magnetic stirrer for fifteen (15) minutes, after which time the permittee shall make a visual observation for the presence of free oil (sheen) on the surface. This protocol is in part derived from the Envioronmental Protection Technology Series EPA–R2–72–039, "The Appearance and Visibility of Thin Oil Films on Water".

18. "MGD" means million gallons per day.

19. "mg/l" means milligrams per liter.

20. "NOAA" means the National Oceanic and Atmospheric Administration.

21. "No discharge of free oil" means a discharge that does not cause a film or sheen upon or a discoloration on the surface of the water or adjoining shorelines, or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines. Observe daily during discharge.

22. "NPDES" means the National Pollutant Discharge Elimination System.

23. "Permittee" means a person issued a permit to discharge pollutants to navigable waters under the Federal Water Pollution Control Act, as amended. In this permit the permittee shall be the U.S. citizen, as defined in section 4(14) of the DSHMRA (30 U.S.C. 1403(14)) and in NOAA regulations at 15 CFR 970.101(t), engaged in exploration activities as enumerated in this permit.

24. "Sanitary waste" means human body waste discharged from toilets and urinals.

25. "Teritorial seas" means the belt of the seas measured from the line of ordinary low water mark along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters, and extending seaward a distance of three (3) miles. (See section 502(8) of the Act (33 U.S.C. 1362(8)).)

26. "U.S.C." means the United States Code.

27. "Water distillation discharge" means wastewater associated with the process of creating fresh water from seawater.

28. "Sampling device" means any sampling device, including, but not limited to box cores, dredges and baskets, used to obtain samples of and/or from the deep seabed.

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Part IV

Office of Management and Budget

Budget Deferrals; Notice

OFFICE OF MANAGEMENT AND BUDGET

Budget Deferrals

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report two new deferrals of budget authority for 1984 totaling $299,000,000, and fourteen new deferrals of budget authority totaling $1,298,662,275 and one new deferral of outlays totaling $19,900,000 for 1985. The 1984 deferrals affect the Funds Appropriated to the President. The 1985 deferrals affect the Funds Appropriated to the President; the Departments of Agriculture, Defense, Health and Human Services, Interior, Transportation, and Treasury; the Pennsylvania Avenue Development Corporation, and the Railroad Retirement Board.

The details of these deferrals are contained in the attached report.

Ronald Reagan.

The White House,
October 1, 1984.

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CONTENTS OF SPECIAL MESSAGE
(In thousands of dollars)

Deferral #	Item	Budget Authority
	Funds Appropriated to the President	
	International Security Assistance	
D84-66	Economic support fund	280,500
D84-67	Military assistance	18,500
	Total, deferrals	299,000

SUMMARY OF SPECIAL MESSAGES
FOR FY 1984
(In thousands of dollars)

	Rescissions	Deferrals
Fourteenth special message:		
New items	---	299,000
Revisions to previous special messages	---	---
Effects of fourteenth special message	---	299,000
Amounts from previous special messages that are changed by this message (changes noted above)	---	---
Subtotal, rescissions and deferrals	---	299,000
Amounts from previous special messages that are not changed by this message	636,411	7,636,473
Total amount proposed to date in all special messages	636,411	7,935,473

Deferral No: D84-66

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY:
Funds Appropriated to the President

Bureau:
International Security Assistance

Appropriation title and symbol:
Economic Support Fund 1/
114/51037

OMB Identification code:
11-1037-0-1-152

Grant program: [X] Yes [ ] No

Type of account or fund:
[ ] Annual
[X] Multiple-year March 31, 1985 (expiration date)
[ ] No-Year

New budget authority.... $ 340,500,000
(P.L. 98-396)
Other budgetary resources 0
Total budgetary resources 340,500,000

Amount to be deferred:
Part of year $ 0
Entire year 280,500,000

Legal authority (in addition to sec. 1013):
[X] Antideficiency Act
[ ] Other

Type of budget authority:
[X] Appropriation
[ ] Contract authority
[ ] Other

Justification: Pursuant to the Foreign Assistance Act of 1961, as amended, the President is authorized to furnish assistance to promote economic or political stability in foreign countries on such terms and conditions as he may determine. To enable the President to carry out those authorities Public Law 98-396 appropriates $340,500,000 of grant and loan Economic Support Funds. Under Part II, Chapter 4, of the Foreign Assistance Act, the Secretary of State is responsible for policy decisions and justifications for such economic support programs, including the countries and amounts to be provided. Executive Order 12163 of September 29, 1979, further delegates the President's responsibilities under Chapter 4, related to policy decisions and justifications for economic support programs, to the Secretary of State. These functions will be exercised in cooperation with the Administrator of the Agency for International Development. The funds are deferred pending approval of specific loans and grants to eligible countries by the Secretary of State. This will insure that each approved program is consistent with the foreign, national security and financial policies of the U.S. and will not exceed the limits of available funds. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None.

Outlay Effect: An estimated $50,000,000 in outlays will be shifted from 1984 to 1985.

1/ This account was the subject of similar deferrals earlier in 1984 (D84-24A and D84-60) and in 1983 (D83-22A).

Deferral No: D84-67

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY:
Funds Appropriated to the President

Bureau:
International Security Assistance

Appropriation title and symbol:

Military Assistance 1/

114/51080

OMB Identification code:
11-1080-0-1-152

Grant program:
|X| Yes |__| No

Type of account or fund:

|__| Annual

|X| Multiple-year March 31, 1985 (expiration date)

|__| No-Year

New budget authority.... $ 140,000,000
(P.L. 98-396)
Other budgetary resources 0

Total budgetary resources 140,000,000

Amount to be deferred:
Part of year $ 0

Entire year 18,500,000

Legal authority (in addition to sec. 1013):
|X| Antideficiency Act
|__| Other

Type of budget authority:
|X| Appropriation
|__| Contract authority
|__| Other

Justification: Pursuant to the Foreign Assistance Act (FAA) of 1961, as amended, the President is authorized to grant military assistance to any friendly country or international organization if he finds that it will strengthen the security of the United States or promote world peace. Public Law 98-396 appropriates $140,000,000 of grant Military Assistance (MAP) funds to enable the President to carry out this authority. Executive Order No. 12163 of September 29, 1979, as amended, delegates certain Presidental functions under the FAA to the Secretaries of State and Defense. $18,500,000 is being deferred pending approval of specific programs by the Departments of State, Treasury, and Defense. Consultation among these Departments will ensure that each approved program is consistent with the foreign, national security and financial policies of the United States and will not exceed the limit of available funds. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None.

Outlay Effect: None.

1/ This account was the subject of a similar deferral earlier in 1984 (D84-31) and in 1983 (D83-29A).

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

Deferral #	Item	Budget Authority
	Funds Appropriated to the President	
D85-1	Appalachian regional development programs	10,000
	International Security Assistance	
D85-2	Economic support fund	280,500
D85-3	Military assistance	18,500
	Department of Agriculture	
	Forest Service	
D85-4	Timber salvage sales	9,704
D85-5	Expenses, brush disposal	55,850
	Department of Defense - Military:	
D85-6	Military construction, all services	300,008
	Department of Defense - Civil:	
	Wildlife Conservation, Military Reservations	
D85-7	Wildlife conservation	1,127
	Department of Health and Human Services	
	Assistance Secretary for Health	
D85-8	Scientific activities overseas (special foreign currency program)	424
	Social Security Administration	
D85-9	Limitation on administrative expenses (construction)	15,488
	Department of the Interior	
	Bureau of Land Management	
D85-10	Payments for proceeds, sale of water, Mineral Leasing Act of 1920	49
	Department of Transportation	
	Federal Aviation Administration	
D85-11	Facilities and equipment (airport and airway trust fund)	537,205
	Department of the Treasury	
	Office of Revenue Sharing	
D85-12	Local government fiscal assistance trust fund	55,400
D85-13	Local government fiscal assistance trust fund	19,900*
	Pennsylvania Avenue Development Corporation	
D85-14	Land acquisition and development fund	14,300
	Railroad Retirement Board	
D85-15	Milwaukee railroad restructuring administration	108
	Total, deferrals	1,318,562

* This is a deferral of outlays only.

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SUMMARY OF SPECIAL MESSAGES
FOR FY 1985
(in thousands of dollars)

	Rescissions	Deferrals
First special message:		
New items	---	1,318,562
Revisions to previous special messages	---	---
Effects of first special message	---	1,318,562
Amounts from previous special messages that are changed by this message (changes noted above)	---	---
Subtotal, rescissions and deferrals	---	1,318,562
Amounts from previous special messages that are not changed by this message	---	---
Total amount proposed to date in all special messages	---	1,318,562

Deferral No: D85-1

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY:
Funds Appropriated to the President

Bureau: Appalachian Regional Development Programs

Appropriation title and symbol:
Appalachian Regional Development Programs 1/

11X0090

OMB Identification code:
11-0090-0-1-452

Grant program:
[X] Yes [ ] No

Type of account or fund:
[ ] Annual
[ ] Multiple-year _____ (expiration date)
[X] No-Year

New budget authority..... $ 149,000,000
(P.L. 98-360)
Other budgetary resources 12,100,000

Total budgetary resources 161,100,000

Amount to be deferred:
Part of year $ 0
Entire year 10,000,000

Legal authority (in addition to sec. 1013):
[ ] Antideficiency Act
[ ] Other_____

Type of budget authority:
[X] Appropriation
[ ] Contract authority
[ ] Other_____

Justification: This appropriation provides funds for the Appalachian Regional Commission's highway, area development, and research and local development district support activities. The Commission is scheduled for termination on September 30, 1985. Funds associated with non-highway activities are deferred to pay the termination costs. Many of the Appalachian Regional Commission programs are multi-year in nature and will incur closing costs after the termination date of the Commission. The deferred funds, associated with non-highway programs, would be used to finance such closing costs.

Estimated Program Effect: This deferral action would provide for costs associated with closing down the Appalachian Regional Commission.

Outlay Effect: None.

1/ This account was the subject of a similar deferral in 1984 (D84-1).

Deferral No: D85-2

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY:
Funds Appropriated to the President

Bureau:
International Security Assistance

Appropriation title and symbol:
Economic Support Fund 1/
114/51037

OMB Identification code:
11-1037-0-1-152

Grant program: |X| Yes |__| No

Type of account or fund:
|__| Annual
|X| Multiple-year March 31, 1985 (expiration date)
|__| No-Year

New budget authority...(P.L. ____). $ 0
Other budgetary resources 280,500,000
Total budgetary resources 280,500,000

Amount to be deferred:
Part of year $ 280,500,000
Entire year 0

Legal authority (In addition to sec. 1013):
|X| Antideficiency Act
|__| Other____

Type of budget authority:
|X| Appropriation
|__| Contract authority
|__| Other____

Justification: Pursuant to the Foreign Assistance Act of 1961, as amended, the President is authorized to furnish assistance to promote economic or political stability in foreign countries on such terms and conditions as he may determine. To enable the President to carry out those authorities Public Law 98-396 appropriates $340,500,000 in grant and loan Economic Support Funds. Under Part II, Chapter 4, of the Foreign Assistance Act, the Secretary of State is responsible for policy decisions and justifications for such economic support programs, including the countries and amounts to be provided. Executive Order 12163 of September 29, 1979, further delegates the President's responsibilities under Chapter 4, related to policy decisions and justifications for economic support programs, to the Secretary of State. These functions will be exercised in cooperation with the Administrator of the Agency for International Development. These funds are deferred pending approval of specific loans and grants to eligible countries by the Secretary of State. This will insure that each approved program is consistent with the foreign, national security and financial policies of the U.S. and will not exceed the limits of available funds. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None.

Outlay Effect: None.

1/ This account was the subject of similar deferrals in 1984 (D84-24A, D84-60, and D84-66).

Deferral No: D85-3

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY:
Funds Appropriated to the President

Bureau:
International Security Assistance

Appropriation title and symbol:
Military Assistance 1/
114/51080

OMB Identification code:
11-1080-0-1-152

Grant program: |X| Yes |__| No

Type of account or fund:
|__| Annual
|X| Multiple-year March 31, 1985 (expiration date)
|__| No-Year

New budget authority...(P.L. ____). $ 0
Other budgetary resources 140,000,000
Total budgetary resources 140,000,000

Amount to be deferred:
Part of year $ 18,500,000
Entire year 0

Legal authority (In addition to sec. 1013):
|X| Antideficiency Act
|__| Other____

Type of budget authority:
|X| Appropriation
|__| Contract authority
|__| Other____

Justification: Pursuant to the Foreign Assistance Act (FAA) of 1961, as amended, the President is authorized to furnish grant military assistance to any friendly country or international organization if he finds that it will strengthen the security of the United States or promote world peace. Public Law 98-396 appropriates $140,000,000 of grant Military Assistance (MAP) funds to enable the President to carry out this authority. Executive Order No. 12163 of September 29, 1979, as amended, delegates certain Presidental functions under the FAA to the Secretaries of State and Defense. $18,500,000 is being deferred pending approval of specific programs by the Departments of State, Treasury, and Defense. Consultation among these Departments will ensure that each approved program is consistent with the foreign, national security and financial policies of the United States and will not exceed the limit of available funds. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None.

Outlay Effect: None.

1/ This account was the subject of similar deferrals in 1984 (D84-31 and D84-67).

Deferral No: D85-4

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY:
Department of Agriculture

Bureau:
Forest Service

Appropriation title and symbol:
Timber salvage sales 1/

12X5204

OMB identification code:
12-9922-0-2-301

Grant program: |__| Yes |X| No

Type of account or fund:
|__| Annual
|__| Multiple-year _____ (expiration date)
|X| No-Year

New budget authority...:. $ 16,055,000
(P.L. 94-588 (16 U.S.C. 472a(h)))
Other budgetary resources 13,475,710

Total budgetary resources 29,530,710

Amount to be deferred:
Part of year $ 0

Entire year 9,703,710

Legal authority (in addition to sec. 1013):
|X| Antideficiency Act
|__| Other_____

Type of budget authority:
|X| Appropriation
|__| Contract authority
|__| Other_____

Justification: The Timber salvage sales fund was established under the provisions of the National Forest Management Act of 1976 so that immediate action can take place to harvest dead and dying trees when required by market conditions or catastrophes (such as the Mount St. Helens volcanic eruption). Fees paid by purchasers of dead, damaged, insect-infested or down timber to cover the expenses of these timber sales are used to finance subsequent sales in that National Forest. Contingency reserves are established under the provisions of the Antideficiency Act (31 U.S.C. 1512) because of the time lag between the deposit of receipts in one year and the expenditure of funds for sales operations in subsequent years.

Estimated Program Effect: None.

Outlay Effect: None.

1/ This account was the subject of a similar deferral in 1984 (D84-2).

Deferral No: D85-5

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY:
Department of Agriculture

Bureau:
Forest Service

Appropriation title and symbol:
Expenses, brush disposal 1/

12X5206

OMB identification code:
12-9922-0-2-302

Grant program: |__| Yes |X| No

Type of account or fund:
|__| Annual
|__| Multiple-year _____ (expiration date)
|X| No-Year

New budget authority...:. $ 41,822,000
(P.L. 16 USC 490)
Other budgetary resources 55,865,019

Total budgetary resources 97,687,019

Amount to be deferred:
Part of year $ 0

Entire year 55,850,019

Legal authority (in addition to sec. 1013):
|X| Antideficiency Act
|__| Other_____

Type of budget authority:
|X| Appropriation
|__| Contract authority
|__| Other_____

Justifications: Fees are paid by purchasers of National Forest timber reflecting the estimated expenses of the Forest Service for disposing of brush and other debris resulting from cutting operations. Much of the brush disposal work for which fees are collected cannot be done in the same year because harvesting is not completed or due to seasonal weather conditions. In addition, extra fire protection by the Forest Service may be required for three to five years after the timber harvest. The Forest Service plans for a stable year-to-year program which will require $41.8 million in 1985. A contingency reserve of $55.8 million has been established for future expenses under the provisions of the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None.

Outlay Effects: None.

1/ This account was the subject of a similar deferral in 1984 (D84-3).

Deferral No: D85-6

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY:
Department of Defense - Military

Bureau:

Appropriation title and symbol:

See Coverage Section below 1/

OMB Identification code:
See Coverage Section below 1/

Grant program:
|__| Yes |X| No

Type of account or fund:
|__| Annual — Sept. 30, 1985
Sept. 30, 1986
Sept. 30, 1987
|X| Multiple-year — Sept. 30, 1988 (expiration date)
|X| No-Year

New budget authority....: $ 0
(P.L. _____)
Other budgetary resources 3,875,724,161

Total budgetary resources 3,875,724,161

Amount to be deferred:
Part of year $ 300,008,232
Entire year 0

Legal authority (in addition to sec. 1013):
|X| Antideficiency Act
|__| Other_____

Type of budget authority:
|X| Appropriation
|__| Contract authority
|__| Other_____

Coverage: 1/

Appropriation	Symbol	OMB Identification Code	Amount Deferred
Military construction, Army	214/82050	21-2050-0-1-051	$ 9,000,000
Military construction, Army	213/72050	21-2050-0-1-051	--
Military construction, Army	212/62050	21-2050-0-1-051	--
Military construction, Army	211/52050	21-2050-0-1-051	--
Military construction, Navy	174/81205	17-1205-0-1-051	--
Military construction, Navy	173/71205	17-1205-0-1-051	50,364,352
Military construction, Navy	172/61205	17-1205-0-1-051	12,679,880
Military construction, Navy	171/51205	17-1205-0-1-051	--
Military construction, Air Force	574/83300	57-3300-0-1-051	--
Military construction, Air Force	573/73300	57-3300-0-1-051	--
Military construction, Air Force	572/63300	57-3300-0-1-051	--
Military construction, Air Force	571/53300	57-3300-0-1-051	--
Military construction, Defense Agencies	974/80500	97-0500-0-1-051	5,000,000
Military construction, Defense Agencies	973/70500	97-0500-0-1-051	5,200,000
Military construction, Defense Agencies	972/60500	97-0500-0-1-051	6,864,000
Military construction, Defense Agencies	971/50500	97-0500-0-1-051	--
Military construction, Army National Guard	214/82085	21-2085-0-1-051	--
Military construction, Army National Guard	213/72085	21-2085-0-1-051	--
Military construction, Army National Guard	212/62085	21-2085-0-1-051	--
Military construction, Army National Guard	211/52085	21-2085-0-1-051	--
Military construction, Air National Guard	574/83830	57-3830-0-1-051	--
Military construction, Air National Guard	573/73830	57-3830-0-1-051	10,900,000
Military construction, Air National Guard	572/63830	57-3830-0-1-051	--
Military construction, Air National Guard	571/53830	57-3830-0-1-051	--
Military construction, Army Reserve	214/82086	21-2086-0-1-051	--
Military construction, Army Reserve	213/72086	21-2086-0-1-051	--
Military construction, Army Reserve	212/62086	21-2086-0-1-051	--
Military construction, Army Reserve	211/52086	21-2086-0-1-051	--
Military construction, Naval Reserve	174/81235	17-1235-0-1-051	--
Military construction, Naval Reserve	173/71235	17-1235-0-1-051	--
Military construction, Naval Reserve	172/61235	17-1235-0-1-051	--
Military construction, Naval Reserve	171/51235	17-1235-0-1-051	--
Military construction, Air Force Reserve	574/83730	57-3730-0-1-051	--
Military construction, Air Force Reserve	573/73730	57-3730-0-1-051	--
Military construction, Air Force Reserve	572/63730	57-3730-0-1-051	--
Military construction, Air Force Reserve	571/53730	57-3730-0-1-051	--
North Atlantic Treaty Organization Infrastructure	97X0804	97-0804-0-1-051	200,000,000
Military construction, Reserve Components, Generally	972/50805	21-2086-0-1-051	--
			300,008,232

Justification: These funds are deferred due to administrative delays, such as project designs not being completed and incomplete coordination of projects with other Federal agencies or local government agencies. Funds will be apportioned for individual projects throughout the year upon completion of project design and/or coordination. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None.

Outlay Effect: None.

1/ These accounts were the subject of a similar deferral in 1984 (D84-5A).

Deferral No: D85-7

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY:
Department of Defense - Civil

Bureau: Wildlife Conservation, Military Reservations

Appropriation title and symbol:
Wildlife Conservation, Army -21X5095
Wildlife Conservation, Navy -17X5095
Wildlife Conservation, Air Force -57X5095

OMB Identification code:
97-5095-0-2-303

Grant program:
|__| Yes |X| No

Type of account or fund:
|__| Annual
|__| Multiple-year _____ (expiration date)
|X| No-Year

New budget authority..... $ 1,721,000
(16 U.S.C. 670F)
Other budgetary resources 1,167,197

Total budgetary resources 2,888,197

Amount to be deferred:
Part of year .$ 0
Entire year 1,127,197

Legal authority (in addition to sec. 1013):
|X| Antideficiency Act
|__| Other_____

Type of budget authority:
|X| Appropriation
|__| Contract authority
|__| Other_____

Coverage: 1/

Appropriation	Symbol	OMB Identification Code	Amount Deferred
Wildlife Conservation, Army.....	21X5095	21-5095-0-2-303	$825,000
Wildlife Conservation, Navy.....	17X5095	17-5095-0-2-303	146,000
Wildlife Conservation, Air Force	57X5095	57-5095-0-2-303	156,197
			$1,127,197

Justification: These are permanent appropriations of receipts generated from hunting and fishing fees in accordance with the purpose of the law--to carry out a program of natural resource conservation. These funds are being deferred because: (1) installations may be accumulating funds over a period of time to fund a major project, (2) the installation may be designing and obtaining approval for the project, and (3) there is a seasonal relationship between the collection of fees and their subsequent expenditure. Most of the fees are collected during the winter and spring months, while most of the program work is performed during the summer and fall months. This necessitates that funds collected in a prior year be deferred in order to be available to finance the program during summer and fall months or in subsequent years. Additional amounts will be apportioned if program requirements are identified. This deferral is made under the provisions of the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None.

Outlay Effect: None.

1/ These accounts were the subject of a similar deferral in 1984 (D84-7).

Deferral No: D85-8

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY:
Department of Health and Human Services
Bureau:
Assistant Secretary for Health
Appropriation title and symbol:
Scientific activities overseas (special foreign currency program) 1/
75X1102
OMB identification code:
75-1102-0-1-552
Grant program: |__| Yes |X| No
Type of account or fund:
|__| Annual
|__| Multiple-year _____ (expiration date)
|X| No-Year

New budget authority.... (P.L. _____) $ 0
Other budgetary resources 7,080,399
Total budgetary resources 7,080,399
Amount to be deferred:
Part of year $ 0
Entire year 423,762
Legal authority (in addition to sec. 1013):
|X| Antideficiency Act
|__| Other _____
Type of budget authority:
|X| Appropriation
|__| Contract authority
|__| Other _____

Justification: The Scientific activities overseas program is funded with appropriations of excess foreign currencies owned by the United States. The currencies of Burma, Guinea, India, and Pakistan held by the Treasury have been designated as excess to normal U.S. needs in 1984 and are expected to be excess in 1985. Funds for this program, which remain available until expended, are used for scientific research projects in those countries.

The amount of funds to be obligated during 1985 and the amount to be deferred for the entire year were determined after a careful review of the scientific merit of project proposals in the countries for which excess currency is available. The research projects in those countries that will contribute toward meeting U.S. scientific needs have been selected for funding in 1985. The amount being deferred is excess to current program requirements and is being reserved under the provisions of the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None.

Outlay Effect: None.

1/ This account was the subject of a similar deferral in 1984 (D84-9A).

Deferral No: D85-9

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY:
Department of Health and Human Services
Bureau:
Social Security Administration
Appropriation title and symbol:
Limitation on Administrative Expenses (Construction) 1/
75X8704
OMB identification code:
20-8007-0-7-571
Grant program: |__| Yes |X| No
Type of account or fund:
|__| Annual
|__| Multiple-year _____ (expiration date)
|X| No-Year

New budget authority..... (P.L. _____) $ 0
Other budgetary resources 26,147,978
Total budgetary resources 26,147,978
Amount to be deferred:
Part of year $ 0
Entire year 15,487,881
Legal authority (in addition to sec. 1013):
|X| Antideficiency Act
|__| Other _____
Type of budget authority:
|X| Appropriation
|__| Contract authority
|__| Other _____

Justification: This account provides funding for construction and renovation of the Social Security Administration's (SSA) headquarters and field office buildings. This deferral represents the amounts provided in past years which SSA will not need in 1985 to carry out its current plans in this account. The deferred amount is a result of changes to prior year construction plans. Should SSA's plans change, subsequent apportionments will include revisions to this deferral. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None.

Outlay Effect: None.

1/ This account was the subject of a similar deferral in 1984 (D84-10A).

Deferral No: D85-10

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY:
Department of the Interior

Bureau:
Bureau of Land Management

Appropriation title and symbol:
Payments for Proceeds, Sale of Water, Mineral Leasing Act of 1920, Sec. 40(d) 1/

14X5662

OMB Identification code:
14-5662-0-2-301

Grant program:
| | Yes | X | No

Type of account or fund:
| | Annual
| | Multiple-year _____ (expiration date)
| X | No-Year

New budget authority..... $ 0
(P.L. _____)
Other budgetary resources 48,500
Total budgetary resources 48,500

Amount to be deferred:
Part of year $ 0
Entire year 48,500

Legal authority (in addition to sec. 1013):
| X | Antideficiency Act
| | Other _____

Type of budget authority:
| | Appropriation
| | Contract authority
| X | Other Permanent, Indefinite, Special

Justification: Section 40(d) of the Mineral Leasing Act of 1920 (30 U.S.C. 229(a)) provides that when lessees or operators drilling for oil or gas on public lands strike water, water wells may be developed by the Department of the Interior from the proceeds from the sale of water from existing wells. Receipts have been accruing to this permanent account at the rate of about $3,000 per year. None of these receipts have been obligated over the past ten years and none are planned for obligation in 1985 because the total available is too small to be put to practical use for the purpose designated by law. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None.

Outlay Effect: None.

1/ This account was the subject of a similar deferral in 1984 (D84-11).

Deferral No: D85-11

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY:
Department of Transportation

Bureau:
Federal Aviation Administration

Appropriation title and symbol:
Facilities and equipment (Airport and airway trust fund) 1/

69X8107 693/78107
692/68107 694/88107

OMB Identification code:
69-8107-0-7-402

Grant program:
| | Yes | X | No

Type of account or fund:
| | Annual
| X | Multiple-year 692/68107 9/30/86; 693/78107 9/30/87; 694/88107 9/30/88 (expiration date)
| X | No-Year

New budget authority..... $ 0
(P.L. _____)
Other budgetary resources 943,205,361
Total budgetary resources 943,205,361

Amount to be deferred:
Part of year $ 0
Entire year 537,205,361

Legal authority (in addition to sec. 1013):
| X | Antideficiency Act
| | Other _____

Type of budget authority:
| X | Appropriation
| | Contract authority
| | Other _____

Justification: Funds from this account are used to continue to procure specific Congressionally-approved facilities and equipment for the expansion and modernization of the National Airspace System. The projects financed from this account include construction of buildings and the purchase of new equipment for new or improved air traffic control towers, automation of the en route airway control system and expansion and improvement in the navigational and landing aid systems. These activities were justified and provided for in the Department's regular budget submissions and were appropriated by Congress for the year in which requested. Due to the lengthy procurement and construction time for interrelated facilities and complex equipment systems, it is not possible to obligate all the funds necessary to complete each project in the year funds were appropriated. Therefore, it is necessary to defer these funds. This action is consistent with FAA's full funding approach and Congressional intent to provide multi-year funding for the total costs of projects. This action is taken under provisions of the Antideficiency Act (31 U.S.C. 1512), which authorizes the establishment of reserves for contingencies.

Estimated Program Effect: None.

Outlay Effect: None.

1/ This account was the subject of a similar deferral in 1984 (D84-14).

Deferral No: D85-12

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of the Treasury	New budget authority.... (P.L. 98-371) $4,566,700,000
Bureau: Office of Revenue Sharing	Other budgetary resources 55,400,000
Appropriation title and symbol: Local Government Fiscal Assistance Trust Fund 1/ 20X8111	Total budgetary resources 4,622,100,000
OMB Identification code: 20-8111-0-7-851	Amount to be deferred: Part of year $ 2,500,000
Grant program: [X] Yes [ ] No	Entire year 52,900,000
Type of account or fund: [ ] Annual [ ] Multiple-year (expiration date) [X] No-Year	Legal authority (in addition to sec. 1013): [X] Antideficiency Act [X] Other P.L. 94-488 P.L. 96-604, P.L. 92-512, P.L. 98-45
	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other

Justification: The Secretary of the Treasury must hold in reserve an amount sufficient to meet valid claims from local governments that past revenue sharing payments have been too small. This cumulative unobligated reserve is available to satisfy legitimate claims against the Trust fund for any prior entitlement periods. This unobligated reserve will be further reduced whenever the Secretary determines the amount is adequate to meet foreseeable liabilities against the Trust fund and will be paid to recipients as part of the regular distribution. This action will postpone distribution of the amount in the reserve until necessary adjustments and corrections have been identified. It will also avoid substantial confusion and complexities in the administration of the program. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None.

Outlay Effect: None.

1/ This account is subject to another deferral (D85-13) and was the subject of a similar deferral in 1984 (D84-15).

Deferral No: D85-13

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of the Treasury	New budget authority.... (P.L. 98-371) $4,566,700,000
Bureau: Office of Revenue Sharing	Other budgetary resources 55,400,000
Appropriation title and symbol: Local Government Fiscal Assistance Trust Fund 1/ 20X8111	Total budgetary resources 4,622,100,000
OMB Identification code: 20-8111-0-7-851	Amount to be deferred: Part of year $ 19,900,000
Grant program: [X] Yes [ ] No	Entire year 0
Type of account or fund: [ ] Annual [ ] Multiple-year (expiration date) [X] No-Year	Legal authority (in addition to sec. 1013): [X] Antideficiency Act [X] Other P.L. 94-488 P.L. 96-604, P.L. 92-512, P.L. 98-45
	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other

Justification: The Local Government Fiscal Assistance Trust Fund is the vehicle for disbursement of general revenue sharing funds. This deferral represents payments withheld from various governments involved in annexations or disincorporations and for reasons of non-compliance with the requirements of the Local Government Fiscal Assistance Amendments of 1983. The release of these funds is contingent upon adherence by the various governments to the compliance regulations, and determinations as to which higher level of government is eligible to receive those funds withheld because of annexations and disincorporations. The amount being deferred is the projected carryover of outlays into 1985. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None.

Outlay Effect: None.

1/ This account is subject to another deferral (D85-12) and was the subject of a similar deferral in 1984 (D84-16).

Deferral No: D85-14

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY:
Pennsylvania Avenue Development Corp.

Bureau:

Appropriation title and symbol:
Land Acquisition and Development Fund
42X4084 1/

OMB Identification code:
42-4084-0-3-451

Grant program:
[ ] Yes [X] No

Type of account or fund:
[ ] Annual
[ ] Multiple-year _____ (expiration date)
[X] No-Year

New budget authority..... $ 0
(P.L. _____)
Other budgetary resources 28,461,473
Total budgetary resources 28,461,473

Amount to be deferred:
Part of year $ 0
Entire year 14,300,000

Legal authority (in addition to sec. 1013):
[X] Antideficiency Act
[ ] Other _____

Type of budget authority:
[ ] Appropriation
[ ] Contract authority
[X] Other Borrowing authority

Justification: This account provides funds to acquire private property for redevelopment in the Pennsylvania Avenue project area. In 1974 the PADC land use plan for the eastern sector of the project area was reviewed and updated in light of real estate trends and market conditions. PADC does not plan significant new Federally financed-land acquisition activity in the PADC corridor in 1985. $14.3 million is deferred pursuant to the Antideficiency Act (15 U.S.C. 1512) to establish a reserve for use in specified cases where private sector resources must be supplemented to ensure that new development will be consistent with the updated eastern sector plan. Funds will be released on a case-by-case basis to solve problems when development is delayed by owners declining to sell property at a fair price, title difficulties, or other causes. In most cases, PADC would purchase the property for later resale to the private sector.

Estimated Program Effect: None.

Outlay Effect: None.

1/ This account was the subject of a similar deferral in 1984 (D84-17).

Deferral No: D85-15

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY:
Railroad Retirement Board

Bureau:

Appropriation title and symbol:
Milwaukee Railroad Restructuring Administration 1/
60X0108

OMB Identification code:
60-0108-0-1-603

Grant program:
[ ] Yes [X] No

Type of account or fund:
[ ] Annual
[ ] Multiple-year _____ (expiration date)
[X] No-Year

New budget authority..... $ 0
(P.L. _____)
Other budgetary resources 231,613
Total budgetary resources 231,613

Amount to be deferred:
Part of year $ 0
Entire year 107,613

Legal authority (in addition to sec. 1013):
[X] Antideficiency Act
[ ] Other _____

Type of budget authority:
[X] Appropriation
[ ] Contract authority
[ ] Other _____

Justification: This account funds the administrative expenses incurred by the Board in disbursing benefit payments under the Milwaukee Railroad Restructuring Act. The Board estimates that only $124,000 in administrative expenses will be needed in 1985, and $107,613 will either be needed in 1986 or will be returned to the Treasury at the expiration of the program. The deferral is made under the provisions of the Anti-deficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None.

Outlay Effect: None.

1/ This account was the subject of a similar deferral in 1984 (D84-18).

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Part V

Department of Defense

Corps of Engineers, Department of the Army

33 CFR Parts 320, 323, 325, and 330

Final Regulations for Controlling Certain Activities in Waters of the United States

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DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Parts 320, 323, 325, and 330

Final Regulations for Controlling Certain Activities in Waters of the United States

AGENCY: Army Corps of Engineers, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Army is amending the Corps of Engineers permit regulations for controlling certain activities in the waters of the United States. This final rule is published to comply with requirements of a settlement agreement reached in *National Wildlife Federation* v. *Marsh*, No. 82-3632 (D.D.C. December 22, 1982). These changes include several policy and procedural changes and modifications to certain nationwide permits. The major effect of this rule is to establish reporting requirements and procedures.

EFFECTIVE DATE: October 5, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Sam Collinson or Mr. Bernie Goode, Regulatory Branch, (202) 272-0199

SUPPLEMENTARY INFORMATION: In December of 1982, 16 environmental organizations filed suit against the Department of the Army and the U.S. Environmental Protection Agency (*NWF* v. *Marsh*) over several provisions of the Corps of Engineers interim final regulations published on July 22, 1982 (47 FR 31794). Nine industrial groups intervened in support of the Army and EPA. On February 10, 1984, the court approved a settlement agreement between the plaintiffs and defendants whereby the Army agreed to publish regulations proposing several policy and procedural changes and modifications to certain nationwide permits. The settlement agreement was endorsed by the Army, EPA, the Department of Justice, the 16 environmental organizations, and two industrial groups. The Army believes the settlement agreement strikes a reasonable balance between environmental protection and an effective and responsive regulatory program. The settlement agreement did not commit the Army to promulgate any particular final regulations. All comments received on the March 29, 1984, proposed regulations were evaluated and considered in promulgating these final regulations.

Environmental Documentation

We have determined that this action does not constitute a major federal action significantly affecting the quality of the human environment.

Appropriate environmental documentation is prepared for all permit decisions. Environmental assessments for each of the nationwide permits issued today are available from the Corps of Engineers. We determined that, considering the potential impacts, required conditions, discretionary authority and best management practices, none would require preparation of an environmental impact statement.

Public Comments

We received over 150 comments on the March 29, 1984, proposed regulations (49 FR 12660), which comments covered a full range of views. We also received nearly 200 comments on the July 22, 1982, interim final regulations (47 FR 31794) and nearly 500 comments on the May 12, 1983, proposed regulations (48 FR 21466). The comments on the 1982 and the 1983 regulations which pertained to provisions of the March 29, 1984, regulations were also considered in the development of these final regulations. The comments on the 1982 and the 1983 regulations which do not pertain to the provisions of the March 29, 1984, proposal will be considered during the development of those final regulations. The March 29, 1984, proposals were adopted as published except for changes in § 330.4(b), 330.5(a), 330.5(a)(17), and 330.5(a)(26). A new § 330.5(c) has been added. See discussion below.

Part 320—General Regulatory Policies

Section 320.4(a)(1)

In accordance with the proposal, this paragraph clarifies the fact that no 404 permit can be issued unless it complies with the 404(b)(1) guidelines. If a proposed action complies with the guidelines, a permit will be issued unless the district engineer determines that it will be contrary to the public interest. A number of commenters were concerned that this section now shifts the "burden of proof" with respect to the public interest from the applicant to the Corps. As a practical matter, both the current wording and the wording being adopted by this change describe the same public interest balancing process. The district engineer may issue a permit when he has determined, after weighing the benefits and detriments of a proposal, that the activity requiring a permit will not be harmful to the public interest. The responsibility for weighing the benefits of a proposed activity against the detriments has always been and remains vested in the Corps of Engineers.

Section 320.4(b)(4)

In accordance with the proposal, this paragraph states that the district engineer will apply the 404(b)(1) guidelines (40 CFR 230.10(a) (1), (2), (3)) in evaluating whether a particular discharge of dredged or fill material into waters of the United States shall be permitted.

Section 320.4(c)

In accordance with the proposal, the last sentence of this paragraph states that district engineers will give "full consideration" to the views of federal and state fish and wildlife agencies in permit decisions. Many commenters misunderstood the intent of this change. They believed that the effect of changing the wording from "great weight" to "full consideration" placed unwarranted significance on these resource agency views. Some suggested this amounted to a veto power for federal and state agencies that was beyond the scope of section 404. Other commenters saw the change as having just the opposite effect (i.e., weakening the degree of consideration given to resource agency comments). The intent and the probable effect of the change in modifiers have largely been misinterpreted. The basis for making the change to "full consideration" was to reflect the statutory language of the Fish and Wildlife Coordination Act; this term is also consistent with the National Environmental Policy Act and other legal authority.

Section 320.4(g)

In accordance with the proposal, this paragraph recognizes the right to reasonable private use of property as a factor in the public interest review. Comments on this paragraph covered a broad range of views, some supporting the change, others feeling that this change adversely impacts individual property rights. The expectations and wishes of a private property owner have been generally considered in the processing of permit applications, even though these rights were not hitherto explicitly listed as a factor in the Corps public interest review. These expectations may not prevail when public interest considerations lead to denial or conditioning of a permit.

Section 320.4(j)(2)

In accordance with the proposal, this paragraph clarifies that the district

engineer will normally consider the decisions of state, local, and tribal governments on land use matters to be conclusive as to this factor in the public interest review. Many commenters interpreted this change to mean that the Corps would automatically base its permit decisions on existing or planned zoning or land use designations, or on the permit decisions of a state, local or tribal government rather than its current objective public interest review. This interpretation is not correct. Land use is one of several factors considered by the Corps in the public interest review (33 CFR 320.4(a)). The intent of this paragraph is to recognize that the primary responsibility for addressing this factor (i.e., local zoning and/or land use matters) rests with state, local and tribal governments. When a state, local, or tribal government gives its zoning or other land use approval for a particular project, this will be considered conclusive for this factor. However, the Corps will continue to perform a thorough, objective evaluation of each application in full compliance with applicable regulations and laws.

Part 323—Permits for Discharges of Dredged or Fill Material Into Waters of the United States

Section 323.4(a)(3)

In accordance with the proposal, this paragraph clarifies the types of appurtenant structures to irrigation facilities for which the discharges associated with such structures are exempt from the provisions of these regulations unless otherwise regulated under paragraphs (b) and (c) of this section. The comments on this paragraph of the proposal were reviewed by EPA and the following discussion was prepared by that agency in light of its responsibility to interpret section 404(f).

While a number of commenters supported the language of this paragraph as written, others suggested revisions which, as discussed below, EPA does not believe are necessary.

Several commenters requested the restoration of the sentence from the 1982 regulations implementing the 404(f) irrigation ditch exemption which stated that the exemption did not include discharges which had the effect of bringing waters of the United States into a use to which they were not previously subject or where the flow or circulation of such waters may be impaired or their reach reduced. The commenters were concerned that this deletion would widen the scope of the exemption. However, the removal of this sentence has no effect on the scope of the exemption. The sentence was deleted from § 323.4(a)(3) simply because it duplicated § 323.4(c), which already applied a comparable limitation to all the section 404(f) exemptions, including the irrigation ditch exemption, in accordance with the requirements of section 404(f)(2).

Two commenters requested a size limitation to prevent serious fish and wildlife losses from damming of a stream to take all its water for irrigation under this exemption. EPA does not believe that such a size limitation is necessary in light of the safeguards provided by section 404(f)(2), as reflected in § 323.4(c). Furthermore, while the list of types of facilities in the revised regulations is not all-inclusive, as one commenter correctly noted, it is intended to give a general indication of the scale and nature of associated facilities which are "appurtenant and functionally related to irrigation ditches." Thus, discharges associated with major dams and diversion projects and other large-scale facilities which are not subsidiary to irrigation ditches are clearly not included in the exemption.

One commenter suggested revising the phrase "functionally related to irrigation ditches" to read "directly related to irrigational structures." We have retained the word "functionally" because EPA believes it more clearly expresses the intent of this exemption. The word "ditches" has been retained because that is the statutory language.

Several commenters suggested additional changes or clarifications to the section 404(f) regulations, particularly to the exemption for drainage ditches. EPA and Army will take those comments under consideration if changes to those provisions are proposed in the future.

Section 323.6(a)

In accordance with the proposal, this paragraph states that district engineers will deny permits for discharges which fail to comply with the 404(b)(1) guidelines, unless the economic impact on navigation and anchorage necessitates permit issuance pursuant to section 404(b)(2) of the Clean Water Act.

The majority of commenters supported this clarification of the role of the 404(b)(1) guidelines in the public interest review process. One commenter recommended that the provision state that compliance with the guidelines should be a prerequisite to the issuance of 404 permits and that the additional factors of the public interest review would be a separate basis for denial but could not be used to offset an unfavorable finding under the guidelines. This is, in fact, required by the revisions to this paragraph. Although no 404 permit can be issued unless compliance with the 404(b)(1) guidelines is demonstrated (i.e., compliance is a prerequisite to issuance), the 404(b)(1) evaluation is conducted simultaneously with the public interest review set forth in 33 CFR 320.4(a). Therefore, we believe the proposed language already reflects our intent.

Part 325—Permit Processing

Section 325.3(b)

In accordance with the proposal, this paragraph clarifies the public notice procedures for any new general permit, or for the modification or reissuance of existing general permits. Public notices will contain a statement of availability of information confirming that the activities to be covered by the proposed general permit comply with general permit requirements. Existing paragraphs (b) and (c) have been renumbered (c) and (d). The majority of commenters supported adoption of this paragraph as proposed. One commenter requested that language be incorporated to require all items enumerated in § 325.3(a) (1) through (16) be included in the public notice. Some of the listed information requirements are not applicable to general permits. We believe that the adopted regulations require that all information necessary to provide a clear understanding of a proposal be included in the public notice.

Section 325.4

In accordance with the proposal, this section clarifies the district engineer's authority to condition permits and to identify those circumstances wherein he will deny permits if conditions which are necessary to protect the public interest cannot be reasonably implemented or enforced, or cannot otherwise be required. This section also provides that under certain conditions off-site mitigation may be required. Some commenters questioned the basis for requiring the incorporation of 401 water quality certification conditions in Corps permits. Section 401(d) of the Clean Water Act requires that such conditions become conditions of any federal permit or license. Most commenters supported these changes.

Part 330—Nationwide Permits

Section 330.4

In accordance with the proposal, the former § 330.4 has been replaced with a new section discussing public notice requirements for nationwide permits. The nationwide permits formerly found

in this section have been consolidated and placed in § 330.5(a)(26). This change was supported by most commenters. Some confusion was expressed concerning the district engineer's role in the public notice process. District engineers are required to issue public notices of the final issuance of nationwide permits by the Chief of Engineers on a local basis concurrently with publication in the Federal Register, including any regional conditions which have been adopted by the division engineer.

Section 330.5

In accordance with the proposal, the introductory text of this section and § 330.5(a) (7), (17), (21), and (23) have been modified and § 330.5(a)(26) has been added. Over 100 individual comments were received in response to the proposed changes in this section. The majority of these comments addressed the nationwide permit at paragraph (a)(26). However, many were concerned about other changes or revisions to this section. These comments are discussed below.

Sections 330.5(a) (7), (17), (21)

These nationwide permits have been modified to include reference to new § 330.7. Some commenters questioned how the district engineer and the resource agencies would be notified of proposed activities under these permits. The existing notification procedures required by the National Pollutant Discharge Elimination System (NPDES) program, Federal Energy Regulatory Commission (FERC) licensing process, and Title V of the Surface Mining Act respectively provide notice to the Corps and resource agencies so that their concerns, if any, can be forwarded to the district engineer for his action pursuant to the requirements of § 330.7(c)(2). Section 330.7(c)(3) requires notification to EPA and the state water quality agencies since the surface mining process does not assure this notification. An additional notification beyond these procedures is not necessary. In § 330.5(a)(17), the proposal has been changed to substitute "Federal Energy Regulatory Commission" for "Department of Energy" to more accurately identify the agency which licenses small hydropower projects.

Section 330.5(a)(23)

This nationwide permit has been modified to require that the Chief of Engineers solicit comments through a Federal Register notice on another agency's categorical exclusions prior to authorizing them under this permit. Several commenters questioned whether previously authorized categorical exclusions could also be subjected to these provisions and, if so, the new procedure would be redundant, costly, and could result in significant delays of some projects. The categorical exclusions which have already been authorized by the Chief of Engineers are not subject to the requirements of this paragraph unless modifications or additions are proposed in the future. Federal Highway/Urban Mass Transportation Agency exclusions (23 CFR 771.115, October 30, 1980) and the U.S. Coast Guard exclusions published May 10, 1980 (45 FR 32218) are the only exclusions previously authorized. Future consideration of agency categorical exclusions for purposes of this nationwide permit will be subject to the provisions of these regulations.

Section 330.5(a)(26)

This nationwide permit modifies the headwaters and isolated waters permits previously found at § 330.4(a) (1) and (2). Many commenters raised questions concerning the definition of the term "loss or substantial adverse modification" and indicated that there was a need for a definition of that term. The "loss" portion of this term generally includes all discharges of dredged or fill material which result in an area no longer being a water of the U.S. The "substantial adverse modification" portion of this term does not refer to all effects on the aquatic system, but rather only to modifications that are *substantial* and *adverse*. Generally, a substantial adverse modification occurs when a discharge eliminates the principal valuable functions of a water of the United States (including wetlands) even though the discharge does not convert the water to dry land. The Corps will monitor the use of this term to determine if further guidance is necessary.

A number of commenters expressed concern with the acreage limitation, explaining that wetland areas and open water areas vary greatly in value; thus, the modification of a 10-acre area in some locations might not create more than minimal adverse environmental impacts, while the loss of 1 acre in another location could be very significant in terms of environmental impacts. It is for exactly these reasons that the provisions for notification and evaluation in § 330.7 were developed, and the provisions for exercising discretionary authority were provided in § 330.8. The Corps is aware of the gradations in values associated with widely differing areas and believes that the regulations being adopted by this rule provide an appropriate mechanism to fully evaluate these areas and to assure conformance of any proposed activity with general permit criteria.

Minor word changes have been made in this paragraph to clarify the exclusion of activities from this permit. In addition, the reference to 33 CFR 323.2(a)(3) has been deleted to correct a previous error which included this reference to 1980 proposed language which was not adopted.

Section 330.5(c)

A significant number of commenters expressed concern about the impact of these regulations on ongoing projects and supported the inclusion of a "grandfathering" provision to prevent inequitable impacts on previously authorized projects. In adopting these regulations, we considered how to avoid retroactive applications of these regulations which would frustrate the expectations of permittees who justifiably relied on the previous permits modified and reissued herein. Yet we were also mindful of the need to achieve the goals of these regulations. We determined that an equitable transition procedure was necessary to prevent the injustice of imposing new regulatory obligations upon permittees who had adhered to and justifiably relied on the previous regulations.

In § 330.5(c), we set out the procedures to "grandfather" discharges previously authorized by the nationwide permits (§ 330.4(a) (1) and (2) of the July 22, 1982, Interim Final Regulation) modified and reissued at § 330.5(a)(26). Section 330.5(c) includes three ways discharges may continue under these previous authorizations for 18 months from the effective date of these regulations. First, the discharge may continue if it was commenced or under contract to commence by the effective date of these regulations. Second, the discharge may continue if the permittee had received written authorization by March 29, 1984, from the Corps stating the specific discharge was authorized by the previous nationwide permits modified and reissued herein at § 330.5(a)(26) *and* has obtained by the effective date of these regulations all federal, state or local permits or approvals required for the specific discharge to begin. Permittees discharging under the two "grandfathering" criteria above must provide documents demonstrating compliance within 60 days of the effective date of these regulations. Third, district engineers may "grandfather" other discharges not meeting the two grandfathering criteria above after determining the discharge

complies with the 404(b)(1) guidelines. To be eligible for such "grandfathering," permittees must demonstrate to the district engineer within 60 days of the effective date of these regulations, investments made toward the discharge in reliance on the previous authorization of the nationwide permits modified and reissued at § 330.5(a)(26) which cannot be modified to comply with these regulations without causing substantial loss to the permittee. The previous authorization under any of these three criteria for grandfathering discharges continues for 18 months from the effective date of these regulations. After 18 months, any new or remaining discharges must meet the terms of these regulations.

Discharges previously authorized by the nationwide permits modified and reissued at § 330.5(a)(7), (17) and (21) continue to be authorized by these permits.

Section 330.7

In accordance with the proposal, this new section establishes procedures to be followed by district and division engineers upon receipt of pre-discharge notifications. Many of the comments received addressed specific portions of this section and are discussed in the following paragraphs; however, a large majority of responses stated that 20 days is inadequate to carry out the required notifications, reviews, and decisions required by this section. It is not intended that a "full public interest review" type evaluation be completed during this period, but rather that activities which do not meet the criteria for coverage by the nationwide permits might be identified and the proper action taken to require individual permits, if appropriate. Twenty days has been determined to be a reasonable period in which to make this evaluation and to notify the project sponsor of the need for an individual permit or that he may proceed under the nationwide permit. However, in order to meet this time limit, coordination procedures making the maximum use of telephonic and electronic mail exchanges between the federal and state agencies and the Corps districts will be developed as necessary.

Section 330.7(a)(2)

Two commenters suggested that the proposed paragraph be modified to read "if notified by the district or division engineer that an individual permit *will* be required * * *" rather than "* * * *may* be required." They considered this change to be necessary to assure that decisions required by the notification procedures will be made within the allowable 20-day period. These commenters believed that use of the word "may" would allow the Corps to notify an applicant in accordance with this paragraph that he could not proceed under the nationwide permit, but would not require the Corps to make any final decision on the need for an individual permit within the 20-day period. This interpretation is not correct. The Corps must, in all but exceptional cases, make a final decision on the need for an individual permit within the 20-day period. The Corps will notify an applicant that an individual permit *may* be required *only* when unusual circumstances point to the need for an individual permit yet prevent the Corps from making such a finding without a limited additional time.

Section 330.7(c)(1)

Some commenters were uncertain about the nature of the review process to be followed by district engineers. Upon receipt of notification for a discharge which will cause the loss or substantial adverse modification of 1 or more but less than 10 acres of waters including wetlands above the headwaters or in isolated waters, the district engineer will determine whether the activity is in a "class of discharge" or "category of waters" identified as of "particular interest" to a resource agency or otherwise would be of interest to those agencies. He will coordinate with those agencies and provide his recommendation to the division engineer.

Section 330.7(d)

Several commenters were concerned that division engineers are required to document any decision authorizing an activity under a nationwide permit that would be contrary to the views of resource agencies, but that division engineers are not specifically required to document a determination to require an individual permit. Division engineers will document all determinations, providing information concerning the basis for requiring individual permits, as well as the final determination. If a decision is made to require an individual application, the requirements of Parts 320 through 325 of the Corps regulations will be implemented.

Section 330.8

No comments were received on the proposed change. Revisions to this section have been adopted as proposed.

State Certification of Nationwide Permits

In our proposed rulemaking of March 29, 1984 (49 FR 12660), we restated our earlier intention to allow all states to reconsider certification of the nationwide permits (NWPs) pursuant to section 401 of the Clean Water Act. Also, states with approved coastal zone management plans were allowed to reconsider consistency determinations under the Coastal Zone Management Act. Some states have denied 401 certification and/or CZM consistency concurrence for one or more of the five NWPs being reissued today. Accordingly, authorization for any such activities is denied without prejudice in those states pursuant to 33 CFR 320.4(j)(1). Also many states granted conditional water quality certification to one or more of the NWPs and in some states final action on certification/consistency concurrence is still pending and imminent. Concurrently with the publication of those final regulations, district engineers will be issuing public notices for the five NWPs being reissued today. Notices will identify states which have denied certification/CZM consistency concurrence, states which have granted conditional water quality certification for one or more of the five NWPs, and states where certification/consistency concurrence is still pending. Applicants considering a project or activity defined by the NWPs referenced above and located in such a state are advised to check with the district engineer regarding eligibility under the NWPs. In those states which raised concerns, but have not updated their final position on certification/consistency concurrence, we will continue to use their position as taken for the NWPs adopted on July 22, 1982, until the final action has been taken on certification/consistency concurrence or waived in accordance with statutory requirements.

Determinations under Executive Order 12291 and the Regulatory Flexibility Act

The Department of the Army has determined that the proposed regulation revisions do not contain a major proposal requiring the preparation of a regulatory analysis under E.O. 12291. The Department of the Army certifies, pursuant to section 605(b) of the Regulatory Flexibility Act of 1980, that these regulations will not have a significant economic impact on a substantial number of entities.

Note 1.—The term "he" and its derivatives used in these regulations are generic and should be considered as applying to both male and female.

List of Subjects

33 CFR Part 320

Environmental protection, Intergovernmental relations, Navigation, Water pollution control, Waterways.

33 CFR Part 323

Navigation, Water pollution control, Waterways.

33 CFR Part 325

Administrative practice and procedure, Intergovernmental relations, Environmental protection, Navigation, Water pollution control, Waterways.

33 CFR Part 330

Navigation, Water pollution control, Waterways.

Dated: September 10, 1984.

Robert K. Dawson,

Acting Assistant Secretary of the Army (Civil Works).

Accordingly, the Department of the Army is amending 33 CFR Parts 320, 323, 325, and 330 as set forth below:

Authority: 33 U.S.C. 401 *et seq.*, 33 U.S.C. 1344, 33 U.S.C. 1413.

PART 320—GENERAL REGULATORY POLICIES

1. Section 320.4 is amended by revising paragraphs (a)(1), (b)(4), (c), (g) introductory text, (g)(1), and (j)(2) to read:

§ 320.4 General policies for evaluating permit applications.

* * * * *

(a) *Public interest review.* (1) The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity and its intended use on the public interest. Evaluation of the probable impacts which the proposed activity may have on the public interest requires a careful weighing of all those factors which become relevant in each particular case. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. The decision whether to authorize a proposal, and if so the conditions under which it will be allowed to occur, are therefore determined by the outcome of the general balancing process. That decision should reflect the national concern for both protection and utilization of important resources. All factors which may be relevant to the proposal must be considered including the cumulative effects thereof. Among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people. For activities involving 404 discharges, a permit will be denied if the discharge that would be authorized by such permit would not comply with the Environmental Protection Agency's 404(b)(1) guidelines. Subject to the preceding sentence and any other applicable guidelines or criteria (see §§ 320.2 and 320.3), a permit will be granted unless the district engineer determines that it would be contrary to the public interest.

* * * * *

(b) * * *

(4) No permit will be granted which involves the alternation of wetlands identified as important by paragraph (b)(2) of this section or because of provisions of paragraph (b)(3) of this section, unless the district engineer concludes, on the basis of the analysis required in paragraph (a) of this section, that the benefits of the proposed alteration outweigh the damage to the wetlands resource. In evaluating whether a particular discharge activity should be permitted, the district engineer shall apply the section 404(b)(1) guidelines (40 CFR 230.10(a)(1), (2), (3)).

* * * * *

(c) *Fish and wildlife.* In accordance with the Fish and Wildlife Coordination Act (see § 320.3(e) of this part), district engineers will consult with the Regional Director, U.S. Fish and Wildlife Service, the Regional Director, National Marine Fisheries Service, and the head of the agency responsible for fish and wildlife for the state in which work is to be performed, with a view to the conservation of wildlife resources by prevention of their direct and indirect loss and damage due to the activity proposed in a permit application. The Army will give full consideration to the views of those agencies on fish and wildlife considerations in deciding on the issuance, denial, or conditioning of individual or general permits.

* * * * *

(g) *Consideration of property ownership.* Authorization of work or structures by the Department of the Army does not convey a property right, nor authorize any injury to property or invasion of other rights.

(1) An inherent aspect of property ownership is a right to reasonable private use. However, this right is subject to the rights and interests of the public in the navigable and other waters of the United States, including the federal navigation servitude and federal regulation for environmental protection.

* * * * *

(j) * * *

(2) The primary responsibility for determining zoning and land use matters rests with state, local, and tribal governments. The district engineer will normally accept decisions by such governments on those matters unless there are significant issues of overriding national importance. Such issues would include but are not necessarily limited to national security, navigation, national economic development, water quality, preservation of special aquatic areas, including wetlands, with significant interstate importance, and national energy needs. Whether a factor has overriding importance will depend on the degree of impact in an individual case.

* * * * *

PART 323—PERMITS FOR DISCHARGES OF DREDGED OR FILL MATERIAL INTO WATERS OF THE UNITED STATES

2. Section 323.4 is amended by revising paragraph (a)(3) to read:

§ 323.4 Discharges not requiring permits.

(a) * * *

(3) Construction or maintenance of farm or stock ponds or irrigation ditches, or the maintenance (but not construction) of drainage ditches. Discharges associated with siphons, pumps, headgates, wingwalls, weirs, diversion structures, and such other facilities as are appurtenant and functionally related to irrigation ditches are included in this exemption.

* * * * *

3. Section 323.6 is amended by revising paragraph (a) to read:

§ 323.6 Special policies and procedures.

(a) The Secretary of the Army has delegated to the Chief of Engineers the authority to issue or deny section 404 permits. The district engineer will review applications for permits for the discharge of dredged or fill material into waters of the United States in accordance with guidelines promulgated by the Administrator, EPA, under authority of section 404(b)(1) of the Clean Water Act (see 40 CFR Part 230). Subject to consideration of any economic impact on navigation and anchorage pursuant to section 404(b)(2), a permit will be denied if the discharge

that would be authorized by such permit would not comply with the 404(b)(1) guidelines. If the district engineer determines that the proposed discharge would comply with the 404(b)(1) guidelines, he will grant the permit unless issuance would be contrary to the public interest.

* * * * *

PART 325—PROCESSING OF DEPARTMENT OF THE ARMY PERMITS

4. Section 325.3 is amended by adding a new paragraph (b) and redesignating paragraphs (b) and (c) as (c) and (d) respectively as follows:

§ 325.3 Public notice.

* * * * *

(b) *Public notice for general permits.* District engineers will publish a public notice for all proposed regional permits and for significant modifications to, or reissuance of, existing regional permits within their area of jurisdiction. Public notices for statewide regional permits may be issued jointly by the affected Corps districts. The notice will include all applicable information necessary to provide a clear understanding of the proposal. In addition, the notice will state the availability of information at the district office which reveals the Corps' provisional determination that the proposed activities comply with the requirements for issuance of general permits. District engineers will publish a public notice for nationwide permits in accordance with 33 CFR 330.4.

(c) *Evaluation factors.* * * *

(d) *Distribution of public notices.*

* * *

5. Section 325.4 is revised to read:

§ 325.4 Conditioning of permits.

(a) District engineers will add special conditions to Department of the Army permits when such conditions are necessary to satisfy legal requirements or to otherwise satisfy the public interest requirement. Permit conditions will be directly related to the impacts of the proposal, appropriate to the scope and degree of those impacts, and reasonably enforceable.

(1) Legal requirements which may be satisfied by means of Corps permit conditions include compliance with the 404(b)(1) guidelines, the EPA ocean dumping criteria, the Endangered Species Act, and requirements imposed by conditions on state section 401 water quality certifications.

(2) Where appropriate, the district engineer may take into account the existence of controls imposed under other federal, state, or local programs which would achieve the objective of the desired condition, or the existence of an enforceable agreement between the applicant and another party concerned with the resource in question, in determining whether a proposal complies with the 404(b)(1) guidelines, ocean dumping criteria, and other applicable statutes, and is not contrary to the public interest. In such cases, the Department of the Army permit will be conditioned to state that material changes in, or a failure to implement and enforce such program or agreement, will be grounds for modifying, suspending, or revoking the permit.

(3) Such conditions may be accomplished on-site, or may be accomplished off-site for mitigation of significant losses which are specifically identifiable, reasonably likely to occur, and of importance to the human or aquatic environment.

(b) District engineers are authorized to add special conditions, exclusive of paragraph (a) of this section, at the applicant's request or to clarify the permit application.

(c) If the district engineer determines that special conditions are necessary to insure the proposal will not be contrary to the public interest, but those conditions would not be reasonably implementable or enforceable, he will deny the permit.

(d) *Bonds.* If the district engineer has reason to consider that the permittee might be prevented from completing work which is necessary to protect the public interest, he may require the permittee to post a bond of sufficient amount to indemnify the government against any loss as a result of corrective action it might take.

PART 330—NATIONWIDE PERMITS

6. Section 330.4 is revised to read as follows:

§ 330.4 Public notice.

(a) *Chief of Engineers.* Upon proposed issuance of new nationwide permits, modification to, or reissuance of, existing nationwide permits, the Chief of Engineers will publish a notice in the Federal Register seeking public comments and including the opportunity for a public hearing. This notice will state the availability of information, at the Office of the Chief of Engineers and at all district offices, which reveals the Corps' provisional determination that the proposed activities comply with the requirements for issuance under general permit authority. The Chief of Engineers will prepare this information which will be supplemented, if appropriate, by division engineers.

(b) *District engineers.* Concurrent with publication in the Federal Register of new or reissued nationwide permits by the Chief of Engineers, district engineers will so notify the interested public within the district by an appropriate notice. The notice will include any applicable regional conditions adopted by the division engineer.

7. Section 330.5 is amended by revising the section heading, the introductory text of paragraph (a), paragraphs (a)(7), (a)(17), (a)(21), and (a)(23) and adding paragraphs (a)(28) and (c) as follows:

§ 330.5 Nationwide permits.

(a) *Authorized activities.* The following activities, including discharges of dredged or fill material, are hereby permitted provided the conditions listed in paragraph (b) of this section and the notification procedures, where required, of § 330.7 are met. *Comment.* Because some states have denied water quality certification/coastal zone consistency for some nationwide permits reissued herein and many states have granted conditional water quality certification, applicants should check with the district engineer regarding eligibility under the nationwide permits.

* * * * *

(7) Outfall structures and associated intake structures where the effluent from that outfall has been permitted under the National Pollutant Discharge Elimination System program (section 402 of the Clean Water Act) (see 40 CFR Part 122) provided that the district or division engineer makes a determination that the individual and cumulative adverse environmental effects of the structure itself are minimal in accordance with §§ 330.7 (c)(2) and (d). Intake structures *per se* are not included—only those directly associated with an outfall structure are covered by this nationwide permit.

* * * * *

(17) Fills associated with small hydropower projects at existing reservoirs where the project which includes the fill is licensed by the Federal Energy Regulatory Commission under the Federal Power Act of 1920, as amended; has a total generating capacity of not more than 1500 kw (2,000 horsepower); qualifies for the short-form licensing procedures of the Federal Energy Regulatory Commission (see 18 CFR 4.61); and the district or division engineer makes a determination that the individual and cumulative adverse effects on the environment are minimal

in accordance with §§ 330.7 (c)(2) and (d).

* * * * *

(21) Structures, work, and discharges associated with surface coal mining activities provided they are authorized by the Department of the Interior, Office of Surface Mining, or by states with approved programs under Title V of the Surface Mining Control and Reclamation Act of 1977; the appropriate district engineer is given the opportunity to review the Title V permit application and all relevant Office of Surface Mining or state (as the case may be) documentation prior to any decision on that application; and the district or division engineer makes a determination that the individual and cumulative adverse effects on the environment from such structures, work, or discharges are minimal in accordance with §§ 330.7 (c)(2) and (3) and (d).

* * * * *

(23) Activities, work, and discharges undertaken, assisted, authorized, regulated, funded, or financed, in whole or in part, by another federal agency or department where that agency or department has determined, pursuant to the CEQ Regulation for Implementing the Procedural Provisions of the National Environmental Policy Act (40 CFR Part 1500 *et seq.*), that the activity, work, or discharge is categorically excluded from environmental documentation because it is included within a category of actions which neither individually nor cumulatively have a significant effect on the human environment, and the Office of the Chief of Engineers (ATTN: DAEN–CWO–N) has been furnished notice of the agency's or department's application for the categorical exclusion and concurs with that determination. Prior to approval for purposes of this nationwide permit of any agency's categorical exclusions, the Chief of Engineers will solicit comments through publication in the **Federal Register**.

* * * * *

(26) Discharges of dredged or fill material into the waters listed in paragraphs (a)(28) (i) and (ii) of this section except those which cause the loss or substantial adverse modification of 10 acres or more of waters of the United States, including wetlands. For discharges which cause the loss or substantial adverse modification of 1 to 10 acres of such waters, including wetlands, notification of the district engineer is required in accordance with § 330.7 of this section.

(i) Non-tidal rivers, streams, and their lakes and impoundments, including adjacent wetlands, that are located above the headwaters.

(ii) Other non-tidal waters of the United States, including adjacent wetlands, that are not part of a surface tributary system to interstate waters or navigable waters of the United States (i.e., isolated waters).

* * * * *

Grandfathering. (1) Discharges previously authorized by the nationwide permits (§ 330.4(a) (1) and (2) of the July 22, 1982, Interim Final Regulation) modified and reissued at § 330.5(a)(26) continue to be authorized by those nationwide permits for 18 months from the effective date of this regulation if:

(i) The discharge was commenced or under contract to commence by the effective date of this regulation *or*

(ii) The permittee had

(A) By March 29, 1984, received written confirmation from the Corps stating that the Corps considered the specific discharge in question and determined it was previously authorized by the nationwide permits modified and reissued at § 330.5(a)(26) *and*

(B) By the effective date of this regulation, obtained all necessary pre-discharge approvals or permits required by federal, state or local laws or regulations.

(2) Permitting discharging under paragraph (c)(1) of this section must provide documents demonstrating compliance to the district engineer on or before October 5, 1984. These documents will become a part of the public record. The district engineer will notify such permittees whether they meet the criteria of paragraph (c)(1) of this section within 15 days of receipt of such documents.

(3) If a permittee cannot meet the criteria of § 330.5(c)(1), but can otherwise demonstrate to the district engineer on or before October 5, 1984, investments made toward the discharge in reliance on the previous authorizations of the nationwide permits modified and reissued at § 330.5(a)(26) which cannot be modified to comply with 33 CFR Parts 320–330 without substantial loss to the permittee, then the district engineer may allow the discharge to proceed for 18 months from the effective date of this regulation if and when he determines the discharge complies with the section 404(b)(1) guidelines.

(4) After 18 months from the effective date of this regulation, the permittee must follow 33 CFR Parts 320–330 for any new or remaining discharges.

(5) This section shall not set aside, alter, prevent or affect any past, present, or future assertion of the division engineer's authority to require an individual permit under either § 330.7 of the July 22, 1982, Interim Final Regulation (47 FR 31794) or § 330.8 of this part.

8. Sections 330.7 and 330.8 are redesignated as §§ 330.8 and 330.9 respectively, and a new § 330.7 is added to read as follows:

§ 330.7 Notification procedures.

(a) The general permittee shall not begin discharges requiring pre-discharge notification pursuant to the nationwide permit at § 330.5(a)(26):

(1) Until notified by the district engineer that the work may proceed under the nationwide permit with any special conditions imposed by the district or division engineer; or

(2) If notified by the district or division engineer that an individual permit may be required; or

(3) Unless 20 days have passed from receipt of the notification by the district engineer and no notice has been received from the district or division engineer.

(b) Notification pursuant to the nationwide permit at § 330.5(a)(26) must be in writing and include the information listed below. Notification is not an admission that the proposed work would result in more than minimal impacts to waters of the United States; it simply allows the district or division engineer to evaluate specific activities for compliance with general permit criteria.

(1) Name, address, and phone number of the general permittee;

(2) Location of the planned work;

(3) Brief description of the proposed work, its purpose, and the approximate size of the waters, including wetlands, which would be lost or substantially adversely modified as a result of the work; and

(4) Any specific information required by the nationwide permit and any other information that the permittee believes is appropriate.

(c) *District engineer review of notification.* Upon receipt of notification, the district engineer will promptly review the general permittee's notification to determine which of the following procedures should be followed:

(1) If the nationwide permit at § 330.5(a)(26) is involved and the district engineer determines either: (i) The proposed activity falls within a class of discharges or will occur in a category of waters which has been previously identified by the Regional Administrator, Environmental Protection Agency; the Regional Director, Fish and Wildlife Service; the Regional Director,

National Marine Fisheries Service; or the heads of the appropriate state natural resource agencies as being of particular interest to those agencies; or (ii) the particular discharge has not been previously identified but he believes it may be of importance to those agencies, he will promptly forward the notification to the division engineer and the head and appropriate staff officials of those agencies to afford those agencies an adequate opportunity before such discharge occurs to consider such notification and express their views, if any, to the district engineer concerning whether individual permits should be required.

(2) If the nationwide permits §§ 330.5(a) (7), (17), or (21) are involved and the Environmental Protection Agency, the Fish and Wildlife Service, the National Marine Fisheries Service or the appropriate state natural resource or water quality agencies forward concerns to the district engineer, he will forward those concerns to the division engineer together with a statement of the factors pertinent to a determination of the environmental effects of the proposed discharges, including those set forth in the 404(b)(1) guidelines, and his views on the specific points raised by those agencies.

(3) If the nationwide permit at § 330.5(a)(21) is involved the district engineer will give notice to the Environmental Protection Agency and the appropriate state water quality agency. This notice will include as a minimum the information required by paragraph (b) of this section.

(d) *Division engineer review of notification.* The division engineer will review all notifications referred to him in accordance with paragraph (c)(1) or (c)(2) of this section. The division engineer will require an individual permit when he determines that an activity does not comply with the terms or conditions of a nationwide permit or does not meet the definition of a general permit (see 33 CFR 322.2(f) and 323.2(n)) including discharges under the nationwide permit at § 330.5(a)(26) which have more than minimal adverse environmental effects on the aquatic environment when viewed either cumulatively or separately. In reaching his decision, he will review factors pertinent to a determination of the environmental effects of the proposed discharge, including those set forth in the 404(b)(1) guidelines, and will give full consideration to the views, if any, of the federal and state natural resource agencies identified in paragraph (c) of this section. If the division engineer decides that an individual permit is not required, and a federal or appropriate state natural resource agency has indicated in writing that an activity may result in more than minimal adverse environmental impacts, he will prepare a written statement, available to the public on request, which sets forth his response to the specific points raised by the commenting agency. When the division engineer reaches his decision he will notify the district engineer, who will immediately notify the general permittee of the division engineer's decision.

9. Redesignated § 330.8 is amended by revising the introductory paragraph and adding a new paragraph (d) as follows:

§ 330.8 Discretionary authority.

Except as provided in paragraph (d) of this section, division engineers on their own initiative or upon recommendation of a district engineer are authorized to modify nationwide permits by adding regional conditions or to override nationwide permits by requiring individual permit applications on a case-by-case basis. Discretionary authority will be based on concerns for the aquatic environment as expressed in the guidelines published by EPA pursuant to section 404(b)(1). (40 CFR Part 230)

* * * * *

(d) For the nationwide permit found at § 330.5(a)(26), after the applicable provisions of § 330.7(a) (1) and (3) have been satisfied, the permittee's right to proceed under the general permit may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 325.7.

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Part VI

Department of Health and Human Services

Office of Child Support Enforcement
Social Security Administration

45 CFR Parts 205 and 305

Child Support Enforcement Program; Aid to Families With Dependent Children, Revision of Child Support Enforcement Program Audit Regulations; Proposed Rule

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Child Support Enforcement

Social Security Administration

45 CFR Parts 205 and 305

Child Support Enforcement Program; Aid to Families With Dependent Children; Revision of Child Support Enforcement Program Audit Regulations

AGENCY: Office of Child Support Enforcement (OCSE), and Social Security Administration (SSA), HHS.

ACTION: Notice of Proposed Rulemaking; Withdrawal of Proposed Rulemaking.

SUMMARY: These proposed rules amend Office of Family Assistance (OFA) and Office of Child Support Enforcement (OCSE) regulations at 45 CFR 205.146(d) and Part 305 to implement section 9 of Pub. L. 98–378, the Child Support Enforcement Amendments of 1984. The amendments revise 45 CFR Part 305 to: (1) Require OCSE to conduct an audit of the effectiveness of State Child Support Enforcement programs at least once every three years; (2) require OCSE to use a "substantial compliance" standard to determine whether each State has an effective IV–D child support enforcement program; (3) provide that any State found not to have an effective IV–D program in substantial compliance with the requirements of title IV–D of the Social Security Act (the Act) be given an opportunity to take the corrective action necessary to be in substantial compliance with those requirements; (4) provide for the use of a graduated penalty of not less than one nor more than five percent of a State's Federal AFDC funds if a State is not in substantial compliance with title IV–D of the Act; and (5) specify the period of time during which a penalty is effective. The amendments also revise the penalty for failure to have an effective child support enforcement program provisions at 45 CFR 205.146(d) under title IV–A (aid to families with dependent children) of the Act. Section 9 is effective on and after October 1, 1983.

These proposed regulations also amend Part 305 by adding State plan-related audit criteria and performance-related audit criteria that will be used in addition to existing criteria in determining whether a State has an effective IV–D program.

Finally, we are withdrawing the proposed rule published in the **Federal Register** on October 1, 1980 to amend the audit regulations to provide for a substantial compliance test to determine whether a State has an effective Child Support Enforcement Program.

DATES: Consideration will be given to written comments received by December 4, 1984. Dates of public hearings, are set forth in Supplementary Information.

ADDRESS: Address comments to: Deputy Director, Office of Child Support Enforcement, Department of Health and Human Services, 10th Floor, 6110 Executive Blvd., Rockville, Maryland 20852. ATTN: Policy Branch. The comments will be available for public inspection Monday through Friday, 8:30 a.m. to 5:00 p.m. in Room 1010 of the Department's offices at the above address.

Addresses of public hearings are set forth in **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Michael P. Fitzgerald, Policy Branch, OCSE, (301) 443–5350.

SUPPLEMENTARY INFORMATION:

Public Hearings

To obtain the broadest public participation possible on these proposed rules, we will conduct four public hearings on the dates and at the times and locations listed in the chart below. Any individual who wishes to comment on the contents of this document at any of the hearings must register at least three days prior to the hearing with the appropriate Regional Office contact designated on the chart below. At the time of registration, we ask that prospective participants give identifying information such as name, organization, if any, address and telephone number to the Regional Office contact so that participants can be properly introduced at the hearing.

Comments must be limited to these proposed rules, their implementation, and specific recommendations for change within the constraints of the new law and the Act. Keep in mind that where the statute is explicit, the corresponding regulations will often be a reiteration of the statute. Since we have no authority to change the statute, your presentations and written comments should address only those areas where the statute provides discretion and where we have authority to change the corresponding regulations.

Presentations are limited to 10 minutes. In addition, we encourage participants to submit written comments in support of their oral presentations to the Regional Office contact at the address given in the chart below. We will also accept written comments at the hearings from any participants who would like to submit them. Written comments from individuals not planning to participate in the hearing should be submitted to the address given above for other commenters.

To clarify presentations, we may ask questions. We cannot, however, address participants' concerns regarding these proposed regulations or respond to questions at the hearings. Instead, we will consider comments and recommendations received at the public hearings and written comments, suggestions and recommendations received at the address given above in the final version of these rules.

Date and time	Location of public hearing	Regional office contact and address
October 10, 1984; 8:30 a.m.	Dirksensen Federal Bldg., Court Room 2525, 219 South Dearborn, Chicago, Illinois 60604.	Mr. Kent Wilcox (or) Ms. Gwen Hardaway, Region V, Office of Child Support Enforcement, 10 West Jackson Blvd., 4th floor, Chicago, Illinois 60604, Phone: (312) 886–5425.
October 12, 1984; 8:30 a.m.	Dallas City Hall Council Chambers, 1500 Marilla, Dallas, Texas 75201.	Ms. Tomasia Pinter, Region VI, Office of Child Support Enforcement, Room 8–A–20, 1100 Commerce Street, Dallas, Texas 75242, Phone: (214) 767–3749.
October 15, 1984; 8:30 a.m.	Seattle Center, Mercer Street, Between 3rd & 4th Avenue North, Mercer Forum, Rooms I and II, Seattle, Washington 98121.	Mr. Vince Herberholt (or) Ms. Charlene Allen, Region X, Office of Child Support Enforcement, Third & Broad Bldg., 2901 Third Avenue, Mail Stop 415, Seattle, Washington 98121, Phone: (206) 442–0943.
October 17, 1984; 8:30 a.m.	Dept. of Health and Human Services, North Auditorium, Room 1061, 330 Independence Avenue, SW., Washington, D.C. 20201.	Ms. Catherine McAuliffe, DHHS, Office of Child Support Enforcement, Room 1010 6110 Executive Blvd., Rockville, Maryland 20852, Phone: (301) 443–1981.

If additional copies of this document are needed, please contact the National Reference Center by calling 301–443–5106 or write: National Reference Center, Office of Child Support Enforcement, 6110 Executive Boulevard, Rockville, Maryland 20852.

Statutory Requirements

Section 9 of Pub. L. 98–378 amends sections 402(a)(27), 403(h) and 452(a)(4) of the Act regarding the Child Support Enforcement program audit requirements. Section 402(a)(27) was amended to require a State to operate a Child Support Enforcement program in substantial compliance with the IV–D State plan. Section 452(a)(4) of the Act was amended by replacing the

requirement for an annual review of State IV–D programs with a requirement for a review at least once every three years (or not less than annually in the case of any State which is being penalized, or is operating under a corrective action plan in accordance with section 403(h)). Sections 403(h) and 452(A)(4) of the Act were amended by substituting a "substantial compliance" standard for the existing "full compliance" test used to determine whether a State has an effective IV–D program meeting the requirements of title IV–D of the Act. Section 403(h)(3) now specifies that a State which is not in full compliance with the title IV–D requirements shall be determined to be in substantial compliance with the requirements only if the Secretary determines that any noncompliance with the requirements is of a technical nature which does not adversely affect the performance of the program. Section 403(h) was further amended to provide for a corrective action period and to substitute a graduated penalty for the flat five percent reduction of a State's AFDC funds for quarter beginning after September 30, 1983. Section 403(h)(1) provides for a reduction of not less than one nor more than two percent in an initial finding, not less than two nor more than three percent if the finding is the second consecutive such finding made as a result of a review, or not less than three nor more than five percent if the finding is the third or subsequent finding made as a result of a review. Under section 403(h)(2)(A), a reduction will be suspended for a quarter if: (1) The State submits a corrective action plan within a period specified by the Secretary which contains steps necessary to achieve substantial compliance within a time period the Secretary finds appropriate; (2) the Secretary approves the plan and amendments thereto; and (3) the Secretary finds that the corrective action plan (or any amendment that is approved) is being fully implemented and the State is progressing toward substantial compliance in accordance with the timetable in the plan. Under paragraph (h)(2)(B), the penalty shall be suspended until the Secretary determines that: (1) The State has achieved substantial compliance; (2) the State is no longer implementing its corrective action plan; or (3) the State is implementing or has implemented its corrective action plan but has failed to achieve substantial compliance within the appropriate time period. Under paragraph (h)(2)(C), a penalty shall not be applied to any quarter during a suspension period if the State achieves substantial compliance. It a state is implementing its corrective action plan but fails to achieve substantial compliance within the time period allowed, the penalty will be applied to all quarters ending after the expiration of the suspension period until the first quarter throughout which the State IV–D program is in substantial compliance. If a State is not implementing its corrective action plan, the penalty will be applied as if the suspension had not occurred.

Although these statutory changes are effective beginning October 1, 1983, these proposed regulations have varying effective dates for different provisions as discussed below.

Under the existing section 452(a)(1) of the Act, the Director, OCSE, may establish standards for locating absent parents, establishing paternity and obtaining child support and support for the spouse (or former spouse) with whom the absent parent's child is living as he determines to be necessary to assure that State programs will be effective. The performance indicators in these regulations are proposed under the authority of section 452(a)(1).

Withdrawal of Proposed Regulations.

On October 1, 1980, we published a proposed rule in the **Federal Register** (45 FR 69495) to amend the audit and penalty regulations to provide for a "substantial compliance" test to determine whether a State has an effective Child Support Enforcement program meeting the requirements of section 402(a)(27) of the Act. Because of the enactment of Pub. L. 98–378, we are withdrawing the proposed rule published in October, 1980 and propose instead the changes contained in this document.

Regulatory Provisions

Frequency of Audit

Current regulations at 45 CFR 305.10 require OCSE to conduct an annual audit of State Child Support Enforcement programs to determine whether each State has an effective IV–D program. To implement the provision of the amended section 452(a)(4) of the Act regarding the frequency of audit, the proposed regulations at § 305.10, Audit, would require OCSE to conduct an audit of State IV–D programs, at least once every three years, or at least annually in the case of any State which is being penalized to evaluate the effectiveness of the programs and determine that they meet the requirements of title IV–D of the Act.

Under this provision, OCSE has flexibility regarding the frequency of audit during the three-year period. OCSE may conduct an audit of each State's IV–D program once every two years, continue to conduct annual audits or vary the audit frequency among States (e.g., audit some States twice a year and others every 2 years). OCSE plans to conduct an audit, at least once a year, in any State that is not meeting the performance-related criteria in effect for fiscal year 1986 and any subsequent fiscal year. Nonetheless, we will conduct an audit of each State's IV–D program at least once every three years. We will conduct an audit more frequently than on an annual basis at the request of any State that is being penalized for not meeting State plan-related criteria. States should be aware that any audit conducted in this situation may result in an increased penalty for the State if the State is not found in substantial compliance. The audit will cover a one-year or shorter period (see 45 CFR 305.11).

Current Measurement of Program Effectiveness

Current audit and penalty regulations at 45 CFR Part 305 set forth audit criteria for an effective IV–D program and provide for an annual audit and imposition of the penalty if a State is found not to have an effective program. Those regulations define an effective program as one that is in compliance with each of several specified IV–D State plan requirements. In order to be in compliance with a particular State plan requirement, the State must meet specific regulatory criteria which, for the most part, require States to have and use written procedures to carry out the requirement. Thus, if a determination is made that a State has and uses written procedures and/or meets other criteria with regard to each State plan requirement, the State will not be subject to the penalty.

OCSE has completed annual audits during the past few years. After reviewing the findings, we believe that the audits have encouraged States to establish Child Support Enforcement programs that carry out the activities described in the IV–D State plan. Nevertheless, a State may have and be using procedures for each State plan requirement and not be operating its program in an effective manner. The House of Representatives, Committee on Ways and Means, in House Report No. 98–527, page 44, indicates that the audit should focus on program effectiveness rather than on simple compliance with processes. The Senate, Committee on Finance, in Senate Report No. 98–387, page 32, indicates that the Department

should be developing performance measures which will enable OCSE auditors to determine whether States are effectively attaining each of the important objectives of the program. The Report further indicates that, based on the experience in the program to date, it should be possible to set standards which represent minimum acceptable levels of success in carrying out the various objectives of the Child Support Enforcement program. We agree that, because State IV–D programs have been in operation for nine years, sufficient time has passed to allow States to reach a degree of maturity where it is no longer necessary to focus solely on compliance with the IV–D State plan.

Having reviewed the results of the audits for the first four periods, we have concluded that the current audit regulations do not enable us to adequately measure program effectiveness. We therefore are proposing to revise 45 CFR Part 305, Audit and Penalty, as described below.

Substantial Compliance Standard

In these regulations, we propose that a State must meet both State plan-related audit criteria and performance-related audit criteria to be found to have an effective program.

To implement the provisions of the amended section 402(a)(27) of the Act regarding the use of a substantial compliance standard and section 403(h)(3) of the Act regarding the determination OCSE will make as to whether noncompliance with requirements is of a technical nature that does not adversely affect program performance, we propose to amend the regulations at § 305.20, Audit criteria.

Currently, OCSE regulations at § 305.20(a) list IV–D State plan requirements that a State must satisfy to have an effective IV–D program. To implement substantial compliance, the proposed § 305.20(a)(1) lists ten selected criteria that must be fully met in order for a State to be found to meet the corresponding IV–D State plan requirements. The proposed § 305.20(a)(2) contains nine selected criteria and specifies that the procedures required by each criterion must be used in 75 percent of the cases reviewed in order for the State to be found to meet the corresponding IV–D State plan requirements. These provisions are effective beginning with fiscal year 1984. We consider the 75 percent standard to be rigorous because prior audit findings indicate that many States were not meeting the audit criteria in 75 percent of the cases reviewed. However, we believe that the 75 percent standard is attainable by all States and will strengthen the program by providing the States with a measure of program activity that will encourage improvement. In addition, we believe that the use of a 75 percent standard is reasonable because the audit criteria listed in § 305.20(a)(2) relate to program activities that have been IV–D State plan requirements applicable to all IV–D cases since the inception of the IV–D program in July, 1975. We welcome comment on the appropriateness of the 75 percent standard.

We are proposing at § 305.20(b) to specify additional audit criteria OCSE will use, beginning with the October 1, 1984 through September 30, 1985 audit period, to determine whether the State meets the IV–D State plan requirements contained in 45 CFR Part 302. The proposed § 305.20(b)(1) incorporates the criteria listed in § 305.20(a)(1) and lists seven additional criteria, all of which must be fully met in order for the State to be found to meet the corresponding IV–D State plan requirements. The criteria added beginning in fiscal year 1985 apply only to State plan requirements that were effective before fiscal year 1985. Thus, States were aware of these requirements prior to fiscal year 1985 and we have merely added audit criteria to measure requirements which were effective for that fiscal year.

The proposed § 305.20(b)(2) incorporates the criteria listed in § 305.20(a)(2), lists six additional criteria, and specifies that the procedures required by each criterion must be used in 75 percent of the cases reviewed. As already noted, we believe that the use of a 75 percent standard is both rigorous and reasonable because the audit criteria referred to and listed in § 305.20(b)(2) relate to case activities that have been IV–D State plan requirements since the inception of the IV–D program, or for several years.

We are proposing at § 305.20(c) to specify additional State plan-related audit criteria and new performance-related audit criteria OCSE will use for the period October 1, 1985 through September 30, 1987 to determine whether the State is in substantial compliance with the requirements of title IV–D of the Act. The proposed § 305.20(c)(1) incorporates the criteria listed in § 305.20 (a)(1) and (b)(1) and lists twelve additional criteria, all of which must be fully met in order for the State to be found to meet the corresponding IV–D State plan requirements.

The proposed § 305.20(c)(2) incorporates the criteria listed in § 305.20 (a)(2) and (b)(2), lists ten additional criteria, and specifies that the procedures required by each criterion must be used in 75 percent of the cases reviewed.

The proposed § 305.20(c)(3) requires the State to meet the performance-related audit criteria prescribed in the proposed 45 CFR 305.58(c).

We are proposing at § 305.20(b) to specify State plan-related audit criteria and new performace-related audit criteria OCSE will use, for the period October 1, 1987 through September 30, 1988 and all subseqent audit periods, to determine whether the State has an effective IV–D program in substantial compliance with the requirements of title IV–D of the Act. The proposed § 305.20(d)(1) incorporates the criteria listed in § 305.20 (a)(1), (b)(1) and (c)(1), all of which must be met in order for the State to be found to meet the corresponding IV–D State plan requirements. In addition, the proposed § 305.20(d)(2) incorporates the criteria listed in § 305.20 (a)(2), (b)(2) and (c)(2), each of which must be met for 75 percent of the cases reviewed.

The proposed § 305.20(d)(3) requires the State to meet the audit criteria referred to in § 305.58(d) relating to the performance indicators in § 305.58(a) and (b).

The proposed § 305.20 (a), (b) and (c) do not include all of the State plan-related audit criteria in 45 CFR Part 305. However, they do cover each of the IV–D State plan requirements prescribed in section 454 of the Act. The criteria addressed in § 305.20 involve IV–D functions and activities that we consider to be essential to an effective IV–D program. The criteria that were left out include having staff to perform IV–D functions covered in § 305.20, performing functions and activities that are otherwise covered by criteria in § 305.20, and performing functions and activities we do not consider to be essential to effective program performance. Nonetheless, we may at some later date, as discussed below, revise the criteria addressed in § 305.20 as a result of future audit findings.

OCSE will use only the State plan-related criteria listed or referred tc in § 305.20 (a), (b), (c) and (d) in determining whether a State has an effective program in substantial compliance with the requirements of title IV–D of the Act. Nonetheless, audits of State IV–D programs will cover all of the State plan-related criteria in Part 305 (i.e., §§ 305.21 through 305.36 for the period October 1, 1983 through September 30, 1984, §§ 305.21 through 305.43 for the period October 1, 1984 through September 30, 1985, and §§ 305.21 through 305.56 for all

subsequent periods.) The audit reports will include audit findings on each criterion. After reviewing future audit findings, OCSE may revise § 305.20(c) to include additional audit criteria.

Beginning with the fiscal year 1986 audit period, a State must substantially comply with both State plan-related audit criteria and performance-related audit criteria to be found to have an effective IV–D program. A failure to comply under either set of criteria may result in imposition of the penalty. (See the discussion below under the headings: "Technical Changes to 45 CFR Part 305," for details regarding the deletion of the current § 305.20(b); "Performance Indicators," for details regarding the proposed performance indicators; and "Audit Criteria Relating to Performance Indicators," for details regarding scoring based on the performance indicators.)

The effect of these revisions in the audit and penalty regulations is that a substantial compliance standard as defined in section 403(h)(3) of the Act and § 305.20 will be the basis for determining whether States have effective IV–D programs. Under this standard, the State must, beginning with the fiscal year 1984 audit period, meet selected State plan-related criteria and, beginning with the fiscal year 1986 audit period, meet both selected State plan-related and performance-related criteria to be found to have an effective IV–D program. No failure to meet these criteria may be construed as noncompliance of a technical nature. A State will be subject to the penalty if it fails to meet either the selected plan-related or performance-related audit criteria prescribed in § 305.20.

Audit Criteria Relating to IV–D State Plan Requirements

Currently, OSCE regulations at §§ 305.21 through 305.36 prescribe audit criteria for determining program effectiveness. The criteria are based on the statutory IV–D State plan requirements prescribed in section 454 of the Act at the inception of the IV–D program in July, 1975. Since then, several mandatory and optional IV–D State plan provisions, including provisions added by the Child Support Enforcement Amendments of 1984, have been added to section 454 of the Act. To measure program effectiveness under section 403(h) of the Act, OCSE must determine whether the State is in substantial compliance with the requirements of title IV–D of the Act. Therefore, we are proposing to add new §§ 305.37 through 305.43 to the audit regulations to specify additional audit criteria OCSE will use to determine whether the State is in substantial compliance with the requirements of title IV–D of the Act as of the fiscal year 1985 audit period. We are also proposing to add new §§ 305.44 through 305.55 to the audit regulations to specify audit criteria OSCE will use to determine whether the State is in substantial compliance with the requirements of title IV–D of the Act as of the fiscal year 1986 audit period. The criteria prescribed in the proposed §§ 305.21 through 305.42, §§ 305.44 through 305.47 and §§ 305.49 through 305.54 apply to all States. However, the criteria prescribed in the proposed §§ 305.43, 305.48 and 305.55 only apply to States that have elected to implement the corresponding State plan provision. In addition, the criteria prescribed in § 305.42 only apply to States for fiscal year 1985 that elect to implement the corresponding State plan provision and will apply to all States effective October 1, 1985. Thus, OSCE will use audit criteria to determine whether a State is in compliance only with IV–D State plan requirements that apply to the State.

Finally, we issued proposed regulations in the **Federal Register** (48 FR 35468) on August 4, 1983 that amend the non-statutory State plan requirement at § 302.80 to specify that the IV–D agency shall perform certain medical support activities. States will be required, in order to be in compliance, to have and use written procedures which meet the requirements for medical support as published in the final regulations. Audit criteria will be effective upon publication of the final regulations. At the time that final medical support regulations are published, specific audit criteria will be published as interim final regulations.

Performance Indicators

In November, 1981, the Deputy Director, OSCE, established a task group to develop specific performance indicators to be used to evaluate State IV–D programs. During the development of these indicators, the task group reviewed the performance indicators used in several States. This review helped to identify indicators that are appropriate for evaluating all State IV–D programs. Also, contacts were made with other Federal agencies to identify systems and methodologies which could be used in conjunction with a performance indicator system; however, the agencies contacted did not run programs similar to the IV–D program. In addition, the task group solicited and received extensive input from State Child Support Enforcement agencies during the development of the performance indicators. In February, 1982, the proposed performance indicators were presented to the Executive Board of the National Council of State Support Enforcement Administrators at a meeting held in Alexandria, Virginia. In May, 1982, a revision of the proposed performance indicators were distributed to State IV–D Directors at the National Council of State Child Support Enforcement Administrators meeting held in Chevy Chase, Maryland. After that meeting, the Council conducted a survey of State IV–D Directors to determine their views on the proposed performance indicators. In July, 1982, the Executive Board of the IV–D Directors Council and OCSE representatives discussed the results of the survey at a meeting held in Kansas City, Missouri. In May, 1983, the IV–D Directors were again briefed on the proposed performance indicators at the National Council of State Child Support Enforcement Administrators meeting held in Crystal City, Virginia. Lastly, in August, 1983, the IV–D Directors were briefed at a National Reciprocal and Family Support Enforcement Association meeting in St. Louis. Several changes were made to the proposed performance indicators as a result of this meeting. The indicators proposed in this regulation are similar to those agreed to by the IV–D Directors.

In developing the seven performance indicators prescribed in the proposed § 305.58 (a) and (b), we took the following factors into consideration. First, the data necessary to use each performance indicator reflect State IV–D operations and are not overly burdensome to collect. Second performance indicators are as objective as possible at this point in time.

The House of Representatives, Committee on Appropriations, in House Report No. 97–894, page 83, indicates that the concept of child support enforcement is good social and fiscal policy; however, it (the committee) cannot indefinitely support a program with such a negative cost-benefit ratio. The Committee also indicates in House Report No. 98–357, page 93, that it remains concerned over the cost effectiveness of the Child Support Enforcement program. In addition, the House of Representatives, Committee on Ways and Means, in House Report No. 98–527, page 44, indicates that the Federal government pays 70 percent of the States' child support enforcement administrative costs and ought to be getting its money's worth in terms of firm and effective establishment and enforcement of AFDC and non-AFDC support obligations. OCSE also believes that the cost effectiveness of the IV–D

program is an important aspect of program operations. Therefore, we are proposing at § 305.58(a) (1) and (2) to prescribe two performance indicators OCSE will use to evaluate the cost effectiveness of State IV–D programs as of fiscal year 1986. These indicators are: (1) AFDC IV–D collections over total IV–D expenditures; and (2) non-AFDC IV–D collections over total IV–D expenditures. We believe that the use of these indicators will help to improve the cost effectiveness of State IV–D programs. The collection and expenditure data necessary to compute these indicators are currently submitted to the Federal government on the OCSE–34 and OCSE–41 reports. The States have been submitting these data to us since 1975. Thus, these performance indicators will not impose an additional burden on the States. In addition, the proposed performance indicators are as objective as possible at this point in time.

OCSE believes that the collection of support to reimburse assistance payments made to the family is an important aspect of the IV–D program. This is consistent with section 457 of the Act which provides for using support collections made with respect to AFDC recipients to reimburse both the State and Federal share of the current assistance payment. Therefore, we are proposing at § 305.58(a)(3) a performance indicator to evaluate the reimbursement rate of assistance payments made to those receiving AFDC for reasons other than unemployment. This indicator will be used beginning in fiscal year 1986. We believe that the use of this performance indicator will help to increase the percentage of assistance payments made to those receiving AFDC for reasons other than unemployment that are reimbursed via AFDC support collections. It should be noted that section 2640 of Pub. L. 98–369 requires the first $50 of support collected periodically which represents monthly support payments to be paid to the AFDC family. These payments will be treated and reported as AFDC IV–D collections. The collection and assistance payments data necessary to compute this indicator are submitted to the Federal government on the OCSE–34 and the SSA–41 reports. The States have been submitting both AFDC IV–D collection and AFDC assistance payment data to the Federal government since 1975. Thus, the proposed performance indicator will not place an additional burden on the States. We believe this indicator is also as objective as possible.

One basic purpose of the Child Support Enforcement program is to reduce or avert welfare costs by increasing the collection of support from absent parents. Since the collection of support is an important aspect of the IV–D program, we believe that State collection activity should be considered in determining whether a State has an effective IV–D program. Therefore, we are proposing at § 305.58(b) to prescribe four performance indicators OCSE will use to evaluate the collection of support as of fiscal year 1988. The indicators are: (1) Ratios designating either AFDC or non-AFDC collections on support due (for a fiscal year) as the numerator and either total AFDC or non-AFDC support due (for the same fiscal year) as the denominator; and (2) ratios designating either AFDC or non-AFDC collections on support due (for prior fiscal years) as the numerator and either total AFDC or non-AFDC support due (for prior fiscal years) as the denominator. Beginning with fiscal year 1986, section 13 of Pub. L. 98–378 requires the Secretary to report to Congress for each fiscal year the data necessary to compute these indicators. Since these indicators will not be effective until the audit period begining October 1, 1987 (fiscal year 1988) States will have sufficient time to prepare and report the necessary data (i.e., the amount of current support due during the fiscal year). We will amend the OCSE–34 report to accomplish this.

The performance indicators discussed above measure certain aspects of the IV–D program. We recognize that these indicators do not address IV–D functions such as non-AFDC avoidance and establishing paternity. We are not proposing performance indicators that address all IV–D functions at this time because many of the States cannot easily collect and maintain the data necessary to use performance indicators other than the indicators we are proposing. As State data collection systems and techniques improve and we evaluate results from research projects currently underway, we intend to propose additional performance indicators, including those measuring paternity establishment and cost avoidance. Nonetheless, we believe that the proposed performance indicators will better enable us to determine whether each State has an effective IV–D program. The proposed indicators are consistent with section 452(a)(1) of the Act which requires the Director, OCSE to establish standards to assure that State programs will be effective.

Audit Criteria Relating to Performance Indicators

In developing these proposed regulations, we considered two options regarding the use of performance indicators to evaluate State IV–D programs. In considering these options, we focused on identifying a system that would ensure that the AFDC and non-AFDC portions of the IV–D program be given equal weight. Under the first option considered, a national standard would be developed for the AFDFC portion of the IV–D program and a second standard would be developed for the non-AFDC portion of the program. Under this dual standard system, States could not compensate for unacceptable performance in one portion of the IV–D program with excellent performance in the other portion of the program. Nonetheless, we have decided to use a single standard system in which AFDC and non-AFDC indicators are given equal weight rather than the dual standard system for the following reasons. First, States, in general, do not have functioning cost accounting systems to allocate costs between the AFDC and non-AFDC portions of the IV–D program. Therefore, we cannot compare collections with actual AFDC expenditures or non-AFDC collections with actual non-AFDC expenditures. Our only meaningful expenditure data are for total expenditures. Second, we believe that there would be little difference in the States at a risk under a dual standard system and under a single standard.

We propose to combine the scores on the proposed performance indicators into a single composite score for each State and use a single national standard by which to assess program performance. We propose at § 305.58(c)(1) to evaluate the ratios of the performance indicators in paragraph (a) of this section on the basis of a 100 point scoring system. The tables in § 305.58(c)(1) (i) through (iii) show the scores States will receive for different levels of performance on each performance indicator. Under this scoring system, equal weight is given to the AFDC and non-AFDC components of the IV–D program. A maximum of 50 points can be scored on the two AFDC related performance indicators in § 305.58(a) (1) and (3) (25 points for each indicator). Similarly, a maximum of 50 points can be achieved on the single non-AFDC performance indicator in § 305.58(a)(2).

The proposed regulations at § 305.58(c)(2) specify that to be found to meet the audit criteria, a State's total

score must equal or exceed 70, as illustrated by the examples in the regulation. In developing this standard, our goal was to define a minimum level of acceptable performance. We believe that achievement of a score of 70 on these three performance indicators represents the minimum level of acceptable performance at this time. However, because of the changing and evolving nature of the program, we intend to revise this scoring system for fiscal year 1988 to reflect anticipated improvements in State program performance.

We are proposing at § 305.58(d) to evaluate State performance according to the indicators in § 305.58 (a) and (b) on the basis of a scoring system we will describe and update by regulation once every two years. In fiscal year 1987, we will publish the scoring system to be used during the following two fiscal years.

Table 1 shows the results of applying this scoring system to the States for fiscal year 1983. The table indicates the level of performance achieved by the States in each of the performance indicators in § 305.58(a), the scores which would be awarded for each of the performance indicators and the total score which would be used to determine whether a State meets the audit criteria.

The table also shows the level of performance of the nation as a whole. In fiscal year 1983, the national averages were $1.27, $1.65 and 6.6 percent on each of the three performance indicators in § 305.58(a). This would result in individual scores of 24, 50 and 20 for a total score of 94. The table indicates that 18 States would have achieved scores of less than 70 in fisical year 1983. These States are marked by an asterisk. Finally, we note that a score of 70 can be achieved by levels of performance as low as $.90, $.90 and 4.0 percent on the three performance indicators in § 503.58(a). Thus, we feel that a score of 70 is clearly achievable.

TABLE 1

State	Indicator one	Score	Indicator two	Score	Indicator three	Score	Total score
Alabama*	0.85	18	0.09	4	10.6	25	47
Alaska	0.44	10	1.87	50	5.9	15	75
Arizona*	0.25	6	1.55	50	2.3	5	61
Arkansas	1.01	22	0.62	28	13.3	25	75
California	1.06	22	0.92	40	4.6	10	72
Colorado	1.17	22	0.98	40	9.4	25	87
Connecticut	1.73	25	1.56	50	12.7	25	100
Delaware	0.69	14	1.76	50	8.4	25	89
Washington, D.C.*	0.49	10	0.22	12	3.0	5	27
Florida*	0.66	14	0.55	24	4.3	10	48
Georgia*	1.36	24	0.25	12	8.0	20	56
Guam*	0.82	18	0.42	20	6.1	20	58
Hawaii	1.21	24	1.51	50	5.3	15	89
Idaho	1.76	25	0.41	20	17.8	25	70
Illinois*	1.16	22	0.80	36	2.3	5	63
Indiana	2.61	25	0.46	20	12.1	25	70
Iowa	3.29	25	1.64	50	13.5	25	100
Kansas	1.50	25	0.41	20	8.6	25	70
Kentucky	0.82	18	1.74	50	5.0	15	83
Louisiana	0.75	16	1.25	48	7.2	25	89
Maine	2.66	25	0.62	28	13.3	25	78
Maryland	1.70	25	3.02	50	12.4	25	100
Massachusetts	2.04	25	1.61	50	13.6	25	100
Michigan	2.36	25	4.26	50	8.6	25	100
Minnesota	1.48	25	1.11	44	10.0	25	94
Mississippi*	1.56	25	0.12	8	8.0	25	58
Missouri	1.27	24	0.73	32	6.1	20	76
Montana	1.63	25	0.52	24	7.7	25	74
Nebraska	1.12	22	4.62	50	7.3	25	97
Nevada	0.53	12	1.09	44	18.8	25	81
New Hampshire	1.21	24	4.08	50	11.2	25	99
New Jersey	1.14	22	2.83	50	8.1	25	97
New Mexico*	0.90	20	0.53	24	5.7	20	64
New York*	0.79	16	1.22	48	3.9	5	69
North Carolina	1.53	25	0.96	40	16.3	25	90
North Dakota	1.55	25	0.55	24	13.5	25	74
Ohio*	1.38	25	0.07	4	5.1	15	44
Oklahoma*	0.60	14	0.26	12	4.7	10	36
Oregon	1.15	22	2.10	50	12.6	25	97
Pennsylvania	1.10	22	5.56	50	6.4	20	92
Puerto Rico*	0.27	6	9.21	50	2.9	5	61
Rhode Island	1.97	25	1.39	48	6.3	20	93
South Carolina	2.06	25	0.50	24	7.9	25	74
South Dakota	1.81	25	0.56	24	12.4	25	74
Tennessee	0.79	16	1.92	50	6.9	20	86
Texas*	0.72	16	0.47	20	7.0	25	61
Utah*	1.75	25	0.29	12	21.6	25	62
Vermont*	2.74	25	0.21	12	7.2	25	62
Virgin Islands	0.44	10	1.70	50	4.7	10	70
Virginia*	1.53	25	0.24		7.0	25	62
Washington	1.56	25	0.89	36	10.1	25	86
West Virginia*	1.30	24	0.05	4	5.8	15	43
Wisconsin	1.92	25	0.80	36	8.8	25	86
Wyoming	2.12	25	0.61	28	7.1	25	78
National average	1.27	24	1.65	50	6.6	20	94

Data as reported by States as of June 1, 1984.

Notice and Corrective Action Period

Current regulations at 45 CFR 305.50 provide that a State is subject to an immediate five percent reduction of its AFDC funds if, on the basis of an audit, a determination is made that the State failed to have an effective program meeting the requirements of section 402(a)(27) of the Act. Under this

requirement, the Secretary could not suspend penalties during corrective action periods or take into account subsequent improvements before imposing the penalty.

To implement the provision of the amended section 403(h)(2) of the Act regarding the corrective action period provided to the State, the proposed regulations at § 305.59, Notice and corrective action period, specify that, if a State is found by the Secretary on the basis of the results of the audit described in Part 305 not to comply substantially with the requirements of title IV–D of the Act, OCSE will notify the State in writing of such finding. The regulations further require the notice to cite the State for noncompliance, list the unmet audit criteria, apply the penalty and give the reasons for the Secretary's findings. The notice must also identify any audit criteria listed in § 305.20 (a)(2), (b)(2) or (c)(2) that the State met only marginally (that is, in 75 to 80 percent of the cases reviewed), specify that the penalty may be suspended if the State meets the conditions specified in § 305.59(c) and specify the conditions prescribed in § 305.59(d) that result in terminating the suspension of the penalty. The proposed § 305.59(c) specifies that the penalty will be suspended for a period of time not to exceed one year from the date of notice and, beginning with the fiscal year 1986 audit period, when the State fails to meet the audit critera relating to the performance indicators prescribed in § 305.58 the penalty will be suspended until the end of the fiscal year following the fiscal year in which a State failed to meet those criteria, if the following conditions are met: (1) The State submits a correc tive action plan to the appropriate Regional Office within 60 days of the date of the notice, which contains a corrective action period not to exceed one year from the date of the notice and which contains steps necessary to achieve substantial compliance with the requirements of title IV–D of the Act; (2) the corrective action plan and any amendments are approved by the Secretary within 30 days of receipt of the plan, or approved automatically because the Secretary took no action within the 30-day period; and (3) the Secretary finds that the plan (or any amendment approved by the Secretary) is being fully implemented by the State and that the State is progressing to achieve substantial compliance with the criteria cited in the notice. The proposed § 305.58(d) specifies that the penalty will remain suspended until the Secretary determines that the State has achieved substantial compliance, the State is no longer implementing its corrective action plan, or the State has implemented its corrective action plan but has failed to achieve or maintain substantial compliance with the criteria cited in the notice. In the event that a State fails to meet audit criteria relating to the performance indicators prescribed in § 305.58, the State must meet those criteria for the year succeeding the year in which the State failed to meet them. This is necessary because these criteria must be measured on a fiscal year basis. If the State achieves substantial compliance within the corrective action period, the State will not be subject to a reduction of its Federal AFDC funds. However, if the State is no longer implementing its corrective action plan or has implemented its corrective action plan but failed to achieve or maintain substantial compliance with the criteria cited in the notice, the State will be subject to a reduction of its Federal AFDC funds in accordance with § 305.60. For State plan-related criteria, this determination will be made as of the first full quarter after the end of the corrective action period. For performance-related criteria, this determination will be made as of the fiscal year following the fiscal year in which performance was not in substantial compliance.

The proposed § 305.59(e) specifies that a corrective action plan disapproved under § 305.59(b) is not subject to appeal. Because the Congress has given the Secretary discretion to determine whether or not to approve a corrective action plan, disapproval of a corrective action plan is not subject to appeal.

The proposed § 305.58(f) specifies that only one corrective action period is provided to a State in relation to a given criterion when consecutive findings of noncompliance are made on that criterion.

We believe that any State found to be operating a IV–D program which does not substantially comply with one or more of the requirements in the Act could, with diligent effort, develop and carry out a plan for bringing the program into substantial compliance within the specified period.

Imposition of the Penalty

Current regulations at 45 CFR 305.50 provide that if, on the basis of the audit, a determination is made that a State does not have an effective program meeting the requirements of section 402(a)(27) of the Act, the State is subject to a five percent reduction of its Federal AFDC funds. Under this provision, a State found not to have an effective IV–D program is subject to the flat five percent penalty regardless of whether it is the first or a subsequent occasion that such determination is made.

Under the new statute, a State found not to have an effective IV–D program is subject to a penalty only if the State fails to correct cited deficiencies or falls out of compliance in a marginal area for which the State was cited.

To implement the provision of the amended section 403(h) of the Act regarding the graduated penalty, we propose to amend § 305.50, Penalty for failure to have an effective Child Support Enforcement program, by redesignating the regulation as § 305.60, revising paragraph (a), redesignating paragraphs (b) and (c) as (e) and (f) and adding new paragraphs (b), (c) and (d). Section 305.60(a) specifies that if the Secretary determines, on the basis of the results of the audit conducted under Part 305, that a State does not substantially meet the requirements in title IV–D of the Act and failed to achieve substantial compliance with such requirements within the corrective action period approved by the Secretary under § 305.59, payments to the State under title IV–A of the Act must be reduced for the period prescribed in the new § 305.60 (c) and (d) by: (1) Not less than one nor more than two percent for a period beginning in accordance with paragraph (c) or (d) of this section and not to exceed the one-year period following the end of the suspension period; (2) not less than two nor more than three percent if it is the second consecutive finding made as a result of an audit for a period beginning as of the second one-year period following the suspension period and not to exceed one year; or (3) not less than three nor more than five percent if it is the third or a subsequent consecutive finding as a result of an audit for a period beginning as of the third one-year period following the suspension period.

Under paragraph (b), the penalty will not be applied if the State achieves substantial compliance with those criteria identified in the notice within the corrective action period approved by the Secretary under § 305.59. Under paragraph (c), if the penalty suspension ends because the State is no longer implementing the corrective action plan, the penalty will be applied as if the suspension has not occurred. Under paragraph (d), if the penalty suspension ends because the State is implementing its corrective action plan but has failed to achieve substantial compliance with the criteria identified in the notice within the corrective action period approved by the Secretary under

§ 305.59, the penalty will be effective for any quarter that ends after the expiration of the suspension period until the first quarter throughout which the State IV–D program is in substantial compliance with the requirements of title IV–D of the Act.

This is illustrated by the following examples. OCSE conducts an audit of a State Child Support Enforcement program for fiscal year 1984 in the spring of 1985. After reviewing the audit findings, a determination is made that the State did not substantially comply with the requirements of title IV–D of the Act because it did not meet two of the audit criteria prescribed in § 305.20(a)(1). A notice dated July 1, 1985 is sent to the State in accordance with § 305.59. The notice indicates the criteria that resulted in the finding of noncompliance and the criteria that the State only marginally met, indicates that the penalty is in effect, specifies the conditions under which the penalty may be suspended and specifies the conditions that result in termination of suspension of the penalty. The State submits an approved corrective action plan which specifies a 10-month corrective action period (July 1, 1985 through April 30, 1986). After the corrective action period, OCSE conducts a follow-up on the initial audit to determine whether the State is now in substantial compliance with respect to the criteria identified in the notice. Based on the findings, a determination is made that the State implemented its corrective action plan but failed to achieve substantial compliance with the criteria identified in the notice during the suspension period. The State's Federal AFDC payments will be reduced by not less than one nor more than two percent of such payments from the beginning of the quarter in which the corrective action period expires (in this case, from April 1, 1986) and up to a year from the end of the corrective action period (April 30, 1987).

An audit will be conducted at least once a year in the case of a State that is being penalized. Suppose OCSE conducts a second consecutive audit in May, 1987 and a determination is made that the State has continued to fail to achieve substantial compliance during the audit period with those criteria specified in the initial notice. The State's Federal AFDC payments will be reduced between two and three percent as of May 1, 1987 for a period not to exceed one year.

Suppose OCSE conducts a third consecutive audit in May, 1988. After reviewing the audit findings, a determination is made that the State was in substantial compliance as of August 1, 1987 with the criteria on which it is being penalized. The reduction in Federal AFDC funds will cease as of October 1, 1987. The State's Federal AFDC payments were reduced between two and three percent from May 1, 1987 until October 1, 1987.

Since the penalty would be taken against the AFDC program administered by States under title IV–A of the Act, the Social Security Administration's Office of Family Assistance would assume responsibility for making the appropriate penalty reductions. Revisions to the penalty provisions at 45 CFR 205.146(d) are proposed to implement amendments to section 403(h) of the Act.

In the second example, OCSE conducts an audit of a State Child Support Enforcement program for fiscal year 1984 in the spring of 1985. After reviewing the audit findings, a determination is made that the State did not substantially comply with the requirements of title IV–D of the Act because it did not meet two of the audit criteria listed in § 305.20(a)(1). The finding also identifies two of the audit criteria listed in § 305.20(a)(2) that the State met only marginally (that is, in 75 to 80 percent of the cases reviewed). A notice dated July 1, 1985 is sent to the State in accordance with § 305.59. The notice lists the criteria that resulted in the finding of noncompliance and the criteria that the State marginally met, indicates that the penalty is in effect, specifies the conditions under which the penalty may be suspended, and specifies the conditions that result in termination of suspension of the penalty. The State submits an approved corrective action plan which specifies a 10-month corrective action period (July 1, 1985 through April 30, 1985). After the corrective action period, OCSE conducts a follow-up on the initial audit to determine whether the State is now in substantial compliance with respect to the criteria identified in the notice. Based on the findings, a determination is made that the State implemented its corrective action plan but is not in substantial compliance because, although it met the criteria in the notice that resulted in a finding of noncompliance, it failed to meet the criteria in the notice that it had previously met on a marginal basis. The State's Federal AFDC payments will be reduced by not less than one nor more than two percent of such payments from the beginning of the quarter in which the corrective action period expires (in this case, from April 1, 1986) and up to a year from the end of the corrective action period (April 30, 1987).

OCSE will immediately audit the aspects of the State Child Support Enforcement program not covered by the criteria identified in the notice. Based on the findings, a determination is made that the State did not achieve substantial compliance with one of the audit criteria listed in § 305.20(b)(1). A notice dated July 1, 1986 is sent to the State in accordance with § 305.59. The notice indicates the criterion that resulted in the finding of noncompliance, indicates that the penalty is in effect, specifies the conditions under which the penalty may be suspended and specifies the conditions that result in termination of suspension of the penalty. After the corrective action period, OCSE conducts an audit to determine whether the State in now in substantial compliance with respect to the two audit criteria listed in § 305.20(a)(1) in the initial notice and the one audit criterion listed in § 305.20(b)(1) in the second notice. After reviewing the audit findings, a determination is made that the State was in substantial compliance as of November 1, 1986 with the two criteria specified in the initial notice on which it is being penalized. The reduction in Federal AFDC funds will cease as of January 1, 1987. The State's Federal AFDC payments were reduced between on and two percent from April 1, 1986 through December 31, 1986. A determination is subsequently made that the State achieved substantial compliance with respect to the one audit criterion listed in § 305.20(b)(1) in the second notice. The increased penalty due to a subsequent audit finding is not applied.

Application of the Proposed Regulations

For program audits for any fiscal year beginning after October 1, 1983, OCSE is proposing to: (1) Conduct an audit of the effectiveness of State Child Support Enforcement programs at least once every three years (see § 305.10); (2) use the "substantial compliance" standard specified in § 305.20 to determine whether each State has an effective IV–D program; (3) provide any State found not to have an effective program in substantial compliance with the requirements of title IV–D of the Act with a corrective action period in accordance with § 305.59; (4) provide for the use of the graduated penalty prescribed in § 305.60; and (5) specify in § 305.60 the period during which the penalty is to be imposed.

OCSE is proposing to use the new audit criteria specified in §§ 305.37 through 305.43 for program audits

beginning with the October 1, 1984 through September 30, 1985 audit period. The new audit criteria specified in §§ 305.44 through 305.56 and § 305.58(c) would be effective for fiscal years beginning after September 30, 1985. The audit criteria referred to in § 305.58(d) would be effective for fiscal years beginning after September 30, 1987. OCSE has been conducting financial and statistical system reviews in the States to determine whether State systems for recording, summarizing and reporting financial and statistical data are reliable in terms of accuracy, completeness and timeliness. Although these proposed audit regulations do not address the review of State financial and statistical systems, OCSE, as part of the audit process, will review these systems during any audit conducted for a period beginning on or after October 1, 1984 to ensure that the data used to determine whether a State meets the performance-related audit criteria are reliable. The States are using these results to take corrective action prior to October 1, 1984. OCSE will continue to apply the current audit regulations to all program audits for fiscal years beginning prior to September 30, 1984.

Technical Changes to 45 CFR Part 305

We propose to make the following technical changes to the audit and penalty regulations to conform with the proposed revisions discussed above. We propose to revise § 305.0, Scope, by substituting descriptions of the new § 305.10, § 305.20, §§ 305.21 through 305.58, § 305.58 and § 305.60 for the descriptions of the current § 305.10, §§ 305.20 through 305.36 and § 305.50. In addition, we added a description of the new § 305.59. We propose to amend § 305.10, Timing and scope of audit, by making reference to criteria specified in §§ 305.21 through 305.56 and § 305.58 instead of §§ 305.20 through 305.36.

We also propose to revise § 305.11, Audit period, by deleting the description of the first audit period (January 1, 1977 through September 30, 1977) and the reference to an annual audit. Since the first compliance audit has been conducted, it is no longer necessary to describe the first audit period in the regulation. In addition, we propose to revise § 305.11 to specify that any audit conducted when the State is being penalized under § 305.60 may cover a period of less than one year.

We are proposing to revise the title of § 305.20 because the current title "Audit criteria" does not reflect the content of the regulation. We believe that the title "Effective support enforcement program" better reflects the content of the regulation. Currently, OCSE regulations at § 305.20(b) require the IV-D agency to be receiving notice from the IV-A agency pursuant to 45 CFR 235.70 and the State to be obtaining assignment of support rights in accordance with 45 CFR 232.11 in order for the State to be found to have an effective IV-D program. However, the corresponding audit criteria were deleted from 45 CFR Part 305 via final regulations published in the **Federal Register** (47 FR 24716) on June 8, 1982. Therefore, we are proposing to delete § 305.20(b).

We are proposing to amend the audit regulations at 45 CFR 305.24(b) to reflect the requirement in Pub. L. 98-378 that States have in effect laws providing for and implementing procedures for the establishment of paternity for any child at any time prior to the child's 18th birthday. We are also proposing to amend the audit regulations at 45 CFR 305.24(c) and 305.25(a)(1) to reflect the requirement in Pub. L. 98-378 that States provide support enforcement services to recipients of foster care maintenance assistance under title IV-E of the Act.

OCSE regulations at 45 CFR 305.33(f) require the States to have and use written procedures for collecting any fees required by 45 CFR 302.35(e). In final regulations published in the **Federal Register** (46 FR 54554) on November 3, 1981, OCSE moved the fee provision at 45 CFR 302.35(e) to 45 CFR 303.70(e)(2). Therefore, we are proposing to amend 45 CFR 305.33(f) to reflect this change.

45 CFR 305.12 and 305.13 are not amended by these proposed rules.

Paperwork Reduction Act

The performance indicators prescribed in 45 CFR 305.58 are not subject to Office of Management and Budget (OMB) review under the Paperwork Reduction Act of 1980 (Pub. L. 96-511). The State plan and disclosure requirements are subject to Office of Management and Budget (OMB) review under the Paperwork Reduction Act of 1986 (Pub. L. 96-511). The collection, expenditure and assistance payment reports referred to in this document have been reviewed and approved by OMB under the following approval numbers:

1. OCSE-34 (Quarterly Report of Collections) 0960-0238.
2. OCSE-41 (Financial Status Report) 0960-0235.
3. SSA-41 (Quarterly Statement of Expenditures) 0960-0294.

The OCSE-34 will be revised to include data necessary to compute the performance indicators regarding collection activity and submitted for OMB approval in sufficient time to allow implementation consistent with the requirements of the rule.

Regulatory Impact Analysis

The Secretary has determined in accordance with Executive Order 12291, that this rule does not constitute a "major" rule. A major rule is one that is likely to result in:

—An annual impact on the economy of $100 million or more;
—A major increase in cost or prices for consumers, individual industries, Federal, State or local government agencies, or geographical regions; or
—Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or import markets.

These proposed regulations amend the OCSE audit regulations to: (1) Require OCSE to conduct an audit of the effectiveness of State Child Support Enforcement programs at least once every three years; (2) require OCSE to use a "substantial compliance" standard to determine whether each State has an effective IV-D program; (3) provide that any State found not to have an effective IV-D program in substantial compliance with the requirements of title IV-D of the Act be given an opportunity to take the corrective action necessary to be in substantial compliance with those requirements; (4) provide for the use of a graduated penalty of not more than five percent of a State's Federal AFDC funds; and (5) specify the period of time during which a penalty is effective. These proposed changes are a direct result of the statute.

In order to be found to have an effective program in substantial compliance with the requirements of title IV-D of the Act, a State must, beginning with the fiscal year 1984 audit period, meet audit criteria listed in § 305.20. If a State is found by the Secretary, on the basis of the results of an audit, not to comply substantially with the requirements of title IV-D of the Act, OCSE will notify the State that the penalty may be suspended for a period of time not to exceed one year from the date of the notice, to allow the State to take corrective action. If a State fails to take the corrective action necessary to achieve substantial compliance during the period prescribed in the notice, Federal AFDC funds to the State will be reduced in an amount not to exceed five percent until the first quarter throughout which the State IV-D program is found to substantially

comply with the requirements of title IV–D of the Act.

The proposed regulations may save some States funds they otherwise might have lost because a "substantial compliance" standard and corrective action period are used rather than the "full compliance" standard in determining whether a State meets the IV–D State plan requirements currently addressed in the audit regulations. However, the penalty under prior law was never assessed. Nonetheless, the new regulations may cost the State money because they are more workable and enforceable than the current regulations. Audit results will depend on State performance. If State performance improves in response to this audit system, States (as well as the Federal government) would save money due to increased collections and decreased administrative costs. We therefore have no basis for projecting either net costs or savings to States.

These regulations also propose performance indicators for evaluating State IV–D programs and new audit criteria related to the performance indicators that together will be used to assess State program effectiveness. The seven performance indicators we are proposing are designed to show: (1) The cost effectiveness of a State IV–D program; (2) the amount of IV–A assistance payments reimbursed by IV–D collections; and (3) the amount of support collected on the amount of support due for a fiscal year and the period prior to a fiscal year. The three indicators that will enable us to determine the cost effectiveness of State IV–D programs and the reimbursement rate for payments made to AFDC recipients will be effective as of the fiscal year 1986 audit period. The four performance indicators that will enable us to evaluate State collection activity will be effective as of the fiscal year 1988 audit period. To determine whether a State meets the performance-related criteria, its performance will be compared to the standards described earlier.

Finally, these regulations propose audit criteria based on IV–D State plan requirements, including criteria based on the Child Support Enforcement Amendments of 1984, not currently addressed in the audit regulations that will be used to assess State program effectiveness. These criteria are simular to the criteria in the current regulations for other State plan requirements. The criteria prescribed in §§ 305.37 through 305.43 will be effective as of the fiscal year 1985 audit period. The criteria prescribed in §§ 305.44 through 305.58 will be effective as of the fiscal year 1986 audit period.

Under these proposed regulations, a State must have an effective program in substantial compliance with the IV–D State plan requirements as measured by the audit criteria in § 305.20 in effect for the audit period and new performance indicators to aviod a reduction of its Federal AFDC funds. We cannot estimate the number of States that may avoid losing AFDC funds because a "substantial compliance" standard and corrective action period were used rather than the "full compliance" standard in determining whether a State meets the current IV–D State plan requirements. In addition, we cannot estimate the number of States that may lose AFDC funds because they failed to meet the new State plan-related audit criteria and performance-related audit criteria.

Beginning with the fiscal year 1988 audit period, we will compare 1988 State performance to a new national standard in determining whether a State meets the performance-related criteria. Again, we do not have data sufficient to allow us to estimate the number of States that could lose AFDC funds because they failed to meet the new national standard.

These proposed regulations could result in minor increases in Federal and State administrative costs. The States will not be required to perform any new program functions. Thus, additional Federal/State costs of conducting audits will be limited to the area of documenting State performance using criteria based on new IV–D State plan requirements and performance indicators for evaluating program effectiveness.

The Secretary certifies, under 5 U.S.C. 605(b) as enacted by the Regulatory Flexibility Act (Pub. L. 96–354), that these regulations will not result in a significant impact on a substantial number of small entities because they primarily affect Federal and State governments.

List of Subjects

45 CFR Part 205

Administrative practice and procedure, Aid to families with dependent children, Family assistance office, Grant programs/social programs, Public assistance programs, Reporting requirements.

45 CFR Part 305

Child welfare, Grant programs/social programs, Accounting.

For the reasons discussed above, 45 CFR 205.146 is proposed to be amended as follows:

PART 205—[AMENDED]

Section 205.146 is amended by revising paragraphs (d)(1) and (2), and by adding a new paragraph (d)(3) to read as follows:

§ 205.146 [Amended]

* * * * *

(d) *Penalty for failure to have an effective child support enforcement program*—(1) *General.* Pursuant to section 403(h) of the Act, notwithstanding any other provision of this chapter, total payments to a State under title IV–A of the Act for any quarters in any fiscal year, shall be reduced if a State is found by the Secretary to have failed to have an effective child support enforcement program in substantial compliance with the requirements of section 402(a)(27), as implemented by Parts 302 and 305 of this title. The reduction for any quarter (calculated without regard to any other reduction under this section) shall be: (i) Not less than one nor more than two percent of such payments for a period beginning in accordance with § 305.60 (c) or (d) of this title not to exceed the one-year period following the end of the suspension period specified in the notice required by § 305.59 of this title; (ii) Not less than two nor more than three percent of such payments if the finding is the second consecutive finding made as a result of an audit for a period beginning as of the second one-year period following the suspension period specified in the notice required by § 305.59 of this title not to exceed one year; or (iii) Not less than three nor more than five percent of such payments if the finding is the third or subsequent consecutive finding as a result of an audit for a period beginning as of the third one-year period following the suspension period specified in the notice required by § 305.59 of this title.

(2) *Application of penalty.* (i) The penalty will be imposed for any quarter beginning after September 30, 1983.

(ii) The penalty will be imposed on the basis of the results of the audit conducted pursuant to Part 305 of this title.

(3) *Notice, suspension, corrective action period.* Notice, suspension and corrective action provisions are set forth at 45 CFR 305.59.

45 CFR Part 305 is proposed to be amended as follows:

1. The table of contents is revised to read as follows:

PART 305—AUDIT AND PENALTY

Sec.
305.0 Scope.
305.1 Definitions.
305.10 Timing and scope of audit.
305.11 Audit period.
305.12 State comments.
305.13 State cooperation in the audit.
305.20 Effective support enforcement program.
305.21 Statewide operation.
305.22 State financial participation.
305.23 Single and separate organizational unit.
305.24 Establishing paternity.
305.25 Support obligations.
305.26 Enforcement of support obligation.
305.27 Support payments to the IV–D agency.
305.28 Distribution of support payment.
305.29 Payments to the family.
305.31 Individulas not otherwise eligible.
305.32 Cooperation with other States.
305.33 State parent locator service.
305.34 Cooperative arrangements.
305.35 Reports and maintenance of records.
305.36 Fiscal policies and accountability.
305.37 Bonding of employees.
305.38 Separation of cash handling and accounting functions.
305.39 Withholding of unemployment compensation.
305.40 Federal tax refund offset.
305.41 Recovery of direct payments.
305.42 Spousal support.
305.43 90 percent Federal financial participation for computerized support enforcement systems.
305.44 Publicizing the availability of support enforcement services.
305.45 Notice of collection of assigned support.
305.46 Incentive payments to States and political subdivisions.
305.47 Guidelines for setting child support awards.
305.48 Payment of support through the IV–D agency or other entity.
305.49 Wage or income withholding.
305.50 Expedited processes.
305.51 Collection of overdue support by State income tax refund offset.
305.52 Imposition of liens against real and personal property.
305.53 Posting security, bond or guarantee to secure payment of overdue support.
305.54 Making information available to consumer reporting agencies. Imposition of late payment fees on absent parents who owe overdue support.
305.56 Medical support.
305.58 Performance indicators and audit criteria.
305.59 Notice and corrective action period.
305.60 Penalty for failure to have an effective support enforcement program.

Authority: Secs. 403(h), 404(d), 452(a) (1) and (4), and 1102 of the Social Security Act; 42 U.S.C. 603(h), 604(d), 652(a) (1) and (4), and 1302.

2. Section 305.0 is revised to read as follows:

§ 305.0 Scope.

This part implements the requirements in sections 452(a)(4) and 403(h) of the Act for an audit, at least once every three years, of the effectiveness of State Child Support Enforcement programs under title IV–D and for a possible reduction in Federal reimbursement for a State title IV–A program pursuant to sections 403(h) and 404(d) of the Act. Sections 305.10 through 305.13 describe the audit. Section 305.20 defines an effective program for the purposes of this part. Sections 305.21 through 305.56 and § 305.58 establish audit criteria the Office will use to determine program effectiveness. Section 305.58 also establishes performance indicators the Office will use to determine State IV–D program effectiveness. Section 305.59 provides for the issuance of a notice and corrective action period is a State if found by the Secretary not to have had an effective IV–D program. Section 305.60 provides for the imposition of a penalty if a State is found by the Secretary not to have had an effective program and fails to take corrective action and achieve substantial compliance within the period prescribed by the Secretary.

3. Sections 305.10 and 305.11 are revised to read as follows:

§ 305.10 Timing and scope of audit.

(a) The Office will conduct an audit in accordance with sections 452(a)(4) and 403(h) of the Act, at least once every three years, to evaluate the effectiveness of each State's program in carrying out the purposes of title IV–D of the Act and to determine that the program meets the title IV–D requirements. The audit of each State's program will be a comprehensive review using the criteria prescribed in §§ 305.21 through 305.56 and § 305.58 of this part.

(b) The Office will conduct an annual comprehensive audit in the case of a State that is being penalized. For a State operating under a corrective action plan, the review at the end of the corrective action period will cover only the criteria specified in the notice of non-compliance as prescribed in § 305.59 of this part.

(c) During the course of the audit, the Office will:

(1) Make a critical investigation of the State's IV–D program through inspection, inquiries, observation, and confirmation; and

(2) Use the audit standards promulgated by the Comptroller General of the United States in the "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions."

§ 305.11 Audit period.

The audit will cover the period October 1 through September 30 of each fiscal year audited and, when the State is operating under a corrective action plan, will cover the first full quarter after the corrective action period. The audit may cover a shorter period at State request when the State is being penalized under § 305.60 of this part.

4. Section 305.20 is revised to read as follows:

§ 305.20 Effective support enforcement program.

For the purposes of this part and section 403(h) of the Act, in order to be found to have an effective program in substantial compliance with the requirements of title IV–D of the Act, a State must meet the IV–D State plan requirements contained in Part 302 of this chapter measured as follows:

(a) For the fiscal year 1984 audit period:

(1) The following audit criteria must be met:

Statewide operation. (45 CFR 305.21(d))
State financial participation. (45 CFR 305.22 (a) and (b))
Single and separate organizational unit. (45 CFR 305.23 (a) and (b))
Establishing paternity. (45 CFR 305.24(b))
Enforcement of support obligation. (45 CFR 305.26 (c) and (d))
Distribution of child support payment. (45 CFR 305.28(a))
State parent locator service. (45 CFR 305.33(e))
Cooperative arrangements. (45 CFR 305.34(a))
Reports and maintenance of records. (45 CFR 305.35 (a) and (b))
Fiscal policies and accountability. (45 CFR 305.36(a))

(2) The procedures required by the following audit criteria must be used in 75 percent of the cases reviewed for each criterion:

Establishing paternity. (45 CFR 305.24(c))
Support obligations. (45 CFR 305.25 (a) and (b))
Enforcement of support obligation. (45 CFR 305.26 (a), (b) and (e))
Support payments to the IV–D agency. (45 CFR 305.27 (a), (b) and (d))
Distribution of support payment. (45 CFR 305.28(b))
Payments to the family. (45 CFR 305.29)
Individuals not otherwise eligible. (45 CFR 305.31 (a), (b) and (c))
Cooperation with other States. (45 CFR 305.32 (a), (b), (c), (d), (e), (f), and (g))
State parent locator service. (45 CFR 305.33 (a) and (g))

(b) Beginning with the fiscal year 1985 audit period:

(1) The criteria prescribed in paragraph (a)(1) of this section and the following audit criteria must be met:

Bonding of employees. (45 CFR 305.37(a))
Separation of cash handling and accounting functions. (45 CFR 305.38(a))
Withholding of unemployment compensation. (45 CFR 305.39 (a) through (h))
Federal tax refund offset. (45 CFR 305.40(a))
Recovery of direct payments. (45 CFR 305.41(a))
Spousal support. (45 CFR 305.42(a))
90 percent Federal financial participation for computerized support enforcement systems. (45 CFR 306.43)

(2) The procedures required by the criteria prescribed in paragraph (a)(2) of this section and the following audit criteria must be used in 75 percent of the cases reviewed for each criterion:

Bonding of employees. (45 CFR 305.37(c))
Separation of cash handling and accounting functions. (45 CFR 305.38(c)).
Withholding of unemployment compensation (45 CFR 305.39(i))
Federal tax refund offset. (45 CFR 305.40(b))
Recovery of direct payments (45 CFR 305.41(b))
Spousal support. (45 CFR 305.42(b))

(c) For the fiscal year 1986 and 1987 audit periods:

(1) The criteria prescribed in paragraphs (a)(1) and (b)(1) of this section and the following criteria must be met:

Publicizing the availability of support enforcement services. (45 CFR 305.44)
Notice of collection of assigned support. (45 CFR 305.45(a))
Incentive payments to States and political subdivisions. (45 CFR 305.46(a))
Guidelines for setting child support awards. (45 CFR 305.47)
Payment of support through the IV–D agency or other entity. (45 CFR 305.48 (a) and (b))
Wage or income withholding. (45 CFR 305.49(a))
Expedited processes. (45 CFR 305.50(a))
Collection of overdue support by State income tax refund offset. (45 CFR 305.51(a))
Imposition of liens against real and personal property. (45 CFR 305.52(a))
Post security, bond or guarantee to secure payment of overdue support. (45 CFR 305.53(a))
Making information available to consumer reporting agencies. (45 CFR 305.54(a))
Imposition of late payment fees on absent parents who owe overdue support. (45 CFR 305.55(a))
Medical support. (To be determined)

(2) The procedures required by the criteria prescribed in paragraphs (a)(2) and (b)(2) of this section and the following audit criteria must be used in 75 percent of the cases reviewed for each criterion:

Notice of collection of assigned support. (45 CFR 305.45(b))
Incentive payments to State and political subdivisions. (45 CFR 305.46(b))
Payment of support through IV–D agency or other entity. (45 CFR 305.48(c))
Wage or income withholding. (45 CFR 305.49(b))
Expedited processes. (45 CFR 305.50(b))
Collection of overdue support by State income tax refund offset. (45 CFR 305.51(b))
Imposition of liens against real and personal property. (45 CFR 305.52(b))
Posting security, bond or guarantee to secure payment of overdue support. (45 CFR 305.53(b))
Making information available to consumer reporting agencies. (45 CFR 305.54(b))
Imposition of late payment fees on absent parents who owe overdue support. (45 CFR 305.55(b))
Medical support. (To be determined)

(3) The criteria prescribed in § 305.58(c) of this part relating to the performance indicators prescribed in paragraph (a) of that section must be met.

(d) For fiscal year 1988 and future audit periods:

(1) The criteria prescribed in paragraphs (a)(1), (b)(1) and (c)(1) of this section must be met.

(2) The procedures required by the criteria prescribed in paragraph (a)(2), (b)(2) and (c)(2) of this section must be used in 75 percent of the cases reviewed for each criterion.

(3) The criteria referred to in § 305.58(d) of this part relating to the performance indicators prescribed in paragraphs (a) and (b) of that section must be met.

5. Section 305.24 is amended by revising paragraphs (b) and (c) to read as follows:

§ 305.24 Establishing paternity.

* * * * *

(b) Have established and use written procedures for establishing the paternity of any child at any time prior to the child's 18th birthday:

(1) By court order or other legal process established by State law; and

(2) By acknowledgment, if under State law such acknowledgment has the same legal effect as court ordered paternity including the rights to benefits other than child support.

(c) Be utilizing such written procedures to establish the paternity of any child born out of wedlock whose paternity has not previously been established and with respect to whom there is an assignment pursuant to § 232.11 of this title or section 471(a)(17) of the Act in effect or with respect to whom there is an application for child support services pursuant to § 302.33 of this chapter;

* * * * *

6. Section 305.25 is amended by revising paragraph (a)(1) to read as follows:

§ 305.25 Support obligations.

(a) * * *

(1) With respect to whom there is an assignment pursuant to § 232.11 of this title or section 471(a)(17) of the Act in effect or with respect to whom there is an application for child support services pursuant to § 302.33 of this chapter.

* * * * *

§ 305.28 [Amended]

7. Section 305.28 is amended by inserting a comma and the reference "302.52" after the reference "302.51" wherever it appears in that section.

§ 305.33 [Amended]

8. 45 CFR 305.33 is amended by removing the citation "§ 302.35(e)" where it appears in paragraph (f) and inserting in its place the citation "§ 303.70(e)(2)."

9. Sections 305.37 through 305.56 are added to read as follows:

§ 305.37 Bonding of employees.

For the purposes of this part, to be found in compliance with the State plan requirement for bonding of employees (45 CFR 302.19), a State must:

(a) Have written procedures to ensure that every person, including the individuals prescribed in § 302.19(b) of this chapter, who as a regular part of his or her employment, receives, disburses, handles or has access to or control over funds collected under the Child Support Enforcement program is covered by a bond against loss resulting from employee dishonesty;

(b) Have written procedures for obtaining a bond in an amout which the State IV–D agency deems adequate to indemnify the State IV–D program for loss resulting from employee dishonesty; and

(c) Use the written procedures specified above.

§ 305.38 Separation of cash handling and accounting functions.

(a) For the purposes of this part, to be found in compliance with the State plan requirement for the separation of cash handling and accounting functions (45 CFR 302.20), a State must have written administrative procedures:

(1) Designed to assure that persons, including the individuals specified in § 302.20(b) of this chapter, responsible for handling cash receipts of support do not participate in accounting or operating functions which would permit them to conceal in the accounting records the misuse of support receipts; and

(2) Designed to assure use of generally accepted accounting principles.

(b) The requirements prescribed in paragraph (a) of this section do not

apply to sparsely geographic areas within the State granted a waiver under § 302.20(c) of this chapter by the Regional Office.

(c) The State must use the written procedures specified above.

§ 305.39 Withholding of unemployment compensation.

For the purposes of this part, to be found in compliance with the State plan requirement for the withholding of unemployment compensation (45 CFR 302.65), a State must:

(a) Have negotiated a cost effective cooperative agreement with the State Employment Security Agency (SESA) that provides for:

(1) Exchange of information;

(2) The withholding of unemployment compensation benefits to satisfy unmet support obligations;

(3) Payment of withheld unemployment compensation by the SESA to the IV–D agency; and

(4) Reimbursement of administrative costs of the SESA by the IV–D agency.

(b) Have written procedures to determine, based on information provided by the SESA, whether individuals who apply for or receive unemployment compensation owe support obligations that are being enforced by the IV–D agency;

(c) Have written procedures for arranging for the withholding of unemployment compensation:

(1) Pursuant to a voluntary agreement with the individual who owes support; or

(2) Pursuant to legal process under State or local law;

(d) Have written criteria for selecting cases to pursue by the withholding of unemployment compensation process for the collection of past-due support;

(e) Have written procedures for providing a receipt at least annually to an individual who requests a receipt for the support paid by the withholding of unemployment compensation, if receipts are not provided through other means;

(f) Have written procedures for maintaining direct contact with the SESA in its State as prescribed in § 302.65(c)(5) of this chapter;

(g) Have written procedures for the reimbursement of the administrative costs incurred by the SESA that are actual, incremental costs attributable to the process of withholding of unemployment compensation for support purposes insofar as these costs have been agreed upon by the SESA and the IV–D agency;

(h) Have written procedures to review and document, at least annually, the State withholding of unemployment compensation program, including the case selection criteria and costs of the withholding process versus the amounts collected and, as necessary, modify the procedures and renegotiate the services provided by the SESA to improve program and cost effectiveness;

(i) Use the written procedures specified above; and

(j) Have personnel performing the activities described above.

§ 305.40 Federal tax refund offset.

For the purposes of this part, to be found in compliance with the State plan requirement for Federal tax refund offset (45 CFR 302.60), a State must:

(a) Have written procedures to obtain payment of past-due support from Federal tax refunds in accordance with section 464 of the Act, § 303.72 of this chapter and regulations of the Internal Revenue Service at 26 CFR 301.6402–5;

(b) Use the written procedures specified above; and

(c) Have personnel performing the functions specified above.

§ 305.41 Recovery of direct payments.

For the purposes of this part, to be found in compliance with the State plan requirement for recovery of direct payments (45 CFR 302.31(a)), a State must:

(a) Have written procedures to:

(1) Notify the IV–A agency whenever a determination is made that directly received payments have been retained, if the State elects the IV–A recovery method; or

(2) Recover retained direct support payments in accordance with the standards in § 303.80 of this chapter if the State elects the IV–D recovery method.

(b) Use the written procedures specified above.

(c) Have personnel performing the functions specified above.

§ 305.42 Spousal support.

For the purposes of this part, to be found in compliance with the State plan provision for the collection of spousal support (45 CFR 302.31(a)), a State must:

(a) Have written procedures for the collection of spousal support from a legally liable person when:

(1) A support order has been established for the purpose;

(2) The spouse or former spouse is living with the child(ren) for whom the individual is liable for child support; and

(3) The support order established for the child(ren) is being enforced under the IV–D plan.

(b) Use the written procedures specified above.

(c) Have personnel performing the functions specified above.

§ 305.43 90 percent Federal financial participation for computerized support enforcement systems.

For the purposes of this part, to be found in compliance with the State plan requirement for the establishment of a computerized support enforcement system eligible for 90 percent Federal financial participation (45 CFR 302.85), a State's system must be:

(a) Planned, designed, developed, installed, or enhanced in accordance with an initial and annually updated advance planning document approved under § 303.65 of this chapter; and

(b) Planned, designed developed, installed, or enhanced to control, account for, and monitor all the factors in the support collection and paternity determination processes under the State plan including the factors prescribed in § 302.85(c)(2) of this chapter.

§ 305.44 Publicizing the availability of support enforcement services.

For the purposes of this part, to be found in compliance with the State plan requirement for publicizing the availability of support enforcement services (45 CFR 302.30), a State must publicize regularly and frequently the availability of support enforcement services under the State plan through public service announcements that include:

(a) Information on any application fees imposed for such services; and

(b) A telephone number or postal address where further information may be obtained.

§ 305.45 Notice of collection of assigned support.

For the purposes of this part, to be found in compliance with the State plan requirement for providing notice of collection of assigned support (45 CFR 302.54), a State must:

(a) Have written procedures for:

(1) Sending, at least annually, a notice of the amount of support payments collected during the past year to individuals who have assigned rights to support under § 232.11 of this title; and

(2) Listing separately in the notice support payments collected from each absent parent when more than one absent parent owes support to the family;

(3) Indicating in the notice the amount of support collected which was paid to the family;

(b) Use the written procedures specified above.

(c) Have personnel performing the functions specified above.

§ 305.46 Incentive payments to States and polical subdivisions.

For the purposes of this part, to be found in compliance with the State plan requirement for incentive payments to States and polical subdivisions (45 CFR 303.52), the State must:

(a) Have written procedures:

(1) To require that, if one or more political subdivisions of the State participate in the costs of carrying out the activities under the State plan during any period, each such subdivision shall be paid an appropriate share of any incentive payments made to the State for such period, as determined by the State in accordance with § 303.52(d) of this chapter, and

(2) To consider the efficiency and effectiveness of the political subdivision in carrying out the activities under the State plan in determining the amount of the incentive payments made to the political subdivision.

(b) Use the written procedures specified above.

(c) Have personnel performing the functions specified above.

§ 305.47 Guidelines for setting child support awards.

For the purposes of this part, to be found in compliance with the State plan requirement for guidelines for setting child support awards (45 CFR 302.56), a State must:

(a) Establish guidelines by law or by judicial or administrative action for setting child support award amounts within the State;

(b) Have procedures for making the guidelines available to all persons in the State whose duty it is to set child support award amounts, but the guidelines need not be binding on those persons; and

(c) Include a copy of the guidelines in its State plan.

§ 305.48 Payment of support through the IV–D agency or other entity.

For purposes of this part, to be found in compliance with the optional State plan provision for payment of support through the IV–D agency or other entity (45 CFR 302.57), a State must:

(a) Have written procedures for the payment of support through the State IV–D agency or entity designated to administer the State's withholding system upon request of either the absent parent or custodial parent, regardless of whether or not arrearages exist or withholding procedures have been instituted;

(b) Have written procedures to:

(1) Monitor all amounts paid and dates of payments and record them on an individual IV–D payment record;

(2) Ensure prompt payment to the custodial parent when appropriate; and

(3) Require the requesting parent to pay a fee for the cost of providing the service not to exceed $25 annually and not to exceed State costs;

(c) Use the written procedures specified above; and

(d) Have personnel performing the functions specified above.

§ 305.49 Wage or income withholding.

For the purposes of the part, to be found in compliance with the State plan requirement for wage or income withholding (45 CFR 302.70(a)(1)), a State must:

(a) Have written procedures for carrying out a program of withholding in accordance with § 303.100 of this chapter;

(b) Use the written procedures specified above; and

(c) Have personnel performing the functions specified above.

§ 305.50 Expedited processes.

For the purposes of this part, to be found in compliance with the State plan requirement for expedited process (45 CFR 302.70(a)(2)), a State must:

(a) Have written expedited procedures to establish and enforce child support obligations having the same force and effect as those established through full judicial process in accordance with § 303.101 of this chapter;

(b) Use the written procedures specified above; and

(c) Have personnel performing the functions specified above.

§ 305.51 Collection of overdue support by State income tax refund offset.

For the purposes of this part, to be found in compliance with the State plan requirement for collection of overdue support by State income tax refund offset (45 CFR 302.70(a)(3)), a State must:

(a) Have written procedures for obtaining overdue support from State income tax refunds on behalf of recipients of aid under the State's title IV–A or IV–E plan with respect to whom an assignment under § 232.11 of this title or section 471(a)(17) of the Act is effective, and on behalf of individuals who apply for services under § 302.33 of this part, in accordance with § 303.102 of this chapter;

(b) Use the written procedures specified above; and

(c) Have personnel performing the functions specified above.

§ 305.52 Imposition of liens against real and personal property.

For the purposes of this part, to be found in compliance with the State plan requirement for the imposition of liens against real and personal property (45 CFR 302.70(a)(4)), a State must:

(a) Have written procedures for the imposition of liens against the real and personal property of absent parents who owe overdue support in accordance with § 303.103 of this chapter;

(b) Use the written procedures specified above; and

(c) Have personnel performing the functions specified above.

§ 305.53 Posting security, bond or guarantee to secure payment of overdue support.

For the purposes of this part, to be found in compliance with the State plan requirement for posting security, bond or guarantee to secure payment of overdue support (45 CFR 302.70(a)(6)), a State must:

(a) Have written procedures which require that an absent parent give security, post a bond, or give some other guarantee to secure payment of support in accordance with § 303.104 of this chapter;

(b) Use the written procedures specified above; and

(c) Have personnel performing the functions specified above.

§ 305.54 Making information available to consumer reporting agencies.

For the purposes of this part, to be found in compliance with the State plan requirement for making information available to consumer reporting agencies (45 CFR 302.70(a)(7)), a State must:

(a) Have written procedures for making information regarding the amount of overdue support owed by an absent parent available to consumer reporting agencies in accordance with § 303.105 of this chapter;

(b) Use the written procedures specified above; and

(c) Have personnel performing the functions specified above.

§ 305.55 Imposition of late payment fees on absent parents who owe overdue support.

For the purposes of this part, to be found in compliance with the optional State plan requirement for imposing late payment fees on absent parents who owe overdue support (45 CFR 302.75), a State must:

(a) Have written procedures for uniformly applying the late payment fee in accordance with § 302.75 of this chapter;

(b) Use the written procedures specified above; and

(c) Have personnel performing the functions specified above.

§ 305.58 Medical support.

For the purposes of this part, to be found in compliance with the State plan requirement for medical support, a State must meet requirements that will be published as final regulations on medical support effective upon publication of the requirements.

10. Section 305.58 is added to read as follows:

§ 305.58 Performance indicators and audit criteria.

(a) Beginning with this fiscal year 1986 audit period, the Office will use the following performance indicators in determining whether each State has an effective IV–D program.

(1) *AFDC IV–D collections*
Total IV–D expenditures;
(2) *Non-AFDC IV–D collections*
Total IV–D expenditures; and
(3) *AFDC IV–D collections*
IV–A assistance payments
(Less payments to unemployed parents).

(b) Beginning with the fiscal year 1988 audit period, the Office will use the performance indicators prescribed in paragraph (a) of this section and the following performance indicators in determining whether each State has an effective IV–D program.

(1) *AFDC IV–D collections on support due (for a fiscal year)*
Total AFDC support due (for the same fiscal year)
(2) *Non-AFDC IV–D collections on support due (for a fiscal year)*
Total non-AFDC support due (for the same fiscal year)
(3) *AFDC IV–D collections on support due (for prior fiscal year)*
Total AFDC support due (for the same fiscal years)
(4) *Non-AFDC IV–D collections on support due (for prior fiscal years)*
Total Non-AFDC support due (for prior fiscal years)

(c) The Office shall use the following procedures and audit criteria to measure State performance in fiscal years 1986 and 1987.

(1) The ratio for each of the performance indicators in paragraph (a) of this section will be evaluated on the basis of the scores in the tables in paragraphs (c)(1) (i) through (iii) of this section. The tables show the scores the States will receive for different levels of performance.

(i) Dollar of AFDC IV–D collections per dollar of total IV–D expenditures.

Level of performance	Score
$0.00 to $0.0	
$0.01 to $0.09	2
$0.10 to $0.19	4
$0.20 to $0.29	6
$0.30 to $0.39	8
$0.40 to $0.49	10
$0.50 to $0.59	12
$0.60 to $0.69	14
$0.70 to $0.79	16
$0.80 to $0.89	18
$0.90 to $0.99	20
$1.00 to $1.19	22
$1.20 to $1.39	24
$1.40 or more	25

(ii) Dollar of non-AFDC IV–D collections per dollar of total IV–D expenditures.

Level of performance	Score
$0.00	0
$0.01 to $0.09	4
$0.10 to $0.19	8
$0.20 to $0.29	12
$0.30 to $0.39	16
$0.40 to $0.49	20
$0.50 to $0.59	24
$0.60 to $0.69	28
$0.70 to $0.79	32
$0.80 to $0.89	36
$0.90 to $0.99	40
$1.00 to $1.19	44
$1.20 to $1.39	48
$1.40 or more	50

(iii) AFDC IV–D collections divided by IV–A assistance payments (less payments to unemployed parents).

Level of performance (in percent)	Score
0 to 1.9	0
2 to 3.9	5
4 to 4.9	10
5 to 5.9	15
6 to 6.9	20
7 or more	25

(2) To be found to meet the audit criteria, a State's total score must equal or exceed 70.

Example. A State achieves levels of performance of $1.22, $1.35 and 6.5 percent on the performance indicators in paragraph (a) of this section. The State would receive individual scores of 24, 48 and 20 on these performance indicators. The State would be found to meet the audit criteria because the total score is 92.

A State achieves levels of performance of $.65, $.85 and 2.5 percent on the performance indicators in paragraph (a) of this section. The State would receive individual scores of 14, 28 and 5 on these performance indicators. The State would be found not to meet the audit criteria because the total score is 47.

A State achieves levels of performance of $.92, $.96 and 4.2 percent on the performance indicators in paragraph (a) of this section. The State would receive individual scores of 20, 40 and 10 on these performance indicators. The State would be found to meet the audit criteria because the total score is 70.

(d) Beginning in fiscal year 1988, the Office shall evaluate State performance according to the indicators in paragraphs (a) and (b) of this section on the basis of a scoring system that will be described and updated in regulation once every two years beginning in fiscal year 1987.

11. Section 305.59 is added to read as follows:

§ 305.59 Notice and corrective action period.

(a) If a State is found by the Secretary on the basis of the results of the audit described in this part not to comply substantially with the requirements of title IV–D of the Act, as implemented by Chapter III of this title, the Office will notify the State in writing of such finding.

(b) The notice will:

(1) Cite the State for noncompliance, list the unmet audit criteria, apply a penalty and give the reasons for the Secretary's finding;

(2) Identify any audit criteria listed in § 305.20 (a)(2), (b)(2) or (c)(2) of this part that the State met only marginally (that is, in 75 to 80 percent of the cases reviewed);

(3) Specify that the penalty may be suspended if the State meets the conditions specified in paragraph (c) of this section; and

(4) Specify the conditions that result in terminating the suspension of the penalty as specified in paragraph (d) of this section.

(c) The penalty will be suspended for a period not to exceed one year from the date of the notice and, beginning with the fiscal year 1986 audit period, when a State fails to meet audit criteria relating to the performance indicators prescribed in § 305.58 of this part the penalty will be suspended until the end of the fiscal year following the fiscal year in which a State failed to meet those criteria if the following conditions are met:

(1) Within 60 days of the date of the notice, the State submits a corrective action plan to the appropriate Regional Office which contains a corrective action period not to exceed one year from the date of the notice and which contains steps necessary to achieve substantial compliance with the requirements of title IV–D of the Act;

(2) The corrective action plan and any amendment are:

(i) Approved by the Secretary within 30 days of receipt of the corrective action plan; or

(ii) Approved automatically because the Secretary took no action within the period specified in paragraph (b)(2)(ii)(A) of this section; and

(3) The Secretary finds that the corrective action plan (or any amendment to it approved by the Secretary) is being fully implemented by the State and that the State is progressing to achieve substantial compliance with the criteria cited in the notice.

(d) The suspension of the penalty will continue until such time as the Secretary determines that:

(1) The State has achieved substantial compliance with the criteria cited in the notice;

(2) The State is not implementing its corrective action plan; or

(3) The State has implemented its corrective action plan but has failed to achieve or maintain substantial compliance with the criteria cited in the notice. For State plan-related criteria, this determination will be made as of the first full quarter after corrective action period. For performance-related criteria this determination will be made as of the fiscal year following the fiscal year in which performance was not in substantial compliance.

(e) A corrective action plan disapproved under paragraph (c) of this section is not subject to appeal.

(f) Only one corrective action period is provided to a State in relation to a given criterion when consecutive findings of noncompliance are made on that criterion.

12. Section 305.50 is redesignated as § 305.6 and revised to read as follows:

§ 305.60 Penalty for failure to have an effective support enforcement program.

(a) If the Secretary finds, on the basis of the results of the audit described in this part, that a State's program does not substantially meet the requirements in title IV–D of the Act, as implemented by Chapter III of this title, and the State does not achieve substantial compliance with those requirements identified in the notice within the corrective action period approved by the Secretary under § 305.59(c) of this part and maintain compliance in areas cited in the notice as marginally acceptable under § 305.59(b)(2) of this part, total payments to the State under title IV–A of the Act will be reduced for the period prescribed in paragraph (c) or (d) of this section by:

(1) Not less than one nor more than two percent of such payments for a period beginning in accordance with paragraph (c) or (d) of this section not to exceed the one-year period following the end of the suspension period;

(2) Not less than two nor more than three percent of such payments if the finding is the second consecutive finding made as a result of an audit for a period beginning as of the second one-year period following the suspension period not to exceed one year; or

(3) Not less than three nor more than five percent of such payments if the finding is the third or subsequent consecutive finding as a result of an audit for a period beginning as of the third one-year period following the suspension period.

(b) In the case of a State that has achieved substantial compliance with the criteria identified in the notice within the corrective action period approved by the Secretary under § 305.59 of this part, the penalty will not be applied.

(c) In the case of a State whose penalty suspension ends because the State is not implementing its corrective action plan, the penalty will be applied as if the suspension had not occured.

(d) In the case of a State whose penalty suspension ends because the State is implementing its corrective action plan but has failed to achieve substantial compliance with the criteria identified in the notice within the corrective action period approved by the Secretary under § 305.59 of this part, the penalty will be effective for any quarter that ends after the expiration of the suspension period until the first quarter throughout which the State IV–D program is in substantial compliance with the requirements of title IV–D of the Act.

(e) Any reduction required to be made under this section shall be made pursuant to § 205.146(d) of this title.

(f) The reconsideration of penalty imposition provided for by § 205.146(e) of this title shall be applicable to any reduction made pursuant to this section.

(Sec.1102 of the Social Security Act (42 U.S.C. 1302) and secs. 403(h) and 452(a) (1) and (4) of the Social Security Act (42 U.S.C. 603(h) and 652(a) (1) and (4))

(Catalog of Federal Domestic Assistance Program No. 13.679, Child Support Enforcement Program.)

Dated: September 15, 1984.

Martha A. McSteen

Acting Director, Office of Child Support Enforcement, Acting Commissioner of Social Security.

Approved: October 3, 1984.

Margaret M. Heckler,

Secretary.

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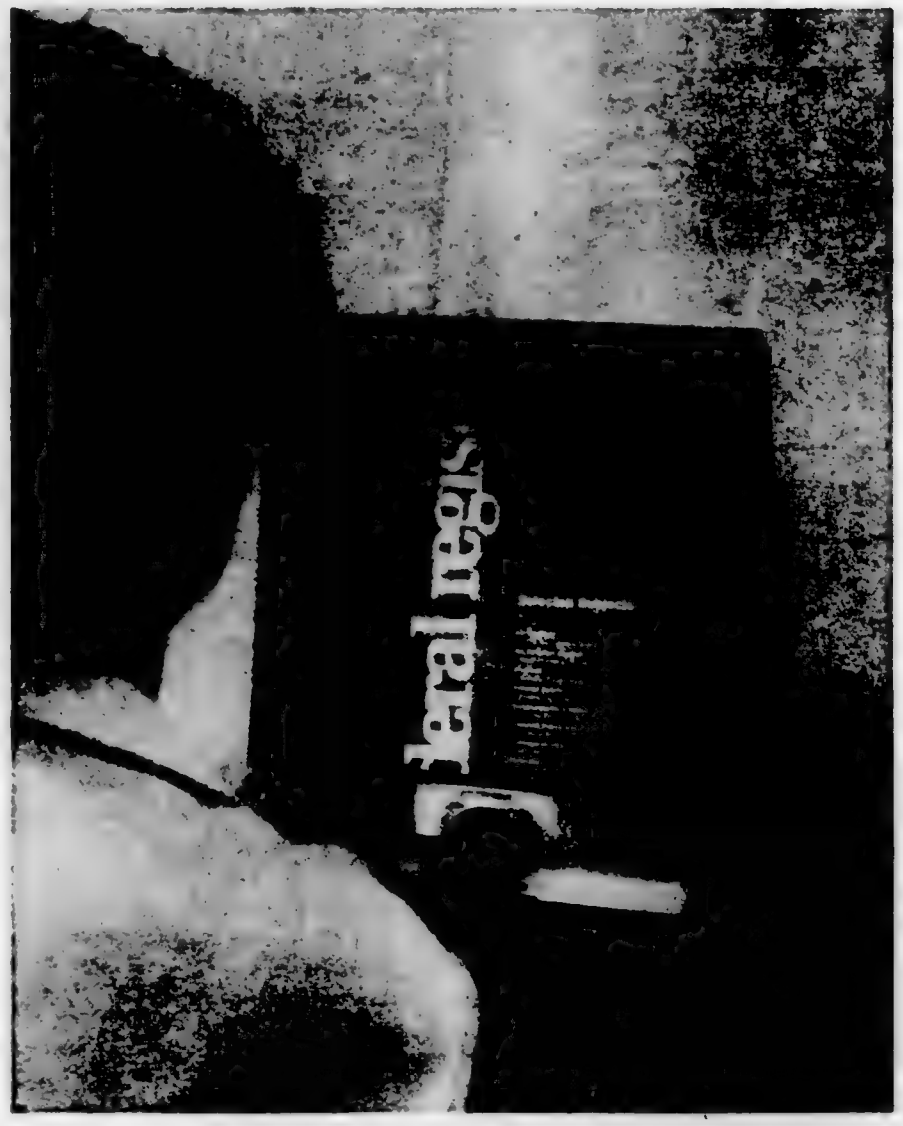

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The President

Proclamation 5247 of October 4, 1984

National Employ the Handicapped Week, 1984

By the President of the United States of America

A Proclamation

Today we are at a benchmark in the employment of men and women with disabilities. We have made more progress than we would have dared dream of a century ago. But this very progress underlines the pressing needs which have not yet been met.

These are needs that will demand the utmost of all segments of our population—public and private, professional and volunteer, industry and labor, those who provide services and those who use them.

We have made great gains because of better training and job preparation, greater public understanding of disability, and the willingness of employers to accommodate jobs to disabled workers. We have actively encouraged this progress through programs such as equal employment opportunity and targeted tax credits. Disabled people have been given expanded opportunities for jobs with futures, but obstacles to the effective utilization of such opportunities remain, and technological advances are still beyond the reach of many who need them.

The Congress, by joint resolution approved August 11, 1945, as amended (36 U.S.C. 155), has called for the designation of the first full week in October of each year as "National Employ the Handicapped Week." During this week, let us renew our commitment to increase opportunities for disabled citizens and to help them attain their personal goals.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning October 7, 1984, as National Employ the Handicapped Week. I urge all governors, mayors, other public officials, leaders in business and labor, and private citizens to help meet the challenge of the future by ensuring that disabled people have the opportunity to participate fully in the economic life of the Nation.

IN WITNESS WHEREOF, I have hereunto set my hand this fourth day of October, in the year of our Lord nineteen hundred and eighty-four, and of the Independence of the United States of America the two hundred and ninth.

Ronald Reagan

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Proclamation 5248 of October 4, 1984

National Children's Week, 1984

By the President of the United States of America

A Proclamation

The future of our free society depends on our most important resource: our children. For ourselves as for every other society, our children are our future.

Over the course of human history, men and women in every time and place have chosen the family as the best institution for the raising and nurturing of children. Today, there is a renewed appreciation of the crucial role the family plays in producing healthy and self-confident children, who will mature into adults capable of forming the bonds of love and affection which sustain society.

Children grow best in families supported by the love of parents who pass on to them the rich moral heritage of our civilization and help develop their sense of responsibility to the larger community. Children who are confident of their own worth within a family will bring confidence and strength to our society.

National Children's Week provides an opportunity for us to reaffirm our commitment to ensuring our children a firm foundation for physical, mental, and spiritual growth. As we embrace the younger generation, let us remember that we hold the future in our hands.

The Congress, by House Joint Resolution 153, has designated the week of October 7 through October 13, 1984, as "National Children's Week" and has authorized and requested the President to issue a proclamation in observance of this event.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week of October 7 through October 13, 1984, as National Children's Week. I call upon government agencies and the people of the United States to observe this week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this fourth day of October, in the year of our Lord nineteen hundred and eighty-four, and of the Independence of the United States of America the two hundred and ninth.

Ronald Reagan

[FR Doc. 84-26777
Filed 10-5-84; 10:25 am]
Billing code 3195-01-M

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Presidential Documents

Proclamation 5249 of October 4, 1984

National Quality Month, 1984

By the President of the United States of America

A Proclamation

A commitment to excellence in manufacturing and services is essential to our Nation's long-term economic welfare. Quality in manufacturing and services will contribute to increased productivity, reduced costs, and consumer satisfaction.

Historically, American craftsmen have shown great personal pride and interest in developing quality goods and services. Today, we must reinforce our pride of workmanship by renewing that commitment.

Improving the quality of American goods and services depends upon each of us. Individual workers, business managers, labor leaders, and government officials must all work to promote a standard of excellence in the public and private sectors.

To provide for a greater awareness of the need to ensure that American goods and services are of the highest quality, the Congress, by Senate Joint Resolution 304, has designated the month of October 1984 as "National Quality Month" and authorized and requested the President to issue a proclamation in observance of this event.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the month of October 1984 as National Quality Month, and I call upon the people of the United States to observe such month with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this fourth day of October, in the year of our Lord nineteen hundred and eighty-four, and of the Independence of the United States of America the two hundred and ninth.

Ronald Reagan

[FR Doc. 84-26778]
Filed 10-5-84; 10:28 am]
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Rules and Regulations

Federal Register
Vol. 49, No. 196
Tuesday, October 9, 1984

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER

1 CFR Part 3

Price Changes to ACFR Publications

AGENCY: Administrative Committee of the Federal Register.

ACTION: Final rule.

SUMMARY: The Administrative Committee of the Federal Register (ACFR) announces changes in the prices of certain publications. The annual subscription prices of the microfiche editions of the **Federal Register** and Code of Federal Regulations (CFR) and the price of a single issue of the Weekly Compilation of Presidential Documents are reduced to reflect lower costs. The prices for annual subscriptions to the Weekly Compilation of Presidential Documents and the Federal Register Index and for individual issues of the CFR in microfiche are increased to fully recover production and distribution costs to the Government.

EFFECTIVE DATES:

Federal Register microfiche price, § 3.4 (b) (3)—November 8, 1984.

Code of Federal Regulations microfiche prices, § 3.4 (b) (4)—January 1, 1985.

Weekly Compilation of Presidential Documents prices, § 3.4 (b) (7)—November 8, 1984.

Federal Register Index, § 3.4 (b) (8)—November 8, 1984.

FOR FURTHER INFORMATION CONTACT: Frances D. McDonald, (202) 523–4534.

SUPPLEMENTARY INFORMATION: The ACFR, which establishes prices for **Federal Register** publications, has determined that the annual subscription price for the microfiche edition of the **Federal Register** will be reduced to $145 effective with subscriptions beginning November 8, 1984. Lower than anticipated first-year costs for the edition led to the price reduction.

The ACFR also has determined that the annual subscription for the 50-Title Code of Federal Regulations in microfiche will be $185 beginning with the 1985 edition of the CFR. This reduction is due to a more favorable production contract awarded competitively by the Government Printing Office (GPO). However, the price for individual issues of the CFR in microfiche is rising from $2.25 to $3.75 to reflect increased handling costs for these separate orders.

The annual subscription price for the Federal Register Index, bought separately, is increased from $18 to $22 effective November 8, 1984, because of higher production costs.

Finally, the ACFR has determined that the price of an annual subscription to the Weekly Compilation of Presidential Documents will be increased to $60 effective November 8, 1984. Documents will be increased to $60 effective November 8, 1984. This increase is necessary in order to make the publication self-sustaining. The annual subscription price for first-class mailing will be increased to $101. However, the price of individual issues of this publication decreases from $2.25 to $1.75 under a revised GPO general pricing formula reducing handling costs for publications of this size.

This is not a major rule under E.O. 12291. The Regulatory Flexibility Act (5 U.S.C. 601 et seq.) does not apply to these changes because they do not constitute a rule as defined by that Act nor do they necessitate a notice of proposed rulemaking.

List of Subjects in 1 CFR Part 3

Government publications, Federal Register publications, Subscription rates.

PART 3—SERVICES TO THE PUBLIC

For the reasons set out in the preamble and under the authority given the Administrative Committee of the Federal Register by 44 U.S.C. 1506, Part 3 of Chapter I of Title 1 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 3 continues to read as follows:

Authority: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR 1954–1958 Comp., p. 189.

2. Section 3.4 is amended by revising paragraphs (b)(3), (4), and (7) and adding (b)(8) to read as follows:

§ 3.4 Subscriptions and availability of Federal Register publications.

* * * * *

(b) * * *

(3) **Federal Register.** The daily issues of the **Federal Register** will be furnished by mail to subscribers for $300 per year or $150 for six months for the paper edition, or for $145 per year for the microfiche edition. Subscription fees are payable in advance to the Superintendent of Documents, Government Printing Office. Limited quantities of current or recent paper and microfiche copies may be obtained from the Superintendent of Documents, Government Printing Office, for $1.50 per copy.

(4) *Code of Federal Regulations.* A complete set will be furnished by mail to subscribers for $550 per year for the bound, paper edition, or for $185 per year for the microfiche edition. Subscription fees are payable in advance to the Superintendent of Documents. Individual copies of the Code volumes are sold by the Superintendent of Documents at prices determined by the Superintendent under the general direction of the Administrative Committee. The price of individual issues in microfiche is $3.75.

* * * * *

(7) *Weekly Compilation of Presidential Documents.* (i) *Nonpriority mailing.* Issues will be furnished by mail to subscribers for $60 per year payable in advance to the Superintendent of Documents, Government Printing Office.

(ii) *First-class mailing.* Issues will be furnished to subscribers by first-class mail for $101 per year payable in advance to the Superintendent of Documents, Government Printing Office. Individual issues may be obtained for $1.75 per copy from the Superintendent of Documents, Government Printing Office.

(8) *Federal Register Index.* The annual subscription price for the **Federal**

Register Index purchased separately is $22.

Robert M. Warner,
Chairman.
William J. Barrett,
Member.
Ralph W. Tarr,
Member.
Approved: October 2, 1984.
William French Smith,
Attorney General.
Ray Kline,
Acting Administrator of General Services.

[FR Doc. 84-26821 Filed 10-8-84; 8:45 am]
BILLING CODE 4410-01-M

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 444

[Amdt. No. 1; Docket No. 1332S]

Fresh Tomato Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby amends the Fresh Tomato Crop Insurance Regulations (7 CFR Part 444), effective for the 1985 and succeeding crop years. The intended effect of this action is to update the provisions of the policy for insuring fresh tomatoes, as outlined herein. This rule is promulgated under the authority contained in the Federal Crop Insurance Act, as amended.

EFFECTIVE DATE: November 8, 1984.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Departmental Regulation 1512-1 (December 15, 1983). This action does not constitute a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is April 1, 1988.

Merritt W. Sprague, Manager, FCIC, has determined that this action (1) is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, Federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) will not increase the Federal paperwork burden for individuals, small businesses, and other persons.

The title and number of the Federal Assistance Program to which this proposed rule apply are: Title—Crop Insurance; Number 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115 (June 24, 1983).

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

On Wednesday, May 30, 1984, FCIC published a notice of proposed rulemaking in the **Federal Register** at 49 FR 22483, proposing to amend the Fresh Tomato Crop Insurance Regulations (7 CFR Part 444) as follows:

(1) specifying named perils as the causes of loss to be insured against; (2) prohibiting coverage for tomatoes grown for direct consumer marketing; (3) providing that coverage will not attach to an acreage where tomatoes were planted the previous planting period unless the tomato plants from the previous period were destroyed less than 60 days after date of direct seeding; (4) providing that lack of available plants will not be a consideration in determining whether or not an acreage should be replanted; (5) providing for final planting dates in the actuarial tables; (6) including ripe tomatoes in production to count; (7) increasing the minimum value of unsold, harvested, or appraised production with respect to the allowable cost for harvest and hauling; (8) defining maximum bed width; (9) redefining the planting period; and, (10) adding two sections dealing with "notices" and "determinations."

The public was given 60 days in which to submit written comments, data, and opinions on the proposed rule, but none were received. Therefore, the proposed rule as published on May 30, 1984, is hereby adopted as final with minor and non-substantial changes in language.

List of Subjects in 7 CFR Part 444

Crop insurance, Fresh market tomatoes.

Final Rule

PART 444—[AMENDED]

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby amends the Fresh Market Tomato Crop Insurance Regulations (7 CFR Part 444), effective with the 1985 and succeeding crop years, in the following instances:

1. The authority citation for 7 CFR Part 444 is:

Authority: 506, 516, Pub. L. 75-430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

§ 444.7 [Amended]

2. 7 CFR 444.7(d) is revised to read as set forth below:

* * * * *

(d) The application for the 1985 and succeeding crop years is found at Subpart D of Part 400—General Administrative Regulations (7 CFR 400.37, 400.38) and may be amended from time to time for subsequent crop years. The provisions of the Fresh Tomato Crop Insurance Policy for the 1985 and succeeding crop years are as follows:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Fresh Market Tomato—Crop Insurance Policy

(This is a continuous contract. Refer to Section 15.)

Agreement to insure: We will provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us" and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of loss.

a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

(1) Frost;
(2) Freeze;
(3) Hail;
(4) Fire;
(5) Tornado;
(6) Hurricane;
(7) Tropical depression that has been named by the U.S. Weather Service; or
(8) Failure of the irrigation water supply after planting due to an unavoidable cause unless those causes are excepted, excluded, or limited by the actuarial table or section 9f(6).

b. We do not insure against any loss of production due to:

(1) The neglect, mismanagement, or wrongdoing of you, any member of your household, your tenants or employees;

(2) The failure to follow recognized good fresh market tomato (tomato) farming practices;

(3) The impoundment of water by any governmental, public or private dam or reservoir project;

(4) Any cause not specified in section 1a as an insured loss;

(5) The failure to carry out a good tomato irrigation practice; or

(6) The breakdown of irrigation equipment or facilities.

2. Crop, acreage, and share insured.

a. The crop insured shall be tomatoes (excluding cherry-type tomatoes) which are planted for harvest as fresh market tomatoes in which you have a share as reported by you or as determined by us, whichever we elect; which are grown on insured acreage; and for which an amount of insurance and premium rate are provided by the actuarial table.

b. The acreage insured for each crop year must be irrigated acreage designated as insurable by the actuarial table.

c. The insured share shall be your share as landlord, owner-operator, or tenant in the insured tomatoes at the time of each planting period.

d. We will not insure any acreage of tomatoes grown by any person if:

(1) The person had not grown tomatoes for commercial sales the previous crop year; or

(2) The person had not participated in the management of the tomato farming operation the previous crop year.

e. We do not insure any acreage:

(1) Of tomatoes grown for direct consumer marketing;

(2) Where the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;

(3) Which is not irrigated;

(4) On which tomatoes are not grown on plastic mulch;

(5) On which tomatoes, peppers, eggplants or tobacco have been grown and the soil was not fumigated before the planting of tomatoes;

(6) Which was planted to tomatoes the preceding planting period, unless the tomato plants of the preceding planting period were destroyed:

(a) Less than 30 days after the date of transplanting; or

(b) Less than 60 days after the date of direct seeding;

(7) Which is destroyed and it is practical to replant to tomatoes but such acreage is not replanted (availability of plants for replanting, will not be considered when determining the practicability of replanting);

(8) Initially planted after the final planting date contained in the actuarial table;

(9) Of volunteer tomatoes;

(10) Planted to a type or variety of tomatoes not established as adapted to the area or excluded by the actuarial table;

(11) Planted for experimental purposes; or

(12) Planted with a crop other than tomatoes.

f. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to planting.

3. Report of acreage, share, and practice.

You shall report at the time of each planting period on our form:

a. All the acreage of fall, winter and spring-planted tomatoes in the county in which you have a share;

b. The practice, including the bed size; and

c. Your share.

You must designate separately any acreage that is not insurable. You must report if you do not have a share in any tomato plantings in the county. This report must be submitted for each planting period on or before the reporting date established by the actuarial table for each planting period. All indemnities may be determined on the basis of information you submit on this report. If you do not submit this report by the reporting date, we may elect to determine by unit for each planting period the insured acreage, share, and practice or we may deny liability on any unit for any planting. Any report submitted by you may be revised only upon our approval.

4. Coverage levels and amounts of insurance.

a. The coverage levels and amounts of insurance are contained in the actuarial table.

b. Coverage level 2 will apply if you have not elected a coverage level.

c. You may change the coverage level and amount of insurance before the closing date for submitting applications for the crop year as established by the actuarial table.

5. Annual premium.

a. The annual premium is earned and payable at the time of planting. The amount is computed by multiplying the amount of insurance, times the premium rate, times the insured acreage, times your share at the time of each planting, times the applicable premium adjustment percentage contained in the following table.

PREMIUM ADJUSTMENT TABLE [1]

[Percent adjustments for favorable continuous insurance experience]

	Numbers of years continuous experience through previous year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
.00 to .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 to .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 to .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 to .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 to 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

[Percent adjustments for unfavorable insurance experience]

	Numbers of loss years through previous year [3]															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
1.10 to 1.19	100	100	100	102	104	106	106	110	112	114	116	118	120	122	124	126
1.20 to 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 to 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 to 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 to 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 to 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 to 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 to 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 to 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 and up	100	100	120	136	156	180	202	224	246	266	290	300	300	300	300	300

[1] For premium adjustment purposes, only the years during which premiums were earned shall be considered.

[2] Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.

[3] Only the most recent 15 crop years shall be used to determine the number of "Loss Years". (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year.)

b. Interest will accrue at the rate of one and one-half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. Any premium adjustment applicable to the contract will be transferred to:

(1) The contract of your estate or surviving spouse if you die;

(2) The contract of the person who succeeds you if such person had previously participated in the farming operation; or

(3) Your contract if you stop farming in one county and start farming in another county.

d. If participation is not continuous, any premium will be computed on the basis of previous unfavorable insurance experience but no premium reduction under section 5e will be applicable.

6. Deductions for debt.

Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. Insurance period.

Insurance attaches when the tomatoes are planted in each planting period and ends at the earliest of:

a. Total destruction of the tomatoes on the unit;

b. Discontinuance of harvest on the unit;

c. The date harvest should have started on the unit on any acreage which will not be harvested;

d. Final harvest; or

e. Final adjustment of a loss.

8. Notice of damage or loss.

a. In case of damage or probable loss:

(1) You must give us written notice if:

(a) You want our consent to replant tomatoes damaged due to any insured cause. (To qualify for a replanting payment, the acreage replanted must be at least the lesser of 10 acres or 10 percent of the insured acreage sustaining a loss in excess of 50 percent of the plant stand on the unit);

(b) During the period before harvest, the tomatoes on any unit are damaged and you decide not to further care for or harvest any part of the tomatoes;

(c) You want our consent to put the acreage to another use; or

(d) After consent to put acreage to another use is given, additional damage occurs.

Insured acreage may not be put to another use until we have appraised the tomatoes and given written consent. We will not consent to another use until it is too late to replant. You must notify us when such acreage is replanted or put to another use.

(2) You must given us notice at least 15 days before the beginning of harvest if you anticipate a loss on any unit.

(3) If probable loss is later determined and you are going to claim an indemnity on any unit, notice must be given not later than 48 hours:

(a) After total destruction of the tomatoes on the unit;

(b) After discontinuance of harvest on the unit; or

(c) Before harvest would normally start if any acreage on the unit is not to be harvested.

b. You may not destroy or replant any of the tomatoes on which a replanting payment will be claimed until we give consent.

c. You must obtain written consent from us before you destroy any of the tomatoes which are not to be harvested.

d. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with.

9. Claim for indemnity.

a. Any claim for indemnity on a unit must be submitted to us on our form not later than 60 days after the earliest of:

(1) Total destruction of the tomatoes on the unit;

(2) Discontinuance of harvesting on the unit; or

(3) The date harvest should have started on the unit on any acreage which will not be harvested.

b. We will not pay any indemnity unless you:

(1) Establish the total production and the value received for all tomatoes on the unit and that any loss of production or value has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity will be determined on each unit by:

(1) Multiplying the insured acreage by the amount of insurance times the percentage for the stage of production defined by the actuarial table;

(2) Subtracting therefrom the total value of production to be counted (see section 9e); and

(3) Multiplying this result by your share.

d. The indemnity will be reduced by the amount of any replanting payment.

e. The total value of production to be counted for a unit must include all harvested and appraised production.

(1) The total value will include any amount received for tomatoes on the unit minus the allowable cost as designated by the actuarial table.

(2) The value of appraised production to be counted will include:

(a) The value of unharvested production of mature green and riper tomatoes with classification size of 7 x 7 (2⅔₂₂ inch minimum diameter) or larger and the value of the potential production lost due to uninsured causes and failure to follow recognized good tomato farming practices;

(b) Not less than the dollar amount of insurance per acre for any acreage abandoned or put to another use without prior written consent or damaged solely by an uninsured cause;

(c) The value of any appraised production of mature green and riper tomatoes with classification size of 7 x 7 or larger on unharvested acreage.

(3) Any appraisal we have made on insured acreage for which we have given written consent to be put to another use will be considered production unless such acreage is:

(a) Not put to another use before harvest of tomatoes becomes general in the county for the planting period;

(b) Harvested; or

(c) Further damaged by an insured cause before the acreage is put to another use.

(4) We may determine the amount and value of production of any unharvested tomatoes on the basis of field appraisals conducted after the end of the insurance period.

(5) The value of unsold harvested or appraised production will be determined by multiplying such production by the simple average F.O.B. shipping point price per 25-pound carton (minus allowable cost as shown by the actuarial table), as reported by the Federal-State Market News Service, for the classification size, for the seven consecutive market days commencing the earlier of:

(a) The date harvest starts; or

(b) The date harvest could have started on any acreage which will not be harvested.

The price for such tomatoes will not be less than $6.50 per 25-pound carton minus allowable cost shown by the actuarial table.

(6) When you have elected to exclude hail and fire as insured causes of loss and the tomatoes are damaged by hail or fire, appraisals for uninsured causes will be made in accordance with Form FCI–78–A, "Request to Exclude Hail and Fire".

(7) The value of commingled production of units will be allocated to such units in proportion to our liability on the harvested acreage of each unit.

f. A replanting payment may be made on any insured tomatoes replanted after we have given consent and the acreage replanted is at least the lesser of 10 acres or 10 percent of the insured acreage sustaining a loss in excess of 50 percent of the plant stand for the unit.

(1) No replanting payment will be made on acreage on which a replanting payment has been made during the current crop year.

(2) The replanting payment per acre will be your actual cost per acre for replanting, but will not exceed the product obtained by multiplying $175.00 per acre by your share.

g. If the information reported by you results in a lower premium that the actual premium determined to be due, the replanting payment and the indemnity will be reduced proportionately.

h. Any replanting payment will be considered as an indemnity.

i. You must not abandon any acreage to us.

j. You may not bring suit or action against us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is mailed to and received by you.

k. We will pay the loss within 30 days after we reach agreement with you or entry of a

final judgment. In no instance will we be liable for interest or damages in connection with any claim for indemnity, whether we approve or disapprove such claim.

l. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after the tomatoes are planted for any crop year, any indemnity will be paid to the person(s) we determine to be beneficially entitled thereto.

m. If you have other fire insurance and fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we will be liable for loss due to fire only for the smaller of:

(1) The amount of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) The amount by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purposes of this section, the amount of loss from fire will be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. Concealment or fraud.

We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance will be effective as the beginning of the crop year with respect to which such act or omission occurred.

11. Transfer of right to indemnity on insured share.

If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee will have all rights and responsibilities under the contract.

12. Assignment of indemnity.

You may assign to another party your right to an indemnity for the crop year only on our form and with our approval. The assignee will have the right to submit the loss notices and forms required by the contract.

13. Subrogation. (Recovery of loss from a third party.)

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such rights. If we pay you for your loss then your right of recovery will at our option belong to us. If we recover more than we paid you plus our expenses, the excess shall be paid to you.

14. Records and access to farm.

You must keep, for two years after the time of loss, records of the harvesting, storage, shipment, sale or other disposition of all tomatoes produced on each unit including separate records showing the same information for production from any uninsured acreage. Any person designated by us will have access to such records and the farm for purposes related to the contract.

15. Life of contract: cancellation and termination.

a. This contract will be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, the contract will continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract will terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due:

(1) If deducted from an indemnity claim will be the date you sign the claim; or

(2) If deducted from payment under another program administered by the United States Department of Agriculture will be the date both the payment under such other program and set off are approved.

d. The cancellation and termination dates are July 31.

e. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract will terminate as of the date of death, judicial declaration, of dissolution. If such event occurs after insurance attaches for any crop year, the contract will continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership will dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons will dissolve the joint entity.

f. The contract will terminate if no premium is earned for five consecutive years.

16. Contract changes.

We may change any terms and provisions of the contract from year to year. If your amount of insurance at which indemnities are computed is no longer offered, the actuarial table will provide the amount of insurance which you are deemed to have elected. All contract changes will be available at your service office by April 30 preceding the cancellation date. Acceptance of any changes will be conclusively presumed in the absence of any notice from you to cancel the contract.

17. Meaning of terms.

For the purposes of tomato crop insurance:

a. "Acre" means 43,650 square feet of plastic mulch not more than 6 feet wide (6 foot bed) on which at least 7,260 linear feet row(s) are planted.

b. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the amount of insurance, coverage levels, premium rates, practices, insurable and uninsurable acreage, and related information regarding tomato insurance in the county.

c. "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown by the actuarial table.

d. "Crop year" means the period within which the tomatoes are normally grown beginning August 1 and continuing through the harvesting of the spring-planted tomatoes and shall be designated by the calendar year in which the spring-planted tomatoes are normally harvested.

e. "Direct Consumer Marketing" means tomatoes which are grown for the purpose of selling directly to the consumer; and acreage which is not subject to an agreement between producer and packer to pack the production. (The producer-packer agreement must be made before you report your acreage.)

f. "Harvest" means the final picking of marketable tomatoes on the unit.

g. "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

h. "Insured" means the person who submitted the application accepted by us.

i. "Mature green tomato" means a tomato which:

(1) Has heightened gloss because of the waxy skin that cannot be torn by scraping;

(2) Has well formed jelly-like substance in the locules;

(3) Has seeds that are sufficiently hard so they are pushed aside and not cut by a sharp knife in slicing; and

(4) Show no red color.

j. "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

k. "Planting" means transplanting the tomato plants into the field or direct seeding in the field.

l. "Planting Period" means tomatoes planted within the dates specified by the actuarial table, as fall-planted, winter-planted or spring-planted.

m. "Plant Stand" means the number of live plants per acre before the plants were damaged due to insurable causes.

n. "Replanting" means performing the cultural practices necessary to replant insured acreage to tomatoes.

o. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

p. "Tenant" means a person who rents land from another person for a share of the tomatoes or a share of the proceeds therefrom.

q. "Unit" means all insurable acreage of tomatoes for each planting period in the county on the date of planting for the crop year;

(1) In which you have a 100 percent share; or

(2) Which is owned by one entity and operated by another entity on a share basis.

Land rented for cash, a fixed commodity payment, or any consideration other than a share in the tomatoes on such land will be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office or by written agreement between you and us. Units as herein defined will be determined when the acreage is reported. Errors in reporting units

may be corrected by us to conform to applicable guidelines when adjusting a loss. We may consider any acreage and share thereof reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share or any other person having an interest therein.

18. Descriptive headings.

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. Determinations.

All determinations required by the policy will be made by us. If you disagree with our determinations, you may obtain reconsideration of or appeal those determinations in accordance with FCIC's Appeal Regulations.

20. Notices.

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

Done in Washington, D.C., on July 11, 1984.

Diana Moslak,

Acting Secretary, Federal Crop Insurance Corporation.

Dated: October 1, 1984.

Approved by:

Michael Bronson,

Acting Manager.

[FR Doc. 84-26508 Filed 10-5-84; 8:45 am]

BILLING CODE 3410-08-M

Packers and Stockyards Administration

9 CFR Parts 201 and 203

Regulations and Policy Statements; Addition of OMB Control Numbers Following Approval of Reporting and Recordkeeping Requirements

AGENCY: Packers and Stockyards Administration, USDA.

ACTION: Final rule—technical amendment.

SUMMARY: The Packers and Stockyards Administration, in accordance with the Paperwork Reduction Act of 1980, is adding to the regulations and policy statements the control numbers assigned by the Director of the Office of Management and Budget upon approval of the reporting and recordkeeping requirements.

EFFECTIVE DATE: October 9, 1984.

FOR FURTHER INFORMATION CONTACT: James L. Smith, Deputy Administrator, phone (202) 447-7063.

SUPPLEMENTARY INFORMATION: This action only adds Office of Management and Budget control numbers to regulations and policy statements previously issued under the Packers and Stockyards Act, to comply with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), and does not impose any requirements on the affected public, therefore:

(a) It is not a "major rule" as in E.O. 12291 section 1(b);

(b) It will not have a significant economic impact on a substantial number of small entities as in 5 U.S.C. 605 (a copy shall be transmitted to the Chief Counsel for Advocacy of the Small Business Administration);

(c) Notice and public procedure on it are unnecessary as in 5 U.S.C. 553(b)(B) so notice of proposed rulemaking is not required by 5 U.S.C. 553(b); and

(d) Good cause is hereby found for making it effective in less than 30 days as in 5 U.S.C. 553(d)(3).

List of Subjects

9 CFR Part 201

Reporting and recordkeeping requirements, Packers, Stockyards, Dealers and market agencies.

9 CFR Part 203

Reporting and recordkeeping requirements, Packers, Stockyards, Dealers and market agencies.

Accordingly, Parts 201 and 203, Chapter II of Title 9 of the Code of Federal Regulations are amended as set forth below.

PART 201—[AMENDED]

1. Section 201.5 is amended by adding the following "(Approved by the Office of Management and Budget under control number 0590–0001)" at the end.

§ 201.5 Investigation, notice, and posting of stockyards.

* * * * *

(Approved by the Office of Management and Budget under control number 0590–0001)

2. Section 201.35 is amended by adding the following "(Approved by the Office of Management and Budget under control number 0590–0001)" at the end.

§ 201.35 Letters of credit as bond equivalents.

* * * * *

(Approved by the office of Management and Budget under control number 0590–0001)

3. Section 201.73–1 is amended by adding the following "(Approved by the Office of Management and Budget under control number 0590–0001)" at the end.

§ 201.73–1 Instruction for weighing livestock.

* * * * *

(Approved by the Office of Management and Budget under control number 0590–0001)

4. Section 201.97 is amended by adding the following "(Approved by the Office of Management and Budget under control number 0590–0001)" at the end.

§ 201.97 Annual reports.

* * * * *

(Approved by the Office of Management and Budget under control number 0590–0001)

5. Section 201.100 is amended by adding the following "(Approved by the Office of Management and Budget under control number 0590–0003)" at the end.

§ 201.100 Records to be furnished poultry growers and sellers.

* * * * *

(Approved by the Office of Management and Budget under control number 0590–0003)

6. Section 201.200 is amended by adding the following "(Approved by the Office of Management and Budget under control number 0590–0001)" at the end.

§ 201.200 Sale of livestock to a packer on credit.

* * * * *

(Approved by the Office of Management and Budget under control number 0590–0001)

PART 203—[AMENDED]

7. Section 203.14 is amended by adding the following "(Approved by the Office of Management and Budget under control number 0590–0001)" at the end.

§ 203.14 Statement with respect to advertising allowances and other merchandising payments and services.

* * * * *

(Approved by the Office of Management and Budget under control number 0590–0001)

8. Section 203.15 is amended by adding the following "(Approved by the Office of Management and Budget under control number 0590–0001)" at the end.

§ 203.15 Trust benefits under section 206 of the Act.

* * * * *

(Approved by the Office of Management and Budget under control number 0590–0001)

9. Section 203.16 is amended by adding the following "(Approved by the Office of Management and Budget under control number 0590–0001)" at the end.

§ 203.16 Mailing of checks in payment for livestock purchased for slaughter, for cash and not on credit.

* * * * *

(Approved by the Office of Management and Budget under control number 0590–0001)

(7 U.S.C. 222 and 228 and 15 U.S.C. 46)

Done at Washington, D.C., this 2nd day of October 1984.

B.H. (Bill) Jones,

Administrator, Packers and Stockyards Administration.

[FR Doc. 84-26584 Filed 10-5-84; 8:45 am]
BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

9 CFR Part 81

[Docket No. 84-091]

Lethal Avian Influenza; Interim Rule

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim Rule.

SUMMARY: This document amends the Lethal Avian Influenza interim rule by adding as a quarantined area one premises in Franklin County in Pennsylvania, and by deleting from quarantined area status all of the previously quarantined area in Pennsylvania except for two premises in Berks County and four premises in Lancaster County. The interim rule imposes prohibitions and restrictions on the interstate movement from quarantined areas of live poultry, poultry eggs, and certain other items. It is necessary to add the premises in Franklin County in Pennsylvania as a quarantined area for the purpose of helping to prevent the spread of lethal avian influenza. However, it is no longer necessary for such purpose to include as quarantined areas the areas deleted from quarantined area status.

DATES: Effective date is October 4, 1984. Written comments must be received on or before December 10, 1984.

ADDRESS: Written comments should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Written comments received may be inspected at Room 728 of the Federal Building, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. H. A. McDaniel, Chief Staff Officer, Technical Support Staff, VS, APHIS, USDA, Room 757, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8087.

SUPPLEMENTARY INFORMATION:

Background

This document amends the "Lethal Avian Influenza" interim rule which is set forth in 9 CFR Part 81 (48 FR 51422-51423, 51798, 52420-52427, 52885-52887, 53586, 53678-53679, 53679-53681, 53997, 54574-54575, 55402-55405, 55722, 57474-57475, 49 FR 368-369, 2742-2744, 3494, 3839-3845, 5723-5724, 7978-7979, 8412-8415, 8582-8583, 13863-13864, 19288-19289, 19500-19501, 24011-24013, 31055-31057, 34804-34806, 36630-36631). Among other things, the interim rule designates a portion of Pennsylvania as a quarantined area and prohibits or restricts certain interstate movements from the quarantined area of live poultry, poultry eggs, and certain other items because of lethal avian influenza.

Lethal avian influenza is defined as a disease of poultry caused by any form of H5 influenza virus that is determined by the Deputy Administrator to have spread from the 1983 outbreak in poultry in Pennsylvania.

Effect of Designation as a Quarantined Area

With certain exceptions, the interim rule provides that the following articles designated as prohibited articles are prohibited from being moved interstate from a quarantined area:

(1) Live poultry,
(2) Manure from poultry, and
(3) Litter that has been used by poultry.

The interim rule also provides, with certain exceptions, that the following articles designated as restricted articles are allowed to be moved interstate from a quarantined area only in accordance with certain conditions:

(1) Poultry carcasses or parts thereof,
(2) Eggs from poultry, and
(3) Coops, containers, troughs or other accessories that have been used in the handling of poultry or poultry eggs.

Reduction of Quarantined Area in Pennsylvania

Prior to the effective date of this document, the quarantined area in Pennsylvania was described as:

> The following area in Berks, Chester, Dauphin, Lancaster, Lebanon, and Schuylkill Counties is designated as a quarantined area: That portion of Pennsylvania beginning at the intersection of the eastern bank of the Susquehanna River with the Pennsylvania-Maryland State Line; then northwesterly along the eastern bank of the Susquehanna River to its intersection with Interstate Highway 83; then east and north along Interstate Highway 83 to its intersection with Interstate Highway 81; then west along Interstate Highway 81 to its intersection with the Susquehanna River; then northwesterly along the Susquehanna River to its intersection with PA Highway 325; then northeasterly along PA Highway 325 to its intersection with U.S. Highway 209; then northeasterly along U.S. Highway 209 to its intersection with PA Highway 61; then southeasterly along PA Highway 61 to its intersection with Interstate Highway 78; then northeasterly along Interstate Highway 78 to its intersection with the Berks-Lehigh County Line; then southeasterly along the Berks-Lehigh County Line to its intersection with the Berks-Montgomery County Line; then southwesterly along the Berks-Montgomery County Line to its intersection with U.S. Highway 422; then southeasterly along U.S. Highway 422 to its intersection with PA Highway 100; then southerly along PA Highway 100 to its intersection with the Pennsylvania-Delaware State Line; then southwesterly along the Pennsylvania-Delaware State Line to its intersection with the Pennsylvania-Maryland State Line; then westerly along the Pennsylvania-Maryland State Line to its intersection with the Susquehanna River.

This document adds as a quarantined area one premises in Franklin County in Pennsylvania and deletes from quarantined area status all of the previously quarantined area in Pennsylvania except for two premises in Berks County and four premises in Lancaster County. The seven premises that are designated as quarantined areas are set forth in the rule portion of this document. With these changes no portions of Chester, Dauphin, Lebanon, and Schuylkill Counties remain designated as quarantined areas.

The poultry on all previously infected premises in the areas removed from quarantined area status were depopulated. Also, all of such previously infected premises have been cleaned and disinfected, and sufficient time has elasped to ensure that such premises are free of lethal avian influenza virus. Further, extensive surveys conducted on all commercial poultry and a substantial portion of the backyard flocks in these areas removed from quarantined area status indicate no lethal avian influenza virus or poultry with the antibodies exist in these areas.

The one premises added as a quarantined area and the six premises that retain quarantined area status had poultry that were found to be serologically positive for lethal avian influenza. The poultry from these premises have been depopulated. No poultry remain on these premises and some of the premises have been cleaned and disinfected. However, sufficient time has not elapsed to ensure that any of these premises are free of lethal avian influenza virus.

Under the circumstances explained above, it has been determined that it is only necessary to impose prohibitions or restrictions because of lethal avian influenza on the movement of live poultry or other items from the seven

premises designated as quarantined areas, and it is no longer necessary to impose such prohibitions or restrictions with respect to the areas deleted from quarantined area status.

Emergency Action

Dr. John K. Atwell, Deputy Administrator of the Animal and Plant Health Inspection Service for Veterinary Services, has determined that an emergency situation exits which warrants publication of this interim rule without prior opportunity for public comment. Immediate action is warranted in order to add prohibitions and restrictions on the movement of live poultry and certain other items from one premises in Franklin County in Pennsylvania, and thereby protect against the spread of lethal avian influenza. Also, immediate action is warranted in order to delete unnecessary prohibitions and restrictions on the movement of live poultry and certain other items from portions of Berks, Chester, Dauphin, Lancaster, Lebanon, and Schuylkill Counties in Pennsylvania.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest; and good cause is found for making this interim rule effective upon signature. Comments are solicited for 60 days after publication of this document. A final document discussing comments received and any amendments required will be published in the **Federal Register**.

Executive Order and Regulatory Flexibility Act

This action has been reviewed in accordance with Executive Order 12291 and has been determined to be not a major rule. The Department has determined that this action will not have a significant effect on the economy and will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this rulemaking action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

The portion of the poultry industry affected by this document represents less than one percent of the poultry industry in the United States.

Under the Circumstances explained above, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 9 CFR Part 81

Animal diseases, Poultry and poultry products, Transportation.

PART 81—LETHAL AVIAN INFLUENZA

Accordingly, § 81.4 of 9 CFR Part 81 is revised to read as follows:

§ 81.4 Quarantined area.

Pennsylvania

(a) *Berks County.*

(1) The premises of Fred Wright, RD #1, Box 100, Richland, PA 17087, located in Bethel Township approximately 2½ miles south of Bethel on Bordner Road.

(2) The premises of Fred Wright, RD#1, Box 100, Richland, PA 17087, located in Bethel Township approximately 2½ miles northwest of Bethel on Schubert Road.

(b) *Franklin County.* The premises of Dwight Martin, 8933 Rowe Run Road, Schippensburg, PA 17257, located in South Hampton Township in Pinola at the junction of State Route 433 and Pinola Road.

(c) *Lancaster County.*

(1) The premises of Harold Dice, RD #1, Box 125, Fredricksburg, PA 17026 located in Bethel Township approximately 5½ miles west of Fredricksburg on Legionaire Road (T 510).

(2) The premises of Nelson Frey, RD #3, Box 192, Willow Street, PA 17584, located in Pequea Township approximately 1 mile south of West Willow on Millwood Road.

(3) The premises of Luke Hess, Box 52, Willow Street, PA 17257, located in Pequea Township approximately 2 miles south of West Willow on Byerland Church Road.

(4) The premises of Alan and Charles Rohrer, RD #1, Strasburg Road, Paradise, PA 17562, located in Paradise Township approximately 2¼ miles west of Strasburg on PA State Route 741 (Strasburg Road).

Authority: Sec. 2, 23 Stat. 31, as amended; secs. 4–8, 23 Stat. 31–33, as amended; secs. 1–3, 32 Stat. 791, 792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; 41 Stat. 699; sec. 2, 65 Stat. 693; secs. 2–3, 5–6 and 11, 76 Stat. 129–132; 76 Stat. 663, 7 U.S.C. 450, 21 U.S.C. 111–113, 114a–1, 115–117, 119–126, 130, 134a 134b, 134d, 134e, 134f; 7 CFR 2.17, 2.51, and 371.2(d)

Done at Washington, D.C., this 4th day of October, 1984.

J.K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 84-26607 Filed 10-4-84; 12:23 pm]

BILLING CODE 3410-34-M

FARM CREDIT ADMINISTRATION

12 CFR Part 615

Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; Effective Date

AGENCY: Farm Credit Administration.

ACTION: Notice of effective date.

SUMMARY: The Farm Credit Administration published final regulations amending its regulations concerning discount notes issued by the Farm Credit System ("System") (49 FR 29211, July 19, 1984). The amendments permit the System to issue consolidated Systemwide notes in book-entry form or in definitive form under special circumstances where approved by the System Finance Committees or their subcommittees and approved and executed by the Governor of the Farm Credit Administration. As was indicated in the **"EFFECTIVE DATES"** portion of the final rules published on July 19, this document announces the effective date of those rules.

EFFECTIVE DATE: September 27, 1984.

FOR FURTHER INFORMATION CONTACT:

Michael C. Salapka, Finance and Operations Division, (703) 883–4014

or

Kenneth L. Peoples, Office of General Counsel, (703) 883–4024.

(Secs. 5.9, 5.12, 5.18, Pub. L. 92–181, 85 Stat. 619, 620, 621, as amended (12 U.S.C. 2243, 2246, and 2252))

Donald E. Wilkinson,

Governor.

[FR Doc. 84-23927 Filed 10-5-84; 8:45 am]

BILLING CODE 6705-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1, 3, 140, and 145

Minimum Financial and Related Reporting Requirements; Registration Requirements; Transfer of Certain Registration Functions to the National Futures Association

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rules.

SUMMARY: By separate release published elsewhere in this **Federal Register**, the Commodity Futures Trading Commission ("Commission") is authorizing the National Futures Association ("NFA") to perform, on behalf of the Commission, certain registration functions concerning futures commission merchants ("FCMs"), commodity trading advisors ("CTAs"), commodity pool operators ("CPOs") and the associated persons ("APs") of such registrants. Specifically, NFA now is being authorized to process and grant, where appropriate, applications for initial and renewed registration with the Commission for those categories of registrant in accordance with the standards established by the Commodity Exchange Act ("Act") and the regulations thereunder. However, NFA is not authorized to grant conditional registration, to deny registration or to take any other adverse action concerning registration until the Commission has adopted its own regulations and procedures to review such actions. Nor is NFA authorized to accept or act upon requests for exemption from registration or for "no-action" positions with respect to the applicable registration requirements.

The Commission has previously approved rules of NFA under which NFA will administer the Commission's registration functions and, in connection therewith, the Commission now has adopted amendments to its own regulations governing minimum financial and related reporting requirements and registration procedures to reflect this transfer of registration functions.

EFFECTIVE DATE: The effective date will be 15 days after further notice is published in the **Federal Register**. The second notice shall be published in the **Federal Register** no earlier than thirty days from the date of this publication.

FOR FURTHER INFORMATION CONTACT: Kevin M. Foley, Chief Counsel, or Lawrence B. Patent, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Telephone: (202) 254–8955.

SUPPLEMENTARY INFORMATION:

Introduction

The Commission has previously authorized NFA, pursuant to section 8a(10) of the Act, to perform various portions of the Commission's registration functions and responsibilities under the Act. For example, on August 3, 1983, the Commission issued an order authorizing NFA to process and, where appropriate, to grant registration to applicants for registration as an introducing broker ("IB") or as an AP of an IB.[1] In addition, on March 5, 1984, in order to facilitate the implementation of the Commission's rules pursuant to which temporary licenses may be issued to qualified applicants for registration in the various associated person categories, the Commission authorized NFA to perform the registration processing functions related to the issuance of such licenses to AP applicants in all categories (other than APs of IBs) whose registration applications are submitted to the Commission in accordance with the rules adopted by the Commission. The Commission concurrently authorized NFA to process and issue temporary licenses to applicants for registration as APs of IBs.[2]

NFA has made a commitment to the Commission to assume, no later than December 31, 1984, the responsibility to process, and where appropriate, grant applications for registration of FCMs, CPOs, CTAs and the APs of such registrants, including the issuance of temporary licenses to qualified APs of FCMS, CPOs and CTAs. Based upon the Commission's review of NFA's plans for assuming and implementing such additional responsibilities, the Commission has determined to authorize NFA to assume certain registration functions with respect to these applicants. Thus, the Commission is simultaneously publishing, as a separate **Federal Register** release, a Notice and Order to authorize NFA, no later than December 31, 1984, to process and, in appropriate cases, grant registration applications for FCMs, CPOs, CTAs, and the APs of those categories of registrant and to issue temporary licenses to qualified APs in accordance with the standards established under the Act and the Commission's regulations thereunder.[3] This authorization is fully consistent with Congress' intent "to promote the evolution of self-regulation in the commodities industry and to permit the Commission to move to an oversight role in connection with the registration of commodity professionals."[4]

The rules which the Commission has now adopted are technical and conforming amendments to the existing rules contained Parts 1, 3, 140 and 145 of its regulations. The amendments are designed to furnish applicants and registrants with specific instructions on where to file registration applications, financial reports and other related documents. Specifically, the rules have been amended to provide that certain documents related to the activities and operations of FCMs, CPOs and CTAs, and the APs of such registrants are now to be filed with NFA instead of the Commission. As discussed below, however, copies of such documents also must be filed directly with the Commission in certain instances.

Part 1: Financial and Reporting Requirements

All applicants for registration as either FCMs or introducing brokers are required to demonstrate compliance with the Commission's basic minimum adjusted net capital requirements for such entities as a condition of registration by filing a certified financial report. Section 1.10(a)(2).[5] The Commission's rules currently provide that an applicant for registration as an FCM must file this report with the Commission together with the application. The certified financial report required to be filed by an applicant for registration as an introducing broker, on the other hand, must be filed with NFA, as well as with the appropriate regional office of the Commission.[6] Section 1.10(c). In connection with its authorization of NFA to receive and process applications for registration as an FCM, the Commission is now amending the financial filing requirements for applicants for registration as FCMs to comport more fully with the procedures already established by the Commission for IBs. Thus, the certified financial report accompanying an initial application for registration as an FCM must now be filed with NFA and the

[1] 48 FR 35158 (August 3, 1983).

[2] 49 FR 8226 (March 5, 1984).

[3] The Commission will have authority under section 17(o)(3) of the Act to review the granting of any registration by NFA and to initiate such action as may be appropriate. The granting of registration with the Commission shall not constitute a legal defense to any Commission action with respect to such registration. In addition, the Commission will continue to have direct registration responsibility with respect to floor brokers, leverage transaction merchants and associated persons of leverage transaction merchants.

[4] S. Rep. No. 384, 97th Cong., 2d Sess. 109 (1982).

[5] 17 CFR 1.10(a)(2) (1984), as amended herein. The Form 1–FR is the standard financial reporting form for FCMs and IBs. Section 1.10(d).

[6] For the purposes of Part 1 of the Commission's regulations, the appropriate regional office of the Commission is generally the regional office nearest the principal place of business of an applicant or registrant, except that an applicant or registrant under the jurisdiction of the Commission's Western Regional Office must file its financial reports with the Southwestern Regional Office in Kansas City, Missouri. *See also* Section 140.2.

appropriate regional office of the Commission.

No changes have been made, however, with respect to the rules governing the filing of financial reports for FCMs and IBs once registration has been granted. Thus, with certain exceptions, each registered FCM and IB must file its financial reports with the appropriate regional office of the Commission and with the designated self-regulatory organization ("DSRO"). Section 1.10(c).[7]

The Commission is also adopting various other technical and conforming changes to Part 1 in connection with this delegation of authority to NFA. For example, rule 1.10(b)(4) has been amended to grant NFA the authority to request supplemental financial information on a Form 1–FR from any applicant or registrant which is an FCM or IB, and rule 1.10(e) has been amended to require applicants wishing to establish a fiscal year other than a calendar year to notify NFA of its election of such fiscal year with a copy of the notice to be filed with the appropriate regional office of the Commission.

The Commission also has amended the financial early warning system for FCMs contained in rule 1.12 to provide that, in the case of an applicant, any notices and reports which it is required to file pursuant to that rule should also be sent to NFA. Paragraph (g) of rule 1.12 has been amended to make clear that for purposes of rule 1.12, an applicant or registrant under the jurisdiction of the Commission's Western Regional Office must file such notices and reports with the Southwestern Regional Office. Finally, the Commission has determined to delete paragraph (h). Rule 1.12(h) contained a delegation of authority to the Division of Trading and Markets relating to the furnishing of information to other government agencies and designated self-regulatory organizations concerning a firm's failure to maintain adequate capital or of any activities which might adversely affect market integrity, discovered through the early warning system. The Commission believes that rule 1.12(h) is no longer necessary since the delegation of authority to disclose such information is already contained within the broader authority set forth in existing rules 140.72 and 140.73.

Rule 1.16(f) sets forth the procedures to be followed by an FCM or IB in requesting an extension of time for filing audited reports. In this connection, the Commission is deleting the phrase "or applicant" from paragraph (f) to make clear that an extension of time for filing an audited report will be granted only to a registrant. This change is consistent with the Commission's practice of refusing to grant an extension of time to an applicant pursuant to rule 1.16(f). Rather, until the required certified financial reports of an applicant firm are submitted, the Commission simply considers the application to be incomplete. Rule 1.16(g), which sets forth the notice procedures in the event an accountant is replaced, has been amended to provide that any notice required pursuant to that rule with respect to an applicant must be filed with NFA.[8]

The minimum amount of adjusted net capital which an FCM or an IB not operating pursuant to a guarantee agreement must maintain is set forth in rule 1.17(a) (1) and (2). In order for an FCM or IB to compute its actual adjusted net capital and thus determine whether it is complying with the minimum adjusted net capital requirement, the FCM or IB must follow the procedures set forth in the remainder of rule 1.17. In this connection, it should be noted that the Commission's rules, as amended, will require an applicant for registration as an FCM or IB to demonstrate affirmatively to the satisfaction of NFA that it is in compliance with the Commission's financial requirements. Section 1.17(a)(3). Similar changes have been made to rule 1.17(f)(2)(ii) respecting the consolidation of any subsidiaries or affiliates which are majority owned or controlled by an applicant or registrant. In addition, certain related changes have been made to rule 1.17 relating to those provisions governing subordination agreements.[9] Again, these changes make clear that, in the case of an applicant, all notices and filings required with respect to those provisions are to be sent to NFA; all notices and filing requirements with respect to registrants remain unchanged.

Finally, the Commission has amended rule 1.18 to require applicants for registration as an FCM or IB to permit representatives of NFA to inspect the financial reporting and monthly capital computation records required to be maintained pursuant to the Commission's minimum financial rules.

[7] Generally, a registered FCM or IB is required to file financial reports on Commission Form 1–FR (although an FCM or IB which is also a securities broker or dealer may file a copy of its Financial and Operational Combined Uniform Single Report (FOCUS Report), Part II or Part IIA, in lieu of Form 1–FR) on a quarterly basis, with the report filed as of the firm's fiscal year-end certified by an independent public accountant. A firm need only file financial reports on a semi-annual basis, however, if the firm's DSRO so permits. *See* Section 1.52(a). An IB which is party to a guarantee agreement with an FCM has no further financial reporting requirements once the guarantee agreement is properly filed with NFA and with the appropriate office of the Commission, unless the firm is also a securities broker or dealer.

The Commission's rules allow any introducing broker which is a party to a guarantee agreement (as defined in § 1.3(nn)) to satisfy the minimum net capital requirement for introducing brokers solely by entering into such an agreement. In essence, the guarantee agreement provides that the FCM which is a party to the agreement will guarantee performance by the introducing broker of, and will be jointly and severally liable for, obligations of the IB under the Act and the rules, regulations and orders thereunder. As such, the guarantee agreement is an alternative means for an IB to satisfy the Commission's standards of financial responsibility for its activities as an introducing broker. An introducing broker operating pursuant to a guarantee agreement with an FCM (unless the firm is also a securities broker or dealer) is exempt from the financial reporting requirements of § 1.10, the requirements for notification of material inadequacy in the accounting system contained in § 1.12, the requirements pertaining to qualifications and reports of independent public accountants in § 1.16, and the financial recordkeeping requirements of § 1.18.

[8] Rule 1.16 similarly has been amended to make clear where the notices required by that rule must be sent in the event the independent public accountant, during the course of an audit or interim work, determines that any material inadequacies exist with respect to the financial accounting system and controls of an applicant for registration as an FCM or IB. The changes essentially provide that notice of any such material inadequacies must be provided to NFA.

[9] The Commission notes, however, that it is retaining at this time the exclusive authority to grant or deny exemption requests pertaining to those provisions governing the debt-equity ratio and the withdrawal of equity capital set forth in rule 1.17 (d) and (e).

The various financial filing requirements for a futures commission merchant or an introducing broker, or an applicant for registration in either capacity, are summarized in the following chart:

FINANCIAL FILING REQUIREMENTS FOR FCMs AND IBs [1/]

Rule	1.10(a) & (b) — Financial Reports	1.10(c) — Election of fiscal year and option to file reports by calendar rather than fiscal quarter	1.10(e) — Change in election of fiscal year and option to file reports by calendar rather than fiscal quarter	1.10(f) — Extension of time for non-audited reports	1.12 — Early warning system notices [2/]	1.16(e)(2) — Accountant's reporting of material inadequacies if firm fails to or accountant disagrees	1.16(f) — Extension of time for filing audited reports	1.16(g) — Replacement of accountant notice
Applicant	NFA, with a copy to appropriate CFTC Regional Office	NFA, with a copy to appropriate CFTC Regional Office	———	NFA, with a copy to appropriate CFTC Regional Office	NFA, with a copy to appropriate CFTC Regional Office	NFA	———	NFA
Registrant	DSRO, if any, with a copy to appropriate CFTC Regional Office	———	CFTC Washington Office, with a copy to DSRO, if any	CFTC Washington Office, with a copy to DSRO, if any	DSRO, if any, with a copy to appropriate CFTC Regional Office	CFTC Washington Office, with a copy to DSRO, if any	CFTC Washington Office, with a copy to DSRO, if any	CFTC Washington Office, with a copy to DSRO, if any
Rule	1.17(d) — Application for exemption from debt-equity requirement	1.17(e) — Application for exemption from restriction on withdrawal of equity capital	1.17(f) — Opinion of counsel with respect to consolidation of financial statements	1.17(h)(2)(vi) - Notice of under-collateral-ization of secured demand note [3/]	1.17(h)(2)(vii) - Request for permissive prepayment and special pre-payment of subordinated debt	1.17(h)(2)(ix) & (x) - Accelerated maturity of subordination agreements on notice of lender or on event of default or event of acceleration	1.17(h)(3)(ii) - Notice of maturity or accelerated maturity of subordinated debt	1.17(h)(3)(vi) - Filing of subor-dination agreements
Applicant	CFTC Washington Office	CFTC Washington Office	NFA	Lender and NFA	NFA (prior written approval required)	Applicant and NFA	NFA	NFA, with a copy to appropriate CFTC Regional Office (prior written approval of NFA required)
Registrant	CFTC Washington Office	CFTC Washington Office	CFTC Washington Office, with a copy to DSRO, if any	Lender, DSRO, if any, and CFTC Washington Office	CFTC Washington Office, with a copy to DSRO, if any (prior written approv-al of CFTC and DSRO required)	Registrant and DSRO, unless registrant has no DSRO, in which case the CFTC Washington Office	DSRO, if any, with a copy to CFTC Washington Office	DSRO, if any, with two copies to CFTC Wash. Office (prior written approval of DSRO only required; if no DSRO, then CFTC)

1/ An IB operating pursuant to a guarantee agreement with an FCM has no further financial filing requirements after filing the agreement with NFA, with a copy to the appropriate CFTC Regional Office, unless the IB is also a securities broker-dealer.

2/ An FCM must file a notice relating to failure to meet a margin call or to make other required deposits with the CFTC Washington Office (Rule 1.12(f)); a firm which is also a securities broker-dealer must also file a copy of any early warning notice with the SEC; and an IB or applicant therefor must also file a copy of any early warning notice with every FCM carrying or intending to carry accounts for the IB's customers.

3/ To reduce the unpaid principal amount of the secured demand note, the lender must have the borrower's prior written consent, as well as NFA's prior written consent if the borrower is an applicant, or the DSRO's prior written consent if the borrower is a registrant, unless the registrant has no DSRO, in which case the Commission's prior written consent is required.

Part 3: Registration Requirements

In connection with the authorization of NFA to receive and process applications for registration filed by FCMs, CTAs, CPOs and the APs of those three categories of registrant, rule 3.2 of the Commission's regulations has been amended to indicate specifically that NFA will, except as otherwise indicated, have the responsibility that would otherwise be exercised by the Commission with respect to these registration categories. For convenience of reference, a number of the Commission's other regulations contained in Part 3 similarly have been amended to make specific reference to NFA.[10] In particular, those rules which establish procedures for the registration of FCMs, CTAs, CPOs and the APs of those registrants have been modified to require the filing of applications for registration and related materials with NFA rather than with the Commission. It should be noted, however, that, at least for the time being, the Commission is retaining the exclusive authority to grant or deny exemption requests pertaining to the registration requirements. In addition, the Commission continues to have exclusive authority to deny, condition or otherwise affect registration pursuant to section 8a(2)–8a(4) of the Act, 7 U.S.C. 12a(2)–12a(4) (1982), and the regulations thereunder.

The Commission has also amended certain other portions of the Part 3 registration rules. For example, the Commission has amended the term "current" as defined in rule 3.1(b) to eliminate the distinction which previously had been drawn between applications filed before July 1, 1982 and those filed after that date. Since July 1, 1984, when the last of the former two-year AP registrations terminated, such a distinction is no longer relevant. Similarly, the Commission has amended rule 3.3 to delete those paragraphs

[10] *See* §§ 3.10, 3.11, 3.12, 3.13, 3.14, 3.15, 3.16, 3.17, 3.22, 3.30, 3.31, 3.32, 3.33, 3.40.

which formerly established the registration fees for those categories of registrant for which NFA will now have registration processing responsibility. As is already the case for introducing brokers and their APs, NFA will have the authority, subject to Commission review and approval, to establish registration application fees for FCMs, CPOs as CTAs, and well as the APs of those categories of registrant. In this regard, NFA's rules, as previously approved by the Commission, require that each application for registration as an AP in any capacity (Form 8–R) be accompanied by a fee of $30. Appendix A, § I(e) under Bylaw 305.

The Commission has also made a minor clarifying change to rule 3.12(f). In this connection, the Commission's staff has received a number of inquiries requesting clarification concerning the impact of rule 3.12(f) on the activities of an AP who wishes to be associated simultaneously as an AP with more than one registrant. In order to provide further guidance to the public concerning the operation of rule 3.12(f), the Commission's staff recently published an interpretative letter which sets forth in detail the scope of that rule.[11] Consistent with the interpretation contained in that letter, the Commission has addded a proviso to paragraphs (f)(4), (f)(6), (f)(8) and (f)(10) to make explicit that each of those paragraphs is subject to the provisions of paragraphs (f)(3), (f)(5), (f)(7) and (f)(9), respectively.[12]

As a related matter, the Commission also has amended rule 3.4 to make clear that an AP who is sponsored by a registrant, which itself is registered in more than one capacity, need register only once to act as an AP of the registrant. In such a case, the Commission shall automatically deem the individual to be associated with the sponsoring registrant in each capacity in which the sponsor is registered. For example, a corporation may be registered simultaneously with the Commission as both a CTA and CPO. Under rule 3.4, as amended, an individual who is already registered as an AP of the CTA need not file a new registration application in order to function in the capcity of an AP of the CPO since the CTA and CPO are the same entity. The filing of an additional registration in such an instance would serve no meaningful function since the sponsoring registrant is already responsible for supervising the commodity-related activities of such individual.[13]

Finally, it should be noted that although the Commission, at least for the time being, is retaining the exclusive authority to permit a registrant to withdraw from registration pursuant to rule 3.33, that rule has been amended to provide that if the registrant requesting withdrawal is an FCM, IB, CTA or CPO,

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[11] *See* CFTC Interpretative Letter No. 83–11 [1982–1984 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶21,952.

[12] For example, an FCM which carries or introduces all of the accounts of clients of a CTA or of a commodity pool operated by a CPO recommended by the FCM through its AP clearly falls within the provisos of rule 3.12(f) (3) and (5). Those provisos were intended to cover APs of an FCM who recommended a CTA and the FCM's "approved list," or who solicit commodity pool participations on behalf of an FCM. In these cases, the FCM ordinarily both solicits and carries or introduces the accounts in question. The amendments to rule 3.12(f) made herein will clarify and make explicit that the provisions of paragraphs (f)(4) and (f)(6) of rule 3.12 are subject to the provisions of paragraphs (f)(3) and (f)(5), respectively. In such cases, the AP of an FCM may act on behalf of the CTA or the CPO without violating the prohibitions of rule 3.12 (f)(4) and (f)(6) since that AP is deemed to be associated solely with the FCM.

[13] *See* rule 166.3, 17 CFR 166.3 (1984) *as amended by* 48 FR 35304 (August 3, 1984).

a copy of the request should be filed simultaneously with NFA.

The filing requirements under Part 3 of the Commission's regulations, as amended, are summarized in the following chart:

REGISTRATION FILING REQUIREMENTS

Category of Registrant	Registration Application	Transfer of Registration	Change of Information	Change of Control	Withdrawal from Registration	Exemption Requests
Floor Broker	CFTC (Rule 3.11)	———	CFTC (Rule 3.31)	———	CFTC (Rule 3.33)	———
Futures Commission Merchant, Introducing Broker, Commodity Pool Operator, Commodity Trading Advisor	NFA (Rules 3.10, 3.13, 3.14 & 3.15)	———	NFA (Rule 3.31)	NFA (Rule 3.32)	CFTC, with a copy to NFA (Rule 3.33)	CFTC (Rule 3.32(i))
Associated Person of Futures Commission Merchant, Introducing Broker, Commodity Pool Operator, Commodity Trading Advisor	NFA (Rules 3.12(c) & 3.16(c))	NFA (Rules 3.12(d) & 3.16(d))	NFA (Rule 3.31)	———	———	CFTC (Rules 3.12(g) & 3.16(g))
Leverage Transaction Merchant	CFTC (Rule 3.17)	———	CFTC (Rule 3.31)	CFTC (Rule 3.32)	CFTC (Rule 3.33)	CFTC (Rule 3.32(i))
Associated Person of Leverage Transaction Merchant	CFTC (Rule 3.18(c))	CFTC (Rule 3.18(d))	CFTC (Rule 3.31)	———	———	CFTC (Rule 3.18(g))

Other Amendments

The Commission also has adopted two additional technical amendments to its regulations. First, it has amended rule 140.2, which describes the Commission's regional offices, to reflect the realignment of the regions effected in the Fall of 1983. Specifically, Minnesota, North Dakota and South Dakota were transferred from the Central Region to the Southwestern Region. Thus, all applicant and registrant firms whose headquarters are located west of the Mississippi River must file all financial reports required to be filed pursuant to the Commisson's rules with the Southwestern Regional Office in Kansas City, Missouri.

Second, rule 145.6(b), regarding the location of and public availability of Commission registration forms, has been amended to reflect the planned transfer of current registration functions with respect to FCMs, CTAs, CPOs and the APs of these registrants to NFA, including physical custody of registration forms filed by current and future applicants and registrants. In addition, the item numbers, the supplementary attachments filed in response to which are not available to public inspection, have been changed to correspond to the appropriate items in the registration forms as revised in March 1984. No change has been made, however, in the type of information which generally will not be made available.

In connection with the transfer of its registration functions with respect to FCMs, CTAs, CPOs and the APs of such registrants to NFA, the Commission has authorized NFA to make available to the public for inspection and copying the publicly available portions of all registration forms compiled or maintained by NFA in connection with its performance of registration functions under the Act. Thus, any person seeking to inspect or copy the publicly available

portions of such registration forms should contact NFA directly. A formal request pursuant to the Freedom of Information Act is not necessary to obtain such information.[14]

Basis for Adoption as Final Rules

Section 553(b) of the Administrative Procedure Act, 5 U.S.C. 553(b), ordinarily requires that notice of proposed rulemaking be published in the **Federal Register** and that opportunity for public comment be provided when an agency promulgates new rules. Section 553(b)(A), however, provides an exception to this requirement for "rules of agency organization, procedure and practice." Section 553(b)(B) also provides such an exception:

> when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.

As previously discussed, these amendments adopted to Parts 1, 3, 140 and 145 are technical and procedural in nature, relating primarily to the filing requirements of applicants and registrants. They do not change in any respect the obligations of applicants and registrants under the Act and the regulations thereunder. As a result, the Commission finds that these rule amendments do not raise any substantive issues for which notice and public comment are necessary. At the same time, however, the Commission notes that these amendments will not take effect for at least thirty days. Therefore, the Commission will consider any comments which may be received and make any additional changes to these rules which may be appropriate.

Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601 *et seq.*, requires that agencies, in proposing rules, consider their impact on small entities. Section 3(a) of the RFA defines the term "rule" to mean "any rule for which the agency publishes a general notice of proposed rulemaking pursuant to section 553(b) * * * for which the agency provides an opportunity for notice and public comment." Since adoption of the amendments has not been effected with notice and public comment, those amendments do not constitute "rule" amendments for purposes of the RFA and the analyses or certification specified by the RFA is not required.

List of Subjects

17 CFR Part 1

Financial requirements, Reporting and recordkeeping requirements, Registration requirements.

17 CFR Part 3

Registration requirements, Authority delegations, Fingerprinting, Associated persons, Futures commission merchants, Commodity trading advisors, Commodity pool operators.

17 CFR Part 140

Organization of the Commission, Region offices, Regional directors.

17 CFR Part 145

Records, Freedom of Information Act.

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act and, in particular, sections 2(a)(1), 4c, 4d, 4e, 4f, 4k, 4m, 4n, 4p, 8, 8a and 19, 7 U.S.C. 2 and 4, 6c, 6d, 6e, 6f, 6k, 6m, 6n, 6p, 12, 12a and 23 (1982), and pursuant to the authority contained in 5 U.S.C. 552 and 552b, the Commission hereby amends Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

1. Section 1.10 is amended by revising paragraphs (a)(3)(i), (b)(4), (c), (e), (f), and (g)(4) to read as follows:

§ 1.10 Financial reports of futures commission merchants and introducing brokers.

(a) * * *

(3)(i) The provisions of paragraph (a)(2) of this section do not apply to any person succeeding to and continuing the business of another futures commission merchant. Each such person who files an application for registration as a futures commission merchant and who is not so registered in that capacity at the time of such filing must file a form 1–FR as of the first monthend following the date on which his registration is approved. Such report must be filed with the National Futures Association, the Commission and the designated self-regulatory organization, if any, not more than 45 days after the date for which the report is made.

* * * * *

(b) * * *

(4) Upon receiving written notice from any representative of the National Futures Association, the Commission or any self-regulatory organization of which it is a member, an applicant or registrant, except an applicant for registration as an introducing broker which has filed concurrently with its application for registration a guarantee agreement and which is not also a securities broker or dealer, must, monthly or at such times as specified, furnish the National Futures Association, the Commission or the self-regulatory organization requesting such information a form 1–FR or such other financial information as requested by the National Futures Association, the Commission or the self-regulatory organization. Each such form 1–FR or such other information must be furnished within the time period specified in the written notice, and in accordance with the provisions of paragraph (c) of this section.

(c) *Where to file reports.* The reports provided for in this section will be considered filed when received by the regional office of the Commission nearest the principal place of business of the registrant (except that a registrant under the jurisdiction of the Commission's Western Regional Office must file such reports with the Southwestern Regional Office) and by the designated self-regulatory organization, if any; and reports required to be filed by this section by an applicant for registration will be considered filed when received by the National Futures Association and by the regional office of the Commission nearest the principal place of business of the applicant (except that an applicant under the jurisdiction of the Commission's Western Regional Office must file such reports with the Southwestern Regional Office): *Provided, however,* That information required of a registrant pursuant to paragraph (b)(4) of this section need be furnished only to the self-regulatory organization requesting such information and the Commission, and that information required of an applicant pursuant to paragraph (b)(4) of this section need be furnished only to the National Futures Association and the Commission.

* * * * *

(e) *Election of fiscal year.* (1) An applicant wishing to establish a fiscal year other than the calendar year may do so by notifying the National Futures Association of its election of such fiscal year, in writing, concurrently with the filing of the form 1–FR pursuant to paragraph (a)(2) of this section, but in no event may such fiscal year end more than one year from the date of the form 1–FR filed pursuant to paragraph (a)(2)

[14] With respect to requests for information which the Commission has determined is not publicly available, rule 145.8(b) continues to provide that the Commission's FOI, Privacy and Sunshine Acts compliance staff will decide any request for access in accordance with the procedures set forth in rules 145.7 and 145.9.

of this section. A copy of such written notice must also be filed with the regional office of the Commission nearest the principal place of business of the applicant (except that an applicant under the jurisdiction of the Commission's Western Regional Office must file such a notice with the Commission's Southwestern Regional Office). An applicant which does not so notify the National Futures Association and the Commission will be deemed to have elected the calendar year as its fiscal year. A registrant must continue to use its elected fiscal year, calendar or otherwise, unless a change in such fiscal year is approved upon written application to the principal office of the Commission in Washington, D.C., and written notice of such change is given to the designated self-regulatory organization, if any.

(2) An applicant may elect to file its form 1–FR for each calendar quarter in lieu of each fiscal quarter by notifying the National Futures Association of its election, in writing, concurrently with the filing of the form 1–FR pursuant to paragraph (a)(2) of this section. A copy of such written notice must also be filed with the regional office of the Commission nearest the principal place of business of the applicant (except that an applicant under the jurisdiction of the Commission's Western Regional Office must file such a notice with the Commission's Southwestern Regional Office). A registrant wishing to change such election or to make such election other than concurrently with the filing of the form 1–FR pursuant to paragraph (a)(2) of this section may do so only if such change or election is approved by the Commission upon written application to the principal office of the Commission in Washington, D.C., and written notice of such change is given to the designated self-regulatory organization, if any.

(f) *Extension of time for filing reports.* (1) In the event a registrant finds that it cannot file its report for any period within the time specified in paragraphs (b)(1) or (b)(4) of this section or § 1.12(b) without substantial undue hardship, it may file with the principal office of the Commission in Washington, D.C., an application for an extension of time to a specified date which may not be more than 90 days after the date as of which the financial statements were to have been filed. The application must state the reasons for the requested extension and must contain an agreement to file the report on or before the specified date. The application must be received by the Commission before the time specified in paragraphs (b)(1) or (b)(4) of this section or § 1.12(b) for filing the report. Notice of such application must be given to the designated self-regulatory organization, if any, concurrently with the filing of such application with the Commission. Within ten calendar days after receipt of the application for an extension of time, the Commission shall: (i) Notify the registrant of the grant or denial of the requested extension; or (ii) indicate to the registrant that additional time is required to analyze the request, in which case the amount of time needed will be specified. (See § 1.16(f) for extension of the time for filing certified financial statements.)

(2) In the event an applicant finds that it cannot file its report for any period within the time specified in paragraph (b)(4) of this section or § 1.12(b) without substantial undue hardship, it may file with the National Futures Association an application for an extension of time to a specified date which may not be more than 90 days after the date as of which the financial statements were to have been filed. The application must state the reasons for the requested extension and must contain an agreement to file the report on or before the specified date. The application must be received by the National Futures Association before the time specified in paragraph (b)(4) of this section or § 1.12(b) for filing the report. Notice of such application must be filed with the regional office of the Commission nearest the principal place of business of the applicant (except that an applicant under the jurisdiction of the Commission's Western Regional Office must file such a notice with the Commission's Southwestern Regional Office) concurrently with the filing of such application with the National Futures Association. Within ten calendar days after receipt of the application for an extension of time, the National Futures Association shall: (i) Notify the applicant of the grant or denial of the requested extension; or (ii) indicate to the applicant that additional time is required to analyze the request, in which case the amount of time needed will be specified.

(g) * * *

(4) All information on such other statements, footnote disclosures and schedules will, however, be available for official use by any official or employee of the United States or any State, by any self-regulatory organization of which the person filing such report is a member, by the National Futures Association in the case of an applicant, and by any other person to whom the Commission believes disclosure of such information is in the public interest. Nothing in this paragraph (g) will limit the authority of any self-regulatory organization to request or receive any information relative to its members' financial condition.

* * * * *

2. Section 1.12 is amended by revising paragraphs (b)(3) and (g), and by removing paragraph (h) to read as follows:

§ 1.12 Maintenance of minimum financial requirements by futures commission merchants and introducing brokers.

* * * * *

(b) * * *

(3) For securities brokers or dealers, the amount of net capital specified in Rule 17a–11(b) of the Securities and Exchange Commission (17 CFR 240.17a–11(b)) must file written notice to that effect as set forth in paragraph (g) of this section within five (5) business days of such event. Such applicant or registrant, must also file a Form 1–FR (or, if such applicant or registrant is registered with the Securities and Exchange Commission as a securities broker or dealer, it may file, in accordance with § 1.10(h), a copy of its Financial and Operational Combined Uniform Single Report under the Securities Exchange Act of 1934, Part II, in lieu of Form 1–FR) or such other financial statement designated by the National Futures Association, in the case of an applicant, or by the Commission or the designated self-regulatory organization, if any, in the case of a registrant, as of the close of business for the month during which such event takes place and as of the close of business for each month thereafter until three (3) successive months have elapsed during which the applicant's or registrant's adjusted net capital is at all times equal to or in excess of the minimums set forth in this paragraph (b) which are applicable to such applicant or registrant. Each financial statement required by this paragraph (b) must be filed within 30 calendar days after the end of the month for which such report is being made.

* * * * *

(g) Every notice and written report required to be given or filed by this section (except for notices required by paragraph (f) of this section) must be filed with the regional office of the Commission nearest the principal place of business of the applicant or registrant (except that an applicant or registrant under the jurisdiction of the Commission's Western Regional Office must file such notices and reports with the Southwestern Regional Office), with

the designated self-regulatory organization, if any, with the Securities and Exchange Commission, if such applicant or registration is a securities broker or dealer, and with the National Futures Association, if the firm is an applicant. In addition, every notice and written report which an introducing broker or applicant for registrant as an introducing broker is required to give or file by paragraphs (a), (c) and (d) of this section also must be filed with the National Futures Association, with the designated self-regulatory organization, if any, and with every futures commission merchant carrying or intending to carry customer accounts for the introducing broker or applicant for registration as an introducing broker. Further, every notice required to be given by this section must also be filed with the principal office of the Commission in Washington, D.C. Each statement of financial condition, each statement of the computation of the minimum capital requirements pursuant to § 1.17, and each schedule of segregation requirements and funds on deposit in segregation required by this section must be filed in accordance with the provisions of § 1.10(d) of these regulations, unless otherwise indicated.

3. Section 1.16 is amended by revising paragraphs (e)(2), (f), and (g) to read as follows:

§ 1.16 Qualifications and reports of accountants.

* * * * *

(e) * * *

(2) If during the course of an audit or interim work, the independent public accountant determines that any material inadequacies exist in the accounting system, in the internal accounting control, in the procedures for safeguarding customer or firm assets, or as otherwise defined in paragraph (d) of this section, he must call such inadequacies to the attention of the applicant or registrant, which has the responsibility to give notice to the National Futures Association and, if an applicant, or the Commission and the designated self-regulatory organization, if any, if a registrant, in accordance with paragraphs (d) and (g) of § 1.12: *Provided, however,* That if the applicant or registrant is an introducing broker or applicant for registration as an introducing broker, it also has the responsibility to give notice to the National Futures Association, the designated self-regulatory organization, if any, and every futures commission merchant carrying or intending to carry customer accounts for the introducing broker or applicant for registration as an introducing broker. The applicant or registrant must also furnish the accountant with a copy of said notice within three (3) business days. If the accountant fails to receive such notice from the applicant or registrant within three (3) business days, or if he disagrees with the statements contained in the notice of the applicant or registrant, the accountant must inform the National Futures Association, in the case of an applicant, or the Commission and the designated self-regulatory organization, if any, in the case of a registrant, by reporting the material inadequacy and, in the case of an applicant or registrant which is an introducing broker or applicant for registration as in introducing broker, the accountant must also inform the National Futures Association, the designated self-regulatory organization, if any, and every futures commission merchant carrying or intending to carry customer accounts for the introducing an introducing broker, within three (3) business days thereafter. Such report from the accountant must, if the applicant or registrant failed to file a notice, describe the material inadequacies found to exist. If the applicant or registrant filed a notice, the accountant must file a report detailing the aspects, if any, of the applicant's or registrant's notice with which the accountant does not agree.

(f) *Extension of time for filing audited reports.* (1) In the event a registrant finds that it cannot file its certified financial statements and schedules for any year within the time specified in § 1.10 without substantial undue hardship, it may file with the principal office of the Commission in Washington, D.C., an application for extension of time to a specified date not more than 90 days after the date as of which the certified financial statements and schedules were to have been filed. Notice of such application must be sent to the designated self-regulatory organization, if any. The application must be made by the registrant and must: (i) State the reasons for the requested extension; (ii) indicate that the inability to make a timely filing is due to circumstances beyond the control of the registrant, if such is the case, and describe briefly the nature of such circumstances; (iii) be accompanied by the latest available formal computation of the registrant's adjusted net capital and minimum financial requirements computed in accordance with § 1.17; (iv) in the case of a futures commission merchant, be accompanied by the latest available computation of required segregation and by a computation of the amount of money, securities, and property segregated on behalf of customers as of the date of the latest available computation; (v) contain an agreement to file the report on or before the date specified by the registrant in the application; (vi) be received by the principal office of the Commission in Washington, D.C. and by the designated self-regulatory organization, if any, prior to the date on which the report is due; and (vii) be accompanied by a letter from the independent public accountant answering the following questions:

(A) What specifically are the reasons for the extension request?

(B) On the basis of that part of your audit to date, do you have any indication that may cause you to consider commenting on any material inadequacies in the accounting system, internal accounting controls or procedures for safeguarding customer or firm assets?

(C) Do you have any indication from the part of your audit completed to date that would lead you to believe that the firm was or is not meeting the minimum capital requirements specified in § 1.17 or (in the case of a futures commission merchant) the segregation requirements of Section 4d(2) of the Act and these regulations, or has any significant financial or recordkeeping problems?

(2) Within ten calendar days after receipt of an application for extension of time, the Commission shall: (i) Notify the registrant of the grant or denial of the requested extension; or (ii) indicate to the registrant that additional time is required to analyze the request, in which case the amount of time needed will be specified.

(3) On the written request of any designated self-regulatory organization or registrant, or on its own motion, the Commission may grant an extension of time or an exemption from any of the certified financial reporting requirements of this chapter either unconditionally or on specified terms and conditions.

(g) *Replacement of accountant.* (1) In the event (i) the independent public accountant who was previously engaged as the principal accountant to audit an applicant's or registrant's financial statements resigns (or indicates he declines to stand for re-election after the completion of the current audit) or is dismissed as the applicant's or registrant's principal accountant, (ii) another independent accountant is engaged as principal accountant, or (iii) an independent accountant on whom the principal accountant expresses reliance in his report regarding a subsidiary resigns (or formally indicates he declines to stand for re-election after

completion of the current audit) or is dismissed or another independent public accountant is engaged to audit that subsidiary, an applicant shall file written notice of such occurrence with the National Futures Association, and a registrant shall file written notice of such occurrence with the Commission at its principal office in Washington, D.C., and with the designated self-regulatory organization, if any, not more than 15 business days after such occurrence.

(2) Such notice must state (i) the date of such resignation (or declination to stand for re-election, dismissal or engagement) and (ii) whether, in connection with the audit of the two most recent fiscal years and any subsequent interim period preceding such resignation, dismissal or engagement, there were any disagreements with the former accountant on any matter of accounting principles or practices, financial statements disclosure, auditing scope or procedures, or compliance with the applicable rules of the Commission, which, if not resolved to the satisfaction of the former accountant, would have caused him to make reference in connection with his report to the subject matter of the disagreements (if so, describe such disagreements). The disagreements required to be reported in this paragraph (g)(2) include both those resolved to the former accountant's satisfaction and those not resolved to the former accountant's satisfaction. Disagreements contemplated by this paragraph (g)(2) are those which occur at the decision-making level, *i.e.*, between personnel of the applicant or registrant responsible for presentation of its financial statements and schedules and personnel of the accounting firm responsible for rendering its report. The notice must also state whether the accountant's report on the financial statements and schedules for any of the past two years contained an adverse opinion or a disclaimer of opinion or was qualified as to uncertainties, audit scope, or accounting principles (if so, describe the nature of each such adverse opinion, disclaimer of opinion, or qualification). An applicant must also request the former accountant to furnish the applicant with a letter addressed to the National Futures Association, and a registrant must also request the former accountant to furnish the registrant with a letter addressed to the Commission, stating whether he agrees with the statements contained in the notice of the applicant or registrant and, if not, stating the respects in which he does not agree. Each copy of the notice and accountant's letter must be manually signed by the sole proprietor or a general partner or a duly authorized corporate officer of the applicant or registrant, as appropriate, and by the accountant.

(3) If (i) within the 24 months prior to the date of the most recent audited financial statement, a notice has been filed pursuant to paragraph (g)(1) of this section reporting a change of accountants, (ii) included in such filing there is a reported disagreement on any matters of accounting principles or practices, financial statements disclosure, auditing scope, or noncompliance with the applicable rules of the Commission, (iii) during the fiscal year in which the change in accountants took place or during the subsequent fiscal year, there have been any transactions or events similar to those which involved a reported disagreement, and (iv) such transactions or events are material and were accounted for or disclosed in a manner different from that which the former accountant apparently would have concluded was required, the existence and nature of the disagreements and also the effect on the financial statements must be stated in a written notice to the National Futures Association, in the case of an applicant, or to the Commission at its principal office in Washington, D.C., and the designated self-regulatory organization, if any, in the case of a registrant, if the method which the former accountant apparently would have concluded was required had been followed. These disclosures need not be made if the method asserted by the former accountant ceases to be generally accepted because of authoritative standards or interpretations subsequently issued. The notice required by this paragraph (g)(3) must be filed by the applicant or registrant concurrently with the financial statements and schedules to which it pertains.

* * * * *

4. Section 1.17 is amended by revising paragraphs (a)(3), (f)(2)(ii), (h)(2)(vi) introductory text, (h)(2)(vi)(C), (h)(2)(vii)(A), (h)(2)(vii)(B), (h)(2)(ix)(A), (h)(2)(x)(A), (h)(2)(x)(B)(*2*), (h)(3)(ii) and (h)(3)(vi) to read as follows:

§ 1.17 Minimum financial requirements for futures commission merchants and introducing brokers.

(a) * * *

(3) No person applying for registration as a futures commission merchant or as an introducing broker shall be so registered unless such person affirmatively demonstrates to the satisfaction of the National Futures Association that it complies with the financial requirements of this § 1.17. Each registrant must be in compliance with this § 1.17 at all times and must be able to demonstrate such compliance to the satisfaction of the Commission or the designated self-regulatory organization.

* * * * *

(f) * * *

(2) * * *

(ii) Except as provided for in paragraph (f)(2)(i) of this section, consolidation shall be permitted with respect to any subsidiaries or affiliates which are majority owned and controlled by the applicant or registrant, and for which the applicant can demonstrate to the satisfaction of the National Futures Association, or for which the registrant can demonstrate to the satisfaction of the Commission and the designated self-regulatory organization, if any, by an opinion of counsel, that the net asset values or the portion thereof related to the parent's ownership interest in the subsidiary or affiliate, may be caused by the applicant or registrant or an appointed trustee to be distributed to the applicant or registrant within 30 calendar days. Such opinion must also set forth the actions necessary to cause such a distribution to be made, identify the parties having the authority to take such actions, identify and describe the rights of other parties or classes of parties, including but not limited to customers, general creditors, subordinated lenders, minority shareholders, employees, litigants, and governmental or regulatory authorities, who may delay or prevent such a distribution and such other assurances as the National Futures Association, the Commission or the designated self-regulatory organization by rule or interpretation may require. Such opinion must be current and periodically renewed in connection with the applicant's or registrant's annual audit pursuant to § 1.10 or upon any material change in circumstances.

* * * * *

(h) * * *

(2) * * *

(vi) *Collateral for secured demand notes.* Only cash and securities which are fully paid for and which may be publicly offered or sold without registration under the Securities Act of 1933, and the offer, sale, and transfer of which are not otherwise restricted, may be pledged as collateral to secure a secured demand note. The secured demand note agreement shall provide that if at any time the sum of the amount of any cash, plus the collateral value of any securities, then pledged as collateral

to secure the secured demand note is less than the unpaid principal amount of the secured demand note, the applicant or registrant must immediately transmit written notice to that effect to the lender. The secured demand note agreement shall also provide that if the borrower is an applicant, such notice must also be transmitted immediately to the National Futures Association, and if the borrower is a registrant, such notice must also be transmitted immediately to the designated self-regulatory organization, if any, and the Commission. The secured demand note agreement shall also require that following such transmittal:

* * * * *

(C) The secured demand note agreement may also provide that, in lieu of the procedures specified in the provisions required by paragraph (h)(2)(vi)(B) of this section, the lender, with the prior written consent of the applicant and the National Futures Association, or with the prior written consent of the registrant and the designated self-regulatory organization or, if the registrant is not a member of a designated self-regulatory organization, the Commission, may reduce the unpaid principal amount of the secured demand note: *Provided,* That after giving effect to such reduction the adjusted net capital of the applicant or registrant would not be less than the greatest of: (*1*) 120 percent of the appropriate minimum dollar amount required by paragraphs (a)(1)(i)(A) or (a)(1)(ii)(A) of this section; (*2*) for a futures commission merchant or applicant therefor, seven (7) percent of the following amount: the customer funds required to be segregated pursuant to the Act and these regulations less the market value of commodity options purchased by option customers on or subject to the rules of a contract market: *Provided, however,* that the deduction for each option customer shall be limited to the amount of customer funds in such option customer's account; or (*3*) for an applicant or registrant which is also a securities broker or dealer, the amount of net capital specified in Rule 15c3–1d(b)(6)(iii) of the Securities and Exchange Commission (17 CFR 240.15c3–1d(b)(6)(iii)): *Provided, further,* That no single secured demand note shall be permitted to be reduced by more than 15 percent of its original principal amount and after such reduction no excess collateral may be withdrawn.

(vii) *Permissive prepayments and special prepayments.* (A) An applicant or registrant at its option, but not at the option of the lender, may, if the subordination agreement so provides, make a payment of all or any portion of the payment obligation thereunder prior to the scheduled maturity date of such payment obligation (hereinafter referred to as a "prepayment"), but in no event may any prepayment be made before the expiration of one year from the date such subordination agreement became effective: *Provided, however,* That the foregoing restriction shall not apply to temporary subordination agreements which comply with the provisions of paragraph (h)(3)(v) of this section nor shall it apply to "special prepayments" made in accordance with the provisions of paragraph (h)(2)(vii)(B) of this section. No prepayment shall be made if, after giving effect thereto (and to all payments of payment obligations under any other subordination agreements then outstanding, the maturity or accelerated maturities of which are scheduled to fall due within six months after the date such prepayment is to occur pursuant to this provision, or on or prior to the date on which the payment obligation in respect to such prepayment is scheduled to mature disregarding this provision, whichever date is earlier) without reference to any projected profit or loss of the applicant or registrant, the adjusted net capital of the applicant or registrant is less than the greatest of: (*1*) 120 percent of the appropriate minimum dollar amount required by paragraphs (a)(1)(i)(A) or (a)(1)(ii)(A) of this section; (*2*) for a futures commission merchant or applicant therefor, seven (7) percent of the following amount: the customer funds required to be segregated pursuant to the Act and these regulations less the market value of commodity options purchased by option customers on or subject to the rules of a contract market: *Provided, however,* That the deduction for each option customer shall be limited to the amount of customer funds in such option customer's account; or (*3*) for an applicant or registrant which is also a securities broker or dealer, the amount of net capital specified in Rule 15c3–1d(b)(7) of the Securities and Exchange Commission (17 CFR 240.15c3–1d(b)(7)). Notwithstanding the above, no prepayment shall occur without the prior written approval of the National Futures Association, in the case of an applicant, or without the prior written approval of the designated self-regulatory organization, if any, and the Commission, in the case of a registrant.

(B) An applicant or registrant at its option, but not at the option of the lender, may, if the subordination agreement so provides, makes a payment at any time of all or any portion of the payment obligation thereunder prior to the scheduled maturity date of such payment obligation (hereinafter referred to as a "special prepayment"). No special prepayment shall be made if, after giving effect thereto (and to all payments of payment obligations under any other subordination agreements then outstanding, the maturity or accelerated maturities of which are scheduled to fall due within six months after the date such special prepayment is to occur pursuant to this provision, or on or prior to the date on which the payment obligation to respect to such special prepayment is scheduled to mature disregarding this provision, whichever date is earlier) without reference to any projected profit or loss of the applicant or registrant, the adjusted net capital of the applicant or registrant is less than the greatest of: (*1*) 200 percent of the appropriate minimum dollar amount required by paragraphs (a)(1)(i)(A) or (a)(1)(ii)(A) of this section; (*2*) for a futures commission merchant or applicant therefor, 10 percent of the following amount: the customer funds required to be segregated pursuant to the Act and these regulations less the market value of commodity options purchased by option customers on or subject to the rules of a contract market: *Provided, however,* That the deduction for each option customer shall be limited to the amount of customer funds in such option customer's account; or (*3*) for an applicant or registrant which is also a securities broker or dealer, the amount of net capital specified in Rule 15c3–1d(c)(5)(ii) of the Securities and Exchange Commission (17 CFR 240.15c3–1d(c)(5)(ii)): *Provided, further,* That no special prepayment shall be made if pre-tax losses during the latest three-month period were greater than 15 percent of current excess adjusted net capital. Notwithstanding the above, no special prepayment shall occur without the prior written approval of the National Futures Association, in the case of an applicant, or without the prior written approval of the designated self-regulatory organization, if any, and the Commission, in the case of a registrant.

* * * * *

(ix) *Accelerated maturity.* Obligation to repay to remain subordinate:

(A) Subject to the provisions of paragraph (h)(2)(viii) of this section, a subordination agreement may provide that the lender may, upon prior written notice to the applicant and the National Futures Association, or upon prior written notice to the registrant and the designated self-regulatory organization or, if the registrant is not a member of a

designated self-regulatory organization, the Commission, given not earlier than six months after the effective date of such subordination agreement, accelerate the date on which the payment obligation of the borrower, together with accrued interest or compensation, is scheduled to mature to a date not earlier than six months after giving of such notice, but the right of the lender to receive payment, together with accrued interest or compensation, shall remain subordinate as required by the provisions of this paragraph (h)(2) of this section.

* * * * *

(x) *Accelerated maturity of subordination agreements on event of default and event of acceleration.* Obligation to repay to remain subordinate:

(A) A subordination agreement may provide that the lender may, upon prior written notice to the applicant and the National Futures Association, or upon prior written notice to the registrant and the designated self-regulatory organization or, if the registrant is not a member of a designated self-regulatory organization, the Commission, of the occurrence of any event of acceleration (as hereinafter defined) given no sooner than six months after the effective date of such subordination agreement, accelerate the date on which the payment obligation of the applicant or registrant, together with accrued interest or compensation, is scheduled to mature, to the last business day of a calendar month which is not less than six months after notice of acceleration is received by the applicant and by the National Futures Association, or by the registrant and the designated self-regulatory organization or, if the registrant is not a member of a designated self-regulatory organization, the Commission. Any subordination agreement containing such events of acceleration may also provide that, if upon such accelerated maturity date the payment obligation of the applicant or registrant is suspended as required by paragraph (h)(2)(viii) of this section and liquidation of the applicant or registrant has not commenced on or prior to such accelerated maturity date, notwithstanding paragraph (h)(2)(viii) of this section, the payment obligation of the applicant or registrant with respect to such subordination agreement shall mature on the day immediately following such accelerated maturity date and in any such event the payment obligations of the applicant or registrant with respect to all other subordination agreements then outstanding shall also mature at the same time but the rights of the respective lenders to receive payment, together with accrued interest or compensation, shall remain subordinate as required by the provisions of paragraph (h)(2) of this section. Events of acceleration which may be included in a subordination agreement complying with this paragraph (h)(2)(x) of this section shall be limited to:

* * * * *

(B) * * *

(*2*) Failure to meet the minimum capital requirements of the designated self-regulatory organization, or of the Commission, throughout a period of 15 consecutive business days, commencing on the day the borrower first determines and notifies the designated self-regulatory organization, if any, of which he is a member and the Commission, in the case of a registrant, or the National Futures Association, in the case of an applicant, or commencing on the day any self-regulatory organization, the Commission or the National Futures Association first determines and notifies the applicant or registrant of such fact;

* * * * *

(3) * * *

(ii) *Notice of maturity or accelerated maturity.* An applicant shall immediately notify the National Futures Association, and a registrant shall immediately notify the designated self-regulatory organization, if any, and the Commission if, after giving effect to all payments of payment obligations under subordination agreements then outstanding which are then due or mature within the following six months without reference to any projected profit or loss of the applicant or registrant, its adjusted net capital would be less than: (A) 120 percent of the minimum dollar amount required by paragraphs (a)(1)(i)(A) or (a)(1)(ii)(A) of this section; (B) for a futures commission merchant or applicant therefor, six (6) percent of the following amount: the customer funds required to be segregated pursuant to the Act and these regulations less the market value of commodity options purchased by option customers or subject to the rules of a contract market: *Provided, however,* That the deduction for each option customer shall be limited to the amount of customer funds in such option customer's account; or (C) for an applicant or registrant which is also a securities broker or dealer, the amount of net capital specified in Rule 15c3–1d(c)(2) of the Securities and Exchange Commission (17 CFR 240.15c3–1d(c)(2)).

* * * * *

(vi) *Filing.* An applicant shall file a signed copy of any proposed subordination agreement (including nonconforming subordination agreements) with the National Futures Association at least ten days prior to the proposed effective date of the agreement or at such other time as the National Futures Association for good cause shall accept such filing, and a signed copy shall also be filed simultaneously with the regional office of the Commission nearest the principal place of business of the applicant (except that an applicant under the jurisdiction of the Commission's Western Regional Office shall file such a signed copy with the Commission's Southwestern Regional Office). A registrant shall file two signed copies of any proposed subordination agreement (including nonconforming subordination agreements) with the Commission at the Office of the Chief Accountant, Division of Trading and Markets, in Washington, D.C. at least ten days prior to the proposed effective date of the agreement or at such other time as the Commission for good cause shall accept such filing. Copies of the proposed agreement shall be filed in such quantities and at such time as the designated self-regulatory organization may require with the designated self-regulatory organization, if any, of which the registrant is a member. The applicant or registrant shall also file with said parties a statement setting forth the name and address of the lender, the business relationship of the lender to the applicant or registrant and whether the applicant or registrant carried funds or securities for the lender at or about the time the proposed agreement was so filed. A proposed agreement filed by an applicant with the National Futures Association shall be examined at the National Futures Association, and no such agreement shall be a satisfactory subordination agreement for the purposes of this section unless and until the National Futures Association has found the agreement acceptable and such agreement has become effective in the form found acceptable. A proposed agreement filed by a registrant shall be examined at the designated self-regulatory organization with whom such an agreement is required to be filed prior to its becoming effective or, if the registrant is not a member of any designated self-regulatory organization, at the Commission. No proposed agreement shall be a satisfactory subordination agreement for the purposes of this section unless and until the designated self-regulatory organization or the Commission has found the agreement acceptable and

such agreement has become effective in the form found acceptable.

* * * * *

5. Section 1.18 is amended by revising paragraph (b) to read as follows:

§ 1.18 Records for and relating to financial reporting and monthly computation by futures commission merchants and introducing brokers.

* * * * *

(b) Each applicant or registrant must make and keep as a record in accordance with § 1.31 formal computations of its adjusted net capital and of its minimum financial requirements pursuant to § 1.17 or the requirements of the designated self-regulatory organization to which it is subject as of the close of business each month. An applicant or registrant which is also registered as a securities broker or dealer with the Securities and Exchange Commission may meet the computation requirements of this paragraph (b) by completing the Statement of Financial and Operational Combined Uniform Single Report under the Securities Exchange Act of 1934, Part II or Part IIA. An introducing broker or applicant for registration as an introducing broker which is also a country elevator may meet the computation requirements of this paragraph (b) by means of a monthly financial report completed in accordance with § 1.10(i). Such computations must be completed and made available for inspection by any representative of the National Futures Association, in the case of an applicant, or of the Commission or designated self-regulatory organization, if any, in the case of a registrant, within 30 days after the date for which the computations are made, commencing the first month end after the date the application for registration is filed.

* * * * *

PART 3—REGISTRATION

6. Section 3.1 is amended by revising paragraph (b) to read as follows:

§ 3.1 Definitions.

* * * * *

(b) *Current.* As used in this subpart, a Form 8–R or Form 94 is current if, subsequent to the filing of that form and continuously thereafter, the registrant or principal has been either registered or affiliated with a registrant as a principal.

* * * * *

7. Section 3.2 is amended by revising paragraphs (a), (b), and (c) and by adding a new paragraph (e) to read as follows:

§ 3.2 Registration processing by the National Futures Association; notification and duration of registration.

(a) Except as otherwise provided in any rule, regulation or order of the Commission, the registration functions of the Commission set forth in subpart A and subpart B of this part shall be performed by the National Futures Association.

(b) Notwithstanding any other provision of this part, the original of any registration form, any schedule or supplement thereto, any fingerprint card or other document required by this part to be filed with both the Commission and the National Futures Association, may be filed with either the Commission or the National Futures Association if (1) a legible, accurate, and complete photocopy of that form, schedule, supplement, fingerprint card, or other document is filed simultaneously with the National Futures Association or the Commission, respectively, and (2) such photocopy contains an original signature and date in each place where such signature and date is required on the original form, schedule, supplement, fingerprint card, or other document.

(c) The Commission or the National Futures Association will notify the registrant, or the sponsor in the case of an applicant for registration as an associated person, if registration has been granted under the Act. If an applicant for registration as an associated person receives a temporary license in accordance with § 3.40 of this part, the Commission or the National Futures Association may notify the sponsor only that a temporary license has been granted.

* * * * *

(e) Any registration form, any schedule or supplement thereto, any fingerprint card or other document required by this part to be filed with the National Futures Association shall be deemed for all purposes to have been filed with, and to be the official record of, the Commission.

* * * * *

8. Section 3.3 is amended by revising paragraph (a) to read as follows:

§ 3.3 Registration fees; form of remittance.

(a) *Amount of fees.*—(1) *Floor brokers.* Each application for registration, or for renewal thereof, as a floor broker must be accompanied by a fee of $25.

(2) *Leverage transaction merchants.* Each application for registration, or for renewal thereof, as a leverage transaction merchant must be accompanied by a fee of $275.

(3) *Associated persons.* Each Form 8–R submitted in connection with the registration of an associated person of a leverage transaction merchant must be accompanied by a fee of $35.

(4) *Branch offices.* A fee of $6 must be provided for each branch office of a leverage transaction merchant operating within the United States, as specified in any Form 7–R or any schedule thereto or in any Form 3–R filed with the Commission to report the addition of a branch office. The fee specified by this paragraph (a)(4) must accompany each Form 7–R filed as an application for initial registration or for renewal of registration and each Form 3–R filed to report the addition of a branch office.

* * * * *

9. Section 3.4 is revised to read as follows:

§ 3.4 Registration in one capacity not included in registration in any other capacity.

(a) Except as may be otherwise provided in the Act or in any rule, regulation, or order of the Commission, each futures commission merchant, floor broker, associated person, commodity trading advisor, commodity pool operator, introducing broker, and leverage transaction merchant must register as such under the Act. Registration in one capacity under the Act shall not include registration in any other capacity.

(b) Except as may be provided in any rule, regulation or order of the Commission, registration as an associated person in one capacity shall not include registration as an associated person in any other capacity: *Provided, however,* That an associated person who is sponsored by a registrant, which itself is registered in more than one capacity, need register only once to act as an associated person of the registrant, and shall be deemed to be an associated person of such registrant, in each such capacity.

10. Section 3.10 is amended by revising paragraphs (a) and (b) to read as follows:

§ 3.10 Registration of futures commission merchants.

(a) *Initial registration.* (1) Application for initial registration as a futures commission merchant must be on Form 7–R, completed and filed with the National Futures Association in accordance with the instructions thereto and the provisions of § 1.10 of this chapter.

(2) Each Form 7–R filed in accordance with the requirements of paragraph (a)(1) of this section must be accompanied by a Form 8–R, completed in accordance with the instructions

thereto and executed by each natural person who is a principal of the applicant, and must be accompanied by the fingerprints of that principal on a fingerprint card provided by the National Futures Association for that purpose. The provisions of this paragraph (a)(2) do not apply to any principal who has a current Form 8–R or Form 94 on file with the Commission or the National Futures Association.

(b) *Renewal of registration.* Application for renewal of registration as a futures commission merchant must be on Form 7–R, completed and filed with the National Futures Association in accordance with the instructions thereto.

* * * * *

11. Section 3.11 is amended by revising paragraphs (b) and (c) to read as follows:

§ 3.11 Registration of floor brokers.

* * * * *

(b) *Initial registration.* Application for initial registration as a floor broker must be on Form 8–R, completed and filed with the Commission in accordance with the instructions thereto. Each applicant for initial registration as a floor broker must file his fingerprints with the Form 8–R or a fingerprint card provided by the Commission for that purpose except, that a fingerprint card need not be filed by any applicant who has a current Form 8–R on Form 94 on file with the Commission or the National Futures Association.

(c) *Renewal of registration.* Application for renewal of registration as a floor broker must be on Form 8–R, completed and filed with the Commission in accordance with the instructions thereto.

12. Section 3.12 is amended by revising paragraphs (a), (c)(1)(ii), (c)(3), (d)(1), (d)(3), (f)(4), (f)(6), (f)(8), and (f)(10) to read as follows:

§ 3.12 Registration of associated persons of futures commission merchants and introducing brokers.

(a) *Registration required.* It shall be unlawful for any person to be associated with a futures commission merchant or with an introducing broker as an associated person unless that person shall have registered under the Act as an associated person of that sponsoring futures commission merchant or introducing broker in accordance with the procedures in paragraphs (c) or (d) of this section.

(c) * * *

(1) * * *

(ii) The sponsor has verified the information supplied by the applicant in response to the questions on Form 8–R which relate to the applicant's education and employment history during the preceding five years.

* * * * *

(3) Each Form 8–R filed in accordance with the requirements of paragraph (c) of this section must be accompanied by the fingerprints of the applicant on a fingerprint card provided for that purpose by the National Futures Association.

* * * * *

(d) *Special registration procedures for certain persons.* (1) Except as provided in paragraph (f) of this section, any person whose registration as an associated person in another capacity is still in effect, or whose registration as an associated person in the same capacity or in another capacity has terminated within the preceding sixty days, and who becomes associated with a sponsoring futures commission merchant or introducing broker which makes the certification provided by paragraph (d)(1)(i) of this section will be registered as, and in the capacity of, an associated person of such sponsor upon the mailing by that sponsor to the National Futures Association of written certifications stating:

* * * * *

(3) Within sixty days of mailing the certifications permitted by paragraph (d)(1) of this section, the associated person and the sponsor must complete and the sponsor must file with the National Futures Association a Form 8–R in accordance with the instructions thereto. The Form 8–R must contain the certifications required by paragraphs (c)(1) (ii)–(iv) of this section and must be accompanied by the fingerprints of the associated person on a fingerprint card provided by the National Futures Association for that purpose.

* * * * *

(f) *Certain dual and multiple associations prohibited.* No person may be simultaneously associated as an associated person with—

* * * * *

(4) Subject to the provisions of paragraph (f)(3) of this section, a futures commission merchant and a commodity trading advisor for which that futures commission merchant carries or introduces, or intends to carry or introduce, clients' or prospective clients' discretionary accounts;

* * * * *

(6) Subject to the provisions of paragraph (f)(5) of this section, a futures commission merchant and a commodity pool operator for which that futures commission merchant carries or introduces, or intends to carry or introduce, the account of a commodity pool operated by that commodity pool operator;

* * * * *

(8) Subject to the provisions of paragraph (f)(7) of this section, an introducing broker and a commodity trading advisor for which that introducing broker introduces, or intends to introduce, clients' or prospective clients' discretionary accounts;

* * * * *

(10) Subject to the provisions of paragraph (f)(9) of this section, an introducing broker and a commodity pool operator for which that introducing broker introduces, or intends to introduce, the account of a commodity pool operated by that commodity pool operator.

* * * * *

13. Section 3.13 is revised to read as follows:

§ 3.13 Registration of commodity trading advisors.

(a) *Initial registration.* (1) Application for initial registration as a commodity trading advisor must be on Form 7–R, completed and filed with the National Futures Association in accordance with the instructions thereto.

(2) Each Form 7–R filed in accordance with the requirements of paragraph (a)(1) of this section must be accompanied by a Form 8–R, completed in accordance with the instructions thereto and executed by each natural person who is a principal of the applicant, and must be accompanied by the fingerprints of that principal on a fingerprint card provided by the National Futures Association for that purpose. The provisions of this paragraph (a)(2) do not apply to any principal who has a current Form 8–R or Form 94 on file with the Commission or the National Futures Association.

(b) *Renewal of registration.* Application for renewal of registration must be on Form 7–R, completed and filed with the National Futures Association in accordance with the instructions thereto.

14. Section 3.14 is revised to read as follows:

§ 3.14 Registration of commodity pool operators.

(a) *Initial registration.* (1) Application for initial registration as a commodity pool operator must be on Form 7–R, completed and filed with the National Futures Association in accordance with the instructions thereto and the provisions of § 4.13(c) of this chapter.

(2) Each Form 7–R filed in accordance with the requirements of paragraph (a)(1) of this section must be accompanied by a Form 8–R, completed in accordance with the instructions thereto and executed by each natural person who is a principal of the applicant, and must be accompanied by the fingerprints of that principal on a fingerprint card provided by the National Futures Association for that purpose. The provisions of this paragraph (a)(2) do not apply to any principal who has a current Form 8–R or Form 94 on file with the Commission or the National Futures Association.

(b) *Renewal of registration.* Application for renewal of registration as a commodity pool operator must be on Form 7–R, completed and filed with the National Futures Association in accordance with the instructions thereto.

(15) Section 3.15 is amended by revising paragraph (a)(2) to read as follows:

§ 3.15 Registration of introducing brokers.

(a) * * *

(2) Each Form 7–R filed in accordance with the requirements of paragraph (a)(1) of this section must be accompanied by a Form 8–R, completed in accordance with the instructions thereto and executed by each natural person who is a principal of the applicant, and must be accompanied by the fingerprints of that principal on a fingerprint card provided by the National Futures Association for that purpose. The provisions of this paragraph (a)(2) do not apply to any principal who has a current Form 8–R or Form 94 on file with the Commission of the National Futures Association.

* * * * *

16. Section 3.16 is amended by revising the introductory paragraph to paragraph (c) and paragraphs (c)(3), (d)(3), (e)(2)(i), and (e)(2)(ii) to read as follows:

§ 3.16 Registration of associated persons of commodity trading advisors and commodity pool operators.

* * * * *

(c) *Application for initial registration.* Except as otherwise provided in paragraph (d) and (e) of this section, application for initial registration as an associated person of a commodity trading advisor or commodity pool operator must be on Form 8–R, completed and filed with the National Futures Association in accordance with the instructions thereto.

* * * * *

(3) Each Form 8–R filed in accordance with the requirements of paragraph (c) of this section must be accompanied by the fingerprints of the applicant on a fingerprint card provided for that purpose by the National Futures Association.

* * * * *

(d) * * *

(3) Within sixty days of mailing the certificates permitted by paragraph (d)(1) of this section, the associated person and the sponsor must complete and the sponsor must file with the National Futures Association a Form 8–R in accordance with the instructions thereto. The Form 8–R must contain the certifications required by paragraphs (c)(1) (ii)–(iv) of this section and must be accompanied by the fingerprint card provided by the National Futures Association for that purpose.

(e) * * *

(2)(i) A person who is already registered as an associated person in any capacity may become associated with a commodity trading advisor or with a commodity pool operator if that commodity trading advisor or commodity pool operator files with the National Futures Association a Form 3–R in accordance with the instructions thereto. Such filing shall constitute a certification that the commodity trading advisor or commodity pool operator has verified that the associated person is currently registered as an associated person in any capacity and that the associated person is not subject to a statutory disqualification as set forth in section 8a(2) of the Act, and an acknowledgment that in addition to its responsibility to supervise that associated person, the commodity trading advisor or commodity pool operator is jointly and severally responsible for the conduct of the associated person with respect to the solicitation of any client's or prospective client's discretionary account or the solicitation of funds, securities, or property for a participation in a commodity pool, with respect to any customers or option customers common to it and any other commodity trading advisors or commodity pool operators with which the associated person is associated. Upon receipt by the National Futures Association of such a Form 3–R, the associated person named therein shall be registered as an associated person of the sponsoring commodity trading advisor or commodity pool operator.

(ii) A person who is simultaneously associated with more than one sponsor in accordance with the provisions of this paragraph (e)(2) shall be required, upon receipt of notice from the National Futures Association, to file with the National Futures Association the registrant's fingerprints on a fingerprint card provided by the National Futures Association for that purpose as well as such other information as the National Futures Association may require. The National Futures Association may require such a filing every two years, or at such greater period of time as the National Futures Association may deem appropriate, after the associated person has become associated with a commodity trading advisor or with a commodity pool operator in accordance with the requirements of this paragraph (e)(2).

* * * * *

17. Section 3.17 is amended by revising paragraph (a)(2) to read as follows:

§ 3.17 Registration of leverage transaction merchants.

(a) * * *

(2) Each Form 7–R filed in accordance with the requirements of paragraph (a)(1) of this section must be accompanied by a Form 8–R, completed in accordance with the instructions thereto and executed by each natural person who is a principal of the applicant, and must be accompanied by the fingerprints of that principal on a fingerprint card provided by the Commission for that purpose. The provisions of this paragraph (a)(2) do not apply to any principal who has a current Form 8–R Form 94 on file with the Commission or the National Futures Association.

* * * * *

18. Section 3.22 is amended by revising the introductory paragraph of the section and paragraphs (a) and (b) to read as follows:

§ 3.22 Supplemental filings.

Notwithstanding any other provision of this chapter, the Commission or the Director of the Division of Trading and Markets or the Director's designee or the National Futures Association may, at any time, give written notice to any registrant, applicant for registration, or person required to be registered:

(a) That information has come to the attention of the Commission's or the National Futures Association's staff which, if true, could constitute grounds upon which to base a determination that the person is unfit to become, or to remain, registered in accordance with the Act or the regulations thereunder and setting forth such information in the notice, or that the Commission or the National Futures Association has undertaken a routine or periodic review

of the registrant's fitness to remain so registered; and

(b) That the person, or any individual who, based upon his relationship with that person is required to file a Form 8–R in accordance with the requirements of this part, as applicable, must, within five days of receipt thereof, or such shorter period of time as the Commission or the National Futures Association may specify, complete and file with the Commission or the National Futures Association a current Form 8–R, in accordance with the instructions thereto, which must be accompanied by that individual's fingerprints on a fingerprint card provided by the Commission or the National Futures Association for that purpose.

* * * * *

19. Section 3.30 is revised to read as follows:

§ 3.30 Current address for purpose of delivery of communications from the Commission or the National Futures Association.

The address of each registrant, applicant for registration and principal, as submitted on the application for registration (Form 7–R or Form 8–R) or as submitted on the biographical supplement (Form 8–R) shall be deemed to be the address for delivery to the registrant, applicant or principal for any communications from the Commission or the National Futures Association, including any summons, complaint, reparation claim, order, subpoena, special call, request for information, notice, and other written documents or correspondence, unless the registrant, applicant or principal specifies another address for this purpose: *Provided,* That the Commission or the National Futures Association may address any correspondence relating to a biographical supplement submitted for or on behalf of a principal to the futures commission merchant, commodity trading advisor, commodity pool operator, introducing broker, or leverage transaction merchant with which the principal is affiliated and may address any correspondence relating to the registration of an associated person to the futures commission merchant, commodity trading advisor, commodity pool operator, introducing broker, or leverage transaction merchant with which the associated person or the applicant for registration is or will be associated as an associated person. Each registrant, while registered, and each principal, while affiliated with a registrant, must keep current the address on the application for registration, biographical supplement, or other address filed with the Commission or with the National Futures Association for the purpose of receiving communications from the Commission or the National Futures Association. An order of default or other appropriate relief may be entered in any proceeding, including a reparation proceeding commenced while the registrant is registered or within two years thereafter, for failure to file a required response to any communication sent to the latest such address filed with the Commission or with the National Futures Association.

19. Section 3.31 is amended by deleting paragraph (d) and by revising paragraphs (c)(1), (c)(2)(i) and (c)(2)(ii) to read as follows:

§ 3.31 Deficiencies, inaccuracies, and changes, to be reported.

* * * * *

(c)(1) After the filing of a Form 8–R, a Certificate of Special Registration (Form 8–S), or a Form 3–R by or on behalf of any person for the purpose of permitting that person to be an associated person of a futures commission merchant, commodity trading advisor, commodity pool operator, introducing broker, or leverage transaction merchant, that futures commission merchant, commodity trading advisor, commodity pool operator, or introducing broker must, within twenty days after the occurrence of either of the following, file a notice thereof with the National Futures Association or, in the case of a leverage transaction merchant, with the Commission, indicating:

* * * * *

(2)(i) Each person registered as, or applying for registration as, a leverage transaction merchant must, within twenty days after the termination of the affiliation of a principal with the registrant or applicant, file a notice thereof with the Commission.

(ii) Each person registered as, or applying for registration as, a futures commission merchant, commodity trading advisor, commodity pool operator or introducing broker must, within twenty days after the termination of the affiliation of a principal with the registrant or applicant, file a notice thereof with the National Futures Association.

* * * * *

20. Section 3.32 is amended by revising paragraphs (b), (c), (e)(1), (f) and (h) to read as follows:

§ 3.32 Changes requiring new registration; addition of principals.

* * * * *

(b) Application for a new registration required under paragraph (a) of this section must be on Form 7–R, completed and filed with the National Futures Association or, in the case of a leverage transaction merchant, the Commission, in accordance with the instructions thereto.

(c) Notwithstanding any other provision of this part, each Form 7–R filed in accordance with paragraph (b) of this section must be accompanied by a Form 8–R, completed in accordance with the instructions thereto and executed by each natural person who is a principal of the registrant and who was not listed on the registrant's initial application for registration or any amendment thereto. The Form 8–R for each such principal must be accompanied by the fingerprints of that principal on a fingerprint card provided by the National Futures Association or, in the case of a principal of a leverage transaction merchant, the Commission, for that purpose.

* * * * *

(e)(1) In the event of a change in control as described in paragraphs (d)(4) and (5) of this section, a new registration will not be required if the registrant submits a written notice on Form 3–R to the National Futures Association or, in the case of a leverage transaction merchant, to the Commission, at least 45 days prior to the date of such change in control, and includes with such notice a Form 8–R, completed in accordance with the instructions thereto and executed by each natural person who thus will become a principal of the registrant. The Form 8–R for each such individual must be accompanied by the fingerprints of that individual on a fingerprint card provided by the National Futures Association, or the Commission if the registrant is a leverage transaction merchant, for that purpose: *Provided, however,* That a fingerprint card need not be provided under this paragraph for any individual who is registered with the Commission as an associated person of the registrant of which the individual intends to become a principal.

* * * * *

(f) If the registrant is a leverage transaction merchant, all documents submitted pursuant to this section shall be filed with the Commission at its Washington, D.C. office (Attn: Assistant Director for Registration, Division of Trading and Markets, 2033 K Street, NW., Washington, D.C. 20581). If the registrant is a futures commission merchant, introducing broker, commodity trading advisor or commodity pool operator, all documents

shall be filed with the National Futures Association.

* * * * *

(h) Except as otherwise provided in this section, within twenty days after any natural person becomes a principal of an applicant of registrant subsequent to the filing of a Form 7–R in accordance with the requirements set forth in §§ 3.10 (a) or (b), 3.13 (a) or (b), 3.14 (a) or (b), 3.15 (a) or (b), or 3.17 (a) or (b) of this chapter, the applicant or registrant must file a Form 8–R with the National Futures Association, or the Commission if the applicant or registrant is a leverage transaction merchant. The Form 8–R must be completed by such principal in accordance with the instructions thereto and must be accompanied by the fingerprints of that principal on a fingerprint card provided by the National Futures Association, or the Commission if the applicant or registrant is a leverage transaction merchant, for that purpose. This filing need not be made for any such principal who has a current Form 8–R or Form 94 on file with the Commission or the National Futures Association: *Provided,* That the applicant or registrant must notify the National Futures Association, or the Commission if the applicant or registrant is a leverage transaction merchant, within twenty days of the name of such added principal on Form 3–R.

* * * * *

21. Section 3.33 is amended by revising paragraphs (e), (f)(2)(ii) and (f)(2)(iii) to read as follows:

§ 3.33 Withdrawal from registration.

* * * * *

(e) A request for withdrawal from registration must be sent to the Commodity Futures Trading Commission at its Washington, D.C. Office (Registration Unit, Division of Trading and Markets, 2033 K Street, NW., Washington, D.C. 20581). If the registrant requesting withdrawal from registration is a futures commission merchant, introducing broker, commodity trading advisor or commodity pool operator, a copy of the request for withdrawal should be filed simultaneously with the National Futures Association.

(f) * * *

(2) * * *

(ii) The Commission imposes, or gives notice by mail, which notice shall be complete upon mailing, that it intends to impose, terms or conditions upon such withdrawal from registration;

(iii) The registrant is given notice by mail, which notice shall be complete upon mailing, or is otherwise notified that it is currently the subject of an investigation to determine, among other things, whether such registrant has violated, is violating, or is about to violate the Act, rules, regulations or orders adopted thereunder;

* * * * *

22. Section 3.40 is amended by revising the introductory paragraph of the section and paragraph (b) to read as follows:

§ 3.40 Temporary licensing of applicants for associated person registration.

Notwithstanding any other provision of these regulations and pursuant to the terms and conditions of this subpart, the Commission or the National Futures Association, as appropriate, may grant a temporary license to any applicant for registration as an associated person upon the contemporaneous filing with the Commission or the National Futures Association, as appropriate, of:

* * * * *

(b) The fingerprints of the applicant on a fingerprint card provided by the Commission or the National Futures Association, as appropriate, for that purpose; and

* * * * *

23. Section 3.43 is amended by revising paragraph (b)(1) to read as follows:

§ 3.43 Relationship to registration.

* * * * *

(b) * * *

(1) A determination by the Commission or the National Futures Association, as appropriate, that the applicant is qualified for registration as an associated person; or

* * * * *

PART 140—ORGANIZATION, FUNCTIONS, AND PROCEDURES OF THE COMMISSION

24. Section 140.2 is amended by revising paragraphs (b) and (d) to read as follows:

§ 140.2 Regional offices—Regional directors.

* * * * *

(b) The Central Regional office is located at Sears Tower, 46th Floor, 233 South Wacker Drive, Chicago, Ill. 60606, and is responsible for enforcement of the Act and administration of the programs of the Commission in the States of Illinois, Indiana, Michigan, Ohio and Wisconsin.

* * * * *

(d) The Southwestern Regional office is located at 4901 Main Street, Suite 400, Kansas City, Missouri 64112, with a sub-office at Room 510, Grain Exchange Building, Fourth Street and Fourth Avenue, South, Minneapolis, Minn. 55415, and is responsible for enforcement of the Act and administration of the programs of the Commission in the States of Arkansas, Colorado, Iowa, Kansas, Louisiana, Minnesota, Missouri, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota and Texas.

PART 145—COMMISSION RECORDS AND INFORMATION

25. Section 145.6 is amended by revising paragraph (b) to read as follows:

§ 145.6 Commission offices to contact for assistance; registration records available.

* * * * *

(b)(1) The publicly available portions of Form 7–R (application for registration as a futures commission merchant, introducing broker, commodity trading advisor, commodity pool operator or leverage transaction merchant), Form 8–R (application for registration as an associated person and floor broker and biographical supplement to application on Form 7–R), Form 8–S (certificate of special registration) and Form 8–T (notice of termination) will be available for public inspection and copying. Such registration forms with respect to floor brokers, leverage transaction merchants and associated persons of leverage transaction merchants will be available at the Central Regional Office of the Commission in Chicago. Such registration forms with respect to futures commission merchants, introducing brokers, commodity trading advisors, commodity pool operators and the associated persons of such registrants will be available in the offices of the National Futures Association, 200 West Madison Street, Chicago, Illinois 60606. Telephone: (312) 781–1300.

(2) The fingerprint card and any supplementary attachments filed in response to items 6–9, 14–18 and 21–23 on Form 8–R, to item 3 on Form 8–S, to items 3–5 and 9–11 on Form 8–T or to items 9–10 on Form 7–R generally will not be available for public inspection and copying unless such disclosure is required under the Freedom of Information Act. When such fingerprint cards or supplementary attachments are on file, the FOI, Privacy and Sunshine Acts compliance staff will decide any request for access in accordance with the procedures set forth in §§ 145.7 and 145.9.

* * * * *

Issued in Washington, D.C. on October 1, 1984, by the Commission.

Jean A. Webb,

Acting Secretary of the Commission.

[FR Doc. 84-26359 Filed 10-5-84; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76-205; Louisiana—2 Addition II; Order No. 403]

High-Cost Gas Produced From Tight Formation; Louisiana

Issued October 5, 1984.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: Under section 107(c)(5) of the Natural Gas Policy Act of 1978, the Federal Energy Regulatory Commission designates certain types of natural gas as high-cost gas. High-cost gas is produced under conditions which present extraordinary risks or costs and once designated may receive an incentive price. Under section 107(c)(5), the Commission issued a rule designating natural gas produced from tight formations as high-cost gas. Jurisdictional agencies may submit recommendations of areas for designation as tight formations. Here the Commission adopts the recommendation by the Louisiana Department of Conservation that an additional portion of Haynesville Formation, Reservoir B, located in the Colquitt Field, Claiborne Parish, Louisiana, be designated as a tight formation.

EFFECTIVE DATE: This rule is effective November 5, 1984.

FOR FURTHER INFORMATION CONTACT: Kevin R. Rees, (202) 357-5420 or Walter Lawson, (202) 357-8556.

SUPPLEMENTARY INFORMATION:

Before Commissioners: Raymond J. O'Connor, Chairman; Georgiana Sheldon and Oliver G. Richard III.

I. Background

Based on a recommendation by the State of Louisiana, Office of Conservation (Louisiana), the Commission amends its regulations to include an additional area of the Haynesville Formation, Reservoir B, as a tight formation eligible for incentive pricing under § 271.703.[1] The amendment was proposed in a Notice of Proposed Rulemaking,[2] issued August 22, 1983.[3]

On May 25, 1983, Louisiana submitted a recommendation that an additional portion on the Haynesville Formation, Reservoir B, located in Colquitt Field, Clairborne Parish, Louisiana, be designated as a tight formation. The area initially recommended by Louisiana covered 2,480 acres. The applicant before Louisiana submitted data from four producing wells to support the recommendation.

The Commission staff reviewed the data submitted by Louisiana and found that the additional area did not meet the Commission's guidelines found in § 271.703(c)(2)(i) as one of the data wells, the Cities Service Company's Odom A No. 1 well, exhibited *in situ* permeability and flow rates in excess of the Commission's guidelines.

The Commission staff informed Louisiana that the area it recommended for tight formation designation did not appear to meet the Commission's guidelines because of the Odom A No. 1 well. On February 13, 1984, Louisiana submitted an amendment to its recommendation to the Commission, attempting to qualify the formation under § 271.703(c)(2)(ii). Louisiana stated that it would be uneconomical for Cities to produce gas from the Odom well in this formation absent the incentive price. Section 271.703(c)(2)(ii) allows the Commission to consider an area for tight formation designation if the area meets all the requirements of § 271.703(c)(2), but for the permeability guidelines found in § 271.703(c)(2)(i), provided that data is submitted by the jurisdictional agency which demonstrates that low permeability is found in the area, and that the incentive price is necessary for development of the area. Louisiana reiterated certain economic data contained in its original submission, but submitted no additional data to support finding under § 271.703(c)(2)(ii) that the incentive price was needed.

On July 9, 1984, Louisiana submitted a second amendment to the recommendation that the Haynesville Formation, Reservoir B, be designated as a tight formation. In this amendment, Louisiana requested that the Odom A No. 1 well and its associated 320-acre proration unit be excluded from the original recommendation.

The Commission has reviewed Louisiana's recommendation, as amended, and finds that the evidence submitted by Louisiana supports its assertion that the Haynesville Formation, Reservoir B, meets the guidelines contained in § 271.703(c)(2). Thus, the Commission adopts Louisiana's amended recommendation.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Code of Federal Regulations, is amended as set forth below

Kenneth F. Plumb,

Secretary.

PART 271—[AMENDED]

Section 271.703 is amended to read as follows:

1. The authority citation for Part 271 reads as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101, *et seq.;* Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432; Administrative Procedure Act, 5 U.S.C. 553.

2. Section 271.703(d) is amended by revising paragraph (22) to read as follows:

§ 271.703 Tight Formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(22) *Haynesville Formation in Louisiana.* RM79-76 (Louisiana-2).

(i) *Arkana Field, Bossier Parish.*—(A) *Delineation of the Formation.* The Haynesville Formation is found in the northern part of Bossier Parish, Louisiana, on the Arkansas border and consists of the following: Township 23 North, Range 12 West, Sections 5 through 8, and 17 through 19; Township 23 North, Range 13 West, Sections 1 through 24; Township 23 North, Range 14 West, Sections 1, 2, 6 through 24, and 27 through 34; and Township 23 North, Range 15 West, Sections 1 through 3, 22 through 27, and 34 through 36.

(B) *Depth.* The top of the Haynesville Formation is located at a measured depth of 10,360 feet, with the base located at 10,845 feet on the induction electrical log of the Crystal Oil Company Hall No. 1 Well. In the Arkana Field, the Haynesville Formation consists of three members; the upper member varies in thickness from 120 to 220 feet, the middle member, the Haynesville Sand, ranges between 120 and 220 feet thick, and the lowest member, the Buckner, is between 200 and 400 feet thick.

[1] 18 CFR 271.703 (1983).

[2] Comments on the proposed rule were invited and none were received. No party requested a public hearing and no hearing was held.

[3] 48 FR 38651 (August 25, 1984).

(ii) *Colquitt Field, Clairborne Parish.*—(A) *Delineation of formation.* The Haynesville Formation, Reservoir B, in the Colquitt Field, is located in Clairborne Parish, Louisiana, and consists of the S ½ of the SW ¼ of Section 27, the S ½ of the S ½ of the NW ¼ and the S ½ of the NE ¼ of Section 30, and the N ½ of Section 24, Township 23 North, Range 6 West, the W ½ of Section 24, and the N ½ of the SE ¼ of Section 25, Township 23 North, Range 7 West.

(B) *Depth.* The Haynesville Formation, Reservoir B, is defined as that gas and condensate bearing formation occurring between the depths of 9,510 feet and 10,730 feet, on the electric log measurement of the Cities Service Company Hatter A No. 1 Well, located in Section 29, Township 23, Range 6 West.

[FR Doc. 84-26542 Filed 10-5-84; 8:45 am]
BILLING CODE 6717-01-M

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18 CFR Part 294

[Docket No. RM79-52-000; Order No. 401]

Final Procedures for Shortages of Electric Energy and Capacity Under Section 206 of the Public Utility Regulatory Policies Act of 1978

Issued: October 5, 1984.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is issuing a final rule that requires electric utilities to report to the Commission both anticipated shortages of electric energy and capacity and any amendments to the contingency plans already on file with the Commission. These reports are required under section 206 of the Public Utility Regulatory Policies Act of 1978 (PURPA). This rule finalizes an interim rule issued in 1979 that has been extended annually.

EFFECTIVE DATE: December 24, 1984.

FOR FURTHER INFORMATION CONTACT: Ken Malloy, Rulemaking and Legislative Analysis Section, Office of General Counsel, 825 North Capitol Street NE., Room 8602-A, Washington, D.C. 20426, (202) 357-8033.

SUPPLEMENTARY INFORMATION:

Before Commissioners: Raymond J. O'Connor, Chairman; A.G. Sousa, Oliver G. Richard III, and Charles G. Stalon.

Final procedures for shortages of electric energy and capacity under section 206 of the Public Utility Regulatory Policies Act of 1978 (Docket No. RM79-52-000; Order No. 401). Final Rule.

The Federal Energy Regulatory Commission (Commission) is issuing a final rule that requires electric utilities to report to the Commission both anticipated shortages of electric energy and capacity, and any amendments to the contingency plans already on file with the Commission. These reports are required under section 206 of the Public Utility Regulatory Policies Act of 1978 (PURPA).[1] This rule finalizes an interim rule issued in 1979 that has been extended annually.

I. Background

Section 206 of PURPA directs the Commission to require, by rule, that each public utility: (1) report to the Commission and any appropriate state regulatory authority any anticipated shortage of electric energy or capacity which would affect the utility's capability of serving its wholesale customers; (2) prepare and submit to the Commission and to any appropriate state regulatory authority contingency plans respecting such shortages that outline what circumstances might give rise to the shortages; and (3) accommodate such shortages in a manner that gives due consideration to the public health, safety, and welfare, and assures that all persons served directly and indirectly by the utility are treated without undue prejudice or disadvantage.

On June 15, 1979, the Commission issued an interim rule implementing section 206 of PURPA.[2] The interim rule requires public utilities serving firm power wholesale customers to submit a contingency plan indicating how the utility would accommodate any shortages of electric energy or capacity affecting its firm power customers. The interim rule also requires each utility to report immediately any anticipated shortage of electric energy or capacity. In that report, the utility must provide the Commission with certain information, including information regarding any procedures for accommodating the particular shortage if they differ from the procedures set out in the utility's statement submitted pursuant to the interim rule.

The 1979 interim rule covered shortages and amendments to contingency plans that might occur prior to September 30, 1979. The Commission has amended the rule each year to extend the period in which shortages and amendments to a contingency accommodation plan had to be reported.[3] The last extension of the interim rule runs until April 30, 1985.

In 1980, the Commission also issued a Notice of Inquiry requesting comments on various issues relating to the implementation of section 206.[4] The notice sought information and comments on three general areas: (1) the nature of the shortages to be reported and the manner of reporting; (2) the detail needed in contingency plans; and (3) the role of the Commission and appropriate state and Federal agencies in approving contingency plans and requiring their use during a shortage.

The Commission received 43 comments in response to the Notice of Inquiry. The majority of the comments were filed by individual utility companies, but the Commission also received comments from governmental regulatory agencies, from the states of Wisconsin, Washington, Oregon, and California, and from the Economic Regulatory Administration within the Department of Energy (DOE). Several comments representing consumer interests were also filed.

The comments reflected a widely-shared belief that the Commission need not establish a comprehensive emergency planning and reporting program under section 206 of PURPA. The comments suggested that any FERC program would be duplicative of energy emergency planning programs at DOE and the various state authorities that routinely monitor power supply shortages.

II. Discussion

A. The Commission's Legal Authority

This rule presents the issue of how the Commission should implement section 206 of PURPA.

On its face, section 206 is a reporting provision. It mandates only that electric utilities report to the Commission and to appropriate state agencies certain

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[1] 16 U.S.C. 824a(g) (1982).

[2] 18 CFR 294.101 (1983) (promulgated in Docket No. RM79-52 and issued June 15, 1979, 44 FR 37500 (June 27, 1979)).

[3] The interim rule was extended to April 30, 1980, by Interim Regulations, Docket No. RM79-52 (issued Oct. 23, 1979), 44 FR 61,953 (Oct. 29, 1979); to April 30, 1981, by Amendment to Extend Interim Regulations, Docket No. RM79-52 (issued Apr. 1, 1980), 45 FR 23,684 (Apr. 8, 1980); to April 30, 1982, by Amendment to Extend Interim Regulations, Docket No. RM79-52 (issued Apr. 23, 1981), 46 FR 24,550 (May 1, 1981);' to April 30, 1983, by Amendment to Extend Interim Regulations, Docket No. RM79-52 (issued May 5, 1982), 47 FR 20,296 (May 12, 1982); to April 30, 1984, by Amendment to Extend Interim Regulations, Docket No. RM79-52 (issued Apr 8, 1983), 48 FR 16,057 (Apr. 14, 1983); and to April 30, 1985, by Amendment to Extend Interim Regulations, Docket No. RM79-52 (issued Apr. 30, 1984), 49 FR 20,808 (May 17, 1984).

[4] Inquiry Implementing Section 206 of the Public Utility Regulatory Policies Act of 1978, Continuance of Service, Docket No. RM79-52 (issued Apr. 22, 1980), 45 FR 28,162 (Apr. 28, 1980).

shortages of electricity and the utilities' plans for addressing such shortages. Section 206 does not otherwise explicitly mandate that this Commission must take any particular action regarding such shortages or plans. It is silent as to whether this Commission should approve contingency plans or delineate their content, such as mandating a scheme of service priorities when such shortages are anticipated.

However, the legislative history interprets the statute as investing this Commission with considerably more latitude on the issue of whether it may take further regulatory action on such plans and shortages. It states that "the Commission *can* approve plans submitted * * * on the basis of the [health, safety, welfare and nondiscrimination] criteria * * * and *require* use of these approved plans * * *. [T]he Commission *may* require periodic updating of these plans." [4]

B. The Need for Further Commission Intervention

After reviewing the comments filed in response to the interim rule and the Notice of Inquiry and considering the Commission's experience under the interim rule in effect, the Commission is convinced that it is not necessary at this time to impose regulatory requirements beyond the ones already established by the interim rule. The burden on the public utilities and the Commission of requiring an additional review mechanism would far outweigh any benefits. Thus, this final rule adopts the approach taken in the interim rule and requires public utilities only to report anticipated shortages and to update their contingency plans.

In considering whether additional Commission regulatory requirements are necessary, the Commission has taken into account the role that other governmental entities—Federal, state, and local—play in dealing with the problem of anticipated shortages of electricity.

(1) DOE's Role

The Department of Energy Organization Act in 1977 transferred the authorities of the Federal Power Commission respecting electric power adequacy and emergencies to the Secretary of Energy.[5] The Act also states that one of its purposes is "to develop plans and programs for dealing with domestic energy production and import shortages." As a result, DOE has established an Office of Energy Emergency Operations and an Office of Energy Contingency Planning. While these offices have focused primarily on fuel supply interruptions, they have included in their planning possible electric power effects and various ways in which electric power transfers could be employed to help relieve various emergencies. These offices are under the direction of the Deputy Assistant Secretary for Energy Emergencies.

Specifically, those offices:

(1) Conduct continuing evaluations of the short-term, mid-term, and long-term prospects for adequacy of power supply, especially generating resources. Annual reports from the Reliability Councils on electric utility expansion plans are a principal information source, together with individual utility contacts. An electric power monitoring function can be activated to maintain weekly, daily, or hourly information on the electric power supply and energy exchange situation.

(2) Gather data on major service interruptions, analyze the causes, and publish reports containing findings and recommendations. All utilities are required to report prospective fuel shortages and major interruptions within 3 hours after their occurrence.

See generally Report of Major Electric Utility System Emergencies, 10 CFR 205.350 through 205.379 (1984).

Other Federal agencies such as the Federal Emergency Management Agency and DOE's Energy Information Administration also have a variety of responsibilities regarding electric emergencies.

(2) State and Local Roles

In addition to this Federal role, state and local governments play a significant part in addressing the problem of anticipated shortages of electricity. Generally, the focus of most state emergency planning efforts has been on establishing methods to protect public health and safety during blackouts, maintaining communication channels, and meeting life threatening situations. State regulatory authorities have demonstrated their continuous concern about effectiveness of utility planning for power supply adequacy, the need to improve utility operating and maintenance practices, minimizing the frequency and duration of service interruptions, and the need for better utility public information systems to help the public in coping with emergencies.

These state and local concerns focus on improving the utility's ability to prevent or withstand emergencies. More generally, the broad powers of a state governor can be used in a variety of ways to guide the social response to an emergency. Federal planning for major events has always recognized the essential function of state authorities in determining priorities for energy use and in allocating state energy supplies.

Hence, the Commission agrees with the commenters and its own experience has shown that the current Federal, state, and local system of planning and response to electric energy emergencies has been sufficient to protect the interest of customers of public utilities subject to this Commission's jurisdiction under section 206 of PURPA. There is no apparent need at this time, therefore, to overlay another set of detailed emergency reporting requirements on public utilities, or to develop a plan approval or emergency response function at this Commission.

Accordingly, the Commission believes that the requirements imposed by the interim rule should be made final. The Commission is making two changes to the interim rule. First, the Commission is adding a new paragraph (§ 294.101(d)) to make it clear that a public utility may comply with the filing and reporting requirements in this final rule by filing a report made to any other Federal, state, or local agency if the report contains the information otherwise required by this rule. This flexibility was implicit in the interim rule, but the Commission believes including such a provision in the final rule will improve clarity for the public utilities involved. Second, the Commission is adding a new paragraph (§ 294.101(e)) regarding the number of copies to be filed by electric utilities. The amendment allows utilities filing reports under Part 294 to file an original and two copies with the Commission and one copy to any appropriate state regulatory agency and firm power wholesale customers. The Commission believes it is unnecessary to require the filing of an original and fourteen copies that would otherwise be required by the general rules of practice and procedure (18 CFR 385.2004 (1983)).

III. Administrative Procedure Act Requirements

The Commission previously allowed an opportunity for interested parties to comment on the interim rule and the Notice of Inquiry, which raised all of the issues involved in this final rule. The Commission, therefore, finds that a

[4] Conference Report, H.R. Rep. No. 1750, 95th Cong., 2d Sess. 96 (1978) (emphasis added).

[5] 42 U.S.C. § 7151(b) (Supp. V 1981). These emergency authorities reside in sections 202 (a) and (c) of the Federal Power Act. 16 U.S.C. 824a (a), (c) (1982). These authorities have not been delegated to this Commission.

further opportunity for public comment under the Administrative Procedure Act is unnecessary. *See* 5 U.S.C. 553(b) (1982).

IV. Paperwork Reduction Act and Effective Date

The information collection provisions in this notice are being submitted to the Office of Management and Budget (OMB) for its approval under the Paperwork Reduction Act, 44 U.S.C. 3501–3520 (1982) and OMB's regulations, 5 CFR 1320.12 (1983). Interested persons can obtain information on information collection provisions by contacting the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. (Attention: Ken Malloy (202) 357–8033). Comments on information collection provisions can be sent to the Office of Information and Regulatory Affairs of OMB, New Executive Office Building, Washington, D.C. 20503 (Attention: Desk Officer for the Federal Energy Regulatory Commission).

These amendments to the filing requirements will become effective on December 24, 1984. If OMB's approval and control number have not been received by that date, the Commission will issue a notice temporarily suspending the effective date.

List of Subjects in 18 CFR Part 294

Electric utilities, Reporting and recordkeeping requirements.

In consideration of the foregoing, Part 294 of Chapter I, Title 18, Code of Federal Regulations, is amended as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 294—[AMENDED]

1. The authority citation for Part 294 continues to read as follows:

(Public Utility Regulatory Policies Act of 1978, Pub. L. 95–617, 92 Stat. 3117; Federal Power Act, 16 U.S.C. 792 *et seq.*; Department of Energy Organization Act, 42 U.S.C. 7107 *et seq.*; E.O. 12,009, 42 FR 46,267; Administrative Procedure Act 5 U.S.C. 553)

§ 294.101 [Amended]

2. In § 294.101, paragraphs (a)(1), (a)(2), and (b)(4) are amended by removing the words, "prior to April 30, 1985,".

3. In § 294.101, paragraph (b)(1) is amended by removing the words ", by July 23, 1979," and ", if such shortages were to occur prior to September 30, 1979".

4. In § 294.101, new paragraphs (d) and (e) are added, to read as follows:

§ 294.101 Shortages of Electric Energy and Capacity

* * * * *

(d) *Reports to other government entities.* Any report filed with another governmental entity that contains the information that must be reported under this part may be filed to comply with this part.

(e) *Number of copies.* Any public utility that files under this part must provide an original of any filing and at least two exact copies to this Commission and one copy to any state regulatory authority and firm power wholesale customers, unless otherwise required by the Commission.

[FR Doc. 84-26543 Filed 10-5-84; 8:45 am]

BILLING CODE 6717-01-M

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18 CFR Part 385

[Docket No. RM84-21-000; Order No. 402]

Rules of Practice and Procedure; Interlocutory Appeals

Issued: October 5, 1984.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is amending its Rules of Practice and Procedure to require that any person filing an interlocutory appeal must serve an additional copy of the appeal on the Motions Commissioner by Express Mail or hand delivery. In addition, the appellant must add the words "INTERLOCUTORY APPEAL" below the docket designation in the caption of its filings. These two amendments will alleviate practical and administrative difficulties in meeting the seven-day period for acting on appeals.

EFFECTIVE DATE: This rule is effective October 5, 1984.

FOR FURTHER INFORMATION CONTACT: Joseph R. Hartsoe, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE Washington, D.C. 20426, (202) 357–8033.

SUPPLEMENTARY INFORMATION:

Before Commissioners: Raymond J. O'Connor, Chairman; Georgiana Sheldon and Oliver G. Richard III.

Rules of Practice and Procedure: Interlocutory Appeals Docket No. RM84–21–000, Order No. 402. Final Rule.

The Federal Energy Regulatory Commission (Commission) is amending Rule 715(c) of its Rules of Practice and Procedure, 18 CFR 385.715(c) (1983), which governs the appeal of a presiding officer's denial of a motion to permit an interlocutory appeal. The amendment requires that any person filing an interlocutory appeal must serve an additional copy of the appeal to the Motions Commissioner by Express Mail or hand delivery. In addition, the Commission is revising Rule 2002, 18 CFR 2002 (1983), to require a participant to add the words "INTERLOCUTORY APPEAL" below the docket designation in the caption of its filing.

Under current Rule 715(c)(5), the Motions Commissioner has seven days after filing to act upon a participant's appeal of a presiding officer's denial of a motion for interlocutory appeal under Rule 715(b). Within those seven days, the Motions Commissioner must: (1) obtain the participant's filing; (2) consider whether the information presented is sufficiently complete; and (3) determine whether extraordinary circumstances exist which make prompt Commission review of the contested ruling necessary to prevent detriment to the public interest or to prevent irreparable harm to a person. If a no extraordinary circumstances determination is made within seven days after the appeal is filed and if the Motions Commissioner has not otherwise provided for a different time period to receive and consider additional information, the appeal is automatically denied under Rule 715(c)(5).

The Commission has found that deciding whether to grant an interlocutory appeal within the seven-day period provided in Rule 715(c)(5) can be difficult. On occasion, it has taken the full seven days simply to obtain the appeal filed by the participant and to begin to analyze the issues involved. In these circumstances, there is insufficient time to reach a decision on whether the information is complete enough and, if so, to decide whether extraordinary circumstances are present.

The Commission is alleviating these practical and administrative difficulties by making two amendments to its Rules of Practice and Procedure. First, those filing on interlocutory appeal under Rule 715(c)(5) must serve an additional copy to the Motions Commissioner by Express Mail or by hand delivery. This change should permit full and fair consideration of an interlocutory appeal without causing a lengthy delay in the proceedings. Second, a participant filing an appeal of a presiding officer's denial of a motion for interlocutory appeal under Rule 715(c) must now include the words "INTERLOCUTORY APPEAL" underneath the docket designation. This will enable the Commission staff to

identify these filings quickly and to ensure that the appeal is routed on an expedited basis.

Because this final rule is a matter of agency organization, procedure, and practice, prior notice and comment are unnecessary under section 4 of the Administrative Procedure Act, 5 U.S.C. § 553(b) (1982). In addition, the Commission finds that this rule will improve the handling and consideration of requests for interlocutory appeals and will thereby benefit the participants in Commission proceedings. Therefore, this rule will become effective immediately upon issuance, pursuant to 5 U.S.C. § 553(d) (1982).

List of Subjects in 16 CFR Part 385

Administrative practice and procedure.

Accordingly, the Commission, effective immediately, amends Part 385 of Title 16, Chapter I, Code of Federal Regulations, as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 385—[AMENDED]

1. In § 385.715, paragraphs (c)(1) and (c)(2) are amended by adding a new sentence at the end of each paragraph, to read as follows:

§ 385.715 Interlocutory appeals to the Commission from rulings of presiding officers (Rule 715).

* * * * *

(c) *Appeal of a presiding officer's denial of motion to permit appeal.* (1) * * * Any person filing an appeal under this paragraph must serve a separate copy of the appeal on the Motions Commissioner by Express Mail or by hand delivery.

(2) * * * The appeal must be labeled in accordance with § 385.2002(b) of this chapter.

* * * * *

2. In § 385.2002, paragraphs (b), (c), and (d) are redesignated as (c), (d), and (e) respectively, and a new paragraph (b) is added to read as follows:

§ 385.2002 Caption of filings (Rule 2002).

* * * * *

(b) The words "INTERLOCUTORY APPEAL" underneath the docket designation if the filing is an appeal under Rule 715(c) of a presiding officer's denial of a motion for an interlocutory appeal;

* * * * *

3. The authority citation of Part 385 continues to read as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101–7352 (1982); Executive Order 12,009, 3 CFR 142 (1978); Administrative Procedure Act, 5 U.S.C. 551–557 (1982); Independent Offices Appropriation Act, 31 U.S.C. 9701 (1982); Natural Gas Act, 15 U.S.C. 717–717w (1982); Federal Power Act, 16 U.S.C. 791a–828c (1982); Natural Gas Policy Act, 15 U.S.C. 3301–3432 (1982); Public Utility Regulatory Policies Act, 16 U.S.C. 2601–2645 (1982); Interstate Commerce Act, 49 U.S.C. 1–27 (1976), unless otherwise noted.

[FR Doc. 84-26541 Filed 10-5-84; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510 and 558

Animal Drugs, Feeds, and Related Products; Change of Sponsor

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor for four approved new animal drug applications (NADA's) (tylosin, tylosin-sulfamethazine, lincomycin, and pyrantel tartrate) from Feed Fortifiers, Inc., to Nutrius, Inc. Nutrius submitted supplemental NADA's providing for the change.

EFFECTIVE DATE: October 9, 1984.

FOR FURTHER INFORMATION CONTACT: David L. Gordon, Center for Veterinary Medicine (HFV–238), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–6243.

SUPPLEMENTARY INFORMATION: Nutrius, Inc., Two Brecksville Commons, 8221 Brecksville Rd., Brecksville, OH 44141, submitted supplements to NADA's 93–518 (tylosin), 98–639 (tylosin-sulfamethazine), 119–063 (pyrantel tartrate), and 132–659 (lincomycin) to provide for a change of sponsor from Feed Fortifiers, Inc., Manson, IA 50563. In addition, Feed Fortifiers informed the agency of the change. Nutrius acquired the assets of Feed Fortifiers including facilities and NADA's. This change of sponsor does not involve any changes in manufacturing facilities, equipment, procedures, or production personnel. The regulations are amended to reflect the sponsor change.

As a result of this action, Feed Fortifiers is no longer the sponsor of an approved NADA. Nutrius has not previously been listed in the list of sponsors of approved NADA's in 21 CFR 510.600. The section is amended to delete the entries for Feed Fortifiers and to add Nutrius.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting requirements.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.83), Parts 510 and 558 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. Part 510 is amended in § 510.600 in paragraph (c)(1) by removing the entry for Feed Fortifiers, Inc., and by adding a new entry alphabetically, and in paragraph (c)(2) by removing the entry for "017255" and by adding a new entry numerically, to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * *	
Nutrius, Inc., Two Brecksville Commons, 8221 Brecksville Rd., Brecksville, OH 44141	051359
* * * * *	

(2) * * *

Drug labeler code	Firm name and address
* * * * *	
051359	Nutrius, Inc., Two Brecksville Commons, 8221 Brecksville Rd., Brecksville, OH 44141.
* * * * *	

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

2. Part 558 is amended:

§ 558.321 [Amended]

a. in § 558.325 *Lincomycin* in paragraph (b)(5) by removing the number "017255" and inserting in its place "051359".

§ 558.485 [Amended]

b. In § 558.458 *Pyrantel tartrate* in paragraph (a)(7) by removing the number "017255" and inserting in its place "051359".

§ 558.625 [Amended]

c. In § 558.625 *Tylosin* in paragraph (b)(2) by removing the number "017255" and inserting in its place "051359".

§ 558.630 [Amended]

d. In § 558.630 *Tylosin and sulfamethazine* in paragraph (b) (3) and (9) by removing the number "017255" and inserting in its place "051359".

Effective date. October 9, 1984.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: September 26, 1984.

Marvin A. Norcross,

Acting Associate Director for Scientific Evaluation.

[FR Doc. 84-26551 Filed 10-5-84; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7982]

Income Tax; Energy Investment Credit for Qualified Intercity Buses

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the availability of the energy investment credit for qualified intercity buses. The Crude Oil Windfall Profit Tax Act of 1980 added qualified intercity buses to the list of energy property. The regulations provide the public with the guidance needed to comply with this legislation.

DATES: The amendments are effective for the period beginning on January 1, 1980, and ending December 31, 1985.

FOR FURTHER INFORMATION CONTACT: Michel A. Dazé of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T (202-566-3458, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains final amendments to the Income Tax Regulations (26 CFR Part 1) under section 48(l)(16) of the Internal Revenue Code of 1954, relating to the energy investment credit for qualified intercity buses. These regulations were published in proposed form in the **Federal Register** on September 3, 1982 (47 FR 38918). A few comments were received suggesting various changes to the proposed amendments. There were no requests for a public hearing and none was held. With only minor revisions, the proposed regulations are adopted by this Treasury decision.

Effective Date

The notice of proposed rulemaking was published in the **Federal Register** approximately two and one-half years after section 48(l)(16) became effective. One comment objects to a retroactive application of the final regulations because the statutory language and the legislative history provided the only guidance to taxpayers during that time period. Since these regulations are interpretative, the final regulations are effective for the entire period during which section 48(l)(16) is in effect.

Eligible Taxpayers

Section 48(l)(16)(A)(i) allows the energy investment credit (energy credit) for qualified intercity buses (qualifying buses) only to common carriers regulated by either the Interstate Commerce Commission or an appropriate State agency. The final regulations adopt the definition of a common carrier in the Revised Interstate Commerce Act as published in the proposed regulations. If the taxpayer is engaged wholly in intrastate commerce, the standard for the appropriateness of a State agency is also taken from that Act. One comment observed that an operator of only intrastate service in a State which has deregulated the bus industry would be regulated by neither the Interstate Commerce Commission nor an appropriate State agency. He suggested that the definition of a common carrier should be modified so that these operators are not denied the energy credit. This suggestion was not adopted. There is no statutory authority for the Secretary to waive the requirement of regulation by a Federal or State agency. In some cases, an intrastate carrier may satisfy the requirement by registering with the Interstate Commerce Commission.

Leased Buses

Section 1.48-9(q)(7)(iv) of the proposed regulations contained rules for determining whether a leased bus is energy property and the eligibility of either the lessor or the lessee of that bus to claim the energy investment credit. This Treasury decision reserves paragraph (q)(8) for new rules relating to leased buses and does not adopt paragraph (q)(7)(iv) as proposed. Rules for determining whether a leased bus is energy property and the eligibility of a taxpayer to claim the energy credit for that bus are reproposed elsewhere in this issue of the **Federal Register**.

Intercity Transportation

The proposed regulations define intercity transportation by reference to the definition of commercial zones in the Revised Interstate Commerce Act (49 U.S.C. 10526(b)(1)). Transportation not provided entirely within a commercial zone is intercity transportation. Two comments object that the definition of intercity transportation is overly restrictive, that it does not carry out the intent of Congress in enacting the credit, and that it introduces excessive complexity to the regulations. The definition of a qualifying bus in section 48(l)(16)(B) includes the intercity transportation requirement and is intended to distinguish intercity buses from local transit buses (H.R. Rep. No. 96-817, 96th Cong., 2d Sess. 134 (Conference Report, 1980)). The regulations (49 CFR Part 1048) promulgated by the Department of Transportation to define commercial zones provide an easily applied, objective measure of the boundaries within which buses will be used for local transit. Accordingly, the final regulations adopt the definition of intercity transportation without change.

Increase in Operating Seating Capacity

Under section 48(l)(16)(C), qualified investment for a qualifying bus is taken into account for the energy credit only to the extent that the bus increases the taxpayer's operating seating capacity (operating capacity). Only a bus used predominantly on a full-time basis in the trade or business of furnishing intercity transportation will be counted in operating capacity.

Under the proposed regulations, in order to meet the definition of a qualifying bus and to be counted in operating capacity, the bus must satisfy the full-time use requirement and pass two 90 percent tests. Proposed § 1.48-9(q)(7). To be used full time, a bus must be driven at least 10,000 miles during the taxable year. That figure is prorated on a daily basis for buses placed in service during the taxable year or for a short taxable year described in section 441(b)(3). Ninety percent or more of those miles must be driven to provide passenger transportation or charter service (passenger service), not necessarily intercity. Of the miles driven to provide passenger service, 90 percent or more must be for intercity transportation. Thus, up to 10 percent of annual miles may be driven for non-passenger purposes, such as for maintenance, and up to 10 percent of the passenger miles may be driven on local runs.

In response to a comment, the final regulations clarify that odometer readings will be considered the best evidence of annual miles driven. Another comment suggests that an operator should be permitted to keep records of miles traveled on a fleet-wide basis, rather than for individual buses. To be eligible for the energy credit, a newly acquired bus must increase, and therefore be included in, total operating capacity. With fleet-wide record keeping, it is possible that several new buses will, on the average, satisfy the use requirement of section 48(l)(16)(C)(ii) for a taxable year, while individually not every new bus would be included in operating capacity and thus eligible for the energy credit. Therefore, the suggestion is not adopted.

One comment argues that the requirement that 81% of total miles must be driven to furnish intercity passenger transportation is an interpretation of predominant use inconsistent with predominant use standards appearing elsewhere in the Code. The writer referred to § 48.4221–11(b)(2) and temporary § 142.1–1(e) which interpret use of a bus predominantly for a particular purpose to mean that more than 50 percent of its hours of use and miles driven are for that purpose. However, this objection ignores the additional requirement in section 48(l)(16)(C) that in order for a bus to be included in operating capacity, it must be used "predominantly on a full-time basis" to furnish intercity passenger transportation.

A second comment finds the proposed predominant use test unfair to small and medium-sized carriers who, in order to maximize revenue, must provide more non-qualifying service than allowed in the proposed regulations. The comment suggests that only 70 percent of the passenger miles should be driven to furnish intercity transportation. The final regulations retain the requirement of 10,000 miles of total use and adopt the requirement that at least 70 percent of the miles be driven while furnishing intercity passenger transportation or intercity charter service.

Proposed § 1.48–9(q)(8)(ii) defines operating capacity as the combined seating capacities of all buses in the taxpayer's fleet which are intercity buses in a taxable year. Two comments suggest that it is unclear whether this provision could be interpreted to require including in operating capacity all intercity buses that have met the predominant use test during the year, whether or not they are owned by the taxpayer at the end of the year. Since this interpretation could result in an artificial increase in operating capacity for a taxable year in which an operator replaces an old bus with a qualifying bus, the final regulations make clear that operating capacity includes only buses owned at the end of the year.

Under the proposed regulations, if the increase in operating capacity for a taxable year is less than the total seating capacities of buses added during the year, the qualified investment attributable to the increase in operating capacity is determined by multiplying the qualified investment for the regular investment credit by the ratio of increase in capacity to added capacity. Increase in capacity is the difference between the prior year's operating capacity and the present year's operating capacity. Added capacity is the number of seats included in the present year's operating capacity which were not included in the prior year's operating capacity. Any bus contributing to an increase will be counted as added capacity, including a bus ineligible for the energy credit, because, for example, it is acquired used.

One comment suggests an amendment to the proposed regulations to allow an operator to allocate all of its increase in operating capacity to one or more qualifying buses. A second suggestion would exclude from added capacity a replacement bus that is ineligible for the energy credit. Neither amendment is adopted. Ratable allocation of increase in operating capacity to an operator's qualified intercity buses provides an even-handed method of determining qualified investment for the energy credit.

Recapture of Energy Credit

Under the proposed regulations, the energy credit would be recaptured in a year in which a qualifying bus ceases to be energy property with respect to the taxpayer. One comment suggests that the cessation of energy property status should be deemed to occur on the last day of the taxable year in which a bus fails to qualify. This suggestion is not adopted because it is inconsistent with § 1.47–1(c)(ii)(*b*) which provides that a cessation shall be treated as having occurred on the first day of the taxable year when the event causing cessation does not occur on a specific date.

Executive Order 12291 and Regulatory Flexibility Act

The Commissioner of Internal Revenue has determined that this final rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. Although a notice of proposed rulemaking that solicited public comment was issued, the Internal Revenue Service concluded when the notice was issued that the regulations are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 did not apply. Accordingly, the final regulations do not constitute regulations subject to the Regulatory Flexibility Act 5 U.S.C. Chapter 6).

Drafting Information

The principal author of these final regulations is Michel A. Dazé of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects in 26 CFR Part 1

Income taxes, Tax liability, Tax rates, Credits.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Part 1 is amended as follows:

PART 1—[AMENDED]

Paragraph 1. Section 1.46–3(f)(1) is amended by adding at the end thereof the following new sentence:

§ 1.46–3 Qualified investment.

* * * * *

(f) *Partnerships*—(1) *In general.** * * For computation of each partner's qualified investment for the energy credit for a qualified intercity bus, see § 1.48–9(q)(9)(iv).

* * * * *

Par. 2. Section 1.47–1(h)(3) is amended by:

1. Inserting "(i)" between "(3) *Cessation.*" and "The term", and

2. By adding new paragraph (h)(3)(ii) to read as set forth below.

§ 1.47–1 Recomputation of credit allowed by section 38.

* * * * *

(h) *Special rules for energy property.*

* * *

(3) *Cessation.** * *

(ii) A qualified intercity bus described in § 1.48–9(q) must meet the predominant use test (of § 1.48–9(q)(7)) for the remainder of the taxable year from the date it is placed in service and for each taxable year thereafter. A cessation occurs in any taxable year in which the bus is no longer a qualifying bus under § 1.48–9(q)(6). A qualified intercity bus does not cease to be energy property for a taxable year subsequent

to the one in which it was placed in service by reason of a decrease in operating capacity (see § 1.48–9(q)(9)) for that year compared to any prior taxable year.

Par. 3. Section 1.48–9 is amended by adding and reserving paragraphs (o), (p), and by adding paragraph (q) to read as follows:

§ 1.48–9 Definition of energy property.

* * * * *

(o) [Reserved].

(p) [Reserved].

(q) *Qualified intercity buses*—(1) *In general.* This paragraph (q) prescribes rules and definitions for purposes of section 48(l)(2)(A)(ix) and (16). Energy property includes qualified intercity buses of an eligible taxpayer, but only to the extent of the increase in the taxpayer's total operating seating capacity (operating capacity) under paragraphs (q) (9), (10), and (11) of this section. For application of recapture rules see § 1.47–1(h)(3)(ii).

(2) *Eligible taxpayer.* A taxpayer is an eligible taxpayer only if it is determined to be both—

(i) A common carrier regulated by the Interstate Commerce Commission or an appropriate State agency and

(ii) Engaged in the trade or business of furnishing intercity transportation by bus.

(3) *Common carrier.* The taxpayer is a common carrier only if the taxpayer holds itself out to the general public as providing passenger bus transportation for compensation over regular or irregular routes, or both.

(4) *Appropriate State agency.* A State agency is approrpiate only if it has both—

(i) Power to regulate intrastate transportation provided by a motor carrier, within the meaning of section 10521(b)(1) of the Revised Interstate Commerce Act (49 U.S.C. 10521(b)(1)), and

(ii) Power to initiate an exemption proceeding under section 1025(b) of that Act (49 U.S.C. 10525(b)).

(5) *Intercity transportation.* Intercity transportation means intercity passenger transportation or intercity passenger charter service. Intercity transportation does not include transportation provided entirely within a municipality, contiguous municipalities, or within a zone that is adjacent to, and commercially a part of, the municipality or municipalities (within the meaning of section 10526(b)(1) of the Revised Interstate Commerce Act (49 U.S.C. 10526(b)(1)). See 49 CFR Part 1048 (regulations defining commercial zones under that statute).

(6) *Definition of qualified intercity bus.* A qualified intercity bus (qualifying bus) is an automobile bus—

(i) The chassis and body of which are exempt (under section 4063(a)(6)) from the 10-percent excise tax generally imposed under section 4061(a) on trucks and buses.

(ii) With a seating capacity of at least 36 passengers (in addition to the driver).

(iii) With one or more baggage compartments, in an area separated from the passenger area, with an aggregate capacity of at least 200 cubic feet, and

(iv) Which meets the predominant use test.

(7) *Predominant use test.* (i) A bus meets the predominant use test for a taxable year only if it meets the following conditions:

(A) It is used on a full-time basis during the taxable year, and

(B) At least 70 percent of the total miles driven are driven while furnishing intercity transportation.

(ii) A bus driven from the end point of one trip to the beginning point of another trip ("deadheading"), both of which furnish intercity transportation of passengers, will be considered to have been driven while furnishing intercity transportation of passengers, even if no passengers are carried.

(iii) A bus is considered used on a full-time basis in a taxable year if it was driven 10,000 miles in that year. If available, the best evidence of annual mileage is the difference odometer readings at the beginning and end of each taxable year. If the bus was placed in service during the taxable year, or for a short taxable year described in section 441(b)(3), that 10,000 mile figure is prorated on a daily basis.

(iv) If a qualifying bus fails to meet the predominant use test in a taxable year, a cessation occurs in that taxable year. See § 1.47–1(h)(3)(ii).

(v) The following examples illustrate this paragraph (g)(7):

Example (1). X, a bus company, used a bus for trips between city M and city N, a distance of 100 miles. These trips qualify as furnishing intercity transportation. During the taxable year, 300 round trips were run carrying passengers both ways and 75 trips were run carrying passengers from city M to city N immediately after each of which the bus was returned to city M for the next trip. The bus was also driven 20,000 miles to furnish passenger service which was local transportation. During the taxable year, the bus was driven a total of 100,000 miles. X makes the following calculations to determine if it met the predominant use test for the taxable year.

1. Total miles driven	100,000
2. Intercity miles driven:	
a. Passenger round trips (100 x 2 X 300)	60,000
b. Passenger one-way (75 x 100)	7,500
c. Non-passenger return trips (75 x 100)	7,500
3. Total intercity passenger miles (sum of lines 2 a, b, and c)	75,000
4. 79% of line 1	70,000

Since line 1 is not less than 10,000 miles, the full-time use requirement is met. Since line 3 is greater than line 4, the 70 percent intercity mileage test is met. Thus, for the taxable year, the bus meets the predominant use test in paragraph (q)(7)(i) of this section.

Example (2). The facts are the same as in example (1), except that the bus was placed in service on the last day of the taxable year. The bus was used only to run one round trip, carrying passengers, between cities M and N. 10,000 miles X one day ÷365 days=27.4 miles. Because, for the one day of the taxable year that the bus was in service, the bus was driven more than 27.4 miles, and all these miles were driven to furnish intercity transportation, it met the predominant use test for the taxable year.

(8) *Leased buses.* [Reserved].

(9) *Operating capacity.* (i) Qualified investment for a qualifying bus is taken into account for the energy credit only to the extent the bus increases the taxpayer's operating capacity. To increase operating capacity, a bus must be counted in operating capacity. The increase in a taxpayer's operating capacity is the excess of the taxpayer's operating capacity for the current taxable year over its operating capacity for the immediately preceding taxable year. Related taxpayers determine operating capacity on a group basis under paragraph (q)(10) of this section.

(ii) Operating capacity for a particular taxable year is determined by adding together the seating capacities of all intercity buses used by the taxpayer in that year and still owned by the taxpayer at the end of that year. An intercity bus is a bus which meets the chassis and body test and the predominant use test in paragraph (q)(6) of this section whether or not the bus is still in use at the end of the taxable year. In the case of a leased bus to which paragraph (q)(8) of this section applies, the lessee's operating capacity determines qualified investment for the energy credit.

(iii) The qualified investment for the energy credit for a qualifying bus is the bus's qualified investment for the regular credit multiplied by a fraction. The numerator of the fraction is the increase in the taxpayer's operating capacity for the taxable year. The denominator is the added operating capacity for the taxable year. Added operating capacity for the taxable year is determined for a taxpayer by adding together the seating capacities of the

taxpayer's intercity buses included in operating capacity for the taxable year which were not included in operating capacity for the immediately preceding taxable year.

(iv) In the case of a partnership, each partner's qualified investment for the energy credit for a qualifying bus is the partner's qualified investment for the regular credit (determined under § 1.46–3(f) multiplied by the fraction referred to in paragraph (q)(9)(iii) of this section for the partnership, as determined for the partnership taxable year in which the bus is placed in service.

(v) The following example illustrates this paragraph (q)(9):

Example. Corporation Y is a calendar year bus company that is an eligible taxpayer under paragraph (q)(2) of this section. Based upon the facts as set forth in the following table, Y makes the following calculations to determine the energy credit earned in 1981:

1. 1980 operating capacity determined as of 12/31/80:	
a. 5 intercity buses × 50 seats each	250
b. Total 1980 operating capacity	250
2. 1981 operating capacity determined as of 12/31/8:	
a. 2 1980 buses used on a full-time basis in 1981	100
b. 1981 added capacity:	
i. Qualifying buses:	
Bus 1	45
Bus 2	55
Bus 3	50
ii. Intercity bus not a qualifying bus	50
iii. Total 1981 added capacity	200
c. Total 1981 operating capacity	300
3. 1981 increase in operating capacity (line 2c – line 1b)	50
4. Fraction for determining qualified investment attributable to increase in capacity (line 3 ÷ line 2 (b)(iii))	⅙

Accordingly, the energy credit earned in 1981 for each of the qualifying buses is determined as follows:

Qualified investment for the regular credit	×	Line 4	×	Energy percentage	=	Energy credit earned
Bus 1: $15,000		⅙		10		$375
Bus 2: $20,000		⅙		10		500
Bus 3: $25,000		⅙		10		625
Total energy credit earned in 1981						1,500

(10) *Related taxpayers.* (i) Related taxpayers are treated as one taxpayer in determining the increase in operating capacity under paragraph (q)(9)(ii) of this section and in determining the qualified investment in qualified intercity buses for the energy credit under paragraph (q)(9)(iii) of this section. Related taxpayers are members of a group of trades or businesses that are under common control (as defined in § 1.52–1(b)).

(ii) Related taxpayers make all computations relating to operating capacity on a group basis. Also, the determination of whether a bus meets the predominant use test is made on a group basis by aggregating bus usage by each member of the group. For example, if a bus is acquired by one member and used by that member for part of a taxable year and used by other members for the remainder, the combined usage is aggregated in determining whether the predominant use test is met. In addition, all related taxpayers are treated as one person in applying paragraph (q)(8) of this section (relating to leasing).

(iii) The energy credit earned for a qualifying bus is allocated to the member which acquired (or is a lessee treated under section 48(d) as having acquired) the bus whether or not that member had a separate increase in operating capacity for the taxable year.

(iv) Each member must make its own computation of the group's increase in operating capacity for the period comprising its taxable year. A member will make this computation as of the end of its taxable year ignoring different taxable years of other members. For the period comprising its taxable year, the member makes all calculations relating to group operating capacity, including the determination of full-time use by other members.

(v) Each member determines the composition of the group as of the end of that member's taxable year. For example, if X uses the calendar year and makes its computation as of December 31, 1981, and Y is a member of X's group at that time, Y's operating capacity determined as of the end of X's immediately preceding taxable year (December 31, 1980) is taken into account by X for 1980 even if Y was not a member of the group for any day prior to December 31, 1981.

(vi) The following example illustrates this paragraph (q)(10):

Example (a). Corporations X and Y are related taxpayers. In this example, each bus is a qualifying bus with a seating capacity of 50. Each bus owned at the close of either X's or Y's taxable year was used on a full-time basis for the relevant period corresponding to X's or Y's taxable year. Other facts are set forth in the following table:

	X	Y
Taxable year ends	Dec. 31	June 30.
Operating capacity for 1979.	5 buses	10 buses.
Buses added	3 buses Mar. 1, 1980.	3 buses May 15, 1981.
Buses sold	2 buses Mar. 31, 1981.	2 buses Sept. 30, 1980.
Cost of each added bus.	$40,000	$60,000.

(b) X makes the following calculations to determine the energy credit earned for calendar year 1980.

1. 1979 operating capacity determined as of 12/31/79:	
a. Attributable to X (5 buses × 50 seats)	250
b. Attributable to Y (10 buses × 50 seats)	500
c. Total 1979 operating capacity	750
2. 1980 operating capacity determined as of 12/31/80:	
a. X's 5 and Y's 8 1979 buses used on a full-time basis in 1980 and still owned on 12/31/80	650
b. 1980 added capacity (X's 3 buses × 50 seats)	150
c. Total 1980 operating capacity	800
3. 1980 increase in operating capacity (line 2c – line 1c)	50
4. Fraction in paragraph (q)(9)(iii) of this section (line 3 ÷ line 2b)	⅙

Accordingly, X earned an energy credit of $4,000 in 1980 ($40,000 × ⅙ × 10% × 3 buses).

(c) Since in calendar year 1981 X placed no qualifying buses in service, X earned no energy credit in 1981.

(d) Since in the taxable year 7/1/79–6/30/80 Y placed no qualifying buses in service, Y earned no energy credit in that taxable year.

(e) Y makes the following calculations to determine the energy credit earned in the taxable year 7/1/80–6/30/81.

1. Operating capacity for the taxable year ending 6/30/80 determined as of the close of that year:	
a. Attributable to X (8 buses × 50 seats)	400
b. Attributable to Y (10 buses × 50 seats)	500
c. Total operating capacity for that year	900
2. Operating capacity for the taxable year ending 6/30/81 determined as of the close of that year:	
a. X's 6 and Y's 8 buses from prior taxable year used on a full-time basis during current taxable year and still owned on 6/30/81	700
b. Capacity added during current taxable year (Y's 3 buses × 50 seats)	150
c. Total operating capacity for that year	850
3. Increase in operating capacity for taxable year ending 6/30/81 (line 2c – line 1c)	(50)

As determined for Y's taxable year ending 6/30/81 the group experienced a decrease in operating capacity. Thus, no energy credit is available for the buses Y placed in service in its taxable year ending 6/30/81.

(11) *Section 381(a) transactions.* (i) In the case of a transaction described in section 381(a), the operating capacity of each transferor or distributor corporation, determined as of the date of distribution or transfer (within the meaning of § 1.381(b)–1(b)), shall reduce the operating capacity of the acquiring corporation (determined without this paragraph (q)(11)) for its first taxable year ending on or after that date for purposes of determining the acquiring corporation's energy credit for that year. This paragraph (q)(11) shall not apply to any case to which paragraph (q)(10) of this section (dealing with related taxpayers) applies.

(ii) The following example illustrates this paragraph (q)(11):

Example. X and Y are unrelated corporations which use the calendar year. For

1981, each has an operating capacity of 250 seats (5 buses × 50 seats). X merges into Y on January 1, 1982. On May 1, 1982, Y retires and sells two buses and acquires four 50-seat qualifying buses at a cost of $40,000 each. All buses owned by Y on December 31, 1982, are included in operating capacity. Y makes the following calculations to determine the energy credit earned in taxable year 1982.

1. Y's 1981 operating capacity determined as of 12/31/81	250
2. 1982 operating capacity determined as of 12/31/82 without the paragraph (q)(11):	
a. X's 5 buses plus Y's 5 1981 buses less 2 retired buses (8 buses × 50 seats)	400
b. 1982 added capacity (4 buses × 50 seats)	200
c. Total	600
3. Operating capacity of transferor (X) on 1/1/82	250
4. Y's 1982 operating capacity (line 2c – line 3)	350
5. 1982 increase in operating capacity (line 4 – line 1)	100
6. Fraction in paragraph (q)(9)(iii) of this section (line 5 – line 2b)	¼
7. Energy credit earned in 1982 ($40,000 × ¼ × 10% × 4 buses)	$4,000

Par. 4 Section 1.381(c)(23)–1 is amended by adding and reserving paragraph (i) and by adding paragraph (j) to read as follows:

§ 1.381(c)(23)–1 Investment credit carryovers in certain corporate acquisitions.

* * * * *

(i) [Reserved]

(j) *Carryover of operating capacity for qualified intercity bus.* For rules for determining an acquiring corporation's qualified investment for the energy credit for a qualified intercity bus, see § 1.48–9(q)(ii).

This Treasury decision is issued under the authority contained in Code sections 38(b) (76 Stat. 963, 26 U.S.C. 38(b)), 46(l)(16) (94 Stat. 284, 26 U.S.C. 46(l)(16)), and 7805 (68A Stat. 917, 26 U.S.C. 7805).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: September 25, 1984.

Ronald A. Pearlman,

Acting Assistant Secretary of the Treasury.

[FR Doc. 84-26859 Filed 10-5-84; 8:45 am]

BILLING CODE 4830-01-M

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26 CFR Part 41

[T.D. 7970]

Heavy Vehicle Use Tax; Tax on Diesel Fuel; Tax on the Sale of Piggyback Trailers; Extension of Payment Due Date for Certain Fuel Taxes; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to temporary rule.

SUMMARY: This document contains a correction to the **Federal Register** publications beginning at 49 FR 34466 of the temporary regulations which were the subject of Treasury Decision 7970 relating to the imposition of heavy vehicle use tax, the increase of the tax on diesel fuel, the reduction for a one-year period of the tax on the sale of piggyback trailers and semitrailers, and the extension of the payment due date for certain fuel taxes.

EFFECTIVE DATE: The regulations relating to the heavy vehicle use tax are effective after June 30, 1984. The regulations relating to the tax on diesel fuel are effective after July 31, 1984. The regulations relating to the tax on the sale of piggyback trailers are effective for piggyback trailers sold at retail after July 17, 1984, and before July 18, 1985.

The regulations relating to the fuel tax payment date are effective for certain fuel taxes due after March 31, 1983. The correction is to be effective with respect to the same dates.

FOR FURTHER INFORMATION CONTACT: B. Faye Easley of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T, 202–566–3935 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

On August 31, 1984, the **Federal Register** published temporary regulations (49 FR 34466) relating to heavy vehicle use tax under sections 4481, 4482, and 4483 of the Internal Revenue Code of 1954, as amended by section 513 of the Highway Revenue Act of 1982 (Title V of the Surface Transportation Assistance Act of 1982) (Pub. L. 97–424, 96 Stat. 2177) and sections 901, 902, and 903 of the Tax Reform Act of 1984 (Division A of the Deficit Reduction Act of 1984) (Pub. L. 98–369, 98 Stat. 1003). The document also contained temporary regulations in the form of questions and answers relating to an increase in the tax on diesel fuel under section 4041(a) of the Code, a credit or refund to original purchasers of diesel-powered automobiles and light trucks under section 6427 (g) of the Code, and an exemption of certain buses from the diesel fuel tax under section 6427(b)(2) of the Code as amended by sections 911(a), 911(b), and 915 of the Tax Reform Act of 1984, respectively. Also contained were temporary regulations in the form of questions and answers relating to a reduction in the retailers excise tax on the sale of piggyback trailers and semi-trailers under section 4051(d) of the Code as amended by section 921 of the Tax Reform Act of 1984. Also included were questions and answers relating to an extension of the payment due date for certain fuel taxes under section 518(a) of the Highway Revenue Act of 1982 as amended by section 734(i) of the Tax Reform Act of 1984.

Need for Correction

As published, Treasury Decision 7970 incorrectly includes the word "twenty" rather than the word "ten" on page 34470, in the first line of the right-hand column.

Correction of Publication

Accordingly, the publication of Treasury Decision 7970 which was the subject of FR Doc. 84–23130 (August 31, 1984) is corrected on page 34470 (§ 41.4481–1T(f), Example 6) by removing the word "twenty" from the first line in the third column and adding the word "ten" in its place.

George H. Jelly,

Director, Legislation and Regulations Division.

[FR Doc. 84-26860 Filed 10-5-84; 8:45 am]

BILLING CODE 4830-01-M

VETERANS ADMINISTRATION

38 CFR Part 21

Veterans Education; Medical-Dental Internships and Residencies

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The regulation which the VA (Veterans Administration) uses in determining whether to recognize medical and dental residencies as institutional training under the GI Bill has become outdated. Changes in accrediting associations and the structure of medical and dental residencies are reflected in the amended regulation. This regulation states how the VA will determine which residencies are institutional training under the GI Bill.

EFFECTIVE DATE: September 19, 1984.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420 (202–389–2092).

SUPPLEMENTARY INFORMATION: On pages 12718 and 12719 of the **Federal Register** of March 30, 1984, there was published a notice of intent to amend part 21 in order to state which residencies are institutional training under the GI Bill and how these residencies will be measured.

Interested people were given 30 days in which to submit comments, suggestions or objections. The VA received one letter containing a suggestion from a dean at the Ohio College of Podiatric Medicine.

He suggested that the regulation be amended to include residencies in podiatric medicine. He thought that if the VA did so, it would improve the chances of establishing these residencies at VA hospitals.

Whether or not the VA recognizes a residency as institutional training for determining payment of educational assistance allowance has no bearing upon whether that type of residency will be established in a VA hospital. Nevertheless, the agency seriously considered this suggestion.

The law allows the VA to pay educational assistance allowance for all courses generally accepted as necessary to reach the objective of the veteran's program of education. There are eight States which require a residency before a holder or a Doctor of Podiatric Medicine degree may practice podiatric medicine. Residencies, therefore, would be part of a program of education of a podiatrist who wished to practice in one of those States. Hence, the VA must determine whether these residencies are institutional training instead of on-job training.

Although the APA (American Podiatry Association) does not accredit residencies in podiatric medicine, it does approve them. The approval process is analogous to the accreditation process which is applied to medical residencies. After examining the APA's requirements for approval of residencies in podiatric medicine, the VA has concluded that the training given in podiatric residencies is institutional training for VA purposes. Accordingly, the agency has decided to adopt this suggestion. The final regulation reflects this decision.

The VA has determined that these regulations do not contain a major rule as that term is defined by Executive Order 12291, entitled "Federal Regulation". The annual effect on the economy will be less than $100 million. The regulations will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administrator of Veterans' Affairs hereby certifies that the regulations will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), these regulations, therefore, are exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

This certification can be made because the changes regarding the Accreditation Council for Graduate Medical Education and the American Dental Association are technical changes only. The VA does not expect substantial changes in recognition of these types of residencies to result from this regulatory change.

The change regarding the American Podiatry Association will result in recognition of some residencies in podiatric medicine as institutional training. However, this will affect a few individual benefit recipients rather than small entities. Consequently, the regulations will have no significant impact on small entities, i.e., small businesses, small private and nonprofit organizations, and small governmental jurisdictions.

The Catalog of Federal Domestic Assistance number for the program affected by these regulations is 64.111.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs—education, Loan programs—education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: September 19, 1984.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

The Veterans Administration is amending 38 CFR Part 21 as set forth below:

1. In § 21.4265, paragraph (a) is revised as follows:

§ 21.4265 Practical training approved as institutional training or on-job training.

(a) *Medical-dental internships and residencies.* (1) Medical residencies (other than residencies in podiatric medicine), dental residencies, and osteopathic internships and residencies may be approved and recognized as institutional courses only when an appropriate accrediting agency accredits and approves them as leading to certification for a recognized professional objective.

(2) The appropriate accrediting agencies are:

(i) The Accreditation Council for Graduate Medical Education, or where the Accreditation Council for Graduate Medical Education has delegated accrediting authority, the appropriate Residency Review Committee,

(ii) The American Osteopathic Association, and

(iii) The Commission on Dental Accreditation of the American Dental Association.

(3) These residency programs—

(i) Must lead to certification by an appropriate Specialty or Subspecialty Board, the American Osteopathic Association, or the American Dental Association; and

(ii) Will not be approved to include a period of practice following completion of the education requirements even though the accrediting agency requires the practice.

(4) Except as provided in paragraph (a)(5) of this section, no other medical or dental residency or osteopathic internship or residency will be approved or recognized as institutional training.

(5) A residency in podiatric medicine may be approved and recognized as institutional training only when it has been approved by the Council on Podiatry Education of the American Podiatry Association.

(38 U.S.C. 1788(b))

* * * * * *

2. In § 21.4275, paragraph (a) is revised as follows:

§ 21.4275 Practical training courses; measurement.

(a) Medical and dental residencies and osteopathic internships and residencies. The Veterans Administration will measure medical and dental residencies, and osteopathic internships and residencies as provided in § 21.4270(b) if they are accredited and approved in accordance with § 21.4265(a).

(38 U.S.C. 1788(b))

* * * * *

[FR Doc. 84-26504 Filed 10-5-84; 8:45 am]
BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[REF: AM602VA; A3-FRL-2687-8]

Approval and Promulgation of Implementation Plan; Approval of Revision of the Virginia State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA approves the amendments to Virginia's inspection and maintenance (I/M) program which are intended to correct prior deficiencies in the following areas: recordkeeping and record submittal requirements; quality control, audit and surveillance procedures; a public awareness plan; and revised emission exhaust standards for carbon monoxide (CO) and hydrocarbons (HC). These amendments are approvable as they meet all of the necessary requirements of section 110 and Part D of the Clean Air Act and 40 CFR Part 51.

EFFECTIVE DATE: This action will be effective December 10, 1984, unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of the revision and accompanying support documents are available during normal business hours at the following offices:

U.S. Environmental Protection Agency, Region III, Air Programs Branch, Curtis Building, Sixth and Walnut Streets, Philadelphia, PA 19106, ATTN: Harold A. Frankford

Virginia State Air Pollution Control Board, Room 801, Ninth Street Office Building, Richmond, VA 23219, ATTN: William R. Meyer

Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460

The Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, DC 20408

FOR FURTHER INFORMATION CONTACT: Harold A. Frankford (3AM13) at the EPA, Region III address above or telephone 215/597–1325.

SUPPLEMENTARY INFORMATION:

Background

On January 25, 1984, 49 FR 3082, EPA approved the 1982 State Implementation Plan (SIP) revision for the Commonwealth of Virginia, except for the inspection and maintenance (I/M) amendments. The State was to analyze the effectiveness of its overall program and implement any necessary adjustments to ensure that the required Volatile Organic Compound (VOC) and Carbon Monoxide (CO) emission reductions were achieved by the December 31, 1987 attainment date in the Northern Virginia area. Once Virginia completed this analysis, EPA was to complete final action on Virginia's total I/M program.

The Commonwealth had previously submitted amendments to the Department of State Police Administrative and Procedural Regulations for the Motor Vehicle Inspection and Maintenance Program. These amendments were submitted on December 29, 1982, and proposed for approval in EPA's notice of proposed rulemaking on February 3, 1983, 48 FR 5124. Virginia was not required to hold public hearings with regard to the I/M amendments submitted by the State Police, as they are administrative in nature.

The elements of the I/M program submitted by Virginia pertain to recordkeeping and record submittal; quality control, audit and surveillance; and a public awareness plan. EPA has reviewed these revised administrative and procedural regulations and has determined that they are acceptable.

On June 5, 1984, Virginia completed its analysis as to the effectiveness of the I/M program, and submitted revised exhaust emissions standards with regard to both CO and hydrocarbons (HC). State Regulation 4.103, which EPA approved on May 6, 1982, FR 14707, allows Virginia to adjust the exhaust standards within ± 2 percent for CO and within ± 200 ppm for HC if it finds the motor vehicle failure rate to be too high or too low. As a result of its analysis, Virginia submitted revised exhaust emissions standards for both CO and HC, and within the range allowed by Regulation 4.103. The revised standards are to become effective as of January 1, 1985. A comparison of the current and revised standards is listed below:

TABLE 4.103

Model year	Current	Revised
Carbon Monoxide (percent):		
1975–1979	6.0	4.0
1980	4.0	2.0
1981 and later	3.0	1.2
Hydrocarbons (PPM):		
1975–1979	600	400
1980	400	220
1981 and later	300	220

EPA Evaluation/Action

EPA has determined that Virginia's new cutpoints will enable the State to meet the required emissions reductions for CO and HC by 1987. EPA has also determined that the remaining elements of Virginia's I/M program submitted on December 29, 1982 are approvable. Thus, EPA is approving the design of Virginia's program, as it is described in the December 29, 1982 and June 5, 1984 submittals from the State, as a revision to Virginia's Part D SIP.

It should be noted, however, that since Virginia's program started in December, 1981, the State has continuously reported a failure rate which is significantly lower than expected. EPA feels that this problem is caused partly by factors other than the stringency of the program's cutpoints. A recent EPA audit of the State's I/M program confirmed that Virginia is meeting its SIP commitments in the area of surveillance and data collection, however, there remains some question as to the effectiveness of data reporting procedures at the inspection stations. EPA intends to monitor Virginia's I/M program and work with the State to resolve this issue.

EPA is amending 40 CFR 52.2420 (Identification of Plan) of Subpart VV (Virginia) to incorporate this revision into the Virginia SIP. The public is advised that this action will become effective 60 days from the publication date of this notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and other notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

General

Under Section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (insert date 60 days from date of publication). This action may not be challenged later in proceedings to enforce its requirements (see Section 307(b)(2)).

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under 5 U.S.C. 605(b), I certify that this SIP approval will not have a significant economic impact on a substantial number of small entities (See 46 FR 8709).

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Note.—Incorporation by reference of the State Implementation Plan for the Commonwealth of Virginia was approved by the Director of the Federal Register on July 1, 1982.

Authority: Sections 110, 129, 171–178 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410, 7429, 7501 to 7508 and 7601(a)).

Dated: October 2, 1984.
William D. Ruckelshaus,
Administrator.

PART 52—[AMENDED]

Part 52 of Title 40, of the Code of Federal Regulations is amended as follows:

Subpart VV—Virginia

1. Section 52.2420 is amended by adding paragraphs (c)(85) and (c)(86) to read as follows:

§ 52.2420 Identification of plan.

* * * * *

(c) * * *

(85) Amendments to the Department of State Police Administrative and Procedural Regulations for the Motor Vehicle Inspection and Maintenance (I/M) Program submitted on December 29, 1982 by the Virginia State Air Pollution Control Board.

(86) Amendments to section 4.103 of the Virginia Regulations for the Control and Abatement of Air Pollution submitted on June 5, 1984 by the Virginia State Air Pollution Control Board.

[FR Doc. 84-26582 Filed 10-5-84; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 52

[Docket No. KY-007; A-4-FRL-2688-5]

Approval and Promulgation of Implementation Plans; Kentucky: 1982 Ozone and Carbon Monoxide Plans for Jefferson County

AGENCY: Evironmental Protection Agency.

ACTION: Final rule.

SUMMARY: On February 8, 1984 (49 FR 4792), EPA proposed to approve Kentucky's 1982 State Implementation Plan (SIP) revisions for the Jefferson County carbon monoxide (CO) and ozone nonattainment area. In that notice, EPA found that corrections had been made to various deficiencies in the plan, which were noted in EPA's original proposal (February 3, 1983 [48 FR 5040]) to disapprove the revisions. Because they now meet all requirements of the Clean Air Act and EPA policy, EPA is today approving the 1982 revisions to the Jefferson County CO and ozone plans.

DATE: This action is effective November 8, 1984.

ADDRESSES: Copies of this revision are available for inspection at:

The Office of the Federal Register, 1100 L Street NW., Room 84, Washington, D.C. 20408

Public Information Reference Unit, Environmental Protection Agency, 401 M Street, SW., Washington, D.C.

Copies of the SIP revision and other materials relating to this rulemaking are available for inspection at:

EPA, Region IV, Air Management Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365

Kentucky Division of Air Pollution Control, 18 Reilly Road, Frankfort, Kentucky 40601

Kentucky Regional Planning and Development Agency, 914 E. Broadway, Louisville, Kentucky 40204.

FOR FURTHER INFORMATION CONTACT: Tom Lyttle, EPA Region IV, Air Management Branch, 345 Courtland Street, Atlanta, Georgia 30365, 404/881-2864 (FTS: 257-2864).

SUPPLEMENTARY INFORMATION: The SIP did not contain a demonstration that the I/M program would achieve the required RACT emission reductions. EPA has performed an analysis of the Louisville I/M program using MOBILE2. EPA defines RACT emission reductions using MOBILE2 as a 33% reduction in the carbon monoxide emissions of light duty vehicles in the urban area and a 25% reduction in hydrocarbon emissions. The results of EPA's analysis show that the program will achieve a 40.2% in CO emissions and a 27.4% reduction in HC emissions given the assumptions provided in the SIP. Therefore, the program meets the requirement for achieving RACT emission reductions.

Because the SIP revisions now meet the requirements of the Clean Air Act and EPA policy, EPA proposed on February 8, 1984 (49 FR 4792), to approve the SIP revisions for Jefferson County. A complete discussion of the original deficiencies and the corrections made by Kentucky was contained in the February 3, 1983 and February 8, 1984, notices and will not be repeated in detail here. The I/M program, which was the primary problem in the original submittal from the State, has now been in operation since January 3, 1984. From all indications to date, the program is operating effectively.

During the comment period for the February 8, 1984, proposal to approve the SIP revisions, only one set of comments was received, from the State of New York's Attorney General. These comments, dated March 18, 1983, have been submitted regarding approval of all ozone SIPs in the eastern United States. The comments relate to various aspects of EPA policy with respect to ozone control. EPA has responded in detail to New York's comments, finding that they provided no basis for not approving ozone SIPs. A detailed discussion of the comments and EPA's responses is contained in the rulemaking docket prepared in conjunction with this action.

Action

EPA approves the 1982 Part D SIP revisions for the Jefferson County ozone and CO nonattainment area, because they meet the requirements of the Clean Air Act and EPA policy. The revision includes, for each pollutant, a demonstration of attainment, emission inventories, control strategies (including I/M, stationary source controls, and transportation control measures), a demonstration of reasonable further progress toward meeting the standards, and other required elements.

This action will be effective 30 days from the date of this Federal Register notice.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under Section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by 60 days from today. This action may not be challenged later in proceedings to enforce its requirements. See section 307(b)(2).

Incorporation by reference of the Kentucky State Implementation Plan was approved by the Director of the Federal Register on July 1, 1982.

List of Subjects in 40 CFR Part 52

Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Sulfur oxides, Lead, Nitrogen dioxide, Particulate matter, Carbon monoxide, Hydrocarbons.

(Secs. 110 and 172 of the Clean Air Act as amended (42 U.S.C. 7410 and 7502))

Dated: September 27, 1984.
William D. Ruckelshaus,
Administrator.

PART 52—[AMENDED]

Part 52 of Chapter I, Title 40, Code of Federal Regulations is amended as follows:

Subpart S—Kentucky

Section 52.920 is amended by adding paragraph (c)(43) as follows:

§ 52.920 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(43) 1982 revisions to the Part D plan for the Jefferson County ozone and

carbon monoxide nonattainment area, submitted by the Kentucky Natural Resources and Environmental Protection Cabinet on February 9, June 15, September 12, November 21, and December 9, 1983.

[FR Doc. 84-26582 Filed 10-5-84; 8:45 am]
BILLING CODE 6560-50-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1002,

[Ex Parte No. 246 (Sub-2)]

Regulations Governing Fees for Services Performed in Connection With Licensing and Related Services

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: By decision served and published in the **Federal Register** on May 1, 1984 (49 FR 18490), we adopted new fees for this agency's services. In a subsequent decision, served June 29, 1984 and published in the **Federal Register** on July 2, 1984 (49 FR 21154), we considered various petitions for reconsideration and stay of the new fee schedule. We denied those petitions except insofar as they addressed item 60—complaints (49 CFR 1002.2(f)(60)). We stayed the collection of fee item 60 and reopened this proceeding for reconsideration of that item. We continue to believe that a fee is properly chargeable for complaints, for the reasons set forth in our earlier decisions. However, we have decided to reduce the previously announced fee for complaints to allay the potential chilling effect that the fee could have.

DATES: These rules will be effective on November 8, 1984, except for the suspension of the filing fee for item (62)(i) which is effective on October 5, 1984.

FOR FURTHER INFORMATION CONTACT:

Cost Study Information: Paul Meder (202) 275–7457, Susan Maslar (202) 275–6778

Other Information: James H. Bayne (202) 275–7428, Kathleen King (202) 275–7429.

SUPPLEMENTARY INFORMATION:

Additional information is contained in the full Commission decision which may be obtained from the Office of the Secretary, Room 2215, 12th Street and Constitution Avenue, NW., Washington, DC 20423; or call (202) 275–7428.

It is ordered:

The final rules set forth in the appendix are adopted.

Authority: 5 U.S.C. 553, 31 U.S.C. 9701, and 49 U.S.C. 10321 and 10322.

Decided: September 28, 1984.

List of Subjects in 49 CFR Part 1002

Administrative practice and procedure.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett, Gradison, Simmons, Lamboley, and Strenio. Commissioner Simmons concurred with a separate expression. Commissioners Lamboley and Strenio did not participate.

James H. Bayne

Secretary.

Appendix

PART 1002—FEES

49 CFR Part 1002 is amended as follows:

(1) Section 1002.1 is amended by revising paragraph (e)(3) to read as follows:

§ 1002.1 Fees for records search, copying, certification, and related services.

* * * * *

(e) * * *

(3) Printing shall be charged at the rates of $.10 per page of computer generated output with a minimum charge of $.25. A charge of $30 per reel of magnetic tape will be made if the tape is to be permanently retained by the requestor.

* * * * *

(2) Section 1002.2 is amended by revising paragraphs (f)(60) and (f)(62)(i) to read as follows:

§ 1002.2 Filing fees.

* * * * *

(f) * * *

(60) A complaint alleging unlawful rates or practices of carriers, $500.

* * * * *

(62)(i) Petition for declaratory order involving dispute over an existing rate or practice which is comparable to a complaint proceeding, $500.

* * * * *

[FR Doc. 84-26571 Filed 10-5-84; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 641

[Docket No. 40800-4100]

Reef Fish Fishery of the Gulf of Mexico

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rule.

SUMMARY: NOAA issues this final rule to implement the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). The rule: (1) Establishes limitations on the use of certain gear in specified areas; (2) establishes construction requirements, and maximum size and numerical limits for fish traps; (3) requires those using fish traps to obtain permits and mark their vessels and gear for identification; (4) establishes a minimum size limit for red snapper; and (5) prohibits the taking of reef fish with poisons or explosives. The regulations are designed to rebuild declining reef fish stocks.

EFFECTIVE DATE: This rule is effective November 8, 1984, except for §§ 641.4 and 641.6 which are effective November 23, 1984.

ADDRESS: A copy of the combined final regulatory flexibility analysis/regulatory impact review may be obtained from Donald W. Geagan, Southeast Region, National Marine Fisheries Service (NMFS), 9450 Koger Boulevard, St. Petersburg, Florida 33702.

FOR FURTHER INFORMATION CONTACT: Bill Jackson, (202) 634–9568.

SUPPLEMENTARY INFORMATION: The FMP was prepared by the Gulf of Mexico Fishery Management Council (Gulf Council). The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), initially approved the FMP on June 3, 1983, under the authority of the Magnuson Fishery Conservation and Management Act, as amended (Magnuson Act), and proposed rules to implement the FMP were published on August 24, 1983 (48 FR 38511). Comments on the FMP and the proposed rules were invited through October 11, 1983.

Because of the great amount of public interest in the proposed rulemaking, the comment period was reopened for an additional 30 days (48 FR 49527 and 48 FR 52616), through November 25, 1983, to allow reviewers to evaluate more thoroughly the proposed regulations. This final rule implements the FMP.

The preamble to the proposed rulemaking contained background information on the reef fish fishery, its economic value, condition of the stocks, and fishing practices within the commercial and recreational sectors. Also discussed in detail were major problems in the fishery (i.e., harvesting of certain species of snapper and grouper at less than optimal sizes from nearshore waters, general overharvesting of red snapper resources throughout the management area, user-group conflicts in nearshore areas where fishing effort is highly concentrated, and

limited fishery data) and the management measures to resolve them. These discussions are not repeated here.

In the proposed rulemaking, § 641.5—Recordkeeping and reporting requirements—was reserved. This section is also reserved in this final rule, pending development of the appropriate reporting system.

Comments and Responses

Fifty-five written responses containing approximately 120 comments were received on the proposed rulemaking. The sources of these comments were U.S. Senators and Representatives, State representatives and governors, the Gulf States Marine Fisheries Commission (Commission), the Gulf Council, State marine resource agencies, commercial and sportsfishing organizations, commercial dealers and fishermen, recreational fishermen, charter and headboat owners and operators, and members of the scientific community. In addition to the written comments, approximately 500 questionnaires were received from an element of the headboat industry that conducted a survey of its clients for the purpose of assessing potential effects of the proposed regulations on that sector of the fishery. For convenience of discussion, the issues raised by commenters are summarized under 10 separate categories.

1. State/Federal Jurisdiction

Natural resource agencies of four Gulf States, a governor, a shrimp association, the Commission, the Gulf Council, a sport fishing organization, and several individuals strenuously objected to the application of the red snapper minimum size limit to State waters (proposed § 641.23(a)) and the requirement that red snapper harvested in State waters be landed with head and fins intact (proposed § 641.23(c)). In addition, most of the States also echoed the Gulf Council's concern that these measures as drafted in the proposed rulemaking did not conform with the intent of the Gulf Council, and were not in agreement with the Gulf Council's public statements to fishermen and State officials. Florida also objected that the stressed area (as defined in proposed § 641.22) had been extended into State waters.

The language objected to in the proposed §§ 641.23 (a) and (c) had been drafted for purposes of enhancing the enforceability of the minimum size limit and the landing requirements. Since the scope of that language, however, is contrary to the Gulf Council's intent and public proclamations on the subject, the final rule has been drafted to limit application of these measures to fish harvested in the fishery conservation zone (FCZ). State agencies responsible for the management of marine fisheries will be requested to adopt compatible measures for the waters under their respective jurisdictions.

Florida's concern regarding the shoreward extent of the stressed areas as defined in proposed § 641.22 was based on a misunderstanding of that section, since the stressed area was defined as a portion of the "management area"—which term was defined in § 641.2 as part of the FCZ. Nonetheless, the final rule has clarified the definition of "stressed area" at § 641.22 to eliminate such misunderstandings in the future.

2. Size Limit and Incidental Catch Allowance

A wide variety of reviewers, including a U.S. Senator, a U.S. Representative and a State representative, submitted comments opposing the 12-inch minimum size limit and the associated incidental catch allowance of five undersized (less than 12-inches fork length) red snapper per fisherman. The major source of such comments was the headboat sector of the fishing industry and its sportsfishing clientele.

Limited data that have become available since the FMP was initially approved indicate that the headboat industry in the northwestern Gulf catches red snapper almost entirely and the vast majority of these fish are less than the minimum size limit (12-inches fork length) specified in the proposed regulations. Because of this strong reliance on undersized red snapper, the headboat industry challenged the proposed minimum size limit and undersized fish allowance on the basis that it would result in severe economic impacts upon that sector of the fishery. Concern was also expressed regarding the sufficiency of the initial regulatory flexibility analysis as it pertains to this sector of the fishery.

A headboat company conducted an extensive survey of its clientele to assist in determining the extent of economic impacts of the proposed minimum size limit on that sector of the fishery. The survey was designed to indicate the fishermen's reaction and the potential impact on the headboat industry of implementing the proposed minimum size limit and the allowance for an incidental catch of five undersized red snapper per fisherman. Although the survey was not conclusive because of structural bias, the responses revealed that some clients might discontinue utilizing headboat services if they could retain only five undersized red snapper.

Commenters also expressed doubt regarding the survivability of undersized fish that headboat customers would hook and be required to release. While the condition of fishes hooked at the bottom and brought to the surface generally varies with depth of capture, NMFS acknowledges that there is little direct evidence that would indicate a high rate of survival of fish harvested from headboats. Indirect evidence (mainly through mark-recapture efforts) that was available at the time of FMP development however, indicates a substantially high survival rate of red snapper which are hooked and released. Although these data are not definitive, high tag returns do suggest survival rates that would support managing red snapper resources through size restrictions.

In response to these joint concerns over the survivability of fish hooked and released and the potential adverse economic impacts, the Gulf Council submitted a request to the Secretary, after the close of the comment period on the proposed rules, to defer implementation of the minimum size limit for red snapper for one year for all segments of the fishery. NMFS believes that such action would be overly broad in light of the expressed concerns and the available data and would nullify in large measure the benefits expected from the FMP. However, NMFS believes it is appropriate to defer implementation of the 12-inch minimum size limit on red snapper for 18 months only for the headboat sector of the fishery. During that period, the Gulf Council will conduct studies to determine if there is an acceptable rate of survival of red snapper hooked and released at various depths and the extent to which size limits and incidental catch allowances for undersized fish may affect the economic viability of various sectors of the fishery, and to examine data that have become avability of various sectors of the fishery, and to examine data that have become available recently which may be used in exploring other management alternatives to achieve the objectives of the FMP.

A number of recreational fishermen suggested increasing the catch allowance of undersized red snapper per fisherman to 10, 15, 20, or even more. One commercial fisherman recommended a percentage tolerance by weight. The Gulf Council in its deliberations originally did not consider any retention of undersized fish to be appropriate. The incidental catch allowance of five undersized red snapper was instituted solely as a convenience to fishermen while they are

searching for areas to catch legal-sized fish. As such, the incidental catch allowance of five undersized red snapper should be viewed as a disincentive to fish areas heavily populated by small fish rather than as a limit to be achieved in a directed effort for red snapper. In other words, the measure is an incidental catch allowance rather than a bag limit.

Preliminary data on the headboat fishery off Texas indicate that the average fisherman catches nine red snapper per trip and nearly all of these are undersized fish. Similar data are not available for other sectors of the fishery or other areas of the Gulf; however, comments received from some commercial fish dealers would also indicate that an increasingly high percentage of the commercial landings are made up of undersized red snapper—upwards of 40 percent in some areas. Increasing incidental catch allowances to a level that exceeds the average number harvested would render the measure ineffective. Also, using a system based upon a percentage of total weight landed could result in an increase in the total number of undersized red snapper being landed. Implementation of either of these suggested procedures would not attain the objective of rebuilding declining red snapper resources. Thus, the measure is implemented as proposed. The headboat fishery, however, will not be subject to this measure for the 18–month period of deferred implementation of the minimum size limit.

3. Exemption for Trawlers.

Some commenters indicated that exempting trawl vessels from the minimum size limit for red snapper would have a much greater adverse impact on the resource than allowing retention of undersized fish taken by hook and line. The Gulf Council recognizes that incidental catch of snappers by trawls is a significant problem and encourages the development and deployment of gear that will reduce the incidental catch of finfish. The vast majority of red snapper taken in directed trawling operations for shrimp and groundfish, however, are very small in size—many less than two inches in length. Since fish of that size have an extremely high rate of natural mortality, very few would ever be recruited into the adult population. Conversely, the greatest recruitment to the adult population can be achieved by affording protection to sub-adults, i.e., fishes that are 10–12 inches total length. Accordingly, a minimum size limit on the directed hook-and-line fishery, both recreational and commercial, would produce substantially greater benefits to the stock than would restrictions against trawlers, especially since nearly all fish taken by trawl are dead when brought abroad. Therefore, this measure is implemented as originally proposed.

4. Enforcement and liability

Comments were received from one U.S. Senator, one U.S. representative, one State representative, several charter boat and headboat owners, and a number of fishermen questioning whether the regulations for the red snapper mimimum size limit and allowance for undersized fish would be enforced equitably among various user groups. Commenters were apprehensive that major enforcement efforts would be directed towards headboat and charter boat operations, and that it was unjust to hold the owners or captains of these boats liable for violations by customers possessing undersized red snapper in excess of catch allowances.

NMFS assures fishermen that enforcement efforts will be directed towards all users of the resource. There will definitely be no concerted effort to police the activities of a particular user group unless there is just cause. The majority of fishermen are concerned with the need for managing reef fish resources and are expected to comply with the regulations. NMFS disagrees, however, that it would be unjust (as suggested by the commenters) to hold owners or captains of headboats or charter boats liable for violations by customers on board their vessels. The issue in part relates to the degree of control of the master or owner over the paying passengers. Although that control may be affected by the number of passengers on board a vessel, such control is clearly established by virtue of the contractual arrangement and by customary maritime law. NMFS is willing to consider, however, particular instances regarding the exercise of that control on a case-by-case basis. In addition, NMFS may consider a variety of factors in mitigation of liability in particular cases, including: whether the owner or master posts notices on the vessel regarding the minimum size limit and incidental catch allowance,[1] whether the owner or master apprises passengers of those notices; whether the owner or master provides means of identifying and measuring fish subject to the minimum size limit; and whether the owner or master provides some means (such as a numbered stringer) for identifying the person or persons who caught particular fish.

5. Fish Hatcheries

One commenter suggested the introduction of hatchery-raised fish to increase red snapper abundance. Because of the high fecundity of red snapper, natural reproduction is capable of sustaining the population; female red snapper 15 to 30 inches in length reportedly produce an estimated 191,000 to 9,320,000 eggs per spawn, respectively. Implementation of the minimum size limit will ensure that a sufficient number of juveniles are recruited into the red snapper spawning population. In addition, the construction and operation of hatcheries for producing and raising red snappers would require extensive expenditures for a program of questionable value. Furthermore, this proposal is not the type of conservation and management measure contemplated by the Magnuson Act.

6. Commercial Fishing

Several commenters took issue with the longline sector of the fishery and their recommendations ranged from prohibiting the take of red snapper by longline during the spawning season to an immediate moratorium or total prohibition on longlines in the northwestern Gulf. No restrictions are placed on longlining activities at this time because this sector of the fishery was not addressed in the FMP. The longline fishery was in the early stage of development when the FMP was submitted for Secretarial approval and consequently little information was available on this sector of the fishery at that time. When the FMP was initially approved, one of the conditions was that the longline fishery be addressed at the earliest opportunity for plan amendment.

Two commenters, both recreational fishermen, recommended that all commercial fishing activities be prohibited. No data are available that would support such drastic action.

7. Seasonal and Area Closures

Several commenters recommended various area closures on an annual or seasonal basis. Recommended strategies ranged from a total ban on red snapper fishing during the spawning season to closure of the red snapper fishery every third year. One commenter suggested permanent closure of certain offshore banks to all types of fishing so that these areas would serve as refuges for sustaining reef-associated stocks, and closing selected mid-shelf and nearshore

[1] NMFS will make available posters describing regulated species and the appropriate methods for determining measurements.

habitats to all fishing on a seasonal or annual basis. These latter suggestions, although perhaps rational from the standpoint of stock conservation, are overly broad since they would preclude fishing for many species in addition to red snapper. Other alternatives and their associated impacts will be examined by the Gulf Council and will be addressed when the FMP is first amended.

8. Coastal Zone Consistency

The Florida Department of Natural Resources (FDNR) questioned the consistency of the regulations with Florida's Coastal Management Program (CMP) to the extent that the use of fish traps is allowed and size limits are not imposed on any of the groupers. State law, incorporated into Florida's CMP, prohibits the use and possession of fish traps (with certain exceptions) (Florida Statutes section 370.1105), and establishes size limits on certain species of grouper (Florida Statutes section 370.11(2)(a)(8)).

The claim of inconsistency is without legal foundation. Though Federal and State regulations are not identical, identity is not required by the Coastal Zone Management Act (CZMA). In this instance, the Magnuson Act would prohibit such identity. The coastal zone consistency determination for this FMP, which was submitted to Florida's Office of Coastal Zone Management on March 18, 1983, clearly indicated that the prohibition of fish traps and the implementation of minimum size limits on certain species of groupers would violate several of the national standards of the Magnuson Act. (It should be noted that the FMP contains provisions for instituting minimum size limits on groupers and other reef fishes when sufficient evidence becomes available that would indicate those species warrant regulation.) Therefore, to the maximum extent practicable, the FMP is consistent with Florida's CMP.

9. Specific State Concerns

The FDNR commented that these rules would authorize the use and possession of fish traps, without limitation on the number of vessels deploying traps, and that NOAA apparently perceived that the rules would nullify Florida's ban on the possession of traps within Florida's boundaries. This is incorrect. It is NOAA's position that Florida's ban on possession of fish traps in State waters is nullified only to the extent that it would interfere with the exercise of a fisherman's right to utilize those traps in the FCZ (i.e., Florida's ban may not be used to prohibit the transport of fish traps through State waters to and from the FCZ).

FDNR further contends that allowing fish traps in the FCZ will create an enforcement impossibility within State boundaries and will decimate Florida's prohibition on the possession of fish traps. NOAA agrees that authorizing the use of fish traps in the FCZ may affect to some degree the ability of Florida to enforce its trap prohibition within State waters. NOAA disagrees, however, that Florida's trap law will be "decimated." Certainly, fishing with fish traps within State waters will still be prohibited. Furthermore, unless the fish trap fishermen have Federal permits and Federal markings on their traps, possession of those traps within State waters clearly would be subject to Florida's prohibition. NOAA will work with Florida to minimize whatever problems develop.

FDNR asserts that conflicts from disparate fish trap regulation between State and Federal law require resolution under section 306 of the Magnuson Act. However, section 306 of the Magnuson Act was not formulated for resolving regulatory conflicts created by Federal supersession. Rather, section 306 addresses the situation where the Federal government concludes that the regulation of fisheries within State waters is accomplished in such a fashion as to affect substantially and adversely the implementation of Federal regulations within the FCZ. In this instance, NOAA does not take issue with the manner in which Florida is regulating its fisheries within State waters. As a result, the preemption provisions of section 306 are not applicable.

The FDNR also took issue with the sufficiency of the data base and noted that stock/recruitment relationships, populations, size and mortality rates are totally unknown or inadequate for managing the resource. The FMP concedes that the current state of knowledge is insufficient for addressing total management needs for reef fish resources, and this is precisely why minimum size limits were not established at this time for a number of species, including several important species of groupers. Lack of sound data also explains, in part, why certain gear restrictions were not instituted and why the Federal regulations do not mirror certain aspects of Florida's laws. The regulatory regime developed provides for management of the reef fish resources within the constraints of the available data base, as required by the Magnuson Act. To obtain the information necessary for analyzing the appropriate mix of measures required for comprehensive management of the reef fish unit, a data gathering program will be implemented as soon as the proper data collection elements can be determined. The recordkeeping and reporting requirements section of the regulations are merely reserved until such time, and have not been withdrawn as FDNR comments indicated. There is no violation of the Magnuson Act by reserving such regulation pending development of the data gathering system.

FDNR also indicated that disparate management measures between the reef fish FMP in the Gulf of Mexico and the snapper/grouper plan in the south Atlantic area would complicate enforcement of either plan in the Florida Keys. The chief differences pertain to minimum size limits on certain species, specification of optimum yield (OY), and fish trap size, number and permitting requirements. NOAA acknowledges that these disparities may create some problems for fishermen who fish on both sides of the Florida Keys, as well as for those who enforce the two sets of regulations. NOAA observes parenthetically that this problem was occasioned by a change in the boundary between the Gulf and South Atlantic Councils (in response to an opinion from the Office of Legal Counsel, Department of Justice) after both Councils had initiated development of the respective FMPs. To partially reconcile the problems associated with these divergent management measures, the Gulf Council has been urged to modify the reef fish FMP at the earliest opportunity by amendment to convert to a non-numeric OY similar to that adopted in the south Atlantic. This approach would allow for instituting minimum size limits on other important species in the reef fish complex on a more timely basis than would be possible under the presently specified approach. Potential problems which may arise due to differences in measures such as those relating to fish traps will require close surveillance; appropriate action will be taken if those problems become significant.

FDNR urges that the proposed rules be rejected as inimical to the resources that they were designed to protect. NOAA disagrees. The matters set forth in opposition to implementation of the FMP by FDNR are not persuasive. NOAA has concluded that the approach proposed in the FMP is the proper approach to management of the subject fishery.

FDNR also objects to the proposed rule on the grounds that development of

certain aspects of the FMP violated the Magnuson Act. Specifically, FDNR alleges that the Gulf Council modified an FMP measure by telephone vote. NOAA observes that the measure referred to initially provided for adjustment to the regulatory regime through rule-related notice if OY were exceeded in any year; the Gulf Council modified this provision to make such changes through the regulatory amendment process. Hence, FDNR's comment technically is a comment on the FMP since there is no rule which implements the regime adjustment provision, as modified. NOAA responds to the substance of FDNR's objection by noting that the effect of the revision was to provide a greater degree of public participation in the adjustment procedure. Such revision hardly "jeopardize(s) a cooperative effort to manage diminishing marine resources." The Gulf Council modified the measure to avoid a possible disapproval of that measure; the fact that the Council took action by telephone poll entails no precedural irregularity.

Finally, FDNR requested that an administrative hearing, in accordance with Title 5, U.S.C. 553 be held and that the proposed rules be stayed pending the resolution of the issues raised by FDNR. NOAA declines either to grant such a hearing or to delay the effective date of the final rule. To grant an administrative hearing on these rules would serve no useful purpose and would delay their implementation. Furthermore, the matters raised by FDNR are more properly resolved in the context of Council deliberations on future modification of the FMP.

10. General Comments

The Gulf Council and a State marine resource agency suggested that the red snapper minimum size limitation be expressed in terms of total length since four of the five Gulf States use this terminology which is less scientific but more understandable to the fishermen. The final rule is modified to reflect the use of either fork length or total length.

The Gulf Council also suggested several additional language changes to clarify the regulations as follows:

(1) That the definition of authorized officer be modified to identify the Departmental authority under which the Coast Guard operates;

(2) That vessel number be included in the identification requirements for fish traps to aid in enforcement;

(3) That official sunrise and sunset be specified in terms of civil rather than military time; and

(4) That the line demarcating fish trap size restrictions conform with terminology described on nautical charts used by fishermen.

The language in the final rule is modified to reflect these suggestions, except that the permit number is substituted for vessel number in marking buoys for identifying fish traps since vessel numbers are too lengthy. The purpose is served equally well.

The Gulf Council additionally suggested that the term "bill of lading" in proposed § 641.23(b)(3) be more explicitly defined. This provision has been deleted from the final rule, since it pertained to an exception from the proposed prohibition against possession of undersized red snapper, which has been revised on the basis of comments submitted.

Changes From the Proposed Rule

The final rule differs from the proposed rule in the following respects, for the reasons discussed above, and to clarify other minor aspects of the regulations:

Section 641.1

Paragraph (b) of this section, pertaining to the scope of Part 641, was revised to reflect the fact that certain portions of the rules apply to persons fishing from fixed structures.

Section 641.2

The definition of authorized officer, paragraph (c) is revised to identify the Departmental authority under which the Coast Guard operates.

A definition is added for the term "Headboat" which is used in revised § 641.23(b)(2).

A definition of "Total length" is included to describe measurement of fish in popular terminology. Figure 1 is modified to illustrate total measurement.

The definition of "U.S.-harvested fish" is revised to reflect that fish harvested by U.S. citizens on fixed structures are considered to be U.S.-harvested fish.

Section 641.4

Portions of paragraphs(c), (e) and (h) of this section were revised to conform to NOAA's rules on Permit Sanctions and Denials, 15 CFR Part 904, Subpart D (49 FR 1037, January 6, 1984).

Section 641.6

Paragraph (a) is revised to require the display of the permit number instead of vessel number on vesels or structures, fish traps and buoys, to facilitate identification.

Section 641.7

Paragraph (g) is modified to restrict application of the regulation to the FCZ.

Paragraphs (d) and (i) are revised slightly for purposes of clarity.

Section 641.8

This section has been revised to reflect the most recent signaling and boarding procedures recommended by the U.S. Coast Guard (49 FR 9736, March 15, 1984).

Section 641.9

The reference to 50 CFR Part 620 is deleted, since the substance of that part was removed and the procedures governing citations were set forth in 15 CFR Part 904, Subpart E on January 6, 1984 (49 FR 1036).

Section 641.21

Paragraph (a) is modified to designate official sunrise and sunset.

Section 641.22

The introductory paragraph is revised to clarify the definition of the stressed area.

Section 641.23

Paragraphs (a) and (b) are revised to include total length requirements for red snapper minimum size restrictions.

Paragraph (a) is revised to limit regulatory authority under the FMP to the FCZ.

A new paragraph (b)(2) exempts headboats from the red snapper minimum size limit and incidental catch limit for a period of 18 months. Previously designated paragraph (b)(2) is redesignated as (b)(3); previously designated paragraph (b)(3) is removed as unnecessary due to revision of paragraph (a).

Paragraph (c) is modified to limit regulatory authority under the FMP to the FCZ.

Section 621.24

Paragraph (b)(1)(iii) is corrected to designate the proper size wire that may be used for fish trap panels or hinging devices.

Paragraph (b)(5) is revised to conform with terms depicted on nautical charts, and to clarify the geographical scope of the regulation.

Classification

The Assistant Administrator, after considering all comments received on the FMP and the proposed regulations, has determined that the FMP and this rule are necessary and appropriate for conservation and management of the fishery and are consistent with the national standards and other provisions of the Magnuson Act, and other applicable law. A final environmental

impact statement was filed with the Environmental Protection Agency, and a notice of its availability was published on September 9, 1983 (48 FR 40780).

The Administrator, NOAA, has determined that these regulations are not major under Executive Order 12291. However, these regulations will have significant economic impact on a substantial number of small entities. A regulatory impact review (RIR), which includes a regulatory flexibility analysis (RFA) as provided under section 605(a) of the Regulatory Flexibility Act, was initially prepared. On the basis of comments submitted on the initial RFA, a final RFA has been prepared pursuant to section 604(a) of the Regulatory Flexibility Act. Copies of the final RIR/RFA are available (see **ADDRESSES**). That document analyzes the expected benefits and costs of the regulatory action, and includes data that were not available at the time the FMP was submitted for approval. The document also includes an analysis of data obtained from a survey conducted by the headboat industry during the comment period on the proposed rule. These new data raised the issues of (1) the potential economic impacts on the headboat sector of the fishery as a result of the red snapper minimum size limit, and (2) the need for additional information on the survivability of fish hooked and released. Because of the high degree of dependence of the headboat industry on small red snapper, the minimum size limitation for that sector of the fishery has been deferred for 18 months. The 12-inch minimum size limit initially was expected to result in an increased yield of red snapper averaging 23 percent; deferring application of that measure to headboats for 18 months is expected to result in an increased yield of about 16 percent. Therefore, increases in the yield of red snapper described in the RIR would be somewhat lessened by that deferral of implementation; however, benefits resulting from application of the minimum size limit to the commercial and the other recreational components of the fishery would continue to accrue while alternatives are being explored for regulating the headboat industry in a more efficient manner. Increases accruing to the commercial sector of the fishery alone are expected to amount to an estimated $4.1 to $13.8 million, while a significant, but undetermined, amount of increase in the recreational sector is expected to result over the next four years. Potential benefits are significantly greater than expected costs. Benefits are expected from increases in reef fish landings. Benefits expected to accrue from the FMP include the prevention of overfishing and the conservation of reef fish stocks in general and the red snapper stocks in particular. The measures relating to the stressed area will prevent further overfishing and decline of stocks in these nearshore waters, and will reduce the potential for user group conflicts. The major portion of expected costs is that incurred by the Federal government in managing the fishery (including enforcement).

This rule contains a collection of information requirement for purposes of the Paperwork Reduction Act; this collection relates to the permit requirement for trap fishermen. OMB has approved this data collection package.

The coastal zone management offices for each State adjoining the Gulf of Mexico (except Texas, which does not have an approved program under the Coastal Zone Management Act), were provided copies of a consistency determination on March 18, 1983, pursuant to 15 CFR 930.39. That determination concluded that, to the maximum extent practicable, the FMP is consistent with the applicable provisions of the coastal zone management programs of those States.

No responses were received from Alabama or Louisiana within 45 days; hence it is presumed under 15 CFR 930.41(a) that those States agree with the consistency determination. Mississippi agreed on May 4, 1983 that the FMP was consistent with the State's CZMP. Florida requested additional materials and time to review the consistency determination; those materials were provided and extensions of 15 and 45 days were granted to complete the review. Subsequently, Florida disagreed with the consistency determination. Florida's comments are discussed above. NOAA has concluded that, to the maximum extent practicable, the FMP is consistent with the coastal zone management programs of the affected States.

In accordance with 5 U.S.C. 553(d), these final rules will become effective on November 8, 1984, except for §§ 641.4 and 641.6 which will take effect on November 23, 1984. The effective date of these latter provisions is being delayed to enable trap fishermen to comply with § 641.4(b) which requires fish trappers to submit a permit application 45 days in advance of the desired effective date of the permit.

List of Subjects in 50 CFR Part 641

Fish, Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: October 2, 1984.

Joseph W. Angelovic,

Deputy Assistant Administrator for Science and Technology.

For the reasons set out in the preamble, Chapter VI of 50 CFR is amended by adding a new Part 641, to read as follows:

PART 641—REEF FISH FISHERY OF THE GULF OF MEXICO

Subpart A—General Provisions

Sec.
641.1 Purpose and scope.
641.2 Definitions.
641.3 Relationship to other laws.
641.4 Permits.
641.5 Recordkeeping and reporting requirements. [Reserved]
641.6 Vessel and gear identification.
641.7 Prohibitions.
641.8 Facilitation of enforcement.
641.9 Penalties.

Subpart B—Management Measures

641.20 Fishing year.
641.21 Harvest limitations.
641.22 Area limitations.
641.23 Size and incidental catch restrictions.
641.24 Gear limitations.
641.25 Effort limitations.
641.26 Specifically authorized activities.

Authority: 16 U.S.C. 1801 *et seq.*

Subpart A—General Provisions

§ 641.1 Purpose and scope.

(a) The purpose of this part is to implement the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico, prepared by the Gulf of Mexico Fishery Management Council under the Magnuson Act.

(b) This part regulates fishing for reef fish by persons on fixed structures and fishing vessels of the United States within the Gulf of Mexico portion of the FCZ.

§ 641.2 Definitions.

In addition to the definitions in the Magnuson Act, and unless the context requires otherwise, the terms used in this part have the following meanings:

Authorized officer means:

(a) Any commissioned, warrant, or petty officer of the U.S. Coast Guard;

(b) Any special agent of NMFS;

(c) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary and the Secretary of the department under which the U.S. Coast Guard is operating, to enforce the provisions of the Magnuson Act; or

(d) Any U.S. Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (a) of this definition.

Fish trap means any trap and the component parts thereof used for or capable of taking finfish, regardless of the construction material, except those traps historically used in the directed fisheries for crustaceans (blue crab, stone crab, and spiny lobster).

Fishery conservation zone means that area adjacent to the United States which, except where modified to accommodate international boundaries, encompasses all waters from the seaward boundary of each of the coastal States to a line on which each point is 200 nautical miles from the baseline from which the territorial sea of the United States is measured.

Fishing means any activity, other than scientific research conducted by a scientific research vessel, which involves:

(a) The catching, taking, or harvesting of fish;

(b) The attempted catching, taking, or harvesting of fish;

(c) Any other activity which can reasonably be expected to result in the catching, taking, or harvesting of fish; and

(d) Any operations at sea in support of, or in preparation for, any activity described in paragraph (a), (b), or (c) of this definition.

Fishing vessel means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for:

(a) Fishing; or

(b) Aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

Fork length means the distance from the tip of the snout to the rear center edge of the tail (caudal fin).

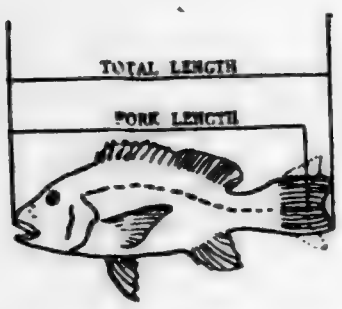

Figure 1. Illustration of fork length and total length measurement

Headboat means any fishing vessel operated by a master and crew which carries seven or more persons who fish for a fee.

Magnuson Act means the Magnuson Fishery Conservation and Management Act, as amended (16 U.S.C. 1801 *et. seq.*).

Management area means that area of the FCZ subject to the authority of the Gulf of Mexico Fishery Management Council.

NMFS means the National Marine Fisheries Service.

Official number means the documentation number issued by the U.S. Coast Guard or the registration number issued by a State or the U.S. Coast Guard for undocumented vessels.

Operator, with respect to any vessel, means the master or other individual on board and in charge of that vessel.

Owner, with respect to any fishing vessel, means:

(a) Any person who owns that vessel in whole or in part;

(b) Any charterer of the vessel, whether bareboat, time or voyage;

(c) Any person who acts in the capacity of a charterer, including, but not limited to, parties to a management agreement, operating agreement, or other similar arrangement that bestows control over the destination, function, or operation of the vessel; or

(d) Any agent designated as such by any person described in paragraphs (a), (b), or (c) of this definition.

Person means any individual (whether or not a citizen of the United States), corporate, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

Powerhead means any device with an explosive charge, usually attached to a speargun, spear, pole, or stick, which fires a projectile upon contact.

Reef fish refers to fish in the following two categories:

(a) *Management unit*—species in the directed fishery include the following:

Snappers—Lutjanidae Family

Queen snapper, *Etelis oculatus*
Mutton snapper, *Lutjanus analis*
Schoolmaster, *Lutjanus apodus*
Blackfin snapper, *Lutjanus buccanella*
Gulf red snapper, *Lutjnus campechanus*
Cubera snapper, *Lutjanus cyanopterus*
Gray (mangrove) snapper, *Lutjanus griseus*
Dog snapper, *Lutjanus jocu*
Mahogany snapper, *Lutjanus mahogoni*
Lane snapper, *Lutjanus synagris*
Silk snapper, *Lutjanus vivanus*
Yellowtail snapper, *Ocyurus chrysurus*
Wenchman, *Pristipomoides aquilonaris*
Voraz, *Pristipomoides macrophthalmus*
Vermilion snapper, *Rhomboplites aurorubens*

Groupers—Serranidae Family

Rock hind, *Epinephelus adscensionis*
Speckled hind, *Epinephelus drummondhayi*
Yellowedge grouper *Epinephelus flavolimbatus*
Red hind, *Epinephelus guttatus*
Jewfish, *Epinephelus itajara*
Red grouper, *Epinephelus morio*
Misty grouper, *Epinephelus mystacinus*
Warsaw grouper, *Epinephelus nigritus*
Snowy grouper, *Epinephelus niveatus*
Nassua grouper, *Epinephelus striatus*
Black grouper, *Mycteroperca bonaci*
Yellowmouth grouper, *Mycteroperca interstitalis*
Gag, *Mycteroperca microlepis*
Scamp, *Mycteroperca phenax*
Yellowfin grouper, *Mycteroperca veneosa*

Sea Basses—Serranidae Family

Southern sea bass, *Centropristis melana*
Bank sea bass, *Centropristis ocyurus*
Rock sea bass, *Centropristis philadelphica*

(b) *Fishery*—species in the reef fishery that are taken incidental to the directed fishery for reef fish includes the following:

Tilefishes—Branchiostegidae Family

Great northern tilefish, *Lopholatilus chamaeleonticeps*
Tilefish, *Couloalatilus* spp.

Jacks—Carangidae Family

Amerjacks, *Seriola* spp.

Triggerfishes—Balistidae Family

Gray triggerfish, *Balistes capriscu*

Wrasses—Labridae Family

Hogfish, *Lachnolaimus aximus*

Grunts—Haemulidae Family

Tomtate, *Haemulon aurolineatum*
White grunt, *Haemulon plumieri*
Pigfish, *Orthopristis chrysoptera*

Porgies—Sparidae Family

Grass porgy, *Calamus arctifrons*
Jolthead porgy, *Calamus bajonado*
Knobbed porgy, *Calamus nodosus*
Littlehead porgy, *Calamus proridens*
Pinfish, *Lagodon rhomboides*
Red porgy, *Pagrus sedecim*

Sand Perches—Serranidae Family

Dwarf sand perch, *Diplectrum bivittatum*
Sand perch, *Diplectrum formosum*

Regional Director means the Regional Director (or a designee), Southeast Region, NMFS, Duval Building, 9450 Koger Boulevard, St. Petersburg, Florida 33702; telephone 813–893–3141.

Roller trawl means a trawl net equipped with rollers on a separate cable or line with spaces connecting the cable or line to the footrope, which makes it possible to fish the gear over rough bottom, i.e., in areas unsuitable for fishing conventional shrimp trawls. Ridig framed trawls adapted for

shrimping over uneven bottom, and in wide use along the west coast of Florida, are not considered roller trawls.

Secretary means the Secretary of Commerce or a designee.

Total length means the distance from the tip of the snout to the furthermost tip of the tail (caudal fin) depressed. (SeeFigure 1.)

U.S.-harvested fish means fish caught, taken or harvested by U.S. citizens on fixed structures and vessels of the United States within any fishery regulated under the Magnuson Act.

Vessel of the United States means:

(a) Any vessel documented under the laws of the United States;

(b) Any vessel numbered in accordance with the Federal Boat Safety Act of 1971 and measuring less than 5 net tons; or

(c) Any vessel numbered under the Federal Boat Safety Act of 1971 and used exclusively for pleasure.

§ 641.3 Relationship to other laws.

(a) Persons affected by these regulations should be aware that other Federal and State statutes and regulations may apply to their activities.

(b) Certain responsibilities relating to data collection or enforcement may be performed by authorized State personnel under cooperative agreements entered into by the State, the U.S. Coast Guard, and the Secretary.

§ 641.4 Permits.

(a) *Applicability.* Fishing vessels from which fish traps are deployed and individuals fishing with fish traps from fixed structures are required to obtain a permit.

(b) *Application for permit.* An application for a fish trap permit must be submitted and signed by the owner or operator of the vessel or by the person fishing traps from a structure. The application must be submitted to the Regional Director 45 days prior to the date on which the applicant desires to have the permit made effective.

(1) Permit applicants fishing from vessels must provide all the following information:

(i) Name, mailing address including zip code, and telephone number of the owner of the vessel;

(ii) Name of the vessel;

(iii) The vessel's official number;

(iv) Home port or principal port of landing, gross tonnage, radio call sign, and length of the vessel;

(v) Engine horsepower and year the vessel was built;

(vi) Approximate fish hold capacity of the vessel;

(vii) Number, dimensions and estimated cubic volume of the fish traps that will be fished;

(viii) Any other information concerning vessel and gear characteristics requested by the Regional Director; and

(ix) A statement that the applicant will allow authorized officers reasonable access to his property (vessel and dock) to inventory fish traps for compliance with these regulations.

(2) Applicants fishing from fixed structures must provide the following information:

(i) Applicant's name, mailing address, and telephone number;

(ii) Name and number of the oil or gas structure or the most descriptive identification for other types of structures;

(iii) Approximate location of the structure in miles offshore and direction from principal port or latitude and longitude of the structure;

(iv) Number, dimensions, and estimated cubic volume of the fish traps that will be fished; and

(v) A statement that the applicant will allow authorized officers reasonable access to his property (structure) to inventory fish traps for compliance with these regulations.

(3) Any change in the information specified in paragraph (b) of this section must be submitted in writing to the Regional Director by the permit holder within 15 days of any such change. Failure to notify the Regional Director of any change in the required information will result in a rebuttable presumption that the information is still accurate and current.

(c) *Issuance.* Except as provided in Subpart D of 15 CFR Part 904, the Regional Director will issue a permit and numbered tag(s) to the applicant not later than 30 days from the date of receipt of a completed application and will designate a color code to be used for identification of vessels fishing fish traps and buoys used by such vessels.

(d) *Fees.* No fee will be assessed for any permit issued under this section.

(e) *Duration.* Permits will remain valid unless revoked, suspended, or modified pursuant to Subpart D of 15 CFR Part 904.

(f) *Transfer.* A permit issued under this section is not transferable or assignable. A permit is valid only for the fishing vessel and owner, or the person fishing traps from a structure, for which it is issued.

(g) *Display.* A permit issued under this section must be carried on board the fishing vessel or on the fixed structure at all times. The operator of a fishing vessel, or the person fishing fish traps from a structure, must present the permit for inspection upon request of any authorized officer.

(h) *Sanctions.* Procedures governing permit sanctions and denials are found at Subpart D of 15 CFR Part 904.

(Approved by the Office of Management and Budget under OMB control number 0648-0097)

§ 641.5 Recordkeeping and reporting requirements. [Reserved]

§641.6 Vessel and gear identification.

(a) Vessels and fixed structures from which fish traps are fished must identify, in conformance with this paragraph, the vessel or structure, fish traps and buoys by the number and/or color code designated by the Regional Director under § 641.4(c) of this part.

(1) *Vessels or structures.* Vessels or structures must permanently and conspicuously display the permit number and the color code designated by the Regional Director under § 641.4(c) of this part in a manner as to be readily identifiable from the air and water; such color representation must be in the form of a circle at least 20 inches in diameter and the permit number must be at least 10 inches high.

(2) *Fish traps.* Each fish trap must have affixed to it permanently a metal or plastic identification tag supplied by the Regional Director, which displays the assigned permit and fish trap number.

(3) *Buoys.* Each fish trap, or the opposite ends of a string of fish traps, must be marked by a floating buoy or by a buoy designed to be submerged and automatically released. All buoys used to mark fish traps must display the designated color code and permit number so as to be easily distinguished, located, and identified.

(b) Fish traps fished in the FCZ will be presumed to be the property of the most recently documented owner. This presumption will not apply with respect to reef fish traps which are lost or sold if the owner of such traps reports the loss or sale within 15 days to the Regional Director.

(c) Unmarked reef fish traps deployed in the FCZ are illegal and may be disposed of in any appropriate manner by the Secretary (including an authorized officer). If owners of the unmarked traps can be ascertained, those owners remain subject to appropriate civil penalties.

§641.7 Prohibitions.

It is unlawful for any person to:

(a) Fish for reef fish with fish traps without a valid permit, as required by § 641.4;

(b) Fish for reef fish with fish traps without a valid permit number, or possess on board a fishing vessel (or structure) unmarked fish traps or buoys, or falsify, or fail to affix and maintain vessel (or structure) or gear markings as required by § 641.6;

(c) Pull or tend fish traps except during the hours specified in § 641.21(a);

(d) Tend, open, pull, or otherwise molest or have in one's possession aboard a fishing vessel another person's fish traps except as provided in § 641.21(b);

(e) Use powerheads to fish for reef fish or use fish traps or roller trawls in the stressed area, as specified in § 641.22;

(f) Possess red snapper under the minimum size limit specified in § 641.23(a), except as specified in § 641.23(b);

(g) Posses red snapper in the FCZ, or land red snapper taken from the FCZ, without the head and fins intact as specified in § 641.23(c);

(h) Fish for reef fish with poisons or explosives, as specified in § 641.24(a);

(i) Fish with fish traps in the FCZ in areas other than the stressed area unless such traps are constructed as specified in § 641.24(b);

(j) Fish in the FCZ with more than 200 fish traps per vessel, as specified in § 641.25;

(k) Possess, have custody or control of, ship, transport, offer for sale, sell, purchase, import, land, or export any fish taken or retained in violation of the Magnuson Act, this part, or any other regulation under the Magnuson Act;

(l) Fail to comply immediately with enforcement and boarding procedures specified in § 641.8;

(m) Refuse to permit an authorized officer to board a fishing vessel subject to such person's control or to come onto a structure for purposes of conducting any search or inspection in connection with the enforcement of the Magnuson Act, this part, or any other regulation or permit issued under the Magnuson Act;

(n) Forcibly assault, resist, oppose, impede, intimidate, threaten, or interfere with any authorized officer in the conduct of any search or inspection described in paragraph (m) of this section;

(o) Resist a lawful arrest for any act prohibited by this part;

(p) Interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any act prohibited by this part;

(q) Transfer directly or indirectly, or attempt to so transfer, any U.S.-harvested reef fish to any foreign fishing vessel, while such vessel is in the FCZ, unless the foreign fishing vessel has been issued a permit under Section 204 of the Magnuson Act which authorizes the receipt by such vessel of U.S.-harvested reef fish; or

(r) Violate any other provision of this part, the Magnuson Act, or any regulation or permit issued under the Magnuson Act.

§641.8 Facilitation of enforcement.

(a) *General.* The operator of, or any other person aboard, any fishing vessel subject to this part must immediately comply with instructions and signals issued by an authorized officer to stop the vessel and with instructions to facilitate safe boarding and inspection of the vessel, its gear, equipment, fishing record (where applicable), and catch for purposes of enforcing the Magnuson Act and this part.

(b) *Communications.* (1) Upon being approached by a U.S. Coast Guard vessel or aircraft, or other vessel or aircraft with an authorized officer aboard, the operator of a fishing vessel must be alert for communications conveying enforcement instructions.

(2) If the size of the vessel and the wind, sea, and visibility conditions allow, loudhailer is the preferred method for communicating between vessels. If use of a loudhailer is not practicable, and for communications with an aircraft, VHF-FM or high frequency radiotelephone will be employed. Hand signals, placards, or voice may be employed by an authorized officer and message blocks may be dropped from an aircraft.

(3) If other communications are not practicable, visual signals may be transmitted by flashing light directed at the vessel signaled. Coast Guard units will normally use the flashing light signal "L" as the signal to stop.

(4) Failure of a vessel's operator to stop his vessel when directed to do so by an authorized officer using loudhailer, radiotelephone, flashing light signal, or other means constitutes *prima facie* evidence of the offense of refusal to permit an authorized officer to board.

(5) The operator of a vessel who does not understand a signal from an enforcement unit and who is unable to obtain clarification by loudhailer or radiotelephone must consider the signal to be a command to stop the vessel instantly.

(c) *Boarding.* The operator of a vessel directed to stop must:

(1) Guard Channel 16, VHF-FM if so equipped;

(2) Stop immediately and lay to or maneuver in such a way as to allow the authorized officer and his party to come aboard;

(3) Except for those vessels with a freeboard of four feet or less, provide a safe ladder, if needed, for the authorized officer and his party to come aboard;

(4) When necessary to facilitate the boarding or when requested by an authorized officer, provide a man rope or safety line, and illumination for the ladder; and

(5) Take such other actions as necessary to facilitate boarding and to ensure the safety of the authorized officer and the boarding party.

(d) *Signals.* The following signals, extracted from the International Code of Signals, may be sent by flashing light by an enforcement unit when conditions do not allow comunications by loudhailer or radiotelephone. Knowledge of these signals by vessel operators is not required. However, knowledge of these signals and appropriate action by a vessel operator may preclude the necessity of sending the signal "L" and necessity for the vessel to stop instantly.

(1) "AA repeated." (.- .-) [1] [2] is the call to an unknown station. The operator of the signaled vessel should respond by identifying the vessel by radiotelephone or by illuminating the vessel's identification.

(2) "RY-CY" (.-. -.-- -.-.--) means "you should proceed at slow speed, a boat is coming to you." This signal is normally employed when conditions allow an enforcement boarding without the necessity of the vessel being boarded coming to a complete stop, or, in some cases, without retrieval of fishing gear which may be in the water.

(3) "SQ3" (... --.-...--) means "you should stop or heave to; I am going to board you."

(4) "L (.-..) means "you should stop your vessel instantly."

§ 641.9 Penalties.

Any person or fishing vessel found to be in violation of this part will be subject to the civil and criminal penalty provisions and forfeiture provisions prescribed in the Magnuson Act, and to 50 CFR Part 621 and 15 CFR Part 904 (Civil Procedures), and other applicable law.

Subpart B—Management Measures

§ 641.20 Fishing year.

The fishing year for reef fish begins on January 1 and ends on December 31.

§ 641.21 Harvest limitations.

(a) Reef fish traps may be pulled or tended only during the period from

[1] (.) means a short flash of light.

[2] (-) means a long flash of light.

official (civil) sunrise to official (civil) sunset.

(b) Reef fish traps may be tended only by persons (other than authorized officers) aboard the fish trap owner's vessel(s), or aboard another vessel if such vessel has on board written consent of the fish trap owner.

§ 641.22 Area limitations.

The stressed area is that portion of the management area which is enclosed by the inner boundary of the FCZ and the discontinuous line connecting the points of latitude and longitude listed in Table 1 (also see Figure 2).

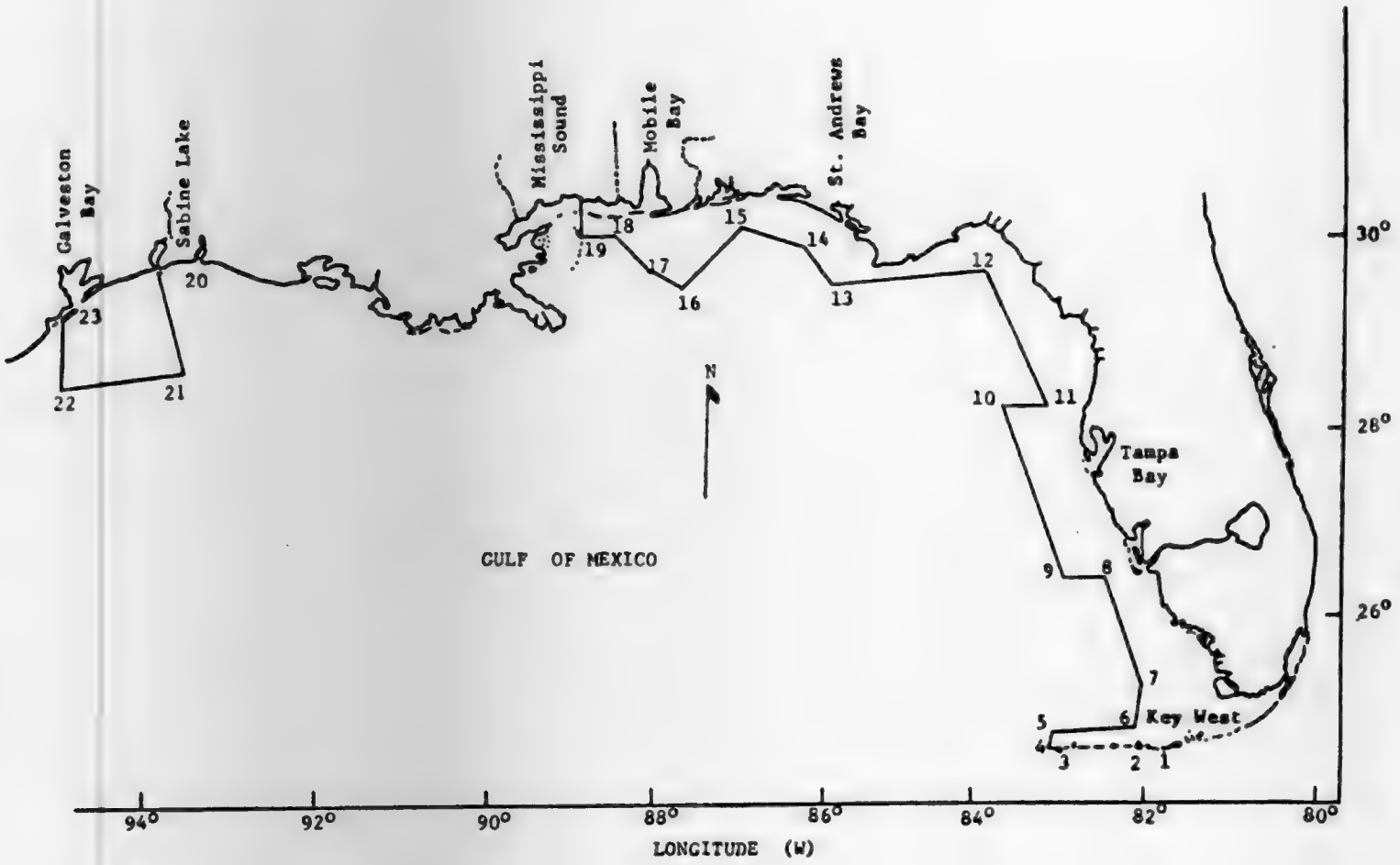

FIGURE 2. MAP OF THE STRESSED AREA

(a) The stressed area is closed to the use of powerheads for the taking of reef fish in the management unit. The possession of a powerhead and mutilated reef fish from the management unit while in the stressed area will constitute *prima facie* evidence that reef fish were taken with a powerhead in the stressed area.

(b) The stressed area is closed to the use of roller trawls and fish traps. Fish traps in the stressed area will be considered unclaimed or abandoned property and may be disposed of according to § 641.6(c).

§ 641.23 Size and incidental catch restrictions.

(a) The minimum size limit for the possession of red snapper harvested in the FCZ is 12 inches fork length (13 inches total length), except as specified in paragraph (b) of this section.

(b) *Exceptions.* (1) An incidental catch of five red snappers under 12 inches fork length (13 inches total length) per person per trip is allowed.

(2) Persons fishing from headboats in the FCZ are exempt from the minimum size limit and incidental catch limit for red snapper until May 8, 1986.

(3) Persons lawfully fishing with trawls from domestic vessels in the FCZ are exempt from the minimum size limit for red snapper.

(c) All red snapper harvested in the FCZ must be landed with the head and fins intact.

§ 641.24 Gear limitations.

(a) Poisons or explosives may not be used in the taking of reef fish in the management unit; however, explosives in powerheads may be used outside the stressed area.

(b) Fish traps fished in the FCZ are subject to the following requirements and limitations:

(1) Fish traps are required to have panels or access door-hinging devices and door fasteners which will degrade

or self-destruct and which must be constructed of one of the following degradable materials: (i) Untreated hemp, jute, or cotton string of 3/16-inch diameter or smaller; (ii) magnesium alloy, time float releases (pop-up devices) or similar magnesium alloy fasteners; or (iii) ungalvanized or uncoated iron wire at 0.055-inch diameter or smaller;

(2) The opening covered by the degradable panel or access door must be 144 square inches or larger, with one dimension of the area equal to or larger than the largest interior axis of the trap's throat (funnel) with no other dimension less than 6 inches;

(3) One degradable panel or access door must be located opposite each of the sides of the trap that has a funnel;

(4) Effective November 8, 1985, the minimum mesh size for all fish traps within the FCZ will be 1x2 inches, and a minimum of two 2x2-inch escape windows will be required on each of two sides of the trap; and

(5) The maximum allowable size for fish traps fished in the FCZ shoreward of the 50-fathom isobath (300-foot contour) is 33 cubic feet in volume. There is no size limitation for fish traps fished seaward of the 50-fathom isobath.

§ 641.25 Effort limitations.

The maximum number of fish traps that may be fished by a vessel in the FCZ is 200.

§ 641.26 Specifically authorized activities.

The Secretary may authorize, for the acquisition of information and data, activities otherwise prohibited by these regulations.

TABLE 1.—POINTS FOR THE DISCONTINUOUS LINE DELINEATING THE STRESSED AREA

Point No.	Reference location [1]	Latitude (North)	Longitude (West)	Loran C coordinates [2] W	X	Y	Z
	Starting at the mainland of Florida at the Dade/Monroe county line and proceeding down the Florida Keys island chain (as delineated by the highway U.S. Route 1) to the following points:						
1	Key West	24°33.0'	81°48.7'	13927.8	30238.2	43654.2	62655.1
2	Marquesas Key	24°35.0'	82°06.2'	13894.5	30189.2	43748.8	62726.6
3	Gulf/South Atlantic Boundary	24°35.0'	83°00.0'	13768.5	29992.2	44049.2	62941.1
4	Tortugas Bank South	24°36.0'	83°06.0'	13753.4		44084.4	62965.5
5	Tortugas Bank North	24°44.0'	83°04.0'	13772.3		44087.4	62960.3
6	West of Smith Shoal	24°48.0'	82°06.5'	13915.1		43760.2	62727.7
7	Off Cape Sable	24°15.0'	82°02.0'	13974.7		43759.8	62704.9
8	Off Sanibel Island (Inshore)	26°26.0'	82°29.0'	14060.3		43117.4	62824.3
9	Off Sanibel Island (Offshore)	26°26.0'	82°59.0'	13990.0		43347.6	62970.7
10	Off Anclote Keys (Offshore)	28°10.0'	83°45.0'	14145.8		45328.0	63266.8
11	Off Anclote Key (Inshore)	28°10.0'	83°14.0'	14224.3		45092.0	63086.4
12	Off Deadman Bay	29°38.0'	84°00.0'	14412.4		45167.7	63442.2
13	SW of Cape San blas	29°30.5'	85°52.0'	13873.2		46702.0	63976.2
14	Off St. Andrews Bay	29°53.0'	86°10.0'	13816.5		46922.3	64050.8
15	Desoto Canyon	30°06.0'	86°55.0'	13434.6	30600.6	47045.8	
16	Alabama/Florida line	29°34.5'	87°38.0'	12971.5	30023.4	46886.0	
17	Off Mobile Bay	29°41.0'	88°00.0'	12766.5	29841.2	46930.9	
18	Mississippi/Alabama line	30°01.5'	88°23.7'	12537.6	29697.7	47029.3	
19	Chandeleur Islands	30°01.5'	88°51.0'	12262.0	29422.2	47028.6	
	Closing at the Mississippi Mainland	30°23.4'	88°51.0'	and			
	Starting at the west bank of Sabine Pass, Texas to the following points:						
20	Sabine Pass	29°39.0'	93°49.5'	11027.8	26367.1	46966.6	
21	Texas/Louisiana line, south	28°38.0'	93°32.0'	11139.4	26220.7	46815.1	
22	Off Galveston Island	28°28.0'	95°00.0'	11086.2	25308.9	46817.0	
23	Off Galveston Island	29°09.5'	95°00.0'	11036.9	25551.4	46909.0	

[1] Nearest identifiable landfall, boundary, navigation aid or submarine area.
[2] Loran coordinates are provided to aid the fishermen affected by the measures and are subject to local variations due to atmospheric conditions, therefore, are not used as part of the legal description of the stressed area.

[FR Doc. 84-26484 Filed 10-3-84; 8:45 am]
BILLING CODE 3510-22-M

50 CFR Part 652

[Docket No. 40790-4090]

Atlantic Surf Clam and Ocean Quahog Fisheries, Termination of Georges Banks Field Survey Research Program

AGENCY: National Marine Fisheries Services (NMFS), NOAA, Commerce.

ACTION: Notice of termination of Georges Banks field survey research program.

SUMMARY: NOAA issues this notice to terminate the survey established by the emergency interim rule which amended the Fishery Management Plan for Atlantic Surf Clam and Ocean Quahog Fisheries. The appropriate amount of information has been collected to determine the size of the surf clam beds on Georges Bank. The intended effect is to stop fishing efforts to collect information under the program on the Georges Bank Area, off the coast of New England.

EFFECTIVE DATE: This notice is effective at 0001 hours Eastern Daylight Time October 7, 1984.

FOR FURTHER INFORMATION CONTACT: Salvatore A. Testaverde (Acting Surf Clam Management Coordinator), 617-281-3600, Extension 273.

SUPPLEMENTARY INFORMATION: On August 2, 1984 (49 FR 30946) an emergency interim rule was issued establishing a program whereby the Regional Director, Northeast Region, temporarily could exempt from management measures certain authorized fishing activities for surf clams. The purpose of the research program was to authorize an intensive and short-term survey of the extent and probable yield of surf clam beds on Georges Bank, off the coast of New England.

The information collected by commerical surf clam vessels participating in the research program, and supplementary information collected by NMFS research vessels, estimated that a total of 400,000 bushels could be taken from the Georges Bank Area during 1984. As of October 6, 1984, Georges Bank Area catch data shows that approximately 400,000 bushels have been taken. No further information from fishing vessel operators is needed to determine the exent and probable yield of the surf clam beds on Georges Bank. Therefore, the research program is terminated and the research area is dissolved.

Any additional harvest of surf clams from the Georges Bank Area will be

counted against the New England Area 1984 quota of 200,000 bushels (49 FR 27156).

Other Matters

This action is taken under the authority of 50 CFR Part 652, and is taken in compliance with Executive Order 12291.

(16 U.S.C. 1801 *et seq.*)

List of Subjects in 50 CFR Part 652

Fisheries, Fishing.

Dated: October 3, 1984.

Joseph W. Angelovic,

Deputy Assistant Administrator for Science and Technology, National Marine Fisheries Service.

[FR Doc. 84-26596 Filed 10-3-84; 3:58 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 49, No. 196
Tuesday, October 9, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 319 and 327

[Docket No. 83-005P]

Control of Added Substances and Labeling Requirements for Imported Cured Pork Products

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal would amend the Federal meat inspection regulations by establishing monitoring and retention procedures for imported cured port products at the ports of entry and within the United States. These procedures would assure that imported cured port products adhere to the same standards as do domestic cured pork products as set forth in sections 319.104 and 319.105 of the Federal meat inspection regulations (9 CFR 319.104; and 319.105). Under a regulation published April 13, 1984 (49 FR 14856), the standards for domestic cured pork products are based on a mimimum meat protein content determined on a fat free basis (PFF) in the various finished cured pork products. The procedures are proposed to assure that imported cured pork products meet PFF standards at least equal to those for domestic products.

DATE: Comments must be received on or before December 10, 1984.

ADDRESS: Written comments to: Regulations Office, Attn: Annie Johnson, FSIS Hearing Clerk, Room 2637, South Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250. (See also "Comments" under "Supplementary Information.")

FOR FURTHER INFORMATION CONTACT: W. J. Havlik, Assistant Director, Foreign Programs Division, International Programs, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-6933.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Administrator, Food Safety and Inspection Service, has made an initial determination that this proposed rule is not a major rule under Executive Order 12291. It will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Under the proposal, the domestic meat processing industry would have assurance of protection against unfair competition by noncompliant imported products. Consumers would benefit from assurance that imported cured pork products are cccurately labeled and in compliance with the Department's standards for those products, domestic or imported. The proposal would allow the same range of imported products to be marketed as permitted for domestically prepared products.

Effect on Small Entities

The Administrator, Food Safety and Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entites, as defined by the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601). The proposed rule would have an impact on those foreign plants certified as eligible to export cured pork products to the United States. The Department keeps a list of these plants and, at present, there are 81 such foreign companies. Two of them are small businesses (defined as businesses that have less than 3 million pounds of product inspected per year). There is a potential adverse effect on businesses in the United States which are primarily brokers of imported cured pork products if (1) the major portion of the products handled originated from one foreign plant, and (2) such products from that plant were placed in retention as defined by the proposal. This proposal would not, however, have any adverse effect on meat processors in the United States.

Comments

Interested persons are invited to submit comments concerning this proposal. Written comments must be sent in duplicate to the Regulations Office and comments should reference the docket number located in the heading of this document. All comments submitted pursuant to this proposal will be made available for public inspection in the Regulations Office between 9:00 a.m. and 4:00 p.m., Monday through Friday.

Background

The Department recently published amendments to its Federal meat inspection regulations which established standards for a minimum meat protein determined on a fat free basis (PFF) in cured pork products such as cured hams, pork shoulder picnics, pork shoulder butts, pork loins, ham patties, and chopped, pressed, and spiced ham; established labeling requirements for such products; permitted a broader range of cured pork products to be marketed; and prescribed procedures for determining compliance with these requirements.[1]

This proposal would prescribe procedures for monitoring at the ports of entry and in the United States the compliance of imported cured pork products with the PFF standards in §§ 319.104 and 319.105 of the Federal meat inspection regulations (9 CFR 319.104 and 319.105) found at 49 FR 14856. Those PFF standards and labeling requirements are as follows:

Type of cured pork product	(Standards) minimum meat PFF percentage	(Labeling requirements) product name and qualifying statements
Cooked ham, loin	20.5	(Common and usual)
Do	18.5	(Common and usual) with natural juices.
Do	17.0	(Common and usual) water added.
Do	< 17.0	(Common and usual) and water product-X percent of weight is added ingredients.
Cooked shoulder, butt, picnic	20.0	(Common and usual).
Do	18.0	(Common and usual) with natural juices.
Do	16.5	(Common and usual) water added.

[1] A copy may be obtained from Mr. Bill F. Dennis, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Argiculture, Washington, D.C. 20250.

Type of cured pork product	[Standards] minimum meat PFF percentage	[Labeling requirements] product name and qualifying statements
Do	<16.5	(Common and usual) and water product-X percent of weight is added ingredients.
Uncooked cured ham, loin.	18.0	Uncooked (common and usual).
Do	<18.0	Uncooked (common and usual) and water product-X percent of weight is added ingredients.
Uncooked cured shoulder butt, picnic.	17.5	Uncooked (common and usual).
Do	<17.5	Uncooked (common and usual) and water product-X of weight is added ingredients.
"Ham Patties," "Chopped Ham," "Pressed Ham," and "Spiced Ham".	19.5	(Common and usual).
Do	17.5	(Common and usual) with natural juices.
Do	16.0	(Common and usual) water added.
Do	<16.0	(Common and usual) water product-X percent of weight is added ingredients.

In addition to these standards, the Department set forth specific compliance procedures at § 318.19 of the Federal meat inspection regulations (9 CFR 318.19) for cured pork products which are prepared in federally inspected establishments within the United States.

Although these standards set forth in §§ 319.104 and 319.105 apply to cured pork products prepared domestically or in foreign establishments, the actual compliance procedures used by foreign governments which assure that the cured pork products comply with the standards may be different than the compliance procedures set forth in section 318.19 of the Federal meat inspection regulations (9 CFR 318.19) for cured pork products produced in the United States in federally inspected establishments. However, the system chosen by the foreign country must be at least equal to the compliance procedures used in the United States, as set forth in § 318.19 of the Federal meat inspection regulations.

Part 327 of the Federal meat inspection regulations (9 CFR Part 327) sets forth the Department's requirements for assuring that imported products are processed under inspection and other requirements at least equal to those applicable to domestic establishments in the United States.

Under those regulations, each foreign meat inspection system is subject to review and evaluation by the Department for all inspection and other requirements of the Act and regulations thereunder applicable to domestic establishments in the United States. There are several facets to such review and evaluation. First, the foreign government's laws and regulations and organizational structure are compared to those of the United States. If the country's products are processed under inspection and other requirements at least equal to those applicable to domestic establishments in the United States, the country is informed of this determination, and an evaluation is then made of the country's system for administering and enforcing it laws and regulations. Following a determination that the system of administration and enforcement is also sufficient, including adequate personnel with recognized expertise, individual establishments within that foreign country are certified by the country as eligible to export products to the United States.

Determination of country eligibility and certification of establishments is followed by routine oversight by the Department to assure that the system is, in fact, operating acceptably. Regular oversight includes assessment of all those facets of a meat production and processing system which might result in adulterated or misbranded products being imported into the United States. One technique for gathering information about inspection controls in a country is through the review of inspection in establishments certified for export to the United States.

Finally, all imported product is subjected to varying levels and types of reinspection at the ports of entry (POE) into the United States. This reinspection provides further assurance that, under the foreign country's system of inspection, products are produced which meet requirements at least equal to those applied to products produced by federally inspected establishments in the United States.

This proposal addresses precisely those procedures to be used at the POE, including the administrative actions to be taken when the Department discovers, at the POE or in the marketplace, that an imported cured pork product is adulterated or misbranded. It should be noted that this proposal focuses, with the exception of cured pork products which violate the Absolute Minimum PFF Requirement noted below, on checking the effectiveness of the foreign country's compliance system to assure that only unadulterated and accurately labeled cured pork products are exported to the United States.

In this proposal, the Department would monitor the foreign country's compliance system through a centrally administered sampling and evaluation program which would have a normal monitoring phase and a retention phase. Cured pork products imported from a foreign country will be examined under a normal monitoring procedure when the cured pork product is first imported into the United States. In this normal monitoring phase, FSIS inspectors will collect samples of cured pork product on a random basis from lots of cured pork products which are presented for importation at the POE. While the samples are being analyzed, the cured pork products will be released into commerce if the products are otherwise in compliance with the Act and the regulations thereunder.

Based upon the PFF sample results and calculations derived from the other criteria concerning the PFF samples, FSIS will determine what, if any, further actions FSIS will take regarding the matter.

Four measures (or criteria) will be used for checking a country's product are: The PFF Standardized Arithmetic Average for 100 Consecutive Lots; the PFF Weighted Average (based on pounds of product in the lot) for 100 Consecutive Lots; the PFF Standardized Arithmetic Average for 36 Consecutive Lots; and the PFF Weighted Average (based on pounds of product in the lot) for 36 Consecutive Lots. A fifth measure or criterion, the Absolute Minimum PFF Requirement, would also be used. This fifth measure is employed for a different reason, and will be discussed separately below.

The first measures are calculated in the following way. First, each sample (consisting of one sample unit unless otherwise specified) is analyzed for fat and meat protein content, and the PFF Percentage is calculated using the formula:

$$\frac{\text{Percent of meat protein}}{\text{100—percent of fat}} \times 100 = \text{PFF}$$

Second, the standard minimum PFF value for the product being analyzed is subtracted from the sample PFF value. The resulting number is the PFF Difference for that sample which enables it to be compared to other

samples in that product group. Third, the PFF Difference is then divided by the standard deviation allowed for that product group. The resulting number is the PFF Standardized Difference, which allows that Standardized Difference for that sample to be compared to all other Standardized Differences for cured pork products prepared in that country. Fourth, the PFF Standardized Differences for all cured pork product are then averaged in groups of 36 and 100 for the Standardized Arithmetic Averages. Fifth, in order to determine the Weighted Averages, each PFF Standardized Difference is multiplied by the pounds of product in the lot that it represents, and the results are added and then divided by the total number of pounds in all the lots represented in that Weighted Average.

FSIS will use four PFF Standardized Averages, as safeguards against manipulation of import inspection by changing lot sizes: the PFF Standardized Arithmetic Average for 100 Consecutive Lots, the PFF Standardized Arithmetic Average for 36 Lots, Weighted Averages and Unweighted Averages.

The PFF Standardized Arithmetic Average for 100 Consecutive Lots is an effective measure of the long-term process controls in a foreign country. However, the PFF Standardized Arithmetic Average for 100 lots is not sufficient to detect violations in a few lots of cured pork product. Therefore, the PFF Standardized Arithmetic Average for 36 consecutive lots will be used. With respect to the selection of 100 lots, it was necessary to select a number sufficiently large so that sampling error is reduced to the point where it is inconsequential. For example, 150 lots could have been used as well; however, the Department is proposing the 100 lot average as adequate for this purpose. More lots than 36 could have been used, for 36 lot averages, but 36 were considered to be an adequate number without being burdensome.

Weighted averages, as well as unweighted averages, are used for both the 100 and the 36 consecutive lot averages. If unweighted averages were the ony measures used, all lots would influence equally the country's status regardless of the size of the lots. If a country were to concentrate its inspection forces in smaller plants, the smaller lots if produced in large enough numbers would tend to keep the lot average of cured pork products high enough so that it would be satisfactory. The weighted averages, which would afford more emphasis to larger lots depending on the poundage, would counter that tendency.

On the other hand, if only weighted averages of lots were used, a country could control the few large establishments and practically ignore small, possibly remote, establishments whose sample results would be negligible. The arithemetic average counter that tendency. Thus, because the United States requires all lots of product to be in compliance, the Department is proposing to use both weighted and unweighted averages.

As stated above, a country's product would be evaluated under the normal monitoring procedure when the product is first imported into this country. To facilitate the start-up of this system, the actual implementation would be preceded by a 60-day data collection period. Following the effective date of the program, any additional spaces in the 36 or 100 lot averages would be supplied as zero. For the weighted averages, the poundage would consist of the average observed in the 60 day period. If no lots have been observed, recent historical data would be used for developing weighted averages.

Once the program is in full operation, if any of the country's four PFF Standardized Averages fall below the respective required minimum, the Department would notify appropriate officials of that country and place the country under retention procedures. Any subsequent lot of cured pork product from the country would be held at the POE and samples would be taken and analyzed. A sample from a lot under retention would consist of five individual units (containers, cans, logs). The lot would be released into U.S. commerce if the analytical results showed the average PFF of the sample equalled or exceeded the minimum PFF requirement for the cured pork product as set forth in sections 319.104 and 319.105 of the Federal meat inspection regulations; Provided, that no individual result was as low as the Absolute Minimum PFF Requirement. Otherwise, the lot would be relabeled to conform with the section 319.104 or 319.105 of the regulations, or reexported, or destroyed, pursuant to the Act. This procedure of retaining and sampling every lot for compliance would continue for the country until the four PFF Standardized Averages had all reached specified levels. The level is different for the 36 lot average and for the 100 lot average, as explained below.

Because the Department does not want the chance of incorrectly placing a country under retention procedures to exceed 5 percent, the action level for 36 lot average is dictated by the point above which 95 percent of the Normal distribution lies. This point can be mathematically derived for the Arithmetic Average at −0.28. It value depends on the production volume for the Weighed Average. Until the 36 sample average reaches this point, there would be no indication that violative product has been imported. Once that point was reached, however, the low values would be interpreted as evidence that a violation has occurred. The country would thus be required to remain under retention procedures until the 36 sample average reached the upper 5 percent of the Normal distribution, or a value of +0.28 for the Arithmetic Average. This value is also a function of the production volume for the Weighted Average. A similar pair of numbers could be used for the 100 sample test. However, this test uses sufficient samples for the sample average to reflect the process average closely enough. Therefore, the value of zero is used as both the action level and the level for return to normal monitoring procedures in the 100 sample test.

The fifth calculation or criterion which will be utilized is the Absolute Minimum PFF Requirement. This criterion would establish, for evey cured pork product with a PFF standard, an Absolute Minimum PFF Requirement, which is the same as those established for cured pork products prepared by meat processors in the United States. (See 9 CFR 318.19; 49 FR 14856). Should a single sample fail to meet this minimum, the represented lot would be U.S. retained if still at the inspection point. If elsewhere, it would be subject to administrative detention and other actions pursuant to the Act. Retention procedures would be instituted on future shipments of cured pork products from that foreign establishment.

The Department's intent to fully apply statistical procedures to improve its utilization of resources is responsible for product grouping, a salient feature of the proposed program. Substantial cross-utilization of data is possible when such data are generated from products upon which similar processing techniques are employed. Similarities in processing permit the establishment of four groups. The four cured pork product groups woudl be:

Group I, consisting of cured pork products which have been cooked while imperviously encased. Any product which fits into the Group shall be placed in this Group regardless of any other considerations.

Group II, consisting of cured pork products which have been water

cooked. Any product which does not fit into Group I but does fit into Group II will be placed into Group II regardless of any other considerations.

Group III, consisting of boneless, smokehouse heated cured pork products. Any boneless product that does not fit into Group I or Group II shall be placed in Group III.

Group IV, consisting of bone-in or semi-boneless smokehouse heated cured pork products. Any product that is not completely boneless or still contains all the bone which is traditional for bone-in product, and does not fit into Group I, Group II, or Group III shall be placed in this Group.

The Absolute Minimum PFF Requirement for a single sample of a Group I or II product is 2.3 percentage points below the applicable minimum requirement of § 319.104 or § 319.105, and for a Group III or Group IV product is 2.7 percentage points below that requirement. These figures are conservative estimates of the maximum range for any cured pork product in a lot that is in compliance with the standard.

The Department has in the past and will in the future conduct inspection, sampling and laboratory analysis of meat and meat food products found at various points in commerce, including the point of consumer purchase. With respect to cured pork products, it is expected that such inspection would include PFF determinations. In such cases, if Absolute Minimum PFF Requirements are not met, the product would be subject to United States retention if still at the inspection point, and if not to administrative detention and other actions pursuant to the Act. The Department would notify the country or origin, and would institute retention procedures on future shipments of product from the foreign establishment in question.

The establishment would remain in retention status and the importer, under the supervision of a program employee, would be required to collect five sample units for each lot, and the lot would be held under retention until the laboratory results are obtained. The sampling and subsequent analyses will be performed by the Department at no cost to the importer, except in cases where the importer chooses for convenience or expediency to have the analyses performed at the importer's expense in a laboratory accredited by the Department. If the average PFF of the five randomly selected samples is equal to or greater than the applicable PFF required, the lot would be released into commerce. If not, the lot may be relabeled under the supervision of a program employee, reexported, or destroyed, pursuant to the Act. The inspection time to supervise such relabeling outside the official establishment would be charged by FSIS to the importer.

The plant would be returned to normal monitoring procedures when: (1) The average PFFs of five samples each from 10 consecutive lots of product from that plant have been obtained and the average of the five samples from each of the 10 lots has been found equal to or greater than the required minimum PFF standard for that product; and (2) none of the sample units out of the 50 has been as low as the Absolute Minimum PFF. Once a plant has been placed on retention for violation of the Absolute Minimum PFF requirement, the samples collected while on retention will not count against that country's 36 and 100 lot averages. The violative sample itself, of course, will be part of those averages.

List of Subjects in 9 CFR Parts 319 and 327

Meat inspection, Food labeling, Imported products.

PARTS 319 AND 327—[AMENDED]

1. The authority citation for Parts 319 and 327 is revised to read as follows:

Authority: 34 Stat. 1260, 81 Stat. 584, as amended (21 U.S.C. 601 *et seq.*); 72 Stat. 862, 92 Stat. 1069, as amended (7 U.S.C. 1901 *et seq.*); 76 Stat. 663 (7 U.S.C. 450 *et seq.*).

2. Section 319.104(a) (See 49 FR 14879, dated April 13, 1984) would be amended by revising footnote 1 of the chart to read as follows:

§ 319.104 Cured Pork Products.

(a) * * *[1]

3. Part 327 (9 CFR Part 327) would be amended by adding a new § 327.23 to read as follows:

§ 327.23 Compliance procedure for imported cured pork products.

(a) *Definitions.* For the purposes of this section:

(1) A *Product* is that cured pork article which is contained within one Group as defined in paragraph (a)(2) of this section and which purports to meet the criteria for a single product designated under the heading "Product Name and Qualifying Statements" in the chart in § 319.104 or § 319.105 of this subchapter.

(2) A *Product Group* or a *Group* means one of the following:

(i) Group I, consisting of cured pork products which have been cooked while imperviously encased. Any product that fits into the Group shall be placed in this Group regardless of any other considerations.

(ii) Group II, consisting of cured pork products which have been water cooked. Any product that does not fit into Group I but does not fit into Group II shall be placed into Group II regardless of any other considerations.

(iii) Group III, consisting of boneless, smokehouse heated cured pork products. Any boneless product that does not fit into Group I or II shall be placed in Group III.

(iv) Group IV, consisting of bone-in or semi-boneless smokehouse heated cured pork products. Any product that is not completely boneless or still contains all the bone which is traditional for bone-in product and does not fit into Group I, II, or III shall be placed in this Group.

(3) *Protein Fat-Free Percentage, Protein Fat-Free Content, PFF Percentage, PFF Content or PFF* of a product means the meat protein (indigenous to the raw, unprocessed pork cut) content expressed as a percent of the non-fat portion of the finished product.

(4) A *PFF Standardized Difference* is the PFF of the sample minus the minimu PFF requirement, set forth in § 319.104 and § 319.105 of this subchapter, for the product being analyzed, divided by the Appropriate Standard Deviaion for the product group.

Sample PFF—Minimum PFF Requirement = PFF Standardized Difference Appropriate Standard Deviation

(5) The *Absolute Minimum PFF Requirement* is that no laboratory result on an individual sample for PFF content be below the applicable minimum requirement of § 319.104 or § 319.105 of this subchapter by 2.3 or more percentage points for a Group I or II product or 2.7 or more percentage points for a Group III or IV product.

(6) A *PFF Standarized Arithmetic Average of the Country's Products* is the arithmetic average of PFF Standardized Differences from either 36 or 100 consecutively sampled lots of product entering the United States from a given producing country.

(7) A *PFF Standardized Weighted Average of the Country's Products* is an estimate of the average of the PFF Standardized Differences from either 36 or 100 consecutively sampled lots, adjusted for the size of the lot, of different types of cured pork product entering the United States from a given

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[1] The minimum meat PFF percentage shall be the minimum meat protein which is indigenous to the raw unprocessed pork expressed as a percent of the non-fat portion of the finished product; and compliance shall be determined under § 318.19 of this subchapter for domestic cured pork product and § 327.23 of this subchapter for imported pork product.

producing country. A Standardized Weighted Average is computed by multiplying the PFF Standardized Difference calculated for each lot by the number of pounds of product in each lot, adding those results together, and dividing the sum by the total weight of product from all the lots making up the average.

(8) The *Appropriate Standard Deviation* is based on within lot variability. That assigned to Groups I and II = 0.75 percent PFF and that assigned to Groups III and IV = 0.91 percent PFF.

(9) A *Lot* is all product of one type from one establishment presented by an importer as the unit for inspection at the Port of Entry.

(b) *Normal Monitoring Procedures.* The Department shall collect sample(s) of cured pork product on a random basis from lots presented for importation at the Port of Entry and, after analyzing the sample for fat and indigenous protein content, calculate the PFF percentage. The product shall not be held pending laboratory results during the monitoring phase. The PFF percentage for each sample shall be considered along with the cumulative results of prior samples to assess the effectiveness of a country's overall compliance program and to determine the course of action for subsequent lots of product.

(1) Factors determining whether a country's inspection system is functioning adequately:

(i) The PFF percentage for each sample must not be below the minimum PFF requirement by 2.3 percentage points for cured pork products in Groups I and II or 2.7 percentage points for cured pork products in Groups III and IV.

(ii) Both of the PFF Standardized Averages, Arithmetic and Weighted, for the last 100 consecutive lots of all cured pork products from the country must be equal to or greater than zero. The count for the 100 consecutive lots starts with the lots arriving from that country after the publication of this rule.

(iii) Both of the PFF Standardized Averages, Arithmetic and Weighted, for the last 36 consecutive lots of all cured pork products from the country must be above the lowest 5 percent of the Normal distribution. This minimum value is minus 0.28 (−0.28) for the Arithmetic Average and depends on the production volume for the Weighted Average.

(2) Actions when calculations indicate that processing procedures in a country are out-of-compliance:

(i) If the PFF level of a sample taken during normal monitoring procedures is found to be as low as the Absolute Minimum PFF Requirement, the country of origin shall be notified; the lot involved shall be retained if still available in an official establishment or subject to detention or other actions pursuant to the Act; and all subsequently presented lots of that cured pork product from the *same foreign establishment* shall be held under retention until the provisions of paragraph (c) of this section are satisfied.

(ii) If either of the PFF Standardized Averages, Arithmetic or Weighted, for the last 100 consecutive lots falls below zero or either of the PFF Standardized Averages for the last 36 consecutive lots falls below the upper 95 percent of the Normal distribution, all available cured pork product from the foreign country shall be subject to administrative retention and all subsequently presented lot of cured pork product from the foreign country shall be held under retention until the provisions of paragraph (c) are satisfied. The country of origin shall be notified, and shall be subject to other actions pursuant to the Act.

(c) *Retention.* When lots of cured pork product are under retention they shall be refused entry and reexported in accordance with § 327.13 of this subchapter unless they can be released in accordance with the provisions of paragraph (c)(1) of this section, establishments may be returned to normal monitorning procedures in accordance with paragraph (c)(2) of this section, and countries may be returned to normal monitoring procedures in accordance with paragraph (c)(3) of this section.

(1) If a lot is subject to retention procedures under this section, the importer, under the supervision of a program employee, shall collect five randomly selected sample units specified by the Department and determine the PFF of each sample unit. The lot may be released into commerce if:

(i) the average PFF percentage of the five randomly selected sample units is equal to or greater than the applicable minimum PFF percentage required by § 319.104 or § 319.105 of this subchapter, or

(ii) the product is relabeled under the supervision of a program employee so that it conforms to the provisions of § 319.104 or § 319.105 of this subchapter.

(2) If product from a foreign establishment is subject to retention procedures under this section, the foreign establishment may be returned to normal monitoring procedures when:

(i) Ten consecutively presented lots of cured pork product from that establishment have been sampled as provided in paragraph (c)(1) of this section and the average of each set of five sample units representing each lot have been found to be equal to or greater than the required minimum PFF percentage; and

(ii) The PFF percentage of each sample unit (50 in all) is above the Absolute Minimum PFF Percentage.

(3) If a country is subject to retention procedures under this section, the country shall be returned to normal monitoring procedures when:

(i) Twenty-five consecutively presented lots of cured pork product have been sampled as required in paragraph (c)(1) of this section and the average of each set of five sample units representing each lot have been found to be equal to or greater than the required minimum PFF percentage; and

(ii) The PFF percentage of each sample unit (125 in all) is above the Absolute Minimum PFF Percentage; and

(iii) Both of the PFF Standardized Averages for 36 consecutive lots are in the required percentage of the Normal distribution; and

(iv) Both of the PFF Standardized Averages for 100 consecutive lots are zero or higher.

(d) *Adulterated and Misbranded Products.* Products not meeting specified PFF requirements, determined according to procedures set forth in this section, may be deemed adulterated under section 1(m)(8) of the Act (21 U.S.C. 601(m)(8) and misbranded under section 1(n) of the Act (21 U.S.C. 601(n)).

(e) Activities requiring additional inspectional supervision such as relabeling, shall be at the importer's expense. In addition if the importer wishes he may have samples analyzed at an accredited laboratory at his own expense.

Done at Washington, DC, on September 24, 1984.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 84-26616 Filed 10-5-84; 8:45 am]

BILLING CODE 3410-DM-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 84-CE-28-AD]

Airworthiness Directives; Gulfstream Aerospace Models 112, 112B, 112TC, 112TCA, 114, and 114A Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This Notice proposes to adopt a new Airworthiness Directive (AD), applicable to Gulfstream Aerospace Corporation Models 112 and 114 Series airplanes. This AD would supersede existing AD 77-16-09 and require modification of the front seat base structure and relocation of the shoulder strap anchor. Failure of the front seat rollers and release of the seats has occurred during some accident impacts. This increases the possibility of serious injury or fatality during otherwise survivable accidents. The modification will improve retention of the seat on the track and occupant restraint during an accident.

DATE: Comments must be received on or before November 27, 1984.

ADDRESSES: Gulfstream Aerospace Service Bulletins No. SB-112-70 and SB-114-21 both dated September 7, 1984, applicable to this AD may be obtained from Gulfstream Aerospace Corporation, Wiley Post Airport, Post Office Box 22500, Oklahoma City, Oklahoma 73123 or the Rules Docket at the address below.

Send comments on the proposal in duplicate to Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 84-CE-28-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Tom Dragset, Airplane Certification Branch, ASW-150, FAA, Southwest Region, Post Ofice Box 1689, Fort Worth, Texas 76101; Telephone (817) 817-2075.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. Comments are specifically invited on the overall regulatory, economic, environmental and energy aspects of the proposed rule. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 84-CD-28-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64016.

Discussion

To improve front seat retention during hard landings or minor crash impacts Rockwell International General Aviation Division (the former Type Certificate holder) redesigned the front seat bases and incorporated the new design in seats installed in subsequently produced Models 112, 112TC and 114 airplanes. It also made available in Rockwell Service Bulletins No. 112-45A and No. 114-6A both dated April 7, 1977, instructions and parts for incorporation of equivalent improvements on already produced airplanes of these models. The FAA made compliance with these service bulletins on in-service airplanes mandatory by AD 77-16-09, Amendment 39-3004 (42 FR 41105).

Since the issuance of AD 77-16-09 the manufacturer and FAA determined that on airplanes modified per this AD and subsequently type certificated Models 112B, 112TCA and 114A airplanes the retention of front seats during impact conditions should be improved to increase passenger safety during crashes or emergency landings. Investigation of four accidents revealed that in some cases the seat attachment rollers failed and released the seat which allowed the occupants to impact the instrument panel. It is possible that unexpected deflections were occurring during impact which, in effect, increased the load applied to the seat rollers by spreading the fuselage, increasing the bending moment on the rollers and causing sufficient deformation to release the seat from the seat track. To reduce the possibility of this occurrence, Gulfstream Aerospace Corporation (the present Type Certificate holder) has developed modifications to strengthen the seat base structure in the mounting area and relocate the shoulder harness anchor from the seat to the airplane cabin roof. These modifications will improve seat retention to the airplane cabin floor structure and transfer some passenger restraint loads developed during impact from the seat to the airplane cabin structure. The FAA believes these modifications will improve the probability of front seat passenger survival during some accidents. Gulfstream Aerospace has made parts and instructions for accomplishing the above modifications available in Service Bulletins No. 112-70 applicable to Model 112 Series airplanes and No. 114-21 applicable to the Model 114 Series airplanes, both dated September 7, 1984.

Since the condition described herein is likely to exist or develop in other Gulfstream Aerospace Models 112, 112B, 112TC, 112TCA, 114, and 114A airplanes of the same design, the AD would supersede AD 77-16-09 and require modification of the front seats and relocation of the shoulder harness attachment to the airplane structure in accordance with Gulfstream Aerospace Corporation Service Bulletins No. 112-70 or 114-21 as applicable.

The FAA has determined there are approximately 1,390 airplanes affected by the proposed AD. The cost of modifying the front seats and relocating the shoulder harness anchor in accordance with the proposed AD is estimated to be $1,495 per airplane. The total cost is estimated to be $2,078,050 to the private sector. It would be necesary for a small entity to own more than two of the affected airplanes to incur a significant cost of compliance with this proposal and few if any small entities affected by the proposal will own more than one of the affected airplanes.

Therefore, I certify that this action (1) is not a major rule under the provisions of Executive Order 12291, (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and (3) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation has been prepared for this action and has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES**".

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new AD:

Gulfstream Aerospace (Rockwell): Applies to Models 112 and 112B, (S/Ns 3 through 344 and 13000); Models 112TC and 112TCA (S/Ns 13001 through 13309); and Models 114 and 114A (S/Ns 14000 through 14540) airplanes certificated in any category.

Compliance: Required within 100 hours time-in-service after the effective date of this AD, unless already accomplished.

To improve seat retention and passenger restraint during crash landing or accident impact, accomplish the following:

(a) Modify the front seat base and relocate the front seat shoulder harness anchor in accordance with Gulfstream Aerospace Service Bulletins No. 112–70 or No. 114–21 both dated September 7, 1984, as applicable.

(b) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(c) An equivalent method of compliance with this AD may be used if approved by the Manager, Airplane Certification Branch, ASW–150, FAA Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas 76101; Telephone (817) 877–2074.

This AD supersedes Ad 77–16–09, Amendment 39–3004.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and § 11.85 of the Federal Aviation Regulations (14 CFR 11.85))

Issued in Kansas City, Missouri, on September 27, 1984.

Murray E. Smith,

Director, Central Region.

[FR Doc. 84–26553 Filed 10–5–84; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[LR–280–82]

Modification of Interest Payments for Certain Periods; Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the accrual of interest on overpayments and underpayments of tax. Changes to the applicable tax law were made by the Tax Equity and Fiscal Responsibility Act of 1982 and the Tax Reform Act of 1984. The proposed regulations provide guidance to taxpayers in determining when interest accrues on underpayments and overpayments of tax.

DATE: Written comments and requests for a public hearing must be delivered by December 10, 1984. Except as otherwise provided, the regulations are proposed to apply to returns filed, and interest accrued, after October 3, 1982, and are proposed to be effective on October 4, 1982.

ADDRESS: Send comments and request for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR–280–82), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Howard A. Balikov of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202–566–3288), not a toll-free call.

SUPPLEMENTARY INFORMATION: .

Background

This document contains proposed amendments to the Regulations on Procedure and Administration (26 CFR Part 301) under sections 6601 and 6611 of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 346 of the Tax Equity and Fiscal Responsibility Act of 1982 (96 Stat. 636) and section 714 (n) of the Tax Reform Act of 1984 (98 Stat. 963) and are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

In General

The proposed regulations provide rules with respect to the period during which interest accrues on underpayments and overpayments of tax under section 6601 and 6611. These rules will not affect the determination of when the statute of limitations begins to run. In general, taxpayers must pay interest at a rate established under section 6621 on any amount of unpaid tax during the period of time specified in section 6601(a). Section 6601(d) establishes the period during which interest accrues on an underpayment of tax that is reduced by a carryback of a subsequent net operating loss, net capital loss, or certain credits. Taxpayers are entitled to interest at a rate established under section 6621 on overpayments of tax for the period of time specified in section 6611.

Prior Law

Under prior section 6601(d), the carryback of a net operating loss, net capital loss or certain credits to a year in which there was an underpayment of income tax reduced the underpayment, for purposes of computing interest on the underpayment, at the end of the taxable year in which the carryback arose.

Under prior section 6611, if an overpayment of tax was credited against other tax liability of the taxpayer, interest was generally allowed from the date of the overpayment (the date of payment of the first amount which, when added to previous payments, is in excess of the tax liability) to the due date of the amount against which the credit was taken. If an overpayment of tax was refunded to the taxpayer, interest was generally allowed from the date of the overpayment to a date preceding the date of the refund check by not more than 30 days. If, however, an overpayment of income tax was refunded within 45 days after the due date (determined without any extension of time) for filing a return (or, in the case of a return filed after the last date prescribed for filing, within 45 days after the return is filed), no interest was allowed on the payment. Furthermore, prior section 6611(f) stated that if a carryback of a net operating loss, net capital loss, or certain credits, caused an overpayment of income tax, the overpayment arose at the close of the taxable year in which the loss or credit arose.

TEFRA Amendments

The Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) amended section 6601(d) and section 6611. Section 6601(d), as amended, provides that the carryback of the loss or credit does not reduce the underpayment until the due date (without extensions) of the return for the taxable year in which the loss or credit arose.

Under section 6611(b)(3), as amended, if a return is filed after the due date (including extensions), no interest accrues on a credit or refund of an overpayment of tax until the return is filed. The return will not be treated as filed until it is filed in processible form. In addition, a return will not be treated as filed under section 6611(e), for the purpose of determining whether a refund has been made within 45 days after filing, until a return is filed in processible form. See section 6611(i). A return is filed in processible form if the return is filed on a permitted form and

the return contains the taxpayer's name, address, and identification number, the required signature, and sufficient information to permit the mathematical verification of the tax liability shown on the return. The proposed regulations provide examples of what constitutes a return filed in processible form.

Section 6611(f), as amended by TEFRA, provides that the interest period for refunds of overpayments of income tax caused by a carryback of a net operating loss, net capital loss, or certain credits begins as of the due date (without extensions) of the return for the taxable year in which the loss or credit arises. Section 6611(f) further provides that the 45-day interest-free refund period of section 6611(e) is applied to refunds of overpayments resulting from a loss of credit carryback by treating the overpayment of tax as having occurred in the loss year and treating the return for the loss year as not being filed until the "claim" for the overpayment is filed. As a result, no interest is allowed on an overpayment resulting from a loss of credit carryback if the overpayment is refunded within 45-days of the later of the filing date for the loss year, or the date the claim is filed. Section 6611(f)(3)(B)(i)(II) in essence treats the claim as the return for purposes of the 45-day interest-free refund period under section 6611(c). The processible-form requirements of section 6611(i), therefore, apply to the claim for overpayment. Both the claim and the return must be in processible form. In addition, the proposed regulations treat a claim for a tentative carryback adjustment as a "claim" for purposes of section 6611(f)(3)(B)(i).

Section 6611(f)(3)(C), as amended by the Tax Reform Act of 1984, provides that if an application for a tentative carryback adjustment is filed after a claim for refund, the claim is treated as if it were filed on the date the application for a tentative carryback adjustment was filed. The effective date for the change made by the Tax Reform Act of 1984 is the same as the effective date for the changes made by TEFRA.

This regulation provides examples illustrating the determination of the interest period for: (1) Interest accruing before and after October 3, 1982; and (2) returns and claims for refund filed before and after October 3, 1982.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably eight copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**.

The collection of information requirements contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act. Comments on these requirements should be sent to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for Internal Revenue Service, New Executive Office Building, Washington, D.C. 20503. The Internal Revenue Service requests that persons submitting comments on these requirements to OMB also send copies of these comments to the Service.

Special Analysis

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291. Accordingly, a Regulatory Impact Analysis is not required. The Internal Revenue Service has concluded that although this document is a notice of proposed rulemaking that solicits public comment, the regulations proposed herein are interpretative and the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, no Regulatory Flexibility Analysis is required for this rule.

Drafting Information

The principal author of these regulations is Howard A. Balikov of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects in 26 CFR Part 301

Administrative practice and procedure, Bankruptcy, Courts, Crime, Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Investigations, Law enforcement, Penalties, Pensions, Statistics, Taxes, Disclosure of information, Filing requirements.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 301 are as follows:

PART 301—AMENDED

Paragraph 1. Section 301.6601–1 is amended as follows:

1. Paragraph (d) is revised to read as set forth below.

2. Paragraphs (e)(1) and (e)(3) are revised to read as set forth below.

3. New Paragraphs (e)(4) and (e)(5) are added as set forth below.

§ 301.6601–1 Interest on underpayments.

* * * * *

(d) *Suspension of interest; waiver of restrictions on assessment.* In the case of a deficiency determined by a district director (or an assistant regional commissioner, appellate) with respect to any income, estate, gift tax, or excise tax imposed by chapters 41, 42, 43, 44, and 45, if the taxpayer files with such internal revenue officer an agreement waiving th restrictions on assessment of such deficiency, and if notice and demand for payment of such deficiency is not made within 30 days after the filing of such waiver, no interest shall be imposed on the deficiency for the period beginning immediately after such 30th day and ending on the date notice and demand is made. In the case of an agreement with respect to a protion of the deficiency, the rules as set forth in this paragraph are applicable only to that portion of the deficiency to which the agreement relates.

(e) *Income tax reduced by a carryback.* (1)(i) The carryback of a net operating loss, net capital loss, or a credit carryback as defined by § 301.6611–1 (f)(1) shall not affect the computation of interest on any income tax for the period commencing with the last day prescribed for the payment of such tax and ending with the filing date, as defined in paragraph (e)(4) of this section, for the taxable year in which the loss or credit arises. For example, if the carryback of a net operating loss, a net capital loss, or a credit carryback to a prior taxable period eliminates or reduces a deficiency in income tex for that period, the full amount of the deficiency will bear interest at the annual rate established under section 6621 from the last date prescribed for payment of such tax until the filing date for the taxable year in which the loss or credit arose. Interest will continue to run beyond such filing date on any portion of the deficiency which is not eliminated by the carryback. With respect to any portion of a credit carryback from a taxable year attributable to a net operating loss carryback, a capital loss carryback or other credit carryback from a subsequent taxable year, such credit carryback shall not affect the

computation of interest on any income tax for the period commencing with the last day prescribed for the payment of such tax and ending with the filing date for such subsequent taxable year.

(ii) The provisions of paragraph (e)(1)(i) of this section are illustrated by the following examples.

Example (1). Corporation L is a calendar year taxpayer. For taxable years 1980 and 1981, L reported no income tax liability. For 1982, L has an underpayment of income tax of $500. In 1983, L has a net operating loss which L carries back to 1982, reducing the underpayment to $200. For purposes of computing the interest on the underpayment of income tax for 1982, interest will accrue on the $500 beginning on March 15, 1983. Beginning on March 16, 1984, interest on the 1982 income tax underpayment will accrue on only $200.

Example (2). Corporation R is a calendar year taxpayer. For taxable years 1980, 1981 and 1982, R reported no income tax liability. For 1983, R had a net operating loss which could not be carried forward to 1984 because R had reported no income tax liability for 1984. As an result of a audit conducted on R in 1985, a $500 deficiency is assessed on R for taxable year 1982. R applied the 1983 operating loss to the $500 assessed deficiency, thus reducing the deficiency to $200. Interest begins accruing on the $500 deficiency on March 15, 1983. Beginning on March 16, 1984, interest on the 1982 deficiency will accrue on only $200.

* * * * *

(3) Where there has been an allowance of an overpayment attributable to a net operating loss carryback, a capital loss carryback or a credit carryback as defined by § 301.6611-1(f)(1) and all or part of such allowance is later determined to be excessive, interest shall be computed on the excessive amount from the filing date for the year in which the net operating loss, net capital loss, or credit arose until the date on which the repayment of such excessive amount is received. Where there has been an allowance of an overpayment with respect to any portion of a credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year and all or part of such allowance is later determined to be excessive, interest shall be computed on the excessive amount from the filing date for such subsequent taxable year until the date on which the repayment of such excessive amount is received.

(4) For purposes of paragraph (e) of this section, the term "filing date" means the last day fixed by law or regulation for filing the return of income tax for the taxable year (determined without regard to any extension of time).

(5) Section 301.6601-1(e) (1), (3) and (4) apply to interest accruing after October 3, 1982. See 26 CFR 301.6601-1(e) (revised as of April 1, 1982) for rules applicable to interest accruing before October 4, 1982.

Par. 2. Section 301.6611-1 is revised to read as follows:

§ 301.6611-1 Interest on overpayments.

(a) *General rule.* Except as otherwise provided, interest shall be allowed on any overpayment of any tax at the annual rate established under section 6621 from the date of overpayment of the tax.

(b) *Date of overpayment.* (1) *In general.* Except as provided in section 6401(a), relating to assessment and collection after the expiration of the applicable period of limitation, there can be no overpayment of tax until the entire tax liability has been satisfied. Therefore, the dates of overpayment of any tax are the date of payment of the first amount which (when added to previous payments) is in excess of the tax liability (including any interest, addition to the tax, or additional amount) and the dates of payment of all amounts subsequently paid with respect to such tax liability. For rules relating to the determination of the date of payment in the case of an advance payment of tax, a payment of estimated tax, and a credit for income tax withholding, see paragraph (d) of this section.

(2) *Period for which interest is allowable in the case of credits of overpayment*—(i) *General rule.* IKf an overpayment of tax is credited, interest shall be allowed from the date of overpayment to the due date (as determined under paragraph (b)(2)(ii) of this section) of the amount against which such overpayment is credited. See paragraph (b)(4) of this section for late returns.

(ii) *Determination of due date.* (A) *In general.* The term "due date", as used in this section, means the last day fixed by law or regulations for the payment of the tax (determined without regard to any extension of time), and not the date on which the district director or the director of the regional service center makes demand for the payment of the tax. Therefore, the due date of a tax is the date fixed for the payment of the tax or the several installments thereof.

(B) *Tax payable in installments.* (*1*) *In general.* In the case of a credit against a tax, where the taxpayer had properly elected to pay the tax in installments, the due date is the date prescribed for the payment of the installment against which the credit is applied.

(*2*) *Delinquent installment.* If the taxpayer is delinquent in payment of an installment of tax and a notice and demand has been issued for the payment of the delinquent installment and the remaining installments, the due date of each remaining installment shall then be the date of such notice and demand.

(C) *Tax or installment not yet due.* If a taxpayer agrees to the crediting of an overpayment against tax or an installment of tax and the schedule of allowance is signed prior to the date on which such tax or installment would otherwise become due, then the due date of such tax or installment shall be the date on which such schedule is signed.

(D) *Assessed interest.* In the case of a credit against assessed interest, the due date is the date of the assessment of such interest.

(E) *Additional amount, addition to the tax, or assessable penalty.* In the case of a credit against an amount assessed as an additional amount, addition to the tax, or assessable penalty, the due date is the date of the assessment.

(F) *Estimated income tax for succeeding year.* If the taxpayer elects to have all or part of the overpayment shown by his return applied to his estimated tax for his succeeding taxable year, no interest shall be allowed on such portion of the overpayment credited and such amount shall be applied as a payment on account of the estimated tax for such year or the installments thereof.

(3) *Period for which interest is allowable in the case of refunds of overpayment.* If an overpayment of tax is refunded, interest shall be allowed from the date of the overpayment to a date determined by the district director or the director of the regional service center, which shall be not more than 30 days prior to the date of the refund check. The acceptance of a refund check shall not deprive the taxpayer of the right to make a claim for any additional overpayment and interest thereon, provided the claim is made within the applicable period of limitation. However, if a taxpayer does not accept a refund check, no additional interest on the amount of the overpayment included in such check shall be allowed. See paragraph (b)(4) of this section for late returns.

(4) *Late returns.* For the purpose of paragraphs (b)(2), (b)(3) and (f) of this section, if, after October 3, 1982, a return is filed after the last date prescribed for filing such return (including any extension of time for filing the return), no interest shall be allowed or paid for

any day before the date on which the return is filed. A return will not be treated as filed until it is filed in processible form. For rules relating to the processible form requirement, see paragraph (h)(1) of this section.

(c) *Examples.* The provisions of paragraph (b) of this section may be illustrated by the following examples:

Example (1). Corporation X files an income tax return on March 15, 1955, for the calendar year 1954 disclosing a tax liability of $1,000 and elects to pay the tax in installments. Subsequent to payment of the final installment, the correct tax liability is determined to be $900.

Tax liability	
Assessed	$1,000
Correct liability	900
Overassessment	100
Record of payments	
Mar. 15, 1955	500
June 15, 1955	500

Since the correct liability in this case is $900, the payment of $500 made on March 15, 1955, and $400 of the payment made on June 15, 1955, are applied in satisfaction of the tax liability. The balance of the payment made on June 15, 1955 ($100) constitutes the amount of the overpayment, and the date on which such payment was made would be the date of the overpayment from which interest would be computed.

Example (2). Corporation Y files an income tax return for the calendar year 1954 on March 15, 1955, disclosing a tax liability of $50,000, and elects to pay the tax in installments. On October 15, 1956, a deficiency in the amount of $10,000 is assessed and is paid in equal amounts on November 15 and November 26, 1956. On April 15, 1957, it is determined that the correct tax liability of the taxpayer for 1954 is only $35,000.

Tax liability	
Original assessment	$50,000
Deficiency assessment	10,000
Total assessed	60,000
Correct liability	35,000
Overassessment	25,000
Record of payments	
Mar. 15, 1955	25,000
June 15, 1955	25,000
Nov. 15, 1956	5,000
Nov. 26, 1956	5,000

Since the correct liability in this case is $35,000, the entire payment of $25,000 made on March 15, 1955, and $10,000 of the payment made on June 15, 1955,are applied in satisfaction of the tax liability. The balance of the payment made on June 15, 1955 ($15,000), plus the amounts paid on November 15 ($5,000), and November 26, 1956 ($5,000), constitute the amount of the overpayment. The dates of the overpayments from which interest would be computed are as follows:

Date	Amount of overpayment
June 15, 1955	$15,000
Nov. 15, 1956	5,000
Nov. 26, 1956	5,000

The amount of any interest paid with respect to the deficiency of $10,000 is also an overpayment.

Example (3). Corporation Z failed to file a timely income tax return for the calendar year 1982. Z filed the 1982 return on November 20, 1983, disclosing a tax liability of $50,000 which was paid in full on March 15,1983. on October 15, 1984, a deficiency in the amount of $10,000 is assessed and is paid on November 15, 1984. On April 15, 1985, it is determined that the correct tax liability of the taxpayer for 1982 is only $35,000.

Tax liability	
Original assessment	$50,000
Deficiency assessment	10,000
Total assessed	$60,000
Correct liability	35,000
Overassessment	$25,000
Record of payments	
March 15, 1983	$50,000
Nov. 15, 1984	10,000

Since the correct liability in this case is $35,000, only $35,000 of the $50,000 payment made on March 15, 1983 is applied in satisfaction of the tax liability. The balance of the payment made on March 15, 1983 (15,000), plus the amount paid on November 15, 1984 (10,000), constitute the amount of the overpayment. The dates of the overpayment from which interest would be computed are as follows:

Date	Amount of overpayment
Nov. 20, 1983	$15,000
Nov. 15, 1984	10,000

The amount of any interest paid with respect to the deficiency of $10,000 is also an overpayment.

(d) *Advance payment of tax, payment of estimated tax, and credit for income tax withholding.* In the case of an advance payment of tax, a payment of estimated income tax, or a credit for income tax withholding, the provisions of section 6513 (except the provisions of subsection (c) thereof), applicable in determining the date of payment of tax for purposes of the period of limitations on credit or refund, shall apply in determing the date of overpayment for purposes of computing interest thereon.

(e) *Refund of overpayment within 45 days after return is filed.* No interest shall be allowed on any overpayment of tax imposed by subtitle A of the Code if such overpayment is refunded-

(1) In the case of a return filed on or before the last date prescribed for filing the return of such tax (determined without regard to any extension of timer for filing such return), within 45 days after such last date, or

(2) After December 17, 1966, in the case of a return filed after the last day prescribed for filing the return, within 45 days after the date on which the return is filed.

For the purpose of this paragraph (e), a return filed after October 3, 1982, will not be considered filed until it is filed in processible form, (as determined under paragraph (h)(1) of this section).

(f) *Refund of income tax caused by carrybacks—(1)* In general. If any overpayment of tax imposed by subtitle A of the Code results from the carryback of a net operating loss, a net capital loss, or a credit carryback, such overpayment, for purposes of this section, shall be deemed not to have been made prior to the filing date for the taxable year in which the loss or credit arises, or, with respect to any portion of a credit carryback from a taxable year attributable to a net operating loss carryback, a capital loss carryback, or other credit carryback from a subsequent taxable year, such overpayment shall be deemed not to have been made prior to the filing date for such subsequent taxable year.

The term "credit carryback" means any investment credit carryback, work incentive program credit carryback, new employee credit carryback, research credit carryback, or employee stock ownership credit carryback. The term "filing date" means the last day fixed by law or regulation for filing the return of tax imposed by subtitle A for the taxable year (determined without regard to any extension of time).

(2) *Special rules for carrybacks*—(i) *In general.* An overpayment of tax described in paragraph (f) (1) of this section is treated as an overpayment for the loss year (as defined in paragraph (F)(2)(ii) of this section). In applying sections 6611(e) and 6611(f)(3)(B), and solely for purposes of those sections, the following rules apply:

(A) No interest is payable if the overpayment for the loss year is refunded within 45 days after the later of the filing of the claim for refund of the overpayment or the filing date of the return of tax imposed by subtitle A for that year. For this purpose, if an application for tentative carryback adjustment (an application under section 6411(a)) with respect to a particular overpayment is filed after the filing of a claim for refund for the overpayment, the claim for refund is

treated as filed on the date the application for tentative carryback adjustment is filed;

(B) A claim for refund of the overpayment will not be treated as filed unless it is filed in processible form (as described in paragraph (h)(1) of this section);'

(C) The term "claim" includes claim for credit or refund (*e.g.*, an amended tax return (the Form 1040X or Form 1120X for individuals or corporations, respectively)) and an application for a tentative carryback adjustment; and

(D) The filing date of the return of tax imposed by subtitle A may not be earlier than the last date prescribed for filing such return (determined without extensions).

(ii) *Loss year.* The term "loss year" means—

(A) In the case of a carryback of a net operating loss or net capital loss, the taxable year in which such loss arises;

(B) In the case of a credit carryback (as defined by paragraph (f)(1) of this section), the taxable year in which such credit carryback arises; and

(C) In the case of any portion of a credit carryback from a taxable year to which a net operating loss, a net capital loss, or any other credit carryback was carried from a subsequent taxable year, the subsequent taxable year.

(iii) *Cross references.* See section 6611(i) which treats the return of tax imposed by subtitle A for the loss year as not filed for purposes of section 6611(e) unless it is filed in processible form. Also see section 6611(b)(3) and paragraph (b)(4) of this section for rules that apply to late returns.

(iv) *Effective date.* Section 301.6611-1(f) applies to interest accruing after October 3, 1982. See 26 CFR 301.6611-1(f) (revised as of April 1, 1982) for rules applicable to interest accruing before October 4, 1982.

(v) *Examples.* The provisions of this section may be illustrated by the following examples:

Example (1). Corporation Q is a calendar year taxpayer. For taxable years 1978, 1979, and 1980, net capital gains were reported. However, for 1981 Q had a net capital loss which Q could carry back to 1978, resulting in an overpayment for that year. Q properly filed the 1981 tax return on March 15, 1982. Q properly filed the claim for refund of the overpayment resulting from the carryback on November 15, 1982.

(a) If the refund is made within 45 days after filing the claim then interest will accrue between January 1, 1982 and October 3, 1982.

(b) If the refund is made more than 45 days after filing the claim then interest will accrue from January 1, 1982.

Example (2). Corporation R reports income on a fiscal year ending August 31. For taxable years ending August 31, 1979, 1980, and 1981, net capital gains were reported. However, for the taxable year ending August 31, 1982, R had a net capital loss which R could carry back to 1979, resulting in an overpayment for that year. R properly filed the 1982 tax return on October 15, 1982. R properly filed the claim for refund of the overpayment on November 10, 1982.

(a) If the refund is made within 45 days after November 15, 1982, then interest will accrue from September 1, 1982 until October 3, 1982.

(b) If the refund is made more than 45 days after November 15, 1982, then interst will accrue from September 1, 1982 until October 3, 1982 and from November 15, 1982.

Example (3). Corporation S is a calendar year taxpayer. For taxable years 1979, 1980, and 1981, net capital gains were reported. However, for 1982, S had a net capital loss which S could carry back to 1979, resulting in an overpayment for that year. S properly filed the 1982 tax return on February 4, 1983. S properly filed the claim for refund of the overpayment on February 15, 1983.

(a) If the refund is made within 45 days after March 15, 1983, then no interest will accrue on the overpayment.

(b) If the refund is made after 45 days of March 15, 1983, then interest will accrue from March 15, 1983.

Example (4). Corporation Y is a calendar year taxpayer. For taxable years 1979, 1980, and 1981, net capital gains were reported. However, for 1982, Y had a net capital loss which Y could carry back to 1979, resulting in an overpayment for that year. Y properly filed the 1982 tax return on March 1, 1983. Y properly filed the claim for refund of the overpayment on May 15, 1983.

(a) If the refund is made within 45 days after May 15, 1983, then no interest will accrue on the overpayment.

(b) If the refund is made more than 45 days after May 15, 1983, then interest will accrue from March 15, 1983.

Example (5). Corporation Z is a calendar year taxpayer. For taxable years 1979, 1980, and 1981, net capital gains were reported. However, for 1982, Z had a net capital loss which Z could carry back to 1979, resulting in an overpayment for that year. Z filed the 1982 tax return late, on November 1, 1983. Z properly filed the claim for refund for overpayment on November 15, 1983.

(a) If the refund is made within 45 days after November 14, 1983, then no interest will accrue on the overpayment.

(b) If the refund is made more than 45 days after November 15, 1983, then interest will accrue from November 1, 1984.

(g) *Refund of income tax caused by carryback of foreign taxes (1) In General.* For purposes of paragraph (a) of this section, any overpayment of tax resulting from a carryback of tax paid or accrued to foreign countries or possessions of the United States shall be deemed not to have been paid or accrued before the filing date (as defined in section 6611(f)(3)) for the taxable year under subtitle F of the Code in which such taxes were in fact paid or accrued.

(2) *Effective date.* Section 301.6611-1(g) applies to interest accruing after October 3, 1982. See 26 CFR 301.6611-1(g) (revised as of April 1, 1982) for rules applicable to interest accruing before October 4, 1982.

(h) *Processible form*—(1)T3 In general. A return is in processible for if—

(i) The return is filed on a form permitted under the Code or regulations (see paragraph (h)(2) of this section), and

(ii) The return contains the required information described in paragraph (h)(3) of this section

(2) *Return on permitted form; components of return.* In applying paragraph (h)(l)(i) of this section, the term "return" includes all components of the return. A component of the return is a required attachment, supporting document, or schedule required by the return, whether or not the information from the document or schedule appears on the return itself. Supporting documents and schedules include, for example, Form W-2, relating to wages; Schedule D, relating to capital gain or loss; Form 3903, relating to moving expenses; Schedule G, relating to income averaging, Form 3468, relating to investment credit; and Form 4625, relating to minimum tax. The term "form permitted under the Code or regulations" includes a substitute form, schedule, or chart containing the same general provisions as the proper form, so long as the taxpayer complies with all revenue procedures relating to substitute forms in effect at that time.

(3) *Information required.* The return must contain—(i) The taxpayer's name, address, identifying number, and authorized signature, and

(ii) Sufficient required information on the return and its components (as defined in paragraph (h)(2) of this section) to permit the mathematical verification of the tax liability as shown on the return.

However, the information required by subdivisions(i) and (ii) is required in the case of a component of the return (within the meaning of paragraph (h)(2) of this section) only to the extent required by that component.

(4) *Examples.* The provisions of paragraph (h) of this section may be illustrated by the following examples:

Example (1). A, an individual calendar year taxpayer, filed A's 1982 tax return on the due date, April 15, 1983. The return was properly completed except for A's failure to include schedule D, relating to capital gains or losses, with the filed return. On June 17, 1983, A's schedule D was filed. Because A did not file schedule D until June 17, 1983, there was insufficient information to mathematically

verify the tax liability. Therefore, A's return is treated as filed on June 17, 1983 for purposes of section 6611 (b)(3) and (e).

(2) Example (2). B, an individual calendar year taxpayer, filed B's 1982 tax return on the due date, April 15, 1983. The return was completed properly except for B's mathematical error in totaling B's sources of income resulting in an incorrect computation of liability. The error was discovered, and on July 24, 1983, B paid the additional tax. There was sufficient information filed with the return to compute the proper tax liability. therefore, the return is treated as filed on April 15, 1983.

Example (3). Corporation X, a calendar year taxpayer, filed its 1982 tax return on the due date, March 15, 1983. The return was properly completed except that X did not use schedule A for cost of goods sold. However, X did include with the filed return its own schedule of cost of goods sold drafted on a substitute form and containing provisions identical with schedule A as required by the revenue procedures relating to substitute forms in effect at the time. Therefore, the return will be treated as filed on March 15, 1983.

Example (4). C, an individual calendar year taxpayer, filed C's 1982 tax return on the due date, April 15, 1983. The return was properly completed except for C's failure to include Schedule A, relating to itemized deductions, with the filed return. Because C's 1040 return reflects C's choice to utilize Schedule A, and C failed to file Schedule A, there was insufficient information for mathematically verifying the tax liability. Therefore, for purposes of section 6611(b)(3) and (e), C's return is not treated as filed. The return will be treated as filed when either Schedule A is filed or an amended return, reflecting C's election not to itemize, is filed.

(5) *Application.* The requirements of section 6611(i) and this paragraph (h), relating to the processible form requirement, apply to sections 6611(b)(3), relating to late returns, 6611(e), relating to income tax refund within 45 days of a return, and 6611(h), relating to the windfall profit tax. See also, paragraph (f)(2)(i)(B) of this section (relating to interest on overpayments relating to certain carrybacks).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 84-26656 Filed 10-84; 8:45 am]

BILLING CODE 4830-01-M

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26 CFR Part 1

[LR-69-84]

Energy Investment Credit for Leased Qualified Intercity Buses; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to the energy investment credit for qualified intercity buses.

DATES: The public hearing will be held on Wednesday, January 9, 1985, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by Friday, December 28, 1984.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, N.W., Washington, D.C. The requests to speak and outlines of oral comments should be submitted to the Commissioner of Internal Revenue, ATTN: CC:LR:T (LR-69-84), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

B. Faye Easley of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, telephone 202-566-3935 (not a toll-free call).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is the proposed regulations under section 48 (l)(16) of the Internal Revenue Code of 1954. The proposed regulations appear in this issue of the **Federal Register** (see FR Doc. 84-26658).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules (26 CFR Part 601) shall apply with respect to the public hearing. Person who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit, not later than Friday, December 28, 1984, an outline of the oral comments to be presented at the hearing and the time they wish to devote to each subject.

Each speaker will be limited to 10 minutes for an oral presentation exclusive of the time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

By director of the Commissioner of Internal Revenue.

George H. Jelly,

Director, Legislation and Regulations Division.

[FR Doc. 84-26657 Filed 10-5-84; 8:45 am]

BILLING CODE 4830-01-M

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26 CFR Part 1

[LR-69-84]

Energy Investment Credit for Leased Qualified Intercity Buses; Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: In the Rules and Regulations portion of this issue of the **Federal Register**, the Internal Revenue Service is issuing a Treasury decision, adopting final regulations relating to the energy investment credit for qualified intercity buses. This document contains a notice of proposed rulemaking to amend the regulations adopted by that Treasury decision. The amendment would determine the eligibility of a taxpayer for the energy credit when a qualified intercity bus is leased. This action is necessary to provide the public with the guidance needed to comply with the law. A notice of a public hearing concerning this proposed amendment appears elsewhere in this issue of the **Federal Register**.

DATES: The amendment to the regulations is proposed to be effective for the period beginning on January 1, 1980, and ending December 31, 1985. Written comments must be delivered or mailed by December 10, 1984.

ADDRESS: Send comments to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-69-84), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Michel A. Dazé of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T (202-566-3458 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains a proposed amendment to the Income Tax Regulations (26 CFR 1.48-9(q)) under section 48(l)(16) of the Internal Revenue Code of 1954, which have been adopted by Treasury decision and published in the Rules and Regulations portion of this issue of the **Federal Register**. This amendment is proposed to determine the

eligibility of a taxpayer for the energy credit when a qualified intercity bus has been leased, and is to be issued under the authority contained in Code sections 38(b) (76 Stat. 963, 26 U.S.C. 38(b)) and 7805 (68A Stat. 917, 26 U.S.C. 7805).

Regulations relating to the energy credit for qualified intercity buses were published in proposed form in the **Federal Register** on September 3, 1982 (47 FR 38918). Under those proposed regulations, the energy credit is allowed for a leased bus if the bus qualifies according to its use by the lessee. If the lessee, but not the lessor, was a regulated common carrier, the lessor could either take the credit itself or pass it through to the lessee under section 48(d).

A question has been raised concerning the propriety of allowing lessors to claim the energy credit when section 48(l)(16) specifically requires that the taxpayer obtaining the credit be a common carrier that is regulated by the Interstate Commerce Commission or an appropriate State agency. In addition, the taxpayer must be engaged in the trade or business of furnishing intercity passenger transportation or intercity charter service by bus. As defined in section 48(l)(16)(B), a bus that qualifies for the energy credit must be used by the taxpayer in such trade or business. The proposed amendment to § 1.48–9(q), therefore, would allow only a common carrier-lessee that uses a qualified bus in its trade or business to claim the energy credit if passed through to it under section 48(d) by the lessor. The proposed amendment would apply only to leasing transactions entered into after October 9, 1984. The allowance of the energy credit to lessors of qualifying buses for any period should not be viewed as precedent for the allowance of the energy credit to lessors of other property when the statute requires that the taxpayer eligible for the credit must operate the qualifying property in a particular trade or business of the taxpayer.

Comments and Request for a Public Hearing

Before this proposed amendment is adopted, consideration will be given to any written comments that are submitted (preferably eight copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held on the date announced in the notice of public hearing appearing elsewhere in this issue of the **Federal Register**.

Executive Order 12291 and Regulatory Flexibility Act

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

Drafting Information

The principal author of the proposed amendment to the regulations is Michel A. Dazé of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects in 26 CFR Part 1

Income taxes, Tax Liability, Tax Rates, Credits.

PART 1—[AMENDED]

Proposed Amendments to the Regulations

The proposed amendment to 26 CFR Part 1 is as follows:

Paragraph 1. Section 1.48–9(q)(8) is amended by removing the language "*Leased buses.* [Reserved]" and adding instead new text as set forth below.

§ 1.48–9 Definition of energy property.

* * * * *

(q) *Qualified intercity buses*—* * *

(8) *Leased buses.* (i) A bus which is leased is energy property only if it meets the requirements of paragraph (q)(6) (i), (ii), and (iii) of this section, the lessee is an eligible taxpayer, and the bus meets the predominant use test in the hands of the lessee. If a leased bus in energy property, the energy credit is available only to the lessee unless paragraph (q)(8)(ii) of this section applies. The lessor must elect under section 48(d) for the lessee to claim the energy credit.

(ii) If a leased bus is energy property and, on or before October 9, 1984, the lessor and lessee enter into a binding contract under which the amount of the lease payments cannot be modified, the energy credit is available to the lessor even if the lessor is not an eligible taxpayer.

(iii) Notwithstanding § 1.47–2(b)(1) (relating to the effect of a disposition by the lessee on the credit claimed by the lessor), if, by reason of a lease or the termination of a lease, a bus is used in a taxable year subsequent to the credit year by a person other than the one whose increase in operating capacity determined the amount of qualified investment for the energy credit, a disposition of the bus under § 1.47–1(h)(2) results. However, if the energy credit for a bus was earned in a taxable year and a lease of the bus which qualifies under section 168(f)(8) (safe-harbor lease) is entered into in a subsequent taxable year, the safe-harbor lease is not a disposition of the bus and the lessee under that lease is treated as the lessee for purposes of this paragraph (q)(8). For the requirement to file an amended return if the energy credit was allowed in a prior taxable year, see § 5c.168(f)(8)–6(b)(2)(ii) (Temporary Income Tax Regulations under the Economic Recovery Tax Act of 1981). For the rule for determining whose operating capacity determines qualified investment for the energy credit, see paragraph (g)(9)(ii) of this section. For the rule for leases to related taxpayers, see paragraph (q)(10)(ii) of this section.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 84-26058 Filed 10-5-84; 8:45 am]

BILLING CODE 4830-01-M

VETERANS ADMINISTRATION

38 CFR Part 21

Veterans Education; Special Restorative Training

AGENCY: Veterans Administration.

ACTION: Proposed regulations.

SUMMARY: These proposed regulations are amended to make clear that only eligible children may receive special restorative training as provided by law. The language currently used has caused confusion as to what persons may be eligible for these benefits.

DATE: Comments must the received on or before November 8, 1984. It is proposed to make these regulations effective the date of final approval.

ADDRESSES: Send written comments to the Administrator of Veterans' Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inspection at this address only between the hours of 8 a.m. and 4:30 p.m., Monday through

Friday (except holidays) until November 19, 1984. Anyone visiting Veterans Administration Central Office in Washington, DC for the purpose of inspecting any of these comments will be received by the Central Office Veterans Services Unit in room 132. Visitors to VA field stations will be informed that the records are available for inspection only in Central office and will be furnished the address and room number.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420. (202–389–2092).

SUPPLEMENTARY INFORMATION: Sections 21.3330 and 21.3332, Title 38, Code of Federal Regulations, are amended to make clear that only eligible children may receive special restorative training.

The VA (Veterans Administration) has determined that these proposed regulations are not a major rule as that term is defined by Executive Order 12291, entitled "Federal Regulation." The annual effect on the economy will be less than $100 million. The proposal will not result in any major increases in costs or prices for anyone. It will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administrator of Veterans' Affairs hereby certifies that these proposed regulations, if promulgated, will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), these proposed regulations, therefore, are exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

This certification can be made because this proposal affects individual benefit recipients. The proposal will have no significant economic impact on small entities, i.e., small businesses, small private and nonprofit organizations and small governmental jurisdictions.

The Catalog of Federal Domestic Assistance number for the program affected by these proposed regulations is 64.117.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant program—education, Loan programs—education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: September 13, 1984.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

The Veterans Administration is proposing to amend 38 CFR Part 21 as set forth below:

1. In § 21.3330, paragraph (b) is revised as follows:

§ 21.3330 Payments.

* * * * *

(b) The Veterans Administration will pay special training allowance only for the period of the eligible child's approved enrollment as certified by the vocational rehabilitation specialist. In no event, however, will the Veterans Administration pay such allowance for any period during which:

(1) The eligible child is not pursuing the prescribed course of special restorative training that has been determined to be full-time training with respect to his or her capabilities.

(2) An educational assistance allowance is paid. (38 U.S.C. 1742)

* * * * *

Section 21.3332 is revised to read as follows:

§ 21.3332 Discontinuance dates.

The Veterans Administration will discontinue special training allowance as provided in this section on the earliest date of the following:

(a) The ending date of the course.

(b) The ending date of the period of enrollment as certified by the vocational rehabilitation specialist.

(c) The ending date of the period of eligibility.

(d) The expiration of the eligible child's entitlement.

(e) Date of interruption of course as determine by the vocational rehabilitation specialist under § 21.3305.

(f) Date of discontinuance under the applicable provisions of § 21.4135. (38 U.S.C. 1743(b))

[FR Doc. 84–26593 Filed 10–5–84; 8:45 am]

BILLING CODE 8320–01–M

POSTAL SERVICE

39 CFR Part 10

Proposed Express Mail International Service To Venezuela

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: Pursuant to an agreement with the postal administration of Venezuela, the Postal Service proposes to being Express Mail International Service with Venezuela at postage rates indicated in the tables below. The proposed services are scheduled to begin on December 12, 1984.

DATE: Comments must be received on or before November 8, 1984.

ADDRESSES: Written comments should be directed to the General Manager, Rate Development Division, Office of Rates, Rates and Classification Department, U.S. Postal Service, Washington, DC 20260–5350. Copies of all written comments will be available for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in room 8620, 475 L'Enfant Plaza West S.W., Washington, DC 20260–5350.

FOR FURTHER INFORMATION CONTACT: Leon W. Perlinn [202] 245–4414.

SUPPLEMENTARY INFORMATION: The International Mail Manual is incorporated by reference in the Code of Federal Regulations, 39 CFR 10.1. Additions to the manual concerning the proposed new service including the rate tables reproduced below, will be made in due course. Accordingly, although 39 U.S.C. 407 does not require advance notice and the opportunity for submission of comments on international service and the provisions of the Administrative Procedure Act regarding proposed rulemaking [5 U.S.C. 553] do not apply [39 U.S.C. 410(a)], the Postal Service invites interested persons to submit written data, views or arguments concerning the proposed Express Mail International Service to Venezuela at the rates indicated in the tables below.

List of Subjects in 39 CFR Part 10

Postal Service, Foreign relations.

VENEZUELA.—EXPRESS MAIL INTERNATIONAL SERVICE

Custom designed service [1] [2] up to and including—		On demand service [3] up to and including—	
Pounds	Rate	Pounds	Rate
1	$27.00	1	$19.00
2	29.90	2	21.90
3	32.80	3	24.80
4	35.70	4	27.70

VENEZUELA.—EXPRESS MAIL INTERNATIONAL SERVICE—Continued

Custom designed service [1] [2] up to and including—		On demand service [3] up to and including—	
Pounds	Rate	Pounds	Rate
5	38.60	5	30.60
6	41.50	6	33.50
7	44.40	7	36.40
8	47.30	8	39.30
9	50.20	9	42.40
10	53.10	10	45.10
11	56.00	11	48.00
12	58.90	12	50.90
13	61.80	13	53.80
14	64.70	14	56.70
15	67.60	15	59.60
16	70.50	16	62.50
17	73.40	17	65.40
18	76.30	18	68.30
19	79.20	19	71.20
20	82.10	20	74.10
21	85.00	21	77.00
22	87.90	22	79.90
23	90.80	23	82.80
24	93.70	24	85.70
25	96.60	25	88.60
26	99.50	26	91.50
27	102.40	27	94.40
28	105.30	28	97.30
29	108.20	29	100.20
30	111.10	30	103.10
31	114.00	31	106.00
32	116.90	32	108.90
33	119.80	33	111.80
34	122.70	34	114.70
35	125.60	35	117.70
36	128.50	36	120.50
37	131.40	37	123.40
38	134.30	38	126.30
39	137.20	39	129.20
40	140.10	40	132.10
41	143.00	41	135.00
42	145.90	42	137.90
43	148.80	43	140.80
44	151.70	44	143.70

[1] Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a designated Post Office.

[2] Pickup is available under a Service Agreement for an added charge of $5.60 for each pickup stop, regardless of the number of pieces picked up. Domestic and international Express Mail picked up together under the same Service Agreement incurs only one pickup charge.

An appropriate amendment to 39 CFR 10.3 to reflect these changes will be published when the final rule is adopted.

(39 U.S.C. 401, 404, 407)

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 84-26804 Filed 10-5-84; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

Approval and Promulgation of Implementation Plans; Indiana

[A-5-FRL-2688-3]

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: EPA is proposing rulemaking on revisions to the Indiana State Implementation Plan (SIP) for ozone and carbon monoxide (CO) for Clark, Floyd, Lake, and Porter Counties. EPA proposed on February 3, 1983 to disapprove the original revisions submitted by Indiana for these areas (48 FR 5106). In response to this proposal, Indiana submitted substantive change and additions to their plan for these areas. EPA is proposing these changes and additions for public comment today.

DATE: Comments on these revisions and on EPA's proposed action must be received by December 10, 1984.

ADDRESSES: Copies of these proposed SIP revisions and technical analyses of them are available at the following addresses for review. (It is recommended that you telephone Robert B. Miller at (312) 886-6031 before visiting the Region V office.)

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch, 230 South Dearborn Street, Chicago, Illinois 60604

Indiana Air Pollution Control Division, Indiana State Board of Health, 1330 West Michigan Street, Indianapolis, Indiana 46206

Comments on this proposed rule should be addressed to: Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR-26), U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Robert B. Miller, Air and Radiation Branch (5AR-26), Environmental Protection Agency, Chicago, Illinois 60604, (312) 886-6031).

SUPPLEMENTARY INFORMATION: Under section 107 of the Clean Air Act (CAA), EPA designated certain areas in Indiana as not attaning the National Ambient Air Quality Standards (NAAQS) for CO [1] and ozone.[2] See 40 CFR 81.315. For these areas, Part D of the CAA requires that the State revise its SIP to provide for attaining the primary NAAQS by December 31, 1982. However, an extension until December 31, 1987 was available if a state could demonstrate that, despite the implementation of all reasonably available control measures (RACM), the 1982 attainment deadline could not be met for ozone and/or CO. States failing to demonstrate attainment by December 31, 1982 were required to commit to implement a vehicle inspection and maintenance (I/M) program no later than December 31, 1982, and to submit a revised ozone/CO SIP by July 1, 1982. The requirements for an approvable SIP are described in a "General Preamble" for Part D rulemakings published at 44 FR 20372 (April 4, 1979), 44 FR 38583 (July 2, 1979), 44 FR 50371 (August 28, 1979), 44 FR 53761 (September 17, 1979), and 44 FR 67182 (November 23, 1979). Additional guidance and the requirements for the development and submittal of the '82 ozone and CO SIPs were given in the January 22, 1981 **Federal Register** notice (46 FR 7182).

[1] The primary NAAQS for CO is violated if, more than once in a year, maximum monitored CO concentrations exceed either: (1) The maximum allowable eight-hour concentration of 10 milligrams per cubic meter of air ($mg.m^{-3}$), or (2) the maximum allowable one hour concentration of 40 mg/m^3.

[2] The ozone NAAQS is violated when the expected number of days per calendar year with maximum hourly average concentrations above 0.12 parts per million (ppm) exceeds one (1.0). This designation must be based on the most recent three years of ozone data. For further details, see 40 CFR Part 50, Appendix H.

Background of SIP Revision

The State of Indiana submitted, among other items, its 1979 CO/ozone nonattainment area SIP revisions for Clark, Floyd, Lake, and Porter Counties on June 26, 1979, with supplements on May 19, 1980, September 24, 1980, October 9, 1980, and October 15, 1980. The June 26, 1979, submittal included a request that EPA extend the attainment date for the ozone and CO standards in these four counties until December 31, 1987. EPA approved or conditionally approved the various parts of the '79 Part D plan for the four counties on January 2, 1981 (46 FR 36), February 11, 1982 (47 FR 6274), October 27, 1982 (47 FR 47552) and January 18, 1983 (48 FR 2124).

Indiana submitted the draft 1982 revisions of its CO/ozone SIP to EPA on September 2, 1982. This draft revision was used as the basis for State and local public hearings held on October 26-27, 1982. EPA reviewed the revisions and prepared comments which incorporated EPA's evaluation of the overall plan in meeting the requirements of the CAA. These comments were forwarded to Indiana in a November 10, 1982, letter from David Kee, Director of the EPA Region V Air Management Division, to Harry D. Williams, Technical Secretary of the Indiana Air Pollution Control Board. Additionally, EPA proposed on February 3, 1983 (48 FR 5106) to disapprove both the ozone and CO plans because of substantive deficiencies within them. In partial response to this proposal, Indiana submitted on December 2, 1983 the State approved '82 ozone and CO plan revisions. This submittal contained significant changes from the original draft plan, and, therefore, EPA is reproposing action on those parts of the submittal which differ significantly from the original draft plan. Today's proposal

has separate portions concerning: (1) A brief history of Indiana's 1982 ozone SIP, (2) the ozone attainment demonstration in the Indiana portion of the greater Louisville metropolitan area (Floyd and Clark Counties), (3) the ozone attainment demonstrations in the Northwest Indiana portion of the greater Chicago metropolitan area (Lake and Porter Counties), (4) the carbon monoxide plan for the designated nonattainment area in Lake County, (5) the I/M portions of the plans, which encompass both pollutants and areas, and (6) the transportation control measures (TCM), which also encompasses both pollutants and both areas.

History of the Indiana "1982" Ozone SIP

Ozone is formed from the chemical reaction of various precursors—primarily reactive volatile organic compounds (VOCs) and the oxides of nitrogen. EPA requires the control of VOC emissions in order to reduce ozone concentrations.

Indiana's ozone nonattainment areas consist of Clark, Elkhart, Floyd, Lake, Porter, and St. Joseph Counties. See 40 CFR 81.315 (1983) and 49 FR 13352 (April 4, 1984). Of these, extensions were only requested for Clark and Floyd Counties, which contain the Indiana portion of the Louisville (Kentucky-Indiana) Urbanized Area,[3] and Lake and Porter Counties, which contain the Indiana portion of the Chicago, Illinois-Northwestern Indiana Urbanized Area.

Indiana's September 2, 1982 draft '82 ozone SIP submittal addressed VOC emission reductions for the four extension counties through a mix of controls on stationary and mobile sources. It addressed attainment of the NAAQS in the Louisville area and in Northwest Indiana and Northeast Illinois, but not in Southeast Wisconsin. Finally, it included contingency measures to be added to the SIP if monitoring in Indiana shows the standards are still being violated in 1985.

EPA proposed to disapprove the draft September 2, 1982 strategy on February 3, 1983 because: [4]

(1) The plan did not contain enforceable commitments either to adopt Reasonably Available Control Technology (RACT) for Group III Control Technique Guideline (CTG) sources or to adopt RACT emission limits for all other major VOC sources.

(2) The Indiana Air Pollution Control Board (IAPCB) had withdrawn its commitment to implement an I/M program.

(3) The projected emission reductions predicted to occur in Lake and Porter Counties, when combined with those predicted to occur in Illinois, were not sufficient to assure the attainment of the ozone standard in Wisconsin. The plan, therefore, did not meet the requirements of section 110(a)(2)(E) of the CAA.

(4) Indiana developed a contingency plan which included RACT on all major sources which presently do not have such control requirements, stage II vapor recovery control for gasoline stations, and a vehicle I/M program. The plan provided that these measures would be implemented in either or both Northwest Indiana or Clark and Floyd Counties only if 1985 analyses of air quality in these areas show that these measures are needed to attain the standard by 1987. Indiana's cotingency approach deviated from the CAA and EPA's approval criteria in that, in relying on contingency measures to achieve necessary emission reductions, the plan did not contain an enforceable strategy for assuring that the standards would be attained as expeditiously as practicable.

In addition to the above deviations, Indiana's 1982 plan deviated in a variety of other respects from EPA's guidance and the requirements of the CAA. These deviations are detailed in EPA's November 10, 1982 comments on the Indiana SIP and in EPA's November 19, 1982 technical support memorandum to the February 3, 1983 proposal. These comments cover deviations from guidance on area, mobile, and point source emissions inventories, ozone modeling and air quality data. stationary source measures, vehicle inspection and maintenance, and transportation control measures. The comments on the various portions of the emissions inventory or facets of the inventory which are not documented enought to be suitably evaluated.

Examples of such comments are:

(1) The plan did not document the major VOC point sources for Lake and Porter Counties.

(2) The plan did not document the modeling for the Louisville Urbanized Area such that is could be evaluated by EPA.

(3) The plan did not include evidence of commitments by the implementing agencies to implement the specified TCM measures.

EPA stated in its February 3, 1983 proposal that any one of these deviations cited in the comment letter might not be considered major in and of itself. However, all of the deviations considered together may constitute a major deficiency. Therefore, EPA requested the State's response to these deviations and stated that it would evaluate any response to determine if the State had corrected the deviations. In the February 3, 1983 proposal, EPA also specifically solicited public comment on the significance of any or all of the deviations from EPA policy cited in the November 10, 1982 comment letter to the State.

In response to the February 3, 1983 proposal on Indiana's draft plan, EPA did receive comments from various groups, including the State of Indiana.

EPA will respond to these comments at the time of its final rulemaking on the Indiana '82 ozone and CO SIP to the extent that comments received on the draft proposal are not reiterated in connection with this proposal but are still relevant to EPA's final action.

Indiana commented on the proposal on May 2, 1983, and agreed to make certain changes in its plan. On December 2, 1983, Indiana submitted its '82 ozone plan as finally adoted by the State. This submittal differed significantly from the draft on which EPA's February 3, 1983 proposal was base and is the subject of today's proposed rulemaking. Changes included:

(1) Indiana did commit to adopt RACT for group III CTG sources within 1 year from the January following the date EPA issues a CTG for that source. It additionally committed to adopt RACT emission limits for all other major VOC sources within 1 year from the January following the date that RACT emission levels have been determined by a contractor for those sources. This commitment is being proposed for approval, because it meets the requirements contained in EPA's January 22, 1981 **Federal Register** notice which gave the States guidance for the development of approvable '82 ozone and CO SIPs. [EPA notes that regulations for one RACT III source category (large petroleum drycleaners) was due on January 1, 1984, but has yet to be submitted.]

(2) Indiana renewed its commitment to adopt and implement its I/M program. On December 22, 1983, Governor Orr of Indiana notified EPA that inspections would begin and indeed they did begin

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[3] Urbanized areas are defined by the Bureau of the Census. They consist of a central city, or cities, and surrounding closely settled territory.

[4] EPA proposed rulemaking on a draft regulation, rather than wait for a final, because the State had not met the July 1982 statutory deadline contained in the Clean Air Act Amendments of 1977. EPA believed to delay proposal at that time on a clearly disapprovable plan would needlessly delay remedial actions that could be taken to ultimately assure the attainment and maintenance of the NAAQS.

on May 31, 1984. On January 4, 1984, Indiana submitted its revised I/M regulation. On March 28, 1984, Indiana notified EPA that the Indiana State Legislature had clarified the authority for local enforcement of State air regulations, including I/M regulations.

(3) Indiana's December 2, 1983 submittal for Lake and Porter Counties still addressed attainment and maintenance of the NAAQS in Indiana only. However, on March 2, 1984, Indiana committed itself to adopt the attainment demonstration submitted by the State of Illinois for the tri-state area (Wisconsin, Illinois, and Indiana) as its own in place of the demonstration it had submitted. The Illinois' attainment demonstration indicates that emissions reductions from Indiana and Illinois [5] will be sufficient to assure attainment and maintenance of the NAAQS in Wisconsin, as well as in Illinois and Indiana.

Therefore, provided that Indiana does indeed ultimately submit the Illinois strategy as its own, EPA is proposing today to approve the Illinois attainment demonstration for Indiana. If Indiana does not adopt Illinois' strategy, EPA is proposing to disapprove Indiana's presently submitted strategy, because it does not provide for attainment of the ozone NAAQS in Wisconsin. See section 110(a)(2)(E).

(4) Indiana's plan still includes a contingency plan to be used if annual reviews of the actual ambient ozone levels show that the NAAQS will not be attained by 1987. The one measure contained in it, Stage II vapor recovery for service station operations, is not required by the July 22, 1981, **Federal Register** notice to be a part of the 1982 ozone SIPs where attainment is assured without it. Because EPA has determined that the Illinois' bi-state strategy is adequate to achieve the NAAQS in the tri-state area, this contingency plan is an additional measure not required to meet the requirements of section 110(a)(2). EPA, therefore, is able to approve this additional measure even as a contingency and is proposing to do so today.

Floyd and Clark Counties Attainment Demonstration

Indiana's December 2, 1983, SIP submittal was designed to demonstrate attainment of the ozone NAAQS in the greater Louisville area. This nonattainment area is comprised of Clark and Floyd Counties, Indiana and Jefferson County, Kentucky. The State of Kentucky has submitted a separate but complementary plan dealing with VOC emission control commitments for Jefferson County. On February 8, 1984 (49 FR 4792), EPA proposed to approve the Kentucky portion of the greater Louisville attainment demonstration.

The ozone demonstration of attainment contained in Indiana's SIP submittal was properly documented and was developed by the Kentuckiana Regional Planning and Development Agency. The VOC emission control requirement for the area was derived from the 1980 and 1981 monitoring data at Charlestown, Indiana, which had the highest ozone standard exceedances. Based on this data and EKMA modeling, it was determined that a 32.5% reduction from 1980 VOC emission levels is needed in the greater Louisville area in order to assure attainment of the ozone NAAQS.

Indiana's portion of the strategy assumes the implementation of an I/M program, three TCM's, the adoption of RACT for Group III CTG sources, and the adoption of RACT for major non-CTG sources in the area. Indiana estimates that these controls will reduce emissions in 1987 by 40.5% from the 1980 base year levels in Floyd and Clark Counties. These reductions, if obtained, would contribute to an overall emission reduction in all three counties of above 32.5% and would assure the attainment of the NAAQS in the greater Louisville area.

However, although Indiana committed itself to implement the above controls, its commitment did not extend to obtaining the estimated 40.5% emission reductions per se. Preliminary data from an EPA sponsored study indicate that some of the emission reductions claimed by Indiana from stationary source emission controls on RACT III sources, whiskey warehouses, and other major non-CTG sources are overly optimistic. If this is in fact correct, then the emission reductions actually obtained by Indiana will not be sufficient to assure the attainment of the NAAQS.[6]

Therefore, EPA today is proposing approval of Indiana's ozone plan for Clark and Floyd Counties, if Indiana submits during the public comment period of this proposed rulemaking enforceable commitments either: (1) To achieve the VOC emission reductions it has claimed for RACT III and major non-CTG sources, or (2) to achieve at least a 32.5% reduction of VOC emissions compared to Indiana's 1980 emission levels. (If Indiana chooses the second scenario, it still must meet its prior commitment to adopt RACT emission levels for all sources.) An approvable, enforceable commitment would be one made by the Governor or one adopted by the Indiana Air Pollution Control Board. If the contractor's final report indicates that a 32.5% reduction can indeed be achieved and maintained, then the committed emission reductions must be obtained from the RACT III and major non-CTG source categories noted above. Alternatively, if the report indicates that a 32.5% reduction cannot be obtained using the above source categories, then additional emission reductions can be obtained from other source categories such as Stage II vapor recovery, architectural surface coatings, open burning, and enforceable, permanent source closures.

If the State elects to achieve equivalent emission reductions from sources other than those identified as RACT III or major non-CTG sources in the SIP submittal, it must also commit itself to an expeditious schedule for the adoption, implementation, and submittal of these reductions. An approvable schedule would be to adopt these alternative regulations on the same schedule as that set for regulations on major non-CTG sources. For discussions of the requirements for plans that do not assure attainment by 1987, despite the implementation of all RACT, RACM, and I/M, see Section I(F) of the '82 ozone and CO policy statement in the January 22, 1981 **Federal Register** and Item 1 in Chapter V of EPA's January 27, 1984 "Guidance Document for Correction of Part D SIP's for Nonattainment Areas".

If Indiana fails to submit the required emission reduction commitments, EPA is proposing to disapprove the Indiana protion of the greater Louisville plan, because the best information currently available to the EPA shows that the emission reductions obtainable by Indiana from the strategies to which it committed will be insufficient to assure attainment of the ozone NAAQS.[7]

[5] In actuality Wisconsin sources will also be reducing their emissions, but this fact is not pertinent to Illinois' attainment demonstration.

[6] Based on the preliminary data from the contractor's report, EPA estimates that Indiana may with its present plan only be able to achieve a 23% reduction in its 1980 emissions by 1987 compared to the 32.5% needed.

[7] EPA proposed to approve the Kentucky portion of the Louisville ozone SIP because Kentucky committed to obtain emission reductions of at least 32.5% and because attainment of the NAAQS is assured if Indiana obtains the emission reductions it has claimed. If Indiana cannot obtain sufficient emission reductions, then the greater Louisville ozone strategy will be deficient. Under these circumstances, EPA may approve the Kentucky portion of the plan, because Kentucky has met its commitments to supply its portion of the 32.5% emission reduction required; but the Indiana portion of the plan must be disapproved, because Indiana has not sufficiently reduced its share of the emissions.

Alternatively, if Indiana does so commit, EPA is proposing to approve the plan because the emission reductions to which Indiana will have committed will be sufficient to assure the attainment and maintenance of the NAAQS.

Some minor problems with the attainment demonstration are discussed in EPA's "Technical Review of Indiana's 1982 Ozone State Implementation Plan for Clark and Floyd Counties", which is available at the addresses listed in the front of today's notice. EPA is also soliciting comments on the additional issues raised in its "Technical Review".

Lake and Porter Counties Ozone Attainment Demonstration

The ozone attainment demonstration for Northwest Indiana, as included in Indiana's December 2, 1983 SIP submittal, does not substantially differ from the attainment demonstration in its draft SIP submittal which EPA proposed to disapprove on February 3, 1983. The December 2, 1983, submittal states that a 28% reduction in VOC emissions in Northwest Indiana is needed relative to 1980 emission levels in order to assure the NAAQS there. The submittal predicts that emissions will be reduced in 1987 by 35% relative in 1980 emission levels [8] and concludes that attainment of the ozone NAAQS in Northwest Indiana is assured.

The submittal, however, makes no attempt to demonstrate attainment in Southeast Wisconsin. It instead attempts to demonstrate that Northwest Indiana emissions do not contribute to high ozone concentrations in Southeast Wisconsin. EPA does not agree, however, that emissions from Indiana have no effect on Southeast Wisconsin. Because the December 2, 1983 submittal does not demonstrate attainment in all impact areas and, therefore, does not meet the requirements of section 110(a)(2)(E) of CAA, EPA must propose it for disapproval.

In addition to the SIP submittals from Indiana, EPA has received data from Illinois concerning the emission reductions needed in the greater Chicago area (which includes Lake and Porter Counties, Indiana) to attain the ozone NAAQS in Southeast Wisconsin. In submittals of December 23, 1983, and January 20, 1984. Illinois has provided an updated analysis of the emission reductions which are required and those predicted to be obtained.[9] EPA has reviewed the Illinois submittals and agrees with Illinois' conclusion that emissions in the greater Chicago area must be reduced by 47% relative to 1979 emission levels in order to achieve attainment.

Indiana's SIP submittal, including data submitted on January 9, 1984, indicates that emissions will be reduced in 1987 by 39% relative to 1979's emissions. Thus, the percentage reduction in emissions predicted to occur in Northwest Indiana is less than the Illinois' modeling predicts to be required for the bi-state area. However, given the regional nature of ozone, this modeled control percentage is properly viewed as a metropolitan area control requirement, irrespective of the reduction percentage achieved in any one part of the metropolitan area.

Illinois' revised analysis shows emissions in Northeast Illinois decreasing by over 50% relative to 1979 levels.[10] Because of the greater quantity of VOC emissions in Northeast Illinois relative to Northwest Indiana (1979 emissions of 12.5×10^5 kilograms/day vs. 1.45×10^5 kilograms/day respectively), the combination of the 49% emission reduction to be obtained in Illinois and the 39% in Indiana will reduce total emissions in the bi-state area by 48% relative to 1979 levels. Thus, the Chicago-Northwest Indiana area should achieve the 47% emission reduction necessary to assure the attainment and maintenance of the ozone NAAQS.

In light of the Illinois data, Indiana withdrew its own attainment demonstration and committed itself on March 2, 1984 to adopt the Illinois demonstration by reference. Based on this commitment, EPA today, through its parallel processing procedure, is proposing to approve as Indiana's demonstration of attainment, the attainment demonstration developed by Illinois for the greater Chicago area. If Indiana does not adopt the Illinois attainment demonstration, or an equally approvable one, EPA is proposing today to disapprove the strategy which Indiana submitted on December 2, 1983, because it does not provide for the attainment of the ozone NAAQS in Southeast Wisconsin and, therefore, does not comport with the SIP approval requirements of section 110(a)(2)(E) of the CAA.

The strategy submitted by Illinois only addresses the CAA's "reasonable further progress" (RFP) requirement as it applies to Illinois. Indiana must address RFP as it applies to Indiana in its revised attainment demonstration submittal. This should include emission summaries for each year between 1980 and 1987, which show that RFP toward attainment will occur in these interim years.

Additionally, the 35% reduction from 1980 emissions predicted to occur in Northwest Indiana and, more importantly considering the regional nature of the ozone problem, the 44% reduction predicted to occur between 1980 and 1987 in the greater Chicago area will be sufficient to assure the attainment of the NAAQS in Northwest Indiana (as well as in Southeast Wisconsin and Northeast Illinois). Finally, although not in a readily usable format, Indiana did submit an approvable emission inventory for Lake and Porter Counties which corrects a deficiency noted in the technical support memorandum for our February 3, 1983 proposed disapproval.

Carbon Monoxide Attainment Demonstration for Lake County

On March 3, 1978, EPA designated a small portion of Lake County surrounding an ambient monitor at 900 E. Chicago Avenue as nonattainment for the pollutant CO. This monitor was located at the East Chicago local air agency. In 1980, the East Chicago agency moved to new quarters and, consequently, the CO monitor was moved to a new location at 4818 Indianapolis Boulevard; outside of the designated nonattainment area.

In response to USEPA's March 3, 1979 nonattainment designation, Indiana submitted its 1979 CO plan on June 26, 1979, with supplements on May 19, 1980; September 24, 1980; October 9, 1980; and October 15, 1980. The June 26, 1979, SIP submittal requested the EPA to extend the attainment date for CO in Lake County to December 31, 1987. EPA approved this attainment date extension and approved the SIP as meeting the 1979 requirements of Part D of the CAA and other EPA SIP requirements for CO in the February 11, 1982 **Federal Register** (47 FR 6274).

[8] Although there appear to be errors in the underlying emissions inventories, these errors approximately cancel out. See EPA's technical review of the "Indiana Ozone SIP for Northwest Indiana" for further details on these errors and their practical effect.

[9] Illinois' analysis assumes that both Indiana and Illinois have adopted or will adopt VOC RACT regulations for Groups I, II, and III CTGs; VOC RACT regulations for major non-CTG sources; appropriate transportation control measures; and I/M programs. The plan also assumes that Illinois filling stations will be required to install and use Stage II vapor recovery controls. The analysis adequately addresses the section 172(b)(3) requirement for "reasonable further progress" in Illinois towards attainment of the ozone NAAQS. Illinois' plan is based on a 1979 base year, as opposed to Indiana's plan which is based on a 1980 base year.

[10] EPA estimates that the Illinois plan will provide a 49% emission reduction as opposed to the 50% claimed. See EPA's "Review of Recent Illinois SIP Submittals".

Indiana submitted a draft 1982 SIP revision for CO on September 2, 1982. Monitoring data from Lake County in this submittal showed attainment of the standards in 1978 and 1979 at the E. Chicago Avenue monitor, the most recent monitoring data within the nonattainment area. However, the relocated monitor, now located in a designated attainment area at 4818 Indianapolis Boulevard, recorded violations in 1981.

The draft SIP submitted by Indiana used a rollback analysis and data from the Indianapolis Boulevard monitoring site to determine that a 10% reduction in CO emissions from the 1980 base year level would be needed to attain the CO standards. The draft SIP predicted that a 42% reduction in CO emissions will occur by December 31, 1987, in Lake County as a result of the continued implementation of the Federal Motor Vehicle Control Program (FMVCP). An additional 4% emission reduction was expected to result from the implementation of committed transportation Control Measures (TCMs). The draft plan, therefore, demonstrated attainment at the Indianapolis Boulevard monitoring site, where violations were most recently recorded.

However, as part of the Indiana SIP development procedures, the Northwest Indiana Regional Planning Commission (NIRPC) performed a modeling analysis which indicated continued violations of the CO NAAQS past 1987 at approximately 30 locations in Lake County. (There are no ambient monitors situated at these locations.) The analysis was referenced, but not submitted, in Indiana's September 2, 1982 draft SIP submittal. In its draft submittal the State did not address attainment of the standards at these locations.

EPA reviewed Indiana's draft revisions and prepared comments on these revisions with regards to their compliance with the 1982 CO SIP revision preparation requirements. These comments were forwarded to Indiana in a November 10, 1982 letter. On February 3, 1983 (48 FR 5106), EPA proposed to disapprove the draft 1982 CO SIP for Indiana, because it did not demonstrate attainment of the CO NAAQS by December 31, 1987 for all locations in Lake County and because it withdrew the State's commitment to implement an I/M program.

On December 2, 1983, the State of Indiana submitted its final State approved version of the 1982 SIP. The revised plan again did not address attainment of the NAAQS in the designated nonattainment area. It differed from the draft plan in that it did not include the rollback analysis for the Indianapolis Boulevard monitoring site, where violations were recorded in 1981. The State did address the NIRPC modeled nonattainment locations, by assuming that the receptor sites previously considered were too close to roadways. The use of more distant receptors resulted in lower predicted CO concentrations and the elimination of post-1987 violations. Also, the State did a more detailed analysis of 5 sites near I-80/I-94 where the NIRPC modeling predicted high CO levels.

The December 2, 1983 submittal did renew Indiana's commitment to I/M. The transportation control portion of this plan for Lake County contains five transportation measures to be implemented to obtain emissions reduction goals. Although these TCMs were included for CO control in Lake County, their emissions impacts were neither discussed nor included in the attainment demonstration in the final SIP submittal. The State did commit itself, however, to annually review the transportation improvement projects for their emissions impact.

The FMVCP is expected to reduce Lake County mobile source CO emissions by 45% between 1980 and 1987. The I/M program, which was not included in the September 2, 1982 draft submittal, is expected to reduce mobile source CO emissions an additional 13.3% in in Lake County between 1980 and 1987.

EPA has reviewed Indiana's most recent SIP submittal. First, EPA does not agree with the modeling assumptions made by Indiana in its modeling analyses, including the analysis of CO levels near I-80/I-94. The State did not submit documentation of the "hotspot" modeling results which were discussed in the State's September 2, 1982, draft CO plan and in its December 2, 1983 final CO plan submittal. Without this documentation, it is impossible for USEPA to ascertain the quality of the modeling results and to assure that the post-1987 predicted exceedances of the 8-hour CO standard included in the draft plan will not actually occur. USEPA is requesting the State of Indiana to submit documentation of the modeling analysis. After this documentation is reviewed, USEPA will make a determination of the necessity for revisions to Indiana's SIP concerning this issue.

Notwithstanding the above, the modeled areas are not within the designated nonattainment area and, therefore, USEPA is not proposing today to disapprove Indiana's present CO Part D plan based on these possible violations. Similarly, Indiana's failure to adequately address attainment of the NAAQS at the Indianapolis Boulevard monitor, site of the 1981 recorded violations, is not being addressed today becasue it also is not within the nonattainment area. EPA may, however, address the apparent nonattainment of the CO NAAQS at these areas in either a future **Federal Register** notice proposing to designate these areas nonattainment, if the State so requests, or in a section 110(a)(2)(H) notice of SIP deficiency.

EPA is proposing to approve the strategy for the designated nonattainment area in Lake County because, using currently available data and techniques, the strategy developed would require the addition of no new controls. USEPA recommends that a strategy, using rollback, for an area be based on the most recent two years of ambient data. In the case of the Lake County nonattainment area, the most recent data are from 1978 and 1979 and shows no violations of the CO standards recorded in the designated nonattainment area. Therefore, the design value for this area would be below the standard and no new controls would be required. Additionally, Indiana has submtiited a plan which should provide over a 50% reduction by 1987 from CO levels emitted in or near this area in 1980. This reduction, combined with no recorded violations, should assure attainment and maintenance of the NAAQS in the designated nonattainment portion of Lake County, and, therefore, EPA is proposing to approve the plan.

Inspection and Maintenance Program

In Indiana's 1979 SIP submission, it demonstrated that attainment of the ozone NAAQS by December 31, 1982 was not possible in Lake, Porter, Floyd, and Clark Counties nor of the carbon monoxide NAAQS by December 31, 1982 in Lake County. Therefore, it requested an extension of the attainment deadline to December 31, 1987. The EPA approved this request on February 11, 1982. Under these circumstances, section 172(b)(11)(B) of the CAA requires Indiana to implement an I/M program in these areas. Indiana did commit to implement an I/M program, and EPA conditionally approved this commitment on January 2, 1981.

The IAPCB sent a draft of its 1982 ozone and OC SIP submittal to EPA September 2, 1982. This draft proposed to rescind Indiana's commitment to an I/M program. (Shortly thereafter, however, Governor Orr reaffirmed the

State's commitment to implement an I/M program.) Because EPA only had the IAPCB's plan to act on, EPA proposed to disapprove the I/M portion of the draft SIP submittal in the February 3, 1983 Federal Register (48 FR 5109). This proposed rulemaking cited several SIP disapprovability issues and noted that other technical deficiencies were cited in EPA's November 10, 1982 comments to the State on the IAPCB's draft proposal and in EPA's November 19, 1982 technical support memorandum entitled "Technical Review of Indiana Draft 1982 Ozone and Carbon Monoxide Implementation Plan".

On December 2, 1983, the IAPCB submitted its final 1982 plan for Lake, Porter, Clark, and Floyd Counties. This plan committed the State to implement an I/M program which was designed to start on January 1, 1984. It included an IAPCB approved copy of Indiana's draft revised I/M regulation, 325 IAC 13–1.1, Motor Vehicle Inspection and Maintenance Requirements. Governor Orr notified EPA on December 22, 1983, that inspections would begin on May 31, 1984. 325 IAC 13–1.1 was promulgated by Indiana on December 28, 1983 and was submitted as a revision to the SIP on January 4, 1984. On March 28, 1984, Indiana notified EPA that the Indiana State Legislature had added violations of Indiana air rules, including I/M regulations, to the list of Class C infractions which can be enforced by local law enforcement officers. In a July 28, 1983 letter, Indiana had previously provided EPA with guidance on how such a change under Indiana law should give local law officials that authority to enforce IAPCB rules. Indiana started testing vehicles on May 31, 1984, and the full program began on June 4, 1984.

Indiana is proposing to use a dual enforcement mechanism for violations on the I/M program requirements. The first mechanism, which was not adopted by the IAPCB as of September 1984, is the use of a computerized system to match vehicle registration information with data on actual vehicle testing to determine compliance. Persons who have failed to have their vehicles tested will be sent a warning letter which requires vehicle testing within 30 days of the receipt thereof. If the violator fails to have the vehicle tested, a Notice of Violation, Prehearing Conference and Hearing is to be issued and a hearing officer appointed. Penalties are to be established pursuant to Indiana Code (IC) 13–7–13–1(a), Civil Penalties, which provides for a maximum penalty of up to $25,000 a day.

The second enforcement merchanism is the identification (through a windshield sticker) and prosecution of violators by local enforcement officials. On March 2, 1984, Indiana amended IC 13–1–1–9 to make it a Class C infraction to refuse to comply with an order or rule of the Indiana Air Pollution Control Board, including the I/M regulations. Additionally, IC–34–4–32 provides an enforcement mechanism for Class C infractios and provides for civil penalties of up to $500. The IAPCB has indicated in a letter dated March 28, 1984, that it is working with the State Attorny General, prosecutors, and local law enforcement officials to finalize all details involved in its sticker enforcement program. EPA is requiring that a detailed description of this enforcement mechanism be submitted to EPA during the public comment period.

Indiana is implementing a centralixed I/M program operated by the Indiana Vocational Technical College. Testing will be performed at one location in the Clark and Floyd Counties area and five locations in the Lake and Porter Counties area. In addition, there are two mobile testing vans for Lake and Porter Counties and one mobile testing van for Clark and Floyd Counties. Trucks of less than 10,000 pounds and all cars (excluding diesel) must be tested biennially, unless they are more than 12 years old. There will be no charge to vehicle owners for testing their vehicles. Additionally, tune-ups and repairs for cars that fail the initial test are limited to $50.00 for parts, if the owner elects to make his own repairs, or $100.00 for parts and labor, if the owner has someone else make the repairs. Using 1980 emission levels as a base, Indiana expects its I/M program to result in a 2.2% reduction in total VOC emissions in Lake and Portr Counties; a 2.8% VOC reduction in Clark and Floyd Counties; and a 13.3% reduction of CO emissions in Lake County.

Although Indiana has committed to the implementation of a vehicle I/M program, it did not implement this program in conformance with the schedule originally committed to and approved by EPA. However, considering that Indiana's I/M plan has been implemented prior to the time EPA could take final rulemaking action on the plan, EPA does not consider this late implementation date a reason for disapproving the plan at this time.

Additionally, section 172(b)(7) of the Clean Air Act requires the SIP to identify and commit the finanical and manpower resources to carry out the plan provisions. Indiana's legislature appropriated funds for the first two years of program, through 1985. EPA recognizes that Indiana law limits contracts to two years and that legislative appropriation for the I/M program also cannot extend beyond two years. On July 28, 1983, Dr. Ronald G. Blandenbaker, State Board of Health Commissioner, committed to seek additional funding in the 1985 General Assembly for continued operation of the I/M program. EPA proposes to accept the commitment as satisfying the requirements of the Act.

However, if the Indiana legislature fails to appropriate adequate funds to continue implementation of the I/M program, as committed to in the SIP, and no other source of funding is available, it seems likely that the program would have to be discontinued. If this were to occur, EPA would at that time take appropriate corrective action under the Act.

Still, two major and several minor deficiencies currently exist which must be corrected prior to EPA being able to give final approval to Indiana's I/M plan. The two deficiencies are:

1. The State has not submitted for approval as a part of its SIP a detailed description of the enforcement mechanisms it intends to use in enforcing its I/M program and the resources, including manpower and funds, it will use in implementing its enforcement. This must be submitted. For the first mechanism, it needs to include the frequency of matching vehicle registration and emissions testing data (EPA recommends that this be done at least once every 30 days); the timeframe for issuing warning letters and notices of violation; a description of the administrative hearing process, including identification of the specific agency(s) which will administer the hearing process; penalties which will be assessed; and methods of assuring final compliance of the vehicle(s) with the I/M program and requirements. (At the IAPCB July 11, meeting, the Board considered an administered hearing process which included specific fines, the suspension of the current registration for vehicles which have not compiled with the Indiana I/M program, and the denial of renewal of registration until these vehicles have complied. If the State ultimately adopts this or a substantially identical administrative hearing process and submits it as a portion of the SIP, with evidence of supporting legal authority, then this portion of the enforcement mechanism would be approvable.)

The description of the second mechanism needs to include an identification of the specific local law enforcement agencies involved, including a description from the

agencies involved of how each plans to enforce their portion of the program; how subject vehicles will be identified; how violators are to be detected, i.e., routine patrol surveillance, roadside checks, parking lot surveys, etc.; where and how violators are to be prosecuted; and how the State plans to monitor compliance (once the penalty is paid) to ensure that the vehicle meets the inspection requirements. This process should be as routine and expeditious as that followed for expired license plate violations.

2. The I/M submittal does not contain demonstrations that Indiana's I/M program, as implemented, meets the requirements of RACT. Using MOBILEII, a RACT demonstration must show that the State's I/M program will achieve a total emission reduction equivalent to a 33% reduction in 1987 CO emissions and a 25% reduction in 1987 hydrocarbon emissions from the light duty vehicle emissions inventory, relative to what the 1987 emission inventory for light duty vehicles would be without I/M. However, if vehicles other than light duty vehicles are included in an I/M program, they can generate emission reduction which can contribute to the 25%/33% reduction requirement for the light duty class. Indiana's submittal demonstrates that the required emission reductions in Lake and Porter Counties would have occured if the program would have been implemented by January 1, 1984. However, the program was not completely implemented until June 1984. Because the amount of control obtained by December 31, 1987 is dependent upon the actual start-up date of the program, Indiana's new start-up date must be taken into consideration in making the RACT calculations. Indiana must submit revised calculation, with complete documentation, showing that its I/M program will provide a RACT level of control. If the amount of control differs from that originally predicted, Indiana must revise its attainment demonstrations for the four counties accordingly.

Additionally, the SIP submittal states that Indiana's program will have a stringency factor of aproximately 30%. In order to achieve the required reduction in emissions to which the State has committed itself and needs, the stringency factor of Indiana's I/M program must be set at 30% or greater. The State must commit itself to this.

The minor deficiencies are:

1. Indiana incorporated by reference in its I/M program Subpart W of 40 CFR Part 85, "Emission Control System Performance Warranty Short Tests". This Subpart has been updated in the past and it is anticipated that it may be updated in the future. Therefore, Indiana must specify the date of the version of Subpart W, e.g., June 12, 1984, 49 FR 24320 or the *Code of Federal Regulations* publication year, it is incorporating by reference into its plan. Additionally, Indiana should commit to incorporate future revisions to this subpart as they are made.

2. The Indiana I/M program takes credit for achieving, through the use of a two speed idle test, a 70% identification rate for 1981 and later vehicles which violate the emission standards. 325 IAC 13–1.1–5(h) itself, however, only requires testing to be performed in accordance with 40 CFR Part 85. 40 CFR Part 85 currently contains six possible tests, not all of which would satisfy this 70% requirement. Either the reference in section 5(h) should be amended to specify which test within the Federal regulations Indiana is using or Indiana should commit itself to using a specific test method. EPA recommends Indiana use the Engine Restart 2500 rpm/Idle Test (to be codified as 40 CFR 85.2210), because it will ensure that all 1981 and later Indiana cars tested under it will be covered by the warranty provisions of section 207(b) of the CAA and will achieve the 70% identification rate for 1981 and later vehicles.

3. 325 IAC 13–1–1.1–12 requires testing equipment to be calibrated in accordance with 40 CFR Part 85, Subpart W. Indiana should confirm that it is specifically referencing in this general reference the calibration and adjustment requirements of 40 CFR Part 85.2217 (1983) or, instead, the updated version published on June 12, 1984 (49 FR 24320).

A comprehensive discussion of these issues can be found in EPA's September 26, 1983 letter (including attachments) to the State and in a January 23, 1984 memorandum from Jane Armstrong, Project Manager of EPA's I/M Technical Support Staff.

If Indiana provides during the public comment period: (1) An approvable, detailed description of its enforcement mechanisms (including a description from each of the appropriate State, county, and local officials of how they will enforce their portions of the program), (2) a detailed discussion of the resources it will use to implement its enforcement program, (3) an analysis which shows its I/M plan meets the requirements of RACT, and (4) a commitment to rectify the remaining deficiencies listed above within a specified period of time (not to exceed one year from date of EPA final rulemaking), EPA will aprove Indiana's I/M program, including 325 IAC 13–1.1, as meeting the requirements of Part D of the CAA.[11] EPA will not give final approval to the I/M plan until the above requirements are met.

Transportation Control Plans

The 1982 transportation control plan for Lake and Porter Counties describes five transportation measures which will be implemented. These measures are: speed limit review, placing some traffic signals at lightly traveled intersections on flash, removing unwarranted stop signs, carpooling, and vanpooling. For Floyd and Clark Counties, the plan consists of ridesharing and transit improvements. The plans for all four counties commit to annually reviewing implemented transportation improvement projects for their emission impacts. Section 176(c) of the CAA requires metropolitan planning organizations (MPO) to disapprove any project which does not conform with the approved SIP. EPA approved the commitments from the Clark and Floyd Counties' MPO (Kentuckiana Regional Planning and Development Agency) and the Lake and Porter Counties' MPO (Northwest Indiana Regional Planning Commission) in this matter on February 11, 1982, and these commitments are still operative. EPA has reviewed the Indiana 1982 transportation control plans and has found that several significant deficiencies still remain in these plans. These are that the State needs to:

1. Provide documentation of the derivation of the Lake and Porter Counties' hydrocarbon reduction benefits assigned to each transportation control measure included in Exhibit 7–1 of the SIP submittal.

2. Submit documentation, based on a technical analysis, of the basis for the State's rejection of any of the transportation control measures contained in section 108(f) of the CAA for implementation in Clark, Floyd, Lake, and Porter Counties.

3. Commit to provide (a) an annual assessment which identifies the projects within Indiana's yearly Transportation Improvement Plans (TIP) that were implemented and (b) a Technical Analysis of the emission reduction benefits obtained from each implemented measure or package of measures.

4. Submit a discussion of the how the basic transportation needs (BTN) of the four Indiana counties, including the

[11] If EPA ultimately approves the Indiana I/M plan, this approval will remove the conditions which are still outstanding as a result of EPA's January 2, 1981 conditional approval of Indiana's commitment to implementing an I/M plan. See 40 CFR 52.786(h).

requisite provisions and commitments made for funding such BTNs, are being met. See sections 110(a)(3)(D), 110(c)(5)(B), and 172(b)(10) of the CAA.

EPA proposes to approve Indiana's transportation control plans providing that Indiana satisfactorily documents the above mentioned deficiencies during the public comment period. If the State needs additional time to remedy these deficiencies, it may commit to remedying the deficiencies and submit an expeditious schedule for remedying them. IF EPA considers the State request acceptable, EPA will them approve the State's plan based on the State's commitment and schedule. (This schedule should not extend beyond one year from the date of EPA's final action.) If Indiana fails to provide the necessary documentation or an acceptable schedule for remedying these deficiencies, EPA will approve those portions of the plan which are approvable, but will not approve the plan as a whole until they are remedied.

Summary

1. EPA today is proposing to approve Indiana's transportation plan if deficiencies listed in this notice are rectified during the public comment period. If Indiana requires more time and acceptably commits to rectify the problems, EPA will approve those portions of the plan which are acceptable, but not approve the plan as a whole.

2. EPA today is proposing to approve Indiana's I/M plan only if the State provides during the public comment period: (1) An approvable, detailed description of its enforcement mechanisms (including a description from each of the appropriate State, county, and local officials of how they will enforce their protions of the program), (2) a description of the resources it will use to implement its I/M enforcement plan, (3) a demonstration that its I/M program meets the CAA's RACT requirement, and (4) a commitment to rectify the remaining deficiencies within one year or less.

3. EPA is proposing to approve Indiana's CO plan for the designated nonattainment area in Lake County.

4. EPA is proposing to approve the ozone attainment domonstration for Lake and Porter Counties if Indiana adopts Illionois' attainment demonstration as its own and submits it as a revision to the Indiana ozone SIP for the greater Chicago area.[12] This submittal must also include a demonstration that the CAA's RFP requirement is met by the plan. If Indiana does not submit such a plan, EPA will approve those portions of the plan which are approvable but will disapprove the submitted attainment demonstration because it does not address attainment of the ozone NAAQS in Southeastern Wisconsin.

5. Finally, EPA is proposing to approve the ozone plan for Floyd and Clark Counties if the States commits to obtain the emission reductions presently included in Indiana's SIP submittal (or at least a 32.5% reduction from 1980 emission levels) regardless of whether these reductions can be obtained from the sources from which the State is presently intending to get them. If the State does not so commit, EPA will approve the emission control elements of the plan, because they will contribute towards attainment of the NAAQS. However, EPA will not approve the plan as a whole, because the best information available to EPA indicates that the emission reductions required to attain the NAAQS will not be obtained through the State's plan.

If EPA ultimately disapproves any significant part of the Indiana '82 ozone or CO SIP, the section 110(a)(2)(I) construction ban will automatically go into effect for the area and pollutant in question. EPA will also consider at that time whether or not it is appropriate to impose any or all of the restrictions contained in section 176(a). For further discussion of the circumstances under which EPA would impose these restrictions, see *Guidance Document for Correction of Part D SIP's for Nonattainment Areas*, January 27, 1984.

EPA is soliciting comments on the '82 ozone and CO plans submitted by Indiana and EPA's proposed action on this plan. Additional comments on the plans are included in the following EPA analyses.

1. Technical Support Document for the Transportation Control Measures Portion of the Indiana 1982 Ozone/CO SIP.

2. Review of the Vehicle Inspection and Maintenance Portion of the Indiana Final 1982 Ozone and Carbon Monoxide State Implementation Plan.

3. Review of Indiana's 1982 Carbon Monoxide SIP.

4. Indiana Ozone SIP for Northwest Indiana.

5. Technical Review of Indiana's 1982 Ozone State Implementation Plan for Clark and Floyd Counties.

6. Review of Recent Illinois Ozone SIP Submittals.

EPA is also soliciting comments on the comments and analyses included within these documents. The documents are available for public inspection at the offices listed in the addresses section of this proposal. All comments on this notice should be received by the Region V office within 60 days of the date of this notice.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709). If EPA takes final action to disapprove any part of the Indiana Part D plan for ozone or CO, a moratorium on the construction and modification of major stationary sources for that pollutant (VOCs for ozone) will go into effect in certain portions of the State. EPA does not have sufficient information to determine the impacts a moratorium may have on small entities, because it is difficult to obtain reliable information on future plans for business growth. However, because EPA cannot be certain of the potential impact on small entities, the Agency invites comments on this issue. Every if a disapproval action, when promulgated, were to have a significant impact on a substantial number of small entities, the Agency could not modify the action. Under the Clear Air Act the imposition of a construction moratorium is automatic and mandatory whenever the Agency determines that a plan for an nonattainment are fails to meet the requirements of Part D of the Act.

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB to EPA, response, are available for public inspection at the EPA, and any EPA response, are available for public inspection at the EPA Region V office listed above.

(Sections 110, 172 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410, 7502, and 7601(a)))

Air pollution control, Intergovernmental relations, ozone, sulfur oxides, lead, nitrogen dioxide, pasticolate mather, carbon monoxide, hydrocarbons.

Dated: June 28, 1984.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 84-26581 Filed 10-5-84; 8:45 am]

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[12] Even if EPA approves Indiana's strategy for either the Indiana portion of the Chicago area or the Louisville area, it will not give final approval to these plans until all elements of the plans are fully approved.

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40 CFR Part 52

[A-10-FRL-2687-4]

Approval and Promulgation of State Implementation Plan: Washington

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The purpose of this Notice is to invite public comment on EPA's proposal to approve revisions to the Washington State Implementation Plan (SIP) submitted on January 16, 1984. These revisions were submitted to satisfy requirements of Section 110 (Implementation Plans), and Section 173 (Permit Requirements) of the Clean Air Act (hereinafter the Act) and to implement new source review and emissions trading (offset and banking) programs for nonattainment areas within the jurisdiction of the Puget Sound Air Pollution Control Agency (PSAPCA).

DATE: Comments will be accepted until November 8, 1984.

ADDRESSES: Copies of the materials submitted to EPA may be examined during normal business hours at:

Air Programs Branch (10A-84-3), Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, Washington 98101

State of Washington, Department of Ecology, 4224 6th Avenue SE., Rowe Six, Building #4, Lacey, Washington 98504

Comments should be addressed to: Laurie M. Kral, Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: David C. Bray, Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101, Telephone: (206) 442-8577, FTS: 399-8577.

SUPPLEMENTARY INFORMATION:

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I. Introduction

The Puget Sound Air Pollution Control Agency (PSAPCA) is a local agency which has jurisdiction over King, Kitsap, Pierce and Snohomish counties. Within these counties there are several areas which are nonattainment for carbon monoxide (CO) and total suspended particulates (TSP) and one ozone nonattainment area. As required by Part D of the Act, the State of Washington Department of Ecology (DOE) has adopted, and EPA has approved, a new source review program which requires new and modified major stationary sources in nonattainment areas to meet the lowest achievable emission rate, provide emission offsets and demonstrate statewide compliance. The SIP revisions being proposed for approval today embody the PSAPCA new source review program for the nonattainment areas within its jurisdiction and would result in the transfer of the authority for nonattainment area new source construction permits from DOE to PSAPCA. The PSAPCA program also includes provisions for banking of emission reduction credits, but allows such only for nonattainment pollutants in the designated nonattainment areas, and for use as emission offsets for new or modified major stationary sources.

II Plan Revisions

The SIP revisions involve amendments to Sections 1.07, 6.07(b) and 6.08 of Regulation I of the Puget Sound Air Pollution Control Agency. Specifically:

Section 1.07 GENERAL DEFINITIONS is amended by adding definitions of the terms "Facility" (Section 1.07(s)), "Source" (Section 1.07(rr), and "Volatile organic compound" (Section 1.07(xx)).

Section 6.07 ISSUANCE OF APPROVAL OR ORDER is amended by adding a new subsection 6.07(b)(7) which adds a new requirement regarding impact on nonattainment areas for new air contaminant sources which are not subject to the nonattainment area permit requirements.

A new section 6.08 SPECIAL CONDITIONS FOR NEW AIR CONTAMINANT SOURCES WHICH WILL SIGNIFICANTLY IMPACT A NONATTAINMENT AREA is added which adds provisions, as required by Section 173 of the Act, for new and modified major stationary sources in nonattainment areas. This includes a new subsection 6.08(a) "Policy" which establishes the new source growth management policy for nonattainment areas; a new subsection 6.08(b) "Definitions" which adds definitions of the terms "actual emissions," "allowable emissions," "emission reduction credit," "facility," "fugitive emissions," "lowest achievable emission rate," "major source," "new air contaminant source which will significantly impact a nonattainment area," "nonattainment area," "offset," "reasonable further progress," "secondary emissions," "source," "total allowable emissions;" a new subsection 6.08(c) "Evaluation Procedures" which add procedures for determining whether a new air contaminant source will significantly impact a nonattainment area and is therefore subject to these additional permit requirements; a new subsection 6.08(d) "General Requirements" which establishes the permit requirements for new air contaminant sources per the requirements of Section 173 of the Act; a new subsection 6.08(e) "Offset Conditions" which establishes the specific requirements which must be met for an emission offset to be approvable; and a new subsection 6.08(f) "Banking Conditions" which establishes a program for banking emission reduction credits for use as offsets for a period of up to eight (8) years.

III. Summary of Actions

EPA has concluded that these revisions satisfy the requirements of Section 173 of the Act and 40 CFR 51.18(j) and are consistent with EPA's emissions trading policy statement (47 FR 15076, April 7, 1982).

The PSAPCA regulation differs significantly from EPA's program (40 CFR 51.18(j)) in structure and terminology. However, EPA has determined that it satisfies all of EPA's requirements with three exceptions which will all be corrected. In order to support EPA's proposed approval of the PSAPCA regulation, EPA has prepared a technical support document to explain how certain requirements are met by PSAPCA's regulations, clarify how PSAPCA will implement certain provisions and establish the means whereby the three deficiencies will be corrected. This document is available for review at the addressses listed above.

Therefore, EPA is proposing to approve these revisions to the PSAPCA permit program, thereby transferring the authority for issuing permits pursuant to Part D of the Act from DOE and PSAPCA, and recognizing the PSAPCA emissions reduction credit banking program for use in the nonattainment areas within PSAPCA's jurisdiction.

Interested parties are invited to comment on all aspects of these proposed revisions to the Washington SIP. Comments should be submitted preferably in triplicate, to the address listed in the front of this Notice. Public comments postmarked by November 8, 1984 will be considered in any final action EPA takes on this proposal.

Pursuant to the provisions of 5 U.S.C. Section 605(b), the Administrator has certified that SIP approvals under Sections 110 and 172 of the Act will not

have a significant impact on a substantial number of small entities (46 FR 8709, January 27, 1981). This action constitutes a SIP approval under Sections 110 and 172 within the terms of the January 27, 1981 certification.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

(Sec. 110(a), 171 to 173, 301(a) of the Clean Air Act as amended (42 U.S.C. 7410(a), 7501 to 7503 and 7601(a)))

List of Subjects in 40 CFR Part 52

Intergovernmental relations, Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide.

Dated: September 27, 1984.

Ernesta B. Barnes,

Regional Administrator.

[FR Doc. 84-26800 Filed 10-3-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 65

[Docket No. DCO-IV-8404; A-4-FRL-2688-2]

State and Federal Administrative Orders Permitting a Delay in Compliance with State Implementation Plan Requirements; Proposed Approval of an Administrative Order Issued by the Florida Department of Environmental Regulation to Arnold Cellophane Corp.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve an Administrative Order issued by the Florida Department of Environmental Regulation to the Arnold Cellophane Corporation (Arnold). The Order was submitted to EPA for approval by DEM by letter of September 10, 1984. The Order requires Arnold to bring air emissions from its four (4) existing graphic arts presses, four (4) laminators and one (1) paper coating operation in Miami, Florida, into compliance with air pollution control regulations contained in the federally approved Florida State Implementation Plan (SIP) by September 1, 1985, for the graphic arts presses and October 1, 1985, for the laminating/paper coating operations. Becasue the Order has been issued to a major source of air pollution and permits a delay in compliance with provisions of the SIP, the Administrative Order must be approved by EPA before it becomes effective as a Delayed Compliance Order under the Clean Air Act (the Act). If approved by EPA, the Order will constitute an addition to the SIP. In addition, a source in compliance with an approved Order may not be sued under the federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment on EPA's proposed approval of the Order as a Delayed Compliance Order.

DATE: Written comments must be received on or before November 8, 1984.

ADDRESS: Comments should be submitted to Director, Air and Waste Management Division, EPA, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia, 30365. The State Order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT: William Voshell, Air Management Branch, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30365, Telephone Number (404) 881-4253.

SUPPLEMENTARY INFORMATION: Arnold owns and operates a facility in Dade County, Miami, Florida, which operates as a convertor for the flexible packaging industry. This facility is a stationary installation which can reasonably be expected to be a source of air pollution for the emission of volatile organic compounds (VOCs). The regulation of VOC Categories Paper Coating and Graphic Arts Systems, was adopted under Chapter 403, Florida Statutes, and Chapter 17-2, Florida Administrative Code (FAC), as part of the Florida State Implementation Plan upon approval in the November 24, 1981, **Federal Register**, 46 *FR.* and the March 18, 1980, **Federal Register**, 46 *FR.* 17140, respectively. The potential VOC emissions from the Miami facility are greater than 100 tons per year. The Miami facility is located in a designated nonattainment area for ozone. The Department of Environmental Regulation (Department) is the agency of the State of Florida authorized and required by Chapter 403, Florida Statutes, to control and prohibit air pollution in accordance with state laws. The Metropolitan Dade County Environmental Resources Management (MDCERM) is a federally approved local program as provided by Section 403.182, Florida Statute, with authority to regulate under Chapter 403, Florida Statutes, as well as under local ordinances.

The laminator and paper coating processes used at the Miami facility are subject to the requirements of Rule 17-2.650(1)(f)3., FAC, which provides for specific emission limitations for roll, knife, or rotogravure coaters and drying ovens of paper coating lines. The graphic arts presses are subject to the requirements of Rule 17-2.650(1)(f)16., FAC, which provides for specific emission limitations for all packaging rotogravure, publication rotogravure, or flexographic printing operations whose potential to emit VOCs is equal to or more than 100 tons per year. For the above processes and regulations, Rule 17-2.650(1)(b)1.d.(iii), FAC, requires final compliance with the specific emission limiting stanards no later than October 1, 1982, if the source planned to comply by employing low solvent techniques.

Arnold has done research and development of low solvent inks for both the paper coating and graphic arts operations but is presently unable to comply with either Rule 17-2.650(1)(f)3. FAC or Rule 17-2.650(1)(f)16. FAC, using low solvent technology. Arnold anticipates that by December 1, 1985, it will be well within the standard for low solvent technology for its paper coating lines but will fail to meet the standard for low solvent technology on its graphic arts lines.

The order under consideration addresses the control of VOC emissions causing pollution which are subject to federally approved Florida regulations. The regulations limit the emission of VOCs from the graphic arts and paper coating operations and are part of the federally approved Florida State Implementation Plan. The Order requires final compliance be achieved and demonstrated for the graphic arts operation no later than September 1, 1985. Arnold commits to achieve final compliance through the installation and operation of an incineration system approved by the Department.

This Order requires final compliance be achieved and demonstrated for the paper coating/lamination operation by October 1, 1985, through the implementation of the following schedule for the development of low solvent techniques or the installation of add-on control equipment:

1. By March 1, 1985, Arnold shall evaluate the likelihood of successfully meeting the October 1, 1985 deadline using low solvent technology and submit a report stating whether it intends to proceed with low solvent technology or whether it intends to rely on add-on controls as the method of compliance. If compliance using low solvent technology is deemed to be unliikely, Arnold shall commit to the ordering and installation of add-on VOC control equipment (i.e., incineration), approved

by the Department, that will result in final compliance on or before October 1, 1985.

2. If low solvent technology is used, final compliance for paper coating is to be determined on a daily basis. This Order will be modified to reflect any change in EPA national policy which would allow for an averaging period greater that daily averaging. In making the calculation for final compliance, Arnold may average the coatings across paper coating lines.

Failure to meet the interim compliance deadlines set forth in Appendix A of the Order shall result in a pre-determined stipulated non-compliance penalty for each interim deadline. If compliance is not achieved on the final deadline dates, Arnold shall cease all operations which result in emissions of VOCs in excess of the applicable rules. Operations shall be resumed until the Department has reasonable assurances that Arnold has achieved final compliance.

Arnold has consented to the terms of the Order and has agreed to meet the Order's increments during the period of this informal rulemaking. The source is required to submit quarterly reports by the 20th day after the beginning of the month in which they are due indicating progress toward each milestone in the schedule of compliance. If any delay is anticipated in meeting said incremental compliance milestones, Arnold shall immediately notify the Florida DER Southeast District Manager and the MDCERM in writing of the anticipated delay and reasons therefor. Notification of the delay shall not excuse the delay. In addition, Arnold shall submit, no later than the deadline for completing each increment of compliance contained within Appendix A, including final compliance, certification to the District Manager and the MDCERM whether or not such milestone has been met. Arnold shall perform operation and maintenance practices on all sources as necessary to prevent malfunctions and breakdowns and to reduce emissions in excess of the rules to the maximum extent practicable.

Because this Order has been issued to a major source of Volatile Organic Compound emissions and permits a delay in compliance with the applicable state air pollution control regulation(s), it must be approved by EPA before it becomes effective as a Delayed Compliance Order under section 113(d) of the Clean Air Act (the Act). EPA may approve the Order only if it satisfies the appropriate requirements of this subsection. EPA has tentatively determined that the above-referenced Order satisfies these legal requirements.

If the submitted Administrative Order is approved by EPA, source compliance with its term would preclude federal enforcement action under section 113 of the Act against the source for violations of the regulation(s) covered by the Order during the Period the Order is in effect. Enforcement against the source under the citizen suit provisions of the Act (Section 304) would be similarly precluded. If approved, the Order would also constitute an addition to the Florida SIP. Compliance with the proposed Order will not exempt the company from the requirements contained in any subsequent revisions to the SIP which are approved by EPA. All interested persons are invited to submit written comments on the proposed Order. Written comments received by the date specified above will be considered in determining whether EPA may approve the Order. After the public comment period, the Administrator of EPA will publish in the **Federal Register** the Agency's final action on the Order in 40 CFR Part 65.

Authority: 42 U.S.C. 7413, 7601.

Dated: September 25, 1984.

Charles R. Jeter,

Regional Administrator, Region IV.

[FR Doc. 84-26579 Filed 10-5-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 65

[Docket No. DCO-IV-8405; A-4-FRL-2687-7]

State and Federal Administrative Orders Pemitting a Delay in Compliance With State Implementation Plan Requirements; Proposed Approval of an Administrative Order Issued by the Florida Department of Environmental Regulation and Hillsborough County Environmental Protection Commission to Continental Can Co., Inc.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve and Administrative Order issued jointly by the Florida Department of Environmental Regulation and the Hillsborough Environmental Protection Agency to the Continental Can Company, Inc., (Continental). This order was submitted to EPA for approval by letter of August 8, 1984. This Order requires Continental to bring air emissions from its end seam compounding operations and two (2) "sheet" coating units in Tampa, Florida, into compliance with air pollution control regulations contained in the federally approved Florida State Implementation Plan (SIP) by February 1, 1985 and September 1, 1985, respectively. Because the Order has been issued to a major source of air pollution and permits a delay in compliance with provisions of the SIP, the Administrative Order must be approved by EPA before it becomes effective as a Delayed Compliance Order under the Clean Air Act (the Act). If approved by EPA, the Order will constitute and addition to the SIP. In addition, a source in compliance with an approved Order may not be sued under the federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment on EPA's proposed approval of the Order as a Delayed Compliance Order.

DATE: Written comments must be received on or before November 8, 1984.

ADDRESSES: Comments should be submitted to Director, Air and Waste Management Division, EPA, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia, 30365. The State Order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT: William Voshell, Air Management Branch, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30365, Telephone Number (404) 881-4253.

SUPPLEMENTARY INFORMATION: Continental owns a facility in Hillsborough County, Tampa, Florida, which operates as a can coating plant (Plant #58). This facility is a stationary installation which can reasonably be expected to be a source of air pollution for the emission of volatile organic compounds (VOCs). The regulation of VOC, Category Can Coating, was adopted under Chapter 403, Florida Statutes, and Chapter 17-2, Florida Administrative Code (FAC), as part of the Florida State Implementation Plan upon approval in the March 18, 1980, **Federal Register**, 45 FR 17140. The potential VOC emissions from Plant #58 are greater than 100 tons per year. Plant #58 is located in a designated nonatttainment area for ozone.

The Department of Environmental Regulation (Department) is the agency of the State of Florida authorized and required by Chapter 403, Florida Statutes, to control and prohibit are pollution in accordance with state laws.

The Hillsborough County Environmental Protection Commission (EPC) is a federally approved local program as provide by Section 403.182, Florida Statutes, with authority to regulate under Chapter 403, Florida Statutes, as well as under local ordinances.

The can coating process used at Plant #58 is subject to Rule 17–2.650(1)(f)1., FAC, which provides for specific emission limitations for can coating operations and Rule 17–2.650(1)(b)1.d.(iii), FAC, which requires final compliance with the emission limiting standards for can coating no later than October 1, 1982, if the source planned to comply by employing low solvent techniques.

Continental has conducted research, development and testing of low solvent coating technology. As a means of achieving compliance with VOC regulations in the shortest possible time, Continental has focused its attention on the high volume materials and end seam compounds. It is Continental's intention to obtain the necessary approval from its customers in order to commercialize the coatings and end seam compounds for use in all of its can plants.

Final compliance shall be achieved and demonstrated no later than September 1, 1985. If compliance is not achieved, Continental shall cease all operations at Plant #58 which result in emission of VOCs in excess of the applicable rules. Operations shall not be resumed until the Department has received reasonable assurances that Continental has achieved required final compliance.

The Order under consideration addresses the control of VOC emissions causing pollution which are subject to federally approved Florida regulations. These regulations limit the emission of VOCs for can coating operations and are part of the federally approved Florida State Implementation Plan. The Order requires final compliance with the regulation by no later than September 1, 1985, through the implementation of the following schedule for the development of low solvent techniques (LST) or the installation of add-on control equipment:

1. By February 1, 1985, Continental shall evaluate the likelihood of successfully meeting the September 1, 1985, deadline using LST and submit a report stating whether it intends to proceed with LST or whether it intends to rely on add-on controls as the method of compliance.

(a) If compliance using LST is deemed to be likely, Continental shall meet the following interim compliance deadlines:

(1) As expeditiously as practical but not later than February 1, 1985, Continental shall implement the commercial application of low solvent coating materials for all end seam compounds for beverage can ends.

(2) As expeditiously as practical but not later than November 1, 1984, Continental shall implement the commercial application of low solvent coating materials for all outside coatings of aluminum can end stock.

(3) As expeditiously as practical but not later than February 1, 1985, Continental shall implement the commercial application of low solvent coating materials for all the inside coating for aluminum can end stock.

(b) In compliance using LST is deemed to be unlikely, Continental shall meet the following interim compliance deadlines:

(1) By February 15, 1985, Continental shall submit to the Department a complete application for installation on the sheet coating line of add-on VOC control equipment (e.g., afterburner, carbon absorption), including the method of VOC capture to be utilized.

(2) Unless informed by the Department by March 15, 1985, of the unacceptability of the equipment proposed, Continental shall obtain a purchase order and a contract for installation of the equipment no later than March 25, 1985. Proof of compliance with this provision shall be submitted to the Department by April 1, 1985.

(3) Continental shall verify that construction of the VOC control and capture system is complete and submit the results of compliance tests no later than August 15, 1985.

Final Compliance

2. Continental shall achieve and demonstrate final compliance with the VOC emission liniting standard for can coating set forth in the Delayed compliance Consent Order no later than September 1, 1985. Ths source has consented to the terms of the Order and has agreed to meet the Order's increments during the period of this informal rulemaking. The source is required to submit quarterly reports by the 20th day after the beginning of the month in which they are due, indicating progress toward each milestone in the schedule of compliance. If any delay is anticipated in meeting said milestones, Continental shall immediately notify the Florida DER Southwest District Manager and the Hillsborough EPC Director in writing of the anticipated delay and reasons therefor. Notification of the delay shall not excuse the delay. In addition, Continental shall submit, no later than the deadline for completing each increment of compliance including final compliance, certification to the District Manager and the Director whether or not such milestone has been met. Continental shall perform operation and maintenance practices on all sources as necessary to prevent malfunctions and breakdowns and to reduce emissions in excess of the rules to the maximum extent practicable.

Because this Order has been issued to a major source of VOC emissions and permits a delay in compliance with the applicable state air pollution control regulations, it must be approved by EPA before it becomes effective as a Delayed Compliance Order under section 113(d) of the Clean Air Act (the Act). EPA may approve the Order only if it satisfies the appropriate requirements of this subsection. EPA has tentatively determined that the above-referenced Order satisfies these legal requirements.

If the submitted Administrative Order is approved by EPA, source compliance with its terms would preclude federal enforcement action under Section 113 of the Act against the source for violations of the regulations covered by the Order during the period the Order is in effect. Enforcement against the source under the citizen suit provision of the Act (section 304) would be similarly precluded. If aproved, the Order would also constitute an addition to the Florida SIP. Compliance with the proposed Order will not exempt the company from the requirements contained in any subsequent revision to the SIP which are approved by EPA. All interested persons are invited to submit written comments on the proposed Order. Written comments received by the date specified above will be considered in determining whether EPA may apporve the Order. After the public comment period, the Administrator of EPA will publish in the **Federal Register** the Agency's final action on the Order in 40 CFR Part 65.

Authority: 42 U.S.C. 7413, 7601.

Dated: September 25, 1984.

Charles R. Jeter,

Regional Administrator Region IV.

[FR Doc. 84–26578 Filed 10–5–84; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 65

[Docket No. DCO-IV-8406; A-4-FRL-2686-6]

State and Federal Administrative Orders Permitting a Delay in Compliance With State Implementation Plan Requirements; Proposed Approval of an Administrative Order Issued Jointly by the Alabama Department of Environmental Management and the Jefferson County Board of Health to National Can Co.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve an Administrative Order issue jointly by the Alabama Department of Environmental Management and the Jefferson County Board of Health to National Can Company. This was submitted to EPA for approval by letter of September 25, 1984, from the State of Alabama.

The Order requires National Can Company to bring volatile organic compound (VOC) air emissions from its Pinson Can Coating facility in Jefferson County, Tarrant, Alabama (an ozone nonattainment area) into compliance with air pollution control regulations contained in the federally approved Alabama State Implementation Plan (SIP) by December 31, 1985. Because the Order has been issued to a major source of air pollution and permits a delay in compliance with the provisions of the SIP, the Order must be approved by EPA before it becomes effective as a Delayed Compliance Order (DCO) under the Clean Air Act (the Act). If approved by EPA, the Order will constitute an addition to the SIP. In addition, a source in compliance with an approved DCO may not be sued under the federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the DCO. The purpose of this notice is to invite public comment on EPA's proposed approval of the Order as a Delayed Compliance Order. EPA is proposing to approve the Order in its entirety with the exception of Section V, specifically, the sentence addressing modifications to the recordkeeping protocol. The Jefferson County Bureau of Environmental Health has agreed by letter of September 27, 1984, that they will not modify the reporting and recordkeeping requirements without EPA's approval.

DATE: Written comments must be received on or before November 8, 1984.

ADDRESSES: Comments should be submitted to the Director, Air and Waste Management Division, EPA, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia, 30365. The State Order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT: Mr. Ben Moore, Air Management Branch, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30365, Telehpone Number (404) 881-4253.

SUPPLEMENTARY INFORMATION: The DCO issued by the Alabama Department of Environmental Management (ADEM) and the Jefferson County Board of Health (JCBH) to National Can Corporatin addresses existing violations of the Alabama State Implementation Plan (SIP) pertaining to volatile organic compound (VOC) emissions. It has been determined that National Can is currently unable to achieve compliance with the VOC emission limits specified under Subparagraph 8.11.1(c)(1) and 8.11.1(c)(4) of the JCBH Air Pollution Control Rules and Regulations and Subparagraphs 6.11.1(c)(1) and 6.11.1(c)(9) of the ADEM Air Pollution Control Rules and Reguations at its Pinson Can Coating facility. The ADEM VOC regulations were approved as part of the Alabama SIP on November 26, 1979. Acting pursuant to the authority contained in the Alabama Air Pollution Control Act of 1971, the JCBH adopted the aforementioned VOC regulations on January 28, 1972. It was determined that National Can cannot reasonably achieve compliance with these VOC regulations because technology does not presently exist to devleop a suitable can coating method using low solvent coatings. Therefore, National Can has agreed to come into compliance with the VOC regulations by December 31, 1985, by employing daily alternate emission compliance techniques (per 45 FR 80825) or reformulation using low solvent technology and/or incineration (if necessary). The compliance schedule incorporated in the Order contains interim compliance dates for the evaluation of low solvent coatings and for the installation of control equipment if low solvent coatings cannot achieve compliance by July 20, 1985. The schedule for the installation of the control equipment is as follows:

Interim compliance date	Increment of progress
Aug. 20, 1985	Place order for control equipment.
Oct. 20, 1985	Begin installation of control equipment.
Nov. 20, 1985	Complete installation of control equipment.
Dec. 15, 1985	Complete source testing for compliance.
Dec. 31, 1985	Demonstrate and maintain final compliance with the applicable ADEM and JCBEH VOC regulations.

National Can has consented to the terms of the Order and has agreed to meet the Order's increments of programs during the period of this informal rulemaking. National Can is further required to submit reports (5 total) indicating progress toward compliance while evaluating the use of low solvent coatings. Failure of National Can to comply with any of the increments of progress set forth in the compliance schedule will result in partial or total forfeiture of the amount specified in a Surety Bond, required under the Order, and will also subject the source to federal enforcement pursuant to § 113 of the Clean Air Act (the Act). As a further interim control measure, VOC emissions from the can coating facility shall not exceed 846.0 tons per year. Furthermore, National Can shall not allow VOC emissions from the plant's operating units to exceed the following limits:

Litho lines—691 lb/day
Coater lines—2000 lb/day
End sealing lines—170 lb/day

Because this Order has been issued to a major source of VOC emissions and permits a delay in compliance with the applicable state air pollution control regulations, it must be approved by EPA before it becomes effective as a Delayed Compliance Order under section 113(d) of the Act. EPA may approve the Order only if it satisfies the appropriate requirements of this subsection. EPA has tentatively determined that the above-referenced Order satisfies these legal requirements.

If the submitted Administrative Order is approved by EPA, source compliance with its terms would preclude federal enforcement action under Section 113 of the Act against the source for violations of the regulations covered by the Order during the period the Order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the Order would also constitute an addition to the Alabama SIP. Compliance with the proposed Order will not exempt the company from the requirements contained in any subsequent revision to the SIP which is approved by EPA. All interested persons are invited to submit

written comments on the proposed Order. Written comments received by the date specified above will be considered in determining whether EPA may approve the Order. After the public comment period, the Administrator of EPA will publish in the **Federal Register** the Agency's final action on the Order in 40 CFR Part 65.

Authority: 42 U.S.C. 7413, 7601.

List of Subjects in 40 CFR Part 65

Air Pollution Control

Dated: September 28, 1984.

Charles R. Jeter,

Regional Administrator Region IV.

[FR Doc. 84-26481 Filed 10-5-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 65

[Docket No. DCO-IV-8402; OAR-FRL-2687-1]

State and Federal Administrative Orders Permitting a Delay in Compliance With State Implementation Plan Requirements; Proposed Approval of an Administrative Order Issued by the Memphis-Shelby County Health Department to Cleo Wrap, Division of Gibson Greeting Cards, Inc.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve an Administrative Order issued by the Memphis-Shelby County Health Department (MSCHD) to Cleo Wrap, Division of Gibson Cards, Inc. (Cleo Wrap). The Order requires Cleo Wrap to bring air emissions from its six (6) rotogravure presses and two (2) tinter embossers (hereinafter referred to as eight (8) presses) in Memphis, Tennessee, into compliance with air pollution control regulations contained in the federally approved Tennessee State Implementation Plan (SIP) by December 31, 1985. Because the Order has been issued to a major source of air pollution and permits a delay in compliance with provisions of the SIP, the Administrative Order must be approved by EPA before it becomes effective as a Delayed Compliance Order under the Clean Air Act (the Act). If approved by EPA, the Order will constitute an addition to the SIP. In addition, a source in compliance with an approved Order may not be sued under the federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment on EPA's proposed approval of the Order as a Delayed Compliance Order.

DATE: Written comments must be received on or before November 8, 1984.

ADDRESS: Comments should be submitted to Director, Air and Waste Management Division, EPA, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia, 30365. The State Order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT: Mr. Floyd Ledbetter, Chief, Northern Compliance Unit, Air Compliance Section, Air Management Branch, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30365, Telephone Number (404) 881-4298.

SUPPLEMENTARY INFORMATION: Cleo Wrap, a Division of Gibson Cards, Inc., operates six (6) rotogravure printing presses and two (2) tinter-embossers (hereinafter referred to as eight (8) printing presses) at its plant located at 4025 Viscount Avenue, Memphis, Tennessee, for the purpose of producing gift-wrapping paper.

In March 1981, Cleo Wrap submitted its first compliance plan to MSCHD with a final compliance date of July 1, 1987. This plan was approved by MSCHD but not by EPA, since it would extend beyond the time allowed under the Clean Air Act (CAA). Subsequently, EPA issued a Notice of Violation on June 22, 1983, and on March 16, 1984, requested a meeting with Cleo Wrap in April 1984. MSCHD submitted a draft DCO on April 20, 1984, with a final compliance date of December 31, 1985, thus making the meeting scheduled by EPA unnecessary. MSCH continued to refine the DCO, working out the emission limit and averaging time concerns, and subsequently submitted the final DCO on September 20, 1984.

The Order under consideration addresses VOC emissions from the 8 printing presses of Cleo Wrap in Memphis causing pollution which is subject to Section 3-22 Memphis City Code (MCC), Reference 1200-3-18-.29 of the Tennessee Air Quality Act (TAQA). These regulations limit the emission of VOC's and are part of the federally approved Tennessee State Implementation Plan. The Order requires final compliance with the above regulation by December 31, 1985, through the implementation of the following schedule for the construction or installation of control equipment or reformulation:

Option A—25% or less organic's and 75% water or more by December 31, 1985.

Option B—60% or more nonvolatile materials by December 31, 1985.

Option C—Add on controls to achieve at least 65% reduction;

1. Final plans to be submitted by June 1, 1985;

2. On-site construction or installation by August 1, 1985;

3. Final compliance before December 31, 1985.

Option D—In lieu of A or B, daily average across all lines in accordance with an alternate emission standard approved by the MSCHD and EPA.

The source has consented to the terms of the Order and has agreed to meet the Order's increments during the period of this informal rulemaking. The source is required to submit quarterly reports commencing in June 1984, and continuing through December 1985, indicating progress toward each milestone in the schedule of compliance. If any delay is anticipated in meeting said milestones, Cleo Wrap shall immediately notify the MSCHD in writing of the anticipated delay and reasons therefor. Notification of the delay shall not excuse the delay. In addition, Cleo Wrap shall submit, no later than 5 days after the deadline for completing each milestone required by the above schedule, certification to the MSCHD whether or not such milestone has been met.

As an interim control measure, VOC emissions from the printing presses shall not exceed an average of 4.83 pounds of VOC per ream (as measured on a 30-day operating basis) from the effective date of this Order until December 31, 1984, and an average of 4.41 pounds of VOC per ream from December 31, 1984, until December 31, 1985. After December 31, 1985, the final emission limit will be 1.69 pounds of VOC per ream on a daily basis.

Because this Order has been issued to a major source of VOC emissions and permits a delay in compliance with the applicable state air pollution control regulation(s), it must be approved by EPA before it becomes effective as a Delayed Compliance Order under section 113(d) of the Clean Air Act (the Act). EPA may approve the Order only if it satisfies the appropriate requirements of this subsection. EPA has tentatively determined that the above-referenced Order satisfies these legal requirements. If the submitted Administrative Order is approved by EPA, source compliance with its terms would preclude federal enforcement action under section 113 of the Act against the source for violations

of the regulation(s) covered by the Order during the period the Order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304 would be similarly precluded. If approved, the Order would also constitute an addition to the Tennessee SIP. Compliance with the proposed Order will not exempt the company from the requirements contained in any subsequent revision to the SIP which is approved by EPA.

All interested persons are invited to submit written comments on the proposed Order. Written comments received by the date specified above will be considered in determining whether EPA may approve the Order. After the public comment period, the Administrator of EPA will publish in the **Federal Register** the Agency's final action on the Order in 40 CFR Part 65.

Authority: 42 U.S.C. 7413, 7601.

List of Subjects in 40 CFR Part 65

Air Pollution Control.

Dated: September 25, 1984.

Charles R. Jeter,

Regional Administrator, Region IV.

[FR Doc. 84-26483 Filed 10-5-84; 8:45 am]
BILLING CODE 6560-50-M

Notices

Federal Register
Vol. 49, No. 196
Tuesday, October 9, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ACTION

Information Collection Request Under Review

AGENCY: ACTION.

ACTION: Information Collection Request Under Review.

SUMMARY: This notice sets forth certain information about an information collection proposal by ACTION, the national volunteer agency.

Background

Under the Paperwork Reduction Act (44 U.S.C., Chapter 35), the Office of Management and Budget (OMB) reviews and acts upon proposals to collect information from the public or to impose recordkeeping requirements. ACTION has submitted the information collection proposal described below to OMB. OMB and ACTION will consider comments on proposed collection of information and recordkeeping requirements. Copies of the proposed forms and supporting documents (request for clearance (SF 83), supporting statement, instructions, transmittal letter, and other documents) may be obtained from the agency clearance officer.

Information About This Proposed Collection

Agency Clearance Officer—William W. Lovelace, 202–634–9310.

Agency address: Action, 806 Connecticut Ave., NW., Washington, D.C. 20525.

Office of Action issuing proposal: Office of policy and planning.

Title of form: Nomination form for "The President's Volunteer Action Awards".

Type of request: Reinstatement.

Frequency of collection: Annual.

General description of respondents: Individuals with nominations for awards.

Estimated Number of Annual Responses: 2,500.

Estimated annual reporting or disclosure burden: 2,500 hours.

Respondent's Obligation to Reply: Voluntary.

Person responsible for OMB Review: Bruce Artim, 202–395–7316.

William W. Lovelace,

ACTION Clearance Officer.

[FR Doc. 84–26587 Filed 10–5–84; 8:45 am]

BILLING CODE 6050–01–M

DEPARTMENT OF AGRICULTURE

Forest Service

Sierra National Forest Grazing Advisory Board; Meeting

The Sierra National Forest Grazing Advisory Board will meet at 9:00 a.m., November 7, 1984, in Room 3208, of the Federal Building, 1130 O Street, Fresno, California.

Agenda:

1. Summary of use of Range Betterment Funds.
2. Review draft base property requirements for Sierra National Forest.
3. Proposed Range Betterment projects for 1985.
4. Don Neal, Pacific Southwest Range Experiment Station (PSW), Lion Study update and what it means to local livestock industry.
5. Update of Wilderness Bill and how it will affect permittees.

The meeting will be open to the public.

The committee has established the following rules for public participation: Matters identified by the public will be considered by the Board at the close of the planned agenda.

Dated: September 26, 1984.

Tommy E. Baxter,

Deputy Forest Supervisor.

[FR Doc. 84–26547 Filed 10–5–84; 8:45 am]

BILLING CODE 3410–11–M

COMMISSION ON CIVIL RIGHTS

California Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the California Advisory Committee to the Commission will convene at 7:00 p.m. on October 26, 1984 and will end at 2:00 p.m. on October 27, 1984, at the Pepper Tree Inn, Bark Room, 3850 State Street, Santa Barbara, California 93105. On October 26, the Education and Telecommunications Subcommittees will meet to discuss on-going projects. On October 27, the full California State Advisory Committee will meet to discuss present projects and future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Western Regional Office at (213) 688–3437.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 1, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84–26588 Filed 10–5–84; 8:45 am]

BILLING CODE 6335–01–M

Maine Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Maine Advisory Committee to the Commission will convene at 10:00 a.m. and will end at 12:00 noon, on October 23, 1984, at the Statehouse, Governor's Cabinet Room, 2nd Floor, Augusta, Maine 04333. The purpose of the meeting is for the Advisory Committee to discuss a draft of a briefing memorandum on the Maine Equal Rights Amendment.

Persons desiring additional information, or planning a presentation to the Committee, should contact the New England Regional Office at (617) 223–4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 1, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84–26589 Filed 10–5–84; 8:45 am]

BILLING CODE 6335–01–M

Maryland Advisory Committee; Amendment to Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a meeting of the Advisory Committee to the Commission originally scheduled for October 10, 1984, at Rockville, Maryland (FR Doc 84–24503 on page 36422, September 17, 1984) has a new meeting date and time.

The meeting will be held on October 24, 1984, from 6:30 p.m. until 9:00 p.m. The address will remain the same.

Dated at Washington, D.C., October 3, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84–26590 Filed 10–5–84; 8:45 am]

BILLING CODE 6335–01–M

Rhode Island Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Rhode Island Advisory Committee to the Commission will convene at 12:00 noon and will end at 1:30 p.m., on October 22, 1984, at the Urban League of Rhode Island, 246 Prairie Avenue, Providence, Rhode Island 02905. The purpose of the meeting is for the Affirmative Action Subcommittee to review its preliminary plans for identifying sample firms and a proposed interview schedule.

Persons desiring additional information, or planning a presentation to the Committee, should contact the New England Regional Office at (617) 223–4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, DC., October 1, 1984.

John I. Binkley,

Advisory Committee Management Officer

[FR Doc. 84–26591 Filed 10–5–84; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–401]

Calcium Hypochlorite From Japan; Preliminary Determination of Sales at Less Than Fair Value

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We have preliminarily determined that calcium hypochlorite from Japan is being, or is likely to be, sold in the United States at less than fair value. We have notified the U.S. International Trade Commission (ITC) of our determination, and we have directed the U.S. Customs Service to suspend the liquidation of all entries of calcium hypochlorite from Japan that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice, and to require a cash deposit or bond for each entry in an amount equal to the estimated dumping margin as described in the "Suspension of Liquidation" section of this notice. We have examined the sales of two Japanese producers, which account for approximately 99 percent of imports into the United States.

If this investigation proceeds normally, we will make a final determination by December 17, 1984.

EFFECTIVE DATE: October 9, 1984.

FOR FURTHER INFORMATION CONTACT: William D. Kane, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377–1766.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We have preliminarily determined that calcium hypochlorite from Japan is being, or is likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (the Act). We have found margins on sales of calcium hypochlorite by both firms investigated.

We have found that the foreign market value of calcium hypochlorite exceeded the United States price on 72.9 percent of the sales we compared. These margins ranged from 0.9 percent to 38 percent. The overall weighted-average margin on all sales compared is 13.39 percent. The weighted-average margins for individual companies investigated are presented in the "Suspension of Liquidation" section of this notice.

If this investigation proceeds normally, we will make a final determination by December 17, 1984

Case History

On April 25, 1984, we received a petition filed by Olin Corporation, on behalf of the U.S. industry producing calcium hypochlorite. In compliance with the filing requirements of § 353.36 of our Regulations (19 CFR 353.36), the petition alleged that imports of calcium hypochlorite from Japan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports are materially injuring, or are threatening material injury to, a U.S. industry. The petition also alleged that critical circumstances exist under section 733(e) of the Act.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping investigation. We notified the ITC of our action and initiated such an investigation on May 21, 1984 (49 FR 21390). The ITC subsequently found, on June 11, 1984, that there is a reasonable indication that imports of calcium hypochlorite are materially injuring, or are threatening material injury to, a United States industry.

The petitioner alleged that at least three Japanese companies produce calcium hypochlorite for export to the United States. We found that two of these companies, Nippon Soda and Nissin Denka, accounted for 99 percent of imports and 100 percent of sales to the United States during the period of investigation. Questionnaires were presented to these companies in Japan on May 31, 1984. Nissin Denka responded to the questionnaire on June 29, 1984. Nippon Soda responded on July 2, 1984.

Scope of Investigation

The product covered by the investigation is calcium hypochlorite, currently provided for in item 418.2200 of the *Tariff Schedules of the United States, Annotated* (TSUSA).

Since the respondents produced and exported approximately 99 percent of the calcium hypochlorite shipped from Japan to the United States during the period of investigation, we limited our investigation to them.

We investigated sales of calcium hypochlorite by these respondents during the period from April 1, 1983 to April 30, 1984.

Fair Value Comparison

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

As provided in section 772(b) of the Act, we used the purchase price of the subject merchandise to represent the United States price for the sales by the Japanese producers, because the merchandise was sold to unrelated

purchasers prior to its importation into the United States.

We calculated the purchase price on the ex-go-down, FOB, or CIF, duty paid, delivered, packed price to unrelated purchasers in the United States. We made deductions, where appropriate, for foreign inland freight, foreign inland insurance, foreign brokerage and handling charges, ocean freight, marine insurance, U.S. Customs duties, U.S. brokerage and handling charges, and U.S. inland freight.

Foreign Market Value

In accordance with section 773(a) of the Act, we calculated foreign market value based on home market FOB factory, C&F, or CIF, packed prices to unrelated purchasers. From these prices we made deductions, where appropriate, for foreign inland freight, foreign inland insurance and rebates. We made an adjustment for credit expenses in accordance with § 353.15 of the Commerce regulations. We made adjustments for the cost of materials, labor and direct factory overhead associated with differences in merchandise in accordance with § 353.16 of the Commerce regulations. We also deducted the home market packing cost and added the packing cost incurred on sales to the United States.

The following claims were disallowed in calculating foreign market value. Nissin Denka claimed an amount for indirect selling expenses in the home market to offset a claim for a direct selling expense allowance in the U.S. for sales it considered to be exporter's sales price. Because, as mentioned above, we considered these transactions to be purchase price sales, we did not deduct direct selling expenses in connection with the U.S. sales. Therefore, there are no expenses to offset, and we have not allowed these claims.

Nippon Soda has claimed amounts for rebates, technical services expenses, advertising and promotional expenses, post-sale loading, shipping, and communication expenses, and an adjustment for different levels of trade. None of these claims have been allowed at this time because of insufficient documentation and explanation. We will seek further information for purposes of our final determination.

Products being investigated are 65 percent and 70 percent calcium hypochlorite. These are in granular and tablet forms. In the case of Nippon Soda, only Hichlon brand product is sold to the U.S. Since there are sufficient sales of the identical brand in the home market, we are limiting our comparisons to that brand. For the 65 percent product sold to the U.S., but not sold in the home market, we are using for comparison the 70 percent product, adjusted for differences in manufacturing costs.

In the case of Nissin Denka, we are comparing 65 percent and 70 percent granular form Niclon brand sold to the U.S. to 70 percent granular and tablet form Niclon brand sold in the home market with an adjustment to the tableted product for differences in cost of manufacture.

Verification

In accordance with section 776(a) of the Act, we will verify all data used in reaching a final determination in this investigation.

Critical Circumstances

We find no history dumping of calcium hypochlorite from Japan in the U.S. or elsewhere in the world nor is there any indication that importers of the merchandise knew or should have known it was being sold at less than fair value. Therefore, we have preliminarily determined that critical circumstances do not exist.

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonpriviledged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the United States Customs Service to suspend liquidation of all entries of calcium hypochlorite from Japan which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**. The Custom Service shall require a cash deposit of the posting of a bond equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price. This suspension of liquidation will remain in effect until further notice. The weighted-average margins are as follows:

Manufacturer	Weighted-average margin (percent)
Nippon Soda	16.75
Nissin Denka	2.33
All other	13.39

Public Comment

In accordance with § 353.47 of the Commerce Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m. on November 1, 1984, at the U.S. Department of Commerce, Room A, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room B-099, at the above address within 10 days of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by October 25, 1984. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, within 30 days of publication of this notice, at the above address and in at least 10 copies.

Dated: October 2, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-26642 Filed 10-5-84; 8:45 am]

BILLING CODE 3510-25-M

[A-428-018]

Carbon Steel Plate From the Federal Republic of Germany: Preliminary Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice of Preliminary Determination.

SUMMARY: We have preliminarily determined that carbon steel plate from the Federal Republic of Germany (FRG) is being, or is likely to be, sold in the United States at less than fair value. We have notified the U.S. International Trade Commission (ITC) of our determination and we have directed the U.S. Customs Service to suspend the

liquidation of all entries of carbon steel plate from the FRG that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice, and to require a cash deposit or bond for each entry in an amount equal to 1.97 percent.

If this investigation proceeds normally, we will make a final determination by December 14, 1984.

EFFECTIVE DATE: October 9, 1984.

FOR FURTHER INFORMATION CONTACT: Paul Tambakis, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377–0186.

SUPPLEMENTARY INFORMATION:

Preliminary Determination:

We have preliminarily determined that carbon steel plate from the FRG is being, or is likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (19 U.S.C. 1673b) (the Act). We have preliminarily determined the weighted-average margin of all sales compared for Dillinger to be 1.97 percent *ad valorem*.

Case History

On September 29, 1983, we received a petition filed by Gilmore Steel Corporation, Portland, Oregon, on behalf of both the national and West Coast carbon steel plate products industries. In compliance with the filing requirements of § 353.36 of our regulations (19 CFR 353.36), the petition alleged that imports of carbon steel plate from the FRG are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act and that these imports materially injure, or threaten material injury to, a United States industry.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping investigation. We initiated the investigation on October 25, 1983 (48 FR 49322), and notified the ITC of our action.

On November 7, 1983, the ITC found that there is a reasonable indication that imports of carbon steel plate from the FRG are materially injuring a U.S. industry (U.S. ITC Pub. No. 1451 (November 1983)), making no determination as to the alleged regional injury. Subsequently, we published a rescission of our notice of initiation of investigation and dismissal of petition (49 FR 3503, January 27, 1984) on grounds that Gilmore had not properly filed on behalf of a national industry. Gilmore contested this action by filing suit in the Court of International Trade. The court upheld our rescission and dismissal insofar as the petition purported to be on behalf of a national industry, but reversed our action insofar as the petition was on behalf of an alleged regional industry and remanded this matter to us for further proceedings (*Gilmore Steel Corporation* v. *United States*, Court No. 84–2–00228, slip op. 84–45, April 23, 1984). Accordingly, we re-initiated an antidumping investigation of carbon steel plate from the FRG on May 22, 1984 (49 FR 21556), and notified the ITC of our action. On June 27, 1984, the ITC found that there is a reasonable indication that imports of carbon steel plate from the FRG are materially injuring a regional industry, consisting of producers of carbon steel plate located in California, Oregon and Washington (U.S. ITC Pub. No. 1550 (July, 1984)).

We presented questionnaires concerning the allegations to counsel for Thyssen, A.G. and A.G. der Dillinger Huttenwerke (Dillinger), on May 22 and May 28, 1984, respectively. On June 18, 1984, we received a request from counsel for Thyssen not to respond to the Department's antidumping duty questionnaire on grounds that Thyssen accounted for an insignificant percentage of the carbon steel plate sales to the U.S. over the review period. The Department analyzed export sales data provided by the three principal FRG carbon steel plate producers and decided to investigate only Dillinger, since it produced approximately 88 percent of the exports to the United States. Accordingly, the estimated weighted-average margin for Dillinger applies equally to Thyssen and all other manufacturers, producers and exporters of carbon steel plate from the FRG.

In accordance with our normal practice, we requested a response from Dillinger within 30 days. On June 15, 1984, we received a letter from counsel for Dillinger requesting additional time to respond because of the complexities involved in responding to the cost of production section of the questionnaire. An extension was granted to July 10, 1984. Due to the large number of sale transactions, we instructed Dillinger to report its home market sales transactions both in hard copy (i.e. printed form) and on computer tape in the format outlined in our questionnaire. We received Dillinger's response to our questionnaire on July 9, 1984. However, there were deficiencies in the submitted computer tape and subject matter in the narrative submission for which we requested clarification and additional information. Additional information and a revised computer tape were supplied by respondent at our request between August 6 and August 22, 1984. Difficulties with the original computer tape and the narrative portion of the response were resolved.

Scope of Investigation

The merchandise covered by this investigation is hot-rolled carbon steel plate. Hot-rolled carbon steel plate is classified under item numbers 607.6620 and 607.6625 of the *Tariff Schedules of the United States Annotated* (TSUSA), which covers flat-rolled carbon steel products, whether or not corrugated or crimped; not pickled; not cold-rolled; not in coils; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal and not clad; 0.1875 inch or more in thickness and over 8 inches in width.

Semi-finished products of solid rectangular cross sections with a width at least four times the thickness and processed only through primary mill hot-rolling are not included.

Fair Value Comparisons

To determine whether sales of the subject merchandise in the United States were made at less than fair value,we compared the United States price with the foreign market value.

United States Price

As provided in section 772 of the Act, we used the purchase price of the subject merchandise to represent the United States price for sales by Dillinger because the merchandise was sold to unrelated purchasers prior to its importation into the United States. We calculated the purchase price based on the C.&F., unpacked price to unrelated customers in the United States. We made deductions for foreign inland freight and ocean freight.

Foreign Market Value

In accordance with section 773(a)(1)(A) of the Act, we calculated foreign market value based on Dillinger's home market sales. We compared identical merchandise where possible. Where no identical merchandise was sold in the home market, in accordance with section 771(16) of the Act, we made comparisons based on plate type, grade and dimensional categories selected by a Commerce Department industry expert. The petitioner alleged that sales in the home market were at prices below the cost of producing carbon steel plate. We examined production costs which included all appropriate costs for materials, fabrication and general

expenses. An insignificant amount of sales in the home market were found to be made below the cost of production (less than 0.1%). Accordingly, sufficient sales of carbon steel plate were made in the home market to form a basis for four value comparisons. We calculated the home market prices on the basis of the F.O.B., delivered, unpacked prices to unrelated purchasers. From these prices, we deducted foreign inland freight. In accordance with § 353.15 of our regulations (19 CFR 353.15), we made a circumstance of sale adjustment for differences in credit expenses. Since the merchandise subject to this investigation was sold unpacked in both markets, no adjustment was made for packing. For purposes of our final determination, we intend to seek additional information to further delineate the product groupings used in our comparisons.

Verification

As provided in section 773(a) of the Act, we will verify all information used in reaching our final determination.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the United States Customs Service to suspend liquidation of all entries of carbon steel plate from the FRG as described in the "Scope of the Investigation" section of this notice. This suspension of liquidation applies to all the subject merchandise entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**. The Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average amounts by which the foreign market value of the merchandise subject to this investigation exceeds the United States price, which was 1.97 percent. This suspension of liquidation will remain in effect until further notice.

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and noconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. regional industry before the later of 120 days after we make our preliminary affirmative determination or 45 days after we make a final affirmative determination.

Public Comment

In accordance with § 353.47 of our regulations (19 CFR 353.47), if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m. on October 29, 1984, at the United States Department of Commerce, Room 3708, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099, at the above address within 10 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed.

In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by October 16, 1984. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, within 30 days of this notice's publication, at the above address and in at least 10 copies.

Dated: October 1, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-26643 Filed 10-5-84; 8:45 am]
BILLING CODE 3510-DS-M

COMMODITY FUTURES TRADING COMMISSION

Performance of Registration Functions by National Futures Association

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice and Order authorizing National Futures Association ("NFA") to perform certain portions of the registration functions of the Commodity Futures Trading Commission ("Commission") applicable to futures commission merchants, commodity pool operators, commodity trading advisors, and their associated persons.

SUMMARY: The Commission is authorizing NFA to assume, no later than December 31, 1984, the processing and granting of applications for initial and renewed registration of futures commission merchants, commodity pool operators, commodity trading advisors and their associated persons and the issuance of temporary licenses to eligible associated persons, in accordance with the standards established by the Commodity Exchange Act ("Act") and Commission regulations thereunder, as implemented by NFA's rules approved by the Commission that govern the administration of these registration functions. The Commission is not at this time authorizing NFA to grant conditional registrations to these categories of registrants or to deny or take any other adverse action with respect to such registrations. This Order also does not authorize NFA to accept or act upon requests for exemption or withdrawal from registration or to render "no-action" opinions with respect to the applicable registration requirements.

EFFECTIVE DATE: December 31, 1984, or at such earlier time as the Commission may authorize by appropriate advance notice.

FOR FURTHER INFORMATION CONTACT: Linda Kurjan, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Telephone: (202) 254-8955.

SUPPLEMENTARY INFORMATION: On September 28, 1984, the Commission issued the following Order to authorize NFA to assume the performance of additional registration functions on behalf of the Commission. In a separate action published elsewhere today in the **Federal Register**, the Commission is amending its regulations to facilitate the transfer of registration functions. Specifically, Part 3 of the Commission's regulations governing registration under the Act, 17 CFR Part 3, is being amended to make clear, among other things, that applications and related documents must be filed with NFA as NFA directs rather than directly with the Commission. Similarly, fees for registration specified by NFA and approved by the Commission will be remitted to NFA as NFA directs.*

*As previously approved by the Commission, NFA's rules require that each application for registration as an AP in any capacity (Form 8-R) be accompanied by a fee of $30. Appendix A, § I(e) under Bylaw 305. NFA has submitted for Commission review and approval a proposal specifying registration application fees for FCMs, CPOs and CTAs. NFA's proposed fees are the same or lower than those currently charged by the Commission. For example, the basic fee to accompany initial applications for registration would be $250 for FCMs (the Commission now requires $275) and $50 for CPOs and CTAs (no change from the Commission requirement).

Registration documents filed with NFA in any category for which NFA is responsible will be deemed to be filed with the Commission, and a specific rule has been adopted to this effect. Requests for exemption or withdrawal from registration, however, will continue to be processed by the Commission. As noted above, NFA is not authorized to accept or act upon such requests or requests for "no action" opinions with respect to the applicable registration requirements under the Act or Commission regulations. The Commission is also amending its regulations governing requests for Commission records and information to provide that those portions of registration forms which are designated as being publicly available will be made available for disclosure, inspection and copying directly through NFA upon request from members of the public.

United States of America, Before the Commodity Futures Trading Commission

Order Authorizing the Performance of Registration Functions

The Commodity Futures Trading Commission ("Commission") previously has issued Orders authorizing National Futures Association ("NFA"), pursuant to section 8a(10) of the Commodity Exchange Act ("Act"), to perform various portions of the Commission's registration functions and responsibilities under the Act.[1] Under such Orders, NFA processes and grants registration applications to introducing brokers ("IBs") and their associated persons ("APs")[2] as well as issues temporary licenses to the APs of those IBs.[3] NFA has also been authorized to assist the Commission in processing, on Commission premises, temporary licenses for other categories of associated persons.[4] In connection with the contemplated transfer of additional registration processing functions to NFA, the Commission further has authorized NFA to distribute throughout the year the expiration dates of the registrations NFA grants pursuant to Commission authorization.[5] The Commission has not yet, however, authorized NFA to refuse to register, to register conditionally, to suspend or place restrictions upon a registration or to revoke a registration in connection with any registrations for which NFA performs the above functions. NFA also is not authorized to accept or to act upon requests for exemption or withdrawal from registration or to render "no action" opinions with respect to the applicable registration requirements. The Commission, therefore, intends to continue to perform these functions until such time as they may be transferred to NFA.

Assumption of Registration Functions

NFA has made commitments to the Commission to assume responsibility, no later than December 31, 1984, for the registration under the Act of six categories of registrants in addition to introducing brokers and their associated persons—specifically, futures commission merchants ("FCMs"), commodity pool operators ("CPOs"), commodity trading advisors ("CTAs"), and APs of such registrants.[6] The Commission has now determined, pursuant to its authority under section 8a(10) of the Act, to authorize NFA to assume responsibility under the Act on or before December 31, 1984, for performing the registration functions described in this Order [7] and, in connection therewith, supporting the Commission's performance of various associated responsibilities under the Act.[8] NFA has undertaken to begin by that date to process and, in appropriate cases, grant registration applications for FCMs, CPOs, CTAs and APs of those registrants and to issue temporary licenses to eligible APs in accordance with the standards established by the Act, the Commission's regulations thereunder and NFA bylaws approved or reviewed by the Commission under Section 17(j) of the Act [9] governing registration ("NFA Registration Rules"). As provided in a prior Commission Order, NFA's authority to distribute the dates for expiration of the registration of FCMs, CPOs and CTAs will be extended to those categories of registrant concurrently with the effective date of the transfer to NFA of the responsibility to register such categories.[10] Subject to Commission review and approval pursuant to section 17(j) of the Act, NFA may charge registration fees to defray reasonable expenses incurred by NFA in processing the registration applications.

Although NFA previously adopted procedures similar to those in Commission regulation 3.20, 17 CFR 3.20, for denial and revocation of registration, as well as procedures for conditionally registering applicants, NFA's procedures may not be implemented until such later time as the Commission authorizes NFA to refuse to register, to register conditionally, to suspend or place restrictions upon a registration or to revoke a registration.[11] In the absence of such authority, except with respect to such categories of statutory disqualification and in such circumstances as may be specified to NFA by the Commission or authorized staff, NFA shall forward to the Commission the entire registration file (or such portion as the Commission or its staff may request) of any applicant, registrant or principal thereof ("Applicant") which appears to be subject to a statutory disqualification and NFA shall not take any final action with respect to such applicant except in

[1] Section 8a(10) of the Act authorizes the Commission to authorize any person to perform any portion of the registration functions under the Act in accordance with rules, notwithstanding any other provision of law, submitted by the person to the Commission and subject to the provisions of the Act applicable to registrations granted by the Commission. 7 U.S.C. 12a(10) (1982).

[2] *See* 48 FR 15940 (April 13, 1983) and 48 FR 35158 (August 3, 1983).

[3] *See* 49 FR 8228 (March 5, 1984), effective May 31, 1984 (49 FR 20476 (May 15, 1984)).

[4] *See* note 3 *supra*. The other categories are APs of futures commission merchants, APs of commodity pool operators and APs of commodity trading advisors.

[5] 48 FR 51809 (November 14, 1983).

[6] Letter to Molly Bayley, Executive Director of the Commission, from Glenn Windstrup, NFA Project Manager, dated July 19, 1984. *See also* letters to Andrea M. Corcoran, Director of the Commission's Division of Trading and Markets, from Robert K. Wilmouth, NFA President, dated June 13, 1983 and May 7, 1984, and from Joseph H. Harrison, Jr., NFA General Counsel, dated May 14, 1984.

[7] Section 17(o)(1) of the Act separately authorizes the Commission to require a futures association registered under the Act to perform the Commission's registration functions with respect to association members and associated persons of such members. 7 U.S.C. 21(o) (1982). NFA is the only futures association registered under the Act. Its members include—with certain limited exceptions—all registered FCMs IBs, CPOs and CTAs. In light of NFA's commitments and undertakings cited in this Order, it does not appear to the Commission to be necessary at this time to exercise its authority affirmatively to require NFA to perform these registration functions.

[8] The registration program supports such other Commission responsibilities as enforcement activities, administration of the reparations program, and cooperative efforts with state and other federal law enforcement agencies.

[9] 7 U.S.C. 21(j) (1982).

[10] *See* 48 FR 51809 (November 14, 1983).

[11] Although NFA has not been authorized to take any of the listed adverse actions with respect to a registration or an application for registration, NFA may, of course, notify an applicant, registrant or principal thereof ("Applicant") of deficiencies in the application and maintain that application as pending until the applicant corrects the deficiencies to NFA's satisfaction. NFA may also, after reasonable notice to the Applicant, deem an application withdrawn in the event the Applicant does not, in response to such notice, either correct the deficiencies within a reasonable time or refuse to correct those deficiencies and request continued consideration of the application. In the latter event NFA shall forward the Applicant's file to the Commission for its consideration and shall take no further action with respect to the application except in accordance with written instructions from the Commission or authorized staff.

accordance with written instructions from the Commission or authorized staff. NFA shall make all reasonable efforts to detemine whether an Applicant is subject to a statutory disqualification arising from or evidenced by a public record of any court or governmental agency. In those cases where it appears to NFA that further investigation may be necessary or appropriate to determine whether an Applicant may be subject to a statutory disqualification, NFA, after having conducted any such investigation as NFA may deem appropriate to conduct, shall forward the entire registration file (or such portion as the Commission or its staff may request) to the Commission along with any information related thereto which NFA may have. NFA shall not take any final action with respect to such Applicant except in accordance with written instructions from the Commission or authorized staff.

Pending Applications: Personnel and Costs

NFA has undertaken to assume registration responsibility for the named categories of registrants on or before December 31, 1984. If NFA is operating its own registration system on the transfer date, any application for registration, including for a temporary license, which is pending with the Commission on that date ("pendings") shall be transferred to and be processed by NFA if NFA asks to assume responsibility for such pendings. Unless so requested by NFA, the Commission will continue to process pendings. To the extent that the Commission continues such processing, NFA shall continue to assign NFA personnel to assist the Commission to complete the processing of those applications for temporary licenses that are pending on the transfer date, the responsibility for which was previously delegated to NFA. In addition, NFA shall be responsible for the payment of non-personnel costs attributable to the processing by the Commission of applications which have been pending 90 days or less on the transfer date from December 31, 1984, until such applications have been completely processed or are transferred to NFA.

If, on the other hand, NFA does not implement its own system on the transfer date but proceeds at that time to operate the Commission's registration system on Commission premises, NFA shall take responsibility for processing all applications then pending as well as all applications and other registration materials subsequently received. NFA shall also be responsible for staffing the registration program and for paying the costs attributable to its operations.[12] Moreover, NFA shall be required to proceed to complete the conversion of the registration program to its own system as soon as practicable thereafter but, in any event, no later than September 30, 1985.

Custody of Records; Confidentiality and Disclosure

In performing Commission registration functions pursuant to this and other applicable Commission Orders, NFA shall maintain a system of records on behalf of the Commission and shall serve as the official custodian of those Commission records. Any document that an Applicant files with NFA pursuant to registration requirements in the Act, the Commission's regulations or those NFA Registration Rules that implement such requirements or regulations shall be deemed filed with the Commission, and shall be the official record of the Commission thereof, for all purposes.[13] NFA shall be responsible for the receipt, processing, storage and recording of all registration records regarding FCMs, CPOs, CTAs, IBs and their APs which are transferred to NFA from the Commission or are received or compiled by NFA in the performance of the reg istration functions authorized by this and other applicable Commission Orders.[14] This Order, which is issued under seal,[15] shall constitute Commission certification that NFA has the official capacity to maintain the registration records of the agency and to certify as to their maintenance, authenticity and completeness. In this connection, NFA has undertaken to provide timely such certifications, affidavits, and testimony as may be necessary to authenticate documents and information contained in the registration records for which NFA has custody upon request of the Commission or its staff,[16] and in conjunction with requests of other federal, state or local officials and with subpoenas or other appropriate document requests by private parties.[17] In addition to information retained or compiled in computer files, NFA must also retain records transferred to NFA and all applications for registration and related documents, including fingerprint cards, filed by or on behalf of prospective and current Applicants and on behalf of such persons whose registration status becomes inactive subsequent to the transfer date or for whom hardcopy records have not been retired by the Commission at the date of transfer. All such records—whether in hardcopy, computer memory, computer printout, microfiche or any other form—must be maintained in a secure manner with access to the files and data appropriately limited to official purposes in accordance with reasonable procedures acceptable to the Commission and must be readily accessible unless the person to whom such files and data relate has been inactive for all purposes for three years. Registration records shall be retained and disposed of in accordance with reasonable procedures acceptable to the Commission,[18] and retired files must be

[12] NFA shall also indemnify the Commission in accordance with terms and conditions acceptable to the Commission against any injury that may be caused by the act or omission of NFA's employees in performing any of the registration functions covered by this or other applicable Commission Orders.

[13] Registration records maintained on behalf of the Commission by NFA will include documents filed with NFA by any Applicant pursuant to registration requirements in the Act, the Commission's regulations or those NFA Registration Rules that implement such requirements or regulations (and any computer record generated by such documents) as well as hardcopy (paper) and computer records maintained by the Commission as of the date of transfer. Commission hardcopy and computer records generated prior to commencement of processing by NFA will be transferred from the Commission to NFA.

[14] This system of registration records shall include applications for registration (Forms 7–R, 8–R, 8–S, and 3–R (Part II) and any such substitute, predecessor or replacement forms approved by the Commission) and biographical supplements (Form 8–R and any such substitute, predecessor or replacement form approved by the Commission), schedules and supplementary attachments to those forms (including financial reports, statements and agreements required to be filed with initial applications for registration under Commission regulations 1.10 and 1.17, 17 CFR 1.10 and 1.17), fingerprint cards, Supplemental Statements (Form 3–R and any such substitute, predecessor or replacement form approved by the Commission), Notices of Termination (Form 8–T and any such substitute, predecessor or replacement form approved by the Commission), correspondence relating to registration between the Commission or NFA and the Applicant, and reports reflecting information developed from sources outside the Commission or NFA (*e.g.*, the Securities and Exchange Commission and the Federal Bureau of Investigation) and related to fitness for registration or affiliation.

[15] Section 2a(10) of the Act provides that the official seal of the Commission shall be judicially noticed. 7 U.S.C. 4a(i) (1982).

[16] With respect to such requests by the Commission or its staff, all NFA expenses in conjunction with providing certifications, affidavits or testimony shall be borne by NFA.

[17] The Commission's Administrative Law Judges will take notice that registration records maintained by NFA are, in fact, official government records. *See, e.g.*, 17 CFR 10.87.

[18] Applications and biographical supplements, related documents and correspondence shall be retained for 10 years after the individual's or firm's registration or, in the case of a principal, that of the firm with which the individual is affiliated expires or otherwise becomes inactive; after that period, those hardcopy records may be destroyed. Computer records shall be maintained and updated

Continued

retained at a location in accordance with procedures that are acceptable to the National Archives and Records Service, as necessary, as well as to the Commission.

NFA shall provide the Commission and Commission staff with prompt access to these registration records, including on-line or equivalent access to query NFA's computer system [19] as well as access to the original registration documents and copies thereof (including, as necessary, certified copies in accordance with reasonable procedures acceptable to the Commission.[20] Furthermore, NFA shall, as promptly as possible, provide the Commission with identification of the elements of data stored in computer files, the manner of storage, and methods of updating and retrieval, as well as any changes in such elements, structure of files and computer procedures, as they from time to time occur. In addition, NFA shall provide the Commission as promptly as possible with statistics and reasonable reports as specified in Appendix A hereto without charge, although the Commission understands that certain of such reports shall be developed during calendar year 1985. Other reports, new formats or sort criteria shall be developed by NFA a the Commission's request, for which the Commission will pay to NFA a mutually agreeable price.

NFA, its officers, employees and agents shall disclose to and, as appropriate, make available for inspection and copying [21] upon reasonable request by third parties to the following information contained in public portions of the Commission's records furnished to, compiled or maintained by NFA in connection with its performance of registration functions under the Act:

1a. The registration status of any Applicant for registration; and

2a. The publicly available portions of registration forms, including financial information forms required to be filed with initial registration applications.

NFA, its officers, employees and agents shall ensure the confidentiality of those nonpublic portions of the Commission's records furnished to, compiled or maintained by NFA in connection with its performance of registration functions under the Act and shall not disclose such information to third parties [22] except in the following circumstances and in accordance with NFA Registration Rules submitted to and approved by the Commission, which rules will not be approved to the extent that they are inconsistent with or broader than the Commission's regulations and routine uses promulgated under the Privacy Act of 1974: [23]

1b. To any person with whom an Applicant is or plans to be associated as an associated person or affiliated as a principal, provided that the person requesting the information makes an appropriate showing to NFA that the requester is the employer or prospective employer of the particular Applicant;

2b. To any futures commission merchant with whom an applicant or registered introducing broker has or plans to enter a guarantee agreement under Commission regulation 1.10, 17 CFR 1.10, provides that the applicant or registrant consents to such disclosure in writing and identifies the person to whom the information may be disclosed and that the futures commission merchant makes an appropriate showing of its identity;

3b. To boards of trade designated as contract markets or to any other futures association registered with the Commission, to assist those organizations in carrying out their responsibilities under the Act, or to national securities exchanges or national securities associations registered with the Securities and Exchange Commission, to assist those organizations in carrying out their responsibilities under the Securities Exchange Act of 1934, provided that, if NFA knows or has reason to believe that a request is made in conection with a formal or apparent investigation or proceeding, NFA notifies the Commission regarding the request;

4b. To federal, state or local law enforcement or regulatory agencies acting within the scope of their jurisdiction or for their use in meeting responsibilities assigned to them under law (to the same extent that the Commission may disclose such registration information under sections 8(e) and 8(g) of the Act [24] provided that, if NFA knows or has reason to believe that a request is made in connection with a formal or apparent investigation or proceeding, NFA notifies the Commission regarding the request;

5b. Pursuant to an order of a court of competent jurisdiction; and

6b. Otherwise with the authorization of the Director of the Division of Trading and Markets, the Director of the Division of Enforcement, the Director of the Division of Economic Analysis, the General Counsel, or the Executive Director, or in that person's absence the appropriate designated staff member, in accordance with Commission regulations.

All other requests for access to the nonpublic portions of the records furnished to, compiled or maintained by NFA in connection with its performance of the Commission's registration functions shall be forwarded promptly to the Commission in accordance with reasonable procedures acceptable to the Commission for its consideration and action pursuant to applicable provisions of the Act and the Commission's regulations.[25]

NFA shall implement procedures to ensure the security and integrity of this system of records; facilitate disclosure when permitted as described above or by other Commission rules or subsequent Orders; keep, in accordance with reasonable procedures acceptable to the Commission, adequate and readily accessible records of the types of disclosures of nonpublic information made, of the requesters therefor and of

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periodically as long as the individual or firm remains pending for registration, registered, or affiliated with a registrant. Microfiche records, when produced, shall be maintained permanently.

[19] NFA shall make available to the Commission six communication ports to NFA's computer system wherever located, of which two ports shall be provided without charge (one for the Commission's Washington offices and one for its Chicago offices). Each port shall be available for up to 16 terminals, and NFA shall support three terminals and one high-speed printer at each of the Washington and Chicago locations at no charge to the Commission.

[20] Such procedures shall establish, among other things, that NFA shall provide the Commission with any documents or information that would be responsive to a subpoena within 24 hours of the Commission's request for access to such responsive documents or information (or within such longer period as practicable under the circumstances for the Commission to assure compliance).

[21] NFA may adopt and charge reasonable fees for locating and copying any publicly available documents in the registration records for a requester. Any such fee adopted by NFA must be submitted to the Commission for approval in accordance with section 17(j) of the Act. *See also* 31 U.S.C. 9701 (1982) and OMB Circular No. A–25.

[22] For purposes of this paragraph regarding the disclosure of no public portions of the Commission's records, the term "third parties" shall not be construed to include the Commission or its staff. Thus, NFA shall be able to disclose, without restriction, any or all such information to the members and employees of the Commission who need or request the information in the performance of their duties.

[23] In this regard, NFA shall take special precautions to protect any information which appears in these registration records but which, by its nature, is among the types of information described in sections 8(a), 8(e) and 8a(8) of the Act, so that any such information will not be disclosed inadvertently or without authority.

[24] 7 U.S.C. 12(e) and 12(g) (1982).

[25] In the event that NFA receives a subpoena for nonpublic portions of Commission registration records maintained by NFA, NFA shall notify the Commission without delay and provide the Commission with any documents or information that would be responsive to the subpoena within 24 hours of receipt of the subpoena (or within such longer period as practicable under the circumstances for the Commission to take appropriate action).

any required release authorizations; and otherwise safeguard the confidentiality of the records. Such procedures must be consistent with the procedures enumerated in Parts 145 and 146 of the Commission's regulations as amended from time to time,[36] including the maintenance of an inventory (and related statistics) of all nonpublic information disclosed pursuant to paragraphs 1b through 6b above. Such inventory shall include, among other items, the identity of the person requesting the information, a summary or description of the information disclosed and the date that the disclosure was made.

Conclusion and Order

Based upon NFA's commitments and the congressional intent that NFA assume responsibility under the Act for the registration of FCMs, CPOs, CTAs, and their APs, NFA's representations concerning the adoption of rules, standards and procedures to be followed in administering these functions, and the need that these functions be performed in the most efficient, cost-effective manner, the Commission has determined, in accordance with its authority under section 8a(10) of the Act, to authorize NFA on or before December 31, 1984, to process and grant applications for initial and renewed registration with the Commission of FCMs, CPOs, CTAs, and APs, of those three categories of registrants under the Act and the Commission's regulations thereunder,[37] to issue temporary licenses to eligible applicants for registration as an associated person,[38] and to maintain a system of records in connection with NFA's performance of the Commission's registration functions.

Issued and sealed by the Commission on October 1, 1984 in Washington, D.C.

Jean A. Webb,

Acting Secretary of the Commission.

Appendix A.—NFA Registration Reports Available to the Commission

**Pending and Deficient Report*—All registration applicants which are pending or deficient.

**Alphabetic Pending Report*—All pending applicants in alphabetic order.

**TL AP Pending Permanent Report*—APs in temporary licensed status within X days of converting to a registered status (in alphabetic sequence by firm) and reason not yet converted.

**Pending Statistic Report*—All firms in any selected class in numeric identification number sequence with associated primary firm name registration status in that class.

**Fitness Check Report*—All individuals and firms with fitness investigations in process, in alphabetic sequence.

**Social Security Report*—All individuals (active, inactive, pending, deficient and hold) who are in the registration system, by social security number.

Statistical Report—Number of individuals and firms registered (initial registration, renewals and transfers) by class and timeframe.

Cross-Reference Report—All registration applicant names and their assigned identification numbers, in either numeric or alphabetic (name order) sequence.

Firm Cross-Reference Report—All firms in any selected class in alphabetic sequence with their associated identifying number and registration status in that class.

Numeric Cross-Reference Report—All firms in any selected class in numeric identification number sequence with registration status in that class.

Combined Alphabetic Director of All Firms—All firms in alphabetic sequence, by registration classes.

Alphabetic Directors of FCMs, CTAs, CPOs, IBs, and APs—Registrants by class with address and exchange memberships where appropriate.

Geographic Directory—Firms and their branch offices in alphabetic sequence by state and city.

State Count Report—Number of industry professionals employed in each state, by class.

AP by FCM, IB, CTA, and CPO Reports—All APs in registered, temporary licensed, and pending status, in alphabetic sequence, by firm and within firm by AP name.

***GDHF (Surveillance) Report*—All statutory disqualifications from registration and disciplinary history on file, in alphabetic sequence by individual.

Expiration Report—Firms (and their APs) and individuals whose registrations have expired, in alphabetic sequence by one or all classes.

****Commodity Pool Name Report*—All Commodity Pools in alphabetic sequence.

****Newsletter Name Report*—All newsletters and advisory services in alphabetic sequence.

Footnotes

*Upon the transfer date, NFA must be able to generate, at a minimum, the reports identified by asterisks. The remaining reports (or necessary enhancements) must be developed and become available during calendar year 1985.

**Initially the GDHF Report may be provided in NFA identification number sequence by individual rather than in alphabetic sequence.

***The information which would be included in a Commodity Pool Name Report or a Newsletter Name Report may initially be available through an inquiry mechanism rather than in report form.

[FR Doc. 84-26358 Filed 10-5-84; 8:45 am]

BILLING CODE 6351-01-M

[36] 17 CFR Parts 145, 146.

[37] Nothing in this Order or section 17 or 8a(10) of the Act shall affect the Commission's authority to review the granting of a registration application by NFA in the performance of Commission registration functions. *See* section 17(*o*)(3) of the Act, 7 U.S.C. 21(*o*)(3) (1982).

[38] *Id*

DEPARTMENT OF DEFENSE

Department of the Navy

Naval Research Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given that the Naval Surface Weapons Center (NSWC) Review Team of the Naval Research Advisory Committee (NRAC) Panel on Laboratory Oversight will meet on October 24–25, 1984, at the Naval Surface Weapons Center, Dahlgren, Virginia. Sessions of the meeting will commence at 8:30 a.m. and terminate at 5:00 p.m. on October 24 and 25, 1984. The entire meeting will be closed to the public.

The purpose of the meeting is to examine the scientific, technical and engineering health of NSWC. The entire meeting will consist of classified information that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense and is in fact properly classified pursuant to such Executive order. The classified and nonclassified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting. The Secretary of the Navy therefore has determined in writing that the public interest requires that the entire meeting be closed to the public because they will be concerned with matters listed in sections 552(c)(1) of title 5, United States Code.

For further information concerning this meeting contact: Commander M.B. Kelly, U.S. Navy, Office of Naval Research (Code 100N) 800 North Quincy Street, Arlington, VA 22217, Telephone number (202) 696–4870.

Dated: October 4, 1984.

William F. Roos, Jr.,

Lieutenant, JAGC, U.S. Naval Reserve, Federal Register Liaison Officer.

[FR Doc. 84-26866 Filed 10-5-84; 8:45 am]

BILLING CODE 3810-AE-M

Naval Research Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given that the Naval Weapons Center (NWC) Review Team of the Naval Research

Advisory Committee (NRAC) Panel on Laboratory Oversight will meet on October 24–26, 1984, at the Naval Weapons Center, China Lake, California. The first sessions of the meeting will commence at 8:00 a.m. and terminate at 5:30 p.m. on October 24, 1984. The second session will commence at 8:00 a.m. and terminate at 5:30 p.m. on October 25, 1984. The third session will commence at 8:00 a.m. and terminate at 12:00 noon on October 26, 1984. All sessions will be closed to the public.

The purpose of the meeting is to examine the scientific, technical and engineering health of NWC. These matters constitute classified information that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense and is in fact properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requries that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting contact: Commander M. B. Kelly, U.S. Navy, Office of Naval Research (Code 100N) 800 North Quincy Street, Arlington, VA 22217, Telephone number (202) 696–4870.

Dated: October 3, 1984.

William F. Roos, Jr.,

Lieutenant, JAGC, U.S. Naval Reserve, Federal Register Liaison Officer.

[FR Doc. 84–26869 Filed 10–5–84; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF ENERGY

Office of the Secretary

National Petroleum Council, U.S. Petroleum Refining Coordinating Subcommittee on U.S. Petroleum Refining; Meeting

Notice is hereby given that the Coordinating Subcommittee on the U.S. Petroleum Refining will meet in October 1984. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Coordinating Subcommittee on the U.S. Petroleum Refining will address previous Council refining studies and evaluate future refinery operations and their impact on petroleum markets. Its analysis and findings will be based on information and data to be gathered by the various task groups.

The U.S. Petroleum Refining Coordinating Subcommittee will hold its first meeting on Thursday, October 4, 1984, starting at 9:00 a.m., in the Whitney Room of the Four Seasons Hotel, 1300 Lamar Street, Houston, Texas.

The tentative agenda for the U.S. Petroleum Refining Coordinating Subcommittee meeting is as follows:

1. Discuss the scope of the study to be conducted in response to the Secretary of Energy's request for an analysis of the factors affecting domestic refining.
2. Discuss an organizational structure for the study.
3. Discuss a timetable for completion of the study.
4. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the U.S. Petroleum Refining Coordinating Subcommittee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the U.S. Petroleum Refining Coordinating Subcommittee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Ms. Carolyn Klym, Office of Oil, Gas, Shale and Coal Liquids, Fossil Energy, 301/353–2709, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E–190, DOE Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on September 26, 1984.

Donald L. Bauer,

Acting Assistant Secretary, Fossil Energy.

[FR Doc. 84–26868 Filed 10–5–84; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Changes to DOE Energy Information Reporting and Recordkeeping Requirements

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of changes to the inventory of energy information reporting and recordkeeping requirements.

SUMMARY: The Energy Information Administration (EIA) of the Department of Energy (DOE) hereby gives notice to respondents and other interested parties of changes to the inventory of current information collections as defined in the Paperwork Reduction Act of 1980 (Pub. L. 96–511), for which EIA is responsible. DOE management and procurement assistance collections, which are the responsibility of the Office of Management and Administration, will no longer be included in these notices.

The listing that follows this notice indicates changes made during the quarter from April 2, 1984, through July 1, 1984, to the October 1, 1984, inventory of DOE information collections originally published in the **Federal Register**, 48 FR 55160 (December 9, 1983). Changes made during the quarter from October 2, 1983, to January 1, 1984, were published in the **Federal Register**, 49 FR 6969 (February 24, 1984); changes made during the quarter from January 2, 1984, to April 1, 1984, were published in the **Federal Register** 49 FR 21983 (May 24, 1984). The listing includes new information collections approved by the Office of Management and Budget (OMB), collections extended, reinstated, discontinued or allowed to expire, and changes to continuing information collections. For each new requirement, requirement extension, or requirement reinstatement, the current DOE control or form number, the title, and the OMB control number and approval expiration date are listed by DOE sponsoring office. For the list of discontinued requirements, the discontinued date is shown instead of the expiration date. If applicable, the appropriate Code of Federal Regulations citation is also listed. Information collections not utilizing structured forms are designated by an asterisk (*) placed to the right of the control or form number.

FOR FURTHER INFORMATION CONTACT: Carolyn Sinclair, EI–73, Energy Information Administration, Mail Stop 1H–023, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–2313.

Information on the availability of single, blank information copies of those collections utilizing structured forms may be obtained by contacting the National Energy Information Center, EI–22, Forrestal Building, U.S. Department of Energy, Washington, D.C. 20585, (202) 252–8800.

Issued in Washington, D.C., October 1, 1984.

J. Erich Evered,

Administrator, Energy Information Administration.

NEW DOE ENERGY INFORMATION COLLECTIONS APPROVED BY OMB

DOE No.	Title	OMB control No.	Expiration date	CFR citation
	Energy Information Administration			
EIA-856	Monthly Foreign Crude Oil Acquisition Report	19050156	03-31-87	
	Federal Energy Regulatory Commission			
FERC-579	State Implementation of PURPA 210—Cogeneration and Small Power Production	19020133	08-31-85	18 CFR 292.401.
FERC-582[1]	FERC Fees Filing Requirement and Waivers	19020132	04-30-87	18 CFR 381.108.

[1] Indicates that no structured form is used in the collection.

DOE ENERGY INFORMATION COLLECTIONS EXTENDED

DOE No.	Title	OMB control No.	Expiration date	CFR Citation
	Economic Regulatory Administration			
ERA-330R	Electric Utility Conservation Plan	19030078	10-31-84	
	Energy Information Administration			
EIA-141	National Survey of Fuel Purchases for Vehicles—Purchase Log and Supplementary Questionnaire	19050068	01-31-86	
EIA-176	Annual Report of Natural Gas Supply and Disposition	19050147	03-31-85	
EIA-182	Domestic Crude Oil First Purchase Report	19050143	06-30-85	
EIA-429	National Survey of Fuel Purchases For Vehicles—Background Questionnaire	19050086	01-31-86	
	Fedeadral Energy Regulatory Commission			
FERC-11	Natural Gas Pipeline Company Monthly Statement	19020032	10-31-84	18 CFR 260.3.
FERC-15	Interstate Pipeline Annual Report of Gas Supply	19020037	11-30-84	18 CFR 260.7.
FERC-16	Report of Gas Supply and Requirements	19020025	10-31-84	18 CFR 260.12.
FERC-42	Application For Annual Or Basic Valuation	19020003	10-31-84	18 CFR 346.
FERC-500[1]	Major Hydroelectric License—Application	19020058	12-31-84	18 CFR 4 Subpart F.
FERC-505[1]	Application for Licenses for Water Power Projects 5MW or Less	19020115	01-31-85	18 CFR 4 Subpart G.
FERC-512[1]	Application for Preliminary Permit	19020073	06-30-85	18 CFR 4.30.
FERC-516[1]	Electric Rate Schedule Filings	19020096	11-30-85	18 CFR 35 Subpart A, 35.12, 35.13, 35.14.
FERC-539[1]	Gas Pipeline Certificate: Import/Export Related	19020062	04-30-85	18 CFR 153.
FERC-550[1]	Oil Pipeline: Tariff Filings	19020089	05-31-86	49 CFR 1300
FERC-558[1]	Contract Summary For Applicants For Certificates Of Public Convenience And Necessity	19020109	07-31-87	18 CFR 250.5.
FERC-559[1]	Independent Producer Rate Change Or Initial Billing Statement	19020036	07-31-87	18 CFR 250.14.
FERC-581[1]	Management and Procurement Reporting and Recordkeeping Requirements	19020130	03-31-87	18 CFR 125.3, 225.3, 356.3.

[1] Indicates that no structured form is used in the collection.

REINSTATED DOE ENERGY INFORMATION COLLECTIONS

Doe No.	Title	OMB control No.	Expiration date	CFR citation
	Conservation and Renewable Energy			
CE-189C	Industrial Energy Conservation Program for Energy Efficiency Improvement and Recovered Materials Utilization Corporate Recovered Materials Utilization—Corporate Reporting Form.	19040044	03-31-85	10 CFR 445.21, .22, .26.
CE-189P	Industrial Energy Conservation Program for Energy Efficiency Improvement and Recovered Materials Utilization—Plant Reporting Form.	19040044	03-31-85	10 CFR 445.21, .22, .26.
CE-189S	Industrial Energy Conservation Program for Energy Efficiency Improvement and Recovered Materials Utilization—Sponsor Reporting Form.	19040044	03-31-85	10 CFR 445.21, .22, .26.
	Federal Energy Regulatory Commission			
EIA-767(1)	Steam-Electric Plant Operation and Design Report	19020034	12-31-86	18 CFR 141.59.
	International Affairs and Energy Emergencies			
EIA-767(2)	Steam-Electric Plant Operation and Design Report	19010267	12-31-86	

DOE ENERGY INFORMATION COLLECTIONS DISCONTINUED OR ALLOWED TO EXPIRE

Doe No.	Title	OMB control No.	Discontinued date	CFR citation
	Energy Information Administration			
EIA-717	Annual Uranium Exploration Survey	19050131	04-30-84	
EIA-788A	Nonresidential Building Energy Consumption Survey—Original Building Form	19050146	06-30-84	
EIA-788B	Nonresidential Building Energy Consumption Survey—Update Building Form	19050146	06-30-84	

DOE Energy Information Collections Discontinued or Allowed To Expire—Continued

Doe No.	Title	OMB control No.	Discontinued date	CFR citation
	Federal Energy Regulatory Commission			
FERC-533[1]	Gas Producer Rate: Special Relief Petion	19020056	05-18-84	18 CFR 2.75-2.77.

[1] Indicates that no structured form is used in the collection.

Changes in Continuing DOE Energy Information Collections

DOE No. as previously listed	Changes
FERC-500[1]	Proposed rule change.
FERC-505[1]	Do.
FERC-516[1]	Do.
EP-51	Replaced by EIA-856.

[1] Indicates that no structured form is used in the collection.

[FR Doc. 84-26505 Filed 10-5-84; 8:45 am]
BILLING Code 6450-01-M

Publication of Alternative Fuel Price Ceilings and Incremental Price Threshold for High Cost Natural Gas

Correction

In FR Doc. 84-25205, beginning on page 37143 in the issue of Friday, September 21, 1984, make the following correction:

On page 37144, third column, in the "Listing of States by Region", New York should have appeared in Region B rather than Region A.

BILLING CODE 1505-01-M

Federal Energy Regulatory Commission

[Docket No. ER84-693-000]

Arkansas Power & Light Co.; Filing

October 3, 1984.

The filing Company submits the following:

Take notice that on September 20, 1984, Arkansas Power & Light Company (AP&L) tendered for filing proposed changes in AP&L's Schedule FPC No. 69.

AP&L states that this Rate Schedule is a contract between the Company and the City of North Little Rock. The contract amendment filed provides for one additional metering point for the City. AP&L further states that it does not believe that the additional delivery point will have any material effect upon the billing and that no billing data was filed. The Company indicates that there will be no change in rates or provisions in the contract other than those noted above.

A copy of the filing has been mailed to the City of North Little Rock.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 16, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26623 Filed 10-5-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP84-186-001]

Columbia Gas Transmission Corp.; Request Under Blanket Authorization

October 4, 1984.

Take notice that on September 25, 1984, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, filed in Docket No. CP84-186-001 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to extend the transportation of natural gas on behalf of Weyerhaueser Company (Weyerhaueser) under the certificate issued in Docket No. CP83-76-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Columbia states that it began transporting gas to Weyerhaueser's Mt. Vernon, Ohio, plant on November 3, 1983, pursuant to Section 157.209 of the Commission's Regulations for a term extending from November 3, 1983, through November 2, 1984. On January 10, 1984, Columbia filed a request for authorization, *inter alia*, to transport up to 100 million Btu of natural gas per day on behalf of Weyerhaueser, it is stated. The Commission issued a notice of Columbia's request on January 13, 1984, and, since no protest to the proposed transportation was filed with the Commission, Columbia was authorized to transport gas on behalf of Weyerhauser for the term of the transportation agreement which expires November 2, 1984, it is further stated.

Columbia states that Weyerhaueser had requested that Columbia continue transporting the gas through June 30, 1985. Columbia explains that a new gas transportation agreement is being entered into which would provide for Columbia to continue transporting up to 100 million Btu of gas on behalf of Weyerhaueser to its Mt. Vernon Plant through June 30, 1985. Columbia also avers that Columbia Gas of Ohio, Inc., the distribution company serving Weyerhauser, has indicated that it has the capacity to perform the transportation service without detriment or disadvantage to its other customers.

Any person or the Commission's staff may, within 45 days after inssuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn withn 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26625 Filed 10-5-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER84-691-000]

Dayton Power and Light Co.; Filing

October 3, 1984.

The filing Company submits the following:

Take notice that on September 20, 1984, Dayton Power and Light Company (DP&L) tendered for filing an executed Service Agreement For Partial Requirements And/Or Transmission Wheeling Service To Municipalities For Resale (Service Agreement) between DP&L and the Village of Waynesfield, Ohio.

The proposed Service Agreement permits the Village of Waynesfield to receive partial requirements and transmission wheeling service from DP&L undet its FERC Electric Tariff, Original Volume No. 2. The previous service agreement between DP&L and the Village of Waynesfield under which the Village of Waynesfield received service pursuant to DP&L's FERC Electric Tariff Original Volume No. 1, is superseded.

DP&L requests that the Commission waive its notice and filing requirements and permit the proposed Waynesfield Service Agreement to become effective November 1, 1984.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 16, 1984. Protests will be considered by the Commission in determining the appropriate action taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26626 Filed 10-5-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP84-54-000]

Hawthorne Oil & Gas Corp.; Petition of Hawthorne Oil for Issuance of a Declaratory Order To Remove Uncertainty

Issued October 4, 1984.

On September 17, 1984, Hawthorne Oil & Gas Corp. (Hawthorne) filed a petition for a declaratory order concerning the interpretation of § 106(b)(1)(A)(i) of the Natural Gas Policy Act of 1978 (NGPA).

Hawthorne sold gas from the Southwest Gueydan Field in Louisiana pursuant to a contract which expired on June 1, 1983.[1] During the month before the expiration of the contract Hawthorne was being paid the NGPA § 103 level price of $2.778 per MMBtu for some of the gas and the NGPA § 102 level price of $3.421 per MMBtu for the remainder. Hawthorne entered into a new contract for the sale of its gas. That contract generally provided that the price paid should be the applicable maximum lawful price under the NGPA.

Hawthorne claims that the applicable maximum lawful price is set forth in § 106(b)(1)(A)(i) of the NGPA and that that section provides that the maximum price for all gas sold under the new contract which was previously subject to the expired contract whether producing or undeveloped is the higher of the two prices paid under the old contract. Hawthorne petitions for a declaratory order to this effect.

Any person who desires to be heard or to make any protest to this petition should file, within 30 days after this notice is published in the **Federal Register**, with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of Rules 211 or 214 of the Commission Rules of Practice and Procedure. All protests filed will be considered but will not make the protestants parties to the proceeding.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26627 Filed 10-5-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2127-000]

J. Robert Johnston; Application

October 3, 1984.

Take notice that on August 30, 1984, J. Robert Johnston filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

President and Member of the Board of Directors—Alamito Company

Member of the Board of Directors—Tucson Electric Power Company.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 15, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26629 Filed 10-5-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-418-006]

Kansas Power and Light Co.; Refund Compliance Filing

October 3, 1984.

Take notice that on September 24, 1984, Kansas Power and Light Company (KP&L) submitted for filing its Refund Compliance Report pursuant to a Commission order issued August 22, 1984.

KP&L states that Schedule 1, Settlement Refund Summary, shows summary monthly billing determinants, revenue, revenue refund, and interest for the total refund period. Schedule 2 reflects tariff prices as billed and settled Schedule 3 shows the individual monthly billing determinants and revenues under tariffs as billed and as settled. Schedule 4 reflects each customer's monthly calculation of principal and interest refund.

KP&L further states that in accordance with Section 35.19a, interest for the entire refund period is calculated at an average prime rate for each calendar quarter on all excesive rates (including all interest applicable to such rates). According to KP&L the total amounts shown on the report were refunded to each wholesale customer by check dated September 12, 1984.

Any person desiring to be heard or protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before October 17, 1984. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file

[1] The gas was transported and resold only within Louisiana.

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26830 Filed 10-5-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-654-000

Michigan Power Co.; Filing

October 3, 1984.

The filing Company submits the following:

Taken notice that on September 21, 1984, Michigan Power Company (MPCo) tendered for filing proposed changes in its FERC Electric Tariff MRS, Volume No. 1 for wholesale for resale electric service to the City of Dowagiac and the Village of Paw Paw, Michigan. MPCo requests that its proposed tariff changes be made effective on two separate dates as follows:

The tariff changes encompassed in the Twelfth Revised Sheet No. 6 and Sixth Revised Sheet No. 7 are proposed to become effective concurrent with the effective date of Indiana & Michigan Electric Company's proposed Step I rate increase in Docket No. ER84-587-000, on October 8, 1984 (or such other date as may become effective for I&M's Step I increase). Such tariff changes involve recovery of increased purchased power expense which will be incurred by Michigan Power Company pursuant to Indiana & Michigan Electric Company's filing in Docket No. ER84-587-000 and would increase revenues from jurisdictional sales and service by $151,918 based on the 12-month period ended December 31, 1983.

Michigan Power Company has requested an effective date of December 1, 1984 (or such other date as may become effective for I&M's Step II rate increase) for the tariff changes encompassed in Thirteenth Revised Sheet No. 6 to beome effective concurrent with the effective date of Indiana & Michigan Electric Company's proposed Step II rate increase in Docket No. ER84-587-000. Such tariff changes involve recovery of increased purchased power expenses attributable to I&M's Step II rate increase and would increase revenues from jurisdictional sales and service by a total increase of $555,804 based on the twelve month period ended December 31, 1983.

Michigan Power Company has requested a waiver of the Commission's Rules and Regulations so as to permit the proposed rate increase to become effective on less than 60-days notice.

Michigan Power Company state that a copy of the filing has been provided to the City of Dowagiac and the Village of Paw Paw and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission 825 North Capitol Street, NE., Washington , D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 17, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26831 Filed 10-5-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-696-000]

Panhandle Eastern Pipe Line Co.; Request Under Blanket Authorization

October 4, 1984.

Take notice that on September 6, 1984, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77001, filed in Docket No CP84-696-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport gas for an end-user under the certificate issued in Docket No. CP83-83-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Panhandle proposes to transport up to 500 Mcf of natural gas per day, on an interruptible basis, on behalf of Alsey Refractories Company (Alsey), an existing direct industrial sales customer of Panhandle. It is stated that Panhandle would receive the gas at an existing point of interconnection between Panhandle and Union Texas Products Corporation in Major County, Oklahoma, and then transport and redeliver an equivalent volume of gas, less four percent for fuel, to Alsey at an existing point of interconnection in Alsey, Illinois. It is explained that the end-use of the gas would be for burners in tunnel kilns. It is asserted that Panhandle would charge Alsey in accordance to its currently effective OST tariff, a rate of 85.24 cents per million Btu for the transportation service.

It is explained that the term of the transportation service would be from the date of initial transportation under this authorization and would remain in full force and effect for a primary term of six months and successive terms of one month each thereafter until the earlier of 18 months from the date of initial delivery or termination of authorizations for service hereunder pursuant to Subpart F of Part 157 of the Commission's Regulations, provided that each party may terminate the agreement at the end of any such term by giving 30 days prior written notice of such termination to the other party. Termination would also be subject to final balancing of quantities in accordance with the provisions of the transportation agreement, it is submitted.

Panhandle also requests flexible authority to add or delete sources of supply or receipt/delivery points, if such altered service is on behalf of the same end-user, at the same end-user location, within the maximum daily and annual volumes authorized in this docket, and under the same terms and conditions authorized for the basic service.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26832 Filed 10-5-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-680-000]

Public Service Company of Colorado; Filing

October 3, 1984.

The filing Company submits the following:

Take notice that on September 14, 1984, the Public Service Company of

Colorado (PSCC) tendered for filing a proposed change in its Contract for Interconnection and Transmission Service (Contract) with the United States Department of Energy, Western Area Power Administration (WAPA). Public Service states that the proposed change is a revised Exhibit D to PSCC's Contract with WAPA, dated May 9, 1962, on file with the Commission under Company's FERC Rate Schedule No. 7.

PSCC states that the revised Exhibit D is to reflect the addition and deletion of certain points of interconnection from WAPA wheeling service and also to update the maximum rates of delivery for the particular points of interconnection.

PSCC requests an effective date of July 9, 1984, and therefore requests waiver of the Commission's notice requirements.

According to PSCC copies of this filing were served upon all parties to the Agreement and affected state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 15, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26633 Filed 10-5-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-692-000]

Puget Sound Power & Light Co.; Filing

October 3, 1984.

The filing Company submits the following:

Take notice that on September 20, 1984, Puget Sound Power & Light Company (Puget) tendered for filing an initial rate schedule, the Transmission Service Agreement, executed on July 31, 1984 between Puget and Public Utility District No. 1 of Clallam County (the "District").

The Agreement generally requires Puget to make available to the District each hour up to 16 MW of capacity in Puget's transmission facilities from BPA's Fairmount Substation to the Port Townsend Paper Corporation. The District is required to pay Puget for such service at the initial rate of $101.37 per day. Service under the Agreement commenced on July 31, 1984.

Puget requests an effective date of July 31, 1984, and therefore requests waiver of the Commission's notice requirements.

A copy of the filing was served upon the District.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 16, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26634 Filed 10-5-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-722-000]

United Gas Pipe Line Co.; Request Under Blanket Certificate

October 4, 1984.

Take notice that on September 19, 1984, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP84-722-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas for Shell Oil Company (Shipper) under the certificate issued in Docket No. CP82-430-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

United proposes to transport up to 10,000 Mcf of natural gas per day and up to 1,752,000 Mcf of natural gas per year on behalf of Shipper. It is stated that Shipper is purchasing the gas from Shell Western E&P Inc. in Terrebonne, St. Charles, and Natchitoches Parishes, Louisiana. Shipper will deliver the gas to an existing interconnection with United in Natchitoches Parish, Louisiana, it is stated. From this point, United proposes to transport and deliver equivalent volumes of gas to Mobile Gas Service Corporation (Mobile Gas) at an existing interconnection in Mobile County, Alabama. Mobile Gas in turn would make the ultimate delivery to Shipper's chemical plant located in Mobile, Alabama, where the gas would be used for boiler fuel and miscellaneous plant uses, it is asserted.

United states that it would apply its effective transportation rate applicable to its northern rate zone including components for gas consumed in the operation of United's pipeline system and for the Gas Research Institute. Such rate is currently 43.19 cents per Mcf, it is stated. There is no 5-cent added incentive charge proposed. United further states that it would not construct or add to its existing facilities to provide this service and that it has sufficient capacity to perform such service without detriment or disadvantage to its other customers. The term of the proposed service would expire at 7:00 a.m. on June 30, 1985, unless the Commission provides for an extension of service at which time the term would be automatically extended by the transportation agreement until January 1, 1986, it is explained.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26635 Filed 10-5-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No CF84-497-000]

C&S Enterprises; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

October 3, 1984.

On September 17, 1984, C&S Enterprises (Applicant), of 1723 E. 3rd Street, Delta, Colorado 81416, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The 100 kilowatt hydroelectric facility will be located approximately 4.5 miles south of Crawford, Colorado in Montrose County.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26624 Filed 10-5-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CF84-490-000]

Hydro-Op One Associates; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

October 3, 1984.

On September 7, 1984, Hydro-Op One Associates of c/o National Hydro Corporation, 77 Franklin Street 9th Floor, Boston, Massachusetts 02110, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The 3.6 megawatt hydroelectric facility (P. 287) is located on the Fox River in LaSalle County, Dayton, Illinois.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26625 Filed 10-5-84; 8:45 am]

BILLING CODE 6717-01-M

Office of Civilian Radioactive Waste Management

Advisory Panel on Alternative Means of Financing and Managing (AMFM), Radioactive Waste Facilities; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Advisory Panel on Alternative Means of Financing and Managing (AMFM) Radioactive Waste Facilities.

Date and time: October 22-8:30 a.m.-5:00 p.m.; October 23-8:30 a.m.-4:00 p.m.

Place: U.S. Department of Energy, Forrestal Building, Room 1E-245, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Contact: Harold H. Brandt, U.S. Department of Energy, Office of Civilian Radioactive Waste Management, 1000 Independence Avenue, SW., Washington, D.C. 20585, Telephone: (202) 252-1652.

Purpose of the Panel

To study and report to the Department of Energy on alternative approaches to managing the construction and operation of civilian radioactive waste facilities, pursuant to Section 303 of the Nuclear Waste Policy Act of 1982 (Pub. L. 97-425). The Panel's report will include a thorough and objective analysis of the advantages and disadvantages of each alternative approach, but will not address the specific siting of radioactive waste facilities.

Tentative Agenda

October 22

- Continue discussion of organizational alternatives.
- Panel review and comment on final report draft.
- Public comment (10 minute rule).

October 23

- Continue discussion of organizational alternatives.
- Panel review and comment on final report draft.
- Public comment (10 minute rule).

Public Participation

The meeting is open to the public. Written statements may be filed with the Panel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Harold Brandt at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts

The transcript of the meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washinton, D.C., between 8:30 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on October 3, 1984.

Howard H. Raiken,

Deputy Advisory Committee Management Officer.

[FR Doc. 84-26648 Filed 10-5-84; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-00183; FRL-2689-3]

Administrator's Pesticide Advisory Committee; Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Meeting.

SUMMARY: The Administrator's Pesticide Advisory Committee (APAC) will hold a meeting to continue its consideration of improvements to the pesticide reregistration process for existing chemicals. The Committee will also initiate a discussion of the regulation of inert ingredients in pesticide products. General activities of the Office of Pesticide Programs (OPP) may also be discussed. The meeting will be open to the public.

DATE: The meeting will take place on Thursday, October 25, 1984, at 9:00 a.m. and adjourn by 4:30 p.m.

ADDRESS: The meeting will be held in: North Lobby Conference Room, Capitol Park International, 800 Fourth St., SW., Washington, D.C. 20024.

FOR FURTHER INFORMATION CONTACT: Betty Winter, Executive Secretary, Administrator's Pesticide Advisory Committee (TS-788), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-636, 401 M St., SW., Washington, D.C. 20460, (202-382-7801).

SUPPLEMENTARY INFORMATION: The APAC will begin with opening remarks by Dr. Sam Gusman, APAC Chairperson, and Dr. John A. Moore, Assistant Administrator for Pesticides and Toxic Substances. The Committee will continue its discussion of the reregistration process, which was introduced at the first meeting on June 27 and continued at the September 7 meeting. The APAC will also address the topic of the regulation of inert ingredients in pesticide products at this meeting. EPA will present relevant issues on this topic for Committee discussion. An agenda will be available at a later date.

The meeting will be open to the public, and time will be set aside for public comments concerning the issues to be discussed at the meeting. Any member of the public wishing to present an oral or written statement relating to the Committee's topics of discussion for this meeting should contact the APAC Executive Secretary at the address or telephone number listed above.

Dated: September 28, 1984.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 84-26574 Filed 10-5-84; 8:45 am]

BILLING CODE 6560-50-M

[OPPE-FRL-2689-2]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) requires the Agency to publish in the **Federal Register** a notice of proposed information collection requests (ICRs) that have been forwarded to the Office of Management and Budget for review. The ICR describes the nature of the solicitation and the expected impact, and, where appropriate, includes the actual data collection instrument. The following ICRs are available to the public for review and comment.

FOR FURTHER INFORMATION CONTACT: Nanette Liepman (PM-223); Office of Standards and Regulations; Regulation and Information Management Division; U.S. Environmental Protection Agency; 401 M Street, SW.; Washington, D.C. 20460; telephone (202) 382-2742 or FTS 382-2742.

SUPPLEMENTARY INFORMATION:

Hazardous Waste Programs

• Title: Hazardous Waste Industry Studies (EPA #0818).

Abstract: For more effective regulation of hazardous wastes under RCRA, EPA proposes to collect information on industrial process residuals and their quantities, characteristics and management. Data will be gathered primarily through industry questionnaires and supplemented with a selected number of site visits.

Respondents: Owners/operators in the petroleum refining, wood preservatives and pharmaceuticals industries.

* * * * *

Agency PRA Clearance Requested Completed by OMB

OMB has extended the expiration date of the following approved information clearance requests under New Source Performance Standards:

EPA #1050, NSPS: Storage vessels for petroleum liquids (OBM #2060-0024: expires 12/31/84).

EPA #1051, NSPS: Portland cement plants (OBM #2060-0025: expires 12/31/84).

EPA #1060, NSPS: Electric utility steam generating units (OBM #2060-0023: expires 01/31/85).

EPA #1054, NSPS: Petroleum refineries—excess emission reports (OBM #2060-0022: expires 01/31/85).

EPA #1056, NSPS: Emission monitoring for nitric acid plants (OBM #2060-0019: expires 02/28/85).

EPA #1057, NSPS: Emission monitoring for sulfuric acid plants (OBM #2060-0041: expires 12/31/84).

EPA #1058, NSPS: Incinerator monitoring provisions (OBM #2060-0040: expires 03/31/85).

EPA #1061, NSPS: Phosphate fertilizer plants (OBM #2060-0037: expires 04/30/85).

EPA #1063, NSPS: Coal preparation plants (OBM #2060-0035: expires 4/30/85).

EPA #1064, NSPS: Automobile and light duty truck surface coating (OBM #2060-0034: expires 5/31/85).

EPA #1065, NSPS: Ferroalloy production facilities (OBM #2060-0033: expires 12/31/84).

EPA #1066, NSPS: Ammonium sulfate plants (OBM #2060-0032: expires 12/31/84).

EPA #1067, NSPS: Primary aluminum reduction plants (OBM #2060-0031: expires 06/30/85).

EPA #1068, NSPS: Primary copper, lead and zinc smelters (OBM #2060-0030: expires 12/31/84).

EPA #1069, NSPS: Basic oxygen process furnaces (OBM #2060-0029: expires 06/30/85).

EPA #1070, NSPS: Granular triple superphosphate (OBM #2060-0027: expires 07/31/85).

EPA #1071, NSPS: Gas turbines (OBM #2060-0028: expires 07/31/85).

Comments on all parts of this notice should be sent to:

Nanette Liepman (PM-223), U.S. Environmental Protection Agency, Office of Standards and Regulations, Regulation & Information Management Division, 401 M Street, SW., Washington, D.C. 20460; and

Mary Moore, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Buliding (Room 3228), 726 Jackson Place, NW., Washington, D.C. 20503

Dated: October 2, 1984.

Daniel J. Fiorino,

Acting Director, Regulation and Information Management Division.

[FR Doc. 84-26575 Filed 10-5-84; 8:45 am]

BILLING CODE 6560-50-M

[AAA-FRL-2687-5]

EPA Master List of Debarred, Suspended, or Voluntarily Excluded Persons

AGENCY: Environmental Protection Agency.

ACTION: EPA Master List of Debarred, Suspended, or Voluntarily Excluded Persons.

SUMMARY: 40 CFR 32.400 requires the Director, Grants Administration Division, to publish in the **Federal Register** each calendar quarter the names of, and other information concerning, those parties debarred, suspended, or voluntarily excluded from participation in EPA assisted programs by EPA action under Part 32. Assistance (grant and cooperative agreement) recipients and contractors under EPA assistance awards may not initiate new business with these firms or individuals on any EPA funded activity during the period of suspension, debarment, or voluntary exclusion.

This short list contains the names of those persons who have been listed as a result of EPA actions only. It is provided for general informational purposes only and is not to be relied on in determining a person's current eligibility status. A comprehensive list, updated weekly, is available in each Regional Office. Inquiries concerning the status of any individual, organization, or firm should be directed to EPA's Regional or Headquarters office for grants administration that normally serves you.

DATE: This short list is current as of September 21, 1984.

FOR FURTHER INFORMATION CONTACT: Frank Dawkins, of the EPA Compliance Staff, Grants Administration Division, at (202) 475-8025.

Dated: September 19, 1984.

Harvey G. Pippen, Jr.,

Director, Grants Administration Division (PM-216).

EPA MASTER LIST OF DEBARRED, SUSPENDED AND VOLUNTARILY EXCLUDED PERSONS

Name and jurisdiction	File No.	Status[1]	From	To	Grounds
A. C. Lawrence Leather Company, Inc. (Danvers, MA)	83-0007-00	D	04-12-84	04-11-87	§ 32.200 (a)(c)(i).
Anderson, Scott (Walnut Creek, CA)	83-0004-01	D	06-17-83	05-16-86	§ 32.200 (a)(b)(e)(f).
Ashland-Warren, Inc. (McMinnville, TN)	82-0401	D	09-22-82	05-05-85	§ 32.200 (a)(e).
Atlas Prestressing Corp. (Panorama City, CA)	83-0050-00	D	06-23-83	08-01-86	§ 32.200 (a).
Averill, Ernest Jr. (Fort Meyers, FL)	83-0066-06	S	12-02-83	Open	§ 32.300 (b).
Barber, Lawrence (Hazelwood, NC)	83-0007-05	D	04-12-84	04-11-87	§ 32.200 (a)(c)(i).
Bowe, Walsh and Associates, Inc. (Melville, NY)	83-0040-00	D	04-14-83	04-13-86	§ 32.200 (a)(e).
Bowers Excavating and Fencing, Inc. (Klamath Falls, OR)	83-0056-00	D	06-27-83	12-27-84	§ 32.200 (b)(e)(i).
Bowers, Joe (Klamath Falls, OR)	83-0056-01	D	06-27-83	12-27-84	§ 32.200 (b)(e)(i).
Bowers, John (Klamath Falls, OR)	83-0056-02	D	06-27-83	12-27-84	§ 32.200 (b)(e)(i).
Christen, Burl Gene (Denver, CO.)	83-0050-02	VE	11-03-83	11-02-84	§ 32.200 (a).
Croft, William A. (Madison, WI)	83-0047-00	S	06-20-84	Open	§ 32.200 (a).
Emchetti, Angelo J. (Camden, NJ)	83-0040-04	D	04-14-83	04-13-86	§ 32.200 (a)(b).
Friedrich, Rene (Saratoga, CA)	83-0003-01	VE	12-23-83	12-22-84	§ 32.200 (a).
Gabey, Martin (Northport, NY)	83-0040-02	D	12-16-83	12-15-86	§ 32.200 (a).
Goodspeed, Robert (North Hampton, NH)	83-0007-02	D	04-12-84	04-11-87	§ 32.200 (c)(i).
Harry Johnson Plumbing Co., Inc. (Walla Walla, WA)	83-0060-00	D	07-22-83	07-21-86	§ 32.200 (b)(c)(e)(i).
Herbert G. Whyte, Associates, Inc. (Gary, IN)	83-0501	D	10-20-82	10-19-85	§ 32.200 (b)(e).
Hunter, James C. (Gardena, CA)	83-0002-02	D	07-07-83	07-05-86	§ 32.200 (a).
Jackson, Manly (San Jose, CA)	83-0048-02	D	06-27-83	06-26-86	§ 32.200 (a).
Johnson, Mark (Walla Walla, WA)	83-0060-01	D	07-22-83	07-21-86	§ 32.200 (b)(c)(e)(i).
Johnson, Richard (Hinsdale, NH)	83-0007-03	D	04-12-84	04-11-87	§ 32.200 (c)(i).
Keller, John (Timonium, MD)	83-0048-01	D	09-09-83	03-08-85	§ 32.200 (a).
L.A. Reynolds Co. (Winston Salem, NC)	83-0036-00	D	07-01-83	06-30-86	§ 32.200 (a).
Long, Harold Delmar (Los Gatos, CA)	83-0050-01	D	07-07-83	07-06-86	§ 32.200 (a).
Marshall, Weymouth (Gloucester, MA)	83-0007-01	D	04-12-84	04-11-87	§ 32.200 (c)(i).
Meyer, Gary (North Platte, NE)	83-0031-01	VE	04-18-84	10-17-84	§ 32.200 (a).
Municipal & Industrial Pipe Services, Ltd. (Douglasville, GA)	82-0601	D	10-07-82	02-16-87	§ 32.200 (b)(c)(e)(i).
	82-0408				
Newman, Fred M. (Vienna, VA)	83-0072-01	D	09-30-83	09-29-86	§ 32.200 (i).
Newman, Richard Gordon (Pierre, SD)	83-0041-00	D	11-29-83	11-28-86	§ 32.200 (a).
Post-Tensioning Service Corp. (Saratoga, CA)	83-0001-00	D	07-08-83	07-07-86	§ 32.200 (a).
Reynolds, Jon R. (Winston Salem, NC)	83-0036-01	D	07-01-83	06-30-86	§ 32.200 (a).
Richmond, Elwood P. (Grand Forks, ND)	83-0006-01	D	06-06-83	06-05-86	§ 32.200 (a)(f).
Richmond Engineering, Inc. (Grand Forks, ND)	83-0006-00	D	06-06-83	06-05-86	§ 32.200 (a)(f).
Richmond, Lloyde W., Jr (Grand Forks, ND)	83-0006-02	D	06-06-83	06-05-86	§ 32.200 (a)(f).
Rothrock Construction, Inc (Murrells Inlet, NC)	83-0064-00	D	05-17-84	05-16-87	§ 32.200 (a).
Rothrock,Steve D (Murrells Inlet, NC)	83-0064-01	D	05-18-84	05-17-87	§ 32.200(a)
Shepherd, Frank A. (Savannah, TN)	83-0046-01	D	07-15-83	11-03-85	§ 32.200 (a).
Stone, Francis (Swanzey NH)	83-0007-04	D	04-12-84	04-11-87	§ 32.200 (a)(c)(i).
Streeteel Corp. (Wilkes-Barre, PA)	83-0051-00	D	08-02-83	02-01-85	§ 32.200 (a).
Suburban Grading & Utilities, Inc. (Norfolk, VA)	83-0022-00	D	03-29-83	03-28-85	§ 32.200 (a)
Swanson, David (Los Gatos, CA)	83-0003-02	VE	11-03-83	11-02-84	§ 32.200 (a)(f).
Vanderhurst, William (Saratoga, CA)	83-0001-01	D	07-08-83	07-07-86	§ 32.200 (a).
Walsh, Charles T. (Huntington Bay, NY)	83-0040-01	D	04-14-83	04-13-86	§ 32.200 (a).
Walstad, Merrill (Huntington Beach, CA)	83-0003-03	D	06-27-83	06-26-86	§ 32.200 (a).
Watts, Richard (Los Gatos, CA)	83-0003-04	VE	11-03-83	11-02-84	§ 32.200 (a).
Whyte, Herbert G. (Gary, IN)	82-0501	D	10-20-82	10-19-85	§ 32.200 (b)(e).
Wirt, David (Douglasville, GA)	82-0601	D	10-07-82	02-16-87	§ 32.200 (b)(c)(e)(i).
	82-0408				
Wirt, Gordon D. (Douglasville, GA)	82-0408	D	12-07-82	02-16-87	§ 32.200 (c)(e).
Wirt, Judith C. (Douglasville, GA)	82-0408	D	12-07-82	02-16-87	§ 32.200 (c)(e)(i).
Womack, Jerry T. (Norfolk, VA)	83-0022-01	D	03-29-83	03-28-85	§ 32.200 (a).
Zeigler, Beaty Stevens (Sumter, SC)	83-0045-01	VE	07-15-83	08-31-86	§ 32.200 (a).

[1] D = Debarred; S = Suspended; VE = Voluntarily Excluded.

[A-5-FRL-2687-6]

Availability of Section 321 Investigation; Final Report

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Notice of availability.

SUMMARY: On February 3, 1984, the Administrator of USEPA granted a request to conduct an investigation as authorized under section 321 of the Clean Air Act (49 FR 9260, March 12, 1984). The purpose of the investigation is to determine what, if any, employment effects at the Peabody Coal Company, Sunnyhill Mine, in New Lexington, Ohio, are the direct result of air pollution regulations adopted pursuant to the Clean Air Act. Beginning June 18, 1984, USEPA made available copies of its draft report and provided a public comment period (49 FR 25903, June 25, 1984).

USEPA has finalized this report and it is now available to the public. Copies of this report can be obtained by writing or calling the contact person listed in the address section of this notice.

ADDRESS: Copies of the final report can be obtained by writing or calling: Bessie Tinsley, Regulatory Analysis Section, Air and Radiation Branch (5AR-26), U.S. Environmental Protection Agency, Region V, 230 S. Dearborn Street, Chicago, Illinois 60604, (312) 886-6069.

Dated: September 21, 1984.

Alan Levin,

Acting Regional Administrator.

[FR Doc. 84-26577 Filed 10-5-84; 8:45 am]

BILLING CODE 6560-50-M

[EN-FRL-2690-8]

Pretreatment Implementation Review Task Force; Open Meetings

Pursuant to Public Law 92-463, notice is hereby given that meetings of the Pretreatment Implementation Review Task Force will be held as follows:

Technical Implementation Subcommittee, October 24, 8:30 a.m. to 5:00 p.m., Capitol Park International, South Lobby Conference Room, 800 Fourth St., SW., Washington, D.C. 20024.

Entire Pretreatment Implementation Review Task Force, November 8 and 9, 9:00 a.m. to 5:00 p.m., Capitol Park International, North Lobby Conference Room, 800 Fourth St., SW., Washington, D.C. 20024.

Entire Pretreatment Implementation Review Task Force, December 4 and 5, 9:00 a.m. to 5:00 p.m., Capitol Park International, North Lobby Conference Room, 800 Fourth St., SW., Washington, D.C. 20024.

The agenda for the Technical Implementation Subcommittee meeting on October 24 involves a review of the draft removal credit guidance. The agenda for the entire Task Force meeting on November 8 and 9 involves a detailed consideration of the initial draft of the Final Report from the Task Force to the Administrator. This report will include recommendations in the areas of technical issues, POTW program development, and reporting for POTWs and industrial users. The agenda for the entire Task Force meeting on December 4 and 5 involves formal approval of the Final Report from the Task Force to the Administrator.

Any member of the public wishing to make comments is invited to submit them in writing to Mr. Richard Kinch no later than November 7, 1984. All sessions will be open to the public. Any member of the public wishing additional information should contact Mr. Richard Kinch or Dr. Jerry Parker (EN-336), U.S. EPA, 401 M St., SW., Washington, D.C. 20460, (202) 755-0750.

FOR FURTHER INFORMATION CONTACT: Dr. Jerry Parker, (202) 755-0750.

Dated: October 3, 1984.

Henry L. Longest, II,

Acting Assistant Administrator for Water.

[FR Doc. 84-26801 Filed 10-5-84; 11:47 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirements Submitted to Office of Management and Budget for Review

October 3, 1984.

The Federal Communications Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511.

Copies of the submissions are available from Doris Peacock, Agency Clearance Officer, (202) 632-7513. Persons wishing to comment on these information collections should contact Marty Wagner, Office of Management and Budget, Room 3235 NEOB, Washington, D.C. 20503, (202) 395-4814.

OMB Number: 3060-0183
Title: Section 73.1840, Retention of Logs
Action: Revision
Respondents: Businesses (including small businesses)
Estimated Annual Burden: 11,075 Recordkeepers; 287,950 Hours
OMB Number: 3060-0194
Title: Section 74.21, Broadcasting Emergency Information
Action: Extension
Respondents: Businesses (including small businesses)
Estimated Annual Burden: 250 Respondents; 250 Hours
OMB Number: 3060-0208
Title: Section 73.1870, Chief Operators
Action: Revision
Respondents: Businesses (including small businesses)
Estimated Annual Burden: 11,075 Recordkeepers; 287,950 Hours

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84-26806 Filed 10-5-84; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 84-916; File No. BPCT-840208KF et al.]

Big Six-O TV et al.; Hearing Designation Order

In re Applications of Big Six-O TV; MM Docket No. 84-916, File No. BPCT-840208KF; Channel 60 Corp.; MM Docket No. 84-917, File No. BPCT-840628KG; Minority TV of Tyler, Inc.; MM Docket No. 84-918, File No. BPCT-840629KM; Joseph L. Matthews, Robert L. Bailes, Michael H. Cooper, Harrietta F. Clark Partnership d/b/a Vestcom Broadcasting; MM Docket No. 84-919, File No. BPCT-840629KQ; For Construction Permit for New TV Station Tyler, Texas.

Adopted: September 27, 1984.
Released: October 2, 1984.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications of Big Six-O TV (Six-O), Channel 60 Corporation, Minority TV of Tyler, Inc. (Minority), and Joseph L. Matthews, Robert L. Bailes, Michael H. Cooper, Harrietta F. Clark Partnership d/b/a Vestcom Broadcasting (Vestcom) for authority to construct a new commercial television station on Channel 60, Tyler, Texas.

2. The effective radiated visual power, antenna height above average terrain and other technical data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would be served by each. Consequently, the areas and populations which would receive television service of 64 dBu (Grade B) or greater intensity, together with the availability of other Grade B television services in such areas, will be

considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to any of the applicants.

3. No determination has been made that the tower heights and locations proposed by the applicants would not constitute a hazard to air navigation.[1] Accordingly, an appropriate issue will be specified.

4. Six-O states that it is a limited partnership. Section II, Item 5(a), FCC Form 301, requires that if the applicant is a partnership, the requested information must be given for each general or limited partner. Six-O application identifies only the 51% general partner and does not identify any other general partners or limited partners. Section 73.3514(a) of the Commission's Rules requires an applicant to provide all information called for by FCC forms, unless the information is inapplicable. However, in *Attribution of Ownership Interests*, 55 R.R. 2d 1464 (1984), the Commission stated that, henceforth, limited partnership interests were not attributable for the purposes of the multiple ownership rules, if the applicant certifies that the limited partnership agreement conforms in all relevant respects to the Uniform Limited Partnership Act (ULPA) and "if the limited partner is not involved in any material respect in the business or operation of the station." *Id.* at 1485. Further, the Commission directed that Form 301, among others, be amended to conform to the new attribution standards. *Id.* at 1493. Although changes in the form have not yet been made, there is now no need to provide information as to the limited partners if Six-O can submit the necessary certification. If the certification is not appropriate, of course, the limited partners would be considered to have attributable interests, and the necessary information as to them would have to be filed as an amendment. Further, the Commission retained the cross-interest policy as to other attributable media interests in the same area. *Id.* at 1490. Accordingly, Six-O will be required either to state that its limited partners have no other media interests subjects to the cross-interests policy or identify the limited partners with such interests, identify the other local media and state the nature or extent of the ownership interests. Six-O must, of course, provide complete identifying information on its other general partners, if any.

5. In responding to Section II, Page 2, Item 5(a), FCC Form 301, Minority makes reference to the president of the corporation and to limited partners. However, none of the limited partners were listed. Thus, it is not clear whether it is a corporation or a partnership. Minority will be required to file a clarifying amendment with respect to the nature of its business organization, to the presiding Administrative Law Judge within 20 days of the date of the release of this Order. If Minority is a limited partnership, it should provide the information outlined in paragraph 4, supra.[2]

6. Section 73.3555(a)(3) of the Commission's Rules states that no license for a television broadcast station shall be granted to any party if such party directly or indirectly owns, operates, or controls one or more television broadcast stations and the grant of such license will result in any overlap of the Grade B contours of the existing and proposed stations. The Harrietta F. Clark Partnership (Clark Partnership), one of the limited partners of Vestcom, owns 2000 shares of common stock in Lin Broadcasting, a publicly traded company, which is the licensee of KXAS–TV, Channel 5, Fort Worth, Texas. The Grade B contour of KXAS–TV and the proposed Tyler station overlaps in a very small area of approximately 4 miles. However, Clark Partnership interest in Lin Broadcasting is less than 1% and is not an attributable interest. Accordingly, the proposal is not in violation of § 73.3555(a)(3).

7. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

8. Accordingly, it is ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications ARE DESIGNATED FOR HEARING IN A CONSOLIDATED PROCEEDING, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether there is a reasonable possibility that the tower height and location proposed by each applicant would constitute a hazard to air navigation.

2. To determine which of the proposals would, on a comparative basis, best serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

9. It is further ordered, That, Big Six-O TV shall submit the certification, statement and/or information required by paragraph 4, supra, to the presiding Administrative Law Judge within 20 days after this Order is released.

10. It is further ordered, That Minority shall submit a clarifying amendment in response to Item 5(a), FCC Form 301, as described in paragraph 5, supra, to the presiding Administrative Law Judge within 20 days of the date of the release of this Order.

11. It is further ordered, That the Federal Aviation Administration IS MADE A PARTY RESPONDENT to this proceeding with respect to Issue 1.

12. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

13. It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 84-26608 Filed 10-5-84; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 84-923, File No. BPCT-840522KG et al.]

Capital City Community Interests, Inc., et al.; Hearing Designation Order

In re Applications of Capital City Community Interests, Inc., MM Docket No. 84-923, File No. BPCT-840522KG; Isabel Chavez, MM Docket No. 84-924, File No.

[1] The Commission 's Antenna Survey Branch has no record of an existing structure of the height proposed by Six-O at the designated site. Six-O will be required to file FAA Form 7460-1 with the FAA.

[2] We note that Minority only lists one officer of its "corporation" in its application. However, in the state of Texas, where we will assume Minority is incorporated, it is entirely permissible to have a single officer.

BPCT–840709KF; Television 54 Corporation, MM Docket No. 84–925, File No. BPCT–840710KF; Jo Cardenas Stoltz and Mary G Diaz, a partnership d.b.a. Capitol Area Broadcasting, MM Docket No. 84–926, File No. BPCT–840710KN; Balcones Broadcasting Limited, MM Docket No. 84–927, File No. BPCT–840711KJ; Lake Country Telecasters, Inc., MM Docket No. 84–928, File No. BPCT–840711KK; Channel 54, Limited, MM Docket No. 84–929, File No. BPCT–840711KL; ATV Associates, Inc., MM Docket No. 84–930, File No. BPCT–840711KM; DB Broadcasting, Inc., MM Docket No. 84–931, File No. BPCT–840711KN; For Construction Permit, Austin, Texas.

Adopted: September 27, 1984.
Released: October 2, 1984.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications for a new commercial television station to operate on Channel 54, Austin, Texas.

2. No determination has been reached that the tower heights and locations proposed by Television 54 Corporaton (TV 54), Capitol Area Broadcasting (Capitol Area), Balcones Broadcasting Limited (Balcones), Channel 54 Limited (Channel 54), ATV Associates, Inc. (ATV) and DB Broadcasting, Inc. (DB) would not constitute a hazard to air navigation.[1] Accordingly, an appropriate issue will be specified.

3. The transmitter sites proposed by TV 54, Capitol Area, Balcones, ATV and DB now meet all of the Commission's minimum mileage separation requirements. There is, however, a rulemaking proposal pending which would allocate Channel 69 to San Antonio, Texas. If this proposal is adopted, each of these proposals would be short-spaced to the reference point in San Antonio.[2] An issue would then be required to determine whether circumstances exist which would warrant a waiver of the rule. In assessing the circumstances to determine whether a waiver would be warranted, the presiding Administrative Law Judge would consider the fact that the other applicants have specified sites which would comply with the separation requirements. Accordingly, a contingent issue with respect to the possible short-spaced proposals will be specified.

4. The effective radiated visual power, antenna height above average terrain and other technical data submitted by the applicants indicate that there would be a significant difference in the size of the area and population that each proposes to serve. Consequently, the areas and populations which would be within the predicted 64 dBu (Grade B) contour, together with the availability of other television service of Grade B or greater intensity, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to any of the applicants.

5. Isabel Chavez has not specified the area and population within the predicted Grade B contour of her proposed station as required by Section V–C, item 10, FCC Form 301. Accordingly, Ms. Chavez will be required to submit an amendment showing the required information, within 20 days after this Order is released, to the presiding Administrative Law Judge.

6. In Section V–C, FCC Form 301, TV 54 specifies maximum visual effective radiated power of 5000 kW and antenna height above average terrain of 2,041 feet. This combination of power and height exceeds the maximum permitted by Section 73.614 of the Commission's Rules. TV 54 must submit a corrective amendment to the presiding Administrative Law Judge, within 20 days after this Order is released.[3]

7. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant would serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

8. Accordingly, it is ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to Television 54 Corporation, Capitol Area Broadcasting, Balcones Broadcasting Limited, ATV Associates, Inc. and DB Broadcasting, Inc. whether there is a reasonable possibility that the tower height and location proposed by each would constitute a hazard to air navigation.

2. In the event the Commission adopts the pending rulemaking proposal to allocated Channel 69 to San Antonio, Texas, to determine with respect to Television 54 Corporation, Capitol Area Broadcasting, Balcones Broadcasting Limited, ATV Associates, Inc. and DB Broadcasting, Inc. whether circumstances exist which would warrant a waiver of Section 73.610 of the Commission's rules.

3. To determine which of the proposals would, on a comparative basis, best serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

9. It is further ordered, That the Federal Aviation Administration is made a party respondent to this proceeding with respect to issue 1.

10. It is further ordered, That Isabel Chavez shall submit the figures for the area and population within the predicted Grade B contour of the proposed facility to the presiding Administrative Law Judge, within 20 days after this Order is released.

11. It is further ordered, That Television 54 Corporation shall submit an amendment to show compliance with Section 73.614 of the Commission's Rules pertaining to power and antenna height above average terrain, to the presiding Administrative Law Judge, within 20 days after this Order is released.

12. It is further ordered, That the "Motion to Return Amendment" filed by ATV Associates, Inc. is granted to the extent noted herein, and is denied in all other respects.

13. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the

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[1] The Commission has not received copies of the Federal Aviation Administration's studies for proposals submitted by Channel 54, ATV and DB.

[2] Secion 73.610 of the Commission's Rules requires a minimum separation of 75 miles between a station operating on Channel 54 and a Channel 69 station or reference point. TV 54's proposal would be 14 miles short-spaced; Capitol Area's proposal would be 16 miles short-spaced; Balcones' proposal would be 14 miles short-spaced; ATV's proposal would be 2 miles short-spaced; and DB's proposal would be 16 miles short-spaced.

[3] On September 17, 1984, ATV filed a "Motion to Return Amendment" requesting the Commission to return as unacceptable for filing TV 54's amendment of August 30, 1984, because the proposal does not comply with Section 73.614(b) of the rules. ATV is correct in that Section 73.614(b) does preclude the acceptance for filing of an amendment proposing power in excess of 5000 kW at 2,000 feet above average terrain. Therefore, if TV 54 wants to operate at a power and height other than as originally specified, it must request a power and height complying with Section 73.614(b). Accordingly, to the extent that the August 29, 1984, amendment violates Section 73.614(b), the amendment is rejected, and accepted in all other respects.

hearing and present evidence on the issues specified in this Order.

14. It is further Ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 84-25608 Filed 10-5-84; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 84-920; File No. BPCT-840525KF et al.]

Contemporary Communications, Inc., et al.; Hearing Designation Order

In re Applications of Contemporary Communications, Inc.; MM Docket No. 84-920, File No. BPCT-840525KF; Haynes Communications Co.; MM Docket No. 84-921, File No. BPCT-840710KL; Grand Canyon Television Co., Inc.; MM Docket No. 84-922, File No. BPCT-840711KQ; For Construction Permit, Gallup, New Mexico.

Adopted: September 27, 1984.
Released: October 2, 1984.

By the Chief, Video Services Division.

1. The Commission, by the Chief, Video Services Division, acting pursuant to the delegated authority, has before it the above-captioned mutually exclusive applications of Contemporary Communications, Inc. (Contemporary), Haynes Communications Co. (Haynes), and Grand Canyon Television Co., Inc., (Grand Canyon) for authority to construct a new commercial television station on Channel 10, Gallup, New Mexico.

2. The effective radiated visual power, antenna height above average terrain and other technical data submitted by each applicant indicates that there would be a significant difference in the size of the areas and populations which would be served by each of the proposals. Consequently, the areas and populations which would be within the predicted 64 dBu (Grade B) contours together with the availability of other television service of Grade B or greater intensity, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to any of the applicants.

3. No determination has been made that the tower height and location proposed by Grand Canyon [1] would not constitute a hazard to air navigation. Accordingly, an appropriate issue will be specified.

4. Haynes has indicated that it would not have line-of-sight to its principal community. Consequently, the applicant has requested a waiver of § 73.685(b) of the Commission's Rules. Accordingly, an appropriate issue will be specified to determine whether a waiver of § 73.685(b) is warranted.

5. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since these applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant would serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

6. Accordingly, it is ordered, that pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether there is a reasonable possibility that the tower height and location proposed by Grand Canyon Television Co., Inc. would constitute a hazard to air navigation.

2. To determine with respect to Haynes Communications Co. whether circumstances exist which would warrant a waiver of § 73.685(b) of the Commission's Rules.

3. To determine which of the proposals would, on a comparative basis, best serve the public interest.

4. To determine, in light of the vidence adduced pursuant to the foregoing issues, which of the applications should be granted.

7. It is further ordered, That the Federal Aviation Administration is made a party respondent to this proceeding with respect to issue 1.

8. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

9. It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, an shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 84-25609 Filed 10-5-84; 8:45 am]

BILLING CODE 6712-01-M

[1] The Commission is not in receipt of FAA's determination for the tower proposed by Grand Canyon.

[MM Docket No. 84-932; File No BPCT-840606KE et al.]

Wilshire District Broadcasting Co., Inc., et al.; Hearing Designation Order

In re Applications of Wilshire District Broadcasting Co., Inc.; MM Docket No. 84-932, File No. BPCT-84060KE; Rainbow Television Group; MM Docket No. 84-933, File No. BPCT-840606KJ; Coast TV; MM Docket No. 84-934, File No. BPCT-840720KG; Mission Broadcasting Corporation; MM Docket No. 84-935, File No. BPCT-840723KI; Kenneth E. Hinton, *et al.* d/b/a MISSION BROADCAST; MM Docket No. 84-936, File No. BPCT-840723KJ; Santa Barbara 38 Broadcast Group Limited Partnership; MM Docket No. 84-937, File No. BPCT-840723KO; For Construction Permit, Santa Barbara, California.

Adopted: September 27, 1984.
Released: October 2, 1984.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications for a new commercial television station to operate on Channel 38, Santa Barbara, California.

2. The effective radiated visual power, antenna height above average terrain and other technical data submitted by the applicants indicate that there would be a significant difference in the size of the area and population that each proposes to serve. Consequently, the areas and populations which would be within the predicted 64 dBu (Grade B) contour, together with the availability of other television service of Grade B or greater intensity, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to any of the applicants.

3. No determination has been reached that the tower height and location

proposed by each of the applicants, except Wilshire District Broadcasting Co., Inc. (Wilshire District), would not constitute a hazard to air navigation. Accordingly, an issue regarding this matter will be specified.

4. Wilshire District proposes a transmitter site that is located within 0.5 mile of Station KIST(AM), Santa Barbara, California. Santa Barbara 38 Broadcast Group Limited Partnership (SB 38) proposes to mount its antenna on the tower of Station KBLS(AM), Santa Barbara, California. If Wilshire District or SB 38 is the successful applicant for Channel 38, the construction permit shall be conditioned to ensure that KIST(AM)'s or KBLS(AM)'s radiation pattern will not be adversely affected.

5. Section 73.685(f) of the Commission's Rules requires an applicant proposing to use a directional antenna to include a tabulation of relative field pattern, oriented so that 0° corresponds to True North and tabulated at least every 10° plus any minima or maxima. Coast TV and SB 38 have not supplied this data.[1] Accordingly, Coast TV and SB 38 will each be required to submit an amendment with the appropriate information, to the presiding Administrative Law Judge and a copy to the TV Branch, Mass Media Bureau, within 20 days after this Order is released.

6. Section 73.682(a)(15) of the Commission's Rules provides that the effective radiated power (ERP) of the aural transmitter shall not exceed 22 percent of the peak radiated power of the visual transmitter. In Section V–C, item 3, FCC Form 301, Coast TV specifies a maximum visual ERP of 2,690 kW and a maximum aural ERP of 742.3 kW, which is in excess of the 22 percent permitted by the rule. Coast TV will be required to submit a corrective amendment to the presiding Administrative Law Judge, within 20 days after this Order is released.

7. Coast TV did not include Section V–G, FCC Form 301 with its application. Coast will be required to amend its application to submit Section V–G to the presiding Administrative Law Judge, within 20 days after this Order is released.

8. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

9. Accordingly, it is ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to each of the applicants, except Wilshire District Broadcasting Co., Inc., whether there is a reasonable possibility that the tower height and location proposed by each would constitute a hazard to air navigation.

2. To determine which of the proposals would, on a comparative basis, best serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

10. It is further ordered, That the Federal Aviation Administration is made a party respondent to this proceeding with respect to issue 1.

11. It is further ordered, That, in the event that Wilshire District Broadcasting Co., Inc. is the successful applicant for Channel 38, the construction permit shall be conditioned as follows:

Prior to construction of the tower authorized herein, permittee shall notify AM Station KIST, Santa Barbara, California, so that that station may commence determining operating power by the indirect method. Permittee shall be responsible for the installation and continued maintenance of detuning apparatus necessary to prevent adverse effects upon the radiation pattern of the AM station. Both prior to construction of the tower and subsequent to the installation of all appurtenances thereon, antenna impedance measurements of the AM station shall be made and sufficient field strength measurements, taken at a minimum of 10 locations along each of eight equally spaced radials, shall be made to establish that the AM radiation pattern is essentially omnidirectional. Prior to or simultaneous with the filing of the application for license to cover this permit, the results of the filed strength measurements and the impedance measurements shall be submitted to the Commission in an application for the AM station to return to the direct method of power determination.

12. It is further ordered, That, in the event that Santa Barbara 38 Broadcast Group Limited Partnership is the successful applicant for Channel 38, the construction permit shall be conditioned as follows:

During the installation of the antenna authorized herein, AM Station KBLS, Santa Barbara, California, shall determine operating power by the indirect method and, if necessary, request temporary authority from the Commission in Washington to operate with parameters at variance in order to maintain monitoring point values within authorized limits. Upon completion of the installation, common point impedance measurements on the AM array shall be made and a partial proof of performance, as defined by Section 73.154(a) of the Commission's Rules, shall be conducted to establish that the AM array has not been adversely affected and, prior to or simultaneous with the filing of the application for license to cover this permit, the results submitted to the Commission (along with a tower sketch of the installation) in an application for the AM station to rteturn to the direct method of power determination.

13. It is further ordered, That Coast TV and Santa Barbara 38 Broadcast Group Limited Partnership shall each submit an amendment providing the information required by § 73.685(f) of the Commission's Rules, to the presiding Administrative Law Judge and a copy to TV Branch, Mass Media Bureau, within 20 days after the release date of this Order.

14. It is further ordered, That Coast TV shall submit an amendment to correct the maximum visual effective radiated power shown in Section V–C item 3, FCC Form 301, and a copy of Section V–G, FCC Form 301, to the presiding Administrative Law Judge, within 20 days after this Order is released.

15. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

16. It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Video Services Division, Mass Media Bureau.

[FR Doc. 84–26607 Filed 10–5–84; 8:45 am]

BILLING CODE 6712–01–M

[1] SB 38 tabulated its pattern in terms of power, not relative field as required by Section 73.685(f).

FEDERAL EMERGENCY MANAGEMENT AGENCY

North Carolina; Amendment To Notice of a Major-Disaster Declaration

[FEMA-724-DR]

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the Notice of a major disaster for the State of North Carolina (FEMA-724-DR), dated September 21, 1984, and related determinations.

DATED: October 2, 1984.

FOR FURTHER INFORMATION CONTACT: Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0501.

NOTICE

The notice of a major disaster for the State of North Carolina, dated September 21, 1984, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of September 21, 1984: Sampson County for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Samuel W. Speck,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 84-26558 Filed 10-5-84; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-725-DR]

Texas; Notice of Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of major disaster for the State of Texas (FEMA-726-DR), dated October 2, 1984, and related determinations .

DATE: October 2, 1984.

FOR FURTHER INFORMATION CONTACT: Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287-0501.

Notice

Notice herby given that, in a letter of October 2, 1984, the President declared a major disaster under the authority of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 *et seq.*, Public Law 93-288), as follows:

I have determined that the damage in certain areas of the State of Texas, resulting from severe storms and flooding beginning on or about September 16, 1984, is of sufficient severity and magnitude to warrant a major-disaster declaration under Public Law 93-288. I therefore declare that such a major disaster exists in the State of Texas.

In order to provide Federal assistance, you are hereby authorized to allocate, from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under Pub. L. 93-288 for Public Assistance will be limited to 75 percent of total eligible costs in the designated area.

The time period prescribed for the implementation of Section 313(a), priority to certain application for public facility and public housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, and redelegated to me, I hereby appoint Mr. Alton S. Ray of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Texas to have been affected adversely by this declared major disaster: Cameron County for Individual Assistance and Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Samuel W. Speck,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 84-26559 Filed 10-5-84; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL MARITIME COMMISSION

[Docket No. 84-33]

Section 19 Inquiry—United States/Argentina and United States/Brazil Trades; Order of Investigation

Pursuant to the authority of section 19(1)(b), Merchant Marine Act, 1920 (46 U.S.C. app. 876), as implemented by 46 CFR Part 585,[1] the Commission is instituting this proceeding to determine whether general or specific conditions unfavorable to shipping exist in the foreign trade of the United States with Argentina, and in the foreign trade of the United States with Brazil.[2]

The Commission has become increasingly concerned with the competitive situation in the trades between the U.S. and Argentina and the U.S. and Brazil. Problems have been encountered by certain carriers, both U.S.-flag [3] and third-flag,[4] as well as by shippers,[5] in these trades.

In the past, the Commission focused its attention on the various commercial pooling agreements among the carriers serving the trade. *See e.g., Cargo Revenue Pooling Agreements in the United States/Brazil/Argentina Trades,* 22 S.R.R. 801 (Order of April 19, 1984); *Cargo Revenue Pooling Agreements in the United States/Brazil/Argentina Trades,* 22 S.R.R. 609 (Order of December 23, 1983); *Agreement Nos. 10386, as amended, and 10382, as amended—Cargo Revenue Pooling/Equal Access Agreements in the United States/Argentina Trades,* 21 S.R.R. 513 (Order Partially Adopting Initial

[1] 46 CFR Part 506 prior to June 18, 1984.

[2] On September 19, 1984, the Commission determined to institute this proceeding and directed the preparation of this Order. Subsequent to that decision, A/S Ivarans Rederi (Ivarans) independently filed a petition under section 19 for relief in the U.S./Argentina trade. The Commission is considering that petition as a separate matter.

[3] Sea-Land Service, Inc., in the late 1970's, encountered difficulties when it decided to enter the United States-Brazil trade. Although Sea-Land subsequently became a member of certain pooling agreements in the trade, it never became an active participant. Another U.S.-flag carrier, American Atlantic Lines, left the U.S. Brazil/Amazon Basin Trade in 1983 after a lengthy struggle to accommodate itself to Brazilian legal requirements to join the Inter-American Freight Conference and to negotiate a pool with the Brazilian carrier serving the trade. Over several years, American Atlantic was unable to complete negotiations for a pool share, was required to obtain waivers to carry many shipments and consequently abandoned the trade.

[4] Ivarans, a Norwegian-flag carrier, has on a number of occasions alleged that it has been unable to negotiate a fair share of the pooling agreement in the trade from Argentina to the U.S. Atlantic Coast. The issue was litigated in *Agreement Nos. 10386, as amended, and 10382, as amended—Cargo Revenue Pooling/Equal Access Agreements in the United States/Argentina Trades,* 21 S.R.R. 513 (Order Partially Adopting Initial Decision, 1982); *Agreements 10346 and 10349, Cargo Revenue Pooling and Sailing Agreements,* 21 F.M.C. 1100 (1979), and is now the subject of the section 19 petition filed by Ivarans referred to above.

[5] Since Fall 1983, a number of shippers and associations of shippers, including Chemical Manufacturers Association, K Mart Corporation, Dow Chemical Co., Goodyear Tire & Rubber Company and Caterpillar Tractor Co., have expressed varying degrees of concern regarding transportation conditions in the trades. These concerns were expressed in connection with comments filed in response to the proposed extension of existing pooling arrangements.

Decision, 1982); *Agreements 10346 and 10349, Cargo Revenue Pooling and Sailing Agreements*, 21 F.M.C. 1100 (1979). Difficulties with the pooling agreements may, however, only be manifestations of underlying problems created by the laws, decrees, resolutions and practices of the Governments of Argentina and Brazil intended to reserve to their respective national lines a fixed percentage of the cargo in the trades and otherwise limit the free access to cargo. These laws, decrees, resolutions and other governmental practices may have resulted in the development of shipping regimes which are less flexible and responsive to the commercial needs of exporters, importers and carriers than is desirable.

The principal cargo reservation law of Argentina is Law 18.250 of June 10, 1969, as amended in 1972 by Law 19.877. The law applies to all goods imported by or for the account of or destined to the national government, the provincial governments or the local governments (and all departments of any of these entities), state-owned corporations, and corporations in which the state (or provinces or local governments) have a controlling interest. In addition, the reservation in favor of the Argentine-flag carriers applies to any goods whose importation is financed or guaranteed by any credit company of the state-owned banking system, and any import enjoying exchange, tax, or customs duty franchises, or any other type of fiscal benefit.

Law 18.250, as amended by 19.877, allows for participation by vessels of the exporting nation, but only where there are intergovernmental or private agreements approved by the government which establish a participation in favor of the Argentine-flag carriers of no less than 50 percent of the freight revenues earned.

In December 1976, the State Secretariat of Maritime Interests of Argentina promulgated Resolution No. 507 which was implemented on January 19, 1977. Resolution 507 changed the mechanics of obtaining waivers and required almost all of the southbound cargo in the United States/Argentina trade to be offered to an Argentine national-flag carrier. Instead of general waivers, waivers were considered on a case-by-case basis.

In order to participate in the carriage of cargo subject to Laws 18.250 and 19.877 and Resolution 507, U.S.-flag carriers entered into pools with the Argentine national-flag carrier. Non-national flag carriers cannot join the southbound pool and may not be able to participate in the carriage of cargo subject to Laws 18.250 and 19.877. This may prevent non-national flag carriers from competing in the southbound trades from U.S. East and Gulf Coasts to Argentina.

Law 20.477 establishes the Argentine merchant marine as an instrument of national economic policy and affirms Argentina's right to carry 50 percent of its export waterborne cargo in Argentine-flag vessels. Resolution 619 provides that all Argentine export cargoes shall be carried by conference members or members of a pooling agreement. In practice, Resolution 619 may prevent carriers from competing in the northbound trade from Argentina to the United States unless they are members of a pooling or conference agreement. If this is in fact the case, Resolution 619 may result in discrimination between pool members and those that would serve the trade outside the pool or conference. In addition, if a non-national flag carrier has no viable alternative to pool membership, a majority of non-national flag lines negotiating a pool may ditate the share or shares to be allotted to the minority. Thus, there is the possibility that Resolution 619 may discriminate against some non-national flag members of the pools.

Brazil's principal cargo reservation law is Decree No. 666 of July 2, 1969. Decree 666 as amended provides, among other things, that all cargoes imported by any direct or indirect agency of the federal, state or municipal governments of Brazil or by wholly or partially government-owned companies, as well as all cargoes imported with any governmental benefits or acquired with financing by governmental credit agencies, shall be transported exclusively by Brazilian-flag vessels. With regard to Brazilian exports, Decree 666 similarily requires that cargoes exported with any type of government benefit, are required to be transported in Brazilian-flag vessels. Up to 50% of both controlled imports and exports may be released to the bilateral trading partner, if the latter reciprocally allows 50% of its government-controlled imports and exports to be carried on Brazilian-flag vessels. The government also reserves the right to designate third-flag carriers when there is a shortage of vessels from either trading partner.

The Brazilian maritime agency SUNAMAM (National Superintendency of the Merchant Marine) promulgated several resolutions during the 1960's and 70's which, in effect, provided that Brazilian coffee and cocoa exorts would be considered as controlled cago.

Brazilian Decree 78.986 of December 1976, grants fiscal benefits to Brazilian exporters, to the extent tht they use Brazilian-flag vessels for carriage of their exports. Such fiscal incentives will also be granted to exporters who ship on the bilateral trading partner's vessles if an intergovernmental agreement exists with that country. Resolution 5216 of February 1977, specifically allows Brazilian shippers to use U.S.-flag lines in the U.S./Brazil trade and receive the same financial benefits as when using Brazilian-flag lines.

Brazilian Resolution No. 3023 of August, 1967 provided that Brazilian liner cargo exports destined for the United States or Canada would be carried exclusively by carriers belonging to the Inter-American Freight Conference. On August 2, 1984, SUNAMAM cancelled this resolution. The status of non-conference lines, while apparently imporved, remains unclear because Resolution No. 8364/84, which cancelled Resolution No. 3023,states that "shipping companies can only operate according to concessions granted to them."

These laws, decrees, resolutions and other governmental practices may create conditions unfavorable to shipping in the trades between the United States and Argentina and the United States and Brazil within the meaning of section 19 of the Merchant Marine Act, 1920 and 46 CFR Part 585.[6] The Commission is instituting this proceeding to determine if such conditions exists.

The Commission recognizes that its planned investigation encompasses the laws, decrees, resolutions and practices of two distinct sovereign nations, and does not mean to imply that the conditions in the Brazil and Argentina trades are identical. However, as a practical matter, because the transportation patterens of these two trades are inextricably linked, and because the governmental and

[6] Recently, the Commission has addressed certain restrictive laws of the Governments of Venezuela and the Philippines which were similar in their effects to those of Argentina and Brazil. After receiving complaints about restrictions on access to cargo and limitations on the ability of shippers to select the carrier of their choice, because of certain laws of Venezuela and the Philippines, the Commission instituted section 19 proceedings in those trades and proposed rules to remedy the situation. *See Actions to Adjust or Meet Conditions Unfavorable to Shipping in the United States/ Republic of Philippines Trade*, 48 FR 45800, October 7, 1983; *Actions to Adjust or Meet Conditions Unfavorable to Shipping in the United States/ Venezuela Trade*, 47 F.R. 55969, December 14, 1982, Interim Report served February 25, 1983. The Congress of the United States also has expressed its concern about restrictive cargo-access schemes in the Shipping Act of 1984 (46 U.S.C. app. § 1701, et seq.). Section 13(b)(5) of that Act (46 U.S.C. app. § 1712(b)(5)), gives the Commission the authority to take necessary measures if the operators of U.S.-flag vessels find their access to foreign-to-foreign trade unduly impaired.

commercial regimes which control them are generally similar, the Commission believes it logical to consider these trades together in its investigation.

Therefore, it is ordered that, pursuant to section 19(1)(b) of the Merchant Marine Act, 1920, and 46 CFR Part 585, the Federal Maritime Commission hereby institutes a proceeding for the purpose of: (1) Determining whether, in fact, unfavorable conditions exist in the foreign oceanborne trade between the United States and Argentina and/or between the United States and Brazil; and (2) if such conditions are found to exist, fashioning an approprate remedy;

It is further ordered That the matter be assigned for hearing and decision by an administrative law judge of the Commission's Office of Administrative Law Judges;

It is further ordered That the Presiding Administrative Law Judge shall in his discretion determine the type of hearing most appropriate to the achievement of the purposes of this proceeding and shall issue the necessary orders for the conduct of such proceeding. For the purposes of this proceeding, the Presiding Administrative Law Judge is delegated the authority to require the submission of reports under section 15(a) of the Shipping Act of 1984 (46 U.S.C. app. 1714(a));

It is further ordered, That the Presiding Adminisitrative Law Judge issue an initial decision on or before April 4, 1985;

It is further ordered, That the Director of the Commisison's Bureau of Hearing Counsesl be a party to this proceeding;

It is further ordered, That other persons having an interest in participating in this proceeding may file petitions for leave to participate. Such participation shall be determined by the Presiding Administrative Law Judge;

It is further ordered, That all future notices, orders, or decisions issued in this proceedings, including notice of the time and place of hearing or prehearing conference, shall be mailed directly to all parties of record; and

It is further ordered, That all documents submitted by any party of record in this proceeding shall be directed to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, in accordance with Rule 118 of the Commission's Rules of Practice and Procedure (46 CFR 502.118), as well as being mailed directly to all parties of record.

By the Comission.

Francis C. Hurney,

Secretary.

[FR Doc. 84-26549 Filed 10-5-84; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Edmonton Bancshares, Inc., et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than October 29, 1984.

A. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Edmonton Bancshares, Inc.*, Edmonton, Kentucky; to become a bank holding company by acquiring at least 88.1 percent of the voting shares of Peoples Bank of Tompkinville, Tompkinville, Kentucky. Comments on this application must be received not later than October 12, 1984.

2. *First Arkansas Bankstock Corporation*, Little Rock, Arkansas; to acquire at least 88.06 percent of the voting shares of The First National Bank of Fayetteville, Fayetteville, Arkansas.

3. *FSB Corporation*, Sullivan, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of Farmers State Bank of Sullivan, Sullivan, Indiana.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Colorado National Bankshares, Inc.*, Denver, Colorado; to acquire 100 percent of the voting shares of Longmont National Bankshares, Inc., Longmont, Colorado, thereby indirectly acquiring Longmont National Bank, Longmont, Colorado.

C. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *First Western Bancshares, Inc.*, Duncanville, Texas; to acquire 100 percent of the voting shares of First Continental National Bank, Houston, Texas.

2. *Vidor Bancorporation, Inc.*, Vidor, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of First Texas Bank, Vidor, Texas.

Board of Governors of the Federal Reserve System, October 2, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-26550 Filed 10-5-84; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Longitudinal Study of Human Semen Characteristics; Open Meeting: Cancellation

The notice of a meeting on Longitudinal Study of Human Semen Characteristics, to be held October 11, 1984, was published in the **Federal Register** (49 FR 36018) on Thursday, September 13, 1984. This open meeting is cancelled until further notice.

Dated: October 1, 1984.

James O. Mason,

Director, Centers for Disease Control.

[FR Doc. 84-26544 Filed 10-5-84; 8:45 am]

BILLING CODE 4160-19-M

Food and Drug Administration

[Docket No. 84F-0326]

American Cyanamid Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that American Cyanamid Co. has filed a petition proposing that the food additive regulations be amended to provide for

the safe use of 1, 3-butylene glycol (1,3-butanediol) as an energy source for sows.

FOR FURTHER INFORMATION CONTACT: William D. Price, Center for Veterinary Medicine (HFV-221), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5362.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 2196) has been filed by American Cyanamid Co., Wayne, NJ 07470, proposing that the food additive regulations be amended to provide for the safe use of 1,3-butylene glycol (1,3-butanediol) as an energy source for sows.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed Dec. 11, 1979; 44 FR 71742.

Dated: September 27, 1984.

Gerald B. Guest,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 84-26552 Filed 10-5-84; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 84F-0314]

Coconut Products Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the Coconut Products Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of polysorbate 60 as an emulsifier to be used in preparation of coconut milk drink..

FOR FURTHER INFORMATION CONTACT: Andrew D. Laumbach, Center for Food Safety and Applied Nutrition (HFF-334), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 4A3824) has been filed by the Coconut Product Corp., 779 Kii Street, Honolulu, HI 96825, proposing that § 172.836 *Polysorbate 60* (21 CFR 172.836) be amended to provide for the safe use of polysorbate 60 as an emulsifier in preparation of coconut milk drink.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed Dec. 11, 1979; 44 FR 71742).

Dated: September 28, 1984.

Sanford A. Miller,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 84-26550 Filed 10-5-84; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 84F-0317]

McCormick & Co., Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that McCormick & Co., Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of a source of gamma radiation to control insect and microbial contamination in certain dried spices and dried vegetable seasonings at doses not to exceed 3 megarads (Mrad).

FOR FURTHER INFORMATION CONTACT: Clyde A. Takeguchi, Center for Food Safety and Applied Nutrition (HFF-334), Food and Drug Administration, 200 C Street SW., Washington, DC 20204. 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 4M3816) has been filed by McCormick & Co., Inc., 11350 McCormick Rd., Hunt Valley, MD 21031-1066, proposing that Part 179—Irradiation in the Production, Processing and Handling of Food (21 CFR Part 179) be amended to provide for the safe use of a Cobalt 60 or Cesium 137 source of gamma radiation to control insect and microbial infestation in certain dried spices and dried vegetable seasonings by increasing the maximum permitted dose from 1 to 3 Mrad.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed Dec. 11, 1979; 44 FR 71742).

Dated: September 27, 1984.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 84-26555 Filed 10-5-84; 8:45 am]

BILLING CODE 4160-01-M

National Institutes of Health

Meeting of Clinical Trials Review Committee

Pursuant to Pub. L. 92-463, notice is hereby given of the Clinical Trials Review Committee, National Heart, Lung, and Blood Institute, November 26-29, 1984 at the Linden Hill Hotel, 5400 Pooks Hill Road, Bethesda, Maryland 20814.

This meeting will be open to the public on November 26, 1984, from 7:00 p.m. to approximately 8:00 p.m. to discuss administrative details and to hear a report concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on November 26 from approximately 8:00 p.m. to recess, and from 8:00 a.m. on November 27 to adjournment on November 29, for the review, discussion and evaluation of individual grant applications. These applications, and the discussions could reveal personal information concerning individuals associated with these applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Therefore, this meeting is concerned with matters exempt from mandatory disclosure under section 552b(c)(6) of Title 5, U.S. Code.

Ms. Terry Bellicha, Chief, Public Inquiries and Reports Branch, NHLBI, National Institutes of Health, Bethesda, Maryland, 20205, Building 31, Room 4A-21, phone (301) 496-4236, will provide summaries of the meeting and rosters of the Committee members. Dr. Norman S. Braveman, Contracts, Clinical Trials and Training Review Section, Division of Extramural Affairs, NHLBI, Westwood Building, Bethesda, Maryland 20205,

Room 550B, phone (301) 496–7361, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Diseases Research, also 13.838, Division of Lung Diseases National Institutes of Health.)

Dated: September 27, 1984.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 84–26567 Filed 10–5–84; 8:45 am]

BILLING CODE 4140–01–M

Meeting of Heart, Lung, and Blood Research Review Committee A

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Heart, Lung, and Blood Research Review Committee A, National Heart, Lung, and Blood Institute, National Institutes of Health, on December 6, 1984, in Building 31, Conference Room 7, 9000 Rockville Pike, Bethesda, Maryland 20205.

This meeting will be open to the public on December 6, 1984 from 8:30 AM to approximately 9:30 AM to discuss administrative details and to hear reports concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code, and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on December 6, from approximately 9:30 AM until adjournment, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Terry Bellicha, Chief, Public Inquiry Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–4236, will provide summaries of the meeting and rosters of the committee members.

Dr. Peter M. Spooner, Executive Secretary, Heart, Lung, and Blood Research Review Committee A, Westwood Building, Room 554, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496–7265, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, Heart and Vascular Diseases Research; 13.838, Lung Diseases Research; National Institutes of Health)

Dated: September 27, 1984.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 84–26568 Filed 10–8–84; 8:45 am]

BILLING CODE 4140–01–M

Meeting of Heart, Lung, and Blood Research Review Committee B

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Heart, Lung, and Blood Research Review Committee B, National Heart, Lung, and Blood Institute, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205, on December 6, 1984, in Building 31, Conference Room 9.

This meeting will be open to the public on December 6, 1984, from 8:30 a.m. to approximately 10:00 a.m. to discuss administrative details and to hear reports concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code, and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on December 6, 1984, from approximately 10:00 a.m. to adjournment for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Terry Bellicha, Chief, Public Inquiry Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–4236, will provide summaries of the meetings and rosters of the committee members.

Dr. Louis M. Ouellette, Executive Secretary, NHLBI, Westwood Building, Room 554, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496–7915, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Diseases Research; and 13.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: September 27, 1984.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 84–26569 Filed 10–5–84; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR 37197, OR 37198, OR 37199]

Oregon; Notice of Realty Action; Modified Competitive Sale of Public Land In Jackson County, OR

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Modified Competitive Sale of Public Land In Jackson County, Oregon.

The following revested Oregon and California Railroad Grant (O&C) Land has been examined and identified as being suitable for disposal by public sale under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713), at no less than the appraised fair market value shown. The parcels are difficult and uneconomical to manage as part of the public lands and are not suitable for management by another Federal department or agency. The sale is consistent with Bureau planning efforts, and the public interest will be served by offering these parcels for sale.

The following parcels of land will be offered for sale using modified competitive bidding procedures (43 CFR 2711.3–2).

Serial No. and designated bidder	Legal description	Acreage	Value
OR 37197—Mr. & Mrs. Richard Troon, Mr. & Mrs. Melvin Saul, Mr. & Mrs. Charles W. Sears.	T.37S., R.4W., WM; Sec. 31, Lot 1;	0.78	$400
OR 37198—Mr. & Mrs. Richard Troon, Mr. & Mrs. Melvin Saul, Mr. & Mrs. Gerald E. Kubli, Mr. & Mrs. Charles W. Sears.	T.37S., R.4W., WM; Sec. 31; Lot 3;	4.87	$2,400
OR 37199—Messrs. John & Frank Brown, K. & Josephine Kubli, Mr. & Mrs. David Simmens, Mrs. Vance Kubli, Hal Skudstad, Grace Fenner, Martyn Nelson.	T.37S., R.4W., WM;	14.77	$4,250

Except for the provisions of section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2740; 43 U.S.C. 1713), the above described lands are hereby segregated from appropriation and the public land laws, including the mining laws.

Modified Competitive Sale Procedure

The sale will be held on December 5, 1984, at 1:00 p.m. in the Medford

District's Oregon Room, 3040 Biddle Road, Medford, Oregon 97504.

The parcels serialized as OR 37197, OR 37198 and OR 37199, will be offered for sale by sealed bids only, using modified competitive bidding procedures. Preference rights are being offered to the contiguous landowners, which have been identified as designated bidders. Bids will be accepted only from the designated bidders. To exercise the preference right, the designated bidder must submit a proper bid. Failure to submit a proper bid, at the time of sale will constitute a waiver of the preference right. No bid will be accepted for less than the appraised value.

Sealed bids must be accompanied by certified check, postal money order, bank draft, or cashier's check made payable to the Department of the Interior—BLM for not less than thirty percent (30%) of the amount bid. The sealed envelope must be clearly marked "Bid for Public Land Sales, Sale Parcel No. OR 3719—, Jackson County, Oregon, December 5, 1984.

If two or more envelopes are received containing valid bids of the same amount, the successful bid will be determined by drawing. The drawing will be held by the authorized officer immediately following the opening of the bids.

The successful bidder will be required to pay the remainder of the sale price within 180 days. Failure to submit the full sale price within 180 days will disqualify the apparent high bidder and the thirty percent (30%) will be forfeited and disposed of as other receipts of the sale. The land will then be offered to the next highest bidder.

All bids will be either returned, accepted, or rejected within 30 days of the sale date according to 43 CFR 2711.3–1(f)(g). If the parcels are not sold they will be withdrawn from public sale.

Sealed bids, delivered or sent by mail, must be received at the BLM, Medford District Office, 3040 Biddle Road, Medford, Oregon 97504 before 11:30 a.m., December 5, 1984.

Federal law requires that all bidders be U.S. citizens, 18 years of age or more, a state or state instrumentality authorized to hold property, or in the case of corporations, be authorized to own real estate in the state in which the sale is offered.

Terms and Conditions

Patents issued as a result of the sale will be subject to all valid existing rights and will contain the following reservations:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States Act of August 30, 1980 (26 Stat. 391; 43 U.S.C. 945)

2. All minerals will be reserved to the United States (43 U.S.C. 1719)

3. Parcel serialized Number OR 37199 (Lot 9) will be subject to a reservation for Jackson County's Kubli Road (43 U.S.C. 1719)

Detailed information concerning the sale, including the planning documents, environmental assessment, land report and fair market appraisal, is available for review at the Bureau of Land Management, Medford District Office, 3040 Biddle Road, Medford, Oregon 97504, or by calling Ward Brookwell, Area Realty Specialist, (503) 776–4274.

For a period of 45 days from the date of this notice, interested parties may submit comments regarding the proposed action. Comments shall reference Serial Numbers of the parcels. Any adverse comments will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of the Interior.

Dated: October 1, 1984.

Hugh R. Shera,

District Manager.

[FR Doc. 84–26562 Filed 10–5–84; 8:45 am]

BILLING CODE 4310–33–M

[OR 37188]

Oregon; Notice of Realty Action, Direct Sale of Public Land in Douglas County, OR

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Direct Sale of Public Land in Douglas County, Oregon.

The following revested Oregon and California Railroad Grant (O&C) Land has been examined and identified as being suitable for disposal by sale under section 203 and 209(b) of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713; 43 U.S.C. 1719), at no less than the appraised fair market value.

Bidder	Legal description	Acreage	Value
Douglas County, OR.	T. 31 S., R. 4 W., Wil. Mer.; Sec. 28, SW¼ NE¼.	40	$14,000

Except for the provisions of section 203 of the Federal Land Policy and Management Act of 1976, (90 Stat. 2750; 43 U.S.C. 1713), the above described lands are hereby segregated from appropriation under the public land laws, including the mining laws.

The sale will be held on Wednesday, December 5, 1984 at 1:00 p.m. in the Medford District's Oregon Room, 3040 Biddle Road, Medford, Oregon 97504.

The sale is consistent with publicly supported Bureau planning. The sale involves an isolated parcel surrounded by private land. The parcel is difficult and uneconomical to manage and is not suitable for management by another Federal department or agency. The public interest would be served by offering this land for sale. The subsurface mineral interests are of no known value and will be sold simultaneously with the surface.

Direct Sale Procedure

The parcel identified by Serial No. OR 37188 is being offered using direct sale procedures (43 CFR 2711.3–2(b)). The land will be sold at fair market value to Douglas County. If the parcel is not sold, it will be withdrawn from public sale.

Federal law requires that all bidders be U.S. Citizens, 18 years of age or more, a state or state instrumentality authorized to hold property, or in the case of corporations, be authorized to own real estate in the state in which the sale is offered. Proof of these requirements shall accompany all sale bids.

Terms and Conditions of This Sale Are:

1. Douglas County will be required to submit a deposit of either cash, bank draft money order, or any combination, for not less than 20 percent of the appraised value and a $50.00 non-refundable filing fee to cover administrative costs in the conveyance of the mineral interests (43 CFR 2720.1–2(c)). The remainder of the full appraised price must be submitted prior to the expiration of 180 days from the date of the sale. Failure to submit the remainder of the full appraised price shall result in the cancellation of the sale and forfeiture of the 20 percent deposit.

2. Acceptance or rejection of Douglas County's offer to purchase will be in writing within 30 days from the date of the sale. Prior to the expiration of this 30 day period, the Authorized Officer conducting this sale may refuse to accept the offers or may withdraw the tract of public land from sale according to 43 CFR 2711.3–1 (f) and (g).

3. Reservations to the title or patent shall be as follows:

a. The parcel will be subject to all existing rights (93 U.S.C. 1718): Telephone line right-of-way (OR 37404);

and electrical line right-of-way (OR 37144).

b. The right to access and development for ditches and canals on behalf of the United States shall be reserved (43 U.S.C. 945).

Detailed information concerning the sale, including the planning documents, environmental assessment, land report and fair market appraisal, is available for review at the Bureau of Land Management, Medford District Office, 3040 Biddle Road, Medford, Oregon 97504, or by calling Matt Craddock, Area Realty Specialist, (503) 776–3909.

For a period of 45 days from the date of this notice, interested parties may submit comments regarding the proposed action. Comments shall reference Serial Number OR 37188. Any adverse comments will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of the Interior.

Dated: October 1, 1984.

Hugh R. Shera,

District Manager.

[FR Doc. 84-26563 Filed 10-5-84; 8:45 am]

BILLING CODE 3410-33-M

[OR 37195]

Oregon; Notice of Realty Action Competitive Sale of Public Land in Klamath County, OR

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Competitive Sale of Public Land In Klamath County, Oregon.

The following Public Domain Land has been examined and identified as being suitable for disposal by public sale under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713), at no less than the appraised fair market value shown. The parcel is isolated, difficult and uneconomical to manage as part of the public lands and are not suitable for management by another Federal department or agency. The sale is consistent with the Bureau's planning efforts and the public interest will be served by offering this land for sale.

The following parcel of land will be offered for sale using competitive bid procedures (43 CFR 2711.3–1):

Legal description	Acreage	Appraisal value
T. 40 S., R. 8 E., Wil. Mer., sec. 17: SW¼SE¼	40.0	$16,000

Except for the provisions of section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713), the above described land is hereby segregated from appropriation and the public land laws, including the mining laws.

Sales Procedure

The sale will be held on December 5, 1984, at 1:00 p.m. in the Medford District's Oregon Room, 3040 Biddle Road, Medford, Oregon 97504.

Sealed written bids will be considered only if received by the Bureau of Land Management, 3040 Biddle Road, Medford, Oregon 97504, before 11:30 a.m. on December 5, 1984, the date of the opening.

All bidders must be 18 years of age or over and U.S. citizens, a state or state instrumentality authorized to hold property, or in the case of corporations, be authorized to own real estate in the state in which the sale is being offered. Proof of these requirements shall accompany all sale bids.

A written bid should be submitted and accompanied by a certified check, postal money order, bank draft, or cashier's check made payable to the Department of the Interior—BLM for at least thirty percent (30%) of the amount bid and shall be enclosed in a sealed envelope clearly marked "Bid for Public Land Sales, Sale Parcel Number OR 37195 Klamath County, Oregon, December 5, 1984."

If two or more envelopes are received containing valid bids of the same amount, the successful bid will be determined by drawing. The drawing will be held by the authorized officer immediately following the opening of the bids.

The successful bidder will be required to pay the remainder of the sale price within 180 days. Failure to submit the full sale price within 180 days will disqualify the apparent high bidder and the thirty percent (30%) will be forfeited and disposed of as other receipts of the sale. The land will then be offered to the next highest bidder.

All bids will be either returned, accepted, or rejected within 30 days of the sale date.

If the parcel is not sold on the day of the sale it will remain available for sale until sold. Sealed bids will be solicited on the parcel at the Medford District Office during regular business hours (8:00 a.m. to 4:45 p.m.). The sealed bids will be opened January 4, 1985 and every first Friday of each subsequent month until the land is sold.

Terms and Conditions

Patent issued as a result of the sale will be subject to all valid and existing rights and will contain the following reservation:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945).

2. All minerals will be reserved to the United States (43 U.S.C. 1719).

Detailed information concerning the sale, including the planning documents, environmental assessment, land report and fair market appraisal is available for review at the Bureau of Land Management, Medford District Office, 3040 Biddle Road, Medford, Oregon 97504, or by calling Don Kreitner, Area Realty Specialist at (503) 776–3923.

For a period of 45 days from the date of this notice, interested parties may submit comments regarding the proposed action. Comments shall reference Serial Number OR 37195. Any adverse comments will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of the Interior.

Dated: October 1, 1984.

Hugh R. Shera,

District Manager.

[FR Doc. 84-26564 Filed 10-5-84; 8:45 am]

BILLING CODE 4310-33-M

Fish and Wildlife Service

Preparation of Environmental Impact Statement on Proposal To Issue a Section 10a Incidental Take Permit for the Coachella Valley Fringe-toed Lizard (Uma inornata)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent.

SUMMARY: The U.S. Fish and Wildlife Service has under consideration a proposal to issue a Section 10a incidental take permit for the threatened Coachella Valley fringe-toed lizard in response to a permit request from the Riverside County Board of Supervisors. The permit request is accompanied by a proposal described in a Habitat Conservation Plan that details steps to be taken to ensure the continued existence of the Coachella Valley fringe-

toed lizard, *Uma inornata*, while allowing for incidental take. In response to this permit request and the accompanying proposal, the Service intends to prepare an environmental impact statement (EIS). This notice describes the proposed action and possible alternatives, outlines the scoping process that will be employed in preparing the EIS, and identifies the Service officials to whom questions and comments concerning the proposed action and EIS may be directed.

DATE: A scoping meeting will be held at the following location on the date and time indicated:

Date, Time, and Location

October 25, 1984; 7–10 p.m.; City Council Chambers, 3200 East Tahquitz-McCallum, Palm Springs, California 92263

ADDRESSES: Questions and comments should be addressed to Gail C. Kobetich, U.S. Fish and Wildlife Service, Division of Endangered Species, Room E–1823, 2800 Cottage Way, Sacramento, CA 95825–1846 (telephone 916/484–4935; FTS 468–4935).

FOR FURTHER INFORMATION CONTACT: Gail C. Kobetich at the address and telephone number stated above.

Persons desiring to participate in the scoping meeting should contact Mr. Kobetich in writing as soon as possible, indicating the issue(s) of concern regarding the EIS. Interested persons may also participate in the scoping process by submitting written comments to Mr. Kobetich at the address above. Interested persons are reminded that the primary purpose of the scoping process is to identify, rather than debate or argue, the significant issues related to a proposed action. Additional public hearings or meetings will be held on later dates in order to provide opportunities to comment on the draft EIS.

SUPPLEMENTARY INFORMATION: The Recovery Plan for the Coachella Valley fringe-toed lizard recommends the establishment of two or more large scale preserves that will provide habitat for the continued existence of the lizard. Two preserves, on Bureau of Land Management and Coachella Valley Water District land, are in the process of being established. The U.S. Fish and Wildlife Service is considering a proposal to protect the Coachella Valley fringe-toed lizard that is described in a Habitat Conservation Plan prepared by local governmental jurisdictions in the Coachella Valley. The acquisition and establishment of a third and largest of the preserves (about 14,000 acres) is part of the proposed Habitat Conservation Plan. Those involved in the implementation of the Habitat Conservation Plan will be The Nature Conservancy, the Bureau of Land Management, the California Department of Fish and Game, the Service, the local governmental jurisdictions, and the local land owners and developers.

The Coachella Valley fringe-toed lizard is listed as a threatened species under the Endangered Species Act, 16 U.S.C. 1531 *et seq.* The proposed preserve and the Habitat Conservation Plan are being considered as a means of promoting the conservation of the species by preserving enough habitat to ensure the long-term survival of the species and by gathering valuable data concerning the species and its ecosystem.

Description of proposed action. The proposed action would involve issuance of an "incidental take" permit under section 10(a) of the Endangered Species Act, 16 U.S.C. 1539, to local government agencies that would authorize the "taking" of a lizard pursuant to the "carrying out of an otherwise lawful activity." The proposed action would also involve compliance with the consultation, non-jeopardy, and other provisions of section 7 of the Endangered Species Act, 16 U.S.C. 1536, as well as certain provisions of State law. As currently written, the Habitat Conservation Plan discusses the establishment of preserves, the protection of other habitats by management and zoning, the acquisition of the largest of the preserves, and the collection of data on the ecology of the Coachella Valley fringe-toed lizard.

The rationale for the establishment of three preserves comes from the Recovery Plan prepared by the Recovery Team that had been established by the Fish and Wildlife Service to advise it on the recovery program needed for the Coachella Valley fringe-toed lizard. The Recovery Plan states that for the Service to consider the Coachella Valley fringe-toed lizard secure two or more large scale preserves should be established where the lizard will be protected from man's activities. One of the preserves is being established in the floodplain of the Whitewater River on lands that belong to the Coachella Valley Water District and the Bureau of Land Management. This preserve covers approximately 1,300 acres.

The second preserve is being established on the western flanks of Edom Hill where sand has accumulated on the downwind sides of hills and in depressions such as Willow Hole. This entire preserve is on Bureau of Land Management land and contains approximately 2,000 acres. The Bureau of Land Management is in the process of designating this preserve as an Area of Critical Environmental Concern, a designation that affords management options compatible with the long-term existence of the Coachella Valley fringe-toed lizard. The third proposed preserve, and the largest, is in the Thousand Palms Canyon area and covers much of the designated critical habitat for the lizard. Because essentially all of this area is in private ownership, it would have to be purchased in order to establish the preserve. The proposed preserve would total approximately 14,000 acres that covers part of the watershed of Thousand Palms Canyon, and most of the alluvial fan at the mouth of the Canyon. Because of the size of the proposed preserve and the expense involved in buying the land from its owners, no single agency or group could sustain the purchase price. Therefore, the local governmental jurisdictions working with their constituency and State and Federal government agencies have proposed a plan of acquisiition that is presented in detail in the Habitat Conservation Plan.

This acquisition effort proposes a partnership among the local communities, The Nature Conservancy, the California Department of Fish and Game, the Bureau of Land Management, and the Fish and Wildlife Service to raise the necessary funds for purchase of the preserve. The local communities would raise, over a thirty year period, approximately 10 million dollars through contributions paid when developing land within the range of the Coachella Valley fringe-toed lizard. These contributed funds would be used to buy acreage in the Thousand Palms Preserve. The Nature Conservancy is contributing funds toward the purchase of the preserve and have already required 2,000 acres of the preserve in and around Thousand Palms Oasis. In addition, The Nature Conservancy is participating in the effort by optioning land and acting as the purchasing agent for the local communities, using the contributed funds. The California Department of Fish and Game owns 440 acres in the proposed preserve and is in the process of acquiring more acres. The Bureau of Land Management is in the process of arranging a land swap with the Nature Conservancy and a private landowner that would give the Bureau of Land Management ownership of approximately 8,000 acres of the preserve lands. As these various pieces of the acquisition program fall into place the third and largest of the three preserves would be established.

In addition to the Coachella Valley fringe-toed lizards that will be protected

on the preserve complex, the Habitat Conservation Plan discusses habitat areas where land use practices are compatible with management of the lizard. Such land uses are: wind farm development; water infiltration systems; and, areas along canals or ditches that are not intensively used. Areas that are zoned for open space or for limited use could also be managed for the lizard.

Possible alternatives. One alternative would be to require each landowner, who has a development planned within Coachella Valley fringe-toed lizard habitat, to set aside a percentage of his acreage for a preserve and obtain a Section 10(a) permit. This would result in many small preserves scattered throughout the Coachella Valley. While this alternative might protect as many acres as described in the proposed Habitat Conservation Plan, two significant problems are immediately discernible. The first is that the type of habitat required for the Coachella Valley fringe-toed lizard, wind blown sand, would soon disappear because of the lack of additional sand and because of resulting soil stabilization. The lizard needs loose sand in which to burrow to escape predators and the hot midday temperatures. The three large preserves all have a source of sand that would keep the habitat viable into the indefinite future. The second problem with this scheme is that the lizard population would be fragmented into many small populations. These small populations would be more vulnerable to extinctions from a variety of man-caused factors and from a lack of genetic variability than would large populations.

A second alternative would be to establish large preserves south of Interstate 10 in the more southerly reaches of the habitat of the Coachella Valley fringe-toed lizard. A significant problem occurs here, however, in that even though the habitat is now viable, according to sand transport experts, all of the habitat south of Interstate 10 is wind-shadowed. This means that the sand needed to keep the habitat viable had been blocked from down wind movement by structures placed in the path of the wind. This wind shadowing effect renders the habitat useless to Coachella Valley fringe-toed lizards. It would not be wise to establish preserves that will be non-viable in the near future.

A third alternative would be to enforce the ESA's prohibitions on taking with no exception. That would allow no development in the Coachella Valley where the fringe-toed lizard now exists. Because this alternative would preclude any development on the majority of land within the Coachella Valley, there would be a large negative economic impact on the local community. Also, habitat would be protected that is already wind-shadowed and decreasing in value to the fringe-toed lizard as the blow sand is depleted and stablized. In the efforts to establish a program that allows for the long-term survival of the fringe-toed lizard, it makes little sense to protect habitat that will be of little or no value to the species within a few years.

A fourth alternative is to take no action. This alternative would continue the present situation. Depending on the effectiveness of enforcement efforts, this alternative could lead to the almost certain extinction of the Coachella Valley fringe-toed lizard. None of the habitat would be directly protected and at the present rate of conversion there would soon be no wind blown sand habitat for the fringe-toed lizard.

Scoping process. As stated above, the Service is requesting information and comments and holding an open meeting in order to determine the scope of issues to be addressed in the EIS and to identify which issues are significant and required in-depth analysis and which issues are either not significant or have been adequately covered by prior environmental review. The scoping process will also serve to allocate assignments concerning preparation of the EIS, avoid duplication of effort, and integrate preparation of the EIS into the Service's decision making process.

In addition, the Service is hopeful that the information and discussion generated by the scoping process will promote consensus concerning proper management of the Coachella Valley fringe-toed lizard.

To facilitate identification of issues during the scoping process, interested persons may find review and consideration of the following questions to be useful:

(1) Are there other alternatives to establishing preserves for the conservation of the fringe-toed lizard?

(2) Should the Coachella Valley fringe-toed lizard be removed from the Federal list of threatened and endangered species if the preserves are established?

(3) Who should manage the Coachella Valley Preserve if it becomes established?

(4) What type of public use should be allowed on the Coachella Valley Preserve if it becomes established that would be compatible with the conservation of the fringe-toed lizard?

(5) What design for flood control projects would be most compatible for the configuration of the Coachella Valley preserve?

The Service anticipates beginning the preparation of a draft EIS in November of 1984. As stated by the Council on Environmental Quality, "[s]ince the key purpose of scoping is to identify the issues and alternatives for consideration, the scoping process should end once the issues and alternatives to be addressed in the EIS have been clearly identified. Normally, this would occur during the final stages of preparing the draft EIS and before it is officially circulated for public and agency review." 48 *FR* 34264 (July 28, 1983).

The Service looks forward to working with all interested parties in the preparation of the EIS.

Dated: September 28, 1984.

F. Eugene Hester,

Acting Director, Fish and Wildlife Service.

[FR Doc. 84-26565 Filed 10-5-84; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

Development Operations Coordination Document; Sonat Exploration Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Sonat Exploration Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 4099, Block 31, East Cameron Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Intracoastal City, Louisiana.

DATE: The subject DOCD was deemed submitted on September 28, 1984. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the DOCD from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the

Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, *Attention OCS Plans*, Post Office Box 44396, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Mr. Michael J. Tolbert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838-0875.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: September 28, 1984.

John L. Rankin,

Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 84-26597 Filed 10-5-84; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before September 28, 1984. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by October 24, 1984.

Carol D. Shull,

Chief of Registration, National Register.

DELAWARE

Kent County

Dover vicinity, *Mifflin-Marim Agricultural Complex*, DE 9
Little Creek, *Little Creek Hundred Rural Historic District*, DE 9

New Castle County

New Castle, *New Castle Historic District*, Roughly bounded by the Delaware River, Broad Dike, 4th, 6th, 7th, and Penn Sts.
St. Georges, *St. Georges Presbyterian Church*, Main St.

FLORIDA

Sarasota County

Sarasota, *Reagin, L.D., House (Sarasota MRA)*, 1213 N. Palm Ave.

LOUISIANA

Vermilion Parish

Abbeville vicinity, *A La Bonne Veillee*, NE of Abbeville

Vernon Parish

Leesville, *Kansas City Southern Depot*, Louisiana Ave. and 3rd St.

MARYLAND

Baltimore (Independent City)

Gandy Belting Company Building, 726-734 W. Pratt St.

MICHIGAN

Wayne County

Detroit, *Palms, Francis, Building and State Theater*, 2111 Woodward Ave.

MISSOURI

Cole County

Jefferson City, *Villa Panorama*, 1310 Swifts Hwy.

St. Louis County

Oakville vicinity, *Koch, Robert, Hospital*, 4101 Koch Rd.
Webster Groves, *Gorlock Buildings*, 101-113 W. Lockwood Ave.

NEW YORK

Queens County

Belle Harbor vicinity, *Riis, Jacob, Park Historic District (Boundary Increase)*, Beach Channel Dr.

NORTH CAROLINA

Alamance County

Burlington, *West Davis Street-Fountain Place Historic District*, Roughly bounded by Front, W. Webb, S. Fisher, E. Willowbrook, W. Davis, and Fountain Pl.

Beaufort County

Pantego, *Pantego Academy*, Academy St.

Burke County

Valdese, *Valdese Elementary School*, 400 Main St.
Valdese, *Waldensian Presbyterian Church*, 104 E. Main St.

Chatham County

Moncure, *Lockville Dam, Canal and Powerhouse*, W of Moncure at Deep River and U.S. 1

Guilford County

Colfax vicinity, *Endsley-Morgan House*, Off U.S. 421

Wake County

Forestville, *Forestville Baptist Church*, U.S. 1-A

NORTHERN MARIANA ISLANDS

Managaha Island

Saipan vicinity, *Managaha Island Historic District*, W of Saipan

Rota Island

Songsong vicinity, *Dugi Archeological District*, E of Songsong
Songsong vicinity, *Japanese Coastal Defense Gun*, SE of Songsong

Saipan Island

Chalan Kanoa vicinity, *Unai Obyan Latte Site*, SE of Chalan Kanoa
Garapan vicinity, *Sabanetan Toro Latte Site*, NE of Garapan
Garapan, *Campaneyan Kristo Rai*, Beach Rd.

Tinian Island

San Jose vicinity, *North Field Historic District*, N of San Jose

OKLAHOMA

Cleveland County
Moore, *Moore Public School Building*, NW First and Broadway

Tillman County

Frederick, *Ramona Theatre*, 114 S. 9th St.

OREGON

Clatsop County

Astoria, *Griffin, John N., House*, 1643 Grand Ave.
Astoria, *Holmes, Gustavus, House, 682 34th St.*
Astoria, *Staples, Norris, House*, 1031 14th St.

Columbia County

St. Helens, *St. Helens Downtown Historic District*, Roughly Strand, 1st, 2nd, 3rd, 4th, Cowlitz, St. Helens Sts., and Columbia Blvd.

Douglas County

Roseburg vicinity, *Miller's Mountain House*, 1195 Roberts Mountain Rd.
Sutherlin vicinity, *Stephens Community Historic District*, Fort McKay and Scott Henry Rds.

Jackson County

Medford, *Shone-Charley House*, 305 N. Grape St.

Lake County

Lakeview, *Bailey and Massingill General Store*, 4 N. E St.

TENNESSEE

Rutherford County

Murfreesboro vicinity, *Boxwood*, Old Salem Pike

Sullivan County

Kingsport, *Grass Dale*, 774 Bloomingdale Pike

WYOMING

Johnson County

Buffalo vicinity, *HF Bar Ranch Historic District*, NW of Buffalo

Laramie County

Cheyenne, *Masonic Temple*, 1820 Capitol Ave.

Cheyenne, *Rainsford Historic District*, Roughly bounded by Morrie, 22nd, Warren, and 17th Sts.

Lincoln County

Kemmerer, *Lincoln County Courthouse*, Sage and Garnet Sts.

[FR Doc. 84-26020 Filed 10-5-84; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731-TA-169, 171, 175, 177, 178, 180, and 182(Final)]

Certain Carbon Steel Products From Argentina, Australia, Finland, and Spain; Rescheduling of Hearing

AGENCY: International Trade Commission.

ACTION: Rescheduling of the hearing to be held in connection with the subject investigations.

SUMMARY: The Commission hereby announces the rescheduling of the hearing to be held in connection with the subject investigations from 10:00 a.m. on October 9, 1984, to 10:00 a.m. on December 13, 1984.

EFFECTIVE DATE: October 2, 1984.

FOR FURTHER INFORMATION CONTACT: Bonnie Noreen (202-523-1369), Office of Investigations, U.S. International Trade Commission.

SUPPLEMENTARY INFORMATION:

Background

On July 25, 1984, the Commission instituted the subject antidumping investigations and scheduled a hearing to be held in connection with them for October 9, 1984 (49 FR 33348, Aug. 22, 1984). Subsequently, the Department of Commerce extended the date for its final determinations in the investigations from October 3, 1984, to December 7, 1984. The Commission, therefore, is revising its schedule in the investigations to conform with Commerce's new schedule. Pursuant to section 735(b)(2)(B) of the Tariff Act of 1930 (19 U.S.C. 1673(b)(2)(B)), the Commission must make its final determinations within 45 days of Commerce's final determinations, or in this case by January 21, 1985.

Staff report

A public version of the staff report containing preliminary-findings of fact in these investigations was placed in the public record on September 20, 1984, pursuant to § 207.21 of the Commission's rules (19 CFR § 207.21).

Hearing

The Commission will hold a hearing in connection with these investigations beginning at 10:00 a.m. on December 13, 1984, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC 20436. Requests to appear at the hearing were to be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on September 27, 1984. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 10:00 a.m. on December 7, 1984, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is December 10, 1984.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR § 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 (19 CFR 207.22). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on December 18, 1984.

Written Submissions

As mentioned, parties to these investigations may file prehearing and posthearing briefs by the dates shown above. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertient to the subject of the investigations on or before December 18, 1984. A signed original and fourteen (14) true copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

For further information concerning the conduct of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and C (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201).

Authority: This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

By order of the Commission.

Issued: October 3, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-26015 Filed 10-5-84; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

Forms Under Review by Office of Management and Budget

The following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) is being submitted to the Office of Management and Budget for review and approval. Copies of the forms and supporting documents may be obtained from the Agency Clearance Officer, Lee Campbell (202) 275-7238. Comments regarding this information collection should be addressed to Lee Campbell, Interstate Commerce Commission, Room 1325, 12th and Constitution Ave., NW., Washington, DC 20423 and to Gary Waxman, Office of Management and Budget, Room 3228 NEOB, Washington, DC 20503, (202) 395-7340.

Type of Clearance: Extension
Bureau/Office: Office of Proceedings
Title of Form: Application for motor or water carrier certificate or permit, brokerage license, freightforwarder permit or water carrier exemption

OMB Form No.: 3120–0047
Agency Form No.: OP–1
Frequency: When authority is requested
Respondents: Persons desiring operating authority
No. of Respondents: 16,000
Total Burden Hrs.: 128,000

James H. Bayne,
Secretary.

[FR Doc. 84–26572 Filed 10–5–84; 8:45 am]
BILLING CODE 7035–01–M

[Docket No. AB–18 (Sub–61X)]

Rail Carriers; the Chesapeake and Ohio Railway Co.; Abandonment Exemption; Notice of Exemption

The Chesapeake and Ohio Railway Company (C&O) filed a notice of exemption under 49 C.F.R. 1152 Subpart F—*Exempt Abandonments*, as amended in Ex Parte No. 274 (Sub-No. 8A), *Exemption of Out of Service Lines (Discontinuance of Service and Trackage Rights)*, —— I.C.C. —— (1984). C&O intends to abandon its line of railroad, known as the Brewster Spur, between milepost 0.00 and milepost 0.82 at the end of the line, a distance of 0.82 mile in Saginaw County, MI.

C&O has certified (1) that no local traffic has moved over the line for at least 2 years and that no overhead traffic moves over the line, and (2) that no formal complaint, filed by a user of rail service on the line, or by a state or local governmental entity acting on behalf of such user, regarding cessation of service over the line, either is pending with the Commission or has been decided in favor of a complainant within the 2-year period preceding this notice. The Public Service Commission (or equivalent agency) in Michigan has been notified in writing at least 10 days prior to the filing of this notice. *See Exemption of Out of Service Rail Lines*, 366 I.C.C. 885 (1983).

As a condition to use of this exemption, any employee affected by the abandonment will be protected pursuant to *Oregon Short Line R. Co.—Abandonment—Goshen*, 366 I.C.C. 91 (1979).

The exemption will be effective on November 8, 1984 (unless stayed pending reconsideration). Petitions to stay the effective date of the exemption must be filed by October 19, 1984, and petitions for reconsideration, including environmental, energy and public use concerns, must be filed by October 29, 1984, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission must be sent to C&O's representatives:

René J. Gunning, Suite 2204, 100 North Charles Street, Baltimore MD 21201
Peter J. Shudtz, P.O. Box 6419, Cleveland, OH 44101.

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio*.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: October 1, 1984.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,
Secretary.

[FR Doc. 84–26573 Filed 10–5–84; 8:45 am]
BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

National Institute of Justice

Solicitation of Proposals for Studying the Immediate and Long-Term Psychological Effects of Criminal Victimization

The National Institute of Justice announces a competitive research grant program on studying the immediate and long-term psychological effects of criminal victimization. A total of up to $450,000 will be provided for 2–4 grants awards in amounts of $100,000 to $250,000 for 12–24 months of research activity. To be eligible for consideration, proposals must be received by January 15, 1985 at the National Institute of Justice.

The purpose of this research is to develop understanding about the psychological wounds sustained by victims of crime and the best means of treating such injuries. Its goal is to improve the knowledge and practice of the mental health professions, the criminal justice system, and all others whose procedures and performance affect the psychological well-being and successful recovery of the victims of crime. Special attention should be given to the use of research designs that will provide results and findings that will influence policy and practice. Funding for the operation of programs will not receive consideration under this announcement, however.

A copy of the solicitation may be obtained by sending a self-addressed *mailing label* to: Announcement Request—"Studying the Immediate and Long-Term Psychological Effects of Criminal Victimization", National Criminal Justice Reference Service, Box 6000, Rockville, Maryland 20850.

Dated: September 25, 1984.

James K. Stewart,
Director, National Institute of Justice.

[FR Doc. 84–26546 Filed 10–5–84; 8:45 am]
BILLING CODE 4410–18–M

LIBRARY OF CONGRESS

American Folklife Center Board of Trustees; Meeting

In accordance with Pub. L. 94–463, the Board of Trustees of the American Folklife Center announces its meeting to be held in Washington, D.C. on Friday, November 2, from 9:30 a.m. to 4:30 p.m. in the Whittall Pavilion of the Library of Congress. The meeting will be open to the public. It is suggested that persons planning to attend this meeting as observers contact Eleanor Sreb, American Folklife Center (202) 287–6590.

The American Folklife Center was created by the U.S. Congress with passage of Pub. L. 94–201, the American Folklife Preservation Act, in 1976. The Center is directed to "preserve and present American folklife" through programs of research, documentation, archival perservation, live presentation, exhibition, publications, dissemination, training, and other activities involving the many folk cultural traditions of the United States. The Center is under the general guidance of a Board of Trustees composed of members from Federal agencies and private life widely recognized for their interest in American folk traditions and arts.

The Center is structured with a small core group of versatile professionals who both carry out programs themselves and oversee projects done by contract by others. In the brief period of the Center's operation it has begun energetically to carry out its mandate with programs that provide coordination, assistance, and model projects for the field of American folklife.

Raymond L. Dockstader,
Deputy Director, American Folklife Center.

[FR Doc. 84–26548 Filed 10–5–84; 8:45 am]
BILLING CODE 1410–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Cell Biology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting.

Name: Advisory Panel for Cell Biology.

Date and Time: Wednesday, Thursday and Friday October 24, 25, and 26, 1984 from 9:00 a.m. to 5:00 p.m.

Place: Room 338, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.

Type of Meeting: Closed.

Contact Person: Dr. Antonio H. Romano, Program Director, Cell Biology Program, Room 332–G, Telephone: 202–357–7474.

Purpose of Advisory Panel: To provide advice and recommendations concerning support for research in Cell Biology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Dated: October 3, 1984.

M.R. Winkler,

Committee Management Officer.

[FR Doc. 84–26618 Filed 10–5–84; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Psychobiology; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Psychobiology.

Date and Time: October 24—26, 1984, 9:00 a.m.—5:00 p.m. each day.

Place: National Science Foundation, 1800 G Street, NW., Room 642, Washington, D.C.

Type of Meeting: Closed.

Contact Person: Dr. Fred Stollnitz, Program Director, Psychobiology Program, Room 320, National Science Foundation, Washington, D.C. 20050, Telephone (202) 357–7949.

Purpose of Panel: To provide advice and recommendations concerning support for research in psychobiology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Dated: October 3, 1984.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 84–26617 Filed 10–5–84; 8:45 am]

BILLING CODE 7555–01–M

DOE/NSF Nuclear Science Advisory Committee; Open Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: DOE/NSF Nuclear Science Advisory Committee.

Date, Time, and Place: October 24, 1984, 10:00 a.m.–6:00 p.m. October 25, 1984; 9:00 a.m.–5:00 p.m. Department of Energy, Forrestal Building—Room 1E–245, 1000 Independence Avenue, Washington, D.C. 20545.

Type of Meeting: Open.

Contact Person: Dr. Harvey B. Willard, Head, Nuclear Science Section, National Science Foundation, Washington, D.C. 20550, 202/357–7993.

Summary Minutes: May be obtained from Mrs. Shirley Goulart, National Science Foundation, Physics Division, Room 341, Washington, D.C. 20550.

Purpose of Committee: To provide advice on a continuing basis to both DOE and NSF on the management of and long range planning for basic nuclear science in the United States.

Agenda: Status report on the 4 GeV continuous beam electron accelerator facility (CEBAF). Review of December 1983 Long Range Plan for Nuclear Science to maintain the up-to-date status of the Plan in view of scientific developments over the last year. Other business.

Dated: October 3, 1984.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 84–26619 Filed 10–5–84; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

Availability of Reports, Recommendations, and Responses

Reports Issued

Highway Accident Report—Trailways Lines, Inc., Bus/E.A. Holder, Inc., Truck, Rear End Collision and Bus Run-Off-Bridge, U.S. Route 59., near Livingston, Texas, November 30, 1983 (NTSB/HAR–84/04) (NTIS Order No. PB84–916204).

Highway Accident Report—Collapse of a Suspended Span of Interstate Route 95 Highway Bridge Over the Mianus River, Greenwich, Connecticut, June 28, 1983 (NTSB/HAR–84/03) (NTIS Order No. PB84–916203).

Note.—Reports may be ordered from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, for a fee covering the cost of printing, mailing, handling, and maintenance. For information on reports call 703–487–4650, and to order subscriptions to reports call 703–487–4630.

Recommendations Issued

Aviation—*Federal Aviation Administration: Aug. 31: A–84–103:* Issue an Operations Bulletin for all air carrier operations inspectors to make fuel awareness on the part of flightcrews, including fuel consumption planning and full familiarity with the functioning of the fuel system and its instruments, a subject of special attention during performance of the inspectors' flight check and surveillance duties.

Note.—Single copies of these recommendation letters are available on written request to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. Please include recommendation number in your request. Copies of recent recommendations are free of charge while supplies last. Recommendations that must be photocopied will be billed at a cost of 14 cents per page ($1 minimum charge).

Responses From

Aviation—*Federal Aviation Administration: Aug 27: A–84–53:* Issued General Notice N8320.29B directing that principal avionics inspectors request their assigned operators of DC–10 series aircraft accomplish a DC–10 series fleet inspection campaign to verify proper condition, security, and routing of the wire bundle at both the captain's and first officer's positions. On May 30, 1984, McDonnell Douglas Corporation issued an All Operators Letter 10–1759 to all DC–10 operators suggesting that operators verify glareshield harness routing and integrity on both the left-hand and right-hand sides and restore them to proper configuration should they be misrouted and/or chafed. *A–84–54:* An Airworthiness Directive effective August 20, 1984, applies to McDonnell Douglas DC–10 and KC–10A (military) airplanse certificated in all categories, and requires a visual inspection of wiring bundles beneath the cockpit glareshield to ensure that they are not chafed and are routed properly over the fluorescent light shroud.

Eastern Air Lines, Inc.: Aug 22: A–84–42 through –44: Eastern's Flight Operations and Inflight departments have made several changes in their training programs. These changes embrace the objective of standardized

procedures. Has published a new Flight Attendant Emergency Procedures Manual. It is impractical to train flight attendants and pilots together. There is a coordinated effort by our pilot and flight attendant training groups to maintain a commonalty of procedures and instructions where practical.

Highway—*Federal Highway Administration: Apr. 5: H–80–50 and –51:* The research study "Limited Sight Distance Warning for Vertical Curves" is nearing completion. Has proposed a change to the Manual on Uniform Traffic Control Devices Section 2C–39 Limited Sight Distance Sign (W14–4) to delete/modify the "Limited Sight Distance" sign for use only where accident history shows sight distance accidents or where substantial hazards are posed relating to sight distance.

National Tank Truck Carriers, Inc.: Feb. 28: H–83–34: Agrees that several steps could be taken to improve the truck driver selection and screening process. Urges the Safety Board and the U.S. Department of Transportation to recognize the fact that drivers of commercial vehicles should be subject to more strenous testing than DOT now requires. It must also work to either make all States cooperate on licensing and driving history background checks or adopt a national truck driver's license for commercial vehicle operators.

International Manufacturing Co.: Mar. 21: H–83–60 and –61: Plans further revisions to its child restraint systems in light of the Board's study and recommendations.

Arizona Department of Transportation: Mar. 23: H–83–46: Has added seven new standards to the Pupil Transportation Program. Rule R17–4–505 of the minimum standards for school buses, school bus drivers, and school bus inspection standards addresses the quality of school bus inspection and repair. *H–83–47:* Section B of the minimum standards for school bus operation (R17–4–507) requires the driver to perform a planned and systematic daily pre-trip inspection of the school bus as defined and outlined in R17–4–505.C.2. *H–83–48:* Has decided not to require two fire extinguishers on school buses, based on experience with theft. If necessary, signs indicating placement of the fire extinguisher can be posted. Passengers are briefed on the location and use of emergency equipment during the required bi-annual school bus evacuation drills.

State of Maryland: Mar. 20: H–83–46: School bus inspectors must have the skills of an automotive mechanic with two years on-the-job experience. Applicants are carefully screened. Training is on-the-job. Maryland Rules and Regulations allow the County Supervisors of Transportation to establish and maintain a system of school bus procurement, maintenance, and inspection commensurate with State laws and Motor Vehicle Administration regulations. *H–83–47:* Maryland law requires the suspension of registration and the physical removal of registration plates of any school bus deemed to be in an unsafe condition. Maryland would require legislative action in order to identify and attempt to control vehicles used by activity groups, which do not qualify as school buses, are not painted school bus yellow, and are not registered as school buses. *H–83–48:* Teaches immediate and rapid evacuation of a school bus in case of fire. Drivers and attendants are instructed in firefighting with an extinguisher.

State of Mississippi: Apr. 30: H–84–22: Sobriety check points are conducted through the State Department of Public Safety periodically as a part of our comprehensive Alcohol Countermeasures Program. *H–84–23:* Local law enforcement agencies have been conducting sobriety check points periodically and are encouraged to continue to do so. *H–84–24:* All aspects of our comprehensive Alcohol Countermeasure Programs are evaluated annually as to their effectiveness.

State of Tennessee Department of Education: Apr. 25: H–83–41: School bus drivers are required to wear seat belts. Has intensified its efforts to change driving habits and attitudes of drivers. *H–83–46:* Department of Education is no longer responsible for school bus inspectors and driver training. Its staff is in constant touch with school officials relative to shop layouts, repair schedules, maintenance procedures, parts purchase, specification development, etc. *H–83–48:* Does not agree that two extinguishers are needed on school buses.

State of Texas: Apr. 26: H–83–46 through –48: Has instructed legislative staff to review current State statutes to identify provisions that can be strengthened in line with recommendations concerning school bus inspection and repair, school activity groups riding in mechanically unsafe vehicles, and fire extinguishers on school buses.

State of Virginia: Apr. 26: H–84–15 through –18: The recommendations regarding sobriety check points will be very helpful as the Governor has been responsible for legislation to curb drunk driving.

Oklahoma Highway Safety Office: Aug. 23: H–83–52: Held seven workshops across the State in 1983 and met with numerous volunteer groups as part of a statewide child passenger safety program. Has in operation about 45 loaner seat programs.

Trailways, Inc.: Aug. 17: H–84–61 through –63: Monitors speed compliance by its drivers by performing both on-highway and in-vehicle performance checks. On-board check activity includes seat belt usage and appropriate follow-up with drivers for noncompliance. Monitors new technology in driver alert devices that may have a positive impact on safety performance.

Intermodal—*Research and Special Programs Administration: Jul. 6: I–83–2:* Issued an Advance Notice of Proposed Rulemaking on March 16, 1984, addressing the Required Use of Emergency Response Guidebooks and Materials Safety Data Sheets. Also held a public hearing on May 2, 1984.

Marine—*Federal Communications Commission: Mar. 7: M–84–12:* Will perform a "wet test" of alll Emergency Position Indicating Radio Beacons during annual vessel inspection to determine that these devices operate properly.

Department of the Army: Apr. 9: M–83–96 and –97: Is requesting comments on the recommendations concerning navigation guides and profile drawings of bridges on navigation charts from its field offices.

Poling Transportation Corporation: Apr. 6: M–83–42: Is preparing a new operations manual. Place aboard all tank vessels in 1980 an Oil Transfer Procedure Manual which contains a copy of all Parts 155 of Title 33 of the Code of Federal Regulations.

State of New Jersey; Mar. 20: M–83–76 and –77: the New Jersey State Police, Marine Law Enforcement Bureau has trained all Marine Police Officers in the identification and apprehension of the intoxicated boat operator. Legislation is pending which would amend the State laws concerning the operation of power vessels by persons under the influence of intoxicating liquor or drugs.

Pipeline—*Washington Gas Light Company: Aug. 23: P–83–8 and –9:* Has requested all operating department heads to review their training programs to insure that they emphasize employee and public safety and that employees are directed to adhere to established gas company safety procedures.

Railroad—*Association of American Railroads: Aug. 22: R–83–7:* The study of performance standards for evaluating the significance of rail fatigue defects is continuing. *R–83–8:* Asked chief operating officers of its member railroads to again evaluate their

procedures in documenting hazardous materials carried on freight trains and emergency responese information for those commodities. *R–83–9:* Has adopted documentation requirements for acceptance of TOFC/COFC shipments and issued a circular with this information.

Houston Belt & Terminal Railway Company: Aug. 6: R–83–60 and –61: Will establish supervisory procedures at crew-change terminals to insure that all operating department employees coming on duty at any hour of the day are physically fit and capable of complying with all pertinent operating rules. Will enhance the training of all operating employees in their responsibilities and duties.

Federal Railroad Administration: Apr. 30: R–72–11: Because of changes in the railroad operating environment, there is no need to promulgate regulations to cover the operation of catenary and third rail electric power supply system when power is interrupted unintentionally or when circuit breakers are actuated by an unknown cause. *R–72–14 and R–78–42:* Is concentrating on educational programs rather than fencing. A selected fencing program along the Northeast Corridor is still in progress. *R–74–26:* Has determined the risks of train accidents involving misaligned switches where automatic block signal systems do not exist to be exceptionally low. Issued on January 26, 1984, revised regulations covering signal and train control systems which adopt the Board's recommendation that regulations be promulgated to replace Interstate Commerce Commission Order 29543. *R–75–29:* Since existing regulations in 49 CFR, Subpart D, addresses the proper handling of hazardous materials and the added safety protection devices have been or will be installed on tank cars to prevent the release or materials in an impact situation, FRA requests that recommendation to develop minimum performance standards for retarding systems in gravity switching yards be closed. *R–73–8, R–75–36, R–76–3:* FRA has (1) Established rules governing blue signal protection, protection of trains, and radio standards; (2) promulgated regulations that establish uniform operating rules and require that employees receive operating rule training; and (3) been conducting thorough system assessments on railroads that show a poor or deteriorating safety record. Believes that these programs attack the root cause (human error) of the problem these recommendations address. The number of accidents where an incapacitated engineer is involved are so very small that a requirement to install an expensive hardware system on the entire locomotive fleet is not required or necessary. *R–76–13:* The Congrees, the Federal Highway Administration, and the FRA have developed a program to evaluate and address problems with the most serious rail/highway grade crossings on a State-by-State basis. *R–76–14:* The Federal Highway Administration and the FRA have developed a comprehensive cost-effective approach to the planning and implementation of a program to attack the rail/highway grade crossing problem. *R–76–50 and R–79–61:* Has promulgated regulations that require railroads to file their operating rules with the FRA. These operating rules all contain a rule 34 requiring the communication of signal indications. *R–78–23:* A new rule in Section 236.60 of the revised Signal and Train Control regulations will accomplish the phase-out of the contact closure circuit controls on an attrition basis. *R–78–41:* All General Railway Signal Company cab signal equipment being operated has been modified to preclude the recurrence of failure. *R–76–8, R–79–73, R–81–81:* Since most railroads are already using radios, a Federal requirement that they do so is unnecessary. A requirement that all locomotives be equipped with an operable and compatible radio system with all other railroads would be extremely costly and cannot be justified on the basis of safety benefits exceeding costs. *R–80–36:* Has concluded that a requirement to install a mechanism which can be incorporated in the automatic block system to indicate when bridges are displaced is not feasible. *R–80–54:* Headlights are being used as marking devices on trains in passenger service in only Boston and Philadelphia. The cars in Boston are being retrofitted to eliminate their use and FRA will check with the Southeastern Pennsylvania Transportation Authority on the status of their cars. *R–81–39 and –40:* The Department of Transportation's Transportation Systems Center study titled "Freight Car Reflectorization" provided considerable evidence that reflectorization would be costly to install and maintain and that it would have little or no effect on preventing rail/highway grade crossing accidents. *R–73–8:* The number of accidents where an incapacitated engineer is involved are so very small that a requirement to install an expensive hardware system on the entire locomotive fleet is not required or necessary. *R–76–54:* Is participating in a joint, three-year, Industry/Government Wheel Safety Research Program concerning a method that does not depend on crew observation that will automatically detect when a wheel has failed or derailed. *R–76–55:* The current high-temperature mandatory wheel removal requirements of 49 CFR 215.103(h) will be evaluated and guidelines for the establishement of newer criteria will be produced under a contract with the Association of American Railroads for research on railroad wheels subject to hostile high-temperature operating conditions. *R–77–1:* The FRA tested the Amtrak SDP–40F locomotive in responese to the recommendation to determine the causes for the widening of the track gage. Amtrak has decided to convert 6-axle SDP–40F locomotives to 4-axle F40PH locomotives. *R–77–5:* Requires under 49 CFR Part 217 that engineers be given training on the railroad's operating practices. Is participating in a joint Industry/Government Employee Training Safety Program to improve safety training curriculum and aids. Funded the development of a Locomotive Evaluator for use in engineer training. *R–78–17:* The Illinois Central Gulf Railroad has issued revised operating procedures and modified the slack adjusting system on the Highliner cars to make it compatible with the safe operation of the snow brake system. *R–78–18:* FRA and the AAR tested composition and cast-iron brake shoes in December 1983 and issued report R–565A on braking effectiveness. *R–78–35:* Since the FRA has developed a National Inspection Plan that focuses attention on accident rates and cause, the AAR has developed a comprehensive early warning system used to alert the railroads to any potential component failure. *R–78–44:* Does not intend to issue regualtions requiring the installation of event recorders on locomotives. *R–78–48:* Believes that 49 CFR 231.6(c) regarding the location of side handholds on flat cars is adequate. *R–79–82 and R–81–94:* A stafety review indicates that the Union Pacific Railroad has taken appropriate measures to comply with the Federal Power Brake Regulations. *R–79–84:* An evaluation of the training and testing programs of the Union Pacific revealed that the supervisors can adequately enforce the rules to provide safe and efficient operations. *R–79–85:* Has initiated a brakepipe flow indicator study. *R–81–95:* Changes to the Federal Power Brake Regulations (49 CFR Part 232) in 1982 are consistent with the recommendation to retain the minimal requirements for the inspection and

testing of trains at the points where they are originated. *R–71–47:* Worked with the Seaboard System Railroad and the Brotherhood of Locomotive Engineers on the development of a model training program, which is described in a report titled, "A Demonstration Project for Locomotive Engineer Training." *R–79–20:* Has evaluated the Automated Track Inspection Program and has established goals and objectives for the program. *R–79–22:* A national rerouting policy for hazardous materials would lead to a large misallocation of resources in the rail industry, according to studies made by theTransportation Systems Center. *R–80–11:* New DOT specification 105 tank cars were required to have head and thermal protection under HM–174. On April 14, 1983, DOT issued a Notice of Proposed Rulemaking which requires the retrofit of all 105 tank cars used to carry specific commodities by December 31, 1986.

Note.—Single copies of these response letters are available on written request to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. Please include the respondent's name, date of letter, and recommendation number(s) in your request. The photocopies will be billed at a cost of 14 cents per page ($1 minimum charge).

H. Ray Smith, Jr.,

Federal Register Liaison Officer.

[FR Doc. 84–26814 Filed 10–5–84; 8:45 am]

BILLING CODE 7533–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Combined Subcommittees on Reliability and Probabilistic Assessment and Limerick Generating Station Units 1 and 2; Meeting

The ACRS Subcommittees on Reliability and Probabilistic Assessment and Limerick Generating Station Units 1 and 2 will hold a combined meeting on October 20, 1984, at the Holiday Inn-Airport, 9901 La Cienega Blvd., Los Angeles, CA.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Saturday, October 20, 1984—8:30 a.m. until the conclusion of business

The Subcommittee will continue the review of the probabilistic risk assessment for the Limerick plant and the Philadelphia Electric Company's application for a license to operate the Limerick Generating Station.

Oral statements may be presented by members of the public with concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the Philadelphia Electric Company, NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Dr. Richard Savio (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., EDT. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: October 3, 1984.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 84–26851 Filed 10–5–84; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–213]

Connecticut Yankee Atomic Power Co. (Haddam Neck Plant); Exemption

I

Connecticut Yankee Atomic Power Company (the licensee) is the holder of Facility Operating License No. DPR–61 which authorizes the operation of the Haddam Neck Plant (the facility) at the steady-state power levels not in excess of 1825 megawatts thermal. The facility is a pressurized water reactor (PWR) located at the licensee's site in Middlesex County, Connecticut. The license provides, among other things, that it is subject to all rules, regulations and Orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

II

10 CFR 50.46(a)(1) requires that each boiling and pressurized light-water nuclear power reactor fueled with uranium oxide pellets within cylindrical Zircaloy cladding shall be provided with an emergency core cooling system (ECCS) which shall be designed such that its calculated cooling performance following postulated loss-of-coolant accidents conforms to the criteria set forth in 10 CFR 50.46(b). ECCS cooling performance shall be calculated in accordance with an acceptable evaluation model, and shall be calculated for a number of postulated loss-of-coolant accidents of different sizes, locations, and other properties sufficient to provide assurance that the entire spectrum of postulated loss-of-coolant accidents is covered. Appendix K, ECCS Evaluation Models, sets forth certain required and acceptable features of evaluation models.

By letter dated August 31, 1984, the licensee requested an exemption pursuant to 10 CFR 50.12(a), from the requirements of 10 CFR 50.46 and Appendix K as they apply to the installation of four Zircaloy clad lead test assemblies in the core. The licensee has historically used fuel with stainless steel cladding, although Zircaloy clad test assemblies were utilized during the period from 1970 to 1973 prior to the issuance of Appendix K. Two assemblies were used in Cycle 2 and four assemblies were used in Cycles 3 and 4. Because of the use of stainless steel cladding, the licensee was only required to demonstrate the ECCS performance capability in accordance with the AEC Interim Policy Statement for Emergency Core Cooling Systems (36 FR 12247).

Connecticut Yankee Atomic Power Company has been evaluating the potential to convert to a zirconium clad core in order to reduce the enrichment of uranium required for a fuel cycle. In order to further evaluate the implications of zirconium conversion, the licensee intends to install four (4) Zircaloy–4 clad lead test assemblies during the upcoming Cycle 13 reload. Barring unforeseen circumstances, the licensee plans to keep the test assemblies in the Haddam Neck core for three cycles, which is the usual residence time for a fuel assembly.

The licensee's present Technical Specifications permit up to four Zircaloy–4 clad fuel bundles with a mass of up to 350 kg Zircaloy to be inserted into the core. In a letter dated

May 25, 1984, Connecticut Yankee Atomic Power Company requested a change to the Technical Specifications that would increase the allowed mass of Zircaloy to 400 kg. The 350 kg of Zircaloy–4 was the mass corresponding to four assemblies which were used earlier in plant life. The presently proposed bundles would have approximately 380 kg of Zircaloy–4 for the four bundles due to a new fuel design with a slightly thicker clad. The for Zircaloy assemblies are to be demonstration assemblies in a core of 157 total assemblies. The stainless steel clad of the other fuel assemblies had a mass of approximately 18,000 kg. The core remains essentially a completely stainless steel core (153 assemblies out of 157).

The present Technical Specifications permitted up to 350 kg of Zircaloy on the basis of an approved model demonstrating that the ECCS would satisfy the Interim Acceptance Criteria (IAC). The licensee's model has been reviewed as new safety issues have arisen to ensure that compliance with the IAC is maintained. The ECCS performance evaluation for the Cycle 13 LOCA, based on the previously performed and approved calculations in fulfillment of the IAC has demonstrated that significant margin exists. In addition, the licensee has demonstrated that the four Zircaloy assemblies will be placed in non-limiting locations on the periphery of the core where the lead test assemblies will experience a radial-peaking factor some 46% less than the hottest stainless steel assembly. Furthermore, the hottest lead test assembly rod will see a radial-peaking factor approximately 26% less than that of the hottest stainless steel rod. The hottest Zircaloy rod will not exceed 11.0 kW/ft steady-state peak linear heat generation rate (PLHGR) compared to 13.85 kW/ft allowable for the hottest stainless steel rod resulting in a corresponding reduction of peak clad temperature.This relatively low power level for the Zircaloy elements assures that the chemical and mechanical differences between Zircaloy and stainless steel are not controlling.

Further, the licensee indicates that sensitivity studies and calculations based on 10 CFR Part 50 Appendix K-type assumptions indicate that the peak clad temperature of the hottest Zircaloy rod at 11.0 kW/ft would remain below 1800°F where rapid metal-water reaction could become a factor in the loss-of-coolant accident safety evaluation. Based on the above discussion the licensee states that substantial margins exist in the LOCA evaluation to demonstrate that the lead test assemblies are much less limiting than the hottest stainless steel rod. However, a complete evaluation in accordance with 10 CFR 50.46 and Appendix K was not undertaken. The licensee has stated that in the event it decides to convert to Zircaloy clad fuel, the appropriate Appendix K model would be submitted for staff review and approval prior to its use as part of the licensing basis for the plant.

The NRC staff has reviewed the licensee's request for exemption and proposed amendment to the Technical Specifications and agrees with the licensee that the loss-of-coolant accident evaluation for Haddam Neck would not be controlled by increased metal-water reaction because the Zircaloy lead test assemblies are at locations not exceeding 11.0 kW/ft PLHGR.

The NRC staff review also indicates that there are no other transients or accidents for which the increase of 50 kg of Zircaloy-4 in the core would make any significant difference in the safety evaluation. Therefore, the staff concludes that since the four Zircaloy clad test assemblies will be placed in non-limiting locations on the periphery of the core, where the PLHGR will not exceed 11.0 kW/ft, an evaluation in accordance with Appendix K is not necessary to provide assurance that the lead test assemblies will meet the criteria of 10 CFR 50.46(b).

III

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption requested by the licensee's letter of August 31, 1984, is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest. The Commission hereby grants to the licensee an exemption from the requirements of 10 CFR 50.46 and Appendix K for the installation of up to four Zircaloy clad lead test assemblies in the Haddam Neck core at locations in which the calculated steady-state PLHGR does not exceed 11 kW/ft.

Pursuant to 10 CFR 51.32, the Commission has determined that the issuance of the exemption will have no significant impact on the environment (October 1, 1984, 49 FR 38721).

For further details with respect to this action, see the licensee's requests dated May 25, 1984 and August 31, 1984, that are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the Russell Library, 119 Broad Street, Middletown, Connecticut 16457.

This Exemption is effective upon issuance.

Dated at Bethesda, Maryland, this 1st day of October 1984.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 84-26653 Filed 10-8-84; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-302]

Florida Power Corp., et al.; Consideration of Issuance of Amendment To Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–72, issued to Florida Power Corporation, et al. (the licensee), for operation of the Crystal River Unit No. 3 Nuclear Generating Plant located in Citrus County, Florida.

In accordance with the licensee's application dated July 25, 1984, the amendment would modify Technical Specification 3.7.8 to permit auxiliary building ventilation system (ABVS) inoperability for up to 12 hours for maintenance purposes, as well as for surveillance testing which is presently allowed.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92, by providing certain examples (48 FR 14870). One of the examples (vi) of actions involving no significant hazards considerations is a change which may result in some increase to the

probability or consequences of a previously analyzed accident, but where the results of the change are clearly within all acceptable criteria with respect to the system specified in the Standard Review Plan. Standard Review Plan Section 9.4.3 covers the ABVS and contains no criteria which are violated by this proposed change. The present provisions of the Technical Specifications require in effect that for any ABVS maintenance exceeding one hour, the reactor must be shut down. However, for accidents for which the ABVS was assumed to operate, consequences would not be significantly increased if the reactor were not shut down for up to 12 hours as proposed by this change. The probability of these accidents is not affected by this change. Accordingly, the Commission proposes to determine that this change does not involve a significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, ATTN: Docketing and Service Branch.

By November 8, 1984, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave of intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to John F. Stolz: Petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to R.W. Neiser, Senior Vice President and General Counsel, Florida Power Corporation, P.O. Box 14042, St. Petersburg, Florida 33733.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)–(v) and 2.714(d).

For further details with respect to this action, see the application for

amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Crystal River Public Library, 668 N.W. First Avenue, Crystal River, Florida.

Dated at Bethesda, Maryland, this 1st day of October 1984.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 84-26853 Filed 10-5-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-250 and 50-251]

Florida Power and Light Co. (Turkey Point Plant, Unit Nos. 3 and 4); Exemption

I

Florida Power and Light Company (the licensee) is the holder of Facility Operating License Nos. DPR-31 and DPR-41 which authorize the operation of the Turkey Point Plant, Unit Nos. 3 and 4 (the facilities) at steady-state power level not in excess of 2200 megawatts thermal. The facilities are pressurized water reactors (PWRs) located at the licensee's site in Dade County, Florida.

II

10 CFR 50.54(q) requires a licensee authorized to operate a nuclear power reactor to follow and maintain in effect emergency plans which meet the standards of 50.47(b) and the requirements of Appendix E to 10 CFR Part 50. Section IV.F of Appendix E requires each licensee to conduct emergency preparedness exercises at each site at least annually.

The licensee's letter of July 28, 1984, requested that an exemption be granted to the requirements of 10 CFR Part 50, Appendix E, Section IV.F, as applied to the annual exercise requirement, because the proposed scheduled exercise date would exceed the existing annual date. The last exercise at the Turkey Point Plant was on June 9, 1983 and the requested date for the 1984 exercise and subsequent annual exercises is November 7.

The licensee bases this request for exemption on a desire to shift the annual exercise to the late fall period of the year on a continuing basis. Not only would an annual exercise for the Turkey Point Plant later in the year benefit the state emergency preparedness program by providing a more even distribution of exercises, but would also avoid conflict with the summer hurricane season and the recurring demands this period entails annually.

III

A review of exercise schedules for past years shows that the Turkey Point exercise dates have consistently fallen within the prescribed limits and that there is no specific pattern showing either intentional or inadvertent exceeding of the intended annual requirement. The proposed date falls within the calendar year 1984, however, an exemption is needed to exceed the existing established date of June 9.

The 1982 exercise was held on March 14-15, 1982, while the 1983 exercise was held on June 9, 1983. Both exercises showed the licensee could effectively implement the emergency plan and implementing procedures. In addition, the corporate emergency response capability was extensively exercised during the Federal Field Emergency Exercise at St. Lucie in March 1984. The fact that the licensee and State committed extensive resources to planning, implementation, and followup activities for the Federal Field Exercise had bearing on the request to schedule the Turkey Point Exercise for the November 1984 time frame. The NRC staff has also discussed shifting the Turkey Point Exercise to the late fall period on a continual basis with the State of Florida. The State supports shifting the Turkey Point Exercise to this time frame for 1984 and on a continuing basis. The requested date does not conflict with other scheduled exercises within NRC Region II and thus, the schedule does not work any hardship on the regional staff.

The rationale provided by the licensee to justify the requested exemption is: (1) To more equitably distribute the emergency exercises for the State's benefit since the State must plan for and provide emergency support for two other nuclear power facilities, and (2) to avoid the summer hurricane season which could curtail the local counties' ability to participate.

IV

Based on the above, the staff concludes that scheduling the Turkey Point Plant emergency preparedness exercise for November 7, 1984, will not adversely affect the overall state of emergency preparedness at the Turkey Point site. In addition, the permanent shift of the annual exercises to November on a continuing basis will benefit all parties concerned and will avoid conflicts with the summer hurricane season. Therefore, the requested exemption from the schedular requirements of 10 CFR Part 50, Appendix E, Section IV.F, for the 1984 exercise and establishing November for the annual exercises on a continuing basis is appropriate and should be granted.

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption requested by the licensee's July 28, 1984 letter is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest. Therefore, the requested exemption which authorizes the licensee to conduct the 1984 annual Turkey Point Plant emergency exercise and related drills in November 1984 and subsequent annual exercises in November is hereby granted.

Pursuant to 10 CFR 51.32, the Commission has determined that the issuance of the exemption will have no significant impact on the environment (49 FR 38211).

For further details with respect to this action, see the application for exemption dated July 28, 1984, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

Dated at Bethesda, Maryland this 20th day of September 1984.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 84-26854 Filed 10-5-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-219]

GPU Nuclear Corp. and Jersey Central Power and Light Co.; Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 76 to Provisional Operating Licensing No. DPR-16, issued to GPU Nuclear Corporation and Jersey Central Power and Light Company (the licensees), which revised the Technical Specifications and the license for operation of the Oyster Creek Nuclear Generating Station (the facility) located in Ocean County, New Jersey. The amendment was effective as of the date of its issuance.

The amendment authorized increased storage capacity of the spent fuel pool from 1800 fuel assemblies to 2600 fuel assemblies with average enrichments no greater than 3.01 weight percent U-235.

The application for the amendment complies with the standards and

requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment and Opportunity for Prior Hearing in connection with this action was published in the **Federal Register** on October 8, 1982 (47 FR 44647). No request for a hearing or petition for leave to intervene was filed following this notice.

The staff has reviewed this proposed facility modification relative to the requirements set forth in 10 CFR Part 51. Based upon the environmental assessment, the staff concluded that there are no significant radiological or non-radiological impacts associated with the proposed action and that the proposed license amendment will not have a signficant effect on the quality of the human environment. Therefore, the Commission has determined, pursuant to 10 CFR 51.31, not to prepare an environmental impact statement for the proposed amendment. A Notice of Issuance of Environmental Assessment and Finding of No Significant Impact was published in the **Federal Register** on September 17, 1984 (49 FR 36460).

For further details with respect to the action see: (1) The application for amendment dated August 20, 1982, as supplemented September 2 and December 20, 1983, (2) Amendment No. 76 to License No. DPR–16, (3) the Commission's related Safety Evaluation dated September 17, 1984, and (4) the Environmental Assessment dated September 13, 1984. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., and at the Oyster Creek Local Public Document Room, 101 Washington Street, Toms River, New Jersey 08753. A copy of items (2), (3), and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 1st day of October, 1984.

For the Nuclear Regulatory Commission.

Walter A. Paulson,

Acting Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 84–26652 Filed 10–5–84; 8:45 am]

BILLING CODE 7590–01–M

PRESIDENT'S ADVISORY COUNCIL ON PRIVATE SECTOR INITIATIVES

Meeting

Pursuant to the Federal Advisory Committee Act, notice is hereby given of a meeting sponsored by the President's Advisory Council on Private Sector Initiatives which will be held on October 18, 1984 at 8:30 a.m. at the Hyatt Regency in Dallas, Texas.

The Council was established on June 27, 1983 by Executive Order No. 12427 to advise the President with respect to the objectives and conduct of private sector initiative policies, including methods of increasing public awareness of the importance of public/private partnerships; removing barriers to development of effective social service programs which are administered by private organizations; and strengthening the professional resources of the private social services sector.

The purpose and agenda of the meeting is to discuss the Council's successful programs and outline its work for the remainder of the year.

The meeting will be open to the public. It is suggested that any member of the public who would like to file an oral or written statement or desires any further information regarding the meeting or the Council, please contact Ms. Patricia Kearney, Director of Communications of the White House Office of Private Sector Initiatives at 202/456–6676, or Executive Office Building, Room 134, Washington, D.C. 20500.

Dated: October 1, 1984.

James K. Coyne,

Special Assistant to the President for Private Sector Initiatives.

[FR Doc. 84–26773 Filed 10–5–84; 10:21 am]

BILLING CODE 3195–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 23442; 70–7028]

Columbia Gas System, Inc., et al.; Proposed Recapitalization by Subsidiary Companies

October 3, 1984.

In the Matter of the Columbia Gas System, Inc., 20 Montchanin Road, Wilmington, Delaware 19807; Columbia Gas Transmission Corp., 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314; Columbia Gas of New York, Inc., 200 Civic Center Drive, Columbus, Ohio 43215.

The Columbia Gas System, Inc. ("Columbia"), a registered holding company, and two of its subsidiary companies, Columbia Gas Tansmission Corporation ("Columbia Transmission") and Columbia Gas of New York, Inc. ("Columbia New York"), have filed a proposal with this Commission pursuant to Sections 6, 7, 9(a), 10, and 12(c) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 42 thereunder.

The companies are seeking authorization for proposed recapitalizations by Columbia Tranmmission and Columbia New York pursuant to which Columbia Transmission will exchange 1,623,275 shares of its $25 par value common stock for $40,581,864.22 principal amount of its 6% Demand Notes the ("Notes") and Columbia New York will exchange 75,285 shares of its $25 par value common stock for $1,882,108.31 principal amount of its similar Notes. Both Columbia Transmission's and Columbia of New York's Notes were issued during the period 1933 to 1941 by several predecessor companies and are held by Columbia. The purpose of the issuance of the Notes was to provide funds for general corporate purposes of the respective predecessor companies, the most important purpose of which was to finance a part of the annual construction program. Columbia has not requested principal payments on the Notes for over thirty years with the result that the Notes have been effectively treated as part of the permanent capital structure of their respective issuing and successor companies. Columbia, Columbia Transmission, and Columbia New York are now desirous of exchanging the Notes for a like amount of common stock at par value in order to recognize the change in the characteristic of this capital investment.

The proposal and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by October 30, 1984, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants at the addresses specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the proposal, as filed or as it may be amended, may be authorized.

For the Commission, by the Office of Public Utility Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-26636 Filed 10-5-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 23443; 70-6306]

Consolidated Natural Gas Co.; Proposed Extension of Period To Issue Common Stock Under Dividend Reinvestment Plan and Exception From Competitive Bidding

October 3, 1984.

Consolidated Natural Gas Company ("Consolidated"), 100 Broadway, New York, New York 10005, (70-6306) a registered holding company, has filed with this Commission a further post-effective amendment to its proposal in this proceeding pursuant to section 6, 7, and 12(c) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 42 and 50(a)(5) promulgated thereunder.

By prior orders in this proceeding dated June 7, 1979, February 12, 1982, and November 10, 1983 (HCAR Nos. 21089, 22388, and 23114), Consolidated was authorized to issue and sell shares of its common stock, $4 par value, from time to time through December 31, 1984, to Morgan Guaranty Trust Company of New York, agent for participants in Consolidated's Dividend Reinvestment Plan. As of September 28, 1984, 220,391 shares of common stock allocated to the dividend reinvestment plan remained unissued.

By post-effective amendment, Consolidated now requests that the period for the common stock issuance be extended to December 31, 1985, for the remaining 220,391 shares. Consolidated seeks an exception from the competitive bidding requirements of Rule 50 pursuant to subsection (a)(5) thereof.

The proposal and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by October 30, 1984, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered and will receive a copy of any notice or order issued in this matter. After said date, the proposal, as filed or as it may be amended, may be authorized.

For the Commission, by the Office of Public Utility Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-26637 Filed 10-5-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 23441; 70-7015]

New England Power Co.; Proposed Issuance and Sale of Preferred Stock and of General and Refunding Mortgage Bonds, Issuance and Pledge of First Mortgage Bonds, and Financing of Pollution Control Facilities, and Exception From Competitive Bidding

October 2, 1984.

New England Power Company ("NEP"), 25 Research Drive, Westborough, Massachusetts, an electric utility subsidiary of New England Electric System, a registered holding company, has filed a proposal with this Commission pursuant to sections 6, 7, 9(a), and 10 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50 promulgated thereunder.

NEP has requested authorization to implement a general financing plan during the period ending December 31, 1986, calling for one or more issues of securities in an aggregate amount not exceeding $100 million (not including the issue of Pledged Bonds pursuant to (iv) below), including: (i) the issuance and sale of one or more series of additional preferred stock in an aggregate par value not exceeding $50 million; (ii) the execution of one or more loan agreements with issuing authorities in an aggregate principal amount not exceeding $50 million in connection with the issue of pollution control revenue bonds on behalf of NEP; (iii) the issuance and sale of one or more series of General and Refunding Mortgage Bonds ("G&R Bonds") in an aggregate principal amount that, when aggregated with the par value of any additional preferred stock issued, will not exceed $100 million (all or a portion of which may be issued in connection with the issuance of pollution control revenue bonds); and (iv) the issuance and pledge of one or more series of First Mortgage Bonds aggregating not in excess of the amount of additional G&R Bonds issued.

The capital stock of NEP includes a Dividend Series Preferred ($100 par value) and a Preferred Stock—Cumulative ($25 par value). NEP proposes to issue and sell one or more issues of either class of preferred stock not to exceed an aggregate par value of $50 million (hereinafter, the "Additional Preferred Stock"). The Additional Preferred Stock may be sold at competitive bidding through the public invitation of sealed, written bids, or NEP may also employ alternative competitive bidding procedures in accordance with the Commission's statement of policy (HCAR No. 22623 (September 2, 1982)) authorizing the use of such procedures in lieu of the procedures prescribed by Rule 50(b). However, NEP indicates that if market conditions make competitive bidding impractical or undesirable, NEP may seek an order authorizing either a private placement or negotiation with underwriters.

NEP also proposes to issue and sell one or more new series of its General and Refunding Mortgage Bonds in an aggregate principal amount that, when aggregated with the par value of any preferred stock issued, would not exceed $100 million (the "Additional G&R Bonds"). All or a portion of the Additional G&R Bonds may be issued in connection with the issuance of pollution control revenue bonds. The Additional G&R Bonds will mature in not more than 30 years and will be issued under NEP's General and Refunding Mortgage Indenture and Deed of Trust dated as of January 1, 1977, as amended and supplemented (the "G&R Indentures"). All bonds heretofore and hereafter issued under the G&R Indenture are secured by a mortgage lien on substantially all the properties then owned and, to the extent permitted by law, thereafter acquired by NEP, subject to the lien of its First Mortgage Indenture, liens permitted by the G&R Indenture, and property excepted in the G&R Indenture. All bonds issued under the G&R Indenture are further secured by First Mortgage Bonds which NEP is obligated to issue and pledge with the trustee under the G&R Indenture as described below. Except with respect to bonds issued in connection with financing pollution control facilities, the Additional G&R Bonds will be sold at competitive bidding in the same manner and subject to the same qualifications and alternatives as previously specified for the Additional Preferred Stock.

Not in excess of $50 million aggregate principal amount of the Additional G&R Bonds would be issued to finance NEP's share of pollution control facilities at the Seabrook and Millstone nuclear projects. These bonds would be issued in connection with the issuance of long-term pollution control revenue bonds by the Industrial Development Authority of

the State of New Hampshire ("NHIDA") in the case of the Seabrook I nuclear project and the Connecticut Development Authority ("CDA") in the case of the Millstone 3 nuclear project (NHIDA and CDA are hereinafter referred to individually and collectively as the "Issuing Authority".). NEP's share of these expenses and carrying charges is currently estimated to be approximately $20 million for the Millstone nuclear project and $15 million for the Seabrook nuclear project. In addition, NEP has been advised that the Internal Revenue Service may consider certain other costs associated with nuclear plants as being qualified for financing with pollution control revenue bonds. As provided in a loan agreement to be entered into between NEP and the Issuing Authority, the proceeds from the sale of pollution control revenue bonds by the Issuing Authority would be loaned to NEP. In connection with the issuance of long-term pollution control revenue bonds, NEP would contemporaneously issue a corresponding amount of Additional G&R Bonds to the Issuing Authority to secure payment of the principal of, premium, if any, and interest on, the pollution control revenue bonds issued on NEP's behalf. NEP has requested an exception from the competitive bidding pursuant to Rule 50(a)(5) with respect to the issue of Additional G&R Bonds in connection with the execution of one or more loan agreements with the Issuing Authority.

Prior to 1977, NEP financed its construction program in part through the sale of the public of First Mortgage Bonds issued pursuant to an Indenture of Trust and First Mortgage dated as of November 15, 1936, as amended by supplemental indentures thereto (the "First Mortgage"). Since 1977, NEP has issued and sold to the public G&R Bonds pursuant to its G&R Indenture. Under the G&R Indenture, additional property represented by nuclear generating plants and other facilities under construction may be the basis for the issuance of additional G&R Bonds and other actions, whether or not final operating licenses and environmental permits for such facilities have been obtained. Only Pledged Bonds may now be issued under the First Mortgage. In connection with the issue of Additional G&R Bonds, NEP proposes to issue and pledge, from time to time as permitted under the terms of the First Mortgage, one or more series of additional Pledged Bonds. The aggregate principal amount of all Pledged Bonds issued will not exceed the aggregate principal amount of Additional G&R Bonds issued. There will be no proceeds from the issuance and pledge of the Pledged Bonds. The Pledged Bonds will bear the same interest rates and maturities as the series of Additional G&R Bonds with respect to which they are issued. As long as NEP is not in default under its G&R Indenture, the principal, interest, and premium, if any, on any Pledged Bonds need not be paid to the G&R Trustee. To the extent payments are made on the Pledged Bonds, the amount due from NEP to the holders of the G&R Bonds will be reduced to preclude any double recovery.

NEP will apply the proceeds from the proposed financings to the payment of short-term borrowings incurred for, or to the cost of or to the reimbursement of the treasury for, uncapitalized additions and improvements to plant and property, and other uncapitalized expenditures.

The proposal and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by October 30, 1984, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the proposal, as filed or as it may be amended, may be authorized.

For the Commission, by the Office of Public Utility Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-26838 Filed 10-5-84; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[CM-8/773]

Advisory Committee on Historical Diplomatic Documentation; Meeting

The Advisory Committee on Historical Diplomatic Documentation will meet on November 9, 1984, at 9:00 a.m. in Room 1107 of the Department of State.

The Advisory Committee advises the Bureau of Public Affairs, and in particular the Office of the Historian, concerning problems connected with preparation of the documentary series entitled *Foreign Relations of the United States* and other responsibilities of that Office. Of particular importance are editorial and publishing practice and questions related to declassification of offical records as specified in Executive Order 12356 (April 2, 1982).

In accordance with Section 10(d) of the Advisory Committee Act (Pub. L. 92-463) it has been determined that certain discussions during the meeting will necessarily involve consideration of matters recognized as not subject to public disclosure under 5 U.S.C. 552b(c)(1), and that the public interest requires that such activities be withheld from disclosure. The meeting will therefore be closed when such discussions take place, at 2:00 p.m., Friday, November 9.

Persons wishing to attend the meeting should come before 9:00 a.m. on November 9 to the Diplomatic Entrance of the Department of State at 22nd and C Streets, N.W., Washington, D.C. They will be escorted to room 1107 and at the conclusion of the open portion of the meeting back to the Diplomatic Entrance.

Questions concerning the meeting should be directed to William Z. Slany, Executive Secretary, Advisory Committee on Historical Diplomatic Documentation, Department of State, Office of the Historian, Washington, D.C. 20520; telephone (202) 632-8888.

Dated: September 19, 1984.

William Z. Slany,

Executive Secretary.

[FR Doc. 84-26520 Filed 10-5-84; 8:45 am]

BILLING CODE 4710-11-M

[CM-8/772]

Shipping Coordinating Committee; Notice of Two Meetings

The Shipping Coordinating Committee (SHC) will conduct an open meeting on November 1, 1984 at 9:30 AM in Room 2415 at U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C.

The purpose of the meeting is to finalize preparations for the 50th Session of the Maritime Safety Committee (MSC) of the International Maritime Organization (IMO) which is scheduled for November 19-30 in London. In particular, the SHC will discuss the development of U.S. positions dealing with, among others, the following topics:

—Survey and Certification
—Reports of the various Subcommittees

—Implementation of instruments and related matters
—Replacement of tonnage measurement parameters in IMO conventions

Members of the public may attend up to the seating capacity of the room.

The Shipping Coordinating Committee (SHC) will conduct an open meeting on November 1, 1984 at 1:30 PM in Room 2415 at U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C.

The purpose of the meeting is to finalize preparations for the 53rd Session of the Council of the International Maritime Organization (IMO) which is scheduled for November 12–15 in London. In particular, the SHC will discuss the development of U.S. positions dealing with, among others, the following topics:

—Reports of the various Committees
—Personnel Matters
—Financial Matters

Members of the public may attend up to the seating capacity of the room.

For further information on both meetings contact Mr. G.P. Yoest, U.S. Coast Guard Headquarters, (G–CPI), 2100 Second Street, SW., Washington, D.C. 20593. Telephone: (202) 426–2280.

Dated: September 14, 1984.

Samuel V. Smith,

Executive Secretary, Shipping Coordinating Committee.

[FR Doc. 84–26601 Filed 10–5–84; 8:45 am]

BILLING CODE 4710–07–M

[CM–8/770]

Study Group 6 of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Group 6 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet at 9:00 a.m. on October 30, 1984 in the Holzman Seminar Room in Building 1105A at the Air Force Geophysics Laboratory, Hanscom Air Force Base, Massachusetts.

Study Group 6 deals with matters relating to the propagation of radio waves in and through the ionosphere. The purpose of the meeting will be to discuss the status of document preparation for the Final Meeting of international Study Group 6 scheduled for the Fall of 1985.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Admittance of public members will be limited to the seating available. Requests for further information should be directed to Mr. Richard Shrum, State Department, Washington, D.C. 20520; telephone (202) 632–2592.

Dated: September 21, 1984.

Richard E. Shrum,

Chairman, U.S. CCIR National Committee.

[FR Doc. 84–26603 Filed 10–5–84; 8:45 am]

BILLING CODE 4710–07–M

[CM–8/771]

Study Group 7 of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Group 7 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on October 25, 1984 at the U.S. Naval Observatory, Room 300, Building 52, 34th and Massachusetts Avenue, N.W., Washington, D.C. The meeting will begin at 9:30 a.m.

Study Group 7 deals with time-signal services by means of radiocommunications. The purpose of the meeting is to establish a work program in preparation for the international meetng of Study Group 7 in October, 1985.

Members of the general public may attend the meeting and join in the discussions subject to the instructions of the Chairman. Requests for further information should be directed to Mr. Richard Shrum, State Department, Washington, D.C. 20520 (telephone (202) 632–2592).

Dated: September 21, 1984.

Richard E. Shrum,

Chairman, U.S. CCIR National Committee.

[FR Doc. 84–26602 Filed 10–5–84; 8:45 am]

BILLING CODE 4710–07–M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Public Information Collection Requirements Submitted to OMB for Review

Dated: October 1, 1984.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB (listed by submitting bureau(s)), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of these submissions may be obtained by calling the Treasury Bureau Clearance Officer listed under each bureau. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 7225, 1201 Constitution Avenue, NW., Washington, D.C. 20220.

Internal Revenue Service

OMB Number: 1545–0192
Form Number: IRS Form 4970
Type of Review: Extension
Title: Tax on Accumulation Distribution of Trusts

OMB Number: 1545–0877
Form Number: IRS Form 1099–A
Type of Review: New
Title: Information Return for Acquisition or Abandonment of Secured Property

OMB Number: 1545–0046
Form Number: IRS Form 982
Type of Review: Revision
Title: Reduction of Tax Attributes Due to Discharge of Indebtedness
Clearance Officer: Garrick Shear, (202) 566–6254, Room 5571, 1111 Constitution Avenue, NW., Washington, D.C. 20224
OMB Reviewer: Norman Frumkin, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Bureau of Government Financial Operations

OMB Number: 1510–0020
Form Number: BGFO Form 5910
Type of Review: Extension
Title: Combined Analysis of U.S. Treasury Time Deposit/Open Account and U.S. Treasury's General Account
Clearance Officer: Doug Lewis, (202) 287–4500, Bureau of Government Financial Operations, Room 163, Liberty Loan Building, 401 14th Street, NW., Washington, D.C. 20228
OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Joseph F. Maty,

Departmental Reports Management Office.

[FR Doc. 84–26563 Filed 10–5–84; 8:45 am]

BILLING CODE 4810–35–M

UNITED STATES INFORMATION AGENCY

Advisory Commission on Public Diplomacy; Closed Meeting

The United States Advisory Commission on Public Diplomacy will conduct a meeting in Room 600, 301 4th Street, SW. on October 17 from 10:00 a.m. to 12:00 p.m.

The meeting will be closed to the public from 10:00—11:00 a.m., because it will involve a discussion of classified information relating to U.S. policies and public diplomacy programs in Central America. (5 U.S.C. 552b(c)(1)). Premature disclosure of this information is likely to significantly frustrate implementation of proposed Agency action, because there will be a discussion of future Agency policy and programs. (5 U.S.C. 522b(c)(9)(B))

The Commission will meet from 11:00 a.m.—12:00 p.m. to discuss USIA's television programming. This portion of the meeting is open to the public. Please call Gloria Kalamets, (202) 485–2468, if you plan to attend because entrance to the building is controlled.

Dated: October 2, 1984.

Charles Z. Wick,

Director.

Determination to Close Advisory Commission Meeting of October 17, 1984

Based on the information provided to the United States Information Agency by the United States Advisory Commission on Public Diplomacy, I hereby determine that the 10:00—11:00 AM portion of the meeting scheduled by the Commission for October 17, 1984 may be closed to the public.

The Commission has requested that part of its October 17 meeting be closed. because it will involve a discussion of classified information relating to U.S. policies and public diplomacy programs in Central America. (5 U.S.C. 552b(c(1)) Premature disclosure of this information is likely to frustrate significantly the implementation of proposed Agency action, because there will be a discussion of future Agency policy and programs. (5 U.S.C. 552b(c)(9)(B)).

Charles Z. Wick,

Director.

[FR Doc. 84–26500 Filed 10–5–84; 8:45 am]

BILLING CODE 8230–01–M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 196
Tuesday, October 9, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: See Time and Date below.

PLACE: In the Board Room, 6th Floor, 1700 G St., NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Gravlee, (202–377–6677).

MATTERS TO BE CONSIDERED:

Monday, October 15, 1984 at 10:00 A.M.

Earnings Based Deposits
Inclusion of Subordinated Debt as Regulatory Net Worth
Policies Relating to Insurance of Accounts of *De Novo* Institutions

Friday, October 19, 1984 at 2:30 A.M.

Clarification of Assets Qualifying for the Deferral and Amortization of Gains and Losses
Accounting for Certain Real Estate Lending Activities

J.J. Finn,
Secretary.
October 4, 1984.
[FR Doc. 84-26873 Filed 10-4-84; 10:23 am]
BILLING CODE 6725-01-M

2

FEDERAL RESERVE SYSTEM.

TIME AND DATE: 11:00 a.m., Tuesday, October 9, 1984.

The business of the Board requires that this meeting be held with less than one week's advance notice to the public, and no earlier announcement of the meeting was practicable.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: October 3, 1984.

James McAfee,
Associate Secretary of the Board.
[FR Doc. 84-26861 Filed 10-3-84; 4:54 pm]
BILLING CODE 6210-01-M

3

POSTAL SERVICE

Vote to Close Meeting

At its meeting on October 2, 1984, the Board of Governors of the United States Postal Service unanimously voted to close to public observation its meeting, scheduled for November 13, 1984, in Washington, D.C. The meeting will involve: (1) Discussion of personnel matters; (2) a continuation of the discussion of strategies and positions in connection with possible continued collective bargaining negotiations, pursuant to chapter 12 of title 39 United States Code, involving parties to the 1981 National Agreements, between the Postal Service and four labor organizations representing certain postal employees, which expired in July 1984; and (3) further consideration of the Postal Rate Commission's September 7, 1984, Recommended Decision in Docket No. R84–1, the omnibus rate case.

The meeting is expected to be attended by the following persons: Governors Babcock, Camp, McKean, Peters, Ryan, Sullivan, and Voss; Postmaster General Bolger; Deputy Postmaster General Finch; Secretary of the Board Harris; General Counsel Cox; Senior Assistant Postmasters General Coughlin and Morris; and Counsel to the Governors Califano.

As to the first agenda item, the Board determined that pursuant to section 552b(c)(6) of title 5, United States Code, and § 7.3(f) of Title 39 Code of Federal Regulations, the discussion of this matter is exempt from the open meeting requirement of the Government in the Sunshine Act (5 U.S.C. 552b) because it is likely to disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy. The Board also determined that the public interest did not require that the Board's discussion of this matter be open to the public.

As to the second of these agenda items, the Board is of the opinion that public access to any discussion of possible strategies that Postal Service management may decide to adopt, or the positions it may decide to assert, would be likely to frustrate action to carry out those strategies or assert those positions successfully. In making this determination, the Board is aware that the effectiveness of the collective bargaining process in labor-management relations has traditionally depended on the ability of the parties to prepare strategies and formulate positions without prematurely disclosing them to the opposite party. The public has a particular interest in the integrity of this process as it relates to the Postal Service, since the outcome of the negotiations between the Postal Service and the various postal unions, and consequently the cost, quality and efficiency of postal operations, may be adversely affected if the process is altered.

Accordingly, the Board of Governors has determined that, pursuant to section 552b(c)(3) of title 5, United States Code, and § 7.3(c) of Title 39, Code of Federal Regulations, this portion of the meeting is exempt from the opening meeting requirement of the Government in the Sunshine Act (5 U.S.C. 553b(b)), because it is likely to disclose information prepared for use in connection with the negotiation of collective bargaining agreements under chapter 12 of title 39, United States Code, which is specifically exempted from disclosure by section 410(c)(3) of title 39, United States Code. The Board has determined further that, pursuant to section 552b(c)(9)(B) of title 5, United States Code, and § 7.3(i) of Title 39, Code of Federal Regulations, the discussion is exempt because it is likely to disclose information the premature disclosure of which is likely to frustrate significantly proposed Postal Service action. Finally, the Board of Governors has determined that the public has an interest in maintaining the integrity of the collective bargaining process and that the public interest does not require that the Board's discussion of its possible collective bargaining strategies and positions be open to the public.

As to the third agenda item, the Board is of the opinion that public access to

the discussions would be likely to disclose information that will become involved in future rate or classification litigation.

Accordingly, the Board of Governors has determined that, pursuant to section 552b(c)(3) of title 5, United States Code, and § 7.3 (c) of Title 39, Code of Federal Regulations, this portion of the meeting is exempt from the open meeting requirements of the Government in the Sunshine Act, because it is likely to disclose information in connection with proceedings under chapter 36 of title 39 (having to do with postal ratemaking, mail classification and changes in postal services), which is specifically exempted from disclosure by section 410(c)(4) of title 39, United States Code. The Board has determined further, that pursuant to section 552b(c)(10) of title 5, United States Code, and § 7.3(j) of Title 39, Code of Federal Regulations, the discussion is exempt because it is likely to specifically concern the participation of the Postal Service in a civil action or proceeding or the litigation of a particular case involving a determination on the record after opportunity for a hearing. The Board further determined that the public interest does not require that the Board's discussion of the matter by open to the public.

In accordance with section 552b(f)(1) of title 5, United States Code, and § 7.6(a) of Title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in his opinion the meeting to be closed may properly be closed to public observation, pursuant to sections 552b(c)(3), (6), (9)(B) and (10) of title 5 and sections 410(c)(3) and (4) of title 39, United States Code, and §§ 7.3(c), (f), (i) and (j) of Title 39, Code of Federal Regulations.

David F. Harris,

Secretary.

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Part II

Department of Commerce

Economic Development Administration

Economic Development Assistance Programs as Described in Conference Report 98-952, Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations, 1985; Availability of Funds; Notice

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DEPARTMENT OF COMMERCE

Economic Development Administration

Economic Development Assistance Programs as Described in Conference Report 98-952, Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations, 1985; Availability of Funds

AGENCY: Economic Development Administration (EDA), Commerce.

ACTION: Notice.

SUMMARY:

I. Program: Planning Assistance for Economic Development Districts, Redevelopment Areas and Indian Tribes

(Catalog of Federal Domestic Assistance: 11.302 Economic Development—Support for Planning Organizations)

Summary: The Economic Development Administration announces its policies and application procedures for funds available to defray administrative expenses in support of the economic development planning efforts of Economic Development Districts (Districts), Redevelopment Areas (Areas) and Indian Tribes under the authority of section 301(b) of the Public Works and Economic Development Act of 1965, as amended (PWEDA), 42 U.S.C. 3151(b).

Eligibility: Eligible applicants are Districts, Redevelopment Areas, organizations representing Redevelopment Areas (or parts of such Areas) and Indian Tribes.

Project Objective: The primary objective of planning assistance for administrative expenses under section 301(b) is to support the formulation and implementation of economic development programs designed to create or retain full-time permanent jobs and income, particularly for the unemployed and underemployed in the most distressed areas served by the applicant. Planning activities conducted under this assistance must be part of a continuous process involving public officials and private citizens.

Funding Availability: Funds in the amount of $19 million are available in two categories: Districts and Areas (Category A)—$16 million; and Indian Tribes (Category B)—$3 million.

Funding Instrument: Grant assistance will be provided for up to 75 percent of project costs for Category A grants. Under Category A, the applicant will be required to provide the matching share. Category B grant assistance will be provided for up to 100 percent of project costs.

Project Duration: Both Category A and Category B assistance will be for a period of up to twelve months.

Selection Criteria: Priority consideration will be given to currently funded grantees with proposals which are eligible under section 301(b) of PWEDA, 42 U.S.C. 3151(b) and who meet the selection criteria. Funds which remain will be utilized to fund new proposals from othe eligible applicants under both Categories A and B. EDA will consider the following factors in evaluating proposals:

1. The responsiveness of the proposed work program to the program regulations contained in 13 CFR 307.22;
2. The economic distress of the area served by the applicant;
3. For currently funded grantees, past performance (including information in scheduled progress reports).

Pre-Application Procedures: Currently funded grantees and other eligible applicants under both Categories A and B should begin the application process by submitting a proposal which should include:

1. A letter signed by the chief elected official (Chairman of the Board, Tribal Chairman) or another authorized official of the District, area or Indian Tribe stating their desire to receive funds to carry out the types of planning and administrative activities eligible under the 301(b) program; and
2. A work program outlining the specific economic development planning activities that will be carried out during the grant period.

Currently funded grantees should submit proposals to the appropriate EDA Regional Office no later than November 15, 1984. New applicants should submit their proposals to the appropriate EDA Regional Office no later than March 31, 1985. Proposals postmarked after these dates may not receive consideration.

Formal Application Procedures: EDA will evaluate proposals using the selection criteria mentioned above, before authorizing the submission of a formal application. Following a review of proposals, EDA will invite proponents whose proposals are selected for funding consideration to submit a formal application, which may include an ED-430 Planning Grant Application, an ED-503 Assurance of Civil Rights Compliance, and other required application materials.

Applicants whose proposals are not selected shall be notified within 90 days of their respective submission deadlines.

EDA will evaluate applications for conformance with published statutory, regulatory and policy requirements. Except in cases where work program changes or other factors dictate a different approach, EDA expects to offer grant amendments to currently funded grantees selected for assistance.

Applications proposed for funding under this program are subject to the requirements of Executive Order 12372, "Intergovernmental Review of Federal Programs."

An applicant which has an outstanding accounts receivable with the Federal government may not receive new awards until it has paid its debt(s) or has made arrangements approved by the Department of Commerce to do so.

When all of EDA's funds for this program have been awarded, unsuccessful applicants will be notified of the status of their applications as soon as possible.

Further Information: For further information contact the appropriate EDA Regional Office (see list below) or William A. Willis, (202) 377-3027, Office of Planning, Technical Assistance, Research and Evaluation, Economic Development Administration, Room 7866, U.S. Department of Commerce, Washington, D.C. 20230.

II. Program: Planning Assistance for Urban Areas

(Catalog of Federal Domestic Assistance: 11.305 Economic Development—State and Local Economic Development Planning)

Summary: The Economic Development Administration announces its policies and application procedures for funds available for the Urban Planning Program operated under the authority of section 302(a) of the Public Works and Economic Development Act of 1965, as amended, (PWEDA), 42 U.S.C. 3151a.

Eligibility: Eligible applicants under this program are cities and urban counties.

Project Objective: The primary objective of planning assistance under section 302(a) is to strengthen the economic development planning and policy-making capabilities of cities and urban counties to ensure a more effective use of available resources in addressing economic problems, particularly those resulting in high unemployment and low incomes. Planning activities conducted under this assistance must be part of a continuous process involving public officials and private citizens.

Funding Availability: Funds in the amount of $5 million are available for providing grant assistance under this program.

Funding Instrument: Grant assistance will be provided for up to 75 percent of project costs. Applicants will be required to provide the matching share.

Project Duration: Assistance under this program will be for a period of up to twelve months.

Selection Criteria: Priority consideration will be given to currently funded grantees as well as cities and counties with populations of 50,000 or more with proposals which are eligible under section 302(a) of PWEDA, 42 U.S.C. 3151a and who meet the selection criteria. Funds which remain will be utilized to fund new proposals from other eligible applicants. EDA will consider the following factors in evaluating proposals:

1. The responsiveness of the proposed work program to the program regulations contained in 13 CFR 307.52(a)(2);

2. The economic distress of the area served by the applicant;

3. For currently funded grantees, past performance (including information in scheduled progress reports).

Pre-Application Procedures: Currently funded grantees and other eligible applicants should begin the application process by submitting a proposal which should include:

1. A letter signed by the head of the applicant organization or another authorized official stating their desire to receive funds to carry out the types of planning activities eligible under the 302(a) program; and

2. A work program outlining the specific economic development planning activities that will be carried out during the grant period.

Proposals should be submitted to Beverly L. Milkman, Director, Office of Planning, Technical Assistance, Research and Evaluation, Economic Development Administration, Room 7866, U.S. Department of Commerce, Washington, D.C. 20230.

Currently funded grantees whose grants expire on December 31, 1984, should submit proposals no later than November 15, 1984. Those grantees whose programs expire on March 31, 1985, should submit proposals no later than February 15, 1985. New applicants should submit their proposals no later than February 28, 1985. Proposals postmarked after these dates may not receive consideration.

Formal Application Procedures: EDA will evaluate proposals using the selection criteria mentioned above, before authorizing the submission of a formal application. Following a review of proposals, EDA will invite proponents whose proposals are selected for funding consideration to submit a formal application, which may include an ED-430 Planning Grant Application, an ED-503 Assurance of Civil Rights Compliance, and other required application materials.

Applicants whose proposals are not selected shall be notified within 90 days of their respective submission deadlines.

EDA will evaluate applications for conformance with published statutory, regulatory and policy requirements. Except in cases where work program changes or other factors dictate a different approach, EDA expects to offer grant amendments to currently funded grantees selected for assistance.

Applications proposed for funding under this program are subject to the requirements of Executive Order 12372, "Intergovernmental Review of Federal Programs."

An applicant which has an outstanding accounts receivable with the Federal government may not receive new awards until it has paid its debt(s) or has made arrangements approved by the Department of Commerce to do so.

When all of EDA's funds for this program have been awarded, unsuccessful applicants will be notified of the status of their applications as soon as possible.

Further Information: For further information contact William A. Willis, (202) 377-3027 at EDA Headquarters in Washington, D.C.

III. Program: Planning Assistance for States

(Catalog of Federal Domestic Assistance: 11.305 Economic Development—State and Local Economic Development Planning)

Summary: The Economic Development Administration announces its policies and application procedures for funds available for the State Planning Program operated under the authority of section 302(a) of the Public Works and Economic Development Act of 1965, as amended, (PWEDA), 42 U.S.C. 3151a.

Eligibility: Eligible applicants under this program are States and territories.

Project Objective: The primary objective of planning assistance under section 302(a) is to strengthen the economic development planning capabilities of States and other eligible entities to ensure a more effective use of available resources in addressing economic problems, particularly those resulting in high unemployment and low incomes. Planning conducted under this assistance must be part of a continuous process involving public officials and private citizens.

Funding Availability: Funds in the amount of $3 million are available for this program.

Funding Instrument: Grant assistance will be provided for up to 75 percent of project costs. Applicants will be required to provide the matching share.

Project Duration: Assistance under this program will be for a period of up to twelve months.

Selection Criteria: EDA will consider the following factors in evaluating proposals:

1. The responsiveness of the proposed work program to the program regulations contained in 13 CFR 307.52(a)(1);

2. The economic distress of the area served by the applicant;

3. For currently funded grantees, past performance (including information in scheduled progress reports).

Pre-Application Procedures: Currently funded grantees and other eligible applicants should begin the application process by submitting a proposal which should include:

1. A letter signed by the head of the applicant organization or another authorizes official stating their desire to receive funds to carry out the types of planning activities eligible under the 302(a) program; and

2. A work program outlining the specific economic development planning activities that will be carried out during the grant period.

Proposals should be submitted to Beverly L. Milkman, Director, Office of Planning, Technical Assistance, Research and Evaluation, Economic Development Administration, Room 7866, U.S. Department of Commerce, Washington, D.C. 20230.

Currently funded grantees whose grants expire on December 31, 1984, should submit proposals no later than November 15, 1984. Those grantees whose programs expire on March 31, 1985, should submit proposals no later than February 15, 1985. New applicants should submit their proposals no later than February 28, 1985. Proposals postmarked after these dates may not receive consideration.

Formal Application Procedures: EDA will evaluate proposals using the selection criteria metioned above, before authorizing the submission of a formal application. Following a review of proposals, EDA will invite proponents whose proposals are selected for funding consideration to submit a formal application, which may include an ED-430 Planning Grant Application, an ED-503 Assurance of Civil Rights Compliance, and other required application materials.

Applicants whose proposals are not selected shall be notified within 90 days of their respective submission deadlines.

EDA will evaluate applications for conformance with published statutory, regulatory and policy requirements. Except in cases where work program changes or other factors dictate a different approach, EDA expects to offer grant amendments to currently funded grantees selected for assistance.

Applications proposed for funding under this program are subject to the requirements of Executive Order 12372, "Intergovernmental Review of Federal Programs."

An application which has an outstanding accounts receivable with the Federal government may not receive new awards until it has paid its debt(s) or has made arrangements approved by the Department of Commerce to do so.

When all of EDA's funds for this program have been awarded, unsuccessful applicants will be notified of the status of their applications as soon as possible.

Further Information: For further information contact William A. Willis (202) 377–3027 at EDA Headquarters in Washington, D.C.

IV Program: Technical Assistance for University Centers

(Catalog of Federal Domestic Assistance: 11.303 Economic Development—Technical Assistance)

Summary: The Economic Development Administration announces its policies and application procedures for funds available to support University Centers under the authority of section 301(a) of the Public Works and Economic Development Act of 1965, as amended (PWEDA), 42 U.S.C. 3151(a). University Centers, utilizing external resources and those of the college or university of which they are an integral element, provide technical and other kinds of assistance to public bodies, non-profit organizations and private firms located chiefly in areas of economic distress.

Eligibility: Eligible applicants under this program are public and private colleges and universities.

Program Objective: To stimulate colleges and universities to mobilize more fully their resources to overcome problems which impede economic development in the area or region they serve.

Funding Availability: Funds in the amount of $4 million are available for this program.

Funding Instrument: EDA will provide grants and cooperative agreements with maximum EDA participation up to 75 percent of the proposed project cost. Applicants will be required to provide the matching share.

Project Duration: Assistance under this program may be for a period of up to twelve months.

Selection Criteria: Priority consideration will be given to the refunding of those 40 Centers which presently make up the University Center program and who meet the selection criteria. Funds which remain will be utilized to fund new Centers who meet the selection criteria. EDA will consider the following factors in evaluating proposals:

1. The nature and degree of distress in the area or region the Center will serve.
2. The program which the Center proposes to carry out to meet the needs of the service area, its relationship to activities of other organizations engaged in economic and business development, and its furtherance of the goals of the college or university.
3. The commitment of the University to the Center's mission and purpose in terms of both its financial support and the dedication of other resources.
4. The Center's capacity to provide technical and other types of assistance to jurisdictions and organizations in the service area.
5. Relationship to and support which Center will provide for local, regional or state economic development strategies.
6. Relationship to EDA Regional Office Strategies, and to Department of Commerce objectives in so far as they are not inconsistent with the developmental needs of the area to be served.
7. Absence of another EDA-funded Center in the State.

Pre-Application Procedures

A. *Letters of Interest:* Interested colleges and universities not presently in the program should indicate that they seek support by submitting a letter signed by the institution's President or another authorized official to the appropriate EDA Regional Office stating that they wish to participate in EDA's University Center program. The letter should identify the area their Center will serve and the degree and kind of economic distress it suffers; the relationship of the program to State, regional or local economic development strategies, as appropriate; and the kinds of activity to be undertaken with EDA funds.

The letters of interest by new applicant colleges and universities should be submitted to the appropriate EDA Regional Office no later than January 31, 1985. Letters postmarked after this date may not be considered.

B. *Proposals:* Interested colleges and universities presently in the program and new applicant colleges and universities selected by EDA for consideration of inclusion of their university or college in the program, will be invited to submit a proposal. The Regional Office will provide a proposal package to these applicants.

New applicant colleges and universities will be advised no later than April 30, 1985, whether they are to submit a proposal.

Formal Application Procedures: EDA will evaluate proposals using the selection criteria mentioned above, before authorizing the submission of a formal application. Following a review of project proposals, EDA will invite proponents whose projects are selected for funding consideration to submit a formal application.

EDA will evaluate applications for conformance with published statutory, regulatory and policy requirements.

An applicant which has an outstanding accounts receivable with the Federal government may not receive new awards until it has paid its debt(s) or has made arrangements approved by the Department of Commerce to do so.

When all of EDA's funds for this program have been awarded, unsuccessful applicants will be notified of the status of their applications as soon as possible.

Further Information: For further information contact the appropriate EDA Regional Office (see list below) or Scott Rutherford at (202) 377–2812, Office of Planning, Technical Assistance, Research and Evaluation, Economic Development Administration, Room 7866, U.S. Department of Commerce, Washington, D.C. 20230.

V. Program: Local Technical Assistance Projects

(Catalog of Federal Domestic Assistance: 11.303 Economic Development—Technical Assistance)

Summary: The Economic Development Administration announces its policies and application procedures for funds available to provide technical assistance as may be required to ensure the successful implementation of area and State economic development programs and projects designed to aid areas experiencing economic distress. Funding will be provided under the authority of section 301(a) of the Public Works and Economic Development Act of 1965, as amended (PWEDA), 42 U.S.C. 3151(a).

Eligibility: Eligible applicants under this program include: public or private non-profit State, area, district, or local organizations, private individuals, partnerships, firms, corporations, and other suitable institutions (including

Indian tribes, cities, State agencies and educational institutions).

Project Objective: The objective of section 301(a) local technical assistance grants and cooperative agreements is to provide help that will be useful in alleviating or preventing conditions of excessive unemployment or underemployment in individual States or sub-State areas.

Funding Availability: Funds in the amount of $1.5 million are available for the Local Technical Assistance Program.

Funding Instrument: EDA will provide grants and cooperative agreements with maximum EDA participation up to 75 percent of the proposed project cost. Applicants will be required to provide the matching share.

Project Duration: Assistance will be for the period of time required to complete the scope of work. This will generally not exceed twelve months.

Selection Criteria: Priority will be given to projects which are eligible under section 301a of PWEDA, 42 U.S.C. 3151a, if such projects:

1. Lead to the near-term creation and retention of private sector jobs;
2. Stimulate significant private and non-Federal public capital formation and investment for economic development purposes;
3. Are consistent with the EDA approved overall economic development program (OEDP) for the area in which it is, or will be, located, and have been recommended by the OEDP Committee;
4. Combine support for the following Department of Commerce goals with the accomplishment of economic development objectives: export promotion, productivity enhancement, technology development and utilization, and minority business development;
5. Further the objectives of EDA Regional Office Strategies. (Information on Regional Office Strategies must be obtained from the appropriate Regional Office.)

Projects will also be evaluated on the quality of the proposed work program and the qualifications of the applicant to carry out that work program.

Pre-Application Procedures: Interested applicants should contact the Economic Development Representative for the area or the appropriate EDA Regional Office for a proposal package. The EDA Regional Office can furnish the name, address and telephone number of the Economic Development Representative for the applicant's area.

Proposals should be submitted to the appropriate EDA Regional Office as early in the fiscal year as possible, but not later than February 28, 1985. Proposals postmarked after that date may not receive priority consideration.

Formal Application Procedures: EDA will evaluate proposals using the selection criteria mentioned above, before authorizing the submission of a formal application. Following a review of project proposals, EDA will invite proponents whose projects are selected for funding consideration to submit a formal application.

Applicants whose proposals are not selected will be notified within 90 days of the February 28 submission deadline.

EDA will evaluate applications for conformance with published statutory, regulatory and policy requirements.

Applications proposed for funding under this program are subject to the requirements of Executive Order 12372, "Intergovernmental Review of Federal Programs."

An applicant which has an outstanding accounts receivable with the Federal government may not receive new awards until it has paid its debt(s) or has made arrangements approved by the Department of Commerce to do so.

When all of EDA's funds for this program have been awarded, unsuccessful applicants will be notified of the status of their applications as soon as possible.

Further Information: For further information contact the appropriate EDA Regional Office (see list below) or Scott Rutherford at (20) 377-2812, Office of Planning, Technical Assistance, Research and Evaluation, Economic Development Administration, Room 7866, U.S. Department of Commerce, Washington, D.C. 20230.

VI. Program: National Technical Assistance Projects

(Catalog of Federal Domestic Assistance: 11.303 Economic Development—Technical Assistance)

Summary: The Economic Development Administration announces its policies and application procedures for funds available to provide technical assistance as may be required to under the National Technical Assistance Program. Funding will be provided under the authority of section 301(a) of the Public Works and Economic Development Act of 1965, as amended (PWEDA), 42 U.S.C. 3151(a).

Eligibility: Eligible applicants under this program include: public or private non-profit State, area, district, or local organizations; private individuals, partnerships, firms, corporations, and other suitable institutions (including Indian tribes and educational institutions).

Project Objective: The objective of section 301(a) technical assistance grants and cooperative agreements is to provide help that will be useful in alleviating or preventing conditions of excessive unemployment or underemployment. Grants and cooperative agreements will be made to address topical issues and problems of concern to the economic development community at large, demonstrate the effectiveness of new approaches to stimulating economic development in depressed areas, and/or disseminate information on critical economic development issues to public and private organizations and individuals engaged in development activities.

Funding Availability: Funds in the amount of $2 million are available for this program.

Funding Instrument: EDA will provide grants and cooperative agreements with EDA participation up to 75 percent of the proposed project cost, normally. Applicants will be required to provide the matching share.

Project Duration: Assistance will be for the period of time required to complete the scope of work. This will generally not exceed twelve months.

Selection Criteria: Proposals will be evaluated on the quality of the proposed work program and the qualifications of the applicant to carry out that work program.

Priority consideration will be given to projects that combine support for economic development objectives with other Department of Commerce goals, including export promotion, productivity enhancement, technology development and utilization and minority business development.

Additional selection criteria will be spelled out in the National Technical Assistance Program material which will be provided by EDA prospective applicants.

Pre-Application Procedures

A. *Letters of Interest:* Interested applicants should submit a letter signed by the head of the applicant organization or another authorized official, to EDA Headquarters stating their desire to receive funds under the National Technical Assistance Program.

Letters requesting assistance under this program should be submitted to Beverly L. Milkman, Director, Office of Planning, Technical Assistance, Research and Evaluation, Economic Development Administration, Room 7866, U.S. Department of Commerce, Washington, D.C. 20230. Letters of interest must be submitted no later than November 30, 1984. Letters postmarked after this date may not be considered.

B. *Proposals:* After receipt of such letters, EDA will provide each prospective applicant with information

concerning the submission of funding proposals including the following items:

1. Secondary program goals;
2. Project selection criteria;
3. Suggested proposal format;
4. Other pre-application material; and
5. Proposal submission deadline. It is expected that the submission deadline will be no later than February 15, 1985. Proposals postmarked after the deadline indicated in the proposal package may not receive consideration.

Formal Application Procedures: EDA will evaluate proposals using the selection criteria mentioned above, before authorizing the submission of a formal application. Following a review of project proposals, EDA will invite proponents whose projects are selected for funding consideration to submit a formal application.

Applicants whose proposals are not selected will be notified within 90 days of the deadline for the submission of proposals.

EDA will evaluate applications for conformance with published statutory, regulatory and policy requirements.

Applications proposed for funding under this program involving substantial on-site work in individual States are subject to the requirements of Executive Order 12372, "Intergovernmental Review of Federal Programs."

Applicants may be subject to pre-award accounting system surveys by the Department of Commerce's Office of the Inspector General.

An applicant which has an outstanding accounts receivable with the Federal government may not receive new awards until it has paid its debt(s) or has made arrangements approved by the Department of Commerce to do so.

When all of EDA's funds for this program have been awarded, unsuccessful applicants will be notified of the status of their applications as soon as possible.

Further Information: For further information contact Richard E. Hage at (202) 377-2127 in EDA Headquarters in Washington, D.C.

VII. Program: Research and Evaluation Projects

(Catalog of Federal Domestic Assistance: 11.312 Economic Development—Technical Assistance)

Summary: The Economic Development Administration announces its policies and application procedures for funds available for research and evaluation projects under the authority of Section 301(c) of the Public Works and Economic Development Act of 1965, as amended (PWEDA), 42 U.S.C. 3151(c).

Eligibility: Eligible applicants are private individuals, partnerships, firms, corporations, and other suitable institutions.

Project Objectives: The objective of section 301(c) grants, and cooperative agreements is to:

1. Assist in determining the causes of unemployment, underemployment, underdevelopment, and chronic depression in various areas and regions of the Nation.
2. Assist in the formulation and implementation of national, State, and local programs which will raise income levels and otherwise produce solutions to the problems resulting from the above conditions.
3. Evaluate the effectiveness of approaches and techniques employed to alleviate economic distress.

Funding Availability: Funds in the amount of $2 million are available for this program.

Funding Instrument: EDA will provide grants and cooperative agreements with maximum EDA participation up to 100 percent of the proposed project cost.

Selection Criteria: EDA will consider the following factors in evaluating proposals:

1. The applicant's demonstrated knowledge of the problem proposed for investigation;
2. Quality of an applicant's workplan;
3. Qualifications of an applicant's investigators and/or evaluators;
4. The budget information submitted as part of the proposal.

Priority consideration will be given to proposals involving the following broad areas of Department of Commerce interest:

1. Regional growth;
2. Unemployment;
3. Underemployment (income levels);
4. Rural economic development;
5. Industrial location;
6. Private sector participation in economic development efforts;
7. State and local government economic development efforts;
8. Migration;
9. Export development;
10. Minority economic and business development;
11. The role of productivity and technology in economic development.

Application Procedures: Interested applicants should submit one original and two copies of brief concept proposals which should include:

1. A description of the proposed project and workplan;
2. Funding sought including budgetary data;
3. Vita; and
4. General corporate capability data.

Proposals should be submitted to David H. Geddes, Chief, Research and Evaluation Division, Office of Planning, Technical Assistance, Research and Evaluation, Economic Development Administration, Room 7850, U.S. Department of Commerce, Washington, D.C. 20230. Proposals postmarked after February 28, 1985, may not receive consideration.

Applicants whose proposals are not selected will be notified within 90 days of the February 28 submission deadline.

Applicants may be subject to pre-award accounting system surveys by the Department of Commerce's Office of the Inspector General.

An applicant which has an outstanding accounts receivable with the Federal government may not receive new awards until it has paid its debt(s) or has made arrangements approved by the Department of Commerce to do so.

Further Information: For further information contact David H. Geddes at (202) 378-4085 in EDA Headquarters in Washington, D.C.

VIII. Program: Public Works and Development Facilities Assistance

(Catalog of Federal Domestic Assistance: 11.300 Economic Development Grants and Loans for Public Works and Development Facilities. 11.304 Economic Development Public Works Impact Program (PWIP))

Summary: The Economic Development Administration announces its policies and application procedures for funds available for the Public Works program under the authority of Titles I and IV of the Public Works and Economic Development Act of 1965, as amended, (PWEDA), 42 U.S.C. 3131 and 42 U.S.C. 3171(a)(3).

Eligibility: Eligible applicants under this program are: any State, or political subdivision thereof, Indian tribe, or private or public non-profit organization or association representing any redevelopment area or part thereof, if the project is located within an EDA-designated redevelopment area. Further information on the areas which are eligible for this EDA program is available from EDA's Regional Offices.

Program Objective: The purpose of the Public Works grant program is to assist communities with the funding of public works and development facilities that contribute to the creation or retention of private sector jobs and to the alleviation of unemployment and underemployment. Such assistance is designed to help communities achieve lasting improvement by establishing stable and diversified local economies and by improving local conditions.

Funding Availability: Funds in the amount of $130 million are available for this program.

Funding Instrument: EDA will provide grants with maximum EDA participation normally ranging from 50 percent to 80 percent of the project cost according to existing regulations. Applicants will be required to provide the matching share.

Selection Criteria: For both Regular Public works projects and Public Works Impact Program (PWIP) projects, priority consideration will be given to projects which best meet the relative needs of eligible areas, and are in areas of high unemployment and/or low per capita income.

1. Regular Public Works Projects

A. *Priority* will be given to projects which are eligible under section 101(a)(1) (A)—(C) of PWEDA, 42 U.S.C. 3131(a)(1) (A)—(C), if such projects:

1. Will improve the opportunities, in the area where such project is or will be located, for the successful establishment or expansion of industrial or commercial plants or facilities;

2. Assist in creating or retaining private sector jobs in the near-term and assist in the creation of additional long-term employment opportunities for such area;

3. Benefit the long-term unemployed and members of low-income familieswho are residents of the area to be served by the project;

4. Fulfill a pressing need of the area, or part thereof, in which it is, or will be located;

5. Are consistent with the EDA approved overall economic development program (OEDP) for the area in which it is, or will be located, and have been recommended by the OEDP Committee;

6. Have broad community support;

7. Are supported by significant private sector investment;

8. Have adequate local matching funds with evidence of firm commitment;

9. Have a favorable cost per job ratio;

10. Complement Department of Commerce goals such as reducing the Federal trade deficit by increasing export development, assisting minority business development, and assisting the development of domestic fisheries.

B. *Industrial park/site projects.* Projects which will primarily serve an industrial park or site will be evaluated on such additional factors as the:

1. Occupancy rates for existing developed industrial acres currently available within a 25 mile radius of the project site (For cities with populations over 50,000, the prescribed area may be determined by an analysis of industrial sites within an established industrial area, which may be less than a 25 mile radius. Contact the Economic Development Representative for the area or the appropriate EDA Regional Office for assistance.);

2. Commitments from identified tenants to locate in the industrial park or site;

3. Plans for maximum utilization of the industrial park or site;

4. Pressing need of the area for industrial park or site space to attract potential industries; i.e., high occupancy rate of existing industrial parks within the prescribed area or lack of industrial parks or sites within the prescribed area.

C. *Low priority* will be given to projects which:

1. Do not benefit the long-term unemployed;

2. Cannot be implemented within a reasonable period of time;

3. Support downtown commercial activities such as parking garages, pedestrian walkways and non-industrial street repairs, unless it can be demonstrated that EDA's assistance is critical to and an integral part of the local economic development strategy for the area and required to support other ongoing development investments;

4. Involve substantial land purchase;

5. Involve public buildings;

6. Do not have the applicant's share of project funding readily available;

7. Support tourism or recreational activities, unless it can be demonstrated that tourism is the major industry in the area or will assist in creating a significant number of jobs and substantially diversify the area's economy, in which case the project must directly assist in providing job opportunities for the unemployed and underemployed residents of the area and otherwise support the long-term growth of the area.

II. Public Works Impact Program

A. *Priority* will be given to Public Works Impact Program (PWIP) projects eligible under section 101a(1)(D) of PWEDA, 42 U.S.C. 3131(a)(1)(D), if such projects:

1. Will directly or indirectly assist in creating employment opportunities by providing immediate useful work (i.e. construction jobs) or other economic benefits for the unemployed and underemployed residents in the project area;

2. Will primarily benefit low income families by providing essential services;

3. Have on-site labor costs as a substantial portion of the total estimated project costs;

4. Can be substantially completed within 12 months from the start of construction;

5. Improve the community or economic environment in areas of severe economic distress.

B. *Supplementary grant rates for PWIP projects* will be determined as set forth in 13 CFR 305.5(b)(3).

Pre-Application Procedures: Interested applicants should contact the Economic Development Representative for the area or the appropriate EDA Regional Office for a proposal package. The EDA Regional Office can furnish the name, address and telephone number of the Economic Development Representative for the applicant's area. EDA will screen proposals before authorizing the submission of a formal application. Proposals will be evaluated based upon:

A. The availability of funds as allocated to the Regional Offices;

B. The conformance with the selection criteria mentioned above and with statutory requriements;

C. The merits of the proposed projects in addressing the relative economic development needs of eligible areas.

Formal Application Procedures: Following a review of project proposals, EDA will invite proponents whose projects are selected for funding consideration to submit a formal application. Proponents of project proposals not selected for funding consideration will be so advised as soon as possible.

EDA will evaluate applications for conformance with published statutory, regulatory and policy requirements.

Applications proposed for funding under this program are subject to the requirements of Executive Order 12372, "Intergovernmental Review of Federal Programs."

An applicant which has an outstanding accounts receivable with the Federal Government may not receive new awards until it has paid its debt(s) or has made arrangements approved by the Department of Commerce to do so.

When all of EDA's Regular Public Works funds and PWIP funds have been awarded, unsuccessful applicants will be notified of the status of their applications as soon as possible.

Further Information: For further information contact the appropriate EDA Regional Office (see list below).

IX. Program: Economic Adjustment Assistance

(Catalog of Federal Domestic Assistance Nos.: 11.307 and 11.311 Special Economic Development and Adjustment Assistance

Program—Long-Term Economic Deterioration (LTED) and Sudden and Severe Economic Dislocation (SSED))

Summary: The Economic Development Administration announces its policies and application procedures for grants available under its Economic Adjustment Program. This program authorized under Title IX of the Public Works and Economic Development Act of 1965, as amended, (PWEDA), 42 U.S.C. 3241–3245, may assist areas experiencing long-term economic deterioration (LTED) and areas threatened or impacted by sudden and severe economic dislocation (SSED).

Program Objective: The LTED program assists eligible applicants in implementing strategies that halt and reverse the long-term decline of their economies. Grants for Revolving Loan Funds (RLF) are usually provided under the LTED program.

The SSED program assists eligible applicants in responding to actual or threatened major job losses (dislocations) and other severe economic adjustment problems. It is designed to assist communities to prevent a sudden, major job loss, to reestablish employment opportunities as quickly as possible after one occurs, or to meet special needs resulting from severe changes in economic conditions. SSED assistance is intended to respond to stuctural rather than cyclical job losses. Thus, the dislocation must involve a permanent job loss. Assistance may be in the form of either a Strategy Grant or an Implementation Grant.

Fund Availability: Grant funds in the amount of $33 million are available for the Economic Adjustment program in FY 1985. Not less than $16.5 million shall be available for Revolving Loan Fund (RLF) projects.

Funding Instrument: EDA will normally provide grants with maximum EDA participation of 75 percent of the project cost. Applicants will be required to provide the matching share.

Eligibile Applicants: Eligible applicants for areas meeting the eligibility criteria described below include: a redevelopment area or economic development district established under Title IV of this Act, (PWEDA), 42 U.S.C. 3161, an Indian tribe, a State, a city or other political subdivision of a State, or a consortium of such political subdivisions, a Community Development Corporation defined in the Community Economic Development Act, 42 U.S.C. 9801, a nonprofit organization determined by EDA to be the representative of a redevelopment area.

Eligibile Areas: In order to receive priority consideration for funding under the LTED program, an area must be experiencing at least one of three economic problems: very high unemployment; low per capita income; or chronic distress—failure to keep pace with national economic growth trends over the last five years. Eligibility is determined statistically. Further information is available from EDA's Regional Offices.

In order to receive priority consideration for funding under the SSED program, an area must show actual or threatened permanent job losses that exceed the following threshold criteria, unless otherwise determined by the Assistant Secretary:

1. For areas not in Standard Metropolitan Statistical Areas:

a. If the unemployment rate of the Labor Market Area exceeds the national average, the dislocation must amount to the lesser of 2 percent of the employed population, or 500 direct jobs.

b. If the unemployment rate of the Labor Market Area is equal to or less than the national average, the dislocation must amount to the lesser of 4 percent of the employed population, or 1,000 direct jobs.

2. For areas within Standard Metropolitan Statistical Areas:

a. If the unemployment rate of the Standard Metropolitan Statistical Area exceeds the national average, the dislocation must amount to the lesser of .1 percent of the employed population, or 4,000 direct jobs.

b. If the unemployment rate of the Standard Metropolitan Statistical Area is equal to or less than the national average, the dislocation must amount to the lesser of .5 percent of the employed population, or 8,000 direct jobs.

Additionally, 50 percent of the job loss must result from the action of a single employer, *or* 80 percent of the job loss must occur in a single industry classification (i.e., two digit SIC code).

In the case of a Presidentially declared natural disaster, the area eligibility criteria are waived. In other similarly exceptional circumstances, the criteria may be partially waived at the discretion of the Assistant Secretary.

Actual dislocations must have occurred within one year and threatened dislocations must be anticipated to occur within two years of the date EDA is contacted.

Economic Adjustment proposals will be assessed according to the evaluation criteria listed below.

Evaluation Criteria: Proposals will be evaluated based on conformance with statutory and regulatory requirements, the economic adjustment needs of the area, the merits of the proposed project in addressing those needs and the applicant's ability to manage the grant effectively.

Key factors in EDA's selection of proposed LTED/RLF projects include:

1. *Economic and Financial Needs of the Project Area:*

a. Areas with the highest levels of economic distress (high unemployment, low per capita income, vacant plants and deteriorating infrastructure, etc.) will receive priority consideration.

b. Financial need will be evaluated based on the applicant's analysis of the local capital market and how clearly this analysis defines the financial problems to be addressed by the RLF project.

2. *Osbjectives and Bernefits of Proposed Projects:* Priority will be given to projects which can:

a. Stimulate private sector employment. The number and types of jobs to be created/retained will be key factors in project selection along with the job/cost ratio established for the RLF portfolio as a whole;

b. Target assistance to specific needs within the area. RLF assistance may be targeted to specific geographic areas, industries, types of employers, types of workers, sizes of firms or in other ways that maximize the impact of RLF resources on area needs;

c. Leverage higher ratios of private investment than the required minimum ratio of two private dollars to one RLF dollar. (NOTE: the local share or other funds used by the RLF to finance loans can not be counted as "leveraged" dollars);

d. Direct new job opportunities to the long-term unemployed and underemployed;

e. Assist minorities, women and members of other economically disadvantaged groups in obtaining RLF loans;

f. Support the goals of state and local economic developments plans for the area, including the OEDP and the Title IX adjustment strategy, as appropriate;

g. Support other ongoing or future development investments, particularly other elements of the Title IX adjustment strategy;

h. Provide technical and management assistance for RLF borrowers, in addition to loan funds;

i. Use creative financing techniques to overcome specific gaps in the local capital market;

j. Make loans on a timely basis. the implementation schedule for RLF projects will normally require that RLF loans in the initial round be closed (and

all EDA funds disbursed) within 2 years of grant approval;

k. Include a large matching share than the required 25 percent or secure commitments for future funding from other public or private sources; and

l. Coordinate activities with other economic development organizations, loan programs and private lenders in the area.

3. *Effective Management of the RLF:* EDA will also evauate proposed projects to determine that the RLF will be properly managed. Key factors include:

a. A strong and effective Loan Administrative Board with borad community representation, including appropriate private sector, minority and women's representation.

b. Staff capacity in program and policy development, finance, law, marketing, credit analysis, loan packaging, processing and servicing.

c. Efficient procedures for loan selection, approval, and servicing which emphasize the economic development potential of loans as well as sound management and financing practices.

d. Adequate resources to cover administrative costs of the RLF.

e. The applicant's experience and capacity for administering economic and business loan programs will also be a major factor in project selection. If the applicant has designated another organizaiton to administer the project, EDA will evauate the experience and capacity of that organization, rather than the applicant's.

Nongovernment (but not including EDD's) applicants must be sponsored by the local or State government having jurisdiction over the project area and the sponsor must be willing to assume responsibility for operating the RLF should the nongovernment entity no longer be able to administer the project.

Key factors in EDA's selection of proposed SSED projects include:

1. The severity of the dislocation as measured by, but not limited to, the following factors:

a. The degree to which the number of dislocated workers exceeds the eligibility threshold;

b. The proportion of the total job loss represented by a single employer; and

c. The proportion of employment in a single industry classification represented by the firm(s) closing.

2. The objectives and benefits of proposed activities as measured by the extent to which:

a. *For Implementation Grants:*

(1) Job creation or retention in the near term is emphasized versus more long-term, general economic development;

(2) The jobs to be created and/or retained are permanent and will directly benefit the dislocated workers;

(3) The response to the problem is timely;

(4) EDA assistance will be complemented by, or will complement, appropriate State and local efforts, for example, training and job placement services, other Federal investments, for example, Urban Development Action Grants, and private sector support;

(5) Creativity is exhibited in using the range of available Title IX program tools;

(6) The cost per job created or retained is minimized;

(7) In the case of a Revolving Loan Fund, the recycled loan proceeds generate economic development benefit; and

(8) The local matching share exceeds the required 25 percent.

b. *For Strategy Grants:*

(1) Applicant has demonstrated the capacity to manage the planning process and subsequent implementation activities;

(2) Proposed scope of work is responsive to the problem;

(3) The focus of the planning effort is on the generation of practical and implementable solutions; and

(4) The local matching share exceeds the required 25 percent.

Pre-Application Procedures: Interested applicants should contact the Economic Development Representative for the area or the appropriate EDA Regional Office for a proposal package. The EDAs Regional Office can furnish the name, address and telephone number of the Economic Development Representative for the applicant's area.

Project proposals, submitted by eligible applicants, will be evaluated by EDA on the basis of:

- Conformance with the evaluation criteria mentioned above and statutory and policy requiremnts; and
- The availability of funds.

Formal Application Procedures: Following a review of project proposals, EDA will invite proponents whose projects are selected for funding consideration to submit a formal application. Proponents whose project proposals are not selected for funding consideration will be so advised as soon as possible.

EDA will evaluate applications for conformance with published statutory, regulatory and policy requirements.

Applications proposed for funding under this program are subject to the requirements of Executive Order 12372, "Intergovernmental Review of Federal Programs".

An applicant with an outstanding accounts receivable with the Federal government may not receive a further award until the debt(s) have been paid or arrangements to do so have been approved by the Department of Commerce.

When all of EDA's funds for the SSED and LTED programs have been awarded, unsuccessful applicants will be notified of the status of their applications as soon as possible.

Further Information: For further information about this program, contact the appropriate EDA Regional Office or Paul J. Dempsey, Director, Office of Economic Adjustment, Economic Development Administration, Room 7217, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 377-2659.

EDA Regional Offices: The EDA Regional Offices and the States they cover are:

- Philadelphia Regional Office, 4th Floor, Mall Building, 325 Chestnut Street, Philadelphia, Pennsylvania 19106, Telephone: (215) 597-4603; serving Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Puerto Rico, Rhode Island, Vermont, Virginia, Virgin Islands, and West Virginia.
- Atlanta Regional Office, Suite 750, 1365 Peachtree Street, N.E., Atlanta, Georgia 30309, Telephone: (404) 881-7401; serving Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.
- Chicago Regional Office, Suite A-1630, 175 W. Jackson Blvd., Chicago, Illinois 60604, Telephone: (312) 353-7707;

serving Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin.

- Austin Regional Office, Suite 201, Grant Bldg., 611 East Sixth Street, Austin, Texas 78701, Telephone: (512) 482–5461; serving Arkansas, Louisiana, New Mexico, Oklahoma, and Texas.
- Denver Regional Office, Room 300, Tremont Center, 333 West Colfax Avenue, Denver, Colorado 80204, Telephone: (303) 844–4714, serving Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming.
- Seattle Regional Office, Suite 500, Lake Union Bldg., 1700 Westlake Avenue, North, Seattle, Washington 98109, Telephone: (206) 442–5096; serving Alaska, American Samoa, Arizona, California, Guam, Hawaii, Idaho, Nevada, Oregon, and Washington.

Dated: September 28, 1984.

J. Bonnie Newman,

Assistant Secretary for Economic Development.

[FR Doc. 84–26595 Filed 10–5–84, 8:45 am]

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October 9, 1984

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 21

Market Survey Experimental Certificates for Aircraft Modifiers; Final Rule

VOL 49 ISS 196 OCT 9 1984 UMI

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 21

[Docket No. 23544; Amdt. No. 21-57]

Market Survey Experimental Certificates for Aircraft Modifiers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment permits aircraft modifiers who are neither aircraft nor aircraft engine manufacturers to apply for an experimental certificate to use the modified aircraft for market surveys, sales demonstrations, or customer crew training in the same manner as aircraft and aircraft engine manufacturers. In recent years type-certificated aircraft have been altered by a variety of modifications other than installation of different engines. Aircraft and aircraft engine manufacturers are eligible for experimental certificates to conduct market survey flights of their modifications. This amendment permits other aircraft modifiers to conduct such flights using an experimental certificate without obtaining an exemption for this purpose.

EFFECTIVE DATE: November 8, 1984.

FOR FURTHER INFORMATION CONTACT: Alphonse G. Santarelli, Aircraft Manufacturing Division (AWS-200), Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone (202) 426-8361.

SUPPLEMENTARY INFORMATION:

Background

This amendment, which permits aircraft modifiers who are neither aircraft nor aircraft engine manufacturers to apply for an experimental certificate to use the modified aircraft for market surveys, sales demonstrations, or customer crew training in the same manner as aircraft and aircraft engine manufacturers, is adopted for essentially the reasons outlined in Notice of Proposed Rulemaking (NPRM) No. 84-1 (49 FR 6468; February 21, 1984). That action responded to the Raisbeck-Western petition to amend § 21.195(a) to permit aircraft modifiers to use those aircraft for market survey purposes in the same manner as aircraft manufacturers.

Section 21.195(a) of the Federal Aviation Regulations (FAR) states that a manufacturer of aircraft manufactured within the United States may apply for an experimental certificate for an aircraft that is to be used for market surveys, sales demonstrations, or customer crew training. Section 21.195(b) of the FAR states that a manufacturer of aircraft engines who has altered a type-certificated aircraft by installing different engines, manufactured by him within the United States, may apply for an experimental certificate for that aircraft to be used for market surveys, sales demonstrations, or customer crew training if the basic aircraft, before alteration, was type certificated in the normal, acrobatic, or transport category. For the purpose of this amendment, an aircraft modifier is a person who has altered the design of an aircraft that before alteration was type certificated in the normal, acrobatic, or transport category.

In recent years, type-certificated aircraft have been altered by a variety of modifications other than installation of different engines. The above sections do not permit a "non-engine" aircraft modifier to apply for an experimental certificate to use an aircraft altered by him for market surveys, sales demonstrations, or customer crew training. A number of aircraft modifiers have been granted exemptions from either § 21.195 (a) or (b) to the extent necessary to permit those aircraft modifiers to apply for experimental certificates for aircraft to be used for market surveys, sales demonstrations, or customer crew training, subject to certain limitations.

In view of the foregoing, the Federal Aviation Administration (FAA) has determined that it is in the public interest to permit aircraft modifiers to apply for an experimental certificate to use the modified aircraft for market survey purposes.

This amendment also adds a cross-reference provision to § 21.191(f) to more clearly show the interrelationship between this paragraph and § 21.195. Also, the utility category is added to § 21.195(c) since the utility category is one of the standard categories listed in §§ 21.21 and 21.183 and was inadvertently omitted previously. These are considered to be editorial changes.

Discussion of Comments

Seven commenters, representing the views of associations, individuals, and modifiers, submitted responses to NPRM 84-1. The responses are favorable.

Five commenters concur with the NPRM. One commenter, a pilot association, has no comment on the NPRM at this time. Another commenter, an airline association, advises that 14 members replied: 6 members concur with the NPRM, 6 members have no objection, and 2 members have no comment.

Regulatory Evaluation

Benefits

Adopting this rule will relieve an unnecessary regulatory constraint and would thus provide benefits to certain aircraft modifiers. It will allow them to be eligible to apply for experimental certificates under Part 21 to test the market potential of modified aircraft before mass producing the modification kits, to demonstrate the modified aircraft to potential customers, and to conduct customer crew training.

In addition, a number of aircraft modifiers have been granted exemptions in the past to allow them to apply for experimental certificates for market survey. This rule will eliminate the need for an aircraft modifier to obtain an exemption from the requirements of Part 21 to apply for an experimental certificate to allow the modifier's aircraft to be used for market surveys, sales demonstrations, or customer crew training in the same manner as an aircraft or aircraft engine manufacturer. By obviating the need for an exemption, this rule will eliminate the minor cost required to develop and submit a petition for exemption and avoid the minor costs related to time lost while the aircraft modifier awaits the exemption. Additionally, the Federal Government (FAA) will experience minimal cost savings as the requirement to review and process petitions for exemptions submitted by aircraft modifiers to apply for experimental certificates is eliminated.

Costs

This rule will impose no new costs or requirements on aircraft modifiers, the aviation public, or the Federal Government. This rule will permit aircraft modifiers to submit applications for experimental certificates for market surveys which the FAA will process consistent with practices under § 21.195 (a) and (b).

Comments Received on Notice of Proposed Rulemaking

Seven commenters, representing the views of associations, individuals and modifiers, submitted responses to the NPRM. Four commenters provided statements with regard to the economic considerations, with all endorsing the proposed rule as having a positive economic impact.

Benefit/Cost Conclusion

Based on the aforementioned discussion of the benefit and cost

aspects of the rule, the benefits clearly exceed the costs.

International Trade Impact Analysis

This rule will have little or no impact on trade for both U.S. firms doing business in foreign countries and foreign firms doing business in the United States. Furthermore, no comments were received on the topic of international trade impacts.

Regulatory Flexibility Act Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure, among other things, that small entities are not disproportionately affected by Government regulations. The RFA requires agencies to review rules which may have a "significant economic impact on a substantial number of small entities." Certain aircraft modifiers may be classified as small entities according to the RFA. However, since this proposed rule would result in minimal savings and would not impose additional cost, it will not have a significant economic impact on any of these entities.

Therefore, FAA has determined that the amendment will not, if enacted, have a significant economic impact on a substantial number of small entities.

Conclusion

This amendment provides compatibility with other paragraphs in § 21.195 to enable a modifier of aircraft to obtain an experimental certificate for a modified aircraft in the same manner as an aircraft or engine manufacturer. Furthermore, this amendment is not likely to result in an annual effect on the economy of $100 million or more or a major increase in costs for consumers; industry; or Federal, State, or local government agencies. In addition, this amendment will have little or no impact on trade opportunities for U.S. firms doing business overseas or for foreign firms doing business in the United States. Accordingly, it has been determined that this is not a major regulation under Executive Order 12291. In addition, the FAA has determined that this action is nonsignificant under Department of Transportation Regulatory Policy and Procedures (44 FR 11034; February 26, 1979). Finally, as discussed previously in the preamble, it is certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic impact on a substantial number of small entities. A copy of the regulatory evaluation for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

List of Subjects in 14 CFR Part 21

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, Part 21 of the Federal Aviation Administration Regulations (14 CFR Part 21) is amended as follows, effective November 8, 1984:

PART 21—CERTIFICATION PROCEDURES FOR PRODUCTS AND PARTS

1. By amending § 21.191 by revising paragraph (f) to read as follows:

§ 21.191 Experimental certificates.

* * * * *

(f) *Market surveys.* Use of aircraft for purposes of conducting market surveys, sales demonstrations, and customer crew training only as provided in § 21.195.

* * * * *

2. By amending § 21.195 by redesignating present paragraph (c) as (d) and by adding a new paragraph (c) as follows:

§ 21.195 Experimental certificates: Aircraft to be used for market surveys, sales demonstrations, and customer crew training.

* * * * *

(c) A person who has altered the design of a type certificated aircraft may apply for an experimental certificate for the altered aircraft to be used for market surveys, sales demonstrations, or customer crew training if the basic aircraft, before alteration, was type certificated in the normal, utility, acrobatic, or transport category.

* * * * *

(Secs. 313, 314, 601, 603(c), 605, 608, 609, and 610, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354, 1355, 1421, 1423(c), 1425, 1428, 1429, and 1430); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 21, 1983)

Issued in Washington, D.C., on September 10, 1984.

Donald D. Engen,

Administrator.

[FR Doc. 84-26580 Filed 10-5-84; 8:45 am]

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S.2040/Pub. L. 98-440

Secondary Mortgage Market Enhancement Act of 1984

(October 3, 1984; 98 Stat. 1689) Price $1.00

H.J. Res. 653/Pub. L. 98-441

Making continuing appropriations for the fiscal year 1985, and for other purposes (October 3, 1984; 98 Stat. 1699) Price: $1.00

H.J. Res. 392/Pub. L. 98-442

To designate December 7, 1984 as "National Pearl Harbor Remembrance Day" on the occasion of the anniversary of the attack on Pearl Harbor. (October 3 1984; 98 Stat. 1702) Price: $1.00

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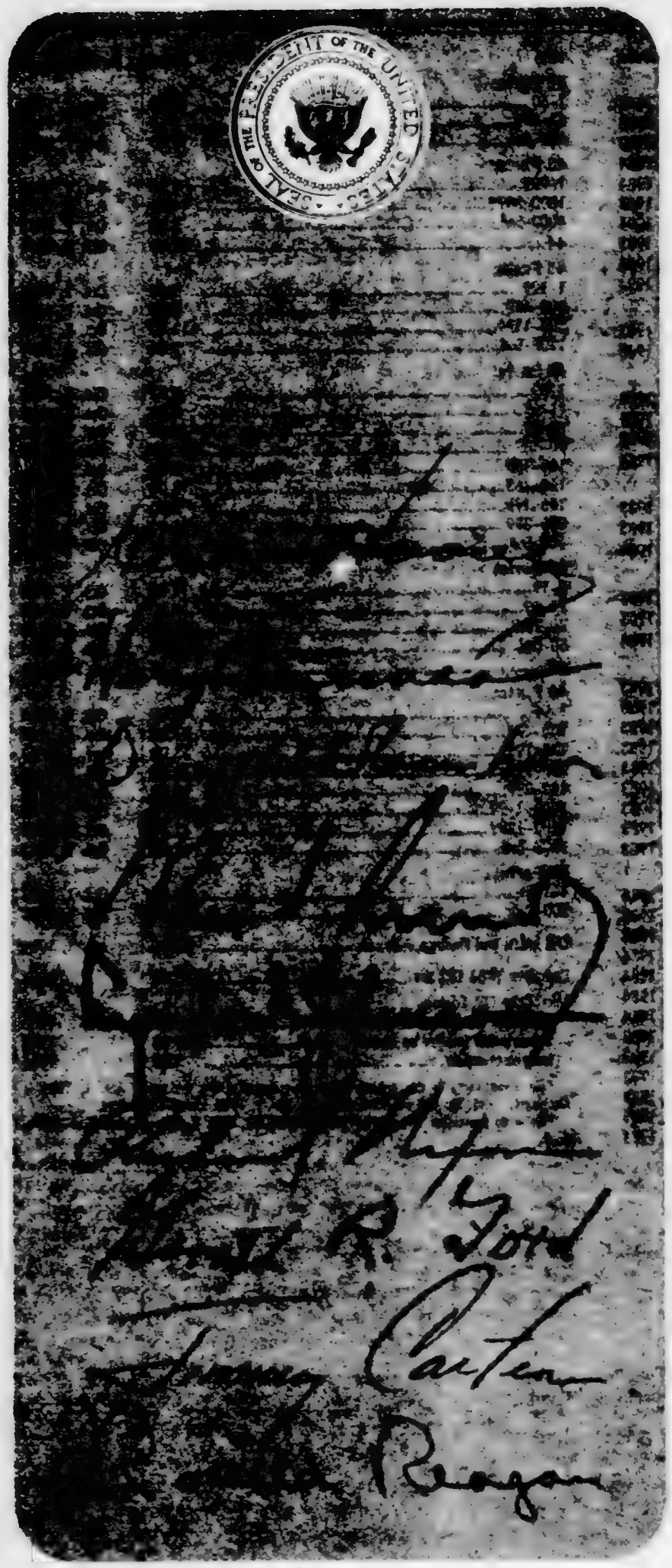

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Presidential Documents

Title 3—

The President

Proclamation 5250 of October 5, 1984

National High-Tech Week, 1984

By the President of the United States of America

A Proclamation

Throughout this century, the United States has been the world's leader in high technology innovation and development. Because the economy of this Nation closely is tied to technological advances, maintenance of this leadership is a national priority. Americans must build on our unmatched body of technical knowledge and on our entrepreneurial spirit to bring new and competitive products to the market.

Our youth are the key to maintaining this leadership. Young Americans must receive the educational opportunities necessary to grow and develop in a high technology environment. By providing these opportunities, our national commitment to high technology development will be translated into real progress benefitting future generations.

To focus public attention on the importance of high technology development, the Congress by House Joint Resolution 453, has designated the week of September 30 through October 6, 1984, as "National High-Tech Week" and authorized and requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week of September 30 through October 6, 1984, as National High-Tech Week, and I call upon the people of the United States to celebrate this week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this fifth day of October, in the year of our Lord nineteen hundred and eighty-four, and of the Independence of the United States of America the two hundred and ninth.

Ronald Reagan

[FR Doc. 84-26806
Filed 10-5-84; 12:31 pm]
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Presidential Documents

Proclamation 5251 of October 5, 1984

National Spina Bifida Month, 1984

By the President of the United States of America

A Proclamation

Spina bifida is among the most common birth defects. Between one and two of every 1,000 babies in the United States are born with this problem. Infants with spina bifida may have incompletely developed spinal cords and suffer varying degrees of muscle paralysis and spine and limb deformities. Most develop hydrocephalus—a potentially dangerous buildup of fluid and pressure within the brain.

Thirty years ago the majority of children with spina bifida died. Today, thanks to Federal and private programs of biomedical research, medical and surgical management of spina bifida has advanced to the point that nearly all children survive. But some of these survivors face various potential problems, including lack of mobility, incontinence, and learning difficulties. Once again, research has provided answers: early surgical closure of spinal defects to reduce the development of infection and hydrocephalus; improved neurosurgical techniques for relieving pressure on the brain; better antibiotics for treating life-threatening infections; lighter braces to aid in mobility; and new techniques to control bladder function.

Further improvements may be expected to result from research supported by the Federal government's National Institute of Neurological and Communicative Disorders and Stroke and the National Institute for Child Health and Human Development. Voluntary agencies including the Spina Bifida Association of America, the March of Dimes Birth Defects Foundation, and the National Easter Seal Society are also involved.

For the many investigators supported by these organizations, the greatest challenge is to find the cause of this crippling birth defect and develop ways to prevent it. Scientists working toward these goals are studying the formation of the spinal cord and factors that might influence its abnormal development.

In order to focus attention on the needs of spina bifida children for long-term care and on the emotional and financial difficulties faced by their parents, the Congress, by Senate Joint Resolution 275, has designated October 1984 as "National Spina Bifida Month" and authorized and requested the President to issue a proclamation in observance of the month.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim October 1984 as National Spina Bifida Month, and I call upon all government agencies, health organizations, and the people of the United States to observe this month with appropriate ceremonies and activities.

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IN WITNESS WHEREOF, I have hereunto set my hand this fifth day of October, in the year of our Lord nineteen hundred and eighty-four, and of the Independence of the United States of America the two hundred and ninth.

Ronald Reagan

[FR Doc. 84-26899
Filed 10-5-84; 4:33 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 49, No. 197
Wednesday, October 10, 1984

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 920

[Docket No. AO 83-1]

Kiwifruit Grown in California; Order Regulating Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule establishes a marketing agreement and order program to promote orderly marketing of California kiwifruit. The marketing order was favored by growers who produced more than the required two-thirds of the production represented in a referendum. The marketing agreement was signed by handlers representing more than the requisite 50 percent of total 1983–84 shipments. The program provides for a committee for local administration and authority for grade, size, quality, maturity, pack, and container regulations. The program would be financed by assessments levied on handlers of the commodity. The marketing order was considered at a public hearing in February 1984. The referendum was conducted by the Department by mail ballot August 31–September 10, 1984.

EFFECTIVE DATE: October 12, 1984.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone (202–447–5975).

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing (hereinafter referred to as the "notice of hearing"), issued November 21, 1983, and published in the **Federal Register** (48 FR 54032) on November 30, 1983; Recommended Decision issued June 29 1984, and published in the July 5, 1984, issue of the **Federal Register** (49 FR 27524), and a correction to the Recommended Decision which appeared in the July 12, 1984, issue of the **Federal Register** (49 FR 28408), and Secretary's Decision issued on August 21, 1984, and published in the August 24, 1984, issue of the **Federal Register** (49 FR 33670), and a correction published in the September 4, 1984, issue of the **Federal Register** (49 FR 35022).

This administrative action is governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code and therefore is not subject to the requirements of Executive Order 12291.

List of Subjects in 7 CFR Part 920

Marketing agreement and orders, Kiwifruit, California.

Findings and Determinations

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*) and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon a proposed marketing agreement and a proposed order, regulating the handling of kiwifruit grown in California.

Upon the basis of the record, it is found that:

(1) The order, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The order regulates the handling of kiwifruit grown in the production area in the same manner as, and is applicable only, to persons in the respective classes of commercial and industrial activity specified in, the marketing agreement and order upon which a hearing has been held;

(3) The order is limited in its application to the smallest regional production area which is practicable, consistent with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) There are no differences in the production and marketing of kiwifruit grown in the production area which make necessary different terms and provisions applicable to different parts of such area; and

(5) All handling of kiwifruit grown in the production area is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

(b) *Additional findings.* It is necessary in the public interest to make this order effective not later than October 12, 1984. Harvest is expected to begin in early October, and any appropriate regulations established under the marketing order should apply to a substantial portion of 1984 crop shipments. A prompt effective date is necessary in order to provide the opportunity for timely recommendations for regulations by the Kiwifruit Administrative Committee.

In view of the foregoing, it is hereby found and determined that good cause exists for making this order effective October 12, 1984, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the **Federal Register.**

(c) *Determinations.* It is hereby determined that:

(1) The Marketing Agreement Regulating the Handling of kiwifruit grown in California, upon which the aforesaid public hearing was held has been signed by handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping kiwifruit covered by the proposed order) who during the period August 1, 1983, through July 31, 1984, handled not less than 50 percent of the volume of kiwifruit covered by this order, and

(2) The issuance of this order is favored or approved by producers who participated in a referendum on the question of its approval and who, during the period August 1, 1983, through July 31, 1984 (which has been deemed to be a representative period), have been engaged within the State of California in the production of kiwifruit for market and produced for market at least two-thirds of the volume of such commodity represented in the referendum.

Order Relative to Handling

It is therefore ordered, That on and after the effective date hereof, the handling of kiwifruit grown in California shall be in conformity to and in

compliance with the following terms and conditions:

Part 7 CFR 920 is added to read as follows:

PART 920—KIWIFRUIT GROWN IN CALIFORNIA

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Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

Definitions

§ § 920.1 Secretary.

"Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of the Department of whom authority has heretofore been delegated, or to whom authority may hereafter be delegated.

§ 920.2 Act.

"Act" means Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U.S.C. 601 *et seq.*).

§ 920.3 Person.

"Person" means an individual, partnership, corporation, association or any other business unit.

§ 920.4 Production area.

"Production area" means the State of California.

§ 920.5 Kiwifruit.

"Kiwifruit" means all varieties of *Actinidia chinensis*, Planch., commonly called kiwifruit, or kiwi, grown in the production area.

§ 920.6 Varieties.

"Varieties" means and includes all classifications or subdivisions of kiwifruit.

§ 920.7 Fiscal period.

"Fiscal period" is synonymous with fiscal year and means a 12-month period beginning on August 1 of one year and ending on the last day of July of the following year or such other period as the committee, with the approval of the Secretary, may prescribe.

§ 920.8 Committee.

"Committee" means the Kiwifruit Administrative Committee established pursuant to § 920.20

§ 920.9 Grower.

"Grower" is synonymous with producer and means any person who produces kiwifruit for the fresh market and who has a proprietary interest therein.

§ 920.10 Handler.

"Handler" is synonymous with shipper and means any person (except a common or contract carrier transporting kiwifruit owned by another person) who handles kiwifruit.

§ 920.11 Handle.

"Handle" and ship are synonymous and mean to sell, consign, deliver, or transport kiwifruit, or to cause kiwifruit to be sold, consigned, delivered, or transported, between the production area and any point outside thereof, or within the production area: *Provided*, That the term handle shall not include the sale of kiwifruit on the vine, the transportation within the production area of kiwifruit from the vineyard where grown to a packing facility located within such area for preparation for market, or the delivery of such kiwifruit to such packing facility for such preparation.

§ 920.12 District.

"District" means the applicable one of the following described subdivisions of the production area or such other subdivision as may be prescribed pursuant to § 920.31:

(a) "District 1" shall include the counties of Siskiyou, Modoc, Shasta, Lassen, Tehama, Plumas, and Butte (with the exception of that area set aside as "District 2").

(b) "District 2" shall include the 95948 postal zip code area known as Gridley (and the surrounding area), incorporating the area located within the following boundaries: The area west of the Feather River; north of the Butte/Sutter county line; east of Pennington and Riley Roads; and south of Farris Road, Ord Ranch Road and Gridley Avenue.

(c) "District 3" shall include the counties of Yuba, Sutter, Sierra, Nevada, and Placer.

(d) "District 4" shall include the counties Del Norte, Humboldt, Trinity, Mendocino, Lake, Sonoma, Marin, Napa, Solano, Yolo, Colusa, and Glenn.

(e) "District 5" shall include the counties of San Joaquin, Calaveras, Tuolumne, Merced, Stanislaus, Contra Costa, El Dorado, Amador, Sacramento, Alpine, San Francisco, Alameda, San Mateo, Santa Clara, Santa Cruz, San Benito and Monterey.

(f) "District 6" shall include the counties of Mono, Mariposa, Madera, Fresno and Kings.

(g) "District 7" shall include the counties of Tulare and Inyo.

(h) "District 8" shall include the counties of San Luis Obispo, Santa Barbara, San Bernardino, Kern, Ventura, Los Angeles, Orange, Riverside, San Diego and Imperial.

§ 920.13 Pack.

"Pack" means the specific arrangement, size, weight, count, or grade of a quantity of kiwifruit in a particular type and size of container, or any combination thereof.

§ 920.14 Container.

"Container" means a box, bag, crate, lug, basket, carton, package, or any other type of receptacle used in the packaging or handling of kiwifruit.

Administrative Body

§ 920.20 Establishment and membership.

There is hereby established a Kiwifruit Administrative Committee consisting of 12 members, each of whom shall have an alternate who shall have the same qualifications as the member for whom he or she is an alternate. The 12 member committee shall be made up of the following: One public member (and alternate); one member (and alternate) from each of the eight California districts; three additional committee members and their alternates to be selected from the three districts with three highest productions based on the production in the prior fiscal period: *Provided,* That no more than a total of two members and their alternates shall represent any one district. With the exception of the public member and alternate, all members and their respective alternates shall be growers or employees of growers.

§ 920.21 Term of office.

The term of office of each member and alternate member of the committee shall be two years from the date of their selection and until their successor has qualified; provided, however, that of the first members of the committee, one-half shall serve for one year, and one-half shall serve for two years, with the determination of term of each member to be made by lot at the time of selection. Except as otherwise provided in this Order, the terms shall begin August 1 and end on the last day of July. Members and alternates may serve up to three consecutive two year terms on the committee.

§ 920.22 Nomination.

(a) *Initial Members.* Nominations for each of the initial members, with the exception of the public member and alternate, together with nominations for the initial alternate members for each position, may be submitted to the Secretary by the committee responsible for promulgation of this part. Such nominations may be made by means of group meetings of the growers concerned in each district. Such nominations, if made, shall be filed with the Secretary no later than the effective date of this part. In the event nominations for initial members and alternate members of the committee are not filed pursuant to, and within the time specified in this section, the Secretary may select such initial members and alternate members without regard to nominations, but selections shall be on the basis of the representation provided in § 920.20.

(b) *Successor Members.* (1) The committee shall hold or cause to be held, not later than July 15 of each year, a meeting or meetings of growers in each district for the purpose of designating nominees for successor members and alternate members of the committe. These meetings shall be supervised by the committee which shall prescribe such procedure as shall be reasonable and fair to all persons concerned.

(2) Only growers from a given district who are present at such nomination meetings, or represented at such meetings by duly authorized employees, may participate in the nomination and election of nominees for members and their alternates.

(3) A particular grower shall be eligible for membership as member or alternate member to fill only one position on the committee.

(c) The public member and alternate member shall be selected by the Secretary in his discretion.

§ 920.23 Selection.

From the nominations made pursuant to § 920.22, or from other qualified persons, the Secretary shall select the 12 members of the committee and an alternate for each such member, with the exception of the public member and alternate member, who shall be selected by the Secretary in his discretion.

§ 920.24 Failure to nominate.

If nominations are not made within the time and in the manner prescribed in § 920.22, the Secretary may, without regard to nominations, select the members and alternate members of the committee on the basis of the representation provided for in § 920.20.

§ 920.25 Acceptance.

Each person to be selected by the Secretary as a member or as an alternate member of the committee shall, prior to such selection, qualify by advising the Secretary that he/she agrees to serve in the position for which nominated for selection.

§ 920.26 Vacancies.

To fill any vacancy occasioned by the failure of any person selected as a member or as an alternate member of the committee to qualify, or in the event of the death, removal, resignation, or disqualification of any member or alternate member of the committee, a successor for the unexpired term of such member or alternate member of the committee shall be nominated and selected, or, in the case of the public member and alternate, selected by the Secretary in his discretion, in the manner specified in §§ 920.22 and 920.23. If the names of nominees to fill any such vacancy are not made available to the Secretary within a reasonable time after such vacancy occurs, the Secretary may fill such vacancy without regard to nominations, which selection shall be made on the basis of representation provided for in § 920.20.

§ 920.27 Alternate members.

An alternate member of the committee, during the absence of either the member for whom that individual is an alternate, or, in the case of districts with two grower positions on the committee, the other member and that member's alternate, shall act in the place and stead of such member and perform such other duties as assigned. In the event of the death, removal, resignation, or disqualification of a member, the alternate of such member shall act for him or her until a successor for such member is selected and has qualified.

§ 920.30 Powers.

The committee shall have the following powers:

(a) To administer the provisions of this part in accordance with its terms;

(b) To receive, investigate, and report to the Secretary complaints of violations of the provisions of this part;

(c) To make and adopt rules and regulations to effectuate the terms and provisions of this part; and

(d) To recommend to the Secretary amendments to this part.

§ 920.31 Duties.

The committee shall have, among others, the following duties:

(a) To select a chairperson and such other officers as may be necessary, and to define the duties of such officers;

(b) To appoint such employees, agents and representatives as it may deem necessary, and to determine compensation and to define the duties of each;

(c) To submit to the Secretary as soon as practicable after the beginning of each fiscal period a budget for such fiscal period, including a report in explanation of the items appearing therein and a recommendation as to the rate of assessment for such period;

(d) To keep minutes, books and records which will reflect all of the acts and transactions of the committee and which shall be subject to examination by the Secretary;

(e) To prepare periodic statements of the financial operations of the committee and to make copies of each

such statement available to growers and handlers for examination at the office of the committee;

(f) To cause its books to be audited by a public accountant at least once each fiscal year and at such times as the Secretary may request;

(g) To act as intermediary between the Secretary and any grower or handler;

(h) To investigate and assemble data on the growing, handling and marketing conditions with respect to kiwifruit;

(i) To submit to the Secretary the same notice of meetings of the committee as is given to its members;

(j) To submit to the Secretary such available information as may be requested;

(k) To investigate compliance with the provisions of this part;

(l) With the approval of the Secretary, to redefine the districts into which the production area is divided and to reapportion the representation of any district on the committee: *Provided,* That any such changes shall reflect, insofar as practicable, shifts in kiwifruit production within the districts and the production area.

§ 920.32 Procedure.

(a) Eight members of the committee, or alternates acting for members, shall constitute a quorum and any action of the committee shall require the concurring vote of the majority of those present: *Provided,* That actions of the committee with respect to expenses and assessments, or recommendations for reguations pursuant to §§ 920.50 through 920.55, of this part shall require at least eight concurring votes.

(b) The committee may vote by telephone, telegraph, or other means of communication, and any votes so cast shall be confirmed promptly in writing: *Provided,* That if an assembled meeting is held, all votes shall be cast in person.

§ 920.33 Expenses and compensation.

(a) Except for the public member and alternate, the members of the committee, and alternates when acting as members, shall serve without compensation but shall be reimbursed for expenses necessarily incurred by them in the performance of their duties under this part: *Provided,* That the committee at its discretion may request the attendance of one or more alternates, including the public alternate, at any or all meetings notwithstanding the expected or actual presence of the respective members and may pay expenses as aforesaid.

(b) The public member and alternate shall be reimbursed for expenses necessarily incurred by them in the performance of their duties under this part, and shall receive per diem compensation established by the committee.

§ 920.34 Annual report.

The committee shall, as soon as is practicable after the close of each marketing season, prepare and mail an annual report to the Secretary and make a copy available to each grower and handler who requests a copy of the report.

Expenses and Assessments

§ 920.40 Expenses.

The committee is authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by the committee for its maintenance and functioning and to enable it to exercise its powers and perform its duties in accordance with the provisions of this part. The funds to cover such expenses shall be acquired in the manner prescribed in § 920.41.

§ 920.41 Assessments.

(a) As his or her pro rata share of the expenses which the Secretary finds are reasonable and likely to be incurred by the committee during a fiscal period, each person who first handles kiwifruit during such period shall pay to the committee, upon demand, assessments on all kiwifruit so handled. The payment of assessments for the maintenance and functioning of the committee may be required under this part throughout the period it is in effect, irrespective of whether particular provisions thereof are suspended or become inoperative. If a handler does not pay any assessment within the time prescribed by the committee, the assessment may be subject to an interest charge at a rate prescribed by the committee with the approval of the Secretary.

(b) The Secretary shall fix the rate of assessment to be paid by each such person during a fiscal period in an amount designed to secure sufficient funds to cover the expenses which may be incurred during such period and to accumulate and maintain a reserve fund equal to approximately one fiscal period's expenses. At any time during or after the fiscal period, the Secretary may increase the rate of assessment in order to secure sufficient funds to cover any later finding by the Secretary relative to the expenses which may be incurred: *Provided,* That any assessment, excluding any amount collected pursuant to § 920.55(c), must be limited to a maximum assessment rate of three and one-half cents per flat, or the equivalent thereof. The Secretary may increase this maximum rate in each succeeding year after the initial year of order operation by the Consumer Price Index (cost of living) for California as published by the Bureau of Labor Statistics. Such increase shall be applied to all kiwifruit handled during the applicable fiscal period. In order to provide funds for the administration of the provisions of this part during the first part of a fiscal period before sufficient operating income is available from assessments on the current year's shipments, the committee may accept the payment of assessments in advance, and may also borrow money for such purposes.

§ 920.42 Accounting.

(a) If, at the end of a fiscal period, the assessments collected are in excess of expenses incurred, such excess shall be accounted for in accordance with one of the following:

(1) If such excess is not retained in a reserve, as provided in paragraph (a)(2) of this section, it shall be refunded proportionately to the persons from whom it was collected: *Provided,* That any sum paid by a person in excess of his or her pro rata share of the expenses during any fiscal period may be applied by the committee at the end of such fiscal period to any outstanding obligations due the committee from such person.

(2) The committee, with the approval of the Secretary, may carry over such excess into subsequent fiscal periods as a reserve: *Provided,* That funds already in the reserve do not equal approximately one fiscal period's expenses. Such reserve funds may be used: (i) To defray expenses, during any fiscal period, prior to the time assessment income is insufficient to cover such expenses; (ii) to cover deficits incurred during any fiscal year when assessment income is less than expenses; (iii) to defray expenses incurred during any period when any or all provisions of this part are suspended or are inoperative; and, (iv) to cover necessary expenses of liquidation in the event of termination of this part. Upon such termination, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate: *Provided,* That to the extent practical, such funds shall be returned pro rata to the persons from whom such funds were collected.

(b) All funds received by the committee pursuant to the provisions of this part shall be used solely for the purpose specified in this part and shall be accounted for in the manner provided in this part. The Secretary may at any time require the committee and its

members to account for all receipts and disbursements.

(c) Upon the removal or expiration of the term of office of any member of the committee, such member shall account for all receipts and disbursements and deliver all property and funds in his or her possession to the committee, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in the committee full title to all of the property, funds, and claims vested in such member pursuant to this part.

Regulations

§ 920.50 Marketing policy.

(a) Each season prior to making any recommendations pursuant to § 920.51, the committee shall submit to the Secretary a report setting forth its marketing policy for the ensuing marketing season. Such marketing policy report shall contain information relative to:

(1) The estimated total production of kiwifruit within the production area;

(2) The expected general quality and size of kiwifruit in the production area and in other areas;

(3) The expected demand conditions for kiwifruit in different market outlets;

(4) The expected shipments of kiwifruit produced in the production area and in areas outside the production area;

(5) Supplies of competing commodities;

(6) Trend and level of consumer income;

(7) Other factors having a bearing on the marketing of kiwifruit; and

(8) The type of regulations expected to be recommended during the marketing season.

§ 920.51 Recommendations for regulation.

(a) Whenever the committee deems it advisable to regulate the handling of any variety or varieties of kiwifruit in the manner provided in § 920.52, it shall so recommend to the Secretary.

(b) In arriving at its recommendations for regulation pursuant to paragraph (a) of this section, the committee shall give consideration to current information with respect to the factors affecting the supply and demand for kiwifruit during the period or periods when it is proposed that such regulations should be made effective. With each such recommendation for regulation, the committee shall submit to the Secretary the data and information on which such recommendation is predicated and such other available information as the Secretary may request.

§ 920.52 Issuance of regulations.

(a) The Secretary shall regulate, in the manner specified in this section, the handling of kiwifruit whenever the Secretary finds, from the recommendations and information submitted by the committee, or from other available information, that such regulations will tend to effectuate the declared policy of the act. Such regulations may:

(1) Limit, during any period or periods, the shipment of any particular grade, size, quality, maturity, or pack, or any combination thereof, of any variety or varieties of kiwifruit grown in the production area;

(2) Limit the shipment of kiwifruit by establishing, in terms of grades, sizes, or both, minimum standards of quality and maturity during any period when season average prices are expected to exceed the parity level;

(3) Fix the size, capacity, weight, dimensions, markings, or pack of the container, or containers, which may be used in the packaging or handling of kiwifruit.

(b) The committee shall be informed immediately of any such regulation issued by the Secretary and the committee shall promptly give notice thereof to handlers.

§ 920.53 Modification, suspension, or termination of regulations.

(a) In the event the committee at any time finds that, by reason of changed conditions, any regulations issued pursuant to § 920.52 should be modified, suspended, or terminated, it shall so recommend to the Secretary.

(b) Whenever the Secretary finds from the recommendations and information submitted by the committee or from other available information, that a regulation should be modified, suspended, or terminated with respect to any or all shipments of kiwifruit in order to effectuate the declared policy of the act, the Secretary shall modify, suspend, or terminate such regulation. If the Secretary finds that a regulation obstructs or does not tend to effectuate the declared policy of the act, the Secretary shall suspend or terminate such regulation. On the same basis and in like manner the Secretary may terminate any such modification or suspension.

§ 920.54 Special purpose shipments.

(a) Except as otherwise provided in this section, any person may, without regard to the provisions of §§ 920.41, 920.52, 920.53 and 920.55 and the regulations issued thereunder, handle kiwifruit: (1) For consumption by charitable institutions; (2) for distribution by relief agencies; or (3) for commercial processing into products.

(b) Upon the basis of recommendations and information submitted by the committee, or from other available information, the Secretary may relieve from any or all requirements, under or established pursuant to §§ 920.41, 920.52, 920.53 or 920.55, the handling of kiwifruit: (1) To designated market areas; (2) for such specified purposes (including shipments to facilitate the conduct of marketing research and development projects); or, (3) in such minimum quantities or types of shipments, as may be prescribed.

(c) The committee shall, with the approval of the Secretary, prescribe such rules, regulations, and safeguards as it may deem necessary to prevent kiwifruit handled under the provisions of this section from entering the channels of trade for other than the specific purposes authorized by this section. Such rules, regulations, and safeguards may include the requirements that handlers shall file applications and receive approval from the committee for authorization to handle kiwifruit pursuant to this section, and that such applications be accompanied by a certification by the intended purchaser or receiver that the kiwifruit will not be used for any purpose not authorized by this section.

§ 920.55 Inspection and certification.

(a) Whenever the handling of any variety of kiwifruit is regulated pursuant to §§ 920.52, or 920.53, each handler who handles kiwifruit shall, prior thereto, cause such kiwifruit to be inspected by the Federal or Federal-State Inspection Service and certified as meeting the applicable requirements of such regulation: *Provided,* That inspection and certification shall not be required for kiwifruit which previously have been so inspected and certified if such prior inspection was performed within such period as may be established pursuant to paragraph (b) of this section. Promptly after inspection and certification, each such handler shall submit, or cause to be submitted, to the committee a copy of the certificate of inspection issued with respect to such kiwifruit. The committee may, with the approval of the Secretary, presecribe rules and regulations waiving the inspection requirements of this section where it is determined that inspection is not available: *Provided,* That all shipments made under such waiver shall comply with all regulations in effect.

(b) The committee may, with the approval of the Secretary, establish a period prior to shipment during which

the inspection required by this section must be performed.

(c) The committee may enter into an agreement with the Federal and Federal-State Inspection Services with respect to the costs of the inspection required by paragraph (a) of this section, and may collect from handlers their respective pro rata shares of such costs.

Reports

§ 920.60 Reports.

(a) Each handler shall furnish to the committee, at such times and for such periods as the committee may designate, certified reports covering, to the extent necessary for the committee to perform its functions, each shipment of kiwifruit as follows:

(1) The name of the shipper and the shipping point;

(2) The car or truck license number (or name of the trucker), and identification of the carrier;

(3) The date and time of departure;

(4) The number and type of containers in the shipment;

(5) The quantities shipped, showing separately the variety, size and grade of the fruit;

(6) The destination;

(7) Identification of the inspection certificate or waiver pursuant to which the fruit was handled.

(b) Upon request of the committee, made with the approval of the Secretary, each handler shall furnish to the committee, in such manner and at such times as it may prescribe, such other information as may be necessary to enable the committee to perform its duties under this part.

(c) Each handler shall maintain for at least two succeeding fiscal years, such records of the kiwifruit received and disposed of by such handler as may be necessary to verify the reports submitted to the committee pursuant to this section.

(d) All reports and records submitted by handlers pursuant to the provisions of this section shall be received by, and at all times be in custody of, one or more designated employees of the committee. No such employee shall disclose to any person, other than the Secretary upon request therefor, data or information obtained or extracted from such reports and records which might affect the trade position, financial condition, or business operation of the particular handler from whom received: *Provided,* That such data and information may be combined, and made available to any person, in the form of general reports in which the identities of the individual handler furnishing the information, is not disclosed but may be revealed to any extent necessary to effect compliance with the provisions of this part and the regulations issued thereunder.

Miscellaneous Provisions

§ 920.61 Compliance.

(a) Except as provided in this part, no person shall handle kiwifruit, the shipment of which has been prohibited by the Secretary in accordance with the provisions of this part; and no person shall handle kiwifruit except in conformity with the provisions of this part and the regulations issued under this part.

(b) For the purpose of checking and verifying reports filed by handlers, the committee, through its duly authorized representatives shall have access to any handler's premises during regular business hours, and shall be permitted at any such times to inspect such premises and any kiwifruit held by such handler, and any and all records of the handler with respect to his or her acquisition, sales, uses and shipments of kiwifruit. Each handler shall furnish all labor and equipment necessary to make such inspections.

§ 920.62 Right of the Secretary.

The members of the committee (including successors and alternates), and any agents, employees, or representatives thereof, shall be subject to removal or suspension by the Secretary at any time. Each and every regulation, decision, determination, or other act of the committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time. Upon such disapproval, the disapproved action of the committee shall be deemed null and void, except as to acts done in reliance thereon or in accordance therewith prior to such disapproval by the Secretary.

§ 920.63 Termination.

(a) The Secretary may at any time terminate the provisions of this part by giving at least one day's notice by means of a press release or in any other manner in which the Secretary may determine.

(b) The Secretary shall terminate or suspend the operation of any and all of the provisions of this part whenever the Secretary finds that such provisions do not tend to effectuate the declared policy of the act.

(c) The Secretary shall terminate the provisions of this part whenever the Secretary finds by referendum or otherwise that such termination is favored by a majority of the growers: *Provided,* That such majority has, during the current marketing season, produced more than 50 percent of the volume of the kiwifruit which were produced within the production area for shipment in fresh form. Such termination shall become effective on the first day of August subsequent to the announcement thereof by the Secretary.

(d) The committee shall consider all petitions from growers submitted to it for termination of this part provided such petitions are received by the committee prior to February 1 of the then current fiscal period. Upon recommendation of the committee received not later than April 1 of the then current fiscal period, the Secretary shall conduct a referendum among the growers prior to July 15 of such fiscal period to ascertain whether continuance of this part is favored by producers.

(e) The Secretary shall conduct a referendum within the period beginning May 15, 1990, and ending July 15, 1990, to ascertain whether continuance of this part is favored by the growers as set forth in paragraph (c) of this section. The Secretary shall conduct such a referendum within the same period of every sixth fiscal period thereafter.

(f) The provisions of this part shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

§ 920.64 Proceeding after termination.

(a) Upon the termination of the provisions of this part, the committee shall, for the purpose of liquidating the affairs of the committee, continue as trustee of all the funds and property then in its possession, or under its control, including claims for any funds unpaid or property not delivered at the time of such termination.

(b) The said trustees shall: (1) Continue in such capacity until discharged by the Secretary; (2) from time to time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the committee and of the trustees, to such persons as the Secretary may direct; and (3) upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person, full title and right to all of the funds, property, and claims vested in the committee of the trustees pursuant thereto.

(c) Any person to whom funds, property, or claims have been transferred or delivered, pursuant to this section, shall be subject to the same obligation imposed upon the committee and upon the trustees.

§ 920.65 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this part or of any regulation issued pursuant to this part, or the issuance of any amendment to either thereof, shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this part or any regulation issued under this part, or (b) release or extinguish any violation of this part or of any regulation issued under this part, or (c) affect or impair any rights or remedies of the Secretary or of any other person with respect to any such violation.

§ 920.66 Duration of immunities.

The benefits, priviliges, and immunities conferred upon any person by virtue of this part shall cease upon its termination, except with respect to acts done under and during the existence of this part.

§ 920.67 Agents.

The Secretary may, by designation in writing, name any officer or employee of the United States, or name any agency or division in the United States Department of Agriculture, to act as the Secretary's agent or representative in connection with any of the provisions of this part.

§ 920.68 Derogation.

Nothing contained in this part is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States (a) to exercise any powers granted by the act or otherwise, or (b) in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ 920.69 Personal liability.

No member or alternate member of the committee and no employee or agent of the committee shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate, employee or agent, except for acts of dishonesty, willful misconduct, or gross negligence.

§ 920.70 Separability.

If any provision of this part is declared invalid or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this part or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Effective Date: October 12, 1984.

Signed at Washington, D.C. on October 2, 1984.

Karen K. Darling,

Deputy Assistant Secretary, Marketing & Inspection Services.

[FR Doc. 84-26850 Filed 10-4-84; 12:30 pm]

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DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 214

Nonimmigrant Classes; Ports of Entry; Great Falls, MT

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This final rule removes Great Falls, Montana, from the list of ports of entry at 8 CFR 214.2(c)(1) where, except for transit from one part of foreign contiguous territory to another part of the same territory, an alien must make application for admission to the United States as a direct transit without a visa. This change is made because the Service has no inspection personnel assigned to Great Falls, and international commercial carriers no longer service that port of entry.

EFFECTIVE DATE: October 10, 1984.

FOR FURTHER INFORMATION CONTACT: For General Information: Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C. 20536, Telephone: (202) 633–3048.

For Specific Information: Steven M. Hurst, Immigration Inspector, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C. 20536, Telephone: (202) 633–4034.

SUPPLEMENTARY INFORMATION: This final rule removes Great Falls, Montana from the list of ports designated at 8 CFR 214.2(c)(1) as ports where, except for transit from one part of foreign contiguous terrority to another part of the same territory, application for direct transit without a visa must be made. The Service no longer maintains inspection personnel at Great Falls International Airport, Great Falls, Montana. In recent years the number of transit without visa applicants at Great Falls has been low, averaging approximately five to ten annually. All such applicants arrived, after preinspection by the Service in Calgary, Alberta, Canada, on Western Airlines, a carrier that serves other ports listed at 8 CFR 214.2(c)(1). This carrier, the single international commercial carrier serving Great Falls, discontinued arrivals from Canada to that port in early September 1984.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary as this rule relates to agency management. This is not a rule within the definition of section 1(a) of E.O. 12291.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 8 CFR Part 214

Administrative practice and procedure, Aliens, Passports and visas, Port of entry, Travel restrictions.

Accordingly, Title 8 of the Code of Federal Regulations is amended as follows:

PART 214—NONIMMIGRANT CLASSES

§ 214.2 [Amended]

In § 214.2, paragraph (c)(1) is amended by removing "Great Falls, MT" from the listing of ports of entry authorized to accept transit without visa applications for admission.

(Sec. 214 of the Immigration and Nationality Act, as amended (8 U.S.C. 1184))

Dated: October 3, 1984.

Andrew J. Carmichael, Jr.,

Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 84-26749 Filed 10-9-84; 8:45 am]

BILLING CODE 4410-10-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1010

Export of Noncomplying, Misbranded, Banned Products Subject to Regulation Under Consumer Product Safety Act or Federal Hazardous Substances Act; Statement of Policy and Interpretation

AGENCY: Consumer Product Safety Commission.

ACTION: Statement of policy and interpretation.

SUMMARY: The Consumer Product Safety Commission issues a statement of policy and interpretation concerning products which fail to comply with an applicable consumer product safety standard or

banning rule issued under the Consumer Product Safety Act (CPSA), or which are "misbranded hazardous substances" or "banned hazardous substances" as those terms are used in the Federal Hazardous Substances Act (FHSA). The statement issued below announces the Commission's interpretation of the CPSA and FHSA to prohibit the export of such products if they have been sold or distributed in domestic commerce.* The Commission is issuing this statement to announce and codify its policy and interpretation of the CPSA and FHSA with regard to export of such products.

DATE: This statement of policy and interpretation is effective October 10, 1984.

FOR FURTHER INFORMATION CONTACT: Allen F. Brauninger, Office of the General Counsel, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 492–6980.

SUPPLEMENTARY INFORMATION:

Background

Since its activation in 1973, the Consumer Product Safety Commission has from time to time considered the question of whether products that fail to comply with applicable provisions of a standard, banning rule, or other requirements imposed under the statutes which it enforces may legally be exported.

The Commission enforces the Consumer Product Safety Act (CPSA, 15 U.S.C. 2051 *et seq.*), the Federal Hazardous Substances Act (FHSA, 15 U.S.C. 1261 *et seq.*), the Flammable Fabrics Act (FFA, 15 U.S.C. 1191 *et seq.*), and the Poison Prevention Packaging Act (PPPA, 15 U.S.C. 1471 *et seq.*). The CPSA, FHSA, and FFA have provisions applicable to export of products; however, the text of the export provisions in each of these statutes varies to some degree from one act to another. (The PPPA has no provisions applicable to export. That statute is enforced by application of particular provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 16 *et seq.*) or the FHSA, depending upon the particular product involved.)

Before the Commission began operation in 1973, the Federal Trade Commission (FTC) enforced the FFA and had announced a policy concerning export of products which failed to comply with an applicable flammability standard issued under that act. The FTC policy was that any product which failed to comply with an applicable standard of flammability issued under the FFA could not be exported if the product had ever been distributed in domestic commerce.

The Commission affirmed and adopted this policy with regard to export of noncomplying products subject to FFA standards by publication of notices in the **Federal Register** in 1975 (40 FR 59884) and in 1976 (41 FR 16797). The Commission's FFA export policy was codified at 16 CFR 1602.2.

The Commission did not publish and codify a statement of its policy with regard to export of products which failed to comply with consumer product safety standards or banning rules issued under the CPSA. Likewise, the Commission had not published a statement of its policy with regard to products which were "misbranded hazardous substances" or "banned hazardous substances" under the FHSA. A product may be a "misbranded hazardous substance" because it fails to comply with general labeling requirements established by sections 2 (f) and (p) of the FHSA (15 U.S.C. 1261 (f) and (p)); because it fails to comply with specific labeling regulations issued under provisions of section 3 of the FHSA (15 U.S.C. 1262) and codified at 16 CFR Part 1500; or because it is a household substance which fails to comply with an applicable requirement for child-resistant packaging issued under the PPPA, as provided in section 2(p) of the FHSA. A product may be a "banned hazardous substance" because it is a toy or children's article which contains or consists of a hazardous substance as that term is defined in section 2(f) of the FHSA; because it is a household substance which is classified as a "banned hazardous substance" by regulation issued under provisions of section 2(q) of the FHSA (15 U.S.C. 1261(q)); or because it is a toy or children's article which presents an electrical, mechanical, or thermal hazard and is classified as a "banned hazardous substance" by regulation issued under provisions of section 3 (e) through (i) of the FHSA (15 U.S.C. 1262 (e) through (i)). Regulations classifying products as "banned hazardous substances" are codified at 16 CFR Part 1500 through Part 1512.

When questions arose concerning the permissibility of export of noncomplying, misbranded, or banned products regulated under the CPSA or FHSA, the Commission took the position that export of such products is prohibited if the products had been distributed in domestic commerce.

A memorandum from the Commission's Associate Executive Director for Compliance and Enforcement, dated July 19, 1978, described the enforcement policy then applicable to the export of products in violation of regulations, bans, or standards issued under the CPSA or FHSA. (*1*)** This memorandum states that generally export of such products is prohibited if they have ever been sold or offered for sale in domestic commerce. (Although never published in the Code of Federal Regulations, this memorandum was cited in the **Federal Register** notice of August 8, 1980 (45 FR 53056 at 53062), by which the Commission issued regulations concerning notification requirements applicable to export of noncomplying products.) (*2*)

However, in some instances, typically involving minimal violations, the Commission has refrained from enforcement of applicable provisions of the CPSA or FHSA. In those instances, noncomplying, misbranded, or banned products were exported, even though they has been distributed in domestic commerce.

In 1978, the CPSA, FHSA, and FFA were amended by the addition of provisions which require notification of the country of intended destination before the export of any product which fails to comply with an applicable standard, ban, or labeling requirement under any of those acts. (See Pub. L. 95–931, 92 Stat. 2742, November 10, 1978.) The Commission has issued regulations which implement the notification provisions of the 1978 amendments. These regulations are codified at 16 CFR Part 1019.

New FFA Export Policy

On July 7, 1983, the Commission issued a Memorandum Decision and Order *In the Matter of Imperial Carpet Mills, Inc.*, CPSC Docket No. 80–2, deciding issues raised in an interlocutory appeal. One part of the decision and order set aside the Commission's previous policy prohibiting the export of products which fail to comply with an applicable flammability standard issued under the

*Commissioner Terrence M. Scanlon voted against issuance of this statement of policy and interpretation and issued a dissenting statement concerning this matter, which is available in the Commission's public reading room, 8th floor, 1111 18th Street, NW., Washington, D.C., or by calling the Office of the Secretary at (301) 492–6800. Commissioner Carol G. Dawson abstained and did not participate in the Commission decision on this matter.

**Numbers in parentheses identify reference documents listed in Bibliography at the end of this notice. Requests for inspection of any of these documents should be made at the Commission's public reading room, 1111 18th Street, NW., Washington, D.C., or by calling the Office of the Secretary at (301) 492–6800.

FAA if the products had ever moved in domestic commerce. (*3*)

The new export policy announced in the *Imperial Carpet Mills* decision is applicable only to products which fail to comply with a standard issued under the FFA. It has no applicability to products which fail to comply with a standard, ban or labeling requirement imposed under provisions of the CPSA or FHSA. (*3*)

In the **Federal Register** of February 28, 1984 (49 FR 7274), the Commission published notice of a public hearing on March 16, 1984, to receive information and views from all interested persons on the issue of whether the Commission should extend the export policy announced in the *Imperial Carpet Mills* decision to products which fail to comply with standards and banning rules issued under the CPSA or which are misbranded or banned hazardous substances under provisions of the FHSA. (*4*)

Public Hearing

At the hearing, seven persons presented testimony on behalf of the following organizations: Consumer Federation of America, International Organization of Consumers Unions, Women's Health Network, Public Citizen Health Research Group, Citizens Committee for Fire Protection, and Infant Formula Action Coalition. All of these groups opposed extension of the export policy announced in the *Imperial Carpet Mills* decision to noncomplying, misbranded, or banned products which are regulated under the CPSA or FHSA. A written transcript was made of all oral presentations given at the hearing. (*5*)

Additionally, in response to the notice of February 28, 1984, the Commission received written comments from one U.S. Senator (*10*), two U.S. Representatives (*7,11*), seven consumer organizations (*8,9,14,15,16,21,22*), three individual consumers (*18,19,24*), a fraternity (*23*), three trade associations (*6,12,20*), one exporter (*17*), and one attorney (*13*). Comments from the Senator, Congressmen, consumer groups, individual consumers, and the fraternity opposed extension of the export policy announced in the *Imperial Carpet Mills* case to noncomplying, mislabeled, and banned products regulated under the CPSA and FHSA; comments from the trade associations, exporter, and attorney favored such an extension.

The arguments advanced by persons who testified at the hearing and by parties submitting written comments in response to the notice of February 28, 1984, fall into two broad categories:

(1) Those which are based on the text of the export provisions of the statutes and the legislative history of those provisions; and

(2) Those which are based on the commenters' perception of sound public policy.

Statutory Provisions

As noted above, the CPSA, FHSA, and FFA each contain language applicable to exportation of noncomplying products. The provisions of those acts relevant to proceeding are as follows:

Consumer Product Safety Act, section 18(a); 15 U.S.C. 2067(a).

This Act shall not apply to any consumer product if (1) it can be shown that such product is manufactured, sold, or held for sale for export from the United States (or that such product was imported for export), unless (A) such consumer product is in fact distributed in commerce for use in the United States, or (B) the Commission determines that exportation of such product presents an unreasonable risk of injury to consumers within the United States, and (2) such consumer product when distributed in commerce, or any container in which it is enclosed when so distributed, bears a stamp or label stating that such consumer product is intended for export; except that this Act shall apply to any consumer product manufactured for sale, offered for sale, or sold for shipment to any installation of the United States located outside of the United States.

Federal Hazardous Substances Act, sections 4 (a) and (c); 15 U.S.C. 1263 (a) and (c).

The following acts and the causing thereof are hereby prohibited:

(a) The introduction or delivery for introduction into interstate commerce of any misbranded hazardous substance or banned hazardous substance.

* * * * *

(c) The receipt in interstate commerce of any misbranded hazardous substance or banned hazardous substance and the delivery or proffered delivery thereof for pay or otherwise.

Federal Hazardous Substances Act, section 5(b); 15 U.S.C. 1264(b).

No person shall be subject to the penalties of subsection (a) of this section * * * (3) for having violated subsection (a) or (c) of section 4 with respect to any hazardous substance shipped or delivered for shipment for export to any foreign country, in a package marked for export on the outside of the shipping container and labeled in accordance with the specifications of the foreign purchaser and in accordance with the laws of the foreign country, but if such hazardous substance is sold or offered for sale in domestic commerce, or if the Consumer Product Safety Commission determines that exportation of such substance presents an unreasonable risk of injury to persons residing within the United States, this clause shall not apply.

Flammable Fabrics Act, section 15(a); 15 U.S.C. 1202(a).

This Act shall not apply to any fabric, related material, or product which is to be exported from the United States, if such fabric, related material, or product, and any container in which it is enclosed, bears a stamp or label stating that such fabric, related material, or product is intended for export and such fabric, related material, or product is in fact exported from the United States; unless the Consumer Product Safety Commission (hereinafter in this section referred to as the "Commission") determines that exportation of such fabric, related material, or product presents an unreasonable risk of injury to persons residing within the United States; except that this Act shall apply to any fabric, related material, or product manufactured for sale, offered for sale, or intended for shipment to any installation of the United States located outside of the United States.

Arguments Based on Law

Persons opposed to extension of the export policy of the *Imperial Carpet Mills* case to products regulated under the CPSA and FHSA argued that the plain language of the CPSA and FHSA prohibits export of noncomplying, misbranded, or banned products subject to regulation under their provisions if such products have been distributed in domestic commerce. (*5,7,10,21*)

Specifically, these comments point to the language of section 18(a) of the CPSA stating that the CPSA does not apply to any consumer product which is intended and labeled for export, unless "such consumer product is in fact distributed in commerce for use in the United States." These comments also observe that section 5(b) of the FHSA prohibits the imposition of penalties for certain transactions involving misbranded or banned hazardous substances intended and labeled for export except when "such hazardous substance is sold or offered for sale in domestic commerce."

These comments state that while section 15(a) of the FFA provides that the FFA shall not apply to fabrics, related materials, and products intended and labeled for export, that section is silent about the effect of distribution of such goods in domestic commerce on the exemption from the FFA made for goods to be exported.

Commenters opposing extension of the export policy announced in *Imperial Carpet Mills* to products regulated under the CPSA and FHSA argue that such an extension is not permissible in view of the language of section 18(a) of the CPSA and section 5(b) of the FHSA.

Persons opposed to extension of the export policy of the *Imperial Carpet Mills* case to products regulated under the CPSA and FHSA also contend that in 1978 the Congress was aware of the

Commission's policy to prohibit export of noncomplying, misbranded, or banned products if such products had been distributed in domestic commerce. Those commenters argue that with knowledge of that export policy, Congress chose not to modify or eliminate the language of section 18(a) of the CPSA or of section 5(b) of the FHSA concerning the effect of distribution of goods in domestic commerce when it amended those acts by adding provisions to require notification to the Commission before shipment of noncomplying, misbranded, or banned products to foreign countries. (*5,7,11,22*)

One of the written comments favoring extension of the export policy of the *Imperial Carpet Mills* case to products regulated under the CPSA and FHSA states that the text of the CPSA and FHSA, as well as that of the FFA, does not require that a firm must form the intent to export at the time of manufacture in order for goods labeled for export to be exempt from the requirements of that statute. (*13*) This comment argues, in effect, that the language of section 18(a) of the CPSA and of section 5(b) of the FHSA does not exclude a product from the exemption provided by those sections if it "has ever been" distributed in domestic commerce, but only if it "is" so distributed.

The same comments also argues that Congres did not endorse or approve the Commission's export policy when it added the notification requirements in the 1978 amendments of those acts. This comment asserts that in 1978 the Commission had not published or announced a general export policy under the CPSA or the FHSA, but in fact had issued two different and contradictory statements concerning the Commission's authority to forbid export of one particular banned hazardous substance after it had been distributed in domestic commerce. (*13*)

Policy Arguments

In addition to arguments based on the text and legislative history of the CPSA and FHSA, opponents and proponents of extending the *Imperial Carpet Mills* export policy to the CPSA and FHSA advanced several policy arguments for their respective positions.

Policy arguments made by parties opposed to extension of the *Imperial Carpet Mills* export policy to products regulated under the CPSA and FHSA included the following points:

1. A policy which prohibits export of noncomplying, misbranded, or banned products if they have been distributed in domestic commerce provides strong incentive for domestic manufacturers to produce and market products that comply with applicable requirements. Firms are more careful in design of products and will employ better quality control practices if they know that recalled products cannot be exported. (*5,7,8,10,14*) Extension of the export policy announced in *Imperial Carpet Mills* to products subject to regulation under the CPSA and FHSA will reduce the incentive to comply with applicable requirements by allowing firms to "dump" mistakes overseas. Any reduction of incentive to comply with applicable requirements under the CPSA or FHSA will increase the risks to consumers in the United States because manufacturers will exercise less care in the design and production of their products.

2. Existing provisions of the CPSA and FHSA impose no undue restrictions on manufacturers desiring to compete in overseas markets. All that is required is notification to the Commission at least 30 days before shipment of any product which does not meet requirements which would be applicable if the product were intended for sale or distribution in the United States. (*5*)

3. Extension of the *Imperial Carpet Mills* export policy to products regulated under the CPSA and FHSA will tarnish the label "Made in U.S.A." in other countries. Such an extension would also place an undue burden on governments of other countries which may lack the funds, expertise, personnel, or organizational structure to deal with noncomplying, misbranded, or banned products exported from the United States. The net effect of extending the *Imperial Carpet Mills* export policy to goods regulated under the CPSA and FHSA would be to damage rather than improve the overseas market for American products. (*5,9,10,15,19*)

4. Permitting the export of products that have been recalled raises the possibility that the products will be re-introduced into domestic commerce by importation into the United States. The Commission's inspection and enforcement resources would be diverted to preventing re-introduction of recalled goods into domestic commerce. (*5,7,10,14*)

5. The Commission's current policy of prohibiting export of products which fail to comply with applicable requirements under the CPSA or FHSA if they have been distributed in domestic commerce is working in the manner intended. (*5*) The current policy allows the Commission to make case-by-case exceptions in appropriate circumstances. (*22*)

6. A wider variety of products with a greater range of risks are subject to regulation under the CPSA and FHSA than under the FFA. The differences in products and risks of injury justify an export policy for products regulated under the CPSA and FHSA different from the policy for products which fail to comply with FFA standards. (*5*)

Policy arguments in written comments from parties favoring extension of the *Imperial Carpet Mills* export policy to products regulated under the CPSA and FHSA made the following points:

1. Criminal and civil penalties available under the CPSA and FHSA—not the Commission's export policy—provide the mechanisms to assure that products meet applicable requirements and to protect consumers in the United States. (*6*)

2. Firms produce only one class of products. They do not produce one class for domestic consumption and another for the export market. For this reason, a change in the Commission's export policy will not increase risks to consumers in this country by encouraging production of noncomplying products. Instead, a change in policy would benefit industry by removing one barrier to freer export trade. (*6,12,20*)

3. Notification to the Commission and the country of intended destination of a firm's plan to export noncomplying, misbranded, or banned products fully satisfies the requirements of the CPSA and FHSA, as well as the international obligations of the United States. The recipient country, rather than a U.S. regulatory agency, is best able to determine whether a product is safe for use in that country. (*6,13,20*)

4. Extending the *Imperial Carpet Mills* export policy to goods subject to regulation under the CPSA and FHSA would eliminate inconsistency in the Commission's administration of the CPSA, FHSA, and FFA. All three acts have substantially the same language and should be applied consistently. (*6*)

The Commission has given careful consideration to all arguments based on law and policy from all interested parties concerning the question of whether the Commission should extend the export policy of the *Imperial Carpet Mills* decision to cover products subject to regulation under the CPSA and FHSA.

Commission Decision

On May 16, 1984, by a 3–1 vote, the Commission decided not to extend the export policy of the *Imperial Carpet Mills* case to the CSPA and FHSA. (*25*) The majority held that the better interpretation of the statues and the

sounder public policy would be established by prohibiting the export of noncomplying, misbranded, or banned products regulated under the CPSA or FHSA if they have been sold or distributed in domestic commerce. Chairman Nancy Harvey Steorts and Commissioners Stuart M. Statler and Saundra Brown Armstrong concurred in that decision. Commission Terrence M. Scanlon voted in favor of extension of the *Imperial Carpet Mills* export policy to products regulated under the CPSA and FHSA. All four Commissioners issued separate statements of the reasons for their votes in this matter, which were attached to a news releases issued on May 18, 1984. (*25*) Additionally, Commissioners Statler and Armstrong issued separate opinions explaining in detail their views on the issue of an appropriate export policy under the CPSA and FHSA. (*26,27*) The vote on export policy under the CPSA and FHSA was taken before Commissioner Carol G. Dawson's appointment to the Commission.

Although the Commission vote of May 16, 1984, has the effect of continuing the Commission's existing policy with regard to export of noncomplying, misbranded, and banned products subject to regulation under the CPSA and FHSA, the Commission has never published and codified a statement of that policy in a single document.

Therefore, the Commission has decided to issue the following statement of policy and interpretation concerning export of noncomplying, misbranded or banned products subject to regulation under the CPSA or FHSA.

Highlights of Statement

In § 1010.3 of the statement below, the Commission announces that in its enforcement of the CPSA and FHSA, the Commission interprets the provisions of those acts to prohibit the export of any consumer product which fails to comply with an applicable consumer product safety standard or banning rule issued under the CPSA, or any product which is a "misbranded hazardous substance" or a "banned hazardous substance" as those terms are used in the FHSA, if the product has been distributed, sold, or offered for sale in domestic commerce. The policy is not applicable to the following products:

(1) Products which could be regulated only under provisions of the CPSA but which are not subject to a consumer product safety standard or banning rule issued under the Act.

(2) Consumer products which are subject to and fail to comply with an applicable consumer product safety standard or banning rule issued under the CPSA, but which have never been distributed in commerce for use in the United States. (Export of these products is subject to provisions of Commission regulations published at 16 CFR Part 1019.)

(3) Products which could be regulated under one or more sections of the FHSA but which are neither "misbranded hazardous substances" nor "banned hazardous substances."

(4) Products which are misbranded hazardous substances or banned hazardous substances as those terms are used in the FHSA, but which have never been sold or offered for sale in domestic commerce. (Export of these products is subject to provisions of Commission regulations published at 16 CFR Part 1019.)

(5) Products for which the Commission has granted an exemption from an applicable standard, ban, or labeling requirement in accordance with provisions of regulations codified at 16 CFR 1009.9. (These products remain subject to requirements for notification prior to export which are published at 16 CFR Part 1019.)

(6) Products which fail to comply with an applicable standard of flammability issued under the FFA. (Export of these products is subject to provisions of Commission regulations published at 16 CFR Part 1019.)

As noted above, the Commission has occasionally refrained from enforcement of applicable provisions of the CPSA or FHSA in certain cases. This has resulted in export of noncomplying, banned, or misbranded products previously sold, offered, or distributed in domestic commerce. The Associate Executive Director for Compliance and Administrative Litigation will continue to consider any request received by the Commission to refrain from enforcement of the CPSA or FHSA.

Rulemaking Procedures

Generally, the Administrative Procedure Act (APA, 5 U.S.C. 553) requires agencies to publish notice of proposed rulemaking in the **Federal Register** and to afford all interested parties opportunity to submit written comments on proposed rules. However, section 553(b)(A) of the APA states that these requirements for publication of notice and opportunity for comment are not applicable to "interpretative rules" or to "general statements of policy."

The statement of policy and interpretation issued below falls within the exception to requirements for publication of notice of proposed rulemaking and opportunity for submission of written comments because it simply announces the Commission's interpretation of provisions of the CPSA and FHSA applicable to export of certain categories of products, and its policy in the enforcement of those statutory provisions. The statement of policy and interpretation imposes no restriction, obligation, or duty beyond what is required by the CPSA and the FHSA.

Section 553(d) of the APA requires that a "substantive rule" must be issued on a final basis at least 30 days before its effective date; however, that section also states that its requirements do not apply to "interpretative rules and statements of policy."

The statement of policy and interpretation imposes no substantive requirement on any person or firm, but simply announces the Commission's policy to continue an interpretation of statutory provisions which has been used in the enforcement of the CPSA and the FHSA for the past several years.

Therefore, this statement of policy and interpretation shall be effective immediately.

Environmental Consideration

The statement published below does not fall within the categories of Commission actions described in 16 CFR 1021.5(b) that have potential for affecting the human environment. For this reason, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 16 CFR Part 1010

Administrative practice and procedure, Consumer protection, Exports, Hazardous materials.

Conclusion

Therefore, in accordance with provisions of the Consumer Product Safety Act (15 U.S.C. 2067(a)), the Federal Hazardous Substances Act (15 U.S.C. 1263 (a) and (c), 1264(b), 1269(a)), and the Administrative Procedure Act (5 U.S.C. 553), the Consumer Product Safety Commission hereby amends the Code of Federal Regulations, Title 16, Chapter II, Subchapter A, by adding a new Part 1010, to read as follows:

PART 1010—STATMENT OF POLICY AND INTERPRETATION CONCERNING EXPORTATION OF NONCOMPLYING, MISBRANDED, OR BANNED PRODUCTS

Sec.

1010.1 Purpose and scope.
1010.2 Statutory provisions.
1010.3 Statement of policy and interpretation.

Authority: 15 U.S.C. 1263 (a) and (c); 15 U.S.C. 1264(b), 1269(a); 15 U.S.C. 2067(a); 5 U.S.C. 553)

§ 1010.1 Purpose and scope.

(a) This Part 1010 states the policy of the Consumer Product Safety Commission and its interpretation of the Consumer Product Safety Act and the Federal Hazardous Substances Act with regard to exportation of products which have been sold, offered for sale, or distributed in commerce for use in the United States and which:

(1) Fail to comply with an applicable consumer product safety standard or banning rule issued under provisions of the Consumer Product Safety Act (15 U.S.C. 2051 *et seq.*); or

(2) Are "misbranded hazardous substances" or "banned hazardous substances" as those terms are used in the Federal Hazardous Substances Act (15 U.S.C. 1261 *et seq.*).

(b) The policy expressed in this Part 1010 does not apply to any of the following products:

(1) Products which could be regulated only under provisions of the Consumer Product Safety Act but which are not subject to a consumer product safety standard or banning rule issued under that Act.

(2) Consumer products which are subject to and fail to comply with an applicable standard or banning rule issued under provisions of the Consumer Product Safety Act but which have never been distributed in commerce for use in the United States. (See section 18(b) of the Consumer Product Safety Act, 15 U.S.C. 2067(b), and 16 CFR Part 1019 for requirements governing export of such products.)

(3) Products which could be regulated under one or more sections of the Federal Hazardous Substances Act but which are neither "misbranded hazardous substances" nor "banned hazardous substances" as those terms are used in the Act.

(4) Products which are "misbranded hazardous substances" or "banned hazardous substances" as those terms are used in the Federal Hazardous Substances Act but which have never been sold or offered for sale in domestic commerce. (See sections 5(b) and 14(d) of the Federal Hazardous Substances Act, 15 U.S.C. 1264(b) and 1273(d), and 16 CFR Part 1019 for requirements governing export of such products.)

(5) Products for which the Commission has granted an exemption from an applicable standard, ban, or labeling requirement under the CPSA, FHSA, or FAA, in accordance with provisions of 16 CFR 1009.9. (These products remain subject to the notification requirements of 16 CFR Part 1019).

(6) Products which fail to comply with an applicable standard of flammability issued under provisions of the Flammable Fabrics Act (15 U.S.C. 1191 *et seq.*). The Commission's policy regarding export of such products is set forth in the Commission's Memorandum Decision and Order *In the Matter of Imperial Carpet Mills, Inc.*, CPSC Docket No. 8–2, July 7, 1983, and allows export without regard to whether the products have been distributed in domestic commerce. (See section 15 of the Flammable Fabrics Act, 15 U.S.C. 1202, and 16 CFR Part 1019 for requirements governing export of such products.)

§ 1010.2 Statutory provisions.

(a) Section 18(a) of the Consumer Product Safety Act (15 U.S.C. 2057(a)) states:

> This Act (the Consumer Product Safety Act) shall not apply to any consumer product if: (1) It can be shown that such product is manufactured, sold, or held for sale for export from the United States (or that such product was imported for export), unless (A) such consumer product is in fact distributed in commerce for use in the United States, or (B) the Commission determines that exportation of such product presents an unreasonable risk of injury to consumers within the United States, and (2) such consumer product when distributed in commerce, or any container in which it is enclosed when so distributed, bears a stamp or label stating that such consumer product is intended for export; except that this Act shall apply to any consumer product manufactured for sale, offered for sale, or sold for shipment to any installation of the United States located outside of the United States.

(b) Section 4 of the Federal Hazardous Substances Act (15 U.S.C. 1263) states in part:

> The following acts and the causing thereof are hereby prohibited: (a) The introduction or delivery for introduction into interstate commerce of any misbranded hazardous substance or banned hazardous substance. * * * (c) The receipt in interstate commerce of any misbranded hazardous substance or banned hazardous substance and the delivery or proffered delivery thereof for pay or otherwise.

(c) Section 5(b) of the Federal Hazardous Substances Act (15 U.S.C. 1264(b)) provides in part:

> No person shall be subject to the penalties of subsection (a) of this section * * * (3) for having violated subsection (a) or (c) of section 4 with respect to any hazardous substance shipped or delivered for shipment for export to any foreign country, in a package marked for export on the outside of the shipping container and labeled in accordance with the specifications of the foreign purchaser and in accordance with the laws of the foreign country, but if such hazardous substance is sold or offered for sale in domestic commerce, or if the Consumer Product Safety Commission determines that exportation of such substance presents an unreasonable risk of injury to persons residing within the United States, this clause shall not apply.

§ 1010.3 Statement of policy and interpretation.

(a) In its enforcement of the Consumer Product Safety Act, the Commission interprets the provisions of that Act to prohibit the export of products which fail to comply with an applicable consumer product safety standard or banning rule issued under that Act if those products have at any time been distributed in commerce for use in the United States.

(b) In its enforcement of the Federal Hazardous Substances Act, the Commission interprets the provisions of the Act to prohibit the export of products which are misbranded hazardous substances or banned hazardous substances as those terms are used in that Act if those products have at any time been sold or offered for sale in domestic commerce.

Effective date: This statement of policy and interpretation shall be effective October 19, 1984.

(15 U.S.C. 1263 (a) and (c); 15 U.S.C. 1264(b), 1269(a); 15 U.S.C. 2067(a); 5 U.S.C. 553)

Dated: October 4, 1984.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

Bibliography

(*1*) Memorandum from Associate Executive Director for Compliance and Enforcement to the Commission concerning export of products in violation of the Consumer Product Safety Act and Federal Hazardous Substances Act; 4 pages; July 19, 1978.

(*2*) **Federal Register** notice "Exportation of Noncomplying Products; Notification Requirements and Procedures"; 9 pages; August 8, 1980.

(*3*) Memorandum Decision and Order *In the Matter of Imperial Carpet Mills, Inc.*, CPSC Docket No. 80–2; 46 pages; July 7, 1983.

(*4*) **Federal Register** notice announcing public hearing on export policy; 2 pages; February 28, 1984.

(*5*) Transcript of presentations at public hearing on export policy, with attachments; 153 pages; March 16, 1984.

(*6*) Written comment on export policy from Toy Manufacturers of America, Inc.; 4 pages; March 9, 1984.

(*7*) Written comment on export policy from Rep. Michael D. Barnes; 3 pages; March 15, 1984.

(*8*) Written comment on export policy from Concerned Consumers League, Inc.; 2 pages; March 15, 1984.

(9) Written comment on export policy from Natural Resources Defense Council, Inc.; 2 pages; March 16, 1984.

(10) Written comment on export policy from Sen. Howard S. Metzenbaum; 2 pages; March 22, 1984.

(11) Written comment on export policy from Rep. Henry A. Waxman; 2 pages; March 15, 1984.

(12) Written comment on export policy from the Carpet and Rug Institute; 2 pages; March 23, 1984.

(13) Written comment on export policy from Richard H. Gimer; 23 pages; March 26, 1984.

(14) Written comment from National Consumers League; 5 pages; March 16, 1984.

(15) Written comment from Consumers League; 1 page; March 14, 1984.

(16) Written comment on export policy from Infant Formula Action Coalition; 2 pages; April 17, 1984.

(17) Written comment on export policy from Deitsch Plastic Export Co., Inc.; 3 pages; March 8, 1984.

(18) Written comment on export policy from John E. Williams; 1 page; April 25, 1984.

(19) Written comment on export policy from Laura Hewitt; 1 page; March 27, 1984.

(20) Written comment on export policy from National Association of Manufacturers; 2 pages; April 6, 1984.

(21) Written comment on export policy from Consumers Union; 23 pages; April 19, 1984.

(22) Written comment on export policy from Citizens Committee for Fire Protection; 4 pages; April 24, 1984.

(23) Written comment on export policy from Alpha Phi Beta Fraternity; 2 pages; April 29, 1984.

(24) Written comment on export policy from Alison B. Hooker; 1 page; May 11, 1984.

(25) Consumer Product Safety Commission news release concerning export policy decision, with attached statements of Commissioners; 7 pages; May 18, 1984.

(26) Separate opinion of Commissioner Stuart M. Statler on export policy decision; 16 pages; May 15, 1984.

(27) Separate opinion of Commissioner Saundra Brown Armstrong on export policy decision; 13 pages; May 16, 1984.

[FR Doc. 84-26723 Filed 10-9-84; 8:45 am]
BILLING CODE 6355-01-M

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16 CFR Part 1602

Statement of Policy Concerning Export of Products Which Fail To Comply With an Applicable Flammability Standard; Revocation

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Commission is revoking a policy statement concerning export of products which fail to comply with an applicable standard issued under the Flammable Fabrics Act because it does not reflect the Commission's current position on this subject. The Commission's present policy concerning export of products which fail to comply with an applicable flammability standard is set forth in the Memorandum Decision and Order *In the Matter of Imperial Carpet Mills, Inc.* (CPSC Docket No. 80–2), dated July 7, 1983, and allows export of such products, regardless of whether they have been distributed in domestic commerce.

DATE: This revocation is effective October 10, 1984.

FOR FURTHER INFORMATION CONTACT: Allen F. Brauninger, Office of the General Counsel, Consumer Product Safety Commission, Washington, D.C. 20207; telephone: (301) 492–6980.

SUPPLEMENTARY INFORMATION: The Flammable Fabrics Act (FFA, 15 U.S.C. 1191 *et seq.*) was enacted in 1954 to prohibit the sale of articles of wearing apparel and fabrics and related materials intended for use in wearing appeal which are dangerously flammable because of rapid and intense burning. In 1967, the FFA was amended to expand its coverage to include products of interior furnishing made from fabric and related materials, and to allow new flammability standards to be established by administrative proceedings.

From 1954 until 1973, the FFA was enforced by the Federal Trade Commission (FTC). In 1973, the Consumer Product Safety Commission (CPSC) was activated, and assumed responsibility for administration and enforcement of the FFA in accordance with section 30(b) of the Consumer Product Safety Act (CPSA, 15 U.S.C. 2079(b)).

In its enforcement of the FFA, the FTC had announced a policy concerning export of products not in compliance with an applicable standard of flammability issued under the FFA which prohibited the export of such products if they had ever been distributed in domestic commerce.

The CPSC affirmed and adopted this policy with regard to export of noncomplying products subject to FFA standards by the publication of notices in the Federal Register on December 30, 1975 (40 FR 59884), and on April 22 1976 (41 FR 16797). The CPSC codified its export policy for the FFA at 16 CFR 1602.2.

On July 7, 1983, the CPSC issued a Memorandum Decision and Order *In the Matter of Imperial Carpet Mills, Inc.* (CPSC Docket No. 80–2.)* One part of that decision and order set aside the CPSC's previous policy prohibiting the export of products which fail to comply with an applicable flammability standard issued under the FFA if the products had ever moved in domestic commerce.

In response to requests from public interest groups, the Commission conducted a hearing on October 26, 1983, to receive views from all interested parties on the question of whether the Commission should reconsider that portion of the decision and order in the *Imperial Carpet Mills* case concerning export of noncomplying goods subject to FFA standards.

After considering all written submissions and oral presentations concerning that issue, the Commission decided not to reconsider the export policy announced in the *Imperial Carpet Mills* decision.

The decision and order in the *Imperial Carpet Mills* case is now final. The language codified at 16 CFR 1602.2 no longer states the Commission's policy with regard to export of products which fail to comply with an applicable standard issued under the FFA. Therefore the Commission is revoking 16 CFR 1602.2.

Finding that notice and comment are unnecessary

Section 553 of the Administrative Procedure Act (APA, 5 U.S.C. 553) governs proceedings for the issuance, amendment, and revocation of rules. That section requires publication of a notice of proposed rulemaking and opportunity for public comment except when the agency finds for good cause that such notice and opportunity for comment are "impracticable, unnecessary, or contrary to the public interest."

As noted above, the policy statement codified at 16 CFR 1602.2 no longer reflects the position of the CPSC with regard to export of products which fail to comply with an applicable standard issued under the FFA. That policy is stated in the memorandum decision and order *In the Matter of Imperial Carpet Mills, Inc.*, which has become final. The Commission has determined that the export policy issue in that decision and order should not be reconsidered.

For these reasons, the Commission for good cause finds that notice of proposed rulemaking and opportunity for public comment are impractical and unnecessary in this proceeding for revocation of 16 CFR 1602.2.

Section 553(d) of the APA requires that the effective date of a substantive rule shall be at least 30 days after

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* This document is available in the Commission's Public reading room, 1111 18th Street, NW., Washington, D.C. or by calling the Office of the Secretary at (301) 492–6800.

publication of a notice of final rulemaking, except in the case of a rule which relieves a restriction. Because the revocation of 16 CFR 1602.2 relieves a restriction previously imposed on the export of products which fail to comply with an applicable standard issued under the FFA, the revocation shall become effective immediately.

List of Subjects in 16 CFR Part 1602.

Consumer protection, exports, flammable materials, law enforcement, textiles.

Therefore, under the authority of the Flammable Fabrics Act (15 U.S.C. 1194), the Consumer Product Safety Act (15 U.S.C. 2079(b)), and the Administrative Procedure Act (5 U.S.C. 553), the Commission hereby revokes, removes and reserves §1602.2 from Title 16, Chapter II, Subchapter D of the Code of Federal Regulations.

PART 1602—STATEMENTS OF POLICY AND INTERPRETATION

§ 1602.2 [Reserved]

Dated: October 4, 1984.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 84-26724 Filed 10-9-84; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 430, 436, 440, and 455

[Docket No. 84N-0276]

Antibiotic Drugs; Clavulanate Potassium; Amoxicillin Trihydrate and Clavulanate Potassium Tablets and Amoxicillin Trihydrate and Clavulanate Potassium for Oral Suspension

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the antibiotic drug regulations to provide for (1) inclusion of accepted standards for a new antibiotic drug, clavulanate potassium and (2) use of the antibiotic drug in two new dosage forms, amoxicillin trihydrate and clavulanate potassium tablets and amoxicillin trihydrate and clavulanate potassium for oral suspension. The manufacturer has supplied sufficient data and information to establish their safety and efficacy.

DATES: Effective October 10, 1984; comments, notice of participation, and requests for hearing by November 9, 1984; data, information, and analyses to justify a hearing by December 10, 1984.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joan M. Eckert, Center for Drugs and Biologics (HFN-815), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4290.

SUPPLEMENTARY INFORMATION: FDA has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357), as amended, with respect to a request for approval of a new antibiotic drug, clavulanate potassium and its use in two new dosage forms, amoxicillin trihydrate and clavulanate potassium tablets and amoxicillin trihydrate and clavulanate potassium for oral suspension. The agency has concluded that the data supplied by the manufacturer concerning these antibiotic drugs are adequate to establish their safety and efficacy when used as directed in the labeling and that the regulations should be amended in Parts 430, 436, 440, and 455 (21 CFR Parts 430, 436, 440, and 455) to provide for the inclusion of accepted standards for these products.

The agency has determined pursuant to 21 CFR 25.24(b)(22) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects

21 CFR Part 430

Administrative practice and procedure, Antibiotics.

21 CFR Part 436

Antibiotics.

21 CFR Part 440

Antibiotics, Penicillin.

21 CFR Part 455

Antibiotics, Certain other drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 507, 701 (f) and (g), 52 Stat. 1055-1056 as amended, 59 Stat. 463 as amended (21 U.S.C. 357, 371 (f) and (g))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Parts 430, 436, 440, and 455 are amended as follows:

PART 430—ANTIBIOTIC DRUGS; GENERAL

1. Part 430 is amended:

a. In § 430.4 by adding new paragraph (a)(53) to read as follows:

§ 430.4 Definitions of antibiotic substances.

(a) * * *

(53) *Clavulanic acid.* Clavulanic acid is an antibiotic substance produced by the growth of *Streptomyces clavuligerus* having the structure described as follows: *Z*-(2*R*, 5*R*)-3-(2-hydroxyethylidene)-7-oxo-4-oxa-1-azabicyclo[3.2.0]heptane-2-carboxylic acid, and each of the same substances produced by any other means, is a kind of clavulanic acid.

b. In § 430.5 by adding new paragraphs (a)(83) and (b)(85) to read as follows:

§ 430.5 Definitions of master and working standards.

(a) * * *

(83) *Clavulanic acid.* The term "clavulanic acid master standard" means a specific lot of clavulanic acid or a salt thereof that is designated by the Commissioner as the standard of comparison in determining the potency of the clavulanic acid working standard.

(b) * * *

(85) *Clavulanic acid.* The term "clavulanic acid working standard" means a specific lot of a homogeneous preparation of clavulanic acid or a salt thereof.

c. In § 430.6 by adding new paragraph (b)(85) to read as follows:

§ 430.6 Definitions of the terms "unit" and "microgram" as applied to antibiotic substances.

* * * * *

(b) * * *

(85) *Clavulanic acid.* The term "microgram" applied to clavulanic acid means the clavulanic acid activity (potency) contained in 1.053 micrograms of clavulanic acid master standard.

PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

2. Part 436 is amended:

a. In § 436.215 by alphabetically inserting a new item into the table in paragraph (b) and by adding new paragraph (c)(6) to read as follows

§ 436.215 Dissolution test.

* * * * *

(b) * * *

Dosage form	Dissolution medium	Stirring blade[1]	Sampling time(s)
Amoxicillin trihydrate and clavulanate potassium tablets.	900 mL distilled water.	75	30 min.

[1] Stirring blade rotation rate (revolutions per minute).

(c) * * *

(6) *Amoxicillin trihydrate.* Assay for the amoxicillin content as described in § 440.103d of this chapter, except use the sample as it is removed from the dissolution vessel.

* * * * *

b. By adding new § 436.351 to read as follows:

§ 436.351 High-performance liquid chromatographic assay for amoxicillin and clavulanic acid.

(a) *Apparatus.* A suitable high-performance liquid chromatograph equipped with:

(1) A suitable detection system specified in the monograph for the drug being tested;

(2) A suitable recording device of at least 25-centimeter deflection;

(3) A suitable chromatographic data managing system; and

(4) An analytical column, 10 to 30 centimeters long, packed with a material as defined in the monograph for the drug being tested; and if specified in that monograph, the inlet of this column may be connected to a guard column, 3 to 5 centimeters in length, packed with the same material of 40 to 60 micrometers particle size.

(b) *Procedure.* Perform the assay and calculate the drug content using the temperature, instrumental conditions, and calculations specified in the monograph for the drug being tested with a flow rate not to exceed 2.0 milliliters per minute. Use a detector sensitivity setting that gives a peak height for the working standard that is at least 50 percent of scale with typical chart speed of not less than 2.5 millimeters per minute. Use the apparatus described in paragraph (a) of this section; and the reagents and working strandard and sample solutions described in the monograph for the drug being tested. Equilibrate and condition the column by passage of 10 to 15 void volumes of mobile phase followed by five replicate injections of the same volume (between 10 and 20 microliters) of the working standard solution. Allow an operating time sufficiently long to obtain satisfactory separation and elution of the expected components after each injection. The retention times for amoxicillin and clavulanic acid are about 2.1 and 1.0 minutes, respectively, under these prescribed conditions. Record the peak responses and calculate the prescribed system suitability requirements as follows:

(c) *System suitability test.* Using the apparatus and procedure described in this section, test the chromatographic system for assay as follows:

(1) *Tailing factors for the amoxicillin and clavulanic acid peaks.* Calculate the tailing factors (T), from distances measured along the horizontal line at 5 percent of the peak height above the baseline, as follows:

$$T = \frac{W_{0.05}}{2f}$$

where:
$W_{0.05}$ = Width of peak at 5 percent height; and
f = Horizontal distance from point of ascent to a point coincident with maximum peak height.

(2) *Efficiency of the column.* Calculate the number of theoretical plates (n) of the column as follows:

$$n = 5.545 \left[\frac{t_R}{w_h} \right]^2$$

where:
n = Efficiency, as number of theoretical plates for column;
t_R = Retention time of amoxicillin or clavulanic acid peaks; and
w_h = Corresponding peak width at half-height.

(3) *Resolution factor.* Calculate the resolution factor (R) as follows:

$$R = \frac{2(t_2 - t_1)}{w_1 + w_2}$$

where:
t_1 = Retention time of amoxicillin peak;
t_2 = Retention time of clavulanic acid peak; and
w_1 and w_2 = Widths of the bases of the corresponding peaks obtained by extrapolating the relatively straight sides of the peaks to the baseline.

(4) *Coefficient of variation (Relative standard deviation).* Calculate the coefficient of variation (S_R in percent) as follows:

$$S_R = \frac{100}{\overline{X}} \left[\frac{\sum_{i}^{N} = 1 (X_i - \overline{X})^2}{N - 1} \right]^{1/2}$$

where:
$\overline{X}$ is the mean of N individual measurements of X_i.

If the complete operating system meets the system suitability requirements of the monograph for the drug being tested, proceed as described in paragraph (b) of this section, using the sample solution in lieu of the working standard solution.

c. By adding new § 436.352 to read as follows:

§ 436.352 High-performance liquid chromatographic assay for determining clavam-2-carboxylate content in clavulanate potassium.

(a) *Apparatus.* A suitable high-performance liquid chromatograph equipped with:

(1) A suitable detection system specified in the monograph for the drug being tested;

(2) A suitable recording device of at least 25-centimeter deflection;

(3) A suitable chromatographic data managing system; and

(4) An analytical column, approximately 30 centimeters in length, packed with a material as defined in the monograph for the drug being tested.

(b) *Procedure.* Perform the assay and calculate the drug content using the temperature, instrumental conditions, and calculations specified in the monograph for the drug being tested with a flow rate not to exceed 0.5 milliliter per minute. Use a detector sensitivity setting that gives a peak height for the working standard that is at least 50 percent of scale with typical chart speed of not less than 2.5 millimeters per minute. Use the apparatus described in paragraph (a) of this section; and the mobile phase and working standard and sample solutions described in the monograph for the drug being tested. Equilibrate and condition the column by passage of 10 to 15 void volumes of mobile phase followed by five replicate injections of the same volume (between 10 and 20 microliters) of the working standard solution. Allow an operating time sufficiently long to obtain satisfactory separation and elution of the expected components after each injection. The retention times for clavam-2-carboxylic acid and clavulanic acid are about 10 and 14 minutes, respectively, under these prescribed conditions. The sample solution should be injected at least in duplicate and an average should be taken. For each such series of samples injected, two injections of standard should be made, one before and one after the sample series, and an average should be taken. Record the peak responses and calculate the prescribed system suitability requirements as follows:

(c) *System suitability test.* Using the apparatus and procedure described in this section, test the chromatographic system for assay as follows:

(1) *Tailing factor.* Calculate the tailing factor (T), from distances measured along the horizontal line at 5 percent of the peak height above the baseline, as follows:

$$T = \frac{W_{0.05}}{2f}$$

where:
$W_{0.05}$ = Width of peak at 5 percent height; and
f = Horizontal distance from point of ascent to a point coincident with maximum peak height.

(2) *Efficiency of the column.* Calculate the number of theoretical plates (n) of the column as follows:

$$n = 5.545 \left[\frac{t_R}{w_h} \right]^2$$

where:
n = Efficiency, as number of theoretical plates for column;
t_R = Retention time of clavam-2-carboxylic acid peak; and
w_h = Corresponding peak width at half-height.

(3) *Resolution factor.* Calculate the resolution factor (R) as follows:

$$R = \frac{2(t_2 - t_1)}{w_1 + w_2}$$

where:
t_1 = Retention time of clavam-2-carboxylic acid peak;
t_2 = Retention time of clavulanic acid peak; and
w_1 and w_2 = Widths of the bases of the corresponding peaks obtained by extrapolating the relatively straight sides of the peaks to the baseline.

(4) *Coefficient of variation (Relative standard deviation).* Calculate the coefficient of variation (S_R in percent) as follows:

$$S_R = \frac{100}{\bar{X}} \left[\frac{\sum_{i}^{N} = 1 (X_i - \bar{X})^2}{N - 1} \right]^{1/2}$$

where:
$\bar{X}$ is the mean of N individual measurements of X_i.

If the complete operating system meets the system suitability requirements of the monograph for the drug being tested, proceed as described in paragraph (b) of this section, using the sample solution in lieu of the working standard solution.

PART 440—PENICILLIN ANTIBIOTIC DRUGS

3. Part 440 is amended:

a. By adding new § 440.103d to read as follows:

§ 440.103d Amoxicillin trihydrate and clavulanate potassium tablets.

(a) *Requirements for certification—(1) Standards of identity, strength, quality, and purity.* Amoxicillin trihydrate and clavulanate potassium tablets are composed of amoxicillin trihydrate and clavulanate potassium with or without one or more suitable lubricants, diluents, and binders. Each tablet contains amoxicillin trihydrate equivalent to either 250 or 500 milligrams of amoxicillin and clavulanate potassium equivalent to 125 milligrams of clavulanic acid. Its amoxicillin trihydrate content is satisfactory if it contains not less than 90 percent and not more than 120 percent of the number of milligrams of amoxicillin that it is represented to contain. Its clavulanate potassium content is satisfactory if it contains not less than 90 percent and not more than 120 percent of the number of milligrams of clavulanic acid that it is represented to contain. Its moisture content is not more than 7 percent if it contains 250 milligrams of amoxicillin and not more than 10 percent if it contains 500 milligrams of amoxicillin. It passes the dissolution test if the quantity Q, at 30 minutes, is 85 percent or greater if it contains 250 milligrams of amoxicillin and 75 percent or greater if it contains 500 milligrams of amoxicillin. The amoxicillin trihydrate conforms to the standards prescribed by § 440.3(a)(1). The clavulanate potassium conforms to the standards prescribed by § 455.15(a)(1) of this chapter.

(2) *Labeling.* In addition to the labeling requirements prescribed by § 432.5 of this chapter, this drug shall be labeled *"amoxicillin and clavulanate potassium tablets"*.

(3) *Requests for certification; samples.* In addition to the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The amoxicillin trihydrate used in making the batch for potency, safety, moisture, pH, amoxicillin content, concordance, crystallinity, and identity.

(*b*) The clavulanate potassium used in making the batch for clavulanic acid content, moisture, pH, identity, and clavam-2-carboxylate content.

(*c*) The batch for amoxicillin content, clavulanic acid content, moisture, and dissolution rate.

(ii) Samples, if required by the Director, Center for Drugs and Biologics:

(*a*) The amoxicillin trihydrate used in making the batch: 12 packages, each containing approximately 300 milligrams.

(*b*) The clavulanate potassium used in making the batch: 12 packages, each containing approximately 300 milligrams.

(*c*) The batch: A minimum of 100 tablets.

(b) *Tests and methods of assay—(1) Amoxicillin and clavulanic acid contents.* Proceed as directed in § 436.351 of this chapter, using ambient temperature, an ultraviolet detection system operating at a wavelength between 220 and 230 nanometers, and a column packed with microparticulate (3 to 10 micrometers in diameter) reversed phase packing material such as octadecyl silane bonded silica. Reagents, working standard and sample solutions, system suitability requirements, and calculations for amoxicillin or clavulanic acid content are as follows:

(i) *Reagents—(a) 0.5M Sodium phosphate buffer solution, pH 4.4.* Transfer 7.8 grams of monobasic sodium phosphate to a 1-liter volumetric flask and dissolve in 900 milliliters of distilled water. Adjust the pH to 4.4 ± 0.1 with 18N phosphoric acid or 10N sodium hydroxide. Dilute to volume with distilled water. Mix well.

(*b*) *Mobile phase.* Mix methanol: 0.05M sodium phosphate buffer solution, pH 4.4 (5:95 v/v) and ultrasonicate for no less than 2 minutes. Degas by passing through a 0.5-micron filter with vacuum. The mobile phase may be sparged with the helium through a 2-micrometer metal filter for the duration of the analysis. Adjust the ratio of methanol to aqueous buffer as necessary to obtain satisfactory retention of the peaks.

(ii) *Working standard and sample solutions—(a) Preparation of working standard solution.* Accurately weigh and transfer into a 200-milliliter volumetric flask approximately 100 milligrams of amoxicillin working standard and approximately 50 milligrams of the clavulanic acid working standard. Dissolve and dilute to volume with

distilled water. Use within 8 hours after preparation.

(*b*) *Preparation of sample solution.* To obtain a concentration of 0.5 milligram of amoxicillin per milliliter, dissolve a representative number of tablets in water with the aid of a magnetic stirrer or ultrasonication. Filter a small aliquot through Whatman #42 filter paper or equivalent, discarding the first 10 milliliters of filtrate. Alternatively, a suitable membrane filter may be used. Prepare samples not more than 1 hour before the chromatographic injection.

(iii) *System suitability requirements*—(*a*) *Tailing factor.* The tailing factor (*T*) is satisfactory if it is not more than 1.5.

(*b*) *Efficiency of the column.* The efficiency of the column (*n*) is satisfactory if it is greater than 550 theoretical plates.

(*c*) *Resolution factor.* The resolution factor (*R*) between the clavulanic acid and amoxicillin peaks is satisfactory if it is not less than 3.5.

(*d*) *Coefficient of variation.* The coefficient of variation (S_R in percent) is satisfactory if it is not more than 2.0 percent.

If the system suitability requirements have been met, then proceed as described in § 436.351(b) of this chapter.

(iv) *Calculations.* Calculate the milligrams of amoxicillin or clavulanic acid content per tablet as follows:

$$\text{Milligrams of amoxicillin or clavulanic acid per tablet} = \frac{A_u \times C_s \times V}{A_s \times N}$$

where:

A_u = Response of the amoxicillin or clavulanic acid peak in the chromatogram of the sample (at a retention time equal to that observed for the standard);

A_s = Response of the amoxicillin or clavulanic acid peak in the chromatogram of the amoxicillin or clavulanic acid working standard;

C_s = Concentration of standards in milligrams of amoxicillin or clavulanic acid per milliliter of the standard solution;

V = Volume of sample solution (milliliters); and

N = Number of tablets taken for assay.

(2) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(3) *Dissolution.* Proceed as directed in § 436.215 of this chapter. Dissolution rate is determined by dissolution of the amoxicillin component using the high-performance liquid chromatographic assay described in this section.

c. By adding new § 440.103e to read as follows:

§ 440.103e Amoxicillin trihydrate and clavulanate potassium for oral suspension.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Amoxicillin trihydrate and clavulanate potassium for oral suspension is a dry mixture of amoxicillin trihydrate and clavulanate potassium with one or more suitable and harmless colorings, flavorings, buffers, sweetening ingredients, preservatives, stabilizers, and suspending agents. When reconstituted as directed in the labeling, each milliliter contains either amoxicillin trihydrate equivalent to 25 milligrams of amoxicillin with clavulanate potassium equivalent to 6.25 clavulanic acid or amoxicillin trihydrate equivalent to 50 milligrams of amoxicillin with clavulanate potassium equivalent to 12.5 milligrams of clavulanic acid. Its amoxicillin trihydrate content is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of milligrams of amoxicillin that it is represented to contain. Its clavulanate potassium content is satisfactory if it is not less than 90 percent and not more than 125 percent of the number of milligrams of clavulanic acid that it is represented to contain. The moisture content of the dry powder is not more than 7.5 percent when the reconstituted solution is to contain 25 milligrams of amoxicillin per milliliter and not more than 8.5 percent when the reconstituted solution is to contain 50 milligrams of amoxicillin per milliliter. When reconstituted as directed in the labeling, its pH is not less than 4.8 and not more than 6.6. The amoxicillin trihydrate used conforms to the standards prescribed by § 440.3(a)(1). The clavulanate potassium conforms to the standards prescribed by § 455.15(a)(1) of this chapter.

(2) *Labeling.* In addition to the labeling requirements prescribed by § 432.5 of this chapter, this drug shall be labeled *"amoxicillin and clavulanate potassium for oral suspension"*.

(3) *Requests for certification; samples.* In addition to the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The amoxicillin trihydrate used in making the batch for potency, safety, moisture, pH, amoxicillin content, concordance, crystallinity, and identity.

(*b*) The clavulanate potassium used in making the batch for clavulanic acid content, moisture, pH, identity, and clavam-2-carboxylate content.

(*c*) The batch for amoxicillin content, clavulanic acid content, moisture, and pH.

(ii) Samples, if required by the Director, Center for Drugs and Biologics:

(*a*) The amoxicillin trihydrate used in making the batch: 12 packages, each containing approximately 300 milligrams.

(*b*) The clavulanate potassium used in making the batch: 12 packages, each containing approximately 300 milligrams.

(*c*) The batch: A minimum of 6 immediate containers.

(b) *Tests and methods of assay*—(1) *Amoxicillin content or clavulanic acid content.* Proceed as directed in § 436.351 of this chapter, using ambient temperature, an ultraviolet detection system operating at a wavelength between 220 and 230 nanometers, and a column packed with microparticulate (3 to 10 micrometers in diameter) reversed phase packing material such as octadecyl silane bonded silica. Reagents, working standard and sample solutions, system suitability requirments, and calculations for amoxicillin and clavulanic acid content are as follows:

(i) *Reagents*—(*a*) *(0.05M Sodium phosphate buffer solution, pH 4.4.* Transfer 7.8 grams of monobasic sodium phosphate to a 1-liter volumetric flask and dissolve in 900 milliliters of distilled water. Adjust to pH 4.4 ± 0.1 with 18*N* phosphoric acid or 10*N* sodium hydroxide. Dilute to volume with distilled water. Mix well.

(*b*) *Mobile phase.* Mix methanol:0.05*M* sodium phosphate buffer solution, pH 4.4 (5:95 v/v) and mix or ultrasonicate for no less than 2 minutes. Degas by passing through a 0.5-micron filter with vacuum. The mobile phase may be sparged with helium through a 2-micrometer metal filter for the duration of the analysis. Adjust the ratio of methanol to aqueous buffer as necessary to obtain satisfactory retention of the peaks.

(ii) *Working standard and sample solutions*—(*a*) *Preparation of working standard solution.* Accurately weigh and transfer into a 200-milliliter volumetric flask approximately 100 milligrams of amoxicillin working standard and approximately 50 milligrams of the clavulanate working standard. Dissolve and dilute to volume with distilled water. Use within 8 hours after preparation.

(*b*) *Preparation of sample solution.* Reconstitute the suspension as directed in the labeling. Immediately transfer an appropriate aliquot to a suitable volumetric flask to obtain an approximate amoxicillin concentration of 0.5 milligram per milliliter and dilute to volume with distilled water. Mix well for 10 minutes using a magnetic stirrer. Filter an aliquot through Whatman #42

or equivalent filter paper. Alternatively, a suitable membrane filter may be used. Samples should be prepared just prior to chromatographic injection. Inject the sample solution within 1 hour after the addition of water.

(iii) *System suitability requirements*—(*a*) *Tailing factor.* The tailing factor (*T*) is satisfactory if it is not more than 1.5.

(*b*) *Efficiency of the column.* The efficiency of the column (*n*) is satisfactory if it is greater than 550 theoretical plates.

(*c*) *Resolution factor.* The resolution factor (*R*) between the clavulanic acid and amoxicillin peaks is satisfactory if it is not less than 3.5.

(*d*) *Coefficient of variation.* The coefficient of variation (S_R in percent) is satisfactory if it is not more than 2.0 percent. If the system suitability requirements have been met, then proceed as described in § 436.351(b) of this chapter.

(iv) *Calculations.* Calculate the quantity of amoxicillin or clavulanic acid content in milligrams per milliliter of the oral suspension as follows:

$$\text{Milligrams of amoxicillin or clavulanic acid per milliliter} = \frac{A_u \times C \times V \times 0.5}{A_s}$$

Where:

A_u = Response of the amoxicillin or clavulanic acid peaks in the sample chromatogram;

A_s = Response of the amoxicillin or clavulanic acid peaks in the standard chromatogram;

C = Concentration of the standard (milligrams per milliliter of amoxicillin X potency of amoxicillin standard or milligrams per milliliter of clavulanate X potency of clavulanate standard); and

V = Dilution volume in milliliters.

(2) *Moisture. Proceed as directed in § 436.201 of this chapter.*

(3) *pH.* Proceed as directed in § 436.202 of this chapter, using the suspension reconstituted as directed in the labeling.

PART 455—CERTAIN OTHER ANTIBIOTIC DRUGS

4. Part 455 is amended by adding new § 455.15 to read as follows:

§ 455.15 Clavulanate potassium.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Clavulanate potassium is the potassium salt of *Z*-(2*R*,5*R*)-3-(2-hydroxyethylidene)-7-oxo-4-oxa-1-azabicyclo[3.2.0]heptane-2-carboxylic acid. It is so purified and dried that:

(i) It is equivalent to not less than 755 micrograms and not more than 920 micrograms of clavulanic acid per milligram on an anhydrous basis.

(ii) Its moisture content is not more than 1.5 percent.

(iii) Its pH in an aqueous solution containing 10 milligrams per milliliter is not less than 5.5 and not more than 8.0.

(iv) It gives a positive identity test.

(v) Its content of the potassium salt of [3*R*,5*S*]-7-oxo-4-oxa-1-azabicyclo[3.2.0]heptane-3-carboxylic acid (clavam-2-carboxylate) is satisfactory if it is not greater than .01 percent.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, moisture, pH, identity, and clavam-2-carboxylate content.

(ii) Samples, if required by the Director, Center for Drugs and Biologics: 12 packages, each containing approximately 300 milligrams.

(b) *Tests and methods of assay*—(1) *Clavulanic acid content.* Proceed as directed in § 436.351 of this chapter, using ambient temperature, an ultraviolet detection system operating at a wavelength between 220 and 230 nanometers, and a column packed with microparticulate (3 to 10 micrometers in diameter) reversed phase packing material such as octadecyl silane bonded silica. Reagents, working standard and sample solutions, system suitability requirements, and calculations are as follows:

(i) *Reagents*—(*a*) *0.05M Sodium phosphate buffer solution, pH 4.4.* Transfer 7.8 grams of monobasic sodium phosphate to a 1-liter volumetric flask and dissolve in 900 milliliters of distilled water. Adjust the pH to 4.4±0.1 with 18*N* phosphoric acid or 10*N* sodium hydroxide. Dilute to volume with distilled water. Mix well.

(*b*) *Mobile phase.* Mix methanol: 0.05*M* sodium phosphate buffer, pH 4.4 (5:95 v/v) and stir or ultrasonicate for no less than 2 minutes. Degas by passing through a 0.5-micrometer filter with vacuum. The mobile phase may be sparged with helium through a 2-micrometer metal filter for the duration of the analysis. Adjust the ratio of methanol to aqueous buffer as necessary to obtain satisfactory retention of the peaks.

(ii) *Preparation of clavulanic acid working standard and sample solutions.* Accurately weigh and transfer into volumetric flasks sufficient clavulanic acid working standard or clavulanate potassium sample to obtain a final concentration of 250 micrograms per milliliter. To the clavulanic acid working standard, add sufficient amoxicillin trihydrate to provide a final concentration of 500 micrograms per milliliter. (The amoxicillin serves as an internal marker for system suitability testing.) Dissolve in water by shaking or ultrasonicating until solution becomes clear. Dilute the solutions as required to final volume with water. Use within 8 hours.

(iii) *System suitability requirements*—(*a*) *Tailing factor.* The tailing factor (*T*) is satisfactory if it is not more than 1.5.

(*b*) *Efficiency of the column.* The efficiency of the column (*n*) is satisfactory if it is greater than 550 theoretical plates.

(*c*) *Resolution factor.* The resolution factor (*R*) between the clavulanic acid and amoxicillin peaks is satisfactory if it is not less than 3.5.

(*d*) *Coefficient of variation.* The coefficient of variation (S_R in percent) is satisfactory if it is not more than 2.0 percent. If the system suitability requirements have been met, then proceed as described in § 436.351(b) of this chapter.

(iv) *Calculations.* Calculate the micrograms of clavulanic acid per milligram of sample as follows:

$$\text{Micrograms of clavulanic acid per milligram} = \frac{A_u \times}{A_s \times W_u \times (100 - m)}$$

where:

A_u = The clavulanic acid peak response in the chromatogram of the sample (at a retention time equal to that observed for the standard);

A_s = The clavulanic acid peak response in the chromatogram of the clavulanic acid working standard);

P_s = Potency of the clavulanic acid working standard in micrograms per milligram;

W_u = Milligrams of sample;

W_s = Milligrams of standard; and

m = Percent moisture content of the sample.

(2) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(3) *pH.* Proceed as directed in § 436.202 of this chapter, using an aqueous solution containing 10 milligrams per milliliter.

(4) *Identity.* Proceed as directed in § 436.211 of this chapter, using the sample preparation described in paragraph (b)(2) of that section.

(5) *Clavam-2-carboxylate content.* Proceed as directed in § 436.352 of this

chapter, using ambient temperature, an ultraviolet detection system operating at a wavelength of 210 nanometers, and a column packed with microparticulate (3 to 10 micrometers in diameter) reversed phase packing materials such as octadecyl silane bonded silica. Mobile phase, working standard and sample solutions, system suitability requirements, and calculations are as follows:

(i) *Mobile phase. 0.1M Sodium phosphate buffer solution, pH 4.0.* Prepare a 0.1*M* aqueous solution of monobasic sodium phosphate and adjust to pH 4.0 with phosphoric acid.

(ii) *Working standard and sample solutions*—(*a*) *Preparation of working standard solution.* Accurately weigh and transfer into a 50-milliliter volumetric flask approximately 16 milligrams of clavam-2-carboxylate authentic sample. Dilute to volume and transfer 10 milliliters into a 100-milliliter flask. Dilute to volume with water.

(*b*) *Preparation of sample solution.* Accurately weigh 100 milligrams of the sample into a 10-milliliter flask. Dilute to volume with water.

(iii) *System suitability requirements*—(*a*) Tailing factor. The tailing factor (*T*) for the clavulanate standard peak is satisfactory if it is not more than 1.5.

(*b*) *Efficiency of the column.* The efficiency of the column (*n*) is satisfactory if it is greater than 4,000 theoretical plates.

(*c*) *Resolution factor.* The resolution factor (*R*) between the clavulanic acid and clavam-2-carboxylic acid peaks is satisfactory if it is greater than 1.0.

(*d*) *Coefficient of variation (Relative standard deviation).* The coefficient of variation (S_R in percent) is satisfactory if it is not more than 2.0 percent. If the system suitability requirements have been met, then proceed as described in § 436.352(b) of this chapter.

(iv) *Calculations.* Calculate the percent of clavam-2-carboxylate content as follows:

$$\text{Percent clavam-2-carboxylate content} = \frac{\text{Mean sample height (or area)} \times \text{weight of standard} \times P}{\text{Mean peak height (or area) of standard} \times \text{weight of sample} \times 50}$$

where:
P = Percent clavam-2-carboxylic acid in the standard.

This final rule announces standards that FDA has accepted in a request for approval of an antibiotic drug. Because this final rule is not controversial and because when effective it provides notice of accepted standards, notice and comment procedure and delayed effective date are found to be unnecessary and not in the public interest. The final rule, therefore, is effective October 10, 1984. However, interested persons may, on or before November 9, 1984, submit written comments to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this final rule may file objections to it and request a hearing. Reasonable grounds for the hearing must be shown. Any person who decides to seek a hearing must file (1) on or before November 9, 1984, a written notice of participation and request for hearing, and (2) on or before December 10, 1984, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 430.20. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgement against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing. All submissions must be filed in three copies, identified with the docket number appearing in the heading of this order and filed with the Dockets Management Branch.

The procedures and requirements governing this order, a notice of participation and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 430.20.

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. October 10, 1984.

(Secs. 507, 701 (f) and (g), 52 Stat. 1055–1056 as amended, 59 Stat. 463 as amended (21 U.S.C. 357, 371 (f) and (g)).)

Dated: October 2, 1984.

Daniel L. Michels,

Director, Office of Compliance, Center for Drugs and Biologics.

[FR Doc. 84-26872 Filed 10-9-84; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 17

[Docket No. R-84-1191; FR-1644]

Administrative Claims; Implementing Certain Provisions of the Debt Collection Act of 1982; Announcement of Effective Date

AGENCY: Office of the Secretary, HUD.

ACTION: Interim rule; announcement of effective date.

SUMMARY: This notice announces the effective date for an interim rule published in the **Federal Register** on August 14, 1984 (49 FR 32346), implementing certain provisions of the Debt Collection Act of 1982. The interim rule includes procedures for reporting an individual debtor to a consumer reporting agency, contracting for private collection services, and collecting money owed the Department by administrative offset and salary offset. The effective date provision of the rule stated that the rule would become effective upon expiration of the first period of 30 calendar days of continuous session of Congress after publication, but not until further notice of effectiveness is published in the **Federal Register.**

Thirty calendar days have expired since the publication of this interim rule.

EFFECTIVE DATE: The effective date for the interim rule published August 14, 1984 (49 FR 32346) is October 10, 1984.

FOR FURTHER INFORMATION CONTACT: Samuel B. Rothman, Office of General Counsel, Program Compliance and Enforcement Division, Room 10240, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Telephone (202) 755–7184. (This is not a toll-free number.)

Dated: October 4, 1984.

Donald A. Franck,

Acting Assistant General Counsel for Regulations.

[FR Doc. 84-26674 Filed 10-9-84; 8:45 am]

BILLING CODE 4210-32-M

Office of the Assistant Secretary for Fair Housing and Equal Opportunity

24 CFR Part 115

[Docket No. N-84-1455; FR-1976]

Recognition of Substantially Equivalent Laws

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Rule-related notice.

SUMMARY: Title 24, Part 115 of the Code of Federal Regulations describes the procedure for recognition of State and local fair housing laws that provide rights and remedies for alleged discriminatory housing practices that are substantially equivalent to those provided by the Federal Fair Housing Act (Title VIII of the Civil Rights Act of 1968). This notice: (1) Announces HUD's decision recognizing six additional jurisdictions; and (2) provides updated and consolidated lists informing the public of the recognition status and recent changes to the recognition status of State and local jurisdictions.

EFFECTIVE DATE: This notice will be effective on October 8, 1984.

FOR FURTHER INFORMATION CONTACT: Steven Sacks, Director, Federal, State and Local Programs Division, Office of Fair Housing and Equal Opportunity, 451 Seventh Street, S.W., Washington, D.C. 20410, (202) 426-3500. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: On June 22, 1984 (49 FR 25640), the Department proposed to recognize the laws of six local jurisdictions as providing rights and remedies for alleged discriminatory housing practices that are substantially equivalent to those provided under the Federal Fair Housing Act (Title VIII of the Civil Rights Act of 1968) (the Act). These jurisdictions are: (1) Hillsborough County, Florida; (2) Tampa, Florida; (3) Dubuque, Iowa; (4) Lawrence, Kansas; (5) Jefferson County, Kentucky; and (6) Reading, Pennsylvania. No public comments have been submitted and the Department has decided to recognize the laws of these six jurisdictions as substantially equivalent under 24 CFR § 115.6(c).

The recognition of these jurisdictions was originally proposed as an amendment to 24 CFR 115.11. The proposed rule however, noted that the Department had published another proposed rule amending Part 115 to permit the recognition of jurisdictions through the publication of rule-related **Federal Register** notices rather than by rule amendments. The Department indicated that the final recognition decision in this proceeding would be published as a rule-related notice if the proposed rule amending Part 115 became final and effective before the recognition proceeding was concluded. On August 9, 1984 (49 FR 32042), the Department published its final rule amending the recognition procedure. This final rule is effective on October 8, 1984. Accordingly, the Department is announcing its final decision recognizing the laws of the six jurisdictions by this **Federal Register** notice.

The August 9, 1984 final rule made several other revisions to Part 115, including the addition of a requirement that HUD annually publish various lists informing the public of the recognition status of jurisdictions. Since the August 9, 1984 rule stated that the first annual list would be published by October 8, 1984, we have consolidated the publication of these lists with the **Federal Register** notice recognizing the six new jurisdictions.

As recently amended, 24 CFR 115.6(e)(1) requires HUD to publish an annual updated, consolidated list of all State and local jurisdictions recognized as having substantially equivalent fair housing laws. Including the six newly recognized jurisdictions, the recognized jurisdictions are:

States

Alaska
California
Colorado
Connecticut
Delaware
Florida
Hawaii
Illinois
Indiana
Iowa
Kansas
Kentucky
Maine
Maryland
Massachusetts
Michigan
Minnesota
Montana
Nebraska
Nevada
New Hampshire
New Jersey
New Mexico
New York
North Carolina
Oregon
Pennsylvania
Rhode Island
South Dakota
Virginia
Washington
West Virginia
Wisconsin

Localities

Anchorage, Alaska
Phoenix, Arizona
District of Columbia
New Haven, Connecticut
Clearwater, Florida
Metropolitan Dade County, Florida
Hillsborough County, Florida
Jacksonville, Florida
Orlando, Florida
Pensacola, Florida
St. Petersburg, Florida
Tallahassee, Florida
Tampa, Florida
Bloomington, Illinois
Evanston, Illinois
Park Forest, Illinois
Springfield, Illinois
Urbana, Illinois
Columbus, Indiana
East Chicago, Indiana
Fort Worth, Indiana
Gary, Indiana
South Bend, Indiana
Dubuque, Iowa
Iowa City, Iowa
Kansas City, Kansas
Lawrence, Kansas
Olathe, Kansas
Salina, Kansas
Jefferson County, Kentucky
Lexington-Fayette, Kentucky
Howard County, Maryland
Montgomery County, Maryland
Prince Georges County, Maryland
Minneapolis, Minnesota
St. Paul, Minnesota
Kansas City, Missouri
St. Louis, Missouri
Lincoln, Nebraska
Omaha, Nebraska
New York City, New York
Charlotte, North Carolina
Mecklenburg County, North Carolina
New Hanover County, North Carolina
Raleigh, North Carolina
Winston-Salem, North Carolina
Dayton, Ohio
Allentown, Pennsylvania
Harrisburg, Pennsylvania
Philadelphia, Pennsylvania
Pittsburgh, Pennsylvania
Reading, Pennsylvania
York, Pennsylvania
Sioux Falls, South Dakota
Knoxville, Tennessee
Fort Worth, Texas
King County, Washington
Seattle, Washington
Tacoma, Washington
Beckley, West Virginia
Charleston, West Virginia
Huntington, West Virginia
Beloit, Wisconsin

Section 115.6(e) (2) and (3) require HUD to publish a list of jurisdictions whose recognition has been withdrawn since the issuance of the previous annual notice and a list of jurisdictions with respect to which notice of denial of recognition has been published since issuance of the previous annual notice. Since there has been no previous annual notice, it is impossible to make such a listing. However, during the last year, no jurisdiction proposed for recognition has been denied recognition and recognition has been withdrawn from only one previously recognized jurisdiction, i.e., Wichita, Kansas.

Section 115.6(e)(4) requires HUD to publish a list of jurisdictions for which a notice for public comment has been published and whose request for recognition remains pending. Two

jurisdictions, the Village of Maywood, Illinois and Detroit, Michigan, have been proposed for recognition and await final HUD resolution.

Finally, § 115.6(e) (5) and (6) require HUD to publish a list of jurisdictions for which a notice of proposed withdrawal of recognition has been published and remains pending and a list of jurisdictions that have an agreement with HUD for interim referrals or other utilization of service. There are no jurisdictions that fit in these categories.

Dated: October 3, 1984.

Antonio Monroig,

Assistant Secretary for Fair Housing and Equal Opportunity.

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BILLING CODE 4210-28-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 5f

[T.D. 7975]

Temporary Regulations Relating to Elections and Miscellaneous Matters Under Section 338 of the Internal Revenue Code

Correction

In FR Doc. 84-23613 beginning on page 35086 in the issue of Thursday, September 6, 1984, make the following corrections:

1. On page 35087, first column, first complete paragraph, line eleven, "§ 1.339-1T" should read "§ 1.338-1T".

2. On the same page, second column, second complete paragraph, lines ten and eleven, "[THAT DAY]" should read "December 5, 1984".

§ 1.338-2T [Corrected]

3. On page 35090, third column, § 1.338-2T(f)(2)(iii), line eighteen, "date" should appear between "sale" and "would".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 50

National Capital Parks Regulations Vietnam Veterans Memorial; Demonstrations; Sale and Distribution of Printed Matter

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: This final rule amends the National Capital Parks regulations in § 50.19 of 36 Code of Federal Regulations on demonstrations and special events in the National Capital Parks to enlarge the area around the Vietnam Veterans Memorial where demonstrations and special events are prohibited and to place additional restrictions on the use of sound amplification equipment and stages near the memorial. Having administered the Vietnam Veterans Memorial for almost two years, the National Park Service has determined that present restrictions on demonstrations and special events are inadequate to maintain an atmosphere of calm, tranquility and reverence at the memorial. In addition, physical changes in the memorial, for example the addition of a flagpole and changes in the walkway system, make the present definition of the memorial inaccurate. Revising the definition of the memorial and adding minor restrictions on sound equipment and stages will meet both of these needs.

The current regulation governing the memorial was issued as an interim regulation on November 12, 1982 (47 FR 51126). The proposed regulation was published in the **Federal Register** on April 4, 1984 (49 FR 13387). On the effective date of this final rulemaking, the interim regulation will be withdrawn.

In addition, this final rule amends National Park Service regulations in §§ 50.24 and 50.52 of 36 Code of Federal Regulations to prohibit sales and distribution of literature in the Vietnam Veterans Memorial. The amendment also revises the prohibited area around the Washington Monument so as to make it consistent with the area in which demonstrations are prohibited. Finally, the final rule eliminates the prohibition on sales and distribution of literature in Constitution Gardens.

EFFECTIVE DATE: November 9, 1984.

FOR FURTHER INFORMATION CONTACT: Sandra Alley, Associate Regional Director, Public Affairs, National Capital Region, National Park Service, 1100 Ohio Drive, SW., Washington, D.C. 20242, telephone (202) 426-6700; Richard G. Robbins, Assistant Solicitor, National Capital Parks, Office of the Solicitor, Department of the Interior, Washington, D.C. 20240, telephone (202) 343-4338.

SUPPLEMENTARY INFORMATION: The following persons participated in the writing of this rule: Richard G. Robbins and Patricia S. Bangert, Office of the Solicitor, Department of the Interior.

Background

1. Vietnam Veterans Memorial

The Act of July 1, 1980 (94 Stat. 872) authorized the Vietnam Veterans Memorial Fund, Inc. to establish a memorial in honor and recognition of the men and women of the Armed Forces of the United States who served in the Vietnam War. The legislation specified that the memorial was to be located on National Park System lands in Constitution Gardens in West Potomac Park in the District of Columbia.

The memorial was dedicated in November of 1982. As designed, the memorial was intended to harmonize with and enhance the landscape on which it stands. For that reason, the memorial is comprised of the memorial wall, a sculpture, and a flagpole integrated into a garden design. The wall and the flagpole are in place in the memorial. The statue will be placed in the memorial in the next few months. The memorial was designed to be an inviting, hospitable but, nevertheless, peaceful and reflective location in which to contemplate the courage and sacrifice of the Americans who served in Vietnam.

At the time of the dedication of the memorial, the National Park Service issued an interim regulation that defined the boundaries of the memorial. 47 FR 51127 (November 12, 1982). In order to maintain an atmosphere of calm, tranquility and reverence in the area of the memorial, the National Park Service also prohibited demonstrations and special events in the area of the memorial except for official annual Memorial Day and Veterans Day commemorative ceremonies.

After almost two years of experience in administering the Vietnam Veterans Memorial, and after physical changes were made to the memorial, the National Park Service proposed a rule that would revise the definition of the Vietnam Veterans Memorial, while maintaining restrictions on demonstrations and special events in the area of the memorial. 49 FR 13387 (April 4, 1984). In addition, the National Park Service received over thirty petitions from citizens to enlarge the area of the memorial and restrict activities in the memorial.

After reviewing comments received during the sixty-day comment period on that proposed rule, the National Park Service has now prepared a final rule that will govern the Vietnam Veterans Memorial.

2. Sale and Distribution of Printed Matter

In addition, the National Park Service proposed in the April 1984 rulemaking to add the Vietnam Veterans Memorial to the list of park areas where sales and distribution of literature are prohibited. Prior to 1976, sales were prohibited in all park areas. However, that prohibition was revised after the United States District Court for the District of Columbia struck down the total ban as applied to the sale of newspapers. *Washington Free Community, Inc.* v. *Wilson*, 334 F. Supp. 77 (1971). The Court did, however, recognize a substantial government interest in maintaining an atmosphere of calm, tranquility and reverence in certain park areas and suggested that a prohibition on sales and distribution of literature in those parks would be upheld if it was necessitated by the character of the individual park area. In fact, the District Court in a criminal proceeding has recently upheld restrictions on sales and distribution of literature as applied to the Washington Monument.

In 1976, the National Park Service promulgated a final rule allowing the sale and distribution of printed material without the aid of a structure or stand in all parks except for six enumerated areas. 41 FR 34748 (August 17, 1976); as amended by 44 FR 56934 (October 3, 1979). The National Park Service determined that these six areas could not accommodate sales and distribution of literature because of the atmosphere of calm, tranquility and reverence existing in the parks. For that same reason, the National Park Service now adds the Vietnam Veterans Memorial to that list.

In addition, after reevaluation of the prohibition on sales and distribution of literature around the Washington Monument and Constitution Gardens, the National Park Service proposed to narrow the restricted area around the Monument and eliminate Constitution Gardens entirely as a restricted area. This proposal was incorporated in the final regulations.

Analysis of Comments

The National Park Service received eleven comments concerning the proposed regulations (in addition to the thirty-plus petitions for the rulemaking). Five commentators, including two associations (the Association of the United States Army and the Howard County Vietnam Veterans Organization) supported the proposed regulations as written. Three commentators supported the regulations but suggested exemptions for veterans' vigils or wreath-laying ceremonies. Three commentators opposed the regulations.

The three commentators opposing the regulations, including the American Civil Liberties Union ("ACLU"), shared the belief that the Vietnam Veterans Memorial is an appropriate site for demonstrating individual convictions, through organized demonstrations or leafletting. The ACLU suggested that anything less would be unconstitutional. The National Park Service believes that the Vietnam Veterans Memorial was intended to be a place where individuals could quietly contemplate and reflect upon the many lives that were given in the Vietnam War. From the many petitions for rulemaking and other comments on the regulations, it appears that members of the public, and especially those with some ties to the individuals memorialized or the Vietnam War, desire such reflective and contemplative area. For example, one veteran of the Vietnam War, supporting the regulation, wrote:

> I feel this way because so many of the visitors to Washington, D.C. and the Vietnam Memorial have to travel such a great distance. Also this long trip could possibly be made only a few times during a lifetime. It would be a shame for veterans and relatives of the war dead to be subject to abuse from blaring loudspeakers and demonstrations regardless of the cause. Its (sic) very important to preserve the dignity and serene atmosphere of the memorial and surrounding grounds.

The National Park Service believes that the final regulations strike the proper balance between the rights of demonstrators and those of other park visitors. Especially with the abundance of available park land immediately adjacent to the Vietnam Veterans Memorial, demonstrators are accorded ample alternative avenues of communication within sight of the memorial.

The ACLU and another commentator also criticized the regulations as too broad. The ACLU suggested that both the definition of the memorial and the restrictions within the memorial were too broad.

As to the area encompassed within the definition of the term Vietnam Veterans Memorial, the ACLU argued that only the area adjacent to the memorial wall should be included in the definition and, even there, small groups should be allowed to demonstrate without permits.

The National Park Service responds that the Vietnam Veterans Memorial encompasses not only the memorial wall but also a flagpole and statue placed nearby. Limiting restrictions to just the area adjacent to the memorial wall would mean that demonstrations and other activities could take place at the statue and flagpole. The statue and flagpole are integral elements of the memorial and are no less entitled to be free from activity intrusions than the memorial wall.

In addition, the other reasons discussed in the proposed rulemaking support enlarging the definition of the memorial. For example, the proposed rule observed that the area to the south of the memorial wall is particularly sensitive because any loud sounds in this area are intensified when they reflect off the wall. The area to the east of the memorial wall slopes directly down into the wall, and thus, being part of the "valley" holding the memorial structures, is sensitive also to sound amplification and other activity. These observations were made after staff spent a considerable amount of time at the memorial observing natural conditions and sound levels.

The ACLU also criticized the National Park Service's attempts to prevent activity on the pathways leading to and through the memorial. The ACLU suggests that individuals impeding access be arrested by the police under other general regulations. However, this suggestion does not take into account the legitimate sensitivities, concerns, and needs of the public who, through letters and comments, have indicated that demonstrations and other activities on, and to the sides of, the paths leading to and through the memorial are unreasonable intrusions. Further, the suggestion that the police take care of any problems is contrary to the National Park Service policy of clearly delineating what can and what cannot be done in and around the national monuments so that police action is not necessary.

The ACLU further commented that the restrictions contained in the regulations are too broad. This comment is based primarily upon their belief that the memorial is not contemplative or reflective. The ACLU argues that demonstrations must be allowed in the memorial if eating ice cream, talking, taking pictures and bringing children are allowed. The National Park Service does not believe that it offends due process to prohibit demonstrations in the memorial while allowing children into the area, even those eating ice cream. The National Park Service believes that valid distinctions can be drawn between the activities cited by the ACLU and demonstration and leafletting activities.

The ACLU also argues that the proposed restrictions are inconsistent with a concession stand and the Festival

of American Folklife operating "just outside the area in which demonstrations are banned". The "nearby" concession stand is several hundred yards and a hill away from the outer edges of the memorial. In fact, the concession stand is not even visible from the memorial. Further, the Festival of American Folklife for the past three years has been held east of 15th Street, approximately three quarters of a mile away from the Vietnam Veterans Memorial.

Further, the ACLU suggested that the sale and distribution of literature should be allowed everywhere except adjacent to the memorial wall. The ACLU argues that there is no proof that individuals standing on a path within the memorial distributing one pamphlet or another could interfere with the use of the site for contemplation or remembrance. The National Park Service believes that individuals selling or distributing literature may be as disruptive and harassing as individuals engaged in other demonstration and special event activities in the area of the memorial. The intent of the regulation is to prohibit all activity which unreasonably interferes with the atmosphere of contemplative calm and tranquility at the memorial.

Finally, the ACLU suggests alternative regulations that would: (1) Permit small demonstrations without a permit any place in the memorial; (2) permit larger demonstrations with a permit within the memorial, but subject, perhaps, to undefined limitations that would prevent "substantial interference" with visitor use; and (3) permit vigil and religious-type demonstrations. The National Park Service believes this is an unacceptable alternative to a regulation that clearly defines prohibited activity so as to maintain an atmosphere of contemplation and reflection in the memorial.

The ACLU's second and third suggestions are to allow some demonstrations but not others within the memorial. The National Park Service must reject the suggestions as they would result in the Park Service making content-based distinctions between demonstrators; for example, religious-type demonstrations would be allowed, while others would not.

One of the three opposing commentators also suggested that all demonstrations, except those accompanied by electronically amplified sound, be allowed in the memorial. Further, he suggested that those accompanied by such sound be scheduled at intervals, for example, one a month. For the reasons cited above, the National Park Service believes that all demonstration and special event activity should occur outside the area of the memorial. Because of the abundance of park land adjacent to the proposed memorial area, the Park Service feels that demonstrators have ample alternative avenues of communication in these areas.

Three other commentators generally agreed with the regulations, but had additional suggestions and concerns. The American Legion suggested that the proposed rule be amended to allow "patriotic ceremonies, memorial in nature" that would be supervised by the National Park Service. The National Park Service must reject the suggestion as infusing a content-based distinction into otherwise content-neutral regulations. The Park Service may not permit certain types of demonstrations but not others in the memorial.

For the same reasons, the National Park Service must reject the suggestion of another veteran of Vietnam that a permanent vigil site be erected in the memorial. However, the Park Service would note that vigils and other demonstration and special event activities would be allowed outside, but within the sight of, the memorial.

A third commentator expressed some concern that a presently ongoing demonstration by Vietnam veterans not be moved too far from the memorial. Again, this group could continue their demonstration within sight of the memorial but outside its boundaries.

Finally, five individuals or groups wrote in to support the regulations as proposed. One commentator was the father of a man who died in Vietnam. Another commentator was the sister of a casualty. Her reasons for supporting the regulations are as follows:

> I am deeply in debt to the Vietnam Veterans Memorial Committee for directing the creation and construction of such a memorable and eloquent structure. I feel it's (sic) sanctity should be retained at all times. My brother died in Vietnam on November 4, 1967, and his name is engraved in granite where everyone who sees will be reminded of the true consequence of war in human terms. The memorial is no place for noisy and boisterous demonstrations or political rallys, it's a place to contemplate and think and thank God that we live in a country that has the courage to openly remember the valiant men and women who died for what we all believe in—freedom and democracy It would be sacriligious to consider the memorial a gathering place for any cause except for that of which it stands—in memory of those who served and died in Vietnam and those still unaccounted for. (Name deleted).

Regulatory Changes

1. Vietnam Veterans Memorial

The final rule amends 36 CFR 50.19(a)(10) by revising the definition of the Vietnam Memorial as now contained in the interim regulation. The new definition, which includes the memorial wall, the flagpole and the soon-to-be completed sculpture, expands the adjacent acreage into which these structures are integrated beyond that indicated in the interim regulation. In the new definition, the memorial extends to and is bounded by the south curb of Constitution Avenue on the north, the east curb of Henry Bacon Drive on the west, the north Reflecting Pool walkway on the south and a straight line drawn perpendicular to Constitution Avenue two hundred (200) feet from the memorial wall on the east (this is also a line extended from the east side of the western concrete border of the steps to the west of the center steps to the Federal Reserve Building). The diagram following the rulemaking shows the new boundaries of the memorial.

The final rule retains the prohibition contained in the interim regulation on demonstrations and special events within this area, as discussed in the preamble to the interim regulation and proposed rulemaking. This prohibition simply adds the Vietnam Veterans Memorial to the list of national memorials where demonstrations and special events are not permitted, for example the Jefferson and Lincoln Memorials, and the Washington Monument. As is the case with the other monuments, the final regulation also prohibits the sale and distribution of literature within the Vietnam Veterans Memorial.

Finally, the final regulation prohibits staging and sound equipment closer than one hundred feet to the memorial boundaries. It also requires that sound systems be faced away from the memorial.

The final rule would continue to allow official annual Memorial Day and Veterans Day commemorative ceremonies to be held at the Vietnam Veterans Memorial. The National Park Service believes that these ceremonies are consistent with and promote the intended purposes of the memorial, as outlined above. Further, the final rule, like the interim rule, is not intended to prohibit ceremonies dedicating the memorial or its component parts.

The only change made in the proposed rule is the north boundary of the memorial. The proposed rule set that boundary at the north curb of the

Constitution Avenue service road. The final rule sets the boundary at the south curb of Constitution Avenue. The change involves approximately fifteen (15) feet of grassy median strip between the service road and the Constitution Avenue sidewalk. Discussions with Park Service personnel showed that the south curb of Constitution Avenue is the primary parking and unloading area for visitors, especially handicapped visitors, to the memorial. Since the sidewalk is very narrow there, the grassy area is utilized as an unloading area for children, persons in wheelchairs, and other individuals. In addition, the grassy area surrounds the primary entrance to the memorial. Therefore, demonstrations and special events in this area could substantially interfere with access to the memorial, especially access of handicapped persons.

The National Park Service believes that there is a substantial governmental interest in maintaining an atmosphere of calm, tranquility and reverence in the vicinity of the major memorials, and especially at the Vietnam Veterans Memorial. Regulations affecting the same purpose have been in effect for years at the other major memorials. Further, the Supreme Court in the past year has made clear that government may preserve and maintain public spaces so that they may be enjoyed by the public at large. *Members of the City Counsel of Los Angeles* v. *Taxpayers for Vincent*, ——U.S.——, 80 L.Ed.2d 772, 104 S.Ct.—— (1984). *Clark* v. *Community for Creative Non-Violence*, 468 U.S.——, 82 L.Ed.2d 221, 104 S.Ct.—— (1984).

In addition, the Supreme Court has unequivocally held that the National Park Service is entitled to deference in devising the proper means to meet the goal of preserving and maintaining park areas. In *Clark* v. *Community for Creative Non-Violence*, the Court said:

> We are unmoved by the Court of Appeals' view that the challenged regulation is unnecessary, and hence invalid, because there are less speech-restrictive alternatives that could have satisfied the government interest in preserving park lands. There is no gainsaying that preventing overnight sleeping will avoid a measure of actual or threatened damage to Lafayette Park and the Mall. The Court of Appeals' suggestions that the Park Service minimize the possible injury by reducing the size, duration, or frequency of demonstrations would still curtail the total allowable expression in which demonstrators could engage, whether by sleeping or otherwise, and these suggestions represent no more than a disagreement with the Park Service over how much protection the core parks require or how an acceptable level of preservation is to be attained. We do not believe, however, that either United States v. O'Brien or the time, place, and manner decisions assign to the judiciary the authority to replace the Park Service as the manager of the Nation's parks or endow the judiciary with the competence to judge how much protection of park lands is wise and how that level of conservation is to be attained. (Footnote omitted.) *Id.* at 230–231.

The National Park Service further believes that the restrictions in the final rule will substantially enhance the visitor's park experience without placing an unreasonable limitation on First Amendment activity. Abundant alternative demonstration locations exist within sight of the memorial.

In writing the rule, the National Park Service has endeavored to put in place narrow restrictions tailored to serve the substantial governmental interest involved. The new definition of the Vietnam Veterans Memorial had to take into account physical changes in the memorial. For example, the flagpole, which is an integral part of the memorial and which has been constructed since the publication of the interim rulemaking, is outside of that area designated as the memorial in the interim rulemaking. The final rulemaking extends the boundary of the memorial south and westward to encompass the flagpole.

Likewise, the new regulations had to take into account the area necessary to accommodate the unexpectedly large number of people who desire to see the memorial. Since its dedication in November of 1982, an average of 10,200 people have visited the memorial each day, bringing total visitation to seven million people. In addition, the new regulations had to take into account the fact that the steady stream of visitors to the memorial often includes relatives of persons whose names appear on the memorial wall. For these persons, and especially for those persons who have been unable to retrieve the bodies of loved ones from Vietnam, the memorial has taken on a very real and important meaning. In response, the final regulations adds additional footage to the definition of the Vietnam Veterans Memorial to provide additional space for visitors to view the memorial.

Finally, the new regulations had to take into account the rights of visitors to utilize the Vietnam Veterans Memorial without interference from demonstrations, special events or leafletting. Letters to the National Park Service indicate that these activities occurring close to the memorial substantially interfere with the visitor's ability to contemplate the memorial and its meaning in a quiet, peaceful setting. The area to the south of the memorial wall is particularly sensitive because any loud sounds in this area are intensified when they reflect off the wall. The area to the east of the memorial wall slopes directly down into the wall, and thus, being part of the "valley" holding the memorial structures, is sensitive to sound amplification and other activity. The pathways through and to the memorial are also included in the restricted area as visitors have indicated that it is especially intrusive to have to pass through demonstrations to get through and to the memorial.

Along this same line, stages and sound systems placed close to the memorial may also have an adverse effect on visitors. In the past, the National Park Service has gained voluntary compliance with the restrictions on sound systems and staging now contained in the final rule. However, the National Park Service believes that it has an obligation to put such informal policies in regulations so that the public will have adequate notice of requirements for demonstrations and special events close to the memorial.

As with the other provisions of the regulations, the distance requirement for staging and sound equipment will not impact adversely on demonstrations and special events near the memorial. Trees to the north and south of the memorial make staging and sound systems in these areas impractical. The one hundred foot distance requirement to the east of the memorial would place stages and sound systems on the crest of a knoll. Stages or sound systems set anywhere within the one hundred feet east of the memorial would sit on the downward incline of that knoll, making it difficult for speakers to be heard or seen. Set upon the knoll, stages have the memorial wall as a visual backdrop.

The one hundred foot requirement to the west of the memorial places stages and sound systems in the flat, grassy area bounded by Constitution Avenue and Bacon Drive. This is the most practical area for stage west of the memorial. Again, with a stage and sound system placed in this location, the memorial flag and future statue should be in clear view.

The exact location on either side of the memorial where stages and sound systems are allowed is easy to determine. To the east of the memorial, a line drawn from the center door of the Federal Reserve Building to the Reflecting Pool walkway is approximately one hundred feet from the east memorial boundary. The area in which stage and sound restrictions apply to the west of the memorial can be

paced off from the east curb of Bacon Drive.

These lines are shown on the map of the memorial which follows this rulemaking and which will be included in the Code of Federal Regulations.

2. Sales and Distribution of Printed Matter

The final rulemaking also prohibits sales and distribution of printed materials in the Vietnam Veterans Memorial. For the reasons discussed above, the National Park Service believes that it is especially important to maintain an atmosphere of calm, tranquility and reverence in the memorial. Therefore, like the area around the Washington Monument and the interiors of the Lincoln and Jefferson Memorials, the Vietnam Veterans Memorial would be designated as a site where sale and distribution of printed material is not allowed.

Finally, the final rule narrows restrictions on sales and distribution of literature around the Washington Monument and eliminates altogether restrictions on such activities in Constitution Gardens outside of the Vietnam Veterans Memorial.

Regulations presently in effect prohibit sales and distribution of literature within a circle extending ten feet from the paved area surrounding the base of the Washington Monument. However, demonstrations are prohibited in a smaller area extending only to the inner circle surrounding the Monument's base. The difference in prohibited areas creates the situation where an individual can demonstrate in an area in which he cannot sell or distribute literature. Therefore, the National Park Service corrects this situation in these final regulations by revising the area in which sales and distribution of literature are prohibited around the Washington Monument to conform it to the area in which demonstrations are prohibited.

In addition, the National Park Service eliminates Constitution Gardens as an area in which sales and distribution of literature are prohibited. Constitution Gardens was under construction when it was designated as a restricted area in the 1976 rulemaking discussed above. Experience in administering the completed area indicates that it can accommodate sales and distribution of literature without substantially interfering with visitors' enjoyment of the park.

Impact Analysis

The National Park Service has determined that this document is not a major rule requiring preparation of a Regulatory Impact Analysis under Executive Order 12291. The National Park Service has also determined that the final rule will not have a significant economic impact on a substantial amount of small entities and, therefore, does not require a small entity flexibility analysis under 5 U.S.C. 601. The final rule merely defines the term "Vietnam Veterans Memorial", prohibits demonstrations, special events, and the sale and distribution of literature on the memorial grounds, except for official annual Memorial Day and Veterans Day commemorative ceremonies, places minor restrictions on stages and sound systems close to the memorial and eliminates restrictions on the sale and distribution of literature in other areas. It will have no substantial impact on any aspect of the economy.

The National Park Service has further determined that this final rule is not a major Federal action significantly affecting the quality of the human environment.

List of Subjects in 36 CFR Part 50

District of Columbia, National parks, National capital parks.

PART 50—NATIONAL CAPITAL PARKS REGULATIONS

In consideration of the foregoing, Part 50 of Title 36 of the Code of Federal Regulations is accordingly amended.

1. The authority citation for Part 50 reads as follows:

Authority: Sec. 6 of the Act of July 1, 1898 (30 Stat. 571); Secs. 1–3 of the Act of August 25, 1916 (39 Stat. 535, as amended); Sec. 16 of the Act of March 3, 1925 (43 Stat. 1126, as amended); Act of March 17, 1948 (62 Stat. 81); Act of August 8, 1953 (67 Stat. 495); Act of July 1, 1980 (94 Stat. 872); 16 U.S.C. 1–3; D.C. Code 8–137 (1981); D.C. Code 40–721 (1981).

2. Paragraph (a)(10) of § 50.19 is revised to read as follows:

§ 50.19 Demonstration and special events.

(a) * * *

(10) The term "Vietnam Veterans Memorial" means the structures and adjacent areas extending to and bounded by the south curb of Constitution Avenue on the north, the east curb of Henry Bacon Drive on the west, the north side of the north Reflecting Pool walkway on the south and a line drawn perpendicular to Constitution Avenue two hundred (200) feet from the east tip of the memorial wall on the east (this is also a line extended from the east side of the western concrete border of the steps to the west of the center steps to the Federal Reserve Building extending to the Reflecting Pool walkway).

* * * * *

3. Paragraph (v) of § 50.19(c)(2), which was published as an interim rule on November 12, 1982 (47 FR 51126), is adopted as final without change.

4. Section 50.19 is amended by redesignating paragraphs (e) (11) through (13) as (e) (12) through (14) and adding a new paragraph (e)(11) to read as follows:

§ 50.19 Demonstrations and special events.

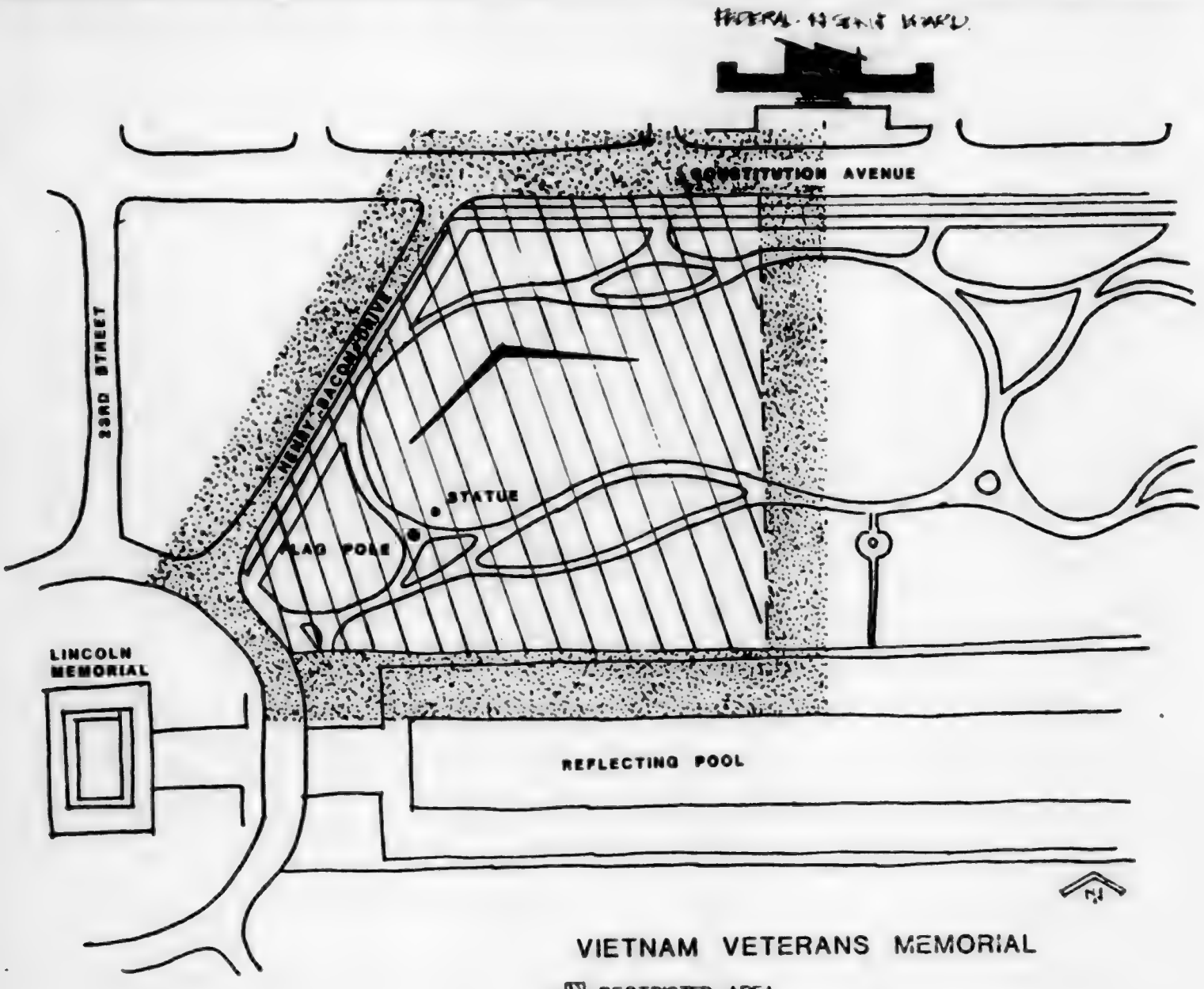
* * * * *

(e) * * *

(11) Stages and sound amplification shall not be placed closer than one hundred (100) feet from the boundaries of the Vietnam Veterans Memorial and sound systems shall be directed away from the memorial at all times.

5. A new diagram is added to the end of § 50.19 to replace the current diagram of the Vietnam Veterans Memorial to read as follows:

* * * * *



6. Section 50.24 is amended by revising paragraph (c)(2)(iii), removing paragraph (c)(2)(iv), redesignating paragraphs (c)(2)(v) and (c)(2)(vi) as (c)(2)(iv) and (c)(2)(v), and adding a new paragraph (c)(2)(vi) to read as follows:

§ 50.24 Soliciting, advertising, sales.

* * * * *

(c) * * *
(2) * * *

* * * * *

(iii) Washington Monument area enclosed within the inner circle that surrounds the Monument's base.

* * * * *

(iv) The Vietnam Veterans Memorial area extending to and bounded by the south curb of Constitution Avenue on the north, the east curb of Henry Bacon Drive on the west, the north side of the north Reflecting Pool walkway on the south and a line drawn perpendicular to Constitution Avenue two hundred (200) feet from the east tip of the memorial wall on the east (this is also a line extended from the east side of the western concrete border of the steps to the west of the center steps to the Federal Reserve Building extending to the Reflecting Pool walkway).

* * * * *

7. Section 50.52 is amended by revising paragraph (a)(3), removing paragraph (a)(4), redesignating paragraphs (a)(5) and (a)(6) as (a)(4) and (a)(5) and adding a new paragraph (a)(6) as follows:

§ 50. 52 Sale and distribution of printed matter.

(a) * * *

* * * * *

(3) Washington Monument area enclosed within the inner circle that surrounds the Monument's base.

* * * * *

(6) Vietnam Veterans Memorial area extending to and bounded by the south curb of Constitution Avenue on the north, the east curb of Henry Bacon Drive on the west, the north side of the north Reflecting Pool walkway on the south and a line drawn perpendicular to Constitution Avenue two hundred (200) feet from the east tip of the memorial wall on the east (this is also a line extended from the east side of the

western concrete border of the steps to the west of the center steps to the Federal Reserve Building extending to the Reflecting Pool walkway).

* * * * *

Date Approved: September 28, 1984.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 84-26768 Filed 10-9-84; 8:45 am]

BILLING CODE 4310-70-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[OSWER-8-FRL-2689-4]

Utah Decision on Final Authorization of State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of final determination on application of Utah for final authorization.

SUMMARY: Utah has applied for final authorization under the Resource Conservation and Recovery Act (RCRA). EPA has reviewed Utah's application and has reached a final determination that Utah's hazardous waste program satisfies all of the requirements necessary to qualify for final authorization. Thus, EPA is granting final authorization to the State to operate its program in lieu of the Federal program.

EFFECTIVE DATE: Final Authorization for Utah shall be effective at 1:00 p.m. on October 24, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Jon P. Yeagley, EPA/Region 8, 1860 Lincoln Street, Denver, Colorado 80295, Telephone: (303) 844-2221.

SUPPLEMENTARY INFORMATION: Section 3006 of the Resource Conservation and Recovery Act (RCRA) allows the Environmental Protection Agency (EPA) to authorize State hazardous waste progams to operate in the State in lieu of the Federal hazardous waste program. To qualify for final authorization, a State's program must: (1) Be "equivalent" to the Federal program; (2) be consistent with the Federal program and other State programs; and (3) provide for adequate enforcement (Sec. 3006(b) of RCRA, 42 U.S.C. 6226(b)).

On February 29, 1984, Utah submitted a complete application to obtain final authorization to administer the RCRA program. July 5, 1984, EPA published a tentative decision announcing its intent to grant Utah final authorization. Further background on the tentative decision to grant authorization appears at Vol. 49, No. 130 **Federal Register,** Page 27585, July 5, 1984.

Along with the tentative determination EPA announced the availability of the application for public comment and the date of a public hearing on the application. The public hearing was held on July 31, 1984.

The tentative determination to authorize the State of Utah was made based on Utah's commitment to provide additional materials to EPA. The materials were presented and reviewed by July 31, 1984, and adequately addressed EPA's prior concerns as follows:

1. The Program Description should include a strategy for the permitting of all existing hazardous waste facilities in the State of Utah.

Utah has prepared a schedule for requesting permit applications and permitting all existing hazardous waste facilities within the State. The Utah Permitting Strategy is Attachment IV to the Capability Assessment submitted with the tentative decision package for Utah. The schedule is amended to have all groundwater monitoring facilities requested by FY-86.

2. The State must define the relationship between the Department of Health and the Hazardous Waste Committee and determine the need for the Committee to sign the Memorandum of Agreement with the Department and EPA.

Utah has reviewed the Department-Committee relationship, verified the description provided in the Application, and provided joint signatures of the Department and Committee to the Memorandum of Agreement.

3. A penalty policy for recommending fines associated with filing of civil actions must be agreed to by the Department and the Committee

The penalty policy is in place, adopted by the Committee for use in calculating civil action penalty recommendations.

4. The Utah Hazardous Waste Regulations must be amended to avoid requiring financial assurance mechanisms prior to the regulations' effective date.

Utah amended its regulations to require third party liability financial mechanisms on the date of authorization for those facilities with sales or revenues totaling $5 million or more. This regulation is certified final.

5. A Memorandum of Agreement commitment must be made by the State to provide investigative support to EPA and authorized States in cases where hazardous waste generated in Utah is transported out of the State for storage, treatment and/or by disposal in a non-permitted facility.

Utah has added this commitment to the Memorandum of Agreement with the necessary Attorney General's certification.

Public Participation

A public hearing and opportunity for review and comment on EPA's tentative decision were noticed in the **Federal Register** and state-wide newspapers. The hearing, held on July 31, 1984, was attended by approximately twelve individuals representing the general public, the press, industry, and State government. Written comments were submitted by one company in support of the authorization. No oral comments were received.

Decision

After reviewing the public comment and the changes the State has made to its application/program since the tentative decision, I conclude that Utah's application for final authorization meets all of the statutory and regulatory requirements established by RCRA. Accordingly, Utah is granted final authorization to operate its hazardous waste program. This means that Utah now has the responsibility for permitting treatment, storage and disposal facilities within its borders and carrying out the other aspects of the RCRA program. Utah also has primary enforcement responsibility, although EPA retains the right to conduct inspections under section 3007 of RCRA and to take enforcement actions under section 3008, 7003, and 3013 of RCRA.

Compliance With Executive Order 12291

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 505(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. The authorization effectively suspends the applicability of certain Federal regulations in favor of Utah's program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

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List of Subjects in 40 CFR Part 271

Hazardous materials, Indian lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Intergovernmental relations, Penalties, Confidential business information.

Authority: This notice is issued under the authority of section 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: October 2, 1984.

John G. Welles,

Regional Administrator.

[FR Doc. 84-26720 Filed 10-9-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6592]

Final Flood Elevation Determination; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule; correction.

SUMMARY: The Federal Emergency Management Agency has published a listing which included the final flood elevation determination for the City of Putnam, Windham County, Connecticut. This notice will serve to delete the City of Putnam, Windham County, Connecticut, from that list.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287-0701.

SUPPLEMENTARY INFORMATION: As a result of the community's annexation into the Town of Putnam, Windham County, Connecticut, it has been determined that the City no longer possesses the requisite primary flood plain management authority to participate in the National Flood Insurance Program, therefore, the Notice of Final Flood Elevation Determination for the City of Putnam published at 49 FR 11204 on March 26, 1984, should be deleted.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Administrator)

Issued: September 27, 1984.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 84-26690 Filed 10-9-84; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[Docket No. 31012-199]

Atlantic Tuna Fisheries

Correction

In FR Doc. 84-25878 appearing on page 38641 in the issue of Monday, October 1, 1984, make the following correction: In the last line of the first column and the first line of the second column, "721°50'W." should read "72°50'W.".

BILLING CODE 1505-01-M

Proposed Rules

Federal Register
Vol. 49, No. 197
Wednesday, October 10, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 248

Change of Nonimmigrant Classification

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Proposed rule.

SUMMARY: The proposed rule would require that when an alien is seeking to change nonimmigrant status to that of an "H" temporary worker or "L" intracompany transferee classification, the application for that change must be filed with the nonimmigrant visa petition (Form I–129B) which authorizes the "H" or "L" classification or the application must be accompanied by the notice of approval of the nonimmigrant visa petition (Form I–171C). This rule would also require that the application for such change of nonimmigrant status to "H" or "L" must always be filed with the district director who has jurisdiction over the nonimmigrant visa petition (Form I–129B). This rule would help the Service provide more expeditious adjudication of the change of status request by keeping all related documents together and by reducing the Service's need to obtain records from another Service office prior to the adjudication of an application.

DATE: Written comments must be submitted on or by November 9, 1984.

ADDRESS: Please submit written comments in duplicate to the Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 I Street, NW., Room 2011, Washington, D.C. 20536.

FOR FURTHER INFORMATION CONTACT:

For general information: Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 I Street, N.W., Washington, D.C. 20536, Telephone: (202) 633–3048.

For Specific Information: Jeffrey D. Trecartin, Immigration Examiner, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C. 20536, Telephone: (202) 633–3946.

SUPPLEMENTARY INFORMATION: The current regulation governing the place of filing of an application to change nonimmigrant status, Form I–506, provides that the application be filed with the district director having jurisdiction over the *residence* of the applicant. This provision differs from the current rule which governs jurisdiction for filing visa petitions to determine eligibility for "H" "L" nonimmigrant visa classification. A visa petition to classify an alien as a temporary worker "H" or intra-company transferee "L" must be filed with the district director having jurisdiction over the place where the services will be performed without regard to the beneficiary's place of residence. In a number of cases, this results in the filing of the eligibility visa petition (Form I–129B) and the application for change of nonimmigrant classification (Form I–506) in two different jurisdictions. This would be the case when the alien lives in one state (e.g., New York) and works in another state (e.g., New Jersey). This split of jurisdiction in "H" and "L" cases causes increased processing time and unnecessary administrative problems. The proposed rule would require either the concurrent filing of the application (Form I–506) and the nonimmigrant visa petition (Form I–129B) with the district director having jurisdiction over the Form I–129B, or if submitted separately, the proposed rule would require that the notice of approval of the petition, Form I–171C, accompany the Form I–506. The proposed rule would also require that the Form I–506 be filed in the same jurisdiction as the Form I–129B in all cases, thus keeping both proceedings under the jurisdiction of the same district director.

This change would benefit both the Service and the public by consolidating the paperwork needed to make such a change of status, reduce transfer of files within the Service's record system and as a result, provide more efficient, timely service to the public.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that this rule if promulgated, will not have significant economic impact on a substantial number of small entities. The rule would not be a major rule as defined in section 1(b) of E.O. 12291. It would not have an effect on the economy of $100 million or more; result in an increase in costs, prices for consumers, individual industries, Federal, state, or local government agencies, or geographic region; or have a significant adverse effect on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to complete with foreign-based enterprises in domestic or export markets.

List of Subjects in 8 CFR Part 248

Administrative practice and procedure, Aliens, Immigration and Nationality Act.

Accordingly, it is proposed to amend Chapter I of Title 8 of the Code of Federal Regulations as follows:

PART 248—CHANGE OF NONIMMIGRANT CLASSIFICATION

Section 248.3 would be amended by revising paragraph (a); existing paragraphs (b) thru (f) would be redesignated (c) thru (g), respectively; and a new paragraph (b) would be added as follows:

§ 248.3 Application.

(a) *General.* A nonimmigrant alien who seeks to change the visa classification under which he or she was admitted to the United States shall apply for a change of nonimmigrant classification on Form I–506. The applicant shall submit documentary evidence establishing eligibility for the change of classification being requested. The application (Form I–506) must be filed with the district director having jurisdiction over the applicant's place of termporary residence in the United States, *except* for change of status to classification under section 101(a)(15) (H) or (L) of the Act.

(b) *Change to H or L.* An applicant for change of nonimmigrant classification to H or L shall submit Form I–506 accompanied by either Form I–129B, Petition to Classify Nonimmigrant as Temporary Worker or Trainee, or a copy of the notice of approval of the visa petition (Form I–171C), to the district

director having jurisdiction over the place of employment.

* * * * *

§ 248.4 [Removed]

Section 248.4 would be removed.

(Secs. 103 and 248 of the Immigration and Nationality Act, as amended (8 U.S.C. 1258 and 1101))

Dated: September 17, 1984.

Andrew J. Carmichael, Jr.,

Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 84-26607 Filed 10-9-84; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 84-AWA-2]

Proposed Alteration of VOR Federal Airways

Correction

In FR Doc. 84-24882 beginning on page 36869 in the issue of Thursday, September 20, 1984, make the following corrections:

1. On page 36870, first column, **V-417 [New]**, first line, "Montgomery" should read "Monroe".

2. On the same page, second column, **V-18 [Amended]**, line eighteen, "INT Augusta" should read "INT Atlanta".

BILLING CODE 1505-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Ch. V

Unemployment Insurance Service Proposed Quality Control Program; Under Secretary's Order No. 4-75, Dated April 16, 1975 (40 FR 18515) (5 U.S.C. 553) Interpreting and Applying Sections 303 (a)(1) and (a)(6) and 303(b)(2) of the Social Security Act (42 U.S.C. 503 (a)(1), (a)(6), and 503(b)(2)

Correction

In FR Doc. 84-25526 appearing on page 38083, in the issue of Wednesday, September 26, 1984, make the following correction: In the second column, *Introduction*, line nine "employment" should read "unemployment".

BILLING CODE 1505-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 203, 226, and 234

[Docket No. R-84-1173; FR-1935]

Single Family and Condominium Mortgage Insurance; Changes to Loan-to-Value Limitation for Modestly Priced Homes

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: This rule proposes to implement a provision of the Housing and Urban-Rural Recovery Act of 1983 (1983 Act) which authorizes a higher loan-to-value ratio for HUD-insured owner-occupied homes or family units with an appraised value of $50,000 or less. Because a higher loan-to-value ratio means the purchaser would need a smaller downpayment, this amendment would help those persons traditionally served by FHA—homebuyers with sound credit and income and strong motivation to support mortgage debt, but with a limited amount of liquid assets to provide a large downpayment. This amendment would particularly help first-time homebuyers who do not have equity in a previous home to use for a downpayment.

DATE: *Comments due date* December 10, 1984.

ADDRESS: Interested persons are invited to submit comments on this rule to the Office of General Counsel, Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Brian Chappelle, Acting Director, Single Family Development Division, Department of Housing and Urban Development, Room 9270, 451 Seventh Street, SW., Washington, D.C. 20410. Telephone: (202) 755-6720. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The National Housing Act (NHA) (12 U.S.C. 1701-1749) authorizes HUD/Federal Housing Administration (FHA) to insure mortgages for single family residences. This authority includes one- to four-family residences (see section 203) and one-family units in condominiums (see section 234). Section 203 of the NHA is the underlying provision for the insurance of mortgages covering single family residences, and many other NHA sections adopt the basic provisions contained in section 203. Other sections to which this rule applies include: section 203(k), loan insurance for rehabilitation of a structure used primarily as a residence; and sections 809 and 810, armed services housing mortgage insurance.

HUD/FHA insures lenders against losses on insured home mortgages, thereby lowering lenders' risk and encouraging a flow of credit for homeownership. The Department's insurance program has increased the opportunity for homeownership—one of the fundamental objectives of the Department. The limits on how much the Department may insure are set by the National Housing Act. Maximum mortgage amounts depend on whether the buyer intends to live in the home, the appaised value of the property, the number of family units in the dwelling and the prevailing housing prices in the area. The insured mortgage amount cannot exceed a fixed percentage of the appraised value, called the loan-to-value ratio.

In most single family mortgages, when the mortgagor (purchaser) is going to occupy the residence, the loan-to-value ratio is the sum of 97% of the first $25,000 of the appraised value plus 95 percent of the appraised value in excess of $25,000. Appraised value is defined as the estimated value of the property plus the estimated closing costs or the acquisition cost, whichever is less. (See 24 CFR 203.18 and 234.27 for loan-to-value ratios in other circumstances.

Section 424 of the Housing and Urban-Rural Recovery Act of 1983 (Pub. L. 98-181, November 30, 1983) (1983 Act) amends section 203(b) of the NHA by establishing a special loan-to-value ratio for owner-occupied modestly priced homes. If the appraised value of the property (estimated value plus estimated closing costs) does not exceed $50,000, section 424 allows a loan-to-value ratio of 97 percent of the entire appraised value of the property as of the date the mortgage is accepted for insurance. By another provision of the 1983 Act, (section 420) the maximum mortgage limits authorized for one-family residences under section 203(b) of the NHA also apply to section 234 condominium units. (See rule implementing section 420 in the April 11, 1984 issue of the **Federal Register**, 49 FR 14336.)

Today's rule proposes to amend the Department's regulations in Parts 203 and 234 to implement the direct authorization contained in the 1983 Act to increase the loan-to-value ratio for owner-occupied, modestly priced single family homes, including condominium units. This change would reduce the downpayment requirement for purchasers of modestly priced single-family homes. Under current loan-to-value limitations, a $50,000 home requires a $2,000 downpayment. If adopted as final, this rule would require a $1,500 downpayment on a $50,000 home. This reduction in the necessary initial cash investment would permit more moderate and middle income homebuyers to own their own homes. Because the 1983 Act specifically limits this loan-to-value limitation to owner-occupants, this rule also proposes to amend HUD's regulations to make it clear that investor-owners may not qualify for this special low downpayment.

This proposal also contains technical amendments to Part 226, Armed Services Housing—Civilian Employees, which must be consistent with Part 203.

Before the Department can implement this lower downpayment requirement, the 1983 Act requires that the Secretary find and report to Congress that the implementation of this provision will not adversely affect the actuarial soundness of HUD's single family mortgage insurance programs, taking into account the already higher loan-to-value ratio resulting from the advance payment of mortgage insurance premiums in effect in most of the section 203 programs. The Secretary has made such a finding, and has submitted his report to Congress.

A finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement section 102(2)(C) of the National Enviornmental Policy Act of 1969 (42 U.S.C. 4332). The Finding of No Significant Impact is available for public inspection and copying during regular business hours in the Office of the Rules Docket Clerk, Office of the General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

This proposed rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulation issued by the President on February 17, 1981. Analysis of the proposed rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Under the provisions of section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601), the Undersigned certifies that this proposed rule does not have a significant economic impact on a substantial number of small entities, because the rule merely carries out a statutory policy and does not impose any new administrative or economic burdens on small entities.

This rule was listed as item number 55 in the Department's Semiannual Agenda of Regulations published on April 19, 1984 (see 49 FR 15902, 15921) under Executive Order 12291 and the Regulatory Flexibility Act.

The applicable Catalog of Federal Domestic Assistance program numbers are: 14.105; 14.108; 14.117–14.122; 14.133; 14.159; 14.161; 14.163; 14.165; and 14.166.

List of Subjects

24 CFR Part 203

Home improvement, Loan programs: housing and community development, Mortgage insurance, Reporting and recordkeeping requirements, Solar energy.

24 CFR Part 226

Government employees, Mortgage insurance.

24 CFR Part 234

Mortgage insurance; Reporting and recordkeeping requirements.

Accordingly, the Department proposes to amend 24 CFR Parts 203, 226, and 234 as follows:

PART 203—MUTUAL MORTGAGE INSURANCE AND REHABILITATION LOANS

1. Section 203.18 is proposed to be amended by revising paragraphs (a)(2), (a)(3), and the introductory language of paragraph (c) and by adding a new paragraph (c)(3) as set forth below:

§ 203.18 Maximum mortgage amounts.

(a) * * *

(2) *Loan-to-value limitation—no approval before construction.* In a case where a dwelling is not approved for mortgage insurance before the beginning of construction, the loan-to-value ratio may not exceed 90 percent of the appraised value of the property as of the date the mortgage is accepted for insurance, unless the dwelling—

(i) Was completed more than one year before the date of the mortgage insurance application; or

(ii) Was approved for guaranty, insurance, or a direct loan by the Administrator of Veterans Affairs before the beginning of construction; or

(iii) Is covered by a consumer protection or warranty plan acceptable to the Secretary and satisfies all requirements which would have been applicable if such dwelling had been approved for mortgage insurance before the beginning of construction.

(3) *Loan-to-value limitation—approval before construction.* If a dwelling is approved for mortgage insurance before construction, or if it meets one of the alternative conditions identified in paragraph (a)(2) of this section, the following loan-to-value limitations apply:

(i) If the appraised value of the property does not exceed $50,000, the loan-to-value limitation is 97 percent of the appraised value of the property as of the date the mortgage is accepted for insurance.

(ii) If the appraised value of the property exceeds $50,000, the loan-to-value limitation is 97 percent of the first $25,000 of the appraised value of the property as of the date the mortgage is accepted for insurance and 95 percent of the appraised value in excess of $25,000.

(iii) If the mortgagor qualifies as a veteran (see paragraph (b) of this section), the loan-to-value limitation is the lesser of (A) 100 percent of the first $25,000 of the appraised value of the property as of the date the mortgage is accepted for insurance plus 95 percent of the appraised value in excess of $25,000; or (B) the sum of the appraised value not in excess of $25,000 and the items of pre-paid expense approved by the Commissioner minus $200, plus 95 pecent of the appraised value in excess of $25,000.

* * * * *

(c) *Nonoccupant mortgagors.* Except as limited in paragraph (C)(3) of this section, a mortgage executed by an owner who is not the occupant of the property may equal;

* * * * *

(3) In no case may a nonoccupant mortgagor qualify for the 97 percent loan-to-value limitation provided for owner-occupants of property whose appraised value does not exceed $50,000. (See § 203.18(a)(3).)

* * * * *

2. In § 203.50, paragraphs (f)(1) and (f)(2) are proposed to be amended by

removing the reference "§ 203.18(a) (1) (2)" and adding in its place the reference "§ 203.18(a) (1) and (3)".

PART 226—ARMED SERVICES HOUSING—CIVILIAN EMPLOYEES [SEC. 809]

3. Section 226.5 is proposed to be amended by revising paragraphs (a)(1) and (a)(2) to read as follows:

§ 226.5 Maximum mortgage amount; loan-to-value limitation.

(a) * * *

(1) *Loan-to-value limitation—no approval before construction.* In a case where a dwelling is not approved for mortgage insurance before the beginning of construction, the loan-to-value ratio may not exceed 90 percent of the appraised value of the property as of the date the mortgage is accepted for insurance, unless the dwelling—

(i) Was completed more than one year before the date of the mortgage insurance application; or

(ii) Was approved for guaranty, insurance, or a direct loan by the Administrator of Veterans Affairs before the beginning of construction; or

(iii) Is covered by a consumer protection or warranty plan acceptable to the Secretary and satisfies all requirements which would have been applicable if such dwelling had been approved for mortgage insurance before the beginning of construction.

(2) *Loan-to-value limitation—approval before construction.* If a dwelling is approved for mortgage insurance before construction, or if it meets one of the alternative conditions identified in paragraph (a)(1) of this section, the following loan-to-value limitations apply—

(i) If the appraised value of the property does not exceed $50,000, the loan-to-value limitation is 97 percent of the appraised value of the property as of the date of the mortgage is accepted for insurance.

(ii) If the appraised value of the property exceeds $50,000, the loan-to-value limitation is 97 percent of the first $25,000 of the appraised value of the property as of the date the mortgage is accepted for insurance and 95 percent of the appraised value in excess of $25,000.

(iii) If the mortgagor qualifies as a veteran under § 203.18(b) of this chapter, the loan-to-value limitations is the lesser of (A) 100 percent of the first $25,000 of the appraised value of the property as of the date the mortgage is accepted for insurance plus 95 percent of the appraised value in excess of $25,000; or (B) the sum of the appraised value not in excess of $25,000 and the items of prepaid expense approved by the Commissioner minus $200, plus 95 percent of the appraised value in excess of $25,000.

* * * * *

PART 234—CONDOMINUM OWNERSHIP MORTGAGE INSURANCE

4. Section 234.27 is proposed to be amended by revising paragraphs (a)(2), (a)(3), and the introductory language of paragraph (d), and by adding a new paragraph (d)(3) to read as follows:

§ 234.27 Maximum mortgage amounts.

(a) * * *

(2) *Loan-to-value limitation—no approval before construction.* In a case where a family unit is not approved for mortgage insurance before the beginning of construction, the loan-to-value ratio may not exceed 90 pecent of the appraised value of the property as of the date the mortgage is accepted for insurance, unless the family unit—

(i) Was completed more than one year before the date of the mortgage insurance application; or

(ii) Was approved for guaranty, insurance, or a direct loan by the Administrator of Veterans Affairs before the beginning of construction; or

(iii) Is covered by a consumer protection or warranty plan acceptable to the Secretary and satisfies all requirements which would have been applicable if such dwelling had been approved for mortgage insurance before the beginning of construction.

(3) *Loan-to-value limitation—approval before construction.* If a family unit is approved for mortgage insurance before construction, or if it meets one of the alternative conditions identified in paragraph (a)(2) of this section, the following loan-to-value limitations apply—

(i) If the appraised value of the family unit does not exceed $50,000, the loan-to-value limitation is 97 percent of the appraised value of the property as of the date the mortgage is accepted for insurance.

(ii) If the appraised value of the family unit exceeds $50,000, the loan-to-value limitation is 97 percent of the first $25,000 of the appraised value of the property as of the date the mortgage is accepted for insurance and 95 percent of the appraised value in excess of $25,000.

(iii) If the mortgagor qualifies as a veteran under § 203.18(b) of this chapter, the loan-to-value limitation is the lesser of (A) 100 percent of the first $25,000 of the appraised value of the property as of the date the mortgage is accepted for insurance plus 95 percent of the appraised value in excess of $25,000; or (B) the sum of the appraised value not in excess of $25,000 and the items of prepaid expense approved by the Commissioner minus $200, plus 95 percent of the appraised value in excess of $25,000.

* * * * *

(d) *Nonoccupant mortgagors.* Except as limited in paragraph (d)(3) of this section, a mortgage executed by an owner who is not the occupant of the family unit may equal:

* * * * *

(3) In no case may a nonoccupant mortgagor qualify for the 97 percent loan-to-value limitation provided for owner-occupants of family units whose appraised value does not exceed $50,000. (See § 234.27(a)(3).)

Authority: Sec. 203(b)(2), National Housing Act (12 U.S.C. 1709(b)(2)); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: September 13, 1984.

Maurice L. Barksdale,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 84-26083 Filed 10-9-84; 8:45 am]

BILLING CODE 4210-27-M

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24 CFR Part 207

[Docket No. R-84-1207; FR-1768]

Multifamily Housing Mortgage Insurance Assignment of Insured Mortgages

AGENCY: Office of the Assistant Secretary of Housing—Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: The proposed rule would amend 24 CFR 207.261 to permit an insured mortgagee to sell or syndicate beneficial interests in an insured multifamily mortgage or pool of multifamily mortgages without prior HUD consent, subject to certain conditions. These conditions would maintain the rights, benefits, and obligations of all parties potentially affected by an assignment of insured mortgages.

DATES: Comment due date: December 10, 1984.

ADDRESSES: Interested persons are invited to submit comments about this rule to the Office of the General Counsel, Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

Communications should refer to the above docket number and title. A copy of each comment received will be available for public inspection and copying during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: James T. Tahash, Director, Program Planning Division, Office of Multifamily Housing Management, Room 6180, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Telephone (202) 426–3970 (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The proposed amendment would add a new provision to 24 CFR 207.261 which would allow the sale or transfer of all or any portion of a beneficial interest in an insured multifamily mortgage or pool of such mortgages without prior HUD consent. Such a sale or transfer would be subject to the following conditions: (1) The insured mortgagee must retain legal title to and custody of the insured mortgage and mortgage documents and (2) neither HUD nor the mortgagor would have an obligation to recognize or deal with anyone other than the insured mortgagee (or its servicing agent) after the transfer of the beneficial interest. The amendment should encourage the addition of capital into the mortgage markets by permitting insured mortgagees to sell their beneficial interest in the insured mortgage to other types of investors.

This rule would not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulations issued on February 17, 1981. Analysis of the rule indicates that it would not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR Part 50 which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the General Counsel, Rule Docket Clerk, at the above address.

Pursuant to the provisions of 5 U.S.C. 605 (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule would not have a significant economic impact on a substantial number of small entities. The proposed rule merely liberalizes present procedure by eliminating the need to request prior HUD approval in order to sell or transfer beneficial interests in multifamily mortgages, subject to certain conditions.

This proposed rule was listed as item number 72 in the Department's Semiannual Agenda of Regulations published on April 19, 1984 (49 FR 15902 at 15924) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance program numbers are 14.134, Mortgage Insurance—Rental Housing; 14.155, Mortgage Insurance for the Purchase or Refinancing of Existing Multifamily Housing Projects.

List of Subjects in 24 CFR Part 207

Mortgage insurance, Rental housing, Mobile home parks, Assignments of insured mortgages.

Accordingly, HUD proposes to amend 24 CFR Part 207 as follows:

PART 207—MULTIFAMILY HOUSING MORTGAGE INSURANCE

Section 207.261 would be amended by revising paragraphs (a) and (e)(1) and by adding paragraphs (f)–(h) to read:

§ 207.261 Assignment of insured mortgages.

(a) *In general.* An approved mortgagee may assign, transfer or pledge an insured mortgage, a partial interest in an insured mortgage, or a benefical interest in an insured mortgage in accordance with the terms and conditions prescribed in this section.

* * * * *

(e) * * *

(1) The insured mortgage shall be held by an approved mortgagee subject to the inspection and supervision of a governmental agency authorized by law to make periodic examination of its books and accounts, and which shall for the purpose of this paragraph (e) be referred to as the "principal" mortgagee;

* * * * *

(f) *Transfer of beneficial interest by mortgage participation certificates.* The insured mortgagee of record may sell or transfer a beneficial interest in all or a part of an insured mortgage, without obtaining the approval of the Commissioner, through the sale of pass-through certificates representing a beneficial interest in an insured mortgage or in a pool of insured mortgages, if the following conditions are met:

(1) The insured mortgage or mortgages (including insured mortgages held by a trustee holding title for the benefit of certificate holders) shall be held by an approved mortgagee subject to the inspection and supervision of a governmental agency authorized by law to make periodic examination of its books and accounts;

(2) The insured mortgagee shall at all times retain legal title to the mortgage;

(3) The declaration of trust or other agreement under which the beneficial interest in the insured mortgage or pool of insured mortgages is transferred, in addition to other provisions as may be agreed upon between the parties, shall provide that the insured mortgagee shall remain the mortgagee of record under the contract of mortgage insurance; that the Commissioner shall have no obligation to recognize or deal with anyone other than the insured mortgagee with respect to the rights, benefits and obligations of the insured mortgagee under the contract of insurance; that the mortgagor shall have no obligation to recognize or deal with anyone other than the insured mortgagee or its servicing agent with respect to the rights, benefits and obligations of the mortgagor or the insured mortgagee under the mortgage; and that, except as required by a servicer acting for an insured mortgagee, the mortgage documents shall remain in the custody of the insured mortgagee, or its agent for purposes of such custody, which agent shall be an approved mortgagee.

(g) *Notice not required.* No notice of any sale or transfer of a participating or partial interest under paragraph (e) or the sale or transfer of a beneficial interest under paragraph (f) shall be required, unless the insured mortgage is transferred in its entirety to a new mortgagee on the public records.

(h) *Unauthorized transfer, pledge or assignment.* The contract of insurance may, at the option of the Commissioner and under such conditions as the Commissioner may prescribe, be terminated if an insured mortgage, a partial interest in an insured mortgage, or a beneficial interest in an insured mortgage is transferred, pledged or assigned and the transfer, pledge or assignment does not meet the requirements contained in this section.

Authority: Sec. 207, National Housing Act (12 U.S.C. 1713); Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: September 13, 1984.

Maurice L. Barksdale,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 84-26680 Filed 10-9-84; 8:45 am]

BILLING CODE 4210-27-M

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24 CFR Parts 207, 220, 221, 246, and 255

[Docket No. R-84-1181; FR-1905]

Multifamily Housing Mortgage Insurance; Deregulation of Rents

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Proposal rule.

SUMMARY: This proposed rule would implement a recent statutory amendment granting the Secretary discretionary authority to regulate rents in unsubsidized multifamily projects with mortgages insured under section 207 or section 234(d) of the National Housing Act. Before this amendment, the statute mandated that the Secretary regulate rents in those projects. The Secretary proposes to deregulate rents for such projects, where a project is insured (or coinsured) under section 207 on or after the date of the date of enactment of the amendment (November 30, 1983). The rule would clarify the method of determining rent adjustments for certain projects insured under section 207. In addition, for projects insured under section 220 or 221 receiving section 8 Loan Management Set Aside, the rents (excluding the section 8 rents) would be decontrolled. The rule would also specify how maximum rents would be determined when local rent control is preempted.

DATES: Comments due December 10, 1984.

ADDRESS: Interested persons are invited to submit comments regarding this rule to the Office of General Counsel, Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Communications should refer to the above-mentioned docket number and title. A copy of each communication submitted will be available for public inspection and copying during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: James J. Tahash, Office of Multifamily Housing Management, Room 6180, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Telephone number (202) 426-3970. This is not a toll-free number.

SUPPLEMENTARY INFORMATION:

Statutory Scheme

Section 431(a)(1) of the Housing and Urban-Rural Recovery Act of 1983, Pub. L. 98-181, 97 Stat. 1153, approved November 30, 1983 (1983 Act), amended section 207(b)(2) of the National Housing Act (NHA) to provide, in pertinent part, that

> The Secretary may, in the Secretary's discretion, require any such mortgagor to be regulated or restricted as to rents or sales, . . . so as to provide reasonable rentals to tenants and a reasonable return on the investment. Any such regulations or restrictions shall continue for such period or periods as the Secretary, in the Secretary's discretion, may require, . . .

Before the amendment effected by section 431(a)(1), section 207(b)(2) contained language requiring the Department to regulate rents in projects insured or held by HUD under this authority. HUD promulgated rules for the guidance of program participants with respect to the regulation of rents in these unsubsidized multifamily projects. *See, e.g.*, 48 FR 16670, 16673 (April 19, 1983).

In the rule cited above (48 FR 16670), acting under a similar grant of discretionary authority to regulate rents provided for in sections 220 and 221(d)(4) of the NHA, the Secretary elected to invoke this discretion and to end the control of rents on projects insured under these two sections of the NHA.

In decontrolling rents in projects insured under sections 220 and 221(d)(4), the Department quoted from *The Report of the President's Commission on Housing (1982)* that "unsubsidized projects with FHA-insured loans should not be subject to regulatory control of rents." Report, *supra* at 166, *cited in* 48 FR at 16670. This conclusion from the Report, along with the following elaboration of the Department's rationale for decontrolling rents in sections 220 and 221(d)(4) projects, is equally applicable to future projects insured under section 207 of the HHA, and is explicitly adopted in this rule.

> As the insurer or holder (as a result of assignment) of the mortgages on such projects, HUD has a paramount interest in their economic viability. Moreover, HUD is committed to the preservation and enhancement of the quantity and quality of available housing. For projects which receive no subsidy, the Department has concluded that the best method of achieving these goals is to allow free markets to determine rents which will enable owners to recover current operating costs and achieve a reasonable rate of return based on present property values. *Id.*

This rule, however, would not deregulate rents in existing projects, insured under section 207 of the NHA before enactment of the 1983 Act. A companion amendment in the 1983 Act, at section 431(c), provides that the amendment to section 207(b)(2) "shall not apply with respect to mortgages insured by the Secretary . . . before the date of enactment of [the 1983] Act." In view of this explicit language, the deregulation of rents proposed by this rule would apply only to those projects on which the mortgage was insured on or after November 30, 1983 (the date of enactment of the 1983 Act). With respect to those projects with mortgages insured before November 30, 1983, however, the Department will continue to regulate rents in accordance with 24 CFR 207.19(e). *See* 48 FR at 16673.

Section 431(a)(1) of the 1983 Act provides that the Secretary may, in the Secretary's discretion, require a mortgagor "to be regulated or restricted as to rents . . . so as to provide reasonable rentals to tenants and a reasonable return on the investment." In this rule, the Department proposes to decontrol rents. HUD believes that the free market will provide for rent levels that will enable owners to recover current operating costs and achieve a reasonable rate of return based on current property values, and that owners, relieved of rent control on these projects, will charge rents that by market standards in the area yield a reasonable return but remain competitive.

Section 431(b) of the 1983 Act amended section 234(d)(2) of the NHA to confer discretionary authority on the Secretary to regulate rents in projects insured under that section. Formerly (i.e., before passage of the 1983 Act), section 234(d)(2) mandated the regulation of rents in such projects. However, no revision to the existing regulation at 24 CFR 234.560(b), implementing section 234(d)(2), is necessary. The existing regulatory provision conforms to the amendatory language of section 431(b) of the 1983 Act.

Regulatory Revisions

As a result of the statutory amendment to section 207 of the NHA, the Department is proposing the following revisions to existing regulations under 24 CFR Part 207. Revisions to existing regulations under

24 CFR Parts 220, 221, 246 and 255 are also included in this rule.

In § 207.19(e), a new paragraph (7) would be added to indicate that, for projects insured under this section after November 30, 1983, the rents and charges would be determined by the owner (i.e., the rents are deregulated), except for those projects that receive section 8 assistance, Rent Supplement, or Rental Assistance Payments, or are constructed for occupancy exclusively by elderly and handicapped persons. A new paragraph (8) would be added also to provide that "reasonable rentals" or "moderate rental charges" under section 207(b)(2) of the NHA would be determinable by reference to market rentals in the area.

Projects with units receiving a tenant-based subsidy would continue to have their rents and charges approved by HUD or determined in accordance with the HAP Contract, as the case may be. Additional charges for facilities and services in elderly projects would be subject to approval by HUD. Also, rents on projects refinanced under section 207 of the NHA pursuant to section 223(f) of the NHA that receive assistance under the Rent Supplement Program or under section 236 of the NHA would be determined in accordance with § 207.19(e)(2)(i).

Sections 207.19(e)(4), 220.511(c)(3), and 221.531(c)(4) would also be revised. These revisions would clarify the method of determining rent adjustments with respect to projects described in these sections. An owner of such a project could, with the prior approval of the Department, have the rents determined under 24 CFR 207.19(e)(2)(ii). However, if the owner elected to have the rents determined under paragraph (e)(2)(ii), or (in the case of section 220 and 221 projects), decontrolled, the rents for those units receiving section 8 assistance would be adjusted in accordance with the Annual Adjustment Factor set out in 24 CFR Part 888, Subpart B, and the HAP Contract.

Paragraph (3) of section 207.19(e) would be amended to specify that, in preempting local rent control laws, the Department would determine the maximum rents that projects so affected may charge by using the method outlined in section 207.19(e)(i). This identical amendment would also be made to § 220.511(d) and 221.531(c)(5).

The rule would also contain an amendment to 24 CFR 255.223(c) to indicate that rents would be deregulated on projects with mortgages coinsured on or after November 30, 1983. Rents on projects with mortgages coinsured before November 30, 1983 are currently determined in accordance with the interim rule published on May 25, 1983 at 48 FR 23386, 23405.

As a consequence of the deregulation of rents proposed by this rule, along with the actual deregulation effected by the final rule of April 19, 1983 (48 FR 16670), some of the projects affected by these rules are now covered under 24 CFR Part 246, Subpart B, with respect to preemption of local rent control. Accordingly, the Department would amend 24 CFR Part 246, Subpart C, §246.20 (formerly Part 403.20) to remove reference to these projects in that subpart. (This action would have the effect of giving tenants in these projects in which rents are deregulated the opportunity to comment on preemption determinations.)

Other Findings

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

This rule would not constitute a "major rule" as that term is defined in section (b) of the Executive Order on Federal Regulation issued by the President on February 17, 1981. Analysis of the rule indicates that it would not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule would not have a significant economic impact on a substantial number of small entities. The rule would exercise the Department's discretionary authority, in accordance with a recent statutory amendment, to decontrol rents. The rule would eliminate cash deficiencies for some small entities but would not result in additional costs to any small entities.

This rule was listed as sequence number 75 in the Department's Semiannual Agenda of Regulations published on April 19, 1984 (49 FR 15924) under Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance program numbers are 14.134 and 14.149.

List of Subjects

24 CFR Part 207

Mortgage insurance, Rental housing, Manufactured home parks.

24 CFR Part 220

Home improvement, Mortgage insurance, Urban renewal, Rental housing. Loan programs—housing and community development, Projects.

24 CFR Part 221

Condominiums, Low and moderate income housing, Mortgage insurance, Displaced families, Single family housing, Projects, Cooperatives.

24 CFR Part 246 (formerly Part 403)

Intergovernmental relations, Low and moderate income housing, Mortgages, Rent subsidies, Rent control.

24 CFR Part 255

Mortgage insurance.

Accordingly, 24 CFR Parts 207, 220, 221, 246 and 255 are proposed to be amended as follows:

PART 207—MULTIFAMILY HOUSING MORTGAGE INSURANCE

1. Section 207.19 would be amended by revising the introductory text of paragraph (e), paragraphs (e)(3) and (4), and by adding a new paragraph (e)(7), to read as follows:

§ 207.19 Required supervision of private mortgagors.

* * * * *

(e) *Rents and charges.* Except as otherwise provided in paragraph (7) of this section, no charges shall be made by the mortgagor for the accommodations (rents), facilities or services offered by the project in excess of those approved by the Commissioner. In approving such charges and in passing upon subsequent rent adjustments, consideration will be given to providing rental income necessary to maintain the economic soundness of the project and a reasonable return on investment consistent with reasonable rents to tenants. The determination will be made as follows:

* * * * *

(3) *Rent control.* Any state or local law, ordinance, or regulation regulating the rents of projects subject to this paragraph (e) may be preempted only as provided in Part 246 of this chapter, and

the maximum rents that may be charged following any such preemption action will be determined using the method outlined in paragraph (e)(2)(i) of this section.

(4) *Special Allocations.* Rent adjustments for projects with units assisted under Part 886, Subparts A or C of this title, Section 8 Housing Assistance Payments Program—Special Allocations, shall be determined under paragraph (e)(2)(i) of this section, except that a mortgagor may, with HUD's prior approval, have the rents determined under paragraph (e)(2)(ii) of this section. However, if the mortgagor elects to have the rents determined under paragraph (e)(2)(ii), the rents for units occupied by assisted tenants shall be determined in accordance with the HAP Contract and applicable regulations.

* * * * *

(7) *Mortgages on projects insured on or after November 30, 1983.* A mortgagor shall determine the charge for accommodations (rents), facilities or services offered by a project insured on or after November 30, 1983, except as follows:

(i) In the case of a project constructed for occupancy exclusively by elderly and handicapped tenants, or in the case of any project or units within a project having a section 8 contract under Part 880, 881, 883, or 886, Subpart A or C, of this title, no charge shall be made for facilities or services except with the prior approval of the Commissioner in accordance with applicable regulations and administrative procedures.

(ii) Rent adjustments for any units assisted under Part 880 of this title (Section 8 Housing Assistance Payments Program for New Construction), Part 881 of this title (Section 8 Housing Assistance Payments Program for Substantial Rehabilitation), Part 883 of this title (Section 8 Housing Assistance Payments Program—State Housing Agencies), or Part 886 of this title (Section 8 Housing Payments Program—Special Allocations) shall not exceed comparable market-rate rents in the project without prior HUD approval. However, to the extent that units in a project are occupied by assisted tenants and are subject to a section 8 Housing Assistance Payments Contract under Part 880, Part 881, Part 883 or Part 886, the rents for those units shall be determined in accordance with the HAP Contract and applicable regulations.

(iii) Rents on projects refinanced under section 207 of the National Housing Act pursuant to section 223(f) of the National Housing Act that have a Rent Supplement Contract under 24 CFR Part 215, or that receive Rental Assistance Payments under 24 CFR Part 236, shall be determined in accordance with paragraph (e)(2)(i) of this section. No charges shall be made by the mortgagor for facilities or services offered by the project except with the prior approval of the Commissioner and in accordance with applicable regulations and administrative procedures.

(8) *Reasonable rentals or moderate rental charges.* With respect to projects covered by mortgages insured after November 30, 1983, and on which rents are deregulated under this section, reasonable, moderate rentals are determinable by reference to market rentals in the area.

PART 220—URBAN RENEWAL MORTGAGE INSURANCE AND INSURED IMPROVEMENT LOANS

2. In § 200.511, paragraphs (a), (c)(1), (c)(3) and (d) would be revised to read as follows:

§ 220.511 Supervision of mortgagors.

(a) All of the provisions of § 207.19 of this chapter apply, except that (1) § 207.19(e) shall not apply except as specifically referenced in this section and (2), in the case of a mortgage covering property on which there is located a dwelling or dwellings designed principally for residential use for two to eleven families, § 207.19(d) relating to labor standards and prevailing wage requirements shall not apply.

(b) * * *

(c)(1) In the case of any project or units within a project described in paragraph (c)(2) or (c)(3) of this section, no charge shall be made by the mortgagor for facilities or services without the approval of the Commissioner, in accordance with applicable regulations and administrative procedures.

(2) * * *

(3) Rent adjustments for projects with units assisted under Part 886, Subpart A or C of this title, Section 8 Housing Assistance Payments Program—Special Allocations, shall be determined under 24 CFR 207.19(e)(2)(i), or a mortgagor may, with HUD's prior approval, determine the charge for accommodations, facilities, or services offered by the project, except that the rents for those units, when occupied by assisted tenants, shall be determined in accordance with the HAP Contract and applicable regulations.

(d) *Rent control.* Any state or local law, ordinance, or regulation regulating the rents of projects subject to paragraph (b) or (c) of this section may be preempted only as provided in Part 246 of this chapter, and the maximum rents that may be charged following any such preemption action will be determined using the method outlined in 24 CFR 207.19(e)(2)(i).

PART 221—LOW COST AND MODERATE INCOME MORTGAGE INSURANCE

3. In § 221.531, paragraphs (c) (1), (4) and (5) would be revised to read as follows:

§ 221.531 Supervision applicable to general mortgagors.

* * * * *

(c) * * *

(1) In the case of any project constructed for occupancy exclusively by elderly and handicapped tenants, or in the case of any project or units within a project described in paragraphs (c)(2) through (c)(4) of this section, no charge shall be made for facilities or services without the approval of the Commissioner, in accordance with applicable regulations and administrative procedures.

* * * * *

(4) Rent adjustments for projects with units assisted under Part 886, Subpart A or C, of this title, Section 8 Housing Assistance Payments Program—Special Allocations, shall be determined under 24 CFR 207.19(e)(2)(i), or a mortgagor may, with HUD's prior approval, determine the charge for accommodations, facilities, or services offered by the project, except that the rents for those units, when occupied by assisted tenants, shall be determined in accordance with the HAP Contract and applicable regulations.

(5) *Rent control.* Any state or local law, ordinance, or regulation regulating the rents of projects subject to this paragraph (c) may be preempted only as provided in Part 246 of this chapter, and the maximum rents that may be charged following any such preemption action will be determined using the method outlined in 24 CFR 207.19(e)(2)(i).

PART 246—LOCAL RENT CONTROL

4. Section 246.20 would be revised to read as follows:

§ 246.20 Applicability.

This subpart applies to all projects with mortgages insured or held by HUD that receive a subsidy in the form of (a) interest reduction payments under section 236 of the National Housing Act; (b) below-market interest rates under section 221(d) (3) or (5) of the National Housing Act; (c) direct loans at below-market interest rates under section 202 of the Housing Act of 1959; or (d) rent

supplement payments under section 101 of the Housing and Urban Development Act of 1965; or (e) projects that converted their rent supplement contract under section 101 of the Housing and Urban Development Act of 1965 to section 8 under 24 CFR 886, Subpart A, for the term of the HAP contract.

PART 255—COINSURANCE FOR PRIVATE MORTGAGE LENDERS

5. In § 255.223, paragraph (c) would be revised to read as follows:

§ 255.223 Required supervision of mortgagors.

(c) *Rents and charges.*— (1) *Projects coinsured before November 30, 1983.* With respect to projects covered by mortgages coinsured before November 30, 1983, no charge shall be made by a mortgagor for the accommodations, facilities, or services offered by a project in excess of those approved by the lender. In approving such charges and in passing upon applications for changes, the lender shall be subject to standards established by the Commissioner, which standards shall give consideration to the following and similar factors:

(i) Rental income necessary to maintain the economic soundness of the project.

(ii) Rental income necessary to provide a reasonable return on the investment, consistent with providing reasonable rentals to tenants.

(2) *Projects coinsured on or after November 30, 1983.* A mortgagor shall determine the charge for accommodations, facilities, or services offered by a project covered by a mortgage insured on or after November 30, 1983. However, to the extent that units in a project are subject to a section 8 Housing assistance Payment Contract under Part 880, Part 881, Part 883 or Part 886 of this title, the rents for those units, when occupied by assisted tenants, shall be determined in accordance with the HAP contract and applicable regulations.

(3) *Rent control.* Any state or local law, ordinance, or regulation regulating the rents of projects subject to this paragraph (c) may be preempted only as provided in Part 246, Subpart B of this chapter, and the maximum rents that may be charged following any such preemption action will be determined using the method outlined in § 207.19(e)(2)(i) of this title.

* * * * *

Authority: Section 207, National Housing Act, 12 U.S.C. 1713; Section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: September 13, 1984.

Maurice L. Barksdale,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 84-26882 Filed 10-9-84; 8:45 am]

BILLING CODE 4210-27-M

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 570

[Docket No. R-84-1199; FR-1974]

Section 108 Loan Guarantee Assistance; Fees

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Proposed rule.

SUMMARY: The Department is proposing to amend 24 CFR Part 570, Subpart M, which governs the Loan Guarantee Program under section 108 of the Housing and Community Development Act of 1974. The proposed rule would allow the Secretary to establish a fee to help defray administrative costs of processing loan guarantee applications and servicing guaranteed loans. The rule would establish a methodology for computing the fee and would permit the Secretary to make future adjustments in the fee by placing a notice in the **Federal Register**.

DATE: Comments must be submitted on or before December 10, 1984.

ADDRESS: Interested persons are invited to submit comments to the Rules Docket Clerk, Office of the General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Comments should refer to the above docket number and title. A copy of each comment received will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Paul D. Webster, Director, Financial Management Division, Room 7180, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Telephone (202) 755-1871. (This is not a toll-free number.).

SUPPLEMENTARY INFORMATION:

Subpart M of 24 CFR Part 570 governs the Loan Guarantee Program under section 108 of the Housing and Community Development Act of 1974 (the Act). Under this program, HUD is authorized to guarantee notes and other obligations issued by local government units entitled to receive grants under section 106(b) of the Act. The loan proceeds are used for financing the acquisition and rehabilitation of real property.

The Department proposes to amend the regulations governing this program to require applicants to pay a fee which reflects the administrative costs of the program. Section 108(c) of the Act indicates that HUD may charge costs. This section provides:

> Notwithstanding any other provision of this title, grants allocated to an issuer pursuant to this title (including program income derived therefrom) are authorized for use in the payment of principal and interest due (*including such servicing, underwriting, or other costs as may be specified in regulations of the Secretary*) on the notes or other obligations guaranteed pursuant to this section. (Emphasis added.)

Similarly, Section 7(j) of the Department of Housing and Urban Development Act authorizes the charging of costs. It states:

> Notwithstanding any other provision of law the Secretary is authorized to establish fees and charges, chargeable against program beneficiaries and project participants, which shall be adequate to cover over the long run, costs of inspection, project review and financing service, audit by Federal or federally authorized auditors, and other beneficial rights, privileges, licenses, and services. Such fees and charges heretofore or hereafter collected shall be considered nonadministrative and shall remain available for operating expenses of the Department in providing similar services on a consolidated basis.

The proposed fee is intended to recover the direct and indirect administrative costs incurred to review a loan guarantee application for compliance with the requirements of Part 570, to process the application, and to service the loan. Since all notes and other obligations subject to the loan guarantee will be fully secured by a pledge of the applicant's current or future entitlement grants, it is unnecessary to recover costs associated with defaults. Since the processing and servicing costs should not vary significantly with the size of the loan guarantee, the size of the loan guarantee will not be a factor in determining the amount of the fee.

The proposed rule would not establish the amount of the loan guarantee fee. Rather, the Department proposes to establish a methodology for establishing the fee periodically, based on changing administrative costs. In accordance with this methodology (described below), the Secretary would periodically establish the fee by notice in the **Federal Register**. In this manner, the revenue generated by a fee will always remain reasonably

commensurate with HUD's direct and indirect costs.

Under the proposed methodology, the loan guarantee fee would be computed by multiplying the average number of staff hours required to process the loan guarantee application and to service the guaranteed loan times the administrative cost per staff hour budgeted for Community Planning and Development during the fiscal year.

HUD has not yet completed its studies to ascertain the average number of staff hours required to process applications and service guaranteed loans. These figures will be available and fully justified in the **Federal Register** notice setting the fee. However, based on a 6-year repayment period, preliminary figures indicate that HUD will spend approximately 80 staff hours reviewing a loan guarantee application and 12 staff hours servicing the guaranteed loan. Based on these estimates and CPD's budgeted administrative costs per staff hour of $26.82 for FY–85 (source: 1985 Budget), the total loan guarantee fee under the proposed methodology currently would be $2,468.00.

The proposed rules does not require payment of the fee until HUD approves the loan guarantee application and the applicant submits a note or other obligation to HUD for inspection and guarantee. Thus, loan guarantee applications that are disapproved will not be subject to the payment of a fee. Proposed § 570.703(g)(3)(i) would ensure that these disapproved applications and the costs associated with these disapproved applications are not included in the computation of the loan guarantee fee.

Because there is a delay between the filing of a loan guarantee application and the submission of an obligation for HUD inspection and guarantee, several loan guarantee applications may be pending on the effective date of a final rule in this proceeding. The Department does not wish to subject these applications to the loan guarantee fee. Accordingly, only those applications submitted after the effective date of a final rule in this proceeding will be subject to the fee.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C 4332. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Room 10276, at the address listed above.

This rule does not constitute a "major rule," as that term is defined in section 1(b) of Executive Order 12291 issued by the President on February 17, 1981. Analysis of the proposed rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Under the Regulatory Flexibility Act (5 U.S.C. 601), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. The amendment will have some economic impact by requiring units of local government to pay a fee for loan guarantees under Section 108 of the Act. However, since these units of local government are generally not small entities as defined in the Regulatory Flexibility Act and since grants allocated under Part 570 may be used for fee payment, this impact will not be significant.

This rule was not listed in the Department's Semiannual Agenda of Regulations published April 19, 1984 (49 FR 15902), under Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance program number is 14.218—Community Development Block Grants/Entitlement Grants.

List of Subjects in 24 CFR Part 570

Community development block grants, Grant programs: housing, and community development, Loan programs: housing and community development, Low and moderate income housing, New communities, Pockets of poverty, Small cities.

Accordingly, the Department proposes to amend 24 CFR Part 570 as follows:

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

Add a new paragraph (g) to § 570.703, to read as follows:

§ 570.703 Loan requirements.

* * * * *

(g) *Loan guarantee fee.* (1) Each application approved under § 570.702(d) shall be subject to a loan guarantee fee. The loan guarantee fee shall be payable upon submission of a note or other obligation to HUD for inspection and guarantee. Grants allocated under this part may be used for payment of the fee.

(2) The Secretary shall establish the loan guarantee fee by publishing a notice of the fee in the **Federal Register**. The Secretary may periodically revise the amount of the fee established under this section by placing a notice of the amount of the new fee in the **Federal Register**.

(3) The amount of the loan guarantee fee shall be determined by multiplying the average number of staff hours required to process a loan guarantee application and to service a guaranteed loan by the anticipated administrative cost per staff hour.

(i) The average number of staff hours required to process a loan guarantee application and to service a guaranteed loan shall be determined by means of Departmental studies and other relevant data. Disapproved loan guarantee applications and the number of staff hours required to process disapproved loan guarantee applications will not be considered in this determination.

(ii) Based on HUD budget estimates for the current fiscal year, the administrative cost per staff hour shall be determined by dividing the total anticipated staffing and administrative expense budgeted for Community Planning and Development (CPD) activities by the total estimated number of staff hours budgeted for CPD activities.

Authority: Section 108, Housing and Community Development Act of 1974 (42 U.S.C. 5308); sections 7(d) and 7(j), Department of HUD Act (42 U.S.C. 3535 (d) and (j)).

Dated: September 13, 1984.

Jack R. Stokvis,

General Deputy, Assistant Secretary for Community Planning and Development.

[FR Doc. 84–26579 Filed 10–9–84; 8:45 am]

BILLING CODE 4210–29–M

Office of Assistant Secretary for Public and Indian Housing

24 CFR Part 941

[Docket No. R–84–1198; FR–1975]

Public Housing Development; Prototype Costs

AGENCY: Office of Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Proposed rule.

SUMMARY: The Department proposes to amend its public housing development regulations governing the calculation of prototype cost limits. Under the proposed rule, currently published unit prototype costs will be used to compute dwelling construction and equipment

cost limits and total development cost ceilings. This change will promote greater control of project costs and encourage cost savings.

DATES: Comments due December 10, 1984.

ADDRESS: Interested persons are invited to submit comments to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410–0500. Comments should refer to the above docket number and title. A copy of each comment submitted will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Raymond W. Hamilton, Director, Public Housing Development Division, Office of Public Housing, Office of Assistant Secretary for Public and Indian Housing, Department of Housing and Urban Development, Washington, D.C. 20410–5000, telephone (202) 426–0939. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On September 12, 1980 (45 FR 60838), the Department published a new procedure for the development of public housing projects under the United States Housing Act of 1937. The procedure included a revised method for determining project prototype cost limits (PPCL). PPCLs represent the ceiling amount that may be approved for dwelling construction and equipment costs in new construction projects. PPCLs are also used to compute total development cost caps for all projects.

Before the September 12, 1980 rule, PPCLs were based on the current unit prototype costs published annually by the Department. The published unit prototype costs represent the dwelling construction and equipment costs for modest housing of various unit sizes and structure types for economically similar market areas. Because the annually published unit costs could not keep pace with the high inflation at that time, processing was frequently delayed until new prototype costs were published. This procedure hindered the continuous processing of public housing development projects.

To alleviate the stop-and-go processing of proposals, the current procedure for calculating PPCLs was established for all projects funded after October 1, 1980. Under this procedure, HUD established a base project prototype cost (BPPC) based on published unit prototype costs effective when HUD invites a proposal under § 941.403 or when HUD approves a proposal submitted under § 941.402. The BPPC is adjusted from the effective date of the unit prototype cost to the execution date of the construction contract or the contract of sale, based on a commercial cost index.

Because of the length of time necessary to process proposals, HUD must often calculate PPCLs by adjusting unit costs that are several years old. While the Department anticipated that PPCLs would be comparable under the two calculations, PPCLs based on the indexed adjustments of past unit prototype costs are generally higher than PPCLs based on currently published unit prototype costs. This has resulted in approval of higher dwelling construction and equipment cost limits and higher total development cost caps.

During the past several years, the Department has instituted a number of cost containment policies (including the development of total development cost caps at 24 CFR 941.406). In view of this policy and our belief that this amendment will result in cost savings and in greater control of project costs, we propose to eliminate the use of the prototype adjustment factor and return to our past procedure of basing PPCLs on unadjusted current unit prototype costs. The return to the use of unadjusted unit prototype costs should not significantly affect the continuous processing of development proposals. Due to the general decrease in the rate of inflation experienced in recent periods, the annual published unit costs should reasonably keep pace with cost changes. Moreover, in cases where delays may be significant, some relief may be available through a request for approval to exceed the project prototype cost limits under § 941.204(e).

Paragraph (d) of the proposed rule would apply the trended prototype cost methodology of current § 941.204 to certain pending public housing projects. Under the transition provisions of paragraph (d), the trended cost methodology would apply (1) to turnkey projects funded after October 1, 1980, where the PHA has been notified of proposal approval before the effective date of this proposed rule, and (2) to conventional projects funded after October 1, 1980, where the PHA has advertised for bids before the effective date of this regulation. Under these transition provisions, some PHAs may be ineligible to use trended costs even though they advertise for turnkey developer proposals prior to the effective date of the regulations. These PHAs may readvertise for proposals or issue an addendum to an outstanding advertisement indicating that the prototype costs will be computed on the basis of published unit prototype costs.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Room 10276, at the address listed above.

This rule does not constitute a "major rule," as that term is defined in section 1(b) of Executive Order 12291 issued by the President on February 17, 1981. Analysis of the proposed rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. Since the proposed amendment is intended to have the effect of containing development costs for public housing projects, it may have an economic impact on builders or developers of public housing, some of whom may constitute small entities, but it is not believed that the number of small entities affected will be substantial.

This rule was not listed in the Department's Semiannual Agenda of Regulations published April 19, 1984 [49 FR 15902] pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

Paperwork Reduction Act

The information collection requirements contained in this rule were submitted to the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520) and have been assigned OMB Control Number 2577–0036.

The catalog of Federal Domestic Assistance program number and title is 14.146, Low-Income Housing—Assistance Program (Public Housing).

List of Subjects in 24 CFR Part 941

Loan Programs—housing and community development, Public housing, Prototype costs, Cooperative projects, Turnkey.

Accordingly, 24 CFR Part 941 would be amended to read as follows:

PART 941—PUBLIC HOUSING DEVELOPMENT

24 CFR 941.204 paragraphs (c), (d) and (e) would be revised to read as follows:

§ 941.204 Prototype costs.

* * * * *

(c) *Project Prototype Cost Limit* Except as provided in paragraph (d) below, the field office shall establish the project prototype cost limit as follows: When the field office invites proposals under § 941.403 or when it approves a proposal submitted under § 941.402, the field office shall determine the project prototype cost limit by multiplying the most recently published applicable unit prototype cost limit for each structure type by the number of units for a specific bedroom type. The commulative total will be the project prototype cost limit. The project prototype cost limit shall be recalculated, if necessary, to reflect changes to unit prototype costs published in the **Federal Register** that are effective on or before the date of the construction contract (if conventional) or on or before the date of the contract of sale (if turnkey).

(d) *Exceptions.* For turnkey projects funded after October 1, 1980 in which the PHA has been notified of proposal approval before [effective date of the regulation] and for conventional projects funded after October 1, 1980 in which the PHA has advertisied for bids before [effective date of the regulation], the project prototype cost limit will be calculated as follows:

(1) The field office shall establish the base project prototype cost at the time it invites proposals under § 941.403, or at the time it approves a proposal submitted under § 941.402. The base project prototype cost shall be computed by multiplying the then-current applicable unit prototype cost by the number of units for that unit size and structure type and then adding the amounts for all units in the proposed project.

(2) The field office, using a commercial construction cost index specified by the Assistant Secretary, shall determine the percentage of actual changes (increases or decreases) in construction costs from the effective date of the unit prototype cost to the execution data of the construction contract or the contract of sale. The resulting percentage is the prototype cost adjustment factor.

(3) The field office shall determine the project prototype cost limit by multipying the base project prototype cost by the prototype cost adjustment factor.

(e) *Request to Exceed Project Prototype Cost Limit.* The amount approvable by the field office for dwelling construction and equipment may not exceed the project prototype cost limit as computed in paragraphs (c) or (d) above. The limit may be exceeded (in accordance with Section 6(b) of the Act) by up to ten percent, with the approval of the Assistant Secretary. (Approval of the Assistant Secretary to exceed 100 percent prototype costs is also required for projects being processed under a Program Reservation issued before October 1, 1980.) A request for approval to exceed 100 percent of the project prototype cost limit shall be supported by a justification describing the circumstances involved for the particular project and demonstrating that such approval is needed.

(Approved by the Office of Management and Budget under OMB Control Number 2577–0036.)

Authority: Sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d); Section 6, U.S. Housing Act of 1937, 42 U.S.C. 1437(d).

Dated: September 18, 1984.

Warren T. Lindquist,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 84–26681 Filed 10–9–84; 8:45 am]

BILLING CODE 4210–33–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Ch. I

[AD–FRL–2689–6]

Regulatory Strategies for the Gasoline Marketing Industry

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of public comment period.

SUMMARY: On August 8, 1984, 49 FR 31706, the EPA published a notice of availability of the document "Evaluation of Air Pollution Regulatory Strategies for the Gasoline Marketing Industry." The document described the analyses performed to evaluate a range of regulatory alternatives, including estimation of public health risk due to exposure to the emissions from the gasoline marketing industry, risk reduction potential and cost of the various alternatives, and an assessment of anticipated economic impacts. A 60 day period for public comment was provided. In response to several requests, the period for receiving comments on the analysis is being extended.

DATE: Comments must be postmarked on or before November 8, 1984.

ADDRESSES: Comments should be submitted (in duplicate if possible) to: Central Docket Section (LE–131), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, Attention: Docket Number A–84–07.

FOR FURTHER INFORMATION CONTACT: Mr. James B. Weigold, (919) 541–5641, Office of Air Quality Planning and Standards (MD–11), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION: The Agency has received written requests for an extension of the public comment period from the Motor Vehicle Manufacturers Association and the Standard Oil Company (Indiana). In addition, the California Air Resources Board and the Bay Area Air Quality Management District advised the Agency of their intention to formally request an extension of the comment period. These groups each expressed the need for more time to evaluate, and prepare adequate comments on, the extensive material contained in the analysis document. The Agency provided the document for public review expressly for the purpose of receiving comprehensive comment on the assumptions, methodology, and results of the analyses performed. Considering the scope of the document and the national significance of the gasoline marketing issue, the Agency believes it would benefit from a reasonable extension of the comment period. Therefore, the deadline for submitting comments on the regulatory analysis is being extended 30 days to November 8, 1984.

Dated: September 27, 1984.

John C. Topping,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 84–26719 Filed 10–9–84; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 52

[A–5–FRL–2688–1]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: USEPA is proposing to approve a revision to the Illinois State Implementation Plan (SIP) for Ozone.

The revision, if finally approved, will provide for an extended compliance schedule for seven coating lines at All-Steel, Incorporated (All-Steel) located in Cook County, Illinois. This revision will allow All-Steel additional time to convert to water-dispersed enamel coatings and high-solids coatings. This action is taken in response to a March 17, 1983, request from the State of Illinois.

DATE: Comments on this revision and on the proposed USEPA action must be received by November 9, 1984.

ADDRESSES: Copies of the SIP revision are available at the following addresses for review. (It is recommended that you telephone Uylaine E. McMahan, at (312) 353–0396, before visiting the Region V office).

Environmental Protection Agency, Region V, Air and Radiation Branch, 230 South Dearborn Street, Chicago, Illinois 60604

Illinois Environmental Protection Agency, Division of Air Pollution Control, 2200 Churchill Road, Springfield, Illinois 62706.

Comments on this proposed rule should be addressed to: (Please submit an original and five copies if possible) Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR–26), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Uylaine McMahan, (312) 353–0396.

SUPPLEMENTARY INFORMATION: On March 17, 1983, the Illinois Environmental Protection Agency (IEPA) submitted a proposed revision to its ozone SIP for several coating lines located in All-Steel's Cook County, Illinois plant which is part of the Chicago ozone nonattainment area. This proposed revision is in the form of a February 10, 1983, Opinion and Order of the Illinois Pollution Control Board (IPCB), IPCB 82–110. It grants a variance from the existing SIP requirements for seven coating lines (1001–1006 and 1009) until December 31, 1983, and provides a legally enforceable compliance schedule.

Under the existing federally approved SIP, each surface coating line is subject to the emission control requirements contained in Rule 205 Chapter 2 (Air Pollution) of the IPCB Rules and Regulations. IPCB 205(n)(1)(G) limits volatile organic compound (VOC) emissions to 3.0 pounds of VOC per gallon of coating, excluding water. Rule 205(j) stipulates that final compliance with Rule 205(n)(1)(G) is required by December 31, 1982.

In lieu of the compliance date contained in the existing federally approved SIP, the State is proposing an extended compliance schedule for seven of All-Steel's coating lines. All-Steel has encountered several difficulties converting to water dispersed enamel coatings and high-solids coatings for their seven coating lines. In recognition of these difficulties the State submitted the extended compliance schedule to USEPA.

In the March 20, 1984, **Federal Register** (49 FR 10277), USEPA proposed to disapprove this proposed SIP revision because the Illinois ozone SIP lacked an approvable attainment demonstration for the Chicago nonattainment area. The attainment demonstration contained in the State's 1982 ozone SIP was proposed for disapproval in the February 3, 1983, **Federal Register**. One public comment was received from IEPA in response to the March 20, 1984, **Federal Register**.

Comment: IEPA believes that the reasons discussed by USEPA for disapproval of the proposed compliance schedule in the March 20, 1984, Notice of Proposed Rulemaking no longer exist because the State has submitted to USEPA an approvable ozone attainment demonstration for the Chicago area. USEPA should, therefore, approve the proposed changes. The State believes a reproposal of the rulemaking is not necessary. USEPA can and should finally approve the compliance schedule changes as proposed by IEPA. If, however, there are alternative grounds for disapproval not stated in the March 20, 1984 Notice, the State feels USEPA should repropose a rulemaking which identifies and addresses these grounds.

USEPA Response: USEPA agrees with the State that because the State has submitted an approvable ozone attainment demonstration for the Chicago area,[1] this is no longer a basis for disapproving the compliance date extension for All-Steel. USEPA has determined that this revision should be published as notice of proposed rulemaking, giving the public the opportunity to submit comments on this revision and because expeditiousness of the compliance date extension was not discussed in the March 20, 1984, notice of proposed rulemaking.

USEPA is today withdrawing the March 20, 1984, proposal as it applies to the All-Steel plant and is reproposing to approve the SIP revision for All-Steel.

Proposed Actions: USEPA has determined that All-Steel's schedule to achieve final compliance by December 31, 1983, is expeditious, and that the compliance date extension will not interfere with reasonable further progress. Therefore, USEPA proposes approval of the All-Steel Proposed SIP revision.

USEPA is providing a 30-day comment period on this notice for proposed rulemaking. Public comments received on or before (November 9, 1984) will be considered in USEPA's final rulemaking. All comments will be available for inspection during normal business hours at the Region V office listed at the front of this notice.

Under 5 U.S.C. Section 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Ingovernmental relations.

(Secs. 110, 172 and 301(a) of the Clean Air Act, as amended (42 U.S.C.) 7410, 7502, and 7601(a))

Dated: August 28, 1984.

Charles H. Sutfin,

Acting Regional Administrator.

[FR Doc. 84–28722 Filed 10–09–84; 8:45 am]

BILLING CODE 6560–50–M

[1] The Chicago area ozone attainment demonstration was proposed for approval August 15, 1984 (49 FR 32801).

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40 CFR Part 122

[EN FRL–2611–6]

The National Pollutant Discharge Elimination System; Draft Application Forms for New NPDES Permits and Facilities Which Do Not Discharge Process Wastewater

Correction

In FR Doc. 84–25797 beginning on page 38812 in the issue of Monday, October 1, 1984, make the following corrections:

On page 38814, in the second column, the following text and signature line were omitted and should be inserted immediately following the fourth complete paragraph in the column:

". . . The Agency invites comments on the amount of time and cost required to complete these proposed application forms. The final rule will respond to any OMB or public comments on the information collection requirements.

Authority: These regulations are issued under the authority of the Clean Water Act, 33 U.S.C. 1251 *et seq.*

List of Subjects in 40 CFR Part 122

Administrative practice and procedure, Air pollution control, Hazardous materials, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Confidential business information.

Dated: September 19, 1984.

William D. Ruckelshaus,

Administrator."

BILLING CODE 1505-01-M

40 CFR Part 180

[OPP-30072; FRL 2583-3]

Procedural Regulations; Proposed Tolerance Processing Fees

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to revise its regulations on fees charged for processing tolerance petitions for pesticides under the Federal Food, Drug, and Cosmetic Act (FFDCA). Since the fee schedule was last revised in 1972, inflation, federal employee costs and the complexity of scientific review have substantially increased the processing costs. In order to correct this imbalance, the Agency is proposing to increase the fees charged for the processing of tolerance petitions.

DATES: Written comments on this proposed rule should be submitted on or before December 10, 1984.

ADDRESS: Written comments by mail to: Information Services Branch, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, bring comments to: Rm 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: Mr. Ken Wetzel, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Room 1002-E, CM#2. 1921 Jefferson Davis Highway, Arlington, VA. 22202, (703) 557-1127.

SUPPLEMENTARY INFORMATION:

I. Background

As part of its responsibilities for the regulation of pesticides, the Environmental Protection Agency (EPA or Agency) is charged with administration of the Pesticide Residue amendment to the Federal Food, Drug and Cosmetic Act (FFDCA). Section 408 of the Act authorizes the Agency to establish tolerance levels and exemptions from the requirements for tolerances for raw agricultural commodities. Tolerances or exemptions are required before a pesticide can be registered for use.

The Agency's review of tolerance or exemption petitions generally requires review of data from several disciplines, including residue chemistry and toxicology. Such reviews require high levels of scientific expertise and consume significant resources within the Office of Pesticide Programs (OPP), which oversees pesticide regulation within the Agency. Section 408(o) of the Federal Food, Drug, and Cosmetic Act requires that the Agency collect fees as will, in the aggregate, be sufficient to cover the costs of processing petitions for pesticide products, i.e., that the tolerance process be as self-supporting as possible. The fee schedule for tolerance petitions was last revised in 1972. Since that time, inflation (Consumer Price Index), federal employee costs, and the complexity of reviewing petitions utilizing more rigorous and sophisticated scientific techniques and standards have increased. These factors have resulted in costs substantially exceeding the fees charged and a situation in which the revenues generated from tolerance petition fees do not cover the costs incurred in the processing of the petitions. The Agency is proposing to revise the fee schedule to correct this imbalance.

In 1983 the Office of Pesticide Programs (OPP) conducted a study entitled "Tolerance Fee Cost Analysis", to determine the costs of processing tolerance petitions. The results of that study are the basis of the new fees proposed in this document. The study is available for public inspection at the Office of Pesticide Programs, Room 236, CM#2, identified in the "Address". The major sources of information utilized in the study were the OPP Time Accounting Information System (TAIS), financial and internal program records, and interviews with, and questionnaries completed by, Agency supervisors involved in the processing and reviewing of tolerance petitions.

The study attempted to determine OPP costs for processing petitions by reviewing Fiscal Year 1982 activities. Non-OPP Agency costs (i.e., research and development, enforcement, and Agency management and administration) were not included because insufficient data were available to determine their relationship to processing costs and it was determined that their costs were not appropriate for recovery because the fee receipts are deposited to a Revolving Fund which EPA has established and administers only for OPP.

OPP's internal TAIS reports the direct work hours associated with reviewing tolerance petitions by broad classifications that are not directly analogous to the fee categories. The TAIS is an automated internal OPP information system developed in 1979 to record direct professional employee time spent on various activities and projects. Professional employees (exclusive of some administrative and policy analysts) at or below the section chief level are required to complete a TAIS form each pay period (every two weeks). Secretaries and clerical employees are not required to submit TAIS forms. In 1982, 404 OPP employees participated in TAIS out of a total OPP workforce of 587.

Interviews were conducted with managers and supervisors to determine the average number of hours devoted to processing a petition according to the various fee categories. A questionnaire was also developed for use in determining this information. TAIS and the supervisory interviews and questionnaires were used in estimating the direct hours devoted to processing tolerances according to the fee categories. Indirect hours (secretarial/clerical support, OPP management and administration) were calculated by reviewing the OPP organizational structure and employee rosters to estimate the percentage of activities and employee time expended in support of

tolerance petition processing by these categories of employees.

The direct and indirect hours were totaled and converted to work years to determine the total work years devoted to petition processing by category. This information was compared to the estimated number of completed actions in each category to determine the average number of work years, or unit cost, utilized per completed action. The unit costs in work years were converted to unit costs in dollars by using the average OPP salary and expense figures ($38,900 per OPP employee) in 1982.[1] A narrative explanation (Proposed Revisions) of the findings are contained in the following section entitled Study Findings and Proposed Fee Structure.

II. Study Findings and Proposed Fee Structure

A. Introduction

The results of the Tolerance Fee Cost Analysis Study indicated that while costs generally increased as had been expected, the costs for various individual services enumerated in § 180.33, did not all rise proportionally (at the same rate) against fees since 1972. In some instances, costs are now lower than the existing fees. In addition, the Agency has concluded, on the basis of experience since 1972, that some modifications and additions to the fee categories themselves are warranted.

The major changes to the fee categories are the elimination of separate charges for "supplements" and "substantive amendments" and the addition of fees for processing crop group petitions. The categories themselves have been reorganized to provide a more concise and logical flow to the reader. In addition, the proposed regulation now states specifically that a petition will not be accepted for processign until the required fee has been submitted to or waived by, EPA. These changes, described in detail later in this section, are in the interest of both financial equity and administrative efficiency.

In addition, fee waiver provisions have been clarified. Fees will be automatically waived for petitions submitted by Federal and state governments and their agencies and the Inter-Regional Research Project Number 4 (IR–4 Program). A petition for which a waiver of fee has been requested will not be accepted for processing until the fee has been waived or, if the waiver is denied, the proper fee, commensurate with the appropriate petition category, is submitted after notice of denial. A $1,000 deposit is required for each waiver requested for public interest (e.g. important public health use, innovative pest control) or financial hardship except for those submittted by public interest groups (nonprofit organizations which have no financial interest in the petition). If the waiver is denied, the fee appropriate to the petition type is required in addition to the initial $1,000. If the waiver is granted, the $1,000 would be returned.

B. Proposed Revisions

As stated in the Background, the Tolerance Fee Cost Analysis Study was conducted to determine the average unit cost in 1982 for completing an action by various fee and non/fee categories of activities. In this section the proposed revisions and new fees are presented and explained. The proposed fees in the document were arrived at by multiplying the average work year unit cost, in the Cost Analysis Study, by the average OPP employee salary and expense (personnel compensation and benefits and operating expenses) in 1983 ($41,350). It is proposed that the fees be adjusted again prior to publication as a final rule to be consistent with employee costs at that time.

The following table summarizes and compares the current and proposed fees and categories of petitions. Changes in the categories (description of activities and addition of new fee activities) and the fees are presented. The table is followed by detailed narrative description and explanation of each category and corresponding proposed fee.

[1] Salary and expenses include employee personnel compensation and benefits and such operating expenses as office supplies, equipment, travel, ADP, etc. The proposed fees have been adjusted to reflect FY 1983 actual costs per employee.

TOLERANCE FEES FOR PESTICIDE PETITIONS

Current categories	Current fee	Proposed categories	Proposed fee
(a) Each petition for a new tolerance or for a higher tolerance than already established up to and including nine raw agricultural commodities.	$10,000 (a)	Same	$40,000
Plus for each commodity more than nine	1,000	Same	1,000
(b) A petition for temporary tolerance or temporary exemption	8,000	(d) Same	16,000
Renew or extend temporary tolerance	3,000	Same	2,000
(c) Request for lower tolerance or tolerance on additional commodities at the same level	1,000	(b) Same	10,000
Plus for each raw agricultural commodity (including the first)	1,000	Same	500
(d) Each petition for exemption from a tolerance or repeal of a tolerance or exemption	10,000	(c) Each petition for exemption from a tolerance or repeal of an exemption.	7,000
		(f) Each petition for repeal of a tolerance	5,00
(d)(2) Request for temporary tolerance at the same or higher level for pesticide having tolerances for other uses.	1,000	(e) Same	8,000
Plus for each raw agricultural commodity (including the first)	1,000	Same	700
(e) Petition not accepted because incomplete; deposit less $1,000 for clerical fees returned to petitioner.	1,000	(g) If petition is incomplete or voluntarily withdrawn, before significant Agency scientific review has begun, deduct $1,000 and return original deposit. When resubmitted, fee will be as if submitted to first time.	1,000
If supplement submitted, original deposit retained plus $1,000	1,000	Deleted	
(f) Petition withdrawn after filing and resubmitted in six months	3,000	Deleted, see (g)	
(g) Additional information and data (i.e. substantive amendment) submitted after petition filed	3,000	Deleted	
	(h) Each petition for a crop group tolerance regardless of the number of raw agricultural commodities	[1]	
(h) Filing of objections	1,000	Same	2,000

TOLERANCE FEES FOR PESTICIDE PETITIONS —Continued

Current categories	Current fee	Proposed categories	Proposed fee
(j)(3) Advance deposit to cover costs of advisory committee	10,000	(j)(3) Same	20,000
Further advance deposit	10,000	Same	20,000
(j) Petition for judicial review of an order under section 408 (d)(5) or (e) of FFDCA	[1]	(k) Same but automatically waive this requirement for those who have no financial interest in the petition (e.g. public interest groups).	
(k) Mailing and payment instructions to the petitioner		(m) Instructions updated and made explicit that a petition will not be accepted for processing until the required fee has been submitted or a waiver has been granted.	
(l) Administrator may waive or refund fees to promote the public interest	0	(l) Same but add a fee for the request to waive or refund except for public interest groups. Refundable if request approved.	1,000
(m) Administrator may waive or refund fees for hardships	0	Same but add a fee for the request to waive or refund. Refundable if request is approved.	1,000
		Fees will be automatically waived for federal and state governments and their agencies, and the IR–4 program.	
		(n) Fees schedule will be adjusted annually based on changes in the federal GS pay scale. New fee schedule will be published as a final rule in the Federal Register when adjustments are made and will become effective 30 or more days after publication.	

[1] 100 percent of the of the analogous category for a single tolerance that is not a crop group petition.
[2] Cost of preparing the record on which the order is based.

Current § 180.33(a) requires a fee of $10,000, plus $1,000 for each raw agricultural commodity more than nine on which the establishment of a new tolerance of a tolerance higher than already established is requested. The average cost of processing in 1983, using the average OPP salary and expense figure of $41,350, was approximately $39,800 plus $1,000 for each raw agricultural commodity more than nine. Therefore, it is proposed that this category be changed to require a fee of $40,000 plus $1,000 for each raw agricultural commodity over nine. It is proposed that this fee be codified in paragraph (a) of § 180.33.

Current § 180.33(b) requires a fee of $6,000 to establish a temporary tolerance or temporary exemption and $3,000 to renew or extend a temporary tolerance. The analysis showed that the average cost to establish a temporary tolerance or temporary exemption, based on 1983 salary and expense costs, was approximately $15,800 and approximately $2,200 to renew or extend a temporary tolerance. Therefore, it is proposed to increase the fee for temporary tolerances and temporary exemptions to $16,000 and decrease the fee to $2,000 to renew or extend a temporary tolerance. It is proposed that these fees be codified in paragraph (d) of § 180.33.

Current § 180.33(c) requires a $1,000 fee for each request plus $1,000 for each commodity for establishment of a tolerance at a lower level or levels than already established for the same pesticide chemical or for establishment of a tolerance on additional commodities at the same level. Processing costs for this type of work were extremely high (approximately $9,900) but were affected less by the number of commodities than the original fees indicated. It is proposed that the fee for a tolerance at a lower level or the same level for additional commodities than already established be raised to $10,000 plus $600 for each raw agricultural commodity. It is proposed that this fee be codified in paragraph (b) of § 180.33.

Current § 180.33(d) requires a $10,000 fee for each petition for exemption from a tolerance or repeal of a tolerance or exemption. Costs were approximately $7,300 for an exemption or repeal of an exemption. There were no repeals of tolerances in 1982 or recent years and a cost could not be developed for this activity. However, it is believed that the cost for repeal of a tolerance would be lower than repeal of an exemption. Therefore, it is proposed to establish a fee of $7,000 for each petition for exemption from a tolerance or repeal of an exemption and $5,000 for repeal of a tolerance. It is proposed that the fee for exemption for a tolerance or repeal of an exemption be codified in paragraph (c) of § 180.33 and the fee for repeal of a tolerance be codified in paragraph (f) of § 180.33.

Current § 180.33(d)(2) requires $1,000 plus $1,000 per commodity for each request for an additional temporary tolerance, at the same or higher level, for a pesticide having a tolerance for other uses. The study analysis showed that costs were approximately $7,900 for requests for temporary tolerances for pesticides having a tolerance for other uses. The cost of each commodity was approximately $700. Therefore, the proposed fee for a request for a temporary tolerance for a pesticide having a tolerance for other uses is $8,000 per petition, plus $700 for each raw agricultural commodity. It is proposed that this fee be codified in paragraph (e) of § 180.33.

Current § 180.33(e) states that if a petition is not accepted because it is technically incomplete, $1,000 is to be retained and the remainder of the fee returned to the petitioner unless a supplement is submitted in which case the original fee is retained and an additional $1,000 is required. The analysis showed that no petitions in 1982 were returned because of incompleteness and no supplements were submitted. Accordingly, it is proposed that the fee for a petition returned because it is technically incomplete remain at $1,000 and if resubmitted, the fee will be as if the petition were submitted for the first time. It is also proposed that there be no fee for supplements. The original fee will cover all later supplements submitted. It is proposed that this fee be codified in paragraph (g) of § 180.33.

Current § 180.33(f) contains a similar provision that if a petition is voluntarily withdrawn by the petitioner after filing and is resubmitted within six months, $3,000 is to be charged or a fee equal to the one originally submitted, whichever is smaller. If resubmitted after six months, the current fee schedule requires a fee equal to the amount necessary if it were being resubmitted for the first time. It is proposed that if a petition is withdrawn voluntarily after filing, independent of time-frame but prior to substantive, costly Agency scientific review, the fee, less $1,000 for handling and administrative review, shall be returned. If scientific review has begun, all of the fee would be retained. If the petition is resubmitted, it shall be accompanied by the fee that would be required if it were being submitted for the first time. It is proposed that these changes also be incorporated into paragraph (g) of § 180.33.

Current § 180.33(g) states that if additional information or data (a substantive amendment) is required after a petition is filed, a $3,000 fee is charged or a fee equal to the one originally submitted, whichever is smaller. The analysis indicates that the total costs of processing and reviewing substantive additional data (substantive amendments) in 1982 were approximately $266,000 or $13,300 for each amendment. Since this cost in many cases exceeds the cost of the original submission, it is proposed that the fee for a substantive amendment be deleted. The cost of substantive amendments has been prorated to other appropriate fee categories. If an amendment is submitted, an additional fee will be required. The cost of reviewing amendments by the Agency will be considered as being covered by the initial fee.

On June 29, 1983, the Agency issued a final rule amending the Crop Group regulations contained in 40 CFR 180.34(f) to allow for more extensive use of group tolerances for related crops. A crop group tolerances is a tolerance that applies to a group of related commodities as opposed to a single commodity. This regulation allows for reduced scientific data requirements on a per crop basis by minimizing the burden of establishing tolerances for pesticide residues in or on minor crops. Few crop group tolerances have been processed in recent years. As a result, insufficient data exist to determine an exact fee. It would be inequitable, however, to base fees for crop group tolerances on the number of raw agricultural commodities involved. Until sufficient empirical data are available, it is proposed that the fee for crop group tolerances be set at 100 percent of the fee of the analogous category for single tolerance that is not a crop group tolerance petition without a charge for each commodity where that would otherwise apply. It is proposed that the fee be codified in paragraph (h) of § 180.33.

In the past the Agency has not charged a fee for processing food additive petitions under section 409 of the Federal Food, Drug and Cosmetic Act (FFDCA). Section 408 of FFDCA refers to raw agricultural commodities and the authority for charging fees is contained in 408(0). There is no mention of fees in section 409. For these reasons, the Agency has not charged fees for food additive petitions in the past and does not propose to do so in this rulemaking. The Agency believes, however, that sufficient authority exists under the Independent Offices Appropriation Act of 1952 (31 U.S.C. 9701), commonly referred to as the User Charge Statute, to charge fees for associated food additive petitions. Currently the Agency is reviewing the appropriateness of establishng user charges for registration actions under the Federal Insectide, Fungicide and Rodenticide Act (FIFRA) and will review fees for associated food additive petitions in that context.

In the past there also has been no fee for inert ingredient exemption requests. Anaysis showed that in 1982 the total cost of processing inert ingredient requests was approximately $197,600. The cost per request varies greatly, however, because the amount of scientific review required per individual request covers a very wide range due to the nature of inert ingredients. The amount and extent of review required by the Agency cannot be known by the petitioner when submitting the request and often it is difficult for the Agency to determine the amount of review upon initial examination. For this reason an equitable fee cannot be established to which the petitioner can respond when submitting a request. It is therefore proposed that no fee be established for processing inert ingredient exemption requests. The costs have been prorated to the other appropriate fee categories for recovery. Public comments are specifically requested on this proposal.

Current § 180.33 (h) and (i) state that the filing of objections under section 408(d)(5) of the Act requires a $1,000 filing fee plus a $10,000 deposit to cover the cost of an advisory committee, plus additional $10,000 advance deposits if necessary. While there is no recent experience concerning tolerance advisory committees to guide fee adjustments in this category, the Agency has had recent experience concerning administrative hearings for pesticide registration actions (e.g., cancellations and suspensions). The costs of these activities are approximately double the current fees now required in this paragraph. Therefore, it is proposed that the fees for this category be doubled to require a $2,000 filing fee plus a $20,000 deposit to cover the committee costs. Additional $20,000 advance deposits will be required as necessary. It is proposed that these fees be codified in paragraphs (i) and (j) of § 180.33.

Current § 180.33(j) requires that the person who files a petition for judicial review of an order under section 408 (d)(5) or (e) of FFDCA shall pay the costs of preparing the record on which the order is based. It is proposed that this requirement be automatically waived for those persons filing a petition who have no financial interest in the petition (e.g., public interest groups) and that it be codified in paragraph (k) of § 180.33.

Current § 180.33(k) provides mailing and payment instructions to the petitioner. The instructions have been updated and explicit statements have been added to make clear that a petition will not be accepted for processing until the required fee has been submitted or a waiver has been granted. A petition for which a waiver of fees has been requested will not be accepted for processing until the fee has been waived or, if the waiver has been denied, the proper fee is submitted after notice of denial. A deposit of $1,000 is required for each waiver request. This deposit will not be required of public interest groups (see the following paragraph). If the waiver is denied, the fee appropriate to the petition type is required, in addition to the initial $1,000. If the waiver is granted, the $1,000 would be returned. It is proposed that these instructions and requirements be codified in paragraph (m) of § 180.33.

Current § 180.33 (l) and (m) provide for waivers or refunds of fees when the Agency determines that it would be in the public interest or if the fees would work a hardship on the petitioner. The Agency, as a matter of policy, does not charge fees for petitions from federal and state governments and their agencies or the federally sponsored Inter-Regional Research Project Number 4 (IR–4 program) which is a nationwide cooperative effort including EPA, USDA Agricultural Research Service, state research services and state experimental stations. The purpose of the IR–4 program is to collect residue data in support of pesticide registrations and tolerances for minor use sites. It is proposed that this policy be formalized in the regulation.

The provisions for waivers or refunds based on public interest (e.g., as based on current Agency policy, important public health use, innovative pest control, significant reduction of a current environmental or human risk from alternative controls, essential part of an integrated pest management program) or hardship will remain with the addition that a fee of $1,000 will be charged for each request for waiver or refund. The $1,000 fee will not be required for waiver requests from public interest groups (non-profit organizations which have no financial interest in the petition). The proposed regulation now specifically states that fees will not be charged for petitions from federal and state governments and their agencies, and the IR–4 program and the $1,000 fee

will not be required for petitions submitted by them. Public interest groups will also not be required to submit the $1,000 fee. If a waiver or refund is granted, any fee charged for request for waiver or refund will be refunded. The fee will not be refunded if the request for waiver is submitted after scientific review has begun on a petition. It is proposed that these fees and requirements be codified in paragraph (l) of § 180.33.

It is proposed that the fee schedule be adjusted annually by the same percentage as the percent change in the federal General Schedule (GS) pay scale. The new fees would be printed in the **Federal Register** as as final rule and would be effective thirty days or more after publication. It is proposed that this addition be codified to a new paragraph (n) of § 180.33.

Finally, 40 CFR Part 180 contains various cross references to § 180.33 and the fee categories contained therein. These cross references will be amended to conform to the new categories when the final rule is issued.

III. Other Statutory Requirements

In order to satisfy requirements for analysis as specified by Executive Order 12291 and the Regulatory Flexibility Act, the Agency has developed a document entitled "Regulatory Impact Analysis of Revising Fees for Tolerances". This document is available for public inspection at the address identified earlier in this preamble.

A. Executive Order 12291

The proposal to increase fees will not change the estimate of annual resource costs incurred ($3.6 million in FY 1982) to process and review tolerance petitions including the cost of processing petitions for which fees are waived (about $1M). Industry now funds approximately $0.75 million of the cost. Under this proposal industry would pay approximately $2.6 million. The net economic effect of this proposal is to shift approximately $1.85 million in costs from taxpayers to the private sector firms that petition for a tolerance. That private sector firms should bear the cost of operating the tolerance setting system is clearly mandated in the Federal Food, Drug and Cosmetic Act. The incremental $1.9 million to be incurred by the pesticide industry as a result of this proposal amounts to less than 0.1 of one percent of producer level revenues and would not have significant impacts on the industry.

EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not Major because it does not meet any of the criteria set forth and defined in section 1(b) of the Order. This proposed regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291. No comments were received from OMB.

B. Regulatory Flexibility Act

This rulemaking has been reviewed under the Regulatory Flexibility Act of 1980 (Pub. L. 96–354; 94 Stat. 1165, 5 U.S.C. 60 *et seq.*) and it has been determined that it will not have significant economic impact on a substantial number of small businesses, small governments, or small organizations. This conclusion is based on the Agency's regulatory impact analysis cited above and the following.

Tolerance petitions are submitted primarily by large chemical or pharmaceutical production firms. These large firms account for about 75 percent of petitions submitted. The next most significant volume of submissions come from the federally sponsored Inter-Regional Research Project Number 4 (IR–4 program). IR–4 program and academically sponsored petitions account for about 20 percent of tolerance petitions received. Fees are not charged for petitions in this group. Approximately 5 percent of the petitions received are from firms which may be, but are not definitely, a small business as defined by the Small Business Administration—500 employees or less for chemical product firms. At most 0.1 of one percent of small businesses in the regulated population of pesticide registrants may develop and submit petitions. If any firm can show that fees may cause economic hardship, the firm may request that the fees be waived. Such waiver requests will be judged on a case-by-case basis. Finally small governments and small organizations apparently do not generally involve themselves independently with obtaining a tolerance.

Accordingly, I certify that this regulation does not require a separate regulatory flexibility analysis under the Regulatory Flexibility Act [Section 25(B) Pub. L. 95–396, 92 Stat. 819, 7 U.S.C. 136 *et seq.*].

C. Paperwork Reduction Act

This proposed rule does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

Authority: Federal Food, Drug, and Cosmetic Act (Secs. 408, 701, 68 Stat. 1055, as amended; 21 U.S.C. 346a, 371).

List of Subjects in 40 CFR Part 180

Administrative Practice and Procedures, Definitions and interpretative regulations, Pesticides and pests, Procedural regulations, Specific tolerances, Exemptions from tolerances.

Dated: September 27, 1984.

William D. Ruckelshaus,

Administrator.

PART 180—[AMENDED]

Therefore, it is proposed that 40 CFR 180.33 be revised to read as follows:

§ 180.33 Fees.

(a) Each petition or request for the establishment of a new tolerance or a tolerance higher than already established, shall be accompanied by a fee of $40,000, plus $1,000 for each raw agricultural commodity more than nine on which the establishment of a tolerance is requested, except as provided in paragraphs (b), (d), and (h) of this section.

(b) Each petition or request for the establishment of a tolerance at a lower numerical level or levels than a tolerance already established for the same pesticide chemical, or for the establishment of a tolerance on additional raw agricultural commodities at the same numerical level as a tolerance already established for the same pesticide chemical, shall be accompanied by a fee of $10,000 plus $600 for each raw agricultural commodity on which a tolerance is requested.

(c) Each petition or request for an exemption from the requirement of a tolerance or repeal of an exemption shall be accompanied by a fee of $7,000.

(d) Each petition or request for a temporary tolerance or a temporary exemption from the requirement of a tolerance shall be accompanied by a fee of $16,000 except as provided in paragraph (e) of this section. A petition or request to nenew or extend such temporary tolerance or temporary exemption shall be accompanied by a fee of $2,000.

(e) A petition or request for a temporary tolerance for a pesticide chemical which has a tolerance for other uses at the same numerical level or a higher numerical level shall be accompanied by a fee of $8,000 plus $700 for each raw agricultural commodity on which the temporary tolerance is sought.

(f) Each petition or request for repeal of a tolerance shall be accompanied by a fee of $5,000. Such fee is not required when, in connection with the change sought under this paragraph, a petition

or request is filed for the establishment of new tolerances to take the place of those sought to be repealed and a fee is paid as required by paragraph (a) of this section.

(g) If a petition or a request is not accepted for processing because it is technically incomplete, the fee, less $1,000 for handling and initial review, shall be returned. If a petition is withdrawn by the petitioner after initial processing, but before significant Agency scientific review has begun, the fee, less $1,000 for handling and initial review, shall be returned. If an unacceptable or withdrawn petition is resubmitted, it shall be accompanied by the fee that would be required if it were being submitted for the first time.

(h) Each petition or request for a crop group tolerance, regardless of the number of raw agricultural commodities involved, shall be accompanied by a fee equal to the fee required by the analogous category for a single tolerance that is not a crop group tolerance, i.e., paragraphs (a) through (f) of this section, without a charge for each commodity where that would otherwise apply.

(i) Objections under section 408(d)(5) of the Act shall be accompanied by a filing fee of $2,000.

(j)(1) In the event of a referral of a petition or proposal under this section to an advisory committee, the costs shall be borne by the person who requests the referral of the data to the advisory committee.

(2) Costs of the advisory committee shall include compensation for experts as provided in § 180.11(c) and the expenses of the secretariat, including the costs of duplicating petitions and other related material referred to the committee.

(3) An advance deposit shall be made in the amount of $20,000 to cover the costs of the advisory committee. Further advance deposits of $20,000 each shall be made upon request of the Administrator when necessary to prevent arrears in the payment of such costs. Any deposits in excess of actual expenses will be refunded to the depositor.

(k) The person who files a petition for judicial review of an order under section 408 (d)(5) or (e) of the Act shall pay the costs of preparing the record on which the order is based unless the person has no financial interest in the petition.

(l) The Administrator may waive or refund such fees in whole or in part for activities in this section including paragraphs (i) and (j) of this section when in his/her judgment such action will promote the public interest or that payment of these fees will work a hardship on the petitioner. The request for a waiver or refund must be submitted with the petition and be accompanied by a fee of $1,000. The $1,000 fee will be returned if the waiver or refund is granted. The fee will not be refunded if the request for waiver is submitted after scientific review has begun on a petition. Petitions submitted by federal and state governments and their agencies and the Inter-Regional Research Project Number 4 (IR–4 program) will not require a fee and the $1,000 fee for requesting a waiver or refund will not be required for petitions submitted by them. Public interest groups, nonprofit organizations that have no financial interest in the petition, will not be required to submit the $1,000 fee when requesting a waiver.

(m) All deposits and fees required by the regulations in this part shall be paid by money order, bank draft, or certified check drawn to the order of the Environmental Protection Agency, collectible at par at Washington, D.C. All deposits, fees, and requests for waivers shall be forwarded with the petition to the Environmental Protection Agency, Office of Pesticide Programs, Registration Division, Washington, D.C. 20460. A petition will not be accepted for processing until the required fee has been submitted. A petition for which a waiver of fees has been requested will not be accepted for processing until the fee has been waived or, if the waiver has been denied, the proper fee is submitted after notice of denial.

(n) This fee schedule will be changed annually by the same percentage as the percent change in the federal General Schedule (GS) pay scale. When adjustments are made, the new fee schedule will be published in the **Federal Register** as a Final Rule to become effective thirty days or more after publication, as specified in the Rule.

[FR Doc. 84–26715 Filed 10–9–84; 8:45 am]
BILLING CODE 6560–50–M

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40 CFR Part 721

[OPTS–50520; FRL–2619–7]

Hexamethylphosphoramide and Urethane; Proposed Determination of Significant New Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Pursuant to section 5(a)(2) of the Toxic Substances Control Act (TSCA), EPA is proposing a significant new use rule (SNUR) that would require persons to notify EPA at least 90 days before commencing the significant new uses designated in this proposed rule. This SNUR designates three significant new uses for each of two chemical substances: manufacture, import, and processing for commercial purposes of hexamethylphosphoramide (CAS No. 680–31–9) or urethane (CAS No. 51–79–6). EPA believes this action is necessary because the designated significant new uses have the potential for adversely exposing either humans or the environment to toxic chemical substances. The notice will furnish EPA with the information needed to evaluate an intended use and the opportunity to protect against a potentially adverse exposure to the chemical substance before it can occur.

DATE: Written comments should be submitted by December 10, 1984.

ADDRESS: Comments should bear the docket control number OPTS–50520 and should be addressed to: TSCA Public Information Officer (TS–793), Office of Toxic Substances, Environmental Protection Agency, Rm. E–108, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, Rm. E–543, 401 M St., SW., Washington, D.C. 20460, Toll free: (800–424–9065), In Washington, D.C.: (554–1404), Outside the USA: (Operator–202–554–1404).

SUPPLEMENTARY INFORMATION: OMB Control Number 2070–0038.

I. Authority

Section 5(a)(2) of TSCA (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a significant new use. This determination is made by rule after consideration of all relevant factors, including those listed in section 5(a)(2). Once a use is determined to be a significant new use, persons must, under section 5(a)(1)(B), submit a notice to EPA at least 90 days before they commence the manufacture, import, or processing of the substance for that use.

Chemical substances subject to proposed or final SNURs are subject to the export reporting requirements of TSCA section 12(b). These requirements appear at 40 CFR Part 707. Chemical substances subject to final SNURs also must comply with TSCA section 13 import certification requirements, which are codified at 19 CFR 12.118 through 12.127 and 127.28 published in the **Federal Register** of August 1, 1983 (48 FR 34734). The EPA policy in support of these requirements appears at 40 CFR

707 published in the **Federal Register** of December 13, 1983 (48 FR 55462).

II Applicability of General Provisions

In the **Federal Register** of September 5, 1984 (49 FR 35011), EPA promulgated general provisions applicable to SNURs (40 CFR Part 721, Subpart A). EPA is proposing that these provisions apply to this SNUR. The general provisions are discussed in detail in the cited **Federal Register** document and interested persons should refer to that notice for further information.

III. Summary of This Proposed Rule

The chemical substances identified in this proposed significant new use rule are hexamethylphosphoramide (HMPA) (CAS registry number 680-31-9) and urethane (CAS registry number 51-79-6). Urethane is also known as ethyl carbamate. EPA is proposing to designate the manufacture, import, and processing of HMPA or urethane for commercial purposes as significant new uses of these chemical substances. Therefore this proposed rule would require persons who intend to manufacture, import, or process HMPA or urethane for commercial purposes to notify EPA at least 90 days before such manufacture, import, or processing.

The notice is generally subject to the same statutory requirements and procedures as a premanufacture notice (PMN) submitted under section 5(a)(1)(A) of TSCA. In particular, these include the information submission requirements of sections 5(b) and (d)(1), and the exemptions authorized by section 5(b). Once EPA has received a SNUR notice, EPA may take regulatory action pursuant to section 5(e), 5(f), 6, or 7 to control the substance. If no action is taken, section 5(g) requires the Agency to explain in the **Federal Register** its reasons for not taking action.

IV Discussion of Chemical Substances

A. HMPA

1. *Production and use data.* EPA has reviewed both the TSCA Chemical Substance Inventory data base and other information sources to identify current manufacturers, importers, and processors of HMPA. The review indicates that commercial manufacture, import, and processing of HMPA ceased in 1982.

The primary use of HMPA was as a process solvent in the manufacture of Kevlar® aramid fiber. Other past end uses include use as a selective solvent for gases, a polymerization catalyst, and a stabilizer for polystyrene against thermal degradation by ultraviolet light. HMPA has been used experimentally as a chemosterilant for insects, an antistatic agent, a flame retardant, and a de-icing additive for jet fuel.

For all uses enumerated above, substitutes for HMPA are available and are being used. The sole remaining use of HMPA is for research and development purposes. The primary reasons for replacing HMPA with other chemical substances are the known adverse toxicological properties of HMPA and the availability of substitutes less expensive than HMPA. All indications are that former commercial manufacturers, importers, and processors of HMPA have no intentions to resume their activities.

2. *Human health and environmental effects.* HMPA is classified by the International agency for Research on Cancer (IARC) as a carcinogen, and by the American Conference of Governmental Industrial Hygienists (ACGIH) as a substance suspect of carcinogenic potential for man. When administered to rats by inhalation, HMPA produced squamous-cell carcinomas of the nasal cavity in approximately 6 to 7 months of exposure at the 4,000 and 400 parts per billion (ppb) levels, 9 months at the 100 ppb level, and 13 months at the 50 ppb level.

The carcinogenicity of HMPA is only one of EPA's concerns about this substance. EPA is also concerned about HMPA's effects on the testes, lungs, and kidneys. Testicular changes were observed in rats following acute, subchronic, and chronic exposures to HMPA. Oral and dermal administration of, and inhalation exposure to, HMPA produced sterility and moderate to severe testicular atrophy in laboratory animals. At comparable and even lower dose levels than used in the reproductive studies, HMPA caused lung and kidney damage. Other reported health effects are: low to moderate responses for acute toxicity, a more severe response in chronic toxicity tests, and positive results in several mutagenic assays.

The known environmental effects of HMPA indicate that it is lethal at relatively high levels to aquatic and terrestrial animals; it may affect the fertility of male terrestrial animals; it is a known chemosterilant in insects; and its calculated bioconcentration factors indicate a low potential for HMPA to bioaccumulate. Soil adsorption and water solubility data indicate that leaching will occur once HMPA is released into soil.

Additional data would be needed for a more complete environmental risk assessment. Presently lacking are studies on HMPA's effects on untested terrestrial and aquatic organisms, its transport and degradation in the environment, and documentation of the amount of HMPA released to the environment.

3. *Past and current exposures.* Individuals have been exposed to HMPA during the production of Kevlar® and during its use as a solvent in organic and organometallic reactions. However, since HMPA is no longer manufactrured, imported, or processed for commercial purposes such exposures no longer exist. Additional human and environmental exposures may have occurred from the past disposal methods for Kevlar® process wastes. EPA has already acted to remove these wastes from a disposal site and to have the wastes incinerated.

Human exposure to HMPA continues to occur in research and development laboratories. However, once this substance is subject to a SNUR, section 5(h)(3) of TSCA will require manufacturers, importers, and processors of HMPA in small quantities solely for research and development to notify these persons of the health risks associated with HMPA. EPA is planning to promulgate regulations under section 5(h)(3) that will provide guidance to those persons responsible for furnishing such notification.

4. *Regulatory background.* HMPA is not subject to any Federal regulation that limits its exposure to humans or the environment. Excluding this proposed SNUR, no Federal regulation has been proposed or promulgated that would allow a governmental entity an opportunity to evaluate the potential human and environmental exposures to HMPA originating from its manufacture, import, and processing, and to protect human beings and the environment from the potentially adverse exposure before they occur. An attempt to limit human exposure to HMPA has been made by the ACGIH. They have suggested (not recommended) a non-mandatory threshold limit value for HMPA in the low ppb range.

B. Urethane

The name urethane is commonly but improperly applied to high molecular weight polyurethanes used as foams, elastomers, and coatings. Such products are not made from the chemical substance urethane, do not generate urethane upon decomposition, and would not be subject to this SNUR.

1. *Production and use data.* Between the years 1975 and 1977, urethane was reportedly produced in the millions of pounds (TSCA Chemical Substance Inventory). A review of these reports reveal that production volumes were

erroneously reported and that commercial production of urethane ceased in 1977. Today, only a small volume of urethane is produced, and all that production is for research and development purposes.

The primary use of urethane was as a chemical intermediate in the preparation of amino resins. Urethane was reacted with formaldehyde to produce N-hydroxy-methyl derivatives which are designed to impart wash and wear properties to fabrics. Other past end uses include use as an intermediate in the production of pharmaceuticals, insecticides, and fungicides, in biochemical research, and in human and veterinary medicine. Urethane was used as an active ingredient in drugs prescribed for the treatment of neoplastic diseases, chronic leukemia, and multiple myeloma; as a hypnotic; as a component of a sclerosing solution for varicose veins; and as a topical bactericide.

Currently urethane is not used for commercial purposes. In the two markets in which urethane was an economic success, medicine and textiles, substitutes for urethane are available and in use.

2. *Human health and environmental effects.* Urethane is well established as a carcinogen. Extensive carcinogenicity testing in several species of experimental animals has been carried out in a large number of laboratories. Malignant tumors have occurred in many species of animals following the administration of urethane by the oral, inhalation, topical, subcutaneous, and intraperitoneal routes. Urethane is also a transplacental carcinogen that readily traverses the placenta and affects the fetus. Teratogenic effects include skeletal defects, cleft palate, eye development defects, and polydactyl and syndactyl malformations. Urethane has also been found to be mutagenic in many organisms.

Due to a paucity of environmental effects testing, these effects are unknown.

3. *Past and current exposures.* Individuals have been exposed to urethane by several routes. Volatile at room temperature, urethane was inhaled by workers involved in its manufacture and processing. Urethane has also been ingested by humans. The preservative diethyl pyrocarbonate, which was once added to aqueous solutions such as wines, fruit juices, and soft drinks, reacted with the acidic beverage to form urethane.

Other internal exposures to urethane occurred when it was used as an anesthetic and in the treatment of leukemia. About 50 percent of all patients taking urethane orally had side effects such as nausea and vomiting. Gastroenteric hemorrhages occurred after prolonged administration and large doses made debilitated patients more prone to hepatitis or fatal hepatic necrosis. Current exposures to urethane occur in research and development laboratories. However, once this chemical substance is subject to a SNUR, section 5(h)(3) of TSCA will require manufacturers, importers, and processors or urethane in small quantities solely for research and development to notify these persons of the health risks associated with urethane. EPA is planning to promulgate regulations under section 5(h)(3) that will provide guidance to those persons responsible for furnishing such notification.

4. *Regulatory background.* Because diethyl pyrocarbonate produces urethane when it is used as a preservative in acidic beverages, the Food and Drug Administration (FDA) prohibited the direct addition of diethyl pyrocarbonate to or its use as human food (21 CFR 189.140). The FDA has also prohibited the use of urethane as both an active and inactive ingredient in drugs (35 FR 13404 and 41 FR 8523). EPA regulates urethane as a hazardous waste pursuant to Resource Conservation and Recovery Act (RCRA) regulations (40 CFR 261.33(f)), and the Department of Transportation regulates the transport of urethane as a hazardous material (49 CFR 172.101). However, excluding this proposed SNUR, no Federal regulation has been proposed or promulgated that would allow a governmental entity an opportunity to evaluate the potential human and environmental exposures to urethane originating from its manufacture, import, and processing, and to protect human beings and the environment from the potentially adverse exposures before they occur.

V. Reasons for Proposing This Rule

In section 5(a)(2) of TSCA, the term "significant new use" describes a use of a chemical substance that is different from current uses and is likely to result in significant human or environmental exposures to that chemical substance. The term "use" describes any activity that potentially exposes human beings or the environment to a chemical substance. Manufacture, import, and processing of a chemical substance are just three of many possible uses of a substance. The term "new" describes a use of a chemical substance that is different from what is currently ongoing and does not describe something that has never yet occurred; and the term "significant" describes a level of potential exposure to a chemical substance that necessitates reviewing a use of that substance pursuant to section 5(a).

As explained in Unit IV of this preamble, both HMPA and urethane are known carcinogens; are not currently manufactured, imported, or processed for commercial purposes; and are not subject to any Federal regulation that would notify EPA of potentially adverse exposures to these chemical substances or provide EPA with a regulatory mechanism that could protect human health or the environment from an adverse exposure before it occurred.

EPA believes that resumption of the manufacture, import, or processing of HMPA or urethane for commercial purposes has the potential to substantially increase human and environmental exposures to these substances. Each one of these activities has a high potential to increase the magnitude and duration of exposure above, and to change the type or form of exposure from, that which currently exists. Given the toxicity of these chemical substances, the reasonably anticipated scenarios of exposure, and the lack of available regulatory controls, individuals who would be involved in the manufacture, import, or processing of HMPA or urethane may be exposed to these substances at levels which may result in adverse effects. Furthermore, these uses or other subsequent activities may result in the environmental release of these substances, thereby creating additional opportunities for adverse effects on human health or the environment.

The consideration of these factors has resulted in EPA's decision to propose that the manufacture, import, and processing of HMPA or urethane for commercial purposes be designated significant new uses of these chemical substances. Thus, persons intending to manufacture, import, or process HMPA or urethane for commercial purposes would be required to notify EPA 90 days before they begin such manufacture, import, or processing. Advance notification of these significant new uses will allow EPA the opportunity to evaluate the intended use and to protect against adverse exposures to HMPA or urethane before they occur.

VI. Test Data

Although EPA has a considerable amount of these data on the potential adverse effects of HMPA and urethane to human health, EPA lacks data on the potential adverse effects of HMPA and urethane to the environment. EPA recognizes that under TSCA section 5, a

person is not required to develop any particular test data before submitting a notice. Rather, a person is only required to submit test data in his/her possession or control and to describe any other data known to or reasonably ascertainable by him/her. However, in view of the potential risks that may be posed by a significant new use of HMPA or urethane, EPA encourages SNUR notice submitters to conduct tests that would permit a reasoned evaluation of the substance's toxic potential to the environment when utilized for an intended use.

SNUR notices submitted with such test data would improve EPA's ability to make a reasoned evaluation of the environmental effects of HMPA or urethane. Test data should be developed in accordance with TSCA good laboratory practices at 40 CFR Part 792, published in the **Federal Register** of November 29, 1983 (48 FR 53923). EPA encourages persons to consult with the Agency before selecting a testing protocol.

Finally, EPA urges persons to submit information on potential benefits of the substance and information on risks posed by the substance compared to risks posed by potential substitutes.

VII. Alternatives

Before proposing this SNUR EPA considered alternative regulatory actions.

1. One alternative would be to promulgate a section 8(a) reporting rule for these substances. Under such a rule, EPA could require any person to report to EPA before manufacturing, importing, or processing the substances. However, in this particular instance, the use of section 8(a) rather than SNUR authority has drawbacks. Small businesses would be exempt from reporting under section 8(a). In addition, if EPA received a report under section 8(a) indicating that a person intended to manufacture, import, or process these substances, the Agency could not take immediate action under section 5(e) or 5(f) as it can under a SNUR, and therefore would not be able to act quickly to protect against an adverse exposure to these substances. Rather, in a situation such as this, EPA would have to consider regulating the substances under TSCA section 6 which would require a separate rulemaking action.

2. The Agency also has the authority to regulate substances under section 6 of TSCA. However, the Agency may regulate under section 6 only if there is a reasonable basis to conclude that the manufacture, processing, distribution in commerce, use, or disposal of a chemical substance or mixture "presents or will present" an unreasonable risk of injury to human health or the environment. There is insufficient information about prospective manufacturing, importation, or processing operations at this time to perform a reasoned evaluation of the health or environmental effects of these substances. Therefore, the Agency cannot state with certainty that these substances present or will present an unreasonable risk and cannot, at this time, regulate the substances under section 6.

VIII. Applicability of Proposal To Uses Occurring Before Promulgation of Final Rule

EPA finds that the intent of section 5(a)(1)(B) is best served by determining whether a use is a significant new use as of the proposal date of the SNUR rather than as of the promulgation of a final rule. If uses begun during the proposal period of the SNUR were not considered significant new uses, it would be extremely difficult for the Agency to establish SNUR notice requirements. Any person could defeat the SNUR by initiating the proposed significant new use before the rule becomes final.

EPA recognizes that the Agency's interpretation of section 5 may disrupt the commercial activities of persons who begin the manufacture, import, or processing of HMPA or urethane for commercial purposes during the proposal period. However, this proposal puts them on notice of the potential disruption, and they proceed at their own risk.

IX. Economic Analysis

The Agency has evaluated the potential costs of establishing reporting requirements for these chemical substances. The only direct costs that will definitely occur as a result of the promulgation of this SNUR will be EPA's costs of issuing and enforcing the SNUR. The estimated cost to the Agency for issuing the SNUR is $42,150. The Agency will also incur enforcement costs, but these costs cannot be quantified at this time.

After promulgation of the SNUR, the Agency believes there are two possible courses of action for a person who intends to engage in a significant new use of HMPA or urethane: (1) file a SNUR notice with information describing the method of controlling exposures that would mitigate health and environmental concerns; or, (2) not manufacture, import, or process the substance for commercial purposes.

In some circumstances it may be cost effective for a person to file a SNUR notice with data that shows there exist means of controlling exposures (i.e. personal protective equipment, engineering controls) that could mitigate EPA's health and environmental concerns. In this case, the company incurs the cost of filing a SNUR notice ($1,375 to $7,950) and possibly the cost of utilizing exposure controls that, without the existence of the SNUR, would not have been used. These costs cannot be quantified at this time, since industrial processes and exposure controls vary among companies.

A person may find the cost of controlling exposures too expensive to justify the manufacture, import, or processing of HMPA or urethane. This outcome does not result in any direct costs, but the prospective manufacturer, importer, or processor may lose benefits that would have been derived from the manufacture, import, or processing of HMPA or urethane. EPA cannot quantify these potential lost benefits because EPA cannot reasonably anticipate the future level of use of these chemical substances, the profit margins of these uses, etc.

The Agency has not attempted to quantify the benefits of the proposed rule or of the outcomes. In general, benefits will accrue if the proposed action leads to the identification and control of unreasonable risks before adverse human health or environmental effects can occur.

X. Judicial Review

When this proposed rule is promulgated, judicial review may be available under section 19 of TSCA in the United States Court of Appeals for the District of Columbia Circuit or in the circuit in which the person seeking review resides or has its principal place of business. To provide all interested persons an equal opportunity to file a timely petition for judicial review and to avoid so called "races to the courthouse," EPA intends to promulgate this rule for purposes of judicial review two weeks after publishing the final rule in the **Federal Register**. The effective date will be calculated from the promulgation date.

XI. Rulemaking Record

EPA has established a record for this rulemaking (docket control number OPTS-50520) which, along with a complete index, is available for inspection in Rm. E-107, 401 M St., SW., Washington, DC 20460, from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays. The record includes basic information considered by the Agency in developing this proposed rule. EPA will supplement the

record with additional information as it is received. The record now includes the following:

1. Use and substitute analysis of HMPA.
2. Use and substitute analysis of urethane.
3. A chemical hazard information profile for HMPA.
4. A chemical hazard information profile for urethane.
5. IARC Monograph on the evaluation of the carcinogenic risk of chemicals to man: Urethane (Vol. 7, 1974).
6. IARC Monographs on the evaluation of the carcinogenic risk of chemicals to humans: Appendix 2 (Supplement 4, 1982).
7. IARC Monographs on the evaluation of the carcinogenic risk of chemicals to humans: HMPA (Vol. 15, 1977).
8. American Conference of Governmental Industrial Hygienists, Threshold Limit Values Appendix 2.

The Agency will accept additional materials for inclusion in the record at any time between this proposal and designation of the complete record. EPA will identify the complete rulemaking record by the date of promulgation.

XII. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore requires a Regulatory Impact Analysis. EPA has determined that this proposed rule is not a "Major Rule" because it will not have an effect on the economy of $100 million or more, and it will not have a significant effect on competition, costs, or prices. While there is no precise way to calculate the annual cost of this rule, EPA believes that the cost will be low. Even if EPA received 50 SNUR notices, the direct cost of the rule would be under one million dollars. In addition, because of the nature of the rule and the substances subject to it, EPA believes that there will be few significant new use notices submitted. Further, while the expense of a notice and the uncertainty of possible EPA regulation may discourage certain innovation, that impact will be limited because such factors are unlikely to discourage an innovation that has high potential value.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 605(b), EPA certifies that this proposed rule, if promulgated, will not have a significant impact on a substantial number of small businesses. The Agency cannot determine whether parties affected by this proposed rule are likely to be small businesss. However, because EPA has no evidence of recent commercial manufacture, import, or processing, and substitutes are available for all identified uses of these chemicals, EPA believes that few manufacturers, importers, or processors will submit SNUR notices. Therefore, although the costs of preparing a notice under this rule might be significant for some small businesses, the number of such businesses affected is not expected to be substantial.

C. Paperwork Reduction Act

OMB has approved the information collection requirements contained in the proposed rule under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, and has assigned them the OMB control number 2070–0038.

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous materials, Recordkeeping and reporting requirements, Significant new uses.

(Sec. 5, Pub. L. 94–469, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: September 27, 1984.

William D. Ruckelshaus,

Administrator.

PART 721—[AMENDED]

Therefore, it is proposed that Part 721 of Chapter I of Title 40 be amended by adding §§ 721.350 and 721.1125 to read as follows:

§ 721.350 Hexamethylphosphoramide.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance hexamethylphosphoramide, Chemical Abstracts Service Registry Number 680–31–9, is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are: manufacture, import, and processing for commercial purposes.

(b) [Reserved].

(Approved by the Office of Management and Budget under control number 2070–0038)

§ 721.1125 Urethane.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance urethane, Chemical Abstracts Service Registry Number 51–79–6, is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are: Manufacture, import, and processing for commercial purpses.

(b) [Reserved].

(Approved by the Office of Management and Budget under control number 2070–0038)

[FR Doc. 84–26716 Filed 10–9–84; 8:45 am]
BILLING CODE 6560–50–M

Notices

Federal Register
Vol. 49, No. 197
Wednesday, October 10, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

CIVIL RIGHTS COMMISSION

New York Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the New York Advisory Committee to the Commission will convene at 4:30 p.m. and will end at 6:30 p.m., on November 14, 1984, at the Summit Hotel, 51st Street and Lexington Avenue, New York, New York 10022. The purpose of the meeting is to discuss the followup on bigotry and violence in New York and approval of the Yonkers draft report.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Eastern Regional Office at (212) 264–0400.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 4, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84–26665 Filed 10–9–84; 8:45 am]

BILLING CODE 6335–01–M

South Dakota Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the South Dakota Advisory Committee to the Commission will convene at 9:00 a.m. and will end at 5:00 p.m., on October 26, 1984, at the Holiday Inn Airport, 1301 W. Russell, Sioux Falls, South Dakota 57104. The purpose of the meeting is to receive information on current civil rights issues and plan for future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Rocky Mountain Regional Office at (303) 844–2211.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 4, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84–26664 Filed 10–9–84; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Office of the Secretary

Current Membership of Departmental Performance Review Board

This notice announces the current membership of the Department Performance Review Board (PRB) in the Department of Commerce. The purpose of the Departmental PRB is to review the performance of appointing authorities and their immediate deputies who are in the SES and members whose ratings are initially prepared by their respective appointing authorities.

Departmental PRB members are appointed for a two year term expiring August 31, 1986. The list of individuals eligible to serve on the Departmental PRB is as follows:

Patent and Trademark Office

Robert F. White, Group Director
Daniel L. Skoler, Chairman, Trademark Trial and Appeal Board

International Trade Administration

Peter Cashman, Acting Deputy Assistant Secretary, Africa, Near East and South Asia
David Diebold, Deputy Assistant Secretary for Trade Development
Gilbert B. Kaplan, Director, Office of Investigations, Trade Administration
Crawford F. Brubaker, Deputy Assistant Secretary for Aerospace, Trade Development
Marjory E. Searing, Director, Office of Industrial Assessment
Peter B. Hale, Director, Office of the European Community, International Economic Policy
Paul L. Guidry, Special Assistant to the Director-General, U.S. and Foreign Commercial Service
James R. Phillips, Deputy Assistant Secretary for Capital Goods and International Construction, Trade Development

Minority Business Development Agency

James Sexton, Jr., Assistant Director for Administration
Herbert S. Becker, Assistant Director for Advocacy, Research and Information
Joseph Cooper, Assistant Director for Field Operations

National Bureau of Standards

Guy W. Chamberlin, Jr., Director, Office of Administration
Edward L. Brady, Associate Director, International Affairs

Economic Affairs Units

John E. Cremeans, Director, Office of Business Analysis
Lucy Falcone, Senior Advisor to the Chief Economist
Allan H. Young, Deputy Director, Bureau of Economic Analysis
C. Louis Kincannon, Deputy Director, Bureau of the Census
Robert Ortner, Chief Economist
Susan G. Stuebing, Deputy Assistant Secretary

Office of the Secretary

Joseph C. Brown, Deputy Director of Personnel
Otto J. Wolff, Deputy Assistant Secretary for Administration
Helen W. Robbins, Executive Assistant to the Secretary of Commerce
Mark R. Policinski, Associate Deputy Secretary
Thomas F. Mefford, Special Assistant to the Deputy Secretary

Office of General Counsel

H. Stephen Halloway, Associate General Counsel for Legislation and Regulation

Economic Development Administration

Paul Bateman, Deputy Assistant Secretary for Economic Development
Travis Dungan, Deputy Assistant Secretary for Finance

National Oceanic and Atmospheric Administration

Robert S. Smith, Director, Eastern Administrative Support Center
Byron K. Burton, Director, Office of Congressional Affairs

Persons desiring any further information about the Departmental PRB or its membership may contact Mr.

Charles E. Patterson, Executive Secretary to the Departmental Performance Review Board, Office of Personnel, Herbert C. Hoover Building, Room 5119, Washington, D.C. 20230, (202) 377–3453.

Dated: October 4, 1984.

Charles E. Patterson,

Executive Secretary, Departmental Performance Review Board, Department of Commerce.

[FR Doc. 84–26710 Filed 10–4–84; 8:45 am]

BILLING CODE 3510–BS–M

International Trade Administration

Importers and Retailers' Textile Advisory Committee; Open Meeting

A meeting of the Importers and Retailers' Textile Advisory Committee will be held on October 22, 1984 at 2:30 p.m., Room 718, #6 World Trade Center, New York, New York 10048 (The Committee was established by the Secretary of Commerce on August 13, 1963 to advise Department officials of the effects on import markets of cotton, wool, and man-made fiber textile and apparel agreements).

Agenda: Review of import trends, implementation of textile agreements, report on conditions in the domestic market, and other business.

The meeting will be open to the public with a limited number of seats available. For further information or copies of the minutes contact Helen L. LeGrande (202) 377–3737.

Dated: October 9, 1984.

Walter C. Lenahan,

Deputy Assistant Secretary for Textiles and Apparel.

[FR Doc. 84–26961 Filed 10–9–84; 11:22 am]

BILLING CODE 3510–DR–M

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of application.

SUMMARY: The Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce has received an application for an Export Trade Certificate of Review and an application for an amendment to a previously issued certificate. This notice summarizes the conduct for which certification is sought and invites interested parties to submit information relevant to the determination of whether the certificates should be issued.

DATES: Comments on these applications must be submitted on or before October 30, 1984.

ADDRESS: Interested parties should submit their written comments, original and five (5) copies to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 5618, Washington, D.C. 20230.

Comments should refer to these applications as "Export Trade Certificate of Review, application number 84–00032" and "Amendment #1, Export Trade Certificate of Review, application number 84–A0002."

FOR FURTHER INFORMATION CONTACT: George Muller, Acting Director, Office of Export Trading Company Affairs, International Trade Administration, 202/377–5131, or Eleanor Roberts Lewis, Assistant General Counsel for Export Trading Companies, Office of General Counsel, 202/377–0937. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (Pub. L. 97–290) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III can be found at 48 FR 10596–10604 (Mar. 11, 1983) (to be codified at 15 CFR Part 325). A certificate of review protects its holder and the members identified in it from private treble damage actions and from civil and criminal liability under Federal and state antitrust laws for the export trade, export trade activities and methods of operation specified in the certificate and carried out during its effective period in compliance with its terms and conditions.

Standards for Certification

Proposed export trade, export trade activities, and methods of operation may be certified if the applicant establishes that such conduct will:

1. Result in neither a substantial lessening of competition or restraint of trade within the United States nor a substantial restraint of the export trade of any competitor of the applicant,

2. Not unreasonably enhance, stabilize, or depress prices within the United States of the goods, wares, merchandise, or services of the class exported by the applicant,

3. Not constitute unfair methods of competition against competitors engaged in the export of goods, wares, merchandise, or services of the class exported by the applicant, and

4. Not include any act that may reasonably be expected to result in the sale for consumption or resale within the United States of the goods, wares, merchandise, or services exported by the applicant.

The Secretary will issue a certificate if he determines, and the Attorney General concurs, that the proposed conduct meets these four standards. For a further discussion and analysis of the conduct eligible for certification and of the four certification standards, see "Guidelines for the issuance of Export Trade Certificates of Review," 48 FR 15937f–10 (April 13, 1983).

Request for Public Comments

The Office of Export Trading Company Affairs (OETCA) and the applicant have agreed that this notice fairly represents the conduct proposed for certification. Through this notice, OETCA seeks written comments from interested persons who have information relevant to the Secretary's determination to grant or deny the application summarized below. Information submitted by any person in connection with the application(s) is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552).

The OETCA will consider the information received in determining whether the proposed conduct is "export trade," an "export trade activity" or a "method of operation" as defined in the Act, regulations and guidelines and whether it meets the four certification standards. Based upon the public comments and other information gathered during the analysis period, the Secretary may deny the application or issue the certificate with any terms or conditions necessary to assure compliance with the four standards.

The OETCA has received the following application for an Export Trade Certificate of Review:

Applicant: Quality Exporters, Inc., P.O. Box 1051, Hwy. 51 South Grenada, MS 38901, Telephone: 601/226–7500.

Application No- 84–00032.

Date Received: September 25, 1984.

Date Deemed Submitted: September 27, 1984.

Members in Addition to Applicant: Hankins Lumber Company, Inc., Grenada, MS; Hankins Lumber Sales, Inc., Grenada MS; and Logging Industries, Inc., Grenada, MS.

Summary of the Application

A. *Export Trade.* The applicant expects to trade in wood chips, logs, pulpwood, tree and wood bark, wood shavings, saw dust, treated wood products, all forms of lumber in all grades and all sizes, including all hardwoods and all softwoods. To facilitate Export Trade, the applicant

intends to provide the following Export Trade Services: Consulting; international market research; advertising; marketing; insurance; product research and design, exclusively for export; legal assistance; transportation, including trade documentation and freight forwarding; communication and processing of foreign orders; warehousing; foreign exchange, financing; and taking title to goods.

B. *Export Markets.* Worldwide.

C. *Export Trade Activities and Methods of Operation.* The applicant desires certification to enter into and enforce exclusive contracts with both distributors and suppliers of all the products, including becoming an exclusive agent for domestic manufacturers of the products and providing related services and also becoming an exclusive supplier to other distributors or purchasers of the products including foreign distributors, purchasers or agents. The applicant also seeks certification to respond to overseas bids, either individually or by joint bidding with domestic competitors, other trading companies and other entities engaged in exporting all products and, in so responding, to determine prices, quantities, territories and customers for export sales. Finally, the applicant seeks to enter into reciprocal agreements with domestic competitors whereby information relative to price, volume, delivery dates, or other information might be exchanged in order to obtain and establish the highest price for the above products to be exported.

The OETCA has received an application for an amendment to Export Trade Certificate of Review #84-A0002 which was issued on June 18, 1984 (49 FR 25889, June 25, 1984):

Applicant: Crosby Trading Company, 600 Whitney Building, New Orleans, LA 70130, Telephone: 504/581-7047.

Application No.: 84-A0002

Date Received: September 24, 1984.

Date Deemed Submitted: September 24, 1984.

Controlling Entity: Crosby Trading Company, New Orleans, LA.

Amendment: Crosby Trading Company seeks to amend the certificate issued on June 18, 1984 to add the following firms as members : Georgia-Pacific Corporation, Atlanta, Georgia; Union Camp Corporation, Wayne, New Jersey; Reichhold Chemicals, Inc., White Plains, New York; Hercules Incorporated, Wilmington, Delaware; Westvaco Corporation, New York, New York; SCM Corporation, New York, New York; Monsanto Company, St. Louis, Missouri; National Distillers and Chemical Corporation, New York, New York; Arizona Chemical Company, Bay Lawn, New Jersey.

Note.—The initial certificate name no members and covered only Crosby Trading Company for planning activities pursuant to formulating an export venture that would involve producers of sulfate naval stores. It did not certify the operation of such a venture. The certified activities under the amended certificate would remain limited to the planning stage, but would extend Title III protection during the planning stage to the firms named as members.

The OETCA is issuing this notice in compliance with section 302(b)(1) of the Act which requires the Secretary to publish a notice of the application with **Federal Register** identifying the persons submitting an application and summarizing the conduct proposed for certification. Interested parties have twenty (20) days from the publication of this notice in which to submit written information relevant to the determination of whether a certificate should be issued.

Dated: October 4, 1984.

Irving P. Margulies,

General Counsel.

[FR Doc. 84-26891 Filed 10-9-84; 8:45 am]

BILLING CODE 3510-DR-M

National Oceanic and Atmospheric Administration

Pacific Coast Groundfish Fishery

AGENCY: National Marine Fisheries Service, (NMFS), NOAA, Commerce.

ACTION: Notice of application for experimental fishing permits and request for comments.

SUMMARY: This notice announces the receipt and review of two applications for experimental fishing permits to harvest groundfish with gillnets in the fishery conservation zone north of 38° N. latitude off Washington, Oregon, and California in 1984. The permits, if issued, would allow the harvest of soupfin shark and other groundfish species incidentally caught with fishing gear which is otherwise prohibited by Federal regulation.

DATE: Comments on the applications must be received by October 15, 1984.

ADDRESSES: Send comments to T.E. Kruse, Acting Regional Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way N.E., BIN C15700, Seattle, Washington 98115.

FOR FURTHER INFORMATION CONTACT: T.E. Kruse, Acting Regional Director, National Marine Fisheries Service, 206-526-6150.

SUPPLEMENTARY INFORMATION: The Pacific Coast Groundfish Fishery Management Plan (FMP) provides the basis for regulating foreign and domestic groundfish fisheries in the fishery conservation zone (FCZ) off the coasts of Washington, Oregon, and California. Regulations implementing the FMP became effective on September 30, 1982 (47 FR 43964, October 5, 1982). These regulations specify that experimental fishing permits (EFPs) may be issued to authorize fishing by U.S. vessels which otherwise would be prohibited. Procedures for application and issuance of EFPs are given in the regulations at 50 CFR 663.10 (b) and (c). NMFS announces that two applications for EFPs have been received, which if issued would permit fishing with gillnets for groundfish in the FCZ in 1984.

One EFP application proposes to take and retain soupfin sharks with a drift gillnet that would fish near the surface. The target species for this operation would be thresher sharks, but soupfin and possibly dogfish sharks may also be taken, both of which are managed under the FMP. Thresher shark is not a part of the groundfish FMP management unit and harvest of this species by this method is authorized by State regulation. The size of mesh used would be varied to determine how this might change the species and sizes of fish taken.

The other application proposes to fish for soupfin sharks as the target species using an anchored or set gillnet which would fish very near the bottom. The purpose of using a set net would be to determine the efficiency of such gear in catching soupfin sharks. The mesh size for set nets also would be varied to determine the effect of such changes on the species and size of fish taken.

Both of these EFP applications were discussed at the September 19-20, 1984, meeting of the Pacific Fishery Management Council. The Council recommended allowing the retention of soupfin shark in the drift net fishery for thresher sharks on an experimental basis, and also recommended that the experimental targeting on soupfin sharks with set nets be permitted.

The application for drift net fishing proposes use of one vessel for a 12-month period at various locations in the FCZ. The proposal for a set net operation requests use of up to four vessels for a period of about six months

at various locations in the FCZ from northern California to northern Washington.

(16 U.S.C. 1801 *et seq.*)

Joseph W. Angelovic,

Deputy Assistant Administrator for Science and Technology, National Marine Fisheries Service.

[FR Doc. 84-26686 Filed 10-9-84; 8:45 am]

BILLING CODE 3510-22-M

Availability of Marine Mammal Annual Report

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of availability of 1983/84 Marine Mammal Annual Report.

SUMMARY: The 1983/84 Annual Report on the Administration of the Marine Mammal Protection Act in the Department of Commerce is available now, on request, from the National Marine Fisheries Service (NMFS).

ADDRESS: Office of Protected Species and Habitat Conservation, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: Margaret C. Lorenz, Editor, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235; (202) 634-7529.

SUPPLEMENTARY INFORMATION: The Marine Mammal Protection Act of 1972 assigns responsibility for marine mammals of the Order Cetacea (whales and dolphins) and the Suborder Pinnipedia (seals and sea lions), except walrus, to the Department of Commerce.

This report reviews progress made over the past decade under the Act, the permit program for scientific research and public display of marine mammals and the incidental take of these animals in commercial fisheries, the marine mammal stranding networks, international activities, legal actions, and enforcement of the Act. It includes a discussion of the management and research programs for cetaceans and pinnipeds that are carried out at the NMFS Southeast, Southwest, Northeast, Northwest, and Alaska Regional Offices as well as its Southeast, Southwest, Northeast, and Northwest and Alaska Fisheries Centers. This report includes a description and the status of 53 species of interest to the United States and the estimated population numbers of most pinnipeds and cetaceans.

Dated: October 3, 1984.

Richard B. Roe,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 84-26746 Filed 10-9-84; 8:45 am]

BILLING CODE 3510-22-M

Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Notice.

SUMMARY: The Pacific Fishery Management Council's ad hoc study team will meet in San Francisco, CA, October 18, 1984, to develop a draft research program, taking into account concerns and impacts on the domestic fishing industry if joint ventures for whiting are permitted south of 39°N latitude. For further information contact Joseph C. Greenley, Executive Director, Pacific Fishery Management Council, 525 SW. Mill Street, Portland, OR 97201; telephone: (503) 221-6352.

Dated: October 4, 1984.

Ronald Finch,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 84-26748 Filed 10-9-84; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Department of the Navy

Naval Research Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given that the Naval Research Advisory Committee Panel on Man-in-the-Loop Targeting will meet on October 30-31, 1984, at the Applied Physics Laboratory, Johns Hopkins University, Laurel, Maryland. Sessions of the meeting will commence at 8:00 a.m. and terminate at 4:30 p.m. each day. All sessions of the meeting will be closed to the public.

The purpose of the meeting is to review material and presentations previously received by the Panel and to conduct a working session to finalize the draft report. These matters constitute classified information that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense and is in fact properly classified pursuant to such Executive order. The classified and nonclassified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting contact: Commander M. B. Kelley, U.S. Navy, Office of Naval Research (Code 100N), 800 North Quincy Street, Arlington, VA 22217, Telephone number (202) 696-4870.

Dated: October 3, 1984.

William F. Roos, Jr.,

Lieutenant, JAGC, U.S. Naval Reserve, Federal Register Liaison Officer.

[FR Doc. 84-26671 Filed 10-9-84; 8:45 am]

BILLING CODE 3810-AE-M

Naval Research Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given that the Naval Research Advisory Committee will meet on October 30-31 and November 1, 1984, at various command headquarters and field activities in and around Honolulu, including USCINCPAC, CINCPACFLT, CINCPACAF, and Barking Sands. Sessions of the meeting will commence at 8:00 a.m. and terminate at 5:00 p.m. on October 30 and 31, and commence at 8:00 a.m. and terminate at 12:00 noon on November 1, 1984. All sessions of the meeting will be closed to the public.

The purpose of the meeting is to orient NRAC members to C ^{3}I and its interface across unified and specified command levels and discuss the status of ongoing NRAC studies and new topics to be undertaken. These matters constitute classified information that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense and is in fact properly classified pursuant to such Executive order. The classified and nonclassified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 522b(c)(1) of title 5, United States Code.

For further information concerning this meeting contact: Commander M.B. Kelley, U.S. Navy, Office of Naval Research (Code 100N), 800 North Quincy Street, Arlington, VA 22217, Telephone number (202) 696-4870.

Dated: October 3, 1984.

William F. Roos, Jr.,

Lieutenant, JAGC, U.S. Naval Reserve, Federal Register Liaison Officer.

[FR Doc 84-26670 Filed 10-9-84; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF ENERGY

Office of the Secretary

Announcement of Public Hearing on the Environmental Impact Statement, Central Waste Disposal Facility for Low-Level Radioactive Waste, Oak Ridge Reservation, Oak Ridge, TN

AGENCY: Department of Energy.

ACTION: Notice of Public Hearing.

SUMMARY: The Department of Energy will hold a public hearing on the Draft Environmental Impact Statement (DOE/EIS-0110-D), Central Waste Disposal Facility for Low-Level Radioactive Waste, Oak Ridge Reservation, Oak Ridge, Tennessee.

DATES: A public hearing will be held in Kingston, Tennessee, on October 17, 1984; written comments should be received at DOE by October 29, 1984, in order to ensure consideration in the preparation of the final environment statement. Oral and written comments will be given equal consideration. Request to speak at the public hearing and written comments on the DEIS should be addressed to: Mr. Doyle R. Brown, Program Manager, Oak Ridge, Radioactive Waste Management Programs, Oak Ridge Operations Office, U.S. Department of Energy, P.O. Box E, Oak Ridge, Tennessee 37831, Phone: (615) 576-4876.

FOR FURTHER INFORMATION CONTACT:

1. Mr. Doyle R. Brown, at address above
2. Dr. Robert J. Stern, Director, Office of Environmental Compliance, Office of the Assistant Secretary for Policy, Safety, and Environment, U.S. Department of Energy, Washington, D.C. 20585, Phone: (202) 252-4600.

SUPPLEMENTARY INFORMATION: The Department of Energy has issued a draft EIS for construction of a Central Waste Disposal Facility for Low-Level Radioactive Waste, Oak Ridge Reservation, Oak Ridge, Tennessee (**Federal Register**, September 14, 1984).

Copies of the DEIS have been distributed to Federal, State, and local agencies, organizations, and to individuals known to be interested in the Central Waste Disposal Facility project. Additional copies may be obtained from Mr. Doyle R. Brown, at the address given above.

Copies of the DEIS are available for public inspection at the following location:

Freedom of Information Reading Room, Room IE-190, Forrestal Building, U.S. Department of Energy, 1000 Independence Ave., SW., Washington, D.C. 20585

Oak Ridge Operations Office, Public Reading Room, Federal Building, Oak Ridge, Tennessee 37831

Oak Ridge Public Library, Civic Center, Oak Ridge Turnpike, Oak Ridge, Tennessee 37831

Clinton Public Library, 118 S. Hicks Street, Clinton, Tennessee 37916

Kingston Public Library, Cumberand St., Municipal Bldg., Kingston, Tennessee 37763

EPA Region IV, Public Reading Room, 345 Courtland Street, NE., Atlanta, GA 30365.

A public hearing will be held on the draft EIS at the Kingston Community Center, Kingston, Tennessee, on October 17, 1984, beginning at 7:00 p.m. Those individuals desiring to make oral comments should mail their requests to Doyle R. Brown at the address listed above.

The DOE will establish procedures governing the conduct of the hearing. The hearing will not be conducted as an evidentiary hearing and those who choose to make statements may not be cross-examined by other speakers. To provide the DOE with as much pertinent information as possible and as many views as can be reasonably obtained, and to provide interested persons with equitable opportunities to express their views, the following procedures will be used:

1. The DOE reserves the right to arrange the time and schedule of presentations to be heard and to establish procedures governing the conduct of the hearing. Interested individuals and organizations should notify DOE of their desire to speak by October 15, 1984. DOE will, in turn, notify prospective speakers before the hearing of the time and schedule for presentation. Requests should include a telephone number for such notification. Those persons wishing to speak on behalf of an organization should identify their affiliation in their request. Persons who have not submitted a request to speak in advance may register to speak at the public hearing and will be called on to present their comments, if time permits. Depending on the number of speakers, DOE reserves the right to place time limits on the speakers.

2. If any speaker desires to provide further information for the record subsequent to the hearing, it must be submitted in writing by October 29, 1984, to Doyle R. Brown at the address listed above.

3. When the final EIS is complete, its availability will be announced in the **Federal Register** and local news media.

4. A transcript of the hearing will be retained by DOE and made available at the locations listed above for the draft E.I.S.

Issued at Washington, D.C. September 28, 1984.

Jan W. Mares,

Assistant Secretary for Policy, Safety, and Environment.

[FR Doc 84-26758 Filed 10-9-84; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Bayport Refining Co.; Proposed Remedial Order

Pursuant to 10 CFR 205.192 (c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Bayport Refining Company, Malcolm M. Turner, Harry F. Mason, Robert H. Houser, and Olene Crumpton. This Proposed Remedial Order alleges pricing violations in the amount of $11,810,639.84 plus interest in connection with the resale of crude oil at prices in excess of those permitted under 10 CFR Part 212 during the time period September 1978 through December 1980.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Mary Johnson, Economic Regulatory Administration, Department of Energy, 1314 W. Mockingbird Lane, Suite 200E, Dallas, Texas 75247 or by calling (214) 767-7483. Within fifteen (15) days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, Department of Energy, Forrestal Building, 1000 Independence Avenue, SW., Room 6E-055, Washington, D.C. 20585, in accordance with 10 CFR 205.193.

Issued in Dallas, Texas on the 20th day of September, 1984.

James O. Neet,

Chief Counsel, Dallas Field Office, Economic Regulatory Administration.

[FR Doc 84-26759 Filed 10-9-84; 8:45 am]

BILLING CODE 6450-01-M

Office of Energy Research

Health and Environmental Research Advisory Committee; Open Meeting

Pursuant to the provision of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Health and Environmental Research Advisory Committee (HERAC).

Date and time: November 7, 1984–9:00 a.m.–5:00 p.m., November 8, 1984–8:00 a.m.–Noon.

Place: Conference Room B, Berkner Hall, Brookhaven National Laboratory, Upton, Long Island, New York 11973.

Contact: David A. Smith, Department of Energy, Office of Health and Environmental Research (ER–72), Office of Energy Research, Washington, D.C. 20545, Telephone: 301/353–2987.

Purpose of the committee: To provide advice on a continuing basis to the Secretary of the Department of Energy (DOE), through the Director of Energy Research, on the many complex scientific and technical issues that arise in the development and implementation of the Health and Environmental Research (HER) program.

Tentative agenda: Briefings and discussions of: *Thursday, November 7, 1984.*

- Presentations by Brookhaven National Laboratory Staff.
- Public comment (10 minute rule). *Friday, November 8, 1984.*
- Discussion of Future Committee Activities.
- Public comment (10 minute rule).

Public participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact David A. Smith at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: The transcript of the meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 8:30 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on October 4, 1984.

Howard H. Raiken,

Deputy Advisory Committee Management Officer.

[FR Doc. 84–26757 Filed 10–9–84; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. EF84–1011–000]

Alaska Power Administration; Notice of Filing

October 4, 1984.

The filing Company submits the following:

Take notice that on September 25, 1984, the Deputy Secretary of the Department of Energy, by Rate Order APA–6, confirmed and approved, on an interim basis effective October 1, 1984, Rate Schedules A–F9, A–N10, and A–W1 applicable to power from and wheeling by the Alaska Power Administration's Eklutna Project. Rate Schedule A–W1 is introduced as a new schedule for wheeling. The rate schedules replace A–F8 and A–N7 which were confirmed and approved by the Federal Energy Regulatory Commission on August 3, 1981, Docket No. EF80–1011.

The Department suggests that the Commission approve the rates for a 5-year period ending September 30, 1989, with the under-standing that the rates can be raised at an earlier date if needed to comply with cost recovery criteria. The rate schedules are submitted for confirmation and approval on a final basis pursuant to authority vested in the Commission by Delegation Order No. 0204–108.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Captiol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 1, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–26739 Filed 10–9–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ID–1835–003]

Brian A. Parent; Notice of Application

October 4, 1984.

Take notice that on September 24, 1984, Brain A. Parent filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Senior Vice President—Planning and Rates—Atlantic City Electric Company

Treasurer, Assistant Secretary—Deepwater Operating Company

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 19, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–26730 Filed 10–9–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP84–717–000]

Columbia Gas Transmission Corp.; Notice of Request Under Blanket Authorization

October 4, 1984.

Take notice that on September 18, 1984, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE., Charleston, West Virgina 25314 filed in Docket No. CP84–717–000 a request pursuant to § 157.205 of the Commission's Regulations under the National Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Celotex Corporation (Celotex) under the certificate issued in Docket No. CP83–76–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Specifically, Columbia proposes to transport up to 1.2 billion Btu of natural gas per day for Celotex for a term through June 30, 1985. Columbia states that the gas to be transported would be purchased from Browning and Welch, Inc. (Browning) by Celotex and would be used as boiler fuel in Celotex's plant in Lockland, Ohio. It is indicated the Columbia would receive the gas at existing interconnections with Tennessee Gas Pipeline Company, a

Division of Tenneco Inc., in Montgomery and Greenup Counties, Kentucky.

Columbia states that depending upon whether its gathering facilities are involved, it would charge either (1) its average system-wide storage and transmission charge, currently 40.11 cents per dt equivalent of gas, or (2) its average system-wide storage, transmission and gathering charge, currently 44.93 cents per dt, exclusive of company-use and unaccounted-for gas. Columbia states that it would retain 2.85 percent of the total quantity of gas delivered into its system for company-use and unaccounted-for gas. Columbia states that it is charging the Gas Research Institute Funding Unit.

Columbia further requests flexible authority to add and/or delete sources of gas and/or receipt points. With respect to such flexible authority, Columbia states that it would undertake within 30 days of the addition or deletion of any gas supplies and/or receipt or delivery points, to file with the Commission the following information:

(1) A copy of the gas purchase contract between the seller and the end-user;

(2) a statement as to whether the supply is attributable to gas under contract to and released by a pipeline or distributor, and if so, identification of the parties and specification of the current contract price;

(3) a statement of the Natural Gas Policy Act of 1978 (NGPA) pricing categories of the added supply, if released gas, and the volumes attributable to each category;

(4) a statement that the gas is not committed or dedicated within the meaning of the NGPA section 2(18);

(5) location of the receipt/delivery points being added or deleted. For deletions provide the name of the producer/supplier;

(6) where an intermediary participates in the transaction between the seller and end-user, the information required by § 157.209(c)(i)(ix) of the Commission's Regulations; and

(7) identity of any other pipeline involved in the transportation.

Columbia submits that any changes made pursuant to such flexible authority would be on behalf of the same end-user at the same end-use location and would remain within the daily and annual volume levels proposed herein.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 day after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary

[FR Doc. 84-26731 Filed 10-9-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-1958-001]

Frederick E. Greenman; Notice of Application

October 4, 1984.

Take notice that on September 10, 1984, Frederick E. Greenman filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Director—Connecticut Yankee Atomic Power Company
Director—Maine Yankee Atomic Power Company
Clerk—Massachusetts Electric Company
Vice President—New England Power Company
Director—Vermont Yankee Nuclear Power Corporation
Director—Yankee Atomic Electric Company

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 19, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26732 Filed 10-9-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER84-587-000, ER84-588-000, ER84-589-000, ER84-590-000, ER84-591-000, and ER84-592-000]

Indiana & Michigan Electric Co.; Order Accepting for Filing and Suspending Rates, Denying Request To Reject, Denying Motion for Summary Disposition and Motions To Compel Refiling, Granting Waiver of Notice, and Establishing Hearing and Price Squeeze Procedures

Issued: October 4, 1984.

On August 9, 1984, as revised on September 21, 1984,[1] Indiana & Michigan Electric Company (I&M) submitted for filing [2] a proposed two-step rate increase for wholesale service to Michigan Power Company (MPC), Northern Indiana Public Service Company (NIPSCO), Richmond Power & Light Company (Richmond), Indiana Municipal Power Agency (IMPA), twelve municipal wholesale customers,[3] and Wayne County R.E.M. Cooperative and six members of the Wabash Valley Power Association (Wabash).[4] The proposed Step 1 rates, as amended, would increase revenues by approximately $22.7 million (9.8%) for the calendar year 1985.[5]

The proposed Step 2 rates would increase revenues by an additional $35 million, for a total increase of approximately $57.7 million (25%). I&M requests an effective date of October 9, 1984, for the Step 1 rates and an effective date on or about December 1, 1984,[6] for the proposed Step 2 rates. According to I&M, the filing results from the need to reflect the costs of I&M's Rockport Generating Unit No. 1 (Rockport 1) in rates. Additionally, I&M proposes to revise its fuel clause in order to recover spent nuclear fuel disposal costs (SNFDC).

Notices of the filings were published in the **Federal Register** on August 22, 1984, with comments due on or before August 31, 1984.[7] Timely interventions

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[1] As discussed below, I&M recalculated its cost of service and rates to correct for an erroneous calculation of construction-related deferred taxes and an understatement of investment tax credits.

[2] *See* Attachment for rate schedule designations.

[3] The Indiana Cities and Towns of Auburn, Avilla, Bluffton, Columbia City, Garrett, Gas City, Mishawaka, New Carlisle and Warren, and the Michigan Cities of Niles, South Haven, and Sturgis.

[4] Fruit Belt Electric Cooperative, Paulding-Putnam Electric Cooperative, Inc., and the R.E.M. Cooperatives of Jay County, Noble County, United and Whitley County.

[5] The originally proposed Step 1 increase was about $30 million, or $7.3 million higher than the amended increase.

[6] I&M requests that the effective date for the Step 2 rates coincide with the commercial operation date of its new Rockport Generating Unit No. 1.

[7] 49 FR 33,319–19 (1984).

were filed by the City of Dowagiac, Michigan (Dowagiac),[8] NIPSCO, IMPA,[9] Wabash,[10] and the Indiana & Michigan Municipal Distributors Association (IMMDA) and the City of Auburn, Indiana.[11] All but IMPA and Wabash request a five month suspension of Steps 1 and 2. All but NIPSCO and Wabash request consolidation for the reason that the dockets are each based on the same cost information.

In support of their request for a five month suspension, the intervenors have raised many cost of service challenges. These include allegations that I&M has: (1) Failed to demonstrate the exclusion of AFUDC related to pollution control CWIP; (2) overstated certain pollution control CWIP in rate base; (3) overstated demand projections; (4) included in rate base land for which I&M has no definite plan; (5) understated certain revenue credits; (6) improperly included prior-period SNFDC; (7) overstated prepayments, depreciation expense, fuel stock inventory, materials and supplies, purchased power expense, decommissioning expense, and operation and maintenance expense; (8) erroneously computed deferred income tax; (10) included excessive coal "transloading" costs; and (11) used an excessive rate of return. On September 10, 1984, IMPA filed a "clarification" which expanded on its allegation of potential undue earned return.

In addition, Wabash requests that the Commission reject I&M's filing or issue a deficiency letter for the reason that I&M has not submitted adequate workpapers. Further, IMPA has requested summary disposition with respect to two items: I&M's alleged (1) use of contract demands rather than actual coincident peak demands for demand allocation, and (2) erroneous computation of deferred income taxes attributable to certain capitalized construction expenses. IMPA, IMMDA and Auburn, and Wabash also allege a potential price squeeze. Finally, Wabash requests that I&M be required to revise portions of its filing to expressly recognize Wabash as its customer, rather than the six affected cooperatives to which Wabash supplies power.

On September 17, 1984, I&M filed a response in opposition to the requests for maximum suspension, summary disposition, and rejection or revision of its filing. The company acknowledged that it had made an erroneous computation of construction-related deferred taxes, and stated that it would "promptly file with this Commission revisions to its filing to correct for this error." However, I&M asserted that such correction would have no effect on its proposed rate increase. In response to Wabash's stated concern that it had not been properly regarded as I&M's customer, the company acknowledged Wabash's status as a wholesale customer. Finally, I&M generally opposed the cost of service challenges raised by the intervenors, including the use of contract demands for purposes of demand allocation.

On September 20, 1984, Wabash filed a motion requesting that the Commission order I&M to file revised Step 1 and Step 2 rates. Wabash first referred to I&M's admittedly erroneous deferred-tax computation. Because of that error, Wabash asserted that I&M would be forced not only to revise its wholesale cost of service downward, but also to revise its retail cost of service upward. Such revisions, Wabash alleged, would result in a decreased earned retail rate of return. Referring next to I&M's "stated goal" of maintaining equality between retail and wholesale rates of return, Wabash asserted that this goal would require I&M to "reduce the rate of return sought from its wholesale customers in both steps." Wabash submitted that such an adjustment would reduce requested revenues from Steps 1 and 2 by approximately $981,000 each.

On September 21, 1984, I&M submitted its amended filing. In order to maintain wholesale-retail rate of return parity, the company did revise its originally proposed rates downward to correct for two errors in its original filing relating to deferred taxes and investment tax credits. In the event that its amended filing is viewed as having triggered a new notice requirement, I&M has requested waiver of notice.

Discussion

Under Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the timely interventions serve to make the entities identified above parties to this proceeding.

Contrary to Wabash's assertions, we find that I&M's submittal substantially complies with the Commission's filing requirements.[12] We shall therefore deny Wabash's request for rejection of I&M's submittal. We also decline to grant IMPA's request for summary disposition of the demand allocation issue, since the matter presents questions of law or fact most appropriately resolved following an evidentiary hearing. I&M's acknowledgement of Wabash's status as a wholesale customer should mitigate Wabash's concerns about this matter. In any event, requiring I&M to revise its submittal here is not warranted.[13] We shall, however, grant the requests to consolidate Docket Nos. ER84–587–000 through ER84–592–000, inasmuch as the prefiled testimony and the cost of service studies are identical, and the dockets present common questions of fact.

Given I&M's voluntary filing to correct for the errors perceived in its original submittal, Wabash's remaining requests for summary disposition or refiling based on these errors will be denied. To the extent that any disagreement remains as to the precise calculations made by I&M to correct for its errors, these matters may be pursued at hearing. Further, we find that good cause exists to waive the notice requirements with respect to I&M's amended submittal.

Our preliminary review of the I&M's filings and the pleadings indicates that the rates proposed by I&M have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the proposed rates for filing, as modified by I&M, and we shall suspend them as ordered below.

In *West Texas Utilities Co.*, 18 FERC ¶ 61,189, at 61,375 (1982), we noted that rate filings would ordinarily be suspended for one day where preliminary review indicates that the rates may be unjust or unreasonable, but may not generate substantially excessive revenues, as defined in *West Texas*. In this case, our preliminary review indicates that I&M's proposed rates may not generate substantially excessive revenues. Accordingly, we

[8] Dowagiac is a wholesale customer of MPC.

[9] IMPA, a bulk power marketing agent for the Cities of Anderson and Richmond and the Town of Frankton, filed on its own and Richmond's behalf (Docket Nos. ER84–589–000 and ER84–590–000, respectively).

[10] Wabash is the power supplier of I&M's cooperative customers other than Wayne County REMC, in Docket No. ER84–592–000.

[11] IMMDA is an *ad hoc* association of I&M's wholesale customers located in Indiana and Michigan, and it represents I&M's municipal customers other than Auburn, in Docket No. ER84–591–000.

[12] *See Municipal Light Boards* v. *FPC*, 450 F.2d 1341 (D.C. Cir. 1971), *cert. denied* 405 U.S. 989 (1972).

[13] Wabash is correct in stating that we previously required I&M to revise a filing to reflect Wabash as a customer, *Indiana & Michigan Electric Co.*, Docket Nos. ER82–555–000, *et al.*, 20 FERC ¶ 61,079, at 61,171 (1982). In that case, however, I&M had not correctly reflected Wabash's status in the tariff and service agreement. Here, those documents themselves do not require correction. Here, those documents themselves do not require correction. Rather Wabash directs its complaint only to miscellaneous references in the transmittal letter and filed testimony. Such references do not warrant refiling, as requested by Wabash.

shall suspend the Step 1 and Step 2 rates for one day from the proposed effective dates, to become effective, subject to refund, on October 10, 1984, and one day after the date of commercial operation of Rockport 1, respectively.

In light of the price squeeze allegations, we shall institute price squeeze procedures and phase those proceedings, in accordance with Commission policy and practice as established in *Arkansas Power & Light Co.*, 8 FERC ¶ 61,131 (1979).

The Commission Orders

(A) the various motions for rejection, summary disposition, and refiling of I&M's submittal are hereby denied, as discussed above.

(B) Waiver of notice is granted with respect to I&M's amended filing.

(C) I&M's proposed Step 1 and Step 2 rates, as amended on September 21, 1984, are hereby accepted for filing and suspended for one day from the proposed effective dates, to become effective, subject to refund, on October 10, 1984, and one day after the date of commercial operation of Rockport 1, respectively. I&M shall advise the Commission of the implementation of the Step 2 rates within fifteen (15) days after Rockport 1 becomes commercially operational.

(D) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR Chapter I), a public hearing shall be held concerning the justness and reasonableness of I&M's rates.

(E) Docket Nos. ER84–587–000 through ER84–592–000 are hereby consolidated for purposes of hearing and decision.

(F) The Commission staff shall serve top sheets in this proceeding within ten (10) days of the date of this order.

(G) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days after service of top sheets, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(H) The Commission hereby orders initiation of price squeeze procedures and further orders that this proceeding be phased so that the price squeeze procedures begin after issuance of a Commission opinion establishing the rate, which, but for conderation of, price squeeze, would be just and reasonable. The presiding judge may modify this schedule for good cause. The price squeeze portion of this case shall be governed by the procedure set forth in § 2.17 of the Commission's regulations as they may be modified prior to the initiation of the price squeeze phase of this proceeding.

(I) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

Attachment

INDIANA & MICHIGAN ELECTRIC COMPANY DOCKET NOS. ER84–588–000 THROUGH ER84–592–000

[Rate Schedule Designation]

Designation	Other party and Docket No.	Description
(1) Supplement No. 8 to Supplement No. 12 to Rate Schedule FPC No. 25, (Supersedes Supplement, Nos. 6 and 7 to Supplement No. 12).	ER84–587–000 Michigan Power Co	Step I rates.
(2) Supplement No. 9 to Supplement No. 12 to Rate Schedule FPC No. 25, (Supersedes (1) above)	do	Step II rates.
(3) Supplement No. 8 to Supplement No. 9 to Rate Schedule FPC No. 22, (Supersedes Supplement, Nos. 6 and 7 to Supplement No. 9)	ER84–588–000 Northern Indiana Public Service Co.	Step I rate.
(4) Supplement No. 9 to Supplement No. 9 to Rate Schedule FPC No. 22, (Supersedes (3) above)	do	Step II rates.
(5) Supplement No. 5 to Supplement No. 10 to Rate Schedule FERC No. 70, (Supersedes Supplement, Nos. 3 and 4 to Supplement, No. 10)	ER84–589–000 City of Richmond	Step I rates.
(6) Supplement No. 6 to Supplement No. 10 to Rate Schedule FERC No. 70, (Supersedes (5) above).	do	Step II rates.
(7) Supplement No. 1 to Rate Schedule FERC No. 74	ER84–590–000 Indiana Municipal Power Agency	Step I rates.
(8) Supplement No. 2 to Rate Schedule FERC No. 74, (Supersedes (7) above)	do	Step II rates.
I FERC Electric Tariff Original Volume No. 4		
Sheet No.		
(9) First Revised Sheet, No. 1 and Original, Sheet No. 1A (Supersedes, Original Sheet No. 1)	ER84–591–000, Municipals	Title page
(10) Third Revised Sheet No. 5, Second Revised Sheet No. 6, and First Revised Sheet No. 7, (Supersedes Second Revised, Sheet No. 5, First Revised, Sheet No. 6 and Original, Sheet No. 7)	do	Step I rates.
(11) Fourth Revised Sheet No. 5, (Supersedes Third Revised Sheet No. 5)	do	Step II rates.
II FERC Electric Tariff Second Revised Volume No. 3		
(12) First Revised Sheet No. 1, and Original Sheet No. 1A, (Supersedes Original Sheet, No. 1)	ER84–592–000, Cooperatives	Title page
(13) Third Revised Sheet No. 5, and Second Revised Sheet, No. 6 (Supersedes Second, Revised Sheet No. 5 and, First Revised Sheet No. 6).	do	Step I rates.
(14) Fourth Revised Sheet No. 5, (Supersedes Third Revised, Sheet No. 5)	do	Step II rates.

[FR Doc. 84–26733 Filed 10–9–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ID–2128–000]

Jeffrey D. Tranen; Notice of Application

October 4, 1984.

Take notice that on September 7, 1984, Jeffrey D. Tranen filed an application for authorization pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Vice President—New England Power Company

Director—Connecticut Yankee Atomic Power Company

Director—Maine Yankee Atomic Power Company

Director—Vermont Yankee Nuclear Power Corporation

Director—Yankee Atomic Electric Company

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 19, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26734 Filed 10-9-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-1894-001]

Joseph G. Salomone; Notice of Application

October 4, 1984.

Take notice that on September 24, 1984, Joseph G. Salomone filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Senior Vice President—Finance Treasurer—Atlantic City, Electric Company

Director—Vice President—Deepwater Operating Company

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR Sections 385.211, 385.214). All such motions or protests should be filed on or before October 19, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26735 Filed 10-9-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2129-000]

Matthew Hunter; Notice of Application

October 4, 1984.

Take notice that on September 10, 1984, Matthew Hunter filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Chairman, Director—Central Vermont Public, Service Corporation

Director—Vermont Yankee Nuclear Power, Corporation

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 22, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26736 Filed 10-9-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-652-001]

Niagara Mohawk Power Co.; Notice of Revised Refund Report

October 4, 1984.

Take notice that on September 21, 1984, Niagara Mohawk (Niagara) submitted for filing its revised refund report pursuant to the Commission's order issued July 3, 1984.

On August 15, 1984, Niagara submitted a compliance report pursuant to the above Commission Order. In that report, Niagara indicated that "subsequent to the Company's order of the refund, PASNY indicated to the Company that it believed the amount tendered by the Company was in excess of the refund due."

Niagara hereby submits its revised compliance report.

The revised refund of $457,846.32 which has been concurred with by PASNY is for a refund of $441,886.96 and interest of $15,959.36. The supporting data showing the development of the refund and interest is attached, as well as the Company's transmittal letter to PASNY.

Any person desiring to be heard or to protest said filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before October 22, 1984. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26737 Filed 10-9-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-692-000]

Northern Natural Gas Co.; Notice of Application

October 3, 1984.

Take notice that on September 4, 1984, Northern Natural Gas Company, Division of InterNorth, Inc., (Northern), 2223 Dodge Street, Omaha, Nebraska 68102 filed in Docket No. CP84-692-000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon and remove one 251 horsepower compressor unit located in Texas County, Oklahoma, all or more fully set forth in the application which is on file with the Commission and open to public inspection.

Northern states that the Texas County No. 1 gathering station is comprised of one two-staged 395 horsepower compressor unit, one two-staged 678 horsepower compressor unit and one single-staged 251 horsepower compressor unit. Such gathering station compressor gas from the Texas County No. 1 Subsystem, it is explained.

Northern further states that subsequent to the time the compressor unit was installed, volume production from Texas County No. 1 Subsystem has declined from 16,600 Mcf of gas per day in 1977 to 7,900 Mcf of gas per day as required for the 1984/85 heating season. It is asserted that such decline in volume production has resulted in the idling of the 251 horsepower compressor unit since it is no longer required to compress the respective volumes.

Northern asserts that the proposed abandonment of the 251 horsepower compressor unit is the only viable alternative and would serve the public interest since said compressor is no longer needed and consequently serves no useful purpose. It is explained that said unit would be sold to a potential buyer or would be utilized elsewhere on Northern's system.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 23, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All such protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to a proceding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natual Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Northern to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26738 Filed 10-9-84, 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-1854-005]

Samuel Huntington; Notice of Application

October 4, 1984.

Take notice that on August 13, 1984 Samuel Huntington filed an application for authorization pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Director—Massachusetts Electric Company
Director—The Narragansett Electric Company
Director—New England Electric Transmission Corporation
Chairman and Director—New England Power Company

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 19, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26739 Filed 10-9-84, 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EF84-3011-000]

Southeastern Power Administration; Notice of Filing

October 4, 1984.

The filing Company submits the following:

Take notice that on September 26, 1984, the Deputy Secretary of the Department of Energy confirmed and approved, on an interim basis effective midnight September 30, 1984, Rate Schedules GAMF-1-D, GAMF-2-D, ALA-1-D, MISS-1-D, SC-1-D, SC-2-D, CAR-1-E, and CAR-2-D for power from Southeastern Power Administration (SEPA) Georgia-Alabama Projects. The approval extends through September 30, 1985.

The Deputy Secretary states that the Commission, by order issued February 29, 1984, in Docket No. EF83-3011, confirmed and approved Rate Schedules GAMF-1-C, GAMF-2-C, ALA-1-C, MISS-1-C, SC-1-C, SC-2-C, CAR-1-D, and CAR-2-C through September 30, 1984.

SEPA proposes in the instant filing to replace Rate Schedules GAMF-1-C, GAMF-2-C, ALA-1-C, MISS-1-C, SC-1-C, SC-2-C, CAR-1-D, and CAR-2-C with Rate Schedules GAMF-1-D, GAMF-2-D, ALA-1-D, MISS-1-D, SC-1-D, SC-2-D, CAR-1-E, and CAR-2-D, respectively. The rate adjustments will increase annual revenues by $8,744,000, an increase of approximately 20 percent. The increase is due primarily to general inflation at the generating projects, the inclusion of two units at the Richard B. Russell Project, and increased wheeling charges. The interim rate schedules are submitted for confirmation and approval on a final basis pursuant to the authority vested in the Commission by Delegation Order No. 0204-108. Approval is requested for a period ending September 30, 1985.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 1, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26740 Filed 10-9-84, 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-721-000]

Transcontinental Gas Pipe Line; Notice of Request Under Blanket Authorization

October 4, 1984.

Take notice that on September 19, 1984, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP84-721-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate offshore pipeline facilities in the Mustang Island Area, offshore Texas, under the certificate issued in Docket No. CP82-426-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request of file with the Commission and open to public inspection.

Transco proposes to construct and operate 6.69 miles of 20-inch pipeline and associated metering and regulating facilities from the TXP Operating Company A platform in Mustang Island Area, Block A-111, to an interconnection with Transco's existing Central Texas Gathering System at Platform A in Mustang Island Area, Block A-85. It is stated that the proposed facilities are required to attach new gas reserves estimated to be 91,800,000 Mcf which would be

purchased by Transco and Northern Natural Gas Company, Division of InterNorth Inc. from TXP Producing Company in Mustang Island Area, Block A-111.

It is indicated that the proposed facilities would be designed with a maximum capacity of 80,000 Mcf of gas per day and would cost an estimated $9,825,700, which would be financed initially through revolving credit arrangements, short-term loans or funds on hand. It is anticipated that the facilities would be completed and placed in service by mid-1985.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26741 Filed 10-9-84; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Cases Filed; Week of September 7 through September 14, 1984

During the Week of September 7 through September 14, 1984, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585.

Dated: September 20, 1984.

Thomas L. Wieker,

Acting Director, Office of Hearings and Appeals.

List of Cases Received by the Office of Hearings and Appeals

Week of Sept. 7 through Sept. 14, 1984

Date	Name and location of applicant	Case No.	Type of submission
Sept. 10, 1984	Corum Energy Corporation, Washington, DC	HRD-0234 HRH-0235	Motion For Discovery and Request for Evidentiary Hearing. If granted: Discovery would be granted and an evidentiary hearing would be convened in connection with the Statement of Objections submitted by Corum Energy Corporation in response to the May 18, 1984, Proposed Remedial Order (Case No. HRO-0234) issued to Corum Energy Corporation.
Do	Gordon K. Walz, *et al.*, Washington, DC	HRZ-0221	Interlocutory Order. If granted: The Office of Hearings and Appeals would grant Gordon K. Walz, John Woolsey, James Cross, and Milton E. Walz's motion to strike from the record in the Proposed Remedial Order proceeding involving Revere Petroleum Corporation, *et al.* (Case No. HRO-0125) two letters from the Economic Regulatory Administration dated August 27 and August 28, 1984.
Do	John H. Hnatio, Mt. Airy, MD	HFA-0246	Appeal of an Information Request Denial. If granted: The Decision and Order issued on August 22, 1984 (Case No. HFA-0214) would be amended and the requester would receive access to information contained in Documents 53, 122 and 124.

REFUND APPLICATIONS RECEIVED

[Week of Sept. 7 to Sept. 14, 1984]

Date	Name of refund proceeding/name of refund applicant	Case no.
Sept. 10, 1984	Gulf/Jarvis P. Brown	RF40-93
Do	Willis/Sam Travis Mobil Service	RF41-6
Do	Willis/Blue Bird Coach Lines, Inc.	RF41-7
Do	Windham/Stamm Contracting Co., Inc.	RF43-1
Sept. 12, 1984	Gulf/Southeast Express, Inc.	RF40-94
Sept. 13, 1984	Windham/Charles Chevrolet & Oldsmobile, Inc.	RF43-2
Sept. 14, 1984	Gulf/McLean Trucking Co.	RF40-95

[FR Doc. 84-26766 Filed 10-9-84; 8:45 am]

BILLING CODE 6450-01-M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of implementation of special refund procedures and solicitation of comments.

SUMMARY: The Office of Hearing and Appeals of the Department of Energy solicits comments concerning the appropriate procedures to be followed in refunding to eligible claimants a total of $14,000,000 (plus accrued interest) obtained by the DOE under the terms of a consent order entered into with Conoco, Inc. The funds are being held in escrow following settlement of all claims and disputes arising from an audit by the Office of Special Counsel.

DATE AND ADDRESS: Comments must be filed within 30 days of publication of this notice in the **Federal Register** and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585. All comments should display conspicuously a reference to case numbers HEF-0010 and HEF-0484.

FOR FURTHER INFORMATION CONTACT: Richard T. Tedrow, Deputy Director, Lawrence Rudolph, Deputy Assistant Director, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-5510.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The proposed Decision and Order tentatively establishes procedures to distribute to eligible claimants $14,000,000 obtained by the DOE under the terms of a consent order entered into with Conoco, Inc.

(Conoco) on July 2, 1982. The funds were provided to the DOE by the firm in order to settle all claims which the Office of Special Counsel could have pursued under the DOE price and allocation regulations relating to transactions by Conoco involving the production, refining, processing, reselling, and marketing of crude oil and petroleum products during the period from January 1, 1973 through January 27, 1981.

The Proposed Decision and Order sets forth the procedures and standards that the DOE has tentatively formulated to distribute the contents of the escrow account by Conoco. The DOE has tentatively decided that Applications for Refund should be accepted from firms and individuals who purchased refined petroleum products and crude oil from the firm during the consent order period January 1, 1973 through January 28, 1981. The Proposed Decision and Order provides that in order to be entitled to receive any portion of the settlement funds, a purchaser must furnish the DOE with evidence which demonstrates that the claimant was injured by the alleged unlawful prices for covered products charged by Conoco, including specific documentation concerning the date, place, price and volume of product purchases, whether the increased costs were absorbed by the claimant or passed through to other purchasers, and the extent of any injury alleged to have been suffered.

The Proposed Decision and Order also refers to the distribution in a second-stage proceeding of any funds remaining after all valid claims are paid. The DOE solicits comments on any proposals that claimants may suggest for the distribution of any funds remaining after first-stage claims have been paid.

It should be pointed out that until final procedures are adopted, no claims for refunds will be accpted. Applications for Refund, therefore, should *not* be filed at this time. Appropriate public notice, including notice published in the **Federal Register**, will be provided prior to the acceptance of claims.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of publication of this notice in the **Federal Register**, and should be sent to the address set forth at the beginning of this notice. All comments received in this proceeding will be available for public inspection in the Public Docket Room of the Office of Hearings and Appeals, Room 1E-234, 1000 Independence Avenue, SW., Washington, D.C. between the hours of 1:00 to 5:00 p.m., Monday through Friday, except Federal holidays.

Dated: August 13, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

Proposed Decision and Order of the Department of Energy

Special Refund Procedures

Name of Firm: Conoco Inc.
Date of Filing: Dec. 23, 1982.
Case Number: HEF-0010; HEF-0484.

The regulations of the Department of Energy (DOE) permit the Economic Regulatory Administration's Office of Special Counsel (OSC) to request the Office of Hearings and Appeals (OHA) to formulate and implement procedures for distributing funds received as a result of an enforcement proceeding involving alleged violations of the DOE regulations. *See* 10 CFR Part 205, Subpart V. In accordance with those regulatory provisions, the OSC filed two Petitions for the Implementation of Special Refund Procedures in connection with a Consent Order entered into with Conoco Inc. (Conoco). Each of the petitions concerns funds received from Conoco pursuant to different provisions of that Consent Order, *i.e.*, paragraphs 402 and 403. Under the terms of the Consent Order, Conoco agreed to make refunds for alleged violations of the DOE price and allocation regulations in the following amounts: (i) $3 million to be paid to DOE for disposition according to DOE's determination (¶ 402), and (ii) a quantity of foreign crude oil valued at $11 million to be delivered to the Strategic Petroleum Reserve of the United States or, in the alternative, to pay to DOE the amount of $11 million in lieu of delivering crude oil to the Strategic Petroleum Reserve (¶ 403). On November 24, 1982, Conoco remitted to DOE $3 million in accordance with ¶ 402 of the Consent Order. On October 26, 1983, Conoco elected to pay $11 million in funds directly to DOE in accordance with ¶ 403 of the Consent Order. These funds, totalling $14 million, are now being held in an escrow account under the jurisdiction of the DOE pending receipt of instructions from the OHA regarding their final distribution. (*1*)

I. Background

Conoco is a "producer" of crude oil and a "refiner" as those terms were defined in 10 CFR 212.31. During the relevant time periods, Conoco was engaged in the production, refining, processing, reselling, and marketing of crude oil and petroleum products, and was subject to the Mandatory Petroleum Price Regulations set forth at 10 CFR Part 212.

As a part of its enforcement activities, the OSC audited Conoco's price and allocation practices, including the manner in which the firm applied the federal petroleum price and allocation regulations with respect to its important, refining, and sale of crude oil and covered petroleum products during the period January 1, 1973 through January 27, 1981 (hereinafter referred to as the "Consent Order period"). In order to settle all claims and disputes between the parties during this period, Conoco and DOE entered into a Proposed Consent Order whereby Conoco agreed to remit $3 million to the DOE, and deliver $11 million worth of foreign crude oil to the Strategic Petroleum Reserve. Notice of the Proposed Consent Order was published in the **Federal Register** at 47 FR 30563 (July 14, 1982), and interested persons were invited to submit comments and written notification of potential claims against the settlement funds. Comments were received from numerous parties.(*2*) The Proposed Consent Order was finalized without modification and published in the **Federal Register** at 47 FR 49700 (November 2, 1982).

II. Jurisdiction To Fashion Refund Procedures

The OSC filed two Petitions for the Implementation of Special Refund Procedures under Subpart V in connection with the Conoco Consent Order. The first Petition involves the $3 million in settlement of alleged violations of the refiner price rule, and was filed on December 23, 1982. The second Petition involves the $11 million in settlement of alleged violations of the crude oil producer regulations, and was filed on November 14, 1983. The Subpart V process is used in situations where the DOE is unable to readily identify the persons who may be eligible to receive refunds as a result of enforcement proceedings or to readily ascertain the amounts that such persons should receive. 10 CFR 205.280. Subpart V also authorizes the OHA, upon request by an appropriate DOE enforcement official, to fashion special procedures to distribute moneys obtained as part of a settlement agreement. 10 CFR 205.281-.282.

After reviewing the Petitions submitted in this proceeding, we have concluded that the implementation of Subpart V proceedings is appropriate. As stated by the OSC, that office was unable to identify any specific purchasers who may have been injured by the alleged overcharges.(*3*) Moreover, even in cases where an injured person

can be identified, it is difficult to ascertain the level of refunds that such persons should receive. The Office of Hearings and Appeals, therefore, has decided to exercise Subpart V jurisdiction over the funds received from Conoco in settlement of the enforcement proceedings which led to the Petitions for Implementation of Special Refund Procedures filed by the OSC in this matter.

III. Proposed Refund Procedures

The procedures to be devised in this case are designed to provide for the distribution of the refund amounts to the parties who bore the effects of the alleged overcharges. This also serves to fulfill the objectives expressed in the applicable statutes and regualtions discussed above. *See Citronelle-Mobile Gathering* v. *Edwards*, 669 F.2d 717, 723 (Temp. Emer. Ct. App. 1982), *cert. denied*, 103 S.Ct. 172 (1982).

In this proceeding, we must first determine whether the $14 million in Consent Order funds obtained from Conoco should be allocated between crude oil and the refined petroleum product claimants in the proportion suggested by OSC, *i.e.*, $3 million to persons whose claims are based on purchases from Conoco of covered products other than crude oil or refined product allocation disputes, and the remaining $11 million presumably to those claimants involved in crude oil transactions, or whether a different allocation is warranted. One commenter has argued that most, if not all, of the Conoco Consent Order funds should be distributed to purchasers of refined products, an allocation based on an analysis of the type and amount of alleged violations in the underlying enforcement proceedings.(*4*) Another commenter suggests that regardless of our disposition of the $11 million paid by Conoco, we should calculate any per gallon rate of refund based on the full $14 million available, thus enabling a higher per gallon refund for potential claimants.(*5*)

Although we do not reject at this time either of the foregoing suggestions, we note that the allegations in the enforcement proceedings pending against Conoco at the time the Consent Order was executed afford no basis upon which to allocate refund monies, and constitute nothing more than "unproven assertions in preliminary DOE enforcement documents." *Amoco*, at 88,198.(*6*) We also note that the **Federal Register** notices published by OSC concerning the adoption of the Conoco Consent Order inferred payments of $3 million in cash and $11 million worth of foreign crude oil in settlement of refiner pricing and crude oil violations, respectively.

Because of the questions raised by commenters in this proceeding regarding the allocation of Consent Order funds, however, and our own concerns on this issue, we asked the Economic Regulatory Administration (ERA) to provide us with a further explanation regarding the allocation it proposed in the Petitions for the Implementation of Special Refund Procedures filed with OHA. On July 26, 1984, we received a memorandum from Leslie W. Adams, Deputy Solicitor of the ERA. In that memorandum, which we have placed in the record, ERA states in part that:

> The allocation between the two areas, rjefiner pricing and cruide oil, reflects the basis on which the negotiations [involving the Conoco Consent Order] were conducted. Because each regulatory area utilizes different pricing mechanisms, requires different remedies in light of the different markets and the operation of the regulations, and have different litigation histories, we segregated the two areas throughout the negotiations. Thus, the areas were identified separately at the inception of negotiations, throughout the discussions, in our litigation risk analyses, and for the purposes of reaching settlement and identifying the remedy.
>
> In Conoco's case, the $11 million reflects our determination of a suitable recovery for the crude oil issues after considering the factual matters submitted by Conoco and assessing the litigation risk for the issues involved. Similarly, the $3 million refiner pricing recovery was accepted after considering the factual background and litigation risk of each of the refiner cost allocation issues and the overrecoveries which resulted when the challenged costs and cost recoveries were compared to Conoco's available banks.

Based on these representations by ERA, we have tentatively concluded to make available $3 million of the Conoco Consent Order funds to those claimants who purchased refined petroleum products, and $11 million to those involved in crude oil transactions. We believe that, under the circumstances, this is an appropriate disposition of the refund monies to be distributed in this proceeding.

With respect to the calculation of actual refunds of either refined product or crude oil claimants, we propose that refunds be calculated according to a volumetric method. Under this method, refunds are computed by multiplying an applicant's total purchase volumes by a volumetric amount which is computed by dividing the settlement amount by the total volume of covered petroleum products sold by the consent order firm during the consent order period. although it has been suggested that the calculation of any per gallon rate of refund for refined product claimants be based on the full $14 million available, we believe that a volumetric calculation based on the proposed allocation for each respective group of claimants (refined product and crude oil purchasers) is more appropriate, particularly in view of the restitutionary purpose of our refund proceedings. Under these circumstances, therefore, we propose the following procedures for each group of potential claimants.

A. Refined Products Transactions

1. Refunds to Identifiable Purchasers

During the first stage in this refund process, the refined products pool of Consent Order funds should be distributed to claimants who satisfactorily demonstrate that they have been adversely affected by the alleged overcharges in sales of covered products by Conoco. We note that the first purchasers of the relevant refined products from the firm are likely to be claimants in this proceeding.

To the extent that first purchasers who are resellers can establish that they absorbed the alleged overcharges rather than passed them on to their customers, they will be entitled to receive a portion of the consent order funds. In order to qualify for a refund, these first purchsers will be required to demonstrate that during the period covered by the consent order they were not able to pass through the alleged overcharges to their customers. While there are a variety of means by which a claimant could make this showing, these purchasers generally should demonstrate that at the time they purchased covered products from their supplier, market conditions would not permit them to increase their prices to pass through the additional costs associated with the alleged overcharges. In addition, a reseller of petroleum products must show that it maintained a "bank" of unrecovered costs, in order to demonstrate that it did not subsequently recover these costs by increasing its prices.

With respect to first purchasers who are end-users and ultimate consumers, the above showing is not necessary in order for a firm to qualify for a refund. Examples of the types of organizations and individuals in this group include home owners, schools, religious institutions, federal, state, and local government entities, and research foundations. In order to establish a claim, this type of first purchaser need demonstrate only that it purchased a specific quantity of product which was sold by Conoco during the Consent Order period.

In addition, refund applications from firms regulated by a governmental agency or by the terms of a cooperative agreement will not be required to demonstrate that the firm absorbed the alleged Conoco overcharges. In the case of regulated firms, *e.g.*, public utilities, any overcharges incurred as a result of Conoco's alleged violations of the DOE regulations would routinely be passed through to their customers. Similarly, any refunds received by such firms would be reflected in the rates they were allowed to charge their customers. Refunds to agricultural cooperatives will likewise directly influence the prices charged to their member customers. Consequently, such firms will be added to the class of claimants that are not required to show that they did not pass through to their customers cost increases resulting from alleged overcharges. *See, e.g., Office of Special Counsel (Tenneco)*, 9 DOE ¶ 82,538 (1982); and *Office of Special Counsel Pennzoil*), 9 DOE ¶ 82,545 at 85,244 (1982). Instead, those firms should provide with their application a full explanation of the manner in which refunds would be passed through to their customers and how the appropriate regulatory body or membership group will be advised of the applicant's receipt of any refund money.

Firms and individuals who purchased products from the first purchaser also may be eligible to receive a portion of the funds. In order to obtain a refund, a person claiming to be an injured party must satisfactorily demonstrate that it purchased, during the Consent Order period, a specific quantity of refined products which were sold by Conoco. Privity with either Conoco or one of its first purchasers need not be established; evidence need only be presented that the products purchased by the claimant flowed through a chain of distribution leading back to Conoco. In addition, unless the purchaser is an ultimate consumer, it should generally be able to demonstrate that it did not pass through the cost increases resulting from the alleged overcharges to its own customers. For example, a purchaser who resold the identified product should be in a position to show that market conditions did not permit it to raise prices charged to downstream customers, and that consequently it was forced to absorb the cost increases that are represented by the alleged overcharges. In the absence of that showing we could conclude that the claimant was not injured in a monetary sense by the alleged overcharge.

In the *Vickers* decision, we also noted that the nature of the showing required could be too complicated for those individuals and firms—both direct and indirect purchasers—who might otherwise be entitled to apply for refunds and who purchased relatively small amonts of products. We also observed that many of those purchasers might lack the type of records required to support such a showing. We therefore established a 50,000 gallon per month (or 600,000 gallons per year) threshold level of purchases under which applicants, primarily smaller firms and individuals, were not required to make a detailed showing of actual injury. For those applicants who claimed less than that level of purchases, we required only proof of the amount of product purchased by the applicant during the consent order period. We have decided to use the same type of presumption for smaller claimants in this proceeding. *See Vickers; Office of Special Counsel for Compliance*, 4 DOE ¶ 82,511 at 85,043–44 (1979); and *Office of Special Counsel*, 9 DOE ¶ 82,545 at 85,245 (1982). Our experience in these refund proceedings continues to indicate that businesses with a relatively low level of sales do not generally maintain sophisticated recordkeeping systems. A requirement that such a firm compile eight years of old data could be overly burdensome. We are also concerned that the expense of preparing an application not be grossly disproportionate to the potential refund to be gained. Accordingly, we propose to set the threshold figure in this proceeding at 50,000 gallons per month or 600,000 gallons annually.(7)

In addition, as in previous cases, we propose that there is a class of potential claimants who may be presumed to have suffered no injury from Conoco's regulatory practices. Those parties are firms who made spot purchases of Conoco products. As we stated in *Vickers:*

> [T]hese customers tend to have considerable discretion in where and when to make purchases and would therefore not have made spot market pruchases of Vickers motor gasoline at increased prices unless they were able to pass through the full amount of Vickers' quoted selling price at the time of purchase to their own customers.

Vickers, 8 DOE at 85,396–97. We believe that the same rationale applies in this case. Consequently, we propose to establish a rebuttable presumption that spot purchasers were not injured by Conoco's pricing practices. As we observed in the *Amoco* Decision, spot purchasers tend to have considerable discretion in making purchases and were therefore not likely to have made spot market purchases at higher prices were they not able to pass through those higher prices to their own customers. *Amoco* at 88,200. Thus spot purchaser claimants will be required to submit additional evidence sufficient to establish that they were unable to recover the prices they paid to Conoco.

Any purchaser claiming a poriton of the refund amount should file an Application for Refund pursuant to 10 CFR § 205.283. Applications should provide all relevant information necessary to establish, a claim, including specific documentation concerning the date, place, price, and volume of product purchased, the retention of increased costs, and the extent of any injury alleged. Detailed procedures for filing applications will be provided in a final Decision and Order. *See Vickers*. Before disposing of any of the funds received as result of the Consent Order involved in this proceeding, we intend to publicize widely the distribution process and to provide an opportunity for any affected party to file a claim. In addition to publishing notice in the **Federal Register** notice will be provided in publications in the area in which Conoco marketed its products during the consent order. As a final matter, we noted that refunds applications filed on behalf of groups of claimants identifying themselves as adversely affected purchasers also will be considered. Such applications will be evaluated on a case-by-case basis.

2. Distribution of the Remainder of the Refined Product Pool

After all meritorious claimants have received their appropriate share of the refined product pool of Consent Order funds, the amount of monies remaining, while diminished, may not be exhausted. Any remainder of these funds should be distributed during a second stage of the refund process in furtherance of the goals set forth in the DOE's enabling legislation and implementing regulations. However, we wish to emphasize that any consideration of the second-stage procedure at this point in time involves a number of uncertainties. As we noted in *Vickers:*

> [Such] a step would be difficult to justify before the analysis and processing of Applications for Refund filed in the first stage of the distribution of the Consent Order funds to claimants, since the amount remaining after all meritorious claims have been paid directly affects the appropriateness of the second-stage distribution scheme.

8 DOE at 85,397. We will consider any comments received regarding second-stage alternatives and then issue a final Decision and Order establishing

procedurs for the first stage. In that decision, we will summarize and address briefly the comments received concerning second-stage procedure, and will solicit another round of comments on the distribution of the funds that may remain after payment of claims in the first stage. In this way, we will have adequate opportunity to consider the outstanding issues before reaching a final decision on the second stage.

B. Crude Oil Transactions

We have previously established refund procedures for consent orders involving the same type of crude oil-related violations as those allegedly committed by Conoco in the underlying enforcement proceedings. In *Office of Enforcement: In the Matter of Alfred B. Alkek*, 9 DOE ¶ 82,521 (1982) (hereinafter cited as *Alkek*) and *Office of Enforcement: In the Matter of Adams Resources and Energy, Inc.*, 9 DOE ¶ 82,553 (1982) (hereinafter cited as *Adams)*, which involved consent orders and remedial orders with 58 firms, we established a two-stage refund procedure for consent order and remedial order funds received as a result of alleged crude oil regulatory violation. (*8*) We noted in *Alkek* that "the benefits associated with the moneys received as refunds for possible overcharges should be distributed in a manner that will inure to the maximum extent possible to those who were actually injured by the alleged overcharges." *Alkek* at 85,135. We stated that any party that believed it could prove an injury resulting from the alleged violations may file an Application for Refund, but cautioned that a claimant must affirmatively demonstrate that it has been injured by the alleged violation and should consequently receive a refund. *Id.* We suggested some kinds of evidence which would tend to demonstrate that a party was injured by a consent order firm's pricing or certification practices. *Id.* at 85,137.

However, in both *Adams* and *Alkek*, we point out that refiners which purchased crude oil directly from consent order firms and other refiners which participated in the Entitlements Program, 10 CFR 211.67, might not be appropriate recipients of the total pool of refund moneys available. Because of the way the Entitlements Program was set up, it had the effect of dispersing overcharges resulting from miscertifications of crude oil throughout the domestic crude oil refining industry. As we noted in *Alkek* :

> Miscertifications cause price-controlled crude oil to disappear. This disappearance caused the volume of old oil to be distributed through the Entitlements Program to decline and caused the DOSR [Domestic Crude Oil Supply Ratio] to be reduced. Thus, refiners who included more than the national average percentage of price-controlled oil in their crude oil receipts and runs to stills had to purchase a *greater* number of entitlements. Similarly, refiners with less thatn the national average percentage of price-controlled crude oil had *fewer* entitlements to sell. As a result, every refiner's cost of crude oil was increased. Thus, all refiners were affected by the alleged miscertification violations involved in the Consent Orders.

Alkek at 85,133 (citations omitted). These cost increases were treated by refiners exactly like other crude oil cost increases such as an OPEC price increase or an increase in a domestic posting for crude oil. To the extent they could increase their prices for refined petroleum products to reflect these cost increases, refiners were able to shift the effects of these cost increase to their customers. *Tenneco Oil Company/ Plateau, Inc.*, 10 DOE ¶ 85 ,015 (1982). If these cost increases were entirely passed through by a refiner, it incurred no injury as a result of miscertifications of crude oil. If the passthrough were less than complete, that refiner would likely have incurred some injury. However, because of such factors as the accumulation of refiners banks of increased costs, and changes in prevailing crude oil costs and price levels during the relatively lengthy period covered by the consent orders, it would be extremely burdensome to compute with precision the degree to which each refiner absorbed any increases in costs engendered by miscertifications, assuming such costs were absorbed.

We did note, however, that certain identifiable parties might be able to show demonstrable injury from the alleged violations. One such class of potentially injured parties was the group of resellers or refiners that obtained crude oil directly from the parties wich entered into consent orders in which an improper computation of the base price for crude oil was alleged. We noted that because this oil appeared to be properly certified, the alleged overcharges were not passed through the mechanisms of the Entitlements Program. As a result, theses direct purchases and refiners may have borne the effect of such overcharges and may be eligible for refunds to the extend that they could show that the alleged overcharges were not passed through to subsequent purchasers. *Alkek* at 85,133–34.

The second class of potentially injured parties which should be able to demonstrate injury consists of refiners that obtained crude oil from parties that entered into consent orders concerning violations alleged to have occurred before the commencement of the Entitlements Programs on November 1, 1984. As we noted in *Alkek*, because the effects of these overcharges were not passed through the Entitlements Program, these refiners were directly affected and may have absorbed the effects of the alleged overcharges. Thus we concluded that refiners in this class, like those that purchased crude oil for which the base price was improperly computed, would be eligible for refunds to the extent they could show that they did not pass these increased costs on to to subsequent purchasers. *See Tenneco Oil Company/Pleateua, Inc.*, 10 DOE ¶ 85,015 (1982).

A third class of claimants that may be able to demonstrate that injury resulting from a consent order firm's alleged violations consists of purchasers which used crude oil as industrial boiler fuel. These end-users of crude oil would also be eligible to file claims for refunds in these cases.

Despite our concern that it would be extremely difficult for refiners to demonstrate that they absorbed, rather than passed through, the injurious effects of a consent order firm's alleged violations, refiners are not foreclosed from submitting applications for refund in this proceeding. For periods subsequent to November 1, 1974, both refiners and subsequent purchasers that obtained crude oil or refined products produced or sold by the parties that entered into the consent orders involved in the proceeding could be eligible for refunds if they can show that the Entitlements Program did not negate the adverse effects caused by the alleged violations and could accurately calculate the impact of those effects on them. *Alkek* at 85,136–37.

As noted above, because the types of alleged violations that underlie the present proceeding are substantially the same as those that were the subject of the *Alkek* and *Adams* proceedings, we have determined that it is appropriate to formulate a two-stage refund proceeding modeled after those proceedings. We therefore propose to establish first-stage refund procedures for the distribution of the $11 million crude oil pool of Consent Order funds in the same manner and using the same principles as those refund applications that were filed pursuant to the *Alkek* and *Adams* determinations. We noted in *Alkek*, however, that if our tentative conclusions were correct, the effects of the alleged overcharges were spread among all refiners by the Entitlements Program and were largely passed on by

them and subsequent purchasers to ultimate consumers. Consequently, we believe that it would be premature for consumers and consumer groups to file Applications for Refund with respect to the crude oil pool of Consent Order funds until the refiners' and resellers' claims have been resolved. *Alkek* at 85,136.

Because of the difficulty inherent in establishing the level of injury to parties in the majority of these crude oil refund cases, there is likely to be a substantial portion of crude oil refund moneys remaining after all successful first-stage claimants have been paid. As in previous cases, we shall hold in abeyance our determination as to appropriate second-stage procedures for this crude oil pool of Consent Order funds until we know how much money will remain after first-stage claims are paid. *See Office of Enforcement*, 9 DOE ¶ 82,508 (1982). Our views concerning possible second-stage resolutions are contained in *In Re Stripper Well Exemption Litigation*, No. HEF-0025, 48 FR 57608 (1983).

It is Therefore Ordered That:

The Petitions for Implementation of Special Refund Procedures filed by the Office of Special Counsel on December 23, 1982 and November 14, 1983, In the Matter of Conoco Inc. (Conoco), are hereby granted. The refund amounts, plus accrued interest, remitted to the Department of Energy by Conoco pursuant to the Consent Order executed on July 2, 1982, will be distributed in accordance with the foregoing Decision.

Footnotes

(1) As of July 31, 1984, the $14 million principal deposited in Conoco's Consent Order Account had accrued $887,002.28 in interest, bringing the total amount in the account at that time to $14,887,002.28.

(2) The following either submitted comments to the Proposed Consent Order or subsequently expressed an interest in this proceeding:

Air Transport Association of America
State of Alabama
American Bus Association
Truman Arnold Distributing Company
Association of American Railroads
Atchison, Topeka and Santa Fe Railway Company
Atteberry Oil Company, Inc.
State of California
Commmonwealth Oil Refining Company, Inc.
State of Connecticut
Crockett Oil Company
D.C. Energy Office
Harold Dickery Oil
E-Z Serve, Inc.
Sylvester Endres
Saxon Farmer
Forde Johnson Oil Company
Franklin Oil Company
Hillger Oil Company
Hoover Oil Company
State of Illinois
Illinois Department of Energy and Natural Resources
State of Indiana
Jameson Oil Company
Bill Keeling Oil Company, Inc.
State of Maine
Major Oil Company
The Mason and Dixon Lines, Inc.
Massachusetts Executive Office of Energy Resources
E.L. Morgan Company
National Consumer Law Center
National Council of Farmer Cooperatives
National Oil Jobbers Council
NERCO, Inc.
State of New Jersey
State of New York
NOJC Conoco Brand Committee
Parker Oil Company
Red Band Oil Company
Reed Distributing Company, Inc.
Reed-Weitzel, Inc.
Robinson Oil Company
System Fuels, Inc.
Thornhill Oil Company, Inc.
State of Vermont
Western Marketing Inc.
York Oil Company
Zephyr, Inc.

(3) Petition for Implementation of Special Refund Procedures, filed December 23, 1982, at 2; Petition for Implementation of Special Refund Procedures, filed November 14, 1983, at 3.

(4) *See* Response of Zephyr, Inc., to Petition for Implementation of Special Refund Procedures, filed February 24, 1984, and Supplemental Comments, filed February 28, 1984.

(5) *See* Comments of Douglas B. Mitchell, filed November 3, 1983, on behalf of National Oil Jobbers Council (NOJC) Conoco Brand Committee. NOJC also argues that although Conoco's prices to its jobbers were consistently higher than the prices of other major branded refiners serving the same class of trade, Conoco's Kayo stations and commercial sales unit sold Conoco products at extremely low prices. Consequently, NOJC suggests that Conoco jobbers were more likely to have been overcharged and less likely to have passed those overcharges through to their customers. Data in support of this argument were submitted to OHA on November 17, 1983, December 2, 1983, December 13, 1983, and January 5, 1984. In view of this material, NOJC concludes that Conoco jobbers should be allowed a presumption of injury on every gallon purchased by claimants, not just a threshold amount as generally applied in other Subpart V proceedings. We invite those interested parties who may agree or disagree with NOJC's suggestion to comment on its proposal. At the present time, however, we are inclined to treat jobbers and other direct or indirect purchasers in the distribution chain equally.

(6) The Comments of Zephyr, Inc., filed February 24, 1984, analyze the twenty separate enforcement proceedings pending against Conoco on the date of the Consent Order, and conclude that the dollar amount of alleged violations in eighteen of those cases (involving refined products) is approximately $262.9 million, where the only enforcement action involving crude oil sales specifies approximately $23.8 million in alleged violations. We note, however, that many of the refined product enforcement actions involved the recalculation of cost banks, which does not automatically result in a dollar-for-dollar liability with respect to overcharges.

(7) At our request, and pursuant to a letter agreement between the DOE and Conoco, dated July 2, 1982, Conoco is compiling the volume data necessary for calculation of the pro rata amount of refund per gallon of covered product. Since we have not yet received this information, the calculation of the amount of refund per gallon for either a crude oil or refined products claimant is not possible at the time of issuance of this Proposed Decision and Order. We do intend, however, to limit the minimum amount of refund that will be distributed to potential claimants. In prior refund cases, we have not granted refunds for less than $15.00 (the approximate cost to the government of issuing refund checks) because the cost of issuing such small refunds exceeds the restitutionary benefits which may be achieved. *See* Office of Special Counsel, 10 DOE ¶85,048 at 88,214 (1982). We will utilize the same threshold here.

(8) We subsequently added to the Alkek/Adams "pools" the portion of the Amoco consent order funds that was allocated for crude oil claims. *See* Office of Special Counsel, 10 DOE ¶85,048 at 88,203. We have also discussed the potential distribution of crude oil overcharge funds in In Re Stripper Well Exemption Litigation, Case No. HEF-0025, 48 FR 57608 (1983).

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BILLING CODE 6450-01-M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of Implementation of Special Refund Procedures and Solicitation of Comments.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the appropriate procedures to be followed in refunding approximately $40,000 in consent order funds to members of the public. This money is being held in escrow following the settlement of enforcement preceedings involving Vangas, Inc., a reseller-retailer of propane whose main office is located in Fresno, California.

DATE AND ADDRESS: Comments must be filed within 30 days of publication of this notice in the **Federal Register** and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue,

SW., Washington, D.C. 20585. All comments should conspicuously display a reference to case number HEF–0189.

FOR FURTHER INFORMATION CONTACT: Thomas O. Mann, Deputy Director, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–2094.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The proposed Decision relates to a consent order entered into by Vangas, Inc., which settled possible pricing violations in the firm's sales of propane and charges for storage tank rental to customers of its California retail division during the September 1, 1973 through October 31, 1977 audit period.

The Proposed Decision sets forth the procedures and standards that the DOE has tentatively formulated to distributed the contents of an escrow account funded by Vangas pursuant to the consent order. The DOE has tentatively established procedures under which retail customers who rented storage tanks from Vangas in California during the audit period may file claims for refunds from the consent order fund. Applications for Refund should *not* be filed at time. Appropriate public notice will be given when the submission of claims is authorized.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of publication of this notice in the **Federal Register**, and should be sent to the address set forth at the beginning of this notice. All comments received in this proceeding will be available for public inspection between the hours of 1:00 to 5:00 p.m., Monday through Friday, except federal holidays, in the Public Docket Room of the Office of Hearings and Appeals, located in Room 1E–234, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

Dated: September 28, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

Proposed Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

Name of Case: Vangas, Inc.
Date of Filing: October 13, 1983.
Case Number: HEF–0189.

This proceeding involves a Petition for the Implementation of Special Refund Procedures filed by the Economic Regulatory Administration (ERA) with the Office of Hearings and Appeals (OHA) pursuant to the provisions of 10 CFR Part 205, Subpart V. Under those procedural regulations, ERA may request that OHA formulate and implement special procedures to make refunds in order to remedy the effects of actual of alleged violations of the Department of Energy (DOE) regulations. ERA filed the petition in this case in connection with a consent order that it entered into with Vangas, Inc.

Vangas marketed petroleum products to resellers and end-users during the period of federal price controls, and was therefore subject to the Mandatory Petroleum Price Regulations set forth at 10 CFR Part 212, Subpart F. Its main office is in Fresno, California. A DOE audit of Vangas's records revealed possible violations of DOE price regulations with respect to the rental of liquid propane gas storage tanks to consumers through its California retail division during the period commencing September 1, 1973 and ending October 31, 1977 (hereinafter referred to as the audit period).

In order to settle all claims and disputes between Vangas and the DOE regarding the firm's sales of propane and charges for storage tank rental during the audit period, Vangas and the DOE entered into a consent order on July 30, 1980. Under the terms of the consent order, Vangas agreed to refund $403,628, plus interest, "to tank rental customers in the California retail division by setting prices for propane two cents ($.02) per gallon below each branch's maximum lawful selling prices or each branch's market prices, whichever are lower, until the total amount has been refunded." The consent order provided that, in the event that the pricing of propane was exempted from the DOE petroleum price regulations before the total amount was refunded, the unrefunded balance would be turned over to the DOE. At the time of decontrol, Vangas had refunded all but $30,362, including interest, which the firm subsequently remitted to the DOE. That sum is being held in an interest-bearing escrow account established with the United States Treasury pending a determination of its proper distribution. As of July 31, 1984, the Vangas escrow account had earned $12,956.28 in interest.

This Proposed Decision discusses the establishment of procedures for distribution of the $30,362 that was deposited into the escrow account, plus the accrued interest. We will describe the information that a claimant should submit in order to demonstrate that it is eligible to receive a portion of the consent order funds. We will not, however, propose procedures at this time for the disposition of funds that may remain in the escrow account after all claims have been paid.

I. Jurisdiction

We have considered ERA's Petition for the Implementation of Special Refund Procedures and determined that it is appropriate to establsih such a proceeding with respect to the Vangas consent order fund. The Subpart V regulations set forth guidelines by which OHA may formulate and implement a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. The Subpart V process may be used in situations where the DOE is unable readily to ascertain the persons who were injured or the amounts such persons may be eligible to receive as a result of enforcement proceedings. *See, e.g., Office of Enforcement*, 9 DOE ¶ 82,553 at 85,284 (1982). In other recent decisions, we have discussed at length our jurisdiction and authority to fashion special refund procedures. *Id.* ERA indicated in its present Petition that it is unable to identify injured customers in this case, and there is nothing in the record to indicate that ERA is incorrect. We will therefore grant ERA's petition and assume jurisdiction over the distribution of the Vangas consent order funds.

II. Refund Procedures

A. Refunds to Injured Purchasers

We propose that the Vangas consent order funds be distributed to claimants who satisfactorily demonstrate that they have been injured by Vangas's alleged violations. The information available to us at this time regarding Vangas operations does not provide the names and addresses of the firm's customers. However, the consent order limits the universe of potential refund recipients to those who rented propane tanks through the California retail division. Therefore, the pool of eligible claimants will comprise consumers who rented such tanks from a Vangas branch located within the State of California (or in Sparks, Nevada) during the period September 1, 1973 through October 31, 1977.

The ERA audit materials indicate that charges for tank rentals were assessed yearly and increased with the capacity of the tank rented. In order to receive a refund, each claiment will be required to

establish the length of time during the consent order period that it rented its tank or tanks from Vangas. In addition, it must establish the total volume capacity of the tank or tanks it rented for that period.

As stated above, the consent order provides that refunds be made to only one class of purchasers: customers of the firm's California retail division. Therefore, by definition, these potential claimants being ultimate consumers of Vangas petroleum products, were injured by the alleged violations because they had no opportunity to pass on the costs associated with the alleged overcharges. Consequently, applicants will not be required to submit any proof of injury other than evidence of storage tank rental, in order to qualify for a refund. *See Standard Oil Co. (Indiana)/Union Camp Corp.*, 11 DOE ¶ 85,007 (1983); *Standard Oil Co. (Indiana)/Elgin, Joliet, and Eastern Railway*, 11 DOE ¶ 85,105 (1983) (end-users of various refined petroleum products granted refunds solely on the basis of documented purchase volumes). In this proceeding an end-user/consumer need only document the capacity of the propane storage tanks that it rented from Vangas and the length of time it rented them during the audit period in order to prove that it was injured and receive a refund.

A successful refund applicant will receive a refund based upon a volumetric method of allocating refunds. Under this method, a volumetric refund amount is calculated by dividing the settlement amount by an estimate of the total storage capacity of Vangas's rental propane tanks during the period covered by the consent order. (*1*) In the present case, based on the information available to us at this time, the volumetric refund amount is $.000539 per gallon of storage capacity rented per year ($30,362 received from Vangas, Inc., divided by 56,249,991 gallons (*2*), the firm's total storage capacity that was rented to California consumers during the audit period), exclusive of interest.

Successful claimant's refunds will be calculated by multiplying the capacity of the tanks that they rented by the number of years (or fractions of years) during which they rented from Vangas, then multiplying the result by the per-gallon refund amount. Successful claimants will also receive a proportionate share of the interest accrued on the consent order fund since it was remitted to DOE. As of July 31, 1984, accrued interest will increase the per-gallon refund amount to $.000770. Although we have proposed a volumetric method for allocating refunds, a claimant may submit additional evidence if it claims that it bore a disproportionate percentage of the alleged overcharges, resulting in a level of economic injury greater than the volumetric figure.

As in previous cases, we will establish a minimum refund amount of $15.00 for first stage claims. We have found through our experience in prior refund cases that the cost of processing claims in which refunds are sought for amounts less than $15.00 outweighs the benefits of restitution in those situations. *See, e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 at 85,225 (1982); *see also* 10 CFR 205.286(b).

Detailed procedures for filing applications will be provided in a final Decision and Order. Before disposing of any of the funds received as a result of the consent order involved in this proceeding, we intend to publicize widely the distribution process, to solicit comments on the proposed refund procedures, and to provide an opportunity for any affected party to file a claim. In addition to publishing notice in the **Federal Register**, we will provide announcements that summarize the refund proceeding to the local media serving the areas in which Vangas's California retail division rented propane tanks. We solicit comments regarding any additional methods for advising potential claimants of this proceeding.

B. Distribution of the Remainder of the Consent Order Funds

In the event that money remains after all claims by eligible consumers have been disposed of, undistributed funds could be distributed in a number of different ways. However, we will not be in a position to decide what should be done with any remaining funds until the refund procedure described above is completed. We will accept comments containing proposals for alternative distribution of the remaining funds upon proper notice to the parties and the interested public.

It Is Therefore Ordered That:

The refund amount remitted to the Department of Energy by the Vangas, Inc. pursuant to the consent order executed on July 30, 1980 will be distributed in accordance with the foregoing Decision.

Footnotes

(*1*) Volumetric refund amounts are usually calculated dividing the settlement amount by the total gallonages of products covered by the consent order. In the present case, however, in which the consent order specified that all alleged overcharges were due to tank rental and not due to the pricing of any product, we have determined that the proposed method will result in the most equitable distribution to injured parties.

(*2*) This figure is equal to 13,500,000 gallons per year multiplied by 4⅙ years (50 months). We determined that the California retail division rented an estimated average of 13,500,000 gallons of storage capacity in each year of the consent order period by considering the actual storage capacity figures supplied by the firm for the years 1976 and 1977, extrapolating estimates for the earlier years based on those figures, and taking an average of the estimated and actual yearly figures.

[FR Doc. 84-26790 Filed 10-9-84; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of August 20 Through August 24, 1984

During the week of August 20 through August 24, 1984, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

John Hnatio, 8/22/84; HFA-0214

John Hnatio filed an Appeal under the Freedom of Information Act in which he sought an undeleted version of a document entitled "Talking Points for Meeting with Mr. Christy, dated June 17, 1983." In considering the Appeal, the Office of Defense Programs advised the Office of Hearings and Appeals that certain portions of the document initially withheld pursuant to Exemption 1, which related to corrected security deficiencies at DOE facilities, were no longer classified, and could therefore be released. Accordingly, the Office of Hearings and appeals directed the release of the unclassified portions of the document.

Remedial Order

Starks Shell Service, 8/22/84; HRO-0005

Starks Shell Service objected to two Proposed Remedial Orders which the Economic Regulatory Administration issued to the firm on May 29, 1981. In the Proposed Remedial Orders, the ERA found that the firm had sold motor gasoline from its two retail outlets at prices in excess of the firm's maximum lawful selling prices under the Mandatory Petroleum Price Regulations. After considering the firm's Statement of Objections, the DOE concluded that the Proposed Remedial Orders should be issued, with certain modifications, as final Orders.

Request for Exception

Petro-Wash, Inc., 8/24/84; HEE-0094

Petro-Wash, Inc. filed an Application for Exception from the EIA reporting requirements in which the firm sought to be relieved of the responsibility to submit Form EIA-782B, entitled "Reseller/Retailers' Monthly Petroleum Product Sales Report." In

considering the request, the DOE found that the firm had failed to show that it was difficult for it to compile the required information or that preparation of the Form placed an unreasonable burden upon it. Accordingly, exception relief was denied.

Interlocutory Order

Economic Regulatory Administration (RFB Petroleum, Inc.), 8/21/84: HRZ-0159

The Economic Regulatory Administration filed a motion to join three additional parties to a Proposed Remedial Order that was issued to RFB Petroleum, Inc. In considering the request, the DOE stated that it need not at this time reach a decision on liability, but only whether the ERA has established a *prima facie* case. The DOE granted the motion. In doing so, the DOE found that RFB Trading Company, Inc. and Robert F. Brown, an individual, should be joined with respect to the actual transactions engaged in by RFB Trading and by Brown, through a sole proprietorship. The DOE also found that there was suffcient evidence to warrant joining Brown, who is the principal shareholder and officer of RFB Trading and RFB Petroleum, with respect to the transactions carried out by these corporate entities. CMC Oil Company was also joined as a party to the proceeding on the ground that it was a joint venturer in some of the transactions at issue.

Supplement Order

Atlantic Richfield Co./OSC, 8/21/84: HRX-0103

This supplemental remedial order concerns submissions filed by Atlantic Richfield Company (Arco) and the Office of Special Counsel for Compliance (OSC) pursuant to a final remedial order issued to Arco by the Office of Hearings and Appeals (OHA) on March 22, 1984. In the March 22 Remedial Order, the OHA retained jurisdiction over portions of the Proposed Remedial Order issued to Arco in 1979, including paragraphs pertaining to the St. Mary Parish Lease, and the State 3242 and 3120 Leases. The Remedial Order required the OSC to submit revised calculations of the overcharges for the St. Mary Parish Lease, and required Arco to submit documentation indicating the percentage royalty interests held by the State of California on State 3120 and 3242 Leases. In the present decision, the OHA accepted the submissions of the parties, and held that the total amount of overcharges for the St. Mary Parish Lease and the State 3242 Lease is $3,836,296.99. Accordingly, Arco is ordered to deposit that amount plus interest in the interest bearing account set up pursuant to the March 22, 1984 remedial order.

Implementation of Special Refund Procedures

Amtel, Inc., 8/24/84: HEF-0027

The Office of Hearings and Appeals (OHA) issued a final Decision and Order implementing special refund procedures to distribute $1,250,000 received as a result of a consent order entered into by Amtel, Inc. and the Office of Enforcement on February 7, 1980. In this Decision, the OHA determined that a two-stage refund process is the most efficacious way to distribute the consent order monies. The Decision therefore initiated the first step of the refund process by inviting applications for refund from injured purchasers of gasoline and/or middle distillates from Amtel or its subsidiaries. The Decision noted that the OHA will not determine procedures for the second stage until all meritorious first-stage claims have been paid.

Webster Oil Company, Inc., 8/20/84: HEF-0195

The Office of Hearings and Appeals issued a final Decision and Order setting forth procedures to be used in filing applications for refund for a portion of the settlement funds obtained as the result of the consent order which the DOE entered into with Webster Oil Company, Inc. The funds will be available to customers which purchased propane, motor gasoline, or Nos. 1 and 2 fuel oils from Webster Oil Company, Inc., Webster Oil and Gas Company, Inc., Webster Hydro Gas Company, Inc., Sac-Osage Oil and Gas Company, Inc., or Tri-Lakes Oil and Gas Company, Inc. during the period November 1, 1973 (October 1, 1973 for propane) through May 20, 1974. Applications for refund must be postmarked within 90 days of the publication of the decision in the **Federal Register**. Specific information to be included in refund applications is discussed in the decision.

Refund Applications

OKC Corporation/Curt's Oil Company, 8/21/84: RF13-19

The DOE issued a Decision and Order concerning an Application for Refund filed by Curt's Oil Company (Curt's). Curt's sought a portion of the settlement fund obtained by the DOE through a consent order entered into with OKC Corporation. Curt's is an independent retailer of petroleum products which purchased motor gasoline from OKC during the period covered by the Consent Order. In analyzing Curt's refund application, the DOE noted that a demonstration of the existence of unrecouped product cost "banks" is a necessary prerequisite to establishing eligibility for a refund based on a purchase level exceeding 50,000 gallons per month of a covered product. The DOE found tht since Curt's failed to maintain, and could not therefore submit, cost bank data in support of its refund request, the applicant had not made a sufficient demonstration of injury due to OKC's pricing practices to warrant a refund in excess of the threshold level. Accordingly, the DOE limited Curt's refund to the threshold level. The refund granted totalled $11,777 plus interest.

Standard Oil Company (Indiana)/E.P. Nisbet Company, 8/20/84: RF21-12346

The DOE issued a Decision and Order concerning an Application for Refund filed by a reseller of middle distillates, E.P. Nisbet Company (E.P. Nisbet). As a reseller of middle distillates, E.P. Nisbet's refund was calculated based on the presumption of injury methodology outlined in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). Pursuant to this methodology, the refund granted to E.P. Nisbet totalled $17,704.

Dismissals

The following submissions were dismissed:

Company	Case No.
Bates & Virginia Standard	RF21-8083
Carondelet Amoco	RF21-8082
Southside Standard	RF21-8084
Jamestown Garage & Service	RF21-7155
West End Amoco Inc	RF21-7883
Self Fill & Fix	RF21-7984
Johnny's Ford Service	RF21-8047
Fred Evans Standard	RF21-7700
George Koenig	RF21-12159
Linck's Amoco Service	RF21-7901
Stillwater Standard	RF21-11999
George Manoff	RF21-7690
Broadway Standard Station	RF21-4810
Timberlaine Brothers	RF21-8316
O'Loughlin Oil Company	RF21-7657
Joe Rickman's Standard Service	RF21-7644
Dick's Ephrain Standard	RF21-7852
William K. Knudsen	RF21-7599
Richard Balota	RF21-7241
Mel-Burn Servicenter No. 6	RF21-6980
Benton Amoco	RF21-6816
Moger's Auto Repair Service	RF21-7578
Resources Extraction and Processing Co	HRD-0121 HRD-0129 HRH-129
Two Brothers Amoco Service	RF21-7763

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays, they are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: September 19, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 84-26762 Filed 10-9-84; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of August 27 through August 31, 1984

During the week of August 27 through August 31, 1984, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Casson, Calligaro & Mutryn, 8/31/84: HFA-0237

Casson, Calligaro & Mutryn filed an Appeal from a denial of a request for information submitted under the Freedom of Information Act. The firm requested access to certain documents related to the definition of "produced" in the Windfall Profits Tax Act. Because all of the documents were either drafts or intra-agency memoranda concerning drafts, the DOE concluded that they had been properly withheld from disclosure under Exemption 5 of the Freedom of Information Act, and the Appeal was denied.

Merit Petroleum, Inc., 8/27/84; HFA–0235

Merit Petroleum, Inc. filed an Appeal from a denial by the Office of Fuels Programs of the Economic Regulatory Administration of a Request for Information which was submitted under the Freedom of Information Act (the FOIA). The requester sought release of 182 specifically enumerated documents. In considering the Appeal, the DOE found that the Denying Official had properly withheld most of the documents pursuant to Exemption 5 of the FOIA. The DOE found, however, that certain documents contained segregable factual material that could not be withheld under Exemption 5. That material was ordered released. The DOE further held that it was necessary to remand certain documents for a more adequate explanation of the reasons for withholding those documents. Accordingly, the Appeal was granted in part and denied in all other respects.

Motion for Discovery

Warrior Oil Co., 8/29/84; HRD–0182, HRH–0182

On October 17, 1983, the ERA issued a PRO to Warrior Oil Company (Warrior) alleging that the firm charged prices for crude oil in excess of its maximum legal selling price (MLSP) in violation of 10 CFR 212.10 and 212.93. Warrior sought extensive audit related discovery in order to support its claim that the ERA had not supplied it with sufficient information to understand the allegations in the PRO. The firm also sought both discovery and an evidentiary hearing for the purpose of showing that the product it sold was not crude oil as defined in 10 CFR 212.31. Specifically, Warrior contended that the product was virtually solid upon extraction and could not have been fairly considered a liquid at atmospheric pressure as described in § 212.31.

The OHA examined both the Attachments to the PRO and the audit workpapers supplied to the firm, and found that they contained all the information necessary to understand and challenge the allegations made in the PRO. Specifically, the OHA tracked the ERA's calculation of Warrior's MLSP, explaining in detail the various components of that calculation and how those components interrelate. The OHA determined, however, that an evidentiary hearing should be convened in order to allow the firm to present evidence regarding the physical characteristics of the product it sold. Accordingly, the Motion for Discovery was denied, and the Motion for an Evidentiary Hearing was granted.

Motion for Evidentiary Hearing

Marathon Petroleum Co., Marathon Oil Co., 8/28/84; HRH–0021

On October 3, 1983, Marathon Petroleum Company/Marathon Oil Company (Marathon) filed a Motion for Evidentiary Hearing in connection with a Statement of Objections to a Proposed Remedial Order that was issued to the firm by the Economic Regulatory Administration (ERA) on July 23, 1980. In considering the motion, the DOE determined with respect to the purported factual issues presented by Marathon that a number of the issues should be deemed admitted by the ERA, that many of the issues were actually legal in nature, and that many of the remaining asserted issues were either vague or irrelevant. The DOE determined, however, that Marathon had presented one disputed issue of fact that was appropriate for resolution in the context of an evidentiary hearing. Accordingly, Marathon's Motion for Evidentiary Hearing was granted in part.

Interlocutory Orders

Economic Regulatory Administration, 8/27/84; HRZ–0210

The Economic Regulatory Administration filed a motion to join Hudson Refining Company, Inc. (Hudson Refining) as a party respondent in a pending Proposed Remedial Order (PRO) proceeding involving Hudson Oil Company, Inc. In considering the motion, the Office of Hearings and Appeals determined that there was good cause to join Hudson Refining, that Hudson Refining would not be unduly prejudiced by the joinder, and that joinder would not unduly delay the PRO proceeding. The Office of Hearings and Appeals also determined that Hudson Refining should be permitted to raise its objections to the PRO issued to Hudson Oil Co. Accordingly, the ERA Motion was granted.

Texakota, Inc., 8/31/74; HRZ–0218

Texakota, Inc. filed a motion to dismiss a Proposed Remedial Order (PRO) issued to it by the Office of Special Counsel of the Economic Regulatory Administration (OSC). Texakota argued that the PRO fails to meet regulatory and due process requirements because it contains many erroneous factual allegations. The OSC opposed the motion on the grounds that it was merely an effort to delay the filing of the firm's Statement of Objections, and the factual issues raised should be argued in the Statement of Objections. The Office of Hearings and Appeals held that the PRO issued to Texakota satisfies the regulatory requirements for a PRO and establishes a prima facie case. The OHA further held that challenges to facts alleged in the PRO should be presented as defenses in Texakota's Statement of Objections. Accordingly, the motion to dismiss was denied.

Implementation of Special Refund Procedures

U.S. Compressed Gas Co., 8/28/84; HEF–0188

The Office of Hearings and Appeals issued a final Decision and Order setting forth procedures to be used in filing applications for refunds of a portion of the settlement funds obtained as the result of a consent order which the DOE entered into with U.S. Compressed Gas Company. The funds will be available to customers who purchased propane from U.S. Compressed Gas during the period November 1973 through September 1976. Applications for refund must be postmarked within 90 days of the publication of the decision in the **Federal Register**. Specific information to be included in refund applications is discussed in the decision.

Windham Gas and Oil Co., 8/27/84; HEF–0198

The Office of Hearings and Appeals issued a final Decision and Order setting forth procedures to be used in filing applications for refund for a portion of the settlement funds obtained as the result of the consent order which the DOE entered into with Windham Gas and Oil Company. The funds will be available to customers which purchased motor gasoline from Windham during the period March 1, 1979 through August 31, 1979. Applications for refund must be postmarked within 90 days of the publication of the decision in the **Federal Register**. Specific information to be included in refund applications is discussed in the decision.

Refund Applications

Belridge Oil Co./New York, Palo Pinto Oil and Gas/New York, 8/27/84; RQ8–108, RM5–1

The State of New York filed applications for refund in connection with settlement funds obtained as the result of the consent order which the DOE entered into with Belridge Oil Company and Palo Pinto Oil and Gas. The Palo Pinto refund had been prevously approved, and New York's present application was to modify its utilization plan in that proceeding in accordance with the proposed utilization plan in the Belridge proceeding. The revised New York plan proposes to use both refunds to expand its Local Ridesharing Service Program. The DOE found that New York's plan in both proceedings adequately benefits that class of individuals which was affected by the alleged overcharges. Accordingly, the Palo Pinto request was approved and the Belridge refund was granted.

OKC Corp./E–Z Serve, Inc., 8/29/84; RF13–21

The DOE issued a Decision and Order concerning an Application for Refund filed by E–Z Serve, Inc. E–Z Serve sought a portion of the settlement fund obtained by the DOE through a consent order entered into with OKC Corporation. E–Z Serve is an independent retailer of petroleum products which purchased motor gasoline from OKC during the consent order period. Upon evaluating E–Z Serve's refund request, the DOE concluded that E–Z Serve was injured by OKC's pricing practices during the consent order period and was therefore eligible for a refund. However, before granting E–Z Serve's refund request, the DOE adjusted downward the volume of OKC gasoline purchased by E–Z Serve which was eligible for refund consideration to reflect periods when OKC gasoline was competitively priced.

Standard Oil Co. (Indiana)/Cedar Valley Standard, et al., 8/31/84; RF21–04059 et al.

The DOE issued a Decision and Order concernig 24 Applications for Refund filed by retailers of Amoco motor gasoline. All of these firms elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel,* 10 DOE ¶ 85,048 (1982). In considering these applications, the DOE concluded that each of the 24 applicants should receive a refund based upon the total volume of their Amoco motor gasoline purchases. The refunds granted in this proceeding total $19,958.

Standard Oil Co. E.P. Nisbet Co., 8/30/84: RF21-12356

A Decision and Order has been issued to E.P. Nisbet Company in which a refund granted to the firm was incorrectly calculated. In this Decision, therefore, the correct refund amount was calculated, and the DOE granted E.P. Nisbet a refund in the amount of $6,728.

Dismissals

The following submissions were dismissed:

Company name	Case No
A L. Scongno's Amoco	RF21-7370
American Wash System	RF21-12227
Amoco Kwik Shop	RF21-11363
Bernard Johnson	RF21-22670
Bill Drenmen	RF21-11668
Bill's Standard	RF21-11852
Billy D. Cagle	RF21-6900
Bob Booth	RF21-11683
Carol Wiechen	RF21-11851
Clarence's Standard Service	RF21-11420
Donaldson's Standards	RF21-11861
Earl Humphrey	RF21-11686
Fred Bahls	RF21-11859
George Fawns	RF21-11854
Gillespie Standard Service	RF21-11316
Gregory D. Hobbs	RF21-11871
H.C. Billingsley	RF21-11684
Herbert Vinson	RF21-11672
Houma Oil Company, Inc.	HRO-0206
Jeff Streeter	RF21-11870
Jim Seifert	RF21-11865
Joe Stefko	RF21-11879
	RF21-11880
	RF21-11881
Joseph Zigmians	RF21-0857
Liggins Standard	RF21-11058
Mack Hood	RF21-11868
Neck Pike Service Station	RF21-10713
Raymond J. Herbst Standard	RF21-11050
Roy DeJarnett	RF21-11877
	RF21-11878
Sher's Automotive Center	RF21-11013
Standard Oil Station	RF21-3535
	FR21-3536
Stressman Service	RF21-11090
Swigert & Robinson Standard	RF21-11680
Texakota, Inc	HRS-0045
	HRT-0045

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: September 19, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 84-26783 Filed 10-9-84; 8:45 am]

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Issuance of Decisions and Orders; Week of September 10 through September 14, 1984

During the week of September 10 through September 14, 1984, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: September 26, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

Appeals

John Wilson, 9/10/84; HFA-0236

John Wilson filed an Appeal from a partial denial by the Office of General Counsel of the Bonneville Power Administration (BPA) of a Request for Information which he had submitted under the Freedom of Information Act. The information request had been denied on the ground that the information sought fell within Exemption 5 of the Act, either because it was predecisional and deliberative, or because it was attorney work-product which had been prepared in anticipation of litigation. In considering the Appeal, the DOE found that certain of the documents were not properly withheld and that others contained some segregable factual portions which could be released. Accordingly, the Appeal was granted in part.

Sutherland, Asbill & Brennan, 9/11/84; HFA-0239

Sutherland, Asbill & Brennan filed an Appeal from a denial by the Economic Regulatory Administration of a Request for Information which the firm had submitted under the Freedom of Information Act. In considering the Appeal, the DOE determined that release of the names of crude oil resellers in connection with information from Schedule IV of Form ERA-69 would not cause harm to the competitive positions of the resellers. In this regard, the DOE found that the information, which was obtained prior to decontrol, had very little predictive value regarding current business practices. The DOE therefore concluded that the information was not exempt from mandatory disclosure pursuant to 5 U.S.C. 552(b)(4). Accordingly, the Appeal was granted.

Remedial Order

Echo Drilling, 9/11/84; HRO-0140

Echo Drilling, Inc. objected to a Proposed Remedial Order that the Economic Regulatory Administration (ERA) of the Department of Energy issued to the firm on November 5, 1982. In the Proposed Remedial Order, ERA alleged that during the period June 1, 1974 through January 31, 1981, Echo resold crude oil at prices that exceeded the maximum price levels applicable to crude oil resellers. In considering the firm's Statement of Objections, the DOE found that, contrary to the firm's assertion, Echo was a reseller and that it had improperly raised its transportation fees, thereby increasing the prices of the crude oil it resold to levels above those permitted under Subparts F and L of the DOE price regulations. Accordingly, the DOE concluded that the Proposed Remedial Order should be issued as a final Remedial Order of the Department of Energy.

Request For Stay

Traco Petroleum Co, 9/14/84: HRS-0044

Traco Petroleum Company requested that the Office of Hearings and Appeals stay the deadline by which Traco was required to file its Statement of Objections to a Proposed Remedial Order. Traco asserted that it needed more time to consider information which it had requested from the Economic Regulatory Administration. The DOE denied the Application for Stay because it found that Traco did not satisfy any of the criteria specified in 10 CFR 205.125(b). Specifically, the DOE held that Traco could attempt to obtain additional information by filing a Motion for Discovery in conjunction with its Statement of Objections.

Motion For Discovery

Merit Petroleum, Inc., 9/14/84; HRD-0174, HRH-0174

Merit Petroleum, Inc. filed a Motion for Discovery and a Motion for Evidentiary Hearing in connection with its Statement of Objections to a Proposed Remedial Order that was issued to the firm. In its motions, Merit sought discovery of information pertaining to (i) the audit of the firm, (ii) various rulemakings applicable to crude oil resellers, and (iii) the DOE's contemporaneous construction of portions of the crude oil reseller regulations. The DOE found that Merit's Motion for Discovery should be denied since it would not elicit evidence relevant and material to the issues raised in the firm's Statement of Objections. In this regard, the DOE found that (i) discovery concerning the audit was not warranted since the firm would already have information concerning the manner in which the overcharges alleged in the PRO were calculated and since the adequacy of the PRO would be determined on the basis of the PRO itself and other submissions filed in this proceeding; (ii) no special circumstances existed in this case that would warrant discovery pertaining to rulemakings, (iii) Merit had not made a sufficient preliminary showing of bad faith conduct sufficient to warrant probing the mental processes of agency officials; and (iv) Merit had failed to show that the regulations were sufficiently ambiguous to warrant contemporaneous construction discovery.

Refund Applications

Standard Oil Co. (Indiana)/Bona Fide General Agency, Detroit Edison Co., 9/13/84; RF21-12339, RF21-12350

The DOE issued a Decision and Order concerning Applications for Refund filed by Bona Fide General Agency and Detroit Edison Company in connection with their

purchases of Amoco motor gasoline for ultimate consumption. Both applicants elected to apply for a refund based upon the presumptions of injury and the formula outlined in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982) (*Amoco*). In considering the applications, the DOE concluded that the applicants should receive refunds based upon the total volume of their eligible Amoco motor gasoline purchases. The refunds granted in this proceeding total $13,368.

Willis Distributing Co., Inc./Gene's Transmission et al., 9/12/84; RF41–2, et al.

The DOE issued a Decision and Order concerning three Applications for Refund filed by purchasers of motor gasoline from Willis Distributing Company, Inc. These firms elected to apply for a refund based upon the presumption of injury outlined in *Willis Distributing Company, Inc.*, 12 DOE § 85,062 (1984). In considering these applications, the DOE concluded that each of the applicants should receive a refund based upon the total volume of its Willis motor gasoline purchases. The refunds granted in this proceeding total $4,248.

Dismissals

The following submissions were dismissed:

Name	Case No.
Armstrong Propane	RF26–18.
B&J Standard	RF21–11396.
Detroit Edison Co	RF21–12351
James Buttney	RF21–11678.
Penberthy Electromelt International Inc.	HFA–0234
Saugaash Standard Service	RF21–7254.

[FR Doc. 84–26765 Filed 10–9–84; 8:45 am]
BILLING CODE 6450–01–M

Issuance of Decisions and Orders; Week of July 30 through August 3, 1984

During the week of July 30 through August 3, 1984, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

International Brotherhood of Electrical Workers, 7/30/84; HFA–0232

The International Brotherhood of Electrical Workers (IBEW) filed a motion requesting reconsideration of a decision issued by the Office of Hearings and Appeals (OHA). That decision denied IBEW's appeal from a determination issued by the Manager of the Idaho Operation Office. In that determination the Manager withheld the names of employees on certified payroll records pursuant to 5 U.S.C. 552(b)(6) (Exemption 6) of the Freedom of Information Act. In its motion, IBEW claimed that the determination should be reconsidered in light of the decision in *International Brotherhood of Electrical Workers Local 41 v. HUD, (IBEW)*. OHA pointed out that in *IBEW*, the court found that the names of employees on payroll records should be released. The OHA concluded that the decision raised factual issues which should be considered initially by the Manager. Accordingly, the matter was remanded to the Manager with directions to review *IBEW*, and thereafter either to release the names of the employees or issue a determination that the names properly fall within the protection of Exemption 6.

Remedial Order

Amcole Energy Corp., et al., 8/3/84; HRO–0106

Amcole Energy Corporation and six working interest owners (Respondents) of a crude oil producing property objected to a Proposed Remedial Order issued to them by the Economic Regulatory Administration of the Department of Energy. The PRO alleged that the Respondents sold crude oil at prices exceeding the ceiling price levels. The Respondents objected to the ERA's claim that a reservoir from which they alleged that they began producing crude oil in 1975 was not entitled to treatment as a separate property. The DOE sustainted this objection in part, and issued the PRO as a final Remedial Order with appropriate modification. The important issues discussed in the determination were (1) the type of evidence sufficent to established the existence of separate reservoirs for purposes of 10 CFR 212.72, and (2) the apportionment among PRO recipients of the obligation to refund overcharges.

Request for Exception

Sky Oil Co., 8/2/84; HEE–0085

Sky Oil Company filed an Application for Exception in which the firm sought to be relieved from the requirement to file Form EIA–782B, "Reseller/Retailers' Monthly Petroleum Product Sales Report." In considering the request, the DOE found that the firm would not suffer an inordinate burden in fulfilling its reporting requirement. Accordingly, exception relief was denied.

Request for Modification and/or Rescission

Economic Regulatory Administration, 8/3/84; HRR–0093

The Economic Regulatory Administration filed a Motion for Modification of a Remedial Order issued to Marathon Petroleum Company/Marathon Oil Company. In considering the Motion, the DOE determined that the requested modifications served to rectify appropriately certain typographical and calculational errors contained in the Remedial Order. The modification request was therefore granted.

Implementation of Special Refund Procedures

Willis Distributing Co., Inc., 8/2/84; HEF–0197

The Office of Hearings and Appeals issued a Decision and Order setting forth procedures to be used in filing applications for refund for a portion of the settlement funds obtained as the result of the consent order which the DOE entered into with Willis Distributing Company, Inc. The OHA ordered that the funds be distributed to customers which purchased motor gasoline from Willis during the period April 1, 1979, through September 30, 1979, and which were injured as a result of those purchases. The Decision sets forth specific information which must be included in refund applications.

Refund Applications

Anadarko Production Co/Cities Service Co., Anadarko Production Co./Farmland Industries, Inc., 7/31/84; RF12–1, RF12–2

Cities Service Company and Farmland Industries, Inc. filed Applications for Refund in which the firms sought a portion of the fund obtained through a consent order entered into by the DOE and Anadarko Production Company. In considering the request, the DOE found that Cities Service experienced a competitive disadvantage with respect to its purchases of propane from Anadarko, and concluded that the firm should receive a refund of $791 plus interest. In considering the Farmland refund request, the DOE noted that Farmland is a firm owned by numberous agricultural cooperatives which sell propane to their members. The DOE pointed out that since the cooperatives' members are end-users, they would not have passed through the alleged overcharges associated with their propane purchases. Farmland was therefore granted a refund of $83,283 on the condition that the refund is distributed to the cooperatives' member end-users.

Standard Oil Co. (Indiana)/Hart's Amoco Station, 8/3/84; RF21–8190

The DOE issued a supplemental Decision and Order concerning Hart's Amoco Station. The DOE found that the Amoco gasoline purchase volume figures in Hart's original Application for Refund were incorrect, and that Hart's should receive an additional refund of $1,042.

Standard Oil Co. (Indiana)/Lou's All Service, Inc., 8/1/84; RF21–8169

The DOE issued a Decision and Order concerning an Application for Refund filed by Lou's All Service, Inc., a branded retailer of Amoco motor gasoline. Lou's elected not to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Sepcial Counsel*, 10 DOE ¶ 85,048 (1982). Lou's submitted detailed information concerning its Amoco purchase volumes, cost banks, profit margins, and gross profits. After analyzing the information submitted by the applicant, the DOE determined that Lou's had submitted adequate evidence that the firm was injured during 64 of the 82 months covered by the Amoco consent order and should receive a refund based upon the volume of Amoco motor gasoline that the firm purchased during those 64 months. Accordinlgy, Lou's application was granted in part. The refund granted to Lou's total $10,517.

Standard Oil Co., (Indiana)/O'Connell Oil Co., 8/3/84; RF21–11293

The DOE granted an Application for Refund filed by O'Connell Oil Company, a

wholesaler and retailer of Amoco motor gasoline, pursuant to which the firm had received a refund based on the wholesaler's 34 percent portion of the volumetric refund amount. O'Connell subsequently requested a refund with respect to the motor gasoline that it sold from its retail outlets. The DOE concluded that O'Connell should receive an additional refund of $1,062, based on the 6 percent difference between the retailer's 40 percent share and the wholesaler's 34 percent share of the volumetric refund amount.

Dismissal

The following submission was dismissed:

Name	Case No
Vanbus Corp	HRO-0093

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: September 18, 1984.

George E. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 84-26784 Filed 10-9-84; 8:45 am]

BILLING CODE 6450-01-M

Objection to Proposed Remedial Orders Filed; Week of August 13 Through August 17, 1984

During the week of August 13 through August 17, 1984, the notices of objection to proposed remedial orders listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial orders described in the Appendix to this notice must file a request to participate pursuant to 10 CFR 205.194 within 20 days after publication of this Notice. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in the proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585.

Dated: September 26, 1984.

George G. Breznay,

Director, Office of Hearings and Appeals.

International Petroleum Refining & Supply Co., Denver, CO.: HRO-0243, Crude Oil

On August 17, 1984, International Petroleum Refining & Supply Sdad. Ltda. of Denver, Colorado filed a Notice of Objection to a Proposed Remedial Order which the Economic Regulatory Administration (ERA) issued to the firm on July 11, 1984. In the PRO, the ERA alleges that during the period November 1974 through December 1980, the firm sold crude oil in violation of 10 CFR 212.93, 212.186, 210.62(c), 205.202 and 212.182. According to the PRO the violations resulted in $5,228,439.94 of overcharges.

Marathon Petroleum Co., Marathon Oil Co., Findlay, OH: HRD, 0242, Crude oil.

On August 17, 1984, Marathon Petroleum Company and Marathon Oil Company (Marathon) of Findlay, Ohio, filed a notice of Objection to a Proposed Order of Disallowance which the Office of Special Counsel of the Economic Regulatory Administration issued to the firm on July 20, 1984. In the POD the Office of Special Counsel found that during 1979, Marathon claimed and reported costs of imported crude oil in excess of those allowable under DOE regulations. According to the POD the Marathon violation resulted in $17,634,577.54 of cost overstatements.

As a remedy for this violation, the POD states that Marathon's costs should be disallowed by the amounts which exceed DOE's representative prices in the months in which the costs were incurred and that Marathon should recalculate its costs and make refunds of any resulting overcharges, plus interest.

Murphy Oil Corp., El Dorado, AR; HRO-0244, Refined Petroleum Products

On August 16, 1984, Murphy Oil Co., 200 Jefferson Ave., El Dorado, Arkansas 71730, filed a Notice of Objection to a Proposed Remedial Order which the DOE Southwest District Office Of Enforcement issued to the firm on August 16, 1984. In the PRO the Southwest District found that during the period August 1973 through December 1978, Murphy received revenues in excess of those allowed by the DOE refiner price regulations by failing to reduce its crude oil costs by the amounts of revenues it received from import tickets. The PRO contemplates that Murphy recalculate the cost of its crude oil from August 1973 through January 1981 and remit any overcharges, plus interest to the DOE.

Murphy Oil Corp., El Dorado, AR; HRO-0248, Refined Petroleum Products

On August 16, 1984, Murphy Oil Corporation, 200 Jefferson Ave., El Dorado, Arkansas 71730, filed a Notice of Objection to a Proposed Remedial Order which the Office of Special Counsel of the DOE Economic Regulatory Administration issued to the firm on April 16, 1984. In the PRO, the Office of Special Counsel found that during the period August 1973 through December 1978, Murphy improperly calculated its increased non-product costs, in violation of 10 CFR Part 212, Subpart E. According to the PRO the violation resulted in $2,010,587 of overcharges.

[FR Doc. 84-26767 Filed 10-9-84; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 2646-4]

California State Motor Vehicle Pollution Control Standards; Amendments Within the Scope of Previous Waivers of Federal Preemption; Summary of Determination

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of scope of waiver of Federal preemption.

SUMMARY: The California Air Resources Board (CARB) has notified EPA that it has adopted optional 1984 model year heavy-duty engine exhaust emission standards based on the Federal transient cycle test procedures. The amendments were adopted to ensure consistency between the California and Federal certification requirements. Other amendments to California's optional transient standards and test procedures for 1984 model year heavy-duty engines delay for one year the Federal crankcase emission requirement for naturally aspirated heavy-duty diesel engines to provide adequate compliance time for manufacturers and make minor changes in the optional engine labeling requirements to avoid consumer confusion. I find these amendments to be included within the scope of previously granted waivers of Federal preemption. Since these amendments are included within the scope of these waivers, a public hearing or comment period to consider them is not necessary. However, if any party asserts an objection to these findings within 30 days of the date of publication of this notice, EPA will consider holding a public hearing to provide an opportunity to present testimony and evidence to show that there are issues to be addressed through a section 209(b) waiver determination and that I should reconsider my findings. Otherwise, these findings will become final at the expiration of this 30-day period.

DATES: Any objection to the findings in this notice must be filed within 30 days of the date of this notice; otherwise, at the expiration of this 30-day period

these findings will become final. Upon the receipt of any timely objection, EPA will consider scheduling a public hearing in a subsequent **Federal Register** notice.

ADDRESSES: Any objection to the findings in this notice should be filed with Mr. Charles N. Freed, Director, Manufacturers Operations Division (EN–340), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

Copies of the California amendments at issue in this notice, a decision document containing an explanation of my determination, and documents used in arriving at this determination, are available for public inspection during normal working hours (8:00 a.m. to 4:00 p.m.) at the Environmental Protection Agency, Central Docket Section, Gallery I, 401 M Street, SW., Washington, D.C. 20460 (Docket EN–83–08). Copies of the decision document can be obtained from EPA's Manufacturers Operations Division by contacting Ms. Crowe, as noted below.

FOR FURTHER INFORMATION CONTACT: Alice Crowe, Attorney/Advisor, Manufacturers Operations Division (EN–340–F), U.S. Environmental Protection Agency, Washington, D.C. 20460, (202) 382–2526.

SUPPLEMENTARY INFORMATION: I have determined that CARB's amendments are within the scope of waivers of Federal preemption previously granted pursuant to section 209(b) of the Clean Air Act, as amended (Act).[1] Specifically, the changes include optional 1984 model year heavy-duty engine exhaust emissions standards based on the Federal transient test cycle procedures; and two amendments that revise these optional standards. The first amendment to the optional standards would delay for one year until the 1985 model year the Federal crankcase emission standard for naturally-aspirated heavy-duty diesel engines. The second amendment would substitute existing California labeling requirements for the originally adopted Federal labeling requirements for all heavy-duty engines starting in the 1984 model year. These changes do not undermine California's determination that its own standards are, in the aggregate, at least as protective as Federal standards.

A full explanation of my determination is contained in a decision document, which may be obtained from EPA as noted above.

[1] 43 FR 998 (January 5, 1978); 43 FR 25729 (June 14, 1978); 47 FR 1015 (January 8, 1982).

Since these amendments are included within the scope of previously granted waivers of Federal preemption, a public hearing to consider them is not necessary. The public has not had an opportunity to comment in advance of this determination. Therefore, my determination on these amendments will become final at the expiration of 30 days following publication of this notice, unless an objection is filed and a public hearing is scheduled.

Note.—My decision will affect not only persons in California but also the manufacturers located outside the State who must comply with California's requirements in order to produce motor vehicles for sale in California. For this reason I hereby determine and find that this decision is of nationwide scope and efffect. Accordingly, judicial review of this action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit within 90 days of publication. Under section 307(b)(2) of the Act, the requirements which are the subject of today's notice may not be challenged later in judicial proceedings brought by EPA to enforce these requirements.

Section 3(b) of Executive Order 12291, 46 FR 13193 (February 19, 1981) requires EPA to determine initially whether a rule that it intends to propose or issue is a major rule and to prepare Regulatory Impact Analyses for all major rules. Section 1(b) of the Order defines "major rule" as any regulation that is likely to result in:

(1) An annual effect on the economy of $100 million or more:

(2) A major increase in costs or prices for consumers, individual industries, Federal, State or local Government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovative, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

EPA has determined that this action does not constitute a major rule. The action assures consistency between California and Federal requirements and as such reduces regulatory requirements on manufacturers. If anything, the action will likely result in cost savings to consumers, Government agencies and industries affected because of the reduced requirements.

Accordingly, a Regulatory Impact Analysis is not being prepared for this waiver determination.

This action is not a "rule" as defined in 5 U.S.C. 601(2) because EPA is not required to undergo "notice and comment" under section 553(b) of the Administrative Procedure Act, or any other law. Therefore, EPA has not prepared a supporting regulatory flexibility analysis addressing the impact of this action on small business entities.

Dated: October 2, 1984.

Alvin L. Alm,

Deputy Administrator.

[FR Doc. 84–26721 Filed 10–9–84; 8:45 am]

BILLING CODE 6560–50–M

[SAB–FRL–2689–5]

Science Advisory Board Executive Committee; Open Meeting

Under Pub. L. 92–463, notice is hereby given that a two-day meeting of the Executive Committee of the Science Advisory Board will be held on October 24–25, 1984, in Conference Room 1103, West Tower, 401 M Street, SW, Washington, D.C. 20460. The meeting will begin at approximately 9:15 am on October 24 and will adjourn at approximately noon on October 25.

Among the principal issues will be: (1) A briefing on interagency risk assessment and risk management efforts; (2) Committee and Subcommittee reports of Science Advisory Board; and (3) a discussion with the Administrator.

The meeting will be open to the public. Any member of the public wishing to attend or obtain information should contact Dr. Terry F. Yosie, Director, Science Advisory Board, (202) 382–4126 before close of business October 19, 1984.

Terry F. Yosie,

Director, Science Advisory Board.

[FR Doc. 84–26718 Filed 10–9–84; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection packages for approval in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title: State Operating Plan for Superfund Temporary Relocation
Type: Extension of 3067–0156
Abstract: This plan is used to document the State's proposal for temporary relocation implementation. It also

includes budget and outlay information.
Type of respondents: State or Local Governments
Number of respondents: 12
Burden hours: 144
Title: Application for Superfund Temporary Relocation Assistance
Type: Regular Submission
Abstract: This form is used to document applicant information needed to determine eligibility for, and provide temporary relocation
Type of respondents: Individuals or Households
Number of respondents: 500
Burden hours: 125

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley, (202) 287–9906, 500 C. Street, SW., Washington, D.C. 20472.

Comments should be directed to Mike Weinstein, Desk Officer for FEMA, Office of Information and Regulatory Affairs, OMB, Rm. 3235, New Executive Office Building, Washington, D.C. 20503.

Dated: October 3, 1984.

Walter A. Girstantas,

Director, Administrative Support.

[FR Doc. 84–26689 Filed 10–9–84; 8:45 am]

BILLING CODE 6718–01–M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202–007680–055.

Title: American West African Freight Conference.

Parties:
America—Africa Line
Barber West Africa Line
Cameroon Shipping Line
Companhia Nacional de Navegacao
Farrell Lines, Inc.
Medafrica Line
Nigeria America Line, Ltd.
Societe Ivoirienne de Transport Maritime,
SITRAM
Torm West Africa Line
Westwind Africa Line

Synopsis: The proposed amendment would increase the maximum level of fines which may be assessed by the neutral body for violations and would prescribe penalties for obstructing a neutral body investigation as well as authorizing the neutral body to adjudicate allegations of violations on the basis of a written exchange of evidence rather than a formal hearing.

Agreement No.: 217–009902–017.

Title: Hapag-Lloyd/French Line/Intercontinental Transport Cross Charter and Sailing Agreement.

Parties:
Compagine Generale Maritime
Hapag-Lloyd AG
Intercontinental Transport (ICT) B.V.

Synopsis: The proposed amendment would enable the parties to enter into a broader space cross charter and sailing agreement with another carrier or carriers in the same trade and would assure that the provisions of the broader agreement would prevail in the event of conflict with the provisions of Agreement No. 217–009902.

Agreement No.: 207–009973–011.

Title: Johnson Scanstar Joint Service.

Parties:
Blue Star Line, Ltd.
The East Asiatic Co., Ltd.
Johnson Line AB

Synopsis: The proposed amendment would eliminate a possible inconsistency between Agreement No. 207–009973 and a new space cross charter and sailing agreement between Johnson Scanstar, Hapag-Lloyd and Pacific Europe Express.

Agreement No.: 217–010648.

Title: Trans Freight Lines, Inc./Double Eagle Lines, Inc. Charter Agreement.

Parties:
Trans Freight Lines, Inc. (TFL)
Double Eagle Lines, Inc. (Double Eagle)

Synopsis: The proposed agreement would permit TFL to time charter a vessel to Double Eagle for use in the trade between U.S. North Atlantic ports and North Europe and would allow the parties to space charter to one another, rationalize sailing, interchange containers and chassis and to provide stevedoring and marine terminal or other services related to the physical handling of containers for each other. The parties have requested a shortened review period.

Agreement No.: 217–010649.

Title: Johnson Scanstar/Hapag-Lloyd/Pacific Europe Express Space Cross Charter and Sailing Agreement.

Parties:
Johnson Scanstar
Hapag-Lloyd AG
Pacific Europe Express

Synopsis: The proposed agreement would establish a new space chartering and sailing arrangement between the parties in the trade between the Pacific Coast of the United States and North Europe.

By Order of the Federal Maritime Commission.

Dated: October 3, 1984.

Francis C. Hurney,

Secretary.

[FR Doc. 84–26663 Filed 10–9–84; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

October 3, 1984.

Background

Notice is hereby given of final approval of proposed information collection(s) by the Board of Governors of the Federal Reserve System (Board) under delegated OMB authority, as per 5 CFR 1320.9 (OMB Regulations on Controlling Paperwork Burdens on the Public).

For Further Information Contact:

Federal Reserve Board Clearance Officer—Cynthia Glassman—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202–452–3829)

OMB Desk Officer—Judith McIntosh—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503 (202–395–6880)

Request for Extension With Minor Revisions to the Report Form

1. Report title: Consumer Satisfaction Questionnaire
Agency form number: FR 1379
OMB Docket number: 7100–0135
Frequency: On occasion
Reporters: Any entity that has a complaint regarding a state member bank. Small businesses are affected
General description of report: This information collection is voluntary; there are no issues that arise under the Privacy Act.

Board of Governors of the Federal Reserve System, October 3, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-26684 Filed 10-9-84; 8:45 am]

BILLING CODE 6210-01-M

Franklin Bancorp, et al., Formation of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's apporoval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 GFR 225.14) to become a bank holding company or to aquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than October 31, 1984.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Franklin Bancorp,* Somerset, New Jersey; to acquire 90 percent of the voting shares of Hillsborough National Bank, Belle Meade, New Jersey.

2. *Suffolk Bancorp,* Riverhead, New York; to become a bank holding company by acquiring 100 percent of the voting shares of Suffolk County National Bank, Riverhead, New York.

B. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Peoples Financial Corp., Inc.,* Ford City, Pennsylvania; to become a bank holding company by acquiring 50.22 percent of the voting shares of Peoples Bank of Ford City, Pennsylvania, Ford City, Pennsylvania.

2. *Woodford Bancorp, Inc.,* Versailles, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of The Woodford Bank & Trust Company, Versailles, Kentucky.

C. **Federal Reserve Bank of Chicago** (Frankling D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Citizens Banking Corporation,* Flint, Michigan; to acquire 100 percent of the voting shares of State Bank of Standish, Standish, Michigan.

2. *Rensselaer Financial Corporation,* Rensselaer, Indiana; to become a bank holding company by acquiring 80 percent or more of the voting shares of State Bank of Rensselaer, Rensselaer, Indiana.

D. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Louisiana Bancshares, Inc.,* Baton Rouge, Louisiana; to become a bank holding company by acquiring 100 percent of the voting shares of Louisiana National Bank, Baton Rouge, Louisiana; The First National Bank of Shreveport, Shreveport, Louisiana; and The Quachita National Bank in Monroe, Monroe, Louisiana.

3. *The Queensboro Company,* Louisiville, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Louisville, Louisville, Georgia.

E. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Bank Management, Inc.,* Wahoo, Nebraska; intends to merge with and thereby acquire control of Sterling Bankshares, Inc., Sterling, Nebraska; Burchard Bankshares, Inc., Burchard, Nebraska; and Tecumseh Bankshares, Inc., Tecumseh, Nebraska thereby indirectly acquiring Bank of Sterling, Sterling, Nebraska; State Bank of Burchard, Burchard, Nebraska; and Johnson County Bank, Tecumseh, Nebraska, respectively.

F. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Allied Bunchshares, Inc.,* Houston, Texas; to acquire 100 percent of the voting shares of Allied Bank Fort Worth, Fort Worth, Texas, a *de novo* bank.

G. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Downey Bancorp,* Downey, California; to become a bank holding company by acquiring 100 percent of the voting shares of Downey National Bank, Downey, California (in organization).

Board of Governors of the Federal Reserve System, October 3, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-26685 Filed 10-5-84; 8:45 am]

BILLING CODE 6210-01-M

The Wachovia Corp. et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo,* either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each apaplication is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 29, 1984.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *The Wachovia Corporation,* Winston-Salem, North Carolina; to engage *de novo* through its subsidiary.

Wachovia Services, Inc., in data processing, servicing of student loans, and providing financial advice and portfolio investment advice.

B. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Mark Twain Bancshares, Inc.*, St. Louis, Missouri; to engage *de novo* through its subsidiary, Tarquad Corporation, St. Louis, Missouri, in acting as a trustee under deeds of trust of which non-banking subsidiaries of applicant are beneficiaries, in connection with real estate loans made or serviced by such non-banking subsidiaries.

C. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Jacinto City Bancshares, Inc.*, Houston, Texas; to engage through its subsidiary, Mercury Acceptance Corporation, Houston, Texas, in the expansion of its consumer lending activities through an additional office in Pasadena, Texas. Activities would include making or acquiring loans and other extensions of credit such as would be made by a consumer finance company in accordance with the provisions of the Texas Code.

D. **Federal Reserve Banl On San Franciso** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *U.S. Bancorp*, Portland, Oregon; to engage through its subsidiary, Qualivest, Portland, Oregon, in acting as registered investment advisor, and providing investment advisory as well as portfolio management services to individuals, corporations, retirement plans, foundations, trusts, financial institutions, and other entities.

Board of Governors of the Federal Reserve System, October 3, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-26686 Filed 10-9-84; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N-84-1454]

Notice of Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposals.

ADDRESS: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755-6050. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notices list the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposals should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirements are described as follows:

Notice of Submission of Proposed Collection to OMB

Proposal: Minimum Property Standards for One- and Two-Family Dwellings
Office: Housing
Form Number: None
Frequency of Submission: On Occasion
Affected Public: Individuals or Households, State or Local Governments, Farms, Businesses or Other For-Profit, Federal Agencies or Employees, Non-Profit Institutions, and Small Businesses or Organizations
Estimated Burden Hours: 28,000
Status: New
Contact: Mark W. Holman, HUD, (202) 755-65909, Robert Neal, OMB, (202) 395-7316

Proposal: American Housing Survey—1985 Metropolitan Sample (AHS-MS)
Office: Policy Development and Research
Form Number: AHS-61, 62, 63, 66, 67, and 68
Frequency of Submission: On Occasion and Annually
Affected Public: Individuals or Households
Estimated Burden Hours: 29,977
Status: Revision
Contact: Duane T. McGough, HUD, (202) 755-5060, Robert Neal, OMB, (202) 395-7316

Proposal: Survey of Prevailing Maintenance Wage Rates (for Public Housing Authorities)
Office: Secretary
Form Number: HUD-5136
Frequency of Submission: Annually
Affected Public: State or Local Governments, and Businesses or Other For-Profit
Estimated Burden Hours: 2,250
Status: Extension
Contact: Richard S. Allan, HUD, (202) 755-7373, Robert Neal, OMB, (202) 395-7316

Proposal: CDBG—Community Development Block Grant Entitlement Program
Office: Community Planning and Development
Form Number: HUD-7091.1, 7091.2, 4949.1 thru 4949.7; SF-424 and Narrative
Frequency of Submission: Annually
Affected Public: State or Local Government
Estimated Burden Hours: 324,000
Status: Revision
Contact: James R. Broughman, HUD, (202) 755-9267, Robert Neal, OMB, (202) 395-7316

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: September 25, 1984

Dennis F. Geer,

Director, Office of Information Policies and Systems.

[FR Doc. 84-26751 Filed 10-9-84; 8:45 am]

BILLING CODE 4210-01-M

Office of Environment and Energy

[Docket No. I-84-127]

Republish Notice of Intended Areawide Environmental Impact Statement; "Near Loop", Chicago, IL

The Department of Housing and Urban Development gives notice to extend the anticipated publication date of an Area Environmental Impact Statement (EIS) on the "Near Loop" area of Chicago, Illinois. The Notice of Intent to prepare an EIS was initially published in the **Federal Register** on November 13, 1981. Subsequent developments have delayed the EIS's publication. Interested individuals, governmental agencies, and private organizations are invited to submit information and comments concerning the project to the specific person indicated in the appropriate part of the appendix.

This Notice shall be effective for one year. If one year after the publication of this Notice in the **Federal Register**, a Draft EIS has not been filed on the project, then the Notice shall be cancelled. If a Draft EIS is expected more than one year after the publication of the Notice in the **Federal Register**, then a new and updated Notice of Intent will be published.

Issued at Washington, D.C. September 21, 1984.

Francis G. Haas,

Deputy Director, Office of Environment and Energy.

Appendix—EIS for the "Near Loop" Area, City of Chicago, Illinois

The Department of Housing and Urban development (HUD) Region V Office has prepared and will soon publish an Areawide Draft Environmental Impact Statement (D.E.I.S.) for the project described below and submit information and comments in the EIS.

Description: The Near Loop Area includes areas to the immediate south an west of the Loop in Chicago. The Near South Loop study area is defined as the area bounded by the Eisenhower Expressway on the north, Lake Shore Drive on the east, Cermak Road on the south and the Chicago River on the west. The Near West Loop study area is defined as the area bounded on the north by the Chicago and Northwestern Railroad (R.O.W.) by the South Branch on the Chicago River on the east, the Eisenhower Expressway on the south, and Halsted Street on the west. A significant amount of development including Printing House Row, Dearborn Park, River City, and South Loop New Town, has been completed recently or is planned in the Near South Loop. The proximity of the Near West Loop study area to the Loop is such that it is also capable of significant redevelopment as is exemplified by Presidential Towers, a 2300 unit development, which is presently under construction.

Need: An areawide EIS is being prepared to eliminate the need for duplicative project level EIS's by anticipating the significant impacts and assessing the cumulative overall impact of development in the project area. This analysis will allow for early planning on a more comprehensive scale resulting in policies which can be applied in a consistent, coordinated manner, and provide a uniform data base for site specific environmental assessments.

In addition, project sponsors will be better informed of HUD's position regarding particular issue areas and hence be able to address these areas in the project applications.

Alternatives: Alternative policies to guide HUD project review will be developed for each environmental component or subject area in which issues are expected to arise. These policies will be developed sufficiently to cover the range of possibilities for each policy area.

Scoping: Comments received from appropriate government agencies and service organizations as a result of the previous notice have been taken in consideration in preparation of the statement which is near completion. No scoping meeting therefore is believed necessary at this time. Presently, potential issue areas include land use patterns, residential densities, residential types, family and income orientation, rehabilitation and new construction, historic preservation and noise.

Comments: Comments should be sent within fifteen days of publication of this notice to: Harry P. Blus, Regional Environmental Officer, Department of Housing and Urban Development, Chicago Regional Office, 547 West Jackson Boulevard, Chicago, Illinois 60606.

[FR Doc. 84-26753 Filed 10-9-84; 8:45 am]

BILLING CODE 4210-29-M

[Docket No. I-84-128]

Intended Environmental Impact Statement; Cobo Hall Convention Center, Detroit, MI

The Department of Housing and Urban Development gives notice than an Environmental Impact Statement (EIS) is intended to be prepared by the City of Detroit, Michigan, for the expansion of the Cobo Hall Convention Center under the HUD programs as described in the appendix of the Notice. This Notice is required by the Council on Environmental Quality under its rule (40 CFR Part 1500).

Interested individuals, governmental agencies, and private organizations are invited to submit information and comments concerning the particular project to the specific person or address indicated in the appropriate part of the appendix.

Particularly solicited is information on reports or other environmental studies planned or completed in the project area, issues and data which the EIS should consider, recommended mitigating measures and alternatives, and major issues associated with the proposed project. Federal agencies having jurisdiction by law, special expertise or other special interests should report their interests and indicate their readiness to aid the EIS effort as a "cooperating agency."

This Notice shall be effective for one year. If one year after the publication of a Notice in the **Federal Register**, a Draft EIS has not been filed on a project, then the Notice for the project shall be cancelled. If a Draft EIS is expected more than one year after the publication of the Notice in the **Federal Register**, then a new and updated Notice of Intent will be published.

Issued at Washington, D.C. October 1, 1984

Francis G. Haas,

Deputy Director, Office of Environment and Energy.

Appendix—ETS on the Expansion of the Cobo Hall Convention Center

The City of Detroit, Michigan, intends to prepare an Environmental Impact Statement for the expansion of the Cobb Hall Convention Center and solicits information and comments for consideration in the EIS.

Description: The proposed project is to expand the Cobo Hall Convention Center from its present size of 400,000 square feet in exhibition space to an ultimate build-out of 1 million square feet in exhibition space. Additional meeting rooms, loading docks, and other ancilliary spaces are also planned. The proposed expansion is to be implemented in phases over a serveral year period. The first phase will all approximately 300,000 square feet contiguous to the existing facility which is located in the Detroit Central Business District and is bounded by Larned Avenue to the north, Veterans Memorial Building and Hart Plaza to the east, the Detroit River to the south, and

Joe Louis Arena to the west. Potential expansion areas surrounding the existing hall are either in commercial or recreational use. The estimated cost of the first phase expansion is approximately 130–140 million.

Federal funding for the project is expected to be from U.S. Department of Housing and Urban Development (HUD) UDAG and Community Development Block Grants and from the U.S. Department of Transportation (FAUS and UMTA).

Need: A decision to prepare an EIS has been based upon the large-scale nature of the project in a dense urban setting and the possible impacts on river nagivation and biology, historical resources, and tranportation systems.

Alternatives: Alternative being considered include:

a. No action;

b. Renovation, with no expansion;

c. The proposed action (immediate expansion of approximately 300,000 squares feet north and west of the existing facility);

d. A smaller size expansion (of approximately 200,000 square feet) north or west;

e. A larger size expansion (of up to approximnately 1 million square feet); and

f. Alternative south and east expansion zones surrounding the present location of Cobo Hall.

Scoping: Responses to this Notice will be used to: (1) Help determine significant environmental issues; (2) Identify data that will be used in the EIS; (3) Identify agencies, groups and individuals that will participate in the EIS process.

Comments: Comments should be sent within fifteen days of publication of this Notice to: Thomas Walters, City of Detroit, Community and Economic Development Department, 150 Michigan Avenue, Detroit, Michigan 48226, (313) 224–2371.

[FR Doc. 84–26752 Filed 10–9–84, 8:45 am]
BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Medford Advisory Council; Meeting Cancellation

Notice is hereby given in accordance with Pub. L. 92–463 that a meeting of the Bureau of Land Management, Medford District Advisory Council to be held October 4, 1984, has been postponed.

The meeting date has been rescheduled for November 5, 1984. On November 5, the meeting will begin at 9:00 a.m., in the Oregon Room of the Bureau of Land Management Office at 3040 Biddle Road, Medford, Oregon. The agenda for the meeting will include:

(1) A discussion of the Medford District's Supplemental Environmental Empact Statement on timber;

(2) A discussion on the disposition of logging residues;

(3) The area of critical environmental concern (ACEC) decision record; and

(4) Subleasing as it relates to base property and/or livestock.

The meeting of the advisory council is open to the public. Interested persons may make oral statements to the board between 12:30 p.m. and 1:00 p.m. on November 5, or file written statements for the board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 3040 Biddle Road, Medford, Oregon 97504, by November 1, 1984. Depending on the number of persons wishing to make oral statements, a per-person time limit may be established by the District Manager.

Summary minutes of the board meeting will be maintained in the district office and be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Date Signed: October 2, 1984.

Hugh R. Shera,

District Manager.

[FR Doc. 84–26694 Filed 10–9–84; 8:45 am]
BILLING CODE 4310–33–M

[4–21702–ILM]

Utah; Classification Decision for State Indemnity Selection

1. The following described lands (U–53874) have been examined and found suitable for transfer to the State of Utah.

They are hereby classified for indemnity selection (natural deficiencies) pursuant to sections 2275 and 2276 of the Revised Statutes as amended (43 U.S.C. 851, 852) and the regulations thereunder (43 CFR Part 2621):

Tract No. 1—Garfield County, Cedar City District Office

T. 36 S., R. 5 E., SLM, Utah
Sec. 34, S½SE¼;
Sec. 35, S½N½SW¼, S½SW¼, SE¼.
T. 37 S., R. 5 E., SLM, Utah
Secs. 1, 3, 9–12, all;
Sec. 13, NE¼, N½NW¼, SW¼NW¼, S½;
Secs. 14, 15, all.
Containing 6,074.56 acres.

Tract No. 2—Garfield County, Richfield District Office

T. 37 S., R. 11 E., SLM, Utah
Secs. 8, 17, all.
Containing 1,280.00 acres.

Tract No. 3—San Juan County, Moab District Office

T. 37 S., R. 18 E., SLM, Utah
Sec. 10, S½NW¼, SW¼, S½SE¼;
Secs. 11–15, all.
Containing 3,520.00 acres.
Grand Total acreage 10,874.56 acres.

All oil and gas will be reserved to the United States in accordance with and subject to the regulations in 43 CFR Part 2093. Sodium will also be reserved for the lands situated in T. 37 S., R. 18 E.

Because of adjudicative concerns which are unresolved at this time, the Bureau of Land Management is not in a position to classify for or against selection by the State for the following described lands:

T. 37 S., R. 5 E., SLM, Utah
Sec. 13, SE¼NW¼.
T. 25 S., R. 21 E., SLM, Utah
Sec. 24, lots 1–4;
Sec. 25, lots 1–4, W½NE¼, E½NW¼.

The following lands have been examined and found unsuitable for selection:

T. 37 S., R. 18 E., SLM, Utah
Sec. 10, NE¼, N½NW¼, N½SE¼.

The subject lands are within PLO 3352 Withdrawal for a National Monument Access Road.

T. 36 S., R. 5 E., SLM, Utah
Sec. 34, SW¼, N½SE¼;
Sec. 35, N½, N½N½SW¼.

The subject lands are within a wilderness study area.

2. On lands where no adverse comments are received, it will be held that these lands are classified 60 days from the date of publication of this notice in the **Federal Register** and this classification action will become the final determination of the Department of the Interior. Classification is pursuant to Title 43 Code of Federal Regulations, Subpart 2400 and section 7 of the Act of June 28, 1934.

3. For a period of 60 days from the date of publication of this notice in the **Federal Register**, any persons who wish to submit comments on the above classification may present their views in writing for consideration to the State Director (U–942), Utah State Office, Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111. Comments should address a specific parcel within a specific tract (Example—Tract No. 1, Sec. 1, lot 1, T. 23 S., R. 5 E.) as opposed to commenting generally on the entire classification.

4. Any existing grazing use authorized by license or permit from the Bureau of Land Management will be terminated if the lands are transferred out of Federal ownership. The state shall honor all

leases, permits, contracts, and terms and conditions of user agreements on United States' lands.

Those lands which are encumbered by mining claims, cannot be transferred to the State of Utah until the mining claims are relinquished. Also, lands that are not surveyed will not be conveyed until a survey is completed and accepted.

5. Detailed information concerning the indemnity selection and proposed transfer to the State of Utah is available at the Utah State Office, Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111 (801–524–4245).

Dated: September 28, 1984.

Roland G. Robison,

State Director.

[FR Doc. 84–26877 Filed 10–9–84; 8:45 am]

BILLING CODE 4310-DQ-M

Realty Action, Sale of Public Land in Pitkin County, CO

Summary

The following described land has been examined and identified as suitable for disposal by sale under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1701, 1713) at the appraised fair market value.

SIXTH PRINCIPAL MERIDIAN, PITKIN COUNTY, CO

Parcel	Acres	Serial No.	Legal Description	Appraised value
93	4.88	C-38515	T. 9 S., R. 85 W., sec. 33: lots 16 and 17	$4,800

This land has not been used for and is not required for any federal purpose. The location and physical characteristics of the parcel make it difficult and uneconomical to manage as public land. Disposal would best serve the public interest. The disposal would be consistent with the Bureau's planning recommendations as approved in the Glennwood Springs Resource Management Plan, January 1984.

The publication of this notice in the **Federal Register** will segregate the public lands described above to the extent that they will not be subject to appropriation under the public land laws, including the mining laws. As provided by the regulations of 43 CFR 2201.1(b), any subsequently tendered application, allowance of which is discretionary, shall not be considered as filed and shall be returned to the applicant. This segregation will expire two years from the date of publication of this notice.

Sale Conditions

Minerals beneath the parcel, except oil and gas, will also be offered for conveyance. The mineral interests being offered have no known mineral value. A bid on the parcels will also constitute application for conveyance of those mineral interests offered under the authority of section 209(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1719(b)). On the sale date, the bidders will be required to deposit an additional $50.00 nonrefundable filing fee and application for the conveyance of offered minerals pursuant to 43 CFR 2720.1–2(c).

The patent issued as the result of the sale will be subject to all valid existing rights and reservations of record and will contain a reservation to the United States for a right-of-way for ditches and canals under the Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945), and Oil and Gas under the Act of July 17, 1914.

If sold, the parcel will be subject to Pitkin County zoning and regulations regarding use and development of the parcel.

If the parcel is not sold on the date of sale, it will be advertised and reoffered as a competitive sale at a later date.

Sale Dates and Procedures

Direct Noncompetitive Sale, the 30th Day of November 1984

The parcel will be offered as a direct noncompetitive sale to the adjacent landowner, Mitchell Development Company of the Southwest. Mitchell Development Company of the Southwest will be identified as the sole designated bidder for the parcel and no other bids or bidders will be considered. The designated bidder will be required to submit payment of at least 20 percent of the fair market value by cash, certified or cashier check, or money order to the BLM at 50629, Highway 6 and 24, Glenwood Springs, Colorado, on the 30th day of November 1984.

The balance of the appraised fair market value will be due within 180 days, payable in the same form at the same location. Failure to submit the remainder of the payment within 30 days of receipt of the decision notice accepting the bid deposit will result in cancellation of the sale offering and forfeiture of the deposit.

Further Information and Public Comment

Additional information concerning this sale offering, including the planning documents and environmental assessment, is available for review in the Glennwood Springs Resource Area Office at 50629 Highway 6 and 24, P.O. Box 1009, Glennwood Springs, Colorado 81602.

For a period of 45 days from the date of publication of this notice, interested parties may submit comments to the District Manager, Grand Junction District Office, Bureau of Land Management, 764 Horizon Drive, Grand Junction, Colorado 81501. Any adverse comments will be evaluated by the District Manager, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of the Interior.

Dated: September 21, 1984.

Wright Sheldon,

District Manager, Grand Junction District Office.

[FR Doc. 84–26882 Filed 10–9–84; 8:454 am]

BILLING CODE 4310-84-M

Minerals Management Service

Development Operations Coordination Document; Seneca Resources Corp.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Seneca Resources Corporation has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 5668, Block 17, West Delta Area, offshore Louisana. Proposed plans for the above area provided for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Fourchon, Louisiana.

DATE: The subject DOCD was deemed submitted on September 28, 1984. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the DOCD from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the

Coastal Management Section Office located on the 10th Floor of the State Land and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, *Attention OCS Plans*, Post Office Box 44396, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Ms. Angie Gobert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838–0876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to informn the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Service/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those pratices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: September 28, 1984.

John L. Rankin,

Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 84–26693 Filed 10–9–84; 8:45 am]

BILLING CODE 4310–MR–M

Bureau of Reclamation

[INT–FES 84–30]

Diamond Fork Power System, Bonneville Unit, Central Utah Project; Availability of Final Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, the Department of the Interior has prepared a final environmental impact statement on a proposed hydroelectric power development that would also convey water for agricultural and municipal and industrial purposes in northern and central Utah. The draft environmental statement issued in June 1984 recommended an 1,182-megawatt pumped storage plan with facilities in Fifth Water and Diamond Fork Canyons. However, an assessment of non-Federal interest in developing and financing the power system conducted early in 1984 indicated inadequate support for that plan and resulted in selection of a 166.2-megawatt flow through plan with facilities in Sixth Water and Diamond Fork Canyons.

The final statement presents four alternatives for the power system that would generate power by means of a transbasin diversion of water. The water would descend about 2,600 feet from the enlarged Strawberry Reservoir in the Upper Colorado River Basin to the confluence of Diamond Fork and the Spanish Fork River in the Bonneville Basin through a system of tunnels, pipelines, reservoirs, and powerplants. A fifth alternative would consist only of water delivery facilities. All alternatives would provide fish and wildlife measures, recreational opportunities, and water quality control. In addition, all but the fifth alternative would provide flood control. Power not required for project use would be funded by non-Federal entities.

Copies are available for inspection at the following locations:

Director, Office of Environmental Affairs, Room 7622, Bureau of Reclamation, Washington, DC 20240, Telephone: (202) 343–4991

Division of Management Support, General Service, Library Section, Code 950, Engineering and Research Center, Bureau of Reclamation, Denver Federal Center, Denver, Colorado 80225, Telephone: (303) 234–3019

Regional Director, Bureau of Reclamation, Upper Colorado Regional Office, 125 South State Street, P.O. Box 11568, Salt Lake City, Utah 84147, Telephone: (801) 524–5520

Utah Projects Office, Bureau of Reclamation, 302 East 1860 South, P.O. Box 1168, Provo, Utah 84603, Telephone: (801) 379–1000

Single copies of the statement may be obtained on request to the Director, Office of Environmental Affairs, or the Regional Director at the above addresses. Copies will also be available for inspection in libraries in the project vicinity.

Dated: October 4, 1984.

William C. Klostermeyer,

Acting Commissioner.

[FR Doc. 84–26712 Filed 10–9–84; 8:45 am]

BILLING CODE 4310–09–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Housing Guaranty Program; Notice of Investment Opportunity

The Agency of International Development (A.I.D.) has authorized guaranties of two loans for Kenya as part of A.I.D.'s development assistance program. One of these loans will be to the Ministry of Finance for $9,000,000. The other loan will be to the Nairobi City Commission for $17,000,000. The proceeds of these loans will be used to finance shelter projects for low income families in Kenya. The following are the names and addresses of representatives of the Borrower to be contacted by interested U.S. lenders or investment bankers.

1. Project: Kenya 615–HG–006 (Small Towns)—$9,000,000. Finance Nairobi (Telegraphic Address), Attention: Harris Mule, Permanent Secretary, Ministry of Finance, Nairobi Kenya.

2. Project: Kenya 615–005 (Umoja II)—$17,000,000.

a. Finance Nairobi (Telegraphic Address), Attention: Harris Mule, Permanent Secretary, Ministry of Finance, Nairobi, Kenya

b. Municipality—Nairobi (Telegraphic Address), Attention: Sumon Getonga, Town Clerk, Nairobi, Kenya.

Interested investors should telegram their bids to the Borrower's representatives on October 24, 1984. If possible bids should be open for 48 hours. Copies of all bids should be simultaneously telexed to the following addresses:

Fredrik Hansen, Telex No. 22964, American Embassy, Nairobi

PRE/H, A.I.D., Washington, D.C. 20523, Telex. No. 892703.

For the $9,000,000 loan (615–HG–006) the Borrower is requesting variable rate bids (with an option to convert to fixed rate) for the full amount, to be disbursed in 4 tranches as follows: $1.5 million in January 1985, $2.0 million in August 1985, $3.0 million in January 1986 and $2.5 million in August 1989. Consideration should be given to pro-rating fees to the extent possible, although a large percentage could be allowed up front.

For the $17,000,000 loan (615–HG–005) the Borrower is requesting variable rate bids with an option to convert to fixed rate.

Fixed interest rate bids may also be submitted for either loan.

Selection of investment bankers and/or lenders and the terms of the loans are

initially subject to the individual discretion of the Borrowers and thereafter subject to approval by A.I.D. The lender and A.I.D. shall enter into a Contract of Guaranty, covering each of the loans. Disbursements under the loans will be subject to certain conditions required of the Borrowers by A.I.D. as set forth in implementation agreements between A.I.D. and the Borrowers.

The full repayment of the loans will be guaranted by A.I.D. The A.I.D. guaranty will be backed by the full faith and credit of the United States of America and will be issued pursuant to authority in Section 222 of the Foreign Assistance Act of 1961, as amended (the "Act").

Lenders eligible to receive an A.I.D. guaranty are those specified in Section 238(c) of the Act. They are: (a) U.S. citizens; (2) domestic U.S. corporations, partnerships, or associations substantially beneficially owned by U.S. citizens; (3) foreign corporations whose share capital is at least 95 percent owned by U.S. citizens; and, (4) foreign partnerships or associations wholly owned by U.S. citizens.

To be eligible for an A.I.D. guaranty, the laons must be repayable in full no later than the thirtieth anniversary of the disbursement of the principal amount thereof and the interest rates may be no higher than the maximum rate extablished from time to time by A.I.D.

Information as to the eligibility of investors and other aspects of the A.I.D. housing guaranty program can be obtained from: Director, Office of Housing and Urban Developement, Room 625, SA/12, Washington, D.C. 20523, Telephone: (202) 632–9637.

Dated: October 5, 1984.

John T. Howley,

Deputy Director, Office of Housing and Urban Programs.

[FR Doc. 84-26889 Filed 10-9-84; 10:28 am]

BILLING CODE 4710-02-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-19 (Sub-No. 86X)]

Rail Carriers; Baltimore and Ohio Railroad Co. Abandonment in Webster County, WV; Exemption

The Baltimore and Ohio Railroad Company (B&O) has filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments*. The line to be abandoned is between milepost 13.0 at or near Bolair and milepost 20.48 at end of line, at or near Jerryville, a distance of approximately 7.48 miles in Webster County, WV.

B&O certified that: (1) No local traffic has moved over the line for at least 2 years, and that the line does not handle overhead traffic, and (2) no formal complaint filed by a user of rail service on the line (or by a State or local government entity acting on behalf of such user) regarding cessation of service on the line either is pending with the Commission or has been decided in favor of the complainant within the 2-year period. The Public Service Commission (or equivalent agencies) in West Virginia has been notified in writing at least 10 days prior to the filing of this notice. *See: Exemption of Out of Service Rail Lines*, 366 I.C.C. 885 (1983).

As a condition to use of this exemption, any employees affected by the abandonment shall be protected purusant to *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

The exemption will be effective on November 9, 1984 (unless stayed pending reconsideration). Petitions to stay the effective date of the exemption must be filed by October 22, 1984, and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by October 30, 1984, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Rene J. Gunning, Suite 2204, 100 North Charles St., Baltimore, MD 21201.

If the notice of exemption contains false or misleading informaiton, the use of the exemption is void *ab initio*.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: September 28 1984.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 84-26858 Filed 10-9-84; 8:45 am]

BILLING CODE 7035-01-M

[Nos. 35404; 39380]

General American Transp. Corp. v. Indiana Harbor Belt Railroad Co. and General American Transp. Corp., et al. v. Baltimore and Ohio Terminal Railroad Co., et al.; Reopening; Possible Modification or Revocation of Case Law

AGENCY: Interstate Commerce Commission.

ACTION: Notice.

SUMMARY: In *General American Transp. Corp.* v. *Indiana Harbor Belt Railroad Company*, 357 I.C.C. 102 (1977), we determined that railroads could not exact separate charges for switches to and from repair facilities if they derived more than a *de minimis* amount of revenues, direct or indirect, from the use of private cars in furtherance of their common carrier obligation. We ordered IHB and certain other railroads that derived more than *de minimis* economic benefits from the use of private tank cars to participate in the tank car equalization rule published by the railroad industry. The equalization rule assesses a rate for all empty miles private tank cars move during a calendar year, to the extent that the mileage exceeds aggregate loaded miles for all carriers by more than a stated percentage; otherwise, empty movements, including movements for ordinary repairs, are required to be performed without charge, 357 I.C.C. at 138. The continuing validity of our prior ruling in *Indiana Habor*, including the requirement that IHB subscribe to the equalization rule, has been put in issue by a proceeding presently pending on administrative appeal before the Commission entitled No. 39380, *General American Transportation Corp. et al.* v. *Baltimore & Ohio Terminal Railroad Co., and Indiana Harbor Belt Railroad Co.* So as not to foreclose any options in connection with our consideration of this appeal we are reopening the record in No. 39380 and the prior *Indiana Harbor* decision, and are advising the public and the parties to both proceedings that we may modify or reverse our prior decisions in these two cases as being in conflict with the revenue adequacy, rate flexibility, and car service provisions of the Railroad Reorganization and Regulatory Reform Act of 1976 and the Staggers Rail Act of 1980.

DATE: Interested persons may submit written comments by November 9, 1984.

ADDRESS: An original and 10 copies of comments should be submitted to the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423, and served upon all parties to this proceeding.

FOR FURTHER INFORMATION CONTACT: Louis Gitomer, (202) 275–7245.

This action is taken under authority of 49 U.S.C. 10321, 10327(g)(1), 10705, and 5 U.S.C. 553.

Decided: September 18, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett,

Gradison, Simmons, Lamboley and Strenio. Commissioners Lamboley and Strenio did not participate.

James H. Bayne,

Secretary.

[FR Doc. 84-26852 Filed 10-9-84; 8:45 am]

BILLING CODE 7035-01-M

LIBRARY OF CONGRESS

Copyright Office

Policy Decision Announcing an Increase in the Fee for Special Handling of Applications for Copyright Registration

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice of Policy Decision.

EFFECTIVE DATE: November 9, 1984.

New Fee for Special Handling

1. Background

Section 708(a) of the Copyright Act, title 17 of the United States Code, prescribes a schedule of fees that must be remitted to the Copyright Office on filing applications to register claims to copyright and for other services rendered to the public under the Act. Subsection (11) of section 708(a) gives the Register of Copyrights the authority to fix a fee for any special services requiring a substantial amount of time or expense based on the cost of providing the special service.

"Special handling" is a procedure established within the Copyright Office to reduce the length of time required to process an application for registration of a claim to copyright. Special handling is granted at the discretion of the Register of Copyrights in a limited number of cases as a service to copyright registrants who have compelling reasons for the expedited issuance of a certificate of registration. Before June 1982, the Copyright Office absorbed the additional costs of special handling, but the Office announced at the time that it could not continue to do so in the face of the rising number of such requests and the fiscal restraints under which it must operate. A special handling fee of $120.00 for each application for registration was fixed by the Register of Copyrights.

Special handling of requests for issuance of a certificate of registration impacts upon every step of the registration process. Under normal procedures applications for registration pass through the various processing steps in groups which are administratively efficient. A claim that receives special handling must be processed outside of the normal work flow necessitating individual handling at each step and individual routing between work stations. A separate system of controls must be maintained for the special handling of claims to assure both that they move expeditiously through the necessary procedures and that they can be located quickly if the need should arise. Each of these activities involves more employee time than claims in the normal work flow since employees could otherwise be more efficiently occupied processing ordinary claims.

The Copyright Office has reviewed the experience of the past two years and has re-evaluated the costs associated with special handling of registration applications. The Office has found that processing of special handling requests involves more special administrative procedures than we had identified at the time the Register set the current special handling fee. The Office has also found that the large number of special handling requests is more disruptive of routine processing procedures than we anticipated. The Register of Copyrights has consequently determined that the special handling fee must be increased to recover the administrative costs of providing this special service.

The Office has also experienced problems in processing multiple applications, which are accompanied by a single deposit for all applications, but where the request for special handling is limited to one or less than all of the multiple claims. The Register has decided to establish a special fee for processing the additional claims, but at a lesser amount than for special handling of single claims.

2. Policy Decision—New Fee

Under the authority of section 708(a)(11) the Register of Copyrights has determined that the requestor of special handling service should pay, in addition to the normal applicable filing fee, the cost of additional staff time involved in the special handling of cases, computed at overtime rates plus a reasonable administrative fee.

The fee for special handling of a registration of a claim to copyright has been fixed by the Register of Copyrights at $200.00, based upon the cost of providing this service. In fixing this new fee, the Register of Copyrights has reviewed the experience of the Office since June 1982, has re-evaluated the nature and number of requests submitted, and the cost of the special administrative procedures required by special handling, and has determined that these costs are greater than initially estimated in 1982. Inflationary increases in salaries have also been taken into account in fixing the new fee. The special handling fee is in addition to the filing fee set by statute.

The special handling fee is chargeable for each application for registration for which special handling service is requested and granted, with the following exception: if special handling is requested for only one of several claims submitted at the same time with a *single* deposit, which is an acceptable deposit for all the claims, the fee for processing the additional claims will be $50.00 each plus the filing fee for each claim. The claim for which special handling was requested will be processed for the $200.00 special handling fee plus the filing fee. The Office emphasizes that this is a narrow exception to the usual rule that the $200.00 fee applies to each application given expedited processing. It applies only where a single set of deposit copies may appropriately be submitted to register multiple claims, in accordance with the practices of the Copyright Office. The applicant will be given the option of submitting an additional set of copies for each application to avoid assessment of the special $50.00 fee. If multiple applications are accompanied by individual sets of deposit copies, claims for which special handling is not requested will be processed routinely. Only the claim(s) for which special handling is requested and granted will be processed specially.

If the request for special handling is granted, the fee is not refundable. The Copyright Office will make every effort to process the claim within five working days after the request has been approved. Within that period the Office will either issue the certificate of registration or notify the applicant of any defect in the claim. The fee may be charged to a deposit account established in the Copyright Office. If the deposit account contains insufficient funds to cover the total special handling fee, or if the remitter does not maintain a deposit account, the total special handling fee may be paid either in person at the Public Information Office in Washington, D.C., or it may be remitted by mail. Such payment must be in cash or in the form of a certified check, cashier's check, or money order made payable to the Register of Copyrights. Cash should not be sent by mail, however.

A request for special handling will be granted only in cases involving pending or prospective litigation, customs matters, or contract or publishing deadlines that necessitate the expedited issuance of a certificate. Special handling procedures may be applied to

cases pending in the Copyright Office, provided the previously mentionaed criteria are met.

3. Procedure for Requesting Special Handling

Requests for special handling may be made in person on the form available in the Public Information Office of the Copyright Office, Room LM-1410, James Madison Memorial Building, Library of Congress, 101 Independence Avenue, SE., Washington, D.C. The Office will also consider requests by mail providing the Special Handling Request form is used or a cover letter is submitted containing answers to the following questions that are required to be answered in the special handling form: "Why is there an urgent need for special handling"; If it is because of litigation, is the litigation actual or prospective? Are you or your client the plaintiff or defendant? What are the names of the parties and the name of the court where the action is pending or expected?" It is also necessary to certify that the answers to these questions are correct to the best of the requestor's knowledge. A mailed request for special handling should be sent to:

Library of Congress, Department DS, Washington, D.C. 20540, Attention: Acquisitions and Processing Division Office.

The outside of the envelope and the letter inside should clearly indicate that it is a request for special handling.

The request for special handling of a registration must be accompanied by a completed application, the required deposit copies, phonorecords, or identifying material, and the $200.00 fee plus the applicable filing fee ($10.00, except $6.00 for renewal applications).

Dated: September 28, 1984.

David Ladd,

Register of Copyrights.

Approved by:

Daniel J. Boorstin,

The Librarian of Congress.

[FR Doc. 84-26587 Filed 10-9-84; 8:45 am]

BILLING CODE 1410-03-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (84-77)]

Privacy Act of 1974; Systems of Records

According to 5 U.S.C. 552(e)(4) agencies were required to annually publish their Privacy Act Systems of Records in the **Federal Register**. This year's annual publication contains only editorial and organizational changes to NASA's Systems of Records which were published in the **Federal Register** on October 19, 1983.

On December 21, 1982, Pub. L. 97-375, "Congressional Reports Elimination Act of 1982," was enacted which amended section 552(e)(4) by eliminating annual publication of the Privacy Act Systems of Records unless a new system of records was being created or unless a system was substantially revised. Therefore, future notices will be published only when any of these systems of records are substantially altered or when a new system of records is established.

C. Robert Nysmith,

Associate Administrator for Management.

September 25, 1984.

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NASA 10ACMQ

SYSTEM NAME:

Aircraft Crewmembers Qualifications and Performance Records - NASA.

SYSTEM LOCATION:

Locations 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11, as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Crewmembers of NASA aircraft.

CATEGORIES OF RECORDS IN THE SYSTEM:

System contains: (1) Record of qualification, experience, and currency, e.g., flight hours (day, night, and instrument), types of approaches and landings, crew position, type aircraft, flight check ratings and related examination results, training performed and medical records; (2) flight itineraries and passenger manifests; and (3) biographical information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA for: Evaluation of crewmember performance by supervisory flight operations personnel and staff; by the individuals whose records are maintained; and on occasion by flight operations and safety survey teams. In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) In cases of accident investigations, access to this system of records may be granted to federal or local agencies such as Department of Defense, Federal Aviation Administration, National Transportation Safety Board, or foreign governments; (2) To other agencies, companies, or governments requesting qualifications of crewmembers prior to authorization to participate in their flight programs; or to other agencies, companies, or governments whose crewmembers may participate in NASA's flight programs; (3) With prior approval by the individual - publicity or press releases; and (4) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders, charts, punched cards, computer printouts.

RETRIEVABILITY:

Records are indexed by name or aircraft number.

SAFEGUARDS:

Records are protected in accordance with the requirements and procedures which appear at 14 CFR Part 1212.

RETENTION AND DISPOSAL:

Records are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Aircraft Management Office, Location 1.

Subsystem Managers: Chief, Ames Aircraft Operations Division, Location 2; Chief, Dryden Aircraft Operations Division, Location 3; Chief, Aircraft Operations Division, Location 5; Chief, Aircraft Operations Section, Location 6; Head, Aircraft Operations Branch, Location 7; Chief, Aircraft Operations Branch, Location 8; Chief, Aircraft Operations, Location 9; Chief Contract Management, Location 10; Data Acquisition Manager, Earth Resources Laboratory, Location 11; Head, Aeronautical Programs Branch, Location 4 (Locations are set forth in Appendix A).

NOTIFICATION PROCEDURE:

Information may be obtained from the cognizant system or subsystem manager listed above.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to: Same address as stated in the notification section above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

Individuals, training schools or instructors, medical units or doctors.

NASA 10BRPA

SYSTEM NAME:

Biographical Records for Public Affairs - NASA

SYSTEM LOCATION:

Locations 1, 2, 3, 4, 5, 6, 7, 8, 9, and 11, as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Principal and prominent management and staff officials, program and project managers, scientists, engineers, speakers, other selected employees involved in newsworthy activities, and other participants in agency program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Current biographical information about the individual with a recent photograph when available. Data items are those generally required by NASA or the news media in preparing news or feature stories about the individual and/or the individual's activity with NASA.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C 2473 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is compiled, updated, and maintained at NASA installations for ready reference material and for immediate availability when required by the news media for news stories about the individual generally involving participation in a major NASA activity.

The data serves as background information about the individual and is used within NASA to prepare public appearance announcements of key officials, speaking engagements, special appointments, participation in professional societies, etc.; to write news stories about special achievements, awards, participation in major NASA activities, programs, etc.; and to prepare responses to inquiries submitted to the Public Affairs Division from the news media.

Users are the staff members of the public information office within each office of Public Affairs.

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: These records are made available to professional societies, civic clubs, industrial and other organizations, news media representatives, researchers, authors, Congress, other agencies and other members of the public in connection with NASA public affairs activities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records are maintained in file folders.

RETRIEVABILITY:

Records are indexed by name.

SAFEGUARDS:

Since the records are a matter of public information, no safeguard requirements are necessary.

RETENTION AND DISPOSAL:

Records are maintained as long as there is potential public interest in them and are disposed of when no longer required.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, NASA Newsroom, Public Affairs Division, Location 1.

Subsystem Managers: The Public Affairs Officer at Locations 2, 3, 4, 5, 6, 7, 8, 9, and 11 as set forth in Appendix A.

NOTIFICATION PROCEDURE:

An individual desiring to find out if a Biographical System of Records contains a record pertaining to him/her should call, write, or visit the Public Affairs Office at the appropriate NASA location.

RECORD ACCESS PROCEDURES:

An individual may request access to his/her record by calling, writing, or visiting the Public Affairs Office at the appropriate NASA locations. Individuals may examine or obtain a copy of their biographical record at any time.

CONTESTING RECORD PROCEDURES:

The information in the record was provided voluntarily by the individual with the understanding that the information will be used for public release. The individual is at liberty at any time to revise, update, add, or delete information in his/her biographical record to his/her own satifaction.

RECORD SOURCE CATEGORIES:

Information in the biography of an individual in the system of records is provided voluntarily by the individual generally with the aid of a form questionnaire.

NASA 10EEOR

SYSTEM NAME:

Equal Opportunity Records - NASA

SYSTEM LOCATION:

Locations 1 through 9 inclusive and Location 11 as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees and applicants for employment.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Complaints and (2) applications.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U. S. C. 2473; 44 U. S. C. 3101; Executive Order 11478, dated August 8, 1969; EEOC Regulations; 29 CFR Part 1613; MSPB Regulations; 5 CFR Parts 1200 - 1202; Equal Opportunity Act 1972, as amended (Pub. L. 92-261); Section 15 of the Age Discrimination in Employment Act of 1967, as amended (Pub. L. 93-259).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA to process complaints of alleged discrimination, including investigations, hearings, and appeals; to maintain active discrimination complaints files; and to retain inactive discrimination complaints files.

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) Disclosures to the Equal Employment Opportunity Commission and the Merit Systems Protection Board to facilitate their processing of discrimination complaints, including investigations, hearings and reviews on appeals; (2) Responses to other Federal agencies and other organizations having legal and administrative responsibilities related to the NASA Equal Employment Opportunity Programs and to individuals in the record; (3) Disclosures may be made to a Congressional office from the record of an individual in response to a written inquiry from the Congressional office made at the request of that individual; and (4) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

These records are indexed by the names of the individuals on whom they are maintained.

SAFEGUARDS:

Records are located in locked metal file cabinets, or in metal file cabinets in secured rooms with access limited to those whose official duties require access and are locked during non-duty hours.

RETENTION AND DISPOSAL:

Complaint case files for cases resolved within the agency, by EEOC, or by U.S. Court, are destroyed 4 years after resolution of the case. Other routine office records are reviewed periodically, and are retained or destroyed as appropriate.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Administrator for Equal Opportunity Programs, Location 1.

Subsystem managers: Director, Equal Opportunity Office at Location 1; Chief, Equal Opportunity Programs Office at Location 2; Head, Equal Opportunity Programs Office at Location 4; Chief, Equal Opportunity Programs Officer at Location 5; Director, Equal Opportunity Program Office at Location 6; Head, Office of Equal Opportunity Programs at Location 7; Chief, Office of Equal Employment Opportunity at Location 8; Director, Equal Opportunity Office at Location 9; Manager, Equal Employment Opportunity/Affirmative Action Programs at Location 10; Equal Opportunity Officer at Location 11. Locations are as set forth in Appendix A.

NOTIFICATION PROCEDURE:

Information may be obtained from the cognizant system or subsystem manager listed above.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the same address as stated in the notification section above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

Employees, applicants, installation EEO officers, complainants, EEO counselors, EEO investigators, EEOC complaints examiners, MSPB officials, complaints coordinators, Assistant Administrator for Equal Opportunity Programs.

NASA 10ERMS

SYSTEM NAME:

Executive Resources Management System - NASA

SYSTEM LOCATION:

Location 1, as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Approximately 2,000 individuals with experience and education unique to the NASA mission in the technical and administrative fields who are considered to be candidates for key positions within NASA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographical data, education, training, work experience, career interests.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473, 44 U.S.C. 3101, 5 U.S.C. 4103; 5 U.S.C. 3396..

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA for the identification of replacement candidates. In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) Disclosures may be made to organizations or individuals having contract, legal, administrative or cooperative relationships with NASA, including labor unions, academic organizations, governmental organizations, non-profit organizations, and contractors; and to organizations or individuals seeking or having available a service or other benefit or advantage. The purpose of such disclosures is to satisfy a need or needs, further cooperative relationships, offer information, or respond to a request; (2) Statistical or data presentations may be made to governmental or other organizations or individuals having need of information about individuals in the records; (3) Responses may be made to other federal agencies, and other organizations having legal or administrative responsibilities related to programs and individuals in the records; (4) Disclosure may be made to a Congressional office from the record of an individual in response to a written inquiry from the Congressional office made at the request of that individual; and (5) Standard routine uses 1 through 4 inclusive as set forth in Appendix B may also apply.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders, lists, forms, index cards, microfilm, microfiche, and/or various computer storage devices such as discs, magnetic tapes and punched cards.

RETRIEVABILITY:

The records are indexed by social security number.

SAFEGUARDS:

Records are protected in accordance with the requirements and procedures

which appear in the NASA regulations at 14 CFR Part 1212.

RETENTION AND DISPOSAL:

Records are retained for varying periods of time depending on the need for use of the files and are destroyed or otherwise disposed of when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Development, Location 1.

Subsystem Managers: None.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager only.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the same address stated in the notification section above.

CONTESTING RECORD PROCEDURES:

The NASA regulations pertaining to access to records and for contesting contents and appealing initial determinations by the individual concerned are set forth in 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

Individuals to whom the records pertain, NASA employees, other Federal employees, other oranizations and individuals, and NASA personnel records.

NASA 10GMVP

SYSTEM NAME:

Government Motor Vehicle Operators Permit Records - NASA

SYSTEM LOCATION:

Locations 1 through 14 inclusive as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NASA employees, contractor employees, other federal and state government employees. Location 8 does not maintain records on contractor employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, home address, Social Security Number, physical description of individual, physical condition of individual, traffic record.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101; Federal Personnel Management Manual, Chapter 930; Federal Property Management Regulations Subpart 101-39.601; NASA Management Instruction 6720.1B.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA for the purpose of identifying and checking record of applicant and issuing permits for operation of Government vehicles. In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) National Driver Register, Department of Transportation, where Form 1047 is received for check and (2) Standard routine uses 1 through 4 inclusive, as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Records are kept in a locked metal file cabinet with access limited to those whose official duties require access. Room is locked during non-duty hours.

RETENTION AND DISPOSAL:

Records are maintained for a period of 3 years when permit expires or until permit holder leaves the Agency or requests cancellation. Records are destroyed when no longer reguired.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Support Services Branch, Location 1.

Subsystem Managers: Chief, Security Branch, Location 2; Transportation Officer, Location 3; Chief, Logistics Management Division, Location 4; Chief, Transportation Branch, Location 5; Chief of Transportation, Location 6; Chief, Management Support Division, Location 7; Transportation and Motor Vehicle Officer, Location 8; Director, Management Operations Office, Location 9; Chief Installation Operations, Location 11; Chief, Administration Office, Location 12; Chief, Maintenance and Administration Office, Location 13; Chief of Facilities, Location 14. Locations are as set forth in Appendix A.

NOTIFICATION PROCEDURE:

Information may be obtained from the cognizant system manager listed above.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the same address as stated in the notification section above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

Individual NASA employees and individual contractor employees. Location 8 does not maintain records on contractor employees.

NASA 10HABC

SYSTEM NAME:

History Archives Biographical Collection-NASA

SYSTEM LOCATION:

Locations 1 and 5 as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are of historical significance in aeronautics, astronautics, space science, and other concerns of NASA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographical data; speeches and articles by the individual; correspondence, interviews, and various other tapes and transcripts of program activities.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA for researching and writing official histories and answering queries from various NASA offices. In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: Disclosure to scholars (historians and other disciplines), or any other interested individuals for research and to write dissertations, articles, and books, for government, commercial and non-profit publication or develop material for other media use.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are stored in file folders or file boxes as appropriate.

RETRIEVABILITY:

The records are indexed by name.

SAFEGUARDS:

Because these records are archive material and therefore a matter of public information, there are no special safeguard procedures required.

RETENTION AND DISPOSAL:

Most biographical files are retained indefinitely, either in the archives or retired to the appropriate Federal Records Center.

SYSTEM MANAGER(S) AND ADDRESS:

Director, History Office, Code LBH, Location 1.

Subsystems Managers: JSC History Office Coordinator, Code BY, Location 5 (Locations are set forth in Appendix A).

NOTIFICATION PROCEDURE:

Information may be obtained from the cognizant system or subsystem manager listed above.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to: Same address as stated in the notification section above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

Press releases, newspapers, journals, and the individuals themselves and copies of internal agency records.

NASA 10HERD

SYSTEM NAME:

Human Experimental and Research Data Records - NASA

SYSTEM LOCATION:

Locations 2, 3, 5, 6, and 9, as stated in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have been involved in space flight, aeronautical research flight, and/or participated in NASA tests or experimental or research programs; Civil Service employees, military, employees of other government agencies, contractor employees, students, human subjects (volunteer or paid), and other volunteers on whom information is collected as part of an experiment or study.

CATEGORIES OF RECORDS IN THE SYSTEM:

Data obtained in the course of an experiment, test, or research medical data from inflight records; other information collected in connection with an experiment, test, or research.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used by NASA for the purposes of evaluating new analytical techniques, equipment, and re-examining flight data for alternative interpretations, developing applications of experimental techniques or equipment, reviewing and improving operational procedures with respect to experimental protocols (both inflight and ground), life support systems operating procedures, determining human engineering requirements, and carrying out other research.

In addition to the internal use of the information contained in this system of records, the following are routine uses outside of NASA: (1) Disclosures to other individuals or organizations, including Federal, State, or local agencies, and nonprofit, educational, or private entities, who are participating in NASA programs or are otherwise furthering the understanding or application of biological, physiological, and behavioral phenomena as reflected in the data contained in this system of records; and (2) the standard routine use 4 as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are in file folders, on punch cards, magnetic tapes, or discs; on microfilm, microfiche, still photographs, or motion picture film; and on various medical recordings such as electrocardiographic tapes, stripcharts, and x-rays.

RETRIEVABILITY:

By name, experiment or test; arbitrary experimental subject number; flight designation; or crew member designation on a particular space or aeronautical flight.

SAFEGUARDS:

Access is limited to Government personnel requiring access in the discharge of their duties, and to appropriate support contractor employees on a need-to-know basis. Computerized records are identified by code number and records are maintained in locked rooms or files. Records are protected in accordance with the requirements and procedures which appear in the NASA regulations set forth in 14 CFR Part 1212.

RETENTION AND DISPOSAL:

Astronaut records are retained indefinitely. Ground test and research data are retained for varying periods of time depending on the need for use of the files, and are destroyed or otherwise disposed of when no longer needed, except that significant medical data will be handled in accordance with OPM regulations and NASA Control Schedule 11.

SYSTEM MANAGER(S) AND ADDRESS:

Director, NASA Occupational Health Office, Location 1.

Subsystem Managers: Research Assistant to the Director, Location 2; Director of Man/Systems Integration Division, Location 3; Assistant Director for Life Sciences, Space and Life Sciences Directorate, Location 5; Director, Biomedical Office, Location 6; Director, Management Services Office, Location 9. Locations are as set forth in Appendix A.

NOTIFICATION PROCEDURE:

Information may be obtained from the system or subsystem manager named above.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the same address as stated in the notification section above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting and appealing initial determinations by the individual concerned appear at 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

Experimental test subjects, physicians, principal investigators and other researchers, and previous experimental test or research records.

NASA 10IGIC

SYSTEM NAME:

Inspector General Investigations Case Files - NASA

SYSTEM LOCATION:

National Aeronautics and Space Administration, Washington, DC 20546.

Subsystem Locations: Locations 1, 2, 4, 5, 6, 7, 8, 9 and 10 as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees of NASA, contractors and sub-contractors, and others whose actions have affected NASA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Case files pertaining to matters including, but not limited to, the following classifications of cases: (1) Fraud against the Government, (2) Theft of Government property, (3) Bribery, (4) Lost or stolen lunar samples, (5) Misuse of Government property, (6) Conflict of interest, (7) Waiver of claim for overpayment of pay, (8) Leaks of Source Evaluation Board information, (9) Improper personal conduct, (10) Irregularities in awarding contracts.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101; 28 U.S.C. 535 (b); 5 U.S.C. App. I; 4 CFR Part 91; Executive Order 11478.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA for: (1) Providing management with information which will serve as a possible basis for appropriate administrative action or the establishment of NASA policy; (2) Providing the Administrator of NASA (or the Comptroller General, as appropriate) sufficient information to provide a basis for decision concerning a request for waiver of claim in the case of an erroneous payment of pay.

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) Responding to the White House regarding matters inquired of; (2) Disclosure to a Congressional office from the record of an individual in response to a written inquiry from the Congressional office made at the request of that individual; (3) Providing data to Federal intelligence elements; (4) Providing data to any source from which information is requested in the course of an investigation, to the extent necessary to identify the individual, inform the source of the nature and purpose of the investigation, and to identify the type of information requested; (5) Providing personal identifying data to Federal, State, local or foreign law enforcement representatives seeking confirmation of identity of persons under investigation; (6) Disclosing, as necessary, to a contractor, subcontractor, or grantee firm or institution to the extent that the disclosure is in NASA's interest and is relevant and necessary in order that the contractor/subcontractor/grantee is able to take administrative or corrective action; (7) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information in the system is stored in file folders, index cards and on computer tapes and disks.

RETRIEVABILITY:

Information is retrieved by name of individual.

SAFEGUARDS:

Information is kept in locked metal file cabinets, and in secured vault and secured computer rooms. Access is limited to Inspector General personnel with a need-to-know.

RETENTION AND DISPOSAL:

Special interest case files are reviewed for destruction or further retention 10 years after case is closed and routine interest case files are destroyed 5 years after case is closed. Case is not closed until all judical and administration avenues and considerations have been finally exhausted. (Special interest files are those investigative files which the Assistant Inspector General for Investigations determines should be retained because of especially significant, sensitive, or historical content. All other files are routine interest files.)

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Inspector General for Investigations, Location 1.

Subsystem Managers: Director, Headquarters and Special Projects OIG Office, Location 1; Director, OIG Office at Ames Research Center, Location 2; Director, OIG Office at Goddard Space Flight Center, Location 4; Director, OIG Office at Lyndon B. Johnson Space Center, Location 5; Director, OIG Office of John F. Kennedy Space Center, Location 6; Director, OIG Office at Langley Research Center, Location 7; Director, OIG Office at Lewis Research Center, Location 8; Director, OIG Office at George C. Marshall Space Flight Center, Location 9; and Director, OIG Office at NASA Resident Office - JPL, Location 10.

NOTIFICATION PROCEDURE:

None. System is exempt. See below.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

Exempt.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Inspector General Investigations Case Files system of records is exempt from all sections of the Privacy Act of 1974 (5 U.S.C. 552a), EXCEPT the following:

(b) relating to conditions of disclosure; (c)(1) and (2) relating to keeping and maintaining a disclosure accounting; (e)(4)(A) through (F) relating to publishing an annual system notice setting forth name, location, categories of individuals and records, routine uses, and policies regarding storage, retrievability, access controls, retention and disposal of the records; (e)(6), (7), (9), (10) and (11) relating to agency requirements for maintaining systems; and (i) relating to criminal penalties.

The determination to exempt this system of records has been made by the Administrator of NASA in accordance with 5 U.S.C. 552a(j) and Subpart 7 of the NASA regulations appearing in 14 CFR Part 1212, for the reason that the Office of Inspector General, NASA, is a component of NASA which performs as its principal function activity pertaining to the enforcement of criminal laws, within the meaning of 5 U.S.C. 552a(j)(2).

NASA 10PAYS

SYSTEM NAME:

Payroll Systems - NASA

SYSTEM LOCATION:

Locations 1, 2, 3, 4, 5, 6, 7, 8, 9, and 11, as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and former NASA employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

The data contained in this system of records includes payroll, employee leave, insurance, labor and human resource distribution and overtime information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101; 5 U.S.C. 5501 et seq.; 5 U.S.C. 6301 et seq.; General Accounting Office Policy and Procedures Manual for Guidance of Federal Agencies, Title 6; Treasury Fiscal Requirements Manual, Part III; Federal Personnel Manual; and NASA Financial Management Manual, Sections 9300 and 9600.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA

for maintaining the payroll records and related areas.

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) To furnish to a third party a verification of an employee's status upon written request of the employee; (2) To facilitate the verification of employee contributions and insurance data with carriers and collection agents; (3) To report to the Office of Personnel Management (a) withholdings of premiums for life insurance, health benefits and retirement, and (b) separated employees subject to retirement; (4) To furnish the U. S. Treasury magnetic tape reports on net pay, net savings allotments and bond transmittal pertaining to each employee; (5) To provide the Internal Revenue Service with detail of wages taxable under the Federal Insurance Contributions Act and to furnish a magnetic tape listing on Federal tax withholdings; (6) To furnish various financial institutions itemized listings of employee's pay and savings allotments transmitted to the institutions in accordance with employee requests; (7) To provide various Federal, state, and local taxing authorities itemized listing of withholdings for individual income taxes; (8) To respond to requests by State employment security agencies and the U.S. Department of Labor for employment, wage, and separation data on former employees for the purpose of determining eligibility for unemployment compensation; (9) To report to various Combined Federal Campaign offices total contributions withheld from employee wages; (10) To furnish leave balances and activity to the Office of Personnel Management upon request; (11) To furnish data to labor organizations in accordance with negotiated agreements; (12) To furnish pay data to the Department of State for certain NASA employees located outside the United States; (13) To furnish data to a consumer reporting agency in accordance with Section 3711(f) of Title 31; and (14) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders, magnetic tape, and microfilm.

RETRIEVABILITY:

Records are indexed by name and/or social security number.

SAFEGUARDS:

Records are protected in accordance with the requirements and procedures which appear in the NASA regulations at 14 CFR Part 1212.

RETENTION AND DISPOSAL:

Records are retained for audit by the General Accounting Office and are transferred to the National Personnel Records Center, St. Louis, Missouri, anywhere from 1 to 3 years. Records are retained and destroyed in accordance with the policies and procedures outlined in NASA Records Disposition Handbook - NHB 1441.1A.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Financial Management Division, Office of the Comptroller, Location 1.

Subsystem Managers: Chief, Financial Management Division, Locations 2, 4, 5, 7 and 8; Financial Management Officer, Locations 3; Chief, Financial Management Office, Location 6; Director, Financial Management Office, Location 9; Chief, Resources and Financial Management Office, Location 11. Locations are as set forth in Appendix A.

NOTIFICATION PROCEDURE:

Information may be obtained from the cognizant system or subsystem manager listed above.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the same address as stated in the notification section above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained, personnel office, and the individual's supervisor.

NASA 10SCCF

SYSTEM NAME:

Standards of Conduct Counselling Case Files - NASA.

SYSTEM LOCATION:

National Aeronautics and Space Administration, Washington, DC 20546.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current, former, and prospective NASA employees, who have sought advice or have been counselled regarding conflict of interest requirements for government employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Depending upon the nature of the problem, information collected may include employment history, financial data, and information concerning family members.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C 3101; 18 U.S.C. 201, 203, 205, 207-209; 5 U.S.C. 7324-7327; Executive Order 11222.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in the system of records is used within NASA for the purpose of counseling employees regarding conflict of interest problems. In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) Office of Personnel Management and Merit Systems Protection Board: for investigation of possible violations of standards of conduct which the agencies directly oversee; (2) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are documentary and maintained in loose leaf binders or file folders.

RETRIEVABILITY:

By name of individual.

SAFEGUARDS:

Restricted access to a few authorized persons; stored in combination lock safe.

RETENTION AND DISPOSAL:

Retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant General Counsel for General Law, Code GG, NASA Headquarters, Washington, DC 20546.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the System Manager and must include employee's full name and NASA installation where employed.

CONTESTING RECORD PROCEDURES:

The NASA regulations and procedures for access to records and for contesting contents and appealing initial

determinations by the individual concerned appear at 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

Information collected directly from individual and from his/her official employment record.

NASA 10SECR

SYSTEM NAME:

Security Records System - NASA.

SYSTEM LOCATION:

Locations 1 through 9 inclusive and Location 11, 12, and 14 as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees, applicants, NASA committee members, NASA consultants, NASA experts, NASA Resident Research Associates, guest workers, contractor employees, detailees, visitors, correspondents (written and telephonic), Faculty Fellows, sources of information.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personnel Security Records, Criminal Matter Records, Traffic Management Records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Aeronautics and Space Act, Pub. L. 85-568; Espionage and Information Control Statutes, 18 U.S.C. 793 through 799; Sabotage Statutes, 18 U.S.C. 2151 through 2157; Conspiracy Statute, 18 U.S.C. 371; 18 U.S.C. 202-208 and 3056; Internal Security Act of 1950, 5 U.S.C. 781 through 798; Atomic Energy Act of 1954, Pub. L. 703; Executive Order 12356, Classification and Declassification of National Security Information and Material; Executive Order 10865, Safeguarding Classified Information Within Industry; Executive Order 10450, Security Requirements for Government Employees; Pub. L. 81-733; Executive Order 11490, Assigning Emergency Preparedness Functions to Federal Departments and Agencies; Federal Property Management Regulation, 41 CFR Subpart 101-11; Federal Personnel Manual, Chapters 732 and 736; 14 CFR Part 1203a; 42 U.S.C. 2473 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Personnel Security Records: The information contained in this category of records is used within NASA for the purpose of granting security clearances; for determining qualifications, suitability, and loyalty to the United States Government; for determining qualifications for access to classified information, security areas, and NASA installations, and for determining qualifications to travel to Communist controlled areas.

In addition to the internal uses of the information contained in this category of records, the following are routine uses outside of NASA: (1) To determine eligibility to perform classified visits to other Federal agencies and contractor facilities; (2) To provide data to Federal intelligence elements; (3) To provide data to any source from which information is requested in the course of an investigation, to the extent necessary to identify the individual, inform the source of the nature and purpose of the investigation, and to identify the type of information requested; (4) To provide a basis for determining preliminary visa eligibility; (5) To respond to White House inquiries; (6) Disclosures may be made to a Congressional office from the record of an individual in response to a written inquiry from the Congressional office made at the request of that individual; (7) To provide personal identifying data to Federal, State, local, or foreign law enforcement representatives seeking confirmation of identity of persons under investigation; (8) Disclosure to a NASA contractor, subcontractor, grantee, or other government organization information developed in an investigation or administrative inquiry concerning a violation of a Federal or State statute or NASA regulation on the part of an officer or employee of the contractor, subcontractor, grantee, or other government organization; and (9) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

Criminal Matter Records: The information contained in this category of records is used within NASA for providing management with information which will serve as a possible basis for administrative action. In addition to the internal uses of the information contained in this category of records, the routine uses outside of NASA are: (1) To provide personal identifying data to Federal, State, local, or foreign law enforcement representatives seeking confirmation of identity of persons under investigation; (2) To provide a NASA contractor, subcontractor, grantee, or other government organization information developed in an investigation or administrative inquiry concerning a violation of a Federal or State statute or NASA regulation on the part of an officer or employee of the contractor, subcontractor, grantee, or other government organization; and (3) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

Traffic Management Records: The information contained in this category of records is used within NASA to provide designated officials and employees with data concerning vehicle ownership, traffic accidents, violation of traffic laws, suspension of driving privileges, traffic control, vehicle parking, and car pools. In addition to the internal uses of the information contained in this category of records, the routine uses outside of NASA are: (1) To provide personal identifying data to Federal, State, local, or foreign law enforcement representatives seeking confirmation of identity of persons under investigation; (2) To provide a NASA contractor, subcontractor, grantee, or other government organization information developed in an investigation or administrative inquiry concerning a violation of a Federal or State statute or NASA regulation on the part of an officer or employee of the contractor, subcontractor, grantee, or other government organization; and (3) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders, magnetic tape, punch cards, microfilm, and film.

RETRIEVABILITY:

Records are indexed by name, file number, organization, place of origin, badge number, decal number, date of event, space number, payroll number, and social security number.

SAFEGUARDS:

Access to Personnel Security Records is controlled by Government personnel exclusively. However, access to information extracted from personnel security records or information to be inserted into personnel security records is controlled by either government personnel or selected personnel of NASA contractor guard force or contractor personnel. Examples would be information required to prepare an identification badge and/or process a security clearance visitor request. Access to Criminal Matter Records is controlled by either Government personnel or selected personnel of NASA contractor guard forces. After presenting proper identification and requesting a file or record, a person with a need-to-know and, if appropriate, a proper clearance may have access to a file or record only after it has been retrieved and approved for release by a

NASA security representative. These records are secured in security storage equipment.

Traffic Management Records: Access to these records is controlled by either Government personnel or selected personnel of NASA contractor guard forces. Access to these records is permitted after a determination has been made that the requestor has an official interest. These records are stored in locked containers.

RETENTION AND DISPOSAL:

Records, depending upon type, are retained from 6 months to 30 years before being destroyed. When current immediate need no longer exists, records are either transferred to the appropriate Federal Records Center or destroyed in accordance with records disposal instructions.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, NASA Security Office, Location 1.

Subsystem Managers: Chief, Security Branch, Locations 2, 4, and 5; Security Officer, Location 3; Chief, Security Office, Location 6; Security Officer, Locations 7, 8, and 11; Chief, Security Division, Location 9; Security Officer at Location 12; Safety and Security Officer at Location 15. Locations are as set forth in Appendix A.

NOTIFICATION PROCEDURE:

Information may be obtained from the cognizant system or subsystem manager listed above. Requests must contain the following identifying data concerning the requestor: First, middle, and last name; date of birth; social security number; period and place of employment with NASA, if applicable.

RECORD ACCESS PROCEDURES:

Personnel Security Records compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information have been exempted by the Administrator under 5 U.S.C. 522a (k) (5) from the access provisions of the Act.

Criminal Matter Records compiled for civil or criminal law enforcement purposes have been exempted by the Administrator under 5 U.S.C. 552a (k) (2) from the access provisions of the Act.

Traffic Management Records: Requests from individuals should be addressed to the same address as stated in the notification section above.

CONTESTING RECORD PROCEDURES:

For Personnel Security Records and Criminal Matters Records see Access, above. For Traffic Management Records, the NASA rules for access to records and for contesting contents and appealing initial determinations by the individual concerned appear in the NASA rules section of the **Federal Register**.

RECORD SOURCE CATEGORIES:

Personnel Security Records: Exempt
Criminal Matter Records: Exempt
Traffic Management Records: Employees, civil investigative agencies, civil law enforcement agencies, Federal and local judicial systems, medical records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Personnel Security Records compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a confidential source, are exempt from the following sections of the Privacy Act of 1974, 5 U.S.C. 552a:

(c) (3) relating to access to the disclosure accounting; (d) relating to access to the records; (e) (1) relating to the type of information maintained in the records; (e) (4) (G) (H) and (I) relating to publishing in the annual system notice information as to agency procedures for access and correction and information as to the categories of sources of records; and (f) relating to developing Agency rules for gaining access and making corrections.

The determination to exempt this portion of the Security Records System has been made by the Administrator of NASA in accordance with 5 U.S.C. 552a (k) (5) and Subpart 7 of the NASA regulations appearing in 14 CFR Part 1212.

Criminal Matter Records to the extent they constitute investigatory material compiled for law enforcement purposes are exempt from the following sections of the Privacy Act of 1974, 5 U.S.C. 552a:

(c) (3) relating to access to the disclosure accounting; (d) relating to access to the records; (e) (1) relating to the type of information maintained in the records; (e) (4) (G) (H) and (I) relating to publishing in the annual system notice information as to agency procedures for access and correction and information as to the categories of sources of records; and (f) relating to developing Agency rules for gaining access and making corrections.

The determination to exempt this portion of the Security Records System has been made by the Administrator of NASA in accordance with 5 U.S.C. 552a (k) (2) and Subpart 7 of the NASA regulations appearing in 14 CFR Part 1212.

Records subject to the provisions of 5 U.S.C. 552 (b) (1) (required by Executive order to be kept secret in the interest of national defense or foreign policy) are exempt from the following sections of the Privacy Act of 1974, 5 U.S.C. 552a:

(c) (3) relating to access to the disclosure accounting; (d) relating to the access to the records; (e) (1) relating to the type of information maintained in the records; (e) (4) (G) (H) and (I) relating to publishing in the annual system notice information as to agency procedures for access and correction and information as to the categories of sources of records; and (f) relating to developing Agency rules for gaining access and making corrections.

The determination to exempt this portion of the Security Records System has been made by the Administrator of NASA in accordance with 5 U.S.C. 552A (k) (1) and Subpart 7 of the NASA regulations appearing in 14 CFR Part 1212.

NASA 10HIMS

SYSTEM NAME:

Health Information Management System - NASA.

SYSTEM LOCATION:

In Medical Clinics/Units and Environmental Health Offices at locations 1 through 15 inclusive as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NASA Civil Service employees and applicants; other Agency civil service and military employees working at NASA; visitors to field installations; on-site contractor personnel who receive job related examinations, have mishaps or accidents, or come to clinic for emergency or first aid treatment; space flight personnel and their families.

CATEGORIES OF RECORDS IN THE SYSTEM:

General medical records of first aid, emergency treatment, examinations, exposures, and consultations.

Information resulting from physical examinations, laboratory and other tests, and medical history forms; treatment records; screening examination results; immunization records; administration of medications prescribed by private/personal physicians; statistical records; examination schedules; daily log of patients; correspondence; chemical, physical, and radiation exposure records; other environmental health data; alcohol/drug patient information;

consultation records; and health hazard and abatement data.

Astronauts and their families - more detailed and complex physical examinations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101; OMB Circular A-72; Pub. L. 92-255; Pub. L. 79-658.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA for the following purposes: Reference by examining physicians in conduct of physical examinations; review by physicians in consideration of fitness for duty; evaluation for physical disability retirement; statistical data development; patient recall; in-space medical evaluation for astronauts; exposure data for radiation/toxic exposure limits, compliance and examinations; consultations; evaluation of employees, applicants, and contractor employees for specialized or hazardous duties; and for determining reliability pursuant to the Space Transportation System, Personnel Reliability Program (14 CFR Part 1214 Subpart 1214.5, NASA Management Instruction 8610.13).

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) Referral to private physicians designated by the individual when requested in writing; (2) Patient referrals; (3) Referral to OPM, OSHA and other Federal agencies as required in accordance with these special program responsibilities; (4) Referral of information to a non-NASA individual's employer; (5) Evaluation by medical consultants; (6) Disclosure to the employer of non-NASA personnel, information affecting the reliability of such office or employee for purposes of the Space Transportation System, Personnel Reliability Program; (7) Disclosure to the public of a summary of flight crew information as it relates to mission impact, and limited to name, diagnosis, treatment, and prognosis; and (8) Standard routine use 4 as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are in file folders, punch cards, electrocardiographic tapes, x-rays, microfiche, and computer discs and tapes. They are handled between NASA installations by telecommunications.

RETRIEVABILITY:

By name, date of birth and social security number.

SAFEGUARDS:

Access limited to concerned medical environmental health personnel on a need-to-know basis. Computerized records are identified by code number and records are maintained in locked rooms or files. Records are protected in accordance with the requirements and procedures which appear in the NASA regulations at 14 CFR Part 1212.

RETENTION AND DISPOSAL:

In accordance with Office of Personnel Management regulations and NASA Control Schedule II. Records on astronauts are retained permanently.

SYSTEM MANAGER(S) AND ADDRESS:

Director, NASA Occupational Health-Office, Location 1

Subsystem Managers: Medical Director or Medical Administrator or Safety and Health Coordinator at Locations 1 through 15 inclusive as set forth in Appendix A.

NOTIFICATION PROCEDURE:

Information may be obtained from the cognizant system or subsystem manager listed above.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the same address as stated in the notification section above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear in 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

Individuals, physicians and previous medical records of individuals.

NASA 10SPER

SYSTEM NAME:

Special Personnel Records - NASA

SYSTEM LOCATION:

Locations 1 through 9 inclusive and Location 11 as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Candidates for and recipients of awards or NASA training; civilian and active duty military detailees to NASA; participants in enrollee programs; Faculty, Science, National Research Council and other Fellows, Associates and Guest Workers including those at NASA installations but not on NASA rolls; NASA contract and grant awardees and their associates having access to NASA premises and records; individuals with interest in NASA matters including Advisory Committee Members; NASA employees and family members, prospective employees and former employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Special Program Files including: (1) Alien Scientist files; (2) Award files; (3) Counseling files, life and health insurance, retirement, upward mobility, and work injury counseling files; (4) Military and Civilian Detailee files; (5) Personnel Development files such as nominations for and records of training or education, Upward Mobility Program files, Intern Program files, Apprentice files, and Enrollee Program files; (6) Special Employment files such as Federal Junior Fellowship Program files, Stay-in-School Program files, Summer Employment files, Worker-Trainee Opportunity Program files, NASA Executive Position files, Expert and Consultant files, and Cooperative Education Program files; and (7) Supervisory appraisals under Competitive Placement Plan.

Correspondence and related information including: (1) Claims correspondence and records about insurance such as life, health, and travel; (2) Congressional and other Special Interest correspondence, including employment inquiries; (3) Correspondence and records concerning travel related to permanent change of station; (4) Debt complaint correspondence; (5) Employment interview records; (6) Information related to outside employment and activities of NASA employees; (7) Placement follow-ups; (8) Pre-employment inquiries and reference checks; (9) Preliminary records related to possible adverse actions; (10) Records related to reductions-in-force; (11) Records under agency as well as negotiated grievance procedures; (12) Separation information including exit interview records, death certificates and other information concerning deaths, retirement records, and other information pertaining to separated employees; (13)Special planning, analysis, and administrative information; (14) Performance appraisal records; (15) Working papers for prospective or pending retirements.

Special Records and Rosters including: (1) Locator files; (2) Ranking lists of employees; (3) Repromotion

candidate lists; (4) Retired military employee records; (5) Retiree records.

Agencywide and installation automated personnel information.

Rosters, applications, recommendations, assignment information and evaluations of Faculty, Science, National Research Council and other Fellows, Associates and Guest Workers including those at NASA installations but not on NASA rolls; also, information about NASA contract and grant awardees and their associates having access to NASA premises and records.

Information about members of advisory committees and similar organizations.

All NASA-maintained information of the same types as, but not limited to, that information required in systems of records for which the Office of Personnel Management and other Federal personnel-related agencies publish governmentwide Privacy Act Notices in the Federal Register.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used by officials and employees within NASA for preview, planning, review and management decisions regarding personnel and activities related to the records.

In addition to the internal uses of the information contained in this system of records the following are routine uses outside of NASA: (1) Disclosures may be made to organizations or individuals having contract, legal, administrative or cooperative relationships with NASA, including labor unions, academic organizations, governmental organizations, non-profit organizations, and contractors; and to organizations or individuals seeking or having available a service or other benefit or advantage. The purpose of such disclosures is to satisfy a need or needs, further cooperative relationships, offer information, or respond to a request; (2) Statistical or data presentations may be made to governmental or other organizations or individuals having need of information about individuals in the records; (3) Responses may be made to other Federal agencies, and other organizations having legal or administrative responsibilities related to programs and individuals in the records; (4) Disclosure may be made to a Congressional office from the record of an individual in response to a written inquiry from the Congressional office made at the request of that individual; and (5) Standard routine uses 1 through 4 inclusive as set forth in Appendix B may also apply.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders, lists, forms, index cards, microfilm, microfiche, and/or various computer storage devices such as discs, magnetic tapes and punched cards.

RETRIEVABILITY:

Records are indexed by any one or a combination of name, birthdate, social security number, or identification number.

SAFEGUARDS:

Records are protected in accordance with the requirements and procedures which appear in the NASA regulations at 14 CFR Part 1212.

RETENTION AND DISPOSAL:

Records are retained for varying periods of time depending on the need for use of the files, and are destroyed or otherwise disposed of when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Personnel Programs Division, Location 1

Subsystem Managers: Director, Headquarters Personnel and Office of Inspector General, Location 1; Director of Personnel, Locations 2, 3, 4, 5, 6, 7, 8, and 9; Chief, Personnel Office, Location 11. Locations are as set forth in Appendix A.

NOTIFICATION PROCEDURE:

Apply to the System or Subsystem Manager at the appropriate location above. In addition to personal identification (name, social security number, etc.), indicate the specific type of record, the appropriate date or period of time, and the specific kind of individual applying (e.g., employee, former employee, contractor employee, etc.).

RECORD ACCESS PROCEDURES:

Same as notification procedures above.

CONTESTING RECORD PROCEDURES:

The NASA regulations pertaining to access to records and for contesting contents and appealing initial determinations by the individual concerned are set forth in 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

Individuals to whom the records pertain, NASA employees, other Federal employees, other organizations and individuals.

NASA 10XROI

SYSTEM NAME:

Exchange Records on Individuals - NASA

SECURITY CLASSIFICATION:

Locations 6, 7, 8, and 9 as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and former employees of, and applicants for employment with, NASA Exchanges, Recreational Associations, and Employees' Clubs at NASA installations. Individuals with active loans or charge accounts at one or more of the several organizations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Exchange Employees' personnel and payroll records, including injury claims, unemployment claims, biographical data, performance evaluations, annual and sick leave records, and all other employee records. Credit records on NASA employees with active accounts.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA for (1) maintaining exchange employees' payroll, leave, and other records; (2) determining pay adjustment eligibility; (3) determining Federal, State, and City tax withholdings; (4) determining leave eligibility; (5) determining person to notify in emergency; (6) certification of unemployment or injury claims; (7) determining eligibility for employment and promotion; and (8) determining credit standing.

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) To furnish a third party a verification of an employee's status upon written request of the employee; (2) To facilitate the verification of employee contributions for insurance data with carriers and collection agents; (3) To provide various Federal, State, and local taxing authorities itemized listing of withholdings for individual income taxes; (4) To respond to State employment compensation requests for

wage and separation data on former employees; (5) To report previous job injuries to worker's compensation organizations; (6) For emergency notice to person designated by employee; (7) To report unemployment record to appropriate State and local authorities; (8) When requested, provide other employers with work record; and (9) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Records are indexed by name.

SAFEGUARDS:

Records are protected in accordance with the requirements and procedures which appear in the NASA regulations at 14 CFR Part 1212.

RETENTION AND DISPOSAL:

Exchange personnel records are permanent.

SYSTEM MANAGER(S) AND ADDRESS:

NASA Comptroller, Location 1.

Subsystem Managers: Chairperson, Exchange Council, Locations 6 and 7; Treasurer, NASA Exchange, Location 8; Exchange Operations Manager, Location 9; Head, Administrative Management Branch, and Treasurer Wallops Exchange and Morale Association, Location 4. Locations are as set forth in Appendix A.

NOTIFICATION PROCEDURE:

Individuals may obtain information from the cognizant subsystem managers listed above.

RECORD ACCESS PROCEDURES:

Requests from individuals should be directed to the same address as stated in the notification section above.

CONTESTING RECORD PROCEDURES:

The NASA rules for access to records and for contesting contents and appealing initial determinations by the individual concerned appear in the NASA rules section of the **Federal Register.**

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained and the individual's supervisor.

NASA 22ORER

SYSTEM NAME:

LeRC Occupational Radiation Exposure Records - NASA.

SYSTEM LOCATION:

Locations 8 and 13, as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and former LeRC employees and contractor personnel who may be exposed to radiation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, date of birth, exposure history, name of license holder, social security number, employment and training history.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C 3101; 42 U.S.C. 2021, 2073, 2093, 2095, 2111, 2133, 2134, 2201; 10 CFR Part 20.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA to inform individuals of their radiation dosage.

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) Standard routine uses 1 through 4 inclusive as set forth in Appendix B and (2) The Nuclear Regulatory Commission (formerly Atomic Energy Commission) may inspect records pursuant to fulfilling their responsibilities in administering and issuing licenses to use radiation sources.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Records are indexed by name.

SAFEGUARDS:

Records are personally supervised during the day and locked in the office at night.

Records are protected in accordance with the requirements and procedures which appear in the NASA rules section of the **Federal Register.**

RETENTION AND DISPOSAL:

Records are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Office of Environmental Health, location 8.

Subsystem Manager: Manager, Plum Brook Reactor Facility, Location 13. Locations are set forth in Appendix A.

NOTIFICATION PROCEDURE:

Individuals may obtain information from the cognizant System Manager or Subsystem Manager listed above.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

The NASA rules for access to records and for contesting contents and appealing initial determinations by the individual concerned appear in the NASA rules section of the **Federal Register.**

RECORD SOURCE CATEGORIES:

Individual is sole source.

NASA 51RSCR

SYSTEM NAME:

GSFC Radiation Safety Committee Records - NASA

SYSTEM LOCATION:

Goddard Space Flight Center, National Aeronautics and Space Administration, Greenbelt, Maryland 20771.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Radiation users and custodians under GSFC cognizance.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employment and training history.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101; USNRC License and GHB 1860.1, 'Radiation Safety Handbook'; GHB 1860.2 'Radiation Safety Radio-Frequency'; GHB 1860.3 'Radiation Safety Laser'.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this sytem of records is used within NASA for review and approval of custodians and users of ionizing and non-ionizing radiation by the Radiation Safety Committee. In addition to the internal uses of the information contained in this system of records, the following are routine uses outside NASA: (1) The Nuclear Regulatory Commission (formerly Atomic Energy Commission) may inspect records pursuant to fulfilling their responsibilities in administering and issuing licenses to use radiation sources; (2) Occupational Safety and Health Administration (Federal and State) may inspect records pursuant to fulfilling their responsibilities under the Occupational Safety and Health laws. (3) The

Environmental Protection Agency may inspect records pursuant to fulfilling their responsibilities under the Environmental Protection laws and executive order; (4) The Food and Drug Administration may inspect records pursuant to fulfilling their responsibilities respecting use of lasers and x-rays; (5) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Records are indexed by name only.

SAFEGUARDS:

Records are located in locked metal file cabinet in locked room with access limited to those whose official duties require access.

RETENTION AND DISPOSAL:

Records are kept for 2 years. If employee does not wish to be renewed for position at the end of 2-year period, the record is removed and placed in inactive file.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Health, Safety, and Security Office; address same as shown for system location.

NOTIFICATION PROCEDURE:

Individuals may obtain information from the system manager.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

Employees

NASA 53BHTR

SYSTEM NAME:

Wallops Flight Facility Base Housing Tenant Record - NASA.

SYSTEM LOCATION:

Wallops Flight Facility, National Aeronautics and Space Administration, Wallops Island, Virginia 23337

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Tenants of Wallops Housing area.

CATEGORIES OF RECORDS IN THE SYSTEM:

Housing Rental Agreements, records of rent receipts and records of dormitory occupants.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA for control of family housing and dormitory facilities. In addition to the internal uses of the information contained in this system of records, the following are routine uses outside NASA: (1) To furnish to a third party a verification of an employee's tenant status upon a written request of tenant; (2) To furnish verification of residency to various Federal, State, and local authorities; and (3) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders and card files.

RETRIEVABILITY:

Records are indexed by name and/or room number.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Records are protected in accordance with the requirements and procedures which appear in the NASA regulations at 14 CFR Part 1212.

RETENTION AND DISPOSAL:

Records are retained and destroyed in accordance with the policies and procedures outlined in NASA Records Disposition Handbook, NHB 1441.1A.

SYSTEM MANAGER(S) AND ADDRESS:

Head, Wallops Facilities Engineering Branch, Code 273 address same as shown for System Location.

NOTIFICATION PROCEDURE:

Individuals may obtain information from the System Manager.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and initial determinations by the individual concerned appear at 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

Tenants and dormitory occupants and Administrative Management records.

NASA 72XOPR

SYSTEM NAME:

JSC Exchange Activities Records - NASA.

SYSTEM LOCATION:

Lyndon B. Johnson Space Center, National Aeronautics and Space Administration, Houston, Texas 77058.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees and past employees of JSC Exchange Operations, applicants under the JSC Exchange Scholarship Program, and JSC employees or JSC contractor employees participating in sports or special activities sponsored by the Exchange.

CATEGORIES OF RECORDS IN THE SYSTEM:

For present and past employees of the JSC Exchange Operations, the system includes a variety of records relating to personnel actions and determinations made about an individual while employed by the NASA Exchange-JSC. These records contain information about an individual relating to birth date; social security number; home address and telephone number; marital status; references; veteran preference, tenure, handicap; position description, past and present salaries, payroll deductions, leave; letters of commendation and reprimand; adverse actions, charges and decisions on charges; notice of reduction-in-force; personnel actions, including but not limited to, appointment, reassignment, demotion, detail, promotion, transfer and separation; minority group; records relating to life insurance, health and retirement benefits; designation of beneficiary; training; performance ratings; physical examinations; criminal matters; data documenting the reasons for personnel actions or decisions made about an individual; awards; and other information relating to the status of the individual.

For successful applicants under the JSC Exchange Scholarship Program, the system contains information supplied by individual center employees who have applied for an Exchange Scholarship for their son or daughter and includes, but is not limited to, education, financial transactions or holdings, employment history, medical data and other related information.

For participants in social or sports activities sponsored by the Exchange, information includes employees' or

contractors' employee identification number, organization, location, telephone number, and other information directly related to status or interest in participation in such activities.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101; NASA Management Instruction 9050.6; Treasury Fiscal Requirement Manual, Part III, Payroll Deductions and Withholdings; Federal Personnel Manual; JSCM 31712A, Exchange Activities Manual, dated May 1980.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA for the following purposes: (1) With respect to past or present employees of the JSC Exchange Operations, information in the system is used to: (a) pay employees and advise employees through Leave and Earnings Statements, (b) provide for promotion opportunities, disciplinary actions, staffing controls, budget requirements, employee fringe benefits, and other related personnel managerial purposes, and (c) submit reports in accordance with legal or policy directives and regulations to center management and NASA Headquarters; (2) With respect to successful applicants under the JSC Scholarship Program, the information in the system is used to award scholarships to the sons and daughters of NASA-JSC employees; and (3) With respect to participants in the social or sports activities sponsored by the Exchange, the information maintained in the system is used to facilitate participation in such activities.

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA for information maintained on JSC Exchange Operations employees only: (1) Provide information in accordance with legal or policy directives and regulations to the Internal Revenue Service, Department of Labor, Department of Commerce, Texas State Government Agencies, labor unions; (2) Provide information to insurance carriers with regard to worker's compensation, health and accident, and retirement insurance coverages; (3) Provide employment or credit information to other parties as requested by a current or former employee of the JSC Exchange Operations; and (4) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

For Exchange employees, records are maintained by name and filed as current or past employee. For Scholarship applicants, records are maintained by name. For participants in social or sports activities, records are maintained by name.

SAFEGUARDS:

Records are located in locked metal file cabinets with access limited to those whose official duties require access.

RETENTION AND DISPOSAL:

For employees of JSC Exchange Operations, Personnel Records are retained indefinitely to satisfy payroll, reemployment, unemployment compensation, tax and employee retirement purposes.

For successful applicants under the JSC Exchange Scholarship Program, records are maintained until completion of awarded scholarship and then destroyed. Records pertaining to unsuccessful applicants are returned to them.

For participants in social or sports activities, records are maintained for a stated participation period, and are then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Exchange Operations, NASA Exchange - JSC, address same as shown for System Location.

NOTIFICATION PROCEDURE:

Individuals may obtain information from the System Manager.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear in 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

For employees of the JSC Exchange Operations, information is obtained from the individual employee, the employee references, insurance carriers, JSC Health Services Division, JSC Security, employment agencies, Texas Unemployment Commission, credit bureaus, and creditors.

With respect to the JSC Exchange Scholarship Program, the information is obtained from the parents or guardians of the scholarship participants.

For JSC employees and JSC contractor employees participating in social or sports activities sponsored by the Exchange, information is obtained from the individual participant.

NASA 73FHAP

SYSTEM NAME:

WSTF Federal Housing Administration (FHA) 809 Housing Program - NASA.

SYSTEM LOCATION:

JSC White Sands Test Facility, National Aeronautics and Space Administration, P. O. Drawer MM, Las Cruces, New Mexico 88004.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

WSTF Civil Service and contractor personnel who have applied for FHA 809 housing.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains personal (name, home address, home phone, age, marital status), realtor/mortgage and employment data. Contains certification by employee, WSTF, and FHA.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101; and 12 U.S.C. 1748h-1 (Section 809, National Housing Act).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA for identification of employees who have applied for and received or not received FHA 809 certificates. In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) Disclosures to the Federal Housing Administration to facilitate their issuing or denying 809 housing certificates; (2) Disclosures to realtors and builders to facilitate their activities with respect to the real estate transaction; and (3) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders and index cards.

RETRIEVABILITY:

Records are indexed by certificate number and person's name.

SAFEGUARDS:

Records are located in locked metal file cabinets or in metal file cabinets in secured rooms with access limited to those whose official duties require access.

RETENTION AND DISPOSAL:

Certificates are held for 5 years after issuance and then destroyed by shredding. Index cards are held indefinitely in order that an employee will not be authorized more than one certificate.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Administration Office, address same as shown for System Location.

NOTIFICATION PROCEDURE:

Individuals may obtain information from the System Manager.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained.

NASA 76RTES

SYSTEM NAME:

KSC Radiation Training and Experience Summary - NASA

SYSTEM LOCATION:

John F. Kennedy Space Center, National Aeronautics and Space Administration, Kennedy Space Center, Florida 32899.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Custodians and/or users of sources radiation (ionizing and non-ionizing). Applicable to all users or custodians at KSC and NASA or NASA contractor personnel at Cape Canaveral Air Force Station, Florida, or Vandenberg Air Force Base, California.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individuals name and radiation related training and experience.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101; 42 U.S.C. 2021, 2111, 2201, 2232, 2233, 10 CFR Part 33 for Federal Licensee, and Florida Administrative Code, Chapter 10 D-56 for State Licensee.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA to determine the suitability of individuals for specific assignments dealing with radiation and to preclude unnecessary exposure to self and others.

In addition to the internal uses of the information contained in this system of records, routine uses outside of NASA include: (1) Disclosure to Air Force Radiation Protection Officers at Eastern Space and Missile Center, Patrick Air Force Base, Florida, and Vandenberg Air Force Base, California, to governmental and private license holders, and to NASA contractors using sources of radiation to facilitate protection of the individual and the public; (2) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Duplicate copies of the records are maintained for Kennedy Space Center by EG & G Florida, Inc., Occupational Medicine and Environmental Health Services. All records maintained by the KSC Biomedical Office or EG & G Florida, Inc., consist of 8 1/2 x 11 inch paper files.

RETRIEVABILITY:

Records are indexed by name, program/project title. Use authorization number and/or license number as applicable.

SAFEGUARDS:

Records are personally supervised during the day and locked in the office at night. Records are protected in accordance with the requirements and procedures which appear in the applicable NASA regulations at 14 CFR Part 1212.

RETENTION AND DISPOSAL:

Records are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

KSC Radiation Protection Officer; address same as shown for System Location.

NOTIFICATION PROCEDURE:

Individuals may obtain information from the system manager.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

Individual is sole source.

NASA 76STCS

SYSTEM NAME:

KSC Shuttle Training Certification System (YC 04)

SYSTEM LOCATION:

John F. Kennedy Space Center Systems Training and Employee Development Branch, Kennedy Space Center, FL 32899

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

KSC Civil Service, KSC contractor, and DOD personnel who have received systems, skills, or safety training in support of KSC or Space Shuttle Operations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records of training attendance and certifications, including certifications of physical ability to perform hazardous tasks.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473, 44 U.S.C. 3101

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA to determine training needs, and the operational readiness of the work force, to provide data for badging and access control to hazardous areas or critical operations, to determine the size of individual protective equipment and to identify personnel with needed skill combinations. In addition to the internal uses the information contained in this systems of records, the following are routine uses outside of NASA: (1) Disclosure is made of information on employees of KSC contractors to those contractor organizations and to EG & G Florida, Inc., to facilitate the performance of the contracts. EG & G Florida, Inc., compiles these training records for KSC; (2) Standard routine uses 1-4 inclusive as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained for KSC by EG & G Florida, Inc., on computer tape with printouts made periodically as required. Complete printouts are filed in the KSC Systems Training and Employee Development Branch, and the EG & G Florida, Inc., training office. Records containing raw data on course attendance and trainee statistics are maintained by EG & G Florida, Inc., for KSC.

RETRIEVABILITY:

Indexed by name, organization, and skill.

SAFEGUARDS:

These listings are automated systems, skills, and safety training records maintained under administrative control of responsible organizations in areas that are locked when not in use. Records are protected in accordance with the requirements and procedures which appear in the NASA regulations at 14 CFR Part 1212.

RETENTION AND DISPOSAL:

Outdated records are destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Systems Training and Employee Development Branch, NASA Kennedy Space Center, FL 32899

NOTIFICATION PROCEDURE:

Individuals may obtain information from the Systems Manager.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and for appealing initial determinations by the individual concerned appear at 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

Information is obtained from class rosters, operational records, reports of physical examination completions and actions of certification boards.

NASA 76XRAD

SYSTEM NAME:

KSC USNRC Occupational External Radiation Exposure History for Nuclear Regulatory Commission Licenses - NASA.

SYSTEM LOCATION:

John F. Kennedy Space Center, National Aeronautics and Space Administration, Kennedy Space Center, Florida 32899.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

KSC civil servants and KSC contractor personnel who have received radiation exposure.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, date of birth, exposure history, name of license holder, social security number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101; 42 U.S.C. 2021, 2073, 2093, 2095, 2111, 2133, 2134, and 2201; 10 CFR Part 20 for Federal Licensee; and Florida Administrative Code, Chapter 10 D-56 for State Licensee.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA to record exposure and to inform individuals of their approaching or exceeding radiation dose limits.

In addition to the internal uses of the information contained in this system of records the following are routine uses outside of NASA: (1) Disclosure to Air Force Radiation Protection Offices at Eastern Space and Missile Center, Patrick Air Force Base, Florida and Vandenberg Air Force Base, California, to governmental and private license holders, and to NASA contractors using radioactive materials or ionizing radiation producing devices, to facilitate the protection of individuals; (2) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Duplicate copies of the records are maintained for Kennedy Space Center by EG & G Florida, Inc., Occupational Medicine and Environmental Health Services. All records maintained by the KSC Biomedical Office or EG & G Florida, Inc., consist of 8 1/2 x 11 inch paper files.

RETRIEVABILITY:

Records are indexed by name in personnel dosimetry files.

SAFEGUARDS:

Records are personally supervised during the day and locked in the office at night. Records are protected in accordance with the requirements and procedures which appear in the NASA regulations at 14 CFR Part 1212.

RETENTION AND DISPOSAL:

Records are maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

KSC Radiation Protection Officer; address same as shown for System Location.

NOTIFICATION PROCEDURE:

Individuals may obtain information from the System Manager.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

Individual is sole source.

Appendix A—Location Numbers and Mailing Addresses of NASA Installations at Which Records Are Located

Location 1.
National Aeronautics and Space Administration
Washington, DC 20546
Location 2
Ames Research Center
National Aeronautics and Space Administration
Moffett Field, CA 94035
Location 3
Dryden Flight Research Facility
National Aeronautics and Space Administration
P. O. Box 273
Edwards, CA 93523
Location 4
Goddard Space Flight Center
National Aeronautics and Space Administration
Greenbelt, MD 20771
Location 5
Lyndon B. Johnson Space Center
National Aeronautics and Space Administration
Houston, TX 77058
Location 6
John F. Kennedy Space Center
National Aeronautics and Space Administration
Kennedy Space Center, FL 32899
Location 7
Langley Research Center
National Aeronautics and Space Administration
Langley Station
Hampton, VA 23665
Location 8
Lewis Research Center
National Aeronautics and Space Administration

21000 Brookpark Road
Cleveland, OH 44135
Location 9
George C. Marshall Space Flight Center
National Aeronautics and Space Administration
Marshall Space Flight Center, AL 35812
Location 10
NASA Resident Office-JPL
National Aeronautics and Space Administration
4800 Oak Grove Drive
Pasadena, CA 91103
Location 11
National Space Technology Laboratories
National Aeronautics and Space Administration
NSTL, Station, MS 39529
Location 12
JSC White Sands Test Facility
National Aeronautics and Space Administration
P.O. Drawer MM
Las Cruces, NM 88004
Location 13
LeRC Plum Brook Station
National Aeronautics and Space Administration
Sandusky, OH 44870
Location 14
Michoud Assembly Facility
National Aeronautics and Space Administration
P.O. Box 29300
New Orleans, LA 70129

Appendix B—Standard Routine Uses—NASA

The following routine uses of information contained in systems of records subject to the Privacy Act of 1974 are standard for many NASA systems. They are cited by reference in the paragraph 'Routine uses of records maintained in the system, including categories of users and the purpose of such uses' of the FEDERAL REGISTER notice on those systems to which they apply.

Standard Routine Use No. 1 - LAW ENFORCEMENT - In the event that this system of records indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

Standard Routine Use No. 2 - DISCLOSURE WHEN REQUESTING INFORMATION - A record from this system of records may be disclosed as a 'routine use' to a federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

Standard Routine Use No. 3 - DISCLOSURE OF REQUESTED INFORMATION - A record from this system of records may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Standard Routine Use No. 4 - COURT PROCEEDINGS - In the event there is a pending court or formal administrative proceeding, any records which are relevant to the proceeding may be disclosed to the Department of Justice or other agency for purposes of representing the Government, or in the course of presenting evidence, or they may be produced to parties or counsel involved in the proceeding in the course of pre-trial discovery.

[FR Doc. 84-26059 Filed 10-9-84; 8:45 am]
BILLING CODE 7510-01-T

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Dance Advisory Panel (Dance TV Initiative); Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Dance Advisory Panel (Dance TV Initiative) to the National Council on the Arts will be held on October 24, 1984, from 9:00 a.m.-5:30 p.m. in room 716 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, D.C. 20506

This meeting is for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682-5433.

Dated: October 1, 1984.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 84-26695 Filed 10-9-84; 8:45 am]
BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Memory and Cognitive Processes; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Memory and Cognitive Processes.

Date and Time: October 25 and 26, 1984: 9:00 a.m.—5:00 p.m. each day.

Place: National Science Foundation, 1800 G St., NW., Washington, D.C. 20550, Room 523.

Type of Meeting: Closed.

Contact Person: Dr. Joseph L. Young, Program Director, Memory and Cognitive Processes Program, Room 320, National Science Foundation, Washington, D.C. 20550, telephone (202) 357-9898.

Summary Minutes: May be obtained from the Contact Person at the above stated address.

Purpose of Meeting: To provide advice and recommendations concerning support for research in memory and cognitive processes.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Dated: October 4, 1984.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 26755 Filed 10-9-84; 8:45 am]

BILLING CODE 7555-01-M

Technical Review Committee for Advanced Scientific Computing; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting.

Name: Technical Review Committee for Advanced Scientific Computing.

Date and Time: Thursday, Friday and Saturday, October 25, 26 and 27, 1984 from 9:00 a.m. to 5:00 p.m.

Place: Room 520, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. Lawrence Lee, Program Director for Supercomputing Centers, Room 504, Telephone: (202)357-7558.

Purpose of Advisory Panel: To review proposals received in response to a Project Solicitation for Advanced Scientific Computing Centers.

Agenda: To review and evaluate research proposals as one of four parts of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10((d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Dated: October 4, 1984.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 84-26756 Filed 10-9-84; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-247, License No. DPR-26, EA 84-92]

Consolidated Edison Company of New York, Inc.; Order Modifying License

In the matter of Consolidated Edison Company of New York, Inc., (Indian Point Nuclear Generating Station, Unit 2), Docket No. 50-247, License No. DPR-26, EA84-92.

I

Consolidated Edison Company (the "licensee") is the holder of Facility Operating License No. DPR-26 which authorizes the licensee to operate the Indian Point Nuclear Generating Station, Unit 2 (the "facility") in Buchanan, New York.

II

On June 12-15, 1984, an NRC special safety inspection was conducted to review radiological safety concerns identified by the resident inspector. As a result of this inspection on June 21, 1984, a Confirmatory Action Letter was issued by the Regional Administrator of Region I to confirm the licensee's commitments to take immediate and effective measures to improve radiological controls and prevent recurrence of deficiencies affecting radiological controls, including upgrading controls on High Radiation Area inside the Vapor Containment, ensuring that sampling of airborne radioactive material is consistent with the requirements of 10 CFR 20.103, and reviewing the qualifications of all contractor radiation protection technicians and supervisors to ensure these individuals meet the minimum criteria of ANSI N18.1, 1971, "Selection and Training of Nuclear Power Plant Personnel."

On July 5-6, 1984, the NRC special safety inspection was resumed to review the circumstances associated with the unplanned occupational radiation exposures to two workers on June 19, 1984, of 1050 millirem and 1500 millirem, respectively. One of the workers received a total quarterly exposure of 2395 millirem. The 10 CFR Part 20 limit is 3000 millirem per calendar quarter. Although the unplanned exposures were not in excess of regulatory limits, a substantial potential for such an exposure did exist.

The workers received the unplanned exposures while in a High Radiation Area where they were waiting to be called to work inside steam generators. Although the workers believed that they were standing in a low-background radiation area inside the Vapor Containment, radiation surveys performed by the licensee after identification of the unplanned exposures indicated that the workers inadvertently waited in an area with radiation dose rates of between 2000 and 4000 milliren per hour. The required radiological controls regarding access to the High Radiation Area where the workers waited were not implemented. Specifically, the workers were not adequately instructed by the use of map routes or guides, or otherwise directed to the location of the actual low background area where they were to wait. Also, these areas which had dose rates greater than 1000 millirem per hour were not adequately barricated to prevent unauthorized entry. Further, the workers were sent to the area of low-backgroud radiation without radiation survey meters, alarming dosimeters, or the equivalent that would have alerted them to the high radiation fields in which they finally waited. The provision of such equipment is required by Technical Specifications given that the area through which the workers were to proceed and in which they were to wait were both contained within an area posted as a High Radiation Area.

On July 18, 1984, an Enforcement Conference was conducted on-site to discuss the incidents. At this meeting, the licensee identified specific corrective measures and proposed a plan to upgrade and improve the radiation protection program at the facility.

On August 16-17, 1984, an NRC special safety inspection was conducted to review the circumstances associated with an unplanned exposure of approximately 2000 millirem to another worker on August 7, 1984. Although the unplanned exposure was not in excess of regulatory limits, a substantial potential for such an exposure did exist. The occurance was reported to the NRC resident inspector on August 9, 1984 and involved an individual performing work inside a steam generator. The worker was standing in the manway of one of the steam generators with his arms and portions of his upper body located inside the steam generator. The radiation does rate at the steam generator manway was between 10-15 rem per hour and as high as 30 rem per hour inside the steam generator. Although the worker's exposure was being controlled by a Radiation Protection Technician, the technician did not read all of the self-reading dosimeters located on the worker (upper arms, head and chest) and did not use the highest dosimeter value (the upper arms in this case) to control the worker's time in the steam generator and to limit the worker's exposure as required by procedures. This unplanned exposure resulted in a total of 2900 millirem received by the individual during the calendar quarter (the 10 CFR Part 20 limit is 3000 millirem per calendar quarter).

The violations of NRC requirements associated with these incidents are set forth in a Notice of Violation issued to the licensee on this date and incorporated herein by reference. These

recent violations at the facility represent a continuing problem in the effective implementation of radiological controls at Indian Point Nuclear Generating Station, Unit 2. On December 4, 1981, a Notice of Violation and Proposed Imposition of Civil Penalty was issued to the licensee in the amount of $40,000 for violations involving weaknesses in the control of personnel monitoring, access of personnel to high radiation areas, and failures of health physics contractor personnel to adhere to procedures (Reference EA No. 82–01). Also, on December 16, 1982, a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of $180,000 was issued to the licensee, $100,000 of which was for violations involving a radiation exposure in excess of regulatory limits to a contractor performing diving operations in the spent fuel pool. In that case, a spent fuel bundle was incorrectly moved near a location in the spent fuel pool where diving operations were to occur; the survey of the area did not identify the resulting high radiation fields associated with the bundle; and the diver's monitoring equipment did not identify and warn the diver of the resulting hazards associated with the area in which he was working (Reference EA No. 82–110).

III

Collectively, these occurrences at the facility represent inadequate planning, direction, and control of activities involving the potential for personnel exposure to radiation in excess of regulatory limits. These occurrences are indicative of programmatic deficiencies in the radiological controls program and they demonstrate the need for significant generic corrective measures to prevent similar occurrences in the future.

IV

In view of the foregoing, and pursuant to Sections 103, 161(i), 161(o), and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Part 2 and 10 CFR Part 50, it is hereby ordered that:

A. Within 30 days of the effective date of this Order, the licensee shall submit to the Regional Administrator, Region I, for review and approval:

(1) An action plan for upgrading the radiological controls program, a description of action items to be performed, and a schedule delineating a timetable for completion of those actions. All actions shall be completed no later than one year from the effective date of this Order. The plan for upgrading the radiological controls program shall provide a description of the program and shall define the subjects to be addressed by the administrative and implementing procedures.

The radiological controls program shall include:

(a) Provisions for positive control of High Radiation Areas;

(b) A clear and effective Radiation Work Permit (RWP) system;

(c) A technically adequate and effective Respiratory Protection Program;

(d) An effective Training Program for both employee and contractor health physics staff and radiation workers, including provisions for informing individuals of the presence of radioactive material or radiation and instructions in precautions and procedures to minimize exposure;

(e) A program which documents existing corporate philosophy to maintain radiation exposures as low as is reasonably achievable; and,

(f) A system for auditing and evaluating program implementation by qualified assessors at least annually.

(2) Specific interim actions taken or planned for effecting improved radiological controls before the program required by Paragraph (1) is implemented, including consolidation of procedures, personnel training, enhanced high radiation area controls, and increased management oversight.

(3) A charter for a senior level Oversight Committee to monitor and report on the effectiveness and quality of the radiological controls program and the progress being made in implementing the planned upgrade of the program discussed in Paragraph (1) above. The Committee shall assign one or more individuals, independent of the radiological protection organization, to perform surveillance of the day-to-day activities and to provide assessments of the adequacy of performance of the radiation protection staff and radiation protection practices, and to periodically report on these assessments to the Committee chairman. This charter shall include provisions that the Committee will provide monthly a written report directly to a senior corporate officer (at the level of the vice-President Nuclear Power or above), which documents the achievements made in upgrading the program. A copy of each report shall also be submitted to the Regional Administrator, Region I. The senior level Oversight Committee shall function at least until completion of the action plan, and the submittal and acceptance by the Regional Administrator, Region I, of a final report which summarizes program improvements and details plans to maintain the effectiveness of the program. The identity and qualifications for each member assigned to this Committee shall also be provided to the Regional Administrator along with the charter for the establishment of this Committee. The members of this Committee shall be independent of the licensee's radiological protection organization and from those persons responsible for developing and implementing the plan required by Paragraphs (1) and (2) of this Order.

B. Upon review and approval of the licensee's submittals by the Regional Administrator, Region I, they shall be implemented. Scheduled completion dates may not be extended without good cause and the concurrence of the Regional Administrator, Region I, or his designee.

C. The Regional Administrator, Region I, may relax or terminate any of the preceding conditions for good cause.

V

The licensee or any other person whose interest is adversely affected by this Order may request a hearing on this Order. any request for hearing shall be submitted to the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, within 30 days of the date of this Order. A copy of the request shall also be sent to the Executive Legal Director at the same address and to the Regional Administrator, Region I, 631 Park Avenue, King of Prussia, Pennsylvania 19406.

If a hearing is to be held concerning this Order, the Commission will issue an Order designating the time and place of hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order shall be sustained.

This Order shall become effective upon expiration of the time during which the licensee may demand a hearing or, in the event that the licensee demands a hearing, on the date specified in an order issued following further proceedings on this Order.

Dated at Bethesda, Md., this 27th day of September 1984.

For the Nuclear Regulatory Commission.

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

Notice of Violation

[Docket No. 50-247 License No. DPR-26 EA 84-92]

Consolidated Edison Company of New York, Inc.

Indian Point Nuclear Generating Station, Unit 2

On June 12-15 and July 5-6, 1984, an NRC special safety inspection was conducted to review radiological safety concerns and the circumstances associated with the unplanned occupational radiation exposure on June 19, 1984 of 1050 millirem and 1500 millirem, respectively, to two workers. One of the workers received a total quarterly exposure of 2395 millirem. The 10 CFR 20 limit is 3000 millirem per calendar quarter. The NRC resident inspector became aware of the unplanned exposures while attending a routine outage meeting conducted by the licensee on June 20, 1984. Although the unplanned exposures were not in excess of regulatory limits, a substantial potential for such an exposure did exist.

The workers received the unplanned exposures while waiting in a High Radiation Area inside the crane wall of the 40 foot elevation of the Vapor Containment near the Regenerative Heat Exchanger. Although the workers believed they were standing in a low-background radiation area, radiation surveys performed by the licensee after identification of the unplanned exposures indicated that the workers inadvertently waited in an area with radiation dose rates of between 2000 and 4000 millirem/hr.

The required radiological controls regarding access to the High Radiation Area where the workers waited were not implemented. Specifically, the workers were not adequately instructed by the use of map routes or guides or otherwise directed to the location of the actual low background area where they were to wait. Also, areas having dose rates greater than 1000 millirem/hr were not adequately barricaded to prevent unauthorized entry. Further, the workers were sent to the area of low-background radiation without radiation survey meters, alarming dosimeters, or the equivalent that would have alerted them to the high radiation fields in which they finally waited. The provision of such equipment is required by Technical Specifications given that the area through which the workers were to transit and in which they were to wait were both contained within an area posted as a High Radiation Area.

On August 16-17, 1984, an NRC special safety inspection was conducted to review the circumstances associated with an unplanned exposure on August 7, 1984, of 2000 millirem to another worker with a total quarterly exposure of 2900 millirem. The occurrence was reported to the NRC resident inspector on August 9, 1984, and involved an individual performing work in a steam generator. The worker was standing at the manway of one of the steam generators with his arms and portions of his upper body located inside the steam generator. The radiation dose rate at the steam generator manway was 10-15 R/hour and as high as 30 R/hour inside the steam generator. Although the worker's exposure was being controlled by a Radiation Protection Technician, the technician did not read all the self reading dosimeters located on the worker (upper arms, head and chest) and did not use the highest dosimeter value (the upper arms in his case) to control the worker time in the steam generator and to limit the worker exposure as required by procedures.

In accordance with the NRC Enforcement Policy, 10 CFR Part 2, Appendix C, as revised, 49 FR 8583 (March 8, 1981). The particular violations are set forth below:

A. Technical Specification 6.12, "High Radiation Area", specifies that areas greater than 1000 mrem/hour be controlled by conspicuously posting the area as a High Radiation Area, by the issuance of a Radiation Work Permit, by providing individuals (or groups of individuals) with continuously indicating dose rate instrumentation, and by providing locked doors for each area with the key administratively controlled by the Watch Supervisor on duty.

Contrary to the above, on June 19, 1984, two workers were permitted to enter a High Radiation Area in the Unit 2 Vapor Containment where radiation levels were between 2000 and 4000 mrem/hour, without the entry being controlled by the issuance of a Radiation Work Permit, and without being provided with continuously dose rate indicating instrumentation.

B. 10 CFR 19.12 requires, in part, that individuals working or frequenting any portion of a restricted area be kept informed of radiation in such portions of the restricted area and precautions or procedures to minimize exposures.

Contrary to the above, on June 19, 1984, two workers who entered the crane wall of Unit 2 Vapor Containment (a restricted area) were not informed of the radiation dose rates or precautions and procedures to minimize their exposures. No surveys, maps, diagrams, or other means were used to instruct the workers as to the location of a low background area that they were supposed to wait at, and instead they waited near the Regenerative Heat Exchanger which had radiation levels between 2000 millirem/hr and 4000 millirem/hr.

C. Technical Specification 6.11, Radiation Protection Program, states that "Procedures for personnel radiation protection shall be prepared consistent with the requirements of 10 CFR Part 20 and shall be approved, maintained and adhered to for all operations involving personnel radiation exposure."

Procedure No. EHS 3.403, Revision O, "Steam Generator Channel Entry," developed pursuant to the above, requires an SAO-134 be prepared for the entry of personnel into the Steam Generators. The SAO-134 prepared for the Steam Generator entry on August 7, 1984, required that self reading dosimeters be worn on the head, chest and the upper arms, and the highest reading on these dosimeters be used in controlling the worker's whole body exposure.

Contrary to the above, on August 7, 1984, an entry was made into a Steam Generator by a worker, and a Health Physics Technician did not adhere to Procedure No. EHS 3.403 in that he did not utilize the highest reading indicated by the dosimeter located on the upper arm of the worker to control the worker's whole body exposure.

Collectively, these violations have been categorized in the aggregate as a Severity Level III problem (Supplement IV).

Pursuant to the provisions of 10 CFR 2.201, Consolidated Edison Company is hereby required to submit to the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and a copy to the Regional Administrator, U.S. Nuclear Regulatory Commission, Region I, 631 Park Avenue, King of Prussia, Pennsylvania 19406, within 30 days of the date of this Notice, a written statement or explanation, including for each alleged violation: (1) Admission or denial of the alleged violation; (2) the reasons for the violation, if admitted; (3) the corrective steps which have been taken and the results achieved; (4) the corrective steps which will be taken to avoid further violations; (5) the date when full compliance will be achieved. Consideration may be given to extending the response time for good cause shown. Under the authority of Section 182 of the Act, 42 U.S.C. 2232, this response shall be submitted under oath or affirmation.

[FR Doc. 84-26727 Filed 10-09-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-277, 50-278]

Philadelphia Electric Co., et al.; Consideration of Issuance of Amendments To Facility Operating Licenses and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating Licenses Nos. DPR-44 and DPR-56 issued to Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company and Atlantic City Electric Company (the licensees), for operation of the Peach Bottom Atomic Power Station Units Nos. 2 and 3 (the facility) located in York County, Pennsylvania.

In accordance with the licensees' application dated September 28, 1984, the amendments would change the Technical Specifications (TSs) to permit changes in the normal full power background trip level setting for the Main Stream Line High Radiation scram and isolation setpoints to accommodate a scheduled short-term test at Unit 3 and a possible future Unit 2 test of hydrogen injection as a potential intergranular stress corrosion cracking mitigating activity. The change would specifically permit a temporary increase in the Main Steam Line High Radiation scram and

isolation setpoints to facilitate operation with the expected increased N–16 radiation levels due to the hydrogen injection test. The licensee also requested the deletion of an obsolete footnote in the Unit 2 TSs since the testing authorized by Amendment No. 34 has been completed.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; and (3) involve a significant reduction in a margin of safety.

The proposed amendment request would permit, during the proposed 3–4 day test for Unit 3 and a potential back-up test at Unit 2, an increase in the calculated radiation level setpoint will remain at three times the background radiation level; however, due to the increased N–16 carryover in the steam, the background radiation level used to determine the high radiation setpoint will be increased prior to the test period. The increase in the background level would be based upon the calculated value of the radiation level expected during the tests. The license amendments would also permit the background level to be adjusted during hydrogen injection tests to correct for uncertainties in the initial pre-test computations. Restoration to pre-test setpoints will be required within 24 hours of re-establishing normal radiation levels after completion of the test program. The Main Steam Line Radiation scram and isolation setpoints provide the capability to monitor for fuel failures. The only event which takes credit for these trips is the design bases control rod drop accident (CRDA). A CRDA is only a concern below 10% of rated power. The hydrogen injection test will not be performed below 20% power. In addition, the capability to monitor for fuel failures will be maintained through: (1) The continued operability of the main steam radiation monitoring scram and isolation system; (2) routine radiation surveys; (3) the performance of daily primary coolant water analyses; and (4) the continued operability of the Steam Jet-Air Ejector OFF-Gas Monitor.

Furthermore, radiation protection practices will be performed during the course of the test based upon the licensee's pre-test radiation (ALARA) review. During the hydrogen injection test, special radiation level surveys will be performed and protective actions will be taken, as appropriate, to control all onsite personnel exposure. Changes in gaseous effluent release rates for hydrogen injection are expected to be negligible due to the short decay times for N–16. The proposed change to delete an obsolete footnote in the Unit 2 TSs is an administrative change since the testing program authorized by Amendment No. 34 has been completed. Based on these considerations, the Commission's staff concludes that the proposed amendments will not significantly increase the probability or consequences of accidents previously considered, will not create the possibility of a new or different accident from any previously evaluated, and will not significantly reduce a safety margin. Thus, the staff proposes to determine that these amendments to not involve significant hazards considerations.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, ATTN: Docketing and Service Branch.

By November 9, 1984, the licensees may file a request for a hearing with respect to issuance of the amendments to the subject facilijty operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendments under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request invovles no significant hazards consideration, the Commission may issue the amendments and make them effective,

notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendments.

If the final determination is that the amendments involve a significant hazards consideration, any hearing held would take place before the issuance of any amendments.

Normally, the Commission will not issue the amendments until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendments before the expiration of the 30-day notice period, provided that its final determination is that the amendments involve no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to John F. Stolz: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Troy B. Conner, Jr., 1747 Pennsylvania Avenue, NW, Washington, D.C. 20006, attorney for Philadelphia Electric Company.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 84–26728 Filed 10–9–84; 8:45 am]

BILLING CODE 7590–01–M

In Situ Testing During Site Characterization for High-Level Nuclear Waste Repositories; Availability of Draft Technical Position

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability.

SUMMARY: The Nuclear Regulatory Commission (NRC) is announcing the availability of a "Draft Generic Technical Position on In Situ Testing During Site Characterization for High-Level Nuclear Waste Repositories."

DATE: The comment period expires December 10, 1984.

ADDRESSES: Send comments to Hubert J. Miller, Chief, Repository Projects Branch, Division of Waste Management, U.S. Nuclear Regulatory Commission, Mial Stop 623–SS, Washington, D.C. 20555. Copies of this document may be obtained free of charge upon written request to Nancy Still, Docket Control Center, Division of Waste Management, U.S. Nuclear Regulatory Commission, Mail Stop 623–SS, Washington, D.C. 20555, Telephone 1/800/368–5642, Ext. 74426.

FOR FURTHER INFORMATION CONTACT: Dr. Mysore Nataraja, Section Leader, Engineering Branch, Division of Waste Management, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone (301) 427–4319.

SUPPLEMENTARY INFORMATION: The Nuclear Waste Policy Act of 1982, Pub. L. 97–425 (NWYPA) and Commission regulation 10 CFR Part 60 promote interaction between the Department of Energy (DOE) and NRC prior to submittal of a license application for a geologic repository. These interactions are to fully inform DOE about the level of information that must be provided in a license application to allow a licensing decision to be made by NRC. Guidance to DOE is provided in NRC Site Characterization Analyses (SCA's) which document staff reviews of DOE Site Characterization Plans submitted according to the NWPA and 10 CFR Part 60. Supplementary guidance is presented in staff technical positions on both generic and site-specific issues. Generic technical positions establish the staff's position on technical issues that would be applicable to any site.

This announcement notices availability and solicits comments on the "Draft Generic Technical Position on In Situ Testing During Site Characterization for High-Level Nuclear Waste Repositories." Guidance is provided to DOE on what the staff considers to be the essential elements of an in situ test program to address the requirements and performance objectives of 10 CFR Part 60 with respect to deep geologic disposal of high-level nuclear waste. The staff considers that necessary and sufficient in situ testing should be performed at depth on the host rock to address key issues prior to submitting a licensing application. The intent of the Generic Technical Position is to provide guidance to the Department that is applicable throughout the site characterization period. In situ testing is essential to assess the suitability of a geologic repository site for hosting high-level nuclear waste and to provide realistic input parameters for the repository design. The Technical Position summarizes guidance which has been given to DOE through technical correspondence, documented technical meetings, and other mechanisms provided by the NRC/DOE Procedural Agreement (48 FR 38701), dated 8/25/83). The staff considers that a program of in situ exploration and testing must be addressed in the Site Characterization Plans for each site.

Dated at Silver Spring, MD, this 28th day of September, 1984.

For the Nuclear Reglatory Commission.

John J. Linehan,

Acting chief, Repository Projects Branch, Division of Waste Management.

[FR Doc. 84–26726 Filed 10–9–84; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50-213]

Connecticut Yankee Atomic Power Co.; Environmental Assessment and Finding of No Significant Impact

Correction

In FR Doc. 84-25994 beginning on page 38721 in the issue of Monday, October 1, 1984, make the following correction. On page 38721, third column, fifth line from the top, insert the word "not" after the word "was".

BILLING CODE 1505-01-M

PENSION BENEFIT GUARANTY CORPORATION

Exemption From Bond/Escrow Requirement Relating to Sale of Assets by an Employer That Contributes to a Multiemployer Plan: Rock-Tenn Co.

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of exemption.

SUMMARY: The Pension Benefit Guaranty Corporation has granted an exemption from the bond/escrow requirement of section 4204(a)(1)(B) of the Employee Retirement Income Security Act of 1974 to Rock-Tenn Company. A notice of the request for exemption was published in the **Federal Register** on March 27, 1984 (49 FR 11740). The effect of this notice is to advise the public of the decision on the exemption request.

ADDRESS: The request for an exemption and the PBGC response to the request are available for public inspection at the PBGC Public Affairs Office, Suite 7100, 2020 K Street, NW., Washington, D.C. 20006, between the hours of 9:00 a.m. and 4:00 p.m. A copy of these documents may be obtained by mail from the PBGC Disclosure Officer (190) at the above address.

FOR FURTHER INFORMATION CONTACT: Deborah Murphy, Attorney, Corporate Policy and Regulations Department (611), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006; (202) 254-4860 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Under section 4204(a)(1) of the Employee Retirement Income Security Act of 1974 ("ERISA"), a sale of assets by an employer that contributes to a multiemployer pension plan will not constitute a withdrawal from the plan if certain conditions are met. One of these conditions is that the purchaser furnish a bond or escrow for five plan years after the sale.

ERISA section 4204(c) authorizes the Pension Benefit Guaranty Corporation ("PBGC") to grant exemptions from the purchaser's bond/escrow requirement of section 4204(a)(1)(B). Under § 2643.3(a) of the PBGC's regulation on variances for sales of assets (29 CFR 2643), the PBGC will approve a request for an exemption if it determines that approval of the request is warranted, in that it—

(1) Would more effectively or equitably carry out the purposes of Title IV of ERISA; and

(2) Would not significantly increase the risk of financial loss to the plan.

The legislative history of section 4204 indicates a Congessional intent that the sales rules be administered in a manner that assures protection of the plan with the least practicable intrusion into normal business transactions.

ERISA sections 4204(c) and § 2643.3(b) of the regulation require the PBGC to publish a notice of the pendency of an exemption request in the **Federal Register**, and to give interested parties an opportunity to comment on the proposed exemption.

Decision

On March 27, 1984 (49 FR 11740), the PBGC published a notice of the pendency of a request from Rock-Tenn Company ("Rock-Tenn") for an exemption from the bond/escrow requirement of ERISA section 4204(a)(1)(B), in connection with the purchase by Rock-Tenn of the assets of the Partition/Mill Division and Dallas Folding Carton Plant of Clevepak Corporation ("Clevepak") on August 1, 1983. No comments were received in response to the notice.

In connection with the sale, Rock-Tenn has assumed Clevepak's obligation to contribute to the Paper Industry Union-Management Pension Fund ("PIUMPF") under collective bargaining agreements with United Paperworkers International Union, AFL-CIO, and Local Unions Nos. 826, 1106, and 200, Philadelphia Local Union No. 286, and Greater Milwaukee Local No. 200. According to the PIUMPFs' computations, Clevepak has no potential withdrawal liability. (Clevepak is continuing to contribute to the PIUMPF for operations not involved in this sale of assets. How that fact might affect Clevepak's status, now or in the future, under the complete or partial withdrawal rules of ERISA is a matter as to which the PBGC takes no position in this notice.)

The amount of the bond or escrow that would be required of Rock-Tenn under ERISA section 4204(a)(1)(B) is $138,200 (Clevepak's average required annual contribution for the three plan years preceding the sale).

In the sale contract, Clevepak agreed that, if Rock-Tenn withdraws and fails to pay withdrawal liability within five plan years after the sale, Clevepak will be secondarily liable for any withdrawal liability it would have had to the PIUMPF but for the operation of ERISA section 4204.

In accordance with the PBGC's regulation (29 CFR § 2643.2(d)(7)), copies of Rock-Tenn's unaudited financial statements for its fiscal years 1980, 1981 and 1982 were submitted as part of the application. However, Rock-Tenn has asserted that the financial information is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552(b)(4)).

Rock-Tenn asserted that an exemption should be granted because the bond/escrow amount is *de minimis*. Based on information provided by the PIUMPF, the total average annual contributions to the Fund for the three plan years preceding the plan year of the sale were $23,937,019. Thus, the amount of the bond or escrow is about six-tenths of one percent of the average amount of all employers' contributions.

Based on the facts of this case and the representations and statements made in connection with the exemption request, the PBGC has determined that this request is *de minimis* in nature and thus an exemption from the bond/escrow requirement is warranted, in that it would more effectively carry out the purposes of Title IV of ERISA and would not significantly increase the risk of financial loss to the PIUMPF. Therefore, the PBGC hereby grants the request for an exemption from the bond/escrow requirements of section 4204(a)(1)(B) with respect to Rock-Tenn's purchase of assets from Clevepak. The granting of such an exemption does not constitute a determination by the PBGC that the transaction satisfies the other requirements of section 4204(a)(1). That is a determination to be made by the plan sponsor.

Issued at Washington, DC, on this 3rd day of October 1984.

C.C. Tharp,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 84-26994 Filed 10-9-84; 8:45 am]

BILLING CODE 7708-01-M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272–2142.

Upon Written Request Copy Available from: Securities and Exchange Commission, Office of Consumer Affairs, Washington, D.C. 20549.

Extension of Approval

Rule 17a–8
No. 270–225.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for extension of OMB approval Rule 17a–8 (17 CFR 240.17a–8) under the Securities Exchange Act of 1934 (15 U.S.C. 78 *et seq.*) which generally requires brokers and dealers to make certain reports and records regarding currency and foreign transactions.

Submit comments to OMB Desk Officer: Ms. Katie Lewin, (202) 395–7231, Office of Information and Regulatory Affairs, Room 3235 NEOB, Washington, D.C. 20503.

Dated: September 26, 1984.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84–26707 Filed 10–9–84; 8:45 am]

BILLING CODE 8010–01–M

Forms Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272–2142.

Upon Written Request Copy Available from: Securities and Exchange Commission, Office of Consumer Affairs, Washington, D.C. 20549.

Extension of Approval

Rule 13a–17 and Form 10–C
No. 270–206.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission has submitted for extension of OMB approval Rules 13a–17 (17 CFR 240.13a–17), 15d–17 (17 CFR 240.15d–17) and Form 10–C (17 CFR 249.310c) under the Securities Exchange Act of 1934 (15 U.S.C. 78 *et seq.*) which requires issuers of securities quoted on NASDAQ Inter-dealer Quotation System to report either a change of corporate name or an increase or decrease of outstanding securities that exceeds 5%.

Submit comments to OMB Desk Officer: Ms. Katie Lewin, (202) 395–7231, Office of Information and Regulatory Affairs, Room 3235 NEOB, Washington, D.C. 20503.

Dated: September 26, 1984.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84–26706 Filed 10–9–84; 8:45 am]

BILLING CODE 8010–01–M

Forms Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash (202) 272–2142.

Upon Written Request Copy Available from: Securities and Exchange Commission Office of Consumer Affairs, Washington, D.C. 20549.

Extension of Approval

Rule 17a–22
No. 270–202

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for extension of OMB approval Rule 17a–22 (17 CFR 240.17a–22) under the Securities Exchange Act of 1934 (15 U.S.C. 78 *et set.*) which requires registered clearing agencies to send the Commission copies of publications sent to clearing agency participants.

Submit comments to OMB Desk Officer: Ms. Katie Lewin, (202) 395–7231, Office of Information and Regulatory Affairs, Room 3235 NEOB, Washington, D.C. 20503.

Dated: September 26, 1984.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84–26705 Filed 10–9–84; 8:45 am]

BILLING CODE 8010–01–M

Forms Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272–2142.

Upon Written Request Copy Available from: Securities and Exchange Commission, Office of Consumer Affairs, Washington, D.C. 20549.

Extension of Approval

Rule 17A(b)–2–1
No. 270–203

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for extension of OMB approval Rule 17A(b)–2–1 (17 CFR 240.17Ab2–1) and Form CA–1 (17 CFR 249b.200) under the Securities Exchange Act of 1934 (15 U.S.C. 78 *et seq.*) which require registered clearing agencies.

Submit comments to OMB Desk Officer: Ms. Katie Lewin, (202) 395–7231, Office of Information and Regulatory Affairs, Room 3235 NEOB, Washington, D.C. 20503.

Dated: September 26, 1984.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84–26704 Filed 10–9–84; 8:45 am]

BILLING CODE 8010–01–M

Forms Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272–2142.

Upon Written Request Copy Available from: Securities and Exchange Commission, Office of Consumer Affairs, Washington, D.C. 20549.

Extension of Approval

Rule 12f–3 and Form 28
No. 270–141

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for extension of OMB approval Rule 12f–3 (17 CFR 240.12f–3) and Form 28 (17 CFR 249.28) under the Securities Exchange Act of 1934 (15 U.S.C. 78 *et seq.*) which prescribes the information which must be included in an application for and notice of termination or suspension of unlisted trading privileges.

Submit comments to OMB Desk Officer: Ms. Katie Lewin, (202) 395–7231, Office of Information and Regulatory Affairs, Room 3235 NEOB, Washington, D.C. 20503.

Dated: September 27, 1984.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84–26703 Filed 10–9–84; 8:45 am]

BILLING CODE 8010–01–M

Forms Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272–2142.

Upon Written Request Copy Available from: Securities and Exchange Commission, Office of Consumer Affairs, Washington, D.C. 20549.

Extension of Approval

Rule 12f–2
No. 270–140

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980

(44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for extension of OMB approval Rule 12f-2 (17 CFR 240.12f-2) and Form 27 (17 CFR 249.27) under the Securities Exchange Act of 1934 (15 U.S.C. 78 *l et seq.*) which requires a national securities exchange to inform the Commission of certain changes in a security admitted to unlisted trading privileges. The information required by Rule 12f-2, adopted in 1934, is designed to enable the Commission to discharge its statutorily-mandated oversight responsibilities with respect to unlisted trading privileges and generally to update the Commission's records regarding such securities.

Submit comments to OMB Desk Offices: Ms. Katie Lewin, (202) 395-7231, Office of Information and Regulation Affairs, Room 3235 NEOB, Washington, D.C. 20503.

Dated: September 27, 1984.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-26702 Filed 10-9-84; 8:45 am]

BILLING CODE 8010-01-M

Forms Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272-2142.

Upon Written Request Copy Available from: Securities and Exchange Commission, Office of Consumer Affairs, Washington, D.C. 20549.

Extension of Approval

Rule 15c2-5
No. 270-34

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et. seq.*), the Securities and Exchange Commission has submitted for extension of OMB approval Rule 15c2-5 (17 CFR § 15c-2-5) under the Securities Exchange Act of 1934 (15 U.S.C. 78 *et seq.*) which prohibits a broker-dealer from arranging a loan for a customer to whom a security is sold, unless before the transaction is entered into, the broker-dealer reasonably determines that the transaction is suitable for the customer.

Submit comments to OMB Desk Officer: Ms. Katie Lewin, (202) 395-7231, Office of Information and Regulatory Affairs, Room 3235 NEOB, Washington, D.C. 20503.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-26701 Filed 10-9-84; 8:45 am]

BILLING CODE 8010-01-M

Forms Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272-2142.

Upon Written Request Copy Available from: Securities and Exchange Commission, Office of Consumer Affairs, Washington, D.C. 20549.

Extension of Approval

Rule 19d-3
No. 270-245

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for extension of OMB approval Rule 19d-3 (17 CFR 240. 19d-3) under the Securities Exchange Act of 1934 (15 U.S.C. 78 *et. seq.*) which prescribes the form and content of applications to the Commission for review of final disciplinary sanctions, denials of membership, participation or association with a member or prohibitions or limitations of access to services imposed by self-regulatory organizations.

Submit comments to OMB Desk Officer: Ms. Katie Lewin, (202) 395-7231, Office of Information and Regulatory Affairs, Room 3235 NEOB, Washington, D.C. 20503.

Dated: October 1, 1984.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-26700 Filed 10-9-84; 8:45 am]

BILLING CODE 8010-01-M

Forms Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272-2142.

Upon Written Request Copy Available from: Securities and Exchange Commission, Office of Consumer Affairs, Washington, D.C. 20549.

Extension of Approval

Rule 19d-2
No. 270-204

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for extension of OMB approval Rule 19d-2 (17 CFR 240.19d-2) under the Securities Exchange Act of 1934 (15 U.S.C. 78 *et. seq.*) which prescribes the form and content of applications to the Commission for stays of final disciplinary sanctions and summary actions of self-regulatory organizations.

Submit comments to OMB Desk Officer: Ms. Katie Lewin, (202) 395-7231, Office of Information and Regulatory Affairs, Room 3235, NEOB, Washington, D.C. 20503.

Dated: October 1, 1984.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-26699 Filed 10-9-84; 8:45 am]

BILLING CODE 8010-01-M

Forms Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272-2142.

Upon Written Request Copy Available from: Securities and Exchange Commission, Office of Consumer Affairs, Washington, D.C. 20549.

Extension of Approval

Rule 24b-1
No. 270-205

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for extension of OMB approval Rule 24b-1 (17 CFR 240.24b-1) under the Securities Exchange Act of 1934 (15 U.S.C. 78 *et. seq.*) which requires a national securities exchange to permit public access to a copy of its registration statement which has been approved by the Commission. The information required by Rule 24b-1, adopted in 1934, is designed to permit members of the public access to the exchange's registration statements and amendments thereto.

Submit comments to OMB Desk Officer: Ms. Katie Lewin, (202) 395-7231, Office of Information and Regulatory Affairs, Room 323B NEOB, Washington, D.C. 20503.

Dated: September 27, 1984.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-26698 Filed 10-9-84; 8:45 am]

BILLING CODE 8010-01-M

[File No. 22-13241]

American Southwest Finance Co., Inc.; Application and Opportunity for Hearing

October 2, 1984.

Notice is hereby given that American Southwest Finance, Inc. (the "Applicant") has filed an application pursuant to clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939, as amended, (the "Act") for a finding by the Securities and Exchange

Commission (the "Commission") that trusteeship of The Valley National Bank of Arizona ("Valley") under an indenture dated as of January 1, 1984 (the "Qualified Indenture"), between the Applicant and Valley which was heretofore qualified under the Act, and trusteeship by Valley under an indenture tentatively to be dated as of August 1, 1984, and which will be qualified under the Act (the "New Indenture"), is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Valley from acting as trustee under the Qualified Indenture and the New Indenture.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in the section), it shall, within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of this section provides, with certain exceptions stated therein, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture of the same obligor.

However, pursuant to clause (ii) subsection (1), there may be excluded from the operation of this provision another indenture or indentures under which other securities of the issuer are outstanding, if the issuer shall have sustained the burden of providing on application to the Commission, and after opportunity for hearing thereon, that the trusteeships under the qualified indentures and such other indentures are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under any such indentures. The Applicant alleges that:

(1) Pursuant to the Qualified Indenture, the Applicant has issued $76,500,000 in aggregate principal amount of its Mortgage-Collateralized Bonds, Series 1984–1 (the "Series 1984–1 Bonds"), for which Valley serves as trustee. The Series 1984–1 Bonds were registered under the Securities Act of 1933, and the Qualified Indenture was qualified under the Act.

(2) Pursuant to the New Indenture, the Applicant proposes to issue and sell an as yet undetermined aggregate principal amount of its Mortgage-Collateralized Bonds, issuable in series (the "New Bonds") for which it comtemplates Valley will serve as trustee. The Applicant contemplates that the New Bonds will be registered under the Securities Act of 1933 pursuant to Rule 415 thereunder and that the New Indenture will be qualified under the Act.

(3) Each series of Bonds is secured by the pledge by the Applicant to Valley of collateral which serves as security only for that series. Each series is payable solely from the collateral pledged to secure the bonds of that series, and the holders of any Bonds of any series issued by the Applicant will not have recourse to the collateral granted to Valley as trustee for any other series of bonds. Any default under an indenture or indenture supplement for any series of Bonds will not cause a default under an indenture or indenture supplement for any other series of Bonds.

(4) The Applicant is not in default under the Qualified Indenture.

(5) Such differences as exist between the Qualified Indenture and the New Indenture are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Valley from acting as trustee under any of the Indentures.

The Applicant has waived notice of hearing, hearing and any and all rights to specify procedures under the Rules of Practice of the Securities and Exchange Commission in connection with this matter.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application which is on file in the offices of the Commission's Public Reference Section 450 Fifth Street, NW., Washington, D.C. 20549.

Notice is further given that any interested persons may, not later than October 26, 1984, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request and the issues of law or fact raised by such application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-26708 Filed 10-9-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21366; File No. SR-MSRB-84-14]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by the Municipal Securities Rulemaking Board

October 3, 1984.

The Municipal Securities Rulemaking Board ("MSR B") on September 27, 1984, submitted copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b–4 thereunder, to amend rule A–5(b), concerning the election of officers of the Board, to provide for voting of officers at the penultimate meeting of the Board held prior to October 1. The Board also has amended the rule to incorporate expressly its current practice of electing officers by secret, written ballot.

This proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act. At any time within sixty days of filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Publication of this notice is expected to be made in the **Federal Register** during the week of October 8, 1984. Interested persons are invited to submit written comments concerning the submission within 21 days from the date of publication in the **Federal Register**. Persons submitting written comments should file six copies with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Comments should refer to File No. SR–MSR B–84–14.

Copies of the submission and all related items, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available at the office of the MSR B.

For the Commission, by the Division of Market Regulation pursuant to delegated authority. 17 CFR 200.30-3(a)(12).

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-26709 Filed 10-9-84; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Designation of Disaster Loan Area No. 6209]

Designation of Disaster Loan Area; California

Kern County in the State of California constitutes a disaster area because of a massive earth slide which occurred on May 18, 1984, and the temporary closing of the State Highway 178 east of Bakersfield in the County of Kern California. Eligible small businesses without credit elsewhere and small agricultural cooperatives without credit elsewhere may file applications for economic injury assistance until the close of business on July 3, 1985, at the address listed below: Disaster Area 4 Office, Small Business Administration, 77 Cadillac Drive, Suite 158, Sacramento, California 95825, or other locally announced locations. The interest rate for eligibile small business applicants without credit elsewhere is 4% and 10.5% for eligible small agricultural cooperatives without credit elsewhere.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: October 3, 1984.

James C. Sanders,

Administrator.

[FR Doc. 84-26744 Filed 10-9-84; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 2164; Amdt #3]

Declaration of Disaster Loan Area; Nevada

The above numbered declaration (49 FR 32703), Amendment #1 (49 FR 35459) and Amendment #2 (49 FR 36465) are hereby amended to extend the incidence period to September 11, 1984, and to extend the termination date for filing applications for physical damage to the close of business on October 31, 1984. The termination date for economic injury applications remains the close of business on May 8, 1985.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: October 4, 1984.

James C. Sanders,

Administrator.

[FR Doc. 84-26745 Filed 10-9-84; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 2172]

Declaration of Disaster Loan Area; Texas

As a result of the President's major disaster declaration on October 2, 1984, I find that the County of Cameron constitutes a disaster loan area because of damage from severe storms and flooding beginning on or about September 16, 1984. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on December 3, 1984, and for economic injury until July 2, 1985, at: Disaster Area 3 Office, Small Business Administration, 2306 Oak Lane, Suite 110, Grand Prairie, Texas 75051 or other locally announced locations.

Interest rates are:

	Percent
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses without credit available elsewhere	4.000
Businesses (EIDL) without credit available elsewhere	4.000
Other (non-profit organizations including charitable and religious organizations)	10.500

The number assigned to this disaster is 217206 for physical damage and for economic injury the number is 621100.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated October 3, 1984.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 84-26743 Filed 10-9-84; 8:45 am]

BILLING CODE 8025-01-M

[License No. 02/02-5455]

Triad Capital Corporation of New York; Filing of an Application for an Approval of a Conflict-of-Interest Transaction

Notice is hereby given that Triad Capital Corporation of New York (Triad), 7 Hugh Grant Circle, Bronx, New York 10462, a Federal Licensee under the Small Business Investment Act of 1958, as amended, has filed an application with the Small Business Administration pursuant to § 107.903 of the Regulations governing small business investment companies (13 CFR 107.903 (1984)) for an approval of a conflict of interest transaction.

Triad proposes to loan $150,000 to Sam Munroe for the purchase of a McDonalds franchise Ost & Scott Street, Houston, Texas 77013. Sam Munroe is a Director and owner of 7.7 percent of the common stock of Triad.

As a result, Triad's financing to Sam Munroe falls within the purview of § 107.903(b)(1) of the SBA Regulations. Triad's loan to Sam Munroe requires prior written approval of SBA.

Notice is hereby given that any person may no later than 10 days from the date of this Notice, submit written comments to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416

A similar Notice shall be published in a newspaper of general circulation in New York, New York.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: October 2, 1984.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 84-26742 Filed 10-9-84; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Public Information Collection Requirements Submitted to OMB for Review

Dated: October 2, 1984.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB (listed by submitting bureau(s)), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained by calling the Treasury Bureau Clearance Officer listed under each bureau. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 7225, 1201 Constitution Avenue, NW., Washington, D.C. 20220.

Internal Revenue Serice

OMB Number: 1545-0040
Form Number: IRS Form 964
Type of Review: Extension
Title: Election of Shareholder Under Section 333 Liquidation

OMB Number: 1545-0089
Form Number: IRS Form 1040-NR

Type of Review: Revision
Title: U.S. Nonresident Alien Income Tax Return

Clearance Officer: Garrick Shear, (202) 566–6254, Room 5571, 1111 Constitution Avenue, NW., Washington, D.C. 20224.

OMB Reviewer: Norman Frumkin, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

[FR Doc. 84–26808 Filed 10–9–84; 8:45 am]
BILLING CODE 4810–25–M

VETERANS ADMINISTRATION

Agency Forms Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

SUMMARY: The Veterans Administration has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document contains extensions, revisions and a reinstatement and lists the following information: (1) The Department or Staff Office issuing the form; (2) The title of the form; (3) The agency form number, if applicable; (4) How often the form must be filled out; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to fill out the form; and (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies.

ADDRESSES: Copies of the forms and supporting documents may be obtained from Patricia Viers, Agency Clearance Officer (732), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 389–2146. Comments and questions about the items on this list should be directed to the VA's OMB Desk Officer, Dick Eisinger, Office of Management and Budget, 726 Jackson Place, NW, Washington, DC 20503, (202) 395–7316.

DATES: Comments on the information collections should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: October 4, 1984.

By direction of the Administrator.

Dominick Onorato,

Associate Deputy Administrator for Information Resources Management.

Extensions

1. Department of Veterans Benefits
2. Designation of Beneficiary and Optional Settlement
3. VA Form 29–336
4. On occasion
5. Individuals or households
6. 101,864 responses
7. 17,317 hours
8. Not applicable

1. Department of Veterans Benefits
2. Educational Plan (Under Provisions of Chapter 35, Title 38, U.S.C.)
3. VA Form 22–5490a
4. On occasion
5. Individuals or households
6. 2,000 responses
7. 333 hours
8. Not applicable

1. Department of Veterans Benefits
2. Claim for Monthly Payments of National Service Life Insurance
3. VA Form 29–4125a
4. On occasion
5. Individuals or households
6. 1,453 responses
7. 363 hours
8. Not applicable

1. Department of Veterans Benefits
2. Claim for Monthly Payments of United States Government Life Insurance
3. VA Form 29–4125k
4. On occasion
5. Individuals or households
6. 1,453 responses
7. 363 hours
8. Not applicable

Extensions

1. Department of Veterans Benefits
2. Notice of Intention to Foreclose
3. VA Form 26–6851
4. On occasion
5. Individuals or households; Small businesses or organizations
6. 109,000 responses
7. 27,250 hours
8. Not applicable

1. Department of Veterans Benefits
2. Application for Educational Assistance Under VEAP (Chapter 32, Title 38, U.S.C.)
3. VA Form 22–8821
4. On occasion
5. Individuals or households
6. 32,000 responses
7. 24,000 hours
8. Not applicable

1. Department of Veterans Benefits
2. Serviceperson's Application for Education Benefits (Under Chapter 34, Title 38, U.S.C.—G.I. Bill for Service Which Began Before 1–1–77)
3. VA Form 22–1990a
4. Once
5. Individuals or households
6. 11,000 responses
7. 8,250
8. Not applicable

1. Department of Veterans Benefits
2. Notice of Past Due Payment
3. VA Form 29–389e
4. On occasion
5. Individuals or households
6. 2,000 responses
7. 500 hours
8. Not applicable

1. Department of Veterans Benefits
2. Matured Endowment Notification
3. VA Form 29–5767
4. On occasion
5. Individuals or households
6. 750 responses
7. 250 hours
8. Not applicable

1. Department of Veterans Benefits
2. Statement of Heirs for Payment of Credits Due Estate of Deceased Veteran
3. VA Form Letter 29–596
4. On occasion
5. Individuals or households
6. 228 responses
7. 57 hours
8. Not applicable

1. Department of Veterans Benefits
2. Application for Reinstatement
3. VA Form 29–353
4. On occasion
5. Individuals or households
6. 1,500 responses
7. 375 hours
8. Not applicable

1. Department of Veterans Benefits
2. Application for Amounts Due Estates of Persons Entitled to Benefits
3. VA Form 21–609
4. On occasion
5. Individuals or households
6. 750 responses
7. 375 hours
8. Not applicable

Extension

1. Department of Veterans Benefits
2. Financial Counseling Statement
3. VA Form 26–8844
4. On occasion
5. Individuals or households
6. 1,300 responses
7. 975 hours
8. Not applicable

Revisions

1. Department of Veterans Benefits
2. Monthly Report of Wages Paid to Trainee
3. VA Form 28–1917
4. Monthly
5. Individuals or Households; Businesses or other for-profit; Small businesses or organizations
6. 300 responses
7. 1,800 hours
8. Not applicable

1. Department of Veterans Benefits
2. Insurance Deduction Authorization
3. VA Form 29–888

4. On occasion
5. Individuals or Households
6. 4,000 responses
7. 666 hours
8. Not applicable

Reinstatement

1. Department of Veterans Appeals
2. Statement of Accredited Representative in Appealed Case
3. VA Form 1-646
4. On occasion
5. Individuals or households
6. 32,800 responses
7. 32,800 hours
8. Not applicable

[FR Doc. 84-26711 Filed 10-9-84; 8:45 am]

BILLING CODE 8320-01-M

VOL 49 ISS 197 OCT 10 1984 UMI

Sunshine Act Meetings

Federal Register
Vol. 49, No. 197
Wednesday, October 10, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

COMMODITY FUTURES TRADING COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 49 FR 39006.

PREVIOUS ANNOUNCED TIME AND DATE OF THE MEETING: Wednesday, October 10, 1984, at 10:00 a.m.

CHANGES IN THE MEETING: The following item should be added to the agenda: Amendments to the Fourth Quarter 1984 Budget Categories, Plans, Programs and Priorities.

Jean A. Webb,

Acting Secretary of the Commission.

[FR Doc. 84-26807 Filed 10-5-84; 12:49 pm]

BILLING CODE 6351-01-M

2

FEDERAL RESERVE SYSTEM

TIME AND DATE: 11:00 a.m., Monday, October 15, 1984.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: October 5, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-26863 Filed 10-5-84; 3:35 pm]

BILLING CODE 6210-01-M

3

INTERNATIONAL TRADE COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, October 18, 1984.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Petitions and complaints:
   a. Automotive transmission shifters (Docket No. 1102).
2. Investigation 731-TA-155 [Final] (Choline Chloride from Canada)—briefing and vote.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-26865 Filed 10-5-84; 3:55 pm]

BILLING CODE 7020-02-M

4

INTERNATIONAL TRADE COMMISSION

[USITC SE-84-47]

TIME AND DATE: 3:00 p.m., Tuesday, October 16, 1984.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary.
5. Investigation 731-TA-164 [Final] (Stainless Steel Sheet and Strip from Spain)—briefing and vote.
6. Investigation 104-TAA-23 (Certain Tomato Products from Greece)—briefing and vote.
7. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-26866 Filed 10-5-84; 3:55 pm]

BILLING CODE 7020-02-M

5

NATIONAL TRANSPORTATION SAFETY BOARD

[NM-84-31]

TIME AND DATE: 9 a.m., Tuesday.

PLACE: NTSB Board Room, 8th Floor, 800 Independence Ave., SW., Washington, D.C. 20594.

STATUS: The first four items are open to the public; the remaining two item are closed under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Aircraft Accident Report*—Pilgrim Airlines, Inc., Fokker F27-100, N148PM, John F. Kennedy International Airport, Jamaica, New York, January 13, 1984.
2. *Recommendation* to the Federal Aviation Administration regarding occupant survival, crashworthiness, and flight attendant training and manuals.
3. *Pipeline Accident Report*—Boston Gas Company Natural Gas System Overpressure, Explosion and Fires, East Boston, Massachusetts, September 23, 1983.
4. *Railroad Accident Report*—Collision of Amtrak Train No. 301 on Illinis Central Gulf Railroad with Marquette Motor Service Terminals, Inc., Delivery Truck, Wilmington, Illinois, July 28, 1983.
5. *Opinion and Order:* Petition of Stephens, Docket SM-3175; disposition of the Administrator's appeal.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, (202) 382-6525.

Dated: October 4, 1984.

H. Ray Smith, Jr.,

Federal Register Liaison Officer.

[FR Doc. 84-26747 Filed 10-4-84; 4:39 pm]

BILLING CODE 7533-01-M

6

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of October 8, 14, 22, and 29, 1984.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, D.C.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED: .

Week of October 9

Tuesday, October 9

10:00 a.m.
Discussion of Severe Accident Program for Nuclear Power Reactors—Revised Policy Statement (Public Meeting)
2:00 p.m.
Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 & 6)

Wednesday, October 10

10:00 a.m.
Discussion of Proposed Rule on Decommissioning Nuclear Facilities (Public Meeting)

Thursday, October 11

2:00 p.m.
Periodic Meeting with Advisory Committee on Reactor Safeguards (ACRS) (Public Meeting)
3:30 p.m.
Affirmation Meeting (Public Meeting) (if needed)

Friday, October 12

9:30 a.m.
NUMARC Briefing on Fitness for Duty, Training and Requirements for Senior Managers (Public Meeting)

Week of October 15

Tentative

Tuesday, October 16

10:00 a.m.
Discussion of Material False Statements—Policy Options (Public Meeting) (Tentative)
2:00 p.m.
Discussion of QA Report to Congress (Public Meeting)

Wednesday, October 17

10:00 a.m.
Discussion with staff on Fitness for Duty, Training and Requirements for Senior Managers (Public Meeting)

Thursday, October 18

3:30 p.m.
Affirmation Meeting (Public Meeting) (if needed)

Week of October 22

Tentative

Monday, October 22

2:00 p.m.
Status of NTOL's (Public Meeting)

Tuesday, October 23

10:00 a.m.
Semi-Annual Briefing on Appraisal of Operating Experience (Public Meeting)
2:00 p.m.
Briefing and Discussion on the Hearing Process (Public Meeting)

Wednesday, October 24

10:00 a.m.
Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 & 6)
2:00 p.m.
Affirmation Meeting (Public Meeting) (if needed)

Week of October 29

Tentative

Tuesday, October 30

10:00 a.m.
Discussion of Material False Statements—Policy Options (Public Meeting) (Tentative)

Thursday, November 1

3:30 p.m.
Affirmative Meeting (Public Meeting) (if needed)

Friday, November 2

10:00 a.m.
Continuation of Discussion on Indian Point (Public Meeting)

ADDITIONAL INFORMATION: .

Briefing/Possible Vote on UCS 2.206 Petition on TMI–1 Emergency Feedwater scheduled for October 2, *postponed.*

Affirmation on Denial of Petition for Rulemaking Concerning Emergency Planning and Response for Transportation Accidents Involving Radioactive Materials (PRM–71–6) was held October 4 (Public Meeting).

TO VERIFY THE STATUS OF MEETINGS CALL: (Recording)—(202) 634–1498.

CONTACT PERSON FOR MORE INFORMATION: Julia Corrado (202) 634–1410.

George T. Mazuzan,
Office of the Secretary.
October 5, 1984

[FR Doc. 84–26839 Filed 10–5–84; 3:19 pm]
BILLING CODE 7590–01–M

7

TENNESSEE VALLEY AUTHORITY

[Meeting No. 1339]

TIME AND DATE: 10:15 a.m. (EDT), Wednesday, October 10, 1984.

PLACE: TVA West Tower Auditorium, 400 West Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

Agenda Items

Approval of minutes of meeting held on September 27, 1984.

Discussion Item

1. TVA Raptor Restoration Activities.

Action Items

B—Purchase Awards

B1. Invitation C3–696073—Indefinite quantity term contract for unleaded gasoline for any TVA project or warehouse.

B2. Requisition 65–955600—Nuclear steam supply system project services for Sequoyah and Watts Bar nuclear plants units 1 and 2.

B3. Requisition 10—Coal for Johnsonvile Steam Plant.

C—Power Items

C1. Proposed form agreement covering PCB (polychlorinated biphenyls) capacitor replacement program.

C2. Proposed form agreement amending revised home insulation program agreements.

C3. Amendment to interconnection agreement between TVA and Union Electric Company, Illinois Power Company, and Central Illinois Public Service Company to modify provisions for emergency assistance and maintenance energy transactions.

C4. Supplement to contract No. TV–62313A with the State of Alabama for cooperation in the development and implementation of radiological emergency plans as required by the Nuclear Regulatory Commission and the Federal Emergency Management Agency.

E—Real Property Transactions

E1. Designation of an underground mining lease of the No. 8 seam of coal underlying approximately 76 acres in the Red Bird coal reserves located in Leslie County, Kentucky, as surplus and for sale at public auction—Tract No. XFKCR–14L.

F—Unclassified

F1. Authority to write off uncollectible accounts receivable.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632–8000. Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245–0101.

Dated: October 3, 1984.

John G. Stewart,
Manager of Corporate Administration and Planning

[FR Doc. 84–26839 Filed 10–5–84; 2:19 pm]
Billing Code 8120–01–M

federal register

Wednesday
October 10, 1984

Part II

Environmental Protection Agency

40 CFR Part 790

Toxic Substances; Test Rule Development and Exemption Procedures; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 790

[OPTS-42052; FRL 2613-2]

Toxic Substances; Test Rule Development and Exemption Procedures

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is promulgating a procedural rule describing a process it will use to develop certain test rules under section 4(a) of TSCA and to grant exemptions from those test rules under section 4(c) of TSCA. This rule sets forth certain methods for prescribing how data are to be developed in response to test rules and describes the procedures which persons subject to them must follow in order to obtain testing exemptions or receive EPA's approval to conduct testing.

EFFECTIVE DATE: Effective on November 9, 1984.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Room E-543, 401 M Street, SW., Washington, D.C. 20460, Toll Free: (800-424-9065), In Washington, D.C.: (554-1404), Outside the United States: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION: This rule prescribes how data are to be developed in response to test rules and describes the procedures to follow to obtain test exemptions or approval to conduct testing.

I. Introduction

When the Enviromental Protection Agency (EPA) promulgates a test rule under section 4 of the Toxic Substances Control Act (15 U.S.C. 2601 *et seq.*) the responsibility for required tests is borne jointly by all manufacturers (including importers) and/or processors of the subject chemical, depending on which activities give rise to the testing requirement. Those persons subject to a test rule who do not directly sponsor testing must apply to EPA for exemption from testing. The test sponsor must conduct the required testing according to the standards provided in the test rule.

This rule establishes EPA's procedures for test rule development under TSCA section 4(a), for granting exemptions from test rules and for providing standards for the conduct of those tests. It includes changes in the Agency's original approach which were made in response to comments received on the Proposed Statement of Exemption Policy and Procedures as published in the **Federal Register** of July 18, 1980 (45 FR 48512), and Changes in Test Standards Policy and Test Rule Development Process as published in the **Federal Register** of March 26, 1982 (47 FR 13012). EPA is including both of these procedures in this final rule because the processes are inter-related. This rule does not include exemption procedures for chemicals being tested under a category-based rule. The Agency has not arrived at a final policy concerning the conduct of such testing. Final exemption procedures for category-based rules will be issued prior to or in conjunction with EPA's first category-based test rule.

Test rule development procedures, described in the **Federal Register** of March 26, 1982, were proposed for codification in Part 799 as part of specific chemical test rules (47 FR 18386, April 29, 1982; 48 FR 23080, May 23, 1983; 48 FR 23088, May 23, 1983; 48 FR 30699, July 5, 1983; 48 FR 57686, December 30, 1983; 49 FR 430, January 4, 1984; 49 FR 438, January 4, 1984; 49 FR 456, January 4, 1984; 49 FR 899, January 6, 1984; 49 FR 1760, January 13, 1984). The final procedures are being codified as general test rule development procedures in Part 790.

The proposed exemption procedures, as published in the **Federal Register** of July 18, 1980 were planned to be codified in 40 CFR Part 770. The final rule has been redesignated as part 790. The following table is provided to aid readers in relating sections in the proposed procedures to the corresponding sections in the final rule.

CONVERSION TABLE

Proposed rule Part 770	Section title	Final rule Part 790
770.400	Scope, purpose, and authority	790.1
770.401	Applicability	790.2
770.402	Definitions	790.3
	Submission of information	790.5
	Confidentiality	790.7
	Phase I test rule	790.20
	Persons subject to Phase I test rule	790.22
	Submission of letter of intent to test or exemption application	790.25
	Procedure if no one submits a letter of intent to conduct testing	790.28
	Submission of proposed study plans	790.30
	Proposed Phase II test rule	790.32
	Final Phase II test rule	790.34
	Modification of study plans during conduct of study	790.35
	Failure to comply with a test rule	790.39
770.405	Submission of exemption applications	790.80
770.408	Content of exemption application	790.82
770.420	Submission of equivalence data	790.85
770.410	Approval of exemption applications	790.87
770.410	Denial of exemption application	790.88

CONVERSION TABLE—Continued

Proposed rule Part 770	Section title	Final rule Part 790
770.430	Appeal of denial of exemption application	790.90
770.431	Termination of conditional exemption	790.93
	Hearing procedures	790.97
770.440	Statement of financial responsibility	790.99

II. Statutory Background

Section 4(a) of TSCA authorizes EPA to require manufacturers (including importers) and/or processors of identified chemical substances and mixtures to test the chemicals in accordance with applicable EPA test rules. Section 4(b) of TSCA requires that each section 4(a) test rule identify the chemical substance or mixture for which testing is being required, and provide standards for the development of test data. These standards are to prescribe the health and environmental effects, and information relating to toxicity, persistence and other characteristics which affect health and the environment for which test data are to be developed and, to the extent necessary to assure development of adequate and reliable data, the manner in which the data are to be developed, the test protocol or methodology to be employed, and such other requirements as are necessary to provide such assurance (section 3(12)(B)).

Manufacturers or processors required by rule to sponsor testing may do so either individually, or jointly through formation of a testing consortium (section 4(b)(3)(A)). Alternatively, they may choose to apply for a testing exemption under TSCA section 4(c) based on the belief that the required testing will be performed by another person subject to the rule. In order to approve an exemption application, EPA must find that: (1) The applicant's product is equivalent to the substance or mixture for which test data have been submitted or are being developed, and (2) data submitted by the applicant under a section 4 test rule would be duplicative of data already submitted or being developed pursuant to the rule.

TSCA does not define what constitutes "duplicative data" or what criteria should be used in determining whether chemicals are "equivalent." However, TSCA's legislative history states that Congress expected EPA's Administrator to consider whether any additives or impurities in the substance or mixture for which the exemption is being sought might cause "significant" differences in test data and thereby

render the substances "nonequivalent" (H.R. No. 94–1679 94th Cong., 2d Sess. 9/23/76, p. 61, Legis. Hist. 674). For purposes of determining equivalence under section 4, EPA interprets this to mean that the Agency must take into consideration the presence of any additive or impurity in a chemical which might cause differences in test data which are significant for the purposes of assessing the risk associated with the chemical. That is, if the presence of such an additive or impurity is likely to produce differences in the test data which may affect those data's value in assessing the risk presented by the chemical, the Agency must find that forms of the chemical containing that additive or impurity are not equivalent to those not containing it and require testing of the non-equivalent substance.

The Agency is interpreting the term "duplicative data" to mean duplicative for purposes of the test rule. A variety of factors in a test's design can affect the data generated by it. In order to assure the development of data which are adequate and reliable for purposes of individual test rules, EPA will provide standards for the conduct of that testing. So long as the substances being tested are equivalent, EPA will assume that all tests adhering to these standards will produce data which are duplicative for the purposes of determining the effects identified in the test rule.

III. Prior Proposals

A. Testing Standards and Test Rule Development

Under EPA's original approach to providing testing guidance, the Agency proposed to publish and codify in the Code of Federal Regulations (CFR), a number of model test methodologies. A number of proposed "test standards" for health effects were published in the **Federal Register** of May 9, 1979 (44 FR 27334) and on July 26, 1979 (44 FR 44054), while similar proposed standards for chemical fate and ecological effects were published on November 21, 1980 (45 FR 77332). The Agency planned to adopt such "test standards" or "generic methodology requirements" for all of the major types of tests which might be required under section 4 test rules. The Agency planned to incorporate, by reference, whichever of these test methodologies was appropriate for use in each chemical-specific test rule.

In response to comments that the codified testing standards approach would provide insufficient flexibility in test design, EPA proposed a different approach for providing testing standards in the **Federal Register** of March 26, 1982 (47 FR 13012). In that notice, the Agency proposed to abandon the idea of codifying its approved generic test methodologies and to publish them as guidelines instead. It planned to make test rule development a two-phase process. In the first phase, EPA would establish by rule the effects and characteristics for which a given chemical must be tested and refer subject manufacturers and/or processors to suitable guidelines for how the testing should be performed. The subject firms would be required by a specified date to submit study plans detailing the methodologies and protocols they intended to use to perform the required tests. In the second phase, after consideration of public comment on the proposed study plans, the Agency would promulgate another rule adopting specific test requirements reflecting any modifications deemed necessary by EPA to assure the development of reliable and adequate data.

B. Exemptions

EPA's exemption proposal published in the **Federal Register** of July 18, 1980 (45 FR 48512) called upon each exemption applicant to submit data establishing that the chemical for which the exemption was being sought was equivalent to the one being tested and that duplicative data would result from its testing. The Agency stated its belief that one properly designed and executed study will normally provide a sufficient basis for making a regulatory decision on a given characteristic or effect of a chemical and proposed to consider all tests meeting its standards to be duplicative of each other as long as the substances being tested were equivalent. Therefore, if an exemption applicant established that its chemical was equivalent to a substance which was to be tested according to the standards described in the test rule, the Agency would accept the contention that testing of that applicant's chemical would yield duplicative data.

EPA's determination of equivalence was to be a two-stage process. In the first stage, the Agency would select a test substance or several test substances representative of all forms of the chemical subject to the rule. The selection was to involve among other factors consideration of the nature of the test, the various grades of the chemical on the market, the toxicity of the various components found in those different grades of the chemical, and the effects that various additives and impurities might have on the outcome of the testing. Where possible, EPA planned to select a single representative test substance and to consider all forms of the chemical "equivalent" to each other for exemption purposes.

However, if it was necessary to require testing of two or more test substances, the Agency proposed to require that each exemption applicant provide biological, chemical, manufacturing or processing data "as appropriate" in order to establish which test substance its chemical was to be considered equivalent to. Evaluating these data and determining which test substance the applicant's chemical would be considered equivalent to constituted the second and final stage of the Agency's equivalence determination process.

If, after evaluating the information provided in the exemption application, EPA found the applicant's chemical to be equivalent to one for which testing plans had been submitted and approved, the Agency would then proceed to grant an exemption. All exemptions granted prior to completion of testing were to be conditional upon the sponsor's proper completion of the required tests.

IV. Summary of Final Rule

A. Testing Standards and Test Rule Development

EPA has considered carefully the public comments received on both proposals in arriving at this final rule. Under these revised procedures, EPA is adopting a two-phase process as was proposed and published in the **Federal Register** of March 26, 1982 (47 FR 13012). The first phase will consist of the proposal and adoption of a test rule specifying what chemical substance or substances are to be tested and for what effects. The Phase I test rule will provide testing guidance in the form of specific suggestions and/or reference to published testing methodologies, but test sponsors may also propose their own test methods. EPA's provision of final standards for the development of data and time deadlines and reporting schedules will occur during Phase II of the rulemaking as part of the study plan approval process. The second phase will involve submission of industry's proposed study plans for conducting the required testing and public comment on those study plans. At that time, EPA will make whatever modifications in the proposed study plans that it finds necessary to assure development of adequate and reliable data. The approved testing plans then will be adopted as test standards and schedules in the final Phase II rule and will be binding on the test sponsor(s). These procedures will be applicable to each

test rule promulgated under section 4 of TSCA that are designated as two phase.

B. Exemptions

The Agency has not changed its approach to determining whether data that would be generated by testing an exemption applicant's chemical would be duplicative of those which will be under development. If the exemption applicant demonstrates his chemical to be equivalent to one which is being or will be tested according to the study plans adopted in the Phase II rule, EPA will consider this condition to have been met.

In response to industry comments that EPA had not adequately explained what criteria would be used to evaluate equivalence, the Agency has modified its approach to the issue. Rather than leave substantiation of equivalence claims to the discretion of the exemption applicant, EPA will provide guidance concerning equivalence substantiation in each proposed test rule. As proposed, EPA will grant a conditional exemption provided that the applicant's chemical is equivalent to the one which is to be tested and that study plans have been approved for all of the required tests.

Unless otherwise indicated in the test rule, only manufacturers (including importers) will be expected to submit exemption applications or study plans. Normally, processors will share the testing costs with the manufacturer through the pricing mechanism. However, if the exposure or risk upon which the test rule is based is associated with processing as well as manufacturing or with other down-stream activities (use, distribution in commerce, and disposal), and if manufacturers fail to submit study plans, the Agency will publish a notice in the **Federal Register** and call upon processors to submit study plans or exemption applications.

V. Discussion of Final Rule

A. Steps in Test Rule Development

EPA's decision to utilize a two-phase rulemaking process employing test guidelines rather than mandatory test methodologies was made in response to comments that its original approach could prevent test sponsors from using new, more economical testing methodologies or making modifications in the recommended protocol that would yield more reliable data when testing a specific chemical. In order to provide this flexibility, while retaining EPA's opportunity to assure that the tests are designed so as to yield adequate and reliable data, the Agency is adopting a two-phase process composed of the following steps:

1. *Proposals of a Phase I test rule.* The proposed Phase I rule will discuss who should conduct testing (manufacturers or processors or both), the health and environmental effects or other characteristics for which testing will be required, appropriate Good Laboratory Practice requirements, EPA's recommendations for testing methodologies, and the representative substance or substances to be tested. Selection of a representative test substance or substances will be made based on information available in the literature and data EPA has received from industry, environmental groups and other members of the public. In making this selection, EPA will consider the effects of additives and impurities and how they might affect the risk which various forms or formulations of the chemical may present to human health or the environment.

Normally, EPA expects to select a single test substance to be representative of all forms of the chemical subject to the rule. Under these circumstances all other forms of the subject chemical will be considered "equivalent" for purposes of granting exemptions. In those rare cases in which the effects of additives and impurities or other differences in forms of the subject chemical make it necessary to test more than one test substance, the Phase I rule will define the substances for which the Agency proposes to require testing, its rationale for choosing those test substances, and how it proposes to determine equivalence.

2. *Public comment on proposed Phase I rule.* The Agency will accept comment on its proposal for 60 days. Comments will be solicited on EPA's findings under section 4(a), on the particular health or environmental effects or other characteristics for which testing is proposed, and on the test substance or substances proposed to be tested. EPA will be particularly interested in obtaining comment on additives and impurities which may significantly affect the outcome of testing. Commercial chemical formulations may contain many additives or contaminants which may or may not create differences in test data significant for assessing the risk which that chemical presents to human health or the environment. To test each of the many individual components of a commercial chemical separately would be costly, time consuming, and in most cases unnecessary. Therefore, EPA will ask the assistance of the public in identifying any additives and impurities which may be toxicologically significant as relating to a particular chemical under consideration. Public comments on EPA's proposed test substance(s) and its criteria for determining equivalence will be used to supplement information obtained earlier in the information-gathering phase of the test rule development process and may lead EPA to modify its proposals.

Shifting consideration of equivalency to an earlier phase of rulemaking will also address the concern expressed by several commenters that EPA was inappropriately assuming the burden of proving equivalency by assuming that, absent evidence to the contrary, a single test substance was representative of all forms of the chemical subject to the test rule. It was never the Agency's intent to disregard information concerning the effects of contaminants or to ignore such data in selecting a test substance. In the process adopted today, by considering additives and impurities early in the rulemaking process, the Agency will be better able to select representative test substances and to determine whether additives or impurities may make a significant difference in a chemical's effects and what types of data should be required to substantiate equivalency claims. The burden for providing equivalence information remains on the applicant; but it will be submitted in response to specific Agency guidance in the final Phase I test rule. It is in the public interest to eliminate unnecessary data submissions whenever possible by specifying what data are needed.

The Natural Resources Defense Council (NRDC) commented, and the Agency agrees, that EPA cannot guarantee that it will be able to identify, in advance, all of the toxicologically significant impurities in a chemical required to be tested. Nevertheless, due to the many diverse ways in which chemicals may be marketed or used, to absolutely "guarantee" that data generated will provide full answers for the many forms of a chemical, each form of the chemical would need to be tested at huge costs to society. Test rules are designed to gather information concerning subjects about which existing information is limited. They are, by necessity, written in a climate of uncertainty. Congress limited the time available for Agency response to ITC designations to 12 months (section 4(e)(1)(A)). A chemical designated for testing consideration may be manufactured in a variety of formulations and mixtures which can contain may additives and impurities. Any of these may or may not create significant differences in the data which

are obtained from testing. Just as it is impractical and unnecessary to require testing for all effects for all chemicals, so it is infeasible to require or evaluate detailed information concerning all of the additives and impurities that may be present. The Agency believes that by considering the effects of additives and impurities early in the rulemaking process, and by soliciting aid from the public in identifying those which may significantly affect test results, it is making the most efficient use practicable of the time and resources available for assessing risk.

Potential exemption applicants and other members of the public will have an opportunity to carefully examine EPA's plans for selection of test substances and determination of equivalence in the Phase I rule. It will also establish how equivalency claims are to be supported and judged. By commenting on EPA's proposals in the Phase I rule, the public will have an opportunity to provide information which may modify those plans.

3. *Publication of final Phase I test rule.* After considering public comments, EPA will publish a final Phase I rule specifying the health and environmental effects and other characteristics for which data are required to be developed, a reference to guidelines for the development of test data, the persons responsible for testing, and the required test substance(s), and, if more than one substance is to be tested, it will also give instructions for showing equivalence. The rule will specify who must respond by submitting either a notice of intent to conduct testing or an application for exemption based on the belief that testing will be performed by another. Who must respond and the form of the required response will vary as follows:

a. *Persons subject to final Phase I test rule.* Although both manufacturers and processors may be found under section 4(b)(3)(B) to be responsible for testing, EPA expects that only manufacturers ordinarily will be subject to the reporting provisions of the test rule. Once the test rule is in effect, 44 days after publication in the **Federal Register**, each current manufacturer will have 30 days to submit, for each required test, either a letter of intent to perform the test or an application for exemption. Each manufacturer who submits a letter of intent to perform a specific test will be obligated, first, to submit, within 90 days of the effective date of the Phase I test rule, a proposed study plan for that test and, ultimately, to perform testing.

If manufacturers perform all the required tests, processors will not be required to test or to submit exemption applications. EPA will automatically grant such processors exemptions without requiring the submission of exemption applications.

Manufacturers who wish to sponsor testing as part of a consortium may submit a single letter of intent to test provided that all members of the consortium sign it. If the rule requires testing of more than one representative substance, each member of the consortium must also provide equivalence data.

EPA believes that processors will rarely be called upon to sponsor testing directly. However, if the test rule's findings are based solely on exposure associated with processing, the rule will require processors to submit notices of intent to test or exemption applications and to follow the same study plan submission and approval steps as described in this rule for manufacturers.

It is expected that, in most cases, testing will be performed by the manufacturers and that part of the cost of testing will be passed on to processors through the pricing mechanism, thereby enabling them to share in the costs of testing. However, in those instances where manufacturers (including importers) and processors are jointly responsible under TSCA for the conduct and financing of testing, processors will be called upon to sponsor tests if manufacturers fail to do so, or may be required to provide reimbursement directly to those sponsoring this testing unless the exposure or possible risk associated with the chemical is due solely to manufacturing. (See Data Reimbursement rule 40 CFR 791.45.)

If no manufacturer submits a letter of intent to perform a particular test within the 30-day period, EPA will publish a notice in the **Federal Register** to notify all processors of the subject chemical. The notice will state that EPA has not received letters of intent to perform certain tests and that current processors will have 30 days to submit, for each test remaining, either a letter of intent to perform the test or an exemption application for that test. Each processor who submits a letter of intent to perform a specific test will be obligated, first, to submit, within 90 days of the publication of the **Federal Register** notice, a proposed study plan for the test and, ultimately, to perform the testing.

If no manufacturer or processor submits a letter of intent to perform a particular test, EPA will notify all manufacturers and processors, either by letter or by notice in the **Federal Register**, that all exemption applications will be denied and that within 30 days all manufacturers and processors will be in violation of the rule until a proposed study plan is submitted for that test.

Any person not manufacturing the chemical at the time the rule goes into effect or within the first 30 days after the rule goes into effect, who later begins manufacturing before the end of the reimbursement period, will be required to submit a letter of intent to test or an exemption application for each required test by the day the person begins manufacture. If EPA has published a notice in the **Federal Register** telling processors to submit letters of intent or exemption applications for certain tests, any person not processing the chemical at the time the rule goes into effect or within 30 days after the publication of the notice, who later begins processing before the end of the reimbursement period, will be required to submit a letter of intent to test or an exemption application for each test specified in the **Federal Register** notice by the day the person begins processing.

b. *Submission of letter of intent to test or exemption application.* Those responding to a Phase I test rule may do so either by submitting a letter of intent to perform testing, or by requesting an exemption from one or more of those testing requirements based on the belief that the tests will be performed by another.

Letters of intent to conduct testing must specify which study or studies the respondent will sponsor and, if more than one substance is to be tested, which test substance will be used in those studies. EPA will consider such notices as commitments to perform testing.

Exemption applications must list the test requirements for which an exemption is being sought and discuss the applicant's basis for believing that the tests will be performed by another party. If more than one representative substance is to be tested, the applicant must also state which test substance it believes its chemical to be equivalent to and support this assertion with the types of data called for in the test rule.

All responses must include the following:

i. The name, address and phone number of the applicant and the rule to which it is responding.

ii. The name, address and telephone number of the appropriate individual EPA should contact for further information.

iii. For applicants participating in a testing consortium, the names of all consortium members and the identity of the primary spokesperson for the consortium.

iv. The test requirements for which the applicant intends to submit study plans and conduct testing.

v. The test requirements, if any, for which the applicant is requesting an exemption, and its basis for believing that the tests will be performed by another.

Responses must also include any additional information called for in the test rule. In those cases in which more than one representative form of the chemical is to be tested this will include:

(1) For those indicating an intent to test—which test substance the submitter intends to use in each of the planned tests.

(2) For those requesting exemptions—the test substance the applicant believes its product to be equivalent to and all data supporting this assertion which were required in the test rule.

4. *Submission of study plans.* All those who submitted letters of intent to conduct tests must submit study plans for those tests unless EPA agrees to their substitution of an exemption application in instances where more than one company indicates an intent to sponsor equivalent tests. If testing is to be sponsored by a consortium, its spokesperson may submit study plans on behalf of all those who have given EPA notice of their intent to participate in that consortium. The procedural rule published today requires proposed study plans to be submitted by manufacturers within 90 days after the effective date of the Phase I rule unless: (1) The plans are being submitted by processors after manufacturers failed to do so; or (2) the Agency has granted those responsible for preparing the plans an extension of the deadline. In the first case, processors must submit study plans within 90 days from the publication of the notice requiring them to submit letters of intent.

Some commenters remarked that EPA's plan to allow 30 days for formation of a testing consortium and/or to indicate an intent to test, with an additional 60 days for study plan development, may not give sponsors adequate time. EPA's experience in negotiating testing agreements indicates that, in most cases, the 90 days allotted for development of study plans will be sufficient. However, if unusual circumstances make this difficult, EPA may grant requests for additional time for study plan development on a case-by-case basis.

Unless EPA has granted additional time for study plan development, manufacturers who indicate thay will perform testing, but do not submit proposed study plans within 90 days after the effective date of the rule, will be considered in violation of the test rule. Processors who indicate they will test, but do not submit a study plan by 90 days after the publication of the **Federal Register** notice requiring them to submit letters of intent, will be considered in violation of the rule.

The categories of information which must be contained in the proposed study plans are described in EPA's Good Laboratory Practice (GLP) Standards for use in testing under the Toxic Substances Control Act (40 CFR Part 792). They include the proposed test protocols and the rationale for their selection, as well as the identities of the sponsor(s) and the testing organization, and proposed schedule for conducting the testing and submitting required reports to EPA.

Test protocols must comply with EPA's GLP requirements and any specific requirements given in the test rule. TSCA, Organization for Economic Cooperation and Development (OECD), and Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) guidelines, as well as methods described in the scientific literature, may be referenced in the test rules as guidance for test methodology development. Sponsors may elect to use one of the protocols referenced in these guidelines, or they may develop their own. If testing is to be sponsored jointly by members of a consortium, that member who has been designated primary contact with EPA should submit study plans on behalf of the entire group.

5. *Proposed Phase II rule.* The proposed study plans will be made available for a 45-day public comment period during a second phase of the rulemaking. The proposed Phase II test rule will summarize the proposed study plans and inform the public that the detailed plans are available for review in EPA's public docket. The Agency will hold a public meeting if one is requested. Following the comment period, EPA will evaluate the proposed study plans in view of public comments and the data requirements in the test rule. The Agency will require whatever modifications of the study plans that it finds necessary to assure the development of adequate and reliable data for the purposes of the test rule. If substantial issues arise or substantial modifications of the study plans are required, the Agency may extend the 45-day comment period.

The Agency's evaluation of the study plans will include an assessment of the quality of the study design, including evidence of adherence to EPA GLP Standards, a determination as to whether the study as proposed will yield the proper types of data for the purposes of the test rule, and an assessment of the probability that the study design can be successfully implemented within the time specified in the test rule. These specific considerations will vary with the chemical being tested and the types of tests required in each test rule. The Agency cannot, therefore, as one commenter suggested, discuss all of the criteria for study plan evaluation in this procedural rule. Certain aspects of the evaluation will vary with the type of testing being required and the purposes for which the data are to be developed. Specific guidance concerning the factors which EPA considers important in the design of specific studies will be provided in the individual test rules and the testing guidelines referenced in those rules.

6. *Evaluation of exemption applications.* During the comment period on proposed study plans, EPA will examine exemption applications. Its review will be to determine that properly completed exemption applications have been received from all those not sponsoring testing or participating in a consortium sponsoring testing, and to evaluate equivalency claims. When a single representative substance is to be tested, all forms of the chemical will be considered equivalent to it, and the Agency will contact the applicant only if information is missing or unclear.

If two or more chemical substances are to be tested, equivalency claims will be assessed according to the criteria in the test rule. If the Agency finds an equivalency claim to be in error, or if information needed to make an equivalency determination is missing, the applicant will be notified. If the equivalency claim is being questioned because supporting data are inadequate, the applicant will be given 15 days to provide explanatory information. If EPA finds the applicant's chemical equivalent to a different test substance than was claimed in its application, EPA will notify the applicant in writing and explain why.

Exemption applications will receive notification that their applications for equivalency have been accepted or rejected. Those who have met the requirement for showing equivalency will be eligible for exemptions after study plans have been approved.

7. *Final Phase II test rule.* The Phase II test rule will summarize the testing requirements set forth in the Phase I rule, and the study plans which were approved and adopted by EPA for conducting those tests. It will also note that exemption applicants have been granted conditional exemptions.

Exemptions will be granted on the condition that the required testing is completed according to the study plans and the data submitted according to the prescribed schedules. The approved study plans will describe, in detail, the manner in which the study is to be conducted and will include protocols, rationale, testing facilities, schedules and reporting requirements. The study plans will serve as enforceable test requirements for the test rule and will constitute the chemical-specific test standards required by TSCA section 4(b)(1)(B). The study plans adopted in the Phase II test rule will also specify the time period during which persons subject to the test rule must submit test data as required by TSCA section 4(b)(1)(C).

This approach to providing test standards differs from EPA's May 9, 1979 (44 FR 27334) proposal in that the Agency will be providing standards for the development of data in the approved study plans, rather than through separate promulgation of standardized test methodology requirements. EPA has noted the point made by the Natural Resources Defense Council, that this approach may pose a greater administrative burden for the Agency than the use of codified test standards. EPA does not, however, agree that this burden will be so great that it will outweigh the benefit derived by allowing for the tailoring of test methodologies to specific testing requirements. Industry will not be the sole beneficiary of this approach. In addition to providing potential test sponsors the flexibility in test design requested in their comments, the revised approach allows EPA more control over the final testing scheme through the study plan approval process. By modifying protocols after public comment, the Agency will be able to tailor the test designs to the needs expressed in the specific test rules in a way that would not have been possible under a system of annually updated standardized methodologies.

Public comment on proposed study plans is an important part of this tailoring process. EPA disagrees with those commenters who believed that the requirement for submission of study plans should be eliminated or that only a general study design should be incorporated in the final test rule. General information concerning study objectives and methods will not provide EPA or the public with needed assurance that data are being developed in an adequate and reliable manner. Detailed protocols, schedules and reporting requirements are needed as well. Nor does EPA believe that it would be in the best interests of the regulated industries or the public as a whole to, as one commenter suggested, allow data to be developed with only general guidance and then require that testing be repeated if data were found to be inadequate. Such repetition would impose additional costs on the regulated industries, which would ultimately be passed on to the consuming public, would impose unnecessary administrative burdens on the Agency, and would cause serious delays in the identification and control of health and environmental risks.

Additionally, generic test standards developed for use on a number of chemicals might make chemical-specific test modifications which would produce fully adequate and reliable data at a reduced cost more difficult. Modifications which reduce testing costs for industry can be expected to reduce costs to the public at large and are to be encouraged so long as they do not jeopardize the validity or reliability of the data under development. More flexibility to allow for such modifications is provided for under the Agency's revised test rule development process.

The same commenter who advocated retaining rigid generic test methodology requirements for incorporation into chemical-specific rules approved of the two-phase test rule development process proposal only if it would result in the publication of a final rule containing specific test protocols within a year of EPA's receipt of the ITC's recommendations. The Agency maintains that such a schedule is impracticable and is not required under the law. Using the approach set forth in this notice, the Agency will satisfy TSCA's requirement that a rulemaking proceeding, if required, be "initiated" within 12 months of a chemical's designation by the ITC. At the same time it will allow public participation in the evaluation of testing plans, and the tailoring of those plans to chemical-specific testing needs.

8. *Approval of exemption applications.* Provided that the first condition for granting exemptions (equivalence to the test substance) has been satisfied, the second, duplicativeness of data, will be considered to have been met and conditional exemptions will be granted following EPA's approval of the study plans. Exemption applicants will be notified by certified mail or in the final Phase II rule thay they have received conditional exemptions. The exemptions will be conditional because they will be given based on the assumption that the test sponsors will complete the required testing according to the specifications and schedules in the adopted study plans. TSCA section 4(c)(4)(B) provides that if an exemption is granted prospectively (that is on the basis that one or more persons are developing test data, rather than on the basis of prior test data submissions), the Agency must terminate the exemption if any test sponsor has not complied with the test rule.

9. *Appeal of exemption denials.* Persons whose exemption applications are denied will be notified by certified mail or by **Federal Register** notice and may appeal that denial. Appeals must be filed with EPA within 30 days of the receipt of the letter or publication of the **Federal Register** notice denying the exemption. Appeals should include a detailed explanation of why the applicant disagrees with EPA's decision. The applicant may request a hearing. EPA will notify applicants of its decision within 60 days after EPA receives the appeal or 60 days after the hearing if the request for a hearing is granted.

10. *Termination of conditional exemptions.* Exemptions granted prospectively in the Phase II rule are conditional. The Agency will terminate the exemption if the test sponsors do not comply with the test rule. If EPA determines that one or more of the test requirements contained in a test rule has not been fully complied with either because: (a) No one subject to the rule has started testing by the date specified in the rule, (b) data required by the rule were not submitted by the date specified in the rule, or (c) data were not generated according to approved potocols or in accordance with EPA's Good Laboratory Practice requirements, EPA will notify holders of exemptions based on that testing by certified letter or **Federal Register** notice as to its basis for believing that the testing supporting the exemptions has not satisfied the test rule's requirements and of EPA's intent to terminate those conditional exemptions.

Such exemption holders may file written comments concerning EPA's intent to terminate such exemptions and may request an opportunity for a hearing to refute EPA's tenative decision or may submit a letter of intent to conduct the required test. Comments, hearing requests and letters of intent to test must be in writing and must be received by EPA within 30 days of receipt of the letter or publication of the **Federal Register** notice announcing the Agency's intent to terminate the exemptions. Persons who notify EPA of

their intent to conduct a test must submit study plan modifications concerning test sponsor, test facility and schedules within 60 days of receipt of the letter or notice announcing EPA's intent to terminate the exemptions. The comments and hearing requests should include a brief statement of the basis for the exemption holder's belief that the conditional exemption should not be terminated. If an exemption holder requests a hearing, a single hearing will be held by EPA to address the concerns of all conditional exemption holders objecting to the termination unless confidentiality claims preclude a joint hearing. Exemption holders will receive written notification of EPA's final decision as to whether the exemption will be terminated.

If the Agency finds it necessary to terminate conditional exemptions, it will notify the exemption holders to that effect, will explain the reason for the Agency's decision and will give instructions as to what actions the former exemption holders must take to avoid being found in violation of the test rule.

B. Confidentiality Issues

In addition to the topics discussed in the preceding sections of this preamble, the Agency also received comments concerning certain confidentiality aspects of its test rule and exemption process.

1. *Proposed confidentiality policy and public comment.* Under section 14(c) of TSCA, any person submitting data under the Act may assert a claim of confidentiality with regard to any piece of information. Sections 14 (a) and (b) of TSCA provide the criteria for the Agency's decision on whether a particular claim of confidentiality should be upheld by the Agency. As a general rule, under section 14(a) the Agency may not disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential. Section 14(a) contains several exceptions to this general rule of non-disclosure. Among these is section 14(a)(4), which provides that information may be disclosed "when relevant in any proceeding under this Act, except that disclosure in such a proceeding shall be made in such manner as to preserve confidentiality to the extent practicable without impairing the proceeding." Section 14(b) substantially modifies the effect of section 14(a) by stating that if the information submitted to EPA is a "health and safety study" section 14(a) does not prohibit disclosure of the information unless it "discloses processes used in the manufacturing or processing of a chemical substance or mixture, or in the case of a mixture, * * * disclos[es] the portion of the mixture comprised by any of the chemical substances in the mixture."

In the proposed exemption policy, EPA discussed what types of information submitted in conjunction with exemptions might be considered confidential, and how EPA intended to treat such claims. The Agency indicated that it regarded as "health and safety" data the identity and analysis of the test substance, the processes of manufacturing and processing of the test substance (to the extent necessary to identify the test substance), information on test protocols, and biological information submitted to establish equivalence. Under section 14(b), any of this information which revealed "process" or "mixture" information would normally be withheld; however, EPA reserved the right to release such data under section 14(a)(4) if the Agency determined this was necessary to avoid impairment of the test rule proceeding. Furthermore, the Agency indicated that it could not conceive of a situation in which the identity of the testing lab would be held confidential. EPA indicated that it did not consider information on the identity of the test sponsor or joint sponsors, or on the identity of exemption applicants to be health and safety data. However, the Agency stated that it was considering disclosing this information, under the authority of section 14(a)(4), to facilitate the exemption and reimbursement process. Finally, EPA proposed that persons submitting a claim of confidentiality for the identity of the principal test sponsor, identity of the test substance, or the process for manufacturing or processing the test substance, be required to substantiate these claims at the time the information is submitted to EPA.

Public comments generally concurred with EPA's belief that exemption application and study plan information would not usually be considered confidential by the submitter. Some commenters noted their view that, in any case, the entire study plan should be considered health and safety data and made public unless to do so revealed process or mixture information. On the other hand, many industry comments indicate a belief that the Agency's definition of health and safety study is too broad, and that only information "directly" related to the chemical substance's effects or constituting the basis for a study's conclusions falls into this category. In particular, these commenters objected to the general policy of including identity of the test substance and test protocol information as underlying data to a health and safety study. A comment also stated that, although identity of the testing laboratory would rarely be claimed confidential, if the submitter established grounds for confidential treatment, this information could only be released in accordance with section 14(a)(4). Finally, several commenters stated that there is no justification under TSCA for requiring that certain confidentiality claims be substantiated at the time the information is submitted.

2. *Final confidentiality procedures and policy.* Since the proposal, many aspects of EPA's test rule process have been modified. In addition, EPA has reexamined the need for disclosure of information in the process. As is explained below, because of these changes, many of the issues raised in the comments have been eliminated.

The question of confidential treatment for the identity of the test substance submitted by a test sponsor has been largely eliminated by the revisions to EPA's test rule development process. Comments pointed out that confidentiality only becomes an issue when EPA fails to specify a test substance. However, EPA will always specify a test substance or test substances in the final Phase I test rule. If a tester believes that the test substance's identity is not confidential *per se*, but rather because it is linked with the test sponsor's identification, it can address this problem by claiming its corporate identity to be confidential business information, as discussed below.

Under EPA's final exemption procedures, if the Agency identifies a single test substance, persons applying for exemption will not be required to provide any specific information on the identity of the substance they are manufacturing, because either all varieties of the chemical substance will be equivalent to the test substances, or the test rule itself will define which substances are equivalent to the test substance. (If a person believes that the fact that it is manufacturing a substance equivalent to the test substance is confidential business information, it would be necessary for the person to claim its corporate identity confidential.) However, if EPA identifies more than one test substance, an exemption applicant will be required to indicate to which of the chosen test substances equivalence is claimed, the identity of the applicant's substance, and to submit required data supporting this assertion. If a confidentiality claim is established adequately for the

identity of the substance that the exemption applicant manufactures or processes, EPA will not disclose the identity of the applicant.

If the exemption applicant claims data supporting its equivalence claim to be confidential, EPA will generally judge the confidentiality of this information under section 14(a) of TSCA. However, the Agency will generally consider data from biological tests submitted in support of a claim of equivalence to be health and safety data, and under section 14(b) such data will be withheld only if it would reveal "process" or "proportions of a mixture," which such information would not generally do. Manufacturers and processors may also in some cases be required to submit information on the manufacturing process for their substance, or proportions of a mixture, in order to establish equivalence. EPA will withhold this information if the submitter adequately asserts the claim that it is confidential business information.

EPA has reevaluated its proposed approach to the question of claims of confidentiality of the identity of the test sponsor. The Agency continues to believe that this information would rarely, if ever, be claimed confidential. EPA would expect it to be claimed confidential only when a person wishes to avoid disclosing that it manufactures or processes the substance subject to the rule. If a valid claim of confidentiality is asserted, the Agency no longer intends generally to disclose this information under section 14(a)(4) to facilitate the reimbursement process. The study sponsor is responsible, in the first instance, for paying the cost of the testing. If the sponsor, for whatever reason, does not seek reimbursement from an exemption holder, there would be no need to reveal the sponsor's identity. If the sponsor seeks reimbursement from any person, the sponsor can arrange for a third party to represent it in negotiations or in a reimbursement proceeding under the Agency's rules. Only if the confidentiality of the test sponsor's identity prevented a full and fair resolution of a formal reimbursement dispute would EPA consider it necessary to reveal this information under the authority of section 14(a)(4).

A claim of confidentiality for the identity of an exemption applicant poses a somewhat different problem. An exemption holder has an obligation under TSCA to provide reimbursement to the test sponsor. The test sponsor or a person who has already paid reimbursement to a test sponsor, and thus may wish a contribution from others subject to the rule, are the only persons who have a specific need to identify the exemption holders so that they can seek reimbursement from them. If exemption applicants assert a claim of confidentiality, EPA will withhold this information until the Agency receives a notification from a test sponsor of an intent to seek reimbursement from exemption holders. Then, under EPA confidentiality procedures, EPA will notify the exemption holders that it intends to release this information under section 14(a)(4) unless the exemption holder immediately takes steps to contact the requesting party (directly, or through an intermediary) or proposes a way for the reimbursement process to proceed without release of the exempted company's identity.

Under EPA's current process for developing enforceable test standards for test rules, the final Phase II test rule for a substance will specify the protocols which must be used for a particular test. While comments asserted that a study plan submitted by a party could contain confidential business information, EPA does not believe any test sponsor could assert a valid claim for confidentiality for the design of the proposed study. However, if such a claim were asserted, EPA believes that such protocol information is clearly included in the concept of "data underlying a health and safety study" and thus would disclose such information. The only statutory basis under section 14(b) for withholding such information would be that it revealed "process" or "mixture" information, and EPA cannot envision how a testing protocol could reveal such data. EPA will withhold this information only if the submitter substantiates the claim that it is confidential business information.

The only circumstance suggested by the comments under which the identity of the laboratory performing a test would be confidential would be if the test sponsor's identity were confidential and revealing the name of the lab would reveal the identity of the test sponsor. EPA has concluded that the identity of the lab performing a test is data underlying a health and safety study because the quality of testing may vary according to the caliber of the laboratory performing the test. Therefore, the disclosure of such information is governed by section 14(b) and would be released. EPA does not believe that revealing the identity of a lab would ever reveal process or mixture information. If a test sponsor is concerned about revealing its identity, it should select a test lab whose identity would not reveal this information.

EPA is requiring that test sponsors substantiate at the time of submission confidentiality claims for certain types of study plan information. EPA believes that unexpected disruption to the process may result if substantiation is not required at the time study plan information is submitted. EPA believes that its revised approach will severely limit the necessity for confidentiality claims and that this requirement for substantiation will not place a significant burden on the regulated industry.

VI. Rulemaking Record

EPA has established a public record for this rulemaking, docket number [OPTS–42052], which contains the following information:

(1) **Federal Register** notices pertaining directly to this rule consisting of:
(a) Notice of proposed rule pertaining to exemptions (45 FR 48512).
(b) Proposed rule related notice describing changes in EPA's test standards policy and test rule development process (47 FR 13012).
(2) **Federal Register** notices related to this rule consisting of:
(a) Proposed health effects testing standards (44 FR 27334 and 44 FR 44054).
(b) Proposed chemical fate and ecological effects testing standards 45 FR 77332).
(c) Final rule concerning EPA's good laboratory practice standards (48 FR 53922).
(d) Final rule concerning data reimbursement (48 FR 31786).
(3) List of comments pertaining to this rule.
(4) List of comment submitters.
(5) Written communications pertaining to this rule.

This record, which includes basic information considered by the Agency in developing this proposal and appropriate **Federal Register** notices, is available for inspection in the OPTS Reading Room, Room E–107, 401 M St., SW., Washington, D.C., from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays. The Agency will supplement the record with additional information as it is received.

VII. Classification of Rule

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and, therefore, subject to the requirement of a Regulatory Impact Analysis. This rule on test rule development and exemption application procedures is not major because it does not meet any of the criteria set forth in section 1(b) of the Order. The regulation is a procedural rule and will have virtually no effect on the economy. The rule describes the process EPA will use to develop test rules under section 4(a)

of TSCA and to grant exemptions from those test rules under section 4(c) of TSCA. It will not cause major price or cost increases but rather provides a mechanism to avoid duplicative testing, thereby reducing costs to the regulated community. The regulation will not significantly affect competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; rather, it encourages the development of innovative and cost-effective testing methodologies.

This rule was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comments from OMB to EPA, and any EPA response to those comments, will be included in the rulemaking record.

VIII. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (15 U.S.C. 601 *et seq.*, Pub. L. 96-354, Sept. 19, 1980), EPA is certifying that this rule will not have a significant impact on a substantial number of small entities.

By facilitating an exemption process in which a single manufacturer or processor can sponsor tests on behalf of all those subject to a TSCA section 4 test rule, this rule reduces the administrative and financial burden which those testing rules might otherwise impose on regulated industries. The impact which test rules are expected to have on small entities was discussed in the Dichloromethane, Nitrobenzene, and 1,1,1-Trichloroethane Proposed Rule, published in the **Federal Register** of June 5, 1981 (46 FR 30300). The revised exemption procedures described in this rule are expected to present an even smaller burden to the exemption applicant than those referred to in that test rule because test rules will henceforth give specific guidance as to what types of data, if any, are required to support equivalence assertions. This will reduce the possibility that an applicant may submit more data than the Agency requires to make a decision.

EPA's decision to provide testing guidance in the form of suggested guidelines rather than required protocols is also expected to reduce the administrative and financial burden on affected industries. Under this approach, firms whose existing testing facilities or practices differ from those described in EPA's recommended protocols need not modify their procedures unless EPA finds that these variations are great enough to significantly affect the data generated. Therefore, companies sponsoring testing are less likely to find it necessary to modify existing testing practices and will have more flexibility in selecting new ones.

IX. Paperwork Reduction Act

The information collection requirements contained in this rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* and have been assigned OMB control number 2070-0033.

List of Subjects in 40 CFR Part 790

Testing, Exemptions, Environmental protection, Hazardous materials, Chemicals.

Dated: September 28, 1984.

William D. Ruckelshaus,

Administrator.

Therefore, Chapter I of 40 CFR is amended by adding a new Part 790 to read as follows:

PART 790—TEST RULE DEVELOPMENT AND EXEMPTION PROCEDURES

Subpart A—General Provisions

Sec.

790.1 Scope, purpose, and authority.
790.2 Applicability.
790.3 Definitions.
790.5 Submission of information.
790.7 Confidentiality.

Subpart B—Two Phase Test Rule Development

790.20 Phase I test rule.
790.22 Persons subject to Phase I test rule.
790.25 Submission of letter of intent to test or exemption application.
790.28 Procedure if no one submits a letter of intent to conduct testing.
790.30 Submission of proposed study plans.
790.32 Proposed Phase II test rule.
790.34 Final Phase II test rule.
790.35 Modification of study plans during conduct of study.
790.39 Failure to comply with a test rule.

Subparts C-D—[Reserved]

Subpart E—Exemptions

790.80 Submission of exemption applications.
790.82 Content of exemption application.
790.85 Submission of equivalence data.
790.87 Approval of exemption applications.
790.88 Denial of exemption application.
790.90 Appeal of denial of exemption application.
790.93 Termination of conditional exemption.
790.97 Hearing procedures.
790.99 Statement of financial responsibility.

Authority: [TSCA, 15 U.S.C. 2603(b)(3)(A), 2603(c)].

Subpart A—General Provisions

§ 790.1 Scope, purpose, and authority.

(a) This part establishes the procedures to be used in promulgating test rules under section 4(a) of the Act and sets forth the process by which exemptions from those test rules will be granted.

(b)(1) Section 4(a) of the Act authorizes EPA to require manufacturers and processors of chemical substances and mixtures to test chemical substances and mixtures for health and/or environmental effects.

(2) Sections 4(b)(1) and 3(12)(A) of the Act specify that each test rule must include standards for the development of test data which prescribe the "health and environmental effects" and the "information relating to toxicity, persistence, and other characteristics which affect health and the environment" for which test data are to be developed.

(3) Sections 4(b)(1) and 3(12) of the Act authorize EPA to prescribe the manner in which tests are to be conducted in the development of such data and any other such requirements as are necessary to assure the development of adequate and reliable data.

(4) Section 4(c) of the Act permits any person subject to a test rule promulgated under section 4(a) of the Act to request an exemption from the requirements of such a rule. The Administrator is directed to approve an application for exemption if he/she determines that:

(i) The chemical to which the application pertains is equivalent to one for which data have been or are being developed pursuant to the same testing rule; and

(ii) Submission of additional data by the applicant would be duplicative of data already submitted or under development.

(5) Section 4(b)(3)(A) of the Act authorizes the Administrator to permit two or more persons subject to a test rule to designate one of themselves or a qualified third party to conduct testing and submit data on their behalf.

(6) Sections 4(c)(3) and 4(c)(4) of the Act provide that persons receiving exemptions provide reimbursement to all those persons who have contributed or are contributing to financing the development of the data on the basis of which the exemption was granted. Such reimbursement is to be for a portion of the costs incurred. If the persons involved cannot agree on the amount and method of reimbursement, EPA is required to order the person granted the exemption to provide fair and equitable

reimbursement to the appropriate parties.

§ 790.2 Applicability.

This part is applicable to manufacturers and processors of chemical substances or mixtures who are subject to the testing requirements of a rule promulgated under section 4(a) of the Act. These procedures are applicable to each test rule in Part 799 of this Chapter unless otherwise stated in specific test rules in Part 799 of this Chapter.

§ 790.3 Definitions.

Terms defined in the Act and not explicitly defined herein are used with the meaning given in the Act. For the purpose of this part:

"Act" means the Toxic Substances Control Act, 15 U.S.C. 2601 *et seq.*

"Additive" means a chemical substance that is intentionally added to another chemical substance to improve its stability or impart some other desirable quality.

"Chemical" means a chemical substance or mixture.

"Consortium" means an association of manufacturers and/or processors who have made an agreement to jointly sponsor testing.

"EPA" means the U.S. Environmental Protection Agency.

"Equivalence data" means chemical data or biological test data intended to show that two substances or mixtures are equivalent.

"Equivalent" means that a chemical substance or mixture is able to represent or substitute for another in a test or series of tests, and that the data from one substance can be used to make scientific and regulatory decisions concerning the other substance.

"Exemption" means an exemption from a testing requirement of a test rule promulgated under section 4 of the Act and Part 799 of this Chapter.

"Impurity" means a chemical substance which is unintentionally present with another chemical substance.

"Joint sponsor" means a person who sponsors testing pursuant to section 4(b)(3)(A) of the Act.

"Joint sponsorship" means the sponsorship of testing by two or more persons in accordance with section 4(b)(3)(A) of the Act.

"Person" means an individual, partnership, corporation, association, scientific or academic establishment, or organizational unit thereof, and any other legal entity.

"Principal sponsor" means an individual sponsor or the joint sponsor who assumes primary responsibility for the direction of a study and for oral and written communication with EPA.

"Protocol" means the plan and procedures which are to be followed in conducting a test.

"Reimbursement period" refers to a period that begins when the data from the last non-duplicative test to be completed under a test rule are submitted to EPA and ends after an amount of time equal to that which had been required to develop data or after five years, whichever is later.

"Sponsor" means the person or persons who design, direct and finance the testing of a substance or mixture subject to a test rule in Part 799 of this chapter.

"Test substance" means the form of chemical substance or mixture that is specified for use in testing.

§ 790.5 Submission of information.

All submissions to EPA under this part must bear the Code of Federal Regulations (CFR) section number of the subject chemical test rule (e.g. § 799.4400 for 1,1,1-trichloroethane) and must be addressed to:

Document Control Office (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Washington, D.C. 20460.

In addition, a copy of the cover memo for all submissions must be addressed to:

Director, Compliance Monitoring Staff (EN-342), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Washington, D.C. 20460.

§ 790.7 Confidentiality.

(a) Any person subject to the requirements of a test rule promulgated under section 4 of the Act may assert a claim of confidentiality for certain information submitted to EPA in response to the test rule. Any information claimed as confidential will be treated in accordance with the procedures in Part 2 of this title and section 14 of the Act. Failure to assert a claim of confidentiality at the time the information is submitted will result in the information being made available to the public without further notice to the submitter.

(b) A claim of confidentiality must be asserted by circling or otherwise marking the specific information claimed as confidential and designating it with the words "confidential business information," "trade secret," or another appropriate phrase indicating its confidential character.

(c) If a person asserts a claim of confidentiality for study plan information described in § 790.30(c)(1)(iii)(D), (iv), (v), and (vi) of the part, the person must provide a detailed written substantiation of the claim by answering the questions in this paragraph. Failure to provide written substantiation at the time the study plan information is submitted will be considered a waiver of the claim of confidentiality, and the study plan information will be disclosed to the public without further notice.

(1) Would disclosure of the study plan information disclose processes used in the manufacture or processing of a chemical substance or mixture? Describe how this would occur.

(2) Would disclosure of the study plan information disclose the portion of a mixture comprised by any of the substances in the mixture? Describe how this would occur.

(3) What harmful effects to your competitive position, if any, do you think would result from disclosure of this information? How would a competitor use such information? How substantial would the harmful effects be? What is the causal relationship between disclosure and the harmful effects?

(4) For what period of time should confidential treatment be given? Until a specific date, the occurrence of a specific event, or permanently? Why?

(5) What measures have you taken to guard against disclosure of this information to others?

(6) To what extent has this information been disclosed to others? What precautions have been taken in connection with such disclosures?

(7) Has this information been disclosed to the public in any forms? Describe the circumstances.

(8) Has the information been disclosed in a patent?

(9) Has EPA, another Federal agency, or any Federal court made any pertinent confidentiality determination regarding this information? If so, copies of such determinations must be included in the substantiation.

(d) If the substantiation provided under paragraph (c) of this section contains information which the submitter considers confidential, the submitter must assert a separate claim of confidentiality for that information at the time of submission in accordance with paragraph (b) of this section.

Subpart B—Two Phase Test Rule Development

§ 790.20 Phase I test rule.

(a) If EPA determines that it is necessary to test a chemical substance or mixture under section 4 of the Act, it will promulgate a Phase I test rule in Part 799 of this chapter through a notice-

and-comment rulemaking which specifies the following:

(1) Identification of the chemical for which testing is required under the rule.

(2) The health or environmental effect or effects or other characteristics for which testing is being required.

(3) Which test substance(s) must be tested.

(4) A reference to appropriate guidelines for the development of test data.

(5) The EPA Good Laboratory Practice requirements for the required testing.

(6) Who must submit either letters of intent to conduct testing or exemption applications.

(7) What types of data EPA will examine in determining equivalence if more than one test substance is to be tested.

(b) [Reserved].

§ 790.22 Persons subject to Phase I test rule.

(a) Each Phase I test rule will specify whether manufacturers, processors, or both are subject to the requirement for testing of the subject chemical under section 4(b)(3)(B) of the Act and will indicate who will be required to submit letters of intent to submit study plans and to conduct testing.

(1) If testing is being required to allow evaluation of risks:

(i) Primarily associated with manufacture of the chemical, or

(ii) Associated with both manufacture and processing of the chemical, or

(iii) Associated with distribution in commerce, use, and/or disposal activities concerning the chemical, each manufacturer of the chemical will be subject and must respond to the test rule. While legally subject to the test rule in circumstances described in paragraph (a)(1) (ii) and (iii) of this section, processors of the chemical have no obligation to respond unless directed to do so in a subsequent notice as set forth in § 790.28(b) or § 790.39(a)(2) of this part.

(2) If testing is being required to allow evaluation of risks associated soley with processing of the chemical, processors will be subject and must respond to the test rule.

(b) [Reserved].

§ 790.25 Submission of letter of intent to test or exemption application.

(a) No later than 30 days after the effective date of a Phase I test rule, each person subject to that rule and required to respond to that rule as provided in § 790.22(a) must, for each test required, either notify EPA by letter of their intent to submit study plans and to conduct testing or submit to EPA an application for an exemption from the study plan submission and testing requirements for the test.

(b) EPA will consider letters of intent to test as commitments to submit study plans and to sponsor the tests for which they are submitted unless EPA agrees to the substitution of an exemption application in instances where more than one person indicates an intent to sponsor equivalent tests. Each letter of intent to conduct testing must include:

(1) Identification of test rule.

(2) Name, address, and telephone number of the firm(s) which will be sponsoring the tests.

(3) Name, address, and telephone number of the appropriate individual to contact for further information.

(4) For sponsors participating in a testing consortium—a listing of other members of the consortium signed by each member, and a designation of who is to serve as principal sponsor.

(5) A list of the testing requirements for which the sponsor(s) intends to submit study plans and conduct tests.

(6) If EPA is requiring testing of more than one representative substance—which test substance the sponsor(s) intends to use in each of the tests.

(c) Any person not manufacturing or processing the subject chemical as of the effective date of the final Phase I test rule or by 30 days after the effective date of the rule or, when both manufacturers and processors are subject to the rule, not processing as of the effective date of the final Phase I test rule or by 30 days after publication of the **Federal Register** notice described in § 790.28(b)(2) of this part who, before the end of the reimbursement period, manufactures or processes the test chemical and who is subject to and required to respond to the test rule must submit the letter of intent to test or exemption application required by paragraph (a) of this section or § 790.28(b)(3) of this part by the date manufacture or processing begins.

(d) Manufacturers subject to a Phase I test rule who do not submit to EPA either a letter of their intent to conduct tests or a request for an exemption from testing for each test for which testing is required in a Phase I test rule will be considered in violation of that rule beginning on the 31st day after the effective date of the Phase I test rule or on the date manufacturer begins as described in paragraph (c) of this section.

(e) Processors subject to a Phase I test rule and required to respond pursuant to § 790.22(a)(2) or a **Federal Register** notice as described in § 790.28(b)(2) of this part who do not submit to EPA either a letter of their intent to conduct tests or a request for an exemption for each test for which testing is required in a Phase I test rule will be considered in violation of that rule beginning on the 31st day after the effective date of the Phase I test rule or 31 days after publication of the **Federal Register** notice described in § 790.28(b)(2) of this part or on the date processing begins as described in paragraph (c) of this section, as appropriate.

§ 790.28 Procedure if no one submits a letter of intent to conduct testing.

(a) *If only manufacturers are subject to rule.* (1) This paragraph applies if testing is being required solely to allow evaluation of risks associated with manufacturing and the final Phase I test rule states that manufacturers only are responsible for testing.

(2) If no manufacturer subject to the rule has notified EPA of its intent to conduct one or more of the required tests within 30 days after the effective date of the final Phase I test rule, EPA will notify all the manufacturers by certified mail or publish a notice in the **Federal Register** of this fact specifying the tests for which no letter of intent has been submitted and will give the manufacturers an opportunity to take corrective action. If no manufacturer submits a letter of intent to conduct one or more of the required tests within 30 days after receipt of the certified letter or publication of the **Federal Register** notice described in this paragraph, all manufacturers subject to the rule will be in violation of the test rule from the 31st day after receipt of the certified letter or publication of the **Federal Register** notice described in this paragraph until a proposed study plan has been submitted for each required test.

(b) *If manufacturers and processors are subject to the rule.* (1) This paragraph applies if testing is being required to allow evaluation of risks associated with manufacturing and processing or with distribution in commerce, use or disposal of the chemical and the final Phase I test rule states that manufacturers and processors are responsible for testing.

(2) If no manufacturer subject to the rule has notified EPA of its intent to conduct testing for one or more of the required tests within 30 days after the effective date of the final Phase I test rule, EPA will publish a notice in the **Federal Register** of this fact specifying the tests for which no letter of intent has been submitted.

(3) No later than 30 days from the date of publication of the **Federal Register** notice described above in paragraph (b)(2) of this section, each person

processing the subject chemical as of the effective date of the final Phase I test rule or by 30 days after the date of publication of the **Federal Register** notice described in paragraph (b)(2) of this section must, for each test specified in the **Federal Register** notice, either notify EPA by letter of their intent to submit study plans and conduct testing or submit to EPA an application for an exemption from the study plan submission and testing requirements for the test.

(4) If no manufacturer or processor of the test chemical has submitted a letter of intent to conduct one or more of the required tests within 30 days from the date of publication of the **Federal Register** notice described in paragraph (b)(2) of this section, EPA will notify all manufacturers and processors by certified mail or publish a **Federal Register** notice of this fact specifying the tests for which no letter of intent has been submitted. This letter or **Federal Register** notice will give the manufacturers and processors an opportunity to take corrective action. If no person submits a letter of intent to conduct one or more of the required tests within 30 days after receipt of the certified letter or publication of the **Federal Register** notice, all manufacturers and processors subject to the rule will be in violation of the test rule from the 31st day after receipt of the certified letter or publication of the **Federal Register** notice until a proposed study plan has been submitted for each required test.

(c) *Only processors are subject to rule.* (1) This paragraph applies if testing is being required solely to allow evaluation of risks associated with processing and the final Phase I test rule states that only processors are responsible for testing.

(2) If no processor subject to the rule has notified EPA of its intent to conduct one or more of the required tests within 30 days after the effective date of the test rule, EPA will notify all the processors by certified mail or publish a notice in the **Federal Register** of this fact, specifying the tests for which no letter of intent has been submitted and give the processors an opportunity to take corrective action. If no processor submits a letter of intent to conduct one or more of the required tests within 30 days after receipt of the certified letter or publication of the **Federal Register** notice described in this paragraph, all processors subject to the rule will be in violation of the test rule from the 31st day after receipt of the certified letter or publication of the **Federal Register** notice described in this paragraph until a proposed study plan has been submitted for each required test.

§ 790.30 Submission of proposed study plans.

(a) *Who must submit study plans.* (1) Persons who notify EPA of their intent to conduct tests must submit proposed study plans for those tests on or before 90 days after the effective date of the Phase I rule; or, for processors responding to the notice described in § 790.28(b)(2) of this part, 90 days after the publication date of that notice; or 60 days after the date manufacture or processing begins as described in § 790.25(c) of this part, as appropriate. Only one set of study plans should be prepared and submitted by persons who are jointly sponsoring testing. Study plans must be prepared according to the requirements of this subpart and Part 792 of this chapter.

(2) Any person subject to a test rule may submit a proposed study plan for any test required by the rule at any time, regardless of whether the person previously submitted an application for exemption from testing for that test.

(3) Unless EPA has granted an extension of time for submission of study plans, manufacturers who notify EPA that they intend to conduct testing and who do not submit proposed study plans for those tests on or before 90 days after the effective date of the Phase I test rule or 60 days after the date manufacture begins as described in § 790.25(c) of this part will be considered in violation of the test rule as if no letter of intent to test had been submitted.

(4) Unless EPA has granted an extension of time for submission of study plans, processors who notify EPA that they intend to conduct testing and who do not submit proposed study plans for those tests on or before 90 days after the effective date of the Phase I test rule or 90 days after the publication date of the notice described in § 790.28(b)(2) of this part, or 60 days after the date processing begins as described in § 790.25(c) of this part, as appropriate. will be considered in violation of the test rule as if no letter of intent to test had been submitted.

(b) *Extensions of time for submission of study plans.* (1) The Agency may grant requests for additional time for study plan development on a case-by-case basis. Requests for additional time for study plan development must be made in writing to EPA. Each extension request must demonstrate why that extension should be granted. EPA will notify the submitter by certified mail of EPA's decision to grant or deny an extension request.

(2) Persons who have been granted an extension of time for submission of study plans as described in paragraph (b)(1) of this section and who do not submit proposed study plans in accordance with the new deadline granted by EPA will be considered in violation of the test rule as if no letter of intent to test had been submitted.

(c) *Content of study plans.* (1) All study plans are required to contain the following information:

(i) Identity of the test rule.

(ii) The specific test requirements of that rule to be covered by the study plan.

(iii)(A) The names and addresses of the test sponsors.

(B) The names, addresses and telephone numbers of the responsible administrative officials and project manager(s) in the principal sponsor's organization.

(C) The name, address, and telephone number of the appropriate individual to contact for oral and written communications with EPA.

(D)(*1*) The names and addresses of the testing facilities and the names, addresses, and telephone numbers of the testing facilities, administrative officials and project manager(s) responsible for the testing.

(*2*) Brief summaries of the training and experience of each professional involved in the study, including study director, veterinarian(s), toxicologist(s), pathologist(s), chemist(s), microbiologist(s), and laboratory assistants.

(iv) Identity and data on the chemical substance(s) being tested, including physical constants, spectral data, chemical analysis, and stability under test and storage conditions, as appropriate.

(v) Study protocol, including rationale for species/strain selection; dose selection (and supporting data); route(s) or method(s) of exposure; description of diet to be used and its source, including nutrients and contaminants and their concentrations; for *in vitro* test systems, a description of culture medium and its source; and a summary of expected spontaneous chronic diseases (including tumors), genealogy, and life span.

(vi) Schedule for initiation and completion of each short-term test and of each major phase of long-term tests; schedule for submission of interim progress and final reports to EPA.

(2) Information required under paragraph (c)(1)(iii)(D) of this section is not required in proposed study plans if the information is not available at the time of study plan submission; however,

the information must be submitted before the initiation of testing.

(d) *Incomplete study plans.* Upon receipt of a proposed study plan, EPA will review the study plan to determine whether it complies with paragraph (c) of this section. If EPA determines that the proposed study plan does not comply with paragraph (c) of this section, EPA will notify the submitter that the submission is incomplete and will identify the deficiencies and the steps necessary to complete the submission. The submitter will have 15 days from the day it receives this notice to submit appropriate information to make the study plan complete. If the submitter fails to provide appropriate information to complete the study plan on or before 15 days after receipt of the notice, the submitter will be considered in violation of the test rule as if no letter of intent to conduct the test had been submitted.

§ 790.32 Proposed Phase II test rule.

If EPA determines that the proposed study plan complies with § 790.30(c) of this part, EPA will publish a proposed Phase II test rule in the **Federal Register** requesting comments on the ability of the study plan to ensure that data from the test will be reliable and adequate. EPA will provide a 45-day comment period and will provide an opportunity for an oral presentation upon the request of any person. EPA may extend the comment period if it appears from the nature of the issues raised by EPA's review or from public comments that further comment is warranted.

§ 790.34 Final Phase II test rule.

After receiving and considering public comment, EPA will adopt the study plan, including the time deadlines and reporting schedules, as proposed or as modified in response to EPA review and public comments, in a final Phase II test rule as test standards and schedules for the required testing.

§ 790.35 Modification of study plans during conduct of study.

(a) *Application.* Any test sponsor who wishes to modify the adopted study plan for any test required under a test rule must submit an application in accordance with this paragraph. Application for modification must be made in writing to the Director, Compliance Monitoring Staff (EN–342), Office of Pesticides and Toxic Substances, EPA, or by phone, with written confirmation to follow within 10 working days. Applications must include appropriate explanation of why the modification is necessary.

(b) *Adoption.* To the extent feasible, EPA will seek public comment on all substantive changes in study plans. EPA will issue a notice in the **Federal Register** requesting comments on requested modifications. However, EPA will act on the requested modification without seeking public comment if either:

(1) EPA believes that an immediate modification to a study plan is necessary in order to preserve the accuracy or validity of an ongoing study, or

(2) EPA determines that a modification clearly does not pose any substantive issues. EPA will notify the sponsor of EPA's approval or disapproval. When EPA approves a modification, it will publish a notice in the **Federal Register** indicating that the study plan has been modified.

§ 790.39 Failure to comply with a test rule.

(a)(1) Persons who notified EPA of their intent to conduct a test required in a test rule in Part 799 of this chapter and who fail to conduct the test in accordance with the test standards and schedules adopted in the final Phase II test rule, or as modified in accordance with § 790.35 of this part, will be in violation of the rule.

(2)(i) If a person fails to conduct a test in accordance with the test standards and schedules adopted in the test rule, EPA will notify each holder of an affected conditional exemption by certified letter or by notice in the **Federal Register** that all conditional exemptions from performance of that test will be terminated unless, within 30 days of receipt of the certified letter or the publication of the notice, a person subject to the rule provides adequate information to rebut EPA's preliminary decision or notifies EPA by letter that they intend to perform that test in accordance with the test standards adopted in the test rule. Exemption holders may also request a hearing in accordance with the procedures in § 790.93 and § 790.97 of this part.

(ii) Within 60 days of receipt of the certified letter or publication of the **Federal Register** notice described in paragraph (a)(2)(i) of this section, persons who notify EPA of their intent to conduct a test must submit the study plan information described in § 790.30(c)(1) (iii), (iv), and (vi) of this part that requires modification from that in the test standards and schedules adopted in the test rule. EPA will adopt modifications to the test standards and schedules in accordance with the procedures described in § 790.35(b) of this part.

(iii) If no person subject to the rules provides adequate information to rebut EPA's preliminary decision or notifies EPA by letter of its intent to conduct the required test, EPA will notify all affected exemption holders by certified letter or **Federal Register** notice that all conditional exemptions for performance of that test are terminated.

(b) Any person who fails or refuses to comply with any aspect of this Part or a test rule under Part 799 of this chapter is in violation of section 15 of the Act. EPA will treat violations of the Good Laboratory Practice standards as indicated in § 792.17 of this part.

Subparts C–D—[Reserved]

Subpart E—Exemptions

§ 790.80 Submission of exemption applications.

(a) *Who should file applications.* (1) Any manufacturer or processor subject to a test rule in Part 799 of this chapter may submit an application to EPA for an exemption from submitting proposed study plans for and from performing any or all of the tests required under the test rule.

(2) Processors will not be required to apply for an exemption or conduct testing unless EPA so specifies in a test rule or in a special **Federal Register** notice as described in § 790.28(b)(2) of this part under the following circumstances:

(i) If testing is being required to allow evaluation of risks associated with manufacturing and processing or with distribution in commerce, disposal or use of the chemical and manufacturers do not submit notice(s) of intent to conduct the required testing; or

(ii) If testing is being required solely to allow evaluation of risks associated with processing of the chemical.

(b) *When applications must be filed.* Exemption applications must be filed within 30 days of the effective date of the final Phase I test rule or, if being submitted in response to the **Federal Register** notice described in § 790.28(b)(2) of this part, within 30 days of the publication of that notice. Exemption applications must be filed by the date manufacture or processing begins by any person not manufacturing or processing the subject chemical as of the effective date of the final Phase I test rule or by 30 days after the effective date of the Phase I test rule, or, when both manufacturers and processors are subject to the rule, not processing as of the effective date of the final Phase I test rule or by 30 days after publication of the **Federal Register** notice described

in § 790.28(b)(2) of this part who, before the end of the reimbursement period, manufactures or processes the test substance and who is subject to the requirement to submit either a letter of intent to test or an exemption application.

(c) *Scope of application.* A person may apply for an exemption from all, or one or more, specific testing requirements in a test rule in Part 799 of this chapter.

§ 790.82 Content of exemption application.

The exemption application must contain:

(a) The identity of the test rule and specific testing requirement(s) from which an exemption is sought.

(b) Name, address, and telephone number of applicant.

(c) Name, address, and telephone number of appropriate individual to contact for further information.

(d)(1) If required in the test rule to establish equivalence:

(i) The chemical identity of the test substance on which the application is based.

(ii) Equivalence data specified in § 790.85 of this part.

(2) If a test rule requires testing of a single representative substance, EPA will consider all forms of the chemical subject to that rule to be equivalent and will not require the submission of equivalence data as described in § 790.85 of this part.

§ 790.85 Submission of equivalence data.

If EPA requires in a test rule promulgated under section 4 of the Act the testing of two or more test substances which are forms of the same chemical, each exemption applicant must submit the following data:

(a) The chemical identity of each technical grade chemical substance or mixture manufactured and/or processed by the applicant for which the exemption is sought. The exact type of identifying data required will be specified in the test rule, but may include all characteristics and properties of the applicant's substance or mixture, such as boiling point, melting point, chemical analysis (including identification and amount of impurities), additives, spectral data, and other physical or chemical information that may be relevant in determining that the applicant's substance or mixture is equivalent to the specific test substance.

(b) The basis for the applicant's belief that the substance or mixture is equivalent to the test substance or mixture.

(c) Any other data which exemption applicants are directed to submit in the test rule which may bear on a determination of equivalence. This may include a description of the process by which each technical grade chemical substance or mixture for which an exemption is sought is manufactured or processed prior to use or distribution in commerce by the applicant.

§ 790.87 Approval of exemption applications.

(a) EPA will conditionally approve exemption applications if:

(1) EPA has received a complete proposed study plan for the testing from which exemption is sought and has adopted the study plan, as proposed or modified, as test standards in a final Phase II test rule, and

(2) The chemical substance or mixture with respect to which the application was submitted is equivalent to a test substance or mixture for which the required data have been or are being submitted in accordance with a final Phase II test rule, and

(3) Submission of the required test data concerning that chemical substance or mixture would be duplicative of data which have been or are being submitted to EPA in accordance with a test rule.

(b)(1) If a single representative substance is to be tested under a test rule, EPA will consider all forms of the chemical subject to that rule to be equivalent and will contact the exemption applicant only if information is missing or unclear.

(2) If two or more representative substances are to be tested under a test rule, EPA will evaluate equivalence claims made in each exemption application according to the criteria discussed in the test rule.

(i) If EPA finds an equivalence claim to be in error or inadequately supported, the applicant will be notified by certified mail. The applicant will be given 15 days to provide clarifying information.

(ii) Exemption applicants will be notified that equivalence has been accepted or rejected.

(c) The final Phase II test rule which adopts the study plans or a letter by certified mail will give exemption applicants final notice that they have received a conditional exemption. All conditional exemptions thus granted are contingent upon the test sponsors' successful completion of testing according to the specifications in the approved study plans.

§ 790.88 Denial of exemption application.

(a) EPA may deny any exemption application if:

(1) EPA determines that the applicant has failed to demonstrate that the applicant's chemical is equivalent to the test substance; or

(2) The exemption applicant fails to submit any of the information specified in § 790.82 of this part; or

(3) The exemption applicant fails to submit any of the information specified in § 790.85 of this part if required in the test rule; or

(4) EPA has not received an adequate study plan for the test for which exemption is sought; or

(5) The study sponsor(s) fails to initiate the required testing by the deadlines adopted in the final Phase II test rule; or

(6) The study sponsor(s) fails to submit data as required in the test standard and deadlines for submission of test data as adopted in the final Phase II test rule or as modified in accordance with § 790.35 of this part.

(b) EPA will notify the exemption applicant by certified mail or **Federal Register** notice of EPA's determination that the exemption application is denied.

§ 790.90 Appeal of denial of exemption application.

(a) Within 30 days after receipt of notification that EPA has denied an application for exemption, the applicant may file an appeal with EPA.

(b) The appeal shall indicate the basis for the applicant's request for reconsideration.

(c)(1) The applicant may also include a request for a hearing. Hearings will be held according to the procedures described in § 790.97 of this part.

(2) Hearing requests must be in writing and must be received by EPA within 30 days of receipt of the letter or publication of the **Federal Register** notice described in § 790.88(b) of this part. Hearing requests must provide reasons why a hearing is necessary.

(d) If EPA determines that there are material issues of fact, then the request for a hearing will be granted. If EPA denies a hearing request, EPA will base its decision on the written submission.

(e) EPA will notify the applicant of its decision within 60 days after EPA receives the appeal described in paragraph (a) of this section or within 60 days after completion of a hearing described in paragraph (c) of this section.

(f) The filing of an appeal from the denial of an exemption shall not act to stay the applicant's legal obligation under section 4 of the Act.

§ 790.93 Termination of conditional exemption.

(a) EPA shall terminate a conditional exemption if it determines that:

(1) The test which provided the basis for approval of the exemption application has not been started by the deadlines for initiation of testing adopted in the final Phase II test rule or modified in accordance with § 790.35 of this part; or

(2) Data required by the test rule have not been generated in accordance with the test standards or submitted in accordance with the deadlines for submission of test data that were adopted in the final Phase II test rule or modified in accordance with § 790.35 of this part; or

(3) The testing has not been conducted or the data have not been generated in accordance with the Good Laboratory Practice requirements in Part 792 of this chapter.

(b) If EPA determines that one or more of the criteria listed in paragraph (a) of this section has been met, EPA will notify each holder of an affected conditional exemption by certified mail or **Federal Register** notice of EPA's intent to terminate that conditional exemption.

(c) Within 30 days after receipt of a letter of notification or publication of a notice in the **Federal Register** that EPA intends to terminate a conditional exemption, the exemption holder may submit information to rebut EPA's preliminary decision or notify EPA by letter of its intent to conduct the required test.

(d)(1) The exemption holder may also include a request for a hearing. Hearings will be held in accordance with the procedures set forth in § 790.97 of this part.

(2) Hearing requests must be in writing and must be received by EPA within 30 days of receipt of the letter or publication in the **Federal Register** notice described in paragraph (b) of this section.

(e) EPA will notify the exemption holder by certified letter or by **Federal Register** notice of EPA's final decision concerning termination of conditional exemptions.

§ 790.97 Hearing procedures.

(a) Hearing requests must be in writing to EPA and must include the applicant's basis for appealing EPA's decision.

(b) If more than one applicant has requested a hearing on similar grounds, all of those appeals will be considered at the same hearing unless confidentiality claims preclude a joint hearing.

(c) EPA will notify each applicant of EPA's decision within 60 days after the hearing.

§ 790.99 Statement of financial responsibility.

Each applicant for an exemption shall submit the following sworn statement with his application:

I understand that if this application is granted before the reimbursement period described in section 4(c)(3)(B) of TSCA expires, I must pay fair and equitable reimbursement to the person or persons who incurred or shared in the costs of complying with the requirement to submit data and upon whose data the granting of my application was based.

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Part III

Consumer Product Safety Commission

16 CFR Part 1632

Standard for the Flammability of Mattresses (and Mattress Pads); Final Rule

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1632

Standard for the Flammability of Mattresses (and Mattress Pads); Final Amendment

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Commission issues final amendments of the flammability standard for mattresses and mattress pads to eliminate requirements for production testing of mattresses and mattress pads by manufacturers of these products. The amendments issued below also make other changes to to the standard and implementing regulations to improve their clarity, precision, and practicability. The Commission has considered comments received in response to the notice of proposed rulemaking published on December 30, 1983, and has responded to significant issues raised by those comments. The Commission concludes that the amendments issued in this notice will reduce costs of testing and recordkeeping for manufacturers of products subject to the standard without decreasing protection to the public from risks of fires associated with ignition of mattresses and mattress pads from smoldering cigarettes.

EFFECTIVE DATE: The amendments will become effective on April 10, 1985.

FOR FURTHER INFORMATION CONTACT: Elizabeth Gomilla, Division of Regulatory Management, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 492–6400.

SUPPLEMENTARY INFORMATION:

Background

The Standard for the Flammability of Mattresses (and Mattress Pads) (16 CFR Part 1632) was issued in 1972 to protect the public from risks of death, personal injury, and property damage associated with fires which have resulted from ignition of mattresses by cigarettes. (*1, 2*) *

The standard was issued by the Department of Commerce under provisions of the Flammable Fabrics Act (FFA, 15 U.S.C. 1191 *et seq.*), and has been in effect since June 22, 1973. In 1973, responsibility for issuance and amendment of flammability standards under the FFA was transferred to the Consumer Products Safety Commission by section 30(d) of the Consumer Product Safety Act (CPSA, 15 U.S.C. 2079(b)).

As originally issued, the standard required manufacturers of mattresses to perform both prototype and production testing. A prototype test involves the testing of a mattress design prior to production to demonstrate that the materials and method of construction will resist cigarette ignition. Prototype testing must be repeated if any of the materials which influence resistance to cigarette ignition are changed. Prototype testing is essentially a one-time test of the design of each basic type of mattress.

After successful completion of requirements for prototype testing, the standard in its original form required manufacturers to group mattresses which they manufactured into "production units," and to sample and test mattresses from each production unit. The original standard required manufacturers to perform production testing at specified intervals as long as a particular mattress type is manufactured. (*1, 4*)

As issued in 1972, the standard prescribed procedures for both prototype and production testing. Both prototype and production testing involved placement of lighted cigarettes at specified locations on the surface of a mattress. The standard set forth pass/fail criteria for both types of tests.

Regulations issued at the same time as the original standard required manufacturers to maintain records demonstrating compliance with the requirements for prototype and production testing. The records required by these regulations included written results of both prototype and production tests, and photographic evidence of each test of a mattress. (*1, 4*)

Review of Standard

In 1978, Congress enacted legislation (Pub. L. 97–631, 92 Stat. 3742, 15 U.S.C. 2076(m)) which required the Commission to review existing rules and standards with a view toward elimination or modification of requirements in appropriate cases. In 1979, the Commission voted to include the mattress standard among the first three rules to be reviewed. (*3*)

After the Commission staff completed its review of the mattress standard, the Commission voted in 1980 to direct the staff to prepare appropriate documents to amend the standard and implementing regulations to reduce or simplify the requirements of the standard for sampling and testing; to reduce the recordkeeping requirements; to simplify the language used in the standard; and to make technical changes needed to improve the clarity and precision of the standard. (*1*)

Thereafter, Congress enacted the Consumer Product Safety Amendments of 1981 (Pub. L. 97–35, 95 Stat. 703, 752). This legislation amends section 4 of the FFA to provide that any proceeding for the issuance or amendment of a flammability standard shall be initiated by publication of an advance notice of proposed rulemaking (ANPR) which must include information about the product, the risk of injury, and regulatory alternatives under consideration. The requirement for publication of an ANPR is codified at 15 U.S.C. 1193(g).

In the **Federal Register** of June 10, 1982 (47 FR 25159), the Commission published the ANPR to begin a proceeding for amendment of the mattress standard. (*9*)

If, after considering comments and other submissions received in response to an ANPR, the Commission decides to continue a proceeding for the issuance or amendment of a flammability standard, sections 4 (d) and (i) of the FFA (15 U.S.C. 1193 (d) and (i)) require publication of a second notice in the **Federal Register** to propose the amendment, invite written comments and oral presentations on the proposal, and describe potential costs and benefits of the proposed amendment, as well as alternatives considered by the Commission before proposing the amendment.

In the **Federal Register** of December 30, 1983 (48 FR 57502), the Commission proposed amendments of the mattress standard, and solicited written comments and oral presentations on the proposal. (*33*) As required by section 4(i) of the FFA, the notice of proposal contained the Commission's preliminary analysis of the anticipated costs and benefits of the proposed amendments, and discussed regulatory alternatives considered.

After consideration of comments received in response to the proposal, a briefing package prepared by the Commission staff, and other relevant information, the Commission issues the amendments on a final basis by publication of this notice. In compliance with requirements of section 4(j) of the FFA, this notice contains the Commission's final regulatory analysis of the amendments, including a description of potential costs and benefits and alternatives to the final amendments considered by the

* Numbers in parentheses identify reference documents listed in Bibliography at the end of this notice. Requests for inspection of any of these documents should be made at the Commission's public reading room, 1111 18th Street, NW., Washington, D.C., or by calling the Office of the Secretary at (301) 492–6800.

Commission, as well as a summary of significant issues raised by the comments and the Commission's assessment of those issues.

Summary of Final Amendments

A major change to the standard made by the amendments issued below is the elimination of requirements for periodic sampling and testing of mattresses from manufacturers' production. The requirements for production testing were contained in the "basic sampling plan" of the standard as originally issued at § 1632.4(b)(2)(i)(B). Section 1632.4(b)(1) of the original standard authorized the Commission to approve "alternate sampling plans," and the Commission has approved four such alternate sampling plans. (These alternate sampling plans were codified at 16 CFR 1632.11, 1632.12, 1632.14, and 1632.15.) Because these alternate sampling plans are concerned only with the selection of samples for production testing, they have been revoked by the amendments issued below.

Another major change to the standard contained in the amendments issued below is the elimination of provisions in the original standard which allowed two or more individual firms or plants to collaborate in the qualification of a mattress design by prototype testing. These provisions were codified at § 1632.4(b)(2)(i)(A) of the original standard, and had the effect of allowing some of the firms or plants using a common mattress design to perform fewer of the prototype qualification tests than would otherwise be required by the standard. Written comments objecting to the elimination of these provisions and the Commission's reasons for making this change are discussed below.

Several technical changes have been made to the text of the standard to improve its clarity, precision, and practicability. These changes affect language in the standard which describes various products subject to and exempted from the requirements of the standard; one item of test apparatus; and some aspects of the test procedure.

As proposed in the notice of December 30, 1983, the Commission issues final amendments of § 1632.1 of the standard which:

1. Provide that a product utilizing a water or air-filled core covered with upholstery and ticking materials is a mattress subject to the requirements of the standard;

2. Add "futons" to the list of products which fall within the standard's definition of the term "mattress" (a futon is a flexible sleeping mat consisting of a ticking filled with resilient material); and

3. Specifically exclude convoluted foam pads not totally encased in ticking from the standard's definition of the term "mattress pad."

The amendments issued below also eliminate language from § 1632.2(c) of the original standard which purported to exclude mattresses from the coverage of the standard if they were subject to Motor Vehicle Safety Standard No. 302 (MVSS 302), administered by the National Highway Traffic Safety Administration. The Commission proposed this change after receiving information to the effect that MVSS 302 applies only to mattress tickings, and not assembled mattresses.

As proposed in the notice of December 30, 1983, the Commission issues final amendments to specify a particular kind of nonmetallic surface to be used as the top surface of the mattress support system when testing thin mattresses and mattress pads. Specifications for the nonmetallic surface are in § 1632.4(a)(1)(ii) of the amended standard, published below.

Additionally, provisions of § 1632.4(d) have been amended to provide that if a test is not conducted in a test room which has been conditioned to the temperature and relative humidity specified in § 1632.4(c), the test must begin within 10 minutes after the mattress is removed from the conditioning room. The amendments issued below also modify § 1632.4(d)(1)(iii) to provide that if a cigarette pops out of position when tested on a tuft, or rolls off a test location, the test must be repeated with a freshly lit cigarette on a different location of the same type.

Finally, the amendments issued below modify language in § 1632.3(b) of the standard to specify that in determining the extent of charring at any individual cigarette test location, measurements shall be made in all directions, including downward into the mattress in case of burns which penetrate through the surface of the mattress.

Comments on Proposal

In response to the notice of December 30, 1983, the Commission received written comments from the National Association of Bedding Manufacturers (*34,35*), National Retail Merchants Association (*40*), Citizens Committee for Fire Protection (*36*), Burn Foundation (*37*), Trauma Center Foundation (*38*), and Senator Edward Zorinsky. (*39*)

Although the Commission announced opportunity for oral presentations of data, views, and arguments concerning the proposed amendments, no person requested to make an oral presentation.

Comments from the National Association of Bedding Manufacturers (NABM) (*34,35*), and National Retail Merchants Association (*40*) express support for the proposal to modify the standard by elimination of requirements for production testing. These comments state that the mattress industry's experience with production testing indicates that once a mattress or mattress pad design has been qualified by prototype testing in accordance with the standard, the likelihood is small that a mattress or mattress pad produced in accordance with that prototype will fail the test in the standard for resistance to cigarette ignition.

Comments from Citizens Committee for Fire Protection (CCFP) (*36*), Burn Foundation (*37*), and Trauma Center Foundation (*38*) oppose elimination of requirements for production testing. These comments express the view that the record of compliance with the standard by the mattress industry is poor and does not justify elimination of production testing.

These comments also express the view that in the absence of requirements for production testing, small manufacturing plants, which compromise the majority of production facilities within the mattress industry, will not maintain adequate control to assure that their products consistently pass the test in the standard.

The Commission decided to propose amendments eliminating requirements for production testing after considering results of testing conducted by mattress manufacturers, the Commission's laboratory, and the Bureau of Home Furnishings of the State of California. (*16,24,33*)

In response to the advance notice of proposed rulemaking, NABM submitted results of testing conducted by four large mattress manufacturers and eleven small firms during the years 1977, 1978, and 1979. (*16*)

The information submitted by NABM showed that during each of those three years, the fifteen firms had manufactured a total of about 6,300 production units of mattresses. (The basic sampling plan in the standard defines a "production unit" as 500 mattresses, or three months' production, whichever occurs first.) All of these production units were sampled, tested in accordance with the standard, and found to be acceptable. In a few cases, the first test of the production unit did not yield passing results, but the production unit was found to be acceptable after a second test yielded no failure at any cigarette test location,

as provided by § 1632.4(b)(2)(i)(B) of the original standard. (*16*)

Additionally, before deciding to propose elimination of requirements for production testing, the Commission considered test results from a sample collected by the Commission staff in 1982. This sample consisted of 25 mattresses, each produced by a different manufacturer. When tested by the Commission's laboratory in accordance with the standard, 24 of the mattresses yielded passing results. (*24*) Commission investigators found that the failing mattress was a renovated mattress which had not been qualified by prototype testing because the renovating firm mistakenly believed that it was not subject to the requirements of the standard. (*24*)

In a separate investigation, another mattress renovated by a different firm was tested and yielded failing results. This particular mattress was not subject to the requirements of the standard and had not been qualified by prototype testing. (*24*)

The Commission had also considered results of testing conducted by the Bureau of Home Furnishings of the State of California before publishing the notice of December 30. During 1983, that agency tested 52 mattresses. Forty-nine of these mattresses passed the test in the standard. Investigation by the state agency disclosed that two of the three mattresses which yielded failing results had not been subjected to production testing. (*24*)

The comment from CCFP refers to the results of testing by the Commission and the California Bureau of Home Furnishings and on the basis of these results argues that one of every 16 mattresses offered for sale today will not pass the test in the standard. (*36*)

After reviewing and reconsidering the results of testing conducted by the Commission and the State of California, the Commission concludes that they do not support the argument that one of every 16 mattresses sold at this time will fail the test in the standard.

Of the 78 mattresses tested by the California Bureau of Home Furnishings and the Commission's laboratory, about one-third were produced by manufacturers known to be large firms. CCFP is correct in asserting that the majority of mattress manufacturers are small firms; however the vast majority of mattresses manufactured in the United States, 86 to 90 percent, are produced by large firms. The total production of all small manufacturers accounts for only about 10 to 14 percent of the mattresses produced each year. (*41, 44*). Thus, the test results under consideration involved a sample of mattresses which was not truly representative of all mattresses sold in the United States because of the disproportionately large number of tests units produced by small manufacturers.

Additionally, as stated in the notice of proposal, no more than three, and possibly only two, of the five test failures were attributable to factors which might have been detected by production testing. (*33*)

After consideration of the comments from both CCFP and NABM, the results of testing conducted by the California Bureau of Home Furnishings and the Commission laboratory, and the results of other testing described above and in the notice of proposal, the Commission concludes that elimination of requirements for production testing is not likely to lead to a deterioration of quality control programs by small or large manufacturers, or an increase in the rate of test failures in mattresses produced by those firms. (*41, 44*)

The comment from CCFP also contends that because entry into the mattress manufacturing industry is "relatively easy," many small firms may begin production of mattresses within the next few years. (*36*) The comment states that if requirements for production testing are eliminated, within a decade a substantial portion of the mattress industry may not be aware of the existence of the standard because prototype testing is required only when the basic design of a mattress is changed. Comments from CCFP (*36*) and Burn Foundation (*37*) assert that requirements for production testing are necessary to remind mattress manufacturers of the standard's existence and of the test which it prescribes.

Although CCFP is correct in asserting that the cost of entering the mattress industry is relatively low, in the past new firms were frequently founded by individuals who had some experience in the production of mattresses, usually as employees of an established mattress manufacturer. The comment from CCFP does not contain any information to show that this pattern is not likely to continue in the future. Consequently, the Commission anticipates that most firms which enter the mattress industry after the amended standard becomes effective will continue to be founded by persons with previous experience in the industry, including some knowledge of the existence and requirements of the mattress flammability standard.

Moreover, as noted above, small manufacturers account for only about 10 to 14 percent of the total production in terms of numbers of units manufactured. Whatever the number of small firms that enter or leave the industry, most mattresses will continue to be produced by large manufacturers.

Having considered all comments favoring and opposing elimination of requirements for production testing from the standard, the Commission concludes that once a mattress design has been qualified as acceptable by prototype testing, the likelihood is small that mattresses manufactured by using the same materials and methods of construction will yield failing test results. For this reason, the Commission concludes that requirements for production testing can be removed from the standard without significantly reducing the level of protection from risks of fires associated with ignition of mattresses by smoldering cigarettes.

Because provisions of alternate sampling plans codified at 16 CFR 1632.11, 1632.12, 1632.14, and 1632.15 are concerned exclusively with selection of samples for production testing, these alternate sampling plans have also been eliminated from the amended standard issued below.

As noted above, comments from CCFP, the Burn Foundation, and the Trauma Center Foundation expressed concern about quality control methods of small manufacturers, and questioned whether those methods would be adequate to assure continued production of mattresses which pass the test in the standard if requirements for production testing are eliminated.

The Commission observes that after the amendments issued below become effective, the standard will continue to require each manufacturer to perform prototype qualification testing with acceptable results for each basic combination of materials and construction methods used to manufacture mattresses before beginning production for sale in commerce. All mattresses of a particular prototype subsequently manufactured for sale to consumers must continue to be assembled from the same materials and by using the same construction methods as those utilized in the mattress prototype which has been accepted after prototype qualification testing. Materials may be substituted in the production of mattresses for sale in commerce only after successful completion of new prototype qualification testing, or after performing the ticking or tape edge substitution tests in the amended standard.

Additionally, § 1632.31(c) of the regulations issued below to implement the amended standard continues to require each manufacturer to maintain records of the manufacturing

specifications and description of each mattress prototype qualified by prototype testing. Such records should describe all materials used in each mattress prototype and the methods of assembly used to construct each mattress prototype in sufficient detail that in any subsequent examination by the Commission of mattresses currently being produced, the manufacturer can demonstrate that no changes have been made from the mattresses qualified by prototype testing. The description of each mattress prototype should indicate the order in which the component materials appear in the finished mattress from the outermost layer of material to the core; the composition of each component and amount of flame-retardant treatment, if any, which is present; and the type, density and thickness of any foam used in the mattress.

The implementing regulations also require the maintenance of records to demonstrate successful completion of all required prototype testing, as well as results of any testing in accordance with the amended standard relied upon to support substitution of ticking or tape edge materials.

On the basis of all currently available information, the Commission believes that compliance with the requirements of the amended standard and implementing regulations will assure that mattresses offered for sale to consumers will resist ignition from smoldering cigarettes.

During the months immediately following the effective date of the amended standard, the Commission will conduct a compliance program involving inspection of mattress manufacturing plants and collection of sample mattresses for testing. The FFA authorizes the Commission to initiate judicial and administrative proceedings to enforce flammability standards issued under that act. In its enforcement of the amended standard, the Commission can seek orders for flammability testing of mattresses or component materials if the circumstances of a particular case warrant such measures.

Change in Test Procedures

A comment from Trauma Center Foundation suggests that the test procedure in the amended standard should provide that certain cigarette test locations must be covered by two layers of sheeting material rather than one layer as specified in the notice of proposal and in the standard as originally issued.(*38*)

The comment does not furnish test data or other information demonstrating the effect of the requested change, and does not explain how such a change would improve the standard.

The change requested by this comment has not been incorporated in the amended standard issued below.

"Pooling" Prototype Test Results

In its original form, the standard contained provisions allowing two or more firms or plants producing mattresses from the same basic materials and methods of construction to "pool" prototype testing. Under the "pooling" provisions, if six surfaces of the common prototype are tested with acceptable results at a central location, every other firm or plant producing mattresses from that prototype is required to test only two surfaces with acceptable results to satisfy the requirements of the standard for prototype testing.

The notice of December 30, 1983, proposed to eliminate the provisions for "pooling" of prototype testing set forth in § 1632.4(b)(2)(i)(A) of the standard as originally issued.

A comment from NABM (*34*) urged the Commission not to eliminate provisions allowing firms and plants to "pool" prototype test results. NABM argues that such a change would result in a substantial increase in costs and burden to firms and plants which now rely on the prototype "pooling" provisions in the standard. NABM argues that requiring each firm or plant producing mattresses from a common prototype design will not reveal any defects in the prototype design beyond those which would be found if the prototype were qualified under existing provisions of the standard which allow "pooling" of prototype test results.

The Commission observes that two factors influence the ability of a mattress to withstand ignition from cigarettes: (a) The design of the mattress, and (b) the materials used in the construction of the mattress. (*41,46*)

When two or more firms "pool" prototype test results, six surfaces must be tested successfully at one production facility. The other plants or firms producing mattresses from the common prototype must each test two more surfaces with acceptable results.

All mattresses of any given prototype must be made from the same materials. However, when two or more plants at widely separated locations purchase the same component materials from local suppliers, some differences may exist in the materials received at each plant. To assure that any differences which may be present in the materials utilized by each manufacturing facility will not affect cigarette ignition, six mattress surfaces must be tested with acceptable results by each plant. (*41,46*)

When the standard contained requirements for sampling and testing mattresses from each plant's regular production, any differences which might be present in the materials used at each plant were of less significance, because any local variation great enough to adversely affect ignition resistance of any mattress prototype qualified by "pooled" prototype testing probably would be detected during the first two production tests. (*41,46*)

However, since requirements for production testing are eliminated by the amendments issued below, no further evaluation of materials used in the construction of a mattress is required once prototype testing is successfully completed. The Commission concludes that testing six mattress surfaces of each mattress prototype at each plant where those mattresses will be manufactured is a reasonable step to detect any differences in materials which may exist from one plant to another and adversely influence the ability of the mattress to pass the test in the standard. (*41,46*)

NABM is correct in asserting that elimination of the "pooling" provisions will increase costs of prototype testing. However, the increase would be equivalent to requiring two production tests following successful completion of prototype testing under the provisions which allowed "pooling" of prototype tests. The Commission does not believe that elimination of the "pooling" provisions for prototype testing will impose a significant increase in costs of prototype testing when that change is made together with the elimination of all requirements for production testing of mattresses.

For these reasons, the Commission has eliminated provisions which allowed "pooling" of prototype test results from the amended standard issued below.

Ticking Classification and Substitution

Included in the proposed amendments were provisions which set forth a test for classification of ticking materials (the outer covering of fabric on a mattress) and allowed substitution of certain ticking materials without the requirement for additional prototype testing.

Use of the ticking classification test is not mandatory. However, if ticking materials are not classified by using this test, a mattress manufacturer must perform new prototype qualification testing whenever the manufacturer changes ticking materials. As proposed in the notice of December 30, 1983, the

test for classification of ticking materials could be performed by a manufacturer of ticking materials on products which that firm sells to mattress manufacturers, or by a mattress manufacturer on ticking materials purchased from suppliers.

Comments from NABM and NRMA favored issuance of these provisions on a final basis. (*34,40*) The comment from NABM urged the Commission to add provisions for quilted tickings sewn together from two or more layers of fabric. (*34*)

The comment from NABM indicates that in some cases, mattress manufacturers produce quilted tickings from fabric, thread, and backing materials purchased from several suppliers. NABM requested addition of language to provide that mattress manufacturers which produce quilted tickings may rely on certifications from suppliers to the effect that a change in the component material produced by the supplier will not affect the classification of a quilted ticking assembled by using that particular material. (*34*)

NABM contends that if a mattress manufacturer assembling its own quilted ticking is required to perform the ticking classification test whenever any component material used in the quilted ticking is changed, the provision in the proposed amendments allowing substitution of ticking materials without performing additional prototype tests will be of little benefit to such a manufacturer.

As noted above, the ticking classification test can be performed either by the mattress manufacturer, or by the ticking supplier. A mattress manufacturer assembling its own quilted ticking from component materials assumes the function of a ticking supplier.

The ticking classification test measures the performance of the ticking material as it is used in the construction of a mattress. That test does not measure the performance of any individual component used in the production of ticking material. Consequently, the provisions for classification of ticking material in the proposed amendment furnish no basis for any supplier of thread, fabric, or backing material used in production of quilted ticking to certify that substitution of one particular component material for another will not affect the classification of a quilted ticking.

For this reason, the additional provision concerning certification by suppliers of materials used to produce quilted tickings requested in the comment from NABM have not been included in the amended standard issued below.

Substitution of Tape Edge Materials

The proposal of December 30, 1983, also prescribed a test to measure performance of binding tape materials used at the edges of the sleeping surfaces of a mattress, and allowed substitution of one tape edge material for another without requirements for additional prototype testing under specified conditions. A comment from NRMA expressed the view that the tape edge test provisions in the proposal were incomplete because they did not specify the procedure to be used. The provisions relating to testing of tape edge materials in the notice of proposal stated:

> A prototype mattress or mattress pad incorporating the substitute materials has been tested with 36 cigarettes (18 per surface—9 bare and 9 two-sheet) placed at tape edge locations with no ignitions occurring * * *.

The comment from NRMA suggests that language should be added to specify that the testing shall be performed by following the applicable procedures of § 1632.4 of the amended standard and applying the test criterion of § 1632.3(b). (*40*) While the test procedures of § 1632.4 are the only ones which could be used under the conditions specified in the language quoted above, the Commission finds that addition of the language suggested in this comment would not detract from, and might improve, the clarity of the amended standard, particularly to persons not familiar with the standard as originally issued. The change requested in the comment from NRMA has been incorporated in § 1632.7(b)(3) of the amended standard issued below.

Effective Date of Amended Standard

Section 4(b) of the FFA (15 U.S.C. 1193(b)) provides that an amendment of a flammability standard shall become effective twelve months after the date of its issuance on a final basis, unless the Commission finds for good cause shown that an earlier or later effective date is in the public interest, and publishes its reasons for that finding.

In the notice of proposal, the Commission solicited comments addressed to the issue of an appropriate effective date for the amended standard if it is issued on a final basis.

Two comments from NABM (*34,35*) and a third from Senator Edward Zorinsky (*39*) addressed the issue of an effective date for the amendment of the mattress standard.

A comment from a member firm of NABM which is a small business urged the Commission to make the amendment of the standard effective immediately upon publication. (*35*) This comment asserts that because the amendment eliminates existing requirements for production testing, any delay in the effective date of the amendment will result in unnecessary costs of such testing and recordkeeping for manufacturers. (*35*)

This comment states that the costs of production testing can be significant for small manufacturers. (*35*)

This comment also expresses the view that the only purpose of the statutory requirement for a delayed effective date of one year is to afford manufacturers of products which may be subject to a new or amended flammability standard adequate time to develop complying products and to obtain test equipment or locate commercial testing facilities. Since the proposed amendment of the standard eliminates requirements for production testing, this comment states that no delay is needed. (*35*)

The comment from Senator Zorinsky expressed support for the arguments advanced by the small manufacturer for an immediate effective date. (*39*)

A separate comment from NABM also expressed support for the small manufacturer's comment regarding the effective date of the amended standard. (*34*) However, NABM requested that all ticking material in production or in inventory on the effective date of the standard be exempted from provisions of § 1632.6 of the amended standard which concern classification of ticking materials. (*34*)

NABM states that exemption of ticking materials in production or in inventory is needed because mattress manufacturers will have unclassified ticking materials in their inventories on the effective date of the amended standard, and will not have the expertise to classify those materials in accordance with provisions of the amended standard. This comment contends that without the requested exemption of ticking materials in production or in inventory, mattress manufacturers will be required to return those materials to ticking suppliers for classification. (*34*)

As stated earlier, classification of ticking materials in accordance with provisions of § 1632.6 of the amended standard issued below is not mandatory. Rather, the amended standard allows substitution of certain ticking materials classified in accordance with provisions of § 1632.6 without the necessity of additional prototype testing.

However, the Commission acknowledges that the ability to

substitute one ticking material for another without the necessity for additional prototype testing will be of great practical value for most mattress manufacturers. The Commission also acknowledges that many mattress manufacturers may not have the expertise to classify ticking materials in accordance with provisions of the amended standard. (*41,47*)

Information about manufacturing practices within the mattress industry indicates to the Commission that some manufacturers turn over their inventories of component materials as frequently as ten times a year; others turn over inventories of component materials only two times a year. (*41,44*)

From this information, the Commission concludes that if the amended standard became effective six months after publication, almost all mattress manufacturers would have depleted their inventories of component materials, and would be able to obtain ticking materials classified in accordance with provisions of § 1632.6 of the amended standard by its effective date.

A delayed effective date of six months would reduce to a large extent the costs of production testing which were the concern of the comment from the small manufacturer. At the same time, such an effective date would provide almost all manufacturers the opportunity to exhaust existing inventories of unclassified ticking materials and to obtain new ticking materials classified in accordance with provisions of the amended standard.

Therefore, the Commission finds for good cause shown that an effective date six months after publication of the amended standard is in the public interest, for the reasons set forth above.

As provided by section 4(b) of the FFA (15 U.S.C. 1193(b)), mattresses and mattress pads which are "in inventory or with the trade" on the effective date of the amended standard are exempt from its requirements, but must comply with applicable requirments of the original standard.

Final Regulatory Analysis

Section 4(j) of the FFA (15 U.S.C. 1193(j)) requires the Commission to include a final regulatory analysis of potential costs and benefits in the notice by which it issues a final amendment of a flammability standard.

Information considered by the Commission at the time it proposed amendments of the mattress standard indicated that if the standard were modified to eliminate requirements for production testing, total savings to all mattress manufacturers might amount to as much as $2.4 million each year. At that time, the Commission also expressed the expectation that elimination of requirements for production testing from the standard would not have a significant adverse affect on resistance to cigarette ignition of mattresses offered for sale to consumers.

A comment from Burn Foundation (*37*) expressed the view that the proposed amendments would "considerably weaken" protection of the public from bedding fires without "a significant reduction of the economic impact" of standards as originally issued. In support of that assertion, the comment relied on information contained in the comment from CCFP (*36*) discussed above under the heading "Comments on Proposal."

After consideration of the comments from Burn Foundation and CCFP, and all others submitted in response to the notice of proposal, the staff briefing package, and other relevant information, the Commission concludes that the estimated reduction in costs of testing to the mattress industry cited in the notice of proposal is generally accurate. The Commission affirms the expectation that the modifications to the standard made by the amendments issued below, including elimination of requirements for production testing, will not have a significant adverse affect on the ability of mattresses offered for sale to consumers to resist ignition from cigarettes.

An additional but unquantifiable benefit of the amended standard issued below is that it is shorter, easier to understand, and more precise than the standard in its original form.

As an alternative to the provisions of the amended standard issued below, the Commission considered the possibility of allowing manufacturers to collaborate in qualification of mattress designs by "pooling" prototype qualification test results, as discussed above. However, the Commission finds that provisions to allow "pooling" of prototype test results could result in failure to detect differences in materials which may exist from one manufacturing facility to another and which may adversely affect resistance of mattresses to cigarette ignition. The Commission concludes that any additional costs imposed by provisions in the amended standard which require each manufacturing facility to test six surfaces of each mattress prototype will not be significant if those provisions become effective at the same time that all requirements for production testing are eliminated.

The Commission also considered the possibility of allowing mattress manufacturers who assemble quilted ticking to rely on certifications from suppliers of component materials that a change in those materials will not affect the classification of a quilted ticking assembled from such component materials. However, the Commission concluded that no provision of the amended standard furnishes a basis to support such a certification by a supplier of materials used in the assembly of a quilted ticking.

Finally, the Commission considered the possibility of modifying the standard to require certain cigarette test locations to be covered with two layers of sheeting material rather than one. The Commission did not include such a requirement in the amended standard issued below because it has no information to show what effect such a change would have on the test in the standard.

As required by section 4(j)(2) of the FFA, the Commission finds that the benefits expected from the amended standard issued below bear a reasonable relationship to its costs, and that the amended standard imposes the least burdensome requirement which prevents or adequately reduces risks of injury associated with fires from mattresses ignited by cigarettes.

As required by section 4(b) of the FFA (15 U.S.C. 1193(b)), the Commission finds that the amended standard issued below:

- Is needed to adequately protect the public against unreasonable risk of the occurrence of fire leading to death, injury, or significant property damage;
- Is limited to the products which have been determined to present such unreasonable risks;
- Is reasonable, technologically practicable, and appropriate; and
- Is stated in objective terms.

Environmental Considerations

As stated in the notice of proposal, the Commission's environmental review procedures provide at 16 CFR 1021.5(c)(1) that issuance or amendment of safety standards falls within the categories of Commission actions that have little or no potential for affecting the human environment.

The Commission does not foresee any special or unusual circumstances surrounding the amended standard issued below. For this reason, neither an environmental assessment or an environmental impact statement is required.

List of Subjects in 16 CFR Part 1632

Consumer protection, Flammable materials, Labeling, Mattresses and mattress pads, Records, Textiles, Warranties.

Conclusion and Promulgation

Therefore, having considered the products and the nature of the risks of the occurrence of fires leading to death, personal injury, or significant property damage which are addressed by the mattress flammability standard, comments received in response to the notice proposing amendment of the mattress standard, alternative provisions for amendment of the mattress standard, potential costs and benefits of an amendment of the standard, and other relevant information, pursuant to provisions of the Flammable Fabrics Act (15 U.S.C. 1193, 1194) and the Consumer Product Safety Act (15 U.S.C. 2079(b)), the Commission hereby amends Title 16, Chapter XVI, Chapter II, Subchapter D by revising Part 1632 to read as follows:

PART 1632—STANDARD FOR THE FLAMMABILITY OF MATTRESSES AND MATTRESS PADS (FF 4-72, AMENDED)

Subpart A—The Standard

Sec.

1632.1 Definitions.
1632.2 Purpose, scope and applicability.
1632.3 General requirements.
1632.4 Mattress test procedure.
1632.5 Mattress pad test procedure.
1632.6 Ticking substitution procedure.
1632.7 Tape edge substitution procedure.
1632.8 Glossary of terms.

Subpart B—Rules and Regulations

1632.31 Mattresses/mattress pads—labeling, recordkeeping, guaranties and "one of a kind" exemption.

Subpart C—Interpretations and Policies

1632.61 [Reserved]
1632.62 [Reserved]
1632.63 Policy clarification on renovation of mattresses.

Subpart A—The Standard

§ 1632.1 Definitions.

In addition to the definitions given in section 2 of the Flammable Fabrics Act as amended (15 U.S.C. 1191), the following definitions apply for the purpose of the standard.

(a) "Mattress" means a ticking filled with a resilient material used alone or in combination with other products intended or promoted for sleeping upon.

(1) This definition includes, but is not limited to, adult mattresses, youth mattresses, crib mattresses including portable crib mattresses, bunk bed mattresses, futons, water beds and air mattresses which contain upholstery material between the ticking and the mattress core, and any detachable mattresses used in any item of upholstered furniture such as convertible sofa bed mattresses, corner group mattresses, day bed mattresses, roll-a-way bed mattresses, high risers, and trundle bed mattresses. See § 1632.8 Glossary of terms, for definitions of these items.

(2) This definition excludes sleeping bags, pillows, mattress foundations, liquid and gaseous filled tickings such as water beds and air mattresses which do not contain upholstery material between the ticking and the mattress core, upholstered furniture which does not contain a detachable mattress such as chaise lounges, drop-arm love seats, press-back lounges, push-back sofas, sleep lounges, sofa beds (including jackknife sofa beds), sofa lounges (including glide-outs), studio couches and studio divans (including twin studio divans and studio beds), and juvenile product pads such as car bed pads, carriage pads, basket pads, infant carrier and lounge pads, dressing table pads, stroller pads, crib bumpers, and playpen pads. See § 1632.8 Glossary of terms, for definitions of these items.

(b) "Mattress Pad" means a thin, flat mat or cushion, and/or ticking filled with resilient material for use on top of a mattress. This definition includes, but is not limited to, absorbent mattress pads, flat decubitus pads, and convoluted foam pads which are totally enclosed in ticking. This definition excludes convoluted foam pads which are not totally encased in ticking.

(c) "Ticking" means the outermost layer of fabric or related material that encloses the core and upholstery materials of a mattress or mattress pad. A mattress ticking may consist of several layers of fabric or related materials quilted together.

(d) "Core" means the main support system that may be present in a mattress, such as springs, foam, hair block, water bladder, air bladder, or resilient filling.

(e) "Upholstery material" means all material, either loose or attached, between the mattress or mattress pad ticking and the core of a mattress, if a core is present.

(f) "Tape edge" (edge) means the seam or border edge of a mattress or mattress pad.

(g) "Quilted" means stitched with thread or by fusion through the ticking and one or more layers of upholstery material.

(h) "Tufted" means buttoned or laced through the ticking and upholstery material and/or core, or having the ticking and upholstery material and/or core drawn together at intervals by any other method which produces a series of depressions on the surface.

(i) "Manufacturer" means an individual plant or factory at which mattresses and/or mattress pads are produced or assembled.

(j) "Mattress prototype" means mattresses of a particular design, sharing all materials and methods of assembly, but excluding differences in mattress size. If it has been shown as a result of prototype qualification testing that an upholstery material or core will not reduce the ignition resistance of the mattress prototype, substitution of another material for such material shall not be deemed a difference in materials for prototype definition. (See § 1632.31(c)(4) for records required to demonstrate that a change of materials has not reduced ignition resistance of a mattress prototype.) If it is determined or suspected that a material has influenced the ignition resistance of the mattress prototype, a change in that material, excluding an increase in thickness, shall be deemed a difference in materials for purposes of prototype definition unless it is previously shown to the satisfaction of the Consumer Product Safety Commission that such change will not reduce the ignition resstance of the mattress prototype. Ticking materials may be substituted in accordance with § 1632.6. Tape edge materials may be substituted in accordance with § 1632.7.

(k) "Mattress pad prototype" means mattress pads of a particular design, sharing all materials and methods of assembly, but excluding differences in mattress pad size. A change in existing material, except an increase in thickness, shall be deemed a difference in materials for purposes of prototype definition unless it is previously shown to the satisfaction of the Consumer Product Safety Commission that such change will not reduce the ignition resistance of the mattress pad prototype. Ticking materials may be substituted in accordance with § 1632.6. Tape edge materials may be substituted in accordance with § 1632.7.

(l) "Surface" means one side of a mattress or mattress pad which is intended for sleeping upon and which can be tested.

§ 1632.2 Purpose, scope, and applicability.

(a) *Purpose.* (1) This standard prescribes requirements for testing of prototype designs of mattresses and mattress pads before the sale in commerce or the introduction in commerce of any mattress or mattress

pad which is subject to the standard. The standard prescribes a test to determine the ignition resistance of a mattress or a mattress pad when exposed to a lighted cigarette.

(2) The standard sets forth a test at § 1632.6 which may be used to classify ticking materials for resistance to cigarette ignition.

(3) The standard sets forth a test at § 1632.7 which may be used to demonstrate that the substitution of tape edge materials will not reduce the ignition resistance of a mattress prototype or a mattress pad prototype.

(b) *Scope.* (1) All mattresses, as defined in § 1632.1(a), and all mattress pads, as defined in § 1632.1(b), manufactured or imported after the effective date of this amendment are subject to the requirements of the standard as amended.

(2) All mattresses, as defined in § 1632.1(a), and all mattress pads, as defined in § 1632.1(b), manufactured or imported after June 22, 1973, and before the effective date of this amendment are subject to those requirements of the Standard for the Flammability of Mattresses (and Mattress Pads) (16 CFR Part 1632) which were in effect before the effective date of this amendment.

(3) Manufacturers or importers desiring to use the ticking substitution procedure provided in § 1632.6 may classify the ticking being used on each mattress prototype before or after the effective date of this amendment using the test procedure set forth in that section.

(4) One-of-a-kind mattresses and mattress pads may be excluded from testing under this standard in accordance with rules established by the Consumer Product Safety Commission. (See § 1632.31(f): exemption for mattresses and mattress pads prescribed by a physician.)

(c) *Applicability.* (1) The requirements for prototype testing prescribed by this standard are applicable to each "manufacturer" (as that term is defined in § 1632.1(i)) of mattresses or mattress pads subject to the standard which are manufactured for sale in commerce. The requirements of this standard for prototype testing are also applicable to all other persons or firms initially introducing mattresses or mattress pads into commerce, including importers; each such firm shall be deemed to be a "manufacturer" for purposes of this standard.

(2) The test at § 1632.6 for classification of ticking materials may be used by manufacturers of mattresses or mattress pads and by manufacturers of ticking materials. The test at § 1632.7 may be used by manufacturers of mattresses to demonstrate that substitution of tape edge materials will not reduce ignition resistance of a mattress prototype or a mattress pad prototype. Use of the tests in §§ 1632.6 and 1632.7 is optional.

§ 1632.3 General requirements.

(a) *Summary of test method.* The method measures the ignition resistance of a mattress or mattress pad by exposing the surface to lighted cigarettes in a draft-protected environment. The surfaces to be tested include smooth, tape edge, and quilted or tufted locations, if they exist on the mattress or mattress pad surface. A two-sheet test is also conducted on similar surface locations. In the latter test, the burining cigarettes are placed between the sheets.

(b) *Test criterion.* When testing the mattress or mattress pad surface in accordance with the testing procedure set forth in § 1632.4 *Mattress test procedure,* individual cigarette test locations pass the test if the char length is not more than 2 inches (5.1 cm) in any direction from the nearest point of the cigarette. In the interest of safety, the test operator should discontinue the test and record a failure before reaching the 2 inch char length if an obvious ignition has occurred.

(c) *Pre-market testing.* Each manufacturer required to perform prototype testing by the standard shall perform the testing required by the standard with acceptable results before selling in commerce or introducing in commerce any mattress or mattress pad which is subject to the standard.

(d) *Specimen selection and qualification.* (1) Each manufacturer required to perform prototype testing by the standard shall construct or select enough units of each proposed mattress prototype or proposed mattress pad prototype to provide six surfaces for testing. A minimum of three mattresses or mattress pads are required if both sides can be tested; six mattresses or mattress pads are required if only one side can be tested. Test each of the six surfaces according to § 1632.4(d). If all the cigarette test locations on all six mattress surfaces yield passing results using the criterion specified in § 1632.3(b), accept the mattress prototype. If all six surfaces of a mattress pad yield passing results using the criterion in § 1632.3(b), and all other applicable requirements prescribed by § 1632.5 are met, accept the mattress pad prototype. If one or more of the cigarette test locations on any of the six surfaces fail to meet the test criterion of § 1632.3(b), reject the mattress prototype or the mattress pad prototype.

(2) Prototype qualification testing may be repeated after action has been taken to improve the resistance of the mattress prototype or the mattress pad prototype to cigarette ignition by changes in design, construction methods, materials selection, or other means. When prototype qualification is repeated after rejection of a prototype, such qualification testing shall be conducted in the same manner as original qualification testing.

(3) Each mattress prototype and each mattress pad prototype must be accepted in prototype qualification before any mattress or mattress pad manufactured in accordance with such mattress prototype or mattress pad prototype is sold in commerce or introduced in commerce. Any manufacturer required to perform testing by the standard may rely on prototype tests performed before the effective date of this amended standard, provided that such tests were conducted in accordance with all requirements of §§ 1632.1(i), 1632.3(d), and 1632.4, and yield passing results when the test criterion of § 1632.3(b) is applied. If the ticking classification test at § 1632.6 is to be used when relying on prototype tests performed before the effective date of the standard, the ticking currently used on that mattress prototype must be classified before substitution of ticking using § 1632.6.

(4) Rejected prototype mattresses or prototype mattress pads shall not be retested, offered for sale, sold, or promoted for use as a mattress (as defined in § 1632.1(a)) or for use as a mattress pad (as defined in § 1632.1(b)) except after reworking to improve the resistance to ignition by cigarettes, and subsequent retesting and acceptance of the mattress prototype (as defined in § 1632.1(j)) or the mattress pad prototype (as defined in § 1632.1(k)).

§ 1632.4 Mattress Test Procedure.

(a) *Appraratus and Test Materials.—(1) Testroom.* The testroom shall be large enough to accommodate a full-scale mattress in a horizontal position and to allow for free movement of personnel and air around the test mattress. The test area shall be draft-protected and equipped with a suitable system for exhausting smoke and/or noxious gases produced by testing. The testroom atmospheric conditions shall be greater than 18°C (65°F) and at less than 55 percent relative humidity.

(i) The room shall be equipped with a support system (*e.g.* platform, bench) upon which a mattress may be placed flat in a horizontal position at a

reasonable height for making observations.

(ii) If thin flexible mattresses or mattress pads are being testing the room shall also be equipped with a glass fiberboard test surface. The glass fiberboard shall be approximately 1 inch (2.5 cm) thick and have a thermal conductivity of 0.30 ± 0.05 cal (g) / hr cm^2 °C/cm (0.24 ± 0.04 Btu/hr ft^2 °F/in) at 23.9°C (75°F).[1]

(2) *Ignition source.* The ignition source shall be cigarettes without filter tips made from natural tobacco, 85 ±2 mm long with a tobacco packing density of 0.270 ± 0.02 g/cm^3 and a total weight of 1.1 ± gm.

(3) *Fire extinguisher.* A pressurized water fire extinguisher, or other suitable fire extinguishing equipment, shall be immediately avaliable.

(4) *Water bottle.* A water bottle fitted with a spray nozzle shall be used to extinguish the ignited portions of the mattress.

(5) *Scale.* A linear scale graduated in millimeters, 0.1 inch, or 1/16 inch divisions shall be used to measure char length.

(6) *Sheets or Sheeting Material.* White, 100 percent cotton sheets or sheeting material shall be used. It shall not be treated with a chemical finish which imparts a characteristic such as permanent press or flame resistance. It shall have 120–210 threads per square inch and fabric weight of 3.7±0.8 oz/yd^2 (125±28 gm/m^2). The size of the sheet or sheeting material shall be appropriate for the mattress being tested.

(7) *Other apparatus.* In addition to the above, a thermometer, a relative humidity measuring instrument, a thin rod, straight pins, a knife or scissors, and tongs are required to carry out the testing.

(b) *Test Preparation.*

(1) *Mattress samples.* The mattress shall be removed from any packaging prior to conditioning. The mattress surface shall be divided laterally into two sections (see fig. 1), one section for the bare mattress tests and the other for the two-sheet tests.

(2) *Sheets or sheeting material.* The sheets or sheeting material shall be laundered once before use in an automatic home washer using the hot water setting and longest normal cycle with the manufacturer's recommended quantity of a commercial detergent, and dried in an automatic home tumble dryer.

(i) The sheet shall be cut across the width into two equal parts after washing.

(ii) Sheeting material shall be cut in lengths to cover ½ of a mattress as described in § 1632.4(d)(3).

(3) *Cigarettes.* Unopened packages of cigarettes shall be selected for each series of tests. The cigarettes shall be removed from packaging prior to conditioning.

(c) *Conditioning.* The mattresses, laundered sheets or sheeting material, and loose cigarettes shall be conditioned in air at a temperature greater than 18°C (65°F) and a relative humidity less than 55 percent for at least 48 continuous hours prior to test. The mattresses, laundered sheets or sheeting material, and cigarettes shall be supported in a suitable manner to permit free movement of air around them during conditioning. The mattress meets this conditioning requirement if the mattress and/or all its component materials, except the metallic core, if present, have been exposed only to the above temperature and humidity conditions for at least 48 continuous hours prior to testing the mattress.

(d) *Testing—(1) General.* Mattress specimens shall be tested in a testroom with atmospheric conditions of a temperature greater than 18°C (65°F) and a relative humidity less than 55 percent. If the test is not performed in the conditioning room, at least one lit cigarette shall be placed on the mattress surface within 10 minutes of removal from the conditioning room. The other side of the mattress shall be tested immediately after completion of the first side.

(i) At least 18 cigarettes shall be burned on each mattress test surface, 9 in the bare mattress tests and 9 in the 2-sheet tests. If three or more mattress surface locations (smooth surface, tape edge, quilted, or tufted areas) exist in the particular mattress surface under test, three cigarettes shall be burned on each different surface location. If only two mattress surface locations exist in the particular mattress surface under test (tape edge and smooth surface), four cigarettes shall be burned on the smooth surface and five cigarettes shall be burned on the tape edge.

(ii) Light and place one cigarette at a time on the mattress surface. (If previous experience with a similar type of mattress has indicated that ignition is not likely, the number of cigarettes which may be lighted and placed on the mattress at one time is left to the test operator's judgment. The number of cigarettes must be carefully considered because a smoldering or burning mattress is extremely hazardous and difficult to extinguish.) The cigarettes must be positioned no less than 6 inches apart on the mattress surface. Each cigarette used as an ignition source shall be well lighted but not burned more than 4 mm (0.16 inch) when placed on the mattress. (Fire extinguishing equipment must be readily available at all times.)

(iii) If a cigarette extinguishes before burning its full length on any mattress surface location, pops out of position when tested on a tuft, or rolls off a test location, the test must be repeated with a freshly lit cigarette on a different portion of the same type of location on the mattress surface until either: the number of cigarettes specified in § 1632.4(d)(1)(i) have burned their full lengths; the number of cigarettes specified in § 1632.4(d)(1)(i) have extinguished before burning their full lengths; or failure has occurred according to § 1632.3(b) *Test criterion.*

(2) *Bare mattress tests*—(i) *Smooth surface.* Each burning cigarette shall be placed directly on a smooth surface location on the test surface on the half reserved for bare mattress tests. The cigarettes should burn their full lengths on a smooth surface without burning across a tuft, or stitching of a quilted area. However, if this is not possible because of mattress design, then the cigarettes shall be positioned on the mattress in a manner which will allow as much of the butt ends as possible to burn on smooth surfaces. Report results for each cigarette as pass or fail as defined in the test criterion (see § 1632.3(b)). CAUTION: Even under the most carefully observed conditions, smoldering combustion can progress to the point where it cannot be readily extinguished. It is imperative that a test be discontinued as soon as ignition has definitely occurred. Immediately wet the exposed area with a water spray (from water bottle), cut around the burning material with a knife or scissors and pull the material out of the mattress with tongs. Make sure that all charred or burned material is removed. Ventilate the room.

(ii) *Tape edge.* Each burning cigarette shall be placed in the depression between the mattress top surface and the tape edge, parallel to the tape edge of the half of the test surface reserved for bare mattress tests. If there is only a seam or no depression at the edge, support the cigarettes in place along the edge and parallel to the edge with straight pins. Three straight pins may be inserted through the edge at a 45° angle such that one pin supports the cigarette at the burned end, one at the center, and

[1] Class fiberboard that meets Federal Specification HH-I-558B is acceptable. Under this specification, the board must be Form A, Class 1, and plain faced. Copies of the specifications may be obtained from the Business Service Centers of the General Services Administration Regional Offices.

one at the butt. The heads of the pins must be below the upper surface of the cigarette (see fig. 2). Report results for each cigarette as pass of fail as defined in the test criterion (see § 1632.3(b)).

MATTRESS PREPARATION

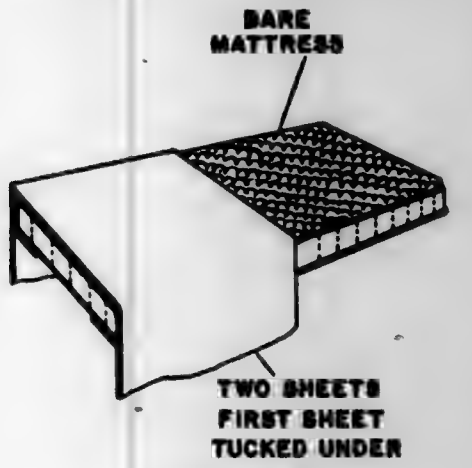

FIGURE 1

CIGARETTE LOCATION

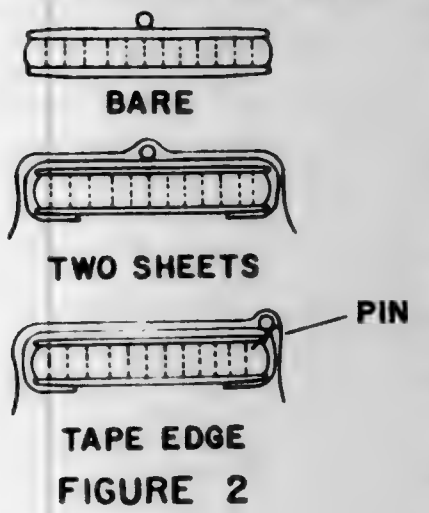

FIGURE 2

(iii) *Quilted location.* If quilting exists on the test surface, each burning cigarette shall be placed on quilted locations of the test surface. The cigarettes shall be positioned directly over the thread or in the depression created by the quilting process on the half of the test surface reserved for bare mattress tests. If the quilt design is such that the cigarettes cannot burn their full lengths over the thread or depression, then the cigarettes shall be positioned in a manner which will allow as much of the butt ends as possible to burn on the thread or depression. Report results for each cigarette as pass or fail as defined in the test criterion (see § 1632.3(b)).

(iv) *Tufted location.* If tufting exists on the test surface, each burning cigarette shall be placed on tufted locations of the test surface. The cigarettes shall be positioned so that they burn down into the depression caused by the tufts and so that the butt ends of the cigarettes burn out over the buttons or laces used in the tufts or the depressions made by the tufts on the half of the test surface reserved for bare mattress tests. Report results for each cigarette as pass or fail as defined in the test criterion (see § 1632.3(b)).

(3) *Two-sheet tests.* Spread a section of sheet or sheeting material smoothly over the mattress surface which has been reserved for the two-sheet test and tuck under the mattress. Care must be taken that hems or any other portion of the sheet which is more than one fabric thickness, is neither directly under nor directly over the test cigarette in the two-sheet test.

(i) *Smooth surfaces.* Each burning cigarette shall be placed directly on the sheet covered mattress in a smooth surface location as defined in the bare mattress test. Immediately cover the first sheet and the burning cigarette loosely with a second, or top sheet (see fig. 2). Do not raise or lift the top sheet during testing unless obvious ignition has occurred or until the cigarette has burned out. Whether a cigarette has extinguished may be determined by holding the hand near the surface of the top sheet over the test location. If no heat is felt or smoked observed, the cigarette has burned out. (If ignition occurs, immediately remove the sheets and cigarette and follow the cautionary procedures outlined in the bare mattress test. Report results for each cigarette as pass or fail as defined in the test criterion (see § 1632.3(b)).

(ii) *Tape edge.* (A) Each burning cigarette shall be placed in the depression between the top surface and the tape edge on top of the sheet, and immediately covered with a second sheet. It is important the air space be eliminated, as much as possible, between the mattress and the bottom sheet at the test location before testing. Depress the bottom sheet into the depression using a thin rod or other suitable instrument.

(B) In most cases, the cigarettes will remain in place throughout the test. However, if the cigarettes show a marked tendency to roll off the tape edge location, they may be supported with straight pins. Three straight pins may be inserted through the bottom sheet and tape at a 45° angle such that one pin supports the cigarette at the burning end, one at the center, and one at the butt. The heads of the pins must be below the upper surface of the cigarette (see fig. 2). Report results for

each cigarette as pass or fail as defined in the test criterion (see § 1632.3(b)).

(iii) *Quilted locations.* If quilting exists on the test surface, each burning cigarette shall be placed in a depression caused by quilting, directly over the thread and on the bottom sheet, and immediately covered with the top sheet. It is important that the air space be eliminated, as much as possible, between the mattress and the bottom sheet at the test location before testing. Depress the bottom sheet into the depression using a thin rod or other suitable instrument. If the quilt design is such that the cigarettes cannot burn their full lengths over the thread or depression, then the cigarettes shall be positioned in a manner which will allow as much of the butt ends as possible to burn on the thread or depresssion. Report results for each cigarette as pass or fail as defined in the test criterion (see § 1632.3(b)).

(iv) *Tufted locations.* If tufting exists on the test surface, each burning cigarette shall be placed in the depression caused by tufting, directly over the tuft and on the bottom sheet, and immediately covered with the top sheet. It is important that the air space be eliminated, as much as possible, between the mattress and the bottom sheet at the test location before testing. Depress the bottom sheet into the depression using a thin rod or other suitable instrument. The cigarettes shall be positioned so that they burn down into the depression caused by the tuft and so that the butt ends of the cigarettes burn out over the buttons or laces, if used in the tufts. Report results for each cigarette as pass or fail as defined in the test criterion (see § 1632.3(b)).

(e) *Records.* Records of all prototype test results, and the disposition of rejected prototypes shall be maintained by the person or firm required to perform testing by the standard in accordance with § 1632.31(c).

§ 1632.5 Mattress pad test procedure.

(a) *Testing.* All mattress pads shall be tested, in the condition in which they are intended to be sold, according to § 1632.4 Mattress test procedure, using the glass fiberboard substrate.

(b) *Flame Resistant Mattress Pads.* The following additional requirements shall be applicable to mattress pads which contain a chemical fire retardant.

(1) These mattress pads shall be tested in accordance with § 1632.4 Mattress test procedure after they have been washed and dried 10 times as described in § 1632.5(b)(2).

(i) Such laundering is not required of mattress pads which are intended for one time use and/or are not intended to be laundered, as determined by the Consumer Product Safety Commission.

(ii) Mattress pads which are not susceptible to being laundered and are labeled "dryclean only" shall be drycleaned by a procedure which has previously been found acceptable by the Consumer Product Safety Commission.

(2) *Laundering Procedure.*

(i) The washing procedure to be used for flame resistant mattress pads is prescribed in AATCC Test Method 124–82, "Appearance of Durable Press Fabrics After Repeated Home Laundering" washing procedures 6.2(III), with a water temperature of 60° ±2.8 °C (140° ±5 °F)

(ii) The drying procedure to be used for flame resistant mattress pads is prescribed in AATCC Test Method 124–82, "Appearance of Durable Press Fabrics After Repeated Home Laundering," drying procedure 6.3.2(b).

(iii) Maximum load shall be 3.46 kg (8 lb) and may consist of any combination of test items and dummy pieces.

(iv) AATCC Test Method 124–82, "Appearance of Durable Press Fabrics After Repeated Home Laundering," is found in the Technical Manual of the American Association of Textile Chemist and Colorists, Vol. 58, 1982 (incorporated by reference). Copies of this document are available from the American Association of Textile Chemist and Colorists, Post Office Box 12215, Research Triangle Park, North Carolina 27709.

This document is also available for inspection at the Office of the Federal Register, Room 8401, 1100 L Street, NW., Washington, D.C. 20408. This incorporation by reference was approved by the Director of the Federal Register. These materials are incorporated as—they exist in the edition which has been approved by the Director of the Federal Register and which has been filed with the Office of the Federal Register.

(v) A different number of wash and dry cycles using another procedure may be specified and used, if that procedure has previously been found to be equivalent by the Consumer Product Safety Commission.

(3) *Labeling*—(i) *Treatment label.* If a mattress pad contains a chemical fire retardant, it shall be labeled with the letter "T" pursuant to rules and regulations established by the Consumer Product Safety Commission.

(ii) *Care label.* All mattress pads which contain a chemical fire retardant treatment shall be labeled with precautionary instructions to protect the pads from agents or treatments which are known to cause deterioration of their flame resistance. Such labels shall be permanent and otherwise in accordance with rules and regulations established by the Consumer Product Safety Commission in § 1632.31(b).

(iii) *Exception.* One time use products as defined in § 1632.5(b)(1)(i) are not subject to these labeling requirements.

§ 1632.6 Ticking substitution procedure.

(a) This procedure may be used to verify acceptable equivalency if a mattress or mattress pad manufacturer wishes to change the ticking used on a particular mattress or mattress pad prototype without conducting a prototype test as specified in § 1632.4 or § 1632.5. The procedure includes a ticking classification test that may be used by a ticking, mattress or mattress pad manufacturer or by a distributor of ticking.

(b) *Definitions.* For the purpose of this section the following definitions apply in addition to those in § 1632.1.

(1) *Mattress Ticking Prototype.* Means a ticking of a specific construction, color, or combination of colors or color pattern, weave pattern design, finish application, fiber content, and weight per unit area. With respect to film-coated ticking, a mattress ticking prototype means in addition to the factors listed above, a given method of application, chemical formula, and thickness of application of film coating. With respect to a quilted ticking, a mattress ticking prototype means the combination of a specific ticking as described above; a specific filling, thickness, density, and chemical composition; a specific thread; a specific method of quilting; and a specific backing fabric construction, weave, finish, fiber content, and weight.

(2) *Mattress Pad Ticking Prototype* (i) Means a ticking of a specific construction, color, or combination of colors or color pattern, weave pattern design, finish application, fiber content, and weight per unit area. With respect to film-coated ticking, a mattress pad ticking prototype means in addition to the factors listed above, a given method of application, chemical formula, and thickness of application of film coating.

(ii) Quilted ticking is excluded from this definition. Therefore, the following procedures may not be used to substitute quilted ticking used on or as a mattress pad.

(c) *Scope and application.* (1) This procedure provides an independent evaluation of the cigarette ignition characteristics of ticking and for the classification of ticking into one of three performance classes. Class A represents tickings evaluated as acting as barriers

against cigarette ignition; Class B represents tickings evaluated as having no effect on cigarette ignition; and Class C represents tickings evaluated as having the potential, in some manner, to act as a contributor to cigarette ignition.

(2) Substitution of any ticking which has been evaluated as Class A using the procedure in this § 1632.6 for any other ticking material shall not be a "difference in materials" as that phrase is used in §§ 1632.1 (j) and (k). Consequently, any ticking material evaluated as Class A under this test procedure may be used on any qualified mattress prototype or on any qualified mattress pad prototype without conducting new prototype tests.

(3) Substitution of any ticking which has been evaluated as Class B using the procedure in this § 1632.6 for the ticking material used on any mattress prototype or on any mattress pad prototype which was qualified in prototype testing with a testing material evaluated as Class B or a Class C shall not be a "difference in materials" as that phrase is used in §§ 1632.1 (j) and (k). Consequently, any ticking material evaluated as Class B under this test procedure may be used on any mattress or mattress pad which wa qualified in prototype testing with a Class B or Class C ticking material without conducting new prototype tests. However, if Class B ticking material is to be used on any mattress or mattress pad which was qualified in prototype testing with a Class A ticking material, the mattress prototype or mattress pad prototype must be requalified, using a Class B ticking.

(4) A ticking material which has been evaluated as Class C using the procedure in this § 1632.6 may be used only on a mattress or mattress pad which was qualified in prototype testing with that particular Class C ticking material. Consequently, a ticking material evaluated as Class C under this test procedure may not be used on any mattress or mattress pad which was qualified in prototype testing using another Class C ticking material, or a Class A or Class B ticking material, without conducting new prototype tests.

(d) *General Requirements.*

(1) This procedure is a ticking prototype performance classification test. Ticking not classified according to this procedure may be used on mattresses or mattress pads if the mattress prototype or mattress pad prototype has been qualified utilizing the unclassified ticking in question.

(2) *Test Criterion.*

(i) Cigarette—An individual cigarette test location passes the test if the char length is not more than 1 inch (2.54 cm) in any direction from the nearest point of the cigarette, and the cotton felt is not ignited.

CAUTION: In the interest of safety, the test operator should discontinue the test and record a failure before reaching the 1 inch (2.54 cm) char length if, in his opinion, an obvious ignition has occurred.

(ii) Test Specimen—An individual test specimen passes the test if all three cigarette test locations meet the cigarette test criterion of this paragraph.

(3) *Specimen selection.* Three specimens shall be used for each ticking prototype classification test, with each specimen measuring no less than 20 inches by 20 inches (50.8 cm x 50.8 cm) square. The three specimens shall be selected from any fabric piece taken from a ticking prototype. The specimens shall be representative of the ticking prototype.

(4) *Ticking Classification.* A ticking prototype is classified as Class A, Class B, or Class C, in accordance with the following schedules.

(i) Class A—A ticking prototype is classified as Class A when three specimens, tested in accordance with § 1632.6(e), meet the test criterion in § 1632.6(d)(2) when the ticking is tested directly over the cotton felt on the test box.

(ii) Class B—A ticking prototype is classified as Class B when three specimens, tested according to § 1632.6(e), meet the test criterion in § 1632.6(d)(2) when the ticking is tested on a ¼ inch ± 1/32 inch (6.3 mm ± .8 mm) thick urethane foam pad covering the cotton felt on the test box.

(iii) Class C—A ticking prototype is classified as Class C when any specimen tested according to § 1632.6(e), fails to meet the test criterion in § 1632.6(d)(2) when the ticking is tested on a ¼ inch ± 1/32 inch (6.3 mm ± .8 mm) thick urethane foam pad covering the cotton felt on the test box.

(e) *Test Procedure.*

(1) *Apparatus.* For the purpose of this section the following apparatus and materials are required in addition to that which is listed in § 1632.4 (a) and (b).

(i) *Sheet and Sheeting Material.* Test covers made from sheets or sheeting material shall not be less than 12 inches by 12 inches (30.48 cm by 30.48 cm) square.

(ii) *Template.* Designed to allow for a one inch marking around the placement of the cigarette (see figure 3). Use of this template is optional.

(iii) *Stapler or masking tape* or other means of attachment to secure fabric to test box.

(iv) *Mounting Box.* A 6 inch deep, 12 inch square plywood box. The box contains two ½ inch in diameter ventilation holes. (See figure 4.)

(v) *Cotton Felt.* (A) The cotton felt shall be a thoroughly-garnetted mixture of all new material consisting of not less than 67% linters and of not more than 33% clean picker blend or equivalent binder and not more than 5% non-cellulosic total content. The felt shall not be bleached, moistened or chemically treated in any way.

(B) The felt may be re-used repeatedly after completion of each test by removing all of the smoldering, charred, heat-discolored fibers, or fibers exposed to water as a result of extinguishing the cotton ignited by previous test.

(vi) *Urethane Foam.* The urethane foam shall have a density of 1.2 to 1.5 pounds per cubic foot, an indention load deflection of 22 to 35 pounds, with each test specimen measuring no less than 12 inches by 12 inches (30.48 cm by 30.48 cm) square, having a thickness of ¼ inch ± 1/32 inch (6.3 mm ± .8 mm). The foam shall not be treated with a flame retardant chemical.

(2) *Conditioning.* The test specimens, cigarettes, laundered sheets or sheeting material, foam and felt shall be conditioned as described in § 1632.4(c).

(3) *Specimen Preparation.*

(i) Place 907.2 ± 4 grams (two pounds) of cotton felt in the test box, allowing the felt to protrude above the opening of the box to a height of up to 3 inches (7.62 cm) at the crown.

(ii) For the first part of this test, place a 12 inches by 12 inches (30.48 cm by 30.48 cm) square urethane foam pad on top of the cotton felt. Stretch the ticking specimen over the foam pad and fasten it to the sides of the test box using a stapler or tape. Be careful to avoid wrinkles in the fabric and have sufficient tautness to assure firm contact between the fabric and the filling materials in the test box.

(4) *Testing.*

(i) Ticking specimens shall be tested in a testroom with atmospheric conditions of a temperature greater than 18 °C (65 °F) and a relative humidity less than 55%.

(ii) Three cigarettes shall be burned on each ticking specimen, with no more than one cigarette burning at any time. At least one cigarette shall be placed on the most prominent part of the color and weave pattern design in the ticking. If the ticking is quilted, one cigarette shall be placed over the thread or in the depression created by the quilting process. Each cigarette must be positioned no less than two inches (5.08 cm) from any other cigarette or the edge of the box.

(iii) Light and place one cigarette on the test specimen. Immediately cover the burning cigarette with a sheet test cover. The cigarette shall be well lighted but not burned more than 4 mm (0.16 inch) when placed on the test specimen. The cigarette may be supported by three straight pins such that one pin supports the cigarette at the burning end, one at the center and one at the butt. The heads of the pins must be below the upper surface of the cigarette. Upon completion of the three cigarette burns and removal of the fabric and foam specimens, remove all of the char or heat discoloration on the cotton felt as stated in § 1632.6(e)(v)(B). Fresh new felt shall be added to replace the discarded fibers in the amount necessary to maintain the full 907.2±4 grams (two pounds) of felt for each test.

(iv) If the cigarette extinguishes before burning its full length, the test must be repeated with a freshly lit cigarette on a different portion of the ticking specimen until either three cigarettes have burned their full lengths or three cigarettes have extinguished. Report result for each cigarette as pass or fail as defined in Test Criterion § 1632.6(d)(2). An obvious ignition is recorded as a failure.

(v) If ignition occurs with any of the three cigarette burns on the ticking specimen, terminate testing of that specimen and classify according to § 1632.6(d)(4).

(vi) If all cigarette test locations meet the Test Criterion in § 1632.6(d)(2), repeat procedure outlined in § 1632.6(e)(4)(iii) for the second part of the test with new ticking specimens that will be retested directly over the cotton felt, without the urethane foam pad. Remove the urethane foam pad and charred or heat discolored area from the cotton felt as specified in § 1632.6(e)(v)(B) prior to testing. Record the test results as pass or fail as defined in *Test Criterion* § 1632.6(d)(2) and classify according to § 1632.6(d)(4).

(5) *Records.* Records of any ticking classification test results relied upon by the mattress or mattress pad manufacturer or importer shall be maintained in accordance with rules and regulations established by the Consumer Product Safety Commission in § 1632.31(c). As provided by § 1632.31(c)(6), manufacturers or importers of mattresses or mattress pads may rely on a certification of compliance with this section of the standard provided by the ticking manufacturer or distributor; however, if a mattress or mattress pad fails to comply with the standard, the mattress or mattress pad manufacturer or importer must assume full responsibility under the standard. The Commission has no authority under this standard to compel ticking manufacturers or distributors to comply with this section or to establish, maintain and provide upon request, the records specified in § 1632.31(c).

BILLING CODE 6355-01-M

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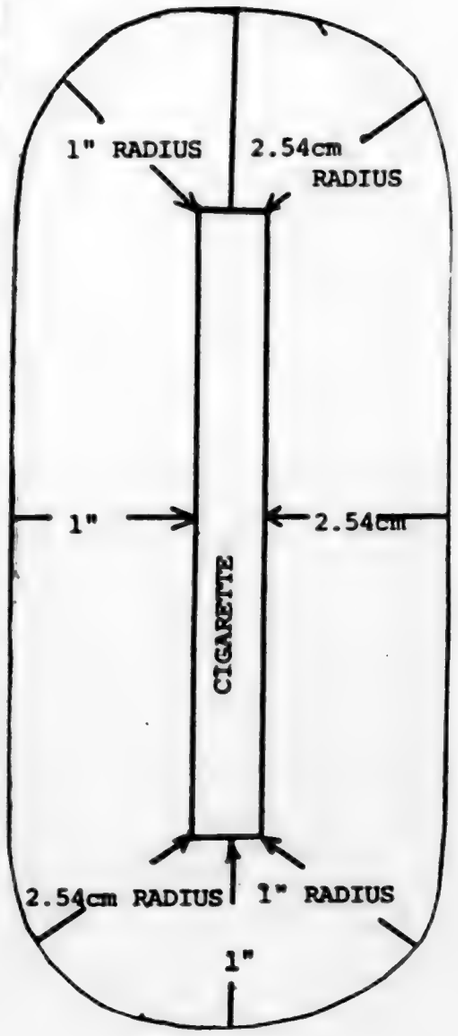
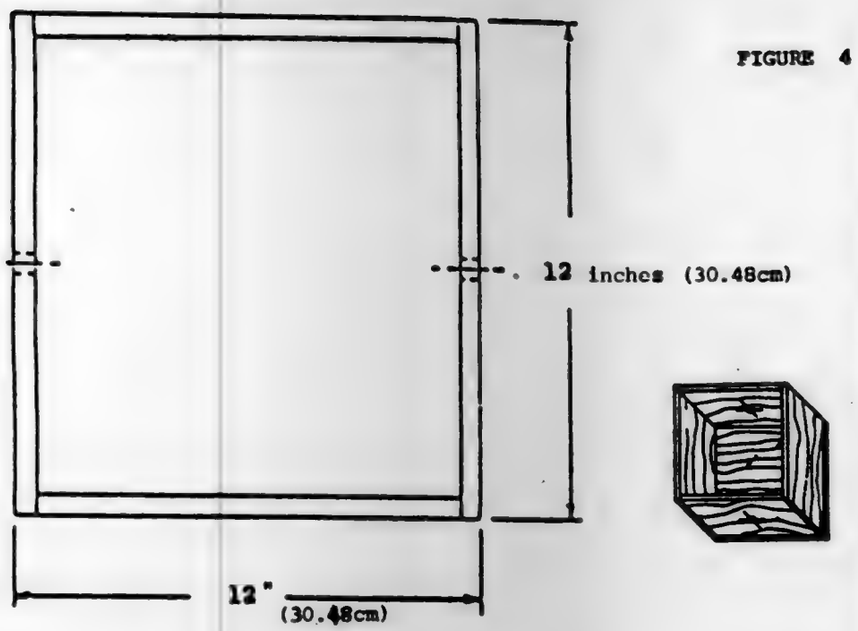
FIGURE 3



1 INCH (2.54cm) TEMPLATE

TOLERANCES + 1/32" - 0"

FIGURE 4



TEST BOX

MATERIAL 1/2" PLYWOOD

TOLERANCES + 1/32 " - 0"

BILLING CODE 6355-01-C

§ 1632.7 Tape edge substitution procedure.

(a) Sections 1632.1 (j) and (k) provide in part that "a change in existing material shall be deemed a difference in materials for purposes of prototype definition unless it is shown to the satisfaction of the Consumer Product Safety Commission that such change will not reduce the ignition resistance" of the mattress prototype or the mattress pad prototype.

(b) The Commission will regard a showing "to the satisfaction of the Consumer Product Safety Commission" to have been made with respect to materials substitution of items such as flange materials and tapes at the tape edge under the following circumstances:

(1) The mattress or mattress pad prototype has been qualified previously under the provisions of § 1632.3; and

(2) A substitution of materials involving only tape edge construction is contemplated; and

(3) A prototype mattress or mattress pad incorporating the substitute materials has been tested in accordance with applicable procedures in § 1632.4 by placing 36 cigarettes (18 per surface—9 bare and 9 two-sheet) at tape edge locations with no test failure as determined by applying the test criterion of § 1632.3(b); and

(4) Records are maintained setting forth the details of the materials substitution and showing the results of the testing referred to in paragraph (b)(3) of this section. The records are to be maintained in accordance with regulations established by the Consumer Product Safety Commission (see § 1632.31).

§ 1632.8 Glossary of terms.

(a) *Absorbent pads.* Pad used on top of mattress. Designed to absorb urine thereby reducing skin irritation, can be one time use.

(b) *Basket pad.* Cushion for use in an infant basket.

(c) *Bunk beds.* A tier of beds, usually two or three, in a high frame complete with mattresses (see fig. 5).

(d) *Car bed.* Portable bed used to carry a baby in an automobile.

(e) *Carriage pad.* Cushion to go into a baby carriage.

(f) *Chaise lounge.* An upholstered couch chair or a couch with a chair back. It has a permanent back rest, no arms, and sleeps one (see fig. 5).

(g) *Convertible sofa.* An upholstered sofa that converts into an adult sized bed. Mattress unfolds out and up from under the seat cushioning (see fig. 5).

(h) *Convoluted foam pad.* A bed pad made of foam in an egg-crate configuration not encased in ticking.

(i) *Corner groups.* Two twin size bedding sets on frames, usually slipcovered, and abutted to a corner table. They also usually have loose bolsters slipcovered (see fig. 5).

(j) *Crib bumper.* Padded cushion which goes around three or four sides inside a crib to protect the baby. Can also be used in a playpen.

(k) *Daybed.* Daybed has foundation, usually supported by coil or flat springs, mounted between arms on which mattress is placed. It has permanent arms, no backrest, and sleeps one (see fig. 5).

(l) *Decubitus pad.* Designed to prevent or assist in the healing of decubitus ulcers (bed sores). Flat decubitus pads are covered by the standard. Convoluted decubitus pads made entirely from foam are not covered by the standard.

(m) *Dressing table pad.* Pad to cushion a baby on top of a dressing table.

(n) *Drop-arm loveseat.* When side arms are in vertical position, this piece is a loveseat. The adjustable arms can be lowered to one of four positions for a chaise lounge effect or a single sleeper. The vertical back support always remains upright and stationary (see fig. 5).

(o) *Futon.* A flexible mattress generally used on the floor that can be folded or rolled up for storage. It usually consists of resilient material covered by ticking.

(p) *High riser.* This is a frame of sofa seating height with two equal size mattresses without a backrest. The frame slides out with the lower bed and rises to form a double or two single beds (see fig. 5).

(q) *Infant carrier and lounge pad.* Pad to cushion a baby in an infant carrier.

(r) *Mattress foundation.* Consists of any surface such as foam, box springs or other, upon which a mattress is placed to lend it support for use in sleeping upon.

(s) *Pillow.* Cloth bag filled with resilient material such as feathers, down, sponge rubber, urethane, or fiber used as the support for the head of a person.

(t) *Playpen pad.* Cushion used on the bottom of a playpen.

(u) *Portable crib.* Smaller size than a conventional crib. Can usually be converted into a playpen.

(v) *Press-back lounges.* Longer and wider than conventional sofa beds. When the lounge seat is pressed lightly, it levels off to form, with the seat, a flat sleeping surface. The seat slopes, in the sitting position, for added comfort (see fig. 5).

(w) *Push-back sofa.* When pressure is exerted on the back of the sofa, it becomes a bed. When the back is lifted, it becomes a sofa again. Styled in tight or loose cushions (see fig. 5).

(x) *Roll-away-bed.* Portable bed which has frame which folds in half with the mattress for compact storage.

(y) *Sleep lounge.* Upholstered seating section is mounted on a sturdy frame. May have bolster pillows along the wall as backrests or may have attached headrests (see fig. 5).

(z) *Stroller pad.* Cushion used in a baby stroller.

(aa) *Sofa bed.* These are pieces in which the back of the sofa swings down flat with the seat to form the sleeping surface. All upholstered. Some sofa beds have bedding boxes for storage of bedding. There are two types: the one-piece, where the back and seat are upholstered as a unit, supplying an unbroken sleeping surface; and the two-piece, where back and seat are upholstered separately (see fig. 5).

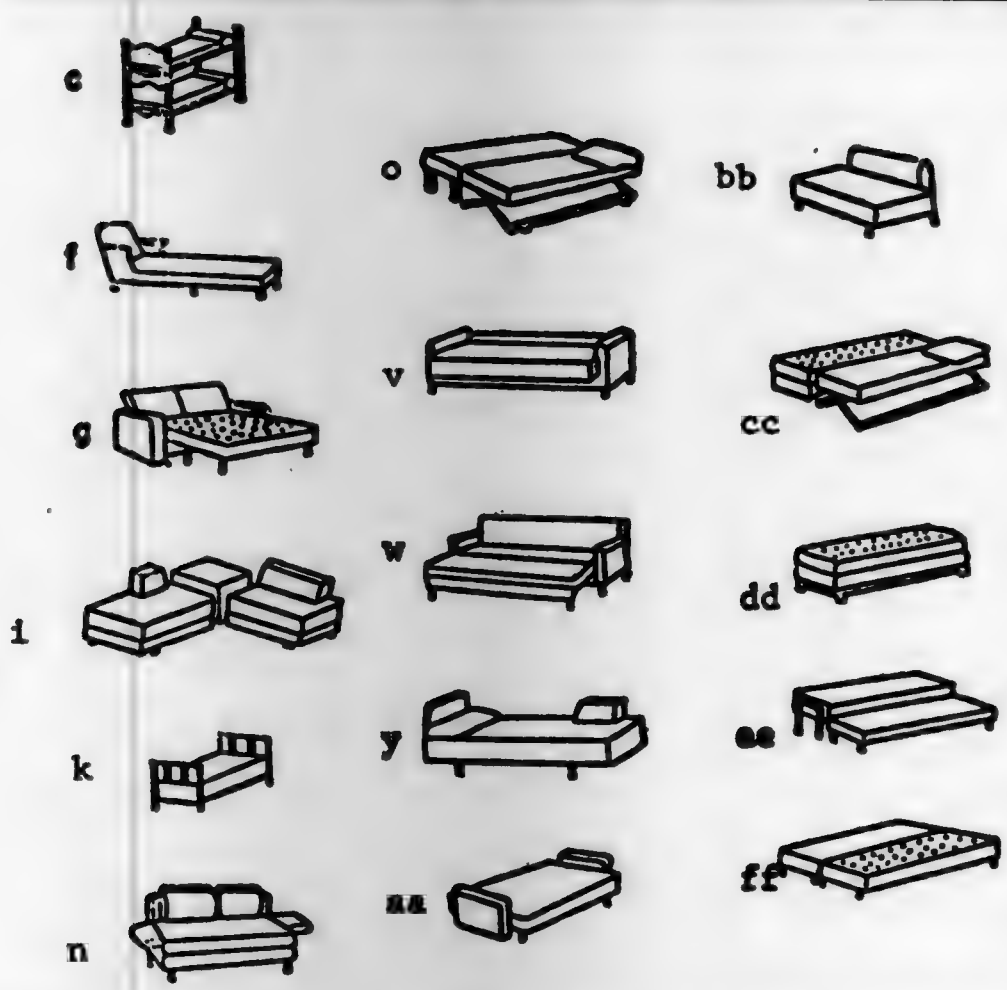
(bb) *Sofa lounge*—(includes glideouts). Upholstered seating section is mounted on springs and in a special frame that permit it to be pulled out for sleeping. Has upholstered backrest bedding box that is hinged. Glideouts are single sleepers with sloping seats and backrests. Seat pulls out from beneath back and evens up to supply level sleeping surface (see fig. 5).

(cc) *Studio couch.* Consists of upholstered seating section on upholstered foundation. Many types convert to twin beds (see fig. 5).

(dd) *Studio divan.* Twin size upholstered seating section with foundation is mounted on metal bed frame. Has no arms or backrest, and sleeps one (see fig. 5).

(ee) *Trundle bed.* A low bed which is rolled under a larger bed. In some lines, the lower bed springs up to form a double or two single beds as in a high riser (see fig. 5).

(ff) *Twin studio divan.* Frames which glide out (but not up) and use seat cushions, in addition to upholstered foundation to sleep two. Has neither arms nor back rest (see fig. 5).



Effective date: The amended standard shall become effective on April 10, 1985. As required by section 4(b) of the Flammable Fabrics Act (15 U.S.C. 1193(b)), mattresses and mattress pads which are in inventory or with the trade on the effective date of the amended standard are exempt from its requirements, but must comply with all applicable requirements of the original standard.

Subpart B—Rules and Regulations

§ 1632.31 Mattresses/Mattress Pads—Labeling, recordkeeping, guaranties and "one of a kind" exemption.

(a) *Definitions.* For the purposes of this section, the following definitions apply:

(1) "Standard for the Flammability of Mattresses" or "Standard" means the Standard for the Flammability of Mattresses and Mattress Pads (FF 4–72, amended), (16 CFR Part 1632, Subpart A).

(2) The definition of terms set forth in the § 1632.1 of the Standard shall also apply to this section.

(b) *Labeling.* (1) All mattress pads which contain a chemical fire retardant shall be labeled with precautionary instructions to protect the pads from agents or treatments which are known to cause deterioration of their flame resistance. Such labels shall be permanent, prominent, conspicuous, and legible.

(2) If a mattress pad contains a chemical fire retardant, it shall be prominently, conspicuously, and legibly labeled with the letter "T".

(3) Each mattress or mattress pad subject to the Standard shall bear a permanent, accessible, and legible label containing the month and year of manufacture and the location of the manufacturer. (See § 1632.1(i) of the Amended Standard).

(4) The information required on labels by this section shall be set forth separately from any other information appearing on such label. Other information, representations, or disclosures, appearing on labels required by this section or elsewhere on the item, shall not interfere with, minimize, detract from, or conflict with the required information.

(5) No person, other than the ultimate consumer, shall remove or mutilate, or cause or participate in the removal or mutilation of, any label required by this section to be affixed to any item.

(6) Products intended for one time use (see § 1632.5(b)(1)(i)) are not subject to the requirements of paragraphs (1) and (2) of this § 1632.31(b).

(c) *Records—manufacturers, importers, or persons initially introducing items into commerce.* Every manufacturer, importer, or other person initially introducing into commerce mattresses or mattress pads subject to the standard, irrespective of whether guarantees are issued relative thereto, shall maintain the records hereinafter specified.

(1) Manufacturing specifications and description of each mattress or mattress pad prototype with an assigned prototype identification number.

(2) Test results and details of each prototype test performed in accordance with § 1632.4 or § 1632.5, including prototype identification number, ticking classification if known, test room condition, cigarette locations, number of relights for each location, whether each cigarette location passed or failed, name and signature of person conducting the test and date of test. These records shall include a certification by the person overseeing the testing as to the test results and that the test was carried out in accordance with the Standard.

(3) Photograph (color or black and white) of the bare surface of each mattress or mattress pad tested, in accordance with § 1632.4 or § 1632.5, with the prototype identification number of the mattress or mattress pad and a clear designation as to which part of the mattress or mattress pad was sheeted and which part was tested bare.

(4) Records to support any determination that a particular material, other than the ticking or tape edge material used in a mattress or mattress pad prototype, did not influence the ignition resistance of the prototype and could be substituted by another material. Such record should include photographs or physical specimens.

(5) Manufacturing specifications and description of any new ticking or tape edge material substituted in accordance

with § 1632.6 or § 1632.7, with the identification number of the prototype involved.

(6) The test results and details of any ticking classification test conducted in accordance with § 1632.6, including the ticking classification (A, B, or C), the test room condition, the number of relights, whether each cigarette location passed or failed, the name and signature of the person conducting the test and the date of the test, *or* a certification from the ticking supplier. The certification should state the ticking classification and that the ticking was tested in accordance with § 1632.6.

(7) The test results and details of any test of tape edge materials conducted in accordance with § 1632.7, including prototype identification number, test room condition, number of relights, whether each cigarette passed or failed, name and signature of person conducting the test and date of test. The record shall include a certification by the person overseeing the testing as to the test results and that the test was carried out in accordance with § 1632.7.

(8) Photograph (color or black and white) of the bare surface of each mattress or mattress pad tested in accordance with § 1632.7, with the prototype identification number of the mattress or mattress pad and a clear designation as to which part of the mattress or mattress pad was sheeted and which part was tested bare.

(9) Details of any approved alternate laundering procedure used in laundering mattress pads required by the Standard to be laundered during testing.

(10) Identification, composition, and details of the application of any flame retardant treatments employed relative to mattress pads or mattress pad components.

(11) Disposition of all failing or rejected prototype mattress or mattress pads. Such records must demonstrate that the items were retested and reworked in accordance with the Standard prior to sale or distribution and that such retested or reworked mattresses or mattress pads comply with the Standard, or must otherwise show the disposition of such items.

(12) The records required by this paragraph shall be maintained for as long as the prototype is in production, the ticking is being used on the mattresses or matfress pad prototype, and/or the tape edge material is being used on the mattress or mattress pad prototype, and shall be retained for 3 years thereafter.

(d) *Tests for guaranty purposes.* .Reasonable and representative tests for the purpose of issuing a guaranty under section 8 of the Act for mattress or mattress pads subject to the Standard shall be those prototype and substitution tests performed, pursuant to the requirements of the Standard.

(e) *Compliance with this section.* No person subject to the Flammable Fabrics Act shall manufacture for sale, import, distribute, or otherwise market or handle any mattress or mattress pad which is not in compliance with § 1632.31.

(f) *"One of a kind" exemption for physician prescribed mattresses and mattress pads.* (1) A mattress or mattress pad manufactured in accordance with a physician's written prescription or manufactured in accordance with other comparable written medical therapeutic specification, to be used in connection with the treatment or management of a named individual's physical illiness or injury, shall be considered a "one of a kind mattress" and shall be exempt from testing under the Standard pursuant to § 1632.2(b)(4) thereof: Provided, that the mattress bears a permanent, conspicuous and legible label which states:

WARNING: This mattress or mattress pad may be subject to ignition and hazardous smoldering from cigarettes. It was manufactured in accordance with a physician's prescription and has not been tested under the Federal Standard for the Flammability of Mattresses (FF 4–72).

Such labeling must be attached to the mattress or mattress pad so as to remain on or affixed thereto for the useful life of the mattress or mattress pad. The label must be at least 40 square inches (250 sq. cm) with no linear dimension less than 5 inches (12.5 cm). The letters in the word "WARNING" shall be no less than 0.5 inch (1.27 cm) in height and all letters on the label shall be in a color which contrasts with the background of the label. The warning statement which appears on the label must also be conspicuously displayed on the invoice or other sales papers that accompany the mattress in commerce from the manufacturer to the final point of sale to a consumer.

(2) The manfacturer of a mattress or mattress pad exempted from testing under this paragraph shall, in lieu of the records required to be kept by paragraph (c) of this section, retain a copy of the written prescription or other comparable written medical therapeutic specification for such mattress or mattress pad during a period of three years, measured from the date of manufacture.

(3) For purposes of this regulation the term "physician" shall mean a physician, chiropractor or osteopath licensed or otherwise permitted to practice by any State of the United States.

Subpart C—Interpretations and Policies

§ 1632.61 [Reserved]

§ 1632.62 [Reserved]

§ 1632.63 Policy clarification on renovation of mattress.

(a) Section 3 of the Flammable Fabrics Act (15 U.S.C. 1192) prohibits, among other things, the "manufacture for sale" of any product which fails to conform to an applicable standard issued under the act. The standard for the Flammability of Mattresses, as amended (FF 4–72) (Subpart A of this part), issued pursuant to the act, provides that, with certain exceptions, mattress must be tested according to a prescribed method. The standard does not exempt renovation; nor does it specifically refer to renovation.

(b) The purpose of this document is to inform the public that mattresses renovated for sale are considered by the Commission to be mattresses manufactured for sale and, therefore, subject to the requirements of the Mattress Standard. The Commission believes that this policy clarification will better protect the public against the unreasonable risk of fires leading to death, personal injury or significant property damage, and assure that purchasers of renovated mattresses receive the same protection under the Flammable Fabrics Act as purchasers of new mattresses.

(c) For purposes of this document, mattress renovation includes a wide range of operations. Replacing the ticking or batting, stripping a mattress to its springs, rebuilding a mattress, or replacing components with new or recycled materials, are all part of the process of renovation. Any one, or any combination of one or more, of these steps in mattress renovation is considered to be mattress manufacture.

(d) If the person who renovates the mattress intends to retain the renovated mattress for his or her own use, or if a customer or a renovator merely hires the services of the renovator and intends to take back the renovated mattress for his or her own use, "manufacture for sale" has not occurred and such a renovated mattress is not subject to the mattress standard.

(e) However, if a renovated mattress is sold or intended for sale, either by the renovator or the owner of the mattress who hires the services of the renovator, such a transaction is considered to be "manufacture for sale".

(f) Accordingly, mattress renovation is considered by the Commission to be "manufacture for sale" and, therefore, subject to the Mattress Standard, when renovated mattresses are sold or intended for sale by a renovator or the customer of the renovator.

(g) A renovator who believes that certain mattresses are entitled to one-of-a-kind exemption, may present relevant facts to the Commission and petition for an exemption. Renovators are expected to comply with all the testing requirements of the Mattress Standard until an exemption is approved.

Authority: 15 U.S.C. 1193, 1194; 15 U.S.C. 2079(b).

Dated: October 2, 1984.

Sheldon D. Butts,

Deputy Secretary, Consumer Product Safety Commission.

Bibliography

(*1*) Briefing paper concerning amendments to the mattress flammability standard; 9 pages; March 30, 1982.

(*2*) Rule Review Report, TAB 3—Mattress Flammability Standard, by J.F.Hoebel; 23 pages; February 14, 1980.

(*3*) Report of Consumer Product Safety Commission to Congress concerning review of Commission rules; 44 pages; May 1980.

(*4*) Memorandum from Liz Jones, CARM, to James F. Hoebel, OPM, concerning amendment of mattress standard; 9 pages; April 24, 1981.

(*5*) Evaluation of the impact of the mattress and carpet and rug flammability standard upon industry, by Technology and Economics, Inc.; 107 pages; February 2, 1981.

(*6*) Memorandum from Bea Harwood, HIEI, to Jim Hoebel, OPM, concerning injury findings to support amendment of mattress standard; 3 pages; September 8, 1981.

(*7*) Memorandum from Patricia Fairall, ESMT, to Harleigh Ewell, OGC, concerning amendment of the mattress flammability standard, with attachments; 64 pages; April 24, 1981.

(*8*) Current Industrial Reports, Mattresses, Foundations, and Sleep Furniture, Summary for 1980; issued by the U.S. Department of Commerce; 6 pages; August 1981.

(*9*) **Federal Register** notice, "Standard for the Flammability of Mattresses (and Mattress Pads): Advance Notice of Proposed Rulemaking," published by Consumer Product Safety Commission; 6 pages; June 10, 1982 (47 FR 25159).

(*10*) Comments on ANPR from Meridian Mattress Factory, Inc.; 5 pages; June 15 and June 22, 1982.

(*11*) Comment on ANPR from the Govmark Organization, Inc.: 1 page; June 24, 1982.

(*12*) Comment on ANPR from Doris Eichenwald; 1 page; July 22, 1982.

(*13*) Comment on ANPR from Bureau of Home Furnishings, Department of Consumer Affairs, State of California; 3 pages; July 21, 1982.

(*14*) Comment on ANPR from National Fire Protection Association; 6 pages; August 6, 1982.

(*15*) Comment on ANPR from Juanita W. Fleming, R.N., Ph.D., F.A.A.N.; 1 page; July 23, 1982.

(*16*) Comment on ANPR from National Association of Bedding Manufacturers, with attachments; 64 pages; undated.

(*17*) Comment on ANPR from the Procter & Gamble Company; 1 page; August 2, 1982.

(*18*) Comment on ANPR from Citizens Committee for Fire Protection; 7 pages; undated.

(*19*) Comment on ANPR from Flexible Polyurethane Foam Manufacturers Association; 3 pages; August 9, 1983.

(*20*) Staff briefing package, including transmittal memorandum from Office of Program Management to the Commission concerning comments on ANPR and staff recommendations for amendment of the mattress standard; 16 pages; December 12, 1983. The tabs of this package are listed separately below.

Tab A

Advance notice of proposed rulemaking; same document as item 9, above.

(*21*) Draft **Federal Register** notice to propose amendments of the mattress standard; 105 pages; undated.

Tab B

(*22*) Summary of comments in response to ANPR: 4 pages; undated. Comments received in response to ANPR; same documents as items 10 through 19, above.

Tab C

(*23*) Memorandum from L.J. Sharman, OPM, to Edgar Morgan, Executive Director, concerning amendment of the mattress flammability standard; 5 pages; October 25, 1982.

Tab D

(*24*) Memorandum from Liz Gomilla, CARM, to L.J. Sharman, Fire Program Officer, concerning results of testing to determine compliance with the mattress standard, with attachments; 23 pages; June 13, 1983.

(*25*) Memorandum from Liz Gomilla, CARM, to L.J. Sharman, Fire Program Officer, concerning analysis of comments received in response to ANPR; 4 pages; June 24, 1983.

(*26*) Memorandum from Liz Gomilla, CARM, to L.J. Sharman, Fire Program Officer, concerning mattress compliance program for fiscal year 1985; 1 page; June 24, 1983.

Tab E

(*27*) Memorandum from Patricia Fairall, ESMT, to L.J. Sharman, OPM, concerning analysis of comments received in response to ANPR; 6 pages; July 27, 1983.

(*28*) Memoradum from Pat Fairall and Jean Williams, ESMT, to L. James Sharman, OPM, concerning technical changes to amended mattress standard; 8 pages; July 29, 1983.

(*29*) Technical rationale for mattress ticking substitution test, by Patricia Fairall, Engineering Sciences; 15 pages; July 1983.

Tab F

(*30*) Memorandum from Barbara Morton, ECCP, to L.J. Sharman, OPM, concerning comments received in response to ANPR: 2 pages; April 26, 1983.

(*31*) Minutes of executive session of Consumer Product Safety Commission on October 3, 1975, with attachment; 8 pages; undated.

(*32*) Vote Sheet concerning proposal of amendments to the mattress standard; 2 pages; December 14, 1983.

(*33*) **Federal Register** notice proposing amendments to the mattress standard; 23 pages; December 30, 1983.

(*34*) Comment on proposed amendments from National Association of Bedding Manufacturers; 6 pages; undated.

(*35*) Comment on proposed amendments from Irving Veitzman for National Association of Bedding Manufacturers; 6 pages; undated.

(*36*) Comment on proposed amendments from Citizens Committee for Fire Protection; 3 pages; February 23, 1984.

(*37*) Comment on proposed amendments from Burn Foundation; 2 pages; February 27, 1984.

(*38*) Comment on proposed amendments from Trauma Center Foundation; 1 page; February 27, 1984.

(*39*) Comment on proposed amendments from Senator Edward Zorinsky; 1 page; February 10, 1984.

(*40*) Comment on proposed amendments from National Retail Merchants Association; 2 pages; March 14, 1984.

(*41*) Staff briefing package including transmittal memorandum from Office of Program Management to the Commission concerning comments on proposal for amendment of the mattress standard and recommendations for issuance of final amendments; 5 pages; July 6, 1984. The tabs of this package are listed separately below

Tab A

Notice of proposed rulemaking for amendment of the mattress standard; same document as item 33, above.

(*42*) Draft **Federal Register** notice to issue amended standard on final basis; 81 pages; undated.

Tab B

(*43*) Summary of comments in response to notice proposing amendments of mattress standard; 2 pages; undated.

Comments received in response to notice of proposed rulemaking; same documents as items 34 through 40, above.

Tab C

(*44*) Memorandum from Barbara J. Morton, Directorate for Economic Analysis to L. James Sharman, Office of Program Management concerning economic aspects of comments on proposed amendments of the mattress standard; 5 pages; April 20, 1984.

(*45*) "Market Sketch—Mattresses" by Barbara J. Morton, Directorate for Economic Analysis; 11 pages; March, 1984.

Tab D

(*46*) Memorandum from Linda Fansler, Directorate for Engineering Sciences to James Sharman, Office of Program Management concerning engineering aspects of comments on proposed amendments of mattress standard; 2 pages; April 20, 1984.

Tab E

(47) Memorandum from Elizabeth Gomilla, Directorate for Compliance and Administrative Litigation, to L.J. Sharman, Office of Program Management, concerning issues raised by comments on proposed amendments of the mattress standard; 4 pages; April 20, 1984.

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Part IV

Environmental Protection Agency

40 CFR Part 799

Identification of Specific Chemical 1 Substance and Mixture Testing Requirements; 1,1,1-Trichloroethane; Final Rule

VOL 49 ISS 197 OCT 10 1984 UMI

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 799

[OPTS-42059; FRL-2626-7]

Identification of Specific Chemical Substance and Mixture Testing Requirements; 1,1,1-Trichloroethane

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In June 1981, the EPA proposed the testing of 1,1,1-trichloroethane (TCEA) under section 4(a) of the Toxic Substances Control Act (TSCA) for teratogenicity and for a number of environmental effects (46 FR 30300). Public comments on the proposal have been received and reviewed. The EPA has decided to promulgate a final test rule requiring that manufacturers and processors of 1,1,1-trichloroethane test this chemical for teratogenic effects or, more appropriately, developmentally toxic effects. EPA has decided not to require any environmental effects testing at this time due to its reevaluation of the available data. This rule requires that testing of this chemical be performed according to protocols submitted to and approved by the Agency.

DATES: These regulations shall be promulgated for purposes of judicial review at 1:00 p.m. eastern standard time on October 24, 1984. These regulations shall become effective on November 23, 1984.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Rm. E-543, 401-M St., SW., Washington, DC 20460. Toll free: (800-424-9065). In Washington, D.C.: (554-1404). Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 5, 1981 (46 FR 30300), EPA issued a proposed rule under section 4(a) of TSCA to require testing of TCEA for teratogenic effects and a number of environmental effects. The Agency is now promulgating a final rule requiring testing of TCEA for teratogenic effects or, more appropriately, develop mentally toxic effects, but not for environmental effects due to reevaluation of available data.

The rule was originally proposed under 40 CFR Part 773—Identification of Chemical Substances and Mixtures to be Tested. Part 773 has since been recodified to Part 799—Identification of Specific Chemical Substance Testing Requirements. This test rule for 1,1,1-trichloroethane is now being promulgated under 40 CFR 799.4400.

I. Introduction

This notice is part of the overall implementation of section 4 of the Toxic Substances Control Act (TSCA, Pub. L. 94-469, 90 Stat. 2003 *et seq.*, 15 U.S.C. 2601 *et seq.*) which contains authority for EPA to require development of data relevant to assessing the risks to health and the environment posed by exposure to particular chemical substances or mixtures.

Under section 4(a)(1) of TSCA, EPA must require testing of a chemical substance to develop health or environmental data if the Administrator finds that:

(A) (i) the manufacture, distribution in commerce, processing, use, or disposal of a chemical substance or mixture, or that any combination of such activities, may present an unreasonable risk of injury to health or the environment,

(ii) there are insufficient data and experience upon which the effects of such manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and

(iii) testing of such substance or mixture with respect to such effects is necessary to develop such data; or

(B) (i) a chemical substance or mixture is or will be produced in substantial quantities, and (I) it enters or may reasonably be anticipated to enter the environment in substantial quantities or (II) there is or may be significant or substantial human exposure to such substance or mixture,

(ii) there are insufficient data and experience upon which the effects of the manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and

(iii) testing of such substance or mixture with respect to such effects is necessary to develop such data.

For a more complete understanding of the statutory section 4 findings, the reader is directed to the Agency's first proposed test rule package (chloromethane and chlorinated benzenes, published July 18, 1980; 45 FR 48510) and to the second package (dichloromethane, nitrobenzene, and 1,1,1-trichloroethane, published June 5, 1981; 46 FR 30300) for in-depth discussions of the general issues applicable to this action.

II. Background

A. Profile

1,1,1-Trichloroethane (CH_3CCl_3, methyl chloroform, TCEA, CAS No. 71-55-6) is a colorless, non-flammable, volatile liquid at standard temperature and pressure. Approximately 586 million pounds of TCEA were produced in the United States in 1983, of which about 57 million pounds were exported. Imports of the chemical were essentially negligible (Ref. 8).

The major use of TCEA is in the metal cleaning industry, primarily in cold cleaning and vapor degreasing processes. It is also used as a solvent in commercial and consumer products such as aerosols, adhesives, textiles, paints, inks, drain cleaners, film cleaners, spot removers, pharmaceuticals, and leather tanners (Ref. 6).

In the National Occupational Hazard Survey, approximately 2.6 million workers were estimated to be exposed to TCEA (Ref. 3), largely through inhalation during industrial uses of the chemical. Consumers are exposed to unknown levels of TCEA through use of the many consumer products containing it.

TCEA is released to the environment from evaporative losses during manufacture, processing, use and disposal. It has been found at levels of 1-10 ppb in air, soil, fresh and marine water, groundwater and rainwater (Ref. 6).

B. ITC Recommendations

The Interagency Testing Committee (ITC) designated 1,1,1-trichloroethane for priority testing consideration in its Second Report, published in the **Federal Register** on April 19, 1978 (43 FR 16684). The ITC recommended that the Agency consider requiring industry to test TCEA for the following health effects: carcinogenicity, mutagenicity, teratogenicity, other chronic effects (with specific attention to the neurological, cardiovascular and renal systems) and that an epidemiologic study be performed. The ITC did not recommend that environmental effects testing for TCEA be considered.

The ITC's recommendations were based on U.S. production in 1976 of approximately 630 million pounds, an estimated 300 million pounds which could be released to the atmosphere, an estimation on the part of the ITC of 3 million persons exposed to TCEA in the workplace, and its view that there was a lack of data from which to reasonably determine or predict the various effects for which it recommended testing.

C. Proposed Rule

EPA issued a proposed rule published in the **Federal Register** of June 5, 1981 (46 FR 30300) which would require that testing of TCEA be performed for teratogenicity and for the effects listed below:

1. Aquatic vertebrates-acute toxicity and chronic toxicity.
2. Aquatic invertebrates-chronic toxicity.
3. Terrestrial plants-root elongation/seed germination and early seedling growth.
4. Bioconcentration-plant uptake/translocation.

In the proposal, the EPA based its testing requirements on the authority of section 4(a)(1)(B) of TSCA. It found that: 1,1,1-trichloroethane was produced in substantial quantities; substantial numbers of persons were exposed to 1,1,1-trichloroethane both in occupational settings involving the manufacture, processing and use of the chemical, and as consumers of products containing the chemical; there was substantial release to the environment; and, with respect to the above listed areas, there were insufficient data and experience to reasonably determine or predict the effects on health and the environment of the manufacture, processing, distribution in commerce, use or disposal of 1,1,1-trichloroethane and that testing was necessary to develop such data.

EPA also presented its reasons for not proposing testing for several other effects of concern. Testing was not proposed for acute health effects, reproductive effects, chemical fate or for certain environmental effects (acute toxicity to aquatic invertebrates, toxicity to mammals, acute bird toxicity, toxicity to algae, and aquatic vertebrate and invertebrate bioconcentration) because EPA had concluded that existing information was sufficient to reasonably predict or determine these effects. EPA planned to perform testing for some environmental effects for which no test standards were available at the time.

Oncogenicity testing of 1,1,1-trichloroethane was being performed by the National Toxicology Program (NTP), and EPA believed that the NTP studies would be sufficient to reasonably predict or determine the oncogenicity of TCEA; therefore, no oncogenicity testing was proposed. Similarly, no chronic effects testing was proposed because EPA was awaiting the results of the NTP study which it expected to provide sufficient data on chronic effects.

EPA believed that mutagencity testing according to a testing sequence would be appropriate, and planned to perform the initial testing itself because no criteria specifying the progression from initial tests to higher level tests were available at the time the proposed rule was issued. EPA planned to propose a test rule requiring manufacturers and processors of TCEA to perform higher tier tests if needed, based on analysis of lower tier results.

The EPA also decided not to propose an epidemiologic study at the time because a suitable study population had not been identified. The scientific support used by EPA at that time for the proposed section 4 findings and the proposed rule was set forth in the 1,1,1-Trichloroethane Support Document (Ref. 6), which is available from the Office of Toxic Substances' TSCA Assistance Office and in the public record for this rulemaking.

III. Public Comment

The comments received by the Agency in response to the proposed rule for TCEA were from the affected industry and several trade associations. The Agency did not receive any comments which in the Agency's judgment rebutted the substantial production and substantial human exposure findings for TCEA. Major issues identified during the comment period are discussed below.

A. Health Effects Testing

1. Developmental Toxicity

a. *Terminology.* Comments on EPA's proposed test rule for the testing of TCEA for teratogenicity in June 1981, have shown that use of the term "teratogenicity" may be interpreted differently by different scientists and in its strictest definition could be limited to just the production of structural malformations. Recognizing that abnormal development may be manifested not only as the production of structural malformations, but also as *in utero* death, growth retardation, or functional deficits (Ref. 14), the Agency believes that the term "developmental toxicity" is more appropriate in summarizing its concern for agents that adversely affect development. Although the terminology in this final rule may be different from that in the proposed rule, the Agency in its proposed rule clearly expressed the concern that TCEA should be evaluated not only for structural malformations, but also for fetal resorptions, decreased fetal body weight, and other adverse developmental effects which are encompassed by the term "developmental toxicity." *See* 46 FR 30300, 30303 and 30311 (June 5, 1981) and 44 FR 44054, 44088 (July 29, 1979).

b. *Review of existing teratology studies.* The Agency has identified three studies that address the potential of 1,1,1-trichloroethane to cause adverse developmental effects: Schwetz et al. (Ref. 5), York et al. (Ref. 7), and Lane et al. (Ref. 1). The Schwetz and York studies were evaluated by the Agency in preparing the proposed rule (46 FR 30300; June 5, 1981) and were discussed in its accompanying support document (Ref. 6).

In the Schwetz et al. study pregnant female rats and mice were exposed by the inhalation route of exposure to 875, ppm of TCEA for 7 hours daily at days 6–15 of gestation. Schwetz et al. concluded that TCEA did not cause significant maternal, embryonal or fetal toxicity and was not teratogenic in either mice or rats at 875 ppm.

In the York et al. study, female rats were exposed by inhalation to TCEA at a concentration of 2,100 ppm. Study animals were divided into the following three groups depending upon the timing of exposure to TCEA: (A) those exposed for two weeks prior to mating and during pregnancy, (B) those exposed prior to mating only, and (C) those rats exposed during pregnancy only. The control group was exposed to filtered air before mating and during pregnancy. The York study reported decreased fetal weights and some developmental anomalies (predominantly skeletal and kidney development) in offspring of exposed dams. However, the developmental anomalies occurred only in the offspring of those rats exposed to 2,100 ppm two weeks prior to mating and then during gestation. Although there were statistically significant decreases in fetal bodyweight in exposure groups A and C, soft-tissue and skeletal anomalies were not significant in the offspring of rats exposed to 2,100 ppm TCEA during gestation only, possibly due to the shorter dosing period. York et al. questioned the biological significance of the skeletal anomalies and fetal weight reductions, noting that the skeletal malformations were relatively rare structural changes not obviously detrimental to the offspring and that the depression in body weights was not present postnatally. The York et al. study reported no evidence of maternal toxicity in any of three exposure groups.

In its proposed test rule for TCEA (46 FR 30300, June 5, 1981), EPA concluded that the Schwetz et al. and York et al. studies were insufficient to reasonably determine whether exposure to TCEA would pose a risk of developmental effects in humans. The Agency reached this conclusion in large part because although developmental effects had not been observed in the Schwetz et al. study or in the offspring of animals in the York et al. study exposed only during gestation, the failure of both studies to employ a maternally toxic dose level fails to provide adequate

assurance that developmentally toxic effects will not occur at exposure levels designed to protect adult humans from adverse health effects.

In a study obtained after publication of the proposal, Lane et al. (Ref. 1) examined the effects of TCEA in drinking water on reproduction and development in mice. Concentration levels of 0, 0.58, 1.75, and 5.83 mg/ml were administered; these concentrations were designed by the investigators to yield doses of 0, 100, 300 or 1,000 mg/kg/day. Nine to fifteen litters were examined per dose group. The authors reported no evidence of reproductive or teratologic effects in this study and no evidence of maternal toxicity.

c. *EPA response to industry comments.* Industry commentors (Dow and Vulcan) took the position that the three studies taken together clearly demonstrate that TCEA does not represent a teratogenic risk to humans. With regard to the lack of maternal toxicity, they pointed out that TCEA is of very low toxicity in adult animals and that the primary adverse effect of TCEA is central nervous system (CNS) depression. In their view, conventional measurements of maternal toxicity, such as weight loss, would not be observed at test concentrations below those which produce CNS depression. The commentors further stated that the studies have been conducted at sufficiently high levels and that, in the light of the available data, EPA cannot justify a finding of insufficient data to determine or reasonably predict the teratogenic effects of TCEA.

EPA had seriously considered these points. The results of these studies (Refs. 1, 5 and 7) do not preclude the possibility that the conceptus may be uniquely susceptible to adverse effects of TCEA. None of these studies reported evidence of biologically significant teratogenic effects; however, maternal toxicity at the highest dose level, a requirement of an adequate teratogenicity of developmental toxicity test according to the TSCA Guidelines (Ref. 17), was not demonstrated in any of the studies.

With regard to their comments on CNS depression, the Agency believes that Dow and Vulcan have failed to demonstrate that signs of CNS depression will indeed occur prior to other indications of maternal toxicity, such as weight loss. In none of the three available developmental toxicity studies which the Agency has reviewed was there any evidence that adverse CNS effects would occur prior to other signs of maternal toxicity. In fact, there were no indications of CNS depression or maternal toxicity in any of the three studies.

The Agency also disagrees with the commentors' position that the studies have been conducted at sufficiently high dose levels. In general, the Agency believes that the highest dose level delivered to an animal in a developmental toxicity study should produce maternal toxicity; this is to ensure that a chemical has been tested at a high enough exposure level. If the highest dose delivered to an animal produces neither maternal toxicity nor development toxicity, one would not be able to determine if the chemical would be a hazard to the developing embryo or fetus at some higher exposure level in the absence of maternal effects. Most teratology/developmental toxicity guidelines (i.e. TSCA, OECD, FDA's Segment II) recommend testing of a substance at at least three dose or exposure levels with the highest producing some degree of maternal toxicity and the lowest producing no effect on either the embryo/fetus or the dam. This view is in agreement with recognized developmental toxicologists who have conducted state-of-the-art studies (Refs. 13 and 14). This approach allows for assessment of the relationship between the concentration needed to adversely affect the dam and that needed to adversely affect the developing organism and, as such, enables the identification of those agents to which the embryo/fetus is more susceptible than the dam. This dose regimen not only establishes potential developmental effects which may occur independent of adult toxicity, but also establishes a no effect level for developmental effects.

There may be some instances where the Agency will not need to require testing at a dose level that produces maternal toxicity. If developmental effects have been identified at doses below the maternally toxic dose of the chemical, then higher dose levels that would exhibit some form of maternal toxicity are not essential because exposure reduction would be based on developmental toxicity rather than on maternal toxicity. There is uncertainty that the effects observed in the York et al. study indicate biologically significant developmental toxicity. The Agency does not believe the York et al. study or the other studies discussed above are sufficient to reasonably determine or predict the developmental toxicity of TCEA. Another instance where the Agency may not need to require maternal toxicity is when the no observed effect levels are well above those levels identified for human exposure. However, in this particular case, the Agency believes that the difference between the levels of TCEA workplace exposures (Refs. 16 and 18) and the highest dose levels of TCEA utilized in the existing teratogenicity studies (Refs. 1, 5, and 7) do not enable EPA to reasonably predict that offspring of female workers exposed to TCEA would be adequately protected from adverse developmental effects. Therefore, EPA finds that further testing of TCEA for developmental toxicity is necessary.

2. *Chronic effects and oncogenicity.* The Agency identified two chronic studies when preparing the proposed rule: NCI (Ref. 2) and Quast et al. (Ref. 4). EPA concluded that neither study was adequate to characterize the chronic effects of TCEA. However, EPA did not propose chronic effects or oncogenicity testing for TCEA because a National Toxicology Program (NTP/NCI) oncogenicity study underway at the time was expected to be sufficient to reasonably determine or predict the chronic effects and oncogenicity of TCEA. The NTP study has since been completed. The results are still being evaluated and the final report has not yet been released by NTP.

Dow commented that the NTP study could suffer from shortcomings such as grossly high exposure levels which would make it inappropriate for assessing chronic effects. Dow noted that it is currently conducting a "state of the art" study which should more adequately characterize the chronic effects of 1,1,1-trichloroethane. According to Dow, they are in the final stages of a 2-year chronic toxicity/oncogenicity study of TCEA in rats and mice. Both species were exposed using the inhalation route to 150, 500, or 1,500 ppm of TCEA for 6 hours/day, 5 days/week for 24 months. Dow Chemical Company has submitted to the Agency a final report on the chronic inhalation toxicity and oncogenicity of a commercial preparation containing greater than 90% TCEA (Ref. 23). The Agency is currently evaluating the study and the evaluation will be placed into the public docket when completed. The Agency is awaiting the final report from the NTP study. Should the Agency decide that a data insufficiency exists after Agency review of the final NTP report then EPA reserves the right to require an additional oncogenicity study.

3. *Mutagenicity.* Industry commentors stated that the preponderance of available data support the position that 1,1,1-trichloroethane lacks any significant genetic activity and,

therefore, mutagenicity testing is unnecessary. The Agency did not believe existing data were sufficient to predict the mutagenicity of TCEA and has gone forward with its own testing as outlined in the notice of proposed rulemaking (46 FR 30300).

EPA has examined 1,1,1-trichloroethane (Aldrich Chemical Co., 97 percent pure) in a number of *in vitro* assays for genotoxicity. Specifically, TCEA was found to be non-mutagenic under the conditions of the test for Salmonella tester strains TA1535, TA1537, and TA100 in the Ames test in the presence and absence of S–9 activation systems. When examined in the hepatocyte primary culture/DNA repair test, TCEA elicited a positive response at 10^{-6} to 10^{-3}M (noncytotoxic doses) using hepatoytes from male B6C3F1 mice, but did not affect DNA repair when hepatocytes from Osborne Mendel rats were used. TCEA was also able to transform BALB/C–3T3 cells, *in vitro*, at noncytotoxic doses of 20 μg/ml to 250 μg/ml. In addition, TCEA significantly enhanced transformation of Syrian hamster embryo cells by SA7 adenovirus (Refs. 19, 20, 21, and 22).

Experiments to test TCEA in the Drosphila sex-linked recessive lethal assay are currently underway and results from this assay are expected to be available to the Agency in October, 1984. The Agency reserves the right to initiate rulemaking to require higher-tiered mutagenicity studies after it has completed a review of all the ongoing lower-tiered study results (see Unit III. D).

B. Environmental Effects Testing

A number of industry commentors addressed issues involving environmental testing of 1,1,1-trichloroethane. Although the commentors agreed that TCEA is produced in substantial quantities, they believed that the volatility (vapor pressure equals 99.75 mm Hg at 20 °C) of TCEA would not allow TCEA to be found in the environment in concentrations sufficient to produce adverse environmental effects. The commentors further maintained that the environmental information submitted to the Agency is sufficient to reasonably determine or predict the risk that TCEA may present to the environment. In support of their contention, the commentors supplied the Agency with information on the environmental concentrations of TCEA, the chemical fate of TCEA, and the aquatic and avian toxicity of TCEA.

Subsequent to the proposed rule, the Agency has performed a materials balance analysis for TCEA, has reevaluated the chemical and physical properties of TCEA, and has reexamined the toxicity data in relation to both the monitoring and environmental fate data. In addition, the Agency has reviewed and evaluated the comments and data submitted by industry. Based on its review of industry comments and the evaluation of the available data, the Agency now believes that sufficient data are available to reasonably predict the environmental effects of TCEA.

EPA agrees with the comments noted above which state that TCEA's volatility make it unlikely that substantial concentrations of the chemical will be found in the aquatic or terrestrial environments. Available monitoring data confirm that environmental concentrations are quite low. Most of these reported levels are in the low ppb range (water=6–17 ppb, soil/sediments=3–6 ppb, air=10–15 ppb) (Ref. 6).

Moreover, these measured concentration levels of TCEA are far below those concentrations which cause acute toxicity in mammalian, aquatic, avian and terrestrial species. For example, the acute oral toxicity (LD_{50}'s) for TCEA in the mouse and rat are between 11 to 12 g/kg. Acute toxicity tests performed on aquatic vertebrates and invertebrates yielded LC_{50} values of 9.7 to 52.8 mg/l (9.7 to 52.8 ppm) in flow-through experiments or in experiments where procedures to limit losses due to volatilty were followed (Ref. 6). Studies done on species of algae gave EC_{50}'s greater than 669 mg/l (669 ppm). Acute toxicity in avian species produced an oral LD_{50} greater than 2,510 mg/kg. As shown above, levels of TCEA in water, air and soil are in the low ppb range. Because TCEA produces toxicity in a large variety of sensitive species only at doses which are far above (by a factor of 500 or greater) the levels found in the environment, the Agency has concluded that it can reasonably predict that the chemical (at present levels of environmental exposure) does not pose an unreasonable risk to mammalian, aquatic, avian, or terrestrial species.

Finally, the materials balance analysis and environmental fate data (Ref. 12) also allow the Agency to predict TCEA's fate and distribution in the environment. These data provide additional support for the belief that the concentrations of TCEA found in the environment are low.

Therefore, taking all of these data into consideration, EPA believes that sufficient data are now available to reasonably determine or predict the environmental effects of TCEA. Thus, EPA is withdrawing its proposal to require environmental effects testing of TCEA.

C. Test Substance

Bendix Environmental Research stated that a test substance stabilized with 0.5 percent butylene oxide is not appropriate because if positive results are seen in any test it will have to be repeated to find out whether TCEA or butylene oxide is responsible for the effect observed. The Agency agrees that this is a problem encountered when testing mixtures. However, the Agency has chosen TCEA stabilized with butylene oxide because of the difficulty in obtaining and working with the pure chemical. Based on the NTP testing experience, the Agency has decided to require that testing be conducted utilizing a TCEA of purity greater than 99.7 percent and stabilized with less than 0.1 percent butylene oxide. NTP obtained this formulation from the Dow Chemical Company.

D. EPA Testing

Both Proctor and Gamble and Atlantic Richfield noted that EPA intended to perform certain tests (i.e., mutagenicity) for which test standards had not yet been adopted by EPA. They questioned how the Agency will be able to perform the tests itself if it is unable to provide suitable guidance to others.

Subsequent to the proposal, the Agency developed guidelines for conducting mutagenicity testing, including triggers to go from lower to higher tier testing. However, in the case of TCEA a separate proposal would be required if the Agency wanted to have industry conduct the mutagenicity testing. Because it wanted at least preliminary mutagenicity results sooner than would be possible through rulemaking, the Agency decided to proceed with EPA-sponsored testing. After the Agency has evaluated the results of the lower-tiered mutagenicity tests, EPA may propose a test rule to require higher tiered mutagenicity tests if needed.

IV. Final Test Rule for 1,1,1-Trichloroethane

A. Findings

The EPA is basing the final testing requirements for TCEA on the authority of section 4(a)(1)(B). of TSCA. EPA finds that TCEA is produced in substantial quantities and that there is substantial occupational and consumer exposure to TCEA resulting from its manufacture, processing, and use. The bases for these findings, which are summarized below, are set forth in the Agency's TCEA support document (Ref. 6), which is hereby incorporated by reference.

Approximately 586 million pounds of TCEA were produced in the United States in 1983 (Ref. 8). TCEA is used in the metal cleaning industry which provides the potential for a large number of people to be exposed to TCEA. In the National Occupational Hazard Survey (NOHS) approximately 2.6 million workers were estimated to be exposed to TCEA (Ref. 3). TCEA has been identified in a substantial number of consumer products with the potential for many millions of people exposed to TCEA as a consequence of consumer use (Ref. 6).

In addition, the Agency believes that available data are insufficient to reasonably predict or determine the developmental toxicity of TCEA and that testing is necessary to develop such data. (See Unit III.A.1)

B. Required Testing

The Agency believes that adequate developmental toxicity tests for TCEA should be done in two mammalian species (a rat and a non-rodent species). It is well documented that various animal species have differing sensitivities to chemicals being tested for developmental toxicity (Refs. 9, 10, and 11). Thus, a negative developmentally toxic response in a single mammalian species does not necessarily mean that the chemical being tested is not a developmental hazard. The Agency believes that multispecies testing is a more sensitive means of detecting developmental hazards than single species testing (Refs. 9, 10 and 11). Testing TCEA in the rat and a non-rodent mammalian species will provide the Agency with the data needed to reasonably determine or predict whether TCEA poses a risk of developmental toxicity to humans.

Therefore, the Agency believes that developmental toxicity testing should be performed via inhalation in the rat and a non-rodent mammalian species and that some sign of maternal toxicity should be demonstrated at the highest dose in each species.

The EPA is requiring that a developmental toxicity study or studies on TCEA be conducted by the inhalation route. Although the Agency is currently preparing a guideline for inhalation developmental toxicity, which is expected to be available by Fall, 1984, at the present time there is no TSCA Guideline for this test and EPA suggests using a modified version of the protocol submitted by the Chemical Manufacturers Association (CMA) for inhalation teratogenicity of isophorone in the rat and mouse. A copy of this protocol is in the public record for this rulemaking, docket number [OPTS-42029]. The Agency believes that two modifications should be made to this protocol:

1. Rats and a non-rodent mammalian species should be utilized instead of rats and mice. EPA recommends, but does not require, rabbits as the non-rodent species.

2. EPA does not specify the strains or precise ages of the animals to be used; it recommends only that young adult rats and rabbits be used. The CMA protocol can be easily revised to reflect developmental toxicity protocols for TCEA and test sponsors will need to specify species, age, strain and number of animals used, dose delivery system for inhalation exposure, and chamber monitoring procedures. All data must be developed and reported in accordance with the TSCA Good Laboratory Practice Standards in 40 CFR Part 792.

Should the TSCA Guideline for inhalation developmental toxicity become available at a time consistent with the time requirements for submission of study plans, then the Guideline should also be consulted for appropriate study design.

C. Test Substance

EPA is requiring a 1,1,1-trichloroethane test substance containing less than 0.1 percent butylene oxide stabilizer for use in the test required in this rule. This product is 99.7 percent pure and contains the least amount of stabilizer of any product available. It is similar to the formulation used in NTP's oncogenicity bioassay on 1,1,1-trichloroethane and can be obtained from the Dow Chemical Company.

D. Persons Required To Test

Several industry commentors stated that only manufacturers and not processors should be required to conduct the tests. One commentor recommended that the Agency categorically exclude "downstream or indirect processors."

Section 4(b)(3)(B) of TSCA specifies that the activities for which the Administrator makes section 4(a) findings (manufacture, processing, distribution, use and/or disposal) determine who bears the responsibility for testing. Manufacturers are required to test if the findings are based on manufacturing ("manufacture" is defined in section 3(7) of TSCA to include "import"). Processors are required to test if the findings are based on processing. Both manufacturers and processors are required to test if the exposures giving rise to the potential risk occur during use, distribution, or disposal. Because EPA has found that the manufacturing, processing, and use of 1,1,1-trichloroethane give rise to substantial human exposure to TCEA, EPA is requiring that persons who manufacture or process, or who intend to manufacture or process this chemical, at any time from the effective date of this test rule to the end of the reimbursement period, be subject to the rule. The end of the reimbursement period will be 5 years after the final TCEA developmental toxicity report is submitted. As discussed in the Agency's test rule and exemption procedures (40 CFR Part 790), EPA expects that manufacturers will conduct testing and that processors will ordinarily be exempted from testing.

EPA is, however, exempting those manufacturers and processors which produce and process TCEA only as an impurity from these testing requirements. "Impurity" is defined in 40 CFR 790.3 to mean "a chemical substance which is unintentionally present with another chemical substance." The Agency is exempting those manufacturers and processors because the EPA's findings under section 4(a)(1)(B) are based on exposures to TCEA which are a result of intentional manufacture, processing, and use. In addition, it will be difficult for both EPA and manufacturers and processors to identify with complete assurance all chemical substances which contain TCEA as an impurity. Finally, the Agency would find it difficult to apply both the exemption and reimbursement processes to those who manufacture and/or process TCEA as an impurity. In fact, the Agency's reimbursement regulations issued pursuant to section 4(c) state that those who manufacture or process chemical substances as impurities will not be subject to test requirements unless the rule specifically states otherwise (40 CFR 791.48b).

Because TSCA contains provisions to avoid duplicative testing, not every person subject to this rule must individually conduct testing. Section 4(b)(3)(A) of TSCA provides that EPA may permit two or more manufacturers or processors who are subject to a test rule to designate one such person or a qualified third person to conduct the tests and submit data on their behalf. Section 4(c) provides that any person required to test may apply to EPA for an exemption from that requirement. The Agency anticipates that the current manufacturers of 1,1,1-trichloroethane will form the reimbursement pool and sponsor the testing required. Manufacturers and processors who are subject to the testing requirements of

this rule must comply with the test rules and exemption procedures in 40 CFR Part 790.

EPA is not requiring the submission of equivalence data as a condition for exemption from the required testing. As noted in Unit IV. C, EPA is interested in evaluating the effects attributable to TCEA itself and has specified a relatively pure substance for testing.

E. Test Rule Development

Under the regulations in 40 CFR Part 790, test rule development for TCEA will be a two-phase process. In the two-phase process, Phase I test rules will be promulgated for individual chemicals specifying the health and environmental effects and other characteristics for which test data are to be developed. In Phase II, following promulgation of the Phase I test rule, those persons subject to the rule will be required to develop study plans for the development of data pertaining to the effects and characteristics specified in the Phase I rule. Within 30 days from the effective date of the final Phase I test rule, manufacturers must submit to EPA a letter stating their intention to sponsor testing or an application for exemption. Test sponsors must submit their study plans to EPA within 90 days from the effective date of the Phase I test rule. After an opportunity for public comment, EPA will promulgate a rule adopting the study plans, as proposed or modified, as the chemical-specific test standards and schedules for the tests required by the Phase I rule. Testing would also be subject to EPA's generic TSCA GLP standards. Persons who submit the study plans will be obligated to perform the tests in accordance with the test standards and schedules developed. Modification to the adopted study plans can be made only with EPA approval.

Processors of TCEA will not be required to submit letters of intent, exemption applications and study plans and to conduct testing unless manufacturers fail to sponsor the required tests. The basis for this decision is that manufacturers are expected to indirectly pass the costs of testing on to processors through any price increase of TCEA.

F. Reporting Requirements

EPA is requiring that all data developed under this rule be reported in accordance with the TSCA Good Laboratory Practice (GLP) standards which were published in 40 CFR Part 792 (See 48 FR 53922, November 29, 1983). These final GLP standards apply to this rule.

EPA is required by TSCA section 4(b)(1)(C) to specify the time period during which persons subject to a test rule must submit test data. These deadlines will be established in the second phase of this rulemaking in which study plans are approved. The procedures for the second phase rulemaking are described in 40 CFR Part 790.

TSCA section 14(b) governs Agency disclosure of all test data submitted pursuant to section 4 of TSCA. Upon receipt of data required by this rule, the Agency will publish a notice of receipt in the **Federal Register** as required by section 4(d).

G. Enforcement Provisions

The Agency considers failure to comply with any aspect of a section 4 rule to be a violation of section 15 of TSCA. Section 15(1) of TSCA makes it unlawful for any person to fail or refuse to comply with any rule or order issued under section 4. Section 15(3) of TSCA makes it unlawful for any person to fail or refuse to: (1) Establish or maintain records, (2) submit reports, notices, or other information, or (3) permit access to or copying of records required by the Act or any regulation issued under TSCA.

Additionally, TSCA section 15(4) makes it unlawful for any person to fail or refuse to permit entry or inspection as required by section 11. Section 11 applies to any "establishment, facility, or other premises in which chemical substances or mixtures are manufactured, processed, stored, or held before or after their distribution in commerce . . . ." The Agency considers a testing facility to be a place where the chemical is held or stored and, therefore, subject to inspection. Laboratory audits/inspections will be conducted periodically in accordance with the procedures outlined in TSCA section 11 by designated representatives of the EPA for the purpose of determining compliance with the final rule for 1,1,1-trichloroethane. These inspections may be conducted for purpsoes which include verification that testing has begun, that schedules are being met, that reports accurately reflect the underlying raw data and interpretations and evaluations thereof, and that the studies are being conducted according to the TSCA GLP standards and the test standards established in the second phase of this rulemaking.

EPA's authority to inspect a testing facility also derives from section 4(b)(1) of TSCA, which directs EPA to promulgate standards for the development of test data. These standards are defined in section 3(12)(B) of TSCA to include those requirements necessary to assure that data developed under testing rules are reliable and adequate, and such other requirements as are necessary to provide such assurance. The Agency maintains that laboratory inspections are necessary to provide this assurance.

Violators of TSCA are subject to criminal and civil liability. Persons who submit materially misleading or false information in connection with the requirement of any provision of this rule may be subject to penalties calculated as if they had never submitted their data. Under the penalty provision of section 16 of TSCA, any person who violates section 15 could be subject to a civil penalty of up to $25,000 per day for each violation. Intentional violations could lead to the imposition of criminal penalties of up to $25,000 for each day of violation and imprisonment for up to one year. Other remedies are available to EPA under sections 7 and 17 of TSCA, such as seeking an injunction to restrain violations of TSCA section 4.

Individuals as well as corporations could be subject to enforcement actions. Sections 15 and 16 of TSCA apply to "any person" who violates various provisions of TSCA. EPA may, at its discretion, proceed against individuals as well as companies themselves. In particular, this includes individuals who report false information or who cause it to be reported. In addition, the submission of false, fictitious, or fraudulent statements is a violation under 18 U.S.C. 1001.

V. Economic Analysis of Rule

To assess the economic impact of this rule, EPA has prepared an economic evaluation (Ref. 8) that examines the cost to the required testing and analyzes four market characteristics of TCEA: (1) Price sensitivity of demand, (2) industry cost characteristics, (3) industry structure, and (4) market expectations. The costs of conducting the developmental toxicity test are estimated to range from $62,134 to $186,403, with annualized costs ranging from $16,000 to $48,300 (Ref. 8). Based on these test costs and an analysis of the four market characteristics of TCEA, the economic evaluation indicates that the potential for a significant adverse economic impact as a result of this test rule is low. This conclusion is based on the following observations (Ref. 8):

1. The demand for 1,1,1-trichloroethane is relatively inelastic due to select performance advantages in its major uses.

2. The market expectations for 1,1,1-trichloroethane are generally favorable.

3. The relative magnitude of the test cost is negligible (i.e., an estimated 0.008 cents per pound in the upper bound case); this represents 0.03% of the sales value of TCEA.

VI. Availability of Test Facilities and Personnel

Section 4(b)(1) of TSCA requires EPA to consider "the reasonably foreseeable availability of the facilities and personnel needed to perform the testing required under the rule." Therefore, EPA conducted a study to assess the availability of test facilities and personnel to handle the additional demand for testing services created by section 4 test rules and test programs negotiated with industry in place of rulemaking. Copies of the study, "Chemical Testing Industry: Profile of Toxicological Testing," October, 1981, can be obtained through the NTIS under publication number PB 82-140773.

On the basis of this study, the Agency believes that there will be available test facilities and personnel to perform the testing required in this test rule.

VII. Judicial Review

Judicial review of this final rule may be available under section 19 of TSCA in the United States Court of Appeals for the District of Columbia Circuit or for the circuit in which the person seeking review resides or has its principal place of business. To provide all interested persons an equal opportunity to file a timely petition for judicial review and to avoid so-called "races to the courthouse," EPA has decided to promulgate this rule for purposes of judicial review two weeks after publication in the **Federal Register**, as reflected in **"DATES"** in this notice. The effective date has, in turn, been calculated from the promulgation date.

VIII. Rulemaking Record

EPA has established a record for this rulemaking (docket number OPTS-42059). This record includes the basic information the Agency considered in developing this rule, and appropriate **Federal Register** notices. The Agency will supplement the record with additional information as it is received. Confidential Business Information (CBI), while part of the record, is not available for public review. A public version of the record, from which CBI has been deleted, is available for inspection from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays, in Room E-107, 401 M Street, SW, Washington, D.C.

This record includes the following information:

(1) **Federal Register** notices pertaining to this rule consisting of:

(a) Notice of final rule on 1,1,1-trichloroethane.

(b) Notice of proposed rule on 1,1,1-trichloroethane (46 FR 30300).

(c) Notice containing the ITC designation of 1,1,1-trichloroethane to the Priority List (43 FR 16684).

(d) Notice of final rule on EPA's TSCA Good Laboratory Practice Standards (48 FR 53922).

(e) Notice of final rule on test rule development and exemption procedures.

(f) Notice of final rule concerning data reimbursement.

(2) Supports documents consisting of:

(a) 1,1,1-trichloroethane support document.

(b) Economic impact analysis of final test rule for 1,1,1-trichloroethane.

(3) Communications consisting of:

(a) Written public comments.

(b) Summaries of telephone conservations.

(c) Meeting summaries.

(d) Reports—published and unpublished factual materials, including contractors' reports.

(4) Test protocol for an inhalation teratogenicity study.

IX. Classification of Rule

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a Regulatory Impact Analysis. The regulation for this chemical substance is not major because it does not meet any of the criteria set forth in section 1(b) of the order. First, the annual costs of testing are less than $50,000 over the expected market life of TCEA. Second, because the cost of the required testing will be distributed over a large production volume, the rule will have only very minor effects on producers' costs or users' prices for this chemical substance. Finally, taking into account the nature of the market for this substance, the low level of costs involved, and the expected nature of the mechanisms for sharing the costs of the required testing, EPA concludes that there will be no significant adverse economic impact of any type as a result of this rule.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comments from OMB to EPA, and any EPA response to those comments, are included in the public record.

X. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (15 U.S.C. 601 *et seq.*, Pub. L. 96-354, September 19, 1980), EPA certifies that this test rule will not have a significant impact on a substantial number of small businesses for the following reasons:

1. There are no small manufacturers of 1,1,1-trichloroethane.

2. Small processors will not perform testing themselves, or will not participate in the organization of the testing effort.

3. Small processors will experience only minor costs if any in securing exemption from testing requirements.

4. Small processors are unlikely to be affected by reimbursement requirements.

XI. Paperwork Reduction Act

The information collection requirements contained in this rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* and have been assigned OMB number 2070-0033.

XII. References

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List of Subjects in 40 CFR Part 799

Testing, Environmental protection, Hazardous material, Chemicals.

(Sec. 4, Pub. L. 94–469, 90 Stat. 2006; 15 U.S.C. 2603)

Dated: September 14, 1984.

William D. Ruckelshaus,

Administrator.

Therefore, Chapter I of 40 CFR is amended by adding Part 799 to read as follows:

PART 799—IDENTIFICATION OF SPECIFIC CHEMICAL SUBSTANCE AND MIXTURE TESTING REQUIREMENTS

Subpart A—General Provisions

Sec.

799.1 Scope and purpose.
799.2 Applicability.
799.3 Definitions.
799.5 Submission of information.
799.10 Test standards.
799.11 Availability of test guidelines.
799.12 Test results.
799.17 Effects on non-compliance.

Subpart B—Specific Chemical Test Rules

799.4400 1,1,1-Trichloroethane.

Authority: Section 4, Section 12, and Section 26, Toxic Substances Control Act (TSCA, 90 Stat. 2006, 2033, 2047; 15 U.S.C. 2603, 2611, 2625).

Subpart A—General Provisions

§ 799.1 Scope and purpose.

(a) This part identifies the chemical substances, mixtures, and categories of substances and mixtures for which data are to be developed, specifies the persons required to test (manufacturers, including importers, and/or processors), specifies the test substance(s) in each case, prescribes the tests that are required including the test standards, and provides deadlines for the submission of reports and data to EPA.

(b) This part requires manufacturers and/or processors of chemical substances or mixtures ("chemicals") identified in Subpart B to submit letters of intent to test, exemption applications, and study plans in accordance with EPA test rule development and exemption procedures contained in Part 790 of this chapter and any modifications to such procedures contained in this part.

(c) This part requires manufacturers and/or processors of chemicals identified in Subpart B to conduct tests and submit data in accordance with the test standards contained in this part in order to develop data on the health and environmental effects and other characteristics of these chemicals. These data will be used to assess the risk of injury to human health or the environment presented by these chemicals.

§ 799.2 Applicability.

This part is applicable to each person who manufactures or intends to manufacture (including import) and/or to each person who processes or intends to process a chemical substance or mixture identified in Subpart B for testing during the period commencing with the effective date of the specific chemical test rule until the end of the reimbursement period. Each set of testing requirements in Subpart B specifies whether those requirements apply to manufacturers only, to processors only, or to both manufacturers and processors.

§ 799.3 Definitions.

The definitions in section 3 of the Toxic Substances Control Act (TSCA) and the definitions of § 790.3 of this chapter apply to this part.

§ 799.5 Submission of information.

Information (letters, study plans, reports) submitted to EPA under this part must bear the Code of Federal Regulations (CFR) section number of the subject chemical test rule (e.g. § 799.4400 for 1,1,1-trichloroethane) and must be addressed to: Document Control Office (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Washington, D.C. 20460.

§ 799.10 Test standards.

Testing required under Subpart B must be performed using a study plan prepared according to the requirements of Parts 790 and 792 of this chapter unless modified in specific chemical test rules in Subpart B. All raw data, documentation, records, protocols, specimens and reports generated as a result of a study under Subpart B must be developed, reported, and retained in accordance with TSCA Good Laboratory Practice Standards (GLP's) in Part 792 of this chapter. These items must be made available during an inspection or submitted to EPA upon request by EPA or its authorized representative. Laboratories conducting testing for submission to the Agency in response to a test rule promulgated under section 4 of TSCA must adhere to the TSCA GLP's. Sponsors must notify the laboratory that the study is being conducted pursuant to TSCA § 4. Sponsors are also responsible for ensuring that laboratories conducting the test abide by the TSCA GLP standards. In accordance with § 792.12 of this chapter, a certification concerning adherence to the TSCA GLP's must be submitted to EPA.

§ 799.11 Availability of test guidelines.

The TSCA and FIFRA guidelines for the various study plans are available from the National Technical Information Service (NTIS). Address and telephone number: National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161 (703–487–4650).

The OECD guidelines for the various study plans are available from the following address: OECD Publication and Information Center, 1750 Pennsylvania Ave., NW., Washington, D.C. 20006 (202–724–1857).

§ 799.12 Test results.

Except as set forth in specific chemical test rules in Subpart B of this part, a positive or negative test result in any of the tests required under Subpart B is defined in the TSCA test guidelines published by NTIS.

§ 799.17 Effects of non-compliance.

Any person who fails or refuses to comply with any aspect of this part or Part 790 is in violation of section 15 of TSCA. EPA will treat violations of Good Laboratory Practice Standards as indicated in § 792.17 of this chapter.

Subpart B—Specific Chemical Test Rules

§ 799.4400 1,1,1-Trichloroethane.

(a) *Identification of chemical test substance.* 1,1,1-Trichloroethane (CAS No. 71–55–6, also known as methyl chloroform) shall be tested in accordance with this part.

(b) *Identification of test substance.* 1,1,1-Trichloroethane stabilized with less than 0.1 percent butylene oxide shall be used as the test substance in all tests.

(c) *Persons required to submit study plans, conduct tests and submit data.* All persons who manufacture or process 1,1,1-trichloroethane, other than as an impurity, from November 23, 1984, to the end of the reimbursement period shall submit letters of intent to test, exemption applications, and study plans and shall conduct tests and submit data as specified in this section, Subpart A of this part and Part 790 of this chapter (Test Rule Development and Exemption Procedures). (Information collection requirements approved by the Office of Management and Budget under control number 2070–0033.)

(d) *Health effects testing*—(1) Developmental toxicity—(i) *Required testing.* A test for developmental toxicity shall be conducted with 1,1,1-trichloroethane.

(ii) *Study plans.* For guidance in preparing study plans, it is recommended that the inhalation teratogenicity study design submitted by the Chemical Manufacturers Association (CMA) for inhalation teratology of isophorone in the rat and mouse be consulted. A TSCA Guideline for inhalation developmental toxicity is currently being prepared by the Agency and is expected to be available by Fall, 1984. If available, it should also be consulted for appropriate study design. A copy of the CMA protocol is available in the public record for this rulemaking, docket number (OPTS–42059). Testing should, however, be conducted on the rat and a non-rodent mammalian species.

(2) [Reserved].

[FR Doc. 84–26713 Filed 10–9–84; 8:45 am]
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October 10, 1984

Part V

Environmental Protection Agency

Dicofol; Proposed Notice of Intent To Cancel Registration of Pesticide Products Containing Dicofol; Notice of Intent To Deny Registration of Dicofol Products; Availability of Position Document 2/3

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ENVIRONMENTAL PROTECTION AGENCY

[OPP-30000/37A; FRL-2689-7]

Dicofol; Proposed Notice of Intent To Cancel Registration of Pesticide Products Containing Dicofol; Notice of Intent To Deny Registration of Dicofol Products; Availability of Position Document 2/3

AGENCY: Environmental Protection Agency (EPA).

ACTION: Preliminary Notice of Determination Concluding the Special Review of Pesticide Products Containing Dicofol; Notice of Intent to Deny Applications for Registration of Products Containing Dicofol; Proposed Notice of Intent to Cancel Registration of Products Containing Dicofol; Notice of Transmittal of Proposed Notice of Intent to Cancel to Secretary of Agriculture and Scientific Advisory Panel; Notice of Availability of Position Document.

SUMMARY: This Notice describes EPA's preliminary determination regarding the risks and benefits associated with the use of pesticide products containing dicofol to control mites on cotton, citrus, and other sites. EPA has concluded that because dicofol is contaminated with DDT, DDE, and chemically related compounds, its use will result in environmental exposure to these contaminants at levels which, together with existing environmental residues of DDT, DDE, and related compounds, pose a significant threat to nontarget wildlife, especially certain endangered species. EPA has also determined that for nearly all uses of dicofol there are effective, but sometimes more costly, potential alternative pesticides. As a result, use of alternatives instead of dicofol would likely lead to somewhat higher costs to control some mite infestations. On the whole, however, the benefits of dicofol do not outweigh its risks. Accordingly, EPA proposes to prohibit use of products containing dicofol. Specifically, EPA proposes to cancel all federal registrations of products containing dicofol. For products containing dicofol that are presently distributed only in intrastate commerce and are not federally registered, EPA proposes to take the necessary steps to deny the registration of these "intrastate" products. The regulatory position described in this Notice is supported by the Position Document 2/3 (PD 2/3) which is available from the contact person listed below. Copies of this Notice and PD 2/3 have been sent to the Secretary of Agriculture and the Scientific Advisory Panel for review and comment. Comments from the public are invited.

DATE: Written comments must be received on or before November 26, 1984.

ADDRESS: Comments should be sent to and are avaiable for review at: Information Services Section, Program Management and Support Divison (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, Room 236, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

In order to facilitate the work of the Agency and of others inspecting the comments, registrants and other interested persons should submit three copies of their comments. The comments should bear the identifying notation: OPP 30000.37A. All comments are available for public inspection from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Bruce Kapner, Special Pesticide Review Divison (TS-767c), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 711, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-7400).

Copies of the Position Document are available from Mr. Bruce Kapner.

SUPPLEMENTARY INFORMATION:

I. Introduction

Pesticide products containing the active ingredient dicofol have been registered in the United States since 1957. Dicofol is manufactured abroad, and technical formulations of the active ingredient are registered by Rohm and Haas Company, Makhteshim Agan Inc., and Aceto Agrichemicals Corp. Agency records indicate that there are 196 federally registered pesticide products containing the active ingredient dicofol. In addition, there are another 86 products, distributed solely in intrastate commerce, which contain dicofol. These "intrastate" products are not federally registered, nor is there a full application for registration of these products pending before the Agency. Because of this status, the Agency must employ special procedures to assure that persons marketing these products comply with the Agency's final regulatory decisions. Refer to Unit IV.B of this Notice for these procedures.

Dicofol products are registered to control mites on a wide variety of food and feed commodities, as well as on turf, ornamental plants, and house plants. Mites damage plants by sucking the juices from the leaves, stems, and fruit of the plant. This tends to cause defoliation, loss of plant vigor, and lower quality and quantity of yield.

An estimated 2.0 to 2.5 million pounds of dicofol are applied annually in the United States, and the volume used appears to be increasing gradually. Mite control on cotton and citrus accounts for about two thirds of dicofol usage. The remainder is used on seed crops, stone and pome fruits, figs, vegetables, small fruits, tree nuts, mint, ornamental plants, turf grasses, greenhouse crops, house plants and sites in and around domestic dwellings, and commercial and agricultural buildings.

Pursuant to FIFRA sec. 3(g), EPA conducts a comprehensive program to review the existing data on registered pesticide active ingredients and to impose data requirements and use conditions appropriate for continued registration of products with those active ingredients. The resulting requirements for continued registration are imposed on registrants through a Guidance Document for each active ingredient.

As a part of that program, the Agency evaluated the available data on dicofol and described its conclusions in a Guidance Document issued December 30, 1983. That review revealed that dicofol is contaminated with DDT, DDE, and/or closely related compounds that can cause significant adverse effects on nontarget wildlife. Therefore, EPA found that pesticide products containing dicofol meet one of the Agency's risk criteria for intensive review of the risks and benefits to determine whether continued registration will cause unreasonable adverse effects on the environment. Specifically, the Agency determined that use of dicofol "[c]an reasonably be anticipated to result in significant local, regional, or national population reductions in nontarget organisms, or fatalities to members of endangered species." See 40 CFR 162.11(a)(3)(ii)(C). Accordingly, the Guidance Document announced that the Agency would conduct a Special Review—formerly called the Rebuttable Presumption Against Registration (RPAR) process—for all registered pesticide products containing dicofol. Notice of the initiation of the Special Review was published in the **Federal Register** of March 21, 1984 (49 FR 10569).

The purpose of a Special Review is to collect and consider information relevant to the risks and benefits of a pesticide in order to determine whether products containing that pesticide meet the statutory standard for registration. Accordingly, in its Notice announcing the initiation of a Special Review, EPA invited comments from the public on its

analysis of the risks and its preliminary assessment of benefits.

Based on information received in public comments, as well as on additional analysis performed since the Special Review process began, EPA has made a preliminary determination of its regulatory position with respect to the registration of products containing dicofol. The Agency's position is set out in this Notice, and the basis for EPA's actions is explained more fully in the Agency's PD 2/3. Copies of the PD 2/3 are available upon request from the contact person listed at the beginning of this Notice.

As described in more detail in Unit III, EPA has determined that dicofol, when used in accordance with widespread and generally recognized practice, appears to cause unreasonable adverse effects on the environment. DDT and related contaminants of dicofol affect reproduction in fish and birds at low concentrations and are estimated to pose a significant potential hazard to several endangered bird species, as well as other fish and bird species. Further, EPA's analysis indicates that there are potential alternative for nearly all uses of dicofol, and therefore EPA expects that prohibiting the use of dicofol would not have significant adverse economic impacts on the agricultural economy. After consideration of restrictions on the use of dicofol as an alternative to cancellation, the Agency has determined that a prohibition on the use of dicofol is necessary to prevent unreasonable adverse effects on the environment. Accordingly, EPA proposes to cancel all Federal registrations of dicofol products and to deny Federal registration for intrastate products containing dicofol.

In accordance with the statute, EPA is sending a copy of this Notice and its PD2/3 to the Secretary of Agriculture and the Scientific Advisory Panel for the statutory 30-day review. EPA is also inviting public comment on these documents within 45 days. After reviewing any comments received within the applicable time limits, EPA will determine what final regulatory position and actions are appropriate.

II. Legal Background

In order to obtain a registration for a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (FIFRA), an applicant for registration must demonstrate that the pesticide satisfies the statutory standard for registration. That standard requires, among other things, that the pesticide perform its intended function without causing "unreasonable adverse effects on the environment." FIFRA sec. 3(c)(5). The term "unreasonable adverse effects on the environment" is defined as "any unreasonable risk to man or the environment, taking into account the economic, social and environmental costs and benefits of the use of any pesticide." FIFRA sec. 2(bb). This standard requires a finding that the benefits of the use of the pesticide exceed the risks of use, when the pesticide is used in compliance with the terms and conditions of registration or in accordance with commonly recognized practice.

The burden of proving that a pesticide satisfies the standard for registration rests on the proponents of registration and continues as long as the registration remains in effect. Under section 6 of FIFRA, the Administrator may cancel the registration of a pesticide or require modification of the terms and conditions of registration whenever he determines that the pesticide appears to cause unreasonable adverse effects on the environment.

In determining whether the risks of a registered pesticide outweigh its benefits, the Agency considers possible changes to the terms and conditions of registration which can reduce risks and the impacts of such modifications on the benefits of use. If the Agency determines that such changes reduce risks to the level where the benefits outweigh the risks, it may require that such changes be made in the terms and conditions of the registration. Alternatively, the Agency may determine that no change in the terms and conditions of a registration will adequately assure that use of the pesticide will not poise unreasonable adverse effects.

In that event, the Administrator may issue a notice of his intent to cancel the registration or to hold a hearing to determine whether it should be cancelled. FIFRA sec. 6(b). In determining whether to issue such a notice, the Administrator must take into account the impact of the action on production and prices of agricultural commodities, retail food prices, and otherwise on the agricultural economy. At least 60 days before formally issuing such a notice, he must inform the Secretary of Agriculture in writing of the substance of the proposed actions and supply the Secretary with an analysis of the expected impact on the agricultural economy. At the same time, the Administrator is required to submit the proposal to the Scientific Advisory Panel (Panel) for comment as to the impact on health and the environment of the action proposed in cancellation notices. FIFRA sec. 25(d).

EPA also follows a practice of informing the public of the Agency's proposals to issue cancellation notices so that registrants and other interested persons can also comment or provide relevant information before any final Notice of Intent to Cancel is issued. Registrants and other interested persons are invited to review the data upon which the proposal is based and to submit data and information to address whether the Agency's initial determination of risk was in error. In addition to submitting evidence relating to risk, commenters may submit evidence as to whether any economic, social and environmental benefits of use of the pesticides outweigh the risks of use.

If, after reviewing the comments received, EPA decides to issue a Notice of Intent to Cancel dicofol products, any adversely affected person may request a hearing to challenge the action. In the hearing, any party opposing cancellation would have an opportunity to present data, witness testimony, and other evidence to show that the registrations of dicofol should be permitted to continue. Other interested parties could intervene to present evidence in favor of cancellation. At the end of the hearing the Agency will decide on the basis of the evidence presented whether or not to cancel or restrict the registration of dicofol products. If no hearing is requested, each registration would be cancelled by operation of law 30 days after receipt by the registrant or publication in the **Federal Register** of the final notice, whichever occurs later.

III. Summary of Risk and Benefit Determinations and Proposed Regulatory Actions

The Agency has considered information relating to the risks of continued use of dicofol as well as the benefits to the agricultural economy derived from use of the chemical. Detailed discussion of the risk and benefit information considered by the Agency is found in the PD 2/3 which relates to this proposal. That document fully sets forth the reasons for issuing a notice of intent to deny applications and for proposing to issue a notice of intent to cancel registrations of pesticide products containing dicofol. The following summarizes the information contained in the PD 2/3.

A. Summary of Risk Determinations

The principal concern about the risk posed by continued dicofol use is that nontarget wildlife, particularly endangered species, may be adversely affected by DDT and related contaminants in dicofol pesticides. In addition, although EPA's analyses of all such studies are not completed, some

studies of the oncogenic effects of dicofol and two contaminants, DDT and DDE, have produced statistically significant increases in tumors in test species. Further, the Agency notes that preliminary test data indicate that the active ingredient dicofol itself may contribute to the levels of DDE in bird species, independently of the contribution made by associated DDT-related impurities.

1. *Composition of dicofol products.* All dicofol products unavoidably contain as impurities a group of chemically similar compounds including the o,p' and p,p' isomers of DDT, the o,p' and p,p' isomers of DDE, DDD, and a chemical referred to as extra chlorine DDT, a substance that resembles DDT except that it has an additional chlorine atom in the molecule. These DDT-related substances are collectively referred to as DDTr. The total amount of DDTr in different producers' dicofol products varies, and the proportions of the different impurities comprising the DDTr portion also vary. This information is considered trade secret or confidential business information. In its analyses, EPA has assumed that DDTr impurities constitute 10 percent of technical grade dicofol, which is a reasonable approximation of the average portion of DDTr found in registered technical dicofol products.

2. *Persistence and bioaccumulation.* Because of their very stable chemical structures, DDT and DDE are extremely persistent and remain in the environment for long periods of time. For example, the half-life—the amount of time required for half of the initial quantity of chemical applied to a site to degrade or otherwise disappear from the site—of DDT in desert soils is in the order of several years. DDE also has a half-life of several years. The half-life of a chemical depends upon the particular environmental conditions under which environmental dissipation is being measured.

Both DDT and DDE are also bioaccumulative. Because these compounds are fat soluble, once ingested they tend to remain in the tissues of an organism through its lifetime. As those organisms are eaten by other species higher in the food chain, the ingested DDT and DDE tend to accumulate in the body tissues of the longer lived species toward the top of the food chain. Thus, for example, relatively low levels of DDT and DDE in aquatic invertebrates, an important food source for some fish, will result in considerably higher levels of DDT and DDE in the fish eating these invertebrates. Likewise, the birds feeding on DDT- and DDE-contaminated fish will typically have higher body burdens of those chemicals than does the food (fish) they eat. Field studies using fish have shown that the concentration of DDT in fish can be over one million times the concentration of DDT in the water from which the fish were taken. EPA expects that, like DDT and DDE, the other constituents of DDTr are persistent and bioaccumulative because of the strong chemical similarities of these chemicals to DDT and DDE.

3. *Toxicity of DDTr to birds.* Prior to the introduction of DDT into the environment, historical records and museum specimens show that eggshell thinning was not a problem in birds. A massive quantity of reliable information conclusively establishes that DDT and its metabolite DDE cause eggshell thinning and adversely affect reproduction and species survival of some birds. The cancellation of most DDT pesticide registrations in 1972 has been followed by a remission in severe eggshell thinning in many species.

Laboratory studies have demonstrated that dietary exposure of birds to DDE at low levels, often in the 0.6 ppm to 3.0 ppm range, will cause significant thinning of eggshells. Effects have been experimentally demonstrated in a wide variety of species: mallard, black duck, ring dove, American kestrel, barn owl, and screech owl.

Analysis of eggshells collected in the field from a number of bird species has revealed a significant correlation between the level of DDE in the eggs and the reduction of shell thickness; the higher the level of DDE, the thinner the shells. Some species for which such correlations have been found include bald eagle, brown pelican, white pelican, great blue heron, black-crowned night heron, peregrine falcon, black duck, American kestrel, and osprey. Significant reductions in osprey, brown pelican, and bald eagle populations have been linked to those reproductive effects. The extinction of the American peregrine falcon as a breeding species east of the Rocky Mountains has been attributed primarily to use of DDT.

Laboratory data for DDE indicate that the "no-effect" level for eggshell thinning is somewhere below 1 ppm in the diet. Laboratory research with black ducks shows that they produce significantly thinner shells when exposed to dietary concentrations of 0.6 ppm of DDE. Other data suggest that barn owls are more sensitive than black ducks. Thus, even though barn owls have not been tested at this dose level, it is reasonable to expect that they too would exhibit effects from dietary exposures less than 1 ppm. Because there appear to be at least two species sensitive to eggshell thinning at levels below 1 ppm, EPA considers it prudent to assume that those endangered avian species, which may be exposed and which cannot be tested, are at least as sensitive. This is especially true in light of factors in the wild which could render wild birds more sensitive than the laboratory results would indicate. Such factors include the longer durations of exposure in the wild and simultaneous exposure to other toxicants.

The conclusion that dietary exposures below 1 ppm will have significant adverse effects on avian reproduction is supported by a substantial body of field data. While the field monitoring studies lack controlled or precisely known exposure information, they also provide important indications of the dietary concentrations of DDE that are toxic to birds. Bald eagles in Maine during the 1960s and 1970s experienced eggshell thinning and significantly impaired reproduction. During this same time period, DDE residues in eels and fish, which comprise 90 percent of the bald eagle diet in Maine, were below 0.3 ppm. Other data suggest that eastern brown pelicans may be producing thinning eggshells from feeding on food possibly containing as little as 0.1 ppm DDE. In Australia, monitoring of peregrine falcons found an average of 0.11 ppm DDE in the prey species, and eggshells were 20.4 percent thinner than those from the years prior to use of DDT. Other information on California brown pelicans supports similar inferences.

In addition to eggshell thinning, DDE also induces behavioral disturbances that interfere with reproduction and survival. Feeding DDE to turtledoves suppressed courtship behavior and increased time to renesting. Egg disappearance in kestrels fed 3 ppm of DDE was higher than in controls, and offspring of mallards fed 0.6 ppm DDE (wet weight) retreated shorter distances from frightening noises than did young from untreated birds.

EPA has data indicating that dicofol fed to the bobwhite may result in higher levels of DDE in the birds' livers than can be attributed to the DDTr contaminants in dicofol. At three comparable test concentrations, the livers of dicofol-treated birds contained 15 percent to 51 percent of the amount of DDTr found in DDT-treated birds. Because the DDTr contamination of dicofol in this test was lower than 15 percent at all treatment levels, it is possible that some of the dicofol was

metabolized to DDE in this avian species.

Taken collectively, EPA finds that this body of information supports a conclusion that dietary exposure to DDE at levels lower than 1.0 ppm and, for some species, possibly lower than 0.5 ppm, will cause significant adverse effects on avian reproduction. Moreover, the scientific uncertainty concerning "no-effect" levels and the continuing reproductive problems in some wild populations require a prudently cautious regulatory approach to any identifiable sources of continued DDTr pollution, such as dicofol.

4. *Fish toxicity of DDTr.* Exposure of fish to DDT- or DDE-contaminated food or water can interfere with fish reproduction. Studies have shown a correlation between the reproductive failure of sea trout and high DDT residues in menhaden, a fish species that is a major source of food for sea trout. Flounder eggs in seawater containing 2 ppb DDT showed abnormal development, and 39 percent of the exposed larvae had vertebral deformities at hatching.

In another experiment, freshwater lake trout were exposed to water and diet containing 1, 5, and 25 parts per trillion (ppt) DDE and 0.1, 0.5, and 2.5 ppm DDE, respectively. Fry mortality was significantly higher than controls at all exposure levels. The lowest dose level (1 ppt DDE in water and 0.1 ppm DDE in diet) is comparable to the exposure currently received by lake trout fry in Lake Michigan, a population that is being maintained only by stocking.

5. *Environmental levels of DDTr.* Nationwide levels of DDT and related compounds have generally declined since the 1972 cancellation of pesticide registrations of DDT products. The most recent monitoring data suggest, however, that DDE residues in fish, currently about 0.4 ppm, may have stabilized or are declining slowly. A similar trend may be emerging for DDE residues in starlings, which presently average about 0.15 ppm. Likewise, although DDE residues in the wings of mallards and black ducks have declined since 1969, none of those decreases after 1976 has been statistically significant. Furthermore, the residues of DDE in ducks from the Pacific Flyway States (Colorado, Oregon, Arizona, and New Mexico) actually increased.

In addition to examining national trends, the Agency has analyzed monitoring data from four States, in which large amounts dicofol are used: California, Arizona, Texas, and Florida. More than 70 percent of all dicofol used is applied in these States. The use of dicofol is further concentrated in certain parts of these States. When data permits, EPA has also attempted to examine available residue data from localities within States where dicofol use is most concentrated.

In California, DDE residues are generally above the national average throughout the State, particularly in the San Joaquin Valley, where dicofol is heavily used on cotton and other crops. Starlings have been monitored at nine locations since the early 1970s, and the residues of DDE have consistently been two to three times higher than the national average. At monitoring sites in four California counties (including two located in the San Joaquin Valley), DDE residues in starlings have fluctuated between 1.25 and 3.50 ppm since 1972. Moreover, even though DDE residues in duck wings declined between 1976 and 1979, the decrease was not statistically significant, paralleling the national trend toward a leveling off of residues. Monitoring by the State of California has shown that residues of DDTr in fish from the San Joaquin Valley and Imperial Valley have consistently exceeded the 1 ppm level. Analysis of fish monitoring data for the San Joaquin Valley stations failed to show a significant decline since 1976; rather, levels have remained relatively constant throughout the monitoring period.

In Arizona, monitoring data show DDE residues in birds and fish to be among the highest in the nation. Starlings examined in Maricopa County, the major agricultural county in the State and one of three counties where dicofol is heavily used, have had DDE residues of 9.44 ppm in 1972, 5.00 ppm in 1976, 6.44 ppm in 1979, and 8.4 ppm in 1982. These residues were the highest observed in the country in 1972 and 1982 and the fifth and second highest in 1976 and 1979, respectively. In 1979–80, duck wings from Arizona and western New Mexico had the highest mean residue in the nation (1.22 ppm). DDE residues in fish are similarly high. In 1980, fish samples from Maricopa County showed DDE at 9.56 ppm in channel catfish, 5.78–6.86 ppm in carp, and 7.53 ppm in largemouth bass. Results of 1983 monitoring efforts show continuing high levels: 1.4–7.9 ppm of DDE in carp and 5.0 ppm of DDE in catfish.

Southern Texas, where dicofol is heavily used on citrus, also has high DDE residues. Elevated levels of DDE, ranging up to 31.5 ppm in channel catfish, have been found in freshwater fish throughout the drainage area of the Arroyo Colorado River, in Hidalgo and Cameron counties in Texas. Fish-eating birds were also examined, and laughing gulls had residues up to 34 ppm. DDE residues in great-tailed grackles (14 ppm) and red-winged blackbirds (4.1 ppm) also suggested that terrestrial food chains were significantly contaminated with DDE. Migratory shorebirds have been shown to increase their body levels of DDE significantly while wintering in this area.

DDE residues in Florida are not as elevated as in Arizona, Texas, and California, but they are still in the range estimated to cause significant adverse environmental effects. In Florida, dicofol is used primarily in the cultivation of citrus. Monitoring data indicate that fish from Lake Apopka, a freshwater lake in Florida's citrus region, have estimated whole-body mean residues of DDTr over 0.5 ppm. In addition, data also suggest that the level of DDE appears to be leveling off in one citrus-growing area of Florida for which long-term monitoring data are available.

In summary, regions where dicofol use is concentrated generally have higher levels of DDE than the rest of the country, and these residues may exceed levels known to cause adverse effects on avian and fish reproduction.

6. *Dicofol's contribution to ambient DDTr residues.* Using a variety of approaches, EPA has determined that use of dicofol is a significant contributor to the overall burden of DDT and related compounds in the environment.

One approach was to calculate the amount of DDTr added to the environment from the amount of dicofol applied. Approximately one million pounds of dicofol are applied annually in California, and assuming 10 percent contamination with DDTr, this is equivalent to 100,000 pounds or 50 tons of DDTr yearly. The annual contributions of DDTr for Arizona, Texas, and Florida are 12,600 pounds, 15,400 pounds, and 85,700 pounds, respectively.

EPA recognized that much of the DDE detected in the environment in recent years is the result of the gradual dissipation of DDT pesticides applied prior to their cancellation in 1972. To evaluate the relative contributions of pre-1972 use of DDT and past and current use of dicofol, EPA prepared a mass-balance analysis for Kings County in the San Joaquin Valley of California. Based on the assumption that dicofol use will not increase and other assumptions detailed in PD 2/3, the analysis demonstrated that, by 1984, a reasonable estimate of the environmental loading of DDTr from pre-1972 use of DDT was about 850,000 pounds in comparison to 200,000 pounds attributed to the use of dicofol. By the year 2000, EPA's analysis predicts that

total environmental loading of DDTr would be about 450,000 pounds with continued use of dicofol, versus only 220,000 pounds if the use of dicofol ceased in 1984. In short, if EPA permits the continued use of dicofol, the level of DDTr in the environment 16 years from now could be twice as high as if dicofol use were prohibited.

EPA has also used two theoretical approaches to estimate the ambient environmental concentrations of DDTr that would result solely from use of dicofol. EPA used a mathematical model to estimate the concentration of DDTr in the water of the Arroyo Colorado River in southern Texas. This model predicts that eventually residues in the river system will stabilize (reach equilibrium) at approximately 9 ppt. This concentration in water would result in fish residues of about 9 ppm, a level harmful both to the fish and to fish-eating birds. In addition, based on physical and chemical principles, EPA estimated that use of dicofol on cotton and other crops in Kings County, California would result in food chain contamination at levels that would be likely to affect avian species adversely. Specifically, EPA predicted that migrating waterfowl could feed on chironomid midge larvae contaminated with as much as 1.4 ppm DDTr. Neither model assumed any other source of DDTr; adding in background levels of DDTr would increase the amount of DDTr expected in the food chain.

7. *Distribution of sensitive species in areas with high levels of use of dicofol.* As the last element of its analysis of the environmental risks of using dicofol, EPA investigated whether species sensitive to the adverse effects of dicofol were found in areas where use of dicofol has been concentrated. This investigation revealed that one or more highly sensitive species is present in each of the major use areas for dicofol, and that several are officially designated as endangered species by the Federal Government.

Sensitive species present in California include the endangered peregrine falcon, California condor, and bald eagle. Black-crowned night herons also found in California may be experiencing reproductive problems due to DDE residues in their eggs. Both peregrine falcons and bald eagles are found in Arizona, and in southern Texas both peregrine falcons and black skimmers, a migratory shorebird, may be affected. Florida contains another endangered species whose numbers have dropped from 20,000 in 1930 to about 4,800 in 1980.

Of the species discussed above, most—peregrine falcons, California condors, bald eagles, and wood storks—are still suffering reproductive problems due to significant eggshell thinning. studies of the animal species on which peregrines and bald eagles feed show continuing high levels of DDE contamination.

8. *Additional risk concerns.* Although not the basis for EPA's decision to cancel all dicofol registrations, the Agency notes that there are data indicating that dicofol and its DDTr contaminants produce tumors in test animals.

Dicofol has produced positive results when tested by the National Cancer Institute in an oncogenicity bioassay using mice. This study was originally considered by EPA to be invalid due to reported decomposition of the test material during the test period. EPA has recently obtained information indicating that this conclusion was probably mistaken and that the test substance remained stable over the course of the study. Chemical analysis of the test materials show that it was technical dicofol. In light of this new information, the Agency is taking steps to validate the study, and the oncogenic results are being analyzed.

EPA is also reviewing studies concerning the oncogenicity of two constituents of DDTr, DDT and DDE. The data base contains several studies on DDT that are reportedly positive. In these studies, mice fed DDT, sometimes over several generations, displayed statistically significant increases in benign and malignant liver and lung tumors. The data base on DDT also contains a number of other oncogenicity studies which are reportedly negative. Some oncogenicity studies with DDE have reportedly produced positive results in both mice and hamsters. Other studies are reportedly negative.

9. *Risk conclusions.* EPA finds that DDT and DDE are highly persistent, bioaccumulative compounds which are toxic to birds and fish. Avian species have been adversely affected by dietary exposure to DDE at levels below 1.0 ppm, and possibly lower than 0.5 ppm. Fish have also been adversely affected at very low levels of exposure to DDE. Because of the chemical similarities between DDT and DDE and the other constitutents of DDTr, the Agency finds that there is a reasonable basis for assuming that these other DDTr substances have similar properties.

Further, EPA has determined that dicofol use is concentrated in areas where levels of DDE are presently high enought to impair both avian and fish reproduction and that these areas are inhabited by a number of sensitive, endangered species whose continued existence could be adversely affected by exposure to current levels of DDE. The Agency also finds that DDTr contamination of dicofol products is sufficiently high to make significant contributions to the overall levels of DDE and DDT in those areas. This contribution will result in a slowing of the decline of DDTr residues in areas of dicofol use and will allow DDTr residues to stabilize at levels which could continue to cause adverse effects in wildlife. Consequently, EPA concludes that the continued use of dicofol will adversely affect nontarget wildlife, including endangered species. This conclusion is consistent with the Biological Opinion issued by the Office of Endangered Species in the U.S. Department of the Interior that continued use of dicofol products may jeopardize the continued existence of the endangered peregrine falcon.

B. Summary of Benefit Determinations

Dicofol, unlike many potential alternatives, is a selective miticide, not a broad spectrum pesticide (insecticide/miticide). It is recommended in many IPM (integrated pest management) programs because it does not destroy pollinators and most parasites and predators. Dicofol is also efficacious against more phytophagous mite species than most other miticides. EPA has conducted an analysis to assess the benefits associated with the continued use of dicofol. The methodology and results of this analysis are described in more detail in the Agency's PD 2/3 on dicofol.

1. *Methodology.* EPA has evaluated the pesticidal properties of dicofol and, where data permitted, has compared its effectiveness to that of other pesticides registered for the control of mites on the same sites. The possible alternatives to dicofol can be evaluated on the basis of their fit into the treatment schedule, guided by labeling statements such as the preharvest interval; pre- or post-harvest restrictions; number, timing and frequency of applications allowed; reentry time; required safety equipment or restricted applicator use; and pests controlled on which sites. other important factors that determine the potential of a pesticide to be an alternative to dicofol include comparative efficacy (degree of control), compatability in mixtures with other pesticides, phytotoxicity, local resistance limitations, and efficacy at a given temperature.

When specific efficacious alternatives can be identified, an initial indication of the economic benefits of the continued registration of dicofol can be

obtained by estimating the additional cost associated with using the available alternatives. In the only instance so far identified for which there is apparently no effective alternative, EPA has analyzed the impact on yields that might result from cancellation of dicofol. In the case of most of the minor uses of dicofol, however, EPA does not presently have the biological and economic information necessary to identify specific alternatives. In these situations, EPA has drawn inferences from the data available on the quantities of dicofol and its potential alternatives that are used, has generated a qualitative assessment of the economic benefits, and has listed other potential benefits from the continued registration of these minor uses of dicofol.

2. *Cotton.* The greatest portion of the economic impacts resulting from the cancellation of all dicofol registrations would be felt by cotton producers in the San Joaquin Valley of California. Unlike other cotton-producing areas of the United States, this region frequently encounters severe, early-season mite infestations. Available information indicates that these infestations can be controlled effectively only with dicofol. The registered alternative sulfur is ineffective under climatic conditions existing early in the growing season for cotton. The other alternative, propargite, is phytotoxic to young cotton plants. Because alternatives apparently cannot control these early-season infestations effectively, the unavailability of dicofol could result in yield losses and increased control costs to San Joaquin Valley cotton producers estimated to reach $11.0 to $37.9 million annually in the long term. To minimize these impacts, EPA expects that some cotton producers would switch to growing other crops.

While these economic impacts could be significant on a regional basis, the national impacts are not estimated to be significant. Due to the excess capacity in the cotton-producing industry, EPA estimates that the lower yield resulting from the unavailability of dicofol will be largely offset in the long term by greater production in other areas. In the short term, given that cotton prices are presently declining, while cotton stocks continue to increase, the cancellation of dicofol would probably result in little or no increase in prices paid by consumers for cotton products.

Cancellation of the use of dicofol on cotton would have considerably smaller impacts in areas outside the San Joaquin Valley. In Arizona and elsewhere in California, cotton producers now using dicofol could switch to propargite at an additional cost estimated to be approximately $2.26 per acre-treatment. Use of other alternatives is also possible. The aggregate increase in treatment costs would be approximately $338,000 a year. In the southeast United States and the Mississippi Delta, dicofol users could switch to monocrotophos or other possible alternatives at no incremental costs.

3. *Citrus.* The economic impacts of cancelling the use of dicofol on citrus (primarily oranges, grapefruit, and lemons) are estimated to be between $3.5 and $4.0 million annually due to the higher cost of using alternatives. Based on current information, EPA does not expect significant impacts on quality or quantity of yield when alternatives are used. The available alternatives vary by region due to labeling limitations, differences in mite species, mite resistance, and climatic conditions. The alternatives include cyhexatin, propargite, hexakis, and ethion.

4. *Minor uses.* EPA presently has the biological and economic information needed to develop quantitative estimates of the impacts of cancelling dicofol's minor uses only for apples, pecans, and mint (spearmint and peppermint). More expensive, comparably effective alternatives are available for mite control on each of these crops. The estimated annual increase in treatment costs are: apples, $600,000 to $900,000; pecans, $260,000; and mint, $250,000. These projected increased costs are small in comparison to the total variable production costs of these crops: apples, 0.1 percent to 0.2 percent; nuts, 0.2 percent; and mint, 0.8 percent.

For the remaining minor uses of dicofol, EPA has considered available information. Because of the small acreage of these minor crops treated with dicofol each year, EPA generally concludes that the cancellation of dicofol for these uses would not cause significant impacts where there are alternatives. Cancellation, however, will probably lead to higher treatment costs for producers who previously had used dicofol.

5. *Risks of alternatives.* An issue which relates to the benefits of continued registration of dicofol is the matter of the risks associated with the alternatives. Because the alternatives to dicofol are likely to result in environmental exposures which are similar to the exposure to dicofol, the comparative toxicity of the alternatives provides a basis to consider the risks of the alternatives. Although EPA lacks some of the data that it would normally require to conduct a comprehensive risk assessment of these pesticides, the data are sufficient to permit EPA to draw certain general conclusions. None of the alternatives is more chronically toxic to wildlife, more persistent, or more bioaccumulative than dicofol and its DDTr contaminants. Further, while some of the alternatives are more acutely toxic than dicofol to humans and wildlife, none of the alternatives, except chlorobenzilate, has been the subject of a Special Review. (After completing a Special Review of chlorobenzilate, published in the **Federal Register** of February 13, 1979 (44 FR 9547), EPA determined that the imposition of certain use restrictions, including restricting the use of chlorobenzilate on citrus only to certified applicators of individuals under their direct supervision, would reduce risks to a level which was outweighed by the benefits of using chlorobenzilate.)

6. *Resistance.* Finally, EPA recognizes that for all uses of dicofol there are benefits which are not readily demonstrable or quantifiable in monetary terms but which, nonetheless, may be important. One of these benefits relates to the impact of dicofol's cancellation on pest resistance. It is well established that intensive use of a pesticide often creates selective environmental pressure that lead to pest populations, particularly those of insects and mites, resistant to that pesticide's effects. Data show that mite species in some areas and crops are resistant to some registered miticides, including dicofol. The number of selective miticides is limited, and if that number is reduced, pest resistance may appear more rapidly than it would if the use of dicofol were allowed to continue. EPA expects this phenomenon to be more significant in crops where mite infestations recur annually, e.g., much cotton and citrus acreage, than in crops where the intensity and even existence of mite infestations fluctuate widely from year to year.

7. *Benefit conclusions.* For the two major crops, cotton and citrus, one or more alternative pesticides is available and comparable in efficacy to dicofol in almost every part of the country. Thus, with the exception of cotton producers in the San Joaquin Valley of California who could experience between $11 and $38 million in lost yield annually, EPA has concluded that cancellation of dicofol registrations would not be likely to result in significant effects on yields of cotton or citrus. Somewhat higher control costs would result from cancellation of dicofol registrations as users apply more expensive alternatives. The increased costs,

however, are expected to be small in comparison to the total value of the crops.

EPA's analysis of the benefits of using dicofol on certain minor sites was limited. Because there are potential alternatives registered for many of the minor uses of dicofol and because the amount of dicofol applied to these minor sites is relatively small, EPA does not anticipate that prohibiting the use of dicofol would have significant regional or national impacts. Nevertheless, many factors affect the use of miticides, and hence EPA cannot determine whether an effective alternative exists for every use of situation. Accordingly, it is possible that the unavailability of dicofol for some minor uses may occasionally have significant impacts for some users.

C. Consideration of Modifications to Registration as Alternatives to Cancellation

EPA has considered restrictions which would attempt to reduce the risks posed by dicofol. None of the restrictions considered, however, sufficiently reduced risks of justify allowing continued registration of dicofol products.

EPA had decided not to classify dicofol products for restricted use, i.e., for use only by certified applicators, because the risks do not depend so much on how the pesticide is applied as on the amount of DDTr released into the environment. Thus, more careful use of the product would not significantly change its risks.

EPA has also rejected a proposal made by a registrant to reduce the amount of DDTr in its dicofol products to about half the current level. The Agency's exposure models predict that the DDTr contribution from us of this "cleaner" dicofol would still be environmentally significant. Accordingly, EPA has determined that the risks of using dicofol, even with the proposed lower level of contamination, would still outweigh the benefits. Other restrictions which might affect environmental loading, e.g., lower application rates or prohibition of use during the breeding seasons of sensitive avian species, were also considered inadequate for the same reasons. EPA also has decided not to propose permitting continued registration during a phase-out period. The adverse effects to wildlife during such a period are unreasonable compared to the benefits, especially since the background levels of DDT in the near term would be expected to be higher than in later years.

In sum, changes in the terms and conditions of registration of products containing dicofol cannot produce the substantial changes in risks which are necessary to avoid unreasonable adverse effects on the environment.

D. Proposed Regulatory Action

Based on the determinations summarized above and discussed in greater detail in the PD 2/3, the Agency has determined that pesticide products containing dicofol do not meet the statutory standard for registration under FIFRA and that there are no modifications of the terms and conditions of registation which could bring these products into compliance with the statute. Accordingly, EPA proposes to take the following regulatory actions necessary to eliminate environmental exposure to dicofol products.

1. *Federally registered pesticide products.* Unless comment on this Notice convinces the Agency otherwise, EPA proposes to cancel the registration of each federally registered pesticide product containing the active ingredient dicofol whether registered under FIFRA sec. 3 or sec. 24(c).

2. *"Intrastate" pesticide products.* Using the procedures described in Unit IV.B of this Notice, EPA will require producers of "intrastate" products containing dicofol to submit applications for Federal registration of their pesticide products. If a timely application is not received, EPA will treat the producer's previously submitted Notice of Intent to Apply as an application. Unless comment on this Notice convinces the Agency otherwise. EPA proposes to deny all such applications.

3. *Existing stocks.* Under the authority of FIFRA sec. 6(a)(1) and (b), EPA proposes to establish certain limitations on the sale, distribution, and use of existing stocks of dicofol products subject to any final cancellation Notice. EPA proposes to define the term "existing stocks" to mean any quantity of dicofol product in the United States on the date of the Agency's final Notice of Intent to Cancel that has been formulated, packaged, and labeled and that either is being held for shipment or release or has been shipped or released into commerce.

EPA proposes to allow the sale and distribution of those existing stocks of dicofol products for up to 1 year after publication of the Agency's final Notice of Intent to Cancel in the **Federal Register**. Further, EPA proposes to allow use of existing stocks for up to 2 years following the date of publication of the Agency's final Notice of Intent to Cancel in the **Federal Register**. In order to implement this proposed requirement, EPA may also require registrants to relabel existing stocks in their possession to indicate the time limitations on distribution, sale, and use. In addition, EPA may also require registrants to contact commercial distributors of dicofol products, to inform them of the time limitations on distribution, sale, and use, and to provide supplemental labeling reflecting the time limitations for existing stocks in the possession of the commercial distributors.

Following expiration of the time limitations on distribution, sales, or use of existing stocks, disposal of existing stocks would be in accordance with the requirements of the Resource Conservation and Recovery Act.

IV. Procedural Matters

This Notice announces the Agency's intent to prohibit use of dicofol by cancelling all Federal registrations and by denying all applications for Federal registration of intrastate products. This unit of the Notice describes the procedures for referral of this Notice to the Secretary of Agriculture and the Scientific Advisory Panel for review as required by FIFRA secs. 6(b) and 25(d). In addition, this unit describes the procedures EPA will follow to implement its regulatory decisions for intrastate pesticide products.

Finally, under sections 6(b)(1) and 3(c)(6) of FIFRA, applicants, registrants, and certain other adversely affected parties would be able to request a hearing on any cancellation and denial actions that the Agency finally initiates. Unless a hearing is properly requested with regard to a particular registration or application, the registration would be cancelled or the application denied. This unit of the Notice also explains how such persons will be able to request a hearing in the event that EPA issues a final cancellation and denial Notice (and the consequences of requesting a hearing and failing to request a hearing in accordance with those procedures).

A. Referral to the Secretary of Agriculture and the Scientific Advisory Panel

As required by FIFRA secs. 6(b) and 25(d), EPA has transmitted copies of this Notice, together with the supporting PD 2/3, to the Secretary of Agriculture and the Scientific Advisory Panel. (See Unit II.)

If either the Secretary or the Panel comments in writing on EPA's proposed action within 30 days of receipt of the proposal, EPA must issue the comments and EPA's responses with the final Notice of Intent to Cancel for publication in the **Federal Register**.

Moreover, unless the time constraints are waived or modified, the Agency may not issue the final Notice of Intent to Cancel sooner than 60 days after sending this Notice to the Secretary and the Panel. If neither the Secretary nor the Panel comments within the 30 days, however, EPA could issue its final Notice of Intent to Cancel at the end of the 30-day comment period.

B. Intrastate Products

Historically, the registration requirements imposed on intrastate products have differed from the requirements for products distributed in interstate commerce. As described below, these differences dictate that the Agency use special procedures for bringing intrastate products into conformity with the final regulatory decisions reached in this Special Review.

Prior to 1972, pesticides produced and distributed solely in intrastate commerce were not subject to registration or any other requirements of FIFRA. The 1972 amendments to FIFRA for the first time made it a violation of Federal law to sell or distribute unregistered intrastate pesticide products. EPA issued registration regulations (40 CFR Part 162) implementing the 1972 amendments which, among other things, required immediate registration of all intrastate products unless the products were currently registered by a State and the producer submitted a notice of application for Federal registration to the Agency. 40 CFR 162.17. Under this regulation, notices of application were filed for numerous dicofol products which are now being considered in this Special Review proceeding. The regulation further provided that, before taking any enforcement action against any unregistered intrastate product complying with 40 CFR 162.17, the Agency would notify the producer of the product that he was required to submit a complete application for Federal registration, and the Agency would review and rule on the application.

Accordingly, in order to bring these intrastate products into conformity with the Agency's final regulatory decision, EPA hereby notifies the producers of all potentially affected intrastate dicofol products that they are required to submit a complete application for Federal registration. The Agency has decided to require that these applications must be submitted within 60 days of the date on which this Notice is published in the **Federal Register** or the date on which the intrastate producer receives a copy of this Notice, whichever is later. If an intrastate producer fails to submit a timely application, EPA will consider his Notice of Intent to Apply as an application for Federal registration for purposes of the review described below.

In addition, for purposes of FIFRA sec. 3(c)(6), this Notice also constitutes a Notice of Intent to Deny registration of pesticide products containing dicofol. The statute provides applicants with a 30-day period in which to correct the application to make it acceptable for registration. EPA, however, has proposed a determination that there are no changes in the terms and conditions of use of dicofol products that would make dicofol products acceptable for registration. Instrastate producers may, if they choose, submit applications for registration with additional terms and conditions on use that they feel would satisfy the statutory standards for registration.

EPA will review all applications submitted. If EPA decides, based on comments received on this Notice, to issue a final notice allowing continued use of dicofol under some circumstances, EPA will notify intrastate producers of that decision and allow them at least 30 days in which to make changes that would allow EPA to approve the application. If the application has not been corrected within the period allowed so that EPA would approve it, the application may be denied. On the other hand, if, after reviewing the comments on this Notice, EPA decides that it is still necessary to cancel all registration of products containing dicofol, the Agency will issue a final Notice of Denial for all applications for Federal registration of intrastate pesticide products containing dicofol.

Under FIFRA sec. 3(c)(6), the issuance of a denial entitles an applicant, or other interested person with the concurrence of the applicant, to request an adjudicatory hearing to challenge the denial decision. The procedures for requesting a hearing and the consequences of not filing a request are discussed below in Unit IV.C.

Concurrent with publication of this Notice, EPA will send a letter, together with a copy of this Notice, to the producers of all potentially affected intrastate pesticides. This letter will announce the EPA has issued its Preliminary Notice of Determination and that the public may comment on the Agency's proposed regulatory position regarding the registerability of various uses of dicofol products. This letter will also describe the procedures that the Agency will follow in assuring that all sale and distribution of intrastate products will comply with the terms of the final decision on dicofol products. Specifically, the letter will inform intrastate producers that they are required to file applications for Federal registration of their products within 60 days of receipt of the Agency's letter or within 60 days of publication of this Notice in the **Federal Register**, whichever is later, finally, the letter will explain other rights and obligations of intrastate producers under FIFRA, the registration regulations, and the procedures described in this Notice.

C. Procedures for Requesting a Cancellation or Denial Hearing

Registrants, applicants, and other parties who would be adversely affected by any decision to cancel or deny applications for the registration of dicofol products would be entitled to request a hearing in which to contest EPA's final decision to cancel registrations and deny applications. Under FIFRA, they must submit their requests for a hearing within 30 days either of receipt of the final Notice of Intent to Cancel or Notice of Denial or of its publication in the **Federal Register**, whichever is later. In addition, a hearing request would have to contain certain information concerning the basis of the request, as EPA will explain in detail in any final Notice of Intent to Cancel or Notice of Denial. If a timely, properly formulated hearing request is submitted, the product registrations which are the subject of the request will remain in effect during the cancellation hearing. Similarly, applications with respect to which valid and timely hearing requests have been filed remain pending unless and until they are denied or granted by order of the Administrator at the conclusion of the hearing.

If a proper and timely hearing request is not submitted for a product, registration of that product would be cancelled, or in the case of intrastate products, the application would be finally denied by operation of law 30 days after the final Notice of Intent to Cancel or Notice of Denial was issued. A final cancellation or denial would have the effect of prohibiting further

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sale and distribution, except as specified in the existing stocks provisions of the Notice.

It should be noted that registrants and applicants are not required to request a hearing at this time in order to be allowed to continue to sell and distribute their products.

Dated: September 28, 1984.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 84-26714 Filed 10-9-84; 8:45 am]
BILLING CODE 6560-50-M

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H.R. 5297/Pub. L. 98-443

Civil Aeronautics Board Sunset Act of 1984. (Oct. 4, 1984; 98 Stat. 1703) Price $1.00

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H.R. 5147/Pub. L. 98-445

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H.J. Res. 554/Pub. L. 98-446

To designate the week of November 11, 1984, through November 17, 1984, as "Women In Agriculture Week". (Oct. 4, 1984; 98 Stat. 1720) Price $1.00

H.J. Res. 605/Pub. L. 98-447

Regarding the implementation of the policy of the United States Government in opposition to the practice of torture by any foreign government. (Oct. 4, 1984; 98 Stat. 1721) Price $1.00

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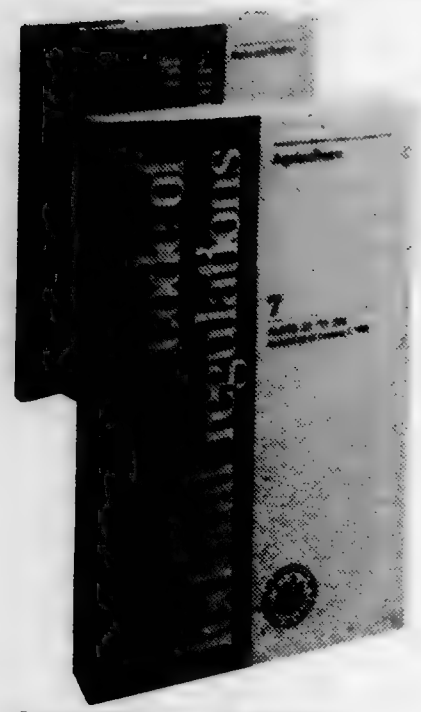

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Title 3—

The President

Proclamation 5252 of October 9, 1984

National Down's Syndrome Month, 1984

By the President of the United States of America

A Proclamation

In the past decade, the United States has entered a new era of hope for its developmentally disabled citizens. This new age of enlightened understanding recognizes that developmentally disabled persons have a great potential for achieving and overcoming handicaps. Down's syndrome, a condition once thought to be without hope of positive change, is one of the best symbols of this changing attitude.

Progress is evident on several fronts. Research has uncovered the genetic basis for the condition and points the way to its ultimate prevention. Advances in medical treatment can minimize defects associated with the condition and have extended the life-span of those who have it. School doors have been unlocked to Down's syndrome children, and special education classes within mainstream school programs have been developed. Vocational training in preparation for gainful employment and independent living has become available.

These advances have not occurred by chance. They are the result of the collective effort of concerned physicians, scientific investigators, teachers and other professionals, parent groups such as the National Down's Syndrome Congress, and government. But the task remains unfinished. Public awareness and acceptance of the capabilities of persons who have Down's syndrome can greatly facilitate their being welcomed in all communities.

The Congress, by Senate Joint Resolution 254, has designated October 1984 as "National Down's Syndrome Month" and has authorized and requested the President to issue a proclamation in observance of this month.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim October 1984 as National Down's Syndrome Month, and I urge all Americans to join me in encouraging renewed efforts on behalf of the health and well-being of individuals with Down's syndrome. I invite all concerned citizens, agencies, and organizations to unite during October in support of appropriate observances and activities that will assist individuals with Down's syndrome and their families to a fuller and more rewarding life.

IN WITNESS WHEREOF, I have hereunto set my hand this ninth day of October, in the year of our Lord nineteen hundred and eighty-four, and of the Independence of the United States of America the two hundred and ninth.

Ronald Reagan

[FR Doc 84-27017
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Presidential Documents

Proclamation 5253 of October 9, 1984

Fire Prevention Week, 1984

By the President of the United States of America

A Proclamation

Each year, fire strikes one out of ten homes in our country. Our Nation leads the world in technological achievements but, unfortunately, it also leads the world in per capita fire losses. Every hour one person dies, and every month $2 billion is lost as a result of fire. Between 2 percent and 3 percent of our gross national product is consumed in fires annually.

It is encouraging to note that, due to the increase in public fire education efforts and use of smoke detectors, there has been a leveling off of fire deaths in recent years. Many homes, however, are still without these safety devices, and I urge community leaders to encourage their use and emphasize the need to keep them in good working order.

Removing the threat of fire from our families and businesses is a national priority. New initiatives are needed to educate the public concerning fire safety and to advise them how they may prevent or survive fire situations. More and more private sector and volunteer organizations are joining the efforts to reduce the Nation's fire loss and this is commendable.

Special recognition is due the efforts of over a million men and women, both volunteer and career, of our Nation's fire services who daily risk their lives to protect others. It is appropriate that we take time to thank them for their unselfish dedication to the principle of helping others in desperate need. Americans should also appreciate the work of all organizations concerned with fire prevention and control efforts—in particular those which are members of the Joint Council of National Fire Service Organizations.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby designate the week of October 7 through 13, 1984, as Fire Prevention Week. I call upon the people of the United States and interested groups, volunteer organizations, businesses, and governmental organizations to plan and to participate in fire prevention activities during this week.

IN WITNESS WHEREOF, I have hereunto set my hand this 9th day of October, in the year of our Lord nineteen hundred and eighty-four, and of the Independence of the United States of America the two hundred and ninth.

Ronald Reagan

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Presidential Documents

Proclamation 5254 of October 9, 1984

Mental Illness Awareness Week, 1984

By the President of the United States of America

A Proclamation

Mental illnesses are among the most misunderstood disorders. As a result, many of our citizens experience unnecessary pain. Stigma—a by-product of fear and misunderstanding—places an unwarranted burden on those with mental disorders and their families. It is of particular concern that the stigma associated with these problems often discourages people from seeking the help they need.

A recent National Institute of Mental Health research study found that one-fifth of adult Americans—over 24 million people—suffered a diagnosable mental disorder in the previous six months. In addition, an estimated 12 million children in this country have a mental disorder. Many will never reach full potential because their illnesses will go unrecognized and untreated.

The cost of mental illnesses to this Nation is in excess of $50 billion annually in health care and lost productivity. The cost in human suffering is beyond reckoning; however, the promise of relief is becoming a reality for many.

Research during recent decades has led to new and more effective drug, behavioral, and psychosocial treatments. For many, the pain of depression can be eased, suicide prevented, hallucinations and delusions assuaged, and crippling anxieties eliminated. Many children vulnerable to serious developmental and psychological problems can be protected by early diagnosis and intervention.

In recognition of the unparalleled growth in scientific knowledge about mental illnesses and the need to increase awareness of such knowledge, the Congress, by Senate Joint Resolution 322, has designated the week beginning October 7, 1984 as "Mental Illness Awareness Week" and authorized and requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning October 7, 1984, as Mental Illness Awareness Week. I call upon all health providers, educators, the media, public and private organizations, and the people of the United States to observe this week by participating in appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this ninth day of October, in the year of our Lord nineteen hundred and eighty-four, and of the Independence of the United States of America the two hundred and ninth.

Ronald Reagan

[FR Doc. 84-27019
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Rules and Regulations

Federal Register
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Thursday, October 11, 1984

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agriculture Marketing Service

7 CFR Part 1097

[Docket No. AO-219-A40]

Milk in the Memphis, TN Marketing Area; Order Amending Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action amends the Memphis, Tennessee Federal milk marketing order. The base-excess plan will be modified to allow producer's milk delivered to other order plants regulated by the southeastern orders containing base-excess plans to be included in the computation of their bases.

These changes are based on evidence presented at a public hearing on proposals to amend this and 13 other Federal milk orders. The hearing was held on August 7, 1984, in Atlanta, Georgia.

The adopted order changes are necessary to reflect current marketing conditions and to insure that producer milk may be made available to fluid milk plants in this and other orders during the months in which demand is expected to be greatest without interfering in the computation of producer bases. Because of the limited time available to complete the rulemaking procedures, a recommended decision and the opportunity to file exceptions thereto were omitted. The amendments were adopted in the Assistant Secretary's decision of August 22, 1984. More than three-fourths of the producers who voted in a referendum approved the issuance of the amended order.

EFFECTIVE DATE: October 11, 1984.

FOR FURTHER INFORMATION CONTACT: Martin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-7311.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of Hearing: Issued August 1, 1984; published August 3, 1984 (49 FR 31072).

Emergency Final Decision: Issued August 22, 1984; published August 28, 1984 (49 FR 34028).

Referendum Order: Issued August 30, 1984; published September 6, 1984 (49 FR 35119).

Findings and Determinations

The findings and determinations hereinafter set forth supplement those that were made when the order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

The following findings are hereby made with respect to the aforesaid tentative marketing agreement and order:

(a) *Findings upon the basis of the hearing record.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Memphis, Tennessee marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order, as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective upon publication in the **Federal Register**. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of this order are known to handlers. The decision of the Assistant Secretary containing all amendment provisions of this order was issued August 22, 1984 (49 FR 34028). The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective upon publication in the **Federal Register**, and that it would be contrary to the pubic interest to delay the effective date of this order for 30 days after its publication in the **Federal Register**. (Sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551-559).

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in Sec. 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order amending the order is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of this order amending the order is approved or favored by at least three-fourths of the producers who were engaged in the production of milk for sale in the marketing area during the determined representative period.

List of Subjects in 7 CFR Part 1097

Milk marketing orders, Milk, Dairy products.

Order Relative to Handling

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Memphis, Tennessee, marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby further amended, as follows:

PART 1097—MILK IN THE MEMPHIS, TENNESSEE MARKETING AREA

1. Section 1097.90 is revised to read as folows:

§ 1097.90 Base milk.

"Base milk" means milk received by a handler from a producer during any of the months of March through July, which is not in excess of such producer's base computed pursuant to § 1097.93, except that for the months of March 1985 through July 1985 base milk shall be determined by the producer's base multiplied by the number of days in the month times the percentage of the producer's production pooled pursuant to § 1097.13.

2. In § 1097.92, the following language is added:

§ 1097.92 Computation of daily average base for each producer.

* * * * *

For producer bases to be calculated on or before February 25, 1985, and subject to § 1097.94, the base to be calculated for each producer shall be an amount obtained by dividing the total pounds of his producer milk (as defined under the respective orders) received from the producer by all handlers fully regulated under the terms of the respective orders regulating the handling of milk in the Georgia; Tennessee Valley; Louisville-Lexington-Evansville; Alabama-West Florida; Memphis, Tennessee, Nashville, Tennesse; Fort Smith, Arkansas; and Central Arkansas marketing areas (Parts 1007, 1011, 1046, 1093, 1097, 1098, 1102, and 1108, respectively, of this chapter) during the immediately preceding months of September 1984 through January 1985 by the total number of days in such period beginning with the first day on which milk is received from such producer by a handler regulated under any one of the aforesaid orders, but not less than 120. In the case of producers delivering milk to a handler's plant which first became a fluid milk plant or a pool plant under any of the above orders during or after the end of the base-forming period, the daily average base for each producer shall be that which would have been calculated for such producer for the entire base-forming period if the handler's plant had been a fluid milk plant or a pool plant during such period.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Effective date: October 11, 1984.

Signed at Washington, D.C., on: October 4, 1984.

Karen K. Darling,

Deputy Assistant Secretary, Marketing & Inspection Services.

[FR Doc. 84-26780 Filed 10-10-84; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

9 CFR Part 78

[Docket No. 84-082]

Brucellosis in Cattle; State and Area Classifications

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: This document affirms the interim rule which amended the regulations governing the interstate movement of cattle because of brucellosis by changing the classification of the States of North Carolina and South Carolina from Class A to Class Free. This action is necessary because it has been determined that these States meet the standards for Class Free status. The effect of this action is to relieve certain restrictions on the interstate movement of cattle from the States of North Carolina and South Carolina.

EFFECTIVE DATE: October 11, 1984.

FOR FURTHER INFORMATION CONTACT: Dr. Thomas J. Holt, Cattle Diseases Staff, VS, APHIS, USDA, Room 811, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8711.

SUPPLEMENTARY INFORMATION:

Background

A document published in the **Federal Register** on June 22, 1984 (49 FR 25616–25617) amended the brucellosis regulations in 9 CFR Part 78 by changing the classification of the States of North Carolina and South Carolina from Class A to Class Free. The amendments, which were made effective June 22, 1984, relieve certain restrictions on the interstate movement of cattle from these States.

Comments were solicited for 60 days after publication of the amendments. No comments were received. The factual situation which was set forth in the document of June 22, 1984, still provides a basis for the amendments.

Executive Order 12291 and Regulatory Flexibility Act

This action has been reviewed in conformance with Executive Order 12291 and has been determined to be not a major rule. Based on information compiled by the Department, it has been determined that this action will not have a significant effect on the economy; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

Changing the status of the States of North Carolina and South Carolina reduces testing requirements on the interstate movement of certain cattle. Cattle moved interstate are moved for slaughter, for use as breeding stock, or for feeding. Testing requirements for cattle moved interstate for immediate slaughter, or to quarantined feedlots are not affected by the changes in status. Also, cattle from Certified Brucellosis-Free Herds moving interstate are not affected by these changes in status. It has been determined that the changes in brucellosis status affirmed by this document will not affect marketing patterns and will not have a significant economic impact on those persons affected by this document.

Under these circumstances, Mr. Bert W. Hawkins, Administrator, Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 9 CFR Part 78

Animal diseases, Cattle, Hogs, Quarantine, Transportation, Brucellosis.

Accordingly, the interim rule amending 9 CFR Part 78 which was published at 49 FR 25616–25617 on June 22, 1984, is adopted as a final rule.

Authority: Secs. 4, 5, and 6, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; sec. 3, 33 Stat. 1265, as amended; sec. 2, 65 Stat. 693; and secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 114a–1, 115, 120,

121, 125, 134b, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

Done at Washington, D.C., this 4th day of October, 1984.

K. R. Hook,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 84-26890 Filed 10-10-84 8:45 am]

BILLING CODE 3410-34-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 122

[Rev. 3, Amdt. 20]

Business Loans; Fiscal and Transfer Agent

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: On July 10, 1984, the Small Business Secondary Market Improvements Act of 1984 (Pub. L. 98-352, 98 Stat. 329) was enacted which amended the Small Business Act (Act) with respect to the operation of the secondary market for loans guaranteed by the Small Business Administration (SBA). This procedural regulation implements section 3(a) of Pub. L. 98-352 which mandated that, within ninety days after the date of enactment, SBA promulgate final rules and regulations with respect to the central registration provisions provided for in section 5(h)(1) of the Act (15 U.S.C. 636(h)(1)), as amended.

EFFECTIVE DATE: February 15, 1985.

FOR FURTHER INFORMATION CONTACT: James W. Hammersley, Financial Analyst, 202-653-5954, Small Business Administration, Room 800C, 1441 L Street, NW., Washington, D.C. 20416.

SUPPLEMENTARY INFORMATION: The Small Business Secondary Market Improvements Act of 1984 (Pub. L. 98-352) was enacted on July 10, 1984. This legislation amended the Small Business Act (Act) with respect to the operation of the secondary market for loans guaranteed by the SBA. It authorizes the SBA to establish a program for pooling the SBA guaranteed portions of loans made by lenders in the private sector. This pooling will enable investors to purchase fractional and undivided interests in a pool of SBA guaranteed loans. The legislation also authorizes the purchase by an investor of the full guaranteed portion of a single loan. The legislation requires SBA to provide for central registration of SBA guaranteed loans sold in the secondary market whether or not pooled. The Agency must promulgate final regulations governing the sale of guaranteed portions of SBA loans in pools or otherwise within nine months of July 10, 1984. SBA is also required, under this law, to promulgate final regulations within ninety days of enactment, with respect to the central registration functions. This regulation is intended to comply with the ninety days mandate. Because this regulation is procedural in nature and in order to meet the statutory time frame, the Agency is publishing this regulation as a final rule, but it will accept and review any comments received with respect to this final rule.

On July 2, 1984, prior to the date of enactment of Pub. L. 98-352, SBA published in the **Federal Register** (49 FR 27162) a proposed regulation amending § 120.5(a)(3) (13 CFR 120.5(a)(3)) which would require any lender wishing to sell the SBA guaranteed portion of a loan in the secondary market to use SBA Form 1086, Secondary Participation Guaranty and Certification Agreement. Use of SBA Form 1086 requires the use of the services of SBA's fiscal and transfer agent (FTA) which registers the name of each investor of a guaranteed portion and issues Form 1086 which evidences ownership of such guaranteed portion. Since 1979 lenders wishing to participate in the secondary market for SBA guaranteed loans have been able to do so by registering the guaranteed portions with the FTA, but they have not been required to do so. A recent General Accounting Office report ((GAO/RCED) 83-96, SBA's 7(a) Loan Guarantee Program: An assessment of its Role in the Financial Market) stated the following as one of its recommendations:

> —Develop better procedures for keeping records of secondary market transactions, including service fees and prices paid by investors for loans. The Administrator should determine whether improved recordkeeping controls could be accomplished more efficiently by internal changes in SBA's procedures or by using the services of the FTA for all loans sold in the secondary market.

Due to the declining level of resources available to SBA, the Agency has determined that the most efficient way to address the recordkeeping problem and implement secondary market policy decisions is to require the use of Form 1086. With over four years of SBA experience, the FTA has a tested and operating system that is capable of handling the entire volume of the secondary market. SBA has decided that changing internal procedures and continuing to operate a parallel system would not be efficient and would not satisfy the recommendation of the GAO. Requiring the use of SBA Form 1086 will rescind the non-registered format and will require all SBA guaranteed loans to be sold through the centralized, computerized recordkeeping facility of the FTA. SBA Form 1086 also provides each purchaser with information on fees, interest rate and calculation, outstanding principal amount of loan, and original face amount of loan.

The regulation promulgated herein prescribes rules and procedures with respect to central registration provisions affecting SBA guaranteed loans sold in the secondary market whether or not pooled. The regulation prescribes the items which SBA's fiscal and transfer agent must maintain at a central facility with respect to sales of guaranteed portions of loans and certificates representing pool ownership. This central registry is an automated system which records information on certificates evidencing ownership of guaranteed portions as well as certificates representing interests in pools, the history of certificate transfers, and the current registered ownership of all outstanding certificates. The central registration with respect to each guaranteed portion or pool certificate must include the name and address of the lender which made each loan and which sold the loan; the interest rate being paid by the borrower to the lender; the lender's servicing fee; whether the interest rate is fixed or variable; the identity of each purchaser; the price paid by the purchaser; the interest rate paid on the guaranteed portion or the certificate; and the FTA's fees. These registration items are all specified within the provisions of section 5(h)(1) of the Small Business Act.

Certificates registered on the books of the FTA are freely transferable and assignable. Transfers of certificates are carried out pursuant to applicable Uniform Commercial Code provisions and in accordance with all applicable rules of any self-regulatory organization or the appropriate regulatory agency, if any. A form of assignment appears on the reverse of each certificate. This form requires that the assignor's endorsement be guaranteed by a securities dealer which is a member of any national stock exchange or by a commercial bank located or having a correspondent in New York City. This form must be completed unless the parties use another form acceptable to the FTA.

Transfers of registered ownership are made by the FTA in accordance with instructions received from a securities dealer or assignor. Improper or incomplete items will be returned to the presenter, and will not be transferred until corrected. Each certificate presented to the FTA for transfer must

be accompanied by a letter of transmittal which includes the following information on the certificate forwarded for transfer: pool number, if applicable; certificate number; original principal amount of certificate; exact spelling of name in which new certificate is to be issued; complete address and tax identification number of the new holder; name and telephone number of person handling the transfer; complete instructions for the delivery of the new certificate. Together with the request there should be sent the appropriate fees which may be charged by the FTA.

This regulation also provides procedures for dealing with the situation in which a certificate is lost, stolen, destroyed, mutilated or defaced. In such a case, the holder must provide the FTA will full identification of the certificate and the pertinent facts relating to the occurrence. Also, the FTA will provide copies of the form of bond of indemnity which must be submitted in order to protect the interest of the SBA and the FTA. The FTA may charge a fee for each replacement certificate. The owner of a lost or stolen certificate must submit an affidavit to the FTA in order to enable the FTA to stop transfer of the certificate for 60 days in order to allow the owner to obtain the required bond of idemnity.

The SBA expects that these provisions will enable the FTA to properly account for the registration functions generally and for the pooling program when it becomes effective.

SBA certifies that this rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* SBA also certifies that this procedural regulation affects only the operations of SBA's fiscal and transfer agent and therefore, relates to the management of the Agency. As such, this regulation is outside the scope of Executive Order 12291.

All of the recordkeeping requirements and most of the reporting requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act, 44 U.S.C. Chapter 35. Such requirements are identified in the text of the regulation by the appropriate OMB approval number. Section 122.605 also requires the secondary market seller to report some information to the Fiscal and Transfer Agent on SBA's behalf. Such information will be available, upon request, to subsequent purchasers fo the securities.

List of Subjects in 13 CFR Part 122

Small businesses, Trusts and trustees, Loan programs, Business.

Accordingly, pursuant to the authority contained in section 5(b)(6) of the Small Business Act, as amended (15 U.S.C. 634(b)(6)), SBA is amending Part 122, Chapter I, Title 13, Code of Federal Regulations, by adding a new subpart F to read as follows:

PART 122—[AMENDED]

. . . . .

Subpart F—Central Registration for Secondary Market

Sec.
122.601 Statutory provisions.
122.602 Definitions.
122.603 Fiscal and transfer agent.
122.604 Applicability of registration function.
122.605 Central registration.
122.606 Transferability of certificates.
122.607 Claim on account of loss theft, destruction, mutilated or defacement of certificate.

Authority: Sec. 5(b)(6) of the Small Business Act, as amended 15 U.S.C. 634(b)(6).

Subpart F—Central Registration for Secondary Market

§ 122.601 Statutory provisions.

The statutory authority for this Subpart F is section 5(h) of the Small Business Act (15 U.S.C. 634(h)).

§ 122.602 Definitions

(a) *Act* means the Small Business Act, 15 U.S.C. 631, *et seq.*

(b) *Certificate* means the document

(1) Representing a beneficial fractional interest in a pool consisting of the SBA guaranteed portions of loans or

(2) Representing the guaranteed portion of an SBA loan which is not sold into a pool.

(c) *FTA* means the SBA's fiscal and transfer agent.

(d) *Secondary Market* means the process by which the SBA guaranteed portions of loans made by lending institutions are purchased and sold.

§ 122.603 Fiscal and transfer agent.

The FTA, as authorized by law, is SBA's agent in carrying out the central registation of (a) the SBA guaranteed portions of loans sold in the secondary market and (b) certificates representing fractional interests in pools composed solely of the SBA guaranteed portions of loans. The FTA also has the responsibility for issuing, on behalf of SBA, the certificates representing such interests.

§ 122.604 Applicability of registration function.

The rules and requirements in this subpart relating to registration shall apply:

(a) Every guaranteed portion of a loan sold in the secondary market commencing with the initial sale by the lender which made the loan; and

(b) Every certificate representing a fractional or undivided interest in a pool approved by the SBA and composed solely of the SBA guaranteed portions of loans.

§ 122.605 Central registration.

The FTA shall register each guaranteed portion and each pool certificate sold pursuant to sections 5(f) and (g) of the Act. Such registration (OMB Approval No. 3245–0185) shall include, with respect to each sale, the:

(a) Identity of the lender which made the loan and which sold the loan;

(b) Interest rate paid by the borrower to the lender, and whether the rate is fixed or variable;

(c) Lender's servicing fee;

(d) Identify of the purchaser;

(e) Price paid by the purchaser;

(f) Interest rate paid on the guaranteed portion or the certificate, as applicable;

(g) Fees which the FTA is charging for these registration duties and for the issuance of certificates to facilitate pooling; and

(h) Such other information as SBA shall determine.

This information shall be available from the FTA upon request of the purchaser of a guaranteed portion or of a certificate.

§ 122.606 Transferability of certificates.

Certificates issued by the FTA shall be freely transferable. Transfers shall be carried out pursuant to and in accordance with Article 8 of the Uniform Commercial Code of the State of New York. A form of assignment on the back of each certificate shall be used to transfer the certificate, unless the parties choose to use another form acceptable to the FTA. The FTA may refuse to issue a certificate until the documents of transfer are correct and complete. Each certificate presented to the FTA for transfer must be accompanied by a letter of transmittal which shall include the following information: pool number, if applicable; certificate number; original principal amount of certificate; exact spelling of name in which new certificate is to be issued; complete address and tax identification number of the new holder; name and telephone number of person

handling the transfer; complete instructions for the delivery of the new certificate. Together with such letter there shall be sent the appropriate fee which may be charged by the FTA.

§ 122.607 Claim on account of loss, theft, destruction, mutilated or defacement of certificate.

(a) *General.* To obtain a replacement certificate on account of loss, theft, destruction, mutilation or defacement of a certificate, the holder must provide the FTA with complete identification of the certificate and the pertinent facts relating to the situation reported. In addition, the holder must file a bond of indemnity in such form and with such surety, sureties or security as may be required by the FTA to protect the interests of SBA and the FTA. Copies of the form of bond are available from the FTA. The FTA may charge a fee for each replacement certificate.

(1) *Loss or Theft.* Report of the loss or theft of a certificate must be made promptly to the FTA in the form of an affidavit of loss. Copies of the form of affidavit are available from the FTA. The report shall include:

(i) The name and address of the registered owner. If the report is made by any other person or entity, the capacity in which he/she or it represents the owner must be reported;

(ii) The identification of the certificate by pool number, if applicable; certificate number; original principal amount, and the exact form in which the certificate was registered and a full description of any assignment, endorsement or any other writing therein;

(iii) A statement of the circumstances surrounding the theft or loss.

Upon receiving notification of loss or theft, the FTA will stop transfer of the certificate for up to 60 days to allow the registered holder to obtain the required bond of indemnity and any other documentation. The FTA will extend the stop for up to an additional 60 days if subsequently requested.

(b) *Destruction, Mutilation or Defacement.* If a certificate is destroyed, or becomes so mutilated or defaced as to impair its value to the owner, a report as outlined in subsection (a)(1) of this section shall be made to the FTA. All available portions of the mutilated or defaced certificate also must be submitted. The FTA then will arrange for the preparation of a replacement certificate.

Dated: October 3, 1984.

James C. Sanders,

Administrator.

[FR Doc. 84-26795 Filed 10-10-84; 8:45 am]

BILLING CODE 8025-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. 8599]

William H. Rorer, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying Order.

SUMMARY: This Order modifies the August 21, 1967 Order issued against a pharmaceutical manufacturer, 72 F.T.C. 412, pursuant to the March 20, 1967 decision of the Court of Appeals for the Second Circuit, 374 F.2d 622 (1967). After reviewing respondent's Request and other relevant information, the Commission denied request to vacate the Order in its entirety and retained provision that prohibited the company from charging different prices for its products to competing customers. The Commission noted that the Order "in essence requires compliance with section 2(a) of the Robinson-Patman Act," and the firm had not shown that complying with an order that essentially requires adherence to the law is causing it injury. However, the Commission determined that retaining certain "fencing-in" provisions that has been in effect for 17 years "placed the firm at a disadvantage with respect to its competitors by increasing its compliance costs unnecessarily." Therefore, in accordance with its conclusions, the Commission modified the Order by deleting requirements that the company promptly inform the Commission when it charged competing retailers different prices for its products, submit to the Commission a written statement containing justification for price differences, and publicize to all its retail customers that prices to some are higher than to others, together with reasons and details of the price differences or discounts.

DATES: Cease and Desist Order issued on August 21, 1967; Modifying Order issued on September 14, 1984.

FOR FURTHER INFORMATION CONTACT: L/301-1, Elliot Feinberg, Washington, D.C. 20580, (202) 634-4604.

SUPPLEMENTARY INFORMATION: In the Matter of William H. Rorer, Inc., a corporation. Codification appearing at 32 FR 12844, remains unchanged.

List of Subjects in 16 CFR Part 13

Pharmaceutical products, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 2, 49 Stat. 1526; 15 U.S.C. 45, 13)

Before Federal Trade Commission

[Docket No. 8599]

Order Modifying Cease and Desist Order Issued August 21, 1967

Commissioners: James C. Miller III, Chairman, Michael Pertschuk; Patricia P. Bailey; George W. Douglas, Terry Calvani.

In the matter of William H. Rorer, Inc., a corporation.

On March 2, 1984, respondent William H. Rorer, Inc. ("Rorer") filed a "Request To Reopen Proceeding And Vacate Cease and Desist Order" ("Request"), pursuant to section 5(b) of the Federal Trade Commission Act, 15 U.S.C. 45(b) and § 2.51 of the Commission's Rules of Practice. The Request asked the Commission to reopen the proceeding and vacate the cease and desist order issued on August 21, 1967 ("the Order") in its entirety.

After reviewing respondent's Request and other relevant information, the Commission has concluded that respondent has not made a satisfactory showing that changed conditions of law or fact or public interest considerations require that the Order be vacated in its entirety. The Commission has found, however, that it is in the public interest to modify the Order to terminate certain of its provisions.

The Order against Rorer prohibits price discrimination in the sale of prescription and nonprescription pharmaceutical products and in essence requires compliance with section 2(a) of the Robinson-Patman Act. Additionally, the Order contains certain provisions designed to help ensure compliance with the prohibition of price discrimination. The Commission finds that the changed facts relied on by Rorer do not provide a basis for setting aside the Order. Rorer maintains that the nature of the marketplace for antacids has changed since the Order was issued. In particular, Rorer says that independent drug stores are less significant outlets for its products than they were at the time the Order issued. However, Rorer has failed to show that independent drugstores or other retailers would not suffer competitive injury from illegal price discrimination favoring their competitors. Moreover, such changes do not warrant setting aside an order that applies to all competing retailers, not merely to independent drugstores.

Indeed, the growing importance of mass marketers in the sale of covered products cited by Rorer demonstrates that it was appropriate for the Commission to issue, and for the Court of Appeals to sustain, an order applicable to all competing retailers.

Further, the Order's requirement that Rorer comply with the law in its sales of all of its "prescription and nonprescription pharmaceutical products" does not justify reopening of the Order. The fact that Rorer has introduced new products since the Order was issued and that the percentage of total Rorer sales accounted for by Maalox (the product involved in the original case) has declined are not reasons for setting aside the Order. Rorer has not shown that complying with an order that essentially requires adherence to the law is causing it injury.

Rorer also says that legal and economic thinking about the Robinson-Patman Act has changed since the Order was issued and that the level of Commission enforcement activity has declined. Request, pp. 27–29. Rorer does not contend, however, that the conduct that led to the Order would be legal today. Indeed, the Second Circuit found that the discrimination in this case, which continued for eight years, constituted a serious and extensive violation and amounted to "a classic price discrimination in favor of the chains as against individual retailers, a principal reason for and target of the Robinson-Patman Act." 374 F. 2d 622, at 625 (2d Cir. 1967).

Nor has Rorer demonstrated that there has been a change in law or policy regarding the duration of conduct orders issued by the Commission. As a general rule, the Commission has issued perpetual orders in conduct cases and the perpetual conduct order is an important element of the Commission's ability to deter law violations. The deterrent effect of law enforcement actions by the Commission could be adversely affected if the Commission were to sunset conduct orders that do no more than require compliance with the law. And in recent cases the Commission has declined to terminate conduct orders solely because of their age. *See, e.g., National Dairy Products Corp.*, 100 F.T.C. 431 (1982) (Commission declined either to rescind or terminate in five years a perpetual order issued under section 2(a) of the Clayton Act); *ABC Vending Corp.*, Docket No. 7652 (Letter from Secretary of the Commission to Arthur H. Kahn, Esquire, dated January 28, 1982, declining to set aside perpetual order provision based on section 2(f) of the Clayton Act that "merely restates the law that must be adhered to by the respondent . . . and consequently does not hinder the respondent's ability to compete"); Letter of April 11, 1984 from Secretary of the Commission to James T. Halverson, Esq. concerning the Beecham Petition (Docket Nos. 8547, C–2037, C–2266 and Docket No. 4332); *Textileather Corp.*, Docket No. 1585 (Letter of January 20, 1984 from Secretary of the Commission to Kenneth B. Peterson, Esq.).[1]

Rorer has also failed to show that it would be in the public interest to terminate the Order. Rorer's arguments that the Order prevents it from competing misconstrue the scope and meaning of the Order in two important respects. First, Rorer claims in effect that the Order bars *all* price discrimination among competing retailers that is not concurrently cost justified to the Commission. Request, p. 37. This, however, is not the case. The Order does not bar all price discrimination, although it does require certain compliance procedures regarding discriminations in price that are allegedly justified by savings in costs. Second, Rorer says that no "meeting competition" defense is included in the Order. Request, pp. 38–39. While it is true that the defense is not explicitly stated in the Order, the Supreme Court held in *FTC* v. *Ruberoid Co.*, 343 U.S. 470 (1952), that the cost justification and meeting competition defenses "are necessarily implicit in every order issued under the authority of the act just as if the order set them out *in extenso*." 343 U.S. at 476. Thus, the order does not prohibit Rorer from granting price discounts either in instances where it can cost justify those discounts or where it is meeting the lawful competition of a competitor.

However, the Commission has determined that the public interest warrants modifying the Order to terminate certain "fencing-in" provisions. These provisions require that in any instance where respondent institutes a price schedule charging a different price for its products to competing retail customers "on the basis or in the belief" that such difference in price is cost justified (1) it promptly notify the Commission of the institution of such price schedule; (2) submit to the Commission a written statement with necessary underlying data in support of the cost justification of such price discrimination; and (3) adequately and regularly publicize to all retail customers that prices to some are higher than to others, together with reasons and details of the price differences or discounts. These "fencing-in" provisions have now been in effect for almost 17 years. The Commission finds that the pattern of conduct by Rorer which led to the entry of these "fencing-in" provisions has now been interrupted for a sufficient period of time so that they are no longer necessary either to dissipate the effects of respondent's past conduct or to prevent its recurrence. Although these provisions were justified at the time the Order was issued, their continued existence puts respondent at a disadvantage with respect to its competitors by increasing its compliance costs unnecessarily.

Accordingly, it is ordered that this matter be, and it hereby is, reopened, and that the Commission's Order issued on August 21, 1967, be, and it hereby is, modified to read as follows:

It is ordered that respondent William H. Rorer, Inc., a corporation, and its officers, representatives, agents and employees, directly, indirectly, or through any corporate or other device, in or in connection with the sale of prescription and nonprescription pharmaceutical products in commerce, as "commerce" is defined in the amended Clayton Act, so forthwith cease and desist from discriminating, directly or indirectly, in the price of such products of like grade and quality by selling to some retailers at prices higher than the price charged to any other retailer who, in fact, competes in the resale and distribution of respondent's products with the retailer paying the higher prices.

By the Commission.

Issued: September 14, 1984.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 84–26815 Filed 10–10–84; 8:45 am]

BILLING CODE 6750–01–M

[1] In *Occidental Petroleum Corp.*, Docket No. C–2492, the Commission terminated a perpetual reciprocity order after the expiration of ten years. However, *Occidental* involved a broad order, issued under section 5 of the Federal Trade Commission Act, that prohibited all forms of reciprocity including practices that are today considered lawful and procompetitive. In contrast to the broad reach of section 5, the Robinson-Patman Act is far more specific in the defining prohibited forms of conduct.

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16 CFR Part 13

[Docket No. C–1010]

Armstrong Cork Co.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying Order.

SUMMARY: This Order reopens the proceeding and modifies an FTC Order issued on November 3, 1965, F.T.C. 849, which alleged that a manufacturer and a distributor of floor-covering products and its wholesalers had conspired to reduce competition by fixing resale prices and conditions of product sale to retailers and flooring contractors, and by discriminating in price between competing buyers. After considering petitions submitted by company, the supporting materials and other relevant information, the Commission concluded that hardships to the company and the public outweighed any benefit derived from the prohibition against imposing "terms or conditions" on resale of products, and deleted the language "terms or conditions" from paragraphs 1, 2, and 4 of Part I of the Order. The Commission also deleted the word "rebates" from paragraph 2 after finding that such modification would also be in the public interest since it would permit the company to funnel "direct-to-consumer" rebates through its wholesalers and retailers. However, the Commission declined to set aside or modify other parts of the Order as requested, holding that the firm had failed to demonstrate any change of law, fact, or public interest consideration that would justify further modification.

DATES: Consent Order issued on November 3, 1965. Modifying Order issued on September 10, 1984.

FOR FURTHER INFORMATION CONTACT: L/301–1, Elliot Feinberg, Washington, D.C. 20580, (202) 634, 4604.

SUPPLEMENTARY INFORMATION: In the matter of Armstrong Cork Company, a corporation. Codification appearing at 31 FR 343, remains unchanged.

List of Subjects in 16 CFR Part 13

Floor covering, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; Sec. 2, 49 Stat. 1526; 15 U.S.C. 45, 13)

Before Federal Trade Commission

[Docket No. C–1010]

Order Reopening and Modifying Final Order

Commissioners: James C. Miller III, Chairman, Michael Pertschuk, Patricia P. Bailey, George W. Douglas, Terry Calvani.

In the matter of Armstrong Cork Co., a corporation.

By petition of October 21, 1983, as supplemented and refiled on February 28, 1984, Armstrong World Industries, Inc. (formerly Armstrong Cork Company and hereinafter "Armstrong") asked the Commission to reopen and modify the Commission order issued against Armstrong on November 3, 1965. Armstrong requested that the Commission (1) modify Part I of the order by (a) deleting provisions prohibiting certain non-price vertical restraints; and (b) limiting the geographic scope of the resale price maintenance prohibitions; (2) set aside Parts II and III of the order; (3) set aside or modify Part IV of the order; and (4) substitute "Armstrong World Industries, Inc." for "Armstrong Cork Company" as the respondent to the order. Armstrong's October 21, 1983 and February 28, 1984 submissions were placed on the public record and no comments were received.

Upon consideration of Armstrong's petition and supporting materials, and other relevant information, the Commission finds that a modification of the order to delete the words "terms or conditions" from paragraphs 1, 2, and 4 of Part I is in the public interest. Armstrong has sufficiently demonstrated that the prohibition against Armstrong's imposing any terms or conditions on the resale of its products by Armstrong's customers has caused hardships to Armstrong and the public that outweigh any benefits that may be derived from the prohibition. The "terms or conditions" language of the order, which was intended to reach only price terms not non-price restraints, was overly broad in this case. Thus, modification of the order to delete the words "terms or conditions" is both in the public interest and consistent with the treatment of non-price vertical restraints in *Continental T.V. Inc. v. GTE-Sylvania, Inc.*, 433 U.S. 36 (1977).

The Commission also finds that deletion of the term "rebates" from paragraph 2 of Part I of the order is in the public interest. Armstrong states that it views the presence of the term "rebates" in that paragraph as prohibiting it from funnelling "direct-to-consumer" rebates through wholesalers and retailers. Armstrong has demonstrated that permitting it to offer rebates in this manner will benefit both Armstrong and consumers. And, permitting Armstrong to funnel "direct-to-consumer" rebated through wholesalers and retailers should not affect the wholesalers' and retailers' ability to independently determine the resale price of the product. Moreover, if Armstrong should use the rebates to engage in resale price maintenance, it would violate the order provisions prohibiting resale price fixing. Thus, because deleting "rebates" from paragraph 2 of Part I of the order should benefit both Armstrong and consumers without permitting resale price maintenance, granting Armstrong's requested modification is in the public interest.

However, the Commission has denied Armstrong's request to set aside paragraph 3 of Part I of the order. That paragraph is an integral part of the order's prohibition of resale price maintenance and Armstrong has demonstrated no change of law or fact or public interest considerations sufficient to require setting it aside.

The Commission has also declined to set aside paragraph 5 of Part I of the order. That paragraph does not require Armstrong to incur the costs it states it has incurred in fashioning a program to comply with the order. Nor does the order prohibit wholesalers from supplying inventory information in the least costly fashion possible. Rather the order simply prohibits Armstrong from *requiring* or *requesting* purchasers of its products to supply Armstrong with information concerning the resale prices charged by these purchasers. On the other hand, permitting Armstrong to request or require its purchasers of Armstrong's products to provide reports showing the prices at which they resell these products could affect its purchasers' pricing practices because they could view such reports as a means of monitoring their pricing. Thus, the benefits of this provision outweigh its *de minimis* costs, particularly when the order does not *require* either Armstrong or its customers to incur such costs.

Additionally, the Commission has refused Armstrong's request to limit the geographic scope of the order's resale price maintenance provisions to "within the United States." The Foreign Trade Antitrust Improvements Act of 1982, which clarified the extraterritorial application of domestic antitrust laws and the Federal Trade Commission Act, substantially addressed the concerns expressed by Armstrong in its petition. Moreover, Armstrong has failed to demonstrate any need to impose a limitation on the extraterritorial application of the order beyond that provided by statute.

The Commission also has found it unnecessary to set aside Parts II and III of the order. By their terms these provisions impose no prospective obligations on Armstrong.

Armstrong also asked the Commission to set aside or modify Part IV of the order, but the Commission has declined to do so because Armstrong has not demonstrated a change of law or fact or public interest considerations sufficient to require setting aside or modifying that Part. Part IV of the order only requires

that Armstrong treat competing customers equally or be able to justify any differences in treatment by means of one of the statutory defenses or the defense applicable to sales to the United States government. *See Federal Trade Commission v. Ruberoid Co.*, 343 U.S. 470(1952). Thus, the Commission sees no need to set aside or limit the term of Part IV. Moreover, if Armstrong is uncertain whether a proposed course of conduct would violate Part IV of the order, Armstrong may ask the Commission for an advisory opinion under § 2.41 of the Commission's Rules, 16 CFR 2.41 (1984).

Finally, Armstrong asked that the order be modified to substitute "Armstrong World Industries, Inc." for "Armstrong Cork Company" as the respondent to the order. The Commission finds that this modification is unnecessary because the order expressly binds the successors and assigns of Armstrong Cork Company and Armstrong's request therefore is denied.

Accordingly, it is ordered that this matter be reopened and that paragraphs 1, 2, and 4 of Part I of the order in Docket No. C–1010 be modified, as of the date of service this order. Those paragraphs will now provide:

1. Engaging in, participating in, continuing, carrying out or enforcing any contract, agreement, arrangement or understanding, with any wholesalers, distributors, or other purchasers of Armstrong floor covering products, which directly or indirectly establishes, maintains or fixes prices of resale of such products by such wholesalers, distributors, or other purchasers.

2. Enforcing, or attempting to enforce the price or prices or suggested prices or discounts for the resale of Armstrong floor covering products.

4. Circulating to or exchanging with any wholesaler or distributor or other purchaser, any circulars, price lists, suggested price lists, policy letters or other information, the effect of which is to create a contract, agreement, arrangement, or understanding which fixes or establishes a price or prices at or upon which any Armstrong floor covering products shall be resold.

By direction of the Commission.

Issued: September 10, 1984.

Emily H. Rock,

Secretary.

[FR Doc. 84-26808 Filed 10-10-84; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Melengestrol Acetate with Monesin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of two new animal drug applications (NADA's) filed by The Upjohn Co. The NADA's provide for combination of melengestrol acetate (MGA) and monensin feeds for increased rate of weight gain, improved feed efficiency, and suppression of estrus in heifers being fed in confinement for slaughter.

EFFECTIVE DATE: October 11, 1984.

FOR FURTHER INFORMATION CONTACT: Jack C. Taylor, Center for Veterinary Medicine (HFV–126), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5247.

SUPPLEMENTARY INFORMATION: The Upjohn Co., Kalamazoo, MI 49001, filed NADA 124–309 which provides for use of a dry supplement containing 0.125 to 0.8 milligram per pound melengestrol acetate and NADA 125–476 for a liquid supplement containing 0.125 to 0.8 milligram per pound melengestrol acetate, in combination with a supplement containing 50 to 1200 grams per ton monensin or a complete feed containing 5 to 30 grams per ton monensin. MGA 100 and MGA 200 premixes (NADA 124–309) and MGA 500 premixes (NADA 125–476) may be used to make the 0.125- to 0.8-milligram-per-pound MGA supplements. The complete feeds are consumed at a rate of 0.25 to 0.4 milligram (mg) MGA and 50 to 360 mg monensin per head per day for increased rate of weight gain, improved feed efficiency, and suppression of estrus and heifers fed in confinement for slaughter. The NADA's are approved and the regulations are amended to reflect the approval. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR Part 514.11(e)(2)(ii)), and summary of safety and effectiveness data and information submitted to support approval of these applications may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Center for Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(ii) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.83), Part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. In § 558.342 by revising paragraph (e), to read as follows:

§ 558.342 Melengestrol acetate.

* * * * *

(e) *Conditions of use.* It is used in or on finished feed for heifers as follows:

(1) *Amount.* Melengestrol acetate, 0.25 to 0.50 milligram per head per day.

(i) *Indications for use.* For increased rate of weight gain, improved feed efficiency, and suppression of estrus (heat).

(ii) *Limitations.* Heifers being fed in confinement for slaughter; administer in feed supplement; withdraw 48 hours prior to slaughter.

(2) *Amount.* Melengestrol acetate, 0.25 to 0.40 milligram per head per day, plus monensin, 5 to 30 grams per ton, see § 558.355(f)(3)(iv).

2. In § 558.355 by adding new paragraph (f)(3)(iv) to read as follows:

§ 558.355 Monensin.

* * * * * *

(f) * * *

(3) * * *

(iv) *Amount.* Monensin, 5 to 30 grams per ton, plus melengestrol acetate, 0.25 to 0.40 milligram per head per day.

(*a*) *Indications for use.* For increased rate of weight gain, improved feed efficiency, and suppression of estrus (heat).

(*b*) *Limitations.* Heifers being fed in confinement for slaughter. Administer melengestrol acetate from a separate supplement containing 0.125 to 0.8 milligram per pound to complete feeds

containing monensin at 5 to 30 grams per ton of feed or with monensin supplements containing 50 to 1,200 grams per ton. Administer monensin in accordance with paragraph (f)(3)(i)(*b*) of this section. Withdraw melengestrol acetate 48 hours prior to slaughter.

* * * * *

Effective date. October 11, 1984.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: October 1, 1984.

Lester M. Crawford,

Director, Center for Veterinary Medicine.

[FR Doc. 84-25533 Filed 10-10-84; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 25

[T.D. 7978]

Transitional Rule for Increased Annual Gift Tax Exclusion and Unlimited Exclusion for Certain Transfers

Correction

In FR Doc. 84-25984 beginning on page 38540 in the issue of Monday, October 1, 1984, make the following correction:

§ 25.2503-6 [Corrected]

On page 38542, § 25.2503-6(b), first column, the eleventh line should have been designated as "(3)".

BILLING CODE 1505-01-M

DEPARTMENT OF JUSTICE

28 CFR Part 0

[Order No. 1069-84]

Delegation of Authority Under the Airport and Airway Improvement Act of 1982

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: The approval of the Attorney General is necessary for the performance of any acts and the execution of any instruments necessary to make conveyances under the provisions of Section 516(b) of the Airport and Airway Improvement Act of 1982 (96 Stat. 671, 692). This order delegates the Attorney General's authority under Section 516(b) to the Assistant Attorney General in charge of the Land and Natural Resources Division. This order will facilitate internal management.

EFFECTIVE DATE: June 7, 1984.

FOR FURTHER INFORMATION CONTACT: William J. Kollins, Chief, Land Acquisition Section, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, (202) 724-6883.

SUPPLEMENTARY INFORMATION: This order pertains to internal agency management and is being published in order to provide the public with accurate information on who will make the decisions under this statute. It is not a rule within the meaning of either the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., or Executive Order No. 12291 ("Federal Regulation").

List of Subjects in 28 CFR Part 0

Authority delegations (Government agencies), Organization and functions (Government agencies).

PART 0—[AMENDED]

For the reasons set out in the preamble, Part 0, Subchapter M of Chapter I of Title 28, Code of Federal Regulations, is amended as follows:

1. The authority citation for Part 0 reads as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510, unless otherwise noted.

2. A new § 0.69b is added to read as follows:

§ 0.69b Delegation of Authority Respecting Conveyances for Public Airports.

The Assistant Attorney General in charge of the Land and Natural Resources Division, and such members of his staff as he may specifically designate in writing, are authorized to exercise the power and authority vested in the Attorney General of section 516(b) of The Airport and Airway Improvement Act of 1982 (96 Stat. 671, 692) with respect to approving the performance of acts and execution of instruments necessary to make the conveyance requested in carrying out the purposes of that section, except those acts and instruments which in the opinion of the Assistant Attorney General, involve questions of policy or for any other reason require the personal attention of the Attorney General.

Dated: October 1, 1984.

William French Smith,

Attorney General.

[FR Doc. 84-26798 Filed 10-10-84; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Part 330

Final Regulations for Controlling Certain Activities in Waters of the United States

Correction

In FR Doc. 84-26554 beginning on page 39478 in the issue of Friday, October 5, 1984, make the following corrections on page 39484:

§ 330.5 [Corrected]

1. In the second column, in § 330.5, the paragraph designation "(c)" should be inserted before the heading *"Grandfathering"* in the ninth line of the column.

2. In the same section, in the same column, in paragraph (c)(2), in the first line, "Permitting" should read "Permittees".

3. In the same column, in paragraphs (c)(2) and (c)(3), the phrase "on or before October 5, 1984" should have read "within 60 days of the effective date of this regulation" in both places it appears.

BILLING CODE 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-8-FRL-2691-2]

Approval and Promulgation of State Implementation Plans; Wyoming

AGENCY: Environmental Protection Agency.

ACTION: Final Rulemaking.

SUMMARY: This notice approves a minor revision to the air pollution control requirements of the Wyoming State Implementation Plan (SIP) which was submitted by the State on August 30, 1984. This revision involves a requirement for significant new sources of lead to meet the ambient air quality standard for lead and satisfies all the requirements for a lead plan.

DATES: This action will be effective on December 10, 1984 unless notice is received by November 13, 1984 that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of the revision are available for public inspection between 8:00 a.m. and 4:00 p.m. Monday through Friday at the following offices:

Environmental Protection Agency,
Region VIII, Air Programs Branch,

1860 Lincoln Street, Denver, Colorado 80295

Environmental Protection Agency, Public Information Reference Unit, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460

The Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20408.

FOR FURTHER INFORMATION CONTACT: Michael Owens, Air Programs Branch, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295, (303) 844-6131.

SUPPLEMENTARY INFORMATION: On August 30, 1984, the State of Wyoming submitted a SIP revision that involves a requirement for significant new sources of lead to meet the ambient air quality standard for lead prior to receiving a construction permit.

The main change in the Wyoming air quality regulations insures that all new sources that emit lead will be required to predict the maximum air quality impact and if necessary control the emissions to insure the lead standard will not be violated. This new regulation, in combination with the lead monitoring data showing no violations of the standard, and the State's certification that no major lead sources exist or are planned to be built in Wyoming, fulfills the requirements of a lead SIP.

The public is advised that this action will be effective December 10, 1984. However, if we receive written notice by November 13, 1984 that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw this final action and another will begin a new rulemaking by announcing a proposal of this action and establishing a comment period.

Under 5 U.S.C. 605(b), I certify that SIP approvals do not have a significant economic impact on a substantial number of small entities (46 FR 8709).

Under section 307(1) of the Clean Air Act, petitions for review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 10, 1984. This action may not be challenged later in proceedings to enforce its requirements (See 307(b)(2)).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

This rulemaking is issued under the authority of section 110 of the Clean Air Act (42 U.S.C. 7410).

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Dated: October 3, 1984.

William D. Ruckelshaus,

Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the State of Wyoming was approved by the Director of the Federal Register on July 1, 1982.

PART 52—[AMENDED]

Title 40 Part 52 of the Code of Federal Regulation is amended as follows:

Subpart ZZ—Wyoming

1. In Section 52.2620 paragraph (c)(15) is added as follows:

§ 52.2620 Identification of plan.

* * * * *

(c) * * *

(15) On August 30, 1984, the State of Wyoming submitted a plan revision for lead.

[FR Doc. 84-26810 Filed 10-10-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 150

Public Safety Awards to Public Safety Officers

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This rule supplants an existing rule on awards to public safety officers to reflect organizational changes resulting from the establishment of the Federal Emergency Management Agency and recent amendments to the Federal Fire Prevention and Control Act. The rule describes the nomination criteria and the selection process for public safety awards made by the President and by the Director of the Federal Emergency Management Agency and the Attorney General.

EFFECTIVE DATE: November 13, 1984.

FOR FURTHER INFORMATION CONTACT: Richard S. Buck (202) 287-0385, Office of General Counsel, Federal Emergency Management Agency.

SUPPLEMENTARY INFORMATION: Section 15 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2214) (the Act or the Fire Act) establishes two classes of honorary awards for the recognition of outstanding and distinguished service by public safety officers. Public safety officers are firefighters, law enforcement officers and civil defense officers. These include awards presented by the President for Outstanding Public Safety Service and awards presented either by the Director, FEMA, or the Attorney General for Distinguished Public Safety Service (referred to in the Act as the Secretary's Award).

Since adoption of the Act, there have been a number of organizational changes primarily resulting from the establishment of the Federal Emergency Management Agency (FEMA), to whom functions under the Federal Fire Prevention and Control Act and the Federal Civil Defense Act have been transferred or delegated. Further, the Fire Act has been amended to delete the Secretary of Defense from having responsibilities under section 15 and the public safety officer awards program. This requires the revision of a regulation previously issued by the Secretary of Commerce (who was responsible for firefighting awards) with the concurrence of the Secretary of Defense and the Attorney General (who were responsible for civil defense and law enforcement awards). Now the firefighting and civil defense functions are vested in or delegated to the Director, FEMA. The Fire Act directs the issuance of joint regulations. Although the Attorney General had not reviewed or concurred in the proposed rule previously put out for comment, the Attorney General has concurred in the joint issuance of these regulations. No comments were received following publication of the proposed rule on March 12, 1984 (49 FR 9239 *et seq.*).

These regulation changes are basically procedural and organizational, being caused by organizational realignments which do not actually affect the nomination process. This regulation is procedural and is not subject to requirements for environmental assessments contained in 44 CFR Part 10. It is not a major Federal action significantly affecting the quality of the human environment. Therefore, no environmental impact analyses have been made. This rule is not a major rule within the meaning of the term in section 1(b), Executive Order 12291, nor, since it involves awards to a limited number of individuals, is it a rule which has a significant economic impact on a substantial number of small entities. Hence, no regulatory analyses have been prepared.

List of Subjects in 44 CFR Part 150

Civil defense, Decorations, Medals and awards, Firefighters, Law enforcement officers.

Accordingly, Part 150 of Title 44, Code of Federal Regulations is revised to read as follows:

PART 150—PUBLIC SAFETY AWARDS TO PUBLIC SAFETY OFFICERS

Sec.

150.1 Background and purpose.
150.2 Definitions.
150.3 Nomination process.
150.4 Nomination and selection criteria.
150.5 Joint Public Safety Awards Board.
150.6 Design and procurement of awards.
150.7 Selection process.
150.8 Presentation of awards.
150.9 Funding.
150.10 Date of submission of nominations.

Authority: Federal Fire Prevention and Control Act of 1974, sec. 15, 15 U.S.C. 2214; Reorg. Plan No. 3 of 1978, 3 CFR 1978 Compilation p. 329 and Executive Order 12127, dated March 31, 1979 3 CFR 1979 Compilation p. 376.

§ 150.1 Background and purpose.

The regulations in this part are issued under the authority of the Federal Fire Prevention and Control Act of 1974 (the Act), 15 U.S.C. 2201 *et seq.* The Act establishes two classes of honorary awards for public safety officers and directs the issuance of the necessary joint regulations by the Director of the Federal Emergency Management Agency (FEMA) and the Attorney General. The functions of the Secretary of Commerce were transferred by Reorganization Plan No. 3 of 1978 to the Director, FEMA. Since initial passage of the Act, civil defense functions which then were delegated to the Secretary of Defense have been delegated to the Director, FEMA. Section 15 of the Act has been amended to delete the Secretary of Defense from participating in the granting of awards. *See* Pub. L. No. 98–241, 98 Stat. 95, 96 (1984). The Director, FEMA, and the Attorney General are issuing this regulation to implement the statutory provisions for FEMA and the Department of Justice.

§ 150.2 Definitions.

"Civil defense officer" (or member of a recognized civil defense or emergency preparedness organization) means any individual who is assigned to and is performing the assigned tasks of the unit or organization which has been given a mission under the direction or operational control of a Civil Defense or Emergency Preparedness Director/Coordinator in accordance with a Federal, State or local emergency plan and sanctioned by the government concerned. This also includes emergency management officers. This includes volunteers and paid employees for any governmental entity.

"Distinguished Public Safety Service Award" means the "Secretary's Award for Distinguished Public Safety Service," presented by either the Attorney General or the Director of FEMA to public safety officers for distinguished service in the field of public safety.

"FEMA" means the Federal Emergency Management Agency.

"Firefighter" means a member, regardless of rank or duties, of any organization (including such Federal organizations) in any State consisting of personnel, apparatus, and equipment which has as its purpose protecting property and maintaining the safety and welfare of the public from the dangers of fire. This term includes volunteer or paid employees. The location of any such organization may include, but is not limited to, a Federal installation, a State, city, town, borough, parish, county, fire district, rural fire district or other special district.

"Joint Board" means the Joint Public Safety Awards Board established by the Director of the Federal Emergency Management Agency and the Attorney General to carry out the purposes of the Federal Fire Prevention and Control Act of 1974.

"Law enforcement officer" means a person involved in the control or reduction of crime and juvenile delinquency or enforcement of the criminal laws. This includes, but is not limited to, police, corrections, probation, parole, and court officers, and Federal civilian officers in such capacities.

"Nominating official" means the head of a Federal government department or agency, or his delegatee(s), the governor or other head of a State, or the chief executive or executives of any general governmental unit within any State.

"President's Award" means the President's Award for Outstanding Public Safety Service, presented by the President of the United States to public safety officers for extraordinary valor in the line of duty or for outstanding contributions to public safety.

"Public safety officer" means a person serving a public agency, with or without compensation, as a firefighter, a civil defense officer (or member of a recognized civil defense or emergency preparedness organization), or a law enforcement officer, including a corrections or court officer.

"State" means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands and any other territory or possession of the United States.

§ 150.3 Nomination process.

(a) The Nominating Officials nominating Firefighters and Civil Defense Officers shall submit their nominations for the President's Award or Distinguished Public Safety Service Award to the Executive Secretary, Joint Public Safety Awards Board, National Emergency Training Center, Emmitsburg, MD 21727. Copies of all nominations shall also be forwarded, depending on the category of the nominee, as follows:

(1) Firefighter: FEMA, Attention: Superintendent, National Fire Academy, Emmitsburg, MD 21727.

(2) Civil defense officer (or member of a recognized civil defense or emergency preparedness organization): FEMA, Attention: Superintendent, Emergency Management Institute, Emmitsburg, MD 21727.

(b) The Nominating Officials nominating law enforcement, corrections or court officers shall submit their nominations for the President's Award or Distinguished Public Safety Service Awards to: Assistant Attorney General for Administration, U.S. Department of Justice, Washington, D.C. 20530.

(c) All nominations shall be submitted in writing in accordance with the requirements prescribed in this section and § 150.4 at the earliest practicable date after the performance of the act or acts for which the nomination is made. Nominations for each year shall be made before November 15; any received thereafter will be considered as having been made for the following year. However, for the year 1983, nominations may be made by November 15, 1984.

(d) Nominations for the President's Award or the Distinguished Public Safety Service Award should include the name of the candidate, his/her position, title and address, and public agency served, the locale where the candidate performs his/her duties, the name, address and telephone number of the nominating official, a summary describing the outstanding contribution, distinguished service or extraordinary valor, and the dates relating thereto. The description should be sufficiently concise and specific to justify the request for recognition of the public safety officer through the presentation of either of the awards. Copies of any published factual accounts of the nominee's accomplishment should also be attached when available.

(e) An annual invitation shall be issued by the Joint Board for nominations for the President's Award and, on behalf of the Attorney General and the Director of FEMA, for the

Distinguished Public Safety Service Award. The invitation shall be issued by letter or by notice in apporpriate publications of interest to the public safety community. However, nominating officials need not wait for such invitation but may nominate at the most appropriate time in accordance with the other provisions of this part. Approved by the Office of Management and Budget under Control No. 3067–0150.

§ 150.4 Nomination and selection criteria.

(a) Nominations for the President's Award of the Distinguished Public Safety Service Award shall be made on the basis of, and in conformity with, the following uniform criteria.

(1) *President's Award.* Documentation accompanying the nomination for this Award must indicate not only that the nominee unquestionably meets the standards established for the Distinguished Public Safety Service Award (see paragraph (a)(2) of this section), but also deserves greater public recognition because he/she has demonstrated unique qualities of courage, imagination or ability, which have resulted in outstanding contributions to the public safety.

(2) *Distinguished Public Safety Service Award.* Nomination for this award shall clearly show that the public safety officer's qualifying service or act is marked by courage, imagination or ability or has resulted in a significant contribution to the public safety accomplished through an originality of effort which far exceeds the expected quality of performance of the normal duties assigned to the nominee.

(b) A nomination shall specify whether it is being submitted for the President's Award or the Distinguished Public Safety Award.

§ 150.5 Joint Public Safety Awards Board.

(a) A Joint Public Safety Awards Board (Joint Board) is hereby established to fulfill the responsibilities of the Director of FEMA and the Attorney General by administering the process of nomination for the President's Award and by participating in the selection process with the Executive Office of the President. The Joint Board shall consist of ten representatives who are Federal employees and are of appropriate rank (at or equivalent to grades GM–14 or above). Five persons shall be named by and represent the Director of FEMA, and five persons shall be named by and represent the Attorney General. The representatives serving on the Joint Board shall select one of their number to act as the chairperson.

(b) Representatives on the Joint Board shall serve in addition to their regular duties and without additional compensation. Consistent with the requirements of this part, the members of the Joint Board shall establish the procedures by which the selections for the President's Award shall be made to assure the timely presentation of these awards.

(c) A National Emergency Training Center employee shall act as Executive Secretary of the Joint Board. The Executive Secretary shall perform such functions as are appropriate to the Board's responsibilities, including the receipt of all nominations and the communication of nomination information, for the purpose of receiving comments thereon, from members of the public safety community pursuant to § 150.5(e). The Executive Secretary shall be appointed by the Associate Director, Training and Fire Programs of FEMA.

(d) The Joint Board shall review the nomimations for the President's Award and shall recommend to the Director, FEMA, and the Attorney General by February 1 of each year, those nominees determined by it to merit consideration for the President's Award together with reasons therefor. The Director and the Attorney General shall then recommend to the President those nominees determined by them to merit the President's Award, together with the reasons therefor. Recommendations for 1983 shall be submitted on or before December 14, 1984.

(e) The Joint Board may request that persons representing a cross-section of the national public safety community comment upon nominations made to the Board for the President's Award. Both the request for comments and the comments themselves shall be made in writing.

§ 150.6 Design and procurement of awards.

(a) The Joint Board shall consult with the Department of the Treasury and the Executive Office of the President in regard to the design and procurement of the appropriate citations and medal for the President's Award in accordance with applicable laws and regulations.

(b) Insofar as practicable, the designs for Distinguised Public Safety Service Awards of FEMA and the Department of Justice shall be coordinate so as to avoid distinctly different recognition of the various public safety officers.

§ 150.7 Selection process.

(a) President's Award. Nominations for the President's Award shall be reviewed, and winners selected by the President (or his designee) in accordance with the reqirements of § 150.3, the criteria in § 150.4(a)(1), and the procedures of § 150.5.

(b) Distinguished Public Safety Service Award. Upon receipt of nominations for this Award, the Director of FEMA or the Attorney General shall cause an evaluation and selection of the nominees to be made in accordance with the requirements of § 150.3 and the criteria prescribed in § 150.4(a)(2). In reviewing nominations, the Attorney General or the Director of FEMA may request that persons representing the relevant segment of the national public safety community comment upon the nomination and accompanying documentation. Both the request for comments and the comments themselves shall be made in writing.

(c) Individuals nominated for the President's Award who are considered not to meet the criteria for the Award by the Joint Board or who are not recommended to or selected by the President shall be automatically considered by the appropriate authority for nomination for the Distinguished Public Safety Service Award.

(d) Individuals nominated for the Distinguished Public Safety Service Award may be considered by the Joint Board for the President's Award if the Director of FEMA or the Attorney General determines that consideration for the President's Award is merited.

§ 150.8 Presentation of awards.

(a) Presentation of the President's Award shall be made at such time, place and circumstances as the Executive Office of the President directs. There shall not be more twelve President's Awards given out during any calendar year.

(b) Presentation of the Distinguished Public Safety Service Award shall be made by the Attorney General or the Director of FEMA or a designee at such time, place and circumstances as the Director of FEMA or the Attorney General determines. There is no limit on the number of these awards made during any calendar year.

§ 150.9 Funding.

(a) *President's Award.* The costs involved in designing and striking the medal to be presented in conjunction with the President's Award shall be prorated among the agencies concerned. The cost of producing the medal and printing the certificate shall be borne by FEMA if the recipient is a firefighter or a civil defense officer. If the award recipient is a law enforcement officer, then such cost shall be borne by the Department of Justice.

(b) Distinguished Public Safety Service Award. All expenses in connection with this Award shall be borne by the appropriate Agency.

§ 150.10 Date of submission of nominations.

Nominations may only be submitted for acts, services, or contributions occurring within two years preceding the November 15 cutoff date described in § 150.3(b), above. However, for nominations submitted in 1984 prior to the cutoff date, nominations may be made for acts, services or contributions occurring on or after October 29, 1972 (two years before the effective date of the Act).

Dated: October 2, 1984.

William French Smith,

Attorney General.

Dated: October 3, 1984.

Louis O. Giuffrida,

Director.

[FR Doc. 84-26794 Filed 10-10-84; 8:45 am]

BILLING CODE 6718-01-M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 381

Cargo Preference; U.S. Flag Vessels

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Final rule.

SUMMARY: The Maritime Administration (MARAD) is issuing this final rule setting forth procedures governing the evaluation by U.S. departments or agencies ("the agencies") of bids from subsidized U.S.-flag bulk vessel operators for the carriage of dry bulk preference cargoes. The procedures require that operating differential subsidies (ODS) received by operators of vessels carrying dry bulk preference cargoes be considered a cost to the government for the carriage of such cargoes and be considered in the calculation of fair and reasonable rates for such carriage. MARAD's intent in establishing these regulations is to ensure equitable competition between subsidized and unsubsidized operators of dry bulk preference cargoes and the carriage of these cargoes at the lowest direct cost per ton to the government.

DATE: This rule is effective October 11, 1984.

FOR FURTHER INFORMATION CONTACT: Frederick R. Larson, Director, Office of Ship Operating Costs, Maritime Administration, Washington, D.C. 20590, Telephone: (202) 382-6036.

SUPPLEMENTARY INFORMATION:

a. Background

On January 19, 1984, MARAD issued an interim final rule and request for public comments concerning procedures governing the evaluation by Federal agencies of bids from subsidized U.S.-flag bulk vessel operators for the carriage of dry bulk preference cargoes. In particular, the public was requested to comment on the issue of whether MARAD should require an agency to consider the total cost to the government when bids are evaluated for the carriage of dry bulk preference cargoes by subsidized and unsubsidized bulk vessel operators.

Extensive information concerning the background of this rulemaking is to be found in the preamble to the interim final rule published in the **Federal Register** on January 24, 1984 (49 FR 2897), and in *Aeron Marine Shipping Co., et al., Final Opinion and Order, Docket No. A-132 (MSB,* December 22, 1983) and the *Tentative Order on Remand* of the same case (MSB, August 25, 1983), all of which are available from MARAD upon request. In the interest of brevity, this information is not repeated here.

On June 6, 1984, the United States District Court for the District of Columbia in *American Maritime Association* v. *United States of America,* C.A. No. 84-249, an action challenging, *inter alia,* the validity of the interim final rule, issued an order declaring that the Final Order and the interim final rule "were premised upon the incorrect assumption that the District Court opinion in *Aeron Marine Shipping Co.* v. *United States,* 525 F. Supp. 527 (D.D.C. 1981) and the Court of Appeals decision . . . [in that case] precluded [MARAD] from reopening the finding of inadequacy of service in the foreign preference cargo trades, pursuant to section 605(c) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1176) . . ."

Accordingly, the court vacated "so much of the Final Order and the interim final rule that concludes that MARAD has no authority to reopen its prior section 605(c) finding and remanded the matter for consideration of whether Congress intended a section 605(c) finding to be final or subject to subsequent modification. The court also ordered that the defendant's subsidized vessels remain eligible in the cargo preference trade under the conditions prescribed in the interim final rule, unless and until MARAD issues a new and properly promulgated rule superseding the interim final rule. Consistent with the court's order, the defendant's subsidized companies will remain eligible to carry cargo preference under this final rule, at least until MARAD resolves the remanded issue. The court issued no stay on the promulgation on this final rule.

The issue of whether Congress intended a section 605(c) finding to be subject to subsequent modification is separate from the issues addressed in the interim final rule. The section 605(c) issue addresses only the questions of whether existing U.S. flag service in the relevant trade is inadequate and whether in the accomplishment of the purposes and policy of the Act additional vessels should be operated in the trade. On the other hand, the final rule addresses only procedures for evaluating the competing bids of subsidized and unsubsidized vessel operators. The procedures of the rule will apply to any subsidized vessel operators admitted to the dry bulk cargo preference trade and are not limited in their application to any particular vessels. Thus, the final rule may be promulgated without there being a resolution of the section 605(c) remand issue. MARAD is currently in the process of resolving the section 605(c) issue in another proceeding.

b. The Interim Final Rule

The interim final rule provided a five-step procedure for determining which U.S.-flag bidder should be selected to carry dry bulk preference cargo whenever a subsidized operator is the apparent low responsive bidder for the contract.

Under the interim rule, the agency first requests from MARAD a figure for the ODS to be paid for the proposed voyage for each of the subsidized operators who bid for the contract. Second, the agency adds this ODS figure to the initial bid of each of the subsidized operators, resulting in an "augmented bid." Third, the agency compares the augmented bids for the subsidized operators to the initial bids of the unsubsidized operators. Fourth, the agency selects an operator based on the lowest responsive bid, whether that low bid is an augmented bid of a subsidized operator for the bid of an unsubsidized operator. Fifth, the agency requests from MARAD a "fair and reasonable" guideline rate for the low bidder, and compares the rate to the unaugmented bid of the subsidized carrier or the bid of the unsubsidized carrier, as the case may be. The bidder selected is the lowest bidder whose bid is equal to or less than the guideline rate.

c. Comments on the Interim Final Rule

Seven comments were received on the rule. One commenter alleged that the interim final rule is arbitrary and capricious because it is (1) based upon an invalid assumption; (2) contrary to the decision in *Aeron Marine Shipping Co. v. United States*, 695 F.2d 567, (D.C. Cir. 1982), and the purposes and policy of the Merchant Marine Act, 1936, as amended (the Act); (3) in conflict with the Final Opinion and Order in MARAD's Docket No. A-132; and (4) in conflict with certain regulations of the United States Department of Agriculture (USDA). These objections are discussed in sequence below.

The commenter argued that the rule was based on the invalid assumption that the subsidized operator would not receive ODS if its bids were unsuccessful, thereby saving the government the ODS amount. The commenter stated that ODS cannot be considered a cost of carrying the preference cargo, because ODS would be paid to the subsidized operator whether preference cargo or commercial cargo were carried.

Contrary to that commenter's assertion, the rule was not based on the alleged assumption. The purpose of this rule is to ensure equitable competition between subsidized and unsubsidized carriage of dry bulk preference cargoes and to enable the government to obtain the carriage of such preference cargoes at the lowest cost per ton. The rule is not intended to achieve a reduction in the overall ODS budget. ODS is intended to provide support of U.S.-flag vessels in the foreign commerce of the United States in accordance with the Act and ODS agreements covering bulk cargo vessels. The fact that ODS would be paid to a subsidized operator if that operator were otherwise in the non-preference cargo trade is in accordance with the legitimate purposes of the ODS program and has no bearing on the purposes of this rule.

The commenter next agrued that the interim final rule is contrary to the Court of Appeal's decision in *Aeron Marine Shipping, supra*, and the intent of Congress in amending the Act in 1970. According to this commenter, Congress intended subsidized operators to have the advantage of ODS to allow them to carry preference cargoes at rates much lower than the premium rates of unsubsidized operators. This commenter argues that the interim rule treats subsidized vessels as unsubsidized vessels and would perpetuate the premium rates Congress sought to eliminate. In this same vein, albeit from an opposite perspective, another commenter argued that Congress intended "fair and reasonable rates" for subsidized operators in the dry bulk preference trades to be set at world rates or rates approaching world rates, and argued that compensation for subsidized vessels should not include a profit. This commenter objected that the interim rule would permit subsidized operators to set their rates too close to premium rates. MARAD believes that both commenters have misstated the intent of Congress in this respect.

As discussed previously in the recent Tentative and Final Orders, the Court of Appeals held that Congress intended that subsidized bulk vessels would "eventually" carry preference cargoes at world rates, phasing out the costly premium rate system in the process, thereby saving the government substantial funds, as well as ensuring the construction of modern bulk vessels. *Aeron Marine Shipping*, at 570 and 578-579. The Court of Appeals found that world rates were too low to attract the participation of subsidized vessels in the bulk preference trade. With regard to setting a new rate, the Court directed that:

> Given the tension between Congress' dual objectives to have subsidized ships carry preference cargos and have subsidized ships carry those cargos at world rates, the Subsidy Board must strike a balance between the conflicting goals. It must seek to have subsidized ships carry preference cargos at rates that, so far as practicable, approach world rates. But it must also permit rates high enough to provide reasonable incentives for subsidized operators to carry those cargos.

To accomplish the "dual objectives" of Congress, the rule requires that subsidized bulk vessel operators demonstrate, by use of the augmentation procedure, that they are in fact providing one of the benefits Congress intended: a lower cost to the Government than the premium rate charged by the unsubsidized operator. At the same time, the rule provides a reasonable incentive for subsidized bulk vessel operators to carry preference cargoes by permitting them to charge a rate that includes a reasonable profit. These points are discussed below.

1. The Augmentation Procedure

It is evident from the decision of the Court of Appeals that Congress did not intend subsidized vessels to take over the preference trade unless they could do so at cost to the government below premium rates, and as close to world rates as practicable. In determining the cost of carriage by a subsidized operator, it would be pointless to omit the amount of subsidy received by the operator for the voyage. There would be no reason to prefer the subsidized vessels over unsubsidized vessels if the bid of the subsidized vessels (and thus the cost to the government) exceeded the premium rate of the unsubsidized bidder.

By adding the amount of ODS that would be received for the carriage of preference cargo to a subsidized operator's bid, the agency can ensure that the subsidized operator (if the low bidder) is charging the government less than its unsubsidized competitors, which have historically charged a high premium rate. Furthermore, the augmentation procedure will prevent a subsidized operator from winning a contract by bidding just a few cents below the premium rate and receiving the full amount of its bid plus ODS. Permitting a subsidized operator to win a contract with such a high bid would not achieve the Congressional purpose. Finally, by encouraging competitive bidding between all operators, the rule should further decrease shipping costs for the benefit of the government and the public.

Preference cargo should be carried by the bidder with the lowest direct cost to the Government, whether or not the operator is a recipient of subsidy. If an unsubsidized vessel is more efficient and can carry the cargo closer to the world rate than the subsidized vessel, the public interest requires the selection of the unsubsidized vessel. Congress did not intend subsidized vessels to be granted an unfettered right to dominate the preference trade. The additional competition resulting from the entry into the trade of more modern subsidized vessels at fair and reasonable cost-based rates achieves the objectives of Congress in 1970 to reduce premium rates and is consistent with the holding of the Court of Appeals.

2. "Fair and Resonable" Rates

With regard the questions on what constitutes "fair and reasonable rates" and whether the subsidized operator's compensation should incude a profit, the Court of Appeals directed MARAD to consider whether the world rate it had previously selected would permit the subsidized operator: (1) to cover its costs without a return on capital; or (2) to earn a profit. *Aeron Marine Shipping, supra*, at 581. If a reasonable profit would not be earned, MARAD was required to explain why the rate was, nonetheless, "fair and reasonable" in light of standards set for rates for United States-flag commercial vessels.

The previous rate methodology established by MARAD for Aeron Marine had not attracted subsidized

vessels into the preference trade. Whether a subsidized operator can earn a reasonable profit under a rate depends on the level of world rates. They were depressed before and at the time the previous rate methodology was established. They continue to be so. Accordingly, MARAD could not now say with any certainty that the rate methodology originally established would satisfy the requirements of the Court of Appeals. In light of this, MARAD concluded that the most reasonable alternative was to allow subsidized operators to compete for carriage of preference cargo predicated on cost-based rates but to allow carriage without regard for ODS. The rates actually charged by the subsidized operators would be less than the premium rates ordinarily charged by unsubsidized U.S. vessels, since they would not include the costs reimbursed by ODS.

The final rule leaves intact the method for calculating a fair and reasonable guideline rate that was set forth in MARAD's Tentative Order (at p. 15). The method provides that a subsidized operator, if it is successful in the bidding, can receive a reasonable profit, based on its actual costs, which costs do not include amounts reimbursed by ODS. Such an approach is in compliance with the mandate of the Court of Appeals since it would allow subsidized vessels to earn a reasonable profit and provide, therefore, sufficient incentive to attract those vessels into the preference trade.

The commenter's third objection was that it believed the rule is inconsistent with the recent Final Opinion and Order in Docket No. A–132. That Order provides, among other things, that when the annual gross freight revenue from the carriage of preference cargo exceeds 50 percent of a subsidized operator's total annual freight revenues, ODS is reduced according to the formula set forth in that Order. The commenter argued that the interim final rule, however, made no allowance for the abated subsidy when the subsidy amount was added as an augmentation to the subsidized operator's bid. It alleged that since the abatement comes at a later time, it is unlikely that either the operator or the government will know at the time the operator makes the bid what percent of its annual freight revenues will be derived from preference cargoes. Finally, the commenter argued that the abatement mechanism is wholly unwarranted in light of the decision of the Court of Appeals.

The court in *Aeron Marine Shipping*, n. 36 at 579, specifically did not reach this issue. It is, nonetheless, clear that just as the abatement mechanism properly applied to the subsidized operations of liner vessels engaged in the carriage of preference cargo, the same mechanism properly applies to the subsidized operations of dry bulk vessels. *States Marine International, Inc. v. Peterson*, 518 F. 2d 1070 (D.C. Cir. 1975). Approval of an ODS contract and continued payment of subsidy under the contract in each case requires a determination that the subsidy is required to meet substantial foreign-flag competition. The abatement mechanism is designed to ensure that the subsidy meets that purpose but is not excessive.

MARAD acknowledges that in most instances neither the subsidized operator nor MARAD is able to decide at the time of bidding whether the bid will be subject to the abatement mechanism, and if so, to what extent. It is noted that the subsidized operator nonetheless receives full ODS for the preference voyage and any abatement occurs in the next year at the earliest. Therefore, in consideration of fairness to subsidized operators, MARAD will review the gross freight revenues received by them for the carriage of preference and nonpreference cargoes after the close of the year such cargoes were carried. In the event the subsidized operator earned more than 50 percent of its annual gross freight revenue from the carriage of preference cargo in the prior calendar year, necessitating the abatement of subsidy, MARAD will adjust the amount of subsidy used to augment bids for voyages in the following year, as appropriate.

The commenter also argued that the interim final rule is inconsistent with USDA's regulation which provides that the ocean freight rate eligible for financing by the Commodity Credit Corporation shall not, in the case of certain commodities carried on liners, dry bulk carriers, or tankers, exceed "the market rate . . . but in any event not in excess of rates charged other shippers . . . for like commodities on the voyage concerned." There is no conflict with USDA's regulation. The rate charged by a subsidized vessel operator under MARAD's regulation will be the same to the government as to other shippers since the rate charged does not include ODS. To the extent of any conflict between MARAD's regulations and USDA's regulations, and none is apparent, MARAD's regulations supersede those of USDA because of MARAD's authority, under section 901(b)(2) of the Cargo Preference Act of 1954 (46 U.S.C. 1241(b)), to promulgate procedures governing the administration of programs and issuance of regulations by every department or agency with responsibilities under that Act.

Finally, this commenter argued that ODS should not be added to the bids of subsidized operators any more than should other government obligations that are incurred, regardless of the type of cargo that is carried. To illustrate this point, the commenter cited such "costs" to the government as construction-differential subsidy (CDS), government advances for debt service, and income tax lost when certain ships are rebuilt abroad. In this regard, it should be noted that two other commenters stated that the augmented bid should include a CDS factor for those bidders whose vessels were constructed with CDS.

The rule deals with the equitable treatment of subsidized and unsubsidized vessels based on direct costs incurred by the government for the carriage of preference cargo. ODS is a cost which is directly related to the carriage of preference cargo. The other costs mentioned by the commenters are not costs for the carriage of cargo on any specific voyage. They are costs incurred for other purposes. Therefore, these other costs would not be relevant in the evaluation of bids from subsidized or unsubsidized operators for the carriage of preference cargoes.

CDS cannot be construed as a cost to the government for the carriage of preference cargo since it was a prior payment made to or for the benefit of U.S. shipyards, for the express purpose of providing additional American-built tonnage for the U.S.-flag fleet and is not an ongiong expense of the government related to the carriage of preference cargo. Furthermore, operators whose vessels were built in foreign countries under section 615 of the Act, with equal or lower capital costs than U.S.-built vessels, are eligible to compete for preference cargoes. A CDS factor, added to the augmented bid, would disadvantage subsidized operators vis-a-vis section 615 vessel operators in the competition for preference cargoes.

Similarly, advances of debt service and income tax lost when vessels are built or rebuilt abroad are not costs for the carriage of cargo. When the government undertakes to advance funds for the payment of an operator's debts, such funds, must be repaid and are not a cost to the government. The question of taxes lost due to foreign vessel construction could not, under any circumstances, be estimated with confident accuracy. Moreover, through foreign construction, new U.S.-flag

vessels provide offsetting benefits to the government including the employment of additional U.S. merchant seamen and an expanded U.S. fleet participating in the foreign commerce of the United States.

Three other commenters raised the possibility that there would be inconsistencies in implementation of the interim final rule by USDA since USDA's budget in not affected by the ODS paid to subsidized operators. Specifically, the commenters suggested that, if the subsidized operator's unaugmented bid is lower than an unsubsidized operator's bid, it is in USDA's parochial interest to award the contract to the subsidized operator, regardless of the costs to the government as a whole, including ODS. These commenters assert that USDA has negotiated lower rates with the subsidized operators in an effort to direct the cargo to those operators. The commenters alleged that USDA has changed the terms of the tenders (particularly the amount of cargo to be shipped); has allowed subsidized operators to negotiate a lower bid based on the changed terms; has not presented the same opportunity to unsubsidized operators; and has rejected supplemental bids submitted by unsubsidized operators. Since the amount of ODS per ton varies with the amount of cargo carried, an incorrect evaluation of bids could occur if the ODS amount is not adjusted accordingly.

In consideration of these comments (and without in any manner suggesting any prior impropriety), MARAD is modifying the rule to assure that it is applied in a manner that is equitable to both subsidized and unsubsidized operators: (1) MARAD will be advised of the actual amount of cargo tonnage used by the agency to compare bids for a preference voyage and if the amount of cargo to be shipped is changed at any time prior to award, the agency must request that MARAD provide new ODS amounts applicable to the carriage and the agency shall redetermine the augmented bids before determining the apparent low bidder; and (2) the agency, or its contractors, may not unfairly favor either a subsidized or unsubsidized operator in any negotiations.

In this connection, it should be noted that MARAD does not object if the agencies wish to negotiate with the low bidder to further reduce its bid. MARAD would consider negotiating with higher bidders an example of unfair favoritism. However, if the low responsive bidder will not carry the cargo at or below the guideline rate, the agency may disqualify that bidder and negotiate with the next lowest bidder or resolicit bids. This is consistent with fair procurement practices for competitive biddings.

A commenter suggested that the ODS computed by MARAD for evaluation purposes should be the "operating subsidy that will be paid for that voyage regardless of the actual number of voyage days or expenses." In other words, the ODS computation should be, according to the commenter, based on the most extreme circumstances for maximizing the subsidy calculation. This would not be appropriate since such calculation would have no basis in expected reality. The ODS computed is a *pro forma* estimate reflecting reasonable voyage charter terms and other relevant terms. To calculate the subsidy as the commenter suggests would needlessly disadvantage subsidized bidders.

The same commenter also suggested that the ODS amount computed by MARAD be made available to all bidders before completion of the award process. MARAD is not adopting this suggestion because the bids are confidential, and there is no good reason why the ODS amount, which in the case of a subsidized operator is an integral part of the sealed bid process, should be made public prior to award. The disclosure of the ODS amount could unfairly interfere with the bid process. It should be noted that, after the award process is completed, MARAD will, on request, make the ODS amount used in the evaluation available to interested parties.

Two commenters encouraged MARAD to expand the coverage of the interim final rule to include subsidized liner vessels engaging in the carriage of preference cargo. One of these commenters was specifically concerned with subsidized liner vessels carrying bulk commodities while the other advocated the use of an augmented bid procedure to be applied to all preference cargoes carried by subsidized liner vessels. Presently, subsidized liner vessels do not receive ODS for the carriage of full shipload lots of preference cargoes, thus making the bid augmentation procedure unnecessary for that carriage. However, subsidized liner vessels do receive ODS for the carriage of parcel lots of preference cargoes. MARAD is considering the possibility of a separate rulemaking applicable to the carriage of preference cargo by these subsidized liner vessels, with opportunity for public comment.

d. Combined Bids

During the implementation of the interim final rule, one problem that has been encountered is the submission of a combined bid for two vessels, one subsidized and one unsubsidized, at a single rate. The submission of such bids is inappropriate since it could result in a subsidy amount being added to a bid for a vessel that is unsubsidized. Furthermore, even if both vessels in question were subsidized, it would not be possible to derive a single "augmented bid" since the subsidy amount generally varies for each vessel. To provide a fair evaluation of bids under the rule, MARAD is clarifying the rule to provide that a bid, whether submitted for a subsidized or unsubsidized vessel, must apply only to that vessel. Combined bids submitted for more than one vessel will not be considered. This will not represent a substantial change from current practice before USDA.

e. Executive Order 12291, Statutory, and DOT Requirements

One commenter stated that the interim final rule violated Executive Order (EO) 12291 and DOT's regulatory policies and procedures. In its view, the rule should be classified as major under the criteria of EO 12291 in that it will have "an annual effect on the economy of $100 million or more" or will have "significant adverse effects on competition, employment, investment. . . . or on the ability of United States-based enterprises to compete with foreign-based enterprises" as stated in EO 12291. The commenter stated that classification as a major rule required MARAD to conduct a regulatory impact analysis to ascertain information concerning the need for and consequences of the rule, the condition of the industry affected, and whether the rule will result in the lowest costs to the government. The analysis is also claimed to be necessary to determine whether the conclusions upon which the rule is based have substantial support in the agency record with full attention to comments received. The commenter further contended that, since the rule affects a substantial number of small entities, the Regulatory Flexibility Act is applicable.

The commenter, in making its claim that the rule would have a $100 million plus annual effect on the economy, envisioned that unsubsidized operators would be unable to operate in the preference trades which would result in Title XI defaults, loss of maritime-related jobs and vessel scrappings. In fact, the intent of the rule is to ensure equitable competition between subsidized and unsubsidized vessel operators thus eliminating, to the extent

possible, the adverse effects on the economy and competition that the commenter envisioned. Consequently, MARAD does not believe that this final rule will have an annual effect on the economy of $100 million or more, nor that it will have an adverse effect on competition, employment, and investment.

Therefore, this final rule is considered to be non-major under Executive Order 12291 and significant under DOT's regulatory policies and procedures (44 FR 11034; February 26, 1979). The final rule is significant because it is of substantial interest to certain other governmental agencies and to the maritime industry since the shipment of preference cargoes represents a major source of business for that industry.

In order to conduct further economic analysis, MARAD would need information on the economic impact of such variables as the number of subsidized and unsubsidized vessels that would actually compete, the particular preference trade involved, the number of voyages made, the efficiencies of the vessels, and the amount of cargo. Despite our request, no comments were received from the public with regard to the impact of these variables. The information needed is not historical in nature, and it is not possible for MARAD to predict which operators and agencies would benefit since the rule is dependent on competition through the bidding process. Although no comments specifically addressed the economic impact of the variables, the comments that were received on the Tentative Order and on the interim final rule have been carefully considered and constitute the basis for the revisions made in the promulgation of this final rule. However, although MARAD does not have complete information on the economic impact of the rule, it believes that the impact will be minimal and that a full regulatory evaluation is not necessary.

Finally, MARAD sees no evidence that this rule affects a substantial number of small entities pursuant to the Regulatory Flexibility Act of 1980 (Pub. L. 96–354), since the rule will affect only large ship operators which do not meet the criteria for small business in the Small Business Administration regulations (13 CFR Part 121). The Maritime Administrator certifies that the rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 46 CFR Part 381

Freight, Maritime carriers, Reporting requirements

PART 381—[AMENDED]

Accordingly, 46 CFR Part 381 is amended by adding a new § 381.8 to read as follows:

381.8 Subsidized Bulk Cargo Vessel Participation.

(a) For the purpose of approving subsidized U.S.-flag bulk cargo vessels competing for the carriage of dry bulk preference cargoes, each department or agency having responsibility under the Cargo Preference Act of 1954 (46 U.S.C. 1241(b)), shall evaluate bids received from such vessels in the manner described in this section.

(b) When a subsidized bulk cargo vessel operator is the apparent low U.S.-flag responsive bidder for a dry bulk preference cargo, the responsible department or agency shall evaluate the subsidized operator's bid by (1) requesting from MARAD an amount for the operating-differential subsidy (ODS) likely to be paid for the carriage of such cargo expressed as a cost per ton for performing the voyage by the apparent low responsive subsidized bidder and any other responsive subsidized bidders; (2) deriving "augmented bids" for the subsidized operators by adding the ODS amount to each subsidized operator's bid; (3) comparing the augmented bids of the subsidized operators and the bids of unsubsidized operators to determine the apparent low responsive bidder; (4) requesting from MARAD a fair and reasonable guideline rate for the apparent low responsive bidder which shall be based on MARAD's calculation of the anticipated costs (less ODS in the case of a subsidized vessel) for the voyage plus a reasonable amount for profit for the voyage; and (5) determining whether the subsidized operator's unaugmented bid or the unsubsidized operator's bid, whichever was determined to be the lowest responsive bid, is at or below the guideline rate. The contract shall be awarded to the low responsive bidder provided its bid is at or below the guideline rate. If the low responsive bidder will not carry the cargo at or below the guideline rate, the department or agency may disqualify that bidder and negotiate with the next lowest bidder or resolicit bids. The Department or agency or any of their contractors may only negotiate with the actual low bidder and may not unfairly favor either a subsidized or unsubsidized operator in any negotiations.

(c) If the amount of cargo to be shipped is changed at any time prior to award, the department or agency shall request that MARAD provide new ODS amounts applicable to the carriage and that department or agency shall redetermine the augmented bids, before determining the lowest responsive bid and requesting from MARAD a revised guideline rate in accordance with the provisions of paragraph (b) above.

(d) Whenever a bid is submitted for a bulk cargo vessel for the transportation of dry bulk preference cargo, the responsible department or agency shall only approve bids that apply to an individual vessel, and may not accept combined bids submitted for more than one vessel.

(e) The requirements of this section shall apply only to those departments or agencies that directly pay or finance all or part of U.S.-flag ocean freight transportation costs for the carriage of dry bulk preference cargoes, in accordance with this part. The requirements of this section shall not apply to departments or agencies that provide foreign aid by direct cash transfer payments unless specific agreements between the departments or agencies and the recipient country concerning the expenditure of such funds provide for U.S.-flag vessels.

(Sec. 204(b), 901(b)(2), Merchant Marine Act, 1936, as amended (46 U.S.C. 1114(b)(2)); Pub. L. 97–31 (August 6, 1981))

By order of the Maritime Administrator.

Dated: October 5, 1984.

Georgia P. Stamas,

Secretary, Maritime Administration.

[FR Doc. 84–26850 Filed 10–10–84; 8:45 am]

BILLING CODE 4910–81–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

Civil Procedures; Permit Sanctions and Denials; Correction

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Interim rule; correction.

SUMMARY: This document corrects a typographical error contained in an interim rule consolidating NOAA's procedural regulations for sanctioning permits issued under many of the statutes for which it has enforcement responsibility. The rule was published in the **Federal Register** of Friday, January 6, 1984 (49 FR 1037).

FOR FURTHER INFORMATION CONTACT: Linda Marks, (202) 254–8350, NOAA Office of General Counsel, Room 533,

Page 2 Building, 3300 Whitehaven Street, NW., Washington, D.C. 20235.

Dated: October 5, 1984.

William G. Gordon,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

PART 2—[CORRECTED]

The following correction is made in FR Doc. 84–14 appearing on 1037 in the issue of January 6, 1984:

1. On page 1043, column one, item 23. "§ 285.22" is corrected to read "§ 285.28"

[FR Doc. 84–26838 Filed 10–10–84; 8:45 am]

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Proposed Rules

Federal Register
Vol. 49, No. 198
Thursday, October 11, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 113

[Docket No. 84-051]

Viruses, Serums, Toxins, and Analogous Products; Revision of Standard Requirements

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would update the present regulations by correcting the name of the official laboratory responsible for preparation of testing aids and for conducting official tests from Veterinary Services Laboratories to National Veterinary Services Laboratories. This proposed rule would also improve the precision of test report results by licensees, permittees and National Veterinary Services Laboratories by establishing the use of test code numbers. Obsolete references in the present regulations to sample selection by persons under contract with the Department would be deleted. The number of samples specified in the regulations for submission to National Veterinary Services Laboratories would be adjusted to meet current needs. This would result in an overall reduction in the number of samples required for testing. The current requirement that selection of reserve samples be only from finished product would be deleted. This would permit selection of final container samples of completed product for this purpose. These proposed changes would update these regulations to reflect current program procedures and needs.

DATE: Comments must be received on or before December 10, 1984.

ADDRESSES: Interested parties are invited to submit written data, views, or arguments regarding the proposed regulations to Thomas O. Gessel, Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Written comments received may be inspected at Room 728 of the Federal Building, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. David F. Long, Chief Staff Veterinarian, Veterinary Biologics Staff, VS, APHIS, USDA, Room 834, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8674.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

Information collection requirements contained in this proposed rulemaking have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned the OMB control number 0579-0059.

Executive Order 12291

This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512-1 to implement Executive Order 12291 and has been classified as a "Nonmajor Rule."

The proposed rule would not have a significant effect on the economy and would not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises, in domestic or export markets. These revisions would reduce regulatory requirements.

Certification Under the Regulatory Flexibility Act

Mr. Bert W. Hawkins, Administrator of the Animal and Plant Health Inspection Service, has determined that this action would not result in an adverse economic impact on a substantial number of small entities. Small entities are defined as independently owned firms not dominant in the field of veterinary biologics manufacturing. This action would delete obsolete references, would permit use of more precise methods for reporting test results for serial release, and would permit less restrictive selection of reserve samples.

Background

Standard Requirements consist of test methods, procedures, and criteria established by Veterinary Services for evaluating veterinary biological products for purity, safety, potency, and efficacy.

In order to ensure that consistent and reproducible test results are obtained, the Standard Requirements contain provisions for testing aids. Procedures and requirements for selection and submission of samples for testing at National Veterinary Services Laboratories to confirm results obtained by licensees and permittees are also prescribed.

In 1977, the name of Veterinary Services Laboratories was changed to National Veterinary Services Laboratories. This proposed rule would update 9 CFR 113.2 and 113.3 to specify the new name.

During the period from January 1, 1972, to July 1, 1980, all samples for tests conducted at National Veterinary Services Laboratories were selected and authenticated either by employees of the Department or by persons under contract with the Department. This procedure was changed in July 1980, to discontinue the regular use of Department employees and to eliminate all contractual agreements for this purpose. This proposed rule would delete the obsolete references to contractors in 9 CFR 103.3 (a) and (c).

Revision of test methods and assignments in National Veterinary Services Laboratories have resulted in changes in the number of samples needed to conduct tests to confirm the results reported by licensees and permittees. This proposed revision of 9 CFR 103.3 would provide for the correct number of test samples required. There would be an overall reduction in the number of samples required, resulting in savings to the producers and to the Department.

Certain tests conducted in support of requests for release of serials or subserials contain provisions for optional or required variations in methods. Examples are stated in 9 CFR 113.26(a)(3) and 9 CFR 113.33(b)(1). In order to be more precise in reporting test results, Veterinary Services has devised

a series of test code numbers. These numbers are designed to be specific for each test, whether prescribed in Standard Requirements or filed Outlines of Production, and are correlated with 9 CFR references describing the criteria for each test. These test code numbers have been used to supplement the Standard Requirement test references in reports of National Veterinary Services Laboratories test results. In order to make this information available to the public, this proposed revision would add a definition of test code numbers to 9 CFR 113.2. This would also have the effect of establishing a uniform, simplified, and precise format for licensees or permittees to use in reporting test results as required in 9 CFR 113.5(e) and 116.7.

Currently, the requirements in 9 CFR 113.3(a)(1) permit selection of samples of each serial or subserial for submission to Veterinary Services before labeling and packaging. The reserve samples specified in 9 CFR 113.3(c) are required to be selected after labeling and packaging. This special requirement for reserve samples frequently entails a second sampling effort for each serial and subserial. The only advantage in obtaining finished product for retention is to identify the labeling used on the serial or subserial. This is not considered sufficient justification for the extra effort involved. Identity of all labels used for each serial or subserial is maintained as part of the records required in 9 CFR 116.3(b). This proposd rule would permit selection of reserve samples from completed product at the same time that samples are selected for Veterinary Services tests.

List of Subjects in 9 CFR Part 113

Animal biologics.

PART 113—STANDARD REQUIREMENTS

Section 113.2 is amended by revising the introductory text, paragraph (a) and paragraph (e) to read:

§ 113.2 Testing aids.

To better ensure consistent and reproducible test results when Standard Requirement tests prescribed in the regulations are conducted, National Veterinary Services Laboratories, U.S. Department of Agriculture, may provide testing aids, when available, to licensees, permittees, and applicants for licenses and permits. Such aids shall be as follows:

(a) Supplemental Assay Method (SAM) is a technical bulletin containing detailed instructions for conducting a test. Such instructions shall be in accordance with the procedures currently being followed at National Veterinary Services Laboratories and as improved, proven procedures are developed, shall be revised and reissued prior to application.

* * * * *

(e) Test code number is a number assigned by Veterinary Services to each test procedure specified in the Standard Requirements and in each filed Outline of Production where such test is conducted to support a request for release of a serial or subserial.

Section 113.3 is amended by revising paragraphs (a), (b) (1), (2), (4), (5), (8) and (9) and by revising paragraph (c) introductory text to read:

§ 113.3 Sampling of biological products.

* * * * *

(a) Either an employee of the Department of Agriculture, of the licensee, or of the permittee, as designated by the Deputy Administrator shall select prerelease samples of biological product in the number prescribed in paragraph (b) of this section. Each sample shall be marked for identification by the person making the selection after which they shall be packaged by the licensee or permittee, as the case may be, and forwarded to National Veterinary Services Laboratories; except that an employee of the Department may forward or deliver the samples to National Veterinary Services Laboratories if such action is deemed advisable by the Deputy Administrator.

* * * * *

(b) Unless otherwise prescribed by the Deputy Administrator, the number of final container samples to be selected from each serial and subserial shall be:

(1) *Vaccines:*

(i) Six multiple—dose samples of Brucella Abortus Vaccine;

(ii) Twelve samples of all other live bacterial vaccines;

(iii) Two samples of Coccidiosis Vaccine;

(iv) Eighteen samples of Rabies Vaccine, Modified Live Virus;

(v) Sixteen samples of all other vaccines consisting of live microorganisms;

(vi) Thirty single-dose or 14 multiple-dose samples of Equine Encephalomyelitis Vaccine, Killed Virus;

(vii) Twenty-two single-dose or 14 multiple-dose samples of Rabies Vaccine, Killed Virus;

(viii) Sixteen single-doses or 12 multiple-dose samples of all other vaccines consisting of killed microorganisms.

(2) *Bacterins and bacterin-toxoids:*

(i) Twelve samples of single-fraction products;

(ii) Thirteen samples of two-fraction products;

(iii) Fourteen samples of products consisting of 3 or more fractions.

(3) * * *

(4) *Antitoxins:*

(i) Fourteen single-dose or 12 multiple dose samples of Tetanus Antitoxin;

(ii) Twelve samples of all other antitoxins.

(5) *Toxoids:*

(i) Eighteen single-dose or 12 multiple dose samples of all toxoids.

(6) * * *

(7) * * *

(8) *Prelicensing and Outline of Production changes.* Samples needed to support a license application or a change in the Outline of Production for a licensed product shall be submitted only on request from Veterinary Services. Except for miscellaneous products specified in paragraph (b)(7) of this section, the number of such samples shall be at least one and one-half times the number prescribed in this section for such product.

(9) *Sterile Diluent.* A sample of Sterile Diluent shall accompany each sample of product, other than Marek's Disease vaccine, if such diluent is required to rehydrate or dilute the product before use. Samples of sterile Diluent prepared for use with Marek's Disease Vaccine shall be submitted on request from Veterinary Services.

* * * * *

(c) Reserve samples shall be selected from each serial and subserial of every biological product. Such samples shall be selected at random from final containers of completed product by an employee of the Department, of the licensee, or of the permittee, as designated by the Deputy Administrator.

* * * * *

(37 Stat. 832–833 (21 U.S.C. 151–158))

Done at Washington, D.C., this 3rd day of October 1984.

K.R. Hook,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 84-26891 Filed 10-10-84; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Ch. I

Customs Standards for Cargo Security

AGENCY: Customs Service, Treasury.

ACTION: Solicitation of comments.

SUMMARY: This document invites public comments concerning possible changes in Customs standards for the security of cargo in international trade. Customs believes that the current standards, which have been in effect for 12 years, should be updated to provide for more effective, modern security for cargo. All comments submitted will be considered by Customs before updating the existing standards.

DATES: Written comments must be received on or before December 10, 1984.

ADDRESS: Comments (preferably in triplicate) should be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: John Holl, Office of Cargo Enforcement and Facilitation, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–8151).

SUPPLEMENTARY INFORMATION:

Background

By T.D. 72–56, published in the **Federal Register** on February 16, 1972 (37 FR 3455), Customs recommended physical and procedural standards for the public to follow to ensure the security of cargo in international trade. These standards were subsequently printed in the Customs booklet "Standards for Cargo Security," thousands of copies of which have been distributed throughout the United States and to foreign countries, and are available to the public free of charge from any Customs district director.

The voluntary use of the standards by private industry and commerce has resulted in millions of dollars worth of physical and procedural security improvements, testifying to the wide use of the standards. Customs, pursuant to its regulations, conducts an inquiry into cargo security of facilities as a condition of approval of applications for bonded warehouses (19 CFR 19.2(f)), and container stations (19 CFR 19.47). Under proposed amendments to Part 146, Customs Regulation (19 CFR Part 146), Customs would conduct cargo security inquiries as a condition of approval of applications to activate foreign trade zones. The cargo security standards are used by Customs in making a judgment as to whether the security, as found in the inquiry, is sufficient to protect merchandise in the facility form the threat of theft and smuggling. It is not necessary that all of the standards be applied to every bonded warehouse, container station, and foreign-trade zone so long as overall security at each facility is sufficient.

Although the existing standards have proved successful for the 12 years they have been in effect, Customs believes that in light of changes in security technology, violator techniques, and theft targets, the standards should be updated in order to maintain their effectiveness. In addition, the standards do not cover such areas of current interest as intrusion detection systems or internal conspiracies, the latter being of special recent interest to Customs because of the widespread attempts to disguise narcotics smuggling as cargo theft.

Accordingly, Customs is considering updating its standards for cargo security, as found in T.D. 72–56, and requests public comments on possible additions, deletions, and changes in the standards. If, after reviewing all comments submitted, it is clear to Customs that there is general agreement as to what changes should be adopted, revised standards will be published in the **Federal Register** in final form. However, if there is no agreement as to what changes should be made, Customs will publish a proposed set of standards and will invite the public to comment further before any final changes are adopted. When a final set of revised standards are published, Customs will also determine their applicability to cargo facilities approved under the original standards.

Executive Order 12291 and Regulatory Flexibility Act

Because specific changes in the standards for cargo security have not been developed, it has not been determined whether any changes will result in a regulation which would be a "major" rule as defined by section 1(b) of E.O. 12291, and thus require a regulatory impact analysis.

For the same reason, it has not been determined whether the changes will have a significant economic impact on a substantial number of small entities and thus require a regulatory flexibility analysis under the provisions of the Regulatory Flexibility Act (5 U.S.C. 603). These determinations will be made and the notice of proposed rulemaking or final rule document will either contain the analysis or a statement and certification that they are not required.

Comments

Before making any changes in the security standards, consideration will be given to any written comments (preferably in triplicate) that are submitted timely to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), and § 1.6, Treasury Department Regulations (31 CFR 1.6), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), during regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Room 2426, Customs Headquarters, 1301 Constitution Avenue, NW., Washington D.C. 20229.

Drafting Information

The principal author of this document was Glen E. Vereb, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Willaim von Raab,

Commissioner of Customs.

Approved: September 12, 1984.

Edward T. Stevenson,

Acting Assistant Secretary of the Treasury.

[FR Doc. 84–26843 Filed 10–10–84; 8:45 am]

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 200

[Docket No. R–84–1183; FR–1655]

Revision of Minimum Property Standards (MPS) for One and Two Family Dwellings

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: This rule proposes a change in the basic structure of HUD's Minimum Property Standards (MPS) for one and two family dwellings. The handbook which presently contains the MPS for such structures would be eliminated. Instead of the handbood, the Department would rely upon the provisions of national model building codes or state and local codes that the HUD Field Office has verified as being comparable to one of the national model codes. Necessary requirements which are unlikely to be contained in state or local codes would be set forth in the Department's regulations, as proposed today.

These revisions would preserve the quality of one and two family dwellings

and protect the Department's insurance fund while simplifying the MPS.

DATES: Comments Due: December 10, 1984.

ADDRESS: Interested persons are invited to submit comments to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Each comment should include the commenter's name and address and must refer to the docket number indicated in the heading of this document. A copy of each comment will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mark W. Holman, Manufactured Housing and Construction Standards Division, Room 9156, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755–5690. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The National Housing Act, 12 U.S.C. 1710–1749 authorizes the Secretary of Housing and Urban Development (Secretary) to prescribe standards for determining the acceptability of one and two family residential structures for purposes of mortgage insurance. *See, e.g.*, 12 U.S.C. 17151(f). Some general statutory guidelines govern the nature of these standards. For example, the standards are "to establish the acceptability of * * * propert[ies—for mortgage insurance * * *" 12 U.S.C. 17151(f). In addition, the standards must be consistent with the declared national housing policy of realizing "the goal of a decent and suitable living environment for every American family * * *" *See* 42 U.S.C. 1441.

The Department has prescribed these standards by using the Minimum Property Standards (MPS) for One and Two Family Dwellings. The MPS for One and Two Family Dwellings are currently published as HUD Handbook 4900.1, and incorporated by reference into the Department's regulations by authority of 24 CFR 200.927. Changes in the structure of the MPS are being proposed to further the indicated statutory purposes.

On August 6, 1982, the Department published a final rule which revised the MPS (47 FR 34334). That rule incorporated into the MPS certain provisions from the current Council of American Building Officials (CABO) One and Two Family Dwelling Code in lieu of similar or equivalent provisions of the MPS. The final rule also eliminated provisions of the MPS no longer deemed necessary. In the preamble to that rule, the Department announced that it was preparing a proposed rule by which the MPS contained in the handbook would be replaced by the requirements of acceptable local codes. This is the proposed rule that would accomplish that objective. It is similar in many respects to the final rule amending the MPS for Multifamily Housing which was published on May 1, 1984 (49 FR 18690).

The Department also has evaluated these proposed revisions to the MPS in light of the recent amendment of Section 526 of the National Housing Act, 12 U.S.C. 1735f–4. *See* Housing and Urban-Rural Recovery Act of 1983, Pub. L. 98–181, section 405, 97 Stat. 1153 (1983). As amended, section 526(b) of the National Housing Act, 12 U.S.C. 1735f–4(b), permits the Secretary to require, with respect to health and safety, that properties other than manufactured homes comply "with one of the nationally recognized model building codes, or with a state or local building code based on one of the nationally recognized model building codes or their equivalent." The Secretary is "responsible for determining the comparability of the state and local codes to such model codes * * *."

I. The Proposed Rule

A. General

The Department is proposing revisions to the MPS for One and Two Family Dwellings in order to simplify them. Generally, HUD would rely upon state or local building codes or nationally recognized model building codes to provide most of the criteria for its one and two family construction standards. The Department would rely upon a state or local code only after it has been accepted by the Department as being comparable to one of the nationally recognized model building codes or its equivalent. In some jurisdictions, the Department may partially accept a state or local code. In such areas, the Department would rely upon the state or local code, plus those provisions of one of the nationally recognized model codes identified by the local HUD Field Office in accordance with the table set forth in 24 CFR 200.926c. In jurisdictions where a state or local code has not been accepted or partially accepted by the Department, or where no state or local code exists, the Department would require compliance with one of the nationally recognized model codes identified in 24 CFR 200.926b(a)(1).

In those instances where the Department would require compliance with a model code, the dwelling would comply not only with a model code, but also with the codes or standards referenced in the applicable model code.

The Department has found it necessary to supplement the model codes by requiring compliance with certain additional codes and standards not referenced therein. Therefore, where compliance with a model code is required, not only is compliance with the standards incorporated by reference therein necessary, but compliance with the other codes or standards identified in § 200.926b(c) (1), (2), (3) or (4) is necessary as well.

In all instances, the Department would require compliance with the standards set forth in § 200.926d. This section contains standards relating to energy and certain other matters.

Section 521 of the National Housing Act, 12 U.S.C. 1735e, requires the Secretary to "adopt a uniform procedure for the acceptance of materials and products to be used in structures approved for mortgages or loans insured under [the National Housing] Act." The Secretary has established such procedures in Handbook 4950.1 and in 24 CFR 200.935. The proposed rule would not affect these procedures.

Section 100–2 of the current MPS for One and Two Family Dwellings, HUD Handbook 4900.1, provides that "[e]xisting construction shall comply with the Requirements for Existing Housing—One- to Four-Family Living Units, HUD Handbook 4905.1." Under the proposed rule, this handbook would not be referenced in the Code of Federal Regulations. This handbook would, however, be maintained by the Department as a single family program handbook.

B. Standard for Determining Comparability of State or Local Codes

The Department would determine whether a state or local code is comparable to one of the nationally recognized model codes by conducting an analysis of the comprehensiveness of the state or local code. For use in performing this analysis, the Department has prepared a list of construction related areas. *See* § 200.926a. This list is based upon the provisions of the nationally recognized model building codes and is made up of major areas and subareas. Each major area has been made a separate paragraph of § 200.926a. For example, Fire Safety is paragraph (a) and Light and Ventilation is paragraph (b). With one exception (materials standards), each major area has been further divided into subareas. For example, the Light and Ventilation paragraph has been divided into two

subareas: (1) Habitable rooms and (2) Bath and Toilet rooms.

A state or local code would be found comparable, and therefore acceptable, if it regulates every area set forth in § 200.926a. A state or local code would be found partially acceptable if it fails to regulate up to eight subareas; however, no code would be found partially acceptable if its fails to regulate subareas in more than one of the major areas.

If a local code is not found to be partially acceptable, one and two family residential structures would have to comply, for HUD purposes, with one of the model codes identified in § 200.926b, as well as with the requirements set forth in § 200.926d.

Consequently, every state or local code which is partially accepted would be deficient in one major area. The local HUD Field Office would remedy the deficiency by designating those provisions of a model code which regulate the entire major area found deficient. Such designation would be made in accordance with the table set forth in § 200.926c. The Field Office would choose the model code from which the provisions are selected.

For example, a jurisdiction's code may be deficient in the Plumbing major area because it fails to regulate the Vents and Venting and Cleanouts subareas. In such a case, the code would be found to be partially acceptable. The Field Office would remedy the deficiency in the Plumbing major area by designating either the Uniform Plumbing Code; the Standard Plumbing Code; the BOCA/Basic/National Plumbing Code; or Part V of the CABO One and Two Family Dwelling Code. Then, in that jurisdiction, properties would be required to comply with one of the indicated codes as designated by the HUD Field Office plus the entire local code.

As another example, a jurisdiction's code may not be acceptable because it fails to regulate the Footings subarea in the Foundation Systems major area. In this instance, the HUD Field Office would remedy the deficiency by designating either Chapters 23, 24, 25, 26, 27 and 29 of the Uniform Building Code; Chapter 13 of the Standard Building Code; Article 10 and Section 1807 of the BOCA Basic/National Building Code; or Chapter 3 of the CABO One and Two Family Dwelling Code. Then, in that jurisdiction, properties would have to comply with the indicated provisions from the code designated by HUD Field Office plus the entire local code.

To determine whether this method of evaluating comparability would protect the Department's interests and satisfy all statutory requirements, the Department conducted a study of representative local codes. Codes from nine jurisdictions were evaluated. Three of the jurisdictions were large cities, three were medium sized cities, and three were small cities. One city of each size was selected from geographically diverse areas of the nation. As a result of this evaluation, it was found that seven of the codes regulated the areas identified in § 200.926a.

These seven codes were then subjected to a more detailed evaluation. This detailed analysis was performed to determine whether such local codes were in fact comparable to one of the nationally recognized model codes. In each case where the Department subjected a code to detailed analysis, it determined that it was comparable to one of the model codes.

C. Review Process

Before a local code could be relied upon to provided the health and safety requirements of the MPS, it would have to be accepted or partially accepted by the Department. The Department would review a state or local code when it receives a request from a lender or other interested party. The person requesting review would have to submit to the HUD Field Office a copy of the state or local building code and a copy of the statute, ordinance, order or regulation establishing the code, if any. The submitting party would not be required to submit copies of any part of the code already in the possession of the particular HUD Field Office. If the Department accepts the state or local code, it would issue a letter stating that the code is acceptable. If the Department declines to accept a state or local code, the submitting party would be notified, and would be given an opportunity to present its views as to why the local code should be accepted.

By the time of application for mortgage insurance or other benefits, the lender or other interested party would have to submit the material described in the preceding paragraph if the local code had been neither previously accepted nor partially accepted and if that lender wished to have it accepted. If a local code had been previously accepted or partially accepted, then a lender or other interested party would only have to submit either a certificate stating that the local code has not been changed since the date of its acceptance or partial acceptance by the Department, or a copy of all changes that had been made since the date of the Department's acceptance or partial acceptance, as well as a copy of the statute, ordinance, regulation or order making such changes.

Each Regional and Field Office would have to maintain a current list of jurisdictions with accepted or partially accepted codes, including the dates of such acceptances.

D. Selection of Model Code

In those jurisdictions without acceptable local codes, one and two family dwelling would have to comply, for HUD purposes, with one of the model codes identified in 24 CFR 200.926b(c), as well as with the requirements set forth in § 20.926d. The lender or other interested party would have to notify the HUD Field Office of which model code will be used. *See* § 200.926(d)(1)(i)(A).

In those jurisdictions with a partially acceptable local code, one and two family dwellings would have to comply, for HUD purposes, with certain portions of the model codes identified in 24 CFR 200.926b(c). The HUD Field Office would designate the model code from which these portions will be selected. In addition, the HUD Field Office would identify, in the written notice of partial acceptance, those portions of the code with which the dwelling must comply. These portions would be chosen in accordance with the table set forth in § 200.926c.

The requirement to comply with all or any part of a model code applies only to the particular one or two family dwelling in question and has no applicability to other buildings in the community.

E. Energy

Section 526 of the National Housing Act, 12 U.S.C. 1735f–4, states that the Secretary of Housing and Urban Development shall establish energy performance requirements for housing subject to mortgages insured under the Act. These requirements are to achieve a "significant increase" in the energy efficiency of these structures. In order to comply with the requirements of this section, the Department issued a final rule on September 11, 1980, 45 FR 59557, *as amended*, 45 FR 62795. That rule established energy performance requirements which achieved a significant increase in the energy efficiency of one and two family dwellings.

Section 405(a) of the Housing and Urban-Rural Recovery Act of 1983, Pub. L. 98–181, 97 Stat. 1153 (1983) (amending Section 526 of the National Housing Act, 12 U.S.C. 1735f–4) also states that:

The energy performance requirements developed and established by the Secretary

under this subsection for newly constructed residential housing, other than manufactured homes, shall be at least as effective in performance as the energy performance requirements incorporated in the minimum property standards that were in effect under this subsection on September 30, 1982.

At this time, the Department is not proposing any substantive change with respect to the energy requirements contained in the present MPS. However, those requirements would be removed from the MPS handbook and incorporated into the Code of Federal Regulations at § 200.926d.

II. Solicitation of Comment

1. The Department is considering making changes to the energy requirements discussed above. In particular, the Department is considering whether to adopt the energy standards contained in the January 29, 1984 Addenda to ANSI/ASHRAE/IES 90A–1980 or the standards contained in the 1983 edition of the Model Energy Code. The Department seeks comment on these alternatives and on the availability and the propriety of other options.

2. An important objective of this proposed rule is to reduce burdens on small homebuilders, who often find it especially difficult to comply with two different sets of construction standards. The Department particularly solicits comment from small homebuilders, or their representatives, on whether this objective has been achieved. The Department also seeks comment as to whether the proposed arrangements will lead to any particular difficulties for small builders in learning of the standards to which they must comply, and as to what additional measures the Department might adopt to alleviate the disadvantages inherent in small operations.

3. Under the current proposal, if a local code fails to regulate a single sub-area (e.g., allowable height) within a particular area (e.g., fire safety), properties in that jurisdiction would be required to comply with designated model code provisions covering the entire area (in this example, fire safety) containing the omitted sub-area. They also would be required to comply with the entire local code. The rationale for this is that where a sub-area within a particular area is omitted, there are likely to be deficiencies in other sub-areas within that area. Does this approach impose any serious burdens upon builders and, if so, is there an alternative, less burdensome approach that is consistent with the Department's mandate?

4. For jurisdictions with previously accepted or partially accepted building codes the proposed regulations require each developer to submit a certificate of "no change" or submit all changes made and a copy of the statute, ordinance or regulation establishing the changes. This provision is identical to the provision contained in the recently published MPS for multifamily dwellings. *See* 49 FR 18690, 18965. HUD has chosen this method of change notification because it ensures that dwellings will be built in accordance with these proposed regulations and because it believes this is the least burdensome alternative consistent with the Department's mandate. Comments are solicited, particularly from small builders, as to whether there are alternatives to this approach that are less burdensome and meet HUD's objectives.

5. The Department is also soliciting comments at this time as to areas in which its procedures for acceptance of materials and products under section 521 of the National Housing Act could be streamlined so that the Department would not duplicate functions and analyses performed by technical adjuncts to the nationally recognized model code organizations, such as the National Evaluation System (NES, formerly the National Research Board) or by materials acceptance processes of the code bodies themselves.

In this regard we would like information on the following:

a. What other means are available to HUD at the present time, without duplicating the functions of the private code organizations, which:

1. Ensure that we meet our statutory requirements under section 521; and

2. Ensure that new products are acceptable for the purpose of mortgage insurance.

b. What are the requirements, criteria and procedures for material analysis and acceptance used by the NES or the model codes?

c. How do the requirements of the NES or the model codes duplicate HUD procedures and requirements?

d. How do the NES or the model code organizations ensure the long-term durability of products, materials and housing systems necessary to provide protection for the mortgage insurance fund and consumer interests?

6. The proposed rule would delete design criteria for housing for the elderly. Should any of these requirements be maintained? Are there other requirements which should be incorporated in place of the ones which would be deleted?

III. Miscellaneous Information

The collection of information requirements contained in this rule have been submitted to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Please send any comments regarding the collection of information requirements to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, Attention: Desk Office for HUD.

No person may be subjected to a penalty for failure to comply with these information collection requirements until they have been approved and assigned an OMB control number. The OMB control number, when it is assigned, will be announced by a separate notice in the **Federal Register**.

This proposed rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulation issued by the President on February 17, 1981. The rule does not: (1) Have an annual effect on the economy of one hundred million dollars or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies or geographic regions; or (3) have significant adverse effect on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Consistent with the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Secretary hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. In all cases, one and two family residential structures must be built in compliance with local codes. Upon the effective date of this rule, the Department generally will accept such compliance as satisfying the Department's concerns relating to the health and safety aspects of those structures. Further, this rule will generally reduce the burden on compliance which already exists for both small and large entities.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours at the Office of Rules Docket Clerk at Room

10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

This rule is listed as item 19 in the Department's Semiannual Agenda of Regulations published at 49 FR 15902, 15914 on April 19, 1984 under Executive Order 12291 and the Regulatory Flexibility Act.

The catalog of Federal Domestic Assistance does not apply to this Rule.

List of Subjects in 24 CFR Part 200

Administrative practice and procedure, Claims, Equal employment opportunity, Fair housing, Housing standards, Loan programs: Housing and community development, Mortgage insurance, Organization and functions (government agencies), Reporting and recordkeeping requirements, Minimum property standards, Incorporation by reference.

Accordingly, HUD proposes to amend 24 CFR Part 200 as follows:

PART 200—INTRODUCTION

Subpart S—Minimum Property Standards

1. § 200.927 is proposed to be revised as follows:

§ 200.927 Incorporation by reference of minimum property standards.

The Minimum Property Standards as contained in the handbooks identified in § 200.929(b) are incorporated by reference into this section as though set forth in full in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51.

2. § 200.929 is proposed to be amended by revising the introductory text of paragraph (b) and paragraph (b)(1) as folows:

§ 200.929 [Amended]

* * * * *

(b) *Identification.* The Minimum Property Standards have been published as described below:

(1) MPS for One and Two Family Dwellings. *See* §§ 200.926, 200.926a–d.

* * * * *

3. 24 CFR Part 200 is proposed to be amended by adding §§ 200.926, 200.926a, 200.926b, 200.926c and 200.926d as follows:

§ 200.926 Minimum property standards for one and two family dwellings.

(a) *Construction standards*—(1) *Applicable structures.* The standards identified or contained in §§ 200.926; 200.926a–d shall apply to single family detached homes, duplexes and to living units in a structure where the units are located side by side in rowhouse fashion. However, these standards do not apply to units in a struture of three or more units where any unit has a common front or rear wall or where any unit or part of a unit is located above or below any other unit.

(2) *Standards for new construction.* New construction, to be eligible for mortgage insurance or other benefits shall, for the Department's purposes, comply with:

(i) The applicable state and local building code, if the property is located within a jurisdiction which has a building code accepted by the Secretary under § 200.926(d); or

(ii) (A) The applicable state or local building code, and

(B) Those portions of the codes identified in § 200.926b which are designated by the HUD Field Office serving the jurisdiction in which the property is to be located, if the property is located in a jurisdiction which has a building code partially accepted by the Secretary; or

(iii) The appropriate codes, as identified in § 200.926(c), if the property is located within a jurisdiction without a building code accepted by the Secretary.

(3) *Applicability of standards for new construction.* These standards are applicable to: (i) Structures approved for insurance or other benefits prior to the start of construction; (ii) structures which are approved for insurance or other benefits based upon participation in an insured warranty program; (iii) structures which are insured as new construction based upon a Certificate of Reasonable Value issued by the Veterans Administration; and (iv) proposed construction insured under the Direct Endorsement program.

(b) *Conflicting standards.* The requirements contained in § 200.926d do not preempt state or local standards, nor do they alter or affect a builder's obligation to comply with any state or local requirements. However, a property shall be eligible for benefits only if it complies with the requirements of this subpart, including any referenced standards.

(c) *Standard for evaluating local building codes.* The Secretary shall compare a state or local building code submitted under § 200.926(d) to the list of construction related areas contained in § 200.926a.

(1) A state or local code will be accepted if it regulates each area and subarea on the list.

(2) A state or local building code will be partially accepted if it regulates most of the areas on the list. Provided, however, that no code may be partially accepted if it fails to regulate subareas in more than one of the major areas: fire safety, light and ventilation, structural loads, foundation systems, materials standards, construction components, glass, mechanical, plumbing and electrical. *See* § 200.926a.

(3) For purposes of this paragraph, a state or local code regulates an area if it establishes a standards concerning that area.

(d) *Review process and acceptance*—(1) *Jurisdictions without previously accepted building codes.* The following submission requirements apply to lenders and other interested parties in jurisdictions without building codes, jurisdictions with building codes which have never been submitted for acceptance, and jurisdictions with building codes which have been submitted for acceptance and neither accepted nor partially accepted by the Secretary.

(i) Lenders or other interested parties must comply with one of the following by the time of application for insurance or other benefits:

(A) The lender or other interested party may choose to finance or construct a property to be built in accordance with the appropriate codes as identified in § 200.926b. If the lender or other interested party so chooses, then the dwelling shall be constructed in accordance with one of the model codes designated in paragraph (c) (1), (2), (3) or (4) of § 200.926b and with any other code or codes identified in the same paragraph. In such instances, the lender or other interested party shall notify the Department of the code or group of codes with which it intends to comply by the time of application for insurance or other benefits; or

(B) The lender or other interested party may choose to comply with the state or local building code, if such code is acceptable to the Secretary. To obtain the Secretary's acceptance, the lender or other interested party shall submit the material specified in § 200.926(d)(1)(ii) to the HUD Field Office serving the jurisdiction in which the property is to be constructed. Such material may be submitted at any time; provided, however, that it must be submitted no later than the time of application for mortgage insurance or other benefits.

(ii) If, under § 200.926(d)(1)(i)(B), the lender or other interested party chooses to comply with the state or local building code as prescribed in § 200.926(a)(2)(i), it shall submit the following material ot the HUD Field Office serving the jurisdiction in which the property is to be constructed:

(A) A copy of the jurisdiction's building code, including all applicable service codes and appendices; and

(B) A copy of the statute, ordinance, regulation, or order establishing the code, if such statute, ordinance, regulation or order is not contained in the building code itself.

However, the lender or other interested party need not submit any document already on file in the Field Office.

(2) *Jurisdictions with previously accepted or partially accepted building codes.* The following submission requirements apply to lenders or other interested parties in any jurisdiction with a building code which has been accepted or partially accepted by the Secretary:

(i) At the time of application for mortgage insurance or other benefits, the lender or other interested party shall submit to the HUD Field Office serving the jurisdiction in which the property is to be constructed:

(A) A certificate stating that, since its acceptance or partial acceptance by the Secretary, the jurisdiction's building code has not been changed; or

(B)(*1*) A copy of all changes to the jurisdiction's building code, including all applicable service codes and appendices, which have been made since the date of the code's acceptance by the Secretary. However, the developer or other interested party need not submit any part already in the possession of the Field Office; and

(*2*) A copy of the statute, ordinance, regulation, or order making such changes in the code.

(3) *Notification of decision.* The Secretary shall review the material submitted under §§ 200.926(d)(1)(ii) and 200.926(d)(2). Following that review, the Secretary shall issue a written notice (except in the case of a previously accepted code which has not been changed) to the submitting party stating whether the state or local building code has been accepted, partially accepted, or whether the Secretary's previous acceptance or partial acceptance has been continued; the basis for the Secretary's decision; and a notification of the submitting party's right to present its views concerning the denial of acceptance if the code is neither accepted nor partially accepted. The Secretary may, in his discretion, permit either an oral or written presentation of views.

(i) If a lender or other interested party is notified that a state or local building code has not been accepted, then the one and two family dwellings eligible for HUD benefits in that jurisdiction shall be constructed in accordance with § 200.929d and the appropriate codes indicated in § 200.926b(c). In such instances, the lender or other interested party shall notify the HUD Field Office of the code or codes with which its chooses to comply, in accordance with § 200.926(d)(1)(i)(A).

(ii) If lender or other interested party is notified that a state or local building code has been partially accepted, then the one and two family dwellings eligible for HUD benefits in that jurisdiction shall be constructed in accordance with § 200.929d, the applicable state or local building code, plus those additional requirements identified in the written notice issued by the Secretary under § 200.926(d)(3). The written notice shall identify, in accordance with § 200.926c, those portions of the codes listed at § 200.926b(a) with which the property must comply.

(iii) Each Regional and Field Office will maintain a current list of jurisdictions with accepted building codes and a current list of jurisdictions with partially accepted building codes. The lists will state the most recent date of each code's acceptance or partial acceptance and will be available to any interested party upon request. In addition, the list of jurisdictions whose codes have been partially accepted shall identify those portions of the codes listed at 200.926b(a) with which the property must comply.

§ 200.926a Residential Building Code Comparison Items.

HUD will review each local code submitted under this subpart to determine whether it regulates all of the following areas and subareas:

(a) *Fire Safety*—
(1) Allowable height.
(2) Fire separations.
(3) Fire resistance requirements.
(4) Egress doors and windows.
(5) Unit smoke detectors.
(6) Flame spread.
(b) *Light and ventilation*—
(1) Habitable rooms.
(2) Bath and toilet rooms.
(c) *Structural loads*—
(1) Design live loads.
(2) Design dead loads.
(3) Snow loads.
(4) Wind loads.
(5) Earthquake loads.
(d) *Foundation systems*—
(1) Foundation depths.
(2) Footings.
(3) Foundation materials criteria.
(e) *Materials standards*—
(f) *Construction components*—
(1) Steel.
(2) Masonry.
(3) Concrete.
(4) Gypsum.
(5) Lumber.
(6) Roof construction and covering.
(7) Chimneys and fireplaces.
(g) *Glass*—
(1) Thickness area requirements.
(2) Safety glazing.
(h) *Mechanical*—
(1) Heating, cooling and ventilation systems.
(2) Boilers and pressure vessels.
(3) Gas, liquid and solid fuel piping and equipment.
(4) Chimneys and vents.
(5) Ventilation (air changes).
(i) *Plumbing*—
(1) Materials standards.
(2) Sizing and installing drainage systems.
(3) Vents and venting.
(4) Traps.
(5) Cleanouts
(6) Plumbing fixtures.
(7) Water supply and distribution.
(8) Sewage disposal systems.
(j) *Electrical*—
(1) Branch circuits.
(2) Services.
(3) Grounding.
(4) Wiring methods.
(5) Cable.
(6) Conduit.
(7) Outlets, switches and junction boxes.
(8) Panelboards.

§ 200.926a Model Codes.

(a) *Incorporation by reference.* The following publications are incorporated by in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. The incorporation by reference of these publications has been approved by the Director of the Federal Register. The locations where copies of these publications are available are set forth below.

(1) *Model Building Codes*—(i) *The BOCA Basic/National Building Code/ 1984*, excluding Article 1, Administration and Enforcement, but including Appendices A, C, D and E of the Code. Available from Building Officials and Code Administrators International, Inc., 4051 West Flossmoor Road, County Club Hills, Illinois 60477.

(ii) *Standard Building Code*, 1982 Edition, excluding Chapter 1—Administration, but including appendices A, C, E and M of the Code, and including *Amendments to the Standard Building Code*, 1983 and 1984 Revisions to the 1982 Edition of the Code. Available from Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama 35213–1206.

(iii) *Uniform Building Code*, 1982 Edition, excluding Part I—Administrative, but including the appendix of the Code. *Uniform Plumbing Code, Uniform Mechanical*

Code, 1982 Edition. Available from International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601.

(iv) *CABO One and Two Family Dwelling Code*, 1983 edition, excluding Chapter 1—Administrative; Part VI—Electrical; and Part VII—Energy Conservation, but including Appendices A and B of the Code. Available from Council of American Building Officials, 5205 Leesburg Pike, Falls Church, VA 22041.

(2) *Electrical Code for One and Two Family Dwellings, NFPA 70A*, 1984 Edition, Including appendices. Available from the National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269.

(b) *Model code compliance requirements.* (1) When a one or two family dwelling is to comply with one of the model building codes set forth in § 200.926b(a)(1), the following requirements of those model codes shall not apply to those properties:

(i) Those provisions of the model codes that do not pertain to residential buildings;

(ii) Those provisions of the model codes that establish energy requirements for one and two family dwellings; and

(iii) Those provisions of the model codes that require or allow the issuance of permits of any sort.

(2) Where the model codes set forth in § 200.926b(a)(1) designate a building, fire, mechanical, plumbing or other official, the Secretary's designee in the HUD Field Office serving the jurisdiction in which the dwelling is to be constructed shall act as such official.

(c) *Designation of model codes.* When a one- or two-family dwelling is to comply with a model code, it shall comply with one of the model codes designated in paragraph (c)(1), (c)(2), (c)(3), or (c)(4) of this section and with any other codes identified in the same paragraph. In addition, such property shall comply with all of the standards which are referenced in such code or codes. The lender or other interested party shall notify the Department of the code or group of codes with which it intends to comply by the time of application for insurance or other benefits.

(1) *The BOCA Basic/National Building Code/1984* and the *Electrical Code for One and Two Family Dwellings, NFPA, 70A, 1984 edition.*

(2) *Standard Building Code/1982* with 1983 and 1984 revisions and the *Electrical Code for One and Two Family Dwellings, NFPA 70A, 1984 Edition.*

(3) *Uniform Buildings, Plumbing and Mechanical Codes/1982* and the *Electrical Code for One and Two Family Dwellings, NFPA 70A, 1984 edition.*

(4) *CABO One and Two Family Dwelling Code/1983* and the *Electrical Code for One and Two Family Dwellings, NFPR 70A, 1984 edition.*

§ 200.926c Model code provisions for use in partially accepted code jurisdictions.

If a lender or other interested party is notified that a state or local building code has been partially accepted, then the properties eligible for HUD benefits in that jurisdiction shall be constructed in accordance with the applicable state or local building code, plus those additional requirements identified in the written notice issued by the Secretary under 24 CFR 200.926(d)(3).

Depending upon the major area which is not regulated by the local code, the HUD Field Office will designate, in accordance with the schedule below, those portions of one of the model codes with which the property must comply. The HUD Field Office is responsible for selecting the particular model code from which the portions are taken.

§ 200.926d Construction requirements.

These requirements are applicable to one- and two-family dwellings in all jurisdictions. In areas where the Department has found the local code acceptable, these requirements are applicable in conjunction with the local code. In areas where the Department has not accepted the local building code, these requirements are applicable in conjunction with one of the nationally recognized model building codes in accordance with 24 CFR 200.926b(c). In areas where the Department has partially accepted the local building code, these requirements are to be used in conjunction with the local building code, plus those portions of a nationally recognized model code designated by the Department.

(a) *Application*—(1) *General.* These standards cover the actual site, the immediate site environment for the dwellings, including streets, storm water disposal, and other services and facilities for the site.

(2) *Requirements for accessibility to physically handicapped people.* The HUD Field Office will advise multifamily project sponsors as to the extent accessibility will be required for new construction of one- and two-family dwellings on a project-by-project basis.

(i) Technical standards. *See* HUD, Minimum Property Standards, 4910.1 Sections 100–1.3b and 100–1.3c.

(3) *Variations to standards*—(i) *New materials and technologies. See* § 200.926d(d). Alternatives, nonconventional or innovative methods and materials shall be equivalent to these standards in the areas of structural soundness, durability, economy of maintenance or operation and usability.

(ii) *Variation procedures.* Variations from the requirements of any standard with which the Department requires compliance shall be made in the following ways:

(A) For a particular design or construction method to be used on single case or project, the decision is the responsibility of the Field Office. Headquarters concurrence is not required.

(B) Where a variation is intended to be on a repetitive basis, a recommendation for a Local Acceptable Standard, substantiating data, and background information shall be submitted by the Field Office to the Director, Office of Manufactured Housing and Regulatory Functions.

(iii) Variances which require individual analysis and decision in each instance are not considered as repetitive variances even though one particular standard is repeatedly the subject of variation. Such variances are the subject of § 200.926d(a)(3)(ii)(A).

(b) *General acceptability criteria*—(1) *Real estate entity.* The property shall comprise a single plot except that a primary plot with a secondary plot for an appurtenant garage or for other use contributing to the marketability of the property will be acceptable provided the two plots are in such proximity as to comprise a readily marketable real estate entity.

(2) *Service and facilities.* (i) *Trespass.* Each living unit shall be one that can be used and maintained individually without trespass upon adjoining properties, except as provided in § 200.926d(c)(3)(i).

(ii) *Utilities.* Utility services shall be independent for each living unit, except that common services such as water, sewer, gas and electricity may be provided for living units under a single mortgage or ownership. Separate utility service shut-off for each unit shall be provided. For living units under separate ownership, common utility services may be provided from the main to the building line when protected by an easement or covenant and maintenance agreement acceptable to HUD, but shall not pass over, under or through any other living unit. Individual utilities serving a living unit may not pass over, under or through another living unit under the same mortgage unless provision is made for repair and maintenance of utilities without trespass or when protected by an easement of

covenant providing permanent access for maintenance and repair of the utilities. Building drain cleanouts shall be accessible from the exterior where a single drain line within the building serves more than one unit.

(3) *Site conditions.* (i) The property shall be free of those foreseeable hazards and adverse conditions which may affect the health and safety of the occupants or the structural soundness of the improvements, or which may impair the customary use and enjoyment of the property. The hazards include toxic chemicals, radioactive materials, other pollution, hazardous activities, potential damage from soil or other differential ground movements, ground water, inadequate surface drainage, flood, erosion, or others located on or off site. The site must meet the standards set forth at 24 CFR Part 51.

(ii) When special conditions exist or arise during construction which were unforeseen and which necessitate precautionary or hazard mitigation measures, the HUD Field Offices shall require corrective work to mitigate potential adverse effects from the special conditions as may be necessary. Special conditions include rock formations, unstable soils or slopes, high ground water levels, springs, or other conditions which may adversely effect a property. It shall be the builder's responsibility to assure proper design, construction and satisfactory performance where they are present.

(4) *Access.* (i) Each property shall be provided with vehicular or pedestrian access by a public or private streets. Private streets shall be protected by permanent easement.

(ii) Each living unit shall have a means of access such that it is unnecessary to pass through any other living unit.

(iii) The rear yard shall be accessible without passing through any other living unit.

(iv) For a row type dwelling, the access may be by means of alley, easement, passage through the dwelling, or other means acceptable to the HUD Field Office.

(c) *Site Design*—(1) *General.* A site design shall be provided which includes an arrangement of all site facilities necessary to create a safe, functional, healthful, durable and energy efficient living environment for residents. These site design standards are applicable only in communities which have not adopted criteria for site development applicable to one and two family dwellings. Single family detached houses situated on individual lots located on existing streets with utilities need not comply with the requirements of § 200.926d(c) (3), (4) and (5)(ii).

(2) *Streets.* (i) Existing or proposed streets on the site shall connect to private or public streets and shall provide all weather access to all buildings for essential and emergency use, including access needed for deliveries, service, maintenance and fire equipment.

(ii) Streets shall be designed for dedication for pubic use and maintenance or, when approved by the HUD Field Office, may be retained as private streets where protected by permanent easements.

(3) *Dedication.* Utilities shall be located to permit dedication to the local government or appropriate public body.

(4) *Drainage and flood hazard exposure.* (i) The minimum grades at buildings and at openings into basements shall be at elevations which prevent adverse effect by water or water entering basements from flood levels equivalent to a 50 year return frequency after full development. The floor elevations of all habitable space shall be above runoff and flood levels equivalent to a 100 year return frequency after full development.

(ii) Streets shall be usable during runoff equivalent to a 10 year return frequency. Where drainage outfall is inadequate to prevent runoff equivalent to a 10 year return frequency from ponding over 6 in. deep, streets shall be made passable for commonly used emergency vehicles during runoff equivalent to a 25 year return frequency, except where an alternate access street not subject to such ponding is available.

(iii) Crawl spaces shall not pond water or be subject to prolonged dampness.

(d) *Special construction*—(1) *Factory produced (modular panelized) housing*—(i) *Structural features.*

(A) For Factory Fabricated Systems or Components not covered, *see* HUD Handbook 4950.1, Technical Suitability of Products Program Technical and Processing Procedures.

(B) The requirements of this Part shall apply to structural features consisting of factory fabricated systems or components assembled either at the factory or at the construction site if the total construction is covered by these standards and can be inspected on-site for determination of compliance.

(ii) Non-structural features. These features include methods of construction, systems, sub-systems, components, materials and processes which are not covered by these requirements. *See* HUD Handbook 4950.1 for procedures to be followed in order to obtain acceptance of non-structural components or materials.

(e) *Thermal requirements*—(1) *Building insulation.*—

(i) *General.* Buildings shall be insulated so as to ensure conservation of energy, economy of operation and comfort to the occupants.

(ii) *Overall coefficient of heat transmission.* (A) All buildings which are heated or cooled mechanically shall be constructed to comply with the U values shown in the table at § 200.926a(e)(1)(iii). The U values shown do not include adjustments for framing in walls, ceilings or floors, nor for the sash frame in windows or glass doors.

(B) Where the stated U value of any one component of roof deck, ceiling, wall or floor cannot be practically obtained, such U value may be increased to the minimum figure attainable and the U value for other components decreased until the overall heat gain or heat loss does not exceed the total attained by conformance to the stated U values. (See Note 2 of the table at § 200.926d(e)(1)(iii)).

(iii) *Component coefficient values.* For ceilings, walls, floors and openings, U values shall not exceed those shown in the following table.

MAXIMUM U VALUES FOR CEILING, WALL AND FLOOR SECTIONS FOR ELECTRIC RESISTANCE HEAT (E.R.) AND HEAT PUMP OR FOSSIL FUEL HEAT (F.F.) (1)

Heating degree days (65 °F base)	Ceilings (2, 3)		Walls (2)		Floors (4)		Windows (5)		Sliding glass doors (5)		Storm doors (6)	
	E.R.	F.F.	E.R.	F.F.	E.F.	F.F	E.R	F.F.	E.R.	F.F	E.R.	F.F
0 to 1,000	.05	.05	.08	.08	.....	.....	1.13	1.13	1.13	1.13	No	No.
1,001 to 2,500	.04	.05	.07	.08	.....	.....	.69	1.13	.69	1.13	No (7)	No.
2,501 to 3,500	.03	.04	.05	.08	.07	.....	.69	1.13	.69	1.13	No (7)	No.
3,501 to 4,500	.03	.03	.05	.07	.06	.07	.69	.69	.69	.69	No (7)	No.
4,501 to 6,000	.03	.03	.05	.07	.06	.07	.47	.69	.69	.69	Yes	No. (7)

MAXIMUM U VALUES FOR CEILING, WALL AND FLOOR SECTIONS FOR ELECTRIC RESISTANCE HEAT (E.R.) AND HEAT PUMP OR FOSSIL FUEL HEAT (F.F.) (1)—Continued

Heating degree days (65 °F base)	Ceilings (2, 3)		Walls (2)		Floors (4)		Windows (5)		Sliding glass doors (5)		Storm doors (6)	
	E.R.	F.F.	E.R.	F.F.	E.F.	F.F.	E.R.	F.F.	E.R.	F.F.	E.R.	F.F
6,001 to 7,000	.026	.03	.06	.07	.05	.07	.47	.69	.69	.69	Yes	No. (7)
7,001 +	.026	.026	.05	.05	.05	.47	.47	.47	.69	.69	Yes	Yes.

Notes.—(1) For areas of 5000 heating degree days (HDD) or less, houses using heat pumps may be insulated to levels required for fossil fuels. In areas above 5000 HDD, houses using air-to-air heat pumps shall be insulated to levels required for electric resistance (ER) heating, except where the following are used:

(a) Water source heat pumps.

(b) Fossil fuel supplement heat.

(c) Units with multiple capacity.

(i) Dual compressors.

(ii) Modulating compressor speed.

(iii) Dual speed compressor.

(d) Uni-directional heat pumps (such as annual cycle energy systems, (ACES)).

(e) Units with balanced heating and cooling load.

(2) The following combinations of wall and ceiling values are considered to provide annual heating and cooling consumption comparable to that predicted for values in the above Table and may be substituted accordingly. Other components shall conform to the values shown below for the specific heating degree day (HDD):

HDD (65 °F)	ER		FF	
	CLG	Wall	CLG	Wall
0 to 1,000	.04	.14	.04	.14
	.03	.15	.03	.15
	.026	.16	.026	.16
1,001 to 1,500	(1)	(1)	.04	.13
	.03	.13	.03	.14
	.026	.14	.026	.16
1,501 to 2,500	(1)	(1)	.04	.12
	.03	.11	.03	.13
	.026	.12	.026	.14
2,501 to 3,000	(1)	(1)	.03	.12
	.026	.07	.026	.13

(1) See Table at § 200.926d(e)(1)(iii).

(3) Includes roof/ceiling assemblies, in which the finished ceiling is the underside of the roof deck.

(4) For floors of heated spaces over unheated basements, unheated garages or unheated crowl spaces. A basement, crawl space or garage shall be considered unheated unless it is provided with a positive heat supply sufficient to maintain a minimum temperature of 50 °F. A positive heat supply is defined as heat supplied to a space by design or by heat losses occuring from energy-consuming systems or components associated with that space. Where the walls of an unheated basement or crawl space are insulated in lieu of floor insulation, the total heat loss attributed to the floor from the heated area shall not exceed the heat loss calculated for floors with required insulation.

(5) Maximum glass area shall not exceed 15 percent of the gross area of all exterior walls enclosing heated spaces, except when it can be demonstrated that the winter daily solar heat gain exceeds the 24 hour heat loss and the glass area is properly screened from summer solar heat gain. In areas where cooling is the predominant load and the heating load is insignificant (as an example, 2000 or more cooling hours and 2000 or less heating degree days), the maximum glazing area stated above may be waived when glass area is properly screened from solar heat gain. Any additional glass area shall have a significant portion of operable sash in order to provide natural ventilation.

(6) A 1¾ inch metal faced door system with an insulated core and durable weatherstripping providing a U value equal or better than 0.32, and an infiltration rate no greater than .50 cfm per foot of crack length, tested according to ASTM E 283 at 1.567 psf of air pressure, may be substituted for a conventional door and storm door. All exterior doors shall be weatherstripped.

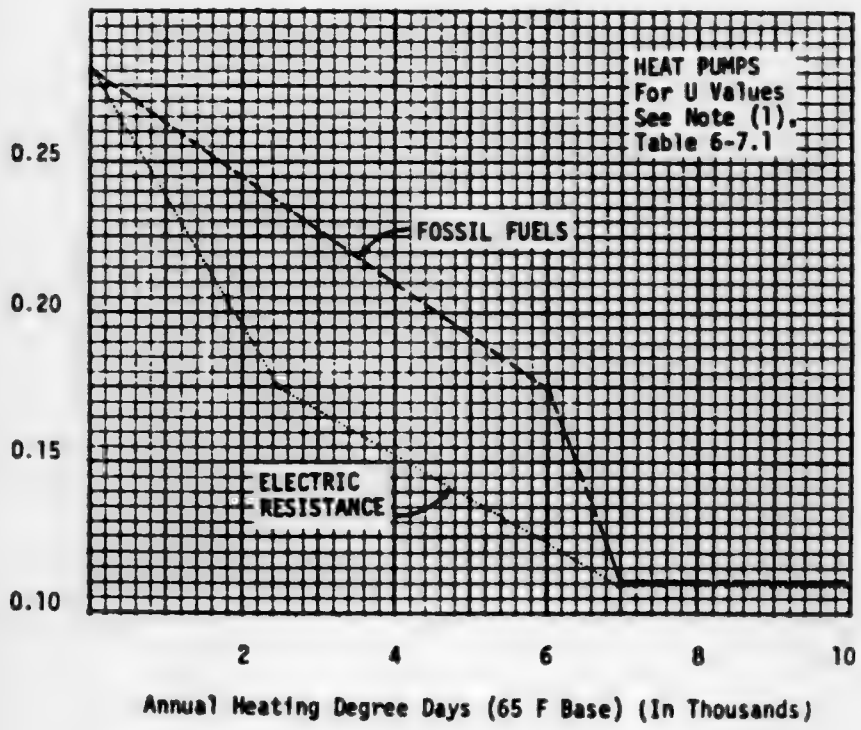
(7) In areas with 1501 or more heating degree days, a storm door is required when the primary door is a hollow core door or is over 25% glass.

(iv) *Alternate performance criteria.* (A) As an alternative to conformance with the table at § 200. 962d(e)(1)(iii), dwellings which conform to the performance criteria of this section shall be considered acceptable.

(B) U_o (gross wall)—Total exterior wall area (opaque wall and window and door) shall have a combined thermal transmittance value (U_o value) not to exceed the values shown in Figure 1. Equation 1 shall be used to determine acceptable combinations to meet the requirements of Figure 1.

(C) U_o (gross ceiling)—Total ceiling area (opaque ceiling and skylights) shall have a combined thermal transmittance value (U_o value) not to exceed the values shown in Figure 2. Equation 2 shall be used to determine acceptable combinations to meet the requirements of Figure 2.

GROSS WALLS - FIGURE 1



Annual Heating Degree Days

(65 °F Base) (In Thousands)

Equation 1 Formula for Determining Combinations (See Figure 1):

$U_o = ({}^{U}\text{wall}\ {}^{A}\text{wall} + {}^{U}\text{window}\ {}^{A}\text{window} + {}^{U}\text{door}\ {}^{A}\text{door}) / A_o$

Where: U_o = the average thermal transmittance of the gross wall area, Btu/(h × sq. ft. × F)

A_o = the gross area of all exterior walls enclosing heated spaces, sq. ft.

^{U}Wall = the thermal transmittance of all elements of the opaque wall area, Btu/(h × sq. ft. × F)

^{A}wall = opaque wall area enclosing heated spaces, sq. ft.

^{U}window = the thermal transmittance of the window area, Btu/(h × sq. ft. × F)

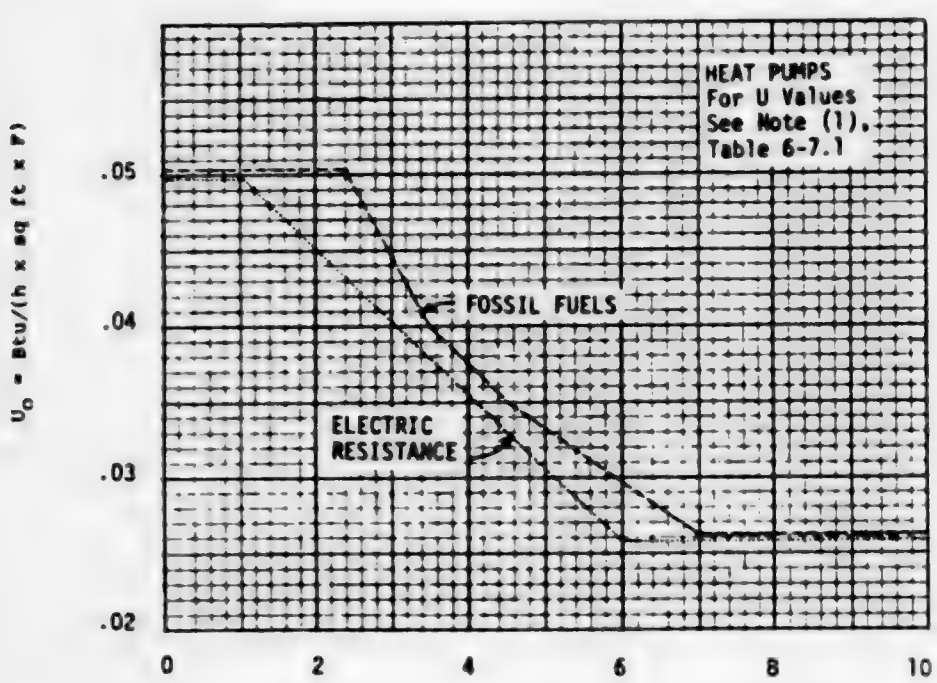
^{A}window = window area (including sash), sq. ft.

^{U}door = the thermal transmittance of the door area, Btu/(h × sq. ft. × F)

^{A}door = door area (including sash), sq. ft.

Note.—Where more than one type of wall, window and/or door is used, the U × A term for that exposure shall be expanded into its sub-elements, as follows:
$^{U}\text{wall}_1\ {}^{A}\text{wall}_1 + {}^{U}\text{wall}_2\ {}^{A}\text{wall}_2$, etc.

GROSS CEILING - FIGURE 2*



Annual Heating Degree Days

(65 °F Base) (In Thousands)

Equation 2 Formula for Determining Roof/Ceiling Combinations:

$U_o = ({}^{U}\text{roof}\,{}^{A}\text{roof} + {}^{U}\text{skylight}\,{}^{A}\text{skylight}/A$.

where:

U_o = the average thermal transmittance of the gross roof/ceiling area, Btu/(h x sq. ft. x F)

A_o = the gross area of a roof/ceiling assembly, sq. ft.

^{A}roof = opaque roof/ceiling area, sq. ft.

^{U}roof = the thermal transmittance of all elements of the opaque roof/ceiling area, Btu/(h x sq. ft. x F)

^{U}skylight = the thermal transmittance of all skylight elements in the roof/ceiling assembly, Btu/(h x sq. ft. x F)

^{A}skylight = skylight area (including frame), sq. ft.

Note.—Where more than one type of roof/ceiling and/or skylight is used, the U x A term for that exposure shall be expanded into its sub-elements, as:
$^{U}\text{roof}_1\,{}^{A}\text{roof}_1 + {}^{U}\text{roof}_2\,{}^{A}\text{roof}_2$, etc.

(v) *Overall structure performance alternative.* Structures which can be shown by accepted engineering practice to have energy consumption equal to or less than that which would be obtained by conformance to the criteria of § 200.926d(e) (iii) or (iv) shall be considered acceptable. The contribution of passive solar energy and the related storage and reradiation capacity of masonry, water and other mass may be recognized in computing energy consumption under this alternate method. The following requirements shall govern in determining comparability:

(A) The methodology shall be cost effective to the energy consumer.

(B) The methodology shall not adversely affect the structural capacity, durability, or safety aspects of the structure.

(C) All data and calculating must show valid performance comparison between the proposed option and a structure comparable in size, configuration, orientation and occupant usage designed in accordance with § 200. 926d(e) (iii) or (iv).

(vi) *Basement or crawl space foundation walls.* Insulation may be omitted from floors over heated basement areas or heated crawl spaces if foundation walls are insulated. Foundation walls of heated areas below grade need not be insulated except where recreation or similar use rooms or habitable rooms are provided, or where more than 50 percent of the wall is exposed to outside air. The U value of foundation wall sections shall not exceed the value shown in the following table except where the alternative methods shown in § 200. 926d(e) (iv) or (v) are employed and foundation walls are included in the determination of the average thermal transmittance of the gross wall area.

MAXIMUM U VALUES OF THE FOUNDATION WALL SECTIONS OF HEATED BASEMENT OR HEATED CRAWL SPACE

Heating degree days (65°F Base)	Maximum U value
2500 or Less	No requirement.
2501 to 4500	0.17.
4501 or more	0.10

(vii) *Crawl space plenum walls.* When a crawl space is used as a supply or return plenum, the crawl space perimeter wall shall be insulated to provide a maximum heat loss of 35 Btuh per lineal foot of perimeter wall, assuming a crawl space air temperature of 70 °F for return plenums and 110 °F for supply plenums.

(viii) *Slab-on-grade floors.* For slab-on-grade floors of heated or mechanically cooled spaces, the thermal resistance of the insulation around the perimeter of the floor shall be not less than shown in the following table. Insulation shall extend downward from the top of the slab for not less than 24 in. or downward to the bottom of the slab and horizontally beneath the slab for a minimum total distance of 24 in.

MINIMUM R VALUES OF PERIMETER INSULATION FOR SLABS-ON-GRADE

Heating degree days (65° F base)	Minimum R values [1]	
	Heated slab	Unheated slab
500 or less	2.8	
1000	3.5	
2000	4.0	
2500	4.4	2.5
3000	4.8	2.8
4000	5.5	3.5
5000	6.3	4.2
6000	7.0	4.8
7000	7.8	5.5
8000	8.5	6.2
9000	9.2	6.8
10000 or greater	10.0	7.5

[1] For increments between degree days shown, U values may be interpolated, or the values shown in Figure 2 of ASHRAE 90-75 may be substituted.

(f) *Water supply systems*—(1) *General.* (i) Each living unit shall be provided with a continuing and sufficient supply of safe water under adequate pressure and of appropriate quality for all household uses. This system shall not impair the function or durability of the plumbing system or attachments.

(ii) The chemical and bacteriological standards of the local health authority shall apply. In the absence of such standards, the maximum contaminant levels of EPA shall apply. A water analysis may be required by either the health authority or the HUD Field Office.

(iii) Whenever feasible, connection shall be made to a public water system. When a public system is not available, if feasible, connection shall be made to a community system which shall comply with HUD Handbook 4940.2.

(2) *Individual water systems.* (i) The system should be capable of delivering a flow of 5 pgm over at least a 4 hour period.

(ii) Water that requires continuing or repetitive treatment to be safe bacterially or chemically is not acceptable. Individual dwelling water purification units are not an acceptable alternative but may be used to improve acceptable water.

(iii) After installation, the system shall be disinfected in accordance with the recommendations or requirements of the local health authority. In the absence of a health authority, system cleaning and disinfection shall conform to the current EPA Manual of Individual Water Supply Systems.

(iv) Bacteriological or chemical examination of a water sample collected by a representative of the local or state health authority shall be made when required by that authority or the HUD Field Office.

(3) *Location of wells.* (i) A well located within the foundation walls of a dwelling is not acceptable except in arctic or subarctic regions.

(ii) Water which comes from any soil formation which may be polluted, contaminated, fissured, creviced or less than 20 ft. below the natural ground surface is not acceptable, unless acceptable to the local health authority.

(iii) Individual water supply systems are not acceptable for individual lots in areas where chemical soil poisoning has been or is practiced if the overburden of soil between the ground surface and the water bearing strata is coarsegrained sand, gravel, or porous rock, or is creviced in a manner which will permit the recharge water to carry the toxicants into the zone of saturation.

(iv) The following table shall be used in establishing the minimum acceptable distances between wells and sources of pollution located on either the same or adjoining lots. These distances may be increased by either the health authority having jurisdiction or the HUD Field Office.

DISTANCE FROM SOURCE OF POLLUTION

Source of pollution	Minimum horizontal distance (ft.)
Property line	10
Septic tank	50
Absorption field	[1] 100
Seepage pit	[1] 100
Absorption bed	[1] 100
Sewer lines w/permanent watertight joints	10
Other sewer lines	50
Chemically poisoned soil	[3] 25
Dry well	50
Other	(*)

[1] This clearance may be increased on decreased depending upon soil and rock penetrated by the well and aquifer conditions. The clearance may be increased in creviced limestone and permeable strata of gravel and sand. The clearance may be reduced to 50 ft. only where the ground surface is effectively separated from the water bearing formation by an extensive, continuous impervious strata of clay, hardpan, or rock. The well shall be constructed so as to prevent the entrance of surface water and contaminants.

[2] The recommendations or requirements of the local health authority shall apply.

[3] This clearance may be reduced to 15 feet only where the ground surface is effectively separated from the water bearing formation by an extensive, continuous imperious strata of clay, hardpan, or rock.

(4) *Well construction.* (i) The well shall be constructed so as to allow the pump to be easily placed and to function properly.

(ii)(A) All drilled wells shall be provided with a sound, durable and watertight casing capable of sustaining the loads imposed.

(B) The casing shall extend from a point several feet below the water level at drawdown or from an impervious strata above the water level to 12 in. above either the ground surface or the pump room floor. The casing shall be sealed at the upper opening to a depth of at least 15 feet.

(iii) Bored wells shall be lined with concrete, vitrified clay or equivalent materials.

(iv) The space between the casing or liner and the wall of the well hole shall be sealed with cement grout.

(v) The well casing shall not be used to convey water except under positive pressure. A separate drop pipe shall be used for the suction line.

(vi) When sand or silt is encountered in the water-bearing formation, the well shall either be compacted and gravel packed, or a removable strainer or screen shall be installed.

(vii) The surface of the ground above and around the well shall be compacted and graded to drain surface water away from the well.

(viii) Openings in the casing, cap, or concrete cover for the entrance of pipes, pump or manholes shall be water-tight.

(ix) If a breather is provided, it shall extend above the highest level to which surface water may rise. The breather shall be watertight, and the open end shall be screened and positioned to prevent entry of dust, insects and foreign objects.

(5) *Pump and equipment.* (i) Pumps shall be capable of delivering the volume of water required under normal operating pressure within the living unit. Pump capacity shall not exceed the output of the well.

(ii) Pumps and equipment shall be mounted to be free of objectionable noises, vibrations, flooding, pollution, and freezing.

(iii) Suction lines shall terminate below maximum drawdown of the water level in the well.

(iv) Horizontal segments of suction line shall be placed below the frost line in a sealed casing pipe or in at least 4 in. of concrete. The distance from suction line to sources of pollution shall be not less than shown in the table at § 200.926d(f)(3)(iv).

(6) *Storage tanks.* (i) A pressure tank having a minimum capacity of 42 gallons shall be provided. However, prepressure tanks and other pressurizing devices are acceptable provided that delivery between pump cycles equals or exceeds that of a 42 gallon tank.

(ii) Tanks shall be equipped with a clean-out plug at the lowest point, and a suitable pressure relief valve.

(12 U.S.C 1735f-4; sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)))

Dated: September 18, 1984.

Shirley M. Wiseman,

General Deputy Assistant Secretary for Housing, Federal Housing Commissioner.

[FR Doc. 84-26750 Filed 10-10-84; 8:45 am]
BILLING CODE 4210-27-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-10-FRL-2691-3]

Approval and Promulgation of State Implementation Plan; Idaho

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The purpose of this Notice is to invite public comment on EPA's proposal to approve amendments to TITLE 1 Chapter 1 RULES AND REGULATIONS FOR THE CONTROL OF AIR POLLUTION IN IDAHO which will be submitted by the State of Idaho Department of Health and Welfare (IDHW) as revisions to the State Implementation Plan (SIP). The primary changes involve the addition of a consolidated permit and emissions trading program which: (1) Establishes requirements for a permit to construct for new and modified stationary sources and facilities, including provisions for nonattainment areas, prevention of significant deterioration, and visibility protection and (2) establishes requirements for operating permits, including provisions for emissions offsets, alternative emission limits (bubbles), and banking emissions reduction credits. EPA is proposing to give full approval to these revisions except as they relate to bubbles and the use of banked emission reduction credits in bubbles. EPA's approval of those provisions would still require case-by-case EPA approval of bubbles and the use of banked credits in bubbles as SIP revisions. EPA's action is based on proposed rules which were submitted by IDHW to EPA in September and December 1983. Upon adoption by IDHW and final approval by EPA, the rules will become a federally enforceable part of the SIP as required by the Act. The intended effect of this action is to establish a SIP permitting and emissions trading program that will allow IDHW to issue all the Act's required permits and to issue operating permits, including the approval of certain emissions trading transactions (e.g., emission offsets) without the need for case-by-case Federal approval.

DATE: Comments wil be accepted until November 13, 1984.

ADDRESSES: Copies of the materials submitted to EPA may be examined during normal business hours at:

Air Programs Branch, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101

State of Idaho, Department of Health and Welfare, 450 West State Street, Boise, Idaho 83720

Comments should be addressed to: Laurie M. Kral Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: David C. Bray, Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101, Telephone (206) 442-1980, (FTS) 399-1980.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. Background
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I. Introduction

As a result of the many revisions to EPA's new source review regulations during the past several years, IDHW is currently revising the provisions of TITLE 1 Chapter 1 RULES AND REGULATIONS FOR THE CONTROL OF AIR POLLUTION IN IDAHO which pertain to the permitting of new, modified, and existing stationary sources and facilities. EPA is today proposing to approve these revisions based on the proposed rules which were submitted to EPA on September 19, 1983 and January 11, 1984. This **Federal Register** action is being processed in parallel with action at the State level to adopt and submit a revision to the currently approved SIP. It is an attempt to accelerate the EPA rulemaking process by proposing approval based on an acceptable draft SIP revision, rather than postponing action until a final adopted and submitted SIP revision is received. The key to this shortened process is the incorporation of EPA comments in the early stages of SIP development so that the SIP revision, when submitted, is approvable without additional corrections. This process also assumes that no major changes will be made to the proposed SIP rules as a result of the State's public participation process. Such changes could necessitate a reproposal of affected portions of the rules.

The section entitled *"Background"* outlines the requirements of the Act regarding new source review, PSD, visibility, and emissions trading programs. The section entitled *"Plan Revisions"* describes the draft IDHW rules which are proposed for approval herein. The section entitled *"Proposed Rulemaking Action"* summarizes the action which EPA is today proposing, describes the intended effects of this action, and calls for comments.

II. Background

The Act requires in section 110(a)(2)(D) that each SIP regulate

> the modification, construction and operation of any stationary source, including a permit program as required by parts C and D and a permit or equivalent program for any major emitting facility, within such region as necessary to assure (i) that national ambient air quality standards are achieved and maintained, and (ii) a procedure, meeting the requirements of paragraph (4), for review (prior to construction or modification) of the location of new sources to which a standard of performance will apply.

The specific requirements for these programs are contained in sections 110(a)(4), 165, 169, 171, 172(b)(6) and 173 of the Act and 40 CFR 51.18 and 51.24 of EPA regulations and will not be reiterated herein.

In addition to a permit program, Part C of the Act requires in Section 161 that each SIP contain emission limitations and such other measures as may be necessary to prevent significant deterioration of air quality. The specific requirements for these portions of the PSD program are contained in sections 162, 163 and 164 of the Act and 40 CFR 51.24 of EPA regulations.

Section 169A of the Act establishes requirements for preventing future impairment of visibility in mandatory class I federal areas, including the review of new and modified major stationary sources. The specific requirements pertaining to the permitting of new and modified major stationary sources are contained in 40 CFR 51.301 and 51.307 of EPA regulations.

Emissions trading is a regulatory reform measure which is allowed by the Act within the context of the Federally-approved SIP. It currently consists of four programs: (1) Emission offsets for new and modified sources (e.g., as required by section 173(l) of the Act); (2) netting of emissions to determine what constitutes a modified major stationary source or major emitting facility (as required by sections 110(a)(2)(D)(i), 165(a), 169(l)(C), and 172(b)(6) of the Act); (3) alternative emission limits (bubbles) for SIP emission limitations established pursuant to sections 110(a)(2)(B), 161 and 172(b)(8) of the Act; and (4) banking (saving for future use) emission reductions in excess of that otherwise required by the SIP (i.e. emission reduction credits). The requirements for emission offsets are contained in 40 CFR 51.18 and for netting in 40 CFR 51.18 and 51.24 of EPA

regulations. On April 7, 1982 (47 FR 15076), EPA published a proposed Emissions Trading Policy Statement which substantially revises its earlier policies on alternative emission limits and emissions banking programs. This policy statement constitutes interim criteria for evaluating state emissions trading rules.

III. Plan Revisions

The primary changes to the existing IDHW rules involve the addition of a consolidated permit and emissions trading program. This program: (1) Establishes requirements for a permit to construct for new and modified stationary sources and facilities, including provisions for nonattainment areas, prevention of significant deterioration, and visibility protection; and (2) establishes requirements for operating permits, including provisions for emissions offsets, alternative emission limits (bubbles), and banking emission reduction credits. To accommodate these new provisions, changes are being made to the following sections of the existing rules:

1-1002 DEFINITIONS
1-1003 REGISTRATION AND PERMIT PROCEDURES FOR STATIONARY SOURCES
1-1012 (RESERVED)
1-1013 (RESERVED)
1-1014 (RESERVED)
1-1101 to 1-1112 AMBIENT AIR QUALITY STANDARDS
1-1900 SOURCE SPECIFIC LIMITATIONS
1-1901 to 1-1904 RULES FOR AIR POLLUTION SOURCE PERMITS
1-1905 PERMIT TO CONSTRUCT REQUIREMENTS
1-1906 PERMIT REQUIREMENTS IN NONATTAINMENT AREAS

The following paragraphs describe the proposed changes to the existing IDHW rules.

Sections 1-1002 DEFINITIONS is being amended by adding definitions of "actual emissions," "adverse effects on visibility," "complete," "designated facility," "emissions unit," "federal class I area," "federal land manager," "fugitive emissions," "hazardous pollutant," "Indian governing body," "Indian reservation," "innovative control technology," "integral vista," "mandatory federal class I area," "net emissions increase," "operating permit," "permit to construct," "reasonable further progress," "secondary emissions," "significant," "significant contribution," and "visibility impairment"; by revising definitions of "air contaminant," "allowable emissions," "ambient air," "baseline concentration," "best available control technology," "BTU," "commence construction of modification," "construction," "criteria pollutant," "emission," "emission standard," "emission standard violation," "existing source," "facility," "fugitive dust," "industrial process," "lowest achievable emission rate," "major facility," "major modification," "modification," "new source," "nonattainment area," "opacity," "person," "portable hot-mix asphalt plant," "process or process equipment," "process weight," "process weight rate," "source," "standard conditions," "stationary source," and "time intervals," "uncontrolled emission"; and by deleting definitions of "air pollution source permit," "area source," "ASTM," "certificate of registration," "Commission," "pilot plant," "Ringlemann smoke chart," "settleable particulates," and "show cause order".

Section 1-1003 REGISTRATION AND PERMIT PROCEDURES FOR STATIONARY SOURCES is being repealed, with the permit procedures relocated to the new Section 1-1012 and the registration requirements revised so that they only apply to portable sources and relocated to a new section 1-1013 "REGISTRATION PROCEDURES AND REQUIREMENTS FOR PORTABLE EQUIPMENT".

Section 1-1012 (RESERVED) is being amended by titling it "PROCEDURES AND REQUIREMENTS FOR PERMITS TO CONSTRUCT AND OPERATING PERMITS" and by relocating all of the amended permit requirements of the existing Sections 1-1003 and 1-1900 through 1-1906 to this new section. The new section will include applicability provisions for permits to construct (1-1012.02), applicability provisions for operating permits (1-1012.03), permit application procedures (1-1012.04), requirements for all new and modified stationary sources (1-1012.05), requirements for new and modified major stationary sources in nonattainment areas (1-1012.06), requirements for new and modified major stationary sources in attainment and unclassifiable areas (1-1012.07), visibility protection provisions (1-1012.06 and 1-1012.07), provisions for emission offsets for any permit to construct (1-1012.08), requirements for alternative emission limits (1-1012.09), provisions for banking emission reduction credits (1-1012.10), requirements for crediting emission reductions (1-1012.11), requirements for demonstrating net air quality benefit and ambient equivalence (1-1012.12), procedures for issuing, modifying, and renewing permits (1-1012.13), conditions which may be imposed upon permits to construct and operating permits (1-1012.14), and provisions establishing the responsibility to comply with applicable local, state and federal regulations (1-1012.15).

Section 1-1014 (RESERVED) is being amended by titling it STACK HEIGHTS AND DISPERSION TECHNIQUES and adding provisions which restrict the use of stack heights and dispersion techniques when determining emission control requirements (1-1014.02).

The existing ambient air quality standard for photochemical oxidants (Section 1-1105) is being replaced with an ozone standard equivalent to the National Ambient Air Quality Standard for ozone. The existing ambient air quality standards for hydrocarbons (Section 1-1106), settleable particulate (1-1109), sulfuric acid mist (1-1110) and beryllium (1-1112) are bing deleted. The remaining ambient air quality standards in Sections 1-1101 through 1-1112 are being renumbered and included in the new Section 1-1101 AMBIENT AIR QUALITY STANDARDS AND AREA CLASSIFICATION as Section 1-1101.01 Ambient Air Quality Standards.

The new Section 1-1101 also includes procedures for designating attainment, unclassifiable, and nonattainment areas (1-1101.02), the baselines for the PSD program (1-1101.03), the initial classification and redesignation procedures for PSD areas (1-1101.04), and the PSD increments for Class I, II, and III areas and concentrations which can be excluded from increment consumption (1-1101.05).

The existing Section 1-1900 is being amended by revising and relocating the provisions of Section 1-1900.01 Alternative Emission Limits to the new Section 1-1012 and amending and relocating the provisions of Section 1-1900.02 Compliance Schedules to the new Section 1-1012.03

The existing provisions of Sections 1-1901 through 1-1904 RULES FOR AIR POLLUTION SOURCE PERMITS, Section 1-1905 PERMIT TO CONSTRUCT REQUIREMENTS, and Section 1-1906 PERMIT REQUIREMENTS IN NONATTAINMENT AREAS are being amended and relocated to the new Section 1-1012.

IV. Proposed Rulemaking Action

The IDHW regulations are substantially different in structure and organization than the EPA regulations they are designed to meet. However, with two exceptions, EPA has determined that the proposed revisions satisfy the requirements of the Act and EPA regulations with regard to: (1) The permitting of new and modified

stationary sources, including the requirements for nonattainment areas, PSD, visibility, and offsets; and (2) ambient air quality standards, PSD increments, and area designations.

The provisions of Sections 1–1002 DEFINITIONS, 1–1012 PROCEDURES AND REQUIREMENTS FOR PERMITS TO CONSTRUCT AND OPERATING PERMITS, 1–1014 STACK HEIGHTS AND DISPERSION TECHNIQUES and 1–1101 AMBIENT AIR QUALITY STANDARDS AND AREA CLASSIFICATIONS, taken together, satisfy EPA's permit requirements in 40 CFR 51.18, 51.24, and 51.307, with two exceptions. Those exceptions involve a restriction in EPA's regulations (40 CFR 51.18(j)(3)(ii)(*c*)) on the use of permanent source shutdowns and curtailments as offsets for new or modified stationary sources in nonattainment areas, and a requirement that all limitations used to determine allowable emissions be federally enforceable (40 CFR 51.18(j)(1)(xi) and 51.24(b)(16)). The proposed IDHW regulations do not contain such provisions. However, EPA has recently proposed to rescind these restrictions (48 FR 38742, August 25, 1983), and final recission would make the IDHW regulation approvable. As such, EPA is proposing to approve the IDHW regulation with the understanding that (1) if, after EPA rulemaking is completed the restrictions have not been rescinded, IDHW will submit, within one year, revisions to its regulation to impose such restrictions, and (2) until such time as the EPA restriction is rescinded, IDHW will make an enforceable commitment to refrain from using past source shutdowns or curtailments as emission offsets and will submit operating permits which are not already federally-enforceable to EPA for inclusion in the SIP before EPA takes final action on the PSD and NSR programs.

Under these regulations, IDHW will be issuing permits and establishing emission limitations that may be affected by the current judicial review of stack height regulations promulgated by EPA on February 8, 1982 (47 FR 5864). For this reason, EPA has requested that IDHW include the following caveat in all potentially affected permit approvals until the judicial process is completed and the stack height regulations either upheld by the court or revised by EPA:

> In approving this permit, IDHW has determined that the application complies with the applicable provisions of the stack height regulations promulgated by EPA on February 8, 1982 (47 FR 5864). Portions of those regulations have been overturned by a panel of the U.S. Court of Appeals for the D.C. Circuirt, *Sierra Club* v. *EPA*, 719 F. 2d 436 (D.C. Cir, 1983). That court decision has been appealed to the U.S. Supreme Court by a group of affected industries. Consequently, this permit may be subject to modification when the judicial process is completed and any regulations revised in response. This may result in revised emission limitations or may affect other actions taken by the source owners or operators.

IDHW will make an enforceable commitment to include this caveat in all affected permits before EPA will take final action approving the PSD program.

The provisions of Sections 1–1002 DEFINITIONS and 1–1101 AMBIENT AIR QUALITY STANDARDS AND AREA CLASSIFICATIONS, taken together, satisfy EPA's requirements in 40 CFR Part 50, 40 CFR 51.24, and 40 CFR Part 81.

The proposed revisions pertaining to emissions trading (the provisions for alternative emission limits and banking emission reduction credits in Sections 1–1002 DEFINITIONS and 1–1012 PROCEDURES AND REQUIREMENTS FOR PERMITS TO CONSTRUCT AND OPERATING PERMITS) are generally consistent with EPA's Emissions Trading Policy Statement. However, IDHW has decided not to develop a "generic" bubble rule as envisioned by EPA's policy at this time but rather to submit alternative emission limits (including any banked emission reduction credits used in a "bubble") to EPA as SIP revisions in order to change the applicable provisions of the Federally-approved SIP. When EPA's final policy statement on emissions trading, specifically the scope and requirements for state generic rules, is published, IDHW will evaluate the feasibility of developing a generic rule.

In summary, EPA today proposes to approve revisions to TITLE 1 Chapter 1 RULES AND REGULATIONS FOR THE CONTROL OF AIR POLLUTION IN IDAHO, based on proposed rules submitted by IDHW to EPA on September 19, 1983 and January 11, 1984 and with the understandings discussed above. Final EPA approval will be contingent upon the receipt of State-adopted rules which are substantially consistent with the draft rules.

There are two intended effects of this proposed action: (1) To recognize that only Permits to Construct, issued by IDHW in accordance with the EPA-approved rules, are necessary for the construction or modification of stationary sources as requird by Sections 110, Part C (PSD), Section 169A (pertaining to visibility), and Part D (pertaining to nonattainment areas) of the Act; and (2) to recognize that Operating Permits, including those with netting, offset or banking actions, approved by IDHW in accordance with the EPA-approved rules, are revisions to the Federally-approved SIP at the time of permit issuance and do not require case-by-case EPA approvals. However, any alternative emission limit (bubble), including any involving the use of banked emission reduction credits, approved by IDHW in accordance with these rules will need to be approved by EPA as a SIP revision (meeting all applicable requirements) in order to change the applicable provisions of the Federally-approved SIP. (IDHW-approved variances must also be approved by EPA as SIP revisions in order to change the applicable SIP provisions.)

Any EPA approval or disapproval of existing source bubbles as SIP revisions will be based upon the Act, EPA regulations, policy, and guidelines applicable at that time. Sources and IDHW should not rely on EPA's limited approval of this rule as assurance that a bubble which meets all the requirements of this rule will necessarily be approvable by EPA. The current SIP contains the emission limits EPA will enforce until such time as an individual bubble is approved by EPA as a SIP revision. Thus, EPA today is merely proposing to approve a bubble rule which allows IDHW to approve bubbles that would then be submitted as SIP revisions to EPA for case-by-case approval. Similarly, EPA is not necessarily proposing to approve the future use in existing source bubbles of any emission reduction credits in the bank. Through this limited approval, EPA would merely be approving a banking rule which provides a mechanism for sources to bank emission reductions. Any use of banked emission reductions in bubbles must be consistent with the Act, EPA regulations, policy, and guidelines at the time of EPA action on those bubbles as SIP revisions.

Interested parties are invited to comment on all aspects of these proposed revisions to the Idaho SIP. Comments should be submitted, preferably in triplicate, to the address listed in the front of this Notice. Public comments postmarked by (30 days after publication) will be considered in any final action EPA takes on this proposal.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator has certified that SIP approvals under Sections 110, 161, 169A, and 172 of the Act will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

Under Executive Order 12291, EPA must judge whether or not a regulation is "major" and therefore subject to the requirements of regulatory impact analysis. This regulation is not judged to be major since it merely approves actions taken by the State and does not establish any new requirements.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

(Secs. 110(a), 160 to 169, 169A, 171 to 173 and 301(a) of the Clean Air Act (42 U.S.C. 7410(a), 7470 to 7479, 7480 , 7501 to 7503 and 7601(a))

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Dated: July 10, 1984.

L. Edwin Coate,

Acting Regional Administrator.

[FR Doc. 84-26823 Filed 10-10-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[A-5-FRL 2691-6]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: EPA is proposing for public comment to disapprove Indiana's regulation 325 IAC 6-5, Fugitive Particulate Matter Emission Limitations. Indiana submitted this regulation as a revision to the Indiana State Implementation Plan (SIP) for total suspended particulates (TSP) in response to both the requirements to Part D of the Clean Air Act (CAA) and the condition of EPA's July 16, 1982 (47 FR 30972) approval of portions of Indiana's TSP plan. EPA is proposing to disapprove Indiana's fugitive dust strategy because the regulation does not meet the requirements of Part D of the Clean Air Act (CAA) in that: (1) It does not require reasonably available control technology (RACT) for all sources in nonattainment areas and (2) it is not enforceable.

EPA is also proposing that, if it ultimately disapproves these regulations, it will: (1) Find that, by virtue of Indiana's failure to submit an approvable fugitive dust control strategy, the State has failed to fulfill a condition that is germane to meeting Part D requirements; (2) withdraw the Agency's July 16, 1982 decision to approve the plan conditionally as meeting the requirements of Part D, but retain EPA's approval of the regulations that became part of the SIP as a result of that conditional approval; (3) determine that the State has failed to implement the section 110(a)(2)(H)(ii) provision in its SIP requiring the State to revise the SIP to fulfill the condition; and (4) impose on the basis of these findings the growth sanctions of section 110(a)(2)(I) in the primary nonattainment areas in Clark, Dearborn, Dubois, and Vigo Counties and of Section 173(4) in the primary nonattainment areas of Clark, Dearborn, Dubois, Marion, and Vigo Counties.

DATE: Comments on this revision and on the proposed EPA action must be received by December 10, 1984.

ADDRESSES: Copies of the proposed SIP revision and EPA's comments on it are available at the following addresses for review. (It is recommended that you telephone Robert B. Miller at (312) 886-6031 before visiting the Region V office).

Environmental Protection Agency, Air and Radiation Branch, Region V, 230 South Dearborn Street, Chicago, Illinois 60604

Indiana Air Pollution Control Division, Indiana State Board of Health, 1330 West Michigan Street, Indianapolis, Indiana 46206

Comments on this proposed rule should be addressed to: Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR-26), U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Robert B. Miller, Air and Radiation Branch (5AR-26), Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6031.

SUPPLEMENTARY INFORMATION: Under section 107 of the CAA, EPA designated certain areas in Indiana as not attaining the NAAQS for TSP. See 40 CFR 81.315 (1983).[1] For these areas, Part D of the CAA requires that the State revise its SIP to provide for attaining the primary NAAQS by December 31, 1982. These SIP revisions must also provide for attaining the secondary NAAQS as soon as practicable. The requirements for an approvable SIP are described in a "General Preamble" for Part D rulemakings published at 44 FR 20372 (April 4, 1979), 44 FR 38583 (July 2, 1979), 44 FR 50371 (August 28, 1979), 44 FR 53761 (September 17, 1979), and 44 FR 67182 (November 23, 1979).

In response to Part D, Indiana submitted revisions to its TSP SIP, including plans for the designated nonattainment areas within Clark, Dearborn, Dubois, Howard, Marion, St. Joseph, Vanderburgh, Vigo, and Wayne Counties. The plans for these Counties were based on the strategy of applying RACT to traditional stationary sources [2] of particulate emissions and then studying the nature and extent of the nontraditional sources [3] in the areas. At the time of these Indiana TSP Part D submittals, however, the State had not adopted an industrial fugitive dust regulation. Therefore, EPA approved the plan for these Counties on July 16, 1982 (1) on the condition that Indiana submit an approvable industrial fugitive dust regulation and (2) on the understanding that Indiana would continue studying the nontraditional sources and would adopt and submit as revisions to the SIP enforceable strategies to control nontraditional sources as necessary to provide for the attainment of the NAAQS in these nonattainment areas (47 FR 30972).[4]

In partial response to this rulemaking,[5] on November 29, 1982 and December 9, 1982, Indiana submitted as a revision to its SIP new regulation 325 IAC 6-5, Fugitive Particulate Matter Emission Limitations. This regulation supplements but does not supersede the applicable SIP opacity and mass emission regulations. 325 IAC 6-5 requires the control of fugitive emissions from existing sources [6] in nonattainment

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[1] The United States Court of Appeals for the Seventh Circuit vacated EPA's August 18, 1982 (47 FR 35965) designation under Section 107 of a portion of Porter County as nonattainment for TSP. See *Bethlehem Steel Corporation v. USEPA*, 726 F.2d 1303 (1983).

[2] Traditional stationary sources are industrial point (stack) sources and industrial fugitive emissions, e.g., emissions from blast furnaces, materials storage and handling, and industrial roads and parking lots.

[3] Nontraditional source emissions include emissions from such sources as agricultural operations, unpaved public roads, re-entrained road dust, and construction activities.

[4] The area in Wayne County formerly designated nonattainment was redesignated unclassifiable on November 2, 1981 (46 FR 54340). The area in Howard County formerly designated nonattainment was redesignated attainment on September 3, 1982 (47 FR 38888). Therefore, nontraditional studies are not required for these Counties. EPA conditionally approved the Marion County strategy on July 16, 1982 except for certain coke battery requirements. The Section 110(a)(2)(I) growth restrictions are currently in effect in Marion County.

[5] Indiana has additionally submitted plans concerning nontraditional fugitive dust sources in Marion, Vanderburgh, and Vigo Counties.

[6] A source is defined as an aggregation of one or more facilities which are located on one piece of property or on contiguous or adjacent properties, and which are owned or operated by the same person (or by persons under common control). (325 IAC 1.1-1-76)

areas (other than Lake County)[7] which potentially emit [8] 100 tons or more of fugitive particulate matter.[9] It also requires fugitive particulate matter controls throughout the State on all new sources which are required by Indiana law to obtain a permit under Indiana's permit regulation, 325 IAC Article 2.[10]

Controls are required on:

Source Categories and Codification

Paved Roads, Unpaved Roads, and Parking Lots—325 IAC 6–5–4(a)
Open Aggregate Piles—325 IAC 6–5–4(b)
Conveying—325 IAC 6–5–4(c)
Transferring—325 IAC 6–5–4(d)
Transportation of Aggregate Material by Motor Vehicle—325 IAC 6–5–4(e)
Loading and Unloading—325 IAC 6–5–4(d)[11]
Waste Disposal Sites—325 IAC 6–5–4(g)
Material Handling Operations—325 IAC 6–5–4(h)
Building Openings—325 IAC 6–5–4(i)

EPA reviewed this regulation and has found that it is disapprovable for at least four reasons. These are:

1. The regulation requires controls on only those existing sources which have the potential to emit 100 tons or more of fugitive particulate matter per year. Indiana presently believes that this regulation will apply to only one source.[12] If the cut-off were 25 tons of fugitive emissions, approximately 100 sources would be affected. To be approvable, the 100 ton cut-off must be consistent with RACT for TSP sources. Indiana stated [13] that the 100 ton cut-off is appropriate based on the cost, emission rates, efficiency, and other applicable data concerning the various affected Indiana sources. Also, the 100 ton cut-off is equivalent to other cut-offs in the Indiana air regulations.

EPA has reviewed the State submittal and finds that the State has not made an adequate showing that it is unreasonable to require controls on sources of less than 100 tons of fugitive emissions.[14] Section 172(b) of the CAA requires RACT on all existing sources as necessary to assure timely attainment and maintenance of the NAAQS. This requirement does not distinguish between major and minor sources. Because Indiana's regulation does not require RACT level of controls on all sources in nonattainment areas on all sources for which such controls are reasonable, EPA is proposing to disapprove 325 IAC 6–5.

2. The regulation does not require subject sources to submit control plans unless requested to by the Indiana Air Pollution Control Board. In addition, there is no affirmative requirement on the Board to request plans. EPA understands that the Board has to date requested no plans under the regulation—despite the rule's compliance date of December 31, 1982. If the Board requests a plan and it is not submitted, there is no affirmative requirement on the Board to prepare and adopt a plan meeting the requirements of the regulation. EPA is thus proposing to disapprove 325 IAC 6–5 because subject sources may never be required to meet the emissions control measures contained or referenced in 325 IAC 6–5–4. See also the April 4, 1979 **Federal Register** notice which discusses the "enforceability" requirement of an approvable SIP. (44 FR 20373).

3. It is not clear which fugitive emission factors are to be used to determine applicability. The State's technical support document references five documents containing fugitive emission factors. It also lists one or more emission factors, a range of factors, or several alternative emission factor equations for various types of sources. The regulation itself does not reference which emission factors to use. Therefore, it can be debated which emission factor(s) to use and whether the regulation is applicable to a given source. This deficiency could be rectified if the State either changes the regulation to make it explicit which emission factors should be used in determining the regulation's applicability or officially clarifies the emission factors to be used.

4. The regulation provides insufficient details or criteria to assure that the measures listed in Section 4 of the rule constitute RACT. The description of these measures is quite general. For example, Section 4(a)(1) says that sources may use "cleaning by vacuum sweeping" or "flushing" to control emissions from paved roads and parking lots. Without a detailed description of the frequency that these control methods would be applied, the rule does not assure the level of control required by the RACT provision in section 172 of the Clean Air Act. EPA will provide the State guidance on how to remedy this deficiency.

Other significant deficiencies with the regulation are:

1. If the CAA's "major source" definition was intended as the basis for the regulation's 100 ton/yr applicability cut-off, the State misconstrued this definition when it failed to include emissions from stacks, along with fugitive emissions, under its "potential emissions" definition in 325 IAC 6–5.

2. The regulation's 100 ton cut-off is based on potential tons, i.e., emissions after control. Therefore, if an owner adds controls to a source sufficient to bring its fugitive emissions below 100 tons, the remaining fugitive emission points within the source then need not be controlled. This allows a source to opt out of full RACT controls if it adds only some of the controls which otherwise would be required.

3. It is possible that an owner might put on fugitive emission controls temporarily,[15] while applicability of 325 IAC 6–5 is being determined, and then remove these controls without notifying the State and EPA. To ensure that necessary emission controls remain in place, EPA recommends that these controls be included as a requirement of the operating permit for the source. (See Concern 2, above.) If EPA ultimately approves 325 IAC 6–5 (or any modification thereof), all such requirements would have to be submitted as source specific revisions to the SIP.

4. The definition of unpaved road in 325 IAC 6–5–2(e) was inadvertently truncated during the State's promulgation process. The definition intended by the State is:

Unpaved Roads—any surfaced thoroughfare or right-of-way other than a paved road as defined in subsection 2(c) of this Rule, which is designed or used for vehicular traffic lying

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[7] Industrial fugitive dust emission limitations for Lake County are contained in 325 IAC 6–1–11, which EPA will rulemake on in a future **Federal Register** notice.

[8] Potential [fugitive] emissions are defined as fugitive particulate matter emissions calculated after the application of air pollution control measures or air pollution control equipment. (325 IAC 6–5–2–(d))

[9] Fugitive particulate matter emissions are defined as particulate matter which is emitted from any source by means other than a stack. (325 IAC 6–5–2(b))

[10] Indiana's permit regulation, 325 IAC Article 2, requires a permit for all sources which emit 25 tons per year or more of at least one pollutant.

[11] The source categories Loading and Unloading were incorrectly codified as 325 IAC 6–5–4(d). Indiana has verbally committed to correcting this codification to 325 IAC 6–5–4(f).

[12] February 16, 1984, Letter from E.F. Stresino, Chief, Enforcement Branch Indiana Air Pollution Control Division to Gary Victorine, Region V's Air Compliance Branch.

[13] Findings of Fact and Recommendation of Hearing Officer C. Dan Hartman, Dated April 7, 1982.

[14] The technical support document which Indiana used when it proposed 325 IAC 6–5 for public comment suggested the feasibility of controls for sources of less than 100 tons/year. Also, Illinois, Michigan, Minnesota, and Wisconsin in Region V all require industrial fugitive dust controls on sources less than 100 tons/year.

[15] Examples of controls which could be added at the time of regulation applicability determination and then easily discontinued are street sweeping and treating fugitive emission sources with water or dust suppressant.

[on the property of, or owned by an individual or company].

The State's air division's staff have verbally informed EPA that the State is currently correcting this definition, and EPA finds that the above definition would be approvable.

5. 325 IAC 6–5–6 requires a source in a TSP primary nonattainment area to be in compliance with the source's approved fugitive dust plan by December 31, 1982, or as otherwise specified in the [State] approved plan, but in no case earlier than the date by which the Indiana Air Pollution Control Board approves the source specific control plan. The above time frame would allow certain TSP sources to have final compliance dates beyond December 31, 1982, the attainment deadline specified in section 172 of the CAA. Under EPA policy (see 48 FR 50685, November 2, 1983), post-1982 compliance dates are acceptable if they would serve to attain the standards as expeditiously as is now practicable. However, 325 IAC 6–5–6 does not provide any assurance that the compliance dates the Board approves for sources subject to its provisions will in fact represent the most expeditious schedule that is practicable for those sources. For this reason, if EPA ultimately approves this regulation, all discretionary schedules extending final compliance beyond the date that the Board approves a given plan must be submitted to EPA. See 325 IAC 6–5–9.

6. The regulation gives broad discretionary power to the Indiana Air Pollution Control Board to approve alternate control measures. 325 IAC 6–5–9 requires all such actions to be submitted to EPA as site-specific revisions to the Indiana SIP. For federal purposes, an industrial fugitive dust plan for a specific source can be considered approved when either of two sets of circumstances are met. The plan will be approved when either (1) all provisions within the plan are those contained in the control measures specified in an EPA-approved industrial fugitive dust regulation and none involve Board discretion or (2) when EPA approves as a site-specific SIP revision all provisions within the plan which involve Board discretion.

Additional comments on the plan are contained in the EPA technical support document which is available at the addresses listed at the front of this notice.

EPA is proposing to disapprove 325 IAC 6–5 because it does not require RACT on all traditional fugitive emission sources in nonattainment areas and is not enforceable. EPA is also proposing to apply the Agency's policy for correction of Part D SIPs, outlined in the **Federal Register** notice of November 21, 1983 (48 FR 50686).[16] Consistent with that policy, EPA is proposing that, if it ultimately disapproves the State's fugitive dust regulations, it will (1) find that, by virtue of Indiana's failure to submit an approvable fugitive dust control strategy, the State has failed to fulfill a condition that is germane to meeting Part D requirements; (2) withdraw the Agency's previous decision to approve the plan conditionally as meeting the requirements of Part D for Clark, Dearborn, Dubois, and Vigo Counties;[17] (3) determine that the State has failed to implement the Section 110(a)(2)(H)(ii) provision in its SIP requiring the State to revise the Clark, Dearborn, Dubois, Marion,[18] and Vigo Counties' EPA to fulfill the condition; and (4) impose on the basis of these findings the growth sanctions of section 110(a)(2)(I) in the primary nonattainment areas in Clark, Dearborn, Dubois, and Vigo Counties [19] and of section 173(4) in the primary nonattainment areas in Clark, Dearborn, Dubois, Marion and Vigo Counties.[20]

EPA does not intend, however, to revoke its approval of the emission limits that became part of the SIP for sources in these counties as a result of EPA's July 16, 1982 conditional approval, i.e., the emission limits in 325 IAC 6–1 and other approved particulate regulations. EPA is retaining its approval of these regulations because, although they may not be adequate in and of themselves to assure attainment and maintenance of the NAAQS, they do require a RACT level of controls on traditional stack sources in these counties, and deleting them from the EPA approved SIP would constitute a relaxation that is impermissible under Part D in the absence of a full attainment demonstration.

Under 5 U.S.C. 605(b), the Agency must assess the impact of proposed or final rules on small entities. If EPA takes final action to disapprove the Indiana Part D plan for particulate, a moratorium on the construction and modification of major stationary sources of particulate will go into effect in certain portions of the State. EPA does not have sufficient information to determine the impacts a moratorium may have on small entities because it is difficult to obtain reliable information on future plans for business growth. However, because EPA cannot be certain of the potential impact on small entities, the Agency invites comments on this issue. Even if this action, when promulgated, were to have a significant impact on a substantial number of small entities, the Agency could not modify the action. Under the Clean Air Act the imposition of a construction moratorium is automatic and mandatory whenever the Agency determines that a plan for a nonattainment area fails to meet the requirements of Part D of the Act.

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB to EPA, and any EPA response, are available for public inspection at the EPA Region V office listed above.

(Sec. 110, 172 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410, 7502, and 7601(a))

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide Hydrocarbons.

Dated: June 22, 1984.

Dale S. Bryson,

Acting Regional Administrator.

[FR Doc. 84–26824 Filed 10–10–84; 8:45 am]

BILLING CODE 6560–50–M

[16] On January 27, 1984, EPA published supplementary guidance on its policy for correction of Part D SIPs.

[17] In EPA's July 16, 1982 rulemaking, which conditionally approved the Indiana Part D TSP plan, EPA also described its procedures where a condition of its approval is not satisfactorily met. For more detail on conditional approvals see 44 FR 38583 (July 2, 1979) and 44 FR 38583 (November 23, 1979).

[18] Marion County's SIP strategy is also based on requiring RACT on all traditional TSP sources, including fugitive. Although EPA did not approve the Marion County plan on July 16, 1982 because the plan did not include RACT regulations for coke batteries, EPA did approve most elements in the plan on the condition that Indiana submit approvable industrial fugitive dust regulations. Therefore, the Marion County plan too will be deficient if EPA ultimately disapproves 325 IAC 6–5.

[19] The section 110(a)(2)(I) growth sanctions came into effect in the primary nonattainment area of Marion County on July 1, 1979 and are still in effect there. In addition to approving RACT coke battery requirements in Marion County, EPA must approve an industrial fugitive dust plan for Marion County before the section 110(a)(2)(I) sanctions are lifted there.

[20] EPA solicits comments on whether it should extend its conditional approval (and thereby postpone imposition of the sanctions) upon a commitment and demonstration by the State that it will satisfy the condition on a rapid schedule with concrete milestone. EPA has not yet received such a commitment and demonstration.

GENERAL SERVICES ADMINISTRATION

48 CFR Ch. 5

[GSAR Notice No. 5-57]

General Services Acquisition Regulations System

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice invites written comments on a proposed change to the General Services Administration Acquisition Regulation (GSAR) which will add Section 501.105 to list the OMB approval numbers, obtained in accordance with the Paperwork Reduction Act, for the information collection requirements in the GSAR and Section 501.675 to provide guidance on the ratification of unauthorized contractual commitments. Miscellaneous changes are also proposed in Section 501.104-2, Arrangement of regulation; 501.171-2, Acquisition Letters; 501.404, Class deviations; 501.603, Contracting Officer Warrant Program; 501.670, Legal review and assistance; 501.671-3, Types of contracts subject to audit; 515.106-1, Examination of records by GSA clause; 522.402-3, Contract Work Hours and Safety Standards Act; 552.205-70, Examination of Records by GSA; and 552.319, Small Purchases. The intended effect is to improve the regulatory coverage and to provide uniform procedures for contracting under the regulatory system.

DATES: Comments are due in writing on or before November 13, 1984.

ADDRESS: Requests for a copy of the proposal and your comments should be addressed to Ms. Carol A. Farrell, Office of GSA Acquisition Policy and Regulations, 18th and F Sts., NW., Room 4027, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Ida Ustad, Office of GSA Acquisition Policy and Regulations (VP), (202) 523-4754.

SUPPLEMENTARY INFORMATION: The Director, Office of Management and Budget (OMB), by memorandum dated December 15, 1983, exempted agency procurement regulations from Executive Order 12291. The General Services Administration (GSA) certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Therefore, no regulatory flexibility analysis has been prepared. The rule does not contain information collection requirements which require the approval of OMB under 44 U.S.C. 3501 et seq.

List of Subjects in 48 CFR Parts 501, 515, 522, and 552

Government procurement.

(40 U.S.C. 486(c))

Dated: October 1, 1984.

Richard H. Hopf, III,

Director, GSA Acquisition Policy and Regulations.

[FR Doc. 84-26836 Filed 10-10-84; 8:45 am]

BILLING CODE 6820-61-M

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48 CFR Ch. 5

[GSAR Notice No. 5-74]

Pricelist Method of Award; Formal Advertising

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice invites written comments on a proposed change to Chapter 5 of the General Services Administration Acquisition Regulation (GSAR) which will add Section 514.272 in order to provide procedures regarding the pricelist method of award for supply, service, and repair and alteration contracts. The intended effect is to provide policy and procedures to contracting activities within the regulatory system.

DATES: Comments are due in writing on or before November 13, 1984.

ADDRESS: Requests for a copy of the proposal and your comments should be addressed to Ms. Carol A. Farrell, Office of GSA Acquisition Policy and Regulations, 18th and F Sts., NW., Room 4027, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: L. Gaye Hirz-Kester, Office of GSA Acquisition Policy and Regulations, (202) 532-4763.

SUPPLEMENTARY INFORMATION:

Impact

The Director, Office of Management and Budget (OMB), by memorandum dated December 15, 1983, exempted agency procurement regulations from Executive Order 12291. The General Services Administration (GSA) certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Therefore, no regulatory flexibility analysis has been prepared. The rule does not contain information collection requirements which require the approval of OMB under 44 U.S.C. 3501 et seq.

List of Subjects in 48 CFR Part 514

Government procurement.

(40 U.S.C. 486(c))

Dated: October 1, 1984.

Richard H. Hopf, III,

Director, GSA Acquisition Policy and Regulations.

[FR Doc. 84-26835 Filed 10-10-84; 8:45 am]

BILLING CODE 6820-61-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

Federal Motor Vehicle Safety Standards; Denial of Petition for Rulemaking

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Denial of petition for rulemaking.

SUMMARY: This notice denies a petition for rulemaking submitted by Chrysler Corporation, requesting the agency to amend Federal Motor Vehicle Safety Standard No. 108 so that vehicles manufactured after September 1, 1985 and intended for phase-out by the end of that year would not have to be equipped with center high-mounted stop lamps. The petition alleged that compliance costs for a limited run would be excessive. The petition was denied primarily because the requirement's effective date affords ample leadtime and can be met by industry in general.

FOR FURTHER INFORMATION CONTACT: Kevin Cavey, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590 (202-426-2153).

SUPPLEMENTARY INFORMATION: Each passenger car manufactured on or after September 1, 1985, must be equipped with a center high mounted stop lamp. Chrysler Corporation filed a petition for rulemaking with NHTSA "to amend the rule so that it will not apply to car models that will be built after August 31, 1985, but which will go out of production on or before December 31, 1985".

Specifically, Chrysler intends to discontinue certain Plymouth Horizon/Turismo and Dodge Omni/Charger models by December 31, 1985, though

intending to build 73,000 of them after August 31, 1985. Because of the small number being produced, engineering special lamps for these vehicles is, in Chrysler's view, "excessively expensive", and it estimates that it would cost it $2.6 million to do so. It asks the agency for relief from "this unnecessary expense and extra cost to consumers".

The agency determined that an effective date of September 1, 1985, was practicable for the industry as a whole, and no cause has been shown that a delay of it until January 1, 1986, would be in the public interest. Indeed, NHTSA has amended the standard to allow immediate installation of the device for any manufacturer who wishes to do so. In the agency's view, the safety benefits to be derived through equipping all new cars with the device after September 1, 1985, were well-documented and discussed in the final rule. In setting the effective date, the agency considered thoroughly the costs that would be imposed by this rule on individual manufacturers. Specifically, the agency noted in the final rule that the effective date "represents an appropriate balance between minimizing the period in which center high-mounted stop lamps will have to be added to existing models instead of designed into new models and beginning implementation of a very cost-effective requirement that will reduce accidents and injuries." The petitioner has not provided the agency with any cause to alter this conclusion.

At the conclusion of the technical review the agency determined that there was not a reasonable possibility that at the end of the rulemaking proceeding Standard No. 108 would be amended to delay the effective date of requirements for center high mounted stop lamps and the petition was denied.

The program official and attorney principally responsible for the development of this agency position are Kevin Cavey and Taylor Vinson, respectively.

(Secs. 103, 119, and 124, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407, and 1410a); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued: October 3, 1984.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 84-26818 Filed 10-10-84; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for Solidago Shortii (Short's Goldenrod)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (the Service) proposes to list *Solidago shortii* (Short's goldenrod), a plant endemic to the Commonwealth of Kentucky, as an endangered species under the authority contained in the Endangered Species Act of 1973, as amended. *Solidago shortii* is threatened by potential recreational activities, natural and man-induced habitat alterations, and development of its habitat. This proposal, if made final, would implement Federal protection provided by the Endangered Species Act of 1973, as amended, for *Solidago shortii*. The Service seeks data and comments from the public on this proposal.

DATES: Comments from all interested parties must be received by December 10, 1984. Public hearing requests must be received by November 26, 1984.

ADDRESS: Comments and materials concerning this proposal should be sent to Mr. Warren T. Parker, Field Supervisor, Endangered Species Field Station, U.S. Fish and Wildlife Service, 100 Otis Street, Room 224, Asheville, North Carolina 28801. Comments and materials received will be available for public inspection, by appointment, during normal business hours, at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Robert R. Currie at the above address (704/259-0321 or FTS 8/672-0321).

SUPPLEMENTARY INFORMATION:

Background

Solidago shortii, a member of the Aster family, was first collected by C. W. Short at Falls of the Ohio, Jefferson County, Kentucky. In 1842 the species was described and named in honor of its discoverer by Torrey and Gray. The original site, which was apparently Rock Island, adjacent to Falls of the Ohio on the Ohio River, was inundated by dam construction. This is the only known Jefferson County location, and the species is considered to be extirpated from the county (Medley, 1980). In 1939, Braun (1941) discovered *Solidago shortii* growing in the vicinity of Blue Licks, Kentucky. She reported that at that time there were numerous populations growing on rocky slopes and in pastures in Nicholas and Fleming Counties, Kentucky. In 1980, Medley conducted a status survey for *Solidago shortii* with funds provided by the Service. Despite extensive searches in the area in 1978, 1979, and 1980, only one population of the species was found during this survey. This population is located within Blue Licks Battlefield State Park, Robertson County. Medley reported that a major segment of the Park's population was almost completely destroyed by campground construction in the middle 1970s. Medley (1980) further stated that the overgrazed pastures which, according to Braun (1941) provided habitat for *Solidago shortii*, are still numerous in the Blue Licks area. However, after thorough searches of potential sites over the three-year period mentioned above, he concluded that the only remaining site was within Blue Licks Battlefield State Park.

Whether the loss of the numerous populations reported by Braun was caused by more intensive grazing pressures during the intervening years or is the result of some other factor or factors is not known. In 1983, Baskin and Baskin (in press) discovered three additional populations of *Solidago shortii*. One of these was just outside the Park's boundary—0.1 mile into adjacent Nicholas County. The other two—one in Nicholas County and one in Fleming County—were within a two-mile radius of the Park. The historic distribution of *Solidago shortii* may have been correlated with disturbance caused by bison. The largest remaining population is adjacent to the old Buffalo Trace, which passes through Blue Licks Battlefield State Park (Medley, 1980). It was also suggested by Braun (1941) that fire may have been a factor in creating openings within wooded areas which provided habitat for the species.

Short's goldenrod is usually less than one meter tall and bears yellow flowers between mid-August and early November. The light brown fruits (achenes) mature several weeks after the flowers wither. The alternately arranged narrow leaves are usually 5 to 10 centimeters long and 0.6 to 1.5 centimeters wide. *Solidago shortii* is found growing in cedar glades and openings in oak and hickory forests (Kral, 1983; Medley, 1980), in areas adjacent to the Old Buffalo Trace (Medley, 1980), and in pastures and areas adjacent to roads (Braun, 1941; Baskin and Baskin, in press).

Federal Government actions on this species began with Section 12 of the Endangered Species Act of 1973, which directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975. On July 1, 1975, the Service published a notice in the **Federal Register** (40 FR 27823) of its acceptance of the Smithsonian Institution report as a petition within the context of Section 4(c)(2) [now Section 4(b)(3)] of the Act, and of its intention thereby to review the status of the plant taxa named within. On June 16, 1976, the Service published a proposed rule in the **Federal Register** (41 FR 24523) to determine approximately 1,700 vascular plant species to be endangered species pursuant to Section 4 of the Act. The list of 1,700 plant taxa was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94–51 and the July 1, 1975, **Federal Register** publication. *Solidago shortii* was included in the July 1, 1975, notice of review and the June 16, 1976, proposal. General comments received in relation to the 1976 proposal were summarized in the **Federal Register** on April 26, 1978 (43 FR 17909). On December 10, 1979, the Service published a notice (44 FR 70796) withdrawing the June 16, 1976, proposal along with four other proposals that had expired due to a procedural requirement of the 1978 Amendments. On December 15, 1980, the Service published a revised notice of review for native plants in the **Federal Register** (45 FR 82479); *Solidago shortii* was included in that notice as a category-1 species. Category-1 species are those for which data in the Service's possession indicate that listing is warranted.

Section 4(b)(3)(B) of the Endangered Species Act, as amended in 1982, requires the Secretary to make certain findings on pending petitions within 12 months of their receipt. Section 2(b)(1) of the 1982 Amendments further requires that all petitions pending on October 13, 1982, be treated as having been newly submitted on that date. This was the case for *Solidago shortii* because of the acceptance of the 1975 Smithsonian report a petition. On October 13, 1983, the Service found that the petitioned listing of *Solidago shortii* was warranted, and that although other pending proposals has precluded its proposal, expeditious progress was being made to add this and other species to the list. Notice of this findings was published in the **Federal Register** on January 20, 1984 (49 FR 2485). Publication of this proposal constitutes the next one-year finding requirement, which must be made by October 13, 1984.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424; under revision to accommodate the 1982 Amendments—see proposal at 48 FR 36062, August 8, 1983), set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in Section 4(a)(1). These factors and their application to *Solidago shortii* Torrey and Gray (Short's goldenrod) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range. Solidago shortii* occurs at four locations in an extremely limited portion of Robertson, Nicholas, and Fleming Counties, Kentucky. One of these populations is within Blue Licks Battlefield State Park. In the middle 1970's a major segment of the Park's population was lost during construction of a new campground. Most of the remaining plants (about 2,000 individuals) are within a 1.5-acre area which has been dedicated by the Kentucky Nature Preserves Commission as a nature preserve. Research is needed to determine proper management techniques for maintenance of the species at this site. Additional protection from accidental trampling or inadvertent destruction is also needed. The remaining three sites are located on private property. No plans to develop these sites are known at this time; however, they could be lost to building and other construction activities in the future. Changes in land use, such as more intensive agricultural activities, could further reduce or eliminate *Solidago shortii* from these sites. Kral (1983) states that fire could adversely affect *Solidago shortii*. The populations or private land are susceptible to fires originating at the roadsides which are immediately adjacent to the sites. Although no known highway alterations are planned at this time, alterations which were not designed in a manner to minimize impacts to *Solidago shortii* could adversely affect the species.

B. *Overutilization for commercial, recreational, scientific, or edcuational purposes.* The largest population (80 to 90 percent of the plants) occurs within a park administered by the Commonwealth of Kentucky. Increased recreational use at the park, if it is not carefully directed to areas away from the small *Solidago shortii* population, could adversely impact the species. The remaining individuals in the population segment that were almost completely destroyed by campground construction are vulnerable to accidental trampling by park visitors. The small number of individuals (2,000 to 2,500) in existence (Medley, 1980; Baskin and Baskin, in press) makes the species vulnerable to overcollecting for scientific purposes. The plants within the park cannot be coliected without a permit from the Department of Parks and the Kentucky Nature Preserves Commission. However, the much smaller and consequently more vulnerable populations on private land are not protected from this potential threat.

C. *Disease or predation.* No diseases are known to be adversely impacting *Solidago shortii*. Kral (1983) states that grazing will adversely impact the species.

D. *The inadequacy of existing regulatory mechanisms.* The Blue Licks Battlefield State Park Nature Preserves population of *Solidago shortii* is afforded protection from unauthorized by Park and Kentucky Nature Preserves Commission regulations. Taking is authorized through a permit system administered by the Department of Parks and the Kentucky Nature Preserve System. Permits are only issued for valid scientific purposes. Currently there are no other forms of protection provided to the species. The Endangered Species Act would afford additional protection to *Solidago shortii*.

E. *Other natural or manmade factors affecting its continued existence. Solidago shortii* has been reduced to a small number of populations with a limited number of individuals in each population. It is therefore particularly vulnerable to any natural or man-induced factors, such as fire, that might reduce population size. Although fire may have been important historically in maintaining suitable habitat for this species, fire in its currently remnant habitat could destroy whole populations.

The Service has carefully assessed the best scientific information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based upon this evaluation, the preferred action is to list *Solidago shortii* as an endangered species. Only four populations of this species are known to

exist. Three of the four populations are on privately owned property and currently receive no protection or management designed to enhance their continued existence. The fourth population is on property administered by the Kentucky Department of Parks and the Kentucky Nature Preserves Commission. Although this population is within a state park and is a dedicated nature preserve, it could still be lost through inadvertent man-induced alterations of its habitat, through natural fluctuations in the population, or through perturbations of human or natural origin, such as fire. Endangered status is appropriate because of the vulnerability of the species to extinction. Critical habitat is not being designated for reasons discussed in the next section.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designated any habitat of a species which is considered to be critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for *Solidago shortii* at this time. The species has a very limited distribution and small number of individuals present in only four populations. Increased visitation, inadvertent trampling and destruction, and taking may result if the location of this extremely rare plant is disseminated by means of critical habitat designation. The 1.5-acre site in Blue Licks Battlefield State Park, which contains the largest remaining population of *Solidago shortii*, has been registered as a nature preserve. Both the Kentucky Department of Parks and the Kentucky Nature Preserves Commission believe that any publicity about the preserve and the extremely rare species that it contains would be disadvanageous to the continued existence of *Solidago shortii*. Although taking without a State permit is prohibited, this prohibition is difficult to enforce. Taking is not prohibited by the Endangered Species Act with respect to plants, except for a prohibition against removal and reduction to possession of endangered plants from lands under Federal jurisdiction. Publication of critical habitat descriptions and maps would increase the vulerability of *Solidago shortii*, and would create additional enforcement problems for the Kentucky Department of Parks. Critical habitat designation may stimulate increased visitation to the sites with consequent problems of trampling and deleterious habitat alterations. The Commonwealth of Kentucky, Department of Parks, and the private landowners on whose property the other populations of *Solidago shortii* occur are aware of the locations of the specise and the importance of protecting them. No additional benefits from a determination of critical habitat would result. Therefore, it would not be prudent or beneficial to determine critical habitat for *Solidago shortii* at this time.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402, and are now under revision (see proposal at 48 FR 29990; June 29, 1983). Section 7(a)(4) requires Federal agencies to informally confer with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is subsequently listed, Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species. If a Federal action may affeact a listed species, the responsible Federal agency must enter into consultation with the Service. No Federal involvement is expected for *Solidago shortii* since the species is not known to occur on Federal lands.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general trade prohibitions and exceptions that apply to all endangered plant species. With respect to *Solidago shortii* all trade prohibitions of Section 9(a)(2) of the Act, implemented by 50 CFR 17.61, would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. Certain exceptions can apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstancs. It is anticipated that few trade permits would ever be sought or issued since *Solidago shortii* is not common in cultivation or in the wild.

Section 9(a)(2)(B) of the Act, as amended in 1982, prohibits the removal and reduction to possession of endangered plant species from areas under Federal jurisdiction. The new prohibition will apply to *Solidago shortii* if it ever is discovered on federal lands. Permits for exceptions to this prohibition are available through Section 10(a) of the Act, until revised regulations are promulgated to incorporate the 1982 Amendments. Proposed regulations implementing this new prohibition were published on July 8, 1983 (48 FR 31417), and it is anticipated that these will be made final following public comment. *Solidago shortii* is not known to occur on Federal lands, and therefore no requests for permits are anticipated.

Public Comments Solicited

The Service intends that any final rule adopted will be accurate and as effective as possible in the conservation of endangered or threatened species. Therefore, any comments or suggestions from the public, other concered governmental agencies, the scientific community, industry, or any other interested party concerning any aspect of these proposed rules are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to *Solidago shortii*;

(2) The location of any additional populations of *Solidago shortii* and the reasons why any habitat should or should not be determined to be critical habitat as provided by Section 4 of the Act;

(3) Additional information concerning the range and distribution of this species; and

(4) Current or planned activities in the subject area and their possible impacts on *Solidago shortii*.

Final promulgation of the regulation on *Solidago shortii* will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests must be made in writing and addressed to the Service's Asheville Field Supervisor (see **ADDRESSES** section).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined by the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

Literature Cited

Baskin, J.M., and C.C. Baskin. In press. Note on the rediscovery of the rare Kentucky endemic *Solidago shortii* Gray in Fleming and Nicholas Counties. Transactions of the Kentucky Academy of Science.

Braun, E.L. 1941. A new locality for *Solidago shortii*. Rhodora 43:484.

Kral, R. 1983. A report on some rare, threatened, or endangered forest-related vascular plants of the South. USDA, Forest Service, Southern Region, Technical Publication R8–TP2.

Medley, M.E. 1980. Status of *Solidago shortii*. Unpublished report produced under contract to the U.S. Fish and Wildlife Service, Atlanta, GA.

Torrey, J., and A. Gray. 1842. A flora of North America. New York Botanical Garden, New York. p. 222.

Author

The primary author of this proposed rule is Mr. Robert R. Currie, Endangered Species Field Station, U.S. Fish and Wildlife Service, 100 Otis Street, Room 224, Asheville, North Carolina 28801 (704/259–0321 or FTS 8/672–0321).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

1. The authority citation for Part 17 reads as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. It is proposed to amend § 17.12(h) by adding the following, in alphabetical order, under the family Asteraceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
ASTERACEAE—Aster family						
Solidago shortii	Short's goldenrod	U.S.A. (KY)	E	NA	NA	NA

Dated: September 28, 1984.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 84–26788 Filed 10–10–84; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 49, No. 198
Thursday, October 11, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Judicial Review; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. No. 92–463), notice is hereby given of two meetings of the Committee on Judicial Review of the Administrative Conference of the United States, to be held at 9:30 a.m. on Thursday, October 25, 1984, at 2120 L Street, NW., FTC Hearing Room 540, and 2 p.m. on Wednesday, November 7, 1984, at Cadwalader, Wickersham & Taft, 7th floor conference room, 1333 New Hampshire Avenue, NW., Washington, D.C.

The committee will meet to discuss a draft recommendation based on Professor Robert Anthony's study of International Trade Commission release of confidential information under protective order in antidumping and countervailing duty proceedings.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman of the Administrative Conference at least two days in advance. The committee chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the committee before, during or after the meeting.

For further information concerning this meeting contact Mary Candace Fowler, Office of the Chairman, Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, D.C. (Telephone: 202–254–7065.) Minutes of the meeting will be available on request.

Dated: October 5, 1984.

Richard K. Berg,

General Counsel.

[FR Doc. 84–26914 Filed 10–10–84; 8:45 am]

BILLING CODE 6110–01–M

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

October 5, 1984.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404–W Admin. Bldg., Washington, D.C. 20250, (202) 447–2118.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503. ATTN: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

Revision

• Food and Nutrition Service
State Coupon Issuance and Participation Estimates
FNS 388
Recordkeeping, Monthly
State or local governments; 636 responses, 4,542 hours, not applicable under 3504(h)
Paul Jones (703) 756–3439

• Rural Electrification Administration
Financial and Statistical Report
REA Form 479
Annually
Small businesses or organizations; 1,000 responses, 14,000 hours; not applicable under 3504(h)
David B. Cohen (202) 382–8549.

Jane A. Benoit,

Acting Departmental Clearance Officer.

[FR Doc. 84–26887 Filed 10–10–84; 8:45 am]

BILLING CODE 3410–01–M

Food and Nutrition Service

Food Stamp Program; Thrifty Food Plan and Deductions

AGENCY: Food and Nutrition Service, USDA.

ACTION: General notice.

SUMMARY: The Department is updating: (1) the Thrifty Food Plan which determines the maximum amount of food stamps which participating households receive, (2) the amount of the standard deduction which is available to all households, and (3) the maximum amounts for the excess shelter and dependent care deductions available to certain households. The adjustments, required by law, take into account changes in the cost of living.

EFFECTIVE DATE: October 1, 1984.

FOR FURTHER INFORMATION CONTACT: Virgil L. Conrad, Deputy Administrator for Family Nutrition Programs, Food and Nutrition Service, USDA, Alexandria, Virginia 22302, (703) 756–3026. Copies of the Regulatory Impact Analysis, which is summarized in the preamble, are also available from Mr. Conrad.

SUPPLEMENTARY INFORMATION:

Publication

State agencies implemented this action on October 1, 1984. They were provided with adequate advance notice of the new amounts to meet the implementation deadline. Based on regulations published at 47 FR 46485–46487 (October 19, 1982) annual statutory adjustments to the Thrifty Food Plan and deductions are issued by General Notices published in the

Federal Register and not through rulemaking proceedings.

Classification

Executive Order 12291. This action has been reviewed under Executive Order 12291 and Secretary's Memorandum 1521–1. The Department considers it a major action because it will increase the Food Stamp Program's cost by more than $100 million. It will not result in a major increase in costs or prices except to the Federal Government, nor will it affect competition, productivity, employment, investment, or innovation.

Regulatory Flexibility Act. Robert E. Leard, Administrator of the Food and Nutrition Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. The action will increase the amount of money spent on food through food stamps. However, this money will be distributed among the nation's food vendors, so the effect on any one vendor will not be significant.

Paperwork Reduction Act. This action does not contain reporting or recordkeeping requirements subject to approval by the Office of Management and Budget (OMB).

Regulatory Impact Analysis

Need for Action. This action is required by Sections 3(o) and 5(e) of the Food Stamp Act of 1977, as amended. Section 3(o) requires that the October 1, 1984 change in food stamp allotments be based upon the June 1984 cost of the Thrifty Food Plan for a family of four persons consisting of a man and woman ages 20–54 and children 6–8 and 9–11. Adjustments are made to take into account household size, economies of scale, and legislatively-mandated one percent reduction, and a requirement to round the final results down to the nearest dollar increments. Section 5(e) requires that the standard deduction and excess shelter and dependent care deductions be adjusted on October 1, 1984 to the nearest lower dollar increments to reflect certain changes for the fifteen months ending June 30, 1984.

According to the Food Stamp Act, the adjustment to the standard deduction must reflect changes in the Consumer Price Index for all urban consumers (CPI-U), published by the Bureau of Labor Statistics (BLS), for items other than food and the homeownership component of shelter costs. At the time this provision was included in the Act, BLS developed a discrete homeownership component of shelter costs for the CPI–U. However, BLS subsequently made a change and there is no longer a homeownership component. In effect, the former homeownership component has been split out into two new components; homeowners' costs and maintenance and repairs.

In light of this development, the Department has consulted with BLS to determine the appropriate course of action. (Such consultation is required by section 5(e) of the Act.) BLS advises that excluding the new homeowners and maintenance and repairs components of the CPI–U would be equivalent to excluding the former homeownership component of the CPI–U. The Deapartment followed this guidance. Thus, the update of the standard deduction contained in this *Notice*, which went into effect on October 1, 1984, was based on the CPI–U for June 1984, for items other than food, homeowner's costs, and maintenance and repairs.

A similar situation arose with regard to the excess shelter and dependent care deductions. The excess shelter/dependent care deduction was to be updated to reflect changes in the shelter component of the CPI–U, exclusive of homeownership costs, and the fuel and utilities components of the CPI–U. Following the same guidance from BLS, the Department based the October 1, 1984, update on the changes in the fuel and utilities components and the shelter component of the CPI–U, exclusive of the homeowner's and maintenance and repairs' components.

Benefits. This action increases the food purchasing power of food stamp recipients based on the rising cost of living.

Costs. It is estimated that this action will increase the cost of the Food Stamp Program by approximately $643 million in Fiscal Year 1985.

Background

Thrifty Food Plan (TFP)

The TFP is a plan for the consumption of foods of different types (food groups) that families might use to provide nutritious meals and snacks for family members. The plan suggests amounts of food for men, women, and children of different ages, and it meets all dietary standards. The cost of the TFP is adjusted annually to reflect changes in the costs of the food groups. This update is based on the TFP revision outlined in the **Federal Register** notice published July 29, 1983 (48 FR 34700). The comment analysis concerning the TFP revision was submitted to the **Federal Register** with this notice.

The TFP also constitutes the basis for allotments for food stamp households. As such, the cost of the TFP is the maximum benefit level payable to a household of a particular size. The maximum benefit is paid to households which have no net income. For households which have some income, their allotment is determined by reducing the TFP for their household size by 30 percent of the household's net income. As prescribed by the statute, these maximum benefit amounts are based on the TFP for a particular four-person household, and adjusted to take into account household size, economies of scale, statutory reductions and rounding.

The cost of the TFP is adjusted periodically to reflect changs in cost levels. Section 3(o) of the Food Stamp Act of 1977, as amended, provides that the next adjustment that took place on October 1, 1984, be based upon June 1984 TFP costs for a family of four persons consisting of a man and woman ages 20–54 and children 6–8 and 9–11. In June 1984, these TFP values were $264.40 in the 48 States and D.C.; $346.40 in Alaska; $405.80 in Hawaii; $389.70 in Guam; and $339.90 in the Virgin Islands.

To obtain the maximum food stamp benefit for each household size, the TFP costs for the four-person household in each area were divided by four, reduced by one percent, per the legislative mandate, multiplied by the appropriate household size and economy of scale factor, and the final result was rounded down to the nearest dollar. In Alaska, where the TFP is based on Anchorage prices, the urban allotment was computed by adding an additional 6.4 percent to take into account food prices in other urban areas of the State. The rural Alaska allotment was computed by adding 50.7 percent to take into account significantly higher food prices in rural areas. Maximum food stamp benefits for Guam and the Virgin Islands cannot exceed those in the 50 States and D.C.

The following table shows the new allotments for the 48 States and D.C., urban and rural Alaska, Hawaii, Guam, and the Virgin Islands.

THRIFTY FOOD PLAN AMOUNTS [1]—OCTOBER 1984, ADJUSTED

Household size	48 States and District of Columbia	Urban Alaska [2]	Rural Alaska [3]	Hawaii	Guam [4]	Virgin Islands [4]
1	$78	$109	$155	$120	$115	$100
2	143	200	284	220	212	185

THRIFTY FOOD PLAN AMOUNTS [1]—OCTOBER 1984, ADJUSTED —Continued

Household size	48 States and District of Columbia	Urban Alaska [2]	Rural Alaska [3]	Hawaii	Guam [4]	Virgin Islands [4]
3	206	287	405	316	303	264
4	261	364	516	401	385	336
5	310	433	613	477	458	399
6	373	519	736	572	549	479
7	412	574	813	632	607	529
8	471	656	930	723	694	605
Each additional member	+59	+82	+116	+90	+87	+76

[1] Adjusted to reflect the cost of food in June, adjustments for each household size economies of scale, 1 percent reduction, and rounding.
[2] Increased by 6.4 percent to account for higher food prices in urban cities and towns.
[3] Increased by 50.7 percent to account for significantly higher food prices in rural areas.
[4] Adjusted to reflect changes in the cost of food in the 48 States and D.C., which correlate with price changes in these areas. TFP costs in these areas cannot exceed costs in rural Alaska

Deductions

Food stamp benefits are calculated on the basis of an individual household's net income. Deductions serve to lower household net income. The standard deduction is available to all households. The combined excess shelter expense/dependent care deduction is available to those with extremely high shelter costs and/or dependent care expenses.

Adjustment of the Standard Deduction

Section 5(e) of the Food Stamp Act of 1977, as amended, provides that in computing household income, households in the 48 States and D.C. shall be allowed a standard deduction of $85. The standard deductions specified for Alaska, Hawaii, Guam, and the Virgin Islands are $145, $120, $170, and $75, respectively. The law also provides for periodic adjustments in the level of the standard deduction to take into account changes in the CPI–U published by the BLS, for items other than food and the homeownership component of shelter costs. These deductions were adjusted upward effective October 1, 1983, based upon a procedure recommended by BLS (see table). The additional adjustments in the table below took effect October 1, 1984, and reflected changes for the fifteen month period ending June 30, 1984. The adjustments are, by law, rounded to the nearest lower dollar. Since the homeownership component is no longer available, BLS recommended that the Department use "homeowners' costs" and "maintenance and repairs" to achieve a comparable deduction adjustment.

Standard deductions	Previous deductions (effective 10–1–83)	Unrounded numbers (10–1–84)	Deductions effective 10–1–84
48 States and DC	$89	$95.14	$95
Alaska	152	162.30	162
Hawaii	126	134.32	134
Guam	178	190.26	190
Virgin Islands	78	83.95	83

Adjustment of the Shelter Deductions

Section 5(e) of the Food Stamp Act of 1977, as amended, also provides that in computing household income, households shall be allowed a deduction for certain dependent care and excess shelter expenses. The maximum excess shelter/dependent care deduction specified in the Act for the 48 States and D.C. is $115. The maximum excess shelter/dependent care deductions specified for Alaska, Hawaii, Guam, and the Virgin Islands are $200, $165, $140, and $85, respectively. The law provides for periodic adjustments in the level of the excess shelter/dependent care deduction to take into account changes in the shelter (exclusive of homeownership costs), rule, and utilities components of housing costs in the CPI–U published by the BLS. These deductions were adjusted upward effective October 1, 1983 (see table). The next adjustments provided for in the law took effect October 1, 1984 to reflect changes for the fifteen month period ending June 30, 1984 (also shown in the table). The adjustments are, by law, rounded to the nearest lower dollar. As with the standard deduction, the procedure for the shelter/dependent care deduction substituted the homeowners and maintenance and repairs components of the CPI–U for the homeownership component.

Shelter deductions	Previous deductions (effective 10–1–83)	Unrounded numbers (10–1–84)	Deductions effective 10–1–84
48 States and DC	$125	$134.29	$134
Alaska	216	233.54	233
Hawaii	180	192.68	192
Guam	152	163.48	163
Virgin Islands	92	99.26	99

(91 Stat. 958 (7 U.S.C. 2011–2029))

(Catalogue of Federal Domestic Assistance Programs No. 10.551, Food Stamps)

Dated: October 1, 1984.

John W. Bode,

Deputy Assistant Secretary.

[FR Doc. 84–26804 Filed 10–10–84; 8:45 am]

BILLING CODE 3410–30–M

Food Stamp Program; Thrifty Food Plan

AGENCY: Food and Nutrition Service, USDA.

ACTION: General notice—analysis of comments.

SUMMARY: On July 29, 1983, the Department announced that it had revised the Thrifty Food Plan (TFP) upon which food stamp allotments are based. The revision makes the "market basket" of foods in the TFP more up-to-date.

Comments were solicited on this revision through September 27, 1983. The Thrifty Food Plan remains as announced in July 1983. This action addresses the comments received and explains the Department's analysis of those comments.

EFFECTIVE DATE: The costs of the revised TFP for June 1984, as prescribed in Section 3(o) of the Food Stamp Act, will be used to adjust food stamp allotments effective October 1, 1984.

FOR FURTHER INFORMATION CONTACT: Questions about the technical aspects of, or the components of, the TFP, should be addressed to Betty Peterkin at Human Nutrition Information Service, USDA, Hyattsville, Maryland 20782, (301) 436–7725. Questions about the TFP's use in the Food Stamp Program, should be addressed to Virgil L. Conrad, Deputy Administrator for Family Nutrition Programs, Food and Nutrition Service, USDA, Alexandria, Virginia 22302, (703) 756–3026.

SUPPLEMENTARY INFORMATION:

Classification

Executive Order 12291. The Department has reviewed this action under Executive Order 12291 and Secretary's memorandum No. 1512–1. There is no cost involved in this action. It would not result in an annual effect on the economy of $100 million or more, and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore, the Department has classified this action as "not major".

Regulatory Flexibility Act

The Administrator of the Food and Nutrition Service (FNS) has certified

that this action will not have a significant economic impact on a substantial number of small entities. The action simply results in a change in the "market basket" of foods which comprise the TFP. Total cost of the market basket is not changed, so it will not have an economic impact upon food stamp recipients, State and local agencies, and other users of the TFP.

Paperwork Reduction Act

This notice does not contain reporting or recordkeeping requirements subject to approval by the Office of Management and Budget.

Introduction

On July 29, 1983, the Department issued a Notice of Proposed Revision of the TFP. This revision was part of the Department's ongoing responsibility to develop food plans to help households obtain nutritious diets at varying cost levels.

A full explanation of the rationale and purposes of this revision was provided in the Notice published at 48 FR 34700–7 on July 29, 1983. Therefore, this Notice concerns only the Department's response to public comments on the revision. All comments were carefully considered to determine the continued applicability of the TFP as originally presented and the merits of the suggestions for change. This action contains a thorough examination of comments received and an analysis of the Department's response. Unless otherwise stated, the rationale contained in the Notice of Proposed Revision should be regarded as a basis for the pertinent final action. Thus, a thorough understanding of the grounds for the final action may require reference to the Notice of Proposed Revision.

Twelve comment letters were received on the revised TFP. Five were from State agencies, two from FNS regional offices, two from producer organizations, two from nutrition groups, and one from a university. The majority of the comments concerned the standards used in plan development or the foods in the plan. Other comments concerned the need for nutrition education, the cost level, the relationship to the Food Stamp Program (FSP), and the Department's authority to revise the plan at all. A number of commenters supported the plan overall but had concerns about certain aspects of the plan.

Dietary Standards

Comments on the dietary standards involved two areas: (1) Standards for fat, cholesterol, caloric sweeteners or sodium, for which no Recommended Dietary Allowances (RDA) exist; and (2) standards for folacin, vitamin E, and zinc, for which USDA used 80% or more of the RDA. All of the Department's family food plans have the same dietary standards.

Four groups specifically supported: (1) Limitations on fat, cholesterol, sodium and added sweeteners; or (2) the inclusion of standards for folacin, vitamin E, and zinc in the revision of the TFP. Three groups wanted these standards to be even more stringent, with one group wanting the standards for folacin, vitamin E, and zinc to be increased and two goups believing that the plan still allowed too much fat, cholesterol, or sodium. However, two groups wanted less stringent limitations on fat, cholesterol, or sodium.

The groups which supported further limitations on fat, cholesterol, caloric sweeteners, or sodium did so, in part, because of the increased risk of hypertension and obesity among the poor. The groups which objected to the limitations did so because they considered them arbitary, stating that while there was no scientific basis for these limitations, there was scientific evidence that they should not be established. One of the groups stated that adoption of these limitations was not appropriate because the dietary guidelines upon which they were based had not yet been agreed upon by the scientific community. This group also requested USDA to provide justification for the 350 milligram (mg.) per day limitation on cholesterol and requested USDA to develop a plan without the 350 mg. a day cholesterol limitation. They felt this placed an arbitrary limitation on the number of eggs in the plan.

The standards and limitations used in the plans were not arbitrary. They were established by Human Nutrition Information Service (HNIS) nutritionists in consultation with an interagency task force for the development of the TFP. Whenever possible, the RDA were used. Only when: (1) NO authoritative standard, such as the RDA, was available, or (2) the use of proposed standards resulted in (a) considerable disruption of food consumption patterns and (b) nutrient content in foods was questionable, were the implications of alternative standards studied. Results of these studies have been presented at meetings of the American Dietetic Association and the Society for Nutrition Education and published in professional journals as a means of eliciting comments.

The RDA are the nutritional goals for portein, vitamins and minerals in the TFP. USDA has used the RDA in developing food guides and food plans since the RDA were frist persented in the 1940's. The objective for the revised food plans, as for earlier food plans, was to meet the RDA for all nutrients despite the fact that most individuals do not require amounts as high as the RDA and the generally healthy population consistently fails to meet the RDA for several nutrients. For three nutrients—zinc, folacin, and vitamin E—80 percent or more of the RDA was used as the standard in developing the plans because the full RDA could not be met for all sex-age categories without extreme distortion of usual food comsumption patterns. (See Cleveland et al., *Journal of Nutrition Education* 15:8–14, 1983). This distortion was not considered to be justified for two reasons: (1) It would make the food plans less acceptable, and (2) the information on the zinc, folacin and vitamin E content of foods is insufficient to be sure that the calculated levels for the food plans are as estimated. Therefore, the food plans were developed using the best nutrient data available and a percentage of the RDA had to be used to provide zinc, folacin and vitamin E in amounts which resulted in reasonable and acceptable plans compared to the consumption patterns, but sill came as close as possible to the RDA. This type of procedure has been used in developing past food plans.

USDA introduced limitations on fat, sodium, cholesterol and caloric sweeteners into the four family food plans because scientific evidence increasingly points to the need for moderation. While there may be no consensus on desirable levels of cholesterol and fat in diets, most scientific groups find levels in U.S diets to be unacceptably high and suggest levels as low or lower than the standard selected.

The limitation on cholesterol, like those for fat, sweeteners, and sodium is considered to be "moderate" in that it is lower than average intakes in the United State and higher than the 300 mg. or less per day recommended by some groups advocating dietary change.

In accordance with the request by the group representing the egg industry, USDA developed other food plans, using the same computer model with the same consumption patterns and cost and nutrient specifications, but with no cholestrol limitation. This food plan for the man contains 440 mg. of cholesterol. The woman's food plan contains over 500 mg. of cholesterol. Thus, without imposition of limitations, the amount of cholesterol in the plan would have been

unacceptably high to many groups. Another set of plans was developed to show the effect of imposing no fat or cholesterol limitations. The results illustrated the necessity for USDA to specify an upper limit (standard) for fat and cholesterol in developing the food plans. For example, the man's food plan without limitations on fat and cholesterol contained 43 percent of energy from fat and 465 mg. of cholesterol.

Foods

Overall, in comparing the revised TFP with the TFP developed in 1975, commenters were pleased with the revised TFP, as well as the specific food groups in the plan. The increase in dry beans, fruits and vegetables, meats, cereal, and flour were cited in particular. Several groups commented on the quanities of particular foods in the plan without realizing, apparently, that the specific food groups are a result of a complex variety of factors, including application of the RDA and other dietary standards to the food consumption patterns and cost level. Thus, four groups opposed the reduction of eggs in the plan, and only one of these groups had objected to the limitation on cholesterol. The others had supported the limitation. Two groups objected to the slight reduction in the milk group, one commenter each objected to the reduction of cheese and potatoes, and one commenter stated that the plan assumed an ongoing supply of staples and availability of discount shopping.

As addressed in greater detail in the July 29, 1983 notice, USDA used a computerized mathematical model to help minimize the changes that households eligible for food stamps needed to make in their consumption patterns to meet the goal of obtaining a nutritious diet at the cost level of the TFP. The TFP was systematically and objectively developed, using the computerized model, to include all types of foods and beverages, except alcohol. The parameters for plan design were the RDA and other dietary standards, already addressed, the nutrient content of foods, and food consumption patterns of surveyed households. The model then computed the nutritious diet which most closely resembled what low-income households actually consumed and which was at the TFP cost level. Adjustments from consumption patterns were made only to meet constraints imposed by these factors.

Thus, the amount of any one of the 31 food groups included in the plan depended on its price, nutrient content, and the quantity consumed on the average by survey households. For example, cheese is a good source of many nutrients; yet the amount of cheese in the food plan is lower than the amount in food consumption patterns. The reason for this is that there are other foods that provide the same nutrients as cheese does at a lower price, or with less fat and sodium. (See Journal of the *American Dietetic Association* 78(5):453, 1981). The fact that the amount of cheese—and of eggs and meat and certain other food groups—is less in the food plan than in the consumption pattern does not imply that these are not good foods or that they are to be excluded from low-cost nutritious diets. They are important components of the TFP and all diets. Amounts are somewhat restricted in the TFP for nutritional and/or cost reasons.

In summary, the foods in the plan reflect a balance between what low income households actually eat and a diet they might eat to attain nutritioal standards. The food plan in objectively developed to conform to the nutritional and cost constraints while requiring the least possible change from average food consumption. The TFP includes all foods required for a week and does not assume that supplies of staples are on hand. As previously stated, the TFP is only one of many ways foods can be combined to meet nutritional and cost criteria. The plan specifies amounts of food in 31 food groups, but economical selections of foods within the groups can be made to meet the preferences of the family.

Cost of TFP and Relationship to FSP

On group stated that the entire process of arriving at the cost of the TFP is heavily biased so that the cost is kept to a minimum. Example cited were the use of food consumption patterns of low-income households, rather than those of the general population, and disruption of this patten as little as necessary to meet nutritional goals. Another commenter questioned the particular four-person household chosen in the Act and stated that it could not be determined whether this household reflected the composition of the average family of four.

The food selections and food prices reported in surveys of low-income households are used as the starting point in developing the TFP, not so much to save money but as way of being realistic about what foods such households can and do select and the prices that are available in stores where they shop.

Some commentors questioned the composition of the household used to determine the TFP diet for the Food Stamp Program. Section 3(o) of the Food Stamp Act of 1977 prescibes the composition of the household.

The Congress did consider, in 1977, the possibility of keying food stamp allotments to individual household circumstances so that families, such as one with teenage boys, would receive more. However, it did not, because of the enormous complexity associated with doing so. Futhermore, in eliminating the purchase requirement for food stamps, the Congress reaffirmed the FSP's purpose as a *supplement* to household food expenditures, to help meet a household's total needs. Depending on a household's income, the amount of the supplement would vary, although households with the lowest incomes would receive the maximum allotment.

Need for Education

Five groups stressed the need for nutrition and food money management education for food stamp recipents. One specified a need for increased resource for nutrition education in the Expanded Food and Nutrition Education Program, Extension Service, Special Supplemental Food Program for Women, Infants and Children (WIC) and the FSP. Others requested that nutrition education materials be developed and made available to States or to recipients free of charge.

Since the revision of the TFP was first proposed, the Department of Agriculture has undertaken efforts to increase levels of nutrition awareness among food stamp recipients and to improve their ability to shop for and prepare food. Although there has always been some material on food shopping and nutrition at the Federal level, the Department has learned that these materials have not always been well used, particularly when local staff did not have the time or the means to use them and to train people in their use. To this end, USDA has undertaken a nutrition awareness project entitled, *Make Your Food Dollars Count*. This project encourages local food stamp offices to conduct *Make Your Food Dollars Count* activities and to coordinate these activities with community groups that help support the needs of low-income populations. USDA will be making workshop kits available to a variety of offices including local food stamp certification offices, State food stamp offices, State Cooperative Extension Service offices, and food stamp field offices. These kits include guides for presentation as well as pamphlets for food stamp recipients. They include basic nutrition information; information on meal planning, shopping strategies,

and selecting nutritious snacks; and posters for display in food stamp offices, which reinforce the theme of buying better and eating better. In addition, USDA will be making available free slide/audio cassette presentations for use in certification offices or in conducting workships on television by community groups. Public Service Announcements that contain food buying tips will be sent to 7,600 radio stations. We believe that this effort will meet the needs addressed by the commenters.

Regional differences

One commenter felt that the TFP diet allowed relatively too much in warm climates and relatively too little in cold. TFP costs represent an average of the cost of purchasing the plan throughout the country, so that States with warm climates and States with cold climates are included. Since food stamp allotments are based on TFP costs, they also represent an average. The law allows only one food stamp allotment level in the 48 States and D.C., and the allotment is based on average TFP costs.

Use of Revised TFP

One commenter stated that the Department did not have authority to revise the TFP as extensively as it did, because Congress gave the USDA authority to revise the plan only based on new research. The same commenter felt that the TFP should not be implemented and that all of the Department's family food plans—the liberal, the moderate cost, and the low cost, as well as the thrifty plan—should be placed in the **Federal Register.**

The Department has, for a long time, been engaged in the process of food plan development and revision. Authority to do this did not come with passage of the 1977 Food Stamp Act. The "authority" referred to by the commenter was Congressional recognition that the nature of, or components of, the TFP might change as new research results came available. This is indeed the basis upon which the TFP and the other family food plans have been revised.

The TFP was placed in the **Federal Register** because of its relationship to the Food Stamp Program and the Department's sense of the continuing public interest in matters affecting that Program. The procedures for developing the other family food plans were essentially the same as the procedures for developing the TFP, so most comments can apply to all four plans. To allow for public input prior to revision of the plans, the Department described procedures to, and parameters for, developing the food plans at professional meetings and at the Agricultural Outlook Conference. Further information is available from HNIS.

The revised TFP takes into account scientific information on food consumption, food prices, nutritive value of foods and human nutritional requirements that has been developed since 1975 when the last TFP was released. This new information cannot be overlooked by the Department and must be incorporated into a revised TFP. All comments received on the technical aspects of the revision of TFP have been considered. Most of the concerns noted by the twelve groups submitting comments also have been the major concerns of USDA staff as they designed the food plans. These concerns have been discussed openly and procedures for addressing them have been made in a systematic and objective manner using the scientific information and advice available.

Therefore, the Department hereby adopts the revised TFP presented in the **Federal Register** on July 29, 1983 for use in establishing future benefits for the FSP. The food plan developed in 1975 is hereby terminated.

(91 Stat. 958 (7 U.S.C. 2011–2029), Catalogue of Federal Domestic Assistance No. 10–551, Food Stamps)

Dated: October 4, 1984.

Mary C. Jarratt,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 84–26805 Filed 10–10–84; 8:45 am]

BILLING CODE 3410–30–M

Foreign Agricultural Service

White or Irish Potato Production

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice of estimates with respect to 1984 white or Irish potato production.

SUMMARY: Headnote 2 of Subpart A of Part 8 Schedule 1 of the Tariff Schedules of the United States (TSUS) provides that, if for any calendar year the production in the United States of white or Irish potatoes, including seed potatoes, according to the estimate of the Department of Agriculture made as of September 1, is less than 21 billion pounds, an additional quantity of potatoes equal to the amount by which such estimated production is less than 21 billion pounds shall be added to the 45 million pounds provided for in TSUS item 137.25 for the 12-month period beginning September 15.

Notice

The estimate of the Department of Agriculture, made as of September 1, 1984, is that for the calendar year 1984 the production in the United States of white or Irish potatoes, including seed potatoes, will exceed 21 billion pounds.

Issued at Washington, D.C. this 3d day of October, 1984.

Leo V. Mayer,

Administrator, Foreign Agricultural Service.

[FR Doc. 84–26834 Filed 10–5–84; 1:29 am]

BILLING CODE 3410–10–M

Forest Service

Tonto National Forest Grazing Advisory Board; Meeting

The Tonto National Forest Grazing Advisory Board will meet November 28, 1984, at 1:00 p.m. at the Tonto National Forest Supervisor's Office, 102 S. 28th Street, Phoenix, Arizona. The purpose of this meeting is to cover the following agenda items:

1. Review the proposed allotment management plan and other management alternatives under consideration, for the Chrysotile Allotment.

2. Review proposed expenditure of Range Betterment Funds for the Chrysotile Allotment.

3. Receive advice and recommendations from the Board relative to the proposed plan of management for Chrysotile Allotment.

The meeting will be open to the public. Persons who wish to attend should notify James L. Kimball, Forest Supervisor, Tonto National Forest, 102 S. 28th Street, P.O. Box 29070, Phoenix, Arizona 85038, telephone: (602) 261–3205. Written statements may be filed with the Board, before or after the meeting.

Dated: October 2, 1984.

James L. Kimball,

Forest Supervisor.

[FR Doc. 84–26794 Filed 10–10–84; 8:45 am]

BILLING CODE 3410–11–M

Los Padres National Forest Grazing Advisory Board; Meeting

The Los Padres National Forest Grazing Advisory Board will meet from 9:30 a.m. to 12:30 p.m. on November 14, 1984, at the Santa Lucia District Ranger Station, 1616 Carlotti Drive, Santa Maria, California, which is immediately northeast of the Donovan exit off 101. The purpose of this meeting is to consider (1) priorities for use of range

betterment funds, and (2) allotment management plans.

The meeting will be open to the public. Public members will be given an opportunity to speak. Persons who wish to attend should notify DeLoy Esplin, Forest Supervisor's Office, 6144 Calle Real, Goleta, California (805) 683–6711. Written statements may be filed with the committee before or after the meeting.

Dated: October 2, 1984.

Frederik G. deHoll,

Forest Supervisor.

[FR Doc. 84–28799 Filed 10–10–84; 8:45 am]

BILLING CODE 3410–11–M

Joint Interchange Order Between Department of the Army and Department of Agriculture, Interchange of Administrative Jurisdiction of Department of the Army Lands and National Forest Lands

Correction

In FR Doc. 84–24419 beginning on page 36118 in the issue of Friday, September 14, 1984, make the following corrections in the tract descriptions on page 36119:

1. In Segments 13 and 15, insert a period at the end of each description.

2. In Segment 26, insert a comma after "2601C–2".

3. In Segment 34, insert a comma after "3400".

4. In Segment 37, "3802" should read "3702".

5. In Segment 38, remove the second reference to "3814".

6. In Segment 46, "4603:" should read "4603,".

7. In Segment 48, "4800 4801: 4802" should read "4800, 4801, 4802," and insert a comma after "4805".

8. In Segment 49, insert "4902," after "4901".

9. Segment 57 was omitted and reads as follows: "Segment 57: 5700, 5701, 5702, 5703, 5704, 5705, 5706, 5707."

BILLING CODE 1505–01–M

DEPARTMENT OF COMMERCE

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census
Title: Current Industrial Reports Program Mandatory Surveys (Wave III)
Form No.: Agency—Various OMB—Various
Type of Request: Revision of a currently approved collection
Burden: 19,724 respondents; 21,831 reporting hours
Needs and Uses: The Current Industrial Reports (CIR) program is a series of monthly, quarterly, annual, and biennial surveys which provide key measures of production, shipments, and/or inventories on a national basis for selected manufactured products. Primary users of the data are government agencies, business firms, trade associations, and private research and consulting organizations. The Federal Reserve Board uses CIR data in its index of industrial production and the Bureau of Industrial Economics uses many of the CIR tables in its *U.S. Industrial Outlook*.
Affected Public: Businesses or other for-profit institutions
Frequency: Annual
Respondent's Obligation: Mandatory
OMB Desk Officer: Timothy Sprehe 395–4814

Agency: Bureau of Census
Title: Current Industrial Reports Program Voluntary Surveys (Wave III)
Form Numbers: Agency—Various, OMB—Various
Type of Request: Revision of a currently approved collection
Burden: 1,817 respondents; 6,362 reporting hours
Needs and Uses: The Current Industrial Reports (CIR) program is a series of monthly, quarterly, annual, and biennial surveys which provide key measures of production, shipments, and/or inventories on a national basis for selected manufactured products. Primary users of the data are government agencies, business firms, trade associations, and private research and consulting organizations. The Federal Reserve Board uses CIR data in its index of industrial production and the Bureau of Industrial Economics uses many of the CIR tables in its *U.S. Industrial Outlook*.
Affected Public: Businesses or other for-profit institutions
Frequency: Quarterly, Annually
Respondent's Obligation: Voluntary
OMB Desk Officer: Timothy Sprehe, 395–4814.

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals (202) 377–4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collection should be sent to Timothy Sprehe, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Dated: October 4, 1984.

Edward Michals,

Department Clearance Officer.

[FR Doc. 84–28825 Filed 10–10–84; 8:45 am]

BILLING CODE 3510–CW–M

International Trade Administration

[A–401–061]

Animal Glue and Inedible Gelatin From Sweden; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of final results of administrative review of antidumping finding.

SUMMARY: On July 25, 1984, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on animal glue and inedible gelatin from Sweden. The review covers the one known exporter of this merchandise to the United States and three consecutive periods from December 1, 1980, through November 30, 1983.

We gave interested parties an opportunity to comment on the preliminary results. No comments were received within the 30 day period prescribed in the preliminary results of review. One importer, Olympic Adhesives, Inc., submitted comments after the close of the comment period. We did not consider these comments because they were untimely. Based on our analysis, the final results of review are unchanged from those presented in the preliminary results.

EFFECTIVE DATE: October 11, 1984.

FOR FURTHER INFORMATION CONTACT: John M. Andersen or Susan Crawford, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377–2923/1130.

SUPPLEMENTARY INFORMATION:

Background

On July 25, 1984, the Department of Commerce ("the Department") published in the **Federal Register** (49 FR

27963) the preliminary results of its administrative review of the antidumping finding on animal glue and inedible gelatin from Sweden (42 FR 64116, December 22, 1977). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of animal glue and inedible gelatin of which there are two principal types, hide glue and bone glue. Animal glue is an organic colloid of protein derivation. There is no significant difference between animal glue and inedible gelatin. Animal glues are odorless, dry, hard, hornlike materials. They are used as general purpose adhesives in industries producing abrasives, paper containers, book and magazine bindings, and leather goods. They are also used as sizing agents and as colloids in emulsions and cleaning compounds. Animal glue and inedible gelatin are currently classifiable under items 455.4000 and 455.4200 of the Tariff Schedules of the United States Annotated.

The review covers the one known exporter of Swedish animal glue and inedible gelatin to the United States, Extraco Geltec AB, and three consecutive periods from December 1, 1980, through November 30, 1983. The one known third-country reseller, Marcuse Glues & Chemicals (formerly Marcuse, Dorme & Co., Ltd.), will be covered in a subsequent review.

Final Results of the Review

We gave interested parties an opportunity to comment on the preliminary results. The Department received no written comments or requests for a hearing within the period prescribed in the preliminary results of review. One importer, Olympic adhesives, Inc., submitted comments after the close of the comment period. We did not consider these comments because they were untimely. Based on our analysis, the final results of our review are the same as those presented in the preliminary results of review and we determine that the following margins exist for Extraco Geltec AB:

Time Period	Margin (%)
December 1, 1980, to November 30, 1981	3.01
December 1, 1981, to November 30, 1982	[1] 3.01
December 1, 1982, to November 30, 1983	[1] 3.01

[1] No shipments during the period.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all appropriate entries. Individuals differences between United States price and foreign market value may vary from the percentage stated above.

Further, as provided for by section 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties of 3.01 percent shall be required on all shipments of Swedish animal glue and inedible gelatin entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review. The Department intends to begin immediately the next administrative review.

The Department encourages interested parties to review the public record and submit applications for protective orders as early as possible after the Department's receipt of the requested information.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 353.53 of the Commerce Regulations (19 CFR 353.53).

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

October 4, 1984.

[FR Doc. 84-26819 Filed 10-10-84; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-058]

Metal-Walled Above Ground Swimming Pools From Japan; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of final results of administrative review of antidumping finding.

SUMMARY: On July 9, 1984, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on metal-walled above ground swimming pools from Japan. The review covers the three known Japanese manufacturer and/or exporters and one known third-country reseller of this merchandise to the United States and the period September 1, 1982, through August 31, 1983. There were no known shipments of this merchandise to the United States during the period and there are no known liquidated entries.

We gave interested parties an opportunity to submit oral or written comments on the preliminary results. We received no comments. Based on our analysis, the final results of review are unchanged from those presented in the preliminary results of review.

EFFECTIVE DATE: October 11, 1984.

FOR FURTHER INFORMATION CONTACT: Laurie A. Lucksinger or Susan M. Crawford, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-1130.

SUPPLEMENTARY INFORMATION:

Background

On July 9, 1984, the Department of Commerce ("the Department") published in the **Federal Register** (49 FR 27966) the preliminary results of its administrative review of the antidumping finding on metal-walled above ground swimming pools from Japan (42 FR 44811, September 7, 1977). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of metal-walled above ground swimming pools. This merchandise is currently classifiable under items 657.2590 and 774.5595 of the Tariff Schedules of the United States Annotated.

Metal-walled above ground swimming pools exported from third countries which contain walls, frames, and vinyl liner manufactured in Japan are within the scope of the finding.

The review covers the three known Japanese manufacturers and/or exporters and one known third-country (Canada) reseller of Japanese metal-walled above ground swimming pools to the United States and the period September 1, 1982, through August 31, 1983. There were no known shipments of this merchandise to the United States during the period and there are no known unliquidated entries.

Final Results of the Review

We gave interested parties an opportunity to comment on the preliminary results. The Department received no written comments to requests for a hearing. Based on our analysis, the final results of our review remain unchanged from the preliminary results of review, and we determine that, as provided for in section 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties equal to the following percentages of the

entered value shall be required for these firms.

Manufacturer/exporter	Cash deposit (percent)
Asahi Chemical Industry Co., Ltd	[1]20.40
Sanwa Sangyo Co., Ltd	[1]72.00
Hakuyo Sangyo	[1]72.00
Third-Country Reseller (Country):	
Irwin Toy, Ltd. (Canada)	[1]20.40

[1] No shipments during review period.

For any future entries from a new exporter not covered in this or prior reviews, whose first shipments occurred after August 31, 1983, and who is unrelated to any reviewed firm, a cash deposit of 20.40 percent shall be required. These deposit requirements are effective for all shipments of Japanese swimming pools entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and shall remain in effect until publication of the final results of the next administrative review.

The Department intends to begin immediately its next administrative review. The Department encourages interested parties to review the public record and submit applications for protective orders as early as possible after the Department's receipt of the requested information.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-26820 Filed 10-10-84; 8:45 am]

BILLING CODE 3510-DS-M

[A-401-040]

Stainless Steel Plate From Sweden; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of final results of administrative review of antidumping finding.

SUMMARY: On January 16, 1984, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on stainless steel plate from Sweden. The review covers the two known manufacturers and/or exporters and one known third-country reseller of this merchandise to the United States and generally two consecutive periods from June 1, 1980, through May 31, 1982.

We gave interested parties an opportunity to submit oral or written comments on the preliminary results. As a result of our review of the comments received, we have adjusted the margins for two firms. The final results are the same as the preliminary results for the remaining firm.

EFFECTIVE DATE: October 11, 1984.

FOR FURTHER INFORMATION CONTACT: Valerie Newkirk or Susan Crawford, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-1130.

SUPPLEMENTARY INFORMATION:

Background

On January 16, 1984, the Department of Commerce ("the Department") published in the **Federal Register** (49 FR 1922-3) the preliminary results of its administrative review of the antidumping finding on stainless steel plate from Sweden (38 FR 15079, June 8, 1973). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of stainless steel plate which is commonly used in scientific and industrial equipment because of its resistance to staining, rusting and pitting. Such merchandise is currently classifiable under item 607.9005 of the Tariff Schedules of the United States Annotated.

The review covers the two known manufacturers and/or exporters and one known third-country reseller of Swedish stainless steel plate to the United States and generally two consecutive periods from June 1, 1980 through May 31, 1982.

Analysis of Comments Received

We gave interested parties an opportunity to present oral or written comments on the preliminary results. We received the following comments from Uddeholm, an exporter, and from the petitioners.

Comment 1: Uddeholm contends that the claimed adjustment for a 5 percent clean-cut discount on home market sales of non-clean-cut plate was adequately quantified and should be allowed. The petitioners contend that it is the domestic industry's experience that a maximum discount of 2-3 percent for clean-cut plate is what would be available in the U.S. market.

Department's Position: Based on the domestic industry's experience of cost savings for clean-cut plate, and because Uddeholm's claim regarding the size of the discount was not adequately quantified, we have allowed a 3 percent clean-cut discount on home market sales of non-clean-cut plate.

Comment 2: Uddeholm contends that submissions of production cost information for U.S. sales of grades 316L, 317L and 725LN after publication of the preliminary results of review have adequately quantified these costs and therefore, the Department should allow the requested adjustment for differences in physical characteristics between those grades and the similar comparison merchandise sold in the home market.

Department's Position: We have denied the claimed adjustment for difference in physical characteristics since the submissions of cost of production data were untimely.

Comment 3: Uddeholm contends that the Department should not have included foreign inland freight on some home market sales since all home market sales were f.o.b. factory.

Department's Position: We agree and have corrected our calculations accordingly.

Comment 4: Uddeholm contends that, based on Treasury's and the Department's acceptance of price lists and variances to determine home market price for prior periods, it would be improper and arbitrary for the Department to disregard Uddeholm's 1979 home market price list and reported variances for comparisons to U.S. sales during the period June 1980 through September 1980.

Department's Position: The fact that the Department relied on price lists in the past to determine home market price is not dispositive. We specifically requested a listing of all home market sales on a sale-by-sale basis for the period September 1, 1979, through May 31, 1982. Uddeholm was unable to provide such information for the year 1979, and in accordance with section 776 of the Tariff Act, we have turned to the best information available.

Comment 5: Uddeholm contends that the Department erred in not making an allowance for selling expenses incurred in the home market for advertising, catalogues, service engineers, central sales office, and financing and retail distribution systems. While citing to the Court of International Trade's decision in *Silver Reed America Inc.* v. *United States* (U.S.C.I.T., Slip Op. 84-8, February 1, 1984) regarding the ESP offset cap on indirect selling expenses, Uddeholm takes issue with our considering the above selling expenses as indirect.

Department's Position: Uddeholm's home market selling expenses were insufficiently detailed to determine if they were directly related to the sales in question. Section 353.15 of the Commerce Regulations generally requires that claimed differences in circumstances of sale must be directly related to the sales under consideration. Accordingly, we have not made a circumstance of sale adjustment for direct selling expenses.

Comment 6: Uddeholm claims that the Department incorrectly included such items as sales to Canada, sales of non-Swedish plate, burning charges, credit memos, and scrap sales in our listing of U.S. sales.

Department's Position: We agree, with the exception of scrap sales, and have removed those items from our listing of U.S. sales. Despite Uddeholm's argument that the scrap sales were of small odd shaped and sized pieces, we regard such scrap sales as sales of of stainless steel plate and have therefore included them in our calculations.

Comment 7: Uddeholm contends that a number of home market sales of stainless steel sheet were incorrectly reported as plate. In addition, the company claims that any item less than 5 millimeters in thickness is not stainless steel plate. The petitioners note that the Tariff Schedules of the United States define plate as 0.1875 inches or 4.7625 millimeters and thicker.

Department's Position: We have followed the Tariff Schedules' definition of plate. We clarified Uddeholm's claim and included all home market sales of 4.7625 millimeter plate and thicker.

Comment 8: Uddeholm points out various errors in our computer print-out such as the dimension classification.

Department's Position: We have corrected the highlighted errors in the computer print-out.

Comment 9: Uddeholm questions the Department's use of best evidence when the thickness of plate sold in the home market was not identical to that sold in the U.S. The firm contends that there should be three groupings of thicknesses for accurate comparisons.

Department's Position: We agree that there should be a more flexible range of thicknesses of plate being compared in the home market and the U.S. We have adopted Uddeholm's three classification groupings and have adjusted our comparisons accordingly.

Comment 10: The petitioners contend that all information submitted during the administrative review should be verified. They cite the Court of International Trade ruling in *Al Tech Specialty Steel Corporation* v. *United States* (Slip Op. 83–119) that verifications must be conducted in all section 751 reviews despite the burden and time constraints placed on the Department.

Department's Position:

In conducting section 751 reviews the Department believes it has the discretion to determine on a case-by-case and company-by-company basis whether verification is warranted. In this case, as the review had been delayed, we determined that only verification of the submission for the U.S. subsidiary (see Comment 11) and of the home market cost of production information would be needed. However, because we denied the adjustments for differences in merchandise as untimely (*See* Comment 2), verification of the home market data is a moot point. As to the *Al Tech* ruling the Department is appealing that decision.

Comment 11: The petitioners question the absence of ESP selling expense deductions from Uddeholm's U.S. price for inventory carrying costs.

Department's Position: We have now verified the data supplied by Uddeholm's U.S. subsidiary and have recalculated the direct and indirect selling expenses based on information supplied during the verification. The deducted selling expenses now include interest for accounts receivable, inventory and fixed assets.

Final Results of Review

As a result of adjustments made based on the comments received, we have revised the margins for Uddeholm/Nyby Uddeholm, and we determine that the following margins exist:

Manufacturer/exporter	Time period	Margin (percent)
Uddeholm/Nyby Uddeholm	6/1/80–5/31/81	6.21
	6/1/81–5/31/82	4.46
Avesta Jernverks Aktiebola	9/22/73–9/31/76	6.21
	6/1/80–5/31/81	0
	6/1/81–5/31/82	[1]0
Third-Country Reseller:		
Axel Johnson Industries Ltd. (Canada)	6/1/80–5/31/81	6.21
	6/1/81–5/31/82	[1]6.21

[1] No shipments during the period.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Further, as provided for by § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based on the most recent of the above margins shall be required on all shipments of Swedish stainless steel plate from these firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. For any future shipments from a new exporter not covered in this or prior reviews, whose first shipments occurred after May 31, 1982, and who is unrelated to any covered firm, a cash deposit of 4.46 percent shall be required. These deposit requirements shall become effective on the date of publication of this notice and shall remain in effect until publication of the final results of the next administrative review. The Department intends to begin immediately the next administrative review.

The Department encourages interested parties to review the public record and submit applications for protective orders as early as possible after the Department's receipt of the requested information during the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Alan F. Holmer,

Deputy Assistant Secretary Import Administration.

October 4, 1984.

[FR Doc. 84–26821 Filed 10–10–84, 8:45 am]

BILLING CODE 3510–DS–M

[C–357–046]

Certain Textiles and Textile Products From Argentina; Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Countervailing Duty Order.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on certain textiles and textile products from Argentina, specifically men's and boys' woolen apparel. The review covers the period January 1, 1983, through December 31, 1983.

As a result of the review, the Department has preliminarily determined that there was no bounty or grant conferred during the period of

review. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: October 11, 1984.

FOR FURTHER INFORMATION CONTACT: Lorenza Olivas or Richard W. Moreland, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On September 21, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 43071) the final results of its last administrative review of the countervailing duty order on certain textiles and textile products from Argentina (47 FR 53421, November 16, 1978) and announced its intent to conduct the next administrative review. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of Argentine men's and boys' woolen apparel. Such merchandise is currently classifiable under the items of the Tariff Schedules of the United States Annotated ("TSUSA") listed in the Appendix to this notice.

The review covers the period January 1, 1983, through December 31, 1983, and two programs: (1) The reembolso, a cash rebate of indirect taxes; and (2) a preferential pre-export financing program.

Analysis of Programs

(1) Reembolso

The reembolso is a cash rebate of taxes, paid upon exportation of merchandise, as a percentage of the f.o.b. invoice price. Although the Government of Argentina rebates upon exportation all indirect taxes borne by the exported product, the Tariff Act and the Commerce Regulations allow the rebate of only the following: (1) Indirect taxes borne by inputs which are physically incorporated in the exported product (*see* Annex 1.1 of part 355 of the Commerce Regulations) and (2) indirect taxes levied at the final stage (*see* Annex 1.2 of part 355 of the Commerce Regulations). If the tax rebate upon export exceeds the total amount of allowable indirect taxes described above, the Department considers the difference to be an overrebate of indirect taxes and, therefore, a subsidy.

Based on our analysis of the most recent tax incidence study conducted by the Argentine government, we found that indirect taxes on physically incorporated inputs and final sage indirect taxes on men's and boys' woolen apparel amount to 19.33 percent *ad valorem*.

To calculate the net subsidy on men's and boys' woolen apparel, we allowed the rebate of indirect taxes on raw materials, which constitute the bulk of the taxes. In addition we allowed the rebate of final stage indirect taxers, such as excise taxes. We disallowed taxes on labor, on "indirect expenditures" and on other items not physically incorporated.

During the period of review, the reembolso rate for men's and boys' woolen garments was five percent (Resolution No. 8 of the Ministry of Commerce, July 5, 1982). Because the reembolso does not exceed the total allowable indirect taxes of 19.33 percent, we preliminarily find that there was no overrebate of indirect taxes in 1983.

(2) Preferential Financing

The preferential financing program makes pre-export loans, in pesos indexed to U.S. dollars, available to exporters at an interest rate of one percent. Such funds are available for a period of up to 180 days, and are to be repaid no later than 60 days after the export date. The funds are provided by the Central Bank of Argentina and disbursed by private commercial banks to individual borrowers.

For men's and boys' woolen apparel, the Central Bank limited potential loan amounts to 60 percent of the contracted f.o.b. price. However, because the Government of Argentina has informed us that this program was not used during 1983 for men's and boys' woolen apparel exports to the United States, we preliminarily determine that there was no benefit conferred under the preferential financing program during the period of review.

Preliminary Results of Review

As a result of the review, we preliminarily determine the total bounty or grant conferred during the period of review to be zero percent. The Department intends to instruct the Customs Service to liquidate entries of this merchandise exported on or after January 1, 1983, and on or before December 31, 1983, without regard to countervailing duties.

Further, the Department intends to instruct the Customs Service not to collect a cash deposit of estimated countervailing duties, as provided for by section 751(a)(1) of the Tariff Act, on any shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: October 4, 1984.

Alan F. Holmer,

Deputy Assistant Secretary, Import Administration.

Appendix

Wearing Apparel

372.0800 (b)
372.1020 (a)(b)
372.1050 (a)(b)
372.2500 (for male infants)
372.3000 (b)
372.3500 (b)
372.4000 (b)
372.4500 (b)
373.0500 of wool
373.1500
376.0800 (b)
378.3510 (b)
378.4000 (b)
378.4500 (b)
379.1100
379.1300
379.1510 through 379.1530
379.1710 through 379.1750
379.2010
379.2020
379.3520 (a)
379.6615 (a)
379.6934 through 379.6958 (a)
379.7100
379.7240 through 379.7295
379.7400
379.7510
379.7530
379.7605 through 379.7650
379.7810 through 379.7850
379.7900
379.8100
379.8311 through 379.8360

379.8410
379.8420
379.8615 (a)
379.8715 (a)
379.9815 (a)

(a) Wool articles classified under this TSUSA item number are covered by this notice if they are included in the textile category system used by the United States to monitor and administer the U.S. textile trade agreements made pursuant to the Arrangement Regarding International Trade in Textiles, December 20, 1973, 25 U.S.T. 1001, TIAS 7840.

(b) If the item is for men and boys, it is included in this notice. The term "men and boys" should be interpreted in accordance with the applicable headnotes to the schedule part and subpart in which the TSUSA number falls. Where the phrase is not covered by such headnotes, items, classified under TSUSA number which can be used by either sex are covered by this notice. Items under TSUSA numbers identifiable as being intended exclusively for women and/or girls are not covered by this notice.

[FR Doc. 84-26693 Filed 10-10-84; 8:45 am]
BILLING CODE 3510-DS-M

[C-239-006]

Cordage From Cuba; Final Results of Administrative Review and Revocation of Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of Final Results of Administrative Review and Revocation of Countervailing Duty Order.

SUMMARY: On August 13, 1984, the Department of Commerce published in the **Federal Register** the preliminary results of its administrative review of and tentative determination to revoke the countervailing duty order on cordage from Cuba. The review covers the period January 1, 1983, through December 31, 1983. There were no known shipments of this merchandise to the United States during the period and there are no known unliquidated entries.

We gave interested parties an opportunity to comment on the preliminary results and tentative determination to revoke. We received no comments. We also determined that there were no shipments of this merchandise to the United States during the period January 1, 1984, through August 13, 1984, the date of the tentative determination to revoke. We advised all interested parties that there were no shipments and we provided an additional opportunity to comment. Again we received no comments. Accordingly these final results cover up to August 13, 1984, and we revoke the countervailing duty order on cordage from Cuba.

EFFECTIVE DATE: October 11, 1984.

FOR FURTHER INFORMATION CONTACT: Alan Long or Susan Silver, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On August 13, 1984, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 32247) the preliminary results of its administrative review and tentative determination to revoke the countervailing duty order on cordage from Cuba (19 FR 4560, July 23, 1954). The Department has now completed that administrative review, in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

The merchandise covered by the review is cordage which the Cuban government considered "Binder twine and baler twine," but which does not meet the definition contained in the Tariff Schedules of the United States Annotated (TSUSA). Normally, binder twine and baler twine, as defined by the TSUSA, enter under items 315.2020 and 315.2040 of the TSUSA. The merchandise under consideration here is currently classifiable under item 315.2500 of the TSUSA.

The review covers the period January 1, 1983, through December 31, 1983. The Department has also determined that there were no shipments of this merchandise to the United States during the period January 1, 1984, through August 13, 1984, the date of the tentative determination to revoke.

Final Results of Review and Revocation

We invited interested parties to comment on the preliminary results and tentative determination to revoke. We received no comments or requests for a hearing. The Department provided to all interested parties further preliminary results for the period up to the date of the tentative determination to revoke, and gave interested parties an additional opportunity to comment. Again we received no comments. Based on our analysis, the final results are the same as the preliminary results. Further, we determine that the merchandise has not been imported into the United States since 1962. There are no known unliquidated entries of this merchandise and there is no likelihood of resumption of imports of this merchandise to the United States. This merchandise is covered by the embargo on trade with Cuba, in effect since February 7, 1962 (27 FR 1085). In accordance with § 355.42(c) of the Commerce Regulations, the Department revokes the countervailing duty order concerning cordage from Cuba (19 FR 4560, July 23, 1954) effective August 13, 1984.

This revocation, administrative review, and notice are in accordance with sections 751(a)(1) and (c) of the Tariff Act (19 U.S.C. 1675(a)(1), (c)) and §§ 355.41 and 355.42 of the Commerce Regulations (19 CFR 355.41, 355.42).

Dated: October 4, 1984.

Alan F. Holmer,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 84-26696 Filed 10-10-84; 8:45 am]
BILLING CODE 3510-DS-M

[C-791-005]

Deformed Steel Bars for Concrete Reinforcement From South Africa; Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Countervailing Duty Order.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on deformed steel bars for concrete reinforcement from South Africa. The review covers the period January 1, 1983, through June 30, 1983.

As a result of the review, the Department has preliminarily determined the total bounty or grant to be zero percent *ad valorem*. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: October 11, 1984.

FOR FURTHER INFORMATION CONTACT: Barbara Williams or Philip Otterness, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On April 13, 1984, the Department of Commerce ("the Department")

published in the **Federal Register** (49 FR 14777) the final results of its last administrative review of the countervailing duty order on deformed steel bars for concrete reinforcement ("rebars") from South Africa (47 FR 47900, October 28, 1982) and announced its intent to conduct the next administrative review. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of South African rebars. Such merchandise is currently classifiable under items 606.7900 and 606.8100 of the Tariff Schedules of the United States Annotated. During the period of review, Cape Town Iron and Steel Works Limited ("CISCO") was the only known exporter of South African rebars to the United States.

The review covers the period January 1, 1983, through June 30, 1983, and two programs: (1) Preferential rail rates, and (2) Export Incentive Program—Categories A, B, and D.

Analysis of Programs

(1) Preferential Rail Rates

The South African Transport Services ("SATS") has maintained a rate schedule that provided lower rates for export shipments that met certain loading and point-to-point criteria. Because CISCO has not been able to meet the full-trainload conditions needed for the lower rates, it has always paid the higher rates. We preliminarily determined that CISCO did not receive preferential rail rates during the period of review.

(2) Export Incentive Program

In 1980, the South African Department of Industries, Commerce, and Tourism expanded and restructured its Export Incentive Program into four categories. Category C of this program was eliminated on April 1, 1982.

Category A is a tax credit equal to 50 percent of the value of import duties on raw materials that are re-exported after further processing. Category B is a tax credit equal to 10 percent of the value added by a company to merchandise it exports if there is a South African import duty on such merchandise. CISCO did not pay taxes during the review period and therefore could not receive either of these tax credits.

Category D consists of a deduction from taxable income of up to 200 percent of export market development expenses. CISCO handles all its exports through agents and has no export market development expenses. Therefore, CISCO did not receive any benefit under Category D during the review period.

Preliminary Results of the Review

As a result of the review, we preliminarily determine the total bounty or grant to be zero percent *ad valorem* for the period of review. The Department intends to instruct the Customs Service not to assess countervailing duties on any shipments of this merchandise exported on or after January 1, 1983, and on or before June 30, 1983.

The Department intends to instruct the Customs Service not to collect a cash deposit of estimated countervailing duties, as provided by section 751(a)(1) of the Tariff Act, on any shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must made no later than 5 days after the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: October 4, 1984.

Alan F. Holmer,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 84-26894 Filed 10-10-84; 8:45 am]

BILLING CODE 3510-DS-M

[C-351-052]

Non-Rubber Footwear From Argentina; Final Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of Final Results of Administrative Review of Countervailing Duty Order.

SUMMARY: On May 30, 1984, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on non-rubber footwear from Argentina. The review covers the period January 1, 1982, through December 31, 1982.

We gave interested parties an opportunity to comment on the preliminary results. After review of all comments received, the final results of the review are the same as the preliminary results.

EFFECTIVE DATE: October 11, 1984.

FOR FURTHER INFORMATION CONTACT: Lorenza Olivas or Al Jemmott, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On May 30, 1984, the Department of Commerce ("the Department") published in the **Federal Register** (49 FR 22521) the preliminary results of its administrative review of the countervailing duty order on non-rubber footwear from Argentina (44 FR 3474, January 17, 1979). The Department has now completed that administrative review, in accordance with section 751 of the Tarffic Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of Argentine non-rubber footwear described in Part IA of Schedule 7 of the Tariff Schedules of the United States Annotated, excluding items 700.5100 through 700.5400, 700.5700 through 700.7100, and 700.9000.

The review covers the period January 1, 1982, through December 31, 1982, and two programs: The reembolso, a cash rebate of taxes, and pre-export financing.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received written comments from the petitioner, Footwear Industries of America Inc.

Comment 1: The petitioner argues that the Department's conclusion that preferential pre-export financing did not confer a benefit on producers of non-rubber footwear was based on unverified information, and is therefore incorrect. The Department must verify information regarding use of the

program. In support of its argument, the petitioner cites a decision of the Court of International Trade which would require that the Department verify in every administrative review (*Al Tech Specialty Steel* v. *United States*, Slip Ops. 83–119 and 83–120 (November 21, 1983)).

Department's Position: The Department maintains that neither section 751 of the Tariff Act nor the Commerce Regulations require verification of information submitted in the course of an administrative review. We have long held that verification in section 751 administrative reviews is discretionary. See *e.g.*, "Final Results of Administrative Review of Countervailing Duty Order" on bicycle tires and tubes from Korea (48 FR 32205, July 14, 1983). The Department has appealed the *Al Tech* decision.

Comment 2: The petitioner contends that, should the Department not conduct a verification, it must rely on the best information available, which the petitioner states is the information obtained during the verification of the Argentine government's 1981 annual review questionnaire response concerning non-rubber footwear.

Department's Position: Although we found that footwear producers received some pre-export financing during 1981, we have no reason to believe that the same is true during 1982. We have accepted the government's 1982 questionnaire response, and need not rely on other information.

Final Results of the Review

After consideration of the comments received; the final results of the review are the same as the preliminary results. We determine the total bounty or grant conferred to be zero percent *ad valorem* for the period January 1, 1982, through December 31, 1982.

The Department will instruct the Customs Service to liquidate entries of Argentine non-rubber footwear exported on or after January 1, 1982, and exported on or before December 31, 1982, without regard to countervailing duties.

The Department will instruct the Customs Service not to collect a cash deposit of estimated countervailing duties, as provided for by section 751(a)(1) of the Tariff Act, on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review. The Department intends to begin immediately the next administrative review.

The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information in the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: October 4, 1984.

Alan F. Holmer,

Deputy Assistant Secretary, Import Administration

[FR Doc. 84-26895 Filed 10-10-84; 8:45 am]

BILLING CODE 3510-DS-M

[C-201-008]

Yarns of Polypropylene Fibers From Mexico; Preliminary Results of Administrative Review of Suspension Agreement

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Suspension Agreement.

SUMMARY: The Department of Commerce has conducted an administrative review of the agreement suspending the countervailing duty investigation on yarns of polypropylene fibers from Mexico. The review covers the period February 7, 1983, through June 30, 1983.

As a result of the review, the Department has preliminarily determined that the signatory, Industrias Polifil, S.A. de C.V., the only known exporter of yarns of polypropylene fibers to the United States, has complied with the terms of the suspension agreement. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: October 11, 1984.

FOR FURTHER INFORMATION CONTACT: Stephen Nyschot, Office of Compliance, International Trade Administration, U.S Department of Commerce, Washington, D.C. 20230; telephone (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On February 7, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 5581) a notice of suspension of countervailing duty investigation regarding yarns of polypropylene fibers from Mexico, and announced its intent to conduct an administrative review. The petitioner requested that the investigation be continued and on April 4, 1983, the Department published in the **Federal Register** (48 FR 14427) a notice of final affirmative countervailing duty determination. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act") the Department has now conducted the administrative review.

Scope of the Review

Imports covered by the review are shipments of Mexican yarns of polypropylene fibers. Such merchandise is currently classifiable under items 310.0214, 310.1114, 310.5015, 310.5051, 310.6029, 310.6038, and 310.8000 of the Tariff Schedules of the United States Annotated. Yarns of polypropylene fibers are used primarily in the manufacture of fabrics, particularly those for upholstery.

The review covers the period February 7, 1983, through June 30, 1983, and eight programs: (1) CEDI, (2) FOMEX, (3) CEPROFI, (4) FONEI, (5) FOGAIN, (6) state tax incentives, (7) import duty reductions and exemptions, and (8) NIDP preferential price discounts. Industrias Polifil, S.A. de C.V., is the only known manufacturer and exporter of Mexican yarns of polypropylene fibers to the United States.

Analysis of Programs

(1) CEDI

The Certificado de Devolucion de Impuesto ("CEDI") is a certificate issued by the Government of Mexico in an amount equal to a percentage of the value of exported goods. The CEDI certificates may be used to pay a wide range of federal tax liabilities (including payroll taxes, value added taxes, federal income taxes, and import duties). The CEDI rate was 15 percent for the period January 1, 1982, through August 25, 1982, and zero after the Mexican government suspended the CEDI program for all exports on or after August 26, 1982. Polifil, therefore, could not receive CEDI benefits during the period of review.

(2) FOMEX

The Fund for Promotion of Exports of Mexican Manufactured Products ("FOMEX") is a trust of the Mexican Treasury Department, with the National Bank of Foreign Trade acting as trustee for the program since August 1, 1983. The National Bank of Foreign Trade, through financial institutions, makes FOMEX loans available at preferential rates to manufacturers and exporters of goods for two purposes: pre-export (production) financing and export financing. We consider both export and pre-export FOMEX Loans export

subsidies since these loans are given only on merchandise destined for export. Polifil had no such loans during the period of review.

(3) CEPROFI

Certificates of Fiscal Promotion ("CEPROFI") are tax certificates which are used to promote the goals of the National Industrial Development Plan and are granted in conjuction with investments in designated industrial activities and geographic regions. CEPROFI certificates can be used to pay a wide range of federal tax liabilities. Polifil received no benefits under this program during the period of review.

(4) Other Programs

We also examined the following programs and preliminarily find that Polifil did not use them during the period or review:

A) State tax incentives.
B) Fund for Industrial Development ("FONEI").
C) Guarantee and Development Fund for Medium and Small Industries (FOGAIN").
D) Import duty reductions and exemptions.
E) National Industrial Development Plan ("NIDP") preferential discounts.

Preliminary Results of Review

As a result of the review, we preliminarily determine that Polifil has complied with the terms of the suspension agreement for the period February 7, 1983, through June 30, 1983.

The agreement can remain in force only so long as shipments covered by the agreement account for at least 85 percent of exports of yarns of polypropylene fibers to the United States. Our information indicates that Polifil accounted for 100 percent of United States imports of Mexican yarns of polypropylene fibers during the review period.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for and administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: October 4, 1984.

Alan F. Holmer,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 84-26897 Filed 10-10-84; 8:45am]

BILLING CODE 3510-DS-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Retirement Board of Actuaries; Meeting

AGENCY: Department of Defense Retirement Board of Actuaries.

ACTION: Notice of Meeting.

SUMMARY: A meeting of the Board has been scheduled to execute the provisions of chapter 74, title 10, United States Code (10 USC 1461 et. sep.). The Board shall review DoD actuarial methods and assumptions to be used in the valuation of the military retirement system. Notice of this meeting is required under the National Advisory Committee Act.

DATE: November 14, 1984, 9:30 a.m. to 4:30 p.m.; November 15, 9:30 a.m. to 4:30 p.m.

ADDRESS: Defense Manpower Data Center, 4th floor, 1600 N. Wilson Blvd., Arlington, Virginia 22209.

FOR FURTHER INFORMATION CONTACT: Toni Hustead, Executive Secretary, Defense Manpower Data Center, 4th floor, 1600 N. Wilson Blvd., Arlington, Virginia 22209 (202/696-5869).

Dated: October 5, 1984.

Patricia H. Means,

OSD Federal Liaison Officer, Department of Defense.

[FR Doc. 84-26898 Filed 10-10-84; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

USAF Scientific Advisory Board; Meetings

October 2, 1984.

The USAF Scientific Advisory Board Ad Hoc Committee on Options for Attack of Strategic Relocatable Targets will meet on October 30 and 31, and November 1, 1984 at HQ Strategic Air Command Offutt AFB, Nebraska. The meetings will begin at 9:00 a.m. and adjourn at 5:00 p.m. each day. The Signatures and Sensor Subpanel of the above-mentioned ad hoc committee will meet in the Pentagon on October 23, November 20, and December 17, 1984 from 8:30 a.m. to 5:00 p.m. each day; the C^3 Subpanel of the above-mentioned ad hoc committee will meet in the Pentagon on November 9, 1984 from 8:30 a.m. to 5:00 p.m. The purpose of the ad hoc committee meeting and the subpanel meetings will be to receive classified briefings and hold classified discussions on ways in which existing and programmed systems may be effectively applied to attack of mobile ballistic missiles. The meetings concern matters listed in section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof and will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at (202) 697-4811.

Norita C. Koritko,

Air Force Federal Register Liaison Officer.

[FR Doc. 84-26792 Filed 10-10-84; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board; Meeting

October 2, 1984.

The USAF Scientific Advisory Board will hold its Fall General Membership Meeting on November 8 and 9, 1984 at Fort McNair, Washington, D.C. The meeting on November 8 will begin at 9:30 a.m. and adjourn at 4:30 p.m. and on November 9 will begin at 8:15 a.m. and adjourn at 4:00 p.m. The purpose of the meeting will be to hear classified results of recent Scientific Advisory Board studies including role of engineering and services in the employment of air power, orbital debris, effects of high altitude electromagnetic pulse on military C^3, prophylactic antidote drugs for use against chemical agents, and space defense initiatives. The meeting concerns matters listed in section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof and will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at (202) 697-4811.

Norita C. Koritko,

Air Force Federal Register Liaison Officer.

[FR Doc. 84-26793 Filed 10-10-84; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Army Science Board; Partially Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Names of the Committee: Army Science Board (ASB)

Dates of Meeting: Monday–Thursday, 29 October thru 1 November 1984

Times of Meeting: 0830–1645 hours, 29 October (Open); 0830–1200 hours (Closed) and 1300–1730 hours (Open), 30 October; 0830–1600 hours (Open), 31 October; 0830–1145 hours (Open), 1 November 1984

Place: Fort Rucker, Alabama

Agenda: The Army Science Board will hold its Fall General Membership Meeting to present and receive briefings as follows:

Monday, 29 October 1984

Morning Session—Briefings on Selected U.S. Army Aviation Center Programs and Initiatives: Aviation Center Briefing (includes information on Mission, Organization, Training and Facilities); Briefing on Aviation Branch Implementation Plans; Briefing on Aviation Officer and Basic Courses; Unit and Simulation Training

Afternoon Session—(attendees divide into groups) Round Robin Tour (briefing and walk-through tour) of Flight Simulators; Aircraft Static Display; Briefing and Tour of U.S. Army Aeromedical Research Laboratory

Tuesday, 30 October 1984

Morning Session (Closed)—Briefings of Army Science Board Ad Hoc Subgroup studies: Army Utilization of Space Assets; Light Equipment; Equipment Upgrade; Ballistic Missile Defense Update; and a Security Update Briefing

Afternoon Session—Briefings of ASB studies: Technology to Improve Logistics and Weapon Support for Army 21, a 1984 Summer Study; Army's LHX Program; Intelligent Robotics; plus a tour of the Aviation Museum

Wednesday, 31 October 1984

Morning Session—Briefings of ASB studies: Leading and Manning Army 21, a 1984 Summer Study; Combat Medical Support Update; Emerging Human Technologies; Chief of Staff Task Force on Soldiers and Families Update; plus, Executive Review Board Meeting

Afternoon Session—Briefings of ASB studies: Decontamination Report; Processing Requirements Documents Update; plus, Army Materials Command (AMC) Laboratory Improvement Program Briefing

Thursday, 1 November 1984

Morning Session—AMC Laboratory Reviews Briefings/Discussion: AVRADA (Avionics Research and Development Activity) and TACOM (U.S. Army Tank Automotive Command) Research and Development Centers; ASB Business; Functional Subgroups; Other Service Boards, Ad Hoc Subgroups; Executive Review Board; and a Wrap Up Discussion.

The open portion of the meeting is open to the public. Any person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. The closed portion of the meeting is closed to the public in accordance with section 552(c) of Title 5, U.S.C. specifically subparagraph (1) thereof, and Title 5, U.S.C. Appendix 1, subsection 10(d) The classified and nonclassified matters to be discussed in this portion of the meeting are so inextricably intertwined so as to preclude opening them to the public. The Army Science Board Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039 or 695–7046.

Sally A Warner,

Administrative Officer, Army Science Board

[FR Doc. 84-28772 Filed 10-10-84; 8:45 am]

BILLING CODE 3710-08-M

Intent To Tentatively Select the Sam Rayburn Municipal Power Agency as the Financial Sponsor and Preference Customer of the Proposed Town Bluff Hydropower Project in Texas

AGENCY: US Army Corps of Engineers, DOD, Fort Worth District.

ACTION: Notice.

SUMMARY: 1. The existing Town Bluff Dam on the Neches River was authorized by the Rivers and Harbors Act, approved March 2, 1945 (Pub. L. 14–79–1) for the purposes of flood control, hydroelectric power and water conservation. The dam and lake (known as B.A. Steinhagen Lake) are located in Jasper and Tyler Counties in eastern Texas. Installation of the hydroelectric power plant was deferred in the original construction of the project. An assessment of the present and future energy needs and costs indicates that the addition of hydroelectric generating facilities to Town Bluff Dam is economically feasible and environmentally acceptable. The Lower Neches Valley Authority, an agency of the State of Texas, has been designated as the local cooperating agency for all Federal water resource projects on the lower Neches and Angelina Rivers. The Authority provided the local funds required for the construction of Town Bluff Dam.

2. The proposed addition of hydroelectric generating facilities to the existing dam is generally described in the U.S. Army Corps of Engineers Fort Worth District document entitled "Town Bluff Dam Design Analysis Report, Addition of Hydropower," dated April 1982 and approved by the Chief of Engineers on October 13, 1983. The proposed project would have 6,000 kW of installed capacity and produce an average of 35,900,000 kWh of energy annually. The estimated cost of the project is $20 million, which includes an allowance for inflation through the construction period. The annual operation, maintenance, major replacement cost, and administrative costs are estimated at $260,000.

3. President Reagan, in his letter to Senator Laxalt in January 1984, expressed a policy which requires each agency to negotiate reasonable non-Federal financing for each proposed water resource project. The Sam Rayburn Municipal Power Agency, a public body in the State of Texas, has proposed to finance the proposed Town Bluff Hydropower Project during the period of construction and to pay the annual operation, maintenance and major replacement costs and administrative costs. The project would be Federally-owned, constructed, and operated by the Corps of Engineers. The operation of the project for the benefit of the Lower Neches Valley Authority would not change except that most of the water now discharged through the outlet works would be discharged through the hydropower turbines.

4. The Corps of Engineers and the Southwestern Power Administration, jointly, have tentatively selected the Sam Rayburn Municipal Power Agency to provide the financing for the proposed Town Bluff Hydropower Project, based on the proposal submitted by that Agency. Subsequent proposals received prior to November 13, 1984 will be considered in the final selection.

5. The Sam Rayburn Municipal Power Agency has expressed an interest in receiving the power and energy from the proposed project. The Southwestern Power Administration has determined that the Sam Rayburn Municipal Power Agency qualifies for preference, in accordance with Section 5 of the Flood Control Act of 1944, and has tentatively selected that Agency to receive the power and energy produced at the proposed project. Subsequent applications for that power and energy received prior to November 13, 1984 will be considered in the final selection.

ADDRESSES:

Proposals for project financing should be forwarded to: Theodore G. Stroup, Colonel, CE, District Engineer, Fort Worth District, PO Box 17300, Fort Worth, Texas 76102, Telephone (817) 334–2300.

For further information about the proposed project financing, contact: James L. Hair, Chief, Project Operations Branch, Fort Worth District, Corps of Engineers, PO Box 17300, Fort Worth, Texas 76102, Telephone (817) 334–2301

For further information about the proposed marketing of the power and energy from the proposed project, contact: Walter M. Bowers, Director, Power Marketing, Southwestern Power Administration, PO Box 1619,

Tulsa, Oklahoma 74101, Telephone (918) 581–7529.

Theodore G. Stroup,

Colonel, CE, District Engineer.

[FR Doc. 84–26700 Filed 10–10–84; 8:45 am]

BILLING CODE 3710-20-M

DEPARTMENT OF ENERGY

National Petroleum Council; Committee on the Strategic Petroleum Reserve

Notice of Meeting

Notice is hereby given that the Committee on the Strategic Petroleum Reserve will meet in November 1984. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on the Strategic Petroleum Reserve will address various aspects of the Strategic Petroleum Reserve and the long-term availability and movement patterns of tankers worldwide. Its analysis and findings will be based on information and data to be gathered by the various task groups.

The Committee will hold its second meeting on Tuesday, November 13, 1984, starting at 1:30 p.m., in the Oak Alley Room of the New Orleans Hilton Hotel, Poydras Street at the Mississippi River, New Orleans, Louisiana.

The tentative agenda for the Committee meeting follows:

1. Review the draft report on the Strategic Petroleum Reserve.
2. Review the schedule for completion of the Committee's assignment.
3. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Ms. Carolyn Klym, Office of Oil, Gas, Shale and Coal Liquids, Fossil Energy, 301/353/2709, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E–190, DOE Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on October 2, 1984.

William A. Vaughan,

Assistant Secretary, Fossil Energy.

[FR Doc. 84–26699 Filed 10–10–84; 8:45 am]

BILLING CODE 6450-01-M

Office of Energy Research

Energy Research Advisory Board; Open Meeting

Notice is hereby given of the following meeting:

Name: Materials Facilities Ad Hoc Review of the Energy Research Advisory Board (ERAB).

Date and time: October 30, 1984 from 9 a.m. to 5 p.m.

Place: U.S. Department of Energy, Office of Energy Research, 1000 Independence Avenue, SW, Room 4E–069, Washington, DC 20585.

Contact: Charles E. Cathey, U.S. Department of Energy, Office of Energy Research, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 252–5444.

Purpose of the Parent Board: To advise the Department of Energy on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.

Tentative agenda:

- Discussion of DOE priorities relative to National Research Council report "Major Facilities for Materials Research and Related Disciplines".
- Organization and Orientation of the Review.
- Public Comment (10 minute rule).

Public participation: The meeting is open to the public. Written statements may be filed either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Charles Cathey at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda. The Chairperson of the Review is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC between 8 a.m. and 4 p.m., Monday through Friday, except Federal holiday.

Issued at Washington, DC on October 1, 1984.

Charles E. Cathey,

Deputy Director, Science and Technology Affairs Staff, Office of Energy Research.

[FR Doc. 84–26670 Filed 10–10–84; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project Nos. 6055–001, et al.]

Hydroelectric Applications; Malcolm Brown, et al.; Applications Filed With the Commission

Take notice that the following hydroelectric applications have been filed with the Federal Energy Regulatory Commission and are available for public inspection:

1. a. Type of Application: Exemption (5MW or Less).

b. Project No: 6055–001.

c. Date Filed: February 29, 1984.

d. Applicant: Malcolm Brown.

e. Name of Project: Lake Jefferson Project.

f. Location: On the East Branch Callicoon Creek, in Sullivan County, New York.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980, 16 U.S.C. 2705 and 2708 *as amended*.

h. Contact Person: Malcolm Brown, P.O. Box 82, Hortonville, NY 12745.

i. Comment Date: December 7, 1984.

j. Description of Project: The proposed project would consist of: (1) An existing 22-foot-high, 130-foot-long concrete gravity dam; (2) a reservoir having a surface area of 40 acres, a storage capacity of 425 acre-feet, and a normal water surface elevation of 92.2 feet m.s.l.; (3) an existing 2.5-foot-diameter, 120-foot long iron penstock; (4) a powerhouse with two new generating units with a total installed capacity of 70 kW; (5) a new tailrace; (6) a new 250-foot-long 7.2–kV transmission line; and (7) apurtenant facilities. The Applicant estimates the annual generation would be 302,000 kWh.

k. Purpose of Project: All project energy generated would be sold to the New York State Electric and Gas Company.

l. This notice also consists of the following standard paragraphs: A1, A9, B, C, and D3A.

m. Purpose of exemption: An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of exemption from licensing, and protects the Exemptee from permit or

license applicants that would seek to take or develop the project.

2. a. Type of Application: Exemption from Licensing.

b. Project No: 6096–001.

c. Date Filed: February 29, 1984.

d. Applicant: Mini-Watt Electric Company.

e. Name of Project: New Home Dam Project.

f. Location: On the Millers River in Franklin County, Massachusetts.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980, 16 U.S.C. 2705 and 2708 as amended.

h. Contact Person: Bruce J. Dexter, Mini-Watt Electric Company, P.O. Box 237, 18 Chase Court, Orange, Massachusetts 01364.

i. Comment Date: November 14, 1984.

j. Description of Project: The proposed project would consist of: (1) An existing 8.5-foot-high, 87-foot-long concrete and masonry dam; (2) a reservoir having a surface area of 106 acres, a storage capacity of 530 acre-feet, and a normal water surface elevation of 502.8 feet m.s.l.; and (3) the North Bank and South Bank Developments.

The North Bank Development would consist of: (1) An existing 10-foot-wide, 108-foot-long intake flume; (2) an existing powerhouse containing 1 new generating unit with a capacity of 187 kW; (3) an existing 16 to 30-foot-wide, 120-foot-long tailrace; (4) an existing 200-foot-long, 24-kV transmission line; and (5) appurtenant facilities.

The South Bank Development would consist of: (1) An existing 40-foot wide, 100-foot-long intake channel; (2) an existing concrete gated intake structure; (3) a new powerhouse with three generating units with a total capacity of 490 kW; (4) a new 40-foot-wide, 200-foot/long tailrace; (5) a new 250-foot-long, 4.16–dV transmission line; and (6) appurtenant facilities. The applicant estimates the annual generation would be 2,820,000 kWh.

Applicant owns all existing facilities.

k. Purpose of Project: Project energy would be sold to Massachusetts Electric Company.

l. This notice also consists of the following standard paragraphs: A1, A9, B, C, D3A.

m. Purpose of Exemption: An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

3. a. Type of Application: Exemption (5 MW or Less).

b. Project No: 6280–001.

c. Date Filed: July 9, 1984.

d. Applicant: Edward W. Kelly.

e. Name of Project: Croton Falls.

f. Location: East Branch of the Croton River in Putnam County, New York.

g. Filed Pursuant to: Energy Security Act of 1980, section 408, 16 U.S.C. 2705 and 2708 *as amended*.

h. Contact Person: Robert A. Olsen, ELI Corporation, 21 Green Street, Concord, New Hampshire 03301.

i. Comment Date: November 16, 1984.

j. Description of Project: The proposed run-of-river project would consist of: (1) The existing 23.5 foot-high and 100-foot-long Croton Falls Dam with a crest elevation of 272.7 feet U.S.G.S.; (2) a small reservoir; (3) an existing intake structure at the east side of the dam; (4) a new powerhouse with 1 turbine-generator unit with an installed capacity of 100 kW; (5) a new 4.16-kV and 350-foot-long transmission line; and (6) other appurtenances. Applicant estimates an average annual generation of 700,000 kWh. The application was filed during the Applicant's preliminary permit term of Project No. 6280. Applicant owns the existing facilities.

k. Purpose of Project: Project energy would be sold to the New York State Electric and Gas.

l. This notice also consists of the following standard paragraphs: A1, A9, B, C, and D3a.

m. Purpose of Exemption: An exemption, if issues, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

4. a. Type of Application: Preliminary Permit.

b. Project No: 8593–000.

c. Date Filed: September 10, 1984.

d. Applicant: Chimney Rock Hydro Ltd.

e. Name of Project: Chimney Rock.

f. Location: On Cold Creek, near Elk Creek, in Glenn County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Dr. Roy McDonald, 1121 L. Street, Suite 1000, Sacremento, California 95814.

i. Comment Date: December 6, 1984.

j. Description of Project: The proposed run-of-the-river project would consist of: (1) A 5-foot-high, 146-foot-long diversion weir located across Cold Creek at elevation 4,980 feet msl; (2) a 65-inch-diameter, 10,600-foot-long pipeline; (3) a 40-inch-diameter, 1,050-foot-long penstock, (4) a powerhouse with an installed capacity of 8.0 MW located at elevation 3,800 feet msl and producing an estimated average annual generation of 31.8 GWh; and (5) 3.0 miles of 12.5–kV transmission lines to interconnect the project with an existing Pacific Gas and Electric Company (PG&E) line. Project power would be sold to PG&E. The project would occupy Medocino National Forest lands.

A preliminary permit, if issued, does not authorized construction. The Applicant seeks a 36-month permit to study the feasibility of constructing and operating the project and estimates the cost of the studies at $70,000.

k. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C and D2.

5. a. Type of Application: Preliminary Permit.

b. Project No: P–8558–000.

c. Date Filed: August 29, 1984.

d. Applicant: Harden Hydro Associates.

e. Name of Project: Harden Dam.

f. Location: Big Racoon Creek in Parke County, Indiana.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. David Coombe, Synergics, Inc., 410 Severn Avenue, Suite 409, Annapolis, Maryland 21403.

i. Comment Date: December 7, 1984.

j. Description of Project: The proposed project would utilize the existing Harden Dam and Reservoir owned by the U.S. Army Corps of Engineers and would consist of: (1) A proposed penstock 150 feet long and 7 feet in diameter; (2) a proposed reinforced concrete powerhouse 60 feet wide and 85 feet long containing one new generator unit rated at 1000 kW; (3) a proposed 60 foot wide and 200 foot long tailrace; (4) a transmission line; and (5) appurtenant facilities. The estimated average annual energy production would be 6,400,000 kWh with a hydraulic head of 62 feet.

k. Purpose of Project: Project power would be sold to the Indiana & Michigan Electric Company and/or to other private industries on the project area.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 18 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction an operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $30,000.

6. a. Type of Application: 5MW Exemption.
b. Project No: 7679–001.
c. Date Filed: July 30, 1984.
d. Applicant: Clearwater Hydro Company.
e. Name of Project: Second Broad River Power Project.
f. Location: On the Second Broad River in Rutherford County, North Carolina.
g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).
h. Contact Person: Mr. Charles G. Gresham, Route 1 Box 555, Hiawatha Road, Morristown, Tennessee 37814 and Mr. Richard R. Gresham, P.O. Box 205, La Port, California 95981.
i. Comment Date: November 16, 1984.
j. Description of Project: The proposed project would consist of: (1) An existing granite and mortor dam. The dam is approximately 349 feet-long and 26 feet high, which includes a 120-foot-long primary spillway and a 79-foot-long secondary spillway; (2) an existing reservoir with a surface area of 2 acres and a storage capacity of 4.5 acre-feet at power pool elevation of 773.5 feet m.s.l.; (3) 3 proposed 50-foot-long and 54-inch-diameter, syphon penstocks; (4) a proposed powerhouse containing 3 generating units rated at 96 kW each for a total installed capacity of 288 kW. The powerhouse would be located near the center and on top of the dam, (5) a proposed tailrace; (6) a proposed 580-foot-long, 460 volt transmission line; and (7) appurtenant facilities. The estimated average annual energy output for the project is 1,816,500–kWh.

The existing dam is owned by the Clearwater Hydro Company.

k. Purpose of Exemption: An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

l. This notice also consists of the following standard paragraphs: A1, A9, B, C and D3a.

7. a. Type of Application: Preliminary Permit.
b. Project No.: 8559–000.
c. Date Filed: August 29, 1984.
d. Applicant: Patoka Hydro Associates.
e. Name of Project: Patoka Dam.
f. Location: On Patoka River in DuBois County, Indiana.
g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).
h. Contact Person: Mr. David M. Coombe, Synergics, Inc., 410 Severn Avenue, Suite 409, Annapolis, Maryland 21403.
i. Comment Date: December 6, 1984.
j. Description of Project: The proposed project would utilize the existing Patoka Dam and Reservoir owned by the U.S. Army Corps of Engineers and would consist of: (1) Two proposed penstocks 80 feet long and 6 feet in diameter; (2) a proposed reinforced concrete powerhouse 75 feet wide and 75 feet long containing two generating units rated at 425 kW; (3) a proposed 20 foot wide and 75 foot long tailrace; (4) a transmission line; and (5) appurtenant facilities. The estimated average annual energy production would be 5,100,000 kWh with a hydraulic head of 54 feet.
k. Purpose of Project: Power would be sold to the Indiana & Michigan Electric Company and/or to other private industries in the project area.
l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, D2.
m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 18 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $30,000.

8. a. Type of Application: Major License (5 MW or less).
b. Project No.: 7941–000.
c. Date Filed: December 30, 1983.
d. Applicant: Enviro Hydro, Incorporated.
e. Name of Project: Wallace Canyon Creek Water Power Project.
f. Location: On Wallace Canyon Creek, near Michigan Bluff, within Eldorado National Forest, in Placer County, California.
g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).
h. Contact Person: Mr. H.L. Pete Childers, President, Enviro Hydro, Inc., 9200 Shanley Lane, Auburn, California 95603.
i. Comment Date: December 7, 1984.
j. Description of Project: The proposed project would consist of: (1) A 4-foot-high, 30-foot-long diversion dam at elevation 4,000 feet; (2) a 42-inch-diameter, 15,500-foot-long diversion pipeline; (3) a 42-inch-diameter, 2,300-foot-long penstock; (4) a powerhouse containing one generating unit with a rated capacity of 5,000 kW operating under a head of 1,200 feet; and (5) a 1.5-mile-long, 12.5-kV transmission line to connect to an existing Pacific Gas and Electric Company (PG&E) transmission line. The Applicant estimates the average annual energy generation at 10.0 GWh to be sold to PG&E. The project cost has been estimated to be about $4.89 million. Due to the remote location and inaccessibility of the proposed project, the Applicant does not propose any recreational facilities as part of the project.
k. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

9. a. Type of Application: Exemption (5MW or Less).
b. Project No.: 8209–001.
c. Date Filed: March 28, 1984.
d. Applicant: Boys' Home, Inc.
e. Name of Project: Dunlap Creek Hydroelectric Project.
f. Location: On the Dunlap Creek in Allegheny County, Virginia.
g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).
h. Contact Person: Mr. John K. Pollock, General Manager, Rockfish Corporation Inc., Route 1, Box 413, Afton, Virginia 22920.
i. Comment Date: November 14, 1984.
j. Description of Project: The Dunlap Creek Dam is owned by Boys' Home, Incorporated. The proposed project would consist of: (1) An existing concrete gravity dam, which is approximately 150 feet long and 10 feet high; (2) an existing reservoir with a surface area of 7 acres and a storage capacity of 25 acre-feet at power pool elevation of 1,290 feet m.s.l.; (3) a proposed intake structure will be constructed at the right abutment of the dam to accommodate the proposed new 200-foot-long, 5-foot-diameter penstock; (4) an existing reinforced concrete powerhouse, which would be rebuilt because of its deteriorating condition. The powerhouse will contain 2 proposed generating units rated at 90 kW each; (5) an existing 15-foot-deep tailrace located approximately 200 feet downstream of the dam; (6) an existing 7.2-kV transmission line located approximately 1,000 feet from the powerhouse would be upgraded and extended to the powerhouse. The existing line is owned and operated by the Virginia Electric and Power Company; and (7) appurtenant facilities. The estimated average annual energy output for the project is 771,00 kWh.
k. Purpose of Exemption: An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or

license applicants that would seek to take or develop the project.

l. This notice also consists of the following standard paragraphs: A1, A9, B, C, and D3a.

10. a. Type of Application: License (Over 5MW).

b. Project No.: 8315–000.

c. Date Filed: May 18, 1984 and supplemented July 9, 1984.

d. Applicant: St. Regis Corporation.

e. Name of Project: Sartell Dam Hydro Project.

f. Location: On the Mississippi River near Sartell, Stearns and Benton Counties, Minnesota.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Asselin, Resident Manager, St. Regis Corporation, 100 East Sartell Street, Sartell, Minnesota 56377.

i. Comment Date: December 7, 1984.

j. Description of Project: The proposed run-of-river project would consist of: (1) An existing reservoir with a maximum surface area of 2,400 acres and a maximum storage capacity of approximately 15,500 acre-feet at elevation 1,014.5 m.s.l.; (2) an existing 46-foot-high and 388-foot-long concrete dam with two Bascule gates and three Taintor gates; (3) an existing concrete powerhouse containing 11 generating units with a total generating capacity of 9,500 kW; (4) a proposed upgraded floodwall in the west abutment of the dam approximately 500 feet long and aligned parallel to the river; (5) an existing 13.8-kV transmission line; and (6) appurtenant facilities. The Applicant estimates that the average anual generation would be 39,900 MWh. All project will be used by St. Regis Corporation in its papermaking operation.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

11a. Type of Application: Preliminary Permit.

b. Project No.: P–8560–000.

c. Date Filed: August 29, 1984.

d. Applicant: Huntington Hydro Associates.

e. Name of Project: Huntington Dam.

f. Location: Wabash River in Huntington County, Indiana.

g. Filed Pursuant to: Federal Power Act, 16, U.S.C. 791(a)–825(r).

h. Contact Person: Mr. David Coombe, Synergics, Inc., 410 Severn Avenue, Suite 409, Annapolis, Maryland 21403.

i. Comment Date: December 6, 1984.

j. Description of Project: The proposed project would utilize the existing Huntington Dam and Reservoir owned by the U.S. Army Corps of Engineers and would consist of: (1) A proposed penstock 250 feet long and 9 feet in diameter; (2) a proposed reinforced concrete powerhouse 50 feet wide and 75 feet long containing two new generator units rated at 1550 kW; (3) a proposed tailrace 100 feet long and 100 feet wide; (4) a transmission line; and (5) appurtenant facilities. The estimated average annual energy production would be 9,500,000 kWk under a hydraulic head of 43 feet.

k. Purpose of Project: Power would be sold to the Indiana & Michigan Electric Company and/or to other private industries on the project area.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 18 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $300,000.

12. a. Type of Application: Preliminary Permit.

b. Project No.: 8379–000.

c. Date Filed: June 21, 1984.

d. Applicant: Larry J. Hellhake.

e. Name of Project: Louie Creek.

f. Location: On Louie Creek in Payette National Forest, near the Town of McCall in Valley County, Idaho.

g. Filed Pursuant to: Federal Power Act U.S.C. 791(a)–825(r).

h. Contact Person: Larry J. Hellhake, 809 No. Liberty Road, Boise, Idaho 83704.

i. Comment Date: December 5, 1984.

j. Description of Project: The proposed project would consist of: (1) A 2-foot-high check dam at eleveation 6,120 feet; (2) an 18,000-foot-long, 36-inch-diameter buried penstock; (3) a powerhouse containing a single generating unit with a capacity of 3,600 kW and an average annual generation of 15,768 MWh; and (4) a 2-mile-long transmission line.

A preliminary permit does not authorize construction. Applicant seeks issuance of a preliminary permit for a term of 24 months during which it would conduct engineering and environmental feasibility studies and prepare an FERC license application at a cost of $10,000. No new roads would be constructed or drilling conducted during the feasibility study.

k. Purpose of Project: The project power would be sold to Idaho Power Company.

l. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C, D2.

13. a. Type of Application: Preliminary Permit.

b. Project No.: 8581–000.

c. Date Filed: September 4, 1984.

d. Applicant: Sunshine Mining Company.

e. Name of Project: Little Grass Valley Dam.

f. Location: On South Fork Feather River, near La Porte, in Plumas County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Richard R. Gresham, Sunshine Mining Company, P.O. Box 205, La Porte, California 95981, (916) 675–2535.

i. Comment Date: December 10, 1984.

j. Description of Project: The proposed project would consist of: (1) Oroville-Wyandotte Irrigation District's 202-foot-high, 93,000 acre-foot Little Grass Valley Dam and Reservoir; (2) a 275-foot-long penstock installed in the existing 11-foot horseshoe tunnel downstream of the dam's valve chamber; (3) a powerhouse containing a single Francis turbine-generator unit with an installed capacity of 2.5 MW and producing an estimated average annual generation of 8.3 GWh; and (4) 2 miles of 12.2-kV transmission line to interconnect to the Challenge Ranger Station line. The project would affect Plumas National Forest lands.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks a 36-month permit to study the feasibility of constructing and operating the project and estimates the cost of the studies at $15,000.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

14. a. Type of Application: Major License (under 5MW).

b. Project No.: 8404–000.

c. Date filed: July 2, 1984.

d. Applicant: Windsor Locks Canal Company/Windsor Locks Hydro-electric Limited Partnership.

e. Name of Project: Windsor Locks Project.

f. Location: On the Windsor Canal of the Connecticut River in Hartford County, Connecticut.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: William F. Fitzpatrick, Windsor Locks Canal Company, Two Elm Street, Windsor Locks, Connecticut 06096.

i. Comment Date: December 6, 1984.

j. Description of Project: The proposed project would consist of: (1) The existing 10-foot-high, 1,642-foot-long stone-filled timber crib and concrete gravity dam; (2) a reservoir with a surface area of 2,470 acres, negligible storage, and normal water surface elevation of 38.86 feet NGVD; (3) an existing intake structure; (4) an existing 8- to 12-foot-deep, 90-foot-wide, and 3.8-mile long power canal; (5) a proposed powerhouse containing one generating unit with an installing capacity of 2800 kW; (6) a proposed 30-foot-wide, 60-foot-long tailrace; (7) a proposed 1300-foot-long, 23-kV transmission line; and (8) appurtenant facilities. The Applicant estimates the annual generation would be 22,000 MWh. The existing dam and project facilities are owned by the C.H. Dexter Company.

k. Purpose of Project: All project energy would be sold to a local utility.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C and D1.

15. a. Type of Application: Preliminary Permit.

b. Project No.: 8405–001.

c. Date Filed: August 1, 1984.

d. Applicant: Glen Hydro, Inc.

e. Name of Project: Lower Mascoma.

f. Location: On the Mascoma River in Grafton County, New Hampshire.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r)

h. Contact Person; F. David Dean, Dufresne—Henry, Inc., Precision Park, North Springfield, Vermont 05150.

i. Comment Date: December 7, 1984.

j. Description of Project: The proposed run-of-river project would consist of, from upstream to downstream, the Granite State Electric Dam #1, the Granite State Electric Dam #2, and the Granite State Electric Dam #3 Developments.

The Granite State Electric Dam #1 Development would consist of: (1) An existing 18-foot-high and 130-foot-long concrete and timber dam; (2) a small reservoir with normal surface elevation of 488 feet NGVD; (3) an existing intake structure at the north side of the dam; (4) a new 7-foot-diameter and 300-foot-long steel penstock; (5) a new powerhouse with 2 turbine-generator units with a total installed capacity of 470 kW; (4) an existing 150-foot-long tailrace; (5) a 20-foot-long transmission line; and (6) other appurtenances.

The Granite State Electric Dam #2 Development would consist of (1) a 23-foot-high and 120-foot-long concrete gravity dam to replace the existing breached timber crib dam; (2) a small reservoir with normal surface elevation of 459 feet NGVD; (3) a new intake structure at the south side of the dam; (4) a new powerhouse with 2 turbine-generator units with a total installed capacity of 500 kW; (5) an existing 200-foot-long tailrace; (6) a new 100-foot-long transmission line; and (7) other appurtenances.

The Granite State Electric Dam #3 Development would consist of: (1) A 25-foot-high and 175-foot-long timber crib dam to replace the existing breached one; (2) a small reservoir with a normal surface elevation of 415 feet NGVD; (3) a new intake structure at the west side of the dam; (4) a new 8-foot-diameter and 3,600-foot-long concrete penstock; (5) a new powerhouse with 3 turbine-generator units with a total installed capacity of 1,700 kW; (6) a new 30-foot-long tailrace; (7) a new 400-foot-long transmission line; and (8) other appurtenances.

The total installed capacity would be 2,670 kW. The Applicant estimates an average annual generation of 10,800,000 kWh. The existing facilities are owned by the City of Lebanon, New Hampshire.

k. Purpose of Project: Project energy would be sold to the Granite State Electric Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C & D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 18 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $70,000.

16. a. Type of Application: Preliminary Permit.

b. Project No: 8465–000.

c. Date Filed: July 25, 1984.

d. Applicant: Warrior Hydro Associates.

e. Name of Project: Warrior Hydro Project.

f. Location: On the Black Warrior River in Hale and Greene Counties, Alabama.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: David M. Coombe, Synergics, Inc., 410 Severn Avenue, Suite 409, Annapolis, MD 21403.

i. Comment Date: December 10, 1984.

j. Description of Project: The proposed project would utilize the existing U.S. Army Corps of Engineers' Warrior Lock and Dam and an existing 4,000-foot-long and 400-foot-wide diversion channel, and would consist of: (1) A new powerhouse in the existing diversion channel immediately below the dam; (2) a proposed 44-kV transmission line approximately 5 miles long interconnecting with the Alabama Power Company's transmission system; and (3) appurtenant facilities. The Applicant estimates the total installed plant capacity to be 18 MW with an annual power generation of approximately 44.8 GWh. All power generated would be sold to Alabama Power Company.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, & D2.

1. Proposed Scope of Studies under Permit: A preliminary Permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 24 months during which time Applicant would investigate project design alternatives, environmental effects of project construction and operation, and, project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $50,000.

17. a. Type of Application: Preliminary Permit.

b. Project No.: 8488–000.

c. Date Filed: August 2, 1984.

d. Applicant: Cosumnes River Water and Power Authority.

e. Name of Project: Cosumnes River Water and Power Project.

f. Location: On North, South and Middle Forks and main stem of Cosumnes River and Antelope and Mill Creeks in Amador and El Dorado Counties, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. George L. Barber, Chairman of the Board of Directors, Cosumnes River Water and Power Authority, 222 E. Weber Ave., Stockton, CA 95202.

i. Comment Date: December 7, 1984.

j. Description of Project: The proposed project would consist of eight dams and reservoirs, about 13 miles of 84-inch-diameter tunnels and 16 miles of 14 to 78-inch-diameter penstocks, eight powerplants and appurtenant facilities. The major features of the project are listed below.

Name of dam	On (stream)	Height of dam (feet)	Storage capacity of res (acre-feet)	Normal water surface elev (feet)
Cape Cod	Middle Fork Cos	298	166,000	700
Bakers Ford	Middle Fork Cos	310	218,000	1,945
Auburn	South Fork Cos	40	1,000	2,010
Sopsage	Middle Fork Cos	170	5,000	4,000
Clear Creek	North Fork Cos	205	11,000	3,535
Dogtown	Middle Fork Cos	212	6,000	4,022
Big Canyon	North Fork Cos	227	13,000	3,577
Antelope-Mill Creek	Mill Creek	47	250	3,493

Name of powerplant	Proposed installed capacity (kW)	Head (feet)	Transmission lines	
			Length (miles)	Voltage (kV)
Cape Cod	10,000	275	17	60
Bakers Ford	400	295	9	60
Nashville	13,600	1,100	5	60
Dry Creek	18,000	1,200	7	60
Sopsage	200	188	3	12.5
Clear Creek	400	195	8	12.5
Dogtown	400	200	4	12.5
Big Canyon	900	215	5	12.5

k. Purpose of Project: The estimated annual generation of 147.6 million KWh of energy would be sold to local utilities.

l. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C and D2

18. a. Type of Application: Preliminary Permit.

b. Project No.: 8492–000.

c. Date Filed: August 3, 1984.

d. Applicant: Prodek, Inc.

e. Name of Project: McGee Creek Dam.

f. Location: On the McGee Creek in Atoka County, Oklahoma.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Flake H. Wells, III, Vice President, Prodek, Inc. P.O. Box 12008, El Paso, Texas 79912, and Mr. James Hamersley, Esquire, 1825 I Street, NW., Suite 300, Washington, D.C. 20006

i. Comment Date: December 10, 1984.

j. Description of Project: The Applicant would utilize a dam and lands under the jurisdiction of the Bureau of Reclamation (BR). The dam is currently under construction and is scheduled for completion in 1986. The proposed project would consist of: (1) A proposed 14-inch diameter, 200-foot-long branch pipe which would be used to convey water to the powerhouse. The branch pipe would be connected to the BR's existing steel by-pass pipe, which is designed to transport water to the municipal and industrial intake structure; (2) a proposed powerhouse containing generating units with a total rated capacity of 175 kW; (3) a proposed tailrace, which would consist of a 24-inch diameter, reinforced concrete pipe that discharges into a stilling basin; (4) A proposed 180-foot-long, 25-kV transmission line; and (5) appurtenant facilities. The estimated average annual energy output for the project is 500,000 kWh.

k. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 18 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $25,000.

l. This notice also consists of the following standard paragraphs: A5, A6, A9, B, C and D2.

19. a. Type of Application: Preliminary Permit.

b. Project No.: 8497–000.

c. Date Filed: August 6, 1984.

d. Applicant: Mesa II, Inc.

e. Name of Project: Mesa II Hydroelectric.

f. Location: Partially in the Payette National Forest and partially on lands managed by the Bureau of Land Management, on the Middle Fork Weiser River, near Mesa, in Adams County, Idaho.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Verne G. Long, President of Mesa II, Inc., 1411 Sandlewood Drive, Meridian, Idaho 83642.

i. Comment Date: December 10, 1984.

j. Description of Project: The proposed project would consist of: (1) A 10-foot-high concrete diversion dam with a water surface elevation of 3,745 feet; (2) a penstock forebay structure with trash racks and a fish screen; (3) a fish ladder; (4) a 4.3-mile-long, 60-inch-diameter buried steel penstock; (5) a powerhouse containing two generators with a combined rated capacity of 5.0 MW and an annual energy production of 23.3 GWh at elevation 3,200 feet; (6) a tailrace; (7) a 4.4-mile-long, 35-kV transmission line; and (8) a substation at an interconnection with a 69-kV Idaho Power Company transmission line.

A preliminary permit, if issued, does not authorize construction. Applicant seeks a 30-month preliminary permit to conduct engineering, economic and environmental studies to ascertain project feasibility and to support an application for a license to construct and operate the project. The estimated cost of permit activities is $56,200.

k. Purpose of Project: Power may be marketed to Idaho Power Company.

l. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C and D2.

20. a. Type of Application: Preliminary Permit.

b. Project No.: 8501–000.

c. Date Filed: August 9, 1984.

d. Applicant: Trinity Canyon Hydro Ltd.

e. Name of Project: Trinity Canyon Hydroelectric Project.

f. Location: On Canyon Creek, near Junction City, within the Shasta-Trinity National Forest, in Trinity County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Roy McDonald, 1121 L Street, Suite 1000, Sacramento, California 95814.

i. Comment Date: December 10, 1984.

j. Description of Project: The proposed project would consist of: (1) A 5-foot-high, 99-foot-long diversion dam on Canyon Creek at elevation 3,000 feet; (2) a 52-inch-diameter, 25,000-foot-long diversion pipeline; (3) a 40-inch-diameter, 2,000-foot-long steel penstock; (4) a powerhouse with a total installed capacity of 4,300 kW operating under a head of 610 feet; and (5) a 200-foot-long, 12.5-kV transmission line from the powerhouse to an existing Pacific Gas and Electric Company (PG&E) transmission line. The Applicant estimates the average annual energy generation at 17.1 million KWh to be sold to PG&E.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a 36-month preliminary permit to conduct technical, environmental and economic studies, and also prepare an FERC license

application at an estimated cost of $70,000.

k. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C and D2.

21. a. Type of Application: Preliminary Permit.

b. Project No.: 8502–000.

c. Dated Filed: August 9, 1984.

d. Applicant: Trinity Bar Hydro Ltd.

e. Name of Project: Trinity Bar Hydroelectric Project.

f. Location: On Big Bar Creek, near Big Bar, within the Shasta-Trinity National Forest, in Trinity County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Roy McDonald, 1121 L Street, Suite 1000, Sacramento, California 95814.

i. Comment Date: December 10, 1984.

j. Description of Project: The proposed project would consist of: (1) A 5-foot-high, 59-foot-long diversion dam on Big Bar Creek at elevation 1,780 feet; (2) a 42-inch-diameter, 9,500-foot-long diversion pipeline; (3) a 33-inch-diameter, 900-foot-long steel penstock; (4) a powerhouse with a total installed capacity of 1,400 kW operating under a head of 340 feet; and (5) a 2,600-foot-long, 12.5 kV transmission line from the powerhouse to an existing Pacific Gas and Electric Company (PG&E) transmission line. The Applicant estimates the average annual energy generation at 5.7 million kWh to be sold to PG&E.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a 36-month preliminary permit to conduct technical, environmental and economic studies, and also prepare an FERC license application at an estimated cost of $70,000.

k. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C and D2.

Competing Applications

A1. Exemption for Small Hydroelectric Power Project under 5MW Capacity—Any qualified license or conduit exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license or conduit exemption application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such an application. Any qualified small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing small hydroelectric exemption application or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing license, conduit exemption, or small hydroelectric exemption application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

A2. Exemption for Small Hydroelectric Power Project under 5MW Capacity—Any qualified license or conduit exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license or conduit exemption application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing license or conduit exemption application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit and small hydroelectric exemption will not be accepted in response to this notice.

A3. License or Conduit Exemption—Any qualified license, conduit exemption, or small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license, conduit exemption, or small hydroelectric exemption application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing license, conduit exemption, or small hydroelectric exemption application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

This provision is subject to the following exception: if an application described in this notice was filed by the preliminary permittee during the term of the permit, a small hydroelectric exemption application may be filed by the permittee only (license and conduit exemption applications are not affected by this restriction).

A4. License or Conduit Exemption—Public notice of the filing of the initial license, small hydroelectric exemption or conduit exemption application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, any competing application for license, conduit exemption, small hydroelectric exemption, or preliminary permit, or notices of intent to file competing applications, must be filed in response to and in compliance with the public notice of the initial license, small hydroelectric exemption or conduit exemption application. No competing applications or notices of intent may be filed in response to this notice.

A5. Preliminary Permit: Existing Dam or Natural Water Feature Project—Anyone desiring to file a competing application for preliminary permit for a proposed project at an existing dam or natural water feature project, must submit the competing application to the Commission on or before 30 days after the specified comment date for the particular application (see 18 CFR 4.30 to 4.33 (1982)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

A competing preliminary permit application must conform with 18 CFR 4.33 (a) and (d).

A6. Preliminary Permit: No Existing Dam—Anyone desiring to file a competing application for preliminary permit for a proposed project where no dam exists or where there are proposed major modifications, must submit to the Commission on or before the specified comment date for the particular application, the competing application itself, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 60 days after the specified comment date for the particular application.

A competing preliminary permit application must conform with 18 CFR 4.33 (a) and (d).

A7. Preliminary Permit—Except as provided in the following paragraph, any qualified license, conduit exemption, or small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license, conduit exemption, or small hydroelectric exemption application or a notice of intent to file such an application. Submission of a timeloy notice of intent to file a license, conduit exemption, or small hydroelectric exemption application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

In addition, any qualified license or conduit exemption applicant desiring to file a competing application may file the subject application until: (1) A preliminary permit with which the subject license or conduit exemption application would compete is issued, or (2) the earliest specified comment date for any license, conduit exemption, or small hydroelectric exemption application with which the subject license or conduit exemption application would compete; whichever occurs first.

A competing license application must conform with 18 CFR 4.33 (a) and (d).

A8. Preliminary Permit—Public notice of the filing of the initial preliminary permit application, which has already been given, established the due date for filing competing preliminary permit applications on notices of intent. Any competing preliminary permit application, or notice of intent to file a competing preliminary permit application, must be filed in response to and in compliance with the public notice of the initial preliminary permit application. No competing preliminary permit applications or notices of intent to file a preliminary permit may be filed in response to this notice.

Any qualified small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing small hydroelectric exemption application or a notice of intent to file such an application. Submission of a timely notice of intent to file a small hydroelectric exemption application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

In addition, any qualified license or conduit exemption applicant desiring to file a competing application may file the subject application until: (1) A preliminary permit with which the subject license or conduit exemption application would compete is issued, or (2) the earliest specified comment date for any license, conduit exemption or small hydroelectric exemption application with which the subject license or conduit exemption application would compete; whichever occurs first.

A competing license application must conform with 18 CFR 4.33 (a) and (d).

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed, either (1) a preliminary permit application or (2) a license, small hydroelectric exemption, or conduit exemption application, and be served on the applicant(s) named in this public notice.

B. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filing must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST" or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Project Management Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D1. *Agency Comments*—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments with the Commission within the time set for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D2. *Agency Comments*—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3a. *Agency Comments*—The U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the State Fish and Game agency(ies) are requested, for the purposes set forth in section 408 of the Energy Security Act of 1980, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition or exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3b. *Agency Comments*—The U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the State Fish and Game agency(ies) are requested, for the purposes set forth in section 30 of the Federal Power Act, to file within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly

identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives

Dated: October 5, 1984.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26928 Filed 10-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-707-000]

Arkansas Louisiana Gas Company, a Division of Arkla, Inc.; Request Under Blanket Authorization

October 5, 1984.

Take notice that on September 13, 1984, Arkansas Louisiana Gas Company, a division of Arkla, Inc. (Arkla), P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP84-707-000 a request pursuant to § 157.205 of the Regulations under the National Gas Act (18 CFR 157.205) for authorization to abandon certain facilities, with no abandonment of service, under the abandonment authorization issued in Docket No. CP82-384-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

It is stated that approximately 4,960 feet of 2-inch transmission line (Arkla's Line 636-2) are proposed to be abandoned in the area of Stonewall, Oklahoma, where Arkla owns and operates a local distribution system. Arkla states that the relocation of Line 636-2 is required as a result of construction involving Oklahoma State Highway 3. It is further stated that only three customers are served from Line 636-2. Because of the age and deterioration of the line, and the proximity of Arkla's Stonewall area-distribution system, Arkla asserts that it would be more economical and feasible to abandon Line 636-2 and extend the Stonewall area-distribution line the distance necessary to connect the affected customers. It is indicated by Arkla that the old transmission pipeline would not be abandoned until the new distribution line is in place and, therefore, no discontinuance of gas service would occur.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26930 Filed 10-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA85-1-48-000 and TA85-1-48-001]

ANR Pipeline Co.; PGA Rate Change Filing

October 4, 1984.

Take notice that on October 1, 1984, ANR Pipeline Company (ANR) pursuant to Section 15 of the General Terms and Conditions of its FERC Gas Tariff, Original Volume No. 1, tendered for filing with the Federal Energy Regulatory Commission (Commission) Twenty-Third Revised Sheet No. 7 and Eleventh Revised Sheet No. 7a to Original Volume No. 1 of its Tariff to be effective November 1, 1984.

Twenty-Third Revised Sheet No. 7 reflects an increase in ANR's one part rates applicable to Rate Schedule SGS-1 and LVS-1 of 20.49¢ and 20.48¢, respectively, per dekatherm (dth), a 20.46¢ per dth increase in the gas cost component of the commodity rate of its CD-1 and MC-1 Rate Schedule and, a .3¢ increase in the monthly demand rate applicable to the CD-1 and MC-1 Rate Schedules.

ANR states that the reason for the increase in its rates results from producer price increases associated with the Natural Gas Policy Act of 1978, the replacement of older lower cost sources of supply with new, higher cost sources, a decrease in the negative surcharge reflected in the May 1, 1984 PGA, and the inclusion of synthetic gas produced by coal gasification. These increases were partially offset by credits resulting from operation of the provisions in the Stipulation and Agreement in *ANR Pipeline Company*, Docket Nos. RP82-80, *et al.*, minor refunds resulting from the Commission's Order No. 399 in Docket No. RM84-6 (Refunds Resulting From Btu Measurement Adjustments) and a credit associated with the prior removal of Northern Border/Gas Arctic expenditures from rate base.

ANR states that copies of the filing were served upon all of its jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before October 12, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26915 Filed 10-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-144-000]

Bayou Interstate Pipeline Corp., Compliance Filing

October 4, 1984.

Take notice that on September 28, 1984, Bayou Interstate Pipeline Corp. (Bayou) tendered for filing the following tariff sheets to be a part of its FERC Gas Tariff, Original Volume No. 1:

Second Substitute Original Sheet No. 4
Third Substitute Original Sheet No. 4A
First Revised Sheet No. 8
First Revised Sheet No. 9

Bayou indicates that these sheets were revised to conform to 18 CFR 154.111 which requires that pipeline rate schedules and tariffs governing the sale of natural gas in effect on July 31, 1984 be restated to state purchased gas costs separately.

Bayou states that copies of this filing have been served upon Bayou's jurisdictional customer, the Public Service Commission of the State of Louisiana and the Department of

Natural Resources Office of Conservation of the State of Louisiana.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before October 12, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-28916 Filed 10-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-695-000]

Detroit Edison Co.; Filing

October 5, 1984.

The filing Company submits the following:

Take notice that September 21, 1984, Detroit Edison Company (Detroit Edison) tendered for filing a Power Supply Agreement between Detroit Edison and the Municipal Cooperative Power Pool. This Agreement supersedes and replaces in their entirety (a) the Electricity Supply Agreement between the Michigan Municipal Electric Cooperative Power Pool and the Detroit Edison Company dated September 1, 1984, as amended, (b) the Electric Supply Agreement between the Michigan Municipal Electric Cooperative Power Pool and the Detroit Edison Company dated September 21, 1977, as amended, and (c) the Power Supply Agreement between the Municipal Cooperative Power Pool and the Detroit Edison Company dated November 1, 1983.

Detroit Edison requests an effective date of November 1, 1984, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 17, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-28901 Filed 10-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TC84-24-000]

El Paso Natural Gas Co.; Request for Waiver From Filing Requirements

October 5, 1984.

Take notice that on September 21, 1984, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. TC84-24-000 a request for waiver of the requirement that El Paso comply with the reporting deadline reflected in Section 11.5(a) *Annual Supply Allocation Forecast Report*, of the Service Rules contained in its FERC Gas Tariff, First Revised Volume No. 1 (Tariff), all as more fully set forth in the request which is on file with the Commission and open to public inspection.

El Paso states that pursuant to Section 11.5(a) of its tariff is required each year, on or before October 1, to submit to each of its customers and the Commission the Annual Supply Allocation Forecast Report (Forecast Report) which forecasts El Paso's annual supply of natural gas available for sale for each year of the succeeding ten-year period. El Paso states that it would soon have updated supply data which would enable it to use the most current data for the Forecast Report, but that these data would not be available prior to the upcoming October 1, 1984, deadline. El Paso states that it expects to obtain the updated supply data, however, in time to provide the Forecast Report to its customers and the Commission no later than October 25, 1984.

Additionally El Paso states Section 11 of its Tariff, including Section 11.5(a), was established pursuant to the term of the *Stipulation and Agreement Settling Proceedings and Establishing Permanent Allocation Plan* (Settlement) approved by the Commission on March 26, 1981, in Docket Nos. RP72-6, *et al.* El Paso also states that in accordance with Section 6.1(e) of the Settlement it has obtained the unanimous consent of the parties to the Settlement and the Commission Staff to permit it to request an extension of the filing deadline of the Forecast Report for this year to October 25, 1984.

Any person desiring to be heard or to make any protect with reference to said request should on or before

October 19, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-28902 Filed 10-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA85-1-45-000 and TA85-1-45-001]

Inter-City Minnesota Pipelines Ltd., Inc.; Purchased Gas Adjustment Filing

October 4, 1984.

Take notice that on October 1, 1984, Inter-City Minnesota Pipelines Ltd., Inc. (Minnesota Pipelines) tendered for filing Twenty-First Revised Sheet No. 4 to Original Volume No. 1 of Minnesota Pipelines' FERC Gas Tariff. Minnesota Pipelines has requested that the sheet be suspended only for such time as is necessary to allow an effective date of November 1, 1984 for the rates set out therein.

Minnesota Pipelines represents that it purchases its entire gas supply from another pipeline, ICG Transmission Holdings Ltd., a Canadian company, at the U.S.-Canadian border and the prices it pays are determined by the National Energy Board of Canada and approved for payment by the Economic Regulatory Administration of the U.S. Department of Energy. The current filing reflects two changes in the Company's rates effective November 1, 1984. The first change is a new Surcharge Adjustment to reflect the unrecovered gas costs from the period August 1, 1983 through July 31, 1984. The second change takes place in the Cumulative Adjustment to again reflect the Incentive Border Pricing on imported gas based upon the volumes forecast from November 1, 1984 through October 31, 1985. Because of the nature of Minnesota Pipelines' purchases, the

format prescribed by the Commission's Orders 349, 349–A and 349–B and the accompanying FERC Form No. 542–PGA is of little relevance. Accordingly, Minnesota Pipelines submits with this filing exhibits 1 through 5.2 which provide data on pipeline supplies, prices and volumes, and detail the calculation of the PGA surcharge for each zone. Minnesota Pipelines requests waiver of all applicable Commission regulations requiring use of the Form 542–PGA format and filing of a magnetic tape bearing the Form 542–PGA format data in machine-readable form.

Minnesota Pipelines requests that the tariff sheet become effective on November 1, 1984, waiving the 30-day notice period.

Any person desiring to be heard or to make any protest with reference to said PGA filing should on or before October 12, 1984, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR Part 385). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–28917 Filed 10–10–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER84–699–000]

Iowa Power and Light Co.; Filing

October 5, 1984.

The filing Company submits the following:

Take notice that on September 24, 1984, Iowa Power and Light Company (Iowa Power) tendered for filing Service Schedule A dated May 9, 1984 ("Schedule A"), and Service Schedule B ("Schedule B") dated May 9, 1984, between Iowa Power and Montezuma Municipal Light & Power ("Montezuma").

Schedule A provides for facilities and points of delivery between Iowa Power and Montezuma. Schedule B provides for the sale of base-load power and energy from Iowa Power to Montezuma between October 13, 1983 and April 30, 1988.

Iowa requests that the Commission waive its prior notice requirements and accept Schedule A with an effective date of May 9, 1984 and Schedule B with an effective date of October 13, 1983.

Copies of this filing were served upon each affected party and the Iowa State Commerce Commission.

Any person desiring to be heard or to protest said filling should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 17, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–28903 Filed 10–10–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP84–714–000]

Lone Star Gas Company, a Division of ENSEARCH Corp.; Request Under Blanket Authorization

October 5, 1984.

Take notice that on September 17, 1984, Lone Star Gas Company, a Division of ENSEARCH Corporation (Applicant), 301 South Harwood Street, Dallas, Texas 75201, filed in Docket No. CP84–714–000 a request pursuant to §157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate a sales tap to sell up to 200 Mcf of natural gas annually to one residential customer in Murray County, Oklahoma, under the certificate issued in Docket No. CP83–59–000, as amended in Docket No. CP83–59–002, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

It is stated that Applicant would make the proposed sale to Mel Allen on Line GD–1 at Station 365 + 10 of Applicant's system. It is averred that the proposed sale would be at Applicant's residential rate, a rate approved by the Oklahoma Corporation Commission. It is further averred that the proposal is not expected to have any significant impact on Applicant's peak day or annual system operations.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157–205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–28904 Filed 10–10–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER84–344–004

Maine Yankee Atomic Power Co.; Compliance Filing

October 5, 1984.

Take notice that on September 13, 1984, Maine Yankee Atomic Power Company (Maine Yankee) submitted for filing Amendment No. 3 to its Power Contract and certain revised cost of service statements for substitution in its rate application, pursuant to the Commission's August 14, 1984 order in this proceeding.

The amendment to the Power Contract provides that Maine Yankee's treatment of construction work in progress (CWIP), nuclear fuel in progress (NFIP), and accumulated deferred income taxes (ADIT), for purposes of billings under the Power Contract will conform to this Commission's regulations respecting those items, as such regualtions may be amended from time to time.

Amendment No. 3 has been approved by Maine Yankee's Board of Directors which includes representatives of each of the sponsors purchasing under the Power Contract.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before October 23, 1984. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 84-26805 Filed 10-10-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. G-7642-009, et al.]

Mobil Oil Corp., et al.; Applications for Certificates, Abandonments of Service and Petitions To Amend Certificates [1]

October 5, 1984.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before October 22, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price Per Mcf	Pressure base
G-7642-009, D, September 28, 1984	Mobil Oil Corporation, Nine Greenway Plaza, Suite 2700, Houston, Texas 77046.	Northern Natural Gas Company, Hugoton Field, Stevens and Morton Counties, Kansas.	(1)	
G-7643-004, D, September 28, 1984	...do	Northern Natural Gas Company, Hugoton Field, Stevens County, Kansas	(1)	
G-7645-007, D, September 28, 1984	...do	Northwest Central Pipeline Corporation, Texas County, Oklahoma	(1)	
G-8341-001 September 24, 1984	Phillips Petroleum Company, 336 HS&L Building, Bartlesville, Oklahoma 74004.	El Paso Natural Gas Company, Phillips Fullerton Plant Outlet, Section 17, Block A-32, PSL, Andrews County, Texas	(2)	
G-11742-002, D, September 28, 1984	Mobil Oil Corporation, Nine Greenway Plaza, Suite 2700, Houston, Texas 77046.	Northwest Central Pipeline Corporation, Hugoton Field, Stevens County, Kansas.	(1)	
G-12235-000, D, September 18, 1984	Kerr-McGee Corporation, P.O. Box 25861, Oklahoma City, Oklahoma 73125.	Southern Natural Gas Company, Breton Sound 20-32 (State Lease 1977), Offshore Louisiana.	(3)	
G-17012-001, D, September 28, 1984	Sohio Petroleum Company, P.O. Box 4587, Houston, Texas 77210.	El Paso Natural Gas Company, Spraberry Field, Upton County, Texas.	(4)	
CI60-502-002, D, September 24, 1984	Shell Western E&P Inc., P.O. Box 4684 Houston, Texas 77210.	Northern Natural Gas Company, Wilburton Field, Morton County, Kansas	(5)	
CI64-573-001, D, August 13, 1984	Gulf Oil Corporation, P.O. Box 2100, Houston, Texas 77252.	Columbia Gas Transmission Corporation, Deep Lake Field, Cameron Parish, Louisiana.	(6)	
CI65-426-000, CI66-336-000, E, March 7, 1984.	El Paso Exploration Company (Successor In Interest To Pecos Company), Post Office Box 1492, El Paso, Texas 79978.	Northwest Central Pipeline Corporation, Hemphill County, Texas.	(7)	
CI65-738-005, D, September 26, 1984	Shell Western E&P Inc., P.O. Box 4684, Houston, Texas 77210.	ANR Pipeline Company, Kings Bayou Field, Cameron Parish, Louisiana.	(8)	
CI66-1190-000, D, September 2, 1983	Conoco Inc., P.O. Box 2197, Houston, Texas 77522	Michigan Wisconsin Pipe Line Company, Woodward Area, Woodward & Dewey Counties, Oklahoma	(9)	
CI69-384-001, D, September 27, 1984	Kerr-McGee Corporation, P.O. Box 25861, Oklahoma City, Oklahoma 73125.	Transcontinental Gas Pipe Line Corporation, Kerr-McGee's "A" Platform on Ship Shoal, Black 230 (Ship Shoal Blocks 217, 218, 229, 230, 242), Offshore Terrebonne Parish, Louisiana	(10)	
CI75-122-002, September 20, 1984	Getty Oil Company, P.O. Box 1404, Houston, Texas 77001.	Trunkline Gas Company, South Marsh Island Block 261, Offshore Louisiana.	(11)	
CI77-365-001, E, September 19, 1984	Phillips Petroleum Company, (Successor In Interest To Phillips Oil Company), 336 HS&L Building, Bartlesville, Oklahoma 74004	Transcontinental Gas Pipe Line Corporation, South Marsh Island Blocks 243 & 244, Offshore Louisiana.	(12)	
CI81-29-003, E, September 19, 1984	...do	United Gas Pipe Line Company and Southern Natural Gas Company, West Cameron, Block 537, Offshore Louisiana.	(13)	
CI84-593-000, A, September 13, 1984	Texaco Inc., P.O. Box 60252, New Orleans, Louisiana 70160	Amoco Gas Company, Matagorda Island Block 624, (OCS-G-3366), Offshore Texas	(14)	
CI84-594-000, E, September 10, 1984	Proven Properties Inc. (Successor In Interest To Corinne Grace), P.O. Box 2049, Houston, Texas 77252-2049	El Paso Natural Gas Company, White City Field, Eddy County, New Mexico	(15)	
CI84-595-000, (CI76-430), B, September 14, 1984.	Napeco Inc., P.O. Block 283, Houston, Texas 77001	Natural Gas Pipeline Company of America, Angelton N. E. (Fno 2-8) Field, Brazoria County, Texas	(16)	
CI84-596-000, B, September 17, 1984	Damson Oil Corporation P.O. Box 4391, Houston, Texas 77210.	Transcontinental Gas Pipe Line Corporation, Brazos Block A-1, Offshore Texas	(17)	
CI84-597-000, (CI73-60), B, September 17, 1984.	Kerr-McGee Corporation, P.O. Box 25861, Oklahoma City, Oklahoma 73125.	Transcontinental Gas Pipe Line Corporation, Brazos Block A-1, Offshore Texas	(18)	
CI84-598-000, A, September 20, 1984	Getty Oil Company, P.O. Box 1404, Houston, Texas 77001.	ANR Pipeline Company, Eugene Island Block 208, Offshore Louisiana.	(19)	
CI84-599-000, A, September 21, 1984	The Superior Oil Company, Post Office Box 1521, Houston, Texas 77001.	ANR Pipeline Company, West Cameron 71 Field, Offshore Louisiana.	(20)	
CI84-600-000, B, September 19, 1984	Highland Resources, Inc., San Jacinto Building, Suite 800, Houston, Texas 77002-6286.	Transcontinental Gas Pipe Line Corporation, Brazos Area Block A-1 Field, Offshore Matagorda County, Texas	(21)	
CI84-601-000, B	Texaco Inc., P.O. Box 60252, New Orleans, Louisiana 70160.	Gas Gathering Corporation, Bayou Des Glaises Field, St. Martin Parish, Louisiana	(22)	
CI84-602-000, B, September 24, 1984	Gulf Oil Corporation, Post Office Box 2100, Houston, Texas 77522.	Getty Oil Company, A. M. Drinkard "A" Tubb Gas Unit, Lea County, New Mexico	(23)	

[1] To release gas for irrigation fuel.
[2] Applicant is filing under Amendatory agreement dated December 30, 1983, for an alternate delivery point.
[3] Applicant no longer has the right to explore or develop the acreage
[4] Sohio Petroleum Company assigned their interest to the acreage to Jackson Exploration, Inc.
[5] Leases have been sold to Cities Service Oil and Gas Corporation effective July 1, 1984
[6] Gulf conveys to the Superior Oil Company a portion of its interest in Oil and Gas Lease (State 2353) dated June 17, 1953, between the State Mineral Board of the State of Louisiana, as Sublessor, and F. A. Blanche, as Sublessee.

[7] The properties subject to Pecos's FERC Gas Rate Schedule were conveyed to Applicant by instruments of assignment executed on various dates in 1981, all to be effective January 1, 1981.
[8] Leases released to lessors effective September 11, 1984.
[9] All except three of the leases have been assigned or surrendered to the lessor(s).
[10] Commercial quantities of gas are no longer available for sale from Kerr-McGee's "A" Platform on Ship Shoal Block 230
[11] Applicant is filing under Amendatory Agreements dated August 10, 1984.
[12] Effective December 1, 1983, Phillips Oil Company assigned to Applicant, its working interest in South Marsh Island Area, Blocks 243 and 244, Offshore Louisiana
[13] Effective December 31, 1983, Phillips Oil Company assigned to Applicant, its working interest in West Cameron Block 537, Offshore Louisiana.
[14] Applicant is filing under Gas Purchase Contract dated August 28, 1984.
[15] On August 1, 1984, Connne Grace assigned its leasehold rights in all of Section 16, T24S, R26E, Eddy County, New Mexico, to Proven Properties, Inc.
[16] The well operator has determined that no economically producible gas reserves remain in the W. M. Stephens No. 1 Well
[17] The reserves have depleted and the lease has been released.
[18] All wells have watered out and lease has been surrendered.
[19] Applicant is filing under Gas Purchase Contact Dated August 3, 1984.
[20] Applicant is filing under Gas Purchase Contact Dated September 1, 1984.
[21] The reserves have been exhausted.
[22] Production from the Nodosaria "B" Sand has ceased. The E. L. Guidry No. 1 Well has been plugged and abandoned
[23] The pooling and operator agreement for this unit has been dissolved and Applicant no longer owns an interest in production from the A. M. Drinkard "A" Well No. 1
Filing Code: A—Initial Service, B—Abandonment, C—Amendment to add acreage, D—Amendment to delete acreage, E—Total Succession, F—Partial Succession.

[FR Doc. 84-26908 Filed 10-10-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TA85-1-49-000 and TA85-1-49-001]

Montana-Dakota Utilities Co.; Tariff Filing

October 4, 1984.

Take notice that on September 28, 1984, Montana-Dakota Utilities Co. (MDU) tendered for filing as part of its FERC Gas Tariff the following tariff sheets:

Original Volume No. 4

Twenty Ninth Revised Sheet No. 3A
Fourth Revised Sheet No. 3B

First Revised Volume No. 2

Twenty-Second Revised Sheet No. 10
Second Revised Sheet No. 10.1
Fourth Revised Sheet No. 10A

The proposed effective date of MDU's PGA filing is November 1, 1984.

MDU states that this tariff filing is being made pursuant to the Purchased Gas Cost Adjustment Provisions of its FERC Gas Tariff. The proposed changes include a cumulative gas cost adjustment of 79.417 cents per Mcf for Rate Schedules G–1, PR–1, I–1, and X–1 and a surcharge adjustment of 47.647 cents per Mcf applicable to Rate Schedules G–1, PR–1, and I–1. These changes represent a net increase in rates for Rate Schedules G–1, PR–1, and I–1 of 54.236 cents per Mcf, and an increase for Rate Schedule X–1 of 14.970 cents per Mcf, over the rates currently in effect.

Rate Schedule X–4 shows a cumulative gas cost adjustment of 60.168 cents per Mcf and no surcharge adjustment for this filing. This change reflects an increase of 9.595 cents per Mcf.

In addition, MDU states that Second Revised Sheet No. 10.1 reflects a cumulative gas cost adjustment for the sales under Rate Schedule X–5 of 56.730 cents per Mcf, an increase of 22.605 cents.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before October 12, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to beome a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 84-26918 Filed 10-10-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER84-697-000]

Niagara Mohawk Power; Corp., Filing

October 5, 1984.

The filing company submits the following:

Take notice that on September 24, 1984, Niagara Mohawk Power Corporation (Niagara) tendered for filing as a rate schedule, an agreement between Niagara and the Rochester Gas & Electric Corporation (Rochester) dated May 22, 1984.

Niagara presently has on file an agreement with Rochester dated April 12, 1973 as amended on July 20, 1982. This agreement is designated as Niagara Mohawk Power Corporation Rate Schedule FERC No. 76. This new agreement is being transmitted as a supplement to the existing agreement.

The original April 12, 1973 agreement states that Niagara will provide for the transmission of power and energy to and from the Power Authority of the State of New York at the Blenheim-Gilboa Pumped Storage Plant for Rochester. This Supplement revises the rate to be paid by Rochester for the use of Niagara's facilities. The monthly charge will be updated on October 1, of each succeeding year using Niagara's most recent annual fixed charges.

Niagara requests an effective date of October 1, 1984, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon Rochester and the Public Service Commission of New York.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 17, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 84-26807 Filed 10-10-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER84-698-000]

Niagara Mohawk Power Corp.; Filing

October 5, 1984.

The filing Company submits the following:

Take notice that on September 24, 1984, Niagara Mohawk Power Corporation (Niagara) tendered for filing as a rate schedule, an agreement between Niagara and Rochester Gas and Electric Corporation (Rochester) dated May 22, 1984.

Niagara presently has on file an agreement with Rochester dated

December 26, 1968. This agreement is designated as Niagara Mohawk Power Corporation Rate Schedule FERC No. 58. This new agreement is being transmitted as a supplement to the existing agreement, and supersedes Supplement No. 4.

The December 26, 1968, agreement is for the use of Niagara's transmission facilities by Rochester for the purpose of connecting Rochester's Gina Nuclear Plant into the New York Cross-State transmission system. The May 22, 1984, agreement revises the rate to be paid by Rochester for the use of Niagara's facilities.

Niagara requests an effective date of October 1, 1984, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon Rochester and the Public Service Commission of the State of New York.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 17, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26908 Filed 10-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-690-000]

Northern States Power Co.; (Minnesota), et al.; Filing

October 5, 1984.

The filing Company submits the following:

Take notice that on September 20, 1984, Northern States Power Company (Minnesota) ("NSP (Minn.)") and Northern States Power Company (Wisconsin) ("NSP (Wisc.)") and Lake Superior District Power Company ("LSDP") jointly tendered for filing an Interchange Agreement dated September 17, 1984. The Interchange Agreement provides for greater specificity in the formula rates under which the sales among the Companies are made and perfects and refines the cost of service procedures contained in the formula rates.

The Interchange Agreement revises and supersedes and 1982 Coordinating Agreement between NSP (Minn.), NSP (Wisc.) and LSDP which provides for coordination on the NSP electric system.

The purpose of the filing is fourfold: (1) To define transmission facilities on a functional rather than a voltage basis; (2) to allocate demand costs on an average of the twelve monthly peak basis; (3) to introduced time differentiation into the development of energy charges; and (4) to introduce greater specificity in the formula type procedures for development of charges under the Agreement.

The parties request an effective date of December 31, 1984.

Copies of this filing have been served upon the wholesale customers of the three affiliates, the state commissions of Michigan, Minnesota, North Dakota, South Dakota and Wisconsin.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regtulatory Commission, 825 North Capitol Street, NE., Washington, D.C., 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 17, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26909 Filed 10-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP84-56-000]

Northwest Central Pipeline Corp. (Formerly Cities Service Gas Company); Petition for Declaratory Order

Issued: October 5, 1984.

Take notice that on September 21, 1984, Northwest Central Pipeline Corporation (Northwest Central), filed a petition for declaratory order with the Federal Energy Regulatory Commission, (Commission), pursuant to Rule 207(a)(2) of the Commission's Rules of Practice and Procedure, 18 CFR 385.207(a)(2) (1983), and in accordance with Article XII, Section 2, of the Stipulation and Agreement approved by the Commission on June 21, 1984, in Docket Nos. RP82-114, et al.

Under the procedures established in the Docket No. RP82-114 Stipulation and Agreement, Northwest Central Seeks a declaratory order regarding the legality and enforceability under Title I of the Natural Gas Policy Act of 1978 (NGPA) of certain contract amendments executed March 17, 1981, between Northwest Central and Amoco Production Company, the Wamsutter Limited Partnership, and the Moxa Limited Partnership (Amoco, et al.). Northwest Central proposes that said contract amendments authorize Northwest Central to pay, and Amoco, et al. to receive, the NGPA section 107(c)(5) tight formations price, and that these March 17, 1981 contract amendments are legal and enforceable under Title I of the NGPA.

Article XII, Section 3 of the subject Stipulation and Agreement provides for responses, answers, and objections to the instant petition for declaratory order and to a complaint filed by Midwest Gas Users (Midwest) on January 24, 1983, as amended on November 2, 1983, in Docket No. RP83-42-000, as consolidated, to be filed by all parties, including Commission Staff, thirty (30) days after the filing by Northwest Central of its instant petition for declaratory order. Article XII, Section 4 provides that twenty (20) days after the filing of responses, answers and objections to both Midwest's complaint, as amended, and Northwest Central's petition for declaratory order, all parties, including Commission Staff, shall file with the Commission all replies thereto.

Other persons desiring to be heard or to protest Northwest's petition should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C., 20426, in accordance with the Rules of Practice and Procedure (18 CFR 385.211, 385.214) (1983)). All such petitions to intervene or protests should be filed within 15 days after publication of this notice in the **Federal Register**. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26910 Filed 10-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA85-2-37-000, TA85-2-37-001 and RP85-1-000]

Northwest Pipeline Corp.; Rate Change

October 4, 1984.

Take notice that on October 1, 1984 Northwest Pipeline Corporation ("Northwest") tendered for filing and acceptance as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets which reflect separately the addition of the Canadian Demand Charge to the existing demand charge under Rate Schedules PL-1 and ODL-1.

Substitute Sixteenth Revised Sheet No. 10
Alternate Substitute Sixteenth Revised Sheet No. 10
Third Revised Sheet No. 124
Fifth Revised Sheet No. 126
Original Sheet No. 126-A

The purpose of the revised tariff sheets filed herewith is to adjust Northwest's Rate Schedules PL-1 and ODL-1 demand and commodity rates to reflect a new agreement, between Northwest and its Canadian Supplier Westcoast Transmission Company LTD. (Westcoast). Such agreement will result in Northwest purchasing gas from Westçoast under a two-part demand/commodity rate structure rather than the single commodity rate currently in effect. This filing has not impact on revenues in total but reflects a reallocation of costs between demand and commodity rates in accordance with the proposed Canadian contract.

Northwest requests waiver of the Commission's Regulations and Section 16.8 of Northwest's General Terms and Conditions contained in First Revised Volume No. 1 of its FERC Gas Tariff to permit an effective date of November 1, 1984 to correspond to the proposed effective date of its PGA filing at Docket No. TA85-1-37-001 and the proposed Canadian contract amendment.

A copy of this filing is being served on all jurisdictional customers and interested state regulatory commissions.

Any persons desiring to be heard or protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20428, in accordance with Rule 211 or 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before October 12, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26919 Filed 10-10-84, 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER81-679-004]

Pacific Gas and Electric Co.; Preliminary Compliance Filing

October 5, 1985.

Take notice that on October 1, 1984, Pacific Gas and Electric Company (PGandE), submitted for filing its preliminary compliance report pursuant to the settlement in this docket approved by the Commission on August 26, 1982.

PGandE states that a final Compliance report could not be submitted because several members of the Northern California Power Agency and PGandE are litigating the issue of the quantity of energy sold during the period May through September, 1982, and thus the billing determinants for this portion of the refund period are in dispute.

PGand E states that because this litigation is still ongoing, it is submitting this preliminary compliance report. PGandE further states that the tables included in the filing details computation of teh base rate refunds, due to interim rates being higher than final settlement rates.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before October 23, 1984. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26911 Filed 10-10-84, 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-2-000]

Pacific Gas Transmission Co.; Changes to Executed Service Agreement Modifying and Reducing the Minimum Purchase Obligations of Pacific Gas and Electric Co. and Request for Expedited Consideration

October 4, 1984.

Take notice that on October 1, 1984, Pacific Gas Transmission Company tendered for filing a "Notice of Changes to Executed Service Agreement Modifying and Reducing the Minimum Purchase Obligations of Pacific Gas and Electric Company and Request for Expedited Consideration", pursuant to section 4 of the Natural Gas Act, 15 U.S.C. 717c, and § 154.63 of the Commission's Regulations, 18 CFR 154.63.

PGT states that it has agreed with its customer, Pacific Gas and Electric Company, to changes in the executed service agreement between the two companies. PGT states that these changes will significantly increase PGandE's flexibility in determining the level of purchases that it makes from PGT with respect to its purchases of Canadian gas imports from PGT and facilitates the implementation of a new, competitive pricing structure with PGT and PGandE have negotiated with their Canadian gas supplier, Alberta and Southern Gas Co. Ltd. (Alberta and Southern).

The changes to the minimum purchase provisions eliminate the minimum physical take obligations of PGandE with respect to its purchase of Canadian gas imports, substitute an equitable purchase clause based on achieving and maintaining a competitive price for the Canadian supply, reduce the annual take-or-pay level from 60 percent of the daily contract quantity to 50 percent of the daily contract quantity, and alter the make-up rights for previously incurred take-or-pay, with such changes to be effective November 1, 1984, assuming receipt of necessary regulatory approvals. The amendments to the Gas Sale Contract, as amended, between PGT and Alberta and Southern, under which PGT imports Canadian gas for resale to PGandE. More specifically, such changes are linked to the new gas export policy announced by the Canadian Government on July 13, 1984.

Beginning November 1, 1984, the new Canadian export policy permits a negotiated price for Canadian gas which conforms to certain stated criteria established by the Canadian Government. This policy, which follows extensive discussions between the Canadian and U.S. Governments, gives U.S. importers the ability to purchase Canadian gas on a competitive basis with domestic U.S. supplies. The amendments to the Alberta and Southern/PGT Gas Sale Contract would replace the present $4.40/3.40 per MMBtu Volume-Related Incentive Price with an export price at the international border consisting of a commodity rate of $2.99 (U.S.) per MMBtu, and a demand charge based on the actually incurred costs of transporting and shipping the gas within Canada to the export point. On an annualized basis, it is estimated

that the proposal will reduce PG and E's gas purchase costs from PGT by about $180 million.

The instant amendments to the executed service agreement will supersede reduced minimum purchase obligations placed into effect in January 1984, in Docket No. RP84–39. The January 1984, reductions contemplated a second-phase reduction in PGandE's minimum purchase obligations that would be placed into effect for the period on and after July 1, 1985, following further negotiations between Alberta and Southern and its producer-suppliers in the Province of Alberta. The instant amendments to the executed service agreeement may be viewed as an acceleration to November 1, 1984 of the second-phase reduction contemplated in Docket No. RP84–39. These amendments—and this acceleration of the previously contemplated reductions—have been made possible by the Canadian Government's new natural gas export policy.

The minimum purchase and take-or-pay changes to the executed service agreement are part of, and necessary to implement, an overall revision to PGT's gas import arrangements with Alberta and Southern, which includes not only corresponding amendments to the minimum purchase provisions, but also, as mentioned, a proposed negotiated and significantly reduced gas export price. Because of the flowthrough nature of PGT's cost of service tariff with PGandE, it is not necessary to incorporate all of the proposed changes into the PGT tariff in order for PGandE to benefit from the reduced price and modified minimum purchase provisions.

The instant service agreement changes are proposed to be implemented through a superseding Service Agreement dated November 1, 1984 between PGT and PGandE. PGT's filing includes this document and Second Revised Sheet Nos. 51, 52, 53, 54, and 55, and First Revised Sheet Nos. 55A and 55B to PGT's FERC Gas Tariff, First Revised Volume No. 1, all of which substitute a new Form of Service Agreement, applicable to service under Rate Schedule PL–1, consistent with the superseding Service Agreement, dated November 1, 1984.

PGT has requested that its filing receive expedited consideration, and that if and to the extent necessary, the Commission waive its Regulations, 18 CFR Part 154, to allow the service agreement changes to be placed into effect, without suspension, on November 1, 1984.

PGT states that corresponding changes to the Gas Sale Contract with Alberta and Southern have been submitted to the Economic Regulatory Administration and the National Energy Board of Canada for the necessary authorizations.

PGT advises that copies of its filing have been mailed to its customers and to interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Section 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, and 385.211). All such petitions or protests should be filed on or before October 12, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 84–26920 Filed 10–10–84; 8:45 am]
BILLING CODE 6717–01–M

[Docket No. CP84–695–000]

Panhandle Eastern Pipe Line Co.; Request Under Blanket Authorization

October 4, 1984

Take notice that on September 6, 1984, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP84–695–000 a request pursuant to § 157.205 of the regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport gas for an end-user under the certificate issued in Docket No. CP83–83–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Panhandle proposes to transport up to 15,000 Mcf of natural gas per day, on an interruptible basis, on behalf of General Motors Corporation (General Motors), an existing direct industrial sales customer of Panhandle. It is stated that Panhandle would receive the gas at existing points of interconnection between Panhandle and Union Texas Products Corporation in Major County, Oklahoma, and between Panhandle and Oklahoma Natural Gas in Dewey County, Oklahoma. Panhandle states it would then transport and redeliver an equivalent amount of gas, less four percent for fuel, to General Motors at existing points of interconnection in Vermilion County, Illinois, and Defiance County, Ohio, for its end-use at General Motors' Central Foundry Defiance and Danville plants. It is explained that the end-use of the gas would be for boiler fuel, cupola melting, core making, air make-up units, processing, and miscellaneous. It is asserted that Panhandle would charge General Motors, in accordance to Panhandle's currently effective OST tariff, a rate of 85.24 cents per million Btu for the transportation service.

It is explained that the term of the transportation service would be from the date of initial transportation under this authorization and would remain in full force and effect for a primary term of six months and successive terms of one month each thereafter until the earlier of 18 months from the date of initial delivery or termination of authorization for service hereunder pursuant to Subpart F of 18 Part 157 of the Commission's Regulations, provided that either party may terminate the agreement at the end of any such term by giving 30 days prior written notice of such termination to the other party. Further, it is submitted that termination would also be subject to final adjustment between the parties in accordance with the provisions of the transportation agreement.

Panhandle also requests flexible authority to add or delete sources of supply or receipt/delivery points, if such altered service is on behalf of the same end-user, at the same end-user location, within the maximum daily and annual volumes authorized in this docket, and under the same terms and conditions authorized for the basic service.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for

authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26921 Filed 10-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-2-28-004]

Panhandle Eastern Pipe Line Co.; Change in Tariff

October 4, 1984.

Take notice that on October 1, 1984 Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing the following revised sheets to its FERC Gas Tariff, Original Volume No. 1:

First Substitute Forty-Ninth Revised Sheet No. 3-A
First Substitute Twenty-Sixth Revised Sheet No. 3-B

An effective date of September 1, 1984 is proposed.

Panhandle states that these revised tariff sheets reflect a reduced PGA rate adjustment of (4.92¢) per Dt in Panhandle's applicable commodity and one-part rates.

Panhandle states that this proposed rate reduction represents a downward revision of the PGA rate adjustment which became effective September 1, 1984 in Docket No. TA84-2-28-001, *et al.*, and is being filed at this time in compliance with the Commission's Order in the subject proceeding dated August 31, 1984. Ordering Paragraph (B) of the Commission's *Order Accepting For Filing and Suspending Tariff Sheets Subject To Refund And Conditions And Establishing Proceedings,* dated August 31, 1984, conditioned acceptance of the previously filed tariff sheets effective September 1, 1984, upon Panhandle filing revised tariff sheets to reflect the removal of all estimated costs for deregulated gas and reflection instead of historical costs. This adjustment represents a (4.92¢) per Dt reduction in the System Cost of Purchased Gas, and is reflected in the instant filing, in compliance with the Commission's August 31, 1984 Order.

The proposed rate reduction of (4.92¢) per Dt also includes reduced gas purchased costs from Panhandle's pipeline supplier, Trunkline Gas Company (Trunkline). Trunkline is filing concurrently herewith a (2.15¢) per Dt reduction to its rates in compliance with Commission Order dated August 31, 1984 in Docket Nos. TA84-2-30-000, *et al.*, to be effective September 1, 1984.

Concurrently with this compliance filing, Panhandle is filng an Application for Rehearing of the Commission's Order dated August 31, 1984. Panhandle is submitting these revised tariff sheets in the instant filing as required by Ordering Paragraph (B), without prejudice to Panhandle's claims stated in its Application for Rehearing.

Copies of the the filing were served on the Company's jurisdictional customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such petitions or protests should be filed on or before October 12, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26922 Filed 10-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-712-000]

Panhandle Eastern Pipe Line Co.; Request Under Blanket Authorization

October 5, 1984.

Take notice that on September 17, 1984, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP84-712-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to abandon a natural gas sales tap in Jacksonville, Illinois, under the abandonment authorization issued in Docket No. CP83-83-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

The sales tap is Panhandle's #2095F measuring and regulating station located in Morgan County, Illinois.

Panhandle states that the subject measuring station was used to make deliveries of up to 1000 Mcf of gas per day to Illinois Power Company (Illinois Power) for use in its power plant. Panhandle states that Illinois Power informed Panhandle by letter dated December 13, 1983, that it no longer required deliveries through the #2095F station.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26912 Filed 10-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-696-000]

Portland General Electric Co.; Filing

October 5, 1984.

The filing Company submits the following:

Take notice that on September 24, 1984, Portland General Electric Company (PGE) tendered for filing its revised Average System Cost (ASC) which reflects PGE's based rate change effective with meter readings on and after May 1, 1984 and its Power Cost Adjustment (PCA) rate change which was also effective May 1, 1984. The filing includes a revised Appendix 1, Exhibit C, and a revised Schedule 5 to Exhibit 5 of the Residential Purchase and Sale Agreement along with the authorization for this rate change from the Public Utility Commissioner of Oregon.

PGE states that the filing shows PGE's ASC as determined by the Bonneville Power Administration to be 45.60 mills/KWh, and the PCA adjustment to this base of (3.3) mills/kWh for a net ASC rate of 41.77 mills/kWh.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 17, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will

not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26813 Filed 10-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA 85-1-41-000 and TA85-1-41-001]

Southwest Gas Corp.; Change in Rates Pursuant to Purchased Gas Cost Adjustment

October 4, 1984.

Take notice that Southwest Gas Corporation (Southwest) on October 1, 1984 tendered for filing Twenty-third Revised Sheet No. 10 and Ninth Revised Sheet No. 10A pursuant to Section 9, Purchased Gas Adjustment Clause (PGAC), of the General Terms and Conditions contained in its FERC Gas Tariff, Original Volume No. 1. The purpose of said filing is to reflect a decrease in rates occasioned by a decrease in rates from Southwest's Northern Nevada sole supplier of gas, Northwest Pipeline Corporation, effective November 1, 1984. The proposed effective date for Southwest's proposed decrease in rates is November 1, 1984.

Southwest states that a copy of this filing has been mailed to the Nevada Public Service Commission, the California Public Utilities Commission, Sierra Pacific Power Company and CP National.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before October 12, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26812 Filed 10-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-2-30-003]

Trunkline Gas Co.; Change in Tariff

October 4, 1984.

Take notice that Trunkline Gas Company (Trunkline), on October 1, 1984 tendered for filing the following proposed change in its FERC Gas Tariff, Original Volume No. 1, to be effective September 1, 1984:

First Substitute Forty-Sixth Revised Sheet No. 3-A

Trunkline States that this revised tariff sheet reflects a Commodity rate decrease of (2.15¢) per Dt.

This proposed rate reduction represents a downward revision of the PGA rate adjustment which became effective September 1, 1984 in Docket No. TA84-2-30-000, *et al.*, and is being filed at this time in compliance with Ordering Paragraphs (B)(1) and (B)(2) of the Commission's Order in the subject proceeding dated August 31, 1984. Ordering Paragraph (b)(1) directed Trunkline to file revised tariff sheets eliminating all estimated costs for deregulated gas and reflection instead of historical costs. Ordering Paragraph (b)(2) directed Trunkline to file revised tariff sheets to reflect removal of the interest equivalent deficiency payments from the prepayment tracker.

The instant filing reflecting these revisions results in: (1) A (1.58¢) per Dt decrease in the Current Purchased Gas Cost relating to the removal of all estimated costs for deregulated gas and reflection instead of historical costs, and (2) a (0.57¢) per Dt decrease in the Gas Purchase Prepayments tracking adjustment which reflects the removal of the interest equivalent deficiency payments from the prepayments tracking adjustment.

Concurrently with this compliance filing, Trunkline is filing an Application for Rehearing of the Commission's Order dated August 31, 1984. Trunkline is submitting this revised tariff sheet in the instant filing as required by Ordering Paragraphs (B)(1) and (B)(2), without prejudice to Trunkline's claims stated in its Application for Rehearing.

Copies of the filing were served on the Company's jurisdictional Customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Steet, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such petitions or protests should be filed on or before October 12, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26924 Filed 10-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA85-1-50-000 and TA85-1-50-001

Valley Gas Transmission, Inc.; Proposed Changes in FERC Gas Tariff October 4, 1984.

Take notice that on September 28, 1984, Valley Gas Transmission, Inc. (Valley) tendered for filing Twenty-ninth Revised Sheet No. 2A to Original Volume No. 1, and Second Revised Sheet No. 10 to Original Volume No. 2, of its FERC Gas Tariff. Valley states that these tariff changes, which are proposed to become effective on November 1, 1984, are being filed pursuant to the purchased gas cost adjustment provisions of its tariff.

Primarily because of the heavy burden of administrative duties which have been borne by its small staff as a result of a recent change in ownership of the company, Valley requests waiver of the new PGA filing requirements contained in FERC Form No. 542-PGA.

Valley states that it has served copies of this filing on its jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before October 12, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26885 Filed 10-10-84; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OW-R5-FRL-2691-7]

Direct Implementation of the Underground Injection Control Program for the State of Tennessee; Extension of Comment Period

AGENCY: Environmental Protection Agency.

ACTION: Proposed Aquifer Exemption, Notice of Extension of Comment Period.

SUMMARY: The Environmental Protection Agency (EPA) is giving notice that the comment period for the notice of proposed aquifer exemption published July 12, 1984 (49 FR 28453) has been extended to November 2, 1984. The EPA is taking this action because an extension was requested by many citizens and public officials.

DATE: Comments are due on or before November 2, 1984.

ADDRESS: Comments should be sent to Mr. Donald J. Guinyard, Chief, Water Supply Branch, Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, GA 30365.

FOR FURTHER INFORMATION CONTACT: Donald J. Guinyard, Chief, Water Supply Branch, Environmental Protection Agency (404) 881-3866.

The EPA proposed an aquifer exemption for specific portions of the Knox Aquifer System in the State of Tennessee for deep well injection purposes. This notice was published on July 12, 1984 (49 FR 28453), and provided a public comment period until August 20, 1984, and also provided notice of dates for two public hearings on the exemption proposal, i.e., August 7 and August 8, 1984.

The EPA received many requests at the August 8 hearing for extension of the comment period. Extension was granted by the Hearing Officer until September 8, 1984. During the extended comment period, many additional requests for extension of the comment period were received. Based on those requests, EPA is extending the comment period until November 2, 1984. A decision to approve or disapprove the exemption will be made after a complete review of all available information and public comment.

Additional information and descriptions of the proposed exempted portions of the aquifer and their locations is available for review in the EPA Regional Office, 345 Courtland Street, Atlanta, Georgia 30365, (404) 881-3866.

Dated: September 25, 1984.

John A. Little,

Deputy Regional Administrator.

[FR Doc. 84-26811 Filed 10-10-84; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-40011; FRL-2690-1]

Certain New and Revised Test Guidelines; Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that the Office of Toxic Substances (OTS) is making available, through purchase from the National Technical Information Service (NTIS), several new test guidelines and revisions of certain test guidelines that had been published by NTIS in 1983. These guidelines represent a continuing effort to make available the best state-of-the-art methods that can be cited in chemical-specific test rules promulgated under the Toxic Substances Control Act (TSCA).

ADDRESS: Copies of the new and revised OTS Test Guidelines may be obtained by ordering them from: National Technical Information Service, 5282 Port Royal Drive, Springfield, Virginia 22161 (703-487-4650).

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E543, 401 M Street SW., Washington, D.C. 20460, Toll Free: (800-424-9065), In Washington, D.C.: (554-1404), Outside the USA: (Operator 202-554-1404).

SUPPLEMENTARY INFORMATION: A first set of revised and new guidelines was published by NTIS in October 1983. Notice of their availability and requests for comments on them were solicited on September 30, 1983 (48 FR 44698). This announcement includes revisions of some of the original test guidelines that were made in response to public comments as well as new guidelines that were developed as a consequence of recent advances in the state-of-the-art. Support documents for new guidelines and, where feasible, support documents for revised test guidelines are part of the package available through NTIS.

Ordering Information

The new and revised test guidelines are separated into two units, Chemical Fate Tests and Health Effects Tests as follows:

Title	Guideline code	Support document code
Chemical Fate Tests—New Guidelines:		
1. Laboratory Determination of the Direct Photolysis Reaction Quantum Yield in Aqueous Solution and Sunlight Photolysis	CG-1610	CS-1610
2. Partition Coefficient (n Octanol/Water)—Estimation by Liquid Chromatography	CG-1410	CS-1410
Chemical Fate Tests—Major Revision:		
Photolysis in Aqueous Solution in Sunlight	CG-6000	CS-6000
Health Effects Tests—New Guidelines:		
1. Preliminary Development Toxicity Screen.	HG-Organ-Tissue—None, Dev Tox Screen.	
2. Inhalation Developmental Toxicity Study.	HG-Organ/Tissue—None, Dev Tox Inhal.	
3. Developmental Toxicity Study (Formerly Teratogenicity, HG-Organ/Tissue-Terato).	HG-Organ/Tissue—None, Dev Tox.	
Health Effects Tests—Major Revisions:		
1. Dermal Toxicity	HG-Acute-Dermal—None, HG-Acute-Inhal—None, HG-Acute-Oral—None.	
2. Inhalation Toxicity		
3. Oral Toxicity		
4. Gene Mutations		
Salmonella typhimurium	HG-Gene Muta-S.—None, typhimurium.	

Price Information

Since each unit, Health Effects and Chemical Fate, can be ordered separately, please specify when ordering whether you wish to purchase the complete set or one or more units.

Title	Order Code	Price
New and revised Health Effects test guidelines	PB 84-233285	$11.50
New and revised Chemical Fate test guidelines	PB 84-233287	25.00
The original test guidelines may be ordered as follows:		
Complete set of test guidelines	PB 82-232976	95.00
Health Effects test guidelines	PB 82-232984	40.00
Environmental Effects test guidelines	PB 82-232992	60.00
Chemical Fate test guidelines	PB 82-233008	40.00

Dated: September 26, 1984.

Don Clay,

Director, Office of Toxic Substances.

[FR Doc. 84-26830 Filed 10-10-84; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-40012; FRL-2690-2]

Certain New and Revised Test Guidelines for Development of Test Data; Request for Comments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA requests comments on four new test guidelines and six existing test guidelines that had been accorded major revisions as a consequence of comments received after they were previously published by the National Technical Information Service (NTIS). The test guidelines represent a continuing effort to make available the best state-of-the-art methods that can be cited in chemical-specific test rules promulgated under the Toxic Substances Control Act.

DATE: Written comments must be received on or before January 14, 1985.

DATES: Written comments should be sent to: TSCA Public Information Office (TS-793), Office of Toxic Substances, Environmental Protection Agency, Rm. E-108, 401 M St. SW., Washington, D.C. 20460.

Comments should bear the identifying control number [OPTS-40012]. The public record regarding this notice is available in Rm. E-107, at the above address from 8 a.m. to 4 p.m. Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St. SW., Washington, D.C. 20460, Toll Free: (800-424-9065), In Washington, D.C.: (544-1404), Outside the USA: (Operator-202-544-1404).

SUPPLEMENTARY INFORMATION: Elsewhere in today's **Federal Register** is a notice of the availability of new and revised test guidelines that can be purchased from NTIS. These represent the third cycle of the test guideline publication and public review via the process described in the **Federal Register** of September 22, 1982 (47 FR 41857). Comments, due no later than January 14, 1985, should be directed toward the following test guidelines:

1. Laboratory Determination of the Direct Photolysis Reaction Quantum Yield in Aqueous Solution and Sunlight Photolysis (CG 1610 and CS 1610, new guideline and support document respectively).
2. Partition Coefficient (*n*-Octanol/Water)—Estimation by Liquid Chromatography (CG 1410 and CS 1410, new guideline and support document respectively).
3. Photolysis in Aqueous Solution in Sunlight (CG 6000 and CS 6000, major revision of existing guideline and support document respectively).
4. Preliminary Developmental Toxicity Screen (HG-Organ/Tissue Dev Tox Screen, new guideline).
5. Inhalation Developmental Toxicity Study (HG-Organ/Tissue Dev Tox Inhal, new guideline).
6. Developmental Toxicity Study (HG-Organ/Tissue Dev Tox, modification of an existing guideline).
7. Gene Mutations—*Salmonella typhimurium* (HG-Gene Muta-*S. typhimurium*, modification of an existing guideline).
8. Dermal Toxicity (HG-Acute-Dermal, major revision of existing guideline).
9. Inhalation Toxicity (HG-Acute-Inhal, major revision of existing guideline).
10. Oral Toxicity (HG-Acute-Oral, major revision of existing guideline).

The revisions to the guidelines, numbers 8 through 10, constitute an attempt to more clearly articulate OTS's philosophy regarding the need for, and approaches to the determination of acute toxicity of chemical substances. Although few changes have been made in the technical content of these guidelines, the revisions are important additions to foster the development of useful information on potential acute effects of chemicals with a minimum expenditure of animal life.

Dated: September 26, 1984.

Don Clay,

Director, Office of Toxic Substances.

[FR Doc. 84-26831 Filed 10-10-84; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-140052; FRL-2691-4]

ICF, INC., SRI International, and PEDCO Environmental, Inc.; Transfer of Data to Contractor and Subcontractors

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA will transfer to its contractor, ICF, Inc., and its subcontractors, SRI International, and PEDCo Environmental, Inc., information which has been or will be submitted to EPA under sections 4, 5, 6, and 8 of the Toxic Substances Control Act (TSCA). Working under Contract No. 68-02-3976, these firms (either individually or as a team) will review this information and use it to perform analyses of new and existing chemicals. Some of the information to be transferred may contain data claimed to be confidential.

DATE: The transfer of data submitted to EPA and claimed to be confidential will occur no sooner than October 22, 1984.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St., SW., Washington, D.C. 20460, Toll-Free: (800-424-9065), In Washington, D.C.: (554-1404), Outside the USA: (Operator—202-554-1404).

SUPPLEMENTARY INFORMATION: The Office of Toxic Substances (OTS) is responsible for the evaluation of chemical substances under the Toxic Substances Control Act (TSCA). Under section 5 of this Act, EPA may evaluate new (i.e., not listed on the TSCA Inventory of Chemicals) chemical substances for their stated uses, their potential new uses, and the potential risks associated with these new uses. Existing chemicals evaluated under sections 4, 6, and 8 of TSCA may also be evaluated for the potential risks associated with their various uses. In some cases, EPA may develop regulatory controls to protect humans and the environment from injury due to existing and new uses of existing or new chemical substances, or the manufacture or processing of those substances.

In the evaluation process, EPA considers various factors (e.g., exposure levels, engineering controls to control exposure, the uses and substitutes of the various chemicals, toxicity profiles) before deciding to proceed with a regulatory action. When a regulatory action for a specific chemical is warranted and developed, the Agency considers the potential economic impact of the control requirements (e.g., engineering controls or personal protection equipment) and other regulatory options. ICF, Inc., and its subcontractors, SRI International and PEDCo Environmental, Inc., are currently providing support (under Contract No. 68-02-3976) to EPA in performing these technical and economic evaluations in connection with the OTS Existing Chemicals Programs, the Follow-up Program, and the Premanufacture Review Program. The analyses are based on data, such as current exposure levels, manufacturing processes, production levels or sales, and uses and substitutes, that are in the public domain or submitted by chemical manufacturers, processors or users. In some cases, this information is claimed confidential and available for review only to EPA employees and contractors that have been authorized for access to such data. In accordance with 40 CFR

2.306(j), EPA has determined that it will be necessary to transfer to ICF, Inc., and its subcontractors confidential business information submitted to EPA under sections 4, 5, 6, and 8 of TSCA to perform work under the above-noted contract. Since these firms will review information that in some cases is confidential, EPA is issuing this notice to inform all submitters of data under sections 4, 5, 6, and 8 of TSCA that these firms (either individually or working together) may receive from EPA, on a need-to-know basis, confidential business information on specific chemicals that are under review or are subjects of regulatory actions. After completing their economic and technical analyses for a specific chemical, the firms receiving confidential business information will return all such information to EPA.

ICF, Inc., and its subcontractors, SRI International and PEDCo Environmental, Inc., have been given authorization for access to TSCA confidential business information under the EPA "Contractor Requirements for the Control and Security of TSCA Confidential Business Information" manual. EPA has approved the security plans of these three firms and has conducted the required inspections of the contractors' facilities and found them to be in compliance with the provisions of the manual. In accordance with the "TSCA Confidential Business Information Security Manual" and the Contractor Requirements manual, personnel from these three firms will be briefed on appropriate security procedures and will be required to sign a non-disclosure agreement before they are permitted access to confidential information.

Dated: September 26, 1984.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 84-26832 Filed 10-10-84; 8:45 am]

BILLING CODE 6560-50-M

[FRL #2691-1]

Pesticide Emergency Exemption Rulemaking Advisory Committee; Meeting

As required by the Federal Advisory Committee Act (Pub. L. 94-463), we are giving notice of the next meeting of the Pesticide Emergency Exemption Rulemaking Advisory Committee.

It will be held in Arlington, Virginia, on Friday, October 26th, from 9:00 a.m. to 3:30 p.m., in Room 1112 of Crystal Mall Building #2. The purpose of the meeting is to begin to fashion consensus on the issues identified by the Committee for resolution.

If interested in attending, or in receiving more information, please contact Chris Kirtz at (202) 382-7565.

Milton Russell,

Assistant Administrator for Policy, Planning and Evaluation.

[FR Doc. 84-26828 Filed 10-10-84; 8:45 am]

BILLING CODE 6560-50-M

FARM CREDIT ADMINISTRATION

[Farm Credit Administration Order No. 849; Revocation of FCA Order No. 843]

Authority Delegations; Officers To Act as Governor

The Governor of the Farm Credit Administration has issued Order No. 849 authorizing certain officers of the Farm Credit Administration to act as Governor in the event the Governor is absent or unable to perform the duties of the office. The text of the Order is as follows:

1. In the event that the Governor of the Farm Credit Administration is absent or is not able to perform the duties of the office for any other reason, the officer of the Farm Credit Administration who is the highest on the following list and who is available to act is hereby authorized to exercise and perform all functions, powers, authority, and duties pertaining to the Office of Governor of the Farm Credit Administration:

(a) Senior Deputy Governor;

(b) Deputy Governor and Chief of Staff;

(c) Deputy Governor, Office of Examination and Supervision and Chief Examiner;

(d) Deputy Governor, Office of Administration;

(e) General Counsel;

(f) Any other officer of the Farm Credit Administration designated by the Governor.

2. This Order shall be effective on October 1, 1984, and supersedes Farm Credit Administration Order No. 843 dated May 26, 1983 (48 FR 23906, 5/27/83).

Donald E. Wilkinson,

Governor.

[FR Doc. 84-26856 Filed 10-10-84; 8:45 am]

BILLING CODE 6705-01-M

FEDERAL HOME LOAN BANK BOARD

[84-556]

Application To Amend Association Charter

Dated: October 5, 1984.

AGENCY: Federal Home Loan Bank Board.

ACTION: Notice.

The public is advised that the Federal Home Loan Bank Board has submitted a request for extension without revision, of its information collection request, "Application to Amend Association Charter", to the Office of Management and Budget for approval in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Board has asked OMB for expedited approval of the collection of information. It also has indicated that it will defer implementation of a portion of an approved sample monthly survey until the end of requested extension period for the existing monthly report. Comments on the proposal should be directed promptly to: Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, D.C. 20503. Attention: Desk Officer for the Federal Home Loan Bank Board.

The Board would appreciate commenters sending copies of their comments to the Board.

Requests for copies of the proposed information collection request and supporting documentation are obtainable at the Board address given below: Director, Information Services Section, Office of Secretariat, Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C. 20552, Phone: 202-377-6933.

FOR FURTHER INFORMATION CONTACT: Kathleen O'Dea, Office of District Banks—Phone: 202-377-6789.

By the Federal Home Loan Bank Board.

J.J. Finn,

Secretary.

[FR Doc. 84-26847 Filed 10-10-84; 8:45 am]

BILLING CODE 6720-01-M

[84-554]

Application To Amend Association Bylaws

Dated: October 5, 1984.

AGENCY: Federal Home Loan Bank Board.

ACTION: Notice.

The public is advised that the Federal Home Loan Bank Board has submitted a

request for extension, without revision, of its information collection request, "Application to Amend Association Bylaws" to the Office of Management and Budget for approval in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Comments on the information collection request are welcome and should be directed to: Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, D.C. 20503. Attention: Desk Officer for the Federal Home Loan Bank Board.

The Board would appreciate commenters sending copies of their comments to the Board.

Requests for copies of the proposed information collection request and supporting documentation are obtainable at the Board address given below: Director, Information Services Section, Office of Secretariat, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552. Phone: 202–377–6933.

FOR FURTHER INFORMATION CONTACT: Kathleen V. O'Dea, Office of District Banks, Phone: 202–377–6789.

By the Federal Home Loan Bank Board

J.J. Finn,

Secretary.

[FR Doc. 84-26845 Filed 10-10-84; 8:45 am]

BILLING CODE 6720-01-M

[84-555]

Request for Service Corporation Activity

October 5, 1984.

AGENCY: Federal Home Loan Bank Board.

ACTION: Notice.

The public is advised that the Federal Home Loan Bank Board has submitted a request for extension, without revision, of its information collection request, "Request for Service Corporation Activity", to the Office of Management and Budget for approval in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Board has asked OMB for expedited approval of the collection of information. It also has indicated that it will defer implementation of a portion of an approved sample monthly survey until the end of requested extension period for the existing monthly report. Comments on the proposal should be directed promptly to: Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, D.C. 20503. Attention: Desk Officer for the Federal Home Loan Bank Board.

The Board would appreciate commenters sending copies of their comments to the Board.

Requests for copies of the proposed information collection request and supporting documentation are obtainable at the Board address given below: Director, Information Services Section, Office of Secretariat, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552. Phone: 202–377–6933.

FOR FURTHER INFORMATION CONTACT: Kathleen V. O'Dea, Office of District Banks, Phone: 202–377–6789.

By the Federal Home Loan Bank Board.

J.J. Finn,

Secretary.

[FR Doc. 84-26846 Filed 10-10-84; 8:45 am]

BILLING CODE 6720-01-M

[84-553]

Public Information Request

October 5, 1984.

AGENCY: Federal Home Loan Bank Board.

ACTION: Notice.

The public is advised that the Federal Home Loan Bank Board has submitted a request for extension without revision, of its information collection request, "Public Information Requests", to the Office of Management and Budget for approval in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Board has asked OMB for expedited approval of the collection of information. It also has indicated that it will defer implementation of a portion of an approved sample monthly survey until the end of requested extension period for the existing monthly report. Comments of the proposal should be directed promptly to: Office of the Management and Budget, Office of Information and Regulatory Affairs, Washington, D.C. 20503. Attention: Desk Officer for the Federal Home Loan Bank Board.

The Board would appreciate commenters sending copies of their comments to the Board.

Requests for copies of the proposed information collection request and supporting documentation are obtainable at the Board address given below: Director, Information Services Section, Office of Secretariat, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552. Phone: 202–377–6933.

FOR FURTHER INFORMATION CONTACT: Roberta White, Office of Secretariat, Phone: 202–377–6933.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 84-26844 Filed 10-10-84; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

[No. 84-33]

Section 19 Inquiry; United States/Argentina and United States/Brazil Trades; Procedural Order

October 5, 1984.

The purpose of this proceeding is to determine whether conditions unfavorable to shipping within the meaning of section 19(1)(b) of the Merchant Marine Act, 1920, exist in the U.S./Argentine trade and the U.S/Brazil trade. In its Order of Investigation, the Commission vested in me the discretion of fashion a procedure most appropriate to the achievement of the purposes of the proceeding. This order establishes those procedures.

Past experience makes it probable that any remedy found necessary or appropriate as a result of this proceeding will take the form of rules or regulations. Therefore, the basic concept embodied in the procedures adopted herein is that of rulemaking, and an evidentiary or trial type hearing will not be held unless circumstances render one necessary (not desirable but necessary). The first phase of the proceeding is restricted to the filing of written statements of fact and memoranda of law by those persons whose position is that conditions unfavorable to shipping do exist and replies to those statements and memoranda by those persons who are of the opposite view.

The proponent's statement of fact shall be restricted to those facts which it is urged create conditions unfavorable to shipping and the accompanying memorandum shall clearly define the condition created by the facts and set forth the reasons why those conditions are proscribed by section 19. Finally, the proponent shall also set forth a proposed remedy for the conditions said to exist. The respondent's statement of fact shall be restricted to only those facts which specifically refute or nullify the facts set forth in a proponent's statement. If a respondent deems it necessary to include other facts, each such fact shall be accompanied by an explanation of their relevance to the basic issue or purpose of this

proceeding. The memorandum accompanying the statement shall address the specific arguments made by the proponents. All statements of fact, whether filed by a proponent or respondent, shall be accompanied by the name of a person who is competent to testify on the matters covered by the statement and who will be available for the purpose of cross-examination at the hearing scheduled below if it become necessary.

Repondents' request for a hearing shall accompany their statement of fact. Requests by a respondent for an evidentiary hearing will be granted only upon a clear showing by a respondent that there is a genuinely disputed issue of fact and that the dispute is over a fact relied upon by one or more of the proponents to establish a condition or conditions unfavorable to shipping within the meaning of section 19(1)(b). Provision for requests by proponents for a hearing is made in the schedule below. A proponent's request will be granted only if it is based upon a genuine issue of fact which concerns a respondent's assertion of fact which refutes or nullifies a factural assertion upon which the proponent relies.

The Commission's Order of Investigation herein provides for the filing of petitions for leave to participate in the proceeding. In view of the Commission's direction that the initial decision be issued by April 4, 1985, I am dispensing with the requirement that participation in the proceeding must await the filing of a petition and an order granting the petition. Any person desiring to participate in the case may do so by filing a notice of intent to participate with the Secretary, Federal Maritime Commission, Washington, D.C. 20573, by October 19, 1984, and then by simply following the schedule set forth below. For the pruposes of this proceeding, all persons who are urging that conditions unfavorable to shipping do exist in either of the trades under investigation are deemed proponents of a remedy and will be designated proponents in all future pleadings and orders. All persons who argue that such conditions do not exist are designated respondents.

1. Proponent's Statement of Fact and Memorandum of Law shall be filed by November 19, 1984.[1]

2. Respondent's Statement of Fact and Memorandum of Law shall be filed by December 7, 1984.

3. Requests for hearing for the purposes of cross-examination shall be filed by December 14, 1984.

4. Hearing—If a hearing is required, it will be held on December 19, 1984.

5. (a) If a hearing is held, a schedule for the filing of briefs, etc., will be established at the close of the hearing.

(b) Finally submissions—If no hearing is held, all parties shall submit a final memorandum of argument by February 15, 1985.

Service lists will be maintained in both the Office of the Secretary and the Office of Administrative Law Judges. It is the responsibility of all parties to make service of all pleadings and papers on everyone on the service list.

John E. Cograve,

Administrative Law Judge.

[FR Doc. 84-26809 Filed 10-10-84; 8:45 am]

BILLING CODE 6730-01-M

[1] Hearing Counsel may file its statement and memorandum with either proponents or respondents. If Hearing Counsel wishes me to issue any orders under section 15 of the Shipping Act, 1984, the request must be filed by October 19, 1984.

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 217–009718–010.

Title: Kawasaki Kisen Kaisha and Mitsui O.S.K. Lines/Japan Line and Yamashita-Shinnihon Space Charter Agreement.

Parties: Kawasaki Kisen Kaisha, Ltd., Japan Line, Ltd., Mitsui O.S.K. Lines, Ltd., Yamashita-Shinnihon Steamship Co., Ltd.

Synopsis: The proposed amendment would permit operations by the parties under the terms of the agreement during a transitional period prior to the effectiveness of two newly filed chartering agreements involving the parties.

Agreement No.: 217–010651.

Title: Seal-Land Service, Inc./Hapag Lloyd AG Transpacific Reciprocal Space Charter and Sailing Agreement.

Parties: Seal-Land Service, Inc., Hapag Lloyd AG.

Synopsis: The proposed amendment would permit the parties to charter space on each other's vessels operating in the trade and rationalize their sailings between the ports of Long Beach, Oakland and Seattle on the one hand and the ports of Hong Kong, Kaohsiung, Kobe and Yokohama on the other.

Agreement No.: 217–010652.

Title: Kawasaki Kisen Kaisha, Ltd. and Mitsui O.S.K. Lines, Ltd. Slot Purchase Agreement in the Far East-U.S. Pacific Coast Trades (Exclusive of Japan).

Parties: Kawasaki Kisen Kaisha, Ltd. (K Lines), Mitsui O.S.K. Lines, Ltd. (Mitsui).

Synopsis: The proposed amendment would permit Mitsui to charter space for up to 9,900 TEU's per annum on vessels operated by K Lines in the trades.

Agreement No.: 223–010653.

Title: Long Beach, Oakland, Seattle Terminal Services Agreement.

Parties: Sea-Land Service, Inc. (Sea-Land), Hapag-Lloyd Transpacific Service (HLTPS).

Synopsis: Under Agreement No. 223–010653, Sea-Land will provide terminal services to HLTPS in the transpacific trade between the ports of Long Beach, and Oakland, Seattle, on the one hand, and the ports of Hong Kong, Kaoshiung, Kobe and Yokohama, on the other.

Agreement No.: 213–010654.

Title: Japan Line, Ltd. and Yamashita-Shinnihon Steamship Co., Ltd. Space Charter and Sailing Agreement in the Far East-California Trades.

Parties: Japan Line, Ltd., Yamashita-Shinnihon Steamship Co., Ltd.

Synopsis: The proposed agreement would permit the parties to rationalize individual containership services through space chartering and vessel coordination with direct vessel service (and service via transshipment) in the Far East-California trades.

Agreement No.: 213–010655.

Title: Kawasaki Kisen Kaisha, Ltd. and Mitsui O.S.K. Lines, Ltd. Space Chartering and Sailing Agreement in the Far East-California Trades.

Parties: Kawasaki Kisen Kaisha, Ltd. and Mitsui O.S.K. Lines, Ltd.

Synopsis: The proposed agreement would permit the parties to rationalize individual containership services through space chartering and vessel coordination with direct vessel service (and service via transshipment) in the Far East-California trades.

By Order of the Federal Maritime Commission.

Dated: October 5, 1984.

Francis C. Hurney,

Secretary.

[FR Doc. 84-25864 Filed 10-10-84; 8:45 am]

BILLING CODE 6730-01-M

Euro-Con International, Inc. and Transmarcon (USA), Inc.; Ocean Freight Forwarder License; Revocations

Notice is hereby given that the following ocean freight forwarder licenses have been revoked by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR Part 510.

License No., name and address, and date revoked

1865—Euro-Con International, Inc., 3169 Norbrook Drive, Memphis, TN 38116; October 2, 1984

2289—Transmarcon (USA) Inc., 3D International Tower, Suite 1170, 1900 West Loop South, Houston, TX 77027; September 20, 1984

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 84-26872 Filed 10-10-84; 8:45 am]

BILLING CODE 6730-01-M

Mercury International, Inc., et al.; Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act, 1984 (46 U.S.C. app. 1718 and 46 CFR Part 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Tariffs, Federal Maritime Commission, Washington, D.C. 20573.

Mercury International, Incorporated, d.b.a. Mercury International, Inc., 16402 Lee Road, Humble, TX 77396. Officers: Robert Allen Condit, President/Director; Joan M. Condit, Secretary/Treasurer/Director

Maria Theresa V. Ilagan, 4-09 121st Street, College Point, NY 11356

Rudolph Miles & Sons, Incorporated, 4950 Gateway East, El Paso, TX 79905. Officers: Daniel A. Miles, President/Director; Rudolph M. Miles, Vice President/Director; Michael M. Miles Executive Vice President/Director; Edgar P. Miles, Secretary/Treasurer/Director

Yung Chul Kim, 100 Oceangate, Suite 620, Long Beach, CA 90802

Dated: October 5, 1984

Francis C. Hurney,

Secretary.

[FR Doc. 84-26871 Filed 10-10-84; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

First Railroad & Banking Co. of Georgia, et al.; Acquisition of Company Engaged in Permissible Nonbanking Activities.

The organization listed in this notice has applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23 (a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflict of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank incidated or the offices of the Board of Governors not later than October 25, 1984.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *First Railroad & Banking Company of Georgia*, Augusta, Georgia, through its wholly owned subsidiary *CMC Group, Inc.*, Charlotte, North Carolina; to acquire EZ Loan Company, Inc., Chattanooga, Tennessee and thereby engage in making consumer installment loans secured by note, household goods and first and second mortgages on real estate up to $15,000; purchase installment sales contracts up to $3,500; sales of credit life, accident and health and property insurance in connection with credit transactions; and sale of American Express Money Orders. Applicant asserts sale of credit property insurance is permissible under section 601(D) of the Garn-St. Germain Depository Institutions Act of 1982, as CMC Group was engaged in such insurance activities at the time of its acquisition by Applicant in 1979.

Board of Governors of the Federal Reserve System, October 4, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-26779 Filed 10-10-84; 8:45 am]

BILLING CODE 6210-01-M

Indiana National Corp.; Correction

This notice corrects a previous **Federal Register** document (FR Doc. No. 84-26034), published at page 38990 of the issue for Tuesday, October 2, 1984. In addition to the previously listed activities, Indian National Corporation, Indianapolis, Indiana also proposes to engage *de novo* through its subsidiary, Indiana Mortgage Corporation, Indianapolis, Indiana, in the activity of arranging commercial real estate equity financing.

Board of Governors of the Federal Reserve System, October 4 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-26780 Filed 10-10-84; 8:45 am]

BILLING CODE 6210-01-M

Montgomery Bancorp, et al.; Applications To Engage De Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking

activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 30, 1984.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Montgomery Bancorp,* Troy, North Carolina; to engage *de novo* through its subsidiary, Montgomery Data Services, Troy, North Carolina, in data processing and data transmission services to other financial institutions. Comments on this application must be received not later than October 24, 1984.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Republic Banking Corporation of Florida,* Miami, Florida; to engage *de novo* through its subsidiary, Rebank Mortgage Corporation, Miami, Florida, in arranging mortgage financing, acting as a mortgage broker, servicing mortgage loans, and extending mortgage credit.

Board of Governors of the Federal Reserve System, October 4, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-26781 Filed 10-10-84; 8:45 am]

BILLING CODE 6210-01-M

Ocean National Corp., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be availabe for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than November 1, 1984.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Ocean National Corporation,* Kennebunk, Maine; to become a bank holding company by acquiring 100 percent of the voting shares of The Ocean National Bank of Kennebunk, Kennebunk, Maine.

B. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Cortland Bancorp.,* Cortland, Ohio; to become bank holding company by acquiring 100 percent of the voting shares of Cortland Savings & Banking Company, Cortland, Ohio.

C. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Bank Corporation of Georgia,* Fort Valley, Georgia; to acquire 95.23 percent of the voting shares of Peoples Bank, St. Marys, Georgia.

2. *Barnett Banks of Florida,* Jacksonville, Florida; to acquire 100 percent of the voting shares of Barnett Bank of St. Augustine, St. Augustine, Florida.

3. *Southern Bank Corp., Inc.,* Tallahassee, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of The Southern Bank of Tallahassee, Tallahassee, Florida.

D. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *First Midwest Bancshares, Inc.,* Princeton, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of First Bank of Trust Co. of Princeton, Kentucky, Princeton, Kentucky.

2. *P.H. Bancorporation, Inc.,* Pleasant Hope, Missouri; to become a bank holding company by acquiring 80 percent or more of the voting shares of Pleasant Hope Bancshares, Inc., Pleasant Hope, Missouri, thereby indirectly acquiring The Pleasant Hope Bank, Pleasant Hope, Missouri.

E. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Towner County Financial Corporation,* Cando, North Dakota; to become a bank holding company by acquiring 100 percent of the voting shares of Towner County State Bank, Cando, North Dakota.

F. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Financial Services of the Rockies, Inc.,* Colorado Springs, Colorado; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of the Rockies, N.A., Colorado Springs, Colorado.

G. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Tricorp, Inc.,* San Antonio, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Trinity National Bank, San Antonio, Texas.

H. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Citizens Western Corporation,* San Diego, California; to become a bank holding company by acquiring 100 percent of the voting shares of Citizens Western Bank, San Diego, California.

2. *SafraBan Corporation California,* Los Angeles, California; to become a bank holding company by acquiring 100 percent of the voting shares of SafraBank (California), Los Angeles, California.

Board of Governors of the Federal Reserve System, October 4, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-26782 Filed 10-10-84; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Exception to Regulations To Permit the Use of Travel Warrants by the Selective Service System

AGENCY: Office of Transportation Audits, GSA.

ACTION: Notice.

SUMMARY: This exception authorizes the Selective Service System to utilize travel warrants in time of national emergency. Under the provision of 41 CFR 101-41.003, the Selective Service System is granted an exception to the use of Government Transportation Requests (SF 1169) for the purchase of Government Transportation.

This exception is subject to the following conditions:

(a) All official travel shall be purchased in accordance with 41 CFR 101-41.203 except for the movement of individuals who, in time of national emergency, are ordered to report for induction into the armed forces.

(b) Excepted travel (para. (a)) may be purchased through the use of a Selective Service System National Emergency Travel Warrant.

(c) Documentation, payment and audit of Travel Warrants will be governed by policies and procedures contained in the Federal Propetry Management Regulations (41 CFR) 101-41.

(d) Travel Warrants must contain, as a minimum, the following information: Origin and destination city and state, traveler's name, carrier's name, serial number for both the Travel Warrant and applicable ticket, ticket issue date, carrier agent validation, and ticket value.

(e) Each Travel Warrant must contain statements as to the penalty for fraudulent or private use, that expired or altered Travel Warrants should not be honored and that they are nontransferable.

Effective date. This exception is effective immediately.

Expiration date. This document expires on January 1, 1988.

Dated: September 14, 1984.

Raymond A. Fontaine,

Comptroller.

[FR Doc. 84-26837 Filed 10-10-84; 8:45 am]

BILLING CODE 6820-AM-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Availability; Final Resources Management Plan; Hollister Planning Area, et al., CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: Notice is hereby given of the availability of the Final Resource Management Plan (RMP) and Record of Decision (ROD) for 328,378 acres of BLM-administered public lands within the Hollister Planning Area, encompassing Fresno, San Benito, Monterey, Madera, Merced, Stanislaus, Santa Clara, San Joaquin, Alameda, Contra Costa, San Mateo, and Santa Cruz counties in California.

SUPPLEMENTARY INFORMATION: The issues and concerns addressed in the RMP are (1) livestock grazing; (2) oil, gas, and minerals; (3) fire management; (4) recreation (including access to public lands); (5) land tenure adjustments; (disposal, lease, and/or exchange of public lands); (6) sensitive, rare, threatened or endangered species; (7) soil, air, and water (watershed); (8) wildlife habitat; (9) cultural resources; and (10) visual resources.

The Final Plan concerns multiple-use management on 328-378 acres of BLM-administered public lands in 16 Management Areas.

1. *Livestock Grazing*—Limit livestock forage allocations to suitable and potentially suitable areas only. Develop seven new Allotment Management Plans; improve forage conditions through prescribed burning on 22,400 acres.

2. *Oil, Gas, and Minerals*—Reduce mineral segregations to 7,749 acres in the Squaw Leap Area, Clear Creek Canyon, Pinnacles Watershed, and San Benito Mountain Natural Area. The remainder of the Planning Area (320,629 acres) would remain open to mineral entry. Designate the Panoche Hills Area (18,000 acres) as an Area of Critical Environmental Concern for protection of paleontological resources.

3. *Fire Management*—Reduce wildfire hazard by prescribed burning of 78,000 acres.

4. *Recreation*—Provide recreation opportunities on 175,000 acres, including the Clear Creek-Condon Peak, Ciervo Hills-Joaquin Rocks, Sierra de Salinas, Ortigalita Peak, Pinnacles, and Tumey Hills areas.

5. *Land Tenure*—Dispose of several hundred parcels ranging from 2 to 600 acres each, and totalling 15,108 acres; consolidate major public land holdings through exchange.

6. *Sensitive, Rare, Threatened, or Endangered Species*—Designate two Areas of Critical Environmental Concern: the Panoche Hills and Coalinga areas (12,500 acres) for endangered animals, and the Clear Creek Area (30,000 acres) for sensitive and unique plants.

7. *Soil, Air, and Water*—Designate the Clear Creek Area (30,000 acres) as an Area of Critical Environmental Concern for asbestos hazards, critical watershed concerns, unique soils, and hobby gem and mineral values.

8. *Wildlife Habitat*—Develop four new Habitat Management Plans for Coalinga Mineral Springs, New Idria, Williams Hill, and Sierra de Salinas areas; manage for uneven-aged brushfields on 25,000 acres through prescribed burning.

9. *Cultural Resources*—Develop five new Cultural Resource Management Plans for the White Creek District, Ciervo Hills/Cantua Creek Area, Mine Mountain, Fresno River, and Squaw Leap areas.

10. *Visual Resources*—Protection of visual resources would be increased in the Sierra de Salinas Area, Ventana Wilderness Viewshed, and the Monterey County portion of the Pinnacles Management Area.

The RMP is now in effect and will be used to guide future land use decisions within the Hollister Planning Area. The RMP is the culmination of two years of intensive work by the Hollister Resource Area Staff and is based on information from the Bureau of Land Management and other sources, including Federal, State, and local agencies, and interested private organizations and citizens who also put considerable time and effort into this plan.

FOR FURTHER INFORMATION CONTACT: David E. Howell, Hollister Resource Area Manger, P.O. Box 365, Hollister, California 95024-0365; (408) 637-8183.

Copies of the RMP are available for review at the following BLM offices and public libraries:

U.S. Bureau of Land Management, Hollister Resource Area Office, P.O. Box 365, Hollister, California 95024-0365, (408) 637-8183

U.S. Bureau of Land Management, Bakersfield District Office, 800

Truxtun Avenue, Room 311, Bakersfield, California 93301, (805) 861–4191
San Jose City Library, Main Branch, 180 West San Carlos, San Jose, California 95113, (408) 277–4000
Fresno County Library, 2420 Mariposa, Fresno, California 93703, (209) 488–3191
King City Public Library, 212 South Vanderhurst Avenue, King City, California 93930, (408) 385–3677
John Steinbeck Library, 110 West San Luis, Salinas, California 93901, (408) 758–7311
Coalinga District Library, 305 North 4th, Coalainga, California 93210, (209) 935–1676

Because of printing costs, copies of the complete RMP/ROD will be sent only to directly affected local organizations, agencies, and individuals. Detailed summaries will be sent to all persons who have expressed an interest in the Hollister planning process. Copies are available upon request to the Hollister Resource Area Manager.

Dated: October 2, 1984.

Robert D. Rheiner, Jr.,

District Manager.

[FR Doc. 84–26796 Filed 10–10–84; 8:45 am]

BILLING CODE 4310–40–M

[AA–6653–B]

Alaska Native Claims Selection; Chitina Native Corp.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance (DIC) under the provisions of section 12(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1611, will be issued to Chitina Native Corporation, for approximately 3,180 acres. The lands involved are within T. 3 S., R. 6 E., Copper River Meridian, Alaska:

Upon issuance, the DIC will be published once a week, for four (4) consecutive weeks, in the Copper Valley News. For information on how to obtain copies, contact the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest which is adversely affected by the decision shall have until November 13, 1984, to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements in 43 CFR Part 4, Subpart E (1983) (as amended, 49 FR 6371, February 21, 1984) shall be deemed to have waived their rights.

Ruth Stockie,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 84–26813 Filed 10–10–84; 8:45 am]

BILLING CODE 4310–JA–M

[F–21901–52 [1]]

Alaska Native Claims Selection; Doyon Limited

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that the decision to issue conveyance (DIC) to Doyon, Limited, notice of which was published in the **Federal Register** (49 FR 32805–32806) on August 16, 1984, is modified by amending easements EIN 12 C5, D9 and EIN 13 C5, D1, D9.

Upon issuance, the modified DIC will be published once a week, for four (4) consecutive weeks, in the Tundra Times. Copies of the modified DIC can be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest which is adversely affected by the decision shall have until November 13, 1984, to file an appeal on the issue in the modified DIC. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements in 43 CFR Part 4, Subpart E (1983) (as amended, 49 FR 6371, February 21, 1984) shall be deemed to have waived their rights.

Except as modified, the decision, notice of which was given August 16, 1984, is final.

Helen Burleson,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 84–26814 Filed 10–10–84; 8:45 am]

BILLING CODE 4310–JA–M

Cedar City District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Pub. L. 92–463 that a meeting of the Cedar City District Grazing Advisory Board will be held on Monday and Tuesday, November 5–6, 1984. The meeting will begin at 9:30 a.m. in the Bureau of Land Management Cedar City District Office located at 1579 North Main Street, Cedar City, Utah.

A brief meeting will be held in the District Office to hear public comments and to discuss the location and route of the range tour. The remainder of the two day meeting will be a field tour in the Beaver River Resource Area to view and evaluate (1) critical wildlife habitat (2) proposed range improvement projects for FY–85 and (3) allotments where future AMPs are proposed. Those planning to accompany the field tour will need to provide their own meals and lodging.

Grazing Advisory Board meetings are open to the public. Interested persons may make oral statements or file written statements for the Board's consideration. Oral statements will be received at 9:30 a.m. Anyone wising to make an oral statement must notify the District Manager, Bureau of Land Management, 1579 North Main Street, Cedar City, Utah, 84720, (801) 586–2401, by October 21, 1984. Depending on the number of persons wishing to make statements, a per person time limit may be established by the District Manager.

Summary minutes of the Board meetings will be maintained in the District Office and be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Dated: October 2, 1984.

Morgan S. Jensen,

District Manager.

[FR Doc. 84–26800 Filed 10–10–84; 8:45 am]

BILLING CODE 4310–DQ–M

Fish and Wildlife Service

Endangered Species Permits Issued for the Months of July, August, September 1984

Notice is hereby given that the U.S. Fish and Wildlife Service has taken the following action with regard to permit applications duly received according to section 10 of the Endangered Species Act of 1973, as amended, 16 U.S.C. 1539. Each permit listed as issued was granted only after it was determined that it was applied for in good faith, that by granting the permit it will not be to the disadvantage of the endangered species; and that it will be consistent with the purposes and policy set forth in the Endangered Species Act of 1973, as amended.

[1] F–21901–54 F–21901–55 F–21901–76 F–21901–80 F–21901–81 F–21901–84 F–21901–89 F–21901–00 F–21901–03

Additional information on these permit actions may be requested by contacting the Federal Wildlife Permit Office, Box 3654, Arlington, VA 22203, telephone (703/235–1903) or by appearing in person at the Federal Wildlife Permit Office, 1000 N. Glebe Road, Room 605, Arlington, VA, between the hours of 9:00 a.m. and 3:00 p.m. weekdays.

July 1984

Florida State Museum, X5485AB, July 2
Leonard A. Freed, X0747AB, July 2
Weston Howland, X4470BL, July 2
Paul C. Hammond & David C. McCorkle, X5985AB, July 9
Rare Feline Breeding Center, X152394, July 11
New York Zoological Society, X560318, July 16
State of Alabama Highway Dept., X0904AB, July 17
International Animal Exchange, X152990, July 20
Atlanta Zoological Park, X0671AB, July 23
Baltimore Zoo, X9904BL, July 23
International Animal Exchange, X9670BL, July 23
International Animal Exchange, X6117AB, July 23
International Animal Exchange, X6102AB, July 23
International Animal Exchange, X6118AB, July 23
International Animal Exchange, X0326AB, July 27
National Zoological Park, X5934AB, July 31
Ivan Barac, X5599AB, July 31

August 1984

New York Zoological Society, X1051BM, August 1
Ralph V. Smith, X152604, August 2
Burnett Park Zoo, X0573BM, August 6
Hogle Zoological Gardens, X9415BL, August 6
International Animal Exchange, X152592, August 6
R.T. Dunham, X1280BM, August 13
Zoological Society of Philadelphia, X0304BM, August 14
Lincoln Park Zoological Gardens, X9550BL, August 15
Lincoln Park Zoological Gardens, X9552BL, August 15
Robert G. Travnicek, X107506, August 17
Arizona-Sonora Desert Museum, X2075BM, August 24
Sea World, Inc., X4731BM, August 28
Virgil Brack, X9398BL, August 29

September 1984

Matsushima Aquarium, X2248BM, September 4
Sunshine International Aquarium, X2250BM, September 4
Regional Director—Region 5, X3419BM, September 14
Louis Gaker, X2898BM, September 14
Florida Power & Light Co., X2648BM, September 14
Detroit Zoological Park, X2956BM, September 17
Detroit Zoological Park, X2794BM, September 17
David Morafka/Dept. of Biology, California State University, X1281BM, September 21
New York Zoological Society, X584449, September 24
Duke University Primate Center, X1624BM, September 26

Dated: October 5, 1984

Larry La Rochelle,

Acting Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 84-26867 Filed 10-10-84; 8:45 am]

BILLING CODE 4310-55-M

Endangered Species; Receipt of Applications for Permit

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

Applicant: Joe Hedrick, Nickerson, KS; PRT 683092

The applicant requests a permit to purchase in interstate commerce one female Asian elephant (*Elephas maximus*) from John Cuneo Hawthorn Circus, Grayslake, IL. The elephant is surplus to the needs of Mr. Cuneo and the transfer is necessary to relieve crowding in order to enhance propagation.

Applicant: Natural Gardens, Oak Ridge, TN; PRT 682684

The applicant requests a permit to sell in interstate commerce artificially propagated specimens of the Tennessee purple coneflower (*Echinacea tennessensis*) for enhancement of propagation.

Applicant: Reuben Dennis Bryant, Nashville, TN; PRT 683151

The applicant requests a permit to sell in interstate commerce and export artificially propagated specimens of the Tennessee purple coneflower (*Echinacea Tennessensis*) for enhancement of propagation.

Applicant: Duke University Primate Center, Durham, NC; PRT 683107

The applicant requests a permit to import one wild caught female black lemur (*Lemur macaco*) from Prof. Yves Rumpler, Universite Louis Pasteur Strasbourg, Cedex, France, for enhancement of propagation.

Applicant: Duke University Primate Center, Durham, NC; PRT 683108

The applicant requests a permit to import two captive-born male white fronted lemurs (*Lemur fulvus albifrons*) from Parc Zoologique et Botanique, Ville de Mulhouse, Mulhouse, France for enhancement of propagation.

Applicant: George Miksch Sutton Avian Research Center Inc., Bartlesville, OK; PRT 683271

The applicant requests a permit to collect eggs from bald eagle (*Haliaeetus leucocephalus*) nests in Fl. Eggs will be incubated and nestlings will be banded, marked and released for scientific research and enhancement of propagation.

Applicant: Northland Wildlife, Bovey, MN; PRT 684068

The applicant requests a permit to import one male and two female captive-born ruffed lemurs (*Lemur variegatus*) from Assiniboine Park Zoo, Winnipeg, Manitoba, Canada for enhancement of propagation.

Applicant: C.B. Robertson, Richmond, VA, PRT 683326

The applicant requests a permit to import one bontebok (*Damaliscus dorcas dorcas*) trophy culled from the herd of Theo Erasmus, Orange Free State, South Africa, for the purpose of enhancement of propagation and survival of the species.

Applicant: Lincoln Park Zoo, Chicago, IL; PRT 684070

The applicant requests a permit to import frozen semen samples of captive-born Asian lions (*Panthera leo persica*) from India for enhancement of propagation and scientific research.

Applicant: New York Zoological Society, Bronx, NY APP# 5721BM

The applicant requests a permit to reimport one St. Vincent parrot (*Amazona guildingii*) from Jersy Wildlife Preservation Trust, Channel Island, United Kingdom for the purpose of enhancement of propagation.

Applicant: William Green Koller, York, PA; APP# 5716BM

The applicant requests a permit to import one bontebok (*Damaliscus dorcas dorcas*) trophy culled from the captive herd of Francis Bowker, Grahamstown, South Africa for the purpose of enhancement of propagation.

Applicant: New York Zoological Society, Bronx, NY; APP# 5719BM

The applicant requests a permit to import six captive-born white-naped cranes (*Grus vipio*) from Vogelpark Walsrode, West Germany, for enhancement of propagation.

Applicant: Charles K. Maretzky, Dallas, TX; APP# 5710BM

The applicant requests a permit to import one bontebok (*Damaliscus dorcas dorcas*) trophy culled from the herd of V.L. Pringle, Bedford, South Africa for the purpose of enhancement of propagation.

Applicant: Miami Metrozoo, Miami, FL; APP# 5707BM

The applicant requests a permit to export one female spider monkey (*Ateles geoffroyi panamenisis*) to Dierenpark Wassenaar, the Netherlands, for enhancement of propagation.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 am to 4:15 pm) Room 601, 1000 North Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service, P.O. Box 3654, Arlington, Virginia 22203.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriated PRT/APP number when submitting comments.

Dated: October 5, 1984.

Larry LaRochelle,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 84-26868 Filed 10-10-84; 8:45 am]

BILLING CODE 4310-55-

Minerals Management Service

Outer Continental Shelf; Development Operations Coordination Document; Gulf Oil Exploration and Production Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Gulf Oil Exploration and Production Company has submitted a DOCD describing the activities it proposes to conduct on Leases OCS 0419 and 0420, Blocks 150 and 154, Ship Shoal Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Morgan City, Louisiana.

DATE: The subject DOCD was deemed submitted on October 1, 1984. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the DOCD from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, *Attention OCS Plans*, Post Office Box 44396, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838-0875.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: October 1, 1984.

John L. Rankin,

Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 84-26802 Filed 10-10-84; 8:45 am]

BILLING CODE 4310-MR-M

Outer Continental Shelf; Development Operations Coordination Document; Tenneco Oil Exploration and Production

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Tenneco Oil Exploration and Production has submitted a DOCD describing the activities it proposes to conduct on Leases OCS-G 5031 and 5431, Blocks 253 and 252, respectively, Vermilion Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Intracoastal City, Louisiana.

DATE: The subject DOCD was deemed submitted on September 28, 1984. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the DOCD from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, *Attention OCS Plans*, Post Office Box 44396, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Ms. Angie Gobert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838-0876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of

the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: September 28, 1984.

John L. Rankin,

Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 84-26803 Filed 10-10-84; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Delaware Water Gap National Recreation Area; Cancellation of the Draft General Management Plan and the Draft Environmental Impact Statement, and the Preparation of a Revised Draft General Management Plan/Environmental Assessment

ACTION: Notice.

SUMMARY: This notice announces the cancellation of the draft General Management Plan (GMP) and the draft Environmental Impact Statement (EIS) which was released in 1980 for the management of the land at Delaware Water Gap National Recreation Area. This notice also announces to the public that a revised combined draft General Management Plan/Environmental Assessment will be prepared to evaluate alternatives for developing the National Recreation Area.

SUPPLEMENTARY INFORMATION: During the evaluation of the original draft General Management Plan and the draft Environmental Impact Statement, the National Park Service made a determination that the proposed development of the land at the Recreation Area is not a major Federal action requiring the preparation of an environmental impact statement. Therefore, based on the above determination, the National Park Service is cancelling the original draft GMP and EIS and replacing it with a revised GMP/EA. In addition, the National Park Service will also seek further input to the scoping process for the GMP/EA. The revised GMP/EA will be available for public review for no less than 60 days.

FOR FURTHER INFORMATION CONTACT: Albert A. Hawkins, Superintendent, Delaware Water Gap National Recreation Area, Bushkill, Pennsylvania 18324, Telephone (717) 588-6637.

Dated: September 26, 1984.

James W. Coleman, Jr.,

Regional Director, Mid-Atlantic Region

[FR Doc. 84-26770 Filed 10-10-84; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL TRADE COMMISSION

Agency Form Submitted for OMB Review

AGENCY: United States International Trade Commission.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Commission has submitted a proposal for the collection of information to the Office of Management and Budget for review.

Purpose of Information Collection

The proposed information collection is for use by the Commission in connection with investigation No. 332-193, Conditions of Competition Between the U.S. and Major Foreign Filbert Industries, instituted under the authority of section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)).

Summary of Proposals

(1) Number of forms submitted: two.

(2) Title of forms:

(a) Filberts—Processors' or Handlers' Questionnaire.

(b) Filberts—Importers' and Purchasers' Questionnaire.

(3)Type of request: new.

(4) Frequency of use: nonrecurring.

(5) Description of respondents: Firms in the States of Oregon and Washington will receive the Processors' of Handlers' Questionnaire while the Importers' and Purchasers' Questionnaire will be sent to firms throughout the United States, but located primarily in the New York City metropolitan area.

(6) Estimated number of respondents: 40.

(7) Estimated total number of hours to complete the forms: 840.

(8) Information obtained from the form that qualifies as confidential business information will be so treated by the Commission and not disclosed in a manner that would reveal the individual operations of a firm.

Additional Information or Comment

Copies of the proposed form and supporting documents may be obtained from Alvin Z. Macomber, USITC (tel. no. 202-724-1765). Comments about the proposals should be directed to the Office of Information and Regulatory Affairs of OMB, Attention: Francine Picoult, Desk Officer for U.S. International Trade Commission. If you anticipate commenting on a form but find that time to prepare comments will prevent you from submitting them promptly you should advise OMB of your intent as soon as possible. Copies of any comments should be provided to Charles Ervin, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436.

Issued: October 5, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-26863 Filed 10-10-84; 8:45 am]

BILLING CODE 7020-02-M

Agency Form Submitted for OMB Review

AGENCY: United States International Trade Commission.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chpter 35), the Commission has submitted a proposal for the collection of information to the Office of Management and Budget for review.

Purpose of Information Collection

The proposed information collection is for use by the Commission in connection with investigation No. 332-192, The Impact of Rules of Origin on U.S. Imports and Exports, instituted under the authority of section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)).

Summary of Proposals

(1) Number of forms submitted: Two.

(2) Title of forms: The Impact of Rules of Origin on U.S. Imports and Exports—Questionnaire for U.S. Importers; The Impact of Rules of Origin on U.S. Imports and Exports—Questionnaire for U.S. Exports.

(3) Type of request: new.

(4) Frequency of use: Nonrecurring.

(5) Description of respondents: Importers and Exporters of Products Involving the Application of Rules or Origin.

(6) Estimated number of respondents: 200.

(7) Estimated total number of hours to complete the forms: 800.

(8) Information obtained from the form that qualifies as confidential business information will be so treated by the Commission and will not be disclosed in

a manner that would reveal the individual operations of a firm.

Additional Information or Comment

Copies of the proposed form and supporting documents may be obtained from Charles Ervin, the USITC agency clearance officer (Tel. No. 202–523–4463). Comments about the proposals should be directed to the Office of Information and Regulatory Affairs of OMB, Attention: Francine Picoult, Desk Officer for U.S. International Trade Commission. If you anticipate commenting on a form but find that time to prepare comments will prevent you from submitting them promptly you should advise OMB of your intent as soon as possible. Copies of any comments should be provided to Charles Ervin (United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436).

Issued: October 4, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–26884 Filed 10–10–84; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 731–TA–149; Final]

Barium Chloride From the People's Republic of China

AGENCY: U.S. International Trade Commission.

ACTION: The Commission hereby gives notice that it will take final action in the above-referenced investigation on or before October 11, 1984.

SUPPLEMENTARY INFORMATION: In conformance with section 735(b)(2)(B) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)(2)(B)), the Commission must conclude its investigation no later than 45 days after a final affirmative determination by the Department of Commerce. As Commerce had scheduled its final determination for August 20, 1984 (49 FR 22365, May 29, 1984), the Commission had scheduled its final action in this investigation for no later than October 4, 1984. However, Commerce did not take final action until August 27, 1984. Accordingly, the Commission's statutory deadline for the investigation is October 11, 1984, and the Commission will take final action by that date.

FOR FURTHER INFORMATION CONTACT: Jack Simmons, Office of the General Counsel, telephone 202–523–0493.

Authority: 19 U.S.C. 1673d(b)(2)(B).

Issued: October 4, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–26876 Filed 10–10–84; 8:45 am]

BILLING CODE 7020–02–M

Conditions of Competition Between the U.S. and Major Foreign Filbert Industries; Correction

AGENCY: United States International Trade Commission.

Correction

In **Federal Register** Doc. 84–24124, published in **Federal Register** on page 35875 in issue of Wednesday, September 12, 1984, the investigation number appeared incorrectly. It should have been 332–193 instead of 332–192. This number appeared in the heading and in the last line of the second column on page 35875.

By order of the Commission.

Issued: October 2, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–26885 Filed 10–10–84; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–205]

Certain Dialyzers Using Telescoping Connectors for Fluid Lines; Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on August 29, 1984, under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), on behalf of Baxter Travenol Laboratories, Inc., One Baxter Parkway, Deerfield, Illinois 60015. An amended complaint was filed on September 14, 1984. The complaint as amended alleges unfair methods of competition and unfair acts in the importation into the United States of certain dialyzers using telescoping connectors for fluid lines, or in their sale, by reason of alleged infringement of claims 1, 2 and 3 of U.S. Reexamined Patent B1 4,198,080. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

The complainant requests the Commission to institute an investigation and, after a full investigation, to issue a permanent exclusion order.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sulzer, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, telephone 202–523–0419.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in § 210.12 of the Commission's Rules of Practice and Procedure (19 CFR 210.12).

Scope of Investigation

Having considered the complaint, the U.S. International Trade Commission, on September 25, 1984, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, an investigation be instituted to determine whether there is a violation of subsection (a) of section 337 in the unlawful importation into the United States of certain dialyzers using telescoping connectors for fluid lines, or in their sale, by reason of alleged infringement of claims 1, 2, and 3 of U.S. Reexamined Patent B1 4,198,080, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—Baxter Travenol Laboratories, Inc., One Baxter Parkway, Deerfield, Illinois 60015.

(b) The respondent is the following company, alleged to be in violation of section 337, and is the party upon which the complaint is to be served: Terumo, 44–1, 2–Chome, Hatagaya, Shibuya-Ku, Tokyo, Japan.

(c) Stephen L. Sulzer, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, 701 E Street NW., Room 124, Washington, D.C. 20436, shall be the Commission investigation attorney, a party to this investigation; and

(3) For the investigation so instituted, Janet D. Saxon, Acting Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding officer.

Responses must be submitted by the named respondent in accordance with § 210.21 of the Commission's Rules of Practice and Procedure (19 CFR 210.21). Pursuant to §§ 201.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good cause therefore is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings.

The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room 156, Washington, D.C. 20436, telephone 202–523–0471.

Issued: October 1, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–26873 Filed 10–10–84; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 731–TA–206; Preliminary]

Fabric and Expanded-Neoprene Laminate From Japan

AGENCY: United States International Trade Commission.

ACTION: Institution of a preliminary antidumping investigation and scheduling of a conference to be held in connection with the investigation.

SUMMARY: The Commission hereby gives notice of the institution of preliminary antidumping investigation No. 731–TA–206 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry is materially retarded, by reason of imports from Japan of fabric and expanded-neoprene laminate, provided for in items 355.81, 355.82, 359.50, and 359.60 of the Tariff Schedules of the United States, which are allegedly sold in the United States at less than fair value (LTFV).

EFFECTIVE DATE: September 28, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Tedford Briggs (202–523–4612), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted in response to a petition filed on September 28, 1984, by Rubatex Corp., Bedford, VA. The Commission must make its determination in this investigation within 45 days after the date of the filing of the petition, or by November 13, 1984 (19 CFR 207.17).

Participation

Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than seven (7) days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairwoman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service of documents

The Secretary will compile a service list from the entries of appearance filed in this investigation. Any party submitting a document in connection with this investigation shall, in addition to complying with § 201.8 of the Commission's rules (19 CFR 201.8), serve a copy of each such document on all other parties to the investigation. Such service shall conform with the requirements set forth in § 201.16(b) of the rules (19 CFR 201.16(b)).

Written submissions

Any person may submit to the Commission on or before October 24, 1984, a written statement of information pertinent to the subject matter of this investigation (19 CFR 207.15). A signed original and fourteen (14) copies of such statements must be submitted (19 CFR 201.8).

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately, and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6). All written submissions, except for confidential business data, will be available for public inspection.

Conference

The Director of Operations of the Commission has scheduled a conference in connection with this investigation for 9:30 a.m., on October 22, 1984, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Parties wishing to participate in the conference should contact Mr. Tedford Briggs (202–523–4612) not later than 12:00 noon, October 17, 1984, to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Public inspection

A copy of the petition and all written submissions, except for confidential business data, will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and B (19 CFR Part 207), and Part 201, subparts A through E (19 CFR Part 201).

Authority: This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

Issued: October 2, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–26875 Filed 10–10–84; 8:45 am]

BILLING CODE 7020–02–M

[332–197]

Analysis of the International Competitiveness of the U.S. Commercial Shipbuilding and Repair Industries

AGENCY: United States International Trade Commission.

ACTION: Institution of an investigation under section 332(n) of the Tariff Act of 1930 (19 U.S.C. 1332(b)) for the purpose of presenting information on the current competitive factors affecting the U.S. shipbuilding and repair industries.

EFFECTIVE DATE: October 4, 1984.

FOR FURTHER INFORMATION CONTACT: Ms. Debby Ladomirak (telephone 202–523–0131) or Mr. Harold Graves, Machinery and Equipment Division (telephone 202–523–0354), U.S. International Trade Commission, Washington, D.C. 20436.

Background and Scope of Investigation

At the request of the Subcommittee on Trade of the Committee on Ways and Means of the U.S. House of Representatives, the Commission has

instituted investigation No. 332-197 under section 332(b) of the Tariff Act of 1930 (19 U.S.C. 1332(b)) for the purpose of gathering and presenting information on the competitive and economic factors affecting the U.S. shipbuilding and repair industries vis-a-vis that of other countries. Specifically, the Commission has been asked to address and compare the levels of U.S. versus foreign government intervention, including financing incentives and export promotion allowances, for the past 5-year period and examine the resultant impact of such intervention on the commercial shipbuilding industry. In addition, the Commission is to assess the likely impact on the U.S. commercial shipbuilding industry of the revitalization strategy outlined in the recent report of the Congressional Office of Technology Assessment and contained in the draft substitute amendment to H.R. 3399—The Maritime Redevelopment Act—which proposes a long-term strategy for modernizing and revitalizing the commercial shipbuilding and repair industry and supporting maritime infrastructure. The Commission expects to complete its study by April 1, 1985.

Written Submissions

Interested persons are invited to submit written statements concerning the investigation. Written statements should be received by the close of business on December 10, 1984. Commercial or financial information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. All submissions should be addressed to the Secretary at the Commission's office in Washington, D.C.

Issued: October 5, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-26681 Filed 10-10-84; 8:45 am]
BILLING CODE 7020-02-M

[Investigation No. 337-TA-148/169]

Certain Processes for the Manufacture of Skinless Sausage Casings and Resulting Product; Decision to Review Part of Initial Determination; Deadline for Filing Written Submissions on the Issue Under Review, and on Remedy, the Public Interest, and Bonding

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has determined to review the presiding officer's disposition of Motion No. 148/169-17 in the above-captioned investigation. The Commission has further determined not to review the presiding officer's initial determination that there is a violation of section 337 and 19 U.S.C. 1337a in the investigation.

Authority

The authority for the Commission's disposition of this matter is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and in §§ 210.53-210.56 of the Commission's Rules of Practice and Procedure (47 FR 25134 (June 10, 1982) as amended by 48 FR 20225 (May 11, 1983); to be codified at 19 CFR 210.53-210.560.

SUPPLEMENTARY INFORMATION: On August 1, 1984, the presiding officer issued an initial determination that there is a violation of section 337 and 19 U.S.C. 1337a in the importation and sale of certain skinless sausage casings. Respondent and the Commission investigative attorney petitioned for review of various parts of the initial determination pursuant to § 210.54(a) of the Commission's rules. Complainants opposed the petitions for review, and filed contingent petitions for review. No other petitions for review or comments were received.

Having examined the record in this investigation, including the initial determination of the presiding officer, the petitions for review, and the responses thereto, the Commission has determined that this case presents an issue which affects Commission policy, and therefore warrants review. Specifically, the Commission will review the following issue:

Whether the presiding officer erred in denying respondent's motion to redesignate as nonconfidential certain documents and deposition testimony produced by complainant Union Carbide.

The Commission review will be limited to the above issue. No other issues will be considered. Therefore, the remainder of the initial determination has become the Commission determination on violation of section 337 and 19 U.S.C. 1337a in this investigation.

Commission Hearing

The Commission does not plan to hold a public hearing in connection with final disposition of this investigation.

Written Submissions

The parties to the investigation are requested to file briefs on the issue under review.

Inasmuch as the Commission has found that a violation of section 337 and 19 U.S.C. 1337a has occurred, it may issue (1) an order which could result in the exclusion of the subject articles from entry into the United States and/or (2) cease and desist orders which could result in respondent being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions which address the form of relief, if any, which should be ordered.

If the Commission contemplates some form of relief, it must consider the effect of that relief upon the public interest. The factors which the Commission will consider include the effect that an exclusion order and/or a cease and desist order would have upon (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) the U.S. production of articles which are like or directly competitive with those which are the subject of the investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions concerning the effect, if any, that granting relief would have on the public interest.

If the Commission orders some form of relief, the President has 60 days to approve or disapprove the Commission's action. During this period, the subject articles would be entitled to enter the United States under a bond in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving written submissions concerning the amount of the bond, if any, which should be imposed.

The parties to the investigation and interested Government agencies are requested to file written submissions on the issues of remedy, the public interest, and bonding. The complainant and the Commission investigative attorney are also requested to submit a proposed exclusion order and/or a proposed cease and desist order for the Commission's consideration. Persons other than the parties and Government

agencies may file written submissions addressing the issues of remedy, the public interest, and bonding. Written submissions on the issue under review and on remedy, the public interest, and bonding must be filed not later than the close of business on the day which is fourteen (14) days from the date this notice appears in the **Federal Register**.

Additional Information

Persons submitting written submissions must file the original document and 14 true copies thereof with the Office of the Secretary on or before the deadline stated above. Any person desiring to submit a document (or a portion thereof) to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment by the presiding officer. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. Documents containing confidential information approved by the Commission for confidential treatment will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Secretary's Office.

Notice of this investigation was published in the **Federal Register** of May 25, 1983 (48 FR 23491) (Investigation No. 337-TA-148) and October 26, 1983 (48 FR 49557-49558) (Investigation No. 337-TA-169).

Copies of the nonconfidential version of the presiding officer's initial determination and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

FOR FURTHER INFORMATION CONTACT: Judith M. Czako, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-3395.

Issued: October 2, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-26874 Filed 10-10-84; 8:45 am]
BILLING CODE 7020-02-M

[332-195]

Effects of Semifinished Steel Imports on the U.S. Iron and Steel Scrap Industry

AGENCY: United States International Trade Commission.

ACTION: Institution of an investigation under section 32(b) of the Tariff Act of 1930 (19 U.S.C. 1332(b)) concerning the effects of semifinished steel imports on the U.S. iron and steel scrap industry, and the scheduling of a hearing in connection therewith.

EFFECTIVE DATE: October 2, 1984.

FOR FURTHER INFORMATION CONTACT: James Lukes (202-523-0279), Minerals and Metals Division, U.S. International Trade Commission, Washington, D.C. 20436 (telephone 202-523-0275).

Background and Scope of Investigation

The Commission instituted the investigation, No. 332-195, on its own motion, following receipt on September 12, 1984 of a request therefor from the Chairman of the Subcommittee on Trade, Committee on Ways and Means, U.S. House of Representatives. In accordance with the Subcommittee's request, the study will include: (1) A description of the markets for U.S. iron and steel scrap; (2) an analysis of recent trends in imports of semifinished steel, and (3) an assessment of the impact of semifinished steel imports on the U.S. scrap market and the U.S. scrap industry. The Commission will address any regional issues which it finds pertinent. The Commission expects to complete its study by May 10, 1985.

Public Hearing

A public hearing in connection with this investigation will be held at the International Trade Commission in Washington, D.C., on March 12, 1985, at 10 a.m. All persons shall have the right to appear by counsel or in person, to present information, and to be heard. Requests to appear at the public hearing should be filed with the Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, not later than noon, March 5, 1985.

Written Submissions

In lieu of or in addition to appearance at the public hearing, interested persons are invited to submit written statements concerning the investigation. Commercial or financial information which a submitting party desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. To be assured of consideration by the Commission, written statements should be received at the earliest possible date, but no later than March 5, 1985. All submissions should be addressed to the Secretary at the Commission's Office in Washington, D.C.

Issued: October 4, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-26882 Filed 10-10-84; 8:45 am]
BILLING CODE 7020-02-M

[Investigation No. 22-47]

Certain Tobacco

AGENCY: United States International Trade Commission.

ACTION: Institution of an investigation under section 22(a) of the Agricultural Adjustment Act (7 U.S.C. 624(a)) and scheduling of a public hearing in connection therewith.

SUMMARY: Following receipt on September 10, 1984, of a request from the President for an investigation under section 22 of the Agricultural Adjustment Act, the Commission instituted investigation No. 22-47 for the purpose of detertmining whether flue-, fire-, and dark air-cured tobacco and burley tobacco, in unmanufactured form, as provided for in items 170.20, 170.25, 170.32, 170.35, 170.40, 170.45, 170.50, 170.60, and 170.80 of the Tariff Schedules of the United States (TSUS), is being or is practically certain to be imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the price support and production adjustment programs for tobacco of the U.S. Department of Agriculture.

EFFECTIVE DATE: September 10, 1984.

FOR FURTHER INFORMATION CONTACT: William Lipovsky (202-724-0097), Agriculture Division, Office of Industries, U.S. International Trade Commission, or David Coombs (202-523-1376), Office of Investigations, U.S. International Trade Commission.

SUPPLEMENTARY INFORMATION:

Background

The President's letter, which was dated September 7, 1984, stated that "I have been advised by the Secretary of Agriculture, and I agree with him, that there is reason to believe that flue-, fire-, and dark air-cured tobacco and burley tobacco, in unmanufactured form, wherever classified in the Tariff Schedules of the United States, are practically certain to be imported under such conditions and in such quantities as to materially interfere with the price support and production adjustment programs for tobacco conducted by the Department of Agriculture." The President directed that the Commission investigate to determine whether such tobacco is "practially certain to be imported under such conditions and in such quantities as to materially interfere with the tobacco price support and production adjustment programs now conducted by the Department of Agriculture, and to report its findings and recommendations at the earliest practicable date."

Participation in the investigation

Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11) not later than 21 days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairwoman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Upon the expiration of the period for filing entries of appearance, the Secretary shall prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation, pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)). Each document filed by a party to this investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service (19 CFR 201.16(c)).

Hearing

The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m. on January 3, 1985, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on December 13, 1984. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 10:00 a.m. on December 18, 1984, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is December 21, 1984.

Testimony at the public hearing shall be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs. Posthearing briefs shall not exceed ten (10) pages of textual material, double spaced, on stationery measuring 8½ x 11 inches, and must be submitted not later than the close of business on January 10, 1985. In addition, the presiding official may permit persons to file answers to questions or request made by the Commission at the hearing within a specified time. The Secretary shall not accept for filing posthearing briefs or answers which do not comply with the provisions contained in this notice.

Written submissions

As mentioned, parties to this investigation may file prehearing and posthearing briefs by the dates shown above. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before January 10, 1985. A signed original and fourteen (14) true copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and request for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

For further information concerning the conduct of the investigation, hearing procedures and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 201, Subparts A through E (19 CFR Part 201).

This notice is published pursuant to § 204.2 of the Commission's rules (19 CFR 204.2).

Issued: October 5, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-26878 Filed 10-10-84; 8:45 am]

BILLING CODE 7020-02-M

Termination of Countervailing Duty Investigation Concerning Unwrought Zinc From Spain

AGENCY: United States International Trade Commission.

ACTION: Termination of countervailing duty investigation under section 104(b)(1) of the Trade Agreements Act of 1979, with regard to unwrought zinc from Spain.

EFFECTIVE DATE: October 4, 1984.

FOR FURTHER INFORMATION CONTACT: Ms. Vera Libeau, Office of Investigations, telephone number (202) 523-0368.

SUPPLEMENTARY INFORMATION: The Trade Agreements Act of 1979, subsection 104(b)(1), requires the Commission in the case of a countervailing duty order issued under section 303 of the Tariff Act of 1930, upon the request of a government or group of exporters of merchandise covered by the order, to conduct an investigation to determine whether an industry in the United States would be materially injured, or threatened with material injury, or whether the establishment of such an industry would be materially retarded, if the order were to be revoked. On April 23, 1982, the Commission received a request from the Government of Spain for the review of the outstanding countervailing duty order on unwrought zinc from Spain. Notice of the countervailing duty order was published on April 8, 1977, in the **Federal Register** (41 FR 18587).

On August 3, 1984, the Commission was notified by letter that the Lead-Zinc Producers Committee, the original petitioner for the countervailing duty order, wished to withdraw its request for the imposition of countervailing duties under the above referenced countervailing duty order.

While there is no provision in the Trade Agreements Act of 1979, or in its legislative history, permitting

termination of a transition case investigation, termination of a properly instituted countervailing duty investigation is permitted under section 704(a) of the Tariff Act of 1930. That section directs the Commission to solicit public comment prior to termination and approve such termination only if it is in the public interest. Termination authority is explicit in cases based on newly filed countervailing duty petitions; it is implied with respect to existing countervailing duty orders.

On August 15, 1984 (49 FR 32694) the Commission published a notice in the **Federal Register** requesting public comment by September 14, 1984, on the proposed termination of the Commission investigation on unwrought zinc from Spain. No adverse comments were received in response to the Commission's notice.

The Commission is therefore terminating its investigation on unwrought zinc from Spain (T.D. 77-103). The termination of this investigation has the same effect as a determination that an industry in the United States would not be materially injured, or threatened with material injury, nor would the establishment of such an industry be materially retarded, if the countervailing duty order were to be revoked.

In addition to publishing this **Federal Register** notice, the Commission is serving a copy of this notice on all persons who have written the agency in connection with this investigation and is also notifying the Department of Commerce of its action in this case.

Issued: October 5, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-26877 Filed 10-10-84; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-174]

Certain Woodworking Machines; Commission Decision Not To Review Initial Determination Terminating Respondent on the Basis of a Consent Order; Issuance of Consent Order

AGENCY: United States International Trade Commission.

ACTION: The Commission has determined not to review the presiding officer's initial determination (I.D.) (Order No. 35) terminating respondent Harbor Freight and Salvage Co. as a respondent in the above-captioned investigation on the basis of a consent order.

SUPPLEMENTARY INFORMATION: On August 17, 1984, complainant Delta International Corp. and respondent Harbor Freight and Salvage Co. jointly moved (Motion No. 174-35) to terminate this investigation as to respondent Harbor Freight and Salvage Co. on the basis of a consent order.

The Commission has received neither a petition for review of the I.D. nor comments from Government agencies or the public.

Termination of the investigation as to respondent Harbor Freight and Salvage Co. on the basis of the consent order furthers the public interest by conserving Commission resources and those of the parties involved.

Copies of the presiding officer's ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

FOR FURTHER INFORMATION CONTACT: Hannelore V.M. Hasl, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-0359.

Authority: Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and 19 CFR 210.51(c) and 210.53(h).

Issued: October 5, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-26879 Filed 10-10-84; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 29745]

Railroads; Duluth, Winnipeg and Pacific Railway Co.; Trackage Rights Exemption; Exemption

October 2, 1984.

On September 17, 1984, the Duluth, Winnipeg and Pacific Railway Company (DWP) filed a notice of exemption for trackage rights over a line of track of the Soo Line Railroad Company (Soo) in Saunders, WI.

The trackage rights are necessary in view of an extension of Interstate Highway 35 in Duluth, MN, and the resulting line relocation project by DWP. Central to the relocation project is a trackage rights agreement with Duluth, Missabe and Iron Range Railway Company (DMIR) which grants DWP the right to operate in perpetuity over 15.95 miles of DMIR trackage. This trackage rights agreement was approved by the Commission in a notice of exemption served October 28, 1981.

Subsequently, DWP discovered that a short segment (3,658.7 feet in Saunders, WI) of the involved trackage was not owned by the DMIR, but rather by the Soo. On August 28, 1984, DWP and Soo executed a trackage rights agreement for this segment of line. The agreement merely substitutes the Soo trackage for that portion of DMIR's line inadvertently included in the prior notice of exemption. Consistent with 49 CFR 1180.4(g), the Soo agreement will go into effect 7 days from DWP's filing of the instant notice.

This joint project involves the relocatipn of a line or lines of railroad which does not disrupt service to shippers and falls within the class of transactions identified at 49 CFR 1180.2(d) which the Commission has found to be exempt under 49 U.S.C. 10505. See *Railroad Consolidation Procedures,* 366 I.C.C. 75, 94 (1982).

As a condition to the use of this exemption, any employees affected by the trackage rights agreement shall be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rights—BN,* 354 I.C.C. 605 (1978), as modified by *Mendocino Coast Ry., Inc.—Lease and Operate,* 360 I.C.C. 653 (1980). This will satisfy the statutory requirements of 49 U.S.C. 10505(g)(2).

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 84-26853 Filed 10-10-84; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-10; Sub-No. 29X]

Railroads; Norfolk and Western Railway Co; Abandonment Exemption in Belmont County, MI

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirement of prior approval under 49 U.S.C. 10903 *et seq.* the abandonment by the Norfolk and Western Railway Company of 9 miles of track between Adrian, (milepost 46.3) and Tecumseh (milespost 55.3), in Belmont County, MI, subject to standard labor protective conditions.

DATES: This exemption will be effective on November 13, 1984. Petitions for reconsideration must be filed by

October 31, 1984. Petitions for stay must be filed by October 22, 1984.

ADDRESSES: Send pleadings referring to Docket No. AB–10 (Sub-No. 29X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423
(2) Petitioner's representative: Angelica D. Lloyd, Norfolk Southern Corporation, 204 South Jefferson St., Roanoke, VA 24042

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T. S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (DC Metropolitan area) or toll free (800) 424–5403.

Decided: October 2, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett, Gradison, Simmons, Lamboley, and Strenio.

James H. Bayne,

Secretary.

[FR Doc. 84–26854 Filed 10–10–84, 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–12; Sub-No. 77X]

Railroads; Southern Pacific Transportation Co.; Discontinuance Exemption in Fort Bend County, TX

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Proposed Exemption.

SUMMARY: Southern Pacific Transportation Company (SPT) filed a petition under 49 U.S.C. 10505 seeking exemption for discontinuance of service over 15.77 miles of railroad known as the Guy Branch in Fort Bend County, TX. Several entities filed in opposition to the discontinuance. The Commission has determined that the notice and comment procedure should be instituted because the impact of the proposed discontinuance cannot be determined from the record.

DATES: Comments may be filed with the Commission and served on SPT's representative and the others listed below by November 13, 1984. Replies to the comments must be filed by December 3, 1984.

ADDRESSES: Send pleadings referring to Docket No. AB–12 (Sub-No. 77X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423
(2) Petitioner's Representative: Gary A. Laakso, Southern Pacific Building, One Market Plaza, San Francisco, CA 94105
(3) David Oefinger, South Texas Cotton and Grain Association, Inc., 307 1st Victoria National Bank Building, Victoria, TX 77901–8191
(4) O. L. Leissner, Needville Cotton Warehouse, Inc., Box 35, Needville, TX 77461
(5) John W. Courtney, Jr., Texas Department of Agriculture, P.O. Box 12847, Capitol Station, Austin, TX 78711
(6) Jodie E. Stavinoha, Fort Bend County Commissioners Court, P.O. Box 368, Richmond, TX 77469
(7) Mayor K. B. Otto, City of Needville, P.O. Box 527, Needville, TX 77461

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T. S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (DC Metropolitan area) or toll free (800) 424–5403.

Decided: October 2, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett, Gradison, Simmons, Lamboley, and Strenio

James H. Bayne,

Secretary.

[FR Doc. 84–26855 Filed 10–10–84, 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to the Resource Conservation and Recovery Act, and the Comprehensive Environmental Response, Compensation, and Liability Act; Berlin and Farro Liquid Incineration, Inc., et al.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on September 13, 1984, a proposed consent decree in *United States* v. *Berlin and Farro Liquid Incineration, Inc., et al.*, Civil Action No. 84–CV–8473–FL was lodged with the United States District Court for the Eastern District of Michigan. The proposed consent decree concerns the cleanup of a hazardous waste dump site operated by Berlin and Farro Liquid Incineration, Inc., located 3½ miles south of the City of Swartz Creek, Michigan. The consent decree provides for a partial surface cleanup of the site. Within the areas of the work to be performed, the decree provides for the removal of all hazardous wastes and hazardous substances and their containers, all contaminated water, and a quantity of soil sufficient to insure the removal that which is contaminated.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Berlin and Farro Liquid Incineration, et al.*, D.J. Ref. No. 90–11–2–77.

The proposed consent decree may be examined at the Office of the Clerk of the Court, 600 Church Street, Flint, Michigan 48502, and at the Region V Office of the Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604. Copies of the consent decree may also be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount $4.20 payable to the Treasurer of the United States.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 84–26790 Filed 10–10–84, 8:45 am]

BILLING CODE 4410–01–M

Lodging of Final Judgment on Consent Pursuant to Clean Air Act; Glenmore Plastics Industries

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on September 11, 1984 a proposed Final Judgment (on Consent) in *United States* v. *Glenmore Plastics Industries*, Civil Action No. CV 83–2725 was lodged with the United States District Court for the Eastern District of New York. The proposed Final Judgment (on Consent) concerns violations of the Clean Air Act and the New York State Implementation Plan by emission of volatile organic compounds. The complaint alleged that Glenmore violated the New York State Immplementation Plan, Part 228, by failing to submit a compliance plan by January 1, 1980, and by failing to achieve compliance with the applicable emission limitation, *i.e.*, 3.8 pounds of organic

solvents (minus water) per gallon of coating at application, by July 1, 1980. The proposed Final Judgment (on Consent) requires Glenmore to come into compliance by September 30, 1984 and establishes a stipulated penalty schedule for each day thereafter that Glenmore fails to achieve compliance. In addition, Glenmore would be required to pay civil penalties of $12,000.00 for its prior violations.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Final Judgment (on Consent). Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Glenmore Plastics Industries*, DJ Ref. 90-5-2-1-598.

The proposed Final Judgment (on Consent) may be examined at the office of the United States Attorney, Eastern District of New York, Federal Building, 225 Cadman Plaza East, Brooklyn, New York 11201 and at the Region II Office of the Environmental Protection Agency, 26 Federal Plaza, New York, New York 10278. Copies of the Final Judgment (on Consent) may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed Final Judgment (on Consent) may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 84-28791 Filed 10-10-84; 8:45 am]
BILLING CODE 4410-01-M

Drug Enforcement Administration

[Docket No. 84-19]

Dennis Howard Harris, M.D.; Revocation of Registration

On April 23, 1984, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued an Order to Show Cause to Dennis Howard Harris, M.D., (Respondent) 7351 E. Osborn Road, Suite 106, Scottsdale, Arizona 85251. The Order to Show Cause proposed to revoke Respondent's DEA Certificate of Registration, AH1259921, and to deny a pending application for renewal of that registration. The statutory predicate for the Order to Show Cause under 21 U.S.C. 824(a)(2) was Respondent's conviction in the United States District Court for the District of Arizona on November 14, 1983, of attempted manufacture of a Schedule I controlled substance, methylenedioxyphetamine (MDA). Respondent requested a hearing and the matter was placed on the docket of Administrative Law Judge Francis L. Young.

Both parties were ordered by the Administrative Law Judge to file prehearing statements. The Government's prehearing statement was timely filed. Respondent did not submit a prehearing statement. Subsequently, the Government filed a Motion to Amend the Order to Show Cause and a Motion for Summary Disposition based upon the June 7, 1984, Order of the Board of Medical Examiners of the State of Arizona which suspended Respondent's license to praactice medicine in Arizona from July 1, 1984, until November 14, 1988. Receiving no objection from Respondent, the Administrative Law Judge ordered that the Order to Show Cause be amended to include as an additional ground for revocation of Respondent's DEA Certificate of Registration that Respondent lacked the necessary state authorization to prescribe or dispense controlled substances. 21 U.S.C. 824(a)(3). On July 9, 1984, Respondent submitted a letter to Government counsel authorizing the cancellation of his application for renewal of his DEA Certificate of Registration. The Government did not consent to Respondent's withdrawal of his renewal application.

On September 5, 1984, the Administrative Law Judge transmitted the record in this matter, which included Judge Young's Opinion and Recommended Decision, to the Administrator pursuant to 21 CFR 1316.65(c). The Administrator has considered the record in its entirety and pursuant to the provisions of 21 CFR 1316.67 hereby issues his final order in this matter. The Administrative Law Judge in its entirety and further, finds that Respondent's felony conviction constitutes an additional ground for revocation of Respondent's registration.

Judge Young stated in his opinion that there was no lawful basis for DEA to continue to register the Respondent since he was no longer licensed as a practitioner to dispense, administer or otherwise handle controlled substances in Arizona. The Administrator agrees with Judge Young and finds, consistent with previous decisions, that when a registrant is not authorized to handle controlled substances under the laws of the state in which he practices, DEA is without lawful authority to maintain a registration. See: *Agostino Carlucci, M.D.*, Docket No. 82-20, 49 FR 33184 (1948); *Leonard F. Faymore, D.O., et al.*, Docket No. 82-1, 48 FR 32886 (1983); *Kenneth K. Birchard, M.D.*, 48 FR 33778 (1983) *Thomas E. Woodrow*, D.O., Docket No. 81-4, 47 FR 1353 (1982).

In addition to the fact that Respondent is not authorized to handle controlled substances in the State of Arizona, the Administrator finds that on November 14, 1983, in the United States District Court for the District of Arizona, Respondent was convicted of attempted manufacture of methylenedioxy-amphetamine (MDA), a Schedule I controlled substance, in violation of 21 U.S.C. 841(a)(1) and 846 and 18 U.S.C. 2. This is a felony offense. Respondent's conviction provides an additional statutory ground for revocation of his DEA Certificate of Registration under 21 U.S.C. 824(a)(2). The Administrator notes that Respondent in concert with other individuals secured laboratory space, and purchased equipment and chemicals in order to manufacture the hallucinogenic substance, MDA. After setting up the laboratory and beginning the manufacture of the precursor chemicals, Respondent was arrested by Agents of the Drug Enforcement Administration. Respondent's criminal activities, although not directly related to his medical practice, clearly show a disregard for the law, and an indifference for his professional responsibility as a registrant for the public health and safety. The Drug Enforcement Administration has consistently held that conviction of a controlled substance-related felony, even though unrelated to medical practice, requires the same sanctions as activities related to a medical practice. See, *Tilman J. Bentley, D.O.*, Docket No. 82-22, 49 FR 35049 (1984); *Raymond H. Wood, Jr., D.D.S.*, Docket No. 82-32, 48 FR 48727 (1983); and *Aaron A. Moss, D-D-S.*, Docket No. 80-2, 45 FR 72850 (1980).

In consideration of the foregoing and having lawful basis for such action, it is the decision of the Administrator that Respondent's DEA Certificate of Registration should be revoked, and his pending application for registration should be denied. Accordingly, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), the Administrator of the Drug Enforcement Administration hereby orders that DEA Certificate of Registration AH1259921 previously issued to Dennis Howard Harris, M.D. be, and is hereby revoked, effective

immediately. Any pending application for renewal of such registration is hereby denied.

Dated: October 4, 1984.

Francis M. Mullen, Jr.,

Administrator.

[FR Doc. 84-26842 Filed 10-10-84; 8:45 am]

BILLING CODE 4410-09-M

Controlled Substances; Proposed Aggregate Production Quotas for 1985

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of Proposed Aggregate Production Quotas for 1985.

SUMMARY: This notice proposes initial 1985 aggregate production quotas for controlled substances in Schedules I and II of the Controlled Substances Act.

DATE: Comments or objections should be received on or before November 13, 1984.

ADDRESS: Send comments or objections in quintuplicate to the Administrator, Drug Enforcement Administration, 1405 I Street, NW., Washington, DC 20537. Attn: DEA Federal Register Representative.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug Control Section, Drug Enforcement Administration, Washington, DC 20537, Telephone (202) 633-1366.

SUPPLEMENTARY INFORMATION: Section 306 of the Controlled Substances Act (21 U.S. Code, Section 826) requires that the Attorney General establish aggregate production quotas for all controlled substances listed in Schedules I and II. This responsibility has been delegated to the Administrator of the Drug Enforcement Administration by § 0.100 of Title 28 of the Code of Federal Regulations.

The quotas are to provide adequate supplies of each substance for: (1) The estimated medical, scientific, research, and industrial needs of the United States; (2) lawful export requirements; and (3) the establishment and maintenance of reserve stocks.

In determining the below listed proposed 1985 aggregate production quotas, the Administrator considered the following factors: (1) Total actual 1983 and estimated 1984 and 1985 net disposals of each substance by all manufacturers; (2) projected trends in the national rate of net disposals of each substance; (3) estimates of inventories of each substance and of any substance manufactured from it and trends in accumulation of such inventories; (4) projected demand as indicated by procurement quota applications which were filed pursuant to § 1303.12 of Title 21 of the Code of Federal Regulations; (5) estimates of change in legitimate medical needs; and (6) documented diversion.

Pursuant to § 1303.23(c) of Title 21 of the Code of Federal Regulations, the Administrator of the Drug Enforcement Administration will in early 1985 adjust individual manufacturing quotas allocated for the year based upon 1984 year-end inventory and actual 1984 disposition data supplied by quota applicants for each basic class of Schedule I or II controlled substance.

Based upon consideration of the above factors, the Administrator of the Drug Enforcement Administration hereby proposes that aggregate production quotas for 1985 for the following controlled substances, expressed in grams of anhydrous acid or base, be established as follows:

Basic class	Proposed 1985 quotas
Schedule I	
2,5-Dimethoxyamphetamine	10,500,000
Tetrahydrocannabinols	20,000
Schedule II	
Alphaprodine	37,300
Amobarbital	2,160,000
Amphetamine	574,000
Cocaine	904,000
Codeine (for sale)	54,051,000
Codeine (for conversion)	3,534,000
Desoxyephedrine	1,186,000
995,000 grams for the production of levodesoxyephedrine for use in a noncontrolled, nonprescription product, and 191,000 grams for the production of methamphetamine.	
Dextropropoxyphene	75,795,000
Dihydrocodeine	1,341,000
Diphenoxylate	550,000
Ecgonine (for conversion)	800,000
Fentanyl	3,500
Hydrocodone	1,459,000
Hydromorphone	164,000
Levorphanol	21,750
Mapendine	7,998,000
Methadone	1,383,000
Methadone Intermediate (4-Cyano-2-dimethylamino-4,4-diphenylbutane)	1,729,000
Methamphetamine (for conversion)	1,938,000
Methylphenidate	1,260,000
Mixed Alkaloids of Opium	22,300
Morphine (for sale)	1,142,000
Morphine (for conversion)	58,084,000
Opium (tinctures, extracts, etc. expressed in terms of USP powdered opium	2,068,000
Oxycodone (for sale)	1,966,000
Oxycodone (for conversion)	6,400
Oxymorphone	5,000
Pentobarbital	12,492,000
Pethidine Intermediate A	5,112,000
Phenmetrazine	0
Phenylacetone	800,000
Secobarbital	2,657,000
Sufentanil	500
Thebaine	6,890,000

All interested persons are invited to submit their comments and objections in writing regarding this proposal. A person may object to or comment on the above-mention substances without filing comments or objections regarding the others. Comments and objection should be submitted in quintuplicates to the Administrator, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative, and must be received on or before November 13, 1984.

If a person believes that one or more issues raised by him warrant a hearing, he should so state and summarize the reasons for his belief.

In the event that comments or objections to this proposal raise one or more issues which the Administrator finds warrants a hearing, the Administrator shall cause such hearing to be convened pursuant to the provisions of Title 21 of the Code of Federal Regulations, § 1303.31(a).

Pursuant to section (3)(c)(3) and 3(e)(3)(B) of Executive Order 12291, the Director of the Office of Management and Budget has been consulted with respect to these proceedings.

The Administrator hereby certifies that this matter will have no significant impact upon small entities within the meaning of and intent of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq. The establishment of annual aggregate production quotas for Schedules I and II controlled substances is mandated by law and by international commitments of the United States. Such quotas impact predominately upon major manufacturers of the affected controlled substances.

Dated: September 21, 1984.

Francis M. Mullen, Jr.,

Administrator, Drug Enforcement Administration.

[FR Doc. 84-26841 Filed 10-10-84; 8:45 am]

BILLING CODE 4410-09-M

LIBRARY OF CONGRESS

Exhibition of Films

AGENCY: Library of Congress.

ACTION: Notice.

SUMMARY: Notice is issued to inform the public that permission of copyright claimant(s) could not be secured to exhibit the films, "Flight: Typhoon Chaser," "Flight: Derelict," and "Flight: Window in the Sky". These films will be exhibited as part of an exhibit co-sponsored by The National Air and Space Museum and the Library of Congress. The films were made in 1958 by Airborne Productions, Inc., 1040 North Las Palmas Avenue, Hollywood, CA 90038, and were registered in 1958

with the U.S. Copyright Office (Reg. No. LP 13058). The sponsoring agencies have attempted, but were unable, to locate the copyright claimant(s) to secure permission for exhibition of these films. Any individuals or organizations having knowledge of the claimant or its successors in interest, or any individuals or organizations claiming interest in these films are asked to telephone Scott Simon (202) 287-5840, in the Motion Picture, Broadcasting, and Recorded Sound Division, Library of Congress, before October 28, 1984.

Dated: October 4, 1984.

Louis R. Mortimer,

Acting Associate Librarian for Management.

[FR Doc. 84-26783 Filed 10-10-84; 8:45 am]

BILLING CODE 1410-01-M

NATIONAL LABOR RELATIONS BOARD

National Security Information

AGENCY: National Labor Relations Board.

ACTION: Notice.

SUMMARY: The National Labor Relations Board is implementing the provisions of E.O. 12356 and its implementing directive, Information Security Oversight Office Directive No. 1. These orders established procedures and criteria for classifying, declassifying and safeguarding national security information.

EFFECTIVE DATE: October 11, 1984.

FOR FURTHER INFORMATION CONTACT: William L. Alcorn, Chief, Security and Safety Branch, National Labor Relations Board, 1717 Pennsylvania Avenue, NW., Washington, D.C. 20570.

SUPPLEMENTARY INFORMATION: Executive Order 12356 provides that all information classified herein or in predecessor orders is subject to a review for declassification upon receipt of a request made by a United States citizen or permanent resident alien, a Federal agency, or a state government. In compliance with this requirement, any mandatory declassification review or request for review of the Agency's regulations relating to classifying, declassifying and safeguarding national security information should be in writing, addressed to the Chief, Security and Safety Branch, National Labor Relations Board, 1717 Pennsylvania Avenue, NW., Washington, D.C. 20570.

Dated: Washington, D.C., October 5, 1984.

By direction of the Board.

John C. Truesdale

Executive Secretary, National Labor Relations Board.

[FR Doc. 84-26851 Filed 10-10-84; 8:45 am]

BILLING CODE 7545-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

Reports, Recommendations and Responses; Availability of

Reports Issued

Aircraft Accident Report—Air Canada Flight 797, McDonnell Douglas DC-9-32, C-FTLU, Greater Cincinnati International Airport, Covington, Kentucky, June 2, 1983 (NTSB/AAR-84/09) (NTIS Order No. PB84-910409).

Marine Accident Report—Collision of the U.S. Passenger Vessel M/V YANKEE and the Liberian Freighter M/V HARBEL TAPPER in the Rhode Island Sound, July 2, 1983 (NTSB/MAR-84/05) (NTIS Order No. PB84-916405).

Aircraft Accident Report—Korean Air Lines McDonnell Douglas DC-10-30, HL7339, SouthCentral Air Piper PA-31-350, N35206, Anchorage, Alaska, December 23, 1983 (NTSB/AAR-84/10) (NTIS Order No. PB84-910410).

Pipeline Accident Report—Washington Gas Light Company Natural Gas Explosion and Fire, Herndon Gate Station, Fairfax County, Virginia, October 13, 1983 (NTSB/PAR-84/03) (NTIS Order No. PB84-916503).

Railroad Accident Report—Derailment of Auto-Train No. 4 on Seaboard Cost Line Railroad, Florence, South Carolina, February 24, 1978 (NTSB/RAR-84/03) (Supersedes—NTSB-RAR-78-6) (NTIS Order No. PB84-916303).

Note.—Reports may be ordered from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, for a fee covering the cost of printing, mailing, handling, and maintenance. For information on reports call 703-487-4650 and to order subscriptions to reports call 703-487-4630.

Recommendations to

Highway—*Department of Transportation: Jun. 15: H-83-35:* FRA is working with the FHWA and Amtrak to develop a program in which Amtrak would pay half of the 20 percent State matching funds required to obtain Federal bridge or highway funds to improve traffic safety features on barrier systems of highway bridges over the Northeast Corridor. *H-83-36:* FHWA notified its Regional Administrators of the Board's recommendations regarding the risks highways may create for people or objects outside the roadway and to consider these risks in setting priorities and design criteria for highway improvement. *H-83-37:* In view of the magnitude of the needed repairs of our Nation's bridges, and becuase of the limited funding available to the States for the Bridge Replacement and Rehabilitation Program, we believe it would not be in the public interest to restrict a certain percentage of those funds for use on traffic barriers over the Northeast Corridor.

Federal Highway Administration: May 7: H-81-4: Has completed its collection and review of data under the Safety Effectiveness Evaluation Report Program. Tailored training materials for the States under the Motor Carrier Safety Assistance Program are being coordinated with the Transportation Safety Institute. *H-81-7:* Will, if possible, develop explicit criteria for the preparation of enforcement cases under the Federal Motor Carrier Safety Regulations and Hazardous Materials Regulations. *H-81-2:* Accident report forms have not as yet been revised. This delay will delay the validation of the relationship between compliance and preventable accident involvement by mid-1985. *May 8: H-81-11:* Research underway titled, "Field Evaluation of Grade Severity Rating System," is expected to supply many of the answers on signing for steep grades and brake check areas. *H-81-12:* The effectiveness of brake check areas has never been determined, and would be very difficult to determine because to conduct an adequate evaluation a large number of grades with brake check areas and before-and-after accident data would be necessary. *May 18: H-83-68:* Does not believe that revising Federal Motor Carrier Safety Regulation 49 CFR 391.43 to incorporate a provision, similar to that specified in 14 CFR 67.20(a) for airmen medical certification, which will prohibit the falsification or omission of medical information in connection with a medical certification physical examination would make any difference. *July 30: H-83-25:* Issued a letter to the cargo tank industry recommending that each motor carrier involved in the transportation of corrosive materials or whose cargo tanks have been exposed to corrosive environments should perform an immediate inspection of those cargo tanks.

National Highway Traffic Safety Administration: May 30: H-84-25: Agrees that countermeasures such as sobriety checkpoints and administrative revocation procedures are necessary in order to create a general deterrence effect against drinking and driving. Is conducting a sobriety checkpoint study

in one community to determine the magnitude of problems associated with implementation and the impact that the program may have in raising the general deterrance level within the community. Is conducting studies in five communities to measure the efficacy of "administrative per se" as well as its impact on crashes. *Aug. 20: H–83–53:* Is reviewing requirement for tether anchorages of pre-drilled holes for child restraints in motor vehicles. *H–83–54:* Will consider whether tethered child restraints should be required to meet all the requirements of Federal Motor Vehicle Safety Standard No. 213, Child Restraint Systems, without the tether strap attached. *H–83–55:* Laboratory tests of booster seats occupied by a 3-year-old child test dummy show these restraints to be as effective as other tethered restraints. Believes further research and accident data analyses are required before definitive conclusions can be made on the precise level of effectiveness of lap belts and booster seats for restraining older children. *H–83–56:* Believes that the existing labeling on child seats and other child restraint systems contains all the information needed to get in touch with the manufacturer and that the addition of information for obtaining a replacement copy of the manufacturer's detailed instructions for use may not bring any perceptible improvements on the proper use of child restraints. *H–83–57:* It will take a considerable amount of time and effort to develop abdominal and neck load criteria, anthropomorphic dummies, and test procedures for child safety seats and other child restraint systems. *H–83–58:* Will consider research to examine the potential for other restrained or unrestrained vehicle occupants to sustain injuries during accidents from contact with a child safety seat and to determine whether additional safety requirements may be necessary and practicable to prevent or minimize potential injuries. *H–83–59:* Although police-reported field accident data indicate good safety effectiveness for belts as child restraints, test data indicate belts may produce excessively high loads in higher speed crashes.

Mack Trucks, Inc.: Aug. 15: H–84–30: To the extent that such information does not already appear thereon, Mack is implementing a program to include on engineering drawings for leaf springs information regarding decarburization control.

Ford Motor Company: Jun. 13: H–83–61: Is revising the informational labels intended for permanent attachment to the Ford Infant Carrier and to the Ford Tot-Guard in compliance with section 5.5 of Federal Motor Vehicle Safety Standard No. 213. On the revised labels, we intend to include instructions for the use of the locking clip.

Nissan Motor Corporation in U.S.A.: May 21: H–83–61: Its diagrams for the Nissan Child Safety Seat satisfy both the letter and the spirit of Federal Motor Vehicle Safety Standard No. 213, S5.5.2(e). Does not think that inclusion of verbiage about the locking clip would be beneficial to users of the seat.

New Jersey Transit: May 14: H–84–8: Will modify its bid specifications for 16– and 24–passenger minibuses to state that vehicles must meet not only all Federal Motor Vehicle Safety Standards applicable to buses but also that the vehicles must comply with FMVSS 220, 221, and 222 as applicable to school buses built after April 1977.

State of Alabama: May 25: H–84–8: Legislature considered a bill to expand the scope of the requirements for meeting school bus specifications. Could be expanded to cover all buses which transport in the manner of a school bus. *May 25: H–84–11 through –14:* Will monitor its system for handling drunken driving cases, and if unrealistic delays between arrest and trial are found, will consider administrative license suspension as a possible method to expedite license removals. Has begun to establish community-based comprehensive alcohol programs, and will encourage the use of sobriety checkpoints as an integral part of the overall enforcement effort.

State of Alaska: Jul. 17: H–84–22 through –24: Agrees that sobriety checkpoints are an important tool and provide a positive deterrent. Has administrative license revocations for those who refuse the breath test and those who have a blood alcohol level exceeding the prima facie limit of 0.10 percent.

Arizona Department of Transportation: May 7: H–84–8: Where buses are being used to transport children or mentally and physically handicapped persons, the same safety standards as for pupil transportation should be promoted. *Jun. 1: H–84–15 through –18:* Supports the concept of Administrative Per Se to deter drunken driving. The Department of Public Safety has promoted the use of sobriety checkpoints. *Jul. 31: H–83–46 through –48:* Has recommended that transportation supervisors statewide voluntarily comply with the recommendation to put an additional fire extinguisher at the rear of school buses, post signs on the location and use of emergency equipment, and brief all passengers on the location and use of emergency equipment.

Department of California Highway Patrol: May; 29: H–83–48: Cannot justify the cost of requiring two fire extinguishers on school buses.

State of California, Superintendent of Public Instruction: Jun. 5: H–83–67: Will change Chapter 392–143 WAC to satisfy the recommendation concerning the retrofitting of all transit-type schoolbuses with FMVSS 222 approved seat and restraining barriers of these schoolbuses are refurbished during their normal service life.

State of California, Department of General Services: Jun. 29: H–84–8: Whenever possible, State buys buses that conform to FMVSS Nos. 220 and 221.

State of Colorado: May 23: H–84–19 through –21: Will begin a test program of sobriety checkpoints. Has changed DUI statutes to provide for an immediate revocation of the licenses of drivers who either refused to take a chemical test for the presence of alcohol or demonstrated a blood/alcohol concentration that exceeded 0.15 percent. Maintains a reporting rate of about 90 percent concerning blood/alcohol concentrations of drivers in fatal crashes. *Jun. 5: H–83–52:* Forwarded copies of materials distributed in connection with the Colorado child passenger safety program. *Jun. 25: H–84–8:* Agrees that an evaluation of any modifications that could affect the safety performance of a bus purchased for special purposes should be conducted.

State of Connecticut: May 14: H–84–8: State agencies responsible for the purchase of buses used to transport mentally and physically handicapped persons have continually reviewed vehicle specifications to ensure the safety of passengers. *Jun. 20:* H–83–39 and –40: Will review the use of seat restraints on non-schoolbus vehicles used in the service of transporting school children. *H–83–46:* The Department of Motor Vehicles requires all repairs of schoolbuses to be made in accordance with the recommendations of the vehicle manufacturer. *H–83–48:* Department of Motor Vehicles will investigate a possible location and a secure mounting of a fire extinguisher in the rear of the school bus.

State of Georgia: Jun. 15: H–84–15 through –18: Law enforcement agencies are authorized to use safety checkpoints for detecting DUI offenses, as well as other traffic violations. Drivers' licenses are suspended at the time of offense, pending conviction and/or administrative hearing. Has a

comprehensive program consisting of public information/education, presentence investigation, referral or treatment and court follow-up.

State of Idaho Transportation Department: May 11: H–84–8: Will attempt to insure that all vehicles ordered for specialized transportation meet Federal standard for school buses built after April 1977.

State of Iowa: May 10: H–84–8: Agree that many of the FMVSS applicable to school buses could be considered when purchasing vehicles used solely for the transportation of adults. However, the seats that meet the school bus standard are very uncomfortable for adults.

Kansas Department of Transportation: Jun. 6: H–83–51: Forwarded materials used to encourage the safe use of child passenger safety devices.

State of Kentucky: May 11: H–84–11 through –14: A new law allows a driver's license to be suspended prior to conviction of certain aggravated circumstances exist. State Police use roadblocks as part of their enforcement efforts. Public information campaigns have been held and are being intensified to educate citizens about revisions in drunk driving laws.

State of Kentucky Transportation Cabinet: Jun. 15: H–84–8: Has added FMVSS 220, 221, and 207 school bus safety requirements to its specifications for buses under the UMTA Section 16(b)(2) Program.

State of Maine Department of Public Safety: Aug. 7: H–84–22 through –24: Uses sobriety checkpoints through State and local law enforcement agencies. Will evaluate the effectiveness of the checkpoints and administrative license revocation procedures.

State of Maryland: May 28: H–84–8: Has distributed the recommendation concerning safety specifications for buses to various departments responsible for procuring vehicles. *Jun. 13: H–82–33:* Has instituted an Operation Lifesaver program in an effort to reduce accidents at railroad/highway grade crossings. *H–80–1:* Considering the many advances Maryland has made in upgrading its laws and programs to deter the drinking driver, the State finds the Board's determination that Maryland's actions regarding the recommendation to enact legislation to redefine the terms "intoxicated" and "impaired by alcohol" to fit current nationally accepted standard definitions as unacceptable are particularly unwarranted. *Jun. 25: H–84–15 through –18:* State police and local law enforcement agencies us sobriety checkpoints. Task Force on the Drinking Driver is considering the issue of administrative revocations of driver's licenses.

Michigan House of Representatives: May 8: H–83–52: Forwarded a copy of Michigan's Child Passenger Law, Public Act 115 of 1981 and other brochures and materials published by the Office of Highway Safety Planning and the Department of State regarding child passenger safety.

Missouri Department of Public Safety: Jun. 5: H–84–19 through –21: Operation REDDI was implemented over a year ago and has been supported throughout the State. Administrative Suspension/Revocation went into effect in September 1983. Sobriety checkpoints were implemented in December 1982.

State of Nevada: May 23: H–84–22 through –24: Has enacted provisions for administrative revocation of driver's licenses. Highway Patrol is evaluating the feasibility of implementing sobriety checkpoints.

New York State Department of Motor Vehicles: May 2: H–84–8: Will request clarifying language to broaden the scope of the use of safety chains permitted under Section 375(29–a) of the Vehicle and Traffic Law.

State of New York: Jun. 6: H–84–51: Distributes literature on the use of child restraints through child restraint loaner programs, pediatricians, and nurses who teach Lamaze classes. The Governor's Traffic Safety Committee is promoting the message of proper use by distributing public service announcements to radio stations; by encouraging local media to report whether a restraint device was used correctly when covering accident stories; and by demonstrating how to properly install a child restraint for local television evening news segments.

State of New York Department of Transportation: Jun. 6: H–84–5 through –8: Is reviewing the recommendations concerning safety specifications for special purpose buses, labeling of emergency exits on these buses, and placarding of vehicles which carry mentally retarded and physically handicapped persons to alert motorists and rescue personnel.

State of New York: Jun. 27: H–84–15 through –18: State Police conduct sobriety checkpoints. Local law enforcement agencies are encouraged to institute and use sobriety checkpoints. An impact and process evaluation of the entire STOP–DWI effort is underway. Supports concept of administrative license revocation. *Aug. 1: H–83–46 through –48:* The issue of mandating seat belt use in small school buses and vans has been considered by the State legislature. Will review the suggestion of placing a second fire extinguisher on schoolbuses.

State of North Carolina: Aug. 13: H–84–8: Additional specifications may suplement school bus standards to meet the particular demands of the intended application, but any departure from the minimum standards for school buses is strongly discouraged. *H–84–22 through –24:* Authorizes and encourages roadblocks to check for impaired drivers and provide for automatic revocation of the driving privilege for a number of reasons and in all cases upon conviction.

State of North Dakota: May 25: H–22 through –24: Will consider incorporating sobriety checkpoints into its law enforcement efforts against drunk drivers.

Ohio House of Representatives: Jul. 11: H–83–51: Has distributed several types of informational and educational materials in various public information and retraint usage programs since 1978.

Oregon Traffic Saftey Commission: May 9: H–84–19 through –21: Uses sobriety checkpoints, will begin administrative suspension of driver's licenses upon refusal or failure of the intoxilyzer test, has a statewide toll-free REDDI number, and has prohibited plea bargaining in DUI cases.

Pennsylvania Department of Transportation: May 3: H–83–52: Is working with the NHTSA and State Police to develop municipal and State Police occupant restraint training programs. State Polcie training officers have received copies of a child restraint law enforcement slide show. *May 22: H–82–11 through –14:* Concurs that sobriety checkpoints are an important element of a drunk driving enforcement program. Are not certain of the benefits of an administrative license suspension system.

Commonwealth of Puerto Rico: Jun. 21: H–84–11 through –14: Is studying the use of sobriety checkpoints and administrative license revocation. *H–83–39 through –41:* The legislature did not pass bills submitted on the use of seatbelts on school buses, although they had been approved by the Traffic Safety Commission.

State of South Dakota: Jun. 15: H–84–8: Will continue to carefully evaluate any proposed modifications in current purchasing standards for buses and minibuses which might adversely affect the safety of the intended passengers.

State of Washington: May 16: H–84–19 through –21: An administrative license revocation procedure will be established on Jan. 1, 1986. Has not implemented statewide sobriety checkpoints due to legal questions. The efforts of local law

enforcement agencies to implement and operate random sobriety checkpoints have met with some legal challenges. *Jul. 2: H–83–39:* Forwarded copies of Washington Administrative Code, Chapter 392–145 and the 1983 Washington School Bus Driver Handbook, which relate to use of restraint systems on schoolbuses. *H–83–40:* Is reviewing laws and codes relevant to applying the Federal Motor Vehicle Safety Standards to non-public owned buses carrying more than 10 children and weighing less than 10,000 pounds GVWR. *H–84–8:* All public school buses must be inspected by the Washington State Patrol to ensure that they continue to meet the Federal Motor Vehicle Safety Standards for school buses. Although operators of non-public school buses are encouraged to take advantage of the inspection program, State law or administrative code does not require private users to present their buses for inspection.

Note.—Single copies of these response letters are available on written request to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. Please include respondent's name, date of letter, and recommendation number(s) in your request. The photocopies will be billed at a cost of 14 cents per page ($1 minimum charge).

Dated: October 5, 1984.

H. Ray Smith, Jr.,

Federal Register Liaison Officer.

[FR Doc. 84-26827 Filed 10-10-84; 8:45 am]

BILLING CODE 7533-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Revised Notice of Meeting

This revised notice provides for a closed session in addition to those included in the **Federal Register** on September 25, 1984 for the 294th meeting of the NRC Advisory Committee on Reactor Safeguards during the period of October 11–13, 1984. This session will be closed to permit discussion of matters related solely to the internal personnel rules and practices of the NRC [5 U.S.C. 552b(c)(2)] and information the release of which would represent an . . . unwarranted invasion of personal privacy [5 U.S.C. 552b(c)(6)]. It is necessary to discuss these issues during this meeting to resolve matters on which prompt resolution is required because of ongoing activities not controlled by the NRC which determine the deadline for a decision.

The meeting scheduled on Friday, October 12, 1984 will be revised as follows:

4:30 P.M.–5:45 P.M.: ACRS Subcommittee Activities and Activities of Members (Closed)—The members will hear and discuss the report of its subcommittee on Maintenance Practices and Procedures regarding maintenance policies and practices in Japanese nuclear power plants. The members will also discuss proposed activities of individual members of the ACRS.

Portions of this session will be closed to discuss information provided in confidence by a foreign source, information related solely to the internal rules and practices of the agency, and information the release of which would represent an unwarranted invasion of personal privacy.

5:45 P.M.–6:15 P.M.: Subcommittee Activities (Open)—The members will discuss proposed topics for consideration by its Subcommittee on Committee Activities.

Dated: October 5, 1984.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 84-26860 Filed 10-10-84; 8:45 am]

BILLING CODE 7590-01-M

Draft Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a proposed revision to a guide in its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft, temporarily identified by its task number, CE 401–4 (which should be mentioned in all correspondence concerning this draft guide), is proposed Revision 1 to Regulatory Guide 4.16, "Monitoring and Reporting Radioactivity in Releases of Radioactive Materials in Liquid and Gaseous Effluents from Nuclear Fuel Processing and Fabrication Plants and Uranium Hexafluoride Production Plants." The guide is being developed to provide methods acceptable to the NRC staff for developing effluent programs to be described in license applications and for monitoring monitoring and reporting effluent data by licensees. The guidance is applicable to nuclear fuel processing and fabrication plants and uranium hexafluoride production plants.

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review and do not represent an official NRC staff position.

Public comments are beng solicited on both drafts, the guide (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Comments on both drafts should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by December 14, 1984.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland this 3rd day of October 1984.

For the Nuclear Regulatory Commission.

Guy A. Arlotto,

Director, Division of Engineering Technology, Office of Nuclear Regulatory Research.

[FR Doc. 84-26861 Filed 10-10-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-397]

Washington Public Power Supply System; Consideration of Issuance of Amendment to Facility Operating License and Proposed no Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-21, issued to Washington Public Power Supply System (the licensee), for operation of the WNP-2 located in Richland, Washington.

The amendment would modify the license condition 2.C.(11) of Facility Operating License NPF-21 which states that, "The licensee shall complete construction of deferred shield walls as identified in Attachment 3 to this license or prior to operation of the permanent solid radioactive waste solidification system, whichever occurs first." The amended license condition will read as follows: "The Licensee shall complete construction of the deferred shield walls and window as identified in Attachment 3, as amended by this license amendment and as dictated by ongoing ALARA reviews identifying the need for additional shielding." The request is in accordance with the licensee's application for amendment dated August 15, 1984, and as supplemented on September 7, 1984.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The basis for this proposed determination is that the original design anticipated radiation sources in the solid radwaste system and condenser tube access areas requiring shielding for protection of personnel in adjacent areas. Since, at present, there is no schedule for installation of the solid radwaste solidification system, the source originally anticipated is non-existent. Without a source, there is no requirement for construction of the subject shield walls in this area for personnel protection. Additionally, ALARA reviews of the west condenser tub access area indicates that the radiation levels for this area are significantly below the original levels for which the shield wall was designed. As a result, the radiation levels in this area do not represent a hazard to personnel at this time and thus there is no need to provide further shielding. WNP-2 will continue to perform ALARA reviews to evaluate the need for the subject shield walls and window, and will construct this additional shielding as dictated by the findings of these ALARA reviews.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch.

By November 13, 1984, the licensee may file a report for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and made it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of 30-day notice period. However, should circumstances change during the notice period such that failure

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to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to A. Schwencer: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commisssion, Washington, D.C. 20555, and to Nicholas Reynolds Esquire, Bishop, Cook, Liberman, Purcell and Reynolds, 1200 Seventeenth Street, NW., Washington, D.C. 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent as a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Richland City Library, Swift and Northgate Streets, Richland, Washington.

Dated at Bethesda, Maryland this 4th day of October 1984.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Licensing Branch No. 2, Division of Licensing.

[FR Doc. 84-26862 Filed 10-10-84; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

[FPM Supplement 293-35]

Microform Official Personnel Folders

AGENCY: Office of Personnel Management.

ACTION: Notice of proposal to publish procedures providing for the optional use of microfilm for the maintenance of Official Personnel Folders.

SUMMARY: The purpose of this notice is to announce that the Office of Personnel Management has developed draft policies and procedures whereby agencies (at their option) would be authorized to maintain the Official Personnel Folder (OPF) in a microform format, and to solicit comments concerning this draft from agencies, interested members of the public, and from the microfilm industry prior to implementation.

DATE: Requests for copies of the draft must be received by November 13, 1984, to permit reproduction. Comments are due by January 9, 1985.

ADDRESS: Copies of the proposed FPM Supplement may be obtained from, and written comments may be sent or delivered to: Assistant Director for Workforce Information, Compliance and Investigations Group, U.S. Office of Personnel Management, 1900 E Street, NW., Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: Charles S. Wackerman, Workforce Records Management Division (202) 632–4454.

SUPPLEMENTARY INFORMATION: This draft FPM Supplement introduces a recordkeeping media which is generally unfamiliar to the Federal personnel community. Because of that unfamiliarity, and because of the necessity for insuring that Federal personnel records are available and usable for many years, the draft is highly technical and quite voluminous. Therefore, in order to reduce the cost of reproduction, the draft is available to the public in a microfiche format. Federal agencies are specifically requested to make the draft available to the agency micrographics staff as well as the personnel staff and to forward comments from both staffs. The appropriate audience in the private sector is vendors who can provide equipment for microfilming documents and those providing supplies and service for such equipment.

Office of Personnel Management.

Donald J. Devine,

Director.

[FR Doc. 84-26786 Filed 10-10-84; 8:45 am]

BILLING CODE 6325-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. 301-47]

Initiation of Investigation Under Section 301; the Fertilizer Institute

On August 17, 1984 The Fertilizer Institute (TFI) filed a petition under Section 301 of the Trade Act of 1974, as amended (19 U.S.C. 2411 *et seq.*) alleging that the European Economic Community (EEC) maintains a technical standard applicable to triple superphosphate which is inconsistent with the EEC's obligations under the Agreement on Technical Barriers to Trade (the Standards Code). Specifically the petition alleges that the EEC adopted a standard in 1976 imposing a 93% water solubility requirement on triple superphosphate in order for the product to be labelled "EEC fertilizer". The petition further alleges that there is no agronomic justification for this standard and the the standard has had the effect of creating an unnecessary obstacle to international trade and has resulted in a decline in U.S. exports and suppression of U.S. export prices.

On October 1, 1984 the United States Trade Representative decided to initiate an investigation based on the petition filed by TFI in accordance with the provisions of 19 U.S.C. 2412(a).

Interested parties are invited to submit written comments with respect to issues raised in the petition in accordance with the procedures set forth in 15 CFR 2006.8 no later than November 9, 1984. Comments should be directed to Chairman, Section 301 Committee, Office of the United States Trade Representative, Room 223, 600 17th Street, NW., Washington, D.C.

20506. Copies of the petition are available at the above address.

Jeanne S. Archibald,

Chairman, Section 301 Committee.

[FR Doc. 84-26774 Filed 10-10-84; 8:45 am]

BILLING CODE 3190-01-M

Implementation of Modifications in Specialty Steel Import Relief

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: This notice permits the withdrawal from warehouse for consumption of a quantity of certain stainless steel bar, presently subject to quota.

EFFECTIVE DATE: October 2, 1984.

FOR FURTHER INFORMATION CONTACT: Maria T. Springer, Office of the United States Trade Representative (202) 395-4948.

SUPPLEMENTARY INFORMATION: Presidential Proclamation 5074 of July 19, 1983 (48 FR 33233), provides for the temporary imposition of increased tariffs and quantitative restrictions on certain stainless steel and alloy tool steel imported into the United States. Headnote 10(d), part 2A of the Appendix to the Tariff Schedules of the United States (TSUS) authorizes the U.S. Trade Representative to adjust the restraint level for any such steel to be exceeded during any restraint period.

Accordingly, I have determined that an amount not to exceed two and three-quarters tons of the following stainless steel bar, provided for in Tariff Schedules of the United States (TSUS) item 926.11, may be entered for consumption or withdrawn from Customs bonded warehouse, in excess of the restraint level provided for the period July 20, 1984–October 19, 1984, for the "Other" foreign country category:

Forged stainless steel bar, 14.5 inches in diameter, 37 inches in length, containing, in addition to iron, each of the following elements by weight in the amount specified:

Carbon: 0.19 percent.
Silicon: 0.52 percent.
Sulphur: 0.091 percent.
Phosphorous: 0.27 percent.
Manganese: 1.22 percent.
Nickel: 5.80 percent.
Chromium: 22.3 percent.
Molybdenum: 2.8 percent.
Nitrogen: 0.12 percent.

and certified by the importer of record or the ultimate consignee at the time of entry for use in the manufacture of oil valves.

In addition, an identical amount shall be deducted from the quota quantity allocated to the "Other" foreign country category for TSUS item 926.11 for the restraint period October 20, 1984–January 19, 1984. This determination supersedes the provisions of the notice of October 20, 1983 (48 FR 48888), to the extent inconsistent herewith.

William E. Brock,

U.S. Trade Representative.

[FR Doc. 84-26775 Filed 10-10-84; 8:45 am]

BILLING CODE 3190-01-M

SECURITIES AND EXCHANGE COMMISSION

Senior Executive Service Performance Review Board; List of Members; Schedule of Bonus Awards

AGENCY: Securities and Exchange Commission.

ACTION: Listing of Personnel Serving as Members of this Agency's Senior Executive Service Performance Review Board and Announcement of Schedule for Awarding Bonuses.

SUMMARY: Pub. L. 95-454 dated October 13, 1978 (Civil Service Reform Act of 1978) requires that Federal agencies publish notification of the appointment of individuals who serve as members of that agency's Performance Review Board (PRB). This notice announces the PRB membership and the schedule for awarding SES bonuses in the Commission. The Securities and Exchange Commission has established a Performance Review Board consisting of:

1. George G. Kundahl, Executive Director, PRB Chairman.
2. Daniel G. Goelzer, General Counsel.
3. Linda C. Quinn, Executive Assistant to the Chairman.

The Securities and Exchange Commission plans to award bonuses to Senior Executive Service members on or about December 15, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Craig Kellermann, Office of the Executive Director, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549 (202-272-2705).

Dated: October 4, 1984.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-26849 Filed 10-10-84; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2171]

Montana; Declaration of Disaster Loan Area

Musselshell Country and the adjacent County of Yellowstone in the State of Montana constitute a disaster area because of damage caused by fire which occurred August 24, 1984 to September 2, 1984. Applications for loans for physical damage may be filed until the close of business on December 3, 1984, and for economic injury until the close of business on July 5, 1985, at the address listed below:

Disaster Area 4 Office, Small Business Administration, 77 Cadillac Drive, Suite 158, Sacramento, California 95825;

or other locally announced locations.

Interest rates are:

	Percent
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses without credit available elsewhere	4.000
Businesses (EIDL) without credit available elsewhere	4.000
Other (non-profit organizations including charitable, and religious organizations)	10.500

The number assigned to this disaster is 2171005 for physical damage and for economic injury the number is 620800.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: October 4, 1984

James C. Sanders,

Administrator.

[FR Doc. 84-26848 Filed 10-10-84; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice 921]

Discretionary Grant Programs; Application Notice Establishing Closing Date for Transmittal of Certain Fiscal Year 1985 Applications

AGENCY: The Department of State invites applications from "national organizations with interest and expertise in conducting research and training" concerning the USSR and Eastern Europe under the Soviet and Eastern European Research and Training Act.

Authority for this program is contained in the Soviet-Eastern European Research and Training Act of 1983, Pub. L. 98-164, Title VIII, 97 Stat. 1007-50.

SUMMARY: The purpose of this application notice is to inform potential applicants of fiscal and programmatic information and closing dates for transmittal of applications for awards in Fiscal Year 1985 under a program administered by the Department of State.

Organization of Notice: This notice contains three parts. Part I lists the closing date covered by this notice. Part II consists of a statement of purpose and priorities of the program. Part III provides the fiscal data for the program.

Part I

Closing date for transmittal of Applications

An application for an award must be mailed or hand-delivered by Friday, November 16, 1984.

Applications Delivered by Mail

An application sent by mail must be addressed to the U.S. Department of State, INR, Soviet-Eastern European Studies Advisory Committee, Room 4643, Washington, D.C. 20520.

An applicant must show proof of mailing consisting of *one* of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial center.

(4) Any other proof of mailing acceptable to the U.S. Secretary of State.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with the local post office.

An applicant is encouraged to use registered or at least first class mail. Late applications will not be considered and will be returned to the applicant.

Applications Delivered by Hand

An application that is hand-delivered must be taken to the U.S. Department of State, INR, Soviet-Eastern European Studies Advisory Committee, Room 4643, 2201 C Street, NW., Washington, D.C.

The Soviet-Eastern European Studies Advisory Committee will accept hand-delivered applications between 9:00 a.m. and 4:00 p.m. (Washington, D.C. time) daily, except Saturdays, and Federal holidays.

An application that is hand-delivered will not be accepted after 4:00 p.m. on the closing date.

Part II

Program Information

The Soviet-Eastern European Research and Training Act of 1983 provides for U.S. Government assistance to develop and maintain a national capability for advanced research and training in the field of Soviet and Eastern European studies by authorizing support for graduate training, advanced research, public dissemination of research data and results, contact and collaboration among government and private specialists, and acquisition by specialists of first-hand experience in the Soviet Union and the countries of Eastern Europe.

The *purpose* of the program and eligibility requirements are set forth in the Act, Pub. L. 98–164, Title VIII, 1047–50. Under Title VIII, the countries include Albania, Bulgaria, Czechoslovakia, German Democratic Republic, Hungary, Poland, Romania, USSR, and Yugoslavia.

The Act establishes an Advisory Committee to recommend grant policies and recipients. The Secretary of State, after consultation with the Advisory Committee, shall approve policies and shall make final determination on awards.

Applications for funding under the Act are invited from organizations prepared to conduct national programs in the field of Soviet and Eastern European and related studies furthering the goals of the Act as follows:

(1) Programs of support for research on the Soviet Union and Eastern Europe at the postdoctoral or equivalent level, such research to be conducted, on a shared-cost basis by the sponsoring organization/institution and the government, through American institutions of higher education or not-for-profit corporations;

(2) Programs offering graduate, postdoctoral, and teaching fellowship support for advanced training in Soviet and Eastern European and related studies, including training in the languages of the Soviet Union and Eastern Europe, such training to be conducted, on a shared-cost basis by the sponsoring organization/ institution and the government, at American institution of higher education;

(3) Programs to carry out advanced training and research on a reciprocal basis in the Soviet Union and in the countries of Eastern Europe, and to facilitate access for American specialists to research facilities and resources in those countries;

(4) Programs to facilitate dissemination of research methods, data and findings in Soviet Union and Eastern European studies. Dissemination would include publication of papers, speeches, conference proceedings, the holding of meetings, funding of serial publications, bibliographical materials, etc.; and

(5) Programs to facilitate research collaboration among specialists and between government and private researchers in the field of Soviet and Eastern European studies and by conducting seminars, conferences, etc.

To be eligible for consideration, proposed programs must be national in scope as regards the constituencies to be served, and the competitions to be held in making awards. It is not intended to consider applications from individuals to further their own training or research, or from institutions or organizations proposing programs that do not meet the stipulated criteria for national scope.

In making its recommendations, the Committee will seek the development of a coherent, long-term, and stable effort directed toward developing and maintaining a national capability in Soviet and Eastern European studies. Program proposals can be for conduct of any of the functions enumerated, but in making its recommendations, the Committee will be concerned to develop a balanced effort which, over the life of the Act, will ensure attention to all the countries of the area, though with emphasis on the USSR. In choosing programs to recommend for funding it will also seek to foster interdisciplinary studies and the development of secondary competences. It will also seek to ensure special emphasis for those disciplines and topics (economics, geography, sociology, international relations, nationalities studies are possible examples) where the existing base of expertise most needs strengthening in the light of national needs.

Part III

Available Funds

Congress has authorized Title VIII funding through 1993 on an annual appropriation basis; in Fiscal Year 1985 the allocation is for $4,800,000. Awards for future years will be based on an annual procedure subject to availability of funds.

Applications

Applications must be prepared and submitted in 7 copies in the form of a statement, the narrative part of which should not exceed 25 pages, double-spaced with a 1 page executive summary, a budget, and vitae of professional staff.

Technical Review

The Soviet-Eastern European Advisory Committee will evaluate applications on the basis of the nature and extent of the applicant's experience in administering programs of this kind in the Soviet-Eastern European field (35 points), their responsiveness to the objectives set forth above in *Part II, Program Information* (35 points), the quality of applicant key personnel and the adequacy of supporting resources (15 points), and budget and cost effectiveness (15 points).

Further Information

For further information, contact Paul K. Cook, Executive Director, Soviet-Eastern European Studies Advisory Committee, INR, Department of State, Room 4643, Washington, D.C. 20520. Telephone: (202) 653–5144.

Dated: October 2, 1984.

Paul K. Cook,

Exeuctive Director, Soviet and Eastern European Studies Advisory Committee.

[FR Doc. 84-26797 Filed 10-10-84; 8:45 am]

BILLING CODE 4710-32-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Hazardous Materials Regulation; Applications for Exemptions

AGENCY: Materials Transportation Bureau, DOT.

ACTION: List of applicants for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

DATES: Comment period closes November 8, 1984.

Address comments to: Dockets Branch, Office of Regulatory Planning and Analysis, Materials Transportation Bureau, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, SW., Washington, DC.

NEW EXEMPTIONS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9316-N	Fluoroware, Inc., Chaska, MN	49 CFR 173.268, Part 173, Subpart F	To manufacture, mark and sell a teflon liner similar to DOT Specification 2SL contained in a DOT Specification 6D., for shipment of those corrosive liquids authorized in DOT Specification 6D/2S or 2SL and up to 70% nitric acid. (Modes 1, 2.)
9317-N	Dow Chemical U.S.A., Freeport, TX	49 CFR 173.315	To authorize shipment of chlorine, waste, in non-DOT specification portable tanks over a short distance on public highway within plant site. (Mode 1.)
9318-N	Stern Air, Inc., Dallas, TX	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b), Part 107, Appendix B.	To authorize carriage of various Class A, B and C explosives not permitted for air shipment or in quantities greater than those prescribed for air shipment. (Mode 4.)
9320-N	Rohm and Haas Company, Philadelphia, PA	49 CFR 173.119(a)(2), 173.136(a)(3), 173.247(a)(7), 178.81-9(d).	To authorize shipment of various flammable and corrosive liquids in Type 316 stainless steel drums comparable to DOT Specification 5A except they are equipped with 4.0 inch openings. (Mode 1.)
9321-N	The University of Iowa, Iowa City, IA	49 CFR Part 173, Subpart D, E, F, H, Subpart K, L, M.	To authorize shipment of various waste hazardous materials in non-DOT specification containers, overpacked in plywood boxes which are securely mounted to a transport vehicle. (Mode 1.)
9322-N	Jones Chemicals, Inc., Caledonia, NY	49 CFR 173.277	To authorize shipment of hypochlorite solution, classed as a corrosive material in DOT Specification 60, rubber lined portable tank. (Mode 1.)
9323-N	U.S. Department of Defense, Washington, DC	49 CFR 173.119(a)	To authorize shipment of gasoline and JP 4 and 5 fuel, classed as flammable liquids, in non-DOT specification 500 gallon collapsible rubber drums. (Mode 1.)
9324-N	Walker Systems, Inc., Houston, TX	49 CFR 173.277(a)(9)	To authorize shipment of sodium hypochlorite, classed as a corrosive material, in non-DOT specification cargo tanks made of titanium. (Mode 1.)
9325-N	LTV Aerospace and Defense Company, Dallas, TX.	49 CFR 172.101	To authorize a one-time shipment of rocket ammunition with explosive projectile by cargo aircraft only. (Mode 4.)
9326-N	Carbonaire, Inc., Palmerton, PA	49 CFR 173.315	To authorize shipment of liquefied carbon dioxide, classed as a nonflammable gas, in non-DOT specification cargo tanks. (Mode 1.)
9327-N	Precision Measurement, Inc., Tulsa, OK	49 CFR 173.119, 173.304, 173.315	To manufacture, mark and sell displacement meter proving units, to be affixed to a truck or trailer, for shipment of hydrocarbon products, classed as flammable liquid or flammable gas. (Mode 1.)

This notice of receipt of applications for new exemptions is published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on October 3, 1984.

J.R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 84-26836 Filed 10-10-84; 8:45 am]

BILLING CODE 4910-60-M

Hazardous Materials Regulations; Applications for Renewal or Modification of Exemptions or Applications To Become a Party to an Exemption

AGENCY: Materials Transportation Bureau, DOT.

ACTION: List of applications for renewal or modification of exemptions or application to become a party to an exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulation (49 CFR Part 107, Subpart B, notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Except as otherwise noted, renewal applications are for extension of the exemption terms only. Where changes are requested (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) they are described in footnotes to the application number. Application numbers with the suffix "X" denote renewal; application numbers with the suffix "P" denote party to. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comment period closes October 25, 1984.

Address comments to: Dockets Branch, Office of Regulatory Planning and Analysis, Materials Transportation Bureau, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street SW., Washington, DC.

Application No.	Applicant	Renewal of exemption
3121-X	U.S. Department of Defense, Washington, DC (See Footnote 1)	3121
3330-X	General Electric Co., Schenectady, NY	3330
3549-X	U.S. Department of Energy, Washington, DC (See Footnote 2)	3549
4575-X	Union Carbide Corporation, Danbury, CT	4575
4575-X	Racon, Inc., Wichita, KS	4575
4631-X	Nitrochem Energy Corporation, Brwabik, MN	4631
4698-X	United Technologies Diesel Systems, Inc., Springfield, MA	4698
5188-X	U.S. Department of Energy, Washington, DC	5188
5248-X	3M Co., Austin, TX	5248
5263-X	Dow Corning Corporation, Midland, MI	5263
5557-X	U.S. Department of Energy, Washington, DC	5557
6117-X	Montana Sulphur & Chemical Company, Billings, MT	6117
6293-X	Olin Corp., East Alton, IL	5293
6543-X	Union Carbide Corporation, Danbury, CT	6543
6543-X	Corning Glass Works, Corning, NY	6543
6543-X	Rohm and Haas Co., Philadelphia, PA	6543
6556-X	Castle & Cooke, Inc., San Francisco, CA	6556
6651-X	Heatbath Corporation, Chicago, IL	6651
6762-X	Taylor Chemicals, Inc., Sparks, MD	6762
6763-X	Pool Water Products, Garden Grove, CA	6763
6874-X	Degussa Corporation, Teterboro, NJ	6874
7259-X	Occidental Chemical Corp., Niagara Falls, NY	7259
7268-X	Union Carbide Corporation, Danbury, CT	7268
7546-X	Grumman Aerospace Corporation, Bethpage, NY (See Footnote 3)	7546
7694-X	Applied Environments Corporation, Woodland Hills, CA	7694
7719-X	Turner, Sycamore, IL	7719
7840-X	Weber Aircraft, Burbank, CA	7840
7846-X	Union Carbide Corporation, Danbury, CT	7846
8003-X	Pennwalt Corporation, Buffalo, NY	8003
8023-X	Acurex Corporation, Mountain View, CA	8023
8094-X	Milport Chemical Company, Milwaukee, WI	8094
8127-X	Hercules, Incorporated, Wilmington, DE	8127
8451-X	U.S. Department of Energy, Washington, DC	8451
8451-X	U.S. Department of Defense, Washington, DC	8451
8472-X	Ohmart Corporation, Cincinnati, OH	8472
8487-X	Brunswick Corporation, Lincoln, NE	8487
8495-X	Walter Kidde, Wilson, NC	8495
8509-X	Mobay Chemical Corporation, Pittsburgh, PA	8509
8509-X	Dow Chemical Co., Midland, MI	8509
8509-X	FMC Corporation, Philadelphia, PA	8509
8522-X	Tuscarora Plastics, Inc., Sterling, VA	8522
8526-X	National Starch and Chemical Corporation, Bridgewater, NJ	8526
8538-X	Hercules, Incorporated, Wilmington, DE	8538
8545-X	Hercules, Incorporated, Wilmington, DE	8545
8580-X	Priority Air, Incorporated, Sanford, FL	8580
8725-X	CNG Cylinder Corporation, Long Beach, CA (See Footnote 4)	8725
8818-X	Dow Chemical Co., Midland, MI	8818
8851-X	Process Engineering Inc., Plaistow, NH	8851
8879-X	Temco Engineering, Tulsa, OK	8879
8890-X	Sunbelt Airlines, Camden, AR	8890
8906-X	FMC Corporation, Middleport, NY	8906
8920-X	Applied Environments Corporation, Woodland Hills, CA	8920
8921-X	Hoover Universal, Inc., Beatrice, NE	8921
8937-X	Dow Chemical Co., Freeport, TX (See Footnote 5)	8937
8944-X	Union Carbide Corporation, Danbury, CT (See Footnote 6)	8944
8952-X	Trojan Corporation, Salt Lake City, UT	8952
8958-X	Goex, Inc., Moosic, PA	8958
9227-X	Canadian Arsenals Limited, Gardeur, Quebec, Canada	9227
9319-X	Dearborn Chemical Company, Lake Zurich, IL	9319

[1] To authorize use of an additional type stainless steel cargo tank motor vehicle, for shipment of nitrogen tetroxide.
[2] To authorize the use of DOT Specification 19B plywood boxes as an additional container.
[3] To authorize an additional size heat pipe radiator assembly.
[4] To modify exemption to allow one test ring per heat treat load in place of 1 test ring per production lot of 200 cylinder or less.
[5] To renew and authorize water as an additional mode of transportation.
[6] To renew; include the 3AX cylinders and cargo vessel; request modified test procedures for cylinders; to authorize reuse of cylinders by others; to provide for a tube module configuration.

Application No.	Applicant	Parties to exemption
2587-P	Connecticut Oxygen Corporation, Stratford, CT	2587
4453-P	Armstrong Explosives Co., Kittanning, PA	4453
4453-P	Wampum Distributing Co., New Galilee, PA	4453
4453-P	Belmont Mine Supply Co., Inc., Flushing, NY	4453
4453-P	Northern Ohio Explosives, Inc., Forest, OH	4453
4453-P	Wampum Supplies Co., New Galilee, PA	4453
4453-P	Wampum Manufacturing Co., Senecaville, OH	4453
6126-P	D & O Chemicals, Inc., Fort Lee, NJ	6126
6325-P	Northern Ohio Explosives, Inc., Forest OH	6325
6325-P	Belmont Mine Supply Co., Inc., Flushing, NY	6325
6325-P	Armstrong Explosives Co., Kittanning, PA	6325
6325-P	Wampum Supplies Co., New Galilee, PA	6325
6525-?	Wampum Manufacturing Co., Senecaville, OH	6325
6325-P	Wampum Distributing Co., New Galilee, PA	6325
6538-P	Precise International, Suffern, NY	6538
6614-P	Guard-Rite Chemicals, Inc., Torrance, CA	6614
6762-P	United Laboratories, Inc., Addison, IL	6762
7052-P	Union Carbide Corporation, Danbury, CT	7052
7835-P	Sunox, Incorporated, Charlotte, NC	7835
7835-P	Lincoln Big Three, Inc., Baton Rouge, LA	7835
8129-P	U.S. Environmental Protection Agency, Washington, DC	8129
8129-P	GTE Network Systems Incorporated, Albuquerque, NM	8129
8129-P	Coast Well Service, Emporium, PA	8129
8129-P	University at Buffalo, Buffalo, NY	8129
8129-P	Philips Roxane, Inc., Saint Joseph, MO	8129
8129-P	Carbolabs, Inc., Bethany, CT	8129
8308-P	Del Med, Incorporation, Philadelphia, PA	8308
8410-P	Em Diagnostic Systems, Inc., Gibbstown, NJ	8410
8445-P	Borg-Warner Chemicals, Inc., Parkersburg, WV	8445
8445-P	GTE Network Systems Incorporated, Albuquerque, NM	8445
8445-P	Ashland Chemical, Dublin, OH	8445
8445-P	U.S. Environmental Protection Agency, Washington, DC	8445
8582-P	The Atchison, Topeka and Santa Fe Railway Company, Chicago, IL	8582
8645-P	Belmont Mine Supply Co., Inc., Flushing, NY	8645
8485-P	Wampum Supplies Co., New Galilee, PA	8645
8485-P	Wampum Manufacturing Co., Senecaville, OH	8645
8645-P	Northern Ohio Explosives, Inc., Forest, OH	8645
8485-P	Wampum Distributing Co., New Galilee, PA	8645
8645-P	Armstrong Explosives Co., Kittanning, PA	8645
9064-P	Corning Glass Works, Corning, NY	9064
9121-P	Daniel F. Young, Inc., Miami, FL	9121
9157-P	RCA, Lancaster, PA	9157

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on October 3, 1984.

J.R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulations, Materials Transportation Bureau.

[FR Doc. 84-26817 Filed 10-10-84; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Debt Management Advisory Committee; Meeting

Notice is hereby given, pursuant to section 10 of Pub. L. 92-463, that a meeting will be held at the U.S. Treasury Department in Washington, D.C. on October 30 and 31, 1984 of the following debt management advisory committee:

Public Securities Association, U.S. Government and Federal Agencies Securities Committee.

The agenda for the Public Securities Association, U.S. Government and Federal Agencies Securities Committee meeting provides for a working session on October 30, and the preparation of a written report to the Secretary of the Treasury on October 31, 1984.

Pursuant to the authority placed in Heads of Departments by section 10(d) of Pub. L. 92-463, and vested in me by Treasury Department Order 101-5, I hereby determine that this meeting is concerned with information exempt from disclosure under section 552b (c)(4) and (9)(A) of Title 5 of the United States Code, and that the public interest requires that such meetings be closed to the public.

My reasons for this determination are as follows. The Treasury Department requires frank and full advice from representatives of the financial community prior to making its final decision on major financing operations. Historically, this advice has been offered by debt management advisory committees established by the several major segements of the financial community, which committees have been utilized by the Department at meetings called by representatives of the Secretary. When so utilized, such a committee is recognized to be an advisory committee under Pub. L. 92-463. The advice provided consists of commercial and financial information given and received in confidence. As such debt management advisory committee activities concern matters which fall within the exemption covered by section 552b(c)(4) of Title 5 of the United States Code for matter which are "trade secrets and commercial or financial information obtained from a person and privileged or confidential."

Although the Treasury's final announcement of financing plans may not reflect the recommendations provided in reports of an advisory committee, premature disclosure of these reports would lead to significant financial speculation in the securities market. Thus, these meetings also fall within the exeption covered by section 552b(c)(9)(A) of Title 5 of the United States Code.

The Assistant Secretary (Domestic Finance) shall be responsible for maintaining records of debt management advisory committee hearings and for providing annual reports setting forth a summary of committee activities and such other matters as may be informative to the public consistent with the policy of section 552b of Title 5 of the United States Code.

Dated: October 2, 1984.

Thomas J. Healey,

Assistant Secretary (Domestic Finance).

[FR Doc. 84-26771 Filed 10-10-84; 8:45 am]

BILLING CODE 4810-25-M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 198
Thursday, October 11, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: Tuesday, October 16, 1984, 9:30 AM (Eastern Time).

PLACE: Clarence Mitchell Jr., Conference Room No. 200–C on the 2nd Floor of the Columbia Plaza Office Building, 2401 "E" Street NW., Washington, D.C. 20507.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Announcement of Notation Votes.
2. A Report on Commission Operations (Optional).
3. Freedom of Information Act Appeal No. 84–7–FOIA–97–SL, concerning a request for a confidential affidavit from a closed ADEA charge file.
4. Freedom of Information Act Appeal No. 84–03–FOIA–76–PA, concerning a request for documents from a closed Title VII charge file.
5. Freedom of Information Act Appeal No. 84–7–FOIA–087–CT, concerning a request for statements from a charging party.
6. Freedom of Information Act Appeal No. 84–8–FOIA–44–BI, concerning a request for recommendation decision on an EEO charge.
7. Freedom of Information Act Appeal No. 84–08–FOIA–196–MK, concerning a request for access to an age charge file.
8. Freedom of Information Act Appeal No. 84–7–FOIA–96–SL, concerning a request for access to records in a charge file.
9. Freedom of Information Act Appeal No. 84–7–FOIA–52–NO, concerning a request for a copy of all documents, memorandum, or other materials in a Title VII file.
10. Freedom of Information Act Appeal No. 84–08–FOIA–103 and 104–BA, concerning a request for access to contents of part of two charge files.
11. Discussion on Proposed Multi-Year Affirmative Action Plans for Minorities and Women (EEO–Md 707).

Closed

1. Litigation Authorization; General Counsel Recommendations.
2. Proposed Contract in Connection with a Court Case.
3. Proposed Commission Decisions: ORA Decisions and Guidance Decisions.
4. Proposed Subpoenas.

Note.—Any matter not discused or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the **Federal Register**, the Commission also provides a recorded announcement a full week in advance on future Commission sessions. Please telephone (202) 634–6748 at all times for information on these meetings).

CONTACT PERSON FOR MORE INFORMATION: Treva McCall, Executive Secretary to the Commission at (202) 634–6748.

Dated: October 9, 1984.

Treva McCall,

Executive Secretary to the Commission.

This Notice Issued October 9, 1984.

[FR Doc. 84–27013 Filed 10–9–84; 2:17 pm]

BILLING CODE 6570–06–M

2

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Wednesday, October 17, 1984.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed acquisition of real property by a Federal Reserve Bank.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: October 9, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84–27038 Filed 10–9–84; 3:54 pm]

BILLING CODE 6210–01–M

3

NATIONAL SCIENCE BOARD

DATE AND TIME: October 18, 1984, 1:30 p.m., Open Session; October 19, 1984, 9:00 a.m., Closed Session; 9:30 a.m. Open Session.

PLACE: National Science Foundation, Washington, D.C.

STATUS: Most of this meeting will be open to the public. Part of the meeting will be closed to the public.

MATTERS TO CONSIDERED AT THE OPEN SESSIONS:

Thursday, October 18, 1984—1:30 p.m.

1. Program Review—Research Initiation and Improvement

Friday, October 19, 1984—9:30 a.m.

5. Minutes—September 1984 Meeting
6. Chairman's Report
7. Director's Report
8. Reports of Board Committees
9. Board Representation at Advisory Committee and Other Meetings
10. Other Business
11. Next Meetings

MATTERS TO BE CONSIDERED AT THE CLOSED SESSION:

Friday, October 19, 1984—9:00 a.m.

2. Minutes—September 1984 Meeting
3. NSB and NSF Staff Nominees
4. Grants, Contracts, and Programs

Margaret L. Windus,

Executive Officer.

[FR Doc. 84–28977 Filed 10–9–84; 12:48 pm]

BILLING CODE 7555–01–M

4

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

AGENCY HOLDING THE MEETING: Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Addition of agenda item.

DATE: September 20, 1984.

PLACE: Towne Plaza Motor Inn, Yakima, Washington.

SUMMARY: The Government in the Sunshine Act, 5 U.S.C. 552b, requires Federal Register notice whenever an agency adds an item to its meeting agenda after the meeting had been publicly announced. At its September 19–20 meeting in Yakima, Washington, the Council voted to add to its agenda discussion of "Legal Considerations Relating to Transfers of Electric Power from Pacific Northwest to Pacific Southwest." By roll call vote at that meeting, the Council determined that Council business required the addition to the agenda and that no earlier notice of the addition was practicable. The addition to the agenda was publicly announced at the Council meeting.

CONTACT PERSON FOR MORE INFORMATION: Ms. Bess Wong, (503) 222–5161.

Edward Sheets,

Executive Director.

[FR Doc. 84–26978 Filed 10–9–84; 12:48 pm]

BILLING CODE 6000–09–M

5

SECURITIES AND EXCHANGE COMMISSION

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: (To be published).

STATUS: Closed meeting.

PLACE: 450 Fifth Street, NW., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Thursday, September 27, 1984.

CHANGE IN THE MEETING: Additional item.

The following additional item was considered at a closed meeting held on Wednesday, October 3, 1984, at 2:30 p.m.

Institution of injunctive action.

Chairman Shad and Commissioners Cox, Marinaccio and Peters determined that Commission business required the above change and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Angela Hall at (202) 272–3085.

Dated: October 4, 1984.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84–26888 Filed 10–5–84; 4:26 pm]

BILLING CODE 8010–01–M

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federal register

Thursday
October 11, 1984

Part II

Department of Defense

Department of the Army

32 CFR Part 544

Civilian Marksmanship; National Marksmanship Matches and Excellence-in-Competition (EIC) Matches; Final Rules

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 544

Civilian Marksmanship; National Marksmanship Matches and Other Excellence-in-Competition Matches; Rules and Regulations

AGENCY: Director of Civilian Marksmanship, OSA, Department of the Army, DOD.

ACTION: Final rule.

SUMMARY: This regulation on the rules and regulations for National Marksmanship Matches and other Excellence-in-Competition (EIC) matches has been revised. It gives responsibilities for the National Matches eligibility criteria and categories for the competitors, and the program for the National Trophy Matches. It also describes the awards for the National Trophy Matches. This regulation has been revised to change the staff organization of the National Matches, show new eligibility requirements and program for the National Trophy Matches, added women as a category in the matches, and introduces new awards. This regulation applies to the Active Army, Navy, Air Force, Marine Corps, Coast Guard, National Guard, Army and Marine Corps Reserve, all other personnel competing in the National Matches, and civilians in other EIC matches.

EFFECTIVE DATE: October 11, 1984.

ADDRESSES: Written comments should be submitted to the Director of Civilian Marksmanship, Attention: Lieutenant Colonel William Creech, 20 Massachusetts Avenue, NW., Room 1205—Pulaski Building, Washington, D.C. 20314–0100.

FOR FURTHER INFORMATION CONTACT: LTC William Creech at (202) 272–0810 or the above address.

SUPPLEMENTARY INFORMATION: This regulation promotes the maintenance of national defense through the promotion of competition in nationally held rifle and pistol matches. Since the stated purpose and intent of the matches is national defense the Department of the Army has determined that this regulation should be published as a final rule.

List of Subjects in 32 CFR Part 544

Armed forces, National defense, Awards, Nonprofit organizations.

Accordingly, a new Part 544 is added to read as follows:

PART 544—CIVILIAN MARKSMANSHIP

Subpart A—General

Sec.
544.1 Purpose.
544.2 References.
544.3 Explanation of abbreviations and terms.
544.4 The intent of the National Matches.
544.5 Composition of the National Matches.
544.6 National Match Staff.
544.7 Armed Forces involvement.
544.8 Role of the NRA.
544.9 Places and dates.
544.10 Fees.

Subpart B—Responsibilities

544.11 Secretary of the Army (SA).
544.12 President, National Board for the Promotion of Rifle Practice (NBPRP).
544.13 Director of Civilian Marksmanship (DCM).
544.14 Executive Officer, National Matches (XO, NM)).
544.15 Executive Officer, Civilian Marksmanship Program (Support) (XO, CMP (SPT)).
544.16 National Match Support Coordinator (NMSC).
544.17 Match Directors.
544.18 Range Director.
544.19 Statistical Director.
544.20 Director, Small Arms Firing Schools (SAFS).
544.21 The Commanding General, US Army Materiel Command (CG, AMC).
544.22 Chief of Public Affairs (CPA).
544.23 Chief, National Matches Support Detachment (NMSD).
544.24 Ordnance Safety Officer (OSO).
544.25 Commanding General, US Army Forces Command (CG, FORSCOM).
544.26 Commanding General, US Army Training and Doctrine Command (CG, TRADOC).
544.27 Commanding General, US Army Communications-Electronics Command (CG, CEACOM).
544.28 Adjutant General, Ohio National Guard.

Subpart C—Competitor Eligibility, Requirements, Categories, and Teams

544.29 Eligibility for the matches.
544.30 Requirements for competitors in individual matches.
544.31 Requirements for military competitors.
544.32 Requirements for certain civilian competitors.
544.33 Competitor categories for National Trophy Matches.
544.34 Team member eligibility requirements.
544.35 Authorized teams in National Trophy Team Matches.
544.36 Requirements for new shooters in National Trophy Team Matches.

Subpart D—General Rules for National Trophy Matches

General Match Rules

544.37 National Trophy and EIC match rules.
544.38 Entries.
544.39 Directives competitors must follow.
544.40 Coaching.
544.41 Elimination of teams or individuals.
544.42 Penalties.
544.43 Competitors verifying their scores.
544.44 Referees, scoring, and challenge procedures.
544.45 Protests.
544.46 Bulletins.

Team Match Rules.

544.47 Team composition.
544.48 Team squadding.
544.49 Station and duties of team coaches.
544.50 Station of team captain.

Types of Firearms, Ammunition, and Other Equipment

544.51 Description of arms to be used.
544.52 Rifles and pistols available.
544.53 Checking firing characteristics.
544.54 Use of the same firearm by more than one competitor.
544.55 Disabled firearms.
544.56 Ammunition.
544.57 Targets.
544.58 Field glasses telescopes, and binoculars.

Firing

544.59 Safety precautions.
544.60 Organization of firing areas.
544.61 Station of competitors.
544.62 Target assignments and operations in rifle matches.
544.63 Slow target operation in rifle matches.
544.64 Practice firing.
544.65 Firing procedure and punctuality.
544.66 Firing positions.
544.67 Loading and reloading a rifle in rapid fire.
544.68 Unauthorized firing.
544.69 Time limits and extensions.
544.70 Sighting shots.
544.71 Competitors serving as range officials.

Subpart E—Program for the National Trophy Matches

544.72 The President's Pistol Match.
544.73 National Trophy Individual Pistol Match.
544.74 National Trophy Pistol Team Match.
544.75 The President's Rifle Match.
544.76 National Individual Trophy Rifle Match
544.77 National Trophy Rifle Team Match.
544.78 National Trophy Infantry Team Match.

Subpart F—Awards

544.80 General.
544.81 Participation requirements for certain National Trophy Match awards.
544.82 Awards for the President's Pistol Match.
544.83 Awards for the National Trophy Individual Pistol Match.
544.84 Awards for the National Trophy Pistol Team Match.
544.85 Additional National Trophy Pistol Match awards.
544.86 Awards for the President's Rifle Match.

Sec.

544.87 Awards for the National Trophy Individual Rifle Match.
544.88 Awards for the National Trophy Rifle Team Match.
544.89 Additional National Trophy Rifle Match awards.
544.90 Awards for the National Trophy Infantry Team Match.
544.91 Special medals in National Trophy Individual Pistol and Rifle Matches.
544.92 Place medals in National Trophy team matches.
544.93 Place medals in individual EIC matches.
544.94 Distinguished designation and badge awards.
544.95 EIC badges.
544.96 Marksmanship qualification awards.
544.97 Scores allowed for club qualification firing.

Appendix A—Related Publications
Appendix B—Trophies of the National Board for the Promotion of Rifle Practice

Glossary

Authority: 10 U.S.C. 4307 through 4313.

Subpart A—General

§ 544.1 Purpose.

This regulation prescribes the policies, procedures, and responsibilities for the National Matches and other excellence-in-competition (EIC) matches.

§ 544.2 References.

Related publications are listed in appendix A.

§ 544.3 Explanation of abbreviations and terms.

Abbreviations and special terms used in this regulation are explained in the glossary.

§ 544.4 The intent of the National Matches.

(a) The national Matches and included competitions are part of the Civilian Marksmanship Program (CMP). Sections 4307 through 4313, title 10, United States Code (U.S.C), establish the CMP to be conducted under rules approved by the Secretary of the Army (SA).

(b) As part of the CMP, these matches are intended to promote the national defense. The CMP provides and encourages voluntary marksmanship training for citizens and other persons subject to induction in the Armed Forces of the United States who are not reached by training programs of the Armed Forces and who might be called into service in an emergency. The National Matches enhance this training by offering open competition at the highest national level. Further, the statutes in a above provide that marksmanship competitions sponsored by the National Rifle Association (NRA) may be held in connection with the National Matches.

(c) The Services have established individual rifle and pistol matches at major command levels in which civilians may participate. The Services will conduct these matches according to the parts of this regulation that apply.

(d) Upon approval by the Director of Civilian Marksmanship (DCM), recognized civilian rifle and pistol clubs and State rifle and pistol associations may conduct similar matches in conjunction with NRA Regional and State Championships. The intention of all of these matches is to promote civilian marksmanship training.

§ 544.5 Composition of the National Matches.

The National Matches are composed of (a) through (e) of this section.

(a) *Small Arms Firing Schools (SAFS).* The SAFS give instruction in the service rifle and pistol, particularly the current service rifle with which civilians may not be familiar. The SAFS, also introduce the latest approved training concepts for these arms. The Army will conduct the schools and provide the Director, SAFS. Other Services, including Reserve Components, will assist at the schools. The Director, SAFS, may request Armed Forces shooting teams participating in the National Matches to provide qualified persons to serve as assistant instructors and coaches. The SA will prescribe the curriculum based on the recommendation of the National Board for the Promotion of Rifle Practice (NBPRP). The Director, SAFS, will give a certificate of satisfactory completion to those who meet the qualifications set by the NBPRP.

(b) *National Trophy Matches.* The National Trophy Matches are listed below.

(1) The President's Pistol Match.
(2) National Trophy Individual Pistol Match.
(3) National Trophy Pistol Team Match.
(4) The President's Rifle Match.
(5) National Trophy Individual Rifle Match.
(6) National Trophy Rifle Team Match.
(7) National Trophy Infantry Team Match.

(c) NRA National Rifle and Pistol Championships. The NRA National Rifle and Pistol Championships are conducted according to the NRA's rules and regulations. These championships are listed below.

(1) National Pistol Championships.
(2) National Smallbore Rifle Position Championships.
(3) National Smallbore Rifle Prone Championships.
(4) National Highpower Rifle Championships.

(d) *Additional events.* The National Matches also include events sponsored by the SA or sponsored by the NRA and arranged in coordination with the SA.

(e) *Ceremonies.* As approved by the DCM, (who is also the National Matches Installation Commander (NMIC)), the appropriate opening, closing, award, and other ceremonies are conducted as official parts of the National Matches.

§ 544.6 National Match Staff.

(a) The organization of the National Match Staff is shown in figure 1–1.

(b) The specific duties of the National Match Staff are set by the DCM/NMIC and the NRA National Match Coordinator.

(c) Key members of the National Match Staff are listed below. Their responsibilities are explained in the paragraphs cited after their titles.

(1) DCM/NMIC (§ 544.3)
(2) Executive Officer, National Matches (XO, NM)/Deputy Installation Commander (Operations/Services) (DNMIC (Ops/Svcs)) (§ 544.14 2–4).
(3) Executive Officer, Civilian Marksmanship Program (Support) (XO, CMP (SPT)) (§ 544.15).
(4) NRA National Matches Coordinator (§ 544.81–6).
(5) Match Directors (§ 544.17).
(6) Deputy Match Directors (§ 544.8).
(7) Range Director (§ 544.18).
(8) Statistical Director (§ 544.19).
(9) Director, SAFS (§ 544.20).
(10) National Matches Support Coordinator (§ 544.6).
(11) Chief, National Matches Support Detachment (NMSD) (§ 544.23).
(12) Ohio Army National Guard Facilities Manager (§544.28).
(13) Billeting Officer.
(14) US Army Reserve Command and Liaison Group Commander.
(15) Active Army Food Service Advisor.

§ 544.7 Armed Forces involvement.

The US military services will support the National Matches as follows:

(a) The Army will conduct the SAFS.

(b) As approved by the SA and subject to the availability of resources, the Army will also supply the personnel, equipment, and supplies needed to conduct the National Matches.

(c) Subject to the availability of resources, all Services will furnish personnel as requested by the DCM and approved by their respective departments. The number of personnel furnished should be proportional to the number of competitors that the

particular Service furnished in the most recent National Matches.

§ 544.8 Role of the NRA.

(a) The NRA sponsors and regulates the conduct of the NRA National Rifle and Pistol Championships. The NRA advises the SA and NBPRP on NRA participation in the National Matches. It also coordinates with the DCM and the XO, NM, on National Match matters.

(b) Unless the SA determines otherwise and by mutual agreement, the NRA conducts the National Matches for the SA. When requested to conduct the National Matches, the NRA assists the DCM/NMIC in the conduct of the schools related to the matches and provides, administers, and funds the NRA Match Coordinator, Match Directors, Deputy Match Directors, Range Director, Range Engineer, and Statistical Director and staff. (Their responsibilities are outlined in Subpart B.) The NRA also provides other personnel needed to conduct the shooting events and NRA-sponsored schools.

(c) The NRA National Match Coordinator is the principal representative of the NRA at the National Matches and conducts the NRA-sponsored events of the matches. When the NRA is requested to conduct the shooting events related to the National Matches, the NRA National Match Coordinator will also—

(1) Conduct the National Trophy Matches.

(2) Coordinate match operations with the DCM/NMIC.

(d) The NRA Match Directors will follow § 544.17.

(e) The NRA Deputy Match Directors will assist their NRA Match Director in conducting specific shooting events, groups of events, or championships.

§ 544.9 Places and dates.

The National Matches will be held each year at Camp Perry, Ohio, or at other places. The DCM and NRA will recommend the places and dates for the matches, and the SA will approve and publish them in advance. The National Matches Program, approved by the DCM and NRA, gives additional details on the matches.

§ 544.10 Fees.

When approved by the DCM, nominal administrative fees may be charged for the National Trophy Matches, the SAFS, and EIC matches approved by the DCM. The NRA prescribes fees for its NRA National Championships and its other events.

Subpart B—Responsibilities

§ 544.11 Secretary of the Army (SA).

The SA will conduct the National Matches each year. The SA will delegate this authority to the President, NBPRP.

§ 544.12 President, National Board for the Promotion of Rifle Practice (NBPRP).

The President, NBPRP, will—

(a) Act for the SA in the conduct of the National Matches.

(b) Advise the SA on the conduct of the National Matches.

(c) Receive advice of the NBPRP concerning the conduct of the National Matches.

(d) Provide guidance to the DCM governing the conduct of National Matches and approve the annual National Matches plan and expenditures.

§ 544.13 Director of Civilian Marksmanship (DCM).

The DCM, a statutory official, will—

(a) Direct and implement the National Matches as approved by the President, NBPRP, for the SA.

(b) Serve as the NMIC according to AR 600–20.

(c) When the National Match Staff (§ 544.6) is assembled for duty at the site of the National Matches, the NMIC will assign duties to the National Match Staff and be responsible to the President, NBPRP, for all National Match matters. However, when the NRA is requested to conduct the National Matches, the NMIC will not conduct the shooting events. Further, the NMIC will supervise personnel involved in conducting base operations associated with the National Matches. This supervision does not include courts martial jurisdiction.

§ 544.14 Executive Officer, National Matches (XO, NM).

The XO, NM, will—

(a) Perform the year-round planning and operations needed to conduct the National Matches. This responsibility includes recommending support requirements.

(b) Serve as the Deputy National Matches Installation Commander (Operations and Services) (DNMIC (Ops/Svcs)).

§ 544.15 Executive Officer, Civilian Marksmanship Program (Support) (XO, CMP (SPT))

The XO, CMP (SPT) will—

(a) Provide technical assistance and operational advice to all DCM-affiliated clubs and State associations that participate in the National Matches.

(b) Provide communications, supply and billeting (logistics), ammunition, and the ordnance safety officer (OSO) support to the NRA National Match Coordinator as required and directed.

(c) Insure the NBPRP trophies, medals, brassards, and prizes are available.

(d) Arrange for NBPRP awards ceremonies and receptions. Coordinate combined ceremonies.

(e) Supervise the in and out processing of DCM-supported State association and club teams.

§ 544.16 National Match Support Coordinator (NMSC).

The NMSC will be designated by the Commanding General, US Army Forces Command (CG, FORSCOM). The NMSC will—

(a) Coordinate the activities of the National Match Support Detachment during the National Matches.

(b) Assist the XO, NM/DNMIC (Ops/Svcs) with year-round planning and coordination for the National Matches.

(c) Attend meetings, conferences, and briefings concerning logistics support for the National Matches.

§ 544.17 Match Directors.

The Match Directors for Pistol, Smallbore rifle, and Highpower rifle will conduct specific shooting events, groups of events, or championships. When the Army conducts the matches, the Match Directors are responsible to the DCM/NMIC. When the NRA conducts the shooting events of the National Matches, the Match Directors are responsible to the NRA National Match Coordinator (§ 544.8(c)).

§ 544.18 Range Director.

The Range Director is responsible to the respective Deputy Match Director.

The Range Director will prepare, maintain, and operate the firing ranges. Operating the ranges includes controlling and directing all personnel, competitors, and spectators on the ranges. Normally, the Range Director is assisted by and is responsible for the functions of the following officials and others as designated:

(a) Range Safety Officer.

(b) Range Communications Officer (normally provided from the military).

(c) Range Engineer Officer.

(d) Chief Range Officer (usually one for each range).

(e) Chief Pit Officer (usually one each operating rifle range).

§ 544.19 Statistical Director.

The Statistical Director is responsible to the Match Director and will perform the statistical operations. These operations include—

(a) Insuring that match entries are correct.

(b) Checking the eligibility of competitors and teams. The Statistical Director will work with the Range Director in assigning these people to relays and targets.

(c) Verifying scores.

(d) Listing participants in order of excellence.

(e) Publishing match results in official bulletins.

§ 544.20 Director, Small Arms Firing Schools (SAFS).

The Director, SAFS, will organize and conduct the SAFS.

§ 544.21 The Commanding General, US Army Material Command (CG, AMC).

CG, AMC, will act as the procurement agent for small arms and related equipment used to support the National Matches. Also, CG, AMC, will budget for and provide—

(a) The personnel, supplies, and equipment needed for the onsite repair of service-type small arms. Such repair will be provided only if required and authorized.

(b) Technical assistance and advice regarding National Match arms, ammunition, target materiel, and related equipment.

(c) Limited logistical support as required.

(d) The OSO (§ 544.24).

§ 544.22 Chief of Public Affairs (CPA).

The NMPAO will be assigned by the SA. The NMPAO will—

(a) Be responsible to the NMIC for National Match public information and public relations matters.

(b) Conduct a program of public information to stimulate nationwide interest in the National Matches. The purpose of this program is to improve public support for marksmanship as both an important element of national defense and as a contributor to developing high personal attributes in the participants.

(c) Work with the public information activities conducted by the Services and the NRA.

§ 544.23 Chief, National Matches Support Detachment (NMSD).

The Chief, NMSD, will, through the NMSC, act as the logistics coordinator for the National Matches, supervise all National Match supply activities, and coordinate service activities. The Chief, NMSD, will—

(a) Procure, control, and issue Army-furnished supplies and equipment.

(b) Provide repair and utilities activities.

(c) Issue and/or sell ammunition or arms that are provided by the DCM and that are required and authorized.

(d) Coordinate logistical matters between National Match activities and match support organizations.

§ 544.24 Ordnance Safety Officer (OSO).

The OSO will—

(a) Investigate the circumstances leading to any weapon or ammunition malfunction that results in an accident or creates a hazardous condition at the match site.

(b) Determine the probable cause of a malfunction and insure the problem has been resolved before the weapon or ammunition is returned to the firing line.

(c) Report to the Match Director, in writing, about an incident or malfunction that has called for his or her services.

§ 544.25 Commanding General, US Army Forces Command (CG, FORSCOM).

The CG, FORSCOM, will—

(a) Appoint the NMSC.

(b) Budget for and provide personnel and other support and services as required by the National Matches Support and Operations Plan.

§ 544.26 Commanding General, US Army Training and Doctrine Command (CG, TRADOC).

The CG, TRADOC, will budget for and provide services and equipment in the areas of communications, facilities engineering, food service, medicine, maintenance, supply, transportation, procurement and contracting, and other areas as may be required by the National Matches Support and Operations Plan. The CG, TRADOC, will also provide comptroller assistance as required.

§ 544.27 Commanding General, US Army Communications-Electronics Command (CG, CECOM).

The CG, CECOM, will budget for and provide selected items of signal equipment as set forth in the National Matches Support and Operations Plan.

§ 544.28 Adjutant General, Ohio National Guard.

(a) Per existing leases and contracts, the Adjutant General, Ohio National Guard, will provide personnel, services, facilities, and equipment to the maximum extent possible to support and conduct the National Matches.

(b) Additional support that may be requested that is not provided for elsewhere, may be provided for when concurred in by the Adjutant General, Ohio National Guard, and approved by the National Guard Bureau as appropriate.

Subpart C—Competitor Eligibility, Requirements, Categories, and Teams

§ 544.29 Eligibility for the matches.

(a) The National Trophy matches are open to all US citizens 16 years of age or older, any other persons subject to induction in the US Armed Forces, and all members of the US Armed Forces, both Regular and Reserve Components. The minimum age may be waived. (Requests for waivers, with justification, must be submitted to the DCM before the opening date of the National Matches.)

(b) Other EIC matches noted in § 544.30 are open as described in (a) of this section. However, there are restrictions for these matches. These restrictions are described in §§ 544.30 (c) and (d) and 544.94. Further restrictions for Service personnel are described in the regulations of their own Service. The match sponsor may waive the minimum age requirement. Requests for waiver will be submitted to the sponsor as explained in the match program. These requests must include a justification. For example, an acceptable justification is that the person is classified by the NRA as a Sharpshooter or higher or has completed an EIC match with the arm concerned.

(c) Competitors designated Distinguished with the arm concerned may enter the National Trophy Matches and other EIC matches. Non-Distinguished competitors cannot enter any EIC match on a noncredit basis (such as entering for practice).

(d) Non-Distinguished military competitors may not enter EIC matches at NRA Regional or State championship matches if these competitors have earned, with the arm concerned, the maximum credit points their Service allows for such matches.

(e) The SAFS are open to all US citizens, any other persons subject to induction in the US Armed Forces, and all members of the US Armed Forces, both Regular and Reserve Components. To attend the SAFS, a person must not necessarily compete in the National Matches. For pistol instruction, a person must be 16 years old or older; for rifle instruction, 12 years old or older.

§ 544.30 Requirements for competitors in individual matches.

(a) All competitors must state on their entry forms whether their status is Distinguished or non-Distinguished.

(b) For the National Trophy Matches, non-Distinguished military competitors must advise the DCM when, per their Service's regulations, they cannot be credited with points earned in National

Trophy Matches. Competitors must advise the DCM before the matches and in writing.

§ 544.31 Requirements for military competitors.

Military competitors (Regular and Reserve Components) who compete in the National Matches and whose transportation or other expenses connected with the matches are paid, wholly or in part, from appropriated or quasi-official Government funds must meet special requirements. (Examples of quasi-official Government funds are funds for exchanges, recreation, and morale.) These competitors will—

(a) Participate in the appropriate SAFS.

(b) Enter and complete the appropriate National Trophy Individual Match and President's Match if eligible under this regulation, unless eliminated from the match.

(c) Enter and complete the appropriate National Trophy Team Matches if eligible under this regulation and selected by the team captain, unless eliminated from the match.

(d) Fire a service rifle (authorized by § 544.51) at ranges of 200 through 800 yards in both the NRA and the National Trophy Rifle Matches, unless exempted in the current match program. These military competitors may also use other rifles at greater ranges.

§ 544.32 Requirements for certain civilian competitors.

Civilian competitors in the National Trophy Matches whose transportation or other expenses connected with these matches are paid, wholly or in part, by the DCM must meet special requirements. These competitors will—

(a) Attend the appropriate SAFS.

(b) Enter and complete the appropriate National Trophy Individual Match and President's Match, unless eliminated according to § 544.41.

(c) Enter and complete the appropriate National Trophy Team Matches if selected by a team captain, unless eliminated according to § 544.41.

§ 544.33 Competitor categories for National Trophy Matches.

Competitors may register and participate in only one of the following categories:

(a) *Regular Service.* (1) This category consists of—

(i) Regular Service personnel on active duty.

(ii) National Guard and Reserve personnel on extended active duty with active forces of 90 days or more with a Regular Service status under Title 10 USC.

(2) This category does not include enrolled undergraduates of the Service academies.

(b) *Reserve.* This category consists of members of any Reserve branch of the US Armed Forces who are not on extended active duty as in (a) above. It includes Fleet Reserve but excludes Fleet Marine Corps Reserve. This category also excludes Army or Air National Guard and ROTC. If also qualified under § 544.83 (e) and (f)(3), Reserve members may instead register and participate in one of those categories.

(c) *National Guard.* This category consists of members of the Army or Air National Guard who are not on extended active duty as in a(1)(b) of this section. If also qualified under §§ 544.33 (e) or (f)(3), National Guard members may instead register and participate in one of those categories.

(d) *Service Academy and Reserve Officers Training Center (ROTC).* (1) This category consists of enrolled undergraduate members of—

(i) The Service academies of the Armed Forces.

(ii) Any high school or college Army, Navy, or Air Force ROTC unit.

(2) If also qualified under (f)(3) of this section, Service Academy and ROTC members may instead register and participate in that category.

(e) *Police.* This category is defined in NRA Rule 2.4. If also qualified in the Reserve, National Guard, or Civilian categories, police may instead register and participate in one of those categories.

(f) *Civilian.* This category consists of competitors listed in § 544.33(f)(1) through § 544.33(f)(3). Reserve or National Guard category personnel who elect to compete as civilians under § 544.33(f)(3) may not revert to a Reserve or National Guard category later, unless the proper authority orders them to active duty for a purpose other than marksmanship competition. The penalty for noncompliance will be determined by the DCM.

(1) Individuals who are not in the Regular Service, Reserve, National Guard, Service Academy and ROTC, or Police categories.

(2) Retired service (Regular, Reserve, or National Guard) and Fleet Marine Corps Reserve personnel. However, if qualified in the Police category, they may instead register and participate as Police.

(3) Members of the Reserve, National Guard, Service Academy and ROTC, or Police categories who, during the current calendar year, have not—

(i) Competed with the arm concerned in any of the Reserve, National Guard, Service Academy and ROTC, or Police categories.

(ii) Received support for any competition in the form of arms, ammunition, or travel expenses, wholly or in part, from organizations in the Reserve, National Guard, and Service Academy and ROTC categories. Do not include as support the arms or ammunition provided for a specific competition (such as National Trophy or other EIC matches) when such items are available to all competitors within the calendar year.

(g) *Junior.* This category consists of civilians who will not reach 20 years old by the end of the calendar year. Juniors may compete on Civilian teams if they are eligible. Individuals who have National Guard, Reserve, or Regular Service status may not compete as juniors.

(h) *Women.* This category consists of females belonging to a particular and usually specified category (as by birth, residence, or membership).

§ 544.34 Team member eligibility.

For teams to be eligible to compete, the following requirements must be met:

(a) No person may be a team captain, firing member, or alternate member of a team unless he or she is qualified in the category the team represents. (Categories are listed in § 544.33.) This rule does not apply to police on State Civilian teams as authorized in § 544.34(f)(1). Nor does it apply to qualified juniors on Civilian teams.

(b) Individuals must be bona fide members of the organization and category represented for at least 30 days before the opening date of the matches.

(c) Members of State Civilian, State Junior, State fraternal-type Police organization, or club teams must be bona fide residents of the State that the team represents or in which the club is located. Further, they must have lived in that State for at least 30 days before the opening date of the matches.

§ 544.35 Authorized teams in National Trophy Team Matches.

The categories of teams that may enter the National Trophy Team Matches and the number that may enter in each category are listed below.

(a) *Regular Service.* Two teams may represent each Service (the Army, Navy, Marine Corps, Air Force, and Coast Guard).

(b) *Reserve.* Two teams may represent the Reserve branch of each Service (the Army, Navy Air Force, Marine Corps, and Coast Guard).

(c) *National Guard.* Two teams may represent the National Guard at large.

Such teams may be composed of both Army National Guard and Air National Guard personnel.

(d) *Service Academy and ROTC.* One team from each Service academy may participate in the match. One team from each Army ROTC region, Naval Base Command, and Air Force ROTC Liaison Area within the continental United States (CONUS) may participate. ROTC members from units outside CONUS will compete on ROTC teams as authorized by the DCM.

(e) *Police.* One or more teams may represent each bona fide organized Federal, State, county, or municipal agency having law enforcement police powers. Also, one or more teams may represent a State, Commonwealth, Territory, or District of Columbia police organization of a fraternal nature. Fraternal organizations may enter only if they are organized according to AR 920–20 and affiliated with the DCM, or they are organized as a club and in good standing under the rules of the NRA. However, the entry of more than one team per fraternal organization will be subject to the availability of range facilities.

(f) *Civilian and Junior.* (1) One or more State Civilian teams and one or more State Junior teams may represent the DCM-affiliated State association of each State, Commonwealth, Territory, and the District of Columbia. However, the entry of more than one team per organization will be subject to the availability of range facilities. Also, only one State Civilian team and State Junior team may be supported by the DCM through payment of travel and subsistence expenses on a cost sharing basis. Each State Civilian team in the National Trophy Pistol Team Match may include two police officers; however, the officers must not be members of a police organization that enters a team in the same match.

(2) One or more Civilian teams and one or more Junior teams may represent a club. The club must be organized according to AR 920–20 and in good standing on the rolls of the DCM, or it must be organized and in good standing under the rules of the NRA. The entry of more than one team per club will be subject to the availability of range facilities.

§ 544.36 Requirements for new shooters in National Trophy Team Matches.

(a) *Regular Service, Reserve, and National Guard Teams.* Pistol teams will have at least one firing member who has never fired before as a member of any team that has competed in the particular event. Rifle teams will have at least two such firing members.

(b) *Civilian and Police teams.* These teams will have at least one firing member who has never fired before as a member of any team that has competed in the particular event.

(c) *Service Academy, ROTC, and Junior teams.* There are no requirements for new shooters on these teams. Having fired as a member of a Service Academy or ROTC team or as a junior member of a Civilian team is not considered previous participation. It will not disqualify a competitor from being a member of teams in a and b above.

Subpart D—General Rules for National Trophy Matches

General Match Rules

§ 544.37 National Trophy and EIC match rules.

(a) NRA rules will apply unless changed by this regulation or as stated in § 544.37(b).

(b) The XO, NM, or the corresponding official in another EIC match, may alter, the NRA rules for a particular match only if such action is needed to complete the match successfully. If any alterations are made, the XO, NM, or the corresponding official must immediately report the details in writing to the President, NBPRP (ATTN: DCM).

§ 544.38 Entries.

(a) Individual entries will be made in advance as prescribed in the match program. Post entries will be accepted if the established post entry fee is paid, range space is available, and the acceptance of the post entry will not interfere with match operations. The following individual entry forms may be obtained by request to the Statistical Director or the DCM:

(1) DA Form 1342 (Entry and Score Card for Individual Pistol Match) or a substitute form approved by the DCM.

(2) DA Form 1344 (Entry and Score Card for Individual Rifle Match) or a substitute form approved by the DCM.

(b) Team match entries will be made by team captains using official forms provided by the Statistical Director. Team captains will—

(1) Enter the following data on the team entry form.

(i) The full official name and address of the organization their team represents. Civilian, Junior, and Police teams will be recognized as representing a particular State, Commonwealth, Territory, the District of Columbia, or DCM- or NRA-affiliated organization only if attested to on the form by an official of the organization represented.

(ii) The category under which the team will enter according to § 544.33.

(iii) Further identification of the organization's team name (such as "Blue," "Jones," or the like) if the organization enters more than one team.

(iv) The designations of team officials and other members.

(v) Each member's correct first name, middle initial, last name, home address, and if applicable, the member's grade and official military mailing address.

(vi) A statement by the team captain that the team is certified under this regulation.

(2) Submit entry forms at the match site as prescribed in the match program. Entries by mail will not be accepted.

(c) Incomplete or inaccurate entry forms or the use of the wrong form may cause the entries to be refused or the individual or team entrant to be disqualified.

(d) Entries will be accepted on a first-come, first-served basis until range capacity is filled.

§ 544.39 Directives competitors must follow.

(a) The competitor must know and comply with this regulation, the Official Match Program, and the NRA rules and Match bulletins that apply.

(b) In team matches, the team captain will insure that team members comply with a above.

§ 544.40 Coaching.

Coaching is not permitted in individual matches; it is permitted only in team matches. Usually, coaching is permitted only within the team, but there are exceptions to this rule:

(a) Service members will coach teams of their respective Services, and only Service members may coach Service Academy and ROTC teams. They may also coach Police, Civilian, and Junior teams.

(b) Upon request by a Civilian, Junior, or Police team, the XO, NM, will assign a coach from among qualified and available Service personnel.

§ 544.41 Elimination of teams or individuals.

The XO, NM, or the corresponding official in matches may establish standards by which individuals and teams of the lowest standing may be eliminated after the first stage of a match is completed.

§ 544.42 Penalties.

(a) Any person interfering with or annoying a competitor on the firing line will be warned by a range official to stop. If the offender does not stop, he or she will be disqualified from that match and ordered off the range immediately.

(b) If the XO, NM, finds a competitor guilty of any of the offenses below, the competitor may be disqualified from competing further in the current National Trophy Matches. Further, the competitor may be denied any award won during the current matches. However, these penalties will be imposed only if the competitor is found guilty. The offenses are—

(1) Violating range safety regulations or the safety precautions prescribed in this regulation.

(2) Firing under an assumed name.

(3) Firing under a name other than the one on the entry form.

(4) Firing more than once for the same award.

(5) Falsifying scores or being an accessory to falsifying scores.

(6) Offering any person a bribe relating to a match.

(7) Evading the conditions prescribed for a match.

(8) Refusing to obey the instructions of a match official.

(9) Disorderly conduct.

(10) Being guilty of conduct that the XO, NM, considers a discredit to the National Matches, their sponsors, or the intended purposes of the matches.

§ 544.43 Competitors verifying their scores.

The competitor in individual matches and the team captain in team matches must verify the score card. Verification includes checking the names on the card, the value of each shot, and all other data and then signing the card. The signature acknowledges the card is correct. Should a competitor or team captain sign an incorrect score card or leave the firing line without signing the card, no challenge or protest concerning data recorded on the card will be allowed. If the competitor or team captain wants to protest data recorded on the card, he or she will write the word "Protested" above the signature and follow the procedure prescribed in § 544.45.

§ 544.44 Referees, scoring, and challenge procedures.

NRA rules cover the use of referees and scoring and challenge procedures. Exceptions are listed below.

(a) The Match Director will appoint an Official Referee and Assistant Referees are required, including Scoring Referees for Pistol matches.

(b) If a competitor (in individual matches) or a team captain (in team matches) is not satisfied with the score announced by the scorer, the competitor or team captain may challenge it. They must pay a challenge fee (c below) to have the Referee settle the disputed score. The Referee's decision will be final. For pistol matches, the decision of the Scoring Referee is final. For rifle matches, the decision of the Pit Officer is final.

(c) The XO, NM, will establish the challenge fee. When the Referee's decision is not in favor of the competitor or team member, the challenge fee will be delivered to the XO, NM, for deposit into the National Match Fund. If the decision is in favor of the competitor, the challenge fee will be returned.

§ 544.45 Protests.

(a) Competitors (in individual matches) or team captains (in team matches) may protest any decision or injustice that they believe unfairly affects the competition. Protests may be in such areas as competitor or team eligibility, the conditions of firing (including the conditions under which another competitor is permitted to fire), or the equipment allowed. However, competitors or team captains may not protest the score of a target. In this case, they must challenge the score according to § 544.44.

(b) A protest must be made when the incident occurs and according to the steps below. Failure to comply with these steps may void a protest.

(1) State the complaint orally to the Chief Range Officer or to the Statistical Director, as appropriate, for a decision. If not satisfied with that decision, then follow § 544.45(b)(2).

(2) State the complaint orally to the Official Referee for a decision. If not satisfied with that decision, carry out § 544.45(b)(3) within 2 hours after completing the match.

(3) File a formal, written protest with the Official Referee. State all the facts the protest is based on. As quickly as possible, the Official Referee must send this protest to the National Trophy Match Protest Committee. The Official Referee will include his or her own statement concerning the alleged facts, any other facts considered pertinent to the case, and copies of related documents such as entry forms and score cards.

(c) The National Trophy Match Protest Committee will sit at the match site. The committee will consist of three or more members appointed by the Match Director. The Match Director will not appoint competitors or team or match officials participating in the match being protested. The decision of the committee will be final.

§ 544.46 Bulletins.

Preliminary bulletins showing award winners will be published at the match site. Complete, final official bulletins showing the scores for all competitors, including all firing members of teams, will be published by the Statistical Director in coordination with the DCM/NMIC. The bulletins will be published as soon as possible after the matches are completed.

Team Match Rules

§ 544.47 Team composition.

Each team will include the number of firing members required by the match conditions to fire for score. A team may include up to two alternate firing members who are eligible to fire as substitutes. (Follow NRA Rule 12.4 when using substitutes.) Each team will have a designated team captain and may have a designated team coach. (See para 4–4 on when coaches are allowed and who may serve as a coach.) The captain and coach may be firing members or alternates if eligible, and must be listed as such on the team entry form. (§§ 544.36 and 544.38 discuss new shooter requirements and team member eligibility.)

§ 544.48 Team squadding.

(a) All teams will be assigned the same number of targets.

(b) In rifle team matches, slow fire will be conducted with two firers assigned to a single target. This is known as pair firing. If firing points are too narrow to permit this procedure, each team may be assigned one or more adjoining firing points, provided all teams fire concurrently. When enough targets are available, each team may be assigned more than one target. However, in this case, each team must be assigned the same number of targets.

(c) When two competitors are assigned to a single target (pair firing), they will fire alternately. The competitor on the right will fire first. A shot fired out of turn will be scored as a miss. A range official may require a left-handed competitor to be on the left of a pair.

(d) Team captains may place team members on assigned targets in any order they choose. They may change the order of a team member firing between stages, in each case notifying the scorer.

§ 544.49 Station and duties of team coaches.

(a) In the slow fire stages of rifle matches, the team coach's station will be between the pair on the firing line. If only one member is firing, the station will be directly behind the member. In rapid fire stages, the station will be directly behind the member firing.

(b) In pistol team matches, one coach is allowed for each team. When the team is on the firing line, the team

coach's station will be directly behind the team member or members firing.

(c) In pair firing, the positions of the coach or competitors may not be shifted to form a windshield for a firer.

(d) When the team is on the firing line, coaches will be confined to the prescribed station and to the activities normally expected of a coach. Coaches may assist team members by calling shots, checking time and scores, ordering sight changes, and so on. However, coaches may not physically assist in loading, making sight changes, or in assuming positions. Also, they must control their voices and actions so as not to disturb other competitors. In communicating with the team, coaches will not use electrical or mechanical means.

§ 544.50 Stations of team captain.

When a team is on the firing line, the team captain and one assistant may be stationed in front of the ready line and slightly behind the coach. The captain is positioned there to observe team operations and the scorekeeping. The team captain may not assist in coaching unless occupying the coach's station. The captain may talk with the coach if it does not distract firers on the firing line. The captain may not talk to the firer.

Types of Firearms, Ammunition, and Other Equipment

§ 544.51 Description of arms to be used.

(a) US rifle, caliber .30 M1. Competitors may use the caliber .30 M1 as issued by the US Army, a commercial rifle of the same type and caliber, or either rifle if chambered for 7.62mm. The requirements for these rifles are listed below.

(1) The trigger pull must be at least 4½ pounds.

(2) A standard issue type wood or synthetic material stock and standard issue type leather or web sling must be used.

(3) Sling cuffs and sling pads are not permitted. Hooks, buttons, straps, or other similar devices fastened to the shooting coat for the purpose of holding the sling in place are prohibited.

(4) The gas system must be fully operational.

(5) The front and rear sights must be of US Army design for this rifle, but the dimensions of the rear sight aperture and front sight blade may vary.

(6) External alterations to the assembled arm are not allowed.

(7) These rifles may be modified internally to improve functioning and accuracy. A special match barrel may be installed. Synthetic materials may be applied to the interior of the stock to improve the bedding. Modifications must not interfere with the functioning of the rifle and safety devices as manufactured. Also, modifications must not change the configuration or appearance of the assembled arm.

(b) US rifle, caliber 7.62mm M14 series. Competitors may use the caliber 7.62mm M14 series as issued by the US Army or a commercial rifle of the same type and caliber. The requirements for these rifles are listed below.

(1) The trigger pull must be at least 4½ pounds.

(2) A standard issue type wood or synthetic material stock must be used. The stock must not be more than 2 inches wide at a point immediately to the rear of the front band and not more than 2.5 inches wide at the front and rear of the receiver. The width at the receiver may be carried through to the butt plate. The stock must have a continuous taper from receiver to front band.

(3) A standard issue type leather or web sling must be used. Sling cuffs and sling pads are not permitted. Hooks, buttons, straps, or other similar devices fastened to the shooting coat for the purpose of holding the sling in place are prohibited.

(4) The gas system must be fully operational. To improve operation, the gas cylinder plug may be altered by making an axial hole that is approximately 1/64th inch in diameter in the center of the plug.

(5) The front and rear sights must be of US Army design for this rifle, but the rear sight aperture and front sight blade may vary in dimensions.

(6) The rifle must be adjusted so that automatic fire is impossible without removing the stock and changing or altering parts.

(7) The standard 20- or 30-round box magazine must be attached during the firing of all courses and in all positions.

(8) The hinged butt plate will be used only in the folded position.

(9) External alterations to the assembled arm are not allowed.

(10) The rifle may be modified internally to improve functioning and accuracy. A special match barrel may be installed. Synthetic materials may be applied to the interior of the stock to improve the bedding. Modifications must not interfere with the proper functioning of the rifle or safety devices as manufactured. Modifications must not change the configuration or appearance of the assembled arm.

(c) US rifle, caliber 5.56mm M16 series. Competitors may use the caliber 5.56mm M16 series as issued by the US Armed Forces or a commercial rifle of the same type and caliber. The US rifle caliber 5.56mm M16A2 or its commercial equivalence is not authorized under these regulations. The requirements for these rifles are listed below.

(1) A bipod or grenade launcher will not be used.

(2) The trigger pull must be at least 5 pounds.

(3) A standard issue type stock, pistol grip, handguard, and web sling must be used.

(4) The rifle must be modified so that automatic fire is impossible without removing, replacing, or altering parts.

(5) The standard 20- or 30-round box magazine must be attached during the firing of all courses and in all positions.

(6) The gas system must be fully operational.

(7) External alterations to any part of the assembled arm are not allowed. However, an external device may be attached to prevent selector level movement to the auto position.

(8) The front and rear sights must be the standard design for this rifle as issued by the US Armed Forces.

(9) Hooks, buttons, straps, or other similar devices fastened to the shooting coat for the purpose of holding the sling in place are prohibited.

(d) US pistol, caliber .45M1911 or M1911A1. Competitors may use the caliber .45M1911 or M1911A1 as issued by the US Armed Forces or a commercial pistol of the same type and caliber. The requirements for these pistols are listed below.

(1) A standard issue stock of wood or synthetic material, a similar stock of commercial manufacture, or another comparable design that does not interfere with the functional or maintenance features of the pistol must be used. The stock must be functionally identical for right or left hand use.

It must not—

(i) Be more than 1⅛ inches thick between the right and left side extremities.

(ii) Cover the mainspring housing.

(iii) Prevent holstering in the standard service holster.

(2) The trigger pull must be at least 4 pounds.

(3) The pistol will have open sights only. The front sight must be nonadjustable. The rear sight may be adjustable and must have an open "U" or rectangular notch. The distance between sights, measured from the apex of the front sight to the rear face of the rear sight, must not be more than 7¼ inches.

(4) The forestrap of the grip may be checkered or stippled.

(5) The mainspring housing may be either the straight or the arched type, and may be checkered or stippled.

(6) Trigger shoes and trigger stops, internal or external, may be used.

(7) External finishes may be blued, parkerized, or bright. All other external alterations, additions, or changes to the appearance or configuration of the assembled arm are prohibited, except that the ejection part may be lowered to aid in ejection.

(8) The pistol may be modified internally to improve functioning and accuracy. (For example, a special match barrel may be fitted.) However, the modifications may not interfere with the proper functioning or safety devices of the arm as issued by the US Armed Forces. All safety features must operate properly.

§ 544.52 Rifles and pistols available.

Under rules announced by the DCM, National Match-grade rifles M14 and M1 and pistol M1911 series will be made available at the National Matches for temporary loan to participants.

§ 544.53 Checking firearm characteristics.

The competitor will insure that his or her firearm is safe and meets the requirements of § 544.51. At any time, the XO, NM, may direct the weighing of triggers with official test weights and may check other functions and component parts.

§ 544.54 Use of the same firearm by more than one competitor.

More than one competitor may use the same firearm in a match if squadding permits, but special squadding for this purpose is not authorized.

§ 544.55 Disabled firearm.

Within 30 minutes of the time the appropriate range official declares a firearm disabled, the competitor must repair or replace the firearm and report with it to a range official. A replacement firearm, if authorized, must be of the same type and caliber as the disabled firearm.

§ 544.56 Ammunition.

Range personnel will issue Government special match, match-grade, or service-grade service ammunition at the firing line. A single lot will be used if feasible, but more than one lot may be used if circumstances require. Competitors will fire only this ammunition and none other. Competitors will be disqualified if ammunition issued to them is altered in any way. Competitors will also be disqualified if any other ammunition is found about their person or equipment while they are on the firing line. However, if the match sponsor does not make 5.56mm ammunition available, competitors using the M–16 series rifle or commercial equivalent will use their own safe ammunition.

§ 544.57 Targets.

The following target will be used:

(a) Pistol targets.

(1) For firing at 50 yards, use the Standard American 50-yard pistol target with the X, 10, 9, and 8 rings black (NRA B–6 target).

(2) For firing at 25 yards, use the Standard American 25-yard, rapid fire pistol target. Use the same dimensions as § 544.57(a)(1) of this section, but with only the X, 10, and 9, rings black (NRA B–8 target).

(b) Rifle targets (except in the National Trophy Infantry Team Match).

(1) For firing at 200 yards or meters, use the standard US Army, short range (200 to 300 yards or meters), competitive rifle target with the X, 10, and 9 rings black (NRA SR target).

(2) For firing at 300 yards or meters, use the same target and distance as in § 544.57(b)(1) of this section, except the aiming black is enlarged to include the 8 ring (NRC SR–3 target).

(3) For firing at 600 yards, use the standard US Army target, midrange (500 to 600 yards or meters), competitive rifle target with the X, 10, 9, 8, and 7 rings black (NRA MR–1 target).

(c) For the National Trophy Infantry Team Match, use the targets described in § 544.79(c)(4).

§ 544.58 Field glasses, telescopes, and binoculars.

In the Infantry Match, the team captain and coach will not be permitted to use field glasses or binoculars of greater power or objective lens diameter than 10 x 50. Binoculars will be provided on the firing line for teams requiring them. The team captain and coach may use a telescope behind the assembly line for the purpose of reading the wind before the start of their team relay. These telescopes will not be used for coaching after the targets have appeared for the team and may not be displaced forward of the assembly line.

Firing

§ 544.59 Safety precautions.

(a) Arms will be loaded only at a firing point and only when directed by a range official for authorized firing.

(b) Unless competitors are at a firing point and the range official has given the order to load, they must keep—

(1) The magazines must be removed from the firearm.

(2) The slides or bolts locked back.

(3) The safeties of rifles on.

(c) During and until their arms are unloaded, competitors will—

(1) Keep their pistols at the raised (or ready) pistol position or hold them on the bench and pointed downrange at the target.

(2) Keep their rifles pointed downrange at the target.

§ 544.60 Organization of firing areas.

The firing areas on each range will be organized into a firing line, a ready line, and an assembly line.

§ 544.61 Station of competitors.

Each competitor will remain on or behind the assembly line until the competitor's assigned relay is called to the ready line or firing line. Without the Range Director's permission, only the following people will be allowed forward of the assembly line:

(a) The officials of the matches.

(b) NBPRP members.

(c) Team officials.

(d) Competitors on the ready line and on the firing line.

(e) Scorers.

(f) Others on duty.

§ 544.62 Target assignments and operations in the rifle matches.

(a) The Statistical Director will assign targets and relays. Competitors may obtain these assignments at times announced by the Statistical Director. Before the matches start, target assignments will be posted at a convenient location.

(b) Each team will assign two target pullers to work in the pits. Target pullers must be physically able and experienced in handling targets for high power rifles. Failure to provide capable target pullers may disqualify the team involved. Both target pullers will go to the target assigned to their team. Before the firing starts, one puller will be reassigned at random by the chief pit officer.

(c) Firing will not be interrupted for changes of pit personnel. Once firing has started, and if other conditions permit, the match will continue until all firing is completed.

§ 544.63 Slow target operation in rifle matches.

In individual matches, if a competitor believes a target is operating slowly he or she must complain to a line official. In team matches, the team captain makes the complaint. Complaints must be made before completing a firing stage and in ample time to enable the line official to check the time used. The line official will check the time used by the competitor and by the target operators and make adjustments as needed. When there is no complaint to a line official by the competitor or team captain, it will be

assumed the target was operated satisfactorily.

§ 544.64 Practice firing.

During the SAFS, the only firing permitted is that scheduled in the school curriculum. At other times, practice firing may be allowed if the match program states that it is allowed at the range and range personnel are available.

§ 544.65 Firing procedure and punctuality.

(a) Matches will be fired in relays. The XO, NM, may decide whether to allow infiltration squadding in slow fire stages of rifle matches.

(b) After a relay is called to the firing line, competitors on that relay will be allowed 3 minutes in which to prepare to fire. Competitors will not be allowed to take positions on the firing line after the 3-minute preparation time expires, and they will lose their right to fire if they arrive after that time. They may regain their right to fire only if they present satisfactory evidence to the XO, NM, that the delay was the fault of the range operating personnel.

(c) In team matches, only the first pair of competitors for a team need to be present at the time the firing is scheduled to commence.

§ 544.66 Firing positions.

NRA Rule 5.5 on firing positions will apply. The rules for rifles are as follows:

(a) *Standing.* The sling must be attached to the rifle at both standard attachment points, in the parade position, and contained within the grasp of the supporting hand. On the M–14 rifle, the sling may rest along either the side or the bottom of the magazine. The sling may not be used for support, except as provided for in the National Trophy Infantry Team Match rules.

(b) *Kneeling.* Use of a kneeling roll or pad is prohibited.

(c) *Using ground cloths or ground pads.* Ground cloths or ground pads may be used if they do not provide artificial support. They may not be used in the National Trophy Infantry Team Match.

§ 544.67 Loading and reloading a rifle in rapid fire.

NRA Rule 9.22 applies in all matches except the National Trophy Infantry Team Match. In this match, team captains will direct loading and reloading.

§ 544.68 Unauthorized firing.

No firing is allowed except at authorized targets in prescribed practice or competition and under the supervision of assigned officials. Violation of this rule may disqualify the offender for the rest of the matches.

§ 544.69 Time limits and extensions.

(a) Time limits are prescribed in NRA Rules, section 8.

(b) The range official may extend the time in the slow fire stages if delays are caused by—

(1) Target malfunctions.

(2) Slow or improper target operation.

(3) Reasons over which the competitor or team has no control.

§ 544.70 Sighting shots.

Sighting shots are not allowed in any National Trophy Matches.

§ 544.71 Competitors serving as range officials.

In the match program, the Match Director or the Range Director may require competitors to score, operate, or mark targets or serve as range officials; in team matches, they may require a team to furnish scorers for teams firing on adjacent targets. The XO, NM, may disqualify from further participation a competitor who is detailed to perform such duties and fails to do so satisfactorily.

Subpart E—Program for the National Trophy Matches

§ 544.72 The President's Pistol Match.

Table 5–1 gives the course of fire for this match.

§ 544.73 National Trophy Individual Pistol Match.

Competitors will use the National Match Pistol Course as the course of fire. Table 5–2 gives this course of fire.

Other EIC individual pistol matches will schedule this course of fire.

§ 544.74 National Trophy Pistol Team Match.

(a) Team composition. Four members fire for the team's score.

The team will consist of a team captain, team coach, four firing members, and up to two alternates.

(b) Course of fire. Each firing member will use the National Match Pistol Course (table 5–2).

§ 544.75 The President's Rifle Match.

Table 5–3 gives the course of fire for the President's Rifle Match.

§ 544.76 National Trophy Individual Rifle Match.

(a) Course A is the National Match Rifle Course. Only Course A will be scheduled in the National Trophy Matches. Table 5–4 gives this course of fire. Other EIC individual rifle matches will consist of the National Match Rifle Course A except as described in b below.

(b) Course B is restricted to the M16-series rifle or commercial rifle of the same type and caliber (§ 544.51). This course may be scheduled for EIC individual rifle matches other than those in the National Trophy Matches. Table 5–5 gives this course of fire.

§ 544.77 National Trophy Rifle Team Match.

(a) Team composition. Six members fire for the team's score. The team will consist of a team captain, a team coach, six firing members, and two alternates.

(b) Course of fire. Course A of the National Match Rifle Course will be used for each firing member. Table 5–4 gives this course of fire.

§ 544.78 The National Trophy Infantry Team Match.

(a) Team composition. Six members fire for the team's score. The team will consist of a team captain, team coach, six firing members, and two alternates.

(b) Course of fire. Table 5–6 gives the course of fire for this match.

(c) Conditions. (1) A sling may be used for support in all positions.

(2) On the 600-yard firing line, 384 rounds of ammunition of one caliber will be issued to each team. This ammunition is the team's total for the match. The team captain will divide the ammunition among firing members and stages and decide the number of rounds to be loaded into clips or magazines.

(3) Each team will use eight adjoining targets. Gaps in the target line will separate one team's targets from another.

(4) For firing at 600 and 500 yards, a standard 600-yard target will be pasted on a standard competitive target frame. The face of the target will be reversed to display a solid white background. The Army "E" silhouette target will be pasted on this background and centered horizontally, with the top of the silhouette 13 inches below the top of the frame. For firing at 300 and 200 yards, the Army "F" silhouette target will be pasted over the face of a standard 200-yard target, with the top of the silhouette located at the top of the 8 ring.

(5) Teams will take firing positions on the 600-yard firing line as directed by the team officials. Only the captain, coach, and firing members will be permitted on the firing line during the match. After teams are in firing position with rifles loaded and locked, they may start firing when the targets appear. The targets will be withdrawn after 50 seconds. Between stages, teams will move forward abreast in a line. Their rifles will be unloaded, magazines removed, bolts open, and muzzles elevated and pointed downrange. The

firing procedure at each range will be the same as those at 600 yards. Each relay will complete the match before the next relay is called to the 600-yard firing line.

(6) Scoring. (a) All scores will be recorded on the firing line at the end of each stage. Spotters will indicate hits on the silhouettes only.

(ii) Hits on the silhouettes will count 4 points at 600 yards, 3 points at 500 yards, 2 points at 300 yards, and 1 point at 200 yards. Hits outside the silhouettes will not be scored or marked.

(iii) A bonus for distribution will be computed. At each range, count the number of silhouette targets that contain six or more hits each. Square that number, then add the square to the total hit score for that range.

(iv) Ties will be broken by the highest team score at the longest range. If the tie cannot be broken by that score, use the highest team score at the next longest range, and so on.

(7) No alibis will be allowed for misfires, disabled pieces, or other failures of range or team equipment or personnel.

(8) Telescopes and field glasses may be used as follows:

(i) Before the start of the team's relay, the team captain and coach may use a telescope behind the assembly line. These telescopes will neither be moved forward of the 600-yard assembly line nor be used for coaching after the team's preparation period starts.

(ii) After the team's preparation period starts, the captain and coach may use field glasses. However, the power and objective lens diameter of the glasses must not be more than 10 × 50mm. Field glasses will be provided on the firing line for teams requiring them.

(9) An assistant range officer will be assigned for each team to enforce safety regulations and supervise the scoring.

TABLE 5-1: COURSE OF FIRE—THE PRESIDENT'S PISTOL MATCH

Stage	Distance (yards)	Type of fire	Firing position	Number of shots	Time limit	Scoring
First	50	Slow	Standing	2 strings of 10 shots each.	10 minutes per string.	After each string.
Second	25	Timed	do	2 strings of 5 shots each.	20 seconds per string.	After 1 or 2 strings as announced by the match director.
Third	25	Rapid	do	do	10 seconds per string.	After 1 or 2 strings as announced by the match director.

TABLE 5-2: COURSE OF FIRE—NATIONAL MATCH PISTOL COURSE

Stage	Distance (yards)	Type of fire	Firing position	Number of shots	Time limit	Scoring
First	50	Slow	Standing	10	10 minutes	After 10 shots.
Second	25	Timed	do	2 strings, 5 shots each.	20 seconds per string.	After 1 or 2 strings, as announced by the Match Director.
Third	25	Rapid	do	do	10 seconds per string.	After 1 or 2 strings, as announced by the Match Director.

TABLE 5-3: COURSE OF FIRE—THE PRESIDENT'S RIFLE MATCH

Stage	Distance (yards)	Type of fire	Firing position	Number of shots	Time limit
First	200	Slow	Standing	10	10 minutes.
Second	300	Rapid	Prone from standing	10	70 seconds.
Third	600	Slow	Prone	10	10 minutes.

TABLE 5-4: COURSE OF FIRE, COURSE A—NATIONAL MATCH RIFLE COURSE

Stage	Distance (yards)	Type of fire	Firing position	Number of shots	Time limit
First	200	Slow	Standing	10	10 minutes.
Second	200	Rapid	Sitting or kneeling from standing.	10	60 seconds.
Third	300	do	Prone from standing	10	70 seconds.
Fourth [1]	600	Slow	Prone	20	20 minutes.

[1] The DCM may authorize the fourth stage to be fired at 500 yards for EIC matches other than the National Trophy Matches.

TABLE 5-5: COURSE OF FIRE, COURSE B—COMPETITIVE RIFLE COURSE, M-16 RIFLE ONLY

Stage	Distance (yards or meters)	Type of fire	Firing position	Number of shots	Time limit
First	200	Rapid fire	Rapid fire—sitting from standing.	Rapid fire—10 shots.	Rapid fire—50 seconds.
Second	200	Rapid	Kneeling from standing	10	50 seconds.
Third	200	Slow	Standing	10	10 minutes.
Fourth	300	do	Prone	10	Do.
Fifth	300	Rapid	Prone from standing	10	50 seconds.

TABLE 5-6: COURSE OF FIRE—NATIONAL TROPHY INFANTRY TEAM MATCH

Stage	Distance (yards)	Firing position	Time limit (seconds)
First	600	Prone	50
Second	500	Prone, sitting, or kneeling.	50
Third	300	Sitting or kneeling	50
Fourth	200	Standing	50

Subpart F—Awards

§ 544.80 General.

(a) *All EIC matches.* The providing of awards that are prescribed and earned always depends on whether funds are available.

(b) *National Trophy Matches.* (1) Awards for the National Trophy Matches will normally be given at the time and place of the National Matches.

(i) Permanent trophies will remain in the DCM's custody. They will be engraved with the names of the winners.

(ii) Winners will be awarded plaques or miniatures of the trophies. These plaques and miniatures will be engraved at the DCM's expense and according to the DCM's instructions.

(iii) In certain matches, categories, or award groups, a Secretary of the Army Trophy Firearm award will be given to the highest scoring competitor who has never received this award before. No competitor may receive more than one of these awards for a match. This award is subject to restrictions of law.

(iv) Further match awards may be authorized from time to time. Such awards and the conditions for receiving them will be published in the Match Program or in the Match Director's Bulletins.

(2) Correspondence concerning awards for the National Trophy Matches will be addressed to the Director of Civilian Marksmanship, Office of the Secretary of the Army, HQDA(SFDM), Washington, DC 20314–0100.

§ 544.81 Participation requirements for certain National Trophy Match awards.

In certain National Trophy Matches, awards are given for a named category or special awards group (such as Navy, Women, Infantry, Junior, or Police). These awards will be given only if the required number of competitors from the category or award group fire in the match. The required number are listed below.

(a) *Individual matches.* (1) Winner: At least 5 firers.

(2) Second place: At least 8 firers.

(3) Third place: At least 12 firers.

(b) Team matches.

(1) Winner: At least 3 teams.

(2) Second place: At least 5 teams.

(3) Third place: At least 7 teams.

§ 544.82 Awards for the President's Pistol Match.

(a) The match winner will be awarded the President's Trophy Plaque, a congratulatory letter from the President of the United States, and a President's Hundred Metallic Brassard.

(b) The match winner may also be awarded a Secretary of the Army Trophy Firearm if the requirements in paragraph 6–1b(1)(c) are met.

(c) The highest scoring 15 percent of all competitors who fire in the match will be designated "The President's Hundred." They will be awarded a "President's Hundred" metallic brassard. Not more than 100 of these awards will be given.

§ 544.83 Awards for the National Trophy Individual Pistol Match.

(a) The match winner will be awarded the Custer Trophy Plaque and a gold medal.

(b) The highest scoring Reserve competitor will be awarded the U.S. Army Reserve Memorial Trophy Plaque.

(c) The highest scoring National Guard competitor will be awarded the National Guard Association Trophy Plaque.

(d) The highest scoring Service Academy and ROTC competitor will be awarded the Intercollegiate Trophy Plaque.

(e) The highest scoring Police competitor will be awarded the Ancient Archer Trophy Plaque.

(f) The highest scoring Civilian competitor will be awarded the Silver Bowl Trophy Plaque.

(g) The highest scoring Junior competitor and Women competitor will be awarded a trophy plaque. These plaques will be named at a later date.

(h) Per paragraph 6–1b(1)(c), a Secretary of the Army Trophy Firearm award may be awarded to the highest scoring competitor in—

(1) The match (match winner).

(2) Each of the Regular Service, Reserve, National Guard, Service Academy and ROTC, Police, Civilian, Junior, and Women competitor categories (if not the match winner).

§ 544.84 Awards for the National Trophy Pistol Team Match.

Listed below are the trophy awards following the type of category. Also listed are what second and third place teams and designated competitors will receive.

(a) *Winning team awards*—The Gold Cup Trophy.

(1) The winning team will be awarded Gold Cup Trophy Plaques and gold metals.

(2) The second place team will be awarded silver medals.

(3) The third place team will be awarded bronze medals.

(b) *Reserve Components awards*—The U.S. Coast Guard Memoral Trophy.

(1) The highest scoring Reserve Component team will be awarded U.S. Coast Guard Memoral Trophy Plaques and gold medals.

(2) The second place team will be awarded silver medals.

(3) The third place team will be awarded bonze medals.

(c) *Service Academy and ROTC awards*—The Alden Partridge Trophy.

(1) The highest scoring Service Academy and ROTC team will be awarded Alden Partridge Trophy Plaques and gold medals.

(2) The second place team will be awarded silver medals.

(3) The third place team will be awarded bronze medals.

(d) *Police awards*—The American Indian Trophy.

(1) The highest scoring Police team will be awarded American Indian Trophy Plaques and gold medals.

(2) The second place team will be awarded silver medals.

(3) The third place team will be awarded bronze medals.

(e) *Civilian awards*—The Oglethorpe Trophy.

(1) The highest scoring Civilian team will be awarded Oglethorpe Trophy Plaques and gold medals.

(2) The second place team will be awarded silver medals.

(3) The third place team will be awarded bronze medals.

(f) *Junior awards*—(trophy to be named).

(1) The highest scoring Junior team will be awarded trophy plaques (to be named at a later date) and gold medals.

(2) The second place team will be awarded silver medals.

(3) The third place team will be awarded bronze medals.

(g) *Awards for highest scoring competitors.* (1) The highest scoring competitor will be awarded the Military Police Corps Trophy Plaque.

(2) The highest scoring Army competitor (Regular, Reserve, or Army National Guard) will be awarded the General Mellon Trophy Plaque.

(3) The highest scoring Air Force competitor (Regular, Reserve or Air National Guard) will be awarded the General Carl Spaatz Trophy Plaque.

(h) *Awards for the National Civilian Pistol Team.* The National Civilian Pistol Team will be awarded Elihu Root gold medals. This team will consist of the four highest scoring individual Civilian competitors in this match and the coach and captain of the highest scoring Civilian team.

§ 544.85 Additional National Trophy Pistol Match awards.

The competitors with the highest aggregate score in the National Trophy Individual Pistol Match and the National Trophy Pistol Team Match will receive the following awards:

(a) The Regular Army competitor be awarded the FORSCOM Pistol Trophy Plaque.

(b) The Navy competitor (Regular or Reserve) will be awarded the Fleet Admiral Nimitz Trophy.

(c) The Marine competitor (Regular or Reserve) will be awarded the McMillan Trophy Plaque.

(d) The Civilian competitor will be awarded the Anheuser-Busch Trophy Miniature.

§ 544.86 Awards for the President's Rifle Match.

(a) The match winner will be awarded a President's Trophy Plaque, a congratulatory letter from the President of the United States, and a President's Hundred Metallic Brassard.

(b) The match winner may also be awarded a Secretary of the Army Trophy Firearm, subject to the conditions in § 544.80(b)(1)(iii).

(c) The highest scoring 15 percent of all competitors who fire in the match will be awarded the "President's Hundred" metallic brassard. This group will be designated "The President's Hundred." Not more than 100 of these awards will be given.

§ 544.87 Awards for the National Trophy Individual Rifle Match.

The following awards are for Course A.

(a) The match winner will be awarded the Daniel Boone Trophy Plaque and a gold medal.

(b) The second place winner will be awarded a silver medal.

(c) The third place winner will be awarded a bronze medal.

(d) The highest scoring Reserve competitor will be awarded the Citizen Soldier Trophy Plaque.

(e) The highest scoring National Guard competitor will be awarded the National Guard Association Trophy Plaque.

(f) The highest scoring Service Academy and ROTC competitor will be awarded the Hearst Rifle Trophy Plaque.

(g) The highest scoring Police competitor will be awarded a trophy plaque to be named later.

(h) The highest scoring Civilian competitor will be awarded the Nathan Hale Trophy Plaque.

(i) The highest scoring Junior competitor will be awarded the Golden Eagle Trophy Plaque.

(j) The highest scoring Woman competitor will be awarded a trophy plaque to be named later.

(k) The highest scoring Army competitor (Regular, Reserve, or National Guard) will be awarded the Association of the United States Army Trophy Plaque.

(l) The highest scoring Marine competitor (Regular or Reserve) will be awarded the Coast Artillery Trophy Plaque.

(m) The highest scoring Air Force competitor (Regular, Reserve, or National Guard) will be awarded the Lieutenant Paul J. Roberts, Jr. Memorial Trophy Plaque.

(n) The highest scoring Infantry competitor (Regular Army, Army Reserve, or Army National Guard) will be awarded the 25th Infantry Division Trophy Plaque.

(o) Per § 544.80(b)(1)(iii), a Secretary of the Army Trophy Firearm may be awarded to—

(1) The match winner.

(2) The highest scoring competitor in each of the Regular Service, Reserve, National Guard, Service Academy and ROTC, Police, Civilian, Junior, and Women categories.

§ 544.88 Awards for the National Trophy Rifle Team Match.

Listed below are the trophy awards following the type of category. Also listed are what second and third place teams and designated competitors will receive.

(a) *Awards for the winning team*—The National Trophy.

(1) The winning team will be awarded National Trophy Plaques and gold medals.

(2) The second place team will be awarded silver medals.

(3) The third place team will be awarded bronze medals.

(b) *Reserve Component awards*—The Hilton Trophy.

(1) The highest scoring Reserve Component team will be awarded Hilton Trophy Plaques and gold medals.

(2) The second place team will be awarded silver medals.

(3) The third place team will be awarded bronze medals.

(c) *Service Academy and ROTC awards.* (1) The highest scoring Service Academy and ROTC team will be awarded NBPRP Trophy Plaques and gold medals.

(2) The second place team will be awarded silver medals.

(3) The third place team will be awarded bronze medals.

(d) *Civilian awards*—The Soldier of Marathon Trophy.

(1) The highest scoring Civilian team will be awarded Soldier of Marathon Trophy Plaques and gold medals.

(2) The second place team will be awarded silver medals.

(3) The third place team will be awarded bronze medals.

(e) *Junior awards*—The Minuteman Trophy.

(1) The highest scoring team Junior team will be awarded Minuteman Trophy Plaques and gold medals.

(2) The second place team will be awarded silver medals.

(3) The third place team will be awarded bronze medals.

(f) *Awards for highest scoring individual competitors.*

(1) The highest scoring competitor will be awarded the Pershing Trophy Plaque.

(2) The highest scoring Army competitor (Regular, Reserve, or National Guard) will be awarded the Rattlesnake Trophy Plaque.

(3) The highest scoring Air Force competitor (Regular, Reserve, or National Guard) will be awarded the General Thomas D. White Trophy Plaque.

(g) *Awards for the National Civilian Rifle Team.* The National Civilian Rifle Team will be awarded Elihu Root gold medals. This team will consist of the six highest scoring individual Civilian competitors and the coach and captain of the highest scoring Civilian team.

§ 544.89 Additional National Trophy Rifle Match awards.

The competitors with the highest aggregate score in the National Trophy Individual Rifle Match and the National Trophy Rifle Team Match will receive the following awards:

(a) The Regular Army competitor will be awarded the FORSCOM Rifle Trophy Plaque.

(b) The Navy competitor (Regular or Reserve) will be awarded the Admiral Arleigh A. Burke Trophy Plaque.

(c) The Marine competitor (Regular or Reserve) will be awarded the General Shepherd Trophy Plaque.

(d) The Civilian competitor will be awarded the Pietroforte Trophy Plaque.

§ 544.90 Awards for the National Trophy Infantry Team Match.

Listed below are the trophy awards following the type of category. Also listed are what second and third place teams and designated competitors will receive.

(a) *Winning team awards*—The Infantry Trophy.

(1) The winning team will be awarded Infantry Trophy Plaques and gold medals.

(2) The second place team will be awarded silver medals.

(3) The third place team will be awarded bronze medals.

(b) *Reserve Components awards*—The Celtic Chieftain Trophy.

(1) The highest scoring Reserve Component team will be awarded Celtic Chieftain Trophy Plaques and gold medals.

(2) The second place team will be awarded silver medals.

(3) The third place team will be awarded bronze medals.

(c) *Civilian awards*—The Leatherneck Trophy.

(1) The highest scoring Civilian team will be awarded Leatherneck Trophy Plaques and gold medals.

(2) The second place team will be awarded silver medals.

(3) The third place team will be awarded bronze medals.

(d) *Junior awards*—Junior Infantry Team Trophy.

(1) The highest scoring Junior team will be awarded gold medals.

(2) The second place team will be awarded silver medals.

(3) The third place team will be awarded bronze medals.

§ 544.91 Special medals in National Trophy Individual Pistol and Rifle Matches.

(a) The highest 10 percent of Civilians who fire in the National Trophy Individual Pistol or National Trophy Individual Rifle Match, but who do not receive match awards or the place medals prescribed in § 544.93, will be given bronze medals. The medal for the pistol match will depict the Silver Bowl Trophy and the medal for the rifle match will depict the Nathan Hale Trophy.

(b) The highest 10 percent of Juniors who fire in the National Trophy Individual Pistol or National Trophy Individual Rifle Match, but who do not receive match awards or the place medals prescribed in § 544.93 will be given bronze medals.

§ 544.92 Place medals in National Trophy team matches.

Place medals will be given to the captain, coach, and firing members of the highest 15 percent of all teams firing in the match. Medals will be given as follows:

(a) The winning team will be awarded gold medals.

(b) The second place team will be awarded silver medals.

(c) The third place team will be awarded bronze medals.

(d) The remainder of the 15 percent will be awarded bronze medals.

§ 544.93 Place medals in individual EIC matches.

(a) For the EIC matches listed in paragraph 6–15, place medals will be awarded to the highest scoring 10 percent of all non-Distinguished competitors competing in the match. These medals will be awarded as follows:

(1) The highest one-sixth of the 10 percent will be gold.

(2) The next highest one-third of the 10 percent will be silver.

(3) The remainder of the 10 percent will be bronze.

(b) Competitors who have attained or are qualified for Distinguished designation with the arm concerned will be ranked among the non-Distinguished competitors according to score. Each will be awarded a medal of the same type (gold, silver or bronze) as the non-Distinguished competitor next below him or her.

§ 544.94 Distinguished designation and badge awards.

(a) Competitions in which credits toward Distinguished designation may be earned and for which EIC badges may be awarded are—

(1) The National Trophy Individual Pistol and National Trophy Individual Rifle Matches.

(2) Certain Service matches not open to civilians.

(3) NRA Regional and State Championships.

(b) For credits earned in an EIC match to be recognized, the match must—

(1) Conform to all parts of this regulation that apply.

(2) Include at least 10 non-Distinguished competitors eligible according to this regulation.

(3) Be completed.

(c) The following rules apply to Civilian competitors competing for the Distinguished Designation and Badge award:

(1) In any calendar year, these competitors may compete in not more than four EIC matches for pistol and not more than four for rifle. The matches they may enter are listed below.

(i) The National Trophy Individual Match.

(ii) NRA Regional or State championships. Civilian competitors may not compete in more than three NRA Regional or State championship EIC matches a year.

(iii) A Service-sponsored match. If entry in such a match is possible, the match will constitute as one of the three matches authorized in (b) of this section.

(2) The DCM will award credit points toward Distinguished designation to competitors who earn place medals according to paragraph 6–14a. Points will be awarded as listed below.

(i) For any place medal in a National Trophy Individual Rifle Match, 10 points will be awarded. These points will be awarded to civilians only.

(ii) For place medals in other EIC matches listed in (c)(1) of this section, 10 points will be awarded for gold medals, 8 points will be awarded for silver medals, and 6 points will be awarded for bronze medals.

(3) The DCM will award the Distinguished Badge when a competitor has earned 30 or more credit points with the arm concerned.

(d) Competitors in the Regular Service, Reserve, National Guard, and Service Academy categories can earn credits toward the Distinguished designation and will be awarded the appropriate badges according to the regulations of their Service.

§ 544.95 EIC badges.

(a) The DCM will award a bronze EIC badge to Civilian competitors when they first earn credit points toward the Distinguished designation. They must earn their points according to paragraph 6–15. The DCM will award a silver EIC badge to these competitors when they have earned a total of 20 or more credit points.

(b) Competitors in the Regular Service, Reserve, National Guard, and Service Academy categories will be awarded EIC badges according to the regulations of their Service.

§ 544.96 Marksmanship qualification awards.

(a) The DCM will award the Basic Marksmanship Qualification Badge to ROTC, Police, Civilian, and Junior competitors who fire qualifying scores in the National Trophy Individual Pistol or

Rifle Matches. The badge will show qualification as Expert, Sharpshooter, or Marksman. The DCM may also award, separately or along with the badge, a bar that will show whether a rifle or pistol was used. Qualifying scores for these awards are listed below.

(1) Pistol awards—possible 300 points.
(i) Pistol Expert—270 points.
(ii) Pistol Sharpshooter—240 points.
(iii) Pistol Marksman—210 points.
(2) Rifle awards—possible 500 points.
(i) Expert Rifleman—450 points.
(ii) Rifle Sharpshooter—400 points.
(iii) Rifle Marksman—350 points.

(b) The DCM will present these awards after the close of the matches.

§ 544.97 Scores allowed for club qualification firing.

To meet the requirements in AR 920–20 on clubs' yearly qualification firing, clubs enrolled by the DCM may count their members' scores from the National Matches and/or EIC matches (§ 544.94).

Appendix A—Related Publications

Approved courses of fire for civilian marksmanship training for clubs and schools enrolled with the DCM (These courses are available from HQDA(SADM). WASH DC 20314.)

AR 5–9 (Intraservice Support Installation Area Coordination)
AR 140–125 (Marksmanship Training and Competitive Program)
AR 145–1 (Senior ROTC Program: Organization, Administration, and Training)
AR 145–2 (Junior Program and National Defense Cadet Corps: Organization, Administration, Operations, and Support)
AR 350–6 (Army-Wide Small Arms Competitive Marksmanship)
AR 600–20 (Army Command Policy and Procedures)
AR 600–23 (Nondiscrimination in Federally Assisted Programs)
AR 622–10 (Competition in Small Arms)
AR 672–5–1 (Military Awards)
AR 700–131 (Loan of Army Materiel)
AR 725–1 (Special Authorization and Procedures for Issues, Sales and Loans)
AR 735–5 (Basic Policy and Procedures for Policy Accounting)
AR 735–11 (Accounting for Lost, Damaged and Destroyed Property)
AR 920–15 (National Board for the Promotion of Rifle Practice and Office of Director of Civilian Marksmanship)
AR 920–20 (Promotion of Practice with Rifled Arms)
AR 920–25 (Rifles M14M and M14NM, for Civilian Marksmanship Use)
AR 920–35 (National Match Fund)
DODD 1025.1 (DOD Civilian Rifle and Pistol Marksmanship Training Program) (This DODD can be obtained from HQDA(SADM), WASH DC 20314 0100)

NRA Official Rule Books for Pistol and Highpower Rifle (These books can be obtained from the National Rifle Association, 1600 Rhode Island Avenue, NW., Washington, DC 20036).

Appendix B—Trophies of the National Board for the Promotion of Rifle Practice

B–1. The President's Pistol Trophy

This trophy was purchased by the NBPRP in 1981. It consists of a disc of white New England marble on a hardwood base. The Presidential Seal is carved, gilded, and mounted on the disc. This trophy is awarded to the winner of the President's Pistol Match.

B–2. The General Custer Trophy

The General Custer Trophy was purchased by the NBPRP in 1926. It is a bronze statuette of General George Armstrong Custer (1828–1876) firing a pistol. The trophy is awarded to the winner of the National Trophy Individual Pistol Match.

B–3. The US Army Reserve Memorial Trophy

The US Army Reserve Memorial Trophy was donated to the NBPRP by the US Army Reserve in 1969. The trophy depicts the citizen soldier leaving his civilian occupation to take up arms in defense of his country, and is in memory of those who have given their lives in this duty. It is awarded to the highest scoring Reserve competitor in the National Trophy Individual Pistol Match.

B–4. The National Guard Association Trophy (Pistol)

The National Guard Association Trophy (Pistol) was presented to the NBPRP in 1983, replacing the original trophy that was established in 1979. The trophy depicts a helmeted Guardsman in bronze, mounted on a two-tiered walnut base. This trophy is awarded to the highest scoring National Guard competitor in the National Trophy Individual Pistol Match.

B–5. The Intercollegiate Trophy

The Intercollegiate Trophy was purchased by the NBPRP in 1958. The trophy is a sterling silver urn, depicting a battle scene in what is believed to be the war between the Romans and Celts in A.D. 43–44. It is awarded to the highest scoring Service Academy or ROTC competitor in the National Trophy Individual Pistol Match.

B–6. The Ancient Archer Trophy

The Ancient Archer Trophy was purchased by the NBPRP in 1962. The trophy is made of bronze and depicts an ancient archer stringing his bow. It is awarded to the highest scoring Police competitor in the National Trophy Individual Pistol Match.

B–7. The Silver Bowl Trophy

The Silver Bowl Trophy was designed and purchased by the NRA in 1956 and presented to the NBPRP for award that year. It is a large, sterling silver bowl, embossed on the rim and pedestal with floral leaf design. It is awarded to the highest scoring Civilian competitor in the National Trophy Individual Pistol Match.

B–8. The Gold Cup Trophy

The Gold Cup Trophy was presented to General John J. Pershing by the Minister of War of the Republic of China as the award for first place in the pistol shooting match among the Allies at Le Mans, France in 1919. It was won by the American Expeditionary Force (AEF) Pistol Team. The team then presented it for annual competition in the National Trophy Pistol Team Match. The trophy is a helmet-shaped gold cup, engraved and mounted on an ebony base. The Gold Cup Trophy is awarded to the winning team in the National Trophy Pistol Team Match.

B–9. The US Coast Guard Memorial Trophy

The U.S. Coast Guard Memorial Trophy was presented to the NBPRP in 1957 by the Coast Guard. This trophy commemorates Coast Guard personnel who lost their lives while in that Service. It is a replica of the Coast Guard Memorial located in Arlington Cemetery, with statuettes of Coast Guard personnel holding service pistols on either side of the central pyramid. The central pyramid is cast in bronze and heavily plated in silver with an oxidized finish. It is awarded to the highest scoring Reserve Component team in the National Trophy Pistol Team Match.

B–10. The Alden Partridge Trophy

The Alden Partridge Trophy was presented to the NBPRP in 1971 by the president of Norwich University, Northfield, Vermont. The trophy is a bronze bust of General Alden Partridge, founder and first president of Norwich University. This university was the first institution of higher learning to include military training as a part of its curriculum and is credited as the founding school of what is now known as the ROTC program. This trophy is awarded to the highest scoring Service Academy or ROTC team in the National Trophy Pistol Team Match.

B–11. The American Indian Trophy

The trophy was donated to the NBPRP in 1962 by the YMCA of Greenwich, Connecticut. It is a bronze of Sinte Maza, "Iron Tail," an Oglala Sioux Indian. It is awarded to the highest scoring Police team in the National Pistol Team Match.

B–12. The Oglethorpe Trophy

The Oglethorpe Trophy was presented to the NBPRP in 1962 by the River Bend Rifle and Gun Club of Atlanta. The trophy is a sterling silver bowl mounted on a walnut base and was named in honor of the founder and first Governor of Georgia, James Oglethorpe. The trophy is awarded to the highest scoring Civilian team in the National Trophy Pistol Team Match.

B–13. The Military Police Corps Pistol Trophy

The Military Police Corps Trophy was presented to the NBPRP in 1958 through private subscription among the officers and enlisted members of the Military Police Corps. This trophy is a specially designed bronze relief depicting the worldwide mission of the Military Police Corps. Crossed pistols are mounted at the apex of the trophy and are exact duplicates of the original pistols used in the design of the Corps insignia. The trophy is awarded to the highest scoring competitor in the National Trophy Pistol Team Match.

B–14. The General Mellon Trophy

The General Mellon Trophy was presented to the NBPRP in 1958 by General Richard K. Mellon, Deputy Adjutant General, Commonwealth of Pennsylvania. The Mellon Trophy is a miniature of a giant Kodiak bear in an upright and alert pose. This trophy is awarded to the highest scoring Army Competitor (Regular or Reserve) in the National Trophy Pistol Team Match.

B–15. The General Carl Spaatz Trohpy

This trophy was presented to the NBPRP in 1961 by the US Air Force in honor of General Carl Spaatz, Chief of Staff of the Air Force from 1947 to 1948. It is a large silver globe mounted on an ebony base and surrounded by four silver eagles. This trophy is awarded to the highest scoring Air Force competitor (Regular, Reserve, or Air National Guard) in the National Trophy Pistol Team Match.

B–16. The US Army Forces Command Pistol Trophy

The US Army Forces Command Pistol Trophy was presented to the NBPRP by the Commanding General, US Army Forces Command. The mounted brace of pistols are circa 1900 Colt Army special caliber .38 revolvers. The trophy was designed and constructed by artisans of Rock Island Arsenal and is awarded to the Regular Army competitor making the highest aggregate score in the National Individual Pistol Match and National Trophy Pistol Team Match.

B–17. The Fleet Admiral Nimitz Trophy

The Fleet Admiral Nimitz Trophy was presented to the NBPRP in 1978 by the US Navy through private subscription among the officers and enlisted members of the Navy and Naval Reserve. The trophy is the pistol presented to Fleet Admiral Chester W. Nimitz in 1921 by his classmates at the US Naval Academy. It is awarded to the Navy competitor (Regular or Reserve) making the highest aggregate score in the National Trophy Individual Pistol Match and National Trophy Pistol Team Match.

B–18. The McMillan Trophy

The McMillan Trophy was presented by the US Marine Corps to the NBPRP in 1978 for award in the Service pistol competitions sponsored by the NBPRP. The trophy honors Lieutenant Colonel William W. McMillan, an outstanding Marine Corps shooter for over 20 years. It is awarded to the Marine competitor (Regular or Reserve) making the highest aggregate score in the National Trophy Individual Pistol Match and National Trophy Pistol Team Match.

B–19. The Anheuser-Busch Trophy

This trophy is a sterling silver bowl, emblazoned with the Anheuser-Busch eagle and mounted on a hardwood base. It is awarded to the Civilian competitor making the highest aggregate score in the National Trophy Individual Pistol Match and the National Trophy Pistol Team Match.

B–20. The President's Rifle Trophy

This trophy was purchased by the NBPRP in 1977. It consists of a disc of black New England slate mounted on a hardwood base. On the disc, the Presidential Seal is carved and gilded. The President's Trophy is awarded to the winner of the President's Rifle Match.

B–21. The Daniel Boone Trophy

The Daniel Boone Trophy was purchased by the NBPRP in 1925. The trophy is a bronze statue of the marksman Daniel Boone, American pioneer in Kentucky and Missouri (1734–1820), with his rifle. The trophy is awarded to the winner of the National Trophy Individual Rifle Match.

B–22. The Citizen Soldier Trophy

The Citizen Soldier Trophy was presented to the NBPRP in 1964 by the Reserve Officers' Association of the United States. The trophy is flanked by miniature replicas of the Liberty Bell. Affixed to the front of the trophy, encompassing a large Reserve Officers' Association seal, are the five insignia of the Armed Services. The trophy is awarded to the highest scoring Reserve competitor in the National Trophy Individual Rifle Match.

B–23. The Hearst Rifle Trophy

The present Hearst Rifle Trophy was donated by William Randolph Hearst to the National Matches in 1940. The Hearst Rifle Trophy is a 17th century Spanish flintlock carbine in blunderbuss style, inlaid with ivory and mother of pearl and having a chased lock. This trophy is awarded to the highest scoring Service Academy or ROTC competitor in the National Trophy Individual Rifle Match.

B–24. The Nathan Hale Trophy

The Nathan Hale Trophy was presented to the NBPRP by the NRA in 1956. It is a bronze figure created in 1890, of the Revolutionary War hero, Captain Nathan Hale. It is awarded to the highest scoring Civilian in the National Trophy Individual Rifle Match.

B–25. The Golder Eagle Trophy

The Golder Eagle Trophy was purchased by the NBPRP in 1963. The trophy is a golden eagle, ascending, with wings elevated and displayed. The eagle is mounted on a walnut base. The trophy is awarded to the highest scoring Junior competitor in the National Trophy Individual Rifle Match.

B–26. The Association of the United States Army Trophy

The Association of the US Army Trophy was presented to the NRPRP in 1962 by the Association of the United States Army. The trophy is a 16-inch bronze statuette of a US Army soldier mounted on a wooden base. The trophy is awarded to the highest scoring Army competitor (Regular, Reserve, or National Guard) in the National Trophy Individual Rifle Match.

B–27. The Coast Artillery Trophy

The Coast Artillery Trophy was presented to the NBPRP by the Commandant, United States Marine Corps, in 1981. The trophy is a sterling silver cup wth figures of Marines in standing and kneeling positions firing a rifle. In 1923, officers and enlisted members of the Coast Artillery Corps presented the trophy to the Marine Corps in appreciation of the Marine Corps Team training the Coast Artillery Team for the National Matches. (This training was from 1910 to 1922.) This trophy is awarded to the highest soring Marine competitor (Regular or Reserve) in the National Trophy Individual Rifle Match.

B–28. The Lieutenant Paul J. Roberts, Jr., Memorial Trophy

The Lieutenant Paul J. Roberts, Jr., Memorial Trophy was presented to the NBPRP in 1958. It is a sterling silver globe, designated by the US Air Force as a memorial to Lieutenant Paul J. Roberts, Jr., a fighter pilot who was killed during combat in World War II in Germany. The trophy was presented to the NBPRP by his father. It is awarded to the highest scoring Air Force competitor (Regular, Reserve, or National Guard) in the National Trophy Individual Rifle Match.

B–29. The 25th Infantry Division Trophy

The 25th Infantry Division Trophy was presented to the NBPRP in 1955 by the 25th Infantry Division Association. It illustrates the World War II area in which the division saw combat and lists the campaigns in which the division participated. This trophy is awarded to the highest scoring Infantry competitor (Regular Army, Army Reserve, or Army National Guard) in the National Trophy Individual Rifle Match.

B–30. The National Trophy

The National Trophy was provided by Congress in 1903 in the law that established the National Matches. Commonly referred to as the "Dogs of War Trophy," it is a bronze plaque depicting a warrior of ancient times with four dogs of war on a leash. The trophy is awarded to the winning team in the National Trophy Rifle Team Match.

B–31. The Hilton Trophy

The Hilton Trophy was presented to the NRA by the Honorable Henry Hilton of New York in 1878, and the NRA presented the trophy to the NBPRP in 1903. The silver-plated bronze plaque depicts an Indian buffalo hunt. Also on the plaque are figures of eagles, oak boughs, and war trophies. It is awarded to the highest scoring Reserve Component team in the National Trophy Rifle Team Match.

B–32. The Soldier of Marathon Trophy

The Soldier of Marathon Trophy is the oldest NBPRP trophy. It has been in shooting competitions since 1875. The NRA presented the trophy to the US Government for competition in the National Trophy Rifle Team Match in 1903. The trophy is a bronze figure of the runner, Thidipedes, who, though exhausted and fallen to a reclining position, still holds high the torch he is carrying to announce the Greek victory at Marathon. The trophy is now awarded to the highest scoring Civilian team in the National Trophy Rifle Team Match.

B–33. The Minuteman Trophy

The Mununteman Trophy was placed in competition in 1925. The trophy is a bronze statuette of the "Minuteman of Concord." (The original life-sized monument stands in Concord, Massachusetts.) The trophy is

awarded to the highest scoring Junior team in the National Trophy Rifle Team Match.

B–34. The Pershing Trophy

The Pershing Trophy was presented by General John J. Pershing (1860–1948), Commander of the AEF of World War I, for team competition at the Inter-Allied Games in Paris in 1919. Won by the AEF, it was brought to the United States and placed in the custody of the NBPRP with General Pershing's concurrence. The trophy is a bronze figure of a World War I soldier firing the service pistol. It is awarded to the highest scoring individual competitor in the National Trophy Rifle Team Match.

B–35. The Rattlesnake Trophy

The Rattlesnake Trophy was purchased by the NBPRP in 1938. This statuette depicts a cowboy and his horse at the moment a rattlesnake strikes at the horse's front feet. It is awarded to the highest scoring Army competitor (Regular, Reserve, or National Guard) in the National Trophy Rifle Team Match.

B–36. The General Thomas D. White Trophy

The General Thomas D. White Trophy was presented to the NBPRP in 1980 by the US Air Force in honor of General Thomas D. White, Chief of Staff of the Air Force from 1957 to 1961. The trophy is a large silver bowl mounted on an ebony base. It is awarded to the highest scoring Air Force competitor (Regular, Reserve, or National Guard) in the National Trophy Rifle Team Match.

B–37. The US Army Forces Command Rifle Trophy

The US Army Forces Command Rifle Trophy was presented to the NBPRP by the Commanding General, US Army Forces Command. The mounted rifles are circa 1900 Winchester low wall muskets, caliber .22 short, with consecutive serial numbers, the highest of which was the last musket chambered for the .22 short cartridge. The trophy was designed and constructed by artisans of Rock Island Arsenal for award to the Regular Army competitor making the highest aggregate score in the National Trophy Individual Rifle Match and National Trophy Rifle Team Match.

B–38. The Admiral Arleigh A. Burke Trophy

The Admiral Arleigh A. Burke Trophy was presented to the NBPRP by the US Navy through private subscription among the officers and enlisted members of the Navy and Navy Reserve. The trophy is the steel helmet worn by Admiral Burke through the entire Atlantic Campaign of World War II. The trophy is awarded to the Navy competitor (Regular or Reserve) making the highest aggregate score in the National Trophy Individual Rifle Match and the National Trophy Rifle Team Match.

B–39. The General Shepherd Trophy

The General Shepherd Trophy was presented to the NBPRP in 1956 by General Lemuel C. Shepherd, Jr., Commandant of the Marine Corps from 1952 to 1956. The trophy is a bronze replica of the Marine Corps War Memorial depicting the flag-raising on Mount Suribachi during the battle of Iwo Jima in World War II. This trophy is awarded to the Marine competitor (Regular or Reserve) making the highest aggregate score in the National Trophy Individual Rifle Match and the National Trophy Rifle Team Match.

B–40. The Pietroforte Trophy

The Pietroforte Trophy was donated to the NBPRP by private subscription among members of the US Marine Corps Distinguished Shooters' Association. This trophy honors Warrant Officer Michael Pietroforte, who distinguished himself as one of the finest marksmen in Marine Corps history during his 30 years of service. It is awarded to the Civilian competitor making the highest aggregate score in the National Trophy Individual Rifle Match and the National Trophy Rifle Team Match.

B–41. The Infantry Trophy

The Infantry Trophy was presented to the NRA in 1922 by the US Army Infantry through private subscription among its members (officer and enlisted and Regular, Reserve, and National Guard). The NRA placed the trophy in the custody of the NBPRP in 1936. This trophy depicts the combat Infantryman in action and is awarded to the winning team in the National Trophy Infantry Team Match.

B–42. The Celtic Chieftain Trophy

The Celtic Chieftain Trophy was purchased by the NBPRP in 1958. The statute represents a bronze figure of Caractacus, British chieftain of the tribe of Cateveillauni, who led the native resistance against the Roman, Aulus Plautus (A.D. 43–47). This trophy is awarded to the highest scoring Reserve Component team in the National Trophy Infantry Team Match.

B–43. The Leatherneck Trophy

In 1957, the Marine Corps presented this trophy to the NBPRP in the name of the officers and enlisted members of the Marine Corps. The Leatherneck Trophy is a replica of the life-size "Iron Mike" statue that has stood at the Quantico Marine Corps Base, Virginia, since 1921. It is awarded to the highest scoring Civilian team in the National Trophy Infantry Team Match.

B–44. The Women's Rifle Trophy

This trophy was authorized by the NBPRP in 1983 and first presented in 1984. It consists of a pair of Winchester Low Wall, single shot, caliber .22 muskets mounted on a polished hardwood base. This trophy is awarded to the highest scoring Woman competitor in the National Trophy Individual Rifle Match.

B–45. The Women's Pistol Trophy

This trophy was authorized by the NBPRP in 1983 and first presented in 1984. It consists of two Colt Army Special caliber .38 revolvers mounted on a polished hardwood base. This trophy is awarded to the highest scoring Woman competitor in the National Trophy Individual Pistol Match.

B–46. The Police Rifle Trophy

This trophy was authorized by the NBPRP in 1983 and first presented in 1984. It consists of three Springfield M1903 rifles mounted on a polished hardwood base. This trophy is awarded to the highest scoring Police competitor in the National Trophy Individual Rifle Match.

B–47. The Junior Pistol Team Trophy

This trophy was authorized by the NBPRP in 1983 and first presented in 1984. It consists of four caliber .45 pistol facsimilies mounted on a polished hardwood base. This trophy is awarded to the highest scoring Junior team in the National Trophy Pistol Team Match.

B–48. The Junior Pistol Trophy

This trophy was authorized by the NBPRP in 1983 and first presented in 1984. It consists of two Colt Ace caliber .22 pistols mounted on a polished hardwood base. The trophy is awarded to the highest scoring Junior competitor in the National Trophy Individual Pistol Match.

B–49. The Junior Infantry Team Trophy

This trophy was recommended by the NBPRP in 1983 and first presented in 1984. It consists of three Springfield M1903 rifles mounted on a polished hardwood base. The Springfield rifles were used in the design because of their prominence in the Infantry Trophy; the fact that a distinctive award has been established to promote junior participation in a singularly military type of markmanship competition is considered most appropriate. The trophy is awarded to the highest scoring Junior team in the National Infantry Trophy Team match.

Glossary

Section I

Abbreviations

AEF—American Expeditionary Forces
AG—adjutant general
AMCCOM—US Army Armament, Munitions, and Chemical Command
CECOM—US Army Communications-Electronics Command
CG—commanding general
CMP—Civilian Marksmanship Program
CONUS—continental United States
DARCOM—US Army Material Development and Readiness Command
DCM—Director of Civilian Marksmanship
DNMIC (Ops/Svcs)—Deputy National Matches Installation Commander (Operations and Services)
EIC—excellence-in-competition
FORSCOM—US Army Forces Command
LNO—Liaison officer
MR—midrange
NBPRP—National Board of the Promotion of Rifle Practice
NGB—National Guard Bureau
NMIC—National Matches Installation Commander
NMPAO—National Matches Public Affairs Officer
NMSC—National Matches Support Coordinator
NMSD—National Matches Support Detachment
NRA—National Rifle Association
OHARNG—Ohio Army National Guard
OSO—Ordnance Safety Officer
ROTC—Reserve Officers' Training Corps
SA—Secretary of the Army
SAFS—Small Arms Firing Schools

SPT—Support
SR—short range
TRADOC—US Army Training and Doctrine Command
USC—US Code
XO, NM—Executive Officer, National Matches
XO, CMP (SPT)—Executive Officer, Civilian Marksmanship Program (Support)

Section II

Terms

Complete the Match

To fire recorded shots in all stages of a match. For team matches, this term means that all firing members fire recorded shots in all stages of the match.

Completed Match

A match in which all competitors have had the opportunity to fire in all stages of the match.

Distinguished Designation

Award of the Distinguished Pistol Shot or Distinguished Rifleman Badge. These awards are made to individuals who have earned the required number of credit points.

Excellence-in-Competition (EIC) Matches

Matches in which credit toward the Distinguished designation may be earned and EIC badges awarded.

Fire in the Match

To fire one or more recorded shots in any stage of the match. For team matches, this term means that one or more team members fire one or more recorded shots in any stage of the match.

B–50. The National Guard Association Trophy (Rifle)

The National Guard Association Trophy (Rifle) was presented to the NBPRP in 1983, replacing the original trophy that was established in 1979. The trophy depicts a helmeted Guardsman in bronze, mounted on a two-tiered walnut base. This trophy is awarded to the highest scoring National Guard competitor in the National Trophy Individual Pistol Match.

John O. Roach, II,

Army Liaison Officer with the Federal Register.

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Part III

Environmental Protection Agency

40 CFR Part 761

Polychlorinated Biphenyls (PCBs); Manufacture, Processing, Distribution in Commerce and Use Prohibitions; Use in Electrical Transformers; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 761

[OPTS 62035A; TSH FRL-2665S-1]

Polychlorinated Biphenyls (PCBs); Manufacture, Processing, Distribution in Commerce and Use Prohibitions; Use in Electrical Transformers

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA issued an Advance Notice of Proposed Rulemaking (ANPR), which was published inthe **Federal Register** of March 23, 1984 (49 FR 11070), that solicited information on the risks posed by fires involving electrical transformers containing polychlorinated biphenyls (PCBs) and on mechanisms for mitigating or eliminating these risks.

In this Proposed Rule, EPA reconsidered the determination made in the August 25, 1982.PCB Electrical Use Rule that allowed the continued use of PCBs in most transformers. EPA has revised its earlier assessment to include a consideration of the risks posed by fire-related events, the costs of cleanup following these incidents, and the cost and effectiveness of regulatory control measures for mitigating or eliminating these risks. As a result, EPA is proposing amendments to the August 1982 use authorization for the use of PCBs in electrical transformers that require: (1) The immediate registration of all PCB Transformers (transformers containing greater than 500 parts per million (ppm) (PCBs) with appropriate fire department jurisdictions, (2) the immediate marking of the exterior of PCB Transformers locations, with PCB identification labels, (3) the immediate removal of stored combustibles from PCB Transformer locations, (4) the immediate registration with building owners of all PCB Transformers located in or near buildings, (5) the installation, by July 1, 1988, of additional electrical protective devices on PCB Transformers in high secondary (low side) voltage systems which are located in or near buildings, and (6) the isolation, by July 1, 1988, of all PCB Transformers in or near buildings from building ventilation equipment, building ductwork, and openings in construction to reduce the widespread contamination of structures and the environment by smoke from a fire involving a PCB Transformer. EPA is also proposing to require owners of PCB Transformers involved in fire-related incidents to report these incidents to the National Spill Response Center prior to initiating any cleanup efforts, and, to take immediate measures to contain water releases associated with the incident.

DATES: An informal hearing, if requested, will be held on December 26, 1984, in Washington, D.C. The exact time and location of the hearing will be available by calling the TSCA Assistance Office toll free at 800–424–9065 or, in Washington, D.C., by calling 554–1404. Comments on the issues raised in this Notice and requests to participate in an informal hearing must be submitted by December 10, 1984.

ADDRESSES: Comments should be submitted in triplicate to: TSCA Public Information Office (TS–793), Office of Toxic Substances, Environmental Protection Agency, Rm. E–108, 401 M St., SW., Washington, D.C. 20460.

Comments should include the docket number OPTS–62035. Comments received in connection with this Notice will be available for reviewing and copying from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays, in Rm. E–107, Environmental Protection Agency, 401 M St., SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, Rm. E–543, 401 M St., SW., Washington, D.C. 20460, Toll free: (800–424–9065), In Washington, D.C.: (554–1404), Outside the USA: (Operator—202–554–1404).

SUPPLEMENTARY INFORMATION:

I. Background

Section 6(e) of the Toxic Substances Control Act (TSCA) generally prohibits the use of PCBs after January 1, 1978. The statute does, however, set forth two exceptions under which EPA may, by rule, allow a particular use of PCBs to continue. Under section 6(e)(2) of TSCA, EPA may allow PCBs to be used in "totally enclosed manner." A "totally enclosed manner" is defined by TSCA to be any manner which will ensure that any exposure of human beings or the environment to a polychlorinated biphenyl will be insignificant, as determined by the Administrator by rule." TSCA also allows EPA to authorize the use of PCBs in a manner other than a totally enclosed manner if the Agency finds that the use "will not present an unreasonable risk of injury to health or the environment."

EPA promulgated a rule, which was published in the **Federal Register** of May 31, 1979 (44 FR 31514), to implement section 6(e) (2) and (3) of TSCA. This rule is listed in the Code of Federal Regulations under 40 CFR Part 761. The rule, among other provisions, designated all intact, nonleaking capacitors, electromagnets, and transformers, other than railroad transformers, as "totally enclosed," thus permitting their use without specific authorizations or conditions. The Environmental Defense Fund (EDF) petitioned the U.S. Court of Appeals for the District of Columbia Circuit to review a number of provisions of the rule, including the portion of the rule that designated all intact and nonleaking capacitors, electromagnets, and transformers as "totally enclosed." (*Environmental Defense Fund, Inc.* v. *Environmental Protection Agency*. 636 F.2d 1267).

On October 30, 1980, the court, among other things, decided that there was insufficient evidence in the record to support the Agency's classification of transformers, capacitors, and electromagnets as totally enclosed. The court invalidated this portion of the rule, as well as other provisions, and remanded the rule to EPA for further action.

As a consequence of the October 1980 decision, EPA undertook a number of rulemaking actions. The rule relevant to the subject of today's proposed rule was published in the **Federal Register** of August 25, 1982 (47 FR 37342) (hereafter, PCB Electrical Use Rule). This rule amended the May 1979 rule by authorizing the continued use of PCB Transformers (electrical transformers containing greater than 500 ppm PCBs) in facilities involved in handling of food or feed items until October 1, 1985, and by authorizing the use of all other categories of non-railroad electrical transformers containing or contaminated with PCBs for the remainder of their useful lives. In its August 1982 decision, EPA made a determination that authorizing the use of these transformers for the remainder of their useful lives did not present an unreasonable risk to public health or the environment for the following reasons:

1. EPA determined that if it did not authorize the use of PCBs in transformers, the costs to the public and United States industry would be billions of dollars, primarily as a result of the disruption of electrical service. EPA determined that the resulting reduction in risk would not outweigh these substantial costs.

2. EPA determined that the inspection and maintenance programs required under the rule reasonably reduced the exposure risks associated with the use of PCBs in PCB Transformers and the servicing conditions prevented further PCB contamination of transformers.

3. EPA determined that releases of PCBs to the environment and exposure to humans and biological organisms from mineral oil transformers are minimal. EPA estimated that these transformers contain less than 0.15 percent of all the PCBs used in transformers and release less than one half of a percent of these PCBs on an annual basis.

4. EPA determined that the costs associated with other risk reduction measures such as accelerated phase-out, reducing the PCB concentration in the dielectric fluid, or providing containment for transformers were not reasonable when compared to the potential reduction in release of PCBs achieved.

In evaluating the risks posed by the continued use of electrical transformers containing PCBs for the August 1982 PCB Electrical Use Rule, EPA considered exposures resulting from leaks and spills of PCB-containing dielectric fluid as constituting the principal route of release of PCBs to the environment from this equipment.

However, fires involving transformers also could be responsible for the release of PCBs. For example, on February 5, 1981, in the Binghamton State Office Building in Binghamton, New York, a PCB Transformer was involved in a fire in the basement of the building. PCBs and oxidation products were distributed throughout the 18-story office building via two vertical ventilation shafts that ran the length of the building and opened into the transformer vault in the basement. Monitoring, completed after the fire, indicated that PCBs, polychlorinated dibenzofurans (PCDFs) (including the toxic congener 2,3,7,8-tetrachlorodibenzofuran (2,3,7,8— . TCDF)), and polychlorinated dibenzodioxins (PCDDs) (including the toxic congener 2,3,7,8-tetrachlorodibenzo-p-dioxion (2,3,7,8-TCDD)) were distributed throughout the interior of the building. From laboratory studies, it appears that PCDFs are formed from both the oxidation of PCBs and the oxidation of chlorinated benzenes in combustion situations. PCDDs, however, appear to be formed only from the oxidation of chlorinated benzenes. Tri-and tetra-chlorinated benzenes often make up 30–35% of PCB askarel dielectric fluid, and can be present at low levels as contaminants in other fluids.

At the time of promulgation of the August 25, 1982 PCB Electrical Use Rules, EPA believed that fires involving transformers that contain PCBs were very rare, isolated events. Thus, although EPA made determinations that the use of electrical transformers containing PBC did not pose unreasonable risks to public health or the environment, EPA did not directly consider the public health and environmental risks posed by fire-related events. EPA also did not evaluate the cost of implementing risk reduction measures to mitigate the risks posed by fires involving this equipment or factor into its economic assessment certain now-identified costs associated with the continued use of these transformers, principally, the very high costs of cleanup following more serious incidents. These costs reduce the benefits associated with the continued use of these transformers.

After the promulgation of the PCB Electrical Use Rule, additional information came to EPA's attention that indicated that fires involving transformers that contain PCBs may occur more frequently than previously expected, and that transformer fire-related hazards are not restricted solely to transformers located inside buildings. On May 15, 1983, in the One Market Plaza complex in San Francisco, California, a PCB Transformer was involved in a smoky transformer vault fire. Monitoring completed after the fire indicated the presence of PCBs, PCDFs, and PCDDs in soot from this fire. Although the vault housing the transformer was located exterior to the building itself (in a sidewalk vault), unsealed conduits from the vault to the basement and outside air intake vents drew the contaminated smoke into the building and allowed for the distribution of these compounds into the ductwork of the building.

The San Francisco incident, and four more recent incidents, in the First National Bank Building in Chicago, Illinois, in September 1983; in Tulsa, Oklahoma, in December 1983 and May 1984; and in Miami, Florida, in May 1984, have prompted EPA to reassess its earlier position on the expected frequency of fire-related incidents involving transformers that contain PCBs.

EPA issued an Advance Notice of Proposed Rulemaking (ANPR), which was published in the Federal Register of March 23, 1984 (49 FR 11070), to solicit additional information on the risks posed by fires involving transformers containing PCBs, their frequency of occurrence, the costs of cleanup following these incidents, and the effectiveness and costs associated with regulatory control measures for mitigating or eliminating the risks posed by this equipment in fire situations. At that time, EPA indicated that it would use the new information to reconsider the use authorization issued in the PCB Electrical Use Rule for the continued use of most electrical transformers containing PCBs.

EPA received over 50 comments on the ANPR during the public comment period, which closed on May 22, 1984. EPA received information from a number of different sources, including the insurance industry, fire departments, building owners, industrial transformer users, and utilities. (The comments on the ANPR are summarized in: "PCB Transformer Fires: Comments on the Advance Notice of Proposed Rulemaking" (September 1984).)

After considering the comments received in response to the ANPR, and after completing further analyses of available data, EPA is issuing a Proposed Rule to address the risks posed by fires involving transformers that contain PCBs. This Proposed Rule presents EPA's determination that additional regulatory control measures are warranted. EPA's determination is based on an analysis of the risks posed by fires involving electrical transformers containing PCBs, the benefits of PCBs and the availability of substitutes, and the costs and benefits of control measures designed to mitigate or eliminate the fire-associated risks posed by this equipment. EPA is also reaffirming its August 1982 determination that the indefinite use of PCBs in electrical transformers in concentrations below 500 ppm does not pose unreasonable risks to public health or the environment.

II. Summary of Proposed Rule

Under section 6(e)(2)(B) of TSCA, EPA can authorize a use of PCBs provided that the use "will not present an unreasonable risk of injury to health or the environment." Although the continued use of PCBs in most electrical transformers was authorized in the PCB Electrical Uae Rule, EPA did not consider the risks posed by fires involving this equipment of the costs or benefits of regulatory control measures to mitigate or eliminate these risks. EPA's decision to allow the continued use of electrical transformers containing PCBs was based on the reported low frequency of leaks and spills of PCBs from this equipment compared to the high costs associated with replacing this equipment with substitute transformers or requiring secondary containment to limit the spreads of spilled materials.

In this Proposed Rule, EPA has determined that PCB Transformer fires (fires involving transformers containing greater than 500 ppm PCBs), particularly fires which occur in or near buildings, do pose risks to humans and the

environment. EPA reached this determination after considering the extreme toxicity of materials which can be formed and released during fires involving this equipment, as well as the potential for human and environmental exposures to these compounds from a single incident, and the expected frequency of incidents over the remaining useful life of this equipment.

EPA has further determined that the continued use of PCB Transformers without additional restrictions does present an unreasonable risk of injury to health and the environment. EPA reached this determination after considering the risks posed, the costs of cleanup following these incidents, the availability of adequate substitute materials, and the costs and benefits associated with regulatory control measures designed to reduce the risks posed by fires involving this equipment. EPA is, therefore, proposing additional regulatory controls on the use of this equipment.

EPA is proposing to require: (1) The immediate registration of all PCB Transformers with appropriate fire department jurisdictions, and the immediate registration with building owners of all PCB Transformers located in or near buildings, (2) the immediate marking of the exterior of the vault door, machinery room door, means of egress, or grate(s) accessing a PCB Transformer with PCB identification labels, (3) the immediate removal of stored combustibles from PCB Transformer locations, (4) the installation, by July 1, 1988, of additional electrical protective devices on PCB Transformers in or near buildings in high secondary voltage systems (480/277 volt systems), and (5) the isolation, by July 1, 1988, of all PCB Transformers in or near buildings from building ventilation systems, building ductwork, and openings in construction to reduce the widespread contamination of structures and the environment by smoke and soot from PCB Transformer fires. In addition, to facilitate monitoring compliance with the isolation requirements, EPA is proposing that PCB Transformer owners maintain records of their efforts in isolating transformers through the completion of written PCB Smoke Spread Reduction Plans (PCB-SSRPs). EPA is proposing that all PCB-SSRPs be completed by July 1, 1988, that the records be maintained until the date the transformer is placed into storage for disposal or until the transformer is disposed (whichever occurs first), and that the records be made available for inspection, upon request, by EPA.

Finally, in the event of a PCB Transformer fire, EPA is proposing to require PCB Transformer owners to take immediate measures to contain potential water discharges, and to report all PCB Transformer fire-related incidents to the National Spill Response Center (NSC) prior to the initiation of cleanup efforts. EPA expects that these measures will reduce the likelihood of the discharge of water contaminated with PCBs, PCDFs, and PCDDs into waterways.

Although EPA expects that the above measures will reduce releases to waterways after the fire is extinguished, EPA remains concerned about the potential risks posed by releases to water which may occur during a fire or immediately after a fire, before measures can be taken to contain the PCBs and any potential oxidation products. Information on well-researched PCB Transformer fire indicates that significant releases of dielectric fluid to waterways did not occur in these instances. However, EPA believes that there is a potential for the contamination of waterways, drinking water supplies, and sewerage treatment plants from the spilling of PCB dielectric fluid, runoff, and the washing of PCBs and oxidation products down storm drains and sewers as a result of a fire-related incident. Floor drains in the transformer location and the presence of water pipes in the transformer location can facilitate the release of PCBs and their oxidation products into waterways during the very early stages of a fire, before measures can be taken to contain releases.

While EPA is not proposing to require the blocking or sealing of drains in PCB Transfomer locations (nor other protective measures specifically designed to reduce the potential for releases to waterways), EPA is soliciting comments on the practicality, feasibility, and cost of such requirements. EPA is also soliciting comments and information on the availability, effectiveness, and cost of heat sensitive-smoke sensitive drain closure systems or drain closure systems which can be triggered manually from locations outside the transformer vault or enclosure.

Any disposal and/or discharge of materials contaminated with PCBs, PCDFs or PCDDs as a result of a fire involving PCBs must be conducted in accordance with all applicable federal regulations including thoses issued under the Toxic Substances Control Act (TSCA), the Clean Water Act (CWA), and the Resource Conservation and Recovery Act (RCRA).

EPA has determined that the continued use of PCBs in PCB Transformers which comply with the requirements described above do not present unreasonable risks to public health or the environment. Further, after considering the risks posed by fires involving transformers containing less than 500 ppm PCBs, and the costs of regulatory control measures, EPA is reaffirming its August 1982 determination that the continued use of PCB-Contaminated transformers and non-PCB transformers (transformers containing 50–500 ppm PCBs, and less than 50 ppm PCBs, respectively) do not present unreasonable risks to public health and the environment.

Although EPA believes that sufficient data are available to support the development of these new proposed regulations, EPA recognizes that several relevant research projects are currently underway. The Electric Power Research Institute (EPRI) is sponsoring several ongoing studies of the formation of PCDFs from PCBs as well as a study of the effectiveness and costs of potential risk reduction measures, such as transformer isolation. EPA is also in the process of completing a study of the formation of PCDFs and PCDDs from the incomplete combustion of PCB-Contaminated fluid. The results of these studies could impact EPA's assessment of the magnitude of risks posed by fire-related incidents, and, may ultimately impact the scope of the final regulations and the nature of any required control measures.

The remainder of this preamble describes the basis for the determinations reached in this proposed rule.

III. Transformer Fire Risks

A. Summary of Findings

EPA has concluded that materials formed and/or released during fires involving transformers containing PCBs have the potential to be extremely toxic to humans. Data from two well-researched fires and data from laboratory studies on the formation of PCDFs, 2,3,7,8-TCDF, PCDDs, and 2,3,7,8-TCDD establish the potential for the formation of relatively large quantities of these compounds through the incomplete combustion of PCBs and chlorinated benzenes (which are often present as diluents or contaminants in transformers containing PCBs). EPA uses the term "relatively large" because although the quantities of these materials formed are actually quite small (picogram levels), their extreme toxicities make even these small quantities of concern. EPA has concluded that the incomplete combustion of PCBs can result in the

formation of relatively large quantities of 2,3,7,8-TCDF, and, that the incomplete combustion of chlorinated benzenes can result in the formation of 2,3,7,8-TCDD, in addition to 2,3,7,8-TCDF.

In earlier rulemakings, EPA has already concluded that persons exposed to PCBs can develop chloracne; and, that based on laboratory animal data, there is a poential for reproductive effects and developmental toxicity as well as oncogenicity in humans exposed to PCBs. 2,3,7,8-TCDD has been described as an "unusually toxic" material, which exhibits acute, subacute, subchronic, chronic, teratogenic, and oncogenic effects at very low doses in laboratory animals.

Although toxicological testing of 2,3,7,8-TCDF has been more limited than toxicological testing of 2,3,7,8-TCDD, available studies indicate that these compounds display similar toxicological and biological activities for a wide range of end points including lethality, lymphoid atrophy, weight loss, porphyria, enzyme induction, and cystolic receptor protein binding. They are structurally similar compounds, with two chorinated benzene rings joined by one oxygen bridge in the case of dibenzofuran, and two oxygen bridges in the case of dibenzodioxin. In view of these similarities, EPA believes it prudent to assume that 2,3,7,8-TCDF will also produce other adverse effects comparable to those found following exposures to 2,3,7,8-TCDD. These toxicological effects include embryotoxicity, teratogenicity, reproductive effects, and oncogenicity.

EPA also recognizes that other compounds of potential toxicological significant may be produced and released from tansformer fires, such as other congeners of PCDFs and PCDDs, and polychlorinated biphenylenes. Limited toxicological testing of other PCDD congeners, such as 1,2,3,7,8-Pentachlorodibenzo-p-dioxin (1,2,3,7,8-PeCDD) and 1,2,3,7,8,9-and 1,2,3,6,7,8-Hexachlorodibenzo-p-dioxin (1,2,3,7,8,9-HxCDD and 1,2,3,6,7,8-HxCDD) suggest that these congeners are qualitatively similar in their toxic action to 2,3,7,8-TCDD when comparisons are made in a single species; however, they are less toxic than the 2,3,7,8-TCDD congener. EPA expects that toxicological testing of 1,2,3,7,8-Pentachlorodibenzofuran (1,2,3,7,8-PeCDF), 1,2,3,7,8,9-Hexachlorodibenzofuran (1,2,3,7,8,9-HxCDF), and 1,2,3,7,8-Hexachlorodibenzofuran (1,2,3,6,7,8-HxCDF) would show that these PCDF congeners are qualitatively similar in toxic action to 2,3,7,8-TCDF. Finally, other PCDD and PCDF congeners and materials such as polychlorinated biphenylenes that have yet to undergo extensive toxicological testing may also have toxicologic significance.

Thus, the risks posed by exposures to soot and smoke from transformer fires are not limited to the risks posed by exposures to PCBs, and the 2,3,7,8-TCDD/TCDF congeners. However, EPA believes that reducing exposures to these extremely toxic congeners, 2,3,7,8-TCDF and 2,3,7,8-TCDD, will also reduce exposures to other materials of potential toxicological significance.

EPA believes that the risks posed to humans from transformer fires are related to four major factors: (1) The contests of the tansformer, most importantly, the amount of PCBs present in the transformer; (2) the combustion conditions (which are influenced by both the length of time that a transformer remains energized after a serious fault and the presence of stored combustibles in the transformer location); (3) the degree of dispersion of toxic chemicals from the transformer into areas where there is an increased risk of human exposures; and (4) whether emergency response personnel and the building owner are aware that a transformer involved in a fire contains PCBs, and that certain precautions should be taken to avoid exposure to toxic materials produced during combustion.

EPA believes that the amount of toxic incomplete combustion products formed from the burning of PCB dielectric fluid is linearly related to the amount of precursors present at the time of combustion. Fires (particularly those which occur in or near buildings) involving PCB Transformers pose much greater risks of human exposures to PCBs and oxidation products than fires involving transformers containing less than 500 ppm PCBs. Thus, the amount of PCBs present in a transformer greatly influences the level of risk posed by a fire involving this equipment.

In addition, combustion conditions play a significant role in the risks posed by transformer fires, through their influence on the release of PCBs, the volatilization of PCBs, and the formation of toxic products from incomplete combustion. EPA believes that the presence of stored combustibles in transformer locations, and, more importantly, the inability to completely deenergize a seriously faulted transformer are two factors that can result in sustained high temperatures in a transformer location. Sustained high temperatures increase the potential for the formation of large amounts of toxic products of incomplete combustion.

PCB Transformer fires in buildings can result in exposures to PCBs, PCDFs, and 2,3,7,8-TCDF, (and PCDDs and 2,3,7,8-TCDD in cases where chorinated benzenes are present), by building occupants and bystanders, in addition to emergency response personnel, the general public, and cleanup crews. Exposures may occur during the early stages of a fire (prior to and during evacuation), and continue during cleanup operations and following reoccupancy of a building.

EPA believes that the greater the dispersion of smoke and soot within a building from a transformer fire, the greater the potential for exposure of humans to PCBs and oxidation products, and therefore, the higher the risks posed. The presence of building ventilation equipment, ductwork, and openings in construction (including openings created for ventilation purposes) in transformer locations is the single most important factor influencing the potential for human exposures to smoke and soot from a fire involving this equipment.

EPA also believes that water may become contaminated with PCBs, PCDFs, and PCDDs from any or all of the following sources: (1) Direct leakage of dielectric fluid from the transformer; (2) fluid or soot being washed into a floor drain by firefighting water; (3) fluid or soot washed into a drain from burst water pipes; or, (4) the disposal of water contaminated during cleanup operations. If these fluids are not contained, they may either enter storm sewers or santiary sewers. Water in storm sewers may not undergo treatment. Therefore, these types of releases could result in the contamination of surface waters and drinking water supplies with large amounts of PCBs, and potentially, PCDFs and PCDDs.

Transformers located near buildings, such as those present in sidewalk or underground vaults in urban areas, are expected to pose similar risks in fire situations to transformers located inside buildings. This is because air intake vents are often present on the exterior of buildings. Smoke and soot issuing from a fire involving a transformer located in a sidewalk vault in an urban area can enter the building which the transformer serves or adjacent buildings through these vents.

Further, since sidewalk vaults and underground vaults are often accessible through basement areas of buildings, smoke and soot can enter the buildings through open doors, gaps in construction, and unsealed joints and conduits in the vault. Finally, sidewalk vaults are typically equipped with floor

drains to allow rainwater to drain from the bottom of the vault. These locations, therefore, are expected to pose similar risks in fire situations to indoor locations from the perspective of the potential for discharges to water.

Both indoor and outdoor transformer fires have the potential to expose emergency response personnel, the general public, and cleanup crews to PCBs. However, soot from a transformer fire in or near a building would pose risks of exposures by larger numbers of people to high levels of PCBs and oxidation products than transformer fires in outdoor locations, away from commercial and residential areas.

Smoke and soot from an outdoor fire involving a transformer containing PCBs would be expected to be more widely dispersed in the environment, e.g., transformers located in outdoor electrical substations or mounted on utility poles. Although outdoor PCB Transformers may fail and rupture, spilled PCBs would be less likely to be as readily volatilized compared to cases where the transformer is located in a vault or machinery room. Some of the heat generated from a fire in an outdoor location would be expected to dissipate, in the environment. While the number of people potentially exposed to some low level of PCBs could be greater in the case of an outdoor fire, because of environmental contamination from spilled PCBs, individual human exposures to PCBs and oxidation products would be expected to be far greater from fires involving transformers which are located in or near buildings. Therefore, EPA expects that in general, the magnitude of risks posed by outdoor incidents will be smaller than the magnitude of risks posed by incidents which occur in or near buildings.

If information is submitted that indicates that outdoor PCB Transformer fires pose the same level of risk as transformer fires in or near buildings, additional restrictions on the use of this equipment may be required. In particular, EPA may consider requiring additional electrical protection on these transformers.

The final factor that influences the risks posed by fires involving PCB Transformers is whether emergency response personnel and the building owner are aware that a fire involves a PCB Transformer and of the nature of risks posed. Typically, a PCB Transformer fire in or near a building does not result in substantial structural damage to the building. From the perspective of a fire department (unless it was known that PCBs were involved) these incidents would be considered to be relatively minor fires, with some smoke, but little flame damage. For this reason, in at least one documented incident, emergency response personnel did not wear respiratory protection.

The owner of a building involved in a PCB Transformer fire, who is unaware of the contents of a transformer and/or the nature of the risks posed, may also consider such a fire to be relatively minor. This can lead to the premature opening of the building for reoccupancy. It is reasonable to assume that in the past, some buildings may have been only superficially cleaned followed a PCB Transformer fire. Superficial cleaning of visible traces of soot would leave residual concentrations of PCBs, PCDFs, 2,3,7,8-TCDF, PCDDs, and 2,3,7,8-TCDD in many areas of a building. Exposures to building occupants would be expected to continue following reoccupancy.

Further, even in cases where building owners are aware of the nature of risks posed by PCB Transformer fires, EPA recognizes that there is an enormous amount of financial pressure to reopen buildings. The most publicized PCB Transformer fires have occurred in major office building complexes, where many important tenants have been displaced, and substantial revenues lost.

B. The Toxicity of PCBs and PCB Oxidation Products

In earlier rulemakings, EPA has already concluded that, based upon available information, persons exposed to PCBs can develop chloracne; and, that based on animal data, there is a potential for reproductive effects and developmental toxicity as well as oncogenicity in humans exposed lto PCBs. While fires involving PCB-containing transformers have resulted in the release of large quantities of PCBs, these incidents have also resulted in the formation of toxic products of incomplete combustion.

Many other compounds of potential toxicological significance, including PCDFs, PCDDs, and polychlorinated biphenylenes, were measured in soot samples following fires involving PCB Transformers. However, the bulk of toxicity testing of PCDF and PCDD congeners have been completed on what are anticipated to be the most toxic species, the 2,3,7,8 substituted PCDFs and PCDDs. EPA has evaluated the risks posed by PCB Transformer fires through an evaluation of: (1) The the toxicities of PCBs, 2,3,7,8-TCDF, and 2,3,7,8-TCDD; (2) the toxicities and potential toxicities of other PCDF and PCDD congeners; and (3) the potential for exposure to these materials as a result of a fire.

While the majority of toxicological testing has been completed on PCBs, 2,3,7,8-TCDF and 2,3,7,8-TCDD, this does not mean that human and environmental exposures to other congeners of PCDFs and PCDDs as well as polychlorinated biphenylenes pose little risk of toxic effects. For example, limited testing of 1,2,3,7,8-PeCDD, 1,2,3,7,8,9-HxCDD, and 1,2,3,7,8-HxCDD suggest that these congeners are qualitatively similar in their toxic action to 2,3,7,8-TCDD, when comparisons are made in a single species. However, they are less toxic than the 2,3,7,8-TCDD congener. EPA expects that similar structure-activity relationships would exist between 2,3,7,8-TCDF and 1,2,3,7,8-PeCDF, 1,2,3,6,7,8-HxCDF, and 1,2,3,7,8,9-HxCDF. However, EPA also believes that reducing exposures to the extremely toxic congeners, 2,3,7,8-TCDD and 2,3,7,8-TCDF, will protect against exposures to these other compounds of potential toxicological significance.

According to EPA's February 1984 Ambient Water Quality Criteria (AWQC) for 2,3,7,8-tetrachlorodinbenzo-p-dioxin (2,3,7,8-TCDD), 2,3,7,8-TCDD is one of the most toxic substances known to man. It exhibits delayed biological response in many species and is highly lethal, at low does, to aquatic organisms, birds, and mammals. It has been shown to be acnegenic, fetotoxic, teratogenic, mutagenic (in a limited number of mutagenicity tests), carcinogenic, and adversely affects the immune response in mammals.

The AWQC lists the acute LD50 for 2,3,7,8-TCDD for several species. The oral LD50 values range from 0.6 microgram per kilogram (kg) body weight (bw) for guinea pigs to 5,051 micrograms per kilogram body weight for hamsters. The AWOC presents the acceptable daily intake (ADI) value for a 70 kg man as 0.00007 microgram 2,3,7,8-TCDD per day. This ADI is based on the lowest-observed-adverse-effect levels (LOAEL) in rats, and has been calculated in accordance with the National Academy of Science's guidelines for calculating an ADI based on a LOAEL.

Although the ADI value presented above is very low, it still may not be sufficiently protective of human health. This ADI level does not take into account the demonstrated carcinogenic effects of 2,3,7,8-TCDD in laboratory animals and that 2,3,7,8-TCDD is, therefore, a suspect human carcinogen. The AWQC concludes that 2,3,7,8-TCDD is an animal carcinogen and that the epidemiological findings are consistent with the conclusions drawn from animal studies that 2,3,7,8-TCDD is a probable human carcinogen.

The carcinogenic potency of 2,3,7,8-TCDD using the linearized multistage model has been estimated relative to 53 other chemicals which EPA's Cancer Assessment Group (CAG) has evaluated as suspect carcinogens. This potency index is 5×10^7 per millimole (mMol) per kilogram (kg) per day, making 2,3,7,8-TCDD the most potent animal carcinogen that the CAG has evaluated.

The limited data on other PCDD congeners indicate that they are qualitatively similar in their toxic action to 2,3,7,8-TCDD when comparisons are made in a single species. This is illustrated in mice, where 2,3,7,8-TCDD has an LD50 value of 0.88 micromoles (umol) per kilogram (kg) and 1,2,3,7,8-PeCDD; 1,2,3,6,7,8-HxCDD and 1,2,3,7,8,9-HxCDD have LD50 values of 0.94, 3.19, and 3.67 umol/kg, respectively.

Toxicological testing of PCDFs, specifically, 2,3,7,8-TCDF, has been more limited than testing of 2,3,7,8-TCDD. The acute oral LD50 in the guinea pig is reported to be 5 micrograms per kg bw, as compared with the acute oral LD50 for 2,3,7,8-TCDD in this species which is reported to be 0.6 microgram per kg bw. Subchronic testing of 2,3,7,8-TCDF in rhesus macaques indicated that this compound is extraordinarily toxic, with a reported No Observed Effect Level (NOEL) below 5.0 parts per billion (ppb). The author of this study concluded that continued daily oral intake of small amounts of 2,3,7,8-TCDF gave monkeys a disease which is clinically and morphologically similar to acute or chronic ingestion of 2,3,7,8-TCDD. For most of the observed biological effects, the potency of the two compounds are within an order of magnitude of each other, with 2,3,7,8-TCDF being somewhat less toxic than 2,3,7,8-TCDD. Some scientists have estimated that 2,3,7,8-TCDF is 5 to 20 percent less toxic than 2,3,7,8-TCDD, but, about 1,000 times more toxic than PCB Aroclor 1242.

Based on its assessment of available literature on the toxicity of 2,3,7,8-TCDF and the structural similarity of 2,3,7,8-TCDF to 2,3,7,8-TDDD, EPA has concluded that it is prudent to assume that exposures to 2,3,7,8-TCDF would pose similar risks of toxic effects as exposures to 2,3,7,8-TCDD. Further, EPA believes that based on structure-activity relationships, other PCDF congeners, particularly 1,2,3,7,8-PeCDF, 1,2,3,6,7,8-HxCDF, and 1,2,3,7,8,9-HxCDF may also pose similar risks of toxic effects as exposures to 2,3,7,8-TCDF (and 2,3,7,8-TCDD).

Following the Binghamton fire, several researchers completed toxicological testing of soot samples in guinea pigs. Based on these studies, using Binghamton State Office Building (BSOB) soot, EPA has concluded that multiple exposures to soot from PCB Transformer fires have the potential to produce toxicity in the thymus, the hematopoietic system, the salivary gland duct epithelium and, possibly, the liver.

It is worth noting that thymic atrophy, bone marrow depletion, and diminished body weight gain, all effects of the subchronic administration of the BSOB soot, have been routinely demonstrated in acute studies in guinea pigs using PCDFs and PCDDs. In addition, the group of guinea pigs dosed with 231.1 ppm BSOB soot in the subchronic study exhibited symptoms characteristic of acute exposure to 2,3,7,8-TCDD and 2,3,7,8-TCDF, which include skeletal muscle degeneration, fatty changes in hepatocytes, and degeneration of gastrointestinal tract epithelium.

One paper stated that the oral LD50 of the BSOB soot in guinea pigs is 410 milligrams per kilogram body weight, which would classify this material as very toxic.

For more in-depth analyses of the toxicities of PCBs, PCDFs, and PCDDs see: "Response to Comments on Health Effects of PCBs Submitted by by the Chemical Manufacturers Association and the Edison Electric Institute (August 19, 1982)"; "HERD Work for Proposed Polychlorinated Biphenyl (PCB) Transformer Fires Rulemaking (September 1984)"; and, "Ambient Water Quality Criteria for 2,3,7,8-Tetrachlorodibenzo-p-dioxin (February, 1984)".

C. The Formation of Oxidation Products From PCBs

There is direct evidence of the formation of PCDFs and PCDDs from heating and burning commercial mixtures of PCBs and diluents. The direct evidence is from: (1) Chemical analyses of materials at the sites where fires were known to involve transformers that contained PCBs and chlorinated benzenes, and (2) laboratory experiments published in chemical and other literature. PCBs, PCDFs, and PCDDs were found in some soot specimens from both the Binghamton and San Francisco fires. PCDFs and PCDDs were not analyzed for in the soot from the Chicago fire, and samples from the Miami fire are currently undergoing analysis.

Laboratory studies provide the best available information on the conversion of pure PCBs to PCDFs. In these studies, a number of different PCB congeners and mixtures of congeners have been heated and the resulting materials analyzed for all PCDFs and PCDDs. A specific PCB compound reacts to form a limited number of PCDFs. The formation of PCDFs involves intramolecular elimination of three kinds of diatomic molecules, with or without some rearrangement of chlorine atoms on the phenyl rings in the product dibenzofuran. From the products obtained in the PCB reactions, the diatomic molecules, hydrogen, hydrogen chloride, and chlorine, are formed from hydrogen and chlorine atoms in ortho positions on each of the two phenyl rings in the original polchlorinated biphenyl molecule. The optimum temperture range for the published laboratory experiments was 600 °C. Yields of PCDFs have been reported to be as high as 10 percent (calculated on the amount of PCB decomposed) for reaction temperatures from 550 °C to 600 °C, but drop off to tenths of a percent at 500 °C and 650 °C.

The description and characterization of the chemical reactions occurring in a fire in which aroclors (or any other commercial mixtures of many PCB compounds) are burned are far more complex than the laboratory experiments. However, EPA believes that reactions observed in the laboratory should also occur in fire situations where the reactants and reaction conditions are similar to laboratory reaction conditions.

An uncontrolled fire of sufficient temperature (about 600 °C) to burn materials containing PCBs can result in the formation of PCDFs as large as 10 percent of the level of PCBs originally present in the materials. Concentrations would vary with the volume of contained combustion gases or constituents of material containing particulate combustion solids.

PCDFs and PCDDs have also been detected following high temperature incineration. High temperature incineration is required by EPA regulations to dispose of PCBs in oil. However, the levels of PCDFs and PCDDs measured following high temperature incineration have been substantially less than those measured following the above described laboratory experiments. This is because high temperature incineration requires a 1200 °C temperature, a 2-second residence time, and sufficient oxygen. As explained above, laboratory experiments indicate that the reaction temperature for the formation of PCDFs is optimized at around 600 °C (in low oxygen content), and that yields fall off with increasing temperatures.

PCB dielectric fluid may also contain chlorinated benzenes as diluents or

contaminants, as a result of past servicing activities. Laboratory experiments have shown the formation of PCDDs in addition to PCDFs from the pyrolysis of mixtures of chlorobenzenes. Amounts of PCDFs ranged as high as several tenths of a percent for mixtures of trichlorobenzenes. Tetra- and penta-chlorobenzene mixtures formed amounts of PCDFs and PCDDs which were two orders of magnitude smaller than the amounts of these compounds formed by trichlorobenzene. These reactions are bimolecular and the experimental concentrations of chlorobenzenes were high.

The presence of low concentrations of chlorobenzenes as contaminants in dielectric fluids that also contain PCBs are not expected to lead to substantial increases in the amounts of PCDFs formed from burning or heating the PCBs, but, may result in the formation of some PCDDs. EPA believes that the PCDD levels found in the Binghamton soot samples resulted from the oxidation of chlorobenzenes. The low level PCDDs found following the San Francisco fire could have been associated with the presence of chlorobenzenes in that fluid as well.

EPA expects that mineral oil equipment and other types of equipment contaminated with PCBs may also pose certain risks in the event of a fire from the perspective of the formation of toxic pyrolysis products. Since the laboratory reaction and results in the formation of PCDFs from PCBs is intramolecular and an elimination reaction, the effect of lower concentrations of PCBs should have a minimal effect on the reaction rate or product yield at a given temperature. In fluids in which less PCB is present, EPA believes that the only consequence is that less total PCDF will be formed, since low concentrations alone are not expected to have any effect on the reaction rate, mechanism of reaction, or product yield.

With respect to possible burning or heating of commercial PCB mixtures at low concentrations in mineral oil, the flash point and fire point of the oil might increase the chances of having a fire start, and once an oil fire starts, it may provide suitable reaction conditions for producing PCDFs (and PCDDs, if chlorobenzenes are present) from commercial PCBs. The flash points and fire points of both mineral oil and silicone oil could permit the heating of dissolved or dispersed PCBs to temperatures comparable to the temperatures used in published studies of these reactions.

Some scientists have speculated, however, that the amount of PCDFs formed from the burning of PCB contaminated mineral oil may not be linearly related to the amount of PCBs present in the oil. These scientists theorize that the mineral oil will compete with the PCBs for available oxygen, reducing the likelihood of the formation of significant quantities of PCDFs. Several research projects which are currently underway (by EPRI and EPA) should provide some information on this issue over the next several months.

Compared to mineral oil, the higher flash point and fire point of silicone oils (a potential substitute fluid for retrofilling PCB Transformers) might reduce the chances of having a fire start. But, once a silicone oil fire starts, it may provide suitable reaction conditions for producing PCDFs (and PCDDs, when chlorobenzenes are present).

Preliminary results from a study of the formation of PCDF from the incomplete combustion of PCB-contaminated silicone oil suggest that there is a linear relationship between PCB concentration and the amount of PCDF formed during the combustion of PCB-contaminated silicone oil.

D. Causes of and Circumstances Surrounding PCB-Related Transformer Fires

From a risk assessment standpoint, there are two basic categories of transformer fires: (1) Fires in which there is little apparent distribution of PCBs, or formation and distribution of products of incomplete combustion, and (2) fires in which this formation and distribution occurs. Analyzing and comparing the circumstances surrounding transformer fires in each of these categories is beneficial in defining what, if any, characteristics make certain transformers more likely to be involved in incidents that result in the widespread contamination of buildings, and, in determining the typical causes of these fires to evaluate the expected effectiveness of risk reduction measures.

EPA has analyzed the circumstances surrounding four PCB Transformer fires which occurred in or near buildings: The Binghamton fire (February 1981); the San Francisco fire (May 1983); the Chicago fire (September 1983); and the Miami fire (May 1984). EPA has little information on actual cases of outdoor PCB Transformer fires and fires involving PCB-Contaminated transformers.

EPA has concluded that sustained high temperatures in transformer locations can cause the rupturing of a transformer, the release of PCBs, the volatilization of PCBs, and the formation of toxic products of incomplete combustion. High temperatures can be caused by arcing or electrical overloading as well as by fires or malfunctions in associated electrical equipment, and the ignition of stored combustibles. EPA has concluded that certain types of transformers may be more likely to undergo sustained high energy arching. EPA has also concluded that building ventilation equipment, ductwork, and openings in construction can lead to the widespread contamination of buildings by smoke and soot containing PCBs and oxidation products, that floor drains in the transformer location and water runoff can lead to the release of soot into waterways, and that exposures to firefighters and building occupants may be greater when they are unaware that a fire involves a PCB Transformer or of the nature or risks posed.

The Binghamton and San Francisco fires are fires which resulted in the distribution of PCBs, PCDFs, 2,3,7,8-TCDF, PCDDs, and 2,3,7,8-TCDD into buildings. Although PCBs were distributed beyond the room of origin of the fires in Chicago and Miami, the spread of PCBs was more limited than in Binghamton and San Francisco because the transformers were not located near building ventilation equipment or ductwork, and they were able to be rapidly deenergized.

Wipe samples from the first floor of the Miami building reportedly showed that low levels of PCBs were volatilized and dispersed into the building. Analyses of air handling filters from the First National Bank Building in Chicago demonstrated that PCBs had been volatilized and distributed as a result of this incident as well. Soot from the Chicago fire was not analyzed for the presence of PCDFs or PCDDs, and soot from the Miami fire is currently undergoing analysis by EPA for these materials.

All four of the above listed fires involved PCB Transformers containing over 50 percent PCBs. Three of the four transformers also contained 30–35 percent chlorinated benzenes. The San Francisco transformer reportedly contained Aroclor 1242. Based on available information, all four of these transformers were large power transformers in systems with higher secondary voltages (480/277 volts). The transformers were all located either in mechanical rooms, basement vaults or sidewalk vaults in urban areas, in or near large office buildings.

The cause of the Binghamton incident was a fire in the switchgear adjacent to the PCB Transformer. The heat from the fire in the switchgear caused a ceramic bushing to crack on the transformer, allowing 180 gallons of PCB dielectric

fluid to drain onto the floor. During the 50 minute period after this initial malfunction, there was repeated electrical arcing and reports of loud explosions. Photographs showed that the switchgear was completely destroyed, but there was little fire damage to the transformer.

The San Francisco incident was reportedly caused by a short circuit in high voltage cable in the vault. The heat generated by the burning of the cable insulation (or perhaps the cable itself physically striking a fin on the PCB Transformer) caused the transformer to rupture and release 60–70 gallons of PCBs. During the 2 to 3 hours after this initial malfunction, there was considerable vibration and loud noises occurring in the vault, probably as a result of electrical arcing.

The Chicago incident was reportedly caused by a fire in a bus bar between the PCB Transformer and the switchgear. The heat generated by this fire (or possibly electrical arcing) caused a small hole in the transformer casing and resulted in the release of 15 gallons of PCB dielectric fluid. This transformer was reportedly deenergized within 10 minutes of the initial fault, and there were no reports of loud explosions.

The Miami incident was reportedly caused by electrical arcing. The heat generated by the arc caused the transformer to rupture and release 100 gallons of PCB dielectric fluid. The transformer was reportedly rapidly deenergized after the rupturing of the transformer.

According to certain comments submitted in response to the ANPR, both the Binghamton and San Francisco fires developed into more serious incidents because the secondary (low side) voltage in the PCB Transformers in use was high enough to allow a selfsustaining arc to be formed after the transformer ruptured. Prolonged arcing results in the transfer of a tremendous amount of heat to the transformer. These comments indicate that PCB Transformer systems made up of transformers with higher secondary voltages can remain energized despite a fault on the secondary side of a transformer in a system, and result in a self-sustaining arc like that implicated in Binghamton and San Francisco. Comments on the ANPR also suggest that transformers in lower secondary voltage systems (such as 216/125 volt systems) are not as likely to experience a self-sustaining arc, and, are therefore, less likely to be associated with more serious fires.

Soot and smoke from the Binghamton and San Francisco fires entered buildings through openings in construction in the vault areas, as well as through building ventilation equipment and building ductwork. Smoke and soot from the Binghamton fire in particular were very widely distributed throughout the interior of the Binghamton State Office Building. Smoke from the Chicago fire issued from the sidewalk gate, and smoke from the Miami fire issued from a manhole cover accessing the transformer vault. While extensive building contamination was not reported for either the Chicago or Miami fires, PCBs were measured in other areas of the buildings and in air handling filters. A mitigating factor in the Miami fire was the lack of a centralized ventilation system in the building. A mitigating factor in the Chicago fire was the presence of a separate ventilation system serving the transformer vault, garage area, and small adjacent building.

From filmed accounts of the San Francisco fire, it appears that firemen and emergency response personnel were either unaware that the transformer involved in the fire contained PCBs or were unaware of the nature of risks posed. Firefighters above the sidewalk vault did not wear respirators, and bystanders were allowed to roam the area freely. According to representatives of Florida Power and Light (FPL) and the local fire department in Miami, firefighters wore full protective gear in responding to the Miami fire. Information on the level of protection utilized by firefighters responding to the Binghamton and Chicago fires was not available.

As a safety precaution, firemen reportedly fogged the area of the Binghamton transformer with a fine water mist, and used about 10–15 gallons of water. There were no provisions for containing liquids in the transformer area. A floor drain in the transformer location leads to a sump and then to the storm sewers, which ultimately empty into surface waters. However, the heat from the fire had caused fireproofing material from the ceiling to fall to the floor, where it blocked the drain. Thus, all accumulated fluids were, by a fortunate accident, contained and reportedly subsequently removed and disposed of properly.

According to Pacific Gas and Electric (PG&E), water was not used to extinguish the San Francisco fire. Further, none of the buildings water systems pass through the vault. No information is available on the use of water in the Chicago fire. In the Miami fire, 2 to 5 inches of water was reportedly present in the bottom of the vault as a result of a recent rainstorm. This water was reportedly contained within the vault, and FPL officials reportedly recovered all liquids on the floor of the vault, and placed these materials in containers for disposal.

Cleanup costs from the Binghamton and San Francisco fires approached $20 million per incident. Final cleanup costs are not available for the Chicago and Miami fires; however, EPA estimates that cleanup costs from the Chicago and Miami fires will be one to three orders of magnitude less than those incurred as a result of the Binghamton and San Francisco fires.

E. Exposure Assessment

Toxicity and exposure are the two basic components of risk. In Unit III.B, EPA addressed the toxicity of PCBs, the toxicities of 2,3,7,8-TCDF and 2,3,7,8-TCDD, and, the toxicities and potential toxicities of other PCDF and PCDD congeners, which were measured in soot samples following transformer fires. The purpose of the following analysis is to evaluate the potential for human exposures to PCBs and oxidation products from fires involving transformers containing PCBs.

EPA has evaluated the likelihood and nature of human exposures to PCBs and oxidation products from transformer fires for four separate cases: (1) A fire in a building involving a transformer containing 65 percent PCBs (and 35 percent chlorinated benzenes) in which PCBs are released, products of incomplete combustion are formed, and smoke and soot are spread throughout the building; (2) a fire in a building involving a transformer containing 65 percent PCBs (and 35 percent chlorinated benzenes) after the implementation of fire-related risk reduction measures; (3) an outdoor fire involving a transformer containing 65 percent PCBs (and 35 percent chlorinated benzenes); and (4) a fire in a building involving a transformer containing 0.05 percent PCBs (500 ppm PCBs) (and 0.026 percent chlorinated benzenes (269 ppm)), in which PCBs are released, products of incomplete combustion are formed, and smoke and soot containing these materials are spread throughout a building.

The first step in evaluating the potential for human exposures to PCBs and oxidation products is to determine the populations that are likely to experience these exposures. EPA has identified six populations that may be at risk of exposure to PCBs and oxidation products in the event of a fire involving a transformer containing PCBs. These are: (1) Persons present in a building or possibly in an adjacent building at the time of a fire in or near a building; (2)

firemen and other emergency response personnel responding to the fire; (3) onlookers present during the extinguishing of the fire and members of the general public in the vicinity of the fire; (4) persons involved in sampling and cleanup operations following the fire; (5) persons returning to the building following cleanup; and, (6) persons exposed to equipment, automobiles, etc. that may have been contaminated during or after the fire. Human exposures to PCBs and oxidation products from transformer fires would be expected to occur principally through the inhalation and dermal routes.

1. Exposures From PCB Transformer Fires

a. *Fires in or near buildings.* Arcing, electrical overloading, short-circuiting in high voltage cable, switchgear fires, fires in associated electrical equipment, and the ignition of combustible or flammable materials in a transformer location can all lead to the rupturing of a transformer and the volatilization of PCBs. Sustained high temperatures in the area of a ruptured transformer increase the potential for the formation of toxic products of incomplete combustion, including PCDFs 2,3,7,8-TCDF, PCDDs, and 2,3,7,8-TCDD. These high temperatures can either occur as a result of the initial malfunction or as a result of prolonged arcing. Sustained high temperatures can also lead to the ignition of structural materials, and the rupturing of nearby water pipes. Smoke and soot from a high temperature fire involving a PCB Transformer can contain high concentrations of PCBs and oxidation products.

The most extensive monitoring data on PCB, 2,3,7,8-TCDF, and 2,3,7,8-TCDD levels in buildings following PCB-Transformer fires was obtained from the Binghamton State Office Building site. A composite soot sample from this fire indicated the presence of 7,200 ppm PCBs, 231 ppm 2,3,7,8-TCDF, and 2.9 ppm 2,3,7,8-TCDD. For a full description of PCB, PCDF, and PCDD levels measured following transformer fires, see "Exposure Assessment for Polychlorinated Biphenyls (PCBs) Polychlorinated Dibenzofurans (PCDFs), and Polychlorinated Dibenzodioxins (PCDDs) Released During Transformer Fires (September 1984)".

EPA believes that the levels of PCBs and oxidation products measured in soot samples following the Binghamton fire are values which are representative of situations in which combustion conditions are conducive to the formation and/or release of PCBs and oxidation products. However, for certain other parameters of the exposure assessment, such as the number of people exposed and the magnitude of potential exposures, the actual circumstances surrounding the Binghamton fire do not represent what EPA considers to be a true "reasonable worst-case situation." For example, the Binghamton fire occurred during a period of low building occupancy, cleanup has been extensive and still continues today, and building occupants have not been allowed to return to the building. EPA adjusted these parameters to develop what it consider to be a more environmentally conservative assessment of potential human exposures to PCBs and oxidation products from a PCB Transformer fire in a building.

EPA defiess a reasonable worst-case PCB Transformer fire as a fire involving a PCB Transformer in which sustained high temperatures in the transformer location lead to the rupturing of the transformer casing, the release of PCBs, the volatilization of PCBs, and the widespread distribution of PCBs and oxidation products throughout the interior of a building, and potentially into waterways. EPA assumes that smoke and soot containing PCBs and oxidation products are spread throughout a large office building during peak use hours, that emergency response personnel are unaware that certain precautions should be taken to minimize exposures, and, that reoccupancy occurs only after the removal of visible traces of soot by cleanup crews.

EPA's assessment of the potential for human exposures to PCBs and oxidation products from a reasonable worst-case PCB Transformer fire in a building serves as the baseline for subsequent assessments of the expected effectiveness of fire hazard risk reduction measures. This assessment also serves as the baseline for assessing likely human exposures from PCB Transformer fires in outdoor locations (away from commercial and residential areas), and for estimating likely human exposures from PCB-Contaminated transformer fires in or near buildings.

A PCB Transformer fire which occurs in or near a building during a period of peak use may potentially expose hundreds or thousands of building occupants to smoke and soot from the fire during the evacuation of the building. The potential for exposures of large numbers of building occupants to this smoke and soot is significantly increased if the transformer involved in a fire is located near building ventilation equipment and ductwork. EPA estimates that evacuation times will be on the order of 6 to 8 minutes, and, that during these 6 to 8 minutes, building occupants will be exposed to smoke and soot, primarily through inhalation.

Emergency response personnel, unaware that the smoke and soot from the fire may contain PCBs and toxic products of incomplete combustion, may be exposed to these materials through inhalation, and may incur some dermal exposure to facial areas. EPA estimates that 30 to 60 emergency response personnel may be exposed for up to 3 hours during the extinguishing of a PCB Transformer fire. Dermal and inhalation exposure of firefighters and other emergency response personnel may continue during the completion of equipment maintenance procedures and during the cleaning of personal clothing and firefighting equipment after the fire.

Building occupants also may incur additional exposures (above those which may occur during building evacuation), if these parties remain nearby, as onlookers during the extinguishing of the fire. Further, there is an increased potential for these additional exposures when emergency response personnel (the principal authority figures at the scene of a fire) are unaware of the nature of risks posed by exposures to smoke and soot from these fires.

If a transformer involved in a fire ruptures and releases PCB dielectric fluid early, before measures can be taken to contain releases, there is a potential for contamination of surface waters and drinking water supplies. Further, if water is used to extinguish the fire or if water pipes rupture due to high temperatures caused by the fire there may be additional contamination of surface waters and drinking water supplies with PCBs, PCDFs, and PCDDs. PCBs, PCDFs, and PCDDs can reach waterways through unsealed floor drains, through fallout from airborne sources, and through runoff from the site. Members of the general public, in addition to fish and wildlife in the vicinity of a PCB Transformer fire may be exposed to PCBs and oxidation products through the ingestion of residues which have reached waterways. While comments on the ANPR suggest that water in not frequently used in extinguishing and electrical transformer fire, EPA believes that there is a potential for contamination of water from the rupturing of the tranformer, from burst water pipes, from the extinguishing of ingnited materials in the area (other then electrical equipment), and, from cleanup efforts.

The presence of a floor drain leading to a storm sewer in a tranformer location provides a readily accessible pathway for the contamination of surface waters, and potentially, drinking water supplies. PCB dielectric fluid and water contaminated with soot containing PCBs, PCDFs, and PCDDs can enter these drains as a result of the rupturing of the transformer casing, firefighting operations, burst water pipes, and cleanup operations. Very large amounts of water can become contaminated during cleanup operations. For example, during the first year of cleanup at the Binghamton site, over 160,000 gallons of water were used, treated by charcoal filtration and secondary treatment, and discharged to surface waters. The nearest drinking water intake downstream is 45 miles away and serves 16,500 persons.

Atmospheric transport of PCBs and oxidation products in an urban area could also be responsible for exposing many members of the general population who live or work in the vicinity of a fire. In the Binghamton, New York incident, 2,585 people lived within 3 to 4 kilimoters of the building. While inhalation exposures by the general public as a direct result of a PCB Transformer fire would be unlikely to occur for longer than one hour, soot fallout from a PCB Transformer fire may contaminate surface soil and surface water, in addition to outdoor furniture, automobiles, and other types of materials which are commonly stored outside. Contamination of surface soil and surface water may result in exposures to fish wildlife as well. Thus, dermal, inhalation, and even oral exposures to the general population in the vicinity of a fire may occur on a continuing basis long after the initial incident.

Exposures at the site of a fire to soot containing PCBs and oxidation products may also continue long after the extinguishing of the fire. Cleanup crews, dispatched to the scene by a building owner who is unaware of the nature of risks posed by a PCB Tranformer fire, may not be initially equipped with respiratory protection or protective clothing. Inhalation and dermal exposures would be expected to occur as these crews work to remove soot from surfaces inside the building. Soot particles are likely to become airborne as a result of cleanup efforts, and would be expected to be inhaled by workers. In addition, because of the strenous nature of cleanup work, these workers, would be expected to have a high respiration rate, further increasing exposures to PCBs and oxidation products through inhalation.

Even if respiratory protection and protective clothing are utilized by cleanup crews, EPA expects that some level of exposure to these materials may occur both dermally and through inhalation because of the expected prolonged period of exposure. Cleanup crews may work long hours for extented periods of time. For example, in the Binghamton incident, 40 to 70 workers were involved in cleanup operations for 7 hours a day for over 250 days.

Finally, depending upon the level of knowledge of the building owner, emergency response personnel, the utility, and local public health authorities about the nature of risks posed by PCB Tranformer fires, building occupants may be allowed to return prematurely to a building following the removal of only visible traces of soot. Exposures may occur to faces, hands, and lower arms for 8 hours a day over the course of 250 working days in a year. EPA also expects that inhalation exposures would occur as a result of the circulation of airborne contaminants by the building's ventilation system. Further, these exposures may continue for an indefinite period of time because these materials are expected to be quite persistent, and resistant to degradation. Residual concentrations may remain on interior building surfaces for sereval years.

EPA has developed more quantitative estimates of potential human exposure to PCBs, PCDFs, 2,3,7,8-TCDF, PCDDs, and 2,3,7,8,-TCDD from a reasonable worst-case PCB Transformer fire. These estimates are presented in the document entitled: "Exposure Assessment for Polychlorinated Biphenyls (PCBs), Polychlorinated Dibenzofurans (PCDFs), and Polychlorinated Dibenzodioxins (PCDDs) Released During Transformer Fires (September 1984)". EPA is soliciting comments on the methodology used to develop these quantitative estimates of potential human exposures to PCBs and oxidation products as presented in this document.

b. *Fires with risk reduction measures in place.* In order to evaluate the effectiveness of risk reduction measures in reducing human exposures to PCBs and oxidation products, EPA has assessed expected exposures to these materials from a PCB Transformer fire in a building, assuming the implementation of several risk reduction measures. EPA assumes that combustible materials are not stored in the transformer location, and that electrical protective devices allow the PCB Transformer to be rapidly deenergized; that the transformer is isolated from building ventilation equipment, ductwork, and openings in construction; that measures are taken to control water releases; that the incident is reported to the National Spill Response Center; and, that the transformer is registered with both the responding fire department and the building owner. In addition, EPA assumes that the exterior of the transformer location is marked with PCB identification labels.

The potential for the volatilization of large amounts of PCBs, and the formation of products of incomplete combustion from PCB Transformer fires is reduced if efforts are made to control combustion conditions in the transformer location. EPA believes that the removal of stored combustibles from a PCB Transformer location, and the installation of additional electrical protection on PCB Transformers in higher secondary voltage systems (480/277 volts) will reduce the probability that these transformers will experience prolonged arcing. Actual case studies in which PCB Transformers in higher secondary voltage systems were rapidly deenergized in fire-related incidents indicate that EPA is correct in its belief that there are practical means available for successfully controlling combustion conditions in PCB Transformer locations to reduce the amount of PCBs volatilized and reduce the amounts of products of incomplete combustion formed.

Further, if the transformer is isolated from building ventilation systems, ductwork, and openings in construction, there is a reduced probability that volatilized PCBs and potential oxidation products present in soot and smoke will enter areas of high human occupancy. Instead, they will be contained within areas of low human use.

EPA does not believe that either of these measures used independently of each other will effectively reduce the risks posed by PCB Transformer fires in or near buildings. While the installation of increased electrical protection, in the form of a remote arc fault detection system, may reduce the likelihood of an incident occurring as a direct result of arcing, there are many other causes of PCB Transformer fires. When any fire occurs near enough to a PCB Transformer, the heat from the fire can cause the transformer to rupture. The heat from the initial malfunction can cause spilled PCBs to volatilize and can result in the formation of toxic products of incomplete combustion. Once the transformer loses its dielectric fluid, it will fail and may begin to arc. If electrical protective devices work or if external secondary disconnect switches

are available to insure that the transformer can be deenergized, this will curtail additional releases of PCBs and oxidation products.

Even transformers that are rapidly deenergized after an arcing fault occurs can rupture and release PCBs. If the transformer is located near building ventilation equipment and ductwork, volatilized PCBs from this transformer can be dispersed into areas of high human occupancy. Isolation alone may not be effective in reducing the risks posed by fires involving PCB Transformers, since a seriously faulted transformer that remains energized for hours can produce tremendous amounts of smoke and soot. EPA believes that few isolation techniques are available which will completely contain the amount of smoke generated from a faulted transformer that remains energized for hours.

If PCB Transformer owners take immediate measures to contain water potentially contaminated with PCBs, PCDFs, and PCDDs, EPA expects that any potential releases to water will be substantially reduced. The blocking of floor drains in a transformer location as soon as practically possible after a fire-related incident occurs and the containment of all water associated with the incident should reduce the potential for the release of untreated water into surface waters. Finally, by requiring the reporting of all PCB Transformer fire-related incidents to the National Spill Response Center (NSC), EPA will be able to monitor the treatment and discharge of water to insure that safe levels are not exceeded.

Although EPA expects that the above measures will reduce releases to waterways, EPA remains concerned about potential releases to water of PCBs, PCDFs, and PCDDs. This is because releases of PCBs, and potentially PCDFs and PCDDs through floor drains and via runoff may occur before measures can be practically taken to contain these materials. EPA recognizes, however, that none of the well-researched PCB Transformer fires actually resulted in the substantial contamination of waterways. Thus, EPA is not proposing control measures to prevent these potential releases. However, EPA is soliciting comments on the practicality and feasibility of requiring the blocking of floor drains in PCB Transformer locations and on the availability, effectiveness, and cost of heat or smoke sensitive drain closures as well as external manually operated drain closures.

Advance knowledge on the part of fire departments and building owners about the contents of a transformer and the notification of EPA in the event of a fire would be expected further to reduce exposures to building occupants, in addition to reducing exposures to firefighters and other emergency response personnel. EPA expects that firefighters, aware of the nature of risks posed by a transformer fire, would wear respiratory protection and protective clothing and would be more protective of bystanders and onlookers.

Finally, building owners who are aware that a transformer fire involves a PCB Transformer would be less likely to dispatch unprotected cleanup crews to the site, and may be less likely to allow building occupants to return unprotected to an involved building.

c. *Outdoor fires involving PCB Transformers.* Fires involving PCB Transformers located in outdoor locations, away from commercial and residential areas, are expected to result in lower human exposures to PCBs and oxidation products in fire situations than transformer fires in or near buildings. First, certain comments on the ANPR suggest that combustion conditions in an outdoor PCB Transformer fire may not be so conducive to the volatilization of spilled PCBs and the formation of large quantities of PCDFs, 2,3,7,8-TCDF, PCDDs, or 2,3,7,8-TCDD as would be the case with transformers located in machinery rooms or vaults. Generally, combustible materials are not present near outdoor PCB Transformers, and some of the heat generated from prolonged arcing or fires in associated equipment would be expected to dissipate in the environment.

Further, outdoor electrical substations in particular are generally fenced to restrict access to authorized personnel only, thus, limiting the number of people at immediate risk of exposure in the event of a fire. Third, in contrast to the smoke and soot produced from transformer fires in or near buildings, the smoke and soot from an outdoor transformer fire is expected to be more widely dispersed in the environment. Individual human exposures to PCBs would be anticipated to be reduced for outdoor transformer fires compared to transformer fires in or near buildings.

Thus, while there is a potential that emergency response personnel and cleanup crews responding to such fires may be exposed to some low levels of PCDFs, 2,3,7,8-TCDF, PCDDs, and 2,3,7,8-TCDD, exposures to PCBs would be more likely to occur. Firefighting equipment and protective clothing may become contaminated with PCBs.

d. *Fires involving transformers containing less than 500 ppm PCBs.* PCB Transformers typically contain 65 percent PCBs, or about 1,300 times the maximum amount of PCBs present in PCB-Contaminated transformers (and 13,000 times the amount of PCBs present in transformers containing 50 ppm PCBs). EPA has assessed the potential for exposures to PCBs, PCDFs, 2,3,7,8-TCDF, PCDDs, and 2,3,7,8-TCDD from fires involving PCB-Contaminated equipment by assuming that the transformer present in the Binghamton State Office Building was a PCB-Contaminated transformer, and, by assuming reasonable worst-case values for other parameters. EPA assumed that the formation of PCDFs and PCDDs in a PCB-Contaminated transformer would be linearly related to the amount of PCBs present in the transformer. Given this situation, PCB, PCDF, 2,3,7,8-TCDF, PCDD, and 2,3,7,8-TCDD levels in the soot from such a fire would be expected to be reduced by a factor of 1,300, compared to levels actually measured in Binghamton. Similarly, human exposures to these materials are assumed to be reduced by the same factor.

2. Frequency of Occurrence

a. *Estimates of the number of transformers in use or in storage for reuse from the August 1982 rulemaking.* Transformers are used extensively by electric utilities and other industries to transmit and distribute electric power efficiently. Some transformers designed for use with PCBs contain between 60 and 70 percent PCBs; others, designed to contain mineral oil dielectric fluid, may be contaminated with PCBs from past servicing and manufacturing activities.

An estimate of the number of utility-owned transformers designed to contain PCBs was previously provided to EPA via an Edison Electric Institute and Utilities and Solid Waste Advisory Group (EEI/USWAG) survey of the utility industry. These data were presented in tabular form in the Proposed PCB Electrical Use Rule, published in the **Federal Register** of April 22, 1982 (47 FR 17426). In the August 1982 PCB Electrical Use Rule, EPA used these data, in combination with existing data from an earlier rulemaking to estimate the total number of PCB Transformers in service as well as the number of PCB-Contaminated transformers in service, and to estimate the distribution of these transformers among utility and nonutility owners.

(i) *PCB Transformers.* In the August 25, 1982 PCB Electrical Use Rule, EPA estimated that there were 140,000 transformers designed to contain PCBs in use or in storage for reuse. Of these transformers 114,469 were expected to

be in nonsubstation locations. EPA estimated that the utility industry owned approximately 22,469 of these in-service nonsubstation transformers, and that building owners and industrial users owned approximately 92,000 of the nonsubstation transformers. EPA estimates that at the end of calendar year 1984, there will be about 106,995 transformers designed to contain PCBs in use or in storage for reuse.

Because the August 1982 PCB Electrical Use Rule allows owners of untested transformers which were not orginally designed to contain PCBs, to assume that these transformers are PCB-Contaminated Electrical Equipment, EPA's economic analysis of the impact of this new proposed rule focuses on those PCB Transformers which were originally designed to contain PCBs.

(ii) *PCB-Contaminated transformers.* EPA also estimated that there are over 20 million mineral oil transformers in the electric utility industry and about five million in all other applications. These mineral oil transformers may contain low levels of PCBs (less than 500 ppm PCBs) as a result of contamination from past servicing activities. EPA estimated that approximately 18 million of these mineral oil transformers are used in nonsubstation applications.

b. *New information on PCB Transformers.* In late September 1983, a major building owner in the United States, the Equitable Life Assurance Society of the United States (Equitable Life), provided EPA with information on PCB Transformers present in its buildings. Using the survey data, EPA has derived a relationship between the size of a building (in square feet) and the number of transformers required to serve it. EPA has derived two additional estimates of the population on nonsubstation PCB Transformers, based either on the total square footage of commercial real estate reported by the Building Owners and Managers Association (BOMA), or the estimated square footage in nonresidential buildings that are three or more stories high and 10,000 square feet or more in size. These calculations assume that 33.65 percent of buildings use PCB Transformers (based on the Equitable Life survey) and result in estimates of 89,640 to 185,500 PCB Transformers in or near buildings.

Based on information from the August 1982 PCB Electrical Use Rule, the EEI/USWAG survey, the Equitable Life survey, and a survey of State of California-owned PCB Transformers, EPA has estimated the age and size characteristics of PCB Transformers located in or near buildings. EPA's analysis indicates that approximately 55 to 60 percent of PCB Transformers are expected to be less than 15 years old, and that nonutility owned transformers are generally smaller than utility-owned transformers. While this observation may not hold true for industrial transformer owners, differences in size between utility and nonutility transformers would be expected, since utility-owned transformers may serve more than one building.

EPA has also used data from the National Fire Incident Reporting system for 1982 to infer the location of transformers in or near buildings. According to its analysis, only 3.4 percent of transformers are located on the upper floors of buildings. Approximately 77 percent of transformers are located at or below ground level.

Based on the results of the Equitable Life survey, EPA estimates that 69 percent of transformers located on lower floors of buildings are vaulted, and that transformers located on interior upper floors are generally located in separate mechanical rooms. The majority of transformers located exterior to buildings are also vaulted. According to utility representatives, in many cases, more than one PCB Transformer is located in a vault. Typically, two to four PCB Transformers are located within a single vault.

c. *Estimates of frequency of transformer fires.* In the ANPR, EPA presented available data on the frequency of fire-related incidents involving PCB Transformers, and solicited comments on its estimates of fire frequency. The estimates presented in the ANPR range between 8 and 1,530 fire-related incidents per year.

The majority of comments on the range of estimates presented in the ANPR suggested that the more reasonable estimate of the expected frequency of PCB Transformer fire-related incidents were on the lower side of the range presented in the ANPR. The National Electrical Manufacturers Association (NEMA) estimated a frequency of 5 to 15 fire-related incidents per 100,000 PCB Transformers per year. Assuming a population of 140,000 units, NEMA estimates that there are 7 to 22 PCB Transformer fire-related incidents per year. NEMA also estimates that of these 7 to 22 fire-related incidents, 1 PCB Transformer fire per year is likely to result in cleanup costs on the order of $20 million.

Since the publication of the ANPR, EPA has become aware of several additional documented fire-related incidents involving PCB Transformers, in Tulsa, Oklahoma (December 29, 1983); and in Miami, Florida (May 29, 1984). Further, in May 1984, in Tulsa, Oklahoma, a fire occurred in the same building as the December 1983 fire, after a PCB Transformer was installed to replace the transformer that failed on December 29, 1983. This replacement PCB Transformer reportedly failed shortly after installation and was also involved in a fire-related incident.

Since the publication of the ANPR, EPA has also obtained additional information on the frequency of and circumstances surrounding PCB Transformer fires through its further analysis of the NFIRS data base for calendar year 1982. EPA focused its efforts on an analysis of transformer fires in or near structures.

In calendar year 1982, 213 structure-related electrical transformer fires were reported to the NFIRS. In order to interpret the NFIRS data properly, its limitations must be recognized. First, not all States report to the NFIRS, so that not all fires are contained within the system. EPA has corrected this value to account for the nonreporting States, and is estimating that 324 structure-related transformer fires occurred throughout the United States in 1982. A structure-related transformer fire is defined as a fire inside a building or structure in which an electrical transformer provided the principal heat that caused ignition. More importantly, however, based upon comments submitted in response to the ANPR and information from the NFIRS, EPA believes that only a percentage of these structure-related transformer fires may have in fact involved PCB Transformers. While information on the make, model, and year of transformers involved in fires is requested as part of the NFIRS, responses to this information request were very limited.

Despite the limitations of this information, EPA has used it in combination with comments submitted in response to the ANPR to estimate that 10 percent of structure-related transformer fires in 1982 involved PCB Transformers. Thus, EPA is estimating that in 1982 there were approximately 30 PCB Transformer fire-related incidents in or near buildings.

EPA has also utilized information from the NFIRS on transformer fire characteristics in order to obtain an estimate of the expected frequency of PCB Transformer fires in which there is distribution of smoke into buildings. These fires would be expected to result in an increased potential human exposures to PCB's 2,3,7,8-TCDF, and 2,3,7,8-TCDD (if these materials are indeed formed). EPA has developed an estimate of the number of PCB

Transformer fires involving the spread of smoke into buildings by estimating the number of electrical transformer fires in 1982 that resulted in smoke spread beyond the room of origin of the fire (based on reports filed with the NFIRS), and applying this percentage to the estimates of the number of PCB Transformer fire-related incidents. About 15 percent of all electrical transformer fires reported to the NFIRS in 1982 involved extensive smoke travel. Based upon this figure, EPA estimates that between 4 and 5 serious PCB Transformer fires occurred in 1982, or, between 0.003 percent and 0.004 percent of nonsubstation PCB Transformers (assuming a yearly probability of about 0.0015 percent of nonsubstation PCB Transformers.

3. Conclusions—Risks Posed by Fire Involving Transformers That Contain PCBs.

Toxicity and exposure are the two basic components of risk. In earlier units of this preamble, EPA evaluated the toxicity of PCBs, PCDFs, 2,3,7,8-TCDF, PCDDs, and 2,3,7,8-TCDD and presented assessments of the potential for human exposure to these materials from transformer fires. EPA concluded that both 2,3,7,8-TCDD and PCBs are suspect human carcinogens, based upon studies in laboratory animals. Further, since 2,3,7,8-TCDF is structurally and chemically similar to 2,3,7,8-TCDD, EPA has concluded that it is prudent to assume that this material is a suspect carcinogen as well. Finally, based on structure-activity relationships, other PCDF and PCDD congeners may also have oncogenic potential.

EPA has determined that relatively large quantities of these compounds can be formed and released during a fire involving a transformer containing PCBs, and that there are many routes through which building occupants, emergency response personnel, cleanup crews, onlookers, and the general public can be exposed to these materials.

EPA has concluded that fires involving PCB Transformers in or near buildings can pose significant risks of human exposures to PCBs and oxidation products. EPA believes that 0.003 percent to 0.004 percent of nonsubstation PCB Transformers per year are involved in fires where smoke (potentially containing PCBs, PCDFs, 2,3,7,8-TCDF, PCDDs, and 2,3,7,8-TCDD) is distributed into buildings, or approximately 50 incidents over the remaining useful life of PCB Transformers. NEMA estimates that about 0.0015 percent of nonsubstation PCB Transformers per year are involved in these types of incidents, or approximately 25 incidents over the remaining useful life of PCB Transformers.

A primary factor that contributes to the risks posed by PCB Transformer fires is the presence of building ventilation shafts, building ductwork, or openings in construction in the vicinity of the transformer. This factor significantly contributes to the spread of toxic materials from a transformer fire into areas of high human occupancy. A second factor that contributes to the risks posed by PCB Transformer fires is the failure of protective devices to deenergize a faulted transformer. A faulted PCB Transformer that remains energized can cause sustained high temperatures, the volatilization of large amounts of PCBs, and the formation and release of large amount of products of incomplete combustion. Other factors that contribute to the risks posed by PCB Transformer fires are the presence of combustibles in PCB Transformer locations, the presence of floor drains leading to storm sewers in transformer locations, the use of water to extinguish the fire, and the fact that emergency response personnel and the building owner may be unaware that a fire involves a PCB Transformer or of the nature of risks posed by fires.

Given that a single serious PCB Transformer fire in or near a building can potentially expose thousands of people to PCBs and oxidation products in soot in air, water, or on surfaces, EPA has concluded that PCB Transformer fires in or near buildings pose significant risks to human health and the environment. However, EPA also believes that reducing the potential for the distribution of PCBs and the potential for the formation and distribution of PCB oxidation products into areas of high human occupancy and into surface waters substantially reduces the risks posed by transformer fires.

EPA has further concluded that outdoor PCB Transformer fires, and fires involving PCB-Contaminated transformers pose lower risks than PCB Transformer fires in or near buildings. While EPA expects that outdoor PCB Transformer fires may result in the release of PCBs, EPA expects that outdoor PCB Transformer fires would be less likely to result in the volatilization of PCBs and less likely to lead to the formation and release of large levels of PCDFs, 2,3,7,8-TCDF, PCDDs, and 2,3,7,8-TCDD. Although PCBs may be released and oxidation products may be formed during PCB-Contaminated transformer fires, the amounts of these materials formed and released are expected to be significantly reduced compared to the amounts formed and released from PCB Transformers.

IV. Benefits of PCB-Transformers and the Availability of Substitutes

As part of the unreasonable risk determination, EPA must consider both the benefits of PCBs and the availability of substitute materials. The unreasonable risk determination requires EPA to balance the risks posed by the use of PCBs against the availability of adequate substitute materials and the costs associated with regulatory control measures.

A. Benefits of PCBs

PCBs were originally used as dielectric fluid in electrical transformers primarily because of their fire-resistance properties. Generally, PCB Transformers were placed in locations where concerns for fire safety were paramount. Even today, PCB Transformers that are in storage for re-use are placed in service in or near buildings where fire safety is a concern. Other dielectric fluids, such as mineral oil, have superior electrical properties to PCBs, but their fire resistance properties are not as good as PCBs.

Monsanto Company has had in progress for over a year a study assessing and comparing fire risks of PCBs and of mineral oil. The technical summary of this study was submitted to EPA in response to the ANPR. The technical summary of the Monsanto-sponsored study indicates that the average frequency of a fire spreading beyond the transformer room is 300 times greater for a mineral oil transformer than for a PCB Transformer containing 50 percent PCBs and 50 percent chlorinated benzenes. The report further indicates that there is a significant decrease in the risk of fatalities when a mineral oil transformer is replaced by a PCB Transformer containing 50 percent PCBs and 50 percent chlorinated benzenes.

B. Substitute Transformers

In its August 1982 PCB Electrical Use Rule, EPA concluded that adequate substitutes exist for PCBs in indoor transformer locations. There are two basic categories of transformers, fluid-filled and dry. There are six general types of fluid-filled substitutes for PCBs in transformers: Silicones; high-temperature hydrocarbons (HTH); chlorinated hydrocarbons; non-PCB askarels; fluorocarbons; and mineral oil. The following unit summarizes available information on the fire safety and electrical properties of these substitute

fluids, and discusses available information on the toxicity of substitute dielectric fluids in combustion situations.

The property of having a fire point higher than 300 °C is one criteria that allows classification of fluids as "less flammable transformer fluids" by Factory Mutual Research Corporation (FMRC). This temperature is sufficiently high to afford resistance to small ignition sources, such as matches, but is still low enough to be met by several classes of commercial fluids, including silicone oil.

1. Silicones

Silicones refer to a family of relatively inert liquid organosiloxane polymers used as electrical insulation. Although silicone-filled transformers have been used since 1972, in the last 5 years, their use has increased significantly. They are superior to mineral oil and non-PCB askarels in thermal stability and, unlike mineral oil, will not degrade to form sludge. They also have fire points above 300 °C.

Combustion of silicones, whether by arc-induced explosion or spray mist ignition, produces flocculant silicone dioxide particles and globules of silica-gels. Breakdown products during arcing in the absence of oxygen are silicone dioxide, hydrogen, and hydrocarbons. Water, carbon dioxide, and carbon monoxide are also produced in the presence of oxygen. In the ANPR, EPA indicated that silicone fluids are self-existinguishing when burned in a pool, since a crust is formed which smothers the flame. One commentor indicated that crust formation is not really dependable, and will vary based on the specific combustion conditions.

Silicone transformer fluids also have some disadvantages. They absorb moisture from the air very rapidly and extreme care must be taken to transfer the fluid without contact with the atmosphere in order to maintain proper electrical properties. Product literature from one silicone fluid manufacturer roughly estimates that at 100 °C, silicone fluids will circulate 5 or 6 times more slowly than askarel or mineral oil. This slower rate of circulation may have implications on the ability of the fluid to dissipate heat.

2. High-Temperature Hydrocarbons (HTH)

EPA uses the term HTH to refer to mineral oils with a fire point higher than 300 °C. This category of fluids includes high temperature esters that are primarily used in railroad transformers. The primary advantages of HTHs are high fire point, low toxicity, biodegradability, and the long usage history compared with other transformer oils. The higher fire point of HTH fluids mitigates somewhat the fire hazard normally associated with the use of mineral oil in indoor locations.

HTHs are refined from paraffinic-type base oil. Breakdown products from complete combustion during arcing in the absence of oxygen are hydrogen, carbon, and hydrocarbons. Products produced in the presence of oxygen include water, carbon dioxide, and hydrocarbons. Data are not available on the products of incomplete combustion of HTHs.

Ester HTHs are used primarily in railroad transformers or where transformers must start up under very cold conditions. Because their cost is higher than other HTHs and they offer no real advantages in indoor locations, it is likely that the paraffinic HTHs will be the materials of choice for these uses.

The viscosity of at least some HTHs decreases more rapidly than other transformer fluids under the action of increased temperatures associated with overloading. This property allows more rapid cooling during overload conditions.

The primary disadvantage associated with the use of HTHs is that they have a higher heat release rate than other substitutes. This means that the HTHs will burn at over twice the temperature of silicone fluids, thus, potentially causing more damage in an indoor fire.

Another disadvantage of HTHs is the increased viscosity compared with that of mineral oils. This higher viscosity at normal operating loads causes slightly higher operating temperatures and could possible shorten the life of the transformer.

3. Chlorinated Hydrocarbons

Chlorinated hydrocarbons refer to a group of chlorinated aliphatic hydrocarbons. The primary chlorinated hydrocarbon being considered for use as an electrical insulating fluid is perchloroethylene. The primary advantage of perchloroethylene is its nonflammability.

Breakdown products from complete combustion during arcing include hydrogen chloride, carbon, carbon monoxide, carbon dioxide, and water.

4. Non-PCB Askarels

Non-PCB askarel is a generic term for a group of synthetic, fire-resistant, chlorinated aromatic hydrocarbons (chlorobenzenes) used as electrical insulating fluid. The primary advantages of the non-PCB askarels are their nonflammability and lower costs compared to HTHs and silicones. These fluids are treated the same as PCB-askarels in the National Electrical Code.

As mentioned in Unit III.C of this Notice, however, experiments have shown the formation of PCDFs and PCDDs from the incomplete pyrolysis of mixtures of chlorobenzenes in air. Amounts of PCDFs ranged as high as tenths of a percent for mixtures of trichlorobenzenes.

5. Fluorocarbons

Fluorocarbons (specifically Freon 113) are being tested for use as a transformer fluid.

6. Mineral oil

Mineral oil is a refined mineral insulating oil to which additives such as oxidation-inhibitor have been added. It is used in the vast majority of outdoor transformers.

If fire safety were not a consideration, mineral oil-filled transformers would probably be used in all applications. Mineral oils cost less than PCBs, have better heat transfer properties, are considerably lighter in weight, and form noncorrosive products under conditions of electrical arcing.

The major disadvantage of mineral oil is its flammability due to a low flash point. Information submitted in response to the ANPR suggests that the average frequency of a fire spreading beyond the transformer room is 300 times greater for a mineral oil transformer than for a PCB Transformer containing 50 percent PCBs and 50 percent chlorinated benzenes. If arcing occurs, the complete combustion breakdown products are hydrogen, methane, other hydrocarbons, carbon monoxide, and water. Data are not available on the products of incomplete combustion of mineral oil. The National Fire Code requires, with some exceptions, that oil-insulated transformers installed indoors be placed in vaults. Because of the cost of installing transformers in vaults, this is a disadvantage of mineral oil transformers.

As concluded in EPA's August 25, 1982 PCB Electrical Use Rule, EPA believes that adequate substitutes exist for PCBs in indoor transformer locations from the perspective of fire safety and electrical properties. Adequate substitutes include silicone-filled transformers and dry transformers.

C. Retrofilling PCB Transformers

1. Introduction

Two general types of substitutes for PCBs in transformers stand out as the best retrofill candidates. These fluids are silicones and high temperature hydrocarbons (HTH). The principal

questions to be considered are the cost of retrofill versus the value of the remaining life of the transformer and the qualification of the fluid as "less flammable" for insurance purposes. A related question is the potential for the formation of toxic products of incomplete combustion from the retrofill fluid and remaining residual concentrations of PCBs. Other fluids, such as chlorinated hydrocarbons, fluorocarbon, and mineral oil, may be used in new transformers but are inappropriate for retrofilling because the design of the PCB Transformers does not fit the properties of the fluids.

2. Silicones

There are six silicone fluids sold by six different companies for use as dielectric fluid. Four of the six fluids have been approved by FMRC as "less flammable" fluids. Silicones have a higher viscosity than PCBs and are therefore not quite comparable to PCBs as a coolant. For this reason, it is possible that transformers retrofilled with silicone would have to be derated. According to one silicone fluid manufacturer, if the transformer were fully loaded, a derating not exceeding 5 percent could be necessary. (Derating means lowering the maximum level of electrical load that the transformer can handle.)

It has been mentioned in the literature that a leaking problem could be created because silicone fluids are not compatible with silicone rubber gaskets and the coefficient of expansion of silicone fluids is 50 percent greater than that of PCBs. In actual practice, however, the silicone gaskets are replaced during retrofilling. (Further, even though the coefficient of expansion is greater than that for PCBs, the greater solubility of the filler gas (nitrogen) in silicone eliminates the expected increase in pressure.)

Experience with retrofilling PCB Transformers since the issuance of the August 1982 PCB Electrical Use Rule indicates that retrofilling with silicones to reclassify transformers as non-PCB may not be cost-effective in many cases at this time. Very few transformers retrofilled with silicone fluid have been able to reach and maintain PCB levels under 50 ppm. Companies contacted during the past few months have all agreed that retrofilling to reach and maintain less than 50 ppm PCBs is not cost effective. However, most thought that retrofilling to maintain levels under 500 ppm would be cost-effective in many cases.

3. HTHs

There are six HTH fluids sold by five companies that may be used as transformer dielectric fluids. There are also two products sold by two other companies that when mixed with other products may be used as HTH transformer fluids. Three of the six fluids are paraffinic based oils and three are esters. As mentioned earlier, the three esters are more specialized for use in railroad transformers.

The other three fluids are more viscous than the silicones at lower temperatures, but thin more rapidly at higher temperatures. According to an HTH manufacturer, this property allows the transformers to be retrofilled with HTH without any derating. At lower normal load temperatures, however, the transformers do run hotter. These fluids are completely compatible with the materials that make up PCB Transformers, and they are soluble in PCBs. Two of these fluids are approved by FMRC as "less flammable transformer fluids," and the fire point of the third is over 300 °C.

As with silicones, it does not seem practical to retrofill to maintain PCB concentrations under 50 ppm. However, it is possible and cost-effective in many cases to maintain concentrations under 500 ppm. The cost variables are about the same as for silicone fluids.

Because the paraffinic HTHs have high convective and radiant heat release rates, the owner's insurance company may recommend more stringent installation requirements.

V. Regulatory Options

A. Introduction

This unit summarizes the economic impact of various regulatory options for reducing the risks posed by PCB Transformer fires. (For a full analysis of the expected economic impacts, see "Regulatory Impact Analysis of the Proposed Rule for Indoor PCB Transformers.") The analysis includes a consideration of the expected savings in cleanup cost as a result of implementing these measures. The analysis also considers the expected outlays for cleanup from PCB Transformer fires involving widespread building contamination, if measures are not taken to reduce the likelihood of occurrence. EPA considered cost savings from the cleanup of leaks and spills of PCBs in the August 25, 1982 PCB Electrical Use Rule, and a similar methodology is used here.

Given the well-established toxicity of PCBs, and the presence of materials that are much more toxic than PCBs in the soot from a fire involving a PCB Transformer, owners of PCB Transformers involved in PCB Transformer fires have invested up to $20 million dollars each to ensure the safety of persons returning to occupy these buildings. For a full analysis of measures taken as part of the cleanup of the Binghamton fire, see "The Binghamton State Office Building Clean-up: A Progress Report Update, 1983," and "Investigation of the Contamination Remaining in the Binghamton State Office Building Following Completion of Preliminary Clean-up, October 20, 1982". These costs, for sampling, cleanup and removal of contaminated materials containing PCBs, PCDFs, and PCDDs found after these incidents can be factored into the economic analysis of the benefits of the continued use of PCB Transformers. Earlier analyses of the benefits of the continued use of these transformers, completed in support of the August 1982 PCB Electrical Use Rule, did not take into consideration the costs of cleanup in the event of PCB Transformer.

For purposes of the following analysis, EPA assumes that PCB Transformer fires with smoke spread into buildings will occur 50 times over the remaining useful life of this equipment, or at a rate of between 0.003 percent and 0.004 percent of nonsubstation PCB Transformers per year, and that cleanup costs from these incidents will approach $20 million each. EPA's estimate of cleanup costs associated with these events was derived from estimates provided from the Binghamton and San Francisco incidents. Further, in the analysis presented below, EPA assumes that little cost is normally associated with cleanup following non-PCB transformer fires in cases where little structural damage occurs to the building involved in the fire.

B. Regulatory Options and Economic Impacts

1. Take No Additional Action

The first regulatory option that EPA considered was to take no further regulatory action at this time to restrict the use of PCBs in transformers. This would allow the continued use of PCBs in transformers without additional restrictions above the requirements of the August 1982 PCB Electrical Use Rule. That rule authorized the continued use of transformers containing PCBs (that pose no exposure risk to human food or animal feed) for the remainder of their useful lives subject to certain recordkeeping and inspection requirements, based on the concentration of PCBs in the equipment.

There are no costs to transformer owners associated with EPA's allowing the continued use of transformers containing PCBs, other than the potential future costs associated with cleanup and liability suits following fires involving this equipment. If the use of PCB Transformers is authorized indefinitely, without additional restrictions, EPA expects that additional incidents will occur. Based on the NFIRS data base, EPA currently estimates that in 1982 there were 4 fires involving PCB Transformers in or near buildings where smoke and soot were distributed in the buildings. This figure translates into an annual probability of 0.003 percent to 0.004 percent of the total number of nonsubstation PCB Transformers in service each year, or about 50 incidents over the remaining useful life of this equipment.

For purposes of this analysis, these 50 incidents would be expected to require cleanup efforts whose cost would approach $20 million each (1983 dollars) or an estimated $375 million over the remaining useful life of this equipment.

2. Labeling and Registration Programs

The registration of transformers which contain PCBs with fire departments and building owners, in combinations with the labeling of the exterior of transformer locations with PCB identification labels may be effective in reducing exposures to firemen, building occupants, and bystanders. Compared to the other regulatory alternatives under consideration (other than the alternative of taking no additional action), the cost of this option is relatively low. EPA believes that in addition to registration with fire departments, the labeling of the exterior of transformer locations is necessary to insure that emergency response personnel arriving at the scene of a fire know that the fire involves a transformer that contains PCBs. EPA expects that the costs of labeling the exterior of PCB Transformer locations will be about $20.00 per transformer. The labeling of the exterior of PCB-Contaminated transformer locations would be expected to be significantly higher, since this may involve analytical testing to determine the PCB concentration in each transformer.

The costs of registering PCB Transformers are also expected to be minimal, since the location of all PCB Transformers should already be known by the owners of the equipment. The costs to transformer owners of forwarding this information to building owners and to fire departments is expected to be minimal, on the order of $50.00 per transformer. The costs associated with registering PCB-Contaminated transformers would be expected to be significantly higher, since this may also involve analytical testing to determine the PCB concentration in each transformer.

EPA estimates that total costs of labeling and registration programs for PCB Transformers would be approximately $10 million.

3. Smoke Control Technologies

Certain design techniques or changes to transformer locations are expected to be effective in reducing the risks associated with fires involving transformers containing PCBs. The objective of isolation is to reduce the widespread contamination of structures and the environment by smoke and soot from a transformer fire. These techniques often include the modification of the ventilation system serving the transformer location and sealing cracks or openings which would permit smoke to escape freely into occupied areas and the environment. In the more serious transformer incidents, the presence of building ventilation systems, building ductwork, and openings in construction in transformer locations have been responsible for the dispersion of toxic contaminants into buildings. Based on comments, isolation techniques are expected to be 85 to 90 percent effective in limiting the spread of smoke and soot from a transformer fire.

Unlike the ventilation systems for other oil-filled transformers, the ventilation systems for PCB Transformers were not designed for the purpose of fire isolation but rather were designed only to keep the ambient temperature at or below 30° Centigrade (C). However, the removal or alteration of existing ventilation systems could result in higher operating temperatures which shorten transformer operating lives and may increase the likelihood of equipment failure.

Thus, the design of alternative ventilation or cooling systems may be necessary to reduce the potential for building contamination. Ventilation alternatives include air conditioners, redirected venting, and heat exchangers, or simply limiting the contamination potential of the existing system by reducing the ventilation cooling effectiveness.

A practical alternative to the modification of ventilation systems is to install a smoke-activated device which shuts down the ventilation system and seals off an enclosed transformer. Installation of a smoke-activated closure would probably cost less than $1,000.

Although specific design changes and costs of isolation techniques are dependent on the individual transformer location, EPA has developed some general costs estimates. A firm involved in survey and design projects for PCB Transformers estimates that in 85 to 90 percent of all cases where isolation is the desired alternative, the costs are about $8,000 per transformer location.

For purposes of the cost-effectiveness analysis, an average cost of $8,000 per location is assumed for all locations where some form of suitable transformer enclosure is already present. For nonenclosed transformers, an estimated cost of $15,000 is assumed for retrofit of an enclosure that provides for smoke containment.

The total real costs of isolation procedures depend upon the time allowed for their implementation. The total real resources costs (costs prior to deducting savings as a result of avoided cleanup operations) associated with requiring the isolation of PCB Transformers located in or near buildings over a 3-year period are estimated at $500 million. The net cost, after deducting expected savings as a result of avoided cleanup operations, is estimated at $222 million. The total real resource cost associated with requiring the isolation of PCB Transformers in or near buildings over a 5-year period is estimated at $444 million. The net cost, after deducting expected savings as a result of avoided cleanup operations, is estimated at $201 million.

EPA is also proposing to require PCB Transformer owners to maintain records of isolation procedures completed, in the form of PCB–Smoke Spred Reduction Plans (PCB–SSRPs). These records would be necessary for compliance monitoring purposes and would be retained until the transformer is placed in storage for disposal or actually disposed of (whichever is earlier). EPA has developed a proposed guidelines document for preparing PCB–SSRPs, and is soliciting comments on it. This document is entitled: "Guidelines for the Preparation and Implementation of a PCB–Smoke Spread Reduction Plan."

EPA expects that maintaining these records will create a minimal additional burden on PCB Transformer owners (above the burden created by requiring transformer isolation procedures).

4. Floor Drain Closure Systems

The sealing off of floor drains in PCB Transformer locations, the installation of heat or smoke sensitive drain closures, or the installation of an external manually operated drain closure would reduce the potential for

the contamination of waterways with spilled PCBs and PCDFs and PCDDs through unsealed floor drains. EPA is not proposing to require any of these measures, based on its current analysis, but, is soliciting comments on their practicality, feasibility, effectiveness, and cost.

5. Increased Electrical Protection and External Disconnect Switches

The installation of certain safety equipment, such as pressure relief devices, current-limiting fuses or infrared sensors for remote arc-fault detection, may reduce the probability of fire or explosions in PCB Transformers, particularly events resulting from electrical malfunctions.

Current-limiting fuses work to monitor the flow of current into a transformer, and in the event of a power overload they will shut down the transformer. Comments indicated that these fuses are effective in avoiding catastrophic failures in PCB Transformers. However, other sources noted that current-limiting fuses may be less effective on transformers with high secondary voltages (480/277 volts versus 208/122 volts) because the current is lower. According to these sources, the current generated in a high resistance arcing fault may not be great enough to activate the fuse. Data from the more well-publicized PCB Transformer fires support this assertion. While it is often possible to install more sensitive fuses in place of existing ones, this increased sensitivity may also result in additional false outages. Such false outages decrease the reliability of the system.

Infrared sensors are continuous heat-detection monitoring devices located inside the transformer location. These sensors are used for remote arc-fault detection, and operate automatically to de-energize the transformer in the event of a fault. Since electrical arcs can cause fires, the risk of fire as a result of electrical arcing is reduced with the installation of an infrared system.

In addition to or in place of electrical protection, placement of manually operated switches external to or away from a transformer location may be useful. When electrical protection fails or is not present, an arcing fault may persist until the transformer is deenergized. This deenergization can be accomplished more rapidly by fire personnel or utility representatives if external switches are present. In most cases, the secondary transformer circuit is involved in an arcing fault, so that a secondary disconnect switch would suffice.

The cost of installing increased electrical protection depends both on the form of protection and whether the device involves a retrofit of the transformer. Of the devices considered, heat-sensing (infrared) devices are likely to be the most effective means of preventing catastrophic failures due to fires from arcing faults. In all of the well-researched cases, arc faults resulting in catastrophic failures occurred on the secondary coil circuit of a transformer with a higher secondary voltage (480/277 volts). EPA's analysis of the costs associated with this option considers the costs of requiring the installation of heat-sensing (infrared) devices on transformers with higher secondary voltages. These devices would be expected to rapidly deenergize the secondary circuits of these transformers in the event of an arc fault.

Assuming that two such devices are used per transformer, an average cost of $2,000 per transformer is used for this analysis. The costs associated with requiring the installation of these devices on all PCB Transformers is estimated at $213 million. The total costs associated with requiring the installation of these devices on only PCB Transformers with high secondary voltages (located in or near buildings) is estimated at $106 million. While it is difficult to estimate the incremental savings in cleanup cost that would be associated with installing these devices, EPA believes that these types of devices, in addition to the implementation of isolation procedures, would be effective in actually avoiding serious PCB Transformer fires. EPA has already accounted for this savings in its analysis of the net cost of isolation procedures.

The costs associated with installing an electrical switch exterior to a transformer vault or in a remote location away from the transformer have also been considered. Since in most cases arc faults appear to occur on the secondary coil circuit, the cost analysis considers the cost associated with installing a switch to deenergize the secondary circuit. EPA estimates the cost of installing external secondary disconnect switches at $1,000 per location.

EPA's estimate of the total resource cost associated with installing secondary disconnect switches on PCB Transformers located in or near buildings is $73 million. If EPA required the installation of these switches only on PCB Transformers with high secondary voltages, EPA estimates the total resource costs at $36 million. As was the case for infrared arc fault detection devices, EPA expects savings in cleanup costs to be realized only if these devices are used in conjunction with the isolation of the transformer. EPA has already considered these expected savings in its analysis of the net cost of isolation procedures.

6. Retrofilling

Retrofilling of PCB Transformers to reduce the PCB concentration to below 500 ppm would be expected to reduce human and environmental exposures to PCBs and their oxidation products in the event of a fire. This would be accomplished through a substantial reduction in the amount of PCBs present in the transformer. EPA has completed an analysis of the costs of retrofilling PCB Transformers to reduce PCB concentrations to below 500 ppm. EPA estimates that retrofill costs will range from $15,505 for a 50 KVA transformer to $32,034 for a 3,000 KVA transformer. these estimates include the costs of disposal of PCB fluid, but do not include any consideration of a loss of efficiency or derating as a result of the retrofill.

An estimate of the total resource costs of retrofilling of all nonsubstation PCB Transformers (106,995 at end of 1984) to below 500 ppm is about $1.6 billion. Although the retrofilling of PCB Transformers reduces the risks to humans posed by the transformer in the event of a fire (by reducing the amount of PCBs present, the amount of PCBs released, and the amount of PCDF formed and released), it is difficult to estimate the effectiveness of this option in avoiding cleanup costs from fire incidents.

An estimate of the total resource costs of retrofilling all PCB Transformers to below 500 ppm is about $1.9 billion.

7. Phaseout of PCB Transformers

a. *PCB Transformers in or near buildings.* The removal of PCB Transformers from locations in or near buildings would eliminate the unique fire-related risks posed by the continued use of this equipment. The following table uses a population of 106,995 units (EPA's estimate of the number of PCB Transformers in or near buildings that will be in use at the end of 1984) and an estimate of equipment life of 30 years, and presents total real costs of phase-out over 5-, 10-, and 15-year periods, as well as potential cleanup costs avoided. EPA assumes a serious PCB Transformer fire rate of 0.003 percent of in-service PCB Transformers per year, and clean-up costs per serious event of $20 million. EPA did not consider an immediate ban because several persons indicated that manufacturing capacity was insufficient to allow for this option. For a full description of the assumptions used in the following analysis, and for a

more detailed analysis of phaseout costs versus cleanup costs avoided, see "Regulatory Impact Analysis of the Proposed Rule for Indoor PCB-Transformers, June 15, 1984."

TABLE 1.—PHASEOUT COST COMPARISON

[Millions of dollars]

Reg option	Cost	Clean-up costs avoid-ed	Net cost
15-Year Phase Out	$277	$48	$229
10-Year Phase Out	689	119	570
5-Year Phase Out	1,529	265	1,206

b. *PCB Transformers in outdoor locations.* The removal of PCB Transformers from outdoor locations is unlikely to result in a reduction in the frequency of transformer fires that involve higher human exposures to PCBs and their oxidation products. This is because EPA expects that outdoor PCB Transformer fires result in lower human exposures to PCBs and their oxidation products than exposures which result from PCB Transformer fires in or near buildings. EPA has, however, estimated the costs associated with requiring the removal of an estimated 23,743 PCB Transformers in outdoor locations, over 5-, 10-, and 15-year periods. A 5-year phaseout is estimated to cost $336 million, a 10-year phaseout is estimated to cost $152 million, and a 15-year phaseout is estimated at $62 million.

VI. Risk/Benefit Assessment

1. Use of PCB Transformers in or Near Buildings

PCBs can be released in fires involving PCB Transformers, and (depending upon the contents of the transformer and the combustion conditions), 2,3,7,8-TCDF, PCDFs, 2,3,7,8-TCDD, and PCDDs can be formed. Laboratory studies on the formation of PCDFs from PCBs, and PCDDs from chlorinated benzenes, as well as sampling data from actual PCB Transformer fire sites confirm that PCBs can be released and 2,3,7,8-TCDF and 2,3,7,8-TCDD (as well as other PCDF and PCDD congeners) can be formed and released from fires involving PCB Transformers.

PCB Transformers that remain energized after major faults or high energy arcs are more likely to result in the volatilization of large amounts of PCBs and the formation of large amounts of PCDFs, 2,3,7,8-TCDF, PCDDs, and 2,3,7,8-TCDD through incomplete combustion than PCB Transformers that are able to be rapidly, and completely deenergized when an arc or fault occurs. Further, based on its analysis of well-researched PCB Transformer fires, and information submitted in response to the ANPR, EPA has concluded that PCB Transformers in high secondary voltage systems (480/277 volts) appear to be more likely to undergo sustained high energy arcing than transformers in low secondary voltage systems.

EPA has also concluded that the presence of combustible materials in a transformer location increases the potential for sufficient heat to be generated after any arc or fault occurs to cause a transformer to rupture and result in the release of PCBs, and the potential formation and release of products of incomplete combustion. Both sustained high energy arcing and the ignition of combustibles in a transformer location can generate enough heat to result in the volatilization of large amounts of spilled PCBs, and the potential formation and release of large amounts of PCDFs, 2,3,7,8-TCDF, PCDDs, and 2,3,7,8-TCDD.

Significant exposures of humans to PCBs, PCDFs, 2,3,7,8-TCDF, PCDDs, and 2,3,7,8-TCDD may occur, if: (1) The transformer involved in a fire is located near building ventilation equipment, building ductwork, or openings in construction; (2) water containing these materials is allowed to enter floor drains and contaminate surface waters; and (3) emergency response personnel and the building owner are unaware that a transformer contains PCBs and of the precautions which should be taken to avoid exposures. EPA evaluated expected human and environmental exposures to PCBs and oxidation products from a reasonable worst-case fire involving a PCB Transformer in a building, and evaluated the risks posed to different population groups, including firemen, building occupants, and cleanup crews. Based on the results of this risk evaluation, EPA has concluded that PCB Transformer fires in or near buildings have the potential to pose significant risks to human health.

PCB Transformer fires in or near buildings that result in the distribution of smoke and soot beyond the room of origin of the fire are anticipated to occur at a frequency of 0.003–0.004 percent of nonsubstation PCB Transformers per year. Without additional control measures on the use of this equipment, EPA anticipates about 50 of these incidents over the remaining useful life of nonsubstation PCB Transformers.

EPA has determined that a single serious PCB Transformer fire may expose hundreds to thousands of people to PCBs, PCDFs, 2,3,7,8-TCDF, PCDDs, and 2,3,7,8-TCDD. The fact that PCB Transformer fires are anticipated to occur at a regular yearly rate and that a single serious PCB Transformer fire can pose high risks to human health combine to make PCB Transformer fires in or near buildings of sufficient concern to EPA to warrant the consideration of additional regulatory control measures on the use of the equipment.

EPA recognizes that PCBs are excellent dielectric fluids from the perspective of fire safety and electrical properties. Further, based on comments on the ANPR, there is evidence to support a determination that the use of PCBs over the past 40 years has reduced fire losses and fatalities associated with electrical transformer fires. EPA is concerned about increasing the potential for fire fatalities and property damage from electrical transformer fires in buildings by mandating the rapid removal or retrofill of PCB Transformers.

This is not to say that adequate substitutes are unavailable for PCB Transformers located in or near buildings. As set out above, EPA believes that adequate substitutes exist for PCB Transformers in or near buildings.

However, there will be approximately 106,995 nonsubstation PCB Transformers in use or in storage for reuse at the end of 1984. The costs of regulatory control measures designed to mitigate the unique risks posed by fires involving PCB Transformers in or near buildings must be balanced against the magnitude of risks posed by these incidents assuming use for the remaining useful life of the equipment.

Since immediate removal of PCB Transformers is not possible without wide disruption of electrical service, the phaseout of PCB Transformers located in or near buildings over a 5-year period is clearly the preferred regulatory option from the perspective of avoiding the maximum number of serious PCB Transformer fires in or near buildings. This option would be expected to avoid 40 serious PCB Transformer fires in or near buildings that would have otherwise occurred over the remaining useful life of this equipment.

However, the costs associated with the removal of all PCB Transformers located in or near buildings by July 1, 1990 are very high. The total real resource costs are estimated at $1.5 billion. Even after deducting cleanup costs that would be avoided by a 5-year phaseout (as a 5-year phaseout would be expected to avoid 40 serious incidents), the net costs are expected to reach $1.2 billion. The net cost of a 5-year phaseout in terms of the net cost

per serious incident avoided is about $31 million.

The removal of PCB Transformers in or near buildings over a 10-year period is expected to avoid 21 serious PCB Transformer fires at a total cost of $689 million, while the removal of PCB Transformers in or near buildings over a 15-year period is expected to avoid 14 serious PCB Transformer fires at a total cost of $277 million. After considering cleanup costs that would be avoided by 10- or 15-year phaseouts, the net costs are estimated at $570 million for a 10-year phaseout, and $229 million for a 15-year phaseout. The net cost of a 10-year phaseout in terms of the net cost per serious incident avoided is about $21 million. The net cost of a 15-year phaseout in terms of the net cost per serious incident avoided is about $14 million.

The total real resource costs of the immediate retrofilling of PCB Transformers in or near buildings to enable the transformers to be reclassified to PCB-Contaminated status are estimated at $1.6 billion. Since it is difficult to determine the impact of retrofilling to 500 ppm PCBs on cleanup costs from serious transformer fires, EPA has assumed that there will be no savings in cleanup costs. EPA does believe, however, that the risks posed to public health by fires involving PCB-Contaminated transformers are substantially less than the risks posed by fires involving PCB Transformers, by virtue of the much lower amounts of PCBs present in contaminated equipment.

EPA's study of the causes of and circumstances surrounding PCB-Transformer fires in or near buildings suggested certain similarities among more serious PCB Transformer fires. First, more serious PCB Transformer fires appear typically to involve PCB Transformers which are located near building ventilation equipment, building ductwork, and openings in construction. Second, more serious PCB Transformer fires appear to be typically associated with the failure of electrical protective devices to deenergize the secondary circuit after the transformer ruptured and released PCBs.

Further, only a fortunate accident in the Binghamton incident (the blocking of the floor drain by debris) prevented the discharge of spilled PCBs and contaminated water into storm sewers. Finally, PCB Transformer fires may result in higher human exposures when emergency response personnel and the building owner are unaware that a fire involves a PCB Transformer and that certain precautions should be followed to avoid exposures.

These factors that increase the probability of a more serious PCB Transformer fire occurring and increase the potential for human exposure to PCBs and oxidation products are potentially correctable without having to resort to the removal or retrofill of the transformer. The installation of heat sensitive (infrared) monitors which are designed to deenergize a transformer's secondary circuit in the event of a fault or the installation of external secondary disconnect switches (on transformers with high secondary voltages (480/277 volts)); the removal of stored combustibles from transformer locations; and the isolation of PCB Transformers in or near buildings from building ventilation equipment, building ductwork , and openings in construction; and requirements to contain water releases and report PCB Transformer fire-related incidents to the NSC are measures which EPA expects will reduce the probability of PCB Transformer fires and exposures to humans and the environment in the event that a fire does occur.

EPA believes that isolation procedures for all PCB Transformers in or near buildings are necessary in addition to the removal of stored combustibles and the installation of additional electrical protective devices on higher risk transformers (those with higher secondary voltages), because: (1) Electrical protective devices are subject to malfunction; (2) fires may occur in other nearby electrical equipment or machinery and involve the transformer; and (3) even in documented instances where electrical protective devices worked and rapidly deenergized a tranformer with a higher secondary voltage, sufficient heat was generated to result in the rupturing of the transformer and the volatilization and distribution of PCBs.

EPA believes that the registration of all PCB Transformers in or near buildings with building owners and local fire department jurisdictions, and the labeling of the exterior of PCB Transformer locations with PCB identification labels would reduce exposures to emergency reponse personnel and building occupants in the event of a PCB Transformer fire. This is a relatively inexpensive means for reducing exposures to emergency response personnel and building occupants, both during the extinguishing of the fire, and during cleanup operations and reoccupancy. EPA believes that registration of these transformers alone, without external labeling, may not be sufficient to insure that emergency response personnel at the scene of a transformer fire are aware that a PCB Transformer is involved. EPA encourages building owners to transmit information on the location of PCB Transformers in their buildings to the property managers responsible for overseeing the day-to-day operation of these buildings.

EPA also believes that it is prudent to require the reporting of all PCB Transformer fire-related incidents to the NSC prior to the initiation of clean-up efforts. EPA regional offices will be notified by the NSC, allowing EPA the opportunity to monitor cleanup operations and releases to the environment.

While EPA believes that requiring the containment of potential releases to water as soon as practically possible and the reporting of incidents to the NSC will reduce potential releases to waterways, EPA remains concerned about releases which may occur before it is practically possible to contain the PCBs, and potentially PCDFs, and PCDDs. EPA is soliciting comments on the practicality, feasibility, effectiveness, and cost of requiring floor drain closure in PCB Transformer locations.

EPA recognizes that the installation of additional electrical protective devices on PCB Transformers (in or near buildings) with high secondary voltages, and the isolation of PCB Transformers located in or near buildings may not be able to be accomplished immediately. PCB Transformer owners will have to: (1) Identify transformers with high secondary voltages; (2) evaluate the location of each PCB Transformer relative to the presence of building ventilation equipment, ductwork, and openings in construction; (3) determine the most cost-effective techniques; and (4) reach an agreement with the building owner for the scheduling of and financial responsibility for isolating the transformer. EPA believes that it is reasonable to allow 3 to 5 years for the installation of additional electrical protection on PCB Transformers with high secondary voltages and the isolation of all PCB Transformers in or near buildings.

At the same time, EPA also believes that it is reasonable to require certain immediate measures, namely: (1) the removal of stored combustibles from PCB Transformer locations in or near buildings; (2) the registration of all PCB Transformers with local fire department jurisdictions and with building owners; and (3) the reporting of all PCB Transformer fire-related incidents to the NRC; (4) the labeling of the exterior of PCB Transformer locations with PCB identification labels; and, (5) the

containment of all potential water releases from PCB Transformer fires.

The installation of additional electrical protection on PCB Transformers with high secondary voltages and the isolation of all PCB Transformers over a 3-year period, in combination with the immediate removal of combustibles, the reporting of fires to the NRC, the containment of water releases, and the exterior labeling and registration of these transformers is expected to avoid about 38 serious PCB Transformer fires. A 5-year period for instituting this program is expected to avoid about 31 serious PCB-Transformer fires.

The total real resource costs associated with the installation of additional electrical protection on nonsubstation PCB Transformers with high secondary voltages and the isolation of all PCB Transformers in or near buildings over a 3-year period is estimated at $536–$606 million (depending upon the type of electrical protection used). After considering the expected savings in cleanup costs from avoided serious incidents, EPA estimates the total net cost at $268–$338 million. The total resource costs associated with a 5-year electrical protection/isolation program is estimaged as $490-$560 million. After considering the expected savings in cleanup costs from avoided serious incidents, EPA estimates the net cost at $247–$317 million.

The regulatory program that avoids the maximum number of serious PCB Transformer fires for the least cost, i.e., the most cost-effective option, is: (1) The installation of additional electrical protection on PCB Transformers (with high secondary voltages) which are located in or near buildings and the isolation of all PCB Transformers in or near buildings by July 1, 1988; (2) the immediate registration of PCB Transformers with local fire department jurisdictions and the registration of PCB Transformers in or near buildings with building owners; (3) the immediate labeling of the exterior of PCB Transformer locations; (4) the immediate removal of stored combustibles from PCB Transformer locations in or near buildings; (5) the reporting of fires to the NSC; and, (6) the containment of water releases from PCB Transformer fires. This program is anticipated to avoid 38 serious fire incidents at a net cost of between $268 and $338 million. EPA's risk evaluation supports a finding that the implementation of these risk reduction measues will substantially reduce the risks posed by fires involving PCB Transformers.

The following table summarizes the cost-effectiveness of various regulatory alternatives for PCB Transformers in or near buildings.

TABLE 2.—COST-EFFECTIVENESS ANALYSIS OF ALTERNATIVES FOR PCB TRANSFORMERS IN OR NEAR BUILDINGS

Reg. option	Real costs (millions of dollars)	Net costs (millions of dollars)	Avoided serious incidents
Phaseout	$277–$1,529	$229–$1,206	14 to 40.
Retrofill	1,600	1,600	Reduces exposures.
Isolation	444–500	201–222	31–38 (if used in conjunction with electrical protection.
Electrical protection (high secondary voltages only).	36–106	36–106	Reduces amount of contaminants formed.
Regist. & labeling.	10	10	Reduces exposures.

2. Use of PCB Transformers in Outdoor Locations

EPA's evaluation of the risks posed by PCB Transformer fires indicates that the use of PCB Transformers in outdoor locations away from commercial and residential areas poses less risk to public health than the use of this equipment in or near buildings. First, comments suggest that the combustion conditions in outdoor locations may not be so conducive to the volatilization of PCBs and the formation of incomplete combustion products as combustion conditions in areas such as sidewalk vaults and machinery rooms.

Second, EPA believes that fewer people are generally present near outdoor PCB Transformer locations, and, that these areas are generally fenced in to restrict access to authorized personnel. Further, if PCBs were volatilized and dispersed into the environment, individual human exposures to PCBs and potential oxidation products from such a fire are expected to be much lower than from fires in or near buildings.

EPA does believe, however, that it is prudent to require outdoor PCB Transformers to be registered with local fire department jurisdictions and that all PCB Transformer fire-related incidents be reported to the NRC. Further, additional labeling of the exterior of these locations would reduce exposures of emergency response personnel to spilled PCBs (which is anticipated to be the more prevalent situation in outdoor locations) and may serve to limit the spread of these materials into the environment.

3. Use of PCB-Contaminated Transformers

The risks posed by fires involving PCB-Contaminated transformers are smaller than the risks posed by fires involving PCB Transformers, by virtue of the smaller amount of PCBs present in contaminated equipment. EPA evaluated the reasonable worst-case risks posed by fires involving PCB-Contaminated transformers by assessing expected human exposures to PCBs and products of incomplete combustion from a fire involving this equipment, in which smoke and soot containing these materials were distributed throughout a building.

Based on its analysis, EPA determined that while fires involving this equipment pose some level of risk, the risks are considerably less than those posed by similar fires involving PCB Transformers. Further, there are an estimated 20 million PCB-Contaminated transformers in use or in storage for reuse. Even the least costly regulatory option which was considered for PCB Transformers (registration and additional labeling), would place tremendous burdens on owners of PCB-Contaminated equipment, and could affect the availability of electrical power in the United States.

VII. Findings on the Use of PCBs in Electrical Transformers

1. Based on the analysis presented in Unit VI, EPA has determined that the use of PCBs in transformers does not pose unreasonable risks to public health or the environment, provided, that in addition to the inspection, recordkeeping, and servicing requirements of the August 25, 1982 Electrical Equipment Rule:

a. All PCB Transformers are registered with local fire department jurisdictions and PCB Transformers in or near buildings are also registered with building owners.

b. The vault door, machinery room door, or means of access to PCB Transformers are labeled with PCB identification labels.

c. The vault, machinery room, or equipment room housing PCB Transformers located in or near buildings is cleared of stored combustibles.

d. In the event of a PCB Transformer fire, measures are taken to contain water releases.

e. In the event of a PCB Transformer fire, the National Spill Response Center is notified prior to the initiation of cleanup efforts.

f. By July 1, 1988, PCB Transformers used in higher secondary voltage systems (480/277 volt systems) located in or near buildings are equiped with either: (1) Heat-sensitive (infrared) disconnect switches on the secondary circuit; (2) external secondary disconnect switches; or (3) equivalent technological innovations to insure that a transformer in high secondary voltage systems (480/277 volt systems) can be rapidly deenergized.

g. By July 1, 1988, PCB Transformers in or near buildings are isolated from building ventilation systems, building ductwork, and opening in construction to insure that smoke from a fire involving a PCB Transformer will not enter areas of high human occupancy.

2. The use of PCBs in transformers that comply with: (1) The inspection, recordkeeping, and servicing requirements of the August 25, 1982 Electrical Use Rule; and (2) the fire hazard risk reduction measures described above, does not pose unreasonable risks to public health or the environment for the following reasons:

a. If EPA did not authorize the use of PCBs in transformers, it would cost the public and United States industry billions of dollars, primarily as a result of the disruption of electrical service. The resulting reductions in risk, after considering both the risks posed by spills and leaks of PCBs as well as the risks posed by fires involving this equipment would not outweigh these substantial costs.

b. The required inspection, maintenance, and servicing requirements under the August 25, 1982 Electrical Use Rule, and the fire hazard risk reduction measures listed above reasonably reduce the exposures associated with the use of PCBs in PCB Transformers. The fire hazard risk reduction measures are much less costly than a ban on the use of PCBs in PCB Transformers but are of a similar effectiveness in reducing the risks posed by fires involving PCB Transformers.

c. The costs of phaseout and retrofilling are not reasonable when considering the potential reduction in release of PCBs and the reduction in the frequency of serious PCB Transformer fires, if these measures were required for all PCB Transformers.

d. Releases of PCBs to the environment and exposures to humans and biota from the use of PCB-Contaminated and non-PCB transformers are minimal. Further, the risks posed by fires involving this equipment are substantially less than the risks posed by fires involving PCB Transformers, and the costs of any control measures to further reduce these risks are very high.

VIII. Compliance and Enforcement

EPA, in requiring the installation of additional electrical protection on PCB Transformers with high secondary voltages, and in requiring the isolation of PCB Transformers, has allowed for some flexibility on the part of transformer owners. EPA recognizes that technology is constantly evolving in areas such as the development of electrical protection devices. Further, EPA recognizes that there may be many ways that the spread of smoke from a particular PCB Transformer location can be effectively reduced and limited to areas of low human occupancy. Thus, EPA has allowed some flexibility on the part of transformer owner in the selection of appropriate additional electrical protective devices and in the selection of appropriate isolation techniques. By requiring electrical protection/isolation, EPA implicitly allows the replacement of PCB Transformers with substitute equipment, and the retrofilling of PCB Transformers to PCB-Contaminated or non-PCB status.

If comments submitted in response to this proposed rule suggest that EPA should reduce the degree of flexibility present in the proposed isolation and electrical protection requirements, EPA will consider issuing more specific requirements in the form of either numerical or narrative performance standards. For example, EPA may consider requiring that external secondary disconnect switches be placed a specific number of feet away from the transformer. EPA is soliciting comments on the need for the development of more specific performance standards for transformer isolation and increased electrical protection.

EPA has listed heat sensitive (infrared) remote arc fault detection devices and external secondary circuit disconnect switches as options for increased electrical protection. EPA has also allowed PCB Transformer owners the option of utilizing equivalent technology to reach the same goak that is, to insure that a PCB Transformer in a high secondary voltage system can be rapidly deenergized in the event of a fault.

The requirement for transformer isolation requires PCB Transformers to be isolated from building ventilation equipment, ductwork, and openings in construction in accordance with EPA's "Guidelines for the Preparation and Implementation of a PCB-Smoke Spread Control Plan (PCB–SSRP)". The objective of the PCB–SSRP is to reduce widespread structure and environmental contamination by smoke and soot evolved from a fire involving a PCB Transformer. These guidelines require PCB Transformer owners to evaluate the transformer location, identify pathways of smoke travel, and prepare and implement a plan for blocking contamination pathways. Whithin the context of isolation procedures, the guidelines also require a consideration of the effect that isolation has on equipment cooling, and requires the provision of alternative cooling when necessary.

Like the Guidelines for the Preparation and Implementation of a Spill Prevention Control and Countermeasure Plan (SPCC) (40 CFR 112.7) under Office of Water regulations, the guidelines for the Preparation and Implementation of a PCB-Smoke Spread Control Reduction Plan (PCB–SSRP) allow some flexibility in selecting the most appropriate mechanism(s) for isolating a specific PCB Transformer. Various alternatives that are acceptable to EPA are listed in these guidelines. Further, the guidelines explicitly allow the planning and implementation of equivalent methods that are not listed in the guidelines.

To facilitate EPA compliance monitoring efforts, EPA is proposing to require PCB Transformer owners to maintain written PCB-SSRPs. EPA is proposing that these plans be retained until the transformer is placed into storage for disposal, or until the transformer is disposed (whichever occurs first). Alternatively, EPA is soliciting comments on the costs and benefits of requiring the submittal of PCB-SSRPs to EPA.

EPA is soliciting comments on the need for PCB Transformer owners to retain records documenting their compliance with the registration program required under this proposed rule. EPA believes that the retention of these records by PCB Transformer owners would facilitate monitoring compliance with the registration requirements.

IX. Judicial Review

When this rule is promulgated, judicial review may be available under section 19 of TSCA in the United States Court of Appeals for the District of Columbia Circuit or for the circuit in which the person seeking review resides or has its principal place of business. To provide all interested persons an equal opportunity to file a timely petition for judicial review and to avoid so called "races to the courthouse," EPA intends to promulgate this rule for purposes of

judicial review two weeks after publishing the final rule in the **Federal Register**. The effective date will be calculated from the promulgation date.

X. Official Record of Rulemaking

A. Previous Rulemaking Records

(1) Official rulemaking record from "Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce and Use Prohibition Rule" published in the **Federal Register** of May 31, 1979, (44 FR 31514).

(2) Official rulemaking record from "Polychlorinated Biphenyls (PCBs); Disposal and Marking Final Regulation" published in the **Federal Register** of February 17, 1978, (43 FR 7150).

(3) Official rulemaking record from "Polychlorinated Biphenyls (PCBs); Manufacture, Processing, Distribution, and Use in Closed and Controlled Waste Manufacturing Processes" published in the **Federal Register** of October 21, 1982, (47 FR 46980).

(4) Official rulemaking record from "Polychlorinated Biphenyls (PCBs); Manufacturing, Processing, Distribution in Commerce and Use Prohibitions; Use in Electrical Equipment" published in the **Federal Register** of August 25, 1982, (47 FR 37342).

(5) Official record from "Polychlorinated Biphenyls (PCBs); Manufacturing, Processing, Distribution in Commerce and Use Prohibitions; Use in Electrical Transformers" Advance Notice of proposed Rulemaking, published in the **Federal Register** of March 23, 1984, (49 FR 11070).

B. Support Documents

(1) USEPA, OPTS, EED, Versar, Inc., "Exposure Assessment for Polychlorinated Biphenyls (PCBs), Polychlorinated Dibenzofurans (PCDFs), and Polychlorinated Dibenzodioxins (PCDDs) Released During Transformer Fires" (September 1984).

(2) USEPA, OPTS, HERD, "HERD Work for Proposed Polychlorinated Biphenyl (PCB) Transformer Fires Rulemaking" (October 1, 1984).

(3) USEPA, OPTS, HERD, "Response to Comments on Health Effects of PCBs Submitted by the Chemical Manufacturers Association and the Edison Electric Institute" (August 19, 1982).

(4) USEPA, OW, "Ambient Water Quality Criteria for 2,3,7,8-Tetrachlorodibenzo-p-dioxin" (February 1984).

(5) USEPA, ORD, OHEA, ECAO, "(DRAFT) Health Assessment Document for polychlorinated Dibenzo-p-dioxins" (May 1984).

(6) USEPA, OPTS, ETD, Putnam, Hayes and Bartlett, Inc. "Regulatory Impact Analysis of the Proposed Rule for Indoor PCB-Transformers" (September 1984).

(7) Kimbrough, Renate, D., *et al* "Health Implications of 2,3,7,8-Tetrachlorodibenzodioxin (TCDD) Contamination of Residential Soil," Journal of Toxicology and Environmental Health (in press).

(8) USEPA, OPTS, EED, "NFIRS Data for 1982" (April 1984).

(9) USEPA, OPTS, "Guidelines for the Preparation and Implemention of PCB-Smoke Spread Reduction Plan (PCB-SSRP)" (September 1984).

XI. Executive Order 12291

Under Executive Order 12291, issued February 17, 1981, EPA must judge whether a rule is a "major rule" and, therefore, subject to the requirement that a Regulatory Impact Analysis be prepared. EPA has determined that this amendment to the PCB rule is a major rule as the term is defined in section 1(b) of the Executive Order.

EPA has concluded that the amendment is "major" under the criteria of section 1 (b). The annual effect of the rule on the economy will be over $100 million. However, the regulation does allow uses of PCBs in electrical transformers to continue that would otherwise be prohibited by section 6(e) of TSCA. This rule avoids the severe disruption of electric service to the public and industry that would occur if the use of this equipment were prohibited. It also avoids the economic impact that would result from a requirement to replace the equipment as soon as possible.

Because this proposed rule is a major rule, EPA has prepared a Regulatory Impact Analysis using the guidance in the Executive Order. This proposed rule was submitted to the Office of Management and Budget (OMB) prior to publication, as required by the Executive Order.

XII. Regulatory Flexibility Act

Under section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Administrator may certify that a rule will not, if promulgated have a significant impact on a substantial number of small entities and, therefore, does not require a regulatory flexibility analysis.

This effect of this proposed rule, if promulgated, is to avoid severe disruption of electric service to industry and the public, and to reduce the costs associated with complying with TSCA. In general, this rule will reduce the burden on small businesses that would otherwise be encountered if an immediate ban on PCB-containing transformers were to take effect. If an immediate ban on the use of PCBs in transformers were imposed, large costs would be incurred by all producers and users of electricity, including small businesses.

I certify that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

XIII. Paperwork Reduction Act

The Paperwork Reduction Act of 1980 (PRA), 44 U.S.C. 3501 *et seq.* authorizes the Director of OMB to review certain information collection requests by Federal agencies. EPA has determined that the recordkeeping and reporting requirements of this proposed rule constitute a "collection of information" as defined in 44 U.S.C. 3502(4). The information collection requirements of this proposed rule have been submitted to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980. Comments on these requirements should be submitted to the Office of Information and Regulatory Affairs of OMB, marked ATTENTION: Desk Officer for EPA. The final rule package will respond to any OMB or public comments on the information collection requirements.

(15 U.S.C. 2605)

List of Subjects in 40 CFR Part 761

Hazardous materials, Labeling, Polychlorinated biphenyls, Recordkeeping and reporting requirements, Environmental protection.

Dated: September 28, 1984.

William D. Ruckelshaus,

Administrator.

Therefore, it is proposed that 40 CFR Part 761 be amended as follows:

1. In § 761.30, the introductory text of paragraph (a) and paragraph (a)(1) are revised to read as follows:

§ 761.30 Authorizations.

* * * * *

(a) *Use in and servicing of transformers (other than railroad transformers).* PCBs, at any concentration may be used in transformers (other than railroad locomotives and self-propelled railroad cars) and may be used for purposes of servicing railroad cars) and may be used for purposes of servicing including rebuilding these transformers for the remainder of their useful lives, subject to the following conditions:

(1) *Use conditions.* (i) After October 1 1985, the use and storage for reuse of

PCB Transformers that pose an exposure risk to food or feed is prohibited.

(ii) After July 1, 1988, PCB Transformers in high secondary voltage systems (480/277 volt systems), located in or near buildings, must be equipped with either:

(A) Heat-sensitive (infrared) automatic disconnect switches on the secondary circuit,

(B) External secondary disconnect switches (external means outside of the transformer vault or enclosure), or

(C) Equivalent technology to insure that the secondary side of a PCB Transformer with a high secondary voltage can be rapidly deenergized after a fault.

(iii) After July 1, 1988, PCB Transformers in or near buildings must be isolated from building ventilation equipment, building ductwork, and openings in construction in accordance with EPA's Guidelines for the Preparation and Implementation of a PCB-Smoke Spread Reduction Plan (PCB–SSRP). The objective of isolation (and the development of the PCB–SSRP) is to effectively reduce widespread structure and environmental contamination by smoke and soot from a fire involving a PCB Transformer. PCB Transformer owners must:

(A) Identify all pathways through which smoke from a PCB Transformer fire would be reasonably expected to travel.

(B) Block all contamination pathways identified above, in accordance with EPA Guidelines for the Preparation and Implementation of a PCB–SSRP.

(C) Determine the need for alternative equipment cooling.

(iv) After October 1, 1985, all PCB Transformers must be registered with appropriate local fire department jurisdictions (i.e., with the fire department which is likely to respond to the fire). Information required to be provided to the local fire department jurisdiction by the PCB Transformer owner includes:

(A) The address(es) of the buildings(s) that the PCB Transformer(s) serves.

(B) The location of the transformer(s) in or near the building.

(C) The principal constituent of the dielectric fluid in the transformer(s) (i.e., PCB/mineral oil/silicone oil).

(D) The name and telephone number of the person to contact in the event of a fire involving the equipment.

(v) After October 1, 1985, all PCB Transformers serving buildings must be registered with the owner(s) of the building(s) that the transformer(s) serves. Information required to be provided to the building owner by the PCB Transformer owner includes:

(A) The location of the transformer(s) serving the building(s).

(B) The principal constituent of the dielectric fluid in the transformer(s) (i.e., PCB/mineral oil/silicone oil).

(vi) After October 1, 1985, combustible materials, including but not limited to paints, solvents, plastics, paper, and sawn wood must not be stored in the same area as a PCB Transformer.

(vii) A visual inspection of each PCB Transformer (as defined in § 761.3(y)) in use or stored for reuse shall be performed at least once every 3 months. These inspections may take place any time during the 3-month periods: January–March, April–June, July–September, and October–December as long as there is a minimum of 30 days between inspections. The visual inspection must include investigation for any leak of dielectric fluid on or around the transformer. The extent of the visual inspections will depend on the physical constraints of each transformer installation and should not require an electrical shutdown of the transformer being inspected.

(viii) If a PCB Transformer is found to have a leak which results in any quantity of PCBs running off or about to run off the external surface of the transformer, then the transformer must be repaired or replaced to eliminate the source of the leak. In all cases any leaking material must be cleaned up and properly disposed of according to disposal requirements of § 761.60. Cleanup of the released PCBs must be initiated as soon as possible, but in no case later than 48 hours of its discovery. Until appropriate action is completed, any active leak of PCBs must be contained to prevent exposure of humans or the environment and inspected daily to verify contamination of the leak. Trenches, dikes, buckets, and pans are examples of proper containment measures.

(ix) If a PCB Transformer is involved in a fire-related incident, the owner of the transformer is responsible for reporting the incident to the National Spill Response Center prior to the initiation of any cleanup efforts. A fire-related incident is defined as an incident involving a PCB Transformer in which sufficient heat is generated by any source to result in the rupturing of the transformer casing and the release of PCBs. The owner is also responsible for taking immediate measures to contain and control any potential releases to water. These measures include, but are not limited to:

(A) The blocking of floor drains.

(B) The containment of water runoff.

(x) Records of inspection and maintenance history shall be maintained at least 3 years after disposing of the transformer and shall be made available for inspection, upon request by EPA (OMB Control Number: 2070–0003). Such records shall contain the following information for each PCB Transformer:

(A) Its location.

(B) The date of each visual inspection and the date that leak was discovered, if different from the inspection date.

(C) The person performing the inspection.

(D) The location of any leak(s).

(E) An estimate of the amount of dielectric fluid released from any leak.

(F) The date of any cleanup, containment, repair, or replacement.

(G) A description of any cleanup, containment, or repair performed.

(H) The results of any containment and daily inspection required for uncorrected active leaks.

(xi) A reduced visual inspection frequency of at least once every 12 months applies to PCB Transformers that utilize either of the following risk reduction measures. These inspections may take place any time during the calendar year as long as there is a minimum of 180 days between inspections.

(A) A PCB Transformer which has impervious, undrained, secondary containment capacity of at least 100 percent of the total dielectric fluid volume of all transformers so contained or

(B) A PCB Transformer which has been tested and found to contain less than 60,000 ppm PCBs (after three months of inservice use of the transformer has been serviced for purposes of reducing the PCB concentration).

(xii) An increased visual inspection frequency of at least once every week applies to any PBC Transformer in use or stored for reuse which poses an exposure risk to food or feed is responsible for the inspection, recordkeeping, and maintenance requirements under this section until the user notifies the owner that the transformer may pose an exposure risk to food or feed. Following such notification, it is the owner's ultimate responsibility to determine whether the PCB Transformer poses an exposure risk to food or feed.

(xiii) A written PCB-Smoke Spread Reduction Plan (PCB-SSRP), prepared in accordance with EPA guidelines, shall be developed for each PCB Transformer location in or near buildings by July 1, 1988 and shall be maintained until the date the transformer(s) is placed into

storage for disposal or until the transformer(s) is disposed (whichever occurs first) and shall be made available for inspection, upon request, by EPA.

* * * * *

(The information collection requirements contained in paragraph (a)(1)(x) were approved by the Office of Management and Budget under Control Number 2070–0003)

2. In § 761.40, paragraph (j) is added to read as follows:

§ 761.40 Marking requirements.

* * * * *

(j) As of October 1, 1985, the vault door, machinery room door, fence, sidewalk grate, or means of access to a PBC Transformer must be marked with the mark. M_L. The mark must be placed so that it can be easily read by firemen fighting a fire involving this equipment.

[FR Doc. 84–26812 Filed 10–10–84; 8:45 am]

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Part IV

Department of Health and Human Services

Food and Drug Administration

Guidelines for Radiofrequency (RF) Dielectric Sealers and Heaters; Availability of Draft Guideline and Public Meeting

VOL 49 ISS 198 OCT 11 1984 UMI

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 84D-0303]

Guidelines for Radiofrequency (RF) Dielectric Sealers and Heaters; Availability of Draft Guideline and Public Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice of availability of draft guideline; public meeting.

SUMMARY: The Food and Drug Administration's (FDA) Center for Devices and Radiological Health has developed a draft guideline entitled "Guideline for Exposure of Personnel to Stray Emissions from Radiofrequency (RF) Dielectric Sealers and Heaters." FDA is announcing the availability of the draft guideline and a public meeting to discuss and refine it. The guideline provides guidance to sealer and heater manufacturers, user organizations, supervisors, and operators of RF sealing and heating equipment to decrease the exposure of individuals to stray RF energy from the RF emitting equipment and to achieve the safest possible operation of the RF sealers and heaters.

DATES: Written comments on the draft guideline by November 7, 1984; public meeting November 15 and 16, 1984, 9 a.m. to 5 p.m.; requests to make a presentation at the meeting by November 8, 1984.

ADDRESSES: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857; requests to make a presentation at the meeting should be made to the contact person listed below; copies of the draft guideline may be obtained from the contact person listed below. The meeting will be held at the Parklawn Bldg., Conference Rm. D, 5600 Fishers Lane, Rockville MD.

FOR FURTHER INFORMATION CONTACT: Sandra McGeehan, Center for Devices and Radiological Health (HFZ-82), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3940.

SUPPLEMENTARY INFORMATION: FDA is concerned about the potential adverse health effects on individuals exposed to radiofrequency (RF) energy emitted by RF sealers, heaters, and gluers. These devices are also known as heat sealers, fusers, molders, fasteners, or embossers; high frequency sealers or dryers; electronic or electromagnetic sealers or welders; and dielectric heaters. They are generlly designed to operate at frequencies between 3 and 100 megahertz (MHz).

On September 12 and 13, 1979, FDA's Center for Devices and Radiological Health (CDRH) and the Occupational Safety and Health Administration (OSHA) sponsored a public meeting to gather information on, and to address their concern about, the potential adverse health effects on people exposed to RF sealer emissions. Representatives of CDRH, OSHA, and the National Institute for Occupational Safety and Health (NIOSH) presented data from surveys and measurements performed in workplaces where RF sealers, heaters, and gluers were in use. These data showed that RF field strengths (electric and magnetic fields) were very high (more than 1,000 volts/meter and 10 amperes/meter, respectively, both of which are far in excess of 100 milliwatts per square centimeter (mW/cm^2) equivalent power density); thus, exposure of individuals often exceeds the existing U.S. voluntary RF personnel exposure standards.

At the meeting, RF hazard survey instrumentation was discussed, including commercially available and experimental instruments. Usage considerations and future needs are also discussed. A review of biological effects, including known animal and human effects, also took place. In general, all agreed that the level of knowledge about effects was low compared to that about microwave radiation (usually at frequencies of 300 to 10,000 MHz). RF sealer radiation control technologies, including shielding and grounding, and operator location factors were also discussed.

On May 12 and 13, 1981, a hearing on "Potential Health Effects of Video Display Terminals and Radio Frequency Sealers and Heaters" took place before the U.S. House of Representatives Subcommittee on Investigations and Oversight, Committee on Science and Technology. The Committee expressed concern over excessive exposure to RF sealer emissions.

CDRH has developed a draft guideline entitled "Guideline for Exposure of Personnel to Stray Emissions from Radiofrequency (RF) Dielectric Sealers and Heaters" to address the concerns expressed at the Congressional hearing and at the 1979 public meeting.

The draft guideline was developed and is being made available under the Radiation Control for Health and Safety Act of 1968 (the act) Pub. L. 90-602, 42, U.S.C. 263b et seq.) and under § 10.90(b) of FDA's administrative practices and procedures regulations (21 CFR 10.90(b)). The act gives FDA the authority to carry out programs to control radiation emissions from electronic products. Section 10.90(b) provides for the use of guidelines to establish procedures or standards of general applicability that are not legal requirements but are acceptable to FDA for a subject matter which falls within the laws it administers. Also, OSHA's Occupational Safety and Health Standards (29 CFR 1910.97) provide a basis for protection of workers from exposure to nonionizing radiation in the workplace.

Several RF radiation exposure standards for human exposure limits have been published. The American National Standards Institute, Inc. (ANSI), has recently revised its standard C95.1-1982 (Ref. 1). This voluntary standard sets limits for exposure of 1 mW/cm^2 for frequencies between 30 and 300 MHz. These voluntary limits are lower than the previous value by a factor of 10. The new limits were based on a wide range of recently published data on RF biological effects, most of which came from animal studies.

The American Conference of Governmental Industrial Hygienists has also published a voluntary "standard" for RF exposure limits in the workplace (Ref. 2). Its values are approximately identical to the ANSI standard for the frequency range of 30 to 300 MHz.

FDA understands that the Environmental Protection Agency (EPA) is developing an RF exposure standard for the general public and that its limits will be below those contained in the ANSI C95.1-1982 standard by a factor of five. Issuance of the EPA standard is expected in 1985.

The Canadian Government (Health and Welfare Canada, Environmental Health Center) recently issued equipment performance standards for RF sealers (Ref. 3). The standard restricts the electric and the magnetic field equivalent plane-wave emission levels to less than 1 mW/cm^2, as measured 15 cm from any point on the surface of the equipment.

The current state of knowledge of medical and biological effects of RF radiation includes confirmed effects of harm to animals and humans due to high-level RF exposures (more than 100 mW/cm^2 or 100 watts/kilogram absorbed dose) that induce thermal effects. A limited number of papers in the scientific literature on animal studies involving exposure to low-level RF fields (levels under 10 mW/cm^2) report measurable biological effects. Nonthermal effects that are documented in the medical and scientific literature

include beneficial wound and bone-healing resulting from long-term (periods of many days) exposures to very low-level pulsed RF fields. Epidemiologic studies of people exposed to RF fields indicate mixed results including both no significant effects and positive findings of biological effects including an increase in certain diseases.

At a public meeting on RF sealers to be held on November 15 and 16, 1984, FDA staff members, representatives of other Federal and State agencies, representatives of organized labor, RF sealer manufacturers, professional and trade association representatives, and other outside experts are expected to discuss the following items:

1. The draft "Guideline for Exposure of Personnel to Stray Emissions from Radiofrequency (RF) Dielectric Sealers and Heaters."

2. A review of FDA/CDRH progress and experience with RF sealer product reports from manufacturers.

3. Voluntary control activities by RF sealer owners, users, manufacturers, and public health officials to reduce operator exposures through changes in equipment design or operator work practices.

4. RF hazard survey instrument evaluations and instrument calibration services performed by FDA.

5. The development of new types of low-cost RF hazard survey instrumentation.

6. The results of theoretical and experimental analyses of RF energy absorption due to exposure to known fields (dosimetry).

7. The state of knowledge of medical and biological effects of RF radiation, including thermal effects, nonthermal effects, wound and bone healing applications of low-level RF fields, epidemiologic studies of exposed persons, and accident reports.

8. The recently issued Canadian Health and Welfare equipment performance standards for RF sealers (Ref. 3).

9. Possible future FDA regulatory activities and voluntary control support activities.

Anyone wishing to make an oral presentation at the meeting should, on or before November 8, 1984, advise the contact person named at the beginning of this notice of the approximate amount of time requested, organizational affiliation, if any, and a brief description of their topic of presentation. Anyone attending the meeting who did not request an opportunity to make an oral presentation will be given an opportunity to do so at the conclusion of the meeting to the extent that time permits.

References

The following information has been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. "Safety Levels with Respect to Human Exposure to Radio Frequency Electromagnetic Field, 300 KHz to 100 GHz," ANSI C95.1–1982, July 30, 1982, the Institute of Electrical and Electronics Engineers, Inc., 345 East 47th St., New York, NY 10017.

2. "TLVs—Threshold Limit Values for Chemical Substances in Work Air, Adopted by ACGIH for 1982," American Conference of Governmental Industrial Hygienists, 6500 Glenway Ave., Bldg. D–5, Cincinnati, OH 45211.

3. "Part XXII Industrial Radio Frequency Heaters, Amendment to Schedule I to the Radiation Emitting Devices Regulations," Canadian Gazette, Part I, April 16, 1983, the Radiation Protection Bureau, Environmental Centre, Rm. 233, Tunney's Pasture, Ottawa, Ontario, Canada K1A 0L2.

FDA is making the draft guideline available for public comment before issuing it in final form. After determining whether comments submitted to FDA or presented at the public meeting require making any changes in the draft guideline, FDA will issue the guideline in final form and make it available under § 10.90(b) of FDA's regulations.

The draft guideline is available for public examination in the Dockets Management Branch (address above) under Docket No. 84D–0303 and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday. Requests for single copies may be submitted to Sandra McGeehan (address above).

Interested persons may, on or before November 7, 1984, submit to the Dockets Management Branch (address above) written comments regarding the draft guideline. Comment should be in two copies (except that individuals may submit single copies) identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday. FDA will consider all comments in developing the final guideline.

Dated: October 5, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84–26935 Filed 10–9–84; 11:30 am]

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H.R. 1904/Pub. L. 98-457

Child Abuse Amendments of 1984 (October 9, 1984; 98 Stat. 1749) Price $1.00

S.J. Res. 322/Pub. L. 98-458

Designating the week beginning on October 7, 1984, as "Mental Illness Awareness Week". (October 9, 1984; 98 Stat. 1765) Price $1.00

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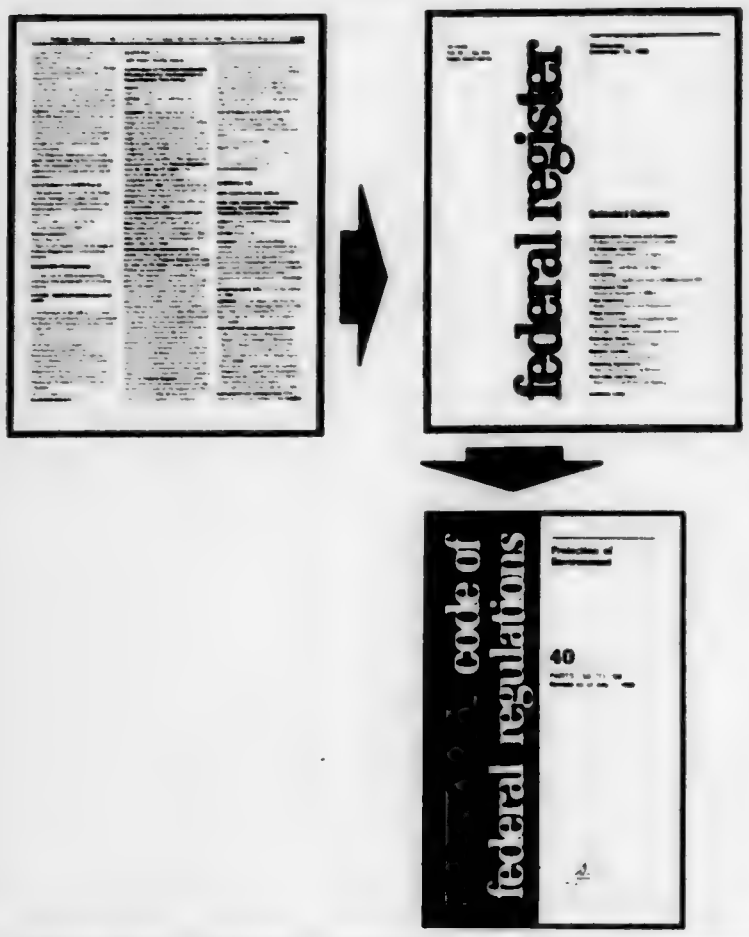

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 485]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 200,000 cartons during the period October 14–20, 1984. Such action is needed to provide for orderly marketing of fresh lemons for the period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: October 14, 1984.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

This final rule is issued under Marketing Order No. 910, as amended (7 CFR Part 910) regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy currently in effect. The committee met publicly on October 9, 1984, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports that lemon demand is easier.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the Act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

PART 910—[AMENDED]

Section 910.785 is added as follows:

§ 910.785 Lemon Regulation 485.

The quantity of lemons grown in California and Arizona which may be handled during the period October 14, 1984, through October 20, 1984, is established at 200,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: October 10, 1984.

Thomas R. Clark,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 84–27180 Filed 10–11–84; 8:45 am]
BILLING CODE 3410–02–M

7 CFR Part 1065

Milk in the Nebraska-Western Iowa Marketing Area; Temporary Revision of Diversion Limitation Percentages

AGENCY: Agriculture Marketing Service, USDA.

ACTION: Temporary revision of rules.

SUMMARY: This action temporarily relaxes for the months of October 1984 through March 1985 the limit on how much milk not needed for fluid (bottling) use may be moved directly from farms to nonpool manufacturing plants and still be priced under the Nebraska-Western Iowa order. The revision is made in response to a request by a cooperative association representing a substantial number of producers supplying the market in order to prevent uneconomic movements of milk.

EFFECTIVE DATE: October 12, 1984.

FOR FURTHER INFORMATION CONTACT: Robert F. Groene, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington D.C. 20250 (202) 447–2089.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding: Proposed Temporary Revision of Diversion Limitation Percentages: Issued September 17, 1984; published September 21, 1984 (49 FR 37102).

William T. Manley, Acting Administrator, Agricultural Marketing Service, has certified that this action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and would tend to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This temporary revision is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*) and the provisions of § 1065.13(d)(4) of the Nebraska-Western Iowa milk order.

Notice of proposed rulemaking was published in the **Federal Register** (49 FR 37102) concerning a proposed increase in the amount of milk that may be moved directly from producer farms to nonpool manufacturing plants for the months of October 1984 through March 1985. Interested parties were afforded

the opportunity to comment on the proposal by submitting written data, views, and arguments. No comments in opposition to the proposal were received.

After consideration of all relevant material, including the proposal set forth in the aforesaid notice, data, views, and arguments filed thereon, and other available information, it is hereby found and determined that the diversion limitation percentage as set forth in § 1065.13(d) should be increased from the present 40 percent to 50 percent for the months of October and November 1984, and from 40 percent to 60 percent for the months of December 1984 through March 1985.

Pursuant to the provisions of § 1065.13(d)(4), the diversion limitation percentages as set forth in § 1065.13(d) (2) and (3), respectively, may be increased or decreased up to 20 percentage points during any month. Such changes may be made to encourage additional needed milk shipments to pool distributing plants or to prevent uneconomic shipments merely for the purpose of assuring that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

Associated Milk Producers, Inc., a cooperative association which represents producers supplying the Nebraska-Western Iowa market, requested that for the months of October and November 1984, the percentage of allowable diversions be increased 10 percentage points, and for the period December 1984 through March 1985, the diversion limits be increased 20 percentage points.

The basis of the cooperative's request is that for the period in question, the order provisions require more milk to move through pool plants than is necessary to meet the fluid, or bottling requirements of the market. The cooperative cited improved milk quality as a result of less pumping and more economic hauling as the benefits to be gained from the proposed temporary relaxation. According to the cooperative, the financial status of its producer members may be jeopardized unless the more economic hauling practices resulting from increased diversion allowances can be adopted.

The cooperative also stated that diversion percentages should be the reciprocal of supply plant shipping percentages in order to allow the maximum amount of milk to move directly to manufacturing. The 50-percent diversion limit for October and November, and 60-percent limit for the period December 1984 through March 1985, will complement the 50-percent (temporarily revised) supply plant requirement for October and November and the 40-percent supply plant standard for December through March.

Without the temporary revision, milk of some dairy farmers would first have to be received at a pool plant to qualify it for pooling rather than being shipped directly from the farm to nonpool manufacturing plants for surplus use. These requirements would result in costly and inefficient movements of milk. It is concluded that the relaxation of the diversion limits by 10 percentage points for October and November 1984, and by 20 percentage points for the months of December 1984 through March 1985, will prevent uneconomic movements of milk through pool plants merely for the purpose of qualifying it as producer milk under the order.

It is hereby found and determined that thirty days' notice of the effective date is impractical, unnecessary, and contrary to the public interest in that:

(a) This temporary revision is necessary to reflect current marketing conditions and to maintain orderly marketing in the marketing area for the months of October 1984 through March 1985;

(b) This temporary revision does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of the proposed temporary revision was given interested parties and they were afforded opportunity to file written data, views or arguments concerning this temporary revision.

Therefore, good cause exists for making this temporary revision effective for the months of October 1984 through March 1985.

List of Subjects in 7 CFR Part 1065

Milk marketing orders, Milk, Dairy products.

It is therefore ordered, That in paragraphs (d) (2) and (3) of § 1065.13 the provision "40 percent" is revised to "50 percent" for the months of October and November 1984, and to "60 percent" for the months of December 1984 through March 1985.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Effective Date: October 12, 1984.

Signed at Washington, D.C. on: October 9, 1984.

Joel L. Blum,

Acting Director, Dairy Division.

[FR Doc. 84-27039 Filed 10-11-84; 8:45 am]

BILLING CODE 3410-02-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Standards; Interim, Emergency Rule for Services

AGENCY: Small Business Administration

ACTION: Interim Emergency Rule.

SUMMARY: SBA is immediately establishing, on an interim basis, a residual size standard for services of $3.5 million average annual receipts. This applies to all services not specifically listed with individual size standards in § 121.2. This action is being taken to reduce the need to issue separate notices in the **Federal Register** for individual industries in services which do not presently have their own size standards.

DATES: This regulation is effective October, 12, 1984. Submit comments by December 11, 1984.

ADDRESSES: Submit Comments To: Andrew A. Canellas, Director, Size Standards Staff, Small Business Administration, 1441 L Street, NW.—Room 500, Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: Andrew A. Canellas, (202) 653–6373.

SUPPLEMENTARY INFORMATION: Pursuant to the Small Business Act, 15 U.S.C. 631, et seq., and 13 CFR 121.10(b), in urgent situations SBA may put into effect interim emergency size standards when needed for program purposes if no size standard exists for the industry in question. SBA believes there is an urgent need for the immediate establishment of this rule to facilitate the operation of SBA programs and to reduce the need to publish separate notices in the **Federal Register** for individual service industries.

On February 9, 1984, SBA published a Final Rule (49 FR 5024) revising the size standards. Not all industries, however, were given separate size standards because of lack of need or because certain industries were outside the traditional scope of SBA assistance. This is especially true in services. Out of 131 industries in services, only 106 have separately listed size standards in § 121.2.

Since February, SBA has received numerous requests in industries without size standards for the immediate establishment of size standards, especially in services. These requests were made in order to facilitate the delivery of the SBA procurement set-aside or financial assistance programs. By regulation § 121.10), SBA must issue an interim emergency rule to comply with requests which require expedited

action. Public comments, however, are invited on this action.

Because of the administrative complexity of issuing rules piecemeal in the **Federal Register** and because of the lack of size standards in various service industries, SBA is establishing a general size standard of $3.5 million applicable to those industries which do not have specific size standards in services. Prior to the February final rule revising the size standards, SBA employed residual size standards for broad areas of industry, including services. Thus, this rule restores the longstanding use of this provision. A residual size standard would therefore reduce the need for separate **Federal Register** notices to deal with those activities which presently lack size standards. It would also facilitate decisions by program officials as to the appropriate size standard to use.

The size standard of $3.5 million is being used because it is the lowest generally used size standard in the SBA regulations. Preliminary economic analysis indicates that the structure of these services industries—competitive with low average firm size—is such that a $3.5 million size standard would be appropriate. Also, for administrative reasons, SBA has determined that a minimum size standard of $3.5 million should be used regardless of industry. This is consistent with the February 9, 1984, final rule and prior notices. For individual industries different size standards could be established separately in later actions but, in the interim, the general size standard of $3.5 million should be used.

This action is being undertaken in conformity with section 8 of Executive Order 12291 and section 608 (5 U.S.C. 608) of the Regulatory Flexibility Act, as well as the Administrative Procedures Act, 5 U.S.C. 553(b)(A). There are no recordkeeping or paperwork requirements inherent in the regulation. SBA will publish a final rule on this regulation after the expiration of the comment period.

List of Subjects in 13 CFR Part 121

Small businesses, Standard Industrial Classification Codes.

Accordingly, pursuant to 15 U.S.C. 634(b)(7) of the Small Business Act, SBA hereby amends Part 121 of 13 CFR § 121.2(c)(2), Division I by inserting a center heading after "Division I—Services" to read as follows:

§ 121.2 [Amended]

(c) * * *

(2) * * *

* * * * *

Division I—Services

For industries not specifically listed in this division, the size standard is $3.5 million.

* * * * *

James C. Sanders,

Administrator.

Dated: September 24, 1984.

[FR Doc. 84-26612 Filed 10-10-84; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 83-NM-113-AD; Amdt. 39-4932]

Airworthiness Directives; British Aerospace Model DH/HS/BH 125 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, request for comments.

SUMMARY: This amendment adds a new airworthiness directive (AD) applicable to certain British Aerospace Model DH/HS/BH 125 airplanes which requires replacement of fuses and installation of covers on an electrical panel. There has been an incident on the ground that seriously damaged an airplane due to a short circuit on this panel. These actions are needed to prevent electrical failures in the panel which could cause a fire in the aircraft.

DATE: Effective November 14, 1984. Comments must be received on or before the effective date.

ADDRESSES: The service bulletins specified in this AD may be obtained upon request to British Aerospace, Inc., Box 17414, Dulles International Airport, Washington, D.C. 20041, or may be examined at the Federal Aviation Administration, Northwest Mountain Region, Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington. Submit comments in duplicate to the following address: FAA, Northwest Mountain Region, Office of the Regional Counsel, Attn: Airworthiness Rules Docket No. 83-NM-113-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

FOR FURTHER INFORMATION CONTACT: Mr. Sulmo Mariano, Foreign Aircraft Certification Branch, ANM-150S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region; telephone (206) 431-2979. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: The Civil Aviation Authority of the United Kingdom (CAA) has classified British Aerospace 125 Service Bulletins 24-239-(2885) and 24-220-(2749) as mandatory. Incidents have been reported where resetting a circuit breaker after an electrical system failure led to rupture of the main electrical bus feeder fuses. Service Bulletin 24-239-(2885) prescribes replacement of the two existing 80 amp fuses on the 'ZL' panel with 100 amp fuses. In another incident also related to the 'ZL' panel, an aircraft was badly damaged on the ground when a mechanic created a short circuit in the panel. Service Bulletin 24-220-(2749) prescribes the addition of protective covers on the 'ZL' panel.

A Notice of Proposed Rulemaking (NPRM) to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring replacement of fuses and installation of covers on the 'ZL' electrical panel was published in the **Federal Register** on January 4, 1984 (49 FR 415). The comment period closed February 20, 1984, and interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to all comments received.

Three persons commented on the NPRM. One commenter stated no objection to the amendment. The second commenter indicated that the number of airplanes affected was higher than the number indicated in the economic impact statement in the Notice. Accordingly, the economic impact statement contained in the preamble of this AD has been changed to reflect a greater number of airplanes affected and the associated costs. There is no change in the wording of the amendment itself, since it contains no economic impact statement.

The third commenter pointed out that aircraft retrofitted with Garrett TFE 731-3 engines in accordance with Supplemental Type Certificates (STC) SA3870WE or SA3925WE could not have the upper covers for the 'ZL' panel installed in accordance with British Aerospace 125 Bulletin 24-220-(2749) due to wiring change. The commenter added that for these airplanes, the installation of covers on the 'ZL' panel should be accomplished in accordance with AiResearch Aviation Service Bulletin 6-7. The FAA has investigated this problem and, as a result, AiResearch Aviation Service Bulletin 6-7 has been added to the final rule. Minor

editorial changes have also been accomplished in the final document.

After the NPRM was published, the manufacturer issued Revision 1 to Service Bulletin 24–239–(2885). In this revision, five airplanes were added to those requiring replacement of fuses. Operators of these airplanes have not had the opportunity to comment on the NPRM. The FAA has, therefore, extended the compliance time from 60 days to 90 days and will accept comments from the operators of these five additional airplanes, series 1A with manufacturer serial numbers 020, 023, 032, 038, and 079. Comments must be received before the effective date of the AD to be considered. The AD may then be amended in light of the comments received.

It is estimated that 276 U.S. registered airplanes will be required to replace fuses, that it will take one manhour per airplane to accomplish the work, and that replacement parts will cost $50 per airplane; in addition, 135 U.S. registered airplanes will be required to install covers, it will take 5 manhours to accomplish the work, and replacement parts will cost $900 per airplane. The average labor cost is $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $173,340.

For these reasons, this rule is not considered to be a major rule under the criteria of Executive Order 12291. Few, if any, small entities within the meaning of the Regulatory Flexibility Act will be affected.

Accordingly, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes mentioned above.

List of Subjects: 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

British Aerospace

Applies to all Model DH/HS/BH 125 series airplanes certificated in all categories, with the serial numbers specified in the service bulletins listed below. Compliance is required as indicated. To prevent electrical failures in the 'ZL' panel, accomplish the following within the next 90 days after the effective date of this AD unless previously accomplished:

A. Replace the two existing 80 amp fuses on the 'ZL' panel with 100 amp fuses, in accordance with the Accomplishment Instructions of British Aerospace 125 Aircraft Service Bulletin 24–239–(2885), Revision 1, dated February 27, 1984.

B. Install covers on the 'ZL' panel as follows:

1. For aircraft that have accomplished STC SA3870WE or STC SA3925WE, in accordance with the Accomplishment Instructions of AiResearch Aviation Company Service Bulletin No. 6–7, dated October 25, 1983.

2. For any other aircraft fitted with Garrett TFE 731–3 engines, in accordance with the Accomplishment Instructions of British Aerospace 125 Aircraft Service Bulletin 24–220–(2729), Revision 3, dated March 3, 1983.

C. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

This amendment becomes effective November 14, 1984.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89)

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities because few, if any, Model HS/BH/DH 125 airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption **FOR FURTHER INFORMATION CONTACT.**

Issued in Seattle, Washington, on October 1, 1984.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 84–28068 Filed 10–11–84; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 95

[Docket No. 24270; Amdt. No. 320]

Air Traffic and General Operating Rules, IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rule) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. These regulatory actions are needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

EFFECTIVE DATE: October 25, 1984.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures Standards Branch (AFO–230), Air Transportation Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 95 of the Federal Aviation Administration (14 CFR Part 95) prescribes new, amended, suspended, or revoked IFR altitudes governing the operation of all aircraft in IFR flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in Part 95. The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference.

The reasons and circumstances which create the need for this amendment involve matters of flight safety, operational efficiency in the National Airspace System, and are related to published aeronautical charts that are essential to the user and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment is unnecessary, impracticable, and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 95

Aircraft, Airspace.

Adoption of the Amendment

Accordingly and pursuant to the authority delegated to me by the Administrator, Part 95 of the Federal Aviation Regulations (14 CFR Part 95) is amended as follows effective at 0901 G.m.t.

(Secs. 307 and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348 and 1510); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.49(b)(3))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C. on October 5, 1984.

Kenneth S. Hunt,

Director of Flight Operations.

BILLING CODE 4910-13-M

REVISIONS TO MINIMUM ENROUTE IFR ALTITUDES & CHANGEOVER POINTS

AMENDMENT 320 EFFECTIVE DATE, OCTOBER 25, 1984

FROM	TO	MEA
§95.1001 DIRECT ROUTES-U.S.		
IS AMENDED TO READ		
NANTUCKET, MA VORTAC *1700 - MOCA	BOSTON, MA VORTAC	*3900
WILKES-BARRE, PA VORTAC	LATTY, NY FIX	4000 MAA-10000
IS AMENDED TO READ IN PART		
EAST TEXAS, PA VORTAC	RAVINE, PA VORTAC	3400
IS AMENDED TO DELETE		
ANCHORAGE OCEANIC CONTROL BDRY VIA CONTROL 1400 *2000 - MOCA	GARRS, AK FIX	*3000
FLUKE, AK FIX	ANCHORAGE OCEANIC CONTROL EAST BOUNDARY	3000
VIA CONTROL 1483 GARRS, AK FIX	ANCHORAGE OCEANIC CONTROL EAST BOUNDARY	*3000
VIA CONTROL 1400 *2000 - MOCA GARRS, AK FIX VIA CONTROL 1400 *2000 - MOCA	SALDO, AK NDB	*3000
GROTON, CT VOR *1400 - MOCA	INT TAU VOR 264 & ORW VORTAC 241	*2000
HERRY, AK FIX VIA CONTROL 1401 *2000 - MOCA	KING SALMON AK LOM	*3000
LEBANON, NH VOR/DME VIA LEB VOR/DME 135 & PSM VOR 317	PEASE, NH VOR	10000 MAA-26000
OSCARVILLE, AK NDB VIA CONTROL 1483 *2500 - MRA **1400 - MOCA #HF COMMUNICATION REQUIRED BELOW 2500'.	*FLUKE, AK FIX	#**2000
WOODY ISLAND, AK NDB VIA CONTROL 1217	MARLO, AK FIX	4000
ATLANTIC ROUTES		
AR 10 IS AMENDED TO READ		
MIAMI, FL VORTAC *2000 - MOCA	BEEAN, BF FIX	*5000
AR 11 MIAMI, FL VORTAC *2000 - MOCA	KUPEC, BF FIX	*5000
§95.6003 VOR FEDERAL AIRWAY 3		
IS AMENDED TO READ IN PART		
PALM BEACH, FL VORTAC *2000 - MOCA	VERO BEACH, FL VORTAC	*3000
§95.6006 VOR FEDERAL AIRWAY 6		
IS AMENDED TO READ IN PART		
OAKEY, CA FIX VIA S ALTER	SACRAMENTO, CA VORTAC VIA S ALTER	2500
§95.6014 VOR FEDERAL AIRWAY 14		
IS AMENDED TO READ IN PART		
DUNKIRK, NY VORTAC *2300 - MOCA	BUFFALO, NY VORTAC	*2800
§95.6016 VOR FEDERAL AIRWAY 16		
IS AMENDED TO READ IN PART		
CALVERTON, NY VORTAC	SALEM, CT FIX	2000
§95.6018 VOR FEDERAL AIRWAY 18		
IS AMENDED BY ADDING		
GUTHRIE, TX VORTAC *3500 - MOCA	MILLSAP, TX VORTAC	*9500
§95.6023 VOR FEDERAL AIRWAY 23		
IS AMENDED TO READ IN PART		
LODDI, CA FIX VIA W ALTER	SACRAMENTO, CA VORTAC VIA W ALTER	3000
§95.6097 VOR FEDERAL AIRWAY 97		
IS AMENDED TO READ IN PART		
WINCO, FL FIX *1400 - MOCA	LA BELLE, FL VORTAC	*2000
GILBI, FL FIX VIA E ALTER. *1400 - MOCA	LA BELLE, FL VORTAC VIA E ALTER	*2000
ROBBINSVILLE, NJ VORTAC	LISSA, NY FIX	2000
§95.6128 VOR FEDERAL AIRWAY 128		
IS AMENDED TO READ IN PART		
SWIFT, WV FIX *4300 - MOCA	BITES, WV FIX	*5000
BITES, WV FIX *6000 - MOCA	VELLI, WV FIX	*7000
§95.6130 VOR FEDERAL AIRWAY 130		
IS AMENDED TO READ IN PART		
ALBANY, NY VORTAC *6000 - MRA *6000 - MCA CANAN FIX, NW BND	*CANAN, NY FIX	6000
§95.6132 VOR FEDERAL AIRWAY 132		
IS AMENDED TO READ IN PART		
FLOSS, KS FIX *2800 - MOCA	CHANUTE, KS VOR	*5000
§95.6161 VOR FEDERAL AIRWAY 161		
IS AMENDED TO READ IN PART		
HYANNIS, MA VORTAC *5000 - MRA **1500 - MOCA	*DRUNK, MA FIX	**2000
§95.6157 VOR FEDERAL AIRWAY 157		
IS AMENDED TO READ IN PART		
WINCO, FL FIX *1400 - MOCA	LA BELLE, FL VORTAC	*2000
§95.6169 VOR FEDERAL AIRWAY 169		
IS AMENDED TO READ IN PART		
THURMAN, CO VORTAC *6200 - MOCA	AKRON, CO VORTAC	*7000
§95.6203 VOR FEDERAL AIRWAY 203		
IS AMENDED TO READ IN PART		
CANAN, NY FIX	ALBANY, NY VORTAC	6000
§95.6225 VOR FEDERAL AIRWAY 225		
IS AMENDED TO READ IN PART		
FORT MYERS, FL VORTAC LA BELLE, FL VORTAC *3000 - MRA **1400 - MOCA	LA BELLE, FL VORTAC *HOMEY, FL FIX	2000 **2000
§95.6295 VOR FEDERAL AIRWAY 295		
IS AMENDED TO READ IN PART		
STOOP, FL FIX *1500 - MOCA	VERO BEACH, FL VORTAC	*2000
§95.6334 VOR FEDERAL AIRWAY 334		
IS AMENDED TO READ IN PART		
OAKEY, CA FIX	SACRAMENTO, CA VORTAC	2500
§95.6437 VOR FEDERAL AIRWAY 437		
IS AMENDED TO READ IN PART		
JETSO, FL FIX *5000 - MRA	*STARY, GA FIX	6000
§95.6438 VOR FEDERAL AIRWAY 438		
IS AMENDED TO READ IN PART		
ANCHORAGE, AK VOR/DME *4700 - MCA BIG LAKE VORTAC, N BND	*BIG LAKE, AK VORTAC	2000
§95.6450 VOR FEDERAL AIRWAY 450		
IS AMENDED TO READ IN PART		
GREEN BAY, WI VORTAC MUSKEGON, MI VORTAC FLINT, MI VORTAC	MUSKEGON, MI VORTAC FLINT, MI VORTAC HOCKY, MI FIX	3000 3000 3000
§95.6456 VOR FEDERAL AIRWAY 456		
IS AMENDED TO READ IN PART		
ANCHORAGE, AK VOR/DME *5000 - MCA BIG LAKE VORTAC, NE BND	*BIG LAKE, AK VORTAC	2000
§95.6479 VOR FEDERAL AIRWAY 479		
IS AMENDED TO READ IN PART		
MUFLA, NJ FIX *1600 - MOCA	YARDLEY, PA VORTAC	*2500

FROM	TO	MEA

§95.6483 VOR FEDERAL AIRWAY 483
IS AMENDED BY ADDING

DEER PARK, NY VORTAC	CARMEL, NY VORTAC	2100

§95.6492 VOR FEDERAL AIRWAY 492
IS AMENDED TO READ IN PART

PALM BEACH, FL VORTAC *1600 - MOCA	STOOP, FL FIX	*3000
STOOP, FL FIX *1500 - MOCA	VERO BEACH, FL VORTAC	*2000

§95.6506 VOR FEDERAL AIRWAY 506
IS AMENDED TO READ IN PART

KOWOK, AK FIX *7500 - MOCA	CAYON, AK FIX	*8000

§95.6512 VOR FEDERAL AIRWAY 512
IS AMENDED TO READ IN PART

SWIFT, WV FIX *4300 - MOCA	BITES, WV FIX	*5000
BITES, WV FIX *4100 - MOCA	ELKINS, WV VORTAC	*5000

§95.6531 VOR FEDERAL AIRWAY 531
IS AMENDED TO READ IN PART

PALM BEACH, FL VORTAC *2000 - MOCA	SHEDS, FL FIX	*3000
SHEDS, FL FIX *2000 - MOCA	BAIRN, FL FIX	*6000

§95.6402 HAWAII VOR FEDERAL AIRWAY 2
IS AMENDED BY ADDING

SOUTH KAUAI, HI VORTAC	LIHUE, HI VORTAC	5000
LIHUE, HI VORTAC	MOREY, HI FIX SE BND	3000
	NW BND	4000
MOREY, HI FIX *1200 - MOCA	BROMS, HI FIX	*3000
BROMS, HI FIX	HONOLULU, HI VORTAC	4000

IS AMENDED TO READ IN PART

HONOLULU, HI VORTAC *4400 - MCA LANAI VORTAC, E BND	*LANAI, HI VORTAC	4000

§95.6404 HAWAII VOR FEDERAL AIRWAY 4
IS AMENDED TO READ

*SQUAT, HI FIX *19000 - MRA **13000 - MRA	**TIKYS, HI FIX	4000

FROM	TO	MEA

§95.6404 HAWAII VOR FEDERAL AIRWAY 4—Continued

TIKYS, HI FIX *5000 - MRA	*POTEN, HI FIX	4000
POTEN, HI FIX	KOKO HEAD, HI VORTAC	4000

§95.6405 HAWAII VOR FEDERAL AIRWAY 5
IS AMENDED TO READ IN PART

LEMAY, HI FIX VIA W ALTER *7000 - MRA **6100 - MOCA	*LAVAS, HI FIX VIA W ALTER	**7000
LAVAS, HI FIX VIA W ALTER *6100 - MOCA	MAKEN, HI FIX VIA W ALTER	*7000

§95.6408 HAWAII VOR FEDERAL AIRWAY 8
IS AMENDED TO READ IN PART

MAKAI, HI FIX	LINDY, HI FIX	2000
LINDY, HI FIX	MOLOKAI, HI VORTAC	3500

§95.6409 HAWAII VOR FEDERAL AIRWAY 9
IS AMENDED TO READ

*LULUS, HI FIX *9000 - MRA **1000 - MOCA	CLANN, HI FIX	**9000
CLANN, HI FIX *1000 - MOCA	CORAL, HI FIX	*6000
CORAL, HI FIX *1000 - MOCA	MAKAI, HI FIX	*4000
*MAKAI, HI FIX *4000 - MCA MAKAI FIX, S BND **1200 - MOCA	SOLDO, HI FIX	**2000
SOLDO, HI FIX	HONOLULU, HI VORTAC N BND	4000
	S BND	2000

§95.6411 HAWAII VOR FEDERAL AIRWAY 11
IS AMENDED BY ADDING

MAUI, HI VORTAC *7000 - MRA	*NAPIR, HI FIX	5000
NAPIR, HI FIX *5000 - MCA MOLOKAI VORTAC, E BND	*MOLOKAI, HI VORTAC	7000
MOLOKAI, HI VORTAC	LINDY, HI FIX	3500
LINDY, HI FIX	MAKAI, HI FIX	2000

§95.6412 HAWAII VOR FEDERAL AIRWAY 12
IS AMENDED TO READ IN PART

VILET, HI FIX *24000 - MRA	*SEIZE, HI FIX	24000
SEIZE, HI FIX	*MEDLY, HI FIX W BND	7000
	E BND	4000
*15000 - MRA		

FROM	TO	MEA

§95.6412 HAWAII VOR FEDERAL AIRWAY 12—Continued

MEDLY, HI FIX *11000 - MRA	*SEGUL, HI FIX W BND	7000
	E BND	4000
SEGUL, HI FIX *7000 - MRA	*SILLS, HI FIX W BND	7000
	E BND	4000
SILLS, HI FIX	OLDER, HI FIX W BND	7000
	E BND	4000
OLDER, HI FIX	HONOLULU, HI VORTAC	4000

§95.6414 HAWAII VOR FEDERAL AIRWAY 14
IS AMENDED TO READ

*DOGGY, HI FIX *10000 - MRA **4000 - MOCA	SOUTH KAUAI, HI VORTAC	**10000
SOUTH KAUAI, HI VORTAC	KOKO HEAD, HI VORTAC	4000

§95.6415 HAWAII VOR FEDERAL AIRWAY 15
IS AMENDED TO READ IN PART

*VANDA, HI FIX *6000 - MRA **4400 - MOCA	SOUTH KAUAI, HI VORTAC	**6000
SOUTH KAUAI, HI VORTAC	HONOLULU, HI VORTAC	5000
HONOLULU, HI VORTAC *4500 - MCA KOKO HEAD VORTAC, W BND	*KOKO HEAD, HI VORTAC	5000

FROM	TO	MEA

§95.6416 HAWAII VOR FEDERAL AIRWAY 16
IS AMENDED TO READ IN PART

HONOLULU, HI VORTAC	SOLDO, HI FIX N BND	4000
	S BND	2000
SOLDO, HI FIX *1200 - MOCA	MAKAI, HI FIX	*2000
MAKAI, HI FIX	SAMPA, HI FIX	2000
SAMPA, HI FIX	LANAI, HI VORTAC	4000
LANAI, HI VORTAC *7000 - MRA	*LAVAS, HI FIX	4300

§95.6420 HAWAII VOR FEDERAL AIRWAY 20
IS AMENDED TO READ IN PART

HONOLULU, HI VORTAC	ONOTE, HI FIX NW BND	4000
	SE BND	2000
ONOTE, HI FIX	PEBLE, HI FIX	2000
PEBLE, HI FIX	FERRA, HI FIX	4000
FERRA, HI FIX	TYPHO, HI FIX	8000

§95.6421 HAWAII VOR FEDERAL AIRWAY 21
IS AMENDED TO READ IN PART

MAKAI, HI FIX	SAMPA, HI FIX	2000
SAMPA, HI FIX *4400 - MCA LANAI VORTAC, E BND	*LANAI, HI VORTAC	4000

§95.6422 HAWAII VOR FEDERAL AIRWAY 22
IS AMENDED TO DELETE

*MOLOKAI, HI VORTAC *5000 - MCA MOLOKAI VORTAC, E BND	PLUMB, HI FIX	7000
PLUMB, HI FIX	MAUI, HI VORTAC	5000

FROM	TO	MEA	MAA
§95.7065 JET ROUTE NO. 65			
IS AMENDED TO READ IN PART			
PALMDALE, CA VORTAC	BAKERSFIELD, CA VORTAC	18000	45000

§95.8003 VOR FEDERAL AIRWAYS CHANGEOVER POINTS

AIRWAY SEGMENT			CHANGEOVER POINTS
FROM	TO	DISTANCE	FROM
V-437			
IS AMENDED TO READ IN PART			
ORMOND BEACH, FL VORTAC	SAVANNAH, GA VORTAC	80	ORMOND BEACH
V-458			
IS AMENDED TO READ IN PART			
MUSKEGON, MI VORTAC	FLINT, MI VORTAC	54	MUSKEGON
V-506			
IS AMENDED TO READ IN PART			
KING SALMON, AK VORTAC	BETHEL, AK VORTAC	96	KING SALMON
HAWAII V-2			
IS AMENDED BY ADDING			
HONOLULU, HI VORTAC	LANAI, HI VORTAC	29	HONOLULU
HAWAII V-15			
IS AMENDED BY ADDING			
SOUTH KAUAI, HI VORTAC	HONOLULU, HI VORTAC	51	SOUTH KAUAI

§95.8005 JET ROUTES CHANGEOVER POINTS

AIRWAY SEGMENT			CHANGEOVER POINTS
FROM	TO	DISTANCE	FROM
J-103			
IS AMENDED BY ADDING			
ORMOND BEACH, FL VORTAC	SAVANNAH, GA VORTAC	80	ORMOND BEACH

[FR Doc. 84-26807 Filed 10-11-84; 8:45 am]
BILLING CODE 4910-13-C

14 CFR Part 97

[Docket No. 24269; Amdt. No. 1279]

Air Traffic and General Operating Rules; Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA-430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures Standards Branch (AFO-230), Air Transportation Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8277.

SUPPLEMENTARY INFORMATION:

This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4 and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application or new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

List of Subjects in 14 CFR Part 97

Approaches, Standard instrument, Aviation safety.

Adoption of the amendment

PART 97—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

§ 97.23 [Amended]

1. By amending § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN SIAPs identified as follows:

** * * Effective December 20, 1984*

Ruston, LA—Ruston Muni, VOR/DME RWY 16, Orig., Cancelled
Ruston, LA—Ruston Muni, VOR RWY 34, Amdt. 2, Cancelled

** * * Effective November 22, 1984*

Ocala, FL—Ocala Muni/Jim Taylor Field, VOR RWY 36, Amdt. 13
Lawrenceville, GA—Gwinnett County, VOR RWY 7, Amdt. 8
Lawrenceville, GA—Gwinnett County, VOR/DME RWY 25, Amdt. 4
Eureka, KS—Eureka Muni, VOR/DME RWY 18, Orig.
Lexington, KY—Blue Grass, VOR-A, Amdt. 5
Baltimore, MD—Baltimore-Washington Intl, VOR/DME RWY 22, Amdt. 7
Montevideo, MN—Montevideo-Chippewa County, VOR RWY 14, Amdt. 2
Moberly, MO—Omar N Bradley, VOR/DME-A, Amdt. 2
Lewistown, MT—Lewistown Muni, VOR RWY 7, Amdt. 9
Norfolk, NE—Karl Stefan Memorial, VOR RWY 1, Amdt. 4
Norfolk, NE—Karl Stefan Memorial, VOR RWY 13, Amdt. 4
Norfolk, NE—Karl Stefan Memorial, VOR RWY 19, Amdt. 4
Norfolk, NE—Karl Stefan Memorial, VOR RWY 31, Amdt. 4
Rochester, NH—Skyhaven, VOR-A Amdt. 3
Somerville, NJ—Somerset, VOR-A, Amdt. 1
Somerville, NJ—Somerset, VOR RWY 8, Amdt. 10
Vincentown, NJ—Red Lion, VOR-A, Amdt. 4
Woodward, OK—West Woodward, VOR/DME-A, Amdt. 5
Union City, TN—Everett-Stewart, VOR/DME-A, Amdt. 6

Dallas, TX—Redbird, VOR RWY 13, Amdt. 8
Dallas, TX—Redbird, VOR RWY 17, Amdt. 4
Dallas, TX—Redbird, VOR RWY 31, Amdt. 9

* * * *Effective October 2, 1984*

Lexington, NC—Lexington Muni, VOR/DME RWY 8, Amdt. 2

* * * *Effective September 24, 1984*

Gastonia, NC—Gastonia Muni, VOR/DME–A, Amdt. 3
Monroe, NC—Monroe, VOR–A, Amdt. 8
Monroe, NC—Monroe, VOR/DME–B, Amdt. 5
Waxhaw, NC—Jaars-Townsend, VOR/DME–A, Amdt. 2

* * * *Effective September 21, 1984*

Charlotte, NC—Charlotte/Douglas Intl, VOR/DME RWY 18R, Amdt. 4
Charlotte, NC—Charlotte/Douglas Intl, VOR/DME RWY 18L, Amdt. 4
Charlotte, NC—Charlotte/Douglas Intl, VOR/RWY 36L, Amdt. 3
Charlotte, NC—Charlotte/Douglas Intl, VOR/RWY 36R, Amdt. 3

§ 97.25 [Amended]

2. By amending § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, and SDF/DME SIAPs identified as follows:

* * * *Effective November 22, 1984*

Arlington, WA—Arlington Muni, LOC RWY 34, Amdt. 1

* * * *Effective September 27, 1984*

Greenville, TN—Greenville Muni, LOC RWY 5, Amdt. 2

* * * *Effective September 21, 1984*

Charlotte, NC—Charlotte/Douglas Intl, LOC BC RWY 23, Amdt. 4

§ 97.27 [Amended]

3. By amending § 97.27 NDB and NDB/DME SIAPs identified as follows:

* * * *Effective December 20, 1984*

DeQueen, AR—J Lynn Helms Sevier County, NDB RWY 8, Amdt. 4

* * * *Effective November 22, 1984*

Denver, CO—Centennial, NDB RWY 34R, Amdt. 6
Hartford, CT—Hartford-Brainard, NDB–B, Amdt. 6
Moberly, MO—Omar N Bradley, NDB RWY 13, Amdt. 3
Moberly, MO—Omar N Bradley, NDB RWY 31, Amdt. 3
Holdrege, NE—Brewster Field, NDB RWY 18, Amdt. 3
Roanoke Rapids, NC—Halifax County, NDB RWY 5, Amdt. 3
Holdenville, OK—Holdenville Muni, NDB RWY 17, Amdt. 1
Woodward, OK—West Woodward, NDB RWY 17, Amdt. 1
Rock Hill, SC—Bryant Field, NDB–C, Amdt. 1
Dallas, TX—Redbird, NDB RWY 35, Amdt. 6
Wichita Falls, TX—Kickapoo Downtown Airpark, NDB–A, Amdt. 4
Wichita Falls, TX—Kickapoo Downtown Airpark, NDB RWY 35, Amdt. 1
Arlington, VA—Arlington Muni, NDB RWY 34, Amdt. 1

* * * *Effective November 8, 1984*

Martinsville, VA—Blue Ridge, NDB RWY 30, Orig.
Martinsville, VA—Blue Ridge, NDB–A, Amdt. 3, Cancelled

* * * *Effective October 2, 1984*

Lexington, NC—Lexington Muni, NDB RWY 8, Amdt. 3

* * * *Effective September 27, 1984*

Greeneville, TN—Greeneville Muni, NDB RWY 5, Amdt. 1

* * * *Effective September 24, 1984*

Gastonia, NC—Gastonia Muni, NDB RWY 3, Amdt. 2
Shelby, NC—Shelby Muni, NDB RWY 5, Amdt. 3

* * * *Effective September 21, 1984*

Charlotte, NC—Charlotte/Douglas Intl, NDB RWY 5, Amdt. 28
Charlotte, NC—Charlotte/Douglas Intl, NDB RWY 23, Amdt. 4

§ 97.29 [Amended]

4. By amending § 97.29 ILS ILS/DME, ISMLS, MLS, MLS/DME and MLS/RNAV SIAPs identified as follows:

* * * *Effective November 22, 1984*

Denver, CO—Centennial, ILS RWY 34R, Amdt. 3
Norfolk, NE—Karl Stefan Memorial, ILS RWY 1, Amdt. 1
Greer, SC—Greenville-Spartanburg, ILS RWY 3, Amdt. 17
Dallas, TX—Redbird, ILS RWY 31, Amdt. 3
Mosinee, WI—Central Wisconsin, ILS RWY 8, Amdt. 8

* * * *Effective September 21, 1984*

Charlotte, NC—Charlotte/Douglas Intl, ILS RWY 18R Amdt. 3
Charlotte, NC—Charlotte/Douglas Intl, ILS RWY 36L Amdt. 7

§ 97.31 [Amended]

5. By amending § 97.31 RADAR SIAPs identified as follows:

* * * *Effective November 22, 1984*

Wichita Falls, TX—Kickapoo Downtown, RADAR–1, Amdt. 1

§ 97.33 [Amended]

6. By amending § 97.33 RNAV SIAPs identified as follows:

* * * *Effective November 22, 1984*

Denver, CO—Centennial, RNAV RWY 28, Amdt. 3
Middletown, DE—Summit Airpark, RNAV RWY 35, Amdt. 2
Baltimore, MD—Baltimore-Washington Intl, RNAV RWY 22, Amdt. 5
Moberly, MO—Omar N Bradley, RNAV RWY 13, Amdt. 1
Moberly, MO—Omar N Bradley, RNAV RWY 31, Amdt. 1
Somerville, NJ—Somerset, RNAV RWY 12, Amdt. 2
Tullahoma, TN—Tullahoma Muni, RNAV RWY 36, Amdt. 2
Midland, TX—Midland Regional, RNAV RWY 16R, Orig.
Midland, TX—Midland Regional, RNAV RWY 34L, Orig.
Wichita Falls, TX—Kickapoo Downtown Airpark, RNAV RWY 35, Amdt. 1

* * * *Effective September 27, 1984*

Blackwell, OK—Blackwell-Tonkawa Muni, RNAV RWY 35, Amdt. 2

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, and 1510); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.49(b)(3))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Note.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

Issued in Washington, D.C., on October 5, 1984.

Kenneth S. Hunt,

Director of Flight Operations.

[FR Doc. 84-26070 Filed 10-11-84; 8:45 am]
BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

14 CFR Part 221

[Reg. ER-1390; Economic Reg. Amdt. No. 66 to Part 221; Docket 42329]

Tariffs; Interpretative Amendment

AGENCY: Civil Aeronautics Board.

ACTION: Interpretative Amendment.

SUMMARY: The CAB is revising its rules concerning notice of baggage liability limitations in foreign air travel. Air carriers may now, if they choose, provide notice "with" their ticket, rather than on the ticket. This change is in response to a petition by USAir. It will give air carriers greater flexibility in their ticketing practices without reducing the effectiveness of notice to passengers.

DATES: Adopted: October 4, 1984. Effective: October 12, 1984.

FOR FURTHER INFORMATION CONTACT: Joanne Petrie, Office of the General Counsel, Civil Aeronautics Board, 1825

Connecticut Avenue, NW., Washington, D.C. 20428; 202–673–5442.

SUPPLEMENTARY INFORMATION:

14 CFR 221.176, *Notice of limited liability for baggage; alternative consolidated notice of liability limitation,* requires each air carrier or foreign air carrier that avails itself of limitations on liability for loss, damage or delay in the delivery of baggage in foreign air travel to provide a Board-mandated notice to passengers. The rule states that this notice shall be included "on" each ticket.

On July 5, 1984, USAir petitioned the Board to take action to allow the notice to be provided "on or with" tickets. The petitioner stated that it had decided to adopt an automated ticketing and boarding pass system to replace the existing ticketing format. It stated that under the new format, it would not be feasible to include the international notice of baggage liability limitations on each computer card. USAir suggested that carriers be permitted to provide the notice on a separate stuffer or on the ticket envelope.

In support of its petition, USAir noted that the Board currently allows other consumer protection notices to be included on or with the ticket. These notices include the notice of limited liability for death or injury under the Warsaw Convention (§ 221.175), domestic baggage liability (§ 254.5), overbooking of flights (§ 250.11), and notice of incorporated terms (§ 253.5).

The International Air Transport Association (IATA) supported the petition. It stated that the proposal would provide adequate consumer notice while avoiding unnecessary expense to the airlines. It argued that a passenger will read a stuffer or a ticket jacket as readily as a sheet of paper attached to the ticket. In addition, it noted that a notice on an extra sheet of paper attached to the ticket, rather than one separated from the ticket, is more difficult and costly for the industry to provide. IATA concluded that air carriers should be given the option of giving the notice on or with the ticket.

The Board agrees with USAir and IATA. The Board has permitted airlines to provide notices on or with the ticket for all the consumer protection rules except international baggage liability limitations. This rule is one of the Board's older rules and simply had not been updated to conform with other consumer rules.

In addition to the Board's desire to conform its rules, there are reasons why additional flexibility should be granted in this case. It may well be that allowing carriers the discretion to provide notices on or with the ticket will result in highlighted notices more apt to be seen by consumers. It is important that consumers be given the baggage notice at the time their ticket is issued. This revision to the baggage notice rule does not change that requirement. It simply will allow carriers the option of providing the notice or with the ticket.

It is found for good cause that notice and comment are unnecessary and not in the public interest, and that the rule should be effective upon publication in the **Federal Register.** It relieves a restriction by giving carriers slightly broader discretion in the placement of a notice, and conforms this rule with other, similar Board rules. An immediate effective date will also promote efficiency by allowing carriers that are ordering new stock to take immediate advantage of the new flexibility.

Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b), as added by the Regulatory Flexibility Act, Pub. L. 96–354, the Board certifies that this rule will not have a significant economic impact on a substantial number of small entities. The rule only applies to air carriers and foreign air carriers in foreign air transportation, almost all of which are not small entities within the meaning of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 221

Air rates and fares, Credit, Explosives, Freight, Handicapped.

PART 221—[AMENDED]

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 221, *Tariffs,* as follows:

1. The authority for Part 221 is:

Authority: Secs. 102, 204, 401, 402, 404, 411, 416, 1001, 1002, Pub. L. 85–726, as amended, 72 Stat. 740, 743, 754, 757, 758, 760, 769, 771, 788; 49 U.S.C. 1302, 1324, 1371, 1372, 1374, 1381, 1386, 1481, 1482.

2. Paragraph (b) of § 221.176 is amended to add the phrase "or with". The introductory text of paragraph (6) is revised to read as follows:

§ 221.176 Notice of limited liability for baggage; alternative consolidated notice of liability limitations.

* * * * *

(b) Each air carrier and foreign air carrier which, to any extent, avails itself of limitations of liability for loss of, damage to, or delay in delivery of, baggage shall include on or with each ticket issued in the United States or in a foreign country by it or its authorized agent, the following notice printed in at least 10 point type:

* * * * *

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84–27082 Filed 10–11–84; 8:45 am]

BILLING CODE 6320–01–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 33

Domestic Exchange-Traded Commodity Options

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of effective date of rule amendment.

SUMMARY: On August 24, 1984, the Commodity Futures Trading Commission ("Commission") published in the **Federal Register** an amendment to Regulation 33.4(a)(6) which will permit domestic boards of trade to be designated as a contract market for up to five options on futures contracts not involving the domestic agricultural commodities specifically enumerated in Section 2(a)(1)(A) of the Commodity Exchange Act ("Act") (7 U.S.C. 2). *See* 49 FR 33641; *see also* 49 FR 35010 (September 5, 1984) (correction). The Commission indicated, however, that the amendment would not become effective until the expiration of 30 calendar days of continuous session of Congress after the transmittal of the rule amendment and related materials to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry and the publication in the **Federal Register** of a notice of the effective date of the rule amendment.

The Congressional review period specified in section 4c(c) of the Act (7 U.S.C. 6c(c)) has now expired. Accordingly, the Commission now provides notice that the amendment to § 33.4(a)(6) of its regulations, as published at 49 FR 33641 and 49 FR 35010 became effective on October 5, 1984.

EFFECTIVE DATE: October 5, 1984.

FOR FURTHER INFORMATION CONTACT: Kenneth M. Rosenzweig, Associate Director, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C.20581 Telephone: (202) 254–8955.

List of Subjects in 17 CFR Part 33

Commodity options, Commodity futures, Commodity exchange designation procedures.

Issued in Washington, D.C. on October 9, 1984 by the Commission.

Jean A. Webb,

Acting Secretary of the Commission.

[FR Doc. 84-27015 Filed 10-11-84; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 436 and 442

[Docket No. 84N-0162]

Antibiotic Drugs; Ceforanide for Injection

Correction

In FR Doc. 84-16788 beginning on page 25845 in the issue of Monday, June 25, 1984, make the following corrections:

§ 436.20 [Corrected]

1. On page 25846, second column, § 436.20(d)(7), second line, "and" should read "add".

§ 436.349 [Corrected]

2. On page 25847, second column, § 436.349(e)(2), line five, "50°" should read "50° C".

3. On the same page, third column, § 436.349(g), in the explanation of "C_w" below the formula, line one, "millilter" should read "milliliter".

§ 442.50a [Corrected]

4. On the same page, third column, § 442.50a(a)(1), line seven, "(carboxymethyl" should read "(carboxymethyl)"; also in line eight, remove the comma following "(6*R-trans*)".

§§ 442.50a and 442.250 [Corrected]

5. On page 25848, the formulas appearing in § 442.50a(b)(1)(ii) in the first column and in § 442.250(b)(1)(ii)(*a*) in the third column were transposed. The formula appearing in column one should appear in column three, and the formula appearing in column three should appear in column one. The explanations following the formulas in each column appeared correctly.

§ 442.250 [Corrected]

6. On page 25849, first column, § 442.250(b)(1)(ii)(*b*), the second explanation below the formula that reads "A_w" should read "A_t".

7. On the same page, first column, § 442.250(b)(2), last line, remove the hyphen from "100-milliliters".

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 660

[FHWA Docket No. 84-2]

Forest Highways; Construction and Maintenance; Allocation of Funds

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: This final rule amends the FHWA regulation which prescribes procedures for the development and improvement of forest highways as it relates to the allocation of funds. This amendment has been developed in accordance with the criteria specified in section 126 of the Surface Transportation Assistance Act of 1982 (1982 STAA). The amendment provides for the allocation of the forest highway funds based upon the relative transportation needs of the national forest system. The Forest Service (FS) has participated in the development of this final rule, and the Chief of the Forest Service has concurred in the allocation method. For fiscal years 1985 and 1986, the allocation methods established by this final rule will apply only to the percentage of authorized funds as mandated by Title I, Chapter VI of the Supplemental Appropriations Act, 1984 (Pub. L. 98-396, 98 Stat. 1369) (Appropriations Act of 1984).

EFFECTIVE DATE: This final rule is effective October 12, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Allen W. Burden, Chief, Program Planning and Coordination, Office of Direct Federal Programs, (202) 426-0456, or Mr. Michael J. Laska, Attorney, Office of the Chief Counsel, (202) 426-0761, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: On January 6, 1983, the President signed into law the 1982 STAA (Pub. L. 97-424, 96 Stat. 2097). Section 126 of the 1982 STAA amends 23 U.S.C. 202 and requires the Secretary of Transportation to allocate forest highway funds according to the relative needs of the various elements of the National Forest System by taking into consideration the need for access as identified through renewable resource and land use planning and the impact of such planning on existing transportation facilities. Section 105 of the 1982 STAA increased authorization for forest highway funds from $33 million per year to $50 million per year.

In distributing funds prior to the 1982 STAA, including the funds made available under the FY 1983 Continuing Appropriations, the 1958 land area and land value formula were utilized for apportionments. The remaining forest highway funds, made available for FY 1983 under the 1982 STAA, were allocated using the previous apportionment values as an interim measure until such time as the relative needs of the various elements of the national forest system could be determined.

In 1983, the FHWA and the United States Forest Service (FS) jointly developed a new allocation method using values based on relative transportation needs of renewable resource outputs and costs for backlog of improvements on roads designated as forest highways. This new allocation method was used in FY 1984 with a protection provision that ensured each forest highway area will be allocated at least the amount of funds it received in FY 1982.

On March 27, 1984, the FHWA published a notice of proposed rulemaking (NPRM) at 49 FR 11681 requesting comments on proposed revisions to the procedures for the allocation of funds for the development and improvement of forest highways. The revised procedures had been developed in accordance with section 126 of the 1982 STAA. On May 15, 1984, a notice of correction to the NPRM and an extension of the comment period was published (49 FR 20517). This notice clarified the allocation formula for distribution of forest highway funds and extended the comment period until June 15, 1984.

In the March 27, 1984, **Federal Register** it was proposed that 23 CFR 660.107, apportionments, be revised to read as "Allocations" and that funds be allocated based upon relative needs of the various elements of the national forest system as determined by the relative percent of resource outputs and the relative percent of road related improvement costs attributed to forest traffic.

The allocation formula, as amended, which was proposed for utilization without any prior fiscal year protection values was as follows:

$$1/2\frac{(TV+RVD)}{2} + 1/2\ (K \times Cost \times \%\ FS\ Traffic).$$

Where
—TV is percent of total timber harvest volume.
—RVD is percent of total recreation visitors days.
—Cost is improvement cost to bring forest highways to a given standard.
—K is regional standardization factor based on ratio of relative percent resources outputs to relative percent forest related vehicle miles traveled.

The justification for reaching such a formula was explained in the NPRM as follows:

1. Timber Harvest Volumes (TV) and Recreation Visitors Days (RVD) are the two main National Forest's renewable resource outputs identified by land management planning as having a direct impact on forest highway transportation needs. Table 1 and Table 2 shows the relative percent of the national total in each State for TV and RVD respectively. This data was derived from current alternative data (May 1983) which will be used in the 1985 update of the Forest and Range Land Renewable Resources Planning Act Program. The tables have been expanded to nine decimals from those shown in the NPRM. Equal weight is being given to TV and RVD since both have similar impacts on relative transportation needs when expressed in units of 1 million cubic feet of harvested timber and 1 million recreational visitor days.

2. Standardized improvement cost factors were used which took into consideration road width, terrain, and type of improvement needed. Roads, which are designated as forest highways, are open to public travel. As such, these roads not only serve the national forest but other areas as well. The Federal responsibility to assist in the development and improvement of forest highways as related to the national forest can be expressed as the forest related cost. The forest related cost to improve a forest highway can be determined by multiplying the relative improvement costs by the percent of forest related traffic. When this is cumulated by forest highway areas, the relative costs of forest related improvements can be detemined and are summarized in Table 3. Table 3 values have been refined from those contained in the NPRM. In the NPRM, some North Carolina national forest data had been inadvertently included under Nebraska as well as under North Carolina. Also the values have been expanded to nine decimals.

3. Cost of improvements is indirectly related to forest highway mileage which is a product of forest highway route designation. To minimize the influence of forest highways route designation on the allocation of funds, a regional standardization factor (K) has been incorporated to ensure proper weight between benefits (resource outputs) and costs (forest highway investments) is achieved. The K value consists of relative percent of FS Regional resource outputs (TV+RVD) divided by relative percent of forest related vehicle miles of travel (VMT). For a specific area where the relative percent of resource output is constant, as the forest highway mileage is increased or decreased, VMT increases or decreases, and the "K" factor will decrease or increase respectively. When the relative forest related improvement costs are multiplied by this factor, the relative improvement costs are placed in proper balance with resource outputs. The K values are shown in Table 4. Idaho, Wyoming, and California have different K factors for the portions that are in different FS regions. Also, the K values have been refined from those contained in the NPRM to reflect to the correct April 1, 1983, a percent FH vehicle mile travel (VMT) data. The VMT data used in the NPRM calculations was based upon June 1983 data which had some incorrect FH mileage entries. The table has also been expanded to nine decimals.

When the forest related cost of improvement in Table 3 is multiplied by the K values in Table 4 and the product is added for all forest highway areas, the total is 96.835978351 percent. These values then can be normalized by factor of 100 divided by 96.835978351. The normalized values for (K × Cost × % FS Traffic) as shown in Table 5.

ALLOCATION FACTORS

State boundary	Table 1 percent TV	Table 2 percent RVD	Table 3 cost × percent FS traffic (percent)	Table 4 K	Table 5 normalized K × cost × percent FS traffic (percent)
Alabama	0.664834678	0.503229053	1.762590126	0.681743590	1.240896762
Alaska	4.042194841	2.096787721	.956205881	2.526184045	2.494477860
Arizona	3.550217179	7.171014007	3.844031490	1.579018701	6.268122358
Arkansas	1.405017286	.880650843	2.121396701	.681743590	1.493503373
California:					
Reg. 4	.062051237	1.090329615	.359140982	.887786436	.329265722
Reg. 5	12.024643205	21.177555984	5.161033556	.962579834	5.130228360
Colorado	1.626628845	9.477480500	9.905545847	1.141046244	11.671990180
Florida	.598351210	1.132265369	1.188900536	.681743590	.837008446
Georgia	.531867742	.964522352	.496383669	.681743590	.350871523
Idaho:					
Reg. 1	5.589043525	2.348402248	2.833587650	1.583415724	4.633347354
Reg. 4	2.273734598	4.151639688	2.665134336	.887786436	2.626737958
Illinois	.137399167	.377421790	.915425270	.476452109	.450407265
Indiana	.075347930	.377421790	.638372461	.476452109	.314091839
Kentucky	.335849570	1.174201124	.694038995	.681743590	.488616570
Louisiana	1.285347044	.251614527	.230026916	.681743590	.161943296
Maine	.068544624	.020967877	.101741609	.476452109	.050058878
Michigan	1.400585055	2.600016774	3.171441787	.476452109	1.560411898
Minnesota	1.050438791	2.054851967	5.506818274	.476452109	2.709463182
Mississippi	1.950181721	.461293299	1.684654975	.681743590	1.186028943
Missouri	.443223119	.880650843	1.897423149	.476452109	.933569505
Montana	6.302632745	3.522603372	6.143700483	1.583415724	10.045885955
Nebraska	0	.125807263	.297442958	1.141046244	.350485611
Nevada	0	.838715088	.958456912	.887786436	.876707543
New Hampshire	.208314886	1.006458106	.727294462	.476452109	.357843217
New Mexico	1.746299087	2.641952529	3.411755823	1.579018701	5.563248639
North Carolina	.542573522	2.348402248	4.886695760	.681743590	3.440326176
North Dakota	0	0	.956394041	1.583415724	1.563849913
Ohio	.062051237	.209678772	.998622325	.476452109	.491341876
Oklahoma	.234908253	.125807263	.448726981	.681743590	.315912276
Oregon	31.180746388	7.548435796	9.450055209	1.287016076	8.572562478
Pennsylvania	.381171882	.964522352	1.021777893	.476452109	.502734872
South Carolina	.797801613	.419357544	.720987504	.681743590	.507586830
South Dakota	1.334101587	.905812296	1.419605579	1.141046244	1.672762171
Tennessee	.323552877	.964522352	1.652347509	.681743590	1.163283876
Texas	.842123925	.838715088	1.530320945	.681743590	1.077374869
Utah	.523003280	6.374234672	3.154169269	.887786436	2.891723450
Vermont	.124102473	.335486035	.337918631	.476452109	.166262630
Virginia	.496402893	1.803237440	5.343487006	.681743590	3.761915846
Washington	13.824129067	5.703262602	5.149971568	1.287016076	6.844662812
West Virginia	.274798333	.587100562	3.113158546	.476452109	1.531735394
Wisconsin	.961794167	.712907825	3.334766793	.476452109	1.640771022
Wyoming:					
Reg. 2	.385604113	1.216136878	1.068857375	1.141046244	1.283032029
Reg. 4	.212747097	1.383879896	.381331290	.887786436	.349602237
Puerto Rico	.004432231	.230646649	.135429436	.681743590	.095344883
Totals	100.000000000	99.999999809	99.999176508	N/A	100.000000000

In FY 1984, forest highway funds were distributed on a FS region basis to allow flexibility as required in certain States to meet project funding and scheduling needs. The allocation on a FS region basis does not require that the annual distribution of funds by State boundary be expended in that State that year. Transfer of funds on a borrow basis between States is allowed in order to maximize use of all available funds. Each State will be assured that over a 3 year period (FY 1984, FY 1985, and FY 1986), the total allocated funds will be available for use on forest highways within that State boundary. Any temporary transfer (borrow) of funds shall have the concurrence of the FS and State highway administrations (SHAs) affected by the transfer. The FHWA Direct Federal Division Engineer will ensure that credits are appropriately established within the overall approved forest highway program plans and schedules. Table 6 shows the regional allocation of funds for forest highways including a breakdown by State boundary.

TABLE 6. ALLOCATION

$$1/2\,\frac{(TV+RVD)}{2}+1/2\,(K \times Cost \times \% \text{ FS Traffic}).$$

Forest Service region	State	State percentage	Regional percentage
1	Idaho	4.301035120	
	Montana	7.479252007	
	North Dakota	781924956	12.562212083
2	South Dakota	1.396359556	
	Colorado	8.612022426	
	Wyoming	1.041951262	
	Nebraska	206694621	11.257027866
3	Arizona	5.814368976	
	New Mexico	3.878687224	9.693056199
4	Utah	3.170171213	
	Idaho	2.919712561	
	Wyoming	573957867	
	Nevada	649032543	
	California	452726074	7.765602248
5	California	10.865663977	10.865663977
6	Oregon	13.968576785	
	Washington	8.304179323	22.272756108
8	Alabama	912464314	
	Arkansas	1.318168719	
	Florida	851158369	
	Georgia	549533285	
	Kentucky	622070959	
	Louisiana	465212041	
	Mississippi	1.195883227	
	North Carolina	2.467932030	
	Oklahoma	248135017	
	South Carolina	558084204	
	Tennessee	300660745	
	Texas	958897188	
	Virginia	2.455869756	
	Puerto Rico	.106442161	13.613512015
9	Illinois	.351005882	
	Indiana	.270238350	
	Maine	.052432564	
	Michigan	1.780356406	
	Minnesota	2.131054281	
	Missouri	.797753293	
	New Hampshire	.482614852	
	Ohio	.313603440	
	Pennsylvania	.587790995	
	Vermont	.198028442	
	West Virginia	.981342421	
	Wisconsin	1.239061009	9.186184934
10	Alaska	2.781984570	2.781984570
Totals		100.000000000	100.000000000

Discussion of Comments

Fifty comments were received in response to the NPRM issued on March 27, 1984. Comments were submitted by representatives from the following interest groups: 4 Congressional, 21 State highway agencies, 20 local government agencies and 5 timber associations. The majority of the comments (35) expressed support for the proposed FH allocation method. Most of the affirmative responses indicated that the proposed allocation method met the intent of the statutory requirement for relative transportation need. There were 15 commenters who expressed opposition or offered revision to the method of allocation.

Three commenters indicated that their share of Forest Highway funds will decrease with the proposed fund allocation method and suggested that the FY 1982 protection be included in the proposed fund allocation. Chapter VI of Title I (Pub. L. 98-396, Stat. 136) Supplemental Appropriations Act of 1984, enacted on August 23, contained provisions for allocating the first $33 million of FH funds using the 1958 forest land area and land value factors. This provision is being adopted. The $33 million portion provides the FY 1982 funding level protection.

One commenter indicated that the very general nature of the proposed regulation leaves the method of determining needs as a basis of allocation entirely too open to interpretation by Federal Highway Administration (FHWA). The method of needs determination under the proposed allocation formula is not available for interpretation by FHWA.

Timber and recreation values were provided by the Forest Service based upon the Resources Planning Act (RPA) which is updated every 5 years. The percent Forest-related traffic and average daily traffic were provided by the State for Forest Service. The cost information was based on the April 1, 1983, conditions of the FH route, type of improvements to bring the route up to a uniform standard, and standardized improvement costs which took into consideration type of improvement and terrain. Based on the above available data, FHWA performed the mathematic calculations required for the allocation formula.

Six commenters suggested that the proposed allocation method contain land area as one of the factors. Two of these comments indicated that land area is a recognized indicator of need and has been widely used in apportionment formulas such as primary and secondary

road system formulas. Two others indicated that large tracts of roadless areas are under consideration for wilderness designation. After such designation much of this land will be released for resource development and Forest Highway routes will be needed to serve the areas.

Land area was considered as a factor during the development of the allocation formula. It was rejected because land area in itself does not generate traffic or need for access. As an example, grazing lands in the west occupy large areas of National Forest that have no potential for timber growth nor are attractive for recreation use. Therefore, the use of this land constitutes a very low traffic generating resource. This is contrasted with National Forest lands that adjoin large population areas, are heavily utilized for recreating or could produce high volumes of timber. These areas represent high traffic generators on very small national forest acreage.

Many national forest areas throughout the country are equally affected by proposed wilderness designation. States will have an opportunity to designate new routes when the undeveloped forest land is released. Since the Supplemental Appropriations Act of 1984 provision is being adopted, land area has been included in allocating the $33 million portion of FH funds.

One commenter was concerned that timber harvest values obtained from the updated forest resource management plans were based on timber production records for a period of time when wood used in construction was down and nonstructural outputs were normal. The timber harvest value used in the allocation formula is based on current trends of timber volumes offered for sale, not sold. These volumes are based on long-term sustained yields of the timber resource and do not vary due to short-term economic fluctuations in the value of timber purchased or harvested within a geographic area of the country.

Resource data used in the timber and recreation elements comes from Resources Planning Act (RPA) data which is based on long-term capacities of the forest land to produce these renewable resources. The RPA program takes into consideration 50 years into the future. The RPA program is updated every 5 years and provisions will be made to modify the allocation formula values as projected estimates of resource uses change with time.

Five commenters expressed concern with the damage caused by heavy trucks. Four commenters questioned the fact that equal weight was being given to recreation visitor day (RVD) and timber volumes (TV). One commenter indicated that timber is more important to the economy and should be weighted heavier. Two commenters indicated that equal weighting between TV and RVD ignores the impact of heavily loaded very large timber vehicles on safety, geometric width, and structural design of forest transportation facilities. One commenter suggested that TV should be given a 60 percent weighting and RVD 40 percent.

The typical section used during the forest highway inventory provided up to 12 feet wide travel lane plus shoulder width which would safely accommodate large trucks and recreational vehicles. The standardized cost figures contained in the proposed allocation method were based upon this typical highway design. Generally, the wider typical section is desirable for both large trucks, recreational motor homes, and other recreational traffic. Therefore, the desirable typical section is the same for both timber and recreational type vehicles. The increased cost of the pavement structure thickness in new construction and reconstruction projects, to accommodate varying amounts of trucks and recreational vehicles, is a relatively small percentage of the overall cost needs. Also there is a built-in weighting of the two forest related output factors expressed in terms of unit measurements which can be correlated to the approximate type and number of vehicles and their respective induced design/improvement costs on the facility.

Forest highway mileage as an alocation factor was mentioned by three commenters. One commenter indicated that the route designations were not representative of forest highway (FH) mileage in its area, and the needs study did not consider the additional routes designated after the inventory study was initiated. Other commenters indicated that the mileage used was not representative of its FH network and that some States have a disproportionate ratio of mileage to national forest area.

The FH mileage is not used as a direct factor in the proposed allocation method because these designated routes do not constitute a fixed highway system or network. The mileage can decrease or increase as designated routes are removed or added in accordance with 23 CFR 660.105. The cost factor is related to FH mileage but the potential to influence allocation of funds by designating additional FH routes has been minimized by multiplying the factor by a regional standardization factor K and by the percent forest service traffic. Prior to beginning the FH inventory and needs study, an April 1, 1983, deadline was established to have FH route designations completed. The FH routes designated by a few States after the study began were not included in this allocation formula because all forest areas had not been given an opportunity to modify FH route designations. The validity of this study would have been totally compromised if the opportunity to modify mileage was allowed.

One commenter applauded the use of the K factor and the forest related traffic to remove distortions from the cost of improvements data. It was recommended that the use of the K factor be used on a State-by-State basis rather than on a Forest Service (FS) region basis. Also no maximum cap should be placed on the K.

The maximum cap of 2.0 was placed on FS Region 10. At the time K values were being calculated, an error in the placement of a decimal point in the percent vehicle mileage travel was made. It resulted in a K value of approximately 30. Since the K factor was intended to be a minor adjustment to the basic cost x percent FS traffic factors, a cap of 2.0 was assigned. This cap value was used since all other K factors ranged from 0.45 to 1.78. While reviewing the output of an independent computer run, the above error was discovered. The uncapped factor of 2.526184045 will be used in the allocation method.

In several national forest areas, the amount of designated FH mileage is much lower than other areas. When these routes also have a lower percentage of forest-related traffic, the local percentage of vehicle mileage travel becomes statistically insignificant. When this small value is used in the calculations, an unusually large K value (5.0 to 9.0) is obtained, which would incorrectly influence the allocation method. Since the allocation is being made based upon Forest Service Regional Areas and because some individual or subregional areas have small vehicle mileage travel, a regional K factor will be used.

Two commenters indicated that the formula ignores providing access to nonrenewable resources. Nonrenewable resources were not used because Section 202 of the 1982 STAA emphasizes that the need for access as identified by the Secretary of Agriculture through renewable resources and land use planning is to be considered.

Two commenters indicated that the change in the allocation adversely affects the economy of rural communities and requested that the new formula not be adopted. The allocation

method was developed based upon section 202 of the 1982 STAA requiring that funds be allocated based upon *relative transportation needs* taking into consideration the transportation needs identified through land management planning by the Forest Service (emphasis added). Although the allocation formula has regional impacts, it does not affect local economies of any single community to the same extent as the process of identifying needed improvements and developing the priority program of projects.

Chapter VI of the Supplemental Appropriations Act of 1984 requires allocating the first $33 million of FH funds using the 1958 forest land area and land value factors and allocating the remaining $17 million pursuant to 23 U.S.C. 202(a).

Based on a further review and on the analysis of the comments submitted to the public docket, the FHWA is adopting the allocation formula proposed in the March 27, 1984, NPRM, as amended by the May 15, 1984, correction notice, as meeting the requirements of 23 U.S.C. 202(a).

Table 7 shows the 1958 forest land area and land value percentages for allocating the first $33 million portion of FH funds.

TABLE 7.—1958 FOREST LAND AREA AND LAND VALUE (PERCENTAGE)

Forest service region	State	State percentage	Regional percentage
1	Idaho	3.447952936	
	Montana	7.971404692	
	North Dakota	.000355276	11.419712904
2	South Dakota	.783466725	
	Colorado	7.181555693	
	Wyoming	2.362953568	
	Nebraska	.093349879	10.421325865
3	Arizona	5.628831492	
	New Mexico	4.007189852	9.636021344
4	Utah	3.321052039	
	Idaho	8.733842240	
	Wyoming	1.902975499	
	Nevada	1.783900405	
	California	.736878110	14.487648293
5	California	13.585832040	13.585832040
6	Oregon	13.775946263	
	Washington	6.950563774	20.726510037
8	Alabama	.286361672	
	Arkansas	1.359457696	
	Florida	.580918680	
	Georgia	.362318266	
	Kentucky	.205567244	
	Louisiana	.230754577	
	Mississippi	.471745177	
	North Carolina	.616128735	
	Oklahoma	.088967689	
	South Carolina	.327826871	
	Tennessee	.335229179	
	Texas	.316562741	
	Virginia	.650290803	
	Puerto Rico	.028203250	5.830332390
9	Illinois	.115255323	
	Indiana	.067035762	
	Maine	.037454065	
	Michigan	1.073085574	
	Minnesota	1.382975325	
	Missouri	.511104001	
	New Hampshire	.534385353	
	Ohio	.054763867	
	Pennsylvania	.266899871	
	Vermont	.178926802	
	West Virginia	.394636101	
	Wisconsin	.559242206	5.175764278
10	Alaska	8.718852849	8.718852849
Totals		100.000000000	100.000000000

Table 8 shows the FY 1958 and FY 1986 FH fund allocation percentages which meets the provision of the Supplemental Appropriations Act of 1984. Funds are being allocated by FS region, with a provision to transfer funds on a borrow basis, as proposed in the March 27, 1984, NPRM. Table 8 is computed as follows:

[(17/50 × (Table 6 Values)] + [(33/50) × (Table 7 Values)]

TABLE 8.—FOREST HIGHWAY FUND ALLOCATION

[(17/50)×(table 6 percent values)]+[(33/50)×(table 7 percent values)]

Forest service region	State	State percentage	Regional percentage
1	Idaho	3.739000679	
	Montana	7.804072779	
	North Dakota	.268088967	11.808162625
2	South Dakota	.991850288	
	Colorado	7.667914382	
	Wyoming	1.913812784	
	Nebraska	.131887091	10.705464545
3	Arizona	5.691914236	
	New Mexico	3.983498959	9.655413195
4	Utah	3.269752558	
	Idaho	5.437038146	
	Wyoming	1.451109504	
	Nevada	1.404845332	
	California	.639607098	12.202152638
5	California	12.680974899	12.680974899
6	Oregon	13.841440640	
	Washington	7.410793061	21.252233701
8	Alabama	.498236570	
	Arkansas	1.345419444	
	Florida	.672800181	
	Georgia	.419371372	
	Kentucky	.347178507	
	Louisiana	.310470115	
	Mississippi	.717952114	
	North Carolina	1.245741855	
	Oklahoma	.137935377	
	South Carolina	.406114232	
	Tennessee	.528495912	
	Texas	.534956453	
	Virginia	1.264187647	
	Puerto Rico	.056406500	8.476613462
9	Illinois	.196397533	
	Indiana	.135124642	
	Maine	.042546773	
	Michigan	1.313557657	
	Minnesota	1.637322170	
	Missouri	.808564760	
	New Hampshire	.516783383	
	Ohio	.142769322	
	Pennsylvania	.376002853	
	Vermont	.185421360	
	West Virginia	.594116250	
	Wisconsin	.790360599	6.539967301
10	Alaska	6.698997634	6.698997634
Totals		100.000000000	100.000000000

Since the procedures for program and project selection (23 CFR 660.109) are not being changed, it is not anticipated that this rule will have a national significant economic effect. Accordingly, a full regulatory evaluation is not required. For the foregoing reasons and under the criteria of the Regulatory Flexibility Act, the FHWA certifies that this rule will not have a significant economic impact on a substantial number of small entities.

The FHWA has determined that this document contains neither a major rule under Executive Order 12291 nor a significant rule under the regulatory policies and procedures of the Department of Transportation.

In order for the States to adequately plan for and utilize authorized funds for FY 1985, it is important for the allocations to be made as soon as possible beginning October 1. Therefore, the FHWA finds good cause to waive the 30-day delay in effective date and this final rule will become effective upon publication in the **Federal Register**.

In consideration of the foregoing and under the authority of section 126 of the 1982 Surface Transportation Assistance Act, 23 U.S.C. 202 and 49 CFR 1.48(b), the FHWA is amending Part 660 of Title 23, Code of Federal Regulations, by revising Subpart A, § 660.107, as set forth below.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

List of Subjects in 23 CFR Part 660

Forest highways, Highways and roads.

Issued: October 5, 1984.

L.P. Lamm,

Deputy Federal Highway Administrator, Federal Highway Administration.

PART 660—SPECIAL PROGRAMS (DIRECT FEDERAL)

Section 660.107 of 23 CFR is revised to read as follows:

§ 660.107 Allocations.

On October 1 of each fiscal year, the FHWA will allocate funds for forest highways using values based on relative transportation needs of the various elements of the national forest system, after deducting such sums as deemed necessary for the administrative requirements of the FHWA; the necessary expenses of the FS; and the necessary costs of forest highway planning studies.

[FR Doc. 84-27084 Filed 10-11-84; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7983]

Transition Rules for DISCs and FSCs

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations relating to the transition rules for Domestic International Sales Corporations (DISCs) and Foreign Sales Corporations (FSCs), specifically relating to elections for FSCs, small FSCs and interest charge DISCs, conformity of accounting period for FSCs (or interest charge DISCs) and their principal shareholders, and termination of a DISC and forgiveness of tax on a DISC's accumulated DISC income.

These temporary regulations provide taxpayers with the guidance necessary to obtain initial qualification under the foreign sales corporation (FSC) provisions of the Tax Reform Act of 1984.

DATE: The regulations are, in general, effective for taxable years beginning after December 31, 1984.

FOR FURTHER INFORMATION CONTACT: Jacob Feldman of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T (LR-146-34), 202-566-3289.

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SUPPLEMENTARY INFORMATION:

Background

Present law provides a system of tax deferral for the export income of Domestic International Sales Corporations (DISCs) and their shareholders. A DISC is a U.S. corporation which is engaged in exporting property produced in the United States. A DISC is generally able to defer 42.5 percent of DISC income that exceeds the average DISC income for a base period. Deferral is provided for both export profits and export investment income. The tax on accumulated DISC income (the amount of untaxed income of the DISC) may be deferred indefinitely until the income is actually distributed unless the DISC fails to qualify as a DISC.

Under sections 801 through 805 of the Tax Reform Act of 1984, the DISC election is terminated as of December 31, 1984, and the DISC provisions are replaced by Foreign Sales Corporation (FSC) provisions. Unlike a DISC, a FSC must be a foreign corporation. In addition, if the FSC satisfies certain foreign management and economic processes tests, a portion of the FSC's income attributable to export profits but not export investment income will be tax exempt (generally an amount equal to 15 percent of the combined taxable income of the FSC and its related supplier).

These temporary regulations are presented in the form of questions and answers. The questions and answers are not intended to address comprehensively the issues raised by sections 803 and 805 of the Tax Reform Act of 1984. Taxpayers may rely for guidance on these questions and answers, which the Internal Revenue Service will follow in resolving issues arising under sections 801, 803 and 805. No inference, however, should be drawn regarding questions not expressly raised and answered.

Discussion

This regulation deals with transition rules for DISCs and FSCs and is divided into three separate parts. Paragraph (a) of § 1.921–1T deals with termination of a DISC. Paragraph (b) deals with establishing and electing status as a FSC, small FSC and interest charge DISC and paragraph (c) deals with export trade corporations.

The DISC's 1984 taxable year shall be deemed to terminate on December 31, 1984, and this termination shall be treated as a revocation of the DISC election; so that, even if a DISC decides to continue as an interest charge DISC, a new election will be necessary. If the DISC's termination results in a short taxable year, the export gross receipts for the current taxable year must be annualized in computing the distribution under section 995(b)(1)(E) for 1984. For the DISC's taxable year beginning in 1984, all of the DISC provisions apply except for the qualified export assets test under section 992(a)(1)(B). In addition, a related supplier need not pay DISC accounts receivable arising from commissions payable to a DISC with respect to the DISC's last taxable year.

In general, all corporations which qualify as DISCs on December 31, 1984 will be able to treat their accumulated DISC income as previously taxed income and, therefore, make tax-free distributions. An exception is made for DISCs which were previously disqualified, but are requalified on December 31, 1984, and for deficiency distributions made pursuant to audit adjustments after December 31, 1984. In such cases, the accumulated DISC income previously required to be recaptured or to be distributed to cure a deficiency will not be treated as previously taxed income. In addition, the DISC's deemed distributions for its last taxable year will be taken by the DISC's shareholders into income in equal installments over a 10 year period unless the shareholder elects to accelerate the income inclusion. Unless the shareholder has more than one taxable year beginning in 1984, the installments will not be included in the shareholder's income until the shareholder's taxable year beginning in 1985. The shareholder will be required to attach a statement to its first tax return with respect to which an installment is includable in income indicating its pro rata share of the DISC's deemed distribution and the period over which the amount will be paid.

A corporation electing to be treated as a FSC, small FSC or interest charge DISC for its first taxable year shall make an election within 90 days after the beginning of its first taxable year in a manner similar to a DISC election. Since section 803 of the Tax Reform Act of 1984 requires that the FSC, small FSC or interest charge DISC must adopt the same taxable year as its principal shareholder (*i.e.*, shareholder with the highest percentage of voting power), rules are provided permitting a taxpayer to make an election for taxable years beginning after December 31, 1984 and to close its taxable year so as to conform to that of its principal shareholder. In addition, rules are provided in the event the principal shareholder changes its annual accounting period or there is a new principal shareholder. Finally, rules are provided to permit the transfer of certain of the DISC's assets to a FSC without incurring tax liability as a consequence of section 367. For this purpose, an interest charge DISC is considered a continuation of the prior DISC. Paragraph (b) also provides special rules for applying the foreign presence and economic processes tests for certain long-term contracts.

Paragraph (c) provides rules with respect to export trade corporations. A corporation which qualifies as an export trade corporation with respect to its last taxable year beginning before January 1, 1985, may elect to discontinue operations as an export trade corporation in which case its earnings attributable to previously excluded export trade income will be forgiven. In addition, an export trade corporation may make a separate election to be treated as a FSC. If the latter election is made, rules are provided to permit an export trade corporation to transfer its assets to a FSC in a nonrecognition transaction.

In addition, the current regulations under sections 921 and 922 involving Western Hemisphere Trade Corporations (WHTCs) have been removed since these sections of the Code have been repealed.

Nonapplicability of Executive Order 12291

The Treasury Department has determined that these temporary regulations are not subject to review under Executive Order 12291 or the Treasury and OMB implementation of the Order dated April 20, 1983. Accordingly, a Regulatory Impact Analysis is not required.

Regulatory Flexibility Act

No general notice of proposed rulemaking is required by 5 U.S.C. 553(b) for temporary regulations. Accordingly, the Regulatory Flexibility Act does not apply and no Regulatory Flexibility Analysis is required for this rule.

Paperwork Reduction Act

These regulations were submitted to the Office of Management and Budget for review under the Paperwork Reduction Act and approved. The OMB number is 1545–0884.

Drafting Information

The principal author of these regulations is Jacob Feldman of the Legislation and Regulations Division,

Office of the Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing these regulations, both on matters of substance and style.

List of Subjects in 26 CFR §§ 1.861–1 through 1.997–1

Income taxes, Aliens, Exports, DISC, FSC, Foreign investments in U.S., Foreign tax credit, Source of income, United States investments abroad.

Amendments to the Regulations

The Income Tax Regulations (26 CFR Part 1) are amended as follows:

PART 1—[AMENDED]

Paragraph 1. A new § 1.921–1T is added immediately after § 1.912–2 to read as follows:

§ 1.921–1T Temporary regulations providing transition rules for DISCs and FSCs.

(a) *Termination of a DISC*—(1) *At end of 1984.*

Question 1: What is the effect of the termination on December 31, 1984 of a DISC's taxable year?

Answer 1: Without regard to the annual accounting period of the DISC, the last taxable year of each DISC beginning during 1984 shall be deemed to close on December 31, 1984. The corporation's DISC election also shall be deemed revoked at the close of business on December 31, 1984. (A DISC that does not elect to be an interest charge DISC as of January 1, 1985, in addition to a corporation described in section 992(a)(3), shall be referred to as a "former DISC".) A corporation which wishes to be treated as a FSC, a small FSC, or an interest charge DISC must make an election as provided under paragraph (b) (Q & A #1) of this section.

(2) Deemed distributions for short taxable years.

Question 2: If the termination of the DISC's taxable year on December 31, 1984, results in a short taxable year, how are the deemed distributions under section 995(b)(1)(E) determined?

Answer 2: The deemed distributions are determined on the basis of the DISC's taxable income for its short taxable year ending on December 31, 1984. In computing the incremental distribution under section 995(b)(1)(E), the export gross receipts for the short taxable year must be annualized.

(3) Qualification as a DISC for 1984.

Question 3: Must the DISC satisfy all the tests set forth in section 992(a)(1) for the DISC's taxable year ending December 31, 1984?

Answer 3: All of the tests under section 992(a)(1), except the qualified assets test under section 992(a)(1)(B), must be satisfied.

(4) Commissions for 1984.

Question 4: Must commissions be paid by a related supplier to a DISC with respect to the DISC's taxable year ending December 31, 1984?

Answer 4: No.

(5) Producer's loans of 1984.

Question 5: Must the producer's loan rules under section 993(d) be satisfied with respect to the DISC's taxable year ending December 31, 1984?

Answer 5: Yes.

(6) Accumulated DISC income.

Question 6: Under what circumstances is any remaining accumulated DISC income treated as previously taxed income (and not taxed)?

Answer 6: The accumulated DISC income of a DISC (but not a DISC described in section 992(a)(3)) as of December 31, 1984, is treated as previously taxed income when actually distributed after December 31, 1984. Any amounts distributed by the former DISC after December 31, 1984, shall be treated as made first out of current earnings and profits and then out of previously taxed income to the extent thereof.

If property other than money is distributed and if such property was a qualified export asset within the meaning of section 993(b) on December 31, 1984, then for purposes of section 311, no gain or loss will be recognized on the distribution and the distributee will have the same basis in the property as the distributor.

Question 7: May a DISC that was previously disqualified, but has requalified as of December 31, 1984, treat any accumulated DISC income as previously taxed income?

Answer 7: If a DISC was previously disqualified, but has requalified as of December 31, 1984, any accumulated DISC income previously required to be taken into income upon prior disqualification shall not be treated as previously taxed income. All accumulated DISC income derived since requalification, however, will be treated as previously taxed income.

(7) Distribution of previously taxed income.

Question 8: What effect will the distribution of previously taxed income have on the earnings and profits of corporate shareholders of the former DISC?

Answer 8: The earnings and profits of the corporate shareholders of the former DISC will be increased by the amount of money and the adjusted basis of any property which is distributed out of previously taxed income.

Question 9: Will the distribution of the former DISC's accumulated DISC income as previously taxed income after December 31, 1984, result in a reduction in the shareholder's basis of the stock of the former DISC and consequent taxation of the excess of the distribution over such basis as capital gain under section 996(d)?

Answer 9: No. This distribution will be treated both as amounts representing deemed distributions under section 995(b)(1) and as previously taxed income. Thus, no capital gain will arise.

(8) Qualifying distributions.

Question 10: How is a qualifying distribution to satisfy the qualified export receipts tests under section 992(c)(1)(A) which is made with respect to the DISC's taxable year ending on December 31, 1984, treated?

Answer 10: The distribution will not be treated as previously taxed income but will be taxed to the shareholder of the former DISC, as provided under section 992(c) and 996(a)(2) and the regulations thereunder, in the shareholder's taxable year in which the distribution is made.

(9) Deficiency distributions.

Question 11: With respect to an audit adjustment made after December 31, 1984, may a deficiency distribution be made, and if so, in what manner may it be made?

Answer 11: A deficiency distribution may be made notwithstanding the fact that after December 31, 1984 the former DISC is a taxable corporation under Subchapter C, has elected to be treated as an interest charge DISC, or has been liquidated, reorganized or is otherwise no longer in existence. However, such deficiency distribution shall be treated as made out of accumulated DISC income which is not previously taxed income because it will be treated as distributed prior to December 31, 1984 to the DISC's shareholders.

(10) Deemed distribution for 1984.

Question 12: How is the deemed distribution to a shareholder for the DISC's taxable year ending December 31, 1984, taken into account?

Answer 12: The deemed distribution under section 995(b) with respect to the DISC's taxable year ending December 31, 1984, shall be deemed distributed to the shareholder in 10 equal annual installments (unless the shareholder elects to include the deemed distributions in income over a shorter period). The first annual installment shall be deemed distributed (1) in the shareholder's second taxable year beginning in 1984, or (2) in the

shareholder's first taxable year beginning in 1985, if the shareholder had no more than one taxable year beginning in 1984. The shareholder shall attach a statement to its tax return for its first taxable year for which an installment is deemed distributed indicating the amount of the shareholder's pro rata share of the DISC's deemed distribution for 1984 and the period, if less than 10 years, over which the shareholder wishes to spread its pro rata share of the deemed distribution for 1984. For purposes of estimated taxes, the deemed distribution will be treated as income of the shareholder over the period selected.

(11) Conformity of accounting period.

Question 13: May a DISC be established or change its annual accounting period for taxable years beginning after March 21, 1984, and before January 1, 1985?

Answer 13: A DISC that is established or that changes its annual accounting period after March 21, 1984, must conform its annual accounting period to that of its principal shareholder (the shareholder with the highest percentage of voting power as defined in section 441(h)).

(12) DISC gains and distributions from U.S. sources.

Question 14: What is the effective date of the amendment to section 996(g), made by section 801(d)(10) of the Tax Reform Act of 1984, which treats certain DISC gains and distributions as derived from sources within the United States?

Answer 14: Under section 805(a)(3) of the Act, the amendment to section 996(g) shall apply to all gains referred to in section 995(c) and all distributions out of accumulated DISC income including deemed distributions made on or after June 22, 1984.

(b) *Establishing and electing status as a FSC, small FSC or interest charge DISC*—(1) *Ninety-day period.*

Question 1: How does a corporation elect to be treated as a FSC, a small FSC, or an interest charge DISC?

Answer 1: A FSC, a small FSC, or an interest charge DISC must make an election on Form 8279 for a FSC or small FSC and Form 4876A for an interest charge DISC. A corporation electing to be treated as a FSC, a small FSC, or an interest charge DISC for its first taxable year as a FSC, small FSC, or interest charge DISC, respectively, shall make its election within 90 days after the beginning of such taxable year. In the case of a corporation electing for its first taxable year beginning after June 30, 1985, which year is not the first taxable year of the corporation, the election shall be made during the 90-day period immediately preceding the first day of such taxable year. The rules contained in § 1.992 (a)(1), (b)(1) and (b)(3) shall apply to the manner of making the election and the manner and form of shareholder consent.

(2) FSC incorporated in a possession.

Question 2: Where does a FSC which is incorporated in a U.S. possession file its election?

Answer 2: The election is filed with the Internal Revenue Service Center, Philadelphia, Pennsylvania 19255.

(3) Information returns.

Question 3: Must Form 5471 be filed with respect to the organization of a FSC pursuant to section 6046 or to provide information with respect to a FSC pursuant to section 6038?

Answer 3: A Form 5471 required under section 6046 need not be filed with respect to the organization of a FSC. The requirements of section 6046 shall be satisfied by the filing of a Form 8279 dealing with the election to be treated as a FSC or small FSC. However, a Form 5471 will be required with respect to a reorganization of a FSC (or small FSC) or an acquisition of stock of a FSC (or small FSC), as required under section 6046 and the regulations thereunder. Provided that a Form 1120 FSC is filed, a Form 5471 need not be filed to satisfy the requirements of section 6038.

(4) Conformity of accounting period.

Question 4: Since a FSC, small FSC, and interest charge DISC must use the same annual accounting period as the principal shareholder, must such corporation delay the beginning of its first taxable year beyond January 1, 1985 if the principal shareholder (the shareholder with the highest percentage of voting power as defined in section 441(h)) is not a calendar year taxpayer?

Answer 4: No. Where the principal shareholder is not a calendar year taxpayer, a corporation may elect to be treated as a FFSC, small FSC, or interest charge DISC for a taxable year beginning January 1, 1985. However, such corporation must close its first taxable year and adopt the annual accounting period of its principal shareholder as of the first day of the principal shareholder's first taxable year beginning in 1985. A FSC, small FSC, or interest charge DISC need not obtain the consent of the Commissioner under section 442 to conform its annual accounting period to the annual accounting period of its principal shareholder.

(5) Dollar limitations for short taxable years.

Question 5: If a small FSC or an interest charge DISC has a short taxable year, how are the dollar limitations on foreign trading export gross receipts and qualified export gross receipts, respectively, determined for small FSCs and interest charge DISCs?

Answer 5: The dollar limitations are to be prorated on a daily basis. Thus, for example, if for its 1985 taxable year a small FSC has a short taxable year of 73 days, then in determining exempt foreign trade income, any foreign trading gross receipts that exceed $1 million (73/365 × $5 million) will not be taken into account.

(6) Change of accounting period.

Question 6: The principal shareholder of a FSC, a small FSC, or an interest charge DISC (hereinafter referred to as a "FSC") changes its annual accounting period or is replaced by a new principal shareholder during a taxable year, is it necessary for the FSC to change its annual accounting period?

Answer 6: If the principal shareholder changes its annual accounting period, the FSC must also change its annual accounting period to conform to that of its principal shareholder. If the voting power of the principal shareholder is reduced by an amount equal to at least 10 percent of the total shares entitled to vote and such shareholder is no longer the principal shareholder, the FSC must conform its accounting period to that of its new principal shareholder. However, in determining whether a shareholder is a principal shareholder, the voting power of the shareholders is determined as of the beginning of the FSC's taxable year. Thus, for example, assume that for 1985 a FSC adopts a calendar year period as its annual accounting period to conform to that of its principal shareholder. Assume further than in March 1985 there is a 10 percent change in voting power and a different shareholder whose annual accounting period begins on July 1 becomes the new principal shareholder. The FSC will not be required to adopt the annual accounting period of its new principal shareholder until July 1, 1986. The FSC will have a short taxable year for the period January 1 to June 30, 1986.

(7) Transition transfers.

Question 7: Under what circumstances may a DISC or former DISC transfer its assets to a FSC or small FSC without incurring any tax liability on the transfer?

Answer 7: A DISC or former DISC will recognize no income, gain, or loss on a transfer of its assets to a FSC or small FSC if all of the following conditions are met:

(1) The assets transferred were held by the DISC on August 4, 1983, and were transferred by the DISC or former DISC to the FSC or small FSC in a transfer completed before January 1, 1986; and

(2) The assets are transferred in a transaction which would qualify for nonrecognition under subchapter C of Chapter 1 of the Code, or would so qualify but for section 367 of the Code.

In such case, section 367 shall not apply to the transfer. In addition, other provisions of subchapter C will apply to the transfer, such as section 358 (basis to shareholders), section 362 (basis to corporations), and section 381 (carryovers in corporate acquisitions). In determining whether a transfer by a DISC to a FSC or small FSC qualifies for nonrecognition under subchapter C, a liquidation of the assets of the DISC into a parent corporation followed by a transfer by the parent of those assets to the FSC or small FSC will be treated as a transaction described in section 368(a)(1)(D).

(8) Completed contract method.

Question 8: Under what conditions is a taxpayer using the completed contract method of accounting as defined in § 1.451–3(d) exempted from satisfying the foreign management and foreign economic process requirements of subsections (c) and (d) of section 924?

Answer 8: If the taxpayer has entered into a binding contract before March 16, 1984, or has on March 15, 1984, and at all times thereafter a firm plan, evidenced in writing, to enter the contract and enters into a binding contract by December 31, 1984, then the taxpayer will be treated as having satisfied the foreign management tests of section 924(c) for periods before December 31, 1984, and the foreign economic process tests of section 924(d) with respect to costs incurred before December 31, 1984, with respect to the transaction. The FSC rules will apply to the income from the long-term contract if an election is made and the general FSC requirements under section 922 are satisfied. However, such taxpayer need not satisfy the activities test under section 925(c) for activities which occur before January 1, 1985 in order to use the transfer pricing rules under section 925.

(9) Long-term contract—before March 15, 1984.

Question 9: Under what conditions is a taxpayer who enters into a binding long-term contract (*i.e.*, a contract which is not completed in the taxable year in which it is entered into) before March 15, 1984, but does not use the completed contract method of accounting exempted from satisfying the foreign management and economic process requirements of subsections (c) and (d) of section 924?

Answer 9: If a taxpayer enters into a binding contract before March 15, 1984, the taxpayer will be treated as having satisfied the foreign management tests of section 924(c) for periods before December 31, 1984, and the foreign economic process tests of section 924(d) with respect to costs incurred before December 31, 1984, but only with respect to income attributable to such contracts that is recognized before December 31, 1986. The FSC rules will apply to the income from the long-term contract if an election is made and the general FSC requirements under section 922 are satisfied. However, such taxpayer need not satisfy the activities test under section 925(c) for activities which occur before January 1, 1985, in order to use the transfer pricing rules under section 925.

(10) Long-term contract—after March 15, 1984.

Question 10: Under what conditions is a taxpayer who has a long-term contract (i.e., a contract which is not completed in the taxable year in which it is entered into) but does not use the completed contract method of accounting exempted from satisfying the foreign management and economic process requirements of subsections (c) and (d) of section 924 if such taxpayer enters into a binding contract after March 15, 1984 and before January 1, 1985?

Answer 10: If a taxpayer enters into a contract after March 15, 1984, and before January 1, 1985, the taxpayer will be treated as having satisfied the foreign management tests of section 924(c) for periods before December 31, 1984, and the foreign economic process tests of section 924(d) with respect to costs incurred before December 31, 1984, but only with respect to income attributable to such contract that is recognized before December 31, 1985.

The FSC rules will apply to the income from the long-term contract if an election is made and the general requirements under section 922 are satisfied. However, such taxpayer need not satisfy the activities test under section 925(c) for activities which occur before January 1, 1985 in order to use the transfer pricing rules under section 925.

(11) Incomplete transactions.

Question 11: In computing its foreign trade income, how should a FSC treat transfers of export property from a related supplier to a DISC which is subsequently resold by a FSC after the DISC's termination?

Answer 11: In applying the gross receipts and combined taxable income methods under section 925 (a)(1) and (a)(2), the transaction is treated as if the transfer of export property were made by the related supplier to the FSC except that the foreign management and economic processes tests under section 924 and the activities test under section 925(c) shall be deemed to be satisfied for purposes of the transaction.

(12) Pre-effective date costs and activities.

Question 12: Are costs incurred and activities performed prior to January 1, 1985 taken into account for purposes of satisfying the foreign management and foreign economic processes requirements of subsections (c) and (d) of section 924 and the activities test under section 925(c)?

Answer 12: For purposes of determining the costs incurred and the activities performed to be taken into account with respect to contracts entered into after December 31, 1984, only those costs incurred and activities performed after December 31, 1984 are taken into consideration.

(13) FSC and interest charge DISC.

Question 13: Can a FSC and an interest charge DISC be members of the same controlled group?

Answer 13: A FSC and an interest charge DISC cannot be members of the same controlled group. If any controlled group of corporations of which an interest charge DISC is a member establishes a FSC, then any interest charge DISC which is a member of such group shall be treated as having terminated its status as an interest charge DISC.

(c) *Export Trade Corporations*—(1) *Previously taxed income.*

Question 1: Under what circumstances are earnings of an export trade corporation that have not been included in income under section 951 treated as previously taxed income previously included in the income of a U.S. shareholder for purposes of section 959 (and not taxed)?

Answer 1: A corporation which qualifies as an export trade corporation (ETC) with respect to its last taxable year beginning before January 1, 1985, and elects to discontinue operations as an ETC for all taxable years beginning after December 31, 1984, shall not be required to take into income earnings attributable to previously excluded export trade income, as defined in § 1.970–1(b), derived with respect to taxable years beginning before January 1, 1985. However, any amounts distributed by the former ETC (*i.e.* a corporation which was an ETC for its last taxable year beginning before January 1, 1985) shall be treated as being made out of current earnings and profits and then out of previously taxed income. For purposes of determining the shareholder's basis in the ETC stock, distributions of previously excluded export trade income shall be treated as if made out of previously taxed income which has already been included in gross income under section 951(a)(1)(B).

Thus, no basis adjustment under section 961 is necessary. In addition, upon the sale or exchange of the stock of such corporation in a transaction described in section 1248(a), the earnings and profits of the corporation attributable to such previously untaxed income shall not be subject to section 1248(a).

(2) Qualification as an ETC for last year.

Question 2: Must an ETC satisfy all of the tests set forth in section 971(a)(1) for the ETC's last taxable year beginning before January 1, 1985?

Answer 2: All of the tests in section 971(a)(1) must be satisfied, except that for purposes of the working capital requirements set forth in section 971(c)(1), the working capital of the ETC at the close of its last taxable year beginning before January 1, 1985 shall be deemed reasonable.

(3) Continuation of ETC status.

Question 3: May a corporation which chooses to remain an ETC after December 31, 1984 continue to do so?

Answer 3: Yes. However, previously untaxed income of such ETC shall not be treated as previously taxed income in accordance with Q&A #1 of this section.

(4) Discontinuation of ETC status.

Question 4: How does an ETC make an election to discontinue its operation as an ETC?

Answer 4: The United States shareholders (as defined in section 951(b)) must file a statement of election on behalf of the ETC indicating the intent of the ETC to discontinue operations as an ETC for taxable years beginning after December 31, 1984. In addition, the statement of election must include the name, address, taxpayer identification number and stock interest of each United States shareholder. The statement must also indicate that the corporation on behalf of which the shareholders are making the election qualified as an ETC for its last taxable year beginning before January 1, 1985, and also the amount of earnings attributable to previously excluded export trade income. The statement must be jointly signed by each United States shareholder with each shareholder stating under penalties of perjury that he or she holds the stock interest specified for such shareholder in the statement of election. A copy of the statement of election must be attached to Form 5471 (information return with respect to a foreign corporation) filed with respect to the ETC's last taxable year beginning before January 1, 1985.

(5) Transition transfers.

Question 5: Under what circumstances may an electing ETC transfer its assets to a FSC without incurring any tax liability on the transfer?

Answer 5: An electing ETC will recognize no income, gain, or loss on a transfer of its assets to a FSC but only if all of the following conditions are met:

(1) The assets transferred were held by the ETC on August 4, 1983, and were transferred by the ETC to the FSC in a transfer completed before January 1, 1986; and

(2) The assets are transferred in a transaction which would qualify for nonrecognition under subchapter C of Chapter 1 of the Code, or would so qualify but for section 367 of the Code.

In such case, section 367 shall not apply to the transfer. In addition, other provisions of Subchapter C will apply to the transfer such as section 358 (basis to shareholders), section 362 (basis to corporation) and section 381 (carryovers in corporate acquisitions). In determining whether a transfer by an ETC to a FSC qualifies for nonrecognition under Subchapter C, a liquidation of the assets of the ETC into a parent corporation followed by a transfer by the parent of those assets to the FSC will be treated as a transaction described in section 368(a)(1)(D).

(OMB control number 1545-0884)

§§ 1.921-1 and 1.922-1 [Removed]

Paragraph 2. Sections 1.921-1 and 1.922-1 are hereby removed.

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. The DISC election terminates on December 31, 1984, and a new election must be made which in a large number of cases will result in setting up a new corporation outside the United States. For this reason, it is found impracticable to issue this Treasury decision with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

Approved by the Office of Management and Budget under control number 1545-0884. This Treasury decision is issued under the authority contained in sections 803 and 805 of the Tax Reform Act of 1984 (98 Stat. 1001) and section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: September 28, 1984.

Ronald A. Pearlman,

Acting Assistant Secretary of the Treasury.

[FR Doc. 84-26886 Filed 10-5-84; 4:43 pm]

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26 CFR Part 1

[T.D. 7984]

Income Tax, Taxable Years Beginning After December 31, 1953; Taxation of DISC Income to Shareholders

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains Income Tax Regulations relating to the taxation of Domestic International Sales Corporation [DISC] income to shareholders. Changes to the applicable tax law were made by the Tax Reform Act of 1976 and the Tax Equity and Fiscal Responsibility Act of 1982. In addition, amendments are also made to the regulations under section 993, one relating to the treatment of accrued interest on a producer's loan as a qualified export asset and another defining the term "trade receivables." A further amendment is made to the regulations under section 994 allowing treatment of a prior DISC dividend as an additional payment of transfer price or repayment of a commission by the DISC. The regulations provide the public with the guidance needed to comply with these Acts and would affect all corporations which have elected to be treated as a DISC and their shareholders.

DATES: The amendments under §§ 1.995-2(a), 1.995-6 and 1.995-7 are effective for taxable years beginning after December 31, 1975. The amendments under §§ 1.993-2(d) and 1.994-1(e) are effective for all open taxable years ending after December 31, 1971, and the amendment under § 1.996-3 is effective for taxable years of DISCs beginning after December 31, 1982. The amendments under § 1.993-2(f) apply for taxable years beginning after January 10, 1985, except that the taxpayer may at its option apply this provision for all open taxable years ending after December 31, 1971.

FOR FURTHER INFORMATION CONTACT: Jacob Feldman of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T (LR-246-76), 202-566-3289, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to the Income Tax Regulations (26 CFR Part 1) under sections 995 and 996 of the Internal Revenue Code of 1954. These amendments are proposed to conform

the regulations to section 1101 of the Tax Reform Act of 1976 (90 Stat. 1655) and a portion of section 204(a) of the Tax Equity and Fiscal Responsibility Act of 1982 (96 Stat. 423), and are to be issued under the authority contained in sections 995(e) (7), (8) and (10), 995(g) and 7805 of the Internal Revenue Code of 1954 (90 Stat. 1655; 90 Stat. 1659; 68A Stat. 917, respectively). Amendments are also being made under section 993, one relating to the treatment of accrued interest on a producer's loan and another defining trade receivables; under section 994 allowing treatment of a prior DISC dividend as an additional payment of transfer price or repayment of a commission by the DISC; and under section 996 to conform to changes made by the Tax Equity and Fiscal Responsibility Act of 1982. A notice of proposed rulemaking was published in the **Federal Register** on January 9, 1984 (49 FR 1075). A number of comments were received, but no hearing was requested and none was held.

Discussion

A number of issues were raised by commenters with respect to the proposed regulations. With respect to the definition of trade receivables under proposed § 1.993–2(d)(1), it was suggested that the "arise by reason of" language in section 993(b)(3) be added to restrict the definition to its proper scope and that "evidences of indebtedness" should not be limited to "written evidences of indebtedness." Both of these comments were adopted.

With respect to proposed § 1.993–2(f) which permits accrued interest on a producer's loan to qualify if paid within 60 days following the close of the DISC's taxable year, objections were raised as to the 60-day period and with respect to the retroactive application of this provision. A 60-day rule was believed necessary to prevent the interest between the DISC and its related supplier from accruing indefinitely without ever being paid. The 60-day period was chosen since it is the same period as is provided in § 1.994–1(e)(3) for the payment of initial transfer price or commission. No change was, therefore, made with respect to the 60-day period. Another suggestion was that the 60-day payment of accrued interest on a producer's loan should not be limited to the payment of cash or other property, but should also include a written obligation and offsetting accounting entry as permitted under § 1.994–1(e)(3) with respect to the initial payment of transfer price or commission. This suggestion was adopted. With respect to the effective date of § 1.993–2(f), the final regulations provide that this provision is effective for taxable years of a DISC beginning after January 10, 1985, but may be applied retroactively at the option of the taxpayer. A suggestion that accrued interest on foreign trade receivables be treated as a qualified export asset in the same manner as accrued interest on producer's loans was not adopted.

With respect to the proposed change to § 1.994–1(e)(5) which allows the DISC to reclassify that which would otherwise be treated as a distribution as a repayment of a commission or an adjustment of transfer price, several commenters suggested that the provision apply for all open years. This suggestion has been adopted in the final regulations. Other commenters suggested that the provision should be expanded to include other adjustments of DISC income not involving related parties as well as voluntary adjustments. These suggestions were not adopted.

With respect to § 1.995–6 dealing with the deemed distribution with respect to taxable income attributable to military property, a commenter suggested that in the event that gross income from the sales of military property cannot be determined on an item-by-item basis, the apportionment should not be limited to fair market value apportionment. Instead the commenter suggested that the taxpayer should be permitted to use other methods of apportionment based, for example, on gross receipts or cost of goods sold where appropriate. In addition, where an apportionment is required, the commenter suggested that the apportionment should only be applied where the sales of military property cannot be determined on an item-by-item basis. Both of these suggestions were adopted.

With respect to the separation rules under § 1.995–7(e) a number of commenters suggested the double attribution should apply only if there has been tax avoidance. This suggestion was not adopted since the provisions of section 995(e)(9)(A) do not restrict the double attribution rule to tax avoidance situations and the only exceptions to the separation rule are provided under section 995(e)(9)(B). The double attribution rule is also specifically referred to in the legislative history (S.R. 938, 94th Cong., 2d Sess. 296 (1976)), and there is no language limiting the application of the double attribution rules to tax avoidance situations. A corollary issue which a commenter raised is whether a DISC which is disqualified and recaptures accumulated DISC income can requalify and have a pro rata reduction in its base period export gross receipts. The proposed regulations under § 1.995–7(e)(5) take the position that the recapture of accumulated DISC income results only in a reduction of the base period export gross receipts associated with the DISC, not with the separated trade or business. Unlike a newly formed DISC, a DISC which has been disqualified and then requalifies has had the benefit of deferral during the years it was a DISC, a benefit which was not available to a new DISC. Therefore, the suggestion was not adopted.

Several other suggestions including a change in the method of computation of base period export gross receipts where DISCs in a controlled group have different annual accounting periods and special short taxable year rules where DISCs with different annual accounting periods elect to adopt the same annual accounting period, were considered but where not adopted.

Sections 801 through 805 of the Tax Reform Act of 1984 have replaced the Domestic International Sales Corporation (DISC) provisions with new Foreign Sales Corporation (FSC) provisions. In addition to the FSC provisions, a qualified domestic corporate taxpayer may elect to defer income attributable to $10 million or less in qualified export receipts by electing to be treated as an "interest charge DISC" and the shareholders of such DISC pay an annual interest charge on the amount of income deferred. The major portion of this regulation deals with the "incremental distribution" under sections 995(b)(1)(E), 995(e), and 995(g) of the Code. The incremental distribution will not apply with respect to either a FSC or an interest charge DISC. Nevertheless, these regulations are necessary to compute DISC benefits for taxable years of a DISC prior to December 31, 1984.

Regulatory Flexibility Act and Executive Order 12291

The Service has concluded that the regulations do not constitute regulations subject to the Regulatory Flexibility Act [5 U.S.C. Chapter 6]. The Commissioner of Internal Revenue has also determined that this regulation is not a major regulation as defined in Executive Order 12291 and therefore a regulatory impact analysis is not required.

Drafting Information

The principal author of these regulations is Jacob Feldman of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal

Revenue Service and Treasury Department participated in developing these regulations, both on matters of substance and style.

List of Subjects in 26 CFR §§ 1.861–1 through 1.997–1

Income taxes, Aliens, Exports, DISC, Foreign investments in U.S., Foreign tax credit, Source of income, United States investments abroad.

PART 1—[AMENDED]

Amendments to the Regulations

The Income Tax Regulations (26 CFR Part 1) are amended as follows:

Paragraph 1. Section 1.993–2 is amended by adding the text of paragraph (d)(1) and revising paragraph (f) to read as follows:

§ 1.993–2 Definition of qualified export assets.

* * * * *

(d) *Trade receivables*—(1) *In general.* For purposes of this section, trade receivables are accounts receivable and evidences of indebtedness which arise by reason of transactions of such corporation or of another corporation which is a DISC and which is a member of a controlled group which includes such corporation described in subparagraph (A), (B), (C), (D), (G), or (H), of section 993(a)(1) and which are due the DISC (or, if it acts as an agent, due its principal) and held by the DISC.

* * * * *

(f) *Producer's loans.* For purposes of this section, a producer's loan is an evidence of indebtedness arising in connection with producer's loans which are made by a DISC and which meet the requirements of § 1.993–4. If a producer's loan is a qualified export asset, interest accrued with respect to the producer's loan will also be treated as a qualified export asset provided that payment is made in the form of money, property (valued at its fair market value on its date of transfer and including accounts receivable for sales by or through a DISC), a written obligation which qualifies as a debt under the safe harbor rule of § 1.992–1(d)(2)(ii), or an accounting entry offsetting the account receivable against an existing debt owed by the person in whose favor the account receivable was established to the person with whom it engaged in the transaction and that payment is made no later than 60 days following the close of the taxable year of accrual of the interest. This paragraph (f) is effective for taxable years beginning after January 10, 1985 except that the taxpayer may at its option apply the provisions of this paragraph to taxable years ending after December 31, 1971.

* * * * *

Par. 2. Section 1.994–1(e) is amended as follows:

1. The last sentence of paragraph (e)(4) is revised to read as set forth below:

2. The last sentence of subdivision (i)(*a*) of paragraph (e)(5) is amended by adding the phrase "due the DISC" after the term "account receivable" the first time such term appears.

3. Subdivision (v) of paragraph (e)(5) is renumbered as subdivision (vi) and a new subdivision (v) is added to read as set forth below.

§ 1.994–1 Inter-company pricing rules for DISCs.

* * * * *

(e) *Methods of applying paragraph (c) and (d) of this section.*

* * * * *

(4) *Subsequent determination of transfer price or commission.* * * * Such a redetermination would include a redetermination by reason of an adjustment under section 482 and the regulations thereunder or section 861 and § 1.861–8 which affects the amounts which entered into the determination of the transfer price or commission.

(5) *Procedure for adjustments to transfer price or commission.*

* * * * *

(v) (*a*) In lieu of establishing an account receivable in accordance with subdivision (i) of this subparagraph for all or part of an amount due a related supplier, the related supplier and DISC are permitted to treat all or part of any distribution which was made by the DISC out of its previously taxed income with respect to the year to which the determination or redetermination relates as an additional payment of transfer price or repayment of commission (and not as a distribution) made as of the date the distribution was made. Any additional amount arising on the determination or redetermination due the related supplier after this treatment shall be represented by an account receivable established under subdivision (i) of this subparagraph. To the extent that a distribution is so treated under this subdivision (v), it shall cease to qualify as distribution for any Federal income tax purpose, and the DISC's account for previously taxed income shall be adjusted accordingly. If all or part of any distribution made to a shareholder other than the related supplier is recharacterized under this subdivision (v), the related supplier shall establish an account receivable from that shareholder for the amount so recharacterized. Such account receivable shall be paid in the time and manner set forth in this paragraph (e)(5). In order to obtain the relief provided by this subdivision (v), the conditions and procedures prescribed by Revenue Procedure 84–3 must be met. The provisions of this paragraph (e)(5)(v) shall apply to all open taxable years ending after December 31, 1971.

(*b*) If, for example, during 1982, a DISC commission from a related supplier with respect to a transaction completed in 1980 was redetermined to be $1,000 less than the commission actually charged by, and paid to, the DISC, the amount of any distribution previously made by the DISC from its 1980 previously taxed income to the related supplies as a shareholder may, to the extent of $1,000, be treated not as a distribution but as a repayment of the commission.

* * * * *

Par. 3. Section 1.995–2 is amended by adding new paragraphs (a)(4) and (a)(5) and revising paragraph (a)(6)(i) as follows:

§ 1.995–2 Deemed distributions in qualified years.

(a) General rule.

* * * * *

(4) For taxable years beginning after December 31, 1975, an amount equal to 50 percent of the taxable income of the DISC for the taxable years attributable to military property (as defined in § 1.995–6).

(5) For taxable years beginning after December 31, 1975, the taxable income for the taxable year attributable to base period export gross receipts (as defined in § 1.995–7).

(6) The sum of—

(i)(A) In the case of a corporate share holder, an amount equal to 57.5 percent of the excess (if any) (one-half for DISCs' taxable years beginning before January 1, 1983) of the taxable income of the DISC for such year (computed as provided in § 1.991–1(b)(1)) over the sum of the amounts deemed distributed for the taxable year in accordance with subparagraph (1), (2), (3), (4) and (5) of this paragraph, or

(B) in the case of a non-corporate share holder, an amount equal to one-half of the excess (if any) of the taxable income of the DISC for such year (computed as provided in § 1.991–1(b)(1)) over the sum of the amounts deemed distributed for the taxable year in accordance with subparagraphs (1), (2), (3), (4), and (5) of this paragraph.

* * * * *

Par. 4. The following §§ 1.995–6 and 1.995 are added immediately after § 1.995–5:

§ 1.995–6 Taxable income attributable to military property.

(a) *Gross income attributable to military property.* For purposes of section 995(b)(3)(A)(i), the term "gross income which is attributable to military property" includes income from the sale, exchange, lease, or rental of military property (as described in paragraph (c) of this section). The term also includes gross income from the performance of services which are related and subsidiary (as defined in § 1.993–1(d)) to any qualified sale, exchange, lease, or rental of military property. Where gross income cannot be determined on an item by item basis, the gross income with respect to those items not so determinable shall be apportioned. Such apportionment shall be accomplished using appropriate facts and circumstances, so that the gross income apportioned to sale of military property bears a reasonably close factual relationship to the actual gross income earned on such sales. The apportionment shall be based on methods which include the fair market value of property sold or exchanged, the fair rental value of any leaseholds granted, the fair market value of any related or subsidiary services performed in connection with such sale or leases or methods based on gross receipts or costs of goods sold, where appropriate.

(b) *Deductions.* For purposes of section 995(b)(3)(A)(ii), deductions shall be properly allocated and apportioned to gross income, described in paragraph (a) of this section, in accordance with the rules of § 1.861–8. These deductions include all applicable deductions from gross income provided under part VI of subchapter B of chapter 1 of the Code.

(c) *Military property.* For purposes of this section, the term "military property" means any property which is an arm, ammunition, or implement of war designated in the munitions list published pursuant to section 38 of the International Security Assistance and Arms Export Control Act of 1976 (22 U.S.C. 2778 which superseded 22 U.S.C. 1934) and the regulations thereunder (22 CFR 121.01).

(d) *Illustration.* The principles of this section may be illustrated by the following example:

Example. X Corporation elects to be a DISC for the first time in 1976. X has taxable income of $50,000, of which $30,000 is attributable to military property and $10,000 to interest on producer's loans. The total deemed distributions with respect to X are as follows:

(1) Gross interest from Producer's loans in 1976	$10,000
(2) 50 percent of the taxable income of the DISC attributable to military property in 1976	15,000
(3) One-half of the excess of taxable income for 1976 over the sum of lines (1) and (2) (½ of ($50,000 minus $25,000))	12,500
(4) Total deemed distributions (sum of total lines (1), (2), and (3))	37,500

§ 1.995–7 Taxable income attributable to base period export gross receipts.

(a) *General rule.* This section provides rules for the computation of taxable income attributable to base period export gross receipts. Section 995(b)(1)(E) treats taxable income attributable to base period export gross receipts as a deemed distribution to a shareholder of a DISC for taxable years of a DISC beginning after December 31, 1975. The amount attributable to base period export gross receipts that must be included in income of a shareholder will be referred to as the nonincremental distribution. The nonincremental distribution must be computed for each taxable year of a DISC. Such year will be referred to as the computation year.

(b) *Nonincremental distribution*—(1) *General rule.* The nonincremental distribution for a computation year of a DISC is computed by multiplying the adjusted taxable income of the DISC by a fraction. The numerator of the fraction is the amount of the adjusted base period export gross receipts and the denominator is the amount of the export gross receipts of the DISC for the computation year.

(2) *Adjusted taxable income.* The "adjusted taxable income" is the taxable income of a DISC for the computation year reduced by the amounts described under section 995(b)(1) (A) through (D) and the regulations thereunder.

(3) *Export gross receipts.* The "export gross receipts" is the qualified export gross receipts described in section 993(a)(1) (A), (B), (C), (G), and (H) of a DISC for a taxable year reduced by 50 percent of those receipts which are attributable to military property (as defined under § 1.995–6). For purposes of determining the denominator described in this paragraph (b), if the computation year is a short taxable year, the amount of export gross receipts for that year is multiplied by a fraction. The numerator of the fraction is the number of days which would have been in the taxable year of the taxpayer if there had been a full taxable year and the denominator is the number of days in the short taxable year.

(4) *Adjusted base period export gross receipts.* The amount of adjusted base export gross receipts is 67 percent of the average of the base period export gross receipts.

(c) *Average base period export gross receipts*—(1) *Base period of 48 months or less.* If a DISC has a base period of 48 months or less, the amount of average base period export gross receipts is determined by dividing the base period export gross receipts by number four (4).

(2) *Base period or more than 48 months.* If a DISC has a base period of more than 48 months, the amount of average base period export gross receipts is determined by multiplying the base period export gross receipts by a fraction. The numerator of the fraction is the number 365.25 and the denominator is the total number of days in the base period.

(3) *Change of accounting period.* Notwithstanding paragraph (c)(1) of this section, if a corporation that is a DISC changes its annual accounting period (other than during the first taxable year of its existence), and the effect of such a change creates a base period of less than 48 months, the average base period export gross receipts are determined under paragraph (c)(2) of this section. This paragraph (c)(3) applies with respect to changes of accounting period permitted under § 1.995–7(d)(5).

(4) *Base period export gross receipts.* "Base period export gross receipts" means the aggregate export gross receipts of a DISC for all taxable years beginning during the base period reduced by the base period export gross receipts attributable to property that is excluded from export gross receipts during the computation year. Excluded property is property described in section 993(c)(2) (C) or (D) without regard to the fixed contract exception under § 1.993–3(g)(6). When the fixed contract exception applies, the amount of excluded property is multiplied by a fraction. The numerator of the fraction is the amount of the gross receipts in the computation year attributable to excluded property less the amount of the export gross receipts by reason of the fixed contract exception under § 1.993–3(g)(6). The denominator of the fraction is the total amount of gross receipts in the computation year attributable to excluded property. For taxable years of a DISC ending before November 15, 1982, base period export gross receipts do not include receipts attributable to property sold or leased to a WHTC or receipts which arose in the absence of a written supplier's agreement unless the receipts were treated as qualified export by the taxpayers

(5) *Illustration.* The following example illustrates the application of paragraph (c)(4) of this section:

Example. X Corporation, a DISC since 1972, derived $2000 from sales of coal and $3000 from sales of foodstuffs in 1976. In 1975 gross receipts from the sale of agricultural products were $1000 and from the sale of coal were $3000. One thousand dollars of the $3000 was derived from sales prior to March 19, 1975, and $2000 from sales made after March 18, 1975, of which $500 of the latter sales were pursuant to a fixed contract. Assume that all gross receipts are qualified export receipts (and, therefore, export gross receipts as provided in paragraph (b)(3) of § 1.995–7) except to the extent that section 993 (c)(2)(C) (which treats natural resources such as coal as excluded property) is applicable. Assume further that the gross receipts for 1972, 1973, and 1974 were each $500, all derived entirely from the sale of foodstuffs and all qualifying as export gross receipts. Under these facts the adjusted base period export gross receipts are determined as follows:

(1) Export gross receipts for 1975:	
(i) Export gross receipts—agricultural products	$1,000
(ii) Export gross receipts—coal	$1,500
(*a*) Sales prior to March 19, 1975	$1,000
(*b*) Sales subsequent to March 18, 1975:	
(1) Fixed Contract sales	$500
(2) Non-fixed contract sales	$1,500
Total	$2,000

$$\text{Excluded property receipts } (\$2{,}000 \times \frac{\text{Excluded property receipts } (\$2{,}000)}{\text{Excluded property receipts } (\$2{,}000)}) \quad \text{Fixed contract receipts } (\$500)$$

Total export gross receipts ($1,000 + 1,500)	$2,500
(2) Adjusted export gross receipts:	
1972 export gross receipts	$500
1973 export gross receipts	500
1974 export gross receipts	500
1975 export gross receipts	2,500
Base period export gross receipts	4,000
Average base period export gross receipts 1972–75	1,000
Adjusted base period export gross receipts (.67 × average for base years	670

(6) *Base years.* The base period is a 4-year period attributable to a computation year. For computation years of a DISC beginning before January 1, 1980, the base period calendar years are 1972, 1973, 1974, and 1975. For other computation years, the base period calendar years are the fourth, fifth, sixth and seventh calendar years preceding the calendar year in which the computation year begins. If a DISC has taxable years beginning in every base period calendar year, the base period is the period which begins on the first day of the first taxable year beginning in the earliest base period calendar year and ends on the last day of the last taxable year beginning in the latest base period calendar year. A corporation that revoked its election to be treated as a DISC or failed to satisfy the conditions of section 992(a)(1) for a taxable year to be a DISC will, for purposes of computing its base period export gross receipts, be treated as a DISC newly established in such subsequent taxable year. However, see paragraph (e)(3) of this section, which treats a disqualification as a separation. This paragraph (c)(6) applies whether or not the DISC qualified (or was treated) as a DISC (within the meaning of section 992(a)(1) and § 1.992–1) for all taxable years beginning in the base period calendar years. If a DISC does not have a taxable year beginning in every base period calendar year, the base period is the period which begins on the the date during the earliest base period calendar year that corresponds to the date on which the first taxable year of the DISC begins, and ends on the last day of the last taxable year of the DISC beginning in the latest base period calendar year.

(7) *Illustrations.* The following examples illustrate the application of this paragraph (c):

Example (1). X Corporation, a DISC, was organized on March 1, 1972, and adopted a taxable year beginning on March 1. With respect to the computation year beginning on March 1, 1976, X's base period calendar years are 1972, 1973, 1974, and 1975. The base period is the period which begins on March 1, 1972, and ends on February 29, 1976.

Example (2). Y Corporation, a DISC, was organized on March 15, 1974, and adopted a taxable year beginning on October 1. With respect to the computation year beginning on October 1, 1977, Y's base period is the period which begins on March 15, 1972, and ends on September 30, 1976.

Example (3). Z Corporation, a DISC, was organized on December 10, 1974, and adopted a taxable year beginning on February 1. With respect to the computation year beginning on February 1, 1980, Z's base period calendar years are 1973, 1974, 1975, and 1976. The base period is the period which begins on December 10, 1973, and ends on January 31, 1977.

(d) *Controlled group*—(1) *General rule.* Where more than one member of a controlled group of corporations (as defined in section 993(a)(3) and § 1.993–1(k)) qualifies or is treated as a DISC, special rules are used to calculate the nonincremental distribution. In such a case, the fraction described in paragraph (d)(2) of this section to compute the nonincremental distribution is the aggregate of the adjusted base period export gross receipts over the aggregate of the computation year export gross receipts for the computation year of every member DISC within the controlled group. This fraction is multiplied by the aggregate adjusted taxable income of each member DISC within the controlled group. The computation of the nonincremental distribution described in this paragraph applies to shareholders of a DISC that is a member of a controlled group even though such shareholder is not a related person within the meaning of § 1.993–1(a)(6).

(2) *Aggregate adjusted base period export gross receipts.* If any DISC that is a member of the controlled group uses a taxable year that is different from another DISC that is a member of the same controlled group, the aggregate of the adjusted base period export gross receipts consists of the sum of the adjusted base period export gross receipts of each of the following DISCs:

(i) The DISC (primary DISC) with respect to which the nonincremental distribution is being determined; and

(ii) All other DISCs (secondary DISCs) that are members of the same controlled group (as defined in section 993(a)(3)) as the primary DISC and whose computation years end with or within the computation year of the primary DISC.

For purposes of this paragraph (d)(2), the base period calendar years of any secondary DISC is the base period calendar years of the primary DISC.

(3) *Aggregate current year export gross receipts.* If paragraph (d)(2) of this section applies, the aggregate of the export gross receipts for the computation year consists of the sum of the export gross receipts of the primary DISC and the export gross receipts of all secondary DISCs for their computation years described in paragraph (d)(2)(ii) of this section.

(4) *Illustrations.* The following examples illustrate the application of this paragraph (d):

Example (1). P Corporation owns all of the stock of V and X Corporations. V owns all of the stock of Y Corporation, a DISC. X owns all of the stock of Z Corporation, a DISC. P, V, X, Y, and Z are members of the same controlled group for all periods involved. V uses a fiscal year ending June 30 as its taxable year. X uses the calendar year as its taxable year. Y and Z both use the calendar year as their taxable years. For the computation year ending in 1980, Y has adjusted taxable income (as defined under paragraph (b)(2) of this section) of $3,000, adjusted base period export gross receipts (as defined under paragraph (b)(4) of this section) of $2,000, and export gross receipts (as defined under paragraph (b)(3) of this section) of $5,000. For the same year, Z has adjusted taxable income of $4,000, adjusted base period export gross receipts of $6,000 and export gross receipts of $5,000. The numerator of the fraction to determine the nonincremental distribution is $8,000, the aggregate of the adjusted base period export gross receipts of Y and Z. The denominator of the fraction is $10,000, the aggregate of the export gross receipts of Y and Z. The nonincremental distribution under paragraph (b)(1) of this section with respect to Y is $2,400 ($3,000 × 8/10), and with respect to Z is $3,200 ($4,000 × 8/10).

Example (2). The facts are the same as in example (1) except that Y uses a fiscal year ending January 31 as its taxable year and the computation year ends in 1980. In computing the nonincremental distribution with respect to Z, a calendar year DISC, Z is the primary DISC described in paragraph (d)(2)(i) of this section. In computing the adjusted base period export gross receipts of Y, Y's base period is the same as that of Z even though Y's computation year begins in the calendar year 1979. The adjusted taxable income and current year export gross receipts of Z are for the calendar year beginning January 1, 1980, and the current year export gross receipts of Y are for Y's fiscal year ending January 31, 1980.

(5) *Change of annual accounting period.* Where more than one member of a controlled group of corporations (as defined in section 993(a)(3) and § 1.993–1(k)) qualifies or is treated as a DISC and where any two or more of the member DISCs have different annual accounting periods, the annual accounting periods of the member DISCs may be changed without the approval of the Secretary if, and only if

(i) All member DISCs have the same annual accounting period after the change; and

(ii) The period chosen is the annual accounting period of one of the member DISCs.

In the case of an existing controlled group with member DISCs having different annual accounting periods, the change may be made within one year after (the date of adoption of the regulations as a Treasury decision); and in the case of a newly acquired DISC, the accounting period of such DISC may be changed by adopting the period of any existing DISC within one year after acquisition.

(e) *Separation of DISC and trade or business*—(1) *General rule.* If, at any time after the beginning of the base period of a DISC, there has been a separation of the ownership of the stock in that DISC from the ownership of a trade or business that produced export gross receipts of the DISC, the persons who own the trade or business during the taxable year are treated as having in any DISC in which they have (or acquire) a direct or indirect interest additional export gross receipts attributable to the trade or business for purposes of computing base period export gross receipts. Notwithstanding the separation, the base period export gross receipts remain with the DISC after separation and are taken into account by shareholders of the DISC (whether or not there are new shareholders of the DISC as a result of the separation) in computing the adjusted base period export gross receipts of the DISC for taxable years beginning prior to the year in which the separation occurs.

(2) *Ownership.* A person will be treated as an owner of a trade or business which produced export gross receipts of a DISC if the person owns stock, directly or indirectly, in a corporation that conducts the trade or business. A person will also be treated as an owner of a trade or business if that person is, for example, a partner in a partnership that either conducts the business or owns stock, directly or indirectly, in a corporation that conducts it, a lessee of substantially all the assets of a trade or business, or a licensee of a patent, copyright, trademark, or similar property essential to the conduct of a trade or business. For purposes of this paragraph (e)(2), a person who owns indirectly less than 5 percent of the entity conducting the trade or business shall not be treated as the owner of the trade or business. For purposes of this paragraph (e)(2), stock owned, directly, or indirectly, by or for a corporation, partnership, trust, or estate shall be considered as being owned proportionately by its shareholders, partners, or beneficiaries. Stock considered to be owned by a person by reason of the application of the preceding sentence may be treated as actually owned by such person.

(3) *Separation.* A separation occurs if the ratio of a person's percentage ownership interest in a DISC to his percentage ownership in the trade or business which produced export gross receipts of the DISC changes at any time during the year. Thus, if A Corporation owns all the stock of B, C, and D Corporations, and D is a DISC and B and C produced export gross receipts for D, the transfer of the stock of B and C will result in a separation. Similarly, the transfer of the stock of C and the stock of D will result in a separation as will the liquidation of D by A. The disqualification of a DISC by revocation of the election or by failing to satisfy the conditions of section 992(a)(1) for a taxable year shall be treated as a separation, and the export gross receipts produced prior to the disqualification will be attributed to the separated trade or business. A requalified DISC will be treated as having additional export gross receipts attributable to the separated trade or business. For purposes of this paragraph (e)(3), members of the same controlled group (as defined in section 993(a)(3)) will be treated as one person.

(4) *Amount of attribution.* If a separation described in paragraph (e)(3) of this section occurs, the additional amount referred to in paragraph (e)(1) of this section is the amount of the export gross receipts attributable to the separated trade or business.

(5) *Recapture of accumulated DISC income.* If a shareholder of a DISC recaptures accumulated DISC income (as defined in section 996(f)(1)) as a result of a disposition (as described in section 995(c)) of stock in a DISC or a disqualification which results in a separation, the base period export gross receipts of the DISC for base period years prior to the disposition are reduced on a pro rata basis to the extent of the recapture in the taxable year. This reduction does not apply for purposes of determining the amount described in paragraph (e) (1) and (4) of this section which is attributable to the owner of a trade or business after the separation.

(6) *Illustrations.* The principles of this paragraph (e) are illustrated by the following examples:

Example (1). A Corporation owns all the stock of B, C and D Corporations. D is a DISC and B and C each produced $5,000 of the export gross receipts of D. A sells the stock of B to Z, an unrelated party, which organizes P Corporation, a DISC, for which B produces export gross receipts. Under paragraph (e)(3) of § 1.995–7, the sale of the stock of B constitutes a separation and under paragraph (e) (1) and (4), $5,000 of export gross receipts is attributable to P. Under paragraph (e)(1) the export gross receipts of D are $10,000 unchanged by the separation. If D is liquidated by A and F Corporation a new DISC is organized, F will have export gross receipts of $5,000. Under paragraph (3)(5), the export gross receipts of D are eliminated. However, paragraph (e)(5) does not apply to amounts attributable to the owner of the trade or business after the separation under paragraph (e)(4). Therefore, $5,000 is attributable to P (by B) and $5,000 is attributable to F (by C).

Example (2). G Corporation owns all the stock of H and I Corporations and H Corporation owns all the stock of J Corporation, a DISC. During the base period H produces all the export gross receipts of J, which amounts to $25,000. The sale of the stock of H to B does not constitute a separation within the meaning of paragraph (e)(3). If J is liquidated, there will be attributed to any future DISC organized with respect to H the export gross receipts attributable to the separate trade or business. Although the liquidation will result in a recapture of accumulated DISC income, paragraph (e)(5) does not apply for purposes of determining the amount attributable to the owner of the trade or business after the separation, and under paragraph (e)(1) such amount is attributed to any future DISC for which H produces export gross receipts.

Example (3). P Corporation owns several corporations including R Corporation, a DISC, and M Corporation, which has produced export gross receipts for R. P also owns several other DISC's. The stock of M is sold to W Corporation. Assuming that M produced $100,000 of export gross receipts during the base period and that those receipts were the only receipts produced with respect to R, there is a separation under paragraph (e)(3) and under paragraph (e)(1) $100,000 in export gross receipts will be attributable to any DISC that W organizes with respect to M. In addition, under paragraph (e)(1) the export gross receipts of R are unreduced and taken into account in computing base period export gross receipts under the controlled group rules of paragraph (d). If R is liquidated there will be a recapture of accumulated DISC income and under paragraph (e)(5) a reduction of the export gross receipts of R, but no reduction with respect to any DISC that W organizes with respect to M.

(f) *DISC base period attributed through shareholders*—(1) *In general.* If—

(i) Any person owns 5 percent or more of the stock of a DISC (referred to as the "first DISC"), and

(ii) that person at any time during the base period of the first DISC owned 5 percent or more of the stock of a second DISC, and

(iii) Both DISCs derived export gross receipts from the sale of the same or similar property, or from the

performance of the same or similar services,

then the base period export gross receipts of the first DISC are increased by the shareholder's pro rata portion of the base period export gross receipts of the second DISC.

(2) *Exception.* Paragraph (f)(1) of this section does not apply to the extent paragraph (d) or (e) of this section apply.

(3) *Ownership of stock.* For purposes of this paragraph (f), the ownership of stock is determined under section 318.

(4) *Recapture of accumulated DISC income.* The rules with respect to recapture of accumulated DISC income described in paragraph (e)(5) of this section apply with respect to base period attribution under this paragraph.

(5) *Illustration.* The following example illustrates the application of this paragraph.

Example. A Corporation owns all the stock of B and C Corporations and B owns all the stock of D Corporation, a DISC. B produced $10,000 of export gross receipts of D for the base period 1972–1975. On January 1, 1976, A sells all the stock of C to X Corporation, an unrelated corporation. Subsequently A purchases 50 percent of the stock of F Corporation, another DISC, and B conducts all of its export business through F with B as the related supplier. Neither the sale of C by A nor the purchase of F result in a separation with respect to A under paragraph (e) of this section. In addition, D and F are not members of the same controlled group within the meaning of section 993(a)(3), and paragraph (d) of this section does not apply. However, under paragraph (f)(1) of this section, the base period export gross receipts of F are increased by $10,000.

(g) *Small DISC exception*—(1) *Adjusted taxable income of $100,000 or less.* Except as provided in paragraph (g)(4) of this section, if a DISC has adjusted taxable income of $100,000 or less for the taxable year, section 995(b)(1)(E) and this section do not apply for that year.

(2) *Partial exception.* If, for a taxable year, a DISC has adjusted taxable income of more than $100,000 but less than $150,000, the nonincremental distribution under paragraph (b)(1) of this section is reduced (but not below zero) by an amount equal to twice the excess of $150,000 over the adjusted taxable income.

(3) *Short taxable year.* In computing a DISC's adjusted taxable income for purposes of this paragraph (g), when the current taxable year is a short taxable year, the adjusted taxable income for the year is multiplied by a fraction. The numerator of the fraction is the number of days in the full taxable year and the denominator is the number of days in the short taxable year.

(4) *Controlled groups.* If more than one member of a controlled group (as defined in section 993(a)(3)) qualifies, or is treated, as a DISC for the current taxable year, the adjusted taxable income of each member of the group is aggregated for purposes of determining the application of paragraph (g) (1) or (2) of this section. The adjusted taxable income of any DISC for purposes of this aggregation may not be less than zero. The aggregation is made in the same manner and with respect to those DISCs described in paragraph (d)(2) of this section. If the adjusted taxable income of the member DISCs is more than $100,000, but less than $150,000, the nonincremental distribution under paragraph (b)(1) of this section is determined in accordance with paragraph (d) of this section. The reduction determined under paragraph (g)(2) of this section is apportioned among the DISCs described in paragraph (d)(2) of this section in accordance with the ratio which the adjusted taxable income of each member DISC for the year bears to the total adjusted taxable income of all member DISCs for the year. This paragraph (g)(4) applies to a shareholder of a DISC even though the shareholder is not a related person as defined in § 1.993–1(a)(6).

(h) *Certain transfer of DISC assets*—(1) *In general.* If—

(i) A corporation owns all the stock of a subsidiary and a DISC,

(ii) The corporation transfers (within the meaning of paragraph (h)(4) of this section) all the stock of the subsidiary,

(iii) The subsidiary has been engaged in the active conduct of a trade or business (within the meaning of section 355(b) and regulations thereunder) throughout the 5-year period ending on the date of the transfer, and continues to be so engaged thereafter,

(iv) During the taxable year of the subsidiary in which its stock is transferred, and its preceding taxable year, the trade or business produced qualified export receipts with respect to the subsidiary and the DISC,

(v) The DISC transfers all of its assets related to the conduct of the trade or business to a new DISC in exchange for all the stock of the new DISC, the DISC distributes the stock in the new DISC to the corporation and the corporation transfers the stock in the new DISC to the subsidiary, and

(vi) The transfers described in paragraph (h)(1)(v) of this section are undertaken for the sole purpose of avoiding the application of section 995(e)(9) and paragraph (e) of this section, and, therefore, preventing double attribution under paragraph (e)(1),

then notwithstanding any other rule or regulation to the contrary, the transfer described in paragraph (h)(1)(v) will be a reorganization within the meaning of section 368(a)(1)(D) to which section 355 applies and an exchange of stock of the new DISC by the corporation for stock of the subsidiary to which section 351 applies.

(2) *Special rule.* If—

(i) A corporation owns, directly or indirectly, all the stock of a subsidiary and a DISC,

(ii) A transfer or transfers described in this paragraph (h)(2) of the stock or assets of the subsidiary and the DISC are for the purpose described in paragraph (h)(1)(vi) of this section, and

(iii) The transfer or transfers occur in a transaction other than one described in paragraph (h)(1)(v) of this section but which satisfies the requirements of paragraphs (h)(1) (iii) and (iv) of this section,

then the transfer or transfers described in this paragraph (h)(2)(iii) will be a reorganization within the meaning of section 368, a transaction to which section 355 applies, an exchange of stock to which section 351 applies, or a combination of these, as the case may be, provided the transfer or transfers are consistent with the purpose and effect of those described in paragraph (h)(1)(v) of this section.

(3) *Ownership.* Stock owned, directly or indirectly, by a corporation shall be considered as owned proportionately by its shareholders.

(4) *Transfer.* The term "transfer" includes a sale, exchange, or other disposition of property.

(5) *Illustrations.* The following examples illustrate the application of this paragraph (h):

Example (1). P Corporation, which was organized on January 1, 1966, owns all the stock of X and Y Corporations, both also organized on January, 1 1966. X has been engaged in the manufacture of shoes. Y has been engaged in the manufacture of recreational equipment. On January 1, 1972, P organizes Z Corporation, a DISC. X and Y serve as the related suppliers of Z. On January 1, 1977, U Corporation offers to buy the stock of X. As part of an overall plan to avoid the application of section 995(e)(9), Z transfers all the export assets that relate to the trade or business conducted by X to V Corporation in exchange for all of the stock of V. Z then distributes all the stock of V to P, which transfers all the V stock to X. Immediately after this series of transactions, P sells all of the X stock to U Corporation. Under paragraph (h)(1) of this section, the transfer and distribution by Z constitute a reorganization under section 368(a)(1)(D) to

which section 355 applies, and the exchange by P constitutes and exchange to which section 351 applies. The result would be the same even if P sold less than all of the stock in X.

Example (2). The facts are the same as in example (1), except that Y organizes and owns all the stock of Z. Accordingly, after the transfer by Z, Z distributes the stock of V to Y, which in turn distributes the stock to P. P transfers all the V stock to X. Under paragraph (h)(2) of this section, the transfers by Z to Y, and Y to P constitute a reorganization described in section 368(a)(1)(D) to which section 355 applies. The transfer by P to X constitutes an exchange to which section 351 applies.

* * * * *

Par. 5. Section 1.996–3 is amended by adding a new paragraph (g) as follows:

§ 1.996–3 Divisions of earnings and profits.

* * * * *

(g) *DISCs having corporate and noncorporate shareholders.* In the case of a DISC having one or more corporate shareholders but less than all of its shareholders subject to the special rules of section 291(a)(4), relating to certain deferred DISC income as a corporate preference item, accumulated DISC income and previously taxed income of the DISC are divided between the corporate shareholders, as a class, and the other shareholders, as a class, in proportion to amounts of DISC income not deemed distributed and amounts deemed distributed to each class. Subsequent taxation of actual and qualifying distributions shall be based upon this division. Thus, if a DISC is owned 50 percent by corporate shareholders and 50 percent by individual shareholders and has undistributed taxable income of $2,000 for its year, the division is made as follows:

Corporate shareholders:	
Previously taxed income (57.5% of $2,000÷2)	$575
Accumulated DISC income (42.5% of $2,000÷2)	425
Individual shareholders:	
Previously taxed income (50% of $2,000÷2)	500
Accumulated DISC income (50% of $2,000÷2)	500

* * * * *

This Treasury decision is issued under the authority contained in sections 995(e) (7), (8) and (10), 995(g) and 7805 of the Internal Revenue Code of 1954 (90 Stat. 1655, 26 U.S.C. 995(e) (7), (8) and (10); 90 Stat. 1659, 26 U.S.C. 995(g); and 68A Stat. 917, 26 U.S.C. 7805).

Approved: September 26, 1984.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Ronald A. Pearlman,

Acting Assistant Secretary of the Treasury.

[FR Doc. 84-26628 Filed 10-11-84; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 229

Implementation of the Provisions of Subsections 205 (c) and (d) of Title II of the Federal Oil and Gas Royalty Management Act of 1982

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Interim final rule; request for comments.

SUMMARY: This interim final rule would implement provisions of subsections 205 (c) and (d) of Title II of the Federal Oil and Gas Royalty Management Act of 1982 (the Act). Section 205 of the Act provides for delegation of authority by the Secretary of the Interior to the States to conduct inspections, audits, and investigations with respect to all Federal lands within a State, and with respect to Indian lands with the permission of the affected Indian tribe or allottee.

MMS recently issued general regulations implementing the Act. However, subsection (c) of section 205 requires the Secretary to promulgate regulations defining functions which must be carried out jointly to avoid duplication of effort. Subsection (d) requires the Secretary to promulgate regulations and standards pertaining to the authorities and responsibilities which a State would administer under a delegation of authority. This interim rule would establish the standards required by the provisions of subsections (c) and (d). The Secretary of the Interior has delegated to MMS the authority to administer and implement these provisions of the Act.

DATES: Effective date November 13, 1984. Comments by November 13, 1984.

ADDRESS: Send comments to: Chief, Office of Royalty Regulations, Development and Review, Minerals Management Service (Mail Stop 660), 12203 Sunrise Valley Drive, Reston, Virginia 22091.

FOR FURTHER INFORMATION CONTACT: Mr. Orie L. Kelm (703) 860–7511, (FTS) 928–7511.

SUPPLEMENTARY INFORMATION: The principal author of this rulemaking is Mr. Robert E. Boldt, Associate Director for Royalty Management, Minerals Management Service.

The Act, 30 U.S.C. 1701 *et seq.*, has established new avenues for cooperative efforts between States and the Federal Government in carrying out royalty management activities for onshore Federal leases and mineral leases on Indian lands. In particular, sections 202 and 205 of Title II of the Act, 30 U.S.C. 1732 and 1735, provide new authority for cooperative efforts with State governments. Under section 202, the MMS is authorized to enter into cooperative agreements with State and Indian governments to carry out audit and investigative activities related to oil and gas royalties paid and collected on Federal and Indian leases. Under section 205 the Secretary, after proper notice, opportunity for hearing, and rulemaking, is authorized to delegate to any State that properly petitions for it, all or part of the authorities and responsibilities of the Secretary to conduct inspections, audits, and investigations with respect to all Federal and Indian lands within that State; except that the Secretary may not undertake such a delegation with respect to any Indian Lands unless the permission of the affected Indian tribe or allottee involved has been obtained.

On September 20, 1984, MMS adopted a set of regulations to implement its new authorities under the Federal Oil and Gas Royalty Management Act of 1982. Part 229 of the new regulations implements section 205 of the Act by providing the general procedures for delegations of authority to the States. However, the Act contemplated more detailed regulations governing delegations of authority. The purpose of this interim final rule is to define those MMS authorities and responsibilities subject to delegation to State governments, those authorities and responsibilities reserved to the Secretary, and to promulgate standards by which State governments would carry out audit activities under a section 205 delegation of authority.

These standards by which State governments are to carry out audit activities are those contemplated by the Act. Included are the terms of authorities and responsibilities subject to delegation and the standards for: (a) Procedures for obtaining regulatory and policy guidance from MMS; (b) required recordkeeping; (c) coordination of State audit activities with those of the Department of the Interior (DOI); (d) procedures for the development, maintenance, and referencing of workpapers; and (e) standards for

carrying out audit activities under a delegation of authority.

Some related items are also addressed in this interim rulemaking. These include: (a) Procedures for the preparation and issuance of enforcement documents; (b) procedures for handling appeals; and (c) disbursement of revenues received as a result of audits conducted under a delegation of authority.

Section 205 of the Act does not authorize the Secretary to delegate enforcement authority to the States. Accordingly, the interim rules do not address this issue.

Administrative Procedures Act

The MMS has determined that good cause exists pursuant to 5 U.S.C. 553(b) to issue this rule as an interim final rule. Notice is impracticable and unnecessary for two principal reasons. First, a substantial amount of comment was received on the State delegation issue when MMS proposed its 30 CFR Part 229 regulations (since adopted on September 21, 1984), together with the other MMS rules implementing the Act. Moreover, extensive informal discussions were held with the States industry on the delegation issue during that rulemaking process.

The second reason why notice is impracticable and unnecessary is that section 205(b) of the Act requires notice and opportunity for a hearing before any authority under the Act actually is delegated to the State. Since the requirements of this rulemaking are general in nature, opportunity for comment on a specific delegation proposal will be more meaningful.

The MMS is providing a 30-day comment period on the interim final rule and encourages interested persons to submit comments. If any comments are received which warrant a change to the rules issued today, an appropriate amendment will be made when the interim final rule is issued in final form. MMS will not finally approve the delegation of authority to a State until final regulations are issued. This will allow for consideration of all comments and possible changes to the rule before any State's delegation petition is acted upon.

For the above reasons, MMS has determined that good cause exists to issue interim final rules.

Executive Order 12291

The Department has determined that this interim rule is not a major rule and does not require the preparation of a regulatory impact analysis under Executive Order 12291.

This rulemaking has minimal economic effect on any business, large or small, as it only addresses who will perform the functions. The delegated functions will be no more stringent than are presently being performed.

Regulatory Flexibility

Some portion of the lessees/payors who will be assessed for royalty underpayments resulting from the implementation of this rulemaking will be small businesses. However, because the requirement to pay royalties is imposed by other regulations and because most of the affected lessees/payors are not small businesses, the Department has determined that this rule will not have a significant economic effect on a substantial number of small entities. Therefore, a small entity flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) is not required.

Paperwork Reduction Act of 1980

The information collection requirements contained in this rule do not require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*, because there will be fewer than 10 respondents annually.

National Environmental Policy Act of 1969

It is hereby determined that this rule does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

List of Subjects in 30 CFR Part 229

Auditing standards, Delegations of authority, Intergovernmental relations, Investigations, Mineral royalties.

Under the authority of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1735), Chapter II, Title 30 of the Code of Federal Regulations is amended as set forth below.

Dated: September 18, 1984.

Garrey E. Carruthers,

Assistant Secretary for Land and Minerals Management.

PART 229—[AMENDED]

1. 30 CFR Part 229, Subpart C is amended as shown in the following redesignation table.

REDESIGNATION TABLE

Old 30 CFR Part 229, Subpart C	New 30 CFR Part 229, Subpart C designations
	Inserting new subheading—ADMINISTRATION OF DELEGATIONS.
229.100(a)	229.101(a).
229.100(b)	229.101(b).
229.100(c)	229.101(c).
229.100(d)	229.101(d).
229.100(e)	Removed.
229.101(a)	229.102(a).
229.101(b)	229.102(b).
229.102	229.102(c).
229.103	229.103.
229.104	229.105.
229.105	Removed.
229.106	Removed.
229.120	229.106.
229.110	229.108.
229.109	229.109.
229.108	229.110.
	Insert new subheading—DELEGATION REQUIREMENTS.
229.107	229.127.

§ 229.103 [Amended]

2. 30 CFR Part 229, Subpart C is further amended by revising the title of § 229.103 to read "Duration of delegations; termination of delegations."

3. 30 CFR Part 229, Subpart C is further amended by adding a new table of contents and the following new §§ 229.100, 229.104, 229.107, 229.120, 229.121, 229.122, 229.123, 229.124, 229.125, and 229.126 to read as follows:

PART 229—DELEGATION TO STATES

* * * * *

Subpart C—Oil and Gas, Onshore

Administration of Delegations

Sec.

229.100 Authorities and responsibilities subject to delegation.
229.101 Petition for delegation.
229.102 Fact-finding and hearings.
229.103 Duration of delegations; termination of delegations.
229.104 Terms of delegation of authority.
229.105 Evidence of Indian agreement to delegation.
229.106 Withdrawal of Indian lands from delegated authority.
229.107 Disbursement of revenues.
229.108 Deduction of civil penalties accruing to the State or tribe under the delegation of authority.
229.109 Reimbursement for costs incurred by a State under the delegation of authority.
229.110 Examination of the State activities under delegation.
229.111 Materials furnished to States necessary to perform delegation.

Delegation Requirements

229.120 Obtaining regulatory and policy guidance.
229.121 Recordkeeping requirements.
229.122 Coordination of audit activities.
229.123 Standards for audit activities.
229.124 Documentation standards.

229.125 Preparation and issuance of enforcement documents.
229.126 Appeals.
229.127 Reports from States.

Authority: The Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C 1701 *et seq.*)

* * * * *

Subpart C—Oil and Gas, Onshore

Administration of Delegations

§ 229.100 Authorities and responsibilities subject to delegation.

(a) All or part of the following authorities and responsibilities of the Secretary under the Act may be delegated to a State authority:

(1) Conduct of audits related to oil and gas royalty payments made to the MMS which are attributable to leased Federal or Indian lands within the State. Delegations with respect to any Indian lands require the written permission, subject to the review of the MMS, of the affected Indian tribe or allottee.

(2) Conduct of investigations related to oil and gas royalty payments made to the MMS which are attributable to leased Federal lands or Indian lands within the State. Delegation with respect to any Indian lands require the written permission, subject to the review of the MMS, of the affected Indian tribe or allottee. No investigation will be initiated without the specific approval of the MMS or the Secretary's designee and in accordance with the Departmental Manual.

(b) The following authorities and responsibilities are specifically reserved to the MMS and are not delegable under these regulations:

(1) Enforcement actions to assess and collect additional royalties identified as a consequence of audits, inspections, and investigations. These include all actions related to resolution of royalty obligations so identified, and the establishment and maintenance of payment performance bonds which may be required during the resolution process.

(2) Enforcement actions to collect civil penalties and interest charges related to findings of audits, inspections, and investigations.

(3) Administration of all appeals and all actions of the Department related to administrative and judicial litigation.

(4) Issuance of subpoenas.

(c) The provisions of this section do not limit the authority provided to the States by section 204 of the Act.

* * * * *

§ 229.104 Terms of delegation of authority.

Each delegation of authority under this part shall be in writing, shall incorporate all the requirements of this part, and shall specifically include:

(a) Terms obligating the State to conduct audit and investigative activities for a specific period of time;

(b) Terms describing the authorities and responsibilities reserved by the MMS, including, but not limited to, those specified under § 229.100;

(c) Terms requiring the State to provide annual audit workplans to include the lease universe by company, or by individual lease accounts, a description of the audit work product(s) to be delivered, and the State resources (staff and otherwise) to be committed to the delegation;

(d) Terms requiring the State to notify the MMS of any changed circumstances which would affect the State's ability to carry out the terms of the delegation;

(e) Terms requiring coordination of delegated activities among the State, the MMS, and the land management agencies responsible for management of the leases included in the audit universe;

(f) Terms requiring the State to maintain and make available to the MMS all audit workpapers, documents, and information gained or developed as a consequence of activities conducted under the delegation;

(g) Terms obligating the State to adhere to all Federal laws, rules and regulations, and Secretarial determinations and orders relating to the calculation, reporting, and payment of oil and gas royalties, in all activities performed under the delegation.

* * * * *

§ 229.107 Disbursement of revenues.

(a) The additional royalties and late payment charges resulting from State audit work done under a delegation of authority shall be collected by MMS. The State's share of any amounts so collected shall be paid to the State in accordance with the provisions of 30 U.S.C. 191 and Part 219 of this chapter.

(b) Amounts collected for Indian leases shall be transferred to the appropriate Indian accounts (designated Treasury accounts) managed by the Bureau of Indian Affairs at the earliest practicable date after such funds are received, but in no case later than the last business day of the month in which such funds are received.

(c) MMS shall provide to the State on a monthly basis, an accounting of collections resulting from audit work and enforcement actions resulting from a delegation of authority. Such accounting will identify collections broken down by royalties, penalties and interest paid.

* * * * *

§ 229.111 Materials furnished to State necessary to perform delegation.

The MMS shall provide to the State all reports, files, and supporting materials within its possession necessary to allow the State to effectively carry out the terms of the delegation specified in § 229.104.

Delegation Requirements

§ 229.120 Obtaining regulatory and policy guidance.

All activities performed by a State under a delegation must be in full accord with all Federal laws, rules and regulations, and Secretarial and agency determinations and orders relating to the calculation, reporting, and payment of oil and gas royalties. In those cases when guidance or interpretations are necessary, the State will direct written requests for such guidance or interpretation to the appropriate MMS officials. All policy and procedural guidance or interpretation provided by the MMS shall be in writing and shall be binding on the State.

§ 229.121 Recordkeeping requirements.

(a) The State shall maintain in a safe and secure manner all records, workpapers, reports, and correspondence gained or developed as a consequence of audit or investigative activities conducted under the delegation. All such records shall be made available for review and inspection upon request by representatives of the Secretary and the Department's Office of Inspector General (OIG).

(b) The State must maintain in a confidential manner all data obtained from DOI sources or from payor or company sources under the delegation which have been deemed "confidential or proprietary" by DOI or a company or payor. In this regard, the State regulatory authority shall be bound by provisions of 30 U.S.C. 1733. MMS shall provide to the State guidelines for determining confidential and proprietary material.

(c) All records subject to the requirements of subsection (a) must be maintained for a 6-year period measured from the end of the calendar year in which the records were created. All dispositions or records must be with the written approval of the MMS. Upon termination of a delegation, the State shall, within 90 days from the date of termination, assemble all records specified in subsection (a), complete all

working paper files in accordance with § 229.124, and transfer such records to the MMS.

(d) The State shall maintain complete cost records for the delegation in accordance with generally accepted accounting principles. Such records shall be in sufficient detail to demonstrate the total actual costs associated with the project and to permit a determination by MMS whether delegation funds were used for their intended purpose. All such records shall be made available for review and inspection upon request by representatives of the Secretary and the Department's Office of Inspector General (OGIG).

§ 229.122 Coordination of audit activities.

(a) Each State with a delegation of authority shall submit annually to the MMS an audit workplan specifically identifying leases, resources, companies, and payors scheduled for audit. This workplan must be submitted 120 days prior to the beginning of each fiscal year. A State may request changes to its workplan (including the companies and leases to be audited) at the end of each quarter of each fiscal year. All requested changes are subject to approval by the MMS and must be submitted in writing.

(b) When a State plans to audit leases of a lessee or royalty payor for which there is an MMS or OIG resident audit team, all audit activities must be coordinated through the MMS or OIG resident supervisor. Such activities include, but are not limited to, issuance of engagement letters, arranging for entrance conferences, submission of data requests, scheduling of audit activities including site visits, submission of issue letters, and closeout conferences.

(c) The State shall consult with the MMS and/or OIG regarding resolution of any coordination problems encountered during the conduct of delegation activities.

§ 229.123 Standards for audit activities.

(a) All audit activities performed under a delegation of authority must be in accordance with the "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions" as issued by the Comptroller General of the United States.

(b) The following audit standards also shall apply to all audit work performed under a delegation of authority.

(1) *General standards*—(i) *Qualifications.* The auditors assigned to perform the audit must collectively possess adequate professional proficiency for the tasks required, including a knowledge of accounting, auditing, agency regulations, and industry operations.

(ii) *Independence.* In all matters relating to the audit work, the audit organization and the individual auditors must be free from personal or external impairments to independence and shall maintain an independent attitude and appearance.

(iii) *Due professional care.* Due professional care is to be used in conducting the audit and in preparing related reports.

(iv) *Quality control.* The State governments must institute quality control review procedures to ensure that all audits are performed in conformity with the standards established herein.

(2) *Examination and evaluation standards—Standards and requirements for examination and evaluation.* Auditors should be alert to situations or transactions that could be indicative of fraud, abuse, or illegal acts with respect to the program. If such evidence exists, auditors should forward this evidence to the Royalty Compliance Division (RCD) of the MMS. The RCD will contact the appropriate Federal law enforcement agencies. The scope of examinations are to be governed by the principle of a justifiable relationship between cost and benefit as determined by the auditor or audit supervisor. Audit procedures should reflect the most efficient method of obtaining the requisite degree of satisfaction. The auditor should determine, to the extent possible, the effect on royalty reporting of the non-arms'-length nature of related party transactions, such as transfers of oil to refinery units affiliated with the producer. A review should be made of compliance with the appropriate laws and regulations applicable to program operations. MMS shall issue guidelines as to the definition and nature of arms'-length and non-arms'-length transactions for use in carrying out delegated audit activities.

(3) *Standards of reporting.* (i) Written audit reports are to be submitted to the appropriate MMS officials at the end of each field examination.

(ii) A statement in the auditors' report that the examination was made in accordance with the generally accepted program audit standards (including the applicable General Accounting Office (GAO) standards) for royalty compliance audits should be in the appropriate language to indicate that the audit was made in accordance with this statement of standards.

(iii) The auditor's report should contain a statement of positive assurance on those items tested and negative assurance on those items not tested. It should also include all instances of noncompliance and instances or indications of fraud, abuse, or illegal acts found during or in connection with the audit.

(iv) The auditor's report should contain any other material deficiency identified during the audit not covered in paragraph (b)(3)(iii) of this section.

(v) When factors external to the program and to the auditor restrict the audit or interfere with the auditor's ability to form objective opinions and conclusions (such as denial of access to information by a company), the auditor is to notify the MMS. If the limitation is not removed, a description of the matter must be included in the auditor's report. MMS will take all legally enforceable steps necessary to seek information necessary to complete the audit.

(vi) If certain information is prohibited from general disclosure, the auditor's report should state the nature of the information omitted and the requirement that makes the omission necessary.

(vii) Written audit reports are to be prepared in the format prescribed by the RCD.

(viii) In instances where the extent of the audit findings or the amounts involved do not warrant it, a formal audit report need not be issued. In lieu of an audit report, a memorandum of audit findings will be prepared and placed on the case file.

§ 229.124 Documentation standards.

Every audit performed by a State under a delegation of authority must meet certain documentation standards. In particular, detailed workpapers must be developed and maintained.

(a) "Workpapers" are defined to include all records obtained or created in performing an audit.

(b) Each audit performed varies in scope and detail. As a result, the audit team must determine the best presentation of the workpapers for a particular audit. The following general standards of workpaper preparation are consistent with the goal of achieving proper documentation while maintaining sufficient flexibility.

(1) All relevant information obtained orally must be promptly recorded in writing and incorporated in the workpapers.

(2) Workpapers must be complete and accurate in order to provide support for findings and conclusions.

(3) Workpapers should be clear and understandable without the need for supplementary oral explanations. The information they contain must be clear, complete, and concise, so that anyone using the workpapers will be able to

readily determine their purpose, the nature and scope of the work done, and the conclusions drawn.

(4) Workpapers must be legible and as neat as practicable. They must meet standards which allow their use as evidence in judicial and administrative proceedings.

(5) The information contained in workpapers should be restricted to matters which are materially important and relevant to the objectives established for the assignment.

(6) Workpapers must be in sufficient detail to permit a subsequent independent execution of each audit procedure, assuming the target company retains its accounting documentation.

§ 229.125 Preparation and issuance of enforcement documents.

(a) Determinations of additional royalties due resulting from audit activities conducted under a delegation of authority must be formally communicated by the State, to the companies or other payors by an issue letter prior to any enforcement action. The issue letter will serve to ensure that all audit findings are accurate and complete by obtaining advance comments from officials of the companies or payors audited. Issue letters must be prepared in a format specified by the MMS, and transmitted to the company or payor. The company or payor shall be given 30 days from receipt of the letter to respond to the State on the findings contained in the letter.

(b) After evaluating the company or payor's response to the issue letter, the State shall draft a demand letter which will be submitted with supporting workpaper files to the MMS for appropriate enforcement action. Any sustantive revisions to the demand letter will be discussed with the State prior to issuance of the letter. Copies of all enforcement action documents shall be provided to the State by MMS upon their issuance to the company or payor.

§ 229.126 Appeals.

(a) Appeals made pursuant to the rules and procedures at 30 CFR Parts 243 and 290 related to demand letters issued by officers of the MMS for additional royalties identified under a delegation of authority shall be filed with the MMS for processing. The State regulatory authority shall, upon the request of the MMS, provide competent and knowledgeable staff for testimony, as well as any required documentation and analyses, in support of the lessor's position during the appeal process.

(b) An affected State, upon the request of the MMS, shall provide expert witnesses from their audit staff for testimony as well as required documentation and analyses to support the Department's position during the litigation of court cases arising from denied appeals. The cost of providing expert witnesses including travel and per diem is reimbursable under the provisions of a delegation of authority, at the Federal Government's existing per diem rates.

* * * * *

[FR Doc. 84-26933 Filed 10-11-84; 8:45 am]

BILLING CODE 4310-MR-M

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 938

Permanent State Regulatory Program of Pennsylvania; Modification of Deadline

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: This document amends 30 CFR Part 938 by modifying the deadlines for Pennsylvania to meet two of the conditions of approval of the State permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). After providing opportunity for public comment, the Secretary has decided to extend the deadline for the State to resolve conditions (d) and (k) to November 30, 1984. Condition (d) pertains to prime farmland requirements for a permit applicant who proposed to mine coal in the anthracite region and condition (k) pertains to Pennsylvania's hearings provision for bond release.

EFFECTIVE DATE: October 12, 1984.

FOR FURTHER INFORMATION CONTACT: Robert Biggi, Director, Harrisburg Field Office, Office of Surface Mining Reclamation and Enforcement, 101 South 2nd Street, Suite L-4, Harrisburg, Pennsylvania 17101, Telephone: (717) 782-4036.

SUPPLEMENTARY INFORMATION:

I. Background on Conditional Approval

Under 30 CFR 732.13(i), the Secretary may conditionally approve a State permanent regulatory program which contains minor deficiencies where the deficiencies are of such a size and nature as to render no part of the program incomplete, the State is actively proceeding with steps to correct the deficiencies, and the State agrees to correct the deficiencies according to a schedule set in the notice of conditional approval. The curing of each deficiency is a condition of the approval. Steps to terminate the conditional approval must be taken if the conditions are not met according to the schedule. The dates are established in consultation with the State, based on the regulatory and administrative needs of the State's permanent program and SMCRA and the time required for changes to be adopted under State procedures or legislative schedules.

II. Background on Pennsylvania State Program

On February 29, 1980, the Secretary of the Interior received a proposed regulatory program from the State of Pennsylvania. On October 22, 1980, following a review of that proposed program as outlined in 30 CFR Part 732, the Secretary of the Interior disapproved the program. The State resubmitted its program on January 25, 1982, and, subsequently the Secretary approved the program conditioned on the correction of minor deficiencies. Information pertinent to the general background of the permanent program submission, as well as the Secretary's findings, the disposition of comments and explanations of the conditions of approval of the Pennsylvania program can be found in the July 30, 1982 **Federal Register** (47 FR 33050). Additionally, on April 20, 1983, the United States District Court for the Middle District of Pennsylvania in *Pennsylvania Coal Mining Association* v. *Watt*, Civil No. 82-1129, remanded to the Secretary with instructions to rectify the corresponding provision in the Pennsylvania program concerning the timing of the bond release hearing and the decision. Pursuant to 30 CFR 732.17(e), the Secretary notified Pennsylvania by a letter dated June 7, 1983, that a State program amendment was required to rectify the matter. In the **Federal Register** (48 FR 27102) dated June 13, 1983, OSM announced its intention to impose new condition (k) on the approval of the Pennsylvania program to comply with the District court decision. The State responded to OSM's June 7, 1983 letter on July 27, 1983 and advised OSM that it would amend its regulations (PA 86.171) to rectify the matter. In the **Federal Register** dated September 6, 1983 (48 FR 40223), OSM imposed condition (k) and required that Pennsylvania correct its program by August 1, 1984.

Pennsylvania agreed at the time of conditional approval to correct condition (d) by August 1, 1983. However, in a letter dated April 25, 1983, it requested an extension of time to

correct condition (d) until February 1, 1984. In the **Federal Register** dated September 12, 1983 (48 FR 40888), OSM granted Pennsylvania the extension.

In a letter dated February 3, 1984, Pennsylvania asked to extend the time until August 31, 1984 to satisfy conditions (d) and (k). Pennsylvania attached a copy of its proposed regulations intended to satisfy conditions (d) and (k), but can not formally submit these regulations until the State rulemaking process is complete. The Environmental Quality Board (EQB) adopted the proposed regulations on December 20, 1983, and Pennsylvania anticipated completion of the process by August 31, 1984, therefore, OSM extended the time to satisfy conditions (d) and (k) to August 31, 1984 (49 FR 16776, April 20, 1984).

III. Program Amendment

In a letter dated July 18, 1984, Pennsylvania asked to extend the August 31, 1984 deadline to satisfy conditions (d) and (k) until November 30, 1984. The State explains that the extension is necessary due to the timing of the review of the proposed regulations by the EQB and the associated public comment period.

Therefore, the Secretary proposed in the **Federal Register** dated August 9, 1984 (49 FR 31913) to allow the State until November 30, 1984 to meet condition (d) pertaining to certain coal mine permit requirements with respect to prime farmland in the anthracite region and condition (k) pertaining to bond release procedures.

IV. Secretary's Findings

Based on Pennsylvania's letter explaining the need for an extension of time to satisfy conditions (d) and (k) and the State's progress to date with respect to its pending rule, the Secretary finds that Pennsylvania's request is reasonable and will extend the deadline for both conditions to November 30, 1984.

V. Public Comment

The public comment period on the proposed extension ended September 10, 1984.

The Pennsylvania Coal Mining Association (PCMA) objects to an extension of time for Pennsylvania to satisfy condition (k). PCMA believes that the State could more expediently amend its program by policy. PCMA indicates that OSM has accepted policy in the past and that timely bond release decisions are critical to Pennsylvania coal mining operators.

OSM agrees that timely bond release decisions are critical and provided for such when it imposed condition (k) by requiring the State until the condition is removed to conduct bond release hearings or informal conferences and render the associated decisions in a manner consistent with the District Court's decision and Federal standards. For a complete discussion of conditions (k) see the **Federal Register** dated September 6, 1983 (48 FR 40223). Therefore, OSM believes that the requested extension of time of two months to accommodate Pennsylvania's rulemaking process is reasonable and should not have an adverse effect on Pennsylvania coal operators.

VI. Additional Determinations

1. Compliance with the National Environmental Policy Act

The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. Executive Order No. 12291 and the Regulatory Flexibility Act

On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval of conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 938

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: October 5, 1984.

Garrey E. Carruthers,

Assistant Secretary for Land and Minerals Management.

PART 938—PENNSYLVANIA

§ 938.11 [Amended]

(1) 30 CFR 938.11(d) (1), (2), and (3) are amended by substituting "November 30, 1984", for August 31, 1984 each time it appears.

(2) 30 CFR 938.11(k) is amended by substituting "November 30, 1984", for August 31, 1984 each time it appears.

(Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*))

[FR Doc. 84–27064 Filed 10–11–84; 8:45 am]
BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–5–FRL–2690–7]

Air Programs; Approval and Promulgation of Implementation Plan Compliance With the Statutory Provisions of Part D and Section 110 of the Clean Air Act; Wisconsin

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Notice of Wisconsin State Implementation Plan (SIP) Inadequacy and Call for SIP Revision—Information Notice.

SUMMARY: USEPA here gives notice that it has: (1) Notified the Governor of Wisconsin, Anthony S. Earl, that the Wisconsin sulfur dioxide (SO_2) SIP is inadequate to achieve the primary and secondary National Ambient Air Quality Standards (NAAQS); and, (2) called upon the State of Wisconsin to submit curative SIP revisions to USEPA for approval.

DATES: Final SIP revisions, and the complete technical support document, are due to USEPA by September 30, 1985.

ADDRESSES: Copies of the technical support document supporting the determination of SIP inadequacy are available for review at the following addresses. (It is recommended that you telephone Colleen W. Comerford, at (312) 886–6034, before visiting the Region V office).

Environmental Protection Agency, Region V, Air and Radiation Branch (5AR–26), 230 South Dearborn Street, Chicago, Illinois 60604

Wisconsin Department of Natural Resources, Bureau of Air Management (AIR/3), 101 South Webster, Madison, Wisconsin 53707.

FOR FURTHER INFORMATION CONTACT: Steve Rothblatt, Chief, Air Programs Branch, USEPA Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 353-2211, FTS 353-2211.

SUPPLEMENTARY INFORMATION:

I. Background

The 1970 Clean Air Act Amendments established deadlines for attainment of the primary NAAQS and required States to adopt SIPs providing for attainment within the deadlines. In many areas of the country, the first SIPs failed to bring about timely attainment. In 1976, USEPA found these plans inadequate to achieve the NAAQS, and called for SIP revisions under section 110(a)(2)(H) (41 FR 28842: July 13, 1976).

In 1977, Congress amended the Clean Air Act to address the problem of continuing nonattainment of the NAAQS. Section 107(d) was added which required each State to immediately designate all areas as either attaining the NAAQS, not attaining the NAAQS, or unclassifiable for lack of data. Section 107(d) further required USEPA to review, modify, and promulgate these designations by February 1978. New section 110(a)(2)(I) required each State to revise its SIP to prohibit major stationary source construction or modification after July 1, 1979, in any nonattainment area whose SIP did not meet the requirements of Part D of the amended Act. Section 172(a)(1) of that part required each nonattainment area SIP to "provide for" primary NAAQS attainment as soon as practicable, but no later than December 31, 1982. Section 172(b) specified other requirements Part D plans had to meet. The 1977 amendments, however, retained the authority in section 110(a)(2)(H) to issue notices of deficiency and calls for SIP revisions as additional remedial mechanisms. Section 110(a)(2)(H) requires that a State SIP be revised whenever the Administrator determines, on the basis of information available to him, that the plan is substantially inadequate to achieve the primary or secondary NAAQS. Thus, in any part of the State where the SIP is inadequate because it fails to meet the requirements of section 110, the SIP must be revised to correct the inadequacy.

II. Finding of Inadequacy

On April 26, 1984, USEPA notified the Governor of Wisconsin, Anthony S. Earl, that the Wisconsin SO_2 SIP is inadequate to achieve the primary and the secondary NAAQS, pursuant to section 110(a)(2)(H) of the Clean Air Act, 42 U.S.C. section 7410(a)(2)(H). USEPA has concluded that the SIP does not contain sufficient specific SO_2 emission limitations, schedules, and timetables for compliance with such limitations, as required by section 110(a)(2)(B), in order to ensure attainment and maintenance of the SO_2 NAAQS. This finding of SIP inadequacy applies statewide, except for those sources regulated under the New Source Performance Standards (NSPS), and for areas where there are SO_2 plans approved pursuant to Part D of the Clean Air Act (i.e., City of Madison and Village of Brokaw).

III. Call for SIP Revision

This finding of inadequacy requires Wisconsin, pursuant to the provisions of section 110(a)(2)(H), to carry out its SIP obligation, and to adopt and submit to USEPA for approval whatever additional control measures are necessary to assure timely attainment and maintenance of the SO_2 NAAQS. USEPA calls upon Wisconsin to submit the necessary SIP revisions, according to the schedule outlined below:

Transmit generic rules to USEPA—January 31, 1985

Make available to USEPA site-specific revisions to the generic rules, plus adequate technical support—March 31, 1985

Submit final rules (generic rules, plus any site-specific rules) and the complete technical support material—September 30, 1985.

This schedule is consistent with the rule development schedule submitted by the Wisconsin Department of Natural Resources (WDNR) in a letter dated February 16, 1984.

If the State does not submit remedial SIP revisions to USEPA within the specified time frame, then USEPA will propose funding restrictions under Section 176(b), and will consider promulgating SIP revisions adequate to meet the Section 110 requirements.

IV. Guidance on the Necessary Revisions

Wisconsin has already received a copy of the USEPA publication entitled "Guidance Document for Correction of Part D SIPs for Nonattainment Areas," issued on January 27, 1984, which will asstst the State in making the revisions necessary to cure the inadequacies in their SO_2 SIP. This document may also be inspected at the USEPA Region V Office. USEPA's November 2, 1983, notice (46 FR 50686) explains USEPA's general policy on which the guidance for these revisions is based.

As noted by the Guidance Document, and by USEPA's general preamble for proposing rulemaking, published on April 4, 1979 (44 FR 20372), additional control measures added to a SIP generally do not relax or revoke the existing requirement. The new requirement does not supersede or replace the old requirement unitl the source comes into compliance with the new requirement. Instead, the existing requirement remains an enforceable provision of the SIP and co-exists with the new requirement in the applicable implementation plan. The present emission control requirement must be retained because the source must be prevented from operating without controls (or with less stringent controls) while it is moving toward compliance with (or challenging) the new requirement. This policy applies to every Part D SIP action taken by USEPA unless such action fits within one of the exceptions enumerated in the above referenced 1979 **Federal Register** notice. The fact that a SIP revision fits within an exception shall be indicated in the **Federal Register** notice approving that SIP revision.

V. Final Action

On July 13, 1984, USEPA received a response from the Governor of Wisconsin, Anthony S. Earl, acknowledging receipt of the April 26, 1984, notice of SO_2 SIP deficiency. In his response, Governor Earl informed USEPA that the WDNR is currently working on the regulations, and the appropriate support material, which will enable Wisconsin to meet the specified deadlines.

List of Subjects in 40 CFR Part 52

Air pollution control, Nitrogen dioxide, Lead, Ozone, Particulate matter, Carbon monoxide, Hydrocarbons, Sulfur oxides.

(Secs. 101, 107, 110, 116, 171-178 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7401, 7407, 7410, 7416, 7501-08, and 7601(a); sec. 129(a) of the Clean Air Act Amendments of 1977 (Pub. L. 95-95, 91 Stat. 685 (August 7, 1977))

Dated: October 3, 1984.

William D. Ruckelshaus,

Administrator.

[FR Doc. 84-26822 Filed 10-11-84; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 60

[A-10-FRL-2692-8]

Standard of Performance for New, Modified and Reconstructed Sources; Delegation to the State of Oregon

AGENCY: Environmental Protection Agency (EPA).

ACTION: Rule related notice.

SUMMARY: EPA is announcing approval of a request dated August 27, 1984 from the State of Oregon Department of Environmental Quality (DEQ) for delegation of additional source categories under the New Source Performance Standards (NSPS) as approved in their OAR 340-25-505 to 705. The additional source categories are: Metallic mineral processing plants, tape and label surface coating, VOC leaks in synthetic organic chemical industry, beverage can surface coating, and bulk gasoline terminals. This delegation will amend the November 11, 1975, December 3, 1981 (46 FR 62006), September 3, 1982 (48 FR 38982) and September 27, 1983 (48 FR 46535) to DEQ.

DATE: Effective September 25, 1984.

ADDRESSES: The relative material in support of this delegation may be examined during normal business hours at the following locations:

Air Programs Branch (10A-84-12), Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101

Department of Environmental Quality, 522 SW. Fifth, Yeon Building, Portland, Oregon 97207.

FOR FURTHER INFORMATION CONTACT: Mark H. Hooper, Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101, Telephone (206) 442-1949, FTS: 399-1949.

SUPPLEMENTARY INFORMATION: On November 11, 1975, the Regional Administrator of EPA, Region 10 delegated to the State of Oregon Department of Environmental Quality (DEQ) the authority to implement and enforce New Source Performance Standards (SPS) for 13 categories of stationary source as promulgated by EPA prior to January 1, 1975. This delegation was published in the **Federal Register** on February 20, 1976 (41 FR 7749). Additional delegations were made on December 3, 1981 (46 FR 62066), September 3, 1982 (47 FR 38982) and September 27, 1983 (48 FR 46535).

DEQ in a letter dated August 27, 1984 requested additional delegation of five (5) source categories under NSPS. The letter granting this additional delegation of authority to DEQ was dated September 25, 1984 and is as follows:

Frederic J. Hansen, Director,
Oregon Department of Environmental Quality,
P.O. Box 1760, Portland, Oregon

Dear Mr. Hansen: On August 27, 1984 you requested that EPA extend the delegation of authority to enforce five (5) additional source categories under New Source Performance Standards (NSPS) as granted to the State of Oregon on November 11, 1975. We have reviewed that request and hereby delegate to DEQ authority to enforce the following categories:

Metallic Mineral Processing Plants (Subpart LL)
Tape and Label Surface Coating (Subpart RR)
VOC Leaks in Synthetic Organic Chemical Industry (Subpart VV)
Beverage Can Surface Coating (Subpart WW)
Bulk Gasoline Terminals (Subpart XX)

This delegation is subject to the conditions outlined in the original letter of delegation dated November 11, 1975 and published in the **Federal Register** on February 20, 1976 (41 FR 7749).

A Notice announcing this delegation will be published in the **Federal Register** in the future. The Notice will state, among other things, that effective immediately, all reports required pursuant to the Federal NSPS from sources located in the State which were previously sent to EPA will now be sent to the State agency.

Since this delegation is effective immediately, there is no requirement that the State notify EPA of its acceptance. Unless EPA receives from the State written notice of objections within 10 days of the date of receipt of this letter, the State will be deemed to have accepted all the terms of the delegation. In addition, EPA hereby delegates to DEQ the authority to enforce revisions to NSPS which have been promulgated through April 18, 1984.

An advance copy of this **Register** is enclosed for your information.

Sincerely,

Ernesta B. Barnes,

Regional Administrator.

cc: Mike Gearheard

This notice is being published to notify the public that a delegation of authority under NSPS has occurred.

(Sec. 110, Clean Air Act 42 U.S.C. 7410(a) and 7502)

List of Subjects in 40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Cement industry, Coal, Copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel sulfuric acid plants, Waste treatment and disposal, and Zinc.

Dated: September 25, 1984.

Ernesta B. Barnes,

Regional Administrator.

[FR Doc. 84-27030 Filed 10-11-84; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6572

[C-016609]

Colorado; Partial Revocation of Reclamation Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a Bureau order insofar as it affects 320 acres of public land withdrawn for the Bureau of Reclamation for its Colorado River Storage Project. This action will permit immediate selection of the land by the State of Colorado in satisfaction of its State Indemnity Selection rights. The land will be opened in approximately 30 days to other forms of surface entry and mining, subject to the terms of the State Indemnity Selection application. The land has been and remains open to mineral leasing.

EFFECTIVE DATE: November 8, 1984.

FOR FURTHER INFORMATION CONTACT: Richard D. Tate, BLM Colorado State Office, 1037 20th Street, Denver, Colorado 80202, 303-837-2592.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Bureau of Land Management Order of January 4, 1957, is hereby revoked insofar as it affects the following described lands:

Ute Principal Meridian

T. 1 S., R. 1 E.,
Sec. 35, E½.

The area described contains 320 acres in Mesa County.

2. Effective immediately, the lands shall be available for selection by the State of Colorado in satisfaction of its State Indemnity Selection rights, subject to valid existing rights.

3. At 10 a.m. on November 8, 1984, the lands shall be opened to operation of the public land laws generally, other than State Indemnity Selections, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All

valid applications received at or prior to 10 a.m. on November 8, 1984, shall be considerd as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. At 10 a.m. on November 8, 1984, the lands will be opened to location and entry under the United States mining laws, subject to valid existing rights. Appropriation of lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, incluidng attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: October 3, 1984.

Garney E. Carruthers,

Assistant Secretary of the Interior

[FR Doc. 84-27010 Filed 10-11-84; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 83-1009]

Amendment of the Commission's Rules Relating to Multiple Ownership of AM, FM and Television Broadcast Stations; Order Extending Time for Filing Oppositions to Petitions for Reconsideration

AGENCY: Federal Communications Commission.

ACTION: Final rule; petitions for reconsideration; extension of time for oppositions.

SUMMARY: This action extends the time for filing opposition comments in response to the Petitions for Reconsideration concerning Amendments of §§ 73.35, 73.240 and 73.636 of the Commissions Rules relating to Multiple Ownership of AM, FM and Television Broadcast Stations. This action is taken to correct the previous deadline date.

DATE: Oppositions in the above noted proceeding must be filed on or before October 18, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: David L. Donovan, Mass Media Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Order Extending the Time for Filing Oppositions to Petitions for Reconsiderations

In the matter of Amendment of § 73.3555 [formerly § 73.35, 73.240 and 73.636] of the Commissions rules relating to Multiple Ownership of AM, FM and Television Broadcast Stations; Gen. Docket No. 83-1009. (8/9/84, 49 FR 31677; 10/3/84, 49 FR 39105).

Adopted: October 10, 1984.
Released: October 11, 1984.

By the Chief, Policy and Rules Division

1. Public Notice Report No. 1479, stated that comments responsive to reconsideration petitions in Gen. Docket 83-1009 would be due by October 15, 1984. In order to provide the full 15 days after publication of that notice in the **Federal Register** for the filing of comments that is specified in the rules, that date is revised and comments will now be due by October 18, 1984.

2. Accordingly, it is ordered, that the dates for filing opposition comments in response to the Petitions for Reconsideration are extended respectively to and including October 18, 1984.

3. This action is taken pursuant to authority found in sections (i), 5(d)(1), 303 (g) and (r) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules.

Federal Communications Commission.

Charles G. Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84-27202 Filed 10-11-84; 10:35 am]

BILLING CODE 6712-01-M

GENERAL SERVICES ADMINISTRATION

48 CFR Part 501

[AC-84-7]

Ratification of Unauthorized Contractural Commitments

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Temporary regulation.

SUMMARY: This Acquisition Circular temporarily amends the General Services Administration Acquisition Regulation (GSAR) to add section 501.675 on the ratification of unauthorized contractual commitments in order to provide GSA contracting activities with guidance regarding the procedures to be followed in connection with the ratification of unauthorized contractual commitments.

DATES: *Effective:* October 2, 1984. *Expiration:* This Acquisition Circular expires 6 months after issuance.

FOR FURTHER INFORMATION CONTACT: Ida Ustad, Office of GSA Acquisition Policy and Regulations, Washington, DC 20405, (202) 523-4754.

SUPPLEMENTARY INFORMATION: The Director, Office of Management and Budget (OMB), by memorandum dated December 15, 1983, exempted agency procurement regulations from Executive Order 12291. The General Services Administration (GSA) certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Therefore, no regulatory flexibility analysis has been prepared. The rule does not contain information collection requirements which require the approval of OMB under 44 U.S.C. 3501 et seq.

List of Subjects in 48 CFR Part 501

Government procurement.

Authority: 40 U.S.C. 486(c).

PART 501—[AMENDED]

In 48 CFR Chapter 5, the following Acquisition Circular is added to Appendix C at the end of the chapter to read as follows:

Appendix C—Amended

October 2, 1984.

General Services Administration Acquisition Regulation; Acquisition Circular AC-84-7

To: All GSA contracting activities.

Subject: Ratification of unauthorized contractual commitments.

1. *Purpose.* This Acquisition Circular temporarily amends the General Services Administration Acquisition Regulation (GSAR) to add a section on the ratification of unauthorized contractual commitments.

2. *Background.* The Federal Acquisition Regulation (FAR) did not pick up the coverage in the Federal Procurement Regulations on the subject of ratification of unauthorized contract awards. GSA contracting activities have asked for guidance regarding the procedures to be followed in connection with the ratification of unauthorized contract awards.

3. *Effective date.* October 2, 1984.

4. *Expiration date.* This Acquisition Circular expires 6 months after issuance unless canceled earlier.

5. *Reference to regulation.* Subpart 501.6 of the General Services Administration Acquisition Regulation.

6. *Explanation of change.* Subpart 501.6 is amended to add section 501.675 to read as follows:

501.675 Ratification of unauthorized contractual commitments.

501.675–1 Definitions.

(a) "Ratification" means the act of confirming an unauthorized contractual commitment.

(b) "Unauthorized contractual commitment" means an agreement that is not binding solely because the Government representative who made it lacked the authority to enter into the agreement on behalf of the Government.

(c) "Otherwise proper" means the agreement could have been entered into by a Government official with authority to obligate the Government contractually without violating any statute or regulatory requirement.

501.675–2 Authority.

(a) Subject to the limitations and in accordance with the procedures prescribed in 501.675–3 a contracting officer may ratify a contractual commitment made by an employee who did not have the requisite authority to enter into a contract on behalf of the Government if the head of the contracting activity (HCA) has approved the ratification action.

(b) The head of a contracting activity (HCA) may approve ratification of an unauthorized contractual commitment if—

(1) Ratification is in the Government's interest;

(2) The resulting contractual action would otherwise have been proper if made by an authorized contracting officer;

(3) The price is determined to be fair and reasonable; and

(4) Funds are available to pay for the acquisition.

501.675–3 Procedures.

(a) The Government is generally not bound by agreements or contractual commitments made by persons to whom contracting authority has not been delegated. Such unauthorized acts may be in violation to the Federal Property and Administrative Services Act, other Federal laws, the FAR, the GSAR, and good acquisition practice. Therefore, such unauthorized contractual commitments should be considered to be a serious matter and consideration given to initiating disciplinary action. In any instances where suspected irregularities may involve fraud against the Government, or any type of misconduct which might be punishable as a criminal offense, either the employees supervisor or the contracting officer should report the matter immediately to the Office of Inspector General and request a complete investigation.

(b) The individual who made the unauthorized commitment shall furnish the appropriate contracting director all records and documents concerning the commitment and a complete written statement of facts, including, but not limited to, a statement as to why normal procurement procedures were not followed, why the contractor was selected, a list of other sources considered, description of work or products, estimated or agreed contract price, citation of appropriation available and a statement regarding the status of performance. Under exceptional circumstances, such as when the person who made the unauthorized commitment is no longer available to attest to the circumstances of the unauthorized commitment, the contracting director, may waive the requirement that the responsible employee initiate and document the request for ratification; provided, a written determination is made that a commitment was in fact made by an employee who shall be identified in the determination.

(c) The appropriate contracting director will assign the request for ratification action to an individual contracting officer for processing. The contracting officer assigned the action will be responsible for:

(1) Reviewing and determining the adequacy of all facts, records, and documents furnished, and for obtaining any additional material required.
October 2, 1984

(2) Obtaining an opinion from legal counsel as to whether the acquisition is ratifiable.

(3) Stating whether the price involved is considered fair and reasonable.

(4) Determining that sufficient funds are available to pay for the acquisition.

(5) Preparing a summary statement of facts addressing the foregoing, to include a recommendation as to whether the transaction should be ratified, and stating the reasons therefor. Advice against ratification should include a recommendation for other appropriate disposition. When ratification is not permissable due to legal improprieties in the procurement, the contracting officer may recommend payment be made for services rendered on a *quantum meruit* basis (the reasonable value of work or labor) or for goods furnished on a *quantum valebant* basis (the reasonable value of goods sold and delivered) provided there is a showing that a valid need was satisfied and the Government received a benefit.

(d) The request for ratification, the information required by paragraphs (a), (b) and (c) above, and a recommendation for corrective action to preclude recurrence, shall be forwarded, through appropriate channels, to the HCA for consideration.

(e) The HCA, upon receipt and review of the complete file, may approve the ratification if determined to be in the Government's best interest, direct that payment be made on a *quantum meruit* or *quantum valebant* basis, or direct other disposition as appropriate. Acquisitions which have been approved for ratification shall be forwarded to the contracting officer for issuance of the appropriate contractual documents. If the request for ratification is not justified, the HCA shall return the request without approval and provide an explanation for the decision not to approve ratification.

(f) Each HCA shall maintain a separate file containing a copy of each request for approval to ratify an unauthorized contractual commitment and a record of the response to the request. This file shall be available for review by the Office of Acquisition Policy and the Inspector General.

Allan W. Beres,

Assistant Administrator for Acquisition Policy.

[FR Doc. 84–27035 Filed 10–11–84; 8:45 am]
BILLING CODE 6820–61–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 173 and 178

[Docket No. HM–185, Amdt. Nos. 173–179, 178–81]

Standards for Polyethylene Packagings; Revisions

AGENCY: Materials Transportation Bureau (MTB), Research and Special Programs Administration, Department of Transportation.

ACTION: Final rule; petitions for reconsideration and revisions.

SUMMARY: This document contains revisions to a final rule published under Docket HM–185 (49 FR 24684; June 14, 1984) which amended the Hazardous Materials Regulations applicable to polyethylene packagings used for hazardous materials. This amendment to the final rule: (1) Removes the

authorization in § 173.247(a)(21) which permits use of Specification 34 polyethylene drums as packagings for thionyl chloride; (2) revises § 173.119(m)(19) to authorize use of Specification 34 drums for flammable liquids which are also corrosive liquids; and (3) revises manufacturing requirements in § 178.19–3(a) to permit a wall thickness of 0.090 inch rather than 0.125 inch, in corners and undercuts only, for Specification 34 drums of greater than 15 gallons capacity. These changes are made in response to two petitions for reconsideration.

EFFECTIVE DATE: October 1, 1984.

FOR FURTHER INFORMATION CONTACT: Edward T. Mazzullo, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Department of Transportation, Washington, D.C. 20590; (202) 426–2075

SUPPLEMENTARY INFORMATION: On August 26, 1982, MTB published a notice of proposed rulemaking (Docket HM–185, Notice 82–7) in the **Federal Register** (47 FR 37592). Based on the proposals contained in the notice and the merits of comments received from the public in response thereto, on June 14, 1984, MTB published a final rule in the **Federal Register** (49 FR 24684). As part of this rulemaking § 178.19 was revised: (1) To authorize a Specification 34 polyethylene drum of 55 gallons maximum capacity, (2) to add a provision for continued use of 55 gallon polyethylene drums manufactured under the terms of exemptions, and (3) to add authorizations for use of Specification 34 for a number of materials previously authorized in polyethylene drums only under exemptions.

Two petitions for reconsideration were received, one jointly from Hedwin Corporation (Hedwin) and Container Corporation of America (CCA) and the other from Union Carbide Corporation (Union Carbide). The Hedwin and CCA petition requests reconsideration concerning authorization for use of Specification 34 for thionyl chloride and minimum thickness requirements for Specification 34. The Union Carbide petition requests reconsideration concerning the use of Specification 34 for flammable liquids which are also corrosive liquids.

With regard to the authorization for use of Specification 34 for thionyl chloride, the Hedwin and CCA petition states:

Thionyl chloride. The amendment authorizes polyethylene packaging for this commodity in Section 173.247. To our knowledge, this addition is based only upon exemptions held by CCA and Greif Bros. Both exemption holders are deeply concerned from the standpoint of product quality, i.e., contamination from polyethylene. There also is a tangible safety concern, although more testing would be required to document this. This concern arises form information developed since addition of this commodity to the exemptions, and relates primarily to long term storage and reuse of the packaging.

We understand that Mobay and Occidental are the only shippers who were interested in this authority, and that only four shipments have occurred. The rationale expressed in the preamble for adding this material is not consistent with such a small number of shipments: "MTB notes that all of these materials have successful shipping experience under exemption and that there has been over one year of additional experience acquired since comments were submitted to Notice 82–7".

Accordingly, until further investigation can resolve the doubts regarding this material, were petition for removal of the authorization of Specification 34 for thionyl chloride.

MTB notes that Greif Bros. Corporation supports this petition. Upon further consideration and based on this demonstration of concern and allegation of insufficient shipping experience by the exemption holders, MTB agrees that the packaging of thionyl chloride in polyethylene drums should remain under the terms of exemptions. Therefore, the final rule is revised to remove § 173.247(a)(21), which contains the authorization for use of Specification 34 for thionyl chloride.

With regard to minimum thickness requirements for Specification 34 drums, the Hedwin and CCA petition is quoted again as follows:

Minimum thickness in corners and undercuts. Under paragraph 7.a.ii of exemption E–6883, Hedwin is authorized to produce polyethylene drums with a wall thickness no less than 0.140 inch measured on any point of the container "except for no less than 0.110 inch measured in the chime area" as shown on the Hedwin drawing accompanying the original exemption application.

Under paragraph 7.a.i. of E–7072, CCA is authorized to produce a drum having a wall thickness no less than 0.12 inch measured on any point on the container "except for no less than 0.090 inch measured in a small area of the top chime."

Greif Bros. Corporation wrote to the Exemptions Branch on December 21, 1983, asking for a similar revision to their E–7933. Although their application has not been acted upon, as noted above, Greif Bros. supports this petition for reconsideration.

In the notice of proposed rulemaking in Docket No. HM–185, this subject was addressed in the preamble as follows: "A minimum container wall thickness of 0.125 inch would be required with 0.090 inch thickness authorized in corners and undercuts." This was expressed in footnote "3" to proposed § 178.19–3: "A minimum thickness of 0.090 inch is authorized in corners and undercuts."

This part of the proposal was not adopted. In the preamble to the final rule, the MTB said, "Several commenters contended that it is in the best interests of safety not to provide a reduction of material thickness in corners and undercuts. MTB agrees with this contention and the final rule requires a minimum wall thickness of 0.125 inch throughout the container."

There were but three comments against this issue, and in essence these constitute but one comment since the three were the Chemical Packaging Committee and two of its members. The CPC's comments were based only upon a "feeling" of its members that reduced thickness should not be authorized "despite any exemption experience which would seem to indicate otherwise."

Pennwalt commented generally, without any specifics: "Our experience shows that palletization is sometimes not optimum (thick deck, wide board spacing, etc.) which puts abnormal stress load on chime areas which sometimes causes failures particularly in thin areas." Hedwin has provided polyethylene drums to Pennwalt for years, but has no record of a single incident being reported to them along the lines described by Pennwalt's Bob Schaefer. CCA, the other exemption holder, did not provide drums to Pennwalt but has no reports of such failures from other customers. Accordingly, it is difficult to identfy the failures Mr. Schaefer claimed in this comment.

He went on to say, "If 12 manufacturers can meet the 0.125 min., the thirteenth should be able to." He obviously was unaware of the fact that there are two existing exemptions related to wall thickness, held by manufacturers, who together accounted for a large proportion of the 55-gallon polyethylene drums in commerce at the time. His comment also predated the Greif Bros. application for similar authority.

Du Pont commented in a fashion similar to the Packaging Institute: "While, to the best of our knowledge, no negative experience has been reported to date under exemptions, it is our belief that this reduction at these stress points would not be in the best interest of safety."

In contrast to these unsubstantiated comments and "belief," Hedwin has the very real experience of shipping nearly 800,000 drums under this exemption without difficulty attributable to this aspect of the exemption. Also in contrast to such comments is CCA's experience in the production of over 200,000 drums without a failure.

In short, the reality of these companies' vast experience grossly outweighs the unsubstantiated and incorrect beliefs of two members of the Chemical Packaging Committee and the reflection of their views in the CPC's composite comments.

The MTB's failure to adopt the proposed 0.090 provision, a rulemaking designed to eliminate the need for most polyethylene drum exemptions, in fact, forces the continuation of two of them. In addition, the Greif application ought to be granted. More applications may be expected, because we have been in contact with other companies in the industry who may seek this authority.

Experience justifies a general rule in the codified volume of 49 CFR, not the continuation or new issuance of exemptions.

We also are mindful of the many drums made under these exemptions that are in use in the field. The grandfather clause offered in the amendment was to mark Spec. 34 on those exemption drums for which the exemption is no longer necessary. Thus, declining to adopt the 0.090 proposal means that these drums remain under the exemption.

We seek to eliminate unnecessary exemptions for several reasons. The most obvious is the administrative burden on the companies and the agency alike, in the application, review, issuance and renewal processes. In addition, while before HM-185 virtually every plastic drum was under exemption, that is no longer the case, and we are concerned that there may be a competitive disadvantage to those few containers that must remain under the exemption.

The alternative to maintaining these exemptions and issuing new ones would be to increase the overall weight of the container to achieve the 0.125 minimum in the corners and undercuts. The increase in costs has not been thoroughly documented as of this filing, but is generally estimated at between 5-10%.

Simply stated, the petitioners have actual experience in transportation of approximately one million drums meeting the 0.090 standard. It is a fact that there is no safety or quality problem with these drums. This is countered in the file only by comments that acknowledge this good experience, and yet oppose the proposal based only upon unsubstantiated "feeling" and "belief." Feeling and belief may be all one can rely upon when no facts are available, but that is not the case here.

Accordingly, exemption holders Hedwin and CCA, with the support of Greif Bros., hereby petition for reconsideration of this aspect of the amendment, and urge adoption of footnote "3" as originally proposed for the table in § 178.19-3.

Based on the foregoing discussion, it appears that at least two exemptions may be continued in effect because they do not meet minimum thickness requirements as adopted in the final rule and that other polyethylene drum manufacturers may apply for exemption from this provision. MTB shares the petitioners' desire to eliminate unnecessary exemptions. Also, MTB notes that another polyethylene drum manufacturer has submitted comments in support of this petition. The manufacturer claims that in laboratory testing of drums with 0.090 inch wall thickness in undercut areas there was no difference in performance to drums with 0.125 inch wall thickness in undercut areas, with respect to stacking tests and drop tests. MTB agrees with petitioners that there has been an adequate demonstration of safety for drums constructed with wall thicknesses of less than 0.125 inch, in corners and undercuts. Therefore, the final rule is revised, by adding a footnote to the table in § 178.19-3(a), to permit a minimum wall thickness of 0.090 inch rather than 0.125 inch, in corners and undercuts only, for Specification 34 drums of greater than 15 gallons capacity.

In the final rule, MTB had added authorizations for use of Specification 34 based on commenters' input, experience acquired under the terms of various polyethylene drum exemptions, and reliance on new permeation and compatibility standards addded in § 173.24(d). Authorizations were added for flammable liquids with flash points above 20° F., organic peroxides (including those classed as flammable liquids), hydrobromic acid (not over 49%), poisonous liquids, n.o.s., and cyanide solutions. Union Carbide has petitioned MTB to amend the final rule at § 173.119(m)(19) to authorize use of Specification 34 for both flammable liquids which are also organic peroxides and those flammable liquids which are also corrosive. The petitioner contends that current authorizations under various DOT exemptions are a basis for amending § 173.119(m)(19) and that the amendment would be consistent with MTB's stated intent of reducing the burden of regulatory compliance imposed under the terms of exemptions on manufacturers of polyethylene packagings and shippers who use these packagings.

With the addition of permeation and compatibility standards in § 173.24(d) as adopted in the final rule and shipping experience acquired under exemptions, MTB sees no reason for denying this petition. Therefore, § 173.119(m)(19) in the final rule is revised to authorize use of Specification 34 for flammable liquids which are also corrosive.

The change to § 173.247(a) made by this document negates the change made in the final rule; making it effective when that rule is scheduled to take effect would preserve the regulatory status quo and therefore avoid cost and confusion. Consequently, good cause exists for making this amendment effective October 1, 1984, the effective date of the final rule that it amends.

The other two changes provide relief from certain requirements adopted in the final rule. For this reason it is appropriate that the effective date of this amendment corresponds to the effective date of the final rule that they amend, that is, October 1, 1984.

Based on limited information available concerning size and nature of entities likely to be affected by this amendment, I certify that this amendment will not have a significant economic impact on a substantial number of small entities because the overall economic impact of this amendment will be minimal. The MTB has determined that this rule, as promulgated, is not a major rule under the terms of Executive Order 12291 or significant under DOT implementing procedures (44 FR 11034). A regulatory evaluation and environmental assessment of the final rule are available for review in the docket. The economic impact of this document has been found to be so minimal that further evaluation is unnecessary.

List of Subjects

49 CFR Part 173

Hazardous materials transportation, Packagings and containers.

49 CFR Part 178

Hazardous materials transportation, Shipping container specifications.

In consideration of the foregoing, 49 CFR Parts 173 and 178 are amended as follows:

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

1. In § 173.119, paragraph (m)(19) is revised to read as follows:

§ 173.119 Flammable liquids not specifically provided for.

* * * * *

(m) * * *

(19) Specification 34 (§ 178.1 of this subchapter). Polyethylene drum. Authorized only for flammable liquids which are also organic peroxides or corrosive liquids. The shipper shall assure conformance with the requirements of § 173.24(d) of this part prior to first shipment.

§ 173.24 [Amended]

2. In § 173.247, paragraph (a)(21) is removed and reserved.

PART 178—SHIPPING CONTAINER SPECIFICATIONS

3. In § 178.19-3, the table in paragraph (a) is revised by adding the superscript "2" following the figure ".125" in the column captioned *Minimum thickness (inches) measured on any point of container* and a second footnote is added to the table to read as follows: "[2] A minimum thickness of 0.090 inch is authorized in corners and undercuts."

(49 U.S.C. 1803, 1804, 1806; 49 CFR 1.53, and Appendix A to Part 1)

Issued in Washington, D.C. on October 1, 1984.

L.D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 84-27082 Filed 10-11-84; 8:45 am]

BILLING CODE 4910-60-M

NATIONAL RAILROAD PASSENGER CORPORATION

49 CFR Part 700

Freedom of Information Act Regulations; Correction

AGENCY: National Railroad Passenger Corporation (Amtrak).

ACTION: Final rule: Correction.

SUMMARY: On June 13, 1984, the National Railroad Passenger Corporation (Amtrak) published final regulations at 49 FR 24378 to satisfy, in Part 700 of 49 CFR, the requirements of 5 U.S.C. 552(a)(1) and (2) and to renumber, as Part 701, those regulations which had been published at 47 FR 17822 (April 26, 1982). This correction is intended to make minor changes to the Summary and Supplementary Information sections of that publication.

EFFECTIVE DATE: October 12, 1984.

FOR FURTHER INFORMATION CONTACT: Michelle Lore (Legal Assistant), Amtrak Law Department, 400 North Capitol Street, NW., Washington, D.C. 20001, (202) 383-2812.

SUPPLEMENTARY INFORMATION: Part 700 of Chapter VII of Title 49 of the CFR is to be corrected as follows:.

1. In 49 FR 24378 the first date mentioned under **SUMMARY** is corrected by changing the reference from "1983" to "1982."

2. In 49 FR 24378 the seventh line of text under **SUPPLEMENTARY INFORMATION** is corrected by striking the word "of."

Paul F. Mickey, Jr.,

Executive Vice President, Law and Public Affairs, National Railroad Passenger Corporation.

[FR Doc. 84-27020 Filed 10-11-84; 8:45 am]

BILLING CODE 0000-00-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Final Rule To Determine Styrax Texana (Texas Snowbells) To Be an Endangered Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service determines a plant, *Styrax texana* (Texas snowbells), to be an endangered species under the authority contained in the Endangered Species Act of 1973, as amended. This plant is endemic to Edwards, Real, Kimble, and possibly Val Verde Counties, Texas. These known populations are currently very vulnerable due to low numbers and lack of reproduction. Populations are possibly threatened by cattle and deer browsing. This action implements the protection provided by the Endangered Species Act of 1973, as amended, for *Styrax texana*.

DATE: The effective date of this rule is November 13, 1984.

ADDRESS: The complete file for this rule is available for inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Region 2, 421 Gold Avenue, SW., Room 407, Albuquerque, New Mexico 87103.

FOR FURTHER INFORMATION CONTACT: Peggy Olwell, Botanist, Region 2, Endangered Species Staff (see **ADDRESS** above) (505/766-3972), or Mr. John L. Spinks, Jr., Office of Endangered Species, U.S. Fish and Wildlife Service, Washington D.C. 20240 (703/235-2771).

SUPPLEMENTARY INFORMATION:

Background

Styrax texana (Family Styracaceae) was first discovered on July 4, 1940, by V.L. Cory, and was described by him in 1943. This species grows as a shrub up to 3 meters high. The bark is smooth, the leaf blades are rounded, 4-8 centimeters long, about as broad as they are long, with entire to almost entire margins, bright green above, and silvery below from dense short soft hairs. Flowers are in clusters of 3-5, showy and white. Flowering occurs in April and May. Reproduction has not been studied. It is of concern, however, that there are no known seedlings or saplings, indicating a lack of recent reproduction.

Styrax texana grows in crevices in limestone cliffs along stream channels in juniper-oak savannas on the Edwards Plateau, and in creosote bush shrub in the eastern Trans-Pecos basins. The dominant associated trees are *Quercus texana, Juniperus ashei,* and *Fraxinus texensis*. Dominant associated shrubs are *Garrya ovata, Berveris trifoliolata,* and *Bumelia lanuginosa* var. *texana* (Mahler, 1981).

A total of 25 individuals of *Styrax texana* are presently known to exist. Seven plants have been collected or reported from along Polecat, Cedar, and Little Hackberry Creeks in Edwards County, and 14 from along the East Prong of the Neuces River in Real County. Eight plants have been reported from Kimble County, only four of which could be relocated recently (B. Simpson, Texas A&M, pers. comm., 1982). Plants also were reported, but not verified, to be on the Horace Faucett Ranch in Val Verde County (Mahler, 1981). One additional plant had been reported from Edwards County, but was not located by Mahler.

Section 12 of the Endangered Species Act of 1973 directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. This report, designated as House Document No. 94-51, was presented to Congress on January 9, 1975. On July 1, 1975, the Service published a notice in the **Federal Register** (40 FR 27823) of its acceptance of the report of the Smithsonian Institution as a petition within the context of section 4(c)(2) of the 1973 Act (section 4(b)(3)(A) now), and of its intention thereby to review the status of the plant species included within. On June 16, 1976, the Service published a proposed rule in the **Federal Register** (41 FR 24523) to determine approximately 1,700 vascular plant species to be endangered species pursuant to Section 4 of the Act. *Styrax texana* was included in this proposal. Comments received in relation to the 1976 proposal were summarized in the April 26, 1978, **Federal Register** publication (43 FR 17909).

The Endangered Species Act Amendments of 1978 required that all listing proposals over 2 years old be withdrawn. A 1-year grace period was given to proposals already over 2 years old. On December 10, 1979, the Service published a notice of withdrawal of the portion of the June 16, 1976, proposal that has not been made final, along with four other proposals which had expired (44 FR 70796). *Styrax texana* was included thereafter in the list of plants under review for threatened or endangered classification published as a notice in the December 15, 1980, **Federal Register** (45 FR 82480). A 1981 status report (Mahler) and investigations carried out by Service botanists since December 1979 have now provided new biological data that form the basis for the October 11, 1983, proposed rule (48 FR 46086) and for the present determination of this species as endangered. The new data include information on the low number of plants, the lack of reproduction in the species, its distribution, and ownership of the land on which the plants occur.

They lead to the conclusion that *Styrax texana* is an endangered species.

Summary of Comments and Recommendations

In the October 11, 1983, proposed rule (48 FR 46086) and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. A newspaper notice was published in the San Antonio, Texas, *Express-News* on October 28, 1983, which invited general public comment. A total of seven comments were received on the proposal, one each from the Texas Parks and Wildlife Department, the U.S. Soil Conservation Service, the National Park Service, the International Union for the Conservation of Nature and Natural Resources, a professional botanist, and a landowner on whose property *Styrax texana* occurs. No public hearing was requested or held.

The Texas Forest Service, the U.S. Soil Conservation Service, and the National Park Service all commented that they could furnish no additional information on the species. In addition, the Texas Forest Service commented that if the species is subject to browsing by cattle and deer, then there is little that can be done to protect it. It suggested that such species should be established in protected areas such as arboreta.

Comments in support of the proposed listing of *Styrax texana* were submitted by the Texas Parks and Wildlife Department, the International Union for the Conservation of Nature and Natural Resources, and Mr. Harold Beaty, a professional botanist and leader of the Texas Plant Recovery Team.

One of the landowners on whose property *Styrax texana* is located requested more specific information as to the location of the plants on his lands, and offered his cooperation in protecting the plants. The Service arranged for a botanist familiar with this species to contact this landowner and provide the requested information.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Styrax texana* should be classified as an endangered species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisioins of the Act (codified at 50 CFR Part 424; under revision to accommodate the 1982 Amendments—see proposal at 48 FR 36062, August 8, 1983) were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Styrax texana* Cory (Texas snowbells) are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of its Habitat or Range

Currently, *Styrax texana* is known to exist in three Taxas counties: Real, Edwards, and Kimble. One historical report from Val Verde County has not been reconfirmed. In 1982, 25 plants were known to exist. Most of the sites where the plants occur are in private ownership, but one site is a State-owned roadside park. Present maintenance procedures in the park are not harming the plants and the State of Texas has no plans to change these procedures. However, there is no protection for the species at this site. Two of the private landowners are amenable to protecting the plants; however, there is no current planning for the species at any of the sites. At present, a known threat to the habitat is through natural erosion of a stream bank, which will probably soon eliminate one precariously located plant. Such erosion, both gradual and massive due to flooding, is a potential problem for all of these plants, and may be a threat to the species' survival in the absence of seedlings.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

At present, the taking of plants for scientific study is minimal; however, due to the small number of plants, collection should be prohibited or closely controlled. No taking prohibitions, either State or Federal, currently exist for the plants on private lands. *Styrax texana* is a shrub with attractive foliage and flowers and could be sought for horticultural purposes.

C. Disease or Predation

It has been suggested that the lack of seedlings and young plants may be due to browsing by cattle and/or deer. No data currently exist to confirm this suggestion, and additional studies are needed.

D. The Inadequacy of Existing Regulatory Mechanisms

There is currently no State or Federal protection for this plant. However, once this species is added to the Federal list to endangered species, Chapter 88 of the Texas Parks and Wildlife Code requires that it also be added to the Texas list of endangered species.

E. Other Natural or Manmade Factors Affecting its Continued Existence

The lack of reproduction will affect the species' survival. The small number of plants tends to make the species vulnerable to stress from natural or human-related factors and to intensify any adverse effects on the habitat.

The Service has carefully assessed the best scientific information available regarding the past, present, and future threats faced by this species in determining to made this rule final. Based on this evaluation, the indicated action is to list *Styrax texana* as endangered. The vary small number of plants (25) in existence, their apparent complete lack of reproduction, and the lack of any protection for them make endangered status, rather than threatened status, appropriate for this species.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for *Styrax texana* at this time because of the potential threat to the species if its habitat were publicly identified. Publication of critical habitat maps in the **Federal Register** is required when critical habitat is designated. This publicity could lead to collection of the plants, and thus severely impact the populations due to the low known number of plants (25). Such publicity could also lead to habitat destruction during collection.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection

required of Federal agencies and the prohibitions against taking are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402 and are now under revision (see proposal at 48 FR 29990; June 29, 1983). Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species. If a Federal action may affect a listed species, the responsible Federal agency must enter into consultation with the Service. Section 7 involvement in the present listing is expected to be minimal, as *Styrax texana* is found only on private and State lands, and there are no known Federal activities or involvement planned for the areas in which the plants are located.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general trade prohibitions and exceptions that apply to all endangered plant species. With respect to *Styrax texana*, all trade prohibitions of Section 9(a)(2) of the Act, implemented by 50 CFR 17.61, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. Certain exceptions can apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. International and interstate commercial trade in *Styrax texana* is not known to exist. It is not anticipated that many trade permits involving plants of wild origin would ever be issued since this plant is not common in the wild and is not presently in cultivation.

Section 9(a)(2)(B) of the Act, as amended in 1982, prohibits the removal and reduction to possession of endangered plant species from areas under Federal jurisdiction. This new prohibition now applies to *Styrax texana*. Permits for exceptions to this prohibition are available through section 10(a) of the Act, until revised regulations are promulgated to incorporate the 1982 Amendments. Proposed regulations implementing this new prohibition were published on July 8, 1983 (48 FR 31417), and it is anticipated that these will be made final following public comment. This species is not known from Federal lands, so no effect from this prohibition is expected.

Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235-1903). It is anticipated that few permits for this species will ever be requested.

The Service will review this species to determine whether it should be placed upon the Annex of the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere, which is implemented through section 8(A)(e) of the Act, and whether it should be considered for other appropriate international agreements.

National Environmental Policy Act

The U.S. Fish and Wildlife Service has determined that an Environmental Assessment, as defined by the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

Literature Cited

Cory, V.L. 1943. The genus *Styrax* in central and western Texas. Madrono 7:110–115.

Mahler, W.F. 1981. Status report: *Styrax texana*. Office of Endangered Species, U.S. Fish and Wildlife Service, Albuquerque, New Mexico. 9 pp.

Vines, R.A. 1960. Trees, shrubs, and woody vines of the Southwest. University of Texas Press. Austin. xii + 1104 pp.

Author

The primary author of this final rule is Ms. Peggy Olwell, Endangered Species Staff, Region 2, U.S. Fish and Wildlife Service, Department of the Interior, P.O. Box 1306, Albuquerque, New Mexico 87103.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulation Promulgation

PART 17—[AMENDED]

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation for Part 17 reads as follows:

Authority: Pub. L. 93-205, 87 Stat 884; Pub. L. 94-359, 90 Stat. 911; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1225; Pub. L. 97-304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. Amend § 17.12(h) by adding the following, in alphabetical order by family, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
*	*	*	*	*	*	*
Styracaceae—Styrax family:						
Styrax texana	Texas snowbells	U.S.A. (TX)	E		NA	NA
*	*	*	*	*	*	*

Dated: September 24, 1984.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 84-26787 Filed 10-11-84; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 20

Migratory Bird Hunting; Late Seasons, and Bag and Possession Limits for Certain Migratory Game Birds in the United States; Correction

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule, correction.

SUMMARY: On September 24, 1984, the Service published in the **Federal Register** seasons, limits, and shooting hours for waterfowl and certain other migratory game birds. This rule revises § 20.105 of 50 CFR to correct the opening and closing dates for Canada geese in

the Mississippi River Zone of Wisconsin and the bag and possession limits for ducks in California.

DATE: Effective on October 12, 1984.

FOR FURTHER INFORMATION CONTACT: Rollin D. Sparrowe, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Phone (202) 254–3207.

SUPPLEMENTARY INFORMATION: On September 24, 1984, the Service published in the **Federal Register** (49 FR 37387) seasons, limits, and shooting hours for certain migratory game birds. In the table under § 20.105 where the seasons, limits, and shooting hours are listed for waterfowl, coots and gallinules in the Mississippi Flyway (49 FR 37402) the opening and closing dates for the first half of the split season for Canada geese in the Mississippi River Zone of the South Duck Zone of Wisconsin is listed as October 13 and November 1, respectively. The opening date should read November 1 and closing date should read November 20. At 49 FR 37417 in footnote (1) California is listed among those states having basic daily bag and possession limits for ducks of 7 and 14, respectively and among those states having basic daily bag and possession limits for ducks of 5 and 10, respectively. California should only be listed among the states having basic daily bag and possession limits for ducks of 5 and 10, respectively.

PART 20—[AMENDED]

1. Accordingly, the Service Corrects § 20.105 of 50 CFR Part 20 at 49 FR 37407, by revising the "South Duck Zone" for Wisconsin as follows:

§ 20.105 Seasons, limits, and shooting hours for waterfowl, coots, and gallinules.

* * * * *

Mississippi Flyway

	Season dates	Limits	
		Bag	Possession
Wisconsin			
Geese:			
Canada:			
South Duck Zone (1)	Nov. 1 to	1	2
Mississippi River Zone.	Nov. 20	2	4
	Nov. 25 to Dec. 9.		

2. In footnote (1), § 20.105, at 49 FR 37417, the Service corrects the entry for California to read as follows:

* * * * *

(1) Ducks Limits. Basic daily bag and possession limits on ducks (including mergansers) in *Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Washington,* and *Wyoming* are 7 and 14, respectively, and in *California,* and *Utah,* 5 and 10, respectively

* * * * *

Public comment was received on proposed rules for the season and limits contemplated herein. These comments were addressed in **Federal Registers** dated June 13, 1984 (49 FR 24417), August 20, 1984 (49 FR 33090) and September 14, 1984 (49 FR 36272). By the nature of the corrections and the time available, these changes must become effective immediately. Accordingly, the Notice and public comment required by the Administrative Procedure Act is unnecessary, and the Service finds that good cause exists for making this rule effective immediately upon publication in the **Federal Register.**

Dated: October 10, 1984.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 84–27117 Filed 10–11–84; 8:45 am]

BILLING CODE 4310–55–M

Proposed Rules

Federal Register
Vol. 49, No. 199
Friday, October 12, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

1 CFR Ch. III

Disciplinary Proceedings Against Federal Administrative Law Judges

AGENCY: Administrative Conference of the United States; Committee on Adjudication.

ACTION: Request for comments.

SUMMARY: The Administrative Conference's Committee on Adjudication is considering a tentative recommendation on the subject of disciplinary proceedings against federal administrative law judges. The recommendation is directed to the procedures which should be used in proceedings before the Merit Systems Protection Board under 5 U.S.C. 7521 and, in particular, to the standard of proof to be applied where the proceeding is based on a charge of unacceptably low productivity. The Committee seeks expressions of views and supporting material to aid in its consideration.

DATE: Comment deadline: October 31, 1984. One copy is sufficient. Comments received after the deadline will be considered to the extent feasible.

ADDRESS: Send comments to: Richard K. Berg, Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, D.C. 20037.

FOR FURTHER INFORMATION CONTACT: Richard K. Berg, Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, D.C. 20037; telephone (202) 254–7065.

SUPPLEMENTARY INFORMATION: The Administrative Conference's Committee on Adjudication has been working on a range of problems relating to the status, tenure and procedures for evaluation of administrative law judges (ALJ's). The tenative recommendation is addressed to two problem areas, the procedure to be employed under present law in proceedings against ALJ's before the Merit Systems Protection Board and the standard of proof which should be required of an agency when it seeks to discipline an ALJ on the ground of an unacceptable level of productivity. The recommendation is based in part on a report by the Committee's consultant, Professor Victor Rosenblum, *Contexts and Contents of 'For Good Cause' as Criterion for Removal of Administrative Law Judges: Legal and Policy Factors*, published at 6 Western New England L. Rev. 593 (1984). Copies of the report are available on request.

The Committee plans to meet in early November to consider the draft recommendation, with a view to approving a proposed recommendation for consideration at the December plenary session of the Conference. The notice of the meeting will be published when a date and time have been set.

Proposal on Which Comments Are Requested

Proposed Recommendation

Disciplinary Proceedings Against Federal Administrative Law Judges

Federal administrative law judges (ALJs) can be removed (or otherwise disciplined) by the agency that employs them only for good cause established before the Merit Systems Protection Board (MSPB), after an opportunity for a hearing on the record before the Board. 5 U.S.C. 7521. This special disciplinary procedure dates back to the 1946 Administrative Procedure Act. In the thirty years following passage of the Act, only four such proceedings were initiated, while 1978–1984 fifteen were brought. Most of these proceedings alleged misconduct, such as insubordination, financial improprieties or intemperate behavior. More recently, however, some ALJs (primarily in the Social Security Administration (SSA)) have been subjected to disciplinary actions on the basis of allegedly low productivity in the disposition of cases. The MSPB, in *SSA* v. *Goodman* (Docket No. HQ 752181210015) (February 6, 1984), ruled that although in the instant case the agency had not proven its charge that the judge had failed to achieve an acceptable level of productivity, such a charge, if proven, could as a matter of law, satisfy the good cause test.

Administrative law judges perform a unique and integral function in agency adjudication, and a special procedure for handling disciplinary proceedings is clearly warranted. Under the current system, ALJs are subject to a disciplinary procedure that parallels the one for other career federal employees—but with some additional protections.

An important difference is that when an agency decides to bring charges against an ALJ before the MSPB, the ALJ must be offered a hearing before the Board itself or (in practice) one of the two ALJs employed by the Board, whereas the Board may (and normally does) assign other hearing officers to preside over disciplinary cases involving other federal employees. Moreover, ALJs are protected by the "for good cause" test of section 7521, and are also exempt from the otherwise applicable performance appraisal system, while decisions by agencies to discipline other federal employees may be taken to promote "the efficiency of the service" (section 7513), and may be based upon unacceptable performance ratings.

Nevertheless, the frequency of disciplinary proceedings against ALJs in recent years has led to questions about whether these protections are sufficient. The Conference believes that an element of peer reviews, appropriate for the review of judicial performance, should be introduced by modifying the MSPB's hearing procedure to require a panel of ALJs, drawn from a larger pool of judges, to hear the charges and make the initial decision.

In addition the Conference believes that the MSPB's willingness to entertain actions agsinst ALJs based on low productivity, while not inappropriate, should be coupled with a requirement that agencies develop guidelines and procedures governing implementation of the "good cause" standard that will accord maximum protection to the decisional independence and integrity of ALJs, while at the same time assuring conscientious, fair and efficient judging.

The Conference reaffirms its position taken in Recommendation 78–2, in the context of social security adjudication, that an agency "possesses and should exercise the authority, consistent with the administrative law judge's decisional independence, to prescribe procedures and techniques for the accurate and expeditious disposition of [cases]." Moreover, as urged in that recommendation, it is appropriate for the agency to "establish by regulation the agency's expectations concerning

the administrative law judges' performance" after consultation with the judges and other affected interests, and agencies should not be precluded from articulating appropriate productivity norms and securing adherence to them.

This sort of cooperative development of reasonable standards of productivity should be required of an agency before it attempts to seek disciplinary action against one of its ALJs for low productivity.

Recommendation

I. *The MSPB hearing process.* A. The Merit System Protection Board should, by regulation, provide that a panel of three administrative law judges should be convened to hear and make an initial decision on all actions brought by agencies against administrative law judges.

(1) The panel should be drawn from a list of judges assigned on rotation and maintained by the Office of Personal Management.

(2) At least two of the judges shall be employed by agencies other than the MSPB and none by the prosecuting agency.

(3) The respondent judge should be permitted two peremptory challenges.

B. The panel of judges shall make an initial decision and, if it finds for the agency, shall recommend an appropriate sanction to the Board. The Board shall retain the ultimate decision as to whether "good cause" for removal or discipline has been established, and as to the appropriate level of sanction, but the Board should not overrule the panel's findings of fact where they are supported by substantial evidence.

II. *Agency actions against ALJs based on productivity concerns.* A. The MSPB should specify by regulation the factual showing which an agency must make in a proceeding brough against an ALJ for failure to meet the minimum standard of productivity. Such a showing should be based on a standard of performance developed by the Agency after a consultative process with the agency's administrative law judges, and an advisory committee made up of lawyers and others with expertise concerning that agency's adjudications.

B. The agency's productivity standard should be expressed in terms of case dispositions per month or year or in terms of average time taken, to dispose of cases. The standard should, in any event, take into account differences in categories of cases assigned to judges and in types of disposition (e.g. dismissals, dispositions with and without hearing, etc.)

C. In a proceeding against ALJ, the agency should be required to show that the respondent judge's performance did not meet the established standard, that the judge was apprised of this and was given sufficient time to improve the performance or to offer a justification for the level of performance, and that he failed to do so.

Dated: October 10, 1984.

Richard K. Berg,

General Counsel.

[FR Doc. 84-27116 Filed 10-11-84; 8:45 am]

BILLING CODE 6110-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. 24185, Notice No. 84-11A]

Fire Protection Requirements for Cargo or Baggage Compartments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); reopening of comment period.

SUMMARY: This notice announces the reopening of the comment period for Notice of Proposed Rulemaking (NPRM) No. 84-11 (49 FR 31830; August 8, 1984), which invites comments relative to amending Part 25 of the Federal Aviation Regulations (FAR) to upgrade the fire safety standards for cargo or baggage compartments in transport category airplanes by establishing new fire test criteria and by limiting the volume of Class D compartments. This reopening is necessary to afford all interested parties on opportunity to present their views on the proposed rulemaking.

DATES: Comments must be received on or before January 10, 1985.

ADDRESSES: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-204), Docket No. 24185, 800 Independence Avenue SW., Washington, D.C. 20591; or delivered in duplicate to: Room 916, 800 Independence Avenue SW., Washington, D.C. 202591. All comments must be marked: Docket No. 24185. Comments may be inspected in Room 916 weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. In addition the FAA is maintaining an information docket of comments in the Office of the Regional Counsel (ANM-7), FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. Comments in the information docket may be inspected in the Office of the Regional Counsel Weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Gary L. Killion, Manager, Regulations Branch, Regulations and Policy Office, ANM-110, Aircraft Certification Division, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168; telephone (206) 431-2112.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments a they may desire. Comments relating to the environmental, energy, or economic impact that might result from adopting the proposals contained in this notice are invited. Substantive comments should be accompanied by cost estimates. Commenters should identify the regulatory docket or notice number and submit comments, in duplicate, to the Rules Docket address above. All comments received on or before the closing date for comments will be considered by the Administrator before taking action on this proposed rulemaking. The proposals contained in this notice may be changed in light of comments received. All comments will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 24185." The postcard will be date/time stamped and returned to the commenter.

Availability of NPRM

Any person may obtain a copy of Notice No. 84-11 by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center (APA-430), 800 Independence Avenue SW., Washington, D.C. 20591; or by calling (202) 426-8058. Communications must identify Notice No. 84-11. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedures.

Background

On May 7, 1984, the FAA issued Notice No. 84–11 (49 FR 31830; August 8, 1984). In that notice the FAA proposed to amend Part 25 of the FAR to upgrade the fire safety standards for cargo or baggage compartments in transport category airplanes by establishing new fire test criteria and by limiting the volume of Class D compartments. These proposals are the result of research and fire testing conducted by the FAA at its Technical Center. The FAA invited interested persons to submit comments and suggestions as to future action regarding this rulemaking. Since Notice No. 84–11 was published, requests have been received for extension of the comment period from persons wishing more time in which to study the proposal and to prepare their comments.

Reopening of Comment Period

In consideration of the requests to extend the comment period and the need for public participation in determining future action regarding his rulemaking, the FAA concludes that the comment period should be reopened.

Accordingly, the comment period for Notice No. 84–11 is reopened and will close on January 10, 1985.

Conclusion

This document reopens the comment period on an NPRM to afford the public and industry with additional time in which to review and respond to this notice. The FAA has determined that this document involves a proposed regulation which is not considered to be significant as defined in Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), and is not major as defined in Executive Order 12291, and the FAA certifies that this regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities since few, if any, small entities are involved.

List of Subjects in 14 CFR Part 25

Aviation safety, Aircraft, Air transportation, Safety, Tires.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.45)

Issued in Seattle, Washington, on October 2, 1984.

Leroy A. Keith,

Acting Director, Northwest Mountain Region.

[FR Doc. 84-26882 Filed 10-11-84; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 82–NM–79–AD]

Airworthiness Directives; Gates Learjet Models 24, 25, 28, 29 and 35 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Withdawal of Notice of Proposed Rulemaking (NPRM).

SUMMARY: This action withdraws a notice of proposed rulemaking (NPRM) which proposed the adoption of an airworthiness directive (AD) that would require reworking the pilot and copilot seats on certain Gates Learjet Models 24, 25, 28, 29, and 35 series airplanes. This action was initiated as a result of reports that indicated that certain seats did not provide the strength necessary to minimize the potential of failure, and crew injury, in the event of a minor crash landing. Subsequent rulemaking action, which requires the installation of a shoulder harness in addition to a lap belt, makes the proposed rule unnecessary. Accordingly, the NPRM is being withdrawn.

FOR FURTHER INFORMATION CONTACT: Mr. Marvin D. Beene, Airframe Branch, Wichita Aircraft Certification Office, FAA, Central Region, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4808.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive which, if adopted, would have required modification of the pilot and copilot seats in certain Gates Learjet Models 24, 25, 28, 29 and 35 series airplanes, was published in the **Federal Register** on October 18, 1982 (47 FR 46295). The comment period closed December 3, 1982.

Subsequent to the publication of the NPRM, the manufacturer, recognizing that crash loads would be reacted differently when the occupant is secured by both a seat belt and shoulder harness, conducted tests to re-evaluate the production seat with this occupant restraint. The result of these tests show the seat/seat belt/shoulder harness combination capable of withstanding a forward crash load of 12 g's.

Federal Aviation Regulations, Part 91, § 91.200, Amendment 91.177 (47 FR 10514; March 11, 1982) requires shoulder harnesses be installed on all transport category airplanes by March 6, 1983. Gates Learjet Corporation records indicate each of the affected airplanes were equipped with shoulder harnesses at the factory prior to delivery. Therefore, the required seat strength and, in turn, the level of safety necessary to prevent crew injury in the event of a minor crash is available without reworking the seats.

Since it has been established that the proposed modification is unnecessary, the NPRM is being withdrawn. The withdrawal of the Notice does not preclude the FAA from issuing similar notices in the future, nor does it commit the FAA to any course of action.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Withdrawal

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator, the proposed Airworthiness Directive 82–NM–79–AD, published in the **Federal Register** on October 18, 1982 (47 FR 46295), is hereby withdrawn.

(Sec. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.85)

Note.—Since this action only withdraws a Notice of Proposed Rulemaking, it is neither a proposed nor final rule and, therefore, is not covered under Executive Order 12291, the Regulatory Flexibility Act.

Issued in Seattle, Washington, on October 3, 1984.

Leroy A. Keith,

Acting Director, Northwest Mountain Region.

[FR Doc. 84-26885 Filed 10-11-84; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 84–ANM–16]

Proposed Revised Control Zone, Portland, OR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to redescribe the Portland Control Zone. The intended effect of the action is to reduce the size of controlled airspace designated at Portland, Oregon, to ease the burden imposed by controlled airspace to VFR operations at the Portland-Troutdale airport.

DATE: Comments must be received on or before December 6, 1984.

ADDRESS: Send comments on the proposal in duplicate to: Manager, Airspace & Procedures Branch, ANM–530, Federal Aviation Administration, Docket No. 84–ANM–16, 17900 Pacific

Highway South, C-68966, Seattle, WA 98168.

The official docket may be examined in the Regional Counsel Office.

An informal docket may also be examined during normal business hours at the Airspace & Procedures Branch, 17900 Pacific Highway South, Seattle, Washington 98168.

FOR FURTHER INFORMATION CONTACT: Robert Brown, Airspace & Procedures Specialist, ANM-534, the telephone number is: (206) 431-2534.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in duplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 84-ANM-16". The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Airspace & Procedures Branch, 17900 Pacific Highway South, Seattle, Washington 98168. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The purpose of this amendment to § 71.171 of Part 71 is to reduce the size of the Portland Control Zone. The present configuration of the Portland Control Zone extension to the east overlays the Portland-Troutdale Airport when the Troutdale Control Zone is not in effect. Due to Troutdale Tower's limited hours of operation, the VFR/IFR status of the Troutdale Airport is determined by the Portland International Airport reported weather for the control zone. This remote governing weather is an unnecessary imposition on the flying public operating at Troutdale Airport where the weather conditions could be substantially different than Portland International. To rectify this problem, this action will reduce the size of the Portland Control Zone by eliminating the control zone extension which overlies Portland-Troutdale Airport.

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Control zones, Aviation safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Portland, Oregon [Amended]

By deleting the words ". . . and within 3 miles each side of the 119° and 229° bearing from the LAKER LOM" and replacing with the words, "and within 2 miles north and 3 miles south of the 299° bearing from the LAKER LOM (lat. 45° 32' 29" N., long. 122° 27' 40" W.) extending from the 5-mile radius to the LOM, excluding the portion within the Troutdale, Oregon, Control Zone when it is effective."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)); and 14 CFR 11.65)

Issued in Seattle, Washington, on October 1, 1984.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 84-26908 Filed 10-11-84; 8:45 am]

BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

14 CFR Parts 398 and 399

[PSDR-68A; Policy Statement Docket: 38807]

Guidelines for Individual Determinations of Essential Air Transportation; and Statements of General Policy; Termination of Rulemaking

Dated: October 4, 1984.

AGENCY: Civil Aeronautics Board.

ACTION: Termination of rulemaking.

SUMMARY: The CAB is terminating a rulemaking that had proposed to require certificated airlines to increase their service at small communities to the levels that the CAB has determined to be essential for those communities. The rule is no longer necessary because all communities are or will shortly be receiving the essential level of air service. This action is taken at the CAB's own initiative.

FOR FURTHER INFORMATION CONTACT: William C. Boyd, Chief, Essential Air Services Division I, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673-5405 or Joanne Petrie, Office of the General Counsel, (202) 673-5442.

SUPPLEMENTARY INFORMATION: In PSDR-68, 45 FR 67357, October 10, 1980, the Board proposed to add a new rule that would allow it to order a certificated air carrier to increase its services at a small community to the level that the Board had determined to be essential for that community.

Under section 419 of the Federal Aviation Act, as amended, the Board set essential air service levels for more than 550 communities. Prior to 1982, the Board was subsidizing local service carriers under section 406 of the Act in some of these communities. In spite of the subsidy, some of these carriers were providing less service that the Board found to be necessary. The Board found it troubling that a carrier could receive Federal money for serving a small community when the community was not as a result receiving essential air service. The Board proposed to solve the problem by interpreting the "adequate service provision" of section 404 of the Act to require a certificated air carrier to provide essential air service at an eligible point in certain circumstances.

Comments were filed by Delta, Frontier, Ozark, Piedmont, Republic, TWA, United, USAir, the Colorado State Department of Highways, the Minnesota

Department of Transportation, the New York State Department of Transportation, and Brees Field Airport, Wyoming.

the Board had decided to terminate the proposed rulemaking in PSDR–68, because the circumstances outlined in the notice no longer exist. At the time the Board issued PSDR–68, several essential air service communities served by local service carriers under section 406 were not receiving sufficient service to meet essential air transportation definitions. The proposed rule would have enabled the Board to require an incumbent carrier receiving subsidy under section 406 and not providing enough service to meet the full essential air transportation requirements to increase its service in conformance with the essential air service determination. The essential air service levels at all communities are now, however, being met or are being addressed in essential air service cases where we are securing the required service. Thus, there is no need to require any incumbent carrier to increase its service. Furthermore, funding for the section 406 subsidy program has been terminated. All current subsidy, which is paid under section 419, is geared to the provision of the full level of essential air service. Under these circumstances, enactment of the proposed rule is no longer warranted.

Accordingly, the Civil Aeronautics Board terminates the rulemaking begun in PSDR–68 and closes Docket 38807.

(Secs. 204, 404, 406, and 419 of the Federal Aviation Act of 1958, as amended 72 Stat. 743, 760, 763, 92 Stat. 1732, 49 U.S.C. 1324, 1374, 1376, 1389)

By the Civil Aeronautics Board.

Phyllis T. Kaylor

Secretary.

[FR Doc. 84–27083 Filed 10–11–84; 8:45 am]

BILLING CODE 6320–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 241 and 242

[Docket No. R–84–1193; FR–2004]

Insured Maximum Mortgage Amount for Hospitals

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Proposed rule.

SUMMARY: The Department proposes to modify its regulations governing the maximum mortgage principal amount that it will insure for a new or rehabilitated hospital. Under its existing regulations, the Department can insure a mortgage in any amount that does not exceed 90 percent of HUD's estimate of the replacement cost of the hospital (including major movable equipment). Under the proposal, however, the loan to replacement cost ratio would vary for insured mortgages on projects where the replacement cost exceeds 100 million dollars. In essence, the mortgagor's equity requirements would be required to increase as the principal obligation sought to be insured increased. This proposal is intended to (a) mitigate the possibility of large-scale defaults in future years; (b) ensure the long-term adequacy of the Department's insurance fund, and (c) avoid undue concentration of insurance commitments in a relatively small number of projects.

DATE: Comment Due Date: December 11, 1984.

ADDRESSES: Interested persons are invited to submit comments to the Rules Docket Clerk, Office of the General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Communications should refer to the above docket number and title. A copy of each communciation will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: James Hamernick, Director, Office of Insured Multifamily Housing Development, Room 6128, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755–5720. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

Section 242 of the National Housing Act (the Act) authorizes the Department to insure a mortgage covering a new or rehabilitated hospital, including equipment to be used in its operation, subject to limitations set out in the statute. (See 12 U.S.C. 1715z–7(d)). The statute provides that the principal obligation of an insured mortgage cannot exceed 90 percent of the estimated replacement cost of the project. Before August, 1974, the statute also limited the dollar amount of a mortgage insured under section 242. The maximum dollar limitation (then $50 million, up from a statutory limit of $25 million in effect until 1970) was stricken under a provision of the Housing and Community Development Act of 1974, Pub. L. 93–383, approved August 22, 1974. At that time, the Congress was generally concerned that adequate FHA insurance coverage be made available under all programs, including hospitals, and that, with reference to hospitals, the mortgage amounts insured should reflect the costs of the particular facility.

II. Basic of this Proposal

a. Grace Commission Report

In 1983, the Grace Commission prepared a report entitled "President's Private Sector Survey on Cost Control" (published in the Spring/Fall, 1983). The report contains summaries of the Grace Commission's findings and recommendations with reference to a host of business activities that involve the participation of Federal agencies. One of the matters specifically addressed by the report pertains to FHA insurance of hospitals. The Grace Commission characterized the capital financing of hospitals as "one of the key issues of the 1980s," and stated further that the Federal mortgage insurance program is "an important element of the capital financing picture." The Commission declared that, nationwide, the health care industry is one with an "aging capital stock and an increasingly acute need for renovation and replacement."

In support of this contention, the Commission cited statistics that evidence increasingly dramatic increases in the amounts of tax-exempt bond issuances for hospitals over the 10-year period ending in 1981. The Commission believed this recent activity evidenced a trend that will continue well into the future.

Other findings of the Grace Commission that specifically address FHA-insured hospital projects were (1) that the average size of hospital project loans has increased, and (2) that individually approved renovation projects have required financing in amounts that far exceed the average project amounts of prior years. In light of these findings, the Commission expressed concern that default rates on insured hospital mortgages (historically very low) may increase in the future to a level that could jeopardize the long-term adequacy of the Insurance Fund to cover eventual liabilities (extending 20 to 40 years into the future). One of the Commission's recommendations was that special procedures should be invoked for any project loan in excess of $50 million (one effect of which would be to avoid undue concentration of FHA insurance funds in a few projects).

b. Department's Analysis and Proposal

The Department has undertaken an independent analysis of the question raised by the Commission, to determine whether and to what extent revisions to its current regulation at 24 CFR 242.27 are warranted. Part 242 governs HUD's policies and procedures for insuring mortgages for hospitals. Section 242.27 governs maximum mortgage amounts. As part of this analysis, the Department reviewed the history of hospital mortgage loans it has insured between 1969 and 1983. During this period, the Department insured 214 mortgages under Part 242. The average mortgage approximated $19.2 million, with aggregate obligations totalling more than $4.1 billion.

(i) History of default claims

Initially, the Department assessed the default rate for loans insured since 1969. During the period between 1969 and 1983, the Department insured 214 mortgage loans issued to profit, and private nonprofit corporations or associations, under Part 242. [The Housing and Urban-Rural Recovery Act of 1983, Pub. L. 98–181, approved November 30, 1983, amends Section 242 of the Act to authorize the Department to insure public hospitals as well. The Department is proposing regulatory changes to 24 CFR Part 242 for this purpose in a separate rulemaking proceeding.]

Of the loans insured, 176 mortgages remain in force, only 3 have defaulted, and the other 35 mortgages were "non-claim" terminations (*e.g.*, voluntary terminations or prepayments in full). These statistics reflect that, historically, loans insured by the Department have not, except in isolated instances, resulted in default claims. The defaulted loans ranged in size from about 8 to 19 million dollars.

(ii) Progressive increase in number and size of loans insured

The Department also assessed the number and size of loans insured, to determine whether and to what extent the number of loans insured has increased in recent years. Over the most recent five-year period (between 1979 and 1984) as many loans have been insured (107), as were insured over the prior 10-year period (between 1969 and 1978).

The average size of an insured loan has also increased in recent years. For finally endorsed loans, for the period between 1969 and 1978, the average loan size was 9.5 million dollars. For the period between 1979 and 1983, insured loans that were finally endorsed averaged about 18 million dollars. Moreover, the most recent 35 loans, initially (but not finally) endorsed since 1982, have averaged almost 46 million dollars.

Another telling statistic concerns the number of insured mortgages that involve loan amounts in excess of $50 million. During the period between 1979 and 1983, 17 mortgages (or about 16 percent of the total) were insured for amounts greater than $50 million. The largest of these mortgage loans approximated $190 million. The average mortgage amount for these 17 loans exceeded $84 million. Over the 10-year period ending in 1978, only 2 insured loan amounts equaled or exceeded $50 million. (One, issued in 1975, was for $54.5 million. The other, issued in 1978, was for $50 million).

These statistics clearly evidence a trend toward larger numbers of insured mortgages, for larger mortgage amounts. In light of these figures, the Department proposes to modify its current maximum mortgage amount regulation to (a) mitigate the possibility of large-scale defaults in future years; (b) ensure the long-term adequacy of the Department's General Insurance Fund, and (c) avoid the undue concentration of insurance commitments in a relatively small number of projects.

Generally, the Department is exploring a variety of methods for increasing equity requirements associated with insured mortgages under this authority. Public comment is solicited with reference to ways and means of providing additional protection for the insurance fund while still allowing for a useful and viable program in the final rule making.

III. Proposed Revision

Under the current regulation at 24 CFR 242.27 (maximum mortgage amount), the Department can insure a mortgage (this is otherwise qualified for insurance uder Part 242) irrespective of amount. Section 242.27 provides, however, that the mortgage cannot exceed 90 percent of HUD's estimate of the replacement cost of the hospital (including major moveable equipment). This requirement provides the General Insurance Fund with a measure of protection. However, given the nature and extent of the Department's concerns described above, the 90 percent of replacement cost criterion appears insufficient to guard against large-scale defaults (*i.e.*, defaults no mortgages containing relatively large principal obligations). Even a few defaults could jeopardize the viability of the General Insurance Fund if they involve substantial mortgage amounts. For this reason, the Department proposes to modify the equity requirements for hospital mortgages—but only with respect to insured mortgages for projects whose replacement costs *exceed $100 million.* The loan to replacement costs ratio would decline progressively as replacement costs increase above $100 million, with variations based on increments of 50 million dollars. Thus, for a hospital with a replacement cost in excess of $100 million, but not in excess of $150 million, the loan to replacement cost ratio could not exceed 87 percent. Where the replacement cost is greater than $150 million, but not in excess of $200 million, the loan to replacement cost ratio could not exceed 84 percent. The table below shows the relationship between the replacement cost and the loan to replacement cost ratio for all projects with replacement costs that exlceed $100 million. Notably, a 75 percent loan to replacement cost ratio would apply to any project with a replacement cost in excess of $300 million.

Project replacement cost (in millions of dollars)		Insurable mortgage amount cannot exceed percentage of replacement cost
Greater than—	But not greater than—	
100	150	87
150	200	84
200	250	81
250	300	78
300		75

This sliding-scale approach to the insurable mortgage amount requirement would help to alleviate the Department's above-descrided concerns. It would not, however, result in a greater equity requirement for the great majority of hospital mortgage loans (based on recent evidence), nor would it place a flat dollar ceiling on the actual amount of any mortgage loan for which insurance is sought.

The Department also proposes to amend 24 CFR 241.70, which governs maximum loan amounts related to supplementary financing for HUD-insured project mortgages. Section 241.70 now prescribes that an insured supplemental mortgage amount for a project cannot exceed the lesser of (1) ninety-percent of the estimated value of the improvements being financed, or (2) an amount which, when added to any outstanding indebtedness related to a project, does not exceed the "maximum mortgage amount insurable under the section or title under which the mortgage covering such project is insured." Under this proposal, § 241.70 would be modified to indicate clearly that the aggregate indebtedness insured for a project or facility could not exceed

the maximum mortgage amount allowable for a project or facility under Part 242. (Notably, section 241 of the Act, which authorizes the Secretary to insure supplemental loans, provides that a supplemental loan shall be limited to an amount that does not exceed amounts expressly provided by statute, *or an amount acceptable to the Secretary*.) (Emphasis added.)

IV. Grandfather Provision

The Department also proposes to include a grandfather provision in the amendment to the rule at 24 CFR 242.27. This provision would allow certain mortgagors who are otherwise qualified to obtain mortgage insurance under Part 242 to obtain insurance for a project that has a replacement cost that exceeds $100 million, subject to the 90 percent of replacement cost limitation.

The Federal mortgage insurance program authorized by section 242 of the Act is jointly administered by the Department of Health and Human Services (HHS) and HUD. In essence, HHS has the initial responsibility for reviewing financial and architectural/engineering aspects of a project for which mortgage insurance is sought, and making recommendations to HUD for issuing the insurance commitment. HUD issues commitments for insurance and administers the mortgage insurance program in accordance with the regulations at Part 242. Under the proposed grandfather provision, any project proposal that HHS has determined to be complete and has accepted for processing within 30 days following the effective date of the final rule that imposes the proposed sliding scale provision, would be subject to the 90 percent of replacement cost requirement—even if the replacement cost of the project exceeded $100 million. This provision is intended to cover instances in which a hospital proposal involving a project that has a replacement cost in excess of $100 million is already in the Federal review process at the time this rule takes effect.

V. Findings

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implements section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the General Counsel, Rules Docket Clerk, Room 10276, 451 Seventh Street SW., Washington, D.C. 20410.

This rule does not constitute a major rule as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulation issued on February 17, 1981. Analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601), the Undersigned certifies that this rule does not have a significant economic impact on a substantial number of small entities because it does not impose any involuntary benefits or burdens, or limit the dollar amount of financial obligations that can be insured by the Department. Mortgagors and mortgagees affected by this rule (those seeking insurance on projects with a replacement cost in excess of $100 million) will not be small entities.

The proposed rule was not listed in the Department's Semiannual Agenda of Regulations published on April 19, 1984 (49 FR 15902), under Executive Order 12291 and the Regulatory Flexibility Act.

The hospital mortgage insurance program is listed in the Catalog of Federal Domestic Assistance as program number 14.128 (Mortgage Insurance—Hospitals).

List of Subjects

24 CFR Part 241

Energy conservation mortgage insurance, Solar energy, project.

24 CFR Part 242

Hospitals, Mortgage insurance.

Accordingly, the Department proposes to amend 24 CFR Parts 241 and 242 as follows:

PART 241—SUPPLEMENTARY FINANCING FOR INSURED PROJECT MORTGAGES

1. By revising paragraph (a)(2) of § 241.70 to read as follows:

§ 241.70 Maximum loan amount.

(a) * * *

(2) An amount which, when added to any outstanding indebtedness relating to the property, does not exceed the maximum mortgage amount allowable for the project or facility under the Department's regulations in Chapter II of Title 24 of the Code of Federal Regulations.

* * * * *

PART 242—MORTGAGE INSURANCE FOR HOSPITALS

2. By revising § 242.27 to read as follows:

§ 242.27 Maximum mortgage amounts.

(a) The Secretary may insure a mortgage that is otherwise eligible for insurance under this Part in any amount, subject to the following requirements:

(1) For a project that involves a replacement cost that does not exceed $100 million, the maximum insurable mortgage principal obligation shall not be in excess of 90 percent of the Commissioner's estimate of the replacement cost of the hospital, including the equipment to be used in its operation (including major moveable equipment) when the proposed improvements are completed and the equipment is installed; and

(2) For a project that involves a replacement cost that is greater than $100 million, the maximum insurable mortgage principal obligation shall not be in excess of the percentage of the Commissioner's estimate of the replacement cost of the hospital, including the equipment to be used in its operation (including major moveable equipment) when the proposed improvements are completed and the equipment is installed, that is set out below:

Replacement cost (in millions of dollars)		Percentage of estimated replacement cost
Greater than	But not greater than—	
100	150	87
150	200	84
200	250	81
250	300	78
300		75

(b) Notwithstanding paragraph (a)(2) of this section, a mortgage principal amount may exceed $100 million, and be subject only to the requirement in paragraph (a)(1) of this section, if the Department of Health and Human Services has reviewed the proposed hospital project for which mortgage insurance is sought, has determined the project proposal to be complete and has accepted it for processing before (insert date which is 30 days after the effective date of this amendment).

(Secs. 211, 241 and 242 of the National Housing Act (12 U.S.C. 1715b, 1715z-6, 1715z-7; Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)))

Dated: September 18, 1984.

Maurice L. Barksdale,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 84-27080 Filed 10-11-84; 8:45 am]

BILLING CODE 4210-27-M

24 CFR Part 242

[Docket No. R-84-1201; FR-1992]

Mortgage Insurance Requirements for Private and Public Hospitals

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: The Department proposes to amend its regulations governing the insurance of mortgages for hospitals in two significant ways. First, this rule would provide for the eligibility of public hospitals to obtain federal mortgage insurance for rehabilitation or new construction. This revision comports with recently enacted legislation. Second, the rule would contain new provisions designed to protect the Department's General Insurance Fund with respect to the insuring of projects that would otherwise pose and added insurance risk. The Supplementary Information section of this preamble invites comment on alternative proposals that would achieve this latter goal, while permitting hospitals to obtain needed financing. The Department's final rule will reflect its consideration of public comments received, as well as the feasibility of implementing any of these alternative programs.

DATE: Comment due date December 11, 1984.

ADDRESSES: Interested persons are invited to submit comments to the Rules Docket Clerk, Office of the General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Communications should refer to the above docket number and title. A copy of each communication will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: James L. Hamernick, Director, Insured Multifamily Housing Development, Room 6128, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, telephone (202) 755-6500. (This is not toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

Section 242 of the National Housing Act (the Act) authorizes the Department to insure a mortgage covering a new or rehabilitated hospital, including equipment to be used in its operation, subject to limitations set out in the statute. (See 12 U.S.C. 1715z-7(d).) This section was amended by section 436 of the Housing and Urban-Rural Recovery Act of 1983, Pub. L. 98-181, effective November 30, 1983 (the 1983 Act). The 1983 Act amended section 242(b)(1)(C) of the Act to authorize HUD to insure a hospital that is a public facility. Previously, the hospital insurance authorization was limited by statute to for-profit hospital and to private nonprofit facilities.

The 1983 Act further amended section 242 of the Act of specify that, in the case of public hospitals, activities shall be carried out by the involved agencies to encourage programs aimed at providing essential health care services to all residents of a community regardless of ability to pay.

II. Amendments to Incorporate Public Facilities into Part 243

The Department's regulations governing the insurance of hospital mortgages are contained in 24 CFR Part 242. To give effect to the legislative amendments described above, the Department proposes, initially, to amend 24 CFR 242.1(b)(3), 242.23, 242.51(b), 242.57(b) and 242.67(b). These amendments are generally technical in nature and would serve to incorporate public hospitals into the current regulatory scheme. A brief description of each proposed amendment follows:

(a) *Section 242.1(b)(3).* Section 242.1 (Definitions) defines various terms used in Subpart A (Eligibility Requirements) of Part 242. Section 242.1(b)(3) would be amended to include the definition of a 'public' hospital.

(b) *Section 242.23.* This section (Eligible mortgagors) would be amended to indicate that a mortgagor can also be a public hospital.

(c) *Section 242.51(b).* Section 242.51 (Prepayment privilege and prepayment charges) currently contains prepayment provisions for 'profit mortgagors' in subparagraph (a), and for 'nonprofit mortgagors' in subparagraph (b). Under this proposal, the provisions of § 242.51(a) would apply to all hospital mortgagors. In addition, a new paragraph, entitled "prepayment of bond-financed mortgages" would be added to this section. This paragraph would govern any mortgage given to secure a loan made by a mortgagee that has obtained the funds for the loan by the issuance and sale of bonds or bond anticipation notes, or both. The rule would allow a mortgage to contain a prepayment prohibition and prepayment penalty charage acceptable to the Commissioner as to term, amount and conditions.

(d) *Section 242.57(b).* Section 242.57 (Funds and finances—insured advances—general requirements), at paragraph (a) (establishment of funds) sets out circumstances under which a mortgagor must make certain cash deposits to a mortgagee, before initial endorsement, if the mortgage insurance commitment provides for the insurance of advances during construction. Paragraph (b) (Letter of credit), at subparagraph (1), indicates the circumstances under which a mortgagee can accept a letter of credit from a for-profit mortgagor, in lieu of a cash deposit. Paragraph (b)(2) indicates the circumstances under which a letter of credit may be accepted by a mortgagee from a nonprofit mortgagor, lieu of a cash deposit. Under this proposal, paragraph (b)(2) would be amended to apply also to public hospital mortgagors.

(e) *Section 242.67(c).* Section 242.67 (Labor standards) requires that any contract executed for the performance of construction or rehabilitation of a hospital must contain certain express provisions (designed to ensure that wages paid for services rendered by laborers or mechanics are appropriate, and conform with Federal wage-related regulations). Paragraph (b), however, allows an exception to the labor standards provisions—applicable only to *non-profit mortgagors*—where labor is voluntarily provided without compensation, and HUD determines that the mortgagor has received full credit for any amounts saved through such donated services. The waiver provision in paragraph (b) would be amended so that it would also apply to public hospital mortgagors.

III. Alternative Proposals Designed to Reduce Risk

The Department proposes to add a new section to Part 242 (§ 242.92), that would contain additional eligibility requirements for certain hospitals. Alternative proposed rule requirements are discussed in the preamble sections that follow. Comment is invited on each of these altenative proposals, as well as on other comparable requirements that could be adopted in the final rule.

The first alternative discussed below (in -Section III A), would impose added requirements on hospitals that have relied heavily on tax (or other public) appropriations to balance revenues and

expenses in recent years. In essence, under this proposal, HUD would reduce the amount of benefits paid in the event of a claim (by a predetermined amount) if a jurisdiction failed to provide necessary annual funding to the hospital. The mortgagee, however, would receive the claim balance from an escrow or letter of credit established by the jurisdiction for this purpose. [In lieu of the escrow or letter of credit provision, HUD is inviting comments on the feasibility of its paying the entire claim, but withholding or reducing certain Federal funds to which the jurisdiction would otherwise be entitled, until its (predetermined) debt is retired].

The Department is also giving serious consideration to adopting in the final rule the alternative proposal dscussed in section III B of this preamble. The alternative contemplates the establishment of a coinsurance program authorized under section 244 of the National Housing Act, under which there would be a sharing of the insurance risk between HUD and the mortgagee, where the mortgagor is a public hospital.

A. Insured Mortgages for Publicly Supported Hospitals (Alternative 1)

The Department proposes (as one alternative) to add a new section to Part 242 (section 242.92) containing additional security and other requirements for certain types of hospitals that pose unusual risk to the Department. In the case of some public hospitals, and a limited number of private hospitals, special allocations of funds from the jurisdiction are necessary to maintain continued viability. These special allocations are common in the case of hospitals which serve large numbers of patients who are unable to pay for such care. Special allocations, or tax support, are generally provided on an annual basis by the jurisdiction, but, because of local law, most jurisdictions cannot provide a legally binding commitment of such funds. A legally binding commitment would logically be a requirement for considering such funds in determining basic feasibility.

The Department is concerned that those hospitals which are particularly serving those who are unable to pay, as encouraged by the statute, would be most likely to have difficulty in demonstrating acceptable financial feasibility. Therfore, the Department has, in the proposed rule, attempted to safeguard the General Insurance Fund while simultaneously providing a reasonable opportunity for such hospitals to acquire Federal mortgage insurance. The proposed section (entitled "Eligibility of mortgages covering publicly supported hospitals") would have three basic components. *First*, it would clearly identify hospitals that would be subject to the additional requirements of this new section. *Second*, it would describe additional specific requirements. *Third*, it would describe the Department's remedies in the event that a default resulting in a claim occurred under the mortgage, and the requirements of this section had not been complied with. Each basic component of the proposed regulation is discussed below.

(1) Applicability of the proposed section

Every hospital mortgage insured by the Department poses some risks based on a variety of factors including the mortgagor's management strength and income stream. There is, however, a unique risk that is associated with insured mortgages issued on hospitals that must depend upon periodic funding support based on tax (or other public) appropriations in order to balance operating imcome and expenses.

Within the unverse of hosptials that are publicly supported, there is considerable disparity in the degree of subsidization received. Moreover, it does not necessarily follow that merely because a hospital receives some limited subsidy, it poses an unreasonably high insurance risk. However, the Department believes that, where a hospital has received a *significant degree of subsidization* in the recent past, insuring such a hosptial's mortgage would pose an *additional risk and would warrant additional security requirements.* Accordingly, the Department proposes to establish a new § 242.92 applicable to any hospital that has received greater than 10 percent of its revenue from tax (or other public) appropriations *for any one year in the five-year period* immediately preceding the year in which its submits its hospital proposal to the United States Department of Health and Human Services. [See § 242.3 (Applications)].

(2) Added Security Requirments

Proposed § 242.92 would establish additional security requirements for insuring mortgages on hospitals which are determined to be a special risk by virture of having received support funds from the jurisdiction to the extent described above. These security requirements would vary depending upon (1) the projected operating support (POS) needed, expressed as a percentage of annual operating revenues, which is calculated by HHS in their processing of the hospital mortgage insurance application from the jurisdiction, and (2) the legal capacity of the jurisdiction that would supply POS to make a legally binding commitment to provide the POS over the full mortgage term.

When HHS processes an application for hospital mortgage insurance, it reviews the projected operating revenues against projected operating costs and debt service to establish basic feasibility—the capacity of the hospital to support itself. Some hospitals, primarily those which have required public support in the past, will likely require some public support in the future. Therefore, before insuring a mortgage on a hospital which is dependent on exceptional support to avoid default, the Department would require a commitment to provide such support or to otherwise reduce HUD's exposure in insuring such a mortgage.

Where the mortgagor can demonstrate that the jurisdiction, whether State or local, will make a *legally binding* commitment to, at a minimum, provide the needed POS (at least 5 percent) over the entire life of the mortgage, no further security requirements are imposed.

The Department recognizes, however, that not all jurisdictions have the legal capcity to make such commitments. In the asbence of such capacity, the Department could still insure the hospital mortgage, but only if the jurisdiction agrees to reduce HUD's risk as specified below. In essence, the jurisdiction which would be providing the POS to the hospital would be required to provide for a reduction in any claim payment made by HUD where a default has occurred and the jurisdiction has failed to provide the appropriate POS at any time in the past five years. Where the jurisdiction was provide all of the appropriate POS over the past five years and a default occurs anyway, the jurisdiction would not be called upon to reduce HUD's claim.

In all cases, where the legally binding commitment cannot be given, a minimum five percent POS obligation and a five percent escrow or letter of credit would be required for the purpose of reducing the insurance benefits paid by HUD in the event of a claim, as discussed below. In no case, however, regardless of the annual POS obligation, would the jurisdiction be required to bring any year's revenues of the hospital past the break-even point. POS payments are "as needed" only.

In order to reduce the amount of HUD's claim payment, an escrow account, or letter of credit at the mortgagee's option, must be established with the mortgagee. Any letter of credit

of shorter duration than the claim reduction obligation must be extended or called before its expiration. The amount of the escrow account or letter of credit must remain in place for the life of the mortgage (or until the outstanding principal balance is less than the escrow or letter of credit) and would be used to reduce the insurance benefits paid to the mortgagee (as would any similar escrow held by the mortgagee under any of the mortgage insurance programs) in the event a claim is paid. The amount of the escrow is not includable in the mortgage.

The Department considered various procedures for establishing the amount of the escrow or letter of credit which must be deposited with the mortgagee. The proposed rule establishes the amount of the escrow or letter of credit as the POS percentage times the original mortgage amount with a minimum of five percent. For example, if the HHS-determined annual POS percentage is 15 percent of projected revenues, and the insured mortgage principal amount at final endorsement was $50 million, the escrow or letter of credit would be 15 percent of $50 million, or $7.5 million.

This procedure for establishing the amount of the escrow or letter of credit is preferable to selecting a fixed percentage of the original principal amount that would be applied in all cases, since it increases the penalty for failure to provide the POS as reliance on the jurisdiction in providing funding support increases. It is also preferable to requiring the amount to be a fixed percentage of the claim, because the proposed (actual dollar) amount is (1) established at the outset, and (2) continues to be a substantial penalty even when a claim payment would be relatively small because the mortgage has been outstanding for some time.

Further, it provides recognition over time of the jurisdiction's past performance in providing the POS. Although the POS percentage to be provided by the jurisdiction remains the same over the life of the project, the actual dollar amount may increase with inflation. Under the proposed procedure, there may be a "crossover" point, in approximately the sixth to eighth year, in which the actual dollar amount of POS due will become greater than the amount escrowed. This is because the escrow or letter of credit is a fixed amount, based on a percentage of the original mortgage amount, whereas the annual POS payment is based on a percentage of a varying amount, *i.e.*, operating costs. This crossover point would occur after the period of greatest risk of default under the mortgage. Thus, the procedure provides the greatest incentive to the jurisdiction to continue its support during the early period, while retaining, but reducing, the (relative) penalty for default after years of support have been provided.

As a possible alternative to the proposed rule provision reducing insurance benefits paid by the amount in an escrow or letter of credit, the Department invites comment on any other alternative that recognizes the legal problems of some jurisdictions in providing legally binding commitments, yet still provides HUD with reasonable security in insuring hospitals which might otherwise be rejected as infeasible. Partial alternatives might include (1) advance agreement by a jurisdiction to the reduction of certain Federal funds to which a jurisdiction would otherwise be entitled (*e.g.*, Community Development Block Grant funds under 24 CFR Part 570) or (2) making jurisdictions ineligible for Federal funding (*e.g.*, Urban Development Action Grants under Part 570), until the jurisdiction's debt (as calculated under the same formula as is proposed for the escrow or letter of credit) is fully retired.

(3) Department's remedy in the event of a default

If a default resulting in a claim occurs on a mortgage, and a jurisdiction has provided an escrow or letter of credit to the mortgagee, § 242.92 provides that the Department will reduce the amount of insurance benefits paid by the amount of the escrow or letter of credit, but only if the jurisdiction has failed to make any required annual POS payment during the five-year period preceding the default.

Finally, the requirements of proposed § 242.92 would apply to mortgages on hospitals that are considered to be a special risk because they have received more than 10 percent of their revenues from public appropriations in a recent year. It is possible, however, that a given hospital that has not received such public funding in the recent past could nontheless be found to be a special insurance risk. In such a case, the Federal government would not be precluded from imposing any necessary, added eligibility requirements for insuring a mortgage related to the financing of that hospital. The proposed rule indicates as much in subsection (a), entitled "Applicability".

B. Insured Mortgages for Public Hospitals (Alternative 2)

Under this alternative, the Department would establish a new § 242.92 that would contain additional eligibility requirements for public hospitals. [As noted previously, those hospitals that do rely on public appropriations to offset annual expenses are generally public hospitals. Also, under the Department's Part 242 insurance program, there have been very limited incidences of defaults resulting in claims for insured private and private non-profit hospitals].

Proposed § 242.92 would require a mortgagee to share in the risk of a default and claim occurring under an insured mortgage. In accordance with the coinsurance authority in section 244 of the National Housing Act (12 U.S.C 1715z–9) the rule would require a mortgagee to assume a percentage of any loss on the insured mortgage. Specifically, the Department would only be responsible for paying insurance benefits for 80 percent of the claim amount, with the lender assuming the balance of any loss. Among other things, the Federal government would retain full responsibility for the processing of the mortgage insurance proposal. Mortgage insurance premiums (MIP) would continue to be paid to the Department by the mortgagee in accordance with the existing rule provisions in Part 242 (which cross-references to 24 CFR Part 207, Subpart B provisions), with some modification to appropriately reflect the mortgagee's proportionate share in the risk. Also, under this alternative proposal, the Department is considering increasing the MIP amount.

Finally, although the accompanying proposed rule text does not include specific provision for the alternative apporach discussed in this section, the coinsurance apprach may nontheless be adopted in the final rule. The Department invites comment on all of the alternatives suggested, and its final rule will reflect its determination of what course is most appropriate for insuring mortgages that pose added risk.

IV. Findings

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implements section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the General Counsel, Rules Docket Clerk, Room 10276, 451 Seventh Street, SW., Washington, D.C. 20410.

This rule does not constitute a major rule as that term is defined in section 1(b) of Exective Order 12291 on Federal Regulation issued on February 17, 1981. Analysis of the rule indicates that it

does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprise in domestic or export markets.

Under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601), the Undersigned certifies that this rule does not have a significant economic impact on a substantial number of small entities because it does not impose any involuntary burdens or benefits. The rule is generally applicable to large hospitals, including public facilities, and makes federal mortgage insurance available to public hospitals for the first time.

This proposed rule was not listed in the Department's Semiannual Agenda of Regulations published on April 19, 1984 (49 FR 15902), under Executive Order 12291 and the Regulatory Flexibility Act.

The hospital mortgage insurance program is listed in the Catalog of Federal Domestic Assistance as program number 14.128 (Mortgage Insurance—Hospitals).

List of Subjects in 24 CFR Part 242

Hospitals, Mortgage insurance.

Accordingly, the Department proposes to amend 24 CFR Part 242 as follows:

PART 242—MORTGAGE INSURANCE FOR HOSPITALS

1. By revising paragraph (b)(3) of § 242.1 to read as follows:

§ 242.1 Definitions.

* * * * *

(b) * * *

(3) Which is a facility licensed or regulated by the State (or, if there is no State law providing for such licensing or regulation by the State, by the municipality or other political subdivision in which the facility is located), that is (i) a public facility that is an instrumentality of a state or unit of local government, or owned by a public benefit corporation established by a state or unit of local government; (ii) a proprietary facility; or (iii) a facility of a private nonprofit corporation or association.

2. By revising § 242.23 to read as follows:

§ 242.23 Eligible mortgagors.

The mortgagor shall be either a public facility, a private nonprofit corporation or association, or a profit mortgagor, shall be approved by the Commissioner, and shall possess the powers necessary and incidental to operating a hospital.

3. By revising § 242.51 to read as follows:

§ 242.51 Prepayment privilege and prepayment charges.

* * * * *

(a) *Prepayment privilege.* Except as otherwise provided in paragraph (c) of this section, the mortgage shall contain a provision permitting the mortgagor to prepay the mortgage in whole or in part upon any interest payment date, after giving the mortgagee 30 days' notice in writng in advance of its intention to so prepay.

(b) *Prepayment charge.* The mortgage may contain a provision for such charge, in the event of prepayment of principal, as may be agreed upon between the mortgagor and the mortgagee, subject to the following:

(1) The mortgagor shall be permitted to prepay up to 15 percent of the original principal amount of the mortgage in any 1 calendar year without any such charge.

(2) Any reduction in the original principal amount of the mortgage which the Commissioner may require pursuant to § 242.29(c) shall not be construed as a prepayment of the mortgage.

(c) *Prepayment of bond-financed mortgages.* Where the mortgage is given to secure a loan made by a mortgagee which has obtained the funds for such loan by the issuance and sale of bonds or bond anticipation notes, or both, the mortgage may contain a prepayment prohibition and prepayment penalty charge acceptable to the Commissioner as to term, amount and conditions.

4. By revising paragraph (b)(2) of § 242.57 to read as follows:

§ 242.57 Funds and finances—insured advances—general requirements.

* * * * *

(b) * * *

(2) *Public mortgagor or private nonprofit mortgagor.* In the case of a public mortgagor or private nonprofit mortgagor, the mortgagee may accept a letter of credit in lieu of the cash deposit required by paragraphs (a) (1) and (2) of this section. If a letter of credit is accepted in lieu of the cash deposit required by paragraph (a)(1) of this section, the mortgage proceeds may be advanced prior to any demand being made on the letter of credit.

5. By revising paragraph (b) of § 242.67 to read as follows:

§ 242.67 Labor standards.

* * * * *

(b) *Waiver of compliance with contract requirements—public mortgagor or private nonprofit mortgagor.* In the case of a public mortgagor or private nonprofit mortgagor, the Commissioner may waive the requirement for compliance with the contract provisions prescribed in paragraph (a) of this section in cases or classes of cases where laborers or mechanics, not otherwise employed at any time in the construction or rehabilitation of the hospital, voluntarily donate their services without compensation for the purpose of lowering the costs of construction and where the Commissioner determines that full credit has been received by the mortgagor for any amount saved through such donated services.

6. By adding a new § 242.92 to read as follows:

§ 242.92 Eligibilty of mortgages covering publicly supported hospitals

(a) *Applicability.* A mortgage financing the rehabiliation, construction, or replacement of a hospital that has received greater than 10 percent of its operating income from tax revenues or other governmental appropriations in any year of the five-year period immediately preceding the calendar year in which the hospital has submitted its proposal to the Department of Health and Human Services, shall be eligible for insurance under this subpart, if, in addition to all other applicable rquirements, it meets the requirements of this section. For purposes of this determination, tax revenues or other public appropriations shall consist solely of unrestricted appropriations by a jurisdiction for the general support of the hospital, and do not include health care subsidies such as Medicare, Medicaid or other patient or program reimbursement mechanisms. The provisions of this section do not preclude the Federal government from imposing additional eligibility or security requirements on any hospital mortgage whether or not subject to the requirements of this section if such action is warranted.

(b) *Additional requirements.* The mortgage will be eligible for insurance if the mortgagor complies with all program requirements and the additional security requirements set out in paragraph (b)(1) or (b)(2) of this section.

(1) The mortgagor demonstrates to the Department that the jurisdiction

(whether State or local) providing funding support to the hospital to be financed has made a legally binding commitment to provide the projected annual operating support funds (POS) determined necessary by HHS in feasibility processing to cover projected deficits expected to be incurred by the hospital over the entire mortgage term. Such deficits shall be expressed as a percentage or anticipated annual inpatient and outpatient revenues (POS percentage), but in any case not less than five percent. In any year, however, in which the actual amount of operating support funds required by the hospital to cover deficits is less than the HHS-determined POS, the jurisdiction shall be required to provide only the actual amount of support funds necessary.

(2) If the hospital is to be supported by a jurisdiction that is precluded by law from making the commitment described in paragraph (b)(1) of this section, the mortgage will be eligible for insurance if:

(i) The mortgagor demonstrates to the Department that the jurisdiction has made a legally binding commitment to the maximum extent lawfully possible to provide the annual POS funds, or that no legal capacity to make such a commitment exists, and

(ii) An agreement is executed between the mortgagee and the jurisdiction whereby an escrow or letter of credit, at the option of the mortgagee, is provided to the mortgagee in an amount equal to the POS percentage times the original mortgage amount, or 5 percent of the original mortgage amount, whichever is greater. The amount of the escrow or letter of credit is not includable in the mortgage amount insured. The escrow or letter of credit must be held until the outstanding principal balance of the mortgage is less than the escrow or letter of credit. Letter of credit for less than the required term must be renewed or called by the mortgagee before expiration.

(c) *Remedies in the event of a default.* If a default occurs on a mortgage insured under the requirements of § 242.92(b)(2), one of the two provisions that follow shall apply.

(1) Where any annual POS payment has been needed and not paid during the five-year period preceding a default, any insurance benefits paid by HUD under a claim, will be reduced by the amount of the escrow or letter of credit.

(2) Where all annual POS payments needed during the five-year period preceding a default have been paid, no reduction will be made in the insurance benefits paid by HUD under a claim, and the escrow or letter of credit will be returned to the jurisdiction.

7. By revising § 242.260 to read as follows:

§ 242.260 Insurance benefits.

All of the provisions of § 207.259 of this chapter relating to insurance benefits apply to mortgages on hospitals insured under this subpart, except that (1) in a case where the mortgage involves the financing or refinancing of an existing hospital in accordance with § 242.93 and the commitment for insuring such mortgage is issued on or after April 1, 1969, the insurance claim shall be paid in cash unless the mortgagee files a written request for payment in debentures. If such a request is made, the claim shall be paid in debentures issued in multiples of $50, with the balance less than $50 to be paid in cash; and (2) in a case where the mortgage is insured under the provisions of § 292.92, the amount of insurance benefits will be reduced by any amount required under the escrow letter of credit provisions in § 242.92(b)(2)(ii), if the remedy described in § 242.92(c)(1) is applicable.

(Secs. 211 and 242 of the National Housing Act (12 U.S.C. 1715b and 1715z–7; sec. 7(d), Department of Housing and Urban Development Act, (42 U.S.C. 3535(d)))

Dated: September 18, 1984.

Maurice L. Barksdale,

Assistant Secretary for Housing, Federal Housing Commissioner.

[FR Doc. 84–27079 Filed 10–11–84; 8:45 am]

BILLING CODE 4210–27–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–5–FRL–2692–5]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: Indiana submitted as a revision to the Ozone portion of its State Implementation Plan (SIP) for volatile organic compounds (VOC) a request to discontinue the requirement for use of a carbon adsorption vapor recovery unit on the loading racks during the cold weather months of November to March at the Phillips Petroleum Company Terminal in Hendricks County. EPA is proposing to disapprove this request because the proposed discontinuance does not conform with Agency's policy on reasonably available control technology (RACT) requirements for sources impacting ozone nonattainment areas and the requirements for continuous control.

DATE: Comments on this revision and on EPA' proposed disapproval must be received by December 11, 1984.

ADDRESS: Copies of the SIP revision are available at the following addresses for review. (It is recommended that you telephone Uylaine E. McMahan, at (312) 353–0396 before visiting the Region V office.)

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch, 230 South Dearborn Street, Chicago, Illinois 60604

Indian Air Pollution Control Division, Indiana State Board of Health, 1330 West Michigan Street, Indianapolis, Indiana 46206

Comments on this proposed rule should be addressed to: Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR–26), U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Uylaine E. McMahan, (312) 353–0396.

SUPPLEMENTARY INFORMATION: On August 17, 1984, the Indiana Air Pollution Control Board (Board) submitted a proposed revision to its ozone SIP for the Phillips Petroleum Company bulk gasoline storage and distribution terminal in Hendricks County, Indiana.[1] These loading racks are subject to the VOC control requirements of SIP Rule 325 IAC 8–4. The requested SIP revision would allow the above facility to discontinue the 325 IAC 8–4 requirement for the use of a carbon adsorption vapor recovery unit on the loading racks during the months of November through March.

Under EPA's Seasonal Afterburner Policy (December 1, 1980 memorandum from Walter Barber, Director of OAQPS), gas-fired afterburners installed to control VOC emissions for the purpose of ozone control may be shutdown during the cold weather months from November through March as a fuel conservation measure, see also, e.g. (47 FR 47552, October 27, 1982). However, this cold weather exemption only applies to gas-fired afterburners; not to other add-on control equipment such as the carbon adsorption vapor recovery unit at Phillips Petroleum's loading racks. Therefore, EPA has determined that this proposed

[1] The Phillips Petroleum terminal is within one mile of Marion County, a designated nonattainment area for ozone. Emissions from the terminal contribute to high ozone concentrations in the Marion County area.

exemption from SIP requirements is not consistent with EPA's Seasonal Afterburner Policy, and EPA is proposing to disapprove the exemption as a revision to the Indiana SIP.

EPA is prividing a 60-day comment period on this notice of proposed rulemaking. Public comments received on or before December 11, 1984 will be considered in EPA's final rulemaking. All comments will be available for inspection during normal business hours at the Region V office.

Under 5 U.S.C. section 605(b), I certify that this proposed disapproval will not have a significant economic impact on a substantial number of small entities because it applies to only one firm, Phillips Petroleum.

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB to EPA, and any EPA response, are available for public inspection at the EPA Region V office listed above.

(Sec. 110, 172 and 301(a) of the Clean Air Act, as amended (42 U.S.C.) 7410, 7502, and 7601(a)))

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Dated: March 15, 1984.

Alan Levin,

Acting Regional Administrator.

[FR Doc. 84-27033 Filed 10-11-84; 8:45 am]
BILLING CODE 4650-50-M

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40 CFR Part 52

[KY-024; A-4-FRL-2693-1]

Approval and Promulgation of Implementation Plans Kentucky; Variances for Volatile Organic Compound Sources

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA is today proposing to approve variances for two dry cleaning establishments in Mitchell and Cold Springs, Kentucky. The revisions will not interfere with the "Reasonable Further Progress" toward attainment of the ozone standard in this area. The revisions are supported by economic considerations.

DATE: To be considered, comments must be submitted on or before November 13, 1984.

ADDRESSES: Written comments should be addressed to Cheryl Espy of EPA Region IV, Air Programs Branch (see EPA Region IV address below). Copies of the material submitted by Kentucky may be examined during normal business hours at the following locations:

Kentucky Department for Environmental Protection, Fort Boone Plaza, Building 2, 18 Reilly Road, Frankfort, Kentucky 40601

EPA, Region IV, Air Programs Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365.

FOR FURTHER INFORMATION CONTACT: Cheryl Espy, Environmental Protection Agency, Region IV Air Management Branch, 345 Courtland Street, NE., Altanta, Georgia 30365, Telephone 404-881-2864 (FTS-257-2864).

SUPPLEMENTARY INFORMATION: The Commonwealth of Kentucky adopted Volatile Organic Compound Regulations as part of their ozone State Implementation Plan on June 5, 1979. Regulation 401 KAR 59:240 provides for the control of volatile organic compound emissions from existing perchloroethylene dry cleaning systems. Variance provisions in this Regulation allows for variation with the standards and limitations contained in the regulation when supported by adequate technical information due to technological or economic circumstances. The economic variance conditions allow for a maximum annual usage rate of perchloroethylene not to exceed 260 gal/year (1.75 tons/yr), EPA considers such variances on a case-by-case basis. RACT is defined as the lowest emission limit that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility.

Jiffy The Cleaners of Ft. Mitchell, Kentucky, a perchloroethylene dry cleaning plant, applied for a technical variance with the Kentucky Division of Air Pollution Control on April 27, 1983. A preliminary determination was made to grant the variance. A public hearing was held on August 17, 1983, and no comments were received. Under the provisions of Regulation 401 KAR 59:240, New Perchloroethylene Dry Cleaning Systems, Jiffy the Cleaners requested and received an economic variance from the Kentucky Division of Air Pollution Control. Kentucky submitted to EPA this proposed revision of the State Implementation Plan on April 12, 1984.

The Kentucky Division of Air Pollution Control has based its economic evaluation on the method of analysis as set forth in the volatile organic compounds (VOC), specifically perchloroethylene, from all dry cleaning systems which use this solvent.

The total emissions of VOC resulting from this variance will be 1.75 tons/year (TPY) uncontrolled emissions compared to 0.875 TPY, had this variance not been granted.

Hiland Cleaners applied for an economic variance for an existing perchloroethylene dry cleaning facility. The Kentucky Division of Air Pollution Control made a preliminary determination to grant the variance. A public hearing was held and no comments were made. The final determination of the Division was to approve an economic variance as provided for in section 7 of Regulation 401 KAR 61.160, the existing Perchloroethylene Dry Cleaning Systems. The economic variance allows for a maximum annual usage of perchloroethylene not to exceed 118 gal/yr. (0.80 tons/yr). Total emissions of VOC from this action will be 0.8 tons/yr uncontrolled compared to 0.4 had this variance not been granted.

It is the opinion of the Kentucky Division that Jiffy The Cleaners and Hiland Cleaners are small and insignificant to the overall VOC control strategy in the Northern Kentucky ozone nonattainment area. EPA agrees.

Action

EPA has reviewed the submitted material and agrees that in these two instances, application of the presumptive norm in the CTG is not appropriate. Therefore, EPA is today proposing to approve the State's variances for Jiffy The Cleaners and Hiland Cleaners and is soliciting public comment on the proposal.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709, January 27, 1981).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Sec. 110 and 172 of the Clean Air Act (42 U.S.C. 7410 and 7502))

Dated: September 4, 1984.
John A. Little,
Acting Regional Administrator.
[FR Doc. 84-27029 Filed 10-11-84; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 81

[A-5-FRL-2692-1]

Designation of Areas for Air Quality Planning Purposes; Attainment Status Designations: Wisconsin

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: USEPA proposes to revise the sulfur dioxide (SO_2) designations, from attainment to nonattainment, for three cities in Wisconsin. The three cities are: Rhinelander, located in Oneida County; Peshtigo, located in Marinette County; and Rothschild, including portions of the towns of Weston and Rib Mountain, located in Marathon County. These revisions are based on a redesignation request from the Wisconsin Department of Natural Resources (WDNR), dated March 27, 1984, and on supporting technical data submitted by the Department. The State has requested these redesignations because of recorded violations of the primary National Ambient Air Quality Standards (NAAQS) for SO_2 in these three cities. Under the Clean Air Act, attainment status designations can be changed if warranted by the available data.

DATE: Comments on these redesignations and on USEPA's proposed action must be received by November 13, 1984.

ADDRESSES: Copies of the redesignation requests, the technical support documents, and the supporting air quality data are available at the following addresses. (It is recommended that you telephone Colleen W. Comerford, at (312) 886-6034, before visiting the Region V office)

Environmental Protection Agency, Region V, Air Programs Branch, 230 S. Dearborn Street, Chicago, Illinois 60604

Wisconsin Department of Natural Resources, Bureau of Air Management (AIR/3), 101 South Webster, Madison, Wisconsin 53707.

Comments on this proposed rule should be addressed to (please submit an original and five copies, if possible): Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR-26), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Colleen W. Comerford (312) 886-6034.

SUPPLEMENTARY INFORMATION: Under section 107(d) of the Clean Air Act, the Administrator of USEPA has promulgated a National Ambient Air Quality Standards (NAAQS) attainment status designation for each area of Wisconsin. See 43 FR 8962 (March 3, 1978) and 43 FR 45993 (October 5, 1978). These area designations may be revised whenever the available data warrant a revision.

USEPA's criteria for Section 107 redesignations are summarized in two policy memoranda: (1) An April 21, 1983, memorandum from Sheldon Meyers, then Director of the Office of Air Quality Planning and Standards, entitled "Section 107 Designation Policy Summary"; and (2) a December 23, 1983, memorandum from G.T. Helms, Chief of the Control Programs Operation Branch, entitled "Section 107 Questions and Answers." In general, all available information relative to the attainment status of the area should be reviewed, including the most recent eight consecutive quarters of ambient air quality data. However, USEPA does not require eight consecutive quarters of ambient air quality data when redesignating an area from attainment to nonattainment. In this case, USEPA only requires evidence of a violation of the NAAQS, plus any available supplemental information, including air quality modeling, emissions data, and any other pertinent information, with the rationale that even if all other data were below the standard, a violation would still have occurred.

The cities of Rhinelander, Peshtigo, and Rothschild (including portions of the towns of Weston and Rib Mountain) are currently designated as attainment areas for SO_2. On March 27, 1984, the Wisconsin Department of Natural Resources (WDNR) requested that USEPA revise the air quality attainment status designation for these areas from attainment to primary and secondary nonattainment of the SO_2 NAAQS. This request was based on monitoring data that showed violations of the primary and secondary NAAQS in these three areas. Modeling results were used by the WDNR to determine the boundaries of the proposed nonattainment areas, and these boundaries were submitted with the request for redesignation. They are identified in the following discussion.

The WDNR ran two sets of modeling for all three cities. The initial modeling studies were used to determine the nonattainment area boundaries. The additional modeling studies, using updated emissions data, were used to verify the results of the initial studies. The WDNR submitted Technical Support Documents that included summaries of the SO_2 ambient air monitoring data collected from the three cities, as well as the results of WDNR's initial modeling studies. These documents were the subject of public hearings conducted by WDNR on November 14, 1983, and November 15, 1983. The WDNR also submitted technical information on June 6 and 7, 1984, that included the results of the additional modeling studies. These documents, and results of USEPA's review of these documents, are available for public inspection at the Region V office listed above.

Rhinelander

The request for redesignation of Rhinelander to primary and secondary nonattainment for SO_2 is based upon monitoring data that were collected from April, 1981 to December, 1983. Sulfur dioxide concentrations were measured at one location by a monitoring van. Violations of the primary SO_2 NAAQS were recorded at this location in 1981 and 1983. A violation of the secondary NAAQS was also recorded there in 1983. These violations provide the justification for the redesignation to primary and secondary nonattainment.

Although monitoring data provide a basis for redesignation, they do not allow for determination of the boundaries of the nonattainment area. Therefore, the WDNR ran models for this purpose. Emissions data from the Rhinelander Paper Company were used in the models because the data indicated that the elevated SO_2 levels resulted from emissions from the company's pulp and paper mill complex. The results of the modeling showed that the exceedance area was localized to the area directly surrounding the mill complex, so the nonattainment area was limited to this area as opposed to the entire city of Rhinelander. The boundaries of the nonattainment area, which include the monitoring site and the mill complex, are as follows.

North–A line ENE from the intersection of Lynne and Maple Streets to the W end of Abner.

Abner Street from W end to intersection of Abner and Thayer Streets.

East—S on Thayer Street from intersection of Abner and Thayer Streets to intersection of Thayer and Anderson Streets.

Anderson Street S from intersection of Anderson and Thayer Streets to intersection of Anderson and Davenport Streets.

Davenport Street W from intersection of

Anderson and Davenport Streets to W bank of Wisconsin River.

W bank of Wisconsin River S from Davenport Street to Norway Street.

South—Norway Street W from Wisconsin River extended to intersection of High View Parkway and Hillside Road.

High View Parkway W from intersection of High View Parkway and Hillside Road to intersection of High View Parkway and Davenport Street.

West—Davenport Street ENE from intersection of Davenport Street and High View Parkway to intersection of Davenport and Maple Streets.

Maple Street N from intersection of Davenport and Maple Streets to intersection of Maple and Lynne Streets.

Peshtigo

The request for redesignation of Peshtigo to primary and secondary nonattainment for SO_2 is based upon monitoring data that was collected from June, 1983, to December, 1983. Sulfur dioxide concentrations were measured at one monitoring location. Violations of both the primary and secondary SO_2 NAAQS were recorded at this location during the seven-month monitoring period, providing justification for the redesignation to primary and secondary nonattainment. In the fall of 1983, two other monitors were placed in operation. These monitors have also recorded violations of the SO_2 NAAQS.

In order to determine the boundaries of the nonattainment area, the WDNR performed modeling two different times using emissions data from the Badger Paper Mill. Emission data from the Badger Paper Mill were used in the models because the data indicated that the elevated SO_2 levels resulted from emissions from that source. The results of the modeling indicated that the boundaries of the nonattainment area should coincide with the Peshtigo City boundaries, since the exceedance area extended over much of Peshtigo. These boundaries include the Badger Paper Mill.

Rothschild, Weston, and Rib Mountain

The request for redesignation of several portions of Marathon County (the City of Rothschild, part of the town of Weston, part of the town of Rib Mountain) to primary and secondary nonattainment for SO_2 is based upon monitoring data that was collected from January, 1982, to December, 1982. Sulfur dioxide concentrations were measured at three monitoring locations in the Rothschild area. In 1982, six exceedances of the primary SO_2 NAAQS were recorded at the monitoring site located to the northeast of the Weyerhaeuser Company Paper Mill complex. This violation provides the justification for the SO_2 redesignation to primary and secondary nonattainment. The WDNR performed an analysis that indicated that the Weyerhaeuser Company is responsible for the elevated SO_2 concentrations in the Rothschild area.

In addition to this analysis, the WDNR performed modeling two different times using emissions data from the major SO_2 sources located within the area, the Weyerhaeuser Company Paper Mill, Reed Lignin, and the Wisconsin Public Service (WPS) Weston Power Plant. The results of the modeling were used to determine the following boundaries:

Primary Nonattainment Area

Rothschild

North: State Highway 29 from E bank of Wisconsin River E to Volkman Street.

East: Volkman Street from State Highway 29 S to Lemke Avenue.

South: Lemke Avenue from Volkman Street W to Becker Avenue. Becker Avenue from Lemke Avenue W to Francis Street, Weston Avenue from Frances Street extended to E bank of Wisconsin River.

West: E bank of Wisconsin River, Weston Avenue extended N to State Highway 29.

Secondary Nonattainment Area

Rothschild

Same as primary.

Weston

North: State Highway 29 from Volkman Street, N to Jelinck Avenue E to Alderson Street.

East: Alderson Street from Jelinck Avenue S to Weston Avenue.

South: Weston Avenue from Alderson Street W to Volkman Street.

West: Volkman Street from Weston Avenue N to State Highway 29.

Rib Mountain

The NW ¼ of Section 23.
The SW ¼ of Section 23.
The NW ¼ of Section 25.

The boundaries of the proposed primary nonattainment area include the Weyerhaeuser Paper Mill complex and Reed Lignin, but Wisconsin did not include the WPS Weston Power Plant in either the proposed primary or secondary nonattainment area. Sources outside the proposed boundaries will be covered by action taken as a result of the notice of SIP deficiency issued to Wisconsin on April 23, 1984. The notice of SIP deficiency required Wisconsin to revise its SO_2 SIP in order to attain the NAAQS statewide. (This approach is consistent with the decision of the U.S. Court of Appeals for the Seventh Circuit in *Bethlehem Steel Corp* v. *U.S. EPA*, 723 F.2d 1303 (1983).) Moreover, if the State determines that a particular source is responsible for an area's nonattainment status, then the State must require SO_2 emission limitations sufficient to attain and maintain the SO_2 NAAQS, irrespective of whether that source is located in an attainment or nonattainment area.

Conclusion

USEPA is proposing to approve the SO_2 redesignation from attainment to primary and secondary nonattainment for the cities of Rhinelander, Peshtigo, and Rothschild, including portions of the towns of Weston and Rib Mountain. The redesignations are based on monitoring and modeling data that show violations of the primary and secondary SO_2 NAAQS. The boundaries of the proposed nonattainment areas were determined using modeling performed by the WDNR. Wisconsin will have 12 months from the effective date of the redesignations to develop an enforceable plan to attain the SO_2 NAAQS (48 FR 50686–50695; November 2, 1983). (See also U.S. EPA's "Guidance Document for Correction of Part D SIP's for Nonattainment Areas," Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina, January 27, 1984.)

All interested persons are invited to submit written comment on the proposed redesignation. Written comments received by the date specified above will be considered in determining whether USEPA will approve the redesignation. After reviewing all the comments that are submitted, the Administrator of USEPA will publish the Agency's final action on the redesignation in the **Federal Register**.

Under 5 U.S.C. 605(b), the Administrator has certified that redesignations do not have a significant economic impact on a substantial number of small entities (See 46 FR 8709).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 81

Intergovernmental relations, Air pollution control, National parks, Wilderness areas.

(Sec. 107(d) of the Act, as amended (42 U.S.C. 7407))

Dated: September 5, 1984.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 84-27028 Filed 10-11-84; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 271

[WH-6-FRL-2692-6]

Arkansas; Final Authorization of State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of tentative determination on application of State of Arkansas for final authorization, public hearing and public comment period.

SUMMARY: The State of Arkansas has applied for Final Authorization under the Resource Conservation and Recovery Act (RCRA). EPA has reviewed the State's application and has made the tentative determination that the State of Arkansas' hazardous waste program satisfies all of the requirements necessary to quality for final authorization. Thus, EPA intends to grant Final Authorization to the State to operate its program in lieu of the federal program in the State. The State of Arkansas' application for Final Authorization is available for public review and comment and a public hearing will be held to solicit comments on the State's program submittal and EPA's tentative decision.

DATES: A public hearing is scheduled for November 13, 1984, at 7:00 p.m. The State of Arkansas will participate in the public hearing held by EPA on this subject. All comments on the State's application and EPA's tentative determination must be received by the close of the public hearing on November 13, 1984.

ADDRESSES: Copies of Arkansas' Final Authorization application are available during business hours at the following addresses for inspection and copying: Arkansas Department of Pollution Control and Ecology, 8001 National Drive, Little Rock, Arkansas, 72219; U.S. EPA Headquarters Library, PM 211A, 401 M Street, SW., Washington, D.C. 20460, Phone: (202) 382-5926; U.S. EPA Region VI Library, 1201 Elm St, Dallas, Texas 75270, Phone: (214) 767-7341. Written comments should be sent to H.J. Parr, Hazardous Materials Branch, Environmental Protection Agency, 1201 Elm St., Dallas, Texas 75270 phone (214) 767-2645. EPA will hold the public hearing on November 13, 1984, at the Arkansas Department of Pollution Control and Ecology, 8001 National Drive, Little Rock, Arkansas 72219 at 7:00 p.m.

FOR FURTHER INFORMATION CONTACT: H.J. Parr, Hazardous Materials Branch, U.S. EPA, 1201 Elm St, Dallas, Texas 75270, Phone: (214) 767-2645.

SUPPLEMENTARY INFORMATION:

A. Background

Section 3006 of the Resource Conservation and Recovery Act (RCRA) allows EPA to authorize State hazardous waste programs to operate in the State in lieu of the Federal hazardous waste program. Two types of authorization may be granted. The first type, known as "interim authorization," is a temporary authorization which is granted if EPA determines that the State program is "'substantially equivalent" to the Federal program (section 3006(c), 42 U.S.C. 6226(c)). EPA's implementing regulations at 40 CFR 271.121-271.137 established a phased approach to Interim Authorization: Phase I, covering the EPA regulations in 40 CFR Parts 260-263 and 265 (universe of hazardous wastes, generator standards, transporter standards and standards for interim status facilities) and Phase II, covering the EPA regulations in 40 CFR Parts 124, 264, and 270 (procedures and standards for permitting hazardous waste management facilities).

Phase II, in turn, has three components. Phase II, Component A, covers general permitting procedures and technical standards for storage of hazardous waste in containers and tanks. Phase II, Component B, covers incinerator facilities, and Phase II, Component C, addresses facilities that dispose of hazardous waste in landfills, land treatment facilities, surface impoundments and waste piles. By statute, all Interim Authorizations expire on January 26, 1985. Responsibility for the hazardous waste program returns (reverts) to EPA on that date if the State has not received final authorization, as described below.

The second type of authorization is a "final" (permanent) authorization that is granted by EPA if the Agency finds that the State program (1) is "equivalent" to the Federal program, (2) is consistent with the Federal program and programs in other States, and (3) provides for adequate enforcement (section 3006(b), 42 U.S.C. 6226(b)). States need not have obtained Interim Authorization in order to qualify for Final Authorization. EPA regulations for Final Authorization appear at 40 CFR 271.1-271.23.

B. State of Arkansas

Arkansas' Phase I Interim Authorization was effective on November 19, 1980. Arkansas received Phase II, Components A and B Interim Authorization on April 19, 1982, and Phase II, Component C, Interim Authorization on January 24, 1984. On July 18, 1984, Arkansas submitted a complete application for Final Authorization. Prior to its submission, Arkansas solicited public comment and held a public hearing on its draft application.

EPA has reviewed Arkansas' application and has tentatively determined that the State's program meets all of the requirements necessary to qualify for Final Authorization. Consequently, EPA intends to grant Final Authorization to Arkansas. In accordance with section 3006 of RCRA and 40 CFR 271.20(d), the Agency will hold a pubic hearing on the tentative decision on November 13, 1984, at 7:00 p.m. at the Akansas Department of Pollution Control and Ecology, 8001 National Drive, Little Rock, Arkansas 72219.

The public may also submit written comments on EPA's tentative determination and the State's submittal up until the close of the public hearing on November 13, 1984. Copies of Arkansas' application are available for inspection and copying at the locations indicated in the "Addresses" section of this notice.

EPA will consider all pubilic comments on its tentative determination. Issues raised by those comments may be the basis for a decision to deny Final Authorization to Arkansas. EPA expects to make a final decision on whether or not to approve Arkansas' program by January 10, 1985, and will give notice of it in the **Federal Register**. The Notice will include a summary of the reasons for the determination and a response to all major comments.

List of Subjects in 40 CFR Part 271

Hazardous materials, Indian lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Intergovernmental relations, Penalties, Confidential business information.

Dated: September 21, 1984.

Dick Whittington, P.E.,

Regional Administrator.

[FR Doc. 84-27031 Filed 10-11-84; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 107

[Docket No. HM-194; Notice No. 84-13]

Designation of Testing Laboratories; United Nations Packagings

AGENCY: Materials Transportation Bureau (MTB), Research and Special Programs Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes a procedure by which MIB may designate third-party packaging testing laboratories, for the purpose of certifying conformance of packaging designs with United Nations standards. Third-party testing is proposed as a means through which shippers and container manufacturers may voluntarily demonstrate the adequacy of their packagings, and thereby promote acceptance of their use in international transportation. This procedure should remove a potentially harmful impact that could result from delays of, or impositions against, U.S. exports transported in packagings that are not specifically approved by the Materials Transportation Bureau (acting as the National Competent Authority).

DATE: Comments must be received on or before November 13, 1984.

ADDRESSES: Comments should be addressed to the Docket Branch, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590. Comments should identify the docket number and should be submitted, if possible, in five copies. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed stamped post card. The Dockets Branch is located in Room 8426 of the Nassif Building, 400 7th Street, SW., Washington, D.C. 20590. Public dockets may be reviewed between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday, except for holidays.

FOR FURTHER INFORMATION CONTACT: Thomas G. Allan, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Department of Transportation, Washington, D.C. 20590, (202) 426-2075.

SUPPLEMENTARY INFORMATION:

Background

Many nations that regulate packagings for the transportation of hazardous materials are adjusting their regulatory systems to recognize the performance-oriented packaging standards adopted by the United Nations (UN) in Chapter 9 of the Recommendations prepared by the United Nations Committee of Experts on the Transport of Dangerous Goods (UN Recommendations). Such a proposal is under consideration in the United States under Docket No. HM-181 (47 FR 16268, April 15, 1982).

Individual nations and groups of nations are engaged in this effort. In addition, UN-affiliated organizations such as the International Maritime Organization (IMO) and the International Civil Aviation Organization (ICAO) are adjusting their dangerous goods codes to conform with Chapter 9 standards.

Within Europe, the regulatory bodies for road and rail (ADR and RID, respectively) are very advanced in this process, and UN packaging will be requried in Europe for shipments of all flammable liquids (to 141 °F), corrosive materials and poisons as early as May 1, 1985, unless authorized transitional packaging is used. The new packagings require prescribed UN markings. Unlike certain other regulatory bodies, such as ICAO, which "grandfathered" all existing packaging specifications, the RID and ADR grandfather clause would not accommodate U.S. packaging specifications unless they are tested and marked in accordance with the previous RID and ADR requirements, or with the UN Recommendations.

Of particular concern in our proposed adoption of this procedure is the fact that most European nations will soon require that new packagings not only be tested and marked on accordance with the UN Recommendations, but that they be approved by their own governments on the basis of design testing conducted by a government laboratory or by third-party testing laboratories recognized by those governments. Consequently, those same governments currently either have their own certifying laboratories, or are recognizing third-parties to conduct testing, for the purpose of issuing government approvals of packagings. Should governments refuse to accept pakagings marked and self-certified as conforming with UN standards by U.S. shippers or packaging manufacturers, as provided for in 49 CFR 178.0-3, it may become necessary for U.S. shippers or packaging manufacturers to send empty packaging overseas for testing and approval. In order to attempt to avoid such a situation, MTB believes it must provide a viable alternative to packaging self-certification for U.S. packaging manufacturers and shippers that will be more akin to the approval procedures that are, or apparently will be, employed in Europe.

Historically, manufacturers of DOT specification packaging (except for certain cylinders and intermodal portable tanks) have been authorized to engage in testing and self-certification. MTB has no current plan to require third-party testing, or testing by MTB-designated laboratories on a mandatory basis in association with implementation of standards addressed by Chapter 9 of the UN Recommendations; nor does MTB currently intend to require registration or approval of packagings which are successfully tested and certified by a third-party labortory.

A testing laboratory has filed a petition for rulemaking for establishment of a procedure to provide U.S. Competent Authority recognition of its facility and this rulemaking is in response to that petition. The MTB proposes to adopt amendments to 49 CFR Part 107 whereby qualified testing laboratories can be designated by the U.S. Competent Authority and, therefore, may provide independent certification of conformance with UN Recommendations for each shipper and packaging manufacturer who chooses to seek such certification. This is a strictly voluntary procedure—there is no proposed MTB requirement that such laboratories be used, nor is such a requirement contemplated at this time.

Shippers and packaging manufacturers seeking a recognized third party testing labortory already face an extremely tight schedule. Delay in rulemaking could mean that the May 1, 1085 deadline is unattainable if anticipated problems become real at that time. Therefore, because of potential difficulties with acceptance of packagings in Europe as of May 1, 1985, it is important that the MTB consider implementation of this program as quickly as possible.

Summary of proposed amendments

Section 107.401 would be revised to expand its scope to include certifications issued for packagings conforming to standards appearing in the UN Recommendations on the Transport of Dangerous Goods. In addition, a new paragraph would be added to clearly indicate that authority delegated to approved agencies is shared with MTB. Accordingly, packaging manufacturers and shippers may apply for certification directly to the Associate Director for HMR, or appeal an adverse determination by a designated approval agency.

Section 107.402 would be amended in paragraphs (b)(3), (b)(4)(ii) and (b)(6) to expand the scope of packagings covered

by this section to include those conforming to UN Recommendations.

Section 107.404 would be amended to indicate that a designated approval agency which examines and tests packagings conforming to UN Recommendations will issue a certification, rather than an approval certificate, which is appropriate only to intermodal portable tanks.

OMB Control Number: 2137–0008

Paperwork Reduction Act: Information collection requirements contained in this regulation (§§ 107.402 and 107.404) have been approved by the Office of Personnel Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and have been assigned OMB control number 2137–0008. Information collection requirements pertaining to procedures which container manufacturers and shippers must follow in obtaining a certification for their packagings are not yet approved by OMB. The requests for OMB approval will be submitted in the near future.

List of Subjects in 49 CFR Part 107

Hazardous materials transportation, Administrative practice and procedures.

In consideration of the foregoing, 49 CFR Part 107 would be amended as follows:

PART 107—HAZARDOUS MATERIALS PROGRAM PROCEDURES

1. Section 107.401 would be revised to read as follows:

§ 107.401 Purpose and scope.

(a) This subpart establishes procedures for the designation of approval agencies to issue approval certificates and certifications for types of packagings designed, manufactured, tested, or maintained in conformance with the requirements of this subchapter, Subchapter C of this chapter, and standards set forth in the United Nations (UN) Recommendations (Transport of Dangerous Goods). Except for certificates of compliance with UN packaging standards, this subpart does not apply unless made applicable by a rule in Subchapter C of this chapter.

(b) The Associate Director for HMR retains the right to also issue approval certificates and certifications addressed in paragraph (a) of this section.

2. In § 107.402, paragraph (b)(6) would be amended by removing the word "specification"; and paragraphs (b)(3) and (b)(4)(ii) would be revised to read as follows:

§ 107.402 Application for designation as an approval agency.

* * * * *

(b) * * *

(3) A listing, by DOT specification (or exemption) number or UN designation, of the types of packagings for which approval authority is sought.

(4) * * *

(ii) A knowledge of the applicable regulations of this subchapter and, when applicable, UN standards;

* * * * *

§ 107.404 [Amended]

3. In § 107.404, paragraphs (a)(2) and (a)(3) would be amended by adding the words "and certifications" immediately following the word "certificate".

(49 U.S.C. 1804, 1805, 1808; 49 CFR 1.53, App. A to Part 1, and paragraph (a)(3) of App. A to Part 106)

Note.—Because the proposals made in this Notice relate to (a) agency practices and procedures or (b) clarifications of existing regulations and policies, the Materials Transportation Bureau determined that this Notice—(1) is not "major" under Executive Order 12291; (2) is not "significant" under DOT Regulatory Policies and Procedures (44 FR 11034; Feb. 26, 1979); and (3) does not require an enviornmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 *et seq.*). For these same reasons, I certify that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C. on October 5, 1984.

Alan I. Roberts,

Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 84–27051 Filed 10–11–84; 8:45 am]

BILLING CODE 4910–60–M

NATIONAL RAILROAD PASSENGER CORPORATION

49 CFR Part 701

Freedom of Information Act Regulations

AGENCY: National Railroad Passenger Corporation (Amtrak).

ACTION: Notice of Proposed Rulemaking with Request for Comments.

SUMMARY: This proposed rule intends to clarify and expand upon those regulations published April 26, 1982 at 49 CFR Part 700 establishing procedures for requesting records under 5 U.S.C. 552(a)(3). 47 FR 17822. Amtrak published a final rule on June 13, 1984, which renumbered as Part 701 the regulations published in 1982 as Part 700 and which satisfied, in a new Part 700, the requirements of 5 U.S.C. 552(a) (1) and (2). The amendments listed in this publication are intended to announce a number of administrative changes that have taken place at Amtrak since 1982, an increase in fees to be charged FOIA requesters and an expansion on some definitions and policy statements published at 49 CFR Part 701. Moreover, the Corporation desires to establish procedures for the handling of business records submitted to Amtrak by third parties and disclosure of which is requested under the provisions of the Act. The Corporation's experience with the FOIA over the past several years has demonstrated that a number of changes and clarifications need to be made to facilitate future handling of FOIA requests directed to Amtrak.

DATES: Written comments must be submitted on or before December 11, 1984. No hearings will be held.

ADDRESSES: Comments may be mailed or delivered to the National Railroad Passenger Corporation, Law Department, 400 North Capitol Street, NW., Washington, D.C. 20001. Comments received by the Corporation will be available for review by the public during regular business hours at this same address.

FOR FURTHER INFORMATION CONTACT: Michelle Lore (Legal Assistant), Amtrak Law Department, 400 North Capitol Street, NW., Washington, D.C. 20001. (202) 383–2812.

SUPPLEMENTARY INFORMATION: On April 26, 1982, the National Railroad Passenger Corporation (Amtrak) published regulations at 49 CFR Part 700 establishing the procedures governing requests for records under 5 U.S.C. 552(a)(3). 47 FR 17822. On June 13, 1984, Amtrak published a final rule renumbering as Part 701 the regulations which had been published as Part 700 on April 26, 1982, and satisfying, in a new Part 700, the requirements of 5 U.S.C. 552(a) (1) and (2). The purpose of this notice of proposed rulemaking is to amend, as described below, selected provisions of the regulations renumbered as Part 701, and to obtain public comments on those proposed amendments. During the two years the procedures for handling requests for records under 5 U.S.C. 552(a)(3) have been in effect, internal administrative practices related to those procedures have changed, and experience indicates additional improvements can be made. For example, requests are no longer the responsibility of the Amtrak department of Corporate Communications; a revision in fee schedule appears to be

appropriate; and special procedures are needed to govern requests for commercial or financial information of persons who may have provided such information to Amtrak.

List of Subjects in 49 CFR Part 701

Freedom of information.

PART 701—[AMENDED]

For the reasons set out in the preamble, Part 701 of Chapter VII of Title 49 of the *Code of Federal Regulations* are proposed to be amended as follows.

1. In 49 CFR Part 701, under the caption "Authority", and after citation of the Rail Passenger Service Act, change the period to a semicolon and add "5 U.S.C. 552(a)(3)". As amended, the authority for Part 701 reads as follows:

Authority.—Sec. 306(g), Rail Passenger Service Act, 45 U.S.C. 546(g); 5 U.S.C. 552(a)(3).

The following changes are made within Part 701:

§ 701.2 [Amended]

2. In § 701.2, the definition of "President" in paragraph (b) is revised to read as follows: "President means the President of the Corporation or his delegee".

§ 701.3 [Amended]

3. In § 701.3(a), delete the expression "the Freedom of Information Act" and substitute in its place the word "law".

4. In § 701.3, paragraph (b) is revised to read as follows:

(b) A requested record of the Corporation may be withheld from disclosure if it comes within one or more of the exemptions in 5 U.S.C. 552(b) or is otherwise exempted by law.

§ 701.4 [Amended]

5. In § 701.4, paragraph (a)(4) is revised to read as follows:

(4) The request shall be addressed to the Freedom of Information Officer, AMTRAK, 400 North Capitol Street, NW., Washington, D.C. 20001.

6. In § 701.4(c), delete the expression "employee handling the request" and subsitute in its place the expression "Freedom of Information Officer".

7. In § 701.4, paragraph (d) is revised to read as follows:

(d) The submission of a FOIA request constitutes an agreement by the requester to pay the fees specified in § 701.7, unless the requester is entitled to a fee waiver or specifies in the request a different amount to which the Corporation agrees in writing.

8. In § 701.4, a new paragraph (e) is added to read as follows:

(e) Searches will be made for requested records in the order of this receipt. Each so-called "continuing request" will be treated as a one-time request.

9. In § 701.7, paragraph (a) is revised to read as follows:

§ 701.7 Fees.

(a) The Corporation shall charge a fee of $15.00 per hour (per person) when a search for records is conducted by a clerical employee and $25.00 per hour (per person) when the search is conducted by a professional employee. There will be a charge of 25¢ per page to photocopy records. The fee for copies of material requiring other method of reproduction (including use of a computer) is the direct cost of reproduction and handling.

§ 701.7 [Amended]

10. In § 701.7(b), delete the title "Vice-President, Corporate Communications" and substitute in its place "Freedom of Information Officer."

11. In § 701.7, paragraph (c) is revised to read as follows:

(c) Except for services performed without charge or at a reduced charge, each request for a search of records or for a copy of a record should be accompanied by the fee calculated as prescribed in paragraph (a) of this section. When the fee is not readily ascertainable without examination of the records, the Freedom of Information Officer will furnish an estimate of the fee to the person making the request, or, in the discretion of the Corporation, the fee may be collected after the records are made available. If the Corporation requests an advance payment and such payment is not made, the Corporation may decline to respond to or may deny the request for records. The Corporation may require, before making records available, that the person making the request pay any fees that remain unpaid with respect to one or more prior requests by the same person. No search fee shall be charged for an initial search if records are not located, or are located but not made available to the requester. However, the Corporation may assess search fees if the requester insists on further search after being informed by the Corporation, based on an initial search, that the search is unlikely to be productive.

12. A new § 701.8 is added to read as follows:

§ 701.8 Business records.

(a) *In General.* Commercial or Financial information submitted to Amtrak by other persons will be disclosed in response to a FOIA request as described in this section.

(b) *Notices to Submitters of Commercial or Financial Information.* The Freedom of Information Officer shall provide a submitter of commercial or financial information with prompt written notice of a request or demand for the submitter's records. The notice will describe the nature of the records requested, or furnish copies thereof, and request the submitter to furnish to Amtrak with reasonable promptness a detailed statement of any objection to disclosure, including grounds for withholding any of the requested records on the basis of an exemption in the Act or in other applicable law. Upon receipt of that statement the Freedom of Information Officer, upon consultation with the General Counsel's office, will determine whether disclosure will be made. With respect to proposed disclosure of a record over the objection of the submitter of it, the Freedom of Information Officer shall forward to the submitter a written notice which will include:

(1) A statement of reasons for overriding the submitter's objection,

(2) Identification of the records to be disclosed, and

(3) A specified disclosure date.

The notice will be sent a sufficient number of days prior to the disclosure date to permit the submitter time, on an expedited basis, to file an action to prohibit disclosure. The Freedom of Information Officer will make available to the requester in due course a copy of each notice or statement described by this subsection, or will other wise keep the requester informed of the status of Amtrak's response to the request.

Paul F. Mickey, Jr.,

Executive Vice President, Law and Public Affairs, National Railroad Passenger Corporation.

[FR Doc. 84-27081 Filed 10-11-84; 8:45 am]
BILLING CODE 8000-00-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status and Critical Habitat for "Gardenia Brighamii" Mann (Na'u or Hawaiian Gardenia)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine *Gardenia brighamii* (na'u or Hawaiian gardenia) to be an endangered species and to designate its critical habitat under the authority contained in the Endangered Species Act of 1973, as amended. This plant is known only from about a dozen specimens located on the islands of Lanai (about 10 plants), Molokai (2 plants), and Oahu (1 plant), State of Hawaii. This species is vulnerable to any substantial habitat alteration and faces the potential threat of grazing and browsing by domestic and feral animals, fire, soil erosion, introduced insect pests, rodent predation, competition from exotic plants, and potential development on and/or near the sites where it occurs. A determination that *Gardenia brighamii* is an endangered species, and designation of its critical habitat, would implement the protection provided by the Endangered Species Act of 1973, as amended. The Service seeks data and comments from the public on this proposal. The Service is requesting further information on the species' status and any economic impacts that would result from designation of critical habitat.

DATES: Comments from all interested parties must be received by December 11, 1984. Public hearing requests must be received by November 26, 1984.

ADDRESS: Comments and materials concerning this proposal should be sent to the Regional Director, U.S. Fish and Wildlife Service, 500 NE. Multnomah Street, Portland, Oregon 97232. Comments and material received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Chief, Division of Endangered Species, U.S. Fish and Wildlife Service, 500 NE. Multnomah Street, Portland, Oregon 97232 (503/231–6131), or Mr. John Spinks, Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–2771).

SUPPLEMENTARY INFORMATION:

Background

Past collections and field notes on *Gardenia brighamii* indicate that it once grew on the islands of Hawaii and Maui, where none are known to be extant in the wild today. The species was first collected in 1864–65 by Horace Mann and William Brigham, and was formally described by Mann in 1867. It still occurs on Lanai (about 10 plants) and Molokai (2 plants), as well as on Oahu, where a single plant remains in the wild. The current habitat has been severely degraded and altered by grazing and browsing animals (e.g., domestic cattle and feral goats, respectively). The invasion of exotic plants such as *Lantana camara, Leucaena leucocephala, Schinus terebinthifolius,* and various grass species crowd out the remaining dry forest and shades out any seedlings that may have survived rat predation on the fruits. The remaining habitats on Lana'i and Moloka'i are found on marginal land used for grazing.

Gardenia brighamii was a distinctive element of the lowland dry forest. It is a tree growing 20 to 30 feet in height, with a smooth trunk six to 12 inches or more in diameter and a spreading canopy of shiny dark-green leaves. The white to cream-colored flowers are one to two inches long, very fragrant, and resemble the Tahitian gardenia (*G. taitensis)* in shape.

Section 12 of the Endangered Species Act of 1973 directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975. On July 1, 1975, the Director published a notice in the **Federal Register** (40 FR 27823–27924) of his acceptance of this report as a petition within the context of subsection 4(c)(2) of the Act (petition acceptance is now governed by section 4(b)(3) of the Act, as amended), and of his intention to review the status of the plant taxa named within. On June 16, 1976, the Service published a proposed rule in the **Federal Register** (41 FR 24523–24572) to determine approximately 1,700 vascular plant taxa to be endangered species. This list was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94–51 and the July 1, 1975, **Federal Register** publication. *Gardenia brighamii* was included in the July 1, 1975, notice and the June 16, 1976, proposal. General comments on the 1976 proposal were summarized in an April 26, 1978, **Federal Register** publication (43 FR 17909–17916).

The Endangered Species Act Amendments of 1978 required that all proposals over two years old be withdrawn. A 1-year grace period was given to those proposals already more than 2 years old. Subsequently, on December 10, 1979, the Service published a notice of the withdrawal of the portion of the June 16, 1976, proposal that had not been made final along with other proposals that had expired (44 FR 70796–70797); this notice of withdrawal included *Gardenia brighamii.* The Service now has sufficient information to warrant reproposing *Gardenia brighamii* as an endangered species. Its critical habitat is being proposed for the first time.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424; under revision to accommodate 1982 amendments, see proposal of August 8, 1983, 48 FR 38062–38069) set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Gardenia brighamii* Mann (Hawaiian gardenia or na'u) are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of its Habitat or Range

This species once grew on five of the Hawaiian islands, where, at least on the island of Molokai, it was a fairly common component of the native dryland forests. Today it still occurs on the islands of Lanai (about 10 plants), Molokai (2 plants), and Oahu (1 plant). It is now believed extinct on Hawaii and Maui. Grazing and browsing by domestic and feral animals and the invasion of exotic shrubs, forbs, and grasses have caused severe degradation of its habitat. Urbanization, pineapple fields (on Lanai and Molokai), sugar cane fields (on Oahu and Maui), and pastures (on Oahu, Maui, and Hawaii) have replaced most of the dryland forests in Hawaii. The Molokai population grows at the edge of an erosion gully; several trees were lost recently when the gully walls collapsed during winter storms. Further grazing and browsing by domestic and feral animals, further invasion and spread of exotic plants, potential urbanization or development, and, as the plants grow in dry parts of the islands, the continual possibility of fires, are all existing threats to the future survival of the species.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Not applicable to this species.

C. Disease or Predation

The introduced Black Twig Borer, *Xylosandrus compactus* (Scolytidae), attacks the terminal shoots and has severely affected the one wild tree on Oahu. Rats appear to gnaw the fruit

while it is still on the tree, severely reducing the chances of successful regeneration. The full impact of grazing needs to be determined.

D. The Inadequacy of Existing Regulatory Mechanisms

No regulatory mechanisms exist at the present time. Federal listing would automatically invoke listing under Hawaii State law, which prohibits taking and encourages conservation by State government agencies.

E. Other Natural or Man-Made Factors Affecting Its Continued Existence

The number of plants of this species has been greatly reduced due to factors enumerated above. Further reduction of the breeding population (gene pool) may have adverse effects on the reproductive capacity and survival of this species.

The Service has carefully assessed the best scientific information available concerning the past abundance and subsequent decline of this species, as well as the threats faced by its remnant populations. Based on this evaluation, the preferred course of action is to propose to list *Gardenia brighamii* as endangered and designate the area occupied by the largest remnant population as critical habitat for the species. This choice reflects the strong likelihood that, without the institution of appropriate conservation measures, the species is likely to become extinct throughout its range.

Critical Habitat

Critical habitat, as defined by section 3 of the Act and at 50 CFR Part 424, means: (i) The specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (a) essential to the conservation of the species and (b) which may require special management considerations or protection, and (ii) specific areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

Section 4(a)(3) of the Act requires that critical habitat be designated to the maximum extent prudent and determinable concurrent with the determination that a species is endangered or threatened. Critical habitat is being proposed for *Gardenia brighamii* to include an area of about 685 acres just north of Kanepu'u, ahupua'a of Ka'a, island of Lanai. It contains a remnant native dryland forest and, although influenced by the presence of exotic vegetation and herbivores, is believed to provide the best remaining site for long-term survival and possible augmentation of *Gardenia brighamii*. The approximately 10 individuals found within the area represent the largest remaining population of this species. While the entire area to be designated as critical habitat does not contain individuals of *Gardenia*, this area nevertheless represents one of the few remnants of the once-widespread Hawaiian dryland forest, and is the only such remnant supporting a potentially viable population of this species. Unless this remnant forest is conserved for future transplantation or reestablishment programs, future survival in the wild of the Hawaiian gardenia is unlikely. Thus, the entire remnant ecosystem is believed to be essential for the conservation of the species.

Section 4(b)(8) requires, for any proposed or final regulation that designates critical habitat, a brief description and evaluation of those activities (public and private) which may adversely modify such habitat or may be affected by such designation. Such activities are identified below for this species. It should be emphasized that critical habitat designation may not affect all of the activities mentioned below, as critical habitat designation only affects Federal agency activities through section 7 of the Act.

Any activity that would significantly disturb the soil, topography or other physical and biological components of the area where *Gardenia brighamii* occurs would adversely modify its critical habitat. Land uses in the immediate locality of the population and in its surroundings would have to be carefully regulated to control such modifications. This might require fencing of populations to exclude or eliminate feral animals from the area. Inasmuch as no Federal activities are anticipated in the area proposed to be designated, it is unlikely that the designation will affect any activities.

Section 4(b)(2) of the Act requires the Service to consider economic and other impacts of designating a particular area as critical habitat. The Service will reevaluate the geographic critical habitat designation prior to publishing any final rule, after considering any public comments received and all relevant economic information that is available.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required by Federal agencies and taking prohibitions are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402, and are now under revision (see proposal at 48 FR 29989; June 29, 1983). Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species, or result in destruction or adverse modification of proposed critical habitat. When a species is subsequently listed, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If an effect is expected, the Federal agency must enter into consultation with the Service. Currently, no Federal involvement is known to exist with regard to *Gardenia brighamii*.

The only known potential action that may be affected by the listing is the casual use of the Kanepu'u area. Federal listing automatically results in similar listing by the State and, therefore, enforcement of the State's own regulations come into effect. These regulations may limit casual use by prohibiting the taking of the plants. Take, in the State law, is defined as picking or otherwise damaging the plants. Voluntary or mandatory protection of this species and its habitat will require cooperation among the land owners, Castle and Cooke, Inc., the State of Hawaii, the County of Maui, and the U.S. Fish and Wildlife Service.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general trade prohibitions and exceptions that apply to all endangered plant species. With respect to *Gardenia brighamii*, all trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, would apply. These prohibitions, in part, would make it illegal for any person

subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. Certain exceptions would apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 16.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. No trade in this species is known. It is anticipated that few trade permits involving *Gardenia brighamii* would ever be sought or issued since the species is not common in cultivation nor in the wild.

Section 9(a)(2)(B) of the Act, as amended in 1982, states that it is unlawful to remove and reduce to possession endangered plant species from areas under Federal jurisdiction. The new prohibition will not apply to *Gardenia brighamii* since all of the known plants are on private property.

Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1903).

If this species is listed under the Act, the Service will review it to determine whether it should be placed upon the Annex of the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere, which is implemented through section 8A(e) of the Act, and whether it should be considered for other appropriate international agreements.

Public Comments Solicited

The Service intends that any final rule adopted will be accurate and as effective as possible in the conservation of each endangered or threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning any aspect of these proposed rules are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to *Gardenia brighamii*;

(2) The location of any additional populations of *Gardenia brighamii* and the reasons why any habitat of this species should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range and distribution of this species;

(4) Current or planned activities in the subject area and their possible impacts on *Gardenia brighamii*; and

(5) Any foreseeable economic and other impacts resulting from the proposed designation of critical habitat.

Final promulgation of the regulations on *Gardenia brighamii* will take into consideration any comments and additional information received by the Service, and such communications may lead to the adoption of a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests should be made in writing and addressed to the Regional Director, Region 1, U.S. Fish and Wildlife Service, 500 NE., Multnomah Street, Portland, OR 97232.

National Environmental Policy Act

In accordance with a recommendation from the Council on Environmental Quality (CEQ), the Service has determined that Environmental Assessments need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. The recommendation from CEQ was based, in part, upon the decision by the Sixth Circuit Court of Appeals, which held that the preparation of NEPA documentation was not required as a matter of law for listing actions under the Endangered Species Act; *PLF* v. *Andrus* 657 F. 2d 829 (6th Cir. 1981). A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References

Foote, D.E., E.L. Hill, S. Nakamura, and F. Stephens. 1972. Soil survey of the islands of Kauai, Oahu, Maui, Molokai, and Lanai, State of Hawaii. U.S. Dept. of Agriculture, Soil Conservation Service: Washington, D.C. 232 pp., 130 maps.

Gagne, B.H. 1982. Status report on *Gardenia brighamii*. Research Corporation of the University of Hawaii, under contract 14–16–0001–79096 to the U.S. Fish and Wildlife Service. 42 pp.

Spence, G., and S.L. Montgomery. 1976. Ecology of the dry land forest at Kanepu'u, island of Lana'i. Newsletter, Haw'n Bot. Soc. 15(4/5): 62–80.

Authors

The primary authors of this proposed rule are Dr. Derral Herbst, U.S. Fish and Wildlife Service, P.O. Box 50167, Honolulu, Hawaii 96850 (808/546–7530) and Betsy Harrison Gagne, B.P. Bishop Museum, P.O. Box 19000–A, Honolulu, Hawaii 96819 (808/847–3511). The manuscript was edited by John L. Paradiso of the Service's Washington Office.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulations Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

1. The authority citation for Part 17 reads as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. It is proposed to amend § 17.12(h) by adding the following in alphabetical order under the family Rubiaceae to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
* *	* *	* *	*	*		*
Rubiaceae-Coffee family:						
Gardenia brighamii	Na'u (Hawaiian gardenia)	U.S.A. (HI)	E		17.96(a)	NA
* *	* *	* *	*	*		*

3. It is further proposed to amend § 17.96(a) by adding critical habitat of *Gardenia brighamii* as follows: [The position of this and any following critical habitat entries under § 17.96(a) will be determined at the time of publication of a final rule.]

§ 17.96 Critical habitat-plants.

(a) * * *

* * * * * *

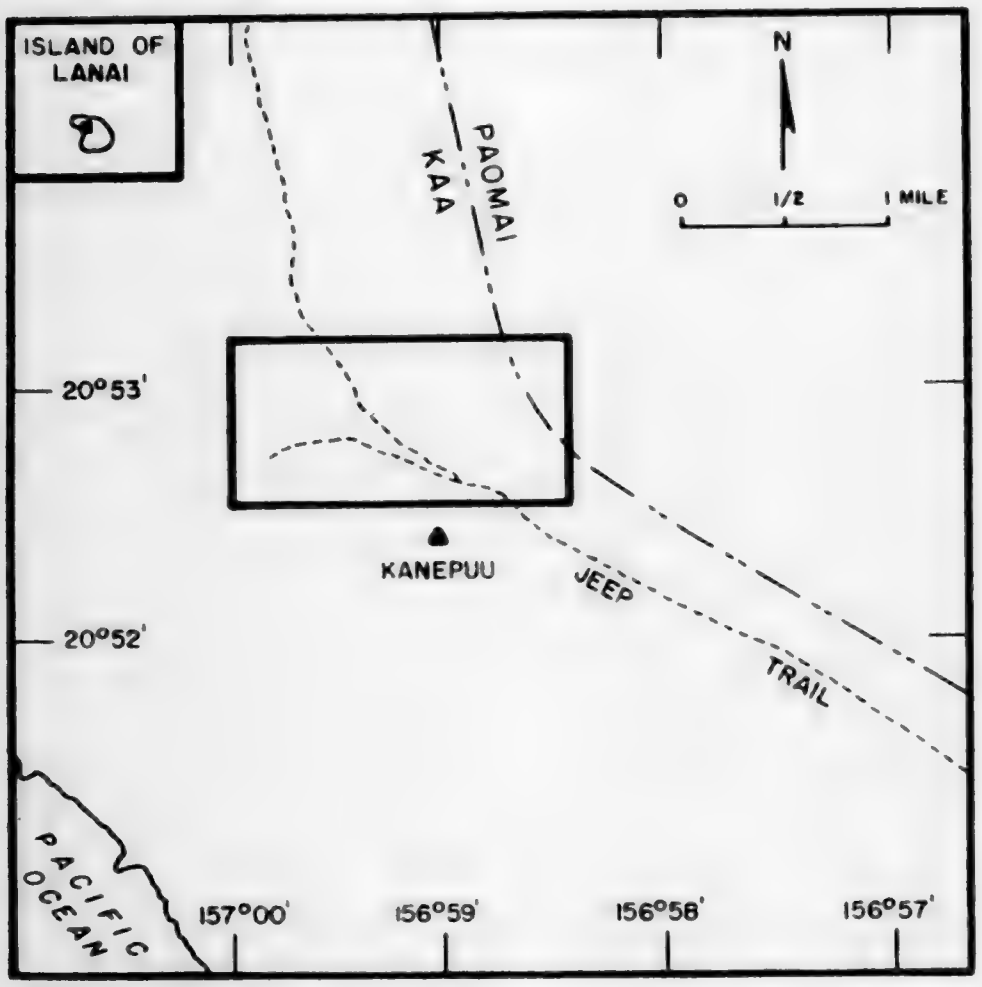
Family RUBIACEAE:

Gardenia brighamii (Na'u, Hawaiian gardenia)

Hawaii, Maui County, island of Lanai, ahupua'a of Ka'a, a rectangle just north of Kanepu'u comprising about 685 acres and enclosed by the following coordinates:

20°52'35" N latitude by 157°00'00" W longitude
20°53'10" N latitude by 157°00'00" W longitude
20°53'10" N latitude by 156°58'28" W longitude
20°52'35" N latitude by 156°58'28" W longitude

Known constituent elements include very dry, well-drained lateritic soils of high acidity and low fertility.



Dated: August 30, 1984.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 84-26788 Filed 10-11-84; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 49, No. 199
Friday, October 12, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ACTION

Mini-Grant Program; Guidelines for Mini-Grants

AGENCY: ACTION.

ACTION: Final notice of revision of guidelines for Mini-Grants.

SUMMARY: The following notice sets forth the final guidelines under which applications for Mini-Grants will be accepted. This revision replaces the current Mini-Grant Guidelines which were published in the **Federal Register**, Volume 47, No. 162 on Friday, August 20, 1982. This Notice describes the program purpose, applicant eligibility, grant scope, application procedures and criteria for Mini-Grants. Both those mini-grants funded by the ACTION agency and those mini-grants funded through either non-federal contributions or Federal Inter-Agency Agreements are covered. This notice will also serve to announce the availability of funds and indicate funding priorities for Mini-Grants awarded in Fiscal Year 1985.

DATE: These guidelines shall take effect on November 26, 1984.

FOR FURTHER INFORMATION CONTACT: Office of Volunteer Liaison (OVL), ACTION, Room M–207, 806 Connecticut Avenue, NW., Washington, D.C. 20525, or telephone toll-free 800–424–8867.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Revision of Guidelines for Mini-Grants was published in the **Federal Register**, Vol. 49, No. 163 on Tuesday, August 21, 1984. The Notice proposed amendments that would affect (1) the ratio of expected volunteer hours to federal dollars and (2) the procedures pertaining to the place of submission and instructions for completing the application. It proposed to change the volunteer hour/federal dollar ratio from one hour for every dollar to one-half hour for every dollar. The notice proposed to change the location to which grant applications should be sumbitted, from the Office of Volunteer Liaison in Washington, D.C., to the appropriate ACTION State offices. It also proposed to eliminate the listing of specific application forms in the **Federal Register** since applicable forms will be included in each year's application packages that are mailed out.

Written comments were received by the Agency, and accordingly inserted as appropriate in the proposed Notice, now adopted as final.

ACTION has reviewed these Guidelines and has determined that they are not a major rule as defined in E.O. 12291. The reason underlying this determination is that both the size and purpose of these grants are such that they will not have the economic ramification envisioned by E.O. 12291's definition of a major rule. These Guidelines are published pursuant to the authority contained in section 123 of the Domestic Volunteer Service Act of 1973, as amended (42 U.S.C. 4993).

Discussion of Comments Received

The Agency received two letters concerning the proposed revision to the guidelines. The comments contained in both letters expressed support for the proposed changes. Therefore, the revisions will be incorporated into the final guidelines without further modification.

Mini-Grant Program

1. Program Purpose

a. The ACTION Mini-Grant Program is intended to initiate, strengthen and/or supplement volunteer efforts and to encourage broad-based volunteer citizen participation which will develop and enhance community self-reliance. Mini-Grants are intended to be directed to meet a broad range of basic human needs, especially in the poverty sector.

b. Mini-Grants should be considered and used as a means to establish or strengthen activities, mechanisms, and programs which may be one-time or on-going in nature, but which must demonstrate a solid potential for long-term effect.

c. The program is intended to assist organizations, particularly low-income and community based groups.

2. Eligibility

Public or private non-profit organizations, including, for example, hospitals, institutions of higher learning, and local units of government, which utilize, or will utilize, volunteers as an integral part of their provisions of services may apply for grants.

3. Scope of Grant

The Mini-Grant Program provides funds on a one-time, non-renewable basis for a budget period not to exceed one year under the following conditions:

a. The Federal share of the grant award shall not normally exceed $10,000 to organizations for a local project of $15,000 to organizations for a project that relates to an entire state or Federal region.

b. All grants of $3,500 or more in ACTION Federal funds require a minimum matching share of 10% of the total grant cost. The matching share can be cash or an in-kind contribution; e.g., project director's salary and fringe benefits, space or equipment used by the project, or meals provided by project volunteers.

c. Mini-Grants will be awarded for projects which have measurable goals achievable in a specified time frame not to exceed one year.

d. Mini-Grants are basically a vehicle by which volunteers can be mobilized to help alleviate community problems. It is expected that for each Federal dollar awarded, at least one-half (½) hour of volunteer service will be generated. If the project is of a nature where numbers of volunteers and volunteer hours cannot be documented, then the grantee is asked to describe the impact of the project on the larger issue of volunteer activity in the organization/community.

e. ACTION reserves the right to establish funding priorities each year in order to meet national needs and Agency goals.

4. Procedures

a. After the notice which requests Mini-Grant applications appears in the **Federal Register**, application packages will be mailed out to those requesting them. The packages will contain the grant application forms, selection criteria, the application review process, and application due dates. Applications will be submitted to the appropriate ACTION State Office by the due date.

b. These procedures may not apply to grants funded either through Federal Inter-Agency Agreements or non-federal contributions.

5. Deadlines

Deadlines for submission of applications are established by the Office of Volunteer Liaison.

6. Reports and Records

a. Reports Requirements. Grantee should maintain sufficient records in order to validate required financial and program reporting. Grantee will make financial reports on ACTION form A–451, (OMB 3001–0068) Financial Status Report, within ninety (90) days after the end of the budget period. Grantee will submit a program progress report one-half of the way through the budget period and a final program report at the conclusion of the project in a form to be prescribed by the ACTION Office of Volunteer Liaison. The final program report should reflect degree of achievement toward goals as outlined in the program narrative, including the actual number of volunteers and volunteer hours generated.

b. Records Retention. Grantee must retain all financial records, supporting documents statistical records, and all other records pertinent to the grant for a period of three (3) years after submission of the final Financial Status Report. If any litigation, claim or audit is begun before the expiration of the three-year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

(42 U.S.C. 4993)

Notice of the Availability of Funds

This announces the availability of funds for fiscal year 1985 under the Mini-Grant Program. Subject to the availability of funding, approximately $150,000 will be available for grants averaging $10,000 in size.

Funding priorities established for fiscal year 1985 are projects which use *primarily* young volunteers and/or projects which address *primarily* problems of young people, such as substance abuse, child abuse, latchkey, runaway, literacy, and other youth-serving areas.

The deadline for submission of applications is November 30, 1984. Applications will be submitted to appropriate ACTION State Offices. Addresses of the State offices will be included in the application package.

Application packages are available from ACTION's Office of Volunteer Liaison in Washington, D.C. To receive an application package, write to Mini-Grant Program/OVL, ACTION, Room M–207, 806 Connecticut Ave, NW., Washington, D.C. 20525, or call (202) 634–9772 or (800) 424–8867, toll-free.

Signed in Washington, D.C., on October 4, 1984.

Thomas W. Pauken,

Director, ACTION.

[FR Doc. 84–26857 Filed 10–11–84, 8:45 am]

BILLING CODE 6050–28–M

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Proposed Procedures for Implementing National Environmental Policy Act (NEPA)

AGENCY: Department of Agriculture (USDA), Agricultural Research Service (ARS).

ACTION: Proposed procedures for compliance with the National Environmental Policy Act of 1969 (NEPA).

DATE: Written comments or suggestions must be received by the person listed below on or before December 11, 1984.

FOR FURTHER INFORMATION CONTACT: Richard M. Parry, USDA, ARS, Room 114, Building 005, Beltsville Agricultural Research Center-West, Beltsville, Maryland 20705, (301) 344–2734.

SUPPLEMENTARY INFORMATION: Proposed NEPA procedures were published February 20, 1980 (45 FR 1147), for Science and Education Administration (SEA). At the time, the Agricultural Research Service was part of SEA. The subsequent abolishment of SEA resulted in returning the units within SEA to agency status, with each agency independently reporting to the Assistant Secretary for Science and Education. This notice reflects a modification of the previous proposed SEA–NEPA procedures to accommodate the establishment of ARS as an agency.

This rule has been reviewed under Executive Order 12291 and it has been determined that this regulation is not a major rule. This rule will have little or no effect on the economy. NEPA regulations apply only to Federal agencies, and this rule is strictly procedural and assures that research and other activities of ARS comply with NEPA. This rule will not result in any major increase in costs to consumers, industry, or Federal agencies or have any significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete on the foreign market.

This action is not a rule as defined in Pub. L. 96–354, the Regulatory Flexibility Act, and thus it is exempt from the provisions of that Act.

I. Purpose

These procedures assure that research and other activities of the Agricultural Research Service (ARS) comply with the intent of the National Environmental Policy Act of 1969 (NEPA) and appropriate regulations implementing this Act. These procedures supplement, and are not a substitute for, Council on Environmental Quality regulations under 40 CFR 1500–1508, and Department of Agriculture NEPA Policies and Procedures, 7 CFR 1b.

ARS conducts and supports research of limited scale as authorized by legislation to support one of the USDA goals of assuring adequate supplies of high quality food and fiber. Information generated through such research often forms the basic data needed to assess the impact of a new technology upon the environment. Larger scale projects simulating commercial practices are normally implemented in cooperation with other agencies of the Federal or State Governments.

II. Authorities

The basic authorities for these policies and procedures are NEPA and regulations of the Council on Environmental Quality under 40 CFR 1500–1508. NEPA provides that a systematic interdisciplinary approach should be used in planning and decisionmaking for actions which may have an impact on the human environment. NEPA also requires detailed statements on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment.

III. Policy

A. It is ARS policy to comply with the provisions of NEPA and related laws and policies.

B. Environmental documents should be concise, written in plain language, and address the issues pertinent to the decision being made.

C. Environmental documents may replace or be combined with other reports which serve to facilitate decisionmaking.

D. Costs of analyses and environmental documents are to be planned for during the budgetary process for the plan, program, or project. Special provisions for financing NEPA process activities which are unanticipated and extraordinary may be made in the Office of the Administrator of ARS.

E. ARS personnel will cooperate with other agencies, States, contractors, or other entities proposing to undertake activities involving the ARS to assure

that NEPA considerations are addressed early in the planning process to head off potential delays and conflicts as required by 40 CFR 1501.02.

F. For some activities, project participants outside ARS may be required to provide data and documentation. When an applicant or contractor prepares an environmental assessment (EA) or a contractor prepares an environmental impact statement (EIS), their activities shall be according to 40 CFR 1506.5.

G. Environmental documents, decision notices, and records of decision must be made avaialble for review by the public.

H. The concepts of tiering to eliminate repetitive discussions applicable to EIS's (40 CFR Part 1502) are also applicable to EA's.

IV. Responsibilities

A. *Administrator*

The Administrator is responsible for environmental analysis and documentation required for compliance with the provisions of NEPA and related laws, policies, plans, programs, and projects. An official staff member has been delegated responsibility for the establishment of procedures and coordination necessary to carry out the policies and provisions of NEPA for ARS.

B. Deputy Administrators and Area Directors

The Deputy Administrators and Area Directors are responsible to the Administrator for assuring that ARS programs are in compliance with the policies and procedures of NEPA.

V. Categorical Exclusions

For the following categories of actions, the preparation of an EA or EIS is not required.

A. Department of Agriculture Categorical Exclusions

7 CFR 1b.3.

1. Policy development, planning and implementation which relates to routine activities such as personnel, organizational changes or similar administrative functions;

2. Activities which deal solely with the functions of programs, such as program budget proposals, disbursement, transfer or reprograming of funds;

3. Inventories, research activities and studies, such as resource inventories and routine data collection when such actions are clearly limited in context and intensity;

4. Educational and information programs and activities;

5. Civil and criminal law enforcement activities;

6. Activities which are advisory and consultative to other agencies, public and private entities such as legal counselling and representation; and

7. Activities related to trade representation and market development activities overseas.

B. ARS Categorical Exclusions

ARS actions which, based on previous experience, have been found to have limited scope and intensity and produce little or no environmental effects, individually or cumulatively, to either the biological or physical components of the human environment. Some examples are:

1. Repair, replacement of structural components or equipment, or other routine maintenance of facilities controlled in whole or in part by ARS;

2. Research including programs or projects of limited size and magnitude or with only short-term effects on the environment. Examples would be research operations conducted within any laboratory, greenhouse or other contained facility where research practices and safeguards prevent environmental impacts such as the release of hazardous materials into the environment. Similarly, inventories, studies or other such activities that have limited context and minimal intensity in terms of changes in the environment, or projects involving small units or plots. Generally, any wastes from activities which are categorically excluded will be contained, recycled, destroyed or otherwise treated in a manner which renders them environmentally safe, or are otherwise nontoxic and disposed of in small quantities.

C. Exceptions to Categorical Exclusions

An environmental assessment shall be prepared for an activity which is normally within the purview of a categorical exclusion if there are extraordinary circumstances in which such an activity may have a significant environmental effect.

VI. Preparation of an Environmental Assessment (EA)

A. The following actions normally require a documented EA, but not necessarily an EIS:

1. Programs, supported in the majority by ARS, which may assist in the transition of a particular technology from field research stage to large-scale demonstration or simulated commercial phase;

2. Field work having an impact on the local environment such as major earth excavation, explosives, weather modifications, or other such techniques; and

3. Research that involves introduction, field evaluation, and release into the natural environment of introduced biological control agents or other benefical organisms beyond their natural habitat range, for the purposes of manipulation of the natural ecosystem and assessment of the short- and long-term effects of these activities.

B. An EA is not needed for actions that are:

1. Categorically excluded;

2. Specifically and adequately analyzed and discussed by an EIS or another EA;

3. For which a decision has already been made to prepare an EIS; or,

4. Emergencies, provided that the requirements of 40 CFR 1506.11 have been satisfied.

C. If more than one Federal agency participates in a program activity, the EA shall be prepared by the lead agency as provided in 40 CFR 1501.5.

D. *Format and Conclusion.* An EA can be in any format provided it covers, in a logical and succinct fashion, the information necessary for determining whether a proposed Federal action may have a significant environmental impact and thus warrant preparation of an EIS. The EA will contain the information required by 40 CFR 1508.9, and will conclude with a written statement:

1. That the proposed major Federal action will significantly effect the quality of the human environment and, therefore, an EIS will be prepared; or,

2. That the proposed major Federal action will not significantly effect the quality of the human environment so the preparation of an EIS is not required. This is the "Finding of No Significant Impact" referred to at 40 CFR 1508.13.

E. *Decision Notice.* Upon completion of an EA, the responsible official will consider the information it contains and will document the decision and the reasons for it. The public shall be notified of the decision and the availability of the EA in a manner appropriate to the situation. If there is a finding of no significant impact, the EA may be combined with the decision notice.

VII. Preparation of an Environmental Impact Statement (EIS)

A. An EIS must be prepared for:

1. Proposals for legislation which are determined to be a major Federal action significantly affecting the quality of the human environment; or

2. Other major Federal actions significantly affecting the quality of the human environment that have not been

adequately addressed in another EIS. "Major actions" and "significant" effects are difficult to define precisely and uniformly because of the great variation in social, economic, physical, and biological conditions. An environmental impact statement may be required in situations such as when a research project has advanced beyond the laboratory and small plot testing to full scale field testing over a very large area and involving the introduction of chemicals or biological agents into the environment.

The responsible official shall determine when an EIS is needed, generally based upon an EA (40 CFR 1508.18 and 1508.27).

B. *Notice of Intent.* If the responsible official recommends the preparation of an EIS, then the public shall be apprised of the decision. This notice shall be prepared according to 40 CFR 1508.22.

C. *Draft and Final EIS.* The process of preparing the draft and final EIS, as well as the format, shall be according to 40 CFR 1502–1506.

D. *Decisionmaking and Implementation.* After the filing of the EIS with the Environmental Protection Agency as required by 40 CFR 1506.9, the responsible official may make a decision within the prescribed time period. The decisions will be documented in a Record of Decision as required by 40 CFR 1502.2, and implemented as required by 40 CFR 1502.2, and implemented as required by 40 CFR 1506.10.

VIII. Agency Contact for Review and Comment

Consistent with 40 CFR 1506.6(e) interested persons may contact: Richard M. Parry, telephone (301) 344–2734, for information regarding reports of EIS's and other elements of the NEPA process.

Dated: October 9, 1984.

T.B. Kinney, Jr.,

Administrator, ARS.

[FR Doc. 84–27040 Filed 10–11–84; 8:45 am]

BILLING CODE 3410–03–M

Commodity Credit Corporation

Proposed Determinations With Regard to the 1985 Wool and Mohair Incentive Payment Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of Proposed Determinations.

SUMMARY: This notice sets forth certain proposed determinations concerning the method of price support and the price support levels for pulled wool and mohair for the 1985 marketing year. These determinations are required to be made pursuant to the National Wool Act of 1954, as amended.

EFFECTIVE DATE: Comments must be received on or before December 11, 1984, in order to be assured of consideration.

ADDRESS: Dr. Howard C. Williams, Director, Commodity Analysis Division, USDA–ASCS, Room 3741, South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Philip Sronce, Agricultural Economist, Commodity Analysis Division, USDA–ASCS, P.O. Box 2415, Washington, DC. 20013 or call (202) 475–4645. The Preliminary Regulatory Impact Analysis describing the options considered in developing these proposed determinations is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Departmental Regulation No. 1512–1 and has been designated as "not major" since the proposed determinations are not likely to result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since there is no requirement that the Commodity Credit Corporation (CCC) publish a notice of proposed rulemaking in accordance with 5 U.S.C. 553 or any other provision of law with respect to the subject matter of these proposed determinations.

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published by 48 FR 29115 (June 24, 1983).

The title and number of the federal assistance program that this notice applies to are: Title—National Wool Act Payments, Number 10.059, as found in the Catalog of Federal Domestic Assistance Programs.

Section 703(a) of the National Wool Act provides that the Secretary of Agriculture shall support the prices of wool and mohair by means of loans, purchases, payments or other operations.

Section 703(b) of the National Wool Act provides that the level of support for shorn wool for each of the marketing years 1982 through 1985 shall be 77.5 percent of an amount which is determined by multiplying 62 cents (the support price in 1965) by the ratio of: (1) The average parity index (the index of prices paid by farmers, including commodities and services, interest, taxes, and farm wage rates) for the three calendar years immediately preceding the year in which such support price is being determined and announced to (2) the average parity index for the three calendar years 1958, 1959, and 1960, rounding the result to the nearest full cent. Based on current reported parity indices the calculation for the 1985 shorn wool support price (grease basis) is as follows:

(1) Average parity index, calendar years 1981–1983	1072.0
(2) Average parity index, calendar years 1958–1960	297.3
(3) Ratio of 1072.0 to 297.3	3.6058
(4) 3.6058×62 cents per pound (1965 support price)	$2.2356
(5) 77.5%×2.2356	$1.7326
(6) 1.7326 rounded to nearest full cent	$1.73

Section 703(c) of the National Wool Act provides that the support prices for pulled wool and for mohair shall be established at such levels, in relationship to the support price for shorn wool, as the Secretary determines maintain normal marketing practices for pulled wool, and as the Secretary shall determine is necessary to maintain approximately the same percentage of parity for mohair as for shorn wool. The support price for mohair shall not be calculated so as to cause it to rise or fall more than 15 percentum above or below the comparable percentage of parity at which shorn wool is supported.

It is necessary that the determinations for the 1985 marketing year of wool and mohair be made in sufficient time to permit wool and mohair producer to make production plans for the 1985 marketing year. Accordingly, the following methods for calculating the support price for pulled wool and for

mohair for the 1985 marketing year are being proposed:

Proposed Determinations

A. Support Price—Pulled Wool.

The support price for pulled wool for the 1985 marketing year cannot be determined until the 1985 average market price for shorn wool is calculated, which should occur by April 1986. Once the average price for shorn wool is known, it is proposed that the support price for pulled wool be determined, as in prior years, by subtracting the 1985 average market price for shorn wool from the 1985 support price of shorn wool and multiplying that number by 5 pounds (the amount of wool pulled from the pelt of an average 100-pound unshorn lamb). The result is then multiplied by 80 percent which is a quality adjustment factor which recognizes that unshorn lamb pelts contain a shorter staple and lower quality wool than wool shorn from other sheep.

B. Support Price—Mohair.

It is proposed that the support price for mohair for the 1985 marketing year shall be determined based on the October 1984 parity prices for mohair and shorn wool. The following percentages are being considered in the final computation of the mohair support price:

(1) 85 percent of the percent of parity at which shorn wool is supported.

(2) A percentage equal to the percent of parity at which shorn wool is supported.

(3) 115 percent of the percent of parity at which shorn wool is supported.

Interested persons are encouraged to comment on the proposed method of calculation for payments on pulled wool and the proposed levels of price support for mohair.

Consideration will be given to any data, views and recommendations which are submitted with respect to the above items.

Authority: Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714b and c); secs. 702–708, 68 Stat. 910–912, as amended (7 U.S.C. 1781–1787).

Signed at Washington, D.C. on October 9, 1984.

Everett Rank,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 84–27083 Filed 10–9–84; 4:29 pm]

BILLING CODE 3410–05–M

Forest Service

Eureka Consolidated Development, Plan of Operation for Black Diamond #1 Mining Claim, Angeles National Forest, Los Angeles County, CA; Intent To Prepare an Environmental Impact Statement

The Department of Agriculture, Forest Service, will prepare an environmental impact statement for the development of the Black Diamond #1 Mining Claim by Eureka Consolidated Development Company on the Tujunga Ranger District.

A range of Alternatives for the development of the proposed mining operation will be considered.

Federal, State and local agencies, and other individuals or organizations who may be interested in or affected by the Decision will be invited to participate in the scoping process. This process will include:

1. Identification of those issues to be addressed.

2. Identification of issues to be analyzed in depth.

3. Elimination of insignificant issues or those which have been covered by a previous environmental review.

4. Determination of potential cooperating agencies.

The Forest Supervisor will hold a public scoping session on Wednesday, November 7, 1984 at 7:00 PM at the Sulphur Springs Elementary School, 16828 Lost Canyon Road, Canyon Country, CA.

Paul Sweetland, Forest Supervisor of the Angeles National Forest in Pasadena, CA, is the responsible official.

The analysis is expected to take about 6 months. The Draft environmental impact statement should be available for public review by June, 1985. The Final environmental impact statement is scheduled to be completed in October, 1985.

Written comments and suggestions concerning the analysis should be sent to Paul Sweetland, Forest Supervisor, Angeles National Forest, Pasadena, CA 91101 by December 24, 1984.

Questions about the proposed action and environmental impact statement should be directed to Charles McDonald, Environmental Coordinator, Angeles National Forest, (818) 577–0050.

Dated: October 3, 1984.

David W. Jones,

Acting Forest Supervisor.

[FR Doc. 84–26999 Filed 10–11–84; 8:45 am]

BILLING CODE 3410–11–M

Soil Conservation Service

Lower Latham Watershed, CO; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended; the Council on Environmental Quality NEPA Regulations (40 CFR Parts 1500–1508); and the Soil Conservation Service NEPA Procedures (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Lower Latham Watershed, Weld County, Colorado.

FOR FURTHER INFORMATION CONTACT: Sheldon G. Boone, State Conservationist, Soil Conservation Service, 2490 West 26th Avenue, Denver, Colorado, 80217, telephone 303–964–0295.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Sheldon G. Boone, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for irrigation water conservation and improvement of soil resources. The planned works of improvement include 43 structures for water control, 75 irrigation water measuring devices, 316,000 feet of on-farm conveyance systems (pipeline or concrete-lined ditches), 1,350 acres of land leveling, and other on-farm conservation practices.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Sheldon G. Boone.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

Dated: October 2, 1984.

Sheldon G. Boone,

State Conservationist.

[FR Doc. 84-26998 Filed 10-11-84; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits

Filed under subpart Q of the board's procedural regulations (See 14 CFR 302.1701 et. seq.).

Week Ended September 28, 1984

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the board may process the application by expedited procedures. Such procedures may consist of the adoption of a show cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Date filed	Docket No.	Description
Sept. 26, 1984	42526	Turks Air Limited, c/o Thomas Conlon, Tigert & Roberts, Suite 770, 600 Maryland Avenue, SW., Washington, D.C. 20024 Application of Turks Air Limited requests a foreign air carrier permit pursuant to section 402 of the Act and Subpart Q of the Board's Procedural Regulations to engage in: (a) Non-scheduled foreign air transportation of property only between a point or points in the Turks and Caicos Islands on the one hand and Miami, Florida on the other, and (b) Property only off-route charter services. Answers may be filed by Oct. 24, 1984
Sept. 27, 1984	42529	Pan Aviation, Inc., c/o J. William Doolittle, Prather, Seeger Doolittle & Farmer, 1101 Sixteenth Street, NW., Washington, D.C. 20036. Application of Pan Aviation, Inc., pursuant to section 401(d)(1) of the Act and Subpart Q of the Board's Procedural Regulations requests permanent authority to engage in scheduled interstate and overseas air transportation of property and mail: Between any point in any State of the United States or the District of Columbia, or any territory or possession of the United States and any other point in any State of the United States or the District of Columbia, or any territory of possession of the United States. Conforming Applications, Motions to Modify Scope and Answers may be filed by Oct. 25, 1984
Do	42530	Pan Aviation, Inc., c/o J. William Doolittle, Prather Seeger Doolittle & Farmer, 1101 Sixteenth Street, NW., Washington, D.C. 20036. Application of Pan Aviation, Inc., pursuant to section 401(d)(1) of the Act and Subpart Q of the Board's Procedural Regulations requests permanent authority to engage in scheduled foreign air transportation of property and mail: Between point in the United States and a point or points in Switzerland. Conforming Applications, Motions to Modify Scope and Answers may be filed by Oct. 25, 1984.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-27065 Filed 10-11-84; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 44-84]

Foreign-Trade Zone 9, Honolulu, HI; Application for Subzone at Dole Pineapple Plant

An application has been submitted to the Foreign-Trade Zones Board (the Board) on behalf of the State of Hawaii, grantee of Foreign-Trade Zone 9, by the Hawaii State Department of Planning and Economic Development, requesting special-purpose subzone status for the pineapple cannery of Dole Processed Food Company, a division of Castle & Cooke, Inc., located in Honolulu, Hawaii, within the Honolulu Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on October 2, 1984. The applicant is authorized to make this proposal under Act 7 of the Session Laws of Hawaii, 1983.

The proposed subzone is located at Dole's cannery and can-making facility, 650 Iwilei Road, Honolulu. The 55-acre facility produces canned pineapple and pineapple juice and juice concentrate. The fresh pineapple and most of the juice are of domestic origin. The tin plate used to make the cans has traditionally been sourced abroad. About 6 percent of the canned products are exported.

Zone procedures would allow Dole to take advantage of the same duty-free treatment that is in effect for foreign producers of canned pineapple with respect to tin plate and cans. The duty rate for tin plate is 3.9 percent, whereas tin cans imported as containers with merchandise are dutiable only as part of the value of their contents. In the case of pineapple, foreign canners have an even greater cost advantage because the duties are "specific", based on net weight, and the cans enter duty free.

Offshore producers have captured 60 percent of the U.S. market for pineapple products in recent years. During the past 15 years the number of companies processing pineapple in Hawaii has decreased from nine to the two that are now in operation, with a 50 percent decline in employment. In an effort to prevent a further decline in its domestic production, Dole has embarked on a major cost reduction program. The duty exemption on tin plate that would be provided under subzone procedures would play an important role in helping the company increase its price competitiveness.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report on the Board. The committee consists of: Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, D.C. 20230; George Roberts, District Director, U.S. Customs Service, Pacific Region, 335 Merchant, 228 Federal Bldg., P.O. Box 1641, Honolulu, HI 96806; and Colonel Michael M. Jenks, District Engineer, U.S. Army Engineer District Honolulu, Building 230, Ft. Shafter, HI 96858.

Comments concerning the proposed subzone are invited in writing from interested persons and organizations. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before November 14, 1984.

A copy of the application is available for public inspection at each of the following locations:

U.S. Dept. of Commerce District Office, 4106 Federal Building, 300 Ala Moana

Boulevard, P.O. Box 40026, Honolulu, HI 96850
Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1529, 14th and Pennsylvania NW., Washington, D.C. 20230

Dated: October 5, 1984.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 84-27014 Filed 10-11-84; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments; Boston University School of Medicine, et al.

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897; 15 CFR Part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with § 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No. 84-299. Applicant: Boston University School of Medicine, Purchasing Department, 80 E. Concord Street, T501E, Boston, MA 02118. Instrument: Inductively Coupled Plasma Mass Spectrometer. Manufacturer: SCIEX, Inc., Canada. Intended use: Accurate measurement of stable isotope composition of fluids (blood, urine, feces) derived from human metabolic studies. The instrument will be used primarily for training advanced students who will carry out the research projects and do thesis research in the area of mineral metabolism. Application received by Commissioner of Customs: September 13, 1984.

Docket No.: 84-300. Applicant: The University of Texas at Austin, Electrical Engineering Research Laboratory, 10100 Burnet Road, Austin, TX 78758. Instrument: Millimeter Reflex Klystron, Model VRE-2103A. Manufacturer: Varian Associates, Canada. Intended use: Research purposes in the field of radio astronomy. The phenomena studied are the spectral line emissions of interstellar molecules, the continuum radiation of planets and the emission of atmospheric constituents. The instrument will also be used in a sequence of astronomy courses to prepare students for independent research as millimeter-wavelength spectral-line radio astronomers. Application received by Commissioner of Customs: September 13, 1984.

Docket No.: 84-301. Applicant: U.S. Geological Survey, Geologic Division, 12455 West 52nd Avenue, Arvada, CO 80002. Instrument: Inductively-coupled Plasma/Mass Spectrometer, Model Elan 250. Manufacturer: SCIEX, Incorporated, Canada. Intended use: Scientific research in the trace element geochemistry and isotopic abundances of several geological systems for the improved understanding of the genesis of economic deposits of strategic minerals. These systems include geothermal transport of the platinoid metals, trace element patterns of placer gold deposits, stable isotope (Li, & B) ratios of light elements in magmatic and geothermal deposits, and isotopic analysis of lead in gold nuggets. Application Received by Commissioner of Customs: September 13, 1984.

Docket No.: 84-302. Applicant: University of California, Santa Barbara, Purchasing Department, Santa Barbara, CA 93106. Instrument: GC/Mass Spectrometer/Data System, Model VG 70-250HF. Instrument: VG Instruments, Inc., United Kingdom. Intended use: Analysis of various materials ranging from extremely volatile low mass gaseous samples to highly involatile ones typical of many biological and inorganic compounds, which often are of relatively high molecular weight, greater than 1,000 a.m.u. for example. The phenomena to be studied include:

(A) Analytical applications, both qualitative and quantitative, to aid in compound identification.

(B) Mixture analysis with or without prior separation.

(C) Metastable analysis including kinetic energy release and thermodynamic properties.

(D) Reaction mechanisms.

(E) Ion structure determinations and related internal energy effects.

The instrument will also be used to demonstrate instrumental analysis techniques in various chemistry courses. Application received by Commissioner of Customs: September 13, 1984.

Docket No.: 84-304. Applicant: The Research Foundation of State University of New York, P.O. Box 9, Albany, NY 12201. Instrument: Plasma Spray Equipment System. Manufacturer: Plasma Technik AG, Switzerland. Intended use: Plasma spraying within a reduced pressure environmental chamber in order to obtain a dense well-bonded protective coating for high temperature applications. The materials to be sprayed will include: NiCrAlY, FeCrAlY and CoCrAlY alloys. In addition, for corrosion and cavitation-erosion applications, reactive metals such as zinconium, tantalum and titanium will be vacuum plasma sprayed. Application received by Commissioner of Customs: September 13, 1984.

Docket No.: 84-305. Applicant: State University of New York, Optometric Center of New York, 100 East 24th Street, New York, NY 10010. Instrument: Joyce Display & Microprocessor Grating Generator w/special interface hardware, Model GRSYS-2. Manufacturer: Joyce Electronics, Ltd., United Kingdom. Intended use: Studies of human ability to detect, discriminate and match visual patterns composed of sinusoidal gratings which can be rotated in orientation, spatially-localized to a small patch or ring, and repositioned at different locations of the scope. Application received by Commission of Customers: September 13, 1984.

Docket No.: 84-308. Applicant: Cornell University, Department of Material Science/Bard Hall, Ithaca, NY 14853-0121. Instrument: Ultrahigh Vacuum Transfer Rod, Model MBE/GENII. Manufacturer: High Voltage Engineering Europa B.V., The Netherlands. Intended use: Investigation of the microstructure, stability, electrical properties and phases of thin film reactions. Application received by Commissioner of Customs: September 13, 1984.

Docket No: 84-311. Applicant: Research Foundation of the City of New York/Queens College, 6530 Kissena Blvd., Flushing, NY 11367. Instrument: Circular Dichroism Spectrophotometer, Model J-500C. Manufacturer: Japan Spectroscopic Co., Ltd., Japan. Intended use: Studies of nucleic acids, proteins and lipids in experiments conducted to obtain circular dichroism spectra at various temperatures and concentrations of the molecular complexes. Application received by Commissioner of Customs: September 13, 1984.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84-28686 Filed 10-11-84; 8:45 am]

BILLING CODE 3510-DS-M

Management-Labor Textile Advisory Committee; Open Meeting

A meeting of the Management-Labor Textile Advisory Committee will be held Wednesday, October 31, 1984 at 1:00 p.m., Herbert C. Hoover Building, Room 6802, 14th Street and Constitution Avenue, NW., Washington, D.C. (The Committee was established by the Secretary of Commerce on August 13, 1963 to advise Department officials on problems and conditions in the textile and apparel industry.)

Agenda: Review of import trends, implementation of textile agreements, report on conditions in the domestic market, and other business.

The meeting will be open to the public with a limited number of seats available. For further information or copies of the minutes contact Helen L. LeGrande (202) 377-3737.

Dated: October 9, 1984.

Walter C. Lenahan,

Deputy Assistant Secretary for Textiles and Apparel.

[FR Doc. 84-26973 Filed 10-11-84; 8:45 am]

BILLING CODE 3510-DR-M

Export Trade Certificate of Review; Issuance

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Issuance of an Export Trade Certificate of Review.

SUMMARY: The Department of Commerce has issued an export trade certificate of review to N.B. Carson & Co., Inc. ("Carson"). This notice summarizes the conduct for which certification has been granted.

ADDRESS: The Department requests public comments on this certificate. Interested parties should submit their written comments, original and five (5) copies, to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 5618, Washington, D.C. 20230.

Comments should refer to the certificate as "Export Trade Certificate of Review, application number 84-00027."

FOR FURTHER INFORMATION CONTACT: George Muller, Acting Director, Office of Export Trading Company Affairs, International Trade Administration, 202-377-5131, or Eleanor Roberts Lewis, Assistant General Counsel for Export Trading Companies, Office of General Counsel, 202-377-0937. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 ("the Act") (Pub. L. 97-290) authorizes the Secretary of Commerce to issue export trade certificates of review. The regulations implementing the Act are found at 48 FR 10595-10604 (March 11, 1983) (to be codified at 15 CFR Part 325). A certificate of review protects its holder and the members identified in it from private treble damage actions and government criminal and civil suits under federal and state antitrust laws for the export conduct specified in the certificate and carried out during its effective period in compliance with its terms and conditions.

Standards for Certification

Proposed export trade, export trade activities, and methods of operation may be certified if the applicant establishes that such conduct will:

1. Result in neither a substantial lessening of competition or restraint of trade within the United States nor a substantial restraint of the export trade of any competitor of the applicant;
2. Not unreasonably enhance, stabilize, or depress prices within the United States of the goods, wares, merchandise, or services of the class exported by the applicant;
3. Not constitute unfair methods of competition against competitors engaged in the export of goods, wares, merchandise, or services of the class exported by the applicant; and
4. Not include any act that may reasonably be expected to result in the sale for consumption or resale within the United States of the goods, wares, merchandise, or services exported by the applicant.

The Secretary will issue a certificate if he determines, and the Attorney General concurs, that the proposed conduct meets these four standards. For a further discussion and analysis of the conduct eligible for certification and of the four certification standards, see "Guidelines for the Issuance of Export Trade Certificates of Review," 48 FR 15937-15940 (April 13, 1983).

Description of Certified Conduct

The Office of Export Trading Company Affairs received an application for an export trade certificate of review from Carson on July 9, 1984. The application was deemed submitted on July 13, 1984. A summary of the application was published in the **Federal Register** on July 26, 1984 (49 FR 30086-7). Based on analysis of the application, and other information in their possession, the Department of Commerce has determined, and the Department of Justice concurs, that the following export trade, export trade activities, and methods of operation specified by Carson meet the four standards of the Act:

Carson—Application No. 84-00027.

Export Trade

a. Products

1. Food and kindred products.
2. Tobacco manufactures.
3. Textile mill products.
4. Apparel and other finished products made from fabrics and similar materials.
5. Lumber and wood products.
6. Furniture and fixtures.
7. Paper and allied products.
8. Printing and publishing products.
9. Chemicals and allied products.
10. Primary metals (ferrous and non-ferrous metals and their alloys).
11. Ferrous and non-ferrous metal products.
12. Non-electrical machinery and equipment.
13. Electrical and electronic equipment.
14. Transportation equipment.
15. Measuring, analyzing and controlling instruments, photographic, medical and optical goods, watches and clocks.
16. Miscellaneous manufactured products.

b. Related Services.

1. Market reserarch.
2. Overseas communication.
3. Overseas product promotion.
4. Domestic transportation for export trade.
5. Overseas shipping.
6. Credit lending.
7. Product servicing.
8. Distribution in foreign markets.

Export Markets

The Export Markets include all parts of the world (particularly Africa) except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

Export Trade Activities and Methods of Operation

1. Carson may enter into agreements with individual suppliers of Products and Related Services wherein Carson may agree to serve as the exclusive sales agent for Products and Related Services in any Export Market and, in addition, may agree not to represent any competitors of such supplier for Products and Related Services in any Export Market unless authorized by the supplier.

2. Carson may enter into agreements with Export Intermediaries in the Export Markets whereby:

(a) Carson may agree to deal in Products and Related Services in the Export Markets only through that Export Intermediary; and/or

(b) That Export Intermediary may agree not to represent Carson's competitors in the sale of Products and Related Services or not to buy Products and Related Services from Carson's competitors for resale in any Export Markets.

3. In the agreements described in paragraph 2, Carson may:

(a) Establish the prices at which Products or Related Services will be sold or resold in the Export Markets;

(b) Establish quantities and/or quotas of Products or Related Services that will be sold in the Export Markets by the Export Intermediary; and/or

(c) Designate the territories in the Export Markets in which the Export Intermediary will represent Carson.

4. Carson may enter into joint ventures with individual persons (including state-controlled trading companies) located in the Export Markets for the export of Products and Related Services in Export Trade to the Export Market.

The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.5(c), which requires the Department of Commerce to publish a summary of a certificate in the **Federal Register.** Under section 305(a) of the Act and 15 CFR 325.10(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

A copy of each certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4001–B, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. The certificates may be inspected and copied in accordance with regulations published in 15 CFR Part 4. Information about the inspection and copy of records at this facility may be obtained from Patricia L. Mann, the International Trade Administration Freedom of Information Officer, at the above address or by calling (202) 377–3031.

Dated: October 9, 1984.

Irving P. Margulies,

General Counsel.

[FR Doc. 84–27087 Filed 10–11–84; 8:45 am]

BILLING CODE 3510-DR-M

Minority Business Development Agency

Minority Business Development Program; Request for Applications

AGENCY: Minority Business Development Agency.

Subject: Minority Business Development Program, Request for Applications.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting applications under its competitive Minority Business Development Center (MBDC) Program to operate a MBDC for a 12-month period from March 1, 1985 to February 28, 1986 in the U.S. Virgin Islands area. The total cost for the MBDC will be $200,000 which will consist of a maximum of $150,000 Federal funds and a minimum of $50,000 non-Federal funds (which can be a combination of cash, in-kind contribution and fees for service). The award number for this MBDC is 02–10–85006–01. This announcement supersedes Project I.D. No. 02–10–85001–01 which was previously advertised in the July 19, 1984 issue of the **Federal Register.** This previous announcement has been cancelled due to the limited response received to the RFA.

The funding instrument for the MBDC will be a cooperative agreement and is open to all individuals, nonprofit and for-profit organizations, local and state governments, American Indian tribes and educational institutions.

The MBDC will provide management and technical assistance to eligible clints in areas related to the establishment and operation of business. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to acomplish this, MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit through which and from information and assistance to and about miniority businesses are funneled.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance; the firm's proposed approach to performing the work requirements included in the application; and the firm's estimated cost for providing such assistance. It is advisable that applicants have an existing office in the geographic region for which they are applying. Ten (10) additional preference points may be provided to capable and experienced applicants that have an existing office in the geographic SMSA for which they are applying.

The MBDC will operate for a 12-month period with a two-year noncompeting continuation option. MBDCs shall be required to contribute at least 25% of the total program costs through non-Federal funds during each of the two option years. The noncompeting continuation application kit will be sent to a MBDC (who is performing at a satisfactory level or better) approximately 120 days prior to the last day of the initial award period. The MBDC should fill out and mail the continuation application to their appropriate MBDA regional office. After receipt of the continuation application kit by MBDA, the MBDC's option will be reviewed and awarded each year at the direction of MBDA based on its needs, availability of funds and the appliciant's satisfactory performance.

CLOSING DATE: The closing date for applications is November 21, 1984. Applications must be postmarked on or before November 21, 1984.

ADDRESS: New York Regional Office, Minority Business Development Agency, U.S. Department of Commerce, 26 Federal Plaza, Room 3720, New York, New York 10278, (212) 264–3262.

Pre-Application Conference: A pre-application conference to assist all interested applicants will be held on October 31, 1984 at 9:00 a.m. in Room 110, Federal Building, U.S. Courthouse, St. Thomas, U.S. Virgin Islands.

FOR FURTHER INFORMATION CONTACT: Levi Pace, Business Project Officer, New York Regional Office, (212) 264–4743.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

11.800 Minority Business Development
(Catalog of Federal Domestic Assistance)

Gina Sanchez,

Regional Director.

[FR Doc. 84-27005 Filed 10-11-84; 8:45 am]

BILLING CODE 3510-21-M

National Oceanic and Atmospheric Administration

Application for Approval to Transfer Ownership of a U.S. Fishing Vessel to a U.S. Corporation Under Foreign Control

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of proposed fishing vessel transfer and request for comments.

SUMMARY: The Maritime Administration (MarAd) has received an application to transfer ownership of the vessel LEA-ANN to Best Corporation. This would place the vessel under foreign control since Son Thanh Nguyen, a Vietnamese citizen, owns 95 percent of Best Corporation. Written comments are requested.

DATE: All comments must be postmarked no later than November 13, 1984.

ADDRESSES: Comments should be mailed to Michael L. Grable, Chief, Financial Services Division, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: John A. Kelly, Jr. (Financial Assistance Specialist), 202-634-7496.

SUPPLEMENTARY INFORMATION: Application for transfer of the vessel LEA-ANN (O.N. 637599, built 1981, reg. length 46.7'), owned by David Richard, 3700 Gaylynn, Orange, Texas 77630 was received by MarAd after the sale to Best Corporation, 6432 Kathy Court, New Orleans, Louisiana 70114 took place. If the transfer is approved, the vessel will be returned to documentation in the fisheries of the United States and be operated primarily in the Gulf of Mexico shrimp fishery. Approval of the transfer is required by section 9 of the Shipping Act, 1916 as amended (46 U.S.C. 808) because although Best Corporation, a Louisiana Corporation, meets the citizenship requirements for Federal documentation of a vessel, it is not a citizen of the United States within the meaning of section 2 of the Act because 95 percent of its stock is owned by a Vietnamese citizen. The MarAd is the Federal Agency responsible for the approval or disapproval of applications submitted under the Act. Where a foreign transfer involves a fishing vessel, MarAd customarily requests NMFS to review the application. In turn, we are soliciting the views of interested persons in this regard.

All written comments received on time will be considered before we respond to MarAd. However, since the Shipping Act provides little basis for disapproving the transfer of a fishing vessel, our response to MarAd will indicate no objection unless information received supports a conclusion that this sale would significantly affect the Gulf of Mexico shrimp fishery. No public hearing is contemplated.

Dated: October 5, 1984.

J.W. Angelovic,

Deputy Assistant Administrator for Science and Technology.

[FR Doc. 84-28029 Filed 10-11-84; 8:45 am]

BILLING CODE 3510-22-M

Coastal Zone Management; Federal Consistency Appeal by Exxon Co., U.S.A. From Objection of the California Coastal Commission (Santa Ynez Unit Development and Production Plan)

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of Dissolution of Stay and Resumption of Consideration of Appeal by the Secretary of Commerce.

SUMMARY: Notice is hereby given that effective September 21, 1984, the Secretary of Commerce (Secretary) dissolved the stay entered February 18, 1984, and resumed consideration of the appeal by Exxon Company, U.S.A. (Exxon) to the Secretary under subparagraph (A) and (B) of section 307(C)(3) of the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1456(c)(3) (A) and (B), and implementing regulations at 15 CFR Part 930 Subpart H, from the objection of the California Coastal Commission to Option A of Exxon's oil and gas Development and Production Plan (Plan) for the Santa Ynez Unit, Santa Barbara Channel, California.

Interested persons have 30 days from the date of this notice to submit comments of Exxon's appeal to the Secretary. Comments should be sent to Robert J. McManus, General Counsel, National Oceanic and Atmospheric Administration, Room 5814, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Copies of comments should be sent to the following persons:

1. Shelby Moore, Jr., Exxon Company, U.S.A., P.O. Box 5025, Thousand Oaks, CA 91359.

2. Tim Eichenber, California Coastal Commission, 631 Howard Street, 4th Floor, San Francisco, CA 94105.

3. William Grant, Minerals Management Service, Pacific OCS Region, 1340 W. 6th Street, Los Angeles, CA 90017.

4. David Yager, Board of Supervisors, County of Santa Barbara, 105 East Anapamu Street, Santa Barbara, CA 93101.

Comments should address whether Option A of Exxon's Plan meets the regulatory criteria, as set forth at 15 CFR 930.121 and 930.122, to be considered by the Secretary in deciding Exxon's appeal. Public information filed in the appeal is available at the California Coastal Commission and the Minerals Management Service at the above addresses, and at the Office of the Assistant General Counsel for Ocean Services, National Oceanic and Atmospheric Adminstration, Room 270, Page 1 Building, 2001 Wisconsin Ave., NW., Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: David P. Drake, Attorney Advisor, Office of the Assistant General Counsel for Ocean Services, at the above address, (202) 254-7512.

SUPPLEMENTAL INFORMATION: For further information regarding Exxon's appeal see the notices published in the **Federal Register,** March 6, 1984 (49 FR 8274), August 31, 1983 (48 FR 39483), and August 5, 1983 (48 FR 35692).

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Administration)

Dated: October 4, 1984.

Robert J. McManus,

General Counsel, National Oceanic and Atmospheric Administration.

[FR Doc. 84-27006 Filed 10-11-84; 8:45 am]

BILLING CODE 3510-08-M

Dismissal of Federal Consistency Appeal of the Tulalip Tribe of Washington State From Objection by the Washington State Department of Ecology

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of Dismissal of Appeal.

SUMMARY: By letter dated August 13, 1984, the Tulalip Tribe withdrew its appeal to the Secretary of Commerce (Secretary) filed on May 17, 1984, from the consistency objection of the Washington State Department of Ecology (Department) that the Tulalip Tribe's proposed marina project on Tulalip Bay is inconsistent with the

Washington State Coastal Zone Management Program (CZMP). The Tulalip Tribe withdrew its appeal because, on July 23, 1984, the Department concurred with the determination of the Bureau of Indian Affairs that the project is consistent to the maximum extent practicable with the CZMP.

Notice is hereby given that the appeal by the Tulalip Tribe is dismissed in accordance with NOAA regulations at 15 CFR 930.128 and 930.130(d).

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Administration)

Dated: October 2, 1984.

Robert J. McManus,

General Counsel, National Oceanic and Atmospheric Administration.

[FR Doc. 84-27003 Filed 10-11-84; 8:45 am]

BILLING CODE 3510-08-M

National Marine Fisheries Service; Issuance of Permit

On August 17, 1984, Notice was published in the **Federal Register** (49 FR 32897) that an application had been filed with the National Marine Fisheries Service by Zoologischer Garten der Stadt Wuppertal, Hubertusallel 30, 5600 Wuppertal 1, Federal Republic of Germany, for a permit to take three (3) California sea lions (*Zalophus californianus)* for public display.

Notice is hereby given that on October 5, 1984, and as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a Permit for the above taking to Zoologischer Garten der Stadt Wuppertal, subject to certain conditions set forth therein.

The Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

Dated: October 5, 1984.

Richard B. Roe,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 84-27083 Filed 10-11-84; 8:45 am]

BILLING CODE 3510-22-M

National Marine Fisheries Service; Marine Mammals; Fish Import Certification From Sweden; Correction

Regulations established in accordance with the Marine Mammal Protection Act of 1972, 16 U.S.C. 1361 *et seq.* (45 FR 72178–72196, October 31, 1980) provide that a nation may certify that vessels fishing under its flag are (1) fishing in conformance with U.S. regulations, or (2) if not in conformance, were not fishing in a manner prohibited for U.S. fishermen under these regulations. This certification is necessary in order to permit the importation into the United States of certain of its fish and fish products.

This document corrects the second paragraph of a document published September 28, 1984 (49 FR 38324) to read as follows:

"The Assistant Administrator for Fisheries, National Marine Fisheries Service, has received and accepted a certification from the Government of Sweden that vessels fishing for salmon under Swedish flag are fishing in conformance with U.S. regulations in regard to the taking of marine mammals incidental to commercial fishing operations. Therefore, salmon from Sweden are hereby exempt from the provisions of § 216.24(e)(3) and may be exported to the United States without an accompanying Standard Form 369–1 (Fisheries Certificate of Origin)."

Copies of the certification are on file and available for review in the Office of the Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.

Dated: October 5, 1984.

Richard B. Roe,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 84-27082 Filed 10-11-84; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

Technical and licensing information on specific inventions may be obtained by writing to: Office of Federal Patent Licensing, U.S. Department of Commerce, P.O. Box 1423, Springfield, Virginia 22151.

Please cite the number and title of inventions of interest.

Douglas J. Campion,

Office of Federal Patent Licensing, National Technical Information Service, U.S. Department of Commerce.

Department of Agriculture

SN 6–308,747 (4,461,167)
Psychrometer For Measuring the Humidity of A Gas Flow

SN 6–364,290 (4,466,923)
Supercritical CO2 Extraction of Lipids from Lipid-Containing Materials

SN 6–546,200 (4,468,343)
Monoclonal Antibodies To Porcine Immunoglobulins

SN 6–626,850
Temperature Adaptable Textile Fibers and Method of Preparing Same

SN 6–638,826
Microemulsions from Vegetable Oil and Lower Alcohol with Octanol Surfactant as Alternative Fuel for Diesel Engines

SN 6–638,827
Process to Produce Durable Press Low Formaldehyde Release Cellulosic Textiles

Department of Commerce

SN 6–567,451 (4,461,680)
Process and Bath For Electroplating Nickel-Chromium Alloys

Department of Health and Human Services

SN 6–349,313 (4,468,466)
Silver Stains for Protein in Gels—A Modified Procedure

SN 6–427,857 (4,468,383)
Dimeric Enkephalins

SN 6–636,261
Intact Gene and Method of Excising and Cloning Same

Department of the Air Force

SN 6–105,043 (4,461,574)
Environmentally Independent Fiber Optic Rotation Sensor

SN 6–304,123 (4,463,262)
Thick Film Radiation Detector

SN 6–313,861 (4,463,443)
Data Buffer Apparatus Between Subsystems Which Operate At Differing Or Varying Data Rates

SN 6–324,347 (4,463,436)
Programmable Digital Temperature Controller Apparatus

SN 6–341,459 (4,462,560)
Airplane Take-off System

SN 6–350,493 (4,459,803)
Variable Inlet Vane Assembly For A Gas Turbine Combustion

SN 6–361,019 (4,461,006)

Synchronoualy Pumped Mode-Locked Semiconductor Platelet Laser
SN 6–361,021 (4,462,103)
Tunable CW Semiconductor Platelet Laser
SN 6–376,891 (4,457,174)
Ultrasonic Inspection of Composite Materials
SN 6–386,488 (4,461,570)
Method For Dynamically Recording Distortion in a Transparency
SN 6–394,039 (4,461,955)
Isolated Load Switching With Surge Suppression
SN 6–418,117 (4,462,562)
Self-Deploying Afterbody Apparatus For An Ejection Seat
SN 6–418,951 (4,460,514)
Method For the Preparation of Poly (Carbonyl Fluoride) Oligomers
SN 6–431,436 (4,461,756)
Singlet Delta Oxygen Generator
SN 6–433,561 (4,461,145)
Stall Elimination and Restart Enhancement Device
SN 6–433,597 (4,462,563)
Simple Nonrestrictive Arm Restraint System
SN 6–452,605 (4,462,286)
Portable Slotting Device
SN 6–478,581 (4,462,975)
Synthesis of Pentafluorotellurium Hypofluorite
SN 6–607,087
Radio Frequency Probing Apparatus For Surface Acoustic Wave Devices
SN 6–607,094
Conductor Structure For Thick Film Electrical Device
SN 6–612,776
In Vivo Dermal Absorption Method and System for Laboratory Animals
SN 6–618,288
Noise Jammer Discrimination By Noise Spectral Bandwidth
SN 6–619,240
Radiation Measuring System Using Transistor Flux Sensors
SN 6–622,047
Draft Cabin Pressurization Control System Tester
SN 6–622,613
Modular Detonator Device
SN 6–622,614
Turnaround Control For Mechanically Scanned Radar Antennas
SN 6–623,581
Fast Envelope Detector With Bias Compensation
SN 6–623,667
Method for Measuring Haze in Transparencies
SN 6–623,873
Zero Adhesion System
SN 6–623,905
Reflector Antenna Having Sidelobe Suppression Elements
SN 6–624,846
Clutter Generator for Use In Radar Evaluation

Department of the Army

SN 6–626,520
Extractor for Spring-Lock Pin Connectors
SN 6–628,096
Stock Electromechanical Energy Converter With Permanent Magnet
SN 6–638,183
Broadband Transverse Field Interaction Continuous Beam Amplifier
SN 6–639,054
Moving Object Detection System Using Infrared Scanning
SN 6–639,558
Frequency Stabilizing Laser
SN 6–639,755
Frequency Synthesizer
SN 6–640,184
Transverse Field Interaction Multibeam Amplifier
SN 6–640,265
Method of Making A Porous Carbon Cathode, A Porous Carbon Cathode So Made, and Electrochemical Cell Including the Porous Carbon Cathode
SN 6–642,850
Lighweight Composite Launcher Pod
SN 6–644,165
Programmable Optical Sensor

Department of the Interior

SN 6–488,479 (4,468,973)
Remote Sequential Gas Sampler for Blasting Areas

[FR Doc. 84–26993 Filed 10–11–84; 8:45 am]
BILLING CODE 3510–04–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting the Import Levels for Certain Cotton, Wool and Man-Made Fiber Textile and Apparel Products Produced or Manufactured in the Republic of Korea

October 9, 1984.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on October 12, 1984. For further information contact Ross Arnold, International Trade Specialist (202) 337–4212.

Background

CITA directives of December 13, and 29, 1983, (See 48 FR 56100 and 49 FR 492), established restraint limits for certain cotton, wool and man-made fiber textile and apparel products, produced or manufactured in the Republic of Korea and exported during 1984. Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 1, 1982, as amended, and at the request of the Government of the Republic of Korea, the limits for Categories 313, 314, 315, 331, 333/334, 335, 336, 338/339, 340, 341, 345, 347/348, 351, 410, 433/434, 435, 440, 442, 443, 444, 445/446, 447, 448, 613, 631, 633/634/635, 636, 638/639, 641, 642, 643, 644, 647, 648, 649, 659pt. (headwear in TSUSAs 703.0500, 703.1000, and 703.1600), and 669pt. (tents only in TSUSAs 389.1105 and 389.6210) are being increased to account for swing. The limits for Categories 353/354/653/654, 605pt. (cordage in TSUSAs 316.5500 and 316.5800) and 669pt. (cordage in TSUSAs 348.0065, 348.0075, 348.0565, and 348.0575) are being reduced by an equal amount in equivalent square yards to account for the swing applied to the foregoing categories. In addition to the application of swing, the limit for Category 638/639 is being reduced to account for carryforward used in 1983. This results in an overall increase in the category limit to 5,629,104 dozen for goods exported during 1984.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

October 9, 1984.

Committee For the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directives of December 13 and 29, 1983 from the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of Certain cotton, wool and man-made fiber textile products, produced or manufactured in Korea and exported during 1984.

Effective on October 12, 1984, paragraph 1 of the directives of December 13 and 29, 1983 are hereby amended to adjust the restraint limits established for the following categories according to the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 1, 1983, as amended, between the Governments of the United States and the Republic of Korea:[1]

[1] The bilateral agreement, as amended, provides, among other things, that (1) during any agreement year specific limit and sublimits may be exceeded by designated percentages, provided a corresponding reduction in square yards equivalent is made in one or more other specific limits; (2) under specified conditions specific limits and sublimits may be adjusted for carryover and carryforward not to exceed 10 percent; and (3) administrative arrangements or adjustments may be

Continued

Category	Adjusted 12-mo. restraint limit [2]
313	38,386,250 square yards.
314	2,741,875 square yards.
315	22,492,392 square yards.
331	462,896 dozen pairs.
333/334	64,867 dozen.
335	66,236 dozen.
336	43,870 dozen
353/354/653/654	107,562 dozen.
338/339	621,447 dozen.
340	201,223 dozen
341	125,361 dozen.
345	66,808 dozen.
347/348	299,973 dozen.
351	112,175 dozen.
410	4,701,408 square yards.
433/434	17,789 dozen.
433	13,452 dozen
434	4,366 dozen.
435	31,884 dozen.
440	219,623 dozen.
442	45,610 dozen.
443	28,180 dozen.
444	4,162 dozen.
445/446	53,732 dozen
447	96,893 dozen.
448	32,089 dozen.
605-C [3]	1,674,896 pounds.
613	23,324,737 square yards.
631	230,318 dozen pairs.
633/634/635	1,427,008 dozen.
634	830,357 dozen.
635	630,448 dozen.
636	219,350 dozen.
638/639	5,629,104 dozen.
641	1,063,427 dozen.
642	79,729 dozen.
643	62,967 dozen.
644	87,740 dozen.
647	828,140 dozen
648	347,947 dozen.
649	509,987 dozen.
659-H [4]	2,484,757 pounds
669-T [5]	5,198,347 pounds
669-C [6]	365,680 pounds.

[2] The limits have not been adjusted to account for any imports exported after December 31, 1983.

[3] In Category 605, only TSUSA numbers 316.5500 and 316.5800

[4] In Category 659, only TSUSA number 703.0500, 703.1000 and 703.1600.

[5] In Category 669, only TSUSA numbers 386.1105 and 389.6210

[6] In Category 669, only TSUSA numbers 348.0065, 348.0075, 348.0565 and 348.0575

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-26874 Filed 10-11-84; 8:45 am]

BILLING CODE 3510-DR-M

Announcing Import Restraint Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Haiti Under a New Bilateral Agreement

October 9, 1984.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on October 15, 1984. For further information contact Kyle Poole, Trade Reference Assistant (202) 377-4212.

Background

On February 17 and May 4, 1984, the Governments of the United States and the Republic of Haiti signed a new three-year Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement dating from January 1, 1984 and extending through December 31, 1986. The new agreement provides specific limits for cotton and man-made fiber textile products in Categories 337, 340, 347/348, 349/649, 632, 635, and 648, produced or manufactured in Haiti and exported during the twelve-month period which began on January 1, 1984. It also provides designated consultation levels for Categories 331, 639 and 641 which may be adjusted during the year upon agreement between the two governments.

As import data become available, charges will be made to the restraint limits for the foregoing categories to account for imports exported after December 31, 1983. The limit for Category 337 has been adjusted to account for overshipments amounting to 3,443 dozen from the previous agreement period which began on March 1, 1983.

Agreement has also been reached between the two governments to amend the new bilateral agreement to include Category 350 under its terms. Accordingly, the directive of April 5, 1984 which established a restraint limit for the period beginning on January 30, 1984 and extending through January 29, 1985 under Article 3 of the Arrangement Regarding International Trade in Textiles, is being cancelled.

During the course of negotiating the new agreement, it was agreed by the two governments to amend the expiring agreement to include a final agreement period of ten months, i.e., March 1, 1983 through December 31, 1983. In accordance with this agreement the following restraint limits have been established for the final agreement year, as amended:

Category	10-mo restraint limit
331	444,524 dozen pairs.
337	93,503 dozen.
340	147,125 dozen.
347/348	312,083 dozen.
349/649	1,248,333 dozen.
632	1,805,000 dozen.
635	156,042 dozen.
639	316,667 dozen.
641	264,368 dozen.
648	535,000 dozen.

If amounts in excess of these limits are imported, they will be charged to the limits established for the categories during 1984.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), and July 16, 1984 (49 FR 28754).

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

October 9, 1984.

Committee for the Implementation of Textile Agreements

Commissioner of Customs, *Department of the Treasury, Washington, DC 20229*

Dear Mr. Commissioner: This directive cancels and supersedes the directive issued to you on April 5, 1984, which directed you to prohibit entry to cotton textile products in Category 350, produced or manufactured in Haiti and exported during the twelve-month period which began on January 30, 1984.

Under the terms of section 204 of the Agriculture Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of February 17 and May 4, 1984, as amended, between the Governments of the United States and the Republic of Haiti; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on October 15, 1984, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in the following categories, produced or manufactured in Haiti and exported during the twelve-month period which began on January 1, 1984, in excess of the following restraint limits:

Category	12-month restraint limit
331	533,429 dozen pairs.
337	131,557 dozen.
340	188,909 dozen.
347/348	400,715 dozen.
349/649	1,602,860 dozen.
350	32,149 dozen.
632	2,080,820 dozen pairs.
635	200,358 dozen.
639	380,000 dozen.
641	317,241 dozen.
648	686,540 dozen.

Textile products in the foregoing categories which have been exported to the United States prior to January 1, 1984 shall not be subject to this directive.

Textile products in the foregoing categories which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or

made to resolve minor problems arising in the implementation of the agreement.

1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The restraint limits set forth above are subject to adjustment in the future according to the provisions of the bilateral agreement of February 17 and May 4, 1984, as amended, between the Governments of the United States and the Republic of Haiti, which provide, in part, that: (1) Specific limits shall be increased by seven percent annually; (2) a specific ceiling may be exceeded in any agreement year by not more than seven percent of its square yards equivalent total, provided that the amount of the increase is compensated for by an equivalent decrease in one or more specific limits; (3) specific limits may also be increased for carryover and carryforward up to 11 percent of the applicable category limit; and (4) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924, December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), and July 16, 1984 (49 FR 28754).

The actions taken with respect to the Government of the Republic of Haiti and with respect to imports of cotton and man-made fiber textile products from Haiti have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register**.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-27016 Filed 10-11-84; 8:45 am]

BILLING CODE 3510-DR-M

Adjusting Restraint Limit for Certain Apparel Products Produced or Manufactured in Malaysia

October 5, 1984.

The Chairman of the Committee for the Implementation of Textile Agreement (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on October 12, 1984. For further information contact Jane Corwin, International Trade Specialist (202) 377-4212.

Background

The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 5, 1980 and February 27, 1981 between the Governments of the United States and Malaysia provides, among other things, for the borrowing of yardage from the following agreement year, provided the amount used is deducted from the same limit in the following year (carryforward). Under the terms of this provision of the bilateral agreement, 7,374 dozen is being deducted from the restraint limit established for women's, girls' and infants' woven cotton blouses in Category 341, produced or manufactured in Malaysia and exported during the period which began on April 27 and extends through December 31, 1984. This adjustment will decrease the limit for the category from 157,560 dozen to 150,186 dozen for that period.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924) and December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622) and July 16, 1984 (49 FR 28754).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

October 5, 1984.

Committee for the Implementation of Textile Agreements

Commissioner of Customs, *Department of the Treasury, Washington, D.C. 20229.*

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of July 12, 1984 which established a restraint limit for cotton textile products in Category 341, produced or manufactured in Malaysia and exported during the period, which began on April 27 and extends through December 31, 1984.

Effective on October 12, 1984, the directive of July 12, 1984 is hereby amended to reduce the restraint limit previously established for Category 341 to 150,186 dozen.[1]

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-28076 Filed 10-11-84; 8:45 am]

BILLING CODE 3510-DR-M

[1] The restraint limit has not been adjusted to reflect any imports exported after April 20, 1984.

Request for Public Comment on Bilateral Textile Consultation With the Government of Japan To Review Trade in Category 631pt. (Work Gloves)

October 2, 1984.

On September 12, 1984 the Government of the United States requested consultations with the Government of Japan with respect to Category 631pt. (work gloves in TSUSA numbers 704.3215, 704.8525, 704.8550, and 704.9000). This request was made on the basis of the bilateral agreement of August 17, 1979, as amended and extended, between the Governments of the United States and Japan relating to trade in cotton, wool and man-made fiber textiles and textile products.

The purpose of this notice is to advise the public that, until a different solution is reached in consultations, the Government of Japan should limit exports in Category 631pt., produced or manfactured in Japan and exported to the United States during the twelve-month period which began on January 1, 1984 and extends through December 31, 1984 to a level of 238,303 dozen pairs. The U.S. Government reserves the right to control imports at this level.

A summary market disruption statement concerning this category follows this notice.

Anyone wishing to comment or provide data or information regarding the treatment of this category under the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement with the Government of Japan, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in this category, is invited to submit such comments or information in ten copies to Mr. Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C., and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements

considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 533(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Japan—Market Statement

Category 631 pt.—Man-made fiber work gloves, TSUSA Nos. 704.3215, 704.8525, 704.8550 and 704.9000

August 1984.

U.S. imports of Category 631 pt. from Japan totaled 203,000 dozen pairs during the year ending July 1984 compared with only 136,000 dozen pairs a year earlier. The import to production ratio increased from 315.8 percent in 1982 to 545.0 percent in 1983. These imports are being entered at duty-paid values well below the U.S. producer prices for comparable work gloves.

[FR Doc. 84-26975 Filed 10-11-84; 8:45 am]

BILLING CODE 3510-DR-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1984; Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to Procurement List.

SUMMARY: This action adds to Procurement List 1984 commodities to be produced by and services to be provided by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: October 12, 1984.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: On April 13, May 25, June 8, June 29, July 9, July 20, and August 3, 1984, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (49 FR 14787, 49 FR 22117, 49 FR 23908, 49 FR 26790, 49 FR 27969, 49 FR 29441 and 49 FR 31126) of proposed additions to Procurement List 1984, October 18, 1983 (48 FR 48415).

Additions

After consideration of the relevant matter presented, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered were:

(a) The actions will not result in any additional reporting, recordkeeping or other compliance requirements.

(b) The actions will not have a serious economic impact on any contractors for the commodities and services listed.

(c) The actions will result in authorizing small entities to produce or provide the commodities and services procured by the Government.

Accordingly, the following commodities and services are hereby added to Procurement List 1984:

Class 2540

Cushion Seat, Vehicular—2540-00-904-5680

Class 7510

Clip, Binder (Small)—7510-00-282-8201

Class 8415

Liner, Cold Weather, Trousers—8415-00-782-2922, 8415-00-782-2924, 8415-00-782-2925, 8415-00-782-2926, 8415-00-782-2927, 8415-00-782-2928, 8415-00-782-2929, 8415-00-782-2930

SIC 7349

Janitorial/Custodial, Federal Building, 55 East Broadway, Tucson, Arizona
Janitorial/Custodial, Federal Building and U.S. Courthouse, 1130 "O" Street, Fresno, California
Janitorial/Custodial, Federal Building, 51 SW First Avenue, Miami, Florida
Janitorial/Custodial, Federal Building, U.S. Courthouse, U.S. Post Office, 601 North Florida Avenue, Tampa, Florida
Janitorial/Custodial, Federal Building, 355 Hancock Avenue, Athens, Georgia
Janitorial/Custodial, Federal Building, 210 Walnut Street, Des Moines, Iowa
Janitorial/Custodial, U.S. Post Office-Courthouse, 601 Broadway, Louisville, Kentucky
Janitorial/Custodial, U.S. Post Office and Courthouse, 455 Broadway, Albany, New York
Janitorial/Custodial, L. Mendel Rivers Federal Building, 334 Meeting Street, U.S. Post Office-Courthouse, Broad and Meeting Street, Charleston, South Carolina
Janitorial/Custodial, Jack Brooks Federal Building, U.S. Post Office-Court House, Willow and Broadway Streets, Beaumont, Texas

C. W. Fletcher,

Executive Director.

[FR Doc. 84-27025 Filed 10-11-84; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1984; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to Procurement List 1984 services to be provided by workshops for the blind and other severely handicapped.

Comments must be received on or before: November 14, 1984.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committeed approves the proposed additions, all entities of the Federal Government will be required to procure the services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following services to Procurement List 1984, October 18, 1983 (48 FR 48415):

SIC 0782

Grounds Maintenance, U.S. Postal Service, 1088 Nandino Boulevard, Lexington, Kentucky

SIC 7349

Janitorial/Custodial, U.S. Courthouse, 312 North Spring Street, Los Angeles, California Janitorial/Custodial, GSA Center, Warehouse 1, 2, 5, 7, and Building 815, Auburn, Washington
Janitorial/Custodial, Federal Building, 695 South Main, Colville, Washington
Janitorial/Custodial, Federal Building, First and Oak Streets, Port Angeles, Washington
Janitorial/Custodial, Federal Building, Walla Walla, Washington

SIC 7369

Commissary Shelf Stocking and Custodial Service, Brooks Air Force Base, Texas
Commissary Shelf Stocking and Custodial Service, Kelly Air Force Base, Texas

C.W. Fletcher,

Executive Director.

[FR Doc. 84-27024 Filed 10-11-84; 8:45 am]

BILLING CODE 8820-33-M

DEPARTMENT OF DEFENSE

Department of the Army

Medical Research and Development Advisory Committee; Partially Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix, sections 1–15), announcement is made of the following Subcommittee meeting:

Name of committee: United States Army Medical Research and Development Advisory Committee, Subcommittee on Parasitic Diseases.

Date of meeting: 8 and 9 November 1984.

Time and place: 0830 hours, Room 3092, Walter Reed Army Institute of Research, Washington, DC.

Proposed agenda: This meeting will be open to the public from 0830–0945 hours on 8 November for the administrative review and discussion of the scientific research program of the Parasitic Diseases Group, Walter Reed Army Institute of Research. Attendance by the public at open sessions will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), U.S. Code, Title 5 and sections 1–15 of Appendix, the meeting will be closed to the public from 1000–1630 hrs on 8 November and from 0900–1200 hrs on 9 November for the review, discussion and evaluation of individual programs and projects conducted by the U.S. Army Medical Research and Development Command, including consideration of personnel qualifications and performance, the competence of individual investigators, medical files of individual research subjects, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Howard Noyes, Associate Director for Research Management, Walter Reed Army Institute of Research, Bldg. 40, Room 1111, Walter Reed Army Medical Center, Washington, DC 20307–5100 (202/576–2436) will furnish summary minutes, roster of Subcommittee members and substantive program information.

Philip Z. Sobocinski,

Colonel, MSC, Assistant Deputy Commander.

[FR Doc. 84-27047 Filed 10-11-84; 8:45 am]

BILLING CODE 3710-08-M

Medical Research and Development Advisory Committee; Partially Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix, sections 1–15), announcement is made of the following Subcommittee meeting:

Name of committee: United States Army Medical Research and Development Advisory Committee, Subcommittee on Low Molecular Weight Toxins.

Date of meeting: 13 and 14 November 1984.

Time and place: 0830 hours, Conference Room, US Army Medical Research Institute of Infectious Diseases, Fort Detrick, Frederick, MD.

Proposed agenda: This meeting will be open to the public from 0830–0945 hours on 13 November for the administrative review and discussion of the scientific research program of the Low Molecular Weight Toxins Group. Attendance by the public at open sessions will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), US Code, Title 5 and sections 1–15 of Appendix, the meeting will be closed to the public from 1000–1630 hrs on 13 November and from 0900–1200 hrs on 14 November for the review, discussion and evaluation of individual programs and projects conducted by the U.S. Army Medical Research and Development Command, including consideration of personnel qualifications and performance, the competence of individual investigators, medical files of individual research subjects, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Howard Noyes, Associate Director for Research Management, Walter Reed Army Institute of Research, Bldg 40, Room 1111, Walter Reed Army Medical Center, Washington, DC 20307–5100 (202/576–2436) will furnish summary minutes, roster of Subcommittee members and substantive program information.

Philip Z. Sobocinski,

Colonel, MSC, Assistant Deputy Commander.

[FR Doc. 84-27046 Filed 10-11-84; 8:45 am]

BILLING CODE 3710-08-M

Medical Research and Development Advisory Committee; Partially Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix, sections 1–15), announcement is made of the following Subcommittee meeting:

Name of committee: United States Army Medical Research and Development Advisory Committee, Subcommittee on Medicinal Chemistry.

Date of meeting: 29 & 30 November 1984.

Time & place: 0830 hours, Room 3092, Walter Reed Army Institute of Research, Washington, DC.

Proposed agenda: This meeting will be open to the public from 0830–0945 hours 29 November 1984 for the administrative review and discussion of the scientific research program of the Medicinal Chemistry Group, Walter Reed Army Institute of Research. Attendance by the public at open sessions will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), U.S. Code, Title 5, and sections 1–15 of Appendix, the meeting will be closed to the public from 1000–1700 hrs on 29 November and from 0900–1215 hrs on 30 November for the review, discussion and evaluation of individual programs and projects conducted by the US Army Medical Research and Development Command, including consideration of personnel qualifications and performance, the competence of individual investigators, medical files of individual research subjects, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Howard Noyes, Associate Director for Research Management, Walter Reed Army Institute of Research, Bldg 40, Room 1111, Walter Reed Army Medical Center, Washington, DC 20307–5100 (202/576–2436) will furnish summary minutes, roster of Subcommittee members and substantive program information.

Philip Z. Sobocinski,

Colonel, MSC, Assistant Deputy Commander.

[FR Doc. 84-27045 Filed 10-11-84; 8:45 am]

BILLING CODE 3710-08-M

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Statement Supplement No. 3 (DEIS Supplement No. 3) for the Red River Hydropower Feasibility Study, Old River to Shreveport Reach of the Red River, LA

AGENCY: U.S. Army Corps of Engineers, Vicksburg District.

ACTION: Notice of Intent to prepare a Draft Environmental Statement Supplement No. 3.

SUMMARY: 1. *Description of Action.* The proposed action is the construction of hydroelectric power generation facilities at five lock and dam sites authorized for construction on the Red River located at 1967 river miles (RM) in Catahoula Parish (RM 43), Rapides Parish (RM 87), Natchitoches Parish (RM 141), Red River Parish (RM 206), and Caddo Parish (RM 250), Louisiana. The development would consist of powerhouses, intake and outlet structures and transmission facilities.

2. *Alternatives.* Three alternatives have been selected for analysis. The

alternatives being considered are (a) Plan A, run-of-river; (b) Plan B, 2-foot pooling option; and (c) Plan C, 1-foot drawdown. The run-of-river alternative would utilize excess flows only to generate power (Plan A). Plan B provides for storage of an additional 2 feet during the low-flow, high-energy demand period from June through September in each of the five navigation pools. Daily fluctuation of the pools during this time would average approximately 0.75 foot for pools 1 and 2 and 0.5 foot for pools 3, 4 and 5. Plan C would utilize a maximum daily drawdown of 1 foot in each of the five pools during June through September. During the remainder of the year (October through May) Plans B and C would be operated as run-of-river.

3. *Issues Analyzed.* The DEIS Supplement No. 3 will address a variety of issues including but not limited to water quality, terrestrial and aquatic flora and fauna, cultural resources, recreation, and socioeconomics as they would relate to the construction and operation of the proposed facilities.

4. *Scoping Process.* No public scoping meeting is currently planned, but the proposed action is being closely coordinated with various state and Federal agencies. Any other interested organizations, individuals or agencies are encouraged to contact the Vicksburg District to identify significant issues related to possible hydropower development. Environmental review will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, Council on Environmental Quality regulations, and all applicable Corps of Engineers regulations and guidance.

5. *Date of Availability.* The Vicksburg District estimates that the DEIS will be completed and available for public review in March 1985.

ADDRESS: Questions Regarding the Proposed Action and DEIS Should Be Directed To: Ms. Maryetta Smith, LMKPD–Q, U.S. Army Corps of Engineers, Vicksburg District, Post Office Box 60, Vicksburg, Mississippi 39180–0060. Telephone: FTS 542–5433, Commercial (601) 634–5433.

Dennis J. York,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 84–27006 Filed 10–11–84; 8:45 am]

BILLING CODE 3710–84–M

Department of the Navy

Navy Resale System Advisory Committee; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C.), notice is hereby given that the Navy Resale System Advisory Committee will meet on October 29, 1984 in the Savoy Room, at the Plaza Hotel, 768 Fifth Avenue, New York, New York. The meeting will consist of two sessions: the first from 8:00 a.m. to 8:50 a.m.; and the second from 9:00 a.m. until 3:45 p.m. The purpose of the meeting is to examine policies, operations, and organization of the Navy Resale System and to submit recommendations to the Secretary of the Navy. Topics to be discussed at the meeting will include organization of the Resale System, planning, financial management, merchandising, field support and industrial relations.

The Secretary of the Navy has determined in writing that the public interest requires that the second session of the meeting be closed to the public because it will involve discussion of matters relating solely either to internal agency personnel rules and practices, or to trade secrets and confidential commercial or financial information. These matters fall within the exemptions listed in sections 552b(c)(2), (c)(4), and (c)(9)(B) of title 5, United States Code. Therefore, the second session will be closed to the public.

For further information concerning this meeting, contact: Commander R. F. Hendricks, SC, USN, Naval Supply Systems Command, NAVSUP 09B, Room 516, Crystal Mall, Building No. 3, Arlington, Virginia 22202, Telephone Number: (703) 695–5457.

Dated: October 9, 1984.

William F. Roos, Jr.,

Lieutenant, JAGC, U.S. Naval Reserve, Federal Register Liaison Officer.

[FR Doc. 84–27061 Filed 10–11–84; 8:45 am]

BILLING CODE 3810–AE–M

DEPARTMENT OF EDUCATION

National Institute of Education

Regional Educational Laboratories and Research and Development Centers Program

AGENCY: Department of Education.

ACTION: Application notice for the transmittal of applications for planning grants and grants for institutional operations for NIE research and development centers.

SUMMARY: The Secretary of Education (the Secretary) announces competitions, under the Regional Educational Laboratories and Research and Development Centers Program, for grants to plan for or to operate a research and development center (a center). These competitions for planning grants and grants for institutional operations are part of a comprehensive, interrelated process for establishing centers nationwide through open competitions. Authority for these grants is contained in section 405 (e) and (f) of the General Education Provisions Act (GEPA), as amended (20 U.S.C. 1221e (e) and (f)).

Closing Dates for the Transmittal of Applications

Applications for planning grants must be mailed or hand delivered by January 4, 1965. Applications for grants for institutional operations must be mailed or hand-delivered by June 6, 1985. Applications sent by mail must be addressed to the National Institute of Education, Proposal Clearinghouse, Room 619, Brown Building, 1200 19th Street, NW., Washington, D.C. 20208.

An applicant must show one of the following as proof of mailing:

(a) A legibly dated U.S. Postal Service postmark.

(b) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(c) A dated shipping label, invoice, or receipt from a commercial carrier.

(d) Any proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept the following as proof of mailing:

(1) A private metered postmark.

(2) A mailing receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not always provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first-class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand

An application delivered by hand must be taken to the National Institute of Education, Proposal Clearinghouse, Room 619, Brown Building, 1200 19th Street, NW., Washington, D.C.

The Proposal Clearinghouse will accept an application delivered by hand between 8 a.m. and 4 p.m. (Washington, D.C. time), daily except Saturdays,

Sundays, and Federal holidays. An application that is hand delivered will not be accepted after 4 p.m. on either of the closing dates mentioned above.

Program Information

The National Institute of Education (NIE) currently supports ten (10) research and development centers in accordance with section 405(f) of GEPA. Nine of the ten existing centers are the remaining centers in a nationwide network of twenty regional educational laboratories and ten research and development centers established by the U.S. Office of Education in the mid-1960s. The tenth existing center, the Educational Technology Center, was established by NIE in 1983 through an open competition for a 5-year award.

The awards for the existing centers, except the Educational Technology Center, are scheduled to expire during 1985. Through committee report language, the Congress has indicated its desire that NIE conduct open competitions for future center awards. See the Conference Report accompanying the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97-35 (H.R. Rep. No. 208, 97th Cong., 1st Sess. at pp. 729-730 (1981)), and the Senate Report accompanying the Urgent Supplemental Appropriations Act of 1982, Pub. L. 97-216 (S. Rep. No. 402, 97th Cong., 2d Sess. at p. 58 (1982)).

This notice announces competitions for new grants to plan for or to operate eleven (11) centers. Each recipient of a new center grant for institutional operations must provide national research leadership with respect to the mission of its center, as required by 34 CFR 708.41(a). Based on extensive public comment and considerable expert and practitioner advice, the Secretary has established the mission of each center by choosing individual priorities, or combinations of priorities, from the list in 34 CFR 706.12. The priorities which form the bases of the center missions are listed below with the corresponding paragraph designations from 34 CFR 706.12:

(a) Learning.
(b) Teaching.
(e) Preparation and training of educational personnel.
(f) Organization and management of schools, including effective school administration and leadership.
(g) Evaluation and school indicators, including testing and measurement.
(h) Governance of education, including school board policies and practices.
(i) Educational finance.
(l) Student achievement and educational standards, including students' motivation to learn, their failure to learn, and their failure to attend school and graduate.
(m) Home, family, and community influences in education.
(n) Education, work, and careers.
(p) Guidance and counseling.
(r) Writing. (This individual priority has been selected from a broader priority listed in 34 CFR 706.12(r).)
(w) Elementary education.
(x) Secondary education.
(z) Postsecondary education.

The mission of each center is based on the priority or priorities indicated in parentheses after the name of the center:

1. NIE Center on Teacher Education (b,e).
2. NIE Center on Teacher Quality and Effectiveness (b,e,f).
3. NIE Center on Student Testing, Evaluation, and Standards (g,l).
4. NIE Center for the Study of Writing (r).
5. NIE Center for the Study of Learning (a).
6. NIE Center on Effective Elementary Schools (w,f,m,p).
7. NIE Center on Effective Secondary Schools (x,f,m,p).
8. NIE Center on Education and Employment (n).
9. NIE Center on Postsecondary Management and Governance (z,f,h).
10. NIE Center on Postsecondary Teaching and Learning (z,b,a,e).
11. NIE Center on State and Local Policy Development and Leadership in Education (f,h,i).

Eligible applicants

Public or private organizations, institutions, agencies or individuals are eligible to apply for planning grants. Institutions of higher education or interstate agencies established by compact which operate subsidiary bodies established to conduct postsecondary educational research and development are eligible to apply for grants for institutional operations. A group of eligible entities may also apply for a planning grant or a grant for institutional operations, but a single eligible entity must be designated as the recipient of the grant, in accordance with the Education Department General Administrative Regulations (EDGAR), 34 CFR 75.127 through 75.129. Although ineligible entities may not be part of a group submitting a group application as described in EDGAR, such entities may collaborate with one or more eligible applicants under an approved subcontract as described in 34 CFR 75.708. Participation or nonparticipation in the competitions for planning grants in no way affects eligibility to participate in the competitions for grants for institutional operations.

Post-Award Requirements

The recipient of a center grant for institutional operations must meet the specific post-award requirements described in 34 CFR 708.41.

Selection criteria for planning grants

In evaluating applications for center planning grants, the Secretary will use the selection criteria for center planning awards contained in 34 CFR 708.31. The maximum number of possible points for all selection criteria is 100, distributed as follows:

(a) *Mission and strategy.* (30 points maximum)
(b) *Institutional capacity.* (15 points maximum)
(c) *Plan of operation.* (25 points maximum)
(d) Quality of key personnel. (15 points maximum)
(e) *Budget and cost effectiveness.* (5 points maximum)
(f) *Evaluation plan.* (5 points maximum)
(g) *Adequacy of resources.* (5 points maximum)

Procedures to be followed in selecting applications for planning grants are found in 34 CFR 75.216, 75.217, and 706.33(a).

Selection criteria for institutional grants

In evaluating applications for center grants for institutional operations, the Secretary will use the selection criteria for center awards for institutional operations contained in 34 CFR 708.32. The maximum number of possible points for all selection criteria is 100, distributed as follows:

(a) *Mission and strategy.* (20 points maximum)
(b) *Institutional capacity.* (20 points maximum)
(c) Plan of operation. (25 points maximum)
(d) *Quality of key personnel.* (20 points maximum)
(e) *Budget and cost effectiveness.* (5 points maximum)
(f) *Evaluation plan.* (5 points maximum)
(g) *Adequacy of resources.* (5 points maximum)

The Secretary uses the procedures contained in 34 CFR 75.216, 75.217, 706.32, and 706.33(a) to select applications for funding.

Length of Awards

The project period or planning grants will be 4 months. Planning grants are expected to be announced at the end of

February 1985. The project period for grants for institutional operations will be 5 years, beginning no earlier than October 1, 1985.

Available Funds

The Secretary estimates that up to three planning grants, not in excess of $15,000 each, will be awarded to assist planning for each of the 11 centers as described in this notice. For the 5-year grants for institutional operations, requests for assistance should be based on the following budgetary targets. (Budgetary targets for grants for institutional operations are included in parentheses following the center name, with the target for each annual budget period shown first and the target for the 5-year project period shown second.)

1. NIE Center on Teacher Education ($1.2 million; $6.0 million).
2. NIE Center on Teacher Quality and Effectiveness ($0.8 million; $4.0 million).
3. NIE Center on Student Testing, Evaluation, and Standards ($1.0 million; $5.0 million).
4. NIE Center for the Study of Writing ($1.0 million; $5.0 million).
5. NIE Center for the Study of Learning ($1.3 million; $6.5 million).
6. NIE Center on Effective Elementary Schools ($1.0 million; $5.0 million).
7. NIE Center on Effective Secondary Schools ($1.0 million; $5.0 million).
8. NIE Center on Education and Employment ($0.8 million; $4.0 million).
9. NIE Center on Postsecondary Management and Governance ($1.3 million; $6.5 million).
10. NIE Center on Postsecondary Teaching and Learning ($0.8 million; $4.0 million).
11. NIE Center on State and Local Policy Development and Leadership in Education ($1.5 million; $7.5 million).

These estimates are based on anticipated Congressional appropriations and the assumption that applications of satisfactory quality will be received. Moreover, these estimates do not bind the Department of Education either to the stated numbers or amounts of awards, unless those numbers or amounts are otherwise specified by statute or regulations.

Application Forms

Grant information packages, including application forms, may be obtained by contacting Susan Klein (telephone: (202) 254–6271) or Gail MacColl (telephone: (202) 254–7930), National Institute of Education, 1200 19th Street, NW., Washington, D.C. 20208.

Applications must be prepared and submitted in accordance with regulations, instructions, and forms included in the grant information package. However, the grant information package is intended only to aid applicants in applying for assistance. Nothing in the grant information package is intended to impose any requirement with respect to paperwork, the content of applications, reporting, or grantee performance beyond those imposed under the statute and regulations.

The Secretary strongly urges that the technical or narrative portion of applications for planning grants not exceed 35 pages in length, and that the entire application, including budget information, not exceed 60 pages. Applicants for 5-year grants for institutional operations are encouraged to limit the technical or narrative portion of their applications to 200 pages, and the total application to 250 pages.

Questions regarding the application notice and the grant information package will be answered on Friday, November 2, 1984, 1:00 p.m. to 4:30 p.m., at the Regional Office Building (ROB) Auditorium, Room 1041, D Street Entrance, 7th and D Streets, SW., Washington, D.C. This session will not provide applicants with a summary of information about the competitions already provided through this application notice, the grant information package, the regulations, and the statute. Nor will it provide additional information about the competitions that an applicant would need to know in order to apply for assistance. Rather, it will answer any questions and clarify any issues regarding information already made available to applicants, in particular the information in this application notice and in the grant information package. For this reason, prospective applicants are urged to read the application notice and the grant information package provided by the Government before attending the session. For more information, contact Raymond F. Wormwood, Acting Chief, Contracts and Grants Management, Telephone: (202) 254–5080. *Potential applicants who are unable to attend the information session are invited to contact NIE for a written summary of questions responded to at the session.* (Approved OMB Number 1850–0552)

Applicable Regulations

Regulations applicable to this program include the following:

(a) Final regulations governing center awards under the Regional Educational Laboratories and Research and Development Centers Program (34 CFR Parts 706 and 708), as published in the **Federal Register**, July 23, 1984 (49 FR 29746).

(b) The Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

FOR FURTHER INFORMATION CONTACT: Raymond F. Wormwood, Acting Chief, Contracts and Grants Management, National Institute of Education, 1200 19th Street, NW., Washington, D.C. 20208. Telephone: (202) 254–5080.

(Sec. 405 (e) and (f) of the General Education Provisions Act, 20 U.S.C. 1221e (e) and (f))

(Catalog of Federal Domestic Assistance Number 84.117, Educational Research and Development)

Dated: October 9, 1984.

T.H. Bell,

Secretary of Education.

[FR Doc. 84–27049 Filed 10–11–84; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Office of Assistant Secretary for International Affairs and Energy Emergencies

International Atomic Energy Agreements; Canada and Indonesia; Proposed Subsequent Arrangements

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of proposed "subsequent arrangements" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Canada Concerning Civil Uses of Atomic Energy, as amended, and the Agreement for Cooperation Between the Government of the United States of America and the Government of Indonesia Concerning Peaceful Uses of Nuclear Energy.

The subsequent arrangements to be carried out under the above mentioned agreements involve approval of the following sales:

Contract Number S–CA–358, to Health and Welfare Canada, Ottawa, Canada, 42.2 grams of natural uranium, for use as standard reference material.

Contract Number S–CA–359, to Eldorado Resources Ltd. Ontario, Canada, 296.8 grams of natural uranium, for use as standard reference material.

Contract Number S–IE–7, to Badan Tenaga Atom Nasional, Yogyakarta, Indonesia, 148.4 grams of natural uranium, for use as standard reference material.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended,

it has been determined that these subsequent arrangements will not be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: October 9, 1984.

Dr. H.A. Merklein,

Assistant Secretary for International Affairs and Energy Emergencies.

[FR Doc. 84-28071 Filed 10-11-84; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Japan Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreements involves approval of the following retransfer:

RTD/JA(EU)-31, fuel pins containing 200 grams of uranium enriched to 60 percent in U-235, 50 grams of natural uranium, and 90 grams of plutonium for irradiation research and development related to fast breeder reactors. The fuel pins are to be transferred from CEA in France to the Power Reactor and Nuclear Fuel Development Corporation, Japan.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: October 9, 1984.

Dr. H.A. Merklein,

Assistant Secretary for International Affairs and Energy Emergencies.

[FR Doc. 84-28072 Filed 10-11-84; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. CP82-542-009]

ANR Pipeline Co.; Petition To Amend

October 5, 1984.

Take notice that on September 24, 1984, ANR Pipeline Company (Petitioner), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP82-542-009 a petition to amend the Commission's order issued August 21, 1964, in Docket No. CP82-542-000 and RP82-80-017, 28 FERC ¶61,245 (August 21, 1984), pursuant to section 7(c) of the Natural Gas Act so as to authorize extension of the term of the certificate previously granted it in Docket Nos. CP82-542-000 and RP82-80-017, all as more fully set forth in the petition to amend on file with the Commission and open for public inspection.

The order of August 21, 1984, authorized Petitioner to provide a flexible discount rate service under Rate Schedule DF-1 to consumers who have alternative fuel capability and who, because of price, would use the alternative fuel if the gas were sold under Petitioner's existing Tariffs. The Commission authorized this service until October 31, 1984. Petitioner has requested that the Commission extend the term of the certificate for eight months, until June 30, 1985.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before Oct. 12, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-28041 Filed 10-11-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-704-000]

Kentucky West Virginia Gas Co.; Request Under Blanket Certificate

October 9, 1984.

Take notice that on September 10, 1984, Kentucky West Virginia Gas Company (Kentucky West), 420 Boulevard of the Allies, Pittsburgh, Pennsylvania 15219, filed in Docket No. CP84-704-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport gas on behalf of Bethlehem Mines Corporation (BMC) under the certificate issued in Docket No. CP82-496-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Kentucky West proposes to receive up to 4,100 dt equivalent of gas per day on behalf of BMC from existing delivery points from KEPCO, Inc., to Kentucky West and redeliver equivalent volumes to Columbia Gas Transmission Corporation (Columbia Gas) at an existing interconnection between Columbia Gas' and Kentucky West's systems in Floyd County, Kentucky, or at other previously certificated interconnections between their systems. Kentucky West states that Columbia Gas would then transport the gas to Columbia Gas of Pennsylvania, Inc. (CPA), which in turn would deliver the gas to BMC in Hanover, Pennsylvania.

Kentucky West estimates that the annual volume, peak day volume and average day volume would be 1,496,500 dt, 4,100 dt and 4,100 dt, respectively. Kentucky West indicates that the end-user would use the gas for process use and that the transported volumes would constitute 100 percent of the fuel needs at the facility.

Kentucky West indicates that it would charge BMC a transportation rate of 36.2 cents per dt as reflected in Kentucky West's proposed Rate Schedule ITS. Kentucky West indicates that the intermediary between KEPCO, Inc., and BMC is Industrial Energy Services, Inc. (IESCO), and that IESCO's fee to BMC is five cents per million Btu.

Kentucky West has submitted a statement from CPA indicating it has sufficient capacity to transport the gas without detriment to its customers. Kentucky West states that the transportation would be rendered through the use of existing facilities. Kentucky West submitted a letter on September 20, 1984, indicating that the gas to be sold by KEPCO, Inc., to BMC was not previously under contract to a

pipeline company or distributor and that the gas would be sold at a price not in excess of the applicable maximum price ceilings under the Natural Gas Policy Act of 1978 (NGPA). Kentucky West in that same letter also clarifies that it is seeking authorization expiring June 30, 1985.

Kentucky West in that same letter also indicates that any changes in receipt or delivery points for transportation of gas on behalf of BMC at the same end use location would not affect the maximum daily and annual volumes to be authorized. Kentucky West also states that within 30 days of the addition or deletion of receipt or delivery points, it would file the following information:

(1) Copy of the gas purchase contract between the seller and the end-user;

(2) Statement as to whether the supply is attributable to gas under contract to and released by a pipeline or distributor and if so, identification of the parties, and specification of the current contract price;

(3) Statement of the NGPA pricing categories of the added supply, if released gas, and the volumes attributable to each category;

(4) Statement that the gas is not committed or dedicated within the meaning of NGPA section 2(18);

(5) Location of the receipt or delivery points added or deleted;

(6) Where an intermediary participates in the transaction between the seller and the end-user, the information required by § 157.209(c)(1)(ix) of the Commission's Regulations.

(7) Identity of any other pipeline involved in the transportation.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26944 filed 10-11-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA85-1-53-000 and TA85-1-53-001]

K N Energy, Inc.; Proposed Changes in FERC Gas Tariff

October 9, 1984.

Take notice that K N Energy, Inc. ("K N") on October 1, 1984, tendered for filing proposed changes in its FERC Gas Tariff to adjust the rates charged to its jurisdictional customers pursuant to the Gas Cost Adjustment provision (section 19) and the Incremental Pricing Surcharges provision (section 20) of the General Terms and Conditions of K N's FERC Gas Tariff, Third Revised Volume No. 1 to reflect a decrease in the base cost of gas and to amortize certain unrecovered gas costs. The proposed changes would increase the commodity rate, under each of K N Energy's jurisdictional rate schedules by 26.32¢ per Mcf, of which (1.01)¢ per Mcf represents the decrease in the base purchase gas cost and 27.33¢ per Mcf represents the increase in the unrecovered gas cost surcharge. Included in the surcharge is the recovery of NGPA prices for certain company owned production authorized by previous rate case settlements. This filing is proposed to become effective on December 1, 1984.

K N states that certain pending "excess royalty" litigation in the state of Kansas may result in its seeking special relief from NGPA section 104 prices. K N proposes to use Account No. 191 treatment for any excess royalty obligations which may ultimately be established. The present application contains no adjustments for such excess royalty obligations.

Copies of the filing were served upon K N's jurisdictional customers, interested public bodies, and all direct and indirect customers which will be subject to the incremental pricing provisions.

Any person desiring to be heard or protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed on or before October 15, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26945 Filed 10-11-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-698-000]

Montana-Dakota Utilities Co.; Request Under Blanket Authorization

October 9, 1984.

Take notice that on September 7, 1984, Montana-Dakota Utilities Co., (MDU), 400 North Fourth Street, Bismarck, North Dakota 58501, filed in Docket No. CP84-698-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate a new sales tap under the certificate issued in Docket Nos. CP83-1-000 and CP83-1-001 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in its request which is on file with the Commission and open to public inspection.

MDU states that it proposes to add a new sales tap located on its transmission system as an additional delivery point in connection with its Rate Schedule T-3 program. It is stated that since the deliveries would be performed on a best-efforts basis, the terms of Amendment of *Stipulation and Agreement in Settlement of Remaining Issues* approved by the Commission's order issued February 19, 1982, regarding MDU's curtailment plan in Docket No. RP76-91 is inapplicable. MDU states that the proposed sales tap would be used to deliver up to 92,000 Mcf of natural gas annually to Phillips Petroleum Company, McKenzie County, North Dakota, to provide fuel to a field gathering compressor used in gathering gas condensate and oil well gas to be ultimately processed at a gas processing plant. MDU also indicates that the estimated costs for the tap would be $5,000 and would be 100 percent reimbursed by the end-user.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural

Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26947 Filed 10-11-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GT85-1-000]

Natural Gas Pipeline Company of America; Change in FERC Gas Tariff

October 9, 1984.

Take notice that on October 1, 1984, Natural Gas Pipeline Company of America (Natural) submitted for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the below listed tariff sheets to be effective April 1, 1985:

Twentieth Revised Sheet No. 301.
Twentieth Revised Sheet No. 302.
Twenty-first Revised Sheet No. 303.
Twentieth Revised Sheet No. 304.
Nineteenth Revised Sheet No. 305.
Seventh Revised Sheet No. 306.
Eighth Revised Sheet No. 307.
Eighth Revised Sheet No. 308.
Seventh Revised Sheet No. 309.

Natural states that the purpose of this filing is to set out the Buyer's quantity entitlements under Section 22 of the General Terms and Conditions of Natural's FERC Gas Tariff for the service year April 1, 1985 through March 31, 1986. It is respectfully requested that the Commission's regulations be waived to the extent necessary to permit the revised sheets as submitted herein to become effective April 1, 1985, the beginning of the 1985–86 service year.

The Monthly Quantity Entitlements on Sheet Nos. 301 through 309 have been changed, where required, to reflect requested changes in such entitlements by Natural's fifteen (15) DMQ–1 and thirty-four (34) G–1 customers. Customers requesting changes in Daily Quantity Entitlements were accommodated where feasible by Natural. The Monthly and Daily Quantity Entitlements on these sheets provide sufficient gas volumes to allow each customer to fully meet (within contractual limits) its reported requirements.

A copy of this filing has been mailed to Natural's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed on or before October 15, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26948 Filed 10-11-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-143-000]

Northern Natural Gas Co., Division of InterNorth, Inc.; Filing

October 5, 1984.

Take Notice that on September 28, 1984, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), tendered for filing to become a part of Northern Natural Gas Company's (Northern) F.E.R.C. Gas Tariff, Original Volume No. 2:

First Revised Sheet No. 1954.

This revised tariff sheet amends Rate Schedule T–37, a Gas Transportation and Facilities Agreement between Northern Natural Gas Company and Amoco Gas Company, dated March 10, 1983.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C., 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before October 12, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene.

Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26949 Filed 10-11-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2130-000]

Robert S. Howe; Application

October 9, 1984.

Take notice that on October 1, 1984, Robert S. Howe filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Comptroller, Central Maine Power Company.

Comptroller and chief accounting officer, Maine Yankee Atomic Power Company.

Chief accounting officer, Maine Electric Power Company, Inc.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rule 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 24, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26952 Filed 10-11-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP73-162-004]

Sea Robin Pipeline Co.; Petition To Amend

October 9, 1984.

Take notice that on September 13, 1984, Sea Robin Pipeline Company (Sea Robin), Post Office Box 1478, Houston, Texas 77001, filed in Docket No. CP73–162–004 a petition to amend the order issued April 5, 1974,[1] in Docket No.

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

CP73-162 pursuant to section 7(c) of the Natural Gas Act so as to authorize two additional transportation redelivery points to Southern Natural Gas Company (Southern) at the terminus of the Sea Robin system near Erath, Louisiana, all as more fully described in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that Southern purchases gas from producers in Blocks 231 and 232, East Cameron Area, offshore Louisiana. It is further stated that, pursuant to a gas transportation agreement (Agreement) dated November 29, 1972, Sea Robin transports such gas for Southern, under its Rate Schedule X-6, to an onshore redelivery point at the terminus of Sea Robin's system near Erath, Vermilion Parish, Louisiana, into the measuring facilities of United Gas Pipe Line Company. Pursuant to the terms of an amendment to the Agreement, dated April 13, 1984, Sea Robin proposes to add two new redelivery points at the Erath terminus of the Sea Robin system. These two points would be at (1) the inlet side of Faustina Pipeline Company's measuring station and (2) the inlet side of Columbia Gulf Transmission Company's measuring station.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before Oct. 29, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26953 Filed 10-11-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER79-150-014]

Southern California Edison Co.; Refund Report

October 9, 1984.

Take notice that on September 28, 1984, Southern California Edison Company (Edison) submitted for filing its compliance refund report pursuant to the Commission's Letter Order dated July 20, 1984.

Edison states that it has made refunds to its resale customers amounting to $18,129,650.25 on August 14, 1984, including interest up to August 14, 1984.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before October 23, 1984. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26954 Filed 10-11-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-730-000]

Transcontinental Gas Pipe Line Corp.; Application

October 9, 1984.

Take notice that on September 21, 1984, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP 84-730-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing a revision of the contract demand allocations of two of its sales customers, all as more fully set forth in the application which is on file and open to public inspection.

Applicant states that Owens-Corning Fiberglas Corporation (Owens-Corning), Applicant's only direct industrial customer, has installed more efficient equipment at its Anderson, South Carolina, plant. Therefore, it is submitted, Owens-Corning wishes to reduce its contract demand allocation of 10,000 dt equivalent of gas, based on a contract between Applicant and Owens-Corning, dated September 8, 1954, by 4,000 dt per day.

Applicant further states that Public Service Company of North Carolina, Inc. (Public Service), another sales customer of Applicant, desires to obtain the 4,000 dt equivalent per day that Owens-Corning desires to relinquish. The subject proposal would raise Public Service's demand allocation from 154,600 dt per day to 158,600 dt per day while at the same time reducing Owens-Corning's demand allocation from 10,000 dt per day to 6,000 dt per day. Applicant requests an effective date of November 1, 1984, so as to coincide with the start of the new contract year between Applicant and the above-mentioned customers.

Applicant states that it has held discussions with some of its other sales customers concerning reallocation of demand contracts. Applicant explains that at the time such a reallocation is submitted to, and approved by, the Commission, the above mentioned 4,000 dt per day reallocation may be transferred to another customer(s). However, it is explaned that until then, such 4,000 dt per day would remain with Public Service. Applicant also states that except for the reallocation of the 4,000 dt per day, there would be no change in the service provided by Applicant to the two sales customers concerned.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 29, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-25927 Filed 10-11-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-377-000]

AEM Corp.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

October 9, 1984.

On June 29, 1984, AEM Corp. (Applicant), located at 1445 Palisades Drive, Pacific Palisades, California 90272, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. Supplementary information was filed by Applicant on September 18, 1984. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located at Colestrip, Montana. The facility will consist of a steam turbine generating set and a combustion turbine generating set. The combustion turbine will be fueled by synthesis gas (a by-product of liquids from coal process developed by Synfuel Genesis, Inc.), whereas the steam boiler, known as the solid fuel boiler, will be fueled by coal (culm), and solid residue products from the process. Exhaust heat from the combustion turbine will be directed to a waste heat recovery boiler to generate steam for use in the liquids from coal process. Steam produced by the steam turbine will also be used in the same process, and for space heating and purposes related to mining processes. The electric power production capacity of the facility will be 30.75 MW.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed on within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-25940 Filed 10-11-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-700-000]

Washington Water Power Co.; Filing

October 9, 1984.

The filing Company submits the following:

Take notice that on September 26, 1984, Washington Water Power Company (Washington) tendered for filing proposed changes in its FERC Electric Service Tariff, Schedule 61. The proposed changes would increase revenues from jurisdictional sales and service by approximately $999,000 based on the 12-month period ending September 30, 1983.

The proposed rate change is submitted for the purpose of compensating Washington primarily for the addition of two production facilities to plant in service and also for increase in its cost of capital, labor, materials, supplies and taxes.

Copies of the filing have been served upon the five Washington Water Power wholesale customers affected by this filing.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 18, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-25939 Filed 10-11-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-487-000]

Cogenic Energy Systems, Inc.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

October 9, 1984.

On September 10, 1984, Cogenic Energy Systems, Inc. (Applicant), of 9353 Activity Road, Suite D, San Diego, California 92126, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located at St. Erne Sanitarium, 527 West Regent Street, Inglewood, California 90301. The primary energy source will be natural gas. The electric power production capacity will be 100 kilowatts. The facility will include an M-100GWI Cogenic Energy Module powered by 150 hp internal combustion engine fueled by natural gas with waste heat recovery from both jacket water and exhaust gases. The module contains an induction generator which will be operated in parallel with the local utility. Recovered heat will be used for domestic hot water and heating

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-25942 Filed 10-11-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-480-000]

Hospital Corporation of America; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

October 9, 1984.

On August 31, 1984, Hospital Corporation of America (Applicant) of Medical Center Del Oro, 8080 Greenbriar Drive, Houston, Texas 77054, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The proposed facility is being installed in the Medical Center Del Oro. The cogeneration unit will produce electric power and hot water for use in absorbtion air conditioning, space heating, and domestic water heating. The unit will consist of a natural gas fired reciprocating engine coupled to a synchronous 500 kW generator and a waste heat recovery system.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26943 Filed 10-11-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-503-000]

Pacific Ultrapower Chinese Station; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

October 9, 1984.

On September 21, 1984, Pacific Ultrapower Chinese Station (Applicant), a Joint Venture, 16845 Von Karman Avenue, Irvine, California 92714, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The proposed small power production facility will have a power production capacity of 22 megawatts and will be located near Chinese Station in Tuolumne County, California. It will utilize fluidized-bed combustion for the production of steam from boilers using biomass as fuel, consisting of orchard prunings, waste wood from lumber mills in the area of the facility, and in-forest wood chips from slash, limbs, tops and thinnings. Steam generated will be used in turbines to power generators for the production of electricity.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26950 Filed 10-11-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-486-000]

Point Arguello Pipeline Co.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

October 9, 1984.

On September 10, 1984, Point Arguello Pipeline Co. (Applicant), located at P.O. Box 7141, San Francisco, California 94120-7141, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal consitutes a complete filing.

The facility consists of five (5) topping-cycle cogeneration units. Each unit consists of a combustion turbine driving an electric generator. Coupled to the exhaust of each turbine is a waste heat recovery steam boiler. The steam produced will be used to heat and dehydrate approximately 200,000 BPD of oil and to sweeten and extract hydrocarbon liquids from 120 million standard cubic feet per day of sour natural gas. The electric power production capacity of the facility will be 17 MW. The primary energy source for the facility will be natural gas. The cogeneration facility will be located 30 miles west of Santa Barbara on U.S. Highway 101 in Gaviota, California.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26951 Filed 10-11-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-489-000]

TDEnergy, Inc.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

October 9, 1984.

On September 11, 1984, TDEnergy, Inc. (Applicant), located at 68 Broad Street, Boston, Massachusetts 02109, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The facility is a small power production facility. The primary energy source is wind. The power production capacity under peak generation is projected to be 11.34 megawatts, with phased development as follows: Phase I—640 kW, Phase II—2700 kW, and Phase III—8000 kW. The location of the facility is in the towns of Canaan and

Orange, New Hampshire, near the end of Pond Road, off Route 118.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-28056 Filed 10-11-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-483-000]

The Mead Corp.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

October 9, 1984.

On September 4, 1984, the Mead Corporation (Applicant), located at Fine Paper Division-Chillicothe, Chillicothe, Ohio 45601, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility is located in Chillicothe, Ohio. It supplies electricity and steam to Mead's paper mill facilities. The cogeneration facility consists of five boilers and five turbine generators. The turbine generators can produce approximately 80.1 megawatts of electricity. Steam is extracted from the turbines for use in the paper making process. The energy sources for the facility will be coal, wood wastes, oil and black liquor.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or to protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C., 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-28046 Filed 10-11-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-477-000]

Triple Seven, Inc.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

October 9, 1984.

On August 31, 1984, Triple Seven, Inc. (Applicant), of 6300 Northwest Expressway, Suite 110, Oklahoma City, Oklahoma 73132, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility, consisting of two engine generator sets and a waste heat recovery heat exchanger, will be located in Severy, Kansas. The primary energy source will be natural gas. The electric power production capacity will be 700 kilowatts. The usesful thermal output power will be used to heat tanks of high paraffin crude oil to facilitate transfer to conventional transport vehicles.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-28058 Filed 10-11-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-504-000]

Weyran Energy Corp.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

October 9, 1984.

On September 20, 1984, Weyran Energy Corporation, 666 East Main Street, New York 10940, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The facility will initially generate approximately 4,000 kW using internal combustion engine-generator sets fueled by landfill methane gas to be recovered from the Town of Islip landfill located at Blydenburgh Road, Hauppauge, New York.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-28060 Filed 10-11-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP81-107-000, et al.]

Boundary Gas, Inc. et al.; Canadian Import Project—U.S. Route Alternative Notice of Intent To Prepare a Draft Environmental Impact Statement and Request for Comments on its Scope

October 5, 1984.

Introduction

The Canadian Import Project is a major initiative to bring natural gas from Canada to the northeastern United States. The overall project basically consists of the Niagara Route Project and two major alternatives to it. One alternative is known as the U.S. Route alternative and the other is known as the MIDCON alternative. This Notice of Intent covers the U.S. Route alternative.

U.S. Route

Notice is hereby given that the staff of the Federal Energy Regulatory Commission (FERC) has determined that approval of the project, called the United States Route (U.S. Route) proposed in Docket Nos. CP84-318-000 and 001, CP84-363-000, and CP84-407-000 would constitute a major Federal action significantly affecting the quality of the human environment. Therefore, pursuant to § 2.82(b) of the Commission's Rules of Practice and Procedure (18 CFR 2.82(b)), a draft environmental impact statement (DEIS) will be prepared.

The facilities proposed in the above dockets, involving approximately 847 miles of pipeline and 359,000 horsepower of compression at an estimated cost of $1.3 billion, comprise the U.S. Route for transporting about 1 billion cubic feet per day of western Canadian natural gas to the northeastern United States.

In Docket No. CP84-407-000, Northern Border Pipeline Company (Northern Border) proposes to construct approximately 290 miles of 36-inch diameter pipeline east of the terminus of its existing system near Ventura, Hancock County, Iowa, to a connection with ANR Pipeline Company's (ANR) existing system near Sandwich, Kendall County, Illinois. This extension would include four new 16,000 horsepower compressor stations in Hancock, Linn, and Scott Countries, Iowa, and Whiteside County, Illinois. Additional compression is also planned for the existing Northern Border system to allow transportation of the proposed volume of gas. This would include expansion of both existing compressor stations 4 and 8 in McKenzie and McIntosh Counties, North Dakota, by 16,000 horsepower each, and construction of six new 32,000 horsepower compressor stations in Roosevelt County, Montana, Morton County, North Dakota, Edmunds, Clark and Deuel Counties, South Dakota, and Lyon County, Minnesota. The estimated cost of these facilities is $560 million.

To transport the gas received from Northern Border at Sandwich, Illinois to the proposed origins of Ohio Interstate Pipeline Company (Ohio Interstate) in Defiance County, Ohio, ANR proposes to increase the capacity of its system by looping 184 miles of its existing system and adding compression. The Sandwich Compressor Station would gain 9,000 horsepower and the Defiance Compressor Station 26,000 horsepower, as proposed in Docket No. CP84-363-000. The three loops would extend about 25.1 miles southeast from the Sandwich Compressor Station, from about 7.1 miles west to 30.1 miles northeast of the St. John Compressor Station in Lake County, Indiana, and for 121.4 miles southeast of the Bridgeman Compressor Station, in Berrien County, Michigan, through the Lagrance Compressor Station, Lagrance County, Indiana, to the Defiance Compressor Station. The estimated cost of these facilities is $237 million.

Ohio Interstate proposes to construct about 356 to 367 miles of new pipeline, depending on which alternatives are chosen from those in its environmental report filed in Docket No. CP84-318-000. This pipeline would extend east from ANR's Defiance Compressor Station, across the state of Ohio, to a new compressor station at an interconnection with Tennessee Gas Pipeline Company's (Tennessee) facilities in either Mercer County, Pennsylvania, or Columbiana County, Ohio. The pipeline would continue east to interconnections with Transcontinental Gas Pipe Line Corporation (Transco) and Texas Eastern Transmission Corporation (Texas Eastern) at a new compressor station near the existing compressor station complex at the Leidy Gas Storage Field in Clinton County, Pennsylvania.

The compressor station in Mercer County would require 22,000 horsepower of compression; the one in Columbia County would require 20,000 horsepower. The station at the eastern terminus would require either 14,000 or 16,000 horespower of compression, depending on the location of the interconnection with Tennessee's pipeline system. The total estimated cost of the pipeline and compressor facilities is $505 million.

The Niagara Route

The U.S. Route is proposed as a partial alternative to the proposed Niagara Route, Docket No. CP81-107-000, *et al.* The Niagara Route would accept imported natural gas which would be transported eastward from western Canada by TransCanada PipeLines, Ltd., Great Lakes Gas Transmission Company, and Union Gas Limited to an interconnection with the Niagara Interstate Pipeline System (NIPS) near Niagara Falls, N.Y. Natural gas for Tennessee and Boundary Gas, Inc. (Boundary) would be delivered through NIPS to Tennessee near East Aurora, New York, and Coudersport, Pennsylvania. Natural gas would be delivered to Transco and Texas Eastern near Leidy, Pennsylvania, for their system supply and for the system supply of Algonquin Gas Transmission Company (Algonquin).

All these companies, except Boundary, would construct additional Niagara Route facilities. In addition, the Niagara Route includes underground natural gas storage in Michigan and Ontario.

Most of the Niagara Route related facility expansion in Canada and in the United States, west and north of Leidy, would be replaced by the facilities of the U.S. Route. However, Algonquin, Tennessee, Texas Eastern and Transco would still need the facilities they have proposed east and south of the delivery points noted for the Niagara Route, and the Michigan storage would be required. Moreover, Tennessee would probably need additional looping on its system west of East Aurora or Coudersport toward the proposed connection with the U.S. Route. The extent of this looping is not yet known by the staff, but counties where looping may be required will receive copies of this notice.

The MIDCON Proposal

Natural Gas Pipeline Company of America (Natural) filed the MIDCON proposal, Docket No. CP84-325-001, as another partial alternative to the Niagara Route. The MIDCON proposal would replace all the U.S. Route proposal except new compression on the existing Northern Border Pipeline, and may require substantial facility construction by several Niagara Route sponsors along their respective systems between Louisiana and the Northeastern States. When details of the facilities required to complete the MIDCON proposal, and the route of the MIDCON proposal become available, a Notice of

Intent to prepare an EIS for that alternative project will be issued.

Comment Procedure

The FERC staff intends to prepare an EIS for these projects under the overall title: *Canadian Import Project* (CIP). The scope and geographic diversity of the three competing proposals would make a single volume EIS unwieldy. It is currently anticipated that separate volumes will be prepared for the Niagara Route, the U.S. Route alternative, and the MIDCON alternative. Because of the extended history of the Niagara Route, that project will be analyzed in two volumes; one of which has already been issued by the FERC staff and was entitled *Tennessee/Boundary Looping Project: Final Environmental Impact Statement*, February, 1983. A comparative analysis and discussion of the environmental considerations of the three proposals will also be prepared.

A copy of this notice and additional technical information about the proposed project, including general route maps, have been distributed to Federal, state, and local agencies, and parties to the proceedings. Interested readers of this notice are encouraged to comment on anticipated environmental concerns associated with the project. Comments will be used by the FERC staff to identify the issues which require in-depth environmental analysis.

Comments should be addressed to the Secretary, Federal Energy Regulatory Commission, 825 N. Capitol Street, NE., Washington, D.C., 20426. Recommendations that the EIS address specific issues should be supported with a detailed explanation of the need to consider such issues. Written comments should be submitted by November 14, 1984, and referenced to Docket Nos. CP84–318–000, CP84–363–000, and CP84–407–000.

Additional information about the proposals, including detailed route maps for specific locations, is available from Mr. John Leiss, Project Manager, at the above address, or by telephone at (202) 357–9041.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–27063 Filed 10–11–84, 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER84–704–000]

Commonwealth Electric Co.; Filing

October 9, 1984.

The filing Company submits the following:

Take notice that on September 27, 1984, Commonwealth Electric Company (Commonwealth) tendered for filing an agreement governing the sale by Commonwealth of System Power (as defined therein) to Boston Edison Company (Buyer).

By the provisions of the Agreement, Commonwealth proposes to sell in amounts mutually acceptable to both parties. Commonwealth has requested the Commission waive its notice requirements to permit an effective date of July 12, 1984.

A copy of this filing has been served upon Buyer and upon the Massachusetts Department of Public Utilities.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 18, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–27064 Filed 10–11–84, 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP79–224–005]

El Paso Natural Gas Co.; Informal Settlement Conference

October 9, 1984.

Take notice that, in response to the request by El Paso Natural Gas Company, an informal settlement conference in the above-captioned docket will be convened on October 17, 1984, at 10:00 a.m. The meeting will be held at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

Various issues raised by the application filed by El Paso Natural Gas Company on April 6, 1984, will be discussed at the conference. In its application, filed pursuant to section 7(c) of the Natural Gas Act in Docket No. CP79–224–005, El Paso Natural Gas Company seeks certificate authorization to expand the deliverability of storage volumes from its Washington Ranch storage facility and for system flexibility. Notice of the application was published in the **Federal Register** on April 27, 1984 (49 18163).

All interested parties and Staff will be permitted to attend. Mere attendance by interested parties will not serve to make them formally parties to the proceeding.

The number of the hearing or conference room where the conference will be convened will be posted on the second floor bulletin board by 9:30 a.m. on October 17, 1984. For further information contact Jack O. Kendall, Office of the General Counsel, Federal Energy Regulatory Commission, Room 8601, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357–8033.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–27065 Filed 10–11–84, 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER84–701–000]

Florida Power & Light Co.; Filing

October 9, 1984.

The filing Company submits the following:

Take notice that on September 26, 1984, Florida Power & Light Company (FP&L) tendered for filing a document entitled "Amendment Number Two to Contract for Interchange Service Between FP&L and Florida Power Corporation." Also enclosed in the filing was a certificate of concurrence to the proposed Amendment by Florida Power Corporation (FPC).

FP&L states that under the Amendment Number Two, FP&L and FPC have relocated a point of interconnection formerly between FP&L's Brevard Substation and FP&L's West Lake Wales Substation to a new point of interconnection between FP&L's Pinsett Substation and FPC's West Lake Wales Substation, as contemplated in the sale of certain transmission facilities to FP&L by FPC authorized by the Commission in Docket No. EC83–22–000. In addition, FP&L states that under the Amendment Number Two, FP&L and FPC have included in their Contract for Interchange Service a point of interconnection between FP&L and FPC in the vicinity of FPC's Barberville Substation.

FP&L states that the proposed Amendment Number Two will have no effect on sales, service, or revenues.

FP&L requests waiver of the Commission's regulations be granted to permit the proposed Amendment Number Two to become effective as of February 8, 1984.

FP&L states that copies of the filing were served upon FPC.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 18, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-27066 Filed 10-11-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-702-000]

Florida Power & Light Co.; Filing

October 9, 1984.

The filing Company submits the following:

Take notice that on September 26, 1984, Florida Power & Light Company (FP&L) tendered for filing a document entitled "Amendment Number One to St. Lucie Delivery Service Agreement between Florida Power & Light Company and Florida Municipal Power Agency (Rate Schedule FERC No. 72).

FP&L states that Amendment Number One revises the designation of delivery points and allocation of the Florida Municipal Power Agency's (FMPA) St. Lucie Nuclear Power Resources.

FP&L requests waiver of the Commission's regulations be granted and that the the proposed Amendment be made effective September 29, 1984.

Copies of the filing have been served upon the General Manager of the Florida Municipal Power Agency and the Florida Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 18, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-27067 Filed 10-11-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA85-1-51-000 and TA85-1-51-001]

Great Lakes Gas Transmission Co.; Proposed Changes in FERC Gas Tariff Under Purchased Gas Adjustment Clause Provisions

October 5, 1984.

Take notice that Great Lakes Gas Transmission Company (Great Lakes), on September 28, 1984, tendered for filing Forty-Eighth Revised Sheet No. 57, and Ninth Revised Sheet No. 57-A to its FERC Gas Tariff, First Revised Volume No. 1, proposed to be effective November 1, 1984.

Forty-Eighth Revised Sheet No. 57 includes a revised purchased gas cost adjustment which reflects an increase in the cost of gas purchased from TransCanada PipeLines Limited, its sole supplier of natural gas, as a result of an increase in the heat content of the gas.

In addition, the revised tariff sheet reflects a purchased gas cost surcharge resulting from maintaining an unrecovered purchased gas cost account for the period commencing March 1, 1984 and ending August 31, 1984.

Ninth Revised Sheet No. 57-A reflects the estimated incremental pricing surcharge for the six month period commencing November 1, 1984 and ending April 30, 1985. No incremental costs are estimated for this period.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before October 12, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-27068 Filed 10-11-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA85-1-46-000 and TA85-1-46-001]

Kentucky West Virginia Gas Co.; Proposed Change in Rates

October 5, 1984.

Take notice that Kentucky West Virginia Gas Company (Kentucky West) on September 28, 1984, tendered for filing with the Commission its Thirty-Second Revised Sheet No. 27 and Twelfth Revised Sheet No. 27A to its FERC Gas Tariff, First Revised Volume No. 1, to become effective November 1, 1984.

Kentucky West states that the change in rates results from the application of the Purchase Gas Cost Adjustment provision in section 18, General Terms and Conditions of FERC Gas Tariff, First Revised Volume No. 1. Kentucky West's effective tariff rate is reduced from 366.34¢/dth to 355.36¢/dth, effective November 1, 1984.

Kentucky West further states that, in making the instant filing, it does not waiver or prejudice its right to continue to prosecute its petition for review with the United States Court of Appeals for the Fifth Circuit of the Commission's Order dated December 2, 1982, denying Kentucky West's application for rehearing of the Order issued April 30, 1982 in Docket Nos. TA82-2-46-001 (PGA-2) (IPR82-2). (*Kentucky West Virginia Gas Company* vs. *FERC*, Case No. 82-4595—filed December 3, 1982).

Kentucky West further states that, in making the instant filing, it does not waive any rights it may have to a filing to charge and collect NGPA prices for all Company-owned production retroactive to December 1, 1978, nor does it waive any rights to collect any carrying charges or interest charges applicable thereto.

Kentucky West states that a copy of its filing has been served upon its purchasers and interested state commission and upon each party on the service list of Docket No. RP83-46.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and

Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before October 12, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-27069 Filed 10-11-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-73-002]

Midwestern Gas Transmission Co.; Tariff Filing

October 9, 1984.

Take notice that on October 1, 1984, Midwestern Gas Transmission Company (Midwestern), tendered for filing the following tariff sheets to Original Volume Nos. 1 and 2 of its FERC Gas Tariff to be effective on November 1, 1984:

Original Volume No. 1

Second Revised Sheet No. 263
First Revised Sheet No. 286

Original Volume No. 2

First Revised Sheet No. 2
Second Revised Sheet No. 47
First Revised Sheet No. 66
Original Sheet Nos. 68 through 680

A Sheet Reserving Original Sheet Nos. 69 through 149 for Future Use.

Midwestern states that the purpose of these tariff sheets is to implement the Terms and Conditions of Midwestern's and Northern Natural Gas Company's (Northern) Joint Stipulation and Agreement in Settlement of the State of North Dakota's complaint filed in Docket No. RP83-73 on April 14, 1983, and approved by the Commission on June 1, 1984.

Pursuant to the Stipulation and Agreement, Midwestern submits Second Revised Sheet No. 263, First Revised Sheet No. 286, and Original Sheet Nos. 68 through 680 to cancel Rate Schedule CRL-2 as it applies to Northern States Power Company (NSP) and establish a new transportation Rate Schedule T-9. The new transportation service is designed to transport gas sales made by Northern to NSP and to recover the non-gas costs attributable to Midwestern's CRL-2 sales service to NSP.

Midwestern further states that the purpose of Second Revised Sheet No. 47 and First Revised Sheet No. 66 is to cancel its transportation Rate Schedules T-3 and T-7 with NSP. According to the Settlement Agreement in Docket No. RP83-73, which provides for the abandonment of off-system sales to Tennessee Gas Pipeline Company by NSP, Midwestern's T-7 transportation of these off-system sales is no longer required. Also, Midwestern's Transportation Service Agreement with NSP underlying Rate Schedule T-3 expired March 26, 1984 and service under this rate schedule has been discontinued.

Midwestern states that copies of the filing have been mailed to all of its customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such petitions or protests should be filed on or before October 15, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-27070 Filed 10-11-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TC84-17-001]

National Fuel Gas Supply Corp.; Tariff Sheet Filing

October 9, 1984.

Take notice that on September 25, 1984, National Fuel Gas Supply Corporation, 10 Lafayette Square, Buffalo, New York 14203, tendered for filing its proposed First Revised Sheet No. 51 and First Revised Sheet No. 52 to its FERC Gas Tariff, First Revised Volume No. 1, to become effective November 1, 1984, pursuant to § 281.204(b)(2) of the Commission's Regulations, which section requires interstate pipelines to update their respective index of entitlements annually to reflect changes in priority 2 entitlements (Essential Agricultural Users).

Any person desiring to be heard or to make any protest with reference to said tariff sheet filing should on or before October 19, 1984, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary

[FR Doc. 84-27071 Filed 10-11-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-2-26-003 and RP84-145-000]

Natural Gas Pipeline Company of America; Compliance Filing

October 5, 1984.

Take notice that on September 28, 1984, Natural Gas Pipeline Company of America (Natural) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1 (tariff), First Revised Sheet No. 147 to be effective September 1, 1984.

The purpose of this filing is to remove the Louisiana First Use Tax provision from the General Terms and Conditions of Natural's tariff, as required by Ordering Paragraph (C)(2) of FERC Order issued on August 31, 1984, in Docket Nos. TA84-2-26-000, *et al.*

Further, Natural submits additional information in support of its treatment of unpaid accruals; an explanation of the method used for pricing injections and withdrawals of storage gas inventory and; support for the storage costs reflected in its original filing at Docket No. TA84-2-26-000. Such information is filed in compliance with Ordering Paragraph (C)(1) and Ordering Paragraph (D) of the August 31, 1984, Order in Docket Nos. TA84-2-26-000, *et al.*

Natural requests any waivers of the Commission's regulations to the extent, if any, required to put the proposed tariff sheet into effect on September 1, 1984.

A copy of this filing has been mailed to Natural's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a petition

to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of this chapter. All such petitions or protests must be filed on or before October 12, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-27072 Filed 10-11-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-703-000]

Pacific Gas and Electric Co.; Filing

October 9, 1984.

The filing Company submits the following:

Take notice that on September 28, 1984, Pacific Gas and Electric Company (PG&E) tendered for filing notices of termination of Rate Schedule FPC Nos. 16 and 17 and FERC No. 73.

PG&E requests an effective date of September 21, 1966 for Rate Schedule FPC Nos. 16 and 17, and June 30, 1966 for Rate Schedule FERC No. 73. PG&E requests waiver of the Commission's notice requirements to allow the above effective dates.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 18, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-27073 Filed 10-11-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA85-1-29-000 and TA85-1-29-001]

Transcontinental Gas Pipe Line Corp.; Proposed Changes in FERC Gas Tariff

October 5, 1984.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing on September 28, 1984, the following tariff sheets to Second Revised Volume No. 1 of its FERC Gas Tariff:

Tariff Sheets Covering PGA Tracking Rate Changes

Thirty-Second Revised Sheet No. 12.
Thirty-Third Revised Sheet No. 15.
Original Sheet No. 15-A.
Twelfth Revised Sheet No. 16.

Tariff Sheets Covering Revisions to PGA Clause

Fourth Revised Sheet No. 247.
Fourth Revised Sheet No. 248.
Sixth Revised Sheet No. 249.
Fourth Revised Sheet No. 250.
Second Revised Sheet No. 250-A.
First Revised Sheet No. 250-B.
Original Sheet No. 250-C.
Original Sheet No. 250-D.

Tariff Sheet To Eliminate Louisiana First Use Tax (LFUT) Surcharge

First Revised Sheet No. 254.

Transco states that although there are reflected in its filing certain changes in various demand, commodity and delivery charges, the proposed tariff sheet nos. 12 and 15 of the instant filing reflect essentially no change in Transco's basic sales rates.

The above-listed tariff sheets, which are proposed to be effective November 1, 1984, reflect a decrease of 1.6¢ per dt in the commodity or delivery charge in Transco's CD, PS, S-2 and ACQ rate schedules, an increase of 50¢ per dt in the demand charge under the CD rate schedule and an increase of 4¢ per dt in the demand charge under the PS rate schedule. The charges for service under the E, G and OG rate schedules have not changed; the gas cost demand charge component proposed to be collected under these one-part commodity rates is offset by the reduction in current cost of gas.

Transco states that the instant filing gives effect to the estimated savings per dt in the currently effective cost of gas due to cost reduction measures taken by Transco pursuant to its Market Maintenance Plan (MMP). The MMP involves cost savings from voluntary relief under the pricing provisions of Transco's gas purchase contracts and the extension of Transco's Market Rentention Program (MRP).

Transco further states that the cost of purchased gas in the instant filing does not reflect the impact of the deregulation of any currently regulated source of gas which is scheduled to occur on January 1, 1985. Additionally, Transco states that the purchased gas cost contained in this filing does not include any costs associated with Order Nos. 93 and 93-A, which were reversed by the United States Court of Appeals for the District of Columbia Circuit. All projected gas costs and all deferred gas costs for purchases from suppliers reflected in Transco's PGA filing have been determined on a Btu measurement basis consistent with the Court's decision.

Transco's filing reflects the following changes:

A. Tracking rate increase in the commodity or delivery charge under PGA clause

The net decrease of 1.6¢ per dt in the commodity or delivery charge in the aforementioned rate schedules is made up of a PGA tracking increase of 2.5¢ per dt; a special surcharge of 4.5¢ per dt relating to retroactive installment payments required under FERC's Order Nos. 94, *et al.*, rulemaking; and an 8.6¢ per dt decrease to eliminate Transco's Industrial Sales Program (ISP) surcharge, all as more fully described in the filing.

The aforementioned 2.5¢ per dt increase is comprised of a 1.2¢ per dt increase in the current commodity cost of gas adjustment. A 1.3¢ per dt net increase in the Deferred Adjustment represents the difference between the currently effective positive Deferred Adjustment of 12.7¢ per dt and the proposed positive Deferred Adjustment of 14.0¢ per dt which is made up of the following proposed surcharges:

(i) A 12.8¢ per dt positive surcharge required to eliminate over the six-month period commencing November 1, 1984, the debit balance of $61,527,971 accumulated in Transco's Unrecovered Purchased Gas Cost Account (FERC Account No. 191) as of August 31, 1984.

(ii) A 1.2¢ per dt positive surcharge representing the surcharge necessary to fully discharge the estimated remaining balance of $5,921,171 in Transco's Industrial Sales Program (ISP) subaccount within Account No. 191 as of October 31, 1984.

The special surcharge of 4.5¢ per dt is proposed to recover installment payments representing known liabilities for retroactive production-related charges already made by producers to Transco applicable to the period July 25, 1980, through March 7, 1983, as prescribed in the Commission's Order Nos. 94, *et al.* rulemaking is reflected in the instant filing. These payments

represent installments required to be made under Order Nos. 94, *et al.*, during the months of September, October, November and December, 1984, and represent the remaining installments which Transco will pay to certain of its producers for "retroactive" Order No. 94 production-related charges which Transco commenced paying prior to August 31, 1984.

Transco's filing also reflects a net decrease of 8.6¢ per dt in the commodity or delivery charge in Transco's sales rate schedules in order to eliminate, effective November 1, 1984, the positive 8.6¢ per dt ISP surcharge.

B. Tracking rate increase in the demand charge under the PGA clause

The PGA tracking rate change reflects an increase of 50¢ per dt in the demand charge in Transco's CD rate schedule, and an increase of 4¢ per dt in the PS rate schedule. The changes in the demand portion of Transco's two-part rates result from the application of the purchase gas cost demand component related to the Canadian import purchase from Sulpetro Limited on an "as billed" basis, as explained below.

C. Revisions to the PGA clause under Section 22

Transco proposes to revise its purchased gas adjustment clause contained in Section 22 of the General Terms and Conditions to recover its purchased gas costs on an "as billed" basis. Transco has recently revised its purchase contract with Sulpetro to purchase gas under a two-part demand/commodity rate design, effective November 1, 1984. Although Sulpetro technically is not a pipeline supplier of Transco, the company states that the purchase is analagous to a pipeline purchase in that Sulpetro's demand charge is a pass-through of the transportation charge Sulpetro will pay TransCanada PipeLine Limited to transport the gas to the Canadian-United States border at Niagara Falls, New York. Under the circumstances, Transco requests that the Sulpetro import be treated as if it were a pipeline purchase in accordance with Section 154.38(d)(4)(ii) of the Commission's Regulations, and requests a waiver of the Regulations to that end.

D. Elimination of LFUT Surcharge under Section 25

Transco proposes to eliminate the Louisiana First Use Tax (LFUT) Tracking Provision contained in section 25 of the General Terms and Conditions, because such provision no longer is necessary and its elimination is consistent with Commission action in other recent proceedings.

Transco states that copies of the filing are being mailed to each of its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance Rule 211 and Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such petitions or protests should be filed on or before October 12, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-27074 Filed 10-11-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-147-000]

Transwestern Pipeline Co.; Proposed Changes in FERC Gas Tariff

October 5, 1984.

Take notice that Transwestern Pipeline Company (Transwestern) on September 28, 1984 tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1 the following sheet:

Twenty-seventh Revised Sheet No. 5.

The above listed tariff sheet is being filed to reflect a change in the form of Transwestern's transportation rates. In particular, the rates set forth in the revised tariff sheet utilize transportation rates based on the settlement cost of service approved by the Commission in Docket Nos. RP81-130-000 and RP83-25-000 on July 3, 1984. The proposed change in form provides for a mileage based rate for transmission facilities and a separate volumetric rate for production facilities for transportation services East of Roswell. There is no change in the settlement cost of service. There is merely a change in form of the rate pursuant to § 154.63(a) of the Commission's Regulations. Also included is a Statement of Nature and Reasons, and the comparative information required by § 154.63 with respect to changes other than in rates.

In this regard, Transwestern has reviewed with Staff its settlement agreement in Docket No. RP83-25-000, *et al.* Such settlement provides that it will continue until Transwestern either files a general rate increase filing pursuant to section 4 of the Natural Gas Act or the Commission determines pursuant to section 5 to change Transwestern's rates in a general fashion. The instant filing does not constitute either of such termination events, and Staff has so confirmed. However, Transwestern's filing is conditioned upon a determination that this is the case and Transwestern accordingly requests that any Commission order herein confirm that the settlement in Docket No. RP83-25-000 is still effective. If the Commission determines to the contrary, the attached filing is moot and of no effect.

The proposed effective date of the above tariff sheet is November 1, 1984.

Copies of the filing were served on Transwestern's jurisdictional customers and interested state Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before October 12, 1984 Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-27075 Filed 10-11-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA85-1-52-000 and TA85-1-52-001]

Western Gas Interstate Co.; Proposed PGA Rate Adjustment

October 9, 1984.

Take notice that on Ocotober 1, 1984, Western Gas Interstate Company ("Western") filed herein First Revised Sheet No. 3A and First Revised Sheet No. 3B to its FERC Gas Tariff, Alternate Revised Volume No. 1. Said tariff sheets are proposed to become effective on November 1, 1984.

Western states the proposed change in rates reflected on First Revised Sheet No. 3A is being filed in accordance with its Tariff's PGA clause which permits the recovery of increases in the cost of gas and of unrecovered purchased gas cost. Western further states the proposed Purchased Gas Cost Adjustment for the Northern Division is (3.63)¢ per Mcf; for the Western Division it is 0.00¢ per Mcf; and for the Southern Division it is (23.32)¢ per Mcf. The proposed surcharge adjustment is 20.41¢ per Mcf for the Northern Division; 0.00C per Mcf for the Western Division and (23.24)¢ per Mcf for the Southern Division.

Western also states that First Revised Sheet No. 3B reflects the Projected Incremental Pricing Surcharge Adjustment for the Period November 1, 1984 through April 30, 1985 as required by 282.602(a)(ii) of the CFR.

Western states that copies of this filing were served upon Western's transmission system customers and the interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such petitions or protests should be filed on or before October 15, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-27076 Filed 10-11-84; 8:45 am]

BILLING CODE 6717-01-M

Southwestern Power Administration

Town Bluff Hydropower Project, Texas; Intent To Select Financial Sponsor and Preference Customer

AGENCY: Southwestern Power Administration, Department of Energy.

ACTION: Notice of intent to tentatively select the Sam Rayburn Municipal Power Agency as the financial sponsor and preference customer of the proposed Town Bluff Hydropower Project in Texas.

SUMMARY: 1. The existing Town Bluff Dam on the Neches River was authorized by the Rivers and Harbors Act, approved March 2, 1945 (Pub. L. 14-79-1) for the purposes of flood control, hydroelectric power and water conservation. The dam and lake (known as B.A. Steinhagen Lake) are located in Jasper and Tyler Counties in eastern Texas. Installation of the hydroelectric power plant was deferred in the original construction of the project. An assessment of the present and future energy needs and costs indicates that the addition of hydroelectric generating facilities to Town Bluff Dam is economically feasible and environmentally acceptable. The Lower Neches Valley Authority, an agency of the state of Texas, has been designated as the local cooperating agency for all Federal water resource projects on the lower Neches and Angelina Rivers. The Authority provided the local funds required for the construction of Town Bluff Dam.

2. The proposed addition of hydroelectric generating facilities to the existing dam is generally described in the U.S. Army Corps of Engineers Fort Worth District document entitled "Town Bluff Dam Design Analysis Report, Addition of Hydropower," dated April 1982 and approved by the Chief of Engineers on October 13, 1983. The proposed project would have 6,000 kW of installed capacity and produce an average of 35,900,000 kWh of energy annually. The estimated cost of the project is $20 million, which includes an allowance for inflation through the construction period. The annual operation, maintenance, major replacement cost, and administrative costs are estimated at $260,000.

3. President Reagan, in his letter to Senator Laxalt in January 1984, expressed a policy which requires each agency to negotiate reasonable non-Federal financing for each proposed water resource project. The Sam Rayburn Municipal Power Agency, a public body in the state of Texas, has proposed to finance the proposed Town Bluff Hydropower Project during the period of construction and to pay the annual operation, maintenance and major replacement costs and administrative costs. The project would be Federally-owned and operated by the Corps of Engineers. The operation of the project for the benefit of the Lower Neches Valley Authority would not change except that most of the water now discharged through the outlet works would be discharged through the hydropower turbines.

4. The Corps of Engineers and the Southwestern Power Administration, jointly, have tentatively selected the Sam Rayburn Municipal Power Agency to provide the financing for the proposed Town Bluff Hydropower Project, based on the proposal submitted by that Agency. Subsequent proposals received prior to November 13, 1984, will be considered in the final selection.

5. The Sam Rayburn Municipal Power Agency has expressed an interest in receiving the power and energy from the proposed project. The Southwestern Power Administration has determined that the Sam Rayburn Municipal Power Agency qualifies for preference, in accordance with section 5 of the Flood Control Act of 1944, and has tentatively selected that Agency to receive the power and energy produced at the proposed project. Subsequent applications for that power and energy received prior to November 13, 1984, will be considered in the final selection. Questions and/or comments are invited.

For further information about the proposed project financing, contact: James L. Hair, Chief, Project Operations Branch, Fort Worth District, Corps of Engineers, P.O. Box 17300, Fort Worth, TX 76102, (817) 334-2301.

For further information about the proposed marketing of the power and energy from the proposed project, contact: Walter M. Bowers, Director, Power Marketing, Southwestern Power Administration, P.O. Box 1619, Tulsa, OK 74101, (918) 581-7529.

Dated: October 3, 1984.

Ronald H. Wilkerson,

Administrator, Southwestern Power Administration.

[FR Doc. 84-27056 Filed 10-11-84; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-59169A; FRL-2692-7]

Certain Chemicals Approval of Test Marketing Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of an application for a test marketing exemption (TME) under section 5(h)(6) of the Toxic Substances Control Act (TSCA), TME-84-79. The test marketing conditions are described below.

EFFECTIVE DATE: October 4, 1984.

FOR FURTHER INFORMATION CONTACT: James Alwood, Premanufacture Notice Management Branch, Chemical Control

Division (TS-794). Office of Toxic Substances, Environmental Protection Agency, Rm. E-613C, 401 M St. SW., Washington, DC 20460, (202-382-3374).

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present any unreasonable risk of injury.

EPA hereby approves TME-84-79. EPA has determined that test marketing of the new chemical substance described below, under the conditions set out in the TME application, and for the time period and restrictions (if any) specified below, will not present any unreasonable risk of injury to health or the environment. Production volume, number of workers exposed to the new chemical, and the levels and durations of exposure must not exceed those specified in the application. All other conditions and restrictions described in the application and in this notice must be met. The following additional restrictions apply. A bill of lading accompanying each shipment must state that use of the substance is restricted to that approved in the TME. In addition, the company shall maintain the following records until five years after the date they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:

1. The applicant must maintain records of the quantity of the TME substance produced and must make these records available to EPA upon request.

2. The applicant must maintain records of the dates of shipment to each customer and the quantities supplied in each shipment, and must make these records available to EPA upon request.

3. The applicant must maintain copies of the bill of lading that accompanies each shipment of the TME substance.

TME 84-79

Date of Receipt: August 23, 1984.

Notice of Receipt: August 31, 1984 (49 FR 34574).

Applicant: Confidential.

Chemical: (G) Alkyl Phosphate Potassium Salt.

Use: (G) Contained use.

Production Volume: Confidential.

Number of Customers: 1.

Worker Exposure: Confidential.

Test Marketing Period: 6 months.

Commencing on: October 4, 1984.

Risk Assessment: No significant health or environmental concerns were identified. The estimated worker exposure and environmental release of the test market substance are expected to be low. The test market substance will not pose any unreasonable health or environmental risks.

Public Comments: None.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present any unreasonable risk of injury to health or the environment.

Dated: October 4, 1984.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 84-27032 Filed 10-11-84; 8:45 am]

BILLING CODE 6560-50-M

[OW-4-FRL-2693-2; Public Notice No. IV-404003-HLM (Graham Reeves)]

Proposed Determination To Prohibit, Deny, or Restrict the Specification, or the Use for Specification, of an Area as a Disposal Site; Extension of Public Hearing Comment Period

October 5, 1984.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Extension of Public Hearing Comment Period.

SUMMARY: On July 26, 1984 a Notice of Proposal for a Section 404(c) Determination and Notice of Public Hearing was published in the **Federal Register**, 49 FR 30111. The Notice provided that the hearing record would remain open after the hearing until close of business on September 21, 1984. That comment period has been extended until the close of business, October 21, 1984.

FOR FURTHER INFORMATION CONTACT: E.T. Heinen, Chief, Environmental Assessment Branch, Office of Policy and Management, Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365, (404) 881-7901.

Dated: September 26, 1984.

John A. Little,

Acting Regional Administrator, Region IV.

[FR Doc. 84-27027 Filed 10-11-84; 8:45 am]

BILLING CODE 6560-50-M

[OW-4-FRL-2693-3; Public Notice No. IV-404004-HLM (Jack Maybank)]

Proposed Determination To Prohibit, Deny, or Restrict the Specification, or the Use for Specification, of an Area as a Disposal Site; Extension of Public Hearing Comment Period

October 5, 1984.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Extension of Public Hearing Comment Period.

SUMMARY: On July 26, 1984 a Notice of Proposal for a Section 404(c) Determination and Notice of Public Hearing was published in the **Federal Register**, 49 FR 30113. The Notice provided that the hearing record would remain open after the hearing until close of business on September 21, 1984. That comment period has been extended until the close of business, October 21, 1984.

FOR FURTHER INFORMATION CONTACT: E.T. Heinen, Chief, Environmental Assessment Branch, Office of Policy and Management, Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365, (404) 881-7901.

Dated: September 26, 1984.

John A. Little,

Acting Regional Administrator, Region IV

[FR Doc. 84-27026 Filed 10-11-84; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-2692-4]

Availability of Environmental Impact Statements Filed October 1, 1984 Through October 5, 1984 Pursuant to 40 CFR 1506.9

Responsible Agency

Office of Federal Activities, General Information (202), 382-5073 or (202) 382-5075.

EIS No. 840451, Final, COE, FL, Key Biscayne Beach Erosion Control/ Shore Protection, Key Biscayne, Dade County, Due: November 13, 1984, Contact: Rea Boothby, (904) 791-3453.

EIS No. 840452, Final, COE, MS, Sowashee Creek Flood Control, Meridan, Lauderdale County, Due: November 13, 1984, Contact: Tommy Lightcap, (205) 690-2726.

EIS No. 840453, Final, FHW, WA, North Foothill Drive Construction, Ruby

Street to Crestline Street, Spokane County, Due: November 13, 1984, Contact: P.C. Gregson, (208) 753–2120.
EIS No. 840454, Final, AFS, ID, Sunbeam Mountain Gold and Silver Mining and Milling Operation Plan, Approval, Challis National Forest, Custer County, Due: November 13, 1984, Contact: Tim Hancock, (208) 838–2201.
EIS No. 840455, Draft, BLM, WA, Spokane District, Resource Management Plan, Due: December 31, 1984, Contact: Joseph Buesing, (509) 456–2570.
EIS No. 840456, Draft, FHW, WA, WA–2/WA–28 Corridor, Improvement, between Rocky Reach Dam and East Wenatchee Vicinity, Douglas County, Due: November 26, 1984, Contact: P.C. Gregson, (206) 753–2120.
EIS No. 840457, DSuppl, COE, MN, East Grand Forks Flood Control Plan, Red and Red Lake Rivers, Polk County, Due: November 26, 1984, Contact: Robin Blackman, (612) 725–7746.
EIS No. 840458, Final, AFS, UT, Uinta National Forest Land Resource Management Plan, Utah, Wasatch, Juab, Sanpete and Tooele Counties, Due: November 13, 1984, Contact: Don Nebeker, (801) 377–5780.
EIS No. 840459, Final, FHW, IN, East 96th Street Reconstruction, Keystone Avenue (IN–431) to I–69, Hamilton and Marion Counties, Due: November 13, 1984, Contact: John Breitwieser, (317) 269–7481.
EIS No. 840460, Final, IBR, UT, Diamond Fork Power System, Central Utah Project, Expansion, Utah and Wasatch Counties, Due: November 13, 1984, Contact: Larry Roberts, (202) 343–8278.
EIS No. 840461, Draft, COE, FL, Canaveral Harbor West Basin and Approach Channel Improvement, Brevard County, Due: November 26, 1984, Contact: Dr. Gerald Atmar, (904) 791–2615.

Amended Notices:

EIS No. 840423, Draft, BLM, NV, Caliente Resource Area, Wilderness Study Areas, Designation, Clark and Lincoln Counties, Due: January 2, 1985, Published FR 9–28–84—Review Extended.
EIS No. 840381, Draft, COE, IA, Mississippi River Lock and Dam 11 Hydropower Development, Dubuque County, Due: November 30, 1984, Published FR 8–31–84—Review Extended.

Dated: October 9, 1984.

Allan Hirsch,

Director, Office of Federal Activities.

[FR Doc. 84–27086 Filed 10–11–84; 8:45 am]

BILLING CODE 6560–50–M

Health Effects of Nitrogen Dioxide; Meeting

AGENCY: Environmental Protection Agency.

ACTION: Notice of public meeting.

SUMMARY: This notice announces a public meeting to review the proposed research plan for studying the health effects of nitrogen dioxide.

DATE: November 2, 1984, 9:00 a.m. to 4:00 p.m.

ADDRESS: Hospitality House, 2000 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: Karen Morehouse, Office of Health Research (RD–683), U.S. Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460 (202–382–5893).

SUPPLEMENTARY INFORMATION: Copies of the proposed plan may be obtained in advance by writing the above address.

Bernard G. Goldstein,

Assistant Administrator for Research and Development.

[FR Doc. 84–27182 Filed 10–11–84; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Advisory Committee for the 1985 ITU World Administrative Radio Conference on the Use of the Geostationary Satellite Orbit and the Planning of the Space Services Utilizing It (Space WARC Advisory Committee); Main Committee Meeting

October 5, 1984.

The next meeting of the Space WARC Advisory Committee is scheduled for *November 1, 1984.* The principle objective of the meeting will be to review the status of U.S. preparations for the Space WARC, including a review of the work activities to date and a discussion of any reports available from the working groups. Details regarding the time, place and agenda of the meeting are provided below:

Chairman: S.E. Doyle (916) 355–6941
Vice Chairman: R.F. Stowe (703) 442–5022
Time: 9:30 A.M.–1:00 P.M.
Location: Federal Communications Commission, 1919 M Street, NW., Room 856, Washington, D.C. 20554
Agenda:
(1) Adoption of Agenda
(2) Review of Minutes
(3) Development in Consultations
(4) Work Activity Reports
(5) Other Business
(6) Adjournment

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84–28837 Filed 10–11–84; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL HOME LOAN BANK BOARD

Home Federal Savings and Loan Association of Puerto Rico, Ponce, PR; Appointment of Receiver

Notice is hereby given that pursuant to the authority contained in section 5(a)(6)(A) of the Home Owners' Loan Act of 1933, as amended, 12 U.S.C. 1464(d)(6)(A) (1982), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole receiver for Home Federal Savings and Loan Association of Puerto Rico, Ponce, Puerto Rico on October 4, 1984.

Dated: October 9, 1984.

J.J. Finn,

Secretary.

[FR Doc. 84–27091 Filed 10–11–84; 8:45 am]

BILLING CODE 6720–01–M

FEDERAL MARITIME COMMISSION

[Docket No. 84–34]

Shipping Conditions in the United States/Argentina Trade; Filing of Petition

Notice is hereby given that Ivaran Lines (Ivaran) has filed a petition with the Federal Maritime Commission alleging that conditions unfavorable to shipping exist in the United States/Argentina trade and requesting relief pursuant to section 19 of the Merchant Marine Act, 1920. Specifically, Ivaran alleges that decrees of the Government of Argentina (1) preclude or tend to preclude Ivaran from competing on the same basis as other carriers in the trade; (2) reserve substantial cargoes to national flag and other lines, preventing equal access to those cargoes; (3) are discriminatory and unfair to Ivaran and United States importers, exporters and ports. Ivaran requests issuance of a rule either suspending operations under various pools in the trade or suspending tariffs of Argentine-flag carriers in the trade.

In order for the Commission to make a thorough evaluation of Petitioner's allegations, interested persons are requested to submit views, arguments or data on the petition no later than November 9, 1984. Responses shall be directed to the Secretary, Federal

Maritime Commission, Washington, D.C. 20573, in an *original and 15 copies.* Responses shall also be served on counsel for Petitioner: Elmer C. Maddy, Esq., Kirlin, Campbell & Keating, 120 Broadway, New York, New York 10271.

On October 2, 1984, the Commission, on its own motion, initiated a proceeding pursuant to section 19(1)(b) of the Merchant Marine Act, 1920, to investigate whether conditions unfavorable to shipping exist in the U.S. trades with Argentina and Brazil. [1] That proceeding will obviously deal with at least some of the issues raised by Ivaran's petition. The Commision therefore invites the attention and comments of interested parties on the appropriate procedural relationship of the Ivaran petition to Docket No. 84–33.

Copies of the petition are available for examination at the Washington, D.C., office of the Commission, 1100 L Street, NW., Room 11101.

Francis C. Hurney,

Secretary.

[FR Doc. 84–26985 Filed 10–11–84; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Bank of Virginia Company, et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and section 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than November 1, 1984.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President), 701 East Byrd Street, Richmond, Virginia 23261:

1. *Bank of Virginia Company*, Richmond, Virginia; to acquire 19 percent of the voting shares of Citizens Trust Company, Portsmouth, Virginia, thereby indirectly acquiring Citizens Trust Bank, Portsmouth, Virginia.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President), 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Commercial Ban Corp*, Carroll, Iowa; to become a bank holding company by acquiring 80 percent of the voting shares of Commercial Savings Bank, Carroll, Iowa.

2. *Forrest Bancshares, Inc.*, Forrest, Illinois; to become a bank holding company by acquiring 80 percent of the voting shares of The Heights Bank, Peoria Heights, Illinois.

3. *Rossville Bancorp, Inc.*, Rossville, Illinois; to become a bank holding company by acquiring 89 percent of the voting shares of The First National Bank of Rossville, Rossville, Illinois.

C. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President), 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Rockford Bancorporation, Inc.*, Rockford, Minnesota; to become a bank holding company by acquiring 89.33 percent of the voting shares of Rockford State Bank, Rockford, Minnesota.

D. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President), 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Carroll County Bancshares, Inc.*, Carrollton, Missouri; to become a bank holding company by acquiring 100 percent of the voting shares of The Carroll County Trust Co., Carrollton, Missouri.

2. *The Farmers Bancapital Corp.*, Carnegie, Oklahoma; to become a bank holding company by acquiring 80 percent of the voting shares of The Farmers Bank, Carnegie, Oklahoma.

3. *One Stop Financial, Inc.*, Fairfield, Nebraska; to become a bank holding company by acquiring 100 percent of the voting shares of Fairfield State Bank, Fairfield, Nebraska.

E. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President), 400 South Akard Street, Dallas, Texas 75222:

1. *Crockett Bancshares, Inc.*, Crockett, Texas; to become a bank holding company by acquiring 100 percent of the voting shares or The Crockett State Bank, Crockett, Texas.

2. *East-Tex Bancorp, Inc.*, Trinity, Texas; to acquire 30 percent of the voting shares of assets of First National Bank of Highlands, Highlands, Texas, a *de novo* bank.

3. *Executive Bancshares, Inc.*, Houston, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of First City National Bank of Paris, Paris, Texas.

4. *Marshall Bancshares, Inc.*, Hempstead, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Guaranty Bond State Bank of Waller, Waller, Texas.

5. *National Bancshares Corporation of Texas*, San Antonio, Texas; to acquire 100 percent of the voting shares of Uvalde Bancshares, Inc., Uvalde, Texas, thereby indirectly acquiring The Uvalde Bank, Uvalde, Texas.

6. *Northwest Bancshares, Inc.*, Roanoke, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Northwest Bank, Roanoke, Texas.

Board of Governors of the Federal Reserve System, October 5, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84–27036 Filed 10–11–84; 8:45 am]

BILLING CODE 6210–01–M

Fleet Financial Group, Inc.; Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de Novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that

[1] Docket No. 84–33, Section 19 Inquiry—United States/Argentine and United States/Brazil Trades.

outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 1, 1984.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President), 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Fleet Financial Group, Inc.*, Providence, Rhode Island; to engage *de novo* through its subsidiary, Fleet Real Estate, Inc., Providence, Rhode Island, in real and personal property leasing.

Board of Governors of the Federal Reserve System, October 9, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-27027 Filed 10-11-84; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Amendment of Memorandum of Understanding; Honoring of Outstanding Airline Issued Traffic Documents on a Default Airline Carrier

This general notice publicizes a second amendment of the Memorandum of Understanding (MOU) that was initially agreed to by the Air Traffic Conference of America and the General Services Administration, on behalf of all Federal agencies, as published in the Federal Register on February 22, 1983, and March 8, 1984 (48 FR 7503 and 49 FR 8678, respectively).

The original MOU (48 FR 7503), related to honoring airline traffic documents of a default airline carrier, and the amendment (49 FR 8678), which added language that actuates the Offer of Accommodation, is further amended to add members of the Regional Airline Association as participants to the MOU.

The following are the changes to the MOU.

1. The title, preamble, and Section I, Definitions, paragraph A, are revised as follows:

Memorandum of Understanding Regarding Accommodation Offered by Air Traffic Conference of America *and the Regional Airline Association* for and on Behalf of all Members of the Air Traffic Conference of America *and all Members of the Regional Airline Association* to all Federal Government Agencies Relating to the Honoring of Outstanding Airline Issued Traffic Documents of a Default Airline Carrier

"Whereas, the Air Traffic Conference of America, for and on behalf of all members of the Air Traffic Conference of America, *and the Regional Airline Association, for and on behalf of all Members of the Regional Airline Association* and the General Services Administration, on behalf of Federal Agencies, pursuant to 31 U.S.C. *3726*, desire to continue to accommodate the interests of each other, the parties hereto understand as follows:

I. Definitions

A. **Participating Carriers.** All Air Traffic Conference of America (ATC) Member Air Carriers *and all Regional Airline Association (RAA) Members.*

2. Paragraph III, Withdrawal of Accommodation Offer, and paragraph IV, Implementation of Offer of Alternative Air Transportation, are revised as follows:

III. Withdrawal of Accommodation Offer

This Offer of Accommodation may be withdrawn by Director, Military and Government Transportation Services, Air Traffic Conference of America, on behalf of ATC Member Air Carriers, *or the President of the Regional Airline Association, on behalf of Regional Airline Association Members* upon publication by notice in the Federal Register by GSA at the request of ATC, or upon thirty (30) days written notice to the other party, whichever occurs first. The withdrawal of such offer shall not affect the rights or obligations of either party which shall have arisen hereunder prior to the effective date of such withdrawal.

IV. Implementation of Offer of Alternative Air Transportation

In the event any Carrier shall become a default Carrier, as defined herein, this Offer of Accommodation shall become operative.

3. Paragraph VI, Acceptance of Alternative Air Transportation, is revised as follows:

VI. Acceptance of Alternative Air Transportation

Upon implementation of this Offer of Accommodation, ATC Member Carriers *and RAA Member Carriers* shall honor for transportation on their scheduled services, the then outstanding airline tickets/coupons written by the default Carrier, on its own airline issued tickets/coupons for air transportation service on that default Carrier, and validated on or before the date of implementation; provided, however, that the obligation to honor such tickets/coupons shall be for a period of ninety (90) days from the date the ticket/coupon was validated, and such honoring shall be subject to special reservation conditions which may be established by the individual honoring Carrier. The method of honoring the outstanding airline ticket/coupon of the default Carrier for air transporation over that default Carrier, shall be by presentation of that airline ticket/coupon by the designated Government traveler to the honoring Carrier.

The effective date of this amendment to the Memorandum of Understanding is July 24, 1984.

For the: General Services Administration.

Thomas P. Wolf,

Director, Office of Transportation Audits, General Services Administration.

For the: Air Traffic Conference of America and the Regional Airline Assocation.

Aden D. Riggin,

Director, Military and Government, Transportation Services, Air Transport Association of America.

As of July 24, 1984, the extent of participation in the above MOU by Air Traffic Conference of America carriers was:

Air 1, Air California, Air Florida, Alaska Airlines, Inc., Aloha Airlines, Inc., American Airlines, Inc., Best Airlines, Inc., Braniff, Inc., Capitol Air, Inc., Continental Airlines, Inc., Delta Air Lines, Inc., Eastern Air Lines, Inc., Evergreen International Airlines Inc., Federal Express Corporation, Frontier Airlines, Inc., Hawaiian Airlines, Inc., Jet America Airlines, Inc., Midway Airlines, Inc., Muse Air Corporation, Northwest Airlines, Inc., Ozark Air Lines, Inc., Pacific Southwest Airlines, Inc., Pan American World Airways, Inc., Piedmont Airlines, Inc., Republic Airlines, Inc., The Flying Tiger Line, Inc., Trans World Airlines, Inc., US Air, Inc., Western Airlines, Inc., Wien Air Alaska, Inc., Non-participating, United Airlines, Inc.

As of July 24, 1984, the extent of participation in the above MOU by Regional Airline Association carriers was:

Air Midwest, Air North, Air Resorts, Air U.S., Air Vectors Airways, Air Virginia, Airways of New Mexico, Air Wisconsin, Altantic Air, Atlantic Southeast Airlines, Atlantis Airlines, Bar Harbor Airlines, Bemidji Airlines, Blackhawk Airlines, Britt Airways, Capitol Airlines, Catskill Airlines, Chaparral Airlines, Chetauqua Airlines, Clinton Aero, Colgan Airlines, Comair, Command Airways, Connectair, Crown Airways, Direct Air, Emerald Airlines, Empire Airlines, Executive Express Airlines, Fischer Brothers Aviation, FlightLine, Inc., Golden Pacific Airlines, Golden South Airlines, Green Hills Aviation, Gull Air, Henson Aviation, Holiday Airlines, Horizon Airlines, Imperial Airlines, Interstate Airlines, Liberty Airlines, Mall Airways, Mesa Air Shuttle, Mesaba Airlines, Metro Airlines, Metro Express, Midstate Airlines, Mississippi Valley Airlines, Montauk Caribbean Airlines, National Air, National

Florida Airlines, New England Airlines, NewAir, New York Helicopter, Oceanair Lines, Pacific Coast Airlines, Panorama Air, Pennsylvania Airlines, Pilgrim Airlines, Pocono Airlines, Precision Valley Airlines, Provincetown-Boston Airlines, Prinair, Ransome Airlines, Rio Airways, Rocky Mountain Airways, Ross Aviation, Royal Hawaiian Airlines, Royale Airlines, Scenic Airlines, Scheduled Skyways, Sierra Pacific Airlines, SFO Helicopter, S.M.B. Stage Lines, Simmons Airlines, Skywest Airlines, Southern Express Airlines, Southern Jersey Airlines, Suburban Airlines, Summit Airlines, Sunaire Lines, Sun Aire, Sunbird Airlines, Tennessee Airways, Trans Air, Trans Colorado Airlines, Trans Midwest Airlines, Trans Mo, Tri-State Airlines, Universal Airlines, Vee Neal Airlines, Walkers International, Westair Airlines, Wheeler Airlines, Wings Airways, Wings West Airlines, Wright Airlines.

Dated: September 28, 1984.

Raymond A. Fontaine,

Comptroller.

[FR Doc. 84-27034 Filed 10-11-84; 8:45 am]

BILLING CODE 6820-AB-M

Office of the Administrator Advisory Board; Meeting

Notice is hereby given that the GSA Advisory Board will meet on October 16, 1984 from 9:00 a.m. to 4:00 p.m. in Room 6120, 18th & F Streets, NW., Washington, D.C. The meeting shall be open to the public and shall be devoted to discussions related to the agency's management goals and objectives for Fiscal Year 1985; reports from the Board's subcommittees on Facilities and Buildings Management, Finance and Organization and General Management; and agency initiatives to improve service to its customer agencies.

In addition, the GSA Advisory Board's subcommittee on Facilities and Buildings Management shall meet on October 15, 1984 in Room 6324, 18th & F Streets, NW., Washington, D.C. from 9:00 a.m. to 3:30 p.m. This meeting shall be open to the public and will be devoted to discussions related to the management initiatives of the Public Buildings Service including efforts to institute work space management reforms, introduce high technology into the design and construction of Federal office buildings and increase utilization of the private sector in the management of Federal properties.

Less than fifteen (15) days notice of these meetings is being provided due to scheduling difficulties.

Questions regarding this notice should be directed to Mr. James Dean on (202) 566-0382.

Dated: October 9, 1984.

Thomas J. Simon,

Director, Office of Program Initiatives.

[FR Doc. 84-27055 Filed 10-11-84; 8:45 am]

BILLING CODE 6820-26-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on October 5.

Public Health Service

Office of the Assistant Secretary for Health

Subject: National Health and Nutrition Examination Survey (NHANES) I Epidemiologic Follow-up Study: Continued Follow-up 1985-86—New
Respondents: Individuals, Businesses or other for profit, Federal Agencies or employees, Non-profit institutions, small businesses or organizations
OMB Desk Officer: Fay S. Iudicello

Health Care Financing Administration

Subject: Evaluation of the Medicare and Medicaid Alcoholism Services Demonstration HCFA-429 (0938-0286)—Revision
Respondents: Providers
OMB Desk Officer: Fay S. Iudicello

Subject: Dialysis Patient Questionnaire (HCFA-2744-B)—New collection
Respondents: Dialysis Patients

Subject: Physicians' Practice Costs and Income Survey (HCFA-414) (0938-0284)—Revision
Respondents: Physicians

Subject: Negative Case Action Review Schedule and Summary Tables—HCFA-6401 (0938-0300)—Reinstatement
Respondents: States
OMB Desk Officer: Fay S. Iudicello

Social Security Administration

Subject: Statistical Report on Recipients Under Public Assistance Programs (0960-0157)—Extension no change
Respondents: State Agencies Administering Public Assistance Programs
OMB Desk Officer: Robert J. Fishman

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer of 202-245-6511.

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Report Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503. ATTN: (name of OMB Desk Officer).

Dated: October 15, 1984.

Wallace O. Keene,

Acting Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 84-28628 Filed 10-11-84; 8:45 am]

BILLING CODE 4150-04-M

[BDM-010-GN]

Medicare Program; Monthly Actuarial Rates and Monthly Premium Rate

Correction

In FR Doc. 84-26010 beginning on page 38510 in the issue of Friday, September 28, 1984, make the following corrections:

1. On page 38511, column one **Notice of Monthly Acturial Rates**, lines two and three, "(42 U.S.C. 1395 (a) (1) and (4))" should read "(42 U.S.C. 1395r (a) (1) and (4))".

2. On the same page, Table 2, column three "Residues [3]" should read "Residual [3]".

3. On page 38512, Table 2, column three, "Residues [3]" should read "Residual [3].

4. On the same page, Table 3, third column "July 1, 1983, through Dec. 31, 1983", last entry, "27.00" should read "27.00 [1]"; also in the last column, "January 1, 1985, through Dec. 31, 1985", entry fourteen "−.27" should read "−1.27".

BILLING CODE 1505-01-M

Alcohol, Drug Abuse, and Mental Health Administration

Correction

This notice is to correct a document that was published in the **Federal Register** on September 25, 1984, Docket #84-25377, beginning with page 37666, which should read as follows: The Research Scientist Development Review Committee meeting will begin at 7:00 p.m., on October 24, instead of 10:00 p.m.

Dated: September 27, 1984.

Sue Simons,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 84-26886 Filed 10-11-84; 8:45 am]

BILLING CODE 4160-20-M

National Institutes of Health

Advisory Committee to the Director; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Advisory Committee to the Director, NIH, on November 19, 1984, at the National Institutes of Health, Bethesda, Maryland 20205. The meeting will take place from 9:00 a.m. to approximately 5:00 p.m. in Building 31, Conference Room 6, C Wing. The meeting will be open to the public.

The meeting will be devoted to a discussion of the NIH extramural awards system.

The Acting Executive Secretary, Kurt Habel, National Institutes of Health, Building 1, Room 137, Bethesda, Maryland, 301-496-3152, will furnish the meeting agenda, rosters of Committee members and consultants, and substantive program information.

Dated: October 4, 1984.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 84-26889 Filed 10-11-84; 8:45 am]

BILLING CODE 4140-01-M

National Heart, Lung, and Blood Institute; Clinical Applications and Prevention Advisory Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Clinical Applications and Prevention Advisory Committee, Division of Epidemiology and Clinical Applications, National Heart, Lung, and Blood Institute, National Institutes of Health, November 27-28, 1984. The meeting will be held in Conference Room B119, Federal Building, 7550 Wisconsin Avenue, Bethesda, Maryland 20205.

This meeting will be open to the public on November 27 from 9:00 a.m. to recess and from 8:30 a.m. to adjournment on November 28 to discuss new initiatives, program policies and issues. Attendance by the public is limited to space available.

Ms. Terry Bellicha, Chief, Public Inquiry Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496-4236, will provide a summary of the meeting and a roster of committee members upon request. Dr. William Friedewald, Executive Secretary of the Committee, Federal Building, Room 212, Bethesda, Maryland 20205, phone (301) 496-2533, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Diseases Research, National Institutes of Health)

Dated: October 4, 1984.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 84-26881 Filed 10-11-84; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Presidential Commission on Indian Reservation Economies; Postponement of Work Session

AGENCY: Presidential Commision on Indian Reservation Economies, Interior.

SUMMARY: The work session of the Presidential Commission on Indian Reservation Economies scheduled for October 17-19, 1984, at the Tsa-La-Gi Lodge in Tahlequah, Oklahoma (49 FR 39111, FR Doc. 84-26197, October 3, 1984) has been postponed as a result of scheduling problems. An announcement will be made at a later date to reschedule the work session.

FOR FURTHER INFORMATION CONTACT: Eric Rudert, Deputy Director, Presidential Commission on Indian Reservation Economies, at 1717 H Street, Northwest, Washington, D.C. 20006. Telephone: 202-653-2436.

Eric Rudert,

Deputy Director.

[FR Doc. 84-26856 Filed 10-11-84; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Indian Affairs

Irrigation Operation and Maintenance Charges; Water Charges on the Wapato Irrigation Project, WA

This notice of proposed operation and maintenance rate is published under the authority delegated to the Assistant Secretary—Indian Affairs by the Secretary of the Interior in 230 DM 1 and redelagated by the Assistant Secretary—Indian Affairs to the Area Director in 10 BIAM 3.

This notice is given in accordance with § 171.1(e) of Part 171, Subchapter H, Chapter I, of Title 25 of the Code of Federal Regulations, which provides for the Area Director to fix and announce the rates for annual operation and maintenance assessments and related information on the Wapato Irrigation Project for Calendar Year 1985 and subsequent years. This notice is proposed pursuant to the authority contained in the Acts of August 1, 1914 (38 Stat. 583), and March 7, 1938 (45 Stat. 210) and September 26, 1961 (75 Stat. 680).

The propose of this notice is to announce an increase in the assessment rates commensurate with actual maintenance costs incurred in the reconstruction of the 60 inch wood stave discharge line from the Toppenish Creek Pump Plant.

The relocation of Pumphouse Road in Section 27, T. 10N., R.18E., provides for replacing about 800' of the 60-inch discharge line at the Toppenish Creek Pump Plant. For several years, the replacement of this 50-year-old wood stave pipeline has been considered. Because of the work being done on the lower portion of this line, it is now proposed to replace the complete 3200 ft. wood pipe with the 72-inch salvage pipe acquired a few years ago. The cost of doing this work will be about $200,000 to the Wapato Irrigation Project. This work and other major pipelines that need replacing will amount to about $275,000 or $2.00 per acre.

By this notice, it is proposed to enact an additional O&M assessment of $0.20 per acre per year, not to exceed ten years. This assessment will be in addition to the normal operation and maintenance assessments and increases necessary for routine operation of the Project.

Stanley M. Speaks,

Area Director.

[FR Doc. 84-26869 Filed 10-11-84; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

Kingman Resource Area Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Phoenix, District.

ACTION: Notice is hereby given in accordance with Pub. L. 92-463 of a meeting of the Kingman Resource Area (Phoenix District) Grazing Advisory Board.

DATE: Tuesday, November 20, 1984 at 9:00 a.m.

ADDRESS: 2475 Beverly Avenue, Kingman, AZ 86401 BLM Conference Room.

SUMMARY: The agenda for the meeting will include:

1. Review of the Allotment Management Plan and Grazing Program.
2. Status of Range Improvements FY 84.
3. Status of Range Improvements FY 85.
4. Update of the Bureau's Land Sales and Exchange Program.
5. Status of Wilderness Study Process.
6. Burro Capture Operations—Use of Helicopters and Motor Vehicles.
7. Arrangements for Future Meetings.

The meeting is open to the public. Anyone wishing to make oral or written statements to the Board is requested to do so through the office of the District Manager, 2015 West Deer Valley Road, Phoenix, Arizona 85027 at least seven days prior to the meeting date.

Summary minutes of the Board meeting will be maintained in the District Office and be made available for public inspection and reproduction (during regular business hour) within 30 days following the meeting.

Dated: October 3, 1984.

Marlyn V. Jones,

District Manager.

[FR Doc. 84-26895 Filed 10-11-84; 8:45 am]

BILLING CODE 4310-32-M

Phoenix/Lower Gila Resource Areas Grazing Advisory Board; Meetings

AGENCY: Bureau of Land Management, Phoenix District.

ACTION: Notice is hereby given in accordance with Pub. L. 92-463 of a meeting of the Phoenix/Lower Gila Resource Areas (Phoenix District) Grazing Advisory Board.

DATE: Thursday, November 15, 1984 at 9:00 a.m.

ADDRESS: 2015 West Deer Valley Road, Phoenix, AZ 85027, BLM Conference Room.

SUMMARY: The agenda for the meeting will include:

(1) Review of the Allotment Management Plan and Grazing Program.
(2) Status of Range Improvements, FY 84.
(3) Status of Range Improvements, FY 85.
(4) Update of the Bureau's Land Sales and Exchange Program.
(5) Status of Wilderness Study Process.
(6) Status of Phoenix Grazing Environmental Impact Statement.
(7) Arrangements for Future Meetings.

The meeting is open to the public. Anyone wishing to make oral or written statements to the Board is requested to do so through the office of the District Manager, 2015 West Deer Valley Road, Phoenix, Arizona 85027 at least seven days prior to the meeting date.

Summary minutes of the Board meeting will be maintained in the District Office and be made available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Dated: October 3, 1984.

Marlyn V. Jones,

District Manager.

[FR Doc. 84-26894 Filed 10-11-84; 8:45 am]

BILLING CODE 4310-32-M

[5-00257-GP5-001]

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collections requirements and related forms and explanatory material may be obtained by contacting the Bureau of Land Management's Clearance Officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau Clearance Officer and the Office of Management and Budget Reviewing Official at 202-395-7340.

Title: 43 U.S.C. Chaps. 1-38 "Master Name System".

Abstract: Respondents are asked on a voluntary basis to disclose their Social Security Number, Employer Identification Number, or if they elect not to disclose their SSN or EIN, then the BLM will assign them a Bureau Assigned Number (BAN). This identification number will be used by individuals doing business with the BLM and will be used by all BLM automated systems that require name and address information. The use of one ID in place of a client's name and address can significantly reduce computer storage requirements while increasing computer processing efficiency. To accomplish this the BLM is faced with a difficult choice. The BLM could as the business community does, assign a different ID for each system it automates; for example, most of us have a bank account, a savings account, gasoline credit cards, charge cards at department stores and so on. Each has a different ID because they are issued by different entities. The BLM on the other hand is one entity; therefore, the use of one ID for all of the BLM's automated systems makes sense. The use of one ID number in all automated systems is less expensive than using a different ID for each system it automates, thus decreasing the burden on the public (having to remember many different IDs). Therefore, the BLM has elected to establish a Master Name System which stores the applicant's name and address once. The ID selected by a client will then be used in all BLM automated systems requiring name and address information, and allow processing to be done in a more accurate, effective and efficient manner.

Bureau Form Number: N/A.

Frequency: Once.

Description of Respondents: Individuals, corporations, or governmental agencies making an application to use or purchase Federal resources managed by the Bureau of Land Management.

Annual Responses: 75,000.

Annual Burden Hours: 2,497.5.

Bureau Clearance Officer (alternate) Jesse Felix 202-653-8853.

Dated: October 3, 1984.

James M. Parker,

Acting Director.

[FR Doc. 84-27007 Filed 10-11-84; 8:45 am]

BILLING CODE 4310-75-M

Colorado; Craig District Advisory Council Meeting

In accordance with Pub. L. 94-579, notice is hereby given that there will be a meeting of the Craig District Advisory Council on November 14, 1984.

The meeting will begin at 10 a.m. at the White River Resource Area Office, 73544 Highway 64, Meeker, Colorado.

Agenda items will include:

1. Committee reviews on (a) Oil Shale Tract C-a Offsite Disposal; (b) Raven Ridge; and (c) Little Snake Resource Management Plan.
2. Western Area Power Authority (WAPA) line.
3. BLM's involvement in Federal Minerals/Private Surface.

The meeting will be open to the public and interested persons may make oral statements to the Council beginning at 10:30 a.m. The District Manager may establish a time limit for oral statements, depending on the number of people wishing to speak. Anyone wishing to address the Council or file a written statement should notify the District Manager, Bureau of Land Management, 455 Emerson, Craig, Colorado 81625, by November 7, 1984.

Summary minutes of the Council Meeting will be maintained in the Craig District Office and will be available for public inspection and reproduction during regular business hours.

Dated: October 4, 1984.

Terry L. Plummer,

Associate District Manager.

[FR Doc. 84-26980 Filed 10-11-84; 8:45 am]

BILLING CODE 4310-JB-M

Susanville District; Alturas Resource Area Management Plan; Availability

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability for final decision on Alturas Resource Management Plan.

SUMMARY: The Susanville District, Alturas Resource Area has completed the Record of Decision for the Alturas Resource Management Plan covering 407,306 acres of BLM administered lands in portions of Lassen and Modoc counties in Northeastern California.

DATES: The Final Resource Management Plan and EIS was filed with the EPA on October 28, 1983, and notice was published in the **Federal Register** on November 3, 1983. The Bureau published a Notice of Availability of the Final Plan and EIS in the November 4, 1983, **Federal Register.** Five protests were filed and responded to by the Director. The California State Director signed the Record of Decision August 28, 1984.

SUPPLEMENTARY INFORMATION: The issue and concerns addressed in the RMP are recreation/OHV; cultural resources; fish and wildlife; wetland riparian; threatened and endangered species; timber; fuelwood; soil and water; minerals/energy; socioeconomics; lands; energy; wilderness; and range management.

The decision concerns multiple-use management of 407,306 acres of public lands in 11 management areas.

(1) Range Management—Authorization of 49,152 livestock AUMs with additional authorization of 32,111 suspended nonuse AUMs and additional forage. 280 AUMs are allocated to support a portion of 150 wild horses and burros. Forage conditions will be improved through prescribed burning on 54,640 acres. Develop 21 Allotment Management Plans.

(2) Fish and Wildlife—Maintain antelope winter range and kidding grounds. Exclude livestock from 20 miles of riparian habitat and 70 meadow habitats. Improve browse conditions by juniper thinning on deer winter range.

(3) Fuel-wood—Harvest of juniper and mahogany will be permitted except for restrictions within National Register sites and districts, T&E plant populations, 350 acres in Sheep Valley, and 6,640 acres of the Pit River Canyon Wilderness Study Area.

(4) Timber—Intensive management will be applied to 5,027 acres of timber lands with practices modified to provide protection to soils and streams, National Register sites and districts, raptor nest locations, and T&E plant populations.

(5) Cultural—High quality cultural resource sites will be protected by designating 25 National Register sites and 10 National Register districts. Develop five Cultural Resource Management Plans.

(6) Threatened and Endangered Plants—Sensitive plant species will be protected by fencing or buffer zones, and designation as a Research Natural Area.

(7) Watershed—Maintenance and improvement of critical watershed values through restrictions on other resource activities. Improvement of Sheep Valley riparian and meadow habitats by managing 350 acres under Best Management Practices.

(8) Wilderness—Recommend wilderness designation on 6,640 acres of public lands within the Pit River Canyon.

(9) Minerals—Exploration and development of mineral resources will be allowed throughout the Planning Area. Restrictions will be placed on flat rock sales within cultural resource National Register sites and districts. Cinder use will be allowed to continue at established pits (Babcock, Roundbarn and Day). All mineral activity will be prohibited within the recommended 6,640 acre wilderness area.

(10) Lands—12,440 acres of primarily small isolated and uneconomical parcels of public land will be considered for sale and/or exchange. Eight thousand acres of public land in the Madeline Plains area will be exchanged with Lyneta Ranches.

ADDRESSES: Copies of the Public Summary are available from the Alturas Resource Area Office, P.O. Box 771, 120 S. Main, Alturas, California 96101, telephone (916) 233-4666, and the Susanville District Office, P.O. Box 1090, 705 Hall St., Susanville, California 96130, telephone (916) 257-5381.

FOR FURTHER INFORMATION CONTACT: Richard Drehobl, Alturas Area Manager. (916) 233-4666.

Dated: September 12, 1984.

Richard J. Drehobl,

Alturas Area Manager.

[Pr Doc. 84-26987 Filed 10-11-84; 8:45 am]

BILLING CODE 4310-84-M

California Desert District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Meeting of the California Desert District Advisory Council.

SUMMARY: Notice is hereby given in accordance with Pub. L. 92-463 and 94-579 that the California Desert District Advisory Council to the Bureau of Land Management, U.S. Department of the Interior, will meet formally on November 15, 16 and 17, 1984, in the Sierra West Room of the Antelope Valley Inn Convention Center, 44055 N. Sierra Highway in Lancaster, California.

The meeting will begin at 1 p.m., Thursday, November 15, and adjourn for the day at 5 p.m. The Council will reconvene at 8 a.m., Friday, November 16, and adjourn at 12 noon. A half-day field trip is planned for Friday afternoon. The formal session will reconvene at 8 p.m., Saturday, November 17 and the meeting will close at noon.

Agenda items will include a panel discussion of long-range plans for communication sites on public lands in the California Desert Conservation Area; finalization of the California Desert Monitoring Report; military uses of public lands; land tenure adjustments; and, District Manager's Annual Report for FY 1984 and FY 1985 outlook.

All formal Council meetings are open to the public and time will be allocated for public comment. Written comments on any item may be filed in advance of the meeting with the Council Chairman, Frank W. DeVore, c/o Bureau of Land Management Public Affairs Office, 1695 Spruce Street, Riverside, CA 92507.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, California Desert District Public Affairs Office, 1695 Spruce Street, Riverside, CA 92507, (714) 351-6383/6391.

Dated: October 3, 1984.

Gerald E. Hillier,

District Manager, California Desert District.

[FR Doc. 84-26997 Filed 10-11-84; 8:45 am]

BILLING CODE 4310-40-M

California Desert District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Meeting of the California Desert District Grazing Advisory Board.

SUMMARY: Notice is hereby given in accordance with Pub. L. 94–579, Title IV, Section 403, that a public meeting of the California Desert Grazing Advisory Board will be held Wednesday, November 14, 1984, from 10 a.m. to 4:30 p.m., at the Barstow Fire Hall, 861 Barstow Road, Barstow, California 92311.

The agenda will include a status report on project programs for Fiscal Year 1984 and a discussion of the status of ongoing allotment management plans.

The meeting is open to the public, with time allotted for public comment after each subject has been presented.

Summary minutes of the meeting will be maintained in the California Desert District office, 1695 Spruce Street, Riverside, California, and will be available for public review and inspection during regular business hours within 30 days following the meeting.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, California Desert District, 1695 Spruce Street, Riverside, California 92507, (714) 351–6402.

Dated: October 3, 1984.

Gerald E. Hillier,

District Manager: California Desert District.

[FR Doc. 84–28088 Filed 10–11–84; 8:45 am]

BILLING CODE 4310–40–M

Susanville District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Mangement, Interior.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given, in accordance with Pub. L. 94–579 (FLPMA), that a meeting of the Susanville District Grazing Advisory Board will be held on November 16, 1984.

The meeting will begin at 10:00 a.m. at the Susanville District Office of the Bureau of Land Management, 705 Hall Street, Susanville, California. The agenda will include a discussion of FY 84 project accomplishments, planned work for FY 85, wild horse management, grazing fee study, wildfire impacts, prescribed burn program, and other items as appropriate.

The meeting is open to the public. Interested persons may make oral statements to the E oard between 3:30 p.m. and 4:30 p.m. on November 16, 1984, or file a written statement for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, P.O. Box 1090, Susanville, California 96130, by November 7, 1984. Depending upon the number of persons wishing to make oral statements, a per person list limit may be established.

Summary minutes of the board meeting will be maintained in the District Office, and will be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

C. Rex Cleary,

District Manager.

[FR Doc. 84–28089 Filed 10–11–84; 8:45 am]

BILLING CODE 4310–40–M

Utah; Public Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given, in accordance with Pub. L. 92–463 that a meeting of the Vernal District Grazing Advisory Board will be held on November 15, 1984.

The meeting will begin at 9:00 a.m. at the Bureau of Land Management Office (at the above noted address).

The agenda for the meeting will include: (1) Review of Minutes, (2) Report of FY 84 Range Improvement Work, (3) Rating of Proposed FY 85 and 86 Range Improvement Work, (4) Utah Division of Wildlife Range Wildlife Related Programs, (5) Report on Book Cliffs Big Game Study, (6) BLM–SCS Range Management Plans, (7) Maintenance Coop Agreements, (8) Predator and Pest Control, (9) Progress Report Book Cliffs RMP–EIS, (10) Book Cliffs Range Program Summary, (11) District Allotment Management Plan Program, (12) Cooperative Management Agreements.

The meeting is open to the public. Interested persons may make oral or written statements for the Board's consideration. Anyone wishing to make a statement should notify the District Manager, Bureau of Land Management, 170 South 500 East, Vernal, Utah 84078, phone (801) 789–1362 by November 14, 1984.

Dated: October 5, 1984.

Lloyd H. Ferguson,

District Manager.

[FR Doc. 84–28091 Filed 10–11–84; 8:45 am]

BILLING CODE 4310–DQ–M

Oregon; Designation of Upper and Lower Table Rocks and King Mountain Rock Garden as Areas of Critical Environmental Concern

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of designation of two special areas as areas of critical environmental concern (ACECs): Upper and Lower Table Rocks and King Mountain Rock Garden.

SUMMARY: Pursuant to the authority in the Federal Land Policy and Management Act of October 21, 1976 (section 202(c)(3)) and 43 CFR Part 1610 I have designated Upper and Lower Table Rocks and King Mountain Rock Garden as ACECs. Woodcock Bog will not be designated, but will continue to be managed as a research natural area. The Foots Creek area will not be designated an ACEC, but the plant monitoring program for the Lady Slipper Orchid will be continued. These designations were developed with public involvement in the plan amendment and environmental assessment for areas of critical environmental concern to the Josephine and Jackson-Klamath Management Framework Plans (MDPs) for the Bureau of Land Management (BLM), Medford District. These documents are available for inspection at the district office. The decisions provided for appropriate levels of management restriction or exclusions. The areas have unique management requirements, however both will be managed to maintain generally undisturbed conditions.

SUPPLEMENTARY INFORMATION:

Upper and Lower Table Rocks

1,240 acres of BLM administered land in T. 35 S., R. 2 W., Secs. 34 and 35, T. 36 S., R. 2 W., Secs. 1 and 9, W.M., Jackson County, Oregon.

This area is designated to preserve the Rocks as examples of major ecosystem types and outstanding biological phenomena (vernal pools and patterned ground vegetation); to provide research and educational opportunities for scientists and others in the observation, study, and monitoring of the natural area; and to help preserve a full range of genetic diversity for all proposed threatened or endangered fauna and flora. The following are specific management requirements which will protect and prevent damage to plants, geologic formations and scenic values.

1. Prior to withdrawal, mining operations (except casual use) will be regulated pursuant to surface management regulations (43 CFR Part

3809), requiring an approved plan prior to commencement of operations. Issuance of leases and permits for leasable and saleable minerals will be discretionary upon environmental review.

2. Withdrawal from locatable mineral entry will be pursued. Any existing mining claims will be examined for validity. Valid mining claims will be regulated similar to management requirement No. 1.

3. The acquisition of 960 acres of private land, including the mineral estate, in Section 2 and the E½ of section 3 on Upper Table Rock, will be pursued. This action will protect and enhance recreational and visual values on government lands in Section 1, T. 36 S., R. 2 W., and Sections 34 and 35, T. 35 S., R. 2 W., Willamette Meridian.

4. Additional trail maintenance will reduce erosion. Surfacing will be placed on the existing trails to protect resource values.

5. Interpretive signing will be provided to increase awareness and aid in resource value protection.

6. The use of tractors and other heavy equipment will be limited in the suppression of wild fires. An agreement will be pursued with the Oregon State Forestry Department for extra fire protection which emphasizes retardant drops and hand fireline construction.

7. Livestock grazing will be permitted as a management tool to improve native plant presence. Grazing management may be revised if evaluation determines that specific objectives for enhancement of native vegetation are not being achieved.

8. The BLM-administered land on the Upper Table Rock is hereby designated as an outstanding natural area. The primary objective of designating and managing the proposed outstanding natural area will be to provide outdoor recreational use of the area while preserving the resource in its natural condition.

9. The existing airstrip on the Lower Table Rock will be used as long as the use does not materially interfere with government plans and the integrity of the ACEC. No improvements beyond those necessary to meet the minimum safety standards of such an airstrip will be required. The minimum improvement to the airstrip will consist of a warning sign identifying the airstrip and its use, a wind-sock, and annual mowing of vegetation on the airstrip. No steps will be taken to change the present drainage patterns.

10. Timber harvesting, firewood cutting, cone picking, and other vegetation removal will not be permitted.

11. Camping and campfires will not be permitted.

12. A parking area will be evaluated for the Upper Table Rock trailhead on BLM-administered land. The need to eliminate the existing hazard of the public crossing a busy county road will be analyzed in relation to resource degradation expected from increased visitor use.

13. Visitor use will be monitored and, if necessary, controlled to prevent resource degradation. Additional trail construction will be dependent upon the ability to protect important and relevant resource values.

King Mountain Rock Garden

90 acres of BLM administered land in T. 33 S., R. 5 W., Sec. 13, W.M., Josephine and Douglas Counties, Oregon.

This area is designated to provide protection to the area's special high elevation, serpentine habitat.

The following are specific management requirements:

1. Road signs will be posted to deter off-road vehicle and ground-disturbing activities with potential for resource degradation.

2. Prior to withdrawal, mining operations (except casual use) will be regulated pursuant to surface management regulations (43 CFR Part 3809), requiring an approved plan of operations. Issuance of leases and permits for leasable and saleable minerals will be discretionary upon environmental review.

3. Withdrawal from locatable mineral entry will be pursued. Existing mining claims will be examined for validity. Valid mining claims will be regulated pursuant to management requirement No. 3.

4. Construction of access roads and quarrying will be prohibited within the area.

5. Mitigation measures will be developed to protect the area's sensitive plant species.

6. Trails will be designated when/and if the level of visitor use activities has potential for significant damage to ACEC resource values.

7. Off-road vehicle use that may adversely impact ACEC resource values will be restricted.

8. Timber management will be restricted to salvaging on 11 acres classified for high intensity management.

Woodcock Bog and Foots Creek (South Portion)

Woodcock Bog will not be designated as an ACEC as the flora values are adequately protected under a research natural area designation. The area will continue to be used for research and education activities with such uses being limited to those of a non-destructive nature, i.e., those that do not impair or alter the bog's environment.

The Foots Creek (South Portion) drainage will not be designated an ACEC. The on-going *Cypripedium montanum* monitoring plan will be continued. This ten-year plan will monitor a control unit, shelterwood unit, and clearcut/spray unit to determine some ecological factors on the plant's life history. Although the formal monitoring program for the Great Gray Owl will not be continued, protection will be provided through normal procedures of inventory, identification, and undisturbed buffer protection. The Great Gray Owl and the Lady Slipper Orchid are adequately protected along with other resource values provided for under existing management terms and conditions.

Reading Copies

Public reading copies of the designations will be available for review at the following locations:

Klamath County Library, Klamath Falls, Oregon
Josephine County Library, Grants Pass, Oregon
Coos County Library, Coquille, Oregon
Curry County Library, Gold Beach, Oregon
Douglas County Library, Roseburg, Oregon
Jackson County Library, Medford, Oregon
Rogue Community College Library, Grants Pass, Oregon
Library, Southern Oregon State College, Ashland, Oregon
Library, Oregon Institute of Technology, Klamath Falls, Oregon
Bureau of Land Management, Office of Public Affairs, 825 N.E. Multnomah Street, Portland, Oregon
Bureau of Land Management, Medford District Office, 3040 Biddle Road, Medford, Oregon
Library, University of Oregon, Eugene, Oregon
Library, Protland State University, 727 S.W. Harrison, Portland, Oregon
Library, Oregon State University, Corvallis, Oregon.

A limited number of copies are available upon request to the BLM Medford District Office.

Protest Procedures

1. Any person who participated in the planning process and has an interest which is, or may be, adversely affected by the above amendment may protest such amendment. A protest may raise

only those issues which submitted for the record during the planning process.

(a) The protest shall be in writing and shall be filed with the Director. The protest shall be filed within 30 days of the date of this notice.

(b) The protest shall contain:

(1) The name, mailing address, telephone number, and interest of the person filing the protest;

(2) A statement of the issue or issues being protested;

(3) A statement of the part or parts of the amendment being protested;

(4) A copy of all documents addressing the issue or issues that were submitted during the planning process by the protesting party or an indication of the date the issue or issues were discussed for the record; and

(5) A concise statement explaining why the State Director's decision is believed to be wrong.

2. The decision of the Director shall be the final decision of the Department of the Interior.

The protest shall be filed within 30 days of this notice. Send protest to: Director, Bureau of Land Management, 1800 C Street NW, Washington, D.C. 20240.

Questions

Questions on specific management plan, research opportunities or development/protection plan should be addressed to: District Manager, Attn: Mike Walker, Team Leader, Bureau of Land Management, 3040 Biddle Road, Medford, Oregon 97504, Telephone: (503) 776–4804.

Dated: October 3, 1984.

Hugh Shera,

District Manager.

[FR Doc. 84–26092 Filed 10–11–84; 8:45 am]

BILLING CODE 4310–33–M

Campground Use Fee Increase, Camping and Occupancy Restriction Order Established; Bishop Resource Area, Bakersfield District, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Increase of campground user fee for Crowley Lake Campground, and the establishment of camping and occupancy stay limits and use restrictions for developed campgrounds and undeveloped public lands in the Bishop Resource Area, Bakersfield District, California.

SUMMARY: Campground use fees at Crowley Lake Campground are increased to $4.00 per night per site. In addition, use of the waste holding station at the Crowley Lake Campground is established at $2.00 per individual use.

In regard to use and occupancy limits in designated Bureau campgrounds and on undeveloped public lands in the Bishop Resource Area, persons may camp in any one Bureau campground or on undeveloped public lands not closed to camping for a period not to exceed 14 days during the calendar year. A maximum camping limit of 28 days per calendar year is established for all Bureau campgrounds in the Bishop Resource Area. The fourteen day limit for any one campground or occupancy of undeveloped public lands, as well as the 28 day maximum occupancy period for all Bureau campgrounds may be reached through a number of separate visits or through a period of continuous occupation as long as (1) occupancy does not exceed a total of 14 days in any one campground or on undeveloped public lands per calendar year; and (2) occupancy does not exceed a maximum of 28 days in two or more Bureau campgrounds per calendar year. Camping or occupancy greater than the aforementioned limits is not allowed, unless authorized by law. Under special circumstances, the authorized officer may give written permission for extension of occupancy and use limits. Camping is defined as living in tents, vans, recreational vehicles, or shelters such as lean-tos, cabins, tepees, huts, shacks, etc. Occupancy is defined as the taking or holding possession of a camp or residence on public land.

At the determination of the Authorized Officer, any camping, occupancy, or use of designated campgrounds or undeveloped public lands in the Bishop Resource Area not related to recreation activities or that is determined to be inappropriate for the purpose which the area is designated, is prohibited.

SUPPLEMENTARY INFORMATION: The Crowley Lake Campground user fee increase is established under authority contained in CFR Title 36, Chapter 1, Part 71, § 71.9 in order to charge comparable recreation fees charged by other Federal agencies, non-Federal public agencies, and the private sector located within the immediate service area.

The camping and occupancy stay limit restriction order is established to allow orderly use and administration of public lands and to discourage unauthorized occupancy. Authority for this restriction order is contained in CFR Title 43, Chapter II, Part 8364, Subpart 8364.1. Any person who fails to comply with a restriction order may be subejct to a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months. Penalties are contained in CFR Title 43, Chapter II, Part 8360, § 8360.0–7.

FOR FURTHER INFORMATION CONTACT: James S. Morrison, Bishop Area Manager, Bishop Area Office, 873 N. Main St., Ste. 201 Bishop, Ca 93514. Telephone (619) 872–4881.

Dated: October 1, 1984.

James S. Morrison,

Area Manager.

[FR Doc. 84–27012 Filed 10–11–84; 8:45 am]

BILLING CODE 4310–40–M

Arizona; Filing of Plats of Survey

The plats of survey of the following described lands were officially filed in the Arizona State Office, Phoenix, Arizona, on the dates indicated:

A plat, in two sheets, representing a dependent resurvey of a portion of the west boundary and portions of the subdivisional lines and a survey of the subdivisions of Sections 19 and 20, and metes-and-bounds survey of Lot 5, Section 19, and Lot 9, Section 20, and the retracement of HES No. 499 in Section 20 of T. 5 N., R. 31 E., Gila and Salt River Meridian, Arizona, was accepted September 17, 1984 and was officially filed September 18, 1984.

This survey was executed at the request of Region Three, U.S. Forest Service.

A plat representing a dependent resurvey of the north and south boundaries and a portion of the east boundary of Section 34 and a survey of subdivisions and a metes-and-bounds survey of Section 34, T. 8. N., R. 31 E., Gila and Salt River Meridian, Arizona, was accepted July 30, 1984, and was officially filed July 30, 1984.

This survey was executed at the request of Region Three, U.S. Forest Service.

A plat representing a dependent resurvey of a portion of the subdivisional lines and a portion of the subdivision lines in Section 15 and a survey of subdivisions in Sections 15 and 16, and the metes-and-bounds survey of Tract 37 and Tract 38, T. 10 N., R. 22 E., Gila and Salt River Meridian, Arizona, was accepted July 13, 1984, and was officially filed July 13, 1984.

This survey was executed at the request of the City of Show Low, Arizona, and Region Three, U.S. Forest Service.

A plat representing a dependent resurvey of a portion of the subdivisional lines and a survey of Tract

37 in Section 20, T. 14 N., R. 20 W., Gila and Salt River Meridian, Arizona, was accepted July 30, 1984, and was officially filed July 30, 1984.

This survey was executed at the request of Region Two, U.S. Fish and Wildlife Service.

A plat representing a dependent resurvey of a portion of the line between Sections 27 and 28, and ties to the San Carlos Indian Reservation Boundaries in T. 5 S., R. 18 E., Gila and Salt River Meridian, Arizona, was accepted September 11, 1984, and was officially filed September 14, 1984.

This survey was executed at the request of the Arizona State Land Department and the Branch of Records and Data Management.

A supplemental plat showing a subdivision of original Lot 3, Section 9, T. 10 N., R. 10 E., Gila and Salt River Meridian, Arizona, was accepted August 13, 1984 and and was officially filed August 13, 1984.

This plat was prepared at the request of Region Three, U.S. Forest Service.

A supplemental plat showing amended lottings in Section 33, T. 41 N., R. 15 W., Gila and Salt River Meridian, Arizona, was accepted August 13, 1984 and was officially filed August 16, 1984.

This plat was prepared at the request of the Arizona Strip District, Bureau of Land Management.

A supplemental plat showing amended lottings in Sections 24, 25 and 36, T. 18 S., R. 15 E., Gila and Salt River Meridian, Arizona, was accepted July 13, 1984 and was officially filed July 13, 1984.

This plat was prepared at the request of Region Three, U.S. Forest Service.

A supplemental plat showing amended lottings in Sections 19, 30 and 31, T. 18 S., R. 16 E., Gila and Salt River Meridian, Arizona, was accepted July 13, 1984 and was officially filed July 13, 1984.

This plat was prepared at the request of Region Three, U.S. Forest Service.

These plats will immediately become the basic records for describing the land for all authorized purposes. These plats have been placed in the open files and are available to the public for information only.

All inquiries relating to these lands should be sent to the Arizona State Office, Bureau of Land Management, P.O. Box 16563, Phoenix, Arizona 85011.

James P. Kelley,

Chief, Branch of Cadastral Survey.

[FR Doc. 84-27011 Filed 10-11-84; 8:45 am]

BILLING CODE 4310-33-M

Minerals Management Service

State Requests for Delegation of Royalty Management Authority; Public Hearings

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of Public Hearings on State Requests for Delegation of Royalty Management Authority.

SUMMARY: The Minerals Management Service (MMS) of the Department of the Interior hereby gives notice of the schedule and agenda for public hearings on seven state petitions for delegation of authority for royalty management activities. These petitions were submitted pursuant to section 205 of the Federal Oil and Gas Royalty Management Act of 1982. Written comments from interested persons also will be accepted.

Petitions for delegations of audit authority have been received from the states of Alaska, Colorado, Montana, North Dakota, Oklahoma, Utah, and Wyoming.

DATES: Hearings: Each hearing will be held at 9 a.m., as follows:

Hearing date	Subject of hearing
1. Oct. 29, 1984	Petition of the State of Wyoming.
2. Oct. 30, 1984	Petition of the State of Colorado.
3. Oct. 30, 1984	Petition of the State of Utah.
4. Oct. 31, 1984	Petition of the State of North Dakota.
5. Oct. 31, 1984	Petition of the State of Oklahoma.
6. Nov. 1, 1984	Petition of the State of Montana.
7. Nov. 2, 1984	Petition of the State of Alaska.

Comments: Written comments will be accepted by MMS on each State's request for a delegation until November 13, 1984.

ADDRESSES: The hearings will be held at the following locations:

Hearing date	Location of hearing
1. Oct. 29, 1984	Joseph C. O'Mahoney Federal Center, 2120 Capital Avenue, Room 2018, Cheyenne, WY 82201.
2. Oct. 30, 1984	New Customs House, 721 19th Street, Room 158, Denver, CO 80202.
3. Oct. 30, 1984	Federal Building, 125 S. State Street, Room 2404, Salt Lake City, UT 84138.
4. Oct. 31, 1984	Federal Building, Post Office/Court House, 220 E. Rosser Avenue, Room 337, Bismarck, ND 58501.
5. Oct. 31, 1984	Federal Court House, 200 NW. 4th Street, Room 5409, Oklahoma City, OK 73102.
6. Nov. 1, 1984	Colonial Inn, 2301 Colonial Drive, Lewis Room, Helena, MT 59601.
7. Nov. 2, 1984	Federal Building, 701 C. Street, Conference Room C-109, Anchorage, AK 99513.

Written comments should be sent to the following address: Mr. Milton K. Dial, Chief, Royalty Compliance Division, P.O. Box 25165, DFC, MS 655, Denver, CO 80225.

FOR FURTHER INFORMATION CONTACT: Mr. Milton K. Dial, Chief, Royalty Compliance Division, P.O. Box 25165, DFC, MS 655, Denver, CO 80225, (303) 231-3011 (FTS) 326-3011.

SUPPLEMENTARY INFORMATION: Section 205 of the Federal Oil and Gas Royalty Management Act of 1982 (FOGRMA), 30 U.S.C. 1735, authorizes the Secretary of the Interior to delegate to States certain audit, inspection and investigation authority for oil and gas production on Federal and Indian leases. The MMS issued general regulations implementing its FOGRMA responsibilities on September 21, 1984, (49 FR 37336), which included general provisions regarding delegations of authority (30 CFR Part 229). Section 205 (c) and (d) of FOGRMA require the Secretary to issue regulations defining specifically the scope of authority which may be delegated, and the standards for such delegation. Pursuant to that requirement, MMS is issuing interim final rules establishing additional criteria for delegation of its responsibilities to States which petition for such a delegation. Those interim rules are being issued concurrently with this notice and appear in the rules section of this issue of the **Federal Register.**

Section 205(c) of FOGRMA requires notice and opportunity for a hearing before the Secretary delegates authority. Accordingly, the purpose of these hearings is to provide a public forum to discuss each State's written request for delegation of audit activities for oil and gas royalties with respect to all Federal lands and, when appropriate, Indian lands within each State. Each State's written request for delegation will be available for public inspection at its hearing. Topics for discussion at each hearing include:

1. State resources to be devoted to the delegated audit activity.

2. The ability of the State to effectively and faithfully administer the rules and regulations of the Secretary of the Interior under the FOGRMA.

3. Whether delegation of authority will create an unreasonable burden on any lessee, with respect to the Federal and Indian lands within the State.

The presiding officer will establish the procedures for conduct of the hearings when the hearing commences.

Any interested person may submit written comments on a State's request for delegation. Written comments will be accepted by MMS until November 13, 1984.

Dated: October 5, 1984.

Orie L. Kelm,

Acting Associate Director for Royalty Management.

[FR Doc. 84-28004 Filed 10-11-84; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; Exxon Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Exxon Company, U.S.A. has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 1090, Block 91, West Delta Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Grand Isle, Louisiana.

DATE: The subject DOCD was deemed submitted on October 3, 1984.

ADDRESS: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Mr. Michael J. Tolbert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838-0875.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: October 3, 1984.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 84-28002 Filed 10-11-84; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; Phillips Oil Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Phillips Oil Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 3115, Block 155, High Island Area, offshore Texas. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from onshore bases located at Galveston, Texas and Cameron, Louisiana.

DATE: The subject DOCD was deemed submitted on October 4, 1984.

ADDRESS: A copy of the subject DOCD is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838-0875.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: October 4, 1984.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 84-28003 Filed 10-11-84; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; the Superior Oil Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that The Superior Oil Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS 0253, Block 149, West Cameron Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Cameron, Louisiana.

DATE: The subject DOCD was deemed submitted on October 4, 1984. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the DOCD from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, *Attention OCS Plans*, Post Office Box 44396, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838-0875.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the

Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: October 4, 1984.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 84-26884 Filed 10-11-84; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Availability and Public Meeting Planning Workbook, an Invitation to Participate in Planning for a New General Management Plan/ Development Concept Plan; Amistad Recreation Area, Val Verde County, TX

Pursuant to the National Environmental Policy Act of 1969, and title 40 of the Code of Federal Regulations, the National Park Service has prepared a Planning Workbook. An Invitation to Participate in Planning for a new General Management Plan/ Development Concept Plan, Amistad Recreation Area, Val Verde County, Texas.

The new General Management Plan/ Development Concept Plan will replace the existing Master Plan of 1968, last revised in 1973, and will guide management of the area and deal with access, resources management, visitor activities, interpretation, and facilities.

Copies of the Planning Workbook are available from Amistad Recreation Area, Post Office Box 420367, Del Rio, Texas 78842-0367; and the Southwest Regional Office, Post Office Box 728, Sante Fe, New Mexico 87501, and will be sent upon request.

A Public Meeting is scheduled for October 30, 1984, at 7:00 p.m., at the Civic Center, 1915 Avenue F (Highway 90), Del Rio, Texas.

Anyone wishing to provide input to this planning effort are invited to ask questions or submit suggestions at the Public Meeting, or, provide written comments to the Superintendent, Amistad Recreation Area, at the address provided above, by November 23, 1984.

Dated: October 1, 1984

Robert I. Kerr,

Regional Director, Southwest Region.

[FR Doc. 84-27044 Filed 10-11-84; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL TRADE COMMISSION

[332-196]

Probable Economic Effect of Providing Duty-Free Treatment for Selected Imports from Canada

AGENCY: United States International Trade Commission.

ACTION: Institution of an investigation under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) concerning the probable economic effect of providing duty-free treatment for selected imports from Canada on U.S. industries producing like or directly competitive articles and on consumers, at the direction of the President, and the scheduling of a hearing in connection therewith.

EFFECTIVE DATE: October 4, 1984.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert Roeder (202-724-1170)—Agricultural and forest products

Mr. Eric Land (202-523-0491)—Energy and chemicals

Mr. Bob Ruhlman (202-523-0309)—Minerals and metals

Mr. Harold Graves (202-523-0360)—Machinery and equipment

Mr. Rhett Leverett (202-724-1725)—Miscellaneous manufactures.

All of the above staff are in the Commission's Office of Industries. For information on legal aspects of the investigation contact Mr. William Gearhart of the Commission's Office of the General Counsel at 202-523-0487.

Background and Scope of Investigation

The Commission instituted the investigation, No. 332-196, following receipt on September 10, 1984, of a request therefor by the President transmitted through the U.S. Trade Representative (USTR). The United States and Canada have agreed to examine the possibility of establishing free trade on a sectoral basis between the two nations; there has been no decision by the United States to enter into negotiations on any sector. The advice requested of the Commission is to be used to assist the President in making an informed judgment as to the impact of establishing free trade in selected sectors.

The sectors to be examined by the Commission include the following: Steel and steel products; alcoholic beverages; petrochemicals; wood and wood products; furniture; paper and paper products; perfumery, cosmetics, and other toilet preparations; pesticides; articles to be used for agricultural or horticultural purposes; and informatics. A list of the specific items of the Tariff Schedules of the United States is available by request from the Secretary to the Commission (telephone 202-523-5178). The Commission will, as requested by the USTR, advise the President with respect to each item as to the probable economic effect of providing duty-free treatment for imports from Canada on industries in the United States producing like or directly competitive articles and on consumers.

As requested by the USTR, the Commission will conduct this investigation as if the request had been made pursuant to section 131 of the Trade Act of 1974 (19 U.S.C. 2151). The Commission's scheduled completion date for the report is March 11, 1985.

Public Hearing

A public hearing in connection with the investigation will be held in the Commission Hearing Room, 701 E Street, NW., Washington, D.C. 20436, beginning at 10:00 a.m., on January 15, 1984, to be continued on January 16, if required. All persons shall have the right to appear by counsel or in person, to present information, and to be heard. Requests to appear at the public hearing should be filed with the Secretary, United States International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, not later than noon, January 8, 1985.

Written Submissions

In lieu of our in addition to appearances at the public hearing, interested persons are invited to submit written statements concerning the investigation. Written statements should be received by the close of business on January 8, 1985. Commercial or financial information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All written submissions, except for confidential

business information, will be made available for inspection by interested persons. All submissions should be addressed to the Secretary at the Commission's office in Washington, D.C.

Issued: October 5, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-25880 Filed 10-11-84; 8:45 am]

BILLING CODE 7035-02-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Intent To Engage In Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: Celanese Corporation, 1211 Avenue of the Americas, New York, New York 10036.

2. Wholly-owned subsidiaries which will participate in the operations, and states of incorporation:

(i) Celanese Chemical Company, Inc., Box 47320, 1250 W. Mockingbird Lane, Dallas, Texas 75247—Texas

(ii) Pama Manufacturing, Inc., Box 1677, 2015 North Chester Street, Gastonia, North Carolina 28052—Delaware

(iii) Narmco Materials, Inc., 1440 N. Kraemer Boulevard, Anaheim, California 92806—California

(iv) Virginia Chemicals, Inc., 3340 W. Norfolk Road, Portsmouth, Virginia 23703—Delaware

(v) Quantum, Incorporated, Box 748, Barnes Industrial Park, Wallingford, Connecticut 06492—Delaware

The following are divisions of Celanese Corporation:

(i) Celanese Fibers Operations, P.O. Box 32414, Carclay Downs Drive, Charlotte, North Caroline 28232

(ii) Celanese Specialties Operations, 26 Main Street, Chatham, New Jersey 07928

(iii) Celanese International Company, 1211 Avenue of the Americas, New York, New York 10036.

1. Parent Corporation and address of principal office: Dawn Food Products, Inc., 2021 MicorDrive, Jackson, MI 49203.

2. Wholly-owned subsidiaries which will participate in the operations, and state(s) of incorporation:

(i) Dawn/Besco, Inc.—Kentucky

(ii) Bessire Bakery Supply, Inc.—Michigan

1. Parent Corporation: Excell Home Fashions Inc., P.O. Box 1879, Goldsboro, NC 27530.

2. Wholly owned subsidiaries which will participate in the operations, and States of incorporation:

(i) Flair Creations, Division of Excell Home Fashions Inc.—North Carolina

(ii) Linde Transportation Co., Division of Excell Home Fashions Inc.—North Carolina

(iii) Linde Products Manufacturing Co., Division of Excell Home Fashions Inc.—North Carolina

(iv) Excell Linde of Carolina Inc., Subsidiary of Excell Home Fashions Inc.—North Carolina

(v) Excell of Bentonville Inc., Subsidiary of Excell Home Fashions Inc.—Arkansas

(vi) Excell-Linde of California Inc., Subsidiary of Excell Home Fashions Inc.—California

(vii) Jerlee, Inc., Subsidiary of Excell Home Fashions Inc.—New Jersey

1. Parent corporation and address of principal office—General Mills, Inc., P.O. Box 1113, Minneapolis, MN 55440.

2. Divisions of parent corporation and addresses of their principal offices

a. Izod Ltd., 498 Seventh Avenue, New York, NY 10019

b. The Gorton Group, 327 Main Street, P.O. Box 361, Gloucester, MA 01930

c. O-Cel-O Division, 305 Sawyer Avenue, Tonawanda, NY 14150

d. Pennsylvania House, 137 North Tenth Street, Lewisburg, PA 17837

e. Ship'n Shore Division, Bridgewater-At-Aston, Aston, PA 19014

f. Trans World Seafood, 600 Third Avenue, 14th Floor, New York, NY 10016

g. We Are Sportsware, 3175 Airway, Costa Mesa, Ca 92626

3. Wholly-owned subsidiaries, addresses of their respective principal offices and state(s) of incorporation:

a. Casa Gallardo, Inc., 1009 Executive Parkway Drive, St. Louis, MO 63141—Missouri

b. CPG Products Corp., P.O. Box 1113, Minneapolis, MN 55440—Delaware

c. Eddie Bauer, Inc., 15010 Northeast 36th St., Redmond, WA 98052—Delaware

d. Empire Textile Corp., P.O. Box 1113, Minneapolis, MN 55440—Delaware

e. Fashion Flair, Inc., 498 Seventh Avenue, New York, NY 10018—Pennsylvania

f. Foot Joy, Inc., 144 Field Street, Brockton, MA 02403—Massachusetts

g. General Mills Export Company, 156 William Street, New York, NY 10038—Delaware

h. General Mills Products Corp., P.O. Box 1113, Minneapolis, MN 55440—Delaware

i. General Mills Restaurant Group, Inc., P.O. Box 1431, Orlando, FL 32802—Florida

j. LeeWards Creative Crafts, Inc., 1200 St. Charles Road, Elgin, IL 60120—Delaware

k. J. Lynch & Company, Inc., 1700 East Iron, Salina, KS 67401—Kansas

l. Pioneer Products, Inc., 808 Southwest 12th St., PO Box 279, Ocala, FL 32670—Delaware

m. The Talbots, Inc., 175 Beal Street, Hingham, MA 02043—Massachusetts

n. Wallpapers To Go, Inc., PO Box 5016, Hayward, CA 94540—California

o. York Steak House Systems, Inc., PO Box 27975, Columbus, OH 43227—Ohio

4. Divisions of wholly-owned subsidiaries and addressess of their principal offices—

a. Danco Division of General Mills Products Corp., 1914 So. Elm Street, High Point, NC 27262

b. Darryl's, a Division of General Mills Restaurant Group, Inc., PO Box 1431, Orlando, FL 32802

c. Fundimensions Division of CPG Products Corp., 26750—23 Mile Road, Mt. Clemens, MI 48043

d. General Mills Toy Group Operations Division of CPG Products Corp., 151 Bodman Place, Red Bank NJ 07701

e. Kenner Products Division of CPG Products Corp., 1014 Vine Street, Cincinnati, OH 45202

f. Monet Division of General Mills Products Corp., PO Box 376, Murray Hill Station, New York, NY 10016

g. Parker Brothers Division of CPG Products Corp., PO Box 1000, Beverly, MA 01915

h. Red Lobster Inns of America, a Division of General Mills Restaurant Group, Inc., PO Box 13330, Orlando, FL 32809

i. Sigmacon, a Division of General Mills Restaurant Group, Inc., 8100 Presidents Drive, Orlando, FL 32809

j. Yoplait USA Division of General Mills Products Corp., PO Box 9329, Minneapolis, MN 55440

k. Blue Water Seafoods Division of General Mills Canada, Inc., 1640 Brandon Crescent, Lachine, Montreal, Quebec, Canada H8T 2N1

l. Eddie Bauer Division of General Mills Canada, Inc., 1020 Lawrence Avenue West, Toronto, Ontario, Canada MCA 1C3

m. Impressions Division of General Mills Canada, Inc., 7883 Keele Street, Concord, Ontario, Canada L4K 1B7

n. Lancia-Bravo Foods Division of General Mills Canada, Inc., 58A Hook Avenue, Toronto, Ontario, Canada M6P 1T5
o. Parker Brothers Division of General Mills Canada, Inc., PO Box 600, 7883 Keele Street, Concord, Ontario, Canada L4k 1B7

5. Wholly-owned subsidiaries of General Mills' wholly-owned subsidiaries, addresses of their respective principal offices and States of their incorporation:

a. General Mills Canada, Inc., 1330 Martin Grove Road, Rexdale, Ontario, Canada, M9W 4X4 (owned by Toronto Macaroni & Imported Foods, Ltd).—Ontario, Canada
b. GMD Distributing, Inc., CNA Tower, Suite 1446, 225 So. Orange Ave., Orlando, FL 32801 (owned by General Mills Restaurant Group)—Florida
c. Toronto Macaroni & Imported Foods, Ltd., 58A Hook Avenue Toronto 9, Ontario, Canada (owned by General Mills Products Corp).—Ontario, Canada

1. Parent corporation and address of principal office: Heck's, Inc., HUB Industrial Park, McJunkin Road, P.O. Box 158, Nitro, WV 25143.

2. Wholly-owned subsidiaries which will participate in the operations and States of Incorporation:

(i) F.W.C. Trucking, Inc., an Ohio corporation
(ii) T & R Brokers, Inc., an Ohio corporation

1. Parent Corporation and address of principal office: Winfield Manufacturing Co., Inc., Suite 6608, 350 Fifth Avenue, New York NY 10118.

2. Wholly owned subsidiary which will participate in the operations and States of Incorporation: (i) CLP Monarch, Inc.—Mississippi

James H. Bayne,

Secretary.

[FR Doc. 84-27041 Filed 10-11-84; 8:45 am]
BILLING CODE 7035-01-M

[Ex Parte No. 388; Sub-Nos. 12 and 32]

Intrastate Rail Rate Authority, Louisiana and Utah

AGENCY: Interstate Commerce Commission.

ACTION: Notice of decision.

SUMMARY: The Commission has extended the provisional certification of the Louisiana Public Service Commission and the Public Service Commission of Utah under 49 U.S.C. 11501(b) to regulate intrastate rail rates, classifications, rules, and practices. This extension will permit them to modify their standards and procedures as required by the full decision.

DATES: The provisional certification of Louisiana and of Utah will expire on December 10, 1984, unless prior to that date these States file standards and procedures complying with the requirements stated in the full decision. If Louisiana and Utah file such standards, interested parties may file comments by January 9, 1985, and Louisiana and Utah must reply by January 29, 1985.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTAL INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

Dated: October 2, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett, Gradison, Simmons, Lamboley, and Strenio. Commissioner Simmons dissented in part with a separate expression.

James H. Bayne,

Secretary.

[FR Doc. 84-27042 Filed 10-11-84; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-12; Sub-No. 78]

Southern Pacific Transportation Co.; Abandonment; in Colusa County, CA; Findings

The Commission has issued a certificate authorizing Southern Pacific Transportation Company to abandon its 24.125-mile rail line between milepost 109.375 near Harrington and milepost 133.500 near Colusa in Colusa County, CA. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB-OFA". Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR Part 1152.

James H. Bayne,

Secretary.

[FR Doc. 84-27043 Filed 10-11-84; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-26 (Sub-No. 27)]

Southern Railway Co.; Abandonment in Perry and Hale Counties, AL; Notice of Findings

The Commission has found that the public convenience and necessity permit Southern Railway Company to abandon its 39-mile rail line between Marion (milepost 27.8P) and Akron (milepost 66.8P) in Perry and Hale Counties, AL. A certificate will be issued authorizing this abandonment unless within 15 days after this publication the Commission also finds that: (1) A financially responsible person has offered assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than October 22, 1984. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB-OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

Decided: October 9, 1984.

By the Commission, Division 1, Commissioners Gradison, Andre, and Simmons.

James H. Bayne,

Secretary.

[FR Doc. 84-27118 Filed 10-11-84; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Attorney General

Voting Rights Act Certification; Bamberg County, SC

In accordance with section 6 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973d, I hereby certify that in my judgment the appointment of examiners is necessary to enforce the guarantees of the Fifteenth Amendment to the Constitution of the United States in Bamberg County, South Carolina. This county is included within the scope

of the determination of the Attorney General and the Director of the Census made on August 6, 1965, under section 4(b) of the Voting Rights Act of 1965 and published in the Federal Register on August 7, 1965 (30 FR 9897).

Dated: October 10, 1984.

William French Smith,

Attorney General of the United States.

[FR Doc. 84-27196 Filed 10-11-84; 8:57 am]

BILLING CODE 4410-01-M

Voting Rights Act Certification; Colleton County, SC

In accordance with section 6 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973d, I hereby certify that in my judgment the appointment of examiners is necessary to enforce the guarantees of the Fifteenth Amendment to the Constitution of the United States in Colleton County, South Carolina. This county is included within the scope of the determination of the Attorney General and the Director of the Census made on August 6, 1965, under section 4(b) of the Voting Rights Act of 1965 and published in the Federal Register on August 7, 1965 (30 FR 9897).

Dated: October 10, 1984.

William French Smith,

Attorney General of the United States.

[FR Doc. 84-27195 Filed 10-11-84; 8:57 am]

BILLING CODE 4410-01-M

Voting Rights Act Certification; Hampton County, SC

In accordance with section 6 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973d, I hereby certify that in my judgment the appointment of examiners is necessary to enforce the guarantees of the Fifteenth Amendment to the Constitution of the United States in Hampton County, South Carolina. This county is included within the scope of the determination of the Attorney General and the Director of the Census made on August 6, 1965, under section 4(b) of the Voting Rights Act of 1965 and published in the Federal Register on August 7, 1965 (30 FR 9897).

Dated: October 10, 1984.

William French Smith,

Attorney General of the United States.

[FR Doc. 84-27194 Filed 10-11-84; 8:57 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

Domestic Cannabis Eradication/ Suppression Program on Non-Federal Lands in the Continental United States and Hawaii; Intent To Prepare a Programmatic Environmental Impact Statement

The Department of Justice, Drug Enforcement Administration (DEA), will prepare a programmatic Environmental Impact Statement (EIS) on the possible environmental and health implications associated with domestic cannabis eradication on Non-Federal lands in the continental United States and Hawaii. This EIS will incorporate by reference relevant portions of a May 1984 Draft EIS on the Eradication of Cannabis on Federal Lands in the Continental United States.

The EIS will review a range of alternatives which will include manual and mechanical means, fire, alternative herbicides such as 2, 4–D Paraguat, Glyphosate, and alternative methods of application. Health effects associated with spraying will also be considered.

The eradication and suppression of domestically produced marijuana is an obligation placed upon the United States Federal Government by the Single Convention on Narcotic Drugs, 1961, the Controlled Substances Act of 1970, and the 1984 National Strategy for Prevention of Drug Abuse and Drug Trafficking. In addition to these mandates, a vigorous eradication campaign in the United States is necessary to demonstrate to foreign governments our commitment to controlling illicit cannabis cultivation.

Federal, State, and local agencies, law enforcement officials, and other individuals and organizations who may be interested in or affected by the decision will be invited to participate in the scoping process. This process will include:

1. Identification of those issues to be addressed.

2. Identification of those issues to be analyzed in-depth.

3. Elimination of insignificant issues or those that have been covered by a previous environmental review.

4. Determination of potential cooperating agencies and assignment of responsibilities.

5. Identification of a reasonable range of alternatives.

All Federal land management agencies and the Environmental Protection Agency as well as the Department of Health and Human Services and the Bureau of Indian Affairs will be invited to participate as cooperating agencies to evaluate the potential impacts of the proposed action.

Public scoping meetings will be held at the following times and locations:

November 13, 1984
(Time) 7:00 p.m.
(Place) Harley Hotel of Orlando
(Address) 151 East Washington Street, Orlando, Flordia 32801

November 15, 1984
(Time) 7:00 p.m.
(Place) Ramada Inn Northwest
(Address) 3740 North High School Road, Indianapolis, Indiana 46224

November 19, 1984
(Time) 2:00 p.m.
(Place) Health and Human Services—North Auditorium
(Address) 330 Independence Avenue, SW., Washington, D.C. 20001

November 27, 1984
(Time) 7:00 p.m.
(Place) The Bahia Hotel
(Address) 998 West Mission Bay Drive, San Diego, California 92109

November 29, 1984
(Time) 7:00 p.m.
(Place) Princess Kaiulani Hotel
(Address) 120 Kaiulani Avenue, Honolulu, Hawaii 96830

Francis M. Mullen, Jr., Administrator, Drug Enforcement Administration, Department of Justice, Washington, D.C., is the responsible official.

Question about the proposed action, and written comments and suggestions concerning the scope of the environmental impact statement should be address to Thomas G. Byrne, Chief, Cannabis Investigations Section, Operations Division, Drug Enforcement Administration, U.S. Department of Justice, Washington, D.C., 20537, (202) 633–1271 by December 14, 1984.

Copies of the Draft Environmental Impact Statement (DEIS) will be made available for agency and public comment upon publication. Requests for copies of the DEIS should be addressed to Mr. Byrne.

Dated: October 5, 1984.

Francis M. Mullen, Jr.,

Administrator.

[FR Doc. 84-26840 Filed 10-11-84; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Employment and Training Administration

Labor Surplus Area Classifications Under Executive Orders 12073 and 10582; Notice of Annual List of Labor Surplus Areas

Correction

In FR Doc. 84–25495 beginning on page 37865 in the issue of Wednesday, September 26, 1984, make the following corrections:

1. On page 37871, in the second column, under **New York**, insert "Cortland County" afrer "Clinton County" in both columns of the table.

2. On page 37874,in the first column, under **Virginia**, insert "Westmoreland County" after "Waynesboro City" in the left column of the table.

BILLING CODE 1505-01-M

DEPARTMENT OF LABOR

Office of Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 84–144; Exemption Application No. D–4340 et al.]

Grant of Individual Exemptions; Middlewest Freightways, Inc., et al.

AGENCY: Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of Individual Exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might sumit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Middlewest Freightways, Inc. Retirement Trust (the Plan) Located in Louisville, Kentucky

[Prohibited Transaction Exemption 84–144; Exemption Application No. D–4340]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the continuation, past June 30, 1984, of a lease of certain improved real property (the Real Property) by the Plan to Middlewest Freightways, Inc. (the Employer), provided the terms and conditions of the Lease are at least as favorable to the Plan as those obtainable in an arm's length transaction with an unrelated party.

For a more complette statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on May 4, 1984 at 49 FR 19158.

Effective Date: This exemption is effective July 16, 1984.

Written Comments: The Department received one written comment to the proposed exemption which was submitted on behalf of the Employer. The Department was informed by the applicant that the transaction was not entered into until July 16, 1984. The applicant represents that it will pay the excise taxes for the leasing of the Real Property for the period of July 1, 1984 to July 16, 1984 within 60 days of the date of grant of this exemption.

For Further Information Contact: Ms. Jan D. Broady of the Department, telephone (202) 523–8971. (This is not a toll-free number.)

Nasco, Inc. Amended and Restated Retirement Plan (the Retirement Plan) and Nasco, Inc. Amended and Restated Profit Sharing Plan (the Profit Sharing Plan) Located in Springfield, Tennessee

[Prohibited Transaction Exemption 84–145; Exemption Application Nos. D–4363 and D–4364]

Exemption

The restrictions of section 406(b)(2) of the Act shall not apply to the transfer of a group annuity contract from the Retirement Plan to the Profit Sharing Plan, the concurrent transfer of cash from the Profit Sharing Plan to the Retirement Plan and the assumption by the Profit Sharing Plan of benefits due certain participants, as described in the Notice of Proposed Exemption.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on August 13, 1984 at 49 FR 32272.

For Further Information Contact: Ronald Willett of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

Dr. Steven Misencik, Inc. Profit Sharing Plan and the Dr. Steven Misencik, Inc. Pension Plan (collectively, the Plans) Located in Strongville, Ohio

[Prohibited Transaction Exemption 84–146; Exemption Application Nos. D–4518 and D–4519]

Exemption

The restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of sections 4975(c)(1) (A) through (E) of the Code, shall not apply to a proposed loan (the Loan) by the Plans to Dr. Steven Misencik, Inc. of an amount not to exceed $80,000, provided the terms and conditions of the Loan are at least as favorable to the Plans as those obtainable in an arm's length transaction with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on August 7, 1984 at 49 FR 31507.

For Further Information Contact: Ms. Jan D. Broady of the Department, telephone (202) 523–8971. (This is not a toll-free number.)

Wilson Clinic Profit Sharing Plan and Wilson Clinic, P.A. Pension Plan (the Plans) Located in Wilson, North Carolina

[Prohibited Transaction Exemption 84–147; Exemption Application Nos. D–4809 and D–4818]

Exemption

The restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of sections 4975(c)(1) (A) through (E) of the Code, shall not apply to: (1) The proposed purchase (the Purchase) by the Plans of an unimproved parcel of real property (the Property) from Wilson Clinic, P.A. (the Employer), the sponsor of the Plans; (2) incident to the Purchase, the assumption by the Plans of the Employer's obligation under an existing mortgage on the Property; (3) the proposed lease (the Lease) of the Property by the Plans to the Employer; and (4) the possible repurchase of the Property by the Employer pursuant to the terms of the Lease, provided that the terms and conditions of the transactions are at least as favorable to the Plans as those obtainable from an unrelated third party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on August 13, 1984 at 49 FR 32275.

For Further Information Contact: David M. Cohen of the Department, telephone (202) 523–8671. (This is not a toll-free number.)

Family Health Program Money Purchase Pension Plan (the Plan) Located in Fountain Valley, California

[Prohibited Transaction Exemption 84–148; Exemption Application No. D–4925]

Exemption

The restrictions of sections 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of sections 4975(c)(1) (A) through (E) of the Code, shall not apply to the prior cash sale of a four acre parcel of real property (the Property) by the Plan to FHP, Inc., provided that the price paid for the Property was no less than its fair market value at the time the sale was consummated.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on August 13, 1984 at 49 FR 32276.

Effective Date: The effective date of this exemption is December 29, 1983.

For Further Information Contact: David M. Cohen of the Department, telephone (202) 523–8671. (This is not a toll-free number.)

Esly M. Barreras, M.D., Inc. Defined Benefit Pension Plan (the Plan) Located in Oakland, California

[Prohibited Transaction Exemption 84–149; Exemption Application No. D–4969]

Exemption

The restrictions of section 406(a), 406 (b)(1), and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply, for a period of five years, to the proposed loans by the Plan of up to 25% of its assets to Esly M. Barreras, M.D., Inc., provided that the terms of the transactions are not less favorable to the Plan than those obtainable in an arm's length transaction with an unrelated party at the time of consummation of each transaction.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on August 13, 1984 at 49 FR 32277.

Temporary Nature of Exemption

This exemption is temporary and will expire five years after the date of grant with respect to the making of any loan. Subsequent to the expiration of this exemption, the Plan may hold loans originated during this five year period until the loans are repaid. Should the applicant wish to continue entering into loan transactions beyond the five year period, the applicant may submit another application for exemption.

For Further Information Contact: Alan H. Levitas at the Department, telephone (202) 523–8971. (This is not a toll-free number.)

USGA, Inc. (USGA) Located in New York, New York

[Prohibited Transaction Exemption 84–150; Application No. D–4996]

I. Transactions

(A) The restrictions of sections 406(a) and 407(a) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to the following transactions involving mortgage pools (Mortgage Pools) in which employee benefit plans (Plans) will invest:

(1) The direct or indirect sale, exchange or transfer of certificates (Certificates) representing interests in Mortgage Pools in the initial issuance of Certificates between USGA or its affiliates and an investing Plan when USGA or any affiliate, the trustee (the Trustee) of a Mortgage Pool, or a mortgagor of such Mortgage Pool is a party in interest with respect to such plan, provided that the Plan pays no more than fair market value for such Certificates, and provided further that the rights and interests evidenced by such Certificates are not subordinated to the rights and interests evidenced by other Certificates of the same Mortgage Pool; and (2) The continued holding of Certificates acquired by a Plan pursuant to subsection (1), above.

(B) The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to transactions in connection with the servicing and operation of the Mortgage Pool provided that:

(1) Such transactions are carried out in accordance with the terms of a binding servicing agreement (Trust and Servicing Agreement); and

(2) Such Trust and Servicing Agreement is made available to investors before they purchase Certificates issued by the Mortgage Pool.

(C) The restrictions of sections 406(a) and 407 of the Act and the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to any transaction to which such restrictions or taxes would otherwise apply merely because a person is deemed to be a party in interest (including a fiduciary) with respect to a Plan by virtue of providing services to the Plan (or who has a relationship to such service provider described in section 3(14) (F), (G), (H) or (I) of the Act), solely because of the ownership of a Certificate evidencing an interest in a Mortgage Pool by such Plan.

II. General Conditions

The relief provided under Part I, above, is available only if the following conditions are met:

(A) The Trustee for each Mortgage Pool must not be an affiliate of USGA or its affiliates provided, however, that the Trustee shall not be considered to be an affiliate of USGA or its affiliates, solely because the Trustee has succeeded to

the rights and responsibilities of USGA or its affiliates pursuant to the terms of the Trust and Servicing Agreement providing for such succession upon the occurrence of one or more events of default by USGA or its affiliate; and

(B) The sum of all payments made to and retained by USGA or any affiliate thereof in connection with a Mortgage Pool and all funds inuring to the benefit of USGA or any affiliate as a result of the administration of the Mortgage Pool must represent not more than adequate consideration for selling the Certificates and underwriting the sale of the Certificates, plus reasonable compensation for services provided by USGA or any affiliate to the Mortgage Pool.

III. Definitions

(A) For the purpose of this exemption, the term "Mortgage Pool" means an investment pool the corpus of which:

(1) Is held in trust; and

(2) Consists solely of

(a) Interest bearing obligations secured by multi-family residential property;

(b) Property which had secured such obligations and which has been acquired by foreclosure; and

(c) Undistributed cash.

(B) For the purpose of this exemption, the term "Certificate" means a certificate representing a beneficial undivided fractional interest in a Mortgage Pool and entitling the holder of such certificate to pass-through payment of principal and interest from the pooled mortgage loans, less any fees retained by USGA or any affiliate.

(C) For the purpose of this exemption, the term "affiliate" of another person means:

(1) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by or under common control with such other person;

(2) Any officer, director, partner, employee or relative (as defined in section 3(15) of the Act) of such other person; and

(3) Any corporation or partnership of which such other person is an officer, director or partner.

For purposes of this section, the term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(D) For the purpose of this exemption, a person will be "independent of USGA, its affiliates, or the Trustee" only if:

(1) Such person is not an affiliate (as defined in section III(C) of this exemption) of USGA or the Trustee; and

(2) Neither USGA, the Trustee, nor any affiliate thereof, is a fiduciary who has investment management authority or renders investment advice with respect to any of the assets of such person.

(E) For the purpose of this exemption, the term "sale" includes a forward delivery commitment (as defined in section F below) by an investing Plan, provided:

(1) For the purposes of section I(A), the terms of the forward delivery commitment contract are no less favorable to the Plan than they would be in an arm's length transaction with an unrelated party; and

(2) For the purpose of section I(B)—

(a) The forward delivery commitment has been expressly approved by a fiduciary independent of USGA or its affiliate or the Trustee who has authority to manage and control those plan assets being committed for investment in such Certificates;

(b) The terms of the forward delivery commitment contract (including any fee paid to the investing Plan) are no less favorable to the Plan than they would be in an arm's length transaction with an unrelated party; and

(c) At the time of delivery, all of the conditions of section I(B) of this exemption are met.

(F) For the purpose of this exemption, the terms "forward delivery commitment," and "forward delivery commitment contract" mean a contract for the purchase or sale of one or more Certificates to be delivered at an agreed upon future settlement date, which is more than thirty calendar days after the contract's trade date. The terms include both mandatory contracts (which contemplate obligatory delivery and acceptance of the Certificates) and optional contracts (which give one party the right but not the obligation to deliver Certificates to, or demand delivery of Certificates from, the other party).

Effective Date: The exemption will be effective June 18, 1984.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on August 7, 1984 at 49 FR 31508.

For Further Information Contact: Paul R. Antsen of the Department, telephone (202) 523–6915. (This is not a toll-free number.)

Bee Line Cooling, Ltd. Employees Pension Plan (the Plan) Located in Bronx, New York

[Prohibited Transaction Exemption 84–151; Exemption Application No. D–4997]

Exemption

The restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the leases of certain properties by the Plan to Bee Line Cooling, Ltd., the sponsor of the Plan, provided that the terms of the transaction are at least as favorable to the Plan as those obtainable in an arm's length transaction with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on August 14, 1984 at 49 FR 32478.

Effective Date: The effective date of this exemption is March 9, 1984.

For Further Information Contact: David M. Cohen of the Department, telephone (202) 523–8671. (This is not a toll-free number.)

Plumbers' Union Local 690 Health and Welfare Plan, Plumbers' Union Local 690 Vacation Plan, Plumbers' Union Local 690 Apprenticeship Plan, Plumbers' Union Local 690 Metal Trades Division Health and Welfare Plan, Plumbers' Union Local 690 Pension Plan, and Plumbers' Union Local 690 Metal Trades Division Pension Plan (Collectively, the Plans) Located in Philadelphia, Pennsylvania

[Prohibited Transaction Exemption 84–152 Exemption Application Nos. L–5078 and L–5079]

Exemption

The restrictions of section 406(b)(2) of the Act shall not apply, effective January 1, 1984, to the past and proposed lease by the Plans of certain real property from the Plumbers' Union Local 690 of the United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada, a party in interest with respect to the Plans, provided that such lease is on terms at least as favorable to the Plans as the Plans could obtain in an arm's-length transaction with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on August 13, 1984 at 49 FR 32280.

Effective Date: This exemption is effective January 1, 1984.

For Further Information Contact: Ronald Willett of the Department,

telephone (202) 523–8194. (This is not a toll-free number.)

Adams, Levin, Kehoe, Bosso, Sachs & Bates, A Professional Corporation Profit Sharing Plan (the Plan) Located in Santa Cruz, California

[Prohibited Transaction Exemption 84–153 Exemption Application No. D–5109]

Exemption

The restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to: (1) The proposed cash purchase by the Plan of a parcel of land (the Land) currently owned by Eugene J. Adams, a retired plan participant; (2) the subsequent lease of the Land (the Ground Lease) to five shareholders (the Shareholders) of Adams, Levin, Kehoe, Bosso, Sachs & Bates, A Proferssional Corporation, the sponsor of the Plan; (3) the possible cash purchase of the Land by the Shareholders from the Plan pursuant to the terms of the Ground Lease; and (4) a guarantee by the Shareholders to the Plan with respect to the future disposition of the Property by the Plan, provided that the terms and conditions of the proposed transactions are at least as favorable to the Plan as those which the Plan could receive in similar transactions with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on August 13, 1984 at 49 FR 32281.

For Further Information Contact: David M. Cohen of the Department, telephone (202) 523–8671. (This is not a toll-free number.)

Cluett, Peabody & Co., Inc. Master Trust (the Trust) Located in New York, New York

[Prohibited Transaction Exemption 84–154. Exemption Application No. D–5140]

Exemption

The restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to: (1) The lease (the Lease) effective July 1, 1984, of certain improved real property (the Property) by SCP Properties, Inc., a title holding company all of whose shares are owned by Manufacturers Hanover Trust Company, as trustee of the Trust to Cluett, Peabody & Co., Inc. (the Employer), the Plan sponsor, and (2) the possible purchase of the Property by the Employer pursuant to the terms of the Lease, provided that the terms and conditions of the proposed transactions are at least as favorable to the Trust as those obtainable in an arm's-length transaction with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on July 6, 1984 at 49 FR 27852.

Effective Date: The effective date of this exemption is July 1, 1984.

For Further Information Contact: David M. Cohen of the Department, telephone (202) 523–8671. (This is not a toll-free number.)

Far West Federal Bank Retirement Plan and Trust (the Plan) Located in Portland, Oregon

[Prohibited Transaction Exemption 84–155; Exemption Application No. D–5142]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply, effective October 31, 1979, to fourteen interest-bearing loans to the Plan from Far West Federal Bank, the sponsor of the Plan.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on August 13, 1984 at 49 FR 32282.

Effective Date: This exemption is effective October 31, 1979.

For Further Information Contact: Ronald Willett of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

Operating Engineers Pension Trust (the Plan) Located in Los Angeles, California

[Prohibited Transaction Exemption 84–156; Exemption Application No. D–5320]

Exemption

The restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply, effective October 1, 1981, to the lease of office space by the Plan to Wayne Jett, a sole proprietor now doing business as Jett, Clifford & Laquer, formerly Wayne Jett, Lawyers, under the terms described in the notice of proposed exemption, provided such terms are not less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on July 17, 1984 at 49 FR 28941.

Effective Date: This exemption is effective October 1, 1981.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Clark, Partington, Hart & Hart Employees Profit Sharing Plan (the Plan) Located in Pensacola, Florida

[Prohibited Transaction Exemption 84–157; Exemption Application No. D–5343]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to (1) the proposed loan (the Loan) of $40,000 by the Plan to Clark, Partington, Hart, Hart & Johnson, P.A. (the Employer), a party in interest with respect to the Plan; and (2) the joint and several guarantees of the proposed Loan by the six principals of the Employer, also parties in interest with respect to the Plan, provided that the terms and conditions of the Loan and guarantees are not less favorable to the Plan than those obtainable in a similar transaction with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on August 14, 1984 at 49 FR 32478.

For Further Information Contact: Katherine D. Lewis of the Department, telephone (202) 523–8972. (This is not a toll-free number.)

Blackfoot Medical Clinic, Inc., P.A. Employee Profit Sharing Trust (the Plan) Located in Blackfoot, Idaho

[Prohibited Transaction Exemption 84–158; Exemption Application No. D–5383]

Exemption

The restrictions of sections 406(a), 406 (b)(1) and (b)(2) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the continuation beyond June 30, 1984 of a lease of certain real property located at 625 W. Pacific, Blackfoot, Idaho, by the Plan to Blackfoot Medical

Clinic, Inc., P.A., the sponsor of the Plan, provided that such lease is on terms and conditions at least as favorable to the Plan as those obtainable in an arm's-length transaction with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on August 13, 1984 at 49 FR 32285.

Effective Date: This exemption is effective July 1, 1984.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

R.L. Fitzwater & Son, Inc. Profit Sharing Plan (the Plan Located in Pennsauken, New Jersey

[Prohibited Transaction Exemption 84–159; Exemption Application No. D–5396]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed loan by the Plan of cash in the amount of $200,000 to R.L. Fitzwater & Sons, Inc., provided that the terms and conditions of the proposed transaction are not less favorable to the Plan than those obtainable in a similar transaction with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on August 13, 1984 at 49 FR 32286.

For Further Information Contact: Ms. Katherine D. Lewis of the Department, telephone (202) 523–8972. (This is not a toll-free number.)

A.H. Peters Funeral Home of Grosse Pointe, Inc. Employees Profit Sharing Trust (the Plan) Located in Grosse Pointe, Michigan

[Prohibited Transaction Exemption 84–160; Exemption Application No. D–5570]

Exemption

The restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed cash sale by the Plan of a parcel of improved real property (the Property) to A.H.P. Building Company, a party in interest with respect to the Plan, provided that the sales price is not less than the fair market value of the Property at the time the sale is consummated.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on August 14, 1984 at 49 FR 32479.

For Further Information Contact: David M. Cohen of the Department, telephone (202) 523–8671. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 9th day of October, 1984.

Elliot I. Daniel,

Acting Assistant Administrator for Regulations and Interpretations, Office of Pension and Welfare Benefit Programs, U.S. Department of Labor.

[FR Doc. 84–27059 Filed 10–11–84; 8:45 am]
BILLING CODE 4510–29–M

[Application No. L–3086 et al.]

Proposed Exemptions; Carpenters Apprenticeship and Training Fund for Northern California, et al.

AGENCY: Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemptions, unless otherwise stated in Notice of Pendency, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

Notice of Interested Persons

Notice of proposed exemption will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section

4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Carpenters Apprenticeship and Training Fund for Northern California (the Apprenticeship Fund) and Carpenters Pension Trust Fund for Northern California (the Pension Fund), (collectively, the Funds) Located in San Francisco, California

[Application Nos. L–3066 and D–3110, respectively]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to: (1) The extension of credit by the Pension Fund to the Apprenticeship Fund, created through the purchase by the Apprenticeship Fund from Pleasanton Partners III (the Partnership) of a building (the Training Center) under which purchase the Apprenticeship Fund will assume the Partnership's debt obligation pursuant to a loan (the Loan) to be made by the Pension Fund to the Partnership; (2) the subordination by the Apprenticeship Fund of its interest in a parcel of land (the Land) to the Pension Fund in order to induce the Pension Fund to make the Loan; (3) the lease of office space (the Lease) in the Training Center by the Apprenticeship Fund to South County Community College District (the College); and (4) the assignment by the Apprenticeship Fund to the Pension Fund of its interest in the Lease, provide that the terms and conditions of the above transactions are negotiated at arm's-length and are at least as favorable to each Fund as the terms and conditions each could obtain from and unrelated party.

Summary of Facts and Representations

1. The Funds are collectively bargained multiemployer plans established in accordance with section 302 of the Labor-Management Relations Act of 1947, as amended. The Pension Fund had 44,649 participants and the Apprenticeship Fund had approximately 5,000 participants as of January 1, 1981. The Pension Fund had assets of approximately $397 million and the Apprenticeship Fund had assets of approximately $4.1 million as of August 31, 1981.

Each of the Funds has 14 trustees (the trustees). Three of the Trustees serve on both the Pension Fund and the Apprenticeship Fund Board on Trustees. These three Trustees have not participated and will not participate in any decisions to be made by the Funds concerning transactions described below which involve both Funds.

The Apprenticeship Fund makes contributions to the Pension Fund for 24 Apprenticeship Fund employees. Therefore, the Apprenticeship Fund is a party in interest with respect to the Pension Fund under section 3(14)(C) of the Act.

2. The Apprenticeship Fund offers a program for training apprentice carpenters, drywall installers, millwrights and mill cabinet workers in many geographically diverse northern California locations. In order to provide a more economical operation and improve the quality of the instruction, the Apprenticeship Fund planned to consolidate five of the San Francisco Bay Area training locations into the Training Center, designed as a combined daytime training center containing offices, classrooms, shops, storage facilities and a cafeteria. It is estimated that the consolidation will enable the Apprenticeship Fund to save $62,000 per year in operating costs. The Training Center will serve approximately 3,300 trainees each year.

3. The Apprenticeship Fund has no in-house personnel with expertise in purchasing, developing and constructing buildings on real property, nor does it need such personnel in the ordinary course of its business. When the need for locating property and building a training facility arose, the Apprenticeship Fund Trustees had two alternatives. They could hire experts such as brokers, architects, builders and all the other people necessary to do the job, or they could find a real estate developer with the capability to deliver land with a completed building thereon, ready for occupancy.

The Apprenticeship Fund Trustees sought and obtained the guidance of McMorgan and Company (McMorgan), the investment manager of the Pension Fund, with regard to the development of the training facility. The Apprenticeship Fund Trustees and McMorgan surveyed successful developers and selected the Partnership whose principals had a proven record of success and could reasonably be expected to deliver the accommodations the Apprenticeship Fund needed to fulfill its mission.

4. The Partnership is a California limited partnership. The applicants represent that neither the Partnership nor its limited and general partners are parties in interest as defined in section 3(14) of the Act to either of the Funds.[1] On October 23, 1981, the Apprenticeship Fund purchased the Land, an eight acre parcel of unimproved real property, from the Partnership for $1,550,000. McMorgan and the Trustees of the Apprenticeship Fund negotiated various agreements with the Partnership as discussed below under which the Training Center would be constructed on the Land and would ultimately be owned by the Apprenticeship Fund.

The Partnership selected George A. Johnson Construction Company (the Johnson Company) through a competitive bidding process to construct the Training Center. Although the Johnson Company is a contributing employer to both Funds, no fiduciary with respect to the Funds has any interest whatsoever in the Johnson Company. Furthermore, there was no arrangement between the Funds and the Partnership which required the Partnership to select the Johnson Company as the construction contractor. The construction of the Training Center was completed on December 15, 1982.

5. On November 10, 1981, the Apprenticeship Fund entered into a ground lease (the Ground Lease) of the Land to the Partnership for a term ending 20 years after the completion of the Training Center. The Ground Lease specifically provides that any improvements constructed on the Land during the term of the Ground Lease are owned by the Partnership during such term. The Ground Lease is triple net and provides for an annual rental of $255,750 for the entire term thereof. The rental

[1] The Department expresses no opinion as to whether the Partnership is a party in interest to either of the Funds or whether transactions engaged in between either of the Funds and the Partnership constitute prohibited transactions under section 406 of the Act and section 4975 of the Code. No exemptive relief has been requested by the applicants for transactions between either of the Funds and the Partnership, nor is the Department proposing relief for any such transactions.

rate, which produces a net annual return on investment of 16.5% to the Apprenticeship Fund, was determined by comparisons with rentals for similar property in the area. The applicant state that ground leases of this type are common in the area where the Training Center is located.

The Apprenticeship Fund also entered into a lease (the Improvements Lease) with the Partnership on November 10, 1981, for the rental of the Training Center. The term of the Improvements Lease commenced upon the completion of the Training Center and ends 20 years thereafter. The rental rate for the first 15 months of the Improvements Lease represents the sum of the ground rent received by the Apprenticeship Fund under the Ground Lease plus either an amount equal to the interest on the construction loan or, after repayment of the construction loan, an amount equal to the regular monthly installment due on an interim loan or permanent loan used to finance repayment of the construction loan. Thus, the rent under the Improvements Lease was structured to treat the Apprenticeship Fund as if it owned both the land and the Training Center.

There was no profit to the Partnership under the Improvements Lease for the first 15 months. However, the rent increased by $2,500 per month after the first 15 months, i.e., at the same time that the Apprenticeship Plan had the right to exercise the option discussed in item 6 below. The applicants represent that the rental rate under the Improvements Lease was negotiated at arm's length and will not exceed the fair rental value of the Training Center during the term of the Improvements Lease.

6. The Apprenticeship Fund and the Partnership entered into an option agreement on November 10, 1981 under which the Apprenticeship Fund may purchase the Training Center and the Partnership's leasehold interest in the Ground Lease for $250,000 plus the assumption of the outstanding debt on the Training Center. The option period began 15 months after the completion of the Training Center and ends 40 months after such completion. The $250,000 represents payment for the Partnership's services performed in connection with the development of the Land and Training Center including site selection, zoning approval, supervision of architectual services and construction supervision. The applicants represents that this amount represents no more than reasonable compensation for the services rendered.

The Apprenticeship Fund has determined to exercise the option as soon as permitted under the option agreement, but only after an exemption has been granted for the extension of credit between the Pension Fund and the Apprenticeship Fund as discussed in item 7 below. The reason for entering into a 20-year Improvements Lease and also entering into an option agreement beginning 15 months after completion of the Training Center is that the Apprenticeship Fund Trustees believed at the time of negotiations with the Partnership that it would be prudent to have a long term leasehold interest in the Training Center in case there were financial or other reasons not to exercise the option.

7. The Pension Fund on January 31, 1983, agreed to make the Loan to the Partnership, conditioned on the granting of an administrative prohibited transactions exemption by the Department regarding the Pension Fund's ultimate extension of credit to the Apprenticeship Fund discussed below. The Loan, which is the permanent loan on the Training Center, will not exceed the amount of the Partnership's construction loan. [1]

The Loan which was negotiated on behalf of the Pension Fund by its investment manager, McMorgan, will be in the amount of $3.3 million and will bear interest at 13½% per annum. The Loan will be secured by a first lien mortgage on the Training Center and the Land, which had a total value of approximately $4.85 million upon completion of construction. The Loan will be further collateralized by the assignment of the Lease, discussed in item 8 below, by the Apprenticeship Fund to the Pension Fund.

The Department has determined that the Apprenticeship Fund's subordination of its interest in the Land to the Pension Fund in order to induce the Pension Fund to make the Loan is a separate and distinct prohibited transaction under section 406(a)(1)(D) of the Act. The applicants represent that the Trustees of the Apprenticeship Fund determined that it was common practice by lenders to require such subordination and that a loan could not be secured absent pledging the Land as security.

The Applicants represent that all terms and conditions of the Loan were negotiated at fair market value. The Pension Fund will not disburse the Loan unless it has received an M.A.I. appraisal indicating a total value for the Training Center and the Land of at least $4.125 million. Thus, the Loan would not exceed 80% of the value of the mortgaged property.

At the time the Apprenticeship Fund exercises its option to purchase the Training Center and Ground Lease from the Partnership, it will assume the Loan, thus creating an extension of credit by the Pension Fund to the Apprenticeship Fund. The Loan would constitute less than 1% of the Pension Fund's current assets.

McMorgan continuously reviews the entire investment portfolio of the Pension Fund. It determined that the location of the Land and Training Center is in an area now undergoing rapid development resulting in dramatic increases in real property values. The current increases in real property values, the outstanding future potential for the area and the quality construction of the Training Center make the Loan a prime investment and create an extremely low risk factor in making the Loan. McMorgan has determined that the Loan is consistent with the overall objectives of the Pension Fund's investments and that the return is comparable or preferable to other excellently situated investments available to the Pension Fund.

8. The College is a public community college which entered into an agreement with the Apprenticeship Fund to provide training personnel and services to the Apprenticeship Fund and to lease a portion of the Training Center from the Apprenticeship Fund. Because of the services provided by the College, it is a party in interest to the Apprenticeship Fund under section 3(14)(B) of the Act.

California Labor and Education Codes authorize the State of California, through subsidiary municipal authorities such as the College, to enter into leases for the purpose of providing instructional services to apprentices. The state law requires the premises to be leased on a "break even" bases, i.e., the Apprenticeship Fund will receive rent to cover the cost of the facilities but will not make a profit from the leasing. In addition to the rental payments, the College will pay the Apprenticeship Fund approximately $180,000 toward instructional staff salaries, administrative costs and materials related to the training program to be established and supervised by the College. Unlike most states, the State of

[1] The construction loan was made to the Partnership by Lloyds Bank California (the Bank), which is a corporate co-trustee of the Pension Fund. The Bank has no discretionary authority with regard to the assets of the Pension Fund. The Bank acts only under the direction of the Pension Fund's investment manager, McMorgan. The applicants represent that the Bank's role in making the construction loan and receiving repayment through the Loan is encompassed by Prohibited Transactions Exemption 81-75 (PTE 81-75), 46 FR 46435, September 18, 1981. The Department is expressing no opinion herein as to the application of PTE 81-75 in this situation.

California, through such vehicles as the College, subsidizes a significant portion of the cost of apprenticeship training.

The Lease is for 46,021 square feet of office and warehouse space for annually renewable terms of one year at a rental of approximately $.83 per square foot per month, amounting to $458,353 per annum. The Lease may be terminated by either party upon 30 days' written notice. The Lease rate was set to completely service the principal and interest on the Loan. While the Lease is set at a "break even" rate, the applicants represent that all terms and conditions of the Lease have been and will continue to be negotiated at arm's length thus producing a rental rate that is fair market value. They note that the Apprenticeship Fund has been paying $.68 and $.50 per square foot per month to unrelated parties for comparable training class and warehouse space in the same geographic area.

The Lease covers use of the premises by the College solely for the purposes of apprenticeship training. To the extent the College uses the space for any other reason, a separate rental fee will be negotiated at arm's length to cover such use.

9. In summary, the applicants represent that the transactions satisfy the statutory criteria of section 408(a) of the Act because: (a) The Funds' Trustees have reviewed the transactions and determined them to be in the interests of and protective of the respective Funds and their participants and beneficiaries; (b) the Apprenticeship Fund estimates a $62,000 savings in operating expenses each year by virtue of consolidating five of its training facilities into the Training Center; (c) all terms and conditions of the Ground Lease, the Improvements Lease, the purchase of the Training Center and the Partnership's interest in the Ground Lease, the Loan and the Lease have been or will be negotiated on an arm's-length basis; (d) the Loan is adequately secured and constitutes less than 1% of the Pension Fund's assets; (e) the rental payments under the Lease will fully amortize the payments due under the Loan; (f) all of the transactions are with parties who are not fiduciaries to either of the Funds; and (g) the three Trustees who serve as Trustees for both Funds have not and will not participate in any decisions regarding transactions involving both Funds.

Notice to Interested Persons

Notice of the proposed exemption will be provided to all interested persons in the manner agreed upon by the applicants and the Department within 20 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment. Comments are due within 50 days of the date of publication in the **Federal Register**.

For Further Information Contact: Mrs. Mary Jo Fite of the Department, telephone (202) 523-8671. (This is not a toll-free number.)

United Bank of Alaska (UBA) Located in Anchorage, Alaska

[Application Nos. D-3122 and D-3123]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975) as follows:

(I) Effective January 1, 1975, the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to the past and proposed sale, exchange or transfer between UBA and certain employee benefit plans (the Plans) of multi-family residential and commercial mortgage loans (the Mortgages) or participation interests therein (the Participation Interests) which are originated by UBA provided that:

A. Such sale, exchange or transfer is expressly approved by a fiduciary independent of UBA who has authority to manage or control those Plan assets being invested in Mortgages or Participation Interests;

B. The terms of all transactions between the Plans and UBA involving the Mortgages or Participation Interests are not less favorable to the Plans than the terms generally available in arm's-length transactions between unrelated parties;

C. No investment management, advisory, underwriting fee or sales commission or similar compensation is paid to UBA with regard to such sale, exchange or transfer;

D. The decision to invest in a Mortage or Participation Interest is not part of an arrangement under which a fiduciary of a Plan, acting with the knowledge of UBA, causes a transaction to be made with or for the benefit of a party in interest (as defined in section 3(14) of the Act) with respect to the Plan; and

E. UBA shall maintain for the duration of any Mortgage or Participation Interest which is sold to a Plan pursuant to this exemption, records necessary to determine whether the conditions of this exemption have been met. The records referred to above must be unconditionally available at their customary location for examination, for purposes reasonably related to protecting rights under the Plans, during normal business hours by: Any trustee, investment manager, employer of Plan participants, employee organization whose members are covered by a Plan, participant or beneficiary of a Plan.

(II) Effective January 1, 1975, the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to any transactions to which such restrictions or taxes would otherwise apply merely because a person is deemed to be a party in interest (including a fiduciary) with respect to a Plan by virtue of providing services to the Plan (or who has a relationship to such service provider described in section 3(14) (F), (G), (H), or (I) of the Act) solely because of the ownership of a Mortgage or Participation Interest by such Plan.

Summary of Facts and Representations

1. UBA is a commercial bank chartered by the State of Alaska, regulated and audited by the Federal Deposit Insurance Corporation plus the Division of Banking, Securities and Corporations of the State of Alaska. UBA's parent company (which owns all of the common stock of UBA except for certain requisite qualifying shares owned by individual directors), United Bancorporation Alaska, is a bank holding company subject to regulatory oversight by the Board of Governors of the Federal Reserve System and the Alaskan bank regulator. As of June 30, 1984, UBA had assets of approximately $343,510,000. UBA's activities embrace those of a typical commercial bank with the principal exception of trust services, which UBA does not offer to its customers.

Since January 1, 1975, UBA has sold Participation Interests to Alaska Hotel and Restaurant Employees Pension Trust, Alaska Electrical Pension Trust and other non-plan investors. With respect to prospective transactions, sales between UBA and the Plans may include the above-mentioned multi-employer pension plans and other interested employee benefit plans.

2. UBA sells either the entire Mortgage or a Participation Interest therein. Typically, UBA retains a 10% to 25% interest in a mortgage and sells Participation Interests in the balance of the amount outstanding. UBA had no

pre-existing relationship with any of the Plans to which it initially sold a Participation Interest or Mortgage. However, by virtue of UBA servicing the subject Mortgages and Participation Interests it became a party in interest with respect to the Plans so that any subsequent sale of Mortgages or Participation Interests were prohibited transactions. The applicant represents that the transactions did not involve a conflict of interest or present a situation where advantage could be taken of the Plans or of the trustees of the Plans because all decisions regarding investment in the Participation Interests were solely and affirmatively made by Plan fiduciaries who are independent of UBA.[3]

3. UBA initiates a Mortgage by reviewing a loan application from a potential mortgagor, which includes a mortgage proposal consisting of a summary of facts relating to the loan, setting forth such matters as the terms of the Mortgage, a description of the property securing the Mortgage and an appraisal of the property from a qualified appraiser. UBA has imposed strict underwriting guidelines concerning the applicant's credit-worthiness and the value of the collateral which must be satisfied before any decision is made to fund a Mortgage. Once assembled and verified, a mortgage package is presented to a UBA loan committee to determine whether such Mortgage is a good risk. At or about such time, the mortgage package is presented to investors, typically thrift institutions, life insurance companies, pension plans,[4] or other financial institutions or Federal or State agencies such as the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation and the Alaska Housing Finance Corporation.

4. Generally, the average loan to value ratio does not exceed 75% for the Mortgages. In the event a greater loan to value ratio is warranted commercial loan insurance is required. The yield provided to the Plans by the Mortgages or Participation Interests has been and will continue to be the prevailing rate on comparable mortgages at the time of sale. The Participation Interests previously sold to the Plans have had excellent payment histories with no Plan experiencing any losses.

5. The Plans pay no investment management, investment advisory, sales commission or similar fee to UBA with respect to the acquisition or sale of Mortgages or Participation Interests. The applicants represents that the Plans have paid and will pay no more for Mortgages or Participation Interests than have been or would be paid by an unrelated party in an arm's length transaction.

6. All transactions relating to the Mortgages or Participation Interests are controlled by a set of servicing provisions embodied in a sales and participation agreement (the Servicing Agreement) which UBA represents is typical of bank servicing agreements.[5] The Servicing Agreement requires UBA to represent to the purchasing Plan, among other matters, the following for each Mortgage or Participation Interest: (a) That the Mortgage is a first lien on the property described therein, (b) that the Mortgage has been insured by a title company acceptable to the Plan in an amount equal to the full amount of the loan; (c) that the note and Mortgage are legal, valid and binding in accordance with their terms; (d) that the loan is not in default and that UBA has no knowledge of any state of facts which would entitle it to declare a default; (e) that UBA has in its possession a hazard policy or policies with respect to each loan at least equal to the value of the Mortgage or Participation Interest; (f) that UBA has inspected the property and that all representations as to the property, its improvements and conditions are correct; and (g) that an appraisal by an appraiser acceptable to the Plan has been procured indicating a value meeting the requisite loan to value ratio.

7. UBA's duties under the Servicing Agreement include the following: (a) To collect all payments under the Mortgages or Participation Interests as they become due; (b) to deposit all funds received on behalf of each Mortgage or Participation Interest in a separate account on behalf of the relevant Plan and to apply all sums collected by it on account of each such Mortgage or Participation Interest for principal and interest, taxes, assessments, other public charges, repairs and maintenance plus hazard, fire and mortgage insurance premiums; (c) to submit to the relevant Plan at least annually a written report of the balances of each Plan's account together with a certificate that all disbursements were made for proper purposes, as well as to make available for inspection by the Plan any records maintained with respect to the Mortgage or Participation Interest; (d) to retain physical possession of the Mortgage instruments and policies of insurance; (e) upon default on a Mortgage to give prompt notice of default to the Plan, and, subject to the Plan's approval, to foreclose upon the property, or purchase the mortgaged property at a foreclosure or trustee's sale.[6] With regard to the past sales of Participation Interests, UBA waives its right upon default by the borrower to unilaterally determine as a prudent lender pursuant to the operative servicing provisions, which default

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[3] With regard to the past sales of Participation Interests to Alaska Hotel and Restaurant Employees Pension Trust and Alaska Electrical Pension Trust, investment decisions regarding the Participation Interests were made by Kennedy/Boston Associates, Inc., as the Plans' independent investment advisor. Other than acting as a fiduciary for these Plans with respect to the subject Participation Interests, the applicant represents that Kennedy/Boston Associates, Inc. has no ongoing relationship with UBA, either as a shareholder, service provider, contractor supplier or otherwise.

While stating affirmatively that UBA would not make investment decisions regarding the future sales of Mortgages or Participation Interests, the applicant was silent about who would make such decisions. In some situations it is possible that investment decisions will be made by trustees of the Plans. The Department notes that where the construction on the property which secures the Mortgage was by a contributing employer to the Plan and a principal of such employer exercises fiduciary authority in approving the Plan's investment in the Mortgage, a separate prohibited transaction under section 406(b) of the Act may occur which transaction would not be covered by this exemption. See also condition D of Part I of this exemption which has the effect of precluding relief under section 406(a) of the Act for certain transactions undertaken for the benefit of parties in interest.

[4] The Department notes that the application does not address the separate prohibited transactons under section 406(a)(1)(B) of the Act which would exist should any of the Mortgages originated by UBA and subsequently purchased by the Plans involve loans to any party in interest with respect to the purchasing Plan. Accordingly, no relief is afforded by this proposed exemption for such transactions. However, from the date of the grant of this exemption, UBA will request potential borrowers to list in their loan application their relationship to any pension plan in an effort to assist a potential purchasing plan in determining whether the borrower may be a party in interest.

[5] With regard to the past sales of Participation Interests to the Alaska Hotel and Restaurant Employees Pension Trust and to the Alaska Electrical Pension Trust, the transactions are currently controlled by servicing provisions in a sales and participation agreement prepared by the Plans' independent investment advisor, Kennedy/Boston Associates, Inc.

No exemption from section 406 of the Act is being granted for transactions pursuant to the Servicing Agreements beyond that which is provided by the statutory exemption pursuant to section 408(b)(2) of the Act.

[6] The Department notes that the application does not address the separate prohibited transaction under section 406(a) (1) (A) of the Act which would exist where upon foreclosure the Plan acquires title to real property and such property or a portion thereof is leased to a party in interest with respect to a Plan. Moreover, if the party in interest under such lease is an employer of employees covered by the Plan, the acquisition or real property by the Plan would result in the acquisition of employer real property which may violate the provisions of section 406(a) (2) and 407 of the Act. Accordingly, no relief is afforded by this proposed exemption for such transactions.

remedy(s) UBA should pursue on behalf of the loan participant(s) and UBA. UBA represents that there have been no foreclosures on the properties securing the Participation Interests previously sold to Plans. With regard to future decisions regarding foreclosure, UBA will procure the consent of any Plan(s) before UBA enforces the available default remedies.

8. UBA's compensation for servicing the Mortgages and Participation Interests is agreed to at the time each Mortgage or Participation Interest is accepted by the Plan. The applicant represents UBA's servicing fee is determined on the same basis as are the fees charged investors other than the Plans who similarly invest in the Mortgages and Participation Interests. Also, UBA's fee is consistent with servicing fees charged throughout the United States for similar services.

9. It is understood by the parties to the Servicing Agreement that the sale of a Mortgage or Participation Interest is without recourse except that (i) UBA agrees to repurchase any Mortgage or Participation Interest other than FHA insured, VA guaranteed or martgage company insured mortgages if UBA has violated any of the representations and warranties made to the Plan, and (ii) UBA further agrees to repurchase such insured or guaranteed mortgages if the applicable insurance or guarantee lapses as the result of UBA's act or omission. Any such repurchases will be at an amount equal to the then unpaid balance of the Mortgage or Participation Interest plus accrued interest to the date of such repurchase.

10. UBA represents that as a result of being a party in interest with respect to a Plan by virtue of servicing the Mortgages it would be prohibited from engaging in other commercial transactions with a Plan, such as the making of loans, which have nothing to do with the Mortgages or Participation Interests held by the Plan. The Department has considered UBA's request for relief for such transactions and has decided that because the servicing relationship is established as a necessary result of the purchase of a Mortgage or Participation Interest by a Plan subsequent transaction between the parties otherwise prohibited by section 406(a) are not likely to present an inherent abuse potential. Accordingly, the Department has determined it would be appropriate to propose the relief from section 406(a) contained in Part II of the proposed exemption.

11. In summary, the applicant represents that the transactions satisfy the statutory criteria of section 408(a) of the Act because: (a) The transactions were and will be between the Plans and UBA (a federally and state regulated institution) and are transactions made in the regular course of UBA's business; (b) all Plan decisions to invest in Mortgages and Participation Interests were and will be made by Plan fiduciaries who are independent of UBA; (c) the Plans have paid and will pay no more for the Mortgages or Participation Interests than would be paid by an unrelated party in an arms' length transaction; (d) UBA's servicing fee has been and will continue to be similar to fees charged other investors in the Mortgages or Participation Interests, and has been and will be consistent with that charged in the open market; (e) the Mortgages were and will be all first liens on commercial and milti-family residential property; (f) the warranties and representations made by UBA regarding the Mortgages and Participation interests are standard for these type of transactions; and (g) the Mortgages and Participation Interests sold by UBA to the Plans have had a long-term history of successful repayment.

Notice to Interested Persons: In addition to the notice requirement outlined in the general provisions of this notice, UBA agrees to provide a copy of the notice of proposed exemption and any subsequent grant of such exemption to fiduciaries of all employee benefit plans with whom UBA may contract in the future to provide services as described herein. Such notification will be provided prior to UBA entering into a contract to provide such services.

For Further Information Contact: Ms. Katherine D. Lewis of the Department, telephone (202) 523–8972. (This is not a toll-free number.)

Alaska Pacific Bank (APB) Located in Anchorage, Alaska

[Application No. D–3490]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set froth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975) as follows:

(I) Effective January 1, 1975, the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to the past and proposed sale, exchange or transfer between APB and certain employee benefit plans (the Plans) of multi-family residential and commercial mortgage loans (the Mortgages) or participation interests therein (the Participation Interests) which are originated by APB provided that:

A. Such sale, exchange or transfer is expressly approved by a fiduciary independent of APB who has authority to manage or control those Plan assets being invested in the Mortgages or Paticipation Interests.

B. The terms of all transactions between the Plans and APB involving the Mortgages or Participation Interests are not less favorable to the Plans than the terms generally available in arm's length transactions between unrelated parties.

C. No investment management, advisory, underwriting fee or sales commission or similar compensation is paid to APB with regard to any such sale, exchange or transfer.

D. The decision to invest in a Mortgage or Participation Interest is not part of an arrangement under which a fiduciary of a Plan, acting with the knowledge of APB, causes a transaction to be made with or for the benefit of a party in interest (as defined in section 3(14) of the Act) with respect to the Plan.

E. APB shall maintain for the duration of any Mortgage or Participation Interest which is sold to a Plan pursuant to this exemption, records necessary to determine whether the conditions of this exemption have been met. The records mentioned above must be unconditionally available at their customary location for examination, for purposes reasonably related to protecting rights under the Plans, during normal business hours by: Any trustee, investment manager, employer of Plan participants, employee organization whose members are covered by a Plan, participant or beneficiary of a Plan.

II. Effective January 1, 1975, the restriction of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to any transactions to which such restrictions or taxes would otherwise apply merely because a person is deemed to be a party in interest (including a fiduciary) with respect to a Plan by virtue of providing services to the Plan (or who has a relationship to such service provider described in section 3(14), (F), (G), (H), or (I) of the Act) solely because of the ownership of a Mortgage or Participation Interest by such Plan.

Summary of Facts and Representations

1. APB is a commercial bank owned by its shareholders and chartered by the State of Alaska. The range of APB's

investments is limited by statute and consists largely of first mortgages on real estate. APB is regulated and audited by the Division of Banking of the Alaska Department of Commerce and Economic Development. APB is a member of the Federal Deposit Insurance Corporation and is subject to the regulations and audits for member banks. As of December 31, 1983, APB had assets totaling approximately $194,789,000.

Since January 1, 1975, APB has sold Participation Interests and Mortgages to the Plans and other investors. All past sales of Participation Interests and Mortgages involving employee benefit plans were to the Alaska Electrical Pension Trust, Alaska Teamsters Pension Trust, Alaska Carpenters Retirement Trust, International Brotherhood of Painters Pension Trust and Alaska Plumbers and Pipefitters Industry Pension Fund. With respect to prospective transactions, sales between APB and the Plans include the above-mentioned multi-employer pension funds and other interested Plan investors. The Mortgages consist of multi-family residential or commercial permanent first mortgage loans originated by APB in the ordinary course of its business.

2. APB sells either the entire Mortgage or a Participation Interest therein. Typically, APB retains a 10% to 25% interest in a mortgage and sells Participation Interests in the balance of the amount outstanding. APB had no pre-existing relationship with any of the Plans to which it initially sold a Participation Interest or Mortgage. However, by virtue of APB servicing the Mortgages and Participation Interests it became a party in interest with respect to the Plans so that any subsequent sale of Mortgages or Participation Interests was a prohibited transaction. APB represents that the transactions do not involve a conflict of interest or present a situation where advantage could be taken of the Plans or the trustees of the Plans because all decisions regarding investment in the Mortgages or Participation Interests are made by Plan fiduciaries who are independent of APB.[7]

3. APB initiates a Mortgage by reviewing a loan application from a potential mortgagor which includes a mortgage proposal consisting of a summary of facts relating to the loan setting forth such matters as the terms of the Mortgage, a description of the property securing the Mortgage and an appraisal of the property from a qualified appraiser. APB has imposed strict underwriting guidelines concerning the applicant's credit worthiness and the value of the collateral which must be satisfied before any decision is made to fund a Mortgage. APB requires current financial statements for the borrowing entity and any guarantor, plus copies of three years of tax returns for the borrower and guarantors. Once assembled and verified, a mortgage package is first presented to an internal officer's loan review committee of APB which determines whether such mortgage is good risk and should be approved. If this committee approves the loan, it is then presented to the senior loan committee consisting of senior officers of APB and outside directors. Thereafter, the mortgage package is presented to investors, typically savings and loan institutions, pension plans [8] financial institutions or federal agencies such as the Federal National Mortgage Association and Federal Home Loan Mortgage Corporation.

4. Generally the average loan to value ratio does not exceed 75% for the Mortgages. In the event a greater loan to value ratio is warranted, commercial loan insurance would be required. The yield provided to the Plans by the Mortgages or Participation Interests has been and will continue to be the prevailing rate on comparable mortgages at the time of sale. The Mortgages or Participation Interests previously sold by the Plans have had excellent payment histories with no Plan experiencing any losses. No Mortgage has been foreclosed.

5. The Plans pay no investment management, investment advisory, sales commission or similar fee to APB with respect to the acquisition or sale of the Mortgages or Participation Interests. The applicant represents that the Plans have paid and will pay no more for the Mortgages or Participation Interests than have been or would be paid by an unrelated party in an arm's length transaction.

6. All transactions relating to Mortgages or Participation Interests are controlled by a blanket Participation and Servicing Agreement (the Servicing Agreement) which APB represents is typical of bank servicing agreements.[9] The Servicing Agreement, which is submitted to Plan fiduciaries for their review prior to a Plan's purchase of a Mortgage or Participation Interest, requires APB to represent and warrant the following for each Mortgage or Participation Interest:

(a) That the mortgage instruments with respect to any Mortgage or Participation Interest are legal, valid and in full force and effect and enforceable against the parties in accordance with their terms;

(b) That the Mortgage is a valid first lien on fee simple absolute title to the mortgaged premises and has been insured as such under an American Land Title Association form of mortgagee's title insurance policy for the benefit of the Plan in the amount and to the extent of its participation in the Mortgage. All ancillary security agreements are valid, enforceable, perfected and prior to all other security interest encumbrances and defects in ownership with respect to the collateral covered thereby;

(c) The funds provided by the Plan participating in or purchasing the Morgage have been fully loaned as provided in the Mortgage instruments. All fees and expenses in closing and funding the loan have been paid. The mortgage instruments have not been amended or modified from those made a matter of public record or otherwise exhibited to the Plan and no part of the security for the Mortgage or Participation Interest has been released or modified;

(d) No loan is in violation of any law, rule or regulation applicable to such loan including, without limitation, any law, rule or regulation respecting any maximum interest permitted to be charged or received on such loan or any

[7] While stating affirmatively that APB would not make investment decisions regarding the Mortgages or Participation Interests, the applicant was silent about who would make such decisions. In some situations it is possible that investment decisions have been or will be made by trustees of the Plans. The Department notes that where the construction on the property which secures the Mortgage was a contributing employer to the Plan and a principal of such employer exercises fiduciary authority in approving the Plan's investment in the Mortgage, a separate prohibited transaction under section 406(b) of the Act may occur, which transaction would not be covered by this exemption. See also condition D of Part I of this exemption which has the effect of precluding relief under section 406(a) of the Act for certain transactions undertaken for the benefit of parties in interest.

[8] The Department notes that the application does not address the separate prohibited transactions under section 406(a)(1)(B) of the Act which would exist should any of the Mortgages originated by APB and subsequently purchased by the Plans involve loans to any party in interest with respect to the purchasing Plan. Accordingly, no relief is afforded by this proposed exemption for such transactions. However from the date of the grant of this exemption, APB will request potential borrowers to list in their loan application their relationship to any pension plan in an effort to assist a potential purchasing plan in determining whether the borrower may be a party in interest.

[9] No exemption from section 406 of the Act is being granted for transactions pursuant to the Servicing Agreements beyond that which is provided by the statutory exemption pursuant to section 408(b)(2) of the Act.

truth-in-lending requirements set by law; however, in no event will the interest rate on any Mortgage or Participation Interest sold to the Plan be less than the fair market interest rate;

(e) That APB has in its possession the mortgage instruments. Such mortgage instruments shall include original policies of fire and extended coverage insurance and if required under the commitment or if bank deems it prudent, flood and earthquake insurance. Hazard insurance policies shall have a loss payable clause in favor of the Plan to the extent of its participation.

(f) The improvements on the mortgaged premises and other collateral given to secure the Mortgage or Participation Interest are in good condition and repair; and

(g) APB has inspected the mortgaged premises, has currently represented the condition of the mortgaged premises, has no knowledge of any default or threatened default by the mortgagor and has no undisclosed knowledge of any fact which will adversely affect the value or marketability of the Mortgage or Participation Interest.

7. APB's duties under the Servicing Agreement include the following:

(a) To proceed diligently to collect all payments as they become due;

(b) To keep a complete and accurate account of and to properly apply such funds collected by it from the mortgagor on account of each such mortgage for principal and interest, taxes, assessments and other public charges and hazard insurance premiums; and to furnish the Plan with evidence acceptable to the Plan of all expenditures for taxes, assessments and other public charges and hazard insurance premiums;

(c) To deposit all funds received on behalf of such Mortgage subject to withdrawal on demand in a segregated trust or custodial account in a state or national bank, the deposits of which are insured by the Federal Deposit Insurance Corporation;

(d) From the funds so deposited, to pay promptly to the proper parties when and if due, taxes, special assessments and premiums on hazard insurance each month and to pay to the Plan all monies due to it under the mortgage instruments, retaining as its full compensation for all services, the earned portion of the servicing fee per annum agreed to and its proportionate part of the commitment fee for each loan;

(e) To submit to the Plan at least annually an audit of the balances on each such Plan account together with a certificate that all disbursements were made for proper purposes and that all payments required to be made thereunder have been made with exceptions, if any;

(f) To exercise a degree and care and skill of a prudent lender in performing the duties under the Servicing Agreement;

(g) To retain physical possession of the mortgage instruments but to provide conformed, complete and accurate copies to the Plan;

(h) To make a physical inspection of the mortgaged premises at least once every two years or at other times as the Plan may request; and

(i) To notify the appropriate Plan fiduciary in the event of any default on a Mortgage in which a Plan participates and to act upon the Mortgage and realize on the security afforded in connection with the Mortgage or Participation interest as directed by the Plan.[10]

8. APB's compensation for servicing the Mortgages and Participation Interests is agreed to at the time each Mortgage or Participation Interest is accepted by the Plan. The applicant represents APB's servicing fee is determined on the same basis as are the fees charged investors other than the Plans who similarly invest in the Mortgages and Participation Interests. Also, APB's fee is consistent with servicing fees charged throughout the United States for similar services.

9. It is understood by the parties to the Servicing Agreement that the sale of a Mortgage or Participation Interest shall be without recourse. However, the Servicing Agreement states that in the event of a default on any Mortgage, APB may repurchase from the Plan a Mortgage or Participation Interest upon payment of the unpaid balance of the Mortgage or Participation Interest plus interest to the date of such repurchase.

10. APB represents that as a result of being a party in interest with respect to a Plan by virtue of servicing the Mortgages it would be prohibited from engaging in other commercial transactions with a Plan, such as the making of loans, which have nothing to do with the Mortgages or Participation Interests held by the Plan. The Department has considered APB's request for relief for such transactions and has decided that because the servicing relationship is established as a necessary result of the purchase of a Mortgage or Participation Interest by a Plan subsequent transactions between the parties otherwise prohibited by section 406(a) are not likely to present an inherent abuse potential. Accordingly, the Department has determined it would be appropriate to propose the relief from section 406(a) contained in Part II of the proposed exemption.

11. In summary, the applicant represents that the transactions satisfy the statutory criteria of section 408(a) of the Act because: (a) The transactions were and will be between the Plans and APB (a federally and state regulated institution) and are transactions made in the regular course of APB's business; (b) all Plan decisions to invest in Mortgages and Participation Interests were and will be made by Plan fiduciaries who are independent of APB; (c) the Plans have paid and will pay no more for the Mortgages or Participation Interests than would be paid by an unrelated party in an arm's length transaction; (d) APB's servicing fee has been and will continue to be similar to fees charged other investors in the Mortgages or Participation Interests, and has been and will be consistent with that charged in the open market; (e) the Mortgages were and will be all first liens on commercial and multi-family residential propertyl (f) the warranties and representations made by APB regarding the Mortgages and Participation Interests are standard for these type of transactions; and (g) the Mortgages and Participation Interests which have been sold by APB to the Plans have had a long-term history of successful repayment.

Notice to Interested Persons: In addition to the notice requirement outlined in the general provisions of this notice, APB agrees to provide a copy of the notice of proposed exemption and any subsequent grant of such exemption to fiduciaries of all employee benefit plans with whom APB may contract in the future to provide services as described herein. Such notification will be provided prior to APB entering into a contract to provide such services.

For Further Information Contact: Ms. Katherine D. Lewis of the Department, telephone (202) 523–8972. (This is not a toll-free number.)

The LaSalle Fund II (the Fund) Located in Chicago, Illinois

[Application No. D–5022]

[10] The Department notes that the application does not address the separate prohibited transaction under section 406(a)(1)(A) of the Act which would exist where upon foreclosure the Plan acquires title to real property and such property or a portion thereof is leased to a party in interest with respect to a Plan. Moreover, if the party in interest under such lease is an employer of employees covered by the Plan, the acquisition of the real property by the Plan would result in the acquisition of employer real property which may violate the provisions of section 406(a)(2) and 407 of the Act. Accordingly, no relief is afforded by this proposed exemption for such transactions.

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975).

Section I. Exemption for Certain Transactions Involving the Fund [11]

(a) The restrictions of sections 406(a), 406(b)(2) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply to the transactions described below if the applicable conditions set forth in Section III are met.

(1) *Transactions Between Parties In Interest and the Fund: General.* Any transaction between a party in interest with respect to a qualified pension or profit sharing plan participating in the Fund (Unitholder) and the Fund, or any acquisition or holding by the Fund of employer real property, if the party in interest is not LaSalle advisors Inc. (LaSalle), any of its affiliates, or any other group trust managed by LaSalle or any of its affiliates, and if, at the time of the transaction, acquisition or holding, the interest of the Unitholder, together with the interests of any other Unitholders maintained by the same employer or employee organization in the Fund, does not exceed 10 percent of the total of all assets in the Fund.

(2) *Special Transactions Not Meeting the Criteria of Section I(a)(1) Between Employers of Employees Covered by a Multiemployer Plan and the Fund.* Any transaction between an employer (or an affiliate of an employer) of employees covered by a multiemployer plan (as defined in section 3(37)(A) of the Act and section 414(f)(1) of the Code) that is a Unitholder and the Fund, or any acquisition or holding by the Fund of employer real property, if at the time of the transaction, acquisition or holding–

The interest of the multiemployer plan in the Fund exceeds 10 percent of the total assets in the Fund, but the employer is not a "substantial employer" with respect to the plan and would not be a "substantial employer" if "5 percent" were substituted for "10 percent" in the definition of "substantial employer."

(3) *Acquisitions, Sales, or Holdings of Employer Real Property.* (A) Except as provided in subsection (B) of this section (3), any acquisition, sale or holding of employer real property by the Fund which does not meet the requirements of paragraphs (a)(1) and (a)(2) of this Section I, if no commission is paid to LaSalle or to the employer or to any affiliate of LaSalle or the employer in connection with the acquisition, sale or lease of employer real property; and

(i) Each parcel of employer real property and the improvements thereon held by the Fund are suitable (or adaptable without excessive cost) for use by different tenants, and

(ii) The property of the Fund that is leased or held for lease to others, in the aggregate, is dispersed geographically.

(B) In the case of a Unitholder that is not an eligible individual account plan (as defined in section 407(d)(3) of the Act), the exemption provided in subsection (A) of this section (3) shall be available only if, immediately after the acquisition of the real property, the aggregate fair market value of employer real property, held by the Fund does not exceed 10 percent of the fair market value of the Unitholder's interest in the Fund.

(C) For purposes of the exemption contained in subsection (A) of this section (3), the term "employer real property" shall include real property leased to a person who is a party in interest with respect to a Unitholder by reason of a relationship to the employer described in section 3(14) (E), (G), (H) or (I) of the Act.

(b) The restrictions of section 406(a)(1) (A) through (D) and section 406(b) (1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the transactions described below, if the conditions of Section III are met:

(1) *Certain Leases and Goods.* The furnishing of goods to the fund by a party in interest with respect to a Unitholder or the leasing of real property owned by the Fund to such party in interest and the incidental furnishing of goods to such party in interest by the Fund, if—

(A) In the case of goods, they are furnished to or by the Fund in connection with real property owned by the Fund;

(B) The party in interest is not LaSalle or any affiliate of LaSalle or one of the other Funds operated by LaSalle; and

(C) The amount involved in the furnishing of goods or leasing of real property in any calendar year (including the amount under any other lease or arrangement for the furnishing of goods in connection with the real property investments of the Fund with the same party in interest, or any affiliate thereof) does not exceed the greater of $25,000 or 0.5 percent of the fair market value of the assets of the Fund on the most recent valuation date of the Fund prior to the transaction.

(2) *Transactions Involving Places of Public Accommodation.* The furnishing of services, facilities and any goods incidental to such services and facilities by a place of public accommodation owned by the Fund to a party in interest with respect to a Unitholder, if the services, facilities and incidental goods are furnished on a comparable basis to the general public.

(c) The restrictions of section 406(a)(1) (A) through (D) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to the following transaction if the conditions of Section III are met:

Any transaction between the Fund and a person who is a party in interest with respect to a Unitholder, if—

(1) The person is a party in interest (including a fiduciary) solely by reason of providing services to the Unitholder, or solely by reason of a relationship to a service provider described in section 3(14) (F), (G), (H) or (I) of the Act, or both, and the person neither exercised nor has any discretionary authority, control, responsibility or influence with respect to the investment of the Unitholder's assets in, or held by, the Fund;

(2) At the time of transaction, the interest of the Unitholder, together with the interests of any other Unitholders maintained by the same employer or employee organization in the Fund, does not exceed 20 percent of the total of all assets in the Fund; and

(3) The person is not LaSalle or an affiliate of LaSalle.

(d) The restrictions of section 406(a)(1) (A) through (D) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to the purchase and sale of units of beneficial interest in the Fund if no more than reasonable compensation is paid therefor, each purchase and sale is authorized in writing by a fiduciary of the Unitholder who is independent of LaSalle and any of its affiliates, and the applicable conditions of Section III are met.

Section II. Excess Holdings Exemption for Employee Benefit Plans

(a) The restrictions of sections 406(a) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section

[11] References in the exemption to the Fund shall also refer to any future group trust structured and operated in a manner identical to the Fund.

4975(c)(1) (A) through (D) of the Code shall not apply to any acquisition or holding of qualifying employer real property (other than through the Fund) by a Unitholder if (1) the acquisition or holding constitutes a prohibited transaction solely by reason of being aggregated with employer real property held by the Fund; (2) the requirements of either paragraph (a)(1) or paragraph (a)(2) of Section I of this exemption are met; and (3) the applicable conditions set forth in Section III of this exemption are met.

Section III. General Conditions

(a) At the time the transaction is entered into, and at the time of any subsequent renewal thereof that requires the consent of LaSalle or its affiliates, the terms of the transaction are not less favorable to the Fund than the terms generally available in arm's-length transactions between unrelated parties.

(b) LaSalle or its affiliates maintain for a period of six years from the date of the transaction the records necessary to enable the persons described in paragraph (c) of this Section III to determine whether the conditions of this exemption have been met, except that (1) a prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of LaSalle or its affiliates, the records are lost or destroyed prior to the end of the six-year period, and (2) no party in interest shall be subject to the civil penalty that may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975 (a) and (b) of the Code, if the records are not maintained, or are not available for examination as required by paragraph (c) below.

(c)(1) Except as provided in section 2 of this paragraph (c) and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (b) of this Section III are unconditionally available at their customary location for examination during normal business hours by:

(A) Any duly authorized employee or representative of the Department or the Internal Revenue Service,

(B) Any fiduciary of a Unitholder who has authority to acquire or dispose of the interests in the Fund of the Unitholder or any duly authorized employee or representative of such fiduciary,

(C) Any contributing employer to any Unitholder or any duly authorized employee or representative of such employer, and

(D) Any participant or beneficiary of any Unitholder or any duly authorized employee or representative of such participant or beneficiary.

(2) None of the persons described in subparagraphs (B) through (D) of this paragraph (c) shall be authorized to examine trade secrets of LaSalle or any of its affiliates, or commercial or financial information which is privileged or confidential.

Section IV. Definitions and General Rules

For the purposes of this exemption,

(a) An "affiliate" of a person includes—

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person.

(2) Any officer, director, employee, relative of, or partner in any such person, and

(3) Any corporation or partnership of which such person is an officer, director, partner or employee.

(b) The term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(c) The term "relative" means a "relative" as that term is defined in section 3(15) of the Act (or a "member of the family" as that term is defined in section 4975(e)(6) of the Code), or a brother, a sister, or a spouse of a brother or sister.

(d) The term "substantial employer" means for any plan year an employer (treating employers who are members of the same affiliated group, within the meaning of section 1563(a) of the Code, determined without regard to section 1563 (a)(4) and (e)(3)(c) of the Code, as one employer) who has made contributions to or under a multiemployer plan for each of—

(1) The two immediately preceding plan years, or

(2) The second and third preceding plan years, equaling or exceeding 10 percent of all employer contributions paid to or under that plan for each such year.

(e) The time as of which any transaction, acquisition or holding occurs is the date upon which the transaction is entered into, the acquisition is made or the holding commences. In addition, in the case of a transaction that is continuing, the transaction shall be deemed to occur until it is terminated. If any transaction is entered into, or an acquisition is made, on or after the effective date of this exemption, or a renewal that requires the consent of the Fund occurs on or after the effective date of this exemption, and the requirements of this exemption are satisfied at the time the transaction is entered into or renewed, respectively, or at the time the acquisition is made, the requirements will continue to be satisfied thereafter with respect to the transaction or acquisition and the exemption shall apply thereafter to the continued holding of the property so acquired. Notwithstanding the foregoing, this exemption shall cease to apply to transactions exempt by virtue of subsections I(a)(1) and I(c) at such time as the interest of the Unitholder exceeds the percentage interest limitations set forth in those subsections, unless no portion of such excess results from an increase in the assets allocated to the Fund by the Unitholder. For this purpose, assets allocated do not include the investment of Fund earnings. Nothing in this paragraph (e) shall be construed as exempting a transaction entered into by the Fund which becomes a transaction described in section 406 of the Act or section 4975 of the Code while the transaction is continuing, unless the conditions of the exemption were met either at the time the transaction was entered into or at the time the transaction would have become prohibited but for this exemption.

(f) Each Unitholder shall be considered to own the same proportionate undivided interest in each asset of the Fund as its proportionate interest in the total assets of the Fund as calculated on the most recent preceding valuation date of the Fund.

Preamble

On July 25, 1980, the Department published a class exemption, Prohibited Transaction Exemption 80–51 (PTE 80–51, 45 FR 49709), which permits collective investment funds that are maintained by banks and in which employee benefit plans particulate to engage in certain transactions provided that specified conditions are met. The transactions for which the applicants have requested relief are those which, in part, are the subject of PTE 80–51.

The Department stated in PTE 80–51 that a comment had been received to the proposed class exemption requesting that it be amended to apply to collective investment funds that are not maintained by banks. Relief was granted for bank collective investment funds because, among other reasons, such funds are regulated by other governmental agencies and constitute a well-defined class of funds. In the case of collective investment funds that are not maintained by banks, the Department found that the record was

insufficient to determine the nature of the funds and the entities managing the funds that would comprise the class covered by such broad relief. As a result, the Department stated that it could not make the required statutory findings for such relief, and that relief for non-bank maintained collective investment funds should be dealt with on an individual rather than a class basis.

Summary of Facts and Representations

1. The Fund and similar trusts organized by LaSalle will be organized as group trusts described in Rev. Rul. 81–100, to provide pension and profit-sharing plans a vehicle for investing a portion of their assets in real property on a commingled basis. In accordance with Rev. Rul. 81–100 and Code section 401(a)(24), only pension and profit-sharing plans qualified under Code section 401(a) and exempt from federal income tax under section 501(a), governmental plans described in Code section 414(d), and governmental units described in Code section 805(d)(6) will be permitted to invest in the Fund.

2. LaSalle, a Delaware corporation organized in 1976, is registered as an investment advisor under the Investment Advisers Act of 1940 and expects to organize and manage several group trusts. LaSalle is wholly-owned by LaSalle Partnership Inc. (LPI) and many of its officers are experienced officers and employees of LPI or its affiliates. Employee benefit plans currently have invested over $300,000,000 in accounts advised or managed by LaSalle.

3. LPI, founded in 1968, provides a variety of real estate services to major corporations and financial institutions throughout the United States. LPI comprises three operating divisions engaged in asset management, services, and development activities. LPI provides clients with a wide variety of services, including real estate investment management, property management, property acquisition and disposition, and mortgage brokerage and other financing services.

4. The Fund, which was organized on October 1, 1983, will acquire and manage interests in income-producing real property. It will seek investment opportunities, including projects under development, throughout the United States and will not be limited in the types of property it may acquire and manage.

5. The Offering Memorandum of the Fund fully sets out for potential investors the investment objectives, operations, and management of the Fund and the compensation to be paid to the investment manager. The trustees of the Fund are Kenneth M. Campia, C. Gary Gerst, William S. Sanders, and Stuart L. Scott (the Trustees). The Trustees also act as directors of LaSalle and are officers and directors of various affiliates of LaSalle. The Trustees will not be compensated by the Fund.

6. The Fund will maintain such reserves as the investment manager deems appropriate. These reserves, along with any subscription proceeds not immediately used to acquire real estate, will be temporarily invested in liquid investments, including short-term United States government securities, interest-bearing deposits, certificates of deposit, bankers' acceptances, or other short-term money market instruments. Interest earned from temporary investments will constitute income of the Fund. Selection of such short-term investments will be within the discretion of the investment manager.

7. Units in the Fund will be privately offered and will not be registered under the Securities Act of 1933. The offering price of each unit is $1,000,000 with a minimum subscription by an investor, subject to waiver by the Trustees, of five units ($5,000,000). It is anticipated that Unitholders will generally have assets of at least $100,000,000. The offering will terminate on March 31, 1985. The maximum number of units which will be sold by the Fund is five hundred.

The decision of any Unitholder to invest in the Fund will be made by fiduciaries of that Unitholder. The Trustees may reject a subscription for any reason.

8. It is anticipated that certain employee benefit plans and governmental plans which own shares in the LaSalle Street Fund Incorporated, a real estate investment trust within the meaning of Code section 856 advised by LaSalle, or which have retained LPI or one of its affiliates to provide investment management or advice with respect to real estate may also become Unitholders in the Fund. However, none of the individual Trustees of the Fund, nor any of the employees, officers, directors, or shareholders of LaSalle, LPI, or their affiliates will have discretionary authority over or otherwise participate in the decision of any plan to invest in the Fund.[2]

9. Although the Offering Memorandum advises fiduciaries that investment in the Fund should be considered only on a long-term basis, if a Unitholder desires to dispose of its investment, it may apply to the Trustees for redemption of all or a portion of its units. However, the Trustees will not redeem any units prior to March 31, 1988, and will make redemption payments only out of funds that would otherwise be available for investment or distribution. The Trustees will be under no obligation to sell any properties to satisfy redemption requests. However, after March 31, 1988, commencing ninety days after receipt of a redemption request, no new agreements to purchase properties will be entered into by the Fund which would require disbursement of funds prior to satisfying a request for redemption.

In their discretion, the Trustees may offer to the remaining Unitholders or plans not yet participating in the Fund the opportunity to purchase all or part of a withdrawing plan's units. Redemption will occur on a redemption date at least ninety days after receipt of a redemption request which shall be as soon as practical after funds for redemption become available. Upon the redemption date, the Trustees will distribute to the redeeming Unitholder ninety percent of the unit value determined as of the last date of the calendar quarter next preceding the redemption date of each unit being redeemed. In order to protect the interests of non-redeeming Unitholders from a loss in value of their units that may result principally from an overvaluation at the time of redemption by others, the Offering Memorandum advises all investors that the Trustees will withhold from distribution and place in a separate interest-bearing account ten percent of the unit value.[3]

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[2] To the extent that, in the ordinary course of business, LaSalle provides "investment advice" to a plan within the meaning of regulation 29 CFR 2510.3–21(c)(1)(ii)(B) and recommends an investment of the plan's assets in a Fund that it is establishing, the presence of an unrelated second fiduciary acting on the consultant/investment adviser's recommendations on behalf of the plan is not sufficient to insulate LaSalle from fiduciary liability under 406(b) of the Act. (*See* Advisory Opinions 84–03A and 84–04A, issued by the Department on January 4, 1984.) The Department is unable to conclude that a fiduciary self-dealing of this type (if present) is in the interests or protective of the plans and their participants and beneficiaries and, accordingly, has limited exemptive relief for the acquisition or sales of participation interests in the Fund to section 406(a) violations only.

[3] Any interest-bearing account created pursuant to the redemption procedures will be segregated from other assets of the Fund and invested, in the investment manager's discretion, in securities or other investments earning fixed rates of interest at then prevailing market rates for terms consistent with the anticipated liquidation date of the Fund, including United States government securities, interest-bearing deposits, certificates of deposit, bankers' acceptances, high-grade corporate bonds, or other money market instruments. The applicant represents that the investment manager is compensated solely with respect to the Fund's investments in real estate and will receive no compensation for managing these "escrow" investments nor will it or any bank or other fiduciary have use of these funds during the "escrow" period.

Within ninety days after the scheduled termination date (March 31, 1995) of the Fund, the Trustees will distribute this remaining redemption amount with all interest accrued thereon to the previously redeemed Unitholders, less an amount, if any, by which the unit value for the remaining Unitholders on March 31, 1995, is less than the unit value for each previously redeemed Unitholder on its respective redemption date.

10. The Trustees, in their sole discretion, may terminate the Fund at any time; however, it is expected that the Fund will continue until March 31, 1995. The Fund's existence may be extended beyond March 31, 1995, for additional two year periods, if the Unitholders holding at least sixty percent of the number of units then outstanding so elect. During such periods of extension, the Trustees shall be obligated to attempt to dispose of properties as necessary to satisfy any requests for redemption. Nonetheless, ten percent of the value of units redeemed after March 31, 1995, will likewise be retained under the same arrangements described above until the next succeeding termination date.

Upon termination for any reason, the Trustees shall liquidate the Fund's properties in an orderly fashion and distribute, *pro rata*, all Fund assets (less reasonable reserves for unpaid expenses and contingencies) to the Unitholders.

11. LaSalle will serve as investment manager to the Fund pursuant to the Investment Management Agreement which is attached to the Offering Memorandum. Under the Investment Management Agreement, LaSalle, as investment manager, will be vested with exclusive authority to exercise all powers necessary to acquire, manage, and dispose of the Fund investments. LaSalle will be responsible for all decisions and actions in connection with Fund investments as well as for performing the day-to-day administrative operations of the Fund. Many of the services, including property management, may be performed by LPI or one of its affiliates on behalf of LaSalle, but such parties will be under the direction of LaSalle when performing such services and will not receive compensation from the Fund (other than that provided for LaSalle). LaSalle may, in its discretion and at its expense, retain other, unrelated property management organizations. Any unrelated third parties may receive additional leasing fees or brokerage commissions from the Fund. LaSalle or its affiliates will pay all fees and expenses in connection with the organization and the offering of units in the Fund.

LaSalle will receive no fee based on any particular transaction but will receive a single fee for its services. The fee will be based in part on revenues from real estate holdings of the Fund and in part on the value of the Fund's assets.[4] To determine the value of assets invested in real property, independent appraisals will be obtained annually.

12. LaSalle will have the books and records of the Fund audited by an independent public accountant each fiscal year and, within 120 days after the end of such fiscal year, will forward a copy of such reports, along with any other pertinent information, to the fiduciaries of each Unitholder. Within sixty days after the end of each of the first three quarters of each fiscal year, LaSalle will cause to be prepared and sent to the fiduciaries of each Unitholder a detailed report of the financial position of and the business transacted by the Fund during that quarter. Such quarterly reports will not be audited.

13. It is anticipated that there will be a number of Unitholders and that the number of persons and entities who will be parties in interest with respect to the Fund will be quite large. The Fund, it is represented, may lose favorable opportunities if, for example, it cannot lease to a party in interest or its affiliates. The investment opportunities of the Fund would also be significantly reduced if the exemption is not granted. The Fund will not be able to purchase or sell any property from or to any employer of a Unitholder or the employer's affiliates. Any loss from foregoing desirable investments or leases would be reflected in the performance of the investments of the Fund to the detriment of the Unitholders.

It is also necessary for the Fund to obtain certain goods for the efficient operation and management of its assets. Without an exemption, the Fund would have fewer providers of goods from which to choose which could result in increased operational costs for the Fund.

14. In summary, the applicant represents that the subject transactions meet the criteria of section 408(a) of the Act because: (a) The proposed exemption would allow the Fund to enter into transactions which, although otherwise prohibited, are necessary for the Fund to prudently make its investments and conduct its operations solely for the benefit of its Unitholders and their participants and beneficiaries; (b) the proposed exemption would only apply to certain classes of prohibited transactions which were afforded relief in PTE 80–51 and would be subject to similar conditions, limitations, and restrictions as those delineated with respect to those transactions afforded exemptive relief in PTE 80–51; (c) independent fiduciaries, unrelated to the Fund, the Trustees, or LPI, maintain complete discretion with respect to investment in or redemption of Unitholders' assets from the Fund; and (d) such fiduciaries are knowledgeable and experienced investors acting on behalf of large plans and are provided with detailed information on the Fund.

For Further Information Contact: Mr. Alan Levitas of the Department, telephone (202) 523–8971. (This is not a toll-free number.)

The RGMB Corp. Pension Plan and the RGMB Corp. Profit Sharing Plan (the Plans) Located in Beverly Hills, California

[Application Nos. D–5245 and D–5246]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the applicaiton of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply for a period of seven years to: (1) The proposed purchase by the Plans from RGMB Corp. (the Employer), the employer of participants under the Plans, of the right to receive all monthly payments due under some of the Employer's current and future automobile leases (the Leases), provided that the terms of such assignments and the Leases are at least as favorable to the Plans as arm's-length transactions between unrelated parties; and (2) the Employer's guarantee of the obligations of the lessees under the Leases in the event of a default by such lessees or termination of any Lease. With regard to the maintenance and examination of records, described in paragraph 9 of the Summary of Facts and Representations (below), a prohibited transaction will not be deemed to have occurred if due to circumstances beyond the control of the Plan fiduciaries such records are lost or destroyed prior to the end of the

[4] The Department is not proposing an exemption for the receipt of investment management fees beyond that provided by section 408(b)(2) of the Act.

specified six-year period; and the Employer shall not be subject to the civil penalty which may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975 (a) and (b) of the Code, if such records are not maintained or are not available for examination as represented below.

Temporary Nature of Exemption

The proposed exemption is temporary and, if granted, will expire seven years after the date of grant with respect to the purchase of interests in any Lease. If granted, the exemption with respect to the Employer's guaranty of the obligations of the lessees under the Leases, will expire upon the termination of all Leases in which the Plans purchased interests within seven years of the date the exemption was granted. Should the applicant wish to continue assigning interests in Leases to the Plans beyond the seven year period, the applicant may request another exemption.

Preamble

On March 23, 1979, the Department published a class exemption (Prohibited Transaction Exemption 79–9 (PTE 79–9), 44 FR 17819), which permits employee benefit plans to purchase certain notes from employers any of whose employees are covered by the plan where the employers receive such notes from their customers in the ordinary course of their business and the notes are collateralized by security agreements on the property purchased by the customers.

In PTE 79–9 the Department defined a customer note for purposes of the exemption as "* * * a two party instrument executed along with a security agreement for tangible personal property, which is accepted in connection with and in the normal course of the employer's primary business activity as a seller of such property * * *"

The transactions which are the subject of this exemption involve automobile Leases originated by the Employer and sold to the Plans and therefore do not fall within the definition of customer notes. However, because the Leases and attendant arrangements appear to parallel those transactions contemplated by PTE 79–9 in that the Leases were accepted by the Employer in connection with and in the normal course of the Employer's primary business activity as a seller and lessor of automobiles, the Department has determined that relief comparable to that afforded by PTE 79–9 would be appropriate.

Summary of Facts and Representations

1. One of the Plans provides defined benefits upon the retirement of a participant; the other is a profit sharing plan. As of April 30, 1983, the former Plan (the Pension Plan) covered 19 participants and had assets totalling $1,339,727.80, while the latter Plan (the Profit Sharing Plan) covered 69 participants and had assets totalling $848,338.29. Trust Services of America, Inc. (the Trustee) has agreed to serve as trustee to the Plans if the proposed exemption is granted.

2. The Employer, organized March 10, 1971 under California law, operates an automobile dealership in Beverly Hills, California and is engaged in the retail sale and leasing of automobiles. To engage in the business of leasing automobiles, the Employer purchases automobiles with funds provided under a line of credit granted by its bank, City National Bank (the Bank). Since the line of credit is substantially drawn for the purpose of purchasing automobiles, the Employer's ability to obtain needed working capital for plant improvements and expansion has been restricted. During the past 12 years, the Employer has entered into approximately 240 automobile leases and has experienced only one default; that default did not result in financial loss to the Employer.

3. The Trustee, a trust company authorized to transact business in California, has approximately 90 years experience as trustee to employee benefit plans and personal trusts. Presently, the Trustee has been appointed trustee of approximately 1,700 plans subject to the Act, having aggregate assets of $800,000,000 under trust administration. The Trustee also acts as investment manager to approximately 67 ERISA-covered plans with aggregate assets of $138,000,000 under investment management administration. The Trustee has a full-time staff of qualified and certified investment counselors and managers who analyze all kinds of investment and financial transactions, including transactions similar to the purchase of the right to receive monthly payments over a period of time. The Trustee represents that it is not related to the Employer or any of its officers, shareholders, directors, creditors, and members of their families. The Employer represents that it does not have any funds deposited in checking or savings accounts, certificates of deposit, etc., maintained by the Trustee or its parent corporation, California Federal Saving & Loan Association. The Trustee represents that it udnerstands and acknowledges its fiduciary duties, responsibilities, and liabilities as set forth in section 401, *et seq.*, of the Act and shall act in full compliance of same with respect to the Plans.

4. Each Lease will be evidenced by the standard lease agreement used by the Employer, which entitles the lessee to possession and use of the leased automobile during the lease term (three to four years) and obligates him to pay a monthly rental based upon current market value. This agreement also requires the lessee to maintain, in specified amounts, insurance policies providing personal liability protection, uninsured motorist coverage, collision, and comprehensive (including fire and theft) protection. The lessor must be the loss payee on both the collision and comprehensive insurance. The standard lease agreement permits the lessee to terminate the Lease if lessor permits, after the first 12 months of the Lease provided the lessee is not in default with respect to the Lease. In the event of such early termination, the lessee must pay the total amount of unpaid monthly rentals for the remaining months of the Lease to the lessor upon the latter's demand. The lessor may declare the Lease to be in default if the lessee—fails to perform any of its obligations under the Lease; fails to make any rental or other required payment within three days after notice from the lessor that such payment is due and unpaid; makes false representations on his credit application; becomes insolvent, commits an act of bankruptcy, makes any arrangement with or assignment for the benefit of creditors, or if a proceeding in bankruptcy, insolvency, reorganization, or receivership is instituted by or against the lessee or his property, of if any writ of attachment or execution or other process is levied or lien created against, or a receiver or trustee is appointed for any property of the lessee and the same is not released, bonded, or discharged within ten days thereafter; fails to advise the lessor, upon his request, of the location of the vehicle; or fails to cause specified insurance policies to remain in full force and effect during the Lease term. The lessor may also declare the Lease to be in default if for any reason it deems the vehicle is subject to misuse or danger or deems itself (i.e., the lessor) insecure.

5. Prior to executing a Lease, each lessee will complete a credit application which will be reviewed and approved by the Employer's credit department. The Employer will recommend from the Leases certain ones in which the right to receive all monthly payments thereunder will be assigned to the Plans, and will submit such Leases to the

Trustee for review, approval, certification, and monitoring. The applicant represents that in recommending the assignment of monthly rental payments under Leases to the Plans, only rentals from those Leases in which, after a complete verification and check, the lessee receives the highest possible credit rating will be recommended for assignment to the Plans. The Trustee will execute a written certification for each Lease for which it approves such assignment to the Plans. After a Lease is so approved and certified, the Employer will execute and assignment of all of its right, title, and interest in the monthly rental payments due under the Lease to either or both of the Plans at a price not more than, and on terms at least as favorable as, the price and terms that would otherwise be offered to unrelated third party lending institutions. Such price and terms will be determined from quotations obtained from time to time from such lending institutions.

6. At any time, not more than 25% of the fair market value of each Plan's assets will be invested in the Leases (the 25% Limitation). Furthermore, not more than 10% of the fair market value of each Plan's assets will be invested in any one Lease. The percentage interest of each Plan in an assigned Lease shall be determined on the basis of the following formula: The first Leases accepted for assignment to the Plans will be assigned to the Profit Sharing Plan provided the 25% Limitation is not exceeded; thereafter, any Leases which would cause the Profit Sharing Plan to exceed its 25% Limitation will be assigned to the Pension Plan provided the latter's 25% Limitation is not exceeded. Further, if the price paid for assignment of any Lease exceeds 10% of the fair market value of one Plan's assets but less then 10% of the fair market value of the other Plan's assets, such other Plan will have the Lease assigned to it provided that the 25% Limitation and the priority described above are respected.

7. The assignment document specifies the percentage interest of each Plan in the Lease and provides for payment of a guarantee (the Guarantee) to the Plans in the event of either default on or early termination of the Lease. The amount of the Guarantee equals the sum of the remaining unpaid monthly payments due under the Lease. Such amount will be paid by the Bank (see 2, above) after it has received written notice from the Trustee of such default or early termination, under the terms of a letter of credit issued by the Bank on the date interests in the Lease are assigned to the Plans. The Guarantee may be paid eighter in monthly installments as they are due under the terms of the Lease or in a single sum equal to the present value of such monthly payments, computed by applying the Bank's prime lending rate as of the date of the default on or early termination of the Lease. The Trustee shall have the sole discretion to choose either of these forms of payment of the Guarantee. Payments of the Guarantee, under the letter of credit, will be charged against the Employer's line of credit with the Bank (see 2, above). The assignment document also provides that except for the assignment to the Plans of the right to receive the monthly payments due under the Lease, the Employer shall retain all other rights, title, and interests as the lessor and owner under the Lease. If the Bank Pays the Guarantee to the Plans, their interests in any unpaid montly rentals revert to the Employer. The applicant explains that such reversion includes only the Employer's right to pursue any remedies it may have against the lessee with respect to his default under the Lease, but does not include the right to any monies paid to the Plans under the terms of either the Lease or the Guarantee.

8. The written certification by the Trustee (see 5, above) states, in pertinent part that:

(a) The Trustee has reviewed the terms of the proposed assignment and has analyzed the transaction, valuing the right to receive the monthly payments, the term over which the monthly payments are to be made, the determination of the purchase price, and the rights of the Plans under the assignment, the Guarantee, and the letter of credit;

(b) On the basis of this review and analysis, the Trustee certifies that the terms of the proposed assignment compare favorably with transactions involving the purchase of a similarly fixed term of monthly payments assuming such purchase was between unrelated parties;

(c) The Trustee further certifies that, based on its review and analysis of the proposed assignment, Guarantee, letter of credit, and the terms of the Plans, the transaction is in the best interests of the Plans and protects the rights of their participants and beneficiaries because the purchase price and the economic return to the Plans is fair and the Plans' investment is free from risk of loss;

(d) The Trustee shall monitor the assignment on behalf of the Plans, shall take appropriate actions to assure that all of the monthly payments are received when due and deposited into accounts of the Plans, and shall take all necessary steps to safeguard the interests of the Plans, and their participants and beneficiaries, in the Lease, including, if necessary, enforcing payment on the letter of credit;

(e) The Trustee will assume responsibility to the Plans for any loss caused by the default on or early termination of any assigned Lease if the Employer does not timely advise the Trustee that a default or early termination of an assigned Lease has occurred; and

(f) The Trustee believes that the Guarantee secures the Plans' investments in the Lease from any loss because, through the letter of credit, payment of the remaining monthly payments due under the Lease (or the lump-sum present value of same) will be assured.

9. The Employer will not receive any fees or commissions in connection with the proposed transactions. The applicant represents that no lessee will be a party in interest with respect to the Plans and that upon written request by the Department, the Trustee or the Employer shall submit to the Department such additional information regarding the subject transactions as may be requested.

10. If the proposed exemption is granted, the Plans shall maintain records necessary to enable the Department to determine whether the conditions of this exemption have been met. Such records will be maintained for a period of six years from the date of any transaction described in this notice. Notwithstanding anything to the contrary in section 504 (a)(2) and (b) of the Act, such records shall be unconditionally available at their customary location for examination during normal business hours by the Internal Revenue Service, the Department, Plan participants and beneficiaries, the Employer, any employee organization any of whose members are covered by the Plans, or any duly authorized employee or representative of the foregoing persons.

11. In summary, the applicant represents that the proposed transactions satisfy the exemption criteria set forth in section 408(a) of the Act because (a) the Trustee will determine that the terms of each purchase and assignment compare favorably with transactions between unrelated parties involving the purchase of a similarly fixed term of monthly payments; (b) the Trustee will review and analyze each proposed assignment and will approve such assignment to the Plans only if the Trustee believes the assignment is in the best interests of the

Plans and protects the interests of the participants and beneficiaries of the Plans; (c) the Trustee will monitor the assignment on behalf of the Plans and will take all necessary steps to safeguard the interests of the Plans and their participants and beneficiaries; (d) the Leases will be originated by the Employer in the ordinary course of its business; (e) the Employer will receive no fees or commissions in connection with the proposed transaction; (f) no lessee will be a party in interest with respect to the Plans; (g) Plan fiduciaries shall submit to the Department any additional information regarding the subject transactions as may be requested in writing; (h) the Plans shall maintain records necessary to enable the Department to determine whether the conditions of the exemption have been met and shall make such records unconditionally available at their customary location for examination during normal business hours by the Internal Revenue Service, the Department, Plan participants and beneficiaries, the Employer, any employee organization any of whose members are covered by the Plans, or any duly authorized employee or representative of the foregoing persons; and (i) the proposed transactions parallel those contemplated by PTE 79–B.

For Further Information Contact: Mrs. Miriam Freund, of the Department, telephone (202) 523–8971. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interest of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 9th day of October, 1984.

Elliot I. Daniel,

Acting Assistant Administrator for Regulations and Interpretations, Office of Pension and Welfare Benefit Programs, Department of Labor.

[FR Doc. 84-27080 Filed 10-11-84; 8:45 am]

BILLING CODE 4510-29-M

MERIT SYSTEMS PROTECTION BOARD

Separation of Administration of Operations of the Merit Systems Protection Board and its Office of the Special Counsel

AGENCY: Merit Systems Protection Board.

ACTION: Separation of administration of operations of the Merit Systems Protection Board and its Office of the Special Counsel.

SUMMARY: The Chairman and the Special Counsel of the Merit Systems Protection Board have agreed to separately administer the operations of the Board and its Office of the Special Counsel.

EFFECTIVE DATE: October 1, 1984.

FOR FURTHER INFORMATION CONTACT: Frank E. Hagan, Director, Office of the Comptroller, (202) 653–7283.

SUPPLEMENTARY INFORMATION: Herbert E. Ellingwood, Chairman of the Merit Systems Protection Board (MSPB), and K. William O'Connor, Special Counsel of the Merit Systems Protection Board, have agreed to separately administer the operations of the MSPB and its Office of the Special Counsel (OSC), effective October 1, 1984. This agreement is consistent with the intent of the Civil Service Reform Act that the Special Counsel should be independent of the Board and not subject to its programmatic control or administrative supervision.

During approximately the past three years, the Office of the Special Counsel has assumed full responsibility for all administrative functions, except procurement and payroll. Under the new agreement, OSC will assume full responsibility for all its administrative functions, including procurement and payroll. Continued informal administrative cooperation will be assured by reliance upon the existing working relationship between the Managing Director, MSPB, and the Director, Operation Management Division, OSC.

For the Board.

Dated: October 5, 1984.

Herbert E. Ellingwood,

Chairman.

[FR Doc. 84-26939 Filed 10-11-84; 8:45 am]

BILLING CODE 7400-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (84-78)]

National Environmental Policy Act; Finding of No Significant Impact

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Finding of No Significant Impact for the Space Shuttle Solid Rocket Motor (SRM) Production Program; the manufacture of SRM segments, their delivery to Kennedy Space Center (KSC) and Vandenberg Air Force Base (VAFB), and the refurbishment of SRM reusable components.

SUMMARY: The proposed action by NASA will be the result of moving from the design, development, test and evaluation (DDT&E) phase of Space Shuttle SRM's into the actual production phase that will support an operational manifest of up to 24 launches per year. The final Environmental Impact Statement (EIS) for the SRM DDT&E phase was released January 1977 and to assure that the environment would not be compromised by moving into full production, an Environmental Assessment has been prepared.

The assessment concludes that an updated EIS is not necessary because

there are no significant adverse environmental impacts with the production, delivery, and refurbishment of SRM's. The assessment included a description of the proposed action, purpose and need, alternatives to the proposed action, and environmental impacts of the proposed action and alternatives.

The SRM (two SRM's are required for each launch) consists of 11 steel case segments or four filament wound and three steel case segments assembled into four propellant-loaded segments; a forward segment including the igniter, two interchangeable center segments, and an aft segment including the nozzle. The propellant is case-bonded polybutadiene acrylonitrile (PBAN) composite propellant (approximately 70 percent ammonium perchlorate, 16 percent aluminum, and 14 percent PBAN binder as major constituents). A moveable nozzle provides for thrust vector control.

The manufacture and loading of SRM segments by Morton Thiokol Inc., Wasatch Division, Utah, includes: the receipt of case segments; cleaning, inspection, assembly, insulation, and internal-lining installation; casting with PBAN solid propellant; curing of the propellant; and final finishing. Waste propellant generated during SRM casting is disposed of via open-pit burning. Fabrication and installation of the composite nozzle and of the PBAN propellant igniter completes the manufacturing process. The SRM segments are then temporarily stored until shipment to the launch sites via rail. During transportation, the segments are protected with end-ring covers as well as shipping covers and specific rail routes are followed.

The SRM refurbishment activities are performed by Thiokol Inc. at the Freeport Center, Clearfield, Utah. This operation involves: removal of the charred insulation from inside the casting segments with high-pressure water; hydro-testing the segments; disassembly; grit-blasting and solvent cleaning; inspection; and the application of preservative. The nozzles removed from the aft segment are disassembled for remanufacturing. All residue from these operations is collected and disposed of in accordance with State and Federal regulations.

The alternatives to the proposed action that were investigated are: choice of solid propellant, methods for waste propellant disposal, transportation modes and routes, use of alternative processing sites, methods for washout water disposal, and "no action." The PBAN solid propellant qualified for the SRM has an extensive background of development and safe, reliable use in large SRM's. From an environmental viewpoint, it has the disadvantage of having Hydrogen Chloride (HC1) and Aluminum Oxide (Al_2O_3) in its combustion products. Propellants are known or could be developed that contain no Hydrogen Chloride and no Aluminum Oxide as combustion products; however, a considerable investment in tooling and requalification would be required for a propellant change. Because of the significant disadvantages (low specific impulse or mass-detonating characteristic) with a substitute and the present propellant not expected to cause any severe or prolonged environmental problems, alternative propellants have been rejected. For waste-propellant disposal, usage as a forest-service fire-starter, constituent reclamation processes (AP and polymer products), and confined burning with water scrubbing were evaluated. Either alternative could be adopted if shown to be beneficial; however, open burning is currently the safest and most economical method. None of the alternative casting-segment transportation modes (truck, air, or sea) offer environmental advantages over rail. Due to the segment size and mass, all transportation alternatives have operational and economic disadvantages such as cost, capability, restrictive route selection, and permit requirements. When investigating alternate processing sites, many of the disadvantages are alleviated with the present facilities. The current site provides remoteness and low human, plant, and animal population densities to mitigate any adverse effects during processing. An alternate site for processing SRM's would require heavy facilitization and a qualification program including static firings. The "no action" alternative implies abandonment of the current Space Shuttle. The SRM's were selected via a systematic evaluation of various concepts early in the program and at this juncture, there is no intent or need to change this concept.

The physical and socioeconomic impact of manufacturing, delivery, and refurbishment of the SRM's is positive overall and no significant adverse effects are to be expected from SRM production. In summary form, the following environmental conditions can be expected. The impacts to air quality are primarily the increased automobile exhaust emissions from a larger workforce and emissions from the open-pit burning of waste propellant. The emissions from automobiles can be expressed in terms of miles driven per day and this impact peaks, with the production of 24 flight sets, at 72,500 kilometers as compared to 1982 of 31,300 kilometers. The peak amount of waste propellant burned annually will result in emissions of approximately 150,000 kilograms of Al_2O_3 and 80,000 kilograms of HC1 as compared to 65,000 of Al_2O_3 and 35,000 of HCl in 1982. The peak ground concentrations from propellant burning will be well below criteria limits (peak of 2.3 ppm HC1 1 and 5.0 mg/m^3 Al_2O_3; criteria limits of 8.0 and 14.0, respectively). The impacts to water quality can be considered as no impact. The water supply is more than adequate, the waste disposal system is not expected to affect ground, surface, or subsurface waters, and the landfill dump and burn pits should not have carry-over into any stream beds or springs. The refurbishment facility washout water is cycled for reuse and when finally discharged to the North Davis County sewage system as industrial wastewater, it is filtered to remove any particles greater than 5 microns. Noise conditions can be regarded as no impact since the only source that would reach annoyance level is with traffic noises generated by the increased workforce. Birds may temporarily roost on or fly over Thiokol property on their way to or from the Bear River Migratory Bird Refuge; however, there is no impact to rare and endangered species. There is no impact to land use as the production program will use existing facilities, and with any upgrade of facilities, it is not expected to involve new land. The socioeconomic impact is positive from a larger workforce point of view, but minor as it relates to the gradual rise in overall goods and services over time. There is no measurable energy impact expected from the SRM production program. Increased energy usage at the raw material suppliers will increase proportionally to the increase in materials provided. The amount of energy used annually for SRM production will be about 2.1×10^{12} kilojoules locally and about 4.68×10^{12} kilojoules totally (includes local and nonlocal equipment fabrication, case fabrication, propellant ingredients, and rail transportation). This can be compared to about 1.3×10^{12} kilojoules required to build 10,000 automobiles. The impacts from accidents are mitigated by various means such as remoteness, protection of the casting segments during delivery, selected transportation routes, and stringent safety practices. The most severe impact would involve accidental ignition of a segment. This would result in localized degradation of air quality for a short

period of time due to the release of HCl and Al_2O_3.

The current production program for SRM's should be near full phase (up to 24 flight sets per year) in 1987 with a launch transition of 5/year in FY 1984 to 24/year in FY 1988.

DATE: Comments must be received on or before November 13, 1984.

ADDRESS: National Aeronautics and Space Administration, Headquarters, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Paul Wetzel, 202–453–1872.

SUPPLEMENTARY INFORMATION: The Environmental Assessment for SRM Production was completed in July 1984. EIS's for the SRM DDT&E Program, and the Space Shuttle Program, and the subject Environmental Assessment are available upon request.

Conclusion: The SRM production program will not result in any significant adverse environmental impacts. No EIS is required.

Dated: October 4, 1984.

C. Robert Nysmith,

Associate Administrator for Management.

[FR Doc. 84-26931 Filed 10-11-84; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for International Programs; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Advisory Committee for International Programs.

Dates: October 29, 1984, 9:00 a.m. to 5:00 p.m.;

October 30, 1984, 9:00 a.m. to 3:00 p.m.

Place: National Science Foundation, 1800 G Street, NW, Washington, DC; Room 1224.

Type of meeting: Open.

Contact person: Dr. Bodo Bartocha, Director, Division of International Programs, National Science Foundation, Washington, DC 20550. Telephone (202) 357–9552.

Summary of minutes: May be obtained from Contact Person.

Purpose of meeting: To provide advice, recommendations, and oversight related to support for international cooperation in science and engineering.

Agenda: October 29: Welcome and initial briefing by NSF officials. Science activities with developing countries, UNESCO, committee discussions.

October 30: Eastern European program, export controls update. Discussion, assignments, and future agendas.

Dated: October 9, 1984.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 84-27023 Filed 10-11-84; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Cellular Physiology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Cellular Physiology.

Date and time: Monday, Tuesday and Wednesday, October 29, 30, and 31, 1984, from 9:00 a.m. until 5:00 p.m.

Place: Room 338, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Maryanna P. Henkart, Program Director, Cellular Physiology, Room 332, Telephone: 202/357–7377.

Purpose of advisory panel: To provide advice and recommendations concerning support for research in Cellular Physiology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Dated: October 9, 1984.

M.R. Winkler,

Committee Management Officer.

[FR Doc. 84-27022 Filed 10-11-84; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–369 and 50–370]

Duke Power Co. (McGuire Nuclear Station, Units 1 and 2); Exemption

I

Duke Power Company (the licensee) is the holder of Facility Operating Licenses NPF–9 and NPF–17 which authorize the operation of the McGuire Nuclear Station, Units 1 and 2 (the facilities). The licenses provide, among other things, that they are subject to all rules, regulations, and Orders of the Nuclear Regulatory Commission (the Commission). The facilities comprise two pressurized water reactors at the licensee's site in Mecklenburg County, North Carolina.

II

10 CFR Part 50, Appendix J, paragraph III.D.2(b)(ii) of the Commision's regulations requires overall containment airlock tests to be performed if an airlock is opened during Modes 5 or 6. An overall airlock leakage test at not less than P_a must be conducted prior to plant heatup and startup (i.e., entering Mode 4).

III

By letter dated August 2, 1983, the licensee requested a change in the McGuire Nuclear Station Technicial Specification 4.6.1.3.b which currently requires overall containment airlock leakage tests to be performed " . . . if opened when CONTAINMENT INTEGRITY was not required . . . " The proposed change would be to require the overall airlock leakage test to be performed ". . . when maintenance has been performed on the airlock that could affect the airlock sealing capability." This change requires an exemption from the requirements of Appendix J, to 10 CFR Part 50.

The existing airlock doors are so designed that a full pressure, i.e., (14.8 psig), test of an entire airlock can only be performed after strong backs (structural bracing) have been installed on the inner door. Strong backs are needed since the pressure exerted on the inner door during the test is in a direction opposite to that of the accident pressure direction. Installing strong back, performing the test, and removing strong backs requires at least 6 ours per airlock (there are 2 airlocks) during which access through the airlock is prohibited.

If the periodic 6-month test of paragraph III.D.2(b)(i) of Appendix J and the test required by paragraph III.D.2(b)(iii) of Appendix J are current, not maintenance has been performed on the airlock, and the airlock is properly sealed, there should be no reason to expect the airlock to leak excessively just because it has been opened in Mode 5 or Mode 6. Accordingly, the staff finds that the licensee's proposed approach of relying on the seal leakage test of paragraph III.D.2(b)(iii) of Appendix J is acceptable when no maintenance has been performed on an airlock, and will not adversely affect maintaining containment integrity. Whenever maintenance has been performed on an airlock, the test requirement of paragraph III.D.2(b)(ii) of Appendix J must still be met.

IV

Accordingly , the Commission has determined that an exemption in

accordance with 10 CFR 50.12 is authorized by law, will not endanger life or property or the common defense and security and is otherwise in the public interest. Therefore, the requested exemption from the containment airlock test requirements of 10 CFR Part 50, Appendix J, Section III.D.2(b)(ii) is hereby granted.

Pursuant to 10 CFR 51.32, the Commission has determined that the issuance of this exemption will have no significant impact on the environment (49 FR 38425).

This exemption is efective upon issuance.

Dated at Bethesda, Maryland this 5th day of October 1984.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 84-27089 Filed 10-11-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-272 and 50-311]

Public Service Electric and Gas Co., et al.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of relief from certain requirements of ASME Code Section XI to Public Service Electric and Gas Company, Philadelphia Electric Company, Delmarva Power and Light Company, and Atlantic City Electric Company (the licensees), for the Salem Nuclear Generating Station, Units 1 and 2, Salem County, New Jersey.

Environmental Assessment

Identification of Proposed Action

The relief pertains to the Ten-Year System Leakage and Hydrostatic In-Service Inspection programs for Class 1, 2, and 3 components. One relief relates to Articles IWB 5222 and IWC 5200, which require system leakage and hydrostatic pressure test temperatures be "not less than 100 °F."

The licensee proposes to meet the following alternative requirements:

"Test temperature of systems containing ferritic steel components shall meet the requirements specified by fracture prevention criteria. If fracture toughness criteria were neither specified nor required in the construction of the components, the owner will determine the test temperature. No limit on system test temperature is required for systems or portions of systems constructed entirely of austenitic steel."

The second relief relates to Article IWA 5200, which does not include pneumatic testing as an acceptable method of pressure testing.

The licensee proposes to meet the following alternative requirements:

"Pneumatic testing may be used in place of hydrostatic when the system is not compatible with a liquid test medium or the system is normally charged with a gas, provided code-required pressures and temperatures are met."

The Need for the Proposed Action

The request for relief from Article IWB 5222 and IWC 5200 is required because there is no viable means of heating certain components, systems, or portions of systems.

The request for relief from Article IWA 5200, ASME Code, 1974 Edition, stems from the fact that no provision was made in the Code for testing systems not compatible with a liquid test medium or systems normally charged with gas. This section of the Code was charged in the 1977 Edition to permit pneumatic testing in lieu of hydrostatic testing for those systems.

Environmental Impacts of the Proposed Action

The proposed relief will provide a degree of assurance of operability that is equivalent to that prescribed by the ASME Code. Consequently, the probability of the components not operating properly will not be increased and post-accident radiological releases will not be greater than previously determined nor does the proposed relief otherwise affect radiological plant effluents. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with these proposes reliefs.

With regard to potential non-radiological impacts, the proposed relief involves features located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed relief.

Alternative use of Resources

This action involves no use of resources not previously considered in the Final Environmental Statement (construction permit and operating license) for the Salem Nuclear Generating Station, Units 1 and 2.

Agencies and Persons Consulted

The NRC staff reviewed the licensees' request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed relief.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for the reliefs dated June 21, 1984 and supplement dated August 15, 1984, which are available for public inspection at the Commission's Public Document Room, 1717 H Streets, NW., Washington, D.C. and at the Salem Free Library, 112 West Broadway, Salem County, New Jersey 08079.

Dated at Bethesda, Maryland, this 2nd day of October 1984.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 84-27090 Filed 10-11-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-406]

Tuskegee Institute; Order Authorizing Disposition of Component Parts and Termination of Facility License

By application dated August 9, 1983, Tuskegee Institute (the licensee) requested authorization from the Nuclear Regulatory Commission (the Commission or NRC) to dismantle the Tuskegee AGN-201 Reactor (the facility), a research and training reactor located on the Institute's campus at Tuskegee, Alabama, to dispose of the component parts, and to terminate Facility License No. R-122. The authorization would allow the licensee to dismantle the facility, dispose of the component parts in accordance with the application, and terminate Facility License No. R-122. A "Notice of Proposed Issuance of Order Authorizing Disposition of Component Parts and Termination of Facility license," dated June 5, 1984, was published in the **Federal Register** on June 12, 1984. No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Commission has found the facility has been decontaminated, that satisfactory disposition has been made of the fuel, and the component parts can be disposed of without restriction in accordance with the Commission's regulations in 10 CFR Chapter I, and in a manner not inimical to the common

defense and security or to the health and safety of the public.

The facility area has been inspected by NRC Region II inspectors and radiation surveys confirm that radiation levels meet the values acceptable to the Commission, and the area is available for unrestricted access.

Therefore, pursuant to the application filed by Tuskegee Institute, the licensee is hereby autorized to dispose of the component parts of the reactor, and Facility License No. R–122 is hereby terminated as of the date of this Order.

For further details with respect to this action see: (1) The application for authorization to dismantle facility and dispose of components parts and for termination of facility license, dated August 9, 1983, (2) the Commission's Safety Evaluation related to the termination of the license, and (3) the Notice of Proposed Issuance of Order Authorizing Disposition of Component Parts and termination of Facility License published in the **Federal Register** on June 12, 1984 at 49 FR 24189. Each of these items is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. Copies of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 2nd day of October 1984.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing.

[FR Doc. 84–27086 Filed 10–11–84; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

Federal Acquisition Regulation (FAR) "Rule of Two"; Requirements for Setting Aside Acquisitions for Small Business

AGENCY: Office of Management and Budget.

ACTION: Notice of comment.

SUMMARY: The purpose of this notice is to solicit the views of all interested parties in both the public and private sector on the "rule of two" in Part 19 of the Federal Acquisition Regulation (FAR).

DATE: Comments are due on or before November 30, 1984.

FOR FURTHER INFORMATION CONTACT: William Maraist, Office of Federal Procurement Policy, OMB, (202–395–3300).

SUPPLEMENTARY INFORMATION: Although not new, the so called "rule of two" in FAR Part 19 has generated considerable controversy. The primary criticism is that this provision of the regulation did not receive adequate public notice and availability for comment.

The "rule of two" appears in FAR 19.502 which provides the requirements for setting aside acquisitions for small business:

"19.502 Setting aside acquisitions.

"19.502–1 Requirements for setting aside acquisitions.

Using the order of precedence in 19.504, the contracting officer shall set aside an individual acquisition or class of acquisitions when it is determined to be in the interest of (a) maintaining or mobilizing the Nation's full productive capacity, (b) war or national defense programs, or (c) assuring that a fair proportion of Government contracts is placed with small business concerns, and when the circumstances described in 19.502–2 or 19.502–3(a) exist.

"19.502–2 Total set-asides.

The entire amount of an individual acquisition or class of acquisitions, including contracts for architect-engineer services, research, development, test and evaluation, maintenance repair, and construction except small business—small purchase set-asides, shall be set aside for exclusive small business participation if the contracting officer determines that there is a reasonable expectation that (a) offers will be obtained from at least two responsible small business concerns offering the products of different small business concerns and (b) awards will be made at reasonable prices. Total set-asides shall not be made unless such a reasonable expectation exists (but see 19.502–3 as a partial set-aside). Although past acquisition history of the item or similar items is always important, it is not the only factor to be considered in determining whether a reasonable expectation exists. In making R&D small business set-asides, there must also be a reasonable expectation of obtaining from small business the best scientific and technological sources consistent with the demands of the proposed acquisition for the best mix of cost, performances, and schedules.

As shown above, the "rule of two" is part of the standard of competitiveness required before an acquisition may be set aside for small business—"a reasonable expectation that offers will be obtained from at least two responsible small business concerns * * * and awards will be made at reasonable prices." This standard was contained in the Defense Acquisition Regulation (DAR) and the NASA Procurement Regulation prior to the publication of the FAR. The Federal Procurement Regulations (FPR) coverage on set-asides, on the other hand, included a "sufficient number" standard. The FAR is essentially a consolidation of these two primary regulations. The drafters displayed the DAR and FPR coverages in side-by-side columns, and the proposed FAR coverage in a third column. These drafts were then made available for public comment. In the case of the set-aside provisions in question, the "sufficient number" standard was initially proposed for the FAR. Five of the six comments (including those of DOD, GSA, NASA and SBA) received on this provision requested that the language be amended to include the more specific criteria contained in the DAR (i.e., two or more) for determining if small business competition is available. The sixth comment requested added language to the effect that the set-aside would not impair agency mission or program requirements. Because contracting officers in the civil agencies had not consistently applied the "sufficient number" standard, and because the "rule of two" had worked well in DOD for more than five years as well as in NASA, the three regulatory agencies decided, in the final review phase, that the most workable standard for total set-asides was the "rule of two." "Sufficient number" as a standard provides little or no substantive guidance.

One of the issues raised by those who have criticized the "rule of two" is that in certain industries or product lines a disproportionate share of the Government's business is set-aside for exclusive participation by small businesses. However, this does not result from the "rule of two." The key to this issue is in the Small Business Act (15 U.S.C. 644) requirement that "* * * a fair proportion of the total purchases and contracts for property and services for the Government are placed with small business concerns * * *". Fair proportion is tied in the statute to *total* purchases and contracts made by the Government. The bulk of Federal expenditures are for major systems which, at the prime contract level, are unavailable to small business. Therefore, ensuring that small business receives a fair proportion of the *total* Government contracts practically dictates that a disproportionate share must be awarded to small business outside of the major systems area.

This is to be expected when there are *many* small businesses in a given industry sector. The experience of the major procuring agencies indicates that the result would not change, even if "sufficient number" or some other standard were substituted for the "rule

of two." The agencies report substantial competition in the small business set-aside program with an average of ten or more competitors on each procurement. Therefore, the issue is not the method of determining whether there is adequate competition among small businesses. Rather, it appears to be whether the situation should be allowed to continue which results in such disproportionate shares of Federal requirements for particular products or services being set-aside for small business?

We believe that the FAR language complies with current law and reflects the will of the Congress as expressed in the Small Business Act. This method of implementing the fair proportion of *total* contracts has been upheld by the Courts and the Comptroller General.

Comments

All interested parties are invited to comment on the issue of the most appropriate standard for determining competitiveness in making a small business set-aside determination (e.g., rule of two, sufficient number, other standard). Comments should not be sent on the related issue of setting small business size standards. Small business size standards are set by the Small Business Administration and do not fall within the procurement policy authority of the Administrator for Federal Procurement Policy. Comments should be forwarded to William Maraist, Office of Federal Procurement Policy, OMB, 726 Jackson Place, Washington, DC 20503 on or before November 30, 1984. Mr. Maraist may be contacted by phone at 202–395–3300.

Dated: October 3, 1984.

Donald E. Sowle,

Administrator.

[FR Doc. 84-27098 Filed 10-11-84; 8:45 am]

BILLING CODE 3110-01-M

DEPARTMENT OF STATE

Office of the Secretary

Determination To Make Available Supplemental Military Assistance for El Salvador

Pursuant to the Second Supplemental Appropriations Act, 1984 (Pub. L. 98–396) and applicable delegations of authority, I hereby determine that the Government of El Salvador has demonstrated progress toward free elections, land reform, freedom of association, the establishment of the rule of law and an effective judicial system, and the termination of the activities of the so-called death squads, including vigorous action against members of such squads who are guilty of crimes and prosecution to the extent possible of such members who are past offenders.

This determination shall be transmitted to Congress immediately as part of the report required by Pub. L. 98–396 for the obligation and expenditure of supplemental military assistance funds for El Salvador after October 1, 1984.

This determination shall be published in the Federal Register.

George P. Shultz,

Secretary of State.

[FR Doc. 84-27099 Filed 10-11-84; 8:45 am]

BILLING CODE 4710-05-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Proposed Advisory Circular 25.1455–XX; Waste Water/Potable Water Drain System Certification Testing

AGENCY: Federal Aviation Administration (FAA); DOT.

ACTION: Notice of Availability of Proposed Advisory Circular (AC) 25.1455–XX, and request for comments.

SUMMARY: This notice announces the availability of and requests comments on a proposed advisory circular (AC) concerning draining of fluids subject to freezing. This notice is necessary to give all interested persons an opportunity to present their views on the proposed AC.

DATES: Comments must be received on or before December 11, 1984.

ADDRESS: Send all comments on the proposed AC to: Federal Aviation Administration, Attention: Regulations and Policy Office, ANM–110, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168. Comments may be inspected at the above address between 7:30 a.m. and 4:00 p.m. weekdays, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mark Quam, Regulations and Policy Office, at the address above, telephone (206) 431–2134.

SUPPLEMENTARY INFORMATION:

Comments Invited

A copy of the draft AC may be obtained by contacting the person named above under "**FOR FURTHER INFORMATION CONTACT.**" Interested persons are invited to comment on the proposed AC by submitting such written data, views, or arguments as they may desire. Commenters should identify AC 25.1455–XX and submit comments, in duplicate, to the address specified above. All communications received on or before the closing date for comments will be considered by the Regulations and Policy Office before issuing the final AC.

Background

This AC sets forth a specific method of compliance with the requirements of § 25.1455 of the Federal Aviation Regulations (FAR). The method has been previously used and is designed to verify that, during flight, draining fluids will not accumulate as ice in sufficient quantity to be considered hazardous. Dyed fluid and painted surfaces are used. Freezing conditions are not required. The applicant may elect to follow an alternate test method, provided the alternate test method is also found by the FAA to be an acceptable means of complying with the requirements of § 25.1455.

Issued in Seattle, Washington, on October 1, 1984.

Leroy A. Keith,

Manager, Aircraft Certification Division, ANM–100.

[FR Doc. 84-28094 Filed 10-11-84; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement; City of Charlottesville and Albemarle County, VA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in the City of Charlottesville and Albemarle County, Virginia.

FOR FURTHER INFORMATION CONTACT: George E. Kirk, Jr., District Engineer, Federal Highway Administration, P.O. Box 10045, Richmond, Virginia 23240–0045, Telephone (804) 771–2380.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Virginia Department of Highways and Transportation, will prepare an environmental impact statement (EIS) on a proposal to provide a four-lane divided facility from the intersection of existing McIntire Road and Preston Avenue to an intersection with existing Rio Road.

The proposed highway project involves in part the upgrading of an existing two-lane facility to a four-lane divided roadway. The remaining part of

the proposed highway project calls for a four-lane divided facility on new location. Five alternative roadway alignments within the project corridor will be investigated for this study.

The proposed project will provide improved access to the downtown area in Charlottesville from the north, while reducing congestion on other, less adequate facilities.

There are also three alternatives to the proposed project under consideration:

(1) *Null or No-Build Condition*—which includes all elements of the Regional Transportation Plan with the exception of the proposed project.

(2) *Mass Transit*—to evaluate the ability of mass transit to accommodate the transportation demands in the study area.

(3) *Traffic System Maintenance*—to evaluate the ability of non-major construction activities on the existing roadway network to accommodate the transportation demands in the study area.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies and to private organizations and citizens who have previously expressed interest in this proposal. No formal scoping meeting is planned at this time. The Draft EIS will be available for public and agency review and comment. Following publication of the DESI, a public hearing will be held. Public notice will be given of the time and place of the hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the DEIS should be directed to the FHWA at the address provided above.

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of OMB Circular No. A–95 regarding State and local clearinghouse review of Federal and Federally assisted programs and projects apply to this program.

Issued on: October 3, 1984.

M.J. Deale,

Assistant Division Administrator, Richmond, Virginia.

[FR Doc. 84–27001 Filed 10–11–84; 8:45 am]
BILLING CODE 4910–22–M

Environmental Impact Statement, Kent and Washington County, RI

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed improved access connection between RI Route 4 in East Greenwich; Kent County, Rhode Island and the Quonset Point/Davisville area in North Kingstown, Washington, County, Rhode Island.

FOR FURTHER INFORMATION CONTACT: Robert T. Millingan, Area Engineer, Federal Highway Administration, 380 Westminster Mall-Fifth Floor, The Federal Center, Providence, Rhode Island 02903, telephone (401) 528–4551 or Joseph F. Arruda, Assistant Director, Planning Division, Rhode Island Department of Transportation, Room 268, State Office Building Providence, Rhode Island 02903.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Rhode Island Department of Transportation, will prepare an environmental impact statement (EIS) on a proposal to improve access between Rhode Island Route 4 in East Greenwich, Kent County, Rhode Island southwesterly approximately 3 miles to Quonset Point/Davisville in North Kingstown, Washington County, Rhode Island.

In addition to providing improved access from Route 4 to Quonset Point-Davisville the proposed project is intended to relieve the current traffic congestion in the immediate area as well as providing capacity to handle the rapidly expanding Quonset Point/Davisville Industrial Park and associated growth. This project will provide a safe and efficient means of travelling through the project area.

Initially it was believed that only upgrade alternatives and the no-build alternative would need to be evaluated as part of this study. Upon completion of the traffic analysis and need statement, environmental inventory and public and private input it was deemed necessary to include freeway alternatives as part of the study. The no-build alternative includes those projects already under commitment.

To insure that the full range of alternatives related to this action are addressed and that all significant environmental issues are identified for study, coordination has taken place with numerous agencies, groups, and citizens.

An Advisory Committee has been created for this project which consists of State Senator and Representatives, Town Representatives from North Kingstown and East Greenwich, the Office of State Planning, the Rhode Island Department of Economic Development, the United States Navy, the Rhode Island Department of Environmental Management, the Audubon Society, and private citizens.

Coordination has also taken place with the following groups, agencies, or interested parties: From North Kingstown—Town Manager, Chief of Police, Fire Chief, Water Department, Superintendent of Schools, Zoning Board, Town Engineer, Town Council, Planning Board, and the Chamber of Commerce. From East Greenwich—Town Manager, Fire Chief, Police Chief, Superintendent of Schools, Town Council, Chamber of Commerce, Public Works, Housing Authority, Planning Board, and the Development Commission. Further coordination includes the Narraganset Electric Company, Providence Gas Company, Seaview Transportation Company, Rollins Cable Television, USEPA Region 1, New England Telephone Company, T.F. Green Airport, Coalition of Coastal Communities, DOI N.E. Region, FAA, Rhode Island Public Transit Authority, U.S. Coast Guard, HUD, National Railroad Passenger Corporation, and the New England Division Corps of Engineers.

Citizen input will also be maintained through a series of Public Workshops and Public Hearings. One public workshop has already taken place as well as three Advisory Committee meetings.

Any agency, groups or citizens affected by or interested in the proposed action are invited to participate in the scoping process for this proposed action by sending their written comments or questions to any of the contact individuals noted above within twenty-one days after publication of this Notice. No formal scoping meeting is planned at this time, but contacts with those agencies, groups or individuals responding to this Notice may be made to clarify indicated environmental issues. The study is expected to be completed by September, 1985.

The Provisions of OMB Circular A–95 regarding State and local clearinghouse review of Federal and Federally-assisted programs and project apply to this program.

Issued on: October 3, 1984.

Robert T. Milligan,

Area Engineer.

[FR Doc. 84–27004 Filed 10–11–84; 8:45 am]
BILLING CODE 4910–22–M

National Highway Traffic Safety Administration

Change of Date of Public Meeting

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Notice of change of date of public meeting.

SUMMARY: This notice announces a change of date of a public meeting (originally announced at 49 FR 38216, September 27, 1984) at which NHTSA will answer questions from the public and the automobile industry regarding the agency's rulemaking, research and enforcement programs (including defects). The public meeting, originally scheduled for November 14, 1984, will now be held on November 15, 1984. The purpose of this is to focus on those phases of these NHTSA activities which are technical, interpretative or procedural in nature.

The meeting will begin at 10:30 a.m., run until 1:00 p.m., and reconvene at 2:00 p.m., if necessary.

DATES: Questions for the November meeting should be submitted in writing by October 19, 1984, to Barry Felrice, Associate Administrator for Rulemaking, Room 5401, 400 Seventh Street, SW., Washington, D.C. if sufficient time is available, questions received after the October 19 date may be answered at the meeting. The individual, group, or company submitting a question does not have to be present for the question to be answered. A consolidated list of the questions submitted by October 19 and the issues to be discussed will be mailed to interested persons on or before November 2, 1984, and will be available at the meeting. This list will serve as the agenda.

A transcript of the meeting will be available for public inspection in the NHTSA Technical Reference Section in Washington, D.C. within four weeks after the meeting. Copies of the transcript will then be available at twenty-five cents for the first page and five cents for each additional page (length has varied from 100 to 150 pages) upon request to NHTSA Technical Reference Section, Room 5108, 400 Seventh Street, SW., Washington, D.C. 20590.

ADDRESSES: The public meeting will be held in the Conference Room of the Environmental Protection Agency's Laboratory Facility, 2565 Plymouth Road, Ann Arbor, Michigan.

Issued on October 5, 1984

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 84-26930 Filed 10-11-84; 8:45 am]

BILLING CODE 4910-59-M

National Driver Register Advisory Committee; Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. App. I), notice is hereby given of a meeting of the National Driver Register Advisory Committee to be held on November 1 and 2, 1984 in Washington, D.C. All sessions will be held at the DOT Headquarters Building, Room 6200, 400 Seventh Street, SW., Washington, D.C. The meetings will be held from 9:00 a.m. to 4:00 p.m. on both days.

The agenda will consist of the following: (1) Review of the NDR NPRM; (2) review the congressionally mandated schedule for implementation of the new NDR; (3) review criteria for selection of the states that will participate in the pilot test; and (4) the two subcommittees, Program/Technical Issues and Driver Related Issues, will also meet to discuss topics for review.

All meetings are open to the interested public, but may be limited in attendance to the space available. Members of the public may present a written statement to the Committee at any time. With the approval of the Chairperson, members of the public may present oral statements at the meeting. Additional information is available from the NHTSA Executive Secretariat, Room 5221, 400 Seventh Street, SW., Washington, D.C. 20590, telephone 202-426-2870.

Issued in Washington, D.C. on: October 9, 1984.

Robert E. Doherty,

Executive Secretary.

[FR Doc. 84-27089 Filed 10-11-84; 8:45 am]

BILLING CODE 4910-59-M

[Docket No. IP84-7; Notice 2]

General Motors Corp.; Grant of Petition for Determination of Inconsequential Noncompliance

This notice grants the petition by General Motors Corporation of Warrren, Michigan, to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.)* for an apparent noncompliance with 49 CFR 571.115, *Vehicle Identification Number,* on the basis that it is inconsequential as it relates to motor vehcile safety.

Notice of the petition was published on May 23, 1984, and an opportunity afforded for comment (49 FR 21817).

GM determined that 8 of its 1983 Cadillac de Ville/Fleetwood passenger cars had a VIN consisting of 15 characters, rather than the 17 characters required by S4.2 of the standard. As there are no other vehicles with VI's consisting of 15 characters, GM argued that the Cadillacs would be easily identified if necessary for notification and remedy. The correct VIN of 17 characters does appear on the certification label of the cars concerned. GM stated its intention to provide the owners of the 8 cars with a letter informing them of the error to minimize possible difficulties with State registration. The National Auto Theft Bureau was also to be informed.

No comments were received on the petition.

Given the small number of vehicles involved, and the fact that the vehicles are easily identifiable to their manufacturer in the event that notification and remedy become necessary, petitioner has met its burden of persuasion that the noncompliance with Standard No. 115 herein described is inconsequential as it relates to motor vehicle safety, and its petition is granted.

The engineer and attorney primarily responsible for this notice are Ken Rutland and Taylor Vinson.

(Sec. 102, Pub. L. 89 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50, and 49 CFR 501.8)

Issued on October 5, 1984.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 84-27048, Filed 10-11-84; 8:45 am]

BILLING CODE 4910-59-M

UNITED STATES INFORMATION AGENCY

Renewal of Advisory Committee

Effective Date: October 6, 1984.

The United States Information Agency announces the renewal of the Advisory Panel on International Educational Exchange.

The creation and continued functioning of this advisory panel is considered to be in the public interest.

Dated: October 5, 1984.

Charles Z. Wick,

Director.

[FR Doc. 84-26938 Filed 10-11-84; 8:45 am]

BILLING CODE 8230-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Implementation of Modifications in Specialty Steel Import Relief

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: This notice permits the withdrawal from warehouse for consumption of a quantity of certain stainless steel bar, presently subject to quota.

EFFECTIVE DATE: October 4, 1984.

FOR FURTHER INFORMATION CONTACT: Maria T. Springer, Office of the United States Trade Representative (202) 395–4946.

SUPPLEMENTARY INFORMATION: Presidential Proclamation 5074 of July 19, 1983 (48 FR 33233), provides for the temporary imposition of increased tariffs and quantitative restrictions on certain stainless steel and alloy tool steel imported into the United States. Headnote 10(d), part 2A of the Appendix to the Tariff Schedules of the United States (TSUS) authorizes the U.S. Trade Representive to adjust the restraint level for any such steel to be exceeded during any restraint period.

Accordingly, I have determined that any amount not to exceed one and three-quarters ton of the following stainless steel bar, provided for in Traiff Schedules of the United States (TSUS) item 926.11, may be entered for consumption or withrawn from Customs bonded warehouse, in excess of the restraint level provided for the period July 20, 1984–October 19, 1984, for the "Other" foreign country category:

Stainless steel bars, each with a rectangular cross-sectional area of either 0.31 square inch or 0.59 square inch, containing, in addition to iron, each of the following elements by weight in the amount specified:

Carbon: 0.11 Percent
Chromium: 11.67 Percent
Magnesium: 0.69 Percent
Molybdenum: 1.66 Percent
Nickel: 2.51 Percent
Phosphorus: 0.014 Percent
Silicon: 0.22 Percent
Sulfur: 0.006 Percent; and
Vanadium: 9.29 Percent;

certified by the importer of record or the ultimate consignee at the time of entry to be used in the manufacture or repair of nozzle guide vanes for gas turbine engines for use on aircraft.

In addition, an identical amount shall be deducted from the quota quantity allocated to the "Other" foreign country category for TSUS item, 926.11 for the restraint period October 20, 1984–January 19, 1984. This determination supersedes the provisions of the notice of October 20, 1983 (48 FR 48888), to the extent inconsistent herewith.

William E. Brock,

U.S. Trade Representative.

[FR Doc. 84–26932 Filed 10–11–84; 8:45 am]

BILLING CODE 3195-01-M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 199
Friday, October 12, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

CIVIL AERONAUTICS BOARD

[M-412 amdt 1, 10/4/84]

Notice of addition of item at the October 4, 1984 Meeting

TIME AND DATE: 10:00 a.m., October 4, 1984.

PLACE: Room 1027 (Open), Room 1012 (Closed), 1825 Connecticut Avenue, NW., Washington, DC 20428.

SUBJECT: 26. Saudi Arabia Negotiations. (BIA)

STATUS: Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, *The Secretary*, (202) 673-5068.

[FR Doc. 84-27077 Filed 10-10-84; 8:47 am]
BILLING CODE 6320-01-M

2

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: See Times Below, Tuesday, October 16, 1984.

LOCATION: Third Floor Hearing Room, 1111-18th Street, NW, Washington, DC.

STATUS: Open to the Public—10:00 a.m.

MATTERS TO BE CONSIDERED: *Chain Saws: Meeting with Industry*

The Commission will meet with saw chain and chain saw manufacturers to find out how they plan to market and promote chain saw safety features.

Closed to the Public—2:30 p.m.

2. Commission Procedures Review

The staff will brief the Commission on procedures for setting agendas, reviewing staff documents, and recording decisions.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301—492-5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, MD 20207, 301—492-6800.

Sheldon D. Butts,
Deputy Secretary.

[FR Doc. 84-27174 Filed 10-10-84; 2:40 pm]
BILLING CODE 6355-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Change in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Tuesday, October 9, 1984, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director C.T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of a memorandum regarding a funding request.

By the same majority vote, the Board further determined that no earlier notice of this change in the subject matter of the meeting was practicable.

Dated: October 9, 1984.

Federal Deposit Insurance Corporation.

Alan J. Kaplan,
Deputy Executive Secretary.

[FR Doc. 84-27137 Filed 10-10-84; 12:48 pm]
BILLING CODE 6714-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 5:05 p.m. on Friday, October 5, 1984, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider a recommendation with respect to an administrative enforcement proceeding against certain individuals participating in the conduct of the affairs of an insured bank (names of persons and name and location of bank authorized to be exempt from disclosure pursuant to subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

At that same meeting, the Board of Directors also (1) received bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in The Farmers and Merchants Bank, Tecumseh, Oklahoma, which was closed by the Bank Commissioner for the State of Oklahoma on Friday, October 5, 1984; (2) accepted the bid for the transaction submitted by Republic Bank of Tecumseh, Tecumseh, Oklahoma, a newly chartered State nonmember bank; (3) approved the applications of Republic Bank of Tecumseh, Tecumseh, Oklahama, for Federal deposit insurance, and for consent to purchase certain assets of and to assume the liability to pay deposits made in The Farmers and Merchants Bank, Tecumseh, Oklahoma; and (4) provided such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C.T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: October 9, 1984.

Federal Deposit Insurance Corporation.

Alan J. Kaplan,
Deputy Executive Secretary.

[FR Doc. 84-27138 Filed 10-10-84; 12:48 pm]
BILLING CODE 6714-01-M

5

FEDERAL ELECTION COMMISSION

"FEDERAL REGISTER" NO. 84–36561

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, October 11, 1984, 10:00 a.m.

THE FOLLOWING ITEMS HAVE BEEN CONTINUED FROM THE MEETING OF OCTOBER 4, 1984:

Draft Advisory Opinion #1984–48
Governor James B. Hunt, Jr., and the Jim Hunt Committee
Standards of Conduct for FEC Employees: Notice of Proposed Rulemaking

DATE AND TIME: Tuesday, October 16, 1984, 10:00 a.m.

PLACE: 1325 K Street, NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED: Compliance. Litigation. Audits. Personnel.

DATE AND TIME: Thursday, October 18, 1984, 10:00 a.m.

PLACE: 1325 K Street, NW., Washington, D.C. (Fifth Floor)

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates of future meetings
Correction and approval of minutes
Eligibility for candidates to receive Presidential primary matching funds
Draft Advisory Opinion #1984–47
Peter A. Peyser, Former Member of Congress
Draft Advisory Opinion #1984–49
Geraldine A. Ferraro, Member of Congress
Finance Committee Report
Routine administrative matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, 202–523–4065.

Mary W. Dove,
Administrative Secretary.

[FR Doc. 84–27164 Filed 10–10–84; 2:24 pm]
BILLING CODE 6715–01–M

6

PAROLE COMMISSION

AGENCY HOLDING MEETING: U.S. Parole Commission, National Commissioners (the Commissioners presently maintaining offices at Chey Chase, Maryland, Headquarters)

TIME AND DATE: 10:00 a.m., Tuesday, October 16, 1984.

PLACE: Room 420–F, One North Park Building, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Referrals from Regional Commissioners of approximately two cases in which inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION: Linda Wines Marble, Chief Analyst, National Appeals Board, United States Parole Commission, (301) 492–5987.

Dated: October 8, 1984.

Joseph A. Barry,
General Counsel, United States Parole Commission.

[FR Doc. 84–27057 Filed 10–9–84; 4:33 pm]
BILLING CODE 4410–01–M

7

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of October 15, 1984, at 450 Fifth Street, NW., Washington, DC.

A closed meeting will be held on Tuesday, October 16, 1984, at 10:00 a.m.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10).

Chairman Shad and Commissioners Treadway, Cox, Marinaccio and Peters voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, October 16, 1984, at 10:00 a.m., will be:

Litigation matter.
Formal orders of investigation.
Institution of injunctive action.
Institution of administrative proceedings of an enforcement nature.
Regulatory matter regarding financial institution.
Opinion.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Marianne Keler at (202) 272–2014.

Shirley E. Hollis,
Acting Secretary.

October 9, 1984.

[FR Doc. 84–27056 Filed 10–09–84; 4:33 pm]
BILLING CODE 8010–01–M

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Friday
October 12, 1984

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions; Notice

VOL 49 ISS 199 OCT 12 1984 UMI

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 5.1 (including the statutes listed at 36 FR 306 (1970) following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations. Procedure for Predetermination of Wage Rates, 48 FR 19533 (1983) and of Secretary of Labor's Orders 9–83, 48 FR 35736 (1983), and 6–84, 49 FR 32473 (1984). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 5.1 (including the statutes listed at 36 FR 306 (1970) following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations. Procedure for Predetermination of Wage Rates, 48 FR 19533 (1983) and of Secretary of Labor's Order 6–84, 49 FR 32473 (1984). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Program Operations, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Arizona: AZ83-5105	Mar. 4, 1983
Colorado CO83-5113	July 15, 1983
Mississippi MS83-1014	Mar. 3, 1983
MS83-1015	Apr. 1, 1983
Missouri MO84-4025	Apr. 27, 1984
Ohio OH84-5024	Aug. 24, 1983
Oklahoma OK84-4050	Sept. 7, 1984

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the number of the decisions being superseded.

Missouri	
MO84-4012 (MO84-4061)	Mar. 9, 1984
MO84-4013 (MO84-6062)	Mar. 9, 1984
Wisconsin WI83-2075 (WI84-5029)	Sept. 23, 1983

Signed at Washington, D.C. this 5th day of October 1984.

James L. Valin,

Assistant Administrator.

BILLING CODE 4510-27-M

DECISION NO. AZ83-5105 - MOD. #7
(48 FR 9426 - March 4,1983)
Pima County, Arizona

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Plumbers/Pipefitters	$18.34	3.38

DECISION NO. C083-5113 - MOD. 66
(48-FR-32451 July 15, 1983)
Adams, Arapahoe, Boulder, Clear Creek Denver, Douglas, Eagle, Elbert, Gilpin, Grand, Jefferson, Lake, Larimer, Morgan, Park, Summit and Weld Counties, Colorado

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Electricians:		
Elbert, Park and Teller Counties:		
Electrician, Technicians	$16.12	2.31+6%
Remaining Counties		
Electricians, Technicians	16.70	2.60 + 3-3/10%

DECISION NO. MS83-1014
Mod # 5
(48 FR 12646 - March 3, 1983)
Warren County, Mississippi

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
CARPENTERS:		
Carpenters	$12.10	.95
Millwrights	12.70	.95
Piledrivermen	12.70	.95
LABORERS:		
Mortar Mixer	8.20	.70
Unskilled	7.95	.70
POWER EQUIPMENT OPERATORS:		
Group 1	13.13	1.00
Group 2	12.25	1.00
Group 3	11.98	1.00
Group 4	11.20	1.00
Group 5	9.17	1.00

DECISION NO. MS83-1015
Mod # 7
(48 FR 14312 - April 1, 1983)
Hinds County, Mississippi

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
LABORERS:		
Construction Laborers	$7.95	.70
Wrecking & Demolition	7.95	.70
Mason Tenders	8.10	.70
Pipelayers	8.10	.70
Mortar Mixers	8.20	.70
Mechanical Tools, Motorized (GA) Buggy Ops.	8.20	.70
PLUMBERS, STEAMFITTERS & PIPEFITTERS	12.50	2.35
POWER EQUIPMENT OPERATORS:		
Group I	13.13	1.00
Group II	12.25	1.00
Group III	11.98	1.00
Group IV	11.20	1.00
Group V	9.17	1.00

DECISION NUMBER OH84-5024 - MOD. #1
(49 FR 33187 - August 24, 1984)
Clermont & Hamilton Counties, Ohio

	Basic Hourly Rates	Fringe Benefits
Change:		
Carpenters	$8.11	
Electricians	9.92	
Laborers	6.06	
Painters, Brush	8.19	
Roofers	8.86	
Sheet Metal Workers	9.00	$1.43
Add:		
Drywall Hangers	7.00	
Insulators	6.06	
Truck Drivers	7.30	

DECISION NO. OK84-4050
MOD #3 (49 FR 35477 - September 7, 1984)

Alfalfa, Beckham, Blaine, Caddo, Canadian, Carter, Cleveland, Comanche, Cotton, Custer, Dewey, Ellis, Garfield, Garvin, Grady, Grant, Greer, Harmon, Harper, Jackson, Jefferson, Johnston, Kay, Kingfisher, Kiowa, Lincoln, Logan, Love, McClain, Major, Marshall, Murray, Noble, Oklahoma, Payne, Pontotoc, Roger Mills, Pottawatomie, Seminole, Stephens, Tillman, Washita, Woods and Woodward Counties, Oklahoma

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Area I		
Marble Masons, Tile Setters and Terrazzo Workers	$16.84	$1.50

Modification Published in Federal Register September 28, 1984 should read as Modification # 2

DECISION #MO84-4025-MOD#4
(49 FR 18220-April 27, 1984)
Cass, Clay, Jackson, Platte, Ray, Henry, Johnson and Lafayette Counties, Missouri; Johnson and Wyandotte Counties, Kansas

	Basic Hourly Rates	Fringe Benefits
OMIT:		
Electricians:		
Zone 4 - Johnson & Wyandotte Counties, Kansas	16.18	10%+2.51
ADD:		
Electricians:		
Zone 4- Wyandotte County, Kansas	16.18	10%+ 2.51
Johnson County (that portion east of Monticello, Olathe, and Spring Hill Townships), Kansas	16.18	10%+ 2.51
Johnson County (that portion west of Aubry, Oxford and Shawnee Townships), Kansas	15.55	3%+ 2.13
CHANGE:		
Painters:		
Zone 1 - Cass, Clay, Henry, Jackson, Johnson (excluding Whiteman AFB), Lafayette, Platte & Ray Counties, Mo.; Johnson & Wyandotte Counties, Kansas:		
Brush & Tapers	16.84	2.00
Spray	17.84	2.00
Bricklayers & stonemasons	15.94	3.00

SUPERSEDEAS DECISION

STATE: Missouri COUNTY: Cole
DECISION NUMBER: MO84-4061 DATE: Date of Publication
Supersedes Decision No. MO84-4012 dated March 9, 1984, in 49 FR 9074.
DESCRIPTION OF WORK: Building Projects (excluding single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$19.73	$ 3.12
BOILERMAKERS	17.495	3.25
BRICKLAYERS; STONEMASONS; TILE LAYERS	14.50	.50
CARPENTERS:		
Carpenters & Lathers	13.95	1.28
Millwrights	14.70	1.28
Piledrivers	14.35	1.28
CEMENT MASONS	14.85	
ELECTRICIANS:		
Electricians	15.71	3.47+10%
Cable Splicers	15.96	3.47+10%
ELEVATOR CONSTRUCTORS:		
Mechanics	16.49	2.69 +a
Helpers	70%JR	2.69 +a
Probationary Helpers	50%JR	
IRONWORKERS	16.575	2.90
PAINTERS:		
Brush	13.45	.45
Spray; Structural Steel; Stage or Saddle; Blasting	13.95	.45
PLASTERERS	14.30	
PLUMBERS & PIPEFITTERS	18.95	5.58
ROOFERS:		
Roofers	15.10	.65
Roofers in coal tar Pitch	15.60	.65
SHEET METAL WORKERS	12.86	.91
SPRINKLER FITTERS	16.67	3.23
LABORERS:		
Group 1	11.75	1.90
Group 2	12.00	1.90
Group 3	12.10	1.90
POWER EQUIPMENT OPERATORS:		
Group 1	15.17	3.00
Group 2	15.17	3.00
Group 3	13.92	3.00
Group 4	13.47	3.00
POWER EQUIPMENT OPERATORS (CONT'D):		
Group 5:		
(a)	15.87	3.00
(b)	16.72	3.00
(c)	17.17	3.00
(d)	17.92	3.00
(e)	15.67	3.00
(f)	17.07	3.00
(g)	17.57	3.00
(h)	18.07	3.00
TRUCK DRIVERS:		
Group 1	11.80	2.00+d
Group 2	12.20	2.00+d
Group 3	12.50	2.00+d

FOOTNOTES:
a. Employer contributes 8% of basic hourly rate for over 5 years' service and 6% of basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit, also 7 Paid Holidays
d. After 1 year a week's vacation

LABORERS CLASSIFICATIONS

Group 1: General Laborer; Heaters; Material Plant Man; Carpenter Tender; Landscaper; Signalman; Wrecker (old/new structures); Form Handler; Post Hole Digger; Cleaning and Clearing of all debris for all crafts; Loading and unloading, conveying, distributing, collecting and hoisting of construction material and debris; Backfilling, Grading and Landscaping; Covering of tanks, structures and material piles with Tarpaulins or other materials; Handling and cleaning of concrete chutes; Cleaning of concrete spills and chipping where hand tools are required; Cleaning of masonry and other type walls and windows; Signal and Hoisting Concrete Buckets; Rodman; All tools run by gas, electricity, or air except Vibrator, Jackhammer and Paving Breaker; Air Compressors; Motor Buggies; Pumps, except Set-up Men and Nozzle Men; Unloading and handling steel; Chipping Tool Operator; Concrete Mixer Operator

Group 2: First Semi-Skill - Brick Mason, Plasterer and Cement Finishers Tenders; Mortarmen; Scaffold Builders for Brick, Plasterer and Cement Masons; Forklifts (walk-behind or other similar types)

Group 3: Second Semi-Skiller - Concrete Pumps Set-up Men and Nozzle Men; Tile Layers, Bottom Men, Sewers and Drains; Cutting Torch; Burning Bar; Trench or Pier Holes 12' or over; Wagon Drill; Air Track or any Mechanical Drill; Power Man; Tamper 100 lbs. or over; Paving Breaker; Jackhammer and Vibrator; Laser Beam Man for Sewer; Grade checker

POWER EQUIPMENT OPERATORS CLASSIFICATIONS

Group 1: Backhoe, Cableway; Crane, Crawler or Truck; Crane, Hydraulic Truck or Cruiser mounted 16 tons and over; Crane, Locomotive, Derrick, Steam; Derrick Car and Derrick Boat; Dragline; Dredge; Gradall; Crawler or tire mounted; Locomotive, gas, steam and other powers; Piledriver, land or floating; Scoop, Skimmer; Shovel, power (steam, gas, electric or other powers); Switch Boat; Whirley

POWER EQUIPMENT OPERATORS: (Cont'd)

Group 2: Air Tugger with Air Compressor; Anchor placing Barge; Asphalt Spreader; Athey Force Feeder Loader (self-propelled); Backfilling Machine; Boat Operator Push Boat or Tow Boat (job site); Boiler, High Pressure Breaking in period; Boom Truck, placing or erecting; Boring Machine, Footing Foundation; Bullfloat; Cherry Picker; Combination Concrete Hoist and Mixer such as Mixermobile; Compressor (when operator runs throttle); Compressors, two not more than 50' apart; Compressor, Generator Combination; Compressor Pump Combination; Compressor Welder Combination; Concrete Breaker (truck or tractor mounted); Concrete Pump, such as Pumpcrete Machine; Concrete Spreader; Conveyor, large (not self-propelled) Hoisting or moving brick and concrete into, or into and on floor level, one or both; Crane, Hydraulic Rough Terrain, self-propelled; Crane, Hydraulic Truck or Cruiser mounted under 16 tons; Drilling Machines, self-powered, used for earth or rock drilling or Boring (Wagon Drills and any Hand-drills obtaining power from other sources including Concrete Breakers, Jackhammers and Barco equipment on engineer required); Elevating Grader, Engine Man, Dredge; Excavator or Powerbelt Machine; Finishing Machine, self-propelled Oscillating Screed; Fork Lift; Grader Road with power blade; Highlift; Hoist, concrete and brick (Brick Cages or Concrete Skips operating in or on Tower, Tower-mobile, or similar equipment); Hoist, stack; Hydrohammer; Lad-a-vator, hoisting brick or concrete; Loading Machine (such as Barber-Greene); Mechanic, on job site; Mixer, paving; Mixer-mobile; Mucking Machine; Pipe Wrapping Machine; Plant, asphalt; Plant Concrete producing or Ready-mix job site; Plant, Mixing job site; Plant, power, generating job site; Pumps, two self-power over 2" through 6"; Pumps, electric submersible, one through three, over 4" Quad-Track; Roller, Asphalt, Top or Subgrade; Scoop, tractor drawn; Spreader Box; Subgrader; Tie Tamper; Tractor-Crawler, or wheel type with or without power unit, power Take Off, and attachments regardless of size; Trenching Machine, Tunnel Boring Machine; Vibrating Machine, Automatic propelled; Welding Machines (gasoline or diesel) more than one but not over four (regardless of size); Well Drilling Machines; plant heating job site.

Group 3: Air Tugger with plant air; Boiler, for power or heating shell of buildings or temporary enclosures in connection with construction work; Boiler, temporary; Compressor, air one; Compressor, air (mounted on truck); Concrete Saw, (self-propelled); Conveyor, large (not self-propelled); Conveyor, large (not self-propelled) moving brick and concrete (distributing) on floor level; Curb Finishing Machine, Ditch Paving Machine; Elevator (building construction or alteration); Endless Chain Hoist; Fireman; Form Grader; Generator, one over 30 KW or any number developing over 30 KW; Greaser; Hoist, one drum regardless of size (except brick or concrete); Lad-a-vator; Manlift; Mixer, aspahlt, over 8 cu. ft. capacity; Mixer, if two or more of one bag capacity or less are used by one Employer on job, an Operator is required; Mixer, without Side Loader 2 bag capacity or more; Mixers, with Side Loader, 2 bag capacity or more; Mixers, with Side Loader, regardless of size, not Paver; Oiler on Dredge; Oiler on Truck Crane; Pug Mill Operator; Pump; Pump-self powered, automatic controlled over 2" during use in connection with construction work; Scissor Lift (used for hoisting); Sweeper, street; Tractor small wheel type 50 HP and under with Grader Blade and similar equipment; Welding Machine, one over 400 amp.; Winch Operating from truck; Mechanic in shop

POWER EQUIPMENT OPERATORS (Cont'd)

Group 4: Boat Operator Outboard Motor (job site); Conveyors (such as Con-Vay-it) regardless of how used; Oiler; Sweeper, floor

Group 5:
(a) Air-pressure; Oiler Engineer operating under 10 lbs.
(b) Air-pressure; Oiler Engineer operating over 10 lbs.
(c) Air-pressure Engineer operating under 10 lbs.
(d) Air-pressure Oiler Engineer operating over 10 lbs.
(e) Crane, Climbing (such as Linden); Crane, Pile Driving and extracting; Crane, using Rock Socket Tool; Derrick; Diesel, gas or electric, hoisting material erecting steel (150' or more above ground); Dragline, 7 cu. yds. and over; Hoist, 3 or more drums in use; Scoop, Tandem; Shovel, power 7 cu. yds. and over; Tractor, Tandem, Crawler, Tunnel Man assigned to work in tunnel or tunnel shaft; Wrecking, when machine is working on second or higher; Crane - Booms (including jib) 100 ft. to 150 ft.
(f) Crane, Boom (including jib) 150 ft. to 200 ft.
(g) Crane, Boom (including jib) 200 ft. to 250 ft.
(h) Crane, Boom (including jib) 250 ft. to 300 ft

TRUCK DRIVERS CLASSIFICATIONS

Group 1: Warehousemen; Dumper; Flat Bed and Pick-up; Farm Tractor; Water Truck, single-axle; Fuel Truck, single axle

Group 2: Tandem; Tractor Trailer; Winch; Fork Lift; Tandem Water Truck; Tandem Fuel Truck

Group 3: Tandem-slip-bed operation Pitman; Hydro Broom Truck; Transit Mixer; Euclid, Belly Dump; Cat Wagon; Oil Distributor; Ross Carrier; Dumpster; Half Track; Water Pull; Mechanic

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii))

SUPERSEDESA DECISION

STATE: Missouri
DECISION NUMBER: MO84-4062
COUNTIES: Boone,Cooper and Howard
DATE: Date of Publication
Supersedes Decision No. MO84-4013, dated March 9, 1984, in 49 FR 9076.
DESCRIPTION OF WORK: Building Projects (excluding single family homes and apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$17.29	$ 4.35
BOILERMAKERS	17.345	3.25
BRICKLAYERS,STONEMASONS & TILE LAYERS	14.50	.50
CARPENTERS:		
Carpenters & Lathers	13.95	1.58
Millwrights	14.60	1.58
Piledrivers	14.35	1.58
CEMENT MASONS	15.35	
ELECTRICIANS:		
Area 1:		
Electricians	15.71	3.47 +10%
Cable Splicers	15.96	3.47 +10%
Area 2:		
Electricians (contracts exceeding 2000 man hrs.)	16.18	2.51 +10%
Electricians (contracts not exceeding 2000 man hrs.)	14.58	2.51 +10%
ELEVATOR CONSTRUCTORS:		
Area 1:		
Mechanics	16.89	2.69 +a
Helpers	70%JR	2.69 +a
Probationary Helpers	50%JR	
Area 2:		
Mechanics	16.49	2.69 +a
Helpers	70%JR	2.69 +a
Probationary Helpers	50%JR	
GLAZIERS:		
Area 1	14.24	2.96 +17.14%
IRONWORKERS	14.25	3.25
LINE CONSTRUCTION:		
Lineman and Cable Splicers	$16.37	$1.00+ 23-3/4%
Groundman,Winch Drivers	12.03	1.00+ 23-3/4%
Groundman Driver/	11.60	1.00+ 23-3/4%
Equipment Operators	14.64	1.00+ 23-3/4%
Groundman	11.60	1.00+ 23-3/4%
PAINTERS:		
Area 1:		
Brush	13.45	.45
Spray, Structural Steel, Sandblasting	13.95	.45
Area 2:		
Brush	14.25	
Spray	15.25	
PLASTERERS	14.85	
PLUMBERS,PIPEFITTERS	16.38	2.27
ROOFERS:		
Roofers	15.10	.65
Roofers in Coat Tar Pitch	15.60	.65
SHEET METAL WORKERS:		
Area 1	12.86	.91
Area 2	16.75	2.78
SPRINKLER FITTERS	16.67	2.23
LABORERS:		
Group 1	11.75	1.90
Group 2	12.00	1.90
Group 3	12.10	1.90
POWER EQUIPMENT OPERATORS:		
Cooper & Howard Cos.:		
Group 1	15.86	2.85
Group 2	15.51	2.85
Group 3:		
(a)	10.45	2.85
(b)	13.61	2.85
(c)	11.25	2.85
(d)	13.86	2.85

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS: (CONT'D):		
Cooper & Howard Counties:		
Group 4	16.11	2.85
Group 5	15.76	2.85
Group 6	16.36	2.85
Group 7:		
(a)	15.71	2.85
(b)	15.46	2.85
(c)	13.46	2.85
Group 8	16.86	2.85
Group 9	16.36	2.85
Boone County:		
Group 1	15.17	3.00
Group 2	15.17	3.00
Group 3	13.92	3.00
Group 4	13.47	3.00
Group 5:		
(a)	15.87	3.00
(b)	16.72	3.00
(c)	17.17	3.00
(d)	17.92	3.00
(e)	15.67	3.00
(f)	17.07	3.00
(g)	17.57	3.00
(h)	18.07	3.00
TRUCK DRIVERS:		
Boone County:		
Group 1	12.805	1.50+b
Group 2	12.955	1.50+b
Group 3	13.455	1.50+b

FOOTNOTES:
a. Employer contributes 8% of basic hourly rate for over 5 years' service and 6% of basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit, also 7 Paid Holidays
b. After 1 year a weeks vacation, also 7 Paid Holidays

AREA DESCRIPTIONS

ELECTRICIANS:
Area 1: Boone and Howard Counties
Area 2: Cooper County

ELEVATOR CONSTRUCTORS:
Area 1: Cooper and Howard Counties
Area 2: Boone County

GLAZIERS:
Area 1: Cooper and Howard Counties

PAINTERS:
Area 1: Boone and Howard Counties
Area 2: Cooper County

SHEET METAL WORKERS:
Area 1: Boone and Cooper Counties
Area 2: Howard County

LABORERS CLASSIFICATIONS

Group 1: General Laborer; Watchman; Flagman; Heaters; Material Plant Man; Carpenter Tender; Landscaper; Signalman; Wrecker (old/new structures); Form Handler; Post Hole Diggers; Cleaning and clearing of all debris for all crafts; Loading and unloading, conveying, distributing, collecting and hoisting of construction material and debris; Backfilling, Grading and Landscaping; Covering of tanks, structures and material piles with Tarpaulins or other materials; Handling and cleaning of Concrete Chutes; Cleaning of Concrete Spills and Chipping where hand tools are required; Cleaning of masonry and other type walls and windows; Signal and Hoisting Concrete Buckets; Rodman; All tools run by gas, electricity, or air except Vibrator, Jackhammer and Paving Breaker; Air Compressors; Motor Buggies; Pumps, except Set-up Men and Nozzle Men; Unloading and handling steel; Chipping Tool Operator; Concrete Mixer Operator

Group 2: First Semi-skill - Brickmason, Plasterer and Cement Finishers' Tenders; Mortarmen; Scaffold Builders for brick; Plasterer and Cement Masons; Forklift (walk-behind or other similar types)

LABORERS CLASSIFICATIONS (Cont'd)

Group 3: Second Semi-skill - Concrete Pumps Set-up Men and Nozzle Men; Tile Layers, Bottom Men, Sewers and Drains; Cutting Torch; Burning Bar; Trench or Pier Holes 12' or over; Wagon Drill; Air Track or any mechanical Drill; Powder Man; Tamper, 100 lbs. or over; Paving Breaker; Jackhammer and Vibrator; Laser Beam Man for Sewer; Grade Checker for roads and railroads

POWER EQUIPMENT OPERATORS CLASSIFICATIONS
Cooper and Howard Counties

Group 1: Asphalt Paver and Spreader; Asphalt Plant Mixer Operator; Asphalt Plant Operator; Back Fillers; Backhoe; Barber-Greene Loader; Blade, power; Boats, power; Boilers (2); Boring Machines; Cableways; Cherry Pickers; Chip Spreader; Concrete Ready-mix Plant, portable (job site); Concrete Mixer Paver; Crane, Overhead; Crusher, rock; Derricks and Derricks Cars (power operated); Ditching Machines; Dozers; Dredges, any type power; Grade-all, similar type; Hoist; Endless Chain, power operated with power travel; Loaders; Mechanic and Welder; Mucking Machine; Orange Peels; Pumps, material; Push Cats; Scoops; Self-propelled Rotary Drill; Shovel, power; Side Boom; Skimmer Scoop; Testhole Machine; Throttle Man

Group 2: Boilers (1); Brooms, power operated; Chip Spreader (Front Man; Clef Plane Operator; Compressors (1) 125' or over; Concrete Saws, self-propelled; Crab, power operated; Curb Finishing Machine; Fireman on Rigs; Flex Plane; Floating Machine; Form Grader; Greaser; Hoist, Endless Chain, power operated; Hopper, power operated; Hydra Hammer; Lad-a-vator, similar type; Rollers; Siphons, Jets, and Jennies, Sub-grader; Tractors over 50 H.P.; Compressors (2) 125' or over not more than 20' apart, Compressors, Tandem; Compressors, single, truck mounted; Elevator; Finishing Machine

Group 3:
(a) Oilers
(b) Fork Lift, masonry
(c) Oiler Driver
(d) A-frame Trucks; Fork Lift, all types (except masonry); Mixers (with Side Loaders); Pumps (with Well Points) Dewatering Systems, Test or Pressure Pumps; Tractors (except when hauling material) less than 50 H.P.

Group 4: Clamshells, 100 feet of boom or over (excluding jib); Crane or Rigs, 100 feet of boom or over (excluding jib); Draglines, 100 feet of boom or over (excluding jib); Pile Drivers, 100 feet of boom or over (excluding jib)

Group 5: Hoists, each additional drum over 1 drum

Group 6: Crane or Rigs over 200 feet of boom

POWER EQUIPMENT OPERATORS CLASSIFICATIONS (Cont'd)
Cooper and Howard Counties (Cont'd)

Group 7: Ready Mixed Concrete Plants;
(a) Crane Operator
(b) Loader Operator and Plant Man
(c) Conveyor Operator

Group 8: Master Mechanic

Group 9: Crane, Tower or Climbing

Boone County

Group 1: Backhoe, Cableway; Crane, Crawler or Truck; Crane, Hydraulic Truck or Crusier mounted 16 tons and over; Crane, Locomotive, Derrick, Steam; Derrick Car and Derrick Boat; Dragline; Dredge; Gradall, Crawler or tire mounted; Locomotive, gas, steam and other power; Piledriver, Land or Floating; Scoop Skimmer; Shovel, power (steam, gas, electric or other powers); Switch Boats; Whirley

Group 2: Air Tugger, with Air Compressor; Anchor Placing Barge; Asphalt Spreader; Athey Force Feeder Loader (self-propelled); Backfilling Machine; Boat Operator; Push Boat or Tow Boat (job site); Boiler, high pressure breaking in period; Boom Truck, placing or erecting; Boring Machine; Footing Foundation; Bullfloat; Cherry Picker; Combination Concrete Hoist and Mixer such as Mixer-mobile; Compressor (when operator runs throttle); Compressors, two not more than 300' apart; Compressor Generator Combination; Compressor Pump Combination; Compressor Welder Combination; Concrete Breaker (truck or tractor mounted); Concrete Pump, such as Pumpcrete Machine; Concrete Spreader; Conveyor, large (not self-propelled) Hoisting or moving brick and concrete into, or into and on floor level, one or both; Crane, Hydraulic Rough Terrain, self-propelled; Crane; Hydraulic Truck or Cruiser mounted under 16 tons; Drilling Machines, self-powered, used for earth or rock drilling or boring (Wagon Drills and any Hand Drills obtaining power from other sources including Concrete Breakers, Jackhammers and Barco Equipment no engineer required); Elevating Grader, Engine Man, Dredge; Excavator or Powerbelt Machine; Finishing Machine, self-propelled Oscillating Screed; Fork Lift; Grader, road with power blade; Highlift; Hoist, concrete and brick (Brick Cages or Concrete Skips operating in or on tower, Towermobile, or similar equipment; Hoist, Stack; Hydro-hammer; Lad-a-vator, hoisting brick or concrete; Loading Machine (such as Barber-Greene); Mechanic, on job site; Mixer, paving; Mixer-mobile; Mucking Machine; Pipe Wrapping Machine; Plant, asphalt; Plant, concrete producing or Ready-mix job site; Plant, heating job site; Plant, mixing job site; Plant, power generating job site; Pumps, two self-power over 2" through 6"; Pumps, electric submersible, one through three, over 4"; Quad-Track; Roller, Asphalt, Top or Subgrader; Scoop, tractor drawn; Spreader box; Subgrader; Tie Tamper; Tractor, Crawler, or wheel type with or without power unit, power take offs and attachments regardless of size; Trenching Machine, Tunnel Boring Machine, Vibrating Machine, automatic, propelled; Welding Machines (gasoline or diesel) more than one but not over four (regardless of size); Well Drilling Machine

POWER EQUIPMENT OPERATORS (Cont'd)
Boone County (Cont'd)

Group 3: Air Tugger with plant air; Boiler for power or heating shell of buildings or temporary enclosures in connection with construction work; Boiler, temporary; Compressor, air one; Compressor, air (mounted on truck,; Concrete Saw (self-propelled); Conveyor, large (not self-propelled); Conveyor, large (not self-propelled moving brick and concrete distributing) on floor level; Curb Finishing Machine, Ditch Paving Machine; Elevator (building construction or alteration); Endless Chain Hoist; Fireman; Form Grader; Generator, one over 30 KW or any number developing over 30 KW; Greaser; Hoist, one drum regardless of size (except brick or concrete); Lad-a-vator; Manlift; Mixer, Asphalt, over 8 cubic feet capacity; Mixer, if two or more mixers of one bag capacity or less are used by one Employer on job, an Operator is required; Mixer, without Side Loader, 2 bag capacity or more; Mixers, with Side Loader, 2 bag capacity of more; Mixer, with Side Loader, regardless of size, not Paver; Oiler on Dredge; Oiler on Truck Crane; Pug Mill Operator; Pump, Sump-self powered, automatic controlled over 2" during use in connection with construction work; Scissor Lift (used for hoisting); Sweeper, street; Tractor small wheel type 50 HP and under with Grade-blade and similar equipment; Welding Machine, one over 400 amp.; Winch operating from Truck; Mechanic in shop

Group 4: Boat Operator Outboard Motor (job site); Conveyors, (such as Con-vay-it) regardless of how used; Oiler; Sweeper, floor

Group 5:
(a) Air-pressure; Oiler Engineer operating under 10 lbs.
(b) Air-pressure; Oiler Engineer operating over 10 lbs.
(c) Air-pressure Engineer operating under 10 lbs.
(d) Air-pressure Oiler Engineer operating over 10 lbs.
(e) Crane, climbing (such as Linden); Crane, Pile driving and Extracting; Crane, using Rock Socket Tool; Derrick, diesel, gas or electric, hoisting material erecting steel (150' or more above ground); Dragline, 7 cu. yds. and over; Hoist, three or more drums in use; Scoop, Tandem; Shovel, power, 7 cu. yds. and over; Tractor, Tandem Crawler Tunnel Man assigned to work in tunnel or tunnel shaft; Wrecking, when machine is working on second or higher; Crane, Booms (including jib) 100 feet to 150 feet
(f) Crane, Boom (including jib) 150 feet to 200 feet
(g) Crane, Boom (including jib) 200 feet to 250 feet
(h) Crane, Boom (including jib) 250 feet to 300 feet

TRUCK DRIVERS
Boone County

Group 1: Warehouseman; Dump Truck; Flat Bed; Pick-up; Farm Tractor; Single-axle Water Truck; Fuel Truck, single axle

Group 2: Tandem; Tractor-trailer; Winch Truck; Forklift; Tandem Water Truck; Tandem Fuel Truck

Group 3: Pitman; Hydro Boom Truck; Tandem-slip bed operation; Transit Mixer; Euclid; Belly Dump; Cat Wagon; Mechanic; Oil Distributor; Water Pull; Ross Carrier; Dumpster; Halftruck

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii))

SUPERSEDEAS DECISION

STATE: WISCONSIN COUNTIES: Barron, Dunn, Polk, and St. Croix

DECISION NUMBER: WI84-5029 DATE: Date of Publication

Supersedes Decision No. WI83-2075 dated September 23, 1983, in 48 FR 43536

DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$18.32	3.58
BOILERMAKERS	17.145	3.25
BRICKLAYERS	15.90	1.54
CARPENTERS:		
Carpenters	13.66	2.11
Millwrights & Pile-driversmen	14.06	2.11
CEMENT MASONS	15.90	1.54
ELECTRICIANS	15.48	15-1/4%
ELEVATOR CONSTRUCTORS:		
Mechanic	16.43	2.46%
Helpers	11.50	2.46%
Helpers (Prob.)	8.21%	
IRONWORKERS:		
Structural, Ornamental and Reinforcing	17.10	3.39
LABORERS:		
General	11.72	1.43
Mason Tenders	11.97	1.43
Jackhammer Operator	12.02	1.43
LATHERS	13.66	2.11
LINE CONSTRUCTION:		
Linemen	16.09	1.00+ 9-1/2%
Heavy Equipment Operator	14.48	1.00+ 9-1/2%
Light Equipment Operator	12.87	1.00+ 9-1/2%
Heavy Groundman Truck-driver	11.26	1.00+ 9-1/2%
Light Groundman Truck-driver	10.46	1.00+ 9-1/2%

	Basic Hourly Rates	Fringe Benefits
PAINTERS:		
Brush & Swing Stage	13.00	.15 +5%
Spray	13.50	.15 +5%
Structural Steel	14.00	.15 +5%
PLASTERERS	13.76	1.91
PLUMBERS & STEAMFITTERS	14.17	3.65
ROOFERS	14.27	
SHEET METAL WORKERS	15.67	2.00+3%
POWER EQUIPMENT OPERATORS		
Group 1	15.72	3.42
Group 2	15.22	3.42
Group 3	14.44	3.42
Group 4	13.88	3.42
Group 5	13.41	3.42

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

POWER EQUIPMENT OPERATORS (Classifications)

Group 1 - Cranes, shovels, draglines, backhoes, clamshells, derricks caisson rigs, pile driver, skid rigs, dredge operator and traveling crane (bridge type), concrete paver (over 27E), concrete spreader and distributor

Group 2 - Concrete and grout pumps, material hoists, stack hoists, tractor or truck mounted hydraulic backhoe, tractor or truck mounted hydraulic crane (10 tons or under), manhoists, tractor (over 40 h.p.), bulldozer (over 40 h.p.), endloader (over 40 h.p.), motor patrol, scraper operator, sideboom, straddle carrier, mechanic and welder , bituminous plant and paver operator, roller (over 5 tons), rail level-machine (railroad), tie placer tie extractor, tie tamper, stone leveler, rotary drill operator and blaster, percussion drilling machine, trencher (wheel type or chain type having over 8-inch bucket), elevator

Group 3 - Backfiller, concrete auto breaker (large), concrete finishing machines (road type), roller (rubber tire), concrete batch hopper, concrete mixers (14S or over), screw type pumps, and gypsum pumps, tractor, bulldozer, endloader (under 40 h. p.), pumps (well points), trencher (chain type having bucket 8-inch and under), industrial locomotives, roller (under 5 tons) and fireman (pile drivers and derricks), hoists (automatic), forklift (over 12'), tampers-compactors (riding type), assistant engineer, "A" frames and winch trucks, concrete auto breaker, hydrohammers (small), brooms and sweeper, hoists (tuggers), stump chipper (large), boats (tug, safety, work barges and launch).

Group 4 - Shouldering machine operator, screed operator, farm or industrial tractor mounted equipment, post hole digger, stone crushers and screening plants, fireman (asphalt plants), air compressor (400 CFM or over), augers (vertical and horizonal), air electric, hydraulic jacks (slip form) prestress machine, skid steer loader, boiler operators (temporary heat), forklift (12' and under)

Group 5 - Generators over 150 KW, pumps over 3", combination small equipment operator, compressors (under 400 CFM), welding machines, heaters (mechanical), generators (under 150 KW), pumps (3" and under), winches (small electric) Oiler and greaser, conveyor.

Unlisted classifications needed for work not included within the scope of the classification listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

[FR Doc. 84-26882 Filed 10-11-84; 8:45 am]

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federal register

Friday
October 12, 1984

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Parts 21 and 45

Parts Manufacturer Approval; Falsification of Airworthiness Certification Documents; Withdrawal of Notice of Proposed Rulemaking

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21 and 45

[Docket No 17147; Notice 77-19E]

Parts Manufacturer Approval; Falsification of Airworthiness Certification Documents

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Withdrawal of Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice withdraws the proposals to amend Parts 21 and 45 of the Federal Aviation Regulations as published in Notice of Proposed Rulemaking (NPRM) 77-19C (46 FR 3776; January 15, 1981). NPRM 77-19D (46 FR 38062, July 23, 1981) which extended the comment period of NPRM 77-19C is also withdrawn. Public comments, agency discussions, and information from other Federal departments and agencies indicate that there is substantial confusion about the Parts Manufacturer Approval (PMN) process and misinterpretation of PMA regulations. Thus, the agency has commissioned a study and evaluation of the PMA process to determine whether any regulatory changes are necessary.

FOR FURTHER INFORMATION CONTACT: Fred Laird, Manager, Regulatory Projects Branch, Program Management Staff, Office of Associate Administrator for Aviation Standards, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone (202) 755-8716.

SUPPLEMENTARY INFORMATION:

Background

On August 24, 1977, the FAA issued NPRM 77-19 (42 FR 43965; September 1, 1977). The FAA proposed to: (1) Revise the application and reporting requirements applicable to Parts Manufacturer Approvals; (2) clarify the means by which an applicant for a PMA can show that the design of the applicant's part is identical to the design of a part that is covered under a type certificate (TC); (3) update certain form number references; (4) provide for the issuance of export certificates of airworthiness for unassembled normal category rotorcraft; and (5) provide for the issuance of export airworthiness approvals for aeronautical products that do not meet certain requirements if the importing country agrees to accept the products in such conditions.

The comment period was reopened twice to allow persons and organizations additional time to submit comments to the docket.

The portions of NPRM 77-19 dealing with form number revisions and export airworthiness requirements (items 3, 4, and 5 above) were adopted by Amendment 21-48 (44 FR 15648; March 15, 1979).

On January 8, 1981, the FAA issued NPRM 77-19C which superseded the proposals concerning PMA contained in NPRM 77-19. In addition, NPRM 77-19C proposed a rule to clarify and strengthen the agency's enforcement policy by prohibiting certain actions and prescribing administrative sanctions for certain acts involving falsified applications, reports, and records under Part 21. Reasons for Withdrawal of NPRM 77-19C.

In proposing NPRM 77-19C, the FAA intended to codify existing agency practices for administering the PMA program and clarify and strengthen the agency's enforcement policy.

However, public comments and intra-agency discussion inspired by NPRM 77-19C reveal that: (1) PMA administrative practices may not be uniform among FAA field offices; (2) there is substantial confusion among holders of both type certificates and parts manufacturer approvals about the application of the identicality concept; and (3) the industry, as well as other interested government agencies, have misinterpreted some of the revisions proposed in NPRM 77-19C.

Considering the response the NPRM 77-19C, the logical next steps are: (1) Survey present PMA administrative practices among the various FAA field offices; (2) take account of differing interpretations of the identicality concept specifically (and PMA regulations generally); (3) assess PMA-related issues raised by other Federal agencies and departments; and (4) respond to the concerns of all persons affected by the PMA process. In addressing these issues and concerns, FAA, is mindful of its principal statutory auty "to promote safety in civil aviation."

Thus, the FAA has formed an impratial investigative team to assess and prepare a detailed plan for evaluation of the PMA process. The team is comprised of agency consultants whose expertise includes air transportation and safety, economics, law, and Federal Aviation Regulations. The team is under the guidance of Michele Owsley, an FAA Aircraft Certification Engineer.

The team will survey each FAA Aircraft Certification Office (ACO) and selected parts manufacturers and orignal equipment manfucturers from late July through September to summarize current PMA certification practices which exist and to assist the agency in determining the appropriate national norm for administering a PMA program. The team will visit these ACOs and manufacturers, and conduct interviews that are designed to facilitate the evaluation process. The team will focus on issues critical to establishing and maintaining an efficient and uniform PMA program.

The results of the team survey will be reviewed by the FAA and will then be made available to the public. The interview results and evaluation will be used to asses the PMA program and determine whether any change is warranted. If the FAA determines that there is a necessity for change, it will publish a document to that effect.

The protracted nature of NPRM 77-19C rulemaking proceeding has generated additional issues. The original PMA rulemaking began in 1977. Since that time, there may have been changes in the regulatory and business climate the should be considered in formulating the substance of any PMA regulation. Additionally, it may be unfair to expect recent or prospective entrants into the PMA/OEM market to have an informed knowledge of the rulemaking history sufficient to participate meaning fully in any discussion. When a proposed rule remains under consideration for an unusually lont time, there arises a question as the whether the text of the proposal and the notice of its existence have become stale. The interested public may mistakenly, although reasonably, conclude that there is no active consideration being given of NPRM 77-19C.

Accordingly, NPRM 77-19C is withdrawn to: (1) Create a climate in which the PMA evaluation team can objectively investigate the program without predisposition toward the alternatives proposed in NPRM 77-19C; (2) encourage the parts manufacturer/original equipment manufacturer industry freely to raise new issues and suggestions beyond the scope of NPRM 77-19C; and (3) obviate any questions of fairness and timely notice of proposed changes to its PMA regulations. The FAA wishes to assure the interested public and other Federal agencies that while action on NPRM 77-19-C is discontinued, the FAA will continue to asses the status of PMA and the need for any changes to the program.

It is FAA policy to be receptive to public comment, and to make available to the public any appropriate information the agency considers in its deliberations. In keeping with this

policy, all correspondence relative to NPRM 77–19C has been placed in Docket 17147. The Statement of Work for the project team, the Evaluation Plan, and the results of the evaluation will be placed in that docket, along with any correspondence received on the general subject of PMA. The agency will consider any comments already received on NPRM 77–19C, including original and reply comments, in any subsequent evaluation or rulemaking.

Conclusion

The FAA has determined that this notice of withdrawal involves a rulemaking action which is not a "major rule" under Executive Order 12291 and is a "significant" rule under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, since this notice of withdrawal involves a rulemaking action which leaves all existing regulations unchanged, the FAA has determined that it does not warrant preparation of a regulatory evaluation because no impact in anticipated and it will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

(Secs. 313(a) and 601, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1424; sec. 6(c), Department of Transportation Act (49 U.S.C. 1655))

Issued in Washington, D.C., on August 28, 1984.

M.C. Beard,

Director of Airworthiness.

[FR Doc. 84–28000 Filed 10–11–84; 8:45]

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S. 2803 / Pub. L. 98–459

Older Americans Act Amendments of 1984. (Oct. 9, 1984; 98 Stat. 1767) Price $1.50

H.R. 3755 / Pub. L. 98–460

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 84-354]

Mediterranean Fruit Fly; Reduction of Regulated Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document amends "Subpart—Mediterranean Fruit Fly" of the domestic quarantine notices by deleting a portion of Dade County, Florida from the list of regulated areas. The effect of this action is to remove restrictions on the interstate movement of regulated articles from this portion of Dade County, Florida. This action is necessary because such restrictions are no longer needed to prevent the interstate spread of Mediterranean fruit fly.

DATES: Effective date of this amendment October 10, 1984. Written comments concerning this interim rule must be received on or before December 14, 1984.

ADDRESSES: Written comments should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, 6505 Belcrest Road, Room 728 Federal Building, Hyattsville, MD 20782. Written comments received may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: B. Glenn Lee, Emergency Programs Coordinator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 611 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-6365.

SUPPLEMENTARY INFORMATION:

Emergency Action

Harvey L. Ford, Deputy Administrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine, has determined that an emergency situation exists which warrants publication of this interim rule without prior opportunity for a public comment period because otherwise there would be unnecessary restrictions imposed on the interstate movement of certain articles. This situation requires immediate action to delete such unnecessary restrictions.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that prior notice and other public procedure with respect to this interim rule are impracticable and contrary to the public interest; and good cause is found for making this interim rule effective less than 30 days after publication of this document is in the **Federal Register**. Comments will be solicited for 60 days after publication of this document, and a final document discussing comments received and any amendments required will be published in the **Federal Register** as soon as possible.

Executive Order 12291 and Regulatory Flexibility Act

This interim rule is issued in conformance with Executive Order 12291 and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that this rule will have an effect on the economy of less than 100 million dollars; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This amendment deletes restrictions that had been imposed on the interstate movement of regulated articles from a portion of Dade County, Florida, approximately 54 square miles in size. It appears that there is very little commercial activity that occurs in this area. Specifically, it is comprised of private residences and small entities including approximately 71 nurseries and 150 small businesses including retail stores, street vendors, and open fruit stands. Although these are small entities, they sell regulated articles primarily for local intrastate, not interstate, movement. Further, the retail shops and nurseries sell other items in addition to the regulated articles so that the effect, if any, of deleting restrictions on the interstate movement of articles sold by these entities appears to be minimal.

Background

A document published on July 3, 1984 (49 FR 27478-27485) amended the "Domestic Quarantine Notices" by adding a new Subpart 301.65 which quarantined the State of Florida and established regulations restricting the interstate movement of regulated articles out of a regulated area in Dade County, Florida. This amendment was necessary to prevent the artificial spread into noninfested areas of the United States of Mediterranean fruit fly, *Ceratitus capitata* (Wiedemann), a dangerous plant pest which infests numerous fruits and vegetables, especially citrus fruits. The portion of Dade County listed as a regulated area prior to the publication of this document was approximately 81 square miles in size and was bordered on the east by Biscayne Bay and on the northwest by the Miami International Airport, and included much of the city of Miami.

Based on trapping and sampling surveys conducted by inspectors of the United States Department of Agriculture and the Florida Department of Agriculture and Consumer Services, it has been determined that Mediterranean fruit fly has been eradicated from all but the following 27 square mile portion of Dade County:

That part of Dade County beginning at a point 200 feet north of where Interstate 95 intersects Northwest 62nd Street; then east along an imaginary line 200 feet north of Northwest 62nd Street to where it becomes

Northeast 62nd Street and east along and imaginary line 200 feet north of Northeast 62nd Street to its intersection with Northeast 2nd Avenue; then south along an imaginary line 200 feet east of Northeast 2nd Avenue to its intersection with Northeast 61st Street; then east along an imaginary line 200 feet north of Northeast 61st Street to its intersection with Biscayne Bay; then southeasterly along and imaginary line to the northern point of Di Lido Island; then southerly along the east side of Di Lido Island to its southern point; then southeasterly along an imaginary line from Di Lido Island to the northwest corner of Fishers' Island; then southwesterly along an imaginary line from the northwest corner of Fishers' Island to the point where Rickenbacker Causeway intersects the mainland; then westerly along the causeway to its intersection with Brickell Avenue and then northwest along an imaginary line 200 feet west of the causeway along 26th Road to its intersection with Interstate 95; and northwest along an imaginary line 200 feet south of 26th Road; and then northwesterly along Interstate 95 and northwesterly along an imaginary line 200 feet west of Interstate 95 to the point of beginning.

Under the circumstances, there is no longer a basis for imposing restrictions on the movement of articles from Dade County, except for the area described above. Therefore, because Mediterranean fruit fly no longer occurs in any other area of Dade County, this document deletes from the portion of Dade County listed as a regulated area prior to the publication of this document all areas except as described above.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation, Mediterranean Fruit Fly.

PART 301—DOMESTIC QUARANTINE NOTICES

Accordingly, § 301.65–3(c) of the Meditterranean Fruit Fly Quarantine and Regulations in 7 CFR Part 301.65–3(c) is revised to read as follows:

§ 301.65–3 Regulated areas.

* * * * *

(c) The areas described below are designated as regulated areas:

Florida

Dade County. That part of Dade County beginning at a point 200 feet north of where Interstate 95 intersects Northwest 62nd Street; then east along an imaginary line 200 feet north of Northwest 62nd Street to where it becomes Northeast 62nd Street and east along an imaginary line 200 feet north of Northeast 62nd Street to its intersection with Northeast 2nd Avenue; then south along an imaginary line 200 feet east of Northeast 2nd Avenue to its intersection with Northeast 61st Street; then east along an imaginary line 200 feet north of Northeast 61st Street to its intersection with Biscayne Bay; then southeasterly along an imaginary line to the northern point of Di Lido Island; then southerly along the east side of Di Lido Island to its southern point; then southeasterly along an imaginary line from Di Lido Island to the northwest corner of Fishers' Island; then southwesterly along an imaginary line from the northwest corner of Fishers' Island to the point where Rickenbacker Causeway intersects the mainland; then westerly along the causeway to its intersection with Brickell Avenue and then northwest along an imaginary line 200 feet west of the causeway along 26th Road to its intersection with Interstate 95; and northwest along an imaginary line 200 feet south of 26th Road; and then northwesterly along Interstate 95 and northwesterly along an imaginary line 200 feet west of Interstate 95 to the point of beginning.

Authority.—Secs. 8 and 9, 37 Stat. 318, as amended (7 U.S.C. 161, 162); secs. 105 and 106, 71 Stat. 32, 71 Stat. 33 (7 U.S.C. 150dd, 150ee); 7 CFR 2.17, 2.51 and 371.2.

Done at Washington, D.C., this 10th day of October, 1984.

W.F. Helms,

Acting Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 84–27190 Filed 10–12–84; 8:45 am]

BILLING CODE 3410–34–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 84–AWP–8]

Establishment of the Reveille, NV, Additional Control Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes controlled airspace north of VOR Federal Airway V–244 between Tonopah, NV, and Wilson Creek, NV, to enable aircraft operating under air traffic control (ATC) to remain within controlled airspace while being routed around airspace routinely utilized for military exercises.

EFFECTIVE DATE: 0901 GMT, December 20, 1984.

FOR FURTHER INFORMATION CONTACT: William C. Davis, Airspace and Air Traffic Rules Branch (ATO–230), Airspace-Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 426–8783.

SUPPLEMENTARY INFORMATION:

History

On July 18, 1984, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish controlled airspace between Tonopah, NV, and Wilson Creek, NV, north of VOR Federal Airway V–244 and referred to that airspace as the Reveille, NV, Additional Control Area (49 FR 29105). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.163 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6 dated January 3, 1984.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations establishes the airspace as proposed in the notice with one exception. The upper limit of the Reveille Additional Control Area is established at 14,500 feet MSL vice 18,000 feet MSL as proposed since the Continental Control Area already exists from 14,500 feet MSL.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Additional control areas, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.163 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, as follows:

Reveille, NV [NEW]

That airspace extending upward from 11,500 feet MSL to 14,500 feet MSL within the area bounded by a line beginning at lat. 38°14'00" N., long. 117°00'00" W.; to lat. 38°26'00" N., long. 116°24'20" W.; to lat. 38°30'15" N., long. 114°24'45" W.; to lat.

38°20'20" N., long. 114°09'15" W.; to lat. 38°14'00" N., long. 115°28'10" W.; to lat. 38°13'30" N., long. 116°00'00" W., to lat. 38°09'55" N., long. 116°20'50" W.; to lat. 38°08'10" N., long. 116°34'45" W.; to lat. 38°16'50" N., long. 116°35'50" W.; to the point of beginning.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)); and 14 CFR 11.69)

Issued in Washington, DC, on October 8, 1984.

John W. Baier,

Acting Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 84-27135 Filed 10-12-84; 8:45 am]
BILLING CODE 4910-13-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1 and 16

Commercial Categories for Option Traders

AGENCY: Commodity Futures Trading Commission.

ACTION: Rule Related Notice.

SUMMARY: On January 10, 1983, the Commission published in the **Federal Register** notification of the availability of its revised list of occupation categories (48 FR 1047). This list, as amended on February 3, 1984 (49 FR 4200), forms the basis from which the Commission will measure commercial participation in the pilot program for domestic exchange-traded commodity options. Futures commission merchants and members of contract markets are required under Commission rule 1.37(a), 17 CFR 1.37(a) (1982), to record for each option customer account they carry an appropriate occupation category from a list of such categories set forth by the Commission and a symbol indicating whether the option customer is commercial or noncommercial. In order to accommodate options on domestic agricultural commodities, the Commission has determined to revise its current list of occupation categories by adding six new categories for grains and soybeans, Categories 26 through 31, and seven new categories for livestock, Categories 32 through 38.

In addition, in order to accommodate options trading in precious metals other than gold (including silver), the Commission has determined to change the name of the commodity classification "Gold" to "Precious Metals." Also, in order to accommodate options trading in crude oil and in petroleum products other than heating oil, the Commission has determined to change the name of the commodity classification "Heating Oil" to "Petroleum" and to amend the occupation categories for this classification by adding two new categories. Category 39, Crude Oil Producer, has been added to identify commercial entities that are involved in the exploration and production of crude oil. Category 40, Crude Oil Reseller, has been added to identify commercial entities that are involved in the purchasing and reselling of crude oil. In addition, the Commission has determined to change the name of Category 13 from Distributor to Product Marketer and/or Distributor to clarify that this occupation category includes all commercial entities that purchase and resell petroleum products including jobbers, resellers and marketers as well as distributors.

As is the case with the existing categories, the appropriate classification for a customer is based on the primary activity of the customer in using the option market in conjunction with its cash market activities.

FOR FURTHER INFORMATION CONTACT: Fred Linse, Chief, Agricultural Commodities Unit, or Rick Shilts, Chief, Natural Resources Unit, Division of Economic Analysis, (202) 254-7303, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581.

SUPPLEMENTARY INFORMATION: The Commission has revised the list of occupational categories for determining commercial participation in its pilot program for options as follows:

Commodity	Occupation categories
Sugar	1. Producer. 2. Merchant or Dealer. 3. Refiner. 4. Manufacturer or Processor. 5. Other Commercial.
Precious Metals	6. Producer. 7. Refiner. 8. Dealer. 9. Commercial End User. 11. Other Commercial.[1]
Petroleum	39. Crude Oil Producer. 40. Crude Oil Reseller. 12. Refiner. 13. Product Marketer and/or Distributor. 14. End User. 15. Other Commercial.
Financial Instruments/Foreign Exchange.	16. Savings and Loan, Mortgage Bank and Thrift Institutions. 17. Commercial Bank. 18. Insurance Company. 19. Pension and Retirement Fund. 20. Mutual Fund. 21. Broker/Dealer. 22. Foundation and Endowment. 23. Other Commercial. 24. Importers/Exporters of Goods and Services.
	25. Investors/Issuers of Foreign Currency Denominated Securities.
Grains and Soybeans	26. Grain or Soybean Producer. 27. Producer Cooperatives. 28. Other Elevator Operator or Merchant. 29. Processor, Including Feed Manufacturing and Crushing. 30. Livestock Feeder or Producer. 31. Other Commercials.
Livestock	32. Farmers and Ranchers. 33. Commercial Feedlot Operators. 34. Non-Farmer Livestock Feeders. 35. Marketing Agencies and Commission Merchants. 36. Packers and Other Meat Processors. 37. Meat Wholesalers, Retailers, and Buyers. 38. Other Commercials.

[1] Category 10 intentionally blank.

Issued in Washington, D.C. on October 10, 1984.

Jean A. Webb,

Acting Secretary of the Commission.

[FR Doc. 84-27176 Filed 10-12-84; 8:45 am]
BILLING CODE 6351-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 241

[Release No. 34-21383]

Computer Brokerage Systems

AGENCY: Securities and Exchange Commission.

ACTION: Notice of Commission views on computer brokerage systems.

SUMMARY: This notice expresses the Commission's views on trading of securities through computer brokerage systems, in which investors are linked through personal computers (or similar systems) to broker-dealers. The Commission intends for this release to provide some guidance to those in the industry operating or considering operating a computer brokerage system.

DATE: October 9, 1984.

FOR FURTHER INFORMATION CONTACT: Michael J. Simon, Assistant Director, (202) 272-2405 or Robert L. D. Colby, Branch Chief, (202) 272-2857, Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: Congress directed the Commission to facilitate the development of a national market system for securities,[1] with the goal of,

[1] *See generally* Section 11A of the Securities Exchange Act of 1934 ("Act").

among other things, assuring economically efficient execution of transactions in securities.[2] As part of this responsibility, the Commission has monitored the recent development of systems that allow investors to send orders directly to their brokers through personal computers (referred to as "computer brokerage systems").[3] The Commission is publishing this release to make known its views on these systems.

I. Introduction

Computer brokerage systems have been developed by a number of entities that allow investors to communicate with broker-dealers through personal computers and computer networks.[4] In the first generation of these systems, investors can use the systems rather than the telephone to send orders to their brokers; in such systems the brokers physically must reroute the orders for execution. In the second generation of these systems, currently in the development stages, orders may be routed directly from the computer brokerage system to automated order routing and execution systems operated by various securities markets without physical handling by the broker.

As a general matter, the Commission believes that computer brokerage systems may benefit investors by increasing the efficiency of the order entry and execution process. As the Commission has reviewed the systems being developed or operated, however, several issues have arisen which the Commission believes should be highlighted. These issues are the use by investors of non-current market information for trading decisions, surveillance of trading activity, suitability of customer trades, and system safeguards. For the most part, these issues involve the application of existing regulatory requirements to the special situation of computer brokerage systems.

A. Market Information

The first issue concerns the type of market information provided by computer brokerage systems to investors. Most of these systems offer investors a choice between delayed last sale information at no additional charge, and current last sale information at an additional price, usually based on the subscriber fees charged by last sale and quotation services.[5] Under those conditions, many investors are likely to choose the less expensive delayed information. Where orders are entered outside of normal trading hours, these differences have no effect because both levels of information provide the closing price.[6] However, concerns do arise when investors rely entirely on delayed information during normal market hours. In that event, investment decisions may be effectuated by sending an order for execution through the computer brokerage system, without knowing whether any unusual price changes have occurred in a security during the delay period. In contrast, when an investor gives his broker an order by phone, the current price can be checked by the broker before the order is executed and any unusual price swings may be detected at that time.

The Commission believes that broker-dealers who operate computer brokerage systems which provide delayed price information, at a minimum, have an obligation to inform system users that the price information is not current and to advise them as to how they can obtain current market information when they want to check the price of a security before they place an order. In this regard, the Commission also believes that industry participants should consider the need for system safeguards which would deter investors from relying solely on delayed information in trading securities where significant price changes have recently occurred. Such safeguards may be particularly important in second generation computer brokerage systems where customer orders will be routed directly for automated execution in exchange or OTC markets without the manual intervention of a broker-dealer. In that case, customer orders based on delayed information could be executed near-instantaneously, without the possiblilty of any review of whether the market for the particular security has just shifted dramatically.[7]

The Commission believes that the industry, in consultation with the Commission, should take the initiative in this area. For discussion purposes, however, a number of possible safeguards are discussed below.

First, computer brokerage systems could be programmed to compare delayed prices to current prices when a market order is received, and to identify trades where the delayed and current price diverge by a significant percentage. If the computer system were operating exclusively as an order routing system, this function even could be performed manually. The account executive could then communicate this information back to the subscriber, either over the system or by telephone. If the computer system were linked to an automatic execution facility, the system could be programmed to withhold such orders from automatic execution to be handled manually after consulting with the customer. Alternatively, a firm could limit use of computer brokerage systems during market-hour trading to subscribers with current information.

An additional method of dealing with this issue has been suggested by several computer brokerage system operators in discussions with the Commission's Division of Market Regulation ("Division"). They suggested that the applicable information source, such as the CTA, could allow real-time information in a stock to be displayed as the last step after an order in the stock has been preliminarily entered through a computer brokerage system without charging the subscribers the real-time information fee. Such a display would provide investors a final check before sending orders; at the same time, it is argued that requiring full entry of an order before this information is obtained would make this system too cumbersome to be used regularly to access real-time information without charge.

The Commission believes that this idea warrants serious attention and encourages computer brokerage system operators to pursue this idea with

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[2] Section 11A(a)(1)(C)(i) of the Act.

[3] Videotex systems, *i.e.* interactive systems using cable television, also have the capability to offer computer-type brokerage systems.

[4] The Commission is not addressing in this release whether a company that provides communication and information services and transmits orders between investors and broker-dealers for a transaction related fee would be required to register as a broker-dealer under Section 15(a) of the Act.

[5] Last sale and quotation information is provided by various industry organizations, such as the Consolidated Tape Association ("CTA") for most listed last sale infomation, the Consolidated Quotation System ("CQS") for listed quotation information, the National Association of Securities Dealer's ("NASD") NASDAQ and MSI systems for over-the-counter information, and the Options Price Reporting Authority ("OPRA") for standardized option information. All these organizations charge fees for real-time information. Recently, these organizations have made efforts to allow greater investor access to real-time information by adopting special, lower fees for non-professionals. For example, CTA information on New York Stock Exchange listed stocks costs professionals $88.50 and non-professionals $7.50 for an initial terminal. The analagous CQS fees are between $58.50 and $90 for professionals and $6.00 for non-professionals. While these fees have greatly increased the ability of nonprofessionals to receive real-time information, the Commission believes that the level of these fees still prevents many computer brokerage system users from receiving real-time information.

[6] The Commission understands that at the current time these systems are used primarily to leave orders with brokers outside of normal trading hours.

[7] This concern is especially significant for securities like options, where even a small price change in the underlying security can lead to a substantial percentage change in the value of the option.

appropriate industry representatives.[8] While the Commission believes that the integrity of market information fees should be preserved, the Commission also believes that the exchanges and the NASD can preserve the essentials of their existing fee structures while providing non-professionals a reasonable way to check the continued validity of their orders before sending them throught computer brokerage systems.

B. Surveillance

The second issue raised by home brokerage systems is one of surveillance of customer trading. Existing rules which require a familiarity with one's customers and their trading activities,[9] and the retention of books and records,[10] are, if anything, more crucial in the context of computer brokerage systems where direct contact between investors and their brokers is reduced. Because of this lesser contact, additional efforts may be necessary to ensure that broker-dealers remain apprised of their customers' trading activities.[11] Moreover, if a computer brokerage system were to be used in conjunction with customer accounts represented by registered representatives ("RR") on commission, the RR's involvement in trades executed through the system should be monitored to ascertain, for instance, whether the trades had been recommended or solicited by the RR.

C. Suitability

The final concern is one of investor qualifications and suitability. Becuase these systems provide investors greater flexibility in trading, the Commission believes it is important that a broker-dealer use a high degree of care in making its initial determination regarding an investor's financial qualifications and his suitability for large and risky investments. The broker-dealer's interest in avoiding customer defaults, for which the broker-dealer remain ultimately responsible, should provide a substantial incentive for it to determine carefully the investor's financial qualifications both to trade specific instruments and to acquire large financial positions. Nevertheless, because this is not just a matter of good business but an essential element of investor protection and financial responsibility, the Commission emphasizes that broker-dealers should be mindful of this obligation.

Moreover, a further issue is raised to the extent that a broker-dealer or related entity provides investors research and analysis amounting to recommendations of individual securities through the computer brokerage system or accompanying data bases.[12] In this situation, the broker-dealer should be aware that it may be subject to regulatory standards regarding the suitability of recommendations of securities if orders are executed in these securities through a computer brokerage system or otherwise.[13] Accordingly, the Commission believes that it is important that broker-dealers make a careful determination of the suitability of a recommended security for particular investors.

D. System Safeguards

Finally, the Commission urges broker-dealers who operate computer brokerage systems to consider the need for system safeguards which would prevent unauthorized access to a customer's account, or information about that account, and which would enable a customer to reaffirm orders entered into such systems. The latter safeguard would reduce the chances of erroneous instructions entered by the customer from being carried out.

II. Conclusion

The Commission emphasizes its support for the development of these efficient order-entry and execution systems. The computer brokerage area, however, is experiencing rapid growth and consequently the application of existing regulatory standards in the area may be unclear. The Commission intends for this release to provide some guidance to those in the industry operating or considering operating a computer brokerage system. Of course, as this area develops, more questions and issues will arise. The Commission will be monitoring the area and will issue further releases if necessary. Moreover, as these systems develop, the Commmission urges industry participants to communicate with the Commission's Division of Market Regulation on any issues that arises.

List of Subjects in 17 CFR Part 241

Reporting and recordkeeping requirements, Securities.

PART 241—[AMENDED]

Part 241 of Title 17 of the Code of Federal Regulations is amended by adding this Notice of Commission Views on Computer Brokerage Systems (Release No. 34–21383) to the list of interpretative Releases.

By the Commission.

Dated: October 9, 1984.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84–27185 Filed 10–12–84; 8:45 am]

BILLING CODE 8010–01–M

[8] The Division has written to the Chairman of the CTA and CQS endorsing this proposal as a useful starting point for discussions on this issue. *See* letter from Richard Ketchum, Director, Division, to Samuel Alward, Executive Vice President, New York Stock Exchange, and Chairman, CTA and CQS dated July 23, 1984.

[9] *See, e.g.*, New York Stock Exchange Rule 405; Article III, Section 1 of the NASD's Rules of Fair Practice.

[10] *See, e.g.*, Rules 17a–3 and 17a–4 under the Act and New York Stock Exchange Rule 41D.

[11] This is of particular importance if the computer brokerage system allows large or multiple orders to be executed in a security during the day, thus having a potentially significant effect on the price of a security.

[12] In particular, the Commission is concerned that broker-dealers may use computer brokerage systems or accompanying data bases to direct analysis amounting to recommendations to specific clients or to issue urgent recommendations to clients for immediate action through computer brokerage systems.

[13] *See, e.g.*, Article III, Section 2 of the NASD's Rules of Fair Practice; Chicago Board Options Exchange, Inc. Rule 9.9.

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2619

Valuation of Plan Benefits in Non-Multiemployer Plans; Amendment Adopting Additional PBGC Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This amendment to the regulation on Valuation of Plan Benefits in Non-Multiemployer Plans contains the interest rates and factors for the period beginning November 1, 1984. The interest rates and factors are to be used to value benefits provided under terminating non-multiemployer pension plans covered by Title IV of the Employee Retirement Income Security Act of 1974.

The valuation of plan benefits is necessary because, under section 4041 of the Act, the Pension Benefit Guaranty Corporation ("PBGC") and the plan administrator must determine whether a terminating pension plan has sufficient assets to pay all benefits under the plan that are guaranteed by the PBGC under the Title IV plan termination insurance program.

The interest rates and factors set forth in Appendix B to Part 2619 are adjusted periodically to reflect changes in financial and annuity markets. This amendment adopts the rates and factors applicable to plans that terminate on or after November 1, 1984, and will enable

the PBGC and plan administrators to value the benefits provided under those plans. These rates and factors will remain in effect until Appendix B of the regulation is again amended.

EFFECTIVE DATE: November 1, 1984.

FOR FURTHER INFORMATION CONTACT: Mrs. Renae R. Hubbard, Special Counsel, Corporate Policy and Regulations Department, Code 611, Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006, 202–254–6476 (not a toll-free number).

SUPPLEMENTARY INFORMATION: On January 28, 1981, the PBGC published a final regulation on Valuation of Plan Benefits in Non-Multiemployer Plans (46 FR 9492). That regulation, codified at 29 CFR Part 2619 (1983), sets forth the methods for valuing plan benefits of terminating non-multiemployer plans covered under Title IV of the Employee Retirement Income Security Act of 1974, 29 U.S.C. §§ 1001 *et seq.* (1976), *as amended*. The regulation contains formulas for valuing different types of benefits. Appendix B to the regulation sets forth the interest rates and factors that are to be used in the formulas. Because these rates and factors are intended to reflect current conditions in the financial and annuity markets, it is necessary to update the rates and factors periodically.

As published in the 1983 edition of 29 CFR, Appendix B of Part 2619 contains interest rates and factors for valuing benefits in plans that terminated during various periods from September 2, 1974 through June 1, 1983. The rates and factors adopted for valuing benefits in plans that terminated on or after June 1, 1983 remained in effect until September 1, 1983. On August 15, 1983, the PBGC published new rates and factors for plans that terminated on or after September 1, 1983 (48 FR 36817). That rate remained in effect for plan terminations through the end of January, 1984. In January, February, March, April, June, July, and August of 1984 the PBGC published new rates and factors for plans terminating during the months of February through October of 1984 (49 FR 1896, 49 FR 6486, 49 FR 9856, 49 FR 14730, 49 FR 24721, 49 FR 28551, and 49 FR 32573).

At this time, changes in the financial and annuity markets require a decrease in the rates used for valuing benefits. Accordingly, this amendment adds to Appendix B a new set of interest rates and factors for valuing benefits in plans that terminate on or after November 1, 1984, which set reflects a decrease of ¼ percent in the interest rate.

Generally, the interest rates and factors will be in effect for at least one month. However, any published rates and factors will remain in effect until such time as PBGC publishes another amendment concerning them. Any change in the rates normally will be published in the **Federal Register** by the 15th of the month preceding the effective date of the new rates or as close to that date as circumstances permit.

The PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This determination is based on the need to determine and issue new interest rates and factors promptly so that the rates can reflect, as accurately as possible, current market conditions. The PBGC has found that the public interest is best served by issuing the rates and factors on a prospective basis so that plans may be able to calculate the value of plan benefits before submitting a notice of intent to terminate. Also, plans will be able to predict employer liability more accurately prior to plan termination.

Because of the need to provide immediate guidance for the valuation of benefits of plans that will terminate on or after November 1, 1984, and because no adjustment by ongoing plans is required by this amendment, the PBGC finds that good cause exists for making the rates set forth in this amendment to the final regulation effective less than 30 days after publication.

The PBGC has determined that this is not a "major rule" under the criteria set forth in Executive Order 12291, February 17, 1981, because it will not result in an annual effect on the economy of $100 million or more, a major increase in costs for consumers or individual industries, or significant adverse effects on competition, employment, investment, productivity, or innovation.

List of Subjects in 29 CFR Part 2619

Employee benefit plans, Pension insurance, Pensions.

PART 2619—[AMENDED]

In consideration of the foregoing, Part 2619 of Chapter XXVI, Title 29, Code of Federal Regulations, is hereby amended as follows:

1. The authority citation for Part 2619 reads as follows:

Authority: Secs. 4002(b)(3), 4041(b), 4044, and 4062(b)(1)(A), Pub. L. 93–406, 88 Stat. 1004, 1020, 1025, 1029 (1974) as amended by Secs. 403(1), 403(d), and 402(a)(7), Pub. L. 96–364, 94 Stat. 1302, 1301, and 1299 (1980) (29 U.S.C. 1302, 1341, 1344, 1362).

2. Rate Set 50 of Appendix B is revised and Rate Set 51 of Appendix B is added, to read as follows:

Appendix B—Interest Rates and Quantities Used To Value Immediate and Deferred Annuities

In the table that follows, the immediate annuity rate is used to value immediate annuities, to compute the quantity "G_y" for deferred annuities and to value both portions of a refund annuity. An interest rate of 5% shall be used to value death benefits other than the decreasing term insurance portion of a refund annuity. For deferred annuities, k_1, k_2, k_3, n_1, and n_2 are defined in § 2619.45.

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities				
	On or after	Before		k_1	k_2	k_3	n_1	n_2
. . .	.	.	.	.	.	.	.	.
50	9–1–84	11–1–84	10.50	1.0975	1.0850	1.0400	7	8
51	11–1–84	.....	10.25	1.0950	1.0825	1.0400	7	8

C.C. Tharp,
Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 84–27023 Filed 10–12–84; 8:45 am]
BILLING CODE 7708–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–10–FRL–2667–7]

Approval and Promulgation of Implementation Plans; Oregon

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA today approves amendments to the Oregon Department of Environmental Quality (DEQ) rules for municipal incinerators, open field burning, and open burning as revisions to the Oregon State Implementation Plan (SIP). There amended rules were submitted on January 16, 1984, March 14, 1984, and June 5, 1984 by DEQ, after

adequate opportunity for public, private, and industry input. The revisions are strictly procedural, and do not affect the amount of acreage allowed to be burned or the controls embodied in the EPA-approved smoke management plan.

EFFECTIVE DATE: This action will be effective on December 14, 1984 unless notice is received before November 14, 1984 that someone wishes to submit adverse or critical comments. If such notice is received, EPA will open a formal thirty-day comment period on this action.

ADDRESSES: Copies of materials submitted to EPA may be examined during normal business hours at the following locations:

Air Programs Branch (10A–84–5), Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101

State of Oregon, Department of Environmental Quality, 522 SW. Fifth, Yeon Building, Portland, Oregon 97207

Copy of the State's submittal may be examined at:

The Office of Federal Register, 1101 L Street NW., Room 8401, Washington, D.C.

Public Information Reference Unit, EPA, 401 M Street, SW., Washington, D.C. 20460

Comments should be addressed to: Laurie M. Kral, Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: David C. Bray, Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101, Telephone (206) 442–8577, (FTS) 399–8577.

SUPPLEMENTARY INFORMATION:

I. Plan Revisions

On January 16, 1984 DEQ submitted amendments to its rules for refuse burning equipment (OAR 340–21–005, 025 and 027), which revise the emission limits applicable to small to medium-size municipal waste incinerators in the coastal areas of Oregon. These amendments relax emission limits for incinerators with capacities between 2.4 and 50 tons per day and tighten emission limits for incinerators with capacities greater than 50 tons per day. These new emission limits are consistent with the current actual emissions of the affected incinerators. On May 23, 1984 DEQ submitted modeling results demonstrating that, under worst-case assumptions, the new allowable emission limits would not result in violations of the National Ambient Air Quality Standard or Prevention of Significant Deterioration increments for total suspended particulates (TSP). EPA is therefore approving the amended rules.

On March 14, 1984 DEQ submitted amendments to its rules for open field burning in the Willamette Valley (OAR 340–26–001 through 045). These amendments completely restructure and revise the existing rules. However, the revisions are strictly procedural, and do not affect the amount of acreage allowed to be burned or the controls embodied in the EPA-approved smoke management plan. EPA is therefore approving the amended rules.

On June 5, 1984 DEQ submitted amendments to its rules for open burning (OAR 340–23–022 through 115). These amendments completely revise the procedures for regulating open burning and add a new restriction on domestic open burning (backyard burning) in and around the Portland metropolitan area. Since these amendments reduce the amount of emissions from open burning and improve the regulation of open burning in general, EPA is approving the amended rules.

II. Summary of Action

EPA views as noncontroversial and routine the approval of state regulations which do not allow increases in actual emissions or are only procedural in nature. EPA today is therefore approving, without prior proposal, the following as revisions to the Oregon SIP:

(1) Amended emission limitations for municipal waste incinerators in the coastal areas of Oregon, specifically: The addition of new definitions OAR 340–21–005 (1) and (4); an amendment to OAR 340–21–025(2)(b); and the addition of new emission limitations in OAR 340–21–027;

(2) Amended rules for open field burning in the Willamette Valley, specifically: The addition of new sections 340–26–001 "Introduction," 340–26–003 "Policy," 340–26–031 "Burning by Public Agencies (Training Fires)," 340–26–035 "Experimental Burning," 340–26–040 "Emergency Burning, Cessation," and 340–26–045 "Approved Alternative Methods of Burning (Propane Flaming); revisions to sections 340–26–005 "Definitions," 340–26–013 "Acreage Limitations, Allocations," 340–26–015 "Daily Burning Authorization Criteria," 340–26–025 "Civil Penalties," and 340–26–030 "Tax Credits for Approved Alternative Methods and Approved Alternative Facilities; "the deletion of the existing section 340–26–010 "General Provisions" and replacing it with a new section 340–26–010 "General Requirements;" the deletion of the existing section 340–26–012 "Registration and Authorization of Acreage to be Open Burned" and replacing it with a new section 340–26–012 "Registration, Permits, Fees, and Records;" and the deletion of sections 340–26–011 "Certified Alternative to Open Field Burning," and 340–26–020 "Winter Burning Season Regulations;" and

(3) Amended Open Burning Rules (OAR 340–23–022 through 115).

The public should be advised that this action will be effective on (60 days after date of publication). However, if notice is received within 30 days that someone wishes to submit adverse or critical comments on any or all of the revisions approved herein, the action on those revisions will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action on those revisions and another will begin a new rulemaking by announcing a proposal of the action on those revisions and establishing a comment period.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days of the date of publication). This action may not be challenged later in proceedings to enforce its requirements. (See Section 307(b)(2) of the Act.)

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator has certified that SIP approvals under Sections 110, 161, and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

(Secs. 110(a) and 301(a) of the Clean Air Act (42 U.S.C. 7410(a) and 7601(a)))

List of Subjects in 40 CFR Part 52

Intergovernmental relations, Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide.

Dated: September 5, 1984.

William D. Ruckelshaus,

Administrator.

Note.—Incorporation by reference of the State implementation Plan for the State of Oregon was approved by the Director of the Federal Register in July 1982.

PART 52—[AMENDED]

Part 52 of Chapter I, Title 40, Code of Federal Regulations is amended as follows:

Subpart MM—Oregon

1. In § 52.1970, paragraph (c)(68) is added as set forth below:

§ 52.1970 Identification of plan.

* * * * *

(c) * * *

(68) Amendments to the Refuse Burning Equipment Limitations rules, specifically OAR 340–21–005 (1) and (4), OAR 340–21–025(2)(b), and OAR 340–21–027, submitted by the State Department of Environmental Quality on January 16, 1984; amendments to the Open Field Burning rules, specifically, the addition of new sections 340–26–001, 340–26–003, 340–26–031, 340–26–035, 340–26–040, and 340–26–045, revisions to sections 340–26–005, 340–26–013, 340–26–015, 340–26–025, and 340–26–030, the deletion of the existing section 340–26–010 and replacing it with a new section 340–26–010, the deletion of the existing section 340–26–012 and replacing it with a new section 340–26–012, and the deletion of sections 340–26–011 and 340–26–020, submitted by the State Department of Environmental Quality on March 14, 1984; and amendments to the Open Burning Rules (OAR 340–23–022 through 115), submitted by the State Department of Environmental Quality on June 5, 1984.

[FR Doc. 84-27111 Filed 10-12-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[EPA Action MO 999; A-7-FRL-2691-8]

Approval and Promulgation of Implementation Plans; State of Missouri; 1982 Ozone and Carbon Monoxide Attainment Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: The Clean Air Act requires that all states which received an extension beyond December 31, 1982, to attain either the ozone or carbon monoxide standards submit a revised plan by July 1, 1982, showing that the standards would be attained by December 31, 1987. The State of Missouri has submitted a plan for the St. Louis area. EPA proposed to disapprove portions of this plan and to approve other portions. This document approves those portions which were proposed to be approved. The state has corrected numerous deficiencies, and has committed to correct the demonstration of attainment of the ozone standard. No action is being taken on the portions of the plan which were proposed to be disapproved.

EFFECTIVE DATE: November 14, 1984.

ADDRESSES: Copies of the state's submission, public comments, and EPA's technical evaluation are available during normal business hours at the Environmental Protection Agency, 324 East 11th Street, Kansas City, Missouri 64106; Missouri Deprtment of Natural Resources, 1101 Rear Southwest Boulevard, Jefferson City, Missouri 65101, and the East-West Gateway Coordinating Council, 100 South Tucker Boulevard, St. Louis, Missouri 63102. The State submission is also available at the Office of the Federal Register, Room 8401, 1100 L Street, NW., Washington, D.C., and the Public Information Reference Unit, Environmental Protection Agency, Library, 401 M Street, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Daniel J. Wheeler at (816) 374–3791.

SUPPLEMENTARY INFORMATION: On April 11, 1983 (48 FR 15493), EPA published a proposal to take action on revisions to the Missouri State Implementation Plan (SIP) submitted by the state on December 23, 1984. The purpose of these revisions was to show how the ozone and carbon monoxide ambient air quality standards are to be attained in the St. Louis nonattainment area. The revisions were required under Part D of the Clean Air Act, which provides that areas which have not attained the air quality standards must take additional pollution control measures to meet the standards. For a more detailed discussion of the December 23, 1982, submission as it relates to the requirements of the Act, the reader is referred to the April 11 proposed rulemaking (PRM).

On August 24, 1983, the state submitted revisions to the December 23 submission. Today's final actions are based on EPA's review of the revised submission. The requirements that must be satisfied are described below as those relating to the ozone plan, those relating to the carbon monoxide plan, and those additional requirements which must be satisfied by all plans.

A. The Ozone Plan

EPA's proposal of the ozone SIP was divided into seven sections:

—Emission Inventory
—Air Quality Data
—Modeling Analysis and the Emission Reduction Target
—Stationary Source Controls
—Inspection and Maintenance Program
—Transportation Control Measures
—Reasonable Further Progress and the Attainment Demonstration.

Of these areas, EPA proposed to approve the emission inventory, air quality data, stationary source controls and transportation measures. As discussed below, these items are being approved.

The other three items were proposed to be disapproved. The state submitted revised material to address these other points, but EPA's review of these changes also found deficiencies. As discussed below, the State has committed to correct the deficiencies. EPA will evaluate the corrections and will propose action on them when the evaluation is complete.

1. Emission Inventory

Section 172(b)(4) of the Clean Air Act requires the SIP to contain a comprehensive, accurate and current inventory of actual emissions.

The PRM proposed to approve the emission inventory for Volatile Organic Compounds (VOC) and Nitrogen Oxides (NO_x). The NO_x inventory is not changed by the August 24, 1983, submission, but the VOC inventory has been revised slightly. The base year inventory has been adjusted from 315,030 kg/day to 311,855. The baseline 1987 inventory has been changed from 248,870 kg/day to 245,640. These changes are due primarily to reduced estimates of both current and future auto assembly emissions, and do not significantly affect the overall control requirement. No comments were received dealing with the approvability of the inventory. The Missouri SIP is approved with respect to the emission inventory requirement.

2. Air Quality Data

For a 1982 SIP, EPA generally requires the air quality data base to include all data collected through the third quarter of 1981 (46 FR 7189, January 22, 1981). The PRM proposed to approve the air quality data base for use in the modeling analysis. No revisions to the data base have been submitted, and no comments were received on the proposal. EPA approves the air quality data for use in the modeling analysis.

3. Modeling Analysis and Emission Reduction Target

The April 11 PRM noted two errors in developing the base year mobile source inventory. One was in comparing the emissions calculated by two different computational techniques (Mobile–1 and Mobile–2), and the other was a simple mathematical error. The state has reworked the mobile source inventory based only on Mobile–2, eliminating both the Mobile–1 comparison and the mathematical error.

The state also remodeled the emission reduction target, using the city-specific Empirical Kinetic Modeling Approach (EKMA), and determined that the control requirement is 40.3 percent, not 42.2 percent as described in the previous proposal. The state adjusted this modeled control requirement by taking credit for reductions of 10.6 percent between 1979 and 1980 rather than the originally claimed adjustment of 15.8 percent. The PRM noted that the state's claim of a 38,316 kg/day reduction in mobile source emissions between 1979 and 1980 was not supported. The state now claims a 12,870 kg/day reduction and supports this with Mobile–2 calculations for both 1979 and 1980.

EPA's review of the state's development of the emission reduction target found another mathematical error that had the effect of overstating the reductions which occurred between 1979 and 1980. A rigorous computation finds that the appropriate target is an emission reduction of approximately 34.8 percent from the 1980 emission inventory rather than the 29.7 percent contained in the August 24, 1983, submission. A more detailed discussion of this issue is presented in the technical support document.

The state made a good faith effort to demonstrate attainment and has agreed to correct the mathematical error in a reasonable time; therefore, EPA believes that it would be inappropriate to disapprove the emission reduction target. EPA believes the state should be provided an opportunity to address this concern prior to a final rulemaking action. In a letter dated August 27, 1984, the state has committed to correcting the emission reduction target by August 1, 1985. Based on this commitment and on the state's previous good faith effort to model correctly and develop an acceptable emission reduction target, EPA has determined to take no action at this time on the modeling analysis and emission reduction target. EPA will repropose action based on the state's revised submission.

4. Stationary Source Control

Section 172(b)(2) of the Clean Air Act requires states to adopt regulations requiring implementation of Reasonably Available Control Technology (RACT) as expeditiously as practicable. The PRM proposed approval with respect to stationary source controls with the understanding that the full operating permit for the Gusdorf Company be submitted as part of the SIP. The state has submitted operating permits for Gusdorf, containing restrictions which limit emissions to less than 100 tons per year, as discussed in the PRM.

With respect to the schedules for adopting new rules, most of them have been completed and the regulations adopted. These new rules will be proposed separately and are not included in today's approval. One schedule remains outstanding. The state had delayed developing a rule for one particular chemical plant when it appeared that the source would be able to get a permit limiting emissions under the State's alternative emission limit (bubble) rule. That attempt has been abandoned since EPA has not approved the Bubble rule and the state has committed to adopt a RACT rule by October, 1984, rather than the originally scheduled October, 1983. EPA finds that this schedule does not differ significantly from that proposed. It represents expeditious implementation of the RACT requirement for the subject source and the ultimate attainment date for the ozone standard is not affected.

One commenter suggested that EPA should accept as RACT a particular limit for one particular source. The RACT limit for that source is to be submitted by the state in the future and EPA will determine its approvability at that time.

One commenter objected to the proposal to approve schedules for control measures on the basis that the plan should contain "enforceable measure" as required by section 172(c) of the Act. EPA believes the phrase "enforceable measures" is broad enough to embrace enforceable schedules. The reader should refer to the technical support package for a detailed response to this comment.

One comment was made that the RACT measures must include Stage II vapor recovery. Such measures are not considered necessary at this time, but the State will consider Stage II as part of its revised attainment demonstration. The reader should refer to the technical support package for a detailed response to this comment.

Another commenter suggested that the Gusdorf permits are already federally enforceable because they are adopted pursuant to federally approved permit regulations. EPA finds this issue is moot, since the Gusdorf permits have been submitted as part of the SIP and are being approved today.

No comments were received on the proposal to approve the Polyethylene Bag Sealing regulation.

Two commenters requested approval of the alternative emission limit (bubble) rule as part of the SIP. As indicated in the PRM, the bubble rule and associated provisions which were included with several other rules in the August 24, 1983, submission, actually were submitted separately. The bubble rule was formally submitted November 17, 1982, and is under review. Therefore, EPA believes that it can take final action on the 1982 SIP without proposing or taking final action on the bubble rule.

In summary, EPA approves the Missouri SIP as meeting the requirements of section 172(b)(2), with respect to stationary sources.

5. Inspection and Maintenance

The PRM proposed disapproval of the I/M portion of the plan because it did not contain the necessary commitments and elements for an I/M program. In particular, the implementation date did not comply with EPA requirements, the plan did not contain the relevant rules and procedures of the implementing agencies and the plan did not demonstrate the required emission reductions.

The state began its I/M program on January 1, 1984. The State has now submitted a package of regulations, procedures, inspection manuals, equipment specifications and other elements of its I/M program. EPA is reviewing this package and will propose action on its separately. No action is being taken on the I/M portion of the SIP at this time.

6. Transportation Control Measures (TCMs) and Other Provisions

The 1982 SIP must include all reasonably available TCM's as described in the 1982 SIP policy (46 FR 7187, January 22, 1981) and provisions for ensuring that basic transportation needs are met. The PRM proposed approval of the TCMs in the SIP. There have been no changes in this portion of the SIP, and no comments were received. EPA approves the 1982 ozone SIP as meeting the requirement for inclusion of reasonably available transportation measures and additional contingencies. In addition, EPA approves basic transportation needs provisions submitted in the SIP as

ensuring the provisions for transportation system mobility.

7. Reasonable Further Progress and Attainment Demonstration

The PRM proposed disapproval for failure to demonstrate RFP and attainment. The reason was the belief that the emission reduction target was incorrect and that greater emission reductions would be needed. The State has made a good-faith effort to submit an acceptable emission reduction target, but as discussed above, the most recent submission is unapprovable. Since the attainment demonstration is based on the emission reduction target, the demonstration also cannot be approved. Again, EPA believes the state made a valid effort to develop an approvable demonstration, and that it would be inappropriate to disapprove this demonstration. In its letter of August 27, 1984, the state committed to develop and implement the control strategies necessary to attain the revised emission reduction target of approximately 34.8 percent from the 1980 inventory, as discussed above. Because of this commitment, EPA is taking no action on this submission. When the state submits the revised RFP and attainment demonstrations, EPA will evaluate them and propose an appropriate action.

B. Carbon Monoxide (CO)

The state submittal contains a modeling analysis which demonstrates attainment of the CO standard, demonstrates reasonable further progress (RFP), and contains requirements for stationary source controls, an I/M program, and transportation control measures (TCM).

EPA originally proposed to disapprove the I/M program. The state has now begun an I/M program and submitted documentation as part of the SIP. Action will be proposed when EPA has completed its review of the I/M submission. The other portions of the CO plan are approved as discussed below.

1. Hotspot Analysis

The APRAC–2 CO diffusion model using MOBILE–2 emission factors was used to project future CO concentrations. This is the EPA-approved model as specified in the 1982 SIP policy. The model predicted that the CO standards will be attained at 201 receptor sites in the region. The PRM proposed to approve the hotspot analysis. No changes have been made, and no comments received on this proposal. Therefore, this analysis is approved.

2. Reasonable Further Progress (RFP) and Attainment

The SIP demonstrates that the CO standard will be attained through the implementation of the federal motor vehicle control program, and I/M program, and the TCMs, and that annual emission reductions will occur as a result of these programs. The PRM proposed to approve the demonstration of RFP and attainment. No changes have been made and no comments were received on this proposal. Therefore, the RFP and attainment demonstration is approved.

3. Stationary Source Controls

The Missouri SIP indicates that there are three sources which emit greater than 2500 kg/day. EPA agrees that control of emissions from two of these sources is not considered practical.

The SIP indicates that the third source will be installing a control system which will meet the requirement for RACT. The PRM proposed approval of the CO plan, with respect to the RACT requirement, provided the state demonstrates that the RACT limits will be enforceable. The state has now committed to submit the proposed emission limits as enforceable requirements in October 1984. Although the limits are not yet enforceable, the commitment to adopt legally enforceable limits satisfies the RACT requirement. One comment was received supporting the emission limit chosen as representing RACT for the source in question. No adverse comments were received. The CO plan is approved as providing for RACT on all major stationary sources.

C. Additional Requirements

1. Conformity of Federal Actions

Section 176(c) of the Clean Air Act requires that all Federal activities conform to the SIP.

In addition, the SIP must identify, to the extent possible, the direct and indirect emissions associated with major Federal actions. EPA has determined that the SIP meets the requirement that it identify emissions associated with major federal actions. The PRM proposed approval with respect to this requirement. No changes have been made in this portion of the plan and no comments were received. Therefore, the SIP is approved with respect to this requirement.

2. Public Participation and Consultation With State and Local Officials

The SIP provides evidence of an extensive public participation program which meets the requirements of section 121 of the Clean Air Act. The PRM proposed to approve the SIP with respect to these requirements. No comments were received on this proposal. The plan is approved with respect to those requirements.

3. Effect Assessment

The Missouri SIP provides a limited analysis of the air quality, health, welfare, economic, energy and social effects of the plan as required by section 172(b)(9) of the Clean Air Act. The PRM proposed to approve the effect assessment, but solicited comments in view of the limited analysis the state provided and the lack of guidance in this area by EPA. One commenter criticized EPA for not providing guidance, but no comments were received on the proposal itself. This provision is approved as proposed.

D. General

In addition to the proposal published on April 11, EPA also published a proposal based on a draft of the Missouri SIP. That proposal was published February 3, 1983 (48 FR 5085), along with similar proposals for other states. In response to these proposals, the Regional Office received 15 letters of comment from 13 commenters who made approximately 40 comments. Comments addressing approvability issues have been discussed in this document. Other comments mainly objected to sanctions for various reasons. The latter comments are addressed in the technical support memorandum which accompanies this rulemaking.

Some of the commenters also made technical comments which are addressed in the support document. Two comments submitted to another EPA office were deemed to apply to Missouri. The latter comments are addressed briefly above and in greater length in the support document.

E. Summary

EPA is approving parts of Missouri's ozone and CO SIP. The state has committed to repair the remaining portions of the SIP by August 1, 1985. Because the SIP as a whole remains approved, there will be no construction moratorium as there would be for a disapproved SIP. Similarly, so long as the state continues to make reasonable efforts to submit the needed corrections by August 1, 1985, EPA does not intend to impose highway or air grant funding restrictions.

The Administrator's decision to approve or disapprove a submission is based upon the comments received and

on whether the SIP revisions meet the requirements of the Clean Air Act, 40 CFR Part 51 (Requirements for Preparation, Adoption and Submittal of Implementation Plans) and the 1982 SIP policy (46 FR 7184, January 22, 1981). I hereby find the portions of the Missouri SIP described above approvable.

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB to EPA, and any EPA response, are available for public inspection at 324 East 11th Street, Kansas City, Missouri 64106.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit within 60 days from today. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

This notice is issued under the authority of sections 110 and 301 of the Clean Act Act, as amended, 42 U.S.C. 7410 and 7601.

Note.—Incorporation by reference of the State Implementation Plan for the State of Missouri was approved by the Director of the Federal Register on July 1, 1982.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur dioxide, Nitrogen, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Dated: October 4, 1984.

William D. Ruckelshaus,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart AA—Missouri

1. Section 52.1320 is amended by adding a new paragraph (c)(40) as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

(40) The 1982 carbon monoxide and ozone state implementation plan revisions were submitted by the Department of Natural Resources on December 23, 1982. A revised version of the 1982 carbon monoxide and ozone plan was submitted by the Department of Natural Resources on August 24, 1983. This version contained updated inventories, attainment demonstrations and schedules to adopt rules. The submission included new rule 10 CSR 10–5.360, Control of Emissions from Polyethylene Bag Sealing Operations. (No action was taken with respect to provisions dealing with control strategy demonstration, reasonable further progress and inspection and maintenance of motor vehicles.)

* * * * *

[FR Doc. 84–27144 Filed 10–12–84; 8:45 am]
BILLING CODE 6560–50–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

[BERC-279-CN]

Medicare Program; Changes to the Inpatient Hospital Prospective Payment System; and FY 1985 Rates

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Correction of final rule.

SUMMARY: This document corrects technical errors that appeared in the final rule, published on August 31, 1984, that implemented the second year of the three-year transition period of the prospective payment system for inpatient hospital services.

FOR FURTHER INFORMATION CONTACT: Mike Fiore, (301) 597–0722.

SUPPLEMENTARY INFORMATION: In FR Doc. 84–23345 beginning on page 34728 in the issue of Friday, August 31, 1984, make the following corrections:

1. On page 34733, in column three, in the 16th line of the first paragraph—The word "Medicaid" should be replaced with the word "Medicare".

2. On page 34736, in column two, in the middle of the column—The section designated as "F", Hospitals in Areas Redesignated as Rural, should be designated as section "E".

3. On page 34738, in column three, in the sixth line of the fifth paragraph—Add the word "to" between the words "assigned" and "a".

4. On page 34742, in column one, replace the eighth line and the three paragraphs preceded by a bullet point immediately following the eighth line with the following language: "units) is one of the following—

- At least 6,000 for the hospital's cost reporting period that ended in 1981;
- At least 6,000 for the hospital's most recently completed cost reporting period; or
- Equal to or greater than the median number of discharges of urban hospitals in 1981 for the region in which the hospital is located for either the hospital's cost reporting period ending in 1981 or its most recently completed cost reporting period."

5. On page 34744, in column one, in the tenth line from the bottom of the page—The cross reference to § 405.476(b)(1)(iii)(B) should be § 405.476(g)(1)(iii)(B).

6. Also on page 34744, in column two, in the fourth line of the second full paragraph from the top of the page—The cross reference to §§ 405.476(b)(1)(iii) (A) and (B) should be §§ 405.476(g)(1)(iii) (A) and (B).

7. On page 34745, in column one, in the fifth line from the top of the page—The cross reference to section VI.C. should be section VII.C.

8. On page 34746, in column three, on the last word of the page—Change the word "inappropriate" to "appropriate".

9. On page 34750, in column one, in the eighth line of the first paragraph from the top of the page—The word "of" should be "or".

10. Also on page 34750, in column one, in section I., the acronym "ESRO" on lines four, seven, twelve and fifteen should be "ESRD". The words "patient," "patients", and "patient" again, on lines eight, twelve and fifteen of this paragraph respectively, should be "beneficiary", "beneficiaries" and "beneficiary" respectively.

11. On page 34754, in column two, in the tenth line of the first full paragraph in the middle of the page—The word "care" should be "case".

12. On page 34756, in column one, in the seventh line in the last paragraph—Add the word "basket" after the word "market".

13. On page 34757, in column one, in the fifth and ninth lines of the third full paragraph from the top of the page—In the fifth line, the cross reference in parenthesis should read "§§ 405.470 and 405.475". In the ninth line the words "discharges occurring" should read "cost reporting periods beginning".

14. Also on page 34757, in column one, in the second paragraph of section B.—The cross reference in the sixth line should read § 405.476 and that in the seventh line should read § 405.473.

15. On page 34759, in column three, in the eighth line of the fifth paragraph from the top of the page—In § 405.473(b)(6)(ii)(B), the word "any" should be replaced with the words "the hospital's".

16. On page 34760, in column one, in the sixth paragraph from the top of the

page—Paragraph (B) of § 405.473(c)(2)(ii) is replaced by the following paragraph:

"(B) A hospital that met the conditions of paragraph (b)(6)(ii)(B) of this section, and therefore did not receive a lower Federal rate that would have applied for cost reporting periods beginning before October 1, 1984, will receive the lower Federal rate applicable to all hospitals in the MSA or NECMA in which it is located effective with the hospital's cost reporting period that begins on or after October 1, 1984."

17. On page 34761, in column two, in item nine in the middle of the page—The amendatory language should read as follows:

"9. Section 405.475 is amended by revising and redesignating paragraph (a) as (a)(1), adding a new paragraph (a)(2), and revising paragraphs (d) (1) and (6) to read as follows:"

18. Also on page 34761, in column two, in the third line of the third paragraph from the bottom of the page—In § 405.475(a)(1)(ii), the cross reference to paragraph (a)(1) should be to paragraph (a)(1)(i).

19. Also on page 34761, in column three, in § 405.475(d), after paragraph (d)(1) and before the five stars insert the following:

"(6) The additional payment amount will be derived by first taking 60 percent of the difference between the hospital's adjusted cost for the discharge (as determined under paragraph (d)(3) of this section) and the threshold criteria established under paragraph (a)(1)(ii) of this section. The resulting amount will then be multiplied by the applicable Federal portion of the blend as indicated in paragraph (c)(3) of this section."

20. On page 34762, in column one, in the first line of the second paragraph from the bottom of the page—In §405.476(g)(1)(iii)(B)(2), the word "cost" should be "most".

21. Also, on page 34762, in column three, in lines one and two of the third full paragraph—In § 405.476(j)(1), the words "for discharges occurring" should be corrected to read "with cost reporting periods beginning".

22. On page 34763, in column one, in § 405.477(c)(3), in the last line of paragraph (c)(3) in the middle of the page—After the word "hospital" add the phrase "or obtained under arrangements".

23. Also on page 34763, in column one, in item 11—Section 405.477(d)(2)(v)(B)(*1*) should read: "A monthly listing of all interns and residents providing services during the month;".

24. Also on page 34763, in column two, in the second, fourth and fifth full paragraphs from the top of the page—In § 405.477(d)(2)(vi), the first sentence should read "Except for interns and residents providing services in more than one hospital as provided in paragraph (d)(2)(v)(C) of this section,". In § 405.477(d)(2)(vi)(B), the words "One-half" in the first line of paragraph (B) should read "One-half". In § 405.477(d)(2)(vi), paragraph (C) should be deleted.

25. Also on page 34763, in column two, in line five of the Authority section for Subpart E—The U.S.C. citation "1395K" should read "1395k".

26. On page 34765, in column one, in the eighth line of the second full paragraph—The word "countries" should read "counties".

27. On page 34767, in column one, under item two, in the second line of the second paragraph—The word "role" should be "rate".

28. Also on page 34767, in column one, under item two, in the ninth line of the fourth paragraph—Add the word "Federal" between the words "next" and "fiscal".

29. On page 34768, in column three, in the last line of the second paragraph—The year "1985" should read "1984".

30. On page 34772, in column one, in the 11th line of the second full paragraph—The word "charges" should read "changes".

31. Also on page 34772, in column three, in lines 17 and 18 of the first full paragraph—The sentence which reads "Therefore, we believe periods begin late in FY 1985", should be deleted.

32. On page 34776, in column one, in the first line of the second and fifth paragraphs of section 1. Hospital-Specific Portion—In the second paragraph, delete the word "Portion" and replace it with the following phrase, "Rate (that is, the prior year hospital-specific portion before it was multiplied by 75 percent and the DRG weight)". In the fifth paragraph, delete the word "Portion" and substitute the word "Rate".

33. On page 34791, in column three, in the 13th line from the bottom of the page—The cross reference to section II. D.1.b. should read "section II.E.1.b".

34. On page 34793, in column one, in the 12th line from the top of the page—The cross reference to 43 CFR should read "42 CFR".

35. On page 34794, in column three, in the third line from the top of the page—The reference to section 10B should read "section 108".

36. On page 34796, in column two, under paragraph J, "Summary of Changes from Proposed Methodology", in the fifth line of the third paragraph preceded by a bullet point, the reference to "Pub. L. 98–364", should read "Pub. L. 98–369".

37. Also on page 34796, in column three, in the tenth line of the fourth paragraph from the top of the page—The word "regulated" should read "resulted".

(Secs. 1102, 1814(b), 1815, 1833(a), 1861(v), 1871, 1881, 1886, and 1887 of the Social Security Act as amended (42 U.S.C. 1302, 1395f(b), 1395g, 1395l(a), 1395x(v), 1395hh, 1395rr, 1395ww, and 1395xx)

(Catalog of Federal Domestic Assistance Programs No. 13.773, Medicare—Hospital Insurance; No. 13.774, Medicare—Supplementary Medical Insurance)

Dated: October 4, 1984.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: October 9, 1984.

Margaret M. Heckler,

Secretary.

[FR Doc. 84-27124 Filed 10-12-84; 8:45 am]

BILLING CODE 4120-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[FCC 84-438]

Amendment of the Commission's Rules To Require the Inclusion of a Table of Contents and Summary of Filing in Filings Longer Than Ten Pages

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The FCC is amending its rules of practice and procedure to require that filings that exceed ten pages in length be accompanied by a table of contents (with page references) and a concise summary. Also, limitations are adopted governing the length of the summary. The number and size of filings with the FCC have increased in recent years with the advent of increased entry and competition, and increased public awareness of the importance of telecommunications issues, making it increasingly difficult for the public and the Commission to access, analyze and retrieve lengthy filings. The new requirements are intended to ameliorate these problems.

EFFECTIVE DATE: October 26, 1984.

FOR FURTHER INFORMATION CONTACT: Michael S. Slomin, Legal Advisor to the Chief, Common Carrier Bureau, Federal Communications Commission, 1919 M Street, NW., Washington, D.C. 20554 (202–632–6910).

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 1

Administrative Practice and Procedure.

Memorandum Opinion and Order

In the matter of revision of the FCC's Rules to Require the Inclusion of a Table of Contents and Summary of Filing in Filings Longer than Ten Pages.

Adopted: September 14, 1984.
Released: September 19, 1984.

By the Commission.

1. The nature, range and scope of issues being addressed by this Commission has become increasingly complex in recent years. At the same time, with the advent of increased entry and competition and increased public awareness of the importance of telecommunications issues, the number of participants in our proceedings has increased. Because of these factors, the number and size of filings made before this Commission has similarly increased. It is important that the Commission (and its staff) and the interested public have the ability to analyze and retrieve such filings expeditiously and effectively. But, as a practical matter in many proceedings it has become difficult, if not near-impossible, to do so.

2. One tool that we have employed in the past in an attempt to manage this problem has been to adopt length limitations on certain filings and responses thereto, *e.g.*, petitions for reconsideration, applications for review, briefs and exceptions to initial decisions, and appeals of interlocutory rulings.[1] While we may consider in the future whether this approach might be extended to encompass other filings which may be unnecessarily lengthy, we do not propose to take such a step at this time.

3. Rather, we shall utilize an alternative tool used by several federal appellate courts. Specifically, we shall require that relatively lengthy filings be preceeded by a *concise* summary of the arguments or positions expressed in the body of the filing, and by a table of contents to facilitate access to sections addressing specific issues. It could be argued that this approach could prove difficult to implement in the case of comprehensive filings addressing multiple issues, as often is the case of comments and responses filed in broad inquiry and rulemaking proceedings. Nevertheless, many appellate court actions (including those reviewing decisions of this Commission in such proceedings) are similarly complex, and the requirement that a summary of argument precede briefs even in complex cases has not proven insurmountable. Indeed, the very requirement that a concise summary be prepared may well have the salutory effect of promoting the use of concise (and tersely phrased) argument in the body of the filings. We expect that a crisp summary and table of contents will provide a plain-worded "snapshot" of the commentor's position that can be utilized in our written orders to summarize the positions of the parties.

4. As noted, we are drawing upon the experience of the federal appellate courts, four of which currently require that a summary of argument precede some or all appellate briefs.[2] These courts have used the following formulation in an obvious effort to ensure that such summaries add to the briefs, and not merely duplicate them:

> "a summary of argument, suitably paragraphed, which should be a succinct, but accurate and clear, condensation of the argument actually made in the body of the brief. It should not be a mere repetition of the headings under which the argument is arranged."[3]

Moreover, three of these courts specifically limit the length of the summary itself.[4] Finally, Rules 28(a) (1) and (b) of the Federal Rules of Appellate Procedure, governing all federal appellate courts, specifies the inclusion of a table of contents with briefs.[5] We conclude that similar requirements, formulations, and length limitations in the procedural rules of this Commission would enhance the ability of this agency and the public to access and to analyze filings, and that it would be in the public interest for requirements of this nature to be adopted and to be made effective expeditiously.

5. An additional matter to be decided is whether summaries and tables of contents should be required for every filing, regardless of length, or only those which are relatively lengthy. We conclude that such materials sever little function if a filing is short. Since a number of page length limitations in our rules specify ten page limitations,[6] this appears to be a reasonable limit above which these new requirements should apply. Thus, the final rule changes which are in the appendix to this order specify that for all filings wherein the main body extends beyond (but not including) ten pages, both a table of contents and summary of the filing will be required.[7] Finally, inasmuch as these rule amendments are "rules of agency organization, procedure, or practice" within the language of 5 U.S.C § 553(b), notice and comment procedures are neither required nor necessary.

6. Accordingly, it is hereby ordered, pursuant to sections 4(i) and 4(j) of the Communications Act of 1934 as amended, 47 U.S.C. 154(i)–(j) and 5 U.S.C. 553, That Part 1 of Title 47, Chapter I, of the Code of Federal Regulations, is hereby amended in accordance with the appendix to this order, effective October 26, 1984.

7. It is further ordered, that the Secretary shall cause a copy of this order and appendix to be published in the **Federal Register.**

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

PART 1—[AMENDED]

Appendix

Part 1 of Chapter I of Title 47 of the Code of Federal Regulations is hereby amended as follows:

1. Section 1.48(a) is revised to read as follows:

§ 1.48 Length of pleadings.

(a) Affidavits, statements, *tables of contents and summaries of filings,* and other materials which are submitted with and factually support a pleading are not counted in determining the length of the pleading. If other materials are submitted with a pleading, they will be counted in determining its length; and if the length of the pleadings, as so computed, is greater than permitted by the provisions of this chapter, the pleading will be returned without consideration.

* * * * *

2. Section 1.49 is redesignated § 1.49(a), and new paragraphs (b) and (c) are added to read as follows:

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[1] *See, e.g.*, §§ 1.106, 1.115, 1.277, 1.301 and 1.429 of the FCC's rules.

[2] Rule 8(b), District of Columbia Circuit, requires a summary of argument in briefs the argument portion of which exceeds twenty pages; Rule 28.2.2, Fifth Circuit, and Rule 22(f)(8), Eleventh Circuit, require such a summary regardless of the length of the brief; and Rule 8(g)(8), Eighth Circuit, permits a summary of argument to be filed regardless of the length of the brief, but requires such a summary if the brief exceeds twenty-five pages in length.

[3] Rule 8(b), District of Columbia Circuit. Comparable language is contained in the rules of the Fifth, Eighth and Eleventh Circuits.

[4] The rules of the Fifth, Eighth and Eleventh Circuits specify that a summary of argument "should seldom exceed two and never five pages."

[5] *See also,* Rules 21.A and B, Third Circuit and Rule 9(a), Seventh Circuit (specifying the inclusion of tables of contents with briefs).

[6] *Supra.*, n. 1.

[7] Shorter filings *may*, but need not, include either a table of contents or a summary, or both.

§ 1.49 Specifications as to pleadings and documents.

* * * * *

(b) All pleadings and documents filed in any proceeding, the length of which filings as computed under this chapter exceeds ten pages, shall include a table of contents with page references.

(c) All pleadings and documents filed in any proceeding, the length of which filings as computed under this chapter exceeds ten pages, shall include a summary of the filing, suitably paragraphed, which should be a succinct, but accurate and clear, condensation of the substance of the filing. It should not be a mere repetition of the headings under which the filing is arranged. For pleadings and documents exceeding ten but not twenty-five pages in length, the summary should seldom exceed one and never two pages; for pleadings and documents exceeding twenty-five pages in length, the summary should seldom exceed two and never five pages.

[FR Doc. 84-27102 Filed 10-12-84; 8:45 am]
BILLING CODE 6717-01-M

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47 CFR Part 13

Commercial Radio Operators; Editorial Amendment of Part 13 of the Commission's Rules To Remove Unnecessary or Redundant Sections

AGENCY: Federal Communications Commission.

ACTION: Final Rule.

SUMMARY: This document involves the elimination of commercial radio operator licensing provisions that are unnecessary or are duplicative an redundant of existing Communications Act sections.

DATE: Effective October 1, 1984.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Leonard Langley, Field Operations Bureau, Public Service Division, (202) 632-7240.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 13

Commercial Radio Operators' licenses, radio.

Order

In the matter of editorial amendment of part 13 of the Commission's rules to remove unnecessary or redundant sections.

Adopted: October 1, 1984.
Released: October 2, 1984.

1. Consistent with a major Commission goal of eliminating unnecessary rules and regulations, we are amending Part 13 of the Commission's rules to delete §§ 13.13, 13.64, 13.65, 13.66, 13.67, 13.68, and 13.69. Section 13.13 specifies that an applicant for a restricted radiotelephone operator permit be at least 14 years of age at the time the permit is issued. That requirement represented an arbitrary age determination established by the Commission to deter the processing of frivilous applications. We no longer believe that continuation of the age requirement is necessary. Sections 13.64, 13,65, 13.66, 13.67, 13.68, and 13.69 concerning prohibited behavior by commercial radio operators are Rule sections that are merely duplicative of Communications Act section 303(m)(1) (B) through (E), 47 U.S.C. 303(m)(1) (B) through (E), and are therefore unnecessarily redundant. Sanction authority for any violations of section 303(m)(1) (B) through (E) exist pursuant to sections 503(b)(1)(B), 303(m)(1), and 501 of the Act.

2. Authority for this action is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, and § 0.231(d) of the Commission's rules. Since the amendments are editorial in nature, the public notice, procedure and effective date provisions of 5 U.S.C. 553 do not apply.

3. In view of the above, it is ordered, That §§ 13.13, 13.64, 13.65, 13.66, 13.67, 13.68 and 13.69 of the rules are amended in accordance with the attached appendix, effective October 1, 1984.

4. Regarding questions on matters covered in this document contact Leonard Langley, (202) 632-7240.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Edward J. Minkel.

Managing Director.

PART 13—[AMENDED]

Appendix

Part 13 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

A. Section 13.13 is removed.
B. Section 13.64 is removed.
C. Section 13.65 is removed.
D. Section 13.66 is removed.
E. Section 13.67 is removed.
F. Section 13.68 is removed.
G. Section 13.69 is removed.

[FR Doc. 84-27158 Filed 10-12-84; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Parts 81 and 83

[PR Docket No. 84-140; RM-4534; RM-4535; RM-4536; FCC 84-475]

Radioprinter Communications by Vessels of Less Than 1,600 Gross Tons

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document adopts rules for the introduction and use in the Maritime Mobile Service of radioprinter communications between limited coast stations and associated vessels of less than 1,600 gross tons. This action responds to three separate petitions for rulemaking which expressed a need for radioprinter communications in conjunction with the operation of relatively small vessels. The rules permit a form of modern communications for this class of ships.

EFFECTIVE DATE: November 19, 1984.

FOR FURTHER INFORMATION CONTACT: Nicholas G. Bagnato, Private Radio Bureau, (202) 632-7175.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 81

Coast station, Communications equipment.

47 CFR Part 83

Communications equipment, Ship stations.

Report and Order

In the matter of radioprinter communication by vessels of less than 1,600 gross tons; PR DOCKET NO. 84-140, RM 4534, RM 4535, RM 4536.

Adopted: October 4, 1984.
Released: October 10, 1984.

By the Commission.

Introduction

1. The Notice of Proposed Rule Making in this proceeding, FCC 84-47 released February 10, 1984 (49 FR 6116, February 17, 1984) proposed to change the rules to permit limited coast stations and associated ships of less than 1,600 gross tons to use non-exclusive maritime frequencies for a simple radioprinter (RTTY) for business and operational communication.[1]

[1] Limited coast stations serve the operational and business needs of ships and are not open to public correspondence. Such stations are normally licensed to owners/operators of radio equipped ships.

2. The rulemaking was in response to petitions filed by the United New York-New Jersey Sandy Hook Pilots Benevolent Association, Northwest Instruments and A.P. St. Philip, Inc., Mobile Marine Radio, Inc. (MMR) filed comments concerning each of the petitions for rulemaking. MMR argued that a new proceeding was unnecessary since PR Docket No. 82–828,[2] addressed the matter and availability of narrow-band direct-printing (NB–DP) frequencies. However, in the Report and Order in PR Docket No. 82–828, the Commission declined to expand the eligibility of limited coast stations to either the paired or non-paired frequencies allocated for NB–DP in Appendix 32 or Appendix 33, respectively, to the international Radio Regulations (RR). The Commission stated that it was not clear that all of the existing or future demands of public coast stations could be satisfied, and that the shared frequency bands made available in the Second Report and Order in Docket 80–739 should be considered for limited coast stations.[3]

Proposal

A simpler NB–DP system was proposed, one that did not conform to the international standards for the NB–DP system for public correspondence. The proposed system would provide:

a. More efficient use of the radio spectrum by using a communication mode capable of handling a higher volume of traffic;

b. Relief from congestion now experienced on the frequencies shared by limited coast stations for voice communications;

c. Some degree of privacy when compared with voice communication; and

d. A relatively low cost system which would enable record communications between limited coast stations and associated ship stations.

Since the simpler system did not meet the international standard for the NB–DP system, frequencies in the new shared bands were proposed for use by such a simpler system to avoid conflicts with the international NB–DP public correspondence system.

[2] See Report and Order, PR Docket No. 82–828, released November 15, 1983, 48 FR 53118.

[3] General Docket No. 80–739, Released December 8, 1983, FCC 83–511 (49 FR 2357, January 19, 1984) made available the bands 2107–2170 kHz, 2194–2400 kHz, 3155–3400 kHz, 4438–4650 kHz, 4750–4850 kHz, 5060–5450 kHz, 7300–8100 kHz (Secondary) for shared use by the maritime mobile service with other services.

Comments

4. Comments were received from Intech, Incorporated (Intech), Northwest Instrument (NWI), Stephen Energy Associates, Inc. (SEA), The Northern Pacific Marine Radio Council, Inc. (NPMRC), Harris Corporation—RF Communications Division (Harris), Radio KLC, Inc. (KLC), Racal-Decca Survey, Inc. (Racal), Rockwell International Corporation (Rockwell) and Marine Fabricators (MF). All of the commenters supported the proposed use of NB–DP by small ships. KLC conditioned its support on the proviso that public coast stations be granted permission to provide a similar service.

5. SEA, Racal, Rockwell and MF all stated a need for frequency bands above 8 MHz to provide service to small ships operating on the high seas. Frequency bands up to 25 MHz are necessary to provide NB–DP service to fishing ships and to permit the transmission of radiolocation data back to the limited coast station.

6. KLC stated that the provision of NB–DP for small vessels is a step forward in providing good communications meeting the business and operational requirements of the vessel. KLC suggested that public coast stations should be permitted to participate in this service to the potential benefit of users.

7. Intech, NWI, SEA, Harris and Rockwell all proposed that permission be optionally granted to provide for error correction. Rockwell stated that the large ocean-going vessels now have high quality NB–DP service. All of the commenters addressing the subject recommended using the technical specifications for error-correction contained in CCIR Recommendation 476–3. The ship may elect to install equipment embodying this capability which would provide reliable communication with the limited coast station and optionally permit NB–DP communication with public coast stations. Harris stated that the Future Global Maritime Distress and Safety System (FGMDSS) will require NB–DP equipment complying with the international standard. When the FGMDSS becomes operational, all vessels participating in the FGMDSS would use equipment with the international standard. Harris also suggested that, while current technology can support a one frequency simplex system, privacy of communications would be enhanced by the use of a two frequency simplex system. The issues raised by the commenters are discussed in the paragraphs below.

Frequencies Above 8 MHz

8. Several commenters stated the need for frequencies above 8 MHz to provide service to vessels operating on the high seas. This proposal goes beyond the scope of the proceeding. Moreover, no frequency bands above 8 MHz will be available until after July 1, 1989.[4]

Public Coast Station Use of the Simpler NB–DP System

9. KLC suggested that public coast stations be permitted to use the simple NB–DP system for communications with these small vessels. The proposed system was based on a one frequency simplex operation between the company's coast station and its own vessels. We are not restricting small vessels from equipping with NB–DP equipment for public correspondence, but this rulemaking is specifically addressed to limited coast station communications with associated vessels.

Optional Technical Standards

10. Five of the commenters suggested that limited coast stations be permitted to provide error-correction on the NB–DP system. This optional use of error-correction would provide efficient and secure record communications. It also would permit the vessel to communicate with public coast stations and enter the public switched telephone network. We concur with the commenters' view that limited coast station licensees should be afforded the option of using the equipment which provides the most efficient communications to satisfy their particular operational needs.

11. There does not appear to be a need, however, to adopt technical specifications for error-correction equipment. Limited coast operations are conducted between a licensee's coast station and its own vessels. Therefore, the licensee can determine the system and operational procedure necessary to support its operations. There is no requirement for compatibility between limited coast stations or vessels owned by different licensees. Therefore, we are permitting the use of equipment providing error-correction but are not establishing technical specifications for such equipment.

Conclusion

12. These rule amendments are designed to make NB–DP frequencies available to limited coast stations and their associated vessels for radioprinter. These stations are permitted to use a simpler and less expensive system on

[4] See International Radio Regulations No. 532.

frequencies in the new shared bands or to install a system which provides error-correction or compatibility with the international NB-DP system if desired. These rules are permissive in nature and do not impose additional requirements or burdens on any individual or entity. Therefore, pursuant to Section 605 of the Regulatory Flexibility Act of 1980 (Pub. L. 96-354), we certify that these rules will not have a significant impact on a substantial number of small entities.

13. Accordingly, it is Ordered, That under authority contained in sections 4(i) and 303 (b), (c), (e), and (r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303 (b), (c), (e), and (r), the Commission's rules are amended as set forth in the attached appendix, effective November 19, 1984.

14. It is further ordered, That a copy of this Report and Order shall be sent to the Chief Counsel for Advocacy of the Small Business Administration.

15. It is Further Ordered, That this proceeding is terminated.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission,
William J. Tricarico,
Secretary.

Appendix

Parts 81 and 83 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA-FIXED SERVICE

Three new sections, § 81.361, § 81.362 and § 81.363 are added, to read as follows:

§ 81.361 Frequencies available for radioprinter.

(a) Frequencies may be assigned to limited coast stations for radioprinter use from the frequency bands listed below:

kHz	
2107–2170	4750–4850
2194–2495	5060–5450
2506–2850	5730–5950
3155–3400	7300–8100
4438–4650	

(b) Frequencies in these bands are shared with other radio services including the Maritime Mobile Service. Each assigned frequency is available on a shared use basis only, not for the exclusive use of any one station or licensee.

(c) Frequencies requested and the names of ships to be served must be included on the application. Any addition or deletion of ships must be notified to the Commission by letter.

§ 81.362 Nature of service and supplemental radioprinter eligibility.

(a) Limited coast stations which use radioprinter may transmit to associated ship stations aboard vessels of less than 1,600 gross tons.

(b) A radioprinter authorization for limited coast station may be issued to the owner or operater of a vessels of less than 1,600 gross tons, a community of vessels, or an association whose members operate vessels of less than 1,600 gross tons.

(c) Limited coast station licensees must provide copies of their license to all vessels with which they are authorized to conduct radioprinter operations.

§ 81.363 Radioprinter technical requirements.

The technical provisions of Subpart E of this part shall apply to radioprinter operations modified by following reduced requirements:

(a) Any alphanumeric code may be used which is contained within a bandwidth of 300 Hz.

(b) The mode of operation must be single frequency simplex.

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

§ 83.339 [Redesignated as § 83.333]

1. The section currently designated § 83.339 is renumbered § 83.333.

§ 83.340 [Redesignated as § 83.334]

2. The section currently designated § 83.340 is renumbered § 83.334.

§ 83.341 [Redesignated as § 83.335]

3. The section currently designated § 83.341 is renumbered § 83.335.

4. Three new sections, § 83.337, § 83.339, and § 83.341 are added, to read as follows:

§ 83.337 Frequencies available for radioprinter.

(a) Ship stations may conduct radioprinter operations with limited coast stations on frequencies assigned to their associated limited coast station.

(b) Frequencies may be assigned for radioprinter use from the frequency bands listed below:

kHz	
2107–2170	4750–4850
2194–2495	5060–5450
2506–2850	5730–5950
3155–3400	7300–8100
4438–4650	

(c) Frequencies in these bands are shared with other radio services including the Maritime Mobile Service. Each assigned frequency is available on a shared use basis only, not for the exclusive use of any one station or licensee.

§ 83.339 Nature of service and supplemental radioprinter eligibility.

(a) A ship station is eligible to conduct radioprinter operations if the vessel is associated with a limited coast station authorized to conduct radioprinter operations.

(b) Ship radioprinter communications may be conducted only with the limited coast station with which the ship is associated.

(c) Ships authorized to communicate by radioprinter with a given limited coast station may also conduct intership radioprinter operations.

(d) Radioprinter communications may only be authorized aboard ships of less than 1,600 gross tons.

(e) Only those communications which concern the business and operation of the vessel are authorized.

§ 83.341 Technical radioprinter requirements.

The technical provisions of Subpart E of this part shall apply to equipment used aboard ship to provide radioprinter communications modified by the following reduced requirements.

(a) Any alphanumeric code may be used which is contained with a bandwidth of 300 Hz.

(b) The mode of operation must be single frequency simplex.

[FR Doc. 84-27163 Filed 10-12-84; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 83

[GEN Docket No. 82-517; FCC 84-474]

Amendment of Part 83 of the Rules to Provide for Emergency Position-Indicating Radiobeacons (EPIRB's) for Survival Craft of Vessels Operating in the Great Lakes

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action provides for the use of emergency position-indicating radiobeacons (EPIRB's) by survival craft on vessels in the Great Lakes. The Commission initiated this proceeding at the request of the Coast Guard to enhance the safety of vessels operating in the Great Lakes.

EFFECTIVE DATE: November 19, 1984.

FOR FURTHER INFORMATION CONTACT: Nicholas G. Bagnato, Private Radio Bureau, (202) 632-7175.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 83

Great Lakes, Marine safety, Emergency position-indicating radiobeacon, Ship stations.

Report and Order (Proceeding Terminated)

In the matter of amendment of Part 83 of the rules to provide for Class D and Class E Emergency Position-Indicating Radiobeacons (EPIRB's) for survival craft of vessels operating in the Great Lakes (Gen. Docket No. 82-617; FCC 84-474).

Adopted: October 4, 1984.
Released: October 10, 1984.

By the Commission.

Summary

1. In this Report and Order we have determined not to adopt the rules we had proposed for new classes of EPIRB's on the Great Lakes. We are, however, permitting the use of the existing Class C EPIRB in the Great Lakes and elsewhere as required or recommended by the Coast Guard. We are also clarifying the rules which pertain to the existing classes of EPIRB's (Classes A, B and C).

Background

2. EPIRB's are radio transmitters which are carried aboard ships. When deployed, they transmit signals to alert search and rescue (SAR) teams and to enable them to locate the position of a vessel in distress. The EPIRB carrier frequency is modulated by a well defined, distinctive tone which is easily recognizable aurally, and compatible with radio location equipment used by SAR personnel. Coast Guard aircraft and vessels, as well as some land based stations used in SAR operations, are equipped with radio direction finding equipment capable of receiving EPIRB signals. The position of a transmitting EPIRB can generally be located with minimum delay and aid can be provided to the vessel in distress.

3. On November 29, 1966, in Lake Huron, the Great Lakes ore carrier DANIEL J. MORRELL broke in two during a storm and sank. Only one person survived. No distress signal was received from the vessel. From the information given by the lone survivor and persons aboard other vessels in the area at the time, it appears that the radio system aboard the DANIEL J. MORRELL was in satisfactory condition. However, it was rendered useless due to lack of power when the vessel broke in two since the source of power was in the engine room in the aft portion of the vessel and the radio installation was in the wheelhouse in the forward portion of the vessel. The search for survivors of the DANIEL J. MORRELL did not begin until the Coast Guard was notified the vessel was overdue, 10 hours after sinking. The Marine Board [1] investigating the disaster recommended that a data marker buoy which would either be attached to a life raft or float free from a sinking vessel should be required equipment. This buoy would transmit a distress signal on an emergency frequency (2182 kHz recommended). As a result of this investigation, the Commission, on its own initiative, required an auxiliary source of energy for the radiotelephone installation or an auxiliary radiotelephone installation in the wheelhouse.[2] No action was taken on the data marker buoy since the International Maritime Organization (IMO) was considering characteristics and frequencies for EPIRB's applicable to vessels operated on international voyages. In the interim the Coast Guard encouraged voluntary equipping of Great Lakes vessels with such a device.

4. The EDMUND FITZGERALD was a Great Lakes ore carrier which sank in Lake Superior on November 10, 1975. The ship sank in a storm with winds gusting to 50 knots and waves of 15 feet. The EDMUND FITZGERALD had been in radio contact with another vessel 10 miles away on VHF-FM shortly before sinking. However, it was not until four hours had passed without communications from the vessel that it was concluded that the EDMUND FITZGERALD was missing and search efforts began. In this case, both the Coast Guard Marine Board and the National Transportation Safety Board[3] investigating the disaster recommended that an EPIRB be required on vessels operating during the winter.

5. In both disasters, life rafts floated free of the sinking vessels. If these survival craft had been equipped with EPIRB's, other vessels or coast stations could have been alerted. Accordingly, based on the recommendation of the investigating boards, the Coast Guard determined to create two new kinds of EPIRB's: a "Class D" EPIRB, which would be manually activated and designed for use on survival craft that must be placed or lowered into the water by the crew; and a "Class E" EPIRB which would be automatically activated on a survival craft which floats free from a sinking ship.

6. In the Notice of Proposed Rule Making in this proceeding [4] the Commission proposed rules to provide for these Class D and Class E EPIRB's as requested by the Coast Guard. The U.S. Coast Guard concurrently issued its own Notice of Proposed Rulemaking proposing to make the carriage of the new Class D and E EPIRB's mandatory for certain vessels operating on the Great Lakes.[5] Additionally, the existing rules relating to Classes A, B, and C EPIRB's [6] were a proposed to be revised to separate technical requirements necessary for type acceptance by the Commission from operational requirements mandated by the Coast Guard. By separately identifying the technical requirements necessary for type acceptance it was felt the complexity of type acceptance applications and the time necessary to review them could be reduced. The operational requirements for these devices would be evaluated by the Coast Guard.

Comments and Discussion

7. Comments in this proceeding were filed by the National Transportation Safety Board (NTSB) and the Lake Carriers' Association (LCA). No reply comments were received.

8. The NTSB supported the proposal for survival craft EPIRB's on the Great Lakes. The NTSB noted that it had previously recommended an EPIRB be carried on survival craft after the sinking of the SS EDMUND FITZGERALD. LCA opposed the new rules. LCA member companies operate 119 vessels in the Great Lakes and the majority of the vessels affected by this proceeding belong to members of LCA. LCA states its members' vessels are navigated on relatively short voyages and are usually within sight of land. The already required VHF radiotelephone installation provides continuous communications with the land stations according to LCA. LCA argued the EPIRB would be a secondary or tertiary back-up emergency communications system. LCA states that the Class C EPIRB permitted on recreational boats has helped alert the Coast Guard to distress situations and its members would voluntarily install Class C EPIRB's in the wheelhouse if permitted.

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[1] Department of Transportation, Marine Board of Investigation; SS DANIEL J. MORRELL, March 4, 1968.

[2] Report and Order, Docket No. 18854, FCC-71-292, Released March 30, 1971.

[3] Department of Transportation, Marine Casualty Report, SS EDMUND FITZGERALD, 28 July 1977. National Transportation Safety Board, Report No. NTSB-MAR-78-3.

[4] Gen. Docket No. 82-617, released September 3, 1982, 47 FR 40189.

[5] CGD 80-024, 46 FR 43736, October 2, 1982.

[6] Class A and B EPIRB's operate on aviation frequencies 121.5 MHz and 243 MHz. A Class A EPIRB is required by the Coast Guard to be carried by certain categories of vessels operating on the high seas. Class C EPIRB's operate on marine VHF channels 15 and 16 for use primarily by recreational boaters operating in coastal waters.

LCA sees no requirement for a special class of survival craft EPIRB for the Great Lakes and finds technical and operational considerations which seriously militate against the use of these EPIRB's. LCA has furnished these comments to the Coast Guard in response to its notice. LCA requested the Commission to defer its action on Class D and Class E EPIRB's until the Coast Guard considers its objections.

9. In addition to LCA's objections, a number of manufacturers informed the Coast Guard that the estimated market of 400 EPIRB's is simply too limited to justify production of special EPIRB's with the required automatic activation and float free characteristics. The Coast Guard is proceeding with its rulemaking to require subject vessels to carry two currently available Class C EPIRB's rather than the proposed new Class D and E EPIRB's.

10. In view of the above, we believe that the proposed rules relating to Class D and E EPIRB's should not be adopted. However, as suggested by LCA we are amending the rules to specifically permit Class C EPIRB's to be used by vessels operating in the Great Lakes as well as by any other vessels which the Coast Guard may require or recommend to be so equipped in the future.

11. A new Class S EPIRB is addressed in a separate rulemaking on the second set of amendments to the Safety of Life at Sea Convention, 1974 (SOLAS) now before the public for comment.[1] Since the proposed rules for the Class S EPIRB incorporate many of the requirements of the current rules, it would be inconsistent to separate the technical from the operational requirements as proposed in the NPRM. We will reconsider this separation of responsibilities for technical and operational requirements between the FCC and the Coast Guard in the Report and Order in the docket implementing the Class S EPIRB.

12. The rule amendments in the attached Appendix clarify the rules concerning Class C EPIRB's on the Great Lakes by amending the definitions, eligibility and license application rules. These rules are permissive in nature and do not impose additional requirements or burdens on any individual or entity. Therefore, pursuant to section 605 of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354), we certify that these rules will not have a significant impact on a substantial number of small entities.

13. Regarding questions on matters covered in this document contact Nicholas G. Bagnato (202) 632–7175.

14. Accordingly, it is ordered, That under authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r), the Commission's rules are amended as set forth in the attached appendix, effective November 19, 1984.

15. It is further ordered, That a copy of this Report and Order shall be sent to the Chief Counsel for Advocacy of the Small Business Administration.

16. It is further ordered, That this proceeding is terminated.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Part 83 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 83—STATIONS ON SHIPBOARD IN THE MARINE SERVICE

1. In § 83.3 a new paragraph (t) is added as follows:

§ 83.3 Maritime mobile service.

* * * * *

(t) *Emergency Position-Indicating Radiobeacon Station.* A station in the mobile service the emissions of which are intended to facilitate search and rescue operations.

§ 83.4 [Amended]

2. Section 83.4 is amended by removing paragraph (w).

3. In § 83.24 paragraph (c) is revised as follows:

§ 83.24 Eligibility for station license.

* * * * *

(c) Class C EPIRB stations will be authorized (1) for use aboard vessels operating within 20 miles of shore and in the Great Lakes, or (2) on passenger and cargo vessels with survival craft as required or recommended by the U.S. Coast Guard.

4. In §83.28, paragraph (a)(1) is revised as follows:

§ 83.28 Standard forms to be used.

* * * * *

(a) * * *

(1) *FCC Form 506/506–A, Application for License and Temporary Operating Authorization for Ship Radio Stations.* FCC Forms 506 and 506–A are available as a single application form. Forms 506 and 506–A shall be completed concurrently when applying for a new or modified license to operate a ship station on terrestrial or satellite frequencies. No modification is required for authority to operate an EPIRB. For INMARSAT ship earth stations Form 506 must be submitted to the Commission accompanied by a letter stating that the prospective licensee has negotiated an operating agreement with the INMARSAT Organization to utilize its space segment. Form 506–A must be retained by the applicant for temporary authority to operate its station for 60 days.

* * * * *

5. In § 83.141, paragraph (d) is revised to read as follows:

§ 83.141 Special requirements for survival craft stations.

* * * * *

(d) When an EPIRB is part of a survival craft station, the EPIRB shall be limited to:

(1) The frequencies 121.5 and 243 MHz using A9 emission, or;

(2) The frequencies 156.75 and 156.8 MHz using F9 emission.

6. In § 83.252, paragraph (b) is revised as follows:

§ 83.252 Equipment to facilitate search and rescue operation.

* * * * *

(b) Emergency position-indicating radiobeacons may only be modulated as specified in § 83.137 and only on the frequencies 121.5 and 243 MHz or 156.75 and 156.8 MHz.

7. In § 83.352, a new paragraph (d) is added as follows:

§ 83.352 Frequencies for use in distress and search and rescue operations.

* * * * *

(d) The frequencies 156.75 and 156.8 MHz (class F9 emission) are available to EPIRB stations for facilitating search and rescue operations.

8. In § 83.401, the list of frequencies following the introductory sentence of paragraph (c) is revised as follows:

§ 83.401 Assignable frequencies for direction finding.

* * * * *

(c) * * *

410 kHZ	121.50 MHZ
500 kHZ	156.75 MHZ
2182 kHZ	243.00 MHZ
8364 kHZ	

[FR Doc. 84–27166 Filed 10–12–84; 8:45 am]

BILLING CODE 6712–01–M

[1] PR Docket 84–799, released August 2, 1984, 49 FR 31178, August 6, 1984.

47 CFR Part 90

[PR Docket 83-755; FCC 84-462]

Deletion of Various Restrictions Against the Use of Mobile Relays in the Private Land Mobile Frequency Bands Below 470 MHz

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission has adopted a Report and Order extending the option of mobile relay operation to licensees in the Land Transportation Radio Services operating in the 450–470 MHz band, where frequencies are already paired for two-frequency operation. The Commission declines, however, to extend mobile relay operations to additional radio services operating on the unpaired frequencies below 450 MHz out of concern for interference between mobile relay operations and the large number of existing single-frequency simplex systems operating there. This action is taken as part of the Commission's Regulatory Review Program.

DATE: Effective November 13, 1984.

FOR FURTHER INFORMATION CONTACT: Harold Salters, Private Radio Bureau, (202) 632-7597.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 90

Private land mobile radio services, Radio.

Report and Order

In the matter of amendment of § 90.243 of the Commission's Rules to Delete Various Restrictions Against the Use of Mobile Relays in the Bands Below 470 MHz.; PR Docket No. 83-755.

Adopted: September 25, 1984.
Released: October 4, 1984.

By the Commission.

Background

1. On July 21, 1983, the Commission adopted a *Notice of Proposed Rule Making*, pursuant to its Regulatory Review Program, proposing to remove restrictions on mobile relay operation in the private land mobile frequency bands below 470 MHz.[1] A mobile relay station is a base station that automatically retransmits communications which originate at mobile stations, significantly expanding the effective coverage of a land mobile system. Section 90.243 of the Rules (47 CFR 90.243) permits the use of mobile relays in the bands below 450 MHz in the 48 contiguous States in all Private Land Mobile Radio Services except the Land Transportation, Business, Special Industrial, Relay Press, Radiolocation, Manufacturers, and Motion Picture Radio Services.[2][3] Mobile relay operations are permitted in the 450–470 MHz band in all Private Land Mobile Radio Services except the Radiolocation Service and the Motor Carrier, Taxicab, and Automobile Emergency Radio Services.[4] (*See* 47 CFR 90.85–90.95). In the Private Land Mobile Radio frequency bands above 470 MHz, mobile relay operations are permitted in all radio services.[5]

2. In the *Notice*, we noted that we often receive requests for waivers of our restriction on mobile relays in the Land Transportation Radio Services, particularly in the 450–470 MHz band where frequencies are already paired. We invited comments on whether the lack of a band plan pairing frequencies in the bands below 450 MHz should affect our decision on this proposal and whether frequency coordination would be the best mechanism for accommodating mobile relay systems.[6]

3. Seven parties filed comments in response to the *Notice* in this proceeding: The Association of American Railroads (AAR), the Central Committee on Telecommunications of the American Petroleum Institute (API), the Associated Public-Safety Communications Officers, Inc. (APCO), the International Taxicab Association (ITA), the National Association of Business and Educational Radio, Inc. (NABER), the National Ski Patrol System, Inc. (NSPS), and the Special Industrial Radio Service Association, Inc. (SIRSA). Reply comments were filed by ITA, Motorola, Inc. (Motorola), the General Electric Co. (General Electric), the Peabody Coal Co. (Peabody) and the National Mobile Radio Association (NMRA).

Discussion

4. Only AAR and Peabody unequivocably supported our proposal. All other parties noted serious obstacles that would have to be surmounted before implementation of mobile relays in the bands below 450 MHz. Generally, the commenters believe that while frequency coordination would be the only practicable way to implement mobile relay systems in the frequencies below 450 MHz, the lack of a pre-existing band plan pairing frequencies, combined with the large numbers of existing single-frequency (simplex) land mobile operations licensed on a relatively small number of VHF frequencies, would make the task of selecting two frequencies for mobile relay operation difficult at best. Parties also feared that even if mobile relays could be established on the unpaired frequencies, licensees and users would experience interference problems created by the operation of mobile relays on unpaired frequencies that are also employed by single frequency simplex systems.

5. SIRSA, the Commission's recognized frequency advisory committee for the Special Industrial Radio Service, urged the Commission to retain its current rules, stating that the absence of a frequency pairing scheme when coupled with the existing congestion on VHF frequencies precludes the introduction of mobile relays on special industrial 150 MHz frequencies.[7] "Adoption of the rule amendment proposed by the Commission," states SIRSA, "would lead to chaotic conditions in the operation of mobile relay and simplex systems, and create frequency coordination problems that would totally evade resolution short of removing a system from its assigned channel(s)."[8] SIRSA also warns that

[1] *Notice of Proposed Rule Making* (FCC 83-353), released July 25, 1983, 48 FR 34782 (August 1, 1983).

[2] The private land mobile frequency bands below 450 MHz are 25–50 MHz (low-band VHF) and 150–174 MHz (high-band VHF).

[3] In the *Notice*, we indicated we would retain the prohibition against mobile relays in the Radiolocation Service. The Radiolocation Service is a fixed point-to-mobile service with no requirements for mobile-to-mobile communications. Typically, mobile units in the Radiolocation Service only receive transmissions from the radiolocation station in order to make calculations of direction, distance, speed or position.

[4] The Railroad Radio Service is permitted to employ mobile relay operation on a secondary basis to other co-channel operations. *See* 47 CFR 90.243(b)(3).

[5] The private land mobile frequency bands above 470 MHz are 470–512 MHz (in thirteen urban areas) and 806–821 MHz and 851–866 MHz.

[6] The terms "paired frequencies" and "band plan" refer to the Commission's practice of systematically assigning certain frequencies for use by mobile stations and other frequencies for use by base stations (mobile relays). In the 800 MHz band, the band plan pairs the base station transmit frequencies 851–866 MHz with the mobile station transmit frequencies 806–821 MHz using 45 MHz spacing between associated mobile and base station frequencies. In the 470–512 MHz band, the spacing is 3 MHz between associated mobile and base station frequencies. In the 450–470 MHz band, separation between base and mobile transmit frequencies is 5 MHz, with the mobile station transmitting on the higher frequency. Below 450 MHz, no band plans have ever been developed and hence the frequencies are not paired. These UHF frequency band plans were specifically designed to facilitate mobile relay operation.

[7] There are only 29 high-band VHF frequencies allocated to the Special Industrial Radio Service (47 CFR 90.73(c)). In its comments, SIRSA documents the high level of congestion on these channels in both urban and rural areas throughout the continental United States. (SIRSA, *Comments*, pp. 6–7.)

[8] SIRSA, *Comments*, p. 11.

interaystem interference between mobile relay operations and simplex operations may force small businesses using single frequencies to spend large sums of money to change their operating frequency or even replace their entire system with one operating in a different frequency band.

6. NABER, the Commission's recognized frequency advisory committee for the Business Radio Service, offered support for our proposal on the condition that the Commission require frequency coordination of applications for business radio systems in the bands below 450 MHz and that NABER be allowed to coordinate those applications.[9] "Without frequency coordination," states NABER, "the prospect for significant degradation in the quality of the service available to users would be significant."

7. General Electric, in its reply comments, states that the absence of a band plan for the VHF frequencies may be an insurmountable obstacle to the introduction of mobile relays, particularly in light of the non-coordinated radio environment below 450 MHz in certain services. Believing the Commission was correct to first devise band plans to accommodate mobile relays between 450-512 MHz and at 800 MHz, General Electric believes the same applies for the VHF bands. AAR doubts the Commission could devise a band plan, stating: "* * * a band plan would have repercussions on present users of the frequencies selected and would be difficult to achieve on a nationwide basis because of frequency assignments already made."

8. The commenters were not confident that frequeny coordination could provide the mechanism for establishing mobile relay operations in the VHF band. NMRA joined with General Electric in doubting that frequency coordination committees, no matter how proficient, could effectively cope with mobile relays in the bands below 450 MHz, where simplex systems dominate. Motorola believes that even with frequency coordination of the VHF bands, the fact that there are only 11 high-band VHF channels allocated to the Business Radio Service makes it impossible to contemplate mobile relay operations there without destructive, incurable interference between mobile relays and the large number of existing single frequency simplex radio systems.

9. APCO, API, and NSPS each oppose our proposal as it relates to the operation of mobile relays in the bands below 450 MHz. APCO, which coordinates mobile relays below 450 MHz for the Police and Local Government Radio Services,[10] objects to the extension of mobile relays to the Special Emergency Radio Service below 450 MHz, unless APCO is designated the frequency coordinator for the Special Emergency Radio Service.[11] APCO fears that under the Commission's interservice sharing rules (47 CFR 90.176), Special Emergency applicants may request frequencies from other Public Safety Radio Services to operate mobile relays and thus cause interference to existing operations on these other frequencies. NSPS objects to our proposal because there are only 8 high-band VHF frequencies available to the Special Emergency Radio Service which are already heavily loaded with simplex operations. API is generally opposed to the introduction of mobile relays in the bands below 450 MHz as they believe the intermix of single frequency simplex operations with mobile relay operations will lead to inter-system interference and difficult frequency coordination problems. Specifically, API objects to allowing mobile relays below 450 MHz in the Manufacturers Radio Service because 30 high-band VHF Manufacturers' frequencies are shared by Petroleum Radio Service licenses.

10. ITA, the Commission's recognized frequency advisory committee for the Taxicab Radio Service, stated its belief that taxicab operators do not desire nor need mobil relays because they have no mobil-to-mobile communications requirements. ITA believes that increased frequency congestion would be the result of permitting two-frequency mobile relay operation where simplex operations have traditionally sufficed. ITA urged the Commission to retain its present policy of only granting waivers to operate mobile relays in the Land Transportation Radio Services upon a demonstrated showing of need.

Decision

11. After careful consideration of the comments and reply comments submitted, we have determined that it is in the public interest, convenience and necessity to remove the restrictions on mobile relay operations in those frequency bands where band plans pairing frequencies already exist. Hence, we are removing, as described in the attached Appendix, the restrictions against mobile relays in the 450–470 MHz band in the Motor Carrier, Taxicab and Automobile Emergency Radio Services. We are convinced, however, that the current restrictions on mobile relay operations in the bands below 450 MHz, where there are no band plans, should be retained.

12. We are persuaded by the comments that the existence of a band plan pairing frequencies is the determinative factor in deciding which additional private land mobile radio services should be authorized mobile relay operations in a particular frequency band. As private land mobile frequencies in the 450–470 MHz band are already paired for two-frequency operation, we see no reason to continue prohibiting mobile relays in the Land Transportation Radio Services in that band. In its reply comments, General Electric supports the removal of mobile relay restrictions in the 450–470 MHz band, stating, "Correcting this deficiency in the rules is long overdue. It simply cannot be argued that the same reasons that justify mobile relays in the other services are not present in all of the land transportation services. Regardless of the other actions taken in this proceeding, the incongruity of disallowing mobile relay licensing in those services must be discarded."[12] We agree. ITA states that the Taxicab Radio Service does not have the mobile-to-mobile communications requirements that would militate in favor of generally authorizing mobile relays in that radio service. ITA fails to convince us, however, that this means we should eliminate the mobile relay option for users in a frequency band that is already paired. No licensee in the Taxicab Radio Service would spend the large sum required to install and operate a mobile relay unless it believed the mobile relay could enable it to better meet its communications requirements. We will not prohibit a licensee from employing the mobile relay option in the 450–470 MHz band where there is no

[9] Pursuant to 47 CFR 90.175(e)(10), applications for business radio systems on the frequencies below 450 MHz do not require frequency coordination. The entire question of frequency coordination in the Private Land Mobile Radio Services, including the issue of whether a frequency advisory committee should be designated for business radio applications below 450 MHz, is the subject of the proceeding in PR Docket 83–737, "Frequency Coordination in the Private Land Mobile Radio Services," *Notice of Inquiry* (FCC 83–329), released July 25, 1983, 48 FR 35149 (August 3, 1983).

[10] APCO is the only recognized frequency advisory committee for the Police Radio Service and one of four recognized committees for the Local Government Radio Service. Mobile relays are permitted in both services below 450 MHz.

[11] Pursuant to 47 CFR 90.175(e)(2), applications for Special Emergency Radio facilities do not require evidence of frequency coordination. The issue of frequency coordination in the Special Emergency Radio Service is part of the Commission's general inquiry into frequency coordination in the Private Land Mobile Radio Services, PR Docket 83–737, *supra*.

[12] General Electric, *Reply Comments*, p. 6.

risk of significant interference between mobile relay operations and simplex operations.

13. In the bands below 450 MHz, we recognize the potential for harmful interference between mobile relay operations and existing simplex operations. In its reply comments, Peabody Coal supports permitting mobile relay operations in the bands below 450 MHz, noting that in the remote parts of the continental United States where Peabody operates it has found that VHF mobile relay operations offers superior communications range. In these remote areas, claims Peabody, several UHF mobile relays would have to be installed to achieve a comparable quality of service. We agree with Peabody that there are many remote geographic areas and radio environments where VHF mobile relay operation improves system coverage with little or no risk of interference to existing simplex radio systems. However, we are convinced by the comments that the threat of interference between mobile relay operations and simplex systems precludes us from authorizing VHF mobile relay operation throughout the United States. Permitting VHF mobile relay operations on a routine basis in our two largest private land mobile radio services, Business and Special Industrial Radio, could lead to serious interference problems. Peabody and other licensees operating in remote areas have always been able to request a waiver of the restriction on VHF mobile relay operation. Upon a showing of need and a demonstration that co-channel and adjacent channel licensees would be unlikely to suffer interference, the Commission grants such waiver requests.[13]

14. We have noted the concerns the commenters had regarding the difficulty for frequency coordinators of coordinating mobile relays. We do not believe that the mere difficulty of coordinating mobile relays alone is an appropriate reason for us to decline relaxing VHF mobile relay restrictions. On the other hand, current coordination procedures may not be adequate to handle the additional burdens. The Commission has an on-going proceeding (PR Docket 83-737) inquiring into all facets of the frequency coordination function for the private land mobile radio services. At the termination of that proceeding, the Commission may adopt coordination procedures that would be adequate to allow us to further relax restrictions on mobile relays in those frequency bands.

[13] Recognizing the desirability of VHF mobile relay operations to some licensees, we recently proposed authorizing mobile relay operation on narrowband frequencies in the 150 MHz band. In our *Notice of Proposed Rule Making*, PR Docket 84-279, FCC 84-80, released April 4, 1984, 49 FR 19074 (May 4, 1984), at para. 15, we identified nine frequencies which would provide the required frequency spacing for mobile relay operation and proposed allocating these to the Business Radio Service. Mindful of potential interference, we proposed reserving these channels for mobile operations and limiting the output power to 25 watts peak envelope power.

Conclusion

15. In consideration of the record developed in this proceeding, we see no reason to continue prohibiting mobile relay operation where frequencies are paired. Therefore, we are adopting a rule amendment that will permit licensees in the Land Transportation Radio Services to operate mobile relays in the 450-470 MHz band. Mindful of the potential for interference between mobile relay operations and the large number of existing simplex radio systems operating in the bands below 450 MHz, where frequencies are not paired, we decline to extend the mobile relay option to additional radio services on these frequencies.[14]

16. In the *Notice* in this proceeding, the Commission certified that the rule amendments proposed would not have a significant economic impact on a substantial number of small entities. Accordingly, the Commission concluded that Sections 603 and 604 of the Regulatory Flexibility Act do not apply to this proceeding. Therefore, there is no requirement for a final regulatory flexibility analysis of the rule changes now being adopted. However, in the discussion of the comments we noted that extension of mobile relay operation to the bands below 450 MHz may force small businesses operating simplex radio systems to spend large sums of money to change their operating frequency or even replace their entire system with one operating in a different frequency band in order to avoid intersystem interference from mobile relay operations. Recognizing this and other factors, we decline to extend mobile relay operations in the bands below 450 MHz.

[14] In footnote 3 of our *Notice*, we observed that outside the contiguous 48 States mobile relay operations below 450 MHz are also authorized in the Business Radio Service (with low power conditions) and the Special Industrial Radio Service (without low power conditions). We therefore proposed the deletion of the low power operation requirement for Business Radio Service relays contained at Section 90.243(b)(2). While no comments addressed this specific proposal, we have decided to retain the rule in its current form in light of the concerns expressed in the comments regarding inter-system interference between single frequency simplex systems and mobile relay operations.

17. Accordingly, it is ordered, That effective November 13, 1984, Part 90 of the Commission's Rules, 47 CFR Part 90, is amended as shown in the attached Appendix. Authority for this action is found in sections 4(i) and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303.

18. It is further ordered, That this proceeding is terminated.

Federal Communications Commission.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

William J. Tricarico,

Secretary.

Appendix

Part 90 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

In § 90.243, paragraph (a)(2) is revised to read as follows:

§ 90.243 Mobile relay stations.

(a) * * *

(2) Mobile relay stations will be authorized on frequencies between 450 MHz and 470 MHz in all of the services governed by this part except for the Radiolocation Service.

* * * * *

[FR Doc. 84-27161 Filed 10-12-84; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 90

[PR Docket No. 84-30; RM-4444; FCC 84-445]

Amendment To Reserve Frequencies for Emergency Electrical Alarm Protection

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission designates 8 frequencies in the 450-470 MHz band for use by eligibles providing central station electrical alarm services. Without this action alarm systems would be subject to increasing levels of interference which impair the use of these systems.

DATE: Effective November 14, 1984.

FOR FURTHER INFORMATION CONTACT: Keith Plourd, Private Radio Bureau, Washington, D.C. 20554, (202) 634-2443.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 90

Administrative practice and procedure, Business and industry, Industrial radio services, Land

Transportation radio services, Private land mobile radio services, Public safety radio services, Radiolocation radio service, Special emergency radio service.

Report and Order

In the matter of Amendment of Part 90 of the Commission's Rules and Regulations to Reserve Frequencies for Emergency Electrical Alarm Protection, PR Docket No. 84–30, RM–4444.

Adopted: September 26, 1984.
Released: October 11, 1984.

By the Commission.

Introduction

1. On January 19, 1984, the Commission adopted a *Notice of Proposed Rule Making* proposing: (1) To assign exclusively to central station electrical protection companies frequencies which lie between (12.5 kHz offset from) channels in the 450–470 MHz Business Radio Service band; and (2) to allow central station operators to use higher antennas than currently allowed on these offset frequencies.[1] [2] The Commission proposed to make the eight offset frequencies which fall between the central station primary frequency assignments exclusively available to central station companies.[3] On these offset channels, the Commission proposed to authorize central station licensees antennas twenty feet above supporting structures, rather than twenty feet above ground. The Commission also inquired into the need for an exclusive frequency allocation at 928–929 MHz and 952–960 MHz for central station eligibles.

Comments

2. Comments on the Commission's proposals were received from seven parties: the Central Committee on Telecommunications of the American Petroleum Institute (API), the American Association of Retired Persons (AARP), the National Black Media Coalition (NBMC), the National Association of Business and Educational Radio, Inc. (NABER), the Central Station Electrical Protection Association (CSEPA), the Honorable Hamilton Fish, Jr., Member, U.S. House of Representatives, and the National Association of Retired Federal Employees (NARFE). Reply comments were received from API and CSEPA.

3. All parties except NABER supported the Commission's proposal to designate eight 450–470 MHz offset frequencies for use by central station electrical protection companies. Five parties also felt the Commission should propose an exclusive allocation for the industry at 900 MHz. Both API and NABER opposed any exclusive allocation at 900 MHz for central station eligibles.

Discussion

450–470 MHz Band Exclusive Allocation

4. Our objective in proposing to make the offset frequencies in the 450–470 MHz band available exclusively for central station company use was to conform the use of these offsets with the general actions we had taken in Docket No. 80–605.[4] In that proceeding we allowed eligibles in the Private Land Mobile Radio Services to operate on frequencies 12.5 kHz between the primary channels in the 450–470 MHz band. Each offset channel was made available to the same Private Radio Service that was authorized the adjacent primary channels.

5. When the Commission adopted offset rules in PR Docket No. 80–605, ten primary frequencies had been allocated exclusively for the use of central station alarm licensees. Although central station alarm companies comprise only a part of the Business Radio Service, the Commission designated the offsets located between central station alarm frequencies for use by all Business Radio Service eligibles. Because this action did not limit use of these offsets to the central station systems only, it created a potential for interference to alarm operations. Therefore, in keeping with our policy to limit offset frequency operations to those eligible to use the primary frequencies on either side, the Commission proposed to allow only central station companies to use the 8 specific offset frequencies.[5]

6. As noted above, five of the six commenting parties argreed that central station electrical protection companies should have exclusive use of the offset frequencies. CSEPA, AARP, and NBMC all argued that increasing the number of frequencies available exclusively to central protection companies in the 450–470 MHz band would enable these companies to serve more customers, including the elderly, the poor, and the handicapped and would benefit American society as a whole. For example, NBMC noted:

> The primary concern of NBMC in this proceeding is with the security of the Black communities across the nation, where business and residences frequently are more susceptible to crime than are the communities at large. Because the income of Black citizens and businesses tends to be lower than that of the general population, the need for inexpensive yet effective protection methods is acute. * * * Without affordable, widely available security devices, the public—particularly Black citizens will suffer. The impending elimination of telephone company facilities most suited to alarm services makes radio service even more important to the industry's ability to offer reasonable protection service.
>
> NBMC comments, pp. 1–3.

API, on the other hand, was more cautious in its endorsement:

> The Central Committee does not object to the Commission's reservation of the eight "offset" frequencies which are located between the five frequency pairs now dedicated for central station use on a primary basis. The Central Committee does not generally favor this type of "after the fact" reservation; but it agrees with the Commission that the adoption of these rule changes may afford relief to CSEPA members without detrimentally affecting other licensees. The Central Committee strongly endorses the Commission's proposal to "grandfather" all existing licensees of these 12.5 kHz "offsets" so that present operations will not be disrupted. Further, the Central Committee urges the Commission to ensure that CSEPA acquiesces in the shared use of these channels by others, on an interservice basis, where the assignments are not employed for central station alarm purposes.
>
> API comments, p. 7.

7. NABER flatly opposed the proposal to exclude other Business Radio Service eligibles from use of these offset frequencies. First of all, it disputes CSEPA's contention that the nature of the central station protection industry warrants preferential use of these

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[1] *Notice of Proposed Rule Making*, PR Docket No. 84–30, 49 FR 5639 (February 14, 1984).

[2] Central station commercial protection service is defined as an electrical protection and supervisory service rendered to the public from and by a central station accepted and certified by one or more of the recognized rating agencies or the Underwriters Laboratories (UL), or Factory Mutual System. 47 CFR 90.75(c)(27).

[3] Within the boundaries of urbanized areas of 200,000 or more population, defined in the United States Census of Population, 1980 vol. 1, table 23, page 1–50, the following frequencies may be used only by persons rendering a central station commercial protection service: 460.900 MHz, 460.925 MHz, 460.950 MHz, 465.900 MHz, 465.925 MHz, and 465.950 MHz. Other stations in the Business Radio Service may be licensed on these frequencies only when all base, mobile, relay, and control stations are located at least 75 miles from the city center or centers of the urbanized areas of 200,000 or more population. 47 CFR 90.75(c)(27). The following frequencies are available on a nationwide basis only to persons rendering a central station commercial protection service: 460.975 MHz, 461.000 MHz, 465.975 MHz and 466.000 MHz.

[4] *Report and Order*, PR Docket No. 80–605, 46 FR 45953 (September 16, 1981).

[5] CSEPA has indicated that the central station service companies will use these frequencies for the operation of low power transmitters in protected premises to signal the central station company when an alarm is triggered. While telephone lines are presently the primary means of transmitting alarm signals, CSEPA argues that increasing costs make it economically desiralbe to shift this signalling to private radio frequencies.

channels because of its quasi-public safety status. NABER instead maintains:

> Despite protestations to the contrary, CSEPA remains essentially a Business Radio user with needs which could no more be characterized as "public safety" than such other Business Radio users, as ambulances or clinics. * * * [F]or the Commission to sequester these frequencies * * * would create bad precedent in terms of dealing with similar demands from other providers of specialized private land mobile services.

NABER's comments, p. 5.

In short, it is NABER's position:

> * * * that the rules affecting the 400 MHz band proposed by the Commission are both unjustified and unnecessary and therefore should not be adopted.

Id., p. 4.

8. We have considered the comments and conclude that the public interest will be served by allowing central station companies exclusive access to the 450–470 MHz band offset channels. We generally allow Private Land Mobile Radio Services licensees to operate on the offset channels between their primary assignments.[6] This action merely extends the same approach to a specific subset of frequencies within the Business Radio Service. While NABER disputes the justification for doing this, we think that the approach we have proposed will allow more intensive use of these channels within the major urban centers. We are persuaded more stations will be able to make greater use of these channels if we restrict them to central station companies because of the resulting compatibility between operations on the primary and offset channels. Moreover, by allowing CSEPA to coordinate both the primary and offset channels, the likelihood of interference within the urban areas is reduced. Outside major urbanized areas, all Business Radio Service eligibles will still be able to use both the primary and offset channels designated for CSEPA use and, to the extent central station companies do not use the offsets in major urbanized areas, they will be available to other users under our interservice sharing rules.[7]

Antenna Height

9. CSEPA in its comments also endorsed adopting the proposed modification to the antenna height requirements. It was supported in this position by the NBMC. As CSEPA explained in its petition for rule making:

> In order to comply with the Commission's rules an alarm system installed in the 10th floor of a building would require the antenna to be mounted near ground level with the transmission line run through a conduit or along the side of the building. It is often not possible to obtain permission from building owners or managers to comply with this requirement, which would also result in degradation of the signal where long transmission cables are employed.

RM–4444, p. 23.

NABER in its comments argued even secondary operations on the offset frequencies should not be allowed to exceed the twenty foot above ground rule, stating higher antennas will cause "interference to existing licensees." CSEPA in its reply comments does not specifically address NABER's objection on interference grounds.

10. CSEPA's failure to address the possibility of interference makes this issue more difficult to resolve. Nonetheless, we have decided to relax the antenna height rule as proposed. To the extent that urbanized area alarm systems are involved, the requirement that other Business Radio Service operations be 75 miles or more from city centers, combined with the low powers of alarm signalling transmitters, should keep potential interference to a minimum. The secondary status of operations on the offsets and the fact that CSEPA will be coordinating assignment should also minimize the likelihood of interference to adjacent channel operations within the cities.

11. With regard to central station operations which may occur at the periphery of the urban area, there is a greater potential for interference to both adjacent and co-channel Business Radio Service eligibles who are not central station companies. We expect this can be minimized through coordination between the parties. To the extent that it cannot be, operations at the higher elevations are secondary both to co-channel and adjacent channel operations under the twenty foot rule, and must give way if on other solution is available.

900 MHz Exclusive Allocation

12. The most controversial aspect of our *Notice* was the question of the need for an exclusive allocation at 900 MHz for central station operation. Before we discuss the comments, however, we feel a recitation of the history of what has already occurred at 900 MHz will be useful.

13. In a *Report and Order* in Docket No. 17891 the Commission allocated frequencies in the 952–960 MHz band for use by central station protection companies.[8] From 1968 until 1979 these frequencies essentially remained unused. Then in 1979 the Commission commenced a proceeding in Docket No. 79–18 to re-allocate this and other spectrum at 900 MHz to be used for distribution automation by power companies. This includes automatic meter reading, load management, environmental monitoring, and other operational functions.[9] Final rules were adopted which designated forty-eight 25 kHz channels in the 900 MHz range for private and public multiple address systems, including distribution automation systems.[10] In our *Third Notice* we addressed non-power company needs for multiple address frequencies and proposed to make fourteen paired channels and eight unpaired channels available to the Fixed Service for use by all persons eligible under Part 94 of the Rules. At this time the Commission specifically recognized this would entail mixing, among others, "central station alarm, traffic light control, trucking, railroad classification yard operation, and petroleum and natural gas production field monitoring and control." We accepted this approach in our *Second Report and Order*, in part because our previous experience persuaded us sharing would "maximize the use of the spectrum by making it available to whomever needs it most."[11] We were concerned if the spectrum were divided into blocks and allocated to particular kinds of users, spectrum use in this band would continue to languish as it had for the preceding decade.[12] With a variety of eligibles competing for the spectrum on an as needed basis, we felt the manufacturers would be more likely to introduce new equipment product lines. We also felt the spectrum management inefficiencies inherent in block allocations would be avoided.[13]

14. Approximately two years have passed since the adoption of our *Second Report and Order*. Now as equipment is beginning to appear on the market, CSEPA has asked us to once more address this band and allocate 18

[6] *Report and Order*, PR Docket No. 80–605, 46 FR 45953 (September 16, 1981). 47 CFR 90.267.

[7] *Report and Order*, PR Docket No. 81–110, 46 FR 55704 (November 12, 1981). 47 CFR 90.176.

[8] *Report and Order*, Docket No. 17891, 13 FCC 2d 713 (June 24, 1968).

[9] *Notice of Proposed Rule Making*, Docket No. 79–18, 44 FR 12221, (March 1, 1979). *Further Notice of Proposed Rule Making*, Docket No. 79–18, 45 FR 2080 (January 10, 1980); *Third Notice of Proposed Rule Making*, Docket No. 79–18, 46 FR 10768 (February 4, 1981).

[10] *Report and Order*, Docket No. 79–18, 46 FR 9550 (January 30, 1981). *Second Report and Order*, Docket No. 79–18, 88 FCC 2d 1173 (January 13, 1982).

[11] Cf. *Third Notice of Proposed Rule Making*, Docket 79–18, *supra*, at para 2.

[12] *Id.* para 9.

[13] See *Second Report and Order*, Docket No. 79–191, 90 FCC 2d 1281 (July 22, 1982), for a discussion of the inefficiencies of the block allocation approach to spectrum management.

frequencies at 900 MHz for its members' exclusive use.

15. As an initial point CSEPA acknowledges that little use was made of the 900 MHz frequencies that were previously allocated to the industry. It maintains there were mitigating circumstances.[14] CSEPA further contends:

> Perhaps more to the point, however, the present situation with respect to the usage by the alarm industry of the 900 MHz multiple address frequencies * * * clearly shows that there is now a heavy demand for these 900 MHz frequencies by central station commercial protection service operators.

CSEPA comments, p. 11.

CSEPA also states that its membership is engaged in safety of life and property activities and therefore is covered by the provisions of Section 331(a) of the Communications Amendments Act of 1982. In this Act the Congress urged the Commission to manage the spectrum in ways which will promote the safety of life and property.[15] Finally CSEPA contends that its proposal for an exclusive 900 MHz allocation is consistent with the policy of the Congress to encourage new service offerings.[16].

16. In summation, CSEPA maintains an exception to our policy not to grant exclusive frequency allocations is warranted in light of the particular circumstances involved:

> Only by such a deserved exception to general policy will central station operators located in our major metropolitan areas (and crime centers) be assured of 900 MHz access. Only by such an exception will the public be assured of a competitive environment in the provision of the most economical and efficient protective services possible. Only by such an exception will a huge specialty alarm radio/computer equipment market be assured. Only by such an exception will the protective services of the alarm industry be made more affordable to the public and, especially, the elderly and minorities presently bearing the brunt of the appalling impacts of crime on these segments of our population. The application filings already made by the alarm industry, in advance of any wide-spread type acceptance and field-tested-for-the-purpose equipment, constitute the best evidence the Commission could have that any multiple address frequencies exclusively allocated to the listed central station alarm industry will not lie fallow. The reason for the general policy against exclusive allocation not present, an exception to that policy is called for.

CSEPA Comments, pp. 22–23.

17. CSEPA is essentially supported in this position by Congressman Fish, the NBMC, the NARFE, and the AARP. This position is contested, however, by API and NABER. Thus, in response to these arguments API contends:

> First, the reservation of particular frequency assignments for specified purposes endorses a philosophy directly counter to that repeatedly espoused by the Commission. . . .

API Comments, p. 5.

In this regard API notes that the reservation of a particular frequency band for specified operations results in the intensive use of these assignments in certain geographic regions while the same assignments remain unused in other regions. In API's view, the continued availability of the 900 MHz multiple address frequencies on a "pooled" basis will ensure that every entity with a legitimate need for use of the frequencies will be afforded an opportunity to employ them. API also points out that an exclusive allocation of 900 MHz multiple address frequencies for alarm purposes would also present severe practical problems, in light of the already intensive interest in the use of these channels throughout the country:

> The Commission has already received more applications than there are available frequencies for multiple address operations in Houston and in New York. Moreover, it is reported that there may soon be none of these 900 MHz frequencies available for assignment in Southern California. This interest in the use of 900 MHz MAS channels evidences the equally legitimate needs of many applicants. . . . Should the Commission determine at this late date that reallocation of these assignments is appropriate, the Central Committee would become a vocal advocate for an exclusive 900 MHz MAS allocation for vital oil and gas telecommunications operations.

API Comments, pp. 6–7.

18. API also maintains CSEPA has failed to demonstrate why the operation of alarm devices should be permitted to foreclose the use of these channels by other "vital services," or how the preclusion would serve the public interest, convenience, and necessity. API argues that the same factors which make these channels particularly attractive for central station operation are equally applicable to oil and gas industry eligibles as well as other Part 94 users. It notes these multiple address frequencies can be utilized to enhance the safe and efficient operation of oil and gas production fields and pipeline operations by providing spectrum for computer administered supervisory control systems, automatic valve systems and other applications. In sum, API argues all of these important functions as well as those of other Part 94 eligibles must be fulfilled by the limited number of available 900 MHz multiple address channels. An exclusive allocation of these frequencies to the alarm industry, API contends "would irreparably damage the ability of other licensees to plan and employ systems using this valuable spectrum."

19. In light of the foregoing, API contends exclusive allocations do not represent a viable solution to the problem. Instead it believes that:

> * * * effective geographic sharing of available channels will promote the greatest degree of spectrum efficiency * * *. An exclusive allocation of these 900 MHz multiple address channels would, however, only exacerbate spectrum unavailability presently experienced and anticipated for all Part 94 eligibles.

API reply comments, pp. 7–8.

20. With regard to CSEPA's contention that an exclusive allocation is warranted because of its members' promotion of safety of life and property, API responds that many of the present applicants for this spectrum provide services which promote safety of life and property. This being the case, the shared approach adopted in Docket 79–18 was, in API's view, the appropriate Commission action to promote the safety of life and property, not an exclusive allocation for CSEPA's members. API also disputes CSEPA's contention that it was the intent of Congress to accord special status to the commercial alarm protection industry:

> The provisions of the Communications Act to which CSEPA refers were included to urge the Commission to make sufficient spectrum available for *public* safety agencies * * *. The exclusive allocation sought by CSEPA would not further Congressional goals. Congress' intent was to assure that *public safety* agencies were accorded access to sufficient *land mobile* radio spectrum. CSEPA confuses its *private* provision of protection services in *operational-fixed* facilities with public safety *land mobile* operations.

API reply comments, pp. 9–10.

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[14] CSEPA argues when the 900 MHz one way frequencies were allocated for central station use in 1981 the cost of telephone company wireline facilities was relatively small compared to the cost of 900 MHz radio facilities. This has changed however with the increased cost of private wireline facilities. As a result CSEPA maintains "the cost of providing high quality alarm service has increased to the point where many persons are unable to afford such service. The cost of the radio equipment in the meantime has come down. . . ."

[15] Section 331 (47 U.S.C. 332) (a)] provides:

In taking actions to manage the spectrum to be made available for use by the private land mobile services, the Commission shall consider, consistent with Section 1 of this Act, whether such action will—

(1) promote the safety of life and property;

(2) improve the efficiency of spectrum use and reduce the regulatory burden upon spectrum users, based upon sound engineering principals, user operational requirements, and marketplace demands;

(3) encourage competition and provide services to the largest feasible number of users; or

(4) increase interservice sharing opportunities between private land mobile services and other services.

[16] *Conference Report*, Communications Amendments Act of 1982, August 19, 1982, page 52.

[17] *Mem*
FCC 2d 50

21. On this point API further contends that there is a fundamental difference between commercial protection operations and public safety communications. While API believes that special consideration may be warranted for "truly public safety organizations who are publicly funded and whose responsibilities include police and fire protection for the entire community" it maintains that CSEPA's members provide for-hire services and do not warrant similar consideration:

> While the services of the electrical alarm industry may be quite valuable, the Commission must not be misled into believing that central station protection operations require the same regulatory treatment as do police, fire and other municipal communications needs.

API reply comments, p. 11.

22. API also disputes the application of the New Technologies and Services Amendment of the Communications Act to the instant situation. It points out that the Commission has already allocated the 900 MHz multiple address frequencies for use by alarm industry eligibles. Accordingly, API argues, the Commission already has encouraged the use of this technology. Moreover, API concludes the technology employed by central alarm operations is neither new nor so different from the technology employed by other Part 94 eligibles that it deserves special encouragement. NABER shares API's views and opposes any exclusive 900 MHz allocation for central station companies.

23. We have considered these arguments and are not persuaded an exclusive allocation at 900 MHz for central station operations is warranted. On January 25, 1978, the Commission reconsidered a plea by CSEPA to transfer its operations from the Business Radio Service to the Special Emergency Radio Service or to the Public Safety Radio Services.[17] Parties commenting in that proceeding argued that central station electrical protection entities:

> * * * should not be equated in terms of their claim to the radio spectrum with tax-supported governmental entities, which provide protection and other governmental services to the entire public.

Memorandum Opinion and Order, supra, p. 510.

In denying CSEPA's request the Commission stated:

> The Public Safety Radio Services were established primarily to accommodate local governmental requirements, and we perceive no good reason to introduce new non-governmental functions there. * * * The Commission, therefore, affirms its conclusion that commercial central station electrical protection entities do not belong in the Special Emergency Radio Service.

Memorandum Opinion and Order, supra.

24. Similarly at present we see no need to afford these eligibles special status. The nature of these services and that of public safety operations have not changed over the years. CSEPA entities are already eligible for licensing in the 900 MHZ band. Indeed, a review of license grants and pending applications indicates that filings by CSEPA members account for 50 percent of the 900 MHz records. Moreover, in major cities the filings of CSEPA entities predominate. We anticipate that CSEPA eligibles will be accommodated to a large extent on these frequencies and on the new exclusive frequencies we have now made available on the offsets at 450 MHz. Thus an exclusive allocation in the 900 MHz band would serve no useful purpose but would unjustly burden licensees and applicants in other services who also have legitimate needs to access this spectrum.

25. In view of the foregoing, the Commission finds that it is in the public interest to amend the Rules as proposed. Therefore, it is ordered, pursuant to the authority contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, that Part 90 of the Commission's Rules and Regulations is amended as set forth in the attached Appendix. This action becomes effective November 14, 1984.

26. It is further ordered that this proceeding is Terminated.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Attachment.

Appendix

PART 90—[AMENDED]

The Federal Communications Commission amends 47 CFR Part 90 as follows: Revise § 90.267(a)(6)(ii) and amend the table in § 90.267(b) by revising the entries 460.9125 through 460.9875 and 465.9125 through 465.9875 as follows:

§ 90.267 Assignment and use of 12.5 kHz frequency offsets.

(a) * * *

(6) * * *

(ii) Sea-based stations and stations which operate on frequencies allocated for central station protection operations may utilize antennas mounted not more than 7 m. (20 ft.) above the man-made supporting structure, excluding antenna structures.

* * * * *

(b) Frequencies available for assignment under this section are as follows:

OFFSET CHANNELS AVAILABLE IN SERVICES INDICATED

460.9125	IB	Listed Central Station Protection Services. Limitation: 90.75(c)(27).
460.9375	IB	Do.
460.9625	IB	Listed Central Station Protection Services.
460.9875	IB	Do.
465.9125	IB	Listed Central Station Protection Services. Limitation: 90.75(c)(27).
465.9375	IB	Do.
465.9625	IB	Listed Central Station Protection Services.
465.9875	IB	Do.

[FR Doc. 84-27167 Filed 10-12-84; 8:45 am]
BILLING CODE 6712-01-M

[17] *Memorandum Opinion and Order*, RM-2608, 67 FCC 2d 508 (1978).

Proposed Rules

Federal Register
Vol. 49, No. 200
Monday, October 15, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

Lemons Grown in California and Arizona; Proposed Amendment to Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for proposals and comments.

SUMMARY: This notice seeks proposals and comments with respect to possible revision of rules and regulations issued under this order to permit the shipment of lemons exempt from regulation for the purposes of market development or market research. Such action is designed to expand markets for California-Arizona lemons. Three separate proposals are presented and public comment on these or alternate or additional proposals is invited.

DATES: Comments received by November 5, 1984 will be considered.

ADDRESS: Interested persons may send written comments to the Hearing Clerk, Room 1077–S Building, USDA, Washington, D.C. 20250, where they will be available for inspection during business hours.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: Marketing Order No. 910, as amended (7 CFR Part 910), regulates the handling of lemons grown in Arizona and designated part of California. The marketing order is effective under the Agricultural Marketing Assessment Act of 1937, as amended (7 U.S.C. 601–674).

Currently, all lemons shipped into the domestic fresh market are subject to prorate regulations which attempt, on a weekly basis, to correlate lemon shipments to the current demand for lemons. Recent developments in storage technology, such as the "shrink-wrapping process" of applying a polymer film to individual lemons has resulted in discussions throughout the lemon industry of the need to develop exemptions from these weekly prorate regulations for the purposes of market research and development. Three proposals have been received by USDA–AMS which would exempt certain lemons from regulation under the marketing order for those purposes. The proposals were submitted by the Lemon Administrative Committee; Paul D. Cullen and Jeanne M. Forch, representing a group of California-Arizona lemon growers and handlers; and James A. Moody, representing the Capital Legal Foundation.

The proposal submitted by the Lemon Administrative Committee reads as follows:

Section 910.133 Marketing Research & Development Projects.

Any handler desiring to handle minimum quantities or types of shipments of lemons exempt from regulation pursuant to § 910.80, for the purpose of marketing research and development pursuant to § 910.33, shall submit a written request to the Committee containing a detailed project plan including the following:

(1) The time period of the project, including starting and termination dates.

(2) The total quantity of lemons which will be handled during the course of the project and a schedule showing the estimated amount each week thereof.

(3) A statement concerning whether the project is for the purpose of expanding existing markets or the development of new markets.

(4) A description of the container(s) in which the lemons will be handled.

(5) Detailed information concerning the manner in which the project will be conducted, including the ways in which marketing in such manner differs from existing markets for lemons and an explanation of how marketing lemons as proposed in the project will assist, improve or promote marketing, distribution or consumption of lemons.

(6) A description of the records the handler will maintain showing the handling of lemons pursuant to the project, where such records will be located and consent for the authorized representatives of the Secretary or the Committee to examine such records and make copies at such location, or elsewhere when the records are in the possession of others.

(7) The name and address of all wholesale or retail firms which will receive lemons pursuant to the project and the estimated quantities of lemons each will receive each week. Such information shall be treated as confidential by the Committee staff and representatives of the Secretary and not be disclosed to members of the Committee or others except as authorized by the Secretary or as provided in the Agricultural Marketing Agreement Act.

(8) A statement concerning the objectives of the project and the standards by which the success thereof may be objectively evaluated.

The Committee shall take action on the application within a reasonable period of time, based upon information contained therein and such other relevant information as is available to the Committee, its members or its staff. The application shall be approved, in whole or in part, and may be modified as the Committee deems appropriate, whenever the Committee determines the project will assist, improve or promote the marketing, distribution, or consumption of lemons and adequate safeguards exist so that the exempt lemons handled thereunder will not be marketed contrary to the project plan. The Committee may limit the total quantities of lemons which may be handled exempt from regulation each week or during the entire season or disallow the handling of such lemons to any wholesale or retail firm which has in the past violated a project plan.

The Committee shall promptly notify the applicant in writing of its determination and the basis thereof. If the application is denied, in whole or in part, or modified, the Committee shall inform the applicant of any information not contained in the application relied upon for its decision. The applicant may thereafter request the Committee, within 15 days after receipt of such information from the Committee, to reconsider such application and submit in support thereof such relevant information or documents as the applicant desires.

Lemons handled pursuant to this exemption shall be subject to assessments as provided in Section 910.41. Lemons not handled in the standard 38-pound cartons shall be converted thereto in determining the

amount of assessments owed, and for all other purposes relating to the marketing order.

The Committee may deny an application or terminate an exemption for a project granted hereunder whenever it determines (a) the handler has not adhered to an approved project plan, (b) the marketing of lemons in such manner is an established commercial market, or (c) the prospects of marketing the lemons commercially at a profit in the project manner are so unlikely as to not justify further exemption for the continuation therefor. The Committee shall promptly notify the handler in writing of its decision to deny such application or terminate such exemption, and the reasons thereof. The handler may thereafter request the Committee to reconsider such decision in the same manner as the denial of an application as heretofore provided.

Lemons handled after the handler has been notified that the project has been denied or terminated shall be subject to all provisions of the marketing order, the same as all other non-exempt handling of lemons.

The proposal submitted by Paul D. Cullen and Jeanne M. Forch reads as follows:

Section 910.133 Marketing Research Projects.

(a) Shrink-Wrapped Lemons

(1) Shrink-wrapped lemons are lemons individually encased in polymer film that conforms to the individual lemons by the application of heat, by stretching, or by other means.

2. The handling of shrink-wrapped lemons by individual handlers in amounts not to exceed 10 percent of the total cumulative allotments of each such handler during the 1984–85 growing season shall be exempted from regulation under 7 CFR 910.52; provided, however, that individual handlers must report to the Lemon Administrative Committee on a weekly basis giving the number of lemons shrink-wrapped during the reporting week, the total number of shrink-wrapped lemons held in inventory during the reporting week and the number of shrink-wrapped lemons that the handler proposes to ship during the following week. Proposals to ship shrink-wrapped lemons must be received by the Lemon Administrative Committee not later than noon on the Monday prior to the week during which the handler proposes to ship the shrink-wrapped lemons. Subject to approval of the Secretary, the Committee may recommend a reduction of the amount of shrink-wrapped lemons shipped in any week on a pro-rata basis among the handlers requesting exemption for such week, in order to prevent the total number of shrink-wrapped lemons shipped in commerce during any week from unduly disrupting the orderly marketing of lemons during that week.

3. On or before July 1, 1985, each handler that shipped shrink-wrapped lemons pursuant to this provision shall submit to the Lemon Administrative Committee a non-confidential report including such information as the date the exempted lemons were picked, the date they were wrapped, the length of time they were held in storage, the conditions under which they were shipped, the amount of spoilage that occurred en route and such other non-proprietary information as may be available to evaluate the impact of the shrink-wrapped process on the storage, transportation and sale of lemons.

4. Prior to the end of fiscal year 1984–85, the Lemon Administrative Committee shall meet and evaluate the experience of the industry with regard to: the advantages of shrink-wrapping in prolonging the shelf life of lemons; the effect of the technology on traditional methods of handling lemons, and; developing consumer acceptance of shrink-wrapped lemons in both new and existing channels of distribution. Growers, handlers and other interested affected parties shall have the opportunity to present information at or before such meeting, concerning the use of this exemption during the prior year and the need for continuation of the exemption during the following year. The Lemon Administrative Committee shall then forward its recommendation to the Secretary.

The proposal submitted by James A. Moody reads as follows:

Section 910.180(f) Shrink-wrapped lemons.

(1) *Definition.* Shrink-wrapped lemons are lemons individually encased in polymer film that conforms to the individual lemons by the application of heat so as to preserve the lemon beyond its normal life as a fresh fruit.

(2) The handling of shrink-wrapped lemons shall not be subject to volume or size regulation, except that the quantity handled shall be reported to the committee together with other disposition information on the weekly reports provided for in § 910.170(d).

(3) *Procedures.* Any handler desiring to handle shrink-wrapped lemons shall file a statement with the committee prior to the beginning of his marketing season containing the following information: (1) Name and address of the handler, (2) the estimated volume of shrink-wrapped lemons to be handled during the marketing season, and (3) a certification that the preparation of shrink-wrapped lemons conforms to the definition contained in § 910.180(f)(1).

Interested persons are invited to submit written comments and views on these proposals, modification of the proposals, or submit alternate or additional proposals. Comments or proposals should be received by November 5, 1984.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

(Secs. 1–19, 48 Stat. 31, as amended: 7 U.S.C. 601–674)

Dated: October 11, 1984.

Thomas R. Clark,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 84-27280 Filed 10-12-84; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 1030

[Docket No. AO–361–A22]

Milk in The Chicago Regional Marketing Area; Notice of Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of public hearing on proposed rulemaking.

SUMMARY: This hearing is being held to consider a proposal by three cooperative associations to amend the Chicago Regional milk order on an emergency basis.

The proposal would require reserve supply plants to make minimum shipments to milk bottling plants through February 1985. The proponents contend that the operators of bottling plants are not receiving all of the milk they are ordering because reserve supply plants are not required to ship any milk. Proponents have indicated that they will ask for emergency consideration of these issues at the hearing.

DATE: The hearing will convene at 9:30 a.m. on October 18, 1984.

ADDRESS: The hearing will be held at the Arlington Park Hilton, 3400 Euclid Avenue, Arlington Heights, Illinois 60006, (312) 394–2000.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Diary Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–4829.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

Notice is hereby given of a public hearing to be held at the Arlington Park Hilton, 3400 Euclid Avenue, Arlington Heights, Illinois 60006, beginning at 9:30 a.m., on October 18, 1984, with respect to proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Chicago Regional marketing area.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

Evidence also will be taken to determine whether emergency marketing conditions exist that would warrant omission of a recommended decision under the rules of practice and procedure (7 CFR Part 900.12(d)) with respect to proposal No. 1.

Actions under the Federal milk order program are subject to the "Regulatory Flexibility Act (Pub. L. 96-354). This act seeks to ensure that, within the statutory authority of a program, the regulatory and information requirements are tailored to the size and nature of small businesses. For the purpose of the Federal order program, a small business will be considered as one which is independently owned and operated and which is not dominant in its field of operation. Most parties subject to a milk order are considered as a small business. Accordingly, interested parties are invited to present evidence on the probable regulatory and informational impact of the hearing proposals on small businesses. Also, parties may suggest modifications of these proposals for the purpose of tailoring their applicability to small businesses.

The proponents requested that an emergency hearing be held with three days' minimum notice as provided by the statute. Since proponents have indicated that an emergency situation exists in the market, in that shipments of milk to fluid milk handlers do not meet demand, the Department has concluded that less than 15 days' notice of the hearing is warranted in this proceeding.

List of Subjects in 7 CFR Part 1030

Milk marketing orders, milk, Dairy Products.

The proposed amendments, as set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Associated Milk Producers, Inc., Consolidated Badger Cooperative, and Wisconsin Dairies Cooperative:

Proposal No. 1

1. At the end of § 1030.7(c)(1), add the following:

"* * * except that through the month of February 1985, reserve supply plants must ship to and physically unload into distributing plants defined under paragraph (a) of this section the greater of either five percent of the plant's Grade A receipts pooled for the month or four tanker loads of milk each month from each reserve supply plant. The shipping requirements of this paragraph temporarily applicable through the month of February 1985 for pool reserve supply plants may be increased or decreased by five percentage points by the Director of the Dairy Division if the Director finds a revision is necessary to obtain needed shipments or to prevent uneconomic shipments. Before making a finding, the Director shall investigate the need for revision, either through his own initiative or at the request of interested parties and, if his investigation shows that a revision might be appropriate, he shall issue a notice stating that a revision is being considered, inviting submission of data, views, and arguments. For the purpose of meeting the requirements applicable through February 1985, handlers may form units of reserve supply plants as follows:

(i) Two or more reserve supply plants may form a unit for the purpose of meeting the requirements of this paragraph if the following conditions are met:

(*a*) The reserve supply plants are located in the area specified for reserve supply plants as specified under § 1030.6(b); and

(*b*) Reserve supply plants included in a unit must be fully owned and operated by the handler establishing such unit and such plants were pool plants during the month prior to being included in a unit."

Proposed by the Dairy Division, Agricultural Marketing Service:

Proposal No. 2

Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, Myron R. McKinley, 800 Roosevelt Road, Building A, Suit 200, Glen Ellyn, Illinois 60137, or from the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington D.C. 20250, or may be inspected there.

Copies of the transcript of testimony taken at the hearing will not be available for distribution through the Hearing Clerk's Office. If you wish to purchase a copy, arrangements may be made with the reporter at the hearing.

From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding, the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture
Office of the Administrator, Agriculture Marketing Service
Office of the General Counsel
Diary Division, Agricultural Marketing Service (Washington Office only)
Office of the Market Administrator, Chicago Regional Marketing Area

Procedural matters are not subject to the above prohibition and may be discussed at any time.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Signed at Washington, D.C., on October 11, 1984.

Eddie F. Kimbrell,

Deputy Administrator, Commodity Services.

[FR Doc. 84-27337 Filed 10-12-84; 9:41 am]
BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 21

[Docket No. CE-2, Notice No. 23-ACE-10]

Special Conditions; Soloy Conversions, Ltd., Modified Cessna Model 207 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Special Conditions.

SUMMARY: This notice proposes special conditions as a part of the type

certification basis for the supplemental type certification of Soloy Conversions, Ltd. turbine-powered Cessna Models 207, T207, 207A, and T207A airplanes. These airplanes will have novel and unusual design features with regard to the propulsion system in a single engine airplane for which the applicable airworthiness standards of Part 23 of the Federal Aviation Regulations (FAR) do not contain adequate or appropriate safety standards. This notice contains the safety standards which the Administrator considers necessary to establish a level of safety equivalent to that provided in the regulations for single, reciprocating, engine-powered airplanes.

DATE: Comments must be received on or before November 14, 1984.

ADDRESSES: Comments on this proposal may be mailed or delivered in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, ACE-7, Attn: Rules Docket Clerk, Docket No. CE-2, Room 1558, Federal Office Building, 601 East 12th Street, Kansas City, Missouri 64106. All comments must be marked: Docket No. CE-2. Comments may be inspected in the Rules Docket file between 7:30 a.m. and 4 p.m. weekdays, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: William L. Olson, Aerospace Engineer, Regulations and Policy Office (ACE-110), Aircraft Certification Division, Central Region, Federal Aviation Administration, Room 1656, Federal Office Building, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 374-5688.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of these special conditions by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking further action on this proposal. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this notice, must submit with those comments a preaddressed, stamped postcard on which the following statement is made: "Comments to Docket No. CE-2." The postcard will be date stamped and returned to the commenter. The proposals contained in this notice may be changed in the light of comments received. All comments received will be available both before and after the closing date in the Rules Docket file for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking activity will be filed in the docket.

Type Certification Basis

The type certification basis for the Soloy Conversions Ltd., turbine-powered Cessna Model 207 Series airplanes is as follows: Part 23 of the Federal Aviation Regulations (FAR), effective February 1, 1965 through Amendment 23-6, effective August 1, 1967; Amendment 23-7, §§ 23.937, 23.955, 23.1041, 23.1045, 23.1091, 23.1155, 23.1505, and 23.1527, effective September 14, 1968; Amendment 23-14, §§ 23.173, 23.201, 23.929, and 23.1027, effective December 20, 1973; Amendment 23-15, §§ 23.951, 23.997, 23.1013, 23.1015, and 23.1019, effective October 31, 1974; Amendment 23-16, § 23.335, effective February 14, 1975; Amendment 23-17 §§ 23.175, 23.933, 23.977, 23.1111, 23.1143, 23.1165, and 23.1549, effective February 1, 1977; Amendment 23-18, §§ 23.901, 23.939, 23.943, 23.1093, 23.1121, 23.1141, and 23.1145, effective May 2, 1977; Amendment 23-21, §§ 23.45, 23.49, 23.65, 23.75(d), 23.77, 23.1043, and 23.1521, effective March 1, 1978; Amendment 23-23, §§ 23.629(f), 23.1545, and 23.1557, effective December 1, 1978; Amendment 23-26, §§ 23.253, 23.361, 23.371, 23.903, 23.906, 23.991, 23.1305, and 23.1529, effective October 14, 1980; Part 36 of the FAR, effective December 1, 1969, through Amendment 36-12; Special Federal Aviation Regulation (SFAR) No. 27, effective February 1, 1974, through Amendment 27-2, and any Special Conditions adopted as a result of this notice.

Special conditions may be issued and amended, as necessary, as a part of the type certification basis if the Administrator finds that the airworthiness standards designated in accordance with § 21.17(a)(1) of the FAR do not contain adequate or appropriate safety standards because of novel or unusual design features of the airplane. Special conditions, as appropriate, are issued after public notice in accordance with §§ 11.28 and 11.29(b) of the FAR, effective October 14, 1980, and will become part of the type certification basis, when adopted, in accordance with § 21.17(a) of the FAR.

Background

On September 15, 1983, Soloy Conversions, Ltd., 450 Pat Kennedy Way SW., Olympia, Washington 98502, submitted an application for Supplemental Type Certification of turbine-powered Cessna Model 207 Series airplanes which are single-engine, unpressurized, 7-place, highwing monoplanes. The existing propulsion system is a single, 284-continous-horsepower, reciprocating engine. The airplane's maximum gross takeoff weight is 3800 pounds.

The modification, which is referred to as a Soloy Turbine Pac, includes all items forward of the firewall (powerplant assembly, propeller, and cowling) as well as the necessary airplane changes associated with installing a turbine engine as a replacement for a reciprocating engine (fuel system, cabin heat, and electrical). The new propulsion system consists of a turbine engine, a reduction gear box, a driveshaft with flexible couplings connecting the engine and gear box together, and the structure needed to support these components and connect the assembly to existing engine firewall attach points. This arrangement is similar to installations in turbine-powered helicopters where flight loads are transmitted to the main rotor gear box rather than engine thrust bearings.

The Allison 250-C20S engine used in the Soloy Turbine Pac is rated at 418-shaft-horsepower (SHP) for takeoff and 400-SHP for maximum continuous power. This represents a 40 percent increase in power over the reciprocating engine installation. These power ratings will be available for use as long as the airplane operating limits are not exceeded. The existing airplane operating limits remain unchanged and V_{MO} will be established as equal tothe existing V_{NO}.

This modification of the Cessna Model 207 airplane, which installs a turbine engine substantially forward of the original reciprocating engine location, constitutes a novel or unusual design feature for an airplane type certificated to the airworthiness standards incorporated by reference in the Cessna Model 207 series type certificate, Type Certificate No. A16CE, or under the applicable airworthiness requirements in effect on the date of application for the Supplemental Type Certificate. In 1969 the flutter requirements of § 23.629 of the FAR were revised to include airworthiness standards for turbopropeller engine installations on small multiengine airplanes. Turbopropeller engine installations, being greater in length than reciprocating engine installations, are more critical with regard to mount flexibility. Forward displacement of the propeller, in conjunction with the high rotational speed of the turbine engine

and engine mount flexibility, may result in significant aerodynamic and elastic inertia forces and cause dynamic instabilities which can adversely affect airplane whirl-flutter stability. Turbine engine installations on signle engine airplanes were not envisioned when § 23.629 of the FAR was amended to include a dynamic evaluation of engine-propeller-engine-mount stiffness and damping variations in multiengine airplanes. The mount flexibility in the modified Cessna Model 207 Series appears to be of the same order of magnitude as that on multiengine airplanes with wing mounted engines. Thus, the FAA is of the opinion that these factors and their effect on the structural integrity of the engine mount and airframe should be evaluated with regard to the proposed modification of the Cessna Model 207 Series airplanes.

List of Subjects in 14 CFR Part 21

Aviation safety, Aircraft, Air transportation, and Safety.

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration proposes the following special conditions as a part of the type certification basis for the Soloy Conversions, Ltd., modified Cessna Model 207, T207, 207A, and T207A airplanes, as modified by installation of the Soloy Turbine Pac and a Hartzel three-blade propeller.

Dynamic Evaluation, Engine Installation

In addition to the requirements in § 23.629 of the FAR, the dynamic evaluation of the airplane must include:

1. Whirl mode degree of freedom which takes into account the stability of the plane of rotation of the propeller and significant elastic, inertial, and aerodynamic forces, and

2. Engine-propeller-engine-mount stiffness and damping variations appropriate to the particular configuration.

(Sec. 313(a), 601 and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); 49 U.S.C. 106(g) (revised, Pub. L. 97-449, January 12, 1983); and §§ 11.28 and 11.29(b) of the Fedeal Aviation Regulations (14 CFR 11.28 and 11.29))

Issued in Kansas City, Missouri on September 28, 1984.

Murray E. Smith,

Director, Central Region.

[FR Doc. 84-27133 Filed 10-12-84; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 23

[Docket No. 24191; Notice No. 84-12A]

Standardization of Cockpit Controls for Small Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Extension of Comment Period.

SUMMARY: This notice extends the comment period for Notice 84-12 (49 FR 32300, August 13, 1984). Notice 84-12 proposed to amend Part 23 of the Federal Aviation Regulations (FAR) to require standardization of cockpit controls including aerodynamic, powerplant, fuel system, and auxiliary controls.

By letter dated September 17, 1984, the General Aviation Manufacturers Association (GAMA) requested an extension of the comment period on Notice 84-12 from October 12, 1984, to November 12, 1984. GAMA cited the Small Airplane Airworthiness Review Conference scheduled for October 22 to 26, 1984 as a supporting reason for the extension of the comment period. The FAA has determined that extension of the comment period would be in the public interest.

DATE: Comments on Notice 84-12 must be received on or before November 12, 1984.

ADDRESSES: Comments on Notice 84-12 may be mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Docket No. 24191, 800 Independence Avenue, SW., Washington, D.C. 20591, or delivered in duplicate to: Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591. Comments delivered must be marked Docket No. 24191. Comments may be inspected in Room 916 between 8:30 a.m. and 5:00 p.m. on weekdays, except on Federal holidays. In addition, the FAA is maintaining an information docket of comments in the Office of Regional Counsel (ACE-7), FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106. Comments in the information docket may be inspected in the Office of Regional Counsel weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: John H. Griffith, Regulations and Policy Office (ACE-110), Aircraft Certification Division, Central Region, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 374-5688.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specied above will be considered by the Administrator before taking further rulemaking action. Commenters wishing the FAA to acknowledge receipt of comments submitted in response to this notice must include a preaddressed, stamped postcard on which the following statement is made: "Comments to Docket No. 24191." The postcard will be date stamped and returned to the commenter. All comments received will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice and Notice 84-12 by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attn: Public Information Center (APA-430), 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on the mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

The National Transportation Safety Board (NTSB) has issued several safety recommendations on standardization of cockpit controls. GAMA indicated that they supported these recommendations and proposed revisions to §§ 23.777 through 23.781 of the FAR to standardize cockpit controls.

On August 13, 1984, the FAA issued Notice 84-12 [49 FR 32300]. This notice proposed standization of cockpit controls for all small airplanes, including aerodynamic, powerplant, fuel system, and auxiliary controls.

GAMA has requested an extension of the comment period to permit discussions on proposals they submitted for the Small Airplane Airworthiness

Review that are described as closely related but wider in scope. GAMA contends that public comments at the Review Conference to these items would be very useful to all commenters interested in evaluating Notice 84–12. The FAA agrees that discussions at the Conference may give commenters the opportunity to submit more comprehensive comments to the docket on Notice 84–12.

Extension of Comment Period

In consideration of the GAMA request, the FAA concludes that extending the comment period for an additional 30 days would be in the public interest. Accordingly, the comment period for Notice 84–12 is hereby extended to November 12, 1984.

Conclusion

This document extends the comment period on a notice of proposed rulemaking. Therefore, I certify that this document is not a major rule under Executive Order 12291 or significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and that it will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

(Sections 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); and 49 U.S.C. 106(g) (revised, Pub. L. 97–449, January 12, 1983))

Issued in Kansas City, Missouri on October 2, 1984.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 84–27136 Filed 10–12–84; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 84–ANM–21]

Proposed Establishment of Transition Area, Hailey, ID

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish a transition area at Hailey, Idaho. The intended effect of the proposed action is to provide controlled airspace from 1,200 feet above the surface for aircraft executing a new instrument approach procedure to Friedman Memorial Airport, Hailey, Idaho.

DATES: Comments must be received on or before December 14, 1984.

ADDRESSES: Send comments to: Manager Airspace & Procedures Branch, ANM–530, Federal Aviation Administration, Docket No. 84–ANM–21, 17900 Pacific Highway South, C–68966, Seattle, WA 98168.

The official docket may be examined in the Regional Counsel Office at the above address.

Also, an informal docket may also be examined during normal business hours at the same address.

FOR FURTHER INFORMATION CONTACT:

Kathy Paul, Airspace Technician, ANM–535, (206) 431–2530.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 84–ANM–21." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Airspace & Procedures Branch, 17900 Pacific Highway South, Seattle, WA 98168, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Airspace & Procedures Branch, at the address previously listed. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which described the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to provide controlled airspace for the benefit of aircraft conducting instrument flight rules (IFR) activity. Section 71.181 of Part 71 of the Federal Aviation Adminstration Regulations was republished in Handbook 7400.6 dated January 3, 1984.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Transition areas/Aviation safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Hailey, Idaho (new)

"That airspace extending from 1,200 feet above the surface from 43°36'00" N/114°27'00" W, thence eastbound to 43°36'00" N/114°00'00" W, thence southbound to 43°17'30" W, thence westbound to 43°17'30" N/114°27'00", thence northbound to the point of beginning; and excluding that airspace overlying V–231 on the east side and V–500 on the south side of the area."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1.354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983)); and 14 CFR 11.65)

Issued in Seattle, Washington, on October 5, 1984.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 84–27134 Filed 10–12–84; 8:45 am]

BILLING CODE 4910–13–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34-21387; File No. S7-27-84]

Extension of Comment Period for Concept Release Concerning Possible Legislation To Improve the Commission's Ability To Investigate and Prosecute Persons Who Purchase or Sell Securities in the U.S. Markets From Other Countries

AGENCY: Securities and Exchange Commission.

ACTION: Notice of Extension of Comment Period.

SUMMARY: The SEC is extending the period for comments concerning the possible legislation to improve the Commission's ability to investigate and prosecute persons who purchase or sell securities in the U.S. markets from other countries. The comment period concerning the waiver by conduct concept is extended until December 1, 1984.

DATE: Comments are due on or before December 1, 1984.

ADDRESS: Persons wishing to submit comments should file three copies with Shirley E. Hollis, Acting Secretary, Securities and Exchange Commission, Washington D.C. 20549. All comments should refer to File No. S7-27-84 and will be available for public inspection and copying at the Commission's Public Reference Room.

FOR FURTHER INFORMATION CONTACT: John M. Fedders (202) 272-2900, Frederick B. Wade (202) 272-2214, or Michael D. Mann (202) 272-2315, or write the Office of Chief Counsel, Division of Enforcement, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: On July 30, 1984, the Commission issued a concept release requesting comments on a legislative proposal to address problems it encounters in investigations and enforcement actions involving persons who purchase or sell securities in the U.S. markets from foreign countries, particularly when such transactions are effected through institutions and nations with secrecy laws [Securities Exchange Act Release No. 21186; File No. S7-27-84]. Comments were required to be received on or before November 1, 1984.

The Commission has determined that a 30 days extention of time for comments to be received on the "waiver by conduct" concept is warranted and hereby extends such comment period until December 1, 1984.

On December 1, 1984 the Commission staff will process to analyze the written comments received and thereafter propose action to the Commission.

List of Subjects in

18 CFR Part 240

Securities.

Dated: October 9, 1984.

By the Commission.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-27132 Filed 10-12-84; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 201

[Docket No. 84N-0239]

Open Meeting; Public Discussion on Draft Guideline for Veterinary Prescriptions and Other Orders; Extension of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Extension of comment period on draft guideline.

SUMMARY: The Food and Drug Administration (FDA) is extending the period for submitting comments on the draft guideline for the dispensing of prescription veterinary drugs. FDA has received a request to extend the comment period and is granting an additional 90 days for comment.

DATE: Comments by December 31, 1984.

ADDRESS: Written comments should be submitted to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Gary Dykstra, Center for Veterinary Medicine (HFC-201), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3400.

SUPPLEMENTARY INFORMATION: In the Federal Register of July 26, 1984 (49 FR 30078), FDA published the "Draft Guideline for the Dispensing of Prescription Veterinary Drugs" and announced an open meeting to be held August 22, 1984, at which interested persons could discuss the draft guideline. The notice also provided for the submission of written comments by September 30, 1984.

Animal Health Institute (AHI) has requested that FDA extend the comment period for 90 days. AHI wants to discuss the draft guideline with member companies and develop substantive comments to submit to FDA.

After carefully evaluating the request, FDA has concluded that an extension of 90 days is appropriate to provide adequate time to prepare responses to the notice. FDA recognizes the significance of the issues involved in this matter and wishes to ensure that all interested persons have a fair amount of time for comment. Therefore, FDA has concluded that the comment period should be extended until December 31, 1984.

Interested persons may, on or before December 31, 1984, submit to the Dockets Management Branch (address above) written comments regarding the draft guideline. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 9, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-27102 Filed 10-12-84; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 203

[Docket No. R-84-1206; FR-1742]

Mutual Mortgage Insurance and Rehabilitation Loans; Expanding Eligibility of Mortgages Involving a Dwelling Unit in a Cooperative Housing Development

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: This rule would permit units in cooperative housing developments not covered by an FHA-insured blanket mortgage to qualify for mortgage insurance if construction on the project was completed at least one year before application for unit mortgage insurance. This rule would also remove requirements for certain waivers of the rights by cooperative housing

corporations in connection with FHA-insured mortgages involving cooperative units and the requirement limiting the term of a cooperative unit mortgage to the remaining term of the blanket mortgage on the cooperative development, and would make other miscellaneous changes.

DATE: Comment due by December 14, 1984.

ADDRESS: Interested persons are invited to send written comments to the Rules Docket Clerk, Office of the General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Persons submitting comments should include their names and addresses and refer to the docket number and title indicated in the heading of this rule. All comments submitted will be available for public inspection in the Office of the Rules Docket Clerk at the above address, during business hours.

FOR FURTHER INFORMATION CONTACT: Brian Chappelle, Acting Director, Single Family Development Division, Department of Housing and Urban Development, Room 9270, 451 Seventh Street, SW., Washington, D.C. 20410, Telephone: (202) 755-6720 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The following is a summary and explanation of the proposed amendments.

Section 203(n) of the National Housing Act authorizes the Secretary to insure mortgages involving dwelling units in cooperative housing projects. Before enactment of the Housing and Urban-Rural Recovery Act of 1983 (Pub. L. 98-181, approved November 30, 1983) (the 1983 Act), this authority was limited to units in projects with blanket mortgages insured under the National Housing Act. Section 419 of the 1983 Act amended Section 203(n) to permit the Secretary to insure mortgages on units in a cooperative which does not have an FHA-insured blanket mortgage, where construction of the project was completed at least one year before the application for unit mortgage insurance. The regulations governing eligibility of cooperative units for mortgage insurance are contained in 24 CFR 203.43c.

Nonprofit Corporation

Before the 1983 Act, section 203(n) limited FHA insurance to unit mortgages in nonprofit cooperative corporations. Section 419(2) of the 1983 Act amended section 203(n) to permit the insurance of unit mortgages in for-profit cooperative corporations. No changes are needed in the regulations to implement this change.

Definition/Mortgage Requirements

The definition section would be reorganized to place terms in alphabetical order. The definition of "Coporation" in § 203.43c(b)(2) would be amended to include a cooperative housing development not covered by an FHA-insured blanket mortgage where construction on the project has been completed for at least one year. This amendment implements section 419(1) of the 1983 Act. A conforming amendment would also be made to § 203.43c(f).

A new definition of "Fair Market Value" would be included, based on current HUD practice for Secretary-owned single family properties. Fair Market Value would be the amount a HUD-approved appraisor determines a property to be worth based on sales prices for comparable properties.

A new definition of "Financially Capable Buyer" would be included as a purchaser able to qualify for mortgage insurance, whether or not mortgage insurance is sought.

Organizational Documents

Section 203.43c(c) currently contains six required items which must be included in the cooperative's organizational documents relating to the Secretary's rights to participate in the cooperative corporation and responsibilities owed the corporation on a Secretary-owned Corporate Certificate relating to a unit (i.e., stock, membership certificates or other instruments evidencing ownership of a specified interest in the cooperative corporation). Paragraph (c)(1) requires the Secretary or mortgagee to be a member of the cooperative as long as either owns a Corporate Certificate. Paragraph (c)(2) requires that the insured mortgage be a first lien on the property. Paragraphs (c)(3) and (4) state that the Secretary may vote his or her interest with respect to Secretary-owned Certificates at corporation meetings or nominate a proxy to do so. Paragraph (c)(5) permits the Secretary to stop making payments attributable to a Secretary-owned Certificate for a unit six months after notifying the corporation to sell the unit's Corporate Certificate or upon default in the project's blanket mortgage. Paragraph (c)(6) states that neither the Secretary nor a mortgagee is responsible for amounts due the corporation by a mortgagor before the Secretary or mortgagee becomes the owner of the Certificate.

Because the 1983 Act expands eligibility for unit mortgage insurance to projects without insured blanket mortgages, a new paragraph (7) at the end of paragraph (c) would be added to permit an existing cooperative's organizational documents to meet these requirements without amendment where: (1) The organizational documents do not prohibit the Secretary or mortgagee from exercising rights under paragraph s (c)(1), (3) and (4); and (2) the organization signs an agreement with the Secretary which states that the requirements of paragraphs (c)(2), (5) and (6) shall apply to the cooperative and that they supersede any contrary provision in the organizational documents. Only one such agreement need be signed with respect to any project.

Finally § 203.43c(c)(4) would be revised to eliminate a gender-specific reference.

Financial Statement

The § 203.43c(d)(1) requirement for filing a financial statement would be expanded for the insurance of mortgages on units in projects which do not have an FHA-insured blanket mortgage. The Department receives information concerning such items as the operating budget, reserves and occupancy rates for projects with FHA-insured blanket mortgages, but not for other projects. This information enables the Department to assess the potential risk of loss from insuring mortgages in individual units.

Rights of the Corporation

Section 203.43c currently has two requirements which, in HUD's view, adversely affect the success of the section 203(n) program and are thwarting the intent of the legislation. The first is the requirement in § 203.43c(d)(2) that the corporation must waive any option or right of first refusal it may have to purchase any Corporate Certificate covered by a mortgage insured under section 203(n) unless the corporation pays the full amount due under the mortgage or pays the full amount of the Secretary's investment if the Secretary is the owner of the Corporate Certificate, whichever is greater. Purchase of the mortgage would usually require the corporation to assess stockholders or members for this purpose. This increases the risk not only on any other FHA-insured unit mortgages in the cooperative but also on any FHA-insured blanket mortgage, since any additional demands on the mortgagors' incomes would reduce their ability to meet mortgage payments. This requirement also serves to discourage cooperatives with FHA-insured blanket mortgages from making FHA insurance

available for share or membership purchases.

The present language of § 203.43c(d)(3) requires that (except as approved by HUD) the corporation waive all authority it may have to approve or reject the buyer of a Corporate Certificate owned by the Secretary or the buyer of a Corporate Certificate covered by a mortgage insured under section 203(n). While the Secretary may waive this requirement, consideration of whether to grant a waiver is staff-intensive, delays mortgage processing and is unduly burdensome for the corporation. If not waived, this provision denies the corporation the option of reviewing the creditworthiness of the prospective buyer or the ability of a buyer to meet the responsibilities of owning stock in the cooperative.

The proposed rule would amend and consolidate § 203.43c (d)(2) and (d)(3) to restrict any rights a cooperative corporation may have to exercise any option to purchase, and, in addition, any right of first refusal to purchase, any Corporate Certificate owned by the Secretary, or to reject a financially capable buyer proposed by the Secretary. The proposed rule would also permit the corporation to designate a buyer to exercise its rights in the case of a Secretary-owned Corporate Certificate. These modifications are intended to address the problems hampering full participation in the cooperative insurance program.

As a condition of exercising an option to purchase or a right of first refusal to purchase or to reject a financially capable buyer of a Secretary-owned Corporate Certificate, the corporation must pay the fair market value of the property or if the Secretary has proposed a purchaser, the amount the purchaser is willing to pay. As a further condition of exercising such rights, a corporate officer must certify at the time of commitment that these rights will: (1) Be exercised and closing consummated within 30 days after notice of the availability of such Certificates or of a prospective purchaser, as appropriate and (2) not be exercised for the purpose of unlawful discrimination.

While the current rule imposes restrictions on the cooperative corporation's exercise of these rights from the time of commitment, this rule would impose limits on the cooperative's powers only where the mortgage is foreclosed and title conveyed to the Secretary. Thus, for example, in any instance where the Secretary has proposed a financially capable buyer willing to purchase, the corporation may not reject that buyer until it has purchased the Secretary's interest in the unit at the agreed price to that buyer. This is necessary protection to the Secretary who would otherwise be required to maintain the property at taxpayer expense until a buyer satisfactory to the corporation were located. (The right to reject a purchaser includes, of course, the corresponding right to approve.) The cooperative corporation is free, therefore, to exercise its rights over a Certificate with an FHA-insured mortgage to the same extent as it exercises over other Certificates until title to the Certificate is transferred to the Secretary.

The proposed rule, therefore, attempts to strike a balance between: (1) The need of the corporation to assure the financial stability of the cooperative through review of the purchaser's ability to afford common expenses; and (2) the Secretary's responsibility to limit losses to the insurance fund by disposing of acquired Certificates as quickly as possible.

Proposed paragraph (d)(3) would require the agreement between the Secretary and the cooperative to state that, where an option to purchase or right of first refusal to purchase or right to reject a buyer of a Secretary-owned Certificate is not exercised and closing consummated within 30 days after notice by the Secretary of the availability of the Certificate or identity of a prospective purchaser, the right to purchase or right of first refusal to purchase or reject the buyer will lapse. The addition of these requirements insures that the cooperative corporation may not disrupt any transfer or sale by failing to act promptly or responsibly.

Comments are invited on the suitability of these provisions for limited equity cooperatives.

Finally, § 203.43c (d)(4) and (i) would be revised to eliminate a gender-specific reference.

Term of Mortgage

The rule also proposes to modify the limitation on the term of the individual mortgage. Section 203.43c(h)(4) now states that any mortgage insured under section 203(n) must be for a term not to exceed 30 years, or the remaining term of the blanket mortgage covering the cooperative development, or three-quarters of the remaining economic life of the building improvements, whichever is the least. The provision limiting the term of the mortgage to the remaining term of the blanket mortgage or to three-quarters of the remaining economic life of the building improvements, whichever is shorter, is unduly restrictive and does not serve to protect the security either of the blanket mortgage or of any other HUD-insured unit mortgages in the cooperative.

While the statute provides that an insured unit mortgage may be in a project having an insured blanket mortgage, there is no requirement that the term of the blanket mortgage match or exceed the mortgage term for the individual unit's mortgage. There is also no statutory requirement to limit mortgage maturity to three-quarters of the remaining economic life of the improvements. The present limitations on the term of the unit mortgage weaken the security of the blanket mortgage in cooperatives having a shorter mortgage term. The higher mortgage payments on the shorter term loan put purchase beyond the reach of many potential buyers. The proposed rule would remove this limitation, whether or not there is a blanket mortgage, but retain the same limits on mortgage term as are generally used in section 203(b): a term not to exceed 30 years.

Documents to Accompany Application

Section 203.43c(l) would contain several technical, clarifying amendments and one new substantive requirement. Present paragraph (l) would be redesignated as paragraph (l)(1). The current requirement in paragraph (l) to forward a copy of the corporation's regulatory agreement would be amended to cover only projects with HUD-insured blanket mortgages and would become paragraph (l)(1)(ii). A regulatory agreement is not required for conventionally financed projects.

The provision authorizing the Secretary to waive the document submission requirements would be modified to provide that the documents need not be submitted if the Secretary has previously approved them and the application so states, indicating the date of approval. This would avoid the necessity for a case-by-case approval. If the cooperative corporation were to modify any of the documents after their earlier approval, resubmission and approval would be required.

A new paragraph (l)(2) would be added to require the lender to submit a certified statement from a registered professional architect or engineer describing the present condition of all structural and mechanical components of a project without an FHA-insured blanket mortgage. The statement would not be required for projects with FHA-insured blanket mortgages since HUD inspects these projects annually. Since the Department may now insure unit mortgages in a project which does not have an FHA-insured blanket mortgage

(including conversions to cooperative developments), the Department believes that such an evaluation should be performed to minimize risk to the insurance funds.

Assignment

Section 203.437(f) would be amended to make mandatory the acceptance of the assignment of mortgages insured under section 203(n) if the FHA-insured blanket mortgage is in default and foreclosure has been completed and the property conveyed to the Secretary. The current rule permits the Secretary to accept assignment, if it is in the Department's interest, where the blanket mortgage is in default and the mortgagee has announced an intention to foreclose. This rule is ambiguous and difficult for lenders and HUD to apply. In order to assure lenders of what circumstances would trigger assignment, the rule would eliminate Secretarial discretion and provide for assignment whenever foreclosure of the FHA-insured blanket mortgage has been completed and the property conveyed to the Secretary.

The Department would not accept assignment of an insured unit mortgage in the event of foreclosure on a blanket mortgage which is not FHA-insured. As the insurer of a blanket mortgage, HUD is authorized to assume ownership and control of the cooperative's assets. For non-FHA-insured projects, HUD would have no such authority. Given this lack of authority to protect the Secretary's interest, the Department believes it would be contrary to the public interest to accept such assignments.

Findings

This proposed rule does not constitute a "major rule" as that term is defined in Section 1(b) of Executive Order 12291 on Federal Regulation issued by the President on February 17, 1981. Analysis of the proposed rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implements Section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection during regular business hours at the Office of the Rules Docket Clerk, at the above address.

Pursuant to 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule would not have a significant economic impact on a substantial number of small entities because it merely expands the type of cooperative unit mortgages eligible for HUD insurance to include units in non-HUD-insured projects and makes the overall program more feasible.

This rule was listed under the Office of Housing at 49 FR 15913 (Item No. 40) in the Department's Semiannual Agenda of Regulations published on April 19, 1984 (49 FR 15918), pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance program number is 14.163—Mortgage Insurance—Cooperative Financing (203(n)).

List of Subjects in 24 CFR Part 203

Home improvement, Loan programs—Housing and community development, Mortgage insurance, Solar energy.

The collection of information requirement contained in this rule has been submitted to the Office of Management and Budget for review under section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Please send any comments regarding the collection of information requirement(s) to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, Attention: Desk Officer for HUD.

Accordingly, HUD proposes to amend 24 CFR Part 203 as follows:

PART 203—MUTUAL MORTGAGE INSURANCE AND REHABILITATION LOANS

1. Section 203.43c is proposed to be amended by adding a new paragraph (c)(7) and by revising paragraphs (b), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), (f), (h)(4), (i), and (l) as follows:

§ 203.43c Eligibility of mortgages involving a dwelling unit in a cooperative housing development.

* * * * *

(b)(1) As used in this section and § 203.437:

(i) "Corporate Certificate" shall mean such stock certificates, membership certificates, or other instruments which the laws of the jurisdiction in which the cooperative housing development is located require to evidence ownership of a specified interest in the corporation.

(ii) "Corporation" shall mean an organization which holds title to:

(A) A cooperative housing development which is covered by a blanket mortgage or mortgages insured by FHA under the National Housing Act, or

(B) A cooperative housing development the construction of which has been completed at least one year before the application for mortgage insurance.

(iii) "Fair Market Value" shall mean the amount an appraiser designated by HUD determines a property to be worth based on sales prices for comparable properties.

(iv) "Financially Capable Buyer" shall mean a buyer able to qualify for mortgage insurance, whether or not mortgage insurance is sought.

(v) "Mortgage" shall mean a first lien given to secure a loan made to finance the purchase of a Corporate Certificate together with the applicable Occupancy Certificate of a cooperative ownership housing corporation in which the permanent occupancy of the dwelling units is restricted to members of such corporation.

(vi) "Occupancy Certificate" shall mean a written instrument provided by the corporation to each holder of a Corporate Certificate which grants an exclusive right of possession of a specific dwelling unit in the cooperative housing development.

(2) References in this subpart to a dwelling, residence or property which is sold, conveyed, covered by a mortgage or subject to a lien shall be construed to mean the Corporate Certificate together with the Occupancy Certificate, except that where such references when interpreted in light of section 203(n) of the National Housing Act clearly indicate the intent to be the dwelling unit, such reference shall mean the dwelling unit identified in the Occupancy Certificate.

* * * * *

(C) * * *

(4) The Secretary may designate as a proxy an agent for the purpose of exercising the voting rights of the Secretary which are attributable to the Corporate Certificate or Certificates owned by the Secretary;

* * * * *

(7) The organizational documents of an existing cooperative corporation which is not covered by an FHA-insured blanket mortgage shall be considered to meet the requirements of paragraphs (c)(1), (3), and (4) of this section if the documents do not prohibit the Secretary or mortgagee, as appropriate, from

exercising the rights specified in those paragraphs. For these documents to meet the requirements of paragraphs (c)(2), (5), and (6) of this section, the cooperative corporation must execute an agreement with the Secretary stipulating that these requirements apply to the cooperative corporation and that they supersede any provision to the contrary in the organizational documents.

* * * * *

(D) * * *

(1) Requires that the corporation shall furnish the Secretary with the most recent annual financial report certified to have been based on generally accepted accounting principles and the most recent monthly or quarterly financial report. For projects which do not have an FHA-insured blanket mortgage, the report shall include a description of the operating budget, the replacement and operating reserve account, the type and term of the blanket mortgage, the corporation's eligibility status under section 216 of the Internal Revenue Code, and the current occupancy/vacancy status of the project.

(2) Restrict any rights the corporation (or a purchaser designated or approved by it) may have to exercise any option to purchase, and, in addition, any right of first refusal to purchase, any Corporate Certificate owned by the Secretary, or to reject a financially capable buyer proposed by the Secretary to those situations where:

(i) The corporation (or a purchaser designated or approved by it) pays the fair market value of the Certificate or if the Secretary has proposed a purchaser, the amount the purchaser has agreed to pay; and

(ii) A corporate officer certifies, at the time of application for insurance commitment for a section 203(n) mortgage, that any option or right of first refusal to purchase a Corporate Certificate or right to reject a buyer held by the corporation or other party designated by the corporation to exercise its rights:

(A) Will be exercised and closing consummated within 30 days after notice by HUD to the corporation of availability of the Certificate or of a prospective financially capable buyer; and

(B) Will not be exercised for purposes of unlawful discrimination.

(3) Provides that any option to purchase or right of first refusal to purchase a Certificate or right to reject a prospective buyer the corporation may have with respect to Secretary-owned Corporate Certificates under paragraph (d)(2) will lapse if not exercised and closing consummated within 30 days after notice by HUD of the availability of the Corporate Certificate or of a prospective finanaially capable buyer.

(4) Requires the corporation on notice by HUD to act as the Secretary's agent for a fee to be determined by HUD for the limited purposes of:

(i) Selling all Corporate Certificates of the corporation owned by the Secretary;

(ii) Renting and collecting rents on any dwelling unit for which the Secretary owns the Corporate Certificate.

* * * * *

(f) The mortgage involves a one-family dwelling unit in a cooperative housing development which is covered by a blanket mortgage or mortgages insured under the National Housing Act, or a cooperative housing development the construction of which has been completed at least one year before the application for mortgage insurance.

* * * * *

(h) * * *

(4) Be for a term not to exceed 30 years.

* * * * *

(i) The entire principal amount of the mortgage must have been disbursed to the mortgagor or to his or her creditors for the mortgagor's account and with the mortgagor's consent.

* * * * *

(l)(1) The mortgagee shall, upon application for a mortgage insurance commitment, provide true copies of the following organizational documents of the cooperative corporation for examination and approval by the appropriate HUD Field Office:

(i) Certificate of Incorporation;

(ii) Regulatory Agreement, in the case of cooperative housing developments with a blanket mortgage or mortgages insured by FHA;

(iii) By-Laws, as amended;

(iv) The financial statements required in paragraph (d)(1) of this section;

(v) Proposed Occupancy Certificate;

(vi) Proposed Corporation Certificate;

Provided that one or more of the documents required by this paragraph need not be submitted if the documents have been approved by the Secretary and the application so states, indicating the date of approval.

(2) For projects which do not have an FHA-insured blanket mortgage, the mortgagee shall submit, along with the items listed in paragraph (l)(1) of this section, a certified statement from a registered professional architect or engineer describing the present condition of all structural and mechanical components of the project. The statement must describe: (i) The structural integrity of the project and the condition and remaining useful life of the major project components—such as heating and cooling systems, plumbing, electrical systems, elevators, boilers, and roofs; (ii) the average estimated yearly cost of repairs or replacement of such systems over the next 10 years; and (iii) the schedule of improvements in the case of a conversion to a cooperative project. Any such statement submitted by the mortgagee shall be valid for three years for any application for mortgage insurance or any other Corporate Certificates in connection with the same project. However, the mortgagee shall notify the Secretary at the time application for mortgage insurance of any defects or other factors related to the statement of which the mortgagee has become aware since the most recent certified statement.

2. In § 203.437 paragraph (f) is proposed to be revised as follows:

§ 203.437 Mortgages involving a dwelling unit in a cooperative housing development.

* * * * *

(f) In addition to any other obligations of the Secretary to accept assignment of a mortgage, the Secretary will accept assignment of insured unit mortgages under this part where the FHA-insured blanket mortgage on the project is in default and foreclosure has been completed.

Authority: Secs. 203 and 211 of the National Housing Act (12 U.S.C. 1709, 1715d); Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d))

Date: September 13, 1984.

Maurice L. Barksdale,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 84-27145 Filed 10-12-84; 8:45 am]

BILLING CODE 4210-27-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 67

[CC Docket Nos. 78-72 and 80-286]

MTS and WATS Market Structure; and Amendment of the Commission's Rules and Establishment of a Joint Board

AGENCY: Federal Communications Commission.

ACTION: Order changing date for completion of Joint Board recommendations.

SUMMARY: The Commission is changing the date for completion of Joint Board recommendations on end user access

charge issues from November 15 to November 30, 1984. This is being done to allow more time for consideration of supplemental filings on these and other related issues. This will facilitate the Commission's decision-making process.

DATE: The Joint Board is to submit its recommendations concerning end user access charge issues to the Commission by November 30, 1984.

ADDRESSES: Federal Comunications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Claudia Pabo or William Kirsch of the Common Carrier Bureau at (202) 632–6363.

Order

In the matter of MTS and WATS market structure (CC Docket No. 78–72) and amendment of Part 67 of the Commission's Rules and establishment of a Joint Board (CC Docket No. 80–286).

Adopted: September 28, 1984.
Released: October 2, 1984.

By the Chief, Common Carrier Bureau.

1. In its March 30, 1984 *Further Notice of Proposed Rulemaking* in this proceeding, the Commission requested comments on: (1) subscriber line charges for residential and single line business subscribers; (2) the transition mechanism for implementing subscriber line charges for these subscribers; (3) a life-line exemption or other assistance for low income subscribers; and (4) additional assistance for small telephone companies. At the same time, the Commission asked the existing Joint Board in CC Docket No. 80–286 to prepare recommendations concerning these issues. In order to allow Commission action on these issues in December 1984, the Commission asked the Joint Board to complete its recommendations no later than November 15, 1984. [1] *MTS and WATS Market Structure*, CC Docket No. 78–72; *Amendment of Part 67 of the Commission's Rules*, CC Docket No. 80–286, 49 FR 18318, at paras. 1–7, (April 30, 1984).

2. In light of recent decisions to supplement the record on these issues and related matters, we believe that the Commission's decision-making processes would be facilitated by a change in the date for Joint Board action to November 30, 1984. This will allow an opportunity for more complete consideration of: (1) Comments on the letter from the National Association of Regulatory Utility Commissioners providing further details concerning the St. Louis resolution (a proposal for unified access charge tariffs filed with the state commissions subject to federal guidelines); [2] and (2) comments on the materials previously filed with the Commission concerning bypass of the local exchange. [3]

3. According, it is ordered, That the Joint Board shall submit its recommendations concerning end user access charge issues to the Commission no later than November 30, 1984. [4]

Federal Communications Commission.

Jack D. Smith,

Chief, Common Carrier Bureau.

[FR Doc. 84–27159 Filed 10–12–84; 8:45 am]

BILLING CODE 6712–01–M

[1] The Commission stated that if it did not receive input from the Joint Board by November 15, 1984, it would have to proceed without the benefit of the Joint Board's views in order to comply with the previously announced schedule for action in CC Docket No. 78–72.

[2] Public Notice, "Commission Seeks Comments on National Association of Regulatory Utility Commissioners (NARUC) Response to Common Carrier Bureau Questions on the St. Louis Resolution," September 19, 1984.

[3] Public Notice, "Request for Comments on Bypass Studies," September 21, 1984.

[4] This action is taken pursuant to sections 4(i) & (j), 221(c) and 410 of the Communications Act, 47 U.S.C. 154(i) & (j) 21(c) and 410 as amended. Authority to take this action is delegated to the Chief, Common Carrier Bureau by §§ 0.91 and 0.291(h) of the Commission's Rules, 47 CFR 0.91 & 0.291(h).

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47 CFR Part 81

[PR Docket No. 84–938; FCC 84–468]

Maritime Accounting Procedures

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes rule amendments concerning accounting procedures for public coast stations in the Maritime Services. The purpose of this proposal is to implement internaional accounting requirements in the rules. The effect of the proposed amendments is to establish internationally recongnized accounting procedures in the United States.

DATES: Comments must be received on or before November 13, 1984 and reply comments must be received on or before November 28, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Robert P. DeYoung, Private Radio Bureau, (202) 632–7175.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 81

Coast stations, Telegraph, Telephone.

Notice of Proposed Rulemaking

In the matter of maritime accounting procedures (PR Docket No. 84–938).

Adopted: September 28, 1984.
Released: October 4, 1984.

By the Commission.

1. The 1979 World Administrative Radio Conference (79 WARC) changed the procedures governing accounting practices in the Maritime Mobile Service and the Maritime Mobile-Satellite Service. That Conference repealed former Articles 38, 39, 40 and 40A in Chapter IX Of The International Radio Regulations and replaced them with a new Article 66. The effect of these changes is to supersede a detailed description of accounting in the Radio Regulations with Article 66 which states the requirements generally. [1] Detailed accounting provisions are now contained in CCITT Recommendations.

2. The ITU publishes an international List of Coast Stations which all ships compulsorily fitted with radiotelegraph are required to carry. By consulting this list, a vessel can determine the location of a coast station, its operating frequencies and hours of service. Under Araticle 66 and CCITT Recommendations a vessel will also expect any coast station in the list to accept international Accounting Authority Identification Cods for billing and accounting purposes for either telegraph or telephone messages. Historically, some U.S. coast stations have provided in their trariffs that vessels must open an individual account with those coast stations prior to obtaining service. Often these tariffs require payment of a subscriber fee or security deposit and use of a local account identifier. Because ships expect coast stations listed in the international List of Coast Stations to accept international Accounting Authority Identification Codes, stations which do not do so should not be included in the international List of Coast Stations.

3. Repeated complaints have come to the Commission from foreign administrations that some U.S. coast stations are not complying with hese new procedures. These administrations

[1] Article 66 of the Radio Regulations now provides for accounting authorities (Nos. 5086 through 5091); accounting procedures (Nos. 5092 through 5099); payment of balances (No. 5100); and archives (No. 5101 and 5102). The most recent CCITT Recommendations governing accounting are in Recommendation D. 90/F. 111, *Charging, Accounting and Refunds in the Maritime Mobile Service and Maritime Satellite Service*, and Recommendation 200/F.110, *Operational Provisions for the Mariatime Service*. By operation of Article 66, these recommendations now bind the United States

complain that U.S. coast stations have not been accepting traffic from foreign registered vessels unless they have opened an account with individual U.S. licensed coast stations. Some coast stations have not accepted the international Accounting Authority Identification Codes proffered in accordance with the new international procedures.

4. The purpose of this Notice of Proposed Rule Making is to implement these provisions of the Radio Regulations in our rules. Under the proposed rule revisions, all U.S. licensed coast stations would either accept the internationally recognized Accounting Authority Identification Code for purposes of billing and accounting or be removed from the List of Coast Stations. Accordingly, we propose to amend Part 81 of the Commission's rules as set forth in the attached Appendix.

5. The proposed amendments to the Commission's rules set forth in the attached Appendix are issued under the authority contained in sections 4(i) and 303 (b) and (r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303 (b) and (r).

6. Under procedures set out in § 1.415 of the Rules and Regulations, 47 CFR 1.415, interested persons may file comments on or before November 13, 1984, and reply comments on or before November 28, 1984. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

7. In accordance with the provisions of § 1.419 of the Rules and Regulations, 47 CFR 1.419, formal participants shall file an original and 5 copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

8. For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. A person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of the oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, § 1.1231 of the Commission's rules, 47 CFR 1.1231.

9. The United States and its coast stations are currently subject to international accounting procedures. The proposed rule provides that any U.S. coast station which does not wish to comply may, at its option, elect not to be included in the international List of Coast Stations. For this reason, we certify that pursuant to Section 605 of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) the proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.

10. It is ordered, That a copy of this Notice of Proposed Rule Making shall be sent to the Chief Counsel for Advocacy of the Small Business Administration.

11. Regarding questions on matters covered in this document, contact Robert DeYoung, (202) 632–7175.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

APPENDIX

PART 81—[AMENDED]

Part 81 of Chapter I of Title 47 of the Code of Federal Regulations is proposed to be amended as follow:

Section 81.179 is amended by adding a new paragraph (f) to read as follows:

§ 81.179 Message charges.

* * * * * * *

(f) Public coast stations must accept recognized international Accounting Authority Identification Codes (AAIC) for purposes of billing and accounts settlement in accordance with Article 66 of the international Radio Regulations and governing CCITT Recommendations. These public coast stations will be notified to the ITU for inclusion in the ITU List of Coast Stations. Stations may elect not to comply with this provision in which case they will be removed from the international List of Coast Stations.

[FR Doc. 84-27170 Filed 10-12-84; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 97

[PR Docket No. 84-959; RM-4774; FCC 84-472]

Amendment of the Amateur Radio Service Rules To Include Additional Authorized Emissions For the Frequency Bank 1800–2000 kHz

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: This document proposes to amend the Amateur Radio Service Rules to include additional modes of emission for the frequency band 1800–2000 kHz (160 meters). The proposed rules are necessary so that amateur radio operators may have additional emission modes with which to experiment for the benefit of the service. The effect of the proposed rules would be to allow emission modes in the 160 meter band which were previously unavailable and thereby increase the potential uses of the band for communications, including radioteleprinting (RTTY).

DATE: Comments are due by December 20, 1984 and replies by January 22, 1985.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Maurice J. DePont, Private Radio

Bureau, Washington, D.C. 20554 (202) 632-4964.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 97

Radio.

Notice of Proposed Rulemaking

In the matter of amendment of § 97.61 of the Amateur Radio Service Rules to include additional authorized emissions for the frequency band 1800–2000 kHz (PR Docket No. 84–959 RM–4774).

Adopted: October 4, 1984.
Released: October 10, 1984.

By the Commission.

1. Notice of Proposed Rulemaking in the above-captioned matter is hereby given.

2. The Commission has received a petition (RM–4774) from the American Radio Relay League, Inc. (ARRL) seeking to amend § 97.61(a) of the Amateur Radio Service Rules to authorize F1 emission in the 1800–2000 kHz frequency band (160 meters). The ARRL urges that no subband at 160 meters be created so that flexibility in intra-band planning may be achieved informally by amateur radio operators. The ARRL notes that only radiotelegraphy (A1) and radiotelephony (A3) emissions are permitted in the 160 meter band at the present time. The ARRL believes that other emission modes have been limited in this band in order to protect the LORAN–A radionavigation system which had priority over amateur radio communications. ARRL argues that there is no need to continue emission limitations in the 160 meter band since Canadian LORAN–A radiolocation operations have been discontinued.[1]

3. In support of its petition, the ARRL cites two factors. First, according to ARRL, there has been a rapid growth of radioteleprinter (RTTY) activity during the past five years. Petitioner believes that this growth will continue because of the availability of inexpensive personal computers which can be readily adopted to this emission mode. This increased RTTY activity will require additional RTTY channels. Second, ARRL also notes the continuing decline in sunspot numbers which is compressing skywave communications into the lower part of the HF bands and making the 160 meter medium frequency (MF) band essential at night for certain paths.

4. RM–4774 appeared in the Commission's Public Notice of March 5, 1984. Comments supporting and opposing the petition were filed. Some of the commenters who supported the petition asked that F3 emission (narrow-band frequency modulation) also be included for frequencies in the 160 meter band. In addition, Anthony J. Sivo requested that A5.F3 emission (slow-scan TV) also be included. F.A. Dunlap suggested that the 160 meter band be opened up to all authorized amateur emission modes. These suggestions have merit and will be reflected in our proposal.

5. Offshore Navigation, Inc. (ONI) said that it had no objection to the grant of the ARRL petition for rule making but that any action taken should recognize that amateur radio stations are operating in the band 1900–2000 kHz on a secondary basis to the radiolocation service. It also said that amateur operators should be warned with respect to investing in equipment to operate in the 1900–2000 kHz band that they may be required to cease operation in that band upon activation of the radiolocation service allocation. Racal-Decca Survey, Inc. (Racal) said that since it anticipates that it will have to move many of its existing radiolocation operations in the 1605–1800 kHz band to the 1900–2000 kHz band when radiolocation is displaced to make room for AM broadcasting, investment in amateur radio equipment should be concentrated in bands where amateur operation will be more long term.

6. The ARRL replied that ONI and Racal had gone beyond the limited issue raised, which is the encouragement of increased experimentation in the Amateur Radio Service on a frequency band now heavily occupied by amateur radio operators. The ARRL believes that the matter of relocation of radiolocation operations after the expansion of the AM broadcast band is irrelevant at this time.

7. The concerns of ONI and Racal are relevant to this proceeding. On September 5, 1984, the Commission proposed to make exclusive radiolocation frequency assignments to land mobile radio service users on frequencies between 1900–1950 kHz and shared radiolocation assignments on frequencies between 1950–2000 kHz (see Notice of Proposed Rule Making in PR Docket No. 84–874; FCC 84–412; 49 FR 36526, September 18, 1984). Interested amateur radio licensees may wish to file comments in that proceeding.

8. With the discontinuance of Canadian LORAN–A radiolocation operations in the 1900–2000 kHz portion of the band, there is no reason to continue to limit emission modes in the 160 meter band. Therefore, we propose to amend the rules to authorize A4, A5, F1, F3, F4 and F5 emissions for the band 1800–2000 kHz.[2] As a result of these proposed changes, amateur operators will be able to experiment with various emission modes for the benefit of the entire service. We propose to authorize these emissions throughout the entire 160 meter band and not carve out specific subbands within the band where a particular type of emission may be used. We wish to make it clear, however, that amateur radio licensees do not gain any equitable rights in the band. Thus, if this proposal results in final rules at a later date, investment in equipment by amateur radio licensees to operate with the additional emission modes should be made with full awareness of the fact that the rule making proceeding referred to above could affect the status of operation in the 1900–2000 kHz portion of the band.

9. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts are premitted from the time the Commission adopts a Notice of Proposed Rule Making until the time a public notice is issued stating that a substantive disposition on the matter is to be considered at a forthcoming meeting. In general, an *ex parte* presentation is any written or oral communication (other than formal written comment/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matter not fully covered in any previously-filed written comments in the proceeding must prepare a written summary of that presentation; on the day of the oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation must also state by docket number the proceeding to which it relates. See generally, § 1.231 of the Commission's Rules, 47 CFR 1.1231. A summary of the Commission's procedures governing *ex parte* contacts in informal rule makings is available from the Commission's Consumer

[1] The Commission by its Order of March 22, 1984 (FCC 84–103; 49 FR 12705, March 30, 1984) deleted, effective March 27, 1984, all restrictions on the use by amateur radio operators of the 160 meter band frequencies.

[2] A new system of emission designators is pending and will be used if this proposal results in final rules.

Assistance Office, FCC, Washington, D.C. 20554, (202) 623–700.

10. Authority for issuance of this Notice is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r). Pursuant to applicable procedures set forth in Section 1.415, 47 CFR 1.415, of the Commission's Rules, interested persons may file comments on or before December 20, 1984, and reply comments on or before January 22, 1985. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

11. In accordance with § 1.419 of the Commission's Rules, 47 CFR 1.419, formal participants must file an original and five copies of their comments and other materials. Participants who wish each Commissioner to have a personal copy of thier comments should file an original and eleven copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. Each set of comments must state on its face the proceeding to which it relates (PR Docket Number) and should be submitted to: The Secretary, Federal Communications Commission, Washington, D.C. 20554. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

12. In accordance with Section 605 of the Regulatory Flexibility Act of 1980 (5 U.S.C. 605), the Commission certifies that these rules would not, if promulgated, have a significant economic impact on a substantial number of small entities, because these entities may not use the Amateur Radio Service of commerical radiocommunication (see 47 CFR 97.3(b)). In addition, because use by amateur radio licensees of the proposed additional emissions for 160 meters is optional rather than mandatory, there would be no significant impact on the manufacturers of amateur radio equipment.

13. In view of the foregoing, rule making petition RM–4774 filed by the ARRL is granted.

14. It is ordered, That the Secretary shall cause a copy of this Notice to be served upon the Chief Counsel for Advocacy of the Small Business Administration and that the Secretary shall also cause a copy of this Notice to be published in the Federal Register.

15. For information concerning this proceeding, contact Maurice J. DePont, Federal Communications Commission, Private Radio Bureau, Washington, D.C. 20554, (202) 632–4964.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 97—[AMENDED]

Part 97 of Chapter I of the Title 47 of the Code of Federal Regulations would be amended, as follows:

The first entery in the table in § 97.61(a) would be revised to read, as follows:

§ 97.61 Authorized frequencies and emissions.

(a) * * *

Frequency band	Emissions	Limitations (see paragraph (b))
Kilohertz:		
1800 to 2000	A1, A3, A4, A5, F1, F3, F4, F5.	

[FR Doc. 84–27160 Filed 10–12–84; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Reopening of Comment Period on Proposed Endangered Status and Critical Habitat for the Alabama Beach Mouse, Perdido Key Beach Mouse, and Choctawhatchee Beach Mouse

Correction

In FR Doc. 84–26344 appearing on page 39179 in the issue of Thursday, October 4, 1984, make the following correction: In column three, second complete paragraph, line twenty-five, "not" should read "now".

BILLING CODE 1505–01–M

Notices

Federal Register
Vol. 49, No. 200
Monday, October 15, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

General Conference Committee of the National Poultry Improvement Plan; Intent to Reestablish

Notice is hereby given that the Secretary of Agriculture intends to reestablish the General Conference Committee of the National Poultry Improvement Plan (NPIP) as an Advisory Committee of the Department of Agriculture. This Committee serves as a forum for the study of problems relating to poultry health and, as the need arises, makes specific recommendations to the Secretary of Agriculture concerning ways in which the Department of Agriculture may assist the industry in solving these problems. In addition, the Committee advises the Department with respect to administrative procedures and interpretations of the NPIP provisions contained in 9 CFR Parts 145 and 147, and assists the Department in evaluating comments received from interested persons concerning proposed amendments to these provisions.

The seven industry members of the Committee are from various geographical regions of the United States and are elected by official State delegates to the NPIP Conference without regard to sex, ethnic, or racial background of qualified individuals. These elected members are poultry geneticists, pathologists, veterinarians, hatcherymen, breeding flockowners, or State administrators of the NPIP. Since the Committee is balanced geographically and by profession within the poultry industry, the members are in a position to advise the Department on matters relating to this segment of the poultry industry.

The General Conference Committee is chaired by the Assistant Secretary for Marketing and Inspection Services or his designee. The Administrator of the Animal and Plant Health Inspection Service (APHIS) will serve as Vice Chairman. A staff member, Special Diseases Staff, Veterinary Services, APHIS, will be Executive Secretary. The Committee shall report to the Secretary of Agriculture through the Administrator of APHIS and the Assistant Secretary for Marketing and Inspection Services.

The Secretary has determined that the reestablishment of this Committee is necessary and in the public interest.

Comments will be received for 15 days following publication of this notice to reestablish this Advisory Committee and should be addressed to Dr. Irvin L. Peterson, National Poultry Improvement Plan, Special Diseases Staff, VS–APHIS, Room 828, Federal Building, Hyattsville, MD 20782.

The NPIP is administered under the authority of the Department of Agriculture Organic Act of 1944, as amended (7 U.S.C. 429).

Done at Washington, D.C., this 10th day of October 1984.

John J. Franke, Jr.,

Assistant Secretary for Administration.

[FR Doc. 84–27183 Filed 10–12–84; 8:45 am]
BILLING CODE 3410–34–M

Food Safety and Inspection Service

[Docket No. 84–025N]

SLD Policy Memoranda; Semi-Annual Listing

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This document lists memoranda issued by the Standards and Labeling Division (SLD), Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service (FSIS), and available to the public which contain significant new applications or interpretations of the Federal Meat Inspection Act, the Poultry Products Inspection Act, the regulations promulgated thereunder, or departmental policy in the labeling area.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Hibbert, Director, Standards and Labeling Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–6042.

SUPPLEMENTARY INFORMATION: FSIS conducts a prior approval program for labels or other labeling to be used on federally inspected meat and poultry products (9 CFR 317.4, 317.5, 381.132, and 381.134). Pursuant to the Federal Meat Inspection Act (21 U.S.C. 601. *et seq.*) and the poultry Products Inspection Act (21 U.S.C. 451 *et seq.*) and the regulations promulgated thereunder, meat and poultry products which do not bear approved labels may not be distributed in commerce.

FSIS's prior label approval program is conducted by label review experts within SLD. A variety of factors, such as continuing technological innovations in food processing and expanded public concern regarding the presence of various substances in foods, generated complex issues which SLD must resolve as part of the prior label approval process. In interpreting the Acts or regulations to resolve these issues, SLD may modify its policies on labeling or develop new ones.

Significant or novel interpretations or determinations made by SLD are issued in writing in memorandum form. This document lists those SLD policy memoranda issued from April 1, 1984, through September 30, 1984.

Persons interested in obtaining copies of any of the following SLD policy memoranda, or in being included on a list of automatic distribution of future SLD policy memoranda may write to: Printing and Distribution Section, Paperwork Management Branch, Administrative Services Division, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250.

Memo No.	Title and date	Issue	Reference
070	Fat and Lean Claims, May 8, 1984	What are the guidelines for the review and approval of labeling claims relating to the fat and lean content of meat and poultry products?	Policy Memos 039 and 046
071	Lite and Similar Terms, May 8, 1984	What are the guidelines for the review and approval of labeling terms such as "Lite," "Light," "Lightly" and similar terms?	Policy Memo 039
072	Composite Ingredients Statement, May 18, 1984	Can some form of composite ingredient labeling be used for a multi-ingredient component of a meat or poultry product?	Replaces Policy Memos 060 and 065
049C	Sodium Labeling Guidelines, June 14, 1984	What guidelines should be followed in the review and approval of labeling which includes sodium and/or salt information?	Replaces Policy Memo 049B.
073	Nutrition Labeling Partial Quality Control Programs, June 14, 1984	Partial quality control (PQC) program requirements for nutrition labeled ground beef, hamburger, fabricated steak, fresh pork sausage, fresh beef sausage, cooked sausages, and margarine.	Replaces Policy Memos 026 and 062. 9 CFR 319.15(a), 319.15(b), 319.15(d), 319.141 319.142, 319.180, and 319.700
074	Partial Quality Control Programs for Sodium Labeling and/or Nutrition Labeling, August 7, 1984.	Under what conditions is a partial quality control (POC) program not required for nutrition labeling, including sodium content information?	Replaces Policy Memo 073, 9 CFR 319.15(a), 319.15(b), 319.15(d), 319.141, 319.142, 319.180, and 319.700
075	Dual Inspection Legends on Product Containers, August 14, 1984.	May both the meat inspection legend and the poultry product inspection legend be printed on the same product container?	N/A.
076	Standards and Labeling Requirements for Duck Liver and/or Goose Liver "Foie Gras" Products, September 21, 1984.	What are the standards and labeling requirements for duck liver and/or goose liver "foie gras" products?	N/A

The SLD policies specified in these memoranda will be uniformly applied to all relevant labeling applications unless modified by future memoranda or more formal Agency action. Applicants retain all rights of appeal regarding decisions based upon these memoranda.

Done in Washington, D.C., on September 25, 1984.

Robert G. Hibbert,

Director, Standards and Labeling Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service.

[FR Doc. 84-27130 Filed 10-12-84; 8:45 am]

BILLING CODE 3410-DM-M

Forest Service

San Juan National Forest Grazing Advisory Board; Meeting

The San Juan National Forest Grazing Advisory Board will meet on November 16, 1984 at the Supervisor's Office, 701 Camino del Rio, Durango, Colorado. This meeting will start at 1:00 p.m. The board was established in accordance with provisions of the Federal Land Policy and Management Act of 1976.

The Agenda for the meeting will include: (1) recommendations for the utilization of range betterment funds; (2) recommendations for the development of allotment management plans; (3) discussion of the implementation of the San Juan National Forest Land and Resource Plan and the effects on the utilization of range betterment funds; and (4) discussion of the election of new board members which will be held also in November.

The meeting will be open to the public. Persons who wish to attend and participate should notify David W. Cook, San Juan National Forest, (303) 247-4874 prior to the meeting. The public may participate in discussions during the meeting or may file a written statement following the meeting.

Dated: September 26, 1984.

John R. Kirkpatrick,

Forest Supervisor.

[FR Doc. 84-27122 Filed 10-12-84; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

International Trade Administration

Certain Textiles and Textile Products From Argentina, Colombia, Indonesia, Malaysia, Mexico, Panama, Peru, the Philippines, Portugal, Singapore, Sri Lanka, Thailand, Turkey; Postponement of Preliminary Countervailing Duty Determinations

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Postponement of preliminary countervailing duty determinations.

SUMMARY: The Department of Commerce is postponing the preliminary determinations in the countervailing duty investigations of certain textiles and textile products from Argentina, Colombia, Indonesia, Malaysia, Mexico, Panama, Peru, the Philippines, Portugal, Singapore, Sri Lanka, Thailand, and Turkey. With respect to each investigation, the Department has concluded that the parties are cooperating, and has determined that each case is extraordinarily complicated and that additional time is necessary to make the preliminary determinations.

EFFECTIVE DATE: October 15, 1984.

FOR FURTHER INFORMATION CONTACT: Roland MacDonald, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th & Constitution Ave., NW., Washington, D.C. 20230, telephone (202) 377-5496.

SUPPLEMENTARY INFORMATION: On August 8, 1984, the Department initiated countervailing duty investigations on certain textiles and textile products from Peru and Singapore (49 FR 32438). The Department also initiated countervailing duty investigations on certain textiles and textile products from Argentina, Indonesia, Malaysia, Portugal, Sri Lanka, Thailand, and Turkey on August 9, 1984 (49 FR 32639); from Colombia, Mexico, and Panama on August 13, 1984 (49 FR 32892); and from the Philippines on August 22, 1984 (49 FR 34381).

Section 703(c) of the Tariff Act of 1930, as amended, 19 U.S.C. 1671b(c) (the Act), provides that the Department may postpone a preliminary determination if the Department concludes that the parties concerned are cooperating and also determines that the case is extraordinarily complicted and additional time is necessary to make the preliminary determination. We have concluded that the parties involved in each of these investigations are cooperating. In addition, we have determined that each of the cases is extraordinarily complicated for the following reasons:

Argentina. The Department currently is investigating 10 alleged subsidy practices that may provide bounties or grants to producers or exporters of textiles and textile products currently classifiable under approximately 116 categories of the *Tariff Schedules of the United States, Annotated* (TSUSA). Certain practices, such as the Reembolso, industrial parks, and tax reductions for investors, are complex. The number of firms producing or exporting textiles and textile products is estimated to be 1775.

Colombia. The Department currently is investigating 9 alleged subsidy

practices that may provide bounties or grants to producers or exporters of textiles and textile products currently classifiable under approximately 235 categories of the TSUSA. Certain practices, such as countertrade, the "CERT" tax rebate program, and free industrial zone certificates, are complex. The number of firms producing or exporting textiles and textile products is expected to be large.

Indonesia. The Department currently is investigating 13 alleged subsidy practices that may provide bounties or grants to producers or exporters of textiles and textile products currently classifiable under approximately 309 categories of the TSUSA. Certain practices, such as industrial estates, countertrade, and foreign trade zones, are complex. In addition, the issues presented are novel, because this is the first time that we have conducted a countervailing duty investigation involving Indonesia under the Act. The number of firms producing or exporting textiles and textile products is estimated to be at least 2680.

Malaysia. The Department currently is investigating 14 alleged subsidy practices that may provide bounties or grants to producers or exporters of textiles and textile products currently classifiable under approximately 303 categories of the TSUSA. Certain practices, such as industrial estates, preferential financing for Bumiputras, and tax incentives for exporters, are complex. In addition, the issues presented are novel, because we are aware of only one countervailing duty investigation involving Malaysia under the Act, and that investigation was conducted by the Treasury Department. The number of firms producing or exporting textiles and textile products is estimated to be 27.

Mexico. The Department currently is investigating 15 alleged subsidy practices that may provide bounties or grants to producers or exporters of textiles and textile products currently classifiable under approximately 238 categories of the TSUSA. Certain practices, such as equity infusions, are complex. The number of firms producing or exporting textiles and textile products is estimated to be 2150.

Panama. The Department currently is investigating 8 alleged subsidy practices that may provide bounties or grants to producers or exporters of textiles and textile products currently classifiable under approximately 87 categories of the TSUSA. Certain practices, such as tax incentive programs, are complex. In addition, the issues presented are novel, because we have never before conducted a countervailing duty investigation involving Panama under the Act. The number of firms producing or exporting textiles and textile products is estimated to be 76.

Peru. The Department currently is investigating 12 alleged subsidy practices that may provide bounties or grants to producers or exporters of textiles and textile products currently classifiable under approximately 257 categories of the TSUSA. In addition, the number of firms producing or exporting textiles and textile products is estimated to be 300.

Philippines. The Department currently is investigating 7 alleged subsidy practices that may provide bounties or grants to producers or exporters of textiles and textile products currently classifiable under approximately 585 categories of the TSUSA. Certain practices, such as preferential access to foreign exchange, the Investment Incentives Policy Act of 1983, the Bataan export processing zone programs, the foreign currency retention scheme, and tax incentives for preferred investments, are complex. The number of firms producing or exporting textiles and textile products is estimated to be 30,000.

Portugal. The Department currently is investigating 16 alleged subsidy practices that may provide bounties or grants to producers or exporters of textiles and textile products currently classifiable under approximately 424 categories of the TSUSA. Certain practices, such as the Integrated Investment Incentive System and countertrade, are complex. In addition, the issues presented are novel, because we have never before conducted a countervailing duty investigation involving Portugal under the Act. The number of firms producing or exporting textiles and textile products is estimated to be 1020.

Singapore. The Department currently is investigating 19 alleged subsidy practices that may provide bounties or grants to producers or exporters of textiles and textile products currently classifiable under approximately 379 categories of the TSUSA. Certain practices, such as the training center for apparel workers and venture capital tax incentives, are complex. The number of firms producing or exporting textiles and textile products is estimated to be 542.

Sri Lanka. The Department currently is investigating 10 alleged subsidy practices that may provide bounties or grants to producers or exporters of textiles and textile products currently classifiable under approximately 222 categories of the TSUSA. Certain practices, such as textile self-sufficiency programs, are complex. In addition, the issues presented are novel, because we have never before conducted a countervailing duty investigation involving Sri Lanka under the Act. The number of firms producing or exporting textiles and textile products is estimated at 379.

Thailand. The Department currently is investigating 13 alleged subsidy practices that may provide bounties or grants to producers or exporters of textiles and textile products currently classifiable under approximately 412 categories of the TSUSA. In addition, the issues presented are novel, because we are aware of only one countervailing duty investigation involving Thailand under the Act, and that investigation was conducted by the Treasury Department. The number of firms producing or exporting textiles and textile products is expected to be large.

Turkey. The Department currently is investigating 12 alleged subsidy practices that may provide bounties or grants to producers or exporters of textiles and textile products currently classifiable under approximately 139 categories of the TSUSA. Certain practices, such as the effect of multiple exchange rates, equity infusions, free trade zones, and the interrelationship of eligibility for and use of programs, are complex. In addition, the issues presented are novel, because we have never before conducted a countervailing duty investigation involving Turkey under the Act. The number of firms producing or exporting textiles and textile products is estimated to be 139.

We also determine that additional time is necessary to make the preliminary determination in each of these cases. In this regard, we note that petitioners filed these thirteen cases almost simultaneously, and that together they encompass an enormous number of companies and TSUSA categories.

We intend to issue preliminary countervailing duty determinations not later than December 17, 1984 for Argentina, Indonesia, Malaysia, Peru, Portugal, Singapore, Sri Lanka, Thailand, and Turkey; December 20, 1984 for Colombia and Panama; December 21, 1984 for Mexico; and December 31, 1984 for the Philippines.

This notice is published pursuant to section 703(c)(2) of the Act.

Dated: September 21, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-27151 Filed 10-12-84; 8:45 am]
BILLING CODE 3510-DS-M

DEPARTMENT OF EDUCATION

List of State Agencies Recognized for the Approval of Public Postsecondary Vocational Education

AGENCY: Department of Education.

ACTION: Notice—List of State Agencies Recognized for the Approval of Public Postsecondary Vocational Education.

SUMMARY: The Secretary of Education lists State agencies which he determines to be reliable authorities as to the quality of public postsecondary vocational education in their respective States. The Secretary publishes this list for the purpose of determining institutional eligibility for Federal student assistance programs.

FOR FURTHER INFORMATION CONTACT: Joan Givens, Agency Evaluation Branch, Division of Eligibility and Agency Evaluation, Office of Postsecondary Education, 400 Maryland Avenue, SW., (Room 3637, ROB–3), U.S. Department of Education, Washington, D.C. 20202.

SUPPLEMENTARY INFORMATION: The Higher Education Act of 1965, as amended, requires the Secretary to publish a list of State agencies which he determines to be reliable authorities as to the quality of public postsecondary vocational education in their respective States for the purpose of determining institutional eligibility for Federal student assistance programs. The most recent list of recognized agencies was published in the **Federal Register** on January 19, 1979, 44 FR 4020. Since late 1983, agencies in Puerto Rico, Delaware and Washington have been recognized as reliable authorities by the Secretary. The Secretary has revised the list to include these three agencies. The list published here supersedes the list published on January 19, 1979.

State Agencies Recognized for the Approval of Public Postsecondary Vocational Education

Arkansas State Board of Vocational Education
Delaware State Board of Education
Iowa State Board of Public Instruction
Kansas State Board of Education
Minnesota State Board for Vocational-Technical Education
Missouri State Board of Education
New Jersey State Board of Education
New York State Board of Regents
Oklahoma State Board of Vocational and Technical Education (for approval of all public postsecondary vocational education institutions and programs that are not offered for college credit or under the jurisdiction of the Oklahoma State Regents for Higher Education)
Oklahoma State Regents for Higher Education (for approval of public postsecondary vocational education programs for which credit earned is applied toward a degree, diploma, or other postsecondary academic or collegiate award, or which are given at State institutions comprising the Oklahoma State System of Higher Education)
Puerto Rico State Agency for the Approval of Public Postsecondary Vocational/Technical Education Institutions and Programs
Utah State Board for Vocational Education
Office of the Superintendent of Public Instruction, State of Washington

Dated: October 9, 1984.

T.H. Bell,

Secretary of Education.

[FR Doc. 84–27178 Filed 10–12–84; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Office of Energy Research

Energy Research Advisory Board; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Energy Research Advisory Board (ERAB)

Date & Time: October 31, 1984 from 8:30 a.m. to 5:00 p.m.; November 1, 1984 from 8:30 a.m. to 3:30 p.m.

Place: U.S. Department of Energy, 1000 Independence Avenue, SW., Room 8E–089, Washington, DC 20585.

Contact: Sarah Goldman, U.S. Department of Energy, Office of Energy Research, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–5444.

Purpose of the Parent Board: To advise the Department of Energy (DOE) on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.

Tentative Agenda: The specific agenda items and times are frequently subject to last minute changes. Visitors planning to attend for a specific topic should confirm the time prior to and during the day of the meeting.

Draft Agenda

October 31

8:30 a.m. Administrative Items Approval of Minutes Schedule of Future Meetings
9:00 a.m. Discussion of International Energy R&D Collaboration
10:15 a.m. Long-Range Energy R&D Strategy Study, Overview and Revised Guidelines Infrastructure Discussion
12:00 Noon Lunch
1:00 p.m. Demand Discussion
2:15 p.m. Supply Discussion
3:45 p.m. Research Discussion
4:50 p.m. Public Comment (10 minute rule)
5:00 p.m. Adjourn

November 1

8:30 a.m. Long Range R&D Strategy Study Discussion
9:45 a.m. National Energy Policy Plan Discussion, ERAB Comments on R&D Strategy and Approach to NEPP
10:45 a.m. DOE Review and Response to Recent ERAB Reports Secretary's MBO and Review Process, National Laboratory and University Affairs and Packard Panel Report, Materials R&D Status
12:00 noon Lunch
1:00 p.m. Panel Progress Reports, International R&D, Clean Coal, Materials R&D Review
1:30 p.m. Light Water Reactor Preliminary or Final Report Review
3:20 p.m. Public Comment (10 minute rule)
3:30 p.m. Adjourn

Public Participation

The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Sarah Goldman at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda. The Chairperson of the Board is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts

Available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on October 10, 1984.

Howard H. Raiken,

Deputy Advisory Committee Management Officer.

[FR Doc. 84–27191 Filed 10–12–84; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS–53065; TSH–FRL 2694–1]

Premanufacture Notices; Monthly Status Report for August 1984

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(d)(3) of the Toxic Substances Control Act (TSCA) requires EPA to issue a list in the **Federal Register** each month reporting the premanufacture notices (PMNs) pending before the Agency and the PMNs for which the review period has expired

since publication of the last monthly summary. This is the report for August 1984.

DATE: Written comments are due no later than 30 days before the applicable notice review period ends on the specific chemical substance. Nonconfidential portions of the PMNs may be seen in Rm. E–107 at the address below between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

ADDRESS: Written comments, identified with the document control number "[OPTS–5305]" and the specific PMN number should be sent to: Document Control Officer (TS–793), Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E–201, 401 M Street, SW., Washington, DC 20460, (202–382–3532).

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–613, 401 M Street, SW., Washington, DC 20460, (202–382–3725).

SUPPLEMENTARY INFORMATION: The monthly status report published in the **Federal Register** as required under section 5(d)(3) of TSCA (90 Stat. 2012 (15 U.S.C. 2504)), will identify: (a) PMNs received during August; (b) PMNs received previously and still under review at the end of August; (c) PMNs for which the notice review period has ended during August; (d) chemical substances for which EPA has received a notice of commencement to manufacture during August and (e) PMNs for which the review period has been suspended. Therefore, the August 1984 PMN Status Report is being published.

Dated: October 9, 1984.

Linda A. Travers,

Acting Director, Information Management Division.

Premanufacture Notices Monthly Status Report, August 1984

11. 68 PREMANUFACTURE NOTICES RECEIVED DURING THE MONTH

PMN No.	Identity/and generic name	FR citation	Expiration date
84-1030	Generic name: Poly(alkylsuccinic diester)	49 FR 33718(8-24-84)	Oct. 29, 1984.
84-1031	....do	49 FR 33718(33719) (8-24-84)	Do.
84-1032	Generic name: Styrene/acrylate latex	49 FR 32110(32112) (8-10-84)	Oct. 30, 1984.
84-1033	Generic name: Alkylated phenol	....do	Do.
84-1034	Generic name: Mercaptocarboxylic acid ester reaction product with olefin	....do	Do.
84-1035	Generic name: Polyamide-imide	....do	Do.
84-1036	....do	....do	Do.
84-1037	Generic name: Diphenylmethane diisocyanate terminated polyester polyol polyurethane prepolymer.	49 FR 33718(33719) (8-24-84)	Oct. 31, 1984.
84-1038	Antimony pentachloride: dimethyl methyl-phosphonate complex	....do	Nov. 3, 1984
84-1039	Generic name: Polyester resin	....do	Nov. 4, 1984.
84-1040	Generic name: Acrylic resin	....do	Do.
84-1041	....do	....do	Do.
84-1042	Methylammonium n-methyldithiocarbamate	....do	Do.
84-1043	Generic name: Sulfurized magnesium soap	....do	Do.
84-1044	Generic name: Fatty dimethyl amine	....do	Do.
84-1045	Generic name: Fatty trimethyl ammonium chloride	....do	Do.
84-1046	2-naphthylamine-3,6,8-trisulfonic acid, disodium salt	....do	Do.
84-1047	Generic name: Aliphatic polycarbonate silicon urethane	....do	Nov. 5, 1984.
84-1048	Generic name: Aliphatic polycarbonate urethane	....do	Do.
84-1049	Generic name: Aromatic polyether urethane	....do	Do.
84-1050	Generic name: Aliphatic polycarbonate urethane		Do.
84-1051	Generic name: Halogenated aromatic substituted olefin	....do	Do.
84-1053	Generic name: Ethoxylated vegetable fatty acids, end-capped	....do	Nov. 6, 1984.
84-1054	Generic name: Alkyl, sulfonic acid, ammonium salt	....do	Do.
84-1055	....do	....do	Do.
84-1056	....do	....do	Do.
84-1057	....do	....do	Do.
84-1058	Polymer of diethylene glycol, maleic anhydride and benzoic acid	49 FR 33718(33721) (8-24-84)	Nov. 7, 1984.
84-1059	Generic name: Fluoropolyester modified toluene diisocyanate polymer	....do	Do.
84-1060	Generic name: Polyamide-graft-polyacrylate polymer	....do	Do.
84-1061	Generic name: Trisubstituted malonamide	....do	Nov 10, 1984.
84-1062	Methyl vinyl sulfone	....do	Do.
84-1063	1,3-bis(1-phenylethenyl) benzene	....do	Nov. 11, 1984.
84-1064	Generic name: Modified polyacrylamide anionic polymer	....do	Do.
84-1065	Generic name: Polymer of mixed fatty acids, substituted aromatic dicarboxyic acids and an aliphatic triol.	....do	Do.
84-1066	Generic name: Substituted trisazo dye, salt	....do	Do.
84-1067	Generic name: Substituted metal complex	....do	Do.
84-1068	N-dimethylthiocarbamylthio-N'-phenyl urea	....do	Nov. 13, 1984.
84-1069	Generic name: Substituted ether of alkoxylated fatty alcohol	....do	Do.
84-1070	Generic name: Alkoxylated fatty alcohol	....do	Do.
84-1072	Generic name: Copolyester polymer	....do	Do.
84-1073	....do	49 FR 34572(8-31-84)	Nov. 17, 1984.
84-1074	Generic name: Polyurethane polymer	....do	Do.
84-1075	Generic name: Propargyl ester	49 FR 34572(34573) (8-31-84)	Do.
84-1076	Benzene, 1-(1-phenylethenyl)-3-(1-phenyl-ethyl)	....do	Do.
84-1077	Generic name: Polyamine ion exchange resin	....do	Do.
84-1078	Generic name: Partial sodium salt of amino-methylene phosphonic acid	....do	Nov. 18, 1984.
84-1079	Generic name: Alkylated diphenyl oxide	....do	Do.
84-1080	Generic name: Cyclic phosphite	....do	Do.
84-1081	Generic name: Styrene acrylic copolymer	....do	Do.
84-1082	....do	....do	Do.
84-1083	Generic name: Acrylic copolymer	....do	Do.
84-1084	....do	....do	Do.
84-1085	Generic name: Polymer of aliphatic diamines, and alkanediol polyester, a monoalcohol polyether, and aliphatic diisocyanates.	....do	Do.
84-1086	Generic name: Caprolactone modified by hydroxy ethyl acrylate	....do	Nov. 20, 1984.
84-1087	Generic name: Modified polyester	....do	Do.
84-1088	Generic name: Polyester	49 FR 34572(34574) (8-31-84)	Do.
84-1089	Generic name: Modified, maleated metal resinate	....do	Do.
84-1090	Generic name: Fatty acid, carbomonocyclic		

II. 68 PREMANUFACTURE NOTICES RECEIVED DURING THE MONTH—Continued

PMN No.	Identity/and generic name	FR citation	Expiration date
84-1091	....do	....do	Do.
84-1092	....do	....do	Do.
84-1093	....do	....do	Do.
84-1094	....do	....do	Do.
84-1095	....do	....do	Do.
84-1096	....do	....do	Do.
84-1097	Generic name: Alkyl phosphate ester amine salt	....do	Do.
84-1098	Generic name: Acetal interpolymer	....do	Do.
84-1099	4-anilino-4'-hydroxy azo benzene	....do	Do.

II. 131 PREMANUFACTURE NOTICES RECEIVED PREVIOUSLY AND STILL UNDER REVIEW AT THE END OF THE MONTH

PMN No.	Identity and generic name	FR citation	Expiration date
84-899	Generic name: Polyether polyol oligomer	49 FR 28616 (28617) (7-13-84)	Sept. 29, 1984.
84-900	1,3,5,-Triazine-2,4,6 (1H, 3H, 5H)-trione, 1,3,5-tris(2,3-dibromopropyl)-	....do	Do.
84-901	Bis(tetrabromobisphenol A)Bis(tribromophenyl)ethylenetetracarbonate	....do	Sept. 30, 1984
84-902	Hexabromodiphenyl amine	....do	Do
84-903	N-methylhexabromodiphenyl amine	....do	Do.
84-904	Generic name: Unsaturated polyester resin	....do	Do
84-905	Generic name: Rosin modified phenolic	....do	Do.
84-906	Generic name: Unsaturated polyester resin	....do	Do.
84-907	Generic name: Rosin modified phenolic	....do	Do.
84-908	Generic name: Functional polyester	....do	Do.
84-909	Generic name: Modified alkyd resin	....do	Do
84-910	Phenol, *p*-allyl-	....do	Do.
84-911	Cyclododecane, (2-methoxyethoxy)-	....do	Do.
84-912	Benzoxazolium, 5-chloro-2-[2-[[5-chloro-3-(4-sulfobutyl)-2 (3H)-Benzoxazolylidene]methyl]-1-buten-yl]-3-(4-sulfobutyl)-triethyl ammonium salt.	49 FR 28616(28618) (7-13-84)	Oct. 2, 1984.
84-913	Generic name: N,N'-bis(2-(2-(3-alkyl)thiazoline)vinyl)-1,4-phenylene diamine double salt	....do	Do.
84-914	Benzoic acid, 4-hydroxy-3-methoxy-, ethyl ester	....do	Do.
84-915	Generic name: Acrylic modified alkyd resin	....do	Do
84-916	Generic name: Mixed chromium complexes of substitued hydroxyphenyl azo hydroxy-naphthalenes, amine salts.	49 FR 29451 (7-20-84)	Oct. 3, 1984.
84-917	Generic name: Mixed chromium complexes of substituted hydroxyphenol azo hydroxy-naphthalenes, sodium salts.	....do	Do
84-918	Generic name: Urethane-ester polymer	49 FR 29451(29452) (7-20-84)	Do.
84-919	....do	....do	Do
84-920	....do	....do	Do.
84-921	Generic name: Hydroxyl functional styrene-acrylic polymer	....do	Oct. 6, 1984
84-922	3,5-dinitrobenzyl chloride	....do	Do.
84-923	Generic name: Polyurethane prepolymer	....do	Do.
84-924	Generic name: Substituted anthraquinone	....do	Oct. 7, 1984
84-925	....do	....do	Do.
84-926	Generic name: Hydroxyl-terminated poly (oxyalkylene) polyol	....do	Do
84-927	Generic name: Carbopolycyclic alkenyl ether Do	....do	Do.
84-928	Polymer: 2-Butenedioc acid (Z)-, mono-methyl ester, polymer with ethenylbenzene, 2,5-furandione and (Z)-1-methylpropyl hydrogen 2-butenedioate, potassium hydroxide	....do	Do.
84-929	Polymer: 2-Butenedioc acid (Z)-, mono-Methyl ester, polymer with ethenylbenzene, 2,5-furandione and (Z)-1-methylpropyl hydrogen 2-butenedioate, sodium hydroxide.	....do	Do.
84-930	Polymer: 2-Butenedioc acid (Z)-, mono-methyl ester, polymer with ethenylbenzene, 2,5-furandione and (Z)-1-methylpropyl hydrogen 2-butenedioate, ammonium hydroxide.	....do	Do.
84-931	Polymer: 2, Butenedioc acid (Z)-, mono-methyl ester, polymer with ethenylbenzene, 2, 5-furandione and (Z)-2-methylpropyl hydrogen 2-butenedioate, potassium hydroxide.	....do	Do.
84-932	Polymer: 2, Butenedioc acid (Z)-, mono-methyl ester, polymer with ethenylbenzene, 2,5-furandione and (z)-2-methylpropyl hydrogen 2-butenedioate, sodium hydroxide.	49 FR 29451(29453) (7-20-84)	Do.
84-933	Polymer: 2, Butenedioc acid (Z)-, mono-methyl ester, polymer with ethenylbenzene, 2,5-furandione and (Z)-2-methylpropyl hydrogen 2-butenedioate, ammonium hydroxide.	....do	Do.
84-934	Generic name: Polyamide	....do	Do
84-935	....do	....do	Do.
84-936	Generic name: Aromatic Keto-ester	....do	Do
84-937	Polymer of Desmodur W, teracol 650, hydroxy ethyl acrylate and jeffamine	....do	Do.
84-938	Polymer of hydroxy ethyl acrylate and polyisocyanate T 1890/100	....do	Do
84-939	Generic name: Polymer of Desmodur W, caprolactone diol, hydroxy ethyl acrylate and jeffamine	....do	Do.
84-940	Generic name: Vinyl actate-acrylic copolymer	....do	Do
84-941	Generic name: Substituted polyisobutenyl-succinimide	....do	Do.
84-942	Generic name: Acrylate epoxysilicone	....do	Do
84-943	Generic name: Aromatic alkyl ether	....do	Do.
84-944	....do	....do	Do.
84-945	Generic name: Trisubstituted aminobenzoic acid ester	....do	Do.
84-946	Generic name: Modified epoxy resin solution	49 FR 30238 (7-27-84)	Oct. 10, 1984.
84-947	Generic name: Modified pigment yellow 12	49 FR 30238(30239) (7-27-84)	Do.
84-948	Oxdase alcohol	....do	Do.
84-949	Generic name: Modified epoxy resin	....do	Do.
84-950	Generic name: Dimer acids, monocarboxylic acid, polyamines polyamide resin	....do	Do.
84-951	Generic name: Substituted aminobenzoic acid ester	....do	Do.
84-952	Generic name: Ketamine	....do	Do.
84-953	Generic name: Reacted epoxy resin	....do	Do.
84-954	Generic name: Substituted aromatic	....do	Do.
84-955	Generic name: Modified polyester resin	....do	Do.
84-956	Generic name: Polyester resin	....do	Do.
84-957	....do	....do	Do.
84-958	Generic name: Modified polymer of styrene with alkyl acrylate and alkyl methacrylate	....do	Do.
84-959	Generic name: Substituted polyamine	....do	Do.
84-960	Generic name: Complex polyurethane	....do	Do.
84-961	Generic name: Modified polymer of styrene with alkyl methacrylates	49 FR 30238(30240) (7-27-84)	Do.
84-962	Generic name: Metal salt of phosphoric acid ester	....do	Do.
84-963	8-Nitro-2(3H)-benzoxazolone	....do	Do.

II. 131 PREMANUFACTURE NOTICES RECEIVED PREVIOUSLY AND STILL UNDER REVIEW AT THE END OF THE MONTH—Continued

PMN No.	Identity and generic name	FR citation	Expiration date
84-964	Generic name: Disubstituted hexanamide	do	Do.
84-965	Generic name: Alkyd resin	do	Do.
84-966	Generic name: Oligomeric diol	do	Do.
84-967	Generic name: Polyether urethane polymer	do	Do.
84-968	Generic name: alkyl ester	do	Do.
84-969	Generic name: Modified sodium polyacrylate	do	Do.
84-970	Generic name: Substituted sodium sulfo-succinamate	do	Do.
84-971	Generic name: 2-propanol-1,1 thiobis, oxirane extended, alkyl terminated	do	Do.
84-972	Generic name: Epoxidized alcohol	do	Do.
84-973	Generic name: Substituted triazine	do	Do.
84-974	Generic name: Acrylic ester terpolymer	49 FR 30238(30241) (7-27-84)	Do.
84-975	Generic name: Polymer of aliphatic diamines, an alkanediol polyester, a monoalcohol polyether, a metal salt of an alkenediol polyether, and aliphatic diisocyanate.	do	Oct. 15, 1984.
84-976	Generic name. Polyamic acid	do	Do.
84-977	Generic name: Aluminum modified long oil alkyd 85% in white spirit	do	Oct. 16, 1984.
84-978	Generic name: Polyurea polyurethane polymer	do	Do.
84-979	do	do	Do.
84-980	do	do	Do.
84-981	Generic name: Polyether polyol oligomer	do	Do.
84-982	1,3-bis(1-phenylethyl)benzene	do	Do.
84-983	Generic name: Polyester resin based on mixed phthalic acids and mixed polyols	do	Do.
84-984	Generic name: Modified polyester polyurethane	49 FR 31136 (8-3-84)	Oct. 17, 1984.
84-985	Generic name: Modified terpolymer of maleic anhydride, styrene and 1-substituted alkene, sodium salt.	49 FR 31136(31137) (8-3-84)	Do.
84-986	4,4'-bis[4-[3-acetylamino-4-(4,8-disulfo-2-naphthylazo)anilino-6-(3-carboxypyridino) 1,3,5-triazin-2-ylamino]-2,2'-disulfostilbene dihydroxide hexasodium salt.	do	Oct. 20, 1984.
84-987	2,4-bis[4-[3-acetylamino-4-(4,8-disulfonate-2-naphthylazo)anilino]-6-(3-carboxy-pyridino)-1,3, 5-triazin-2-ylamino]benzen-sulfonate-dihydroxide=pentasodium.	do	Do.
84-988	Hexasodium salt-1,4-bis[4-(3-carboxy-pyridino-6-[3,6-disulfo-8-hydroxy-7-(2-sulfophenylazo-1-naphtylamino)-1,3,5-tnazine-2-ylamino]benzene-dihydroxide.	do	Do.
84-989	4-amino-3,6-bis[5-[4-(3-carboxypyridinio)-6-(4-chloro-3-sulfonateanilino)-1,3,5-triazin-2-ylamino]-2-sulfonato-phenylazo]-5-hydroxy-2,7-naphthalene-disulfonate-dihydroxide, hexasodium.	do	Do.
84-990	[2-[alpha[3-[4-(3-carboxypyridinio)-6-(2-chloro-5-sulfoanilino)-1,3,5-trazin-2-ylamino]-2-hydroxy-5-sulfophenylazo] benzylidene hydrazino]-4-sulfobenzoato-(0,0'(5)]copper (II) acid trisodium salt hydroxide.	do	Do.
84-991	Cellulose, acetate propenoate, [(1-oxo-2-propenyl)amino] methyl ether	do	Oct. 21, 1984.
84-992	Generic name: Polyurethane polymer	do	Do.
84-993	1,3-phenylene-bis(3-methyl-1-phenyl-pentylidene)bis-lithium	do	Do.
84-994	Generic name: Modified corn oil	do	Do.
84-995	Generic name: Aromatic substituted ammonium sulfimide	do	Do.
84-996	Generic name: Polyalkyl benzene sulfonic acid	do	Oct. 22, 1984.
84-997	do	49 FR 31138(31138) (8-3-84)	Do.
84-998	do	do	Do.
84-999	do	do	Do.
84-1000	Generic name: Benzene alkyl sulfonic acid	do	Do.
84-1001	Generic name: Ethoxylated sorbitol, fatty acid ester	do	Oct. 23, 1984.
84-1002	Generic name: Hydroxyl-terminated poly (oxyalkylene)polyol containing polyurea	do	Do.
84-1003	do	do	Do.
84-1004	Generic name: Dihydroxyalkylamine	do	Do.
84-1005	Generic name: Alkyl amine derivative	49 FR 32110 (8-10-84)	Oct. 24, 1984.
84-1006	Terpolymer of isoprene, styrene and alphamethylstyrene	do	Do.
84-1007	Generic name: 3-alkyl-2-(2-anilino)vinyl thiazolinium salt	do	Do.
84-1008	Generic name: alkyl thiadiazole	do	Do.
84-1009	Generic name: Aliphatic polycarbonate urethane	do	Do.
84-1010	do	do	Do.
84-1011	Generic name: Aliphatic polyester urethane	do	Do.
84-1012	do	do	Do.
84-1013	Generic name: Aliphatic polyether urethane	do	Do.
84-1014	do	49 FR 32110(32111) (8-10-84)	Do.
84-1015	Generic name: Modified acrylamide polymer	do	Do.
84-1016	do	do	Do.
84-1017	do	do	Do.
84-1018	Generic name: Urethane adduct	do	Oct. 27, 1984.
84-1019	Generic name: Polysubstituted alkyl thiocyanate	do	Do.
84-1020	Generic name: Isophthalic polyester	do	Do.
84-1021	Generic name: Modified styrene-divinyl-benzene polymer	do	Do.
84-1022	do	do	Do.
84-1023	Quadpolymer of isoprene, 1,3-butadene, styrene and alpha-methylstyrene	do	Oct. 28, 1984.
84-1024	Generic name: Alkyl substituted 4-amino, 1-8 naphthalimide	do	Do.
84-1025	Generic name: Modified essential oil	do	Do.
84-1026	Generic name: Phenol, benzylic ether	do	Do.
84-1027	Generic name: Sulfurized reaction products of animal oil, vegetable fatty ester, olefin and turpentine.	do	Do.
84-1028	1,4 dimethylol cyclohexane ethoxylate propoxylate	do	Do.
84-1029	Generic name: Polyether aromatic isocyanate terminated prepolymer	do	Do.

III. 133 PREMANUFACTURE NOTICES FOR WHICH THE NOTICE REVIEW PERIOD HAS ENDED DURING THE MONTH

[Expiration of the notice review period does not signify that the chemical had been added to the inventory]

PMN No.	Identity/generic name	FR citation	Expiration date
82-60	Generic name: Zinc, O,O-bis alkylphosphorodithioate	47 FR 5932 (2-9-82)	Aug. 5, 1984.
82-387	Phosphorodithioic acid, O,O', secondary butyl and isooctyl mixed esters	47 FR 25400 (24501) (6-11-82)	Aug. 15, 1984.
82-388	Phosphorodithioic acid, O,O', secondary butyl and isooctyl mixed esters, zinc salt	do	Do.
83-1162	Generic name: Substituted pyridine	48 FR 41638 (41643) (9-16-83)	Aug. 6, 1984.
83-1163	do	do	Do.
84-224	Generic name: Alkoxylated bisphenol A, inorganic ester, monoethanolamine salt	48 FR 55332 (12-12-83)	Aug. 13, 1984.
84-274	Poly (OXY-1,4-butanediyl)-X-(1-OXO-2-propenyl)-w-[(1-OXO-2-propenyl)OXY]	48 FR 57618 (57619) (12-30-83)	Aug. 15, 1984.

III. 133 Premanufacture Notices for Which the Notice Review Period Has Ended During the Month—Continued

(Expiration of the notice review period does not signify that the chemical had been added to the inventory)

PMN No.	Identity/generic name	FR citation	Expiration date
84-393	Generic name: 2-Chloro-N-methyl-N-substituted acetamide	49 FR 6160 (6162) (2-17-84)	Aug. 20, 1984.
84-417	Generic name: Substituted phenol	49 FR 6891 (6893) (2-24-84)	Aug. 17, 1984.
84-536	Generic name: Disubstituteddisulfamoylcarbomonocycle azo substituted naphthalene sulfonic acid	49 FR 13744 (13745) (4-6-84)	Aug. 21, 1984.
84-580	Generic name: Isopropyl ester of substituted acetic acid	49 FR 16833 (16834) (4-20-84)	Do.
84-581	Generic name: Oxaspiroalkane	do	Do.
84-582	Generic name: Substituted trialkylbicyclononene	do	Do.
84-583	Generic name: Alkyl salicylate	do	Do.
84-585	Generic name: Alkyl pentanoate ester	do	Do.
84-608	Generic name: Substituted oxazinium salt	49 FR 16034 (4-26-84)	Aug. 17, 1984.
84-672	Generic name: Reaction product of epoxides and aromatic amine	49 FR 22128 (22129) (5-25-84)	Aug. 13, 1984.
84-678	Generic name: Halogenated vinyl monomer	49 FR 21113 (5-16-84)	Aug. 1, 1984.
84-679	Generic name: Salt of dialkylphosphorodithioic acid	do	Aug. 4, 1984.
84-680	do	do	Do.
84-681	Generic name: Unsaturated and saturated alkanoic acids	do	Aug. 5, 1984.
84-682	Generic name: Modified, fatty amidoamine	do	Do.
84-683	Generic name: Substituted succinic anhydride	do	Do.
84-684	Generic name: Polymer of formaldehyde and substituted phenols	do	Do.
84-685	1,3-isobenzofurandione, 5,5'-carbonylbis, reaction products with methanol	do	Do.
84-686	Bicyclo [2.2.1]HEPT-5-ENE-2,3-dicarboxylic acid, monomethyl ester, (Endo, Endo)	49 FR 21113 (21114) (5-16-84)	Do.
84-687	Generic name: Substituted benzyl amino polyol	do	Do.
84-688	2-Thiazolium, 2,2'-[(2-carboxy-p-phenylene) bis(iminovinylene)] bis [3-ethyl] dicdide triethylamine salt.	do	Do.
84-689	Generic name: Sulfurized reaction products of animal oil and vegetable fatty ester	do	Aug. 6, 1984.
84-690	Carboxymethylated soy fiber	do	Do.
84-691	1-(1-hydroxy-4-methyl-2-phenylazo)-2-naphthol-4-sulfonic acid triethanol-ammonium salt	do	Aug. 7, 1984.
84-692	Generic name: Polymer of carbomonocyclic acid, carbomonocyclic anhydride, alkanediols and alkane dioic acid.	do	Do.
84-693	Generic name: Dithiocarbamate salt	49 FR 22128 (22129) (5-25-84)	Aug. 8, 1984.
84-694	Generic name: Bisphenol diester	do	Do.
84-695	Generic name: Oil modified polyester	do	Do.
84-696	Generic name: Organic salt of quaternary aliphatic cyclic amine	do	Do.
84-697	Generic name: Polyurethane plastics	do	Do.
84-699	Generic name: Substituted naphthalenedisulfonic acid, sodium salt	do	Do.
84-700	Generic name: Substituted polyamine	do	Do.
84-701	Generic name: Modified styrene methacrylic	49 FR 22128 (22130) (5-25-84)	Aug. 11, 1984.
84-702	Generic name: Terpene ether alcohol	do	Do.
84-703	Oxo-octyl acetate	do	Do.
84-704	Generic name: Substituted alkyl arene	do	Do.
84-705	Benzenamine, 2-ethyl-6-methyl-N-methylene	do	Do.
84-706	Generic name: Polyesteramide resin	do	Aug. 12, 1984.
84-707	do	do	Do.
84-708	Polymer of: Naphtha (petroleum) light steam cracked debenzenized polymers, linseed oil, soya oil, phthalic anhydride, isophthalic acid, glycerine, castor oil, maleic anhydride fumaric acid, oxalic acid, pentaerythritol.	do	Do.
84-709	Generic name: Alkanediol based polymer	do	Do.
84-710	Generic name: Copolymer of acrylates and methacrylates	do	Do.
84-711	Generic name: Modified, maleated metal resinate	do	Do.
84-712	Generic name: Substituted phenylenebis-naphthalene trisulfonic acid	do	Do.
84-713	Generic name: Acrylated silicacrylated aliphatic polyol	do	Do.
84-714	Generic name: Polyurethane elastomer	49 FR 22128 (22131) (5-25-84)	Do.
84-715	Generic name: Hexadecyl functional silane	do	Do.
84-716	Generic name: Modified alkylphenol resin	do	Aug. 13, 1984.
84-717	Generic name: Modified essential oil	do	Do.
84-718	2,4-dinitrobenzaldehyde	do	Do.
84-719	2-(2,4-dinitrophenyl)benzothiazoline	do	Do.
84-720	Generic name: Modified polyvinyl amide	do	Do.
84-721	Generic name: Epoxy modified acrylic polymer	do	Do.
84-722	1-Naphthalene sulfonic acid, 4-[(2-hydroxy-1-naphthalenyl)azo]-barium salt (2 : 1)	do	Do.
84-723	1-Naphthalenesulfonic acid, 5-[(2-hydroxy-1-naphthalenyl)azo]-barium salt (2 : 1)	do	Do.
84-724	1-Naphthalenesulfonic acid, 2-[(2-hydroxy-6-sulfo-1-naphthalenyl)azo]-barium salt (1 : 1)	do	Do.
84-725	1-Naphthalenesulfonic acid, 4-[(2-hydroxy-6-sulfo-1-naphthalenyl)azo]-barium salt (1 : 1)	do	Do.
84-726	1-Naphthalenesulfonic acid, 5-[(2-hydroxy-6-sulfo-1-naphthalenyl)azo]-barium salt (1 : 1)	do	Do.
84-727	5-[(3,5-dinitrophenyl)methylthio]-1-phenyl-1H-tetrazole	do	Aug. 14, 1984.
84-728	Generic name: Polyesteramide resin	49 FR 22128 (22132) (5-25-84)	Do.
84-729	do	do	Do.
84-730	Generic name: Modified polyester	do	Do.
84-731	Generic name: Polymer of aliphatic diacid, aliphatic polyamines and substituted alkane	do	Do.
84-732	Generic name: Aromatic polyglycol ether polymer	49 FR 22865 (22866) (6-1-84)	Aug. 18, 1984.
84-733	Generic name: Functional polymer of styrene and alkyl methacrylate	do	Aug. 19, 1984.
84-734	Generic name: Acrylate terpolymer	do	Do.
84-735	Generic name: Polyester urethane	do	Do.
84-736	Generic name: Terpolymer of acrylate and methacrylates	do	Do.
84-737	Generic name: Glycol ether	do	Do.
84-738	do	do	Do.
84-739	Generic name: Phenolated rosin—modified alkyd	do	Aug. 20, 1984.
84-740	Generic name: Substituted dianhydride and cyclic amine polymer	do	Do.
84-741	Generic name: Substituted dianhydride, cyclic amine and substituted amine terminated polymer	do	Do.
84-743	Generic name: Aromatic polyglycolether polymer	49 FR 22865 (22867) (6-1-84)	Aug. 21, 1984.
84-744	Generic name: Haloalkyl-polynitro-halobenzene	49 FR 23916 (6-8-84)	Aug. 22, 1984.
84-745	Generic name: Fatty alcohols, hydroxy stearate	do	Do.
84-746	Generic name: Polyalkylene glycols	do	Do.
84-747	do	do	Do.
84-748	Generic name: Modified polyol acetate	49 FR 23916 (23917) (6-8-84)	Do.
84-749	Generic name: Cyclic ester	do	Do.
84-750	do	do	Do.
84-751	do	do	Do.
84-752	do	do	Do.
84-753	do	do	Do.
84-754	do	do	Do.
84-755	Generic name: Aromatic ester	do	Do.

III. 133 Premanufacture Notices for Which the Notice Review Period Has Ended During the Month—Continued

[Expiration of the notice review period does not signify that the chemical had been added to the inventory]

PMN No.	Identity/generic name	FR citation	Expiration date
84-756	....do	....do	Do.
84-757	....do	....do	Do.
84-758	....do	....do	Do.
84-759	....do	....do	Do.
84-760	....do	49 FR 23916 (23918) (6-8-84)	Do.
84-761	Generic name: Polyester/acrylic copolymer	....do	Aug. 26, 1984.
84-762	Generic name: Polyester from mixed alkane diols and mixed acids	....do	Aug. 27, 1984.
84-763	Polymer of: vinyl acetate, butyl acrylate, hydroxy ethyl acrylate, acrylic acid	....do	Do.
84-764	Generic name: Polymer of formaldehyde and substituted phenols	....do	Do.
84-765	....do	....do	Do.
84-766	....do	....do	Do.
84-767	....do	....do	Do.
84-768	....do	....do	Do.
84-769	....do	....do	Do.
84-770	Generic name: Alkyd resin	....do	Do.
84-771	Generic name: Butyl salicylic acid potassium salt aqueous solution	....do	Do.
84-772	Generic name: Mixed amidoamine	....do	Do.
84-773	....do	....do	Do.
84-774	....do	....do	Do.
84-775	....do	....do	Do.
84-776	....do	48 FR 23916 (23919) (6-8-84)	Do.
84-777	....do	....do	Do.
84-778	....do	....do	Do.
84-779	....do	....do	Do.
84-780	Generic name: Aliphatic diacrylate	....do	Do.
84-781	Generic name: Disubstituted acrylamide salt	....do	Do.
84-782	Generic name: Pentasubstituted naphthalenecarboxamide	....do	Do.
84-783	5-fluorosulfonyl-2-methoxybenzenesulfonyl chloride	....do	Do.
84-784	Generic name: Polymer of substituted acrylic acid esters and disubstituted acrylamides	....do	Do.
84-785	Generic name: Disubstituted naphthoic acid	....do	Do.
84-786	Generic name: Polysubstituted heterocycle	....do	Do.
84-787	Hydroxyl functional styrene—acrylic pentapolymer	....do	Do.
84-788	Generic name: Polyester resin	49 FR 23916 (23920) (6-8-84)	Aug. 28, 1984.
84-789	Generic name: Amino aromatic ester	....do	Do.
84-790	Generic name: Monosubstituted phenyl azo polysubstituted heterocycle	....do	Do.
84-791	Generic name: Substituted hydroxy urethane	....do	Do.
84-792	Generic name: Disubstituted anthraquinone-2-sulfonic acid, alkali metal salt	....do	Do.
84-793	Generic name: Disubstituted anthraquinone-2-sulfonic acid	....do	Do.
84-794	Generic name: Benzoselenazole based cyanine dye	49 FR 24782 (6-15-84)	Aug. 29, 1984.
84-795	Generic name: Carbomonocyclic, carbopolycyclic polyester	....do	Do.

IV. 33 Chemical Substances for Which EPA Has Received Notices of Commencement To Manufacture

PMN No	Chemical identification	FR citation	Date of commencement
82-13	Generic name: Polyester diol	47 FR 3031 (1-21-82)	Sept. 9, 1984.
82-259	Generic name: Aliphatic oligomeric carbonate diol	47 FR 16403(16404) (4-16-82)	Do. 1984.
83-662	Generic name: Melamine formaldehyde resin	48 FR 20490 (5-6-83)	July 16, 1984.
83-737	Generic name: Hydroxy functional acrylic resin	48 FR 23903(23904) (5-27-83)	July 27, 1984.
83-759	Generic name: Functionalized acrylic polymer	48 FR 24967 (6-3-83)	July 23, 1984.
83-1009	1-propanaminium, 2,3,-di-hydroxy-N,N,N-trimethylchloride	48 FR 36647(36648) (8-12-83)	Aug. 3, 1984.
83-1024	Generic name: Polyether urethane-methacrylate blocked	48 FR 37699 (8-19-83)	July 31, 1984.
83-1081	Generic name: Quaternary ammonium chloride	48 FR 39689(39691) (9-1-83)	Aug. 27, 1984.
83-1158	Generic name: Polymer of styrene with mixed alkyl acrylates and methacrylates	48 FR 41638(41642) (9-16-83)	June 26, 1984.
83-1308	Generic name: Benzo-heterocyclic, 2-[[4-[alkyl(2-hydroxyalkyl)amino]phenyl]azo]-6-methoxy-3-alkyl-, chloride.	48 FR 45842(45843) (10-7-83)	July 20, 1984.
84-172	Generic name: Functional acrylic copolymer	48 FR 50944(50950) (11-4-83)	Jan. 19, 1984.
84-259	Generic name: Bis(polyalkylaminotriphenyl)-bis(alkylamino)benzene	48 FR 56846 (12-23-83)	July 26, 1984.
84-328	Generic name: Modified linseed alkyd	49 FR 3523(3524) (1-27-84)	Aug. 2, 1984.
84-393	Generic name: 2-choloro-N-methyl-N-substituted-acetamide	49 FR 6160 (6162) (2-17-84)	Aug. 27, 1984.
84-399	Generic name: Blocked amine	49 FR 6991 (2-24-84)	July 23, 1984
84-442	Generic name: Expoxy-modified urethane polymer	49 FR 9013 (9014) (3-9-84)	Aug. 15, 1984
84-451	Generic name: Phenoxazin imine	....do	July 18, 1984.
84-481	Generic name: Polyester urethane polymer	49 FR 9954(9955) (3-16-84)	July 30, 1984.
84-533	Generic name: Acrylated polyurethane-polyester/polyether backbone	49 FR 13744(13745) (4-6-84)	On or about Aug. 28, 1984.
84-535	Generic name: Alkali metal polycarboxylate	....do	Aug. 28, 1984.
84-551	Generic name: Polymeric polyamine	49 FR 14802(14803) (4-13-84)	July 13, 1984.
84-552	....do	....do	July 17, 1984.
84-568	Generic name: Substituted tall oil polymer	49 FR 14802(14804) (4-13-84)	July 20, 1984.
84-579	Generic name: Substituted alkenol	49 FR 16833(16834) (4-20-84)	Aug. 8, 1984.
84-583	Generic name: Alkyl salicylate	....do	On or about Aug. 22, 1984.
84-623	Generic name: Cross-linked copolymer of 2 propenamide and 2 propenoic acid sodium salt	49 FR 18034(18035) (4-26-84)	Sept. 6, 1984.
84-656	Generic name: Substituted ammonium phenyl-phosphonate	49 FR 19110(19113) (5-4-84)	Aug. 15, 1984.
84-657	Generic name: Sulfonated amino naphthalene	....do	Do.
84-659	Generic name: Iron complex of a substituted phenyl azo	....do	Aug. 6, 1984.
84-681	Generic name: Unsaturated and saturated alkanoic acids	49 FR 21113 (5-18-84)	Aug. 14, 1984.
84-683	Generic name: Substituted succinic anhydride	....do	Aug. 6, 1984.
84-691	1-(1-hydroxy-4-methyl-2-phenylazo)-2-naphthol-4-sulfonic acid triethanol-ammonium salt	49 FR 21113(21114) (5-18-84)	Aug. 15, 1984.
84-748	Generic name: Modified polyol acetals	49 FR 23916(23917) (6-8-84)	Aug. 30, 1984.

V. 96 PREMANUFACTURE NOTICES FOR WHICH THE REVIEW PERIOD HAS BEEN SUSPENDED

PMN No.	Identity/generic name	FR citation	Date suspended
83-1	Generic name: Polyhalogenated aromatic alkylated hydrocarbon	47 FR 46371 (10-18-82)	Oct. 22, 1982.
83-333	Generic name: Reaction product of polycyclesulfonic acid salt with phosphorus halide/halogen, subsequent reaction with an amine, subsequent reaction with an aldehyde/sodium bisulfite alkali.	48 FR 72(73) (1-3-83)	Mar. 14, 1983.
83-401	Generic name: Naphthalenetrisulfonic acid, chlorotriazinylamino-methoxymethylphenylazo	48 FR 5304 (2-4-83)	Aug. 18, 1983.
83-416	Generic name: Benzenedisulfonic acid, chlorotriazinylamino-methoxymethylphenylazo-sulfonaphthalen-azo-.	48 FR 5304 (5306) (2-4-83)	Do.
83-461	Generic name: Substituted alkoxy silane	48 FR 7299 (7300) (2-18-83)	Apr. 25, 1983.
83-694	Generic name: Substituted mono azo aromatic	48 FR 17385 (4-22-83)	July 5, 1983.
83-689	Generic name: Chromium complex of substituted phenolazosulfonaphthol with naphtholazosulfon-aphthol.	48 FR 20490 (5-6-83)	Aug. 5, 1983.
83-677	Generic name: Chromium complex of substituted alkylaminoformmidphenol with sulfonaphtholazo-sulfophenylpyrazolone.	48 FR 20490 (20491) (5-6-83)	Do.
83-755	4-hydroxy-6-phenylaminonaphthalene-2-sulfonic acid	48 FR 24967 (6-3-83)	Aug. 17, 1983.
83-770	Generic name: Cobalt complex of a substituted phenylazonaphthol	48 FR 24967 (24968) (6-3-83)	Aug. 15, 1983.
83-771	Generic name: Chromium complex of substituted phenylazoalkylarylamino-formmidphenol with sulfonaphthylazo-sulfonaphthol.	do	Do.
83-831	Generic name: Disazo solvent red dye	48 FR 29054 (29055) (6-24-83)	Sept. 9, 1983.
83-860	Generic name: Metal complexed substituted aromatic azo compound	48 FR 30434 (30435) (7-1-83)	Sept. 21, 1983.
83-875	4-(2-cyano-4-nitrophenylazo)-[N-(2-cyanoethyl)-N-(2-phenoxyethyl)amino] benzene	48 FR 31460 (31462) (7-8-83)	Do.
83-876	4-(2-cyano-4-nitrophenylazo)-[N,N-bis(2-propionyloxyethyl)amino]-3-chlorobenzene	do	Do.
83-913	Generic name: Copper sulfonylphenazopolyhydroxy phenazobenzoate	48 FR 32381 (32383) (7-15-83)	Oct. 1, 1983.
83-1006	Generic name: (Amino)-(hydroxy)-(substituted)-(substituted) naphthalenedisulfonic acid, and (amino)-(hydroxy)-(substituted)-(substituted) naphthalenedisulfonic acid, salts with sodium and potassium.	48 FR 36647 (36648) (8-12-83)	Oct. 14, 1983.
83-1007	Generic name: (Substituted)-(substituted)-hydroxy-naphthalenesulfonic acid, sodium salts	do (8-12-83)	Do.
83-1012	Generic name: Bis(sulfophenylchlorotriazineaminosulfophenylazo) hydroxyaminodisulfonaphthalene.	do	Oct. 24, 1983
83-1016	Generic name: Substituted-naphthalene tetradisulfonic acid, bis[(substituted-hydroxyphenylazo)phenyl]derivative.	48 FR 36647 (36649) (8-12-83)	Do.
83-1029	Generic name: Substituted heterocycle	48 FR 37699 (8-19-83)	Nov. 3, 1983.
83-1033	Generic name: C_{6-8} carboxylic acid	48 FR 37699 (37700) (8-19-83)	Dec. 8, 1983.
83-1157	Generic name: Substituted oxirane	48 FR 41638 (41642) (9-16-83)	Feb. 2, 1984.
83-1222	Generic name: Substituted alkyl halide	48 FR 43397 (43399) (9-23-83)	Do.
83-1227	Generic name: Perhalo alkoxy ether	do	Do.
83-1228	do	do	Do.
83-1229	do	do	Do.
83-1238	Generic name: Substituted anthraquinone	48 FR 43397 (43400) (9-23-83)	Dec. 9, 1983.
84-7	N, N, N',N'-tetraglycidyl-1,3-beamnomethyl cyclohexane	48 FR 46851 (46853) (10-14-83)	Dec. 21, 1983.
84-15	Generic name: Substituted heterocyclic metal complex	48 FR 48863 (48864) (10-21-83)	Jan. 3, 1984.
84-17	Generic name: Substituted heterocyclic metal complex	do	Mar. 1, 1984.
84-18	1(1,1 dimethylethoxy)-propan-2-ol	do	Jan. 6, 1984.
84-36	Generic name: Substituted heterocyclic metal complex	48 FR 48863 (48866) (10-21-83)	Mar. 1, 1984.
84-50	do	48 FR 50951 (50952) (11-4-83)	Do.
84-54	Generic name: Substituted-phenylamino monochloro-triazinylamino sulfophenylazo-substituted-disulfonaphthalenylazo-naphthalene-disulfonic acid, hexasodium salt.	48 FR 50951 (59053) (11-4-83)	Jan. 5, 1984.
84-69	Generic name: Hydroxylalkyl ether	48 FR 50944 (50945) (11-4-83)	Jan. 11, 1984.
84-108	Generic name: Trisubstituted heterocyclic disubstituted monocycle	do	Mar. 3, 1984
84-121	Generic name: Substituted heterocyclic metal complex	48 FR 50944 (50946) (11-4-83)	Mar. 1, 1984
84-306	Benzoic acid, 2-((((2-((2-methyl-1-oxo-2-propenyl)oxy)ethyl)amino)carbonyl)oxy-, methyl ester	49 FR 930 (932) (1-6-84)	Mar. 22, 1984
84-307	2-propenoic acid, 2-methyl-, 2-((hexahydro 2-oxo-1H-azepin-1-yl)carbonyl)amino)ethyl ester	do	Do.
84-341	Poly[oxy(1-oxo-1,6-hexanediyl)], alpha-hydro-omega-hydroxy-, ester with 3-hydroxy-2,2-dimethyl-propyl 3-hydroxy-2,2-dimethyl-propanoate (2:1), di-2-propenoate	49 FR 3523 (3525) (1-27-84)	May 3, 1984.
84-342	Poly[oxy(1-oxo-1,6-hexanediyl)], alpha-(1-oxo-2-propenyl)-omega-[(tetrahydro-2-furanyl)methoxy]	do	Do.
84-343	Poly[oxy(1-oxo-1,6-hexanediyl)], alpha-hydroxy-omega-hydroxy-, ester with 2,2'-[oxybis(methylene)]bis[2-(hydroxymethyl)-1, 3-propane-diol 2-propenoate.	do	Do.
84-344	2-propenoic acid, [2-[1,1-dimethyl-2-[(1-oxo-2-propenyl)oxy]ethyl]-5-ethyl-1,3-dioxan-5-yl]methyl ester.	do	May 4, 1984.
84-358	Generic name: Polyaromatic urethane poly (unsaturated) ester	49 FR 6991 (2-24-84)	Apr. 26, 1984.
84-375	Generic name: Sodium salt of alkyl dithiocarbamates	49 FR 4980 (4981) (2-9-84)	May 11, 1984.
84-376	do	do	Do.
84-378	Generic name: Aromatic sulfonate of substituted heteropolycycle	49 FR 6160 (6161) (2-17-84)	Apr. 30, 1984.
84-379	do	do	Do.
84-389	do	do	Do.
84-392	2-propenoic acid 3-(2-hydroxyethoxy) 3-oxypropyl ester	do	June 11, 1984.
84-391	Generic name: Cuprate(5-), [5-hydroxy-2-[[4-[[4-[[5-hydroxy-6-[[2-methoxy-5-(substituted)phenyl]azo]-7-sulfo-2-naphthalenyl]amino]-6-[(3-sulfophenyl)amino)]-1,3,5-triazin-2-yl]amino]-6-[2-hydroxy-5-sulfophenyl)]azo-1,7-naphthalene-disulfonato(7-)], pentasodium.	49 FR 6160 (6162) (2-17-84)	Apr. 27, 1984
84-392	Generic name: Alkoxylated cycloaliphatic diamine	do	Do
84-416	Dimethylbis(N-ethylacetamido)silane	49 FR 6991 (6993) (2-24-84)	May 11, 1984
84-426	Generic name: Alkyl arylphosphonium salt	49 FR 7654 (7655) (3-1-84)	Apr. 13, 1984
84-460	Copper ferrocyanide salt of C. I. basic green I and C. I. basic yellow I	49 FR 9013 (9015) (3-9-84)	May 9, 1984.
84-461	Copper ferrocyanide salt of C. I. basic blue II	do	Do
84-462	Generic name: Substituted urethane ester	do	May 21, 1984.
84-464	Generic name: Halogenated aromatic ether	do	May 23, 1984.
84-467	Generic name: Hydrogen 2-[alpha-(2-hydroxy-3-sulfo-5-ethenylsulfonylphenylazo)-benzilidenehydrazono]-5- = substituted, cuprate, sodium salt.	49 FR 9013 (9016) (3-9-84)	July 6, 1984.
84-482	Urea, condensate with poly[oxy(methyl-1,2-ethanediyl), alpha-(2-aminomethylethyl)-omega-(2-aminomethylethoxy).	49 FR 9954 (9955) (3-16-84)	June 1, 1984.
84-485	Generic name: Poly(oxy-1,2-ethanediyl) alpha-acyl-w-alkyl	49 FR 11009(11010) (3-23-84)	June 4, 1984.
84-490	Generic name: Substituted aminofluorane	do	Aug. 16, 1984
84-491	Generic name: Substituted aliphatic acid halide	do	May 22, 1984.
84-492	Generic name: Substituted hydroxylamine	do	Do
84-527	Generic name: Unsaturated amino alkyl ester salt	49 FR 13744 (13745) (4-6-84)	June 15, 1984.
84-537	Generic name: Unsaturated amino ester salt	do	Do.
84-558	Generic name: Carboxylated alkane diol	49 FR 14802 (4803) (4-13-84)	June 27, 1984.
84-559	Generic name: Polychlorinated alkylated aromatic hydrocarbon	49 FR 14802 (14804) (4-13-84)	July 2, 1984.
84-581	Generic name: Sodium salt of an alkylated sulfonated aromatic	49 FR 16633 (16635) (4-20-84)	July 5 1984
84-587	Generic name: Blocked aliphatic polyisocyanate	do	July 19, 1984
84-649	Generic name: Chromate, bis(substituted substituted phenolato)inorganic salts	49 FR 19110 (19113) (5-4-84)	July 20, 1984
84-650	Generic name: Chromate, bis(substituted substituted pyrazolyl), sodium	do	Do.
84-651	Generic name: Chromate, bis(substituted substituted naphthalenesulfonic)sodium	do	Do.
84-660	Generic name: Substituted aryl olefin	49 FR 19110 (19114) (5-4-84)	July 17, 1984.

V. 96 Premanufacture Notices for Which the Review Period Has Been Suspended—Continued

PMN No	Indentity/generic name	FR citation	Date suspended
84-664	Generic name: Chromate, (substituted substituted phenolato) (substituted substituted substituted substituted phenolato) sodium.	49 FR 20060 (20061) (5-11-84)	July 20, 1984
84-665	Generic name: Chromate, bis(substituted substituted substituted phenolato), sodium	do	Do.
84-669	Oleic, linoleic, palmitic acid ester of ethoxylated $C_{12}C_{14}$ alcohols	do	July 18, 1984.
84-673	Generic name: Chromate (substituted naphthalenolato) (substituted substituted naphthalenolato)inorganic salts.	do	July 20, 1974
84-698	Generic name. 9,10-Anthracenedione sulfonic acid, sodium salt	49 FR 22128 (22129) (5-25-84)	July 25, 1984
84-703	Oxo-octyl acetate	49 FR 22128 (22130) (5-25-84)	Aug. 9, 1984
84-704	Generic name: Substituted alkyl arene	do	Aug. 3, 1984.
84-713	Generic name: Acrylated alkoxylated aliphatic polyol	do	Do.
84-742	Generic name. Cross-linked modified polyvinyl amide	49 FR 22865 (22866) (6-1-84)	July 23, 1984.
84-760	Generic name: Aromatic ester	49 FR 23916 (23918) (6-8-84)	Aug. 22, 1984.
84-792	Generic name: Disubstituted anthraquinone-2-sulfonic acid, alkali metal salt	49 FR 23916 (23920) (6-8-84)	Do.
84-796	Generic name: Polyfunctional aziridine	49 FR 24782 (6-15-84)	Aug. 17, 1984.
84-809	Generic name: Polyesterimide resin	49 FR 24782 (24783) (6-15-84)	July 10, 1984.
84-814	Generic name: Polysubstituted polyol	49 FR 24782 (24784) (6-15-84)	Aug. 27, 1984.
84-816	Generic name: Organophosphonium salt	do	Aug. 24, 1984.
84-820	Generic name: Phosphonium salt	do	Aug. 29, 1984.
84-824	Generic name: Brominated aromatic	49 FR 25676 (6-22-84)	Do.
84-839	Generic name: Polyfunctional azindine	49 FR 25676 (25677) (6-22-84)	Aug. 27, 1984.
84-858	Generic name: Polyalkylene glycol ether acrylate	49 FR 26800 (26801) (6-29-84)	Aug. 31, 1984.
84-1052	Generic name: Spent sulfite liquor, reaction product with an aromatic monomer	49 FR 33718 (33720) (8-24-84)	Aug. 28, 1984.
84-1071	Generic name: Alkoxy aluminum alkyaceto-acetate	49 FR 33718 (33722) (8-24-84)	Do.

[FR Doc. 84-27139 Filed 10-12-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 84-950; File No. 50343-CM-P-83 et al.]

Contemporary Communications Corp. et al.; Memorandum Opinion and Order

In re applications of Contemporary Communications Corporation; CC Docket No. 84-950, File No. 50343-CM-P-83 and BA-United Service Corporation, Inc.; CC Docket No. 84-951, File No. 50012-CM-P-84; for Construction Permits in the Multipoint Distribution Service for a new station at Orlando, Florida.

Adopted September 27, 1984.
Released October 5, 1984.

By the Common Carrier Bureau.

1. For consideration are the above-referenced applications. These applications are for construction permits in the Multipoint Distribution Service and they propose operations on Channel 2A at Orlando, Florida. The applications are therefore mutually exclusive and, under present procedures, require comparative consideration. There are no petitions to deny or other objections under consideration.

2. Upon review of the captioned applications, we find that these applicants are legally, technically, financially, and otherwise qualified to provide the services which they propose, and that a hearing will be required to determine, on a comparative basis, which of these applications should be granted.

3. Accordingly, it is hereby ordered, That pursuant to section 309(e) of the Communications Act of 1934, as amended, 43 U.S.C. 309(e) and § 0.291 of the Commission's Rules, 47 CFR 0.291, the above-captioned applications are designated for hearing, in a consolidated proceeding, at a time and place to be specified in a subsequent Order, to determine, on a comparative basis, which of the above-captioned applications should be granted in order to best serve the public interest, convenience and necessity. In making such a determination, the following factors shall be considered: [1]

(a) The relative merits of each proposal with respect to efficient frequency use, particularly with regard to compatibility with co-channel use in nearby cities and adjacent channel use in the same city;

(b) The anticipated qualify and reliability of the service proposed, including installation and maintenance programs; and

(c) The comparative cost of each proposal considered in context with the benefits of efficient spectrum utilization and the qualify and reliability of service as set forth in issues (a) and (b).

4. It is further ordered, That Contemporary Communications Corporation, BA-United Service Corporation, Inc. and the Chief of Common Carrier Bureau, are made parties to this proceeding.

5. It is further ordered, That parties desiring to participate herein shall file their notices of appearance in accordance with the provisions of Section 1.221 of the Commission's Rules, 47 CFR 1.221.

[1] Consideration of these factors shall be in light of the Commission's discussion in *Frank K. Spain*, 77 FCC 2d 20 (1980).

6. The Secretary shall cause a copy of this Order to be published in the **Federal Register.**

James R. Keegan,
Chief, Domestic Facilities Division, Common Carrier Bureau.

[FR Doc. 84-27150 Filed 10-12-84; 8:45 am]

BILLING CODE 6712-01-M

[File No. BPH-830725AG; MM Docket No. 84-944 et al.]

Key Largo Broadcasters et al.; Applications for Consolidated Hearing

1. The Commission has before it the following mutually exclusive applications for a new FM station: [1]

Applicant, city and State	File No.	MM Docket No.
A. John Raymond Meyers, et al, d.b.a. Key Largo Broadcasters; Key Largo, FL.	BPH-830725AG	84-944
B. Anita S. Magliola and Martha Sue Sellers; Key Largo, FL.	BPH-840109AH	84-945
C. Stanton Earl Mitchell; Key Largo, FL.	BPH-840217AB	84-946
D. Fredessa Hamilton and Ronald Baptist d.b.a. Monroe County Radio, Ltd.; Key Largo, FL.	BPH-840217AN	84-947
E. Beach Broadcasting Corporation of Florida; Key Largo, FL.	BPH-840217AQ	84-948
F. Key Largo Broadcasting Company; Key Largo, FL.	BPH-840217BI	84-949

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in this entirety in a sample standardized

Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Air Hazard, A, C, and E
2. (See Appendix), C and D
3. Comparative, All
4. Ultimate, All

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, NW., Washington, D.C. 20554. Telephone (202) 632–6334.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

Appendix

2. If a final environmental impact statement is issued with respect to (C) Mitchell and (D) MCR which concludes that the proposed facilities are likely to have an adverse effect on the quality of the environment—

(a) To determine whether the proposal is consistent with the National Environmental Policy Act, as implemented by §§ 1.1301–1319 of the Commission's Rules; and

(b) Whether, in light of the evidence adduced pursuant to (a) above, the applicant is qualified to construct and operate as proposed.

[FR Doc. 84–27153 Filed 10–12–84; 8:45 am]

BILLING CODE 6712–01–M

[File No. BPH–830829AD; MM Docket No. 84–939]

Kingsbay Area Broadcasting Co. et al.; Applications for Consolidated Hearing

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city, and State	File No.	MM Docket No.
A. Carol B. Dowdy, *et al.* d./b./a. Kingsbay Area Broadcasting Company; Kingsland, GA.	BPH–830829AD	84–939
B. Albert E. Melcolm and Bernice Butler d./b./a. M & B Broadcasters; Kingsland GA.	BPH–840105AG	84–940
C. Willie J. Martin and Marcelle Meyers d./b./a. Kingsland Minority Broadcasters, Ltd.; Kingsland, GA.	BPH–840105AX	84–941

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. (See Appendix), C
2. Comparative, A,B,C
3. Ultimate, A,B,C

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, NW., Washington, D.C. 20554. Telephone (202) 632–6334.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

Appendix

Additional Issue(s) Paragraph

1. If a final environmental impact statement is issued with respect to C (Kingsland) which concludes that the proposed facilities are likely to have an adverse effect on the quality of the environment—

(a) To determine whether the proposal is consistent with the National Environmental Policy Act, as implemented by §§ 1.1301–1.1319 of the Commission's Rules; and

(b) Whether, in light of the evidence adduced pursuant to (a) above, the applicant is qualified to construct and operate as proposed.

[FR Doc. 84–27154 Filed 10–12–84; 8:45 am]

BILLING CODE 6712–01–M

[File No. BPH–830907AL; MM Docket No. 84–952 et al.]

Wilk Broadcasting et al.; Applications for Consolidated Hearing

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city and state	File No.	MM Docket No.
A. Edward Joseph Wilk and Joseph Frank Wilk d.b.a. Wilk Broadcasting; Kankakee, IL.	BPH–830907AL	84–952
B. Mid America Auto-Video, Inc., Kankakee, IL.	BPH–840214AH	84–953
C. Wayman Thomas Ward; Kankakee, IL.	BPH–840217AC	84–954
D. Jean A. Eastman; Kankakee, IL.	BPH–840217AF	84–955
E. Michelle Walker, Ronald Baptist, and Reinhard F. Korte d.b.a. Bourbonnais Broadcasting; Kankakee, IL.	BPH–840217AO	84–956

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue is question applies to that particular applicant.

Issue Heading and Applicant(s)

1. (See Appendix), C
2. Air Hazard, All Applicants
3. Comparative, All Applicants
4. Ultimate, All Applicants

3. If there is any non-standardized issue(s) in this proceeding, the full text of this issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, NW., Washington, D.C. 20554. Telephone (202) 632–6334.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

Appendix

Issue(s)

1. If a final environmental impact statement is issued with respect to C (Ward) which concludes that the proposed facilities are likely to have an adverse effect on the quality of the environment—

(a) To determine whether the proposal is consistent with the National Environmental Policy Act, as implemented by §§ 1.1301–1319 of the Commission's Rules; and

(b) Whether, in light of the evidence adduced pursuant to (a) above, the applicant is qualified to construct and operate as proposed.

[FR Doc. 84-27152 Filed 10-12-84; 8:45 am]

BILLING CODE 6712-01-M

[File No. BPH-831012AB; MM Docket No. 84-942 et al.]

Wrightsville Broadcasting Co. et al.; Applications for Consolidated Hearing

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city, and State	File No.	MM Docket No.
A. Wimley Waters d.b.a. Wrightsville Broadcasting Co., Wrightsville, GA.	BPH-831012AB	84-942
B. Dimar Broadcasting Co.; Wrightsville, GA.	BPH-840105AE	84-943

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Air Hazard, A
2. Comparative, A, B
3. Ultimate, A, B

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, NW., Washington, D.C. 20554. Telephone (202) 632-6334.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 84-27155 Filed 10-12-84; 8:45 am]

BILLING CODE 6712-01-M

Public Information Collection Requirements Submitted to the Office of Management and Budget for Review

October 5, 1984.

The Federal Communications Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511.

Copies of these submissions are available from Doris R. Peacock, Agency Clearance Officer, (202) 632-7513. Persons wishing to comment on these information collections should contact Marty Wagner, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395-4814.

- OMB No.: 3060-0068
  Title: Annual Report of Licensees of Private Operational Fixed Microwave Radio Service Stations
  Form No.: FCC 402-A
  Action: Extension
  Respondents: Individuals, State or local governments, businesses (including small business) and non-profit institutions
  Estimated Annual Burden: 100 Responses; 500 HoursQ02
- OMB No.: 3060-0093
  Title: Application for Renewal of Radio Station License in Specified Services
  Form No.: FCC 405
  Action: Extension
  Respondents: Businesses
  Estimated Annual Burden: 100 Responses; 42 Hours
- OMB No.: 3060-0051
  Title: License Expiration Notice and Renewal Application Short Form
  Form No.: FCC 405-B
  Action: Extension
  Respondents: Individuals State or local governments, businesses (including small business) and non-profit institutions
  Estimated Annual Burden: 49,947 Responses; 2,497 Hours
- OMB No.: 3060-0069
  Title: Application for Land Radio Station License in the Maritime Services
  Form No.: FCC 503
  Action: Extension
  Respondents: Individuals, State or local governments, businesses (including small business) and non-profit institutions
  Estimated Annual Burden: 2,923 Responses; 2,923 Hours
- OMB No.: 3060-0053
  Title: Application for Consent to Transfer Control of Corporation Holding Station License
  Form No.: FCC 703
  Action: Extension
  Respondents: Individuals, State or local governments, businesses (including small business) and non-profit institutions
  Estimated Annual Burden: 1,000 Responses; 500 Hours
- OMB No.: 3060-0048
  Title: Application for Consent to Transfer of Control of Corporation Holding Common Carrier Radio Station Construction Permit or License
  Form No.: FCC 704
  Action: Extension
  Respondents: Businesses
  Estimated Annual Burden: 15 Responses; 120 Hours

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84-27171 Filed 10-12-84; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

First Wisconsin Corporation, et al.; Applications To Engage De Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of

fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 1, 1984.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Wisconsin Corporation*, Milwaukee, Wisconsin; to merge First Insurance Management, Inc., an indirect subsidiary of Applicant, into First Wisconsin Insurance Service, Inc., Milwaukee, Wisconsin, a direct subsidiary of Applicant, and to engage in general insurance activities as agent or broker in the sale of all types of personal and commercial insurance including but not limited to life insurance, health insurance and property and casualty insurance, pursuant to exemption G of Section 4(c)(8). The geographic area to be served will be in the States of Wisconsin, Michigan, Illinois, Indiana, Iowa, and Minnesota.

B. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Westland Diversified Bancorp, Inc.*, Santa Ana, California, to engage through its subsidiary, CCB Business Credit, Inc., Pasadena, California, in making or acquiring loans and other extensions of credit secured by real and personal property, primarily to small and medium-size businesses and servicing such loans and extensions of credit.

Board of Governors of the Federal Reserve System, October 9, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-27094 Filed 10-12-84; 8:45 am]

BILLING CODE 6210-01-M

Midwest Bancshares, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than November 1, 1984.

A. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Midwest Banchares, Inc.*, Popular Bluff, Missouri; to acquire 100 percent of the voting shares of Bank or Piedmont Piedmont, Missouri.

2. *New Era Bancorporation, Inc.*, Fredericktown, Missouri; to become a bank holding company by acquiring 100 percent of the voting shares of New Era Bank, Fredericktown, Missouri.

3. *Pulaski Bancshares, Inc.*, Dixon, Missouri; to become a bank holding company by acquiring 85.92 percent of the voting shares of State Bank of Dixon, Dixon, Missouri.

B. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Southshares, Inc.*, Laredo, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of South Texas National Bank of Laredo, Laredo, Texas.

2. *Texas National Bancorp, Inc.*, Dallas, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Texas National Bank, Dallas, Texas.

Board of Governors of the Federal Reserve System, October 9, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-27095 Filed 10-12-84; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Meetings; October

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the meeting of the following national advisory body scheduled to assemble during the month of October 1984.

Services Research Subcommittee of the Drug Abuse Epidemiology, Prevention, and Services Research Review Committee

October 16-17; 8:30 a.m.
Quorum Room
Sheraton Inn Washington Northwest
8727 Colesville Road
Silver Spring, Maryland 20910

Open—October 16; 8:30–9:30 a.m.

Closed—Otherwise.

Contact: H. Noble Jones, Executive Secretary; Parklawn Building, Room 10-42; 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-2620.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute on Drug Abuse for support of research and research training activities and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Agenda: From 8:30–9:30 a.m., October 16, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

This **Federal Register** notice is late because the committee is considering restructuring and this delayed their schedule.

Dated: October 8, 1984.

Sue Simons,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 84-27096 Filed 10-12-84; 8:45 am]

BILLING CODE 4160-20-M

Food and Drug Administration

Advisory Committees; Notice of Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

Meetings: The following advisory committee meetings are announced:

Dermatologic Drugs Advisory Committee

Date, time, and place. November 5, 9 a.m., Conference Rm. E, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 5 p.m.; Thomas E. Nightingale, Center for Drugs and Biologics (HFN–32), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4695.

General function of the committee. The Committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in dermatologic disorders.

Agenda—Open public hearing. Interested persons requesting to present data, information, or views, orally or in writing, on issues pending before the committee should inform the contact person.

Open committee discussion. The committee will discuss: (1) ketoconazole (Janssen Pharmaceutica), (2) isotretinoin (Hoffman-La Roche), (3) lindane (Reed and Carnrick, Inc.), and (4) the use of prescription topical antibiotics in skin infections.

Radiopharmaceutical Drugs Advisory Committee

Date, time, and Place. November 9, 9 a.m., Conference Rm. G & H, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open committee discussion, 9 a.m. to 11 a.m.; open public hearing 11 a.m. to 12 m.; open committee discussion, 1 p.m. to 4 p.m.; Neil M. Abel, Center for Drugs and Biologics (HFN–150), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4260.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in diagnostic and therapeutic procedures using radioactive pharmaceuticals and contrast media used in diagnostic radiology.

Agenda—Open public hearing. Interested persons requesting to present data, information, or views, orally or in writing, on issues pending before the committee should inform the contact person.

Open committee discussion. The committee will discuss: (1) the published nuclear pharmacy guidelines; the availability of the guideline was announced in the **Federal Register** of June 18, 1984 (49 FR 24949); (2) the possible radiation effects on various cell components when Indium in 111 is used in cell labeling procedures; (3) the need for pediatric dosage recommendations in the package inserts of certain radioactive iodine products.

Fertility and Maternal Health Drugs Advisory Committee

Date, time, and place. November 13 and 14, 9 a.m., Conference Rm. 6, 6th Floor, Bldg. 31, National Institutes of Health, 9000 Rovkville Pike, Bethesda, MD.

Type of meeting and contact person. Open public hearing, November 13, 9 a.m. to 10 a.m.; open committee discussion, November 13, 10 a.m. to 5 p.m.; November 14, 9 a.m. to 12 m.; A. T. Gregoire, Center for Drugs and Biologics (HFN–810), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1869.

General function of the committee. The Committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in obstetrics, gynecology, and contraception.

Agenda—Open public hearing. Interested persons requesting to present data, information, or views, orally or in writing, on issues pending before the committee should inform the contact person.

Open committee discussion. On November 13, the committee will discuss the safety and efficacy of Gemeprost (new drug application (NDA) 19–196). On November 14, the committee will review protocols for evaluating drugs for the treatment of endometriosis.

Anti-Infective Drugs Advisory Committee

Date, time, place. November 30, 8:30 a.m., Conference Rms. D and E, Parklawn Building, 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing 8:30 a.m. to 9:30 a.m.; open committee discussion, 9:30 a.m. to 5 p.m.; Thomas E. Nightingale, Center for Drugs and Biologics (HFN–32), Food and Drug Administration 5600 Fishers Lane, Rockville, MD 20857, 301–443–4695.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in infectious diseases.

Agenda—Open public hearing. Interested persons requesting to present data, information, or views, orally or in writing, on issues pending before the committee should inform the contact person.

Open committee discussion. The committee will discus the use of oral acyclovir.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings. This guideline was published in the **Federal Register** of April 13, 1984 (49 FR 14723). These procedures are primarily intended to expedite media access to FDA's public proceedings, including hearings before a public advisory committee conducted pursuant to Part 14 of the agency's regulations. Under this guideline, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including the presentation of participants at a

public hearing. Accordingly, all interested persons are directed to the guideline, as will as the Federal Register notice announcing issuance of the guideline, for a more complete explanation of the guideline's effect on public hearings.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this Federal Register notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA–305), Food and Drug Administration, RM. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA's regulations (21 CFR Part 14) on advisory committees.

Dated: October 9, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-27089 Filed 10-10-84; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82N–0058]

McNeil Pharmaceutical; Parafon Forte Tablets; Hearing on Proposal To Withdraw Approval

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Commissioner of Food and Drugs is granting a hearing on the proposal to withdraw approval of the new drug application for Parafon Forte Tablets. The drug is intended as an adjunct to rest and physical therapy for relief of discomfort associated with acute, painful musculo-skeletal conditions.

DATES: Notices of participation shall be filed with the Dockets Management Branch no later than November 14, 1984. Submission of narrative statement by FDA's Center for Drugs and Biologics by January 14, 1985. Disclosure of data and information and submission of narrative statements by other participants by February 12, 1985. Prehearing conference on April 2, 1985, at 10:00 a.m.

ADDRESSES: Written notices of participation, disclosures, and statements to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857. (Submissions should be identified with docket number 82N–0058 and clearly labeled "Parafon Forte Hearing.") Prehearing conference in the FDA Hearing Room, Rm. 4A–35, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Robert J. Rice, Jr., Regulations Policy Staff (HFC–10), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3480.

SUPPLEMENTARY INFORMATION: In a notice (DESI 11300) published in the Federal Register of September 11, 1969 (34 FR 14299), the Food and Drug Administration (FDA) evaluated the effectiveness of certain prescription drug products for use in the relief of acute, painful musculo-skeletal conditions. Included in this notice was Parafon Forte tablets containing chlorzoxazone 250 mg. and acetaminophen 300 mg., which is approved under a new drug application (NDA 11–529) held by McNeil Pharmaceutical ("McNeil"), Spring House, PA 19477.

The 1969 notice, part of the Drug Efficacy Study Implementation (DESI) program, stated that FDA had evaluated reports received from the National Academy of Sciences/National Research Council, Drug Efficacy Study Group, together with other available evidence, and had concluded, among other things, that Parafon Forte was possibly effective for all of its labeled indications.

Subsequently, in a notice published in the Federal Register of August 14, 1974 (39 FR 29210), FDA announced the reevaluation of Parafon Forte from possibly effective to probably effective. This reevaluation resulted from new evidence that demonstrated that so-called "skeletal muscle relaxants" are effective in the treatment of discomfort associated with acute, painful musculo-skeletal conditions. FDA stated that studies of chlorzoxazone-acetaminophen combinations show, in some cases, a trend favoring the combination as compared with its components, but "in no case has the trend reached the usual requirements for statistical significance" (39 FR 29210). The agency required revised labeling with the following less-than-effective indication: As an adjunct to rest and physical therapy for the relief of discomfort associated with acute, painful musculo-skeletal conditions.

Responding to the 1974 notice, McNeil submitted several multi-clinic studies, five studies comparing Parafon Forte with other drugs, and five studies comparing Parafon Forte with its components. After reviewing McNeil's submission, the Director of the Bureau of Drugs (now the Center for Drugs and Biologics), in a notice published in the Federal Register on May 25, 1982 (47 FR 22599), concluded that he was unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, that meets the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 300.50 and 314.111(a)(5), and demonstrates the effectiveness of Parafon Forte. Accordingly, the Director proposed to withdraw approval of the NDA because of a lack of substantial evidence that the drug product has the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling.

On June 23, 1982, McNeil requested a hearing for Parafon Forte, and, on July 26, 1982, filed data and other information in support of its hearing request.

In addition to McNeil, the following drug companies filed hearing requests in response to the 1982 proposal:

1. Purepac Pharmaceutical Co., 200 Elmora Ave., Elizabeth, NJ 07207
2. Ferndale Laboratories, Inc., 780 West Eight Mile Rd., Ferndale, MI 48220
3. Danbury Pharmacal, Inc., 131 West St., P.O. Box 296, Danbury, CT 06810
4. Lemmon Co., 850 Cathill Rd., Sellersville, PA 18960

The Commissioner is now granting McNeil's hearing request on the proposal to withdraw approval of the NDA for Parafon Forte. Approval of this NDA will be withdrawn unless there exists substantial evidence that Parafon Forte has the clinical effect that it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling (21 U.S.C. 355(d), 21 CFR 314.111(a)(5)). In addition, because Parafon Forte is a fixed combination

prescription drug, such evidence exists for it only if "each component makes a contribution to the claimed effects and the dosage of each component (amount, frequency, duration) is such that the combination is safe and effective for a significant patient population requiring such concurrent therapy as defined in the labeling for the drug" (21 CFR 300.50(a)). Accordingly, there are two questions to be addressed in this proceeding with respect to Parafon Forte and its generic versions:

1. Whether there is evidence consisting of adequate and well-controlled investigations, including clinical investigations, by experts qualified by scientific training and experience to evaluate the effectiveness of the drug; and

2. Whether, on the basis of any such adequate and well-controlled investigations that exist, it could fairly and responsibly be concluded by experts qualified by scientific training and experience to evaluate the effectiveness of drugs that the drug product in question satisfies the combination policy in 21 CFR 300.50 and will have the effect that it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling thereof (21 U.S.C. 355(d)).

The parties to the hearing will be FDA's Center for Drugs and Biologics, McNeil, and the aforementioned manufacturers or distributors of products identical, similar, or related to Parafon Forte. The presiding officer will be Administrative Law Judge Daniel J. Davidson. In addition to the above-identified parties, any other interested person shall be permitted to participate as a nonparty participant (see 21 CFR 12.89), provided that each such person files a notice of participation pursuant to 21 CFR 12.45(a).

In accordance with 21 CFR 12.85, the Center for Drugs and Biologics has filed with the Dockets Management Branch copies of data and information contained in the Center's files that relate to the issues raised herein. The Center would normally file its narrative statement required by 21 CFR 12.85(a)(4) at the time when this notice issues. I am, under 21 CFR 10.19, modifying that requirement to the extent that the Center will be granted until January 14, 1985to make that submission. I have concluded that this modification of this regulation in the context of this proceeding does not prejudice any participant in the hearing and serves the ends of justice, is in accordance with law, and thus is authorized by section 10.19. The modification allows the FDA to advise the parties that a hearing is pending on this matter prior to the completion by the Center of the sometimes lengthy process of complying with all of the requirements of section 12.85.

Interested persons may obtain a copy of the Center's narrative statement, after it is filed, from the Dockets Management Branch at the address given above. Such persons may also examine the data and information relating to Parafon Forte now on file (with the exception of any data identified as confidential pursuant to the provisions of 21 CFR 10.20(j)) at the Dockets Management Branch from 9 a.m. to 4 p.m., Monday through Friday.

The prehearing conference will be held at 10:00 a.m. on April 2, 1985 in the FDA Hearing Room, Rm. 4A–35, 5600 Fishers Lane, Rockville, MD 20857. All participants are required to attend the prehearing conference and to be prepared to comply with the provisions of 21 CFR 12.92. The hearing will be held in the FDA Hearing Room on a date to be set at the prehearing conference. Written notices of participation shall be filed with the Dockets Management Branch no later than November 14, 1984. Participants other than the Center for Drugs and Biologics shall disclose data and information and submit their narrative statements pursuant to 21 CFR 12.85 on or before February 12, 1985. Pursuant to 21 CFR 10.20(j)(2)(ii), confidential material submitted by a participant must be segregated and clearly marked.

The hearing will be open to the public. Any participant may appear in person, or by or with counsel, or with other qualified representatives, and may be heard on matters relevant to the issues under consideration.

Because this is a public hearing, it is subject to FDA's guideline concerning the policy and procedures for electronic media coverage of public agency administrative proceedings. This guideline was published in the **Federal Register** of April 13, 1984 (49 FR 14723). These procedures are primarily intended to expedite media access to FDA's public proceedings, including formal evidentiary hearings conducted pursuant to Part 12 of the agency's regulations. Under this guideline, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including the testimony of witnesses in the proceeding. Accordingly, the parties and nonparty participants to this hearing, and all other interested persons, are directed to the guideline, as well as the **Federal Register** notice announcing issuance of the guideline, for a more complete explanation of the guideline's effect on this hearing.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052 as amended (21 U.S.C. 355)) and under authority delegated to me (21 CFR 5.10), I order that a public hearing be held on the issues set forth in this notice.

Dated: October 4, 1984.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 84–27101 Filed 10–12–84; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 77N–0240; DESI 1786]

Certain Single-Entity Coronary Vasodilators; Drug Efficacy Study Implementation; Revocation of Exemption and Notice of Opportunity for Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is revoking the temporary exemption for continued marketing of certain single-entity coronary vasodilators containing pentaerythritol tetranitrate (PETN). Under the exemption, the drugs have been allowed to remain on the market for continued study beyond the time limit scheduled for implementation of the Drug Efficacy Study. FDA is reclassifying the drugs to lacking substantial evidence of effectiveness for their labeled indication, prophylactic treatment of angina pectoris, and is offering an opportunity for a hearing on the proposal to withdraw approval of the new drug applications.

DATES: The revocation of the temporary exemption is effective October 15, 1984; requests for hearings on the proposal to withdraw approval are due on or before November 14, 1984; data in support of hearing requests are due December 14, 1984.

ADDRESSES: Communications in response to this notice should be identified with reference number DESI 1786, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, except requests for opinion of applicability are to be sent to the address listed below.

Requests for hearing, supporting data, and other comments (identify with Docket No. 77N–0240): Dockets Management Branch (HFA–305), Rm. 4–62.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFN–310), Rm. 216, Center for Drugs and Biologics, 5640 Nicholson Lane, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Judy O'Neal, Center for Drugs and Biologics (HNF–366), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3650.

SUPPLEMENTARY INFORMATION:

I. Background

In a notice published in the **Federal Register** of February 25, 1972 (37 FR 4001), FDA classified certain coronary vasolidators as possibly effective for the management, prophylaxis, or treatement of anginal attacks.

In a notice published in the **Federal Register** of December 14, 1972 (37 FR 22623), as amended July 11, 1973 (38 FR 18477), August 26, 1977 (42 FR 43127), October 21, 1977 (42 FR 56156), and September 15, 1978 (43 FR 41282), FDA temporarily exempted certain single-entity coronary vasolidators from the time limits established for the Drug Efficacy Study Implementation (DESI) program, pending completion of clinical studies to determine effectiveness and a commitment from each manufacturer to conduct bioavailability studies on its products.

Recognizing that the development of adequate protocols for, and the conduct of, clinical studies was difficult and would necessarily require several years, FDA established a two-stage study requirements. Manufacturers would first need to show that these products were bioavailable (i.e., had some chance of ultimately being classified effective), and then demonstrate clinical effectiveness. Because there were no grounds for limiting marketing to new drug application (NDA) holders, the amended exempting notice established conditions not only for continued marketing of DESI drug products, but also for marketing of other products substantially the same as the DESI drug products manufactured by other firms, whether or not these had previously been marketed. Those conditions included dates by which to submit an abbreviated new drug application (ANDA) if the product was not already the subject of an approved NDA, to begin bioavailability studies, to obtain conditional approval of ANDA's, to submit bioavailability data, to begin clinical trials, and to report the results of clinical studies. If one drug sponsor was conducting clinical studies on a product, that was considered sufficient to permit marketing of all firms' products containing the same chemical entity in similar dosage forms provided each product met the other conditions. Because bioavailability is specific for an individual product, each firm was required to conduct a bioaviliability study on its own product.

The August 26, 1977 and September 15, 1978 notices states that FDA would initiate proceedings to withdraw (or refuse) approval of any product if data do not show that the drug is bioavailable. The September 15, 1978 notice further stated that if no person elected to conduct clinical studies on a particular kind of product, all such products would fail to meet a condition that established eligibility to remain on the market.

In a notice published in the **Federal Register** of April 23, 1982 (47 FR 17673), FDA revoked the temporary exemption for continued marketing of those single-entity coronary vasodilators that failed to comply with the conditions for marketing. That notice affected all products containing mannitol hexanitrate or trolnitrate phosphate because no sponsor was conducting clinical studies on any of the products. The notice affected specific products containing other active ingredients because no bioavailability data had been submitted for those products. The notice also reclassified the drug products to lacking substantial evidence of effectiveness, proposed to withdraw approval, and offered an opportunity for hearing on the proposal. In addition, the notice modified the bioavailability requirements for products that were conditionally approved on or after July 1, 1981 but before April 23, 1982, and for those that were conditionally approved after April 23, 1982.

In a notice published in the **Federal Register** of June 25, 1982 (47 FR 27613), FDA rescinded the April 23, 1982 notice insofar as it pertained to eight drug products that had complied with conditions under which a temporary exemption for continued marketing had been established. In a notice published in the **Federal Register** of June 29, 1982 (47 FR 28156), FDA withdrew approval of the new drug applications for products named in the April 23, 1982 notice for which no hearing was requested.

The products that are known by FDA to be subject to this notice are listed below and begin with products reviewed by the National Academy of Sciences/National Research Council (NAS/NRC):

DESI 1786

1. NDA 8–072; Peritrate Tablets containing 10 milligrams (mg), 20 mg, and 40 mg PETN; Parke-Davis, Division of Warner Lambert Co. (Parke-Davis), 201 Tabor Rd., Morris Plains, NJ 07950.

2. NDA 11–109; Peritrate SA (controlled release) Tablets containing 80 mg PETN (20 mg in the immediate release layer and 60 mg in the controlled release base); Parke-Davis.

3. NDA 12–311; Pentritol Tempules containing PETN; Armour Pharmaceutical Co., 303 South Broadway, Tarrytown, NY 10592.

4. NDA 12–748; Duotrate-45 Plateau Caps containing 45 mg PETN; Marion Laboratories, Inc., 10236 Bunker Ridge Rd., Kansas City, MO 64137.

The following products were neither reviewed by the NAS/NRC nor included in the initial notice of February 25, 1972, but the conclusions described herein apply to them:

1. NDA 16–457; Pentritol Tempules (controlled release capsules) containing 60 mg PETN; Armour Pharmaceutical Co.

2. NDA 16–470; Duotrate-30 Plateau Capsules containing 30 mg PETN; Marion Laboratories, Inc.

3. NDA 16–555; Pentaerythritol Tetranitrate Tablets containing 10 mg and 20 mg PETN; Zenith Laboratories, Inc., 140 LeGrand Ave., Northvale, NJ 07647.

4. NDA 16–625; Pentaerythritol Tetranitrate Tablets containing 10 mg and 20 mg PETN; Bolar Pharmaceutical Co., Inc., 130 Lincoln St., Coplagure, Long Island, NY 11726.

5. ANDA 86–086; Pentaerythritol Tetranitrate Tablets containing 20 mg PETN; Danbury Pharmacal, 131 West St., Danbury, CT 06810.

6. ANDA 86–193; Pentaerythritol Tetranitrate Tablets (controlled release) containing 80 mg PETN; Bolar Pharmaceutical Co.

7. ANDA 87–528; Pentraspan Capsules (controlled release) containing 80 mg PETN; Vitarine, Division of Phoenix Pharmaceuticals, 227–15 North Conduit Ave., Springfield Gardens, NY 11413.

8. ANDA 87–529; Pentaerythritol Tetranitrate Capsules (controlled release) containing 80 mg PETN; Vitarine.

9. ANDA 87–640; Peritrate SR Capsules (controlled release) containing 80 mg PETN; Parke-Davis.

10. ANDA 87–683; Pentaerythritol Tetranitrate Capsules (controlled release) containing 80 mg PETN; Inwood Laboratories/Forest, 300 Prospect St., Inwood, NY 11696.

11. ANDA 87–690; Pentaerythritol Tetranitrate Tablets containing 20 mg PETN; Vangard Laboratories, 101–107 Sampson St., Glasgow, KY 42141.

Parke-Davis, Division of Warner Lambert Co., on September 15, 1981,

March 29 and April 13, 1984, submitted data intended to support the effectiveness of single-entity coronary vasodilator drugs containing PETN in the treatment of angina pectoris.

The Director of the Center for Drugs and Biologics, after reviewing all the data submitted, concludes that the data do not constitute substantial evidence for the effectiveness of the drug products listed above for the prophylactic treatment of angina pectoris. A discussion follows.

II. Effectiveness Data

Angina pectoris is considered to be the most common clinical presentation of chronic ischemic heart disease. The patient with angina pectoris generally experiences chest discomfort or pain brought on by exertion or other forms of stress. These episodes result from an imbalance between oxygen demand and supply to the myocardium. Thus angina pectoris occurs when there is an increase in myocardial oxygen demand coexisting with a fixed obstruction to coronary blood flow such as occurs in coronary heart disease. A variant form of angina pectoris may occur as a result of focal spasm of a coronary artery during normal myocardial oxygen demand. Coronary spasm also may affect the occurrence of angina pectoris in the presence of organic coronary artery stenosis, but the extent to which such spasm occurs or is important in the patient with stable angina pectoris due to coronary atherosclerosis is not clearly defined.

FDA recognized the difficulty of evaluating the bioavailability and clinical effectiveness of drugs in the prophylactic treatment of angina pectoris. The availability of guidelines developed by FDA's Cardiovascular-Renal Advisory Committee for investigating coronary vasodilators was announced in the **Federal Register** on August 26, 1977 (42 FR 43127).

Investigators needed a more objective means of evaluating therapeutic effectiveness than the anginal diary method, which relies upon the patient recording his angina attacks. With the development of exercise testing technology, a more sensitive tool was available. FDA considers a properly designed and conducted study using exercise tolerance testing (ETT) a reasonably objective means of evaluating a drug's effectiveness in preventing angina pectoris. Improvement of exercise tolerance is the principal modern measure of effectiveness of an antianginal drug. Studies using hemodynamic measurements may provide some evidence of bioavailability, and useful information regarding mechanism of action or time effect relationships, but as they do not involve the study of anginal pain, they cannot serve as primary evidence of effectiveness. Studies relying solely on change in anginal pain frequency or severity and rate of nitroglycerin consumption have in the past been considered an acceptable means of providing substantial evidence of effectiveness, but such studies are rarely carried out today in effort angina; they remain the principal means of measuring effectiveness in variant angina however, as that kind of angina cannot usually be produced by exercise.

The material submitted by Parke-Davis included a summary of preclinical studies of chronic toxicity, metabolism, and pharmacokinetics of PETN in animals. Reproduction and teratology studies were not conducted. Additional metabolic and pharmacokinetic studies conducted in humans were intended to demonstrate the drug's bioavailability. Because of the lack of suitable analytical chemical methods to determine blood and urine levels of the drug and its metabolites, studies of absorption, metabolism, and kinetics used various indirect methods.

A. Bioavailability Studies

Attempts to demonstrate the bioavailability of PETN involved physiologic measurements of parameters known to be influenced by other nitrates. The sponsor submitted results of eight randomized, double-blind (four were placebo-controlled) studies as crude estimates of bioavailability in humans. These studies evaluated urinary excretion of pentaerythritol metabolites by gas chromatography, pulse rate and blood pressure responses to single doses, and occurrence of vasoactive side effects (headache, lightheadedness, or dizziness) to determine that oral administration of two formulations of PETN (40 mg and 80 mg controlled release (PETN-SA)) are biologically active.

In general, these studies found pentaerythritol metabolites in the urine, indicating that some PETN was absorbed. Also, subjects receiving PETN had, compared to placebo, dose-related increases in pulse rate and the frequency of headache (a common side effect of nitrates), again indicating that PETN was absorbed and potentially therapeutically active. None of the urinary measures, however, bore any reproducible quantitative relationship to either dose or to any physiological parameter measured.

The sponsor carried out two placebo-controlled trials using digital (finger) plethysmography as an endpoint. This was the then accepted (by FDA) method of screening for pharmacological activity. In one study, involving 12 adult males and doses of 80 mg of immediate-release PETN, no significant differences from placebo were found. In another study involving 12 adult males and 160 mg of controlled release PETN, differences from placebo were detected only between 4 and 8 hours following administration.

The above studies provide evidence that some PETN is absorbed and is at various times and doses biologically active, but the studies give little quantitative, dose-response, or time-response information. Six hemodynamic studies, discussed below, submitted by Parke-Davis as evidence of clinical effectiveness, provide somewhat stronger evidence for the clinically meaningful bioavailability of PETN and of a clinical effect that might be useful in treating patients with agina pectoris.

B. Clinical Studies of Effectiveness Using Exercise Tolerance Testing (ETT)

1. *A Major Multicenter Controlled Trial.* Parke-Davis submitted the results of a large multicenter, randomized, double-blind, placebo-controlled parallel group study of the effects of single and multiple doses of PETN in 151 patients with stable angina pectoris. Effectiveness was evaluated on the basis of exercise tolerance testing.

a. *Study design.* The optimum dose of PETN for each subject was determined during an open dose-titration period by coupling the maximum dose (40, 60, or 80 mg) tolerated during titration, with the longest ETT time attained. To assure that patients had stable, reproducible ETT, subjects were not entered into the double-blind phase of the study unless baseline ETT times for each of the first five visits were within 20 percent of the average baseline ETT time for the first four visits. The study design called for a symptom-limited ETT before and at 2.5 hours after the first dose on day 1, day 14, and day 28 of PETN or placebo therapy.

Patients in the study had to have had angina pectoris for at leat 3 months, had to be known responders to sublingual nitroglycerin, and were required to have one of the following evidences of ischemic heart disease:

(1) Significant (at least 50 percent lumenal diameter decrease) obstruction of at least one major coronary artery.

(2) Documented previous (at least 6 months old) myocardial infarction.

(3) S-T depression on the electrocardiogram induced by exercise.

Subjects who were on beta-blockers when they entered the study were permitted to continue their usual dose. Other antianginal agents (except sublingual nitroglycerin) were not permitted. The ETT (Fox-Naughton exercise protocol) was individualized for each patient to include a warmup stage and a 3-minute exercise stage prior to the induction of angina pectoris. The endpoint for terminating exercise was symptoms or ischemic or ST depression, but what degree of depression represented an endpoint was not defined in the protocol.

Of 172 subjects who entered the study, 20 did not go on to the double-blind phase and are not included in the data analysis. Of these 20 patients, 11 were discontinued for reasons such as not reproducible ETT (3), side effects (4), medical problems (3), or withdrawal of consent (1). Nine of the 20 were discontinued because they failed to respond to PETN (presumably there was no improvement in the ETT performance). Of the 152 patients remaining, 3 were not considered in the data analysis because they did not consistently maintain the starting stage at baseline exercise. Another dropped out because of severe headache after the sixth day of the double-blind treatment. A total of 148 patients in the double-blind phase were considered in the efficacy analysis; although 5 failed to complete the study (2 receiving PETN and 3 receiving placebo dropped out after 14 to 19 days of double-blind therapy), available data on these subjects were included in the analysis. With respect to all subjects entering the double-blind phase, the two treatment groups apparently were comparable with regard to demographic characteristics, extent of disease (proportion of patients having previous myocardial infarctions), therapeutic and functional class, degree of impairment of specific functional daily living activities, and use of concomitant medication. There was no significant difference with regard to the PETN dosage regimens determined during the dose titration phase, and groups were said to be comparable with respect to ETT time and angina frequency at baseline.

An addendum to the original protocol indicated that a 20 percent increase in exercise tolerance with PETN during dose titration would be required for a subject to enter the double-blind phase of the study. In the firm's analyses of the efficacy data, however, three criteria were used to classify patients as having "acceptable variability" for analysis: (1) At least one of the postdose exercise times during dose titration increased by 15 percent compared to the predose ETT; (2) baseline exercise time on day 1 of the double-blind period did not exceed 15 percent of the mean predose exercise times during titration; and (3) each predose exercise time during the dose titration period was within 15 percent of their average. These criteria were not in the study protocol but were applied during analysis of the data. There were 38 subjects receiving PETN and 39 receiving placebo who were considered by the firm to have "acceptable variability" for analysis.

b. *Results.* The mean ETT times for the 148 patients were slightly greater, but not significantly so, for PETN than for placebo at all 3 testing days in the double-blind phase of the study. The mean percent improvement in ETT time at 2½ hours after PETN, compared to placebo, ranged from 6.2 to 8.8 percent. There was considerable variability in the ETT times on different testing days, particularly in the placebo group. Thus, considering all subjects completing the trial, PETN did not produce a significant increase in treadmill time at any time point.

In addition to comparing mean exercise times for the two groups, Parke-Davis compared the numbers of patients with some particular degree of improvement, e.g., there were more subjects whose postdose ETT times were increased by at least 15 percent on each day of testing with PETN than with placebo, with the difference achieving significance on the 15th and 28th days. Parke-Davis did not support the use of this arbitrary, *post facto* 15 percent cut off nor show that some other cut off (e.g., 10 percent of 20 percent) would give similar results. Such *post facto* groupings of data, made with study results in hand and not specified in the protocol, have a strong potential bias. The sponsor must show how analyst bias was minimized in such a circumstance (21 CFR 314.111(a)(5)(ii)(*a*)(*5*)).

In a further analysis, also after the fact, Parke-Davis examined results in patients meeting their *post facto* criteria for "acceptable variability" in ETT; in this group the mean percent change (11 to 13 percent) in ETT time was slightly better with PETN than placebo on days 15 and 28, but failed to reach the .05 level of significance at any time. There were significantly ($p<.01$) more patients with "acceptable variability" who had at least a 15 percent increase in ETT time with PETN than with placebo at day 15 (65.8 percent vs. 35.9 percent) and at day 28 (52.6 percent vs. 28.9 percent). In this case, however, analyses were carried out using different criteria, 10 percent and 20 percent, as well. In these cases a significant advantage for PETN appeared only on day 28. The success criterion thus affects the outcome.

When the data from the individual centers are analyzed there are inconsistencies in the results among centers. Parke-Davis performed a separate analysis from the data on patients with "acceptable variability" from the 4 centers with at least 10 patients in each group during the double-blind phase of the study. The trend favored PETN, with the results on day 15 being slightly more impressive than those on day 28. However, this analysis excluded from consideration a fifth center that had 19 subjects in which mean exercise performance was less than PETN than with placebo at days 15 and 28. When the mean percent change in ETT time for all of the subjects in these five centers is analyzed, the exercise performance with PETN is worse than placebo in three centers, and better than placebo in two centers, in at least two of the three observation periods. Among the individual centers there are considerable differences in the magnitude of improvement in ETT time with PETN (ranges from 5 to 39 percent), and inconsistencies in the times showing improvement. Thus, not even a majority of the larger centers show a trend favoring PETN over placebo in improvement of ETT time. There is not a consistent pattern among centers favoring PETN over placebo.

There were only 33 subjects on PETN and 25 on placebo considered to have adequate records for data analysis with respect to the angina diary portion of the study. Although there was a trend in favor of fewer anginal attacks in the PETN group, the difference from placebo was not significant.

Hemodynamic changes were evaluated largely from the dose-titration phase of the study. All subjects in this phase received PETN, then heart rates and blood pressures were measured at 15, 30, 60, 90 and 150 minutes posttreatment. There were slight differences in the treatment groups at baseline but in both groups the active drug tended to lower slightly systolic blood pressure and to increase heart rate. The differences from baseline in these parameters were significant at some points, but differences from placebo were not impressive and statistical significance was not claimed in the information submitted by Parke-Davis.

The response (increases in heart rate and decreases in systolic blood

pressure) to the three doses of PETN in the patients that entered the double-blind phase was evident by 15 minutes and peaked between 45 and 150 minutes posttreatment. The changes for the different doses of PETN were similar, and fail to demonstrate clearly a dose-related response. Moreover, the mean data from placebo administration demonstrated a response similar to that from PETN treatment; the decrease in systolic blood pressure with placebo was as impressive as the response to 40 mg PETN, while the response to 80 mg PETN was somewhat greater.

The most common side effect in all 151 patients who received PETN was headache (22 percent of PETN patients compared to 8 percent of placebo patients, $p < .05$). A greater percentage of headaches was reported in patients on concomitant beta-blocker therapy. Dizziness was reported in 8 percent of PETN patients, compared to 32 percent of placebo patients. It is not clear whether dizziness or lightheadedness was associated with hypotension. There were no significant differences between PETN and placebo in terms of laboratory analysis of biological specimens. In addition, when information is considered about the subjects with side effects who were dropped from the study during the dose-titration phase, there was a 3.4 percent incidence of hypotension with 40 mg (the first dose) PETN. One subject developed circulatory collapse after the 80 mg dose of PETN (blood pressure dropped from 150/80 to 80/50 at 15 minutes posttreatment and the patient fainted).

Parke-Davis concludes from this study that 80 mg PETN four times a day is safe and effective in the acute and chronic treatment of patients with AP.

c. *The Director's conclusions.* The Director finds, however, that treadmill times (the principal measure for judging effectiveness of antianginal drugs) of all subjects completing the double-blind portion of the trial show no significant difference between PETN and placebo. In this trial, treadmill time was measured only at 2½ hours after dosing, the time of the expected peak effect of the drug and a time most likely to demonstrate difference from placebo. Apart from the failure to show a significant effect at any time, the study provides no data on the time course of effect, as would be needed to determine the appropriate dosing interval.

Furthermore, the other parameters generally used to support drug effectiveness, such as decrease in anginal attacks, improvement in ischemia on the exercise ECG, and hemodynamic changes did not show a significant difference between PETN and placebo treatment. The value of diary accounting of the frequency of angina attacks in this study is questionable, however, because fewer than 40 percent of the patients had complete diary records. In addition, there were important side effects in some patients who received PETN that could adversely affect patients with ischemic heart disease. This large controlled clinical trial thus fails to demonstrate that PETN is safe and effective for treatment of angina pectoris.

Even if the results had been more favorable to PETN, the study could not be considered an adequate, well-controlled clinical investigation for a number of reasons. The randomization schedule was not followed, as is evidenced by the numbering sequence of patients and the fact that the schedule had to be supplemented with additional numbers. Since 50 or more additional patients were unaccounted for, some of these may have been dropped from the study because they were nonresponders. It is not clear that the subjects were assigned to test groups in such a way as to minimize bias (21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*ii*)).

The method of patient selection is further deficient in that it is not clear that all the subjects had established ischemic heart disease with angina pectoris. The entrance criteria included a history of angina pectoris (responsive to sublingual nitroglycerin) and abnormal ST on the electrocardiogram during ETT, but the protocol did not define an ischemic ST response on the electrocardiogram. Abnormal ST segments could have been caused by something other than ischemia (e.g., digitalis). To ascertain that the study population is diagnostically appropriate, subjects should have been required not only to have a history of angina, but also have reproducible chest pain with associated electrocardiogram changes on ETT and other confirming evidence of ischemic heart disease such as old myocardial infarct or significant obstruction on coronary angiogram. Although Parke-Davis indicated that 80 to 90 percent of the subjects in this trial terminated exercise because of anginal pain, only 26 percent of the PETN group and 30 percent of the placebo group had both angina and ST-segment depression on the pretreatment ETT on the first day of the double-blind phase. It is not clear how many patients actually met the eligibility criteria (21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*i*)).

While the exercise protocol appears to have been suitable, allowing for individualization of the workload according to the patient's ability to exercise, the point at which exercise should be terminated (indicated by symptoms or ECG abnormality) was not adequately defined. Investigators might have different reasons for stopping a test based on changes in ECG; furthermore, a test stopped because of ischemic ECG changes cannot be equated with one stopped because of chest pain. FDA pointed out this potential problem with the protocol to the firm when the study was being designed. The method of observation is not adequately explained (21 CFR 314.111(a)(5)(ii)(*a*)(*3*)).

The analysis and evaluation of the data raise several questions. First, the number of patients per center varied greatly, with 5 centers having about 20 patients each while some centers had as few as 2 patients. The results were not consistent among the centers (e.g., at center 894, mean ETT was always better after placebo than after PETN, whereas at center 898, ETT was always better after PETN than after placebo). Results among centers were dramatically different, both in the directions and magnitudes of the differences between treatment groups. It is thus not clear that the data are suitable for pooling.

The second problem with the analysis of the data is the application of various *post facto* criteria (i.e., criteria that were not in the original protocol) to identify patients with "acceptable variability" for efficacy analysis and arbitrary success criteria (15 percent increase) to analyze response. The use of the "acceptability cretieria" results in a substantial reduction in the number of patients from some centers, excludes a large center in which placebo proved more effective than PETN, and leaves only 3 centers with more than 10 patients, but still does not produce a result favoring PETN significantly. The 15 percent increase analysis favors PETN but 10 percent or 20 percent criterion would again fail to show a significant advantage, indicating the susceptibility of such *post facto* analyses to arbitrary, potentially biased choices. Parke-Davis' analysis of the data in a manner different from that specified in the protocol is inevitably potentially biased, especially when it yields results more favorable to PETN than would have the originally proposed method of analysis.

Results that fail to show a statistically significant difference between treatments, along with the questionable methods of patient selection, uncertainties about the endpoints for the method of observation, and inappropriate analysis of the data

preclude a conclusion that the study provides substantial evidence of effectiveness of PETN for treatment of angina pectoris.

2. *The Giles, et al. Study.* Parke-Davis also submitted information about a randomized (by medication schedule), double-blind, placebo-controlled, crossover study of a single dose (40 mg or 80 mg) of PETN in 25 patients with stable angina pectoris (Giles, T. D., B. J. Iteld, A. C. Quiroz, and R. K. Mautner, "The Prolonged Effect of Pentaerythritol Tetranitrate on Exercise Capacity in Stable Effort Anginal Pectoris," *Chest*, 80:142–145, 1981). Effectiveness was measured by ETT performance, tested before and at 2½ and 4½ hours after a single dose of PETN on separate days; data on 10 subjects were analyzed for effectiveness.

Following a 3 to 5 day baseline placebo phase during which patients were required to have two or more ETT times reproducible within 20 percent on their tests, subjects were randomized into one of four treatment groups (PETN 40 mg-placebo; placebo-PETN 40 mg; PETN 40 mg-PETN 80 mg; PETN 80 mg-PETN 40 mg) for the double-blind phase of the study. Seven days separated the treatment periods of the double-blind phase. Entrance criteria included history of typical effort angina pectoris with five or more episodes per week with prompt releif of chest pain by sublingual nitroglycern. Additionally, subjects were required to have a positive ETT by the Fox-Naughton method (test terminated because of chest pain and ischemic electrocardiogram changes) or positive coronary angiography (at least 50 percent narrowing of one of more coronary arteries). Other antianginal agents, except for sublingual nitroglycerin, were not permitted during this study.

Of the 25 patients who entered the trial, 7 were not randomized to the double-blind phase of the study because of nonreproducible ETT times. One subject was unable to complete the double-blind phase because of hospitalization. Another had completed the study but was excluded from data analysis at the investigator's request for unknown reasons. Sixteen subjects remained for analysis, 10 having 40 mg PETN vs. placebo and 6 having 40 mg PETN vs. 80 mg PETN. Thd data analysis focused mainly on the 10 patients who received 40 mg PETN and placebo; the suitability of their angina pectoris diagnosis is supported by the fact that all stopped on the ETT with chest pain and had associated ischemic ST changes (electrocardiogram criteria not defined). Additionally, 8 of the 10 had either old myocardial infarction or previous coronary angiography showing obstruction of coronary arteries.

The mean exercise time in the 10 subjects was significantly ($p<.05$) better at 2½ and 4½ hours after PETN than after placebo therapy. There were on significant changes in blood pressure, heart rate, and double product (systolic blood pressure times heart rate) after PETN or placebo at 2½ and 4½ hours following dosing. There were no significant differences in the amount of ST-segment depressions on the electrocardiogram with the two treatments.

Data on the six subjects who received 40 mg vs. 80 mg PETN were not statistically analyzed because of the small sample size and because visual inspection of the data suggested that there were no important differences between the two doses of PETN. Three subjects appeared to have better ETT times on the 40 mg dose while the other three seemed to have better ETT times on the 80 mg dose.

Side effects that occurred in the 16 patints during PETN therapy included headaches, dizziness, and heartburn; similar symptoms, however, were encountered during placebo therapy.

While the design and methods in this small, single dose, controlled clinical trial appear adequate, in the absence of confirming results from other adequate and well-controlled studies, the Director cannot consider the results of a single small study (10 patients) adequate evidence of effectiveness of the drug in treatment of angina pectoris. Additionally, this study does not provide sufficient information on time course of effect to allow determination of dosing interval, does not provide dose-ranging information, and does not provide data on the long-term effectiveness of repeated doses of PETN over time. Questions have been raised about the importance of tolerance to the effects of nitrates over time, so that long-term studies are needed to determine the effectiveness of an organic nitrate drug as it is commonly used in clinical practice.

3. *The Hamilton and Ritchie Study.* Parke-Davis submitted data from a randomized (by study drug), double-blind, placebo-controlled, parallel group study comparing the effects of a single does of 40 mg PETN or placebo on left ventricular ejection fraction (measured by radionuoclide imaging of Technetium^{99} (Tc^{99}) labeled red blood cells), blood pressure, heart rate, and exercise duration (bicycle ETT) in 12 patients with ischemic heart disease (Hamilton, G., and J. L. Ritchie, "Double Blind Pilot Study Comparing the Effects of Peritrate and Placebo on Exercise Tolerance and Ejection Fraction in Patients with Ischemic Heart Disease," unpublished).

Rest and exercise ejection fractions, heart rates, and blood pressures were measured at baseline and 1 hour after administration of study drug. The subjects were said to have ischemic heart disease documented by previous catheterization (presumably obstruction on coronary angiography). The number of subjects who actually entered the study and the number who dropped out were not stated.

Exercise time was greater after PETN (128.5 seconds) than placebo (98.7 seconds) but the difference was not statistically significant ($0.05<p<0.1$). Systolic blood pressure was lower during submaximal exercise in the PETN group than in the placebo group but not significantly less ($p<.01$). The study thus fails to show a significant effect of PETN on exercise time.

The study is also deficient in a number of respects. First, although the study was randomized and blinded, the patient population is too small (six patients actually received PETN) for a parallel design study to yield meaningful results. Information about the method of subject selection is inadequate in that (1) it is not clear that the patients had angina pectoris (21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*i*)), (2) the number of subjects entering the study and the number who dropped out before the study was completed are not clearly stated, and (3) it is not clear that the subjects in the two study groups were comparable with respect to ETT time, systolic blood pressure, and ejection fraction at baseline (21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*iii*)). The methods of observation, specifically the type of exercise protocol used, are not explained (21 CFR 314.111(a)(5)(ii)(*a*)(*3*)). The data analysis is inadequate in that information about variance (e.g., standard deviation) between the patients was not provided (21 CFR 314.111(a)(5)(ii)(*a*)(*5*)). These defects and the negative results, which did not show a significant effect of PETN compared to placebo, render the study incapable of providing evidence of effectiveness of PETN.

4. *The Amsterdam Study.* Parke-Davis submitted a clinical report and study protocol on a randomized (by treatment), double-blind, parallel group study of the effects of 3 dosage strengths (20, 40, and 80 mg) of PETN and placebo as measured by ETT before and 1, 3, and 4 hours after single doses in 22 patients with ischemic heart disease

(Amsterdam, E. A., "Acute Effect of Single Doses of Peritrate 20 mg, 40 mg, and 80 mg and Placebo on Exercise Tolerance and Hemodynamic Parameters in Patients with Ischemic Heart Disease and Angina Pectoris," unpublished).

Inclusion criteria included a classical history for angina pectoris, with additional evidence for ischemic heart disease of positive excercise tests (terminated because of pain and/or ischemic ECG changes) or a coronary angiogram showing 60 percent or more reduction in caliber of at least 1 major coronary artery. Antianginal agents other than sublingual nitroglycerin were not used. Apparently three patients dropped out of the study for unexplained reasons. The study groups consisted of six patients receiving 20 mg PETN, five receiving 40 mg, and six receiving 89 mg PETN, five receiving placebo. Baseline characteristics were comparable for age, weight, height, duration of illness, and mean ETT times.

There were no significant differences between any of the treatments in mean change in ETT times from baseline. The mean change in ETT time was numerically better at 1, 3, and 4 hours after 80 mg PETN than after placebo, but the difference did not achieve statistical significance. There was initially no difference between the 20 mg and 40 mg doses and placebo.

There were greater increases in mean heart rate and decreases in mean systolic blood pressure with all three dosage strengths of PETN than with placebo at 1 hour after therapy, but these differences were not significant.

Headache occurred in two patients receiving PETN and hypotension occurred in one patient receiving PETN; these are not uncommon side effects with nitrate therapy.

Parke-Davis concluded that all three dosage strengths of PETN caused detectable changes in the parameters measured, and suggested that the absence of statistically significant findings was due to the small number of patients in each treatment group and the large variability between patients. There is, of course, no way to determine, without additional patients, what a larger study would show.

Apart from its small size and the absence of significant findings with respect to ETT, there are a number of deficiencies that render the study inadequate as evidence of the drug's effectiveness. The absence of many data points (e.g., there are no data for one third of the patients on 80 mg PETN at the 4-hour posttreatment ETT) weakens the study considerably.

The method of subject selection was not entirely adequate in that it is not clear that all subjects had reproducible chest pain on ETT, and the criteria for evidence of ischemia on ECG were not defined (21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*i*)). It is not stated that the study groups were comparable at baseline with regard to the main efficacy parameters (21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*iii*)).

5. *The First Arce-Gomez Study.* Parke-Davis also submitted a copy of the published report of a randomized, double-blind, parallel group study comparing the effects of 80 mg PETN and 75 mg dipyridamole for 4 weeks in 24 patients with ischemic heart disease using angina diary methods and ETT (Arce-Gomez, E., et al., "A Comparative Study of the Anti-Anginal Effect of Two Coronary Vasodilators," *Archives of Institute of Cardiology of Mexico,* 45(1):98–105, 1975).

The study population, selected from 46 patients, consisted of 7 men and 17 women diagnosed with ischemic heart disease based on a clinical history of angina pectoris of at least 6 months duration (at least 7 attacks per week), a history of nitroglycerin use, and an ETT terminated because of pain and/or ischemic changes on the electrocardiogram. Subjects were randomized into 2 groups of 12 patients each; the groups were comparable at baseline in terms of various characteristics including frequency of pain and duration on ETT.

There were significant ($p<.01$) increases in mean ETT time and decreases in mean ST segment depression from baseline after PETN compared to no significant changes after dipyridamole. Standard deviations for both of these variables are relatively large; the PETN group in particular showed considerable variability at baseline (258.75±159.03 seconds for PETN vs 284.16±69.90 seconds for dipyridamole at baseline). There was a significant deacrease ($p<.01$) from baseline in the mean number of angina pectoris attacks during PETN therapy but not during dipyridamole therapy.

The study cannot be considered an adequate and well-controlled clinical trial for several reasons. No study protocol was provided and important information is absent from the report, such as whether the ETT's were symptom-limited tests and how long after dosing the ETT's were done. The methods of observation were inadequately explained (21 CFR 314.111(a)(5)(ii)(*a*)(*3*)).

Furthermore, the study was not properly controlled. PETN was compared with a drug (dipyridamole) which has not been determined to be clinically effective for angina pectoris and, in fact, is capable of precipitating angina in some cases (the intravenous form of dipyridamole is used in conjunction with thallium imaging in coronary patients to precipitate ischemia). While it is true that exercise performance was better during the PETN phase of the trial than during the placebo run-in phase of the study, the run-in phase was only single-blinded and it is usual for exercise tolerance to improve over time in a study. A blinded concurrent control is needed for angina trials to minimize bias and provide an appropriate control (21 CFR 314.111(a)(5)(ii)(*a*)(*4*)).

Additionally, adequate assurance is not provided that the patients selected are suitable for the purposes of the study. The majority of the subjects were women, while coronary disease is more common in the male population. Furthermore, women with chest pain syndromes who turn out not to have coronary disease at angiography are known to have a significant incidence of falsely positive electrocardiogram changes for ischemic heart disease on ETT. Since coronary angiography was not required for entrance into this trial, it is not certain that all subjects had ischemic heart disease (21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*i*)). Because of the deficiencies described above, the Director does not consider this study substantial evidence that PETN is effective as an antianginal agent.

6. *The Second Arce-Gomez Study.* Parke-Davis also submitted a copy of the published report of two clinical trials in anginal patients who received 80 mg PETN (Arce-Gomez, E., et al., "Antianginal Effects of Pentaerythritol Tetranitrate," *Nouvelle Presse Medicale,* 9:248–291, 1980). The first trial was a double-blind, randomized, double-crossover study in 11 men and 20 women with stable angina pectoris (minimum of 7 episodes per week) whose performance on the treadmill was limited by chest pain and/or ischemic ST-segment depression. Methods included diary during, and ETTF at the end of, a stabilization phase (placebo run-in) and 4-week treatment phases with PETN and placebo. Average ETT time was better ($p<.001$) on PETN than placebo (562 versus 408 seconds). The amount of ischemic ST segment depression improved from baseline (from 1.2 millimeters (mm) to .7mm) with PETN therapy while the average amount of ST-segment depression did not change during placebo therapy. The frequency of angina pectoris attacks and nitroglycerin usage measured by the diary method improved more ($p<.01$)

during PETN than during placebo therapy.

The second trial with 12 patients similar to those in the first trial used diary during, and ETT at the end of, a placebo run-in and a 4-week active drug (PETN or dipyridamole 75 mg four times a day) phase. Patients receiving PETN had an increase ($p<.01$) in mean ETT time (258 versus 380 seconds) and improvement in ST-segment depression (from 1.15 to .8 mm) from placebo run-in. The number of angina attacks fell from 11 to 2 ($p<.01$) from baseline to PETN therapy. Data on the comparison with dipyridamole are not provided except in the summary at the end of the report that states that PETN was more effective than dipyridamole in decreasing the number of angina attacks and nitroglycerin usage.

This brief report is deficient under FDA's regulations in many respects. From the scant information provided, the method of subject selection was inadequate: (1) It appears that either chest pain or ischemic ST-segment depression was defined as a positive ETT test, rather than requiring both as evidence of ischemic heart disease; (2) additional evidence such as previous myocardial infarction or positive coronary angiogram should have been required; (3) nearly half of the patients selected were women, who would be more likely to show evidence for ischemia on an exercise electrocardiogram in the absence of demonstrable obstructive disease on coronary angiography. There is no information on the selection of patients for the second trial. The diagnostic suitability of the populations in the two trials is thus not assured (21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*i*)). There is a possibility that the selection was biased in a way that would influence the results (21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*ii*)).

The analysis and evaluation of data are deficient in that no listing of individual data nor any standard deviations are provided and it is not clear what statistical methods were used (21 CFR 314.111(a)(5)(ii) (*a*)(*5*)).

Furthermore, the second study is not adequately controlled for reasons described above for the 1975 comparison of PETN and dipyridamole by Arce-Gomez. In addition, important information is missing from the report, such as, (1) as comparison of the results on the ETT at the end of the various phases of the first trial, and (2) the duration of time between the last dose of medication and the ETT; because only one ETT was done on a given study day, the trial provides no information for determining the time course of PETN's effect.

C. Hemodynamic Studies

Parke-Davis submitted 6 studies involving invasively and noninvasively measured hemodynamics in a total of 89 subjects. Each of the studies suffers from major problems that weaken the evidence that PETN has useful hemodynamic effects. While these studies tend to indicate that PETN can lower abnormally elevated pulmonary wedge pressure, decrease myocardial work demands, and improve ventricular function at some time points after some doses of PETN, there are no adequate dose ranging and time course effect studies using hemodynamic parameters. The studies could not, in any event, provide substantial evidence of effectiveness of PETN in angina pectrois as they studied neither exercise tolerance nor spontaneous anginal events.

1. The first study (Shah, P.K., et al., "Hemodynamic Effects of Peritrate in Congestive Heart Failure," *Clinical Pharmacology Therapeutics*, 28:436–440, 1980) was an open-label, baseline-control investigation of the hemodynamic effects of a single dose of 80 mg PETN in 18 subjects with congestive heart failure. Ten of the subjects had coronary heart disease but only one subject had angina pectoris. Right heart pressures (using the Swan-Ganz Catheter) and cardiac output (themodilution) were measured at 3 or more 20-minute intervals before drug administration and at 30-minute intervals for up to 5½ hours after drug administration. Radionuclide ventriculography was performed in nine subjects from 1½ to 2 hours posttreatment to evaluate ventricular ejection fraction. The investigator concluded that a single oral dose of 80 mg PETN was associated with significant (p less than .05) and sustained changes in all hemodynamic parameters measured except heart rate and left ventricular ejection fraction for up to 5 hours after dosing. In particular, pulmonary capillary wedge pressure that was abnormally high, 27 mm Hg, at baseline (reflecting the severity of the disease) decreased significantly ($p<.05$) to 18 mm Hg. However, the clinical summary indicates that there were several missing data points; there were only 11 subjects who had measurements as long as 5 hours posttreatment. No adverse reactions were reported.

The Director does not consider the baseline control optimal because the measurements might have changed with time, or due to some other factor besides PETN (21 CFR 314.111(a)(5)(ii)(*a*)(*4*)). The study is not blinded, introducing the possibility of investigator bias in at least some of the measurements, and there is no information about two subjects who were not included in the data analyses. Because the study was conducted in patients with congestive heart failure instead of angina pectoris, the subjects may not be considered suitable for the purpose of the study (21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*i*)). Despite these deficiencies the study provides some evidence of a favorable hemodynamic effect of PETN. The decrease in pulmonary capillary wedge pressure would be expected to be useful in patients with angina pectoris because such patients have an increase in this parameter during chest pain.

2. The second study (Amsterdam, E., et al., "Sustained Reduction of Elevated Left Ventricular Filling Pressure in Cardiac Failure by Oral, Long-Acting Nitrate Therapy," *Journal of Clinical Research*, April 26, 1978 (abstract) and *Nouvelle Presse Medicine*, 9:2443–2446, 1980) had two phases. The first consisted on an open-label phase designed to estimate the time course of the drug's effect in four patients with congestive heart failure. Right heart pressures and thermodilution cardiac output were measured twice (20 minutes apart) at baseline and then every 20 minutes for the first hour, then at 30-minute intervals until the hemodynamics returned to baseline after a 40 mg dose of PETN (one patient received 60 mg). The subjects had significant ($p<.05$) mean changes in some parameters for up to 210 minutes.

The second phase was a randomized, double-blind, placebo-controlled crossover study in which hemodynamics of eight patients with congestive heart failure were measured at the same time intervals as the first phase after each study drug. If no hemodynamic effect was observed within 1 hour, the second limb of the crossover was begun and measurements were continued until parameters returned to baseline. While there were no significant changes from baseline in the hemodynamics parameters following placebo, there were significant ($p<.05$) changes following PETN. For example, pulmonary capillary wedge pressure was significantly lower than baseline at all time points for up to 5 hours. The peak reduction occurred 60 minutes posttreatment. The investigators concluded that the study demonstrated the effectiveness of PETN in changing the hemodynamics of patients with congestive heart failure.

The Director considers this small study deficient for several reasons. Like the Shah study, the patients had congestive heart failure instead of

angina pectoris, raising questions about the suitability of the subjects for the purpose of a study intended as evidence of effectiveness in prophylactic treatment of angina pectoris (21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*i*)). Furthermore, the lack of individual data and the absence of standard deviations in the analysis make evaluation of the study difficult (21 CFR 314.111(a)(5)(ii)(*a*)(*5*)). A number of data points apparently are missing; there are no comparable time points for placebo and PETN after 1 hour because placebo therapy was reported for only 1 hour. In addition, the differences in the values for the various parameters in the clinical report compared to the published article need explanation. While the report lacks the details that permit scientific evaluation (21 CFR 314.111(a)(5)(ii)(*c*)), it provides some evidence of a possible mechanism of action for PETN that would be useful in angina pectoris patients.

3. The third study (Winsor, D., T. Winsor, B. Krohn, and J. Bernett, "Noninvasive Measurement of the Effect of a Coronary Vasodilator on Cardiac Work," *Angiology*, 33:393–400, 1982) was a double-blind, placebo-controlled crossover investigation in which hemodynamic measurements were made in 10 patients with coronary heart disease using radionuclide techniques to evaluate the effects on cardiac work at 1 hour after a single dose of 40 mg PETN. Tc^{99} was used to measure left ventricular ejection time on 2 separate, nonconsecutive days.

The measured indicators of cardiac work were significantly less ($p<.05$) after PETN than after placebo, with the exception of heart rate and diastolic tension time index, which were essentially the same. In the case of double and triple product measurements (heart rate X systolic blood pressure X left ventricular ejection time), the values were consistently lower after active drug than after placebo. Similarly there were significant increases in mean diastolic period and the ratio of diastolic to systolic tension time index that were interpreted by the investigator to indicate reduced coronary oxygen demand as a result of PETN therapy.

The study is deficient in several ways. Although the patients were said to have coronary heart disease, it is not clear that they were suffering from angina pectoris and no information is provided about their selection and whether any dropped out. Adequate assurance that the patients are suitable for the study is thus not provided (21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*i*)).

In addition, there are several concerns about the methods. It is not clear why the radionuclide technique was used to measure left ventricular ejection time (which can be readily, and probably more accurately, measured by other means), and apparently was not used to measure ejection fraction and cardiac volume (the usual information obtained from Tc^{99} imaging). More details are needed about the determination of the systolic and diastolic time intervals, which require millisecond accuracy. The investigators did not state whether these measurements were made with the patient supine, sitting, or upright; studies (e.g., Epstein, *Circulation*, 43:269, 1971) on other nitrates indicate that upright posture tends to bring out the decrease in blood pressure and increase in heart rate that patients on these drugs are likely to encounter in daily living. The methods of observation and recording of results are thus inadequately explained (21 CFR 314.111(a)(5)(ii)(*a*)(*3*)). Conclusions regarding the effect of PETN on cardiac work cannot be drawn from the information provided. The Director considers the study to provide background information about a possible mechanism by which PETN may be effective in treatment of angina pectoris.

4. The fourth study (Winsor, D., T. Winsor, B. Krohn, and J. Bernett, "Pharmacological Effects of a Nitrate Coronary Vasodilator on Cardiac Perfusion and Function, Measured Semi-quantitatively," *Angiology*, 33:617–624, 1982) was a randomized, single-blind, placebo-controlled, crossover trial using radionuclide imaging techniques to evaluate the effects of a single dose of 40 mg PETN in six patients with ischemic heart disease. The study methods included exercise (bicycle for 4 minutes at 80 watts workload) and Thallium-201 (Th-201) myocardial perfusion imaging (done with patient supine) at 45 minutes posttreatment. Three to 7 days washout was allowed between PETN and placebo administrtion. The myocardium was divided into four segments; the two segments in each patient showing the poorest myocardial pefusion were chosen for study and comparison to a well-perfused reference area in each patient. Thus, there were 12 segments of myocardium available to compare perfusion with PETN and placebo therapy. There was a significant increase ($p<.001$) in the mean perfusion density with PETN compared to placebo (0.96 ± 0.07 vs. 0.63 ± 0.05).

Gated blood-pool images (Tc^{99}) were used to evaluate left ventricular volumes 55 minutes after PETN and placebo (10 minutes after the same bicycle exercise as above). Left ventricular ejection fraction was compared from these images during therapy with PETN and placebo. In a manner similar to that discussed above, the two segments in each patient showing the poorest wall motion were chosen for comparision of the effects of the two study drugs. The mean left ventricular ejection fraction showed a significant increase ($p<.01$) with PETN compared to placebo (55 percent ±9 vs. 49 percent ±8).

Of the 12 segments chosen for study in the 2 isotopic methods, there were 9 segments that were the same for the 2 methods. Of these, eight showed increase in perfusion by Th-201 imaging and improvement in wall motion by Tc^{99} imaging with PETN compared to placebo. With regard to the difference between regional ejection fractions with PETN and placebo, there was a significant increase ($p<.005$) in mean wall motion with PETN compared to placebo (36.3 ± 8.1 vs. 51.3 ± 7.8). The investigators conclude that PETN is capable of significantly increasing perfusion and function in the ischemic myocardium in these patients.

This small study is deficient in several respects. The single-blind design allows the possibility of bias on the part of the analysts of the data. A blinded interpretation of the isotopic studies would have strengthened the evidence that PETN improves ischemia of the myocardium (21 CFR 314.111(a)(5)(ii)(*a*)(*4*)).

Furthermore, there are questions about the methods of observation and recording of results. It is customary to compare myocardial perfusion in the resting and exercise states to reveal exercise-induced perfusion defects. Because this study did not include perfusion in the resting state, it is not known how much of the perfusion defects were truly exercise-induced ischemic defects and how much represent areas of previous infarction. It is also unclear whether the exercise was sufficient to induce angina pectoris and increase the heart rate to the degree required for adequate Thallium perfusion. The reason for selecting certain areas for study, rather than evaluating all areas for perfusion defects, needs to be explained. Additionally, it is common to perform the gated blood pool imaging of the left ventricle during exercise, rather than waiting until the patient may have recovered from his ischemia, as in this study. It is not clear that the segments being evaluated are the ones having reversible ischemia, since old infarcts would also give wall motion abnormalities. Because of these questions about the methods of observation and recording of results, and without further evidence of the

reproducibility of the methods, the Director cannot conclude that the differences observed represent differences caused by the drug (21 CFR 314.111(a)(5)(ii)(*a*)(*3*)).

5. The fifth study (Winsor, T., "Acute and Chronic Effect of Administration of Peritrate 40 mg vs. Placebo to Hypertensive Patients," summary submitted by Parke-Davis) consisted of two phases to evaluate noninvasively the effects of single and multiple 40 mg doses of PETN on heart rate and blood pressure at rest (sitting and standing), during, and 2 minutes after isometric hand grip exercise in 23 patients with systemic hypertension. The first phase began with an open-label baseline-controlled single dose study in all subjects with cuff blood pressure and pulse rate measured 1 hour after administration of 40 mg PETN. The first phase then continued with a randomized, double-blind, placebo-controlled, triple crossover trial; each treatment period was 28 days. Parameters were measured every 14 days before and 1 hour after the first dose (four times a day dosing) of study drug. At one hour after the first dose of PETN, systolic blood pressure (mean change in standing blood pressure minus 35 mm Hg) and diastolic BP (mean change in standing BP minus 8.9 mm Hg) decreased significantly from baseline($p < .05$); heart rate (mean change standing 10.9 beats per minute) increased significantly from baseline. In the randomized portion of the first phase of the trial, similar acute effects were seen after each dose of PETN, while no such effects were noted after placebo. The predose measurements on the various study days did not differ significantly from the baseline mearsurements, indicting there was no significant effect from PETN 12 hours or more after dosing.

The second phase of the study involved a new randomization for 10 subjects to continue an additional double-blind, placebo-controlled, crossover. The parameters were measured 2 and 3 hours after the first dose on the last day of each 28-day treatment period. Although significant differences from baseline occurred in some parameters (e.g., systolic blood pressure), the investigator was reluctant to draw conclusions from this phase because of the small number of subjects.

The study cannot, on its face, provide evidence of effectiveness in angina, as angina was not studied. Moreover, the subjects in the study had hypertension, and are not suitable even for reaching conclusions about hemodynamic effects of PETN in ordinary angina patients. At best, the study presents evidence that PETN influences heart rate and blood pressure in a manner similar to other nitrate preparations, at least for 1 or 2 hours after dosing.

In addition, the methods of observation and recording of results were deficient in several ways (21 CFR 314.111(a)(5)(ii)(*a*)(*3*)). The lack of blinding and the use of a baseline control weaken the results from the first part of the first phase of the trial. The study provides no information on dose ranging and time course of effect because measurements were made only at time points when the peak effect of the drug would be expected. The data analysis is incomplete (21 CFR 314.111(a)(5)(ii)(*a*)(*5*)) because mean values are not accompanied by standard deviations, individual data are not provided, and one cannot determine whether there were significant changes during PETN compared to placebo.

6. The sixth study (Arce-Gomez, E., et al., "Determination of Ejection Fraction by Echocardiography in Patients Treated with PETN," *Nouvelle Presse Medicale*, 9:248–261, 1980) appears to be a single-blind, placebo-controlled, crossover study in which 20 patients with angina pectoris had M-mode echocardiography sometime after 30 days of treatment with PETN (80 mg, twice a day) and with placebo. There also was a single dose, baseline-controlled study in 10 patients with echocardiograms before and 1½ hours after a single 80 mg dose of PETN.

Systolic and diastolic dimensions of the left ventricle were measured and left ventricular volumes were calculated. A total of 15 of the 20 patients improved their ejection fractions while 5 decreased that parameter. As a whole, the group increased the ejection fraction with PETN therapy, compared to placebo; the statistical significance of this decrease is not stated. The 10 subjects in the second part of the study showed a decrease ($p < .01$) in mean left ventricular diastolic volume (165.3 ± 51 vs. 127.9 ± 37.18). The investigators concluded that PETN favorably changes parameters that influence oxygen consumption and possibly oxygen supply to the ischemic myocardium.

The study is deficient in several ways. Like the other studies described in this section, it is not a sutdy of the effects of PETN on angina pectoris. Because the order of treatment was not randomized and subjects always received placebo first, it is impossible to distinguish the effect of the passage of time from the effect of the drug; the control is thus inappropriate (21 CFR 314.111(a)(5)(ii)(*a*)(*4*)).

Moreover, it is not clear that the patients selected are suitable for the study (21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*i*)). There were 12 women and only 8 men, an unusual proportion for a study of coronary heart disease, and there was no entrance requirement of a positive coronary angiogram or previous myocardial infarction. The method for selecting the 10 patients for the second part of the study is not explained.

In addition, there are concerns about relying upon M-mode echocardiography for measuring left ventricular function and volumes in patients with coronary disease. Ischemic heart disease influences segments of the myocardium rather than equally affecting all portions. Because M-mode echocardiography has an "ice pick effect" in viewing the myocardium, this method may not provide an accurate assessment of ventricular function in this condition. As noted by the investigators, the correlation between angiographic left ventricular ejection fraction and the parameter calculated using measurements obtained by echocardiography is not very satisfactory. The methods of observing and recording the results are not adequate (21 CFR 314.111(a)(5)(ii)(*a*)(*3*)).

Because there is no discussion of statistical methods and the levels of significance for difference seen in important measured parameters are not provided, the analysis is dificient (21 CFR 314.111(a)(5)(ii)(*a*)(*5*)).

D. Pre-1970 Studies

Parke-Davis submitted copies of the published reports of several studies done in the 1960's using earlier technology for evaluating effectiveness of antianginal agents.

Four studies by H.I. Russek, et al. (*Journal of the American Medical Association*, 157:206–211, 1953; *American Journal of Medical Science*, 229:46–54, 1955; *Circulation*, 12–169–175, 1955; *American Journal of Medical Science*, 239(4):478, 1960) were apparently of an open-label design in which patients on PETN treatment were compared with their pre-therapy status. the effectiveness of 10 mg to 20 mg PETN was evaluated in from 8 to 21 patients as the ability of the drug to influence ischemic ST segment changes on the ECG induced by exercise (two-step test) at various times after drug administration. The investigators concluded that a single does of 10 to 20 mg PETN was effective in improving the ECG responses to exercise for as long as 5 hours after treatment.

These four studies are not adequate and well-controlled investigations for a

number of reasons. First, the open-label design does not in any way minimize potential subject and investigator bias, which could affect the way the exercise tests were conducted and interpreted. The baseline-control design does not provide a comparison of the drug-treated group with an untreated control followed for a similar period of time; so that it cannot account for spontaneous changes. The control used does not permit a valid quantitative comparison (21 CFR 314.111(a)(5)(ii)(*a*)(*4*)). It is not clear that the subjects are suitable for the purpose of the studies, as a large proportion of the patients are without additional supportive evidence (that would have been provided by coronary angiography) of coronary heart disease beyond the history and the ischemic ST changes induced by exercise (21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*i*)). The method used to assess effectiveness as an antianginal agent is inadequate because other drugs and conditions besides ischemic heart disease influence ST segments, such as digitalis and left ventricular hypertrophy; insufficient information is provided to depend on the ST segment changes as an effectiveness parameter for treatment of angina pectoris (21 CFR 314.111(a)(5)(ii)(*a*)(*3*)). Moreover, information about the analysis and evaluation of data is inadequate in that there are little actual data presented and no evidence of statistical analysis (21 CFR 314.111(a)(5)(ii)(*a*)(*5*)). For the reasons stated above, the four studies by Russek and colleagues cannot be considered as substantial evidence of the prophylactic effectiveness of PETN in angina patients.

Parke-Davis submitted 13 other reports of clinical trials conducted prior to 1970 that utilized exercise testing to some extent in their study protocols. While there is some evidence favoring the usefulness of PETN, the limitations of these studies, most of which were not adequately controlled, preclude their consideration as substantial evidence of PETN's effectiveness in treating angina pectoris. Only the following two studies appear to utilize techniques of randomization to eliminate potentially biased assignment (21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*ii*)), and used blinding and placebo controls to minimize observer and analyst bias (21 CFR 314.111(a)(5)(ii)(*a*)(*4*)).

A randomized, double-blind, crossover, placebo controlled study by B.L. Brofman (scientific exhibit at American Medical Association, 1963) of PETN–SA 80 mg in 32 patients appears to have been better controlled than some of the others. The results of one part of the crossover showed the effects of PETN equal to those of placebo but the second part showed PETN significantly better than placebo for relief of angina pectoris. However, the report contains little or no information about the exercise methods or results that would permit scientific evaluation (21 CFR 314.111(a)(5)(ii)(*a*)(*3*)).

The randomized, double-blind, placebo-controlled, crossover study of P. Johnson, et al. (*Angiology*, 13(10):481–487, 1962) in 15 patients also appears to have been better controlled than most of the others. This study, however, used radioisotope methods to evaluate hemodynamic parameters and cardiac output but did not determine the effectiveness of PETN in relieving angina pectoris or improving exercise tolerance (21 CFR 314.111(a)(5)(ii)(*a*)(*3*)).

The remaining studies have even more serious deficiencies. They are described below.

1. M. Plotz (*New York State Journal of Medicine*, 52:2012–2015, 1952) conducted a double-blind, placebo controlled, crossover angina diary study using 10 to 15 mg PETN three times a day in 30 patients; 24 of the 30 patients were considered to benefit from PETN with reduction in angina attacks. However, the lack of confirming evidence of ischemic heart disease and failure to randomize the subjects to treatment makes the method of subject selection deficient (21 CFR 314.111(a)(5)(ii)(*a*)(*2*)). The data provided in the report are insufficient to permit the study to be considered as evidence of the effectiveness of PETN (21 CFR 314.111(a)(5)(ii)(*a*)(*5*)).

2. T. Winsor and P. Humphreys (*Angiology*, 3(1):1–14, 1952) conducted a baseline-controlled study comparing PETN with placebo and other drugs in 250 subjects (125 having angina and 125 having pain from other causes), some of whom were given a placebo as well; diaries showed that 78.4 percent of subjects had improvement in chest pains with PETN. There was an average improvement of 50 percent in the exercise duration (number of steps) tolerated before angina with PETN compared to placebo in 10 patients. Five of six patients who did sit-ups had less ST depression with PETN than placebo. Patients were not randomized to treatments, and the main comparison was of the treated state to the baseline. This design, lacking a concurrent control, cannot distinguish drug effect from spontaneous improvement, which is common in angina studies. There was also incomplete blinding and no explanation of how potential bias was minimized (21 CFR 314.111(a)(5)(ii)(*a*)(*3*)), and there was a complete absence of statistical analysis (21 CFR 314.111(a)(5)(ii)(*a*)(*5*)).

3. A Perlman (*Angiology*, 39a:16–19, 1952) reported on an open-label, baseline-controlled diary study of PETN in 27 patients, 8 having angina pectoris. While four of the eight showed improvement in angina pectoris, this small study provides no evidence of effectiveness of PETN because it was inadequately controlled (drug was not compared to placebo and blinding was not used to minimize observer and analyst bias; (21 CFR 314.111(a)(5)(ii)(*a*)(*4*))/ Furthermore, the data were not statistically analyzed (21 CFR 314.111(a)(5)(ii)(*a*)(*5*)).

4. N.S. Skinner, et al. (*American Heart Journal*, 61:250–251, 1961) compared the improvement of abnormal precordial motions induced by exercise with PETN and with nitroglycerin ointment in 11 patients. Because of the study's many deficiencies, including lack of definition of the patient population (21 CFR 314.111(a)(5)(ii)(*a*)(*5*)(*i*)), lack of placebo control and blinding (21 CFR 314.111(a)(5)(ii)(*a*)(*4*)), and absence of data on chest pain and statistical analysis (21 CFR 314.111(a)(5)(ii)(*a*)(*5*)), the Director does not consider this study adequate and well-controlled.

5. S. Samuels and E. Padernacht (*Angiology*, 3(1):20–21, 1952) studied PETN in 30 subjects with peripheral artery disease, an unsuitable patient population for consideration of the drug's effects in angina pectoris (21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*i*)).

6. D. Weitzman (*British Medical Journal*, 1409–1411, December 26, 1953) conducted an angina diary study of PETN in 65 patients. The study was inadequate because it was not randomized to minimize bias in patient assignment (21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*ii*)), the crossover was incomplete and the observers and analysts were not blinded to minimize bias (21 CFR 314.111(a)(5)(ii)(*a*)(*4*)), and the data were not statistically analyzed (21 CFR 314.111(a)(5)(ii)(*a*)(*5*)).

7. I. Hirshleifer (*Journal of the American Medical Association*, 9(1):31–33, 1958) conducted an open-label, baseline-controlled, anginal diary study using PETN in 23 patients, 17 of whom were said to respond favorably to PETN. With no placebo comparison and no blinding, the study is inadequately controlled (21 CFR 314.111(a)(5)(ii)(*a*)(*4*)). It is further deficient in its absence of data and statistical analysis (21 CFR 314.111(a)(5)(ii)(*a*)(*5*)).

8. T.R. Harrison (*Bulletin of Johns Hopkins Hospital* 104:275–289, 1959)

published a single case report of the effects of PETN compared to nitroglycerin ointment on exercise kinetocardiogram in one patient. Isolated case reports cannot be considered as even corroborative support of the effectiveness of a drug (21 CFR 314.111(a)(5)(ii)(*c*)).

9. P.C. Johnson and S. Gunnar (*Journal of the American Medical Association*, 173:1231–1233, 1960) reported an open-label, baseline-controlled study of effects on myocardial blood flow and cardiac output using PETN in 10 patients with previous myocardial infarction and angina pectoris and in 19 subjects with no coronary disease. The methods using cannot demonstrate clinical effectiveness of PETN for treatment of angina pectoris (21 CFR 314.111(a)(5)(ii)(*a*)(*3*)).

10. L. Kresno and G. Kibera (*Angiology*, 14(8):417–424, 1963) reported a single-blind, placebo-controlled, crossover study of the effect of PETN in 11 patients using a modified 2-step exercise test. The investigators concluded that PETN protected all 11 patients from exercise-induced angina pectoris at 1½ hours after dosing and protected 45 percent of patients for 4 hours after dosing. Because the order of treatment was not randomized (21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*ii*)), the investigators were not blinded (21 CFR 314.111(a)(5)(ii)(*a*)(*4*)), and the methods were inadequate to determine clinical effectiveness in treating angina pectoris (21 CFR 314.111(a)(5)(ii)(*a*)(*3*)), the Director does not consider this an adequate, well-controlled study in support of the effectiveness of PETN.

11. M. Neumann and A. Luisado (*American Journal of Medical Science*, 247:156–163, 1964) compared PETN with other antianginal drugs and placebo in a double blind, crossover study in 42 patients. Improvement in angina pectoris by the diary method was reported with 80 mg PETN–SA, but less favorable results were seen with PETN 10 mg and 30 mg three times a day; exercise tolerance was reported to be improved in those patients who had 2-step exercise tests although data were not provided. The lack of detailed data and analyses (21 CFR 314.111(a)(5)(ii)(*a*)(*5*)) and the inadequacy of the exercise method (21 CFR 314.111(a)(5)(ii)(*a*)(*3*)) prevent this study from being considered substantial evidence of PETN's effectiveness in treating angina pectoris.

E. Early Clinical Studies Using the Diary Method

Parke-Davis submitted limited information about a randomized, double-blind, placebo-controlled, parallel group multicenter study of the effects of 20 mg PETN four times a day for 4 weeks in 169 patients with angina pectoris. The diary method was used to determine drug effectiveness. The criteria for entering the trial and for establishing the diagnosis of angina pectoris were not described. Ninety of the 169 patients completed the trial, and specific information is not provided on when and for what reasons 79 subjects dropped out. PETN was significantly better ($p < .05$) then placebo for the number of angina episodes per week and nitroglycerin use per week only during the second week of therapy; no significant differences were seen at weeks 1, 3, and 4. There were no significant changes during treatment in functional evaluation of daily living with PETN as compared to placebo. Seven patients experienced various side effects with PETN therapy whereas four subjects had similar symptoms during placebo therapy.

The Director does not consider this trial, done prior to the general acceptance of exercise testing methods as a more objective means of evaluating patients with ischemic heart disease than angina diary, as substantial evidence for the effectiveness of antianginal agents. The difference in rate of angina with PETN, although stated to be statistically significant at week two, is extremely unimpressive: angina frequently at baseline was 15.1 ± 1.55 compared to 12.2 ± 1.47 at the second week. The reduction in nitroglycerin usage was equally modest. More information is needed on dropouts because nearly half the subjects entering the study did not complete the trial, and four patients completing the study were dropped from the data analysis without showing how the results would be influenced by including these patients in the analysis. Additional information also is needed on the comparability of pertinent baseline variables in the 2 treatment groups and on the various centers to determine the suitability of pooling the data, as only 3 of the 12 centers had more than 10 patients completing the study. The method of selecting the subjects is not sufficiently described to assure that they are suitable for the purposes of the study and that bias was minimized (21 CFR 314.111(a)(5)(ii)(*a*)(*2*)), and the Director does not consider the study adequate and well controlled.

Parke Davis submitted the results of another multicenter (four centers) study of similar design in which the effects of PETN were investigated for 12 weeks. Of 253 patients who entered the trial, 127 completed it and data were analyzed on 114 subjects. In this study, placebo showed significant ($p < .05$) improvement from baseline during 4 weeks of the trial when PETN showed no improvement, and there were no significant differences in nitroglycerin usage either between the study groups or from baseline with either study drug. There was no difference with either treatment in functional evaluation of daily living activities. Little information is provided on the methods used for, and data resulting from, exercise testing; the sponsor states that there were no significant differences in exercise time between the two treatments. This trial plainly failed to show PETN to be any better than placebo for treatment of angina pectoris.

Parke-Davis submitted results of a third multicenter trial (two centers) with a protocol similar to the second multicenter trial, using 80 mg PETN-SA. Forty-nine patients entered the study, 36 completed it, and data were analyzed on 31 patients; the reasons for eliminating the others were not explained. There were no significant differences from baseline or between treatment groups in angina pectoris frequency or nitroglycerin usage. This trial, too, failed to show PETN to be any better than placebo for treatment of angina pectoris, and the Director does not consider it adequate and well-controlled because of the inadequacy of information about the patient population and data analysis (21 CFR 314.111(a)(5)(ii)(*a*) (*2*) and (*5*)).

These three randomized, placebo-controlled trials of similar design are deficient, principally in lacking exercise testing and modern definitions of the patient population although they were well designed for their era. Overall, the results are strikingly negative, with a drug-placebo difference emerging at only a single, one week measurement.

F. Conclusions

The Director of the Center for Drugs and Biologics concluded that the data submitted by Parke-Davis do not provide substantial evidence that PETN is effective in prophylaxis of angina pectoris.

The data establish that PETN is absorbed, when administered orally, and that when absorbed, PETN has hemodynamic effects that suggest potential usefulness in the prophylaxis of angina pectoris. The data do not not, however, establish any relationship of effects to dose nor do they define the duration of effect. These data alone cannot establish efficacy in the treatment of angina pectoris although they suggest PETN at some dose might be useful.

Clinical trials designed to determine the efficacy of PETN in the treatment of angina pectoris have been conducted. Among older trials, some favor PETN over placebo or suggest improvement compared to baseline status, but the best of the older angina diary trials show no effect of 20 mg PETN four times a day. Small recent trials using exercise tolerance testing numerically favor PETN but most failed to show statistically significant effect. Nonetheless, the results of these studies, together with the hemodynamic data, suggest that a well-designed, large enough trial would provide clearer evidence regarding effectiveness.

Such a trial was in fact conducted (the pivotal, multicenter trial referred to under B1, above). It included 172 subjects, was placebo-controlled, and used an open preliminary titration to find an optimal PETN dose, which was then compared to placebo; it also excluded patients with excessive ETT variability. Unfortunately, the trial, when analyzed to include all patients who completed it, failed to differentiate PETN from placebo even though measurements of drug effect were made at a time after oral dosing that should have maximized the probabilities of detecting a drug-placebo difference.

Although *post facto* analyses of subsets of patients or of new groupings of data (e.g., comparing PETN and placebo for the numbers of patients who had a specified degree of ETT improvement) can make the data look more favorable, they cannot alter the fact that an attempted definitive study, of adequate size and of a design that was very well suited to detecting an effect if one existed, failed to demonstrate improved exercise tolerance. The existence of occasional older, less definitive, studies with some positive results similarly does not alter the fact that the best study, one of the few using potentially adequate doses, failed to produce support for an effect on angina.

III. Revocation of Exemption and Notice of Opportunity for Hearing

Adequate time has been allowed for the design and conduct of acceptable studies to demonstrate the effectiveness of the drug products referred to in this notice. Accordingly, the Director of the Center for Drugs and Biologics hereby revokes the temporary exemption granted to these drug products by the December 14, 1972 notice.

On the basis of all the data and information available to him, the Director of the Center for Drugs and Biologics is unaware of any adequate and well-controlled clinical investigation, conducted by experts who are qualified by scientific training and experience, that meets the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355) and 21 CFR 314.111(a)(5) and that demonstrates the effectiveness of the drug products referred to in this notice.

Notice is given to the holders of the new drug applications and abbreviated new drug applications listed above, and to all other interested persons, that the Director of the Center for Drugs and Biologics proposes to issue an order under section 505(e) of the act, withdrawing approval or conditional approval of the applications and all amendments and supplements thereto providing for the drug products referred to in this notice on the ground that new information before him with respect to the drug products, evaluated together with the evidence available to him when the applications were approved, shows there is a lack of substantial evidence that the drug products will have any of the effects they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

In addition to the holders of the applications specifically named above, this notice applies to any person who manufactures or distributes a drug product that is not the subject of an approved new drug application and that is identical, related, or similar to the drug products named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice of opportunity for hearing to determine whether it covers any drug product that the person manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific product by writing to the Division of Drug Labeling Compliance (address given above).

This notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it, e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act (21 U.S.C. 321(p)) or because it is exempt from part or all of the new drug provisions of the act under the exemption for products marketed before June 25, 1938, in section 201(p) of the act, or under section 107(c) of the Drug Amendments of 1962, or for any other reason.

In accordance with section 505 of the act and the regulations promulgated under it (21 CFR Parts 310 and 314), the applicant and all other persons subject to this notice are hereby given an opportunity for a hearing and to submit additional data to show why approval of the NDA's should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of the drug product named above and any other drug product covered by this notice.

The applicant or any other person subject to this notice who decides to seek a hearing shall file (1) on or before November 14, 1984 a written notice of appearance and request for hearing; and (2) on or before December 14, 1984 the data, information, and analyses relied on to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this proposal to withdraw approval. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing are contained in 21 CFR 314.200.

The failure of the applicant or any other person subject to this notice to file a timely written notice of appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by the person not to make use of the opportunity for a hearing concerning the action proposed, and a waiver of any contentions concerning the legal status of the relevant drug product. Any such drug product may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug product from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must present specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, and denying a hearing.

All submissions pursuant to this notice are to be filed in four copies. Except for data and information prohibited from public disclosure under

21 U.S.C. 331(j) or 18 U.S.C. 1905, the submission may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–1053 as amended (21 U.S.C. 352, 355)) and under authority delegated to the Director of the Center for Drugs and Biologics (21 CFR 5.70 and 5.82).

Dated: October 4, 1984.

Harry M. Meyer, Jr.,

Director, Center for Drugs and Biologics.

[FR Doc. 84-27103 Filed 10-12-84; 8:45 am]

BILLING CODE 4160-01-M

National Institutes of Health

Recombinant DNA Advisory Committee Working Group on Release into the Environment; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of a meeting of the Recombinant DNA Advisory Committee Working Group on Release into the Environment at the Linden Hill Hotel, Seapines Room, 5400 Pooks Hill Road, Bethesda, Maryland 20814, on October 30, 1984, from approximately 9:00 a.m. to adjournment at approximately 5:00 p.m. to discuss submission guidelines for proposals involving microorganisms, and other issues involving release into the environment of recombinant organisms. This meeting will be open to the public. Attendance by the public will be limited to space available.

Further information may be obtained from Dr. Elizabeth Milewski, Executive Secretary, Recombinant DNA Advisory Committee Working Group on Release into the Environment, National Institutes of Health, Building 31, Room 3B10, Bethesda, Maryland, telephone (301) 496–6051.

Dated: October 11, 1984.

Betty J. Beveridge,

Committee Management Officer, NIH.

OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592) requires a statement concerning the official government programs contained in the *Catalog of Federal Domestic Assistance*. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every federal research program in which DNA recombinant molecule techniques could be used, it has been determined to be not cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every federal program would be included as many federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the *Catalog of Federal Domestic Assistance* are affected.

[FR Doc. 84-27341 Filed 10-12-84; 10:50 am]

BILLING CODE 4140-01-M

Public Health Service

National Toxicology Program; Board of Scientific Counselors' Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of a meeting of the National Toxicology Program (NTP) Board of Scientific Counselors, U.S. Public Health Service, in the Conference Center, Building 101, South Campus, National Institute of Environmental Health Sciences, Research Triangle Park, North Carolina, on October 31 and November 1, 1984.

The meeting will be open to the public from 8:30 a.m. until adjournment on October 31. The preliminary agenda with *approximate* times are as follows:

Review of NIEHS/NTP Cellular and Genetic Toxicology Branch Programs:

8:30 a.m.–12:00 noon—Presentations on extramural projects in cellular and genetic toxicology test methods development and application.

12:45 p.m.–2:45 p.m.—Cellular and Genetic Toxicology Branch Concept Reviews.

3:00 p.m.–4:45 p.m.—Presentations on Cellular and genetic toxicology intramural research projects.

The meeting on November 1 will be open to the public from 8:30 a.m. to 3:15 p.m. The preliminary agenda with *approximate* times are as follows:

8:30 a.m.–8:45 a.m.—Report of the Director, NTP

8:45 a.m.–10:15 a.m.—NTP Response to Recommendations On Short-Term Testing by the *Ad Hoc* Panel on Chemical Carcinogenesis Testing and Evaluation.

10:30 a.m.–12:00—NIEHS/NTP Concept Reviews

12:45 p.m.–1:00 p.m.—Discussion of Peer Review for Reports on the Data from Remaining Long-Term Studies Performed at Gulf South Research Institute

1:00 p.m.–3:15 p.m.—Peer Review and Priority Ranking of Chemicals Nominated for NTP Testing. (Five azo and nitro dyes considered and deferred by the Board on August 16, 1984, will be reviewed and are listed in the **Federal Register**, Volume 49, No. 5, pp. 1139–1140, January 9, 1984. Additionally, six new chemical nominations [organometallic compounds] will be reviewed and are listed in the **Federal Register**, Volume 49, No. 72, pp. 14589–14590, April 12, 1984)

In accordance with the provisions set forth in Section 552b(c)(6) Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on November 1 from approximately 3:30 p.m. to adjournment for further evaluation of NIEHS/NTP programs in cellular and genetic toxicology, including the consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the discloure of which would constitute a clearly unwarranted invasion of personal privacy.

The Executive Secretary, Dr. Larry G. Hart, Office of the Director, National Toxicology Program, P.O. Box 12233, Research Triangle Park, North Carolina 27709, telephone (919) 541–3971, FTS 629–3971, will furnish a roster of Board members and expert consultants and other program information prior to the meeting, and summary minutes subsequent to the meeting.

Dated: September 27, 1984.

David P. Rall, M.D. Ph.D.,

Director, National Toxicology Program.

[FR Doc. 84-27113 Filed 10-12-84; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[Order No. 3104]

Issuance of Archeological and Paleontological Permits

Section 1 *Purpose.* This order redelegates the authority for issuance of archeological and paleontological permits under the authorities of the following two (2) laws.

a. "An Act for the Preservation of American Antiquities" Pub. L. 209, dated June 8, 1906, "* * * 34 Stat. 225, 16 U.S.C. 432. * * *" and implementing regulations.

b. "Archaeological Resources Protection Act of 1979" (ARPA), dated October 31, 1979, Pub. L. 96–95; 93 Stat. 721, 16 U.S.C. 470cc, * * *" and implementing regulations.

Section 2 *Delegation of Authority.* The authority currently delegated to the Director, National Park Service, through the Assistant Secretary for Fish and Wildlife and Parks, for the issuance of archeological and paleontological permits under "An Act for the

Preservation of American Antiquities", and the "Archaeological Resources Protection Act", is concurrently delegated to the Assistant Secretaries for Fish and Wildlife and Parks, Indian Affairs, Land and Minerals Management, and Water and Science. Such authority will be exercise exclusively for programs and lands under their jurisdiction.

Section 3 *Effective Date.* This order becomes effective October 1, 1984, and will remain in effect until its conversion to the Department Manual. Each Assistant Secretary to whom this authority is delegated will take steps to document these delegations in the Departmental Manual. Such conversion will take place by September 30, 1985, at which time this order will be considered obsolete.

Dated: September 28, 1984.

William P. Clark,

Secretary of the Interior.

[FR Doc. 84-27173 Filed 10-12-84; 8:45 am]

BILLING CODE 4310-10-M

Bureau of Indian Affairs

Completion of Membership Roll of the Texas Band of Kickapoo Indians

October 5, 1984.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given by the Bureau of Indian Affairs that the membership roll of the Texas Band of Kickapoo Indians has been completed. The membership roll was prepared in accordance with the Texas Band of Kickapoo Act of January 8, 1983, which granted Federal recognition to the Texas Band of Kickapoo Indians. Publication of a notice in the **Federal Register** stating that the roll has been completed as required by section 4 of the Texas Band of Kickapoo Act.

FOR FURTHER INFORMATION CONTACT: Joe B. Walker, Superintendent, Shawnee Agency, Bureau of Indian Affairs, Federal Building, Shawnee, Oklahoma 74801, telephone number: (405) 273-0317.

SUPPLEMENTARY INFORMATION: The Texas Band of Kickapoo Act of January 8, 1983, granted Federal recognition to the Texas Band of Kickapoo Indians. Section 4 of the Act directed the Secretary of the Interior, after consultation with the Kickapoo Tribe of Oklahoma, to compile a roll of those members of the Tribe who possess Kickapoo blood and who are also members of the Texas Band of Kickapoo Indians.

Accordingly, the membership roll of the Texas Band of Kickapoo Indians was prepared as of August 24, 1984. The membership roll was certified by the elected officials of the Kickapoo Tribe of Oklahoma and approved on August 24, 1984, by the Superintendent, Shawnee Agency, Bureau of Indian Affairs, acting under delegated authority from the Secretary of the Interior.

In accordance with subsection 4(c) of the Texas Band of Kickapoo Act, for a period of five years from the date of the publication of this notice, any member of the Band whose name appears on the roll compiled of the Texas Band of Kickapoo Indians, may, at his/her option, apply for United States citizenship. Application for citizenship shall be made to the immigration and Naturalization Service and, upon receipt of the application, citizenship shall promptly be granted to the applicant. The Act further provides in subsection 4(d) that notwithstanding the Immigration and Nationality Act, all members of the Band shall be entitled to freely pass and repass the borders of the United States and to live and work in the United States.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 209 DM 8.

Kenneth Smith,

Assistant Secretary—Indian Affairs.

[FR Doc. 84-27143 Filed 10-12-84; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

Fairbanks District Advisory Council Meeting

The Advisory Council for the Fairbanks District of the Bureau of Land Management will have a general meeting on November 15, 1984. The location of the meeting will be the second-floor training room at the BLM office on Ft. Wainwright, corner of Gaffney and Marks Roads. The meeting will convene at 8:30 a.m. and conclude at 5 p.m. Public comments will be received by the Council from 1 p.m. to 2 p.m.

The following topics will be discussed at the meeting.

1. Status of Planning for the Central Yukon Management Area.
2. Briefing on Steese/White Mountains Proposed Resource Management Plan and final Environmental Impact Statement.
3. RS 2477 Memorandum of Understanding.
4. ANCSA Easements—Departmental Policy and Guidance.
5. Teshekpuk Lake Special Area Study.
6. Impact of proposed increase of military personnel on BLM at Ft. Wainwright.

All meetings of the Council are open to the public.

Carl D. Johnson,

District Manager.

[FR Doc. 84-27142 Filed 10-12-84; 8:45 am]

BILLING CODE 4310-84-M

Filing of Plat of Survey; Utah

AGENCY: Bureau of Land Management, Utah, Interior.

ACTION: Notice.

SUMMARY: These plats of survey of the following described land will be filed in the Utah State Office, Salt Lake City, Utah, immediately:

Salt Lake Meridian, Utah

T. 17 S., R. 7 E.

This plat, which represents the corrective resurvey of a portion of the east boundary of T. 17 S., R. 6 E., and a portion of the subdivisional lines of T. 17 S., R. 7 E., Salt Lake Meridian, Utah for Group 499, was accepted September 24, 1984.

Salt Lake Meridian, Utah

T. 15 S., R. 13 E.

This plat, which represents the dependent resurvey of a portion of the subdivisional lines, and a survey of the subdivision of Section 10, T. 15 S., R. 13 E., Salt Lake Meridian, Utah for Group 628, was accepted September 26, 1984.

Salt Lake Meridian, Utah

T. 12 N., R. 9 W.

This plat, which represents the dependent resurvey of a portion of the Third Standard Parallel North between Townships 12 and 13 North through Ranges 8 and 9 West, the west boundary, a portion of the east boundary, and a portion of the subdivisional lines of T. 12 N., R. 9 W., Salt Lake Meridian, Utah for Group 624, was accepted September 24, 1984.

Salt Lake Meridian, Utah

T. 30 S., R. 5 E.

This plat, which represents the dependent resurvey of a portion of the north boundary, a portion of the west boundary identical with a portion of the First Guide Meridian East, and a portion of the subdivisional survey of Sections 5 and 6, T. 30 S., R. 5 E., Salt Lake Meridian, Utah for Group 636, was accepted September 26, 1984.

Salt Lake Meridian, Utah

T. 41 S., R. 11 W.

This plat, which represents the dependent resurvey of a portion of the south and west boundaries and a portion of the subdivision lines, and the survey of the subdivision of Sections 29, 30, and 31, T. 41 S., R. 11 W., Salt Lake Meridian, Utah for Group 642 was accepted September 24, 1984.

These plats will immediately become the basic records for describing the land for all authorized purposes. The plats have been placed in the open files and are available to the public for information only. These surveys were executed to meet certain administrative needs of this Bureau.

All inquiries relating to these lands should be sent to the Utah State Office, Bureau of Land Management, 136 East South Temple, Salt Lake City, Utah 84111.

Dated: October 5, 1984.

Orval L. Hadley,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84-27106 Filed 10-12-84; 8:45 am]

BILLING CODE 4310-DQ-M

[4-21702-ILM]

Utah; Initial Classification Decision for State Indemnity Selection Amendment

The Initial Classification Decision for U-52672 published in **Federal Register**, Vol. 49, No. 183, Wednesday, September 19, 1984, page 36710, is hereby amended as follows: All comments, objections or protests to this decision should be sent directly to the Secretary of the Interior, LLM, 320, Washington, D.C. 20240, as soon as possible, but not later than 30 days from the date of publication in the **Federal Register**. The Serial number was published as U-52762. The correct serial number is U-52672.

Dated: October 3, 1984.

Roland G. Robison,

State Director.

[FR Doc. 84-27104 Filed 10-12-84; 8:45 am]

BILLING CODE 4310-DQ-M

California Desert District; Off-Road Vehicle Designation Decisions in Eastern Riverside County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Off-road vehicle designation decisions to open, close, or limit use of routes of travel on public lands in eastern Riverside County, California.

SUMMARY: Off-road vehicle designation decisions have been made to protect the resources of the area, to promote safe use of the lands and to minimize conflicts among users. The designations were prepared following the criteria defined in 43 CFR 8342.1 and with the authority of 43 CFR 8000.0-6, 8340, 8341, 8342, and 8364. The California Desert Conservation Area had previously been mapped using a series of 21 maps called the Motorized Vehicle Interim Access Guides. These guides provided the interim vehicle designations made by the California Desert Conservation Area Plan until such a time as vehicle routes in each map area could be more carefully inventoried. This notice serves to inform the public that designation decisions have been completed for the entire Indio Resource Area. This area encompasses approximately 1.8 million acres of BLM-administered public land in the desert portions of Riverside County and includes such well-known locations as Whitewater Canyon, Big Morongo Canyon, Mecca Hills, Berdoo Canyon, Orocopia Mountains, Eagle Mountains, Chuckwalla Bench, the Bradshaw Trail, Corn Springs, Palen Pass and the Big Maria Mountains.

DATES: These designations are effective thirty days after publication of this notice and will remain in effect until rescinded or modified by the authorized officer. Enforcement of these route designations will be implemented as routes are signed or as maps are printed and become available to the public.

ADDRESSES: Send inquiries to District Manager, California Desert District, 1695 Spruce Street, Riverside, CA 92507 or the Area Manager, Indio Resource Area, 1695 Spruce Street, Riverside, CA 92507. Route designation decision records and maps showing vehicle designations will be available for public review at the above addresses from 7:45 a.m. to 4:30 p.m. on regular work days.

FOR FURTHER INFORMATION CONTACT: Dave Mensing, (714) 351-6402, Don Banks, (714) 351-6663.

SUPPLEMENTARY INFORMATION: Under the authority provided in the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), the Endangered Species Act (16 U.S.C. 1531 et seq.), EO 11644 (Use of Off-Road Vehicles on the Public Lands), and 3 CFR 74.332 as amended by EO 11989, 42 FR 26959 (May 25, 1977). Any person who violates or fails to comply with the vehicle route designations as governed by 43 CFR Part 8341 is subject to arrest, conviction and punishment pursuant to appropriate laws and regulations. Such punishment may be a fine of not more than $1,000 or imprisonment for not longer than twelve months, or both.

Dated: October 3, 1984.

Gerald E. Hillier,

District Manager.

[FR Doc. 84-27108 Filed 10-12-84; 8:45 am]

BILLING CODE 4310-40-M

Minerals Management Service

Offshore Minerals Management; Regional Manager Title Change

AGENCY: Minerals Management Service, Interior.

ACTION: Notice.

The Department of the Interior granted on September 13, 1984, approval to change the title of the Regional Managers in the Outer Continental Shelf Regions of Alaska, Atlantic, Gulf of Mexico, and Pacific. The new title is Regional Director.

Existing documents will be updated later to reflect this change.

EFFECTIVE DATE: The title change became effective as of September 13, 1984.

Dated: October 2, 1984

Thomas M. Gernhofer,

Assistant Director for Administration.

[FR Doc. 84-27121 Filed 10-12-84; 8:45 am]

BILLING CODE 4310-MR-M

Request for Information; Shumagin and Kodiak Sales 86 and 99

Purpose

The Shumagin and Kodiak proposed Outer Continental Shelf (OCS) oil and gs lease sales are being reviewed by the Secretary of the Interior to determine whether the OCS presale process should be initiated for these sales. The oil and gas industry is requested to assist in this process by providing up-do-date information on its interest in exploring in the Shumagin and Kodiak planning areas.

If the presale process is initiated for either sale, a Call for Information for Shumagin would be issued in May 1985 with a sale proposed for June 1987. The Call for the Kodiak planning area, scheduled for September 1984, has been delayed in order to accommodate the review of industry interest for this area. If the presale process is initiated for Sale 99, the sale date, originally proposed for October 1986, will be delayed.

Should a decision be made to begin the OCS presale process for either proposal, sale-related information will be requested from the public as part of

that process. At this time, only industry's interest in proceeding with either sale is being examined. The attached map depicts the planning areas.

Use of Information

The responses will assist the Secretary of the Interior to determine if the presale process for the proposals should be started, cancelled, or deferred for consideration in a future 5-year schedule. The presale process includes the following steps: Call for Information, Area Identification, Environmental Impact Statement (EIS), Public Hearing, Governors Comments, and Proposed and Final Notices of Sale.

Description of the Area

The Kodiak planning area generally lies southeast of Kodiak Island. It is bounded on the west by 156° W. longitude. From 156° W. longitude, the boundary extends east along 57° N. latitude until it intersects the 3-geographical-mile line of Kodiak Island, following this boundary south and northeast; thence north to 59° N. latitude; thence east to 148° W. longitude; thence south to 58° N. latitude; thence east to 147° W. longitude; thence south to 53° W. latitude; thence west to 150° W. longitude; thence south to 52° N. latitude; thence west to 156° W. longitude, which is the point of origin. The area covers approximately 16,000 blocks or 89 million acres.

The Shumagin planning area lies southeast of the Alaska Peninsula. It is bounded on the east by 156° W. Longitude from 57° N. latitude; thence south to 51° N. latitude extending west to 159° W. longitude; thence south to 50° N. latitude; thence west to 165° W. longitude; thence north until it intersects the 3-geographical-mile line of Unimak Island; thence north and east along the 3-geographical-mile line until it meets 57° N. latitude which is the point of origin. The area covers approximately 15,500 blocks or 87 million acres.

Previous Presale Activities

Portions of both planning areas were included in proposed Lease Sale 46, Western Gulf of Alaska. The Call for Nominations and Comment for this proposed sale, published in the **Federal Register** at 40 FR 50732 on October 31, 1975, covered about 16 million acres. Thirteen companies responded with most of the interest shown in the eastern two-thirds of the area, specifically from southern Kodiak Island to the northeastern boundary of the Call area. A draft EIS was made available in April 1977, with a revised draft published in December 1979. The proposed sale was cancelled in April 1980 because of a lack of industry interest and commercial fishery concerns.

The Call for Nominations and Comment for proposed Lease Sale 61, Kodiak, was published in the **Federal Register** at 45 FR 62909 on September 22, 1980. Five companies responded to the Call which covered about 12.1 million acres. Subsequently, this proposal was dropped from the 5-Year Planning Schedule because of a lack of industry interest and concerns over commercial fisheries.

Instructions on Request for Information

Information on industry interest in leasing and exploring in the Shumagin and Kodiak Planning Areas should be provided by letter. General or detailed information may be submitted but specific responses are requested on the advisability of selecting one of the following options for each planning area: Proceed with the OCS presale process; cancel the OCS presale process; or defer the sale for consideration in a future 5-year schedule.

In order to be included in the review process, information must be submitted no later than 45 days following publication of this document in the **Federal Register**. Correct receipt of the information will be facilitated if envelopes are marked "Request for Information on Proposed Lease Sale 86, Shumagin" or "Request for Information on Proposed Lease Sale 99, Kodiak."

Letters should be addressed to the Regional Supervisor for Leasing and Environment, Alaska OCS Region, P.O. Box 101159, 620 East 10th Avenue, Anchorage, Alaska 99510. A copy of the response should be sent to the Chief, Offshore Leasing Management Division, Minerals Management Service, 12203 Sunrise Valley Drive, Mail Stop 645, Reston, Virginia 22091. Hand deliveries to the Department of the Interior may be made at 18th and C Streets, N.W., room 2525, Washington, D.C. Telephone inquiries may be made to Phyllis Casey (907) 261–2455 (Alaska) or to Sandra Seim (202) 343–5121 (Washington, DC).

Dated: October 15, 1984.
Approved:

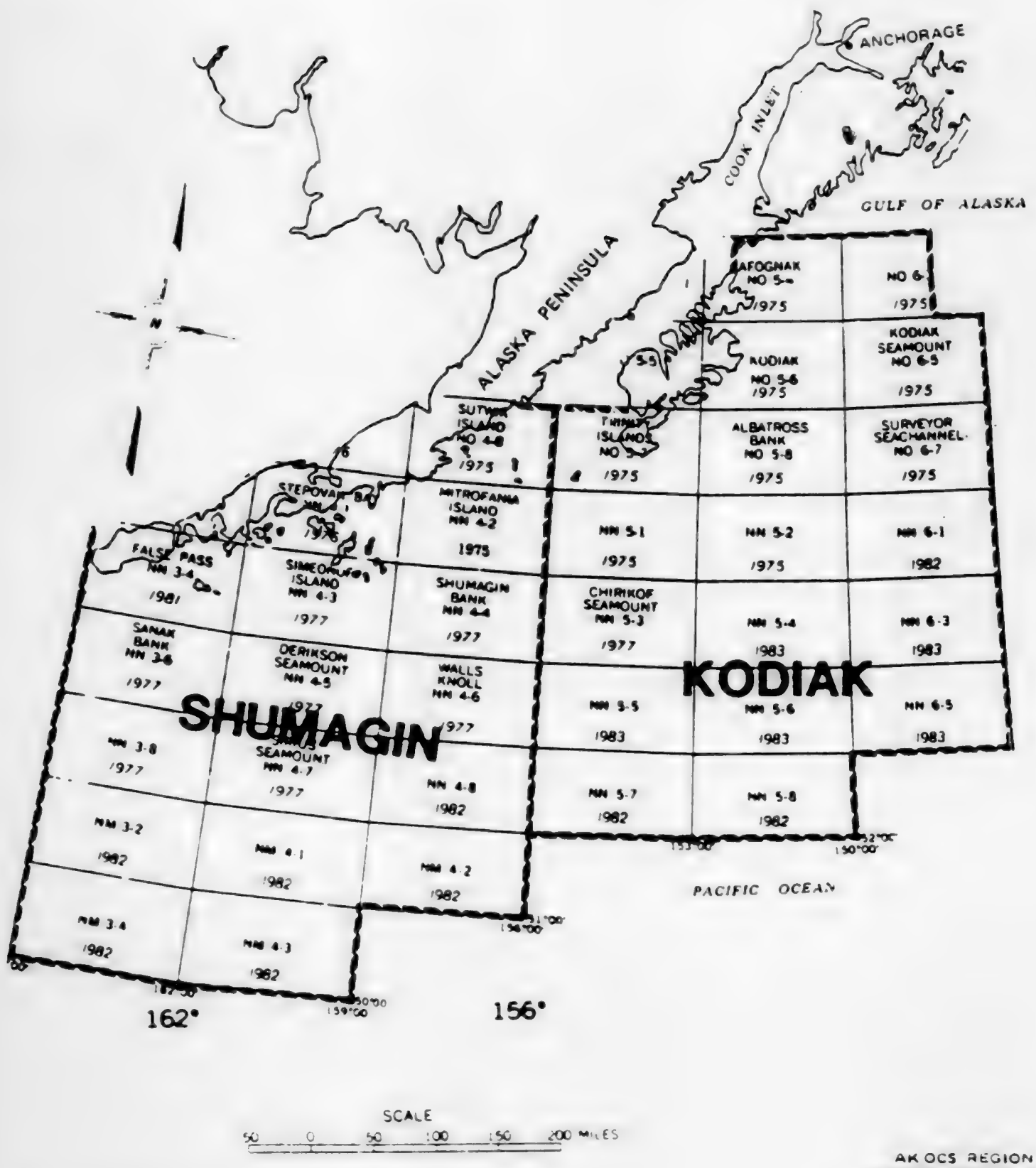
Garrey E. Carruthers,
Assistant Secretary—Land and Minerals Management.

William D. Bettenberg,
Director, Minerals Management Service.

BILLING CODE 4310-MR-M

KODIAK AND SHUMAGIN

PLANNING AREAS



[FR Doc. 84-27114 Filed 10-12-84; 8:45 am]

Billing Code 4310-MR-C

National Park Service

Cuyahoga Valley National Recreation Area Advisory Commission; Meeting

Notice is hereby given, in accordance with the Federal Advisory Committee Act, 86 Stat. 770, 5 U.S.C. App. 1, as amended by the Act of September 13, 1976, 90 Stat. 1247, that a meeting of the Cuyahoga Valley National Recreation Area Advisory Commission will be held beginning at 7 p.m. (EST), on Thursday, October 25, 1984, at the Happy Days Visitor Center located on West Streetsboro Road, 1 mile west of Route 8 in Peninsula, Ohio.

The Commission was established by the Act of December 27, 1984, 88 Stat. 1788, 16 U.S.C. 460ff–4, to meet and consult with the Secretary of the Interior on matters relating to the administration and development of the Cuyahoga Valley National Recreation Area.

The members of the Commission are as follows:

Mrs. Tommie Patty (Chairperson)
Mr. John Craig
Mrs. William Hutchison
Mr. James S. Jackson
Mrs. George Klein
Mr. Stanley Mottershead
Mr. C.W. Eliot Paine
Mr. Melvin J. Rebholz
Mr. F. Eugene Smith
Ms. R. Robbie Stillman
Dr. Robert W. Teater

The principal topic of discussion will be the potential impact of oil and gas development within the Cuyahoga Valley National Recreation Area.

The meeting will be open to the public. Interested persons may submit written statements. Such statements should be submitted to the official listed below prior to the meeting.

Further information concerning this meeting may be obtained from Lewis S. Albert, Superintendent, Cuyahoga Valley National Recreation Area, 15610 Vaughn Road, Brecksville, Ohio, 44141, telephone (216) 526–5256. Minutes of the meeting will be available for public inspection 3 weeks after the meeting, at the office of Cuyahoga Valley National Recreation Area, located at 15610 Vaughn Road, Brecksville, Ohio 44141.

Dated: October 3, 1984.

Randall R. Pope,

Acting Regional Director, Midwest Region.

[FR Doc. 84–27186 Filed 10–12–84; 8:45 am]

BILLING CODE 4310–70–M

[Order 77, Amdt. No. 14]

Directors of National Park Service Regions; Delegation, Redelegation, and Revocation of Authority

Order No. 77, approved February 27, 1973, and published in the **Federal Register** of March 22, 1973 (38 FR 7478), as amended, set forth in Section 1 the exceptions on delegations of authority, and in Section 2 certain limitations on redelegation of authority.

Section 2. A new paragraph 5 is added to Section 2 to read as follows:

Section 2. Paragraph 5 Authority to grant permits for archeological and paleontological explorations under the authorities of "An Act for the Preservation of American Antiquities", dated June 8, 1906, and, the "Archaeological Resources Protection Act" dated October 31, 1979, may not be redelegated.

Dated: September 20, 1984.

Mary Lou Grier,

Acting Director, National Park Service.

[FR Doc. 84–27172 Filed 10–12–84; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 701–TA–223 (Preliminary)]

Agricultural Tillage Tools From Brazil

AGENCY: United States International Trade Commission.

ACTION: Institution of a preliminary countervailing duty investigation and scheduling of a conference to be held in connection with the investigation.

SUMMARY: The Commission hereby gives notice of the institution of preliminary countervailing duty investigation No. 701–TA–223 (Preliminary) under section 703(a) of the Tarriff Act of 1930 (19 U.S.C. 1671b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry is materially retarded, by reason of imports from Brazil of agricultural tillage tools, provided for in item 666.00 of the Tariff Schedules of the United States, which are alleged to be subsidized by the Government of Brazil.

EFFECTIVE DATE: September 28, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Vastagh (202–523–0283), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted in response to a petition filed on September 28, 1984, by Ingersoll Products Corp., Chicago, IL; Empire Plow Co., Cleveland, OH; and Nichols Tillage Tools, Inc., Sterling, CO. The Commission must make its determination in this investigation within 45 days after the date of the filing of the petition, or by November 13, 1984 (19 CFR 207.17).

Participation

Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than seven (7) days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairwoman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service of Documents

The Secretary will compile a service list from the entries of appearance filed in this investigation. Any party submitting a document in connection with the investigation shall, in addition to complying with § 201.8 of the Commission's rules (19 CFR 201.8), serve a copy of each such document on all other parties to the investigation. Such service shall conform with the requirements set forth in § 201.16(b) of the rules (19 CFR 201.16(b)).

Written Submissions

Any person may submit to the Commission on or before October 31, 1984, a written statement of information pertinent to the subject matter of this investigation (19 CFR 207.15). A signed original and fourteen (14) copies of such statements must be submitted (19 CFR 201.8).

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately, and each sheet must be clearly marked at the top "Condifential Business Data." Confidential submissions must conform with the requirements of section 201.6 of the Commission's rules (19 CFR 201.6). All written submissions, except for confidential business data, will be available for public inspection.

Conference

The Director of Operations of the Commission has scheduled a conference

in connection with this investigation for 9:30 a.m., on October 25, 1984, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Parties wishing to participate in the conference should contact Mr. Stephen Vastagh (202–523–0283) not later than October 19, 1984, to arrange for their appearance. Parties in support of the imposition of contervailing duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Public Inspection

A copy of the petition and all written submissions, except for confidential business data, will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC.

For further information concerning the conduct of this investigation and rules of general appication, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and B (19 CFR Part 207), and Part 201, subparts A through E (19 CFR Part 201).

Authority: This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

Issued: October 9, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–27192 Filed 10–12–84; 8:45 am]

BILLING CODE 7020–02–M

Request for Public Comment on Termination of Countervailing Duty Investigation Concerning Ampicillin Trihydrate and Its Salts From Spain

AGENCY: International Trade Commission.

ACTION: Request for comments on proposed termination of countervailing duty investigation under section 104(b) of the Trade Agreements Act of 1979.

FOR FURTHER INFORMATION CONTACT: Ms. Vera Libeau, Office of Investigations, telephone 202–523–0368.

SUPPLEMENTARY INFORMATION: The Trade Agreements Act of 1979, subsection 104(b)(1), requires the Commission in the cae of a countervailing duty order issued under section 303 of the Traiff Act of 1930, upon the request of a government or group of exporters of merchandise covered by the order, to conduct an investigation to determine whether an industry in the United States would be materially injured, or threatened with material injury, or whether the establishment of such industry would be materially retarded, if the order were to be revoked. On June 17, 1982, the Commission received a request from the Government of Spain for the review of the countervailing duty order on ampicillin trihydrate and its salts from Spain (T.D. 79–90). Notice of the countervailing duty order was published on March 22, 1979, in the **Federal Register** (44 FR 17484).

The Commission received a letter on September 13, 1984, from Biocraft Laboratories, Inc., the original petitioner for the countervailing duty order, stating that it withdraws its request for the imposition of countervailing duties under the above-referenced countervailing duty order.

In light of the legislative history of section 704(a) of the Tariff Act of 1930 indicating Congress' expectation that the Commission will permit public comment prior to termination, the Commission requests written comments from persons concerning the proposed termination of the investigation on ampicillin trihydrate and its salts from Spain. These written comments must be filed with the Secretary to the Commission no later than 30 days after publication of this notice in the **Federal Register.**

By order of the Commission.

Issued: October 9, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–27193 Filed 10–12–84; 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30329]

Southern Pacific Transportation Co.; Abandonment and Discontinuance of Service Exemption in St. Landry, Avoyelles, and Rapides Parishes, LA

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of prior approval under 49 U.S.C. 10903 *et seq.*, the abandonment by Southern Pacific Transportation Company (SPT) of 34.20 miles of rail line in St. Landry, Avoyelles, and Rapides Parishes, LA, subject to employee protective conditions, and grants exemption for the proposed discontinuance of trackage rights operations by SPT over 23.78 miles of Missouri Pacific Railroad Company.

DATES: This decision shall be effective on November 14, 1984. Petitions for reconsideration must be filed by November 5, 1984. Petitions for stay must be filed by October 25, 1984.

ADDRESSES: Send pleadings referring to Finance Docket No. 30329 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

(2) Petitioner's representative: Gary A. Laakso, Southern Pacific Bldg., One Market Plaza, San Francisco, CA 94105.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to T. S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (DC Metropolitan area) or toll free (800) 424–5403.

Decided: October 2, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett, Gradison, Simmons, Lamboley, and Strenio.

James H. Bayne,

Secretary.

[FR Doc. 84–27119 Filed 10–12–84; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF LABOR

Office of Assistant Secretary—Veterans Employment and Training

Secretary of Labor's Committee on Veterans' Employment; Meeting

The Secretary's Committee on Veterans' Employment was established under Section 308, Title III, Pub. L. 97–306 "Veterans Compensation, Education and Employment Amendments of 1982," to bring to the attention of the Secretary, problems and issues relating to veterans' employment.

Notice is hereby given that the Secretary of Labor's Committee on Veterans' Employment will meet on Tuesday, October 30, 1984, at 10:00 a.m., in the Secretary's Conference Room, S–2508–FPB.

Items to be discussed are:

- Emergency Veterans' Job Training Act
- Department of Labor's "Salute" to Veterans
- Veterans Administration—Committee for Employer Support of Veterans Employment
- Proposed Committee Operating Procedures

- Communications Subcommittee Update
- Questions and Answers

The public is invited.

Signed at Washington, DC, this 10th day of October, 1984.

Donald E. Shasteen,

Deputy Assistant Secretary for Veterans' Employment and Training.

[FR Doc. 84-27150 Filed 10-12-84; 8:45 am]

BILLING CODE 4510-79-M

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

Meeting

October 9, 1984.

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. 1 (1982), as amended, notice is hereby given that the National Advisory Committee on Oceans and Atmosphere (NACOA) will hold a meeting on Monday and Tuesday, October 29–30, 1984. The meeting will be held in Page Building #1, Rooms 416 and B–100, 2001 Wisconsin Avenue, NW., Washington, DC. The meeting will commence at 9:00 a.m. and end at 5:00 p.m. October 29. On October 30, the meeting will commence at 8:30 a.m. and end at 4:00 p.m. The Committee, consisting of 18 non-Federal members appointed by the President from academia, business and industry, public interest organizations, and State and local government, was established by Congress by Public Law 95–63, on July 5, 1977. Its duties are to (1) undertake a continuing review, on a selective basis, of national ocean policy, coastal zone management, and the status of the marine and atmospheric science and service programs of the United States; (2) advise the Secretary of Commerce with respect to carrying out of the programs administered by the National Oceanic and Atmospheric Administration; and (3) submit an annual report to the President and to the Congress setting forth an assessment, on a selective basis, of the status of the Nation's marine and atmospheric activities, and submit other reports as may from time to time be requested by the President or Congress.

The tentative agenda is as follows:

Monday, October 29, 1984

2001 Wisconsin Avenue, NW., Page Building #1, Rooms 416 & B–100, Washington, DC

Plenary

9:00 a.m.–9:30 a.m.

- Introductory Remarks

9:30 a.m.–11:00 a.m.

- Guest Speakers:

Admiral J.S. Gracey, Commandant of the U.S. Coast Guard
Commodore John R. Seesholtz, Oceanographer of the Navy
Doyle G. Frederick, Associate Director, United States Geological Survey

11:00 a.m. 12:00 Noon

- Federal Ocean Programs

Speaker: Eric Schneider, Chairman, Subcommittee on Marine Research Committee on Atmosphere and Oceans

Lunch

12:00 p.m.–1:00 p.m.

Plenary

1:00 p.m.–2:00 p.m.

- Federal Atmospheric Research Programs

Speaker: Eugene W. Bierly, Chairman, Subcommittee on Atmospheric Research, Committee on Atmosphere and Oceans

Planel Meetings

2:00 p.m.–4:00 p.m.

- Underwater Technology

Chairman: Don Walsh
Room B–100
Topic: Panel Work Session
Speakers: None

2:00 p.m.–5:00 p.m.

- Living Resources

Chairman: Charles Black
Room 416
Topic: North Pacific Fur Seal Treaty
Speakers: None

Recess

5:00 p.m.

Tuesday, October 30, 1984

2001 Wisconsin Avenue, NW, Page Building #1, Rooms 416 & B–100, Washington, DC

Panel Meetings

8:30 a.m.–12:00 Noon

- Federal/State Relations Co-Chairmen: John Norton Moore, Judity Kildow

Room 416
Topic: Outer Continental Shelf and Coastal Zone Management Issues
Speakers: TBA

9:00 a.m.–12:00 Noon

- Atmospheric Affairs

Chairman: Fred Singer
Room B–100
Topic: Panel Work Session
Speakers: Non

Lunch

12:00 p.m.–1:00 p.m.

Plenary

1:00 p.m.–4:00 p.m.

- Discussion of North Pacific Fur Seal Treaty by Panel Chairman
- Presentation of Preliminary Findings of Shipbuilding Panel by Panel Chairman
- Further Discussions on NACOA Exclusive Economic Zone (EEZ) Activities
- Panel Reports
- Other Business

Adjourn

4:00 p.m.

Persons desiring to attend will be admitted to the extent seating is available. Persons wishing to make formal statements should notify the Chairman in advance of the meeting. The Chairman retains the prerogative to place limits on the duration of oral statements and discussions. Written statements may be submitted before or after each session.

Additional information concerning this meeting may be obtained through the Committee's Executive Director, Steven N. Anastasion, whose mailing address is: National Advisory Committee on Oceans and Atmosphere, 3300 Whitehaven Street, NW., Washington, DC 20235.

Dated: October 10, 1984.

James A. Almazan,

Staff Physical Scientist.

[FR Doc. 84-27109 Filed 10-12-84; 8:45 am]

BILLING CODE 3510-12-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Humanities; Humanities Panel Meetings

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended) notice is hereby given that the following meeting of the Humanities Panel will be held at 1100 Pennsylvania Avenue, NW., Washington, D.C. 20506.

Date: October 11, 1984.
Time: 10:30 a.m. to 3:30 p.m.
Room: 430.

Program: This meeting will review applications submitted for the Humanities Projects in Media, Division of General Programs, for projects beginning after April 1, 1985.

The proposed meeting is for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussions of information given in confidence to the

agency by grant applicants. Because the proposed meeting will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and (3) information the disclosure of which would significantly frustrate implementation of proposed agency action; pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that this meeting will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code. This is not a regularly scheduled panel meeting but a panel meeting convened to review applications for which review was unanticipated. In light of the unexpected nature of this panel meeting, the National Endowment is unable to provide the notice within the time required.

Further information about this meeting can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506, or call (202) 786–0322.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 84–27177 Filed 10–12–84; 8:45 am]

BILLING CODE 7536–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

Wings West Airlines, Inc. Aircraft Accident; Public Hearing

In connection with its investigation of the accident involving Wings West Airlines, Inc., Beech 99C, N6399U, and Aesthetech, Inc., Rockwell Commander 112TC, N112SM, near San Luis Obispo, California, on August 24, 1984, the National Transportation Safety Board will convene a public hearing at 9 a.m. (local time) on November 1, 1984, in Salons C & D of the Continental Ballroom, Holiday Inn Crowe Plaza, Los Angeles, California.

Dated: October 10, 1984.

H. Ray Smith, Jr.,

Federal Register Liaison Officer.

[FR Doc. 84–27123 Filed 10–12–84; 8:45 am]

BILLING CODE 7533–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–389]

Florida Power and Light Co., et al., St. Lucie Plant, Unit 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Operating License No NPF–16 to Florida Power and Light Co., et al., (the licensee) for St. Lucie Plant, Unit No. 2 located in St. Lucie County, Florida.

Identification of Proposed Action

The amendment would consist of changes to the operating license and Technical Specifications (TS) and would authorize an increase of the storage capacity of the spent fuel pool (SFP) from 675 fuel assemblies to 1076 fuel assemblies with enrichments no greater than 4.5 weight percent U–235.

The amendment to the TS is responsive to the licensee's application dated March 13, 1984. The NRC staff has prepared an Environmental Assessment of the Proposed Action, "Environmental Assessment By the Office of Nuclear Reactor Regulation Relating to the Modification of the Spent Fuel Storage Pool, Operating License No. NPF–16, Florida Power and Light Co., et al., St. Lucie Plant, Unit No. 2, Docket No. 50–389" dated

Summary of Environmental Assessment

The Final Generic Environmental Impact Statement (FGEIS) on Handling and Storage of Spent Light Water Power Reactor Fuel (NUREG–0575) concluded that the environmental impact of interim storage of spent fuel was negligible and the cost of the various alternatives reflects the advantage of continued generation of nuclear power with the accompanying spent fuel storage. Because of the differences in SFP designs, the FGEIS recommended licensing SFP expansion on a case-by-case basis.

For St. Lucie 2 the expansion of the storage capacity of the SFP will not create any significant additional radiological effects or measurable non-radiological environmental impacts. The additional whole body dose that might be received by an individual at the site boundary is less than 0.1 millirem per year; the estimated dose to the population within a 50-mile radius is estimated to be less than 0.1 person-rem per year. These doses are small compared to the fluctuations in the annual dose this population receives from exposure to background radiation. Since the spent fuel pool for St. Lucie 2 has never had spent fuel stored in it and is currently dry, clean and uncontaminated, there will be no additional radiation exposure to workers due to this modification. Therefore, the staff concludes that the exposure to workers is as low as is reasonably achievable (ALARA) and is acceptable.

Finding of No Significant Impact

The staff has reviewed this proposed facility modification relative to the requirements set forth in 10 CFR Part 5. Based upon the environmental assessment, the staff concluded that there are no significant radiological or non-radiological impacts associated with the proposed action and that the proposed license amendment will not have a significant effect on the quality of the human environment. Therefore, the Commission had determined, pursuant to 10 CFR 51.31, not to prepare an environmental impact statement for the proposed amendment.

For further details with respect to this action, see: (1) The application for amendment to the Technical Specifications dated March 13, 1984, (2) the FGEIS on Handling and Storage of Spent Light Water Power Reactor Fuel (NUREG–0575), (3) the Final Environmental Statement for St. Lucie 2 issued April 1982, and (4) The Environmental Assessment dated. These documents are available for public inspection at the Commission's Public Document Room 1717 H Street, N.W., Washington D.C. 20555 and at the Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 33450.

Dated at Bethesda, Maryland this 9th day of October 1984.

For The Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 84–27189 Filed 10–12–84; 8:45 am]

BILLING CODE 7590–01–M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Coal Options Task Force; Regular Meeting

AGENCY: Coal Options Task Force of the Pacific Northwest Electric Power an Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of meeting to be held pursuant to the Federal Advisory

Committee Act, 5 U.S.C. Appendix I, 1–4. Activities will include:

- Assessing the implications of The Clean Air Act, Clean Water Act and NEPA—Status report.
- Potential Coal Options—Status report—Available capacity at Boardman site.
- Assessing schedules, constraints to development and associated probabilities of potential coal options—Review of final survey forms.
- Task Force Report.
- Public comment.

Status: Open.

SUMMARY: The Northwest Power Planning Council hereby announces a forthcoming meeting of its Coal Options Task Force.

DATE: Friday, October 19, 1984. 9:00 a.m.

ADDRESS: The meeting will be held at the Council Conference Room at 700 S.W. Taylor; Suite 200, Portland, Oregon.

FOR FURTHER INFORMATION, CONTACT: Jeff King, (503)222–5161.

Edwards Sheets,

Executive Director.

[FR Doc. 84–27108 Filed 10–12–84; 8:45 am]

BILLING CODE 0000–01–M

Options Evaluation Task Force; Regular Meeting

AGENCY: Options Evaluation Task Force of the Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of meeting to be held pursuant to the Federal Advisory Committee Act, 5 U.S.C. Appendix I, 1–4. Activities will include:

- Review DSI interruptibility studies.
- Public comment.

Status: Open.

SUMMARY: The Northwest Power Planning Council hereby announces a forthcoming meeting of its Options Evaluation Task Force.

DATE: Monday, October 15, 1984. 2:00 p.m.

ADDRESS: The meeting will be held at the Council Hearing Room at 700 S.W. Taylor; Suite 200, in Portland, Oregon.

FOR FURTHER INFORMATION, CONTACT: Wally Gibson (503) 222–5161.

Edward Sheets,

Executive Director.

[FR Doc. 84–27107 Filed 10–12–84; 8:45 am]

BILLING CODE 0000–01–M

Options Steering Committee; Regular Meeting

AGENCY: Options Steering Committee of the Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of meeting to be held pursuant to the Federal Advisory Committee Act, 5 U.S.C. Appendix I, 1–4. Activities will include:

- Discussion of objectives of Action Item 14.1.
- Discussion of FERC position on hydropower options.
- Bonneville's solicitation for hydropower options.
- Bonneville activities post-solicitation.
- Public comment.

Status: Open.

SUMMARY: The Northwest Power Planning Council hereby announces a forthcoming meeting of its Options Steering Committee.

DATE: Friday, October 26, 1984. 9 a.m.

ADDRESS: The meeting will be held at the Council Hearing Room at 700 S.W. Taylor; Suite 200, in Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Tom Foley, (503) 222–5161.

Edward Sheets,

Executive Director.

[FR Doc. 84–27106 Filed 10–12–84; 8:45 am]

BILLING CODE 0000–01–M

SECURITIES AND EXCHANGE COMMISSION

[File No. 1–8300]

Williams Electronics, Inc. Common Stock, Par Value $.50; Order Granting Application To Strike From Listing and Registration

October 9, 1984.

The Philadelphia Stock Exchange, Inc. ("Phlx") has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2–2(c) promulgeted thereunder, to strike the specified security from listing and registration thereon.

The reasons alleged for striking this security from listing and registration include the following:

The underlying security of Williams Electronics, Inc. closed below $10.00 on a majority of business days in a six month period as measured by the highest closing price recorded in any market on which the underlying security trades. The final series of contracts expired on September 22, 1984.

The Commission, having considered the facts stated in the application and having due regard for the public interest and protection of investors, orders that said application be, and it hereby is, granted, effective at the opening of business on October 10, 1984.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84–27125 Filed 10–12–84; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Boston Stock Exchange Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

October 4, 1984.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following stocks:

Whitehall Corp., Common Stock, $.10 Par Value (File No. 7–7885)
Postal Instant Press, Common Stock, No Par Value (File No. 7–7886)
Southern Union Company, Common Stock, $1.00 Par Value (File No. 7–7887)
Americus Trust for AT&T Common Shares, Prime-Series A (File No. 7–7888)
Cameron Iron Works, Inc., Common Stock, $.208–1/3 Par Value (File No. 7–7889)
LaFarge Corp., Common Stock, $1.00 Par Value (File No. 7–7929)
AMCA International, Common Stock, No Par Value (File No. 7–7930)
Domtar, Inc., Common Stock, No Par Value (File No. 7–7931)
Quebecor, Inc., Common Stock, No Par Value (File No. 7–7932)
Brascan, Ltd., Class A Convertible, No Par Value (File No. 7–7933)
Total Petroleum (No. America) Ltd., Warrants (1986) (File No. 7–7934)
Total Petroleum (No. America) Ltd., Convertible Preferred, $2.88 Par Value (File No. 7–7935)
Campbell Resources, Common Stock, No Par Value (File No. 7–7936)
Acco World Corp., Common Stock, $.05 Par Value (File No. 7–7953)
Adams Resources & Energy, Inc., Common Stock, $.10 Par Value (File No. 7–7954)
Amerace Corp., Common Stock, $5.00 Par Value (File No. 7–7955)
Astrotech International Corp., Common Stock, $.30 Par Value (File No. 7–7956)
National Intergroup, Inc., Common Stock, No Par Value (File No. 7–7957)

These securities are listed and registered on one or more other national securities exchanges and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before October 26, 1984, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will appove the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-27131 Filed 10-12-84; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Cincinnati Stock Exchange; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

October 4, 1984.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Central Hudson Gas & Electric Corp., Common Stock, No Par Value (File No. 7-7940)
Equimark Corporation, Common Stock, $3.33⅓ Par Value (File No. 7-7941)
General Refractories Company, Common Stock, $.50 Par Value (File No. 7-7942)
Source Capital, Inc., Common Stock, $1.00 Par Value (File No. 7-7943)
Whitehall Corporation, Common Stock, $.10 Par Value (File No. 7-7944)
Giant Food, Inc., Common Class "A", $1.00 Par Value (File No. 7-7945)
The MacNeal-Schwendler Corporation, Common Stock, $.10 Par Value (File No. 7-7946)
Russell Corporation, Common Stock, $.01 Par Value (File No. 7-7947)
Allis-Chalmers Corporation, Cum. Conv. Pref. Stock, No Par Value (File No. 7-7892)
Amerada Hess Corporation, Conv. Pref. Stock, $1.00 Par Value (File No. 7-7893)
American Telephone & Telegraph Company, Cum. Pref. Stock $1.00 Par Value (File No. 7-7894)
Bethlehem Steel Corporation, $5.00 Cum. Conv. Pref., $1.00 Par Value; $2.50 Cum. Conv. Pref., $1.00 Par Value (File No. 7-7895)
Burlington Northern Inc., Cum. Pref., $10.00 Par Value (File No. 7-7896)
Castle & Cooke, Inc., Dep ⅛ $12.50 Conv. Exch. Pref., No Par Value (File No. 7-7897)
CIGNA Corporation, Series A Cum. Conv. Pref. Stock, $1.00 Par Value (File No. 7-7898)
City Investing Company, Conv. Pref. Stock, $1.00 Par Value (File No. 7-7899)
Commonwealth Edison Company, (Pr. A) $1.425 Cum. Conv. Pref., No Par Value; (Pr. C) $1.90 Cum. Pref., No Par Value; (Pr. D) $2.00 Cum. Pref., No Par Value (File No. 7-7900)
The Continental Group, Inc., Cum. Conv. "A" Pref., $1.00 Par Value (File No. 7-7901)
Cooper Industries, Inc., Conv. Pref. Stock, $1.00 Par Value (File No. 7-7902)
Crown Zellerbach Corporation, Cum. Pref. Stock, No Par Value (File No. 7-7903)
Di Giorgio Corporation, Conv. Pref. Stock, No Par Value (File No. 7-7904)
First Pennsylvania Corporation, Conv. Dep. Pref. Stock, No Par Value (File No. 7-7905)
General Motors Corporation, Cum. Pref. Stock (Pr. B), No Par Value (File No. 7-7906)
Georgia-Pacific Corporation, (Pr. A) $2.24 Conv. A Pref., No Par Value; (Pr. B) $2.24 Conv. B Pref., No Par Value; (Pr. C) $2.24 Conv. C. Pref., No Par Value (File No. 7-7907)
The Hallwood Group Incorporated, 7% Participating Conv. Pref., $8.00 Par Value (File No. 7-7908)
Home Depot, Inc., Common Stock, $.05 Par Value (File No. 7-7909)
IC Industries, Inc., Cum. Conv. 2nd Pref. Stock, No Par Value (File No. 7-7910)
ITT Corporation, (I Pr.) $4.50 Cum. Conv. I Pref., No Par Value; (K Pr.) $4.00 Cum. Conv. K Pref., No Par Value; (N Pr.) $2.25 Cum. Conv. N Pref., No Par Value (File No. 7-7911)
The LTV Corporation, Cum. Conv. B Pref. (Pr. B), $1.00 Par Value (File No. 7-7912)
Mattel, Inc., Cum. Conv. Pref. Stock Series A, $1.00 Par Value (File No. 7-7913)
Occidental Petroleum Corporation, (Pr. A) $4.00 Cum. Conv. Pref., $1.00 Par Value (Pr. B) $3.00 Cum. Conv. Pref., $1.00 Par Value (File No. 7-7914)
Orion Pictures Corporation, Class C Conv. Preference Stock, No Par Value (File No. 7-7915)
Pitney Bowes, Inc., Conv. Pref. Stock, No Par Value (File No. 7-7916)
RCA Corporation, Conv. Pref. Stock (Pr. C), No Par Value (File No. 7-7917)
The Signal Companies, Inc., Conv. Pref. Stock (Pr. B), $1.00 Par Value (File No. 7-7918)
Talley Industries, Inc., Series B Conv. Pref. Stock, $1.00 Par Value (File No. 7-7919)
Transco Energy Company, Conv. Pref. Stock, No Par Value (File No. 7-7920)
Trans World Airlines, Inc., Cum. Conv. Pref. Stock (Pr. B), No Par Value (File No. 7-7921)
UAL, Inc., Series B Conv. Pref. Stock, No Par Value (File No. 7-7922)
Union Pacific Corporation, Conv. Pref. Stock, No Par Value (File No. 7-7923)
United Brands Company, Cum. Conv. Pref., No Par Value (File No. 7-7924)
United Technologies Corporation, Cum. Conv. Pref. (Pr. D), $1.00 Par Value (File No. 7-7925)
Western Air Lines, Incorporated, Cum. Conv. Pref. (Pr. A), No Par Value (File No. 7-7926)
CalMat Company, Capital Stock, $1.00 Par Value (File No. 7-7927)
Matrix Corporation, Common Stock, $1.00 Par Value (File No. 7-7928)

These securities are listed and registered on one or more other national securities exchanges and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before October 26, 1984, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-27129 Filed 10-12-84; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Midwest Stock Exchange Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

October 4, 1984.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following stocks:

Super Food Services, Inc., Common Stock, $1.00 Par Value (File No. 7–7959)
Data-Design Laboratories, Common Stock, $.33⅓ Par Value (File No. 7–7960)
SL Industries, Inc., Common Stock, $.20 Par Value (File No. 7–7961)
Esselte Busines Systems, Inc., Common Stock, $1.00 Par Value (File No. 7–7948)
Elscint Ltd., Ordinary Shares, $.025 Par Value (File No. 7–7949)
Hughes Supply Inc., Common Stock, $1.00 Par Value (File No. 7–7950)
Hasbro Bradley Inc., Common Stock, $.50 Par Value (File No. 7–7951)
Nerco, Inc., Common Stock, No Par Value (File No. 7–7937)
Great American First Savings Bank, Common Stock, $1.00 Par Value (File No. 7–7938)
Applied Data Research, Inc., Common Stock, $.25 Par Value (File No. 7–7939)
Electrospace Systems, Inc., Common Stock, $.01 Par Value (File No. 7–7890)
The Fur Vault, Inc., Common Stock, $.01 Par Value (File No. 7–7891)

These securities are listed and registered on one or more other national securities exchanges and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before October 26, 1984, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84–27130 Filed 10–12–84; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Midwest Stock Exchange; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

October 9, 1984.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following stocks:

Ceco Industries, Inc., Common Stock, No Par Value (File No. 7–7776)
Equitec Financial Group, Inc., Common Stock, $.01 Par Value (File No. 7–7777)
Winners Corporation, Common Stock, $.05 Par Value (File No. 7–7778)

These securities are listed and registered on one or more other national securities exchanges and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before October 30, 1984, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84–27128 Filed 10–12–84; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Midwest Stock Exchange; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

October 9, 1984.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following stocks:

Pan Am Corporation (Delaware) (Holding Company), Common Stock, $.25 Par Value (File No. 7–7962)
Cenergy Corporation, Common Stock, $.25 Par Value (File No. 7–7963)
Questar Corporation, Common Stock, $2.50 Par Value (File No. 7–7964)
Club Med, Inc., Common Stock, $1.00 Par Value (File No. 7–7965)

These securities are listed and registered on one or more other national securities exchanges and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before October 30, 1984, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84–27127 Filed 10–12–84; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Philadelphia Stock Exchange Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

October 4, 1984.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following stocks:

Madison Resources, Inc., Common Stock, $1.00 Par Value (File No. 7–7958)
Pioneer Corporation, Common Stock, $1.00 Par Value (File No. 7–7959)

These securities are listed and registered on one or more other national

securities exchanges and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before October 26, 1984, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-27128 Filed 10-12-84; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Memorandum of Understanding Between Small Business Administration and Export-Import Bank of the United States

On August 30, 1984, the Small Business Administration and the Export-Import Bank of the United States executed a Memorandum of Understanding which authorizes SBA and Eximbank to co-guarantee export revolving line of credit loans.

The following is a copy of such document.

Dated: October 9, 1984.

James C. Sanders,

Administrator.

Memorandum of Understanding Between the Small Business Administration and the Export-Import Bank of the United States

This Agreement entered into this 30th day of August, 1984, between the Small Business Administration (SBA) and the Export-Import Bank of the United States (Eximbank).

Witnesseth That:

Whereas, section 7(a) of the Small Business Act, as amended, authorizes the SBA Administrator to guarantee export revolving line of credit loans extended by U.S. commercial banks and other financial institutions;

Whereas, section 206 of the Bank Export Services Act authorizes Eximbank to provide guarantees for loans extended by financial institutions or other creditors to export trading companies and other exporters; and

Whereas, Eximbank and SBA agree that small business exporting concerns will be more efficiently and effectively served by the issuance of co-guarantees by Eximbank and SBA with respect to working capital loans extended by financial institutions to small business exporters.

Now, Therefore, the parties hereto do mutually agree as follows:

General Conditions

1. *Co-Guarantee.* SBA and Eximbank shall severally co-guarantee ("Co-Guarantee(s)") eligible working capital loans ("Loan(s)") extended by United States financial institutions ("Bank(s)") to United States small business exporters and export trading companies ("Borrower(s)"), in accordance with the terms and conditions set forth herein.

2. *Amount and Percentage of Co-Guarantee.* The Co-Guarantees shall extend to Loans in principal amounts reanging from $200,000 to $1,000,000 on a per Borrower basis and shall cover 90% of the principal of such Loans ("Guaranteed Amount"), with interest thereon. SBA shall guarantee 50% of the Guaranteed Amount ("SBA Participation") and Eximbank shall guarantee 50% of the Guaranteed Amount ("Eximbank Participation"), unless a greater or lesser percentage is otherwise approved as provided herein. The Bank shall retain for its sole risk 10% of the principal and interest on the Loan ("Bank Participation").

3. *Purpose.* Loans eligible for Co-Guarantees shall be used for the following export-related purposes:

(a) The purchase of goods for export;

(b) The purchase of materials, component parts, goods, services and/or labor to be used in producing goods or services for a future or existing export sale; or

(c) Foreign business development such as marketing, travel expenses, trade fair participation or other promotional activities.

4. *Security.* Each Loan shall be secured by a security interest in inventories of exportable goods, export accounts receivables, accounts receivables from leases, performance contracts, grant commitments, participation fees, member dues, revenue from publications or such other collateral as SBA and Eximbank may deem appropriate ("Liens").

5. *Terms and Conditions of Co-Guarantee.* Except as provided herein, the terms and conditions of Co-Guarantees shall be determined by SBA rules and regulations for export revolving line of credit loans, including without limitation the rate of interest guaranteed and guarantee fees. Such Co-Guarantees shall be evidenced by documents in form and substance satisfactory to Eximbank and SBA.

Operating Guidelines

1. *Loan Application, Processing and Evaluation.* All applications for Co-Guarantees of Loans shall be processed through the nearest SBA branch or district office serving the area where the business is located. SBA shall use its current application forms to evaluate and process applications for Co-Guarantees and shall follow its standard guidelines and procedures in evaluating such applications, including the determination of creditworthiness and reasonable assurance of repayment of each Loan. In considering Loan applications, SBA shall require that each Loan be secured by Liens and such other security as is necessary to provide reasonable assurance of repayment of the Loan.

2. *Eximbank Approval.* (a) If, after its evaluation of the Loan application, SBA determines that (i) it will co-guarantee the Loan according to the percentage of the SBA Participation, and (ii) in its opinion, Eximbank should co-guarantee the Loan according to the percentage of the Eximbank Participation, then SBA will submit to Eximbank its recommendation substantially in the form of the APPLICATION AND CO-GUARANTEE APPROVAL (Annex A hereto), accompanied by supporting documentation. The APPLICATION CO-GUARANTEE APPROVAL and supporting documentation shall be transmitted to Eximbank by certified or registered mail and shall be addressed to the Office of Exporter Credits and Guarantees, Attention: Vice President, with a copy of the transmittal to the SBA Deputy Associate Administrator/Finance Assistance (SBA DAA/FA). Eximbank at any time may consult with the SBA DAA/FA with respect to any Loan submitted for Eximbank's approval.

(b) If Eximbank approves the SBA recommendation for Eximbank Participation, Eximbank will submit to the SBA DAA/FA a copy of the APPLICATION AND CO-GUARANTEE APPROVAL, signed by an authorized representative of Eximbank. This executed APPLICATION AND CO-GUARANTEE APPROVAL will, among other things, give SBA the authority to sign the requisite Co-Guarantee documents on behalf of Eximbank.

(c) If Eximbank chooses to Co-Guarantee the Loan in an amount or percentage less than the SBA-recommended Eximbank Participation, Eximbank shall so advise the SBA DAA/FA in writing so that discussions can be conducted to resolve the matter.

(d) SBA will advise Eximbank of the date of closing with respect to each Co-Guarantee or, if applicable, the cancellation and date thereof for any Co-Guarantee.

3. *Eximbank Sole Participation.* In cases where, after evaluation by the respective SBA branch or district office and, if applicable, review and concurrence by the appropriate SBA regional office, (a) SBA determines a Loan application does not qualify under SBA program eligibility requirements (other than Loan amount), (b) SBA declines to offer the SBA Participation or (c) SBA decides that a Loan in excess of $1,000,000 is reasonable and justified, the appropriate SBA office will forward to Eximbank the completed Loan application and accompanying data (without recommendation but with SBA's reasons for not co-guaranteeing the Loan) for Eximbank's sole review and determination. SBA shall also advise the applicant Bank and Borrower in writing of its declination and of the transmittal of the Loan application to Eximbank. If Eximbank approves the application for its sole guarantee, Eximbank will determine the terms and conditions of its guarantee and will coordinate the servicing of the Loan with the Bank. Eximbank will also

advise the appropriate SBA regional office and the SBA DAA/FA in writing of its approval.

4. *Guarantee Fees.* SBA and Eximbank will share *pro rata* the guarantee fees charged for Co-Guarantees in the same relation that the risk is shared between SBA and Eximbank under the Co-Guarantee. SBA shall pay to Eximbank Eximbank's share of any guarantee fees within five (5) business days of notification to the SBA Central Office of receipt of such fee from the Bank.

5. *Servicing.* SBA shall undertake the servicing of all Loans co-guaranteed by SBA and Eximbank.

6. *Rescheduling of Loans.* SBA shall advise Eximbank in writing of its consent to and the conditions of any rescheduling of the repayment terms on a Loan co-guaranteed by SBA and Eximbank concurrently with SBA's issuance of such consent to the Bank.

7. *Assignment.* SBA shall obtain the prior written consent of Eximbank to any assignment by a Bank of its rights under the Eximbank Participation of the Co-Guarantee.

8. *Notice of Adverse Change/Non-payment.* SBA shall notify Eximbank in writing within ten (10) days after receipt by SBA of information pertaining to any material adverse change in the financial or other condition of a Borrower or non-payment by a Borrower of any amounts due under a Loan co-guaranteed by SBA and Eximbank, and thereafter, SBA shall provide quarterly reports to Eximbank on the status of such Loan.

9. *Notice of Claim.* SBA shall notify Eximbank in writing within ten (10) days of receipt of any demand made by a Bank on SBA for purchase of a Loan under a Co-Guarantee.

10. *Payment of Claim.* After SBA has examined all claim documentation, it will determine in its sole discretion whether or not claim payments shall be made and shall so advise Eximbank at least five (5) business days prior to the date of payment by Eximbank of any claim under the Eximbank Participation. Eximbank shall make all claim payments under the Eximbank Participation by transferring funds to SBA for payment by SBA to the Bank. Payment by Eximbank to SBA shall be made one (1) business day prior to funds being disbursed by the United States Treasury on behalf of SBA to the Bank.

11. *Consultation.* Upon payment of a claim under a Co-Guarantee, SBA and Eximbank shall consult from time to time in regard to collection thereof; provided, however, that SBA shall have the exclusive right to pursue collection of all amounts due itself and Eximbank under the Co-Guarantee.

12. *Recoveries.* SBA will share all amounts recovered on claims paid under Co-Guarantees and any expenses incurred in connection therewith with Eximbank and the respective Bank on a *pro rata* basis. Internal operating expenses of the SBA shall be for the sole account of SBA. Within five (5) business days of notification to the SBA Central Office of receipt of any amounts recovered, SBA shall pay to Eximbank its proportionate share of such amounts, accompanied by the appropriate SBA Loan identification number and the date of recovery. Similarly, Eximbank shall pay to SBA its proportionate share of recovery expenses paid by SBA within five (5) business days of receipt of a billing from SBA for such expenses, together with the appropriate SBA Loan identification number. At the time of SBA's charge-off of any Loan, SBA shall provide Eximbank with a copy of the final status of the claim reconciliation account.

13. *Periodic Reporting.* SBA shall provide Eximbank with periodic reports, at least quarterly, on the status of Loans co-guaranteed by SBA and Eximbank. Such reports shall include the following: (a) A listing of each Loan co-guaranteed by SBA and Eximbank, including a breakdown of SBA, Eximbank and Bank Participations; and (b) a listing of each such Loan in default, including a breakdown of the amount of claims (if any) paid out by SBA and Eximbank.

Miscellaneous

1. *Instructions to SBA.* Explanations of and procedures to be used under this Memorandum of Understanding, together with a list of countries in which Eximbank is restricted from doing business, will be issued from time to time by Eximbank which shall transmit same to the SBA DAA/FA. In the event of any conflict between such Instructions to SBA and this Memorandum of Understanding, the provisions of this Memorandum of Understanding shall control.

2. *Modifications.* SBA and Eximbank may negotiate modifications to this Memorandum of Understanding to clarify, expand, or revise its terms. Either party may request negotiations to effect changes.

3. *Termination by Notice.* On 60-days written notice, SBA or Eximbank may terminate this Memorandum of Understanding. Any such termination shall have no effect on the obligation of both SBA and Eximbank to continue to honor this Memorandum of Understanding with respect to all outstanding Loans co-guaranteed by SBA and Eximbank, whether or not such Loans are in default.

4. *Assignment.* Neither SBA nor Eximbank shall assign its respective rights, duties, responsibilities, or obligations under this Memorandum of Understanding without the written consent of the other party.

5. *Continuing Interchange.* SBA and Eximbank commit themselves not to initiate or implement any policy or procedure which would substantially change the terms and conditions of or materially adversely impact on Co-Guarantees issued pursuant to this Memorandum of Understanding. SBA and Eximbank agree to use their best efforts in the implementation of this Memorandum of Understanding and to consult on a continuing basis with respect to the terms and conditions of and procedures for Co-Guarantees.

Export-Import Bank of the United States.

William H. Draper,

President and Chairman.

Small Business Administration.

James C. Sanders,

Administrator.

Application and Approval of Co-Guarantee (Part 1) to the Export-Import Bank of the United States

(To Be Completed by the SBA)

(Submit in Duplicate)

Date: _____

The Small Business Administration ("SBA") hereby recommends approval of the transaction described below for your several co-guarantee in accordance with the terms and conditions of the Memorandum of Understanding between SBA and Eximbank and any amendments thereto, and this Application and Approval of Co-Guarantee.

1. SBA guarantee number: _____.

2. Check one:

☐ Purchase of goods for export

☐ Purchase of materials and/or labor to be used in producing goods and services for a future or existing export sale

☐ Foreign business development, e.g. marketing, travel expenses, trade fair participation or other promotional activities

3. Applicant bank (name, address, city, state, zip).

4. Exporter or export trading company (name, address, city, state, zip).

5. Location of manufacturer(s) (if any) (name, address, city, state, zip code): (State none if none).

6. Foreign purchaser (if any) (name, address, city, country): (State none if none).

7. Guarantor(s) (name, address, city, country): (Joint and Several, if more than one) (State none if none).

8. Security (List whether inventory of exportable goods, or export accounts receivable, both, or any other type of collateral).

9. Description of products (if any) (state quantity, model numbers, etc.): ☐ New ☐ Used.

10. Amounts:

(i) Loan Amount _____.

(ii) SBA/Eximbank Financed Amount (90% of Loan Amount): _____.

a. SBA Risk (50% of Financed Amount) _____.

b. Eximbank Risk (50% of Financed Amount) _____.

(iii) Applicant Bank's Risk (10% of Loan Amount) _____.

11. Term of repayment: _____.

12. SBA Loan Officer (Name and Telephone Number): _____.

Small Business Administration

By _____

Title _____

Application and Approval of Co-Guarantee (Part 2)

(To be completed by Eximbank)

SBA Guarantee No._____

Export Trading Co. _____

Exporter_____

Purchaser ———
Guarantor ———
Date ———
Eximbank Loan Officer ———
Telephone ———

Eximbank hereby approves the foregoing transaction for guarantee under the terms and conditions of the Memorandum of Understanding between SBA and Eximbank subject to the following:

A. Eximbank liability: Not to exceed principal liability of $———.

B. Term of repayment: ———.

C. Guarantee fee: Applicant bank shall pay to SBA a guarantee fee for the benefit of Eximbank in the amount of $ ———.

D. Availability: Eximbank shall not be obligated to issue its guarantee hereunder subsequent to the close of business on ——— .

Export-Import Bank of the United States

By ———
Title ———

[FR Doc. 84-27179 Filed 10-12-84; 8:45 am]

BILLING CODE 6025-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration Materials Transportation Bureau

Grants and Denials of Applications for Exemptions

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Notice of grants and denials of applications for exemptions

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the exemptions granted in September 1984. The modes of transportation involved are identified by a number in the "Nature of Exemption Thereof" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft. Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

RENEWAL AND PARTY TO EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
3187-X	DOT-E 3187	PPG Industries, Inc., Pittsburgh, PA	49 CFR 173.119(m), 173.21(b), 173.218, 173.221(a)(3).	To authorize shipment of flammable liquids or organic peroxides in various non-DOT and DOT specification containers. (Mode 1).
3330-X	DOT-E 3330	Western Zirconium, Inc., Ogden, UT	49 CFR 173.214(d)	To authorize use of containers not presently prescribed in hazardous materials regulations, for transportation of certain flammable solid material. (Modes 1, 2).
4108-P	DOT-E 4108	Mid-South Oxygen Co., Memphis, TN	49 CFR 173.315(a)	To become a party to exemption 4108. (Mode 1).
4453-X	DOT-E 4453	Gulf Oil Products Co., Houston, TX	49 CFR 173.114a(h)(3)	To authorize use of a non-DOT specification bulk, hopper-type tank, for transportation of blasting agent, n.o.s., or ammonium nitrate-fuel oil mixtures. (Mode 1).
5493-X	DOT-E 5493	Montana Sulphus & Chemical Co., Billings, MT	49 CFR 172.504(a), 173.314(c)	To authorize shipment of hydrogen sulfide in DOT specification 105A600W tank cars. (Mode 2).
5704-X	DOT-E 5704	U S Department of Defense, Washington DC.	49 CFR 173.62, 173.93(e)	To authorize transport of certain class A and B explosives in prescribed non-DOT specification steel drums (Modes 1, 2, 3).
6071-X	DOT-E 6071	The Boeing Co., Seattle, WA	49 CFR 173.304, 173.305, 175.3	To authorize use of non-DOT specification pressure vessels, for transportation of nonflammable compressed gases. (Modes 1, 2, 4, 5).
6518-X	DOT-E 6518	Syntex Chemicals Inc., Boulder, CO	49 CFR 172.101, 172.302, 173.119, 173.134, 173.154.	To authorize shipment of specified pyrophoric liquids and solids, water reactive solid and certain other flammable liquids, in non-DOT specification steel portable tanks or cylinders. (Modes 1, 3).
6536-X	DOT-E 6536	Pan Products Inc., Macedonia, OH	49 CFR 173.304(d)(3)(ii), 178.33	To authorize a propane butane mixture as an additional commodity. (Modes 1, 3).
6610-X	DOT-E 6610	Arco Chemical Co., Pasadena, TX	49 CFR 173.221	To authorize shipment of an organic peroxide in DOT specification 111A100W6 tank cars and MC-307 cargo tanks. (Modes 1, 2).
6668-X	DOT-E 6668	Union Carbide Corp., Danbury, CT	49 CFR 173.304(a)(2), 178.57	To authorize shipment of liquid oxygen in non-DOT specification insulated, welded cylinders. (Modes 1, 2).
6672-X	DOT-E 6672	Chandler Evans Inc., West Hartford, CT	49 CFR 173.302(a)(4), 175.3	To authorize manufacture, marking and sale of welded or seamless, nonrefillable non-DOT specification steel cylinders, for transportation of certain nonliquefied compressed gases. (Modes 1, 2, 4).
6694-X	DOT-E 6694	Compagnie des Containers Reservoirs, Paris, France.	49 CFR 173.315	To authorize use of non-DOT specification IMO type 5 portable tanks, for transportation of nonflammable gases. (Modes 1, 2, 3).
6694-X	DOT-E 6694	Eurotainer S.A., Paris, France	49 CFR 173.315	Do.
6694-X	DOT-E 6694	Fauvet-Girel, Paris, France	49 CFR 173.315	To authorize use of non-DOT specification IMO type 5 portable tanks, for transportation of nonflammable gases. (Modes 1, 2, 3).
6695-X	DOT-E 6695	....do	49 CFR 173.315	To authorize use of a non-DOT specification IMO type 5 portable tank, for transportation of certain nonflammable compressed gases. (Modes 1, 2, 3).
6765-P	DOT-E 6765	Jack B. Kelley, Inc., Amarillo, TX	49 CFR 173.318(a), 176.76(h)(4).	To become a party to exemption 6765. (Modes 1, 3).
6927-X	DOT-E 6927	Bromine Compounds Ltd., Beer-Sheva, Israel.	49 CFR 173.353	To authorize use of a non-DOT specification portable tank, for transportation of certain class B poisonous liquids. (Modes 1, 3).
6927-X	DOT-E 6927	Great Lakes Chemical Corp., El Dorado, AR	49 CFR 173.264(b)(4)	Do.
6932-X	DOT-E 6932	Eurotainer, S.A., Paris, France	49 CFR 173.264(B)(4)	To authorize use of non-DOT specification IMO type 5 portable tanks, for transportation of anhydrous hydrofluonc acid. (Modes 1, 3).
6932-X	DOT-E 6932	Compagnie des Containers Reservoirs, Paris, France.	49 CFR 173.264(b)(4)	Do.
6932-X	DOT-E 6932	Fauvet-Girel, Paris, France	49 CFR 173.264(b)(4)	Do
6963-X	DOT-E 6963	I.S.C. Chemicals Limited, Bristol, England	49 CFR 173.264(a), 173.264(b)	To authorize use of non-DOT specification intermodal portable tanks, for transportation of hydrofluonc acid and anhydrous hydrofluonc acid (Modes 1, 3, 4).
6971-X	DOT-E 6971	Chem Service, Inc., West Chester, PA	49 CFR Parts 100-199	To authorize transport of small quantities of reagent chemicals in inside glass bottles packed in metal boxes, overpacked in a strong wooden or fiberboard box. (Modes 1, 2, 3, 4, 5).
7052-X	DOT-E 7052	Allen-Bradley Co., Milwaukee, WI	49 CFR 172.101, 175.3	To authorize shipment of batteries containing lithium and other materials, classed as a flammable solids. (Modes 1, 2, 3, 4).
7052-P	DOT-E 7052	Pointer, Inc., Tempe, AZ	49 CFR 172.101, 175.3	To become a party to exemption 7052. (Modes 1, 2, 3, 4).
7052-X	DOT-E 7052	Bren-Tronics, Inc., Commack, NY	49 CFR 172.101, 175.3	To authorize shipment of batteries containing lithium and other materials, classed as a flammable solids. (Modes 1, 2, 3, 4)
7052-X	DOT-E 7052	Panasonic Industrial Co., Secaucus, NJ	49 CFR 172.101, 175.3	Do.
7052-X	DOT-E 7052	Matsushita Battery Industrial Co., Osaka, Japan.	49 CFR 172.101, 175.3	Do.

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
7275-X	DOT-E 7275	Express Airways, Inc., Sanford, FL	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b), part 107, appendix B.	To authorize carriage of certain class A, B and C explosives that are not permitted for air shipment or are in quantities greater than those prescribed for shipment by air. (Mode 4).
7285-X	DOT-E 7285	Compagnie des Containers Reservoirs (CCR), Paris, France.	49 CFR 173.315(a)	To authorize use of non-DOT specification IMO type 5 portable tanks, for transportation of certain nonflammable, liquefied gases (Modes 1, 2, 3).
7285-X	DOT-E 7285	Fauvet-Girel, Paris, France	49 CFR 173.315(a)	Do.
7285-X	DOT-E 7285	Parisfer S.A.R.L., Paris, France	49 CFR 173.315(a)	Do.
7650-X	DOT-E 7650	ICI Americas, Inc., Wilmington, DE	49 CFR 173.315	To authorize use of non-DOT specification vacuum insulated steel portable tanks for shipment of certain nonflammable compressed gases. (Modes 1, 3, 4)
7811-X	DOT-E 7811	U.S. Department of Energy, Washington, DC.	49 CFR 173.119(a)(23), 173.245(a)(18), 173.346(a)(21), 173.347(a)(8), 175.3, 178.210.	To authorize use of DOT specification 12A corrugated fiberboard box with handholes, for shipment of certain corrosive, flammable, and class B poisonous liquid. (Modes 1, 2, 3, 4).
7823-X	DOT-E 7823	Allied Corp., Morristown, NJ	49 CFR 173.245	To authorize transport of iodine pentafluonde in non-DOT specification welded stainless steel cylinders complying with DOT specification 4BW with certain exceptions. (Modes 1, 2, 3).
7835-X	DOT-E 7835	Ideal Gas Products, Inc., Edison, NJ	49 CFR 177.848, part 107, appendix B(1).	To authorize transport of compressed gas cylinders bearing the flammable gas label, the oxidizer label, or the poison gas label and tank car tanks bearing the poison gas label on the same vehicle. (Mode 1).
7840-X	DOT-E 7840	General Dynamic Corp., Fort Worth, TX	49 CFR 173.87, 175.3, 176.83	To authorize transport of a class C explosive and a nonflammable compressed gas, in the same non-DOT specification fiberboard shipping container. (Modes 1, 2, 3, 4, 5).
7840-X	DOT-E 7840	Douglas Aircraft Co., Long Beach, CA	49 CFR 173.87, 175.3, 176.83.	Do.
7951-X	DOT-E 7951	Avoset Food Corp., Pleasanton, CA	49 CFR 173.306(b)(1), 175.3, 178.33	To authorize transport of an aerosol foodstuff in a nonrefillable metal container, complying with DOT specification 2P with certain exception. (Modes 1, 2, 3, 4, 5).
7951-P	DOT-E 7951	Swift & Co., Oak Brook, IL	49 CFR 173.306(b)(1), 175.3, 178.33	To become a party to exemption 7951. (Modes 1, 2, 3, 4, 5)
8060-X	DOT-E 8060	SLEMI, Paris, France	49 CFR 173.315(a)	To authorize use of non-DOT specification IMO type 5 portable tanks, for transportation of certain nonflammable, liquefied gases (Modes 1, 2, 3).
8060-X	DOT-E 8060	Fauvet-Girel, Paris, France	49 CFR 173.315(a)	Do.
8060-X	DOT-E 8060	Parisfer, Paris, France	49 CFR 173.315(a)	Do.
8091-X	DOT-E 8091	AT&T Technologies Inc., Greensboro, NC	49 CFR parts 100-177	To authorize transport of certain mercury relays, exempted from 49 CFR 100-177, in heat sealed glass vials. (Modes 4, 5).
8101-X	DOT-E 8101	U.S Department of Defense, Washington, DC.	49 CFR 173.392(c)(7), 173.392(c)(8)	To authorize use of the EXPLOSIVES A placard only when 30mm GAU-8 (PGU-14/B) armor piercing ammunition, containing a depleted uranium metal projectile, is loaded in the same shipping container with PGU-13/B ammunition, & eliminated need to label packages as containing radioactive material. (Modes 1, 2, 3)
8111-X	DOT-E 8111	U.S Department of Energy, Washington, DC.	49 CFR 173.304(a), 175.3	To authorize use of non-DOT specification welded, stainless steel cylinders for transportation of a nonflammable gas mixture. (Modes 1, 2, 3, 4, 5).
8125-X	DOT-E 8125	Compagnie des Containers Reservoirs, Paris, France.	49 CFR 173.123, 173.315	To authorize use of non-DOT specification portable tanks, for transportation of certain flammable and nonflammable gases and flammable liquids. (Modes 1, 2, 3).
8125-X	DOT-E 8125	Fauvet-Girel, Paris, France	49 CFR 173.123, 173.315	Do.
8129-P	DOT-E 8129	Acurex Corp., Mountain View, CA	49 CFR 177.834(k), part 173, subparts D, E, F, H, subparts K, L, M, O.	To become a party to exemption 8129. (Mode 1).
8129-P	DOT-E 8129	The University of New Mexico, Albuquerque, NM.	49 CFR 177.834(k), part 173, subparts D, E, F, H, subparts K, L, M, O.	Do.
8129-P	DOT-E 8129	Bryson Industrial Services, Inc., Lexington, SC.	49 CFR 177.834(k), part 173, subparts D, E, F, H, subparts K, L, M, O.	Do.
8129-P	DOT-E 8129	McKesson Corp., Dublin, CA	49 CFR 177.834(k), part 173, subparts D, E, F, H, subparts K, L, M, O.	Do
8129-P	DOT-E 8129	University of Colorado, Boulder, Boulder, CO.	49 CFR 177.834(k), Part 173, subparts D, E, F, H, subparts K, L, M, O.	Do
8129-P	DOT-E 8129	The University of Arizona, Tucson, AZ	49 CFR 177.834(k), part 173, subparts D, E, F, H, subparts K, L, M, O.	Do
8129-P	DOT-E 8129	Aqua-Tech, Inc., Port Washington, WI	49 CFR 177.834(k), part 173, subparts D, E, F, H, subparts K, L, M, O.	Do.
8141-P	DOT-E 8141	Altus Corp., San Jose, CA	49 CFR 172.101, 173.206, 173.247	To become a party to exemption 8141. (Modes 1, 3).
8141-X	DOT-E 8141	GTE Products Corp. Waltham, MA	49 CFR 172.101, 173.206, 173.247	To authorize transport of individual cells and modules consisting of three cells containing lithium metal and thionyl chloride in non-DOT specification wooden boxes. (Modes 1, 3).
8248-P	DOT-E 8248	Ceramatals, Inc., New York, NY	49 CFR 173.245, 173.247, 173.271, 178.170.	To become a party to exemption 8248. (Mode 1).
8248-P	DOT-E 8248	C.M. China Trade, Inc., New York, NY	49 CFR 173.245, 173.247, 173.271, 178.170.	Do.
8248-P	DOT-E 8248	China Metallurgical Import & Export Corp., Shanghai, China.	49 CFR 173.245, 173.247, 173.271, 178.170.	Do.
8445-P	DOT-E 8445	The University of New Mexico, Albuquerque, NM.	49 CFR 173, subparts D, E, F, & H	To become a party to exemption 8445. (Mode 1).
8445-X	DOT-E 8445	Rohm and Haas Co., Philadelphia, PA	49 CFR 173, subparts D, E, F, & H	To authorize shipment of various hazardous substances and wastes packed in inside plastic, glass, earthenware or metal containers, overpacked in a DOT specification removable head steel, fiber or polyethylene drum, only for the purposes of disposal, repackaging or reprocessing. (Mode 1).
8445-X	DOT-E 8445	Union Carbide Corp., Danbury, CT	49 CFR part 173, subparts D, E, F, & H	Do.
8445-P	DOT-E 8445	The University of Iowa, Iowa City, IA	49 CFR 173, subpart D, E, F, & H	To become a party to exemption 8445. (Mode 1).
8445-X	DOT-E 8445	University of Minnesota, Minneapolis, MN	49 CFR part 173, subpart D, E, F, & H	To authorize shipment of various hazardous substances and wastes packed in inside plastic, glass, earthenware or metal containers, overpacked in a DOT specification removable head steel, fiber or polyethylene drum, only for the purposes of disposal, repackaging or reprocessing. (Mode 1).
8445-P	DOT-E 8445	Hopkins Agricultural Chemical Co., Madison, WI.	49 CFR part 173, subpart D, E, F, & H	To become a party to Exemption 8445. (Mode 1).
8445-P	DOT-E 8445	Triangle Resource Industries, Columbia, SC.	49 CFR part 173, subpart D, E, F, & H	Do.

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8445-P	DOT-E 8445	Bryson Industrial Services, Inc., Lexington, SC.	49 CFR part 173, subpart D, E, F, & H	Do.
8464-X	DOT-E 8464	Garrett Pneumatic Systems Division, Tempe, AZ.	49 CFR part 173.302(a)	To authorize manufacture, marking and sale of non-DOT specification nonrefusable, nonrefillable toroidal pressure vessels for transportation of nonflammable, nonliquefied gases. (Modes 1, 4, 5).
8467-X	DOT-E 8467	Societe Auxiliaire de Transports et d' Industries Paris, France.	49 CFR 173.315	To authorize use of non-DOT specification IMO type 5 portable tanks, for transportation of nonflammable gases. (Modes 1, 2, 3).
8467-X	DOT-E 8467	ANF-Industrie, Paris, France	49 CFR 173.315	Do.
8554-P	DOT-E 8554	Wampum Hardware Co., New Galilee, PA	49 CFR 173.114a, 173.154, 173.93	To become a party to exemption 8554. (Mode 1).
8674-X	DOT-E 8674	Gulf Oil Chemicals Co., Houston, TX	49 CFR 173.114a(b)	To authorize shipment of blasting agents in a non-DOT Specification cement mixer, lined with cold tar epoxy. (Mode 1).
8793-X	DOT-E 8793	American Chemical & Refining Co., Inc., Waterbury, CT	49 CFR 173.352(a), 175.3	To authorize shipment of a potassium cyanide solution, n.o.s. in DOT specification 2E polyethylene bottles of one-gallon capacity, packed no more than four to a DOT specification 12B fiberboard. (Modes 1, 4).
8867-X	DOT-E 8867	3M Co., Saint Paul, MN	49 CFR 173.1190(k), 175.3	To authorize shipment of a certain viscous flammable liquid, n.o.s. in a polyvinyl chloride bottle, overpacked six to a DOT specification 12B fiberboard box. (Modes 1, 2, 4).
8871-X	DOT-E 8871	Bulk Lift International Inc., Carpentersville, IL.	49 CFR 173.182, 173.217, 173.245(b)	To authorize manufacture, marking and sale of large, collapsible polyethylene lined woven polypropylene bulk bags, having a capacity of approximately 2,000 pounds each, and top and bottom outlets, for shipment of corroseve solids and nitrates. (Modes 1, 2, 3)
8883-X	DOT-E 8883	Hewlett-Packard Co., Boise, ID	49 CFR 173.245(a)(38)	To authorize transport of an oxidizer in DOT specification 57 polyethylene lined portable tanks. (Mode 1).
8891-X	DOT-E 8891	BIC Corp., Milford, CT	49 CFR 173.21, 173.308	To authorize not more than two cigarette lighters containing flammable gas to be packed in the same inner container, overpacked in corrugated fiberboard boxes. (Modes 1, 2).
8900-X	DOT-E 8900	Justus Enterprises of Kansas, Inc., Chanute, KS.	49 CFR 173.302(a), 175.3	To authorize manufacture, marking and sale of welded non-DOT specification stainless steel cylinders complying with DOT specification 3HT, for transportation of nonflammable gases. (Modes 1, 2, 3, 4, 5).
8913-X	DOT-E 8913	Eurotainer, S.A., Paris, France	49 CFR 173.119(a)(25)	To authorize use of non-DOT specification IMO type 5 portable tanks, for shipment of flammable liquids. (Modes 1, 2, 3).
9017-P	DOT-E 9017	Mobay Chemical Corp., Pittsburgh, PA	49 CFR 173.264(b)	To become a party to exemption 9017. (Modes 1, 2, 3).
9176-X	DOT-E 9176	Minnesota Valley Engineering, New Prague, MN.	49 CFR 173.304(a), 177.840(a)(1)	To update design of the authorized cylinder and to add a new design cylinder for shipment of carbon dioxide. (Mode 1).
9284-X	DOT-E 9284	Mac Const., Inc., Oakwood, VA	49 CFR 173.315(a)	To authorize transport of gaseous methane, in a DOT specification MC-330 or MC-331 carto tank motor vehicle. (Mode 1).

NEW EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9030-N	DOT-E 9267	LND Inc., Oceanside, NY	49 CFR 173.302, 175.3	To authorize a larger capacity ionization chamber for shipment of a compressed gas, n.o.s. (Modes 1, 2, 3, 4, 5).
9156-N	DOT-E 9156	Johnson Controls, Inc., Milwaukee, WI	49 CFR 173.258(a)(3)	To authorize shipment of electrolyte (acid) battery fluid (sulfuric acid packaged in one container of 80 ounce capacity overpacked in a DOT Specification 12B fiberboard box. (Modes 1, 2).
9180-N	DOT-E 9180	M & G Tankers Limited, West Midlands, England.	49 CFR 173.119, 178.340, 178.341	To authorize manufacture, marking and sale of non-DOT specification cargo tanks manufactured from fiber reinforced plastics, for shipment of flammable liquids. (Mode 1).
9224-N	DOT-E 9224	Tractor MBA, E. Camden, AR	49 CFR 173.28(m) (2), 173.28(m)(3)	To authorize reuse of DOT specification 17C steel drums, for shipment of magnesium, classed as a flammable solid, without subjecting drums to certain retest, and marking requirements. (Mode 1).
9237-N	DOT-E 9237	Morton Thiokol Inc., Elkton, MD	49 CFR 173.88(e)(2)(ii), 173.92	To authorize shipment of rocket motors, Class B explosive of 1,450 to 2,500 pound capacity each in specialty designed packaging. (Mode 1).
9248-N	DOT-E 9248	Kross Inc., San Fernando, CA	49 CFR 173.1200, 173.154a	To authorize transport of a safety kit containing 2 fifteen minute highway fusees as a consumer commodity. (Mode 1).
9269-N	DOT-E 9269	Columbia Nitrogen Corp., Augusta, GA	49 CFR 173.154(a)(17)	To authorize shipment of ammonium nitrate solution, containing not less than 15 pct water, classed as an oxidizer in DOT specification 103DW tank car tanks. (Mode 2).
9272-N	DOT-E 9272	Rentokil, Inc., Norcross, GA	49 CFR 173.346	To authorize shipment of a poison B liquid, n.o.s. in DOT specification 57 steel portable tanks of 340 gallon capacity. (Modes 1, 3).
9274-N	DOT-E 9274	Schweigers Inc., Britton, SD	49 CFR 173.315(k)(1), 173.33(d)(1), 177.824(e).	To authorize use of one non-DOT specification steel cargo tank having a design pressure of 200 psig, hydrostatic tested to 375 psig, for shipment of liquefied petroleum gas. (Mode 1).
9288-N	DOT-E 9288	Joseph Land Intermodal, Inc., Orlando, FL	49 CFR 173.24(a)(1), 174.3, 176.3, 177.809, 177.817, part 107, appendix B	To authorize the controlled release of ethylene contained in DOT specification 3A or 3AA cylinders, in the cargo carrying body of the transport vehicle, for the purpose of ripening fruits and vegetables. (Modes 1, 2).
9296-N	DOT-E 9296	Honeywell Inc., Minneapolis, MN	49 CFR 172.500, 173.202	To authorize transport of limited quantities of liquid sodium potassium alloy packaging bearing the DANGEROUS WHEN WET label in motor vehicles and rail cars which are not placarded FLAMMABLE SOLID W. (Modes 1, 2).

EMERGENCY EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 9303-X	DOT-E 9303	Fastline Shipping Corp., Miami, FL	49 CFR 171.12, 173.66, 176.11	To authorize a foreign-flag vessel (M/V PATRICK) to transport packages of explosives which are described, classed, packaged, marked and labeled in accordance with the International Maritime Dangerous Goods Code through United States waters and to unload and load such packages of explosives. (Mode 3).
EE 9319-N	DOT-E 9319	Dearborn Chemical Co., Lake Zunch, IL	49 CFR 173.245(a)(38)	To authorize use of DOT specification 57 steel portable tanks, for water treatment compounds or boiler compounds, liquid that are not alkaline. (Modes 1, 2).

WITHDRAWALS

Application No	Applicant	Regulation(s) affected	Nature of exemption thereof
3992-X	Dow Chemical Co., Plaquemine, LA	49 CFR 173.314	To authorize transport of anhydrous hydrogen chloride in a DOT specification 105A600W or 105S600W tank car. (Mode 2).

DENIALS

8393-X ..... Request by Union Carbide Corporation, Danbury, CT to authorize use of non-DOT specification vacuum insulated cargo tanks, for shipment of certain nonflammable gases denied as being unnecessary September 27, 1984.

9238-X ..... Request by International Minerals & Chemical Corporation, Mundelein, IL to authorize shipment of methylamine, dimethylamine and trimethylamine described as methylamine anhydrous or methylamine aqueous, as appropriate denied September 10, 1984.

9261-N ..... Request by Petroplex Acidizing, Inc., Midland, TX to authorize shipment of hydrochloric acid, corrosive materials, in unlined DOT Specification MC-312 cargo tanks denied September 10, 1984.

Issued in Washington, DC, on October 4, 1984.

J.R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation Materials Transportation Bureau.

[FR Doc. 84-27052 Filed 10-12-84; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

October 4, 1984.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB (listed by submitting bureau(s)), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained by calling the Treasury Bureau Clearance Officer listed under each bureau. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 7225, 1201 Constitution Avenue, NW., Washington, D.C. 20220.

U.S. Customs Service

OMB Number: 1515-0114.
Form Number: None.
Type of Review: Extension.
Title: Trademark Recordation.

Clearance Officer: Vince Olive, (202) 566-9181, U.S. Customs Service, Room 2130, 3101 Constitution Avenue, NW., Washington, D.C. 20229.

OMB Reviewer: Judy McIntosh, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Joseph F. Maty,

Departmental Reports, Management Office.

[FR Doc. 84-27149 Filed 10-12-84; 8:45 am]

BILLING CODE 4810-25-M

Office of the Secretary

Privacy Act of 1974: Routine Uses

AGENCY: Department of Treasury, Office of the Secretary.

ACTION: Notice of routine uses for Treasury/OS 00.052—Travel Records.

SUMMARY: Pursuant to the requirements of the Privacy Act of 1974, 5 U.S.C. 552a, Department of Treasury, the Office of the Secretary gives notice by this publication of new routine uses for the systems of records: Treasury/OS 00.052 Travel Records last published in the **Federal Register** on May 2, 1982 (47 FR 16468). The purpose of these routine uses is to take advantage of certain debt collection procedures, techniques, and services authorized by the Debt Collection Act of 1982, Pub. L. 97-365, 96 Stat. 1749 (1982).

One use deals with the disclosure of debtor mailing addresses obtained from the Internal Revenue Service. Section 8 of the Debt Collection Act provides for such disclosure to third parties for the purpose of collecting or compromising Federal Claims. Accordingly, addresses obtained by the Office of the Secretary from the Internal Revenue Service will be released to credit reporting agencies to obtain commercial credit reports and to debt collection agencies to recover claims.

Disclosure of debtor information to effect both salary and administrative offsets comprise two additional uses. Sections 5 and 10 of the Debt Collection Act provide for such disclosure. As some offsets may only be effected through inter-agency cooperation, the Office of the Secretary in those instances, will release debtor information to other agencies. All procedural steps to ensure due process, as provided in the Debt Collection Act, will be implemented.

Another use envisions the routine disclosure of debtor records to debt collection agencies. Section 13 of the Debt Collection Act authorizes the head of an agency or his designee to enter into contracts for collection services. As such contracts necessitate the disclosure of most data in a debtor's file, section (m) of the Privacy Act provides for two safeguards. By contract, the debt collection agency selected will be responsible for complying with the Privacy Act. In addition, collection agencies are liable under the criminal provisions of the Privacy Act as "employees of the (Federal) agency." The Office of the Secretary intends to avail itself of such services whenever necessary to collect its debts.

Appropriate protective clauses will be incorporated into all contracts.

The next use deals with obtaining commercial credit reports. Debtor information will be disclosed to consumer reporting agencies for this purpose. Only the minimum identifying data necessary to obtain a report will be released. These reports may be used internally by the Office of the Secretary in assessing a debtor's ability to repay a debt or they may be released to a debt collection agency or to the Department of Justice. Claims referred to the Department of Justice for litigation must be accompanied by current credit data. (41 CFR 105.3). Such reports must support a reasonable prospect of effecting enforced collections. In most cases, a commercial credit report is the only means of obtaining the needed information.

Sections 5, 8, 10, and 13 of the Debt Collection Act, comprise the necessary authority to meet the Privacy Act's "compatibility" requirement for the above-described routine uses. That is, they provide a statutory basis for agencies to assume that such disclosure are compatible with the purpose for which the data was originally collected.

The final use entails the disclosure of certain debtor information to consumer reporting agencies. The purpose of the disclosure is to make available delinquency and default data to private sector credit grantors. To guard against indiscriminate disclosures in this area, Congress placed stringent limitations on the procedures to be observed when releasing debtor information. Hence, before disclosing debtor information, the Office of the Secretary will implement the due process requirements established in section 3(d) and only that information directly related to the identity of the debtor and the history of the claim will be released. Debtor information will consist of the following: The individual's name, address, taxpayer identification number, and other information necessary to establish the identity of the individual, the amount, status, and history of the claim, and the agency or program under which the claim arose.

Although disclosure of debtor information to consumer reporting agencies falls under the (b)(12) exemption of the Privacy Act, and not the (b)(3) exemption for routine uses, the intended use by the Office of the Secretary of such data is being published at the end of the routine use sections for OS 00.052. This is being done in accordance with OMB's Guidelines on the Relationship of the Debt Collection Act of 1982 to the Privacy Act of 1974. (48 FR 15556, April 11, 1983.) The primary concern is editorial consistency.

DATE: Comments must be received no later than 30 days after the publication of this notice. If no comments are received, the proposed routine uses will become effective November 14, 1984.

ADDRESS: Comments may be sent to: Director (Financial Management), Office of the Secretary, Main Treasury Building, Room B–36, 15th and Pennsylvania Ave., NW., Washington, D.C. 20220.

FOR FURTHER INFORMATION CONTACT: Charles J. Costello (202) 566–3746, Accounting Officer, OS.

Dated: October 9, 1984.

Joseph E. Bishop,

Deputy Assistant Secretary (Administration), for Operations.

Treasury/OS 00.052

SYSTEM NAME:

Travel Records—Treasury/OS.

SYSTEM LOCATION:

Financial Management Division, Room B–36, 15th and Pennsylvania Ave., NW., Washington, D.C. 20220.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All individuals authorized to perform travel for the Office of the Secretary.

CATEGORIES OF RECORDS IN THE SYSTEM:

Form OS–3015, Authorization to Perform Travel with the SF 1012, Travel Voucher, which details travel performed and expenses incurred with necessary receipts to support the claim for reimbursement to the traveler; SF 1038, Request for Advance of Funds, and similar records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5701–5709.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

(1) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains.

(2) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings.

(3) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114.

(4) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

(5) To furnish another federal agency information to effect inter-agency salary offset; to furnish another federal agency information to effect inter-agency administrative offset, except that no IRS address information will be disclosed to another agency from this system; to furnish a consumer reporting agency information to obtain commercial credit reports; and to furnish a debt collection contractor information for debt collection services. Current mailing addresses acquired from the Internal Revenue Service and which become a part of this system are routinely released to consumer reporting agencies to obtain credit reports and to debt collection agencies for collection services as necessary.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Disclosures of debt information concerning a claim against an individual may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Original document forms in file cabinet.

RETRIEVABILITY:

Filed by name on a fiscal year basis.

SAFEGUARDS:

Non-sensitive material handled routinely in regular file cabinet.

RETENTION AND DISPOSAL:

Presently retained for three years and then forwarded to the National Records center for an additional seven years, then burned or shredded.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Financial Management, Room B–36, 15th and Pennsylvania Ave., NW., Washington, D.C. 20220.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system or gain access to records maintained in this system must submit a request containing the following elements: (1) Identify the record system; (2) Identify the category

and type of records sought, and (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar infomation). Address inquiries to Chief, Disclosure Branch (See access below).

RECORD ACCESS PROCEDURES:

Chief, Disclosure Branch, Department of the Treasury, Room 5423, 15th and Pennsylvania Avenue, NW., Washington, D.C. 20220.

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

Facts and figures are presented by the individual who performed the authorized travel.

[FR Doc. 84-27184 Filed 10-12-84; 8:45 am]
BILLING CODE 4810-25-M

[Department Circular; Public Debt Series—No. 28-84]

Treasury Notes of October 15, 1991, Series G-1991; Invitation for Tenders

October 5, 1984.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $5,500,000,000 of United States securities, designated Treasury Notes of October 15, 1991, Series G-1991 (CUSIP No. 912827 RG 9). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The securities will be dated October 17, 1984, and will bear interest from that date, payable on a semiannual basis on April 15, 1985, and each subsequent 6 months on October 15 and April 15 until the principal becomes payable. They will mature October 15, 1991, and will not be subject to call for redemption prior to maturity. In the event as interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next-succeeding business day.

2.2. The securities are subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Securities registered as to principal and interest will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of registered and book-entry securities, and the transfer of registered securities will be permitted. Bearer securities will not be available, and the interchange of registered or book-entry securities for bearer securities will not be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20239, prior to 1:00 p.m., Eastern Daylight Saving time, Wednesday, October 10, 1984. Noncompetitive tenders as defined below will be considered timely if postmarked no later then Tuesday, October 9, 1984, and received no later than Wednesday, October 17, 1984.

3.2. The face amount of securities bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue being auctioned prior to the designated closing time for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; Primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 98.500. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final.

If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.5. must be made or completed on or before Wednesday, October 17, 1984. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the insitution to which the tender was submitted, which must be receved from institutional investors not later than Monday, October 15, 1984. In addition, Treasury Tax and Loan Note Option Depositaries may make payment for allotted securities for their own accounts and for account of customers by credit for their Treasury Tax and Loan Note Accounts on or before Wednesday, October 17, 1984. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20239. The securities must be delivered at the expense and risk of the holder.

5.4. Delivery of securities in registered form will be made after the requested from of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, and to receive payment for an make delivery of securities on full-paid allotments.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Carole Jones Dineen,

Fiscal Assistant Secretary.

[FR Doc. 84-27098 Filed 10-10-84; 10:36am]

BILLING CODE 4810-40-M

[Department Circular; Public Debt Series—No. 29–84]

Treasury Bonds of 2004; Invitation for Tenders

October 5, 1984

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $4,000,000,000 of United States securities, designated Treasury Bonds of 2004 (CUSIP No. 912810 DM 7). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The securities will be dated October 18, 1984, and will bear interest from that date, payable on a semiannual basis on May 15, 1985, and each subsequent 6 months on November 15 and May 15 until the principal becomes payable. They will mature November 15, 2004, and will not be subject to call for redemption prior to maturity. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other non-business day, the interest or principal is payable on the next-succeeding business day.

2.2. The securities are subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Securities registered as to principal and interest will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible

bidders in multiples of those amounts. Interchanges of securities of different denominations and of registered and book-entry securities, and the transfer of registered securities will be permitted. Bearer securities will not be available, and the interchange of registered or book-entry securities for bearer securities will not be permitted

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20239, prior to 1:00 p.m., Eastern Daylight Saving time, Thursday October 11, 1984. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Wednesday, October 10, 1984, and received no later than Thursday, October 18, 1984.

3.2. The face amount of securities bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue being auctioned prior to the designated closing time for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 95.000. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.5. must be made or completed on or before Thursday, October 18, 1984. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Tuesday, October 16, 1984. In addition, Treasury Tax and Loan Note Option Depositaries may make payment for allotted securities for their own accounts and for account of customers by credit to their Treasury Tax and Loan Note Accounts on or before Thursday, October 18, 1984. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not

furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20239. The securities must be delivered at the expense and risk of the holder.

5.4. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, and to receive payment for and make delivery of securities on full-paid allotments.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Carole Jones Dineen,

Fiscal Assistant Secretary.

[FR Doc. 84-27087 Filed 10-10-84; 10:30 am]

BILLING CODE 4810-40-M

UNITED STATES INFORMATION AGENCY

Grants Program; Private Not-For-Profit Organizations in Support of International Educational and Cultural Activities

The United States Information Agency (USIA) announces a program of selective assistance and limited grant support to non-profit activities of United States institutions and organizations in the Private Sector. The primary purpose of the program is to enhance the achievement of the Agency's international public diplomacy goals and objectives by stimulating and encouraging increased private sector commitment, activity, and resources. The information collection involved in this solicitation is covered by OMB Clearance Number 3116-0175, entitled "A Grants Program for Private Organizations", expiration date January 31, 1987.

Private sector organizations interested in working cooperatively with USIA on the following concept are encouraged to so indicate.

Comparative National and Community Approaches to Rural and Urban Drug Abuse USIA is interested in supporting a 6-day workshop and follow-on program presenting comparative approaches to urban and rural drug abuse. The workshop will be held in a South American country. The program will serve as a forum for the sharing of information and experience both at a national and community level regarding the control of illegal narcotics production, interdiction of supply, and prevention of domestic use and abuse. Emphasis will be on the shared internal problems encountered by Colombia, Peru, Bolivia, Ecuador, Venezuela, and Brazil and potential solutions found in their experience and that of other countries in the region. The workshop aims to achieve several objectives: the establishment of new links among South American and U.S. organizations; the transfer of information about community pilot program failures and successes; the heightening of public awareness of drug problems confronting their countries; clarification of U.S. policies; reduction of South American stereotyping that U.S. concerns do not include requisite sensitivity to indigenous ethnic, attitudinal and cultural factors affecting policy programming; and the creation of new practical programs and indirect support for institution building.

Your submission of a letter indicating interest in the above project concept begins the consultative process. This letter should further explain why your organization has the substantive expertise and logistical capability to successfully design, develop and conduct the above project.

Emphasis during the preliminary consultative process will be on identifying organizations whose goals and objectives clearly complement or coincide with those of USIA. Furthermore, USIA is most interested in working with organizations that show promise for innovative and cost effective programming; and with organizations that have substantial potential for obtaining third party private sector funding in addition to USIA support. Organizations must also demonstrate a potential for designing programs which will have a lasting impact on their participants. In your response, you may also wish to include other pertinent background information. To be eligible for consideration, organizations *must* postmark their general letter of interest within 20 days of the date of this notice.

This is not a solicitation for grant proposals. After consultation, selected organizations will be invited to prepare proposals for the limited financial assistance available.

Office of Private Sector Programs, Bureau of Educational and Cultural Affairs (Attn: Initiative Programs), United States Information Agency, 301 4th Street S.W., Washington, D.C. 20547

Dated: October 10, 1984.

Albert Ball,

Deputy Director, Office of Private Sector Programs.

[FR Doc. 84-27148 Filed 10-12-84; 8:45 am]

BILLING CODE 8230-01-M

Grants Program; Private Not-For-Profit Organizations in Support of International Educational and Cultural Activities

The United States Information Agency (USIA) announces a program of selective assistance and limited grant support to non-profit activities of United States institutions and organizations in the Private Sector. The primary purpose of the program is to enhance the achievement of the Agency's international public diplomacy goals and objectives by stimulating and encouraging increased private sector commitment, activity, and resources. The information collection involved in this solicitation is covered by OMB Clearance Number 3116-0175, entitled "A Grants Program for Private Organizations", expiration date January 31, 1987.

Private sector organizations interested in working cooperatively with USIA on the following concept are encouraged to so indicate:

Latin American Electronic Media Exchange Program. USIA is interested in supporting a pilot exchange program for a group of ten to twelve Latin American electronic media journalists from CIESPAL (Centro Internacional de Estudios Superiores de Periodismo para America Latina) in Quito, Ecuador to take place in the Spring or Summer of 1985. The working journalists, graduate students at CIESPAL from various Latin American countries, would be brought to this country for a three week program of in-depth classroom sessions and briefings on various aspects of the electronic media, together with on-site tours and with possibly some portion of the program (maximum one week) to be spent in a working environment of U.S. media (Spanish-language when appropriate). Participants will be Spanish speakers.

Your submission of a letter indicating interest in the above project concept begins the consultative process. This letter should further explain why your organization has the substantive expertise and logistical capability to successfully design, develop and conduct the above project.

Emphasis during the preliminary consultative process will be on identifying organizations whose goals and objectives clearly complement or coincide with those of USIA. Furthermore, USIA is most interested in working with organizations that show promise for innovative and cost effective programming; and with organizations that have substantial potential for obtaining third party private sector funding in addition to USIA support. Organizations must also demonstrate a potential for designing programs which will have a lasting impact on their participants. In your response, you may also wish to include other pertinent background information. To be eligible for consideration, organizations *must* postmark their general letter of interest within 20 days of the date of this notice.

This is not a solicitation for grant proposals. After consultation, selected organizations will be invited to prepare proposals for the limited financial assistance available.

Office of Private Sector Programs, Bureau of Educational and Cultural Affairs, (ATTN: Initiative Programs), United States Information Agency, 301 4th Street S.W., Washington, D.C. 20547

Dated: October 10, 1984.

Albert Ball,

Deputy Director, Office of Private Sector Programs.

[FR Doc. 84-27147 Filed 10-12-84; 8:45 am]
BILLING CODE 8230-01-M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 200
Monday, October 15, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Consumer Product Safety Commission	1, 2
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1

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:00 a.m., Wednesday, October 17, 1984.

LOCATION: Third Floor Hearing Room, 1111—18th Street, NW., Washington, D.C.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

1. Older Consumers: Final Report

The staff will brief the Commission on a final report on the Fiscal Year 1984 priority project on Safety for Older Consumers.

2. FHSA Conspicuousness Labeling Rule: Final

The staff will brief the Commission on amendments to the type size, placement, and conspicuousness requirements for labeling under the Federal Hazardous Substances Act.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301—492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207, 301—492–6800.

October 10, 1984.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 84-27210 Filed 10-11-84; 10:59 am]

BILLING CODE 6355-01-M

2

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: See Times Below, Thursday, October 18, 1984.

LOCATION: Third Floor Hearing Room, 1111—18th Street, NW., Washington, D.C.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

1. Commission Staff Briefing—8:30 a.m.

The staff will brief the Commission on various matters.

Closed to the Public.

2. Compliance Status Report—10:00 a.m.

The staff will brief the Commission on a compliance status report.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301–492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207, 301–492–6800.

October 10, 1984.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 84-27211 Filed 10-11-84; 10:59 am]

BILLING CODE 6355-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 5:20 p.m. on Wednesday, October 10, 1984, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to (1) receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in The Rexford State Bank, Rexford, Kansas, which was closed by the Kansas State Bank Commissioner on Wednesday, October 10, 1984; (2) accept the bid for the transaction submitted by Peoples State Bank of Rexford, Rexford, Kansas, a newly-chartered State nonmember bank subsidiary of JEST, Inc., Oakley, Kansas; (3) adopt an order approving the applications of Peoples State Bank of Rexford, Rexford, Kansas, for Federal deposit insurance, and for consent to purchase certain assets of and to assume the liability to pay deposits made in The Rexford State Bank, Rexford, Kansas; and (4) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insuance Act (12 U.S.C. 1823(c) (2)), as was necessary to effect the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director C. T. Conover (Comptroller of the Currency), concurred in by Director Irvine H. Sprague (Appointive), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the m atters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c) (8), (c) (9) (A) (ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: October 11, 1984.

Federal Deposit Insurance Corporation.

Alan J. Kaplan,

Deputy Executive Secretary.

[FR Doc. 84-27255 Filed 10-11-84; 3:18 pm]

BILLING CODE 6714-01-M

4

FEDERAL HOME LOAN BANK BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. No. 49, Page No 39636, Date Published—Tuesday, October 9, 1984.

PLACE: In the Board Room, 6th Floor, 1700 G St., NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Ms. Gravlee, (202–377–6677).

CHANGES IN THE MEETING: The following item has been withdrawn from the open portion of the Bank Board Meeting scheduled Monday, October 15, 1984, at 10:00 a.m.

Inclusion of Subordinated Debt as Regulatory Net Worth

J.J. Finn,

Secretary.

No. 97, October 11, 1984.

[FR Doc. 84-27250 Filed 10-11-84; 3:18 pm]

BILLING CODE 6720-01-M

5

NATIONAL CREDIT UNION ADMINISTRATION

Change in subject of meeting.

The National Credit Union Administration Board determined that its business required that the previously announced open meeting on October 9,

1984 include an additional item, which was opened to public observation:

Central Liquidity Facility Fourth Quarter Dividend

The previously announced items were:

1. Approval of Minutes of Previous Open Meeting.
2. Review of Central Liquidity Facility Lending Rate.
3. Final Rule: Implementing the NCUSIF Capitalization Legislation.
4. Consideration of the Operating Fee for Calendar Year 1985.

The meeting was held at 9:40 a.m., in the Filene Board Room, 7th Floor, 1776 G Street, NW., Washington, D.C.

FOR MORE INFORMATION CONTACT:
Rosemary Brady, Secretary of the Board, Telephone (202) 357–1100.

Rosemary Brady,

Secretary of the Board.

[FR Doc. 84–27214 Filed 10–11–84; 10:59 am]

BILLING CODE 7535–01–M

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federal register

Monday
October 15, 1984

Part II

Environmental Protection Agency

40 CFR Part 86

Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines: Gaseous Emission Regulations for 1987 and Later Model Year Light-Duty Vehicles, Light-Duty Trucks, and Heavy-Duty Engines; Particulate Emission Regulations for 1987 and Later Model Year Heavy-Duty Diesel Engines; Proposed Rule

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[AMS-FRL-2616-4]

Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines: Gaseous Emission Regulations for 1987 and Later Model Year Light-Duty Vehicles, Light-Duty Trucks, and Heavy-Duty Engines; Particulate Emission Regulations for 1987 and Later Model Year Heavy-Duty Diesel Engines

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes that the following new standards be established for emissions of oxides of nitrogen: 1.2 or 1.7 grams per mile, depending on vehicle weight, for 1987 and later model year light-duty trucks (at both low and high altitude); 6.0 grams per brake horsepower-hour for 1987 and later model year heavy-duty engines; and 4.0 grams per brake horsepower-hour for 1990 and later model year heavy-duty engines. In addition, the following new particulate emission standards are proposed for heavy-duty diesel engines: For 1987 and later model years, 0.60 gram per brake horsepower-hour at low altitude and 0.72 gram per brake horsepower-hour at high altitude; and for 1990 and later model years, 0.25 gram per brake horsepower-hour at low altitude and 0.30 gram per brake horsepower-hour at high altitude. High-altitude standards for idle carbon monoxide of 0.50 percent of exhaust gas flow, and for particulate of 0.26 gram per mile for 1987 and later model year light-duty trucks, are also proposed. This action also proposes that an averaging program for heavy-duty diesel particulate emissions be implemented in the 1990 model year. Revisions to the allowable maintenance provisions applicable to light-duty vehicles and trucks and heavy-duty engines, and to the heavy-duty engine test procedure, are also proposed; these revisions would be effective for the 1987 model year. Finally, two technical corrections to the regulations promulgated on November 16, 1983 are proposed.

This proposal responds to mandates contained in the Clean Air Act Amendments of 1977, and to the environmental need for additional control of diesel particulate and oxides of nitrogen emissions. The proposal would hold 1995 emissions of these pollutants to approximately 1980 levels, thereby preventing deterioration in national air quality.

DATES: EPA will conduct public hearings on this Notice of Proposed Rulemaking on Monday, November 12, 1984 in Ann Arbor, Michigan, and on Wednesday, November 14, 1984 in Denver, Colorado. The first hearing will continue through Tuesday, November 13, 1984 if additional time is needed. The hearings will be convened at 9:00 a.m. and will adjourn at 5:00 p.m., or such later time as may be necessary for the completion of testimony. Comments on this proposal will be accepted until 30 days after the second public hearing (Friday, December 14, 1984). Additional information on the submission of comments and the public hearings can be found under the heading "Public Participation," in the Supplementary Information section of this Notice.

ADDRESSES: The first public hearing will be held in the Conference Room of the Environmental Protection Agency Motor Vehicle Emissions Laboratory, 2565 Plymouth Road, Ann Arbor, MI 48105. The second hearing will be held in the Rm. 504, U.S. District Court House, 1929 Stout Street, Denver, CO 80294.

Interested parties may submit written comments (in duplicate if possible) to Public Docket No. A–80–18, at: Central Docket Section (A–130), Environmental Protection Agency, Attention: Docket No. A–80–18, 401 M Street, SW., Washington, D.C. 20460.

Materials relevant to this rulemaking, including the Draft Regulatory Impact Analysis (which also satisfies the requirements of section 202(a)(3)(E) of the Clean Air Act for a NO_x Pollutant Specific Study), have been placed in Docket No. A–80–18 by EPA. The docket is located at the above address in the West Tower Lobby, Gallery I, and may be inspected between 8 a.m. and 4 p.m. on weekdays. A reasonable fee may be charged by EPA for copying of docket materials.

Note.—As detailed in the Supplementary Information section, this Notice of Proposed Rulemaking incorporates two previous rulemaking actions. For this reason, Docket No. A–80–31 (established in support of the Advance Notice of Proposed Rulemaking for oxides of nitrogen standards for heavy-duty engines) has been incorporated into Docket No. A–80–18 (established in support of the Notice of Proposed Rulemaking for particulate standards for heavy-duty diesel engines). Further submissions to either of these dockets should all be directed to Docket No. A–80–18, at the address given above.

FOR FURTHER INFORMATION CONTACT: Mr. Terry P. Newell (SDSB–12), U.S. Environmental Protection Agency, Emission Control Technology Division, 2565 Plymouth Road, Ann Arbor, MI 48105, Telephone: (313) 668–4462.

SUPPLEMENTARY INFORMATION:

I. Development of the Proposal

Today's proposal is based upon specific statutory requirements found in the Clean Air Act as amended in 1977, and specific environmental problems related to emissions of nitrogen oxides (NO_x) and particulate matter. The statutory requirements and environmental needs will be described first, followed by a review of related actions already taken by EPA and of the chief alternatives considered in arriving at the final form of the proposal.

A. Statutory Requirements

1. Heavy-Duty Diesel Particulate Emissions

Section 202(a)(3)(A)(iii) of the Act directs the Administrator of EPA to establish standards for the emissions of particulate matter from heavy-duty diesel engines. According to that section, regulations are to require "the greatest degree of emission reduction achievable through the application of technology which the Administrator determines will be available * * * giving appropriate consideration to the cost * * * and to noise, energy, and safety factors associated with the application of such technology." The Act further provides that these standards be implemented beginning in 1981, or any earlier practicable model year, taking effect as expeditiously as possible considering the period necessary for compliance.

This statutory description corresponds to what are generally referred to as "technology-forcing" standards. That is, they are to be based upon that technology which the Administrator determines *will* be available, and not necessarily that technology which is *already* available. The adoption of such standards helps to encourage and hasten the development of new technology. The precise definition of the greatest degree of reduction which will be available in this case includes "appropriate" consideration of cost and other factors. Thus, as will be seen, careful evaluation of the cost impacts of alternative technologies must be made before arriving at a decision on what standard to propose.

A final note on the statute concerns the model year provision in this section. This clearly presents a dilemma to EPA,

since the original compliance date of 1981 has already passed while standards have yet to be promulgated. EPA sees its present task as implementing particulate standards as soon as possible, while allowing manufacturers the necessary amount of time to reach compliance.

2. Heavy-duty Engine NO_x Emissions

Provisions for the control of NO_x emissions from heavy-duty engines are also found in Section 202(a)(3)(A) of the Act. Paragraph (a)(3)(A)(ii) calls for reducing NO_x emissions from heavy-duty engines by at least 75 percent from baseline levels of gasoline engines by the 1985 model year. This provision is modified, however, by two other provisions providing limited flexibility to the Agency in establishing NO_x standards. The first is paragraphs (a)(3)(B)–(D), which allow the temporary revision of the 75 percent reduction standard if compliance cannot be achieved without increasing cost or decreasing fuel economy to an "excessive and unreasonable degree." If this threshold requirement is met, the revised standard must then be based upon "the maximum degree of emission reduction which can be achieved by means reasonably expected to be available." The Administrator must report his findings to the Congress, analyzing health effects, cost-effectiveness, ongoing research and development programs of the manufacturers, and the relative costs and fuel economy impacts of the revised standards. In addition, the Administrator's findings must not be "substantially contrary" to any findings of the National Academy of Sciences.

Paragraph (a)(3)(B) further provides that any revised standard under this paragraph must be promulgated with four years of leadtime, and apply for only a three-year period. Following that, further reductions in emissions must be required. Under the timetable provided for in the Act, any determination of need for revised standards was to have taken place in the period from June 1 through December 31, 1980, and every third year thereafter.

The second provision for modification of the 75 percent reduction standard is paragraph (a)(3)(E), which allows the Administrator to change the standard based upon, (1) continuing pollutant specific studies of the effects of NO_x emissions from heavy-duty engines and other sources on "the public health and welfare," and (2) such other information available to him. While such a revision is subject to the same requirement for four model years of leadtime as a revision based upon technology, it is not restricted to a three-year period of applicability, and can therefore be a permanent change. In addition, revisions under paragraph (a)(3)(E) may be implemented at any time.

In summary, then, the Act calls for a 75 percent NO_x reduction standard unless temporarily revised due to cost or fuel economy reasons, or changed due to studies on the effect of emission on the public health and welfare, or other such information. The Act required such standards to be promulgated, with four years of leadtime, for the 1985 model year. Clearly, while four years of leadtime could still be provided, it is no longer possible to have revised standards in place for vehicles or engines manufactured in 1985. In this situation, EPA believes it appropriate to implement revised standards with less than four years of leadtime, in order to have them take effect as soon as possible after 1985, provided that such standards allow adequate time for compliance by the manufacturers. This conclusion is based on Congress' clear desire to have standards in place by 1985 (which is now impossible), as well as its apparent intent to provide manufacturers adequate leadtime to meet any standard different from the 75 percent reduction standard. Thus, if a standard is developed which is clearly attainable in less than four years, it would be inappropriate and unnecessary to delay its implementation beyond the period actually needed for compliance.

This approach might at first appear to be an attempt to shift the burden of a failure by EPA to adopt standards in time for 1985 from the Agency to the manufacturers. This is, however, not the case. The manufacturers have already benefited from a two-year delay in any new standard. Their need for adequate leadtime will be fully considered in the standards and model years for implementation which EPA eventually adopts.

NO_x standards for light-duty trucks are also included in today's proposal. This is because some light-duty trucks are included in the Act's definition of heavy-duty vehicles. The Act includes as "heavy-duty" all vehicles having a gross vehicle weight greater than 6,000 lbs. On the other hand, EPA's light-duty truck class includes all trucks up to 8,500 lbs gross vehicle weight. Those light-duty trucks with gross vehicle weights between 6,001 and 8,500 lbs are considered "heavy-duty" for purposes of the Act, and thus are subject to the 75 percent reduction requirement discussed above. In addition, standards for light-duty trucks with gross vehicle weights up to 6,000 lbs are being proposed under the general standard-setting authority of section 202(a) (1) and (2). This statutory provision does not mandate any specific percentage of emission reduction, but it does require that adequate leadtime be provided, "giving appropriate consideration to the cost of compliance."

B. Environmental Need

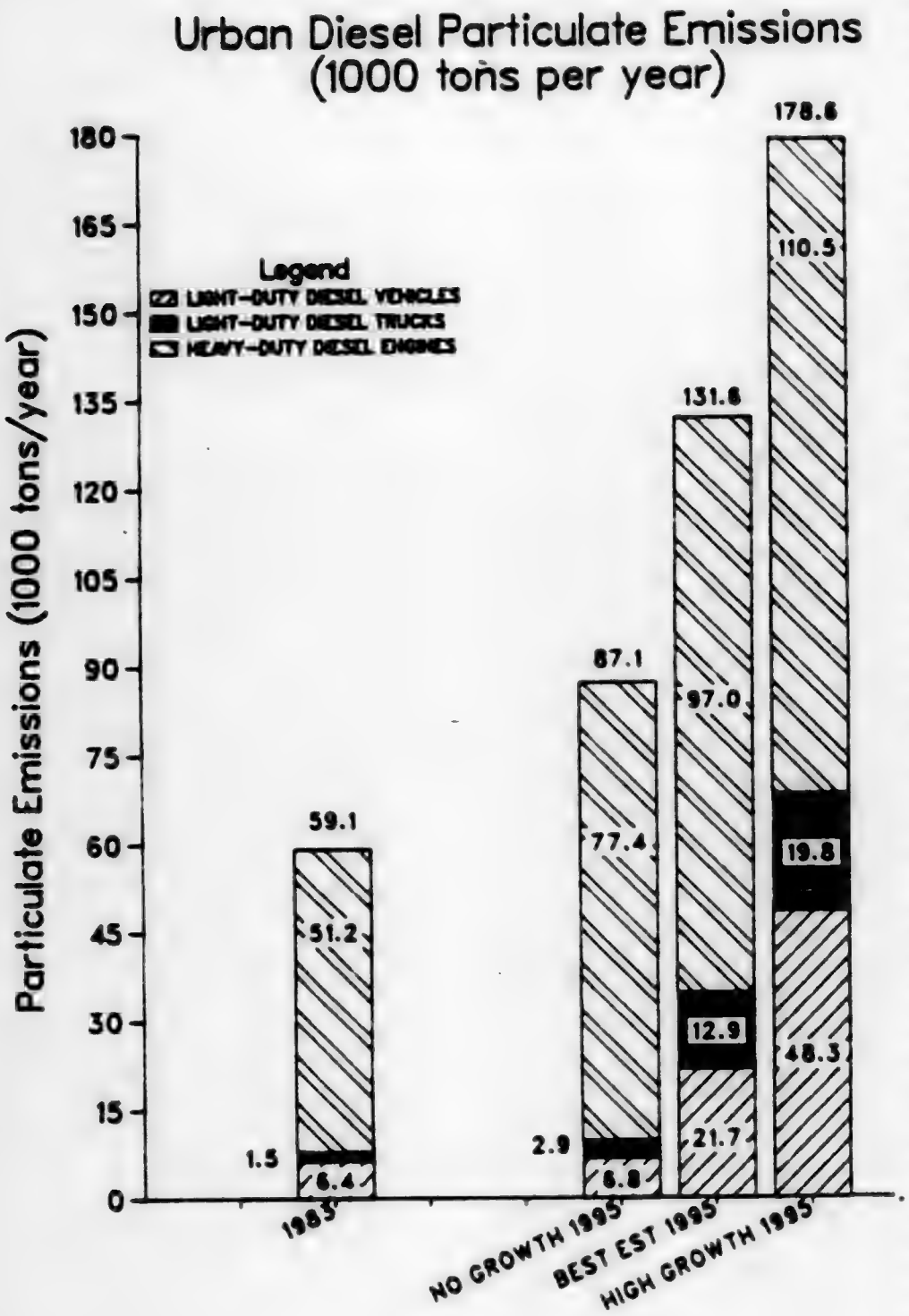
The following information is extracted from EPA analyses performed in support of this rulemaking proposal. Interested readers may refer to the particulate and NO_x environmental impact chapters of the Draft Regulatory Impact Analysis, as well as to the "Diesel Particulate Study" [1] for more information. Both documents are available in the public docket.

1. Particulate

Both current and estimated future urban emissions of particulate from diesel engines are given in Figure 1. The projections for the year 1995 are given for a range of assumptions about the market penetration of diesel light-duty vehicles, light-duty trucks and heavy-duty vehicles. This has been done because of the sensivity of the projections to diesel growth assumptions and the uncertainty that exists about future growth. It is clear from Figure 1 that regardless of the amount of future growth, significant increases in urban diesel particulate emissions are to be expected. Under EPA's best estimates of diesel sales, diesel particulate emissions are expected to double by 1995 if no new controls are enacted (standards of 0.20 gram per mile (g/mi) and 0.26 g/mi for diesel light-duty vehicles and light-duty trucks, respectively, are assumed to begin in 1987). Figure 1 also indicates that heavy-duty diesel engines play the dominant role in the overall emission picture. Heavy-duty diesels will contribute some 74 percent of total diesel particulate emissions in 1995 under best estimate sales projections.

[1] Diesel Particulate Study. U.S. EPA. OAR. OMS. ECTD.

Figure 1



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The impact of these emissions on ambient air quality is significant. Current levels of diesel particulate emissions are estimated to contribute about 1 to 3 $\mu g/m^3$ of fine suspended particulate matter in urban areas. These concentrations will grow to about 2 to 8 $\mu g/m^3$ in 1995 under best estimate projections. Such increased concentrations are of serious concern considering the already widespread degree of nonattainment of the national ambient air quality standards for total suspended particulate matter. There are currently (1983) 190 nonattainment areas for the primary air quality standard. Under the Agency's proposed change to an inhalable particulate standard based upon material under 10 micrometers in diameter (49 FR 10408, March 20, 1984), the situation will be similar, with 71 to 246 counties currently projected to exceed the range of possible standards. The 1995 diesel particulate emissions will by themselves contribute 3 to 15 percent of the potential new standard under best estimate growth conditions. Thus additional control of diesel particulate emissions, beyond the existing 1987 light-duty diesel standards, is needed in order to move toward compliance with the proposed new ambient air quality standards.

There are also other factors acting to increase EPA's concern about diesel particulate emissions. Diesel particulate matter is all inhalable, unlike most sources of particulate emissions, which usually have a large fraction of larger, settleable particulate matter. In fact, diesel particulate falls almost exclusively in the size range known as fine particulate (less than 2.5 micrometers). Diesel particulate is also emitted near ground level directly into the breathing zone, giving it a proportionately greater impact on ambient concentrations. Particulate emissions from elevated smoke stacks or remote, non-urban locations are highly dispersed before reaching ground level in urban areas.

There is also a small potential cancer risk associated with inhalation of diesel particulate matter. EPA's assessment of the lung cancer risk over a wide range of assumptions, which is included in the Draft Regulatory Impact Analysis, indicates a risk factor between one and 6 per million in 1995. This risk represents between 2 and 8 percent of the current non-smoker risk of contracting lung cancer in the U.S.

Lastly, diesel particulate affects atmospheric visibility and soiling. EPA estimates for 1995 indicate a 21 percent reduction in visibility in the largest U.S. cities due to diesel particulate compared to the mid-1970's, a discernible degree of change. A 3 to 8 percent reduction is expected in smaller cities. The Agency's analysis of soiling effects indicates the potential for a greater than average impact from diesel particulate because of its low reflectivity and oily nature. However, even if it is assumed to be no worse than average, there still appears to be a significant economic cost associated with soiling caused by diesel particulate.

Overall, EPA believes that emissions of diesel particulate are a serious environmental concern. In order to deal effectively with this problem, significant reductions in emission rates from heavy-duty diesel engines are essential. It will

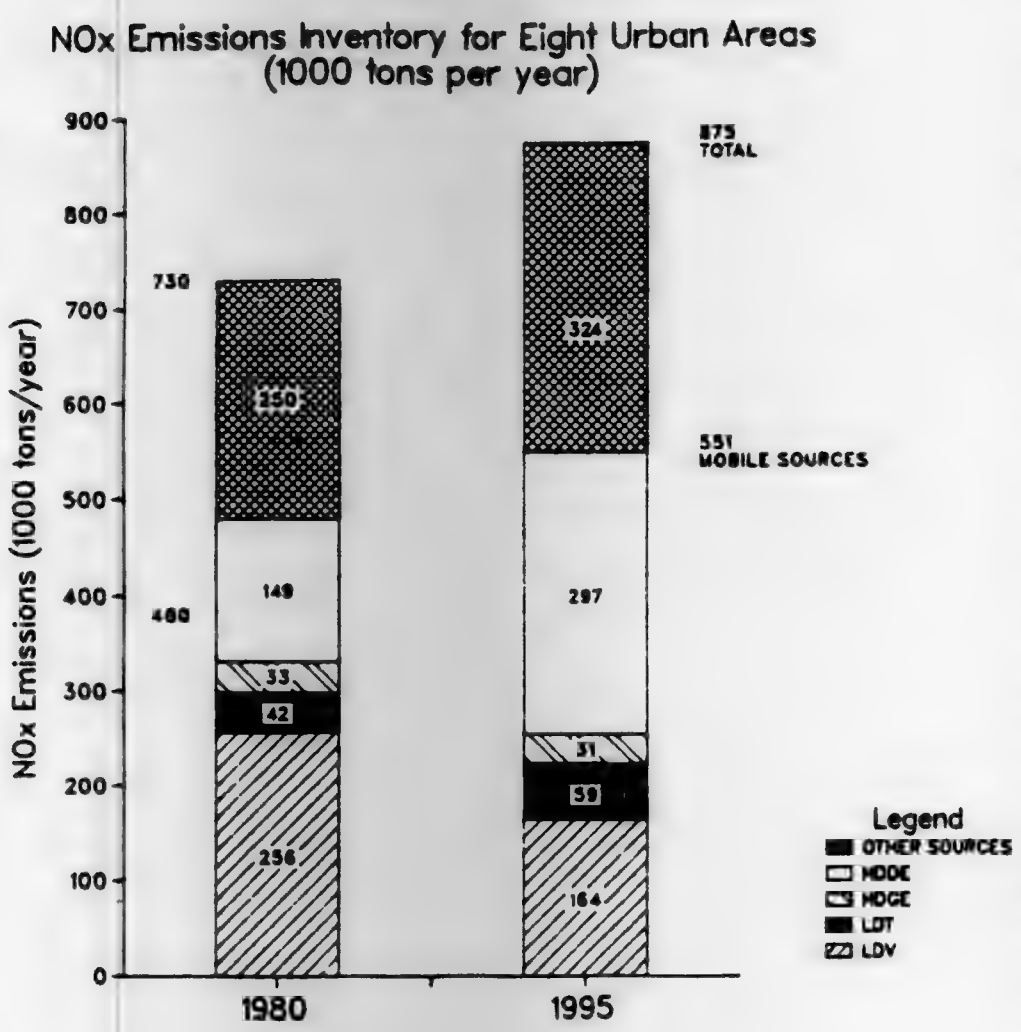
take over a 50 percent reduction in engine emission rates simply to prevent future growth in total emissions between 1983 and 1995.

2. Nitrogen Oxides

In analyzing NO_x emissions, EPA has focused on those locations most likely to be adversely affected. Eight urban areas were identified with ambient NO_2 levels within 25 percent of the ambient air quality standards. Projected NO_x emissions for these eight areas are shown in Figure 2. In these projections, point source emissions have been "discounted" to account for their relatively lower air quality impact compared to ground level sources.

The declining role of light-duty vehicle emissions is readily apparent in Figure 2, reflecting the impact of the 1.0 g/mi light-duty vehicle NO_x standard. However, comparison of the total emissions for mobile sources indicates that overall there will be growth in emissions from 1980 to 1995. Some of this growth comes from light-duty trucks, but most of it is due to increased heavy-duty diesel engine emissions. By 1995, heavy-duty diesels are expected to account for over one-third of the entire discounted NO_x inventory. Thus, as with particulate, control of heavy-duty diesel engines is central to the control of NO_x emissions. In fact, even with the reductions already expected for light-duty vehicles, the only way to offset growth in the other categories and keep total discounted emissions from increasing would be to hold heavy-duty diesel emissions to 1980 levels. It is also worth noting that emissions from heavy-duty gasoline engines are stable (actually declining slightly over the period), even without further control. This fact is due to the decline in sales expected for heavy-duty gasoline engines.

Figure 2



Current ambient levels of NO_2 are largely in compliance with the ambient air quality standards. However, the growth in emissions expected in future years will change that picture. While only one non-California urban area exceeded the NO_2 standards in 1980, five are projected to do so by 1995. Thus while current NO_x emission levels may be considered almost sufficient to attain the air quality standards, steps need to be taken to avoid future deterioration and non-compliance with the standards. In addition, there may or may not be environmental benefits associated with NO_x reductions beyond issues of NO_2 attainment. As has just been seen, control of heavy-duty diesel engines will be an essential element for success.

During the development of today's proposal, questions have been raised with respect to the accuracy of the NO_x emission projections cited above. EPA recognizes that uncertainties are inherent in projecting future emission imventories, and that these uncertainties increase when using projected emission inventories to project NAAQS attainment status. The NO_x emission projections used in the preceding discussion, and the emission projections and corresponding air quality impacts discussed in the environmental impact section of today's notice, are based on EPA's best estimates of the input assumptions at the time that the analyses were performed. However, EPA solicits comments on the assumptions and methodology used for its air quality projections.

C. Prior Related EPA Actions

Neither the statutory requirements nor the environmental questions described above represent new issues for EPA. Rather, today's proposal grows out of past actions taken to address these same needs.

A proposal for heavy-duty diesel particulate control was published on January 7, 1981 (46 FR 1910). That notice proposed that a particulate emission standard of 0.25 grams per brake horsepower hour (g/BHP-hr be implemented for heavy-duty diesels in the 1986 model year. This standard was expected to require the application of particulate trap technology to heavy-duty diesels, similar in concept to traps being developed for light-duty diesels. The proposal also included appropriate test procedures for particulate sampling based upon the new EPA transient test requirement.

At about the same time, EPA published an advance notice of proposed rulemaking announcing its intent to promulgate revised NO_x

emission standards for heavy-duty engines and light-duty trucks (46 FR 5838, January 19, 1981). The standards discussed in the notice were 1.2 g/mi for light-duty trucks and 4.0 g/BHP-hr for heavy-duty engines. Strickly speaking, neither of these standards corresponded to the 75 percent reduction requirement of section 202(a)(3)(A)(ii). The light-duty truck standard at that level would have been 0.9 g/mi, while the heavy-duty engine standard would have been 1.7 g/BHP-hr. As discussed in the advance notice, the 1.2 g/mi standard was chosen to provide a standard of equal stringency to the existing 1.0 g/mi light-duty vehicle NO_x standard, while the 4.0 g/BHP-hr standard was identified as the lowest standard applicable for heavy-duty diesels under the revision provisions of section 202(a)(3)(B).

Publication of these two notices produced a considerable degree of public response, and while no further regulatory action has been taken until today's proposal, EPA has remained active in its efforts to resolve the complex issues associated with NO_x and particulate control. A public hearing on both the particulate proposal and the NO_x advance notice was held in July 1982. More recently, EPA has engaged in an information gathering effort to gain a fuller understanding of the potential of both current and future technology to control NO_x and particulate from heavy-duty diesel engines. Comments received at and subsequent to the hearing, as well as all prior comments to EPA, are available in the public docket. All these comments and other information were reviewed in formulating the alternatives considered by EPA in deciding the final form of today's proposal.

EPA's decision to combine the particulate and NO_x actions into a single proposal rests in part on the similar timing of the two programs, but even more importantly on the technological interactions between particulate and NO_x control. Some technologies used to control diesel NO_x emission tend to increase particulate emissions. Therefore, the setting of these standards is best done in concert so that the tradeoffs can be dealt with and so that manufactures have a unified set of requirements to meet.

In addition to its information gathering actions, EPA has conducted a comprehensive study of the entire diesel particulate issue, both light- and heavy-duty[1]. This study carefully reexamines both the costs and environmental impacts of light-duty and heavy-duty particulate control in light of the evolution of control technology which has taken place since 1980, the changing role projected for diesel engines in the vehicle fleet, the interactions between NO_x and particulate control, and the new data on cancer-related health effects of diesel particulate. It also analyzes the feasibility and possible timing of various combinations of particulate and NO_x standards covering a board range of stringency.

Today's proposal contemplates the use of emissions averaging to measure compliance with particulate standards. EPA has previously evaluated averaging for particulate emissions in the light-duty area, and has concluded that averaging can be used there to reduce the cost of complying with emission standards without significant environmental penalty. (For a full discussion of these issues, see 48 FR 33456, July 21, 1983.) EPA views the flexibility of averaging as one way to improve the manufacturers' ability to comply with stringent standards. It increases the economic efficiency of the standards without decreasing the overall emission reductions they produce. EPA therefore expects particulate averaging to be part of the final rules in this action. The long-term particulate standards being proposed today consider averaging as part of the manufacturers' compliance strategy.

The details of the proposed averaging program are explained further below. One aspect which should be highlighted here is the proposal to exclude urban bus engines from the averaging program. EPA sees a potential problem if averaging were used in such a way as to eliminate traps on urban bus engines in trade for increased control for other engines. EPA believes it essential that bus engines be controlled to the maximum extent possible, both because they are key contributors to central city emissions, and because bus emissions are highly visible. Therefore, EPA is proposing to exclude urban bus engines from the averaging program.

EPA has also previously announced that it was considering the adoption of an averaging program for NO_x emissions from both heavy-duty engines and light-duty trucks (45 FR 79382, November 28, 1980). Even though it is not specifically proposing NO_x averaging at this time, EPA may implement such a program as part of the final rulemaking. If it were adopted, NO_x averaging would likely use the same approach as that being proposed for particulate. Gasoline-fueled and diesel engines might be required to average their emissions separately, as would heavy-duty engines and light-duty trucks. Comments are therefore requested on the topic of NO_x averaging and its usefulness in easing compliance with the long-term heavy-duty engine standards.

A final issue concerning mobile source emissions averaging (whether of particulate or NO_x) is the question of credits and trading. EPA is seriously considering the possibility of establishing a system whereby manufacturers could accumulate credits for engine emission levels which are below the standard, and then sell such credits to other manufacturers for use in offsetting excess emissions.

EPA believes that the concept of trading credits may aid in the resolution of some of the problems (*e.g.*, competitive impacts) seen as possible under an averaging program such as is proposed today. Thus, despite the fact that EPA is not proposing a specific program for the inclusion of credits and trading in the particulate averaging program, the Agency is seriously considering such a program. EPA specifically requests that commenters address the concepts of credits and trading in conjunction with averaging in terms of the possible mechanics of such a program, the potential benefits and negative impacts, and the potential cost savings if such an approach is taken in the final rule. Comments should also address the question of EPA's authority to establish a trading program for particulate and/or NO_x emissions within the constraints of the mobile source provisions of the Clean Air Act.

D. Alternatives

As will be seen, control of either particulate or NO_x to the degree needed to adequately deal with the environmental needs outlined above involves significant technological challenge and has substantial economic implications. Therefore, EPA has considered a wide range of alternatives in arriving at the final form of today's proposal. These alternatives, and EPA's evaluation of each, are reviewed below. Interested readers are referred to the Alternatives chapter of the Regulatory Impact Analysis for details beyond those presented here.

In general, available alternatives deal with combinations of two factors: stringency of standards and leadtime. In terms of stringency, EPA has considered options varying from no new standards up to the limits of foreseeable technology. The practicality of any of those technological options varies, however, depending on the time allowed for implementation. Therefore, varying amounts of leadtime have also been analyzed. Within the spectrum of standards and leadtime, there is in fact a near continuum of possible options.

EPA has attempted to focus specific options at points which are reasonably distinctive in one or more of three areas: technology, benefits, or required leadtime.

1. Heavy-duty Diesel Particulate

Identification of options. Clean Air Act requirements and the environmental situation both argue strongly for the early implementation of standards to control heavy-duty diesel particulate emissions. On the other hand, the technological barriers to major reductions are of the sort which may require considerable time and effort to overcome. Therefore, EPA has examined separate near- and long-term possibilities. The goal of the near-term options is to implement the greatest degree of control feasible without undue adverse impacts as soon as possible, while the longer term standards are oriented toward attaining more substantial and needed emissions reductions. Considering the time required to complete the rulemaking process and technology considerations for manufacturers to respond to an initial standard, EPA has identified 1987 as the earliest year for a standard. Beyond that, 1990 has been identified as allowing time for implementation of more advanced technology. For these two years, the specific options are identified below along with some of the key considerations for each.

Before turning to individual options, it is important to note that, although the particulate and NO_x options are considered separately here, they do in fact interact. In developing and analyzing the following options, EPA has fully considered those interactions when assessing feasibility, technology and cost. The process was carried out in a fashion which would insure the compatibility of the final selected options. For example, the assessment of the number of traps needed to meet the 1990 trap-based particulate options was done on the basis of the existence of the more stringent NO_x standard also expected for that year. The two pollutants are discussed separately for clarity of presentation, but readers should bear in mind that they are interrelated and are in the end to be viewed as pairs or particulate and NO_x standards.

For 1987:

No standard. This option represents the situation if EPA were to take no action to control heavy-duty diesel particulate emissions. In light of both the Clean Air Act mandate and the significant growth in particulate emissions which occur without particulate control, this is not a viable option.

0.60 g/BHP–hr. This option represents what EPA believes to be the lowest feasible level in the near term. Current engine emissions are in the 0.4 to 0.8 g/BHP–hr range. The target low mileage emission level associated with a 0.60 g/BHP–hr standard is about 0.46 g/BHP–hr. Thus, some engines already meet the required target, while reductions would be required of others. EPA believes such reductions are feasible with technology and engine calibration changes available in the short term. Such things as improvements in fuel injection systems, increased use of turbocharging, and improvements in engine efficiencies should be able to provide the reductions needed.

For 1990:

Since the 1990 options represent fairly stringent standards, the incorporation of an emissions averaging program in 1990 has been included for all but the "no further control" case. As noted earlier, averaging reduces the risk of non-compliance as well as the cost of stringent standards. It will find its greatest usefulness with the trap-based options.

No control beyond 0.60 g/BHP–hr. While 0.60 g/BHP–hr is a feasible limit for the near term standard, it produces relatively small per-vehicle reductions in particulate emissions. Overall, fleetwide heavy-duty diesel engine particulate emissions would increase by 65 percent between 1983 and 1995 under this option. In addition, such a standard for 1990 or later fails to take advantage of the technological progress that should be made in the three years after 1987. Therefore, 0.60 g/BHP–hr in 1987 without follow-on reductions could not be considered an adequate alternative for longer-term particulate control.

0.40 g/BHP-hr. In moving beyond the 0.60 g/BHP-hr level, EPA believes that a reduction to at least 0.40 g/BHP-hr will be essential to produce further meaningful progress in reducing diesel particulate emissions. This level represents both a sizeable reduction from the 0.60 g/BHP-hr level and EPA's determination of the approximate technological limit for reductions which could be reached without the application of particulate trap technology to heavy-duty diesel engines. It involves substantial improvement over present engines. Some of this improvement will come from techniques already being developed for improved performance and fuel economy (the full cost therefore not being attributable to new standards). However, this level also presumes the further development and application of advanced and costly technology, to a degree which cannot be precisely quantified at this time. Future controls will include such things as the anticipated application of electronic controls to engine operations like fuel injection and exhaust gas recirculation, the development of low heat rejection techniques and ceramic materials, increased fuel injection pressures, and other efficiency improving engine changes. Because of uncertainty regarding the mix of control technology which will eventually be used to meet the standard, costs are likewise uncertain. EPA's best judgment estimates are that the discounted lifetime costs for a 0.40 g/BHP-hr standard would be from $195 to $390 per vehicle, depending on fuel economy impact. Particulate emissions in 1995 would be reduced by 35 percent compared to the no-control case, but net heavy-duty diesel particulate emissions would still increase more than 20 percent from 1983 to 1995.

0.25 g/BHP-hr. Reducing particulate emissions to below 0.40 g/BHP-hr is expected to require the application of traps. Use of this technology is still in the early stages of development for heavy-duty diesels, and admittedly much more work is needed before traps will be feasible for production engines. Traps on heavy-duty diesel engines must perform successfully in an environment which is in some ways more challenging than that for light-duty diesel traps (for example, successful regeneration must be possible over a wider range of sustained operating temperatures), and must do so for a generally much longer useful life period. However, at this time EPA sees no insurmountable obstacles to successful application, especially given the substantial amount of leadtime remaining before such a standard would go into effect and the already advanced stage of particulate trap development for light-duty diesels.

EPA believes that it will not be possible to move below the 0.40 g/BHP-hr option without the introduction of trap technology. As the standard is lowered below that level, there would be an increasing use of traps within the fleet, with manufacturers making use of averaging to minimize the total number of traps required. Because EPA foresees that some applications will be technically more difficult than others, there is some advantage in a standard which does not require traps on all engines, so that the more technically difficult applications can be avoided. With averaging and a 0.25 g/BHP-hr standard, traps will be needed on an estimated 70 percent of the fleet. At this

level, heavy-duty diesel engine emissions would be controlled to the point where emissions in 1995 would be at or even slightly below those of 1983. These emissions represent about a 50 percent reduction from uncontrolled levels, at a per-vehicle cost of about $760 to $1,100, again depending on fuel economy impact.

Urban-oriented variations on 0.25 g/BHP-hr. There is wide variation between different heavy-duty diesel engine applications in the amount of total mileage accumulated within urban areas. Lighter heavy-duty diesels and such vehicles as transit buses, trash compactors, and cement mixers spend the predominant amount of their time in urban operation. Premium heavy-duty diesels used in over-the-road line-haul travel, on the other hand, accumulate most of their mileage in rural inter-city operation. Since EPA's main concern with diesel particulate emissions is their impact on urban air quality, two urban-oriented variations on the 0.25 g/BHP-hr trap option have been evaluated which attempt to focus control primarily on urban vehicles. Both of these variations maintain a non-trap standard for line-haul engines. (Line-haul engines in this case would be defined as those engines used in Class VIII trucks having gross vehicle weight ratings above 60,000 lbs.) Elimination of the need for traps on these vehicles would avoid the most difficult applications, in trade for a moderate loss in overall urban emission reduction. On the other hand, it is also true that line-haul vehicles would be best able to absorb the high cost of traps because of their already high initial cost compared to other heavy-duty diesel engine applications.

The line-haul standards considered are 0.60 and 0.40 g/BHP-hr. The 0.60 g/BHP-hr level is, of course, a much easier standard to meet than the 0.40 g/BHP-hr level. Unfortunately, even the small fraction of line-haul mileage which is urban in nature is sufficient to raise overall heavy-duty diesel particulate emissions in urban areas under this option to above those under a uniform 0.40 g/BHP-hr non-trap standard. Morever, 0.60 g/BHP-hr could not be considered a technology-forcing standard for line-haul engines in the 1990 timeframe. Thus, a 0.40 g/BHP-hr line-haul standard is the most logical choice to combine with the 0.25 g/BHP-hr trap-based standard. With this combination, there would be a loss of control of about 12 percent in urban areas as compared to the uniform 0.25 g/BHP-hr standard, and 1995 urban heavy-duty diesel engine emissions would be about 7 percent greater than 1983 levels. As can be seen from these figures, even predominantly over-the-road line-haul operation has a significant urban impact.

One difficulty which EPA has had with this approach has been that of developing a regulatory procedure for successfully separating urban from non-urban applications. Heavy-duty diesel engines are currently certified independently from vehicles, and a given engine may be used for a wide variety of applications. An urban designation would require identification of intended vehicle application, and since some engines would be used for both urban and non-urban applications, the manufacturer would be required to develop both trap and non-trap versions of the same engine to be able to take advantage of the optional standard. Such a situation might offer little advantage to the manufacturer. Additionally, an urban option might introduce unwanted competitive effects, for example by favoring manufacturers who made only those engines falling into the line-haul exclusion and who would not have to undertake the resource investments required of other manufacturers to develop trap systems.

0.10 g/BHP-hr. It was noted under the discussion of the previous option that a 0.25 g/BHP-hr standard can be met with traps on about 70 percent of the fleet if averaging is allowed. If the standard were further reduced until essentially 100 percent trap usage were required, the resulting level would be approximately 0.10 g/BHP-hr. This level thus represents the maximum degree of reduction of heavy-duty diesel particulate emissions that can be achieved with the use of trap technology.

Requiring traps on all engine families, however, would increase both the cost and the risk associated with the standard. The technical challenge of successfully applying traps to all engines is much greater than that of applying them to most engines, since in the latter case the manufacturers will be in a position to focus resources on predominant uses and avoid especially difficult cases. At the same time, a 0.10 g/BHP-hr standard would maximize the available emissions reduction, bringing about a 65 percent reduction from uncontrolled levels and reducing total 1995 heavy-duty diesel particulate emissions to a level 33 percent below those in 1983.

There is a modified application for the 0.10 g/BHP-hr option which relates to the control of urban bus emissions. As has been noted earlier in the discussion of averaging, EPA believes it is very important to obtain the maximum degree of control for urban buses. Therefore, in addition to excluding such engines from the averaging program, EPA is considering the establishment of a standard of 0.10 g/BHP-hr for bus engines to insure the fullest use of the emission reduction potential of traps.

Evaluation of particulate options. In its evaluation of all of the above options, EPA has considered a number of factors. These included the statutory requirements, anticipated costs and emission reductions, cost effectiveness, and technological requirements for compliance. Some of these factors have already been touched upon in discussion of the individual options. The following material provides further key information for comparing the impacts of the options.

The emissions impacts of the various options are shown in Figure 3, where the options are arranged in order of decreasing emissions. For comparison purposes, the level of 1983 emissions is also shown.

As can be seen, meaningful reductions from uncontrolled levels require a standard of 0.40 g/BHP-hr or lower. Even at that level, heavy-duty diesel particulate emissions in 1995 will be 23 percent higher than in 1983. To further regulate emissions so they do not increase above 1983 levels requires some form of a trap-based standard. Essentially meeting that goal are either the 0.25 or 0.10 g/BHP-hr standards, or the 0.25 g/BHP-hr standard with a 0.40 g/BHP-hr line-haul option. However, it is noteworthy that the 0.60 g/BHP-hr line-haul option does not perform especially well, having emissions actually somewhat higher than the across-the-board 0.40 g/BHP-hr standard. The 0.10 g/BHP-hr standard attains the maximum overall reduction, being 65 percent below the uncontrolled level and 33 percent below 1983 levels.

Figures 4a and 4b present other information related to the economic impacts of the options, in particular, cost effectiveness, which measures the economic efficiency of each option, and midpoint cost per engine (including operating costs). For clarity of presentation, the cost per engine values plotted are the midpoints of the ranges (based on possible fuel economy impacts) of estimated costs.

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Figure 3

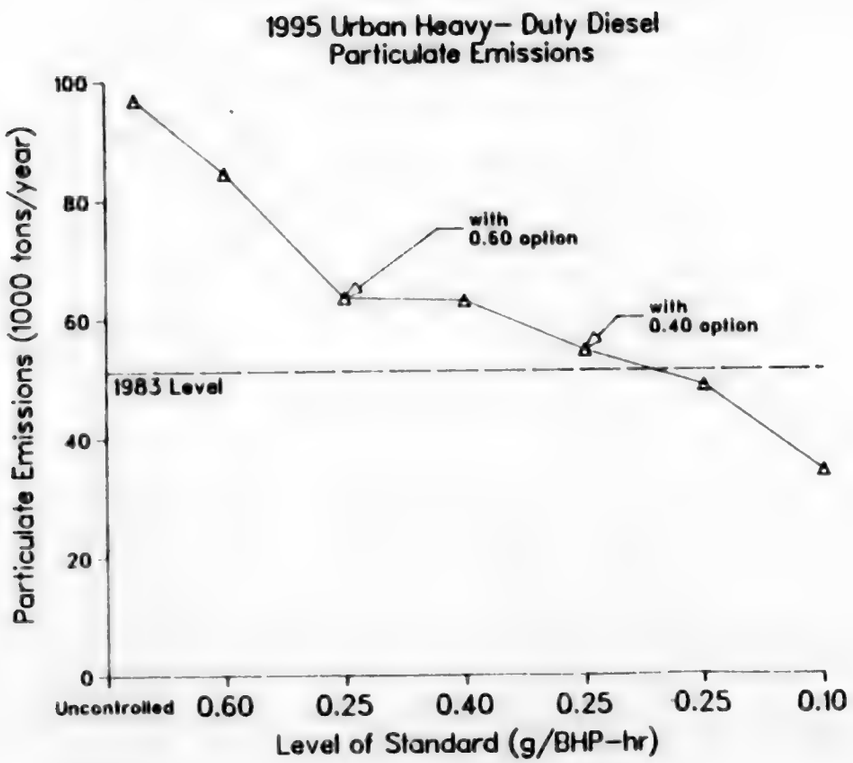

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Figure 4a

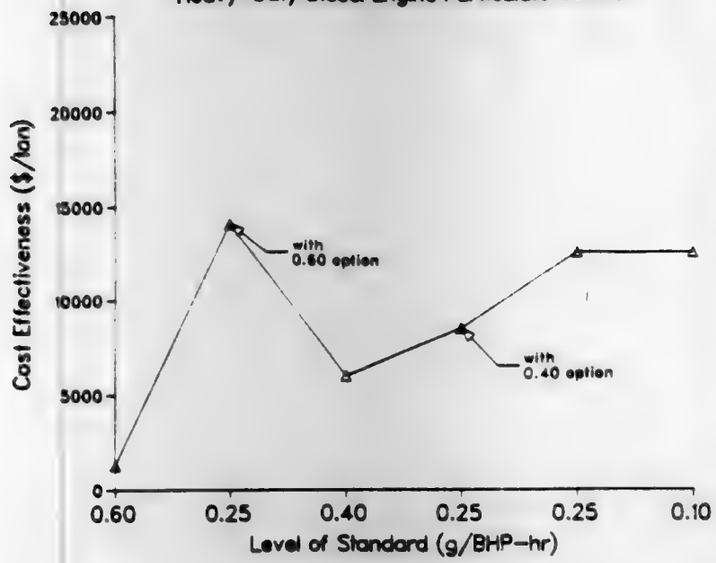
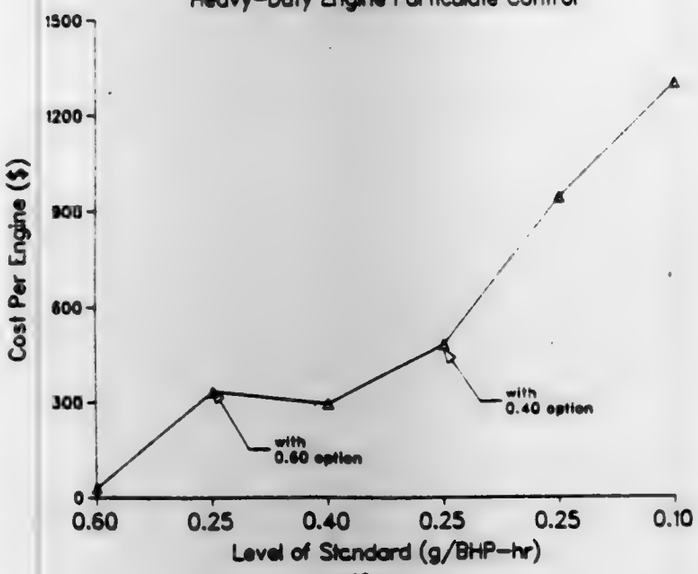


Figure 4b



Cost effectiveness values commonly increase (worsen) as the standards get lower. However, there are two exceptions to this trend in Figure 4a. These are the 0.25 g/BHP-hr standard combined with the 0.60 g/BHP-hr standard for line-haul trucks, which is the least cost effective of the options shown, and the 0.10 g/BHP-hr full-trap standard, where the cost effectiveness is shown as equal to that of the 0.25 g/BHP-hr standard.

The standard of 0.25 g/BHP-hr combined with 0.60 g/BHP-hr for line-haul trucks is the least cost effective of the options presented in Figure 4a. As was shown in Figure 3, urban heavy-duty diesel particulate emissions are actually slightly greater under this option than under an across-the-board standard of 0.40 g/BHP-hr. At the same time, 0.40 g/BHP-hr represents a non-trap option, while 0.25 g/BHP-hr with 0.60 g/BHP-hr for line-haul trucks would require about 70 percent of urban heavy-duty diesels to be equipped with traps. This results in substantially higher costs, relative to the 0.40 g/BHP-hr standard, while the total emissions reductions are slightly less. The resulting cost effectiveness value of about $15,000 per ton of urban particulate emission reduction makes this an unattractive option.

Turning to the 0.10 g/BHP-hr standard, EPA believes that the cost effectiveness of this standard will actually be somewhat worse than that of the 0.25 g/BHP-hr standard, but is not at this time able to quantify the difference. The maximum benefit and least cost applications will have already been used to meet the 0.25 g/BHP-hr standard (with averaging), so that subsequent use of traps on additional engines might be somewhat less cost effective. Among the factors arguing for higher cost at the 0.10 g/BHP-hr level are greater development costs, the need to design to lower low-mileage-target emission levels, the use of higher quality components, the probable need for more frequent trap regeneration, and the increased risks associated with in-use compliance. Accordingly, although emissions would be lower under a 0.10 g/BHP-hr standard, it appears that this standard would be less cost effective than is shown in Figure 4a.

On the other hand, Figure 4b indicates that even when these extra cost factors are not considered, these two options differ markedly in cost per engine, reflecting the increased use of traps at the 0.10 g/BHP-hr level.

Although not shown in Figure 3 or 4, EPA has also examined the impacts of a 0.25 g/BHP-hr standard implemented without the benefit of an averaging program. Such an approach requires 100 percent trap use, and therefore incurs essentially the same cost as the 0.10 g/BHP-hr standard does, although the use of some less efficient systems would be expected to reduce costs somewhat. The emission reduction benefits, however, remain virtually unchanged. The result is a clearly less efficient regulation, having a cost effectiveness of approximately $16,000 per ton.

Based upon the available information overall conclusions about some of the options are readily apparent. For 1987, the proposal of a 0.60 g/BHP-hr standard is the clear choice as the only option which generates feasible emission reductions in the near term. For 1990, on the other hand, continuing with 0.60 g/BHP-hr is not acceptable both because it produces insufficient emissions benefit and because it fails to satisfy the requirements of the Act. The beneficial effects of averaging, both on technological difficulty and on overall costs, also support the inclusion of this program for the long-term standards. This is true regardless of the level of the final standards, although there would be more benefit if a trap-based standard were promulgated.

Beyond these decisions, the choices for long-term standards become more difficult. Both the non-trap and trap-based standards will demand significant technological advances. Indeed, it appears that the technological difficulty of a 0.40 g/BHP-hr standard using non-trap techniques is at least as great for some engines as that of a 0.25 g/BHP-hr standard using traps. One of the risks of the 0.40 g/BHP-hr level is that it may in fact turn out to require traps to meet such a standard. Given this situation, EPA believes that a trap-based standard is preferable. Not only would it provide needed emission reductions at reasonable cost, but it would insure continued progress in the development of traps for heavy-duty diesel engines. Trap technology is being successfully applied to light-duty diesel engines and is expected to be available to meet 1987 standards for those vehicles. Failure by EPA to require the development of traps for heavy-duty diesels would not seem reasonable considering the statutory mandate and the significant urban impact of heavy-duty diesel particulate. Traps are unlikely to be applied to heavy-duty diesels unless standards require them. Finally, as has already been noted, even the 0.25 g/BHP-hr trap standard will succeed only in holding heavy-duty diesel emissions at current levels, making no actual reductions beyond that point.

Within the range of trap-based standards, there are four options. These are the 0.25 g/BHP-hr standard, the 0.25 g/BHP-hr standard with a line-haul option of either 0.60 or 0.40 g/BHR-hr, and the 0.10 g/BHP-hr standard. EPA believes that the maximum stringency 0.10 g/BHP-hr standard is inappropriate at the present time. Its requirement for essentially 100 percent trap use greatly increases the risk that some engines might be unable to meet the standard by 1990. The 0.25 g/BHP-hr standard will allow a more orderly development and application of technology because some of the more intractable applications can be avoided. At the same time it meets the requirements of the statute and promises to maintain overall heavy-duty diesel particulate emissions at essentially current levels. As for the line-haul options, the 0.60 g/BHP-hr standard has little to recommend it. It requires no further control beyond 1987 for the affected engines, significantly increases overall fleet emissions, and is the least cost effective of the options considered here. The 0.40 g/BHP-hr line-haul standard, on the other hand, involves a trade of some emission benefit for enhanced overall cost effectiveness. For this reason, EPA currently favors inclusion of the 0.40 g/BHP-hr line-haul option in the Final Rule. However, before such an approach could be finalized, regulatory means of identifying urban and non-urban applications would have to be developed, and the unwanted competitive effects would have to be mitigated. The Agency thus solicits comment on this approach and its possible usefulness, and is specifically interested in suggestions as to how the workability of this concept might be improved.

While EPA does not believe that a standard of 0.10 g/BHP-hr should be proposed for all engines, that standard may be appropriate for urban bus engines. The possibility of implementing a 0.10 g/BHP-hr standard for urban buses was mentioned earlier as a means to insure maximum control of these engines. As a group, these engines have less diversity in both engine characteristics and in operating patterns than do heavy-duty diesels as a whole. EPA believes that, given the use of trap technology, these engines may be able to meet a 0.10 g/BHP-hr standard for little extra cost beyond a 0.25 g/BHP-hr standard, since the trap technology currently envisioned appears to provide the required efficiency to meet the lower standard. At this level the urban cost effectiveness appears very good, primarily because these buses accumulate all of their mileage in urban areas rather than having a portion of

emissions benefits discounted as rural. The cost effectiveness of the 0.10 g/BHP-hr standard for urban buses is estimated to be about $3,300 per ton.

Since EPA has not identified significant cost differences between these two standards, the 0.10 g/BHP-hr level appears preferable. At the same time, recognizing that such costs may be identified by public comment on the proposal, the Agency remains open to eventually setting a 0.25 g/BHP-hr standard for urban buses and is proposing both options for comment.

EPA believes strongly that trap technology is feasible and cost effective for most heavy-duty diesels for the 1990 model year, yet it also recognizes the possibility that its judgment could be changed by information developed during the public comment period. Therefore, it is also prudent to indicate what course EPA would choose for non-trap standards in that eventuality. EPA's plan at this time would be to implement the 0.40 g/BHP-hr level should a non-trap standard prove to be necessary.

In summary, EPA believes that some degree of immediate control should be implemented, and that a standard of 0.60 g/BHP-hr is feasible in the 1987 timeframe. Beyond that, substantial further reductions are called for and appear to be feasible for 1990. It is EPA's further judgment that trap technology can be successfully applied to most heavy-duty diesel engines in that timeframe, and that the added emission reductions possible with traps justify the increased costs of a 0.25 g/BHP-hr standard, and perhaps a 0.10 g/BHP-hr standard for urban buses. If the problems associated with implementing a 0.40 g/BHP-hr line-haul standard in conjunction with the 0.25 g/BHP-hr standard can be resolved, EPA also favors including this option in the Final Rule.

2. Heavy-duty Engine NO_x

EPA continues to believe, as originally indicated in the NO_x advance notice, that the statutory 75 percent reduction standard is not feasible for heavy-duty diesel engines. A NO_x standard will have to be developed either as a temporary revision, based on such things as cost and fuel economy impacts, or as a permanent change based upon lack of environmental need. From the earlier discussion of the environmental need for NO_x control, there may or may not be a need for controlling future motor vehicle NO_x emissions.

In developing NO_x control options, EPA has decided to use common standards which are appropriate for both gasoline-fueled and diesel heavy-duty engines. While it would be possible to have separate standards for gasoline-fueled and diesel engines, there would be little environmental benefit from doing so in this case. As was noted in the discussion of environmental need, NO_x emissions from heavy-duty gasoline engines are expected to decline in future years even without additional control. Therefore, so long as a reasonable degree of control is established for gasoline engines, they will not pose a significant concern relative to future NO_x emissions.

In a manner similar to the heavy-duty diesel particulate options, EPA has examined NO_x control options in two timeframes, near-term (1987) standards and longer-term (1990) standards. For NO_x there is an added leadtime dimension because of the statutory leadtime provisions of Section 202(a)(3)(B) of the Clean Air Act. The choice of 1987 does not satisfy the four year leadtime provision of that section, but EPA has explicitly considered the amount of available leadtime in developing 1987 options and, as indicated in the earlier discussion of statutory provisions, believes the now conflicting requirements of the Act necessitate such an approach. In addition, manufacturers have been aware since the January 1981 advance notice that EPA planned to require substantial NO_x emission reductions. This fact has in essence given them three additional years to begin to prepare for new NO_x standards. While this fact does not in any way excuse EPA from the need to allow adequate leadtime for a new standard after its promulgation, it has allowed progress to be made in heavy-duty engine NO_x control and reduced the required leadtime for an early standard.

For 1987:

No new standard. Under this option, the 1986 NO_x standard would remain unchanged. This approach would have to be implemented under Section 202(a)(3)(E) after the Administrator has studied the impact of motor vehicle NO_x emissions on public health and welfare. However, current engines are actually operating below the level of the standard (generally in the 4 to 8 g/BHP-hr range), so that future emission levels could increase even more than projected if manufacturers were to take advantage of potential increases in trade for improved fuel economy or easier compliance with particulate emission standards.

6.0 g/BHP-hr. EPA's evaluation of current emission levels and the potential for near-term reductions from heavy-duty diesel engines indicates that a standard of 6.0 g/BHP-hr is feasible for 1987. This standard represents a modest decrease from current engine emissions (about 15 percent below current levels) which should be attainable in the short term with techniques compatible with the proposed 0.60 g/BHP-hr particulate standard. Techniques expected to be used include improvements to fuel injection systems, injection timing retard, increased use of turbocharging and aftercooling, minor engine modifications and improvements to engine efficiencies.

This option is considerably less stringent than the 4.0 g/BHP-hr level envisioned in the advance notice, in spite of the time which has elapsed since then, and in spite of the fact that manufacturers face a standard for their California models of 5.1 g/BHP-hr NO_x on the EPA transient test (or 4.5 g/BHP-hr HC plus NO_x on the 13-mode steady state test) for 1984. However, a Federal standard below 6.0 g/BHP-hr would not be feasible for 1987, principally because of leadtime constraints. The 6.0 g/BHP-hr level itself will present a challenging task in that timeframe. Standards would need to be delayed several years (see the discussion of 1990 standards below) to move significantly below that level.

Gasoline-fueled heavy-duty engines will be able to readily meet a 6.0 g/BHP-hr standard in 1987. About one third of current engines are already capable of meeting such a standard, and those remaining have well established techniques at hand for compliance. Recalibrations of air/fuel ratios, enhanced exhaust gas recirculation (which will already be in use on most heavy-duty gasoline engines), and ignition timing retard will be able to satisfy a 6.0 g/BHP-hr standard with no significant impacts on performance or fuel economy.

EPA views the 6.0 g/BHP-hr 1987 option as essentially a stop-gap measure to obtain a feasible level of control in the short term. The Agency's main concern is directed at the longer-term 1990 standard. Although the proposal as structured provides a three-year period for the interim standard, the Agency does not view it as essential to maintain such a period should it, for example, turn out that the 1987 proposed level has to be delayed. In such an event, the Agency might choose to abandon the interim standard or to implement it for a one or two year period, depending on the situation. Any decision to change or delay the 1990 standard will be an independent judgment based only on facts pertinent to the feasibility of that standard for that year. (A decision about 1990 would, of course, consider as relevant such facts as the impact of a

delayed interim standard on the availability of manufacturers' resources for meeting a long-term standard.) Commenters on the proposal should treat the near-term and long-term standards as separate and distinct issues, and not assume that a delay in the 1987 standard would mean an automatic delay in the 1990 standard.

For 1990:

No control beyond 6.0 g/BHP-hr. If no additional control is adopted for 1990, then heavy-duty engine NO_x emissions will continue to increase much as projected under current standards. A 6.0 g/BHP-hr standard would result in heavy-duty engine NO_x emissions in 1990 being over 50 percent greater than in 1980. Such a standard also would fail to meet the statutory requirement for a temporarily revised standard (based on technological, cost, or fuel economy considerations). The Administrator would have to issue the standard under section 202(a)(3)(E) after studing the effects of motor vehicle NO_x emissions on the public health and welfare.

4.0 g/BHP-hr. In order to deal successfully with the problem of future growth in NO_x emissions, a substantial reduction beyond the 6.0 g/BHP-hr level is necessary. EPA believes that further reductions are available, and that projected improvements in technology argue for lower future standards. Unfortunately, heavy-duty diesel engines, which form the bulk of the problem which must be addressed, are limited in their capability for reductions in NO_x. Based upon current knowledge of diesel NO_x control technology, EPA believes that a 4.0 g/BHP-hr standard represents the approximate limit of available control without unacceptable impacts on fuel economy, engine durability or engine-out particulate levels. Primary sources of NO_x control lie in the areas of electronically programmed exhaust gas recirculation, electronic management of fuel injection, charge air cooling, and engine modifications to improve efficiency and enhance combustion. These will be implemented in concert with changes needed for particulate control. As noted in the discussion of the 0.40 g/BHP-hr particulate option, much of this technology is already targeted for introduction on heavy-duty diesel engines in the late 1980s for reasons apart from emissions control (fuel economy improvements). The full cost, therefore, should not be attributed to emissions control requirements. There is also uncertainty as to the final complement of technologies which will be used to meet a 4.0 g/BHP-hr standard, introducing further variability into actual costs. Discounted lifetime cost would be about $300 to $1,000 per vehicle, depending on fuel economy effect. Total discounted NO_x emissions in 1995 would only be about 7 percent greater than 1980 levels under this option.

In establishing the 4.0 g/BHP-hr option, full consideration has been given to the interactions which will occur between NO_x and particulate standards for heavy-duty diesel engines. The most difficult combination of standards would pair the 4.0 g/BHP-hr NO_x standard with the 0.40 g/BHP-hr non-trap particulate standard. With this combination, great care would have to be exercised in balancing tradeoffs between NO_x and particulate emissions to bring engine-out levels of both pollutants below the standards. The difficulty of the 4.0 g/BHP-hr NO_x standard would be eased somewhat when paired with the trap-based 0.25 g/BHP-hr particulate standard. The use of traps for particulate control will allow some increase of engine-out particulate in favor of lower NO_x levels. In any event, EPA recognizes that the combination of a 4.0 g/BHP-hr NO_x standard with either a 0.40 g/BHP-hr or a 0.25 g/BHP-hr particulate standard will represent a very difficult challenge for conventional diesel engine technology.

Heavy-duty gasoline engines will also be able to meet a 4.0 g/BHP-hr option for 1990. Enhanced use of exhaust gas recirculation will be the primary means of compliance, along with engine modifications to improve tolerance for exhaust gas recirculation without adverse fuel economy or performance effects. These modifications might include improvements to combustion chamber efficiency, fast burn combustion techniques, some use of electronic controls, and general engine efficiency improvements. Similar non-catalytic reductions of NO_x have been attained for light-duty vehicles, and considering the amount of leadtime remaining before 1990, EPA believes that the necessary improvements will be attainable for gasoline-fueled heavy-duty engines.

The cost-effectiveness of the 40 g/BHP-hr option is very good, under $400 per ton, for both gasoline-fueled and diesel engines. Cost effectiveness turns out not to have been a significant discriminator for any of the NO_x control options, for either heavy-duty engines or light-duty trucks, because it has been relatively low for all of the options considered. Therefore, cost effectiveness will not be discussed further in the context of NO_x control options.

In summary, the 4.0 g/BHP-hr standard in 1990 combined with a 60 g/BHP-hr standard in 1987 represents what EPA believes to be the proper level of control for heavy-duty engine NO_x emissions, given the technological limitations of current diesel engines.

3. Impact of future Engine and Fuel Development on Heavy-Duty Diesel Engine NO_x and Particulate Emissions

Two developments in heavy-duty diesel engine technology in the early 1990s could have a dramatic effect on the NO_x and particulate levels of those engines. While not required by the standards being proposed today, these technologies appear to have great promise for emission control and could be the primary means of compliance with more stringent standards in the years beyond 1990. Therefore, they deserve mention here.

The first technology is that of ceramics (*i.e.*, the partial or complete insulation of the combustion chamber to reduce the percentage of heat lost to the engine cooling system). Early results of U.S. Army-sponsored research at Cummins Engine Company indicate that particulate emissions, based on smoke measurements, may be reduced on the order of 90 percent by the higher temperatures associated with ceramic technology. Brake-specific NO_x emissions, while expected to increase, actually decreased by a small amount. Thus, as ceramic technology is introduced in the 1990s for fuel efficiency, it may concurrently allow compliance with the 1990 particulate standards without the use of traps.

The second technology is the use of methanol to fuel heavy-duty diesel engines. Early results from an advanced two-stroke heavy-duty diesel engine running on methanol indicate NO_x and particulate emissions well below those required by the 1990 standards. These reductions were not unexpected, since methanol's lower heat of combustion causes lower flame temperatures (reducing NO_x), and the absence of chained carbon atoms and the presence of oxygen in the fuel should work to inhibit particulate formation. The commercialization of such engines primarily awaits the availability of methanol at competitive prices; methanol-fueled heavy-duty diesel engines are already being field-tested in transit buses in California. While the widespread availability of methanol depends on future oil prices, which cannot be accurately predicted, commercial availability could occur in the early 1990s. For transit buses, this could occur much sooner, due to their

centralized fueling system and subsidization by the Federal government.

4. Light-duty Truck NO_x

Light-duty trucks present a different picture than heavy-duty engines in terms of standards development. The technology for NO_x control applicable to light-duty trucks has already been developed for passenger cars and will be easily adaptable to light-duty trucks. In fact, all the techniques which EPA expects to be used to meet new NO_x standards are already being used on at least a portion of the light-duty truck fleet. In this situation, there is no need to look at short-term versus long-term standards. Accordingly, all of the options which EPA has considered are viewed here as options for 1987. The options are as follows:

2.3 g/mi. This level represents a continuation of current standards and would require a finding that additional requirements for LDTs are environmentally unnecessary. Continued control at this level would result in two percent greater NO_x emissions in urban areas than the proposed 1.2/1.7 g/mi standards; however, with the standards now in plalce for cars and those being established in this rulemaking for heavy-duty engines, tighter standards for light-duty trucks may not be needed in the early 1990s to maintain NO_2 attainment. Moreover, control strategies involving other sources may be available at lower cost to maintain attainment. Our data indicate that total urban NO_x emissions will increase in the 1990s and such increases could effect attainment. If this is true, adoption of this option could require a further tightening of the standard sometime in the future. In addition, there may or may not be environmental benefits associated with NO_x reductions beyond issues of NO_2 attainment. Comments are solicited on whether or not attainment can be achieved without further control of light-duty trucks and whether deferring tighter standards would meet the requirements of the statute for heavier light-duty trucks.

EPA also specifically solicits comments on what findings must be made under section 202(a)(3)(E)(ii) to support a changed standard. That subsection refers to the pollutant specific study required under section 202(a)(3)(E)(i), and such other information as is available to the Administrator but does not specify the criteria which must be used as the basis for changing the standard to a level different from that set out in section 202(a)(3)(A)(ii). The study must concern "the effects of [the pollutant] on pulic health and welfare." This language tracks the criteria language in section 108, the basis for establishment of ambient air quality standards under section 109. While this suggests that attainment of the ambient air quality standards is a major consideration in making the requisite determination, it is by no means clear that Congress intended a specific test under section 202(a)(3)(E)(ii). Therefore, we seek comments on what criteria are relevant to a determination that a standard can be changed under this section, i.e., what considerations must be addressed in the pollutant specific study or other available information if EPA were to promulgate such a changed standard. For example, we request comments on the extent to which EPA should consider such factors as attainment with health-based ambient standards, environmental factors outside ambient air quality standards, costs, cost-effectiveness, etc.

1.2 g/mi. Earlier discussion of the advance notice for NO_x standards alluded to the fact that a 1.2 g/mi light-duty truck standard had been derived by EPA as equivalent in stringency to the 1.0 g/mi light-duty vehicle NO_x standard. EPA still believes this to be the case. Light-duty truck NO_x emissions under this option would be controlled to the point where their overall level in 1995 would actually be somewhat below that in 1980, by an estimated 5 percent.

Gasoline-fueled light-duty trucks would meet a 1.2 g/mi standard principally through the application of three-way catalyst systems, although a few of the smallest engines may choose increased exhaust gas recirculation rates or retarded ignition timing rather than the expense of a three-way catalyst. Compliance would be relatively straightforward, with about 40 percent of the fleet already equipped with three-way systems. Diesel powered light-duty trucks would be expected to use some combination of exhaust gas recirculation and injection timing retard to lower NO_x emissions. The only area of difficulty which arises in meeting this option concerns the largest light-duty diesel trucks, such as the Geneal Motors 6.2 liter engine. It is possible that this engine would experience substantial performance and fuel economy penalties in meeting a 1.2 g/mi NO_x standard along with the 1987 light-duty diesel particulate standard.

1.2 g/mi for light-duty trucks up to 6,000 lbs gross vehicle weight or 3,999 lbs equivalent test weight, 1.7 g/mi above. One impact of a tigher NO_x standard for diesel light-duty trucks is an increase in engine-out particulate levels. This, in turn, means that compliance with the 0.26 g/mi particulate standard will be more difficult and require a greater reliance on trap oxidizers. Because both the highest NO_x emissions and highest particulate emissions are associated with the heavier light-duty trucks, EPA has evaluated the potential savings associated with maintaining a less stringent NO_x standard for those vehicles. Such an approach would also ease the difficulty noted above which the largest diesel light-duty truck engines might have with meeting a 1.2 g/mi NO_x standard.

The cutpoint which EPA has chosen for subdividing the light-duty truck class is 6,000 lbs gross vehicle weight, or 3,999 lbs equivalent test weight. These values define two fairly distinct categories of light-duty trucks, and are parameters in fairly common use. The 6,000 lbs gross vehicle weight criterion is the same as that used in the Clean Air Act to separate heavy-duty engines from light-duty trucks, while the equivalent test weight distinction is used in California standards for light-duty trucks. Use of a test weight distinction in addition to gross vehicle weight is intended to discourage artificial "migration" of vehicles from the lighter group to the heavier group, with its attendant, less stringent standard.

In a fashion analogous to that which led to the definition of 1.2 g/mi for light-duty trucks as corresponding to 1.0 g/mi for light-duty vehicles, EPA has identified 1.7 g/mi as corresponding to a 1.5 g/mi light-duty vehicle standard. Use of a 1.7 g/mi standard for the heavier light-duty diesel trucks will have the same effect as the current 1.5 g/mi light-duty vehicle NO_x waiver has for diesel passenger cars. The percentage of light-duty diesel trucks requiring traps to meet the 0.26 g/mi particulate standard will drop, from about 50 to 60 percent to about 20 to 30 percent, while the urban particulate cost effectiveness will improve by a factor of two to three. In exchange for this, 1995 light-duty truck NO_x emissions will increase slightly (about 6 percent), but still will not exceed 1980 levels.

While the principal motivation for this option concerns diese light-duty trucks, EPA has chosen to define the option as applicable to both gasoline-fueled and diese light-duty trucks. The overall impact of a 1.7 g/mi standard for all light-duty trucks above 6,000 lbs gross vehicle weight and 3,999 lbs equivalent test weight on NO_x emissions is small, and differs only slightly from the case where only diesels are covered. It has

the benefits of regulatory simplicity and equity of standards between the two engine types.

As a variation on this option, EPA has also considered proposing a 1.2 g/mi standard for all light-duty trucks except for the heavier diesels. Those vehicles would continue to meet a 2.3 g/mi standard as at present. As already noted with regard to retaining the 2.3 g/mi standard for all light-duty trucks, comments are solicited on whether or not continuing the current standard for heavier light-duty trucks is allowable under the statute. Also, comments are solicited on wheher this option equitably treats both the heavier gasoline and diesel light-duty trucks.

II. Summary of the NPRM

As is clear from the preceding discussion, the proposed NO_x standards for light-duty trucks and heavy-duty engines and the proposed particulate standards for heavy-duty diesel engines are the major provisions of today's notice. These are summarized briefly below, followed by discussions of the other provisions of the proposal.

A. Low-Altitude NO_x and Particulate Standards

This section summarizes the low-altitude NO_x and particulate standards proposed today for light-duty trucks and heavy-duty engines. The rationale behind the levels of the standards and effective model years was developed in the preceding section.

Revised NO_x standards are proposed for 1987 and later model year light-duty trucks. For light-duty trucks up to and including either 6,000 lbs gross vehicle weight or 3,999 lbs equivalent test weight, the proposed standard is 1.2 g/mi. For light-duty trucks over 6,000 lbs gross vehicle weight and 4,000 lbs equivalent test weight, the proposed standard is 1.7 g/mi.

Revised NO_x standards are also proposed for all heavy-duty engines, both gasoline-fueled and diesel. The proposed standards are 6.0 g/BHP-hr for the 1987–89 model years, and 4.0 g/BHP-hr for 1990 and later model years.

Particulate standards are proposed for heavy-duty diesel engines. The proposed standard for model years 1987–89 is 0.60 g/BHP-hr, and the proposed standard for 1990 and later model years is 0.25 g/BHP-hr. For urban buses, alternative particulate standards of 0.10 and 0.25 g/BHP-hr are proposed for 1990 and later model years.

B. Other Provisions of the Proposal

1. Allowable Maintenance Provisions

Allowable maintenance regulations deal with the maintenance done on vehicles, engines or sub-systems during testing programs to establish compliance with emission standards, and with maintenance instructions provided to vehicle owners. Today's notice proposes certain revisions to the regulations governing allowable maintenance for light-duty vehicles, light-duty trucks and heavy-duty engines, beginning with the 1987 model year.

There are several distinct aspects to the proposal. The first of these involves the extension of provisions already implemented for 1984 and later model year light-duty trucks and heavy-duty engines to cover light-duty vehicles as well. These provisions distinguish between allowable maintenance for emission-related and non-emission-related components. No limits are placed on the maintenance performed on non-emission-related components, beyond the requirement that maintenance schedules be the same as are recommended to the ultimate purchaser. For emission-related components (those components substantially affecting exhaust emission levels or likely to affect the deterioration of emissions), minimum technologically necessary maintenance intervals are specified in the regulations. The maintenance intervals for light-duty vehicles would be the same as those already established for light-duty trucks. These intervals represent requirements which are very close to current practice for the majority of manufacturers, and their feasibility is based upon the close similarity between light-duty vehicles and light-duty trucks in terms of technology and usage patterns.

While compliance with the new maintenance intervals would be relatively straightforward, EPA believes that it is important to extend this approach to allowable maintenance so that it covers light-duty vehicles. The overall purpose is to encourage the design of more durable emissions control systems which need less maintenance to be able to perform properly. The need for such improvements for light-duty vehicles is basically the same as that which led to the adoption of the allowable maintenance regulations for light-duty trucks and heavy-duty engines. In addition, this change would establish consistent provisions for all vehicle categories. Interested readers are referred to the light-duty truck rulemaking (45 FR 63734, September 25, 1980) and the heavy-duty engine rulemaking (45 FR 4136, January 21, 1980) for further information, including the development of the technologically necessary maintenance intervals.

EPA is proposing the addition of electronic engine controls and related actuators and sensors (including oxygen sensors, if used) to the list of emission-related components for light-duty vehicles, light-duty trucks, and heavy-duty engines. (Oxygen sensor maintenance is already regulated for light-duty trucks, with an interval of 50,000 miles.) The proposed minimum maintenance interval for these components is 100,000 miles.

EPA is also proposing that turbochargers and carburetors be added to the list of emission-related components for all gasoline-fueled vehicles and engines. The proposed interval in both cases is 100,000 miles. Although maintenance intervals for diesel engine turbochargers have been specified in the regulations for some time, EPA has not previously seen the need for similar provisions for gasoline-fueled engines, since so few of those engines were equipped with turbochargers. With the recent and projected future increases in turbocharger use by gasoline-fueled engines, EPA believes that regulations like those applicable to diesel engine turbochargers are now warranted. The addition of carburetors to the list of emission-related components follows logically from the extension of the useful life period for light-duty trucks and heavy-duty engines. EPA believes that manufacturers may perceive a need for recommending carburetor maintenance during the full-life useful life that did not arise under the previous half-life useful life.

The second part of the allowable maintenance proposal consists of several changes which will apply to all vehicle categories. The first of these is the concept of "critical" emission-related components.

As a sub-category of emission-related components, critical emission-related components are proposed to be defined as those components which either are designed exclusively for emission control purposes, or whose failure may result in a significant increase in emissions accompanied by no significant impairment (or perhaps even an improvement) in performance, driveability, and/or fuel economy. EPA is proposing that, in the case of critical emission-related components requiring maintenance during the useful life of the vehicle or engine, the manufacturer accept the burden of showing that the

maintenance is likely to be performed by the owners. Otherwise, the installation of the control system could be a mere formality, exercised to receive a certificate of conformity, but then failing to accomplish the intended emission reduction in actual on-the-road vehicles. This requirement, like the other revisions and additions to the maintenance regulations which EPA is proposing, will help to insure the attention of manufacturers to the design and production of vehicles and engines which continue to be in compliance with applicable emission standards in actual use.

Maintenance on the following components is proposed to be defined as critical emission-related maintenance: the catalytic converter, the trap-oxidizer and related components, all components of the air injection system, the electronic engine control unit and its associated sensors (including the oxygen sensor, if installed) and actuators, the exhaust gas recirculation system and its associated sensors, the positive crankcase ventilation valve, and the evaporative emission system (excluding the crankcase air filter) and its associated sensors. The proposed list of critical emission-related components consists of relatively few items, thus minimizing the burden on the manufacturers.

It is worth noting that for light-duty vehicles, none of the components currently identified as critical have allowable maintenance intervals falling within the 50,000 mile useful life period established for those vehicles. Therefore no showings of reasonable likelihood, as are discussed below, would be required for these vehicles. The allowable maintenance intervals proposed for light-duty trucks and gasoline-fueled heavy-duty engines, with the exception of those for exhaust gas recirculation systems and positive crankcase ventilation valves, fall very close to the end of these vehicles' useful life period. EPA expects that, as a practical matter, most manufacturers would simply extend the intervals by the slight additional mileage necessary to eliminate the requirement for critical emission-related maintenance during the useful life period. For heavy-duty diesel engines, only particulate traps, exhaust gas recirculation systems, and electronic engine controls would be affected.

For those components specified as critical and requiring maintenance during the useful life period, manufacturers would be required to demonstrate the likelihood that recommended maintenance will actually be performed in-use. The proposed regulations would allow manufacturers to demonstrate this likehood in five specific ways.

First, if data presented to EPA establish that as emissions increase due to lack of maintenance, vehicle performance will quickly deteriorate to a point unacceptable for typical driving that would be considered adequate assurance that the maintenance would be performed in-use. Second, for those critical emission-related components which have been in service for sufficient time to to have accumulated in-use experience, survey results showing that proper maintenance is currently being performed by at least 80 percent of vehicle/engine owners would fulfill the reasonable likelihood requirement. Third, visible signals could be installed to stimulate maintenance. This provision is similar to, but is intended to be more effective than, the requirement that has been in effect for some time for exhaust gas recirculation systems in light-duty applications. As described below, two warning lights would be involved, which could not be easily reset without performing the requiring maintenance.

The fourth of demonstrating the reasonable likelihood of maintenance would apply to those critical maintenance items for which there is no prior in-use experience. In such cases, the manufacturer could choose to market up to 200 randomly selected vehicles or engines without the signals described above and monitor the performance of the critical maintenace item by the owners. If such monitoring showed that the maintenance is performed by at least 80 percent of owners, the reasonable likelihood requirement would be considered satisfied. This option would be restricted to two consecutive model years, and could not be repeated until any previous surveys under this option are completed. If more than one engine family were involved, the random sample would be sales-weighted so as to be representative of all families in question.

The last specified method for a manufacturer to meet the reasonable likelihood requirement would be for the manufacturer to provide the critical emission-related maintenance at no cost to the owner. If it were clearly stated in the maintenance schedule provided to the purchaser that required maintenance on a given critical emission-related component will be performed without cost to the owner, then EPA believes that such maintenance would be performed by enough owners to satisfy the reasonable likelihood requirement.

Finally, other methods of establishing the reasonable likelihood of critical maintenance items being performed in-use could be used by the manufacturer, if approved in advance by the Administrator. Further details regarding all of these options may be found in the draft regulations appearing at the end of today's notice.

EPA is also taking this opportunity to deal with three other allowable maintenance issues. First, based upon limited survey data obtained by the Agency and available in the docket, it appears that, at least for light-duty vehicles, the currently employed system of warning lights to signal the need for maintenance is not effective. Since in some cases the light may not remain on long after startup, most owners appear to ignore the signal and fail to have the required maintenance performed. The Agency wants to improve this situation, and is proposing that warning lights remain permanently on until the maintenance is completed, and not be easily defeatable. Other measures are also being proposed, such as the content of the message to be displayed by the warning signal and a second lighted message. This second lighted message would come on after a prescribed mileage (1,000 miles) has elapsed since the first lighted signal went on, if the maintenance has not been performed. The Agency desires comment on this issue and ways to improve the effectiveness of maintenance indicator systems.

It should also be noted that resetting these maintenance indicator lights without actually performing the required maintenance would be considered by EPA to be tampering. EPA considers these lights to be an integral element of vehicle design, and resetting them without performing the required maintenance would be considered tampering under the provisions of section 203(a)(3) of the Act.

The second additional issue involves some needed clarification of the relationship between maintenance performed or specified on vehicles or engines used for durability testing and maintenance recommended to purchasers in their owner's manual. The durability testing program and related evaluation of emissions deterioration rates are intended to simulate driving and use patterns typical of in-use vehicles. Maintenance performed or specified on durability systems is also intended to correspond to that which will be recommended to the ultimate purchaser. In the current wording of the regulations for allowable maintenance and for preparation of maintenance instructions, this relationship has sometimes been misunderstood.

Therefore, EPA proposes revision of the wording to make it clear that under normal driving conditions, no maintenance can be recommended to owners beyond that performed or specified for durability testing. The definitions of "emission-related maintenance" and "non-emission-related maintenance" are also proposed to be modified to make this relationship clear. Supplemental maintenance would be permitted only under adverse conditions.

Lastly, today's proposal clarifies the distinction between maintenance and inspections. An inspection does not constitute maintenance, and inspections to detect components requiring service or replacement are not items of scheduled maintenance. However, inspection instructions may lead to the discovery of failed emission control components. Hence EPA does not wish to discourage their inclusion in instructions to owners, provided that they are not represented to be prerequisite to an owner's claim for warranty and recall repairs. Therefore, the proposed regulations allow the inclusion in the maintenance instructions of recommended inspections, provided that the instructions clearly state that the owner need not perform the inspections in order to take advantage of any emission warranty or recall.

2. Averaging of Heavy-Duty Diesel Engine Particulate Emissions

Background. Today's notice proposes that an averaging program be established for determining compliance with the proposed particulate emission standards for heavy-duty diesel engines. This program is proposed to take effect beginning with the 1990 model year, coincident with the proposed lowering of the applicable particulate emission standards to 0.25 g/BHP-hr at low-altitude and 0.30 g/BHP-hr at high-altitude. The averaging program would not apply to engines used in urban buses, which would be required to individually meet the applicable 1990 standards. The reason for this exclusion, as has been discussed earlier, is to insure the maximum degree of control for these predominantly urban engines and prevent the possibility that traps would be left off of urban buses through the use of averaging.

This program is, in all substantive aspects, patterned after the particulate averaging program for light-duty diesels. That program was implemented by a final rule published July 21, 1983 (48 FR 33456). Before describing the program, it is appropriate to briefly recount the rationale underlying mobile source emissions averaging. More information may be found in the light-duty diesel averaging final rule.

An emissions averaging program increases the affected manufacturer's flexibility in complying with emission standards. This increase in flexibility can be accomplished without appreciable loss of environmental benefits. Averaging would allow manufacturers to optimize the trade-offs and costs involved in reducing particulate emissions on an engine family-specific basis. Manufacturers would be able to tailor emission control systems and combinations of systems, to those best suited for each application. The most expensive particulate control strategies (trap-oxidizers) could be applied to those engine families where the benefits are the greatest and/or the risks of failure are the lowest. The ability to assign different emission limits to different engine families would also mean that the chance of any engine family being forced out of production due to technological or cost problems is significantly reduced.

Under averaging, the differences in the efficiency and cost of different control systems could be further utilized to reduce costs by removing the traps from some engine families, in favor of upgrading the equipment on other engine families to offset the resulting increase in emissions. Although the more efficient hardware is more costly, this should be more than outweighed by the savings on the total number of systems required. Emissions from some engine families could increase while those from other families decrease; on average, they would still be meeting the same standard, and the margins to account for such factors as in-use deterioration and selective enforcement audits would be the same. In other words, averaging could change the technology mix used to meet the proposed standards without appreciably affecting the level of overall emissions, which would be the same as that without any averaging program.

One issue raised during the development of the light-duty particulate averaging program that deserves mention in this context is the impact of averaging on equity between manufacturers. While no averaging program can be designed to be entirely without competitive impact (*i.e.*, the benefits to a large manufacturer with a diverse product line will generally exceed those to a small manufacturer marketing only one, or a few, engine families), EPA believes that the averaging program proposed here would largely avoid such problems. EPA also believes that the benefits of this program, in terms of reduced overall costs of compliance, would more than compensate for whatever inequities may result. However, EPA is still open to comment in this area. EPA specifically solicits comment as to the expected competitive effects of the averaging program, and on ways to further reduce such effects without compromising the baisc integrity of this approach to more cost-effective particulate control.

Description of the program. The program is most clearly presented in terms of the two aspects of compliance which would exist: Compliance by engine families with their individual particulate emission limits, and compliance by the manufacturer with the applicable particulate emission standards.

Compliance with family particulate emission limits. Manufacturers would determine particulate emission limits for each heavy-duty diesel engine family to be produced in a given model year. These limits would be set to one one-hundredth (0.01) of a gram precision, and would have the same relationship to an engine family as emission standards currently have to all engine families taken as a whole. The criteria used to distinguish engine families as unique would remain unchanged.

EPA believes that it is appropriate to limit, in some way, the maximum level of particulate emissions from any specific engine family. Thus, EPA proposes requiring all of the family particulate emission limits to be set at levels not greater than a ceiling, above which no engine family could be certified. The proposed ceilings are 0.60 g/BHP-hr for low altitude and 0.72 g/BHP-hr for high altitude. With the ceilings set at the particulate standards in effect for the 1987 through 1989 model years (when averaging is not yet in effect), all engine families would already be in compliance with the ceiling levels, and no heavy-duty diesel engine family should have any difficulty obtaining certification. These ceilings are high enough, relative to the applicable particulate standards, that EPA sees little or no impact on the flexibility available to the manufacturers.

As in the light-duty particulate averaging program, it would be the family emission limit determined by the manufacturer that would be enforced by EPA. These limits are what would be averaged in determining compliance with the applicable standards, as explained below; certification or other test data would not be used in the averaging calculations.

Also as in the light-duty case, manufacturers would be required to

label each engine, either on a new label or by an addition to an existing label, with the applicable emission limit for that engine family at the time that the engine was produced. In this way, EPA would be able to ensure that every individual engine can be associated with its proper emission limit throughout its life, even if the manufacturer were to change the emission limit applicable to that family part way through the model year (as discussed below).

Compliance with the 1990 model year particulate standards. As in the light-duty particulate averaging program, compliance with the applicable standard would be determined by calculating a production-weighted average emission level. This was a straightforward process for light-duty diesels, and was only slightly complicated by the averaging together of light-duty diesel vehicles and trucks permitted at the manufacturer's discretion.

The problem of determining compliance for heavy-duty diesel engines, however, would be complicated by other factors. These are the varying useful life periods to which different subcategories of heavy-duty diesel engines are certified, and the difference stemming from the use of g/BHP-hr as the units for heavy-duty emission standards, as opposed to the g/mi units applicable in the light-duty case.

In order to deal with the varying useful life periods for heavy-duty diesel engines, EPA is proposing that the averaging of particulate emissions be restricted to within each of the three useful life subclasses established in the November 16, 1983 final rule (48 FR 52170). Each of the subclasses (light, medium, and heavy) would be required to comply with the particulate emission standards, but only emissions from those engine families in the same subclass could be averaged together. Alternatively, EPA might allow averaging across subclasses factoring useful-life values into the averaging calculations, so that total fleet emissions remain constant. However, if a non-trap standard (0.40 g/BHP-hr) is set for line haul trucks to reflect their proportionally smaller contribution to urban emissions, then the Agency would not allow averaging between these engines and other heavy-duty diesels.

Emission standards for heavy-duty engines are expressed in terms of mass of pollutant emitted per unit of work performed, rather than per unit of distance travelled, since heavy-duty engine applications are based on work to be performed. This avoids penalizing engines which perform more useful work while travelling the same distance. Since different heavy-duty engines in compliance with the same emission standard can have markedly different lifetime emissions, due to the variations in work performed, normalization of average emissions to account for this is required to maintain air quality benefits equivalent to those that would occur without averaging.

EPA has developed a method by which a manufacturer's production-weighted average particulate emission level could be normalized to account for engine power. The purpose of this method is to weigh the particulate contribution from each engine family not only by production volume, but also by the useful work that the engines perform (the rated power). The proposed weighting procedure is given in the following equation:

$$\text{Weighted particulate level} = \frac{\sum_{i=1}^{n} \text{PROD}_i \times \text{HP}_i \times \text{FEL}_i}{\sum_{i=1}^{n} \text{PROD}_i \times \text{HP}_i}$$

Where:

i = subscript, denoting individual engine families,

PROD_i = model year production of family i (units),

HP_i = production-weighted rated power of family i (horsepower), and

FEL_i = family i particulate emission limit (g/BHP-hr).

The production-weighted rated power for each family would be defined as the production-weighted average of the rated power of all of the configurations included within the family. The particulate emission limit for each family would be determined by the manufacturer, would be specified to 0.01 g/BHP-hr precision, and would be required to be less than or equal to 0.60 g/BHP-hr at low altitude or 0.72 g/BHP-hr at high altitude, as described above. In order to demonstrate compliance, the weighted particulate emission level would be required to be at or below the applicable standard (0.25 g/BHP-hr at low altitude, 0.30 g/BHP-hr at high altitude).

Under the averaging program, each manufacturer would be given complete flexibility in deciding whether to apply averaging to its production of heavy-duty diesel engines. For those manufacturers electing to use averaging, EPA would grant a certificate of conformity to each family that demonstrates compliance with its particulate emission limit. It would be a condition of the certificate that the manufacturer's weighted particulate emission level meet the applicable particulate emission standard (low or high altitude) at the end of the model year. The certificate(s) of conformity would be rendered void *ab initio* at the conclusion of the model year for those engines causing any excedance of the applicable particulate standard. For more detail regarding conditional certification and EPA's intent in handling remedies and/or penalties in the event that the terms of such conditions were violated, see the light-duty particulate averaging final rule (July 21, 1983, 48 FR *at* 33459).

During production, a manufacturer would have full responsibility for taking whatever action may be necessary to ensure that its heavy-duty diesel engine fleet meets the applicable standard at the conclusion of model year production. As discussed below, this might involve recertifying some families to new emission limits, or adjusting production volume in response to observed sales. In any event, it would only be after model year production has been completed that EPA would enter the process in order to verify that the family limits, when weighted by production and rated power as explained above, comply with the applicable particulate standard.

There are a number of ways in which a manufacturer could manipulate its heavy-duty diesel engine fleet during the model year to assure compliance with the particulate standard. The possibility will exist, as it does currently, for a manufacturer to alter the engine operating characteristics or hardware in such a way as to create a new engine family. Under the proposed averaging program, this would allow the establishment of a revised family particulate emission limit. EPA would also extend to heavy-duty diesels the flexibility of allowing the creation of new family particulate emission limits without making any changes to the engine. This option could prove to be useful to a manufacturer which finds that the production emission levels of an engine family were sufficiently below the originally determined family emission limit that the limit could be lowered without physically altering the engine. In changing a family particulate emission limit, however, the manufacturer could not establish a revised limit lower than that which

could be demonstrated by the certification data. Any time that a family limit were changed, EPA would issue a new certificate applicable to subsequent production of engines in that family, and each engine produced thereafter would need a revised label recording this new family emission limit.

Restrictions on averaging. As proposed today, the averaging program for heavy-duty diesel particulate emissions contains two significant restrictions: regional subdivisions and the exclusion of urban buses. For the purposes of this program, there are three defined regions: California, 49-state low altitude, and 49-state high-altitude. Averaging could be chosen by the manufacturer and applied in accordance with the provisions just described for one or all of these regions (to the extent not precluded by California's own regulations). However, heavy-duty diesel engine families designated for sale and use in one of these regions could not be averaged together with families intended for sale and use in another region.

The rationale for this decision, which is discussed in detail in the light-duty diesel averaging final rule, derives from the fact that the impact on ambient air quality in a given area is essentially the result of the average emissions of the vehicles and engines in that area. High-altitude areas and California have different emission control requirements from those of the rest of the country. Since certain "trade-offs" of emissions might occur under a broad national averaging program, it is necessary to exclude vehicles and engines marketed in California or in high-altitude areas from the nationwide averaging program. In order to minimize the impact of this restriction, however, EPA would allow averaging within any one of these areas (to the extent not precluded by California's own regulations), as noted above.

For similar reasons, EPA is proposing to exclude from the averaging program those heavy-duty diesel engines used in urban buses. As already noted, particulate emissions from these buses play a key role in central city ambient air quality and, in addition, are highly visible to the public. These emissions must, therefore, be controlled as stringently as possible. However, if urban buses were included in the averaging program, manufacturers might be able to avoid applying trap-oxidizer technology to those vehicles. Under these circumstances, EPA believes it appropriate to exclude urban buses from the averaging program.

EPA recognizes that these restrictions on averaging would reduce the flexibility available to the manufacturers somewhat, compared to a nationwide averaging program where all vehicles and engines could be averaged together. However, such restrictions would impose no new burdens compared to the present non-averaging program. The mechanisms to determine the emission characteristics and location of final delivery of any given vehicle or engine already exist due to the labeling and recall provisions, and separate resources must already be devoted to the development and certification of vehicles and engines to satisfy the distinct California and high-altitude standards. Therefore EPA believes that the regional restrictions and exclusion of urban buses would not substantially affect the overall utility of the proposed averaging program.

3. High-Altitude Heavy-Duty Diesel Engine Particulate Standards

The proposed high-altitude particulate standards for heavy-duty diesel engines are 0.72 g/BHP-hr for model year 1987 and 0.30 g/BHP-hr (0.12 g/BHP-hr for urban buses) for model year 1990. These standards are proportional to the corresponding low-altitude standards. The method of determining levels for the high-altitude standards is to apply the ratio of uncontrolled low- to high-altitude emissions to the low-altitude standard. This has the effect of requiring the same degree of control from vehicles and engines at each altitude.

Scant data are available on the effect of altitude on light-duty diesel vehicle particulatae emissions, and no such data are available for heavy-duty diesel engines. Limited light-duty data indicate a 50 percent increase in diesel engine particulate emission at high altitudes.[2] However, the engines in these vehicles were all naturally aspirated. Turbocharged engines should be affected to a much lower degree (*i.e.*, 0 to 10 percent increase), since turbocharger boost is controlled in terms of absolute pressure and should automatically compensate for the lower air density at high altitude. Since the majority of heavy-duty diesels are turbocharged, the overall particulate increase at high altitude should be approximately 20 percent. EPA solicits comment on this level of the proportional increase in heavy-duty diesel particulate emissions at high altitudes, and is especially interested in obtaining relevant data.

In addition to the technologies discussed in the Alternatives section (including trap-oxidizers), high-altitude engines may also require the use of an aneroid pressure sensor and additional race control linkage on those engines not equipped with turbochargers (turbocharged heavy-duty diesel engines already have boost pressure sensors which can be made to adjust for high-altitude operation) in order to comply with the particular standards. The widespread use of electronic engine controls anticipated by 1990 for emission control and other purposes, in conjunction with the other technologies discussed, should make compliance with the high-altitude particulate standards no more difficult than compliance at low altitude. Fuel economy effects on high-altitude heavy-duty diesels should be approximately the same as those at low altitude.

4. High-Altitude Light-Duty Truck Emission Standards

Standards for NO_x, idle CO and particulate emissions from light-duty trucks sold for principal use at high altitude are also proposed by today's notice. These standards will complete action on the high-altitude emission standards for light-duty trucks. Each is briefly discussed below.

NO_x The standards proposed for NO_x emissions from 1987 and later model year high-altitude light-duty trucks are the same as those proposed for low-altutude areas: 1.2 g/mi for light-duty trucks up to and including either 6,000 lbs gross vehicle weight or 3,999 lbs equivalent test weight, and 1.7 g/mi for light-duty trucks over both 6,000 lbs gross vehicle weight and 3,999 lbs equivalent test weight. Since NO_x emissions do not tend to increase with altitude, no increase in the numerical level of the standards is proposed. The impacts of these proposed standards are quite similar to those discussed in greater detail for low-altitude light-duty trucks.

Idle CO. This notice also proposes that an idle CO emission standard be implemented for 1987 and later model year light-duty trucks sold for principal use at high altitude. Such a standard is being proposed here because EPA desires to maintain consistency in the low- and high-altitude light-duty truck emission standards, and because it was inadvertantly left out of the high-altitude light-duty truck proposed rule (45 FR 5988, January 24, 1980). The need for and benefits from an idle CO standard at high altitude are similar to the need and benefits at low altitude. (A more detailed discussion of the idle CO standard for light-duty trucks can be found in the Summary and Analysis of

[2] "Controlling Emissions from Light-Duty Motor Vehicles at Higher Elevations—A Report to Congress," EPA–460/3–83–001, U.S. EPA, OAR, OMS, February 1983.

Comments to the final rule for revised heavy-duty engine HC and CO standards.[3] Although that document deals with the idle CO standard at low-altitude, the discussion is also applicable to the proposed high-altitude standard.)

The proposed standard is 0.50 percent of exhaust gas flow at curb idle, which is the same as the idle CO emission standard for light-duty trucks at low altitude. The method used to derive this standard is discussed below.

The baseline level of light-duty truck idle CO emissions at low altitude was determined to be 4.7 percent of exhaust gas flow. To determine the absolute change in idle CO emissions with increased altitude, the same fleet of 1970 model year light-duty vehicles used to determine the effects of altitude on HC and CO exhaust emissions was used. (Data from these vehicles were used since specific data characterizing the effect of increased altitude on light-duty truck emissions are not available.) The change was an increase of 0.4 percent of exhaust gas flow; thus the high-altitude baseline light-duty truck idle CO level was estimated to be 4.7 plus 0.4, or 5.1, percent.

The low-altitude light-duty truck idle CO standard represents a 90 percent reduction from the baseline, rounded to 0.50 percent. A 90 percent reduction applied to the high-altitude baseline derived above yields a standard of 0.51 percent. This is not significantly different from the low-altitude standard, so EPA has decided to propose the same standard for high altitude.

EPA believes that this standard will impose no discernible burden on the affected manufacturers. In fact, as with low-altitude light-duty trucks, EPA anticipates that for any light-duty truck meeting the high-altitude exhaust CO emission standard, compliance with the idle CO standard in the 1987 model year should be virtually automatic. Thus, no significant need for leadtime exists. EPA does not expect this standard to have any impact on cost or fuel economy.

particulate. The proposed particulate standard for high-altitude light-duty trucks, in 1987 and later model years, is 0.26 g/mi. As was the case with the idle CO standard, proposal of this standard was inadvertently omitted from the light-duty truck high-altitude rulemaking. Although diesel particulate tends to increase with altitude, EPA is proposing the same standard for high-altitude as already exists for low-altitude. The general reason for adjusting a standard for altitude is to allow use of the same control technology for both low- and high-altitude. In this case such an adjustment is not necessary to attain that goal. The only impact of using the same standard at low- and high-altitude would be the need for a somewhat higher fraction of trap-equipped vehicles at high-altitude. This approach is also consistent with that used for light-duty diesel vehicles, which have the same particulate standard at low- and high-altitude.

EPA believes that this standard will have little impact on manufacturers' compliance plans. Although they would not otherwise have been required to meet any high-altitude particulate requirements, the Agency expects that trap useage would still have been carried over to high altitude vehicles as a matter of course. This proposal insures that such carryover will indeed occur.

5. Heavy-Duty Engine Test Procedures Revision

Today's notice proposes several revisions to the heavy-duty engine test procedures contained in Subpart N of 40 CFR Part 86. These are the inclusion of particulate testing and measurement procedures for heavy-duty diesel engines revisions pertaining to the measurement and calculation of NO_x emissions, and other minor technical corrections.

The incorporation of particulate testing procedures for heavy-duty diesel engines is fundamentally related to the proposed establishment of particulate emission standards. This action will require numerous revisions within Subpart N, which cannot all be detailed here. The procedure is basically the same as was proposed in the heavy-duty diesel particulate proposal (46 FR 1910); only the changes that have been made since that time are discussed below.

The particulate measurement procedure requires a dilution tunnel and proportional mass sampling of the diluted exhaust stream. This could be accomplished in either of two ways: through the use of two constant mass sampliers, or through the use of a variable mass sampler in conjunction with the standard CVS. The temperature of the diluted exhaust at the location of the particulate filter would have to be kept below 125 °F (51.7 °C) at all times.

Provisions for measuring background particulate levels have been incorporated into the test procedure, and the procedure has been made consistent with various minor changes that were made to the light-duty test procedure before it was promulgated. For complete details, the reader is referred to the draft regulations appearing at the end of today's notice.

Two technical aspects of the measurement and calculation of heavy-duty engine NO_x emissions were commented on by the manufacturers in their responses to earlier proposals. The first deals with bag versus continuous sampling procedures, and possible adjustments to the NO_x standards depending on the method chosen. The NO_x standards proposed today and discussed in preceding sections are technology-based (*i.e.*, based on test data). All of the gasoline-fueled heavy-duty engine NO_x data used in determining the level of the standards were obtained by bag sampling, while all of the heavy-duty diesel engine data were obtained using direct (continuous) sampling procedures. The measurement techniques characteristic of each engine type are accounted for in the standards, even though they have the same numerical values for both engine types.

EPA expects that gasoline-fueled heavy-duty engine NO_x measurements will continue to be performed using bag sampling procedures, while heavy-duty diesel engine NO_x measurements will continue to be performed using direct sampling. The proposal recognizes the likelihood of this, and bases the respective gasoline-fueled and diesel heavy-duty engine NO_x standards on the corresponding procedures. A correction factor has also been included to be applied to gasoline-fueled heavy-duty engine NO_x data obtained through direct measurement. Since EPA proposes allowing gasoline-fueled heavy-duty engine manufacturers the option of using direct sampling for NO_x measurement, this factor will be applied to all gasoline-fueled heavy-duty engine NO_x data obtained using direct sampling. Since no heavy-duty diesel engine manufacturers use bag sampling procedures, no provisions for such an option are proposed today.

The other technical aspect of the NO_x test procedure on which EPA received comment is the humidity correction factor. EPA has derived such a factor, which is already included in Subpart N, on the basis of current NO_x levels and humidity specifications. At this time, it is still uncertain whether a factor derived from current levels can be applied to the much lower model year 1990 NO_x levels. EPA will be collecting additional data that will be used to further evaluate the applicability of this correction factor, in conjunction with the ongoing heavy-duty emission factors testing program. As part of today's

[3] "Summary and Analysis of Comments on the Notice of Proposed Rulemaking for Revised Gaseous Emission Regulations for 1984 and Later Model Year Light-Duty Trucks and Heavy-Duty Engines," pp. 134–139, U.S. EPA, OAR, OMS, July 1983. This document is available in Docket No. A–81–11 (see "Addresses").

proposal, EPA solicits comment and supporting data on the appropriate level of a humidity correction factor to be applied to NO_x measurements under the proposed standards and on the need for changing the existing factor.

EPA also requests comment on several potential improvements to the transient test procedure and on the details of such revisions. These are: (1) relaxing one required cycle performance statistic (standard error-horsepower) for diesel engines, (2) adding a standard calibration procedure for the throttle control system for gasoline-fueled engines, and (3) changing the primary torque measurement method to an electronically-compensated case-load system.

Finally, Subpart N sections directly affected by other provisions of today's proposal are reorganized in the draft regulations to improve logical order and readability. These changes have no substantive effect.

6. In-Use Durability Program

The heavy-duty engine NO_x advance notice (46 FR 5838) indicated EPA's intent to propose revisions to the durability testing procedures applicable to light-duty trucks and heavy-duty engines. The focus of these revisions was the use of an in-use fleet of production vehicles or engines to determine deterioration factors.

EPA has decided not to propose such a program at this time. The new durability testing requirements were intended to provide greater assurance that the deterioration factors used in the certification process adequately represented in-use emission deterioration. However, since the in-use durability program was first proposed, there have been several changes that may act to accomplish that goal.

The heavy-duty engine manufacturers and EPA have begun a cooperative testing program aimed at developing more accurate and representative in-use heavy-duty engine emission factors. These factors are used in the analyses by which air quality improvements resulting from emission control regulations are projected. EPA is encouraged both by the goals of this program and the cooperative framework under which it is being conducted. Such testing will provide EPA with data on in-use emissions performance, and enable the Agency to decide at some point in the future whether an in-use durability testing program is needed.

Second, an important regulatory change has been promulgated since in-use durability testing was proposed. This is the change to full-life useful life promulgated in the final rule for revised heavy-duty engine HC and CO standards (48 FR 52170). Since deterioration factors must now be based on the full useful life of light-duty trucks and heavy-duty engines, and since manufacturers have increased liability for the in-use performance of their vehicles or engines, compliance with applicable emission standards in-use is more likely. Full-life requirements will themselves focus manufacturers' attention on out-year emissions performance.

Third, EPA notes that under the current full-life durability testing requirements, manufacturers are given full responsibility not only for determining the deterioration factors, but also for the method used in those determinations, subject only to the restraint that testing be designed and conducted in accordance with good engineering judgment to assure that the vehicle or engine will comply with the applicable emission standards in actual use for the useful life of the vehicle or engine. This means that the manufacturers have the opportunity to generate accurate in-use emissions performance data with considerably greater flexibility than the originally proposed in-use durability program would have allowed, and to use this information to improve the representativeness of the deterioration factors submitted for certification. By doing so, the industry can demonstrate good faith efforts at compliance with the current regulations, thereby avoiding the need for additional regulatory action.

As an example, one heavy-duty engine manufacturer (Cummins) responded to the proposed in-use durability testing requirements with a proposal likely to aid in attaining the goals of increased accuracy and representativeness of deterioration factors. Basically, this proposal would take heavy-duty engines which have accumulated in-use service, remove them from the heavy-duty vehicles in which they had been used, then test them for emissions deterioration. These test results would then be used in the development of accelerated laboratory test procedures for other engine families, to more accurately simulate in-use emissions deterioration. EPA is encouraged by the nature of this initiative and believes that it reflects a serious effort at complying with both the letter and the intent of the current requirements.

As was indicated in many of the comments received in response to the advance notice, the expenses and difficulties associated with implementation of the in-use durability program would be significant. This is particularly true for heavy-duty engines, since the logistics of locating in-use engines for emission testing would at best be difficult. The expense could be very high; in addition to the costs to the manufacturer, there would be considerable expense and inconvenience to the owner/operator of a heavy-duty vehicle solicited for testing. In fact, it is possible that manufacturers would have difficulty persuading owner/operators to give up use of their heavy-duty engines for the necessary testing. While EPA does not believe that these problems are insurmountable, they are significant, and in light of the other developments discussed above, they argue for a delay in further revisions to the durability testing requirements.

Although EPA is not proposing the in-use durability program today, this does not mean that such a program might not be proposed at a later date. If continued monitoring of heavy-duty engine emission test results from in-use cooperative testing programs reveals that the deterioration factors determined and submitted by the manufacturers are unrepresentative of in-use emissions deterioration, EPA reserves the option of later proposing a program similar to that described above.

7. Technical Corrections

On November 16, 1983, EPA published a final rule for revised HC and CO emission standards for 1985 and later model year light-duty trucks and heavy-duty engines (48 FR 52170). That rulemaking involved extensive revisions to Subparts A and N of 40 CFR Part 86, as well as lesser revisions to other subparts. Since that time, EPA has determined that two technical errors occurred in those regulations as published. In § 86.085–25(b)(1)(iii)(B), the maintenance intervals for light heavy-duty diesel engine injectors and turbochargers were intended to be of equal stringency to those for light-duty trucks, based on the closeness of their respective useful life periods. However, those intervals were incorrectly specified at the same stringency as those applicable to medium and heavy heavy-duty diesel engines. EPA proposes correction of this error, at § 86.087–25(b)(4)(ii) in the draft regulations. In § 86.087–28(b)(6)(ii)(C), the definition of "line crossing" refers incorrectly to the interpolated 4,000- and 5,000-mile points. This is proposed to be corrected to refer to the interpolated 4,000- and 120,000-mile points. A typographical error in § 86.087–28(b)(4)(ii) is also proposed to be corrected here.

III. Impacts of the Proposal

A. Environmental Impact

The standards contained in today's proposal are intended to reduce NO_x and particulate emissions to the atmosphere. EPA has prepared air quality analyses that estimate the improvements in ambient air quality which would result from implementation of these standards. The highlights of these analyses are summarized in this section. The complete analyses are included in the Draft Regulatory Impact Analysis, and the "Diesel Particulate Study,"[1] both available in the docket referenced above. The Draft Regulatory Impact Analysis incorporates the NO_x Pollutant Specific Study, concerning the effects of NO_x emissions from heavy-duty vehicles and engines on the public health and welfare, as required by section 202(a)(3)(E) of the Act.

1. Particulate

The aim of the standards in today's proposal is to hold heavy-duty diesel particulate emissions at or below 1983 levels, thereby preventing significant growth in total diesel particulate emissions.

Lifetime per-vehicle particulate emissions from heavy-duty diesel engines would be reduced substantially by implementation of today's proposed standards. Current lifetime per-vehicle particulate emissions from heavy-duty diesels average about 0.78 tons. Under the proposed 1987 standard of 0.60 g/BHP-hr, these emissions would drop by more than 14 percent, to 0.67 tons per vehicle. The 0.25 g/BHP-hr standard proposed for 1990 would further reduce these average lifetime per-vehicle emissions to about 0.34 tons. Thus, lifetime per-vehicle emissions after 1990 would be about 56 percent lower.

The impact of these reductions on total particulate emissions from all in-use heavy-duty diesel engines in 1995 would be significant. Despite the expected growth in diesel sales and vehicle miles travelled between 1983 and 1995, total particulate emissions from heavy-duty diesels in 1995 are projected to be about 5 percent below 1983 levels, and 50 percent below projected 1995 levels without this control.

In spite of the reductions expected in heavy-duty diesel emissions, overall diesel particulate levels may continue to increase between 1983 and 1995. Best estimate growth projections indicate an increase in total diesel particulate of over 40 percent from 1983 to 1995, attributable to growth in diesel light-duty vehicle and light-duty truck emissions.

The discussion of the environmental need for particulate control earlier in today's notice stated that in 1995, without new standards, the urban concentration of fine suspended particulate matter from diesels would be about 2 to 8 $\mu g/m^3$, up from current concentrations estimated at about 1 to 3 $\mu g/m^3$. The standards proposed today would limit the increase otherwise expected in overall emissions, so that the resulting increase in ambient air concentration would also be reduced. In particular, 1995 ambient concentrations of diesel particulate would be reduced by about 1 to 3 $\mu g/m^3$, to a range of about 1 to 5 $\mu g/m^3$.

Without additional control of diesel particulate, EPA projected that visibility in large urban areas would be reduced by about 21 percent by 1995, compared to visibility assuming no diesel particulate emissions. The visibility reductions in smaller urban areas was projected to be 3 to 8 percent. The particulate control represented by today's proposed standards is projected to reduce these impacts, to about 14 percent in large urban areas and to between 2 and 5 percent in smaller urban areas. With regard to soiling, the proposed standards should result in a significant cost savings.

2. NO_x

The proposed NO_x standards would significantly reduce light-duty truck and heavy-duty engine NO_x emissions. The projected emission reductions for each class of vehicle and engine are described below, followed by the impacts on attainment status and average ambient NO_x concentrations.

Light-duty trucks. The 1.2 and 1.7 g/mi light-duty truck NO_x standards would reduce lifetime per-vehicle NO_x emissions by nearly half from current levels. Under the current 2.3 g/mi standard, gasoline-fueled and diesel light-duty trucks emit an average of about 0.3 tons of NO_x over their full useful life. The proposed standard would reduce these lifetime per-vehicle emissions to about 0.17 tons for light-duty trucks meeting the 1.2 g/mi standard, representing a reduction of about 42 percent, and to about 0.21 tons for those light-duty trucks meeting the 1.7 g/mi standard, representing a reduction of about 30 percent.

These reductions, when combined with estimates of annual sales and vehicle miles travelled, reveal that total NO_x emissions from light-duty trucks in 1995 would be reduced by about 29 percent from the levels projected without this control, in both low-and high-altitude areas. However, compared to 1980 levels, overall light-duty truck NO_x emissions would be virtually unchanged in 1995, since the reductions in per-vehicle emissions would offset projected growth in vehicle miles traveled. Taking into account the contribution of light-duty trucks to total NO_x emissions, 1995 NO_x emission inventories would be about 2 percent lower than those projected without these standards.

Gasoline-fueled heavy-duty engines. The NO_x standards proposed for heavy-duty engines would reduce lifetime emissions from gasoline-fueled heavy-duty engines by nearly half after 1990. Lifetime emissions of NO_x from these engines are about 1.19 tons under the current standard. This figure would drop to about 1.04 tons with the 1987 standard and to about 0.69 tons with the 1990 standard, representing reductions of 13 and 42 percent, respectively.

Total NO_x emissions from all gasoline-fueled heavy-duty engines in use in 1995 would be reduced by about 30 percent from levels projected without further control. This results in total 1995 NO_x emissions inventories being about one percent lower than those projected to occur without these standards.

Heavy-duty diesel engines. The projected reductions in NO_x emissions from heavy-duty diesel engines are comparable, on a percentage basis, to those from gasoline-fueled heavy-duty engines. These reductions would be much larger in absolute terms, however, illustrating the major role these engines play in overall NO_x emissions and the importance of controlling their emissions.

Under the current standards, average lifetime NO_x emissions from heavy-duty diesel engines are about 9.8 tons. The proposed 1987 standard would lower these emissions to about 8.3 tons, a reduction of 15 percent. Under the proposed 1990 standard, lifetime emissions would be further reduced to about 5.5 tons, a drop of 44 percent from current levels.

These reductions would lead to decreases in total 1995 heavy-duty diesel NO_x emissions of approximately 30 percent from levels projected without these standards. Compared to 1980, heavy-duty diesel NO_x levels would increase about 40 percent. Since these engines play such a dominant role in overall NO_x emissions, total 1995 NO_x emission inventories are projected to be about 10 percent lower than would be the case without this control.

Total impact of proposed NO_x standards. The primary National Ambient Air Quality Standard for NO_x is an annual average concentration of 0.053 parts per million (ppm). The air

quality analysis examined six low-altitude and two high-altitude standard metropolitan statistical areas (SMSAs) that currently have annual average NO_2 concentrations of 0.040 ppm or greater, meaning that these areas are within 25 percent of the standard.

Without the NO_x control that will result from the new standards contained in this proposal, both of the high-altitude and three of the six low-altitude SMSAs are projected to be in non-attainment of the standard in 1995. In addition, two other low-altitude SMSAs are projected to have ambient NO_2 concentrations at the 0.053 ppm standard. Thus, only one of the eight SMSAs examined would be safely within the NO_2 standard.

The combined impact on total 1995 NO_x emissions inventories of all of the NO_x standards proposed today would be about a 13 percent reduction from levels projected without this control, although total NO_x emissions are still projected to increase by about 4 percent from the 1980 levels shown in Figure 2. These reductions are projected to improve average ambient NO_2 concentrations by 16 percent at low altitude and 17 percent at high altitude from the concentrations projected without this control. These benefits would improve the attainment status of the SMSAs considerably, essentially back to baseline year levels.

B. Economic Impact

The complete economic analysis of today's proposal is contained in the Draft Regulatory Impact Analysis, which is available in the docket. The highlights of that analysis are summarized here. All figures are in 1984 dollars and assume a 10 percent discount rate.

The costs of these regulations can be broken down into several components. The cost incurred by the manufacturers is the total of research and development, hardware, new test equipment, and added testing costs. These costs are generally recovered from consumers by their incorporation into the price of new vehicles or engines. The total, or lifetime, cost to the consumer is then the sum of the new price increase and any changes in the cost of operation and maintenance, based on changes in fuel consumption and increases or decreases in required maintenance over the life of the vehicle or engine. The aggregate cost of the nation is then derived from the cost to the consumer and the number of vehicles projected to be sold in a given period.

For light-duty trucks, the aggregate cost is calculated on a five-year basis (1987 through 1991). The aggregate costs for heavy-duty engines, however, are calculated over two three-year periods, 1987 through 1989 and 1990 through 1992. This is because the standards proposed for heavy-duty engines in this notice are at interim levels: the 1987 standards will be superseded by the 1990 standards, which in turn must be revisited in a later rulemaking. Aggregate costs are estimated each of the applicable three-year cycles, 1987 through 1989 and 1990 through 1992.

In the following summary, costs are estimated for each of the effected vehicle classes (light-duty trucks, and gasoline-fueled and diesel heavy-duty engines). The total cost of the regulations in today's proposal is then the sum of the costs by class of vehicle.

Light-Duty Trucks. As has been noted, the high-altitude idle CO Standard for light-duty trucks is not expected to result in any increase in cost to either the manufacturer or the consumer. The high-altitude NO_x and particulate standards for light-duty trucks, while not proportional, are based on the same technology that is expected to be used at low altitudes, and therefore are not expected to generate any significant increase in cost. Thus the light-duty truck costs result primarily from the revised NO_x standards.

The costs attributable to the new NO_x standards, for research and development and recertification testing expended prior to 1987, and for hardware on 1987 through 1991 model year light-duty trucks, are estimated to be $1.29 billion (undiscounted). All but about $27 million of this amount would be for hardware. This cost would translate to an increase of $44 to $87 in the estimated purchase price of an average new 1987 model year gasoline-fueled light-duty truck, and an increase of $35 in the purchase price of an average new 1987 model year light-duty diesel truck. No fuel economy impact or change in operating and maintenance costs is anticipated, so this also would represent the total cost to the consumer over the life of the vehicle.

Based on the best estimates of light-duty truck sales, the discounted five-year (1987 to 1991 inclusive) aggregate cost to the nation of the light-duty truck NO_x standards would be between $612 million and $1.08 billion. This would break down to $124 million for diesel light-duty trucks, and $488 to 965 million for gasoline-fueled light-duty trucks.

Gasoline-Fueled Heavy-Duty Engines. There are two NO_x standards proposed in today's notice for gasoline-fueled heavy-duty engines, to take effect in the 1987 and 1990 model years. The costs to the manufacturers and to consumers are outlined first for the 1987 standards, then for the 1990 standards relative to the costs for 1987 through 1989. The aggregate costs are based on the two three-years periods, 1987 through 1989 and 1990 through 1992.

The 6.0 g/BHP–hr NO_x standard for 1987 would require manufacturer expenditures of $1.5 million for research and development and recertificatioin testing prior to 1987. No retooling or hardware costs are expected, nor is there any need for new test equipment. Purchasers of new 1987 model year gasoline-fueled heavy-duty engines would see a first price increase of approximately $2 as a result. No changes in annual operating and maintenance costs are anticipated, and the fuel economy impact of this standard, if any, is expected to be very slight.

The more stringent 4.0 g/BHP–hr NO_x standard for 1990 and later would require additional industry expenditures of $17.4 million for additional research and development and recertification testing, and for hardware on 1990 through 1992 model year engines. Again, no need for additional test equipment is expected. These costs would increase the purchase price of new 1990 model year gasoline-fueled heavy-duty engines by $18 over the model year 1987 costs.

The three-year aggregate cost of the model year 1987 NO_x standards, discounted to 1987, would be $1.8 million. The three-year aggregate cost of the model year 1990 standard, discounted to 1990, would be $19.0 million. Expressed as an equivalent single lump-sum investment in 1987, the total six-year aggregate cost of the 1987 and 1919 NO_x standards for gasoline-fueled heavy-duty engines would be $16 million.

Heavy-Duty Diesel Engines. The cost estimates for heavy-duty diesel engines are more complicated, since both NO_x and particulate standards are proposed for 1987 and 1990. As in the preceding discussion of gasoline-fueled heavy-duty engine costs, cost estimates are presented for the 1987 standards and for the 1990 standards relative to the costs for 1987 through 1989.

The 1987 NO_x and particulate standards would require manufacturer expenditures of $29.0 million for research and development and for recertification testing prior to 1987. The cost of hardware to be used on 1987 through 1989 model year engines is estimated at $17.7 million. Thus, the total increase in manufacturer expenditures due to the 1987 standards would be about $46.7 million. Discounted to 1987, the cost would be approximately $49.8 million.

These costs would be recovered through an expected increase of $47 in

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the purchase price of new heavy-duty diesel engines. Discounted lifetime operating costs could rise by up to $730, due to a maximum projected fuel economy penalty of 2 percent. The net discounted cost to the consumer per heavy-duty diesel engine thus would be estimated as being between $47 and $777. However, EPA believes that the fuel economy impact of the 1987 standard is likely to be less than this maximum projection, and will gradually be eliminated as new technology is introduced in subsequent model years.

With the implementation of more stringent NO_x and particulate standards in 1990, manufacturers would face additional expenditures of $866 million. The bulk of this amount would be represented by the cost of new hardware (primarily trap-oxidizers) on 1990 through 1992 model year engines. This is projected to boost the purchase price of new heavy-duty diesel engines by about $715 over 1989 costs. To provide some perspective on this figure, heavy-duty diesel engines cost between $2,000 and $12,000 each, and completed heavy-duty diesel vehicles can cost as much as $100,000. The lifetime cost of owning and operating a line-haul heavy-duty diesel is about $275,000. Thus, the cost of these standards are small with respect to total costs.

Taking a maximum projected fuel economy penalty of one to 4 percent into account, discounted fuel costs over the life of the engine would incease by between $365 and $1,461. EPA has very little data on which to base estimates of fuel economy penalties for heavy-duty diesel engines. Some applications, in both 1987 and 1990, may not suffer any fuel economy penalties; the estimates contained in this analysis are the maximum effects expected for any affected engines. In addition, any fuel economy penalties that might occur as a result of the 1990 standards should decrease, and eventually be eliminated, as more advanced technology is phased in and efforts to minimize fuel consumption are emphasized. Thus, the 2 percent (for 1987) and 4 percent (for 1990) fuel economy penalties included in this analysis should be considered as estimates o the upper bounds on possible fuel economy impacts.

Maintenance savings of $26 are expected to result from reduced replacement costs of exhaust pipes. Thus a net increase in operating and maintenance costs of between $339 and $1,435 would be expected, and the net lifetime cost to the owner of a heavy-duty diesel engine would be between $1,054 and $2,150.

The aggregate cost of the 1987 standards for the three-year period 1987 through 1989, discounted to 1987, is estimated to be $49.8 million. The aggregate cost of the 1990 standards, discounted to 1990 and representing the three years 1990 through 1992, is estimated to be $814 million. If the costs of the 1990 standards are also discounted to 1987, the total cost of these standards for heavy-duty diesel engines can be viewed as equivalent to a lump-sum investment of $861 million in 1987.

C. Cost Effectiveness

The methodology used to estimate the cost effectiveness of these standards is explained in detail in the Draft Regulatory Impact Analysis. The results of that analysis show that on an urban air quality basis, the control of diesel particulate emissions is cost effective relative to stationary source particulate control. Table 1 shows the cost effectiveness of the NO_x standards proposed today in relation to two other potential mobile source NO_x control strategies, and indicates that these standards are more cost effective than other potential programs for controlling vehicle NO_x emissions. The proposed light-duty truck NO_x standards, however, are the least cost effective of the proposed NO_x standards and may be more or less cost effective than control of stationary sources.

TABLE 1.—COMPARATIVE LIFETIME COST-EFFECTIVENESS OF MOBILE SOURCE NO_x CONTROLS

Mobile source NO_x control strategy	Cost effectiveness* (per ton)
Gasoline-fueled heavy-duty engines:	
(1987 standard)	15
(1990 standard)	55
Diesel heavy-duty engines:	
(1990 standard)	100–380
(1987 standard)	10–480
Diesel light-duty trucks	340
Gasoline-fueled light-duty trucks	320–630
Light-duty vehicles (1.0 to 0.4 g/mi)	2,400
Light-duty vehicles (I/M)	2,500

*Values ranked by midpoints of ranges.

Light-Duty Truck NO_x. The projected emission reductions and cost estimates given above, with costs computed on a lifetime basis, yield a cost effectiveness for diesel light-duty trucks of $340 per ton of NO_x emissions prevented. In the case of gasoline-fueled light-duty trucks, the per-ton cost of NO_x emissions reduction would be between $320 and $630. Both values compare quite favorably with the cost effectiveness of reducing light-duty vehicle NO_x emissions trhough lowering the NO_x standard from 1.0 to 0.4 g/mi or through inspection and maintenance programs.

Gasoline-Fueled Heavy-Duty Engine NO_x. The cost effectiveness of the proposed NO_x standards for gasoline-fueled heavy-duty engines would be very good. Although the control of NO_x emissions from these engines would not lead to large reductions in NO_x emission inventories, since gasoline-fueled heavy-duty engines are a relatively minor fraction of the total, the costs of this control would be very low. Thus, the lifetime cost effectiveness would be excellent. For the 6.0 g/BHP-hr NO_x standard proposed for 1987, the cost per ton of reduced NO_x emissions would be about $15. Even with the tighter 4.0 g/BHP-hr standard proposed for 1990, the cost effectiveness value would be only about $55 per ton of NO_x reduction.

Heavy-Duty Diesel Engine No_x. The lifetime cost effectiveness for the proposed 1987 No_x standard ranges from $10 to $480 per ton reduction in No^x emissions, depending on fuel economy effects. The corresponding value for the reductions due to the 1990 standard would be between $100 and $380, again depending on the fuel economy effects. These values also compare very favorably with the cost effectiveness of the light-duty vehicle No_x control strategies shown in Table 1.

Heavy-Duty Diesel Engine Particulate. In the Draft Regulatory Impact Analysis, it was noted that comparisons of the cost effectiveness of emission control from stationary and mobile sources had to account for the different impact that emissions from each source category have on air quality. This is especially true in the case of particulate, where the focus of existing air quality problems is in urban areas. This analysis therefore examined the urban air quality impacts of the particulate standards proposed here. In other words, EPA has considered only the particulate reductions projected to occur as a result of today's proposal in urban areas, and has not used non-urban particulate reductions in calculating cost effectiveness.

On this basis, the cost effectiveness for the proposed 1987 particulate standard of 0.60 g/BHP-hr, which will not require the use of trap-oxidizers, would be about $1,400 per ton reduction in emissions of particulate matter. Combined with the proposed 1990 standard of 0.25 g/BHP-hr, which will require about 70 percent of heavy-duty diesel engines to use traps, the total urban cost effectiveness would be about $10,000 per ton.

IV. Public Participation

Comments and the Public Docket

As in past rulemaking activities, EPA desires full public participation in

arriving at final rulemaking decisions. In addition to those areas where specific comment has been requested earlier in this preamble, EPA solicits comments on all aspects of today's proposals from all interested parties. Wherever applicable, full supporting data and detailed analyses should also be submitted to allow EPA to make maximum use of the coments. Commenters are especially encouraged to provide suggestions for modification of any aspects of the proposal that they find objectionable. All comments should be directed to the Central Docket Section, Docket No. A-80-18 (*see* "Addresses").

Commenters desiring to submit proprietary information for consideration should clearly distinguish such information from other comments to the greatest possible extent, and clearly label it "Confidential Business Information." Submissions containing such proprietary information should be sent directly to the contact person listed above, and not to the public docket, to ensure that proprietary information is not inadvertantly placed in the docket.

Information covered by such a claim of confidentiality will be disclosed by EPA only to the extent allowed and by the procedures set forth in 40 CFR Part 2. If no claim of confidentiality accompanies the submission when it is received by EPA, it may be made available to the public without further notice to the commenter.

Public Hearings

Any person desiring to present testimony regarding this proposal at the public hearings (*see* "Dates") should, if possible, notify the contact person listed above of such intent at least seven days prior to the opening day of the hearing. The contact person should also be given an estimate of the time required for the presentation of the testimony and notification of any need for audio/visual equipment. A sign-up sheet will be available at the registration table the morning of the hearing for scheduling of the order of testimony.

It is suggested that approximately 50 copies of the statement or material to be presented be brought to the hearing for distribution to the audience. In addition, it will be helpful for EPA to receive an advance copy of any statement or material to be presented at the hearing at least one week before the scheduled hearing date, in order for EPA staff to have adequate time to give such material full consideration. Such advance copies should be submitted to the contact person listed above.

The official records of the hearings will be kept open for 30 days following the hearing to allow submission of rebuttal and supplementary testimony. All such submittals should be directed to the Central Docket Section, Docket No. A-80-18 (*see* "Addresses").

Mr. Richard D. Wilson, Director of the Office of Mobile Sources, is hereby designated Presiding Officer of the hearings. The hearings will be conducted informally, and technical rules of evidence will not apply. Written transcripts of the two hearings will be taken. Anyone desiring to purchase a copy of either transcript should make individual arrangements with the court reporter recording the proceedings.

V. Statutory Authority

Citations from the Act particularly relevant to the NO_x and particulate standards contained in today's proposal have been discussed in earlier portions of this notice. Authority for the allowable maintenance provisions and for the light-duty truck high-altitude standards is provided by the following sections of the Act:

Section 206(a)(1), which provides in part that "the Administrator shall test, or require to be tested, in such manner as he deems appropriate, any new motor * * * vehicle to determine whether such vehicle * * * conforms with the regulations prescribed under Section 202 of this Act."

Section 207, which authorizes the Administrator to promulgate regulations to ensure compliance with applicable emission regulations by vehicles and engines in actual use.

Section 208, which authorizes the Administrator to require manufacturers of new motor vehicles and new motor vehicle engines to maintain and to submit such records as may reasonably be required in order to determine that the manufacturer has acted or is acting in compliance with regulations promulgated under this part.

Section 301(a), which provides in part that "the Administrator is authorized to prescribe such regulations as are necessary to carry out his functions under this Act."

In addition, EPA believes that the broad authority to promulgate regulations governing manufacturers' compliance with section 202 of the Act provides the necessary authority for the particulate averaging program proposed in this notice.

List of Subjects in 40 CFR Part 86

Administrative practice and procedures, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements.

Administrative Designation and Regulatory Analsysis

The Administrator has determined that this action constitutes a major regulation, and accordingly a Draft Regulatory Impact Analysis has been prepared as required under Executive Order 12291. This analysis includes detailed assessments of the estimated economic and environmental impacts of the regulations proposed here, as well as more thorough analyses of the technological feasibility of the emission standards and other regulatory provisions proposed here, and the alternatives that were considered in the development of this proposal.

The Draft Regulatory Impact Analysis has been placed in the public docket referenced at the beginning of today's notice. In addition, interested parties may obtain single copies through a written request to: Director, Emission Control Technology Division, Office of Mobile Sources, 2565 Plymouth Road, Ann Arbor, MI 48105, Attn: Heavy-Duty Section.

This regulation was submitted to the Office of Managment and Budget (OMB) for review as required by Executive Order 12291. Any comments from OMB and any EPA response to those comments are in the public docket for this rulemaking.

Impact on Small Entities

Section 605 of the Regulatory Flexibility Act requires that the Administrator certify regulations that do not have a significant impact on a substantial number of small entites. I certify that this regulation does not have such an effect because it primarily affects only manufacturers of motor vehicles and motor vehicle engines, a group which does not contain a substantial number of small entities.

Reporting and Recordkeeping Requirements

Most of the information collection requirements contained in this proposed rule have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, and have been assigned OMB Control Number 2000-0390. The information collection provisions relating to the heavy-duty diesel particulate standard have been submitted for approval to OMB. Comments on these requirements should be submitted to the Office of Information and Regulatory Affairs of OMB—marked Attention: Desk Officer for EPA. The final rule package will respond to any OMB or public

comments on the information collection provisions.

Authority for the actions proposed in this notice is granted EPA by sections 202, 203, 206, 207, 208, and 301 of the amended Clean Air Act (42 U.S.C. 7521, 7522, 7525, 7541, 7542, and 7601.)

Dated: October 5, 1984.

Alvin L. Alm,

Deputy Administrator.

PART 86—[AMENDED]

For the reasons set forth in the Preamble, Part 86 of Title 40 of the Code of Federal Regulations is amended as set forth below:

1. The authority for Part 86 is revised to read as follows:

Authority: Sec. 202, 203, 206, 207, 208, 301a, Clean Air Act as Amended; 42 U.S.C. 7521, 7522, 7525, 7541, 7542, 7601a.

2. A new Subpart As consisting of § 86.2500 is proposed to be added to Part 86, to read as follows:

Subpart AA—Reporting and Recordkeeping Requirements for Part 86

§ 86.2500 Reporting and recordkeeping requirements.

All reporting and recordkeeping requirements contained in Part 86, except for those requirements contained in Subparts G and K, have been approved by the Office of Management and Budget under control number 2000–0390.

Subpart A—[Amended]

3. A new § 86.087–2 is proposed to be added to Subpart A, to read as follows:

§ 86.087–2 Definitions.

The definitions in § 86.085–2 remain effective. The definitions in this section apply beginning with the 1987 model year.

"Critical emission-related components" are those components which are designed primarily for emission control, or whose failure may result in a significant increase in emissions accompanied by no significant impairment (or perhaps even an improvement) in performance, driveability, and/or fuel economy as determined by the Administrator.

"Critical emission-related maintenance" means that maintenance to be performed on critical emission-related components.

"Emission-related maintenance" means that maintenance which does substantially affect emissions or which is likely to affect the emissions deterioration of the vehicle or engine during normal in-use operation, even if the maintenance is performed at some time other than that which is recommended.

"Non-emission-related maintenance" means that maintenance which does not substantially affect emissions and which does not have a lasting effect on the emissions deterioration of the vehicle or engine during normal in-use operation once the maintenance is performed.

4. Section 86.087–9 of Subpart A is proposed to be amended by revising paragraphs (a)(1)(iii), (d)(1)(ii), (d)(1)(iii) and (d)(2), and adding a new paragraph (d)(1)(iv), to read as follows:

§ 86.087–9 Emission standards for 1987 light-duty trucks.

(a)(1) * * *

(iii) *Oxides of nitrogen.* (A) For light-duty trucks up to 6,000 lbs gross vehicle weight or 3,999 lbs equivalent test weight, 1.2 grams per vehicle mile (0.75 grams per vehicle kilometer).

(B) For light-duty trucks 6,001 lbs gross vehicle weight and greater and 4,000 lbs equivalent test weight and greater, 1.7 grams per vehicle mile (0.75 grams per vehicle kilometer).

* * * * *

(d)(1) * * *

(ii) *Carbon Monoxide.* (A) 14.0 grams per vehicle mile (8.7 grams per vehicle kilometer).

(B) 0.50 percent of exhaust gas flow at curb idle (gasoline-fueled vehicles only).

(iii) *Oxides of nitrogen.* (A) For light-duty trucks up to 6,000 lbs gross vehicle weight or 3,999 lbs equivalent test weight, 1.2 grams per vehicle mile (0.75 grams per vehicle kilometer).

(B) For light-duty trucks 6,001 lbs gross vehicle weight and greater and 4,000 lbs equivalent test weight and greater, 1.7 grams per vehicle mile (0.75 grams per vehicle kilometer).

(iv) *Particulate Emissions (diesels only).* 0.26 gram per vehicle mile (0.162 gram per vehicle kilometer). A manufacturer may elect to include all or some of its diesel light-duty truck engine families in the particulate averaging program, provided that trucks produced for sale in California or in designated high-altitude areas may be averaged only within each of those areas. If the manufacturer elects to average both diesel light-duty vehicles and diesel light-duty trucks together in the particulate averaging program, its composite particulate standard applies to the combined set of diesel light-duty vehicle and diesel light-duty truck vehicles included in the average and is calculated as defined in § 86.085–2.

(2) The standards set forth in paragraph (d)(1) of this section refer to the exhaust emitted over a driving schedule as set forth in Subpart B of this part and measured and calculated in accordance with those procedures. The standard set forth in paragraph (d)(1)(ii)(B) refers to the exhaust emitted at curb idle and measured and calculated in accordance with the procedures set forth in Subpart P of this part.

* * * * *

5. Section 86.087–10 of Subpart A is proposed to be amended by revising paragraphs (a) (1) (i) (C) and (a) (1) (ii) (C), to read as follows:

§ 86.087–10 Emission standards for 1987 and later model year gasoline-fueled heavy-duty engines and vehicles.

(a) (1) * * *

(i) * * *

(C) *Oxides of nitrogen.* 6.0 grams per brake horsepower-hour, as measured under transient operating conditions.

(ii) * * *

(C) *Oxides of nitrogen.* 6.0 grams per brake horsepower-hour, as measured under transient operating conditions.

* * * * *

6. A new § 86.087–11 is proposed to be added to Subpart A, to read as follows:

§ 86.087–11 Emission standards for 1987 and later model year diesel heavy-duty engines.

(a) (1) Exhaust emisisons from new 1987 and later model year diesel heavy-duty engines shall not exceed the following:

(i) *Hydrocarbons.* 1.3 grams per brake horsepower-hour, as measured under transient operating conditions.

(ii) *Carbon monoxide.* 15.5 grams per brake horsepower-hour, as measured under transient operating conditions.

(iii) *Oxides of nitrogen.* 6.0 grams per brake horsepower-hour, as measured under transient operating conditions.

(iv) *Particulate emissions.* 0.60 grams per brake horsepower-hour, as measured under transient operating conditions.

(2) The standards set forth in paragraph (a) (1) of this section refer to the exhaust emitted over operating schedules as set forth in paragraph (f) (2) of Appendix I of this part, and measured and calculated in accordance with the procedures set forth in Subpart N of this part, except as noted in § 86.087–23(c) (2) (i) and (iii).

(b) (1) The opacity of smoke emission from new 1987 and later model year diesel heavy-duty engines shall not exceed:

(i) 20 percent during the engine acceleration mode.

(ii) 15 percent during the engine lugging mode.

(iii) 50 percent during the peaks in either mode.

(2) The standards set forth in paragraph (b) (1) of this section refer to exhaust smoke emissions generated under the conditions set forth in Subpart I of this part and measured and calculated in accordance with those procedures.

(c) No crankcase emissions shall be discharged into the ambient atmosphere from any new 1987 model year naturally-aspirated diesel heavy-duty engine. This provision does not apply to engines using turbochargers, pumps, blowers, or superchargers for air induction.

(d) Model year 1987 and later heavy-duty diesel engines sold for principal use at a designated high altitude location shall be capable of meeting the following exhaust emission standards when tested under high altitude conditions:

(i) *Particulate Emissions.* 0.72 grams per brake horsepower-hour, as measured under transient operating conditions.

(e) except as provided in § 86.087–24 (b) (3) (iv) (B), every manufacturer of new motor vehicle engines subject to the standards prescribed in this section shall, prior to taking any of the actions specified in section 203(a) (1) of the Act, test or cause to be tested motor vehicle engines in accordance with applicable procedures in Subpart I or N of this part to ascertain that such test engines meet the requirements of paragraphs (a), (b), (c) and (d) of this section.

7. A new § 86.087–24 is proposed to be added to Subpart A, to read as follows:

§ 86.087–24 Test vehicles and engines.

(a) (1) the vehicles or engines covered by an application for certification will be divided into groupings of engines which are expected to have similar emission characteristics throughout their useful life. Each group of engines with similar emission characteristics shall be defined as a separate engine family.

(2) to be classified in the same engine family, engines must be identical in all the following respects:

(i) The cylinder bore center-to-center dimensions.

(ii) [Reserved]

(iii) [Reserved]

(iv) The cylinder block configuration (air cooled or water cooled; L–6, 90° V–8, etc.).

(v) The location of the intake and exhaust valves (or ports).

(vi) The method of air aspiration.

(vii) The combustion cycle.

(viii) Catalytic converter characteristics.

(ix) Thermal reactor characteristics.

(x) Type of air inlet cooler (*e.g.*, intercoolers and after-coolers) for diesel heavy-duty engines.

(3)(i) Engines identical in all the respects listed in paragraph (a)(2) of this section may be further divided into different engine families if the Administrator determines that they may be expected to have different emission characteristics. This determination will be based upon a consideration of the following features of each engine:

(A) The bore and stroke.

(B) The surface-to-volume ratio of the nominally dimensioned cylinder at the top dead center positions.

(C) The intake manifold induction port size and configuration.

(D) The exhaust manifold port size and configuration.

(E) The intake and exhaust valve sizes.

(F) The fuel system.

(G) The camshaft timing and ignition or injection timing characteristics.

(ii) Light-duty trucks and heavy-duty engines produced in different model years and distinguishable in the respect listed in paragraph (a)(2) of this section shall be treated as belonging to a single engine family if the Administrator requires it, after determining that the engines may be expected to have similar emission deterioration characteristics.

(4) Where engines are of a type which cannot be divided into engine families based upon the criteria listed in paragraphs (a)(2) and (a)(3) of this section, the Administrator will establish families for those engines based upon those features most related to their emission characteristics. Engines that are eligible to be included in the same engine family based on the criteria in paragraphs (a)(2) and (a)(3)(i) of this section may be further divided into different engine families if the manufacturer determines that they may be expected to have different emission characteristics. This determination will be based upon a consideration of the following features of each engine:

(i) The dimension from the center line of the crankshaft to the center line of the camshaft.

(ii) The dimension from the center line of the crankshaft to the top of the cylinder block head face.

(iii) The size of the intake and exhaust valves (or ports).

(5) The gasoline-fueled light-duty vehicles and light-duty trucks covered by an application for certification will be divided into groupings which are expected to have similar evaporative emission characteristics throughout their useful life. Each group of vehicles with similar evaporative emission characteristics shall be defined as a separate evaporative emission family.

(6) For gasoline-fueled light-duty vehicles and light-duty trucks to be classed in the same evaporative emission family, vehicles must be similar with respect to:

(i) Type of vapor storage device (*e.g.*, canister, air cleaner, crankcase).

(ii) Basic canister design.

(iii) Fuel system.

(7) Where vehicles are of a type which cannot be divided into evaporative emission families based on the criteria listed above, the Administrator will establish families for those vehicles based upon the features most related to their evaporative emission characteristics.

(8)(i) If the manufacturer elects to participate in the Alternative Durability Program, the engine families covered by an application for certification shall be grouped based upon similar engine design and emission control system characteristics. Each of these groups shall constitute a separate engine family group.

(ii) To be classed in the same engine family group, engine families must contain engines identical in all of the following respects:

(A) The combustion cycle.

(B) The cylinder block configuration (air-cooled or water-cooled; L–6, V–8, rotary, etc.).

(C) Displacement (engines of different displacement within 50 cubic inches or 15 percent of the largest displacement and contained within a multidisplacement engine family will be included in the same engine family group).

(D) Catalytic converter usage and basic type (noncatalyst, oxidation catalyst only, three-way catalyst equipped).

(9) Engine families identical in all respects listed in paragraph (a)(8) of this section may be further divided into different engine family groups if the Administrator determines that they are expected to have significantly different exhaust emission control system deterioration characteristics.

(10) A manufacturer may request the Administrator to include in an engine family group, engine families in addition to those grouped under the provisions of paragraph (a)(8) of this section. This request must be accompanied by information the manufacturer believes supports the inclusion of these additional engine families.

(11) A manufacturer may combine into a single engine family group those light-duty vehicle and light-duty truck engine families which otherwise meet the

requirements of paragraphs (a)(8) through (a)(10) of this section.

(12) The gasoline-fueled heavy-duty vehicles covered by an application for certification will be divided into groupings of vehicles on the basis of physical features which are expected to affect evaporative emissions. Each group of vehicles with similar features shall be defined as a separate evaporative emission family.

(13) For gasoline-fueled heavy-duty vehicles to be classed in the same evaporative emission family, vehicles must be identical with respect to:

(i) Method of fuel/air metering (*i.e.*, carburetion versus fuel injection).

(ii) Carburetor bowl fuel volume, within a 10 cc range.

(14) For gasoline-fueled heavy-duty vehicles to be classed in the same evaporative emission control system, vehicles must be identical with respect to:

(i) Method of vapor storage.

(ii) Method of carburetor sealing.

(iii) Method of air cleaner sealing.

(iv) Vapor storage working capacity, within a 20 gram range.

(v) Number of storage devices.

(vi) Method of purging stored vapors.

(vii) Method of venting the carburetor during both engine off and engine operation.

(viii) Liquid fuel hose material.

(ix) Vapor storage material.

(15) Where gasoline-fueled heavy-duty vehicles are types which cannot be divided into evaporative emission family-control system combinations based on the criteria listed above, the Administrator will establish evaporative emission family-control system combinations for those vehicles based on features most related to their evaporative emission characteristics.

(b) Emission data:

(1) *Emission-data vehicles.* Paragraph (b)(1) of this section applies to light-duty vehicle and light-duty truck emission-data vehicles.

(i) Vehicles will be chosen to be operated and tested for emission data based upon engine family groupings. Within each engine family, one test vehicle will be selected based on the following criteria: The Administrator shall select the vehicle with the heaviest equivalent test weight (including options) within the family. Then within that vehicle the Administrator shall select, in the order listed, the highest road-load power, largest displacement, the transmission with the highest numerical final gear ratio (including overdrive), the highest numerical axle ratio offered in that engine family and the maximum fuel flow calibration.

(ii) The Administrator shall select one additional test vehicle from within each engine family. The vehicle selected shall be the vehicle expected to exhibit the highest emissions of those vehicles remaining in the engine family. If all vehicles within the engine family are similar the Administrator may waive the requirements of this paragraph.

(iii) Within an engine family and exhaust emission control system, the manufacturer may alter any emission-data vehicle (or other vehicles such as including current on previous model year emission-data vehicles, fuel economy data vehicles, and development vehicles provided they meet emission-data vehicles' protocol) to represent more than one selection under paragraphs (b)(1) (i), (ii), (iv), or (vii) of this section.

(iv) If the vehicles selected in accordance with paragraphs (b)(1) (i) and (ii) of this section do not represent each engine-system combination, then one vehicle of each engine-system combination not represented will be selected by the Administrator. The vehicle selected shall be the vehicle expected to exhibit the highest emissions of those vehicles remaining in the engine family.

(v) For high-altitude exhaust emission compliance for each engine family, the manufacturer shall follow one of the following procedures:

(A) The manufacturer will select for testing under high-altitude conditions the vehicle expected to exhibit the highest emissions from the nonexempt vehicles selected in accordance with paragraphs (b)(1) (ii), (iii), and (iv) of this section or,

(B) In lieu of testing vehicles according to paragraph (b)(1)(v)(A) of this section, a manufacturer may provide a statement in its application for certification that, based on the manufacturer's engineering evaluation of such high-altitude emission testing as the manufacturer deems appropriate,

(*1*) That all light-duty vehicles not exempt under § 86.087–8(h) comply with the emission standards at high-altitude, and

(*2*) That light-duty trucks sold for principal use at designated high-altitude locations comply with the high-altitude emission requirements, and that all light-duty trucks sold at low-altitude, which are not exempt under § 86.087–9(g)(2), are capable of being modified to meet high-altitude standards.

(vi) If 90 percent or more of the engine family sales will be in California, a manufacturer may substitute emission-data vehicles selected b the California Air Resources Board criteria for the selections specified in paragraphs (b)(1) (i), (ii), and (iv) of this section.

(vii)(A) Vehicles of each evaporative emission family will be divided into evaporative emission control systems.

(B) The Administrator will select the vehicle expected to exhibit the highest evaporative emission, from within each evaporative family to be certified, from among the vehicles represented by the exhaust emission-data selections for the engine family, unless evaporative testing has already been completed on the vehicle expected to exhibit the highest evaporative emissions for the evaporative family as part of another engine family's testing.

(C) If the vehicles selected in accordance with paragraph (b)(1)(vii)(B) of this section do not represent each evaporative emission control system then the Administrator will select the highest expected evaporative emission vehicle from within the unrepresented evaporative system.

(viii) For high-altitude evaporative emission compliance for each evaporative emission family, the manufacturer shall follow one of the following procedures:

(A) The manufacturer will select for testing under high-altitude conditions the one nonexempt vehicle previously selected under paragraphs (b)(1)(vii) (B) or (C) of this section which is expected to have the highest level of evaporative emissions when operated at high altitude or

(B) In lieu of testing vehicles according to paragraph (b)(1)(viii)(A) of this section, a manufacturer may provide a statement in its application for certification that based on the manufacturer's engineering evaluation of such high-altitude emission testing as the manufacturer deems appropriate,

(*1*) That all light-duty vehicles not exempt under § 86.087–8(h) comply with the emission standards at high altitude and

(*2*) That light-duty trucks sold for principal use at designated high-altitude locations comply with the high-altitude emission requirements, and that all light-duty trucks sold at low altitude, which are not exempt under § 86.087–9(g)(2), are capable of being modified to meet high-altitude standards.

(ix) Vehicles selected under paragraph (b)(1)(v)(A) of this section may be used to satisfy the requirements of (b)(1)(viii)(A) of this section.

(x) (Light-Duty Trucks Only) (A) The manufacturer may reconfigure any of the low-altitude emission-data vehicles to represent the vehicle configuration required to be tested at high altitude.

(B) The manfacturer is not required to test the reconfigured vehicle at low altitude.

(2) *Gasoline-fueled heavy-duty emission-data engines.* Paragraph (b)(2) of this section applies to gasoline-fueled heavy-duty engines.

(i) [Reserved]

(ii) [Reserved]

(iii) The Administrator shall select a maximum of two engines within each engine family based upon features indicating that they may have the highest emission levels of the engines in the engine family as follows:

(A) The Administrator shall select one emission-data engine first based on the largest displacement within the engine family. Then within the largest displacement the Administrator shall select, in the order listed, highest fuel flow at the speed of maximum rated torque, the engine with the most advanced spark timing, no EGR or lowest EGR flow, and no air pump or lowest actual flow air pump.

(B) The Administrator shall select one additional engine, from within each engine family. The engine selected shall be the engine expected to exhibit the highest emissions of those engines remaining in the engine family. If all engines within the engine family are similar the Administrator may waive the requirements of this paragraph.

(iv) If the engines selected in accordance with paragraph (b)(2) (ii) and (iii) of this section do not represent each engine displacement-exhaust emission control system combination, then one engine of each engine displacement-exhaust emission control system combination not represented shall be selected by the Administrator.

(v) Within an engine family and emission control system, the manufacturer may alter any emission-data engine to represent more than one selection under paragraph (b)(2) (iii) and (iv) of this section.

(3) *Diesel heavy-duty emission-data engines.* Paragraph (b)(3) of this section applies to diesel heavy-duty emission-data vehicles.

(i) Engines will be chosen to be run for emission data based upon engine family groupings. Within each engine family, the requirements of this paragraph must be met.

(ii) Engines of each engine family will be divided into groups based upon their exhaust emission control systems. One engine of each engine system combination shall be run for smoke emission data and gaseous and particulate emission data. Either the complete gaseous and particulate emission test or the complete smoke test may be conducted first. Within each combination, the engine that features the highest fuel feed per stroke, primarily at the speed of maximum rated torque and secondarily at rated speed, will usually be selected. If there are military engines with higher fuel rates than other engines in the same engine system combinations, then one military engine shall also be selected. The engine with the highest fuel feed per stroke will usually be selected.

(iii) The Administrator may select a maximum of one additional engine within each engine-system combination based upon features indicating that it may have the highest emission levels of the engines of that combination. In selecting this engine, the Administrator will consider such features as the injection system, fuel system, compression ratio, rated speed, rated horsepower, peak torque speed, and peak torque.

(iv) For high-altitude exhaust emission compliance for each engine family, the manufacturer shall follow one of the following procedures:

(A) The manufacturer will select for testing under high-altitude conditions the vehicle expected to exhibit the highest emissions from the nonexempt vehicles selected in accordance with § 886.087–24(b)(3) (ii), (iii), and (iv) of this section or,

(B) In lieu of testing vehicles according to paragraph (A) of this section, a manufacturer may provide a statement in its application for certification that, based on the manufacturer's engineering evaluation of such high-altitude emission testing as the manufacturer deems appropriate, all diesel heavy-duty engines comply with the emission standards at high altitude.

(c) Durability data:

(1) *Light-duty vehicle durability-data vehicles.* Paragraph (c)(1) of this section applies to light-duty vehicle durability-data vehicles.

(i) A durability-data vehicle will be selected by the Administrator to represent each engine-system combination. The vehicle selected shall be of the engine displacement with the largest projected sales volume of vehicles with that control-system combination in that engine family and will be designated by the Administrator as to transmission type, fuel system, inertia weight class, and test weight.

(ii) A manufacturer may elect to operate and test additional vehicles to represent any engine-system combination. The additional vehicles must be of the same engine displacement, transmission type, fuel system and inertia weight class as the vehicle selected for that engine-system combination in accordance with the provisions of paragraph (c)(1)(i) of this section. Notice of an intent to operate and test additional vehicles shall be given to the Administrator no later than 30 days following notification of the test fleet selection.

(2) *Light-duty trucks.* Paragraph (c)(2) of this section applies to vehicles, engines, subsystems, or components used to established exhaust emission deterioration factors for light-duty trucks.

(i) The manufacturer shall select the vehicles, engines, subsystems, or components to be used to determine exhaust emission deterioration factors for each engine-family control system combination. Whether vehicles, engines, subsystems, or components are used, they shall be selected so that their emissions deterioration characteristics may be expected to represent those of in-use vehicles, based on good engineering judgment.

(ii) [Reserved]

(3) *Heavy-duty engines.* Paragraphs (c)(3) of this section applies to engines, subsystems, or components used to establish exhaust emission deterioration factors for heavy-duty engines.

(i) The manufacturer shall select the engines, subsystems, or components to be used to determine exhaust emission deterioration factors for each engine-family control system combination. Whether engines, subsystems, or components are used, they shall be selected so that their emissions deterioration characteristics may be expected to represent those of in-use engines, based on good engineering judgment.

(ii) [Reserved]

(d) For purposes of testing under § 86.084–26 (a)(9) or (b)(11); the Administrator may require additional emission-data vehicles (or emission-data engines) and durability-data vehicles (light-duty vehicles only) identical in all material respects to vehicles (or engines) selected in accordance with paragraphs (b) and (c) of this section: *Provided,* that the number of vehicles (or engines) selected shall not increase the size of either the emission-data fleet or the durability-data fleet by more than 20 percent or one vehicle (or engine), which ever is greater.

(e)(1) Any manufacturer whose projected sales for the model year in which certification is sought is less than:

(i) 2,000 gasoline-fueled light-duty vehicles,or

(ii) 2,000 diesel light-duty vehicles, or

(iii) 2,000 gasoline-fueled light-duty trucks, or

(iv) 2,000 diesel light-duty trucks, or

(v) 2,000 gasoline-fueled heavy-duty engines, or

(vi) 2,000 diesel heavy-duty engines, may request a reduction in the number of test vehicles (or engines) determined in accordance with the foregoing provisions of this section. The Administrator may agree to such lesser number as he determines would meet the objectives of this procedure.

(2) Any manufacturer may request to certify engine families with combined total sales of fewer than 10,000 light-duty vehicles, light-duty trucks, and heavy-duty engines utilizing assigned deterioration factors prescribed by the Administrator. The assigned deterioration factors shall be applied only to entire engine families.

(f) In lieu of testing an emission-data or durability-data vehicle (or engine) selected under paragraph (b) or (c) of this section, and submitting data therefor, a manufacturer may, with the prior written approval of the Administrator, submit exhaust emission data and/or fuel evaporative emission data, as applicable on a similar vehicle (or engine) for which certification has previously been obtained or for which all applicable data required under § 86.087–23 has previously been submitted.

(g)(1) This paragraph applies to light-duty vehicles and light-duty trucks, but does not apply to the production vehicles selected under paragraph (h) of this section.

(2) Where it is expected that more than 33 percent of the vehicles in an engine family will be equipped with an optional item, the full estimated weight of that item shall be included, if required by the Administrator, in the curb weight computation for each vehicle available with that option in the engine family. Where it is expected that 33 percent or less of the vehicles in an engine family will be equipped with an item of optional equipment, no weight for that item will be added in computing curb weight. In the case of mutually exclusive options, only the weight of the heavier option will be added in computing curb weight. Optional equipment weighing less than 3 pounds per item need not be considered.

(3)(i) Where it is expected that more than 33 percent of a car line within an engine-system combination will be equipped with an item of optional equipment that can reasonably be expected to influence emissions, then such items shall actually be installed (unless excluded under paragraph (g)(3)(ii) of this section) on all emission-data and durability-data vehicles of that car line, within that engine-system combination, on which the items are intended to be offered in production. Optional equipment that can reasonably be expected to influence emissions are the air conditioner, power steering, power brakes and other items determined by the Administrator.

(ii) If the manufacturer determines by test data or engineering evaluation that the actual installation of the optional equipment required by paragraph (g)(3)(i) of this section does not affect the emissions or fuel economy values, the optional equipment need not be installed on the test vehicle. The weight of the options shall be included in the design curb weight and also be represented in the weight of the test vehicles. The engineering evaluation, including any test data, used to support the deletion of optional equipment from test vehicles, shall be maintained by the manufacturer and shall be made available to the Administrator upon request.

(h) Alternative Durability Program durability-data vehicles. This section applies to light-duty vehicle and light-duty truck durability-data vehicles selected under the Alternative Durability Program described in § 86.085–13.

(1) In order to update the durability data to be used to determine a deterioration factor for each engine family group, the Administrator will select durability-data vehicles from the manufacturer's production line. Production vehicles will be selected from each model year's production for those vehicles certified using the Alternative Durability Program procedures.

(i) The Administrator shall select the production durability-data vehicle designs from the designs that the manufacturer offers for sale. For each model year and for each engine family group, the Administrator may select production durability-data vehicle designs of equal number to the number of engine families within the engine family group, up to a maximum of three vehicles.

(ii) The production durability-data vehicles representing the designs selected in paragraph (h)(1)(i) of this section will be randomly selected from the manufacturer's production. The Administrator will make these random selections unless the manufacturer (with prior approval of the Administrator) elects to make the random selections.

(iii) The manufacturer may select additional production durability-data vehicle designs from within the engine family group. The production durability-data vehicles representing these designs shall be randomly selected from the manufacturer's production in accordance with paragraph (h)(1)(ii) of this section.

(iv) For each production durability-data vehicle selected under paragraph (h)(1) of this section, the manufacturer shall provide to the Administrator (before the vehicle is tested or begins service accumulation) the vehicle identification number. Before the vehicle begins service accumulation the manufacturer shall also provide the Administrator with a description of the durability-data vehicle as specified by the Administrator.

(2) If, within an existing engine family group, a manufacturer requests to certify vehicles of a new design, engine family, emission control system, or with any other durability-related design difference, the Administrator will determine if the existing engine family group deterioration factor is appropriate for the new design. If the Administrator cannot make this determination or deems the deterioration factor not appropriate, the Administrator shall select preproduction durability-data vehicles under the provisions of paragraph (c) of this section. If vehicles are then certified using the new design, the Administrator may select production vehicles with the new design under the provisions of paragraph (h)(1) of this section.

(3) If a manufacturer requests to certify vehicles of a new design that the Administrator determines are a new engine family group, the Administrator shall select preproduction durability-data vehicles under the provisions of paragraph (c) of this section. If vehicles are then certified using the new design, the Administrator may select production vehicles of that design under the provisions of paragraph (h)(1) of this section.

(4) In lieu of testing a production durability-data vehicle selected under paragraph (h)(1) of this section, and submitting data therefore, a manufacturer may, with the prior written approval of the Administrator, submit exhaust emission data from a production vehicle of the same configuration for which all applicable data has previously been submitted.

8. A new § 86.087–25 is proposed to be added to Subpart A, to read as follows:

§ 86.087–25 Maintenance.

(a) *Applicability.* This section applies to light-duty vehicles, light-duty trucks and heavy-duty engines.

(1) Maintenance performed on vehicles, engines, subsystems, or components used to determine exhaust or evaporative emission deterioration factors is classified as either emission-

related or non emission-related and each of these can be classified as either scheduled or unscheduled. Further, some emission-related maintenance is also classified as critical emission-related maintenance.

(b) This section specifies emission-related scheduled maintenance for purposes of obtaining durability data and for inclusion in maintenance instructions furnished to purchasers of new motor vehicles and new motor vehicle engines under § 86.087–38.

(1) All emission-related scheduled maintenance for purposes of obtaining durability data must occur at the same mileage intervals (or equivalent intervals if engines, subsystems, or components are used) that will be specified in the manufacturer's maintenance instructions furnished to the ultimate purchaser of the motor vehicle or engine under § 86.087–35. This maintenance schedule may be updated as necessary throughout the testing or the vehicle/engine provided that no maintenance operation is deleted from the maintenance schedule after the operation has been performed on the test vehicle or engine.

(2) Any emission-related maintenance which is performed on vehicles, engines, subsystems, or components must be technologically necessary to assure in-use compliance with the emission standards. The manufacturer must submit data which demonstrate to the Administrator that all of the emission-related scheduled maintenance which is to be performed is technologically necessary. Scheduled maintenance must be approved by the Administrator prior to being performed or being included in the maintenance instructions provided to purchasers under § 86.087–38. As provided below, EPA has determined that emission-related maintenance at shorter intervals than that outlined in paragraphs (b)(3) and (b)(4) of this section is not technologically necessary to ensure in-use compliance. However, the Administrator may determine that maintenance even more restrictive (*e.g.*, longer intervals) than that listed in paragraphs (b)(3) and (b)(4) of this section is also not technologically necessary.

(3) For gasoline-fueled light-duty vehicles, light-duty trucks and heavy-duty engines, emission-related maintenance in addition to, or at shorter intervals than, the following will not be accepted as technologically necessary, except as provided in paragraph (b)(7) of this section.

(i)(A) The cleaning or replacement of light-duty vehicle or light-duty truck spark plugs at 30,000 miles of use and at 30,000-mile intervals thereafter.

(B) The cleaning or replacement of gasoline-fueled heavy-duty engine spark plugs at 12,000 miles (or 360 hours) of use and at 12,000-mile (or 360-hour) intervals thereafter, for engine certified for use with leaded fuel.

(C) The cleaning or replacement of gasoline-fueled heavy-duty engine spark plugs at 25,000 miles (or 750 hours) of use and at 25,000-mile intervals (or 750-hour) intervals thereafter, for engines certified for use with unleaded fuel only.

(ii) The adjustment, cleaning, repair, or replacement of the following at 50,000 miles (or 1,500 hours) of use and at 50,000-mile (or 1,500-hour) intervals thereafter:

(A) Positive crankcase ventilation valve.

(B) Emission-related hoses and tubes.

(C) Ignition wires

(D) Idle mixture.

(iii) The adjustment, cleaning, repair, or replacement of the following at 100,000 miles of use and at 100,000-mile intervals thereafter:

(A) Catalytic converter.

(B) Air injection system components.

(C) Fuel injectors.

(D) Electronic engine control unit and its associated sensors (including oxygen sensor) and actuators.

(E) Evaporative emission canister.

(F) Turbochargers.

(G) Carburetors.

(iv)(A) For gasoline-fueled heavy-duty engines certified for use with leaded fuel, the servicing of the exhaust gas recirculation (EGR) system (including all related filters and control valves) at 24,000 miles (or 720 hours) of use and at 24,000-mile (or 720-hour) intervals thereafter.

(B) For gasoline-fueled light-duty vehicles, light-duty trucks, and for heavy-duty engines certified for use with unleaded fuel only, the servicing of the EGR system (including all related filters and control valves) at 50,000 miles (or 1,500 hours) of use and at 50,000-mile (or 1,500-hour) intervals thereafter.

(4) For diesel powered light-duty vehicles, light-duty trucks, and heavy-duty engines, emission-related maintenance in addition to, or at shorter intervals than, the following will not be accepted as technologically necessary, except as provided in paragraph (b)(7) of this section.

(i) The following maintenance at 50,000 miles (or 1,500 hours) of use and at 50,000-mile (or 1,500-hour) intervals thereafter:

(A) Cleaning or replacement of the exhaust gas recirculation system (including all related filters and control valves) and positive crankcase ventilation valves.

(B) Cleaning of fuel injectors.

(ii) The following maintenance at 100,000 miles (or 3,000 hours) of use and at 100,000-mile (or 3,000-hour) intervals thereafter for light-duty vehicles, light-duty trucks, and light heavy-duty engines, or at 150,000 miles (or 4,500 hours) of use and at 150,000-mile (or 4,500-hour) intervals thereafter for medium and heavy heavy-duty engines: The adjustment, cleaning, repair, or replacement of

(A) The turbocharger and fuel injectors.

(B) The electronic engine control unit and its associated sensors and actuators, and

(C) The particulate trap or trap-oxidizer system (including related components).

(5) [Reserved]

(6)(i) The following components are currently defined as critical emission-related components:

(A) Catalytic converter.

(B) Air injection system components.

(C) Electronic engine control unit and its associated sensors (including oxygen sensor if installed) and actuators.

(D) Exhaust gas recirculation system (including all related filters and control valves).

(E) Positive crankcase ventilation valve.

(F) Evaporative emission system (excluding canister air filter).

(G) Particulate trap or trap-oxidizer system.

(ii) All critical emission-related scheduled maintenance must have a reasonable likelihood of being performed in-use. The manufacturer shall be required to show the reasonable likelihood of such maintenance being performed in-use, and such showing shall be made prior to the performance of the maintenance on the durability data vehicle. Critical emission-related scheduled maintenance items which satisfy one of the following conditions will be accepted as having a reasonable likelihood of having the maintenance item performed in-use:

(A) Data are presented which establish for the Administrator a connection between emissions and vehicle performance such that as emissions increase due to lack of maintenance, vehicle performance will simultaneously deteriorate to a point unacceptable for typical driving.

(B) Survey data are submitted which adequately demonstrate to the Administrator that, at an 80 percent confidence level, 80 percent of such engines already have this critical maintenance item performed in-use at the recommended interval(s).

(C) A clearly displayed visible signal system approved by the Administrator alerts the vehicle driver that maintenance is due. An initial signal bearing the message "maintenance needed" or "check engine" or a similar message approved by the Administrator shall be actuated at the appropriate mileage point or by component failure. If the required maintenance has not been performed within 1,000 miles of actuation of the initial signal, a second signal shall be actuated bearing the message "maintenance required." This signal shall not replace the initial signal, but shall be in addition to that signal. Both signals must be continuous while the engine is in operation, and not be easily eliminated without performance of the required maintenance. Resetting the signal shall be a required step in the maintenance operation. The method for resetting the signal system shall be approved by the Administrator.

(D) A manufacturer may desire to demonstrate through a survey that a critical maintenance item is likely to be performed without a visible signal on a maintenance item for which there is no prior in-use experience without the signal. To that end, the manufacturer may in a given model year market up to 200 randomly selected vehicles per critical emission related maintenance item without such visible signals, and monitor the performance of the critical maintenance item by the owners to show compliance with paragraph (b)(6)(ii)(B) of this section. This option is restricted to two consecutive model years and may not be repeated until any previous survey has been completed. If the critical maintenance involves more than one engine family, the sample will be sales weighted to ensure that it is representative of all the families in question.

(E) The manufacturer provides the maintenance free of charge, and clearly informs the customer that the maintenance is free in the instructions provided under § 86.087–38.

(F) Any other method which the Administrator approves as establishing a reasonable likelihood that the critical maintenance will be performed in-use.

(iii) Visible signal systems used under paragraph (b)(6)(ii)(C) of this section are considered an element of design of the emission control system. Therefore, disabling, resetting, or otherwise rendering such signals inoperative without also performing the indicated maintenance procedure is a prohibited act under section 203(a)(3) of the Clean Air Act, as amended in August 1977 (42 U.S.C. 7522(a)(3)).

(7) Changes to scheduled maintenance.

(i) For maintenance practices that existed prior to the 1980 model year, only the maintenance items listed in paragraphs (b)(3) and (b)(4) of this section are currently considered by EPA to be emission-related. The Administrator may, however, determine additional scheduled maintenance items that existed prior to the 1980 model year to be emission-related by announcement in a **Federal Register** Notice. In no event may this notification occur later than September 1 of the calendar year two years prior to the affected model year.

(ii) In the case of any new scheduled maintenance, the manufacturer must submit a request for approval to the Administrator for any maintenance that it wishes to recommend to purchasers and perform during durability determination. New scheduled maintenance is that maintenance which did not exist prior to the 1980 model year, including that which is a direct result of the implementation of new technology not found in production prior to the 1980 model year. The manufacturer must also include its recommendations as to the category (*i.e.*, emission-related or non-emission-related, critical or non-critical) of the subject maintenance and, for suggested emission-related maintenance, the maximum feasible maintenance interval. Such requests must include detailed evidence supporting the need for the maintenance requested, and supporting data or other substantiation for the recommended maintenance category and for the interval suggested for emission-related maintenance. Requests for new scheduled maintenance must be approved prior to the introduction of the new maintenance. The Administrator will then designate the maintenance as emission-related or non-emission-related. For maintenance items established as emission-related, the Administrator will further designate the maintenance as critical if the component which receives the maintenance is a critical component under paragraph (b)(6) of this section. For each maintenance item designated as emission-related, the Administrator will also establish a technologically necessary maintenance interval, based on industry data and any other information available to EPA. Designations of emission-related maintenance items, along with their identification as critical or non-critical, and establishment of technologically necessary maintenance intervals, will be announced in the **Federal Register.**

(iii) Any manufacturer may request a hearing on the Administrator's determinations in paragraph (b)(7) of this section. The request shall be in writing, signed by an authorized representative of the manufacturer, and shall include a statement specifying the manufacturer's objections to the Administrator's determinations, and data in support of such objections. If, after review of the request and supporting data, the Administrator finds that the request raises a substantial factual issue, he shall provide the manufacturer a hearing in accordance with § 86.078–6 with respect to such issue.

(c) Non-emission-related scheduled maintenance which is reasonable and technologically necessary (*i.e.*, oil change, oil filter change, fuel filter change, air filter change, cooling system maintenance, adjustment of idle speed, governor, engine bolt torque, valve lash, injector lash, timing, etc.) may be performed on durability-data vehicles at the intervals recommended by the manufacturer to the ultimate purchaser.

(d) Unscheduled maintenance on light-duty durability data vehicles.

(1) Unscheduled maintenance may be performed during the testing used to determine deterioration factors, except as provided in paragraph (d)(2) and (d)(3) of this section, only under the following provisions:

(i) A fuel injector or spark plug may be changed if a persistent misfire is detected.

(ii) Readjustment of a gasoline-fueled vehicle cold-start enrichment system may be performed if there is a problem of stalling.

(iii) Readjustment of the engine idle speed (curb idle and fast idle) may be performed in addition to that performed as scheduled maintenance under paragraph (c) of this section, if the idle speed exceeds the manufacturer's recommended idle speed by 300 rpm or more, or if there is a problem of stalling.

(2) Any other unscheduled vehicle, emission control system, or fuel system adjustment, repair, removal, disassembly, cleaning, or replacement during testing to determine deterioration factors shall be performed only with the advance approval of the Administrator. Such approval will be given if the Administrator:

(i) Has made a preliminary determination that the part failure or system malfunction, or the repair of such failure or malfunction, does not render the vehicle or engine unrepresentative of vehicles or engines in-use, and does not require direct access to the combustion chamber, except for spark plug, fuel injection component, or removable prechamber removal or replacement; and,

(ii) Has made a determination that the need for maintenance or repairs is indicated by an overt indication of malfunction such as persistent misfiring, engine stalling, overheating, fluid leakage, loss of oil pressure, excessive fuel consumption or excessive power loss. The Administrator shall be given the opportunity to verify the existence of an overt indication of part failure and/or vehicle/engine malfunction (*e.g.*, misfiring, stalling, black smoke), or an activation of an audible and/or visible signal, prior to the performance of any maintenance to which such overt indication or signal is relevant under the provisions of this section.

(3) Emission measurement may not be used as a means of determining the need for unscheduled maintenance under paragraph (d)(2) of this section, except under the following conditions:

(i) The Administrator may approve unscheduled maintenance on durability-data vehicles based upon a significant change in emission levels that indicates a vehicle or engine malfunction. In these cases the Administrator may first approve specific diagnostic procedures to identify the source of the problem. The Administrator may further approve of specific corrections to the problem after the problem has been identified. The Administrator may only approve the corrective action after it is determined that:

(A) The malfunction was caused by nonproduction build practices or by a previously undetected design problem,

(B) The malfunction will not occur in production vehicles or engines in-use, *and*

(C) The deterioration factor generated by the durability-data vehicle or engine will remain unaffected by the malfunction or by the corrective action (*e.g.*, the malfunction was present for only a short period of time before detection, replacement parts are functionally representative of the proper mileage or hours, etc.).

(ii) Following any unscheduled maintenance approved under paragraph (d)(3)(i) of this section, the manufacturer shall perform an after-maintenance emissions test. If the Administrator determines that the after-maintenance emission levels for any pollutant indicates that the deterioration factor is no longer representative of production, the Administrator may disqualify the durability-data vehicle or engine.

(4) If the Administrator determines that part failure or system malfunction occurrence and/or repair rendered the vehicle/engine unrepresentative of vehicles in-use, the vehicle/engine shall not be used for determining deterioration factors.

(5) Repairs to vehicle components of a durability data vehicle other than the engine, emission control system, or fuel system, shall be performed only as a result of part failure, vehicle system malfunction, or with the advance approval of the Administrator.

(e) Maintenance on emission data vehicles and engines.

(1) Adjustment of engine idle speed on emission data vehicles may be performed once before the low-mileage/low-hour emission test point. Any other engine, emission control system, or fuel system adjustment, repair, removal, disassembly, cleaning, or replacement on emission data vehicles shall be performed only with the advance approval of the Administrator.

(2) Maintenance on light-duty truck emission-data vehicles selected under § 86.085–24(b)(1)(v) or (b)(1)(viii) and permitted to be tested for purposes of § 86.087–23(c)(1)(ii) under the provisions of § 86.087–24(b)(2) may be performed in conjunction with emission control system modifications at the low-mileage test point, and shall be performed in accordance with the maintenance instructions to be provided to the ultimate purchaser required under § 86.087–38.

(3) Maintenance on those light-duty truck emission-data vehicles selected under § 86.087–24(b)(1)(v) which are not capable of being modified in the field for the purpose of complying with emission standards at an altitude other than that intended by the original design, may be performed in conjunction with the emission control system modifications at the low-mileage test point, and shall be approved in advance by the Administrator.

(4) Repairs to vehicle components of an emission data vehicle other than the engine, emission control system, or fuel system, shall be performed only as a result of part failure, vehicle system malfunction, or with the advance approval of the Administrator.

(f) Equipment, instruments, or tools may not be used to identify malfunctioning, maladjusted, or defective engine components unless the same or equivalent equipment, instruments, or tools will be available to dealerships and other service outlets and:

(1) Are used in conjunction with scheduled maintenance on such components, or

(2) Are used subsequent to the identification of a vehicle or engine malfunction, as provided in paragraph (d)(2) of this section for durability data vehicles or in paragraph (e)(1) of this section for emission-data vehicles, or

(3) Unless specifically authroized by the Administrator.

(g)(1) Paragraph (g) of this section applies to light-duty vehicles.

(2) Complete emission tests (see §§ 86.106 through 86.145) are required, unless waived by the Administrator, before and after scheduled maintenance approved for durability data vehicles. The manufacturer may perform emission tests before unscheduled maintenance. Complete emission tests are required after unscheduled maintenance which may reaonsably be expected to affect emissions. The Administrator may waive the requirement to test after unscheduled maintenance. These test data may be submitted weekly to the Administrator, but shall be air posted or delivered within 7 days after completion of the tests, along with a complete record of all pertinent maintenance, including a preliminary engineering report of any malfunction diagnosis and the corrective action taken. A complete engineering report shall be delivered to the Administrator concurrently with the manufacturer's application for certification.

(h) All test data, maintenance reports, and required engineering reports shall be compiled and provided to the Administrator in accordance with § 86.087–23.

9. Section 86.087–28 of Subpart A is proposed to be amended by revising paragraphs (b)(4)(ii) and (b)(6)(ii)(C) introductory text, to read as follows:

§ 86.087–28 Compliance with emission standards.

* * * * *

(b) * * *

(4) * * *

(ii) Separate exhaust emission deterioration factors, determined by tests of vehicles, engines, subsystems, or components conducted by the manufacturer, shall be supplied for each engine-system combination. Separate factors shall be established for transient HC, CO, and NO_x, idle CO (gasoline vehicles only), and exhaust particulate (diesel vehicles only).

* * * * *

(6) * * *

(ii) * * *

(C) *Line crossing.* For the purposes of paragraph (b)(5) of this section, line crossing occurs when either of the interpolated 4,000- and 120,000-mile points of the best fit straight line exceed the applicable emission standard and at least one applicable data point exceeds the standard.

* * * * *

10. A new § 86.087–38 is proposed to be added to Subpart A, to read as follows:

§ 86.087–38 Maintenance instructions.

(a) The manufacturer shall furnish or cause to be furnished to the purchaser of each new motor vehicle (or motor vehicle engine) subject to the standards prescribed in § 86.087–8, § 86.087–9, § 86.087–10, or § 86.087–11, as applicable, written instructions for the proper maintenance and use of the vehicle (or engine) by the purchaser consistent with the provisions of § 86.087–25.

(1) Such instructions shall be in clear, and to the extent practicable, nontechnical language.

(2) The maintenance instructions required by this section shall contain a general description of the documentation which the manufacturer will require from the ultimate purchaser or any subsequent purchaser as evidence of compliance with the instructions.

(b) Such instructions shall specify the performance of all scheduled maintenance performed by the manufacturer under § 86.087–25(b) and § 86.087–25(c).

(c) Scheduled emission-related maintenance in addition to that performed under § 86.087–25(b) may only be recommended to offset the effects of abnormal in-use operating conditions. The manufacturer shall be required to demonstrate that such maintenance is reasonable and technologically necessary. Such additional recommended maintenance shall be clearly differentiated, in a form approved by the Administrator, from that approved under § 86.087–25(b). The instructions may schedule maintenance on a calendar time basis, mileage basis, engine service time basis, or combinations of each.

(d) Inspections of emission-related parts or systems with instructions to replace, repair, clean, or adjust the parts or systems if necessary, are not considered to be items of scheduled maintenance which insure the proper functioning of the emission control system. Such inspections may be included in the written instructions furnished to vehicle owners under paragraph (a) of this section: *Provided*, that such instructions clearly state that the owner need not perform such inspections in order to take advantage of emission warranties and recalls.

(e) If the vehicle has been granted an alternative useful-life period under the provisions of § 86.087–21(f) the manufacturer may choose to include in such instructions an explanation of the distinction between the alternative useful life specified on the label, and the emissions defect and emissions performance warranty period. The explanation must clearly state that the useful life period specified on the label represents the average period of use up to retirement or rebuild for the engine family used in the vehicle. An explanation of how the actual useful lives of engines used in various applications are expected to differ from the average useful life may be included. The explanation(s) shall be in clear, nontechnical language that is understandable to the ultimate purchaser.

(f) If allowed, such instructions shall indicate what adjustments or modifications, if any, are necessary to allow the vehicle to meet applicable emission standards at elevations above 4,000 feet, or at elevations of 4,000 feet or less.

11. A new § 86.090–2 is proposed to be added to Subpart A, to read as follows:

§ 86.090–2 Definitions.

The definitions of § 86.087–2 remain effective. The definitions listed in this section apply beginning with the 1990 model year.

"Weighted particulate emission level for a manufacturer who elects to participate in the heavy-duty diesel engine particulate averaging program" means a weighted average of the manufacturer's family particulate limits within the subclass (light, medium, or heavy) being averaged, to account for differences in production volume and rated BHP. It is calculated at the end of the model year for determining compliance with the standard by summing, for all engine families in the subclass being averaged, the products per engine family of production volume, BHP rating, and family particulate emission level, and dividing by the sum for these engine families of the products per engine family of production volume and BHP rating. Expressed mathematically the calculation is as follows:

$$WPL = \frac{\sum_{i=1}^{n} (P_i \times HP_i \times FEL_i)}{\sum_{i=1}^{n} (P_i \times HP_i)}$$

Where:

WPL = the weighted particulate emission level of the family particulate limits for all the manufacturer's engine families included in the averaging program.

n = the number of engine families included in the subclass (light, medium, or heavy) being averaged.

P = the manufacturer's production of a given engine family during the model year.

HP = the production weighted horsepower rating for that engine family, in brake horsepower.

FEL = the family particulate emission limit for that engine family, in grams per brake horsepower-hour.

Those vehicles produced for sale in California or at high altitude shall each be averaged separately from those produced for sale in any other area. Engines for use in urban buses shall be excluded from participation in any averaging program.

"Weighted particulate emission level for light-duty vehicles and light-duty trucks" means the manufacturer's production-weighted average particulate emission level, for certification purposes, of all diesel engine families in a class included in the particulate averaging program. It is calculated at the end of the model year by multiplying each family particulate emission limit by its respective production, summing these terms, and dividing the sum by the total production of the affected families. Those vehicles produced for sale in California or at high altitude shall each be averaged separately from those produced for sale in any other area.

"Urban bus" means a heavy-duty diesel-powered passenger-carrying vehicle with a load capacity of fifteen or more passengers and intended primarily for intra-city operation, *i.e.*, within the confines of a city or greater metropolitan area. Urban bus operation is characterized by short rides and frequent stops. To facilitate this type of operation, more than one set of quick-opening entrance and exit doors would normally be installed. Since fares are usually paid in cash or tokens rather than purchased in advance in the form of tickets, urban buses would normally have equipment installed for collection of fares. Urban buses are also typically characterized by the absense of equipment and facilities for long distance travel, *e.g.*, rest rooms, large luggage compartments, and facilities for stowing carry-on luggage.

12. A new § 86.090–10 is proposed to be added to Subpart A, to read as follows:

§ 86.090–10 Emission standards for 1990 and later model year gasoline-fueled heavy-duty engines and vehicles.

(a)(1) Exhaust emissions from new 1990 and later model year gasoline-fueled heavy-duty engines shall not exceed:

(i) For engines intended for use in all vehicles except as provided in paragraph (a)(3) of this section,

(A) *Hydrocarbons.* 1.1 grams per brake horsepower-hour, as measured under transient operating conditions.

(B) *Carbon monoxide.* (*1*) 14.4 grams per brake horsepower-hour, as measured under transient operating conditions.

(*2*) *Gasoline-fueled heavy-duty engines utilizing aftertreatment technology.* 0.50 percent of exhaust gas flow at curb idle.

(C) *Oxides of nitrogen.* 4.0 grams per brake horsepower-hour, as measured under transient operating conditions.

(ii) For engines intended for use only in vehicles with a Gross Vehicle Weight Rating of greater than 14,00 pounds,

(A) *Hydrocarbons.* 1.9 grams per brake horsepower-hour, as measured under transient operating conditions.

(B) *Carbon Monoxide.* (*1*) 37.1 grams per brake hoursepower-hour, as measured under transient operating conditions.

(*2*) *Gasoline-fueled heavy-duty engines utilizing aftertreatment technology. 0.50 percent of exhaust gas flow at curb idle.*

(C) *Oxides of nitrogen.* 4.0 grams per brake hoursepower-hour, as measured under transient operating conditions.

(2) the standards set forth in paragraph (a)(1) of this section refer to the exhaust emitted over the operating schedule set forth in paragraph (f)(1) of Appendix I to this part, and measured and calculated in accordance with the procedures set forth in Subparts N or P.

(3)(i) A manufacturer may certify one or more gasoline-fueled heavy-duty engine configurations intended for use in all vehicles to the emission standards set forth in paragraph (a)(1)(ii) of this section: *Provided,* that the total model year sales of such configuration(s) being certified to the emission standards in paragraph (a)(1)(ii) of this section represent no more than 5 percent of total model year sales of all gasoline-fueled heavy-duty engines intended for use in vehicles with a Gross Vehicle Weight Rating of up to 14,000 pounds by the manufacturer.

(ii) The configurations certified to the emission standards of paragraph (a)(1)(ii) of this section under the provisions of paragraph (a)(3)(i) of this section shall still be required to meet the evaporative emission standards set forth in paragraphs (b)(1)(i)(A) and (b)(2)(i) of this section.

(b)(1) Evaporative emissions from 1990 and later model year gasoline-fueled heavy-duty vehicles shall not exceed:

(i) *Hydrocarbons.* (A) For vehicles with a Gross Vehicle Weight Rating of up to 14,000 pounds, 3.0 grams per test.

(B) For vehicles with a Gross Vehicle Weight Rating of greater than 14,000 pounds, 4.0 grams per test.

(2)(i) For vehicles with a Gross Vehicle Weight Rating of up to 26,000 pounds, the standards set forth in paragraph (b)(1)(i) of this section refer to a composite sample of fuel evaporative emissions collected under the conditions set forth in Subpart M and measured in accordance with those procedures.

(ii) For vehicles with a Gross Vehicle Weight Rating of greater than 26,000 pounds, the standard set forth in paragraph (b)(1)(i)(B) of this section refers to the manufacturer's engineering design evaluation using good engineering practice (a statement of which is required in § 86.090–23(b)(4)(ii)).

(c) No crankcase emissions shall be discharged into the ambient atmosphere from any new 1990 or later model year gasoline-fueled heavy-duty engine.

(d) Every manufacturer of new motor vehicle engines subject to the standards prescribed in this section shall, prior to taking any of the actions specified in Section 203(a)(1) of the Act, test or cause to be tested motor vehicle engines in accordance with applicable procedures in Subparts N or P of this part to ascertain that such test engines meet the requirements of paragraphs (a) and (c) of this section.

13. A new § 86.090–11 is proposed to be added to Subpart A, to read as follows:

§ 86.090–11 Emission standards for 1990 and later model year diesel heavy-duty engines.

(a)(1) Exhaust emissions from new 1990 and later model year diesel heavy-duty engines shall not exceed the following:

(i) *Hydrocarbons.* 1.3 grams per brake horsepower-hour, as measured under transient operating conditions.

(ii) *Carbon monoxide.* 15.5 grams per brake horsepower-hour, as measured under transient operating conditions.

(iii) *Oxides of nitrogen.* 4.0 grams per brake horsepower-hour, as measured under transient operating conditions.

(iv) *Particulate emissions.* (A) For engines to be used in urban buses, 0.10 grams per BHP-hr, as measured under transient operating conditions. Engines for use in urban buses may not participate in the heavy-duty particulate averaging program.

(B) For all other engines, 0.25 grams per brake horsepower-hour, as measured under transient operating conditions. A manufacturer may elect to include all or some of its heavy-duty diesel engine families, exclusive of engines to be used in uran buses, in the heavy-duty particulate averaging program, provided that engines produced for sale in California or in designated high-altitude areas may be averaged only within each of those areas. Averaging will be limited to engines within a given primary service class as defined in § 86.085–2. Averaging across primary service classes is not permitted. If the manufacturer elects to practicipate in the averaging program, individual family particulate limits may not exceed 0.60 grams per brake horsepower-hour.

(2) The standards set forth in paragraph (a)(1) of this section refer to the exhaust emitted over operating schedules as set forth in paragraph (f)(2) of Appendix I of this part, and measured and calculated in accordance with the procedures set forth in Subpart N of this part, except as noted in § 86.090–23(c)(2)(i) and (iii).

(b)(1) The opacity of smoke emission from new 1990 and later model year diesel heavy-duty engines shall not exceed:

(i) 20 percent during the engine acceleration mode.

(ii) 15 percent during the engine lugging mode.

(iii) 50 percent during the peaks in either mode.

(2) The standards set forth in paragraph (b)(1) of this section refer to exhaust smoke emissions generated under the conditions set forth in Subpart I of this part and measured and calculated in accordance with those procedures.

(c) No crankcase emissions shall be discharged into the ambient atmosphere from any new 1990 model year naturally-aspirated diesel heavy-duty engine. This provision does not apply to engines using turbochargers, pumps, blowers, or superchargers for air induction.

(d)(1) Model year 1990 and later heavy-duty diesel engines sold for principal use at a designated high-altitude location shall be capable of meeting the following exhaust emission standards when tested under high-altitude conditions:

(i) *Particulate emissions.* 0.30 grams per brake-horsepower-hour, as measured under transient operating conditions.

(e) Except as provided in § 86.087–24(b)(3)(iv)(A), every manufacturer of new motor vehicle engines subject to the standards prescribed in this section shall, prior to taking any of the actions specified in section 203(a)(1) of the Act, test or cause to be tested motor vehicle engines in accordance with applicable procedures in Subpart I or N of this part

to ascertain that such test engines meet the requirements of paragraphs (a), (b), (c) and (d) of this section.

14. A new § 86.090–21 is proposed to be added to Subpart A, to read as follows:

§ 86–090–21 Application for certification.

(a) A separate application for a certificate of conformity shall be made for each set of standards (or family particulate emission limits, as appropriate) and each class of new motor vehicles or new motor vehicle engines. Such application shall be made to the Administrator by the manufacturer and shall be updated and corrected by amendment.

(b) The application shall be in writing, signed by an authorized representative of the manufacturer, and shall include the following:

(1)(i) Identification and description of the vehicles (or engines) covered by the application and a description of their engine (vehicles only), emission control system and fuel system components. This shall include a detailed description of each auxiliary emission control device (AECD) to be installed in or on any certification test vehicle (or certification test engine).

(ii)(A) The manufacturer shall provide to the Administrator in the preliminary application for certification:

(*1*) A list of those parameters which are physically capable of being adjusted (including those adjustable parameters for which access is difficult) and that, if adjusted to settings other than the manufacturer's recommended setting, may affect emissions;

(*2*) A specification of the manufacturer's intended physically adjustable range of each such parameter, and the production tolerances of the limits or stops used to establish the physically adjustable range;

(*3*) A description of the limits or stops used to establish the manufacturer's intended physically adjustable range of each adjustable parameter, or any other means used to inhibit adjustment;

(*4*) The nominal or recommended setting, and the associated production tolerances, for each such parameter.

(B) The manufacturer may provide, in the preliminary application for certification, information relating to why certain parameters are not expected to be adjusted in actual use and to why the physical limits or stops used to establish the physically adjustable range of each parameter, or any other means used to inhibit adjustment, are expected to be effective in preventing adjustment of parameters on in-use vehicles to settings outside the manufacturer's intended physically adjustable ranges. This may include results of any tests to determine the difficulty of gaining access to an adjustment or exceeding a limit as intended or recommended by the manufacturer.

(C) The Administrator may require to be provided detailed drawings and descriptions of the various emission related components, and/or hardware samples of such components, for the purpose of making his determination of which vehicle or engine parameter will be subject to adjustment for new certification and Selective Enforcement Audit testing and of the physically adjustable range for each such vehicle or engine parameter.

(2) Projected U.S. sales data sufficient to enable the Administrator to select a test fleet representative of the vehicles (or engines) for which certification is requested. The sales data shall also include the altitude of intended sale for light-duty trucks.

(3) A description of the test equipment and fuel proposed to be used.

(4)(i) For light-duty vehicles and light-duty trucks, a description of the test procedures to be used to establish the evaporative emission deterioration factors requried to be determined and supplied in § 86.090–23(b)(2).

(ii) For gasoline-fueled heavy-duty vehicles, the Administrator does not assume that each evaporative emission family-evaporative emission control system combination will deteriorate in a unique manner during the useful life of the vehicle. The manufacturer shall therefore identify those evaporative emission deterioration factors which shall be applied to the various evaporative emission family-evaporative emission control system combinations which are expected to exhibit similar deterioration characteristics during the useful life of the vehicle.

(iii)(A) A description of the test procedures to be used to establish the durability data or the exhaust emission deterioration factors required to be determined and supplied in § 86.090–23(b)(1).

(B)(*1*) For engine families provided an alternative useful life period under paragraph (f) of this section, a statement of that alternative period and a brief synopsis of the justification.

(*2*) For heavy-duty diesel engine families, a statement of the primary intended service class (light, medium, or heavy) and an explanation as to why that service class was selected. Each diesel engine family shall be certified under one primary intended service class only. After reviewing the guidance in § 86.085–2, the class shall be determined on the basis of which class best represents the majority of the sales of that engine family.

(C)(*1*) For each light-duty truck engine family and each heavy-duty engine family, a statement of recommended maintenance and procedures necessary to assure that the vehicles (or engines) covered by a certificate of conformity in operation conform to the regulations, and a description of the program for training of personnel for such maintenance, and the equipment required.

(*2*) A description of vehicle adjustments or modifications necessary, if any, to assure that light-duty trucks covered by a certificate of conformity conform to the regulations while being operated at any altitude locations, and a statement of the altitude at which the adjustments or modifications apply.

(D) At the option of the manufacturer, the proposed composition of the emission-data test fleet or (where applicable) the durability-data test fleet.

(5)(i)(A) If the manufacturer elects to participate in the particulate averaging program for diesel light-duty vehicles and/or diesel light-duty trucks, the application must list the family particulate emission limit and the projected U.S. production volume of the family for the model year.

(B) If the manufacturer elects to participate in the particulate averaging program for heavy-duty diesel engines, the application must list the family particulate emission limit, the rated brake horsepower for each differing horsepower configuration, the engine subclass as defined in § 86.085–2, and the projected U.S. production of each horsepower configuration for the model year.

(B) If the manufacturer elects to participate in the particulate averaging program for heavy-duty diesel engines, the application must list the family particulate emission limit, the rated brake horsepower for each differing horsepower configuration, the engine subclass as defined in § 86.085–2, and the projected U.S. production of each horsepower configuration for the model year.

(C) The manufacturer shall choose the level of the family particulate emission limits, accurate to one one-hundredth (0.01) of a gram per mile.

(D) The manufacturer may at any time during production elect to change the level of any family diesel particulate emission limit(s) by submitting the new limit(s) to the Administrator and by demonstrating compliance with the limit(s) as described in § 86.090–2 and § 86.090–28(b)(5).

(6) For gasoline-fueled heavy-duty engines, the application must state whether the engine family is being certified for use in all vehicles regardless of their Gross Vehicle Weight Rating (see § 86.090–10 (a)(1)(i) and (a)(3)(i)), or, only for use in vehicles with a Gross Vehicle Weight Rating greater than 14,000 pounds.

(ii) If the engine family is being certified for use in all vehicles, and is being certified to the emission standards applicable to gasoline-fueled heavy-duty engines for use only in vehicles with a Gross Vehicle Weight Rating over 14,000 pounds udner the provisions of § 86.090–10(a)(3), then the application must also attest that the engine family, together with all other engine families being certified under the provisions of § 86.090–10(a)(3), represent no more than 5 percent of model year sales of the manufacturer of all gasoline-fueled heavy-duty engines for use in vehicles with Gross Vehicle Weight Ratings of up to 14,000 pounds.

(iii)(A) A description of the test procedures to be used to establish the durability data or the exhaust emission deterioration factors required to be determined and supplied in § 86.090–23(b)(1)

(B)(*1*) A statement of the useful life of use of each light-duty truck engine family and heavy-duty engine family.

(*2*) For engine families provided an alternative useful life period under paragraph (f) of this section, a statement of that alternative period and a brief synopsis of the justification.

(*3*) For heavy-duty diesel engine families, a statement of the primary intended service class (light, medium, or heavy) and an explanation as to why that service class was selected. Each diesel engine family shall be certified under one primary intended service class only. After reviewing the guidance in § 86.085–2, the class shall be determined on the basis of which class best represents the majority of the sales of that engine family.

(C)(*1*) For each light-duty truck engine family and each heavy-duty engine family, a statement of recommended maintenance and procedures necessary to assure that the vehicles (or engines) covered by a certificate of conformity in operation conform to the regulations while being operated at any altitude locations, and a description of the program for training of personnel for such maintenance, and the equipment required.

(*2*) A description of vehicle adjustments or modifications necessary, if any, to assure that light-duty trucks covered by a certificate of conformity conform to the regulations, and a statement of the altitude at which the adjustments of modifications apply.

(D) At the option of the manufacturer, the proposed composition of the emission-data test fleet or (where applicable) the durability-data test fleet.

(c) Complete copies of the application and of any amendments thereto, and all notifications under § 86.079–32, § 86.079–33, and § 86.082–34 shall be submitted in such multiple copies as the Administrator may require.

(d) Incomplete light-duty trucks shall have a maximum completed curb weight and maximum completed frontal area specified by the manufacturer.

(e) For gasoline-fueled heavy-duty vehicles, the manufacturer shall specify a maximum nominal fuel tank capacity for each evaporative emission family-evaporative emission control system combination.

(f) Light-duty truck and heavy-duty engine manufacturers who believe that the useful life periods of § 86.085–2 are significantly unrepresentative for one or more engine families (either too long or too short), may petition the Administrator to provide an alternative useful-life period. This petition must include the full rationale behind the request together with any supporting data and other evidence. Based on this or other information the Administrator may assign an alternative useful-life period. Any petition should be submitted in a timely manner, to allow adequate time for a thorough evaluation.

15. A new § 86.090–23 is proposed to be added to Subpart A, to read as follows:

§ 86.090–23 Required data.

(a) The manufacturer shall perform the tests required by the applicable test procedures, and submit to the Administrator the following information: *Provided, however*, that if requested by the manufacturer, the Administrator may waive any requirement of this section for testing of vehicle (or engine) for which emission data are available or will be made available under the provisions of § 86.090–29.

(b)(1)(i) Exhaust emission durability data on such light-duty vehicles tested in accordance with applicable test procedures and in such numbers as specified, which will show the performance of the systems installed on or incorporated in the vehicle for extended mileage, as well as a record of all pertinent maintenance performed on the test vehicles.

(ii) Exhaust emission deterioration factors for light-duty trucks and heavy-duty engines and all test data that are derived from the testing described under § 86.090–21(b)(4)(iii)(A) as well as a record of all pertinent maintenance. Such testing shall be designed and conducted in accordance with good engineering practice to assure that the engines covered by a certificate issued under § 86.090–30 will meet the emission standards (or family particulate emission limits, as appropriate) in § 86.087–9, § 86.090–10, or § 86.090–11 as appropriate, in actual use for the useful life of the engine.

(2) For light-duty vehicles and light-duty trucks, evaporative emission deterioration factors for each evaporative emission family-evaporative emission control system combination, and all test data that are derived from testing described under §86.090–21 (b)(4)(i), designed and conducted in accordance with good engineering practice, to assure that the vehicles covered by a certificate issued under § 86.090–30 will meet the evaporative emission standards in § 86.087–8 or § 86.087–9, as appropriate, for the useful life of the vehicle.

(3) For gasoline-fueled heavy-duty vehicles, evaporative emission deterioration factors for each evaporative emission family-evaporative emission control system combination identified in accordance with § 86.090–21(b)(4)(ii). Furthermore, a statement that the test procedure(s) used to derive the deterioration factors includes, but need not be limited to, a consideration of the ambient effects of ozone and temperature fluctuations, and the service accumulation effects of vibration, time, and vapor saturation and purge cycling. The deterioration factor test procedure shall be designed and conducted in accordance with good engineering practice to assure that the vehicles covered by a certificate issued under § 86.090–30 will meet the evaporative emission standards in § 86.090–10 in actual use for the useful life of the engine. Furthermore, a statement that a description of the test procedure, as well as all data, analyses and evaluations, is available to the Administrator upon request.

(4) (i) For gasoline-fueled heavy-duty vehicles with a Gross Vehicle Weight Rating of up to 26,000 pounds, a written statement to the Administrator certifying that the manufacturer's vehicles meet the standards of § 86.090–10 as determined by the provisions of § 86.090–28. Furthermore, a written statement to the Administrator that all data, analyses, test procedures, evaluations, and other documents on which the above statement is based are available to the Administrator upon request.

(ii) For gasoline-fueled heavy-duty vehicles with a Gross Vehicle Weight Rating of greater than 26,000 pounds, a written statement to the Administrator certifying that the manufacturer's evaporative emission control systems are designed, using good engineering practice, to meet the standards of § 86.090–10 as determined by the provisions of § 86.090–28. Furthermore, a written statement to the Administrator that all data, analyses, test procedures, evaluations, and other documents on which the above statement is based are available to the Administrator upon request.

(c) Emission data.

(1)(i) Emission data on such vehicles tested in accordance with applicable test procedures and in such numbers as specified. These data shall include zero-mile data, if generated, and emission data generated for certification as required under § 86.084–26(a)(3) (i) or (ii).

(ii) [Reserved]

(2) *Certification engines.* (i) Emission data on such engines tested in accordance with applicable emission test procedures of this subpart and in such numbers as specified. These data shall include zero-hour data, if generated, and emission data generated for certification as required under § 86.084–26(b)(5). In lieu of providing emission data on CO emissions from diesel certification engines the Administrator may, on request of the manufacturer, allow the manufacturer to demonstrate (on the basis of previous emission tests, development tests, or other information) that the engine will conform with the CO emission standard of § 86.090–11.

(ii) For heavy-duty diesel engines, a manufacturer may submit hot-start data only, in accordance with Subpart N, when making application for certification. However, for conformity SEA and recall testing by the Agency, both the cold-start and hot-start test data, as specified in Subpart N, will be included in the official results.

(d) A statement that the vehicles (or engines) for which certification is requested conform to the requirements in § 86.078–5(b), and that the descriptions of tests performed to ascertain compliance with the general standards in § 86.078–5(b), and the data derived from such tests, are available to the Administrator upon request.

(e)(1) A statement that the test vehicles (or test engines) with respect to which data are submitted to demonstrate compliance with the applicable standards (or family particulate emission limits, as appropriate) of this subpart are in all material respects as described in the manufacturer's application for certification, have been tested in accordance with the applicable test procedures utilizing the fuels and equipment described in the application for certification, and that on the basis of such tests the vehicles (or engines) conform to the requirements of this part. If such statements cannot be made with respect to any vehicle (or engine) tested, the vehicle (or engine) shall be indentified, and all pertinent data relating thereto shall be supplied to the Administrator. If, on the basis of the data supplied and any additional data as required by the Administrator, the Administrator determines that the test vehicles (or test engine) was not as described in the application for certification or was not tested in accordance with the applicable test procedures utilizing the fuels and equipment as described in the application for certification, the Administrator may make the determination that the vehicle (or engine) does not meet the applicable standards (or family particulate emission limits, as appropriate). The provisions of § 86.090–30(b) shall then be followed.

(2) For evaporative emission durability, or light-duty truck or heavy-duty engine exhaust emission durability, a statement of compliance with paragraph (b)(1)(ii), (b)(2), or (b)(3) of this section, as applicable.

(f) Additionally, manufacturers participating in one or both of the diesel particulate averaging programs shall submit:

(1) In the application for certification, a statement that the vehicles or engines for which certification is requested will not, to the best of the manufacturer's belief, when included in the manufacturer's weighted particulate average emission level(s), cause the applicable particulate standard(s) to be exceeded.

(2) No longer than 90 days after the end of a given model year of production of engine families included in the diesel particulate averaging program(s), the number of vehicles or engines produced in each engine family (and horsepower configuration for heavy-duty diesel engines) at each certified family diesel particulate emission limit, their subclass and rated brake horsepower (heavy-duty diesel engines only), and the manufacturers' resulting weighted particulate emission level(s).

16. A new § 86.090–28 is proposed to be added to Subpart A, to read as follows:

§ 86.090–28 Compliance with emission standards.

(a)(1) Paragraph (a) of this section applies to light-duty vehicles.

(2) The applicable exhaust and fuel evaporative emission standards (and family particulate emission limits, as appropriate) of this subpart apply to the emissions of vehicles for their useful life.

(3) Since it is expected that emission control efficiency will change with mileage accumulation on the vehicle, the emission level of a vehicle which has accumulated 50,000 miles will be used as the basis for determining compliance with the standards (or family particulate emission limit, as appropriate).

(4) The procedure for determining compliance of a new motor vehicle with exhaust emission standards (or family particulate emission limit, as appropriate) is as follows, except where specified by paragraph (a)(7) of this section for the Alternative Durability Program:

(i) Separate emission deterioration factors shall be determined from the exhaust emission results of the durability-data vehicle(s) for each engine-system combination. A separate factor shall be established for exhaust HC, exhaust CO, exhaust NO_x, and exhaust particulate (diesel vehicles only) for each engine-system combination. A separate evaporative emission deterioration factor shall be determined for each evaporative emission family-evaporative emission control system combination from the testing conducted by the manufacturer (gasoline-fueled vehicles only).

(A) The applicable results to be used, unless excluded by paragraph (a)(4)(i)(A)(*4*) of this section, in determining the exhaust emission deterioration factors for each engine-system combination shall be:

(*1*) All valid exhaust emission data from the tests required under § 86.084–26(a)(4) except the zero-mile tests. This shall include the official test results, as determined in § 86.090–29 for all tests conducted on all durability-data vehicles of the combination selected under § 86.085–24(c) (including all vehicles elected to be operated by the manufacturer under § 86.085–24(c)(1)(ii)).

(*2*) All exhaust emission data from the tests conducted before and after the scheduled maintenance provided in § 86.087–25.

(*3*) All exhaust emission data from tests required by maintenance approved under § 86.087–25, in those cases where the Administrator conditioned his approval for the performance of such maintenance on the inclusion of such

data in the deterioration factor calculation.

(4) The manufacturer has the option of applying an outlier test point procedure to completed durability data within its certification testing program for a given model year. The outlier procedure will be specified by the Administrator. For any pollutant, durability-data test points that are identified as outliers shall not be included in the determination of deterioration factors if the manufacturer has elected this option. The manufacturer shall specify to the Administrator before the certification of the first engine family for that model year, if it intends to use the outlier procedure. The manufacturer may not change procedures after the first engine family of the model year is certified. Where the manufacturer chooses to apply both the outlier procedure and averaging (as allowed under §86.084–26(b)(8)(ii)) to the same data set, the outliner procedure shall be completed prior to applying the averaging procedure.

(B) All applicable exhaust emission results shall be plotted as a function of the mileage on the system, rounded to the nearest mile, and the best fit straight lines, fitted by the method of least squares, shall be drawn through all these data points. The data will be acceptable for use in the calculation of the deterioration factor only if the interpolated 4,000-mile and 50,000-mile points on this line are within the low-altitude standards provided in § 86.087–8 or § 86.087–9, as applicable. Exceptions to this where data are still acceptable are when a best fit straight line crosses an applicable standard but no data points exceeded the standard, or the best fit straight line crosses and applicable standard with a negative slope (the 4,000-mile interpolated point is higher than the 50,000-mile interpolated point) but the 50,000-mile actual data point is below the standard. An multiplicative exhaust emission deterioration factor shall be calculated for each engine-system combination as follows:

Factor = Exhaust emissions interpolated to 50,000 miles divided by exhaust emissions interpolated to 4,000 miles.

These interpolated values shall be carried out to a minimum of four places to the right of the decimal point before dividing one by the other to determine the deterioration factor. The results shall be rounded to three places to the right of the decimal point in accordance with ASTM E 29–67.

(C) An evaporative emissions deterioration factor (gasoline-fueled vehicles only) shall be determined from the testing conducted as described in § 86.090–21(b)(4)(i), for each evaporative emission family-evaporative emission control system combination to indicate the evaporative emission level at 50,000 miles relative to the evaporative emission level at 4,000 miles as follows:

Factor = Evaporative emission level at 50,000 miles minus the evaporative emission level at 4,000 miles.

The factor shall be established to a minimum of two places to the right of the decimal.

(ii)(A) The official exhaust emission test results for each emission-data evehicle at the selected test point shall be multiplied by the appropriate deterioration factor: *Provided*, that if a deterioration factor as computed in pargaraph (a)(4)(i)(B) of this section is less than one, that deterioration factor shall be one for the purposes of this paragraph.

(B) The official evaporative emission test results (gasoline-fueled vehicles only) for each evaporative emission-data vehicle at the selected test point shall be adjusted by addition of the appropriate deterioration factor: *Provided*, that if a deterioration factor as computed in paragraph (a)(4)(i)(C) of this section is less than zero, that deterioration factor shall be zero for the purposes of this paragraph.

(iii) The emissions to compare with the standard (or the family particulate emission limit, as appropriate) shall be the adjusted emissions or paragraphs (a)(4)(ii)(A) and (B) of this section for each emission-data vehicle. Before any emission value is compared with the standard (or the family particulate emission limit, as appropriate), it shall be rounded, in accordance with ASTM E 29–67, to two significant figures. The rounded emission values may not exceed the standard (or the family particulate emission limit, as appropriate).

(iv) Every test vehicle of an engine family must comply with the exhaust emission standards (or the family particulate emission limit, as appropriate), as determined in paragrah (a)(4)(iii) of this section, before any vehicle in that family may be certified.

(v) Every test vehicle of an evaporative emission family must comply with the evaporative emission standard, as determined in paragraph (a)(4)(iii) of this section before any vehicle in that family may be certified.

(5) If a manufacturer chooses to change the level of any family particulate emission limit(s) in the particulate averaging program, compliance with the new limit(s) must be based upon existing certification data.

(6) If a manufacturer chooses to participate in the diesel particulate averaging program, the production-weighted average of the family particulate emission limits of all affected engine families must comply with the pariculate standards in § 86.087–8(a)(1)(iv) or § 86.087–9(a)(1)(iv), as appropriate, at the end of the production year.

(7) The procedure to determine the compliance of new motor vehicles in the Alternative Durability Program (described in § 86.085–13) is the same as described in paragraphs (a)(4)(iii) through (a)(4)(v) of this section. For the engine families that are included in the Alternative Durability Program, the exhaust emission deterioration factors used to determine compliance shall be those that the Administrator has approved under § 86.085–13(c). The evaporative emission deterioration factor for each evaporative emission family shall be determined and applied according to paragraph (a)(4) of this section. The procedures to determine the minimum exhaust emissions deterioration factors required under § 86.085–13(d) are as follows:

(i) Separate deterioration factors shall be determined from the exhaust emission results of the durability-data vehicles for each engine family group. A separate factor shall be established for exhaust, HC, exhaust CO, and exhaust NO_x for each engine family group. The evaporative emission deterioration factor for each evaporative family will be determined and applied in accordance with paragarph (a)(4) of this section.

(ii) The deterioration factors for each engine family group shall be determined by the Administrator using historical durability data from as many as three previous model years. These data will consist of deterioration factors generated by durability-data vehicles representing certified engine families and of deterioration factors from vehicles selected under § 86.087–24(h). The Administrator shall determine how these data will be combined for each engine family group.

(A) The test results to be used in the calculation of each deterioration factor to be combined for each engine family group shall be those test results specified in paragraph (a)(4)(i)(A) of this section.

(B) For each durability-data vehicles selected under § 86.087–24(h), all applicable exhaust emissions results shall be plotted as a function of the mileage on the system rounded to the

nearest mile, and the best fit straight lines, fitted by method of least squares, shall be drawn through all these data points. The exhaust deterioration factor for each durability-data vehicles shall be calculated as specified in paragraph (a)(4)(i)(B) of this section.

(C) *Line crossing.* For the purposes of paragraph (a)(5) of this section, line crossing occurs when either of the interpolated 4,000- and 50,000-mile points of the best fit straight line exceeds the applicable emission standard and at least one applicable data point exceeds the standard.

(*1*) The Administrator will not accept for certification line-crossing data from preproduction durability-data vehicles selected under § 86.087–24(c), § 86.087–24 (h)(2), or (h)(3).

(*2*) The Administrator will not accept for certification line-crossing data from production durability-data vehicles selected under § 86.087–24(h)(1) unless the 4,000-mile test result multiplied by the engine family group deterioration factor does not exceed the applicable emission standards. The deterioration factors used for this purpose shall be those that were used in the certification of the production vehicle. Manufacturers may calculate this product immediately after the 4,000-mile test of the vehicle. If the product exceeds the applicable standards, the manufacturer may, with the approval of the Administrator, discontinue the vehicle and substitute a new vehicle. The manufacturer may continue the original vehicle, but the data will not be acceptable if line crossing occurs.

(b)(1) Paragraph (b) of this section applies to light-duty trucks.

(2) The exhaust and fuel evaporative emission standards (and the family particulate emission limits, as appropriate) of § 86.087–9 apply to the emissions of vehicles for their useful life.

(3) Since emission control efficiency generally decreases with the accumulation of mileage on the vehicle, deterioration factors will be used in combination with emission-data vehicle test results as the basis for determining compliance with the standards (or the family particulate emission limit, as appropriate).

(4)(i) Paragraph (b)(4) of this section describes the procedure for determining compliance of a new vehicle with exhaust emission standards (or the family particulate emission limit, as appropriate), based on deterioration factors supplied by the manufacturers, except where specified by paragraph (b)(5) of this section for the Alternative Durability Program.

(ii) Separate exhaust emission deterioration factors, determined from tests of vehicles, engines, subsystems, or components conducted by the manufacturer, shall be supplied for each engine-system combination. Separate factors shall be established for transient HC, CO, and NO_x, idle CO (gasoline vehicles only), and exhaust particulate (diesel vehicles only).

(iii) For transient HC, CO, and NO_x, idle CO (gasoline vehicles only), and exhaust particulate (diesel vehicles only), the official exhaust emission results for each emission-data vehicle at the selected test point shall be adjusted by multiplication by the appropriate deterioration factor. However, if the deterioration factor supplied by the manufacturer is less than one, it shall be one for the purposes of this paragraph.

(iv) The emission values to compare with the standards (or family particulate emission limit, as appropriate) shall be the adjusted emission values of paragraph (b)(4)(iii) of this section rounded to two significant figures in accordance with ASTM E 29–67 for each emission data vehicle.

(5)(i) Paragraph (b)(5) of this section applies only to manufacturers which elect to participate in the particulate averaging program.

(ii) If a manufacturer chooses to change the level of any family particulate emission limit(s), compliance with the new limit(s) must be based upon existing certification data.

(iii) The weighted particulate emission level of the family particulate emission limits of all applicable engine families rounded to two significant figures in accordance with ASTM E 29–67 must comply with the particulate standards in § 86.087–8(a)(1)(iv) or § 86.087–9(a)(1)(iv), as appropriate, at the end of the product year.

(6) The procedure to determine the compliance of new motor vehicles in the Alternative Durability Program (described in § 86.085–13) is the same as described in paragraph (b)(4)(iv), (b)(7)(iv) and (b)(8) of this section. For the engine families that are included in the Alternative Durability Program, the exhaust emission deterioration factors used to determine compliance shall be those that the Administrator has approved under § 86.085–13(c). The evaporative emission deterioration factor for each evaporative emission family shall be determined and applied according to paragraph (b)(7) of this section. The procedures to determine the minimum exhaust emissions deterioration factors required under § 86.085–13(d) are as follows:

(i) Separate deterioration factors shall be determined from the exhaust emission results of the durability-data vehicles for each engine family group. A separate factor shall be established for exhaust HC, exhaust CO, and exhaust NO_x for each engine family group. The evaporative emission deterioration factor for each evaporative family will be determined and applied in accordance with paragraph (b)(6) of this section.

(ii) The deterioration factors for each engine family group shall be determined by the Administrator using historical durability data from as many as three previous model years. These data will consist of deterioration factors generated by durability-data vehicles representing certified engine families and of deterioration factors from vehicles selected under § 86.087–24(h). The Administrator shall determine how these data will be combined for each engine family group.

(A) The test results to be used in the calculations of each deterioration factor to be combined for each engine family group shall be those test results specified in paragraph (a)(4)(i)(A) of this section.

(B) For each durability-data vehicle selected under § 86.087–24(h), all applicable exhaust emission results shall be plotted as a function of the mileage on the system rounded to the nearest mile, and the best fit straight lines, fitted by the method of least squares, shall be drawn through all these data points. The exhaust deterioration factor for each durability-data vehicle shall be calculated as specified in paragraph (a)(4)(i)(B) of this section.

(C) *Line crossing.* For the purposes of paragraph (b)(5) of this section, line crossing occurs when either of the interpolated 4,000- and 120,000-mile points of the best fit straight line exceeds the applicable emission standard and at least one applicable data point exceeds the standard.

(*1*) The Administrator will not accept for certification line-crossing data from preproduction durability-data vehicles selected under § 86.087–24(c)(1), or § 86.087–24 (h)(2) or (h)(3).

(*2*) The Administrator will not accept for certification line-crossing data from production durability-data vehicles selected under § 86.087–24(h)(1) unless the 4,000-mile test result multiplied by the engine family group deterioration factor does not exceed the applicable emission standard. The deterioration factors used for this purpose shall be those that were used in the certification of the production vehicle. Manufacturers may calculate this product immediately after the 4,000-mile test of the vehicle. If the product exceeds the applicable standard, the manufacturer may, with

the approval of the Administrator, discontinue the vehicle and substitute a new vehicle. The manufacturer may continue the original vehicle, but the data will not be accpetable if line crossing occurs.

(7)(i) Paragraph (b)(7) of this section describes the procedure for determining compliance of a new vehicle with fuel evaporative emission standards. The procedure described here shall be used for all vehicles in all model years.

(ii) The manufacturer shall determine, based on testing described in § 86.090–21(b)(4)(i), and supply an evaporative emission deterioration factor for each evaporative emission family-evaporative emission control system combination. The factor shall be calculated by subtracting the emission level at the selected test point from the emission level at the useful life point.

(iii) The official evaporative emission test results for each evaporative emission-data vehicle at the selected test point shall be adjusted by the addition of the appropriate deterioration factor. However, if the deterioration factor supplied by the manufacturer is less than zero, it shall be zero for the purposes of this paragraph.

(iv) The emission value to compare with the standards shall be the adjusted emission value of paragraph (b)(7)(iii) of this section rounded to two significant figures in accordance with ASTM E 29–67 for each evaporative emission-data vehicle.

(8) Every test vehicle of an engine family must comply with all applicable standards (and the family particulate emission limits, as appropriate), as determined in paragraphs (b)(4)(iv) and (b)(7)(iv) of this section, before any vehicle in that family will be certified.

(c)(1) Paragraph (c) of this section applies to heavy-duty engines.

(2) The exhaust emission standards (and the family particulate emission limits, as appropriate) for gasoline-fueled engines in § 86.090–10 or for diesel engines in § 86.090–11 apply to the emissions of engines for their useful life.

(3) Since emission control efficiency generally decreases with the accumulation of service on the engine, deterioration factors will be used in combination with emission-data engine test results as the basis for determining compliance with the standards.

(4)(i) Paragraph (c)(4) fo this section describes the procedure for determining compliance of an engine with emission standards (or the family particulate emission limit, as appropriate), based on deterioration factors supplied by the manufacturer.

(ii) Separate exhaust emission deterioration factors, determined from tests of engines, subsystems, or components conducted by the manufacturer, shall be supplied for each engine-system combination. For gasoline and diesel engines, separate factors shall be established for transient HC, CO, NO_x and exhaust particulate (diesel engines only). For diesel smoke testing, separate factors shall also be established for the acceleration mode (designated as "A"), the lugging mode (designated as "B"), and peak opacity (designated as "C").

(iii)(A) Paragraph (c)(4)(iii)(A) of this section applies to gasoline-fueled heavy-duty engines.

(*1*) *Gasoline-fueled heavy-duty engines not tilizing aftertreatment technology (e.g., catalytic converters).* For transient HC, CO, and NO_x, the official exhaust emission results for each emission-data engine at the selected test point shall be adjusted by the addition of the appropriate deterioration factor. However, if the deterioration factor supplied by the manufacturer is less than zero, it shall be zero for the purposes of this paragraph.

(*2*) *Gasoline-fueled heavy-duty engines utilizing aftertreatment technology (e.g., catalytic converters).* For transient HC, CO, and NO_x, the official exhaust emission results for each emission-data engine at the selected test point shall be adjusted by multiplication by the appropriate deterioration factor. However, if the deterioration factor supplied by the manufacturer is less than one, it shall be one for the purposes of this paragraph.

(B) Paragraph (c)(4)(iii)(B) of this section applies to diesel heavy-duty engines.

(*1*) *Diesel heavy-duty engines not utilizing aftertreatment technology (e.g., particulate traps).* For transient HC, CO, and NO_x, the official exhaust emission results for each emission-data engine at the selected test point shall be adjusted by the addition of the appropriate deterioration factor. However, if the deterioration factor supplied by the manufacturer is less than zero, it shall be zero for the purposes of this paragraph.

(*2*) *Diesel heavy-duty engines utilizing aftertreatment technology (e.g., particulate traps).* For transient HC, CO, and NO_x, the official exhaust emission results for each emission-data engine at the selected test point shall be adjusted by multiplication by the appropriate deterioration factor. However, if the deterioration factor supplied by the manufacturer is less than one, it shall be one for the purposes of this paragraph.

(*3*) For acceleration smoke ("A"), lugging smoke ("B"), and peak smoke ("C"), the official exhaust emission results for each emission-data engine at the selected test point shall be adjusted by the addition of the appropriate deterioration factor. However, if the deterioration factor supplied by the manufacturer is less than zero, it shall be zero for the purposes of this paragraph.

(iv) The emission values to compare with the standards (or family particulate emission limits, as appropriate) shall be the adjusted emission values of paragraph (c)(4)(iii) of this section rounded to two significant figures in accordance with ASTM E 29–67 for each emission-data engine.

(5)(i) Paragraph (c)(5) of this section applies only to manufacturers which elect to participate in the particulate averaging program.

(ii) If a manufacturer chooses to change the level of any family particulate emission limit(s), compliance with the new limit(s) must be based upon existing certification data.

(iii) The weighted particulate emission level of the family particulate emission limits of all applicable engine families, rounded to two significant figures in accordance with ASTM E 29–67, must comply with the particulate standards in § 86.090–11(a)(1)(iv) at the end of the production year.

(6) [Reserved]

(7) Every test engine of an engine family must comply with all applicable standards and family particulate emission limits, as appropriate, as determined in paragraph (c)(4)(iv) of this section, before any engine in that family will be certified.

(d)(1) Paragraph (d) of this section applies to gasoline-fueled heavy-duty vehicles.

(2) The applicable fuel evaporative emission standard in § 86.090–10 applies to the emissions of vehicles for their useful life.

(3)(i) For vehicles with a GVWR of up to 26,000 pounds, because it is expected that emission control effeciency will change during the useful life of the vehicle, an evaporative emission deterioration factor shall be determined from the testing described in § 86.090–23(b)(3) for each evaporative emission family-evaporative emission control system combination to indicate the evaporative emission control system deterioration during the useful life of the vehicle (minimum 50,000 miles). The factor shall be established to a minimum of two places to the right of the decimal.

(ii) For vehicles with a GVWR or greater than 26,000 pounds, because it is

expected that emission control effeciency will change during the useful life of the vehicle, each manufacturer's statement as required in § 86.090–23(b)(4)(ii) shall include, in accordance with good engineering practice, consideration of control system deterioration.

(4) The evaporative emission test results, if any, shall be adjusted by the addition of the appropriate deterioration factor: *Provided,* that if the deterioration factor as computed in paragraph (c)(3) of this section is less than zoro, that deterioration factor shall be zero for the purposes of this paragraph.

(5) The emission level to compare with the standard shall be the adjusted emission level of paragraph (c)(4) of this section. Before any emission value is compared with the standard, it shall be rounded, in accordance with ASTM E 29–67, to two significant figures. The rounded emission values may not exceed the standard.

(6) Every test vehicle of an evaporataive emission family must comply with the evaporative emission standard, as determined in paragraph (c)(5) of this section, before any vehicle in that family may be certified.

17. A new § 86.090–29 is proposed to be added to Subpart A, to read as follows:

§ 86.090–29 Testing by the Administrator.

(a)(1) Paragraph (a) of this section applies to light-duty vehicles and light-duty trucks.

(2) The Administrator may require that any one or more of the test vehicles be submitted to him, at such place or places as he may designate, for the purposes of conducting emissions tests. The Administrator may specify that he will conduct such testing at the manufacturer's facility, in which case instrumentation and equipment specified by the Administrator shall be made available by the manufacturer for test operations. Any testing conducted at a manufacturer's facility pursuant to this paragraph shall be scheduled by the manufacturer as promptly as possible.

(3)(i) Whenever the Administrator conducts a test on a test vehicle, the results of that test shall, unless subsequently invalidated by the Administrator, comprise the official data for the vehicle at the prescribed test point and the manufacturer's data for that prescribed test point shall not be used in determining compliance with emission standards (or the family particulate emission limit, as appropriate).

(ii) Whenever the Administrator does not conduct a test on a test vehicle at a test point, the manufacturer's test data will be accepted as the official data for that point: *Provided,* that if the Administrator makes a determination based on testing under paragraph (a)(2) of this section, that there is a lack of correlation between the manufacturer's test equipment and the test equipment used by the Administrator, no manufacturer's test data will be accepted for purposes of certification until the reasons for the lack of correlation are determined and the validity of the data is established by the manufacturer, *and further provided,* that if the Administrator has reasonable basis to believe that any test data submitted by the manufacturer is not accurate or has been obtained in violation of any provisions of this part, the Administrator may refuse to accept that data as the official data pending retesting or submission or further information. If the manufacturer conducts more than one test on a vehicle, as authorized under § 86.084–26(a)(3)(i)(A) or (b)(4)(i)(A), the data from the last test in that series of tests on that vehicle, will constitute the official data.

(iii)(A)(*1*) The Administrator may adjust or cause to be adjusted any adjustable parameter of an emission data vehicle or engine which the Administrator has determined to be subject to adjustment for certification and Selective Enforcement Audit testing in accordance with § 86.085–22(e)(1), to any setting within the physically adjustable range of that parameter, as determined by the Administrator in accordance with § 86.085–22(e)(3)(i), prior to the performance of any tests to determine whether such vehicle or engine conforms to applicable emission standards, including tests performed by the manufacturer under § 86.090–23(c)(1). However, if the idle speed parameter is one which the Administrator has determined to be subject to adjustment, the Administrator shall not adjust it to a setting which causes a higher engine idle speed than would have been possible within the physically adjustable range of the idle speed parameter on the engine before it accumulated any dynamometer service, all other parameters being identically adjusted for the purpose of the comparison. The Administrator, in making or specifying such adjustments, will consider the effects of the deviation from the manufacturer's recommended setting on emissions performance characteristics as well as the likelihood that similar settings will occur on in-use light-duty vehicles or light-duty trucks. In determining likelihood, the Administrator will consider factors such as, but not limited to, the effect of the adjustment on vehicle performance characteristics and surveillance information from similar in-use vehicles.

(*2*) For those vehicles or engine parameters which the Administrator has not determined to be subject to adjustment during certification and Selective Enforcement Audit testing in accordance with § 86.085–22(e)(1), the emission-data vehicle presented to the Administrator for testing shall be calibrated within the production tolerances applicable to the manufacturer's specifications to be shown on the vehicle label (see § 86.090–35(a)(1)(iii)(D) or (a)(2)(iii)(D)) as specified in the application for certification. If the Administrator determines that a vehicle is not within such tolerances, the vehicle will be adjusted, at the facility designated by the Administrator, prior to the test and an engineering report shall be submitted to the Administrator describing the corrective action taken. Based on the engineering report, the Administrator will determine if the vehicle will be used as an emission-data vehicle.

(B) If the Administrator determines that the test data developed on an emission-data vehicle under paragraph (a)(3)(i) of the section would cause that vehicle to fail due to excessive 4,000-mile emissions or by application of the appropriate deterioration factor, then the following procedure shall be observed:

(*1*) The manufacturer may request a retest. Before the retest, those vehicle or engine parameters which the Administrator has not determined to be subject to adjustment for certification and Selective Enforcement Audit testing in accordance with § 86.085–22(e)(1) may be readjusted to manufacturer's specification, if these adjustments were made incorrectly prior to the first test. The Administrator may adjust or cause to be adjusted any parameter which the Administrator has determined to be subject to adjustment to any setting within the physically adjustable range of that parameter, as determined by the Administrator in accordance with § 86.085–22(e)(i). Other maintenance or repairs may be performed in accordance with § 86.087–25. All work on the vehicle shall be done at such location and under such conditions as the Administrator may prescribe.

(*2*) The vehicle will be retested by the Administrator and the results of this test shall comprise the official data for the emission-data vehicle.

(iv) If sufficient durability data are not available at the time of any emission test conducted under paragraph (a)(2) of this section to enable the Administrator

to determine whether an emission-data vehicle would fail, the manufacturer may request a retest in accordance with the provisions of paragraphs (a)(3)(iii)(A) and (B) of this section. If the manufacturer does not promptly make such request, he shall be deemed to have waived the right to a retest. A request for retest must be made before the manufacturer removes the vehicle from the test premises.

(b)(1) Paragraph (b) of this section applies to heavy-duty engines.

(2) The Administrator may require that any one or more of the test engines be submitted to him, at such place or places as he may designate, for the purpose of conducting emissions tests. The Administrator may specify that he will conduct such testing at the manufacturer's facility, in which case instrumentation and equipment specified by the Administrator shall be made available by the manufacturer for test operations. Any testing conducted at a manufacturer's facility pursuant to this paragraph shall be scheduled by the manufacturer as promptly as possible.

(3) (i) Whenever the Administrator conducts a test on a test engine the results of that test, unless subsequently invalidated by the Administrator, shall comprise the official data for the engine at that prescribed test point and the manufacturer's data for that prescribed test point shall not be used in determining compliance with emission standards (or the family particulate emission limit, as appropriate).

(ii) Whenever the Administrator does not conduct a test on a test engine at a test point, the manufacturer's test data will be accepted as the official data for that test point: *Provided,* that if the Administrator makes a determination based on testing under paragraph (b)(2) of this section, that there is a lack of correlation between the manufacturer's test equipment and the test equipment used by the Administrator, no manufacturer's test data will be accepted for purposes of certification until the reasons for the lack of correlation are determined and the validity of the data is established by the manufacturer, *and further provided,* that if the Administrator has reasonable basis to believe that any test data submitted by the manufacturer is not accurate or has been obtained in violation of any provision of this part, the Administrator may refuse to accept that data as the official data pending retesting or submission of further information.

(iii) (A)(*1*) The Administrator may adjust or cause to be adjusted any adjustable parameter of an emission-data engine which the Administrator has determined to be subject to adjustment for certification testing in accordance with § 86.085.22(e)(1), to any setting within the physically adjustable range of that parameter, as determined by the Administrator in accordance with § 86.085–22(e)(3)(i), prior to the performance of any tests to determine whether such engine conforms to applicable emission standards or family particulate emission limits, as appropriate, including tests performed by the manufacturer under § 86.090–23(c)(2). The Administrator, in making or specifying such adjustments, may consider the effect of the deviation from the manufacturer's recommended setting on emissions performance characteristics as well as the likelihood that similar settings will occur on in-use heavy-duty engines. In determining likelihood, the Administrator may consider factors such as, but not limited to, the effect of the adjustment on engine performance characteristics and surveillance information form similar in-use engines.

(*2*) For those engine parameters which the Administrator has not determined to be subject to adjustment for certification testing in accordance with § 86.085–22(e)(1), the emission-data engine presented to the Administrator for testing shall be calibrated within the production tolerances applicable to the manufacturer's specifications to be shown on the engine label (see § 86.090–35(a)(3)(iii)) as specified in the application for certification. If the Administrator determines that an engine is not within such tolerances, the engine shall be adjusted at the facility designated by the Administrator prior to the test and an engineering report shall be submitted to the Administrator describing the corrective action taken. Based on the engineering report, the Administrator will determine if the engine shall be used as an emission-data engine.

(B) If the Administrator determines that the test data developed under paragraph (b)(3)(iii)(A) of this section would cause the emission-data engine to fail due to excessive 125-hour emission values or by the application of the appropriate deterioration factor, then the following procedure shall be observed:

(*1*) The manufacturer may request a retest. Before the retest, those engine parameters which the Administrator has not determined to be subject to adjustment for certification testing in accordance with § 86.085–22(e)(1) may be readjusted to the manufacturer's specifications, if these adjustments were made incorrectly prior to the first test. The Administrator may adjust or cause to be adjusted any parameter which the Administrator has determined to be subject to adjustment in accordance with § 86.085–22(e)(3)(i). However, if the idle speed parameter is one which the Administrator has determined to be subject to adjustment, the Administrator shall not adjust it to a setting which causes a higher engine idle speed than would have been possible within the physically adjustable range of the idle speed parameter on the engine before it accumulated any dynamometer service, all other parameters being identically adjusted for the purpose of the comparison. Other maintenance or repairs may be performed in accordance with § 86.087–25. All work on the vehicle shall be done at such location and under such conditions as the Administrator may prescribe.

(*2*) The engine will be retested by the Administrator and the results of this test shall comprise the official data for the emission-data engine.

(iv) If sufficient durability data are not available at the time of any emission test conducted under paragraph (b)(2) of this section to enable the Administrator to determine whether an emission-data engine would fail, the manufacturer may request a retest in accordance with the provisions of paragraphs (b)(3)(iii)(B) (*1*) and (*2*) of this section. If the manufacturer does not promptly make such request, he shall be deemed to have waived the right to a retest. A request for retest must be made before the manufacturer removes the engine from the test premises.

(c) (1) Paragraph (c) of this section applies to gasoline-fueled heavy-duty vehicles.

(2) The Administrator may require that any one or more of the evaporative emission family-system combinations included in the manufacturer's statement(s) of compliance be installed on an appropriate vehicle and such vehicle be submitted to him, at such place or places as he may designate, for the purpose of conducting emissions tests. The Administrator may specify that he will conduct such testing at the manufacturer's facility, in which case instrumentation and equipment specified by the Administrator shall be made available by the manufacturer for test operations. Any testing conducted at a manufacturer's facility pursuant to this paragraph shall be scheduled by the manufacturer as promptly as possible.

(3)(i) Whenever the Administrator conducts a test on an evaporative emission family-system combination the results of that test, unless subsequently invalidated by the Administrator, shall comprise the official data for the

evaporative emission family-system combination and the manufacturer's data, analyses, etc., shall not be used in determining compliance with emission standards.

(ii) Whenever the Administrator does not conduct a test on an evaporative emission family-system combination, the manufacturer's test data will be accepted as the official data: *Provided,* that if the Administrator makes a determination based on testing under paragraph (c)(2) of this section, that there is a lack of correlation between the manufacturer's test equipment and the test equipment used by the Administrator, no manufacturer's test data will be accepted for purposes of certification until the reasons for the lack of correlation are determined and the validity of the data is established by the manufacturer, *and further provided,* that if the Administrator has reasonable basis to believe that any test data, analyses, or other information submitted by the manufacturer is not accurate or has been obtained in violation of any provision of this part, the Administrator may refuse to accept those data, analyses, etc., as the official data pending retesting or submission or further information.

18. A new § 86.090–30 is proposed to be added to Subpart A, to read as follows:

§ 86.090–30 Certification.

(a)(1)(i) If, after a review of the test reports and data submitted by the maufactuer, data derived from any inspection carried out under § 86.078–7(c), and any other pertinent data or information, the Administrator determines that a test vehicle(s) (or test engine(s)) meet(s) the requirements of the Act and of this subpart, he will issue a certificate of conformity with respect to such vehicle(s) (or engine(s)) except in cases covered by paragraphs (a)(1)(ii) and (c) of this section.

(ii) *Gasoline-fueled heavy-duty vehicles.* If, after a review of the statement(s) of compliance submitted by the manufacturer under § 86.090–23(b)(4) and any other pertinent data or information, the Administrator determines that the requirements of the Act and this subpart have been met, he will issue one certificate of conformity per manufacturer with respect to the evaporative emission family(s) covered by such statement(s), except in cases covered by paragraph (c) of this section.

(2) Such certificate will be issued for such period not to exceed one model year as the Administrator may determine and upon such terms as he may deem necessary or appropriate to assure that any new motor vehicle (or new motor vehicle engine) covered by the certificate will meet the requirements of the Act and of this part.

(3)(i) One such certificate will be issued for each engine family. For gasoline-fueled light-duty vehicles and light-duty trucks, one such certificate will be issued for each engine family-evaporative emission family combination.

(A) *Light-Duty Vehicles.* Each certificate will certify compliance with no more than one set of standards (or one family particulate emission limit, as appropriate).

(B) *Light-Duty Trucks.* Each certificate will certify compliance with no more than one set of standards (or one family particulate emission limit, as appropriate), except for low-altitude standards and high-altitude standards. The certificate shall state that it covers vehicles sold or delivered to an ultimate purchaser for principal use at a designated high-altitude location only if the vehicle conforms in all material respects to the design specifications that apply to those vehicles described in the application for certification at high altitude.

(ii) For gasoline-fueled heavy-duty vehicles, one such certificate will be issued for each manufacturer and will certify compliance for those vehicles previously identified in that manufacturer's statement(s) of compliance as required in § 86.090–23(b)(4) (i) and (ii).

(iii) For diesel ligh-duty vehicles and light-duty trucks or heavy-duty diesel engines included in the appropriate particulate averaging program, the manufacturer may at any time during production elect to change the level of any family particulate emission limit by demonstrating compliance with the new limit as described in § 86.090–28(a)(6), § 86.090–28(b)(7) or § 86.090–28(c)(5). New certificates issued under this paragraph will be applicable only for vehicles or engines produced subsequent to the date of issuance.

(4)(i) The adjustment or modification of any light-duty truck in accordance with instructions provided by the manufacturer for the altitude where the vehicle is principally used will not be considered a violation of section 203(a)(3) of the Clean Air Act.

(ii) A violation of section 203(a)(1) of the Clean Air Act occurs when a manufacturer sells or delivers to an ultimate purchaser any light-duty vehicle or light-duty truck, subject to the regulations under the Act, under any of the conditions specified in the remainder of this paragraph.

(A) When a light-duty vehicle or light-duty truck is not configured to meet high-altitude requirements:

(*1*) At a designated high-altitude location, unless such manufacturer has reason to believe that such vehicle will not be sold to an ultimate purchaser for principal use at a designated high-altitude location; or

(*2*) At a location other than a designated high-altitude location, when such manufacturer has reason to believe that such motor vehicle will be sold to an ultimate purchaser for principal use at a designated high-altitude location.

(B) When a light-duty vehicle is not configured to meet low-altitude requirements, as provided in § 86.087–8(i):

(*1*) At a designated low-altitude location, unless such maufacturer has reason to believe that such vehicle will not be sold to an utimate purchaser for principal use at a designated low-altitude location; or

(*2*) At a location other that a designated low-altitude location, when such manufacturer has reason to believe that such motor vehicle will be sold to an ultimate purchaser for principal use at a designated low-altitude location.

(iii) A manufacturer shall be deemed to have reason to believe that a light-duty vehicle that has been exempted from compliance with emission standards at high-altitude, or a light-duty truck which is not configured to meet high-altitude requirements, will not be sold to an ultimate purchaser for principal use at a designated high-altitude location if the manufacturer has informed its dealers and field reprentatives about the terms of these high-altitude regulations, has not caused the improper sale itself, and has taken reasonable action which shall include, but not be limited to, either paragraphs (a)(4)(iii) (A) or (B), and paragraph (a)(4)(iii)(C) of this section:

(A) Requiring dealers in designated high-altitude locations to submit written statements to the manufacturer signed by the ultimate purchaser that a vehicle which is not configured to meet high-altitude requirements will not be used principally at a designated high-altitude location; requiring dealers in counties contiguous to designated high-altitude locations to submit written statements to the manufacturer, signed by the ultimate purchaser who represents to the dealer in the normal course of business that he or she resides in a designated high-altitude location, that a vehicle which is not configured to meet high-altitude requirements will not be used principally at a designated high-altitude location; and for each sale or

delivery of fleets of ten or more such vehicles in a high-altitude location or in counties contiguous to high-altitude locations, requiring either the selling dealer or the delivering dealer to submit written statements to the manufacturer, signed by the ultimate purchaser who represents to the dealer in the normal course of business that he or she resides in a designated high-altitude location, that a vehicle which is not configured to meet high-altitude requirements will not be used principally at a designated high-altitude location. In addition, the manufacturer will make available to EPA, upon reasonable written request (but not more frequently than quarterly, unless EPA has demonstrated that it has substantial reason to believe that an improperly configured vehicle has been sold), sales, warranty, or other information pertaining to sales of vehicles by the dealers described above maintained by the manufacturer in the normal course of business relating to the altitude configuration of vehicles and the locations of ultimate purchasers; or

(B) Implementing a system which monitors factory orders of low-altitude vehicles by high-altitude dealers, or through other means, identifies dealers that may have sold or delivered a vehicle not configured to meet the high-altitude requirements to an ultimate purchaser for principal use at a designated high-altitude location; and making such information available to EPA upon reasonable written request (but not more frequently than quarterly, unless EPA has demonstrated that it has substantial reason to believe that an improperly configured vehicle has been sold); and

(C) Within a reasonable time after receiving written notice from EPA or a State or local government agency that a dealer may have improperly sold or delivered a vehicle not configured to meet the high-altitude requirements to an ultimate purchaser residing in a designated high-altitude location, or based on information obtained pursuant to paragraph (a)(4)(iii) of this section that a dealer may have improperly sold or delivered a significant number of such vehicles to ultimate purchasers so residing, reminding the dealer in writing of the requirements of these regulations, and, where appropriate, warning the dealer that sale by the dealer of vehicles not configured to meet high-altitude requirements may be contrary to the terms of its franchise agreement with the manufacturer and the dealer certification requirements of § 85.2108 of this chapter.

(iv) A manufacturer shall be deemed to have reason to believe that a light-duty vehicle which has been exempted from compliance with emission standards at low-altitude, as provided in § 86.087–8(i), will not be sold to an ultimate purchaser for principal use at a designated low-altitude location if the manufacturer has informed its dealers and field representatives about the terms of these high-altitude regulations, has not caused the improper sale itself, and has taken reasonable action which shall include, but not be limited to, either paragraphs (a)(4)(iv) (A) or (B), and paragraph (a)(4)(iv)(C) of this section:

(A) Requiring dealers in designated low-altitude locations to submit written statements to the manufacturer signed by the ultimate purchaser that a vehicle which is not configured to meet low-altitude requirements will not be used principally at a designated low-altitude location; requiring dealers in counties contiguous to designated low-altitude locations to submit written statements to the manufacturer, signed by the ultimate purchaser who represents to the dealer in the normal course of business that he or she resides in a designated low-altitude location, that a vehicle which is not configured to meet low-altitude requirements will not be used principally at a designated low-altitude location; and for each sale or delivery of fleets of ten or more such vehicles in a low-altitude location or in counties contiguous to low-altitude locations, requiring either the selling dealer or the delivering dealer to submit written statements to the manufacturer, signed by the ultimate purchaser who represents to the dealer in the normal course of business that he or he resides in a designated low-altitude location, that a vehicle which is not configured to meet low-altitude requirements will not be used principally at a designated high-altitude location. In addition, the manufacturer will make available to EPA, upon reasonable written request (but not more frequently than quarterly, unless EPA has demonstrated that it has substantial reason to believe that an improperly configured vehicle has been sold), sales, warranty, or other information pertaining to sales of vehicles by the dealers described above maintained by the manufacturer in the normal course of business relating to the altitude configuration of vehicles and the locations of ultimate purchasers; or

(B) Implementing a system which monitors factory orders of high-altitude vehicles by low-altitude dealers, or through other means, identifies dealers that may have sold or delivered a vehicle not configured to met the low-altitude requirements to an ultimate purchaser for principal use at a designated low-altitude location; and making such information available to EPA upon reasonable written request (but not more frequently than quarterly, unless EPA has demonstrated that it has substantial reason to believe that an improperly configured vehicle has been sold); and

(C) Within a reasonable time after receiving written notice from EPA or a state or local government agency that a dealer may have improperly sold or delivered a vehicle not configured to meet the low-altitude requirements to an ultimate purchaser residing in a designated low-altitude location, or based on information obtained pursuant to paragraph (a)(4)(iv) of this section that a dealer may have improperly sold or delivered a significant number of such vehicles to ultimate purchasers so residing, reminding the dealer in writing of the requirements of these regulations, and, where appropriate, warning the dealer that sale by the dealer of vehicles not configured to meet low-altitude requirements may be contrary to the terms of its franchise agreement with the manufacturer and the dealer certification requirements of § 85.2108 of this chapter.

(5)(i) For the purpose of paragraph (a) of this section, a "designated high-altitude location" is any county which has substantially all of its area located above 1,219 meters (4,000 feet) and:

(A) Requested an extension past the attainment date of December 31, 1982, for compliance with either the National Ambient Air Quality Standards for carbon monoxide or ozone, as indicated in Part 52 (Approval and Promulgation of Implementation Plans) of this title; or

(B) Is in the same state as a county designated as a high-altitude location according to paragraph (a)(5)(i)(A) of this section.

(ii) The designated high-altitude locations defined in paragraph (a)(5)(i) of this section are listed below:

Designated High-Altitude Locations (counties) for Light-Duty Trucks

State of Colorado

Adams	Eagle
Alamosa	Elbert
Arapahoe	El Paso
Archuleta	Fremont
Boulder	Garfield
Chaffee	Gilpin
Cheyenne	Grand
Clear Creek	Gunnison
Conejos	Hinsdale
Costilla	Huerfano
Crowley	Jackson
Custer	Jefferson
Delta	Kit Carson
Denver	Lake
Dolores	La Plata
Douglas	Larimer

Las Animas	Pueblo
Lincoln	Rio Blanco
Mesa	Rio Grande
Mineral	Routt
Moffat	Saguache
Montezuma	San Juan
Montrose	San Miguel
Morgan	Summit
Otero	Teller
Ouray	Washington
Park	Weld
Pitkin	

State of Nevada

Carson City	Lyon
Douglas	Mineral
Elko	Nye
Esmeralda	Pershing
Eureka	Storey
Humboldt	Washoe
Lander	White Pine
Lincoln	

State of New Mexico

Bernalillo	Otero
Catron	Rio Arriba
Colfax	Roosevelt
Curry	Sandoval
De Baca	San Juan
Grant	San Miguel
Guadalupe	Santa Fe
Harding	Sierra
Hidalgo	Socorro
Lincoln	Taos
Los Alamos	Torrance
Luna	Union
McKinley	Valencia
Mora	

State of Utah

Beaver	Morgan
Box Elder	Piute
Cache	Rich
Carbon	Salt Lake
Daggett	San Juan
Davis	Sanpete
Duchesne	Sevier
Emery	Summit
Garfield	Tooele
Grand	Uintah
Iron	Utah
Juab	Wasatch
Kane	Wayne
Millard	Weber

(iii) For the purpose of paragraph (a) of this section, a "designated low-altitude location" is any county which has substantially all of its area located below 1,219 meters (4,000 feet).

(iv) The designated low-altitude locations so defined include all counties in the United States which are not listed in either paragraph (a)(5)(ii) of this section or in the list below:

State of Arizona

Apache	Navajo
Cochise	Yavapai
Coconino	

State of Idaho

Bannock	Franklin
Bear Lake	Fremont
Bingham	Jefferson
Blaine	Lemhi
Bonneville	Madison
Butte	Minidoka
Camas	Oneida
Caribou	Power
Cassia	Teton
Clark	Valley
Custer	

State of Montana

Beaverhead	Meagher
Deer Lodge	Park
Gallatin	Powell
Jefferson	Silver Bow
Judith Basin	Wheatland
Madison	

State of Nebraska

Banner	Kimball
Cheyenne	Sioux

State of Oregon

Harney	Lake
Klamath	

Sate of Texas

Jeff Davis	Parmer
Hudspeth	

State of Wyoming

Albany	Natrona
Campbell	Niobrara
Carbon	Park
Converse	Platte
Fremont	Sublette
Goshen	Sweetwater
Hot Springs	Teton
Johnson	Uinta
Laramie	Washakie
Lincoln	Weston

(6) Catalyst-equipped vehicles, otherwise covered by a certificate, which are driven outside the United States, Canada, and Mexico will be presumed to have been operated on leaded gasoline resulting in deactivation of the catalysts. If these vehicles are imported or offered for importation without retrofit of the catalyst, they will be considered not to be within the coverage of the certificate unless included in a catalyst control program operated by a manufacturer or a United States Government agency and approved by the Administrator.

(7) For incomplete light-duty trucks, a certificate covers only those new motor vehicles which, when completed by having the primary load-carrying device or container attached, conform to the maximum curb weight and frontal area limitations described in the application for certification as required in § 86.090–21(d).

(8) For heavy-duty engines, a certificate covers only those new motor vehicle engines installed in heavy-duty vehicles which conform to the minimum gross vehicles weight rating, curb weight, or frontal area limitations for heavy-duty vehicles described in § 86.082–2.

(9) For incomplete gasoline-fueled heavy-duty vehicles a certificate covers only those new motor vehicles which, when completed, conform to the nominal maximum fuel tank capacity limitations as described in the application for certification as required in § 86.909–21(e).

(10) For diesel light-duty vehicle families and diesel light-duty truck families or heavy-duty diesel engine families which participate in a particulate averaging program, the manufacturer's weighted particulate emission level of the particulate emission limits of all engine families in a participating class or classes shall not exceed the applicable diesel particulate standard, or composite standard, as appropriate, at the end of the model year, as determined in accordance with 40 CFR Part 86. The certificate shall be void *ab initio* for those vehicles causing any exceeding of the particulate standard.

(b)(1) The Administrator will determine whether a vehicle (or engine) covered by the application complies with applicable standards (or family particulate emission limit, as appropriate) by observing the following relationships:

(i) *Light-duty vehicles.* (A) The durability-data vehicle(s) selected under § 86.087–24(c)(1)(i) shall represent all vehicles of the same engine-system combination.

(B) The emission-data vehicle(s) selected under § 86.87–24(b)(1) (ii) through (iv) shall represent all vehicles of the same engine-system combination as applicable.

(C) The emission-data vehicle(s) selected under § 86.087–24(b)(1)(vii) (A) and (B) shall represent all vehicles of the same evaporative control system within the evaporative family.

(ii) *Light-duty trucks.*

(A) The emission-data vehicle(s) selected under § 86.085–24(b)(1)(ii), shall represent all vehicles of the same engine-system combination as applicable.

(B) The emission-data vehicle(s) selected under § 86.087–24(b)(1)(vii) (A) and (B) shall represent all vehicles of the same evaporative control system within the evaporative family.

(C) The emission-data vehicle(s) selected under § 86.087–24(b)(1)(v) shall represent all vehicles of the same engine-system combination as applicable.

(D) The emission-data vehicle(s) selected under § 86.087–24(b)(1)(viii) shall represent all vehicles of the same evaporative control system within the evaporative emission family, as applicable.

(iii) *Heavy-duty engines.* (A) A gasoline-fueled emission-data test engine selected under § 86.087–24(b)(2)(iv) shall represent all engines in the same family of the same engine displacement-exhaust emission control system combination.

(B) A gasoline-fueled emission-data test engine selected under § 86.087–

24(b)(2)(iii) shall represent all engines in the same engine family of the same engine displacement-exhaust emission control system combination.

(C) A diesel emission-data test engine selected under § 86.087–24(b)(3)(ii) shall represent all engines in the same engine-system combination.

(D) A diesel emission-data test engine selected under § 86.087–24(b)(3)(iii) shall represent all engines of that emission control system at the rated fuel delivery of the test engine.

(iv) *Gasoline-fueled heavy-duty vehicles.* A statement of compliance submitted under § 86.090–23(b)(4) (i) or (ii) shall represent all vehicles in the same evaporative emission family-evaporative emission control system combination.

(2) The Administrator will proceed as in paragraph (a) of this section with respect to the vehicles (or engines) belonging to an engine family or engine family-evaporative emission family combination (as applicable), all of which comply with all applicable standards (or the family emission limit, as appropriate).

(3) If, after a review of the test reports and data submitted by the manufacturer, data derived from any additional testing conducted pursuant to § 86.090–29, data or information derived from any inspection carried out under § 86.078–7(c) or any other pertinent data or information, the Administrator determines that one or more test vehicles (or test engines) of the certification test fleet do not meet applicable standards (or family particulate emission limits, as appropriate), he will notify the manufacturer in writing, setting forth the basis for his determination. Within 30 days following receipt of the notification, the manufacturer may request a hearing on the Administrator's determination. The request shall be in writing, signing by an authorized representative of the manufacturer and shall include a statement specifying the manufacturer's objections to the Administrator's determination and data in support of such objections. If, after a review of the request and supporting data, the Administrator finds that the request raises a substantial factural issue, he shall provide the manufacturer a hearing in accordance with § 86.978–6 with respect to such issue.

(4) For light-duty vehicles and light-duty trucks the manufacturer may, at its option, proceed with any of the following alternatives with respect to an emission-data vehicle determined not in compliance with all applicable standards (or the family particulate emission limit, as appropriate) for which it was tested:

(i) Request a hearing under § 86.078–6; or

(ii) Remove the vehicle configuration (or evaporative vehicle configuration, as applicable) which failed, from his application.

(A) If the failed vehicle was tested for compliance with exhaust emission standards (or the family particulate emission limit, as appropriate) only: The Administrator may select, in place of the failed vehicle, in accordance with the selection criteria employed in selecting the failed vehicle, a new emission-data vehicle to be tested for exhaust emission compliance only.

(B) If the failed vehicle was tested for compliance with both exhaust and evaporative emission standards: The Administrator may select, in place of the failed vehicle, in accordance with the selection criteria employed in selecting the failed vehicle, a new emission-data vehicle which will be tested for compliance with both exhaust and evaporative emission standards. If one vehicle cannot be selected in accordance with the selection criteria employed in selecting the failed vehicle, then two vehicles may be selected (*i.e.*, one vehicle to satisfy the exhaust emission vehicle selection criteria and one vehicle to satisfy the evaporative emission vehicle selection criteria). The vehicle selected to satisfy the exhaust emission vehicle selection criteria will be tested for compliance with exhaust emission standards only. The vehicle selected to satisfy the evaporative emission vehicle selection criteria will be tested for compliance with both exhaust and evaporative emission standards; or

(iii) Remove the vehicle configuration (or evaporative vehicle configuration, as applicable) which failed from the application and add a vehicle configuration(s) (or evaporative vehicle configuration(s), as applicable) not previously, listed. The administrator may require, if applicable that the failed vehicle be modified to the new engine code (or evaporative emission code, as applicable) and demonstrate by testing that it meets applicable standards (or the family particulate emission limit, as appropriate) for which it was originally tested. In addition, the Administrator may select, in accordance with the vehicle selection criteria given in § 86.087–24(b), a new emission-data vehicle or vehicles. The vehicles selected to satisfy the exhaust emission vehicle selection criteria will be tested for compliance with exhaust emission standards (or the family particulate emission limit, as appropriate) only. The vehicles selected to satisfy the evaporative emission vehicle selection criteria will be tested for compliance with both exhaust and evaporative emission standards (or the family particulate emission limit, as appropriate); or

(iv) Correct a component or system malfunction and show that with a correctly functioning system or component the failed vehicle meets applicable standards (or the family particulate emission limit, as appropriate) for which it was originally tested. The Administrator may require a new emission-data vehicle, of identical vehicle configuration (or evaporative vehicle configuration, as applicable) to the failed vehicle, to be operated and tested for compliance with the applicable standards (or the family particulate emission limit, as appropriate) for which the failed vehicle was originally tested.

(5) For heavy-duty engines the manufacturer may, at his option, proceed with any of the following alternatives with respect to any engine family represented by a test engine(s) determined not in compliance with applicable standards:

(i) Request a hearing under § 86.078–6; or

(ii) Delete from the application for certification the engines represented by the failing test engine. (Engines so deleted may be included in a later request for certification under § 86.079–32). The Administrator may then select in place of each failing engine an alternate engine chosen in accordance with selection criteria employed in selecting the engine that failed; or

(iii) Modify the test engine and demonstrate by testing that it meets applicable standards (or family particulate emission limit, as appropriate). Another engine which is in all material respects the same as the first engine, as modified, may then be operated and tested in accordance with applicable test procedures.

(6) If the manufacturer does not request a hearing or present the required data under paragraphs (b) (4) or (5) of this section (as applicable), the Administrator will deny certification.

(c)(1) Notwithstanding the fact that any certification vehicle(s) (or engine(s)) may comply with other provisions of this subpart, the Administrator may withhold or deny the issuance of a certificate of conformity (or suspend or revoke any such certificate which has been issued) with respect to any such vehicle(s) (or engine(s)) if:

(i) The manufacturer submits false or incomplete information in his application for certification thereof;

(ii) The manufacturer renders inaccurate any test data which he submits pertaining thereto or otherwise circumvents the intent of the Act, or of this part with respect to such vehicle (or engine);

(iii) Any EPA Enforcement Officer is denied access on the terms specified in § 86.078–7(c) to any facility or portion thereof which contains any of the following:

(A) The vehicle (or engine);

(B) Any components used or considered for use in its modification or buildup into a certification vehicle (or certification engine);

(C) Any production vehicle (or production engine) which is or will be claimed by the manufacturer to be covered by the certificate;

(D) Any step in the construction of a vehicle (or engine) described in paragraph (c)(iii)(C) of this section;

(E) Any records, documents, reports, or histories required by this part to be kept concerning any of the above.

(iv) Any EPA Enforcement Officer is denied "reasonable assistance" (as defined in § 86.078–7(c)) in examining any of the items listed in paragraph (c)(1)(iii) of this section.

(2) The sanctions of withholding, denying, revoking, or suspending of a certificate may be imposed for the reasons in paragraphs (c)(1) (i), (ii), (iii), or (iv) of this section only when the infraction is substantial.

(3) In any case in which a manufacturer knowingly submits false or inaccurate information of knowingly renders inaccurate or invalid any test data or commits any other fraudulent acts and such acts contribute substantially to the Administrator's decision to issue a certificate of conformity, the Administrator may deem such certificate void *ab initio*.

(4) In any case in which certification of a vehicle (or engine) is proposed to be withheld, denied, revoked, or suspended under paragraphs (c)(1)(iii) or (c)(1)(iv) of this section, and in which the Administrator has presented to the manufacturer involved reasonable evidence that a violation of § 86.078–7(c) in fact occurred, the manufacturer, if he wishes to contend that, even though the violation occurred, the vehicle (or engine) in question was not involved in the violation to a degree that would warrant withholding denial, revocation, or suspension of certification under either paragraph (c)(1)(iii) or (c)(1)(iv) of this section, shall have the burden of establishing that contention to the satisfaction of the Administrator.

(5) Any revocation or suspension of certification under paragraph (c)(1) of this section shall:

(i) Be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with § 86.078–6 hereof.

(ii) Extend no further than to forbid the introduction into commerce of vehicles (or engines) previously covered by the certification which are still in the hands of the manfacturer, except in cases of such fraud or other misconduct as makes the certification invalid *ab initio*.

(6) The manufacturer may request in the form and manner specified in paragraph (b)(3) of this section that any determination made by the Administrator under paragraph (c)(1) of this section to withhold or deny certification be reviewed in a hearing conducted in accordance with § 86.078–6. If the Administrator finds, after a review of the request and supporting data, that the request raises a substantial factual issue, he will grant the request with respect to such issue.

(d)(1) *For light-duty vehicles, light-duty trucks, and heavy-duty engines.* Notwithstanding the fact that any vehicle or engine configuration or engine family may be covered by a valid outstanding certificate of conformity, the Administrator may suspend such outstanding certificate of conformity in whole or in part with respect to such vehicle or engine configuration or engine family if:

(i) The manufacturer refuses to comply with the provisions of a test order issued by the Administrator pursuant to § 86.603 or § 86.1003; or

(ii) The manufacturer refuses to comply with any of the requirements of § 86.603 or § 86.1003; or

(iii) The manufacturer submits false or incomplete information in any report or information provided pursuant to the requirements of § 86.609 or § 86.1009; or

(iv) The manufacturer renders inaccurate any test data which he submits pursuant to § 86.609 or in § 86.1009; or

(v) Any EPA Enforcement Officer is denied access to a facility on the terms specified in § 86.606 or in § 86.1006 of this part and in a warrant or court order presented to the manufacturer or the party in charge of a facility in question; or

(vi) EPA Enforcement Officers are unable to conduct activities related to entry and access as authorized in § 86.606 or § 86.1006 of this part because a manufacturer has located a facility in a foreign jurisdiction where local law prohibits those activities; or

(vii) Any EPA Enforcement Officer is denied the opportunity on the terms specified in § 86.606 of § 86.1006 to:

(A) Monitor vehicle selection pursuant to § 86.607 or § 86.1007, or

(B) Select vehicles for testing pursuant to § 86.607 or § 86.1007, or

(C) Monitor vehicle testing perform to satisfy any of the requirements of this part; or

(viii) Any EPA Enforcement Officer is denied "reasonable assistance" as defined in § 86.606 or § 86.1006 in examining any of item listed in that section; or

(ix) The manufacturer refuses to comply or in fact does not comply with the requirements of § 86.604(a), § 86.605, and § 86.607, § 86.608, § 86.0610, or § 86.611, or of § 86.1004(a), § 86.1005, § 86.1007, § 86.1008, § 86.1010, § 86.1011, or § 86.1013.

(2) The sanction of suspending a certificate may not be imposed for the reasons in paragraphs (d)(1) (i), (ii), or (viii) of this section where such refusal is caused by conditions and circumstances outside the control of the manufacturer which renders it impossible to comply with those requirements. Such conditions and circumstances shall include, but not be limited to, any uncontrollable factors which results in the temporary unavailability of equipment and personnel needed to conduct the required tests, such as equipment breakdown or failure or illness of personnel, but shall not include failure of the manufacturer to adequately plan for and provide the equipment and personnel needed to conduct the tests. The manufacturer will bear the burden of establishing the presence of the conditions and circumstances required by this paragraph.

(3) The sanctions of suspending a certificate may be imposed for the reasons in paragraphs (d)(1) (iii), (iv), (v), (vii) or (viii) of this section only when the infraction is substantial.

(4) In any case in which a manufacturer knowingly submitted false or inaccurate information or knowingly rendered inaccurate any test data or committed any other fraudulent acts, and such acts contributed substantially to the Administrator's original decision not to suspend or revoke a certificate of conformity in whole or in part, the Administrator may deem such certificate void from the date of such fraudulent act.

(5) In any case in which certification of a vehicle is proposed to be suspended under paragraph (d)(1) (v), (vi), or (vii) of this section, and in which the Administrator has presented to the

manufacturer involved reasonable evidence that a violation of § 86.606 or § 86.1006 in fact occurred, the manufacturer, if he wishes to contend that even though the violation occurred, the vehicle configuration or engine family in question was not involved in the violation to the degree that would warrant suspension of certification under either paragaraph (d)(1) (v), (vi), or (vii) of this section, shall have the burden of establishing that contention to the satisfaction of the Administrator.

(6) Any suspension of certification under paragraph (d)(1) of this section shall:

(i) Be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with § 86.613 or § 86.1014 hereof, and

(ii) Not apply to vehicles or engines no longer in the hands of the manufacutrer.

(7) Any voiding of a certificate of conformity under paragraph (d)(4) of this section shall be made only after the manufacturer concerned has been afforded an opportunity for a hearing conducted in accordance with § 86.1014 (light-duty trucks and heavy-duty engines only).

19. A new § 86.090–35 is proposed to be added to Subpart A, to read as follows:

§ 86.090–35 Labeling.

(a) The manufacturer of any motor vehicle (or motor vehicle engine) subject to the applicable emission standards (and family particulate emission limits, as appropriate) of this subpart, shall, at the time of manufacture, affix a permanent legible label, of the type and in the manner described below, containing the information hereinafter provided, to all production models of such vehicles (or engines) available for sale to the public and covered by a certificate of conformity under § 86.090–30(a).

(1) *Light-duty vehicles.* (i) A permanent, legible label shall be affixed in a readily visible position in the engine compartment.

(ii) The label shall be affixed by the vehicle manufacturer who has been issued the certificate of conformity for such vehicle, in such a manner that it cannot be removed without destroying or defacing the label. The label shall not be affixed to any equipment which is easily detached from such vehicle.

(iii) The label shall contain the following information lettered in the English language in block letters and numerals, which shall be of a color that contrasts with the background of the label:

(A) The lable heading: Vehicle Emission Control Information;

(B) Full corporate name and trademark of manufacturer;

(C) Engine displacement (in cubic inches), engine family identification, and evaporative family identification;

(D) Engine tune-up specifications and adjustments, as recommended by the manufacturer in accordance with the applicable emission standards (or family particulate emission limit, as applicable), including but not limited to idle speed(s), ignition timing, the idle air-fuel mixture setting procedure and value (*e.g.*, idle CO, idle air-fuel ratio, idle speed drop), high idle speed, initial injection timing, and valve lash (as applicable), as well as other parameters deemed necessary by the manufacturer. These specifications should indicate the proper transmission position during tune-up and what accessories (*e.g.*, air conditioner), if any, should be in operation;

(E) An unconditional statement of compliance with the appropriate model year U.S. Environmental Protection Agency regulations which apply to light-duty vehicles;

(F) For vehicles which are part of the diesel particulate averaging program, the family particulate emission limit to which the vehicle is certified;

(G) For vehicles that have been exempted from compliance with the emission standards at high altitude, as specified in § 86.087–8(h):

(*1*) A highlighted statement (*e.g.*, underscored or boldface letters) that the vehicle is certified to applicable emission standards at low altitude only,

(*2*) A statement that the vehicle's unsatisfactory performance under high-altitude conditions makes it unsuitable for principal use at high altitude, and

(*3*) A statement that the emission performance warranty provisions of 40 CFR Part 85, Subpart V do not apply when the vehicle is tested at high altitude; and

(H) For vehicles that have been exempted from compliance with the emission standards at low altitude, as specified in § 86.087–8(i):

(*1*) A highlighted statement (*e.g.*, underscored or boldface letters) that the vehicle is certified to applicable emission standards at high altitude only, and

(*2*) A statement that the emission performance warranty provisions of 40 CFR Part 85, Subpart V do not apply when the vehicle is tested at low altitude.

(2) *Light-duty trucks.* (i) A legible, permanent label shall be affixed in a readily visible position in the engine compartment.

(ii) The label shall be affixed by the vehicle manufacturer who has been issued the certificate of conformity for such vehicle, in such a manner that it cannot be removed without destroying or defacing the label. The label shall not be affixed to any equipment which is easily detached from such vehicle.

(iii) The lable shall contain the following information lettered in the English language in block letters and numerals, which shall be of a color that contrasts with the background of the label.

(A) The label heading: Important Vehicle Information;

(B) Full corporate name and trademark of manufacturer;

(C) Engine displacement (in cubic inches) and engine family identification;

(D) Engine tune-up specifications and adjustments, as recommended by the manufacturer in accordance with the applicable emission standards (or family particulate limit, as appropriate), including but not limited to idle speed(s), ignition timing, the idle air-fuel mixture setting procedure and value (*e.g.*, idle CO, idle air-fuel ratio, idle speed drop), high idle speed, initial injection timing, and valve lash (as applicable), as well as other parameters deemed necessary by the manufacturer. These specifications should indicate the proper transmission position during tune-up and what accessories (*e.g.*, air conditioner), if any, should be in operation. If adjustments or modifications to the vehicle are necessary to insure compliance with the emission standards (or family particulate limit, as appropriate) at either high or low altitude, the manufacturer shall either include the instructions for such adjustments on the label, or indicate on the label where instructions for such adjustments may be found. The label shall indicate whether the engine tune-up or adjustment specifications are applicable to high altitude, low altitude or both;

(E) The prominent statement: "This vehicle conforms to U.S. EPA regulations applicable to 19— Model Year New Light-Duty Trucks."

(F) If the manufacturer is provided an alternate useful-life period under the provisions of § 86.090–21(f), the prominent statement; "This vehicle has been certified to meet U.S. EPA standards for a useful-life period of ——— years or ——— miles of operation, whichever occurs first. This vehicle's actual life may vary depending on its service application." The manufacturer may alter this statement only to express the assigned alternate

useful life in terms other than years of miles (*e.g.*, hours, or miles only);

(G) A statement, if applicable, that the adjustments or modifications indicated on the label are necessary to ensure emission control compliance at the altitude specified;

(H) A statement, if applicable, that the high-altitude vehicle was designated or modified for principal use at high altitude. This statement must be affixed by the manufacturer at the time of assembly or by any dealer who performs the high-altitude modification or adjustment prior to sale to an ultimate purchaser;

(I) For vehicles that have been exempted from compliance with the high-altitude emission standards, as specified in § 86.087–9(g)(2):

(*1*) A highlighted statement (*e.g.*, underscored or boldface letters) that the vehicle is certified to applicable emission standards at low altitude only,

(*2*) A statement that the vehicle's unsatisfactory performance under high-altitude conditions makes it unsuitable for principal use at high altitude, and

(*3*) A statement that the emission performance warranty provisions of 40 CFR Part 85, Subpart I do not apply when the vehicle is tested at high altitude; and,

(J) For vehicles which are part of the diesel particulate averaging program, the family particulate emission limit to which the vehicle is certified.

(3) *Heavy-duty engines.* (i) A permanent legible label shall be affixed to the engine in a position in which it will be readily visible after installation in the vehicle.

(ii) The label shall be attached to an engine part necessary for normal engine operation and not normally requiring replacement during engine life.

(iii) The label shall contain the following information lettered in the English language in block letters and numerals which shall be of a color that contrasts with the background of the label:

(A) The label heading: Important Engine Information;

(B) Full corporate name and trademark of manufacturer;

(C) Engine displacement (in cubic inches) and engine family and model designations;

(D) Date of engine manufacture (month and year). The manufacturer may, in lieu of including the date of manufacture on the engine label, maintain a record of the engine manufacture dates. The manufacturer shall provide the dates of manufacture records to the Administrator upon request;

(E) Engine specifications and adjustments as recommended by the manufacturer. These specifications should indicate the proper transmission position during tuneup and what accessories (*e.g.*, air conditioner), if any, should be in operation;

(F) For gasoline-fueled engines the label should include the idle speed, ignition timing, and the idle air-fuel mixture setting procedure and value (*e.g.*, idle CO, idle air-fuel ratio, idle speed drop), and valve lash;

(G) For diesel engines the label should include the advertised hp at rpm, fuel rate at advertised hp in mm^3/stroke, valve lash, initial injection timing, and idle speed;

(H) The prominent statement: "This engine conforms to U.S. EPA regulations applicable to 19— Model Year New Heavy-Duty Engines."

(I) If the manufacturer is provided with an alternate useful-life period under the provisions of § 86.090–21(f), the prominent statement: "This engine has been certified to meet U.S. EPA standards for a useful-life period of ——— miles or ——— hours of operation, whichever occurs first. This engine's actual life may vary depending on its service application." The manufacturer may alter this statement only to express the assigned alternate useful life in terms other than miles or hours (*e.g.*, years, or hours only);

(J) *For diesel engines.* The prominent statement: "This engine has a primary intended service application as a ——— heavy-duty diesel engine." (The primary intended service applications are light, medium, and heavy, as defined in § 86.085–2);

(K) *For gasoline-fueled engines.* One of the following statements as applicable:

(*1*) For engines certified to the emission standards under § 86.090–10(a)(1)(i), the statement: "This engine is certified for use in all heavy-duty vehicles."

(*2*) For engines certified under the provisions of § 86.090–10(a)(3)(i), the statement: "This engine is certified for use in all heavy-duty vehicles under the special provision of 40 CFR 86.090–10(a)(3)(i)."

(*3*) For engines certified to the emission standards under § 86.090–10(a)(1)(ii), the statement: "This engine is certified for use only in heavy-duty vehicles with a gross vehicle weight rating above 14,000 lbs."

(L) For engines which are part of the heavy-duty diesel particulate averaging program, the family particulate emission limit to which the engine is certified.

(iv) The label may be made up of one or more pieces: *Provided,* that all pieces are permanently attached to the same engine or vehicle part as applicable.

(4)(i) *Gasoline-fueled heavy-duty vehicles.* A permanent, legible label shall be affixed in a readily visible position in the engine compartment. If such vehicles do not have an engine compartment, the label required in paragraphs (a)(4) and (g)(1) of this section shall be affixed in a readily visible position on the operator's enclosure or on the engine.

(ii) The label shall be affixed by the vehicle manufacturer who has been issued the certificate of conformity for such vehicle, in such a manner that it cannot be removed without destroying or defacing the label. The label shall not be affixed to any equipment which is easily detached from such vehicle.

(iii) The label shall contain the following information lettered in the English language in block letters and numericals, which shall be of a color that contrasts with the background of the label:

(A) The label heading: Vehicle Emission Control Information;

(B) Full corporate name and trademark of manufacturer;

(C) Evaporative family identification;

(D) The maximum nominal fuel tank capacity (in gallons) for which the evaporative control system is certified; and

(E) An unconditional statement of compliance with the appropriate model year U.S. Environmental Protection Agency regulations which apply to gasoline-fueled heavy-duty vehicles.

(b) The provisions of this section shall not prevent a manufacturer from also reciting on the label that such vehicle (or engine) conforms to any applicable state emission standards for new motor vehicles (or new motor vehicle engines) or any other information that such manufacturer deems necessary for, or useful to, the proper operation and satisfactory maintenance of the vehicle (or engine).

(c)(1) The manufacturer of any light-duty vehicle or light-duty truck subject to the emission standards (or family particulate emission limits, as appropriate) of this subpart shall, in addition and subsequent to setting forth those statements on the label required by the Department of Transportation (DOT) pursuant to 49 CFR 567.4, set forth on the DOT label or on an additional label located in proximity to the DOT label and affixed as described in 40 CFR 567.4(b), the following information in the English language, lettered in block letters and numerals not less than three thirty-seconds of an

inch high, of a color that contrasts with the background of the label:

(i) The Heading: "Vehicle Emission Control Information."

(ii)(A) *For light-duty vehicles*, the statement: "This Vehicle Conforms to U.S. EPA Regulations Applicable to 19— Model Year New Motor Vehicles."

(B) *For light-duty trucks*,

(*1*) The statement: "This vehicle conforms to U.S. EPA regulations applicable to 19— Model Year New Light-Duty Trucks."

(*2*) If the manufacturer is provided an alternate useful-life period under the provisions of § 86.090–21(f), the prominent statement: "This vehicle has been certified to meet U.S. EPA standard for a useful-life of period of ——— years or ——— miles of operation, whichever occurs first. This vehicle's actual life may vary depending on its service application." The manufacturer may alter this statement only to express the assigned alternate useful life in terms other than years or miles (*e.g.*, hours, or miles only).

(iii) One of the following statements, as applicable, in letters and numerals not less than six thirty-seconds of an inch high and of a color that contrasts with the background of the label:

(A) For all vehicles certified as non-catalyst-equipped: "NON-CATALYST"

(B) For all vehicles certifed as catalyst-equipped which are included in a manufacturer's catalyst control program for which approval has been given by the Administrator: "CATALYST—APPROVED FOR IMPORT"

(C) For all vehicles certified as catalyst-equipped which are not included in a manufacturer's catalyst control program for which prior approval has been given by the Administrator: "CATALYST"

(2) In lieu of selecting either of the labeling options of paragraph (c)(1) of this section, the manufacturer may add the information required by paragraph (c)(1)(iii) of this section to the label required by paragraph (a) of this section. The required information will be set forth in the manner prescribed by paragraph (c)(1)(iii) of this section.

(d) Incomplete light-duty trucks or incomplete heavy-duty vehicles optionally certified as light-duty trucks shall have the following prominent statement printed on the label required by paragraph (a)(2) of this section in lieu of the statement required by paragraph (a)(2)(iii)(E) of this section: "This vehicle conforms to U.S. EPA regulations applicable to 19— Model Year New Light-Duty Trucks when completed at a maximum curb weight of ——— pounds or at a maximum gross vehicle weight rating of ——— pounds or with a maximum frontal area of —— square feet."

(e) Incomplete heavy-duty vehicles having a gross vehicle weight rating of 8,500 pounds or less shall have one of the following statements printed on the label required by paragraph (a)(3) of this section in lieu of the statement required by paragraph (a)(3)(iii)(H) of this section: "This engine conforms to U.S. EPA regulations applicable to 19— Model Year New Heavy-Duty Engines when installed in a vehicle completed at a curb weight of more than 6,000 pounds or with a frontal area of greater than 45 square feet."

(f) The manufacturer of any incomplete light-duty vehicle or light-duty truck shall notify the purchaser of such vehicle of any curb weight, frontal area, or gross vehicle weight rating limitations affecting the emission certificate applicable to that vehicle. This notification shall be transmitted in a manner consistent with National Highway Traffic Safety Administration safety notification requirements published in 49 CFR Part 568.

(g)(1) Incomplete gasoline-fueled heavy-duty vehicles shall have the following prominent statement printed on the label required in paragraph (a)(4) of this section: "(Manufacturer's corporate name) has determined that this vehicle conforms to U.S. EPA regulations applicable to 19— Model Year New Gasoline-Fueled Heavy-Duty Vehicles when completed with a nominal fuel tank capacity not to exceed — gallons. Persons wishing to add fuel tank capacity beyond the above maximum must submit a written statement to the Administrator that the hydrocarbon storage system has been upgraded according to the requirements of 40 CFR § 86.090–35(g)(2)."

(2) Persons wishing to add fuel tank capacity beyond the maximum specified on the label required in paragraph (g)(1) of this section shall:

(i) Increase the amount of fuel tank vapor storage material according to the following function:

$$Cap_f = Cap_i \left(\frac{T.\ Vol.}{Max.\ Vol.} \right)$$

Where:

Cap_f = final amount of fuel tank vapor storage material, grams.

Cap_i = initial amount of fuel tank vapor storage material, grams.

T. Vol. = total fuel tank volume of completed vehicle, gallons.

Max. Vol. = maximum fuel tank volume as specified on the label required in paragraph (g)(1) of this section, gallons.

(ii) Use, if applicable, hosing for fuel vapor routing which is at least as impermeable to hydrocarbon vapors as that used by the primary manufacturer.

(iii) Use vapor storage material with the same adsorptive characteristics as that used by the primary manufacturer.

(iv) Connect, if applicable, any new hydrocarbon storage device to the existing hydrocarbon storage device in series such that the original hydrocarbon storage device is situated between the fuel tank and the new hydrocarbon storage device. The original hydrocarbon storage device shall be sealed such that vapors cannot reach the atmosphere. The elevation of the original hydrocarbon storage device shall be equal to or lower than the new hydrocarbon storage device.

(v) Submit a written statement to the Administrator that paragraphs (g)(2)(i) through (g)(2)(iv) of this section have been complied with.

(3) If applicable, the Administrator will send a return letter verifying the receipt of the written statement required in paragraph (g)(2)(v) of this section.

SUBPART N—[AMENDED]

20. A new § 86.1301–87 is proposed to be added to Subpart N, to read as follows:

§ 86.1301–87 Scope; applicability.

This subpart contains gaseous emission test procedures for gasoline-fueled heavy-duty engines and gaseous and particulate emission test procedures for heavy-duty diesel engines. It applies to 1987 and later model years.

21. A new § 86.1306–87 is proposed to be added to Subpart N, to read as follows:

§ 86.1306–87 Equipment required and specifications; overview.

This subpart contains procedures for exhaust emissions tests on diesel or gasoline-fueled heavy-duty engines. Equipment required and specifications are as follows:

(a) *Exhaust emission tests.* All engines subject to this subpart are tested for exhaust emissions. Diesel and gasoline-fueled engines are tested identically with the exception of the systems used to measure hydrocarbon, nitrogen oxide, and particulate; diesel engines require a heated, continuous hydrocarbon detector and a continuous nitrogen oxide detector (§ 86.1310–87); gasoline-fueled engines are not tested for particulate emissions (§ 86.1309–84). Necessary equipment and specifications appear in §§ 86.1308–84, 86.1309–84, 86.1310–87 and 86.1311–84.

(b) *Fuel, analytical gas, and engine cycle specifications.* Fuel specifications for exhaust emission testing are specified in § 86.1313–84. Analytical gases are specified in § 86.1314–84. The EPA heavy-duty transient engines cycles for use in exhaust testing are described in § 86.1333–84 and specified in Appendix I to this part.

22. A new § 86.1310–87 is proposed to be added to Subpart N, to read as follows:

§ 86.1310–87 Exhaust gas sampling and analytical system; diesel engines.

(a) *General.* The exhaust has sampling system described in this paragraph is designed to measure the true mass of both gaseous and particulate emissions in the exhaust of heavy-duty diesel engines. This system utilizes the CVS concept (described in § 86.1309–84) of measuring mass emissions of CO, CO_2, and particulate. A continuously integrated system is required for HC and NO_x measurement, and is allowed for CO and CO_2. The mass of gaseous emissions is determined from the sample concentration and total flow over the test period. The mass of particulate emissions is determined from a proportional mass sample collected on a filter and from the sample flow and total flow over the test period. As an option, the measurement of total fuel mass consumed over a cycle may be substituted for the exhaust measurement of CO_2. General requirements are as follows:

(1) This sampling system requires the use of a PDP–CVS, or a CFV–CVS with either a heat exchanger or electronic flow compensation. Figure N86–3 is a schematic drawing of the PDP system. Figure N86–4 is a schematic drawing of the CFV system.

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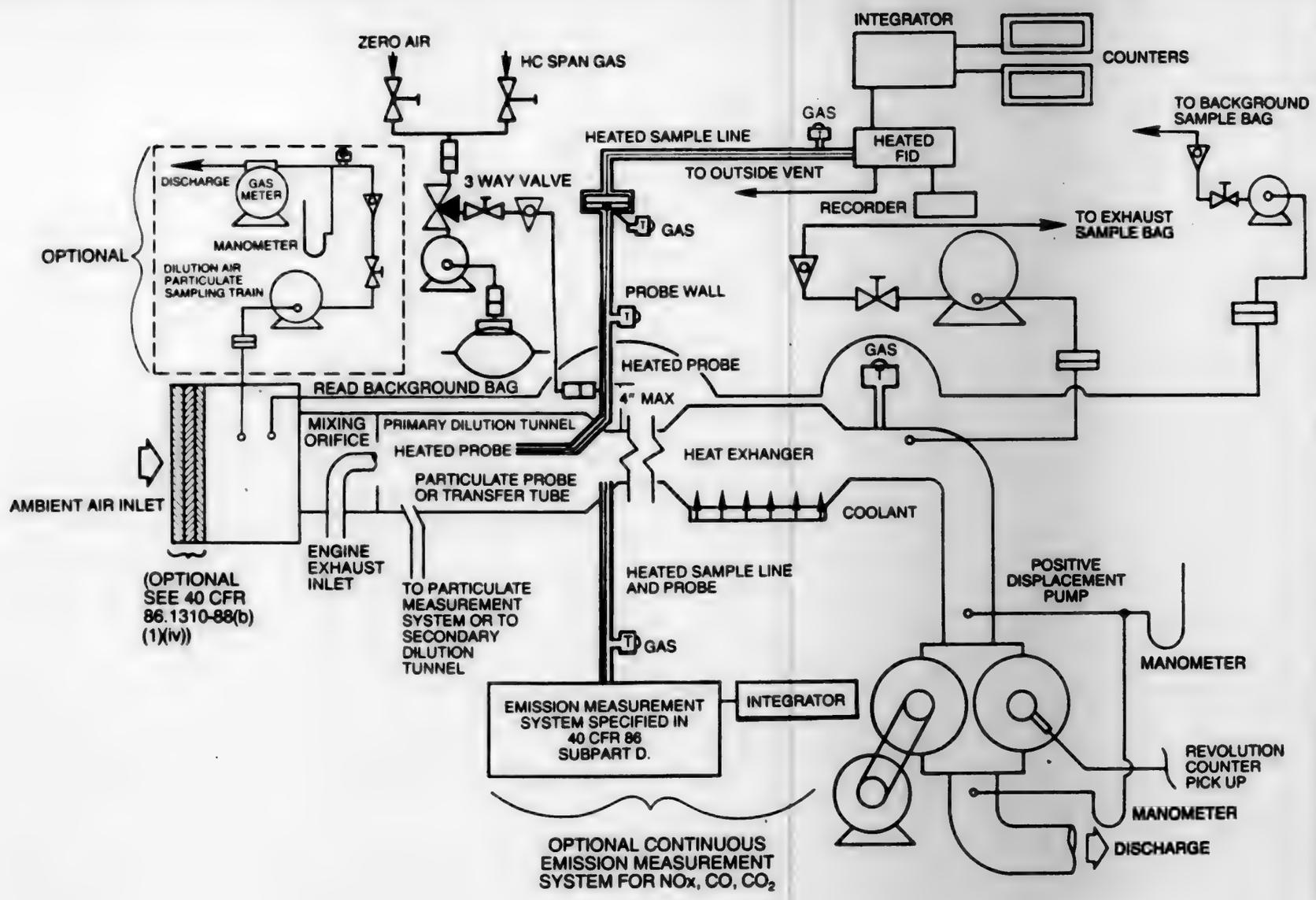

FIGURE N88-3
GASEOUS EMISSIONS SAMPLING SYSTEM (PDP-CVS)
(FOR DIESEL ENGINES ONLY)
(SEE FIGURE N84-5 FOR SYMBOL LEGEND)

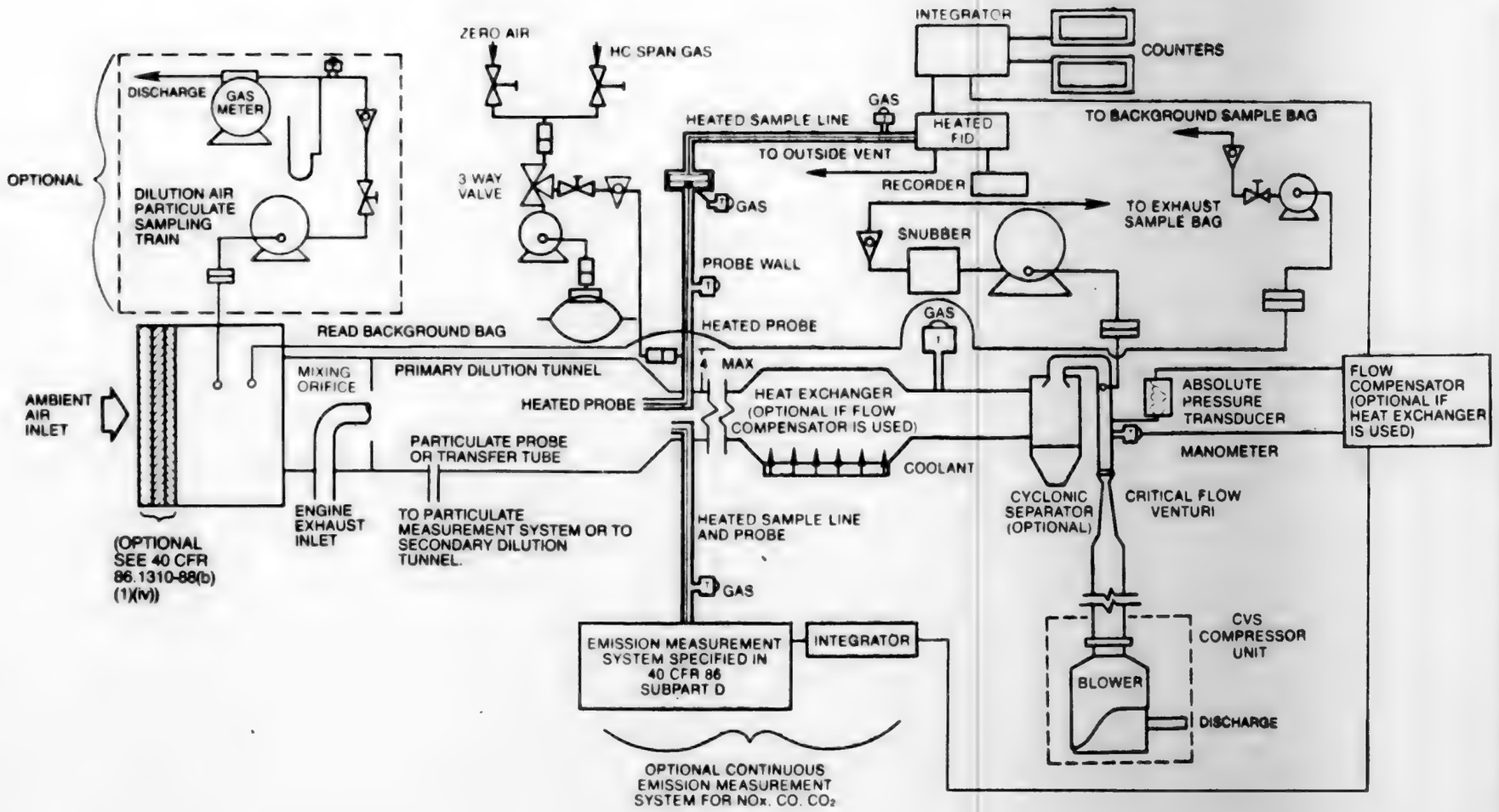

FIGURE N88-4
GASEOUS EMISSIONS SAMPLING SYSTEM (CFV-CVS)
(FOR DIESEL ENGINES ONLY)
(SEE FIGURE N84-5 FOR SYMBOL LEGEND)

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(2) The HC analytical system for diesel engines requires a heated flame ionization detector (HFID) and heated sample system.

(i) The HFID sample must be taken directly from the diluted exhaust stream through a heated probe and integrated continuously over the test cycle. Unless compensation for varying flow is made, the HFID must be used with a constant flow sytem to ensure a representative sample.

(ii) The heated probe shall be located in the primary dilution tunnel and far enough downstream of the mixing chamber to ensure a uniform sample distributiom across the CVS duct at the point of sampling.

(3) The CO and CO_2 analytical system for diesel engines requires:

(i) Bag sampling (§ 86.1309–84) and analytical (§ 86.1311–84) capabilities as shown in Figure N88–3 (or Figure N88–4), or

(ii) Continuously integrated measurement of diluted CO and CO_2 meeting the minimum requirements and technical specifications contained in paragraph (b)(5) of this section. Unless compensation for varying flow is made, a constant flow system must be used to ensure a representative sample.

(4) The NO_x analytical system for diesel engines requires a continuously integrated measurement of diluted NO_x meeting the minimum requirements and technical specifications contained in paragraph (b)(5) of this section. Unless compensation for varying flow is made, a constant flow system must be used to ensure a representative sample.

(5) The mass of particulate in the exhaust is determined via filtration. The particulate sampling system requires dilution of the exhaust in either one or two steps to a temperature never greater than 125°F (51.7°C) at the primary sample filter. A backup filter provides a confirmation of sufficient filtering efficiency.

(6) Since various configurations can produce equivalent results, exact conformance with the drawings is not required. Additional components such as instruments, valves, solenoids, pumps, and switches may be used to provide additional information and coordinate the functions of the component systems. Other components, such as snubbers, which are not needed to maintain accuracy on some systems, may be excluded if their exclusion is based upon good engineering judgment.

(7) Other sampling and/or analytical systems may be used if shown to yield equivalent results and if approved in advance by the Administrator.

(b) *Component description.* The components necessary for diesel exhaust sampling shall meet the following requirements:

(1) *Exhaust dilution system.* The PDP–CVS shall conform to all of the requirements listed for the exhaust gas PDP–CVS in § 86.1309–84(b). The CFV–CVS shall conform to all of the requirements listed for the exhaust gas CFV–CVS in § 86.1309–84(c). In addition, the CVS must conform to the following requirements:

(i) The flow capacity of the CVS must be sufficient to maintain the diluted exhaust stream at or below the temperatures required for the measurement of particulate and hydrocarbon emissions noted below. This may be achieved by either of the following two methods:

(A) *Single-dilution method.* The flow capacity of the CVS must be sufficient to maintain the diluted exhaust stream at a temperature of 125 °F (51.7 °C) or less at the sampling zone in the primary dilution tunnel. Direct sampling of the particulate material may then take place (Figure N88–4a).

(B) *Double-dilution method.* The flow capacity of the CVS must be sufficient to maintain the diluted exhaust stream in the primary dilution tunnel at a temperature of 375 °F (191 °C) or less at the sampling zone. Gaseous emission samples may be taken directly from this sampling point. An exhaust sample must then be taken at this point to be diluted a second time for use in determining particulate emissions. The secondary dilution system must provide sufficient secondary dilution air to maintain the double-diluted exhaust stream at a temperature of 125 °F (51.7 °C) or less immediately before the primary particulate filter in the secondary dilution tunnel (Figure N88–4b).

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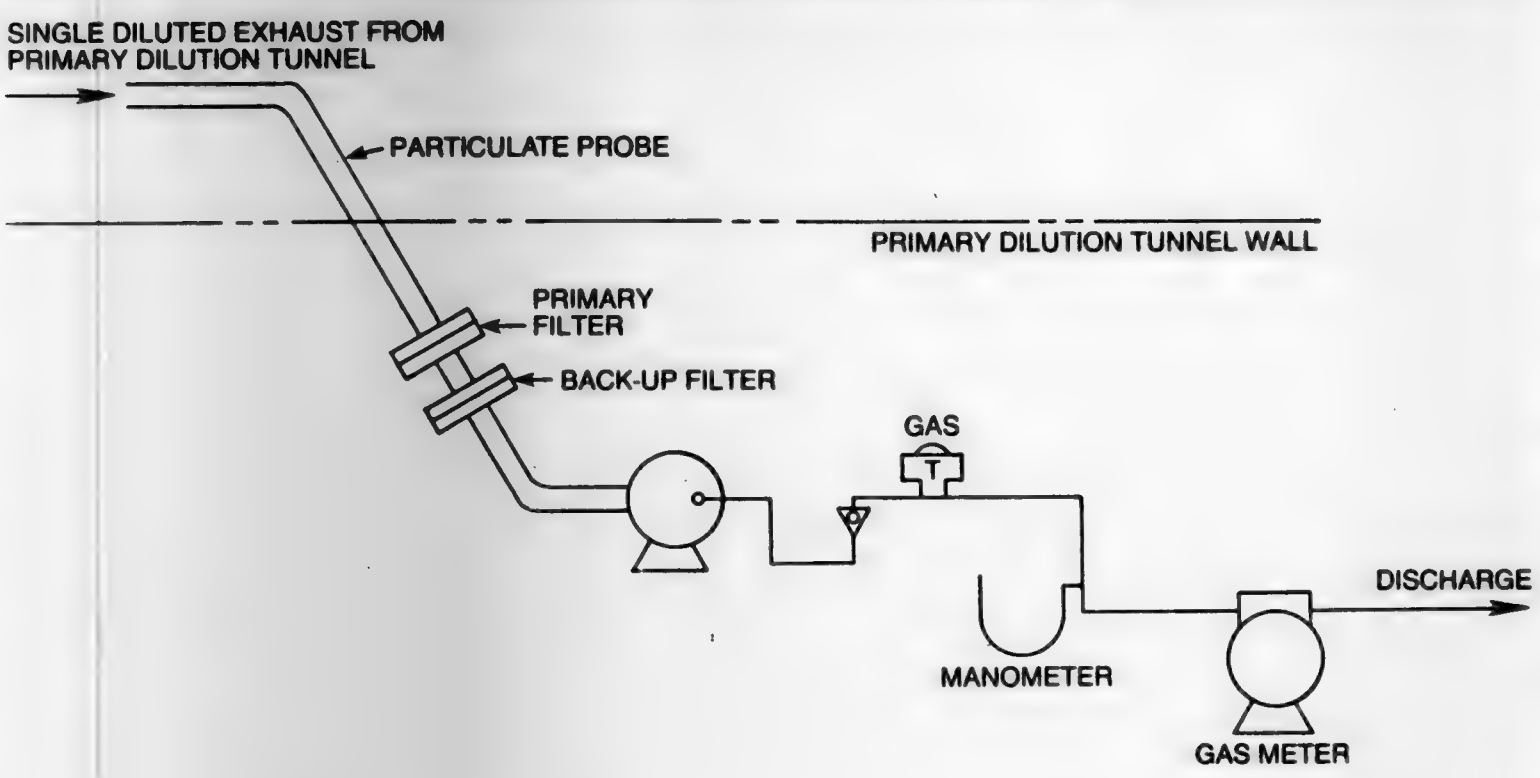

FIGURE N88-4a
SINGLE DILUTION PARTICULATE MEASUREMENT SYSTEM
(FOR DIESEL ENGINES ONLY)
(SEE FIGURE N84-5 FOR SYMBOL LEGEND)

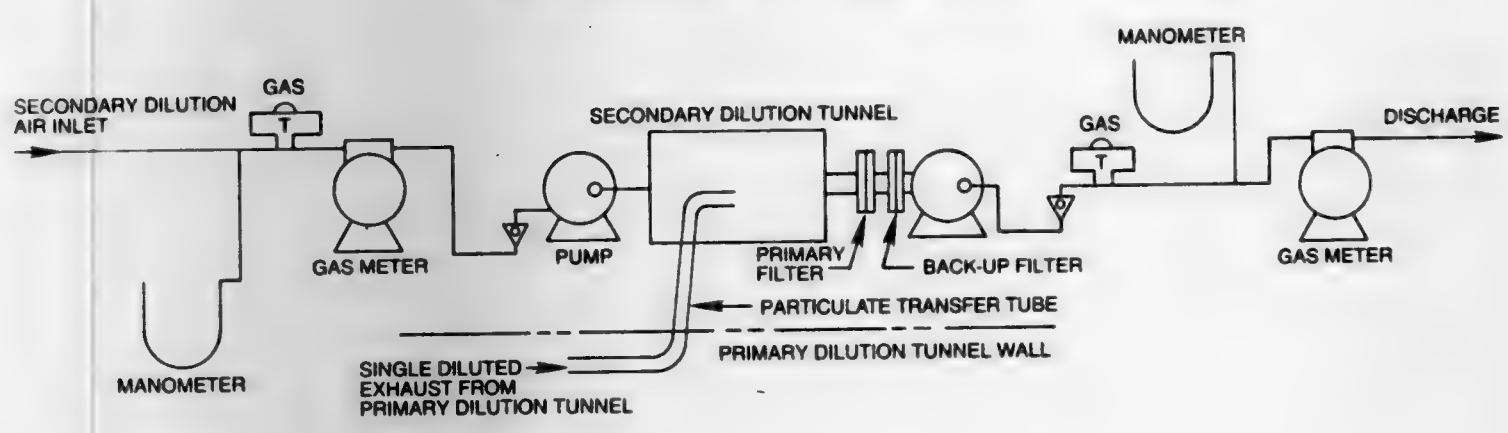

FIGURE N88-4b
DOUBLE DILUTION PARTICULATE MEASUREMENT SYSTEM
(FOR DIESEL ENGINES ONLY)
(SEE FIGURE N84-5 FOR SYMBOL LEGEND)

BILLING CODE 6560-50-C

(ii) For the CFV-CVS, either a heat exchanger or electronic flow compensation (which also includes the particulate sample flows) is required (see Figure N88–4).

(iii) For the CFV-CVS when a heat exchanger is used, the gas mixture temperature, measured at a point immediately ahead of the critical flow venturi, shall be within ±20°F (11°C) of the average operating temperature observed during the test. The temperature measuring system (sensors and readout) shall have an accuracy and precision of ±3.4°F (1.9°C). For systems utilizing a flow compensator to maintain proportional flow, the requirement for maintaining constant temperature is not necessary.

(iv) The primary dilution air and secondary dilution air (if applicable) shall:

(A) Have a temperature of 77°± 9°F (25°— 5 °C).

(B) Be filtered at the dilution air inlet if background particulate is not measured.

(2) [Reserved]

(3) *Continuous HC measurement system.*

(i) The continous HC sample system (as shown in Figure N88–3 or N88–4) uses an "overflow" zero and span system. In this type of system, excess zero or span gas spills out of the probe when zero and span checks of the analyzer are made. The "overflow" system may also be used to calibrate the HC analyzer per § 86.1321–84(b), although this is not required.

(ii) No other analyzers may draw a sample from the continuous HC sample probe, line or system, unless a common sample pump in used for all analyzers and the sample line system design reflects good engineering practice.

(iii) The overflow gas flow rates into the sample line shall be at least 105 percent of the sample system flow rate.

(iv) The overflow gases shall enter the heated sample line no farther than 4 inches from the outside surface of the CVS duct or dilution tunnel.

(v) The continuous hydrocarbon probe shall be:

(A) Installed in the primary dilution tunnel at a point where the dilution air and exhaust are well mixed (*i.e.*, approximately 10 tunnel diameters downstream of the point where the exhaust enters the dilution tunnel).

(B) Sufficiently distant (radially) from other probes and the tunnel wall so as to be free from the influence of any wakes or eddies.

(C) Heated over the entire length to maintain a 375° ±20 °F (191°±11 °C) *wall* temperature. (Insulation and other techniques may also be used to maintain the temperature.)

(D) 0.19 in. (0.457 cm) minimum inside diameter.

(E) Free from cold spots (*i.e.*, free from spots where the probe *wall* temperature is less than 355 °F (180 °C)).

(iv) the dilute exhaust *gas* flowing in the total hydrocarbon sample system shall be:

(A) At 375°±10 °F (191°±6 °C) immediately before the heated filter. This *gas* temperature will be determined by a temperature sensor located immediately upstream of the filter. The sensor and its readout shall have an accuracy and precision of ±3.4 °F (1.9 °C).

(B) At 375°±10 °F (191°±6 °C) immediately before the HFID. This *gas* temperature will be determined by a temperature sensor located at the exit of the heated sample line. The sensor and its readout shall have an accuracy and precision of ±3.4 °F (1.9 °C).

(vii) The response time of the continuous measurement system shall be no greater than:

(A) 1.5 seconds from an instantaneous step change at the probe entrance to the analyzer to within 90 percent of the step change.

(B) 20 seconds from an instantaneous step change at the entrance to the sample probe or overflow span gas port to within 90 percent of the step change. Analysis system reponse time shall be coordinated with CVS flow fluctuations and sampling time/test cycle offsets if necessary.

(C) For the purpose of verification of response times, the step change shall be at least 60 percent of full-scale chart deflection.

(4) *Primary-dilution tunnel.* (i) The primary dilution tunnel shall be:

(A) Small enough in diameter to cause turbulent flow (Reynolds Number greater than 4,000) and of sufficient length to cause complete mixing of the exhaust and dilution air:

(B) At least 18 inches (45.7 cm) in diameter with a single-dilution system or at least 8 inches (20.3 cm) in diameter with a double-dilution system;

(C) Constructed of electrically conductive material which does not react with the exhaust components; and

(D) Electrically grounded.

(ii) The temperature of the diluted exhaust stream inside of the primary dilution tunnel shall be sufficient to prevent water condensation.

(iii) The engine exhaust shall be directed downstream at the point where it is introduced into the primary dilution tunnel.

(5) *Continously integrated NO_x, CO, and CO_2 measurement systems.*

(i) The sampe probe shall:

(A) Be in the same plane as the continuous HC probe, but shall be sufficiently distant (radially) from other probes and the tunnel wall so as to be free from the influences of any wakes or eddies.

(B) Heated and insultated over the entire length, to prevent water condensation, to a minimum temperature of 131 °F (55 °C). Sample *gas* temperature immediately before the first filter in the system shall be at least 131 °F (55 °C).

(ii) The continuous NO_x, CO, or CO_2 sampling and analysis system shall conform to the specifications of 40 CFR Part 86, Subpart D with the following exceptions and revisions:

(A) The system components required to be heated by Subpart D need only be heated to prevent water condensation, the minimum component temperature shall be 131 °F (55 °C).

(B) The system response defined in § 86.329–79 shall be no greater than 20 seconds. Analysis system response time shall be coordinated with CVS flow fluctuations and sampling time/test cycle offsets, if necessary.

(C) Alternative NO_x measurement techniques outlined in § 86.346–79 are not permitted for NO_x measurement in this Subpart.

(D) All analytical gases shall conform to the specifications of § 86.1314–84.

(E) Any range on a linear analyzer below 155 ppm shall have and use a calibration curve conforming to § 86.330–79.

(F) The measurement accuracy requirements specified in § 86.338–79 are superseded by those specified in § 86.1338–84.

(iii) The chart deflections of analyzers with non-linear calibration curves shall be converted to concentration values by the calibration curve(s) specified in Subpart D (§ 86.330–79) before flow correction (if used) and subsequent integration takes place.

(6) *Particulate sampling system.* The particulate collection system must be configured in either of two ways. The *single-dilution* method collects a proportional sample from the primary tunnel, and then passes this sample through the collection filter (Figure N88–4a). The *double-dilution* method collects a proportional sample from the primary tunnel, and then transfers this sample to a secondary dilution tunnel where the sample is further diluted; the double-diluted sample is then passed through the collection filter (Figure N88–4b). Without flow compensation, proportional sampling is achieved by introducing the seconary dilution air at a

constant mass flow rate, and removing the double-diluted sample at a constant mass flow rate. The requirements for these two systems are:

(i) *Single Dilution Method.* (A) The particulate sample probe shall be:

(*1*) Installed facing upstream at a point where the dilution air and exhaust air are well mixed (*i.e.*, on the primary tunnel centerline, approximately 10 tunnel diameters downstream of the point where the exhaust enters the primary dilution tunnel).

(*2*) Sufficiently distant (radially) from other sampling probes so as to be free from the influence of any wakes or eddies produced by the other probes.

(*3*) 0.5 in. (1.27 cm) minimum inside diameter.

(*4*) The distance from the sampling tip to the filter holder shall be at least 5 probe diameters for filters located inside the primary dilution tunnel, and not more than 40 inches (102 cm) for filters located outside the primary dilution tunnel.

(*5*) Designed to minimize the deposition of particulate in the probe (*i.e.*, bends should be as gradual as possible, protrusions (due to sensors, etc.) should be smooth and not sudden, etc.).

(B) The particulate sample pump(s) shall be located sufficiently distant from the dilution tunnel so that the inlet gas temperature is maintained at a constant temperature (±5 °F (±2.8 °C)) if flow compensation is not used.

(C) The gas meters or flow instrumentation shall be located sufficiently distant from the tunnel so that the inlet gas temperature remains constant (±5 °F (±2.8 °C)) if flow compensation is not used.

(ii) *Double-dilution method.* (A) The particulate sample transfer tube shall be configured and installed so that:

(*1*) The inlet faces upstream in the primary dilution tunnel at a point where the primary dilution air and exhaust are well mixed (*i.e.*, on the primary tunnel centerline, approximately 10 tunnel diameters downstream of the point where the exhaust enters the primary dilution tunnel).

(*2*) The particulate sample exists on the centerline of the secondary tunnel and points downstream.

(B) The particulate sample transfer tube shall be:

(*1*) Sufficiently distant (radially) from other sampling probes (in the primary dilution tunnel) so as to be free from the influence of any wakes or eddies produced by the other probes.

(*2*) 0.5 in. (1.27 cm) minimum inside diameter.

(*3*) No longer than 36 in. (91.4 cm) from inlet plane to exit plane.

(*4*) Designed to minimize the deposition of particulate during transfer (*i.e.*, bends should be as gradual as possible, protrusions (due to sensors, etc.) should be smooth and not sudden, etc.).

(*5*) Constructed of electrically conductive material which does not react with the exhaust components, and electrically grounded.

(C) The secondary dilution air shall be at a temperature of 77°±9 °F (25°±5 °C).

(D) The secondary-dilution tunnel shall be:

(*1*) 3.0 inches (7.62 cm) minimum inside diameter.

(*2*) Of sufficient length so as to provide a residence time of at least 0.25 seconds for the double-diluted sample.

(*3*) Constructed of electrically conductive material which does not react with the exhaust components, and electrically grounded.

(E) Additional dilution air must be provided so as to maintain a sample temperature of 125 °F (51.7 °C) immediately before the primary sample filter. This dilution air must be introduced at a known constant mass flow rate in order to maintain proportional sampling. This can be achieved by either of the following methods:

(*1*) A PDP-type pump flowing filtered dilution air at a temperature of 77°±9 °F (25°±5 °C) and essentially constant pressure (atmospheric is acceptable) along with a gas meter or flow instrumentation for mass determination. (See § 86.1320–87 for calibration specifics.) The gas meter or flow instrumentation shall be located so that the inlet gas temperature remains 77°±9 °F (25°±5 °C).

(*2*) A choked critical flow orifice flowing filtered dilution air. For mass determination, a gas meter or other flow instrumentation is acceptable. The gas meter or flow instrumentation shall be located so that the inlet gas temperature remains at 77°±9 °F (25°±5 °C).

(F) The primary filter holder shall be located within 12.0 in. (30.5 cm) of the exit of the secondary dilution tunnel.

(G) The particulata sample pump shall be located sufficiently distant from the dilution tunnel so that the inlet gas is maintained at a constant temperature (±5 °F ±2.8 °C)) if flow compensation is not used.

(H) The gas meter or flow instrumentation (if double-dilution, this means the downstream device) shall be located sufficiently distant from the tunnel (either primary or secondary) so that the inlet gas temperature remains essentially constant (±5 °F ±2.8 °C)) if flow compensation is not used.

(*7*) *Particulate sampling filters.*

(i) Fluorocarbon-coated glass fiber filters or fluorocarbon-based (membrane) filters are required.

(ii) Particulate filters must have a minimum diameter of 70 mm (60 mm stain area). Larger diameter filters are acceptable.

(iii) The dilute exhaust will be simultaneously sampled by a pair of filters (one primary and one back-up filter) during the cold-start test and by a second pair of filters during the hot-start test. The back-up filter holder shall be located no more than 4 inches downstream of the primary filter holder.

(iv) The recommended minimum loading on a primary 70 mm filter is 5.3 milligrams. Equivalent loadings (*i.e.*, mass/stain area) are recommended for larger filters. For equivalency calculations assume the 70 mm loading has a 60 mm stain diameter.

23. A new § 86.1312–87 is proposed to be added to Subpart N, to read as follows:

§ 86.1312–87 Weighing chamber and microgram balance specifications.

(a) *Ambient conditions.* (1) *Temperature.* The temperature of the chamber (or room) in which the particulate filters are conditioned and weighed shall be maintained with within ±10 °F ±6 °C) of a set point between 68 °F (20°C) and 86 °F (30 °C) during all filter conditioning and weighing.

(2) *Humidity.* The relative humidity of the chamber (or room) in which the particulate filters are conditioned and weighed shall be maintained with within ±10 percent (relative humidity) of a set point between 30 and 70 percent during all filter conditioning and weighing.

(3) The chamber (or room) environment shall be free of any ambient contaminates (such as dust) that would settle on the particulate filters during their stabilization. It is required that two reference filters remain in the weighing room at all times, and that these filters be weighed once each 24-hour period. If the weight of either or both of these two reference filters changes by more than ±1.0 percent of the nominal filter loading (a) minimum of 5.3 milligrams, if possible) during the conditioning period, then all filters in the process of being stabilized should be discarded, and any tests repeated. The reference filters shall be changed at least once per month.

(b) *Microgram balance specifications.* The microgram balance used to determine the weights of all filters shall have a precision (standard deviation) and readability of one microgram.

24. A new § 86.1320–87 is proposed to be added to Subpart N, to read as follows:

§ 86.1320–87 Gas meter or flow instrumentation calibration, particulate measurement.

(a) Sampling for particulate emissions requires the use of gas meters or flow instrumentation to determine flow through the particulate filters. This instrument shall receive initial and periodic calibrations as follows:

(1) Install a standard air flow measurement device upstream of the instrument. A critical flow orifice, a bellmouth nozzle, or a laminar flow element is recommended as the standard device.

(2) Flow air through the calibration system at the sample flow rate used for particulate testing and at the backpressure which occurs during the sample test.

(3) When the temperature and pressure in the system have stabilized, measure the indicated gas volume over a time period of at least 5 minutes and until a gas volume of at least ±1 percent accuracy can be determined by the standard device. Record the stabilized air temperature and pressure upstream of the instrument and as required for the standard device.

(4) Calculate air flow at standard conditions as measured by both the standard device and the instrument. (Standard conditions are defined as 68°F (20°C) and 29.92 in. of mercury (101.3 kPa).)

(5) Repeat the procedures of paragraphs (a) (2) through (4) of this section using flow rates which are 10 percent above and 10 percent below the nominal sampling flow rate.

(6) If the air flow at standard conditions measured by the instrument differs by more than ±1 percent from the standard measurement at any of the three measured flow rates, then a correction shall be made by either of the following two methods:

(i) Mechanically adjust the instrument so that it agrees within 1 percent of the standard measurement at the three specified flow rates, or

(ii) Develop a continuous best fit calibration curve for the instrument (as a function of the standard device flow measurement) from the three calibration points that represents the data to within 1 percent at all points to determine corrected flow.

(b) *Other systems.* A bell prover may be used to calibrate the instrument if the procedure outlined in ANSI B109.1–1973 is used. Prior approval by the Administrator is not required to use the bell prover.

25. A new § 86.1327–87 is proposed to be added to Subpart N, to read as follows:

§ 86.1327–87 Engine dynamometer test procedures; overview.

(a) The engine dynamometer test procedure is designed to determine the brake-specific emissions of hydrocarbons, carbon monoxide, oxides of nitrogen and particulate (diesels only). The test procedure consists of a "cold" start test following either natural or forced cool-down periods described in § 86.1334–84 and § 86.1335–84, respectively. A "hot" start test follows the "cold" start test after a hot soak of 20 minutes. The idle test of Subpart P may be run after the "hot" start test. The exhaust emissions are diluted with ambient air and a continuous proportional sample is collected for analysis during both the cold- and hot-start tests. The composite samples collected are analyzed either in bags or continuously for hydrocarbons (HC), carbon monoxide (CO), carbon dioxide (CO_2), and oxides of nitrogen (NO_x). A bag or continuous sample of the dilution air is similarly analyzed for background levels of hydrocarbon, carbon monoxide, carbon dioxide, and oxides of nitrogen. In addition, for diesels only, particulates are collected on fluorocarbon-coated glass fiber filters or fluorocarbon-based (membrane) filters, and the dilution air is prefiltered.

(b) Engine torque and rpm shall be recorded continuously during both the cold and hot start tests. Data points shall be recorded at least once every second.

(c) Using the torque and rpm feedback signals the brake horsepower is integrated with respect to time for the cold and hot cycles. This produces a brake horsepower-hour value that enables the brake-specific emissions to be determined (see § 86.1342–84, Calculations; gaseous exhaust emissions and § 86.1343–87, Calculations; particulate exhaust emissions).

(d)(1) When an engine is tested for exhaust emissions or is operated for service accumulation on an engine dynamometer, the complete engine shall be tested, with all emission control devices installed and functioning.

(2) Evaporative emission controls need not be connected if data are provided to show that normal operating conditions are maintained in the engine induction system.

(3) On air-cooled engines, the fan shall be installed.

(4) Additional accessories (*e.g.*, oil cooler, alternators, air compressors, etc.) may be installed or their loading simulated if typical of the in-use application.

(5) The engine may be equipped with a production type starter.

(e) Means of engine cooling which will maintain the engine operating temperatures (*i.e.*, temperatures of intake air, oil, water, etc.) at approximately the same temperature as specified by the manufacturer shall be used. Auxiliary fan(s) may be used to maintain engine cooling during operation on the dynamometer. Only water is allowed as an engine-coolant medium. Rust inhibitors and lubrication additives may be used, up to the levels recommended by the additive manufacturer. Antifreeze mixtures (*i.e.*, ethlene glycol, alcohols) and other coolants that would enhance heat transfer are specifically prohibited.

(f) *Exhaust system.* The exhaust system shall meet the following requirements:

(1) *Gasoline-fueled engines.* A chassis-type exhaust system shall be used. For all catalyst systems, the distance from the exhaust manifold flange(s) to the catalyst shall be the same as in the vehicle configuration unless the manufacturer provides data showing equivalent performance at another location.

(2) *Diesel engines.* Both a chassis-type and facility-type exhaust system may be used. The exhaust backpressure or restriction shall be typical of those seen in the actual average vehicle exhaust system configuration and may be set with a valve (muffler omitted).

(i) The chassis-type exhaust system shall meet the following requirements:

(A) The distance from the exhaust manifold flange(s) to any exhaust aftertreatment device shall be the same as in the vehicle configuration unless the manufacturer is able to demonstrate equivalent performance at another location.

(B) The distance from the exhaust manifold flange to the exist of the chassis-type exhaust system shall be a maximum of 12 feet (3.66 m).

(ii) The facility-type exhaust system shall meet the following requirements:

(A) The exhaust system tubing length from the exist of the chassis exhaust system or engine exhaust manifold flange to the primary dilution tunnel shall be 12 feet (3.66 m) or less if uninsulated, and 20 feet (6.1 m) or less if insulated. It must be composed of smooth stainless steel tubing. This tubing shall have a maximum inside diameter of 6.0 in. (15.2 cm).

(B) Short sections (altogether not to exceed 20 percent of the entire tube

length) of flexible tubing at connection points are allowed.

(C) If the tubing is insulated, the radial thickness of the insulation must be at least R inches, where R=16(k)−2(r), Where:

(*1*) k=Thermal conductivity of the insulating material (BTU/hr-ft- °F), and

(*2*) r=Outer radius of uninsulated tubing (inches).

26. A new § 86.1337–87 is proposed to be added to Subpart N, to read as follows:

§ 86.1337–87 Engine dynamometer test run.

(a) The following steps shall be taken for each test:

(1) Prepare the engine, dynamometer, and sampling system for the cold-start test. Change filters, etc. and leak check as necessary.

(2) Connect evacuated sample collection bags to the dilute exhaust and dilution air sample collection systems.

(3) Attach the CVS to the engine exhaust system any time prior to starting the CVS.

(4) Start the CVS (if not already on), the sample pumps (except for the diesel particulate sample pump(s), if applicable), the engine cooling fan(s), and the data collection system. The heat exchanger of the constant volume sampler (if used), and the heated components of any continuous sample system(s) (if applicable) shall be preheated to their designated operating temperatures before the test begins. (See § 86.1340–84(e) for continuous sampling procedures.)

(5) Adjust the sample flow rates to the desired flow rates and set the CVS gas flow measuring devices to zero. (Note.—CFV–CVS sample flow rate is fixed by the venturi design.)

(6) Carefully install a clean particulate sample filter into each of the filter holders (diesel only).

(7) Follow the manufacturer's choke and throttle instructions for cold starting. Simultaneously start the engine and begin exhaust and dilution air sampling. For diesel engines, turn on the hydrocarbon and NO_x (and CO and CO_2, if continuous) analyzer system integrators (if used) and turn on the particulate sample pumps and indicate the start of the test on the data collection medium.

(8) As soon as it is determined that the engine is started, start a "free idle" timer.

(9) Allow the engine to idle freely with no-load for 24±1 seconds. This idle period for automatic transmission engines may be interpreted as an idle speed in neutral or park. All other idle conditions shall be interpreted as an idle speed in gear. It is permissible to lug the engine down to curb idle speed during the last 8 seconds of the free idle period for the purpose of engaging dynamometer control loops.

(10) Begin the transient engine cycles such that the first non-idle recond of the cycle occurs at 25±1 seconds. The free idle time is included in the 25±1 seconds. During diesel particulate testing without the use of flow compensation, adjust the sample pump(s) so that the flow rate through the particulate sample probe or transfer tube is maintained at a constant value within ±5 percent of the set flow rate. Record the average temperature and pressure at the gas meter(s) or flow instrumentation inlet. If the set flow rate cannot be maintained because of high particulate loading on the filter, the test shall be terminated. The test shall be rerun using a lower flow rate and/or a larger diameter filter.

(11) On the last record of the cycle, cease sampling. Immediately turn the engine off, and start a hot-soak timer. For diesel engines, also turn off the particulate sample pumps, the gas flow measuring device(s) and any continuous analyzer system integrators and indicate the end of the test on the data collection medium. Sampling systems should continue to sample after the end of the test cycle until system response times have elapsed.

(12) Immediately after the engine is turned off, turn off the engine cooling fan(s) if used, and the CVS blower (or disconnect the exhaust system from the CVS). As soon as possible, transfer the "cold start cycle" exhaust and dilution air bag samples to the analytical system and process the samples according to § 83.1340–84. A stabilized reading of the exhaust sample on all analyzers shall be obtained within 20 minutes of the end of the sample collection phase of the test. For diesel engines carefully remove each particulate sample filter from its holder and place each in a petri dish and cover.

(13) Allow the engine to soak for 20±1 minutes.

(14) Prepare the engine and dynamometer for the hot start test.

(15) Connect evacuated sample collection bags to the dilute exhaust and dilution air sample collection systems.

(16) Start the CVS (if not already on) or connect the exhaust system to the CVS (if disconnected). Start the sample pumps (except the diesel particulate sample pump(s), if applicable), the engine colling fan(s) and the data collection system. The heat exchanger of the constant volume sampler (if used) and the heated components of any continuous sampling system(s) (if applicable) shall be preheated to their designated operating temperatures before the test begins. See § 86.1340–84(e) for continuous sampling procedures.

(17) Adjust the sample flow rates to the desired flow rate and set the CVS gas flow measuring devices to zero.

(18) Carefully install a clean particulate filter in each of the filter holders (for diesels only).

(19) Follow the manufacturer's choke and throttle instruction for hot starting. Simultaneously start the engine and begin exhaust and dilution air sampling. For diesel engines, turn on the hydrocarbon and NO_x (and CO and CO_2, if continuous) analyzer system integrators (if used), indicate the start of the test on the data collection medium, and turn on the particulate sample pump(s).

(20) As soon as it is determined that the engine is started, start a "free idle" timer.

(21) Allow the engine to idle freely with no-load for 24±1 seconds. The provisions and interpretations of paragraph (a)(9) of this section apply.

(22) Begin the transient-engine cycle such that the first non-idle record of the cycle occurs at 25±1 seconds. The free idle is included in the 25±1 seconds.

(23) On the last record of the cycle, allow sampling system response times to elapse and cease sampling. For diesel engines, turn off the particulate sample pump(s), the gas flow measuring device(s) and any continuous analyzer system integrators and indicate the end of the test on the data collection medium.

(24) As soon as possible, transfer the "hot start cycle" exhaust and dilution air bag samples to the analytical system and process the samples according to § 86.1340–84. A stabilized reading of the exhaust sample on all analyzers shall be obtained with 20 minutes of the end of the sample collection phase of the test. For diesel engines, carefully remove each particulate sample filter from its holder and place in a clean petri dish and cover as soon as possible. Within 1 hour after the end of the hot start phase of the test, transfer the four particulate filters to the weighing chamber for post-test conditioning.

(25) The CVS and the engine may be turned off, if desired.

(b) The procedure in paragraph (a) of this section is designed for one sample bag for the cold-start portion and one for the hot-start portion. It is also permissible to use more than one sample bag per test portion.

(c) If a dynamometer test run is determined to be void, corrective action may be taken. The engine may then be

allowed to cool (naturally or forced) and the dynamometer test rerun per paragraph (a) or (b) of this section.

27. A new § 86.1339–87 is proposed to be added to Subpart N, to read as follows:

§ 86.1339–87 Diesel particulate filter handling and weighing.

(a) At least 1 hour, but not more than 80 hours, before the test, place each filter in an open petri dish and place in a weighing chamber meeting the specifications of § 86.1312–87 for stabilization.

(b) At the end of the stabilization period, weigh each filter on a balance having a precision of one microgram. This reading is the tare weight and must be recorded (see § 86.1344–87(e)(18)).

(c) The filter shall then be stored in a covered petri dish or a sealed filter holder, either of which shall remain in the weighing chamber until needed for testing.

(d) If the filter is not used within 1 hour of its removal from the weighing chamber, it must be re-weighed before use.

(e) After the emissions test, and after the sample and back-up filters have been returned to the weighing room after being used, they must be conditioned for at least 1 hour but not more than 80 hours and then weighed. This reading is the gross weight of the filter and must be recorded (See § 86.1344–87(e)(18)).

(f) The net weight of each filter is its gross weight minus its tare weight. Should the sample on the filter contact the petri dish or any other surface, the test is void and must be re-run.

(g) A ratio of net weights will be determined by the following formula:

$$\text{Ratio of Net Weights} = \frac{(\text{Net Weight})_{\text{Primary Filter}}}{(\text{Net Weight})_{\text{Primary Filter}} + (\text{Net Weight})_{\text{Back-up Filter}}}$$

(1) If the ratio of net weights is greater than 0.95, then P_f is the net weight of the primary filter only.

(2) If the ratio of net weights is less than or equal to 0.95, then P_f is the sum of the net weights of the primary filter and the back-up filter.

28. A new §86.1343–87 is proposed to be added to Subpart N, to read as follows:

§ 86.1342–87 Calculations; particulate exhaust emissions (diesels only).

(a) The final reported transient emission test results shall be computed by use of the following formula:

$$P_{wm} = \frac{1/7\ P_C + 6/7\ P_H}{1/7\ \text{BHP-hr}_C + 6/7\ \text{BHP-hr}_H}$$

Where:

(1) P_{wm} = Weighted mass particulate, grams per brake horsepower-hour.

(2) P_C = Mass particulate measured during the cold-start test, grams.

(3) P_H = Mass particulate measured during the hot-start test, grams.

(4) BHP-hr_C = Total brake horsepower-hour (brake horsepower integrated with respect to time) for the cold-start test.

(5) BHP-hr_H = Total brake horsepower-hour (brake horsepower integrated with respect to time) for the hot-start test.

(b) The mass of particulate for the cold-start test and the hot-start test is determined from the following equation when a heat exchanger is used (*i.e.*, no flow compensation):

$$P_{mass} = (V_{mix} + V_{sd}) \times \left(\frac{P_f}{V_{sd}} - \frac{P_{bd}}{V_{bd}} \right) \times (1 - 1/DF).$$

Where:

(1) P_{mass} = Mass of particulate emitted per test phase, grams per test phase. ($P_H = P_{mass}$ for the hot-start test and $P_C = P_{mass}$ for the cold-start test.

(2) V_{mix} = Total dilute exhaust volume corrected to standard conditions (528 °R (293 °K) and 760 mm Hg (101.3 kPa)), cubic feet per test phase. For a PDP-CVS:

$$V_{mix} = V_o \times \frac{N\ (P_B - P_t)\ (528\ ^\circ R)}{(760\ \text{mm Hg})\ (T_p)}.$$

in SI units.

$$V_{mix} = V_o \times \frac{N(P_B - P_t)\ (293\ ^\circ K)}{(101.3\ \text{kPa})\ (T_p)}.$$

Where:

(i) V_o = Volume of gas pumped by the positive displacement pump, cubic feet (cubic meters) per revolution. This volume is dependent on the pressure differential across the positive displacement pump.

(ii) N = Number of revolutions of the positive displacement pump during the test phase while samples are being collected.

(iii) B_B = Barometric pressure, mm Hg (kPa).

(iv) P_t = Pressure depressions below atmospheric measured at the inlet to the positive displacement pump (during an idle mode), mm Hg (kPa).

(v) T_p = Average temperature of dilute exhaust entering the positive displacement pump during test, °R (°K).

(3) V_{sd} = Total volume of sample removed from the primary dilution tunnel, cubic feet at standard conditions.

(i) For a single-dilution system:

$$V_{sd} = \frac{V_{sm} \times (P_B + P_{id}) \times 528\ ^\circ R}{T_{id} \times 760\ \text{mm Hg}}.$$

Where:

(A) V_{sm} = Actual volume of dilute sample removed from the primary-dilution tunnel, cubic feet.

(B) P_B = Barometric presure, mm Hg.

(C) P_{id} = Pressure elevation above ambient measured at the inlet to the dilute exhaust sample gas meter or flow instrumentation, mm Hg. (For most gas meters or flow instruments with unrestriced discharge, P_{id} is negligible and can be assumed = 0.)

(D) T_{id} = Average temperature of the dilute exhaust sample at the inlet to the gas meter or flow instrumentation, °R.

(E) V_{sd} may require correction according to § 86.1320–87(a)(6).

(ii) For a double-dilution system:

$V_{sd} = V_{vt} - V_{pd}$.

Where:

(A)

$$V_{vt} = \frac{V_{sv} \times (P_B + P_{iv} \times 528\ ^\circ R}{T_{iv} \times 760\ \text{mm Hg}}$$

(B) V_{sv} = Actual volume of double diluted sample which passed through the particulate filter, cubic feet.

(C) P_B = Barometric pressure, mm Hg.

(D) P_{iv} = Pressure elevation above ambient measured at the inlet to the

sample gas meter located at the exit side of the secondary-dilution tunnel, mm Hg. (For must gas meters with unrestricted discharge P_{iv} is negligible and can be assumed=0.)

(E) T_{iv}=Average temperature of the dilute exhaust sample at the inlet to the exit side gas meter or flow instrumentation, °R.

(F)

$$V_{sf}=\frac{V_{sp}\times(P_a+P_{ip})\times 528\ ^\circ R}{T_{ip}\times 760\ mm\ Hg}$$

(G) V_{sp}=Actual volume of secondary dilution air, cubic feet.

(H) P_a=Baromtric pressure, mm Hg.

(I) P_{ip}=Pressure elevation above ambient measured at the inlet to the sample gas meter or flow instrumentation located at the inlet side of the secondary dilution tunnel, mm Hg. (For most gas meters with unrestricted discharge P_{ip} is negligible and can be assumed = 0.)

(J) T_{ip}=Average temperature of the dilute exhaust sample at the inlet to the inlet side gas meter or flow instrumentation, °R.

(K) Both V_{vf} and V_{sf} may require correction according to § 86.1320–87(a)(6). These corrections must be applied before V_{sf} is determined.

(4) P_f=Mass of particulate on the sample filter (or sample and back-up filters if the back-up filter is required to be included, see § 86.1339–87(g) for determination), grams per test phase.

(5) P_{bf}=Net weight of particulate on the background particulate filter, grams.

(6)

$$V_{bf}=\frac{V_{sb}\times(P_a+P_{ib})\times 528^\circ R}{T_{ib}\times 760\ mm\ Hg},$$

Where:

(i) V_{sb}=Actual volume of primary dilution air sampled by background particulate sampler, cubic feet.

(iii) P_{ib}=Pressure elevation above ambient measured at the inlet to the background gas meter or flow instrument, mm Hg. (For most gas meters or flow instruments with unrestricted discharge, P_{ib} is negligible and can be assumed = 0.)

(iv) T_{ib}=Average temperature of the background sample at the inlet to the gas meter or flow instrument, °R.

(7) For definition of DF see § 86.1342–84(d)(5).

29. A new § 86.1344–87 is proposed to be added to Subpart N, to read as follows:

§ 86.1344–87 Required information.

(a) The required test data shall be grouped into the following three general categories:

(1) *Engine set-up and descriptive data.* This data must be provided to the EPA supervisor of engine testing for each engine sent to the Administrator for confirmatory testing prior to the initiation of engine set-up. This data is necessary to ensure that EPA test personnel have the correct date in order to set up and test the engine in a timely and proper manner. This data is not required for tests performed by the manufacturers.

(2) *Pre-test data.* This data is general test data that must be recorded for each test. The data is of a more descriptive nature such as identification of the test engine, test site number, etc. As such, this data can be recorded at any time within 24 hours of the test.

(3) *Test-data.* This data is physical test data that must be recorded at the time of testing.

(b) All data may be supplied to the Administrator by punch cards, magnetic tape, or other electronic data processing means. Acceptable data formats and transmission techniques will be provided in the Application Format for Certification of the applicable model year.

(c) *Engine set-up data.* Because specific test facilities may change with time, the specific data parameters and number of items may vary. The Application Format for Certification for the applicable model year will specify the exact requirements. In general, the following types of data will be required:

(1) Engine manufacturer.
(2) Engine system combination.
(3) Engine code and CID.
(4) Engine identification number.
(5) Applicable engine model year.
(6) Engine fuel type.
(7) Recommended oil type.
(8) Exhaust pipe configuration, pipe sizes, etc.
(9) Curb or low idle speed.
(10) Dynamometer idle speed. (Automatic transmission engines only.)
(11) Engine parameter specifications such as spark timing, operating temperature, advance curves, etc.
(12) Engine performance data, such as maximum BHP, previously measured rated rpm, fuel consumption, governed speed, etc.
(13) Recommended start-up procedure.
(14) Maximum safe engine operating speed.
(15) Number of hours of operation accumulated on engine.
(16) Manufacturer's recommended inlet depression limit and typical in-use inlet depression level.
(17) Exhaust system.
(i) *Diesel engines.*
(A) Header pipe inside diameter.
(B) Tailpipe inside diameter.
(C) Minimum distance in-use between the exhaust manifold flange and the exit of the chassis exhaust system.
(D) Manufacturer's recommended maximum exhaust backpressure limit for the engine.
(E) Typical backpressure as determined by typical application of the engine.
(F) Minimum backpressure required to meet applicable noise regulations.
(ii) *Gasoline-fueled engines.* Typical in-use backpressure in vehicle exhaust system.

(d) *Pre-test data.* The following data shall be recorded, and reported to the Administrator for each test conducted for compliance with the provisions of 40 CFR Part 86, Subpart A:

(1) Engine-system combination.
(2) Engine identification.
(3) Instrument operator(s).
(4) Engine operator(s).
(5) Number of hours of operation accumulated on the engine prior to beginning the test sequence (Figure N84–10).
(6) Identification and specifications of test fuel used.
(7) Date of most recent analytical assembly calibration.
(8) All pertinent instrument information such as tuning, gain, serial numbers, detector number, calibration curve number, etc. As long as this information is traceable, it may be summarized by system number or analyzer identification numbers.

(e) *Test data.* The physical parameters necessary to compute the test results and ensure accuracy of the results shall be recorded for each test conducted for compliance with the provisions of 40 CFR Part 86, Subpart A. Additional test data may be recorded at the discretion of the manufacturer. Extreme details of the test measurements such as analyzer chart deflections will generally not be required on a routine basis to be reported to the Administrator for each test, unless a dispute about the accuracy of the data arises. The following types of data shall be required to be reported to the Administrator. The Application Format for Certification for the applicable model year will specify the exact requirements which may change slightly from year to year with the addition or deletion of certain itmes.

(1) Date and time of day.

(2) Test number.

(3) Engine intake air or test cell temperature.

(4) Barometric pressure. A central laboratory barometer may be used: *Provided,* that individual test cell barometic pressure are shown to be within ±0.1 percent of the barometric pressure at the central barometer location.

(5) Engine intake or test cell and CVS dilution air humidity.

(6) Maximum torque versus speed curve as determined in § 86.1332–84, with minimum and maximum engine speeds, and a description of the mapping technique used.

(7) Measured maximum horsepower and maximum torque speeds.

(8) Measured maximum horsepower and torque.

(9) Measured high idle engine speed (governed diesel engines only).

(10) Measured fuel consumption at maximum power and torque (diesel engines only).

(11) Cold-soak time interval and cool down procedures.

(12) Temperature set point of the heated continuous analysis system components (if applicable).

(13) Test cycle validation statistics as specified in § 86.1341–84 for each test phase (cold and hot).

(14) Total CVS flow rate with dilution factor for each test phase (cold and hot).

(15) Temperature of the dilute exhaust mixture and secondary dilution air (in the case of a double dilution system) at the inlet to the respective gas meter(s) or flow instrumentation used for particulate sampling (diesels only).

(16) The maximum temperature of the dilute exhaust mixture immediately before the particulate filter (diesels only).

(17) Sample concentrations (background corrected) for HC, CO, CO_2, and NO_x for each test phase (cold and hot).

(18) The stabilized per-test weight and post-test weight of each particulate sample and back-up filter (diesels only).3213

(19) Brake specific emissions (g/BHP-hr) for HC, CO and NO_x for each test phase (cold and hot).

(20) The weighted (cold and hot) brake specific emissions (g/BHP-hr) for the total test.

(21) The weighted (cold and hot) carbon balance or mass-measured brake specific fuel consumption for the total test.

(22) The number of hours of operation accumulated on the engine after completing the test sequences described in Figure N84–10.

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Part III

Environmental Protection Agency

40 CFR Part 300

Amendment to National Oil and Hazardous Substances Contingency Plan: The National Priorities List; Proposed Rule

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[OSWER-FRL-2690-6]

Amendment to National Oil and Hazardous Substances Contingency Plan: The National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency ("EPA") is proposing the second update to the National Priorities List ("NPL"). The NPL is Appendix B to the National Oil and Hazardous Substances Contingency Plan ("NCP"), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA") and Executive Order 12316. CERCLA requires that the NPL be revised at least annually, and today's notice proposes the second such revision.

DATES: Comments may be submitted on or before December 14, 1984.

ADDRESSES: Comments may be mailed to Russel H. Wyer, Director, Hazardous Site Control Division (NPL Staff), Office of Emergency and Remedial Response (WH-548E), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. The public docket for the update to the NPL will contain Hazard Ranking System (HRS) score sheets for all sites on this proposed update, as well as a "Documentation Record" for each site describing the information used to compute the scores. The main public docket is located in Room S-325 of Waterside Mall, 401 M Street, SW., Washington, D.C. 20460, and is available for viewing from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays. Requests for copies of documents in the docket should be directed to EPA Headquarters, although the same documents will be available for viewing in the EPA Regional Offices. In addition, the background data relied upon by the Agency in calculating or evaluating HRS scores are retained only in the Regional Offices. Such data in EPA files may be obtained upon request. An informal written request, rather than a formal request under the Freedom of Information Act, should be the ordinary procedure for requesting these data sources. Addresses for the Regional Office dockets are:

Peg Nelson, Region I, U.S. EPA Library, John F. Kennedy Federal Bldg., Boston, MA 02203, 617/223-5791
Audrey Thomas, Region II, U.S. EPA Library, 26 Federal Plaza, 10th Floor, New York, NY 10278, 212/264-2881
Diane McCreary, Region III, U.S. EPA Library, Curtis Building, 6th & Walnut Streets, Philadelphia, PA 19106, 215/597-0580
Carolyn Mitchell, Region IV, U.S. EPA Library, 345 Courtland Street, NE, Atlanta, GA 30365, 404/881-4216
Lou Tilly, Region V, U.S. EPA Library, 230 South Dearborn Street, Chicago, IL 60604, 312/353-2022
Nita House, Region VI, U.S. EPA Library, First International Building, 1201 Elm Street, Dallas, TX 75270, 214/767-7341
Connie McKenzie, Region VII, U.S. EPA Library, 324 East 11th Street, Kansas City, MO 64106, 816/374-3497
Delores Eddy, Region VIII, U.S. EPA Library, 1860 Lincoln Street, Denver, CO 80295, 303/837-2560
Jean Circiello, Region IX, U.S. EPA Library, 215 Fremont Street, San Francisco, CA 94105, 415/974-8076
Julie Sears, Region X, U.S. EPA Library, 1200 6th Avenue, Seattle, WA 98101, 206/442-1289

FOR FURTHER INFORMATION CONTACT: Joseph R. Gearo, Jr., Hazardous Site Control Division, Office of Emergency and Remedial Response (WH-548-E), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, Phone (800) 424-9346 (or 382-3000 in the Washington, D.C., metropolitan area).

SUPPLEMENTARY INFORMATION:

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I. Introduction

Pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9601-9657 ("CERCLA" or "the Act"), and Executive Order 12316 (46 FR 42237, August 20, 1981), the Environmental Protection Agency ("EPA" or the "Agency") promulgated the revised National Contingency Plan ("NCP"), 40 CFR Part 300, on July 16, 1982 (47 FR 31180). Those amendments to the NCP implement the responsibilities and authorities created by CERCLA to respond to releases and threatened releases of hazardous substances, pollutants, and contaminants.

Section 105(8)(A) of CERCLA requires that the NCP include criteria for determining priorities among releases or threatened releases throughout the United States for the purpose of taking remedial action and, to the extent practicable taking into account the potential urgency of such action, for the purpose of taking removal action. Removal action involves cleanup or other actions that are taken in response to emergency conditions or on a short-term or temporary basis (CERCLA Section 101 (23)). Remedial action tends to be long-term in nature and involves response actions which are consistent with a permanent remedy for a release (CERCLA Section 101(24)). Criteria for determining priorities are included in the Hazard Ranking System ("HRS"), which EPA promulgated as Appendix A of the NCP (47 FR 31219, July 16, 1982).

Section 105(8)(B) of CERCLA requires that these criteria be used to prepare a list of national priorities among the known releases or threatened releases throughout the United States, and that to the extent practicable at least 400 sites be designated individually. CERCLA requires that this National Priorities List ("NPL") be included as part of the NCP. Today, the Agency is proposing the addition of 238 sites to the NPL.

EPA is proposing to include on the NPL sites at which there are or have been releases or threatened releases of designated hazardous substances or of any "pollutant or contaminant." The discussion below may refer to "releases or threatened releases" simply as "releases," "facilities," or "sites."

II. Purpose of the NPL

The primary purpose of the NPL is stated in the legislative history of CERCLA (Report of the Committee on Environment and Public Works, Senate Report No. 96-848, 96th Cong., 2d. Sess. 60 (1980)):

> The priority lists serve primarily informational purposes, identifying for the States and the public those facilities and sites or other releases which appear to warrant remedial actions. Inclusion of a facility or site on the list does not in itself reflect a judgement of the activities of its owner or operator, it does not require those persons to undertake any action, nor does it assign liability to any person. Subsequent government action in the form of remedial actions or enforcement actions will be necessary in order to do so, and these actions will be attended by all appropriate procedural safeguards.

The purpose of the NPL, therefore, is primarily to serve as an informational tool for use by EPA in identifying sites that appear to present a significant risk to public health or the environment. The initial identification of a site on the NPL is intended primarily to guide EPA in determining which sites warrant further investigation designed to assess the nature and extent of the public health

and environmental risks associated with the site and to determine what CERCLA-financed remedial action(s), if any, may be appropriate. Inclusion of a site on the NPL does not establish that EPA necessarily will undertake remedial actions. Moreover, listing does not require any action of any private party, nor does it determine the liability of any party for the cost of cleanup at the site. In addition, a site need not be on the NPL to be the subject of CERCLA-financed removal actions or of actions brought pursuant to section 107(a)(4)(B) of CERCLA.

In addition, although the HRS scores used to place sites on the NPL may be helpful to the Agency in determining priorities for cleanup and other response activities among sites on the NPL, EPA does not rely on the scores as the sole means of determining such priorities, as discussed below. Neither can the HRS itself determine the appropriate remedy for a site. The information collected to develop HRS scores to select sites for the NPL is not sufficient in itself to determine the appropriate remedy for a particular site. After a site has been included on the NPL, EPA generally will rely on further, more detailed studies conducted at the site to determine what response, if any, is appropriate. These studies will take into account, among other things, response actions that have been taken by potential responsible parties or others. Decisions on the type and extent of action to be taken at these sites are made in accordance with the criteria contained in Subpart F of the NCP. After conducting these additional studies, EPA may conclude that it is not desirable to conduct response action at some sites on the NPL because of more pressing needs at other sites. Given the limited resources available in the Hazardous Substance Response Trust Fund established under CERCLA, the Agency must carefully balance the relative needs for response at the numerous sites it has studied. Also, it is possible that EPA will conclude after further analysis that no action is needed at a site because the site does not present a significant threat to public health, welfare or the environment.

III. NPL Update Process and Schedule

Pursuant to section 105(8)(B) of CERCLA, 42 U.S.C. 9605(8)(B), EPA is required to establish, as part of the NCP for responding to releases of hazardous substances, a NPL of sites of such releases. The principal purpose of this notice is to propose the addition of 238 new sites to the NPL which have HRS scores of 28.50 or above. In addition, the final NPL (49 FR 37070, September 21, 1984) is included to indicate the appropriate status codes for response and cleanup activities at these sites. These codes are explained in greater detail in section IV of this notice.

CERCLA requires that the NPL be revised at least once per year. Accordingly, EPA added 128 sites to the final NPL on September 21, 1984 (49 FR 37070). The majority (123) of those sites were proposed on September 8, 1983 (48 FR 40674) as the first update to the NPL. Today's notice proposes the second such revision, which the Agency expects to promulate within one year of this announcement. For each NPL revision, EPA informs the States of the closing dates for submission of candidate sites to EPA. In addition to these periodic updates, EPA believes it may be desirable in rare instances, because of urgency and needed corrective action, to propose separately the addition of individual sites on the NPL as it did in the case of the Times Beach, Missouri, (48 FR 9311, March 4, 1983).

As with the establishment of the initial NPL and subsequent revisions to the NPL, States have the primary responsibility for selecting and scoring sites that are candidates for inclusion on the NPL using the HRS (Appendix A to the NCP, 47 FR 31223, July 16, 1982) and submitting the candidate sites to the EPA Regional Offices. The Regional Offices then conduct a quality control review of the States' candidate sites. After conducting this review, the EPA Regional Offices submit candidate sites to EPA Headquarters. The Regions may include candidate sites in addition to those submitted by States. In reviewing these submissions, EPA Headquarters conducts further quality assurance audits to ensure accuracy and consistency among the various EPA and State offices participating in the scoring.

In today's proposal, the "Proposed Additions" consist of sites not currently on the NPL that the Agency is proposing to add to the NPL. The "Proposed Additions" are contained in the list immediately following this preamble. The additions are presented in two separate lists, non-Federal and Federal facility sites.

Public Comment Period

EPA requests public comment on each of the sites it is proposing to add to the NPL and will accept such comments for 60 days following the date of publication of this notice in the **Federal Register**. HRS scoring sheets and a "Documentation Record" for all sites proposed to be added to the NPL are available for inspection and copying in the NPL docket located in Washington, D.C. The same documents will be available for viewing in the EPA Regional offices for sites located in that particular Region. After considering the relevant comments received during the comment period and determining the final score for each proposed site, the Agency will add to the current NPL all sites that meet EPA's criteria for listing (i.e., sites with HRS scores at or above 28.50 or those designated as a State's top priority site).

IV. Contents of the Proposed Second NPL Update

Each entry on the proposed second NPL update contains the name of the facility, the State and city or county in which it is located, and the corresponding EPA Region. Each site EPA is proposing to add is placed by score in a group corresponding to the groups of 50 sites presented within the final NPL (49 FR 37070 September 21, 1984). Thus, the sites in group 1 of the proposed update have scores that fall within the range of scores covered by the first 50 sites on the final NPL. Each entry on this proposed update and at sites already on the NPL is accompanied by one or more notations referencing the status of response and cleanup activities at the site at the time this list was prepared. This site status and cleanup information are described briefly below.

In the past, EPA categorized the NPL sites based on the type of response at each site (Fund-financed, enforcement and/or voluntary action). This second NPL update will expand the prior categorization system in two ways. First, Federal enforcement actions are separated from State enforcement actions. Second, the status of site cleanup activities is designated by three new cleanup status codes. EPA is including the cleanup status codes to identify sites where significant response activities are underway or completed. The cleanup status codes on this NPL update are included in response to public requests for information regarding actual site cleanup activities.

Response Categories

The following response categories are used to designate the type of response underway. One or more categories may apply to each site.

Voluntary or Negotiated Response (V). Sites are included in this category if private parties have started or completed response actions pursuant to settlement agreements or consent decrees to which EPA or the State is a party. This category includes privately-financed remedial planning, removal actions, initial remedial measures and/or remedial actions.

Federal and/or State Response (R). The Federal and/or State Response category includes sites at which EPA or State agencies have started or completed response actions. These include removal actions, non-enforcement remedial planning, initial remedial measures, and/or remedial actions under CERCLA [NCP, § 300.66(f)–(i) 47 FR 31217, July 16, 1982]. For purposes of assigning a category, the response action commences when EPA obligates funds.

Federal Enforcement (F). This category includes sites where the United States has filed a civil complaint (including cost recovery actions) or issued an administrative order. It also includes sites at which a Federal court has mandated some form of response action following a judicial proceeding. All sites at which enforcement-lead remedial investigations and feasibility studies are underway are also included in this category.

A number of sites on the NPL are the subject of investigations or have been referred to the Department of Justice for possible enforcement action. EPA's policy is not to release information concerning a possible enforcement action until a lawsuit has been filed. Accordingly, these sites are not included in this category, but are included under "Category to be Determined."

State Enforcement (S). This category includes sites where a State has filed a civil complaint or issued an administrative order. It also includes sites at which a State court has mandated some form of response action following a judicial proceeding. Sites where State enforcement-lead remedial investigations and feasibility studies are underway are also included in this category.

It is assumed that State policy precludes the release of information concerning possible enforcement actions until such action has been formally taken. Accordingly, sites subject to possible State legal action are not included in this category, but are included under "Category to be Determined."

Category to be Determined (D). This category includes all sites not listed in any other category. A wide range of activities may be in progress at sites in this category. EPA or a State may be evaluating the type of response action to undertake, or an enforcement case may be under consideration. Responsible parties may be undertaking cleanup actions that are not covered by a consent decree or an administrative order.

Cleanup Status Codes

EPA has decided to indicate the status of Fund-financed or private party cleanup activities underway or completed at proposed NPL sites. Fund-financed response activities which are coded include: significant removal actions, initial remedial measures, source control remedial actions, and offsite remedial actions. The status of cleanup activities conducted by responsible parties under a consent decree, court order, or an administrative order also is coded. Remedial planning activities or engineering studies do not receive a cleanup status code.

Many sites listed on the NPL are cleaned up in stages or "operable units." For purposes of cleanup status coding, an operable unit is a discrete action taken as part of the entire site cleanup that significantly decreases or eliminates a release, threat of release, or pathway of exposure. One or more operable units may be necessary to complete the cleanup of a hazardous waste site. Operable units may include removal actions taken to stabilize deteriorating site conditions, initial remedial measures, and remedial actions. A simple removal action (constructing fences, or berms or lowering free-board) that does not eliminate a significant release, threat of release, or pathway of exposure is not considered an operable unit for purposes of cleanup status coding.

The following cleanup status codes (and definitions) are used to designate the status of cleanup activities at proposed sites on the NPL. Only one code is necessary to denote the status of actual cleanup activity at each site since the codes are mutually exclusive.

Implementation Activities Are Underway for One or More Operable Units (I). Field work is in progress at the site for implementation of one or more removal or remedial operable units, but no operable units are completed.

Implementation Activities for One or More (But Not All) Operable Units Are Completed. Implementation Activities May be Underway for Additional Operable Units (O). Field work has been completed for one or more operable units, but additional site cleanup actins are necessary.

Implementation Activities for all Operable Units Are Completed (C). All actions agreed upon for remedial action at the site have been completed and performance monitoring has commenced. The site will be considered for deletion from the NPL subsequent to completion of the performance monitoring and preparation of a deletion recommendation. Further site activities could occur if EPA considers such activities necessary.

V. Deleting Sites From the NPL

There is no specific statutory requirement that the NPL be revised to delete sites. However, EPA has decided to consider deleting sites to provide incentives for cleanup to private parties and public agencies. Furthermore, deleting sites allows the Agency to give notice that the sites have been cleaned up and gives the public an opportunity to comment on those actions.

EPA will delete a previously promulgated NPL site after EPA has determined that it has satisfied one or more of the following criteria:

(1) EPA, in consultation with the State, has determined that responsible parties have completed all appropriate response actions;

(2) EPA, in consultation with the State, has determined that all appropriate Fund-financed response actions have been completed and that no further cleanup by responsible parties is appropriate;

(3) Based on a remedial investigation, EPA, in consultation with the State, has determined that the facility poses no significant threat to public health, welfare, or the environment and, therefore, construction of remedial measures is not appropriate.

These criteria are the only deletion criteria EPA has developed to date. These criteria constitute guidance, not regulations. They may be revised or supplemented if experience indicates that other factors should be taken into account. At this time, however, it appears that these three criteria are adequate.

The Agency isssued a guidance memorandum on March 27, 1984, describing these criteria and interim procedures for deleting sites from the NPL. This document is available in the EPA dockets (see addresses section of this announcement). In deleting sites from the NPL, EPA will use the same Federal Register notice and comment procedures that were used for placing sites on the NPL.

The NCP currently restricts expenditures of Trust Fund monies to sites on the NPL. The Agency intends to modify the NCP to allow EPA to return to a site and expend Fund monies as warranted for operation and maintenance costs, continued monitoring, or correction of any failures of the remedy even though the site will have actually been deleted from the NPL. If sites are proposed for deletion before the NCP revisions have been promulgated, the Agency will establish a

"deletion category" for the NPL. This category will be explicitly denoted as containing sites at which the Agency has determined that one or more of the deletion criteria described above have been satisfied. However, these sites would not actually be deleted from the NPL. Once the NCP modifications are promulgated, the Agency will be able to delete a site from the NPL and spend additional Fund monies if conditions warrant.

The Agency is interested in the public reaction to these deletion procedures. Specifically, the Agency is interested in: (1) The desirability of maintaining the **Federal Register** notice and comment procedures for deletions that are currently used for placing sites on the NPL; and (2) the desirability of continuing to print, on a separate list, the names of sites deleted from the NPL at the time of each update. The Agency believes that including the names of deleted sites on the NPL may provide important information to the public on the final disposition of these sites and may result in favorable publicity for parties who have cleaned up sites on the NPL.

VI. Eligibility

CERCLA restricts EPA's authority to respond to certain categories of releases and expressly excludes some substances from the definition of release. In addition, as a matter of policy , EPA may or may not choose to respond to certain types of releases because other Federal agencies have adequate authority to respond. This section discusses the inclusion of such releases on the NPL.

Releases from Federal Facility Sites

CERCLA section 111(e)(3) prohibits use of the Funds for remedial actions at Federally owned facilities. Previously, EPA did not list any sites on the NPL where the release resulted solely from a Federal facility, regardless of whether contamination remained onsite or had migrated ofsite. EPA incorporated this position into the NCP (section 300.66(e)(2), 47 FR 31215, July 16, 1982); an also in the promulgation of the first NPL (48 FR 40662, September 8, 1983).

Public comments received from previously proposed NPL announcements suggested including Federal facilities, and the Agency now believes that it is appropriate to include Federal facility sites on the NPL when such facilities meet the criteria for inclusion. Federal facility sites will be listed when the HRS scores are equal to or above 28.50 so as to focus public attention and appropriate resources on the most serious sites, even though they are not eligible for Fund-financed remedial action.

For this update, Federal sites will be presented in a separate NPL section with Federal site displayed in scoring groups equivalent to the groups shown in the non-Federal NPL. As discussed in 48 FR 40662, September 8, 1984, EPA previously has listed sites that formerly were owned by the Federal government, and non-Federally owned sites where the Federal government may have contributed to a release. EPA intends to continue this policy by listing such site on the non-Federal NPL. The Federal facility section of the NPL will only contain sites where the release appears to result solely from a Federal facility, regardless of whether contamination remained on site or has migrated offsite.

Response categories and cleanup status codes also will be assigned for Federal facility sites, and these will be essentially the same categories and codes used for non-Federal sites. A Federal agency response at a Federal facility site will be indicated by the (R) category. When the (R) category does not apply to a Federal facility site, other Federal agency activities at that site, such as evaluating the appropriate response to undertake, will be indicated by the (D) category. Cleanup codes will be assigned to Federal facility sites in the same manner as they are to non-Federal sites.

EPA is preparing a proposed amendment in section 300.66(e)(2) of the NCP to allow the listing of Federal facility sites on the NPL. For this proposal, EPA scored those Federal facilities identified by Federal agencies and the States as NPL candidates where sufficient information existed to apply the HRS. However, EPA does not intend to promulgate any of the sites proposed today until such time as the NCP amendment is final. In the meantime, the Agency is continuing work with Federal agencies to investigate potential problem Federal sites and to implement corrective measures at Federal sites.

Releases of Pesticides Registered Under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

This proposal includes six sites in South Central Oahu, Hawaii, where parts of the basal aquifer have been contaminated by pesticides including ethylene dibromide (EDB), dibromochloropropane (DBCP), and trichloropropane (TCP), a likely contaminant of the pesticide D-D (which contains 1,2-dichloropane, 1,3-dichloropene and related C3 compounds). These pesticides are all soil fumigants that have been used as nematocides in Oahu pineapple fields. All were registered under FIFRA at the time of their use in Oahu. We do not believe these pesticides are being used in Hawaii any longer. EDB's soil fumigation use has been cancelled, and EPA has proposed to cancel the sole remaining use of DBCP (pineapples) in the United States. D-D is no longer being produced, although it is still Federally registered. The most likely source of the contamination by DBCP and TCP was their use as pesticides, although it is less clear that the contamination by EDB resulted solely from its agricultural use.

These six sites are the first such sites proposed to be added to the NPL on the basis of releases which appear to originate from the application of pesticides. Insecticides and similar products are used extensively throughout the United States. The application of the HRS to public and private ground water systems throughout the country could possibly result in the listing of additional similar sites in a number of other States. At this time, however, the Agency has little data from which to predict the number of similar problems or the degree of risk posed by them, compared with the risks posed by other identified sites.

EPA is concerned that listing these sites may set important precedents with currently unknown implications for the future direction of CERCLA. As CERCLA's scope is broad, EPA wants to insure that its efforts under CERCLA are focused on the most significant risks and on problems that cannot be adequately addressed under EPA's other statutory authorities. Therefore, the Agency is interested in public comment for consideration in evaluating what alternative statutory tools or other approaches are most appropriate for dealing with these problems. Other approaches on which EPA wants to receive comment are those which would assure that only sites posing significant problems are included on the NPL. EPA plans to consider these issues. If the Agency decides that problems arising from pesticide use are better addressed outside the frame-work of CERCLA, it may decide as a matter of policy not to list the sites on the NPL.

EPA is planning a monitoring survey to evaluate the frequency and severity of contamination of ground water by pesticides. In addition, the Agency has initiated a special data call-in under FIFRA to evaluate the potential for ground water contamination of many pesticides. Pending the results of these information gathering efforts, the extent of this problem is not fully understood.

EPA has the authority to include sites on the NPL where contamination from

pesticide application has occurred (or has the potential to occur). The definition of "release" in section 101(22) of CERCLA is very broad; and whereas it excludes the "normal application of a fertilizer," it does not contain a similar exclusion for the application of pesticides. Additional review of CERCLA gives no suggestion that EPA authority to list such pesticide sites on the NPL or to take response action is limited. Section 107(i) limits EPA's ability to recover costs from releases associated with pesticide use, but CERCLA does not contain a similar limitation on EPA's ability to respond. Thus, there is no statutory restriction on the use of money from the CERCLA Trust Fund to clean up sites where public health or the environment has been threatened as a result of the application of pesticides. At the same time the Agency is not obliged to exercise response authority whenever a site is included on the NPL.

There are several legal authorities by which the hazards associated with contamination of ground water by pesticide use can be addressed; CERCLA enforcement actions and some CERCLA response actions, as well as actions under other laws, do not depend on a site's placement on the NPL. For example, FIFRA provides authority to require manufacturers to submit test results with which the Agency can evaluate hazards, including health effects and environmental fate and transport. FIFRA also provides authority to limit or prohibit use of pesticides when the risk associated with use outweigh the benefits of use. Under the Safe Drinking Water Act, EPA can issue health advisories or specify maximum contaminant limits in public water systems.

CERCLA authorizes Fund-financed response actions such as cleaning up acquifers or providing alternate drinking water supplies. Certain response actions taken with CERCLA trust fund money, however, are authorized only where a site has been listed on the NPL. While listing a site on the NPL is necessary to take these actions, it does not require them. After a site has been included on the NPL, EPA generally will rely on further, more detailed studies conducted at the site to determine what response, if any, is appropriate. The authority to compel private responsible parties to abate or clean up releases of pollutants and contaminants provided by CERCLA is not limited to sites listed on the NPL.

Releases From Sites Having Interim Status or Permits Under the Resource Conservation and Recovery Act (RCRA)

As stated in EPA's first NPL final rulemaking (48 FR 40658, September 8, 1983), both CERCLA and the Resource Conservation and Recovery Act (RCRA) contain authorities applicable to hazardous waste facilities. These authorities overlap for certain sites. EPA is adhering to its established policy that, where a site consists only of "regulated units" of a RCRA facility operating pursuant to a permit or interim status, it will not be included on the NPL but, to the extent possible, instead will be addressed under the authorities of RCRA. The RCRA Land Disposal Regulations (40 CFR Parts 122, 260, 264, and 265) give EPA authority to control actives sites through a broad program which includes monitoring, compliance inspections, penalties for violations, and requirements for post-closure plans and financial responsibility.

RCRA regulations require a contingency plan for each facility. The regulations also contain groundwater protection standards (40 CFR Part 264, Subpart F) that cover detection monitoring, compliance monitoring (if groundwater impacts are identified) and corrective action for releases within the site boundaries. These monitoring and corrective action standards apply to all "regulated units" of RCRA facilities, i.e., any part of the waste treatment, storage, or disposal operation within the boundaries of the facility that accepted waste after January 26, 1983, the effective date of the Land Disposal Regulations (47 FR 32349, July 26, 1982). Even if the unit ceases operation after this time, EPA has the authority to require it to obtain a permit, and the monitoring and corrective action requirements could therefore be enforced by this mechanism.

Given this authority to ensure cleanup of regulated units of RCRA facilities, such facilities generally are not included on the NPL. If the facility is abandoned or lacks sufficient resources and the RCRA corrective action requirements cannot be enforced, however, EPA will consider listing the site on the NPL for possible response under CERCLA. This policy is applicable not only to sites subject to EPA-administered hazardous waste programs but also to sites in States that administer programs approved by EPA. Even in the latter instance, close Federal control is ensured by the comprehensivenes of the program elements required of all State programs coupled with EPA's authority to enforce State program requirements directly if the State fails to do so. EPA does, however, consider eligible for listing on the NPL those RCRA facilities at which a significant portion of the release appears to come from "non-regulated units" of the facility, that is, portions of the facility that ceased operation prior to January 26, 1983. However, pending amendments to RCRA would extend RCRA jurisdiction to releases from non-regulated units at regulated facilities. Therefore, if the amendments are enacted, the Agency will consider modifying the existing policy of including such sites on the NPL at that time.

VII. Regulatory Impact Analysis

The costs of cleanup actions that may be taken at sites are not directly attributable to listing on the NPL, as explained below and therefore, the Agency has determined that this rulemaking is not a "major" regulation under Executive Order 12291. The EPA has conducted a preliminary analysis of the economic implications of today's proposed amendment to the NCP. The EPA believes that the kind of economic effects associated with this revision are generally similar to those effects identified in the regulatory impact analysis (RIA) prepared in 1982 for the revisions to the NCP pursuant to section 105 of CERCLA. The Agency believes the anticipated economic effects related to proposing the addition of 244 sites to the NPL can be characterized in terms of the conclusions of the earlier regulatory impact analysis. At that time, the Agency noted that a more extensive analysis of the economic impacts of the NCP would be prepared in the future and would accompany publication of future major amendments to the NCP. The Agency expects to propose major amendments to the NCP in the future and a more comprehensive economic analysis will be made available for comment at that time.

Costs

The EPA has determined that this proposed rulemaking is not a "major" regulation under Executive Order 12291 because inclusion of a site on the NPL does not itself impose any costs. It does not establish that EPA will necessarily undertake response action, nor does it require any action by a private party or determine its liability for site response costs. Costs that arise out of site response result from site-by-site decisions about what actions to take, not directly from the act of listing itself. Nonetheless, it is useful to consider the costs associated with responding to all sites included in a listing proposed rulemaking. This action was submitted

to the Office of Management and Budget (OMB) for review.

The major events that follow the proposed listing of a site on the NPL are a responsible party search and a Remedial Investigation/Feasibility Study (RI/FS) which determines whether response actions will be undertaken at a site. Design and construction of the selected remedial alternative follow completion of the RI/FS, and operation and maintenance (O&M) activities may continue after construction has been completed.

Costs associated with responsible party searches are initially borne by EPA. Responsible parties may bear some or all the costs of the RI/FS, design and construction, and O&M, or the costs may be shared by EPA and the States on a 90%:10% basis (50%:50% in the case of State-owned sites). Additionally, States assume all costs for O&M activities after the first year at sites involving Fund-financed remedial actions.

Rough estimates of the average per-site and total costs associated with each of the above activities are presented below. At this time EPA is unable to predict what portions of the total costs will be borne by responsible parties, since the distribution of costs depends on the extent of voluntary and negotiated response and the successfulness of cost recovery actions where such actions are brought.

Cost category	Average total cost per site [1]
RI/FS	$800,000
Remedial Design	440,000
Remedial Action	7,200,000
Initial Remedial Measures (IRM) at 10% of sites	80,000
Net Present Value of O&M (over 30 years)	4,100,000

[1] 1984 U.S. Dollars.

Source: OERR budget figures (assumes $8.5 million Federal share for remedial action).

Costs to States associated with today's proposed amendment arise from the statutory State cost-share requirement of: (1) 10 percent of remedial implementation (remedial action and IRM) and O&M costs at privately-owned sites; and (2) 50 percent of the remedial planning (RI/FS and remedial design), remedial implementation and O&M costs at State or locally-owned sites. Using the assumptions developed in the 1982 RIA, we can assume that 90 percent of the 208 non-Federal sites proposed to be added to the NPL in this amendment will be privately-owned and 10 percent will be State or locally-owned. Therefore, using the budget projections presented above, the cost to States of undertaking Federal remedial actions at all 208 non-Federal sites would be $344 million.

The act of listing a hazardous waste site on the final NPL does not necessarily cause firms responsible for the site to bear costs. Nonetheless, a listing may induce firms to clean up the sites voluntarily, or it may act as a potential trigger for subsequent enforcement or cost recovery actions. Such actions may impose costs on firms, but the decisions to take such actions are discretionary, and made on a case-by-case basis. Consequently, precise estimates of these effects cannot be made. EPA does not believe that every site will be cleaned up by a responsible party. EPA cannot project at this time which firms or industry sectors will bear specific portions of response costs, but the Agency considers such factors as: the volume and nature of the wastes contributed; the strength of the evidence linking the wastes at the site to the parties; ability to pay; and other factors when deciding whether and how to proceed against potentially responsible parties.

Economy-wide effects of this proposed amendment are aggregations of effects on firms and State and local governments. Although effects could be felt by some individual firms and States, the total impact of this revision on output, prices, and employment is expected to be negligible at the national level, as was the case in the 1982 RIA.

Benefits

The real benefits associated with today's proposed amendment come in the form of increased health and environmental protection as a result of increased public awareness of potential hazards and the additional response actions at hazardous waste sites. In addition to the potential for more Federally-financed remedial actions, this proposed expansion of the NPL could accelerate privately-financed, voluntary cleanup efforts to avoid potential adverse publicity, private lawsuits, and/or Federal or State enforcement actions.

As a result of the additional NPL remedies, there will be lower human exposure to high risk chemicals, and higher quality surface water, ground water, soil, and air. The magnitude of these benefits is expected to be significant, although difficult to estimate in advance of completing the RI/FS at these particular sites.

Associated with the costs of remedial actions are significant potential benefits and cost offsets. The distributional costs to firms of financing NPL remedies have corresponding "benefits" in that Funds expended for a response generates employment, directly or indirectly (through purchased materials).

VIII. Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act of 1980 requires EPA to review the impacts of this action on small entities, or certify that the action will not have a significant impact on a substantial number of small entities. By small entities the Act refers to small businesses, small governmental jurisdictions, and non-profit organizations.

While proposed modifications to the NPL are considered revisions to the NCP, they are not typical regulatory changes since the revisions do not automatically impose costs. The proposed listing of sites on the NPL does not in itself require any action of any private party, nor does it determine the liability of any party for the cost of cleanup at the site. Further, no identifiable groups are affected as a whole. As a consequence, it is hard to predict impacts on any group. A site's proposed inclusion on the NPL could increase the likelihood that adverse impacts to responsible parties (in the form of clean-up costs) will occur, but EPA cannot identify the potentially affected businesses at this time nor estimate a number of businesses affected. In addition, we cannot define what is "small" for the wide variety of potentially affected small entities. Because small entities that could be affected by this rulemaking would come from any industrial sector and could include governmental units, it is not possible to articulate a meaningful definition of small entities.

The Agency does expect that certain industries and firms within industries that have caused a proportionately high percentage of waste site problems could be significantly affected by CERCLA actions. However, EPA does not expect the impacts from the proposed listing of these 238 sites, or the NPL as a whole, to have a significant economic impact on small business as a whole.

In any case, economic impacts would only occur through enforcement and cost recovery actions which are taken at EPA's discretion on a site-by-site basis. EPA considers many factors when determining what enforcement actions to take, including not only the firm's contribution to the problem, but also the firm's ability to pay. The impacts (from cost-recovery) on small governments and non-profit organizations would be determined on a similar case-by-case basis.

List of Subjects in 40 CFR Part 300

Air pollution control, Chemicals, Hazardous materials, Intergovernmental

relations, Natural resources, Oil pollution, Reporting and recordkeeping requirements, Superfund, Waste treatment and disposal, Water pollution control, Water supply.

PART 300—[AMENDED]

It is proposed to amend Appendix B of 40 CFR Part 300 by adding the following sites to the National Priorities List:

Dated: October 2, 1984.

William D. Ruckelshaus,

Administrator.

NATIONAL PRIORITIES UPDATE LIST
GROUP 1

EPA RG	ST	SITE NAME	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
08	UT	Sharon Steel (Midvale Smelter)	Midvale	D	
08	UT	Portland Cement (Kiln Dust 2 & 3)	Salt Lake City	D	

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NATIONAL PRIORITIES UPDATE LIST
GROUP 2

EPA RG	ST	SITE NAME	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
04	FL	Peak Oil Co./Bay Drum Co.	Tampa	S	
05	OH	Industrial Excess Landfill	Uniontown	D	

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NATIONAL PRIORITIES UPDATE LIST
GROUP 3

EPA RG	ST	SITE NAME	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
10	WA	Midway Landfill	Kent	D	
06	TX	Bailey Waste Disposal	Bridge City	D	
05	MI	Thermo-Chem, Inc.	Muskegon	D	
09	CA	Van Waters & Rogers, Inc.	San Jose	D	
05	MN	Pine Bend/Crosby American Lf	Dakota County	D	
07	IA	Chemplex Co.	Clinton/Camanche	D	
04	NC	NC State U (Lot 86, Farm Unit #1)	Raleigh	D	

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NATIONAL PRIORITIES UPDATE LIST
GROUP 4

EPA RG	ST	SITE NAME	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
05	OH	General Electric(Coshocton Plant)	Coshocton	D	
02	NY	Liberty Industrial Finishing	Farmingdale	D	
06	TX	Brio Refining Co., Inc.	Friendswood	D	
02	NJ	Glen Ridge Radium Site	Glen Ridge	R	O
02	NJ	Montclair/West Orange Radium Site	Montclair/W Orange	R	O
04	NC	Celanese(Shelby Fiber Operations)	Shelby	D	
05	IN	International Minerals (E. Plant)	Terre Haute	D	
05	MI	Motor Wheel, Inc.	Lansing	D	
06	TX	Stewco, Inc.	Waskom	D	
05	OH	Alsco Anaconda	Gnadenhutten	D	
02	NY	Johnstown City Landfill	Town of Johnstown	D	
03	PA	Hunterstown Road	Straban Township	V F	O
02	NY	Hooker Chemical/Ruco Polymer Corp	Hicksville	D	
07	NE	Lindsay Manufacturing Co.	Lindsay	V S	O
09	CA	Operating Industries, Inc. Lf	Monterey Park	S	
04	FL	Pratt & Whitney Air/United Tech.	West Palm Beach	D	
08	CO	Eagle Mine	Minturn/Redcliff	R	

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NATIONAL PRIORITIES UPDATE LIST
GROUP 5

EPA RG	ST	SITE NAME	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
07	MO	Lee Chemical	Liberty	R	I
05	MI	Torch Lake	Houghton County	D	
01	RI	Central Landfill	Johnston	F	
03	PA	Domino Salvage Yard	Valley Township	V R S	O
08	UT	Mayflower Mountain Tailings Ponds	Wasatch County	D	
03	WV	Mobay Chemical (New Martinsville)	New Martinsville	D	
03	PA	Whitmoyer Laboratories	Jackson Township	D	
03	PA	Shriver's Corner	Straban Township	V F	O
03	VA	Culpeper Wood Preservers, Inc.	Culpeper	F S	
05	MN	U of Minnesota Rosemount Res Cent	Rosemount	D	
04	MS	Newsom Brothers/Old Reichhold	Columbia	R	O
02	NY	Tronic Plating Co., Inc.	Farmingdale	D	
02	NJ	Waldick Aerospace Devices, Inc.	Wall Township	S	
08	CO	Smuggler Mountain	Aspen	D	
09	CA	Alviso Dumping Areas	Alviso	D	
10	OR	Martin-Marietta Aluminum Co.	The Dalles	D	
08	CO	Uravan Uranium (Union Carbide)	Uravan	D	
05	MN	Oak Grove Sanitary Landfill	Oak Grove Township		

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NATIONAL PRIORITIES UPDATE LIST
GROUP 6

EPA RG	ST	SITE NAME	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
10	WA	Quendall Terminal	Renton	D	
05	IN	Fort Wayne Reduction Dump	Fort Wayne	D	
05	IL	Pagel's Pit	Rockford	D	
03	MD	Mid-Atlantic Wood Preservers, Inc	Harmans	V S	O
07	NE	Hastings Ground Water Contamin	Hastings	D	
05	MN	Kummer Sanitary Landfill	Bemidji	R	
09	HI	Mililani Wells	Oahu	D	
09	CA	Monolithic Memories, Inc.	Sunnyvale	D	
06	TX	Odessa Chromium #1	Odessa	D	
06	TX	Odessa Chromium #2 (Andrews Hgwy)	Odessa	D	
09	CA	San Fernando Valley (Area 1)	Los Angeles	D	
09	CA	San Fernando Valley (Area 2)	Los Angeles/Glendale	D	
09	CA	San Fernando Valley (Area 3)	Glendale	D	
09	CA	Teledyne Semiconductor	Mountain View	D	
09	CA	Thompson-Hayward Chemical Co.	Fresno	S	
09	HI	Waiawa Shaft	Oahu	D	
04	NC	Jadco-Hughes Facility	Belmont	D	
02	NY	Applied Environmental Services	Glenwood Landing	S	
09	AZ	Motorola, Inc.(52nd Street Plant)	Phoenix	D	

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NATIONAL PRIORITIES UPDATE LIST
GROUP 7

EPA RG	ST	SITE NAME	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
07	MO	Quality Plating	Sikeston	D	
05	MI	Roto-Finish Co., Inc.	Kalamazoo	D	
10	WA	Toftdahl Drums	Brush Prairie	D	
09	CA	Westinghouse (Sunnyvale Plant)	Sunnyvale	D	
02	NY	Nepera Chemical Co., Inc.	Maybrook	D	
09	CA	FMC Corp. (Fresno Plant)	Fresno	D	
03	VA	IBM Corp. (Manassas Plant Spill)	Manassas	D	
09	HI	Kunia Wells I	Oahu	D	
09	HI	Kunia Wells II	Oahu	D	
02	NY	Pasley Solvents & Chemicals, Inc.	Hempstead	D	
06	TX	Sol Lynn/Industrial Transformers	Houston	D	
09	HI	Waipahu Wells	Oahu	D	
07	KS	National Industrial Environ Serv	Furley	S	
05	IL	Kerr-McGee (Reed-Keppler Park)	West Chicago	D	
05	IL	Kerr-McGee (Kress Creek)	DuPage County	D	
09	CA	Southern Pacific Transportation	Roseville	S	
06	TX	South Cavalcade Street	Houston	D	
05	WI	National Presto Industries, Inc.	Eau Claire	D	
05	IL	Petersen Sand & Gravel	Libertyville	R	
08	MT	Idaho Pole Co.	Bozeman	D	
07	MO	Findett Corp.	St. Charles	V F	I
05	MN	Windom Dump	Windom	D	
05	IL	Kerr-McGee (Residential Areas)	West Chicago	D	
05	IL	NL Industries/Taracorp Lead Smelt	Granite City	V F S	
05	MI	E.I. Du Pont (Montague Plant)	Montague	D	

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NATIONAL PRIORITIES UPDATE LIST
GROUP 8

EPA RG	ST	SITE NAME	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
09	CA	Advanced Micro Devices, Inc.	Sunnyvale	S	
04	NC	Bypass 601 Ground Water Contam.	Concord	D	
02	NJ	Cinnaminson Ground Water Contam	Cinnaminson Township	D	
05	MI	Lenawee Disposal Service, Inc. Lf	Adrian	D	
09	CA	Raytheon Corp.	Mountain View	D	
07	MO	Solid State Circuits, Inc.	Republic	R S	I
07	NE	Waverly Ground Water Contamin	Waverly	D	
05	MI	Michigan Disposal (Cork St Lf)	Kalamazoo	D	
09	CA	Fairchild Camera (S San Jose Plt)	South San Jose	D	
03	PA	Brown's Battery Breaking	Shoemakersville	R	C
02	NY	SMS Instruments, Inc.	Deer Park	D	
02	NY	Byron Barrel & Drum	Byron	R	I
02	NY	Anchor Chemicals	Hicksville	D	
05	MI	Waste Management-Mich (Holland)	Holland	D	
06	TX	North Cavalcade Street	Houston	D	
08	MT	Burlington Northern(Somers Plant)	Somers	D	
05	IN	Neal's Dump (Spencer)	Spencer	F S	
03	PA	Westinghouse Elevator Co. Plant	Gettysburg	D	O
03	PA	Middletown Air Field	Middletown	D	I
03	WV	Ordnance Works Disposal Areas	Morgantown	D	O
02	NY	Endicott Village Well Field	Village of Endicott	D	
09	CA	National Semiconductor Corp.	Santa Clara	D	
09	CA	San Fernando Valley (Area 4)	Los Angeles	D	
02	NY	Suffern Village Well Field	Village of Suffern	D	

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NATIONAL PRIORITIES UPDATE LIST
GROUP 9

EPA RG	ST	SITE NAME	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
03	VA	Avtex Fibers, Inc.	Front Royal	D	
02	NY	Katonah Municipal Well	Town of Bedford	D	
09	HI	Waipio Heights Wells II	Oahu	D	
04	TN	American Creosote Works, Inc.	Jackson	R	O
05	IL	Kerr-McGee (Sewage Treat Plant)	West Chicago	D	
02	NY	Preferred Plating Corp.	Farmingdale	D	
08	UT	Monticello Rad Contaminated Props	Monticello	D	
01	MA	Salem Acres	Salem	D	
04	FL	Davidson Lumber Co.	South Miami	S	O
09	CA	J.H. Baxter Co.	Weed	S	
10	WA	Mica Landfill	Mica	D	
02	NY	Clothier Disposal	Town of Granby	D	
03	PA	Ambler Asbestos Piles	Ambler	V R F S	O
03	VA	L.A. Clarke & Son	Spotsylvania County	S	
05	IL	Sheffield (U.S. Ecology, Inc.)	Sheffield	D	
09	CA	Beckman Instruments (Porterville)	Porterville	D	
05	MI	Lacks Industries, Inc.	Grand Rapids	D	
03	MD	Southern Maryland Wood Treating	Hollywood	D	
04	FL	Dubose Oil Products Co.	Cantonment	S	
09	CA	Lorentz Barrel & Drum Co.	San Jose	S	
03	PA	Modern Sanitation Landfill	Lower Windsor Twp	D	
05	MI	North Bronson Industrial Area	Bronson	D	
09	CA	Montrose Chemical Corp.	Torrance	F	
10	WA	Northwest Transformer	Everson	D	
08	UT	Olson/Neihart Reservoir	Wasatch County	D	
02	NY	North Sea Municipal Landfill	North Sea	D	
09	CA	Louisiana-Pacific Corp.	Oroville	D	
05	MI	South Macomb Disposal (Lf 9 & 9A)	Macomb Township	D	

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NATIONAL PRIORITIES UPDATE LIST
GROUP 10

EPA RG	ST	SITE NAME	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
05	MN	Adrian Municipal Well Field	Adrian	S	
02	NY	Haviland Complex	Town of Hyde Park	D	
02	NY	Hertel Landfill	Plattekill	D	
09	CA	Marley Cooling Tower Co.	Stockton	D	
05	MN	Olmsted County Sanitary Landfill	Oronoco	D	
07	KS	Strother Field Industrial Park	Cowley County	R	I
02	NJ	Fried Industries	East Brunswick Twp	D	
02	NY	Goldisc Recordings, Inc.	Holbrook	D	
02	NJ	Lodi Municipal Well	Lodi	D	
02	NY	Sarney Farm	Amenia	D	
01	MA	Rose Disposal Pit	Lanesboro	F S	
05	OH	Van Dale Junkyard	Marietta	S	
02	NY	FMC Corp. (Dublin Road Landfill)	Town of Shelby	V	
02	NY	Volney Municipal Landfill	Town of Volney	V	
04	KY	Smith's Farm	Brooks	R	O
07	KS	Big River Sand Co.	Witchita	V S	O
05	WI	Stoughton City Landfill	Stoughton	D	
06	TX	Crystal City Airport	Crystal City	D	
02	NY	Cortese Landfill	Vil of Narrowsburg	S	
04	FL	City Industries, Inc.	Orlando	R F S	O
09	CA	Applied Materials	Santa Clara	D	
09	CA	Fairchild Camera (Mountain View)	Mountain View	D	
09	CA	Intel Corp. (Mountain View Plant)	Mountain View	D	
09	CA	Intel Corp. (Santa Clara III)	Santa Clara	D	
09	CA	Intel Magnetics	Santa Clara	D	
05	MN	Long Prairie Ground Water Contam	Long Prairie	D	
02	NJ	Pomona Oaks Residential Wells	Galloway Township	D	
09	CA	Precision Monolithic, Inc.	Santa Clara	D	
05	OH	Sanitary Landfill Co. (IWD)	Dayton	D	
09	CA	Signetics, Inc.	Sunnyvale	S	
02	NY	Kenmark Textile Corp.	Farmingdale	D	
04	KY	Maxey Flats Nuclear Disposal	Hillsboro	R	O

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NATIONAL PRIORITIES UPDATE LIST
GROUP 10 (CON'T)

EPA RG	ST	SITE NAME	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
08	MT	Mouat Industries	Columbus	D	
02	NY	Claremont Polychemical	Old Bethpage	V	
07	IA	Vogel Paint & Wax Co.	Orange City	S	I
05	MN	Kurt Manufacturing Co.	Fridley	D	
06	TX	Koppers Co., Inc. (Texarkana Plt)	Texarkana	D	
05	MN	Agate Lake Scrapyard	Fairview Township	D	
05	MI	Avenue "E" Ground Water Contamin	Traverse City	S	I
02	NJ	Jame Fine Chemical	Bound Brook	D	
05	MN	Koch Refining Co./N-Ren Corp.	Pine Bend	D	
07	IA	U.S. Nameplate Co.	Mount Vernon	D	
05	WI	Fadrowski Drum Disposal	Franklin	D	
09	CA	Zoecon Corp/Rhone-Poulenc, Inc.	East Palo Alto	S	
06	AR	Midland Products	Ola/Birta	D	
02	NY	BEC Trucking	Town of Vestal	D	
02	NY	Robintech, Inc./National Pipe Co.	Town of Vestal	D	

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NATIONAL PRIORITIES UPDATE LIST
GROUP 11

EPA RG	ST	SITE NAME	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
03	VA	Rhinehart Tire Fire Dump	Frederick County	V R F	O
01	MA	Haverhill Municipal Landfill	Haverhill	D	
02	NY	Colesville Municipal Landfill	Town of Colesville	D	
09	CA	Firestone Tire (Salinas Plant)	Salinas	D	
05	IN	MIDCO II	Gary	R F	I
03	MD	Kane & Lombard Street Drums	Baltimore	R	O
10	WA	Silver Mountain Mine	Loomis	D	
06	TX	Petro-Chemical (Turtle Bayou)	Liberty County	D	
05	OH	Republic Steel Corp. Quarry	Elyria	D	
09	CA	Hewlett Packard	Palo Alto	D	
01	MA	Shpack Landfill	Norton/Attleboro	D	
04	FL	Montco Research Products, Inc.	Hollister	S	
01	MA	Norwood PCBs	Norwood	R	
01	NH	Coakley Landfill	North Hampton	S	
09	CA	IBM Corp. (San Jose Plant)	San Jose	D	
07	MO	North-U Drive Well Contamination	Springfield	R	I
10	WA	Northside Landfill	Spokane	D	
06	TX	Pesses Chemical Co.	Fort Worth	D	
07	MO	Bee Cee Manufacturing Co.	Malden	D	

TOTAL SITES LISTED: 208

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NATIONAL PRIORITIES UPDATE LIST
FEDERAL SITES
GROUP 1

EPA RG	ST	SITE NAME	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
08	CO	Rocky Flats Plant (USDOE)	Golden	R	O
05	IL	Sangamo/Crab Orchard NWR (USDOI)	Carterville	R	

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NATIONAL PRIORITIES UPDATE LIST
FEDERAL SITES
GROUP 2

EPA RG	ST	SITE NAME	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
04	TN	Milan Army Ammunition Plant	Milan	R	I
08	CO	Rocky Mountain Arsenal	Adams County	R	O
09	CA	McClellan AFB (Ground Water Cont)	Sacramento	R	I

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NATIONAL PRIORITIES UPDATE LIST
FEDERAL SITES
GROUP 3

EPA RG	ST	SITE NAME	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
07	MO	Weldon Spring Quarry (USDOE/ARMY)	St. Charles County	R	
04	AL	Anniston Army Depot (SE Ind Area)	Anniston	R	O
04	GA	Robins Air Force Base	Houston County	R	

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NATIONAL PRIORITIES UPDATE LIST
FEDERAL SITES
GROUP 4

EPA RG	ST	SITE NAME	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
07	NE	Cornhusker Army Ammunition Plant	Hall County	R	O
08	UT	Hill Air Force Base	Ogden	R	O

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NATIONAL PRIORITIES UPDATE LIST
FEDERAL SITES
GROUP 5

EPA RG	ST	SITE NAME	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
08	UT	Ogden Defense Depot	Ogden	R	
09	CA	Sacramento Army Depot	Sacramento	R	
01	ME	Brunswick Naval Air Station	Brunswick	R	
10	WA	McChord AFB (Wash Rack/Treatment)	Tacoma	R	

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NATIONAL PRIORITIES UPDATE LIST
FEDERAL SITES
GROUP 6

EPA RG	ST	SITE NAME	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
10	WA	Fort Lewis (Landfill No. 5)	Tacoma	D	
09	CA	Lawrence Livermore Lab (USDOE)	Livermore	R	O
09	CA	Sharpe Army Depot	Lathrop	R	
05	IL	Savanna Army Depot Activity	Savanna	R	

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NATIONAL PRIORITIES UPDATE LIST
FEDERAL SITES
GROUP 7

EPA RG	ST	SITE NAME	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
06	TX	Air Force Plant #4 (Gen Dynamics)	Fort Worth	R	
09	CA	Norton Air Force Base	San Bernardino	R	
08	UT	Tooele Army Depot (North Area)	Tooele	R	

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NATIONAL PRIORITIES UPDATE LIST
FEDERAL SITES
GROUP 8

EPA RG	ST	SITE NAME	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
09	CA	Castle Air Force Base	Merced	R	I
02	NJ	Fort Dix (Landfill Site)	Trenton	R	
02	NJ	Naval Weapons Stat Earle (Site A)	Colts Neck	R	
04	AL	Alabama Army Ammunition Plant	Childersburg	R	O
03	DE	Dover Air Force Base	Dover	D	

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NATIONAL PRIORITIES UPDATE LIST
FEDERAL SITES
GROUP 9

EPA RG	ST	SITE NAME	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
03	PA	Letterkenny Army Depot (SE Area)	Chambersburg	R	O
02	NY	Griffiss Air Force Base	Rome	R	
03	VA	Defense General Supply Center	Chesterfield County	R	I

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NATIONAL PRIORITIES UPDATE LIST
FEDERAL SITES
GROUP 10

EPA RG	ST	SITE NAME	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
07	MO	Lake City Army Plant (NW Lagoon)	Independence	R	I
05	IL	Joliet Army Ammo Plant (Mfg Area)	Joliet	R	O
06	TX	Lone Star Army Ammunition Plant	Texarkana	R	
10	OR	Umatilla Army Depot Lagoons	Hermiston	R	

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NATIONAL PRIORITIES UPDATE LIST
FEDERAL SITES
GROUP 11

EPA RG	ST	SITE NAME	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
06	LA	Louisiana Army Ammunition Plant	Doyline	R	
10	WA	Bangor Ordnance Disposal	Bremerton	R	
09	CA	Mather AFB (AC&W Disposal Site)	Sacramento	R	

TOTAL SITES LISTED: 36

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The following list of final NPL (49 FR 37070 September 21, 1984) indicates the appropriate status codes for response and cleanup activities at these sites.

NATIONAL PRIORITIES LIST FINAL SITES - GROUP 1

RANK	EPA REG	ST	SITE NAME *	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
1	02	NJ	Lipari Landfill	Pitman	R F	O
2	03	DE	Tybouts Corner Landfill *	New Castle County	V R F	
3	03	PA	Bruin Lagoon	Bruin Borough	R	I
4	02	NJ	Helen Kramer Landfill	Mantua Township	R	
5	01	MA	Industri-Plex	Woburn	V R	I
6	02	NJ	Price Landfill *	Pleasantville	R F	O
7	02	NY	Pollution Abatement Services *	Oswego	R F	O
8	07	IA	LaBounty Site	Charles City	V F S	O
9	03	DE	Army Creek Landfill	New Castle County	V F	
10	02	NJ	CPS/Madison Industries	Old Bridge Township	S	
11	01	MA	Nyanza Chemical Waste Dump	Ashland	R	
12	02	NJ	Gems Landfill	Gloucester Township	R	I
13	05	MI	Berlin & Farro	Swartz Creek	V R F S	O
14	01	MA	Baird & McGuire	Holbrook	R F	O
15	02	NJ	Lone Pine Landfill	Freehold Township	R	
16	01	NH	Somersworth Sanitary Landfill	Somersworth	R	
17	05	KN	FMC Corp. (Fridley Plant)	Fridley	V F S	O
18	06	AR	Vertac, Inc.	Jacksonville	V F	I
19	01	NH	Keefe Environmental Services	Epping	V R S	O
20	08	SD	Whitewood Creek *	Whitewood	V	
21	08	MT	Silver Bow Creek	Sil Bow/Deer Lodge	R	
22	06	TX	French, Ltd.	Crosby	R F	O
23	01	NH	Sylvester *	Nashua	R S	O
24	05	MI	Liquid Disposal, Inc.	Utica	R F	O
25	03	PA	Tysons Dump	Upper Merion Twp	R	O
26	03	PA	McAdoo Associates *	McAdoo Borough	R	
27	06	TX	Motco Inc. *	La Marque	R	O
28	05	OH	Arcanum Iron & Metal	Darke County	R F	
29	08	MT	East Helena Site	East Helena		
30	06	TX	Sikes Disposal Pits	Crosby	R F	O
31	04	AL	Triana/Tennessee River	Limestone/Morgan	V R F	
32	09	CA	Stringfellow *	Glen Avon Heights	R F	O
33	01	ME	McKin Co.	Gray	R S	O
34	06	TX	Crystal Chemical Co.	Houston	R F	O
35	02	NJ	Bridgeport Rental & Oil Services	Bridgeport	R	O
36	08	CO	Sand Creek Industrial	Commerce City		
37	06	TX	Geneva Industries/Fuhrmann Energy	Houston	R F	O
38	01	MA	W. R. Grace & Co. (Acton Plant)	Acton	V F	I
39	05	MN	Reilly Tar (St. Louis Park Plant)	St. Louis Park	R F S	I
40	02	NJ	Burnt Fly Bog	Marlboro Township	R S	O
41	02	NJ	Vineland Chemical Co., Inc.	Vineland	D	
42	04	FL	Schuylkill Metals Corp.	Plant City	D	O
43	05	MN	New Brighton/Arden Hills	New Brighton	R	O
44	02	NY	Old Bethpage Landfill	Oyster Bay	V S	
45	02	NJ	Shieldalloy Corp.	Newfield Borough	D	
46	04	FL	Reeves SE Galvanizing Corp.	Tampa	D	O
47	08	MT	Anaconda Co. Smelter	Anaconda	V R	
48	10	WA	Western Processing Co., Inc.	Kent	V R F	O
49	05	WI	Omega Hills North Landfill	Germantown	D	
50	04	FL	American Creosote Works	Pensacola	R F	O

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NATIONAL PRIORITIES LIST FINAL SITES - GROUP 2

RANK	EPA REG	ST	SITE NAME *	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
51	02	NJ	Caldwell Trucking Co.	Fairfield	R S	
52	02	NY	GE Moreau	South Glen Falls	V	
53	05	IN	Seymour Recycling Corp. *	Seymour	V R F	O
54	05	OH	United Scrap Lead Co., Inc.	Troy	D	
55	06	OK	Tar Creek (Ottawa County)	Ottawa County	R	I
56	07	KS	Cherokee County	Cherokee County	R	
57	02	NJ	Brick Township Landfill	Brick Township	D	
58	05	MI	Northernaire Plating	Cadillac	R	O
59	05	WI	Janesville Old Landfill	Janesville	D	
60	10	WA	Frontier Hard Chrome, Inc.	Vancouver	R	
61	04	SC	Independent Nail Co.	Beaufort	D	
62	04	SC	Kalama Specialty Chemicals	Beaufort	S	
63	05	WI	Janesville Ash Beds	Janesville	D	
64	04	FL	Davie Landfill	Davie	D	
65	05	OH	Miami County Incinerator	Troy	F	
66	04	FL	Gold Coast Oil Corp.	Miami	D	
67	05	WI	Wheeler Pit	La Prairie Township	D	
68	09	AZ	Tucson Intl Airport Area	Tucson	R	
69	02	NY	Wide Beach Development	Brant	R	
70	09	CA	Iron Mountain Mine	Redding	R	
71	02	NJ	Scientific Chemical Processing	Carlstadt	S	
72	08	CO	California Gulch	Leadville		
73	02	NJ	D'Imperio Property	Hamilton Township	R	
74	05	MI	Gratiot County Landfill *	St. Louis	V R F S	
75	01	RI	Picillo Farm *	Coventry	R S	O
76	01	MA	New Bedford Site *	New Bedford	V R F S	I
77	06	LA	Old Inger Oil Refinery *	Darrow	R	O
78	05	OH	Chem-Dyne *	Hamilton	V R F S	O
79	04	SC	SCRDI Bluff Road *	Columbia	V R F	O
80	01	CT	Laurel Park, Inc. *	Naugatuck Borough	V S	
81	08	CO	Marshall Landfill *	Boulder County		
82	05	IL	Outboard Marine Corp. *	Waukegan	R F S	
83	06	NM	South Valley *	Albuquerque	R F	
84	01	VT	Pine Street Canal *	Burlington	V	I
85	03	WV	West Virginia Ordnance *	Point Pleasant	V	O
86	07	MO	Ellisville Site *	Ellisville	R	O
87	08	ND	Arsenic Trioxide Site *	Southeastern N.D.	R	
88	09	TT	PCB Wastes *	Pacific Trust Terr	R	C
89	03	VA	Matthews Electroplating *	Roanoke County	R	
90	07	IA	Aidex Corp. *	Council Bluffs	R F	O
91	09	AZ	Mountain View Mobile Homes *	Globe	R F	I
92	09	AS	Taputimu Farm *	American Samoa	R	C
93	04	TN	North Hollywood Dump *	Memphis	R S	
94	04	KY	A.L. Taylor (Valley of Drums) *	Brooks	R F	O
95	04	NC	PCB Spills *	210 Miles of Roads	R F	C
96	09	GU	Ordot Landfill *	Guam	R	
97	04	MS	Flowood Site *	Flowood	D	
98	08	UT	Rose Park Sludge Pit *	Salt Lake City	V	
99	07	KS	Arkansas City Dump *	Arkansas City	R	
100	09	CM	PCB Warehouse *	Marianas	R	C

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NATIONAL PRIORITIES LIST FINAL SITES - GROUP 3

RANK	EPA REG	ST	SITE NAME *	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
101	05	MN	Oakdale Dump	Oakdale	F	
102	05	IL	A & F Material Reclaiming, Inc.	Greenup	V R F S	D
103	03	PA	Douglassville Disposal	Douglassville	R	
104	02	NJ	Krysowaty Farm	Hillsborough	R	
105	05	MN	Koppers Coke	St. Paul	D	
106	01	MA	Plymouth Harbor/Cannon Engnrng	Plymouth	V R S	D
107	10	ID	Bunker Hill Mining & Metallurg	Smelterville	D	
108	02	NY	Hudson River PCBs	Hudson River	R	
109	02	NJ	Universal Oil Products(Chem Div)	East Rutherford	S	
110	09	CA	Aerojet General Corp.	Rancho Cordova	S	
111	10	WA	Com Bay, South Tacoma Channel	Tacoma	R F	D
112	03	PA	Osborne Landfill	Grove City	V S	
113	01	CT	Old Southington Landfill	Southington	D	
114	02	NY	Syosset Landfill	Oyster Bay	D	
115	09	AZ	Nineteenth Avenue Landfill	Phoenix	S	
116	10	OR	Teledyne Wah Chang	Albany	D	
117	02	NY	Sinclair Refinery	Wellsville	V R	
118	04	AL	Mowbray Engineering Co.	Greenville	R	O
119	05	MI	Spiegelberg Landfill	Green Oak Township	R	
120	04	FL	Miami Drum Services	Miami	R	O
121	02	NJ	Reich Farms	Pleasant Plains	D	
122	10	ID	Union Pacific Railroad Co.	Pocatello	D	
123	02	NJ	South Brunswick Landfill	South Brunswick	V	I
124	04	AL	Ciba-Geigy Corp. (McIntosh Plant)	McIntosh	D	
125	04	FL	Kassauf-Kimerling Battery	Tampa	R F	
126	05	IL	Wauconda Sand & Gravel	Wauconda	R	
127	01	NH	Ottati & Goss/Kingston Steel Drum	Kingston	V R F S	O
128	05	MI	Ott/Story/Cordova	Dalton Township	R	O
129	02	NJ	NL Industries	Pedricktown	S	O
130	05	MN	St. Regis Paper Co.	Cass Lake	D	
131	02	NJ	Ringwood Mines/Landfill	Ringwood Borough	V	
132	04	FL	Whitehouse Oil Pits	Whitehouse	R	
133	04	CA	Hercules 009 Landfill	Brunswick	D	
134	05	MI	Velsicol Chemical (Michigan)	St. Louis	V F S	O
135	05	OH	Summit National	Deerfield Township	R	
136	02	NY	Love Canal	Niagara Falls	R F S	Q
137	05	IN	Fisher-Calo	LaPorte	F	
138	04	FL	Pioneer Sand Co.	Warrington	R S	
139	05	MI	Springfield Township Dump	Davisburg	R	
140	03	PA	Uranica Landfill	Buffalo Township	D	
141	04	NC	Martin Marietta, Sodyeco, Inc.	Charlotte	D	
142	04	FL	Zellwood Ground Water Contam	Zellwood	F	
143	05	MI	Packaging Corp. of America	Filer City	F	
144	05	WI	Muskego Sanitary Landfill	Muskego	D	
145	02	NY	Hooker (S Area)	Niagara Falls	F S	
146	03	PA	Lindane Dump	Harrison Township	D	
147	08	CO	Central City-Clear Creek	Idaho Springs	R	
148	02	NJ	Ventron/Velsicol	Wood Ridge Borough	S	
149	04	FL	Taylor Road Landfill	Seffner	V F	O
150	01	RI	Western Sand & Gravel	Burrillville	R S	O

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NATIONAL PRIORITIES LIST FINAL SITES - GROUP 4

RANK	EPA REG	ST	SITE NAME *	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
151	04	SC	Koppers Co., Inc (Florence Plant)	Florence	S	
152	02	NJ	Maywood Chemical Co.	Maywood/Rochelle Pk		I
153	02	NJ	Nascolite Corp.	Millville	V R	
154	06	OK	Hardage/Criner	Criner	F	
155	05	MI	Rose Township Dump	Rose Township	R	
156	05	MN	Waste Disposal Engineering	Andover	V R F	
157	02	NJ	Kin-Buc Landfill	Edison Township	V R F	O
158	05	OH	Bowers Landfill	Circleville	V	
159	02	NJ	Ciba-Geigy Corp.	Toms River	R	
160	05	MI	Butterworth #2 Landfill	Grand Rapids	F	
161	02	NJ	American Cyanamid Co.	Bound Brook	S	
162	03	PA	Heleva Landfill	North Whitehall Twp	R	
163	02	NJ	Ewan Property	Shamong Township	D	
164	02	NY	Batavia Landfill	Batavia	V	
165	05	MN	Boise Cascade/Onan/Medtronics	Fridley	S	I
166	01	RI	L&RR, Inc.	North Smithfield	V S	
167	04	FL	NW 58th Street Landfill	Hialeah	R	
168	02	NJ	Delilah Road	Egg Harbor Township	R	
169	03	PA	Mill Creek Dump	Erie	R	O
170	04	FL	Sixty-Second Street Dump	Tampa	R	
171	05	MI	C&H Landfill	Utica	R	
172	02	NJ	Metaltec/Aerosystems	Franklin Borough	R	
173	05	WI	Schmalz Dump	Harrison	D	
174	02	NJ	Lang Property	Pemberton Township	D	
175	02	NJ	Sharkey Landfill	Parsippany Troy Hls	R	
176	09	CA	Selma Treating Co.	Selma	S	
177	06	LA	Cleve Reber	Sorrento	V R	O
178	05	IL	Velsicol Chemical (Illinois)	Marshall	D	
179	05	MI	Tar Lake	Mancelona Township	D	
180	08	CO	Lowry Landfill	Arapahoe County	V R	
181	05	MN	MacGillis & Gibbs/Bell Lumber	New Brighton	S	
182	02	NJ	Combe Fill North Landfill	Mount Olive Twp	R	
183	01	MA	Re-Solve, Inc.	Dartmouth	R F	I
184	02	NJ	Goose Farm	Plumstead Township	R F	O
185	04	TN	Velsicol Chem (Hardeman County)	Toone	D	
186	02	NY	York Oil Co.	Moira	R F	O
187	04	FL	Sapp Battery Salvage	Cottondale	R	I
188	04	SC	Wamchem, Inc.	Burton	D	
189	02	NJ	Chemical Leaman Tank Lines, Inc.	Bridgeport	D	
190	05	WI	Master Disposal Service Landfill	Brookfield	D	
191	07	KS	Doepke Disposal Site (Holliday)	Johnson County	D	
192	02	NJ	Florence Land Recontouring LF	Florence Township	R	
193	01	RI	Davis Liquid Waste	Smithfield	R S	
194	01	MA	Charles-George Reclamation Lf	Tyngsborough	R F	O
195	02	NJ	King of Prussia	Winslow Township	D	
196	03	VA	Chisman Creek	York County	R	
197	05	OH	Nease Chemical	Salem	D	
198	02	NJ	W. R. Grace & Co. (Wayne Plant)	Wayne Township	R	O
199	02	NJ	Chemical Control	Elizabeth	R S	O
200	04	SC	Leonard Chemical Co., Inc.	Rock Hill	S	O

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NATIONAL PRIORITIES LIST FINAL SITES - GROUP 5

RANK	EPA REG	ST	SITE NAME *	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
201	05	OH	Allied Chemical & Ironton Coke	Ironton	R F	
202	05	MI	Verona Well Field	Battle Creek	R F S	O
203	01	CT	Beacon Heights Landfill	Beacon Falls	R	
204	04	AL	Stauffer Chem (Cold Creek Plant)	Bucks	D	
205	05	MN	Burlington Northern (Brainerd)	Brainerd/Baxter	F S	
206	03	PA	Malvern TCE	Malvern	D	
207	02	NY	Facet Enterprises, Inc.	Elmira	V	
208	03	DE	Delaware Sand & Gravel Landfill	New Castle County	R	O
209	04	TN	Murray-Ohio Dump	Lawrenceburg	S	
210	05	IN	Envirochem Corp.	Zionsville	V R F S	O
211	05	IN	MIDCO I	Gary	R F	O
212	05	OH	South Point Plant	South Point	D	
213	04	FL	Coleman-Evans Wood Preserving Co.	Whitehouse	S	
214	03	PA	Dorney Road Landfill	Upper Macungie Twp	R	
215	05	IN	Northside Sanitary Landfill, Inc	Zionsville	F	
216	04	FL	Florida Steel Corp.	Indiantown	D	
217	09	AZ	Litchfield Airport Area	Goodyear/Avondale	F	
218	02	NJ	Spence Farm	Plumstead Township	R	
219	06	AR	Mid-South Wood Products	Mena	F	
220	09	CA	Atlas Asbestos Mine	Fresno County	D	
221	09	CA	Coalinga Asbestos Mine	Coalinga	D	
222	04	FL	Brown Wood Preserving	Live Oak	F	
223	02	NY	Port Washington Landfill	Port Washington	D	
224	02	NJ	Combe Fill South Landfill	Chester Township	R	
225	02	NJ	JIS Landfill	Jamesburg/S. Brnswck	S	
226	03	PA	Centre County Kepone	State College Boro	S	O
227	05	OH	Fields Brook	Ashtabula	D	
228	01	CT	Solvents Recovery Service	Southington	V	
229	08	CO	Woodbury Chemical Co.	Commerce City	R	
230	01	MA	Hocomonco Pond	Westborough	R	
231	04	KY	Distler Brickyard	West Point	R F	O
232	02	NY	Ramapo Landfill	Ramapo	V	
233	09	CA	Coast Wood Preserving	Ukiah	S	
234	02	NY	Mercury Refining, Inc.	Colonie	D	
235	04	FL	Hollingsworth Solderless Terminal	Fort Lauderdale	D	
236	02	NY	Olean Well Field	Olean	V R	O
237	04	FL	Varsol Spill	Miami	R	
238	05	MN	Joslyn Manufacturing & Supply Co.	Brooklyn Center	F S	
239	08	CO	Denver Radium Site	Denver	R	
240	04	FL	Tower Chemical Co.	Clermont	R F	O
241	07	MO	Syntex Facility	Verona	V F	I
242	08	MT	Milltown Reservoir Sediments	Milltown	R	
243	05	MN	Arrowhead Refinery Co.	Hermantown	R	
244	02	NJ	Pijak Farm	Plumstead Township	R	
245	02	NJ	Syncon Resins	South Kearny	R	O
246	09	CA	Liquid Gold Oil Corp.	Richmond	S	
247	09	CA	Purity Oil Sales, Inc.	Malaga	R	
248	01	NH	Tinkham Garage	Londonderry	R S	O
249	04	FL	Alpha Chemical Corp.	Calloway	D	
250	02	NJ	Bog Creek Farm	Howell Township	R	

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NATIONAL PRIORITIES LIST FINAL SITES - GROUP 6

RANK	EPA REG	ST	SITE NAME *	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
251	01	ME	Saco Tannery Waste Pits	Saco	R	O
252	04	FL	Pickettville Road Landfill	Jacksonville	D	
253	01	MA	Iron Horse Park	Billerica	R	
254	03	PA	Palmerton Zinc Pile	Palmerton	F	
255	05	IN	Neal's Landfill (Bloomington)	Bloomington	V F S	
256	05	WI	Kohler Co. Landfill	Kohler	D	
257	01	MA	Silresim Chemical Corp.	Lowell	R S	O
258	01	MA	Wells G&H	Woburn	V F	
259	02	NJ	Chemsol, Inc.	Piscataway	S	
260	05	WI	Lauer I Sanitary Landfill	Menomonee Falls	D	
261	05	MI	Petoskey Municipal Well Field	Petoskey	F	
262	05	MN	Union Scrap	Minneapolis	S	
263	02	NJ	Radiation Technology, Inc.	Rockaway Township	V	
264	02	NJ	Fair Lawn Well Field	Fair Lawn	S	I
265	05	IN	Main Street Well Field	Elkhart	D	
266	05	MN	Lehillier/Mankato Site	Lehillier	R	O
267	10	WA	Lakewood Site	Lakewood	R S	I
268	03	PA	Industrial Lane	Williams Township	F	
269	05	WI	Onalaska Municipal Landfill	Onalaska	D	
270	02	NJ	Monroe Township Landfill	Monroe Township	S	O
271	02	NJ	Rockaway Borough Well Field	Rockaway Township	R	
272	05	IN	Wayne Waste Oil	Columbia City	R S	
273	10	ID	Pacific Hide & Fur Recycling Co.	Pocatello	R F	O
274	07	IA	Des Moines TCE	Des Moines	F	
275	02	NJ	Beachwood/Berkley Wells	Berkley Township	R	
276	02	NY	Vestal Water Supply Well 4-2	Vestal	S	
277	02	PR	Vega Alta Public Supply Wells	Vega Alta	R	
278	05	MI	Sturgis Municipal Wells	Sturgis	D	
279	05	MN	Washington County Landfill	Lake Elmo	S	
280	09	AZ	Indian Bend Wash Area	Scottsdale/Tempe	F	
281	09	CA	San Gabriel Valley (Area 1)	El Monte	R	I
282	09	CA	San Gabriel Valley (Area 2)	Baldwin Park Area	R	
283	10	WA	Com Bay, Near Shore/Tide Flats	Pierce County	R	
284	05	IL	LaSalle Electric Utilities	LaSalle	R	
285	05	IL	Cross Brothers Pail (Pembroke)	Pembroke Township	R	
286	02	PR	Upjohn Facility	Barceloneta	D	
287	09	CA	McColl	Fullerton	R F	I
288	03	PA	Henderson Road	Upper Merion Twp	D	
289	10	WA	Colbert Landfill	Colbert	R	O
290	06	LA	Petro-Processors	Scotlandville	V F	
291	02	PR	Frontera Creek	Rio Abajo	D	
292	02	PR	Barceloneta Landfill	Florida Afuera	D	
293	03	MD	Sand, Gravel & Stone	Elkton	R	I
294	05	MI	Spartan Chemical Co.	Wyoming	D	
295	02	NJ	Roebling Steel Co.	Florence	R	
296	03	PA	East Mount Zion	Springettsbury Twp	R	
297	04	TN	Amnicola Dump	Chattanooga	D	
298	02	NJ	Vineland State School	Vineland	D	
299	03	PA	Enterprise Avenue	Philadelphia	R S	O
300	01	MA	Groveland Wells	Groveland	V R S	

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NATIONAL PRIORITIES LIST FINAL SITES - GROUP 7

RANK	EPA REG	ST	SITE NAME *	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
301	02	NY	General Motors (Cent Foundry Div)	Massena	F	
302	04	SC	SCRDI Dixiana	Cayce	R F S	O
303	07	MO	Fulbright Landfill	Springfield	D	
304	03	PA	Presque Isle	Erie	D	
305	02	NJ	Williams Property	Swainton	R	
306	02	NJ	Renora, Inc.	Edison Township	D	
307	02	NJ	Denzer & Schafer X-Ray Co.	Bayville	D	
308	02	NJ	Hercules, Inc. (Gibbstown Plant)	Gibbstown	D	
309	05	IN	Ninth Avenue Dump	Gary	V	
310	06	AR	Gurley Pit	Edmondson	V R F	O
311	01	RI	Peterson/Puritan, Inc.	Lincoln/Cumberland	D	
312	07	MO	Times Beach Site	Times Beach	R	O
313	05	MI	Wash King Laundry	Pleasant Plains Twp	S	
314	05	MN	Whittaker Corp.	Minneapolis	S	
315	05	MN	NL Industries/Taracorp/Golden	St. Louis Park	D	
316	01	CT	Kellogg-Deering Well Field	Norwalk	R	
317	01	MA	Cannon Engineering Corp. (CEC)	Bridgewater	R S	
318	02	NY	Niagara County Refuse	Wheatfield	D	
319	04	FL	Sherwood Medical Industries	Deland	D	
320	04	AL	Olin Corp. (McIntosh Plant)	McIntosh	D	
321	05	MI	Southwest Ottawa County Landfill	Park Township	S	
322	02	NY	Kentucky Avenue Well Field	Horseheads	R	
323	02	NJ	Asbestos Dump	Millington	F	
324	04	KY	Lee's Lane Landfill	Louisville	F	
325	06	AR	Frit Industries	Walnut Ridge	V F	I
326	05	OH	Fultz Landfill	Jackson Township	R	
327	04	FL	Tri-City Oil Conservationist, Inc	Tampa	R F	O
328	05	OH	Coshocton Landfill	Franklin Township	F	
329	03	PA	Lord-Shope Landfill	Girard Township	V S	I
330	10	WA	FMC Corp. (Yakima Pit)	Yakima	D	
331	05	WI	Northern Engraving Co.	Sparta	D	
332	01	MA	PSC Resources	Palmer	S	I
333	05	MI	Forest Waste Products	Otisville	R F	I
334	03	PA	Drake Chemical	Lock Haven	R F	O
335	01	NH	Kearsarge Metallurgical Corp.	Conway	S	
336	04	SC	Palmetto Wood Preserving	Dixianna	D	
337	05	MI	Clare Water Supply	Clare	D	
338	03	PA	Havertown PCP	Haverford	R	
339	03	DE	New Castle Spill	New Castle County	D	
340	05	MN	Morris Arsenic Dump	Morris	R	
341	05	IN	Lake Sandy Jo (M&M Landfill)	Gary	R	
342	05	IL	Johns-Manville Corp.	Waukegan	V F	
343	05	MI	Chem Central	Wyoming Township	S	
344	05	MI	Novaco Industries	Temperance	F	
345	02	NJ	Jackson Township Landfill	Jackson Township	D	
346	05	MI	K&L Avenue Landfill	Oshtemo Township	D	
347	10	WA	Kaiser Aluminum Mead Works	Mead	V	O
348	05	MN	Perham Arsenic Site	Perham	R	
349	05	MI	Charlevoix Municipal Well	Charlevoix	R	I
350	02	NJ	Montgomery Township Housing Dev	Montgomery Township	R	

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NATIONAL PRIORITIES LIST FINAL SITES - GROUP 8

RANK	EPA REG	ST	SITE NAME *	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
351	02	NJ	Rocky Hill Municipal Well	Rocky Hill Borough	R	
352	02	NY	Brewster Well Field	Putnam County	R	
353	02	NY	Vestal Water Supply Well 1-1	Vestal	R	
354	05	MN	Nutting Truck & Caster Co.	Faribault	S	
355	02	NJ	U.S. Radium Corp.	Orange	R	
356	06	TX	Highlands Acid Pit	Highlands	R	
357	03	PA	Resin Disposal	Jefferson Borough	D	
358	08	MT	Libby Ground Water Contamination	Libby	D	
359	04	KY	Newport Dump	Newport	D	
360	03	PA	Moyers Landfill	Eagleville	R F	
361	04	FL	Parramore Surplus	Mount Pleasant	D	
362	01	NH	Savage Municipal Water Supply	Milford	R S	O
363	05	IN	Poer Farm	Hancock County	R	O
364	05	MI	Hedblum Industries	Oscoda	F	
365	06	TX	United Creosoting Co.	Conroe	V R	C
366	08	WY	Baxter/Union Pacific Tie Treating	Laramie	D	
367	02	NJ	Sayreville Landfill	Sayreville	D	
368	01	NH	Dover Municipal Landfill	Dover	R	
369	02	NY	Ludlow Sand & Gravel	Clayville	D	
370	05	WI	City Disposal Corp. Landfill	Dunn	D	
371	02	NJ	Tabernacle Drum Dump	Tabernacle Twp	V F	
372	02	NJ	Cooper Road	Voorhees Township	D	
373	07	MO	Minker/Stout/Romaine Creek	Imperial	R	O
374	01	CT	Yaworski Waste Lagoon	Canterbury	R S	
375	03	WV	Leetown Pesticide	Leetown	R	O
376	04	FL	Cabot/Koppers	Gainesville	R S	
377	02	NJ	Evor Phillips Leasing	Old Bridge Township	D	
378	03	PA	Wade (ABM)	Chester	R F S	O
379	03	PA	Lackawanna Refuse	Old Forge Borough	R F	O
380	06	OK	Compass Industries (Avery Drive)	Tulsa	R	
381	02	NJ	Mannheim Avenue Dump	Galloway Township	D	
382	02	NY	Fulton Terminals	Fulton	D	O
383	01	NH	Auburn Road Landfill	Londonderry	R S	
384	03	WV	Fike Chemical, Inc.	Nitro	V F	I
385	05	MN	General Mills/Henkel Corp.	Minneapolis	S	
386	05	OH	Laskin/Poplar Oil Co.	Jefferson Township	R F	O
387	05	OH	Old Mill	Rock Creek	R F	O
388	07	KS	Johns' Sludge Pond	Wichita	V F	I
389	09	CA	Del Norte Pesticide Storage	Crescent City	R	
390	02	NJ	De Rewal Chemical Co.	Kingwood Township	D	
391	02	NJ	Swope Oil & Chemical Co.	Pennsauken	V R	I
392	04	GA	Monsanto Corp. (Augusta Plant)	Augusta	V	
393	01	NH	South Municipal Water Supply Well	Peterborough	S	
394	01	ME	Winthrop Landfill	Winthrop	V F	I
395	06	AR	Cecil Lindsey	Newport	R	
396	05	OH	Zanesville Well Field	Zanesville	V	
397	05	WI	Eau Claire Municipal Well Field	Eau Claire	D	
398	04	GA	Powersville Site	Peach County	D	
399	05	MI	Grand Traverse Overall Supply Co.	Greilickville	D	
400	05	MI	Metamora Landfill	Metamora	D	

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NATIONAL PRIORITIES LIST FINAL SITES - GROUP 9

RANK	FPA REG	ST	SITE NAME *	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
401	05	MI	Whitehall Municipal Wells	Whitehall	R	
402	05	MN	South Andover Site	Andover	D	
403	02	NJ	Diamond Alkali Co.	Newark	V	I
404	05	MI	Kentwood Landfill	Kentwood	D	
405	05	MI	Electrovoice	Buchanan	D	
406	02	PR	Fibers Public Supply Wells	Jobos	D	
407	05	IN	Marion (Bragg) Dump	Marion	D	
408	05	OH	Pristine, Inc.	Reading	F	I
409	05	WI	Mid-State Disposal, Inc. Landfill	Cleveland Township	R	
410	08	CO	Broderick Wood Products	Denver	R	
411	05	OH	Buckeye Reclamation	St. Clairsville	D	
412	06	TX	Bio-Ecology Systems, Inc.	Grand Prairie	R	O
413	02	NJ	Woodland Route 532 Dump	Woodland Township	D	
414	05	IN	American Chemical Service, Inc.	Griffith	D	
415	01	VT	Old Springfield Landfill	Springfield	V R F	O
416	02	NY	Solvent Savers	Lincklaen	D	
417	03	VA	U.S. Titanium	Piney River	F S	
418	05	IL	Galesburg/Koppers Co.	Galesburg	D	
419	02	NY	Hooker (Hyde Park)	Niagara Falls	V F S	O
420	05	MI	SCA Independent Landfill	Muskegon Heights	D	
421	09	CA	MGM Brakes	Cloverdale	S	
422	06	LA	Bayou Sorrell	Bayou Sorrell	F	
423	05	MI	Duell & Gardner Landfill	Dalton Township	D	
424	02	NJ	Ellis Property	Evesham Township	R	O
425	04	KY	Distler Farm	Jefferson County	R F	O
426	10	WA	Harbor Island (Lead)	Seattle	D	
427	05	WI	Lemberger Transport & Recycling	Franklin Township	D	
428	05	OH	E.H. Schilling Landfill	Hamilton Township	D	
429	05	MI	Cliff/Dow Dump	Marquette	F	
430	10	WA	Queen City Farms	Maple Valley	F	
431	05	WI	Scrap Processing Co., Inc.	Medford	S	
432	06	NM	Homestake Mining Co.	Milan	V F	I
433	05	MI	Mason County Landfill	Pere Marquette Twp	D	
434	05	MI	Cemetery Dump	Rose Center	R	
435	02	NJ	Hopkins Farm	Plumstead Township	D	
436	01	RI	Stamina Mills, Inc.	North Smithfield	R	
437	05	IN	Reilly Tar (Indianapolis Plant)	Indianapolis	F	
438	01	ME	Pinette's Salvage Yard	Washburn	R	O
439	06	TX	Harris (Farley Street)	Houston	V	
440	02	NJ	Wilson Farm	Plumstead Township	D	
441	03	PA	Old City of York Landfill	Seven Valleys	D	
442	05	IL	Byron Salvage Yard	Byron	R	I
443	03	PA	Stanley Kessler	King of Prussia	F	
444	02	NJ	Friedman Property	Upper Freehold Twp	R	
445	02	NJ	Imperial Oil/Champion Chemicals	Morganville	D	
446	02	NJ	Myers Property	Franklin Township	R	I
447	02	NJ	Pepe Field	Boonton	R	
448	05	MI	Ossineke Ground Water Contam	Ossineke	D	
449	03	WV	Follansbee Site	Follansbee	F	
450	09	CA	Koppers Co., Inc. (Oroville Plant)	Oroville	S	

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NATIONAL PRIORITIES LIST FINAL SITES - GROUP 10

RANK	EPA REG	ST	SITE NAME *	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
451	05	MI	U.S. Aviex	Howard Township	S	
452	03	PA	Walsh Landfill	Honeybrook Township	R	
453	02	NJ	Landfill & Development Co.	Mount Holly	S	I
454	02	NJ	Upper Deerfield Township Slf	Upper Deerfield Twp	D	
455	06	NM	AT & SF (Clovis)	Clovis	V F	
456	02	NY	American Thermostat Co.	South Cairo	V	
457	04	TN	Lewisburg Dump	Lewisburg	D	
458	05	MI	McGraw Edison Corp.	Albion	V	
459	04	KY	Airco	Calvert City	D	
460	03	PA	Metal Banks	Philadelphia	V F	
461	04	KY	B.F. Goodrich	Calvert City	D	
462	05	MI	Organic Chemicals, Inc.	Grandville	D	
463	01	MA	Sullivan's Ledge	New Bedford	R	
464	02	PR	Juncos Landfill	Juncos	V F	O
465	05	IN	Bennett Stone Quarry	Bloomington	S	O
466	04	FL	Munisport Landfill	North Miami	D	
467	04	AL	Stauffer Chem (Le Moyne Plant)	Axis	D	
468	02	NJ	M&T Delisa Landfill	Asbury Park	V R	
469	04	SC	Geiger (C & M Oil)	Rantowles	D	
470	05	WI	Moss-American(Kerr-McGee Oil Co.)	Milwaukee	D	
471	05	WI	Waste Research & Reclamation Co.	Eau Claire	D	
472	10	OR	Gould, Inc.	Portland	V	I
473	05	MN	St. Louis River Site	St. Louis County	D	
474	05	MI	Auto Ion Chemicals, Inc.	Kalamazoo	V	
475	04	SC	Carolawn, Inc.	Fort Lawn	R F	O
476	03	PA	Berks Sand Pit	Longswamp Township	R	O
477	05	MI	Sparta Landfill	Sparta Township	S	
478	05	IL	ACME Solvent (Morristown Plant)	Morristown	R	
479	04	FL	Hipps Road Landfill	Duval County	D	
480	04	FL	Pepper Steel & Alloys, Inc.	Medley	R F	O
481	01	ME	O'Connor Co.	Augusta	D	
482	05	WI	Oconomowoc Electroplating Co. Inc	Ashippin	D	
483	05	MI	Rasmussen's Dump	Green Oak Township	R	
484	03	PA	Westline Site	Westline	R	O
485	05	OH	Powell Road Landfill	Dayton	D	
486	05	MI	Ionia City Landfill	Ionia	F	I
487	08	CO	Lincoln Park	Canon City	D	
488	05	IN	Wedzeb Enterprises, Inc.	Lebanon		I
489	02	PR	GE Wiring Devices	Juana Diaz	V F	
490	05	OH	New Lyme Landfill	New Lyme	V	
491	02	NJ	Woodland Route 72 Dump	Woodland Township	D	
492	02	PR	RCA Del Caribe	Barceloneta	D	C
493	03	PA	Brodhead Creek	Stroudsburg	R F	O
494	10	OR	United Chrome Products, Inc.	Corvallis	R	
495	05	MI	Anderson Development Co.	Adrian	D	
496	05	MI	Shiawassee River	Howell	D	
497	03	PA	Taylor Borough Dump	Taylor Borough	R	O
498	03	DE	Harvey & Knott Drum, Inc.	Kirkwood	R F	O
499	04	TN	Gallaway Pits	Gallaway	R F	O
500	05	OH	Big D Campground	Kingsville	D	

* = STATES' DESIGNATED TOP PRIORITY SITES.
#: V = VOLUNTARY OR NEGOTIATED RESPONSE; R = FEDERAL AND STATE RESPONSE;
F = FEDERAL ENFORCEMENT; S = STATE ENFORCEMENT;
D = ACTIONS TO BE DETERMINED.
@: I = IMPLEMENTATION ACTIVITY UNDERWAY, ONE OR MORE OPERABLE UNITS;
O = ONE OR MORE OPERABLE UNITS COMPLETED, OTHERS MAY BE UNDERWAY;
C = IMPLEMENTATION ACTIVITY COMPLETED FOR ALL OPERABLE UNITS.

NATIONAL PRIORITIES LIST FINAL SITES - GROUP 11

RANK	EPA REG	ST	SITE NAME *	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
501	03	DE	Wildcat Landfill	Dover	D	
502	05	MI	Burrows Sanitation	Hartford	D	
503	03	PA	Biosenski Landfill	West Cain Township	F	
504	03	DE	Delaware City PVC Plant	Delaware City	V F	
505	03	MD	Limestone Road	Cumberland	R	
506	02	NY	Hooker (102nd Street)	Niagara Falls	V F S	
507	03	DE	New Castle Steel	New Castle County	D	
508	06	NM	United Nuclear Corp.	Church Rock	F	
509	06	AR	Industrial Waste Control	Fort Smith	F	
510	09	CA	Celtor Chemical Works	Hoopa	R	O
511	04	AL	Perdido Ground Water Contam	Perdido	D	O
512	02	NY	Marathon Battery Corp.	Cold Springs	R	
513	03	PA	Lehigh Electric & Engineering Co.	Old Forge Borough	R F	O
514	05	OH	Skinner Landfill	West Chester	D	
515	04	NC	Chemtronics, Inc.	Swannanoa	D	
516	07	MO	Shenandoah Stables	Moscow Mills	V F	O
517	06	LA	Bayou Bonfouca	Slidell	R	
518	03	VA	Saltville Waste Disposal Ponds	Saltville	R	
519	03	PA	Kimberton Site	Kimberton Borough	D	
520	03	MD	Middletown Road Dump	Annapolis	R	I
521	10	WA	Pesticide Lab (Yakima)	Yakima	D	
522	05	IN	Lemon Lane Landfill	Bloomington	R S	I
523	10	ID	Arrcom (Drexler Enterprises)	Rathdrum	R	O
524	03	PA	Fischer & Porter Co.	Warminster	V F	
525	09	CA	Jibboom Junkyard	Sacramento	R	
526	02	NJ	A. O. Polymer	Sparta Township	D	O
527	02	NJ	Dover Municipal Well 4	Dover Township	D	
528	02	NJ	Rockaway Township Wells	Rockaway	V	I
529	05	WI	Delavan Municipal Well #4	Delavan	D	
530	09	CA	San Gabriel Valley (Area 3)	Alhambra	R	
531	09	CA	San Gabriel Valley (Area 4)	La Puente	R	
532	10	WA	American Lake Gardens	Tacoma	V	O
533	10	WA	Greenacres Landfill	Spokane County	D	
534	06	TX	Triangle Chemical Co.	Bridge City	R F	O
535	02	NJ	PJP Landfill	Jersey City	S	I
536	03	PA	Craig Farm Drum	Parker	D	
537	03	PA	Voortman Farm	Upper Saucon Twp	R	
538	05	IL	Belvidere Municipal Landfill	Belvidere	D	

TOTAL SITES LISTED: 538

* = STATES' DESIGNATED TOP PRIORITY SITES.
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@: I = IMPLEMENTATION ACTIVITY UNDERWAY, ONE OR MORE OPERABLE UNITS;
O = ONE OR MORE OPERABLE UNITS COMPLETED, OTHERS MAY BE UNDERWAY;
C = IMPLEMENTATION ACTIVITY COMPLETED FOR ALL OPERABLE UNITS.

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Part IV

Department of the Interior

Bureau of Land Management

43 CFR Part 3160

Onshore Oil and Gas Operations; Onshore Oil and Gas Order Number 2—Hydrogen Sulfide Operations; Proposed Rulemaking

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3160

Onshore Oil and Gas Operations; Onshore Oil and Gas Order No. 2—Hydrogen Sulfide Operations

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed Rulemaking.

SUMMARY: This proposed rulemaking would issue Onshore Oil and Gas Order No. 2 under 43 CFR 3164.1. This Order supplements requirements found in 43 CFR Part 3160 relating to the submittal of applications to conduct operations and the actual conduct thereof when those activities are in areas where the involved oil and/or gas intervals are known or reasonably expected to contain potentially hazardous concentrations of hydrogen sulfide or sulfur dioxide. As such, the Order particularly concentrates on those requirements that are necessary for the personal protection of workers and the public. The Bureau of Land Management's existing internal guidelines on this subject had never been formalized in a Notice to Lessees and Operators. Thus, this Order has no direct predecessor.

DATE: Comments should be submitted by December 14, 1984. Comments received or postmarked after the above date may not be considered as part of the decisionmaking process on a final rulemaking.

ADDRESS: Comments should be sent to: Director (140), Bureau of Land Management, 1800 C Street NW., Washington, D.C. 20240.

Comments will be available for public review in Room 5555 of the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Eddie R. Wyatt, (202) 653–2133; or Robert C. Bruce, (202) 343–8735.

SUPPLEMENTARY INFORMATION: The existing regulations in 43 CFR Part 3160—Oil and Gas Operations—provide in § 3164.1 for the issuance of Oil and Gas Orders when necessary to implement and supplement the specific provisions of the regulations. All Orders are to be promulgated through the rulemaking process and, when issued in final form, apply on a nationwide basis. A table is included in § 3164.1 that shows all existing or former Orders. This proposed rulemaking would result in the second of such Orders. It is intended specifically to supplement the provisions of § 3162.5–1—Environmental obligations—and § 3162.5–3—Safety precautions—as well as specific terms of Federal and Indian oil and gas leases.

Federal and Indian oil and gas lease terms require that the lessee shall "* * * exercise reasonable diligence in (drilling,) developing and producing * * * (and) * * * conduct operations in a manner that minimizes adverse impacts to the land, air, and water * * *." In addition, the lease provides that the lessee shall "* * * maintain a safe working environment in accordance with standard industry practices; and take measures necessary to protect the health and safety of the public." Pertinent portions of the onshore oil and gas operating regulations reiterate and reemphasize these requirements.

Industry practice for operations in a hydrogen sulfide (H_2S) or sulfur dioxide (SO_2) environment has been established, and the Department of the Interior's minimal requirements in that respect have long been spelled out in the Manual of the former Conservation Division of the U.S. Geological Survey, the functions of which are now performed by the Bureau of Land Management. This Manual section (R70–CDM 643.9, as redesignated by the Bureau) established minimum requirements for the approval and supervision of operations in areas known or expected to contain potentially hazardous concentrations of hydrogen sulfide or sulfur dioxide. Thus, the proposed Order is a reaffirmation of existing policy and practices, which were never published previously for public comment and/or issued in the form of a Notice to Lessees and Operators.

Hydrogen sulfide is a colorless, heavier-than-air and very toxic gas. It is generally described as having a sour odor or the smell of rotten eggs, but the sense of smell can not be relied on to warn of danger, since exposure to concentrations as small as 100 ppm will paralyze the olfactory nerve within 2 to 15 minutes. Exposure to concentrations in the range of 500 to 700 ppm will result in the loss of consciousness, and possibly death, within 30 minutes. Concentrations as small as 1,000 ppm can prove lethal after a few minutes' exposure and may be fatal, even if the individual is removed to fresh air at once. Exposure to higher concentrations is nearly always fatal.

Sulfur dioxide is a colorless, heavier-than-air and toxic gas. It is generally described as having a pungent odor and taste. Exposure to sulfur dioxide gas in concentrations up to 20 ppm causes irritation to the nose and throat and results is sneezing and choking. Exposure to concentrations of 1,000 ppm or more is nearly always lethal. Sulfur dioxide gas may be generated as a result of the application of certain enhanced recovery techniques and is a byproduct of flaring hydrogen sulfide gas.

The presence of dangerous levels of hydrogen sulfide in the oil and/or gas from certain formations underlying various areas of the United States has long been recognized. As technology for conducting operations in a hydrogen sulfide environment has improved and the demand for new sources of domestic oil and gas has increased, industry's activities in areas where the presence of hydrogen sulfide is a factor have experienced a substantial growth. While recognizing that industry standards do exist and that these are generally followed, it is incumbent on the Bureau of Land Management to establish minimum acceptable requirements for operating in a hydrogen sulfide environment on Federal and Indian lands. These minimum requirements are necessary to ensure that industry employees are protected properly against the hazards associated with the release of gases that contain dangerous concentrations of hydrogen sulfide.

This proposed Order applies to all activities planned and carried out on Federal and Indian lands where operations are under the jurisdiction of the Bureau of Land Management when it is known or reasonably expected that hydrogen sulfide and/or sulfur dioxide will be present in such concentrations that its release could constitute a hazard to either life or property and, with respect to drilling operations, to areas where the presence or absence thereof is unknown. Thus, the proposed Order would apply to operations such as drilling, workovers, producing, injection, gathering, storing and treating of oil or gas on lands where operations come under the jurisdiction of the Bureau.

The organization of the proposed Order is straightforward. The general requirements encompass determinations of hydrogen sulfide concentration, calculating the radii of exposures and escape rates, and compliance records. The requirements that address drilling and workover operations relate primarily to worker safety and have been coordinated with the Occupational Safety and Health Administration. These requirements relate to operating procedures; equipment; personnel protection, including training and protective gear; detection and monitoring equipment; warning systems; ventilation equipment; and protection of

the public. The latter includes both contingency plans and curtailment plans for critical operations. Section IV. of the proposed Order contains requirements covering operations in a hydrogen sulfide environment.

The public is asked specifically to comment on section II.A.1.b. of the proposed Order which relates to the training of personnel. In areas where H_2S is known to exist, or reasonably may be expected to exist, should weekly drill and training sessions be required throughout the operation or only after the monitoring requirements are initiated? How frequently should these sessions be held when drilling in areas where the presence of H_2S is unknown?

The Bureau of Land Management also is considering the desirability of including this and other Orders in the Code of Federal Regulations, and specific comments are requested in that regard.

The principal authors of this proposed rulemaking are Eddie Wyatt, Sie Ling Chiang and Stephen Specter, all of the Washington Office, Bureau of Land Management, assisted by Bruce Wamsley formerly of the Montana State Office, Lee Pauli of the Tulsa District Office, and the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

It is hereby determined that this rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

The proposed Order will have no adverse economic effects, since its requirements reflect the operating practices currently followed by prudent operators when conducting operations in a hydrogen sulfide or sulfur dioxide environment. It may provide a beneficial economic effect in that proposals to conduct drilling or producing operations are less likely to be returned for modification if industry has a better understanding of the Bureau of Land Management's requirements in this regard. The major requirements basically are unchanged from those that have long been imposed on operations in a hydrogen sulfide or sulfur dioxide environment, and they impose the same burden on all lessees and operators, regardless of size, on lands where operations come under the jurisdiction of the Bureau. Therefore, a small entities flexibility analysis is not required.

The proposed Order will not affect current information collection and recordkeeping requirements. All proposed and existing reporting requirements are included in the following Office of Management and Budget approvals: 1004–0134, 1004–0135 or 1004–0136.

List of Subjects in 43 CFR Part 3160

Government contracts, Mineral royalties, Oil and gas exploration, Oil and gas production, Public lands—mineral resources, Indian lands—mineral resources, Reporting requirements.

PART 3164—[AMENDED]

Under the authority of the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), it is proposed to amend Part 3160, Group 3100, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations as set forth below:

1. Section 3164.1(b) is amended by adding the following entry to the table:

§ 3164.1 Onshore oil and gas orders.

* * * * *

(b) * * *

Order No.	Subject	Effective date	FR reference	Supersedes
1.	Approval Operations.	Nov. 21, 1983	48 FR 48916 and 48 FR 56228.	NTL-6.
2.	Hydrogen Sulfide Operations.			None.

Dated: July 20, 1984.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

Appendix—Text of Oil and Gas Order

Note.—This appendix will not appear in the Code of Federal Regulations.

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Onshore Order

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Onshore Oil and Gas Order; Federal and Indian Oil and Gas Leases

Order No. 2

Effective ———.

Hydrogen Sulfide Operations

Introduction

This Order is established pursuant to the authority prescribed in 43 CFR 3160. Lessees and operators of onshore Federal and Indian (except Osage) oil and gas leases shall comply with the following requirements for conducting operations involving oil or gas that contains hydrogen sulfide. Requirments for protection of personnel and the public against sulfur dioxide emissions are contained in Section IV. of this Order. In general, any required reports or applications for variances hereunder shall be filed with the same office that Applications for Permit to Drill or Sundry Notices are filed. The requirements of this Order shall be administered by, and approvals obtained from, the authorized officer of the Bureau of Land Management.

This Order shall be effective whenever drilling, reworking, producing, injection for disposal or enhanced recovery, gathering, storing, and treating of hydrocarbons which are known or reasonably may be expected to contain concentrations of hydrogen sulfide (H_2S) gas or sulfur dioxide (SO_2) in such quantities that, if permitted to escape or accidentally released, could constitute a hazard to life or property and, with respect to drilling operations, to areas where the presence or absence thereof is unknown. The requirements of this Order do not apply where the absence of H_2S or SO_2 previously has been confirmed. Each application to conduct operations in such an H_2S or SO_2 environment shall fully describe the manner in which requirements of this Order will be implemented. Existing production facilities not meeting the requirements of Section III. of this Order shall be brought into conformance with such standards within a 150-day period after the effective date of this Order. If an operator has a valid reason to request a variance from the prescribed standards or an

extension of time in which to comply, it shall be submitted with the production system analysis. The authorized officer will consider the request, but if the variance or extension of time is denied, the operator shall have 60 days after receipt of the written denial or the original compliance date, whichever is later, to complete the necessary modifications.

The requirements relating to drilling operations are applicable in areas where the formations to be penetrated are known to contain or are expected to contain H_2S in excess of 20 ppm and, with respect to drilling operations, to areas where the presence or absence thereof is unknown. Other operations (producing, treating, etc.) will be evaluated on known conditions, such as volume of production, concentration of H_2S, geographical features, and relative location to populated areas. The authorized officer may, after consideration of all appropriate factors, require safety features that are more or less stringent than required by this Order. However, nothing contained in this Order is intended to relieve an operator of the necessity of complying with any applicable State or other Federal requirements concerning H_2S which are more stringent.

I. General

A. *Determination of H_2S Concentration.* Each operator shall determine the H_2S concentration in the gaseous mixture of each operation or facility and includes that information with the application to conduct the operation or to construct such a facility. For each existing production facility having an H_2S concentration of 100 ppm or more, the operator shall report to the authorized officer the H_2S concentration and radius of exposure within 30 days of the effective date of this Order and on annual basis thereafter. Production facilities constructed after the effective date of this Order and meeting the above concentration shall be subject to the same reporting requirement effective 30 days after operations at the facility are commenced. The requirements of this Order generally do not apply to situations in which the H_2S concentration measures less than 100 ppm, especially under low pressure and where past experience has demonstrated that these can be routinely and successfully contained. However, under the personnel protection provisions (Sections II.A.3., II.A.4.b., and II.C.1.g.) and the public protection provisions (Section II.B.), the requirements there relating to ambient concentrations as low as 20 ppm may be applied, even though the operation or facility concentration is less than 100 ppm. All drilling wells that will penetrate known or potential H_2S-bearing intervals shall have hydrogen sulfide (H_2S) monitoring equipment installed, as detailed in this Order.

B. *Radius of Exposure.* Except in the cases of storage tanks, the radius of exposure may be determined by the following Pasquill-Gifford equation, or by such other method(s) as may be approved by the authorized officer.

1. For determining, where applicable, the 20 ppm radius of exposure:
   $X = [(7.944)(H_2S)(Q)]\ (0.6258)$.
2. For determining the 100 ppm radius of exposure:
   $X = [(1.589)(H_2S)(Q)](0.6258)$.
3. For determining the 500 ppm radius of exposure:
   $X = [(0.4546)(H_2S)(Q)](0.6258)$.

where: X = radius of exposure in feet;
H_2S = mole fraction of hydrogen sulfide (ppm) in the gaseous mixture;
Q = maximum volume of gas determined to be available for escape in cubic feet per day (at standard conditions of 14.73 psia and 60 degrees F).

Where emissions rates of gas and the concentration of H_2S are high, a dispersion technique that takes into account wind speed and atmospheric stability should be used.

C. *Escape Rate.* The maximum volume used as the escape rate in determining the radius of exposure shall be that specified below, as applicable.

1. For a production facility, the escape rate shall be calculated using the maximum daily rate of gas handled by that facility.
2. For existing gas wells, the escape rate is calculated by using the current adjusted open-flow rate, or the operator's estimate of the well's deliverability against atmospheric pressure, whichever is larger.
3. For a well being drilled in a developed area, the escape rate is determined by using the current adjusted open-flow rate of offset wells completed in the interval(s) in question, or the current field average adjusted open-flow rate for the wells completed in such interval(s), whichever is larger.
4. For a well being drilled in an area where the presence or absence of H_2S has not been confirmed previously, 100 ppm radius of exposure equal to 3,000 feet shall be assumed in calculating the escape rate. If a lesser radius can be justified, a written request for an exception shall be submitted, with supporting justification, to the authorized officer.

D. *Applicability.* The radii of exposure are determined on all systems and special precautions taken, as required under Section II.B. of this Order, when any of the following conditions apply:

1. The 20 ppm radius of exposure includes any part of a city, town, village, park, dwelling, school bus stop, work area, or other areas that are expected to be populated;
2. The 100 ppm radius of exposure is in excess of 50 feet and includes any public area;
3. The 500 ppm radius of exposure is greater than 50 feet and includes any part of a road owned by and maintained for public access or use; or
4. The 100 ppm radius of exposure is equal to or greater than 3000 feet where the potential for public access exists.

E. *Compliance Records.* The operator shall maintain records documenting compliance with each applicable provision of the Order. These records shall be available for inspection during normal business hours or shall be submitted to the authorized officer, when requested.

II. Drilling and Workover Requirements

Where drilling operations are expected to encounter H_2S, all H_2S related safety equipment shall be installed, tested, and placed in operation when drilling reaches a depth of approximately 1,000 feet above, or 7 days prior to penetrating (whichever comes first) the first zone containing or suspected of containing H_2S. If H_2S was not anticipated at the time the Application for Permit to Drill was approved but is encountered, the operator shall immediately seek to contain or neutralize the gas, suspend drilling ahead operations, obtain materials and safety equipment to bring the operation into compliance, and notify the authorized officer of the event and the mitigating steps that have or are being taken and request approval to resume drilling ahead operations.

The authorized officer may require additional safety measures in areas that are extremely hazardous or that require special treatment. The authorized officer also may require the use of manual H_2S detectors when operating in areas containing H_2S in any quantity. When requested, test results shall be recorded and reported in the manner prescribed by the authorized officer.

All proposed drill site locations shall be planned to obtain the maximum safety benefits consistent with the rig configuration, terrain, prevailing winds, etc. The locations of houses, schools, roads, work areas, recreational areas, etc., where people could be present within a 2-mile radius of the drilling location, shall be shown on a map or plat (See II.B.1.d.). The drilling rig shall, where possible, be situated so prevailing winds blow across the rig in a direction away from the escape route(s). Where possible, two entry roads shall be established, one at each end of the location, or as dictated by prevailing winds. If an alternate road is not possible, a clearly marked footpath shall be provided to a safe area.

The safety requirements of this section are specified for the 3 categories of Personnel Protection (on-site), Public Protection (Contingency Plan), and Operating Equipment.

A. Personnel Protection.

1. Training Program.
   a. All personnel, whether regularly assigned or contracted or employed on an unscheduled basis, shall be informed of the hazards of working in an H_2S environment. They shall also be instructed in the proper use of personal safety equipment, H_2S detectors and alarms, warning systems, briefing areas, evacuation procedures, and prevailing winds, by an instructor acceptable to the authorized officer.
   b. A weekly drill and training session for all personnel in each working crew shall be conducted and recorded on the driller's log. The instruction shall include first aid procedures, maintenance and use of protective breathing equipment, use of retrieval ropes with safety harnesses, and the advantages of working in pairs.
   c. At least 2 briefing areas shall be designated for assembly of personnel during emergency conditions, each at

least 200 feet from the well head and located so 1 is upwind of the well at all times. The most normally upwind of the 2 locations shall be designated as the "Safe Briefing Area." Personnel shall be trained to practice routine observation of wind direction.

d. One person who regularly performs duties at the drilling site shall be designated and identified to all on-site personnel as the person primarily responsible for the overall operation of on-site safety and training programs.

2. Protective Equipment for Personnel.

a. All personnel on a drill site in H_2S environments shall have immediate access to proper protective breathing apparatus. The operator shall provide or require its drilling contractor to provide such equipment for the normal number of personnel involved in the drilling operation. The operator or its drilling contractor is not required to furnish protective-breathing equipment for service personnel, but the operator or its drilling contractor is required to inform service contractors of the necessity of having this equipment when called to the location. Lightweight, escape-type, self-contained breathing apparatus with a minimum of 5 minutes' supply shall be maintained at an easily accessible location for the derrickman and at any other location where escape from an H_2S contaminated atmosphere would be difficult. Additional protective breathing apparatus of the pressure-demand or positive pressure continuous-flow type (full-face piece that supplies breathing quality air for an extended period while maintaining a slight pressure inside the system) shall be provided for all personnel who are required to work in a hazardous H_2S environment. The operator shall assure that a proper respiratory protection program is implemented, in accordance with the American National Standard Practices for Respiratory Protection, Z.88.2–1980.

b. Storage and maintenance of protective breathing apparatus shall be planned to ensure at least 1 working apparatus is available for each rig hand regardless of current wind conditions.

c. Except for the 5-minute escape packs, each system shall have a working alarm signal for low air supply.

d. All personnel should be cleanshaven to assure a good seal of the mask to the face.

e. The following additional personnel safety equipment shall be available for use:

(1) Chalkboards and notepads for communication when using protective breathing apparatus;
(2) First aid supplies;
(3) Resuscitators;
(4) Litter;
(5) Harnesses and lifelines;
(6) Wind direction socks or streamers; and
(7) Telephone, radio, mobile phone, or any other device that provides instant communication from a safe area at the rig location.

3. Hydrogen Sulfide Detection and Monitoring Equipment.

Each drill site shall have an H_2S detection and monitoring system that activates audible and visible alarms when the concentration of H_2S reaches the threshold limit of 20 ppm in air. This equipment shall have a rapid response time and be capable of sensing a minimum of 10 ppm H_2S in air, with at least 3 sensing points, located at the shale shaker, on the derrick floor, and in the cellar. Other sensing points shall be located at other critical areas where H_2S might accumulate. The detection system shall be adequate for hazardous areas and installed and maintained, in accordance with the manufacturer's recommendations. The H_2S detection and monitoring equipment shall be calibrated daily when first installed and at least once every 8 hours when drilling, well completion, and/or workover operations are being conducted in an H_2S environment. All calibrations shall be conducted by qualified personnel and shall be recorded on the driller's log. Portable H_2S detection equipment capable of sensing an H_2S concentration of 20 ppm shall be available for all working personnel and shall be equipped with an audible warning singal. After H_2S has been detected by any device, an immediate inspection of all areas of poor ventilation shall be made. The sense of smell shall not be relied upon to detect the presence of H_2S. Early detection of possible H_2S concentration can be achieved by monitoring the mud chemistry. Such monitoring shall be required where and when the potential for H_2S exists.

4. Visible Warning System.

Equipment to indicate wind direction at all times shall be installed at prominent locations. At least 2 such wind socks or streamers shall be located at separate elevations, i.e., near ground level, rig floor, and/or treetop height. In addition, a wind sock at each of the 2 briefing areas shall be provided. All wind socks shall be clearly visible at all times so that wind direction is easily determined. When H_2S is encountered, operational danger signs shall be displayed on each side of the rig at the drill site and along all accesses to the site and shall be visible to approaching personnel. Each sign shall be painted a high-visibility yellow, with black lettering of sufficient size to be legible from 200–300 feet. Signs along the accesses shall be located at a safe distance from the site. The sign shall read:

DANGER—POISON GAS—HYDROGEN SULFIDE

and in smaller lettering:

Do Not Approach If Red Flag Is Flying

All signs and flags shall be illuminated under conditions of poor visibility, and at night. Where appropriate, bilingual or multilingual warning signs shall be used.

a. Moderate danger. The signs shall be displayed when H_2S is detected but is less that 20 ppm; detection efforts shall be intensified and steps taken to eliminate or neutralize the condition.

b. Intermediate danger. The action taken for moderate danger, in Section II.A.4.a. above, shall be continued when H_2S is determined to be in the 20–100 ppm range. Also, the red flags shall be hoisted, protective breathing apparatus shall be worn by all working personnel, and all nonworking personnel shall be moved to safe areas.

c. Extreme danger. All nonessential personnel, and all essential personnel as appropriate, shall be evacuated when H_2S exceeds 100 ppm concentration. Any personnel not evacuated shall be protected as provided above.

5. Ventilation Equipment.

All ventilation fans shall be explosion-proof and situated in areas when H_2S may accumulate. Portable fans to disperse H_2S vapors shall be provided in work areas. The rig layout shall be planned to achieve maximum benefit from natural ventilation.

B. *Public Protection.* When the conditions defined in Section I.D. exist, the following special precautions shall be taken to alert and protect the public.

1. Contingency Plan.

A written contingency plan providing details of action to alert and protect the public in the event of an accidental release of H_2S shall be submitted with an Application for Permit to Drill or Sundry Notice to the authorized officer (See Oil and Gas Order No. 1). The contingency plan shall be maintained and updated, as needed, and activated immediately after detection of release of a potentially hazardous volume of H_2S. A copy of the approved contingency plan shall be posted at the rig and at each briefing area. The details of the contingency plan will vary according to the site specific characteristics of the sour gas expected to be encountered and the number and proximity of the population potentially at risk. The plan shall include:

a. The responsibilities and duties of key personnel, instructions for alerting the public and requesting assistance, and the name of the person who has the authority to ignite the escaping gas.

b. A list of names and telephone numbers of residents and responsible parties of occupied buildings within the area of exposure. They shall be listed by wind sector and distance from the well site to ensure that those who are at the greatest risk are notified first. The plan shall define when and how people are to be notified in case of an H_2S emergency. Where a well is near a residential area, there shall be prescribed procedures for alerting nearby residents when well control problems become critical, but before an actual release of H_2S takes place. Face-to-face communication is the preferred method of notification. Where this is not a viable option, the use of siren(s), telephone, radio, and television shall also be employed, depending on the number of people at risk and their location with respect to the well site.

c. A telephone call list for requesting assistance from law enforcement, fire department, and medical personnel and State and Federal agencies, as required. Necessary information to be communicated and the emergency responses that may be required shall be listed. This information shall be based on previous meetings with these organizations.

d. A 2-mile radius plat of all private and public dwellings and other areas where the public might reasonably be expected to be present and provisions for advance briefings of the public, including:

(1) Hazards and characteristics of hydrogen sulfide;

(2) Necessity for an emergency action plan;

(3) Possible sources of hydrogen sulfide;

(4) Instructions for reporting a gas leak;

(5) The manner in which the public shall be notified of an emergency; and

(6) Steps to be taken in case of an emergency, including evacuation of any potentially endangered public and safeguards against property loss.

e. Guidelines for the ignition of the H_2S-bearing gas to produce a buoyant, less dangerous plume of sulfur dioxide. The plan shall clearly define when the gas is to be ignited and by whom. In populated areas, the decision to ignite a major release of H_2S gas shall occur as quickly as possible to minimize the prospect of public exposure to possibly harmful concentrations of H_2S.

In an area of high density population, or in other special cases, the authorized officer shall require more stringent plans to be developed. Until a release is brought under control, certain post-release activities shall be specified in a contingency plan to the authorized officer. These include the operator's monitoring of hydrogen sulfide around the well site together with meteorological conditions, maintenance of site security, communication of the well control status, and any other activities deemed necessary by the authorized officer.

2. Critical Operations and Curtailment Plans.

Certain operations performed under drilling and workover conditions are more critical than others with respect to the containment of potentially hazardous gases. Therefore, the authorized officer may require curtailment of certain operations for the protection of the public. Plans for critical operations shall be formulated at the time the Application for Permit to Drill is submitted for approval by the authorized officer. Prior to commencement of a critical operation, subsequent notice shall be given to the authorized officer.

C. *Operating Procedures and Equipment.*

1. General Operations.

Drill operations in H_2S areas shall be subject to the following requirements:

a. *Drill string trips or fishing operations.* Every effort shall be made to pull a dry string while maintaining well control. If it is necessary to pull the drill string wet after penetration of H_2S-bearing zones, continuous monitoring of the working area shall be provided and protective breathing apparatus worn.

b. *Circulating bottoms-up from a drilling break, cementing operations, logging operations, circulation while not drilling.* Continous monitoring of the working area shall be provided after penetration of an H_2S-bearing zone. Protective breathing apparatus shall be worn by those personnel in the working area for at least 15 minutes before and after bottoms-up.

c. *Coring operations in H_2S-bearing zones.* Personnel protective breathing apparatus shall be worn 10–20 stands in advance of retrieving the core barrel. Cores to be transported shall be sealed and marked for the presence of H_2S.

d. *Circulation medium for drilling H_2S-bearing zones.* If H_2S-bearing zones are encountered while drilling with air or gas as the circulating medium, the well shall be killed with a water or oil based mud and mud shall be used thereafter as the circulating medium for continued drilling.

e. *Abandonment or temporary abandonment operations.* Internal well abandonment equipment shall be designed for H_2S service.

f. *Logging operations after penetration of known or suspected H_2S-bearing zones.* Mud in use for logging operations shall be conditioned and treated to minimize the effects of H_2S on the logging equipment, or the logging equipment shall be designed for H_2S service.

g. *Gas-cut mud or well kick from H_2S-bearing zones.* Protective breathing apparatus shall be worn when an H_2S concentration of 20 ppm or more is detected. Should a decision be made to circulate out a kick, protective breathing apparatus shall be worn prior to and subsequent to bottoms-up and at any time during an extended kill operation when the concentration of H_2S becomes hazardous to personnel, as defined in paragraphs II.A.4.b. and c.

h. *Drill string precautions.* Precautions shall be taken to minimize drill string stresses caused by conditions such as excessive dogleg severity, improper stiffness ratios, improper torque, whip, abrasive wear on tool joints, and joint imbalance. American Petroleum Institute Bulletin RP 7G, or revision thereof, should be used as a guideline for drill string precautions. Tool-joint compounds containing free sulfur in excess of 0.3 percent shall not be used. Proper handling techniques shall be used to minimize notching, stress concentrations, and possible drill pipe failures.

i. *Flare system.* The flare system shall be designed to safely gather and burn H_2S-bearing gas. Flare lines shall be located as far from the operating site as feasible and in a manner to compensate for wind changes. The flare line(s) mouth(s) shall be located not less than 150 feet from the wellhead unless otherwise approved by the authorized officer. The flare system shall be equipped with a pilot and an automatic igniter. Where noncombustible gas is vented, the system shall be provided supplemental fuel for ignition and to maintain a continuous flare. All harmful gases created and released by flaring H_2S-contaminated gas, such as sulfur dioxide (SO_2), are subject to the requirements of Section IV. hereof.

j. *Kill line.* A kill line of ample strength, securely anchored, shall be laid to the wellhead from a safe location for emergency pumping into the well.

k. *Remote-controlled choke.* A remote-controlled choke shall be installed for H_2S drilling/completion and workover operations.

l. *Mud-gas separators.* A mud-gas separator (gas buster) shall be installed and operable prior to drilling into a suspected H_2S zone.

m. *Rotating head.* The authorized officer may require that a rotating head be installed and used in conjunction with the mud-gas separator prior to penetrating a suspected H_2S zone.

2. Mud Program.

a. Either water- or oil-base muds shall be used.

b. A pH of 10.0 or above in a water-base mud system shall be maintained to control corrosion and prevent sulfide stress cracking.

c. Sufficient quantities of additives shall be maintained on location to add to the mud system to scavenge and/or neutralize H_2S.

d. Corrosion inhibitors shall be applied to the drill pipe or to the mud system as a safeguard, in addition to the protection by pH control mentioned above.

e. Drilling mud containing H_2S gas shall be de-gassed in accordance with API recommendations at an optimum location for the rig configuration. These gases shall be piped into the flare system and burned at a remote location.

f. The mud weight shall be maintained in a balanced condition to prevent uncontrolled gas infiltration from an H_2S-bearing interval while drilling in or through that interval. Mud shall be continuously circulated through a de-gasser to rid the mud of gas.

3. Kick Detection and Well Control.

All efforts shall be made to prevent a well kick resulting from gas-cut mud, drilling breaks, lost circulation, or trips for bit change. In the event of a kick, the disposal of the well influx fluids shall be accomplished by one of the following alternatives, giving proper consideration to personnel and public safety, potential for environmental damage, and equipment capability.

a. *Alternative A.* The kick shall be controlled by using appropriate well-control techniques within the pressure limits of a well's equipment (drill pipe, casing, wellhead, blowout preventers, etc.). H_2S and other gases brought to the surface shall be disposed of through pressured or atmospheric mud-gas separator equipment, depending on volume, pressure, and concentration of H_2S gas. The equipment shall be designed to recover drilling mud, degas it, and vent and burn the separated gases. The mud system shall be treated to neutralize H_2S and to maintain the proper mud quality for well control.

b. *Alternative B.* In some situations, it may be possible and desirable to contain the kick by shutting in the well and pumping the influx fluids (bullheading the fluids) back into the formation. The mud system shall be treated to neutralize H_2S and to restore and maintain the proper mud quality for well control.

4. Well Testing in an H_2S Environment.

a. *Procedures.*

(1) Testing shall be performed, with a minimum number of personnel in the immediate vicinity of the test, using equipment to safely and adequately perform

the test to maintain related services. Except with prior approval by the authorized officer, the drill-stem testing of H_2S zones shall be conducted only during daylight hours.

(2) Prior to initiation of the test, special safety meetings for all affected personnel shall be conducted, with emphasis on the use of personnel protective breathing apparatus, first aid procedures, and the contingency plan procedures, as required.

(3) During the test, the required H_2S detection equipment shall be in operation and monitoring shall be maintained on a continuous basis. All produced gases shall be vented and burned through a flare system that meets the requirements of paragraph II.C.1.i. Gases from any stored fluids shall be vented into the flare system.

(4) "No Smoking" rules shall be enforced.

b. *Equipment.*

(1) Drill-stem test tools, wellhead equipment, and other testing facilities shall be suitable for H_2S service.

(2) Tubing that meets the requirements for H_2S service may be used for drill stem testing.

(3) The water cushion shall be thoroughly treated with inhibitors to prevent H_2S corrosion. The test string shall be flushed with a neutralizing fluid to dissipate the H_2S after completion of the test.

(4) All surface test units and related equipment shall be designed for H_2S service. Only competent personnel, trained in the hazardous effects of H_2S, shall be utilized in these tests.

5. Metallurgical Equipment Considerations.

To resist or prevent stress, corrosion, cracking, and/or H_2S embrittlement, the equipment shall be constructed of material whose metallurgical properties are chosen with consideration for both an H_2S working environment and the anticipated stresses. The metallurgical properties of the materials used shall conform to NACE Standard MR-01-75, Material Requirement, Sulfide Stress Cracking Resistant Metallic Material for Oil Field Equipment. These metallurgical properties include the grade of steel, the processing method (rolled, normalized, tempered, and/or quenched), and the resulting strength properties. The working environment considerations include the H_2S concentration, the well fluid pH; and the wellbore pressures and temperatures. For drilling and workover operations, such equipment includes the drill string, casing, wellhead, blowout preventers, kill lines, choke manifold, valves, mud-gas separators, and other related equipment. Each Application for Permit to Drill and each Sundry Notice to workover a well shall describe precautions to be taken to protect equipment from the hazards of an H_2S environment. The following general practices are required for acceptable performance.

a. *Drill string.* Drill strings shall be designed for the anticipated depth, conditions of the hole, and the wellbore environment. Care shall be taken to minimize exposure of the drill string to high stresses, as practical and consistent with the anticipated hole conditions.

b. *Casing and Tubing.* Casing, tubing, couplings, flanges and related equipment shall be designed for H_2S service.

c. *Wellhead, blowout preventers, and pressure control equipment.* The blowout preventer stack assembly shall be designed for use in a H_2S environment. Surface equipment such as choke lines, choke manifold, kill lines, pressure gauges, bolting, welds, and other related well-killing equipment shall be designed to resist or prevent sulfide stress cracking. There should be no thread connections upstream of the choke manifold or on outlets in the wellhead or blowout preventer. The casing head and spool shall meet the same requirements as the blowout preventer. Elastomers, packing, and similar inner parts exposed to H_2S shall be resistant at the maximum anticipated temperature of exposure.

III. Producing Operations

Except for storage tanks, a determination of the radius of exposure for all production systems shall be made in the manner prescribed in Section I of this Order.

A. *Storage Tanks.* Storage tanks utilized as part of a production operation and operated at or near atmospheric pressure, where the vapor accumulation has an H_2S concentration in excess of 100 ppm, are subject to the following:

1. No determination of a radius of exposure need be made for storage tanks as herein described.
2. All stairs/ladders leading to the top of storage tanks shall be chained and/or marked. A warning sign shall be posted on or within 50 feet of the facility to alert the general public of the potential danger. The sign shall be painted a high-visibility yellow, with black lettering of sufficient size to be legible from 200–300 feet. The sign shall state:

DANGER—POISON GAS—HYDROGEN SULFIDE

Where appropriate, bilingual or multilingual warning signs shall be used.

3. Fencing as an additional security measure shall be required when storage tanks are located within a townsite or city or within ¼ mile thereof, or where conditions are such that the public generally has free access to the storage tanks.
4. All stock tank installations, not currently equipped, shall be converted to closed systems within 150 days after the effective date of this Order. Such systems shall provide methods for gauging, sampling, and determining the temperatures without direct entry into the system, and for containment of vapors by recovery or burning. Alternatives to this requirement or an extension of time in which to comply shall be considered and may be approved by the authorized officer upon written request by the operator. This request shall include reasons for the requested delay or variance and, in the latter case, shall specify the alternative methods to be used for protecting personnel and public safety.

Stock tank vapors with H_2S concentrations in the 20–100 ppm range are not subject to the above requirements because of the lower concentrations of H_2S emissions. However, these concentration levels are hazardous to personnel who are required to work in close proximity thereto. Therefore, the operator shall provide such personnel with H_2S safety equipment and training, encourage working in pairs and post appropriate danger signs.

B. *Other Surface Production Facilities.* Warning signs shall be required in the case of fixed surface facilities (other than stock tanks) where the 100 ppm radius of exposure is in excess of 50 feet. Warning signs also shall be provided for well flowlines and lease gathering lines that carry sour gas. The design and placement of such signs shall conform to paragraph III.A.2. and be clearly visible on roads that provide direct access to such facilities or lines. Fencing or other security measures shall be required when such facilities are located within a city or townsite or within ¼ mile thereof or where conditions are such that the public generally has free access to the facilities or lines.

C. *Personnel Protection.* The appropriate personnel safety and protection requirements contained in Section II.A of this Order shall be applicable to leasehold production operations. A lightweight, self-contained, escape-type breathing apparatus is suitable for personnel who normally work alone. Producing operations in an H_2S environment are more likely to result in H_2S exposure than drilling or workover operations (i.e., continuation over a longer period of time, more instances in which personnel work alone, situations where contractors work unsupervised, and leaks or equipment failures that result in normally safe areas becoming hazardous). Therefore, the operator's responsibility for personnel safety in a producing scenario is critical because of the increased potential for exposure. Hence, in addition to providing the required protective breathing and detection equipment, wind direction indicators, etc., the operator shall provide all employees with adequate education as to the hazards of working in an H_2S environment through regularly scheduled and impromptu safety meetings and bulletin board postings. Adequate two-way radio communication should be provided for personnel who work alone to enable them to issue an appropriate and timely warning in the event they detect a leak or need assistance.

D. *Public Protection.* When conditions as defined in Section I.D. exist, the contingency plan shall be activated and the authorized officer notified. The plan shall include all appropriate requirements listed in Section II.B.1. One such plan is required per lease or field, as specified by the authorized officer. However, when the plan is intended cover the operator's total operations in a field, it shall include alternate actions for the various subsystems of geographic locations, as necessary, to cover the larger areal limits.

E. *Operating Procedures and Equipment.*

1. Producing wells, unless produced by artificial lift, shall have 2 master valves, a packer, and corrosion-inhibiting fluid. An automatic or surface-activated subsurface safety control valve set below

100 feet shall be installed in the tubing. Alternatives to this requirement shall be considered and may be approved by the authorized officer upon written request by the operator. This request shall include reasons for the variance and alternative methods for personnel and public protection. In either case, approval of the producing string and associated safety equipment shall be obtained prior to installation.

2. Surface systems shall have automatic closing devices to prevent uncontrolled flow in the event of equipment failure. of facilities shall be resistent to hydrogen sulfide stress cracking under the existing operating conditions. No field welding is permitted without proper stress relieving.
4. Materials and equipment in existing facilities with no record of failure from sulfide stress cracking shall be considered adequate.
5. In the event of a failure of any element of an existing system as a result of hydrogen sulfide stress cracking, the incident shall be reported to the authorized officer, with plans for the inspection, protection, or replacement of similar elements of the system.
6. Corrosion coupons or other methods to monitor corrosion rates shall be installed in all systems in which the H_2S concentration is 100 ppm or greater. If prohibitive corrosion rates are detected, the facilities shall be protected by an inhibitor or other suitable means.
7. H_2S detectors that activate a flashing light or other visual or audio alarm shall be installed near each producing well. If practicable, a sensor shall be connected so an alarm signal is transmitted to a remote but monitored facility. The H_2S detectors shall be calibrated when installed and at least twice weekly thereafter. All calibrations shall be conducted by qualified personnel and shall be recorded on the production operations report.
8. If practicable, wells shall be monitored and controlled from remote points.

IV. Sulfur Dioxide Operations

Sulfur dioxide (SO_2) may be produced from flaring of H_2S or from enhanced recovery operations, such as fire flooding or water injection. Where the sulfur dioxide is expected, the following requirements apply.

A. *Drilling and Workover Requirements.* Personnel protection and public protection requirements described under Sections I.A. through E. and II.A. and II.B. of this Order also are generally applicable to the SO_2 emission situations, with appropriate modifications for SO_2 being made. The following classifications of danger shall be used for warning and taking personnel protective measures in case of the presence of SO_2 emissions.

1. *Moderate danger.* The sign shall be displayed when SO_2 is detected but is less than 20 ppm; and the 8-hour average of SO_2 concentration does not exceed 5 ppm detection efforts shall be intensified and steps taken to eliminate or neutralize the condition.
2. *Intermediate danger.* When the above concentrations are exceeded but are below 100 ppm, the effort described above continues, the flags shall be hoisted, protective breathing apparatus and protective clothing shall be worn by working personnel, and all nonworking personnel shall be moved to safe areas.
3. *Extreme danger.* When the SO_2 concentration exceeds ppm, all nonessential personnel, and all other personnel as appropriate, shall be evacuated. Any personnel not evacuated shall be protected as provided above.

B. *Producing Operations.* With appropriate modifications with respect to SO_2, requirements in Sections III.A. throuh D. also are generally applicable to operations in a SO_2 environment.

Date

Assistant Director, Fluid Leasable Minerals

Approved:

Date

Director, Bureau of Land Management

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Part V

Department of Education

34 CFR Part 221

Assistance for School Construction in Areas Affected by Federal Activities; Proposed Rule

DEPARTMENT OF EDUCATION

34 CFR Part 221

Assistance for School Construction in Areas Affected by Federal Activities

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary of Education proposes to amend the regulations implementing the School Construction Program. The proposed regulations result from a review of current regulations and are designed to clarify requirements and to reduce regulatory burdens on applicants and grantees.

DATES: Comments must be received on or before December 14, 1984.

ADDRESS: Comments should be addressed to Dr. David G. Phillips, Division of Impact Aid, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, D.C. 20202–6272.

FOR FURTHER INFORMATION CONTACT: Dr. David G. Phillips. Telephone: (202) 245–1975.

SUPPLEMENTARY INFORMATION:

Statutory Authorization and Regulatory Implementation

Assistance for School Construction in Areas Affected by Federal Activities—referred to in this notice of proposed rulemaking (NPRM) as the School Construction Program—has been part of the Impact Aid or SAFA Program since 1951. It is authorized by Pub. L. 81–815, as amended (64 Stat. 967, 20 U.S.C. 631–645).

The current regulations implementing the program were published on April 8, 1975 (40 FR 16012) as part 114 of Title 45 of the Code of Federal Regulations (CFR). The regulations were subsequently redesignated as 34 CFR Part 221 (45 FR 77368; November 21, 1980).

Description of Program

Under the School Construction Program the Secretary provides assistance to local educational agencies (LEAs) in whose school district Federal activities affect the size of student memberships, the children's need for facilities, and the LEAs' ability to finance the construction of school facilities.

Federal financial assistance awarded under the program is intended to help grantees construct or otherwise provide urgently needed minimum school facilities for eligible children. These facilities must meet State standards.

Statutory Requirements

While the authorizing statute leaves to the Secretary's discretion certain aspects of the operation of the program, the statute is relatively explicit with regard to a number of requirements.

The statute clearly designates, for example, the types of pupils for whom an LEA is eligible to receive assistance and the minimum number of percentage of these types of pupils an LEA must have to qualify for assistance.

The statute also establishes priorities for funding, specifies the Federal share of a project, limits total payments to an LEA, states conditions under which the Secretary may consider supplemental payments, and specifies circumstances under which the Secretary may grant a waiver or reduction of certain requirements.

Under section 9 the statute contains special provisions governing assistance if an increase in an LEA's membership results from a temporary Federal activity. In addition, under section 10, the statute authorizes the Secretary to arrange for facilities for certain types of pupils for whom an LEA is unable to provide a suitable free public education. The manner in which the Secretary handles requests for assistance under section 10 is discussed in greater detail elsewhere in this preamble.

NPRM Published in June 1979

On June 29, 1979, the Commissioner of Education published in the **Federal Register** (44 FR 38184) an NPRM proposing a number of changes in the current regulations. The changes were designed principally to simplify and clarify the regulations in order to "promote the efficiency and effectiveness" of the program. Interested persons were given 30 days to submit comments or recommendations.

Many comments were received, and the Secretary has considered all of them in preparing these proposed regulations. However, because of the time that has elapsed and because this version of the document contains a number of substantive changes, the Secretary has decided to publish the document as an NPRM and is again inviting public comment.

General Changes in These Proposed Regulations

Some of the changes to the current regulations were included in the NPRM published in June 1979. Other changes result from a review of both the current regulations and that NPRM for the purpose of deregulation.

Among the general changes in the proposed regulations are these:

- The proposed regulations are written in clear, simple English to enhance comprehension by users and other interested parties.
- The provisions of the proposed regulations have been rearranged into a more logical format to aid users.
- The proposed regulations would reduce regulatory burdens by omitting or amending many provisions that exceed statutory authority or that impose excessive paperwork and other requirements on applicants and grantees. The proposed regulations would also eliminate other provisions that are overly prescriptive or unnecessarily repetitious.
- As much as possible, the proposed regulations would leave decision-making to local authorities.
- The proposed regulations contain clearly stated, realistic examples to assist users in understanding complicated formulars and certain other requirements.

Specific Changes in These Proposed Regulations

The specific changes incorporated into this NPRM include the following:

- The proposed regulations would no longer require an LEA to use a prescribed parent-pupil survey in order to obtain an accurate count of pupils. Instead, the NPRM would specify the minimum information the LEA must obtain to identify each federally connected pupil and leave it to each LEA to determine (1) the means of obtaining the count of pupils and (2) what additional information, if any, the LEA would need on file to substantiate the eligibility of children claimed for payment.

For example, the proposed regulations would enable an LEA to avoid duplication and save time and money by permitting the LEA, if it so chooses, to obtain the minimum required information through a parent-pupil survey used by the LEA that same year to identify federally connected children for school assistance grants for maintenance and operation under the Impact Aid Program. In other words, it would not be necessary for the LEA to conduct a second survey or even to transfer the applicable information onto forms for individual pupils.

In addition, the Invitation To Comment section of this preamble specifically asks readers to comment on these proposed requirements and invites suggestions if readers believe there could be a further reduction in burden.

- The proposed regulations would no longer prescribe in detail the required documentation to describe a merger,

consolidation, or similar action affecting an LEA's boundaries, classification, or jurisdiction. Instead, the NPRM would require a successor LEA to (1) demonstrate to the Secretary's satisfaction that its succession meets all requirements of State law and (2) agree to be bound by all assurances and obligations under this part undertaken by the LEA(s) that it has succeeded.

• The proposed regulations would omit many unncessary and non-statutory requirements, including the following:

—The prescriptive provisions governing the Secretary's determination of an LEA's undue financial burden, if applicable.

—The special formula for determining priority indices in cases in which an applicant files applications for more than one project.

—Most or all of the detailed requirements related to (1) the procurement of school facilities under sections 9, 10, and 14 of the Act, (2) requests for construction under section 10 of the Act, (3) property management under sections 9 and 10 of the Act, (4) disposal of facilities provided under section 9 of the Act, and (5) transfer of title of federally owned school facilities under section 10 of the Act. This does not represent a change in policy. Rather, it is designed to remove from regulations provisions that the Secretary includes in deeds and other legal instruments covering these procedures.

• The proposed regulations would alter current provisions governing payments under section 10 of the Act by distinguishing between expenditures for the maintenance, repair, or upgrading of *existing* Federal facilities under the jurisdiction of the Secretary and assistance for the construction of *new* Federal facilities under section 10. The proposed regulations would eliminate a competitive selection process for grants to maintain, repair, or upgrade existing Federal facilities but would retain a competitive selection process for the construction of new facilities (see §§ 221.93 and 221.94).

• The proposed regulations would eliminate the Appendix of guidelines containing recommendations and suggestions for meeting the requirements of the Act and included in the CFR at the end of the current regulations for this program.

Significant Aspects of These Proposed Regulations

In proposing these regulations the Secretary wishes to draw the attention of readers to a number of matters that, the Secretary believes, would benefit from additional explanation, as follows:

Types of Children No Longer Eligible

The Act does not permit an applicant to count certain types of previously eligible children in any application submitted after September 30, 1983. The Secretary interprets this to mean any application submitted after the announced June 30, 1983, cutoff date for applications for assistance in fiscal year 1984 and beyond.

The types of children an LEA may no longer count are as follows:

• A child who resides on Federal property—other than Indian lands—but whose parent is neither on active duty in the uniformed services nor employed on Federal property (section 5(a)(2)(B) of the Act).

• A child who does not reside on Federal property even if the parent is on active duty in the uniformed services or is employed on Federal property (sections 5(a)(2)(A) and 5(a)(2)(C) of the Act).

• A child whose membership in the LEA results from an activity of the United States carried on either directly or through a contractor (section 5(a)(3) of the Act).

The types of children that an LEA may no longer count are, thus, excluded from the term "federally connected children" as that term is used in these proposed regulations.

Temporary Federal Activity

Section 9 of the Act provides for assistance if the membership of an LEA is increased as a result of a temporary Federal activity of one to six years' duration. The duration applies to the *Activity* and not to the time that any particular child is in the LEA's membership.

The LEA includes this type of child in establishing the LEA's *eligibility* under section 5 of the Act, in terms of the LEA's meeting minimum increase requirements. However, in providing *assistance* to the LEA, the Secretary distinguishes between a child identified under section 5 and a child identified under section 9.

Eligibility vs. Payment

An LEA may count all federally connected children in its membership to determine the minimum number or percentage of increase that establishes the LEA's *eligibility*. However, the number of children on which the Secretary bases *payment* to the LEA is determined by the provisions of various sections of the Act.

Factors that may affect payment include, among others: the increase in the number of federally connected children since the base year; the number of children for which the Secretary has not previously granted assistance under this program; the number of children in need of minimum school facilities; and the duration of the Federal activity with which children are associated.

Use of Preapplications

Readers should note that initial requests for assistance under this program—except for requests under section 10 of the Act—are made to the Secretary through preapplications. If the information included in a preapplication qualifies and LEA for assistance, and if the Secretary believes there will be sufficient funds for a grant, the Secretary invites the LEA to submit an application.

Applications under Section 14 of the Act

The Secretary funds an application under section 14 (a), (b), or (c) of the Act only if the Secretary is unable to provide the applicant with sufficient funds for its project under other sections of the Act. Thus, before considering a preapplication or an application under section 14, the Secretary considers the preapplication or application as though it has been submitted under another section; that is, under section 5, 8, or 9, as appropriate.

Use of Estimates

The Act authorizes assistance on the basis of *estimated* numbers of children. Initial estimates are made by an applicant and included in its preapplication. All data in the preapplication are subject to review and verification by the Secretary (1) before the Secretary makes a final determination regarding eligibility, and (2) at the time the Secretary approves a project.

Certification by SEAs

Several provisions of the Act require the Secretary to consult with respective SEAs in considering applications from LEAs. The Secretary believes that the intent of the consultative process within the context of the Act can be met expeditiously by requiring each applicant LEA to submit its application to its SEA for certification. The Secretary does not give consideration to a preapplication or an application that lacks this certification. In addition to certifying a preapplication or an application, an SEA is also free to comment on the document.

Measurements of School Facilities

It is important to distinguish between "facilities available to the LEA" and "minimum school facilities." Although

both terms are defined in § 221.5(c) of these proposed regulations, readers might find it helpful to note some differences. "Facilities available to the LEA" are school facilities that the LEA has or could obtain, as explained in the definition of that term in § 221.5(c). "Minimum school facilities" are facilities that the LEA needs to conduct an educational program that meets State requirements. Under the School Construction Program the Secretary provides assistance to help the LEA makeup the difference between facilities available to the LEA and facilities the LEA needs.

Ineligible Facilities

Certain types of school facilities are outside the definition of "minimum school facilities" and, therefore, may not be acquired with funds under the School Construction Program. Minimum school facilities are those facilities an LEA needs to carry out a school program only for the normal capacity of a given school. Thus, for example, the LEA may not use funds under this program to construct at the school—or elsewhere—a gymnasium, athletic field, auditorium, or other facility intended principally to serve or benefit the general public.

Similarly the LEA may not use funds under this program to construct that portion of a facility whose capacity or equipment exceeds the needs of the regular program and normal capacity of the school. For example, if the LEA wishes to construct a library for use by the general public, as well as by the pupils in a school, the LEA must finance that portion of the library—and any additional equipment—that exceeds the regular needs of the pupils in that school.

Assistance under Section 10 of the Act

Section 10 schools are the property of the U.S. Government. The Secretary provides assistance under this section of the Act for two types of needs: (1) the repair, maintenance, upgrading, or replacement of existing facilities, and (2) the construction of new, nonreplacement facilities. In the case of the former, the Secretary determines the extent and urgency of need and, in any given year, provides assistance to the extent possible. In the case of the latter, if funds are available, the Secretary invites requests—generally from other Federal agencies whose activities result in the presence of children needing school facilities—and establishes priorities among the requests received.

Executive Order 12291

These proposed regulations have been reviewed in accordance with Executve Order 12291.

They are classified as non-major because they do not meet the criteria for major regulations established in the Order.

Regulatory Flexibility Act

The Secretary certifies that these proposed regulations will not have a significant economic impact on a substantial number of small entities.

The small entities affected by these proposed regulations would be small LEAs; the number of LEAs funded under the program is not substantial; and the proposed regulations would not impose burdensome requirements on applicants or grantees.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79 (48 FR 29158; June 24, 1983). The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local process for State and local government coordination and review of proposed Federal financial assistance.

In accordance with the Order, this document is intended to provide early notification of the Department's specific plans and actions for this program.
Invitation to Comment

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations. Written comments and recommendations may be sent to the address given at the beginning of this document. All comments submitted on or before December 14, 1984 will be considered before the Secretary issues final regulations.

The Secretary is especially interested in receiving from LEAs comments on the provisions of § 221.42 regarding information an LEA needs to support a preapplication and an application under this program and the methods the LEA may use to obtain this information. If an LEA believes that any of these requirements is unnecessarily burdensome, the Secretary invites suggestions as to how the burden might be reduced.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Room 2107, 400 Maryland Avenue, SW., Washington, D.C. between the hours of 8:30 a.m and 4:00 p.m., Monday through Friday of each week except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, public comment is invited on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

Paperwork Reduction Act of 1980

The information collection requirements contained in these proposed regulations will be sent to OMB for review under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511).

Information collection requirements are contained in the following sections: 221.10, 221.14, 221.15, 221.20, 221.21(d), (e); 221.24, 221.25, 221.28, 221.29, 221.32, 221.33, 221.36(a), b(2); 221.38, 221.40, 221.42, 221.43, 221.48, 221.49, and 221.63(b).

Comments that only concern information collection requirements should be addressed to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, 17th Street and Pennsylvania Avenue, NW., Washington, D.C. 20503. Attention: Desk Officer for the U.S. Department of Education.

All other comments regarding these proposed regulations should be sent to the Department of Education at the address given at the beginning of this preamble.

List of Subjects on 34 CFR Part 221

Education, Elementary and secondary education, Federally affected areas, Grant programs—education, Reporting and recordkeeping requirements, School construction.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these proposed regulations.

Dated: October 9, 1984.

(Catalog of Federal Domestic Assistance No. 84.040, School Assistance in Federally Affected Areas—Construction)

T.H. Bell

Secretary of Education.

The Secretary proposes to revise Part 221 of Title 34 of the Code of Federal Regulations to read as follows:

PART 221—ASSISTANCE FOR SCHOOL CONSTRUCTION IN AREAS AFFECTED BY FEDERAL ACTIVITIES

Subpart A—General

Sec.

221.1 Assistance for School Construction in Areas Affected by Federal Activities.
221.2 Who is eligible under the School Construction Program?
221.3 What regulations apply to the School Construction Program?
221.4 Under what circumstances may the Secretary waive or reduce requirements?
221.5 What definitions apply to the School Construction Program?

Subpart B—What Are the Specific Eligibility Requirements for Assistance Under the School Construction Program?

Eligibility Under Section 5 of the Act

221.10 What are the requirements for eligibility under section 5 of the Act?
221.11 What children may be counted as federally connected?
221.12 How does an LEA measure an increase?
221.13 What is the required minimum increase in the number or percentage of an LEA's federally connected children?
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Eligibility Under Section 9 of the Act

221.20 What are the requirements for eligibility under section 9 of the Act?
221.21 What other requirements apply to eligibility under section 9?

Eligibility Under Section 14(a) of the Act

221.24 What are the requirements for eligibility under section 14(a) of the Act?
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Eligibility Under Section 14(b) of the Act

221.28 What are the requirements for eligibility under section 14(b) of the Act?
221.29 What requirements for eligibility under section 14(b) are subject to waiver or exemption?

Eligibility Under Section 14(c) of the Act

221.32 What are the requirements for eligibility under section 14(c) of the Act?
221.33 What requirements for eligibility under section 14(c) is subject to waiver?

Eligibility Under Section 8(1) of the Act

221.36 What are the requirements for eligibility under section 8(1) of the Act?

Eligibility Under Section 8(2) of the Act

221.38 What are the requirements for eligibility under section 8(2) of the Act?

Subpart C—How Does an LEA Apply for Assistance Under the School Construction Program?

221.40 What are the general requirements for submitting a preapplication and an application under the School Construction Program?
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221.43 What general provisions apply to a request for a waiver or reduction of certain requirements?
221.44 What information must an SEA certify?
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221.48 What are the requirements for submitting an application under section 8(2) of the Act?
221.49 What general requirements apply to changes in an LEA's legal organization or jurisdiction?

Subpart D—How Does the Secretary Determine Priorities for Funding Among Eligible Applications?

221.50 What priorities does the Secretary apply?
221.51 How does the Secretary compute priority indices and rank preapplications?
221.52 What procedures does the Secretary follow if two or more preapplications in the same group have identical indices?
221.53 What effect may a delay in the starting date of construction have on an applicant's priority ranking?

Subpart E—How Much Assistance Is Available Under the Act?

221.60 What assistance may the Secretary make available under section 5 of the Act?
221.61 What assistance may the Secretary make available under section 9 of the Act?
221.62 What assistance may the Secretary make available under section 14 of the Act?
221.63 What assistance may the Secretary make available under section 8 of the Act?
221.64 In what order does the Secretary fund applications?
221.65 When may the Secretary make payments under the Act?

Subpart F—What Conditions Must Be Met by a Grantee?

221.70 What activities by a grantee require prior approval by the Secretary?
221.71 What provisions of the Indian Self-Determination and Education Assistance Act apply to the School Construction Program?

Subpart G—What Requirements Govern Administrative Hearings Under the School Construction Programs?

221.80 Under what circumstances may an LEA request an administrative hearing?
221.81 How does an LEA request a hearing?
221.82 How does the Secretary treat a request for a hearing?

Subpart H—What Special Provisions Govern Assistance Under Section 10 of the Act?

221.90 Under what circumstances does the Secretary make arrangements for the provision of minimum school facilities under section 10 of the Act?
221.91 What criteria does the Secretary use in determining whether a free public education is "suitable"?
221.92 For what types of children does the Secretary make arrangements for the provision of facilities under section 10?
221.93 For what types of projects may the Secretary provide assistance under section 10?
221.94 How does the Secretary compute priority indices and rank requests for new facilities under section 10?
221.95 What terms and conditions apply to minimum school facilities operated under section 10 by another agency?
221.96 What terms and conditions apply to the transfer of minimum school facilities by the Secretary to an LEA?

Authority: Pub. L. 81–815, as amended, 64 Stat. 967 (20 U.S.C. 631–645), unless otherwise noted.

Subpart A—General

§ 221.1 Assistance for School Construction in Areas Affected by Federal Activities.

(a) The program of Assistance for School Construction in Areas Affected by Federal Activities—referred to in these regulations as the School Construction Program—provides Federal financial assistance to help local educational agencies (LEAs) construct urgently needed minimum school facilities in school districts that have been affected by various Federal activities.

(b)(1) Under the School Construction Program the Secretary—as authorized in section 10 of the Act (Pub. L. 81–815)—may also make arrangements with another Department or agency to provide minimum school facilities for certain federally connected children in cases in which no LEA is able to provide a suitable free public education for these children.

(2)(i) The provisions governing these arrangements are contained in Subpart H of these regulations.

(ii) These arrangements do not provide assistance directly to an LEA.

(20 U.S.C. 631–645, 647)

§ 221.2 Who is eligible under the School Construction Program?

(a) *Assistance.* (1) The types of LEAs listed in paragraphs (b) through (f) of this section are eligible for assistance under the School Construction Program.

(2) Each paragraph refers to a specific section of Pub. L. 81–815, entitled School Construction in Areas Affected by Federal Activities, referred to in these regulations as "the Act."

(b) *Eligibility under section 5.* (1) An LEA is eligible under section 5 of the Act because of an increased number of federally connected children.

(2) The requirements for eligibility under section 5 are contained in §§ 221.10 and 221.15 of these regulations.

(c) *Eligibility under section 9.* (1) An LEA is eligible under section 9 of the Act because a temporary Federal activity has caused an increase in the number of federally connected children.

(2) The requirements for eligibility under section 9 are contained in §§ 221.20 and 221.21.

(d) *Eligibility under section 14(a) and 14(b).* (1) An LEA is eligible under section 14(a) or 14(b) of the Act if it—

(i) Serves children residing on Indian lands; and

(ii) Has financial need.

(2) The requirements for eligibility under section 14(a)—including the criteria for determining financial need—are contained in §§ 221.24 and 221.25.

(3) The requirements for eligibility under section 14(b) are contained in §§ 221.28 and 221.29.

(e) *Eligibility under section 14(c).* An LEA is eligible under section 14(c) of the Act if—

(i) A substantial portion of the land area in the LEA's school district is Federal property; and

(ii) The LEA has financial need.

(2) The requirements for eligibility under section 14(c)—including the criteria for determining financial need—are contained in §§ 221.32 and 221.33.

(f) *Eligibility under section 8(1) and 8(2).* (1) An LEA is eligible for supplementary assistance under section 8 of the Act if the LEA has already established its eligibility under section 5, 9, or 14 of the Act.

(2) The requirements for eligibility under section 8(1) are contained in § 221.36.

(3) The requirements for eligibility under section 8(2) are contained in § 221.38.

(g) *Arrangements.* Another Department or agency is eligible to enter into an arrangement with the Secretary for the provision of minimum school facilities under section 10 of the Act if the requirements for an arrangement under § 221.90 are satisfied.

(20 U.S.C. 635, 638–640, 644)

§ 221.3 What regulations apply to the School Construction Program?

The following regulations apply to the School Construction Program:

(a) The Education Department General Administrative Regulations (EDGAR) as follows:

(1) 34 CFR Part 74 (Administration of Grants) except for the following:

(i) Section 74.94 (Payment methods under construction grants).

(ii) Subpart O (Property).

(2) 34 CFR Part 75 (Direct Grant Programs) except for the following:

(i) Section 75.603 (Grantee's title to site).

(ii) Section 75.605 (Beginning the construction).

(3) 34 CFR Part 77 (Definitions that Apply to Department Regulations) except for the following terms:

(i) "Local educational agency" (LEA).

(ii) "State."

(iii) "State educational agency" (SEA).

(4) 34 CFR Part 78 (Education Appeal Board) if the Secretary refers to the Education Appeal Board a request for an administrative hearing under section 11(a) of the Act.

(5) 34 CFR Part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(b) The regulations in 34 CFR Part 218 (Hearings in Connection with School Construction and Financial Assistance in Federally Impacted Areas).

(c) The regulations in this Part 221.

(20 U.S.C. 3474)

§ 221.4 Under what circumstances may the Secretary waive or reduce requirements?

(a) The Secretary may waive or reduce certain requirements of this part—governing an LEA's eligibility to participate in the School Construction Program or limiting the amount of payment on LEA may receive under the program—if the Secretary determines that a waiver or reduction is necessary—

(1) To avoid inequity; and

(2) To avoid defeating the purposes of the Act.

(b) The general provisions that apply to the waiver or reduction of certain requirements are in § 221.43.

(c) The specific requirements that the Secretary may waive or reduce and the circumstances under which the Secretary may waive or reduce these requirements are identified in applicable provisions of this part.

(20 U.S.C. 635, 639, 644)

§ 221.5 What definitions apply to School Construction Program?

(a) *Definitions in the Act.* The following terms used in this part are defined in section 15 of the Act:

Base year
Child
Construct, Constructing, Construction
Federal property
Free public education
Increase period
Indian lands (included in the definition of "Federal property")
Local educational agency (LEA)
Low-rent housing (included in the definition of "Federal property")
Parent
School facilities
State
State educational agency (SEA)

(b) *Definitions in EDGAR.*

The following terms used in this part are defined in 34 CFR Part 77 (Definitions that Apply to Department Regulations):

Applicant
Application
Award
Department
EDGAR
Equipment
Fiscal year
Grant
Grantee
Project
Secretary
Work of art

(c) *Definitions that apply to this part.* The following definitions apply to this part:

"Attendance area" means the geographic area in which the children normally served by a school reside.

(20 U.S.C. 635(e), 644 (a), (b), (c))

"Average daily membership" means—

(1) The definition given to that term by State law; or

(2) If State law does not define the term, the total days of membership of all pupils in an LEA's schools divided by the total number of days the schools were in session.

(20 U.S.C. 645(5))

"Contracts-let-date" means the date of which the Secretary files with the Office of the Federal Register a notice setting a closing date for receipt of preapplications.

(20 U.S.C., 634)

"Facilities available to the LEA."

(1) This term means classrooms and related facilities, such as the following, which the Secretary considers in determining an LEA's need for assistance under this part:

(i) Existing school facilities constructed for educational purposes and currently suitable for instruction.

(ii) All school facilities for which a construction contract has been awarded before the contracts-let-date.

(iii) Facilities constructed or to be contructed, contracted for, or supported with financial assistance under any other grant under the Act—that is, under the School Construction Program or under the Program of School Construction Assistance in Cases of Certain Disasters (section 16 of the Act)—or under any other type of assistance.

(iv) Portable facilities used for instuction if—

(A) The facilities were purchased with funds under the Act; or

(B) The State counts the facilities as instructional facilities for the purpose of computing State construction aid.

(v) If the LEA is applying under section 8, 14(a), or 14(c) of the Act, potential facilities available to the LEA that could be built using, local, State, or other Federal sources, including other funds under the Act.

(2) This term does not mean—

(i) Areas unsuitable for education, such as hallways and basement rooms not constructed for educational purposes; and

(ii) Facilities that must be abandoned by the end of the second year following the increase period, for applicants under sections 5, 8(1), and 9, or by the end of the second year following the school year for which the applicant seeks assistance, for applicants under section 14.

(20 U.S.C. 631, 634, 645(10))

"Federally connected children" means those children whose inclusion in an LEA's membership results from a permanent or temporary Federal activity. Each of these children can be identified in one of the categories listed in § 221.11.

(20 U.S.C. 238(a), 644(a))

"Isolated" means, with reference to an attendance area, that distance, topography, climate, traffic conditions, or another factor makes it impracticable to transport children in that attendance area to other school facilities.

(20 U.S.C. 635(e), 644 (a), (b), (c))

"Membership."

(1) This term means—

(i) The definition given to the term by State law; or

(ii) If State law does not define the term, the number of children listed on an LEA's current enrollment records.

(2) As used in paragraph (1)(ii) of this definition, this term does not include children who have—

(i) Permanently left the LEA; or

(ii) Otherwise become ineligible to attend classes there.

(3) If a child resides in the school district of an LEA that pays tuition to another LEA in whose district the child attends school, the child is counted in—

(i) The membership of the LEA of the child's district of residence; or

(ii) If both LEAs agree and the Secretary approves, the membership of the LEA in whose district the child attends school.

(20 U.S.C. 645(5))

"Minimum school facilities."

(1) This term means those school facilitates for which the Secretary may provide assistance under this part if—

(i) The Secretary, after consultation with the SEA and the LEA, considers these facilities necessary to support an educational program—

(A) For the membership to be served at normal capacity; and

(B) In accordance with the laws and common practice in the State; and

(ii) To the extent appropriate in view of the uses to be made of the facilities, they are accessible to and usable by handicapped persons.

(2) The term includes, but is not restricted to—

(i) Classrooms and auxiliary rooms; and

(ii) Machinery, utilities, and initial equipment, to the extent that these are necessary or appropriate for school purposes.

(3) The Secretary also considers the term to include—

(i) Works of art at a cost that does not exceed one percent of the cost of the project;

(ii) Within school buildings, spaces that—

(A) Provide shelter from nuclear fallout; and

(B) Are constructed at a nominal cost as part of a larger project; and

(iii) In the case of an application under section 9 or 10 of the Act, off-site improvements and interests in land.

(20 U.S.C. 639, 640, 644, 645(9), (10), EO 11490)

"Non-Federal share" means that portion of a project's cost supplied by a source or sources other than the Secretary under this Act.

(20 U.S.C. 635)

"Normal capacity" means the number of pupils a school facility accommodates under ordinary conditions according to the laws and common practice of the State in which the facility is located.

(20 U.S.C. 634, 645(9), (10))

"Temporary," with reference to an activity, means an activity of the United States—

(1) Carried on either directly or through a contractor; and

(2) Continuing for at least one year but not more than six years.

(20 U.S.C. 635, 639)

"Unhoused children" means those children in an LEA's membership whose number exceeds the normal capacity of facilities available to the LEA.

(20 U.S.C. 634, 640, 644, 645(10))

"Uniformed services."

(1) This term means the Army, Navy, Air Force, Marine Corps, Coast Guard, National Oceanic and Atmospheric Administration, and Public Health Service.

(2) This definition applies to a uniformed service of the United States.

(20 U.S.C. 238(a)(2), 635(a) (1)(A), (2)(A); 37 U.S.C. 101)

Subpart B—What Are the Specific Eligibility Requirements for Assistance Under the School Construction Program?

Eligibility Under Section 5 of the Act

§ 221.10 What are the requirements for eligibility under section 5 of the Act?

(a) An LEA is eligible to receive Federal financial assistance under section 5 of the Act if the Secretary determines that, during an increase period—that is, a period of four consecutive school years—the LEA has experienced or will have experienced a substantial increase in the number of federally connected children.

(b) In calculating the increase in federally connected children the LEA shall meet the requirements of §§ 221.11 through 221.13.

(20 U.S.C. 635, 645(16))

§ 221.11 What children may be counted as federally connected?

An LEA may count as federally connected those children whom the LEA can identify in one or both of the two categories described in paragraphs (a) and (b) of this section. The statutory reference for each category appears in parentheses after the title of the category.

(a) *Category 1* (section 5(a)(1)(A) of the Act). A child is in category 1 if the child—

(1)(i) Resides on Federal property; and

(ii) Has a parent on active duty in the uniformed services; or

(2) Resides on Indian lands.

(b) *Category 2* (section 5(a)(1)(B) of the Act). A child is in category 2 if the child—

(1) Resides on Federal property; and

(2) Resides with a parent employed on Federal property situated in whole or in part in the same State as the school district of the LEA.

(c) In counting federally connected children for its eligiblity, an LEA may include—

(1) Children whose membership results from permanent Federal activities (eligibility under section 5 of the Act); and

(2) Children whose membership results from temporary Federal activities (eligibility under section 9 of the Act).

(Note.—Although an LEA in establishing its eligibility for assistance under section 5 of the Act may count children who qualify under section 9 of the Act, the Secretary does not include for payment under section 5 those children who qualify under section 9. See § 221.60(c)(1).)

(20 U.S.C. 238(a), 635(a))

§ 221.12 How does an LEA measure an increase?

(a) An LEA that claims an increase in federally connected children must show that the increase has occurred during an increase period.

(b) An increase in federally connected children is the difference between—

(1) The estimated number of federally connected children in the LEA's membership at the close of the increase period; and

(2) The estimated number of federally connected children in the LEA's average daily membership during the base year; that is, during the school year immediately preceding the first year of the increase period.

Example. If the increase period covers the four consecutive school years of 1980–81, 1981–82, 1982–83, and 1983–84, the base year would be 1979–80.

(20 U.S.C. 634, 635)

§ 221.13 What is the required minimum increase in the number or percentage of an LEA's federally connected children?

To be eligible for assistance under section 5 of the Act, an LEA must have at the close of an increase period, an estimated increase of—

(a) At least 20 federally connected children, constituting at least 6 percent of the LEA's total average daily membership during the base year; or

(b) At least 1,500 federally connected children, if the estimated increase constitutes less than the 6 percent required in paragraph (a) of this section.

(20 U.S.C. 635 (a), (b), (c))

§ 221.14 Under what circumstances may an LEA request a waiver or reduction of the minimum increase in the number of federally connected children?

(a) In applying for assistance under this part, an LEA may request a waiver or reduction of the requirement in § 221.13(a) that, at the end of the increase period, the LEA have an increase of at least 20 federally connected children.

(b) The Secretary considers the request for a waiver or reduction if the LEA meets the following conditions:

(1) The LEA has an isolated attendance area that is affected by Federal activity.

(2) The estimated increase in the number of the LEA's federally connected children at the end of the increase period is at least 25 percent of the LEA's total average daily membership in the base year.

(3) At the end of the increase period, the LEA will have in its membership federally connected children residing in the isolated attendance area who lack minimum school facilities.

(c) The general provisions that apply to this waiver or reduction are in § 221.43.

(20 U.S.C. 635 (c), (e))

§ 221.15 Under what circumstances may an LEA request a waiver or reduction of the minimum percentage increase in the number of federally connected children?

(a) In applying for assistance under this part, an LEA may request a waiver or reduction of the requirement in § 221.13(a) that, at the end of the increase period, the LEA have an increase of at least 6 percent of its total average daily membership during the base year.

(b) The Secretary considers the request for a waiver or reduction if the LEA meets the following conditions:

(1) The LEA has an isolated attendance area that is affected by Federal activity.

(2) The estimated increase in federally connected membership in the isolated attendance area at the end of the increase period is at least 10 percent of the total average daily membership in the isolated attendance area during the base year.

(3) At the end of the increase period, the LEA will have in its membership federally connected children residing in the isolated attendance area who lack minimum school facilities.

(c) The general provisions that apply to this waiver or reduction are in § 221.43.

(20 U.S.C. 635)

Eligibility Under Section 9 of the Act

§ 221.20 What are the requirements for eligibility under section 9 of the Act?

An LEA is eligible to receive Federal financial assistance under section 9 of the Act if—

(a) During an increase period the LEA has experienced a substantial increase in the number of federally connected children; and

(b) The Secretary determines that some or all of these children are in the LEA's membership because of a temporary Federal activity.

(20 U.S.C. 639)

§ 221.21 What other requirements apply to eligibility under section 9?

The following provisions of this part also govern the eligibility of an LEA for Federal financial assistance under section 9 of the Act:

(a) Section 221.11: What children may be counted as federally connected?

(b) Section 221.12: How does an LEA measure an increase?

(c) Section 221.13: What is the required minimum increase in the number or percentage of an LEA's federally connected children?

(d) Section 221.14: Under what circumstances may an LEA request a waiver or reduction of the minimum increase in the number of federally connected children?

(e) Section 221.15: Under what circumstances may an LEA request a waiver or reduction of the minimum percentage increase in the number of federally connected children?

(20 U.S.C. 635, 639)

Eligibility Under Section 14(a) of the Act

§ 221.24 What are the requirements for eligibility under section 14(a) of the Act?

An LEA is eligible to receive Federal financial assistance under section 14(a) of the Act if it meets the following requirements:

(a) The LEA is providing, or will be providing on completion of the project, free public education to children in its membership who reside on Indian lands.

(b) The LEA is not eligible, under either section 5 or section 9 of the Act, for enough Federal financial assistance to provide minimum school facilities.

(c) Any one of the following three conditions exists:

(1) At least 15 of the LEA's children, constituting at least 33⅓ percent of the LEA's total membership, reside on Indian lands.

(2) The land area of Indian lands constitutes at least one-third of the total land area of the LEA's school district.

(3) The LEA is providing, or will be providing on completion of the project, free public education for at least 100 children residing on Indian lands outside the boundaries of the LEA's school district.

(d) The immunity of Indian lands to taxation creates a substantial and continuing impairment of the LEA's ability to finance needed school facilities.

(e) The LEA is making a reasonable tax effort and is diligently making use of State and other available financial assistance to provide the needed facilities.

(f) Despite full use of the facilities available to it, the LEA lacks the resources to provide minimum school facilities for at least 5 percent of the estimated number of children who will be in the LEA's membership at the end of the second year following the school year for which the applicant seeks assistance.

(20 U.S.C. 644(a))

§ 221.25 What requirements for eligibility under section 14(a) are subject to waiver or exemption?

(a) *Waiver.* The Secretary considers a request for a waiver of the 33⅓ percent requirement in § 221.24(c)(1) if an LEA meets the following three requirements:

(1) The LEA has an isolated attendance area that includes children who reside on Indian lands.

(2) The LEA is providing, or will be providing on completion of the project, free public education in this isolated attendance area to at least 15 children residing on Indian lands and constituting at least 20 percent of the LEA's total membership.

(3) The land area of Federal property constitutes at least 80 percent of the total land area of the LEA's school district.

(b) *General provisions.* The general provisions that apply to this waiver are in § 221.43.

(c) *Exemption.* The LEA does not have to meet the condition described in § 221.24(d) if the LEA is providing free public education for at least 100 children residing on Indian lands outside the boundaries of the LEA's school district.

(20 U.S.C. 644(a))

Eligibility Under Section 14(b) of the Act

§ 221.26 What are the requirements for eligibility under section 14(b) of the Act?

An LEA is eligible to receive Federal financial assistance under section 14(b) of the Act if it meets the following requirements:

(a) The requirements of § 221.24 (a), (b), and (d).

(b) Any one of the following three conditions exists:

(1) At least 15 of the LEA's children, constituting at least 10 percent of the LEA's total membership, reside on Indian lands.

(2) The land area of Indian lands constitutes at least 10 percent of the total land area of the LEA's school district.

(3) The LEA is providing, or will be providing on completion of the project, free public education for at least 100 children residing on Indian lands outside the boundaries of the LEA's school district.

(20 U.S.C. 644(b))

§ 221.29 What requirements for eligibility under section 14(b) are subject to waiver or exemption?

(a) *Waiver.* The Secretary considers a request for a waiver of the 10 percent requirement in § 221.28(b)(1) if an LEA meets the following three requirements:

(1) The LEA has an isolated attendance area that includes children who reside on Indian lands.

(2) The LEA is providing, or will be providing on completion of the project, free public education in this isolated attendance area to at least 15 children residing on Indian lands and constituting at least 5 percent of the LEA's total membership.

(3) The land area of Federal property constitutes at least 20 percent of the total land area of the LEA's school district.

(b) *General provisions.* The general provisions that apply to this waiver are in § 221.43.

(c) *Exemption.* The LEA does not have to meet the condition described in § 221.24(d) if the LEA is providing free public education for at least 100 children residing on Indian lands outside the boundaries of the LEA's school district.

(20 U.S.C. 644(b))

Eligibility Under Section 14(c) of the Act

§ 221.32 What are the requirements for eligibility under section 14(c) of the Act?

An LEA is eligible to receive Federal financial assistance under section 14(c) of the Act if it meets the following requirements:

(a) The requirements of § 221.24 (b), (e), and (f).

(b) The land area of Federal property constitutes at least 33⅓ percent of the total land area of the LEA's school district.

(c) At least 20 of the LEA's children, constituting at least 33⅓ percent of the LEA's total membership, lack or will lack minimum school facilities.

(d) The immunity of Federal property to taxation creates a substantial and continuing impairment of the LEA's ability to finance needed school facilities.

(20 U.S.C. 644(c))

§ 221.33 What requirement for eligibility under section 14(c) is subject to waiver?

(a) The Secretary considers a request for a waiver of the 33⅓ percent requirement in § 221.32(c) if an LEA meets the following three requirements:

(1) The LEA has an isolated attendance area with children who lack minimum school facilities.

(2) The LEA is providing, or will provide free public education in this isolated attendance area to at least 20 children lacking minimum school facilities and constituting at least 20 percent of the LEA's total membership.

(3) The land area of Federal property constitutes at least 80 percent of the total land area of the LEA's school district.

(b) The general provisions that apply to this waiver are in § 221.43.

(20 U.S.C. 644(c))

Eligibility Under Section 8(1) of the Act

§ 221.36 What are the requirements for eligibility under section 8(1) of the Act?

(a) If the Secretary makes available supplemental Federal financial assistance under section 8(1) of the Act, an LEA is eligible to receive this assistance if the LEA—

(1) Is eligible to receive a grant under section 5 of the Act; and

(2) Has not received the grant because of its inability to finance the non-Federal share of the proposed project.

(b) In determining the LEA's eligibility under section 8(1), the Secretary requires that the LEA meet at least the following conditions:

(1) The LEA's eligibility under sections has not been achieved by reason of a waiver or reduction under § 221.14 or 221.15.

(2) The LEA demonstrates to the satisfaction of the Secretary that it is fully using or will fully use all other facilities available to the LEA.

(3)(i) The estimated number of the LEA's federally connected children who may be counted for payment is at least 12 percent of the LEA's average daily membership in the base year.

(ii) However—

(A) If the LEA has used one year of the increase period as a basis for payment under a previous application under the Act, the percentage requirement under paragraph (b)(3)(i) of this section is at least 9 percent;

(B) If the LEA has used two years of the increase period as a basis for payment under a previous application under the Act, the percentage requirement under paragraph (b)(3)(i) of this section is at least 6 percent; and

(C) If the LEA has used three years of the increase period as a basis for payment under a previous application under the Act, the percentage requirement under paragraph (b)(3)(i) of this section is at least 3 percent.

Example. An LEA submits a preapplication for Federal financial assistance under section 8(1) of the Act to supplement a grant under section 5 of the Act, based on an increase period consisting of the following school years: 1980–81, 1981–82, 1982–83, 1983–84. During the base year (1979–80), the LEA's average daily membership was 3,750. Under paragraph (b)(3)(i) of this section, the estimated number of the LEA's federally connected children who may be counted for payment would have to be at least 450 children; that is, at least 12 percent of the LEA's average daily membership in the base year.

However, in this example, the same LEA has previously submitted another eligible preapplication under section 5 of the Act for an increase period consisting of the following school years: 1978–79, 1979–80, 1980–81 and 1980–82. This means that the LEA is using in its current preapplication two of the same school years (1980–81 and 1981–82) used as a basis for payment under its previous preapplication. Thus, under paragraph (b)(3)(ii)(B) of this section, the estimated number of the LEA's federally connected children who may be counted for payment under the current reapplication must be at least 225; that is, at least 6 percent of the LEA's average daily membership in the base year.

(20 U.S.C. 635, 638)

Eligibility Under Section 8(2) of the Act

§ 221.38 What are the requirements for eligibility under section 8(2) of the Act?

If the Secretary makes available supplemental Federal financial assistance under section 8(2) of the Act, an LEA is eligible to receive this assistance if—

(a) The LEA has received a grant under section 5, 8, 9, or 14 of the Act;

(b) The LEA is unable to complete the project because of flood, fire, or similar emergency affecting—

(1) The work on the project; or

(2) The LEA's ability to finance the non-Federal share of the project; and

(c) The LEA demonstrates to the satisfaction of the Secretary that it is fully using or will fully use all other facilities available to the LEA.

(20 U.S.C. 635, 638)

Subpart C—How Does an LEA Apply for Assistance Under the School Construction Program?

§ 221.40 What are the general requirements for submitting a preapplication and an application under the School Construction Program?

(a) To be considered for assistance under the School Construction Program, except in the case of an application under section 8(2) of the Act, an LEA must submit to the Secretary—

(1) A preapplication; and

(2) If invited by the Secretary—on the basis of the likelihood of funding—an application that meets the requirements of section 6(b)(1) of the Act.

(b)(1) The Secretary publishes in the **Federal Register** a notice that establishes a closing date for the receipt of preapplications.

(2) If the Secretary invites an LEA to submit an application under this part, the Secretary establishes in the letter of invitation a closing date for the receipt of the application.

(c)(1) The LEA shall submit its preapplication and its application to the Secretary through its State educational agency (SEA).

(2) The LEA shall submit its preapplication or application to its SEA at least 15 days before the deadline date for submitting the preapplication or application to the Secretary.

(d) The requirements for submitting an application under section 8(2) of the Act are in § 221.48

(20 U.S.C. 636)

§ 221.41 During what year must an LEA file its preapplication?

(a) In order to be considered for assistance under section 5, 9, or 8(1) of the Act, an LEA must submit its preapplication during the third or fourth year of an increase period; that is, during the third or fourth year following the base year selected by the LEA.

Example. An LEA submits a preapplication for Federal financial assistance under section 5, 9, or 8(1) of the Act for an increase period consisting of the following school years: 1980–81, 1981–82, 1982–83, 1983–84. The base year for this application is 1979–80. To be considered for assistance, the LEA must submit its preapplication during the 1982–83 school year (the third year of the increase period) or during the 1983–84 school year (the fourth year of the increase period).

(b) During the same school year an LEA may submit preapplications—under section 5, 9, or 8(1) of the Act—related to two different base years.

Example. During 1982–83, the third year of the increase period, an LEA may submit a preapplication for Federal financial assistance under section 5, 9, or 8(1) of the Act for an increase period consisting of the following school years: 1980–81, 1981–82, 1982–83, 1983–84, with 1979–80 as the base year.

During the same year, 1982–83, the fourth year of another increase period, the LEA may submit a preapplication for Federal financial assistance under section 5, 9, or 8(1) of the Act for an increase period consisting of the following school years: 1979–80, 1980–81, 1981–82, 1982–83, with 1978–79 as the base year.

Thus, in 1982–83, the LEA may submit a preapplication related to base year 1979–80 and a preapplication related to base year 1978–79.

(c) In order to be considered for assistance under section 14 (a), (b) or (c) of the Act, an LEA must submit its preapplication during the first or second school year before the school year for which it seeks assistance.

Example. An LEA estimates that it will qualify for assistance under section 14(a), 14(b), or 14(c) of the Act during the 1985–86 school year. The LEA must apply for assistance during the 1983–84 school year or the 1984–85 school year.

(20) U.S.C. 635, 638, 639, 644, 645(15))

§ 221.42 What information does an LEA need to support a preapplication and an application under the School Construction Program?

(a) During the year in which it submits its preapplication, an LEA shall—

(1) Determine the number of children in its membership; and

(2) Identify the number of children in the membership who are federally connected.

(b)(1) The determination or identification made by the LEA under paragraph (a) of this section shall be as of the same date throughout the LEA's school district.

(2) This date shall be during the regular school year at a time before the closing date for the transmittal of applications.

(c) In identifying federally connected children the LEA may collect whatever information the LEA needs to—

(1) Establish the LEA's eligibility under the School Construction Program; and

(2) If necessary, substantiate factors that might affect the amount of payment to the LEA under the program.

(d) For each federally connected child identified by the LEA, the information referred to in paragraph (c) of this section must include the following:

(1) Name.

(2) Date of birth.

(3) School in which enrolled.

(4) Grade in school.

(5)(i) The name and address of the Federal property on which the child

resides, including Indian land if applicable; and

(ii) In the case of low-rent housing under the United States Housing Act of 1937, the identification number assigned to that housing by the U.S. Department of Housing and Urban Development.

(6) If the child is federally connected because the child has a parent on active duty in a uniformed service—

(i) The parent's name;

(ii) The parent's rank;

(iii) The name of the uniformed service; and

(iv) An attestation of the parent's active duty status.

(7) If the child is federally connected because the child resides with a parent employed on Federal property situated in whole or in part in the same State as the school district of the LEA—

(i) The parent's name; and

(ii)(A) The name and address of the Federal property where the parent is employed; or

(B) If the parent is a civilian employed on a Federal vessel, the name, hull number, and home port of the vessel and the name of the controlling agency.

(e) The LEA may obtain the information in paragraph (d)(5) of this section from any of the following:

(1) A parent of the child.

(2) An appropriate official of the Federal installation on which the child resides or of the Federal housing in which the child resides.

(3) If applicable, an appropriate tribal official.

(f) The LEA may obtain the information in paragraph (d)(6) of this section from either or both of the following:

(1) A parent of the child.

(2) An appropriate official of the uniformed service in which the parent is on active duty.

(g) The LEA may obtain the information in paragraph (d)(7) of this section from either or both of the following:

(1) A parent of the child.

(2) The employer of the parent employed on Federal property.

(h) The LEA shall obtain from the source or sources of information referred to in paragraphs (e), (f), and (g) of this section—

(1) The sources's signature; and

(2) The date of signing.

(i) In identifying federally connected children the LEA may meet the requirements of paragraphs (d) through (h) of this section by means of the parent-pupil survey used by the LEA that same school year to identify federally connected children under 34 CFR Part 222 (Assistance for Local Educational Agencies in Areas Affected by Federal Activities and Arrangements for Education of Children Where Local Educational Agencies Cannot Provide Suitable Free Public Education).

(j) The Secretary may require the LEA to update any of the information referred to in this section at the time the LEA files its application.

(k) For purposes of this section, "parent" means—

(1) Mother;

(2) Father;

(3) Legal guardian; or

(4) Another person standing in place of the parent.

(20 U.S.C. 238, 635)

§ 221.43 What general provision apply to a request for a waiver or reduction of certain requirements?

(a) If an LEA seeks a waiver or reduction of a requirement of these regulations for which the Secretary may grant a waiver or reduction, the LEA shall submit its request as a separate document together with its preapplication.

(b) The LEA shall—

(1) State in the request the specific requirement(s) for which the LEA seeks the waiver or reduction; and

(2) Include in the request information the Secretary requires to determine whether the waiver or reduction is warranted.

(c) The Secretary determines—

(1) The extent of any waiver or reduction; and

(2) The portion of the LEA's jurisdiction for which the LEA receives assistance as a result of the waiver or reduction.

(20 U.S.C. 635(e), 639, 644 (a), (b), (c))

§ 221.44 What information must an SEA certify?

(a) *Preapplication.* In transmitting a preapplication from an LEA to the Secretary, an SEA must certify that, to the best of the SEA's knowledge, the information in the preapplication is accurate and complete.

(b) *Application.* In transmitting an application from an LEA to the Secretary, an SEA must certify that the proposed project is not inconsistent with overall State plans for the construction of school facilities.

(20 U.S.C. 636)

§ 221.45 What procedures does an SEA follow in certifying a preapplication or an application?

(a) The deadline dates for the receipt of SEA certifications are the same dates the Secretary establishes under § 221.40(b) for the receipt of preapplications and applications from LEAs.

(b) If the SEA certifies a preapplication or application, the appropriate SEA official shall—

(1) Sign a statement that certifies the document; and

(2) Submit the document and the statement by the deadline date for certification. The procedures in EDGAR, 34 CFR 75.102 (Deadline date for applications), apply to this submission.

(c)(1) If an SEA certifies a preapplication and an application on or before the appropriate deadline dates for SEA certification, the Secretary may select that project for a grant.

(2) If an SEA does not certify a preapplication or an application on or before the appropriate deadline dates for SEA certification, the Secretary does not select that project for a grant.

(20 U.S.C. 3474)

§ 221.46 How may an SEA comment on a preapplication or an application?

(a) An SEA that receives a preapplication or an application under this part may review and comment on the preapplication or application in addition to making the certification under § 221.44.

(b) In commenting on the LEA's preapplication or application, the SEA shall follow the provisions in EDGAR for State Comment Procedures (34 CFR 75.155 through 75.160).

(c)(1) The Secretary encourages the SEA to submit its comments, if any, together with the certified preapplication or application when the SEA forwards that document to the Secretary.

(2) If the SEA submits its comments to the Secretary separately from the certified preapplication or application, the SEA shall meet the requirements of 34 CFR 75.158 (Deadlines for State comments).

(20 U.S.C. 636, 645)

§ 221.47 What types of comments does the Secretary consider?

In evaluating an LEA's preapplication or application under this part, the Secretary considers—in addition to the provisions of 34 CFR 75.159(a)—those comments of an SEA that relate to—

(a) Any criteria or other matters that could affect the Secretary's approval of the preapplication or application;

(b) Any State laws or practices related to the construction of school facilities in the State; and

(c) Whether the proposed project is consistent with overall State plans for the construction of school facilities.

(20 U.S.C. 636)

§ 221.44 What are the requirements for submitting an application under section 8(2) of the Act?

(a) In the case of an application for assistance under section 8(2) of the Act—

(1) The Secretary considers the LEA's certified preapplication and application for the original project funded under section 5, 9, 14, or 8(a) as meeting the requirement for submission of a preapplication; and

(2) The LEA shall submit to the Secretary an application only.

(b) The LEA may submit its application at any time.

(c) The LEA shall submit its application to the Secretary through its SEA.

(d)(1) In transmitting the application to the Secretary, the SEA shall follow the appropriate provisions of § 221.45.

(2) The SEA may also comment on the application according to the provisions of § 221.46.

(20 U.S.C. 636, 638)

§ 221.49 What general requirements apply to changes in an LEA's legal organization or jurisdiction?

(a) An LEA shall notify the Secretary of any changes in its legal organization or jurisdiction that—

(1)(i) Occur during the application process; or

(ii) Have occurred since the LEA's filing of its most recent previous application, if any, under the Act; and

(2) Would affect the LEA's rights or benefits under the Act.

(b)(1) If an LEA succeeds to any part of the territory of one or more other LEAs that have filed applications under the Act, the successor LEA may assume any rights and benefits that those applications have established with respect to the transferred territory if the successor LEA—

(i) Demonstrates to the Secretary that its succession to the territory and any affected property meets all requirements of State Law; and

(ii) Agrees to be bound by all assurances and obligations under this part undertaken by the LEA(s) that filed the application(s).

(2) The successor LEA may not receive under those applications rights and benefits that are greater than the total rights and benefits established by the application(s).

(20 U.S.C. 636)

Subpart D—How Does the Secretary Determine Priorities for Funding Among Eligible Applications?

§ 221.50 What priorities does the Secretary apply?

If the amount of money estimated to be necessary to fund all eligible applications and requests is more than the amount the Congress appropriates for the School Construction Program for a fiscal year, the Secretary applies the following priorities for funding applications:

(a) *First priority.* (1) The first priority is full funding of all eligible applications and requests under sections 9, 10, and 14 (a) and (b) of the Act.

(2) If the Secretary is unable to provide full funding of all eligible applications and requests under sections 9, 10, and 14 (a) and (b), the Secretary—

(i) Group preapplications under each of these three sections of the Act;

(ii) Except as specified in paragraph (a)(3) of this section, allocates to each group of preapplications funds in the ratio of (1) the total amount requested by all applicants in that group to (2) the total amount requested by all applicants in all groups.

(3) If the Secretary is unable to provide full funding of all eligible projects under sections 14 (a) and (b), the Secretary provides total funds for those projects at least equal to funds provided for projects under section 10.

(4)(i) In the case of preapplications under sections 9 and 14 (a) and (b), the Secretary assigns priority within each group in accordance with § 221.51.

(ii) However, if an applicant submitting a preapplication under section 9 does not have in its membership at least 20 unhoused children, the Secretary assigns a priority index of zero (0) to the preapplication.

(5) In the case of requests under section 10, the Secretary computes priority in accordance with § 221.94.

(b) *Second priority.* (1) The second priority is—

(i) Full funding of all eligible applications under sections 5 and 14(c) of the Act; and

(ii) Full funding of all eligible applications under section 8 of the Act if, for that year, the Secretary makes available supplemental assistance under section 8.

(2) If the Secretary is unable to provide full funding of all eligible applications under sections 5 and 14(c) and full funding of all eligible applications under section 8—if the Secretary makes available supplemental assistance under section 8—the Secretary applies the procedures in paragraphs (b)(3) and (b)(4) of this section.

(3) In the case of preapplications under sections 5, 8(1), and 14(c), the Secretary—

(i) Considers all of the preapplications as one group;

(ii)(A) Assigns priority in accordance with § 221.51.

(B) However, if an LEA submitting a preapplication under section 5, 8(1), or 14(c) does not have in its membership at least 20 unhoused children, the Secretary assigns a priority index of zero (0) to the preapplication; and

(iii) After fully funding all indexed applications—including those assigned an index of zero—gives consideration to making payments based on any increases in the number of children residing on property that is federally assisted low-rent housing under the United States Housing Act of 1937.

(4) In the case of applications under section 8(2), the Secretary—

(i) Assigns to each application the same priority index as that assigned to the original preapplication for that project;

(ii) Ranks each application in descending order of priority starting from the highest index, together with the group of preapplications under sections 5, 8(1), and 14(c); and

(iii) Holds until the next quarter of a fiscal year in which funds become available, all eligible applications the Secretary is unable to fund.

(c) The Secretary does not award any funds to applications in the second priority unless the Secretary is able to provide full funding of all eligible applications in the first priority.

(d) The Secretary reserves the right to fund eligible applications under section 16 of the Act (School Construction Assistance in Cases of Certain Disasters) regardless of the priority assigned by the Secretary under this section to any other preapplication.

(20 U.S.C. 632, 633, 636(b)(2)(C), 644 (e), (h))

§ 221.51 How does the Secretary compute priority indices and rank preapplications?

(a)(1) If the Secretary is unable to provide full funding of all applications in each group of applications under section 5, 8(1), 9, or 14 of the Act, the Secretary—

(i) Computes or assigns a priority index for each preapplication according to the provisions of §§ 221.50 and 221.51;

(ii) Ranks each preapplication in descending order of priority starting from the highest index; and

(iii) Funds applications in accordance with § 221.64.

(2) If the Secretary is unable to provide full funding of all requests under section 10 of the Act, the Secretary computes or assigns a priority index for each request according to the applicable provisions of § 221.50 and the provisions of § 221.94.

(b)(1)(i) In computing or assigning a priority index, the Secretary uses or refers to data included in the preapplication.

(ii) Before actually funding a project the Secretary may refer to the most recently available data and other information to confirm an applicant's priority index and ranking.

(2) The membership figures the Secretary uses in computing the priority index are the estimated figures as of the end of the increase period or, in the case of a preapplication under section 14 (a) or (b), as of the end of the school year for which the LEA seeks assistance.

(3)(i) The figures the Secretary uses are those for the LEA as a whole.

(ii) However, if the preapplication is for an isolated attendance area, the Secretary uses the figures for that area only.

(c) The steps the Secretary uses in computing the priority index are as follows:

(1) *Step 1.* (i) The Secretary divides—

(A) The number of children countable for payment; by

(B) The total membership.

(ii) As used in this section and in § 221.52, the term "children countable for payment" includes children residing on property that is federally assisted low-rent housing under the United States Housing Act of 1937, even though those children are not eligible for payment unless the Secretary is able to provide full funding of all eligible applications in the second priority (§ 221.50(b)).

(2) *Step 2.* (i) The Secretary divides—

(A) The number of all unhoused children; by

(B) The total membership.

(ii) However, the Secretary limits the result of Step 2 to a number that does not exceed the result of Step 1. (See Example 2)

(3) *Step 3.* The Secretary adds—

(i) The result of Step 1; to

(ii) The result of Step 2.

(4) *Step 4.* The Secretary multiplies the result of Step 3 by 100.

Example 1. An LEA has a total membership of 1,000 pupils. Of that number, 200 are children countable for payment. Within the LEA 125 children are unhoused. This includes those who are federally connected and those who are not federally connected. In following the steps described in paragraph (c) of this section, the Secretary computes the priority index as follows:

Step 1. 200 divided by 1,000 equals 0.2.

Step 2. 125 divided by 1,000 equals 0.125.

Step 3. 0.2 plus 0.125 equals 0.325.

Step 4. 0.325 multiplied by 100 equals 32.5

Thus, the preapplication has an index of 32.5. The Secretary compares that index with the indices of all other preapplications in the same group and ranks the preapplications in descending order beginning with the preapplication with the highest index.

Example 2. An LEA has a total membership of 2,000 pupils. Of that number, 400 are children countable for payment. Within the LEA 500 children are unhoused. This includes those who are federally connected and those who are not federally connected. In following the steps described in paragraph (c) of this section, the Secretary computes the priority index as follows:

Step 1. 400 divided by 2,000 equals 0.2.

Step 2. 500 divided by 2,000 equals 0.25.

However, in order to ensure that a priority index is not distorted by large numbers of unhoused children who are not federally connected, the Secretary limits the result of Step 2 to a number that does not exceed the result of Step 1. Therefore, the result of Step 2 is limited to 0.2.

Step 3. 0.2 plus 0.2 equals 0.4.

Step 4. 0.4 multiplied by 100 equals 40.0.

Thus, this preapplication has an index of 40.0.

(20 U.S.C. 633, 635, 638, 639, 644)

§ 221.52 What procedures does the Secretary follow if two or more preapplications in the same group have identical indices?

Except for requests eligible under section 10 of the Act, if two or more preapplications in a group have identical indices—including preapplications with an index of zero—the Secretary ranks these preapplications in descending order of sub-priority indices computed according to the following steps:

(a) *Step 1.* The Secretary divides—

(1) The number of children countable for payment; by

(2) The total membership.

(b) *Step 2.* The Secretary multiplies the result of Step 1 by 100.

Example. Two LEAs that have filed preapplications under section 9 of the Act have identical indices of 35.5, computed according to the steps in § 221.51(c). In order to determine which preapplication ranks higher, the Secretary applies the steps in this § 221.52.

One of the LEAs has a total membership of 1,000 pupils. Of that number 200 are children countable for payment. Following the steps described in this section, the Secretary computes the sub-priority index for this preapplication as follows:

Step 1. 200 divided by 1,000 equals 0.2.

Step 2. 0.2 multiplied by 100 equals 20.0.

Thus, this preapplication has a sub-priority index of 20.0.

The other LEA has a total membership of 1,300 pupils. Of that number, 233 are children countable for payment. Following the steps described in this section, the Secretary computes the sub-priority index for this preapplication as follows:

Step 1. 233 divided by 1,300 equals 0.179.

Step 2. 0.179 multiplied by 100 equals 17.9.

Thus, this preapplication has a sub-priority index of 17.9.

The Secretary then compares the two sub-priority indices of 20.0 and 17.9 and gives a higher rank to the preapplication from the LEA with a total membership of 1,000, including 200 children countable for payment; that is, the preapplication with the sub-priority index of 20.0.

(20 U.S.C. 633)

§ 221.53 What effect may a delay in the starting date of construction have on an applicant's priority ranking?

(a) If the Secretary approves an application for funding during a particular funding cycle, the applicant shall begin construction of the project within 120 calendar days of notification of the Secretary's approval.

(b) If the applicant does not begin construction within 120 days, the Secretary may—

(1) Extend the time if the applicant shows good cause to the Secretary; or

(2) Drop the application from that funding period and consider it in the next funding period—

(i) At the same priority index; or

(ii) At a priority index computed on the basis of new data.

(20 U.S.C. 633, 636(b)(1)(D))

Subpart E—How Much Assistance Is Available Under the Act?

§ 221.60 What assistance may the Secretary make available under section 5 of the Act?

(a) If an LEA is eligible for a grant under section 5 of the Act, as described in § 221.10, the Secretary may grant an amount in accordance with the provisions of section 5.

(b) The Secretary does not grant an amount that exceeds the cost of constructing, in the LEA's school district, minimum school facilities for the estimated membership in the district who—despite the full use of facilities available to the LEA— will lack minimum school facilities at the close of the second year following the increase period.

(c) In computing the amount of the grant, the Secretary does not include—

(1) Children whose membership in the LEA's school district the Secretary determines to be the result of a temporary Federal activity and who, therefore, are countable for payment under section 9 of the Act; and

(2) Children who receive or will receive services in facilities provided under section 10 of the Act.

(d) If the Secretary approves a request for a waiver or reduction under §§ 221.14 or 221.15 because an LEA has within it an isolated attendance area or areas, the Secretary limits the LEA's grant to an amount based on the lesser of—

(1) The increase in federally connected children eligible for payment in the LEA as a whole at the end of the increase period; and

(2) The increase in federally connected children eligible for payment in the same increase period.

(20 U.S.C. 634, 635, 639, 640)

§ 221.61 What assistance may the Secretary make available under section 9 of the Act?

(a) If an LEA is eligible for assistance under section 9 of the Act, as described in §§ 221.20 and 221.21, the Secretary may—

(1) Provide temporary facilities needed by the federally connected children who lack minimum school facilities and whose membership in the LEA's school district the Secretary determines is the result of a temporary Federal activity; or

(2) If the LEA assures the Secretary that it will provide at least minimum school facilities for these children, grant to the LEA an amount equal to the amount necessary to make temporary facilities available.

(b) In no case does the Secretary grant an amount that exceeds the cost of constructing, in the LEA's school district, minimum school facilities for these children.

(c) If the Secretary decides to transfer to the LEA facilities to carry out section 9 of the Act or facilities that have been used to carry out section 9, the Secretary establishes the terms and conditions of the transfer.

(20 U.S.C. 635, 639)

§ 221.62 What assistance may the Secretary make available under section 14 of the Act?

(a)(1) If an LEA is eligible for a grant under section 14(a) or (14(c) of the Act, as described in §§ 221.24 and 221.32 respectively, the Secretary may grant an amount that does not exceed the cost of constructing minimum school facilities for the estimated number of children who—

(i) Will be in the LEA's membership two years after the end of the school year for which the applicant seeks assistance; and

(ii) Despite the full use of facilities available to the LEA, will lack minimun school facilities unless a grant is made.

(2) The Secretary counts for payment under paragraph (a)(1) of this section the estimated number of all unhoused children who will be in the LEA's membership, not only those children who reside on Federal property, including Indian lands.

(3) The Secretary does not grant an amount that exceeds the difference between—

(i) The cost of constructing minimum school facilities for the number of unhoused children; and

(ii) The amount the LEA has available or will have available for this purpose from other sources, including other Federal funds.

(b) If an LEA is eligible for a grant under section 14(b) of the Act, as described in § 221.28, the Secretary applies the provisions of paragraph (a) of this section, except that the only children the Secretary counts for payment are those who reside on Indian lands.

(c)(1) If an LEA is eligible for a grant under section 14 (a) or (b) of the Act as described in §§ 221.24 and 221.28 respectively, the Secretary may grant the LEA funds sufficient to—

(i) Construction consolidated school facilities in cases of consolidation of small school districts; or

(ii) Replace small, isolated, inadequate buildings.

(2) The Secretary may grant funds for a purpose stated in paragraph (c)(1) of this section even though the LEA may have enough classroom space to house all of the children.

(20 U.S.C. 644)

§ 221.63 What assistance may the Secretary make available under section 8 of the Act?

(a)(1) If an LEA is eligible for a grant under section 8(1) of the Act because it is unable to finance the non-Federal share of a project under section 5 of the Act, as described in § 221.36, the Secretary may grant an amount that does not exceed the difference between—

(i) The cost of constructing, in the LEA's school district, minimum school facilities for the estimated membership in the district who—despite the full use of facilities available to the LEA—will lack minimum school facilities at the close of the second year following the increase period; and

(ii)(A) The amount the Secretary has approved as a grant for this purpose under section 5 of the Act; and

(B) The amount the LEA has available or will have available for this purpose from any other sources.

(2) In no case does the Secretary provide under paragraph (a) of this section an additional amount greater than the amount the Secretary has approved as a grant for this project under section 5 of the Act.

(3) In considering a request for assistance under paragraph (a) of this section, the Secretary uses the data included in the preapplication approved for this project under section 5 of the Act.

(b) If an LEA is eligible for a grant under section 8(2) of the Act because it has been prevented from completing a project by a flood, fire, or similar emergency, as described in § 221.38, the Secretary may grant an amount that does not exceed the difference between—

(1) The additional expenses caused by the emergency; and

(2) The amount the LEA has available or will have available for this purpose from other sources, including insurance payments.

(20 U.S.C. 634, 638, 639, 644)

§ 221.64 In what order does the Secretary fund applications?

(a)(1) In the case of a group of applications under sections 5, 8(l), and 14(c) of the Act (see § 221.50(b)), if the Secretary is unable to provide full funding of all applications in the group, the Secretary funds applications in the group in descending order of priority index until the Secretary is unable to provide full funding of the next ranked application in the group.

(2) However, if the next ranked application for which the Secretary is unable to provide full funding is an application under section 14(c) of the Act, the Secretary may provide partial funding of the application.

(b) In the case of a group of applications under section 9 of the Act or a group of applications under section 14 (a) and (b) of the Act (see § 221.50(a)(2)), if the Secretary is unable to provide full funding of all applications in the group, the Secretary partially or fully funds applications in the group in descending order of priority index until the Secretary is unable to provide what the Secretary regards as adequate funding of the next ranked application in the group.

(c) In the case of a group of requests under section 10 of the Act, the Secretary applies the procedures under § 221.94.

(d) If the Secretary partially funds an application in a given year, the Secretary, to the extent possible the next time funds are available, completes the funding of that application before funding any new applications within the same group.

(20 U.S.C. 632, 633, 636(b)(2)(c), 644 (e), (h))

§ 221.65 When may the Secretary make payments under the Act?

Except for projects under section 10 of the Act, after the Secretary has approved a grant award under the Act, the Secretary—

(a) Makes an initial payment of 10 percent of the approved estimated Federal share of the cost of the project; and

(b) May pay the remainder of the award in portions at various stages of the project.

(20 U.S.C. 637(a))

Subpart F—What Conditions Must Be Met by a Grantee?

§ 221.70 What activities by a grantee require prior approval by the Secretary?

(a) A grantee may issue invitations for bids or enter into contracts for construction of its project only after the Secretary has—

(1)(i) Approved all plans and pertinent specifications; and

(ii) Determined that these plans and specifications are educationally adequate for the purpose for which they are intended; and

(2) Approved all documents related to the bids or contracts.

(b) A grantee may issue invitations for bids or requests for proposals relating to equipment for the project only after the Secretary has approved a list of the equipment to be procured and a budget for this equipment.

(20 U.S.C. 636, 637, 642, 645(9))

§ 221.71 What provisions of the Indian Self-Determination and Education Assistance Act apply to the School Construction Program?

(a) Assistance under sections 14(a) and 14(b) of the Act is subject to the provisions of section 7(b) of the Indian Self-Determination and Education Assistance Act of 1975 (Pub. L. 93–638). That section requires that, to the greatest extent feasible, the recipient of any grant or contract awarded for the benefit of Indians—

(1) Give to Indians preferences and opportunities for training and employment in connection with the administration of the grant or contract; and

(2) Give to Indian organizations and to Indian-owned economic enterprises—as defined in section 3 of the Indian Financing Act of 1974—preference in the award of contracts and subcontracts at any level of the administration of the construction project.

(25 U.S.C. 450e(b), 1452(e))

(b) For purposes of this section, an "Indian" is a member of any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established under the Alaska Native Claims Settlement Act (85 Stat. 688), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(25 U.S.C. 450 (a), (b))

Subpart G—What Requirements Govern Administrative Hearings Under the School Construction Program?

§ 221.80 Under what circumstances may an LEA request an administrative hearing?

(a) An LEA may request an administrative hearing if—

(1) The Secretary notifies the LEA of the Secretary's intent to disapprove the LEA's preapplication or application in whole or in part; or

(2) After a grant has been made, the Secretary notifies the LEA of the Secretary's intent to withhold payments under the provisions of section 11(a) of the Act.

(b) In the case of an intent to withhold payments under section 11(a) of the Act, the Secretary may set a stated place and time for a hearing even if the LEA has not requested a hearing. (See 34 CFR 218.2(c).)

(20 U.S.C. 636(c), 641(a))

§ 221.81 How does an LEA request a hearing?

(a) Notwithstanding the possibility of a shorter time period stated in 34 CFR 218.2(c), within 60 days of receiving notification of the Secretary's intent to disapprove its preapplication or application or to withhold payments, an LEA may submit to the Secretary a written request for a hearing.

(b) In its request the LEA shall clearly state the issues of fact and of law to be considered at the hearing.

(c) The LEA shall send a copy of its request to its SEA when the LEA submits its request to the Secretary.

(20 U.S.C. 636(c), 641(b))

§ 221.82 How does the Secretary treat a reqeust for a hearing?

(a) After receiving an LEA's written request for a hearing, the Secretary follows the procedures in paragraph (b) or (c) of this section.

(b)(1) The Secretary may appoint a hearing officer and assign the hearing to this hearing officer.

(2)(i) In this case, the provisions of 34 CFR Part 218 (Hearings in Connection with School Construction and Financial Assistance in Federally Impacted Areas) govern this hearing.

(ii) As used in 34 CFR Part 218, the term "application" includes a preapplication.

(c)(1) The Secretary may assign a withholding hearing to the Department's Education Appeal Board.

(2) In this case, the Education Appeal Board's procedures for a withholding hearing (34 CFR Part 78) govern this hearing.

(20 U.S.C. 636(c), 641, 1234)

Subpart H—What Special Provisions Govern Assistance Under Section 10 of the Act?

§ 221.90 Under what circumstances does the Secretary make arrangements for the provision of minimum school facilities under section 10 of the Act?

(a) The Secretary makes arrangements for constructing, leasing, renovating, remodeling, rehabilitating, or otherwise providing minimum school facilities for the types of children described in § 221.92 under any of the following circumsfances:

(1) The State or any political subdivision of the State is prohibited by law from spending its tax revenues to provide for the free public education of these children.

(2) The Secretary determines, after consultation with the appropriate SEA, that no LEA is able to provide for the suitable free public education of these children as the term "suitable" is defined in § 221.91.

(3) The special circumstances described in § 221.92(b) (1) and (2).

(b) For purposes of this subpart, the terms "constructing, leasing, renovating, remodeling, rehabilitating, or otherwise providing" include repair, removal of architectural barriers, prevention of deterioration, upkeep, maintenance, upgrading for purposes of curriculum or to meet the standards of minimum school facilities, and, under circumstances described in § 221.93(a)(2)(ii), improvements to a site.

(c) To the maximum extent practicable, the facilities for which the Secretary makes arrangements under section 10 of the Act in any State are comparable to minimum school facilities provided for children in comparable communities in that State.

(20 U.S.C. 640)

§ 221.91 What criteria does the Secretary use in determining whether a free public education is "suitable"?

The Secretary considers a free public education to be "suitable" if—

(a) The primary language of instruction is English;

(b) The distance between a pupil's home and the school facility the pupil attends or would attend is within the maximum commuting distance established by the State; and

(c)(1) The programs of instruction offered or that can be offered meet standards for State accreditation or approval.

(2) If the State does not have standards for accreditation or approval, the Secretary applies standards established by an appropriate accreditation association.

(20 U.S.C. 640)

§ 221.92 For what types of children does the Secretary make arrangements for the provision of facilities under section 10?

(a) The Secretary makes arrangements for the provision of facilities under section 10 of the Act for the number of children—

(1) Who, the Secretary estimates in any fiscal year, will reside on Federal property at the end of the next fiscal year; and

(2) For whom minimum school facilities are unavailable because of the circumstances described in § 221.90(a) (1) or (2).

(b) The Secretary may make arrangements for the provision of facilities under section 10 of the Act for the following:

(1) Children who do not reside on Federal property, if—

(i) The children reside with a parent employed by the United States;

(ii) The minimum school facilities the Secretary provides are situated on Federal property in Puerto Rico, Wake Island, Guam, American Samoa, the Northern Mariana Islands, or the Virgin Islands; and

(iii) The Secretary, after consultation with the appropriate SEA, determines that—

(A) The construction or provision of the facilities is appropriate to carry out the purposes of the Act;

(B) No LEA is able to provide minimum school facilities for the suitable free public education of these children; and

(C) English is not the primary language of instruction in schools in the locality.

(2) Children of members of the Armed Forces—Army, Navy, Air Force, Marine Corps, Coast Guard—on active duty, if—

(i) The schools in which free public education is usually provided for these children are made unavailable to the children because of official action by State or local governmental authority; and

(ii) The Secretary, after consultation with the appropriate SEA, determines that no LEA is able to provide a suitable free public education for these children.

(c) *Ineligible children.* The Secretary does not make arrangements for the provision of facilities under section 10 for the following:

(1) Children who reside on Federal property formerly under the control of the Atomic Energy Commission and now under the control of the Department of Energy.

(2) Indian children attending federally operated Indian schools.

(20 U.S.C. 640)

§ 221.93 For what types of projects may the Secretary provide assistance under section 10?

(a) The types of projects for which the Secretary may provide assistance under section 10 of the Act during any given year include, but are not restricted to, one or more of the following:

(1)(i) Emergency repairs to existing facilities for which the Secretary is responsible under section 10 of the Act.

(ii) As used in paragraph (a)(1)(i) of this section, the term "emergency repairs" means those repairs necessary—

(A) For the safety of persons using the facilities;

(B) For the removal of architectural barriers to the handicapped; or

(C) For the prevention of further deterioration of the facilities.

(2)(i) Non-emergency upkeep and maintenance of existing facilities for which the Secretary is responsible under section 10 of the Act.

(ii) As used in paragraph (a)(2)(i) of this section, upkeep and maintenance may include site improvements.

(3) Upgrading of existing facilities for which the Secretary is responsible under section of the Act, if the purpose of the upgrading is to—

(i) Improve curriculum; or

(ii) Improve facilities to meet the standards of minimum school facilities.

(4) Provision of temporary facilities on Federal property pending—

(i) Emergency repairs; or

(ii) Construction of new minimum school facilities needed as a result of flood, fire, or other emergency.

(5) Construction of new minimum school facilities.

(b)(1) In the case of assistance for any type of project described in paragraphs (a) (1), (2), (3), and (4) of this section, the Secretary—

(i) Determines the extent to which assistance is needed and the urgency with which the assistance is needed; and

(ii) If necessary, notifies any other agency that might be affected by the determination.

(2) The Secretary makes these determinations, also, in the case of assistance for a project described in paragraph (a)(5) of this section if the need for the project results from a flood, fire, or other emergency.

(c) Except in cases of projects needed as a result of a flood, fire, or other emergency, if the Secretary in any given year decides to fund requests for assistance for the construction of new minimum school facilities, the Secretary announces the closing dates for the submissions of requests in a notice published in the Federal Register.

(20 U.S.C. 640)

§ 221.94 How does the Secretary compute priority indices and rank requests for new facilities under section 10?

(a) The provisions of this section apply if, in any given year, the Secretary—

(1) Decides to fund requests for assistance under section 10 of the Act for the construction of new minimum school facilities, except for replacement facilities needed as a result of a flood, fire, or other emergency; and

(2) Is unable to provide full funding of all requests.

(b) The Secretary—

(1) Computes or assigns a priority index for each request for construction according to—

(i) The applicable provisions of § 221.50; and

(ii) The provisions of this § 221.94; and

(2) Ranks each request in descending order of priority starting from the highest index.

(c) The numbers of children the Secretary uses in computing the priority index are the estimated numbers as of the end of the next fiscal year.

(d) The steps the Secretary uses in computing the priority index are as follows:

(1) *Step. 1* The Secretary divides—

(i) The number of children to be housed in the school facilities described in the request; by

(ii) The total number of children who both reside on and attend school on the Federal property.

(2) *Step 2.* (i) The Secretarty divides—

(A) The number of unhoused children; by

(B) The total number of children who both reside on and attend school on the Federal property.

(ii) The Secretary limits the result of Step 2 to a number that does not exceed the result of Step 1. The Secretary does this to ensure that a priority index is not

distorted by large numbers of unhoused children who would not be accommodated by the facilities described in the request.

(3) *Step 3.* The Secretary adds—

(i) The result of Step 1; to

(ii) The result of Step 2.

(4) *Step 4.* The Secretary multiplies the result of Step 3 by 100.

(e) If two or more requests have identical indices, the Secretary ranks these requests in decending order of subpriority indices computed according to the following steps:

(1) *Step 1.* The Secretary divides—

(i) The number of children to be housed in the school facilities described in the request; by

(ii) The total number of children who both reside on and attend school on the Federal property.

(2) *Step 2.* The Secretary multiplies the result of Step #1 by 100.

(20 U.S.C. 640)

§ 221.95 What terms and conditions apply to minimum school facilities operated under section 10 by another agency?

If the Secretary makes arrangements for the provision of minimum school facilities under section 10 of the Act, the Secretary—

(a) Arranges for the operation of the facilities by an agency other than the Department;

(b) Establishes terms and conditions for the operation of the facilities; and

(c) May require the operating agency to submit assurances and enter into other agreements that the Secretary specifies.

(20 U.S.C. 640)

§ 221.96 What terms and conditions apply to the transfer of minimum school facilities by the Secretary to an LEA?

If the Secretary decides to transfer to an LEA facilities that have been used to carry out the purposes of section 10 of the Act and for which the Secretary is responsible, the Secretary establishes the terms and conditions for the transfer.

(20 U.S.C. 640)

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Part VI

Department of Health and Human Services

Food and Drug Administration

21 CFR Part 866

Denial of Request To Change Classification of Toxoplasma Gondii Serological Reagents

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 866

[Docket No. 83N-0200]

Denial of Request To Change Classification of Toxoplasma Gondii Serological Reagents

AGENCY: Food and Drug Administration.

ACTION: Notice; final rule-related.

SUMMARY: The Food and Drug Administration (FDA) is issuing an order denying three requests for reclassification of the *Toxoplasma gondii* serological reagents from class II (performance standards) into class I (general controls). FDA will continue the procedure to establish a performance standard for the device.

FOR FURTHER INFORMATION CONTACT: Charles S. Furfine, Center for Devices and Radiological Health (HFZ-84), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4874.

SUPPLEMENTARY INFORMATION:

History of the Proceedings

In the **Federal Register** of November 9, 1982 (47 FR 50814), FDA published a regulation, 21 CFR 866.3780, classifying the medical device *Toxoplasma gondii* serological reagents into class II. *Toxoplasma Gondii* serological reagents are devices that consist of antigens and antisera used in serological tests to identify antibodies to *Toxoplasma gondii* in serum. Additionally, some of these reagents consist of antisera conjugated with a fluorescent dye (immunofluorescent reagents) used to identify *Toxoplasma gondii* from clinical specimens. The identification aids in the diagnosis of toxoplasmosis caused by the parasitic protozoan *Toxoplasma gondii* and provides epidemiological information on this disease.

Section 514(b)(1) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360d(b)(1)) and §§ 860.132(a) and 861.20(a) of FDA's regulations (21 CFR 860.132(a) and 861.20(a)) require that a proceeding for the establishment of a performance standard for a device classified into class II be initiated by publication in the **Federal Register** of a notice providing interested persons an opportunity to submit to the agency, within 15 days of the date of publication of the notice, a request for a change in the classification of the device based on new information relevant to its classification.

Accordingly, to initiate a proceeding for the establishment of a performance standard for the *Toxoplasma gondii* serological reagents, FDA published a notice in the **Federal Register** of July 8, 1983 (48 FR 31388), to allow interested persons an opportunity under section 514(b)(2) of the act to request reclassification of this device from class II into class I or class III (premarket approval). Section 860.132 of the regulations provides that any such request is to be filed in accordance with § 860.123.

In response to the notice, the College of American Pathologists, Skokie, IL 60077, Carter-Wallace, Inc., Cranbury, NJ 08512, and Electro-Nucleonic, Inc., Columbia, MD 21046, submitted to FDA timely reclassification petitions requesting FDA to change the classification of the device from class II to class I.

The Legal Standard Governing Reclassification

Section 514(b) of the act requires any such reclassification petition to set forth new information relevant to the classification of the device. The term "new information" comprehends information developed as a result of reevaluation of the data before the agency when a device was classified, as well as information not presented, not available, or not developed at that time. See, e.g., *Holland-Rantos* v. *United States Department of Health, Education, and Welfare*, 587 F.2d 1173, 1174, n.1 (D.C. Cir. 1978); *Upjohn* v. *Finch*, 422 F.2d 944 (6th Cir. 1970); *Bell* v. *Goddard*, 366 F.2d 177 (7th Cir. 1966). The "new information" on which reclassification is based is required to consist of "valid scientific evidence" as defined in section 513(a)(3) of the act (21 U.S.C. 360c(a)(3)) and § 860.7 of the regulations governing medical device classification procedures. As specified in § 860.7(c), FDA relies only upon such evidence to determine whether there is reasonable assurance that the device is safe and effective.

In addition, the valid scientific evidence upon which the agency relies for the purpose of reclassification is required by section 520(c) of the act (21 U.S.C. 360j(c)) to be publicly available, i.e., the evidence may not be trade secret or confidential commercial information in (1) any premarket approval application (PMA) for a medical device or (2) any other reports obtained by the agency under any of the sections of the act that are specified in section 520(c) of the act.

The Panel's Recommendation

FDA referred the petitions to the then Microbiology Device Section of the Immunology and Microbiology Devices Panel, an FDA advisory committee, for its consideration and a recommendation on the change in classification request by the petitioners. (On April 14, 1984, the Immunology and Microbiology Devices Panel was terminated. Concurrently, FDA established the Microbiology Devices Panel (see 49 FR 17446; April 24, 1984).) During an open public meeting on September 9, 1983, the Panel considered the petitions and recommended that the *Toxoplasma gondii* serological reagents remain classified in class II.

After reviewing the petitions and the Panel recommendation, FDA determined that none of the petitions provided sufficient new, publicly available, valid scientific evidence to show (1) why the device should not remain in class II and (2) that class I would provide reasonable assurance of the safety and effectiveness of the device. Therefore, the device will remain classified in class II.

FDA's Conclusions

The following is a summary of the petitions, the Panel's considerations, and FDA's conclusions with respect to the information and views on which the petitioners relied as grounds for their request that the agency change the classification of the device.

Labeling Requirements

1. All three petitioners claimed that the labeling requirements of § 809.10 of FDA's regulations governing in vitro diagnostic products for human use (21 CFR 809.10) are sufficient to provide reasonable assurance of the safety and effectiveness of the device. Under §809.10(b), manufacturers are required to identify, where appropriate, performance characteristics of the device (i.e., accuracy, precision, sensitivity, and specificity). This information is adequate for users to evaluate the test result information, according to two petitioners.

The Panel disagreed that the labeling requirements of § 809.10 are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel noted that it based its original recommendation that the device be classified into class II on the variability in the performance of the device (see 45 FR 27287; April 22, 1980). This problem persists, as the Panel determined from data submitted by one of the petitioners. For example, these data demonstrated that when several laboratories tested the same sample for the presence of

Toxoplasma gondii antibody, there was not any agreement among the laboratories that antibody was present. The Panel noted that these data revealed that in these tests the device provided unacceptable results. Because the submitted data showed similar variability in performance in tests conducted in 1979, 1980, and 1983, the Panel concluded that little improvement had occurred in the performance of the device since it was classified into class II in 1982, that the labeling requirements of § 809.10 were not sufficient, and that a performance standard is necessary to provide reasonable assurance of the safety and effectiveness of the *Toxoplasma gondii* serological reagents.

FDA agrees with the Panel and disagrees with the petitioners. A manfuacturer's labeling, even if it is accurate and complete, does not correct the problem of variable performance or the accuracy of individual results and, therefore, does not provide reasonable assurance of the safety or effectiveness of a device. A device for which there is otherwise no reasonable assurance of safety and effectiveness is not made safe and effective by merely warning the user of that fact in the labeling.

Class I Controls Other Than Labeling

2. Two petitioners claimed that the controls applicable to devices classified into class I are adequate to assure the safety and effectiveness of the device. Specifically, the petitioners argued that establishment inspections conducted by FDA under section 704 of the act (21 U.S.C. 374) ensure that quality control and device distribution procedures are followed and that manufacturers comply with the device current good manufacturing practice (CGMP) regulations (21 CFR Part 820). FDA's authority under section 304(g) of the act (21 U.S.C. 334(g)) to detain devices and FDA's authority under section 516 of the act (21 U.S.C. 360f) to make devices banned devices assure that dangerous or ineffective products are removed from the marketplace, according to the petitioners. A petitioner stated that the Microbiology Devices Panel was unaware of the full impact of controls applicable to class I devices and, therefore, could not determine that the *Toxoplasma gondii* serological reagents can be regulated adequately in class I.

FDA disagrees with the petitioners. To reclassify a device under section 514(b) of the act, the act and the regulations require that the new, publicly available, valid scientific evidence of safety and effectiveness show (1) why the device should not remain in its present classification and (2) that the proposed reclassification will provide reasonable assurance of the safety and effectiveness of the device. For a class II device to be reclassified into class I, the act and the regulations require such evidence of safety and effectiveness to show (1) why the device should not remain in class II and (2) that general controls will provide reasonable assurance of the safety and effectiveness of the device. The general controls are those authorized by or under sections 501 (adulteration), 502 (misbranding), 510 (registration, listing, and premarket notification), 516 (banned devices), 518 (notification and other remedies), 519 (records and reports), and 520 (general provisions, including current good manufacturing practice requirements) of the act (21 U.S.C. 351, 352, 360, 360f, 360h, 360i, and 360j). If the general controls are not sufficient to provide reasonable assurance of the safety and effectiveness of a device, the device may not be reclassified into class I (see section 513(a)(1)(A) of the act).

Although FDA recognizes that the general controls are useful in the regulation of the *Toxoplasma gondii* serological reagents test system, the agency has concluded that these controls by themselves do not provide reasonable assurance of the safety and effectiveness of the device. Data submitted by the petitioners demonstrate that a problem of variability with these devices continues to exist, i.e., different devices yield varying results from measurements on the same specimen. Compliance with the CGMP regulations under section 520(f) of the act and Part 820 of the regulations assures that the device conforms to its specifications (section 520(f)(1)(A); § 820.100). But neither the CGMP regulations nor establishment inspections under section 704 of the act provide the data to assure that the specifications are adequate to provide reasonable assurance of safety and effectiveness. Furthermore, although the CGMP regulations may reduce the problem of lot-to-lot variability for a given manufacturer, they do not address, much less reduce, the problems of manufacturer-to-manufacturer variability.

Administrative detention under section 304(g) of the act and § 800.55 of the regulations (21 CFR 800.55) is of little use in assuring the continued safety and effectiveness of a device, because section 304(g) merely provides for the temporary detention of a device, encountered during an inspection, that an authorized FDA representative has reason to believe is adulterated or misbranded under the act, until FDA has had time to consider what further action it should take concerning the device and to initiate judicial enforcement action, if appropriate (section 304(g)(1); § 800.55(a)). Similarly, making a device a banned device under section 516 of the act and Part 895 of the regulations (21 CFR Part 895) is of limited use; FDA may make a device a banned device only after the agency has determined that the device presents substantial deception or an unreasonable and substantial risk of illness or injury (section 576(a); § 895.1).

3. One petitioner added that FDA's regulations governing premarket notification procedures (21 CFR Part 807, Subpart E) ensure that FDA is advised of the proposed introduction of a new device and permit FDA to determine whether such a device is substantially equivalent to a preamendments or reclassified device.

FDA's review of premarket notification submissions under section 510(k) of the act and Subpart E of Part 808 is intended to permit the agency to determine the status of a postamendments device under section 513(f) of the act. A postamendments device, i.e., one first commercially distributed on or after May 28, 1976, is classified into class III under section 513(f) of the act unless it is substantially equivalent: (1) To another postamendments device that has been reclassified into class I or class II; or (2) to a preamendments device that has not been classified into class III. In determining whether a postamendments device is substantially equivalent to a preamendments device (one that was distributed commercially before May 28, 1976 or one that is substantially equivalent to such a device), or to a reclassified device, FDA considers whether the postamendments device presents risks and benefits not materially different from those of the preamendments or reclassified device. For a postamendments device to be "substantially equivalent," its intended use may not differ from, and its materials, design, and energy source, among other things, may not differ materially from, those of a preamendments or reclassified device. In addition, any variation between the postamendments device and the preamendments or reclassified device may not materially affect safety or effectiveness. See H.R. Rep. No. 94–853, 94th Cong., 2d Sess. 36 (1976). Congress did not intend or authorize FDA to review a premarket notification submission for the purpose of determining whether the postamendments device that is the subject of the submission is safe or effective, nor to determine whether the preamendments device, as to which it is being claimed that the device is substantially equivalent, is safe and effective. Rather, the premarket

notification submission only permits FDA to determine that the postamendments device is no less safe and effective than the preamendments device to which substantial equivalence is claimed. A determination by FDA that a postamendments device is "substantially equivalent" is thus not a determination that the device is not adulterated or misbranded and is otherwise safe and effective.

For these reasons and the reasons discussed in paragraph 2 of this notice, FDA concludes that the general controls are not sufficient to provide reasonable assurance of the safety and effectiveness of the *Toxoplasma gondii* serological reagents, and that the petitioners have not shown that a performance standard is not needed to provide such assurance.

Miscellaneous

4. Two petitioners commented that the test result is not the sole basis of the diagnosis and that the physician's role in the use of the test result should not be underestimated. Therefore, they concluded, the risk to the health of the patient from an erroneous result is reduced. Consequently, according to the petitioners, the assessment of the risk to health determined by the Panel and FDA to be presented by the device was incorrect.

The Panel disagreed with the petitioners and stated that the results from the *Toxoplasma gondii* serological reagents frequently are used as the sole basis for diagnosing toxoplasmosis from among a number of diseases which have similar symptoms. The Panel noted that the consequences of an erroneous test result (false positive) in the case of congenital toxoplasmosis may lead to an irreversible medical decision. An erroneous test result (false negative) may lead to a failure to detect toxoplasmosis with resulting brain defects or blindness in, or death of, the unborn fetus.

FDA agrees with the Panel. Additionally, although FDA agrees with the petitioners that the physician's role in the interpretation of test results should be considered, that role was considered by the Panel and the agency when the device originally was proposed to be classified into class II (see 45 FR 27288) and at the time the device finally was classified (see 47 FR 50821). The petitions do not contain any new information which establishes that either the Panel or FDA has underestimated that role.

5. One petitioner claimed that proficiency testing is an alternative to performance standards for identifying and eliminating unsafe or ineffective devices. Another petitioner submitted proficiency data from the Centers for Disease Control (CDC) to demonstrate the improvement in performance of the device. The CDC proficiency data consist of a summary of laboratory results from tests on specimens containing known amounts of antibodies to *Toxoplasma gondii*. The results are expressed in terms of a laboratory's ability to meet certain performance specifications that were compiled by CDC in cooperation with State public health laboratories, industry, universities, and other Federal agencies.

The Panel noted that proficiency testing is done primarily to measure laboratory competence and not to examine reagent performance. Moreover, the submitted data verified that there was a significant number of laboratories with poor performance to which reagent failure may have contributed. Specifically, the Panel disagreed with the claims of one petitioner that the failure of 20 percent of laboratories to meet standards established by the CDC proficiency testing program demonstrates that device performance has improved. The Panel stated that the CDC proficiency data failed to demonstrate any marked decrease in the variation of test results and, therefore, any improvement in reagent performance.

FDA agrees with the comments made by the Panel and disagrees with the petitioners. Moreover, even if the data submitted by the petitioners demonstrated improved proficiency of the *Toxoplasma gondii* serological reagents, that alone does not show that class I controls would provide reasonable assurance of the safety and effectiveness of the device, because the petitioners have not demonstrated that device performance has improved sufficiently or that satisfactory device performance would continue with the application of class I controls only. As stated in paragraphs 2 and 3 of this notice, FDA believes that continued satisfactory performance cannot reasonably be assured by class I controls.

6. Two petitioners commented that there are few reports of problems with the *Toxoplasma gondii* serological reagents, despite various problem-reporting mechanisms, including FDA's Device Experience Network (DEN). One petitioner estimated that in 1980 there were as many as 900,000 tests done, and asserted that any problems would have appeared. Another petitioner claimed that the ratio of complaints to sales of the petitioner's *Toxoplasma gondii* serological reagents was .0086 in the year ending June 30, 1983.

The Panel commented on the frequency of complaints about the device. The Panel noted that many laboratories use only one test method for determining the presence of antibodies to *Toxoplasma gondii* in submitted specimens and do not use a confirmatory test. It is difficult for these laboratories to judge performance because there is not any standard by which users can evaluate effectiveness. A few laboratories use more than one device to provide results from tests on a single specimen, but it is nevertheless not possible to determine which result is accurate when discordant results are obtained.

Laboratories frequently obtain discordant results, as confirmed by the data submitted in the petitions, and the Panel stated that the high frequency of discordant results precludes a determination of which devices are not safe and effective. The Panel observed that the inability of a laboratory to identify which *Toxoplasma gondii* serological reagents are performing poorly may be the reason few device problems are reported.

FDA agrees with the Panel. Based on its experience, FDA does not believe that information about all adverse device experiences is provided to FDA under the existing voluntary system of reporting medical device problems, including DEN (see the preamble to the final rule on medical device reporting; 49 FR 36326 at 36328; September 14, 1984).

References

A copy of the petitions and the transcript of the Panel meeting are on file under the docket number found in brackets in the heading of this notice in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, where they may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

Order

For the reasons set out above, FDA is issuing an order under section 514(b)(2) of the act denying the petitioners' requests for reclassification of the *Toxoplasma gondii* serological reagents from class II into class I.

In accordance with § 816.20(c), FDA will continue the procedure by which a performance standard for the *Toxoplasma gondii* serological reagents may be established. In a future issue of the **Federal Register** the agency will publish an invitation for standards under section 514(c) of the act.

Dated: October 9, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

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[1] No amendments to this volume were promulgated during the period Apr. 1, 1980 to March 31, 1984. The CFR volume issued as of Apr. 1, 1980, should be retained.

[2] Refer to September 19, 1983, FEDERAL REGISTER, Book II (Federal Acquisition Regulation).

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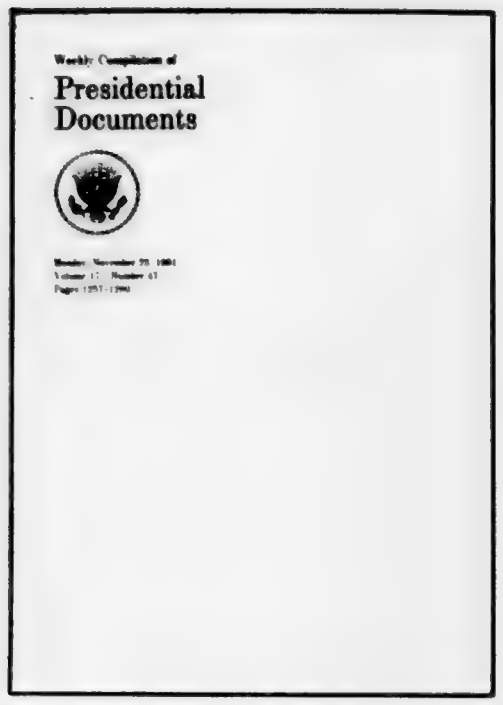

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Passports and Visas
State Department

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Federal Communications Commission

Securities
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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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Title 3—

The President

Proclamation 5255 of October 11, 1984

Smokey Bear Week, 1984

By the President of the United States of America

A Proclamation

Our forests and grasslands constitute a major renewable natural resource of the Nation. As such, they must be carefully nurtured and protected if we are to pass on their precious legacy of use and enjoyment to future generations of Americans.

The importance of forests and grasslands to the stability of our environment in terms of air quality, water, wildlife, range, timber, and recreation is beyond calculation. Furthermore, the list of products from these lands that enhance our lives is extensive.

We are especially fortunate that as usage of our forests and rangelands has doubled over the past four decades, the number of acres damaged by wildfires has been reduced by half. This important development is due to increased public awareness of the dangers of fire, prompted in great measure by the untiring fire prevention efforts of Smokey Bear and his ever-present reminder, "Only you can prevent forest fires."

This year marks the fortieth anniversary of the introduction of Smokey Bear into the Cooperative Fire Protection Campaign conducted by the United States Department of Agriculture Forest Service, the Advertising Council, and the National Association of State Foresters. On this occasion, it is appropriate to acknowledge the success of this unique public service campaign to promote public concern for prevention of forest fires and wise stewardship of our forests.

The Congress, by Senate Joint Resolution 273, has designated the week of October 7, 1984, through October 13, 1984, as "Smokey Bear Week" and has authorized and requested the President to issue an appropriate proclamation.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim October 7, 1984, through October 13, 1984, as Smokey Bear Week, and I call upon all Americans to celebrate this week with appropriate ceremonies.

IN WITNESS WHEREOF, I have hereunto set my hand this 11th day of October, in the year of our Lord nineteen hundred and eighty-four, and of the Independence of the United States of America the two hundred and ninth.

Ronald Reagan

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Proclamation 5256 of October 11, 1984

General Pulaski Memorial Day, 1984

By the President of the United States of America

A Proclamation

General Casimir Pulaski fell at the Battle of Savannah 205 years ago, but his memory is still fresh among all those who prize freedom and value independence. General Pulaski was a patriot for two countries. The United States and Poland share the noble legacy of a hero who gave his life so that the torch of freedom would never be extinguished. In his native Poland, he struggled to oppose foreign occupation; in his adopted land, America, he fought to the death for the independence of the thirteen colonies.

In honoring General Pulaski, we also honor the generations of Polish Americans who, inspired by Pulaski's shining example and his spirit of self-sacrifice, have made great cultural, economic, and political contributions to American life. Without their achievements, the United States would be a very different and a far poorer country.

Polish Americans join with all of their fellow citizens in noting that the struggle for freedom and human rights continues. It is important to take this occasion to recommit ourselves to the support of the cause of genuine national reconciliation for Poland.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby designate Thursday, October 11, 1984, as General Pulaski Memorial Day, and I direct the appropriate Government officials to display the flag of the United States on all Government buildings on that day. In addition, I encourage the people of the United States to commemorate this occasion as appropriate throughout the land.

IN WITNESS WHEREOF, I have hereunto set my hand this eleventh day of October, in the year of our Lord nineteen hundred and eighty-four, and of the Independence of the United States of America the two hundred and ninth.

Ronald Reagan

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Presidential Documents

Proclamation 5257 of October 12, 1984

National School Lunch Week, 1984

By the President of the United States of America

A Proclamation

Since 1946, the National School Lunch Program has made it possible for our Nation's children to enjoy nutritious, well-balanced, low-cost lunches. Now in its 38th year, the National School Lunch Program stands as an outstanding example of a successful partnership between Federal and State governments and local communities to make food and technical assistance available in an effort to provide a more nutritious diet for students.

The young people of our Nation are our greatest resource. The School Lunch Program demonstrates our commitment to the promotion of the health and well-being of our youth. Under its auspices, over 23 million lunches are served daily in nearly 90,000 schools throughout the country. The success of this effort is largely due to resourceful and creative food service managers and staff working in cooperation with government personnel, parents, teachers, and members of civic groups.

By joint resolution approved October 9, 1962, the Congress designated the week beginning on the second Sunday of October in each year as "National School Lunch Week" and authorized and requested the President to issue a proclamation of observance of that week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning October 14, 1984, as National School Lunch Week, and I call upon all Americans to give special and deserved recognition to those people at the State and local level who, through their dedicated and innovative efforts, have made it possible to have a successful school lunch program.

IN WITNESS WHEREOF, I have hereunto set my hand this twelfth day of October, in the year of our Lord nineteen hundred and eighty-four, and of the Independence of the United States of America the two hundred and ninth.

Ronald Reagan

[FR Doc. 84-27371
Filed 10-12-84; 12:23 pm]
Billing code 3195-01-M

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Presidential Documents

Proclamation 5258 of October 12, 1984

National Housing Week, 1984

By the President of the United States of America

A Proclamation

The provision of a decent home and a suitable living environment for every American family continues to be a national housing goal. Homeownership and decent housing instill pride in our citizens and contribute to the vitality of communities throughout America. This year, a vibrant housing industry continues to provide jobs for thousands of our citizens and to play a major role in our Nation's economic recovery.

Housing comes in an almost infinite variety of forms from single-family detached dwellings to large urban skyscrapers. It is available for purchase or rent. It includes lovingly restored older buildings and prefabricated new ones. But whatever form it takes, good housing remains an essential part of the American Dream. The efficiency and success of free enterprise in responding to the great variety of market demands for housing deserve special notice and commendation.

In recognition of our Nation's commitment to housing and homeownership and the role that housing plays in our economic vitality, the Congress, by House Joint Resolution 606, has designated the week of October 14 through October 21, 1984, as "National Housing Week" and authorized and requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning October 14, 1984, as National Housing Week, and I call upon the people of the United States and interested groups and organizations to observe this week with appropriate activities and events.

IN WITNESS WHEREOF, I have hereunto set my hand this twelfth day of October, in the year of our Lord nineteen hundred and eighty-four, and of the Independence of the United States of America the two hundred and ninth.

Ronald Reagan

[FR Doc. 84-27372
Filed 10-12-84; 12:24 pm]
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Presidential Documents

Proclamation 5259 of October 12, 1984

White Cane Safety Day, 1984

By the President of the United States of America

A Proclamation

As increasing numbers of blind and visually handicapped people enter the American mainstream to live and work among sighted people, the public should be alerted to the significance of the white cane. The white cane is more than a guide for its users and a signal to others. Through the aid of a white cane and an informed and empathetic public, many blind and visually handicapped people can now enjoy the fullness of American life.

As we become sensitive to the needs of the blind and the visually handicapped, we remove shared burdens. As our visually handicapped citizens become more self-sufficient, the lives of those they touch are enriched by the example of their courage. Patronizing or pitying attitudes—barriers much worse than physical ones—will surely diminish as there is more interaction among us.

Sighted people should be aware that many white cane users lead independent lives and that others are well on their way to doing so. We should always provide them the kind of assistance that they need and appreciate.

In recognition of the significance of the white cane, the Congress, by a joint resolution approved October 6, 1964 (78 Stat. 1003), has authorized the President to proclaim October 15 of each year as White Cane Safety Day.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim October 15, 1984, as White Cane Safety Day. I urge all Americans to mark this occasion by acquainting themselves with the needs and accomplishments of blind and visually handicapped people, who want to make fuller use of their God-given potential, unhampered by misunderstanding on the part of sighted citizens.

IN WITNESS WHEREOF, I have hereunto set my hand this twelfth day of October, in the year of our Lord nineteen hundred and eighty-four, and of the Independence of the United States of America the two hundred and ninth.

Ronald Reagan

[FR Doc. 84-27373
Filed 10-12-84; 12:25 pm]
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Presidential Documents

Executive Order 12490 of October 12, 1984

National Commission on Space

By the authority vested in me as President by the Constitution and statutes of the United States of America, including Title II of the National Aeronautics and Space Administration Authorization Act, 1985 (Public Law 98–361) ("the Act"), and in order to establish a National Commission on Space, it is hereby ordered as follows:

Section 1. *Establishment.* (a) There is established the National Commission on Space. The Commission shall be composed of:

(1) fifteen members appointed or designated by the President (of whom no more than three shall be employees of the federal government) who by reason of their background, education, training, or experience possess expertise in scientific and technological pursuits, as well as the use and implications of the use of such pursuits, which allows them to contribute to the articulation of goals and rationale and the formulation of an agenda for the future direction of United States civilian space activity;

(2) not more than nine advisory, non-voting members designated by the President, representing the Federal departments and agencies set forth in Section 203(b)(1) of the Act, provided that no one of those departments and agencies shall have more than one employee appointed to the Commission; and

(3) two advisory, non-voting members appointed by the President of the Senate from among the Members of the Senate and two advisory, non-voting members appointed by the Speaker of the House of Representatives from among the Members of the House.

(b) The President shall designate a Chairman and a Vice Chairman from among the voting members of the Commission.

Sec. 2. *Functions.* (a) Pursuant to Section 204 of the Act, the Commission shall study existing and proposed United States space activities; formulate an agenda for the United States civilian space program; and identify long range goals, opportunities, and policy options for civilian space activity for the next twenty years.

(b) The Commission shall submit its plan and any recommendations for proposed legislation to the President and the Congress within 12 months of the date of this Order.

Sec. 3. *Administration.* (a) The heads of Executive departments, agencies and independent instrumentalities shall, to the extent permitted by law, provide the Commission, upon request, such information as it may require for purposes of carrying out its functions.

(b) Members of the Commission appointed by the President under Section 1(a)(1) from among private citizens of the United States may be paid at a rate not to exceed the daily equivalent of the annual rate of basic pay in effect under section 5332 of title 5, United States Code, for grade GS–18 of the General Schedule for each day, including traveltime, during which such members are engaged in the actual performance of the duties of the Commission. While engaged in the work of the Commission, both voting and non-voting members may be allowed travel expenses, including per diem in lieu of

subsistence, to the extent permitted by law for persons serving intermittently in the government service (5 U.S.C. 5101–5107).

(c) To the extent permitted by law and subject to the availability of appropriations, the Administrator of the National Aeronautics and Space Administration shall provide the Commission with such administrative services, funds, facilities, staff and other support services as may be necessary for the performance of its functions.

Sec. 4. *General Provisions.* (a) Notwithstanding the provisions of any other Executive Order, the functions of the President under the Federal Advisory Committee Act which are applicable to the Council, except that of reporting annually to the Congress, shall be performed by the Administrator of the National Aeronautics and Space Administration, in accordance with guidelines and procedures established by the Administrator of General Services.

(b) The Commission shall terminate 60 days after submitting the report required by Section 2(b) of this Order.

Ronald Reagan

THE WHITE HOUSE,
October 12, 1984.

[FR Doc. 84-27511
Filed 10-15-84; 11:02 am]
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Rules and Regulations

Federal Register
Vol. 49, No. 201
Tuesday, October 16, 1984

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

7 CFR Part 651

Acquisition of Real Property Under Federally Assisted Programs

AGENCY: Soil Conservation Service (SCS), USDA.

ACTION: Final rule.

SUMMARY: This rule prescribes the basic requirements on the acquisition of real property under federally assisted programs administered by SCS. This rule is revised to correspond with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and USDA Uniform Federal Assistance Regulations.

EFFECTIVE DATE: November 15, 1984.

FOR FURTHER INFORMATION CONTACT: Wayne F. Maresch, Director, Administrative Service Division, Soil Conservation Service, USDA, P.O. Box 2890, Washington, D.C. 20013, or telephone (202) 447-5111.

SUPPLEMENTARY INFORMATION:

I. General

The rule has been reviewed under the USDA procedures established in Secretary's Memorandum 1512-1 to implement Executive Order 12291 and has been classified "nonmajor."

This rule will not affect the national economy by $100 million or more, nor will it cause a major increase in costs or prices for consumers, individual industries, federal, state or local government agencies, or geographic regions. It will not have significant adverse effect on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Peter C. Myers, Chief, Soil Conservation Service, has determined that this action will not have a significant economic impact on a substantial number of small entities.

The rule imposes no new substantive requirements on programs involving technical and financial assistance in which participation is voluntary. Thus, the rule will not impose any unnecessary regulatory, information or compliance burden on small businesses, organizations, or government jurisdictions.

II. Discussion

On August 27, 1982, SCS published a proposal to revise 7 CFR Part 651 to correspond with related rules and regulations (47 FR 37802). At that time, some commenters suggested that Part 651 be completely revised to remove procedural detail and other explanatory language. SCS agreed with these comments and revised the part to cover only the basic requirements on the acquisition of real property under federally assisted programs administered by SCS. The revised part was resubmitted on August 30, 1983 (48 FR 39236), as a proposed rule. No. comments were received on the resubmitted rules.

List of Subjects in 7 CFR Part 651

Flood prevention, Grant programs—natural resources, Soil conservation, Water resources, Administrative practice and procedure.

Accordingly, 7 CFR Part 651 is revised to read as follows:

PART 651—ACQUISITION OF REAL PROPERTY UNDER FEDERALLY ASSISTED PROGRAMS

Sec.

Subpart A—General

651.1 Purpose and scope.
651.2 (Reserved).

Subpart B—SCS Federal Financial Assistance not Authorized for Real Property Acquisition

651.10 Responsibilities of sponsors.
651.11 Responsibilities of SCS.
651.12 Criteria for determining real property needed.
651.13 Induced flooding requirements.
651.14 Duration of real property rights.

Subpart C—SCS Federal Financial Assistance Authorized for Real Property Acquisition

651.20 General.
651.21 Cost sharing arrangements.
651.22 Real property rights needed.
651.23 Evidence of title.

Subpart D—Other Land Treatment Programs

651.30 Conservation Operations.
651.31 Watershed Protection and Flood Prevention Program.
651.32 Emergency Watershed Protection.
651.33 Great Plains Conservation Program.
651.34 Rural Abandoned Mine Program.

Authority: 42 U.S.C. 4601-4655.

Subpart A—General

§ 651.1 Purpose and scope.

(a) This part sets forth the regulations on real property acquisition and related actions under federal assistance programs administered by the Soil Conservation Service (SCS). Real property acquisition includes the acquisition of real property rights and interests, water rights, mineral or other subsurface rights, and clearances and permits required by federal, state, or local laws and ordinances and regulations.

(b) This part relates to 7 CFR Part 21 which implements the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601-4655). Also, this part relates to 7 CFR Part 3015 which implements the Uniform Federal Assistance Regulations with regard to the real property aspect of grants and cooperative agreements.

(c) The principal purpose of these published regulations is to set forth uniform basic requirements on the acquisition of real property that apply to sponsors of projects when SCS furnishes financial assistance. The term "sponsors" means an entity legally organized under state law, or an Indian tribe or tribal organization which has the authority to carry out the project.

§ 651.2 [Reserved]

Subpart B—SCS Federal Financial Assistance Not Authorized for Real Property Acquisition

§ 651.10 Responsibilities of sponsors.

One or more of the project sponsors are to be responsible for acquiring real property rights and interests and taking related actions needed for the planning, investigation and survey, installation, and operation and maintenance of project measures to be installed with federal financial assistance. This includes:

(a) Complying with all applicable federal, state, and local laws and ordinances and regulations pertaining to the real property acquisition and project measures installation.

(b) As required by the program legislation, paying all costs associated with acquiring or failing to acquire real property and taking related actions.

(c) Submitting proposed real property documents, and proposed special provisions to be included in such instruments, to SCS for approval except for documents to be used in eminent domain or other court proceedings.

(d) Assuring and certifying to SCS before SCS financial assistance is furnished that adequate real property rights have been acquired and that other related actions have been taken.

(e) Complying with the requirements of the USDA Farmers Home Administration when their loans are involved in the project.

§ 651.11 Responsibilities of SCS.

(a) SCS is to determine for each project measure involving SCS financial assistance:

(1) The minimum area for which real property rights are to be acquired;

(2) The minimum interest that is needed in connection with the various features of the measures;

(3) Known existing structures and improvements that will be affected by the installation of the measure;

(4) Routes of ingress and egress when needed; and

(5) Other similar physical features.

(b) This determination is to be set forth in a real property work map developed by SCS and furnished to sponsors. This map is to serve as a basis for sponsors to determine the actual real property rights needed for the project measure, and to acquire such rights.

§ 651.12 Criteria for determining real property needed.

(a) *Structural measures.* The minimum surface areas and any subsurface or other rights needed for the installation, operation and maintenance, and inspection of project measures. For dams, the real property rights and interests include, but are not necessarily limited to, structural features, reservoir, spillway, and other areas, both upstream and downstream, which will be adversely affected by the changed waterflow characteristics. For channels, the real property rights and interests include, but are not necessarily limited to, areas needed for the installation, inspection, design, operation and maintenance, ingress and egress, spoil disposal and areas which will be adversely affected by changed streamflow or induced flooding.

(b) *Nonstructural measures.* In flood plain acquisition, the real property rights or restrictions are to be sufficient and adequate to provide a floodway or to protect the land from development and to provide for any anticipated land use change. Any existing structures and improvements to be relocated from the floodplain are to be identified.

§ 651.13 Induced flooding requirements.

Any structural measure installed with SCS financial assistance that may induce flooding because of changed waterflow characteristics must meet the following requirements:

(a) *Railroads.* Railroads that are to remain in use may not be flooded.

(b) *Roads.* Highways and public roads may not be flooded unless such flooding is authorized by state or local law, ordinance, or other legal authority.

(c) *Dwellings.* All buildings for human habitation, including basements and related structures, may not remain below the flowage line, unless such structures are floodproofed or otherwise protected from damage.

(d) *Buildings other than dwellings.* When requested by the sponsor and approved by SCS, certain buildings and other structures may remain in the flowage area if they and their contents will not be substantially damaged by flooding, and if flooding will not cause a hazard to human life or to building contents.

(e) *Other.* Water sources such as wells or springs and burial sites such as cemeteries and private family plots may be flooded only as authorized by state and local laws, ordinances or regulations. See 7 CFR Part 656 for the regulations governing archeological resources and historical sites or monuments.

§ 651.14 Duration of real property rights.

(a) When project measures require operation and maintenance after installation, and the operation and maintenance is to be performed by someone other than the landowner, the acquired rights must extend through a reasonable period for planning, installation, and:

(1) The evaluated life of the project measure or the life of project measures that are economically evaluated as a unit; or

(2) The useful life of project measures for land conservation or land use.

(b) When project measures do not require operation or maintenance, or the operation and maintenance is to be performed by the landowner, the rights needed for the planning and installation of the measure may be obtained by permit.

(c) This section provides for minimum real property rights required by SCS. Since the useful life of the project may exceed its evaluated life, sponsors may wish to acquire real property rights for a longer period.

Subpart C—SCS Federal Financial Assistance Authorized for Real Property Acquisition

§ 651.20 General.

This subpart sets forth the additional requirements on real property acquisition when SCS financial assistance is authorized in the acquisition of real property.

§ 651.21 Cost sharing arrangements.

(a) The amount of federal financial assistance is to be established in a project plan. The evaluation of the property rights or interests is governed by the Uniform Relocation Assistance and Real Property Acquisition Policies Act (42 U.S.C. 4601–4655), as implemented by 7 CFR Part 21.

(b) The values determined are to be computed in accordance with the following to determine the amount of the SCS financial assistance:

(1) When rights are acquired by negotiation, the SCS share of cost is computed on the basis of the lesser of the price paid by the sponsor or the just compensation value.

(2) When rights are acquired by the eminent domain process, the SCS share of the costs is computed on the basis of the court award. However, if SCS considers the award excessive and the sponsors do not exercise any appeal rights that may be available, SCS will establish a just compensation value for payment purposes.

(3) When real property interests are donated by sponsors or nonfederal third parties (other than sponsors), the in-kind values will be established as set forth in 7 CFR Part 3015.

(4) The real estate appraisal and review required by 7 CFR Part 21, will be cost shared at the same rate as acquisition of the real property rights.

§ 651.22 Real property rights needed.

When SCS cost sharing is authorized by program legislation for recreation or fish and wildlife purposes in a water resource improvement or development, the following real property interest requirements apply:

(a) Fee simple title is to be obtained when privately owned land is involved.

(b) Fee simple title is preferred when nonfederal public land is involved:

however, perpetual easement rights are acceptable.

(c) As a minimum, easement rights are to be obtained for road rights-of-way for access.

(d) As a minimum, easement rights are to be obtained for public utilities that serve the improvement or development.

§ 651.23 Evidence of title.

SCS approval of the title evidence is required for all real property acquisitions before financial assistance may be provided.

Subpart D—Other Land Treatment Programs

§ 651.30 Conservation operations.

Land users who receive technical assistance on conservation practices are responsible for obtaining the real property rights necessary to carry out such practices.

§ 651.31 Watershed Protection and Flood Prevention Programs.

Land users are to have control of the land units to be treated for the contract period by ownership or by documented leasehold interest.

§ 651.32 Emergency Watershed Protection.

Sponsors are responsible for acquiring real property rights and interests needed for installation for emergency measures.

§ 651.33 Great Plains Conservation Program.

See 7 CFR Part 631.

§ 651.34 Rural Abandoned Mine Program.

See 7 CFR Part 632.

Dated: October 1, 1984.

David G. Unger,

Associate Chief.

[FR Doc. 84-27161 Filed 10-15-84; 8:45 am]

BILLING CODE 3410-16-M

Agricultural Marketing Service

7 CFR Part 966

[Amdt. No. 3]

Tomatoes Grown in Florida; Interim Amendment No. 3 to Handling Regulation

Correction

In FR Doc. 84-26379 beginning on page 39153 in the issue of Thursday, October 4, 1984, make the following correction.

§ 966.323 [Corrected]

On page 39154, column one, in § 966.323(a)(2), line two "2⅝₃₂" should read "2⅝₃₂".

BILLING CODE 1505-01-M

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7 CFR Part 1079

Milk in the Iowa Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This suspension action relaxes the limits on the quantity of milk not needed for fluid (bottling) use that may be moved directly from farms to nonpool manufacturing plants and still be priced under the Iowa Federal milk marketing order. A cooperative association requested the suspension in order to achieve added economies in disposing of reserve milk supplies. The suspension is effective for October and November 1984.

EFFECTIVE DATE: October 16, 1984.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-4829.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Suspension: Issued September 18, 1984; published September 21, 1984 (49 FR 37103).

This action has been reviewed under USDA procedures established to implement Executive Order 12291 and has been classified as a "non-major" action.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. This action lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and of the order regulating the handling of milk in the Iowa marketing area.

Notice of proposed rulemaking was published in the **Federal Register** on September 21, 1984 (49 FR 37103) concerning a proposed suspension of certain provisions of the order. Interested persons were afforded opportunity to file written data, views, and arguments thereon.

After consideration of all relevant material, including the proposal in the notice, the comments received, and other available information, it is hereby found and determined that for the months of October and November 1984 the following provisions of the order do not tend to effectuate the declared policy of the Act:

In § 1079.13(d) (2) and (3) the words "the months of" and the words "through November" as they appear in each subparagraph.

Statement of Consideration

This action makes inoperative for October and November 1984 the 50 percent limitation on the proportion of a handler's producer milk supplies that may be moved directly from the farm to a nonpool manufacturing plant and still be pooled. Under the current order, for example, a supply plant must ship 35 percent of its milk supply to fluid milk plants in order to be a pool supply plant. The remaining 65 percent of the supply plant's milk may be disposed of to nonpool manufacturing plants. However, only 50 percent can move directly from the farms to the nonpool plants. The other 15 percent must be received at the supply plant, unloaded, reloaded, and then hauled to the nonpool manufacturing plant.

Associated Milk Producers, Inc. (AMPI), an association of producers that operates plants regulated by the Iowa milk order requested that the 50 percent diversion limitation be suspended for October and November 1984. The remaining diversion provisions in the order would permit a greater portion of a handler's producer milk receipts to be moved directly from farms to nonpool manufacturing plants and still be priced under the order.

The 50 percent limit on diversion to nonpool plants is inadequate to permit efficient handling of milk that is not needed for fluid milk uses. For example, a supply plant must ship at least 35 percent of its milk supply to other plants to qualify as a pool plant. However, with diversions limited to 50 percent, the other 15 percent must be received at the supply plant and then transferred to a nonpool plant. AMPI contends that the extra handling involved adversely affects milk quality (more pumping than if diverted), and is an uneconomic means of pooling reserve milk supplies. Suspending the 50 percent diversion limit will alleviate these concerns and allow improved handling efficiencies.

Under the conditions cited by AMPI, a suspension of the 50 percent limitation

of the diversion provisions is appropriate so that producer milk receipts not needed for fluid use may be moved directly from farms to manufacturing plants and still be priced under the order. A suspension of the 50 percent limitation will tend to improve efficiencies in disposing of the market's reserve milk supplies.

Pool plant handlers should be aware that suspension of the 50 percent limitation does not mean that the diversion limit is now 70 percent. The effective diversion limit is the reciprocal of the pool performance standards. For example, a supply plant will still have to ship 35 percent of its receipts; thus, the effective diversion limit is 65 percent rather than 70 percent.

Interested parties were given an opportunity to submit written data, views, and arguments concerning the proposed suspension. One opposing comment was received from a handler that operates plants regulated under the Chicago Regional order. The handler maintained that increasing the diversion limits would adversely affect its raw milk procurement in the Shullsburg and western Wisconsin areas. The opposing handler apparently believes that the suspension, if granted, would enable AMPI to attract more producer milk from those areas. The handler also stated that it has experienced difficulty maintaining adequate supplies of milk since recent amendments to the Chicago order became effective, in part because of a higher Federal order blend price in Iowa and premiums paid by AMPI.

The suspension does not change the percentage of a supply plant's receipts that must be shipped to fluid plants to qualify as a pool plant. The actual diversion limit for a supply plant in October and November will be 65 percent, which is the reciprocal of the 35 percent shipping requirement. Thus, the suspension should not result in any change in the proportions of a supply plant's receipts that are shipped to fluid milk outlets, or directed to manufacturing uses. What the suspension will do is permit milk that otherwise would have to be received at the supply plant and then shipped to a manufacturing plant to be moved directly from the farm to the manufacturing plant and still be pooled. This should provide additional economies by eliminating milk hauling and handling, which also adversely affects milk quality. Thus, this action should not affect the availability of milk supplies for fluid use in the Chicago market.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) The suspension is necessary to reflect current marketing conditions and to assure orderly marketing conditions in the marketing area. Otherwise, uneconomic movements of milk would be made solely for the purpose of pooling the milk of dairy farmers who have regularly been associated with the Iowa market;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views or arguments concerning this suspension.

Therefore, good cause exists for making this order effective upon publication in the Federal Register.

List of Subjects in 7 CFR Part 1079

Milk marketing orders,
Milk,
Dairy products.

§ 1079.13 [Amended]

It is therefore ordered, That the following provisions of the Iowa order are hereby suspended for the months of October and November 1984:

In § 1079.13(d) (2) and (3) the words "the months of" and the words "through November" as they appear in each paragraph.

Effective Date: October 16, 1984.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Signed at Washington, D.C., on: October 10, 1984.

C.W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 84-27215 Filed 10-15-84; 8:45 am]

BILLING CODE 3410-02-M

SMALL BUSINESS ADMINISTRATION

13 CFR PART 121

Small Business Size Standard for Financial Institutions

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: This rule establishes a definition of small business for financial institutions. The definition is $100 million or less in assets for the most recently completed fiscal year. It is necessary to enable firms under the SBA subcontracting program to contract for services to small financial institutions.

EFFECTIVE DATE: November 15, 1984.

FOR FURTHER INFORMATION CONTACT:

About Size Standard: Andrew A. Canellas, Director, Size Standards Staff, Small Business Administration, 1441 L Street, N.W.—Room 500, Washington, D.C. 20416, Telephone (202) 653–6373.

About Subcontracting Program: William Smith, Director, Office of Program Development, Office of Minority Small Business and Capital Ownership Development, Small Business Administration, 1441 L Street, N.W.—Room 602, Washington, D.C. 20416, Telephone (202) 653–6813.

SUPPLEMENTARY INFORMATION: SBA issued a proposed rule in the Federal Register on April 2, 1984 (49 FR 13052), to establish a new size standard for financial institutions at $100 million or less in assets. This size standard is to be used in a subcontracting program in which a firm receiving a Government contract could procure financial services from a small financial institution. By establishing a definition of a small financial institution, such subcontracts can qualify to meet goals under the SBA subcontracting program. The subcontracting program which is authorized under the Small Business Act was broadened to include financial institutions in a separate "Notice of Policy" which appeared at 49 FR 13091 on April 2. Consequently, a size standard is needed for financial institutions to establish which institutions are to be considered small for purposes of this program.

Several minority banks have indicated to SBA that permitting contracts for financial services, including deposits, by prime contractors with minority financial institutions to meet subcontracting goals and credits is urgently needed to sustain the minority banking community. Furthermore, in SBA's opinion, such a position will result in enhanced availability of capital to small and minority-owned businesses since the financial institutions providing such services will be better able to service these businesses. This is the case because of the "pass-through effect" that additional deposits in minority financial institutions would have on minority businesses. The pass-through effect presumes that more money deposited in minority financial institutions would make more loans available at more favorable terms to minority businesses and individuals because such businesses and individuals are likely to be located in the vicinity of minority financial institutions. This would result in aiding the development of minority businesses, which is also urgently needed. Such a

position by SBA is consistent with the letter and intent of section 7(j)(9) of the Small Business Act.

Rationale for the Rule

SBA has determined that a size standard for financial institutions should be based upon the assets of the financial institution since this is the commonly accepted measure of bank size. In a study of bank size and financial performance by Kolari and Fraser done for SBA entitled "Size and Financial Performance in Banking," the authors noted the "inherently arbitrary dichotomy between small and large banks." While this may be so, there is a rough consensus among persons who write about banking and size distinctions. SBA reviewed several opinions regarding the size of a small bank. These opinions come from various articles which generally examine banks' performance, industry structure, and competition.

These opinions indicate that the range of $25–$100 million in assets constitutes a small bank. Within this range, data compiled by the Federal Deposit Insurance Corporation permit examination of three size classes: $25, $50, and $100 million. As indicated in Table 1, below, about 85 percent of all banks have assets of less than $100 million, and the average bank size is $149 million in assets.

Data on minority-owned bank sizes have been provided to SBA by the Federal Reserve System. Table 3, below, has been constructed from these data. The differences in assets between all banks, Table 2 below, can thus be compared to Table 3 for minority-owned banks. As expected, minority banks generally have less assets, and control of assets is more dispersed among a greater number of these banks. Average size is $43 million in assets compared to $149 million for all banks.

TABLE 1

[Percent of banks and assets distributed by asset size of bank]

Bank size (all)	Less than $5M	$5 to $9.9M	$10 to $24.9M	$25 to $49.9M	$50 to $99.9M	$100 to $299.9M	$300 to $499.9M	$500 to $999.9M	$1 to $4.9B	$5B+
Number of banks: 14,763	5	10	29	25	16	10	1	1	1	<1
Assets: $2,196,621 (millions)	←1%→		3	6	8	10	4	6	18	44

TABLE 2

[Cumulative percent of banks and assets by bank size]

Bank size	Cumulative percent of assets	Cumulative percent of banks
$25M	4	44
$50M	9	69
$100M	17	85
$300M	27	95

Average Size (Assets) = $149M.
Median Size (Assets) = $31M.
Source: "1982 Statistics on Banking," Federal Deposit Insurance Corporation, Table 105, p. 20.

TABLE 3

[Cumulative percent of minority-owned banks and assets by bank size (1983)]

Bank size	Cumulative percent of assets	Cumulative percent of banks
$ 25M	15	50
$ 50M	38	76
$100M	64	93
$350M	100	100

Average Size (Assets) = $43M.
Total Assets in Minority-Owned Banks = $4,117M.
Number of Minority-Owned Banks = 96.
Source: "Minority-Owned Banks by District, March 31, 1983" Computer Printout, Federal Reserve System, Division of Research and Statistics, Washington, D.C.

After inspection of these data, various size standards for a small bank were considered. Clearly a size standard of $25 million in assets would be too small, as it encompasses only 4 percent of all bank assets and 16 percent of minority bank assets. At the other extreme, a size standard of $300 million in assets is so large that most states have only a few banks in this size category. In addition, there are only two minority-owned banks with $300 million in assets.

The two other size standard candidates are $50 and $100 million, both within the range suggested above in the cited articles. On average, a bank with $50 million in assets would do business from a head office and one branch; at $100 million in assets, a second or third branch might be added, although this varies considerably. The $100 million bank is also more likely to be capable of handling electronic funds transfers, a faster paperless way of handling money.

Banks of $50 million or less in assets have 9 percent of all assets; for $100 million, this increases to 17 percent and includes 85 percent of all banks. For minority banks, 38 percent of assets are in banks having $50 million in assets or less; 64 percent are in banks $100 million in assets or less, representing 95 percent of minority-owned banks. For minority-owned banks, a size standard of $50 million would include 73 of 96 banks; at $100 million, 89 banks would be included. Because SBA and the FRS have different definitions of minority ownership, not all of the 96 banks indicated as being minority-owned in the FRS statistics would necessarily be so considered by SBA. For example, the minority status of women-owned banks depends on additional factors such as ownership by socially and economically disadvantaged individuals (see 49 FR 13092 or section 8(d) of the Small Business Act, 15 U.S.C. 637(d)).

SBA has thus determined that a size standard of $100 million in assets is within the range suggested by the available data. It falls midway between the $149 million all-bank and $43 million minority bank average sizes; should be large enough to handle electronic funds transfer, yet, excludes several of the largest minority-owned banks. This size standard excludes only the largest 15 percent of all financial institutions in the United States, which clearly are not in need of the benefits available by being categorized as small. This standard will result in making the minority banking program, for which this rule is being proposed, available to all but the seven largest minority-owned banks. For these reasons, SBA has determined that a financial institution with assets of not more than $100 million will be considered small.

For purposes of Executive Order 12291 and the Regulatory Flexibility Act, SBA hereby states that this Final Rule may result in significant economic impact upon the minority banking program, which this rule is intended to facilitate, may be such that this rule be considered a major rule. Therefore, the following regulatory analysis information is provided:

1. *Description of Potential Benefits of the Rule.* The benefit to be derived is the facilitation of the minority banking program described above.

2. *Description of Potential Costs of the Rule.* There are no costs associated with this rule.

3. *Description of Net Benefits of the Rule.* The rule will encourage the placement of deposits by Federal contractors in banks owned and controlled by socially and economically disadvantaged individuals. As such, those banks will be benefited, and the businesses which they serve will have more loanable funds available to them.

4. *Description of Reasons Why this Action Is Being Considered.* This action is needed to facilitate the minority banking program described above.

5. *Statement of Legal Basis for the Proposed Rule.* 15 U.S.C. 632(a).

6. *Description of Entities to Which the Proposed Rule Will Apply.* Commercial Banks and Savings and Loan Associations which are 51 percent owned by one or more socially and economically disadvantaged individuals; or in the case of a publicly owned institution, at least 51 percent of the stock of which is owned by one or more socially and economically disadvantaged individuals; and whose daily business operations are controlled by one or more such individuals.

7. *Description of Reporting and Recordkeeping Requirements.* There are none associated with this rule.

Discussion of Public Comment on Proposed Rule

SBA received four comments on the proposed rule. Two favored the size standard, one opposed it, and one was unclear as to the size standard issue. The opposing comment felt that $100 million was too low and suggested using an unspecified number of employees or as an alternative total deposits measured in constant dollars.

List of Subjects in 13 CFR Part 121

Small business, Small business size standards.

PART 121—[AMENDED]

Accordingly, pursuant to section 3(a) of the Small Business Act, 15 U.S.C. 632(a), SBA hereby establishes a new § 121.13 to 13 CFR as follows:

§ 121.13. Definition of small business financial institution for purposes of sections 8(d) and 15(g) of the Small Business Act.

(a) For the purpose of section 8(d) and 15(g) of the Small Business Act, a small financial institution is a commercial bank or savings and loan association, the assets of which, for the preceding fiscal year, do not exceed $100 million.

(b) For purposes of this regulation, the term "assets" shall include all assets reflected on the institution's financial balance sheet for a given fiscal year and defined according to the Federal Financial Institution's Examination Council 034 call report form.

Dated: September 6, 1984.

James C. Sanders,

Administrator.

[FR Doc. 84-27276 Filed 10-15-84; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 84-ACE-10]

Alteration of Transition Area—Wichita, KS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The nature of this Federal action is to alter the 700-foot transition area at Wichita, Kansas, to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Colonel James Jabara Airport, Wichita, Kansas. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

DATES: Effective date—December 20, 1984. Comments must be received on or before November 16, 1984.

ADDRESSES: Send comments on the rule to: Federal Aviation Administration, Manager, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-540, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Dale L. Carnine, Airspace Specialist, Operations, Procedures and Airspace Branch, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION: To enhance airport usage, an additional instrument approach procedure to the Colonel James Jabara Airport, Wichita, Kansas, is being established. The establishment of this new instrument approach procedure entails alteration of the transition area at Wichita, Kansas, at and above 700 feet above the ground (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

Altough this action will slightly alter and increase the size of the transition area and is in the form of a final rule, it was not preceded by notice and public procedure because: (1) This is primarily a redescription of the existing transition area to accommodate a new approach to the Colonel James Jabara Airport, (2) the increased size of the transition area is minimal, (3) the additional airspace is primarily over agricultural land and is sparsely populated, (4) and it is in the public interest to ensure that the effectivity of this regulation coincides with the publication date for the Standard Instrument Approach Procedures pertaining to this alteration. However, interested persons are being given the opportunity to comment on the final rule. When the comment period ends, the FAA will use the comments submitted, together with any other available information, to review the regulation. If this review indicates that changes to the rule are appropriate, the FAA will initiate rulemaking proceedings to amend it. Comments that include facts supporting the views and suggestions expressed will be of the most help in evaluating the appropriateness of the rule.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, by altering the following transition area:

Wichita, Kansas

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Wichita, Kansas, Mid-Continent Airport (latitude 37°39'00" N, longitude

97°25'59" W), and from 8 miles either side of the Localizer Course to Runway 1L extending from the 8.5-mile radius to 15 miles south southwest of the airport; within an 8.5-mile radius of the McConnell Air Force Base (AFB) (latitude 37°37'28" N, longitude 97°15'51" W); and 2 miles each side of the McConnell AFB Localizer Course to Runway 1R, extending from the 8.5-mile radius to 13 miles south of the AFB; within 3 miles each side of the 116° bearing from the Cessna Aircraft Field (latitude 37°38'55" N, longitude 97°15'01" W) extending from the 8.5-mile radius of the AFB to 14 miles east of the field; within a 5-mile radius of the Augusta, Kansas, Airport (latitude 97°40'21" N, longitude 97°04'36" W); within a 5-mile radius of the Colonel James Jabara Airport (latitude 37°44'53" N, longitude 37°13'16" W), and within 2 miles each side of the 187° bearing from the AUBRA Waypoint (latitude 37°53'06" N, longitude 97°11'53" W) extending from the 5-mile radius to 8 miles north northeast of the airport and within 2 miles each side of the 344° bearing from the Colonel James Jabara Airport, extending from the 5-mile radius to 8 miles north.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and § 11.69 of the Federal Aviation Regulations (14 CFR 11.69). This amendment becomes effective at 0901 G.m.t. December 20, 1984.)

Issued in Kansas City, Missouri, on October 2, 1984.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 84-27270 Filed 10-15-84; 8:45 am]

BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

14 CFR Part 250

[Reg. ER-1392; Economic Regs. Amdt. No. 21 to Part 250]

Oversales

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule gives notice that the Office of Management and Budget (OMB) has approved the extension of the information requirements contained in § 250.9 of Part 250 of the Board's Economic Regulations (14 CFR Part 250). This approval has been extended through September 30, 1987. OMB approval is required under the Paperwork Reduction Act of 1980.

DATES: Dated: October 11, 1984.

Effective: October 2, 1984.

FOR FURTHER INFORMATION CONTACT: Bernie Stankus, Data Requirements Section, Information Management Division, Office of Comptroller, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673-6042.

SUPPLEMENTARY INFORMATION:

List of Subjects in Part 250

Air carriers, Consumer protection, Denied boarding compensation, Reporting requirements.

Accordingly, the Civil Aeronautics Board amends Part 250 of its Economic Regulations (14 CFR Part 250) by adding the OMB control number to the end of § 250.9 and 250.11 to read as follows:

§ 250.9 Written explanation of denied boarding compensation and boarding priorities.

* * * * *

(Approved by the Office of Management and Budget under control number 3024-0008)

§ 250.11 Public disclosure of deliberate overbooking and boarding procedures.

* * * * *

(Approved by the Office of Management and Budget under control number 3024-0018)

This amendment is issued by the undersigned pursuant to delegation of authority from the Board to the Secretary in 14 CFR 385.24(b).

(Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324).

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-27270 Filed 10-15-84; 8:45 am]

BILLING CODE 6320-01-M

14 CFR Part 255

[Reg. ER-1391; Economic Regs. Amdt. No. 1 to Part 255]

Carrier-Owned Computer Reservations Systems

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule gives notice that the Office of Management and Budget (OMB) has approved the use of the new information requirements in sections 255.4, 255.5(c) and 255.8 of Part 255 of the Board's Economic Regulations (ER-1385, 49 FR 32540, August 15, 1984). OMB approved the use of these requirements through September 30, 1987.

DATED: October 11, 1984.

Effective: September 27, 1984.

FOR FURTHER INFORMATION CONTACT: Robin A. Caldwell, Chief, Information Management Division, Office of Comptroller, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-5922.

SUPPLEMENTARY INFORMATION:

List of Subjects in Part 255

Advertising, Air Carriers, Air Transportation-foreign, Antitrust, Consumer protection, Essential air service, Travel agents.

Accordingly, the Civil Aeronautics Board amends Part 255 of its Economic Regulations (14 CFR 255) by adding the OMB control number to the end of §§ 255.4, 255.5, and 255.8 to read as follows:

§ 255.4 Display of information.

* * * * *

(Approved by the Office of Management and Budget under control number 3024-0075)

§ 255.5 Contracts with participating carriers.

* * * * *

(The information collection requirements in paragraph (c) were approved by the Office of Management and Budget under control number 3024-0075)

§ 255.8 Marketing information.

* * * * *

(Approved by the Office of Management and Budget under control number 3024-0075)

This amendment is issued by the undersigned pursuant to delegation of authority from the Board to the Secretary in 14 CFR Sec. 385.24(b).

(Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324).

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-27272 Filed 10-15-84; 8:45 am]

BILLING CODE 6320-01-M

14 CFR Part 291

Domestic Cargo Transportation; Approval of Extension of Reporting Requirements

AGENCY: Civil Aeronautics Board.

ACTION: Notice of approval of extension of reporting requirements by the Office of Management and Budget.

SUMMARY: The Civil Aeronautics Board has extended the reporting requirements in §§ 291.11, 291.23 and 291.33 of Part 291 of the Board's Economic Regulations governing domestic all-cargo transportation. The Office of Management and Budget approved the extension of these requirements through September 30, 1987, under OMB No. 3024-0022. OMB approval is required under the Paperwork Reduction Act of 1980.

DATED: October 10, 1984.

FOR FURTHER INFORMATION CONTACT: Bernie Stankus, Data Requirements

Section, Information Management Division, Office of Comptroller, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-8042.

SUPPLEMENTARY INFORMATION:

List of Subject in Part 291

Air Carriers, Antitrust, Freight, Insurance, and Reporting and recordkeeping requirements.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-27275 Filed 10-15-84; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 176

[Docket No. 82F-0384]

Indirect Food Additives: Paper and Paperboard Components

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of 1-alkenyl olefins (which contain not less than 72 percent of C_{30} and higher olefins) in coatings for paper and paperboard. This action responds to a petition filed by Gulf Oil Corp.

DATES: Effective October 16, 1984; objections by November 15, 1984.

ADDRESS: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Julia L. Ho, Center for Food Safety and Applied Nutrition (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of January 28, 1983 (48 FR 4050), FDA announced that a food additive petition (FAP 3B3679, inadvertently listed as 3A3679) had been filed by Gulf Oil Corp., Pittsburgh, PA 15219, proposing that Part 176 (21 CFR Part 176) of the food additive regulations be amended to provide for the safe use of 1-alkenyl olefins as components of paper and paperboard.

FDA has evaluated the data in the petition and other relevant material and concludes that the proposed food additive uses are safe and that the regulations should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment, and therefore an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 176

Food additives, Food packaging, Paper and paperboard.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Food Safety and Applied Nutrition (21 CFR 5.61), Part 176 is amended in § 176.170(b)(2) by alphabetically inserting a new item in the list of substances, to read as follows:

PART 176—INDIRECT FOOD ADDITIVES: PAPER AND PAPERBOARD COMPONENTS

§ 176.170 Components of paper and paperboard in contact with aqueous and fatty foods.

* * * * *

(b) * * *

(2) * * *

List of substances	Limitations
* *	* * *
1-Alkenyl olefins, containing not less than 72 percent of C_{30} and higher olefins.	For use only under the following conditions: 1. In coatings for paper and paperboard with food of types I, II, IV-B, and VII-B described in Table 1 of paragraph (c) of this section under conditions of use E, F, and G described in Table 2 of paragraph (c) of this section. 2. In coatings for paper and paperboard with food of type VIII described in Table 1 of paragraph (c) of this section under conditions of use A through H described in Table 2 of paragraph (c) of this section.
* *	* * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before November 15, 1984 submit to the Dockets Management Branch (address above) written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation is effective October 16, 1984.

(Secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348))

Dated: October 5, 1984.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 84-27187 Filed 10-15-84; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF STATE

22 CFR Part 51

[Dept. Reg. 108.839]

Denial of Passports

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: The Department of State hereby amends the passport regulations (22 CFR Part 51) to provide for the mandatory denial of passport privileges to those who are in default on their repatriation loans. This action is in response to a statutory requirement made by the U.S. Congress in the Department of State Authorization Act, 1984 and 1985. The change is designed to bring the current regulations into conformity with the statute.

EFFECTIVE DATE: October 16, 1984.

FOR FURTHER INFORMATION CONTACT: William Wharton, Director, Office of Citizenship Appeals and Legal Assistance, Room 5813, Department of State, 2201 C Street NW., Washington, D.C. 20520, Telephone (202) 632-0801.

SUPPLEMENTARY INFORMATION: The number of repatriation loans that the U.S. Government has been unable to collect from U.S. citizens has increased to the extent that Congress now statutorily requires the Secretary of State to deny the issuance of new passports to those citizens who have not fulfilled their obligations. The statute is designed to encourage the prompt repayment of these loans.

Since the Departmental amendment to the CFR is being made to bring the regulations into conformity with the statute, the Department has determined that the public notice requirement of the Administrative Procedure Act (APA), 5 U.S.C. 553, as amended, may be dispensed with because it is unnecessary. 5 U.S.C. 553(b)(B).

The Department has also determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purposes of Executive Order 12044.

List of Subjects in 22 CFR Part 51

Passports.

PART 51—[AMENDED]

In § 51.70, a new paragraph (a)(7) is added following (a)(6) to read as follows:

§ 51.70 Denial of Passports.

(a) * * *

(7) The applicant is in default on a loan received from the United States to effectuate his or her return from a foreign country in the course of travel aboard.

* * * * *

(Sec. 1, 44 Stat. 887; sec. 1, 41 Stat. 750; sec. 4, 63 Stat. 111, as amended; 22 U.S.C. 211a, as amended, 2658; sec. 122 (d)(3), Pub. L. 98-164, 97 Stat. 1017; E.O. 11295, 36 FR 10603; 3 CFR 1966-70 Comp. page 507 unless otherwise noted)

Dated: September 21, 1984.

For the Secretary of State.

Joan M. Clark,

Assistant Secretary, Bureau of Consular Affairs.

[FR Doc. 84-27243 Filed 10-15-84; 8:45 am]

BILLING CODE 4710-06-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 35a

[T.D. 7967]

Employment Taxes; Application of the Repeal of 30 Percent Withholding by the Tax Reform Act of 1984 and of Information Reporting and Backup Withholding in Light of Such Repeal

Correction

In the issue of Wednesday, September 19, 1984, on page 36645 in the second column, a correction to FR Doc. 84-22292 appeared. The first correction was inaccurate and should have appeared as follows:

1. On page 33239, third column, fifteenth line, "lending" should have read "legending".

BILLING CODE 1505-01-M

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting and Supervising Federal Prisoners

AGENCY: Parole Commission, Justice.

ACTION: Correction of final rule.

SUMMARY: The Parole Commission is correcting a clerical error in its final rule revising its Paroling Policy Guidelines, 28 CFR 2.20 published on August 29, 1984 at 49 FR 34207.

EFFECTIVE DATE: October 1, 1984.

FOR FURTHER INFORMATION CONTACT: Toby Slawsky, Office of General Counsel, U.S. Parole Commission, 5550 Friendship Blvd., Chevy Chase, Maryland, telephone (301) 492-5959.

SUPPLEMENTARY INFORMATION: In Doc. 84-22931 published August 29, 1984 at page 34207, first column Section 1042 of Chapter Ten, Subchapter E of the Offense Behavior Severity Index, 28 CFR 2.20 is incorrect. This section is corrected to read: Grade conduct involving "national security controls" or "nuclear nonproliferation controls" as Category Six.

Dated: October 11, 1984.

Benjamin F. Baer,

Chairman, Parole Commission.

[FR Doc. 84-27208 Filed 10-15-84; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD11 84-74]

Marine Event: Bullhead City Boat Drags

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for the Bullhead City Boat Drags. This event will be held on 19 through 21 October 1984 at Riviera Marina, Riviera, AZ. The regulations are needed to provide for the safety of life and property on navigable waters during the event.

EFFECTIVE DATE: These regulations become effective on 19 October 1984 and terminate on 21 October 1984.

FOR FURTHER INFORMATION CONTACT: LTJG Jorge Arroyo, Eleventh Coast Guard District Boating Affairs Office, 400 Oceangate Boulevard, Long Beach, California 90822, Tel: (213) 590-2331.

SUPPLEMENTARY INFORMATION: A notice of proposed rule making has not been published for these regulations and they are being made effective in less than 45 days from the date of publication. Following normal rule making procedures would have been impracticable. The application to hold this event was not received until 10 September 1984, and there was not sufficient time to publish proposed rules in advance of the event or to provide for a delayed effective date.

Nevertheless, interested persons wishing to comment may do so by submitting written views, data, or arguments. Commenters should include their name and address, identify this notice (CGD11 84-74) and the specific section of the proposal to which their comments apply, and give reasons for

each comment. Receipt of comments will be acknowledged if a stamped self-addressed postcard or envelope is enclosed. The regulations may change in light of comments received.

Drafting Information

The drafters of this regulation are LTJG Jorge Arroyo, Project Officer, Boating Affairs Office, Eleventh Coast Guard District, Project Officer, and LT Joseph R. McFaul, Project Attorney, Legal Office, Eleventh Coast Guard District.

Discussion of Regulation

The Sunshine Promotions Inc. "Bullhead City Boat Drags" will be conducted on 19 through 21 October 1984 at Riviera Marina, Riviera, AZ. This event will have 100 high speed boats, 16 to 20 feet in length that could pose a hazard to navigation. Race boats will compete in heats moving 1200 feet north. 1000 additional feet will be allowed for slow down and turn around; then they will idle southerly along the natural flow of the river back to the starting point. Therefore, vessels desiring to transit the regulated area may do so only with clearance from a patrolling law enforcement vessel or an event committee boat.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

Regulations: In consideration of the foregoing Part 100 of Title 33, Code of Federal Regulations, is amended by adding a temporary section to read as follows:

§ 100.35 11-84-74 Bullhead City Boat Drags, Riviera Marina, Riviera, AZ.

(a) *Regulated Area:* The following area may be closed intermittently to all vessel traffic. That portion of the Colorado River, starting from the entrance of Riviera Marina, Riviera, AZ to approximately 1700 feet north.

(b) *Effective Dates:* These regulations will be effective from 9:00 a.m. to 5:30 p.m. on 19 through 21 October 1984.

(c) *Special Local Regulations:* All persons and/or vessels not registered with the sponsor as participants or official regatta patrol vessels are considered spectators. The "official regatta patrol" consists of any Coast Guard, public, state or local law enforcement and/or sponsor provided vessels assigned to patrol this event.

(1) No spectators shall, block, anchor, loiter in, or impede the through transit of participants or official regatta patrol vessels in the regulated area during the effective dates, unless cleared for such entry by or through an official regatta patrol vessel.

(2) When hailed and/or signaled by horn or whistle by an official regatta patrol vessel, a spectator shall come to an immediate stop. Vessels shall comply with all directions of the designated Patrol Commander. Failure to do so may result in citation for failure to comply.

(3) All vessels in close proximity shall operate at a safe and prudent speed which will create a minimum wake that will not affect participants.

(4) The Patrol Commander is empowered to forbid and control the movement of vessels in the regulated area. He may terminate the marine event at any time it is deemed necessary for the protection of life and property. He may be reached on VHF Channel 16 (156.8 MHz) when required, by the call sign "PATCOM".

(33 U.S.C. 1233; 33 U.S.C. 1236; 49 CFR 1.46(b); 33 CFR 100.35)

Dated: October 1, 1984.

F P. Schubert,

Rear Admiral, Coast Guard, Commander, Eleventh Coast Guard District.

[FR Doc. 84-27205 Filed 10-15-84; 8:45 am]
BILLING CODE 4910-14-M

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33 CFR Part 117

[CGD7 84-17]

Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, Florida

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of Florida Department of Transportation, the Coast Guard is changing the regulations governing the Oakland Park Boulevard Bridge, mile 1060.5, in Ft. Lauderdale by permitting the number of openings to be limited during certain periods. This change is being made because periods of peak vehicular traffic have increased. This action will accommodate the current needs of vehicular traffic and still provide for the reasonable needs of navigation.

EFFECTIVE DATE: These regulations become effective on November 15, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Walt Paskowsky, Bridge Administration Specialist, telephone (305) 350-4108.

SUPPLEMENTARY INFORMATION: On 17 May 1984, the Coast Guard published proposed rules in 49 FR 20865 concerning this amendment. The Commander, Seventh Coast Guard District, also published the proposal as a Public Notice dated 29 May 1984. In each notice interested persons were given until 2 July 1984 to submit comments.

Drafting Information

The drafters of these regulations are Walt Paskowsky, Bridge Administration Specialist, project officer, and Lieutenant Commander, K.E. Gray, project attorney.

Discussion of Comments

No comments were received in response to the publication in the **Federal Register**. In response to the Public Notice, 11 comments were received that supported the proposal and 2 objections were received. Of the commenters objecting, one wanted openings every 15 minutes, the other wanted openings every 30 minutes. 14 letters and a petition containing about 1300 signatures requesting timed openings were received prior to the publication of the Public Notice.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. We conclude this because the regulation will exempt many commercial vessels such as tugs with tows and regularly scheduled cruise vessels. Since the economic impact of these regulations is expected to be minimal, the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Regulations: In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended by redesignating § 117.261(s) to § 117.261(s-1) and adding a new § 117.261(s-2) immediately after § 117.261(s-1) to read as follows:

§ 117.261 Atlantic Intracoastal Waterway from St. Marys River to Miami.

* * * * *

(s-2) The draw of the Oakland Park Boulevard Bridge, mile 1060.5, in Fort Lauderdale shall open on signal, except that from 15 November through 15 May, from 7:00 a.m. to 6:00 p.m., Monday through Friday, the draw need open only

on the hour, 20 minutes past the hour, and 40 minutes past the hour to pass all accumulated vessels, and from 10:00 a.m. to 6:00 p.m. on Saturday, Sundays and legal holidays, the draw need open only on the hour, quarter-hour, half-hour and three-quarter hour to pass all accumulated vessels. Public vessels of the United States, tugs with tows, regularly scheduled cruise vessels and vessels in distress shall be passed at any time.

* * * * *

(33 U.S.C. 499; 49 CFR 1.46(c)(5); 33 CFR 1.05-1(g)(3))

Dated: September 26, 1984.

R.P. Cueroni,

Rear Admiral, Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 84-27200 Filed 10-15-84; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 165

[CGD3-84-26]

Security Zone; New London Harbor, CT

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is enlarging Security Zone "B" in the Thames River, New London Harbor, New London, CT by extending it 100 feet into the channel thereby decreasing the width of the channel from 600 feet to 500 feet in the vicinity of the Electric Boat Division Shipyard. The enlargement is necessary in order to create a 100 foot "buffer zone" between the navigable channel and the pierheads at the Electric Boat Division Shipyard which will safeguard U.S. Naval and other vessels from sabotage or other subversive acts, accidents, or other incidents of a similar nature while moored at the shipyard.

EFFECTIVE DATE: November 15, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. R.F. Valderrama, Ports and Waterways Specialist, Commander (mpv-p), Third Coast Guard District, at (212) 668-7179.

SUPPLEMENTARY INFORMATION: On August 2, 1984 the Coast Guard published a notice of proposed rulemaking in the **Federal Register** for these regulations (49 FR 30978). Interested persons were requested to comment. Eight comments were received all of which supported the proposed rulemaking. Accordingly, no changes have been made to the rule as proposed.

Drafting Information

The drafters of these regulations are Mr. R.F. Valderrama, Ports and Waterways Specialist, Project Officer for Commander (mpv-p), Third Coast Guard District, and Mrs. M.A. Arisman, Project Attorney, Third Coast Guard District Legal Office.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary.

The enlargement of Security Zone "B" will only slightly encroach upon the shipping channel and will encompass a relatively small water area adjacent to the piers at the Electric Boat Division Shipyard. Although the channel is frequently traversed by commercial vessels, naval vessels, and pleasure craft, the economic impact is expected to be minimal since, in practice, a majority of vessels steer well clear of the 100 feet of channel directly adjacent to the Electric Boat Division Shipyard piers. The remaining 500 feet of channel will adequately and safely accommodate all deep draft users.

On the western side of the channel, a turning basin and deep water outside the channel provide extra sea room for shallow draft users. Since the impact of these regulations is expected to be minimal, the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

PART 165—[AMENDED]

§ 165.302 New London Harbor, Connecticut-security zone.

Final Regulation: In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations, is amended by revising paragraph (a)(2) of § 165.302 to read as follows:

(a) * * *

(2) Security Zone B. The waters of the Thames River west of the Electric Boat Division Shipyard enclosed by a line beginning at a point on the shoreline at 41°20'22.1" N, 72°04'52.8" W; then west to 41°20'28.7" N, 72°05'03.5" W; then to 41°20'53.3" N, 72°05'6.6" W; then to 41°21'03" N, 72°05'06.7" W; then due east to a point on the shoreline at 41°21'03" N, 72°05'00" W; then along the shoreline to the point of beginning.

* * * * *

(50 U.S.C. 191; E.O. 10173; and 33 CFR 6.04-6)

Dated: September 27, 1984.

P.A. Yost, Jr.,

Vice Admiral, Coast Guard, Commander, Third Coast Guard District.

[FR Doc. 84-27204 Filed 10-15-84; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 133

[WH-FRL-2684-3]

Secondary Treatment Regulation; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: This document corrects typographical errors in the final regulation amending the definition of secondary treatment which was published September 20, 1984 (49 FR 36986).

FOR FURTHER INFORMATION CONTACT: William Kramer, Facility Requirements Division (WH-595), Environmental Protection Agency, Washington, D.C. 20460, (202) 382-7277.

Henry L. Longest, II,

Acting Assistant Administrator, Office of Water.

September 26, 1984.

PART 133—[CORRECTED]

Accordingly, the Office of Water is correcting 40 CFR Part 133 to read as follows:

§ 133.101 [Corrected]

1. In § 133.101, paragraph (d), "BOD_5" is corrected to read "BOD.", and "(BDO)" is corrected to read "(BOD)".

§ 133.102 [Corrected]

2. In § 133.102, paragraph (a)(4) is corrected in the first line by changing the phrase "At the option to * * *" to read "At the option of * * *".

§ 133.105 [Corrected]

3. In § 133.105(f), in the second sentence, "Furthermore, permitting authorities may require more stringent

limitations" is corrected to read "Furthermore, permitting authorities shall require more stringent limitations." (Note discussion at 49 FR 37003, VI.A., paragraph three.)

4. In the preamble, on page 36997, third column, fourteenth line from the bottom, "have stringent" should have read "have more stringent".

5. In the preamble, on page 36998, third column, twelfth line from the bottom, "ammonia nitrifying" and should have read "ammonia and nitrifying".

6. In the preamble, on page 37003, first column, last line, "August" should have read "September".

[FR Doc. 84-26053 Filed 10-15-84; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 57

Public Health; Update of Text; Technical Amendments; Correction

AGENCY: Public Health Service, HHS.

ACTION: Final rule; correction.

SUMMARY: This document corrects a section citation contained in final regulations making technical amendments to the regulatory text of Public Health Service regulations in Title 42 of the Code of Federal Regulations which were published September 27, 1984 (46 FR 38108).

EFFECTIVE DATE: September 27, 1984.

FOR FURTHER INFORMATION CONTACT: Robert L. Spencer, PHS Regulations Officer, Office of the Assistant Secretary for Health, Room 745-G, HHH Building, 200 Independence Avenue SW., Washington, D.C. 20201, 202-755-4884.

Accordingly, FR Doc. 84-25595 appearing on page 38108 in the issue of Thursday, September 27, 1984 is corrected as follows:

On page 38113, third column, item n., the reference to "Section 57.1609" should read "Section 57.1608" and the section number in the section heading should be changed accordingly.

Dated: October 10, 1984.

Margaret M. Heckler,

Secretary.

[FR Doc. 84-27207 Filed 10-15-84; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6573

[CA 7803]

California; Partial Revocation of Executive Order No. 6843

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This action revokes an Executive order as it affects 540 acres of national forest land withdrawn pending resurvey. This action will restore the land to nonmetalliferous mining, and to such forms of surface disposition as may by law be made of national forest land. The land has been and remains open to metalliferous mining and mineral leasing.

EFFECTIVE DATE: November 10, 1984.

FOR FURTHER INFORMATION CONTACT: Dianna Storey, BLM California State Office, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825, 916-484-4431.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Executive Order No. 6843 of September 11, 1934, is hereby revoked insofar as it affects the following described lands:

Mount Diablo Meridian

T. 12 N., R. 13 E.,
Sec. 8, SE¼SE¼;
Sec. 9, S½S½;
Sec. 10, E½SW¼, SW¼SW¼, and N½SE¼;
Sec. 17, W½NW¼NE¼ and N½NW¼;
Sec. 18, NW¼NE¼.

The areas described aggregate 540 acres in El Dorado County.

2. At 10 a.m. on November 10, 1984, the lands will be open to such forms of surface disposition as may by law be made of national forest land.

3. At 10 a.m. on November 10, 1984, the lands will be open to location for nonmetalliferous minerals under the United States mining laws. Appropriation of lands described in this order under the general mining laws for nonmetalliferous minerals prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Sec. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflice with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Garrey E. Carruthers

Assistant Secretary of the Interior.

October 5, 1984.

[FR Doc. 84-27245 Filed 10-15-84; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6574

[M-13213]

Montana; Partial Revocation of Executive Order No. 5327

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes an Executive order insofar as it affects 2,750.10 acres of public lands withdrawn for oil shale examination and classification. This action will immediately open the lands to exchanges. They will be opened to other forms of surface entry and nonmetalliferous mining in approximately 30 days. The lands have been and will remain open to metalliferous mining (except for 516.37 acres closed by a Notice of Realty Action) and to mineral leasing.

EFFECTIVE DATE: November 10, 1984.

FOR FURTHER INFORMATION CONTACT: James Binando, BLM Montana State Office, P.O. Box 30157, Billings, Montana 59107, 406-657-6090.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C 1714, it is ordered as follows:

1. Executive Order No. 5327 of April 15, 1930, is hereby revoked insofar as it affects the following described lands:

Principal Meridian

T. 9 S., R. 9 W.,
Sec. 12, W½NE¼, SE¼;
Sec. 13, N½NE¼, SW¼NE¼;
Sec. 34, S½N½.
T. 9 S., R. 11 W.,
Sec. 19, Lots 2, 3, 10, NW¼SE¼;
Sec. 32, NE¼SE¼.
T. 10 S., R. 11 W.,
Sec. 10, W½NW¼.
T. 7 S., R. 12 W.,
Sec. 19, Lots 3, 4, E½SW¼, SE¼;
Sec. 20, NE¼NE¼, SW¼, W½SE¼;
Sec. 21, NW¼NW¼;
Sec. 29, NW¼NW¼.
T. 9 S., R. 12 W.,

Sec. 9, SW¼SW¼, E½SE¼;
Sec. 10, NE¼SW¼, W½SW¼.
T. 10 S., R. 12 W.,
Sec. 17, N½NE¼, E½NW¼;
Sec. 18, Lot 1, NE¼NW¼;
Sec. 19, Lot 1;
Sec. 25, SE¼SE¼.
T. 11 S., R. 12 W.,
Sec. 4, Lots 2 & 3;
Sec. 5, Lots 1 & 2;
Sec. 22, NW¼SE¼;
Sec. 23, E½NE¼, SW¼NE¼, SW¼SE¼;
Sec. 24, SW¼NW¼, NW¼SW¼;
Sec. 26, SW¼NW¼;
Sec. 27, SE¼NE¼, NE¼SE¼.
T. 8 S., R. 13 W.,
Sec. 14, SE¼NE¼.
T. 10 S., R. 13 W.,
Sec. 10, SW¼NW¼, W½SW¼.

The areas described aggregate 2,750.10 acres in Beaverhead County.

2. Effective immediately, subject to valid existing rights, the lands shall be available for exchange under the provisions of Section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716.

3. At 8 a.m. on November 10, 1984, the lands will be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, the requirements of applicable law, and the provisions of the Notice of Realty Action published in the **Federal Register** issue of Thursday, November 3, 1983, as FR Doc. 83–29825 on pages 50801 and 50802. All valid applications received at or prior to 8 a.m. on November 10, 1984, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. At 8 a.m. on November 10, 1984, the lands will be opened to location and entry for nonmetalliferous minerals under the United States mining laws, subject to valid existing rights and the provisions of the Notice of Realty Action identified in paragraph 3. Appropriation of lands under the general mining laws for nonmetalliferous minerals prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C Sec. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

October 5, 1984.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 84–27246 Filed 10–15–84; 8:45 am]

BILLING CODE 4310–84–M

43 CFR Public Land Order 6575

[U–0144573]

Utah; Partial Revocation of Public Water Reserve No. 107

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes an Executive order insofar as it affects 40 acres of public land withdrawn for a public water reserve. The land is presently classified for exchange. It will remain closed to other forms of surface entry and mining, and open to mineral leasing.

EFFECTIVE DATE: October 16, 1984.

FOR FURTHER INFORMATION CONTACT: Ken Latimer, Bureau of Land Management, Utah State Office, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111, 801–524–4431.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Water Reserve No. 107, granted to the Bureau of Land Management by Executive Order of April 17, 1926, is hereby revoked insofar as it affects the following described land:

Salt Lake Meridian

T. 10 S., R. 22 E.,
Sec. 17, NE¼NE¼.

The area described contains 40 acres in Uintah County.

2. The land described in paragraph 1 has been classified for exchange pursuant to Section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1713. The land will remain segregated from disposition under other public land laws, including the mining laws (30 U.S.C. Ch. 2), but not from leasing under the mineral leasing laws.

October 9, 1984.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 84–27247 Filed 10–15–84; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 33, 35, 75, 78, 94, 97, 161, 167, 180, 185, 192, and 196

[CGD 80–024]

Lifesaving Equipment for Great Lakes Vessels, Emergency Position Indicating Radio Beacons

AGENCY: Coast Guard, DOT.

ACTION: Final rules.

SUMMARY: These rules require that small passenger vessels, other inspected Great Lakes vessels, as well as certain coastwise vessels operating on the Great Lakes, be equipped with Emergency Position Indicating Beacons (EPIRB). The purpose of these beacons is to provide a radio signal that will alert potential rescuers to a casualty and to provide a beacon to assist in locating the casualty. The need for this action arises from several Great Lakes vessel casualties in which such a beacon would probably have prevented some of the loss of life.

EFFECTIVE DATE: These rules become effective on March 29, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. Stearns Whitney, Office of Merchant Marine Safety, (202) 426–1444.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rule Making was published in the **Federal Register** of October 4, 1982 (47 FR 43736). The comment period on the proposed rule (CGD 80–024) ended on January 3, 1983. A total of 7 comments were received from 4 parties.

Drafting Information: The principal persons involved in drafting these regulations are: Mr. Stearns Whitney, Office of Merchant Marine Safety and Mr. Michael Mervin, Office of the Chief Counsel.

Discussion of Rules

Two Coast Guard Marine Boards of Investigation that investigated the sinkings of the S.S. Daniel J. Morrell and the S.S. Edmond Fitzgerald found that emergency beacons might have reduced the loss of life. Both boards

recommended beacons attached to liferafts or that would float free and provide timely notice that a casualty had occurred.

The Notice of Proposed Rule Making proposed the carriage of manually activated Class D EPIRBs in each lifeboat, and the carriage of automatically activated Class E EPIRBs in each liferaft. A maximum of four EPIRBs per vessel was proposed in order to minimize the risk of too many distress signals interfering with rescue communications. The Federal Communications Commission, in a companion proposed rulemaking, proposed the specifications for Class D and Class E EPIRBs. For the reasons stated in the "Discussion of Comments" section, these rules require tank vessels, passenger vessels, cargo and miscellaneous vessels, and nautical school vessels operating on the Great Lakes to each carry two VHF–FM EPIRB's (designated as Class C). The EPIRB's will be located, one on each side of the vessel, at or near the principal embarkation stations. Small passenger vessels will be required to carry one EPIRB at the principal steering station. These rules will also apply to vessels certificated for coastwise service that operate on the Great Lakes and that are not required to carry Class A EPIRB's.

The final rules reduce the overall number of EPIRBs to be carried by each affected vessel, and utilize an existing class of EPIRB that is in production and readily available.

Discussion of Comments

Four parties commented on these rules. The parties were a government agency, a manufacturer of EPIRB's, an operators' association and an independent consultant.

One comment simply stated that the use of EPIRB's on the Great Lakes was needed. The Coast Guard concurs.

Three comments stated that Class D and Class E EPIRB's were economically impractical because the limited market of Great Lakes vessels would not justify the cost of designing, manufacturing, and maintaining such devices. The Coast Guard concurs, and will not require Class D and Class E EPIRB's.

Three comments stated that Class C EPIRB's installed near a steering station were a practical and acceptable means of providing a distress signal. The Coast Guard partially concurs, but will require on all but small passenger vessels two Class C devices, one on each side of the vessel in order to ensure the availability of at least one such unit in the event of a casualty. Small passenger vessels will be required to carry one Class C EPIRB at the principal steering station. No comments were received suggesting an effective date. Since the Class C EPIRB is readily available, the Coast Guard has set the effective date after the close of the 1984 navigational season and before the start of the 1985 season while the vessels are normally laid up for maintenance and repair.

Regulatory Evaluation

This final rule is considered to be non-major under Executive Order 12291 and non-significant under the D.O.T. regulatory policies and procedures (44 FR 11034; February 26, 1979). A Final Regulatory Evaluation has been prepared and placed in the rule making docket. It may be inspected or copied at the Marine Safety Council (G–CMC) Room 2110, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C., from 7:00 a.m. to 4:00 p.m. Monday through Friday. Copies may also be obtained by referring to the "For Further Information Contact" paragraph.

The rules require the carriage of two Class C EPRIB's on certain vessels operating on the Great Lakes, and those vessels certificated for coastwise service operating on the Great Lakes and not required to carry a Class A EPIRB. Small passenger vessels will be required to carry one Class C EPIRB. The Class C EPIRB is a type that is not required to be approved by the Coast Guard, and is intended primarily for use by vessels in Coastal waters and the Great Lakes that are within range of VHF–FM radio stations. It is estimated that each Class C EPIRB will initially cost $150 and will require $45 annual maintenance expense.

This proposal is expected to result in a total initial cost of about $13,500 for the approximately 90 small passenger vessels operating on the Great Lakes, and about $45,000 for the 150 other vessels for a total initial cost of $58,500. The estimated recurring annual cost for small passenger vessels is $4,050 and $22,500 for other vessels for a total of $26,550. These final rules reduce the estimated costs of the proposed rules by $135,000 for the initial outfitting, and by $24,000 for annual maintenance.

These costs will be imposed directly on the private sector (the operators of affected vessels). The operators are expected to pass the costs through to the ultimate consumer of affected maritime services in the form of price increases. However, because of the low cost of these rules for each affected vessel, increases in individual prices will be negligible.

There is no effect on Federal, State, and local governments except in their capacities as consumers of affected maritime services. Implementation and enforcement of these rules would be accomplished within the scope of current Coast Guard marine safety activities, so that there will not be any need for additional Federal budget commitments.

The primary benefit identified for the rule is more timely and effective search and rescue efforts in the event of a casualty.

Regulatory Flexibility Act

For the reasons discussed above the Coast Guard certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects

46 CFR Parts 33 and 35

Marine safety, Tank vessels.

46 CFR Parts 75, 78, 180 and 185

Marine safety, Passenger vessels.

46 CFR Parts 94 and 97

Marine safety, Cargo vessels.

46 CFR Part 161

Marine safety.

46 CFR Part 167

Marine safety, Nautical schools.

46 CFR Parts 192 and 196

Marine safety, Oceanographic vessels.

In consideration of the foregoing, Title 46 of the Code of Federal Regulations is amended as follows:

PART 33—LIFESAVING EQUIPMENT

1. Amending § 33.60–1 by revising the introductory text of (b) and adding a new (c) as follows:

§ 33.60–1 Emergency position indicating radio beacon (EPIRB)–T/OC.

* * * * *

(b) Compliance with paragraph (a) of this section is not required for a coastwise vessel—

* * * * *

(c) Each vessel certificated for Great Lakes service, and each other vessel operating on the Great Lakes that is not required to have a Class A EPIRB meeting paragraph (a) of this section, must have two Class C EPIRB's installed—

(1) In a weather tight enclosure;

(2) In a readily accessible location;

(3) One on each side of the vessel; and

(4) At or near the principal embarkation stations.

PART 35—OPERATIONS

2. By revising § 35.10–25 to read as follows:

§ 35.10–25 Emergency position indicating radio beacon (EPIRB)–T/OC.

The master shall make sure that each EPIRB other than an EPIRB in an inflatable life raft—

(a) Is tested monthly, using the visual or audible indicator, to determine that it is operative: and—

(b) Has its battery replaced—

(1) Immediately after the EPIRB is used for purposes other than testing and—

(2) On or before the marked expiration date.

PART 75—LIFESAVING EQUIPMENT

3. Amending § 75.60–1 by revising the introductory text of (b) and adding a new (c) as follows:

§ 75.60–1 Emergency position indicating radio beacon (EPIRB).

* * * * *

(b) Compliance with paragraph (a) of this section is not required for a coastwise vessel—

* * * * *

(c) Each vessel certificated for Great Lakes service, and each other vessel operating on the Great Lakes that is not required to have a Class A EPIRB meeting paragraph (a) of this section, must have two Class C EPIRB's installed—

(1) In a weather tight enclosure;

(2) In a readily accessible location;

(3) One on each side of the vessel; and

(4) At or near the principal embarkation stations.

PART 78—OPERATIONS

4. By revising § 78.17–85 to read as follows:

§ 78.17–85 Emergency position indicating radio beacon (EPIRB).

The master shall make sure that each EPIRB other than an EPIRB in an inflatable life raft—

(a) Is tested monthly, using the visual or audible output indicator to determine that it is operative: and

(b) Has its battery replaced—

(1) Immediately after the EPIRB is used for purposes other than testing, and—

(2) On or before the marked expiration date.

PART 94—LIFESAVING EQUIPMENT

5. Amending § 94.60–1 by revising the introductory text of (b) and adding a new (c) as follows:

§ 94.60–1 Emergency position indicating radio beacon (EPIRB).

* * * * *

(b) Compliance with paragraph (a) of this section is not required for a coastwise vessel—

* * * * *

(c) Each vessel certificated for Great Lakes service, and each other vessel operating on the Great Lakes that is not required to have a Class A EPIRB meeting paragraph (a) of this section must have two Class C EPIRB's installed—

(1) In a weather tight enclosure;

(2) In a readily accessible location;

(3) One on each side of the vessel; and

(4) At or near the principal embarkation stations.

PART 97—OPERATIONS

6. By revising § 97.15–65 to read as follows:

§ 97.15–65 Emergency position indicating radio beacon (EPIRB).

The master shall make sure that each EPIRB other than an EPIRB in an inflatable life raft—

(a) Is tested monthly, using the visual or audible output indicator to determine that it is operative; and—

(b) Has its battery replaced—

(1) Immediately after the EPIRB is used for purposes other than testing, and—

(2) On or before the marked expiration date.

PART 161—[AMENDED]

Subpart 161.011—Emergency Position Indicating Radiobeacons

7. Amending 161.011–5 by adding (b) as follows:

§ 161.011–5 [Amended]

* * * * *

(b) Class C—An EPIRB that has been type approved or type accepted by the FCC as a Class C EPIRB. These EPIRB's are manually activated and are not required to be Coast Guard approved.

8. By revising § 161.011–10 to read as follows:

§ 161.011–10 EPIRB approval.

(a) The Coast Guard approves the class of EPIRB's listed in § 161.011–5(a) of this subpart.

(b) An application for type approval or type acceptance of an EPIRB should be submitted to the FCC in accordance with Title 47 of the Code of Federal Regulations, Part 2. When requested by the FCC, the Coast Guard reviews the test results in the application that concern installation and automatic operation (if required) of the EPIRB. The Coast Guard provides the results of the review to the manufacturer, and to the FCC for its use in acting upon the application.

(c) Upon notification of the FCC type acceptance or type approval, the Commandant (G–MVI) issues a certificate of approval for the EPIRB.

PART 167—PUBLIC NAUTICAL SCHOOL SHIPS

9. Amending § 167.35–72 by revising the introductory text of (b) and adding a new (c) as follows:

§ 167.35–72 Emergency position indicating radio beacon (EPIRB).

* * * * *

(b) Compliance with paragraph (a) of this section is not required for a coastwise vessel—

* * * * *

(c) Each vessel certificated for Great Lakes service, and each other vessel operating on the Great Lakes that is not required to have a Class A EPIRB meeting paragraph (a) of this section must have two Class C EPIRB's installed—

(1) In a weather tight enclosure;

(2) In a readily accessible location;

(3) One on each side of the vessel; and

(4) At or near the principal embarkation stations.

10. Amending § 167.65–1 by revising paragraph (c)(3) to read as follows:

§ 167.65–1 Station bills, drills, and log book entries.

* * * * *

(c) * * *

(3) The master shall make sure that each EPIRB other than an EPIRB in an inflatable liferaft—

(i) Is tested monthly, using the visual or audible output indicator, to determine that it is operative; and—

(ii) Has its battery replaced—

(A) Immediately after the EPIRB is used for purposes other than testing, and—

(B) on or before the marked expiration date.

* * * * *

PART 180—LIFESAVING EQUIPMENT

11. Amending § 180.40–1 by revising the introductory text of (b) and adding a new (c) as follows:

§ 180.40–1 Emergency position indicating radio beacon (EPIRB).

* * * * *

(b) Compliance with paragraph (a) of this section is not required for a coastwise vessel—

* * * * *

(c) Each vessel certificated for Great Lakes service, and each other vessel operating on the Great Lakes that is not required to have a Class A EPIRB meeting paragraph (a) of this section must have one Class C EPIRB installed in a readily accessible location, at or near the principal steering station.

PART 185—OPERATIONS

12. By revising § 185.25–20 to read as follows:

§ 185.25–20 Emergency position indicating radio beacon (EPIRB).

The licensed operator of the vessel shall make sure that each EPIRB other than an EPIRB in an inflatable liferaft—

(a) Is tested monthly, using the visual or audible output indicator to determine that it is operative; and—

(b) Has its battery replaced—

(1) Immediately after the EPIRB is used for purposes other than testing, and—

(2) On or before the marked expiration date.

PART 192—LIFESAVING EQUIPMENT

13. Amending § 192.65–1 by revising the introductory text of (b) and adding a new (c) as follows:

§ 192.65–1 Emergency position indicating radio beacon (EPIRB).

* * * * *

(b) Compliance with paragraph (a) of this section is not required for a coastwise vessel—

* * * * *

(c) Each vessel certificate for Great Lakes service, and each other vessel operating on the Great Lakes that is not required to have a Class A EPIRB meeting paragraph (a) of this section, must have two Class C EPIRB's installed—

(1) In a weather tight enclosure;

(2) In a readily accessible location;

(3) One on each side of the vessel; and

(4) At or near the principal embarkation stations.

PART 196—OPERATIONS

14. By revising § 196.15–65 to read as follows:

§ 196.15–65 Emergency position indicating radio beacon (EPIRB).

The master shall make sure that each EPIRB other than an EPIRB in an inflatable liferaft—

(a) Is tested monthly, using the visual or audible output indicator to determine that it is operative; and—

(b) Has its battery replaced—

(1) Immediately after the EPIRB is used for purposes other than testing, and—

(2) On or before the marked expiration date.

(46 U.S.C. 3306; 49 CFR 1.46)

Dated: October 9, 1984.

Clyde T. Lusk, Jr.,

Rear Admiral, Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 84-27198 Filed 10-15-84; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 81, and 83

[Gen. Docket No. 84-16; RM-4560; FCC 84-465]

Maritime Mobile Service Allocation in the 216–220 MHz Band

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document adds the Gulf of Mexico to the authorized service area of maritime mobile systems operating in the 216–220 MHz band. Previously, restrictions limited the use of this band to the Mississippi River System and Gulf Intracoastal Waterway. This action was requested by the licensee of a maritime communications system utilizing the 216–220 MHz band. The amendments are intended to provide a broader diversity of and generally improve maritime communications in the Gulf of Mexico.

EFFECTIVE DATE: November 14, 1984.

FOR FURTHER INFORMATION CONTACT: Robert H. McNamara, Private Radio Bureau, (202) 632–7175.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 2

Radio, Treaties.

47 CFR Part 81

Radio, Coast station.

47 CFR Part 83

Radio, Ship station.

Report and Order (Proceeding Terminated)

In the matter of amendment of Parts 2, 81 and 83 of the rules to add the Gulf of Mexico to the authorized service areas of maritime mobile systems operating in the 216–220 MHz band Gen. Docket No. 84–16 RM 4560; FCC 84–465).

Adopted: September 28, 1984.

Released: October 5, 1984.

By the Commission.

1. In this Report and Order we are expanding the authorized service area of maritime communications systems operating in the 216–220 MHz band to include the offshore waters of the Gulf of Mexico.

Background

2. In Gen. Docket No. 80–1[1] the Commission allocated the 216–220 MHz band to fulfill a need for automated, integrated maritime communications service on the Mississippi River and connecting waterways. Certain technical requirements were prescribed to prevent interference with reception on television channels 10 and 13, and to provide a framework under which development could commence. This allocation was extended to include the Gulf Intracoastal Waterway in Gen. Docket No. 81–822.[2]

3. This allocation of the 216–220 MHz band was consistent with both the international Radio Regulations and Part 2 of the Commission rules, both of which made the band available for mobile use. Further, at the World Administrative Radio Conference, Geneva, 1979 (1979 WARC), a primary allocation of the 216–220 MHz band for use in the maritime mobile service in Region 2 was adopted with the support of the United States. The Final Acts of the 1979 WARC were implemented in the proceeding in Gen. Docket No. 80–739.[3]

4. The Notice in Gen. Docket No. 80–739[4] stated that maritime use of the 216–220 MHz band beyond the Mississippi River Systems and the Gulf Intracoastal Waterway should be considered in a separate rulemaking proceeding. Waterway Communications System, Inc. (Watercom) filed a petition (RM 4560) requesting that such a rulemaking proceeding to implement the 216–220 MHz allocation on a nationwide basis be initiated. The National Ocean Industries Association (NOIA) supported Watercom's petition, while Viacom International, Inc. (Viacom) and the Association of Maximum Service Telecasters, Inc. (MST) opposed it. Viacom and MST were concerned about the potential for interference with

[1] *Report and Order*, released March 11, 1981, 84 FCC 2d 875, 46 FR 15690; *Errata*, released April 29, 1981, mimeo 29348, 46 FR 26485. Reconsidered, *Memorandum Opinion and Order*, released December 4, 1981, 88 FCC 2d 678, 46 FR 61879; *aff'd sub nom. WJG Telephone Company, Inc. v. FCC*, No. 81–1461 (D.C. Cir., April 9, 1982).

[2] *Report and Order*, Gen Docket No. 81–822, released April 22, 1982, 47 FR 16881.

[3] See *Second Report and Order*, Gen. Docket No. 80–739, released December 8, 1983, 48 FR 2358.

[4] *Notice of Proposed Rule Making*, released December 30, 1982, 48 FR 3790, at paragraph 57.

television reception, particularly since no system was yet in operation from which data could be gathered.

5. Although the rules clearly place the responsibility for avoiding interference with television reception on the licensees of maritime systems, the Commission concurred with MST's view that it is premature to make the 216–220 MHz band available on a nationwide basis. Such a maritime system has been authorized to serve the Mississippi River System and the Gulf Intracoastal Waterway, but service has not yet been initiated. Prudence requires an evaluation of an operating maritime system before the band is made available nationwide for such systems. Additionally, the Commission noted the possibility of employing new technologies in the 216–220 MHz band, among others, for other needed services in various regions of the United States.[5]

6. However, the Commission felt that the authorized service area of maritime systems operating in the 216–220 MHz band could be expanded at this time to include the offshore waters of the Gulf of Mexico. Since maritime use of the band is authorized along the Gulf Intracoastal Waterway, extansion of service into the offshore waters of the Gulf will not present potential interference problems with television reception and represents a logical expension of the existing service area.[6] The need for expanded communications in the Gulf of Mexico is well-documented before the Commission.[7] The availability of the 216–220 MHz band in the Gulf would broaden the diversity of services, generally improve maritime communications, and enhance the economic viability of equipment procured for maritime use in this band.

Therefore, the Commission adopted the Notice of Proposed Rule Making (NPRM) in this proceeding proposing to expand the authorized service area of automated maritime telecommunications systems (AMTS's) operating in the 216–220 MHz band only to the offshore waters of the Gulf of Mexico.[8]

7. The NPRM noted that any stations authorized in the maritime mobile service must insure that no harmful interference is caused to the Navy SPASUR system which is currently operating in the southern United States in the frequency band 216.88–217.08 MHz.[9] Additionally, airborne use of the band was specifically banned. The secondary telemetry uses in the band were considered to be compatible with automated maritime telecommunication system operations particularly in view of the few telemetry operations in the Gulf of Mexico.[9]

8. Comments in the proceeding were filed by:

- The Central Committee on Telecommunications of the American Petroleum Institute (API) which is composed of representatives of the nation's petroleum and natural gas companies, many of which operate communications facilities in the Maritime Mobile Service;
- The National Ocean Industries Association (NOIA) which is a trade association of approximately 450 corporate members engaged in offshore and ocean oriented industries;
- The Offshore Telephone Company (Offshore) which is a communications common carrier providing telephone service to platforms throughout the Gulf of Mexico;
- The Pennzoil Company (Pennzoil) a natural resources company engaged in the exploration for and production of oil and gas in the Gulf of Mexico; and
- Waterway Communications System, Inc. (Watercom) a licensee authorized to construct and operate a maritime communications system utilizing the 216–220 MHz band along portions of the Mississippi River System and Gulf Intracoastal Waterway.

Reply comments were also filed by Watercom.

Discussion

9. All the commenters support the proposal to expand the Maritime Service's use of the 216–220 MHz band to the offshore waters of the Gulf of Mexico. Although Watercom originally petitioned to implement the allocation on a nationwide basis, it views expansion into the Gulf as both important and timely, and accordingly supports the proposal.

10. Three issues relative to implementation of service in the offshore waters of the Gulf were raised in the comments. First, API and Watercom recommend that the Gulf of Mexico be divided into eastern and western sectors for the purpose of defining an AMTS's minimum coverage area. The proposed rules would require an AMTS licensee to serve a minimum of 60% of the offshore waters of the Gulf from the shoreline out to the 100 fathom line or 40 nautical miles offshore whichever is greater.[10] API and Watercom believe that this requirement would discourage entry due to the present lack of commercial activity and offshore structures (for locating coast stations) in the eastern portion of the Gulf. API states that most significant offshore exploration and production activities occur in the waters west of Mobile, Alabama. Therefore, it suggests a boundary line be drawn from the Alabama-Florida border to separate the eastern and western Gulf regions. Watercom essentially concurs with this boundary. It recommends that west longitude 87° 45′ as the demarcation line between the sectors. Watercom notes that this would be consistent with the eastern boundary of the Offshore Radiotelecommunications Service zone defined in § 22.1001(c)(7) of the rules (47 CFR 22.1001(c)(7)). Watercom also argues that dividing the Gulf into two sectors would be consistent with the Commission's action in Gen. Docket 80-1 in dividing the Mississippi River into upper and lower sectors for application of the minimum coverage area requirement.

11. We agree with API's and Watercom's rationale for dividing the Gulf of Mexico into eastern and western sectors at west longitude 87° 45′ for the purpose of defining minimum AMTS service areas. From both a practical and economic standpoint, this relaxation of the proposed rule will make entry into this new market more attractive.

12. A second issue was raised by Offshore Telephone Co., and Pennzoil who argue that since offshore operations are conducted well beyond the 100 fathom/40 nautical mile line, the minimum service area should be expanded seaward. Both treat the proposed minimum service area requirement as a service limitation. However, as Watercom points out in its reply comments, the specified service area solely defines the *minimum* area permitted to be served by an AMTS licensee. There is no bar to providing

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[5] For example, see Federal Communications Commission, Private Radio Bureau Planning Staff, *Future Private Land Mobile Telecommunications Requirements*, Washington, D.C. August 1983, p. 7-16.

[6] Anomalous propagation in the Gulf Coast area was taken into consideration in reaching conclusions about the interference potential. The Commission's Office of Science and Technology plans to acquire propagation measurements in the Gulf Coast area during 1985. The new data is expected to allow more accurate evaluations of interference potential in the area.

[7] See *Memorandum Opinion and Order*, In re Application of Petroleum Communications, Inc., File No. 29000-CL-P-83, FCC 83-434, released October 7, 1983.

[8] Gen. Docket No. 84-16, released January 24, 1984, FCC 84-8, 49 FR 4013.

[9] See footnote US229 to § 2.106 of the rules (Table of Frequency Allocations).

[9] Footnote US210 to § 2.106 of the rules (Table of Frequency Allocations) permits the authorization of stations on a secondary basis for the tracking of, and telemetering of scientific data from, ocean buoys and wildlife.

[10] For precision, NOIA recommends that distances from the shoreline be specified in nautical miles. We will incorporate this recommendation into the rules.

service to larger areas of the Gulf. We expect that licensees would typically serve the operating area of its customer base. The proposed minimum service area requirement would ensure a systemized approach to the implementation of the 216–220 MHz allocation in the Gulf. Enlarging the required minimum service area could be counterproductive by delaying or discouraging the initiation of such service.

13. Third, API, NOIA and Watercom request that AMTS licensees be permitted to serve fixed platforms in addition to vessels in the Gulf. API suggests such service be allowed on a secondary basis. NOIA would make no distinction between service provided to vessels and fixed platforms. Watercom recommends that AMTS licensees as well as public coast station licensees nationwide be permitted to serve fixed platforms and any other potential user on the condition that such service does not detract from the primary maritime mobile service. This recommendation is patterned after recent amendments to Part 22 of the rules which permit public mobile radio service carriers to render "incidental communication services" to vessels and others.[11]

14. Essentially, Watercom argues that equity requires that maritime carriers be permitted to serve fixed platforms and others under the same conditions that public mobile service licensees are permitted to serve vessels. In support of this position it points to the trend to open service opportunities in offshore waters without rigid adherence to functional and radio service classification. In addition to the expansion of "incidental communication services" authorized public mobile radio service carriers, Watercom cites decisions to allow cellular systems operating in the Gulf to service fixed platforms[12] and fixed service carriers to render service to mobile units [13], and the international protocol which allows INMARSAT to serve fixed platforms as well as vessels.[14]

15. We agree with the commenters' recommendation that AMTS licensees should be allowed to serve fixed platforms in the Gulf of Mexico. The need for expanded communications in the Gulf is well-documented and, in this offshore environment, the distinction between fixed and mobile services has become blurred. It appears that service to fixed platforms would enhance both the economic viability of AMTS licensees and the diversity of communications services available to the offshore industries operating in the Gulf.

16. However, Watercom's recommended modification is too broad. This proceeding proposed to expand the authorized service area of AMTS systems to the offshore waters of the Gulf. The recommendation would not only permit service to fixed platforms in the Gulf but would authorize "incidental communication services" to be provided by all public coast stations in the nation and AMTS stations located on the Mississippi River System. These rules changes are beyond the scope of this proceeding. We will authorize AMTS licensees to serve fixed platforms in the Gulf of Mexico provided that the quality of service to vessels is not materially deteriorated or costs increased, and neither growth nor availability of service to vessels is diminished. To the extent that maritime licensees desire to provide "incidental communication services" we will entertain other requests properly filed before us.

Conclusion

17. In view of the favorable comments and for the reasons discussed above, we are amending Parts 2, 81 and 83 of the rules to add the Gulf of Mexico to the authorized service area of automated maritime telecommunications systems operating in the 216–220 MHz band. As recommended by the commenters, we are modifying the proposed rules to: (1) Divide the Gulf of Mexico into eastern and western sectors for application of the minimum coverage requirement, and (2) permit service to fixed platforms in addition to vessels.

18. Pursuant to Section 605 of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354), we certify that these rules will not have a significant economic impact on a substantial number of small entities. These rules propose to make the 216–220 MHz band available for assignment to automated maritime communications systems for ship-shore communications beyond the current service area limitations of the Mississippi River System and the Gulf Intracoastal Waterway. There is no requirement for any vessel or maritime station to purchase equipment or otherwise participate in such a system.

19. Accordingly, IT IS ORDERED, That under the authority contained in sections 4(i) and 303 (c) and (r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303 (c) and (r), the Commission's rules are amended as set forth in the attached Appendix effective November 14, 1984.

20. It is further ordered, That a copy of this Report and Order shall be sent to the Chief Counsel for Advocacy of the Small Business Administration.

21. It is further ordered, That this proceeding IS TERMINATED.

22. Regarding questions on matters covered in this document contact Robert H. McNamara (202) 632–7175.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Parts 2, 81 and 83 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

1. In § 2.106 footnote NG121 is revised to read as follows:

§ 2.106 Table of Frequency Allocations.

* * * * *

NG121 The maritime mobile use of this band is limited to operation along the Mississippi River and connecting waterways, the Gulf Intracoastal Waterway, and the offshore waters of the Gulf of Mexico.

* * * * *

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA-PUBLIC FIXED STATIONS.

* * * * *

1. In § 81.3, paragraph (m) is revised to read as follows:

§ 81.3 Maritime mobile service.

* * * * *

(m) Automated Maritime Telecommunications System (AMTS). An automated, integrated and interconnected maritime communications system primarily serving ship stations along some portion of the Mississippi River and connecting waterways, the Gulf Intracoastal Waterway, and the offshore waters of the Gulf of Mexico.

* * * * *

§ 81.131 [Amended]

2. In § 81.131, paragraph (c)(3) is amended by removing the letters "IWCS" and inserting in their place "AMTS".

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[11] See *Report and Order*, CC Docket No. 80–57, released December 19, 1983, 49 FR 3298 (at paragraphs 167–179).

[12] Memorandum Opinion and Order, In re Application of Petroleum Communications, Inc., File No. 28000–CL–P–83, released October 7, 1983, FCC 83I–434.

[13] *Exxon Communications Company*, 63 FCC 2d 208 (1977) and *Cities Services Oil Co.*, 51 FCC 2d 853 (1975).

[14] *Convention on the International Maritime Satellite Organization, Article 7(2).*

§ 81.132 [Amended]

3. In § 81.132, paragraph (a)(7) is amended by removing the letters "IWCS" and inserting in their place "AMTS".

§ 81.134 [Amended]

4. In § 81.134, paragraph (j) is amended by removing the letters "IWCS" and inserting in their place "AMTS".

5. Subpart T heading § 81.913(a), (b), and (c), § 81.915, and § 81.917 introductory text are revised to read as follows:

Subpart T—Automated Maritime Telecommunications System (AMTS)

§ 81.913 Service authorized.

(a) An Automated Maritime Telecommunications System (AMTS) will provide vessels with an automated, integrated communication system along some portion of the Mississippi River and connecting waterways, the Gulf Intracoastal Waterway, and the offshore waters of the Gulf of Mexico. An AMTS serving the eastern or western sector of the offshore waters of the Gulf of Mexico (that is, east or west of longitude 87° 45 W) must provide service to the 100 fathom line or 40 nautical miles offshore, whichever is greater. Vessels on waters adjacent to any of the above described waterways may communicate with any AMTS station within its service area.

(b) Applicants may use FCC Form 503 (Application For Land Radio Station in the Maritime Services) when seeking authorization to operate an AMTS system, supplemented with a showing consisting of a detailed plan demonstrating that the proposed system will provide continuity of service along a major portion (more than 60%) of each of one or more navigable waterways encompassing the Mississippi River System, the Gulf Intracoastal Waterway, or the eastern or western sector of the the offshore waters of the Gulf of Mexico to be served by the applicant. Waterways less than 150 miles (240 kilometers) long must be served in their entirety. A separate form is not required for each station in a system. However, the applicable technical particulars for each proposed station, including transmitter type and location, frequencies, emissions, power, antenna arrangement and location, must be provided.

* * * * *

(c) An applicant desiring to provide a limited correspondence service may seek authorization to operate an AMTS system to provide only operational communications (communications relating to the safe efficient and economical operation of vessels, such as fuel, weather, position reports, essential supplies and service, and the like). However, service shall be provided to any ship station licensee who makes cooperative arrangements for the operation of the stations which are to provide AMTS service. In emergency or distress situations service shall be provided without prior arrangements.

§ 81.915 Points of communication.

(a) Subject to conditions and limitations imposed by the terms of the particular coast station license or by the applicable provisions of this part with respect to the use of particular radio channels, AMTS coast stations are authorized to communicate with ship stations which are authorized to operate in the AMTS. In addition, AMTS coast stations are authorized to provide communications service to fixed platforms located in the offshore waters of the Gulf of Mexico.

(b) Licensees authorized to operate in the offshore waters of the Gulf of Mexico may employ frequencies designated for coast station and mobile use in fixed service for operation of the offshore service on a secondary basis to shore station and mobile use. Fixed use of those frequencies will not give rise to or support need for additional channels for rendition of AMTS service. Additionally, such use is subject to the provisions concerning transmitter power contained in § 81.134(j) of this part.

§ 81.917 Frequencies available.

The following carrier frequencies, paired by transmit and receive frequencies for duplex operation, designated by separate channel numbers, and distributed into Groups A, B, C, and D, are available for assignment to coast stations on a station by station basis for communication by means of voice, facsimile and radioteletypewriter with ship stations authorized to operate in the AMTS. Coast stations within 105 miles (169 kilometers) of a TV channel 13 station will be licensed only for the frequencies of Group A and Group B.

* * * * *

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

1. In § 83.3, paragraph (s) is revised, to read as follows:

§ 83.3 Maritime mobile service.

* * * * *

(s) Automated Maritime Telecommunications system (AMTS). An automated, integrated and interconnected maritime communications system primarily serving ship stations along the Mississippi River and connecting waterways, the Gulf of Intracoastal Waterway, and the offshore waters of the Gulf of Mexico.

§ 83.315 [Amended]

2. In § 83.315 paragraph (f) is amended by removing the words "Inland Waterways Communications System" and inserting in their place the words "Automated Maritime Telecommunications System".

§ 83.341 [Amended]

3. Section 83.341 is amended by removing the letters "IWCS" and inserting in their place "AMTS".

§ 83.351 [Amended]

4. In § 83.351, paragraph (b)(7) is amended by removing the words "Inland Waterways Communications System" and inserting in their place the words "Automated Maritime Telecommunications System".

§ 83.373 [Amended]

5. Section 83.373 is amended by removing "83.905" and "IWCS" and inserting in their place "§ 83.1105" and "AMTS", respectively.

6. Subpart DD 583.1100, 583.1103, and 583.1105 introductory text are revised to read as follows:

Subpart DD—Automated Maritime Telecommunications System (AMTS)

§ 83.1100 Service authorized.

(a) An Automated Maritime Telecommunications System (AMTS) will provide ships with an automated, integrated communication system along some portion of the Mississippi River and connecting waterways, the Gulf Intracoastal Waterway, or the offshore waters of the Gulf of Mexico. An AMTS serving the eastern or western sector of the offshore waters of the Gulf of Mexico (that is, east or west of longitude 87° 45 W) must provide service to the 100 fathom line or 40 nautical miles offshore, whichever is greater. Ships on waters adjacent to any of the above described waterways may communicate with any AMTS station within its service area.

(b) AMTS coast stations are also authorized to provide communications services to fixed platforms located in the offshore waters of the Gulf of Mexico. For the purpose of taking service from AMTS coast stations, a fixed platform is considered to be a "ship" solely to permit licensing of the subscriber's station on the fixed platform.

§ 83.1103 Supplemental eligibility requirements.

Each application for a ship station of fleet license to operate in the AMTS shall be accompanied by a letter form the AMTS licensee stating that business arrangements have been completed for the provision of service.

§ 83.1105 Frequencies available.

The following carrier frequencies, paired by transmit and receive frequencies for duplex operation, designated by separate channel numbers, and distributed into Groups A, B, C, and D, are available for communication by means of voice, facsimile and radioteletypewriter by ship stations which are authorized to communicate with coast stations providing AMTS service. However, only Group A and Group B frequencies will be of service within 70 miles of a Channel 13 TV station since coast stations there will not be licensed on other channel groups.

* * * * *

[FR Doc. 84-27169 Filed 10-15-84; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 97

[PR Docket No. 83-524; FCC 84-466]

Amendment of the Amateur Radio Service Rules To Make Additional Frequencies Available to the Radio Amateur Civil Emergency Service (RACES) During Declared National Emergencies

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document amends the rules to make additional 6-meter repeater subband frequencies available to RACES stations during declared national emergencies. The rules are necessary in order to bring more repeaters into RACES operation in wartime. The effect of this action is to expand the potential for use of RACES stations during declared national emergencies.

EFFECTIVE DATE: November 15, 1984.

FOR INFORMATION CONTACT: Maurice J. DePont, Private Radio Bureau, Washington, D.C. 20554, (202) 632-4964.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 97

Civil defense, Defense communications, Radio.

Memorandum Opinion and Order

In the matter of amendment of the Amateur Radio Service Rules, Part 97, to make additional frequencies available to the Radio Amateur Civil Emergency Service during declared national emergencies (PR Docket No. 83-524; FCC 84-466).

Adopted: September 28, 1984.
Released: October 3, 1984.

By the Commission.

1. The Commission has under consideration Petitions for Partial Reconsideration filed by Gary David Gray, the San Diego County Sheriff's Department, the County of Orange, the County of San Diego and the Southern California Repeater and Remote Base Association (SCRRBA). The petitions concern the Commission's Report and Order of January 16, 1984, in PR Docket No. 83-524 (49 FR 3186, January 26, 1984; FCC 84-16). There the Commission made additional frequencies available to the Radio Amateur Civil Emergency Service (RACES) in the event of an emergency which causes the President to invoke certain war emergency powers under Section 606 of the Communications Act of 1934, as amended. Petitioners request that the RACES 6-meter allocations for wartime operations be expanded to include the repeater subband 52-54 MHz.

2. Petitioners state that under the current RACES rules 6-meter repeater stations may be used for daily communications but that they would not be able to be operated as RACES stations during wartime without major changes in operating frequencies. Six-meter wartime frequencies now consist of 50.35-50.75 MHz, 53.30 MHz, and 53.35-53.75 MHz. The petitioners want the RACES wartime subbands expanded to include the 52-54 MHz repeater subband so that day-to-day 6-meter amateur repeaters could be utilized immediately for RACES operation during declared national emergencies. They contend that it is important to be able to utilize existing amateur equipment and configurations insofar as is practicable for RACES operation in order that a smooth transition from day-to-day amateur operations to RACES operations during declared national emergencies can take place. According to petitioners, conversion of 6-meter equipment from a daily to a wartime mode would require ordering and installing crystals for repeaters, the majority of which are crystal-controlled. The cost involved and the delay occasioned by the installation of crystals would affect the readiness for use of existing 6-meter repeaters in a national emergency situation. Petitioners note that there is a definite need for the propagation characteristics which the 6-meter band provides and cite 6-meter repeaters as an additional national resource with superior propagation properties in rugged terrain and in mountainous areas of the United States.

3. In our Report and Order in this proceeding, *supra*, we noted at paragraph 4 that inclusion of additional frequencies in the 6-meter band had been suggested in a comment filed in response to the Notice of Proposed Rule Making. However, we did not include those frequencies in our final rules since the Department of Defense had not asked for them in its original request for rulemaking.

4. After receiving the Petitions for Partial Reconsideration, we consulted with the Interdepartment Radio Advisory Committee (IRAC). IRAC had no objections to making the 52-54 MHz repeater subband frequencies available for RACES during a declared national emergency. Therefore, since inclusion of the 6-meter frequencies requested will bring more repeaters into RACES operation and will expand the potential for use of RACES stations during a declared national emergency, we will amend the rules to provide for use of additional 6-meter frequencies.

5. It Is Ordered, That the Petitions for Partial Reconsideration of Gary David Gray, San Diego County Sheriff's Department, County of Orange, County of San Diego, and the Southern California Repeater and Remote Base Association are granted.

6. It Is Further Ordered, That Part 97 is amended as set forth in the Appendix hereto. This action is taken pursuant to the authority contained in sections 4 (i) and 303 (r) of the Communications Act of 1934, as amended.

7. It Is Further Ordered, that these rule amendments shall become effective November 15, 1984.

8. It Is Further Ordered, That the Secretary shall cause a copy of this Memorandum Opinion and Order to be published in the **Federal Register**.

9. Information in this matter may be obtained by contacting Maurice J. DePont, (202) 632-4964, Private Radio Bureau, Federal Communications Commission, Washington, D.C. 20554.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.
William J. Tricarico,
Secretary.

Appendix

PART 97—[AMENDED]

Part 97 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

The entries in the table in paragraph (b) of § 97.185 under the heading MHz are revised to read as follows. The entries in the table under the heading kHz are not changed.

§ 97.185 Frequencies available.

* * * * *

(b) * * *

FREQUENCY OR FREQUENCY BANDS

	Limitations
* * * * *	
MHz	
28.55–28.75	
29.237–29.273	
29.45–29.65	
50.35–50.75	
52–54	
53.30	2
144.50–145.71	
146–148	
220–225	4
420–450	3, 5, 6
1240–1300	3
2390–2450	3

* * * * *

[FR Doc. 84-27165 Filed 10-15-84; 8:45 am]
BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1312

[Docket No. 37321]

Revision of Tariff Regulations, all Carriers; Correction

AGENCY: Interstate Commerce Commission.

ACTION: Final rules; correction.

SUMMARY: At 49 FR 38614, October 1, 1984, the Commission revised its rules governing the construction, filing, and posting of tariffs and related documents. That publication contained two errors, which this notice corrects.

FOR FURTHER INFORMATION CONTACT: Charles E. Langher, (202) 275–7739.

SUPPLEMENTARY INFORMATION: At 49 FR 38637, correct the headings to §§ 1312.34 and 1312.35 to read as follows:

§ 1312.34 Continuous service rates not applicable to passenger carriers.

§ 1312.35 Time-volume rates not applicable to passenger carriers.

James H. Bayne,
Secretary.

[FR Doc. 84-27216 Filed 10-15-84; 8:45 am]
BILLING CODE 7535-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[Docket No. 31012-199]

Atlantic Tuna Fisheries

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of General category closure; corrections.

SUMMARY: This document corrects errors in a closure notice for the Atlantic Tuna Fisheries that was published October 1, 1984, at 49 FR 38642.

FOR FURTHER INFORMATION CONTACT: William C. Jerome, Jr., 617–281–3600, extension 325, or David S. Crestin, 617–281–3600, extension 253.

In FR Doc. 84–25928, page 38642, the following corrections are made:

1. Column 1, lines 13 and 14, under **SUMMARY**, the coordinate is corrected to read "72°50′W. longitude."

2. Column 2, paragraph 1, line 5, the date is corrected to read "September 26, 1984."

Dated: October 10, 1984.

Roland Finch,
Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 84-27254 Filed 10-15-84; 8:45 am]
BILLING CODE 3510-22-M

50 CFR Parts 630 and 638

[Docket No. 40449–4066 and 40560–4060]

Atlantic Swordfish Fishery and Coral and Coral Reefs of the Gulf of Mexico and the South Atlantic

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Interim rule, final rule; corrections.

SUMMARY: This document corrects the same errors in an interim rule for the Atlantic Swordfish Fishery published June 13, 1984, at 49 FR 24380 and a final rule for Coral and Coral Reefs of the Gulf of Mexico and the South Atlantic that was published on July 23, 1984, at 49 FR 29607.

FOR FURTHER INFORMATION CONTACT: Bill Jackson, 202–634–7432.

Dated: October 11, 1984.

Roland Finch,
Director, Office of Fisheries Management, National Marine Fisheries Service.

§630.7 [Corrected]

In FR Doc. 84–15886, page 24383, published June 13, 1984, in § 630.7, column 3, under (d) "Signals," the signals extracted from the International Code of Signals for paragraphs, (d)(1), (d)(2), (d)(3), and (d)(4) are corrected to read as follows:

(1) "'"AA" repeated (.-.-)";
(2) "'"RY–CY" (.-. -.-- -.-. -.--)";
(3) "'"SQ3" (... —.- ...—)"; and
(4) "'"L" (.-..)."

§638.6 [Corrected]

In FR Doc. 84–19420, page 29610, published July 23, 1984, in § 638.6, column 2, under (d) "Signals," the signals extracted from the International Code of Signals for paragraphs, (d)(1), (d)(2), (d)(3), and (d)(4) are corrected to read as follows:

(1) "'"AA" repeated (.-.-)";
(2) "'"RY–CY" (.-. -.-- -.-. -.--)";
(3) "'"SQ3" (... —.- ...—)"; and
(4) "'"L" (.-..)."

(16 U.S.C. 1801 et seq.)

[FR Doc. 84-27291 Filed 10-11-84; 4:52 pm]
BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 49, No. 201
Tuesday, October 16, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34-21374; File No. S7-32-84]

Prompt Response to Inquiries Concerning Dividend and Interest Claims and the Buy-in of Securities in Cases of Physical Overissuance

AGENCY: Securities and Exchange Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Securities and Exchange Commission is publishing for comment amendments to regulations for registered transfer agents that are designed to enhance confidence in, and increase the efficiency of, the National System for the Clearance and Settlement of Securities Transactions (the "National System"). The proposed amendments would require registered transfer agents to respond promptly to written inquires from securityholders respecting dividend and interest payment claims. The proposed amendments would also expand the period during which transfer agents must buy in securities in cases of physical overissuance.

DATE: Comments must be received on or before December 15, 1984.

ADDRESS: Persons wishing to submit written views, data and comments should file three copies with Shirley E. Hollis, Acting Secretary, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549. All comments should refer to File No. S7-32-84 and will be available for public inspection and copying at the Commission's Public Reference Room.

FOR FURTHER INFORMATION CONTACT: Ester Saverson, Jr. or Sandra Sciole at (202) 272-2775, Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: On June 10, 1983, the Commission proposed for comment amendments to Rules 17Ad-2 and 17Ad-5 [1] that establish certain performance standards for registered transfer agents.[2] The proposed amendments to rule 17Ad-5 would require registered transfer agents to respond to written inquiries from securityholders respecting dividend and interest payment claims. The proposed amendments reflect suggestions from the Depository Trust Company ("DTC") and others in the securities industry that deal with transfer agents on a daily basis. The Commission received valuable comments concerning operational aspects of the proposed rule. In light of those comments, the Commission has substantially revised the proposed amendments and is publishing those revised amendments for comment. The revised amendments are designed to assure that registered transfer agents respond promptly to securityholder claims for dividend and interest payments. [3]

On June 10, 1983, the Commission also adopted Rules 17Ad-9 through 17Ad-13, [4] designed to assure that transfer agents promptly create and accurately maintain issuer securityholder records and that transfer agents adequately safeguard funds and securities used in their transfer agent operations. Rule 17Ad-10, among other things, requires registered transfer agents to buy in, within 30 days of discovery, record inaccuracies that result in a physical overissuance of securities. Since the effective date of the rule, several transfer agents have suggested that the Commission reassess the thirty-day time frame to enhance transfer agents' ability to recover overissued certificates without the transaction costs and market risks associated with buying in and selling out securities. In light of these and other suggestions, the Commission is proposing revisions to Rule 17Ad-10 that will: (1) Expand the buy-in time frame of Rule 17Ad-10; (2) clarify the meaning of "discovery of the overissuance"; and (3) afford transfer agents additional time to buy in securities when they have obtained certain commitment letters. [5]

I. Proposed Amendments to Rule 17Ad-5

On June 10, 1983, the Commission issued Securities Exchange Act Release No. 19861 (the "June Release") soliciting comment on proposed amendments to Rule 17Ad-5. The proposed amendments to Rule 17Ad-5 would require registered transfer agents to respond to written inquiries from securityholders, including nominees, within five busines days of receipt, provided the inquiry includes reasonably sufficient detail concerning the dividend or interest claim. The proposed amendments would require transfer agents to indicate whether further research is required and, if so, to provide a reasonable estimation of how long that research will take. If no further research is required, the transfer agent would be required to indicate when the claim will be paid. Finally, if the registered transfer agent receives an inquiry from a securityholder regarding a dividend or interest payment and that transfer agent is not the dividend disbursing or interest paying agent for the relevant issue, the transfer agent would be required, within five business days of receipt of the inquiry, to provide the inquirer with the name and address of the current dividend disbursing or interest paying agent.

In response to the June Release, the Commission received 13 comment letters. [6] While most commenters

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[1] 17 CFR 240.17Ad-2 and 17 CFR 240.17Ad-5.

[2] *See* Securities Exchange Act Release No. 19861, 48 FR 28109 (June 20, 1983).

[3] In a separate release issued today, the Commission is adopting the amendments to Rule 17Ad-2, modified in response to commenters' suggestions. These amendments subject low-volume transfer agents that handle depository-eligible securities to a five-day turnaround performance standard. *See* Securities Exchange Act Release No. 21374 (October 5, 1984).

[4] 17 CFR 240.17Ad-9 and 17 CFR 240.17Ad-13.

[5] Certain technical amendments to paragraph (c) of Rule 17Ad-10 are also proposed.

[6] Comments were received from the National Association of Securities Dealers, Inc. ("NASD"), Investors Diversified Services, Inc. ("IDS"); DTC; the Office of the Comptroller of the Currency; Westinghouse Electric Corporation ("Westinghouse"); The First National Bank of Chicago ("First Chicago"); The First National Bank of Boston; American Transtech, Inc.; The American Bankers Association ("ABA"); American Stock Transfer, Inc.; E.I. Dupont De Nemours and Company ("Dupont"); Western Stock Transfer Association, Inc. ("WSTA"); New England Power Service Company ("NEPSCO"); and Bradford National Corporation ("Bradford"). These comment letters are available for inspection and copying in the Commission's Public Reference Room, 450 5th Street, N.W., Washington, D.C. In accordance with section 17A(d)(3)(A)(i) of the Act, the Commission has consulted the federal bank regulatory agencies concerning these amendments at least fifteen days prior to issuing this release.

expressed the need for prompt transfer agent response to dividend and interest payment claims,[7] many commenters suggested modifications to the proposal that would minimize transfer agent compliance costs. In light of those comments, the Commission has modified the proposed amendments to Rule 17Ad–5 and is publishing the revised amendments for further comment.

Most commenters believed that five business days was an unrealistic time period because it failed to differentiate between recent claims and claims that were several months or years old. While those commenters acknowledge that many inquiries could be answered within the five day time period, they indicated that a substantial percentage of routine inquiries, especially inquiries concerning aged claims, would require more research. Several commenters complained that the rule as originally proposed would require more than one communication within a relatively short period of time—one letter to meet the 5-day response period stating that further research is required and a subsequent letter responding to the inquiry. Moreover, these commenters represented that transfer agents could complete the research process on most aged claims within 10 to 15 business days following receipt of the inquiry. These commenters believed that requiring more than one communication within a three-week span would waste valuable clerical time without significant benefit to inquirers. As an alternative, two commenters suggested that the Commission require transfer agent to respond to a certain percentage of dividend and interest claims (*e.g.*,) answer 90% of all inquiries within a 5-day period). These commenters believed that this approach would increase transfer agent flexibility, particularly during peak volume periods, consistent with existing turnaround rules.

The Commission, however, believes that a percentage test under this rule would create additional and unnecessary recordkeeping requirements. Instead, the Commission believes that establishing different time periods for current versus aged claims, as suggested by two other commenters,[8] is a better regulatory approach. Differing time periods should assure securityholders prompt responses, yet allow transfer agent sufficient time to research aged claims. At the same time, the Commission appreciates the suggestion that aged claims routinely require more than one week to resolve.

Accordingly, the Commission has revised paragraph (e) of Rule 17Ad–5 to establish different response time frames depending on the age of the claim. For claims aged less than six months, the revised amendments allow a transfer agent five business days to respond. The time period for response to inquiries involing a record date aged more than six months, however, would be lengthened to 15 business days following receipt of the inquiry. In those few instances where more time is needed to resolve the claim, the rule would require a written communication to the inquirer: (a) Stating that further research is needed; and (b) indicating approximately how long that research may take.

The American Bakers Association (the "ABA") suggested that the information reasonably necessary to require a response concerning a claim for dividend or interest payment be specified in the rule. The ABA further suggested that "sufficient detail" include: (1) A description of the issue; (2) the principal amount or number of shares; (3) the certificate numbers; and (4) the payment date for each certificate. The Commission generally agrees that it is fair to expect inquirers to provide a modicum of detailed information before requiring a response, but is concerned that the requisite information be readily available to securityholders. Accordingly, the Commission has revised the proposed Rule to specify that an inquiry requiring a response must contain the following information: (1) Name of the securityholder; (2) sufficient detail to identify the issue; (3) the number of shares or units or the principal dollar amount of debt securities involved in the claim; and (4) the approximate record or payment date.

The Commission is concerned that some transfer agents may decide not to respond to, or unduly delay responses to, shareholders who are not aware of the specific, minimum information required to trigger the response time frame. While the lack of certain details may add to the research effort involved, the Commission understands that transfer agents nonetheless usually can identify a particular security in a variety of ways, and thereby gain access to a particular shareholder's record.[9] Therefore, proposed paragraph (g)(2) would require transfer agents to research the claim to the extent possible when one or more of the items listed in paragraph (e)(3)(iii) is missing and to respond to the inquiry promptly. Nevertheless, the transfer agent should, at a minimum, contact the inquirer promptly stating that the inquiry has been received and requesting the missing information.

Several commenters also stated that the proposed rule seemed to allow only two types of responses: (1) A statement that further research is necessary and a reasonable estimation regarding how long that research may take; or (2) a statement indicating when the claim will be paid. These commenters suggested that the rule clarify that prompt payment of the claim must be made when appropriate. Because transfer agents under certain circumstances may not have funds on hand to pay that claim,[10] the Commission believes it would be inappropriate in those circumstances to require immediate payment. Generally, state law requires transfer agents to pay claims if or when they have the necessary funds. Accordingly, the Commission is revising the proposal to clarify that, after completing their research, transfer agents must indicate when the claim will be paid or, in cases where no money is due the inquirer, transfer agents must provide a written statement indicating the reason for not paying the claim.

One commenter suggested that the Commission should permit telephone responses to substitute for written responses. This commenter believed that telephone responses permit greater flexibility and faster response. The Commission supports this concept and is revising the proposals to permit telephone responses instead of written responses for all inquiries subject to Rule 17Ad–5. The Commission is concerned, however, that transfer agents not use the telephone response mechanism to delay payment of legitimate claims. The Commission, therefore, is proposing to limit the use of telephone reponses to two circumstances: (1) When the inquiry can be resolved over the telephone; and (2) when the transfer agent needs additional detail. If, however, the transfer agent does not receive the additional detail either orally or in writing within ten days, the transfer agent would be required promptly to

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[7] *Cf.* SEC, *Report of the Division of Market Regulation 1984 Securities Processing Roundtable* at 32 (1984) (noting securities industry support for the proposed amendments).

[8] *See* File S7–32–84; letters from WSTA and NEPSCO.

[9] Although each securities issue is assigned a unique CUSIP number, securities issues can also be identified by reference to other available information, such as the name of the issuer, the type of security and, if applicable, the issue's classification and series.

[10] The Commission understands that some transfer agents may not have available funds, especially for aged claims, and, therefore, must request and receive funds from their principal before paying the claim.

request the additional information in writing.[11]

Several commenters objected to the proposed requirement that transfer agents provide an inquirer with the name and address of the current dividend-disbursement or interest-paying agent when the transfer agent does not act as an agent for those issues. The commenters stated that many times they may not know the current agent and it may be time consuming to identify the proper agent. The Commission, in proposing this requirement, was attempting to require a transfer agent to provide the inquirer with the name and address of current DDA or IPA if the transfer agent previously performed dividend disbursing agent ("DDA") or interest paying agent ("IPA") functions for that issue, or has or is currently performing other transfer agent functions for the issuer. The Commission did not intend to require that all transfer agents maintain and, upon request, distribute current information concerning the DDA and IPA for every issue. The Commission, however, believes that a transfer agent that previously performed one or more transfer agent functions for an issue should provide an inquirer with the name and address of the current DDA or IPA, if that transfer agent readily can obtain the name and address of the current DDA or IPA. The Commission, therefore, is modifying the proposed amendments to require transfer agents have performed any transfer agent function for an issue within the last five years to provide an inquirer the name and address of the current DDA and IPA.

II. Proposed Amendments to Rule 17Ad–10

The Commission is proposing several amendments to Rule 17Ad–10 [12] in response to transfer agent experience under that Rule subsequent to September 1983.[13] The principal proposed amendment concerns the time frame within which transfer agents must buy in securities because of an actual overissuance.[14]

As adopted, Rule 17Ad–10(g) requires a transfer agent responsible for creating a physical overissuance to buy in securities equal to the amount of the physical overissuance within thirty days of the discovery of such overissuance. In adopting the thirty-day buy-in rule, the Commission believed that, through the research required under Rule 17Ad–10(a), transfer agents would promptly discover instances of overissuances. The Commission further anticipated that the holder of an overissued certificate would be identified in the course of researching the record differences and that identification would occur before the thirty day buy-in obligation attached. Accordingly, the Commission believed that transfer agents normally would be able to recover the overissued certificate within 30 days of discovery of a physical overissuance. Moreover, whenever recovery could not be accomplished within thirty days, the Commission understood that the transfer agent would be unlikely to retrieve the certificate within a reasonable time. The thirty-day buy-in requirement, therefore, was intended to shield transfer agents from excessive recovery costs and an extended risk of adverse market movement prior to executing the buy-in.

After the rules became effective, several transfer agents suggested that a thirty-day recovery period between the date of discovery of a physical overissuance and the required buy-in may well be too short a period to require as an industry norm.[15] These commenters noted that overissuances can require extensive research efforts and repeated communication with securityholders, brokers, depositories or individuals against whom the transfer agent makes a claim. Moreover, these commenters noted, the errors resulting in the overissuance often occur more than one year before discovery of the overissuance. In those cases, both the transfer agent and the party being claimed may have to research records that are archived, microfilmed or otherwise not readily accessible. If the records must be recalled from a storage facility, more research time will be required. As a result, these commenters argued, normal successful recovery efforts often require more than 30 days to complete.[16] Accordingly, they noted that expanding the recovery period under the rule would avoid unnecessary transaction costs associated with buying in overissued securities and later selling out those securities when the overissued certificates are recovered in specie from non-*bona fide* purchasers.

In response to these comments, the Commission is proposing to expand the buy-in time frame. Under the proposal, the mandatory 30-day buy-in would be replaced by a longer buy-in period. Under proposed paragraph (g)(1), transfer agents would have 60 days to recover overissued securities before they are required to execute the buy-in.[17] To limit the likelihood of financial loss due to market movement, a transfer agent would be required to devote diligent attention to recovering the overissued certificates. For example, a transfer agent, within ten business days of discovering an overissuance, might demand, in writing, return of the overissued certificates from the registered owner and any other party that the transfer agent deems appropriate in light of the transfer agent's initial research. If the certificates are not recovered within two weeks of the initial letter, the transfer agent might follow-up the demand either by telephone or in writing.

Proposed paragraph (g)(2) would grant an additional 30-day extension for execution of the by-in whenever the

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[11] The Commission expects transfer agent would maintain a log documenting telephone responses to securityholder inquires and claims.

[12] 17 CFR 250.17Ad–10.

[13] This rule was adapted in Securities Exchange Act Release No. 19880 (June 10, 1983), 48 FR 28231 (June 21, 1983) (the "Adopting Release").

[14] The other proposed amendments concern statements made in the narrative portion of the Adopting Release that were omitted from the text of the rule as adopted. For example, paragraph (c) of Rule 17Ad–10 concerns the prompt dispatch to the recordkeeping transfer agent by a co-transfer agent of certificate detail for every certificate cancelled or issued. The Adopting Release defined "promptly" as "within two business days after transfer," but defined that term as "daily" with respect to transfers occurring within five business days of record date. The latter definition of "promptly" was unintentionally omitted from the text of the rule in the Adopting Release. The Commission therefore is setting forth below the proposed text of paragraph (c) of Rule 17Ad–10, amended to clarify that "promptly" requires daily dispatch of certificate detail concerning transfers that occur within five business days of record date.

In addition, paragraph (g) of Rule 17Ad–10 requires transfer agents to buy in securities to cover the potential liability associated with actual physical overissuances. The Adopting Release explained, and the text of the rule stated, that only the transfer agent that erroneously issued the certificate(s) giving rise to the physical overissuance is required to effect the buy-in. Although the Release clarified that only physical overissuances created by transfers or issuances subsequent to the effective date of the rule would be subject to the buy-in requirement, language to that effect was not included in the text of the rule as set out in the Adopting Release. At the request of some post-adoption commenters, the Commission is now proposing to amend paragraph (g) of Rule 17Ad–10 to state unambiguously that only physical overissuances caused by transfers or issuances made after the effective date of the rule are subject to the buy-in requirement.

[15] *See* File No. S7–32–84, Letters from Morgan Guaranty Trust Company of New York, Continental Stock Transfer and Trust Company and the First National Bank of Boston.

[16] The Stock Transfer Association, after informally surveying its members, informed the Commission that continuous and diligent recovery efforts such as two-week reminders are highly successful, but often require more than 30 days for certificate recovery.

[17] Several transfer agents requested clarification that a transfer agent has fulfilled its obligation to buy in when it has placed a market order to buy securities within the required time period. The Commission concurs in that interpretation, as long as the transfer agent ensures that the purchase order is promptly executed.

transfer agent obtains, within the 60-day recovery period, a letter from the claimed party agreeing promptly to return the overissued certificates. If the transfer agent does not recover the certificates by the end of this additional 30-day period, however, the transfer agent must execute the buy-in immediately. This proposed paragraph is designed to avoid unnecessary transaction costs associated with buying in and later selling out secuities where certificates appear certain to be recovered shortly after the initial 60 days.[18]

Proposed paragraph (g)(3) relates to the timing of the 60-day period by defining "discovery of the overissuance." This paragraph is intended to clarify that discovery of the overissuance, which signals the start of the 60-day period, does not begin until the transfer agent identifies the erroneously issued certificate(s) and the current registered securityholder(s). Prior to identification of the certificate(s) and registered securityholder(s), the transfer agent is obligated, under existing paragraph (a)(1) of Rule 17Ad–10, to exercise diligent and continuous attention to resolve record differences. The Commission believes that such diligent and continuous attention should result in early identification of the certificate(s) and registered securityholder(s) involved in an overissuance. The Commission therefore expects that, ordinarily, there will be very little delay from the time a transfer agent learns of a physical overissuance until it identifies the certificate(s) involved in an overissuance and the current securityholder(s).

Some commenters suggested that, given the 30-day time frame for buy-in of securities, an exemption from the buy-in requirement should be given to transfer agents that are covered by certain insurance. Specifically, commenters noted that a transfer agent will not issue a replacement for a lost certificate unless the holder has obtained an indemnity bond [19] from a surety company to protect the transfer agent against the risk that the "lost" certificate found its way into the hands of a *bona fide* purchaser who later requests registration of transfer. If a *bona fide* purchaser asserts such a claim, these commenters noted, issuance of securities to a *bona fide* purchaser would create an actual physical overissuance of securities and the transfer agent will look to the surety company for funds to buy in securities in the amount of the overissuance. Because it may often take more than 30 days for the surety company to resolve the claim [20] and because they are protected against monetary liability by the indemnity bond, these commenters argued that transfer agents should not be required to buy in securities within the required thirty days.

Generally, the expansion to 60 days of the buy-in time frame should afford some relief in this area. In the absence of statistical and other information, however, the Commission does not believe that further relief in this area is appropriate at this time. The Commission requests comment about the advantages and disadvantages of excluding from the buy-in rule those physical overissuances that are protected by a surety bond. Specifically, commenters might provide statistics on the length of time a transfer agent must wait until claims are paid by the surety company and the percentage of buy-ins covered by insurance that are effected within 60 days. Furthermore, the Commission requests comments as to whether commitment letters from a surety company (agreeing to pay claims shortly after the expiration of the 60-day period) should be accorded the same treatment under the rule as commitment letters from claimed parties.

III. Regulatory Flexibility Act

A. Summary of Regulatory Flexibility Analysis

On June 10, 1983, the Commission prepared an Initial Regulatory Flexibility Analysis (the "Analysis") in accordance with 5 U.S.C. 603 as amended by the Regulatory Flexibility Act (the "RFA") regarding the proposed amendments to Rule 17Ad–5. No comments were received. The Commission has revised the Analysis as prepared on June 10, 1983. The following is a summary of the Analysis.

The Analysis notes that the amendments to this Rule are being proposed as part of the Commission's review of the Turnaround Rules. The Analysis notes that the proposed amendments to Rule 17Ad–5 would affect all registered transfer agents that perform dividend disbursing or interest payment activities on behalf of issuers, including approximately 1,400 small transfer agents.[21] The Analysis also notes that the types of transfer agent costs that could be affected by the proposed amendments to Rule 17Ad–5 are limited to expenses for personnel because those proposed amendments concern only the speed with which registered transfer agents must respond to security holder inquiries respecting dividend and interest claims. Furthermore, the Analysis notes the Commission's belief that a majority of the 1,400 small transfer agents affected by the proposed amendments to Rule 17Ad–5 will not incur significant additional compliance costs because many of these registered transfer agents currently comply with the proposed amendments.

The Commission recognizes its obligation to formulate compliance and reporting requirements that take into account the economic impact on small transfer agents. The RFA directs the Commission to consider significant alternatives to the proposed amendments that would accomplish the stated objectives of applicable statutes and minimize any significant economic impact on small transfer agents. As discussed in the Analysis, the Commission has considered the alternatives set forth in the RFA in developing the proposed amendments. The amendments to 17Ad–5 do not impose reporting or recordkeeping requirements, and establish minimum performance, rather than particular design, standards. Moreover, consistent with the alternatives set forth in the RFA, the Commission has determined not to modify the significant existing exemptions contained in Rule 17Ad–4(b) for small transfer agents from the recordkeeping or reporting requirements of the Turnaround Rules.

Accordingly, the Commission preliminarily believes that any costs that would be incurred by small transfer agents because of the proposal would be far outweighed by the benefits that would accrue to the securities industry from the more efficient and effective operation of the National System.

A copy of the Analysis may be obtained by contacting Jonathan Kallman, Esq., Division of Market Regulation, U.S. Securities and Exchange Commission, 450 Fifth Street,

[18] In some cases, the transfer agent, even when it has received a letter from the claimed party promising to return the certificates within the additional 30-day period, may have reason to know that the claimed party will not be able to return the certificates. For example, the claimed party may become insolvent during the 90-day period. In these circumstances, the transfer agent should not wait for the expiration of the full 90-day period, but should buy-in securities immediately.

[19] The indemnity bond is generally known as an "open penalty bond."

[20] The surety company, upon learning of the transfer agent's claim on the indemnity bond, may conduct an investigation into the transfer by the *bona fide* purchaser and may also attempt to collect from its principal. At the conclusion of the investigation, however, the surety company provides the transfer agent with the funds needed to buy in securities in the amount of the overissuance.

[21] *See* 17 CFR 240.10(h) (1982) [definition of small entity with respect to a registered transfer agent].

NW., Washington, D.C. 20549, at (202) 272–2775.

B. Regulatory Flexibility Act Certification

Section 603(a)[23] of the Administrative Procedure Act,[25] as amended by the Regulatory Flexibility Act (the "Flexibility Act"),[24] generally requires the Commission to undertake a Regulatory Flexibility Analysis of all proposed rules or proposed rule amendments to determine the impact of such rulemaking on "small entities."[25] Section 605(b) of the Flexibility Act, however, specifically exempts from that requirement any proposed rule or proposed rule amendment for which the Chairman of the Commission certifies that, if adopted, would not have a "significant economic impact on a substantial number of small entities."

Pursuant to 15 U.S.C. 605(b), the Chairman of the Commission has certified that the proposed amendments to Rule 17Ad–10, if promulgated, would not have a significant economic impact on a substantial number of small entities. The proposed amendments to Rule 17Ad–10 generally relax the current buy-in requirement by giving transfer agents an additional thirty days to recover overissued securities before they must execute the buy-in. Certificate overissuances occur infrequently and represent an insignificant expense for most, if not all, transfer agents. Even if an overissuance giving rise to buy-in liability occurs, the Commission expects that, during the additional thirty day period, all transfer agents will be able to recover more overissued certificates than they are able to recover under the current rule. By recovering more overissued certificates and, therefore, reducing the number of buy-ins, the proposed amendments should reduce transfer agent expenses associated with buying in securities.

IV. Statutory Basis

Pursuant to sections 3, 17A, and 23(a) of the Act, 15 U.S.C. 78c, 78q–1 and 78w(a), the Commission proposes to amend § 240.17Ad–5 and § 240.17Ad–10 in Chapter II of Title 17 of the Code of Federal Regulations in the manner set forth below.

List of Subjects in 17 CFR Part 240

Reporting and recordkeeping requirements, Securities.

[23] 5 U.S.C. 603(a).

[24] 5 U.S.C. 551 *et seq.*

[25] Pub. L. No. 96–345 (September 19, 1980), 94 Stat. 1164, reprinted in (1980) U.S. Code Cong. and Ad. News 1169.

[26] *See* Securities Act Release No. 6380 (February 4, 1982), 47 FR 5215.

V. Text of the Amendments

PART 240—[AMENDED]

17 CFR Part 240 is proposed to be amended as follows:

1. By redesignating paragraph (e) of § 240.17Ad–5 to be paragraph (g), revising new paragraph (g) and by adding new paragraphs (e) and (f) as follows:

§ 240.17Ad–5 Written inquiries and requests.

* * * * *

(e)(1) *Response to Dividend and Interest Claims.* A registered transfer agent shall respond, within five business days of receipt, to current claims that contain sufficient detail. A registered transfer agent shall respond, within fifteen business days of receipt, to aged claims that contain sufficient detail. The response shall indicate in writing that the inquiry has been received, whether the claim requires further research and, if so, a reasonable estimate of how long that research may take. If no further research is required, the response shall indicate whether that claim is being or will be paid and, if not, the reason for not paying the claim.

(2) *Misdirected Dividend and Interest Claims.* In the event that the receiving transfer agent is not the dividend disbursing or interest paying agent for an issue that is the subject of a claim under paragraph (e)(1) of this section, but performed those or other transfer agent services for that issue within the preceding five years, the transfer agent shall provide in writing to the inquirer, within five business days of receipt of the inquiry, the name and address of the current dividend disbursing or interest paying agent. If the transfer agent did not perform those or other transfer agent services for that issue within the preceding five years, the transfer agent may return the inquiry with a response stating that the transfer agent is not the current dividend disbursing or interest paying agent and that it does not know the name and address of the current dividend disbursing or interest paying agent.

(3) As used in this paragraph:

(i) A "current claim" means a written inquiry concerning a claim for a dividend or interest payment the record date for which occurred within the preceding six months.

(ii) An "aged claim" means a written inquiry concerning a claim for a dividend or interest payment the record date for which occurred more than six months before the inquiry.

(iii) "sufficient detail" means a written inquiry or request that identifies: the issue; the name(s) in which the securities are registered; the number of shares (or principal amount of debt securities or number of units if relating to any other kind of security) involved; and the approximate record date(s) or payment date(s) relating to the claim.

(f) *Telephone Response.*

(1) A transfer agent may satisfy the written response requirements of this section by a telephone response to the inquirer if:

(i) The telephone response resolves that claim; and

(ii) The inquirer does not request a written response.

(2) The transfer agent may also telephone the inquirer to obtain additional detail necessary to conduct research. However, if the transfer agent does not receive the additional detail within ten days the transfer agent shall promptly make a written request for the additional information.

(g)(1) When any person makes a written inquiry or request which would qualify under paragraphs (a), (b), (c) or (d) of this section except that it fails to provide all of the information specified in those paragraphs, or requests information which refers to a time earlier than the time periods specified in those paragraphs, a registered transfer agent promptly shall confirm receipt of the inquiry or request and respond to it.

(2) When any person makes a written inquiry or request which would qualify under paragraph (e) of this section except that it fails to provide sufficient detail as specified in paragraph (e)(3)(iii), a registered transfer agent promptly shall confirm receipt of the inquiry or request and respond to it.

2. By revising paragraphs (c)(1) and (g) of § 240.17Ad–10 to read as follows:

§ 240.17Ad–10 Prompt posting of certificate detail to master securityholder files, maintenance of accurate securityholder files, communications between co-transfer agents and recordkeeping transfer agents, maintenance of current control book, retention of certificate detail and "buy-in" of physical overissuance.

* * * * *

(c)(1) Every co-transfer agent shall dispatch or mail promptly to the recordkeeping transfer agent a record of debits and credits for every security transferred or issued. For the purposes of this paragraph, "promptly" means within two business days following transfer of each security, and, with respect to transfers occurring within five business days of record date, daily.

* * * * *

(g)(1) A registered transfer agent, in the event of any actual physical overissuance that such transfer agent caused and of which it has knowledge, shall within 60 days of the discovery of such overissuance, buy in securities equal to either the number of shares in the case of equity securities or the principal dollar amount in the case of debt securities. During the 60-day period, the registered transfer agent shall devote diligent attention to resolving the overissuance and recovering the certificates. This paragraph (g) requires a buy-in only by the transfer agent that erroneously issued the certificate(s) giving rise to the physical overissuance, and applies only to those physical overissuances created by transfers or issuances subsequent to September 30, 1983.

(2) If a transfer agent obtains a letter from the claimed party confirming that the overissued certificates will be returned to the transfer agent not later than thirty days after the expiration of the 60-day period, the transfer agent need not buy in securities by the 60th day. If, however, the certificates are not returned to the transfer agent within the additional 30-day period, the transfer agent immediately must execute the buy-in in accordance with paragraph (g)(1) of this section.

(3) For purposes of this paragraph, "discovery of the overissuance" occurs when the transfer agent identifies the erroneously issued certificate(s) and the registered securityholder(s).

* * * * *

By the Commission.

Dated: October 5, 1984.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-27293 Filed 10-15-84; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 944

Public Comment and Opportunity for Public Hearing on Proposed Modifications of the Utah Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; Notice of receipt of permanent program modifications; public comment period and opportunity for public hearing.

SUMMARY: OSM is announcing procedures for the public comment period and for a public hearing on the adequacy of proposed amendments to the Utah Permanent Regulatory Program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA) submitted by Utah for the Director's approval. The amendments pertain to the definition of "affected area," enforcement and penalty requirements, and bonding and insurance requirements.

This notice sets forth the times and locations that the Utah program and proposed amendments are available for public inspection, the comment period during which interested persons may submit written comments on the proposed program elements, and the procedures that will be followed at the public hearing.

DATES: Written comments from members of the public not received by 4:30 p.m. on November 9, 1984, will not necessarily be considered in the Director's decision on whether the proposed amendments satisfy the criteria for approval.

A public hearing on the proposed amendments has been scheduled for November 7, 1984. Any person interested in making an oral or written presentation at the hearing should contact Mr. Robert Hagen at the address and telephone number listed below by October 31, 1984. If no person has contacted Mr. Hagen by this date to express an interest in participating in this hearing, the hearing will not be held.

ADDRESS: The public hearing will be held between 1:00 p.m. and 5:00 p.m. at the Conference Room, Room No. 4108, 4241 State Office Building, Salt Lake City, Utah. Written comments and requests for an opportunity to speak at the public hearing should be sent to Mr. Robert Hagen, Field Office Director, Office of Surface Mining Reclamation and Enforcement, Albuquerque Field Office, 219 Central Avenue, NW., Albuquerque, New Mexico 87102.

Copies of the Utah program, the proposed modifications to the program and all written comments received in response to this notice will be available for public review at the OSM Field Office above and the OSM Headquarters office and the office of the State regulatory authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Utah Division of Oil, Gas and Mining, Department of Natural Resources, 4241 State Office Building, Salt Lake City, Utah 84114, Telephone: (801) 533-5771;

Office of Surface Mining, 1100 "L" Street, NW., Room 5124, Washington, D.C. 20240, Telephone: (202) 343-5351.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur W. Abbs, Chief, Division of State Program Assistance, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW., Washington, D.C. 20240; Telephone: (202) 343-5351.

SUPPLEMENTARY INFORMATION: On January 21, 1981, the Secretary of the Interior conditionally approved the Utah program under SMCRA for the regulation of the surface coal mining operations in the State (46 FR 5899-5915).

Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the secretary's findings, the disposition of the comments and a detailed explanation of the conditions of approval of the Utah program can be found in the January 21, 1981 **Federal Register** (46 FR 5899-5915).

On August 13, 1984, the Utah Division of Oil, Gas and Mining (DOGM) submitted proposed program amendments for OSM's approval.

The amendments include proposed changes to the following sections of Utah's program regulations:

UMC/SMC 700.5

Definition of "Affected Area" is deleted and replaced with a new definition.

UMC 843.11 Cessation Orders

Section revised.

UMC 843.15 Informal Public Hearing

Section revised.

UMC 843.16 Board Review of Citations

Section revised.

UMC 843.20 Compliance Conference

Section added.

UMC 845.12 When Penalty Will Be Assessed

Section revised.

UMC 845.13 Point System for Penalties

Section revised.

UMC 845.17 Procedures for Assessment of Civil Penalties—Proposed Assessment

Section revised.

UMC 845.18 Procedures for Informal Assessment Conference

Section revised.

UMC 845.19 Request for Formal Hearing

Section revised.

Part SMC/UMC 800 Bond and Insurance Requirements for Surface Coal Mining and Reclamation Operations Under Regulatory Programs

Part 800 revised.

The proposed amendments are available for review, in full text, at the addresses listed above. The Director seeks public comment on whether the proposed modifications to the Utah permanent program listed above satisfy the criteria for approval of State program amendments. To approve the proposed provisions OSM must find that the provisions are no less stringent than the Act and no less effective than the Federal regulations. With respect to Utah's penalty provisions OSM must find that the State program, as proposed to be amended, incorporates penalties no less stringent than those set forth under the Federal requirements and contains the same or similar procedural requirements. With respect to Utah's enforcement provisions, OSM must find that the State program, as proposed to be amended, incorporates sanctions no less stringent than those set forth in the Federal requirements and contains the same or similar procedural requirements. If the Director determines the proposed modifications meet the criteria, the amendments will be approved, and 30 CFR Part 944 modified accordingly.

Additional Determinations

1. Compliance with the National Environmental Policy Act

The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. Executive Order No. 12291 and the Regulatory Flexibility Act

On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 944

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

(Pub. L. 95-87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*))

Dated: October 10, 1984.

Carson W. Culp,

Acting Director, Office of Surface Mining.

[FR Doc. 84-27212 Filed 10-15-84; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[08-84-04]

Drawbridge Operation Regulations; Amite River, LA

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Louisiana Department of Transportation and Development (LDOTD), the Coast Guard is considering a change to the regulation governing the operation of the swing span bridge over the Amite River, mile 6.0, on LA 22 at Clio, Livingston Parish, Louisiana by requiring that at least four hours advance notice be given for an opening of the draw. Presently, the draw is required to open on signal from 5:00 a.m. to 9:00 p.m. and on 12 hours advance notice from 9:00 p.m. to 5:00 a.m. This proposal is being made because of the infrequent requests for opening the draw. This action should relieve the bridge owner of the burden of having a person constantly available at the bridge to open the draw from 5:00 a.m. to 9:00 p.m., while still providing for the reasonable needs of navigation.

DATE: Comments must be received on or before November 30, 1984.

ADDRESS: Comments should be mailed to Commander (obr), Eighth Coast Guard District, 500 Camp Street, New Orleans, Louisiana 70130. The comments and other materials referenced in this notice will be available for inspection and copying at the Eighth Coast Guard District, Bridge Administration Branch, Room 1115, 500 Camp Street, New Orleans, Louisiana 70130. Normal office hours are between 8:00 a.m. and 3:30 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Perry Haynes, Chief, Bridge Administration Branch, at the address given above, telephone (504) 589-2965.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data or arguments. Persons submitting comments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

The Commander, Eighth Coast Guard District, will evaluate all communications received and determine a course of final action on this proposal. The proposed regulation may be changed in the light of comments received.

Drafting Information: The drafters of this notice are Perry Haynes, project officer, and Steve Crawford, project attorney.

Discussion of Proposed Regulation

Vertical clearance of the bridge in the closed position is 4.6 feet above high water and 9.7 feet above low water. Navigation through the bridge consists of commercial and pleasure vessels. Data submitted by the LDOTD for the years 1983 and 1982 show that this traffic through the bridge is as follows:

(1) In 1983, between 5:00 a.m. and 9:00 p.m., the period when the bridge now has to open on signal, there were 353 bridge openings—an average of 29.4 openings per month or an average of less than one opening per day. In 1982, for the same time period, there were 330 bridge openings.

(2) In both 1983 and 1982, between 9:00 p.m. and 5:00 a.m., the period when the bridge now is on 12 hours advance notice, there were not openings for navigation.

Considering the few openings involved, the Coast Guard feels that the current on site attendance at the bridge is not warranted, and adoption of the four-hour advance notice for an opening will provide relief to the bridge owner, while still reasonably providing for the needs of navigation.

The advance notice for opening the draw would be given by placing a collect call at any time to the LDOTD

District Office at Hammond, Louisiana, telephone (504) 345–7390.

Economic Assessment and Certification

This proposed regulation is considered to be non-major under Executive Order 12291 on Federal Regulation and non-significant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. The basis for this conclusion is that few vessels pass this bridge, as evidenced by the 1983 and 1982 bridge opening statistics which show that the bridge averages less than one opening per day. These vessels can reasonably give four hours notice for a bridge opening by placing a collect call to the bridge owner at any time. Mariners requiring the bridge openings are mainly repeat users and scheduling their arrival at the bridge at the appointed time should involve little or no additional expense to them. Since the economic impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulation

PART 117—DRAWBRIDGE OPERATION REGULATIONS

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations, by revising § 117.423(a) to read as follows:

§ 117.423 Amite River.

(a) The draw of the S22 bridge, mile 6.0 at Clio, shall open on signal if at least four hours notice is given.

* * * * *

(33 U.S.C. 499; 49 CFR 1.46(c)(5); 33 CFR 1.05–1(g)(3))

Dated: October 1, 1984.

W.H. Stewart,

Rear Admiral, U.S. Coast Guard.

[FR Doc. 84-27201 Filed 10-15-84; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 117

[CCGD09 84–17]

Drawbridge Operation Regulations; Buffalo River, NY

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Consolidated Rail Corporation, the Coast Guard is considering a change to the operating regulations governing the Conrail railroad bridges at mile 4.02 and mile 4.39 over the Buffalo River, Buffalo, New York, by requiring that advance notice for opening the draw be given between the hours of 11 p.m and 7 a.m. This proposal is being made because of a steady decrease in requests for opening the draws during this period of time. This action should relieve the bridge owner of the burden of having a person constantly available to open the draws and still provide for the reasonable needs of navigation.

DATE: Comments must be received on or before November 30, 1984.

ADDRESSES: Comments should be mailed to Commander (obr), Ninth Coast Guard District, 1240 East Ninth Street, Cleveland, Ohio 44199. The comments and other materials referenced in this notice will be available for inspection and copying at 1240 East Ninth Street, Room 2083, Cleveland, Ohio. Normal office hours are between 6:30 a.m. and 3:00 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Robert W. Bloom, Jr., Chief, Bridge Branch, telephone (216) 522–3993.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data or arguments. Persons submitting comments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgement that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

The Commander, Ninth Coast Guard District, will evaluate all communications received and determine a course of final action on this proposal. The proposed regulations may be changed in light of comments received.

Drafting information: The drafters of this notice are Fred H. Mieser, project officer, and LCDR A. R. Butler, project attorney.

Discussion of Proposed Regulations

The proposed regulations will allow the Consolidated Rail Corporation to remove bridgetenders from their railroad bridges at miles 4.02 and 4.39 over the Buffalo River in Buffalo, New York, during the period of time between 11 p.m. to 7 a.m. because of a decease in requests to open the draw during this period of time. The two principal waterway users have closed their facilities and as a result of the shut-down of these commercial users, there have been only three requests to open the draw in a six month period with Conrail receiving prior notice all three times.

An informal inquiry was published in the *Ninth Coast Guard District Local Notice to Mariners*, LNM 13/84 dated 8 June 1984, requesting comments from the marine community as to the feasibility of this proposal. One comment was received from a major steamship company. The steamship company does not object to the proposal because they currently have little or no operations on the Buffalo River. However, they have requested that, in the event changes in the business environment require routine vessel passage through the draws, full time bridgetender service be reinstated.

Presently, the bridge opens on signal for the passage of vessels at all times.

The proposed regulations would require a four hour advance notice to open the draw from 11 p.m. to 7 a.m. Also, the bridge would be required to open within 30 minutes for vessels responding to an emergency.

Economic Assessment and Certification

These proposed regulations are considered to be non-major under Executive Order 12291 of Federal Regulations and non-significant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. The effects of this proposal, as described above, are expected to be minimal. Closure of the two principal manufacturing facilities that use the Buffalo River has noticeably reduced vessel traffic from 11 p.m. to 7 a.m.; therefore an advance notice requirement to open the draw between these hours should meet the present needs of navigation.

Since the economic impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

PART 117—DRAWBRIDGE OPERATION REGULATIONS

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations, by revising § 117.773(c) to read as follows:

§ 117.773 Buffalo River.

* * * * *

(c) The draws of the Conrail bridges, mile 4.02 and 4.39, both at Buffalo, shall open on signal between the hours of 11 p.m. and 7 a.m. if at least a four hour advance notice is given. However, the draw shall open within 30 minutes for vessels responding to an emergency.

(33 U.S.C. 499; 49 CFR 1.46(c)(5); 33 CFR 1.05-1(g)(3))

Dated: September 26, 1984.

A.M. Danielsen,

Rear Admiral, Coast Guard, Commander, 8th Coast Guard District.

[FR Doc. 84-27203 Filed 10-15-84; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[KY-023; A-4-FRL-2694-6]

Designation of Areas for Air Quality Planning Purposes; Kentucky; Redesignation of TSP, SO_2 and Ozone Areas

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: On the basis of air quality data and other considerations, EPA is today proposing to approve Kentucky's request to redesignate eleven total suspended particulate (TSP) nonattainment (Part D) areas to attainment, and a similar request to redesignate one sulfur dioxide (SO_2) area (Jefferson County). This notice also proposeds to disapprove the State's request to redesignate the northern Kentucky ozone Part D area to attainment. EPA is deferring action on the State's request to partially redesignate Boyd County to attainment of the TSP National Ambient Air Quality Standards (NAAQS).

The approval action is based on: (1) EPA's determination that the State's TSP Part D plan is approvable and (2) ambient air quality data which verifies the attainment status of the various areas. The disapproval action is based on: (1) Violations recorded during the 1983 ozone season (April through October) and (2) the northern Kentucky ozone Part D area (Boone, Kenton and Campbell Counties) is part of the Cincinnati urbanized area and cannot be redesignated to attainment until Cincinnati is redesignated, and Cincinnati also violated the ozone NAAQS in 1983. EPA's deferral regarding Kentucky's request to partially redesignated Boyd County to attainment of the primary TSP NAAQS is based on the lack of an approvable SIP for the area. EPA will address this request when the State submits an approvable TSP Part D plan for the county. EPA anticipates Kentucky's submittal of the Part D plan in the near future.

The effect of the actions taken are respectively: (1) The approval action redesignates the areas to attainment for the affected pollutants and (2) the disapproval action would leave northern Kentucky as a nonattainment area, for which the state must develop an attainment plan. The deferral is an absence of action and the State's request will be addressed in a future **Federal Register** notice, but until then, the area will remain nonattainment.

DATES: To be considered, comments must be submitted on or before November 15, 1984.

ADDRESSES: Written comments should be addressed to Melvin Russell of EPA Region IV's Air Management Branch (see EPA Region IV address below). Copies of the materials submitted by Kentucky may be examined during normal business hours at the following locations:

Environmental Protection Agency, Region IV, Air Management Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365;

Kentucky Natural Resources and Environmental Protection Cabinet, Division of Air Pollution Control, 18 Reilly Road, Bldg. 2, Fort Boone Plaza, Frankfort, Kentucky 40601;

Air Pollution Control District of Jefferson County, 914 East Broadway, Louisville, Kentucky 40204.

FOR FURTHER INFORMATION CONTACT: Melvin Russell, EPA Region IV, Air Management Branch, at the above address and telephone 404/881-3286 or FTS 257-3286.

SUPPLEMENTARY INFORMATION: On February 23, 1983, Kentucky requested that EPA redesignate Part D areas to attainment as follows: (1) Fourteen TSP area, (2) two SO_2 area, (3) one ozone area. EPA Region IV offered additional guidance to Kentucky, including three meetings with the State. Kentucky submitted a revised redesignation request on November 21, 1983. The November 21 submittal requested redesignation of Part D areas to attainment as follows: (1) thirteen TSP areas, (2) two SO_2 areas, (3) one ozone area. Kentucky submittal a final revision to the redesignation request on December 9, 1983, deleting one of the SO_2 areas and providing additional documentation on two of the TSP areas.

Region IV has considered all redesignation information submitted by Kentucky and the local agency (Air Pollution Control District of Jefferson County); however, it is basically the State's November 21, 1983, and December 9, 1983, submittals that EPA is responding to in this notice.

TSP Redesignations

The TSP Part D areas affected by this notice were designated as nonattainment for the primary and secondary TSP NAAQS in the March 3, 1978 **Federal Register** (43 FR 8962 at 8996). This notice proposes to redesignate each area to attainment in one of the following categories: (1) The primary and secondary NAAQS and (2) attainment of the primary NAAQS (remain nonattainment for secondary NAAQS).

I. The following areas would be redesignated to attainment of the primary and secondary TSP NAAQS:

A. That portion of Bullitt County in Shepardsville and that portion of Whitley County in Corbin.

Rationale: Kentucky submitted the most recent eight consecutive quarters (October 1, 1981—September 30, 1983) of air quality data for these areas. That data indicates no violation of the TSP NAAQS. EPA is approving the State's TSP Part D plan for these areas in a separate notice.

B. That portion of Madison County in Richmond.

Rationale: Kentucky submitted the most recent eight consecutive quarters (October 1, 1981—September 30, 1983) of air quality data. The most recent four quarters of that data indicate no violation of the primary or secondary standards. The State submitted documentation which verifies that the air quality improvement in the most recent four quarters is the result of EPA-enforceable emission reductions. Such documentation is required when less than eight quarters (most recent) of data is used, to assure the stability of the ambient air quality. EPA is approving the State's TSP Part D plan for this area in a separate notice. Please refer to Attachment I of the Technical Suppport Document (TSD) for supporting documentation.

C. McCracken County.

Rationale: Kentucky submitted the most recent eight consecutive quarters of air quality data. Three of the four monitors indicate attainment of the TSP NAAQS. Site #18-3180-004 shows violation of the 24-hour primary and secondary TSP NAAQS during the most recent four quarters. The State submitted documentation which verifies that the violations were caused by construction adjacent to the monitoring site. EPA accepts the information as verification that the violations were caused by the construction activity and the data should not be used to determine the attainment status of the area. Moreover, EPA agrees with Kentucky's contention that data from the three remaining monitors are sufficient to redesignate the area to attainment. Please refer to Attachment 2 of the TSD for supporting documentation.

II. The following areas are being redesignated to attainment of the primary TSP NAAQS (remain nonattainment for the secondary NAAQS):

Bell County
That portion of Daviess County in Owensboro
That portion of Henderson County in Henderson
That portion of Lawrence County in Louisa
That portion of Perry County in Hazard
That portion of Pike County in Pikeville

Rationale: The most recent eight consecutive quarters (October 1, 1981—September 30, 1983) of air quality data, prior to the State's November 21, 1983 submittal, indicate no violation of the primary standard. The data showed violation of the secondary NAAQS. Kentucky did not request that these areas be redesignated to attainment of the secondary NAAQS. EPA is in the process of approving the State's TSP Part D plan for these areas.

III. Jefferson County.

This TSP Part D area is being redesignated to attainment for the primary NAAQS and partially redesignated to attainment for the secondary NAAQS. The secondary nonattainment boundaries are redrawn to reflect the partial redesignation.

Rationale: Kentucky and the Air Pollution Control District of Jefferson County (the District) have submitted data and documentation to support this redesignation request. The submittals included the most recent eight consecutive quarters of data (October 1, 1981–September 30, 1983), and plans to redraw the secondary nonattainment boundaries. Only one site among the 17 included in the report exceeds the primary standard. EPA and the State concur with the District's contention that the site does not meet TSP siting criteria, and is actually a lead (Pb) monitor, not intended for use as a TSP site. The data was accidentally reported, but is not valid for determining the attainment status of the area. EPA is in the process of approving the State's Part D TSP plan for this area. Please refer to Attachment 3 of the TSD for supporting documentation.

Sulfur Dioxide Redesignations.

The Jefferson County area was designated as nonattainment for the SO_2 primary and secondary NAAQS in the March 3, 1978 **Federal Register** (43 FR 8962) at 8997. This notice proposes that the area be redesignated to attainment for the primary and secondary NAAQS.

Rationale: Kentucky and the District have submitted data and documentation to support this redesignation request. The data submitted indicate attainment of the primary and secondary standards for the period October 1, 1980 through September 30, 1982. Neither the annual arithmetic mean nor the 24-hour primary standard were violated, and the three-hour secondary standard was also attained. EPA has also reviewed 1983 SO_2 data for this area and it continues to show attainment of the primary and secondary SO_2 NAAQS.

The District submitted air quality modelling (CRSTR) in support of the redesignation request. The results indicate attainment or the annual, 24-hour, and 3-hour SO_2 NAAQS. The sources modelled represent 92% of the total SO_2 emissions in Jefferson County. Please refer to Attachment 4 of the TSD for supporting documentation.

Ozone Redesignation

Boone, Kenton, and Campbell Counties were designated nonattainment for the ozone NAAQS in the March 3, 1978 **Federal Register** (43 FR 8962 at 8997). In letters to EPA dated February 23, 1983 and November 21, 1983, Kentucky requested that the Counties (northern Kentucky) be redesignated to attainment. EPA has reviewed the requests and all related data, and determined that the Counties should not be redesignated to attainment at this time.

Rationale: The State's request was based upon 1982 attainment data; however, the area violated the standard in 1983. These counties are part of the Cincinnati urbanized area and as such, cannot be redesignated to attainment until Cincinnati is redesignated, and Cincinnati also violated the ozone standard in 1983.

Action: Based on the foregoing analyses. EPA today proposes the following actions: (1) Redesignate the following TSP nonattainment areas to attainment as requested by Kentucky: Bullitt, Whitley, Bell, Perry, Lauren, Henderson, Daviess, McCracken, Madison and Jefferson Counties. As indicated above, EPA is deferring action on Boyd County, pending the State's submittal of an approvable SIP for the area. (2) Redesignate the SO_2 area (Jefferson County) to attainment as requested by Kentucky. (3) Disapprove the State's request to redesignate northern Kentucky (Boone, Kenton, and Campbell Counties) to attainment of the ozone standard.

These proposed actions would: (1) Redesignate these areas to attainment and remove any nonattainment restrictions. (2) Leave northern Kentucky as an ozone nonattainment area for which a plan must be developed. (3) Leave the Boyd County area as nonattainment until Kentucky submits an approvable Part D TSP SIP.

Under 5 U.S.C. § 605(b), I certify that area redesignations do not have a significant economic impact on a substantial number of small entities. (see 46 FR 8709.)

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

(Sec. 107 of the Clean Air Act (42 U.S.C. 7407))

Dated: August 6, 1984.

Charles R. Jeter,

Regional Administrator.

[FR Doc. 84-27227 Filed 10-15-84; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 81

[A-5-FRL-2694-5]

Michigan State Implementation Plan; Extension of Comment Period

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking, notice of extension of comment period.

SUMMARY: The USEPA is giving notice that the comment period for the notice of proposed rulemaking on the designated attainment status of Michigan's Wayne and Monroe Counties published August 3, 1984 (49 FR 31091), has been extended until October 19, 1984.

DATE: Comments are now due on or before October 19, 1984.

FOR FURTHER INFORMATION CONTACT: Ms. Toni Lesser, Regulatory Specialist, Air and Radiation Branch, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6037.

SUPPLEMENTARY INFORMATION: This notice extends the comment period for submitting comments on the notice published August 3, 1984 (49 FR 31091) which proposes to disapprove the State of Michigan's request to: (1) Reduce the size of the primary Total Suspended Particulate (TSP) nonattainment area in Wayne County; (2) change portions of the secondary nonattainment area within the current primary nonattainment boundaries to attainment, and (3) change the Trenton area from secondary nonattainment to attainment. That notice also proposed to approve the State's request to redesignate to attainment the portion of the Wayne County secondary nonattainment area outside the current primary TSP nonattainment boundaries (excluding Trenton) and the Monroe County secondary TSP nonattainment area.

The comment period is hereby extended until October 19, 1984.

Dated: October 1, 1984.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 84-27228 Filed 10-15-84; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF TRANSPORTATION

Urban Mass Transportation Administration

49 CFR Ch. VI

[UMTA Docket No. 84-D]

Extension of Safety Requirements to all Federally Assisted Buses

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: Effective October 1, 1982, the Urban Mass Transportation Administration (UMTA) rescinded its policy making the Baseline Advanced Design Transit Coach Specification ("White Book") mandatory for its grantees. UMTA, however, continued to mandate certain safety requirements contained in the White Book. Since the date of that notice, questions have arisen regarding whether these safety requirements should apply to other buses financed by UMTA. UMTA, therefore, in this notice solicits the public's comments about whether the safety requirements should be so extended. This request for information is being undertaken as part of the Department of Transportation's efforts to improve safety in transportation.

DATE: Coments must be received by UMTA by December 17, 1984.

ADDRESS: Comments should be submitted to Docket Clerk, UMTA Docket 84-D, Urban Mass Transportation Administration, 400 7th Street, SW., Room 9228, Washington, D.C. 20590. Those submitting comments who wish to have their submissions acknowledged should include a stamped, self-addressed postcard with their comments.Comments will be available for review at the above address from 9:00 a.m. to 5:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth E. Bolton, Director of Policy, (202) 426-4060, 400 Seventh Street, SW., Room 9300, Washington, D.C. 20590. Office hours are Monday through Friday from 9:00 a.m. to 5:30 p.m.

SUPPLEMENTARY INFORMATION: Between 1977 and 1982, UMTA mandated the use by its grantees of the White Book for the purchase of advanced design buses. The White Book contained four Parts, of which Part II included safety specifications (42 FR 13816; March 14, 1977). Effective October 1, 1982, UMTA rescinded the mandatory use of the White Book by UMTA grantees for the purchase of advanced design buses, but retained the White Book safety requirements set forth in Appendix A of this Notice (47 FR 44457).

At present, the White Book safety requirements are mandatory only for advanced design buses. Advanced design buses must also meet applicable Federal Motor Vehicle Safety Standards (FMVSS) issued by the National Highway Traffic Safety Administration and Bureau of Motor Carrier Safety (BMCS) regulations issued by the Federal Highway Administration. Other buses financed with UMTA assistance need comply only with applicable FMVSS and BMCS regulations.

UMTA sensitive to the problems that could be caused by three sets of safety standards for UMTA assisted advanced design buses and only two sets of safety standards for all other UMTA assisted buses. In particular this disparity could result in possible inequities in the procurement of buses due to the fact that buses which are not advanced design buses are not required to meet the White Book safety standards. To prevent this potential inequity, UMTA is considering extending the White Book safety requirements to all UMTA assisted buses.

In addition, one of the Department of Transportation's major initiatives is to increase the level of safety in all areas of transportation. The extension of the White Book safety requirements to all UMTA assisted buses could make a significant contribution toward this goal.

For the foregoing reasons, UMTA is considering extending the requirements of the White Book safety specifications listed in Appendix A to all buses financed with UMTA assistance. UMTA is especially interested in receiving detailed comments addressing the following aspects of this proposal:

1. What benefits would be derived from mandating each of these requirements.

2. What the financial impact on manufacturers and grantees would be of imposing Each of these requirements.

3. Would competition in the bus market be significantly impacted by mandating these requirements.

Issued on: September 28, 1984.

Ralph L. Stanley,

Administrator.

Appendix A

Safety Related Items Contained in the Baseline Advanced Design Transit Coach Specification-(Part II: Technical Specification)

1.2—*Definitions.* Safety words and definitions are explained. Specifically, "Fireproof," "Fire-Resistant," "Head Injury," "Criteria," and "Classes of Failure—Class I: Physical Safety."

1.4—*Legal Requirements.* Vehicles shall meet all applicable FMVSS and BMCS regulations, many of which relate to safety.

1.5.4.3(1)—*Class I: Physical Safety.* Specifies 1,000,000 miles mean mileage between failures.

2.1.1.5—*Pedestrian Safety.* Limits bus protrusions and extensions, except for mirrors, lights, and reflectors, to minimize hazard to pedestrians and to eliminate toe holds and handholds for use by unauthorized riders.

2.1.2.1—*Strength & Fatigue Life.* Prohibits Class I failures of the bus structure during the service life of the vehicle.

2.1.2.7—*Jacking.* Specifies need for safe jacking procedures to minimize the hazard to drivers or maintenance persons performing a tire change, etc.

2.1.2.9—*Fire Protection.* Requires a reinforced firewall to separate the engine and passenger compartments. The climate control system shall also be

fireproofed from the engine area. Other fire prevention considerations are mentioned.

2.1.2.10—*Crashworthiness*. Requires that the bus be able to sustain a maximum static roof loading of 150% of the vehicle curb weight without appreciable deformation or window failure. Also, the passenger compartment space shall remain safe and intact in spite of a 25 mph impact by a 4,000 lb. automobile.

2.1.4.1—*Headroom*. Specifies interior clearance and padding to minimize hazard or injury to passengers.

2.1.4.2—*Driver Barriers*. Specifies barrier between the driver and passengers to eliminate distractions to the driver during operation of the vehicles.

2.1.4.6—*Fastening*. Prohibits exposed edges or rough surfaces on interior panels.

2.1.5.2—*Strength*. The floor deck shall support passenger loads and it shall be able to withstand 2.5 × gross load weight without permanent deformation. Also, the floor fasteners shall be protected from corrosion for the service life of the bus.

2.1.6.1—*Steps*. Requires use of non-skid material and high visibility color coding and contrast to prevent accidents.

2.1.7.1—*Construction*. Specifies corrosion and fire resistant material for the wheel housing which will withstand penetration by a two-inch steel ball with 200 ft.-lbs. of energy.

2.1.8.2—*Dimensions*. Prohibits projections on the passenger doors which may pose a hazard.

2.1.8.4—*Door Projection*. Same as 2.1.8.2.

2.1.9.1—*Interior*. Requires service compartment and access doors to prevent fumes and water from leaking into the bus interior.

2.1.9.2—*Exterior*. Requires service compartment and access door designs which will not open accidentally during transit service or washings. Also specifies safety props for the doors, an emergency manual system for power assisted door openers, and safe ventilation and clearance for the battery compartment.

2.2.1.1—*Control*. Requires an interlock system to prevent bus movement while the rear door control is activated.

2.2.1.2—*Closing Force*. Specifies a maximum door closing force of 10 lbs. on a one square inch area, and that no more than 35 lbs. of force be required to open the doors after they have closed.

2.2.1.4—*Emergency Operation*. Specifies operation for emergency door unlocking and opening.

2.2.3.1—*Exterior Lighting*. Requires visible audible warning signal to alert vehicles and pedestrians that the bus is in reverse operation.

2.2.3.5—*Service Controls*. Specifies tamper resistant control settings, non-skid pedals, and easy to read and use controls for safe operation.

2.2.3.6—*Instruments*. Specifies unobstructed view of instruments by the driver, minimization of glare caused by the instruments, and daylight readability.

2.2.3.7—*On Board Diagnostics*. Specifies monitoring of critical systems and components to provide the driver with early warning of conditions which may lead to unsafe operation.

2.3.1—*General Requirements (Interior Trim)*. Requires that all plastic and synthetics used inside the coach be fire-resistant (except vinyl coverings) per Federal specifications.

2.3.2.3—*Structure and Design (Passenger Seats)*. Specifies limit of 1,000 lbs. compressive load by bus transverse objects (seat backs, panels) on the femur of passengers. Seat structural failures shall not result in hazardous deformations.

2.3.2.4(1)—*Construction and Materials (Padded Seats)*. Requires energy absorption qualities to prevent injury to passengers during rapid deceleration.

2.3.2.4(2)—*Construction and Materials (Cushioned Seats)*. Same comment as 2.3.2.4(1).

2.3.3.2—*Structure and Materials (Driver's Seat)*. Specifies seat belt operation.

2.3.4—*Floor Covering (sections 2.3.4.1,2, and 3)*. Specifies non-skid rubber composition surface.

2.4.1.1—*Windshield*. Specifies wide visibility, reduced glare, safety glass laminate, and minimized reflections during night or day operations.

2.4.2.2—*Materials (Side Windows)*. Cities safety test standards that apply. Also exempts acrylic and plastic glazing from interior trim flammability requirements of section 2.3.1.

2.5.1.1—*Properties (Insulation Materials)*. Fire resistant qualities required.

2.6.3.1—*General Requirements (Passenger Assists)*. Specifies that a 1-foot intrusion resulting from a crash shall not cause the assist to produce sharp edges, loose rails, or other dangerous configurations within the passenger area.

2.6.3.3—*Vestibule*. Specifies location of assists around vestibule area to prevent injuries to passengers during rapid deceleration.

2.6.6.2—*Loading System (Wheelchair Passengers)*. Describes the requirement for safe operation of a wheelchair loading system. A throttle and brake interlock is cited, as are the use of non-skid materials and devices for securing the wheelchair from movement during loading.

2.6.6.3—*Wheelchair Accommodations*. Requires sufficient parking space on the bus and secure tiedown of the passenger.

3.1.2.2—*Service (Power Mounting and Accessories)*. Requires rigidly supported, short, safely located fuel and oil lines to minimize fire hazard. Material preference for hoses is cited.

3.1.2.4—*Hydraulic Drive*. Requires warning sensors and shielded, short length, carefully located lines. The power steering function is given high priority.

3.1.3.1—*Engine*. Specifies an emergency stop switch for engine types susceptible to runaway failure.

3.1.3.2—*Cooling System*. Specifies a push button type valve to safely allow release of pressure or vacuum from the cooling system.

3.2.1—*General Requirements (Final Drive)*. Specifies a drive shaft guard to prevent the shaft from striking the bus floor or ground in the event of failure.

3.3.2—*Kneeling*. Requires interlock to prevent bus movement during kneeling operation.

3.4.1—*Strength (Steering)*. Specifies that fatigue life shall exceed 1,000,000 miles.

3.4.3—*Turning Effort (Steering)*. Power steering failure shall not result in loss of steering control. Steering effort shall not exceed 55 pounds at the rim.

3.5.1.1—*Actuation (Service Brake)*. Force required by the driver to actuate maximum emergency braking shall not exceed 70 pounds.

3.5.1.4—*Air System*. Specifications for materials, installation, support, and prevention of leaks are cited. Pressure relief valves are required as well.

3.6.2.1—*Fuel Tank*. Fuel tanks (which are removable) shall be securely mounted to prevent movement during maneuvers.

3.6.2.2—*Fuel Filler*. Cites SAE standard J844—Type 1 (copper tubing) or J844—type 3B (nylon tubing).

3.6.3.1—*Location (Bumper System)*. Specifies protection for the front and rear of bus, up to 26 inches above ground.

3.6.3.2—*Front Bumper*. The bumper shall protect the coach to the extent that no damage shall not result from impacts with a 4,000 pound striker.

3.6.3.3—*Rear Bumper*. Similar to 3.6.3.2.

3.6.4.1—*General Requirements (Electrical Requirements)*. Requires safety considerations in the design of

the electrical system, e.g., circuit breakers, redundant grounds, safe wiring locations, and the reduction of high voltage hazards.

3.6.4.3—*Wiring and Terminals.* Cites SAE recommended practices for materials and construction, and additional installation safeguards.

3.6.4.4—*Junction Boxes.* Specifies fireproof boxes.

3.6.5.3—*Master Battery Switch.* Specifies emergency electrical load disconnect and rapid access to it.

3.6.5.4—*Fire Detectors.* Requires at least two high temperature sensors in the engine area.

[FR Doc. 84-27148 Filed 10-15-84; 8:45 am]
BILLING CODE 4910-57-M

Notices

Federal Register
Vol. 49, No. 201
Tuesday, October 16, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 84-099]

Advisory Committee on Foreign Animal and Poultry Diseases; Meeting

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of Meeting of the Secretary's Advisory Committee on Foreign Animal and Poultry Diseases.

SUMMARY: This document gives notice of a meeting of the Secretary's Advisory Committee on Foreign Animal and Poultry Diseases.

Place, Dates, and Time of Meeting: The meeting will be held at Room 743A of the Federal Building, United States Department of Agriculture, 6505 Belcrest Road, Hyattsville, Maryland, November 15, 1984, from 8:30 a.m. to 4:30 p.m., and November 16, 1984, from 8:30 a.m. to 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Dr. Harless McDaniel, Chief Staff Officer, Technical Support, VS, APHIS, USDA, Room 757, Federal Building, Hyattsville, MD 20782, 301–436–8087.

SUPPLEMENTARY INFORMATION: The purpose of the Committee is to advise the Secretary on means to prevent, suppress, control or eradicate an outbreak of foot-and-mouth disease or other destructive foreign animal or poultry disease in the event such a disease should enter the United States. On November 15, this Committee will meet jointly with members of the National Research Council (NRC) Subcommittee on Research and Diagnosis on Foreign Animal Diseases to discuss recommendations of the NRC Subcommittee. On November 16, this Committee will finalize its report on implementing the recommendations of the NRC Subcommittee. The meeting will be open to the public.

Written statements concerning these matters may be filed with the committee before or at the time of the meeting. Written statements concerning the meeting may be forwarded to Dr. Harless McDaniel, Chief Staff Officer, Technical Support, VS, APHIS, Room 757, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8087.

Dated: October 11, 1984.

Bert W. Hawkins,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 84-27281 Filed 10-15-84; 8:45 am]
BILLING CODE 3410-34-M

CIVIL AERONAUTICS BOARD

[Dockets 42224 and 42254]

Complaint of Frontier Holdings, Inc. and Western Air Lines, Inc. Against Continental Air Lines, Inc.; Notice of Postponement of Prehearing Conference

Notice is hereby given that the prehearing conference in the above-captioned consolidated proceeding, earlier scheduled to be held on October 17, 1984, is postponed, and will be held on November 16, 1984, at 9:30 a.m. (local time) in Room 1027, 1825 Connecticut Avenue, NW., Washington, D.C., before the undersigned Chief Administrative Law Judge.

The prehearing conference submissions to have been served on October 11, 1984, pursuant to the Notice of Enforcement Proceeding of September 28, 1984, shall instead be submitted by November 9, 1984.

Dated at Washington, D.C., October 9, 1984.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 84-27273 Filed 10-15-84; 8:45 am]
BILLING CODE 6320-01-M

[Order 84-10-32]

Order to Show Cause; Aero-Chago, S.A.

AGENCY: Civil Aeronautics Board.

ACTION: Notice.

SUMMARY: The Board has tentatively decided to grant the following application:

Applicant: Aero-Chago, S.A. Docket: 41056
Application filed: October 18, 1982, as amended
Authority Sought: Initial foreign air carrier permit to engage in nonscheduled foreign air transportation of property and mail (1) between the Dominican Republic and Miami, Florida; and (2) between the Dominican Republic, the intermediate points Borinquen, Ponce, and San Juan, Puerto Rico; and St. Croix, Virgin Islands; and the terminal point St. Thomas, Virgin Islands.
Tentative decision: The Board proposes to issue a five-year permit to Aero-Chago.

Objections: All interested persons having objections to the Board's tentative findings and conclusions that this authority should be granted, as described in the order cited above, shall, not later than October 26, 1984, file a statement of such objections with the Civil Aeronautics Board (20 copies) and mail copies to the applicant, the Department of Transportation, the Department of State, the Federal Aviation Administration (AFO–220), and the Ambassador of the Dominican Republic in Washington, D.C. A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Secretary of the Board will enter an order which will, subject to disapproval by the President, make final the Board's tentative findings and conclusions and issue the proposed permit.

Addresses for objections:

Docket 41056, Mr. Andrew B. Weissman
Docket Section, Attorney for Aero-Chago, S.A.
Civil Aeronautics Board, Wilmer, Cutler & Pickering
Washington, D.C. 20428, 1666 K Street, N.W., Washington, D.C. 20006

To get a copy of the complete order, request if from the C.A.B. Distribution Section, Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

For Further Information contact: Rhonda Starck, Regulatory Affairs Division, Bureau of International Aviation, Civil Aeronautics Board: (202) 673-5135.

By the Civil Aeronautics Board.

October 9, 1984.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-27274 Filed 10-15-84; 8:45 am]

BILLING CODE 6320-01-M

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations (See 14 CFR 302.1701 et. seq.); Week Ended October 5, 1984

SUBPART Q APPLICATIONS

The due date for answers, conforming application, or motions to modify scope are set forth the below for each application. Following the answer period the Board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Date filed	Docket No.	Description
10-3-84	42540	Air Mid-America, Inc., c/o Robert A. Bracco, 3535 West Henderson Road, Columbus, Ohio 43220. Application of Air Mid-America, Inc pursuant to Section 401(d) (1), (2), or (3) of the Act and Subpart Q of the Board's Procedural Regulations requests permanent authority to engage in interstate and overseas scheduled air transportation of persons property, and mail: Between any point in the State in the United States or the District of Columbia, or any territory or possession of the United States and any other point in any State of the United States or the District of Columbia, or any territory or possession of the United States Conforming Applications, Motions to Modify Scope and Answers may be filed by October 31, 1984.
10-3-84	42541	Air Mid-America, Inc., c/o Robert A. Bracco, 3535 West Henderson Road, Columbus, Ohio 43220. Application of Air Mid-America, Inc pursuant to Section 401(d) (1), (2), or (3) of the Act and Subpart Q of the Board's Procedural Regulations requests permanent authority to provide foreign air transportation of persons, property, and mail, as follows between the following points: 1. Columbus, Ohio to Toronto, Canada 2. Columbus, Ohio to Montreal, Canada 3. Columbus, Ohio to Quebec, Canada Conforming Applications, Motions to Modify Scope and Answers may be filed by October 31, 1984.
10-3-84	42542	Pegasus Airlines, Inc., c/o Morris R. Garfinkle, Galland, Kharasch, Morse & Garfinkle, 1054 Thirty-first Street, N.W., Washington, D.C. 20007. Application of Pegasus Airlines, Inc. pursuant to Section 401(d)(1), of the Act and Subpart Q of the Board's Procedural Regulations requests permanent authority to engage in interstate and overseas scheduled air transportation of persons, property, and mail: Between any point in any State in the United States or the District of Columbia, or any territory or possession of the United States, and any other point in any State of the United States or the District of Columbia, or any territory or possession of the United States. Conforming Applications, Motions to Modify Scope and Answers may be filed by October 31, 1984.
10-3-84	42542	Pegasus Airlines, Inc., c/o Morris R. Garfinkle, Galland, Kharasch, Morse & Garfinkle, 1054 Thirty-first Street, N.W., Washington, D.C. 20007. Application of Pegasus Airlines, Inc. pursuant to Section 401(d)(1), of the Act and Subpart Q of the Board's Procedural Regulations requests permanent authority to engage in foreign scheduled air transportation of persons, property, and mail: Between a point or points in the United States and a point or points in the Bahamas. Conforming Applications, Motions to Modify Scope and Answers may be filed by October 31, 1984
10-3-84	42544	USAIR, Inc., Washington National Airport, Washington, D.C. 20001. Application of USAIR, Inc. pursuant to Section 401 of Act and Subpart Q of the Board's Procedural Regulations applies for an amendment of its certificate for Route 97-F authorizing US air to engage in the scheduled air transportation of persons, property and mail between Boston and Toronto via Syracuse in intermediate point. Conforming Applications, Motions to Modify Scope and Answers may be filed by October 31, 1984.
10-3-84	42208	Cargolux Airlines International, S. A., c/o George E. Farrell, Healey, Farrell & Lear, 1216 16th Street, N.W. Washington, D.C. 20036. Second Amendment to Application of Cargolux Airlines International, S. A. for renewal of its foreign air carrier permit pursuant to Section 402 of the Act. Answers may be filed by October 31, 1984.
10-2-84	42435	Tower Travel Corporation d/b/a Atlantic Express, c/o Jerrold Scoutt, Jr., Zuckert, Scoutt, Rasenberger & Johnson, 888 Seventeenth Street, N.W., Washington, D.C. 20006. Amendment No. 1 to the Application of Tower Travel Corporation d/b/a Atlantic Express. Atlantic Express no longer seeks authority to provide scheduled foreign air transportation to France, and to the extent its Application requested such authority, the Application is hereby withdrawn. Atlantic Express hereby amends it Application, pursuant to Section 201.2 of the Board's Economic Regulations, to request a certificate of public convenience and necessity to provide scheduled foreign air transportation of passengers, property and mail as follows: Between points within the United States of America, including, but not limited to, the following coterminal points: New York, New York; Miami, Florida land points in the Kingdom of the Netherlands, including, but not limited to, Amsterdam. Answers may be filed by October 30, 1984.
10-5-84	42404	American Trans Air, Inc., c/o Edgar H. Lamb, Yarling, Robinson, Hammel & Lamb, 729 North Pennsylvania Street, P.O. Box 44128, Indianapolis, Indiana 42604. Supplement to the Application of American Trans Air, Inc. for authority for to engage in Scheduled Interstate, and Overseas Air Transportation of Persons, Property and Mail. (Additional information) Answers may be filed by November 2, 1984.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 27271 Filed 10-15-84; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Office of the Secretary

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration
Title: Sea Grant Control
Form Number: Agency—NOAA 90-1,; OMB-0648-0008
Type of Request: Extension of the expiration date of a currently approved collection
Burden: 40 respondents; 20 reporting/recordkeeping hours
Needs and Uses: The information gathered identifies the participating oranizations and personnel in a proposed Sea Grant Project. It is used in the review of proposals.
Affected Public: State or local governments; non-profit institutions
Frequency: Annually
Respondent's Burden: Required to obtain or retain a benefit
OMB Desk Officer: Sheri Fox 395-3785

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals (202) 377-4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collection should be sent to Sheri Fox, OMB Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Dated: October 11, 1984.

Edward Michals,

Departmental Clearance Officer.

[FR Doc. 84-27252 Filed 10-15-84; 8:45 am]

BILLING CODE 3510-CW-M

International Trade Administration

[A-508-402]

Postponement of Final Antidumping Duty Determination and Postponement of Hearing; Potassium Chloride From Israel

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: This notice informs the public that we have received a request from petitioners in this investigation that the final determination be postponed until no later than 135 days after the date of publication of the preliminary determination, as provided for in section 735(a)(2)(B) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673d(a)(2)(B), and that we have determined to postpone our hearing until December 12, 1984, and our final determination as to whether sales of potassium chloride from Israel have occurred at less than fair value until not later than January 25, 1985.

EFFECTIVE DATE: October 16, 1984.

FOR FURTHER INFORMATION CONTACT: John Brinkmann, Office of Investigations, Import Administration, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telphone (202) 377-4929.

SUPPLEMENTARY INFORMATION: On April 26, 1984, we published a notice in the **Federal Register** (49 FR 18005) that we were initiating, under section 732(b) of the Act (19 U.S.C. 1673a(b)), an antidumping investigation to determine whether potassium chloride from Israel was being, or was likely to be, sold at less than fair value. On May 14, 1984, the International Trade Commission determined that there is a reasonable indication that importers of potassium chloride are materially injuring a U.S. industry. On September 12, 1984, we published a preliminary determination of sales at not less than fair value with respect to this merchandise (49 FR 35847). The notice states that if the investigation proceeded normally we would make our final determination by November 20, 1984. Pursuant to section 735(a)(2)(B) of the Act, petitioners requested an extension of the final determination date. The petitioners are qualified to make such a request in a proceeding in which the preliminary determination under 733(b) of the Act was negative. If the petitioners properly request an extension after a negative preliminary determination, we are required absent compelling reasons to the contrary, to grant the request. We will issue a final determination in this case not later than January 25, 1984.

The hearing, originally scheduled for October 3, 1984, has been postponed. If a hearing is requested by a party to the investigation, the new hearings date will be December 12, 1984, at 2 p.m. in room 3708, Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230. Interested parties who wish to participate must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within 10 days of publication of this notice. Oral presentations will be limited to issues raised in the briefs.

Requests should contain: (1) The party's name, address, and telephone number, (2) the number of participants, (3) the reason for attending, and (4) a list of the issues to be discussed. In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by December 5, 1984. All written views should be filed in accordance with 19 CFR 353.46, at the above address and in at least 10 copies, not later than the date established at the hearing for the submission of post-hearing briefs. If no hearing is held, all written views should be submitted not later than December 15, 1984.

This notice is published pursuant to section 735(d) of the Act.

Dated: October 10, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-27253 Filed 10-15-84; 8:45 am]

BILLING CODE 35-10-M

[C-351-405]

Initiation of Countervailing Duty Investigation—Certain Cast-Iron Pipe Fittings from Brazil

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of Initiation of Countervailing Duty Investigation.

SUMMARY: On the basis of petition filed in proper form with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether the manufacturers, producers, or exporters in Brazil of certain types of cast-iron pipe fittings, as described in the "Scope of Investigation" section below, receive benefits which constitute subsidies within the meaning of the countervailing duty law. We are notifying the U.S. International Trade Commission (ITC) so that it may determine whether imports of the subject merchandise materially injure, or threaten material injury to, a U.S. industry. The petition also alleges that "critical circumstances" exist within the meaning of section 703(e)(l) of the Act. If our investigation proceeds normally, we will make our preliminary determination on or before December 12, 1984.

EFFECTIVE DATE: October 16, 1984.

FOR FURTHER INFORMATION CONTACT: Laurel LaCivita, Office of Investigations,

Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, D.C. 20230. Telephone (202) 377–3530.

SUPPLEMENTARY INFORMATION:

Petition

On September 18, 1984, we received a petition from the Cast Iron Pipe Fittings Committee, filed on behalf of the five major domestic cast-iron pipe-fitting producers who comprise the U.S. industry. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that manufacturers, producers, or exporters of certain cast-iron pipe fittings in Brazil receive, directly or indirectly, benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act) and that these imports materially injure, or threaten material injury to, a U.S. industry. In addition, the petition alleges that "critical circumstances" exist within the meaning of section 703(e)(1) of the Act.

Brazil is a "country under the Agreement" within the meaning of setion 701(b) of the Act; therefore Title VII of the Act applies to this investigation and an injury determination is required.

Initiation of Investigation

Under section 702(c) of the Act, within 20 days after a petition is filed, we must determine whether the petition sets forth the allegations necessary for the initiation of a countervailing duty investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on certain cast-iron pipe fittings from Brazil and we have found that the petition meets these requirements. Therefore, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in Brazil of certain cast-iron pipe fittings, as described in the "Scope of the Investigation" section of this notice, receive benefits which constitute subsidies. If our investigation proceeds normally, we will make our prelimiary determination by December 12, 1984.

Scope of the Investigation

The merchandise covered by this investigation is certain cast-iron pipe fittings, which are defined for purposes of this proceeding as: cast-iron fittings, not malleable, other than alloy cast iron and other than for use with cast-iron soil pipe; of cast-iron fittings, malleabe, advanced in condition by operations or processes subsequent to the casting process, or if not advanced, of other than alloy cast-iron as currently provided for in items 610.6240, 610.6500, 610.7000 and 610.7400 of the *Tariff Schedules of the United States, Annotated* (TSUSA).

Allegations of Subsidies

The petition alleges that Brazilian manufacturers, producers, or exporters of certain cast-iron pipe fittings received benefits which constitute subsidies. We are initiating on the following allegations:

- The Foundry Plan (the Third Basic Plan of Scientific and Technological Development of III PBCT)
- Short-Term Financing—Resolutions 674 and 882
- Export Financing Under CIC–CREGE 14–11 Circular
- Guarantees for Long-Term Foreign Currency Denominated Loans
- Incentives for Trading Companies—Resolution 643
- FINEX Export-Financing Programs—Resolution 68
- Preferential Financing for Storage of Export Merchandise Program—Resolution 330
- PROEX Export Promotion Credit
- Export Income Tax Exemption—Decree Laws 1158 and 1721
- Accelerated Depreciation of Equipment—Decree Law 1137
- Income Tax Deductions for Foreign Selling Expenses
- IPI Export Credit Premium
- Industrial Development Council (CDI) Program—Exemption of IPI Tax and Customs Duties on Imported Equipment—Decree Laws 1428 and 1728
- Tax Reductions on Export Production Equipment—Decree Law 1428
- BEFIEX Program—Decree Laws 77065 and 1219
- Funding for Expansion Through IPI Rebates—Decree Laws 1547 and 1843
- Program for Pilot Industrial Plants—CDI Resolution 22
- State-Offered Incentives to Foreign Investors

We have determined not to initiate on the following allegations:

1. *BNDES Partially-Indexed Long-Term Loans.*—In our final determination on Certain Carbon Steel Products from Brazil, dated April 26, 1984 (49 FR 17988), we determined that BNDES financing did not confer subsidies on the companies investigated during the 1982 period of review, because such financing was generally available. The petition presents no new evidence or changed circumstances with respect to this program; we will not examine it again at this time.

2. *Preferential Financing for Exports—Resolution 331.*—In prior cases, the Department has determined that export financing under Resolution 331 does not confer a subsidy because Resolution 331 is a set of rules and regulations established by the Brazilian government enabling banks, for export transactions, to discount accounts receivable denominated in foreign currency. Beyond establishing these rules, the government has no further involvement. The rules do not affect the setting of discount rates on such loans. Banks that act as intermediaries in export transactions operate under the rules if they choose to do such discounting. The government of Brazil provides no funds to banks to enable them to discount rates. The rate of discount reflects commercial considerations of the banks themselves. Furthermore, the petition presents no new evidence or changed circumstances with respect to this program. Consequently, we will not examine it again at this time.

3. *Excessive IPI Remission Upon Export.*—In our final affirmative countervailing duty determination of June 6, 1983 on Frozen Concentrated Orange Juice from Brazil (48 FR 25245), the Department determined that exemptions of exports from the IPI, a value-added tax, did not constitute a subsidy. Petitioner does not provide any new evidence or changed circumstances with respect to this program that would lead us to reconsider our earlier conclusion. Consequently, we will not examine it again at this time.

4. *Excessive ICM Remission Upon Export.*—In our final affirmative countervailing duty determination of January 20, 1983, on Carbon Steel Plate from Brazil (48 FR 2568), the Department determined that the State Value-Added Tax (ICM) Export Credit Premium, under whch Brazilian companies were eligible for an overrebate of a state value-added tax on goods destined for export, was eliminated by Convention 01–79, published January 12, 1979. Petitioner does not provide any new evidence or changed circumstances with respect to this program that would lead us to reconsider our earlier conclusion. Consequently, we will not examine it again at this time.

5. *Pig Iron Subsidies.*—With respect to subsidized pig iron inputs, the Department has stated on several occasions that benefits bestowed upon the manufacture of an input do not necessarily flow down to the purchaser of that input. When sales transactions are made at arm's length, the Department takes economic

considerations into account to determine whether a benefit received by a seller is passed on to the purchaser [see *Welded Carbon Steel Pipes and Tubes from Brazil*, 47 FR 44814 (1982); 47 FR 57551 (1982)]. The petition does not allege, nor does it provide any evidence, that the Brazilian manufacturers of certain cast-iron pipe fittings are related to Brazilian producers of pig iron or that transactions between these parties are conducted on other than an arm's-length basis. There is nothing in the record of previous countervailing duty investigations against Brazilian pig iron producers that suggest otherwise. Moreover, petitioners have not alleged that the relevant inputs are not available at comparable prices from other sources, or that Brazilian producers of pig iron undercut prices available from other suppliers. Accordingly, we will not examine subsidized pig iron inputs into the Brazilian cast-iron pipe-fittings industry at this time.

Notification of ITC

Section 702(d) of the Act requires us to notify the U.S. International Trade Commission (ITC) of this action, and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by November 2, 1984, whether there is a reasonable indication that imports of certain cast-iron pipe fittings from Brazil materially injure, or threaten material injury to, a U.S. industry. If its determination is negative, the investigation will be terminated, otherwise, the investigation will proceed to conclusion.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-27251 Filed 10-15-84; 8:45 am]

BILLING CODE 3510-DS-M

Petitions by Producing Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance; Drag Specialties, Inc., et al.

Petitions have been accepted for filing from the following firms: (1) Drag Specialties, Inc., 5401 Smetana Drive, Minnetonka, Minnesota 55343, producer of motorcycle parts and accessories (accepted September 5, 1984); (2) Suburbia Handbags, Inc., 544 Park Avenue, Brooklyn, New York 11205, producer of handbags (accepted September 5, 1984); (3) Accessories Unlimited of Maine, Main Street, Cornish, Maine 04020, producer of handbags and tote bags (accepted September 5, 1984); (4) Metritape, Inc., P.O. Box 2366; Littleton, Massachusetts 02460, producer of liquid measuring gauges (accepted September 5, 1984); (5) Burton Tool and Die Company, Inc., 155 Hamilton Street, Leominster, Massachusetts 01453, producer of molds for plastic products (accepted September 5, 1984); (6) Hi-Way Wood Products Corporation, P.O. Box 139, Russell Springs, Kentucky 42642-0239, producer of wood furniture frames (accepted September 5, 1984); (7) Shieldalloy Corporation, West Boulevard, Newfield, New Jersey 08344, producer of ferroalloys and other metals (accepted September 6, 1984); (8) Lakeside Industries, Inc., 6588 Dawson Boulevard, Norcross, Georgia 30093, producer of plastic housewares, spirometers, injection molds and other products (accepted September 10, 1984); (9) Micronics International, Inc., 3001 Enterprise Street, Brea, California 92621, producer of vehicle theft alarm systems and missile timing devices (accepted September 11, 1984); (10) Larco Products, Inc., 3950 N.W. 28th Street, Miami, Florida 33142, producer of fishing rods (accepted September 12, 1984); (11) Speed King Manufacturing Company, Inc., P.O. Box 1438, Dodge City, Kansas 67801, producer of agricultural and oil field equipment (accepted September 12, 1984); (12) Arno Moccasin Company, P.O. Box 518, Lewiston, Maine 04240, producer of men's, women's and children's footwear (accepted September 12, 1984); (13) Fitchburg Foundry, Benson Street, Fitchburg, Massachusetts 01420, producer of iron castings (accepted September 12, 1984); (14) JEC Tanning Company, Inc., 111 Foster Street, Peabody, Massachusetts 01860, producer of tanned hides (accepted September 12, 1984); (15) Mighty-Mac, Inc., Emerson Avenue, Gloucester, Massachusetts 01930, producer of men's, women's, and boys' coats and jackets (accepted September 12, 1984); (16) Mesinger Manufacturing Company, Inc., Durant Avenue, Bethel, Connecticut 06801, producer of bicycle seats, dolls, and air cleaners (accepted September 14, 1984); (17) Julian Lumber Company, RR2, Box 100, Antlers, Oklahoma 74523, producer of wood posts and poles (accepted September 20, 1984); (18) The Watson Machine Company, 74 Railroad Avenue, Paterson, New Jersey 07509, producer of wire rope and cable machinery, wire and iron castings (accepted September 24, 1984); (19) Jeffrey-Allan Industries, Inc., 2100 Greenleaf Street, Evanston, Illinois 60204, producer of automotive accessories (accepted September 25, 1984); (20) Dan Dee Belt & Bag Company, Inc., P.O. Box M461, Hoboken, New Jersey 07030, producer of apparel belts and tote bags (accepted September 28, 1984); (21) Sandra-Paula Fashions, Inc., 50 Dwight Street, New Britain, Connecticut 06051, producer of women's blouses and dresses, and men's pajamas (accepted September 28, 1984); (22) Curtis Machine Company, Inc., P.O. Box 700, Dodge City, Kansas 67801, producer of gear boxes (accepted October 1, 1984); (23) American Thermo Seal, Inc., 407 West Compton Boulevard, Gardena, California 90248, producer of waterbed mattresses (accepted October 2, 1984); (24) Atlas Metal Spinning Company, 470 South Airport Boulevard, South San Francisco, California 94080, producer of cookware and housewares (accepted October 2, 1984); (25) Electro-Mech Company, Inc., 707 Hathaway Drive, Colorado Springs, Colorado 80915, producer of power converters, components and assemblies (accepted October 2, 1984); (26) Noone Gloves, Inc., 314 West Main Street, Johnstown, New York 12095, producer of gloves, glove liners and deerskin leather (accepted October 2, 1984); (27) The Samsan Company, 136 Corliss Street, Providence, Rhode Island 02904, producer of jewelry (accepted October 3, 1984); (28) Bates Fabrics, Inc., Canal Street, Lewiston, Maine 04240, producer of bedspreads, blankets, tablecloths and drapes (accepted October 3, 1984); (29) Manage, Inc., 40 Nichols Road, Chicopee, Massachusetts 01014, producer of electronic components, including cables and harnesses, circuit boards and fiber optics (accepted October 4, 1984); and (30) Bel-Aire Products Company, P.O. Box 189, Akron, Ohio 44309, producer of sports bags, briefcases and tennis racket covers (accepted October 4, 1984).

The petitions were submitted pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93-618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by

each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Director, Certification Division, Office of Trade Adjustment Assistance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.309, Trade Adjustment Assistance. Inasfar as this notice involves petitions for the determination of eligibility under the Trade Act of 1974, the requirements of Office of Management and Budget Circular No. A–95 regarding review by clearinghouses do not apply.

Jack W. Osburn, Jr.,

Director, Certification Division, Office of Trade Adjustment Assistance.

[FR Doc. 84-27187 Filed 10-15-84; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Air Force Reserve Officer Training Corps Advisory Committee; Meeting

September 21, 1984.

The Air Force Reserve Officer Training Corps Advisory Committee will meet on January 28, 29, and 30, 1985 from 8:00 a.m. to 4:30 p.m. on the 28th and 29th, and from 8:00 a.m. to 11:30 p.m. on the 30th at Air Force Reserve Officer Training Corps Headquarters, Building 500 Maxwell Air Force Base (AFB) Alabama 36112–6663.

Meeting is open to the public.

The committee reviews the programs, policies and objectives of the Air Force Reserve Officer Training Corps, recommended policies to the Commander, Air Training Command, and provides external views, advice, expertise, and influence on policy and operational matters.

For further information, contact Mr. M. Meriwether Gordon, AFROTC/XRX, Maxwell AFB, Alabama 36112–6663, Telephone 293–7856.

Norita C. Koritko,

Air Force Federal Register Liaison Officer.

[FR Doc. 84-27115 Filed 10-15-84; 8:45 am]

BILLING CODE 3910-01-M

DELAWARE RIVER BASIN COMMISSION

Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, October 24, 1984, beginning at 1:30 p.m. in the Pennsylvania Room West, Philadelphia Centre Hotel, 1725 John F. Kennedy Boulevard, Philadelphia, Pennsylvania. The hearing will be part of the Commission's regular business meeting which is open to the public.

An informal pre-meeting conference among the Commissioners and staff will be open for public observation at about 11:00 a.m. at the same location.

The subjects of the hearing will be as follows:

A. A proposal that the 1983 Water Resources Program, adopted by the Commission on November 30, 1983 be re-adopted and continued as the current Water Resources Program, in accordance with the requirements of Section 13.2 of the Delaware River Basin Compact.

B. A proposal to amend the Commission's Ground Water Protected Area Regulations for Southeastern Pennsylvania (Resolution 80–18) by the addition of two new subsections 6e and 6f. The existing subsection 6e of the Ground Water Protected Area Regulations is to be renumbered subsection 6g. The new subsections 6e and 6f are to read as follows:

6.e. Ground water withdrawals for space heating or cooling purposes that are less than 100,000 gallons per day shall be exempt from obtaining a protected area permit provided that the water withdrawn is returned locally, and to the same ground water basin and aquifer system from which it is withdrawn, undiminished in quantity and quality (except temperature). Ground water withdrawals for space heating or cooling that are subsequently used for commercial or industrial water supply purposes are subject to Commission withdrawal and wastewater discharge regulations.

6.f. All ground water well systems shall be constructed in conformance with applicable accepted practice as established by United States Environmental Protection Agency and National Water Well Association, Water Well Standards Committee, in the "Manual of Water Well Construction Practices (EPA 570/9–75–001)."

C. Application for Approval of the Following Projects Pursuant to Article 10.3, Article 11 and/or section 3.8 of the Compact:

1. *Jackson Township M.U.A. D–79–8 CP RENEWAL.* An application for renewal of a ground water withdrawal from 11 wells serving the Great Adventure Amusement Park in Jackson Township, Ocean County, New Jersey. Commission approval was limited to five years and will expire unless renewed. New Jersey Department of Environmental Protection has forwarded a permit for approval to continue operation of Well Nos. 7, 10, W–1, W–4, W–3, W–8, W–11, W–15, W–16, W–17 and W–12 in accordance with existing approval limitations. The existing approval limits total combined withdrawals to 25.92 million gallons (mg) per 30 days for Well Nos. 7 and 10 and 26.42 mg per 30 days for all wells.

2. *Northampton Municipal Authority D–81–25 CP.* A well water supply project to augment public water supplies in Northampton Township, Bucks County, Pennsylvania. Designated as Well No. 9, the new facility has a capacity of 290,000 gallons per day.

3. *Pennsylvania Department of Transportation D–84–9.* A proposed Interstate Route 78 bridge across the Delaware River at River Mile 181.4 and across adjacent Roosevelt State Park, a Comprehensive Plan recreational project in Williams Township, Northampton County, Pennsylvania. Completion of the 1200 foot, dual span bridge will require construction of six piers in the floodway of the Delaware River. The project is part of the completion of the final link of I–78 through the Lehigh Valley, Pennsylvania and Warren County, New Jersey.

4. *Borough of Quakertown D–84–26 CP.* Expansion of a sewage treatment project serving the Boroughs of Quakertown and Richlandtown as well as portions of Richland Township in Bucks County, Pennsylvania. The treatment plant will be upgraded and expanded to remove 92.5 percent BOD (summer) and 85 percent suspended solids from a sewage flow of 4.0 million gallons per day (mgd). Treated effluent will discharge to the Tohickon Creek in Richland Township, Bucks County, Pennsylvania.

5. *General Foods Corporation D–84–29.* A ground water withdrawal project to supply approximately 0.452 mgd of water to the applicant's manufacturing plant from existing Well Nos. 1 and 2 and new Well No. 3. The project is located near the City of Dover, Kent County, Delaware.

Documents relating to these projects may be examined at the Commission's offices. Preliminary docket are available in single copies upon request. Please contact David B. Everett. Persons

wishing to testify at this hearing are requested to register with the Secretary prior to the hearing.

Susan M. Weisman,

Secretary.

October 9, 1984.

Public Information Notice

Merrill Creek Reservoir Project

At its October 24, 1984 meeting, the Commission will consider Docket No. D–77–110 CP concerning the Merrill Creek Reservoir, Pumping Station and Transmission Main to be located in Warren County, New Jersey. The project will provide for low-flow augmentation in the Delaware River, Estuary and Bay to replace present and future evaporative losses of cooling water by electric generating stations located in the Delaware River Basin. Application for the project was submitted on December 30, 1977 by the Merrill Creek Owners Group with subsequent revisions to the application being submitted in 1981 and 1984. The Project was the subject of an environmental review process which culminated in the publication of a Final Environmental Impact Statement on June 13, 1984. A public hearing concerning inclusion of the Merrill Creek Reservoir Project in the Commission's Comprehensive Plan and approval of the project under Section 3.8 of the Delaware River Basin Compact was held on August 23, 1984 with 27 persons testifying and 35 letters received before the hearing record closed on September 14, 1984.

[FR Doc. 84–27223 Filed 10–15–84; 8:45 am]

BILLING CODE 6360–01–M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Collection Requests.

SUMMARY: The Deputy Under Secretary for Management invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before November 15, 1984.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., Room 3208, New Executive Office Building, Washington, D.C. 20503. Requests for copies of the proposed information collection requests should be addressed to Margaret B. Webster, Department of Education, 400 Maryland Avenue, SW., Room 4074, Switzer Building, Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Margaret B. Webster (202) 426–7304.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that the public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Deputy Under Secretary for Management publishes this notice containing proposed information requests prior to the submission of these requests to the OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Agency form number (if any); (4) Frequency of the collection; (5) The affected public; (6) Reporting Burden; and/or (7) Recordkeeping Burden; and (8) Abstract.

OMB invites public comment at the address specified above. Copies of the requests are available from Margaret Webster at the address specified above.

Dated: October 10, 1984.

Ralph J. Olmo,

Acting Deputy Under Secretary for Management.

Office of Special Education and Rehabilitative Services

Type of Review Request: NEW
Title: Report of Federal, State, and Local Funds Expended for Special Education and Related Services
Agency Form Number: ED 869–1
Frequency: Annually
Affected Public: State or Local Governments
Reporting Burden—Responses: 58; Burden Hours: 580
Recordkeeping Burden—Recordkeepers: 0; Burden Hours: 0
Abstract: This package provides instructions and forms necessary for States and local education agencies to report the amount of funds expended for special education and related services.
Type of Review Request: NEW
Title: Report of Special Education/ Related Services in Need of Improvement and Handicapped Children and Youth in Need of Improved Services and Programs .
Agency Form Number: ED 869–2
Frequency: Annually
Affected Public: State or Local Governments
Reporting Burden—Responses: 58; Burden Hours: 580
Recordkeeping Burden—Recordkeepers: 0; Burden Hours: 0
Abstract: This package provides instructions and forms necessary for States and local education agencies to report the services/programs in need of improvement as well as the number, categories, and ages of handicapped children and youth who are in need of these improved services and programs.
Type of Review Request: NEW
Title: Report of: A) Handicapped Children and Youth Exiting the Educational System (1984–1985 School Year) and B) Anticipated Services Needed by These Handicapped Children and Youth (1985–1986 School Year)
Agency Form Number: ED 869–3
Frequency: Annually
Affected Public: State or Local Governments
Reporting Burden—Responses: 58; Burden Hours: 1102
Recordkeeping Burden—Recordkeepers: 0; Burden Hours: 0
Abstract: This package provides instructions and forms necessary for States and local education agencies to report the number of handicapped children and youth exiting educational system and the number, categories, and ages of handicapped youth needing anticipated services for the succeeding year.
Type of Review Request: NEW
Title: Implementation of Least Restrictive Environment Requirements
Agency Form Number: ED 869–4
Frequency: Annually
Affected Public: State or Local Governments
Reporting Burden—Responses: 58; Burden Hours: 870
Recordkeeping Burden—Recordkeepers: 0; Burden Hours: 0
Abstract: This package provides instructions and forms necessary for States and local education agencies to report the settings in which handicapped children receive services. The form satisfies reporting requirements in this area and is used by OSEP to monitor SEAs and for Congressional reporting.
Type of Review Request: NEW

Title: Number of Personnel Employed to Provide Special Education and Related Services to Handicapped Children and Youth
Agency Form Number: ED 869–6
Frequency: Annually
Affected Public: State or Local Governments
Reporting Burden—Responses: 58; Burden Hours: 464
Recordkeeping Burden—Recordkeepers: 0; Burden Hours: 0
Abstract: This package provides instructions and forms necessary for States and local education agencies to report the number of personnel that are employed to provide educational services to handicapped children and youth. This information is used to monitor the implementation of Federal legislation and as a part of Congressionally mandated reporting information requirements.
Type of Review Request: NEW
Title: Number of Additional Personnel Needed to Provide Special Education and Related Services to Handicapped Children and Youth
Agency Form Number: ED 869–7
Frequency: Annually
Affected Public: State or Local Governments
Reporting Burden—Responses: 58; Burden Hours: 116
Recordkeeping Burden—Recordkeepers: 0; Burden Hours: 0
Abstract: This package provides instructions and forms necessary for States and local education agencies to report the number of additional personnel needed to provide educational services to handicapped children and youth. This information is used to monitor the implementation of Federal legislation, for planning Federal programs and as a part of Congressionally mandated reporting information requirements.

[FR Doc. 84-27238 Filed 10-15-84; 8:45 am]
BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Office of the Secretary

Compliance with the National Environmental Policy Act: Record of Decision for Remedial Actions at the Former Vitro Chemical Company Site, South Salt Lake, UT

AGENCY: Office of the Secretary, Department of Energy.

ACTION: Decision to relocate the residual radioactive materials from the former Vitro Chemical Company site for long-term stabilization and control at the South Clive site near Clive, Utah.

SUMMARY: Pursuant to the Council on Environmental Quality Regulations (40 CFR Part 1505) implementing the procedural provisions of the National Environmental Policy Act (NEPA) and the Department of Energy's (DOE) guidelines for compliance with NEPA (45 FR 20694, March 28, 1980), the Office of Assistant Secretary for Nuclear Energy of the DOE is issuing a Record of Decision on Remedial Actions at the Former Vitro Chemical Company site (Vitro site), in South Salt Lake, Utah

Background

On November 8, 1978, the Uranium Mill Tailings Radiation Control Act (UMTRCA), Pub. L. 95–604, was enacted in order to address an express Congressional finding that uranium mill tailings located at inactive processing sites may pose a potential health hazard to the public. On November 8, 1979, the DOE designated 24 inactive processing sites for remedial action under Title I of UMTRCA, including the former Vitro Chemical Company site at South Salt Lake, Utah (44 FR 74892).

UMTRCA charges the Environmental Protection Agency (EPA) with the responsibility for promulgating remedial action standards for inactive mill sites. The purpose of these standards is to protect the public health and safety and the environment from radiological and non-radiological hazards associated with residual radioactive materials at the sites. The final standards (40 CFR Part 192) were promulgated with an effective date of March 7, 1983. The DOE has selected and will execute a plan of remedial action that will satisfy the EPA standards.

All remedial actions must be selected and performed with the concurrence of the Nuclear Regulatory Commission (NRC).

Under UMTRCA, the DOE and the State of Utah entered into a cooperative agreement effective January 30, 1981, for remedial action at the Vitro site. The cooperative agreement was modified in July 1984, to designate the State of Utah as the party to perform remedial actions for tailings relocation to the South Clive disposal site. The cooperative agreement modification has been executed by the DOE and the State of Utah and concurred in by the NRC. Under this remedial action option, the state must concur with the remedial action plan to be developed for the South Clive site, the state must acquire the South Clive site, and the DOE and the state will cost-share the remedial action. Under the cost sharing provisions, the DOE will pay 90 percent and the state 10 percent up to the estimated cost of $42 million for stabilization on the Vitro site and the DOE will pay 75 percent and the state 25 percent of costs for relocation to South Clive which exceed the estimated cost of $42 million for stabilization on the Vitro site.

Project Description

The Vitro site is a 128-acre property located 4 miles south-southwest of the center of Salt Lake City, Utah, in the city of South Salt Lake. The entire site is owned by the Central Valley Water Reclamation Facility (CVWRF) Board, which operates waste-water treatment plant No. 1 on adjacent property north of the central portion of the Vitro site.

The Vitro site is bounded on the north by the CVWRF plant and Mill Creek, on the east by the tracks of the Denver and Rio Grande Western Railroad, on the south by 3300 South Street, and on the west by 900 West Street. An industrial area occupies a 225-foot wide, 5.4-acre strip along the west edge of the south half of the site facing 900 West Street.

From 1951 to 1964 the Vitro Chemical Company of America processed uranium ore for sale to the U.S. Atomic Energy Commission at a mill in the southeast corner of the site. When the plant was dismantled in 1970, the radioactively-contaminated materials from the processing operations (approximately 1.9 million dry tons of uranium mill tailings and over 1 million dry tons of other contaminated material) remained on the site. Over the years some of the tailings were removed for use in construction projects elsewhere in the Salt Lake City area; it is estimated that about 125 off-site properties contain contaminated materials in excess of EPA standards from these construction projects. The bulk of the tailings (96%), however, remain on the Vitro site.

The selected alternative disposal site is located on state lands about 85 road miles west of Salt Lake City and about 1.5 miles south of the Clive siding of the Union Pacific System. The total available site, which is one full section or 640 acres, is a relatively flat area at about 4,300 feet above sea level along the eastern edge of the Great Salt Lake Desert. Site access is by a frontage road from the Aragonite exit of I–80 about 7 miles east of Clive, Utah.

The purpose of the remedial action is to stabilize and control the residual wastes at the South Clive site in a manner that complies with EPA standards (40 CFR Part 192) and other applicable Federal, state, and local laws. The principal feature of the selected alternative is the stabilization of the tailings and other contaminated materials partially below grade on a 60-

acre area in the northern portion of the South Clive site.

Transport of the tailings and contaminated materials by train or by truck was evaluated in Alternative 3 in the EIS; either option is environmentally acceptable, but neither option appears environmentally preferable. The mode of tailings transport will be determined by the State of Utah during the final design or through the competitive bid process during selection of construction contractor(s).

Before stabilization of the wastes can begin, the 60 acres of the South Clive site will be withdrawn from state lands and permission obtained from the CVWRF Board to clean up the 128-acre Vitro site. The materials obtained in the cleanup of vicinity properties will be delivered to the Vitro site for transportation to the South Clive site for final stabilization.

Construction will begin with site preparation at the Vitro and South Clive sites and may include the following activities: (1) Preparation of a staging area at each site; (2) clearing of trees and brush; (3) installation of a construction storm drainage system; (4) excavation of waste-water retention basins; (5) installation of a waste-water treatment system at the Vitro site; and (6) installation of a dewatering system at the Vitro site.

After site preparation, the following construction activities will proceed sequentially:

1. Construction of a railroad loadout spur at the Vitro site and a railroad spur and unloading facilities at the South Clive site, or construction of a haul road from I–80 to the South Clive site.
2. Demolition of foundations and rubble.
3. Excavation of the embankment area and stockpiling of cover material at the South Clive site.
4. Excavation and loading of tailings and contaminated materials into trucks, or train cars.
5. Unloading and placement of the tailings and contaminated materials into the South Clive embankment area.
6. Placement of a cover system over the tailings and contaminated materials.
7. Placement of fill to restore decontaminated areas at the Vitro site to natural grade.
8. Revegetation of restored areas.
9. Installation of a permanent fence around the South Clive disposal site.

The completed embankment will be partially below grade, extending approximately 1100 feet by 2200 feet. The tailings will extended from approximately 6 feet below grade to approximately 27 feet above grade. Material excavated for partial below grade disposal will be used for cover. The final covered embankment will be about 34 feet above the surrounding terrain. The embankment will have maximum sideslopes of 20 percent and a slightly convex top. The top and sides will be covered with rock for erosion protection. The unpaved access road from I–80 will remain. A chain link fence with "no trespassing" signs will enclose the site.

The excavated areas at the Vitro site will be restored with clean soil to the original approximate ground level, contoured for surface drainage, and revegetated. The Vitro site will be available for uses permitted by local zoning ordinances.

Description of Alternatives

The following alternatives to the selected action were considered in detail by the DOE in reaching its decision to stabilize the residual radioactive wastes at the South Clive site.

1. *No action:* This alternative consists of performing no remedial action; however, radon exhalation and external gamma radiation at the Vitro site exceeds EPA standards. This alternative is unacceptable since UMTRCA directs the DOE to ensure that the completed remedial action is in compliance with EPA standards.

2. *Stabilization on the Vitro site:* The completed site would be an embankment situated on the southcentral and southeast portions of the present site and would occupy approximately 53 acres. The top of the embankment would cover about 25 acres. Sideslopes of the embankment would have a slope of 1 vertical to 5 horizontal and the top would be slightly convex, reaching a maximum elevation of approximately 50 feet above the surrounding terrain. The top and sides would be covered with rock for erosion protection. The embankment would be underlain by a liner system for groundwater protection.

The remaining areas of the present site would be restored with clean soil, contoured for surface drainage, and revegetated. Approximately 75 acres of the present site would be released and available for uses permitted by local zoning ordinances.

Additional remedial action alternatives were identified but eliminated from further consideration because they do not represent reasonable alternatives (See section 3.2.5 of the final EIS).

Response to Comments Received

Comments were received from the Union Pacific System regarding transportation issues and from EPA-Region VIII concerning the remedial action schedules and other general comments. The Union Pacific System raised the issues of excess congestion on streets and highways, highway damage from truck use, and the safety of truck movement versus rail movement. Union Pacific felt that these issues could be more fully addressed by assessing the risks from a truck/public vehicle accident, emphasizing congestion on streets and highways and estimating the costs of additional maintenance. The commentor also reiterated the benefits of rail transport over those of truck transport as indicated in the EIS.

The DOE in the EIS has acknowledged the safety and economic advantages of rail transport. The DOE also acknowledges that the issues raised by Union Pacific could be further investigated, although estimating maintenance costs and congestion factors would be difficult given the lack of design detail available at this time. The DOE believes that these issues have been sufficiently investigated to evaluate the effect of the remedial actions on the quality of the environment and concluded that neither transportation option appears environmentally preferable.

The EPA expressed concern for the remedial action schedule and its potential conflicts with the scheduled expansion of the waste-water treatment plant. Concerns were also expressed that the calculation of health effects should not be limited to 10 kilometers.

The DOE recognizes that scheduling conflicts may occur and, in that event, will coordinate with EPA the CVWRF Board, and the State of Utah to minimize such conflicts. The DOE also agrees with EPA that radon from the tailings does not cease to exist at 10 kilometers. However, because most of the potentially affected population is within 10 kilometers, and because individual radon doses are very small beyond this distance, for purposes of comparing alternatives the analyses in the EIS are sufficient.

Basis for Decision

Pursuant to the requirements of UMTRCA, EPA identified the environmental and health problems posed by inactive uranium milling sites. EPA determined that the most significant public health risks associated with inactive tailings were posed by prolonged exposure (from radon-daughter products) to people living and working in structures contaminated by relocated tailings. As a result of these conclusions, prevention of misuse and dispersal of tailings is the primary

objective of the EPA standards. Accordingly, long-term stability was emphasized in the development and promulgation of the rules. This is consistent with the guidance provided by the legislative history of Pub. L. 95-604 which stresses the importance of avoiding remedial actions which would be effective only for a short period of time and which would require future Congressional consideration.

The EPA standard-setting process distinguished "passive controls," such as thick earthen and rock covers from "active controls" such as semipermanent covers, fences, signs, and restrictions on land use that would require frequent replacement or other major repairs requiring the expenditure of public funds. The standard is framed as a longevity requirement which recognizes the difficulty in predicting very long-term performance with a high degree of confidence. Therefore, EPA established a design objective of 1000 years with a minimum period of 200 years; a time span which is more consistent with engineering experience. In establishing the standards, EPA determined that the radon emission limitation could be achieved by well-designed thick earthen covers. These control techniques would also be compatible with those required to meet the longevity standard.

The standards recognize the need for institutional controls such as custodial maintenance, surveillance, and emergency response measures. In its preamble to the rules, EPA calls for such controls to be provided as an essential backup to the primary passive controls.

EPA reviewed available water-quality data at inactive tailings sites and determined that there was little evidence of recent movement of contaminants into ground water. The potential for contamination of ground water and surface water should be made on a site-specific basis.

It is the intent of the DOE to meet the EPA standards for remedial action at the former Vitro Chemical Company site. Although both of the action alternatives would meet the EPA standards, it is evident from the EIS and the discussion below that, of the two action alternatives, relocation to Clive would better isolate the tailings and minimize the possibility of future human exposure. Therefore, in view of the long-term advantages, relocation to Clive is considered the environmentally preferable alternative.

The EIS indicates that relocation of the wastes to the South Clive site would result in an increase in short-term (i.e., during remedial action), economic and environmental impacts beyond those identified for stabilization on the Vitro site. These impacts include health-effects to the remedial action worker, particulate and combustion emissions, vehicular traffic, and remedial action costs. However, as indicated in the EIS, relocation will provide long-term environmental benefits and assure total compliance with the EPA standards for at least 1000 years. The Salt Lake City tailings are located in the midst of a major growing metropolitan area which is reflected in the fact that approximately 70% of all projected health effects from the UMTRA Project sites are associated with the Salt Lake City site. Removal of the tailings to South Clive will eliminate any possibility of post remedial action health effects in the Salt Lake City metropolitan area. Relocation will also eliminate any potential for future tailings associated ground water contamination of the potable aquifer beneath the Vitro site. Although this potential is very small, no guarantee can be provided that contamination will not occur over the long time period for which the stabilization must remain effective. Additionally, the tailings are located immediately adjacent to a waste-water treatment facility where the risk of future encroachment or disturbance is relatively high. Further, UMTRCA and the implementing cooperative agreement with the State of Utah require full state participation and agreement in the proposed remedial action. The State, supported by a unanimous Utah congressional delegation, is in full support of relocation of the wastes to the South Clive site. Thus, in recognition of the above unique factors, the long-term environmental benefits, and in the desire to alleviate, in a timely manner, the potential health hazards associated with the continued uncontrolled presence of the tailings in Salt Lake County, the DOE concludes that relocation of the wastes to the South Clive site is the preferred course of remedial action.

Considerations in the Implementation of the Decision

The DOE is aware of the many concerns that have been expressed about the environmental and health impacts from the remedial action. In implementing its decision, the DOE will comply with applicable Federal, state, and local regulations to avoid or minimize health and environmental impacts.

The following monitoring and mitigation measures will be employed to avoid or minimize impacts during the remedial action:

- Radiation release—The release of contaminated particulates will be reduced by dampening contaminated material with water and/or dust suppressants, by stopping contaminated material-handling operations during adverse weather conditions, and by using trucks or train cars with tight-fitting tailgates or plug seals and covers.

The inadvertent off-site transportation of radioactively contaminated material will be controlled by the use of decontamination facilities (e.g., truck/train wash stations) to clean trucks/trains and other vehicles before leaving the site. On the Vitro site all waste-water streams will be monitored and treated before off-site disposal; all disturbed areas (Vitro and South Clive sites) will be isolated from suface-water systems by erosion-control methods.

Human exposure to residual radioactive material will be reduced by restricting access, and by providing the monitoring and protective equipment and training programs necessary for use by the remedial action workers. Radon, in and around the site, will be monitored as part of the process to minimize exposure.

- Air emissions—Construction areas and roads will be sprayed during the remedial-action period with water and/or a dust suppressant. Contaminated material will be transported in covered trucks/train cars. Tailings will not be disrupted during adverse weather conditions.

- Water contamination—To prevent possible flooding of the sites during excavation and handling of the contaminated material, protective dikes isolating the disturbed material from surface-water systems will be installed. The construction of collecting and settling basins (and an associated waste-water treatment plant at the Vitro site) will permit the collection and treatment of waste-water resulting from washing vehicles and equipment. All effluent water will be monitored and treated to meet National Pollutant Discharge Elimination System water-quality criteria before being discharged to Mill Creek or Vitro Ditch. The sediment from the sedimentation basins and the resins and residues from the waste-water treatment plant will be buried at the South Clive site.

- Transportation networks—The use of the railroads to transport materials between the two sites would mitigate the impacts to the local highway networks from truck transport. Train cars will be covered to prevent dusting of tailings; if needed, bottom seals or plugs will be used to prevent leakage.

If truck transport were selected, whenever feasible, the high-capacity, primary road networks would be used to minimize the possibility of damage to the transportation network and to minimize congestion that could be a nuisance to the local populace. Where possible, truck traffic will be scheduled to avoid school zones during school activity times, and congested areas during peak use times. Trucks will be covered and the tailgates sealed to prevent loss of contaminated materials.

Details of the monitoring plans and mitigations specified above will be contained in several documents scheduled to be prepared prior to remedial action. These include the Remedial Action Plan (includes Site Conceptual Design), Site Design Criteria, final design and specifications, and the UMTRA Project Environmental Health and Safety Plan.

Conclusion

After consideration of all reasonable project alternatives, the DOE has decided to relocate the residual radioactive materials from the Vitro site to the South Clive site for long-term stabilization and control in compliance with the EPA standards.

Issued in Washington, D.C. on October 5, 1984.

James W. Vaughan, Jr.,

Acting Assistant Secretary for Nuclear Energy.

[FR Doc. 84-27209 Filed 10-15-84; 8:45 am]
BILLING CODE 6450-01-M

Bonneville Power Administration

Implementation of the U.S. Supreme Court's Ruling in Aluminum Company of America, et. al. v. Central Lincoln, et al., 52 U.S.L.W. 4716

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice.

SUMMARY: On June 5, 1984, the United States Supreme Court issued an opinion in the case of *Aluminum Company of America, et al.* v. *Central Lincoln, et al.*, 52 U.S.L.W. 4716. This case was initially brought against BPA in the Ninth Circuit Court of Appeals by certain "preference" customers (petitioners) as defined in Sec. 4(a) of the Bonneville Project Act. The customers challenged certain provisions of the power sales contracts that BPA was required to offer to its Direct-Service Industrial (DSI) customers pursuant to the Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act), 16 U.S.C. 839c(d).

Specifically, petitioners challenged those contract provisions relating to the method of restricting deliveries to one-fourth of the DSI load, commonly referred to as the "top quartile." BPA's interpretation of the Northwest Power Act was that this "top quartile" was subject to interruption or restriction at any time and for any reason in order to protect BPA's ability to meet its other firm obligations. The petitioners argued that the restriction rights should be identical to those contained in pre-Northwest Power Act DSI contracts. The pre-Northwest Power Act "industrial firm" contracts allowed restriction of the top quartile for any reason, including purchase of that increment of power as nonfirm energy by preference customers.

The Ninth Circuit Court of Appeals held for petitioners. The U.S. Supreme Court reversed this decision on June 5, 1984. Subsequently, the Ninth Circuit issued an order on July 17, 1984, remanding (referring) the matter to BPA for further proceedings in conformity with the opinion of the Supreme Court.

BPA has determined that no formal proceedings are required to comply with the Supreme Court's order. The challenged provisions of the DSI contracts are in conformity with the Supreme Court's order, and BPA will perform its obligations under those contracts accordingly. Although a few DSI's executed an amendment to the power sales contract following the Ninth Circuit decision, which made top quartile service subject to nonfirm purchases by preference customers, those amendments terminated by their own terms when the Supreme Court decision was issued. No further action is necessary.

FOR FURTHER INFORMATION CONTACT: Ms. Sylvia Jensen, Office of General Counsel, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon 97208. You may reach her by phone by calling 503-230-4201.

Issued in Portland, Oregon on October 2, 1984.

Robert E. Ratcliffe,

Administrator, Bonneville Power Administration.

[FR Doc. 84-27451 Filed 10-15-84; 10:00 am]
BILLING CODE 6450-01-M

Office of Hearings and Appeals

Cases Filed Week of September 14 Through September 21, 1984

During the week of September 14 through September 21, 1984, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585.

Dated: October 9, 1984.

George P. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Sept. 14 through Sept 21, 1984]

Date	Name and location of applicant	Case No.	Type of submission
Sept. 14, 1984	TOSCO Corporation, Santa Monica, California	HEE-0102	Exception to entitlement notice. If granted: TOSCO Corporation would receive exception relief pursuant to the Entitlements Program's Tertiary Recertification, despite the June 19, 1984 Department of Energy decision not to issue an adjustment notice.
Sept. 17, 1984	Andi-Co Appliances, Inc., Fort Lee, New Jersey	HEE-0103	Exception to 430 test procedures. If granted: Andi-Co Appliances, Inc. would receive an exception from the provisions of 10 CFR Part 430 which would permit the firm to modify the energy efficiency test procedures applicable to AEG 260 Dishwasher Series.
Do	Atlantic Richfield Company, Washington, D.C.	HRD-0223	Motion for discovery. If granted: Discovery would be granted to Atlantic Richfield Company in connection with its Statement of Objections regarding the issue of "extrapolated" overcharges alleged in the May 1, 1979 Proposed Remedial Order issued to it (Case No. HRX-0104).

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of Sept. 14 through Sept 21, 1984]

Date	Name and location of applicant	Case No.	Type of submission
Do.	John H. Hnatio, Mr. Airy, Maryland	HFA-0247	Appeal of an information request denial. If granted: The August 17, 1984 Freedom of Information Request Denial issued by the Division of Reference and Information Management Office would be rescinded, and John H. Hnatio would receive access to all of the documents pertaining to him in custody of the Department of Energy.
Do.	Marathon Oil Company, Findlay, Ohio	HRD-0235	Motion for discovery. If granted: Marathon Oil Company would be granted discovery in connection with its Statement of Objections regarding the issue of "extrapolated" overcharges alleged in the May 1, 1979 Proposed Remedial Order issued to it (Case No. HRX-0107).
Sept. 18, 1984	See Attached List		Implementation of special refund procedures. If granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 CFR Part 205, Subpart V, in connection with the Economic Regulatory Administration's petition regarding Consent Orders, Remedial Orders and Court Decisions involving the 48 companies listed below.[1]
Sept. 21, 1984	Lynberg Y Nelsen, Los Angeles, California	HFA-0248	Appeal of an information request denial. If granted: The Office of General Counsel would provide Lynberg & Nelsen with a complete copy of the Proposed Remedial Order issued to A. Vernon Wright, *et al.*
Do.	Y. Shanmugadhasan, Los Angeles, California	HFA-0249	Appeal of an information request denial. If granted: Y Shanmugadhasan would receive access to the DOE publication, "Abstracts of Weapons Data Reports."

[1] *Case name and Case No.*: A-1 Arco, HEF-0519; Hal Abel's Chevron, HEF-0510; Bud's Exxon Service, HEF-0511; Ben Sosbee's Chevron Service, HEF-0512; Bob's Chevron Service, HEF-0513; Ken Bess, HEF-0514; Jerry Bullard Chevron, HEF-0515; Car Wash Services, HEF-0516; Chip's Chevron Service, HEF-0517; CP Marketing Chevron Car Wash, HEF-0518; Vernco, Inc., HEF-0519; Crow Canyon Shell, HEF-0520; Howard DeRouen Shell, HEF-0521; Dietrich Orinda Shell, HEF-0522; Doug Myers Chevron Service, HEF-0523; Walt Freeman Chevron, HEF-0524; George's Circle Service, HEF-0525; Grapevine Shell, HEF-0526; Grapevine Texaco, HEF-0527; Harv's Sacramento Car Wash, HEF-0528; Robert J. Heald Shell, HEF-0529; Jerry's Shell Service, HEF-0530; Jim's Texaco Service, HEF-0531; Ken's Chevron Station, HEF-0532; Kim's Mobil, HEF-0533; Lee Krager's Chevron, HEF-0534; Lezar Super Shell, HEF-0535; Lombard Chevron Service, HEF-0536; Marine Chevron Service Center, HEF-0537; Mowry Chevron, HEF-0538; Nelson's Service Center, Inc., HEF-0539; Manor Shell Service, HEF-0540; Parktown Chevron, HEF-0541; Paul Provost Chevron, HEF-0542; Bill Pendergast & Son Chevron, HEF-0543; Santa Maria Chevron, HEF-0544; Sharon Heights Shell, HEF-0545; Shelter Creek Chevron, HEF-0546; Dan Stalling Chevron Service, HEF-0547; St. Francis Texaco, HEF-0548; Steve Horner Chevron Service, HEF-0549; Steve's Exxon, HEF-0550; Suds Machine Chevron Car Wash, HEF-0551; Terry McGovern's Shell, HEF-0552; Union Park Service, HEF-0553; Vale Vista Chevron Service, HEF-0554; Walt's Danville Chevron, Inc, HEF-0555; Ye Olde Pump House, HEF-0556.

REFUND APPLICATIONS RECEIVED

[Week of Sept. 14 through Sept. 21, 1984]

Date	Name of Refund Proceeding/Name of Refund Applicant	Case No.
8/30/84	Texas Gas Exploration/Amoco Oil Co.	RF44-1
9/10/84	Windham/Stamm Contracting Co., Inc.	RF43-3
9/13/84	Amoco/Glenway Service Station	RF21-12359
9/17/84	Gulf/Smisser Freight Service	RF40-96
9/17/84	Gulf/Smisser Freight Service	RF40-97
9/17/84	Gulf/Smisser Freight Service	RF40-98
9/17/84	Gulf/DiPietro's Gulf Service Station	RF40-99
9/17/84	Gulf/John F. Walter, Inc.	RF40-100
9/17/84	Gulf/Buddy's Gulf	RF40-101
9/17/84	Gulf/Blue Bell Gulf	RF40-102
9/17/84	Gulf/Flowers Baking Company	RF40-103
9/17/84	Gulf/Flowers Baking Company	RF40-104
9/17/84	Gulf/Miller Transporters, Inc.	RF40-105
9/17/84	Gulf/Frank D. Young, 3rd	RF40-106
9/17/84	Montana Power Co./Kaiser Cement Corp.	RF45-1
9/17/84	Gulf/Colonial Gulf Associates	RF40-110
9/18/84	Gulf/Laird's Gulf Service	RF40-107
9/18/84	Gulf/William A. Keith	RF40-108
9/18/84	Gulf/Lenox Trucking, Inc.	RF40-109
9/20/84	Gulf/Mayo Chemical Corporation	RF40-111
9/20/84	Amoco/Howard Brown Oil Company	RF21-12360
9/20/84	Amoco/Howard Brown Oil Company	RF21-12361

[FR Doc. 84-27230 Filed 10-15-84; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OW-FRL-2695-3]

Comprehensive Research Strategy for Incineration-at-Sea; Open Meeting

Notice is hereby given of a one day meeting regarding the development of a comprehensive research plan for incineration-at-sea. The meeting will be held on Tuesday, November 13, 1984 at the Environmental Protection Agency, 401 M Street SW, Washington, DC. The meeting will begin at 9:00 a.m. and will adjourn at approximately 5:00 p.m. The meeting will be open to the public.

The principal agenda items will be to address the legal, technical and operational concerns involving research permits for the incineration-at-sea of hazardous wastes. This plan will assist the Assistant Administrator for the Office of Water in making future decisions on the issuance of research permits for incineration-at-sea of liquid hazardous wastes. This meeting is intended to develop a well researched and deliberative approach to the development of procedures for incineration-at-sea as a potential means for hazardous waste disposal.

The discussion will center around the written comments submitted to the Agency in response to a draft research strategy on the incineration-at-sea of hazardous wastes. Copies of the draft strategy as well as any additional information can be obtained by request from: Dr. Tudor Davies (WH 556), U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460, (202) 382-7166.

Dated: October 9, 1984.

Henry L. Longest II,

Acting Assistant Administrator for the Office of Water.

[FR Doc. 84-27220 Filed 10-15-84; 8:45 am]

BILLING CODE 6560-50-M

[R10-FRL-2684-8]

Issuance of Final General NPDES Permit for Concentrated Animal Feeding Operations in Arizona

AGENCY: Environmental Protection Agency (EPA), Region IX.

ACTION: Notice of issuance of final general NPDES permit.

SUMMARY: The Regional Administrator of Region IX is today issuing a final general National Pollutant Discharge Elimination System (NPDES) permit for certain dischargers in the Feedlots Point Source Category. This general NPDES permit establishes effluent limitations, standards, prohibitions and other conditions on discharges from concentrated animal feeding operations, commonly known as animal "feedlots" that discharge the same types of wastes, involve similar operations and are appropriately controlled by the same effluent limitations. The animal feedlots covered by this permit are located in the State of Arizona.

A notice of intent to issue a general NPDES permit for concentrated animal feeding operations in Arizona was published in the **Federal Register** on July 18, 1984 (49 FR 29141). Region IX received no significant public comments on either the notice or the draft general permit and hereby prints a copy of the final general permit, as required by 40 CFR 122.28.

EFFECTIVE DATE: This permit is effective October 16, 1984.

FOR FURTHER INFORMATION CONTACT: For further information and copies of the final permit and fact sheet contact: Andrew Lincoff, Region IX, U.S. Environmental Protection Agency, Permits and Compliance Branch (W-5-1), Water Management Division, 215 Fremont Street, San Francisco, CA 94105, (415) 974-8284.

SUPPLEMENTARY INFORMATION: General Permit Authorization Under The National Pollutant Discharge Elimination System For Existing Concentrated Animal Feeding Operations In The State Of Arizona, Permit No. AZG010001.

In compliance with the provisions of the Clean Water Act, as amended, (33 U.S.C. 1251 *et seq.*, the "Act"), and the effluent limitations, monitoring requirements, and other conditions set forth in Parts I and II, which are based on the Best Conventional Pollutant Control technology (BCT) effluent guidelines published at 40 CFR 412.17, this general NPDES permit authorizes discharges of pollutants from all existing concentrated animal feeding operations located in the State of Arizona: (1) with 1,000 or more animal units (slaughter and feed cattle or equivalent animal units as defined in 40 CFR Part 122, Appendix B); (2) with less than 1,000 animal units but more than 300 if pollutants are discharged into waters of the United States through a manmade ditch, flushing system, or other similar man-made device and/or pollutants are discharged directly into waters of the United States which originate outside of and pass over, across, or through the facility or otherwise come into direct contact with the animals concentrated in the operation; or (3) which have ever been designated as a significant contributor of pollution in accordance with 40 CFR 122.23(c).

Feedlots with more than 1,000 animal units that had animal confinement facilities in place prior to February 14, 1974, and are identified below, are authorized to discharge by this permit. Facilities which meet the above criteria and are not identified below must notify the Regional Administrator of their operations within ninety (90) days of this permit's effective date. This general NPDES permit does not authorize discharges of pollutants from new concentrated animal feeding operations with more than 1,000 animal units which were constructed after February 14, 1974 and are therefore subject to new source performance standards. Such new source dischargers are required to notify the Regional Administrator of their operations within ninety (90) days of the permit's effective date, or not less than 180 days prior to beginning operation. New concentrated animal feeding operations may eventually be eligible for coverage under this permit after complying with the environmental review requirements at 40 CFR 6.000 *et seq.* The effluent limitations for "new sources" are the same as those contained in this permit.

The names and former NPDES numbers of the 21 facilities initially authorized by this permit are:

Facility name	NPDES No.
Gila Feedyards Inc	AZ0020460
Spur Industries (Higley)	AZ0020473
Spur Industries (San Tan)	AZ0020486
Certified Produce Assn	AZ0020531
Arlington Cattle Co	AZ0020591
Sunny Mesa Inc	AZ0020613
Yuma County Feedyard, Inc	AZ0020630
Whitewing Agriculture	AZ0020648
M&W Enterprises	AZ0020656
Scottsdale Feedyard	AZ0020664
Davis Dairy	AZ0020672
John E. Smith	AZ0020729
T&C Feeding Co	AZ0020800
Benedict Feeding Co	AZ0020940
Pinal Feeding Co	AZ0020958
Clayton Livestock	AZ0020966
Jones & Jones, Inc	AZ0021121
Hughes and Ganz Cattle	AZ0021253
AZ Feeds	AZ0021334
Red River	AZ0021351
John A. Vanderwey	AZ0021369

Authorization to discharge pursuant to this general NPDES permit is effective upon publication and expires five years from that date. Any of the 21 existing feedlots facilities previously authorized to discharge under an individual NPDES permit is automatically covered by this general permit on the effective date. These facilities may request an individual permit from EPA following the procedures in 40 CFR 122.28. Any new concentrated animal feedlots not previously authorized to discharge by an individual NPDES permit may request coverage under this general permit as described below.

State Certification. Under section 401(a)(1) of the Act, EPA may not issue an NPDES permit until the State in which the discharge will originate grants or waives certification to ensure compliance with appropriate requirements of the Act and State law. This general permit has been certified by the Arizona Department of Health Services.

Part I

A. Effluent Limitations and Waste Disposal Requirements

1. *Effluent Limitations.* During the term of this permit, the following effluent limitations apply to all of the concentrated animal feeding operations covered by this permit.

There shall be no discharge of process waste water pollutants to the waters of the United States except as provided for below.

A discharge of pollutants to the waters of the United States may occur whenever precipitation events, either chronic or catastrophic, cause an overflow of process waste water from a facility designed, constructed, and operated to contain all process generated waste waters plus the runoff from a 25-year, 24-hour rainfall event for the location of the concentrated animal feeding operation. This means that the control facilities must contain all runoff from storms less intense than those which occur once every 25 years during a 24-hour period.

Appendix A[1] of this permit contains a chart showing 25-year, 24-hour rainfall values for Arizona. The 25-year, 24-hour rainfall value for concentrated animal feeding operations covered by this

[1] Appendix A is filed with the Office of the Federal Register as part of the original document.

permit shall be determined from this chart.

For purposes of determining compliance with the effluent limitations of this permit, the amount of precipitation that occurred shall be based on the data obtained with a precipitation gauge from the nearest National Weather Service weather station. (See Appendix B [2] for map of weather stations in Arizona). The permittee may, at his option, maintain a precipitation gauge at the facility.

2. *Waste Disposal Requirements.* a. All land areas utilized by and operated under the authority of the permittee for the disposal of manure, other waste solids and liquid wastes shall be isolated to prevent any pollutant from such materials from entering the waters of the United States subject to the provisions as provided in permit conditions under "Effluent Limitations" (Part I.A.1.). Such provisions apply only to the discharge of pollutants from a "point source" as defined in section 502(14) of the Act.

b. All land areas utilized by and operated under the authority of the permittee for the storage or holding of manure, bedding materials, silage feeds, and feed concentrates, and other substances having a waste-contributing potential shall be isolated to prevent any pollutant from such materials from entering the waters of the United States, subject to the provisions as provided in permit conditions under "Effluent Limitations" (Part I.A.1.).

c. All wastes from dipping vats, pest and parasite control units, and other facilities utilized for the application of potentially hazardous or toxic chemicals shall be handled and disposed of in a manner such as to prevent any pollutant from such materials from entering the waters of the United States, subject to the provisions as provided in permit conditions under "Effluent Limitations" (Part I.A.1.), and then only in accordance with the provisions of any toxic pollutant effluent standards established pursuant to section 307(a) of the Act.

B. Monitoring and Reporting Requirements

1. *Monitoring Requirements.* The permittee shall visually monitor all discharges and record the following information:

a. A description of the discharge and cause, whether excess precipitation, snow melt, or other specified causes (e.g., structural failure, equipment breakdown, flooding);

b. The period of discharge including exact dates and times;

c. An estimate of discharge volume;

d. Name of receiving stream;

e. Name of person recording discharge;

f. Corrective steps taken, if appropriate; and,

g. A record of the precipitation at the nearest National Weather Service station (See Appendix B [2]) with a precipitation gauge or at a facility rain gauge for the period of inclement weather that resulted in the discharge.

If the permittee elects to maintain a precipitation gauge at the facility, the permittee shall monitor and record precipitation daily using a National Weather Service standard rain gauge or equivalent.

All records and information resulting from the monitoring activities required by this permit shall be retained for a minimum of three (3) years or longer if requested by the Regional Administrator or the Arizona Department of Health Services.

2. *Reporting Requirements.* The permittee shall visually monitor and report within five (5) days to the permit issuing authority any discharge resulting from a precipitation event. Any discharge resulting from a non-precipitation event (e.g., dike or structural failure, equipment breakdown, human error) shall be monitored and reported immediately (within 24 hours). The permittee shall provide the permit-issuing authority with a written report within five (5) days of such occurrence. The information shall be submitted to the U.S. Environmental Protection Agency and the Arizona Department of Health Services at the following addresses: U.S. Environmental Protection Agency, Permits and Compliance Branch, Water Management Division, 215 Fremont Street, San Francisco, CA 94105 and Arizona Department of Health Services, Bureau of Water Quality Control, 1740 West Adams Street, Phoenix, AZ 85007.

Part II

General Conditions

1. *Facilities Operation.* The permittee shall at all times maintain in proper working order and operate as efficiently as possible all control facilities or systems installed or used by the permittee to achieve compliance with the terms and conditions of this permit. Proper operation and maintenance includes all circumstances listed under 40 CFR 122.41(e) (April 1, 1981, 48 FR 14167).

2. *Power Failures.* As necessary to maintain compliance with the effluent limitations and prohibitions of this permit, the permittee shall provide an alternate power source sufficient to operate the waste water control facilities.

3. *Adverse Impact.* The permittee shall take all reasonable steps to prevent or correct any adverse impact to receiving waters or environment resulting from unauthorized discharges.

4. *Right of Entry.* The permittee shall allow the head of the State of Arizona Department of Health Services, the Regional Administrator, and/or their authorized representative, upon the presentation of credentials:

a. To enter upon the permittee's premises where a real or potential discharge is located or in which any records are required to be kept under the terms and conditions of this permit; and,

b. At reasonable times to have access to and copy any records required to be kept under the terms and conditions of this permit; to inspect any monitoring equipment or monitoring method required in this permit; and to sample any discharge of pollutants.

5. *Transfer of Ownership or Control.* In the event of any change in control or ownership of facilities from which the authorized discharges emanate, the permittee shall notify the succeeding owner or controller of the existence of this permit by letter. The permittee must also notify EPA about transfer before transfer under 40 CFR 122.41(1)(3).

6. *Availability of Report.* Except for data determined to be confidential under section 308 of the Act, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of Arizona Department of Health Services and the Regional Administrator. As required by the Act, effluent data shall not be considered confidential. Knowingly making a false statement on any such report may result in the imposition of criminal penalties as provided for in section 309 of the Act.

7. *Toxic Pollutants.* If a toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is established under section 307(a) of the Act for a toxic pollutant which is present in the discharge and such standard or prohibition is more stringent than any limitation for such pollutant in this permit, this permit shall be revised or modified in accordance with the toxic effluent standard or prohibition and the permittee so notified.

The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the

[2] Appendix B is filed with the Office of the Federal Register as part of the original document.

Act within the time provided by the regulations establishing these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

8. *Civil and Criminal Liability.* Nothing in this permit shall be construed to relieve the permittee from civil or criminal penalities for noncompliance.

9. *Oil and Hazardous Substances Liability.* Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalities to which the permittee is or may be subject under section 311 of the Act.

10. *State Laws.* Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or regulation under authority preserved by section 510 of the Act.

11. *Property Rights.* The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury of private property or any invasion of personal rights, nor any infringement of federal, State or local laws or regulations.

12. *Severability.* The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

13. *Duty to comply.* The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and is grounds for enforcement action.

14. *Need to Halt or Reduce not a Defense.* It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

15. *Duty to Mitigate.* The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

16. *Duty to provide information.* The permittee shall furnish to the Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The permittee shall also furnish to the Director, upon request, copies of records required to be kept by this permit.

17. *Monitoring and records.* a. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

b. The permittee shall retain records of all monitoring information for a period of at least 3 years from the date of the sample, measurement report, or application. This period may be extended by request of the Director at any time.

c. Records of monitoring information shall include:

(i) The date, exact place, and time of sampling or measurements;

(ii) The individual(s) who performed the sampling or measurements;

(iii) the date(s) analyses were performed;

(iv) The analytical techniques or methods used; and

(v) The results of such analyses.

d. Monitoring must be conducted as required under Part I.B.1 of this permit.

e. The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

18. *Signatory requirement.* a. All applications, reports, or information submitted to the Director shall be signed and certified as follows:

(1) For a corporation, by a responsible corporate officer. For the purpose of this section, a responsible officer means: (i) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) For a partnership or sole proprietorship, by a general partner or the proprietor, respectively.

b. *Reports.* All reports required by permits and other information requested by the Director shall be signed by a person described in paragraph (a) of this section, or by a duly authorized representative of that person. A person is a duly authorized representative only if:

(1) The authorization is made in writing by a person described in paragraph (a) of this section;

(2) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager operator of a well or well field, superintendent, or position of equivalent responsibility. (A duly authorized representative may thus be either a named individual or any individual occupying a named position) and

(3) The written authorization is submitted to the Director.

c. *Changes in authorization.* If an authorization under paragraph (b) of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph (b) of this section must be submitted to the Director prior to or together with any reports, information, or applications to be signed by an authorized representative.

d. *Certification.* Any person signing a document under paragraph (a) or (b) of this section shall make the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qaulified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations.

19. *Anticipated noncompliance.* The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

20. *Twenty-four hour reporting.* a. The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of

the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue, and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

b. The following shall be included as information which must be reported within 24 hours under this paragraph.

1. Any unanticipated bypass which exceeds any effluent limitation in the permit.

2. Any upset which exceeds any effluent limitation, in the permit.

c. The Director may waive the written report on a case-by-case basis for reports under paragraph 20.b of this section if the oral report has been received within 24 hours.

21. *Other noncompliance.* The permittee shall report all instances of noncompliance not reported under paragraphs 19 and 20 of this section, at the time monitoring reports are submitted. The reports shall contain the information listed in paragraph 20 of this section.

22. *Bypass.*—a. *Definitions.*

1."Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.

2. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

b. *Notice.*—1. *Anticipated bypass.* If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible, at least ten days before the date of the bypass.

2. *Unanticipated bypass.* The permittee shall submit notice of an unanticipated bypass as required in paragraph 20 of this section (24-hour notice.)

c. *Prohibition of bypass.* 1. Bypass is prohibited and the Director may take enforcement action against a permittee for bypass, unless:

(i) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(ii) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if the permittee could have installed adequate backup equipment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(iii) The permittee submitted notices as required under paragraph (b) of this section.

2. The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed above in paragraph c.1 of this section.

23. *Upset.*—a. *Definition.* "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilites, lack of preventive maintenance, or careless or improper operation.

b. *Effect of an upset.* An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of paragraph (c) of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset and before an action for noncompliance is final administrative action subject to judicial review.

c. *Conditions necessary for a demonstration of upset.* A permittee who wishes to establish the affirmative defense of upset shall demonstrate through properly signed contemporaneous operating logs, or other relevant evidence that:

1. An upset occurred and that the permittee can identify the specific cause(s) of the upset;

2. The permitted facility was at the time being properly operated; and

3. The permittee submitted notice of the upset as required in paragraph (20) of this section (24-hour notice).

4. The permittee complied with any remedial measures required under paragraph (d) of this section.

d. *Burden of proof.* In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

24. *Requiring an Individual NPDES Permit.* In accordance with 40 CFR 122.28, the permitting authority may require any owner or operator covered under this permit to apply for and obtain an individual NPDES permit for reasons that include the following:

a. The discharge(s) is a significant contributor of pollution;

b. The discharger is not in compliance with the conditions of this general permit; or

c. Conditions or standards have changed so that the discharge no longer qualifies for a general permit.

The owner or operator must be notified in writing that an application for an individual NPDES permit is required. When an individual NPDES permit is issued to an owner or operator otherwise covered under this general permit, the applicability of the general permit to that owner or opeator is automatically terminated upon the effective date of the individual NPDES permit.

25. *Requesting an Individual NPDES Permit.* Any owner or operator covered by this general permit may request to be excluded from the coverage by applying for an individual NPDES permit.

26. *Requesting Coverage Under the General Permit.* The owner or operator of a facility excluded from coverage by this general permit solely because that facility already has an individual permit may request that the individual permit be revoked and that the facility be covered by this general permit. Upon revocation of the individual permit, this general permit shall apply to that facility.

27. *Permit Modification, Revocation, Termination.* This general permit may be modified, revoked and reissued, or terminated for cause in accordance with 40 CFR Parts 122 and 124 of the NPDES Permit Regulations (48 FR 14146, April 1, 1983).

28. *Paperwork Reduction Act.* EPA has reviewed the requirements imposed on regulated facilities in this draft general NPDES permit under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* The information collection and notification requirements of this permit have already been approved by the Office of Management and Budget under submissions made for the NPDEs permit program under provisions of the Clean Water Act.

29. *Executive Order 12291.* The Office of Management and Budget has exempted this action from the review requirements of Executive Order 12291 pursuant to section 6(c) of that order.

30. *Regulatory Flexibility Act.* Twenty-one (21) feedlot facilities in the State of Arizona are currently operating under individual NPDES permits. This proposed general permit contains the

same effluent limitations as the current permits. Therefore, this general permit will not require any new facility construction, retrofitting, or additional equipment.

The effluent limitations contained in this general permit are based on the feedlot Best Conventional Pollutant Control Technology (BCT) effluent guidelines published at 40 CFR 412.17. Under the Clean Water Act, any NPDES permit written to authorize discharges from feedlots must include these BCT limitations after July 1, 1984. EPA cannot set limits for these facilities less stringent than BCT, regardless of size. This general permit simply requires visual inspection to detect unauthorized discharges as a monitoring requirement. The reporting requirements under the permit are minimal; each operator will only need to provide a yearly discharge monitoring report (DMR) summarizing permitted activities for the year.

This general permit will be less costly to the facilities than the former individual NPDES permits. The effluent limits established by this proposed general permit are not more stringent than the former individual NPDES permits, the application procedure is simpler and less costly for the facilities, and the reporting requirements have been reduced to only once per year. The costs of complying with the terms of this general permit will be less than the costs to comply with the former individual permits. During the public review period, no comments were received concerning regulatory flexibility or small businesses.

After review of the facts presented in the notice printed above, I hereby certify, pursuant to the provisions of 5 U.S.C. 605(b), that this general permit will not have a significant impact on a substantial number of small entities. Moreover, it reduces a significant administrative burden on regulated sources.

Appendix A [1]

Please refer to chart attached to permit.

Appendix B [2]

Please refer to the map of United States Weather Service Stations attached to permit.

Dated: September 4, 1984.

John Wise,

Acting Regional Administrator.

Fact Sheet in Support of the General NPDES Permit for Concentrated Animal Feeding Operations in Arizona.

NPDES Permit Number AZG010001.

I. Background

A. General Permits

Section 301(a) of the Clean Water Act (the Act) provides that the discharge of pollutants is unlawful except in accordance with a National Pollutant Discharge Elimination System (NPDES) permit. Although such permits to date have generally been issued to individual dischargers, EPA's regulation authorize the issuance of general permits to categories of point sources located within the same geographical area, which discharge similar types of wastes and which discharges warrant similar pollution control measures. (40 CFR 122.28). As in the case of individual permits, a violation of any condition of a general permit constitutes a violation of the Act and subjects the discharger to the penalties specified in section 309 of the Act.

Any owner or operator authorized by this final general permit may be excluded from coverage by applying for an individual permit. This request may be made by submitting an NPDES Permit application, together with reasons supporting the request, to the Regional Administrator, Region IX. The Regional Administrator may require any person authorized by this general permit to apply for and obtain an individual permit. In addition, any interested person may petition the Regional Administrator to take this action. The Regional Administrator may consider the issuance of individual permits according to the criteria in 40 CFR 122.28(b)(2).

B. Concentrated Animal Feeding Operations in Arizona.

This general NPDES permit establishes effluent limitations, standards, prohibitions and other conditions on dischargers or pollutants from certain concentrated animal feeding operations, commonly known as animal "feedlots." Concentrated animal feeding operations are defined as confined animal feedlots: (1) With 1,000 or more animal units; (2) with less than 1,000, but more than 300 animal units if pollutants are discharged to waters of the United States through a man-made ditch, flushing system or other similar device and/or pollutants are discharged directly into waters of the United States which originate outside of and pass over, across, or through the facility or otherwise come into direct contact with the animal concentrated in the operation; or (3) which have ever been designated as a significant contributor of pollution on a case-by-case basis according to the criteria in 40 CFR 122.23(c), (40 CFR 122.23, 40 CFR Part 122, Appendix B, and 40 CFR Part 412). The term "animal units" is defined in 40 CFR 412.10 and, for the purposes of this permit, means the equivalent number of feeder and slaughter cattle.

This general permit applies only to those concentrated animal feedlots constructed in Arizona before February 14, 1974, the date new source performance standards were promulgated for the Feedlot Point Source Category. Concentrated animal feedlots constructed after that date are excluded from coverage under this general NPDES permit because they are considered "new sources" of pollution under 40 CFR 122.2.

The Clean Water Act provides that NPDES permits cannot be issued to new sources until EPA conducts an environmental review to determine whether issuing an NPDES permit to a new source may be considered a "major federal action significantly affecting the quality of the human environment" under the National Environmental Policy Act (NEPA).

New concentrated animal feeding operations may be eligible for coverage under this general permit after complying with the environmental review requirements at 40 CFR 6.600 et seq. The effluent limitations for "new sources" are the same as those listed in this permit for existing sources.

Twenty-one concentrated animal feedlots in Arizona were permitted under individual NPDES permits. These existing individual permits expired on June 30, 1984 and were automatically continued under the Administrative Procedure Act (APA, 5 U.S.C. 551 *et seq.)* Final issuance of this general permit constitutes Agency action under the APA, and therefor these facilities are automatically authorized to discharge under this general permit.

II. Permit Conditions

A. Technology-Based Effluent Limitations

This general permit prohibits any discharge of process generated waste (including storm water runoff) except in the event of a 25-year, 24-hour storm. (See Appendix A [1] of this permit for a chart showing 25-year, 24-hour rainfall for Arizona.) These effluent limitations are based on the effluent guidelines for best conventional pollutant control

technology (BCT) for the Feedlot Point Source Category as promulgated in 40 CFR Part 412. As with best practicable control technology currently available (BPT) and the former best available technology economically achievable (BAT) limits for conventional pollutants, BCT is a zero discharge limit. Therefore, the BCT limitations for this subcategory was not included among the BCT limitations withdrawn by EPA in response to the July 28, 1981 decision remanding the methodology used by EPA to establish BCT standards (47 FR 6835, February 17, 1982). *American Paper Institute* v. *EPA* 66. F.2d 954 (4th Cir. 1981).

B. Best Management Practices—Waste Disposal

The waste disposal requirements contained in this permit are necessary to achieve the effluent limitations described above. Proper isolation, storage and disposal of all solid and liquid wastes will help prevent pollutant discharge.

C. Monitoring Requirements

This permit requires dischargers to visually monitor and record all discharges as they occur. Dischargers may elect record precipitation by using data obtained from the nearest National Weather Service Station or by using a precipitation gauge maintained at the facility. [See Appendix B [3] of the permit for a map of Weather Service stations in Arizona.)

III. Appropriateness of the General Permit

Region IX has issued 21 individual NPDES permits to concentrated animal feeding operations in Arizona. A review of these permits, their effluent limitations and monitoring requirements, and the criteria for issuing a general permit (40 CFR 122.28) clearly indicates that animal feedlots would be more appropriately controlled by a single general permit.

General permits eliminate for the Agency the time-consuming and resource-intensive process of reviewing and evaluating individual permit applications, and significantly reduce the burden imposed on the industry for applying for and obtaining individual permits.

[FR Doc. 84-27288 Filed 10-15-84; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed; Argentina Lines, et al.

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202–008660–013.

Title: Latin America/Pacific Coast Steamship Conference.

Parties: Argentina Line, Barber-Blue Line J/S, Canadian Sea Westfal-Larsen J/S, Companhia De Navegacao Loide Brasilerio, Delta Steamship Lines, Inc., Flota Mercante Grancolombiana, S.A., French Line, Galapagos Line, Hapag Llyod A/G, Intercontinental Transport (ICT) B.V., United States Lines, Inc.

Synopsis: The parties having notified the Commission of their determination to dissolve the Latin America/Pacific Coast Streamship Conference effective November 12, 1984, the Commission hereby gives notice of its intent to terminate its prior approval of Agreement No. 202–008660, such termination to be effective November 12, 1984 except as otherwise provided in the parties's notice of dissolution.

Agreement No.: 213–010657.

Title: Nippon Yusen Kaisha and Showa Line, Ltd. Space Charter and Sailing Agreement in the Far East-U.S. Pacific Trades.

Parties: Nippon Yusen Kaisha, Showa Line, Ltd.

Synopsis: The proposed agreement would allow the parties to rationalize their individual containership services through space chartering and vessel coordination with direct vessels service (and service via transshipment) in the Far East-U.S. Pacific trades.

By Order of the Federal Maritime Commission.

Dated: October 11, 1984.

Francis C. Hurney,

Secretary.

[FR Doc. 84-27289 Filed 10-15-84; 8:45 am]
BILLING CODE 6730-01-M

Agreement(s) Filed; Atlantic Cargo Services, AB, et al.

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 15 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572–603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202–010656

Title: North Europe U.S. Gulf Freight Association.

Parties: Atlantic Cargo Services, AB, Compagnie Generale Martime, Hapag-Lloyd AG, Intercontinental Transport (ICT) BV, Lykes Bros. Steamship Company, Inc., Sea-Land Services, Inc., Trans Freight Lines, Inc.

Synopsis: The proposed agreement would establish a new conference, with through rate and service contract authority, in the trades from or via North European ports to or via U.S. Gulf of Mexico ports.

Agreement No.: 217–010658.

Title: Automar/Atlantic Container Line Cooperation Agreement.

Parties: Automer II Corporation (Automar II), American Automar, Inc., Atlantic Container Line, GIE (ACL).

Synopsis: The proposed agreement would allow ACL to time charter a vessel from Automar II for the carriage of commercial cargo and would allow American Automar to charter space from ACL for the carriage of U.S. military cargo and any other U.S. preference cargo. The vessel so chartered would be operated under U.S. registry.

By the Order of the Federal Maritime Commission.

Dated: October 10, 1984.

Francis C. Hurney,

Secretary

[FR Doc. 84-27239 Filed 10-15-84; 8:45 am]

BILLING CODE 6730-01-M

Ocean Freight Forwarder License Applicants; Tiger InterModal, Inc.

Notice is hereby given that the following applicants have field with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act, 1984 (46 U.S.C. app. 1718 and 46 CFR Part 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Tariffs, Federal Maritime Commission, Washington, DC 20573.

Tiger InterModal, Inc., 211 E. Ocean Blvd., Suite 400, Long Beach, CA 90802. Officers: Wayne Hoffman, Chairman of the Board, Thomas B. Liesy, President/Director, Michael Erenburg, Vice President/Secretary/Treasurer/Director, Denis P. Kalscheur, Assistant Treasurer, Jeannie Maichele, Assistant Treasurer.

Dated: October 10, 1984.

Francis C. Hurney,

Secretary.

[FR Doc. 84-27240 Filed 10-15-84; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Citicorp; Application to Engage de Novo in Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity. Although such activities has not been specified the Board in section 225.25 of Regulation Y as permissible for bank holding companies, such activity has been approved on an individual basis by Board Order (*BankAmerica Corp.* 70 Fed. Res. Bull. 364 (1984)). Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received by William W. Wiles, Secretary of the Board, 20th & Constitution Avenue, N.W., Washington, D.C. 20551 not later than November 5, 1984.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Citicorp*, New York, New York; to engage *de novo* directly or indirectly through its subsidiary, Citicorp Service Inc., Chicago, Illinois, in the insurance and sale of money orders and other payments in variable denominations with a maximum face value of $10,000. Applicant also proposes to perform all marketing, distributing and servicing functions associated with the payment instrument. These activities would be performed from offices of Applicant's subsidiary in New York, New York; Chicago, Illinois; Rolling Meadows, Illinois; Atlanta, Georgia; and San Francisco, California.

Board of Governors of the Federal Reserve System, October 11, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-27260 Filed 10-15-84; 8:45 am]

BILLING CODE 6210-01-M

Commercial Bancshares, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than October 5, 1984.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Commercial Bancshares, Inc.*, Parkersburg, West Virginia; to acquire 100 percent of the voting shares of Jackson County Bank, Ravenswood, West Virginia.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Plano Bancshares, Inc.*, Plano, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Community Bank of Plano, Illinois.

2. *River Valley Bancorporation*, Rothschild, Wisconsin; to acquire 100 percent of the voting shares of Farmers State Bank, Pound, Wisconsin.

C. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Carlisle Bancorp, Inc.*, Arlington, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of Citizens Deposit Bank of Arlington, Inc., Arlington, Kentucky.

2. *Citizens Bancshares of Batesville, Inc.*, Batesville, Arkansas; to become a bank holding company by acquiring 80 percent of the voting shares of The Citizens Bank, Batesville, Arkansas.

3. *Galatia Bancorp, Inc.*, Galatia, Illinois; to become a bank holding company by acquiring 81.6 percent of the voting shares of Galatia Community State Bank, Galatia, Illinois.

Board of Governors of the Federal Reserve System, October 11, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-27261 Filed 10-15-84; 8:45 am]

BILLING CODE 6210-01-M

Univest Corporation of Pennsylvania; Notice of Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 6, 1984.

A. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Univest Corporation of Pennsylvania*, Souderton, Pennsylvania; to engage through a wholly-owned subsidiary to be known as the Univest Insurance Company, Phoenix, Arizona, as a credit life, health, and accident insurer/reinsurer in connection with the extensions of credit made by the bank and all of the subsidiaries and affiliates of the applicant. These activities would be performed in the Commonwealth of Pennsylvania.

Board of Governors of the Federal Reserve System, October 11, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-27262 Filed 10-15-84; 8:45 am]

BILLING CODE 6210-01-M

Federal Open Market Committee; Domestic Policy Directive of August 21, 1984

In accordance with § 217.5 of its rules regarding availability of information, there is set forth below the Committee's Policy Directive issued at its meeting held on August 21, 1984.[1]

The following domestic policy directives was issued to the Federal Reserve Bank of New York:

The information reviewed at this meeting suggest that the expansion in economic activity is continuing at a strong pace, but there are indications of a moderation in the rate of growth. In July, industrial production and nonfarm payroll employment rose further, but retail sales fell after rising considerably in earlier months and housing starts declined to a rate appreciably below the average in the second quarter. The civilian unemployment rate increased 0.4 percentage point to 7.5 percent. Information on outlays and spending plans continues to suggest strength in business fixed investment. Since the beginning of the year, average prices and the index of average hourly earnings have risen more slowly than in 1983.

In July, M1 declined after two months of rapid growth, though data for early August suggested some rebound, while M2 expanded at a relatively slow pace.

M3 growth, however, remained comparatively sizable. From the fourth quarter of 1983 through July, M1 grew at a rate a bit above the midpoint of the Committee's range for 1984; M2 increased at a rate a little below the midpoint of its longer-run range, while M3 expanded at a rate above the upper limit of its range. Growth in total domestic nonfinancial debt appears to be continuing at a pace above the Committee's monitoring range for the year, reflecting very large government borrowing along with strong private credit growth. Most interests rates have fallen considerably since the July meeting of the Committee, with the largest declines generally in intermediate and long-term bond markets.

The foreign exchange value of the dollar against a trade-weighted average of major foreign currencies rose further to a new high in early August and since then has fluctuated in a range just below the peak. The merchandise trade deficit in June was somewhat above the May level, and for the second quarter as a whole the deficit was little changed from the high first-quarter rate.

The Federal Open Market Committee seeks to foster monetary and financial conditions that will help to reduce inflation further, promote growth in output on a sustainable basis, and contribute to an improved pattern of international transactions. In furtherance of these objectives the Committee agreed at the July meeting to reaffirm the ranges for monetary growth that it had established in January: 4 to 8 percent for M1 and 6 to 9 percent for both M2 and M3 for the period from the fourth quarter of 1983 to the fourth quarter of 1984. The associated range for total domestic nonfinancial debt was also reaffirmed at 8 to 11 percent for the year 1984. It was anticipated that M3 and nonfinancial debt might increase at rates somewhat above the upper limits of their 1984 ranges, given developments in the first half of the year, but the Committee felt that higher target ranges would provide inappropriate benchmarks for evaluating longer-term treds in M3 and credit growth. For 1985 the Committee agreed on tentative ranges of monetary growth, measured from the fourth quarter of 1964 to the fourth quarter of 1985, of 4 to 7 percent for M1, 6 to 8½ percent for M2, and 6 to 9 percent for M3. The associated range for nonfinancial debt was set at 8 to 11 percent.

The Committee understood that policy implementation would require continuing appraisal of the relationships not only among the various measures of money and credit but also between those aggregates and nominal GNP, including evaluation of conditions in domestic credit and foreign exchange markets.

In the implementation of policy in the short run, the Committee seeks to maintain existing pressures on reserve positions. This action is expected to be consistent with growth in M1 at an annual rate of around 5 percent or

[1] The Record of policy actions of the Committee for the meeting of August 21, 1984, is filed as part of the original document. Copies are available upon request to The Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

slightly less, and in M2 and M3 at annual rates of around 7½ and 9 percent respectively during the period from June to September. Somewhat greater reserve restraint would be acceptable in the event of more substantial growth of the monetary aggregates, while somewhat lesser restraint would be acceptable in the event of significantly slower growth. In either case, such a change would be considered only in the context of appraisals of the continuing strength of the business expansion, inflationary pressures, financial market conditions, and the rate of credit growth. The Chairman may call for Committee consultation if it appears to the Manager for Domestic Operations that pursuit of the monetary objectives and related reserve paths during the period before the next meeting is likely to be associated with a federal funds rate persistently outside a range of 8 to 12 percent.

By order of the Federal Open Market Committee, October 10, 1984.

Stephen H. Axilrod,

Secretary.

[FR Doc. 84-27290 Filed 10-15-84; 8:45 am]
BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Center for Health Services Research; Assessment of Medical Technology

The Public Health Service (PHS), through the Office of Health Technology Assessment (OHTA), announces that it is coordinating an assessment of what is known of the safety, clinical effectiveness, and appropriateness of stereotactic cingulotomy. Specifically we are interested in the medical indications for cingulotomy as a means of psychosurgery, the selection of patients who might benefit from the procedure, and evidence relating to the safety and efficacy of such surgery. We are particularly concerned with any significant new information that has become available since the 1977 report on psychosurgery by the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research.

The PHS assessment consists of a synthesis of information obtained from appropriate organization in the private sector and from PHS agencies and others in the Federal Government. PHS assessments are based on the most current knowledge concerning the safety and clinical effectiveness of a technology. Based on this assessment, a PHS recommendation will be formulated to assist the Health Care Financing Administration (HCFA) in establishing Medicare coverage policy. Any person or group wishing to provide OHTA with information relevant to this assessment should do so in writing no later than January 15, 1985, or within 90 days from the date of publication of this notice.

The information being sought is a review and assessment of past, current, and planned research related to this technology, a bibliography of published, controlled clinical trials and other well-designed clinical studies. Information related to the characterization of the patient population most likely to benefit, the clinical acceptability, and the effectiveness of this technology is also being sought.

Written material should be submitted to: National Center for Health Services Research, Office of Health Technology Assessment, Park Building, Room 3-10, 5600 Fisher Lane, Rockville, Maryland 20857.

Dated: October 4, 1984.

Enrique D. Carter,

Director, Office of Health Technology Assessment, National Center for Health Services Research.

[FR Doc. 84-27208 Filed 10-15-84; 8:45 am]
BILLING CODE 4110-85-M

Statement of Organization, Functions and Delegation of Authority

Part H, Chapter HA (Office of the Assistant Secretary for Health) of the Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services (DHHS) (42 FR 61318, December 2, 1977, as amended most recently at 49 FR 35251, September 6, 1984) is amended to reflect a revision to the functional statement for the Office of Personnel Management, Office of Management, Office of the Assistant Secretary for Health (OPM/OM/OASH) due to an expansion of responsibility for administration of a Parklawn Servicing Personnel Office (SPO). This function is a consolidation of specific personnel activities of five major PHS components into one single Servicing Personnel Office for the Parklawn Complex.

Office of the Assistant Secretary for Health

Under Part H, Chapter HA, Office of the Assistant Secretary for Health, Section HA-20, Functions make the following changes:

Under the title and statement for the *Office of Management (HAU),* change the statement for the *Office of Personnel Management (HAU3)* and substitute the following:

Office of Personnel Management (HAU3)

The Director, Office of Personnel Management, serves as the PHS principal advisor to the Assistant Secretary for Health and the Deputy Assistant Secretary for Health Operations and Director, Office of Management, in meeting nationwide personnel management responsibilities; represents the Office of the Assistant Secretary for Health and the PHS agencies in contacts with DHHS, U.S. Office of Personnel Management, and other Federal agencies; provides leadership and direction in the planning and implementation of comprehensive personnel management systems for PHS (1) Uniform Service, PHS Commissioned Officers, and (2) Federal career, career-conditional and other employees; administers the Parklawn Servicing Personnel Office (SPO) function reflecting a consolidation of personnel activities conducted throughout the Parklawn Complex; assures a close working relationship exists between personnel and program with a uniformity of operations within the scope of the SPO; develops and administers personnel management objectives, operating policies, standards and evaluation programs in providing overall personnel management administration; and coordinates staff reviews of personnel actions and related matters sent to the Office of the Assistant Secretary for Health for approval and/or review for the attention of the Secretary.

Section HA-30 Delegations of Authority

All delegations and redelegations of personnel authorities made to officials within the Public Health Service which were in effect immediately prior to the effective date of this publication shall continue in effect pending further delegation.

This revised statement is effective October 1, 1984.

Dated: September 28, 1984.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

[FR Doc. 84-27296 Filed 10-15-84; 8:45 am]
BILLING CODE 4160-17-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

[Docket No. D-84-775]

Redelegation of Authority with Respect to Rent Supplement and Rental Assistance Payments Contracts on State or Local Agency Financed Noninsured Multifamily Projects

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice of Redelegation of Authority.

SUMMARY: The Assistant Secretary for Housing-Federal Housing Commissioner is redelegating authority for various actions respecting contracts for existing Rent Supplement and Rental Assistance Payments on state and local agency financed noninsured multifamily projects. This redelegation is necessitated by the requirement in the Housing and Urban-Rural Recovery Act of 1983 that the Secretary offer annually to amend such contracts to provide sufficient payments to cover up to 90 per centum of the necessary rent increases and changes in the incomes of eligible tenants. This Redelegation of Authority authorizes the Deputy Assistant Secretary for Multifamily Housing Programs; the Associate Deputy Assistant Secretary for Multifamily Housing Programs; the Director, Office of Multifamily Housing Management; and the Deputy Director, Office of Multifamily Housing Management to execute these contract amendments as necessary.

EFFECTIVE DATE: October 4, 1984.

FOR FURTHER INFORMATION CONTACT: Conrad E. Egan, Director, Office of Multifamily Housing Management, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC. 20410. (202 426-3968 (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: This redelegation of Authority applies to the specific multifamily housing programs as described herein and does not affect the existing delegations of Authority published at 45 FR 60820 (September 12, 1980). Sections 218 and 219 of the Housing and Urban-Rural Recovery Act of 1983 require that the Secretary offer annually to amend contracts for Rental Assistance Payments and Rent Supplement. This Redelegation of Authority is intended to provide maximum administrative efficiency in executing such contract amendments.

Because the Redelegation involves only internal matters of agency management, it does not require comment or public procedure. Accordingly, the authority for certain Headquarters multifamily housing programmatic responsibilities and functions is hereby redelegated, as follows:

Section A. Redelegations of Authority

The authority of the Assistant Secretary for Housing-Federal Housing Commissioner with respect to the following multifamily programs and functions is redelegated to the positions of Deputy Assistant Secretary for Multifamily Housing Programs; Associate Deputy Assistant Secretary for Multifamily Housing Programs; Director, Office of Multifamily Housing Management; and Deputy Director, Office of Multifamily Housing Management:

- Section 236(f)(2) of the National Housing Act [12 U.S.C. 1715Z-1] with respect to the Rental Assistance Payments program contracts for assistance payments with project owners on behalf of tenants in state or locally financed noninsured projects.
- Section 101 of the Housing and Urban Development Act of 1965 [12 U.S.C. 1701s] with respect to the Rent Supplement program contracts with housing owners on behalf of tenants in state or locally financed noninsured projects.

Specific responsibilities delegated under these programs include the authority:

1. To approve, amend, cancel, or otherwise terminate Rent Supplement Contracts.

2. To approve, amend, cancel or otherwise terminate Rental Assistance Contracts.

Section B. Redelegations Superseded

This Redelegation supersedes and revokes all other preceding Redelegations which are inconsistent with this document.

Authority.—Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)); sec. 101, Housing and Urban Development Act of 1965 (12 U.S.C. 1701s); sec. 211, National Housing Act (12 U.S.C. 1715b); sec. 236, National Housing Act (12 U.S.C. 1715z-1); Delegation of Authority, 36 FR 5005 (March 16, 1971) and Delegation of Authority, 41 FR 24755 (June 18, 1976).

Dated: October 4, 1984.

Janet Hale,

Acting Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 84-27219 Filed 10-15-84; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Colorado; Filing of Plats of Survey

October 9, 1984.

The plat of survey of the following described land will be officially filed in the Colorado State Office, Bureau of Land Management, Denver, Colorado, effective 10:00 a.m., October 9, 1984.

The plat, prepared to correct the erroneous lottings in the NE¼ of section 18, T. 8 S., R. 78 W., Sixth Principal Meridian, Colorado, was accepted September 24, 1984.

This survey was executed to meet certain administrative needs of this Bureau.

All inquiries about this land should be sent to the Colorado State Office, Bureau of Land Management, 2020 Arapahoe Street, Denver, Colorado 80205.

Homer L. Gilson,

Acting Chief Cadastral Surveyor for Colorado.

[FR Doc. 84-27221 Filed 10-15-84; 8:45 am]

BILLING CODE 4310-84-M

Eugene District Advisory Council; Meeting

Notice is hereby given in accordance with section 309 of the Federal Land Policy and Management Act of 1976 that a meeting of the Eugene District Advisory Council will be held on November 15, 1984, at 9:00m a.m. Pacific Standard Time, in Room 227 of the Federal Building at 211 E. 7th, Eugene, Oregon.

The agenda for the meeting will include (1) a presentation on the gypsy moth infestation in Lane County, with input sought from the Council concerning the problem; (2) a discussion on future issues facing the Eugene District; (3) a review of timber contracts; and (4) other topics deemed appropriate for consideration of the Council by the District Manager.

The meeting is open to the public. Interested persons may make oral statements to the Council between 11:00 a.m. and 11:30 a.m., or file written statements for the Council's consideration. Anyone wanting to make an oral statement must notify the

District Manager, Bureau of Land Management, 1255 Pearl Street, Eugene, Oregon 97401, by October 31. Depending on the number of persons wanting to make oral statements, a per person time limit may be established by the District Manager.

Summary minutes of the Council meeting will be maintained in the District Office and be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

Melvin D. Clausen,

District Manager.

[FR Doc. 84-27244 Filed 10-15-84; 8:45 am]

BILLING CODE 4310-85-M

[Group 789]

Filing of Plat of Survey; California

September 27, 1984.

1. These plats of survey of the following described land will be officially filed in the California State Office, Sacramento, California, immediately:

Mount Diablo Meridian, Lassen County

T. 32N., R. 11E.

2. These plats, in two (2) sheets representing the dependent resurvey of a portion of the west boundary and subdivisional lines and the reestablishment of the original meander lines of Eagle Lake, and the survey of the subdivision and the informative traverse of the Spaulding Eagle Lake Tract Boundary in section 7, Township 32 North, Range 11 East, Mount Diablo Meridian, under Group 789, California, were accepted September 7, 1984.

3. These plats will immediately become the basic record for describing the land for all authorized purposes. These plats have been placed in the open files and are available to the public for information only.

4. These plats were executed to meet certain administrative needs of the U.S. Forest Service and this Bureau.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records & Information Section.

[FR Doc. 84-27241 Filed 10-15-84; 8:45 am]

BILLING CODE 4310-40-M

[Group 690]

Filing of Plat of Survey; California

September 27, 1984.

1. These plats of survey of the following described land will be officially filed in the California State Office, Sacramento, California, immediately:

San Bernardino Meridian, Riverside County

T. 4 S., R. 1E.
T. 5 S., R. 1E.

2. These plats, representing the (1) dependent resurvey of portions of the boundaries of Rancho San Jacinto and Tract VIII, within Rancho San Jacinto, subdivisional lines, and subdivision-of-section lines of sections 20, 21, 28, and 33, T. 4 S., R. 1 E., and (2) a dependent resurvey of portions of the First Standard Parallel South, R. 1 E., the boundaries of Rancho San Jacinto, Subdivisional lines, and the subdivision-of-section lines of section 10, T. 5 S., R. 1 E., San Bernardino Meridian, under Group No. 690, California, was accepted August 16, 1984.

3. These plats will immediately become the basic record for describing the land for all authorized purposes. These plats have been placed in the open files and are available to the public for information only.

4. These plats were executed to meet certain administrative needs of the Bureau of Indian Affairs and this Bureau.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records and Information Section.

[FR Doc. 84-27242 Filed 10-15-84; 8:45 am]

BILLING CODE 4310-40-M

Jackson County, MI; Wilderness Inventory Proposal and Commencement of Public Comment Period for Island Parcel in Mississippi Sound

AGENCY: Bureau of Land Management, Interior.

ACTION: Announcement of Public Comment Period on Wilderness Inventory Proposal for BLM-administered island parcels in Jackson County, Mississippi; Round Island.

SUMMARY: An intensive wilderness inventory was conducted in 1984 for a portion of Round Island in Mississippi Sound; two contiguous government lots are located on the southern half of the island which comprise approximately 49 acres.

Findings and proposed wilderness inventory decisions are now being announced under the authority of section 603 of the *Federal Land Policy and Management Act* and in accordance with the guidelines in the September 27, 1978 BLM *Wilderness Inventory Handbook;* Organic Act Directive No. 78-61, Change 3; and BLM Washington Office Memorandum dated July 22, 1981.

DATE: Comments should be submitted by November 30, 1984. See below for further details.

FOR FURTHER INFORMATION CONTACT: Caroline Albright (601) 960-4405.

ADDRESS: Comments should be sent to: District Manager, Jackson District Office, Bureau of Land Management, P.O. Box 11348, Delta Station, Jackson, Mississippi 39213.

SUPPLEMENTARY INFORMATION: A wilderness situation evaluation/intensive inventory report was prepared for the folloing land parcels in Mississippi:

St. Stephens Meridian T. 9 S., R. 6 W., Sec. 3, Lot 1 (16.54 acres)
St. Stephens Meridian T. 9 S., R. 6 W., Sec. 4, Lot 1 (32.44 acres)

During the formal comment period, written comments are encouraged. No public meeting is currently being planned. Instead, the above-mentioned wilderness report will be distributed to state and county officials, other Federal agencies, and interest groups or individuals who have expressed an interest in the BLM wilderness program. Press releases and other media announcements will be accomplished. In addition, all inventory files, maps, photos, and other data used in the inventory are available for public inspection during regular office hours at the Jackson District Office.

All public comments received during the 45-day period will be recorded, analyzed, evaluated, and filed for future reference. All comments will be treated equally; responses received after the comment period may be considered if they can be reviewed without delaying the final wilderness decision.

After the comment period closes, BLM will publish a final decision in the **Federal Register**. At that time, if the subject island parcels are not designated for futher inventory or study, they will be released from wilderness-related management restrictions as set forth in Section 603(c) of the *Federal Land Policy and Management Act.* Copies of the wilderness report are available upon request from the District

Manager, Jackson District Office, at the address given above.

Donald L. Libbey,

Jackson District Manager.

[FR Doc. 84-27340 Filed 10-15-84; 8:45 am]

BILLING CODE 4310-GJ-M

National Park Service

Information Collection Submitted for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Manager and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's clearance office at the phone number listed below. Comment and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget reviewing official, Washington, D.C. 20503, telephone 202-395-7340.

Title: Land & Water Conservation Fund Assistance Application and Compliance Reports
Abstract: Forms are used in the assistance application process to assure compliance with regulations
Bureau Form Number: 10-903; 10-902; 10-902a
Frequency: On Occasion
Description of Respondents: State and Local Governments
Annual Responses: 6,785
Annual Burden Hours: 6,600
Bureau Clearance Office: Russell K. Olsen—523-5133

Dated: October 11, 1984.

Russell K. Olsen,

Information Collection Clearance Officer.

[FR Doc. 84-27304 Filed 10-15-84; 8:45 am]

BILLING CODE 4310-70-M

Availability of Plan of Operations for the Purpose of Oil Drilling Operations; Big Cypress National Preserve

In accordance with §9.52 of Title 36 of the Code of Federal Regulations, Big Cypress National Preserve has received from Hughes Eastern Petroleum Ltd., a Plan of Operations for the purpose of oil drilling in the Big Cypress National Preserve. The public is invited to review and comment on the Plan of Operations, copies of which are available for review during normal business hours at Everglades National Park, Route 27, 12 miles south of Homestead, Florida; Big Cypress National Preserve, Ochopee, Florida; Miami-Dade Public Library System, Main Library, 1 Biscayne Boulevard, Miami, Florida; and at the National Park Service, Southeast Reagional Office, 75 Spring Street, SW., Atlanta, Georgia. Comments received on or before November 15, 1985 will be entered into the offical record. For further information, contact Pat Tolle, Management Assistant, Everglades National Park (305) 247-6211.

Dated: October 4, 1984.

Bob Baker,

Regional Director, Southeast Region.

[FR Doc. 84-27283 Filed 10-15-84; 8:45 am]

BILLING CODE 4310-70-M

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before October 5, 1984. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by October 31, 1984.

Carol D. Shull,

Chief of Registration, National Register.

ARKANSAS

Benton County

Bentonville, *Rice, James A., House,* 204 SE Third St.

Carroll County

Carrollton, *Yell Masonic Lodge Hall,* Off AR 68

Mississippi County

Chickasawba Mound (3M55)

Monroe County

Clarendon, *Anderson Boarding House (Clarendon MRA),* 201 Main St.
Clarendon, *Bank of Clarendon (Clarendon MRA),* 125 Court St.
Clarendon, *Bateman-Griffith House (Clarendon MRA),* 316 Jefferson St.
Clarendon, *Bondi Brothers Store (Clarendon MRA),* 104 Madison St.
Clarendon, *Bounds Building (Clarendon MRA),* 105 Second St.
Clarendon, *Methodist-Episcopal Church South (Clarendon MRA),* 121 Third St.
Clarendon, *Ewan Building (Clarendon MRA),* 124—128 Second St.
Clarendon, *Goldman and Son Store (Clarendon MRA),* 101 Main St.
Clarendon, *Highway 79 Bridge (Clarendon MRA),* U.S. 79 and White River
Clarendon, *Jefferies Building (Clarendon MRA),* 122 Madison St.
Clarendon, *Jefferies-Craptree House (Clarendon MRA),* 300 Jefferson St.
Clarendon, *Manning, Lee and Moore Law Office (Clarendon MRA),* 109 Court St.
Clarendon, *Marston House (Clarendon MRA),* 429 Main St.
Clarendon, *Midland Depot (Clarendon MRA),* 205 Midland St.
Clarendon, *New South Inn (Clarendon MRA),* 132—164 Second St.

FLORIDA

Dade County

Coral Gables, *Coral Gables Police and Fire Station,* 2325 Salzedo St.

Hillsborough County

Tampa, *Hayden Estate Building,* 1016—1916½ N. Franklin St.

Jefferson County

Lloyd, *Lloyd-Bond House,* Rond St.

Pinellas County

St. Petersburg, *Alexander Hotel,* 535 Central Ave.

HAWAII

Honolulu County

Honolulu, *Dickey, C.W., House,* 3030 Klakaua Ave.
Honolulu, *Henriques, Edgar and Lucy, House,* 20 Old Pali Pl.
Honolulu, *Hocking, Alfred, House,* 1302 Nehoa St.
Honolulu, *Oakley, George D., House,* 2100 Kakela Pl.
Kailua vicinity, *Kukuipilau Heiau,* Kalanianaole Hwy

Kauai County

Hanalei vicinity, *Haena Archeological Complex,* Kuhio Hwy
Hanalei vincity, *Na Pali Coast Archeological District,* Na Pali Coast
Waimea, *Gay, Charles House,* Gay Rd.
Waimea, *Kikiaola,* Waimea Rd.

Maui County

Makawao, *Hardy House,* 808 Makawao Ave.

ILLINOIS

Sanamon County

Springfield, *Gottschalk, Fred, Grocery Store,* 301 W. Edwards St.

KENTUCKY

Butler County

Morgantown, *Butler County Jail,* S. Warren and E. Logan Sts.

MINNESOTA

Crow Wing County

Sebre Lake Site (21-CW-55)

NEW YORK

Westchester County

Irvington, *Irvington Town Hall,* 85 Main St.

PENNSYLVANIA

Allegheny County

Pittsburgh, *Old Allegheny Rows Historic District,* Roughly bounded by Sedgwick,

California, Marquis, Mero, Brighton, and Moorison Sts.

Blair County

Altoona, *Central Trust Company Buildings*, 1210—1218 11th Ave.

Chester County

Devon, *Roughwood*, 107 Old Lancaster Rd.

Erie County

Erie, *West Sixth Street Historic District*, W. 6th St. from Poplar to Peach St.

Northumberland County

Augustaville, *Zion Stone Church*, Tulpehocken Rd.

Philadelphia County

Philadelphia, *Globe Ticket Company Building*, 112 N. 12th St.
Philadelphia, North Broad Street Mansion District, Roughly bounded by Broad, Jefferson, Willington, and Oxford Sts.

RHODE ISLAND

Newport County

Carr, Thomas, Farmstead Site (Keeler Site RI–707,
Hazard Farmstead (Joyner Site RI–706),
Old Quaker Burying Ground and Meetinghouse Site, RI–703,

Providence County

Cherry Valley Archeological Site, RI 279,
Sassafras Site, RI–55,
Three Dog Site, RI–151,
Woonasquatucket River Site, RI–163,
Cumberland, *Ashton Historic District*, Roughly Mendon, Scott, and Old Angell Rds., Store Hill Rd., Front and Middle Sts.
Providence, *Oakland Avenue Historic District*, Roughly bounded by Pembroke Ave., Eaton, Malbone, and Dickens Sts.
Providence, *Pekins Street Historic District*, Roughly bounded by Pekin and Candace Sts., Douglas and Chalkstone Aves.

Washington County

Bouchard Archeological Site, RI–1025,
Devils' Foot Cemetery Archeological Site, RI–894
Lambda Chi Site, RI–704,
Ministerial Road Site, RI–781,
Mumford, Silas Site (Tappan Site, RI–705),
Nursery Site, RI–273,

SOUTH CAROLINA

Laurens County

Clinton, *Clinton Commercial Historic District*, Main, Broad, Pitts, Musgrove, and Gary Sts.

Spartanburg County

Spartanburg, *Montgomery, Walter Scott, House*, 314 S. Pine St.

Union County

Union, *Fair Forest Hotel*, 221 E. Main St.

TENNESSEE

Davidson County

Nashville, *U.S. Post Office*, 901 Broadway

VERMONT

Chittenden County

Burlington, *Pearl Street Historic District*, Roughly 184 to 415 Pearl St., Orchard Terr., and Winooski Ave.

Rutland County

Wallingford, *Wallingford Main Street Historic District*, Main and School Sts.,

Windham County

Windham, *Windham Village Historic District*, Town Hill Rd.

VIRGINIA

Rockingham County

Bridgewater, *Bridgewater Historic District*, Roughly Main St. from North River to Crawford Ave., E. College from Dice St. to College, Gravel Lane and Bank St.

[FR Doc. 84–27209 Filed 10–15–84; 8:45 am]
BILLING CODE 4310–70–M

Office of Surface Mining Reclamation and Enforcement

Availability of Annual Evaluation Reports on the Administration of State Regulatory and Abandoned Mine Lands Programs Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Notice of availability.

SUMMARY: OSM is announcing the availability of four annual evaluation reports on the administration of State regulatory and abandoned mine lands (AML) programs under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The four reports, covering the States of Alaska, Illinois, Maryland and Virginia, were prepared under the provisions of OSM's oversight policy and have been transmitted to Congress.

ADDRESSES: See **SUPPLEMENTARY INFORMATION** for the addresses where copies of the reports may be obtained.

FOR FURTHER INFORMATION CONTACT: Arthur W. Abbs, Chief, Division of State Program Assistance, Office of Surface Mining, 1951 Constitution Avenue, NW., Washington, DC 20240; Telephone: (202) 343–5351.

SUPPLEMENTARY INFORMATION:

Copies of the reports are available, free of charge, at the respective OSM offices listed below:

1. *Alaska:* Casper Field Office, Office of Surface Mining, Freden Building, 935 Pendell Boulevard, Mills, Wyoming 82644.
2. *Illinois:* Springfield Field Office, Office of Surface Mining, 600 East Monroe Street, Room 20, Springfield, Illinois 62701.
3. *Maryland:* Charleston Field Office, Office of Surface Mining, 603 Morris Street, Charleston, West Virginia 25301.
4. *Virginia:* Big Stone Gap Field Office, Office of Surface Mining, P.O. Box 626, Big Stone Gap, Virginia 24219.

Background

Under Section 50 of SMCRA, a State may elect to assume primary responsibility for regulating surface coal mining and reclamation operations within its borders by submitting a program to the Secretary of the Interior which demonstrates the State's capability to carry out the provisions of SMCRA. Once the Secretary approves the program, the State is granted primacy, and the Federal Government assumes a monitoring and evaluation role. OSM has developed an evaluation policy, in consultation with the States, which is implemented primarily through OSM's Field Offices. Monitoring of the State's administration and enforcement of its regulatory and AML programs is conducted throughout the year. The Field Office Directors compile and analyze the data gathered during the evaluation period and prepare annual evaluation reports for transmittal to Congress. The schedule for the report calls for staggered completion dates.

The first six evaluation reports for this year (Colorado, Kentucky, Mississippi, Montana, Ohio and West Virginia) were completed and sent to Congress September 5, 1984. These final reports were made publicly available on September 17, 1984 (49 FR 36453). OSM has now completed four additional evaluation reports for Alaska, Illinois, Maryland and Virginia. These final reports were sent to Congress on September 28, 1984, and are now publicly available. As the remaining reports are completed, OSM plans to make them available also.

Dated: October 10, 1984.

Carson W. Culp,

Acting Director, Office of Surface Mining.

[FR Doc. 84–27213 Filed 10–15–84; 8:45 am]
BILLING CODE 4310–05–M

VOL 49, ISS 201 OCT 16 1984 UMI

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-6 (Sub-No. 224X)]

Rail Carriers; Burlington Northern Railroad Co.—Abandonment Exemption—in Jasper County, MO; Exemption

The Burlington Northern Railroad Company (BN) filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments*. The segment of line to be abandoned is between milepost 325.29 near Webb City and milepost 324.57 near Red Plant, in Jasper County, MO a distance of .72 miles.

BN certifies that (1) no local or overhead traffic has moved over the line for at least two years and (2) no formal complaint filed by a user of rail service on the line or a state or local governmental entity acting on behalf of such user regarding cessation of service over the line is either pending with the Commission or has been decided in favor of the complainant within the two-year period.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

The exemption will be effective November 15, 1984, unless stayed pending reconsideration. Petitions to stay the effective date of the exemption must be filed by October 26, 1984 and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by November 5, 1984, with: Office of the Secretary Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Peter M. Lee, 3800 Continental Plaza, 777 Main Street, Ft. Worth, TX 76102.

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio*.

A notice to the parties will be issued if the exemption is conditioned upon environmental or public use conditions.

Decided: October 9, 1984.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 84-27217 Filed 10-15-84; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-6 (Sub-No. 225X)]

Rail Carriers; Burlington Northern Railroad Co.—Discontinuance of Trackage Rights—in St. Louis County, MN; Exemption

Burlington Northern Railroad Company (BN) filed a notice of exemption of its discontinuance of trackage rights under 49 CFR Part 1152 Subpart F—*Exempt Abandonments*. The the line involved is owned by the Duluth, Missabe and Iron Range Railway Company and extends from milepost 0.0 near Sherwood to milepost 4.49 near Buhl, a distance of 4.49 miles in St. Louis County, MN.

BN certified (1) that no local or overhead traffic has moved over the line for at least 2 years, and (2) that no formal complaint filed by a user of rail service on the line (or by a State or local governmental entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or has been decided in favor of the complainant within the 2-year period. The Public Service Commission (or equivalent agency) in Minnesota has been notified in writing at least 10 days to the filing of the notice. See *Exemption of Out of Service Rail Lines*, 366 I.C.C. 885 (1983).

As a condition to use of this exemption, any employees affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

The exemption will be effective on November 15, 1984 (unless stayed pending reconsideration). Petitions to stay the effective date of the exemption must be filed by October 26, 1984, and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by November 5, 1984, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission must be sent to BN's representative: Peter M. Lee, 3800 Continental Plaza, 777 Main Street, Fort Worth, TX 76102.

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio*.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: October 10, 1984.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 84-27218 Filed 10-15-84; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-1 (Sub-No. 138)]

Chicago and North Western Transportation Co.; Abandonment in Fond du Lac and Dodge Counties, WI; Findings

The Commission has issued a certificate authorizing Chicago and North Western Transportation Company to abandon its 34-mile rail line between Fond du Lac (milepost 175.4) and Clyman Jct. (milepost 140.8) in Fond du Lac and Dodge Counties, WI. The abandonment certificate will become effective 30 days after the publication of this notice unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the evelope containing the offer: "Rail Section, AB-OFA." Any offer previously made must be remade within this 10-day period.

Information and procedure regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

James H. Bayne,

Secretary.

[FR Doc. 84-27250 Filed 10-12-84; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Alcan Aluminium Limited, et al.; Proposed Consent Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)-(h), that a proposed final judgment, stipulation, and competitive impact statement have been filed with the United States District Court for the Western District of Kentucky in *United States of America* v. *Alcan Aluminium Limited, et al.*, Civil Action No. C-84-1028-L-A.

The complaint filed by the Department of Justice in this case alleges that the proposed acquisition of certain aluminium assets from the Atlantic Richfield Company ("Arco") by Alcan Aluminium Limited ("Alcan") would violate section 7 of the Clayton Act, 15 U.S.C. 18, because it may substantially lessen competition in the production and sale in the United States of aluminum can body stock. Can body stock is used to make the bottoms and sides of beer and soft drink cans. In addition to Alcan and Arco, the complaint names as a defendant Alcan Aluminum Corporation, an indirect wholly-owned subsidiary of Alcan.

The proposed final judgment would require Arco or its successor to retain a 60 percent interest in Arco's newly-completed aluminium rolling mill designed to produce can stock. Alcan would be permitted to acquire a 40 percent interest in the facility as part of a production joint venture. A separate management company would be created to operate the plant and would be owned 60 percent by Arco and 40 percent by Alcan, with Arco designating a majority of the board of directors. Use of the plant's production capacity would also be on a 60 percent/40 percent basis. Each company is guaranteed the right to initiate and participate in further expansions of the plant's capacity.

The judgment contains a variety of provisions designed to ensure that the joint venture partners remain independent competitors. The joint venture will be strictly limited to the sharing of costs. Each company is solely responsible for determining its own product mix and level of output, and each must independently market its share of the plant's output. The companies are prohibited from exchanging information concerning competitively sensitive subjects such as prices, customers, and marketing plans, and from agreeing on price or output, either directly or through the management company. The companies may not sell to each other more than minimal amount of the plant's production and are restricted in their ability to transfer production rights to each other.

The judgment would be in effect for ten years following its entry. During that period Alcan and the other major aluminum producers would be barred from acquiring Arco's interest in the new rolling mill.

Public comment on the proposed judgment is invited for a period of 60 days following the publication of required public notice. Comments should be addressed to Steven C. Douse, Assistant Chief, General Litigation Section, Antitrust Division, United States Department of Justice, Washington, D.C. 20530. All comments will be filed with the Court and published in the Federal Register.

Joseph H. Widmar,
Director of Operations, Antitrust Division.

United States District Court, Western District of Kentucky, Louisvillie Divsion

United States of America, Plaintiff, v. *Alcan Aluminium Limited, Alcan Aluminum Corporation, and Atlantic Richfield Company,* Defendants. Civil Action No. C–84–1028–L–A; filed: October 5, 1984.

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. The parties consent that a final judgment in the form attached hereto may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16) and without further notice to any party or other proceedings, provided that the plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed final judgment by serving notice of its withdrawl on defendants and filing that notice with the Court.

2. If plaintiff withdraws its consent or if the proposed final judgment is not entered pursuant to this stipulation, this stipulation shall be of no effect whatever and the making of this stipulation shall be without prejudice to any party in this or any other proceeding.

Dated:

For the Plaintiff:

J. Paul McGrath,
Assistant Attorney General.

Mark Leddy,
Deputy Director of Operations

Steven C. Douse,
Attorneys, U.S. Department of Justice.

Angela L. Hughes,
Frank Seales, Jr.,
Richard S. Nicholson,
Attorneys, U.S. Department of Justice, Antitrust Division, Washington, D.C. 20530, (202) 724–6466.

For the Defendant—Alcan Aluminium Limited:

William E. Jackson.

For the Defendant—Alcar. Aluminum Corporation:

Richard W. Pogue.

For the Defendant—Atlantic Richfield Company:

Edward E. Clark.

United States District Court, Western District of Kentucky, Louisvillie Division

United States of America, Plaintiff, v. *Alcan Aluminium Limited, Alcan Aluminum Corporation, and Atlantic Richfield Company,* Defendants. Civil Action No. C–84–1028–L–A; filed: October 5, 1984.

Final Judgment

Plaintiff, United States of America, having filed its complaint herein on October 5, 1984, and the plaintiff and defendants, by their respective attorneys, having consented to the entry of this final judgment without trial or adjudication of any issue of fact or law herein and without this final judgment constituting any evidence against or an admission by any party with respect to any issue of law or fact herein;

Now, therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby

Ordered, Adjudged and Decreed:

I

This Court has jurisdiction of the subject matter of this action and each of the defendants consenting hereto. The complaint states a claim upon which relief may be granted against each defendant under Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18.

II

As used in this final judgment:

A. "Alcan" means the defendants Alcan Aluminium Limited and Alcan Aluminum Corporation, each division, subsidiary, or controlled affiliate of either of them each officer, director, employee, attorney, agent, or other person acting for or on behalf of any of them, and each successor to their interest in the Logan plant, except that the management company shall not be deemed an affiliate of Alcan for the purposes of this final judgment;

B. "Arco" means the defendant Atlantic Richfield Company, each division, subsidiary, or controlled affiliate thereof, each officer, director, employee, attorney, agent, or other person acting for or on behalf of any of them, and each successor to its interest in the Logan plant, except that the management company shall not be deemed an affiliate of Arco for the purposes of this final judgment;

C. "Party to the joint venture" means Alcan or Arco;

D. "Logan plant" means the aluminum rolling mill located in Logan County, Kentucky;

E. "Management company" means the corporation that has been, or will be, formed by Alcan and Arco to operate the Logan plant;

F. "Production center" means that portion of the Logan plant dedicated to one of the following functions: melting and casting, scalp and saw, preheat, hot roll, heavy gauge cold mill, light gauge cold mill, doubler and separator, anneal, coat, slit, level, and pack and ship;

G. "Heavy gauge cold mill production center" means the production center consisting of the existing Wean United cold rolling mill and any other cold rolling mill added to the Logan plant that is designed to be used or is capable of being used economically to produce can stock;

H. "Capital improvement" means any alteration, addition, expansion, replacement, enhancement, or other improvement to one or more of the Logan plant's production centers that constitutes a capital investment within the generally accepted meaning of that term and which is designed or intended to increase production capacity, quality, or efficiency;

I. "Fixed costs" means the costs and expenses incurred in operating the Logan plant listed in exhibit 6 to this final judgment;

J. "Variable costs" means operating costs and expenses other than fixed costs;

K. "Capacity" means the ability of the Logan plant to produce rolled aluminum products, or of an individual production center to perform a distinct function that is part of the production of rolled aluminum products, as measured by maximum tonnage produceable on an annual basis or by total available machine hours on an annual basis, whichever is appropriate for the type of production center involved;

L. To "sell" an interest in the Logan plant or the management company means to sell, lease, or otherwise transfer or dispose of, in any manner, all or any part of that interest;

M. To "acquire" an interest in the Logan plant means to acquire, purchase, lease, or otherwise obtain, in any manner, all or any part of that interest; and

N. "Person" means any natural person, corporation, association, firm, partnership, or other business or legal entity.

III

A. The provisions of this final judgment shall apply to the defendants Alcan and Arco, their respective successors and assigns, the management company, and to all other persons in active concert or participation with any of them who shall have received actual notice of this final judgment by personal service or otherwise.

B. Each defendant shall require as a condition of the sale of its interest in the Logan plant that the person acquiring such interest agree to be bound by the provisions of this final judgment. A copy of the acquiring person's agreement to be bound shall be filed with plaintiff and the Court prior to consummation of the sale.

C. Each defendant shall provide written notice to the plaintiff no later than 30 days subsequent to the effective date of any action whereby the defendant (1) changes its name, (2) liquidates or otherwise ceases operation, (3) declares bankruptcy, or (4) is acquired by or becomes a subsidiary of another firm.

IV

A. Alcan shall not acquire from Arco, and Arco shall not sell to Alcan, any interest in the Logan plant, except in accordance with the terms of this final judgment.

B. Alcan and Arco may enter into a joint venture for the operation of the Logan plant pursuant to the agreements attached as exhibits 1 through 5 to this final judgment, as such agreements may be amended from time to time in conformity with sections IV(B)(16) and (17) of this final judgment, subject to the following limitations:

1. Alcan shall not acquire more than a 40 percent ownership interest in the Logan plant or in any of its individual production centers, except by funding more than 40 percent of a capital improvement as permitted by section IV(B)(2) of this final judgment, and in such event the addition to Alcan's ownership interest shall be in proportion to the percentage of the capital improvement funded by Alcan.

2. Arco shall be given the opportunity to participate in any capital improvement undertaken at the Logan plant by funding up to 60 percent of its cost. If Arco elects not to participate in a proposed capital improvement, or elects to fund less than 60 percent of its total cost, Alcan may fund the remaining cost of the improvement, up to 100 percent. If Alcan elects not to participate in a proposed capital improvement, or elects to fund less than 40 percent of its total cost, Arco may fund the remaining cost of the improvement, up to 100 percent. The ownership interests of Alcan and Arco in the Logan plant and in its individual production centers may be adjusted in proportion to their funding of capital improvements. In no event shall a capital improvement decrease the initial capacity utilization rights to which Arco is entitled under section IV(B)(4) of this final judgment by reason of its initial 60 percent ownership interest in the Logan plant.

3. If within three years of the entry of this final judgment Arco sells its interest in the Logan plant, and if prior to the sale of Arco's interest (a) a capital improvement of the heavy gauge cold mill production center has been undertaken, (i) of which Arco has elected to fund less than 60 percent, or (ii) in which Arco has failed or declined to participate, or (b) a capital improvement has been proposed and the time period available to Arco to decide whether it should participate has not yet expired, then the person acquiring Arco's interest shall have the right, within six months after its acquisition of that interest, to serve notice upon Alcan of its intent to purchase up to 60 percent of such capital improvement. The purchaser shall acquire the interest in the capital improvement eighteen months from the date of the notice or on such other date as may be agreed to by the parties. The purchase price for any portion of a capital improvement acquired pursuant to this provision shall be the amount agreed upon by Alcan and the purchaser of Arco's interest; however, failing such agreement, the purchase price shall be an amount which in constant dollars would be equal to the purchaser's pro rata share of (a) the costs of the studies relating to the capital improvement and (b) the capital cost of such capital improvement, including start-up costs, adjusted to reflect imputed depreciation calculated on a straight-line basis over a period of 20 years.

4. Each party to the joint venture shall have the right to use the capacity of the Logan plant in proportion to its ownership interest. Capacity utilization rights shall be determined individually for each production center in the plant. Capacity utilization rights for each production center shall be in the same proportion as the parties' ownership interests in the plant, unless the parties' relative interests have been altered by a capital improvement, in which case the parties' capacity utilization rights for the improved production centers shall be adjusted accordingly.

5. Each party to the joint venture shall contribute to the fixed costs of operating each production center of the Logan plant in proportion to its ownership interest in that individual production center. Other fixed costs relating to the Logan plant shall be borne in proportion to the parties' equity interests in the plant as a whole. A party's failure to utilize all of the capacity of any

production center to which it is entitled shall not reduce its obligation to pay its full share of fixed costs attributable to that production center. This obligation must be discharged at least annually. Neither party to the joint venture shall reimburse the other directly or indirectly for any of its fixed costs, except as currently provided for in section 7.2(b) of the Logan Joint Venture Agreement attached as exhibit 1 to this final judgment.

6. Each party to the joint venture may utilize any unused portion of the other party's capacity by assuming the variable costs, but not the fixed costs, attributable to the added production.

7. Within the constraints imposed by its share of the capacity of the various production centers at the Logan plant, each party to the joint venture shall independently of the other party determine the character, specifications and level of output of the products made for it at the Logan plant.

8. Each party to the joint venture shall independently set the terms and conditions of sale of the products made for it at the Logan plant. Each party shall maintain a separate marketing organization and shall undertake independently to sell or use internally its share of the output of the Logan plant. Except for technical support and shipping services furnished by the management company, each party to the joint venture shall be solely responsible for its own sales, customer service, customer relations, credit, billing, and collection functions.

9. Alcan and Arco shall not sell or transfer to each other or for each other's account any can stock, excepting such limited quantities (not to exceed one million pounds annually unless the Department of Justice agrees otherwise) as may be necessary to round out an order or to respond to temporary shortages or other emergencies.

10. The Logan plant shall be operated by a management company in which Alcan shall have no more than a 40 percent ownership interest. The management company shall administer the joint venture in accordance with the terms of this final judgment. It shall be solely responsible for the physical operation of the Logan plant, including but not limited to acquiring necessary supplies and services, hiring employees and independent contractors, scheduling production, computing costs and production rights, and carrying out capital improvements.

11. The management company shall be controlled by a board of directors, a majority of which shall be designated by Arco. Alcan and Arco shall each designate one independent director who shall not be a present or past officer, director, or employee of Alcan or Arco. Neither Alcan nor Arco shall offer a position as an officer, director, or employee of either company to an independent director of the management company during the director's term of service.

12. A quorum of the management company board of directors shall consist of at least three directors, one of whom shall be an independent director and a majority of whom shall be directors designated by Arco. A majority vote of the directors present at a meeting at which there is a quorum shall be sufficient to decide all matters coming before it, except as otherwise provided by this final judgment or the existing terms of the Logan Aluminum Inc. By-Laws or Certificate of incorporation attached as exhibits 4 and 5 to this final judgment. Additional exceptions may not be adopted without approval of the Department of Justice.

13. The chief executive officer of the management company shall be appointed by a majority of the directors of the management company designated by both Alcan and Arco and may be removed by a majority vote of the directors designated by either Alcan or Arco.

14. The management company board of directors may operate through committees, provided that at least one independent director shall be a member of each such committee, and provided further that the committees may be dissolved by a majority vote of the directors designated by either Alcan or Arco.

15. No officer or employee of the management company may be simultaneously an officer, director, or employee of Alcan or Arco.

16. Any amendment to the agreements establishing the joint venture, attached as exhibits 1 through 5 to this final judgment, shall be filed with the Department of Justice at least 30 days prior to its effective date.

17. The terms of this final judgment shall prevail over any inconsistent provisions in the agreements establishing the joint venture, attached as exhibits 1 through 5 to this final judgment, or in any amendments or supplements to those agreements that may hereafter be made by the parties to the joint venture.

18. Forthwith upon the formation of the management company, Alcan and Arco shall cause it it execute a stipulation in the form annexed hereto as exhibit 7 pursuant to which the management company agrees and consents to be bound by the terms and provisions of this final judgment.

V

A. Alcan and Arco shall not agree or communicate with each other, directly or indirectly, regarding each other's future production schedules for specific rolled aluminum products, present or future prices or other terms or conditions of sale, volume of shipments, marketing plans, sales forecasts, or sales or proposed sales to specific customers of aluminum products; provided, however, that nothing in this provision shall prevent Alcan and Arco from communicating with each other concerning bona fide purchase and sale transactions between them or from communicating information that is or has been generally announced or generally published.

B. Neither party to the joint venture shall communicate with the management company or any of its officers or employees regarding the other party's future production schedule for specific rolled aluminum products, present or future prices or other terms or conditions of sale, volume of shipments, marketing plans, sales forecasts, or sales or proposed sales to specific customers of aluminum products; provided, however, that nothing in this provision shall prevent Alcan and Arco from communicating with the management company concerning bona fide purchase and sale transactions between them or from communicating information that is or has been generally announced or generally published.

VI

A. Arco shall not sell part or all of its interest in the Logan plant or the management company to Alcan.

B. Neither Alcan nor Arco shall sell part or all of its interest in the Logan plant or the management company to Aluminum Company of America, Reynolds Metals Company, or Kaiser Aluminum and Chemical Corporation, or any of their respective parents, subsidiaries, affiliates, successors, or assigns.

C. Subject to the prohibitions against sale to the persons identified in sections VI (A) and (B), Arco shall not sell less than all of its interest in the Logan plant or the management company to any person without the prior written approval of the Department of Justice or the Court. At least 45 days in advance of any such sale, the selling party shall notify the Department of Justice of the proposed sale, identify the proposed purchaser, describe the terms of the transaction, and promptly furnish such additional data as the Department may request. Within 30 days of its receipt of

such notice, the Department of Justice shall notify the selling party if it objects to the proposed sale. If the Department does not object, the sale may be consummated. If the Department objects, the sale may not be consummated unless approved by the Court.

D. The seller of an interest in the Logan plant or management company that is not covered by sections VI (A) through (C) shall comply with the premerger notification and waiting period provisions of 15 U.S.C. § 18a, if applicable to such sale, or, if not, it shall give notice and, on request, additional information, as provided in section VI(C). In the event that the Department of Justice files suit in opposition to the sale of an interest in the Logan plant or management company, the selling party shall not object to such suit being filed in the district in which this final judgment is entered.

VII

A. Within 30 days of the date of entry of this final judgment, and annually thereafter, Alcan Aluminum Limited and Atlantic Richfield Company shall provide a copy of the final judgment (excluding exhibits) to each of their officers and directors, and to each of Alcan's and Arco's North American managerial and marketing personnel for aluminum rolling mill products, and the management company shall provide a copy of the final judgment (excluding exhibits) plus the stipulation referred to in section IV(B)(18) to its officers, directors, and managerial or supervisory employees. Persons appointed to any of these positions more than 30 days after entry of the final judgment shall be provided a copy of the judgment within 30 days of their appointment.

B. Each person who receives a copy of the final judgment pursuant to section VII(A) shall sign an acknowledgment stating that he or she has read and understands the final judgment and agrees to abide by its requirements.

C. Within 60 days of the date of entry of this final judgment, and annually thereafter, Alcan, Arco and the management company shall notify the Department of Justice in writing that the requirements of sections VII(A) and (B) have been complied with and shall provide the Department with a list of the persons to whom a copy of the final judgment was provided and who signed the acknowledgment specified in section VII(B).

VIII

A. For the purposes of determining or securing compliance with this final judgment, and subject to any legally recognized privilege, from time to time:

1. Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to a defendant or the management company made to its principal office, be permitted:

a. access during office hours of such defendant or the management company to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of such defendant or the management company, who may have counsel present., relating to any matters contained in this final judgment;

b. access during business hours to the Logan plant; and

c. subject to the reasonable convenience of such defendant or management company and without restraint or interference from it, to interview officers, employees, and agents of such defendant or the management company, who may have counsel present, regarding any such matters.

2. Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division made to a defendant's or the management company's principal office, such defendant or the management company shall submit such written reports, under oath if requested, with respect to any of the matters contained in this final judgment as may be requested.

B. Minutes shall be kept of all meetings of the management company stockholders, board of directors, and committees designated by the management company board of directors, and these shall be provided to the Department of Justice on request.

C. Alcan, Arco, or the management company shall, upon the written request of the Department of Justice, submit to the Department of Justice such further information as it may request relating to the operation of the joint venture or the Logan plant including but not limited to the amount of each product made for each party to the joint venture at the Logan plant., the identity of the customers to which each party sold can stock, the amount sold to each and prices and terms of sale, a description of every capital improvement approved or proposed to the management company, and copies of annual reports or year-end financial reports prepared by the management company.

D. No information or documents obtained by the means provided in this section VIII shall be divulged to any person other than a duly authorized representative of the Executive Branch of the United States except in the course of legal proceedings to which the United States is a party (including grand jury proceedings), or for the purpose of securing compliance with this final judgment, or as otherwise required by law.

E. If at the time information or documents are furnished by a defendant or the management company to the Department of Justice pursuant to this section VIII such defendant or the management company respresents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and said defendant or the management company marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure." then ten days notice shall be given by the Department of Justice to such defendant or the management company prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which that defendant or the management company is not a party.

IX

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this final judgment or the management company to apply to this Court at any time for such further orders or directions as may be necessary or appropriate for the construction or carrying out of this final judgment, for the modification of any of its provisions, for the enforcement of compliance with it, and for the punishment of any violation of it.

X

This final judgment will expire on the tenth anniversary of its date of entry.

XI

Entry of this judgment is in the public interest.

Dated:

United States District Judge.

Exhibit 1 to Final Judgment

Logan Joint Venture Agreement By and Between Arco Logan Inc. and Alcan Aluminum Corporation

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Exhibits

Exhibit A—Logan Plant Real Property Description
Exhibit B—Instrument of Assumption.

This Logan Joint Venture Agreement (this "Agreement"), dated ————, 1984, between Arco Logan Inc., a Delaware corporation ("Arco"), and Alcan Aluminum Corporation, a New York corporation ("Alcancorp"); Arco and Alcancorp sometimes hereinafter are referred to collectively as "Associates" and individually as an "Associate."

Witnesseth,

Whereas, Arco and Alcancorp own undivided 60% and 40% interests, respectively, in an aluminum rolling mill facility in Logan County, Kentucky;

Whereas, Arco and Alcancorp desire to enter into a joint venture for the purpose of producing various aluminum products for sale by each of them individually;

Whereas, during the term of the Joint Venture (as hereinafter defined) each Associate will make available to the Joint Venture its interest in the Plant (as hereinafter defined), together with certain tangible and intangible personal property and assets owned by each of them to be utilized by and in conjunction with the operation of the Plant; and

Whereas, the Associates from time to time will contribute the working capital and certain raw materials required to operate the Plant;

Now, Therefore, the parties hereto agree as follows:

I. Definitions

As used in this Agreement, the following terms shall have the following meanings when used with initial capital letters:

1.1 "Affiliate" means, with respect to any Person, any other Person directly or indirectly controlling, controlled by or under common control with such Person; provided, however, that the Joint Venture and the Management Company shall be deemed not to be Affiliates of either Associate or its Affiliates. For purposes of this definition 'control' (including 'controlling,' 'controlled by' and 'under common control with') shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities or by contract or otherwise.

1.2 "Alcancorp Intellectual Property Rights" means all of the assignable or licensable right, title and interest of Alcancorp or any of its Affiliates on the date hereof in and to any Intellectual Property which has been used commercially by Alcancorp to produce:

(i) The following products:

—Beverage can body, end and tab stock
—Building sheet (excluding proprietary paint coating technology and anodic coated aluminum alloy building products)
—Foil (excluding proprietary 8006 and 8007 alloy)
—Finstock (excluding proprietary 8006 and 8007 alloy)
—NHT distributor sheet or

(ii) Any other products which Arco produces at the Plant.

Including Intellectual Property which relates to the processes and apparatus used to produce such products.

1.3 "Annual Capital Costs" means costs and expenses incurred by the Management Company on behalf of the Joint Venture described as such in the Cost Sharing Procedure.

1.4 "Arco Intellectual Property Rights" means all of the assignable or licensable right, title and interest of Arco or any of its Affiliates on the date hereof in and to any Intellectual Property which has been used commercially by Arco or ARCO Metals Company, a division of Atlantic Richfield Company, to produce:

(i) The following products:

—Beverage can body, end and tab stock
—Building sheet (excluding proprietary (A) polymer clad aluminum alloy sheet, (B) painted aluminum alloy building products and (C) anodic coated aluminum alloy building products)
—Foil
—Finstock
—NHT distributor sheet or

(ii) Any other products which Alcancorp produces at the Plant.

Including Intellectual Property which relates to the processes and apparatus used to produce such products.

1.5 "Associate" means each of Alcancorp and Arco as long as it is the owner of a Venture Interest and continues to be subject to the obligations of this Agreement in respect of such Venture Interest, and any Person who succeeds in whole or in part to such Venture Interest and obligations in accordance with the provisions of Article X.

1.6 "Capital Improvement" means any alteration, addition, expansion, replacement, enhancement or other improvement which is determined by the Management Company not to be necessary or desirable to maintain and operate the Plant at its then current capacity or at acceptable levels of quality or efficiency or to comply with regulatory requirements.

1.7 "Cash Call" means each sum payable by an Associate to the Management Company pursuant to Article V of the Management Agreement.

1.8 "Cost Sharing Procedure" means the procedure attached as Exhibit B to the Management Agreement.

1.9 "Default" means any General Default or Material Default.

1.10 "Encumber" means to create or suffer or permit to exist any Encumbrance.

1.11 "Encumbrance" means any license, right of way, easement, limitation, condition, reservation, restriction, right or opinion, mortgage, pledge, lien, charge, conditional sale or other title retention agreement or arrangement, encumbrance, lease, sublease, security interest or trust interest.

1.12 "Fiscal Year" means each calendar year, except that the first Fiscal Year of the Joint Venture shall be the period commencing on the date hereof and ending December 31, 1984.

1.13 "Fixed Costs" means the costs and expenses incurred by the Management Company on behalf of the Joint Venture described as such in the Cost Sharing Procedure.

1.14 "Force Majeure" means an act of God, strike or lockout or other labor dispute, act of public enemy, war, declared or undeclared, blockade, revolution, riot, insurrection, civil commotion, lightning, fire, storm, flood, earthquake, explosion, governmental restraint, embargo, inability to obtain or delay in obtaining equipment or transport, or material or supplies, from customary sources, inability to obtain or delay in obtaining governmental approvals, permits, licenses or allocations and any other cause whether of the kind specifically enumerated above or otherwise which is not reasonably within the control of the party claiming Force Majeure.The inability of any Person to obtain funds, or the unavailability of funds for any reason whatsoever, shall not be considered an event of Force Majeure.

1.15 "General Default" means, with respect to any Associate, the failure of such Associate to perform, observe or fullfill any covenant, agreement, condition or other obligation required to be performed, observed or fulfilled hereunder or under the Management Agreement which failure shall continue unremedied by such Associate for a period of 90 days from the date of notice of such failure given to such Associate by the Management Company or the other Associate, as the case may be.

1.16 "Improvements" means assignable or licensable inventions, discoveries, techniques, works, processes and modifications (whether or not patentable) made or acquired after the date hereof relating to any Intellectual Property.

1.17 "Initial Share", when referred to with respect to an Associate, means the percentage interest of such Associate at the date of this Agreement in the assets, property, costs or other subject matter referred to, which is 60% in the case of Arco and 40% in the case of Alcancorp.

1.1818 "Intellectual Property" means all patents and patent applications, all copyrights, registrations and applications for copyright registrations and all know-how, technical data, trades secrets and other information, including, but not limited to, designs, drawings, specifications for products, material and equipment, process and manufacturing information, quality control information, performance data, plant service information and similar information.

1.19 "Joint Venture" means the joint venture formed pursuant to Section 3.1.

1.20 "Joint Venture Agreement" and "Logan Joint Venture Agreement" mean this Agreement.

1.21 "Joint Venture Assets" has the meaning set forth in Section 3.3.

1.22 "Management Agreement" and "Logan Management Agreement" mean the Logan Management Agreement dated the date hereof by and among the Associates and the Management Company and the Exhibits thereto and any other agreement entered into in substitution therefor providing for the management of the activities of the Joint Venture.

1.23 "Management Company" and "Logan Management Company" mean Logan Aluminum Inc., a Delaware corporation, which is a party to the Management Agreement.

1.24 "Management Company Approval" means, with respect to any action, approval given by the Board of Directors of the Management Company (or by a Committee thereof pursuant to authority delegated by the Board of Directors) by resolution adopted by required vote or consent or approval given by any officer of the Management Company pursuant to authority delegated by its Board of Directors.

1.25 "Management Company Intellectual Property Rights" means all of teh right, title and interest of the Management Company in and to any Intellectual Property of Improvements developed during the Term by the Management Company, or acquired during the Term by the Management Company from any Person other than either Associate or its Affiliates.

1.26 "Material Default" means, with respect to any Associate:

(a) The failure of such Associate:

(i) To make any payment required to be made by such Associate hereunder or under the Management Agreement (including any Cash Call) on the date such payment is due, which failure shall continue unremedied by such Associate for a period of 15 days,

(ii) to comply with any material provision of Article X, or

(iii) To perform, observe or fulfill any other covenant, agreement, condition or other obligation required to be performed, observed or fulfilled by such Associate under this Agreement or the Management Agreement, if such failure results or could reasonably be anticipated to result in any material loss, cost, damage or expense (including, without limitation, loss of any material right or benefit under this Agreement of the Management Agreement) to the other Associate, and either (A) is willful, provided that each Associate and each Person through which an Associate may act shall be deemed to have knowledge of the terms of this Agreement and the Management Agreement, or (B) is not willful and could be cured by the defaulting Associate with such effort and at such cost as shall not be unreasonable in relation to the loss,

cost, damage or expense suffered or reasonably anticipated to be suffered by the other Associate; (b)

(i) The institution by such Associate or any parent or controlling Person thereof of proceedings for relief as a debtor under the laws of the United States, Canada or any state or province thereof, as now consititued or hereafter in effect, or under any state or other law for the relief of debtors,

(i) The institution by such Associate or any parent or controlling Person thereof of proceedings for relief as a debtor under the laws of the United States, Canada or any state or province thereof, as now constituted or hereafter in effect, or under any state or other law for the relief of debtors,

(ii) The adjudication of such Associate any any parent or contolling Person thereof as bankrupt or insolvent under insolvency provisions of any such law,

(iii) The making of any assignment for the benefit of creditors by such Associate or a Controlling Person thereof, or

(iv) The appointment of a receiver or trustee for the business or properties of such Associate or a controlling Person thereof, which appointment shall not be rescinded or discharged within 60 days; and

(c) The withdrawal of such Associate from the Joint Venture in violation of this Agreement.

1.27 "Operations" means the maintenance and operation of the Plant and other undertakings, activities and operations engaged in by the Associates and the Management Company in accordance with the Agreement and the Management Agreement.

1.28 "Person" means an individual, firm, trust, partnership, joint venture, association, corporation, unincorporated organization or government (or any department or agency thereof).

1.29 "Plant" means the real property (including, without limitation, the real property described in Exhibit A and all buildings, structures and improvements now or hearafter located thereon and all appurtenances thereto), fixtures and personal property (other than stores and supplies) constituting the aluminum rolling mill situated in Logan County, Kentucky, undivided 40% and 60% interests in which are owned by Alcancorp and Arco, respectively, at the date hereof.

1.30 "Production Center" means any one of those primary areas identified by function in the Plant as listed in the Cost Sharing Procedure and sdch additional configurations or such reconfigurations of such areas as may be determined by the Management Company and agreed upon by the Associates from time to time.

1.31 "Scheduled Output" means the production output of each Production Center with respect to each Associate, as scheduled by the Management Company, in any given period of time.

1.32 "Share," when referred to with respect to an Associate, means the percentage interest of such Associate in the assets, property, costs or other subject matter referred to, provided that the Shares of the respective Associates are subject to change in accordance with the terms of this Agreement.

1.33 "Stockholders Agreement" means the Logan Management Company Stockholders Agreement dated the date hereof by and among Alcan Aluminum Limited, Alcancorp, Atlantic Richfield Company and Arco.

1.34 "Term" has the meaning set forth in Article II.

1.35 "Unpaid Cash Call" means any Cash Call which is unpaid for a period of 15 days following the due date of such Cash Call.

1.36 "Variable Costs" means the costs and expenses incurred by the Management Company on behalf of the Joint Venture described as such in the Cost Sharing Procedure.

1.37 "Venture Interest," when used with respect to an Associate, means:

(i) Its rights and interests in and to the Joint Venture Assets; and

(ii) Its rights and obligations under and interests in this Agreement and in the Management Agreement and the Stockholders Agreement.

1.38 "Venture Product," when used generally, means any product produced or processed at the Plant by any Production Center, individually or in conjunction with any other Production Center or plant from time to time during the Term and, when used with respect to any Associate, means any such product produced or to be produced as determined by it in its discretion subject to implementation by the Management Company.

II. Term

This Agreement shall become binding upon its execution by each of the parties hereto and shall continue in force for so long as the Plant is either operated by or on behalf of the Associates for the production of Venture Products or is maintained by or on behalf of the Associates in an idled state, unless earlier terminated pursuant to the provisions of this Agreement (the "Term").

III. The Joint Venture

3.1 *Undertaking.* Upon the terms and subject to the conditions set forth in this Agreement, the Associates hereby enter into the Joint Venture for the limited purposes of (i) maintaining and operating the Plant, (ii) causing the Venture Products to be produced by the Management Company at the Plant for each Associate in quantities and to specifications to be determined by such Associate in its sole discretion (subject to the production capabilities of the Plant) and in accordance with the provisions hereof and production schedules established from time to time by the Management Company and (iii) conducting the ancillary activities referred to herein and in the Management Agreement. The Joint Venture shall be conducted only for the purposes expressly set forth herein and its activities shall not extend beyond such purposes.

3.2 *Scheduled Output.* Metal delivered to the Plant shall be accounted for as the separate property of the Associate by or on behalf of which such metal is supplied, regardless of the form, state or condition in which it may exist from time to time (whether or not separately identifiable from time to time), until the Venture Product incorporating such metal is taken by such Associate as hereinafter provided. Each Associate shall own and shall have the right to take in kind and separately to dispose of, and shall take, its Scheduled Output as hereinafter provided, except to the extent limited by reason of Article XI.

3.3 *Joint Venture Assets.* The property and assets which shall be made available in accordance with the provisions of this Agreement and the Management Agreement for the purposes of the Joint Venture include: (a) the real and personal property and fixtures constituting the Plant, (b) any Capital Improvement and the capital provided to fund it, (c) the non-exclusive licenses granted to the Management Company in accordance with Article VII of the Management Agreement, to use Alcancorp Intellectual Property Rights and Arco Intellectual Property Rights in the conduct of the Joint Venture during the Term, (d) cash advanced for the payment of Fixed Costs, Variable Costs and Annual Capital Costs and (e) any other property or assets, whether tangible or intangible in nature, made available by either Associate to the Joint Venture from time to time in accordance with this Agreement. Such property and assets, together with any other property or assets, whether tangible or intangible in nature (including Intellectual Property and Improvements), acquired on behalf of the Associates by the Management Company, are hereinafter sometimes

referred to collectively as "Joint Venture Assets."

3.4 *Limitation of Liability.*

(a) Nothing contained in this Agreement shall be construed to establish any partnership, agency or representative relationship between the Associates or to create a trust or commercial or other partnership or any corporate entity for any purpose whatsoever. The obligations of the Associates under this Agreement shall be several and neither joint nor joint and several. Except as otherwise expressly provided herein or in the Stockholders Agreement, neither Associate shall make any expenditure or commitment or undertake any other obligation by or on behalf of the other Associate or the Joint Venture without the express written consent of such other Associate or, in the case of the Joint Venture, the Management Company.

(b) Neither Associate nor any of its Affiliates shall, by virtue of this Agreement or any other agreement or instrument contemplated hereby or executed in connection herewith, be foreclosed or limited, in any manner, from the production, manufacture, purchase, sale, distribution or use of any product that it may elect to produce, manufacture, purchase, sell, distribute or use pursuant to its individual business practices.

3.5 *Cross Indemnification.* Each Associate (for purposes of this Section 3.5, the "indemnitor") shall indemnify and hold harmless the other Associate (for purposes of this Section 3.5, the "indemnitee") and the direct or indirect stockholders and the directors, officers, partners, employees, agents and representatives of the indemnitee from and against any costs, losses, claims, damages and liabilities arising out of any act of the indemnitor or any of its direct or indirect stockholders, directos, officers, partners, employees, agents or representatives undertaken so as to bind the indemnitee, or which has the effect of making the indemnitee liable without its consent, or arising out of any assumption of any obligation or responsibility by the indemnitor or any of its directors, officers, partners, employees, agents or representatives undertaken so as to bind the indemnitee or which has the effect of making the indemnitee liable without its consent (including, without limitation, sales or other acts entirely on its part which may give rise to product liability claims); provided, however, that this section shall have no application with respect to any act done or any undertaking by the Management Company, or on its behalf, pursuant to the Management Agreement or to payment by either Associate or any Unpaid Cash Call or interest with respect thereto owing by the other Associate pursuant to Article XI.

3.6 *Obligations of Associates.* Each Associate covenants and agrees:

(a) To perform its obligations and commitments under the Management Agreement and all other agreements to which it is a party relating to the Joint Venture;

(b) Not to do any act or thing, or fail or omit to do any act or thing, it is obligated to do or refrain from doing which act or omission would cause it or the other Associate to be in breach of or in default under this Agreement, the Management Agreement or any other agreement to which it is a party relating to the Joint Venture; and

(c) To cause the Management Company to carry out its obligations and the obligations of the Joint Venture under the Revised Acquisition Agreement dated as of October 1, 1984 by and between Alcan Aluminium Limited and Atlantic Richfield Company and all agreements ancillary thereto.

IV. Venture Interests

4.1 *Distribution of Shares.* The Venture Interests of the Associates shall at all times aggregate 100% of the interests in the Joint Venture. The Venture Interest of an Associate can be changed only by adjustment of its Share of any Joint Venture Asset or transfer of an interest in such Joint Venture Asset pursuant to Article X.

4.2 *Partition.* (a) No Associate or Person claiming through or under any Associate shall,

(i) Partition or seek to partition, whether by judicial or administrative process or otherwise, any property, assets, rights or interests (including, without limitation, the Plant and any future Capital Improvement thereto, whether comprised of or constituting real or personal property) acquired or held by the Associates as tenants-in-common under or subject to this Agreement, all of which rights of partition (whether now or hereafter existing or created, by statute, common law or otherwise) are hereby irrevocably waived and released by each Associate on behalf of itself and its successors and assigns in and to such property, assets, rights and interests; or

(ii) Waive, release, surrender or forfeit, or permit to be waived, released, surrendered or forfeited, the whole or any part of the Venture Interest of any Associate.

(b) Each Associate acknowledges and agrees that the continued ownership, use and operation of the property, assets, rights and interests hereinabove referred to (and in particular the Plant and all future Capital Improvements thereto) as a single, integrated facility is essential to the Associates and to the realization of the benefits and value thereof, and that the mutual covenant, waiver and release set forth in paragraph (a)(i) are essential to the maintenance and preservation of the use and operation of such property, assets, rights and interests as a single, integrated facility. Notwithstanding anything in this Agreement to the contrary, such mutual covenant, waiver and release shall survive for a period of one year after the expiration of the Term; provided, however, that such mutual covenant, waiver and release shall thereafter survive and continue to bind and be enforceable for an additional period of 3 years against an Associate in Material Default resulting in dissolution pursuant to Section 13.1 (b) or (c).

4.3 *Insurance Proceeds; Condemnation Awards; Sale or Other Proceeds.* The proceeds of any policy of insurance or award in respect of condemnation, or proceeds of any sale or other disposition of any property or assets, recovered by the Management Company on behalf of the Joint Venture shall be collected and applied by the Management Company as provided in Section 6.2 of the Management Agreement.

V. Operating and Capital Costs

Fixed Costs, Variable Costs, Annual Capital Costs and costs of Capital Improvements shall be allocated to each Associate as provided in the Management Agreement and the Cost Sharing Procedure.

VI. Management and Operations

6.1 *Management Agreement.* The Associates each have entered into the Management Agreement with the Management Company providing for the management, operation and administration of the affairs of the Joint Venture. The Joint Venture shall at all times be carried on and the Plant shall at all times be operated on behalf of the Assocciates by and through the Management Company in accordance with the Management Agreement.

6.2 *Conduct of Management Activities.* The Joint Venture shall at all times be carried on and the Plant shall at all times be operated in accordance with good operating and business practices.

6.3 *Utilization of Production Capacity.* Each Associate's required production will be scheduled in accordance with the Management

Agreement and the Cost Sharing Procedure in such a manner as to ensure each Associate full and fair access to the production capacity of each Production Center in proportion to its Share of such Production Center. Production capacities and the rights of the Associates with respect to the utilization thereof will be determined for each of the Production Centers as provided in the Management Agreement and the Cost Sharing Procedure.

6.4 *Metal Supplies.* Each Associate shall provide to the Management Company the metal required to meet its scheduled production. Each Associate shall have the right to supply sheet ingot, scrap, T-ingot and sow from such sources as it may have available; provided, however, that such metal shall be supplied in such quantities, form and specifications as are compatible with the Plant and in accordance with requirements determined by the Management Company.

6.5 *Sales and Customer Relationships.* Sales, customer relationships and service functions (other than operational and technical service functions conducted by the Management Company) and related billing, credit and collection matters will be the independent and exclusive responsibilty of each Associate with respect to its customers. In no event shall either Associate share or reveal to the other Associate (including, without limitation, such Associate's employees) information regarding the other's future production schedules for specific rolled aluminum products, present or future prices or other terms or conditions of sale, volume of shipments, marketing plans, sales forecasts or sales or proposed sales to specific customers of aluminum products; provided, however, that nothing in this provision shall prevent either Associate from communicating with the other Associate concering bonafide purchase and sale transactions between them or from communicating information that is or has been generally announced or generally published.

VII. Capital Improvements

7.1 *Proposal.* Capital Improvements may be proposed by either Associate or the Manager from time to time and shall be undertaken as provided in the Management Agreement. No Capital Improvement shall be undertaken unless the Associates, or either of them, shall have agreed to fund the entire cost thereof. The Share of each Associate in any Capital Improvement shall be proportionate to the percentage of the costs thereof borne by it. Nothing herein shall be interpreted to decrease either Associate's Initial Share of the initial production capacity of any Production Center or the entitlement of either Associate to machine hours or tonnage, as the case may be, from any Production Center prior to any such Capital Improvement.

7.2 *Certain Capital Improvements.* (a) The Associates recognize that (i) their independent economic and market circumstances may result in one of the Associates desiring to make substantial Capital Improvements at a time or times when the other Associate does not desire to participate and (ii) certain Capital Improvements by one Associate would either (A) preempt the ability of the other Associate to lutilize fully its Initial Share of the ultimate production capacity of one or more Production Centers by means of a subsequent Capital Improvement or (B) take advantage of existing Plant infrastructure such that a subsequent similar Capital Improvement would be substantially more expensive in constant dollars (dollars adjusted to eliminate any inflation or deflation factor).

(b) If (i) either Associate funds a Capital Improvement in a proportion which exceeds the Initial Share of such Associate (the "Expanding Associate") and (ii) the existence of such Capital Improvement would preempt the ability of the other Associate (the "Non-participating Associate") to utilize fully its Initial Share of the ultimate production capacity of any Production Center, then, notwithstanding any provisions of this Agreement to the contrary, (x) if the preemption problem would be resolved by a further Capital Improvement which is commercially practicable (including, without limitation, from the cost, physical or technical standpoint but without regard to market considerations) in which the Non-participating Associate has a Share greater than its Initial Share, the Non-participating Associate shall be permitted to propose and to fund (including with respect to the initial studies) such further Capital Improvement to the extent necessary to result in the Non-participating Associate having the Share of such further Capital Improvement necessary to resolve the preemption problem and (y) if the preemption problem cannot be resolved by a further Capital Improvement which is commercially practicable (as such term is used above), the Non-participating Associate, at any time, may acquire from the Expanding Associate an interest in the preempting Capital Improvement up to that interest which will result in the Share of the Non-participating Associate therein being equal to its Initial Share upon 24 months' notice (which, when given, shall be irrevocable) to the Expanding Associate and the payment by the Non-participating Associate to the Expanding Associate, at the end of the notice period, of cash in an amount which in constant dollars would be equal to the sum of (A) a proportionate part of the costs of the studies relating to the preempting Capital Improvement, (B) a proportionate part of the capital cost of such Capital Improvement, excluding start-up costs, adjusted to reflect imputed depreciation calculated on a straight-line basis over a period of 20 years and (C) the Expanding Associate's Share of the Fixed Costs of operating the Capital Improvement during its first six months of operation.

(c) If (i) either Associate funds a Capital Improvement in a proportion which exceeds the Initial Share of such Associate (the "Expanding Associate"), (ii) such Capital Improvement would take advantage of existing Plant infrastructure such that a subsequent Capital Improvement which is intended to perform a substantialy similar function (taking into account advances in technology) is more than 25% more expensive in constant dollars, and (iii) the other Associate (the "Non-participating Associate"), at any time, proposes a subsequent substantially similar Capital Improvement, then the Expanding Associate shall pay (in addition to any amounts required hereunder with respect to its Share of such subsequent Capital Improvement) to the Non-participating Associate at the time of the completion of such subsequent Capital Improvement an amount which will constitute equitable compensation to the Non-participating Associate for the increased cost of such subsequent Capital Improvement over the cost of such initial Capital Improvement due to the use of existing Plant infrastructure in connection with such initial Capital Improvement.

7.3 *Management Company.* Pursuant to the Management Agreement, the Management Company, on behalf of the Associates, shall carry out, conduct and administer any Capital Improvement in a manner consistent with the most efficient continuation of and the least possible interference with the operation of the existing facilities; provided, however, that should the Management Company determine at any time before construction is commenced that the proposed Capital Improvement would unduly interfere with the then existing Plant or the operation thereof, or subject the Joint Venture or either Associate to

undue risk of loss, damage or liability, it shall so notify the Associates, which shall confer to determine by mutual agreement reasonable terms and conditions for proceeding with such Capital Improvement. The Associates shall execute and deliver such documents and agreements as may be necessary or appropriate to authorize and permit the Management Company to effectuate such Capital Improvement.

VIII. Intellectual Property Rights

As more fully set forth in the Management Agreement:

(a) Alcancorp shall grant to the Management Company on behalf of the Joint Venture irrevocable, royalty-free, non-exclusive and non-assignable licenses to use, during the Term, Alcancorp Intellectural Property Rights; and

(b) Arco shall grant to the Management Company on behalf of the Joint Venture irrevocable, royalty-free, non-exclusive and non-assignable licenses to use, during the Term, Arco Intellectual Property Rights.

IX. Tax Election

The Associates contemplate that the Joint Venture will elect to be excluded from all provisions of Subchapter K of the Internal Revenue Code of 1954 for all taxable years for which the Joint Venture is qualified to make such election. The Associates shall perform all reasonable acts which may be necessary to accomplish this objective and sign all statements necessary to make such election, and hereby authorize the Management Company to file all returns and statements in the name of and on behalf of the Joint Venture necessary to make such election effective. To effect such election, each Associate states that the income derived by such Associate from the Joint Venture can be adequately determined without the computation of partnership taxable income.

X. Transfers, Assignments and Encumbrances

10.1 *Prohibition of Transfers, Assignments and Encumbrances.* Except as otherwise provided in this Article X, neither Associate may sell, transfer, convey, assign or otherwise dispose of or Encumber the whole or any part of its Venture Interest, or merge or consolidate with any other Person, without the consent of the other Associate. Except as provided in the Management Agreement, neither Associate may sell, transfer, convey, assign or otherwise dispose of or Encumber the whole or any part of its interest in any Joint Venture Asset except in conjunction with a sale, transfer, conveyance, assignment or other disposition of its Venture Interest in accordance with this Article X.

10.2 *Transfers to Affiliates.* At any time during the Term, either Associate, if such Associate is not then in Material Default, or if any such Material Default is cured at or before the consummation of the transaction, may sell, transfer, convey, assign or otherwise dispose of the whole, but unless the other Associate shall otherwise consent, not a part, of its Venture Interest to an Affiliate which is a corporation organized under the laws of the United States of America, any State thereof or the District of Columbia; provided, however, that the transferee delivers to the Persons entitled thereto the instrument of assumption and the legal opinion provided for in Section 10.5(a). Notwithstanding the consummation of such transfer, the transferor under this Section 10.2 shall be jointly and severally liable withthe transferee for the performance of the obligations of the transferee under this Agreement, the Management Agreement and the Stockholders Agreement unless the transferor has been released therefrom as provided in Section 10.5(b). Transfers within the meaning of this Section 10.2 are intended to include not only voluntary transfers, but also transfers arising by operation of law, whether in connection with a merger or consolidation or otherwise.

10.3 *Transfers to Persons Other Than Affiliates; Right of First Refusal.*

(a) At any time during the Term, either Associate (optionor), if it either is not then in Material Default or if any such Material Default is cured at or before the consummation of the transaction, may sell, transfer, convey, assign or otherwise dispose of (directly or in connection with the merger or consolidation of such Associate with any Person) the whole, but, unless the other Associate (optionee) shall otherwise consent, not a part, of its Venture Interest to a single transferee, but only if it shall have received a *bona fide* offer (directly or by virtue of a proposed merger or consolidation) to purchase such Venture Interest from a Person other than an Affiliate described in Section 10.2 and only in compliance with Section 10.3(b) and Section 10.5. Optionor shall promptly notify optionee of its desire to accept any such *bona fide* offer. Such notice shall identify the offeror and provide reasonably detailed information regarding the offeror's financial position.

(b) Optionor shall not complete the proposed disposition if, within 20 days after delivery of the notice provided for the Section 10.3(a), optionee shall give to optionor notice that optionee has a valid objection to the proposed transferee on the grounds that the outstanding debt securities of such proposed transferee are not rated at least BBB–Baa, or the equivalent, or, if the proposed transferee has no debt securities outstanding which have been rated by a recognized credit rating entity, that such proposed transferee does not possess the financial strength to suppport such a rating. If optionor considers the objection to be invalid, then optionor may propose and the parties shall accept in settlement of the dispute an opinion of a nationally-recognized investment banking firm (the identity of which is mutually agreed upon by optionor and optionee and the fee of which is paid jointly by them in proportion to their Initial Shares) as to whether or not the financial strength of the proposed transferee is sufficient to support such a rating. If an affirmative opinion is received, optionee's notice of objection shall be deemed to have been withdrawn; provided, however, that in the event the proposed disposition would be consummated after 5 years from the date hereof, optionee still may exercise its rights under Section 10.3(c) within the periods provided therein.

(c) With respect to any proposed disposition of a Venture Interest which would be consummated after 5 years from the date hereof, optionee, if optionee is not then in Material Default, shall have the right to acquire, at any time within 60 days after receipt from optionor of notice as required by Section 10.3(a), which notice also shall set forth the term and consideration offered by the proposed transferee, the Venture Interest of the optionor on the same terms and for the same consideration (which shall be in cash or other assets or property having readily ascertainable market value only) offered (or for cash equivalent to such consideration in the event such consideration is in the form of assets or property having readily ascertainable market value), less the amount required to cure any Default of optionor under Section 1.28(a)(i) remaining uncured after the date of such acquisition. If optionee fails to give optionor notice of its desire to acquire all the offered Venture Interest within such 60-day period, or, having given such notice, optionee fails to complete such acquisition within 180 days (increased by the number of days, if any, by which any filing made by optionor in accordance with the requirements of any applicable state or federal antitrust law or consent decree follows the date of any similar filing made by optionee pursuant to such law or consent decree)

after optionor's notice, then optionor shall be free to dispose of its entire Venture Interest to the proposed transferee substantially on the terms and for the consideration offered, in accordance with Section 10.5, at any time within 180 days after the end of such 60-day period or 180-day period (as the same may be extended), whichever is applicable. If, having given the notice referred to above, optionee is prevented from completing such acquisition within such 180-day period, increased, if appropriate, as provided above (the "Acquisition Period") by the terms of an outstanding consent decree, optionor shall have the right, during the 18-month period commencing with the expiration of the Acquisition Period, to dispose of its entire Venture Interest in accordance with Section 10.5 without again offering to optionee the right of first refusal set forth in this Section 10.3(c), provided that optionor shall have fully cooperated with optionee during the Acquisition Period in attempting to amend any such consent decree to the extent necessary to permit optionee to complete such acquisition.

10.4 *Purchase Option Upon Material Default.*

(a) If an Associate (optionor) shall have committed a Material Default which shall continue without cure for a period of 15 days after the date notice thereof is given to optionor by the Management Company or the other Associate (optionee), optionee, subject to compliance with any applicable state or federal antitrust law or consent decree, shall have an assignable right and opportunity to purchase the Venture Interest of optionor during the continuation of such Material Default; provided, however, that the cure of such Material Default subsequent to notice by optionee of its election to exercise its option under this Section 10.4 shall not extinguish or rescind such exercise or prevent optionee's consummation of its purchase of optionor's Venture Interest in accordance with Section 10.4(b). An Associate shall not be entitled to exercise its option rights under this Section 10.4 if at the time of the attempted exercise thereof such Associate is then also in Material Default.

(b) The consummation of the purchase of the Venture Interest of optionor pursuant to this Section 10.4 shall take place in accordance with the provisions of Section 10.5 upon such date as optionee shall specify, but not more than 30 days after the later of notice by optionee to optionor of its election to exercise its option rights under this Section 10.4 or compliance by optionee with any applicable state or federal antitrust law or consent decree. The consideration for such purchase shall be the assumption referred to in Section 10.5(a) and the payment in cash of an amount determined by the Management Company's independent certified public accountants which is equal to the sum of (i) an amount equal to optionor's Initial Share of an amount to be agreed upon by the parties, in constant dollars, (ii) optionor's Share of the aggregate capital cost of all Capital Improvements funded by it and which have become a part of such Venture Interest to the date of such purchase (each of (i) and (ii) adjusted to reflect imputed depreciation calculated on a straight-line basis over a period of 20 years) and (iii) the liquidation value of optionor's Share of the working capital of the Joint Venture, less any amounts required to cure any Default of option or under Section 1.28(a)(i) remaining uncured on the date of such purchase. Nothing in this Section 10.4 is intended to encumber any property of any Associate under the laws of any jurisdiction.

10.5 *Procedure Upon Transfer.*

(a) A sale, transfer, assignment, conveyance or disposition of the Venture Interest of either Associate pursuant to any of the provisions of this Article X to any Person shall be effective only when such Person shall have delivered to the Associate whose Venture Interest is being sold, transferred, assigned, conveyed or disposed of (for purposes of this Section 10.5, the "transferor"), and to the other Associate, executed counterparts of an instrument of assumption substantially in the form attached as Exhibit B, pursuant to which such Person shall have assumed all of the obligations of the transferor under this Agreement, the Management Agreement and the Stockholders Agreement (including the obligation to cure any Default of transferor remaining uncured after the date of such disposition) and further shall have agreed to become a party hereto and thereto, and, in connection therewith, counsel for such Person satisfactory to the remaining Associate shall have delivered to such Associate the opinion of such counsel satisfactory in form and substance to such Associate as to the due authorization, execution and enforceability of such instrument of assumption and as to such other matters as such remaining Associate may reasonably require, whereupon, except with respect to Affiliates as provided in Section 10.2 and except as provided in Section 10.5(b), the transferor automatically shall be relieved from any obligation arising after the consummation of the transfer under this Agreement, the Management Agreement or the Stockholders Agreement.

(b) Notwithstanding the fact that a transferee of an Associate is itself an Associate or shall become a party to this Agreement, the Management Agreement and the Stockholders Agreement in the place and stead of its transferor, or anything else herein to the contrary, no sale, transfer, assignment, foreclosure on or disposition of all or any part of an Associate's Venture Interest shall release such Associate from the performance of its obligations then accrued under this Agreement, the Management Agreement and the Stockholders Agreement and the transferor shall be and remain jointly and severally liable thereof with the transferee, unless such release is consented to by the other Associate or unless such release arises by operation of law by reason of the cessation of existence of such Associate as a constituent corporation in a merger or consolidation consented to by the other Associate or permitted by this Agreement.

10.6 *Encumbrances.* Any Associate not in Default shall not be required, and the other Associate shall not have the right, to pay, discharge or remove any Encumbrance soley on or against the undivided interest of such Associate not in Default in the Joint Venture Assets or any portion thereof, or to comply with any law relating to such undivided interest or the use thereof, so long as such Associate shall contest the existence, amount or validity thereof in good faith by appropriate legal or administrative proceedings, timely instituted and diligently prosecuted, which shall operate to prevent the collection or satisfaction of the Encumbrance so contested and to prevent the sale or forfeiture of such undivided interest or any portion thereof to satisfy the same or otherwise resulting from such non-compliance, and which proceedings shall not materially affect the rights or interests of such Associate or result in a Default by such other Associate; provided, however, that the Associate so contesting such matter shall have given such security as may be required in the proceedings. The Associate so contesting shall promptly pay any valid final judgment enforcing any such tax, charge, levy, assessment or Encumbrance and cause the same to be satisfied of record and shall in no event allow the sale or forfeiture of such undivided interest to satisfy such Encumbrance or otherwise as a result of such proceedings.

XI. Default

11.1 *Unpaid Cash Calls and Interest Thereon.* Each Unpaid Cash Call shall constitute a debt of the Associate obligated to pay the same which shall bear interest at a rate equal to the lesser of 24% per annum or the maximum rate legally collectible from the due date of the Cash Call to the date of actual payment (whether such payment is made by the defaulting Associate, the other Associate or by the Management Company on behalf of the defaulting Associate or otherwise) and which shall be immediately due and payable to the Management Company for the benefit of the other Associate and enforceable by the Management Company or by such other Associate. Payments may be applied by the Management Company on behalf of the other Associate against future Cash Calls or otherwise.

11.2 *Right to Cure Vested in Orders.* So long as it is not in Material Default, the other Associate shall have the right at any time to pay all or any part of any Unpaid Cash Call remaining unpaid, either with or without accrued interest thereon, on behalf of the Associate responsible for such Unpaid Cash Call. Amounts paid by the Associate not in Material Default shall become a debt of the Associate responsible for such Unpaid Cash Call which shall bear interst at a rate equal to the lesser of 24% per annum or the maximum rate legally collectible. Such debt and interest accrued thereon shall be immediately due and payable to the Associate not in Material Default and shall be recoverable in any court of competent jurisdiction. Payment of all or any part of such Unpaid Cash Call shall not be deemed to cure the Default of the Associate responsible for such Unpaid Cash Call until it shall have repaid the principal of and all accrued interest on the debt resulting from such Unpaid Cash Call to the other Associate in full.

11.3 *Reduction of Production During Default.* If and for so long as an Associate is in Default in the payment of the whole or any part of any Cash Call, the Management Company may and, upon demand by the other Associate (if it is not then also in Material Default), shall reduce delivery of Venture Products to the defaulting Associate to the extent of all or any portion of its entitlement and may reduce the production of the Plant accordingly. To the extent that such reduction in production increases the Variable Costs of the other Associate, the aggregate of such increase for so long as the reduction in production remains in effect shall be deemed to be amounts paid by the other Associate in respect of Unpaid Cash Calls of the defaulting Associate as to which the other sections of this Article XI shall apply.

11.4 *Additional Remedies.* The procedures described in Sections 11.2 and 11.3 shall not constitute the sole or exclusive remedy of, nor shall they be in lieu of any other remedy at law or in equity with respect to any Default available to, the Associate which is not in Material Default or the Management Company.

XII. Force Majeure

If, by reason of Force Majeure, an Associate is rendered unable, wholly or in part, to perform its obligations hereunder, other than any obligation to pay money, such Associate shall give prompt notice of such fact to the other Associate and to the Management Company with reasonably full particulars thereof and, insofar as is known, the probable extent to which such Associate will be unable to perform or be delayed in performing any such obligation, whereupon such obligation of the Associate giving the notice shall be suspended so far as it is affected by such Force Majeure during, but not longer than, the continuance thereof. The Associate giving the notice shall use reasonable diligence to perform its obligations hereunder as fully and quickly as possible; provided, however, that nothing herein shall require the settlement of any labor dispute or any other action which would, in its good faith judgment, reasonably exercised, be contrary to its best interests.

XIII. Dissolution and Termination

11.1 *Events of Dissolution.* The Joint Venture shall be dissolved upon the expiration of the Term or the occurrence of any of the following events:

(a) The Associates shall have agreed in writing to dissolve the Joint Venture or shall have been required to dissolve the Joint Venture by a binding order of a governmental body having jurisdiction;

(b) A Material Default described in Section 1.26 (b) or (c), subject, however, in the case of a Material Default described in Section 1.26(b), to the election of the Associate which is not in Material Default, in its sole discretion, to retroactively reinstate the Joint Venture as of the date of dissolution by notice of the Associate for which a receiver or trustee has been appointed as described therein; provided, however, that the exercise of such election shall not and shall not be construed to cure or constitute a waiver of any Default; and

(c) The written election to dissolve by the non-defaulting Associate in the event of a Material Default described in Section 1.26(a), which shall have continued without cure or waiver for a period of at least 90 days.

13.2 *Survival of Obligations.* Upon the expiration or termination of the Term, except as otherwise provided in this Agreement, all rights and obligations of the parties under this Agreement shall be terminated and this Agreement shall thereafter have no further force or effect, with the exception of (i) executory obligations the performance of which remains due and outstanding at the date of such termination, including the settlement of accounts among the Associates and the Management Company in respect of costs, expenses and liabilities incurred pursuant to this Agreement and the Management Agreement prior to the date of such expiration or termination or arising thereafter as a result of such expiration or termination (including, without limitation, any costs related to the termination of contracts entered into by the Management Company in connection with the Joint Venture) and (ii) rights and obligations with respect to the disposition of the Joint Venture Assets as provided in Section 13.3, all of which shall survive such termination until performed as provided in this Agreement.

13.3 *Disposition of Interests Upon Termination.* The expiration or termination of the Term shall not alter the ownership of the Joint Venture Assets, which shall be held and disposed of in accordance with the rights of the Associates therein.

XIV. Confidentiality

14.1 *Confidentiality of Information.* Each associate will abide by, comply with and enforce all applicable provisions of Article VIII of the Management Agreement.

14.2 *Survival.* All obligations of the Associates pursuant to this article XIV shall survive the Term for a period of 10 years.

XV. Miscellaneous

15.1 *Waivers.* The failure at any time of either Associate to require performance by the other Associate of any obligation provided for in this Agreement shall in no way affect the full right to require such performance at any time thereafter, nor shall the waiver by an Associate of a breach of any provision of this Agreement by the other Associate constitute a waiver of any succeeding breach of the same or any other such provision or constitute a waiver of the obligation itself.

15.2 *Assignability.* Except as provided in Article X, neither this

Agreement nor any right (other than a right to receive the payment of money) or obligation hereunder may be assigned or delegated in whole or in part to any other Person.

15.3 *Persons Authorized to Act for the Parties.* This Agreement and each change, variation or modification thereof, shall be effective only when executed on behalf of each of the Associates by an authorized officer of such Associate.

15.4 *Notices.* All notices, consents, requests, reports and other documents required or permitted to be given pursuant to this Agreement shall be given in writing and either personally served on an officer of the party to which it is given or mailed by registered or certified first class mail, postage prepaid, or sent by telex or telegram addressed as follows:

If to Alcancorp: Alcan Aluminum Corporation, 100 Erieview Plaza, Cleveland, Ohio 44114. Attention: General Counsel. Telex: 135069.

If to Arco: Atlantic Richfield Company, 515 South Flower Street, Los Angeles, California 90071. Attention: Corporate Secretary. Telex: 677415.

If to Management Company: Logan Aluminum Inc., Route 431, P.O. Box 3000, Russellville, Kentucky 42276. Attention: President. Telex: 8105311676 Ancon Logan,

in each case with a copy to each of the other parties.

Notices, consents, requests, reports and other documents shall be deemed given or served or submitted when delivered or, if mailed by registered or certified first class mail, on the third day after the day of mailing, or if sent by telex or telegram, 24 hours after the time of dispatch. A party may change its address for the receipt of notices, consents, requests and other documents at any time by giving notice thereof to the other parties. Any notice, consent or request given hereunder shall be effective only when executed on behalf of any party by an authorized officer of that party. Notwithstanding the first paragraph of this Section, any routine reports required by this Agreement to be submitted by any party to other parties at specified times of the year may be sent by first class mail, and if any party which should receive said reports pursuant to this Agreement shall fail to receive said reports on time, it shall so notify the sending party, in which event another copy of such report shall be sent promptly by registered or certified first class mail.

15.5 *Third Persons.* Except as contemplated herein, nothing herein expressed or implied is intended or shall be construed to confer upon or to give any Person not a party hereto any rights or remedies under or by reason of this Agreement.

15.6 *Counterparts.* More than one counterpart of this Agreement may be executed by the parties hereto and each fully executed counterpart shall be deemed an original.

15.7 *Choice of Law.* This Agreement shall be construed and enforced in accordance with and governed by the laws of the State of Delaware, without giving effect to the principles of conflicts of law thereof, except that the laws of the Commonwealth of Kentucky shall govern all matters hereunder pertaining to real estate.

15.8 *References to Money.* All references in this Agreement to, and transactions hereunder in, money shall be to or in Dollars of the United States of America.

15.9 *Headings.* The headings of the Articles and Sections in this Agreement are inserted for convenience of reference only and shall not be deemed to constitute a part hereof.

15.10 *Entire Agreement; Etc.* This Agreement, together with the Management Agreement and the Stockholders Agreement, constitutes the entire agreement of the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings, oral and written, among the parties hereto with respect to the subject matter hereof.

15.11 *Severability.* Should any provision of this Agreement be deemed in contradiction with the laws of any jurisdiction in which it is to be performed or unenforceable for any reason, such provision shall be deemed null and void, but this Agreement shall remain in force in all other respects. Should any provision of this Agreement be or become ineffective because of changes in applicable laws or interpretations thereof or should this Agreement fail to include a provision that is required as a matter of law, the validity of the other provisions of this Agreement shall not be affected thereby. If such circumstances arise, the parties hereto shall negotiate in good faith appropriate modifications to this Agreement to reflect those changes that are required by law.

15.12 *Further Assurances.* Each of the Associates, from time to time, shall execute and deliver to each other and to the Management Company, and shall cause the Management Company, from time to time, to execute and deliver to each of the Associates, such further, additional and confirmatory instruments and documents, and shall give such further assurances, as either of the Associates shall reasonably deem necessary or advisable to secure to such Associate or the Management Company the benefits of this Agreement or otherwise to carry out the intent and purpose of this Agreement.

In witness whereof, each of the parties has caused this Agreement to be duly executed on its behalf on the date first above written.

Alcan Aluminum Corporation.

By _____

Title _____

Arco Logan Inc.

By _____

Title _____

Exhibit A: Logan Plant—Real Property

Parcel A:

A certain tract of land containing 8.31 acres located east of Highway 431 and west of the Seaboard Coast Line Railroad, encompassing the two northern entrances to the Anaconda Aluminum Company, Russellville Plant, and the property lying between the entrances which lies wholly within northern Logan County, Kentucky, and more particularly described as follows:

Beginning at an iron pin located on the south side of an entrance road to the existing Anaconda Aluminum Company Plant in the east right of way line of U.S. Highway 432 and being a common corner with Alfred Smith; thence moving along the east right of way line of U.S. Highway 432, crossing the existing entrance road N. 1°50'42" W. 147.84 feet to an iron pin; thence continuing along the east right of way line of U.S. Highway 431, N. 5°36'50" E. 449.299 feet; thence continuing along the east right of way line of U.S. Highway 431, N. 5°35'11" E. 394.267 feet, crossing the northern most highway entrance into the Anaconda Aluminum Company Plant to an iron pin on the north side of the entrance road; thence along the north side of the existing entrance road S. 81°18'47" E. 641.613 feet to an iron pin in the west right of way line of the Seaboard Coast Railroad Tract, formerly known as the L&N Railroad Co., Owensboro and Nashville Branch Line; thence moving along the west right of way line of the existing Railroad 30 foot from and parallel to the centerline of the existing track around a curve to the left, having courses and distances as follows: S. 39°12'26" W. 187.193 feet, S. 39°22'19" W. 92.020 feet, S. 38°17'1" W. 74.477 feet, S. 37°8'7" W. 63.424 feet, S. 35°34'43" W. 94.127 feet, S. 32°45'58" W. 87.869 feet, S. 30°14'57" W. 118.230 feet, S. 26°55'45" W. 92.190 feet, S. 24°23'14" W. 54.552 feet, S. 21°42'52" W. 185.440 feet, S. 21°42'51" W.

87.973 feet to an iron pin on the south side of an existing entrance road to the Anaconda Aluminum Co. of America in the line of Alfred Smith; then continuing with Alfred Smith N. 59°13'31" W. 143.603 feet to the point of beginning containing 8.31 acres as surveyed by Donan Engineering, Inc., Madisonville, Ky on May 31, 1984.

Being a part of the property conveyed to The Anaconda Company, a Delaware corporation, by Commissioner's Deed dated December 15, 1980 of record in Deed Book 13, Page 472, in the Office of the County Court of Logan County, Kentucky, The Anaconda Company having been merged into Atlantic Richfield Company effective December 31, 1981, pursuant to Articles of Merger appearing of record in Articles of Incorporation Book 6, Page 15, in the Office of the Clerk aforesaid.

Parcel B:

A certain tract of land located east of the existing L & N Railroad, Owensboro and Nashville Branch Line Track, and south of the existing Browning Mill Roadway, located in northern Logan County, Kentucky, and more particularly described as follows:

Beginning at an iron pin located on the edge of an existing county roadway, a common corner to F.O. and W.T. Fields in the line of the Litten property, being approximately 4000 linear feet northeast of the centerline of U.S. Hwy 431; thence with the F.O. and W.T. Fields property the following courses and distances: N. 68°39'59" W. 280.595 feet, N. 64°36'44" W. 1293.514 feet, S. 75°47'16" W. 388.573 feet, N. 74°57'15" W. 242.054 feet, S. 1°16'5" W. 358.779 feet, S. 1°2'28" W. 518.413 feet, S. 27°5'50" E. 332.995 feet, S. 27°9'2" E. 250.577 feet to an iron pin, a common corner with the Epley property; thence with Epley S. 45°50'29" W. 234.607 feet to an iron pin in Epley's line; thence continuing with Epley S. 45°33'22" W. 270.702 feet to an iron pin, a common corner with J.D. Gray; thence leaving Epley with Gray the following courses and distances: N. 24°17'28" W. 304.578 feet, S. 61°17'46" W. 248.395 feet, S. 61°21'24" W. 182.940 feet, S. 63°52'37" W. 270.028 feet to an iron pin, a common corner with Woodrow Nash; thence with Nash N. 18°58'17" W. 194.650 feet; thence continuing with Nash S. 68°45'11" W. 889.182 feet to an iron pin in the east right of way line of the Seaboard Coast Railroad, formerly known as the L&N Railroad, Owensboro and Nashville Branch Line; thence moving 30 foot from and parallel to the centerline of the existing railroad tract along the east right of way line the following courses and distances: N. 32°56'52" W. 152.734 feet, N. 32°44'21" W. 294.217 feet, N. 32°30'2" W. 105.199 feet, N. 32°34'25" W. 101.890 feet N. 30°54'57" W. 109.409 feet, N. 27°59'42" W. 102.719 feet, N. 24°23'37" W. 108.660 feet, N. 20°59'20" W. 102.681 feet, N. 17°26'2" W. 99.650 feet, N. 14°34'25" W. 102.557 feet, N. 13°28'53" W. 180.178 feet, N. 13°31'58" W. 70.046 feet to an iron pin in the Railroad right of way and a common corner with Alfred Smith; thence with Alfred Smith the following courses and distances: N. 81°57'26" E. 331.710 feet, N. 5°36'52" E. 669.493 feet, N. 6°55'32" E. 788.973 feet, N. 57°27'36" W. 849.849 feet, to an iron pin in the east right of way line of the Seaboard Cost Railroad; thence moving along the east right of way line of the Railroad with a curve to the right and moving 30 foot from and parallel to the centerline of the track the following courses and distances: N.17°36'8" E. 137.351 feet, N. 21°9'53" E. 100.825 feet, N. 24°3'31" E. 99.639 feet, N. 27°13'54" E. 100.282 feet, N. 30°7'24" E. 99.031 feet, N. 33°2'5" E. 97.610 feet, N. 36°32'30" E. 141.154 feet, N. 38°50'12" E. 114.451 feet, N. 39°16'14" E. 105.724 feet to a point opposite the point of tangency in the Railroad Track; thence continuing along the east right of way line of the Railroad, N. 39°16'4" E. 530.691 feet to a point opposite the point of curvature in the Railroad to the left; thence continuing 30 foot from and parallel to the centerline of the track on cords around the curve to the left the following courses and distances: N. 38°49'44" E. 100.701 feet, N. 37°2'3" E. 108.112 feet, N. 34°47'2" E. 109.216 feet, N. 33°46'54" E. 100.959 feet to a point opposite the point of tangency of the curve; thence continuing with the east right of way line of the Railroad N. 33°30'19" E. 653.486 feet; thence continuing along the east line of the Railroad N. 33°37'2" E. 515.709 feet to a point opposite the point of curvature of the Railroad track; thence continuing along the east right of way line of the Railroad moving 30 foot from and parallel to the track on the following cords around the curve to the left the following courses and distances: N. 33°25'3" E. 60.984 feet, N. 31°14'45" E. 109.801 feet, N. 26°41'41" E. 113.810 feet, N. 21°52'25" E. 105.685 feet, N. 16°52'57" E. 101.047 feet, N. 11°41'35" E. 107.647 feet, N. 6°35'18" E. 101.442 feet, N. 1°58'17" E. 84.005 feet, N. 2°5'42" W. 87.366 feet, N. 5°59'53" W. 66.479 feet, N. 9°14'59" W. 58.908 feet, N. 10°19'45"W. 69.194 feet to a point opposite the point of tangency of the curve; thence continuing along the east right of way line and moving 30 foot from and parallel from the centerline of the existing track N. 18°4'47" W. 1922.473 feet to a point, a common corner with Geneva Pursley; thence leaving the Railroad Track with Geneva Pursley N. 66°34'1" E. 459.829 feet to a point, a common corner with Helen Kennedy; thence with Helen Kennedy the following courses and distances: S. 48°50'9" E. 247.601 feet N. 39°59'55" E. 11.590 feet, S. 46°14'28" E. 275.612 feet to an iron pin, a division corner of Vickie Kelley; thence with Vickie Kelley S. 52°24'57" E. 396.336 feet; thence continuing with Vickie Kelley N. 29°37'4" E. 210.197 feet to a point in the south right of way line of the Browning Mill Road; thence along the south right of way line of the Browning Mill Road the following courses and distances: S. 52°6'57" E. 210.780 feet, S. 52°16'11" E. 485.575 feet, S. 52°37'54" E. 97.921 feet, S. 51°52'33" E. 115.170 feet, S 51°13'15" E. 235.390 feet, S. 52°31'35" E. 277.936 feet to an iron pin, a common corner with Johnnie Thomas; thence skirting the Johnnie Thomas property the following courses and distances: S. 19°37'1" W. 636.757 feet, S. 73°31'46" E. 368.131 feet, N. 24°10'59" E. 457.571 feet, N. 16°45'0" E. 131.010 feet to an iron pin in the south right of way line of Browning Mill Road; thence down the south right of way line of Browning Mill Road the following courses and distances: S. 86°9'0" E. 69.660 feet, S. 80°45'50" E. 358.681 feet, S.82°14'57" E. 381.347 feet, S. 85°43'47" E. 301.313 feet, S.88°46'38" E. 263.746 feet, S. 89°9'39" E. 235.126 feet, S. 88°23'20" E. 434.802 feet, S. 88°38'37" E. 302.943 feet to an iron pin, a common corner with Alvin Thomas; thence along Alvin Thomas leaving the Browning Mill Road S. 2°7'16" W. 128.25 feet; thence continuing with Alvin Thomas S. 85°31'39" E. 293.010 feet to an iron pin in the west right of way line of the Browning Mill Road; thence along the west right of way line of the Browning Mill Road the following courses and distances: S. 37°49'3" W. 536.549 feet, S. 37°58'15" W. 107.037 feet, S. 36°21'26" W. 196.699 feet, S. 35°15'12" W. 63.372 feet, S. 34°39'15" W. 221.984 feet, S. 53°36'56" E. 459.672 feet, S. 54°0'42" E. 238.681 feet, S. 54°31'49" E. 166.930 feet, S. 53°53'14" E. 289.989 feet, S. 54°19'11" E. 169.067 feet, S. 49°45'31" E. 88.191 feet, S. 52°18'20" E. 398.376 feet, S. 53°34'45" E. 393.931 feet, S. 53°25'31" E. 275.933 feet, S.53°41'18" E. 344.876 feet, S. 53°31'47" E. 273.751 feet, S. 53°38'33" E. 241.323 feet, S. 74°13'8" E. 36.215 feet to an iron pin corner to Joe Harper; thence leaving the Browning Mill Road with Joe Harper S. 54°20'14" E. 155.782 feet; thence continuing with Joe Harper S. 56°8'42" E. 274.411 feet to an iron pin, common corner with Charles Hoyle; thence continuing with Charles Hoyle the following courses and distances: S. 02°23'41" W. 102.015 feet, S. 24°8'9" E.

89.742 feet, S. 19°16'5" W. 223.790 feet, S. 19°16'5" W. 418.084 feet, S. 54°37'40" E. 257.247 feet, crossing the end of a lake; thence continuing across the end of the east embankment the following courses and distances: S. 54°20'6" E. 180.942 feet, S. 55°36'53" E. 53.742 feet, S. 6°18'21" W. 73.344 feet, S. 8°1'35" W. 49.760 feet, S. 7°30'9" W. 63.313 feet, S. 4°32'36" W. 47.150 feet, S.1°29'35" W. 36.766 feet, S.37°33'51" W. 35.658 feet, S. 74°17'55" W. 109.965 feet, N. 70°19'0" W. 56.463 feet, N. 42°12'17" W. 35.684 feet, to an iron pin in the line of Frank Stratton; thence continuing around the south shore of the existing lake with Frank Stratton the following courses and distances: N. 7°0'8" E. 171.553 feet, N. 16°12'32" E. 79.153 feet, N. 2°42'27" E. 51.503 feet, N. 29°3'34" W. 159.039 feet, S. 75°3'6" W. 503.100 feet, S. 80°25'48" W. 1078.659 feet, S. 74°48'24" W. 175.526 feet, S. 65°51'28" W. 84.110 feet, S. 78°21'44" W. 379.380 feet, S. 64°15'28" W. 235.140 feet to the centerline of a county road and a common corner to the Holloway property; thence with the Holloway property the following courses and distances: N. 52°24'2" W. 496.532 feet, N. 51°58'4" W. 374.969 feet, S. 39°18'23" W. 612.506 feet, S. 40°16'28" W. 481.654 feet to an iron pin, a common corner with the Litten property; thence with Litten the following courses and distances: S. 39°58'9" W. 541.152 feet, S. 64°27'52" W. 25.483 feet, S. 39°41'35" W. 532.674 feet to the point of beginning and containing 910.12 acres as surveyed by Donan Engineering, Inc., Madisonville, Kentucky, on May 31, 1984.

Being the same property conveyed to The Anaconda Company, a Delaware corporation, by deed dated January 21, 1981 of record in Deed Book 236, Page 013, by deed dated January 21, 1981 of record in Deed Book 236 Page 016, by deed dated January 5, 1981 of record in Deed Book 235 Page 682, by deed dated January 5, 1981 of record in Deed Book 235 Page 679, Corrected by Deed of Correction dated September 24, 1981 of record in Deed Book 238 Page 137, by deed dated January 21, 1981 of record in Deed Book 236 Page 007, by Quit-Claim deed dated January 21, 1981 of record in Deed Book 236 Page 011, and by Commissioner's deed dated December 15, 1980 of record in Deed Book 13 Page 472, in the Office of the Clerk of the County Court of Logan County, Kentucky, the Anaconda Company having been merged into Atlantic Richfield Company effective December 31, 1981, pursuant to Articles of Merger appearing of record in Articles of Incorporation Book 6, Page 15, in the Office of the Clerk aforesaid.

Parcel C

The parcels, rights of way, easements and other property described in, and conveyed and assigned to Anaconda Aluminum Company, a division of Atlantic Richfield Company, in the following documents:

(a) Deed dated February 28, 1982, by and between the City of Russellville, Logan County, Kentucky, and the City of Lewisburg, Logan County, Kentucky, parties of the first part, and Anaconda Aluminum Company, a division of Atlantic Richfield Company, party of the second part, recorded in Deed Book 239, Page 195, Office of the Clerk of the Logan County, Kentucky, Court; and

(b) Right-of-way Easement dated February 28, 1982 by and between City of Russellville and the City of Lewisburg ("Owners") and Anaconda Aluminum Company, a division of Atlantic Richfield Company, recorded in Misc. Book 26, Page 80, Office of the Clerk of the Logan County, Kentucky, Court; and

(c) Assignment dated April 30, 1982 by and between City of Lewisburg and Anaconda Aluminum Company, a division of Atlantic Richfield Company, recorded in Misc. Book 26, Page 77, Office of the Clerk of the Logan County, Kentucky, Court.

(d) Right-of-Way Agreement dated October 12, 1981 by and between Louisville and Nashville Railroad Company and Anaconda Aluminum Company, Division of The Anaconda Company, recorded February 26, 1982, in Miscellaneous Book 25, Page 865, Office of the Clerk of the Logan County, Kentucky, Court.

Exhibit B: Instrument of Assumption

This Instrument of Assumption (this "Instrument"), dated as of ——— —, —, is made and delivered pursuant to the Logan Joint Venture Agreement dated ———, —, 1984 between Arco Logan Inc., a Delaware corporation, and Alcan Aluminum Corporation, a New York corporation, as amended to date (as so amended, the "Joint Venture Agreement"). Capitalized terms used in this Agreement but not otherwise defined herein shall have the meanings set forth in the Joint Venture Agreement.

Know all men by these presents, that ———, a ——— corporation ("Transferee"), in consideration of the transfer to it of a Venture Interest in the Joint Venture, does hereby agree as follows:

1. Transferee hereby assumes, severally and not jointly with Transferor (as hereinafter defined), all of the obligations of [identify Arco Logan or Alcancorp, as appropriate] ("Transferor") under the Joint Venture Agreement, the Management Agreement and the Stockholders Agreement (including, without limitation, the obligation to cure any Default of Transfer remaining uncured after the transfer of such Venture Interest by Transferor to Transferee).

2. By execution of this Instrument, Transferee shall for all purposes by deemed a party to the Joint Venture Agreement, the Management Agreement and the Stockholders Agreement, with all of the rights and obligations of Transferor thereunder.

In witness whereof, Transferee has caused this Instrument to be executed by its duly authorized officers as of the date first above written.

By _____

Title: _____

Attest: _____

Exhibit 2 to Final Judgment

Logan Management Agreement By and Among Arco Logan Inc., Alcan Aluminum Corporation and Logan Aluminum Inc.

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Exhibits

Exhibit A—Logan Joint Venture Agreement
Exhibit B—Cost Sharing Procedure
Exhibit C—Confidentiality Agreement

This Logan Management Agreement (this "Agreement") dated ——— —, 1984 by and between Arco Logan Inc., a Delaware corporation ("Arco"), Alcan Aluminum Corporation, a New York corporation ("Alcancorp"), and Logan Aluminum Inc., a Delaware corporation ("LMC" or "Manager"); Arco and Alcancorp are sometimes hereinafter referred to collectively as the "Associates" and individually as an "Associate."

Witnesseth:

Whereas, the Associates have comtemporaneously herewith entered into the Logan Joint Venture Agreement dated the date hereof by and between the Associates, a copy of which is attached as Exhibit A (the "Logan Joint Venture Agreement"); and

Whereas, the Associates by the Logan Joint Venture Agreement have agreed to employ LMC as agent to manage the joint venture created by the Logan Joint Venture Agreement upon the terms and conditions set forth herein and in the Logan Joint Venture Agreement, and LMC is willing to undertake such employment;

Now, **therefore**, the parties hereto agree as follows:

I. Definitions

For purposes of this Agreement, each word and term defined in the Logan Joint Venture Agreement shall have the same meaning when used in this Agreement.

II. Duties of Manager

Section 2.1 (a) Subject to, and in accordance with the terms and provisions of, the Logan Joint Venture Agreement and this Agreement, the Manager is hereby engaged as managing agent by the Associates and each of them, acting as joint venturers, to manage, supervise and conduct the Operations and to administer the affairs of the Joint Venture on behalf of the Associates. LMC hereby accepts such employment and agrees to discharge its duties as Manager properly and efficiently, directly and through such agents or independent contractors as it may engage; provided, however, that the Manager shall have full responsibility for, and shall not delegate to any agent or independent contractor engaged by it, any material responsibilty for the Operations. The Manager shall at all times during the term of this Agreement retain and exercise direct control over the Operations.

(b) The duties of the Manager shall include, among other things, (i) using its best efforts to complete the commercial acceptability of the Plant and Venture Products as the qualification of can stock products, assisting as appropriate in the qualification of sheet ingot produced for can stock products at the Plant, (ii) acquiring and contracting for all necessary equipment, materials and supplies, (iii) employing all necessary employees (including the labor force, administrative, supervisory and operating personnel) (provided that none of such employees shall be during the time of employment by the Manager also employed by Alcancorp or Arco or any of their Affiliates) and engaging all necessary agents and independent contractors, (iv) scheduling production in a fair, equitable and efficient manner, (v) carrying out any Capital Impovement; (vi) contracting, on an arm's length basis, with the Associates, their Affiliates or others for Intellectual Property and Improvements, technology and other services, (vii) providing such information and reports to the Associates as may be required from time to time; (viii) preparing and filing with governmental authorities reports pertaining to the Plant and to the Operations, including tax matters, and paying appropriate taxes, (ix) securing the appropriate signatures to, and timely filing of, the tax election provided for in Article IX of the Logan Joint Venture Agreement, (x) securing adequate and reasonable insurance covering risks growing out of personal injury to, or death of, employees and others, fire and other risks ordinarily insured against in similar operations, (xi) adjusting losses and settling claims pertaining to such risks or arising under such insurance, (xii) complying with all laws insofar as they pertain to the Plant or to Operations, including, without limitation, laws relating to workers compensation, unemployment compensation, Social Security, health and safety and ecology and environmental requirements, and (xiii) doing all such acts and things as may be necessary or convenient for the efficient and economical operation and care of the Plant and conduct of the Operations, all in accordance with this Agreement; provided, however, that any adjustment of any loss or settlement of any claim referred to in (xi) and any settlement of any action, suit or proceeding before any court, administrative agency or other authority the amount of which adjustment or settlement exceeds $1,000,000 must be approved by both Associates.

(c) Notwithstanding any other provision of this Section 2.1, in no event shall either Associate communicate with the Manager or any of its officers or employees regarding the other Associate's future production schedules for specific rolled aluminum products, present or future prices or other terms or conditions of sale, volume of shipments, marketing plans, sales forecasts or sale or proposed sales to specific customers of aluminum products or, with the exception of operational and technical service functions performed by it, involve itself in any sales, customer relationships or service functions or related billing, credit or collection matters for or on behalf of either Associate; provided, however, that nothing in this provision shall prevent either Associate from communicating with the Manager concerning bona fide purchase and sale transactions between them or from communicating information that is or has been generally announced or generally published.

(d) The Operations shall be conducted in a proper and workmanlike manner consistent with methods and practices customarily utilized in operations similar in size and nature to the Joint Venture, the Plant and any Production Center thereof and in compliance with this Agreement and the Logan Joint Venture Agreement and the Cost Sharing Procedure, a copy of which is attached as Exhibit B.

Section 2.2 The Manager shall have and hold, subject to the terms of the Logan Joint Venture Agreement and this Agreement, custody and control on behalf of and for the use and benefit of the Associates as joint venturers all Joint Venture Assets, whether contributed or made available to the Joint Venture by the Associates or developed, constructed or acquired on behalf of the Joint Venture by the Manager. In the discharge of its duties, the Manager may take title in its own name to personal property for and on behalf of the Associates.

III. Term

This Agreement and the employment of LMC hereunder shall begin at the date hereof and, subject to the provisions of the Logan Joint Venture Agreement, shall continue so long as the Logan Joint Venture Agreement shall continue in effect unless earlier terminated by mutual agreement among the Associates and LMC.

IV. Production

Section 4.1 Each Associate shall notify the Manager at such times and for such periods as may be specified by the Manager as to the character and quantity of the Venture Products it wishes to produce at each Production Center, providing such detailed production specifications, production rates, desired delivery dates and other information as may be reasonably required by the Manager to fulfill its obligations hereunder.

Section 4.2 Production capacities will be determined for each of the Production Centers and allocated between the Associates in accordance with the Cost Sharing Procedure. As promptly as practicable after receipt from both Associates of the notices required by Section 4.1, the Manager shall separately advise each Associate as to whether its production request is equal to or the extent to which such request is less than or exceeds such Associate's allocated production capacity of each Production Center. After consultation with each Associate separately, the Manager shall determine, schedule and separately notify each

Associate of its production schedule for each Production Center during the period in question. No Associate shall be notified of the production schedule tentatively or finally established for the other. Each Associate shall have the right to finally approve or disapprove its proposed production schedule. In the event of disapproval, the Manager shall use its best efforts to reschedule such production in a manner which is satisfactory to the disapproving Associate while consistent with the rights of the other Associate.

Section 4.3 The Manager shall establish and enforce appropriate standards of quality and character for metal to be processed by any Production Center from time to time.

V. Cost, Budget, Cash Calls and Accounts

Section 5.1 Fixed Costs, Variable Costs and Annual Capital Costs shall be allocated to each Associate in accordance with the Cost Sharing Procedure. At such time prior to the beginning of each Fiscal Year and for such periods during such Fiscal Year as may be proposed by the Manager and approved by the Associates, the Manager shall prepare operating and capital budgets which shall set forth in reasonable detail, among other things, calendar monthly estimates of Fixed Costs, Variable Costs and Annual Capital Costs. Such budgets shall be promptly submitted for Management Company Approval and confirmation by each Associate. If the budgets as submitted, or with such revisions as may be proposed, are not approved and confirmed within such period as may be proposed by the Manager and approved by the Associates, the Manager shall conduct Operations as though the proposed budgets had been approved, and shall implement the same for such Fiscal Year, provided that in connection with the conduct of the Operations as though such proposed budgets had been approved, the aggregate budgeted expenditures for such Fiscal Year shall not exceed, in the case of the operating budget, 106% of the estimated Fixed Costs and Variable Costs for the preceding Fiscal Year as adjusted for the rates at which operations are estimated to be conducted by the Associates for the relevant full Fiscal Year or, in the case of the capital budget, 100% of the estimated Annual Capital Costs of the Joint Venture for the preceding Fiscal Year, similarly adjusted. All budgets shall be revised quarterly as necessary. Such revisions shall be promptly reported to the Associates and shall not be effectuated without Management Company Approval and confirmation by each Associate. The Manager shall conduct the Operations and make disbursements in accordance with the budgets revised as provided herein. Disbursements which deviate from such budgets shall be reported at least quarterly by the Manager to the Associates. No purchase or sale of any Joint Venture Asset for more than such dollar amount as may be determined by the Associates from time to time, no payments under any lease which aggregate more than such dollar amount as may be determined by the Associates from time to time and no borrowimg (other than ordinary supplier credits) may be made unless approved by both Associates.

Section 5.2 (a) At the time the operating and capital budgets are presented for Management Company Approval and confirmation by each Associate, there also shall be presented a written estimate of the cash required for the Operations during the ensuing Fiscal Year, which estimate shall be in accordance with such proposed operating and capital budgets. At such times and for such periods as may be proposed by the Manager and approved by the Associates, there shall be presented to the Associates Cash Calls setting forth the Joint Venture's anticipated cash requirements for such period (which shall be based upon the latest inforamtion available and need not conform to the written estimate referred to in the previous sentence). Such Cash Calls shall state (i) the estimated cash disbusements which the Manger will be required to make during such period for Fixed Costs, Variable Costs, Annual Capital Costs and costs of Capital Improvements; (ii) the extent, if any, to which such disbursements will be satisfied by cash available to the Joint Venture in excess of a reasonable amount retained as a working cash balance; (iii) any balance which may be required to pay such costs; and (iv) the amount which is payable by each Associate after taking into account appropriate adjustments in the Joint Venture accounts of each Associate based on the allocation of costs under the Cost Sharing Procedure for the account of such Associate during prior periods. Each Associate shall pay to the Manger the funds required by the date or dates specified in such Cash Calls.

(b) In the event action taken pursuant to this Agreement requies cash payments not provided for by such periodic Cash Calls and in excess of any available cash balance, the Manager shall promptly furnish a Cash Call with respect thereto to each Associate, providing as much advance notice of the requirement for such additional cash payments as is practicable in the circumstances. Each Associate shall pay to the Manager the funds required by the date or dates specified in such Cash Call.

Section 5.3 The Manager shall supervise the keeping of accurate and full accounts of all matters pertaining to the Operations, including accounts of all transactions realting to or forming the basis of its rights to reimbursement for costs and expenses paid or incurred by it hereunder. The Manager shall render to the Associates as promptly as practicable, but not later than 30 days after the end of each period for which such accounts are kept, accurate statements of the accounts. As soon as practicable after the close of each Fiscal Year, the Manager shall cause financial statements audited by its independent certified public accountants to be delivered to the Associates. Subject to the provisions of Section 2.1(c), all of the foregoing accounts shall be open to the inspection of either Associate at all reasonable times.

Section 5.4 At or before the end of the third month following the close of each Fiscal Year, there shall be a recalculation, adjustment and settlement between the Associates covering the business, transactions and accounts hereunder for the preceding Fiscal Year. Such recalculation, adjustment and settlement shall cover all matters realting to advances by the Associates and cash disbursements by the Manager.

VI. Capital Improvements; Distribution of Insurance and Condemnation Proceeds

Section 6.1 (a) Capital Improvements may be proposed by the Manager or either Associate from time to time. An Associate proposing a Capital Improvement shall submit such proposal to the Manager. The Manager shall prepare and submit to each Associate, as promptly as reasonably practicable, a preliminary report setting forth the nature and estimated costs of the development and engineering studies necessary to proceed with the proposed Capital Improvement. Each Associate shall have 60 days from receipt of the Manager's report to determine whether it will fund the studies in proportion to its Initial Share. If, and to the extent that, an Associate determines not to fund an amount equal to its full Initial Share, the other Associate may elect to fund up to that portion of the cost of such studies not funded by such Associate. Upon determining that the Associates, or either of them, will fund

the total cost of such studies, the Manager shall arrange for the conduct, completion and delivery thereof to each Associate which provided funds therefor as soon as reasonably practicable.

(b) Each Associate shall have the right to fund up to that percentage of the total cost of a Capital Improvement which is equal to that percentage of the cost of the studies funded by it; provided, however, that if the studies result in a substantial change in the nature or scope of the proposed Capital Improvement, an Associate which did not fund the percentage of the cost of the studies equal to its Initial Share shall have the right to fund up to that percentage of the total cost of such Capital Improvement which is equal to its Initial Share, provided that it first reimburses the other Associate for that amount of the cost of such studies funded by such other Associate in excess of its Initial Share.

(c) Each Associate which funded any part of the cost of the studies shall have 90 days from receipt of such studies to determine whether it will fund that percentage of the proposed Capital Improvement which it is entitled to fund pursuant to Section 6.1(b). If, and to the extent that, an Associate determines not to fund such percentage, the other Associate may elect to fund up to that portion of the cost of such Capital Improvement not funded by such Associate. Upon receipt of notice from the Associates, or either of them, that the entire cost of the Capital Improvement as then proposed will be funded, the Manager shall undertake the Capital Improvement as hereinafter and in Article VII of the Logan Joint Venture Agreement provided.

Section 6.2 (a) The proceeds of any policy of insurance or any award in respects of condemnation recovered by the Manager on behalf of the Joint Venture in the event of any total or partial loss, damage or destruction of the Plant, any Capital Improvement or any Joint Venture Asset, or any condemnation or taking thereof by any governmental entity pursuant to the laws of eminent domain or otherwise, shall be applied by the Manager as follows:

(i) To the repair and replacement of that portion of the Plant, Capital Improvement or Joint Venture Asset lost, damaged, destroyed or taken in the event that the amount of the recovery or award with respect thereto does not exceed such disposition occurs or, in the event such proceeds exceed such sum as shall be determined by the Associates from time to time; the balance of any funds necessary for the completion of any such repair or replacement shall be acquired by the Manager pursuant to Section 5.2; and

(ii) Otherwise as directed by each Associate with respect to such Associate's Share of such proceeds (determined by the Share of Shares of such Association in the plant, Capital Inprovements or Joint Venture Assets which have been lost, damaged, destroyed or taken).

(b) The proceeds of any sale or other disposition of any Joint Venture Assets shall be applied at the discretion of the Manager to costs included in the operating budget for the Fiscal Year in which such sum as shall be determined by the Associates from time to time, each Associate's Share (determined as provided in Section 6.2(a)(ii)) of such proceeds shall be applied as directed by it.

(c) In the event that any Associate shall be in Material Default under Section 1.26(a)(i) of the Logan Joint Venture Agreement, notwithstanding any other provision of this Section 6.2 the other Associate (if such Associate is not also then in Material Default) may require such defauling Associate's Share (determined as provided in Section 6.2(a)(ii)) of the proceeds of any policy of insurance or any award in respect of condemnation or any sale or other disposition of any Joint Venture Asset to be applied first to cure such Material Default.

VII. Intellectual Property; Technical Assistance

Section 7.1 (a) Alcancorp hereby grants to the Manager on behalf of the Joint Venture an irrevocable, royalty-free, non-exclusive and non-assignable license to use Alcancorp Intellectual Property Rights for either Associate at the Plant during the Term.

(b) Arco hereby grant to the Manager on behalf of the Joint Venture an irrevocable, royalty-free, non-exclusive and non-assignable license to use Arco Intellectual Property Rights for either Associate at the Plant during the Term.

(c) Each Associate shall use its best efforts to disclose and to make or cause to be made available for license to the Manager on behalf of the Joint Venture (on such reasonable terms as may be negotiated) any assignable or licensable Intellectual Property and Improvements held or controlled by it or its Affiliates not licensed under Section 7.1 (a) or (b) which in the reasonable opinion of such Associate is desirable for use in connection with the production of such Associate's Venture Products or products of the same type produced at any other of such Associate's or its Affiliates' facilities, or the processes and apparatus used to produce them. Any Intellectual Property and Improvements licensed hereunder by either Associate also may be used by the Manager at the Plant for the benefit of the other Associate to the same extent that Intellectual Property provided pursuant to Sections 7.1 (a) and (b) may be so used.

(d) Nothing in Sections 7.1 (a), (b) or (c) shall be deemed to be a license to or to grant any right to such other Associate to use such Intellectual Property or Improvements, or to grant any rights to the Manager to use such Intellectual Property or Improvements other than at the Plant.

Section 7.2 (a) Each of the Associates shall provide to the Manager technical assistance reasonably required with respect to Operations that relate to its own Venture Products, including, without limitation, supplying experienced technical personnel for reasonable periods for advice and consultation, and the Manager may use informatioin received as a result of such technical assistance (other than information which is covered by a claim of a U.S. patent) at the Plant for either Associate during the Term.

(b) The Manager shall reimburse each Associate for: (i) direct payroll costs incurred for such technical personnel for time spent by them in providing such assistance, including reasonable travel time, plus an amount equal to 75% of such payroll costs to cover indirect costs, general administration, clerical support and overhead, and (ii) any travel and living expenses reasonably incurred by such personnel in providing such assistance.

Section 7.3 Alcancorp and Arco each represents and warrants that it has full right, power and authority to license the Alcancorp Intellectual Property Rights and the Arco Intellectual Property Rights, respectively, to the Manager. Neither Alcancorp nor Arco makes any representation or warranty that its rights in the Alcancorp Intellectual Property Rights and the Arco Intellectual Property Rights, respectively, are valid or enforceable or that the use of such Intellectual Property Rights will not infringe the rights of others, but each of Alcancorp and Arco represents and warrants that it has no knowledge of any claim by others that (i) its rights in the Alcancorp Intellectual Property Rights and the Arco Intellectual Property Rights, respectively, are invalid and/or unenforceable or (ii) the use of such Intellectual Property Rights would infringe the rights of others, except to the extent that it has given notice thereof to the other Associate.

Section 7.4 The Manager shall have the right to license to any Person on a non-exclusive basis any Management Company Intellectual Property Rights which the Manager is capable of licensing without disclosure of underlying or related Intellectual Property or Improvements made available to it by either Associate and without violation of any restriction on or prohibition thereof set forth in any agreement or arrangement pursuant to which such Intellectual Property or Improvement was made available to the Manager. To the extent permitted by the preceding sentence, the Manager hereby grants each Associate an irrevocable, royalty-free, non-exclusive license to use any Management Company Intellectual Property Rights, together with the right to sublicense to the respective Affiliates of the Associates.

Section 7.5 In the event of a dissolution or termination of the Joint Venture as a result of a Material Default by either Assocate, the licenses granted by such defaulting Associate pursuant to Section 7.1 (a), (b) or (c) shall become perpetual and automatically shall transfer to the other Associate and its Affiliates.

VIII. Confidentiality; Public Disclosure

Section 8.1 Except as hereinafter provided, the Manager and each Associate shall treat as confidential and shall not disclose to any Person any technical, operational, business or other information, including, without limitation, any Intellectual Property or Improvements (for purposes of this Article VIII, the "confidential information"), obtained directly or indirectly from the other or others of them pursuant to this Agreement or the Logan Joint Venture Agreement, or developed or otherwise acquired by the Manager, on behalf of the Joint Venture, unless such information: (a) was in the possession of the party, or an Affiliate of such party, at the time it obtained such information hereunder, (b) was or is published or otherwise is or becomes generally available to the public through no fault of such party or its Affiliates, or (c) was or is made available to such party or its Affiliates without restriction by any Person which is not bound by and does not impose an obligation of confidentiality or use with respect thereto.

Section 8.2 Subject to its right to license certain confidential information as provided in Section 7.4, the Manager shall not:

(a) Use any confidential information developed by or made available to it for any purpose other than the performance of its duties hereunder; or

(b) Disclose, reveal or otherwise make any such confidential information available to any Person without the consent of the Associate which made such information available to the Manager, except as provided in Section 8.3(b) or as may be necessary (i) to operate the Plant, (ii) to obtain technical assistance or (iii) to provide purchasers of Venture Products with information which such purchasers need to use or sell such Venture Products.

Section 8.3 Except as otherwise provided herein with respect to confidential information provided by the Associates, each of the Manager and the Associates may disclose confidential information developed by or made available to the Manager:

(a) In connection with a license or sublicense granted pursuant to Section 7.4; or

(b) In the event of a proposed sale by an Associate of its Venture Interest, in accordance with the Logan Joint Venture Agreement, to a potential purchaser of such Venture Interest which has executed an agreement, substantially in the form attached as Exhibit C, requiring it (i) to observe obligations of confidentiality corresponding to those contained herein and (ii) to use such confidential information only for the purpose of determining whether to purchase such Venture Interest.

Section 8.4 Except as provided in Section 8.3, neither Associate shall:

(a) Use any confidential information (other than its own) for any purpose other than to (i) help the Manager accomplish the objectives of the Joint Venture or (ii) enable such Associate to evaluate and report to its Affiliates, as necessary and appropriate, on the performance and accomplishments of the Joint Venture; or

(b) Disclose, reveal or make any confidential information (other than its own) available to any Person except as may be necessary to (i) help the Manager accomplish the objectives of the Joint Venture or (ii) to provide such Associate's customers with information required by such customers for the use or sale of Venture Products.

Section 8.5 (a) The Manager shall comply with and enforce reasonable procedures established by the Associates for the protection of their respective confidential information. The Associates, in conjunction with the Manager, shall use their best efforts to establish common procedures for the protection of all such confidential information.

(b) Each Associate shall restrict disclosures of confidential information (other than its own) to as few as possible of its employees, officers and agents, and only to those who need such information in connection with purposes contemplated herein.

(c) Each of the Associates and the Manager shall take adequate security and precautionary measures to ensure compliance with this Article VIII by such of their employees, officers, agents, Affiliates or other Persons as shall be given access to information and shall be responsible for such compliance by their employees, officers, agents and Affiliates.

Section 8.6 All obligations of the Associates and the Manager pursuant to this Article VIII shall survive the Term for a period of ten years.

Section 8.7 The parties agree that no adequate remedy at law exists for a material breach or threatened material breach of any of the provisions of this Article VIII, the continuation of which unremedied will cause the injured party to suffer irreparable harm. Accordingly, the parties agree that the injured party shall be entitled, in addition to other remedies which may be available to it, to immediate injunctive relief from any material breach of any of the provisions of this Article VIII and to specific performance of its rights hereunder. Nothing herein contained is intended, nor shall it be construed, to limit or affect any rights at law, by statute or otherwise, of any party as against the other for a breach or threatened breach of any of the provisions of this Article VIII, it being the intention of this Section 8.7 that the respective rights and obligations of the parties shall be enforceable in equity as well as at law.

IX. Compensation of Manager

Section 9.1 Each Associate, in accordance with Article V, shall provide to the Manager in advance sufficient funds for the prompt payment of all costs and expenses incurred for its account in the conduct of the Operations.

Section 9.2 The Associates shall pay to the Manager a management fee of $500,000 per annum, subject to such adjustments as may be agreed upon by the Associates and the Manager from time to time, as compensation for its services rendered hereunder.

X. Successors and Assigns

Section 10.1 This Agreement shall inure to the benefit of and shall be binding upon LMC and each of the Associates and any successor to the Venture Interest (in whole or in part) or either Associate in accordance with Article X of the Logan Joint Venture Agreement. Upon such a transfer, the

transferor shall be relieved of its obligations under this Agreement to the extent that it is relieved from the obligations of the Logan Joint Venture Agreement pursuant to the provisions of Article X thereof.

Section 10.2 This Agreement may not be assigned by LMC without the consent of each of the Associates or by either Associate except as provided in Article X of the Logan Joint Venture Agreement, provided that an Associate must assign its interest herein in conjunction with the transfer of its Venture Interest as provided in Article X of the Logan Joint Venture Agreement.

Section 10.3 The obligations of each of the Associates hereunder to make payments to the Manager shall be several.

XI. Notices

All notices, consents, requests, reports and other documents authorized or required to be given pursuant to this Agreement shall be given in writing and either personally served on an officer of the party to which it is given or mailed by registered or certified first class mail, postage prepaid, or sent by telex or telegram addressed as follows:

If to LMC: Logan Aluminium Inc., Route 431, P.O. Box 3000, Russellville, Kentucky 42267. Attention: President. Telex No. 8105311676 Ancon Logan.

If to Alcancorp: Alcan Aluminum Corporation, 100 Erieview Plaza, Cleveland, Ohio 44114. Attention: General Counsel. Telex No. 135069.

If to Arco: Atlantic Richfield Company, 515 South Flower Street, Los Angeles, California 90071. Attention: Corporate Secretary. Telex No. 677415.

in each case with a copy to each of the other parties.

Notices, consents, requests, reports and other documents shall be deemed given or served or submitted when delivered or, if mailed by registered or certified first class mail, on the third day after the day of mailing, or if sent by telex or telegram, 24 hours after the time of dispatch. A party may change its address for the receipt of notices, consents, requests and other documents at any time by giving notice thereof to the other parties. Any notice, consent or request given hereunder may be signed on behalf of any party by any duly authorized representative of that party. Notwithstanding the first paragraph of this Section, any routine reports required by this Agreement to be submitted by any party to other parties at specified times of the year may be sent by first class mail, and if any party which should receive said reports pursuant to this Agreement shall fail to receive said reports on time, it shall so notify the sending party, in which event another copy of such report shall be sent promptly by registered or certified first class mail.

XII. Governing Law

This Agreement shall be construed and enforced in accordance with and governed by the laws of the State of Delaware, without giving effect to the principles of conflicts of law thereof, except that real property law issues shall be governed by the law of the Commonwealth of Kentucky.

XIII. Miscellaneous

Section 13.1 The failure at any time of any party hereto to require performance by any other party hereto of any obligation provided for in this Agreement shall in no way affect the full right to require such performance at any time thereafter, nor shall the waiver by any party hereto of a breach of any provision of this Agreement by any other party hereto constitute a waiver of any succeeding breach of the same or any other such provision or constitute a waiver of the obligation itself.

Section 13.2 This Agreement and each change, variation or modification hereof shall be effective only when executed on behalf of each of the parties hereto by an authorized officer of such party.

Section 13.3 Except as contemplated herein, nothing herein expressed or implied is intended or shall be construed to confer upon or to give any Person not a party hereto any rights or remedies under or by reason of this Agreement.

Section 13.4 More than one counterpart of this Agreement may be executed by the parties hereto and each fully executed counterpart shall be deemed an original.

Section 13.5 All references in this Agreement to, and transactions hereunder in, money shall be to or in Dollars of the United States of America.

Section 13.6 The headings of the Articles in this Agreement are inserted for convenience of reference only and shall not be deemed to constitute a part hereof.

Section 13.7 This Agreement, together with the Logan Joint Venture Agreement and the Stockholders Agreement, constitutes the entire agreement of the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings, oral and written, among the parties hereto with respect to the subject matter hereof.

Section 13.8 Should any provision of this Agreement be deemed in contradication with the laws of any jurisdiction in which it is to be performed or unenforceable for any reason, such provision shall be deemed null and void, but this Agreement shall remain in force in all other respects. Should any provision of this Agreement be or become ineffective because of changes in applicable laws or interpretations thereof, or should this Agreement fail to include a provision that is required as a matter of law, the validity of the other provisions of this Agreement shall not be affected thereby. If such circumstances arise, the parties hereto shall negotiate in good faith appropriate modifications to this Agreement to reflect those changes that are required by law.

Section 13.9 Each party hereto, from time to time, shall execute and deliver to each other, as appropriate, such further, additional and confirmatory instruments and documents, and shall give such further assurances, as any of them shall reasonably deem necessary or advisable to secure to such party the benefits of this Agreement or otherwise to carry out the intent and purpose of this Agreement.

In witness whereof, the parties hereto have executed this Agreement as of the date first above written.

Alcan Aluminum Corporation.

By _____

Title _____

Arco Logan Inc.

By _____

Title _____

Logan Aluminum Inc.

By _____

Title _____

Exhibit A.—Logan Joint Venture Agreement By And Between Arco Logan Inc. and Alcan Aluminum Corporation

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Exhibits

Exhibit A—Logan Plant Real Property Description
Exhibit B—Instrument of Assumption

This Logan Joint Venture Agreement (this "Agreement"), dated ———, 1984, between Arco Logan, Inc., a Delaware corporation ("Arco"), and Alcan Aluminum Corporation, a New York corporation ("Alcancorp"); Arco and Alcancorp sometimes hereinafter are referred to collectively as "Associates" and individually as an "Associate."

Witnesseth;

Whereas, Arco and Alcancorp own undivided 60% and 40% interests, respectively, in an aluminum rolling mill facility in Logan County, Kentucky;

Whereas, Arco and Alcancorp desire to enter into a joint venture for the purpose of producing various aluminum products for sale by each of them individually;

Whereas, during the term of the Joint Venture (as hereinafter defined) each Associate will make available to the Joint Venture its interest in the Plant (as hereinafter defined), together with certain tangible and intangible personal property and assets owned by each of them to be utilized by and in conjunction with the operation of the Plant; and

Whereas, the Associates from time to time will contribute the working capital and certain raw materials required to operate the Plant;

Now, therefore, the parties hereto agree as follows:

I. Definitions

As used in this Agreement, the following terms shall have the following meanings when used with initial capital letters:

1.1 "Affiliate" means, with respect to any Person, any other Person directly or indirectly controlling, controlled by or under common control with such Person; provided, however, that the Joint Venture and the Management Company shall be deemed not to be Affiliates of either Associate or its Affiliates. For purposes of this definition 'control' (including 'controlling,' 'controlled by' and 'under common control with') shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities or by contract or otherwise.

1.2 "Alcancorp Intellectual Property Rights"means all of the assignable or licensable right, title and interest of Alcancorp or any of its Affiliates on the date hereof in and to any Intellectual Property which has been used commercially by Alcancorp to produce:

(i) The following products:
—Beverage can body, end and tab stock
—Building sheet (excluding proprietary paint coating technology and anodic coated aluminum alloy building products)
—Foil (excluding proprietary 8006 and 8007 alloy)
—Finstock (excluding proprietary 8006 and 8007 alloy)
—NHT distributor sheet or

(ii) Any other products which Alcancorp produces at the Plant.

including Intellectual Property which relates to the processes and apparatus used to produce such products.

1.3 "Annual Capital Costs" means costs and expenses incurred by the Management Company on behalf of the Joint Venture described as such in the Cost Sharing Procedure.

1.4 "Arco Intellectual Property Rights" means all of the assignable or licensable right, title and interest of Arco or any of its Affiliates on the date hereof in and to any Intellectual Property which has been used commercially by Arco or ARCO Metals Company, a division of Atlantic Richfield Company, to produce:

(i) The following products:
—Beverage can body, end and tab stock
—Building sheet (excluding proprietary (A) polymer clad aluminum alloy sheet, (B) painted aluminum, alloy building products and (C) anodic coated aluminum alloy building products)
—Foil
—Finstock
—NHT distributor sheet or

(ii) Any other products which Arco produces at the Plant.

including Intellectual Property which relates to the processes and apparatus used to produce such products.

1.5 "Associate" means each of Alcancorp and Arco as long as it is the owner of a Venture Interest and

continues to be subject to the obligations of this Agreement in respect of such Venture Interest, and any Person who succeeds in whole or in part to such Venture Interest and obligations in accordance with the provisions of Article X.

1.6 "Capital Improvement" means any alteration, addition, expansion, replacement, enhancement or other improvement which is determined by the Management Company not to be necessary or desirable to maintain and operate the Plant at its then current capacity or at acceptable levels of quality or efficiency or to comply with regulatory requirements.

1.7 "Cash Call" means each sum payable by an Associate to the Management Company pursuant to Article V of the Management Agreement.

1.8 "Cost Sharing Procedure" means the procedure attached as Exhibit B to the Management Agreement.

1.9 "Default" means any General Default or Material Default.

1.10 "Encumber" means to create or suffer or permit to exist any Encumbrance.

1.11 "Encumbrance" means any license, right of way, easement, limitation, condition, reservation, restriction, right or option, mortgage, pledge, lien, charge, conditional sale or other title retention agreement or arrangement, encumbrance, lease, sublease, security interest or trust interest.

1.12 "Fiscal Year" means each calendar year, except that the first Fiscal Year of the Joint Venture shall be the period commencing on the date hereof and ending December 31, 1984.

1.13 "Fixed Costs" means the costs and expenses incurred by the Management Company on behalf of the Joint Venture described as such in the Cost Sharing Procedure.

1.14 "Force Majeure" means an act of God, strike or lockout or other labor dispute, act of public enemy, war, declared or undeclared, blockade, revolution, riot, insurrection, civil commotion, lightning, fire, storm, flood, earthquake, explosion, governmental restraint, embargo, inability to obtain or delay in obtaining equipment or transport, or material or supplies, from customary sources, inability to obtain or delay in obtaining governmental approvals, permits, licenses or allocations and any other cause whether of the kind specifically enumerated above or otherwise which is not reasonably within the control of the party claiming Force Majeure. The inability of funds for any reason whatsoever, shall not be considered an event of Force Majeaure.

1.15 "General Default" means, with respect to any Associate, the failure of such Associate to perform, observe or fulfill any covenant, agreement, condition or other obligation required to be performed, observed or fulfilled hereunder or under the Management Agreement which failure shall continue unremedied by such Associate for a period of 90 days from the date of notice of such failure given to such Associate by the Management Company or the other Associate, as the case may be.

1.16 "Improvements" means assignable or licensable inventions, discoveries, techniques, works, processes and modifications (whether or not patentable) made or acquired after the date hereof relating to any Intellectual Property.

1.17 "Initial Share", When referred to with respect to an Associate, means the percentage interest of such Associate at the date of this Agreement in the assets, property, costs or other subject matter referred to, which is 60% in the case of Arco and 40% in the case of Alcancorp.

1.18 "Intellectual Property" means all patents and patent applications, all copyrights, registrations and applications for copyright registrations and all know-how, technical data, trade secrets and other information, including, but not limited to, designs, drawings, specifications for products, material and equipment, process and manufacturing information, quality control information, performance data, plant service information and similar information.

1.19 "Joint Venture" means the joint venture formed pursuant to Section 3.1.

1.20 "Joint Venture Agreement" and "Logan Joint Venture Agreement" mean this Agreement.

1.21 "Joint Venture Assets" has the meaning set forth in Section 3.3.

1.22 "Management Agreement" and "Logan Management Agreement" mean the Logan Management Agreement dated the date hereof by and among the Associates and the Management Company and the Exhibits thereto and any other agreement entered into in substitution therefor providing for the management of the activities of the Joint Venture.

1.23 "Management Company" and "Logan Management Company" mean Logan Aluminum Inc., a Delaware corporation, which is a party to the Management Agreement.

1.24 "Management Company Approval" means, with respect to any action, approval given by the Board of Directors of the Management Company (or by a Committee thereof pursuant to authority delegated by the Board of Directors) by resolution adopted by required vote or consent or approval given by any officer of the Management Company pursuant to authority delegated by its Board of Directors.

1.25 "Management Company Intellectual Property Rights" means all of the right, title and interest of the Management Company in and to any Intellectual Property or Improvements developed during the Term by the Management Company, or acquired during the Term by the Management Company from any person other than either Associate or its Affiliates.

1.26 "Material Default" means, with respect to any Associate:

(a) The failure of such Associate:

(i) To make any payment required to be made by such Associate hereunder or under the Management Agreement (including any Cash Call) on the date such payment is due, which failure shall continue unremedied by such Associate for a period of 15 days,

(ii) To comply with any material provision of Article X, or

(iii) To perform, observe or fulfill any other convenant, agreement, condition or other obligation required to be performed, observed or fulfilled by such Associate under this Agreement or the Management Agreement, if such failure results or could reasonably be anticipated to result in any material loss, cost, damage or expense (including, without limitation, loss of any material right or benefit under this Agreement or the Management Agreement) to the other Associate, and either (A) is willful, provided that each Associate and each Person through which an Associate may act shall be deemed to have knowledge of the terms of this Agreement and the Management Agreement, or (B) is not willful and could be cured by the defaulting Associate with such effort and at such cost as shall not be unreasonable in relation to the loss, cost, damage or expense suffered or reasonably anticipated to be suffered by the other Associate;

(b)

(i) The institution by such Associate or any parent or controlling Person thereof or proceedings for relief as a debtor under the laws of the United States, Canada or any state or province thereof, as now consituted or hereafter in effect, or under any state or other law for the relief of debtors,

(ii) The adjudication of such Associate or any parent or controlling Person thereof as bankrupt or insolvent under insolvency provisions of any such law,

(iii) The making of any assignment for the benefit of creditors by such

Associate or a controlling Person thereof, or

(iv) The appointment of a receiver or trustee for the business or properties of such Associate or a controlling Person thereof, which appointment shall not be rescinded or discharged within 60 days; and

(c) The withdrawal or such Associate from the Joint Venture in violation of this Agreement.

1.27 "Operations" means the maintenance and operation of the Plant and other undertakings, activities and operations engaged in by the Associates and the Management Company in accordance with this Agreement and the Management Agreement.

1.28 "Person" means an individual, firm, trust, partnership, joint venture, association, corporation, unincorporated organization or government (or any department or agency thereof).

1.29 "Plant" means the real property (including, without limitation, the real property described in Exhibit A and all buildings, structures and improvements now or hereafter located thereon and all appurtenances thereto), fixtures and personal property (other than stores and supplies) constituting the aluminum rolling mill situated in Logan County, Kentucky, undivided 40% and 60% interests in which are owned by Alcancorp and Arco, respectively, at the date hereof.

1.30 "Production Center" means any one of those primary areas identified by function in the Plant as listed in the Cost Sharing Procedure and such additional configurations or such reconfigurations of such areas as may be determined by the Management Company and agreed upon by the Associates from time to time.

1.31 "Scheduled Output" means the production output of each Production Center with respect to each Associate, as scheduled by the Management Company, in any given period of time.

1.32 "Share," when referred to with respect to an Associate, means the percentage interest of such Associate in the assets, property, costs or other subject matter referred to, provided that the Shares of the respective Associates are subject to change in accordance with the terms of this Agreement.

1.33 "Stockholders Agreement" means the Logan Management Company Stockholders Agreement dated the date hereof by and among Alcan Aluminium Limited, Alcancorp, Atlantic Richfield Company and Arco.

1.34 "Term" has the meaning set forth in Article II.

1.35 "Unpaid Cash Call" means any Cash Call which is unpaid for a period of 15 days following the due date of such Cash Call.

1.36 "Variable Costs" means the costs and expenses incurred by the Management Company on behalf of the Joint Venture described as such in the Cost Sharing Procedure.

1.37 "Venture Interest," when used with respect to an Associate, means:

(i) Its rights and interests in and to the Joint Venture Assets; and

(ii) Its rights and obligations under and interests in this Agreement and in the Management Agreement and the Stockholders Agreement.

1.38 "Venture Product," when used generally, means any product produced or processed at the Plant by any Production Center, individually or in conjunction with any other Production Center or plant from time to time during the Term and, when used with respect to any Associate, means any such product produced or to be produced as determined by it in its discretion subject to implementation by the Management Company.

II. Term

This Agreement shall become binding upon its execution by each of the parties hereto and shall continue in force for so long as the Plant is either operated by or on behalf of the Associates for the production of Venture Products or is maintained by or on behalf of the Associates in an idled state, unless earlier terminated pursuant to the provisions of this Agreement (the "Term").

III. The Joint Venture

3.1 *Undertaking.* Upon the terms and subject to the conditions set forth in this Agreement, the Associates hereby enter into the Joint Venture for the limited purposes of (i) maintaining and operating the Plant, (ii) causing the Venture Products to be produced by the Management Company at the Plant for each Associate in quantities and to specifications to be determined by such Associate in its sole discretion (subject to the production capabilities of the Plant) and in accordance with the provisions hereof and production schedules established from time to time by the Management Company and (iii) conducting the ancillary activities referred to herein and in the Management Agreement. The Joint Venture shall be conducted only for the purposes expressly set forth herein and its activities shall not extend beyond such purposes.

3.2 *Scheduled Output.* Metal delivered to the Plant shall be accounted for as the separate property of the Associate by or on behalf of which such metal is supplied, regardless of the form, state or condition in which it may exist from time to time (whether or not separately identifiable from time to time), until the Venture Product incorporating such metal is taken by such Associate as hereinafter provided. Each Associate shall own and shall have the right to take in kind and separately to dispose of, and shall take, its Scheduled Output as hereinafter provided, except to the extent limited by reason of Article XI.

3.3 *Joint Venture Assets.* The property and assets which shall be made available in accordance with the provisions of this Agreement and the Management Agreement for the purposes of the Joint Venture include: (a) The real and personal property and fixtures constituting the Plant, (b) any Capital Improvement and the capital provided to fund it, (c) the non-exclusive licenses granted to the Management Company in accordance with Article VII of the Management Agreement, to use Alcancorp Intellectual Property Rights and Arco Intellectual Property Rights in the conduct of the Joint Venture during the Term, (d) cash advanced for the payment of Fixed Costs, Variable Costs and Annual Capital Costs and (e) any other property or assets, whether tangible or intangible in nature, made available by either Associate to the Joint Venture from time to time in accordance with this Agreement. Such property and assets, together with any other property or assets, whether tangible or intangible in nature (including Intellectual Property and Improvements), acquired on behalf of the Associates by the Management Company, are hereinafter sometimes referred to collectively as "Joint Venture Assets."

3.4 *Limitation of Liability.*

(a) Nothing contained in this Agreement shall be construed to establish any partnership, agency or representative relationship between the Associates or to create a trust or commercial or other partnership or any corporate entity for any purpose whatsoever. The obligations of the Associates under this Agreement shall be several and neither joint nor joint and several. Except as otherwise expressly provided herein or in the Stockholders Agreement, neither Associate shall make any expenditure or commitment or undertake any other obligation by or on behalf of the another Associate or the Joint Venture without the express written consent of such other Associate or, in the case of the Joint Venture, the Management Company.

(b) Neither Associate nor any of its Affiliates shall, by virtue of this Agreement or any other agreement or instrument contemplated hereby or executed in connection herewith, be foreclosed or limited, in any manner, from the production, manufacture, purchase, sale, distribution or use of any product that it may elect to produce, manufacture, purchase, sell, distribute or use pursuant to its individual business practices.

3.5 *Cross Indemnification.* Each Associate (for purposes of this Section 3.5, the "indemnitor") shall indemnify and hold harmless the other Associate (for purposes of this Section 3.5, the "indemnitee") and the direct or indirect stockholders and the directors, officers, partners, employees, agents and representatives of the indemnitee from and against any costs, losses, claims, damages and liabilities arising out of any act of the indemnitor or any of its direct or indirect stockholders, directors, officers, partners, employees, agents or representatives undertaken so as to bind the indemnitee, or which has the effect of making the indemnitee liable without its consent, or arising out of any assumption of any obligation or responsibility by the indemnitor or any of its directors, officers, partners, employees, agents or representatives undertaken so as to bind the indemnitee or which has the effect of making the indemnitee liable without its consent (including, without limitation, sales or other acts entirely on its part which may give rise to product liability claims); provided, however, that this section shall have no application with respect to any act done or any undertaking by the Management Company, or on its behalf, pursuant to the Management Agreement or to payment by either Associate of any Unpaid Cash Call or interest with respect thereto owing by the other Associate pursuant to Article XI.

3.6 *Obligations of Associates.* Each Associate covenants and agrees:

(a) To perform its obligations and commitments under the Management Agreement and all other agreements to which it is a party relating to the Joint Venture;

(B) Not to do any act or thing, or fail or omit to do any act or thing, it is obligated to do or refrain from doing which act or omission would cause it or the other Associate to be in breach of or in default under this Agreement, the Management Agreement or any other agreement to which it is a party relating to the Joint Venture; and

(c) To cause the Management Company to carry out its obligations and the obligations of the Joint Venture under the Revised Acquisition Agreement dated as of October 1, 1984 by and between Alcan Aluminium Limited and Atlantic Richfield Company and all agreements ancillary thereto.

IV. Venture Interests

4.1 *Distribution of Shares.* The Venture Interests of the Associates shall at all times aggregate 100% of the interests in the Joint Venture. The Venture Interest of an Associate can be changed only by adjustment of its Share of any Joint Venture Asset of transfer of an interest in such Joint Venture Asset pursuant to Article X.

4.2 *Partition.* (a) No Associate or Person claiming through or under any Associate shall,

(i) Partition or seek to partition, whether by judicial or administrative process or otherwise, any property, assets, rights or interests (including, without limitation, the Plant and any future Capital Improvement thereto, where comprised of or constituting real or personal property) acquired or held by the Associates as tenants-in-common under or subject to this Agreement, all of which rights of partition (whether now or hereafter existing or created, by statute, common law or otherwise) are hereby irrevocably waived and released by each Associate on behalf of itself and its successors and assigns in and to such property, assets, rights and interests; or

(ii) Waive, release, surrender or forfeit, or permit to be waived, released, surrendered or forfeited, the whole or any part of the Venture Interest of any Associate.

(b) Each Associate acknowledges and agrees that the continued ownership, use and operation of the property, assets, rights and interests hereinabove referred to (and in particular the Plant and all future Capital Improvements thereto) as a single, integrated facility is essential to the Associates and to the realization of the benefits and value thereof, and that the mutual covenant, waiver and release set forth in paragraph (a)(i) are essential to the maintenance and preservation of the use and operation of such property, assets, rights and interests as a single, integrated facility. Notwithstanding anything in this Agreement to the contrary, such mutual covenant, waiver and release shall survive for a period of one year after the expiration of the Term; provided, however, that such mutual covenant, waiver and release shall thereafter survive and continue to bind and be enforceable for an additional period of 3 years against an Associate in Material Default resulting in dissolution pursuant to Section 13.1 (b) or (c).

4.3 *Insurance Proceeds; Condemnation Awards; Sale or Other Proceeds.* The proceeds of any policy of insurance or award in respect of condemnation, or proceeds of any sale or other disposition of any property or assets, recovered by the Management Company on behalf of the Joint Venture shall be collected and applied by the Management Company as provided in Section 6.2 of the Management Agreement.

V. Operating and Capital Costs

Fixed Costs, Variable Costs, Annual Capital Costs and costs of Capital Improvements shall be allocated to each Associate as provided in the Management Agreement and the Cost Sharing Procedure.

VI. Management and Operations

6.1 *Management Agreement.* The Associates each have entered into the Management Agreement with the Management Company providing for the management, operation and administration of the affairs of the Joint Venture. The Joint Venture shall at all times be carried on and the Plant shall at all times be operated on behalf of the Associates by and through the Management Company in accordance with the Management Agreement.

6.2 *Conduct of Management Activities.* The Joint Venture shall at all times be carried on and the Plant shall at all times be operated in accordance with good operating and business practices.

6.3 *Utilization of Production Capacity.* Each Associate's required production will be scheduled in accordance with the Management Agreement and the Cost Sharing Procedure in such a manner as to ensure each Associate full and fair access to the production capacity of each each Production Center in proportion to its Share of such Production Center. Production capacities and the rights of the Associates with respect to the utilization thereof will be determined for each of the Production Centers as provided in the Management Agreement and the Cost Sharing Procedure.

6.4 *Metal Supplies.* Each Associate shall provide to the Management Company the metal required to meet its scheduled production. Each Associate shall have the right to supply sheet ingot, scrap, T-ingot and sow from such sources as it may have available; provided, however, that such metal shall be supplied in such quantities, form and specifications as are compatible with the Plant and in accordance with

requirements determined by the Management Company.

6.5 *Sales and Customer Relationships.* Sales, customer relationships and service functions (other than operational and technical service functions conducted by the Management Company) and related billing, credit and collection matters will be the independent and exclusive responsibility of each Associate with respect to its customers. In no event shall either Associate share or reveal to the other Associate (including, without limitation, such Associate's employees) information regarding the other's future production schedules for specific rolled aluminum products, present or future prices or other terms or conditions of sale, volume of shipments, marketing plans, sales forecasts or sales or proposed sales to specific customers of aluminum products; provided, however, that nothing in this provision shall prevent either Associate from communicating with the other Associate concerning bona fide purchase and sale transactions between them or from communicating information that is or has been generally announced or generally published.

VII. Capital Improvements

7.1 *Proposal.* Capital Improvements may be proposed by either Associate or the Manager from time to time and shall be undertaken as provided in the Management Agreement. No Capital Improvement shall be undertaken unless the Associates, or either of them, shall have agreed to fund the entire cost thereof. The Share of each Associate in any Capital Improvement shall be proportionate to the percentage of the costs thereof borne by it. Nothing herein shall be interpreted to decrease either Associate's Initial Share of the initial production capacity of any Production Center or the entitlement of either Associate to machine hours or tonnage, as the case may be, from any Production Center prior to any such Capital Improvement.

7.2 *Certain Capital Improvements.* (a) The Associates recognize that (i) their independent economic and market circumstances may result in one of the Associates desiring to make substantial Capital Improvements at a time or times when the other Associate does not desire to participate and (ii) certain Capital Improvements by one Associate would either (A) preempt the ability of the other Associate to utilize fully its Initial Share of the ultimate production capacity of one or more Production Centers by means of a subsequent Capital Improvement or (B) take advantage of existing Plant infrastructure such that a subsequent similar Capital Improvement would be substantially more expensive in constant dollars (dollars adjusted to eliminate any inflation or deflation factor).

(b) If (i) either Associate funds a Capital Improvement in a proportion which exceeds the Initial Share of such Associate (the "Expanding Associate") and (ii) the existence of such Capital Improvement would preempt the ability of the other Associate (the "Non-participating Associate") to utilize fully its Initial Share of the ultimate production capacity of any Production Center, then, notwithstanding any provisions of this Agreement to the contrary, (x) if the preemption problem would be resolved by a further Capital Improvement which is commercially practicable (including, without limitation, from the cost, physical or technical standpoint but without regard to market considerations) in which the Non-participating Associate has a Share greater than its Initial Share, the Non-participating Associate shall be permitted to propose and to fund (including with respect to the initial studies) such further Capital Improvement to the extent necessary to result in the Non-participating Associate having the Share of such further Capital Improvement necessary to resolve the preemption problem and (y) if the preemption problem cannot be resolved by a further Capital Improvement which is commercially practicable (as such term is used above), the Non-participating Associate, at any time, may acquire from the Expanding Associate an interest in the preempting Capital Improvement up to that interest which will result in the Share of the Non-participating Associate therein being equal to its Initial Share upon 24 months' notice (which, when given, shall be irrevocable) to the Expanding Associate and the payment by the Non-participating Associate to the Expanding Associate, at the end of the notice period, of cash in an amount which in constant dollars would be equal to the sum of (A) a proportionate part of the costs of the studies relating to the preempting Capital Improvement, (B) a proportionate part of the capital cost of such Capital Improvement, excluding start-up costs, adjusted to reflect imputed depreciation calculated on a straight-line basis over a period of 20 years and (C) the Expanding Associate's Share of the Fixed Costs of operating the Capital Improvement during its first six months of operation.

(c) If (i) either Associate funds a Capital Improvement in a proportion which exceeds the Initial Share of such Associate (the "Expanding Associate"), (ii) such Capital Improvement would take advantage of existing Plant infrastructure such that a subsequent Capital Improvement which is intended to perform a substantially similar function (taking into account advances in technology) is more than 25% more expensive in constant dollars, and (iii) the other Associate (the "Non-participating Associate"), at any time, proposes a subsequent substantially similar Capital Improvement, then the Expanding Associate shall pay (in addition to any amounts required hereunder with respect to its Share of such subsequent Capital Improvement) to the Non-participating Associate at the time of the completion of such subsequent Capital Improvement an amount which will constitute equitable compensation to the Non-participating Associate for the increased cost of such subsequent Capital Improvement over the cost of such initial Capital Improvement due to the use of existing Plant infrastructure in connection with such initial Capital Improvement.

7.3 *Management Company.* Pursuant to the Management Agreement, the Management Company, on behalf of the Associates, shall carry out, conduct and administer any Capital Improvement in a manner consistent with the most efficient continuation of and the least possible interference with the operation of the existing facilities; provided, however, that should the Management Company determine at any time before construction is commenced that the proposed Capital Improvement would unduly interfere with the then existing Plant or the operation thereof, or subject the Joint Venture or either Associate to undue risk of loss, damage or liability, it shall be notify the Associates, which shall confer to determine by mutual agreement reasonable terms and conditions for proceeding with such Capital Improvement. The Associate shall execute and deliver such documents and agreements as may be necessary or appropriate to authorize and permit the Management Company to effectuate such Capital Improvement.

VIII. Intellectual Property Rights

As more fully set forth in the Management Agreement:

(a) Alcancorp shall grant to the Management Company on behalf of the Joint Venture irrevocable, royalty-free, non-exclusive and non-assignable licenses to use, during the Term, Alcancorp Intellectual Property Rights; and

(b) Arco shall grant to the Management Company on behalf of the Joint Venture irrevocable, royalty-free, non-exclusive and non-assignable licenses to use, during the Term, Arco Intellectual Property Rights.

IX. Tax Election

The Associates contemplate that the Joint Venture will elect to be excluded from all provisions of Subchapter K of the Internal Revenue Code of 1954 for all taxable years for which the Joint Venture is qualified to make such election. The Associates shall perform all reasonable acts which may be necessary to accomplish this objective and sign all statements necessary to make such election, and hereby authorize the Management Company to file all returns and statements in the name of and on behalf of the Joint Venture necessary to make such election effective. To effect such election, each Associate states that the income derived by such Associate from the Joint Venture can be adequately determined without the computation of partnership taxable income.

X. Transfers, Assignments and Encumbrances

10.1 *Prohibition of Transfers, Assignments and Encumbrances.* Except as otherwise provided in this Article X, neither Associate may sell, transfer, convey, assign or otherwise dispose of or Encumber the whole or any part of its Venture Interest, or merge or consolidate with any other Person, without the consent of the other Associate. Except as provided in the Management Agreement, neither Associate may sell, transfer, convey, assign or otherwise dispose of or Encumber the whole or any part of its interest in any Joint Venture Asset except in conjunction with a sale, transfer, conveyance, assignment or other disposition of its Venture Interest in accordance with this Article X.

10.2 *Transfers to Affiliates.* At any time during the Term, either Associate, if such Associate is not then in Material Default, or if any such Material Default is cured at or before the consummation of the transaction, may sell, transfer, convey, assign or otherwise dispose of the whole, but unless the other Associate shall otherwise consent, not a part, of its Venture Interest to an Affiliate which is a corporation organized under the laws of the United States of America, any State thereof or the District of Columbia; provided, however, that the transferee delivers to the Persons entitled thereto the instrument of assumption and the legal opinion provided for in Section 10.5(a). Notwithstanding the consummation of such transfer, the transferor under this Section 10.2 shall be jointly and severally liable with the transferee for the performance of the obligations of the transferee under this Agreement, the Management Agreement and the Stockholders Agreement unless the transferor has been released therefrom as provided in Section 10.5(b). Transfers within the meaning of this Section 10.2 are intended to include not only voluntary transfers, but also transfers arising by operation of law, whether in connection with a merger or consolidation or otherwise.

10.3 *Transfers to Persons Other Than Affiliates; Right of First Refusal.*

(a) At any time during the Term, either Associate (optionor), if it either is not then in Material Default or if any such Material Default is cured at or before the consummation of the transaction, may sell, transfer, convey, assign or otherwise dispose of (directly or in connection with the merger or consolidation of such Associate with any Person) the whole, but, unless the other Associate (optionee) shall otherwise consent, not a part, of its Venture Interest to a single transferee, but only if it shall have received a *bona fide* offer (directly or by virtue of a proposed merger or consolication) to purchase such Venture Interest from a Person other than an Affiliate described in Section 10.2 and only in compliance with Section 10.3(b) and Section 10.5. Optionor shall promptly notify optionee of its desire to accept any such *bona fide* offer. Such notice shall identify the offeror and provide reasonably detailed information regarding the offeror's financial position.

(b) Optionor shall not complete the proposed disposition if, within 20 days after delivery of the notice provided for in Section 10.3(a), optionee shall give to optionor notice that optionee has a valid objection to the proposed transferee on the grounds that the outstanding debt securities of such proposed transferee are not rated at least BBB–Baa, or the equivalent, or, if the proposed transferee has no debt securities outstanding which have been rated by a recognized credit rating entity, that such proposed transferee does not possess the financial strength to support such a rating. If optionor considers the objection to be invalid, then optionor may propose and the parties shall accept in settlement of the dispute an opinion of a nationally-recognized investment banking firm (the identity of which is mutually agreed upon by optionor and optionee and the fee of which is paid jointly by them in proportion to their Initial Shares) as to whether or not the financial strength of the proposed transferee is sufficient to support such a rating. If an affirmative opinion is received, optionee's notice of objection shall be deemed to have been withdrawn; provided, however, that in the event the proposed disposition would be consummated after 5 years from the date hereof, optionee still may exercise its rights under Section 10.3(c) within the periods provided therein.

(c) With respect to any proposed disposition of a Venture Interest which would be consummated after 5 years from the date hereof, optionee, if optionee is not then in Material Default, shall have the right to acquire, at any time within 60 days after receipt from optionor of notice as required by Section 10.3(a), which notice also shall set forth the terms and consideration offered by the proposed transferee, the Venture Interest of the optionor on the same terms and for the same consideration (which shall be in cash or other assets or property having readily ascertainable market value only) offered (or for cash equivalent to such consideration in the event such consideration is in the form of assets or property having readily ascertainable market value), less the amount required to cure any Default of optionor under Section 1.26(a)(i) remaining uncured after the date of such acquisition. If optionee fails to give optionor notice of its desire to acquire all the offered Venture Interest within such 60-day period, or, having given such notice, optionee fails to complete such acquisition within 180 days (increased by the number of days, if any, by which any filing made by optionor in accordance with the requirements of any applicable state or federal antitrust law or consent decree follows the date of any similar filing made by optionee pursuant to such law or consent decree) after optionor's notice, then optionor shall be free to dispose of its entire Venture Interest to the proposed transferee substantially on the terms and for the consideration offered, in accordance with Section 10.5, at any time within 180 days after the end of such 60-day period or 180-day period (as the same may be extended), whichever is applicable. If, having given the notice referred to above, optionee is prevented from completing such acquisition within such 180-day period, increased, if appropriate, as provided above (the "Acquisition Period") by the terms of an outstanding consent decree, optionor shall have the right, during the 18-month period commencing with the expiration of the Acquisition Period, to dispose of its entire Venture Interest in accordance with Section 10.5 without again offering

to optionee the right of first refusal set forth in this Section 10.3(c), provided that optionor shall have fully cooperated with optionee during the Acquisition Period in attempting to amend any such consent decree to the extent necessary to permit optionee to complete such acquisition.

10.4 *Purchase Option Upon Material Default.*

(a) If an Associate (optionor) shall have committed a Material Default which shall continue without cure for a period of 15 days after the date notice thereof is given to optionor by the Management Company or the other Associate (optionee), optionee, subject to compliance with any applicable state or federal antitrust law or consent decree, shall have an assignable right and opportunity to purchase the Venture Interest of optionor during the continuation of such Material Default; provided, however, that the cure of such Material Default subsequent to notice by optionee of its election to exercise its option under this Section 10.4 shall not extinguish or rescind such exercise or prevent optionee's consummation of its purchase of optionor's Venture Interest in accordance with Section 10.4(b). An Associate shall not be entitled to exercise its option rights under this Section 10.4 if at the time of the attempted exercise thereof such Associate is then also in Material Default.

(b) The consummation of the purchase of the Venture Interest of optionor pursuant to this Section 10.4 shall take place in accordance with the provisions of Section 10.5 upon such date as optionee shall specify, but not more than 30 days after the later of notice by optionee to optionor of its election to exercise its option rights under this Section 10.4 or compliance by optionee with any applicable state or federal antitrust law or consent decree. The consideration for such purchase shall be the assumption referred to in Section 10.5(a) and the payment in cash of an amount determined by the Management Company's independent certified public accountants which is equal to the sum of (i) an amount equal to optionor's Initial Share of an amount to be agreed upon by the parties, in constant dollars, (ii) optionor's Share of the aggregate capital cost of all Capital Improvements funded by it and which have become a part of such Venture Interest to the date of such purchase (each of (i) and (ii) adjusted to reflect imputed depreciation calculated on a straight-line basis over a period of 20 years) and (iii) the liquidation value of optionor's Share of the working capital of the Joint Venture, less any amounts required to cure any Default of optionor under Section 1.26(a)(i) remaining uncured on the date of such purchase. Nothing in this Section 10.4 is intended to Encumber any property of any Associate under the laws of any jurisdiction.

10.5 *Procedure Upon Transfer.*

(a) A sale, transfer, assignment, conveyance or disposition of the Venture Interest of either Associate pursuant to any of the provisions of this Article X to any Person shall be effective only when such Person shall have delivered to the Associate whose Venture Interest is being sold, transferred, assigned, conveyed or disposed of (for purposes of this Section 10.5, the "transferor"), and to the other Associate, executed counterparts of an instrument of assumption substantially in the form attached as Exhibit B, pursuant to which such Person shall have assumed all of the obligations of the transferor under this Agreement, the Management Agreement and the Stockholders Agreement (including the obligation to cure any Default of transferor remaining uncured after the date of such disposition) and further shall have agreed to become a party hereto and thereto, and, in connection therewith, counsel for such Person satisfactory to the remaining Associate shall have delivered to such Associate the opinion of such counsel satisfactory in form and substance to such Associate as to the due authorization, execution and enforceablity of such instrument of assumption and as to such other matters as such remaining Associate may reasonably require, whereupon, except with respect to Affiliates as provided in Section 10.2 and except as provided in Section 10.5(b), the transferor automatically shall be relieved from any obligation arising after the consummation of the transfer under this Agreement, the Management Agreement or the Stockhloders Agreement.

(b) Notwithstanding the fact that a transferee of an Associate is itself an Associate or shall become a party to this Agreement, the Management Agreement and the Stockholders Agreement in the place and stead of its transferor, or anything else herein to the contrary, no sale, transfer, assignment, foreclosure on or disposition of all or any part of an Associate's Venture Interest shall release such Associate from the performance of its obligations then accrued under this Agreement, the Management Agreement and the Stockholders Agreement and the transferor shall be and remain jointly and severally liable therefor with the transferee, unless such release is consented to by the other Associate or unless such release arises by operation of law by reason of the cessation of existence of such Associate as a constituent corporation in a merger or consolidation consented to by the other Associate or permitted by this Agreement.

10.6 *Encumbrances.* Any Associate not in Default shall not be required, and the other Associate shall not have the right, to pay, discharge or remove any Encumbrance solely on or against the undivided interest of such Associate not in Default in the Joint Venture Assets or any portion thereof, or to comply with any law relating to such undivided interest or the use thereof, so long as such Associate shall contest the existence, amount or validity thereof in good faith by appropriate legal or administrative proceedings, timely instituted and diligently prosecuted, which shall operate to prevent the collection or satisfaction of the Encumbrance so contested and to prevent the sale or forfeiture of such undivided interest or any portion thereof to satisfy the same or otherwise resulting from such non-compliance, and which proceedings shall not materially affect the rights or interests of such Associate or result in a Default by such other Associate; provided, however, that the Associate so contesting such matter shall have given such security as may be required in the proceedings. The Associate so contesting shall promptly pay any valid final judgment enforcing any such tax, charge, levy, assessment or Encumbrance and cause the same to be satisfied of record and shall in no event allow the sale or forfeiture of such undivided interest to satisfy such Encumbrance or otherwise as a result of such proceedings.

XI. Default

11.1 *Unpaid Cash Calls and Interest Thereon.* Each Unpaid Cash Call shall constitute a debt of the Associate obligated to pay the same which shall bear interest at a rate equal to the lesser of 24% per annum or the maximum rate legally collectible from the due date of the Cash Call to the date of actual payment (whether such payment is made by the defaulting Associate, the other Associate or by the Management Company on behalf of the defaulting Associate or otherwise) and which shall be immediately due and payable to the Management Company for the benefit of the other Associate and enforceable by the Management Company or by such other Associate. Payments may be applied by the Management Company

on behalf of the other Associate against future Cash Calls or otherwise.

11.2 *Right to Cure Vested in Others.* So long as it is not in Material Default, the other Associate shall have the right at any time to pay all or any part of any Unpaid Cash Call remaining unpaid, either with or without accrued interest thereon, on behalf of the Associate responsible for such Unpaid Cash Call. Amounts paid by the Associate not in Material Default shall become a debt of the Associate responsible for such Unpaid Cash Call which shall bear interest at a rate equal to the lesser of 24% per annum or the maximum rate legally collectible. Such debt and interest accrued thereon shall be immediately due and payable to the Associate not in Material Default and shall be recoverable in any court of competent jurisdiction. Payment of all or any part of such Unpaid Cash Call shall not be deemed to cure the Default of the Associate responsible for such Unpaid Cash Call until it shall have repaid the principal of and all accrued interest on the debt resulting from such Unpaid Cash Call to the other Associate in full.

11.3 *Reduction of Production During Default.* If and for so long as an Associate is in Default in the payment of the whole or any part of any Cash Call, the Management Company may and, upon demand by the other Associate (if it is not then also in Material Default), shall reduce delivery of Venture Products to the defaulting Associate to the extent of all or any portion of its entitlement and may reduce the production of the Plant accordingly. To the extent that such reduction in production increases the Variable Costs of the other Associate, the aggregate of such increase for so long as the reduction in production remains in effect shall be deemed to be amounts paid by the other Associate in respect of Unpaid Cash Calls of the defaulting Associate as to which the other sections of this Article XI shall apply.

11.4 *Additional Remedies.* The procedures described in Sections 11.2 and 11.3 shall not constitute the sole or exclusive remedy of, nor shall they be in lieu of any other remedy at law or in equity with respect to any Default available to, the Associate which is not in Material Default or the Management Company.

XII. Force Majeure

If, by reason of Force Majeure, an Associate is rendered unable, wholly or in part, to perform its obligations hereunder, other than any obligation to pay money, such Associate shall give prompt notice of such fact to the other Associate and to the Management Company with reasonably full particulars thereof and, insofar as is known, the probable extent to which such Associate will be unable to perform or be delayed in performing any such obligation, whereupon such obligation of the Associate giving the notice shall be suspended so far as it is affected by such Force Majeure during, but not longer than, the continuance thereof. The Associate giving the notice shall use reasonable diligence to perform its obligations hereunder as fully and quickly as possible; provided, however, that nothing herein shall require the settlement of any labor dispute or any other action which would, in its good faith judgment, reasonably exercised, be contrary to its best interests.

XIII. Dissolution and Termination

13.1 *Events of Dissolution.* The Joint Venture shall be dissolved upon the expiration of the Term or the occurrence of any of the following events:

(a) The Associates shall have agreed in writing to dissolve the Joint Venture or shall have been required to dissolve the Joint Venture by a binding order of a governmental body having jurisdiction:

(b) A Material Default described in Section 1.26 (b) or (c), subject, however, in the case of a Material Default described in Section 1.26(b), to the election of the Associate which is not in Material Default, in its sole discretion, to retroactively reinstate the Joint Venture as of the date of dissolution by notice to the Associate for which a receiver or trustee has been appointed as described therein; provided, however, that the exercise of such election shall not and shall not be construed to cure or constitute a waiver of any Default; and

(c) The written election to dissolve by the non-defaulting Associate in the event of a Material Default described in Section 1.26(a), which shall have continud without cure or waiver for a period of at least 90 days.

13.2 *Survival of Obligations.* Upon the expiration or termination of the Term, except as otherwise provided in this Agreement, all rights and obligations of the parties under this Agreement shall be terminated and this Agreement shall thereafter have no further force or effect, with the exception of (i) executory obligations the performance of which remains due and outstanding at the date of such termination, including the settlement of accounts among the Associates and the Management Company in respect of costs, expenses and liabilities incurred pursuant to this Agreement and the Management Agreement prior to the date of such expiration or termination or arising thereafter as a result of such expiration or termination (including, without limitation, any costs related to the termination of contracts entered into by the Management Company in connection with the Joint Venture) and (ii) rights and obligations with respect to the disposition of the Joint Venture Assets as provided in Section 13.3, all of which shall survive such termination until performed as provided in this Agreement.

13.3 *Disposition of Interests Upon Termination.* The expiration or termination of the Term shall not alter the ownership of the Joint Venture Assets, which shall be held and disposed of in accordance with the rights of the Associates therein.

XIV. Confidentiality

14.1 *Confidentiality of Information.* Each Associate will abide, by, comply with and enforce all applicable provisions of Article VIII of the Management Agreement.

14.2 *Survival.* All obligations of the Associates pursuant to this Article XIV shall survive the Term for a period of 10 years.

XV. Miscellaneous

15.1 *Waivers.* The failure at any time of either associate to require performance by the other Associate of any obligation provided for in this Agreement shall in no way affect the full right to require such performance at any time thereafter, nor shall the waiver by an Associate of a breach of any provision of this Agreement by the other Associate constitute a waiver of any succeeding breach of the same or any other such provision or constitute a waiver of the obligation itself.

15.2 *Assignability.* Except as provided in Article X, neither this Agreement nor any right (other than a right to receive the payment of money) or obligation hereunder may be assigned or delegated in whole or in part to any other Person.

15.3 *Persons Authorized to Act for the Parties.* This Agreement of each change, variation or modification thereof, shall be effective only when executed on behalf of each of the Associates by an authorized officer of such Associate.

15.4 *Notices.* All notices, consents, requests, reports and other documents required or permitted to be given pursuant to this Agreement shall be given in writing and either personally served on an officer of the party to which it is given or mailed by registered or certified first class mail, postage

prepaid, or sent by telex or telegram addressed as follows:

If to Alcancorp: Alcan Aluminum Corporation, 100 Erieview Plaza, Cleveland, Ohio 44114. Attention: General Counsel. Telex: 135069.

If to Arco: Atlantic Richfield Company, 515 South Flower Street, Los Angeles, California 90071. Attention: Corporate Secretary. Telex: 677415.

If to Management Company: Logan Aluminum Inc., Route 431, P.O. Box 3000, Russellville, Kentucky 42276. Attention: President. Telex: 6105311676 Ancon Logan.

in each case with a copy to each of the other parties.

Notices, consents, requests, reports and other documents shall be deemed given or served or submitted when delivered or, if mailed by registered or certified first class mail, on the third day after the day of mailing, or if sent by telex or telegram, 24 hours after the time of dispatch. A party may change its address for the receipt of notices, consents, requests and other documents at any time by giving notice thereof to the other parties. Any notice, consent or request given hereunder shall be effective only when executed on behalf of any party by an authorized officer of that party. Notwithstanding the first paragraph of this Section, any routine reports required by this Agreement to be submitted by any party to other parties at specified times of the year may be sent by first class mail, and if any party which should receive said reports pursuant to this Agreement shall fail to receive said reports on time, it shall so notify the sending party, in which event another copy of such report shall be sent promptly by registered or certified first class mail.

15.5 *Third Persons.* Except as contemplated herein, nothing herein expressed or implied is intended or shall be construed to confer upon or to give any Person not a party hereto any rights or remedies under or by reason of this Agreement.

15.6 *Counterparts.* More than one counterpart of this Agreement may be executed by the parties hereto and each fully executed counterpart shall be deemed an original.

15.7 *Choice of Law.* This Agreement shall be construed and enforced in accordance with and governed by the laws of the State of Delaware, without giving effect to the principles of conflicts of law thereof, except that the laws of the Commonwealth of Kentucky shall govern all matters hereunder pertaining to real estate.

15.8 *References to Money.* All references in this Agreement to, and transactions hereunder in, money shall be to or in Dollars of the United States of America.

15.9 *Headings.* The headings of the Articles and Sections in this Agreement are inserted for convenience of reference only and shall not be deemed to constitute a part hereof.

15.10 *Entire Agreement; Etc.* This Agreement, together with the Management Agreement and the Stockholders Agreement, constitutes the entire agreement of the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings, oral and written, among the parties hereto with respect to the subject matter hereof.

15.11 *Severability.* Should any provision of this Agreement be deemed in contradiction with the laws of any jurisdiction in which it is to be performed or unenforceable for any reason, such provision shall be deemed null and void, but this Agreement shall remain in force in all other respects. Should any provision of this Agreement be or become ineffective because of changes in applicable laws or interpretations thereof or should this Agreement fail to include a provision that is required as a matter of law, the validity of the other provisions of this Agreement shall not be affected thereby. If such circumstances arise, the parties hereto shall negotiate in good faith appropriate modifications to this Agreement to reflect those changes that are required by law.

15.12 *Further Assurances.* Each of the Associates, from time to time, shall execute and deliver to each other and to the Management Company, and shall cause the Management Company, from time to time, to execute and deliver to each of the Associates, such further, additional and confirmatory instruments and documents, and shall give such further assurances, as either of the Associates shall reasonably deem necessary or advisable to secure to such Associate or the Management Company the benefits of this Agreement or otherwise to carry out the intent and purpose of this Agreement.

In witness whereof, each of the parties has caused this Agreement to be duty executed on its behalf on the date first above written.

Alcan Aluminium Corporation.
By _____
Title _____

Arco Logan Inc.
By _____
Title _____

Exhibit B—Cost Sharing Procedure

Production Centers

For the determination of capacity rights, utilization thereof and cost sharing, the Plant shall be divided into the following Production Centers:

Melting and Casting
Scalp and Saw
Preheat
Hot Roll
Heavy Gauge Cold Mill
Light Gauge Cold Mill
Doubler and Separator
Anneal
Coat
Slit
Level
Pack and Ship

Determination of Production Capacity

With the exception of the Melting and Casting Production Center, production capacity for each Production Center shall be determined by reference to the machine hours of that equipment include in such Production Center which limits the capacity of such Production Center. Machine hours for each Production Center shall be determined by reference to the hours available multiplied by the equipment utilization factor for that equipment.

Production capacity for the Melting and Casting Production Center shall be determined by reference to the total output tonnage of as-cast sheet ingot produced.

Allocation of Production Capacity

The production capacity of each Production Center shall be allocated between the Associates in accordance with their respective Shares of such Production Center. Notwithstanding the foregoing, in the case of the Melting and Casting Production Center, in the event of uneven distribution of runaround scrap, each Associate shall be guaranteed enough capacity to process its runaround scrap.

In the event that one Associate does not use the entire production capacity to which it is entitled at any Production Center, the Manager shall make such excess capacity available to the other Associate. The Associate using such excess capacity shall pay the Variable Costs associated with such use. Fixed Costs and Annual Capital Costs shall continue to be allocated in accordance with the Associates' respective Shares of such Production Center.

Scheduling

The Manager may vary the use by the Associates of any Production Center on a monthly basis to meet the Associates' respective loading demands, provided that (i) such variance does not exceed 5% of the Share of either Associate in such production capacity in any one month and (ii) the resulting over-use by an Associate in such month is fully adjusted within the succeeding three months. This procedure is to be used to achieve efficient scheduling only, and shall not limit the rights of either Associate to use excess capacity in the manner provided in the preceding paragraph.

The hourly tonnage output of each Production Center shall be measured by reference to the standard ton for that Production Center as determined by the Manager and approved by the Associates. A standard ton shall be a ton (2,000 lbs.) of a specified product as determined by its dimensions (gauge, width, coil size), alloy, scrap percent, quality grade, lot size and production process. Other products shall be converted to standard tons using equivalency factors.

The Manager shall have the right to schedule production of each Associate's Venture Products on whatever equipment (irrespective of whether such equipment is a Capital Improvement) it deems suitable for such production, provided that Venture Products so produced meet the specifications of the Associate for which such products are produced.

Melt Loss

Whenever the production processes at the Plant result in melt loss, the amount of finished product returned shall be the same as the amount of sheet ingot delivered (delivery ratio 1:1), and the costs of replacement metal shall be treated as Variable Costs.

Defective Products and Returns

If the Plant produces Venture Products or work in process which the Manager identifies as not meeting, or agrees do not meet, the specifications of the Associate for which such Venture Products or work in process were produced (other than defective Venture Products resulting from the use of defective sheet ingot referred to in the next paragraph), the Fixed Costs of providing replacement product shall be allocated between the Associates in accordance with their respective Shares in the appropriate Production Centers, if such Production Centers are reasonably identifiable or, if such Production Centers are not reasonably identifiable, as equitably determined by the Manager; Variable Costs of providing replacement product shall continue to be allocated in accordance with use.

In the event that the Plant produces Venture Products which are not accepted, or are returned, by any customer of an Associate (or by the Associate itself) but the Manager does not agree that such Venture Products fail to meet the specifications of such Associate, or in the event the Plant produces defective Venture Products as a result of the use of defective sheet ingot supplies by either Associate from outside the Plant, the Fixed Costs and Variable Costs of providing replacement product shall be borne solely by such Associate.

Capital Improvements

The production capacity of each Capital Improvement which constitutes a Production Center shall be allocated between the Associates in accordance with their respective Shares of the cost of such Capital Improvement. Allocations between the Associates of the production capacity of each Capital Improvement which does not constitute a Production Center shall be established principally in accordance with the Associates' respective Shares of the cost of such Capital Improvement, subject to adjustment as equitably determined by the Manager. The foregoing allocations of the production capacity of Capital Improvements shall not decrease either Associate's Initial Share of initial production capacity of any Production Center or the entitlement of either Associate to machine hours or tonnage, as the case may be, from any Production Center prior to any such Capital Improvement.

Operating Costs

Operating costs shall be classified as Fixed Costs and Variable Costs. Fixed Costs shall be those identified in Appendix I. Variable Costs shall be all operating costs and expenses incurred by the Manager on behalf of the Joint Venture which are not Fixed Costs.

Fixed Costs and related variances thereof of the administrative and service cost centers of the Plant shall be allocated between the Associates in accordance with their respective Initial Shares. Except as provided under "Defective Products and Returns", Fixed Costs and related variances thereof of each Production Center or Capital Improvement shall be allocated between the Associates in accordance with their respective Shares of the production capacity of such Production Center or Capital Improvement, as the case may be (except that the allocation of Fixed Costs with respect to Capital Improvements not constituting a Production Center shall be established principally in accordance with the Associates respective Shares therein but may be equitably adjusted by the Manager). Variable Costs and related variances thereof of each Production Center or Capital Improvement shall be allocated between the Associates in accordance with their respective uses thereof.

Capital Costs

Capital costs shall be classified as Annual Capital Costs and costs of Capital Improvements. Annual Capital Costs shall be all capital costs and expenses incurred by the Manager on behalf of the Joint Venture which are necessary or desirable in any fiscal year (i) to maintain and operate the Plant or a Production Center or Capital Improvement at its then current capacity or at acceptable levels of quality or efficiency or (ii) to comply with regulatory requirements. Costs of Capital Improvements shall be those capital costs and expenses incurred by the Manager on behalf of the Joint Venture in connection with any alteration, addition, expansion, replacement, enhancement or other improvement which is determined by the Manager not to be necessary or desirable to maintain and operate the Plant or a Production Center or Capital Improvement at its then current capacity or at acceptable levels of quality or efficiency or to comply with regulatory requirements.

Annual Capital Costs of the administrative and service cost centers of the Plant shall be allocated between the Associates in accordance with their respective Initial Shares. Annual Capital Costs of each Production Center or Capital Improvement, and costs of Capital Improvements, shall be allocated between the Associates in accordance with their respective Shares of the production capacity of such Production Center or Capital Improvement, as the case may be (except that the allocation of Annual Capital Costs with respect to Capital Improvements not constituting a Production Center shall be established principally in accordance with the Associates' respective Shares therein but may be equitably adjusted by the Manager).

Changes in Procedures

Facts and circumstances may dictate that certain of the specific requirements indicated above may not be practical. In such case the Manager may suggest alternative procedures which will govern if approved by both Associates.

Appendix I.—Fixed Costs

" Fixed Costs" means the costs and expenses incurred by the Manager on behalf of the Joint Venture for the following:

(1) Real property, stores inventory and machinery and equipment taxes, and the Manager's income and franchise taxes.

(2) Property and casualty insurance.

(3) Energy demand charges and costs of heating and lighting.

(4) Rental and leasing.

(5) Buildings and grounds maintenance.

(6) Interest expense.

(7) Salaries and fringe benefits for clerical and secretarial staff in the production departments, and other administrative costs related to the production departments, including, but not limited to, travel and entertainment, communications, outside services (excluding repair and maintenance of production equipment), dues, memberships and postage.

(8) General administration, including salaries and expenses relating to: (a) Management (team leaders and above and support staff), (b) engineering, (c) accounting, (d) traffic, (e) purchasing, (f) employee relations, (g) stores, (h) professional services, (i) maintenance department, and (j) technical department.

Exhibit C

[Date]

Arco Logan Inc.,
515 South Flower Street, Los Angeles, California 90071. Attention: ———,
Alcan Aluminum Corporation,

100 Erieview Plaza, Cleveland, Ohio 44114.
Attention: ———.

Gentleman: We understand that [identify Alcancorp or Arco Logan, as appropriate] (the "Venturer") is prepared to furnish the undersigned (the Company") with certain information to assist the Company in making an evaluation of the Venturer's interest in the joint venture being conducted at Logan County, Kentucky pursuant to the Logan Joint Venture Agreement dated——, 1984 by and between Arco Logan Inc. ("Arco Logan") and Alcan Aluminum Corporation ("Alcancorp") in connection with the possible acquisition of such interest by the Company. As a condition to the Venturer furnishing such information to the Company, the Company agrees with each of Arco Logan and Alcancorp, as set forth below, to treat confidentially such information and any other information furnished by Arco Logan ot Alcancorp or either of your representatives to the Company, whether furnished before or after the date of this letter, together with all analyses, compilations, studies or other documents or records prepared by the Company, the Company's directors, officers, employees, agents or representatives (collectively, "Representatives"), which contain or otherwise reflect or are generated from such information (all of the foregoing information, documents and records collectively, the "Material").

The Company agrees that the Material will not be used other than in connection with the purpose described above, and that such information will be kept confidential by the Company and its Representatives; provided, however, that (a) any of such information may be disclosed to Representatives of the Company who need to know such information for the purpose described above (it being understood that (i) such Representatives shall be informed by the Company of the confidential nature of such information and shall be directed by the Company to treat such information confidentially and not to use it other than for the purpose described above, and (ii) that, in any event, the Company shall be responsible for any breach of this agreement by any of its Representatives), and (b) any disclosure of such information may be made if Arco Logan and Alcancorp each consents to such disclosure in advance in writing. The Company will make all reasonable, necessary and appropriate efforts to safeguard the Material from disclosures to anyone other than as permitted hereby.

The term "Material" does not include information which (i) is or becomes generally available to the public other than as a result of a disclosure by the Company or its Representatives, (ii) was available to the Company on a non-confidential basis prior to its disclosure to the Company by the Venturer, or (iii) is or becomes available to the Company on a non-confidential basis from a source other than the Venturer or its representatives, provided that such source is not known by the Company or its Representatives to be bound by a confidentiality agreement with Arco Logan or Alcancorp or its representatives or otherwise prohibited from transmitting the information to the Company by a contractual, legal or fiduciary obligation. None of the prohibitions or obligations of this agreement shall be effective with respect to any Material after ten years from the date of the disclosure of such Material.

The Company will promptly upon the request of the Venturer deliver to the Venturer all documents furnished by the Venturer or its representatives to the Company or its Representatives constituting Materials, without retaining any copy thereof. In the event of such request, all other documents constituting Material will be destroyed.

It is understood and agreed that no failure or delay in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any right, power or privilege hereunder.

It is further understood and agreed that money damages would not be a sufficient remedy for any breach of this Agreement by the Company and that Arco Logan and Alcancorp shall be entitled to specific performance as a remedy for any such breach. Such remedy shall not be deemed to be the exclusive remedy for the Company's breach of this agreement but shall be in addition to all other remedies available at law or in equity to Arco Logan and Alcancorp.

The Company agrees and consents to (i) the irrevocable designation of the Secretary of State of the State of Delaware as an agent of the Company upon whom process against the Company may be served within the State of Delaware and (ii) personal jurisdiction in any action brought in any court, federal or state, within the State of Delaware having subject matter jurisdiction in connection with any matter arising under this agreement.

This letter agreement shall be governed and construed in accordance with the laws of the State of Delaware.

Very truly yours.

By: ———
Title: ———

Agreed to and Accepted: Arco Logan Inc.
By: ———
Title: ———

Alcan Aluminum Corporation
By: ———
Title: ———

Exhibit 3 to Final Judgment

Logan Aluminum Inc., Stockholders Agreement

This agreement (this "Agreement") dated ——, 1984 by and among Alcan Aluminium Limited, a Canadian corporation ("Alcan"), Alcan Aluminium Corporation, a New York corporation and the indirect subsidiary of Alcan ("Alcancorp"), Atlantic Richfield Company, a Pennsylvania corporation ("Arco"), and Arco Logan Inc., a Delaware corporation and the wholly-owned subsidiary of Arco ("Arco Logan"). Alcancorp and Arco Logan are sometimes hereinafter referred to collectively as the "Stockholders" and individually as a "Stockholder."

Witnesseth:

Whereas, Alcancorp and Arco Logan own 40 shares of Common Stock, Series A, and 60 shares of Common Stock, Series B, respectively, constituting all of the authorized, issued and outstanding shares of the capital stock of LMC (as hereinafter defined) (the "Stock"), of Logan Aluminum Inc., a Delaware corporation ("LMC") organized to manage the joint venture described in the Logan Joint Venture Agreement (the "Joint Venture Agreement") substantially as provided in the Logan Management Agreement (the "Management Agreement") attached as Exhibits A and B, respectively; and

Whereas, Alcan and Arco and each of the Stockholders, in its capacity as such, wish to enter into an agreement regarding various matters in connection with the ownership of the Stock and the governance and operation of LMC;

Now, therefore, the parties hereto agree as follows:

I. Definitions

Each word and term defined in the Joint Venture Agreement or in the Management Agreement shall have the same meaning when used in this Agreement unless otherwise defined herein.

II. Term

This Agreement shall become binding upon the execution and delivery hereof by all the parties and shall continue in effect for the duration of the existence of LMC.

III. Disposition of Stock; Proxies

3.1 Dispositions. (a) Except as otherwise provided in this Article III, neither Stockholder may sell, transfer, convey, assign or otherwise dispose of or Encumber ("Dispose" or "Disposition") any of its Stock without the consent of the other Stockholder.

(b) A Stockholder shall Dispose of its Stock, and may only Dispose of its Stock, in conjunction with the Disposition of its Venture Interest under Article X of the Joint Venture Agreement.

(c) Any Disposition (including a Disposition effected as a matter of law in a merger, consolidation or otherwise) in one or more transactions of capital stock possessing a majority of the voting power of either Stockholder or any direct or indirect parent (excluding Arco and Alcan) of either Stockholder shall constitute a Disposition of Stock for purposes of this Agreement and shall be

governed by the provisions of this Article III. Any attempted Disposition in violation of this Article III shall be null, void and of no effect.

3.2 *Proxies.* Neither Stockholder shall, without the consent of the other Stockholder, grant any proxy with respect to its Stock to any Person who is not an officer of a Stockholder or of an Affiliate of a Stockholder.

IV. Alcan and Arco Agreements

4.1 *Aluminum Supply.* (a) Alcan or an Affiliate shall supply, on request by Arco or Arco Logan, Arco's requirements for qualified aluminum sheet ingot for processing beverage can stock products at the Plant for a period of five years from the date hereof, to the extent that Arco and its Affiliates do not have qualified facilities at the Plant or elsewhere to produce such qualified ingot, (i) up to a maximum of 120,000 short tons per annum until the Logan Melting and Casting Production Center ("the LMCPC") has produced qualified sheet ingot for beverage can stock products and such sheet ingot has been accepted as qualified for one can line at one can plant for each of three customers and (ii) up to a maximum of 36,000 short tons per annum thereafter, but only if more sheet ingot than the LMCPC can produce is required to run the Logan Hot Mill Production Center at a rate of 200,000 short tons per annum; provided, however, that such obligation to supply 36,000 short tons per annum shall be reduced by any ingot capacity that becomes available to Arco due to an expansion of the LMCPC. Such ingot shall be provided by Alcan from such sources (other than Alcancorp's Greensboro facility) and ins such sizes as may be available to Alcancorp's Sheet and Plate Division. If Arco requires sizes other than those available, Arco will pay for the required tooling. Arco shall specify alloy, size and quantity not less than 4 weeks prior to scheduled shipment.

(b) In consideration for such qualified aluminum sheet ingot supply, Arco shall deliver or cause to be delivered, to or on behalf of Alcan, equivalent metal units (i) during the period prior to the time when the LMCPC is able to produce qualified sheet ingot for can stock products as described above or for 6 months from the date of this Agreement, whichever is earlier, in the form of sheet ingot, and (ii) thereafter, in form of sheet ingot, sow or T-ingot, and on the following terms:

(A) All material f.o.b. the Plant or equivalent cost of delivery point.

(B) Exchange values to be computed in accordance with the following schedule:

SCHEDULE OF POUND FOR POUND SWAP/ CONVERSION CHARGES

Alloys metal units supplied by Arco	Sheet ingot alloy 3004 (per pound)	Sheet ingot 5082, 5182, 5352 (per pound)
Sheet Ingot—Alloys 1100, 1145, 3003, 3105, 5005, 7072	$0.020	$0.052
Sheet Ingot—Alloys EC, 1360	.010	.055
Sheet Ingot—Alloy 5052	[1] .010	.032
T-ingot P1020	.045	.080
T-ingot P0610	.030	.065
1100 R.S.I. Sow	.075	.112
3105 R.S.I. Sow	.095	.132

[1] Credit.

(C) The foregoing conversion charges shall be increased by 5 percent on January 1, 1986, and on January 1 of each year thereafter.

(D) Payment of conversion charges on each transaction net 30 days from date of shipment (reduced by money owing by Alcan under the metal supply contract to and be entered into between Alcancorp and Arco in respect of sheet ingot for Terre Haute (the "Metal Supply Contract")).

(c) Notwithstanding anything to the contrary in this Section 4.1, the metal units delivered by Arco pursuant to Section 4.1(b) shall, so long as the Metal Supply Contract is in force, be the specifications and sizes being delivered to Alcan pursuant to such contract.

4.2 *Meetings of LMC Stockholders and Board of Directors.* Each Stockholder shall, and shall cause the Directors elected by it to, use its or their efforts to attend meetings of the Stockholders and Board of Directors, as appropriate, to enable LMC to conduct its business in an orderly manner.

4.3 *The Plant.* Each Associate shall have an independent right to determine its Scheduled Output of Venture Products as well as the character and specifications of its Venture Products, in each case with due regard for the rights of the other Associate and the rights and obligations of LMC. Notwithstanding the foregoing, without the consent of both Stockholders, neither of the Stockholders shall attempt to bring about a fundamental change in the nature of the Plant as a facility for producing aluminum and aluminum rolled products.

4.4 *Affiliate Obligations.* (a) Alcan and Arco each hereby agrees on behalf of itself and its Affiliates to be bound by all of the provisions of this Agreement, the Joint Venture Agreement and the Management Agreement to the same extent as are Alcancorp and Arco Logan, respectively, and, in addition, to the extent that any of such agreements creates obligations upon Affiliates of Alcancorp, Arco Logan or both. Neither Alcan nor Arco shall, nor shall either of them permit any of their Affiliates to, take or omit any action which, if taken or omitted by Alcancorp or Arco Logan, as the case may be, would be a breach of this Agreement, the Joint Venture Agreement or the Management Agreement.

(b) Each of Alcan and Arco shall, and each shall cause its Affiliates to, from time to time, execute and deliver such further, additional and confirmatory instruments and documents and give such further assurances as either Stockholder shall reasonably deem necessary or advisable to secure to such Stockholder, the Joint Venture or LMC the benefits of this Agreement, the Joint Venture Agreement and the Management agreement or otherwise to carry our the intent and purpose of any thereof.

V. Dispute Resolution

In an effort to resolve informally and amicably any claim or controversy arising out of or related to the interpretation or performance of this Agreement, the Joint Venture Agreement and the Management Agreement without resorting first to litigation, each party shall first notify the others of any difference or dispute hereunder that requires resolution. Alcancorp and Arco shall each designate an employee to investigate, discuss and seek to settle the matter between them. If the two are unable to settle the matter within 30 days after such notifiction, it shall be referred by Alcancorp to the Chief Executive Office of Alcancorp, and by Arco to a responsible company officer. If the two officers are unable to settle the matter within an additional 30 days, it shall be submitted to a senior executive officer of each of Alcan and Arco for consideration. Only if settlement cannot be reached through their efforts within an additional 30 days, or such longer time period as they shall agree upon, may either party initiate legal pr oceedings to resolve such matter.

VI. Successors and Assigns

6.1 This Agreement shall inure to the benefit of and be binding upon Alcan, Arco and each of the Stockholders, any corporate successor to Alcan or Arco (by merger, consolidation or sale of substantially all of the assets of either of them in which case such successor shall be required by Alcan or Arco, as the case may be, expressly to assume the predecessor's obligations hereunder) and any permitted assignees of Alcan, Arco, Alcancorp or Arco Logan.

6.2 This Agreement may be assigned by any party hereto only (a) with the consent of each of the other parties or (b) in conjunction with a transfer as provided in Article X of the Joint Venture Agreement.

6.3 Upon a transfer or assignment permitted hereby, the transferor shall be relieved of its obligations under this Agreement to the same extent that it or its obligations under this Agreement to the same extent that it or its Affiliate is relieved from the obligations of the Joint Venture Agreement pursuant to the provisions of Article X thereof.

VII. Notices

All notices, consents, requests, reports and other documents authorized or required to be given pursuant to this Agreement shall be given in writing and either personally served on an officer of the party to which it is given or mailed by registered or certified first class mail, postage prepaid, or sent by telex or telegram addressed as follows:

If to Alcan: Alcan Aluminium Limited, 1188 Sherbrooke Street West, Montreal, Quebec, Canada H3A 362. Attention: Corporate Secretary, Telex: 0525236.

If to Alcancorp: Alcan Aluminum Corporation, 100 Erieview Plaza, Cleveland, Ohio 44114, Attention: General Counsel, Telex: 135069.

If to Arco or Arco Logan: Atlantic Richfield Company, 515 South Flower Street, Los Angeles, California 90071, Attention: Corporate Secretary, Telex: 677415,

in each case with a copy of the other parties.

Notices, consents, requests, reports and other documents shall be deemed given or served or submitted when delivered or, if mailed by registered or certified first class mail, on the third day after the day of mailing, or if sent by telex or telegram, 24 hours after the time of disptach. A party may change its address for the receipt of notices, consents, requests and other documents at any time by giving notice thereof to the other parties. Any notice, consent or request given hereunder may be signed on behalf of any party by any duly authorized representative of that party.

VIII. GOVERNING LAW

This Agreement shall be construed and enforced in accordance with and governed by the laws of the State of Delaware, without giving effect to the principles of conflict of laws thereof.

In witness whereof, the parties hereto have executed this Agreement as of the date first above written.

Alcan Aluminium Limited.

By _____

Title _____

Alcan Aluminium Corporation.

By _____

Title _____

Atlantic Richfield Company.

Title _____

ARCO Logan Inc.

By _____

Title _____

Exhibit 4 to Final Judgment

Logan Aluminium Inc. By-Laws

Article I.—*Offices*

Section 1. *Registered Office:* The registered office of the Company shall be in the City of Wilmington, County of New Castle, State of Delaware.

Section 2. *Other Offices:* The Company also may have offices at such other places within or without the State of Delaware as the Board of Directors may from time to time determine or the business of the Company may require.

Article II.—*Meetings of Stockholders*

Section 1. *Meetings:* All meetings of stockholders for the election of Directors or for any other purpose shall be held at the Company's office in Logan County, Kentucky (or, with the consent of the holders of a majority of the issued and outstanding shares of each Series of the Company's Common Stock, at any other place within or without the State of Delaware) at such time as shall be stated in the notice of the meeting.

Section 2. *Annual Meeting:* Annual meetings of stockholders, commencing with the year 1985, shall be held on the third Thursday in April each year, if not a legal holiday, and if a legal holiday, then on the next business day following (or, with the consent of the holders of a majority of the issued and outstanding shares of each Series of the Company's Common Stock, on any other date), at 12:00 noon (Central Time), or at such other time as shall be stated in the notice of the meeting, at which annual meeting the stockholders shall elect a Board of Directors in accordance with these By-Laws and transact such other business as may properly be brought before the meeting.

Section 3. *Notice of Annual Meetings:* Written notice of the annual meeting of stockholders stating the place, date and time of the meeting shall be given to each stockholder entitled to vote at such meeting not fewer than 10 nor more than 60 calender days before the date of the meeting. Such notice shall be accompanied by a written agenda.

Section 4. *Special Meetings:* Special meetings of stockholders, for any purpose of purposes, may be called by the President or the Secretary and shall be called by the President or the Secretary at the request in writing of any stockholder. Such request shall state the purpose or purposes of the proposed meeting.

Section 5. *Notice of Special Meetings:* Written notice of a special meeting of stockholders stating the place, date and time of the meeting shall be given to each stockholder entitled to vote at such meeting for fewer than 10 nor more than 60 calendar days before the date of the meeting. Such notice shall be accompanied by a written agenda.

Section 6. *Quorum:* The holders of a majority of the shares of each Series of the Company's Common Stock issued and outstanding and entitled to vote, present in person or represented by proxy, shall constitute a quorum at all meetings of stockholders. If, however, such quorum shall not be present or represented at any meeting of stockholders, the stockholders entitled to vote thereat, present in person or represented by proxy, shall have the power to adjourn the meeting from time to time, without notice other than announcement at such meeting, until such quorum shall be present or represented.

Section 7. *Actions of Stockholders:* (a) When a quorum is present at any meeting, the vote of the holders of a majority of the Company's Common Stock, irrespective of Series, entitled to vote thereat, present in person or represented by proxy shall decide any matter brought before such meeting, unless the question is one upon which by express provision of law, the Company's Certificate of Incorporation or these By-Laws a different vote is required, in which case such express provision shall govern and control the decision of such matter.

(b) Without the affirmative vote of the holders of a majority of the issued and outstanding shares of each Series of the Company's Common Stock, voting separately,

(1) No securities of the Company of any nature shall be authorized or issued, and no warrants, rights or other commitments relating to any such securities shall be issued or made by or on behalf of the Company;

(2) The Company shall not be merged or consolidated with or into any other entity, nor shall any of the assets of the Company be sold or otherwise disposed of, except in the ordinary course of business;

(3) The Company shall not be liquidated or dissolved and shall not cease to perform its duties as Manager under the Logan Management Agreement dated ——, 1984 by and among Arco Logan, Inc., Alcan

Aluminum Corporation and the Company (the "Management Agreement") executed in connection with the Logan Joint Venture Agreement dated ——, 1984 by and between Arco Logan, Inc. and Alcan Aluminum Corporation (the "Joint Venture Agreement"); the Company shall not delegate, transfer or contract out material responsibilities under the Management Agreement;

(4) The Company shall not declare or pay any dividends other than in cash;

(5) The Company shall not redeem, reacquire or retire any of its capital stock; and

(6) The Company shall not be permitted to:

(i) Incur debt (other than normal supplier credit in the ordinary course of business) of any kind whatsoever on its own behalf or on behalf of the Joint Venture (as defined in the Joint Agreement);

(ii) Incur or permit to continue any Encumbrance (as defined in the Joint Venture Agreement) on any of the assets of the Company or of the Joint Venture other than (x) liens for taxes, assessments and other governmental charges, if such taxes, assessments and charges shall not be due and payable, or if the same thereafter can be paid without penalty and (y) mechanics', carriers', workmen's, repairmen's or other like liens (inchoate or otherwise) arising or incurred in the ordinary course of business in respect of obligations which are not overdue, or which are being contested by the Company in good faith;

(iii) Become insolvent, or agree to any composition or assignment for the benefit of its creditors, apply, or accede to any application with respect to it, for relief as a debtor under the laws of any jurisdiction, or consent to the appointment of a receiver or trustee for it or any of its assets;

(iv) Engage in any transaction outside the ordinary course of business;

(v) Engage in any transaction with a stockholder or any of its Affiliates (as defined in the Joint Venture Agreement), the costs of which would be chargeable to the other Stockholder, on behalf of either the Company or the Joint Venture; or

(vi) Delegate to any officer of the Company (or any other Person, other than the Board of Directors of the Company) any authority to give Management Company Approval (as defined in the Joint Venture Agreement).

Section 8. *One Vote Per Share:* Except as otherwise provided in the Company's Certificate of Incorporation or these By-Laws each stockholder shall at every meeting of the stockholders be entitled to one vote in person or by proxy for each share of the capital stock of the Corporation having voting power held by such stockholder.

Section 9. *Permitted Business at Meetings:* No matter may be taken up or voted upon at any meeting of the stockholders unless that item has been included on the agenda distributed to each stockholder in accordance with Section 3 or Section 5 of this Article, except with the consent of the holders of a majority of the issued and outstanding shares of each Series of the Company's Common Stock.

Section 10. *Written Actions:* Any action required or permitted to be taken at any annual or special meeting of stockholders may be taken without a meeting, without prior notice and without a vote, if a consent in writing, setting forth the action so taken, shall be signed by the holders of 100% of the issued and outstanding stock of the Company entitled to vote thereon; provided, however, that any action which the holders of one Series of the Company's Common Stock are entitled to take alone may be taken in a writing or writings signed by 100% of the holders of the issued and outstanding shares of such Series.

Article III.—*Directors*

Section 1. *Composition:* The Board of Directors shall consist of seven members. The Directors shall be elected at the annual meeting of the stockholders, except as otherwise provided in these By-Laws, and each director elected shall hold office until his successor is elected and qualified or until his prior removal or resignation. The holders of the Series A Common Stock of the Company shall be entitled to elect three of such Directors, and their respective successors, and the holders of the Series B Common Stock of the Company shall be entitled to elect four of such Directors, and their respective successors; provided, however, that at least one of the Directors elected by the holders of such Series A Common Stock, and at least one of the Directors elected by the holders of such Series B Common Stock, and their respective successors, shall not be a present or past employee of, or otherwise in the present or in the past affiliated with, any stockholder ("Unaffiliated Directors"). Directors need not be stockholders. A Director may be removed with or without cause by, and only by, the holders of the Series of such Common Stock which elected him. Vacancies on the Board of Directors, whether resulting from removal, resignation, death or otherwise, shall be filled by the holders of the Series of the Common Stock of the Company which elected the person last holding the vacant directorship. One of the Directors shall be designated by the Board of Directors to serve as Chairman of the Board of Directors.

Section 2. *Authority of the Board of Directors:* The business and affairs of the Company shall be managed by or under the direction of the Board of Directors, which may exercise all such powers of the Company and do all such lawful acts and things as are not by law, the Company's Certificate of Incorporation or these By-Laws required to be exercised or done by the stockholders or any of them.

Section 3. *Meetings:* The Board of Directors shall hold meetings, both regular and special, at the Company's office in Logan County, Kentucky (or, with the consent of the holders of a majority of the issued and outstanding shares of each Series of the Company's Common Stock or six members of the Board of Directors, at any other place either within or without the State of Delaware).

Section 4. *Regular Meetings; Notice:* Regular meetings of the Board of Directors may be held without notice at such time and at such place as shall from time to time be determined by the vote of six members of the Board of Directors. A written agenda for each such meeting shall be delivered to each Director at least five business days prior to the date of such meeting.

Section 5. *Special Meetings; Notice:* Special meetings of the Board of Directors may be called by the Chairman of the Board or the President or the Secretary, and shall be called by the President or the Secretary on the written request of two Directors, on three business days' notice to each Director. The notice of any such meeting shall be accompanied by a written agenda.

Section 6. *Quorum for Board of Directors Meetings; Minutes:* Two Directors elected by the holders of the Series A Common Stock of the Company, and three Directors elected by the holders of the Series B Common Stock of the Company, together shall constitute a quorum for the transaction of business at all meetings of the Board of Directors, provided that (i) a majority of the Directors present at any such meeting other than Unaffiliated Directors shall be Directors elected by the holders of the Series B Common Stock of the Company and (ii) at least one Unaffiliated Director shall be present at any such meeting. At each meeting of the Board of Directors, a secretary of the meeting shall be appointed to keep minutes of all actions

taken by the Board of Directors, which minutes shall be circulated, in draft form, among all of the members of the Board of Directors as promptly as practicable for such corrections as may be necessary to ensure the accuracy thereof. A corrected copy of all such minutes, signed by such secretary, shall be maintained at the principal office of the Company.

Section 7. *Required Vote:* (a) Each member of the Board of Directors shall have one vote on each matter coming before the Board. Except as otherwise specifically provided by law, the Company's Certificate of Incorporation or these By-Laws, the act of a majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors. If a quorum shall not be present at any meeting of the Board of Directors, the Directors present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present.

(b) The affirmative vote of six members of the Board of Directors shall be required to adopt, amend or terminate any employee benefit plan covering any employees of the Company.

Section 8. *Written Actions:* Any action required or permitted to be taken at any regular or special meeting of the Board of Directors or of any committee thereof may be taken without a meeting, if all members of the Board or committee, as the case may be, consent thereto in writing, and such writing or writings shall be filed with the minutes of the Board or committee.

Section 9. *Meetings by Conference Call:* Members of the Board of Directors or of any committee thereof may participate in a meeting of the Board of Directors or such committee by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and such participation in a meeting shall constitute presence in person at the meeting.

Section 10. *Permitted Business at Meetings:* No matter may be taken up at any meeting of the Board of Directors or any committee thereof unless that item has been included in a written agenda distributed to each Director or committee member, as the case may be, in accordance wth these By-Laws, except with the consent of each Director or committee member present at a meeting at which a quorum is present.

Section 11. *Committees of the Board:* The Board of Directors may, by resolution passed by the affirmative vote of six members of the Board, designate one or more committees, each committee to consist of two or more of the Directors of the Company. Each such committee shall consist of at least one Director elected by the holders of the Company's Series A Common Stock and one Director elected by the holders of the Company's Series B Common Stock, and at least one member of each such committee shall be an Unaffiliated Director. The Board may designate one or more Directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. Except as otherwise provided by law, any such committee, to the extent provided in such resolution of the Board of Directors, shall have and may exercise all powers and authority of the Board of Directors in the management of the business and affairs of the Company, and may authorize the seal of the Company to be affixed to all papers which may require it, but no such committee shall have such power or authority in reference to amending the Company's Certificate of Incorporation, adopting an agreement of merger or consolidation, recommending to the stockholders the sale, lease or exchange of all or substantially all of the Company's property and assets, recommending to the stockholders a dissolution of the Company or a revocation of a dissolution, or amending these By-Laws; and, unless such resolution or the Company's Certificate of Incorporation expressly so provide, no such committee shall have the power or authority to declare a dividend or to authorize the issuance of stock. Any such committee shall have such name as may be determined from time to time by resolution adopted by the Board of Directors. Each such committee may adopt its own procedure for calling and holding meetings, consistent with these By-Laws, provided that (i) each such Committee shall act only by unanimous vote of the members thereof and (ii) there shall be delivered to each member of any such committee, at least three business days prior to any meeting of such committee, a written agenda for such meeting. Each committee shall keep regular minutes of its meetings and report the same to the Board of Directors when requested. Any such committee may be eliminated by the affirmative vote of a majority of the members of the Board of Directors elected by the holders of either Series of the Company's Common Stock.

Article IV.—*Notices*

Section 1. *Manner:* Whenever, pursuant to law or the Company's Certificate of Incorporation or these By-Laws, notice is required to be given to any Director or stockholder, such notice shall be given in writing, either personally or by prepaid first-class mail, telex or telegram, addressed to such Director or stockholder at his address as it appears on the records of the Company, and such notice shall be deemed to be given, if mailed, three business days after the date when the same shall be deposited in the United States mail or, if by telex or telegram, 24 hours after the time of dispatch.

Section 2. *Waiver:* Whenever any notice is required to be given pursuant to law or the Company's Certificate of Incorporation or these By-Laws, a waiver thereof in writing, signed by the person or persons entitled to said notice, whether before or after the time stated therein, shall be deemed equivalent to such notice having been given.

Article V.—*Officers*

Section 1. *Officers:* The officers of the Company shall be chosen by the Board of Directors and shall include a President, a Secretary and a Treasurer; provided, however, that the affirmative vote of six members of the Board of Directors shall be required to elect the President. The President shall be the Chief Executive Officer of the Company. The Secretary shall be a licensed attorney at law who is not an employee of or otherwise affiliated with any stockholder or any affiliate of a stockholder. The Board of Directors may also choose one or more Vice-Presidents and one or more Assistant Secretaries and Assistant Treasurers. Any number of offices may be held by the same person.

Section 2. *Compensation:* The compensation of all officers who are full-time employees of the Company shall be fixed by the Board of Directors. The Board of Directors may delegate the power to fix the compensation of all other officers and agents of the Company to an officer of the Company.

Section 3. *Term:* The officers of the Company shall hold office until their successors are chosen and qualified or until their prior removal or resignation. Any officer elected or appointed by the Board of Directors may be removed at any time by the affirmative vote of a majority of the Board of Directors, provided that the President may be removed by the affirmative vote of a majority of the members of the Board of Directors elected by the holders of either Series of the Company's Common Stock. Any vacancy occurring in any office of the Company shall be filled by the Board of Directors.

Section 4. *Authority*: The officers of the Company shall have such authority and shall perform such duties as are customarily incident to their respective offices, or as may be properly specified from time to time by the Directors regardless of whether such authority and duties are customarily incident to such office.

Article VI.—*Certificates of Stock*

Each holder of capital stock in the Company shall be entitled to have a certificate, signed on behalf of the Company by the President or a Vice President and the Secretary or an Assistant Secretary of the Company, certifying the number of shares of capital stock in the Company owned by such holder.

Article VII.—*Indemnification of Directors and Officers*

Each person who is or was a director or officer of the Company, or is or was serving at the request of the Company as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise (including the heirs, executors, administrators or estate of such person), shall be indemnified by the Company to the full extent permitted, authorized or required by the General Corporation Law of the State of Delaware. The Company shall have the right, but shall not be obligated, to maintain insurance, at its expense, for its benefit in respect of such indemnification and that of any such person whether or not the Company would otherwise have the power to indemnify such person.

Article VIII.—*General Provisions*

Section 1. *Fiscal Year*: The Company's fiscal year shall be the calendar year, except that the Company's first fiscal year shall be from the Company's date of incorporation through December 31, 1984.

Section 2. *Accountants*: Independent certified public accountants for the Company shall be selected from time to time by the Board of Directors but, without the affirmative vote of the holders of a majority of the issued and outstanding shares of each Series of the Company's Common Stock, shall not be the same accountants as are employed by any stockholder or any Affiliate of a stockholder.

Section 3. *Disbursements*: All checks or demands for money and notes of the Company shall be signed, by facsimile or otherwise, by such officer or officers or such other person or persons as the Board of Directors may from time to time designate.

Article VIII.—*Dividends*

Subject to any applicable provisions of the Company's Certificate of Incorporation or these By-Laws, dividends upon the capital stock of the Company may be declared by the Board of Directors at any regular or special meeting, pursuant to law, and may be paid in cash, in property or in shares of the Company's capital stock.

Article IX.—*Seal*

The Board of Directors may adopt a corporate seal and cause the Company to use the same by causing it or a facsimile thereof to be impressed or affixed or reproduced or otherwise.

Article X.—*Amendments*

These By-Laws may be altered, amended or repealed and new by-laws may be adopted by, and only by, the affirmative vote of the holders of a majority of the shares of each Series of the Company's Common Stock issued and outstanding.

Exhibit 5 to Final Judgment

Certificate of Incorporation of Logan Aluminum Inc.

The undersigned, for the purpose of incorporating and organizing a corporation under the General Corporation Law of the State of Delaware ("GCL"), does hereby certify as follows:

1. *Name:* The name of the corporation (hereinafter referred to as the "Company") is Logan Aluminum Inc.

2. *Registered Office and Agent:* The address of the registered office of the Company in the State of Delaware is 1209 Orange Street in the City of Wilmington, County of New Castle. The name of the registered agent of the Company at such address is The Corporation Trust Company.

3. *Purpose:* The purpose of the Company is to engage in any lawful act or activity for which corporations may be organized under the GCL.

4. *Capital Stock:* The total number of shares of capital stock which the Company shall have authority to issue is 100 shares of Comon Stock, of the par value of $.01 per share (the "Shares"), which shall consist of 40 Shares denominated Series A and 60 Shares denominated Series B. Except as otherwise provided in this Certificate or the Company's By-Laws, each Share, whether a Series A Share or a Series B Share, shall be equal to every other Share in all respects and shall be entitled to one vote on all matters presented to the stockholders.

5. *Incorporator:* The name and mailing address of the incorporator is ——.

6. *Directors:* The names and mailing addresses of the persons who are to serve as directors of the Corporation until the first annual meeting of stockholders or until their successors are elected and qualified are as follows:

Name	*Mailing Address*
[Arco designate]	
[Arco designate]	
[Arco designate]	
[Arco—outside director]	
[Alcan designate]	
[Alcan designate]	
[Alcan—outside director]	

7. *Amendment of Certificate:* The Company reserves the right at any time and from time to time to amend, alter, change or repeal any provision contained in this Certificate, and other provisions authorized by the GCL at the time in force may be added or inserted, in the manner now or hereafter prescribed by law, provided, however, that no provision contained in this Certificate may be amended, altered, changed or repealed except with the approval of the holders of a majority of the issued and outstanding shares of each Series of Shares, voting separately; and all rights, preferences and privileges of whatsoever nature conferred upon stockholders, directors or any other persons whomsoever by and pursuant to this Certificate in its present form or as hereafter amended are granted subject to the right reserved in this paragraph.

In witness whereof, the undersigned, being the incorporator hereinabove named, does hereby execute this Certificate of Incorporation this —— day of ——, 1984.

Exhibit 6 to Final Judgment

Fixed Costs

"Fixed Costs" means the costs and expenses incurred by the Manager on behalf of the Joint Venture for the following:

(1) Real property, stores inventory and machinery and equipment taxes, and the Manager's income and franchise taxes.

(2) Property and casualty insurance.

(3) Energy demand charges and costs of heating and lighting.

(4) Rental and leasing.

(5) Buildings and grounds maintenance.

(6) Interest expense.

(7) Salaries and fringe benefits for clerical and secretarial staff in the production departments, and other administrative costs related to the production departments, including, but not limited to, travel and entertainment, communications, outside services (excluding repair and maintenance of production equipment), dues, memberships and postage.

(8) General administration, including salaries and expenses relating to:

(a) Management (team leaders and above and support staff)
(b) Engineering
(c) Accounting
(d) Traffic
(e) Purchasing
(f) Employee Relations
(g) Stores
(h) Professional Services
(i) Maintenance Department
(j) Technical Department

Exhibit 7 to Final Judgment

United States District Court, Western District of Kentucky, Louisville Division

United States of America, Plaintiff, v. *Alcan Aluminium Limited, Alcan Aluminum Corporation, and Atlantic Richfield Company*, Defendants. Civil Action No.————.

Submission to the Jurisdiction of the Court

Logan Aluminum Inc., a Delaware corporation which the defendants have caused to be formed to operate the aluminum rolling mill located in Logan County, Kentucky, hereby submits to the jurisdiction of the Court in the case of *United States of America* v. *Alcan Aluminium Limited, et al.* and agrees that the final judgment in this action shall be binding upon it and its successors and assigns, their respective officers, directors, employees, attorneys and agents, and all other persons in active concert or participation with any of them who shall have received actual notice of the final judgment by personal service or otherwise.

Dated:
Logan Aluminum Inc.
By: ————————

United States District Court, Western District of Kentucky, Louisville Division

United States of America, Plaintiff, v. *Alcan Aluminum Limited, Alcan Aluminum Corporation, and Atlantic Richfield Company*, Defendants. Civil Action No. ————.

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Dated:
Logan Aluminum Inc.
By: ————————

United States District Court, Western District of Kentucky, Louisville Division

United States of America, Plaintiff, v. *Alcan Aluminum Limited, Alcan Aluminum Corporation, and Atlantic Richfield Company*, Defendants. Civil Action No. C–84–1028–LA. Filed: October 5, 1984.

Competitive Impact Statement

The United States, pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16 (b)–(h), files this competitive impact statement relating to the proposed final judgment submitted for entry in this civil antitrust proceeding.

I. The Nature and Purpose of the Proceeding

This is an action brought under Section 7 of the Clayton Act, 15 U.S.C. § 18, challenging the acquisition by Alcan Aluminum Limited ("Alcan") of an aluminum rolling mill in Logan County, Kentucky, from Atlantic Richfield Company ("Arco"). Arco is a domestic corporation engaged primarily in the petroleum business. Arco entered the aluminum industry in 1977 with its acquisition of Anaconda Aluminum Company. Alcan, a Canadian corporation, is, world-wide, the largest producer of aluminum. Also named in the complaint is Alcan Aluminum Corporation ("Alcancorp"), a United States corporation and indirect wholly-owned subsidiary of Alcan.

The complaint alleges that the acquisition may substantially lessen competition in the market for alumium can body stock, a sheet product used to make the bottoms and sides of beverage cans, by eliminating Arco as an important prospective entrant into the market. Although it does not now make can stock, Arco planned to produce substantial quantities of that product at its recently-completed rolling mill in Logan County, Kentucky. Alcancorp is currently the fourth largest manufacturer of aluminum can body stock in the United States, after Aluminum Company of America ("Alcoa"), Reynolds Metals Company ("Reynolds"), and Kaiser Aluminum and Chemical Corporation ("Kaiser").

Alcan's proposed acquisition of the Logan County plant was announced by the defendants on January 5, 1984, as part of a larger transaction pursuant to which Alcan would also acquire from Arco its primary aluminum smelter in Sebree, Kentucky; rolling mills in Terre Haute, Indiana, and Louisville, Kentucky; Arco's 25 percent interest in an alumina refinery in Ireland; and certain packaging facilities.

On June 19, 1984, following an extensive investigation, the Department of Justice announced it would oppose the transaction if consummated as originally structured. The companies then entered into negotiations with the Department of Justice in an effort to modify the transaction to eliminate its anticompetitive aspects. The proposed final judgment accompanying this competitive impact statement, which was filed with the complaint, is the end result of these negotiations. It restructures the proposed acquisition in a manner that resolves the Department's objections.

II. The Nature of the Alleged Violation

A. **Industry Background:** The production of aluminum begins with the mining of bauxite ore. Bauxite is refined by a chemical process into alumina, which is further reduced by electrolysis into primary aluminum. Primary aluminum is converted into fabricated or semi-fabricated aluminum products by one of four processes: rolling, extruding, drawing, or forging.

Approximately half of all primary aluminum is converted into flat rolled products, which are generally classified by thickness as plate, sheet, or foil. In the rolling process aluminum is cast into a rectangular shape, or ingot, and its thickness is reduced by forcing it through sets of rollers that apply pressure to the top and bottom of the metal.

A typical rolling mill contains a hot mill, which performs the initial reduction of the ingot, one or more cold mills, which finish the metal to the desired thickness and width, and a variety of ancillary equipment. Rolling mills fabricate a wide range of products, including plate used for trailer trucks, siding for houses, sheet for making cooking utensils, and household foil.

B. *Product Market:* The complaint alleges that the appropriate product market within which to assess the competitive effect of the proposed acquisition is the manufacture and sale of aluminum can body stock. Approximately one quarter of all primary aluminum is processed into can stock, which is used in making beer and soft drink cans. Can stock accounts for nearly half of all sales of rolled aluminum products. Different types of can stock, containing different alloys, are used to make the bodies, ends and tabs of aluminum beverage cans.

Can stock is sold to can manufacturers and to several brewers who manufacture some or all of their aluminun can requirements. The ten largest can stock purchasers in the aggregate purchase approximately 80 percent of the can stock sold in the United States each year.

While beer and soft drink companies can package their product in containers made of materials other than aluminum, such as steel, glass, and plastic, those other materials are not economic substitutes for aluminum body stock. Aluminum has been rapidly replacing steel in beverage cans and accounted for 99.2 percent of all beer cans and 84 percent of all soft drink cans in 1983. Factors such as consumer preference and marketing considerations, rather than the relative price of the component materials, principally determine the amount of beer and soft drinks packaged in cans as opposed to glass or plastic bottles. The ratio of cans to bottles used by brewers and bottlers has remained about the same over the last decade.

The market for body stock is separate and distinct from the markets for end and tab stock, which are used to make the tops and pull-up openers for both aluminum and steel beverage cans. End and tab stock are made from harder alloys and require a rolling mill that can exert a greater degree of pressure. Some manufacturers of body stock do not have facilities capable of producing end or tab stock. Prices for body stock differ from prices for end and tab stock.

C. *Geographic Market:* The complaint alleges that the United States is the relevant geographic market. Manufacturers of can stock ship and sell their products throughout the country and are not confined to a smaller region.

Imports do not constitute a major factor in the domestic market. While imports of aluminum can stock have increased since 1980, they accounted for only about five percent of total domestic sales of aluminum body stock in 1983. In evaluating the effects of this acquisition the Department of Justice included actual imports in its market share calculations. The Department considers sales data as the appropriate basis for calculating market shares here since sufficiently precise data as to available foreign and domestic can stock manufacturing capacity is lacking.

D. *Effect of the Acquisition:* The market for aluminum can body stock is highly concentrated. There are only seven domestic producers, of which the four largest (Alcoa, Reynolds, Kaiser, and Alcan) accounted for 87.9 percent of 1983 domestic sales, including imports. The Herfindahl-Hirschman Index (HHI) was approximately 2,300 in 1983. The HHI, a measure of concentration, is the sum of the squares of the market shares of all firms in the market.

Arco, with its Logan County plant, will become the eighth United States producer of body stock. The Logan County plant was specifically designed to produce can stock. It was completed in October 1983 at a cost of more than $400 million and is currently being phased into production. It is the only complete rolling mill built in the United States in more than ten years. Its current capacity of approximately 315 million pounds, if devoted entirely to the production of can body stock, would equal 14.4 percent of total 1983 shipments. The plant is designed to be expanded to at least double its present capacity.

Barriers to entry into the manufacture of can body stock are high. The construction of a rolling mill capable of producing can stock takes several years. The cost of a new plant is several hundred million dollars. Even the modification of an existing plant, where possible, requires a substantial investment of time and money. Can stock producers must also go through a lengthy qualification procedure with each prospective customer.

The Department of Justice believes that Alcan's acquisition of Arco's Logan County plant may result in a substantial lessening of competition in the manufacture and sale of aluminum can body stock. The Department bases its conclusion largely on the fact that Arco represents a significant new entrant, with a state-of-the-art rolling mill, into a highly concentrated industry. Other factors supporting this conclusion include the lack of effective substitutes, the high barriers to entry, the expectation that Arco's entry would have exerted downward pressure on prices, and the relatively low level of imports.

The Department also reviewed other aspects of the proposed sale by Arco to Alcan of its aluminum plants and facilities, and concluded that there was insufficient basis for including any other markets in the complaint and settlement. The proposed decree allows the parties to proceed with the remainder of the acquisition as originally planned.

II. Explanation of the Proposed Final Judgment

As a result of their discussions with the Department of Justice, the defendants agreed to modify their March 9, 1984 acquisition agreement to limit Alcan's interest in the Logan County plant and to provide for the creation of a production joint venture to operate the plant. The proposed final judgment is designed to preserve Arco or its successor as a significant independent entrant into the business of manufacturing aluminum can body stock.

Specifically, the decree seeks to ensure:

A. The possession by Arco of sufficient capacity to enable it or its successor to become a significant factor in the aluminum can body stock market; and

B. The preservation of each joint venture partner as an independent competitor in the marketing of aluminum products made at the Logan County plant.

The parties claim that Alcan, acting jointly with Arco, is in a position to bring the Logan County plant into production faster and operate it more efficiently than would be the case were Arco operating it alone. The joint venture agreement provides for both parties to bring their technology and expertise to the operation of the plant. To the extent that this arrangement allows the plant to come up more quickly and operate more efficiently, it will enable the parties and, ultimately, consumers to realize these benefits while still preserving Alcan and Arco as independent competitors.

Several provisions of the decree carry out its objective of preserving Arco, or the successor to its interest in the Logan County plant, as a significant factor in the aluminum can body stock market:

1. Alcan is prohibited from acquiring more than a 40 percent ownership interest in the Logan County plant, except to the extent it funds more than 40 percent of a future capital improvement in which Arco or its successor declines to participate fully. The decree gives each party to the joint venture the right to use the capacity of the Logan County plant in proportion to its ownership interest. The decree allows either party to finance up to 100 percent of the cost of a future capital improvement in which the other party does not choose to participate, and to have the use of such improvement in proportion to its ownership interest; however, the decree also provides that Alcan's greater participation in a future capital improvement will not decrease Arco's capacity utilization rights in the original facilities to which it is entitled by virtue of its initial 60 percent ownership interest.

2. The decree prohibits Arco from selling, leasing or otherwise transferring to Alcan any part of its ownership interest in the Logan plant during the ten-year term of the decree. Both Alcan and Arco are prohibited from

transferring any part of their respective ownership interests in the plant to any of the other three major domestic competitors, Alcoa, Reynolds, and Kaiser. In order to prevent a piecemeal disposition of Arco's interest, which might lessen the significance of Arco or its successor as a competitor in the can body stock market, Arco is also prohibited from transferring less than all its interest to any other person without the consent of the Department of Justice or the Court. The disposition by either party of its interest in the plant under other circumstances will be reviewable by the Department of Justice pursuant to the Hart-Scott-Rodino Act premerger notification rules or, if those rules are not applicable, upon prior notice that the parties must give to the Department.

3. The decree also provides that if, within three years of entry of the final judgment, Arco sells its interest in the Logan County plant, and during the same period Alcan undertakes a capital improvement of the heavy gauge cold mill production center in which Arco has failed to acquire up to a 60 percent interest, the successor to Arco's interest will be accorded the right to purchase up to a 60 percent interest in that improvement. This provision preserves the successor's right to participate in an expansion in which Arco may have little interest because it has decided to leave the aluminum industry. A successor has six months after acquiring Arco's interest to decide whether to participate in the expansion. The provision is limited to an improvement of the heavy gauge cold mill production center because the existing hot mill has ample excess capacity and because the equipment in the heavy gauge cold mill production center is most critical for the production of can body stock.

The decree also contains a number of provisions designed to assure that the parties will be independent competitors in the manufacture and sale of aluminum products made at the Logan County plant:

1. The decree provides that the plant will be operated by an independent management company, to be owned 60 percent by Arco and 40 percent by Alcan. This proportion will remain constant during the ten-year term of the decree regardless of any possible changes in the parties' ownership interests in the plant resulting from the disproportionate funding of capital improvements. A majority of the management company's board of directors will be designated by Arco. Each party will designate one independent director having no present or past affiliation with either company. Neither pary may offer a position as an officer, director, or employee to an independent director of the management company while he or she holds that position.

2. The decree requires Arco to set up a separate marketing organization, and to sell its share of the plant output independently of Alcan. It also requires that each party to the joint venture make marketing decisions independently as to the products produced for it at the Logan County plant. Such decisions include the character, specifications, level of output, and the terms and conditions of sale of each product. Each party is solely responsible for its own customer service, costomer relations, credit, billing, and collection functions.

3. The decree provides an incentive for each party to utilize its capacity fully, rather than to acquiesce in the other party's use of that capacity, by requiring each party to pay for its share of the fixed cost of operating the plant irrespective of its actual utilization. Given each party's huge initial investment in the plant—Arco's retained interest cost Arco some $250 million—and the sizable portion of the plant operating costs that are treated as fixed costs, both Alcan and Arco will have a strong incentive to make full use of their respective capacity utilization rights. The decree further provides that neither party may reimburse the other party, directly or indirectly, for any portion of these fixed costs, except in connection with the financing of future capital improvements.

4. The decree prohibits Alcan and Arco from selling can stock to each other, or for each other's account, except to the extent necessary to round out an order or to respond to temporary shortages or other emergencies. Unless the Department of Justice agrees otherwise, such transfers or exchanges of can stock cannot exceed one million pounds per year, which amounts to less than one-third of one percent of the anticipated maximum capacity of the existing plant.

5. Alcan and Arco are forbidden from agreeing or communicating with each other, directly or indirectly, or through the management company, with regard to competitively sensitive matters, including the parties' future production schedules for specific products, present or future terms or conditions of sale, volume of shipments, marketing plans, sales forecasts, and sales or proposed sales to specific customers. Exceptions are provided for bona fide sales transactions between Alcan and Arco and for information that is generally announced or generally published.

6. The terms of the decree override any inconsistent provisions of any of the agreements between the parties relating to the Logan County plant, including any future amendments to those agreements. The effect of this provision is to suspend for the ten-year term of the decree certain of the rights of the parties as set out in the joint venture and related agreements. For example, these agreements provide that under certain circumstances, in the event of default by one party, the other party can acquire the defaulting party's interest in the Logan County plant. While it remains in effect, the decree prohibits the exercise of this right.

The decree also contains reporting provisions and visitation rights that will permit the Department of Justice to monitor the parties' compliance with the decree.

IV. Remedies Available to Potential Private Plaintiffs

Section 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the final judgment will neither impair nor assist the bringing of any private antitrust damage actions. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. 16(a), the final judgment has no *prima facie* effect in any private lawsuit that may be brought against the defendants.

V. Procedures Available for Modification of the Proposed Final Judgment

As provided by the antitrust Procedures and Penalties Act, interested persons may comment upon the final judgment within 60 days of the required **Federal Register** publication and newspaper notices. Comments should be addressed to Steven C. Douse, Assistant Chief, General Litigation Section, Antitrust Division, United States Department of Justice, Washington, D.C. 20530. All comments received during the statutory period, along with the Department's responses, will be filed with the Court and published in the **Federal Register.** All comments will be carefully considered by the Department, which remains free to withdraw its consent to the proposed judgment at any time prior to entry. The judgment provides that the Court retains jurisdiction over this action, and any party may apply to the Court for any order necessary or appropriate for its

modification, interpretation, or enforcement.

VI. Alternatives to the Proposed Final Judgment

The Department of Justice considered proceeding to seek preliminary and permanent injunctions against consummation of the acquisition. While the Department was confident of its ability to succeed in a trial on the merits, the litigation would have involved difficult issues of law and fact, and a favorable outcome was not certain. Has the Department won a litigated judgment, at most the Court would have barred the sale of the Logan County plant to Alcan. The consent judgment agreed to by the parties achieves the same underlying objective—preservation of Arco as a viable, independent entrant into the market for aluminum can body stock—by barring Alcan from acquiring a majority interest in the plant. It has the additional advantage, which a litigated judgment would not, of barring the sale of Arco's interest in the plant to any of the other major producers of can stock. A further advantage of the decree is that it allows Alcan, by becoming a joint venturer with Arco, to contribute its own technology and expertise to the operation of the plant, which may make it possible for the plant to come into production sooner and to run more efficiently than if Arco were the sole operator.

VII. Determinative Materials and Documents

The agreements between Alcan and Arco establishing the joint venture were determinative in formulating this proposed final judgment. Those agreements are attached to the judgment as exhibits 1 through 5.

Respectfully submitted.
Angela L. Hughes,
Frank Sealis, Jr.,
Richard S. Nicholson,
Attorneys, United States Department of Justice, Antitrust Division, Washington, D.C. 20530.

[FR Doc. 84-27226 Filed 10-15-84; 8:45 am]
BILLING CODE 4750-01-M

W.A. Laidlaw Wire Co., et al; Proposed Termination of Final Judgment

Notice is hereby given that Laidlaw Corporation, formerly W.A. Laidlaw Wire Company, and Cleaners Hanger Company, have filed with the United States District Court for the Eastern District of Michigan, Southern Division, a motion to modify and ultimately terminate the Final Judgment in *United States* v. *L.A. Young Spring and Wire Corporation, Cleaners Hanger Company, W.A. Laidlaw Wire Company*, Civil Action No. 9552. The Department of Justice ("Department"), in a stipulation also filed with the court, has consented to the granting of the motion, but has reserved the right to withdraw its consent for at least seventy (70) days after the publication of this notice. The Complaint in this case (filed on June 27, 1950) alleged that the defendants had engaged in various anticompetitive activities in the wire garment hanger industry. The Judgment (entered on June 26, 1951), among other things, enjoins defendants from:

1. Acquiring, without prior court approval, any portion of the stock or assets of, or any financial interest in, any other industry member;
2. Permitting any of its officers, directors or employees to serve as an officer, director or employee of any other industry member;
3. Agreeing with any other industry member:
   a. To fix prices or other terms and conditions of sale,
   b. To disclose (to any other industry member or trade association) or exchange information concerning costs, prices, discounts, differentials or other terms and conditions of sale,
   c. To refrain from selling wire garment hangers to any person or class of persons,
   d. To designate or use common sale or distribution agents, or
   e. To interfere with the manufacture, use or sale of wire garment hangers by any other person;
4. Preventing, coercing or urging various sales and business practices by others;
5. Fixing or suggesting prices or other terms and conditions of sale of wire garment hangers by any other person;
6. Selling wire garment hangers below cost or at discriminatory prices for the purpose of suppressing competition; and
7. Refusing or threatening to refuse to sell wire garment hangers to any other person because of that person's prices or other terms and conditions of sale.

The proposed order modifying and terminating portions of the Final Judgment would terminate all of the injunctive provisions of the 1951 Judgment. In the event that a defendant proposes to acquire any stocks or assets of a manufacturer of wire garment hangers, the proposed order would require the defendant to provide the Department of Justice with such notice and information, and to observe all waiting periods, as if the acquisition were required to be reported under section 7A of the Clayton Act, 15 U.S.C. 18a. Finally, the order provides for full termination of the Judgment, including the obligation to report acquisitions, ten years from its date of entry.

The Department has filed with the court a memorandum setting forth the reasons why the Department believes that modification and termination of the Judgment would serve the public interest. Copies of the Complaint and Final Judgment, defendants' motion papers, the stipulation containing the Government's consent, the Department's memorandum and all further papers filed with the court in connection with this motion will be available for inspection in the Legal Procedure Unit of the Antitrust Division, Room 7416, Department of Justice, 10th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530 (telephone: 202-633-2481), and at the Office of the Clerk of the United States District Court for the Eastern District of Michigan, Southern Division, United States Courthouse, Detroit, Michigan. Copies of any of these materials may be obtained from the Legal Procedure Unit upon request and payment of the copying fee set by Department of Justice regulations.

Interested persons may submit comments regarding the proposed modification and termination of the Final Judgment to the Department. Such comments must be received within sixty days, and will be filed with the court. Comments should be addressed to John W. Clark, Chief, Special Trail Section, Antitrust Division, Department of Justice, Washington, D.C. 20530 (telephone: 202-724-6335).

Joseph H. Widmar,
Director of Operations, Antitrust Division.

[FR Doc. 84-27225 Filed 10-15-84; 8:45 am]
BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-9,444 & 10,525]

U.S. Steel Corp., Pittsburgh, PA, Headquarters; Monroeville, PA, Research Laboratory; Revised Determinations on Reconsideration

Pursuant to the U.S. Court of International Trade remand of September 6, 1984 in (*Samuel Katunich, Jane H.M. Rigo and Guy Serra, pro. se.* v. *Donovan*, USCIT No. 81-9-01158) alleging inconsistencies in the Department's use of the base period and in light of the subequent certification to workers of the Monroeville, Pennsylvania Research Laboratory of

U.S. Steel the Department makes the following revised determination on reconsideration.

A review of the Monroeville, Pennsylvania Research Laboratory investigative case file shows a 13-month period (April 1980 to May 1981) when workers at that facility were not covered under a certification. This uncovered period is between two certifications for trade adjustment assistance, TA-W-2,788 and TA-W-13,521, which run from October 1, 1977 to April 7, 1980 and from May 25, 1981 to February 18, 1985, respectively. The former certification was published in the **Federal Register** on April 21, 1978 (43 FR 17088-9), the latter on March 4, 1983 (43 FR 9390).

The Department's negative determination for workers of the Monroeville Research Laboratory involves service workers who are generally outside the scope of the Trade Act. The Department certifies service workers only if their separations were caused importantly by a reduced demand for their services from a firm which produces an article and which substantially beneficially owns the service workers' firm. In addition, the reduction in demand for services must be determined to have originated at a production facility whose workers independently meet the statutory criteria for certification, and that reduction must directly relate to the product adversely affected by increased imports.

At the time of the Department's denial (June 30, 1981) of the workers of the Monroeville Research Laboratory, certified workers at U.S. Steel facilities did not account for the threshold percent required of U.S. Steel's production to warrant certifying service workers at U.S. Steel. It was only later when subsequent petitions from workers at U.S. Steel were investigated and certified with impact dates in 1980 and 1981 that the situation changed for workers in the subject cases. As a result of these later certifications, workers at U.S. Steel headquarters in Pittsburgh, Pennsylvania (TA-W-13,268) were certified for trade adjustment assistance on February 18, 1983 with an impact date of January 14, 1981. This certification was published in the **Federal Register** on March 4, 1983 (48 FR 9390).

On reconsideration it became apparent from subsequent investigations of U.S. Steel plants that there was a basis for certifying workers at the Monroeville Research Laboratory of U.S. Steel for all or part of the periods not covered.

The Department expanded the scope of its reconsideration investigation to include the Pittsburgh headquarters of U.S. Steel since the earlier denial of these workers (TA-W-9444) was included along with the denial of the Monroeville workers and the decision on both petitions was based on data available at that time.

Conclusion

After careful review of the facts obtained on reconsideration, it is concluded that increased imports of steel products contributed importantly to a significant number or proportion of the workers having become separated wholly or partially, at the Monroeville, Pennsylvania Research Laboratory and the Pittsburgh, Pennsylvania headquarters of the U.S. Steel Corporation. In accordance with the provisions of the Trade Act of 1974, I make the following revised determinations:

All workers of the Pittsburgh, Pennsylvania headquarters of the U.S. Steel Corporation who became totally or partially separated from employment on or after March 1, 1980 and before January 14, 1981 and all workers of the Monroeville, Pennsylvania Research Laboratory of the U.S. Steel Corporation who became totally or partially separated from employment on or after April 8, 1980 and before May 24, 1981 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, D.C., this 11th day of October 1984.

Harold A. Bratt,

Deputy Director, Office of Program Management, UIS.

[FR Doc. 84-27339 Filed 10-15-84; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-84-17-M]

ASARCO, Inc.; Petition for Modification of Application of Mandatory Safety Sandard

ASARCO, Inc., P.O. Box 868, Troy, Montana 59935 has filed a petition to modify the application of 30 CFR 57.4-53 (use of liquefied petroleum gases) to its Troy Unit (I.D. No. 24-01467) located in Lincoln County, Montana. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that the use of liquefied petroleum gases be limited to maintenance work.

2. As an alternate method, petitioner proposes, as a research and development program, to initially convert one 35-ton haul truck and one loader to a dual fuel system of diesel and propane. The proposed propane fuel system to be used for the dual fuel system will be installed in the air intake immediately before the turbo-charger. The propane tank will have a tank level shut-off, an injector pump and filter, and a pressure transducer. The tank will be a 110-150 gallon tank and will be adequately guarded.

3. Petitioner states that the dual fuel system has been tested and found to reduce black smoke by as much as 50%. Exhaust emissions are reduced, and peak combustion pressures in diesel engines are lower, resulting in noise reductions.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 15, 1984. Copies of the petition are available for inspection at that address.

Dated: October 4, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-27328 Filed 10-15-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-84-203-C]

Bethlehem Mines Corp.; Petition for Modification of Application of Mandatory Safety Standard

Bethlehem Mines Corporation, Room 1871 Martin Tower, Bethlehem, Pennsylvania 18016 has filed a petition to modify the application of 30 CFR 75.1700 (oil and gas wells) to its Mine No. 108 (I.D. No. 46-03887) located in Upshur County, West Virginia and its Mine No. 131 (I.D. No. 46-01268) located in Boone County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the

requirement that barriers be established and maintained around oil and gas wells penetrating coalbeds or any area of an underground coal mine.

2. As an alternate method, petitioner proposes to seal the coal seam from the surrounding strata at the affected wells by placing plugs in the well bore below the base of the coalbed. Specific plugging procedures and safety precautions outlined in the petition will be strictly followed.

3. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 15, 1984. Copies of the petition are available for inspection at that address.

Dated: October 4, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-27315 Filed 10-15-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-84-196-C]

Bishop Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Bishop Coal Company, c/o Consolidation Coal Company, Consol Plaza, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 75.321 (stoppage of fans, plans) to its Bishop No. 33–37 Mine (I.D. No. 46–01868) located in McDowell County, West Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that each operator adopt a plan that provides for specific immediate action to be taken when any mine fan stops.

2. The petitioner's Dry Fork Mine and Bishop No. 33–37 mine are interconnected. Ventilation of the Dry Fork mine is provided by two fans at that mine; the Bishop No. 33–37 mine is ventilated by a fan at that mine and by the two fans at the Dry Fork mine. When any of these three fans stop, all provisions of § 75.321 must be complied with at both mines; however, with the power off at the Dry Fork mine, vital pumping operations cease and, if pumps are off for a sufficient period of time, operating sections will flood out.

3. As an alternate method, petitioner proposed that when the Bishop No. 33–37 fan is not operating and both Dry Fork fans are operating, the power in the Dry Fork Mine be left on for vital pumping operations, and that the necessary manpower required to maintain the pumping system be allowed to travel throughout the mine. All other persons will be withdrawn from the working section, and before production is resumed, the working places will be examined for methane.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 15, 1984. Copies of the petition are available for inspection at that address.

Dated: October 4, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-27329 Filed 10-15-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-84-57-C]

Blue Hat Coals, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Blue Hat Coals, Inc., Box 119, Accoville, West Virginia 25606 has filed a petition to modify the application of 30 CFR 75.1303 (permissible blasting devices) to its 15–A Mine (I.D. No. 46–01388) located in Logan County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statement follows:

1. The petition concerns the requirement that permissible blasting devices be used, that all explosives and blasting devices be used in a permissible manner, and that permissible explosives be fired only with permissible shot firing units.

2. As an alternate method, petitioner proposes to use the nonpermissible FEMCO Ten-Shot Blasting Unit. The unit will be used by an authorized person and will be used with well-insulated blasting cable with wires no smaller than No. 18 Brown and Sharp gauge.

3. The unit will be used with not more than:

a. Ten detonators with copper leg wires not over 30 feet long;

b. Ten detonators with iron leg wires 6 and 7 feet long;

c. Nine detonators with iron leg wires 8 and 9 feet long;

d. Eight detonators with iron leg wires 10 feet long;

e. Seven detonators with iron leg wires 12 feet long;

f. Six detonators with iron leg wires 14 feet long;

g. Five detonators with iron leg wires 16 feet long;

4. In addition, the FEMCO Ten-Shot Blasting Unit will be used only:

a. With short-delay electric detonators with designated delay periods of 25 to 500 milliseconds;

b. If the lamp, which provides an indication of readiness, lights immediately upon insertion of the firing key and extinguishes immediately upon release of the key. This will be verified prior to connecting the unit to the blasting cable;

c. With a battery pack having an open circuit voltage of at least 120 volts when installed. The pack will also be replaced at intervals not to exceed 6 months.

5. Petitioner will attach the manufacturer's label specifying conditions of use for the unit and will install the manufacturer's sealing device on the housing of the unit.

6. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as the afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 15, 1984. Copies of the petition are available for inspection at that address.

Dated: October 4, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-27305 Filed 10-15-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-84-204-C]

Consol Pennsylvania Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Consol Pennsylvania Coal Company, 1800 Washington Road, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 75.1103-4 (automatic fire sensor and warning device systems; installation; minimum requirements) to its Bailey Mine (I.D. No. 36-07230) located in Greene County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that automatic fire sensor and warning device systems provide identification of fire within each belt flight.

2. As an alternate method, petitioner proposes to use the air in the belt entry to ventilate active working places and planned longwall panels. In support of this request, petitioner states that:

a. The belt conveyor entry will be examined at least once during each coal producing shift while persons are working;

b. An early-warning fire detection system, using a low-level carbon monoxide detection system, will be installed and operated with specific conditions in all belt entries used as intake aircourses.

3. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 15, 1984. Copies of the petition are available for inspection at that address.

Dated: October 4, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-27312 Filed 10-15-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-84-205-C]

Consol Pennsylvania Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Consol Pennsylvania Coal Co., 1800 Washington Road, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 75.326 (aircourses and belt haulage entries) to its Bailey Mine (I.D. No. 36-07230) located in Greene County, Pennsylvania. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that intake and return aircourses be separated from belt haulage entries and that belt haulage entries not be used to ventilate active working places.

2. As an alternate method, petitioner proposes to use the air in the belt entry to ventilate active working places and planned longwall panels. In support of this request, petitioner states that:

a. The belt conveyor entry will be examined at least once during each coal producing shift while persons are working;

b. An early-warning fire detection system, using a low-level carbon monoxide detection system, will be installed and operated with specific conditions in all belt entries used as intake aircourses.

3. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Requests for Comments

Persons interested in this petition may furnish written comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 15, 1984. Copies of the petition are available for inspection at that address.

Dated: October 4, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-27321 Filed 10-15-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-84-207-C]

Consolidation Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Consolidation Coal Company, Consol Plaza, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 75.1105 (housing of underground transformer stations, battery-charging stations, substations, compressor stations, shops, and permanent pumps) to its Franklin No. 125 Mine (I.D. No. 33-00963) located in Harrison County, Ohio. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that air currents used to ventilate structures or areas enclosing electrical installations be coursed directly into the return.

2. The load center and centrifugal pumps are located in crosscuts with concrete block stoppings on both ends in which mandoors are installed. The two installations are located about 3,600 feet from the nearest return aircourses, which makes compliance with the standard extremely difficult.

3. As an alternate method, petitioner proposes to totally enclose the load center and centrifugal pumps in fireproof structures composed of concrete block walls with metal mandoors and incombustible roof and floor, utilizing a fireproof mine sealant. An automatic dry chemical fire suppression device activated by heat sensors will be installed in each installation. No combustible material will be stored within the enclosures. A warning light, integrated with the fire suppression device, will be installed in a location adjacent to the haulage track or a location readily observed by persons working nearby. Persons regularly working in this area will be instructed about the light and the course of action if activated.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These

comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 15, 1984. Copies of the petition are available for inspection at that address.

Dated: October 4, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-27308 Filed 10-15-84; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-84-58-C]

E.T.R. Mining Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

E.T.R. Mining Company, Inc., P.O. Box 430, Spring City, Tennessee 37381 has filed a petition to modify the application of 30 CFR 75.1303 (permissible blasting devices) to its No. 3 U.G. Mine (I.D. No. 40-02766) located in Rhea County, Tennessee. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that permissible blasting devices be used, that all explosives and blasting devices be used in a permissible manner, and that permissible explosives be fired only with permissible shot firing units.

2. As an alternate method, petitioner proposes to use the nonpermissible FEMCO Ten-Shot Blasting Unit. The unit will be used by the authorized person and will be used with well-insulated blasting cable with wires no smaller than No. 18 Brown and Sharp gauge.

3. The unit will be used with not more than:

a. Ten detonators with copper leg wires not over 30 feet long;

b. Ten detonators with iron leg wires 6 and 7 feet long;

c. Nine detonators with iron leg wires 8 and 9 feet long;

d. Eight detonators with iron leg wires 10 feet long;

e. Seven detonators with iron leg wires 12 feet long;

f. Six detonators with iron leg wires 14 feet long;

g. Five detonators with iron leg wires 16 feet long;

4. In addition, the FEMCO Ten-Shot Blasting Unit will be used only:

a. With short-delay electric detonators with designated delay periods of 25 to 500 milliseconds;

b. If the lamp, which provides an indication of readiness lights immediately upon insertion of the firing key and extinguishes immediately upon release of the key. This will be verified prior to connecting the unit to the blasting cable;

c. With a battery pack having an open circuit voltage of at least 120 volts when installed. The pack will also be replaced at intervals not to exceed 6 months.

5. Petitioner will attach the manufacturer's label specifying conditions of use for the unit and will install the manufacturer's sealing device on the housing of the unit.

6. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 15, 1984. Copies of the petition are available for inspection at that address.

Dated: October 4, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-27309 Filed 10-15-84; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-84-16-M]

Halcyon Mining Co.; Petition for Modification of Application of Mandatory Safety Sandard

Halcyon Mining Company, 3452 F3/4 Road, Clifton, Colorado 81520 has filed a petition to modify the application of 30 CFR 57.18-25 (employees working alone) to its Levicy Mine (I.D. No. 05-03949) located in Gunnison County, Colorado. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that no employee be assigned, or allowed, or be required to perform work alone in any area where hazardous conditions exist that would endanger his or her safety unless his or her cries for help can be seen or heard.

2. This hard rock mine operates on a seasonal basis due to snow conditions. The mine is narrow vein close to the surface. Petitioner states that the workings will be too constrictive to allow team mining and the mine is not sufficiently developed to allow multiple working areas.

3. As an alternate method, petitioner proposes that he, as mine operator, be allowed to work alone. Petitioner further states that hiring a part time person for such a short period of time does not allow adequate time to properly train and screen a miner for such a short season.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 15, 1984. Copies of the petition are available for inspection at that address.

Dated: October 4, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-27300 Filed 10-15-84; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-84-179-C]

Island Creek Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Island Creek Coal Company, P.O. Box 11430, Lexington, Kentucky 40575 has filed a petition to modify the application of 30 CFR 75.1700 (oil and gas wells) to its VP No. 1 Mine (I.D. No. 44-00246) located in Buchanan County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statement follows:

1. The petition concerns the requirement that barriers be established and maintained around oil and gas wells penetrating coalbeds or any underground area of a coal mine.

2. Petitioner states that the affected well was plugged and abandoned in August 1966.

3. As an alternate method, petitioner proposes to mine through the well while following the existing mine plan and regulations. In support of this request, petitioner states that:

a. The MSHA Subdistrict Manager, the State Division of Mine's Chief, and the representative of miners will be notified when mining enters the 100-feet in by area;

b. The section foreman will be the certified supervisor in charge;

c. The methane monitor on the tail of the longwall face line will be calibrated on each shift;

d. Tests for methane will be made with a hand-held methane detector every ten minutes; and

e. When the well is intersected, all equipment on the section will be deenergized and the place thoroughly examined and determined to be safe before mining is resumed.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 15, 1984. Copies of the petition are available for inspection at that address.

Dated: October 4, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-27301 Filed 10-15-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-84-195-C]

K. & B. Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

K. & B. Coal Company, Box 98, Whitesburg, Kentucky 41858 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its Mine No. 1 (I.D. No. 15-12022) located in Letcher County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. Petitioner states that the use of canopies on the mine's electric face equipment would result in a diminution of safety for the miners affected because the canopies reduce the equipment operator's visibility, increasing the chances for an accident. The canopies could also strike and dislodge roof supports, creating the potential for a roof fall.

3. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 15, 1984. Copies of the petition are available for inspection at that address.

Dated: October 4, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-27320 Filed 10-15-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-84-145-C]

Kitt Energy Corp.; Petition for Modification of Application of Mandatory Safety Standard

Kitt Energy Corporation, 455 Race Track Road, P.O. Box 500, Meadow Lands, Pennsylvania 17347 has filed a petition to modify the application of 30 CFR 75.1105 (housing of underground transformer stations, battery-charging stations, substations, compressor stations, shops, and permanent pumps) to its Kitt No. 1 Mine (I.D. No. 46-04168) located in Barbour County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that underground transformer stations, battery-charging stations, substations, compressor stations, shops and permanent pumps be housed in fireproof structures or areas and that air currents used to ventilate strucutres or areas enclosing electrical installations be coursed directly into the return.

2. Petitioner is presently installing a 16-foot diameter return air shaft in the 2-A Mains area of the mine. Upon completion of this air shaft, all entries parallel to the main belt entry leading from the 2-A Mains area to the elevator bottom area will become intake air courses and air pressure between them will equalize. This will make it impossible to ventilate electrical installations in such intake air courses directly into a return.

3. As an alternate method, petitioner proposes to totally enclose the affected installations in fireproof structures. An automatic fire suppression device activated by heat sensors will be installed in each installation. Openings for ventilation will be provided which will close from the same device that activates the fire suppression system. Doors to the installation will be well-sealed and self-closing. No combustible materials will be stored in the installations. All electrical circuits will be in compliance with the mandatory safety standards.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that aforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 15, 1984. Copies of the petition are available for inspection at that address.

Dated: October 4, 1984.

Patricia W. Silvey,

Director Office of Standards, Regulations and Variances.

[FR Doc. 84-27307 Filed 10-15-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-84-116-C]

Martin County Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard

Martin County Coal Corporation, HC-69, Box 640, Inez, Kentucky 41224 has filed a petition to modify the application of 30 CFR 75.1100-2(g) (quantity and location of firefighting equipment) to its 1-C Underground Mine (I.D. No. 15-03752), Black Bear Mine (I.D. No. 15-13946), 1-S(H) Underground Mine (I.D. No. 15-13475) and its Raccoon Mine (I.D. No. 15-13945), all located in Martin County, Kentucky. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that one portable fire

extinguisher or 240 pounds of rock dust be provided at locations where welding, cutting, or soldering with an arc or flame is being done.

2. The mines have inherently wet conditions. Rock dust required by the standard often draws dampness and can become ineffective as a fire fighting agent.

3. As an alternate method, petitioner proposes to use a multi-purpose dry chemical portable fire extinguisher containing a nominal weight of 10 pounds of dry powder and sufficient expellent to apply the powder in lieu of one portable fire extinguisher or 240 pounds of rock dust at each location where welding, cutting, or soldering with arc or flame is being done. Each 10-pound portable fire extinguisher will have a 4A–60BC or higher rating.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 15, 1984. Copies of the petition are available for inspection at that address.

Dated: October 4, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-27328 Filed 10-15-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-84-154-C]

Martin County Coal Corp. Petition for Modification of Application of Mandatory Safety Standard

Martin County Coal Corporation, HC69, P.O. Box 640, Inez, Kentucky 41224 has filed a petition to modify the application of 30 CFR 75.1100-2(e)(2) (quantity and location of firefighting equipment) to its 1-C Underground Mine (I.D. No. 15-03752), Black Bear Mine (I.D. No. 15-13946), 1-S(H) Underground Mine (I.D.No. 15-13475) and its Raccoon Mine (I.D. No. 15-13945), all located in Martin County, Kentucky. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that one portable fire extinguisher and 240 pounds of rock dust be provided at each temporarily electrical installation.

2. The mines have inherently wet conditions. Rock dust required by the standard often draws dampness and can become ineffective as a fire fighting agent.

3. As an alternate method, petitioner proposes to use a multi-purpose dry chemical portable fire extinguisher containing a nominal weight of 10 pounds of dry powder and sufficient expellent to apply the powder in lieu of one portable fire extinguisher and 240 pounds of rock dust at each temporary electrical installation. Each 10 portable fire extinguisher will have a 4A–60BC or higher rating.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 15, 1984. Copies of the petition are available for inspection at that address.

Dated: October 4, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-27333 Filed 10-15-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-164-C]

Neumeister Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Neumeister Coal Company, R.D. #1, Ashland, Pennsylvania 17921, has filed a petition to modify the application of 30 CFR 75.1400 (hoisting equipment; general) to its No. 2 Slope (I.D. No. 36-07166) located in Schuylkill County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirements that cages, platforms or other devices which are used to transport persons in shafts and slopes be equipped with safety catches or other approved devices that act quickly and effectively in an emergency.

2. Petitioner states that no such safety catch or device is available for steeply pitching and undulating slopes with numerous curves and knuckless present in the main haulage slopes of this anthracite mine.

3. Petitioner further believes that if a "makeshift" safety device were installed it would be activated on knuckles and curves, when no emergency existed, and cause a tumbling effect on the conveyance which would increase rather than decrease the hazard to the miners.

4. As an alternative method, petitioner proposes to operate the man cage or steel gunboat with secondary safety connections securely fastened around the gunboat and to the hoisting rope, which have a factor of safety in excess of the design factor as determined by the formula specified in the American National Standard for Wire Rope for Mines.

5. Petitioner states that the proposed alternate method will at all times provide the same degree of safety to the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 15, 1984. Copies of the petition are available for inspection at that address.

Dated: October 4, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-27308 Filed 10-15-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-84-187-C]

Peabody Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Peabody Coal Company, P.O. Box 350, Morganfield, Kentucky 42437 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Camp No. 1 (I.D. No. 15-02709) located in Union County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that intake and return aircourses be examined in their entirety on a weekly basis.

2. The petition concerns the 1 South, 2 South, 3 South, and 4 South off 2 West seals. Due to adverse roof conditions, these seals cannot be safely examined. Rehabilitation of these areas would expose miners to dangerous working conditions.

3. As an alternate method, petitioner proposes to monitor these seals in a safe location between the seals and the fan shaft on a daily basis.

4. For these reasons petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 15, 1984. Copies of the petition are available for inspection at that address.

Dated: October 4, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-27302 Filed 10-15-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-84-169-C]

Peabody Coal Co., Petition for Modification of Application of Mandatory Safety Standard

Peabody Coal Company, 301 North Memorial Drive, St. Louis, Missouri 63102 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its Star North U/G Mine (I.D. No. 15-03161) and its Star South U/G Mine (I.D. No. 15-11265), both located in Muhlenberg County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mines electric face equipment.

2. Both mines are operating with 51-inch heights under permanent roof support.

3. Petitioner states that the use of cabs or canopies would result in a diminution of safety because the equipment operator's vision and seating position are hampered, increasing the chances of an accident. In addition, the cabs or canopies could strike and dislodge the roof support system, creating the potential for a roof fall, and the cabs or canopies could pull down curtains which would affect mine ventilation.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 15, 1984. Copies of the petition are available for inspection at that address.

Dated: October 4, 1984.

Patricia W. Silvey,

Director, Office of Standards Regulations and Variances.

[FR Doc. 84-27304 Filed 10-15-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-84-176-C]

Peabody Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Peabody Coal Company, P.O. Box 527, Shawneetown, Illinois 62984 has filed a petition to modify the application of 30 CFR 75.503 (Permissible electric face equipment; maintenance) to its Eagle No. 2 Mine (I.D. No. 11-00598) located in Gallatin County, Illinois. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the use of keyed locks inserted through the brackets to secure the battery nips on the mine's scoops.

2. As an alternate method, petitioner proposes to put a bracket on the battery with a set screw-type arrangement to lock it down.

3. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 15, 1984. Copies of the petition are available for inspection at that address.

Dated: October 4, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-27305 Filed 10-15-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-84-200-C]

Penn Allegh Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Penn Allegh Coal Co., Inc. Box 238A, R.D. #2, Tarentum, Pennsylvania 15084 has filed a petition to modify the application of 30 CFR 75.1701 (abandoned areas, adjacent mines; drilling of boreholes) to its Allegheny No. 2 Mine (I.D. No. 36-02581) and its Allegheny No. 3 Portal (I.D. No. 36-05691), both located in Allegheny County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that whenever any working place approaches within 50 feet of abandoned areas in the mine, or within 200 feet of any other abandoned areas of the mine which cannot be inspected and which may contain dangerous accumulations of water or gas, or within 200 feet of any workings of an adjacent mine, borehole(s) shall be drilled to a distance of at least 20 feet in advance of the working face of such working place and continually maintained to a distance of at least 10 feet in advance of the advancing working face.

2. Petitioner proposes to mine within 200 feet of four abandoned old mines and states that application of the standard would hinder mining operations and provide less protection from the danger of water and gas accumulations in the adjacent abandoned mines.

3. As an alternate method, petitioner proposes to use modified coal drills, capable of drilling over 300-foot long test holes in the coal seam, to drill long holes to "block in" an area prior to mining when mining is less than 200 feet from abandoned parts of other mines.

4. Petitioner states that the proposed alternate method will provide the same

degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 15, 1984. Copies of the petition are available for inspection at that address.

Dated: October 4, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-27308 Filed 10-15-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-84-159-C]

Perry County Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard

Perry County Coal Corporation, P.O. Box 5002, Hazard, Kentucky 41701 has filed a petition to modify the application of 30 CFR 75.1103 (automatic fire warning devices) to its No. 2 Mine (I.D. No. 15-11547) located in Breathitt County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that devices be installed on all belts which will give a warning automatically when a fire occurs on or near such belt.

2. As an alternate method, petitioner proposes to use low-level carbon monoxide detection devices in lieu of point-type heat sensors on belt haulageways. In support of this request, petitioner states that:

a. Low-level monitoring devices will be installed on all belt entries used as intake air courses. The devices will give early warning automatically when a fire occurs in the belt entry and provide both audible and visual signals that permit rapid location of the fire;

b. The automatic fire detection system will be calibrated to activate the warning signals should the carbon monoxide concentration reach 10 p.p.m. above ambient;

c. The automatic fire detection system will, upon activation, provide an effective warning signal at a manned location on the surface where personnel have an assigned post of duty and have telephone or equivalent communication with all persons who may be endangered. The detector located at or near the section loading point will activate when carbon monoxide is detected and give a warning signal that may be heard on the working section. All persons, except those required to investigate and take appropriate action in the event of a fire in the belt entry, will be immediately withdrawn from this area of the mine to a safe area;

d. The person at the manned location on the surface will be trained in the operation of the CO monitoring system and in the proper procedures to follow in the event of an emergency;

e. The CO monitoring devices will be located at each belt drive, tail piece, and other locations as may be required by the District Manager;

f. The details for the fire detection system will be included as part of the ventilation system and methane and dust control plan required by 30 CFR 75.316;

g. Each carbon monoxide monitor and sensor will be visually examined at least once each 24 hours to ensure proper functioning. The units will be checked weekly for proper operation of the built-in safety features and other checks recommended by the manufacturer. At least every 30 calendar days, the monitors will be checked for operating accuracy with a known concentration of carbon monoxide gas and calibrated as necessary. A record will be kept of these tests and be made available to all interested persons;

h. The construction of the stoppings separating the belt haulage entry from the intake escapeway will be of concrete blocks, cinder blocks, brick or tile with mortared joints. The blocks may be stacked providing the stoppings are plastered on both sides with a material having the same strength as that of mortared joints;

i. Low-level carbon monoxide sensors will not be used where the velocity of the air current in the belt conveyor entry is less than 50 feet a minute or where the air current does not have a definite and distinct directional movement; and

j. The velocity of the air current in the belt entry will not exceed 300 feet per minute.

3. Should the automatic fire detection system be affected by a power interruption or other malfunction, petitioner proposes that the belt conveyors continue to operate if a qualified person is stationed at each malfunctioning sensor to continuously monitor for carbon monoxide with a suitable instrument.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 15, 1984. Copies of the petition are available for inspection at that address.

Dated: October 4, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-27310 Filed 10-15-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-84-135-C]

Preece Coal Co., Inc., Petition for Modification of Application of Mandatory Safety Standard

Preece Coal Company Inc., Route 2, P.O. Box 5, Turkey Creek, Kentucky 41570 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its Mine No. 4 (I.D. No. 15-13224) located in Pike County, Kentucky. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The mine is in the Thacker seam and ranges from 40 to 44 inches in height with consistent ascending and descending grades creating dips in the coal bed.

3. Petitioner states that the canopies limit the equipment operator's visibility and cramp the operator's seating position, increasing the changes of an accident. In addition, the canopies can strike and dislodge the roof support system, creating the potential for a roof fall.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627 4015 Wilson

Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 15, 1984. Copies of the petition are available for inspection at that address.

Dated: October 4, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-27332 Filed 10-15-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-84-206-C]

Princess Pollyana Coal, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Princess Pollyanna Coal, Inc., Drawer 650, Rupert, West Virginia 25984 has filed a petition to modify the application of 30 CFR 75.1303 (permissible blasting devices) to its No. 3 Mine (I.D. No. 46-06639) located in Greenbrier County, West Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that permissible blasting devices be used, that all explosives and blasting devices be used in a permissible manner, and that permissible explosives be fired only with permissible short firing units.

2. As an alternative method, petitioner proposes to use the nonpermissible FEMCO Ten-Short Blasting Unit. The unit will be used by an authorized person and will be used with well-insulated blasting cable with wires no smaller than No. 18 Brown and Sharp gauge.

3. The unit will be used with not more than:

a. Ten detonators with copper leg wires not over 30 feet long;

b. Ten detonators with iron leg wires 6 and 7 feet long;

c. Nine detonators with iron leg wires 8 and 9 feet long;

d. Eight detonators with iron leg wires 10 feet long;

e. Seven detonators with iron leg wires 12 feet long;

f. Six detonators with iron leg wires 14 feet long;

g. Five detonators with iron leg wires 16 feet long;

4. In addition, the FEMCO Ten-Short Blasting Unit will be used only:

a. With short-delay electric detonators with designated delay periods of 25 to 500 milliseconds;

b. If the lamp, which provides an indication of readiness, lights immediately upon insertion of the firing key and extinguishes immediately upon release of the key. This will be verified prior to connecting the unit to the blasting cable;

c. With a battery pack having an open circuit voltage of at least 120 volts when installed. The pack will also be replaced at intervals not to exceed 6 months.

5. Petitioner will attach the manufacturer's label specifying conditions of use for the unit and will install the manufacturer's sealing device on the housing of the unit.

6. Petitioner states that the proposed alternate method will provide the same degrees of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 15, 1984. Copies of the petition are available for inspection at that address.

Dated: October 4, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-27311 Filed 10-15-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-84-165-C]

Pyro Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Pyro Mining Company, P.O. Box 267, Sturgis, Kentucky 42459 has filed a petition to modify the application of 30 CFR 75.1103 (automatic fire warning devices) to its Palco Mine (I.D. No. 15-14492) located in Union County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that devices be installed on all belts which will give a warning automatically when a fire occurs on or near such belt.

2. As an alternate method, petitioner proposes to use carbon monoxide monitors in lieu of point-type heat sensors to monitor the conditions along the conveyor belts. The monitors will be installed at each belt drive and tailpiece. When the contaminant travel velocity (ctv) is more than 200 fmp, sensor spacing will not exceed 3,000 feet; where the ctv is 50 to 200 fpm, sensor spacing will not exceed 2,000 feet; and where the ctv is less than 50 fpm, no sensor will be used.

3. Petitioner states that the proposed alternate methods will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations, and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 15, 1984. Copies of the petition are available for inspection at that address.

Dated: October 4, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-27325 Filed 10-15-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-84-186-C]

Quarto Mining Co.; Petition for Modification of Application of Mandatory Safety Sandard

Quarto Mining Company, Box 231, Clarington, Ohio 43915 has filed a petition to modify the application of 30 CFR 75.1303 (permissible blasting devices) to its Powhatan No. 4 Mine (I.D. No. 33-01157) and Powhatan No. 7 Mine (I.D. No. 33-02624), both located in Monroe County, Ohio. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that permissible blasting devices be used, that all expolsives and blasting devices be used in a permissible manner, and that permissible explosives be fired only with permissible shot firing units.

2. As an alternate method, petitioner proposes to use a nonpermissible FEMCO Ten-Shot Blasting Unit. The unit will be used by an authorized person and will be used with well-insulated blasting cable with wires no smaller than No. 18 Brown and Sharp gauge.

3. The unit will be used with not more than:

a. Ten detonators with copper leg wires not over 30 feet long;

b. Ten detonators with iron leg wires 6 and 7 feet long;

c. Nine detonators with iron leg wires 8 and 9 feet long;

d. Eight detonators with iron leg wires 10 feet long;

e. Seven detonators with iron leg wires 12 feet long;

f. Six detonators with iron leg wires 14 feet long;

g. Five detonators with iron leg wires 16 feet long;

4. In addition, the FEMCO Ten-Shot Blasting Unit will be used only:

a. with short-delay electric detonators with designated delay periods of 25 to 500 milliseconds;

b. If the lamp, which provides an indication of readiness, lights immediately upon insertion of the firing key and extinguishes immediately upon release of the key. This will be verified prior to connecting the unit to the blasting cable;

c. With a battery pack having an open circuit voltage of at least 120 volts when installed. The pack will also be replaced at intervals not to exceed 6 months.

5. Petitioner will attach the manufacturer's label specifying conditions of use for the unit and will install the manufacturer's sealing device on the housing of the unit.

6. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 15, 1984. Copies of the petition are available for inspection at that address.

Dated: October 4, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-27309 Filed 10-15-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-84-151-C]

Roadside Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Roadside Coal Co., Inc., P.O. Box 325, Turkey Creek, Ky 41570 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its Mine No. 5 (I.D. No. 15-13977) located in Pike County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirements that cabs or canopies be installed on the mine's electric face equipment.

2. Petitioner states that the coal seam has constant raises and drops, making canopy installation unfeasible.

3. As an alternate method, petitioner proposes to increase the inspections of roof and rib areas in all working places affected.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comemnts must be postmarked or received in that office on or before November 15, 1984. Copies of the petition are available for inspection at that address.

Dated: October 4, 1984.

Patrica W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-27319 Filed 10-15-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-84-180-C]

Shannopin Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Shannopin Mining Company, Box 364, Bobtown, Pennsylvania 15315 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Shannopin Mine (I.D. No. 36-00907) located in Greene County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that intake and return aircourses be examined in their entirety on a weekly basis.

2. Petitioner states that the Steel Shaft West Return Split Airways have deteriorated, and include roof falls, areas of unstable roof, impassable accumulations of water, and heights as low as 24 inches in certain places. These conditions make travelling these return airways hazardous for the miners affected.

3. Rehabilitation of these airways would require miners to work in dangerous conditions, including the roof fall, unstable roof areas, removal of material, and crawling along portions of the airways, resulting in a diminution of safety.

4. As an alternate method, petitioner proposes to establish air monitoring checkpoints at specified locations along the affected airways to routinely monitor both air quantity and quality in the airway, as follows:

a. Methane and air readings will be made by a certified person;

b. The measuring stations will be maintained in good working condition;

c. Methane will not be allowed to accumulate in these return aircourses beyond legal limits;

d. A date board or book will be located at each measuring station, to record the results of air and methane readings;

e. A diagram showing the direction of air flows in the area will be posted at the measuring stations and other strategic locations.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 15, 1984. Copies of the petition are available for inspection at that address.

Dated: October 4, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-27317 Filed 10-15-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-84-190-C]

Southern Ohio Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Southern Ohio Coal Company, P.O. Box 490, Athens, Ohio 45701 has filed a petition to modify the application of 30 CFR 75.807 (installation of high-voltage transmission cables) to its Meigs No. 1

Mine (I.D. No. 33–01172) and its Meigs No. 2 Mine (I.D. No. 33–01173), both located in Meigs County, Ohio. The petition if filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that all high-voltage transmission cables be guarded where persons regularly work or pass under them unless they are 6½ feet or more above the floor or rail.

2. As an alternate method, petitioner proposes not to guard the high-voltage cable where persons work or pass under because the cables are:

a. Either SHD–GC or MC–GC type;

b. 7.6 Kv and the insulation is rated at 8 Kv to 15 Kv at 90 °C;

c. Placed in regularly traveled track and neutral entries;

d. Only crossed under or worked around at power centers, belt starters, track shelter holes, vacuum breakers and rectifiers, and only on an infrequent basis.

3. Petitioner states that there have been no accidents involving this cable and the proposed modification will not result in a diminution of safety.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 15, 1984. Copies of the petition are available for inspection at that address.

Dated: October 4, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-27312 Filed 10-15-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M–84–182–C]

Southern Ohio Coal Co., Petition for Modification of Application of Mandatory Safety Standard

Southern Ohio Coal Company, P.O. Box 490, Athens, Ohio 45701 has filed a petition to modify the application of 30 CFR 75.500(b) (permissible electric equipment) to its Meigs No. 1 Mine (I.D. No. 33–01172) and Meigs No. 2 Mine (I.D. No. 33–01173), both located in Meigs County, Ohio. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that all hand-held electric drills, blower and exhaust fans, electric pumps, and such other low horsepower electric face equipment which are taken into or used inby the last open crosscut of any coal mine be permissible.

2. As an alternate method, petitioner proposes that its survey crews be permitted to use a Black and Decker hand-held 9.6 volt battery-powered drill inby the last open crosscut. In support of this request, petitioner states that:

(a) The roof in these mines is either limestone or sandstone, and is very hard and time consuming to drill by any other method;

(b) These drills will be used inby the last open crosscut only on an infrequent basis and a short duration of time;

(c) These drills will be used to install spads for control lines, resurvey lines, sight lines, belt lines and trolley lines; and

(d) Before these drills are used inby the last open crosscut, a check will be made for methane by a person qualified in the use of an approved detector.

3. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 15, 1984. Copies of the petition are available for inspection at that address.

Dated: October 4, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-27313 Filed 10-15-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M–84–181–C]

U.S. Steel Mining Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

U.S. Steel Mining Co., Inc., 600 Grant Street, Room 1580, Pittsburgh, Pennsylvania 15230 has filed a petition to modify the application of 30 CFR 75.1700 (oil and gas wells) to its Maple Creek No. 2 Mine (I.D. No. 36–03425) located in Washington County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that barriers be established and maintained around oil and gas wells penetrating coalbeds.

2. The large majority of oil and gas wells passing through the Pittsburgh seam of the mine were drilled and many were also abandoned between 1900 and 1950, during which period no standards for drilling and plugging existed. Oil and gas sands are now nearly depleted, and no appreciable volume of gas comes from petroleum reservoirs.

3. Petitioner states that requiring barriers to be established and maintained around such oil and gas wells would adversely affect the roof control plan, the mine ventilation plan would be unduly complicated, and the longwall mining plan would be jeopardized.

4. Petitioner states that effective, safe methods of plugging wells rather than leaving barriers around them have been developed through a cooperative effort of the U.S. Bureau of Mines, the Energy Research and Development Administration, MSHA and the coal industry.

5. As an alternate method, petitioner proposes that:

(a) The well will be cleaned to a point not less than 200 feet below the bottom of the Pittsburgh seam;

(b) The hole will be cleaned out to its original diameter and vertical profile:

(c) The cleaning-out procedure will include the removal of all casing if practicable. If casing cannot be pulled, it will be ripped, perforated, cut, or otherwise interrupted at closely spaced intervals to ensure that plugging media will fill the annulus between all the remaining casing and the borehole walls;

(d) The hole will be logged, including as a minimum, formation log (gamma ray, neutron), a caliper survey, and directional deviation survey;

(e) If the cleaned-out hole liberates gas, a bridge plug will be placed at the bottom of the cleaned portion of the hole (in competent strata not less than 200 feet below the bottom of the Pittsburgh seam) to prevent gas channeling through the cement plug. Tubing of suitable diameter will be run to approximately 10 feet above the bridge plug;

(f) If the cleaned-out hole does not liberate gas, the tubing will be run approximately 10 feet above the bottom of the cleaned-out hole, not less than 200 feet below the bottom of the Pittsburgh seam;

(g) The hole will be filled to the surface with gel weighing approximately 14.5 pounds per gallon by pumping the gel through the tubing;

(h) The weighted gel will be displaced from the hole by pumping an expanding cement slurry through the tubing using accepted oil well cementing procedures. The cement slurry will be of sufficient volume to obtain return at the surface to ensure complete filling of the hole to the surface with expanding cement;

(i) A small quantity of steel turnings or other small magnetic particles will be incorporated in the uppermost few feet of cement to serve as a permanent magnetic monument;

(j) Petitioner will mine through and remove segments of the wells between the mine pavement and roof during its normal mining cycle, and under the direct supervision of a certified official;

(k) Petitioner will monitor the mine atmosphere during such mining through;

(l) MSHA will be notified prior to the commencement of plugging operations, and prior to mining within 300 feet of the mining-through operations for each well;

(m) Petitioner will sample for methane gas before, during, and immediately after mining through each well. When mining approaches 20 feet from a well bore, methane readings will be made with a hand-held methanometer at least once every ten (10) minutes during mining when mining within 20 feet distance from a well bore;

(n) After the well bore is intercepted, the place will be examined and determined safe before mining continues; and

(o) Petitioner will instruct personnel in the affected area to proceed with caution when mining into and through the well-support pillar, and especially diligent efforts will be made to assure a methane gas atmosphere of less than one percent in the affected area.

6. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 15, 1984. Copies of the petition are available for inspection at that address.

Dated: October 4, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-27314 Filed 10-15-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-84-194-C]

Westmoreland Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Westmoreland Coal Co., P.O. Drawer A & B, Big Stone Gap, Virginia 24219 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Quinwood No. 7 Mine (I.D. No. 46-01474) located in Nicholas County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that intake and return aircourses be examined in their entirety on a weekly basis.

2. Adverse roof conditions in an approximately 1,000-foot area of the 2nd South Panel entries used as return aircourses make travel in such areas extremely hazardous. Rehabilitation of these areas would expose miners to hazardous working conditions.

3. As an alternate method, petitioner proposes to establish check points immediately out by each end of the adverse roof conditions of the 2nd South Panel return aircourses. Air measurements and gas readings will be made weekly at each check point. A record of such measurements and readings will be recorded in a book kept on the surface at the mine.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 15, 1984. Copies of the petition are available for inspection at that address.

Dated: October 4, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-27323 Filed 10-15-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-84-193-C]

Westmoreland Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Westmoreland Coal Company, P.O. Drawer A & B, Big Stone Gap, Virginia 24219 has filed a petition to modify the application of 30 CFR 75.1303 (permissible blasting devices) to its Quinwood No. 7 Mine (I.D. No. 46-01474) located in Nicholas County, West Virginia, its Eccles No. 6 Mine (I.D. No. 46-015104) located in Raleigh County, West Virginia, and its Hampton No. 3 Mine (I.D. No. 46-01283) and Hampton No. 4 Mine (I. D. No. 46-01282) both located in Boone County , West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statement follows:

1. The petition concerns the requirement that permissible blasting devices be used, that all explosives and blasting devices be used in a permissible manner, and that permissible explosives be fired only with permissible shot firing units.

2. As an alternate method, petitioner proposes to use the nonpermissible FEMCO Ten-Shot Blasting Unit. The unit will be used by an authorized person and will be used with well-insulated blasting cable with wires no smaller than No. 18 Brown and Sharpe gauge.

3. The unit will be used with no more than:

a. Ten detonators with copper leg wires not over 30 feet long;

b. Ten detonators with iron leg wires 6 and 7 feet long;

c. Nine detonators with with iron leg wires 8 and 9 feet long;

d. Eight detonators with iron leg wires 10 feet long;

e. Seven detonators with iron leg wires 12 feet long;

f. Six detonators with iron leg wires 14 feet long; and

g. Five detonators with iron leg wires 16 feet long.

4. In addition, the FEMCO Ten-Shot Blasting Unit will be used only:

a. With short-delay electric detonators with designated delay periods of 25 to 500 milliseconds;

b. If the lamp, which provides an indication of readiness, lights

immediately upon insertion of the firing key and extinguishes immediately upon release of the key. This will be verified prior to connecting the unit to the blasting cable;

c. With a battery pack having an open circuit voltage of at least 120 volts when installed. The pack will be replaced at intervals not to exceed 6 months.

5. Petitioner will attach the manufacturer's label specifying conditions of use for the unit and will install the manufacturer's sealing device on the housing of the unit.

6. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 15, 1984. Copies of the petition are available for inspection at that address.

Dated: October 4, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-27324 Filed 10-15-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-84-220-C]

Westmoreland Coal Co.; Petition for Modification of Application of Mandatory Safety Standards

Westmoreland Coal Company, P.O. Drawer A & B, Big Stone Gap, Virginia, 24219 has filed a petition to modify the application of 30 CFR 75.326 (aircourses and belt haulage entries) to its Holton Mine (I.D. No. 44-04197) located in Lee County, Virginia, its Wentz No. 1 Mine (I.D. No. 44-00302) and Wentz B Portal Mine (I.D. No. 44-05559) both located in Wise County, Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that intake and return aircourses be separated from belt haulage entries and that air coursed through belt haulage entries not be used to ventilate active working places.

2. As an alternate method, petitioner proposes to use the air from the belt haulage and/or track entries to ventilate active working places. In support of this request, petitioner proposes to install, with specific conditions, a low-level carbon monoxide detection system with monitors at specific locations in all belt entries used as intake aircourses.

3. Petitioner states that the proposed alternate method would increase the differential pressure between the intake and return entries, provide for more effective ventilation of the mines, and will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 15, 1984. Copies of the petition are available for inspection at that address.

Dated: October 4, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-27331 Filed 10-15-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-84-221-C]

Westmoreland Coal Co.; Petition for Modification of Application of Mandatory Safety Standards

Westmoreland Coal Company, P.O. Drawer A & B, Big Stone Gap, Virginia, 24219 has filed a petition to modify the application of 30 CFR 75.1103-4(a) (automatic fire sensor and warning device systems) to its Holton Mine (I.D. No. 44-04197) located in Lee County, Virginia, its Wentz No. 1 Mine (I.D. No. 44-00302) and Wentz B Portal Mine (I.D. No. 44-05559), both located in Wise County, Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that automatic fire sensor and warning device systems provide identification of fire within each belt flight.

2. As an alternate method, petitioner proposes to use a fire sensor and warning device system that will be capable of identification of fire by activated sensor(s) rather than identification of fire within each belt flight. In support of this request, petitioner proposes to install, with specific conditions, a low-level carbon monoxide detection system with monitors at specific locations in all belt entries used as intake aircourses.

3. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 15, 1984. Copies of the petition are available for inspection at that address.

Dated: October 4, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-27330 Filed 10-15-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-84-222-C]

Westmoreland Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Westmoreland Coal Company, P.O. Drawer A & B, Big Stone Gap, Virginia 24219 has filed a petition to modify the application of 30 CFR 75.1105 (housing of underground transformer stations, battery-charging stations, substations, compressor stations, shops, and permanent pumps) to its Holton Mine (I.D. No. 44-04197) located in Lee County, Virginia, its Wentz No. 1 Mine (I.D. No. 44-00302) and Wentz B Portal Mine (I.D. No. 44-05559), both located in Wise County, Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follow:

1. The petition concerns the requirements that underground transformer stations, battery-charging stations, substations, compressor stations, shops, and permanent pumps be housed in fireproof structures or areas, and that air currents used to ventilate such structures or areas be coursed directly into the return.

2. As an alternate method, petitioner proposes that air currents, which are used to ventilate transformers, permanent pumps, and rectifiers, be used to ventilate active working places

in lieu of being coursed directly into the return. In support of this request, petitioner proposes to install, with specific conditions, a low-level carbon monoxide detection system with monitors at specific locations in all belt entries used as intake aircourses.

3. Petitioner states that the proposed alternate method would increase the differential pressure between the intake and return entries, provide for more effective ventilation of the mines, and will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 15, 1984. Copies of the petition are available for inspection at that address.

Dated: October 4, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-27327 Filed 10-15-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-84-175-C]

Wolf-Creek Collieries Co.; Petition for Modification of Application of Mandatory Safety Standard

Wolf-Creek Collieries Company, P.O. Box 179, Lovely, Kentucky 41231 has filed a petition to modify the application of 30 CFR 75.902 (low- and medium-voltage ground check monitor circuits) to its No. 4 Mine (I.D. No. 15-04020) located in Martin County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follow:

1. The petition concerns the requirement that low- and medium-voltage resistance grounded systems include a fail-safe ground check circuit to assure continuity which ground check circuit shall cause the circuit breaker to open when either the ground or pilot check wire is broken.

2. The mine has been plagued by frequent power outages and a generally inconsistent power supply from the power company. With the use of undervoltage release breakers to meet the requriements of fail-safe ground monitoring, it is necessary after each power outage for a person to travel to each belt drive and reset the U.V.R. breakers before the belts can start and production can resume. Petitioner states that this procedure can be a safety problem because when the power blinks and comes back on, people are "dashing about madly" to get to the belt drives and put the breakers in. A sense of urgency often causes these people to take hasty, unplanned actions which can jeopardize the miners' safety.

3. As an alternate method, petitioner proposes to use contractors to obtain the same protection on belt starting equipment. Belt power contractors will be built into or permanently affixed to the transformer enclosure, properly separated and isolated from the other compnents of the unit. Ground continuity will be monitored at all times with an approved-type monitor. Upon loss of ground or pilot wire, the monitor would drop out all contractors that provide power to the drive unit and all related equipment.

4. In addition to the grounding conductors in the cables, an exterior ground conductor will be run of copper wire properly sized to meet the requirements of 30 CFR 75.701-4 and visible along the entire length. This exterior ground will be protected and solidly connected to the frame of all belt drive equipment receiving power from the transformer. All affected personnel will be trained in the circuit plans used at these locations, and covered in all electrical retraining classes with records kept and available for inspection. Under voltage release required by 30 CFR 75.900 will be obtained by the electrical nature of contractors and relays, which drop out at 40 to 50 percent of the rated coil voltage. Prior to each startup, an audible alarm will be sounded for 30 seconds that can be heard the full length of the conveyor. All start-up horns and all control voltage will be 12 volts D.C.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 15, 1984. Copies of the petition are available for inspection at that address.

Dated: October 4, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-27310 Filed 10-15-84; 8:45 am]

BILLING CODE 4510-43-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel Meetings

Agency: National Endowment for the Humanities.

Action: Notice of Meetings.

Summary: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at 1100 Pennsylvania Avenue, NW., Washington, D.C. 20506:

1. *Date:* November 1-2, 1984.
Time: 8:30 a.m. to 5:00 p.m.
Room: 415.
Program: This meeting will review applications submitted for the Humanities Projects in Media, Division of General Programs, for projects beginning after April 1, 1985.

2. *Date:* November 5, 1984.
Time: 8:30 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review applications submitted to the Research Translations Program: Germanic Panel, Division of Research Programs, for projects beginning after April 1, 1985.

3. *Date:* November 13, 1984.
Time: 8:30 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review applications submitted to the Research Translations Program: Classics Panel, Division of Research Programs, for projects beginning after April 1, 1985.

4. *Date:* November 15-16, 1984.
Time: 8:30 a.m. to 5:00 p.m.
Room: 415.
Program: This meeting will review applications submitted to the Humanities Projects in Media, Division of General Programs, for projects beginning after April 1, 1985.

5. *Date:* November 16, 1984.
Time: 8:30 a.m. to 5:00 p.m.
Room: 316.
Program: This meeting will review applications submitted to the Research Resources Program: Music Panel, Division of Research Programs, for projects beginning after April 1, 1985.

The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation of applications for financial assistance under the National Foundation on the

Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and (3) information the disclosure of which would significantly frustrate implementation of proposed agency action; pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of sections 552b of Title 5, United States Code.

Further information about these meetings can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506, or call (202) 786–0322.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 84–27286 Filed 10–15–84; 8:45 am]

BILLING CODE 7536–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel For Integrative Neural Systems Program; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Integrative Neural Systems Program.

Date and Time: November 1 and 2, 1984: 9:00 a.m. to 5:00 p.m. each day.

Place: Room 628 on November 1, and Room 643 on November 2, 1984. National Science Foundation, 1800 G. St., N.W., Washington, DC.

Type of Meeting: Open 11/1—9:00 a.m. to 10:00 a.m. Closed—remainder of scheduled time.

Contact Person: Dr. Kenneth Surrey, Program Director, Integrative Neural Systems Program, Room 320, National Science Foundation, Washington, D.C. 20550, Telephone (202) 357–7471.

Summary Minutes: May be addressed from the Contact Person at the above stated address.

Purpose of Meeting: To provide advice and recommendations concerning support for research in integrative neural systems.

Agenda: Open—General discussion of the current status and future plans of the Integrative Neural Systems Program. Closed—To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Official.

October 11, 1984

[FR Doc. 84–27285 Filed 10–15–84; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Linguistics; Meeting

In accordance with Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Linguistics.

Date and Time: November 1 and 2, 1984; 9:00 A.M. to 5:00 P.M. each day.

Place: National Science Foundation, 1800 G Street, N.W., Room 523, Washington, D.C. 20550.

Type of Meeting: Closed.

Contact Person: Dr. Paul G. Chapin, Program Director, Linguistics Program, Room 320, National Science Foundation, Washington, D.C. 20550 (202) 357–7696.

Purpose of Meeting: To provide advice and recommendations concerning support for research in linguistics.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Officer.

October 11, 1984.

[FR Doc. 27287 Filed 10–15–84; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for Ocean Sciences; Meeting

In accordance with the Federal Advisory Committee Act Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Ocean Sciences (ACOS)

Date and Time: November 1 and 2, 1984—9:00 A.M. to 5:00 P.M. each day

Place: Room 351, National Academy of Science 21st & Pennsylvania Avenue, NW, Washington, DC

Type of Meeting: Open

Contact Person: Dr. M. Grant Gross, Director, Division of Ocean Sciences Room 609, National Science Foundation Washington, DC 20550, Telephone (202) 357–9639

Summary Minutes: May be obtained from the Contact Person

Purpose of Committee: To provide advice and recommendations concerning oceanographic research and its support by the NSF Division of Ocean Sciences

Agenda

1 November

9:00 A.M.

I—Opening Remarks and General Introductions
II—Adoption of the Agenda
III—Approval of Minutes from ACOS Meeting May 21–22, 1984
IV—Update of the FY–85 Budget
V—Status Reports by OCE Staff
VI—Presentation and Discussion of Activities of Other Agencies and Organizations

12:00–1:00 Lunch

VII—Ocean Engineering: Needs in Ocean Science Research
VIII—Regional-National Facilities and Infrastructure: Status and Requirements
IX—Discussion and Update of Events and Current Status of ACOS Report—"The Emergence of a Unified Ocean Science: Directions for Progress and Quantum Growth in the Next Decade, and the Role for NSF"
X—Status Reports and Discussion of New Directions in Ocean Sciences
XI—Strategy for Discussion Items on November 2, 1984

5:00 P.M. Adjourn for the Day

Friday, 2 November

9:00 A.M.

XII—Further Discussion of the Advisory Committee's Report

XIII—Further Discussion on New Directions in Ocean Sciences
12:00—1:00 P.M. Lunch
1:00
XIV—Director's Remarks (Schedule Permitting)
XV—Further Discussion on Items XII and XIII, as Necessary
XVI—Program Oversight Review of OCE Activities
XVII—Determine Dates for Spring Meeting
XVIII—Other Business
4:00 Adjourn

M. Rebecca Winkler,
Committee Management Officer.
October 11, 1984.
[FR Doc 84-27288 Filed 10-15-84; 8:45 am]
BILLING CODE 7555-01-M

Materials Research Advisory Committee; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Materials Research Advisory Committee.
Place: Rooms 540, 543, 642, National Science Foundation, 1800 "G" Street, NW, Washington, DC 20550.
Date: Thursday, November 1; Friday, November 2; and Saturday, November 3, 1984.
Time: 9:00 a.m.—5:00 p.m., those days.
Type of Meeting:
Part Open—November 1, 9–1 (Open); November 1, 1–5 (Closed)
Part Open—November 2, 9–1 (Open); November 2, 1–5 (Closed)
Part Open—November 3, 9–1 (Closed); November 3, 1–5 (Open)
Contact Person: Dr. Lewis H. Nosanow, Director, Division of Materials Research, Room 408, National Science Foundation, Washington, DC, 20550. Telephone: (202) 357-9794.
Summary Minutes: May be obtained from the Contact Person, Dr. Lewis H. Nosanow, at the above stated address.
Purpose of Committee: To provide and recommendations concerning support of materials research.

Agenda

Thursday, November 1, 1984—9:00 a.m. to 5:00 p.m.
9:00 a.m.—Introductory remarks, overviews of the NSF, the Mathematical and Physical Sciences Directorate, and the Division of Materials Research (DMR)
10:30 a.m.—Overviews of the Metallurgy, Ceramics and Electronic Materials, and Polymers Programs
12:00 noon—Lunch
1:00 p.m.—Oversight review of the Metallurgy, Ceramics and Electronic Materials, and Polymers Programs. Review and comparison of declined proposals (and supporting documentation) with successful awards including review of peer review and other privileged materials.
5:00 p.m.—Adjourn

Friday, November 2, 1984—9:00 a.m. to 5:00 p.m.
9:00 a.m.—Convene
9:15 a.m.—Overview NSF activities which impact DMR such as the Office of Advanced Scientific Computing, the Presidential Young Investigator Awards, Engineering Research Centers.
12:00 noon—Lunch
1:00 p.m.—Oversight Review (Continued)
5:00 p.m.—Adjourn

Saturday, November 3, 1984—9:00 a.m. to 5:00 p.m.
9:00 a.m.—Convene
9:15 a.m.—Oversight Review (Continued)
12:00 noon—Lunch
1:00 p.m.—Concluding Discussion
5:00 p.m.—Adjourn

Reasons for Closing: The Committee will be reviewing grants and declinations which contain the names of applicants, institutions and principal investigators and privileged information contained in declined proposals. This session will also include a review of the peer review documentation pertaining to the applicants. Thes matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10 (d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,
Committee Management Officer.
October 11, 1984.
[FR Doc. 84-27286 Filed 10-15-84; 8:45 am]
BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-348 and 50-364]

Alabama Power Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of Footnote d-2(c) of Appendix A to 10 CFR Part 20 to Alabama Power Company (the licensee), for the Joseph M. Farley Nuclear Plant, Unit Nos. 1 and 2, located near the City of Dothan, Alabama.

Environmental Assessment

Identification of Proposed Action: The exemption would relax the requirement in Footnote d-2(c) fo Appendix A to 10 CFR Part 20 which states, "No allowance is to be made for the use of sorbents against radioactive gases or vapor." The exemption would allow the use of a radioiodine protection factor of 50 for certain respiratory protection canisters used by workers at Alabama Power Company's Farley 1 & 2 facilities. The staff's technical evaluation of this request will be published in a safety evaluation for the use of a radioiodine protection factor for GMR-1 Canisters.

The exemption is responsive to the licenee's application for exemption date January 13, 1984, as supplemented by letters dated Febraury 10 and 13, March 5, and May 8, 1984.

The need for the Proposed Action: The proposed exemption is needed because the features described in the licensee's request are potential means to reduce occupational exposure to radiation for some tasks at the Farley facilities.

Environmental Impacts of the Proposed Action: The proposed exemption will most likely reduce the work effort and occupational exposure for some tasks at the Farley facilities. As stated in the staff's preliminary Safety Evaluation Report:

> The utilization of air purifying respirators in lieu of air-supplied or self-contained apparatuses, where possible, can result in personrem reductions of from 25% to 50% for several major tasks. The light weight, less cumbersome air purifying respirators (i.e., GMR-1 canisters) provide increased comfort and mobility in most cases, resulting in increased worker efficiency and decreased time on-the-job. The licensee has provided a task analysis which shows that the use of GMR-1 casnisters at Farley would result in significant dose saving and would be an effective ALARA ("a low as is reasonably achievable") measure.

With regard to potential radiological impacts to the general public, the proposed exemption involves features located entirely within the resticted area as defined in 10 CFR Part 20. It does not effect radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed exemption.

Alternative Use of Resources: This action involves no use of resources not previously considered in the Final Enviromental Statement (construction permit and operating license) for the Joseph M. Farley Nuclear Plant, Unit Nos. 1 and 2.

Agencies and Persons Consulted: The NRC staff reviewed the licensee's request and consulted with an NRC contractor at Los Alamos National Laboratory.

Findings of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption. Based upon the foregoing invirometal assessment, we conclude that the proposed action will not have a significant effect on the quality of the human envoirnment.

For further details with respect to this action, see the application for the exemption dated January 13, 1984, and supplements dated Feburary 10, and 13, March 5 and May 8, 1984, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the local public document room at 212 Burdeshaw Street, Dothan, Alabama 36301.

Dated at Bethesda, Maryland this 2d day of October 1984.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Regulations.

[FR Doc. 84-27286 Filed 10-15-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-395]

South Carolina Electric and Gas Co. and South Carolina Public Service Authority; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of relief from the requirements of Section XI of the ASME Boiler and Pressure Vessel Code as allowed by 10 CFR 50.55a to South Carolina Electric & Gas Company and South Carolina Public Service Authority, for the Virgil C. Summer Nuclear Station, Unit 1 located in Fairfield County, South Carolina.

Environmental Assessment

Identification of Proposed Action: The proposed action would provide relief from hydrostatic testing requirements of the ASME Code/Section XI for a weld at a 2-inch half coupling in the feedwater system. The proposed relief is in response to the licensee's request for relief dated August 1, 1984.

The Need for the Proposed Action: The weld needs to be cut in order to perform a fiberoptics inspection of the installed steam generator preheater baffle. The proposed relief is needed because performing the hydrostatic test would be extremely difficult, impractical and expensive.

Environmental Impacts of the Proposed Action: The proposed relief will provide alternate examinations such that there is adequate assurance of the structural integrity of the component described in the licensee's request. Consequently, the probability of an accident has not been increased and the post-accident radiological releases will not be greater than previously determined nor does the proposed relief otherwise affect radiological plant effluents. Therefore, the Commission concludes that there are not significant radiological environmental impacts associated with this proposed relief.

With regard to potential non-radiological impacts, the proposed relief involves features located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed relief.

Alternative Use of Resources: This action involves no use of resources not previously considered in the Final Environmental Statement for the Virgil C. Summer Nuclear Station, Unit 1.

Agencies and Persons Consulted: The NRC staff reviewed the licensee's request and dit not consult other agencies or persons.

Findings of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed relief.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for relief dated August 1, 1984, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina, 29180.

Dated at Bethesda, Maryland, this 10th day of October 1984.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 84-27285 Filed 10-15-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-322-OL]

Long Island Lighting Co. (Shoreham Nuclear Power Station, Unit 1); Order Establishing Scheduling for Remainder of Diesel Engine Hearing

October 10, 1984.

Atomic Safety and Licensing Board; before Administrative Judges: Lawrence Brenner, Chairman, Dr. George A. Ferguson, Dr. Peter A. Morris.

The evidentiary hearing in this proceeding will be resumed on October 22, 1984, at 10:30 am, at the previously used New York State Court of Claims in Hauppauge, New York.

The resumed hearing will begin with the issue of the diesel engine cylinder blocks, starting with LILCO's witnesses. After witnesses for all parties on that subject have testified, the Board will hear the testimony of Suffolk County's witnesses on the issue of pistons.

The expected schedule for the remaining weeks of the hearing, as necesary, will be:

1. October 22 (10:30 am)—October 24 (5:00 pm)
2. October 29 (10:30 am)—November 2 (12:00 noon)
3. November 7 (9:00 am)—November 9 (12:00 noon)

If a further hearing week is unexpectedly necessary, it will begin on November 13, at 10:30 am.

As the parties know, Judge Ferguson is a part-time member of the Atomic Safety and Licensing Board Panel. Due to his teaching schedule and responsibilities as a Professor of Nuclear Engineering at Howard University in Washington, DC, Judge Ferguson will be unable to attend most, and perhaps all, of the evidentiary hearing sessions after October 31. At such hearing sessions, the Board will preside as a two judge panel quorum pursuant to 10 CFR 2.271(d). Judge Ferguson will, of course, read the transcripts of the hearing sessions he is unable to attend.

It is so ordered.

Bethesda, Maryland, October 10, 1984.

For the Atomic Safety and Licensing Board.

Lawrence Brenner,

Chairman, Administrative Judge.

[FR Doc. 84-27286 Filed 10-15-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No.: 50-483]

Union Electric Co. (Callaway Plant, Unit 1); Exemption

I

Union Electric Company (the licensee) is the holder of Operating License No. NPF-25 which authorizes operation of the Callaway Plant, Unit 1 at power levels not in excess of 3411 megawatts thermal. The facility is a pressurized water reactor (PWR) located at the licensee's site in Callaway County, Missouri. The license provides among other things, that it is subject to all rules, regulations, and Orders of the Commission now or hereafter in effect.

Paregraph III.D.2(b)(ii) of Appendix J, 10 CFR Part 50 requires a full pressure air lock test after each air lock is opened during periods when containment integrity is not required. By letter dated July 31, 1984, the licensee requested an exemption to Appendix J which would allow reduced leakage testing of containment air locks following periods when containment integrity is not required by the Technical Specifications. Whenever the plant is in cold shutdown (Mode 5) or refueling (Mode 6), containment integrity is not required. However, if an air lock is opened during Mode 5 and 6, paragraph (III.D.2(b)(ii) of Appendix J requires that an overall air lock leakage test at not less than Pa be conducted prior to plant heatup and startup (i.e., entering Mode 4). The existing air lock doors are so designed that a full pressure, i.e., Pa (48.0 psig), test of an entire air lock can only be performed after strong backs (structural bracing) have been installed on the inner door. Strong backs are needed since the pressure exerted on the inner door during the test is in a direction opposite to that of the accident pressure direction. Installing strong backs, performing the test, and removing strong backs, require at least 8 hours per air lock, during which access through the air lock is prohibited. Therefore, the licensee has requested that, for those air locks which have not had maintenance performed on them, the testing, requirements of paragraph III.D.2(b)(iii) be conducted at the pressure specified in the Callaway Technical Specifications (10.0 psig) rather than Pa.

If the periodic 6-month test of paragraph III.D.2(b)(i) of Appendix J and the test required by paragraph III.D.2(b)(iii) of Appendix J are current, no maintenance has been performed on the air lock, and the air lock is properly sealed, there should be no reason to expect the air lock to leak excessively just because it has been opened in Mode 5 or Mode 6. Accordingly, the staff concludes that the applicant's proposed approach of substituting the seal leakage test of paragraph III.D.2(b)(iii) for the full pressure test of paragraph III.D.2.(b)(ii) of Appendix J is acceptable when no maintenace has been performed on an air lock. Whenever maintenance has been performed on an air lock, the requirements of paragraph III.D.2(b)(ii) of Appendix J must still be met by the licensee. Therefore, an exemption from this requirement [10 CFR Part 50, Appendix J, Paragraph III.D.2.(b)(ii)] is justified and acceptable for Callaway Plant, Unit 1.

III

Based on the staff's evaluation findings, conclusions, and recommendations above, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption requested by the licensee's letter of July 31, 1984, is authorized by law and will not endanger life or property or the common defense and security, and is otherwise in the public interest. The Commission hereby grants to the licensees an exemption from the requirements of 10 CFR art 50, Appendix J, paragraph III.D.2(b)(ii). Pursuant to 10 CFR 51.32, the Commission has determined that the issuance of the exemption will have no significant impact on the environment. An Environmental Assessment and Finding of No Significant Impact was Noticed in the Federal Register on September 17, 1984 (49 FR 36460).

This Exemption is effective upon issuance.

For the Nuclear Regulatory Commission.

Dated at Bethesda, Maryland this 5th day of October 1984

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 84-27287 Filed 10-15-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 40-8829]

Wyoming Fuel Co.; Final Finding of no Significant Impact Regarding Issuance of Source and Byproduct Material License SUA-1441 for Operation of Crow Butte Research and Development Insitu Project in Dawes County, NE

Agency: U.S. Nuclear Regulatory Commission.

Action: Notice of Finding of No Significant Impact.

(1) Proposed Action.

The U.S. Nuclear Regulatory Commission (the Commission) is issuing Source and Byproduct Material License SUA-1441 authorizing Wyoming Fuel Company to perform research and development scale uranium insitu leach activities at their Crow Butte Project Site located in Dawes County, Nebraska.

(2) Reasons for Finding of No Significant Inpact.

The Commission's Uranium Recovery Field Office has prepared an Environmental Assessment for the proposed action. Based on this assessment, the Commission has determined that an Environmental Impact Statement for this particular action is not warranted.

The Environmental Assessment performed by the Commission's staff evaluated potential impacts on surface and ground waters due to excursions, evaporation pond seepage and/or spills, ground-water restoration and surface discharges of treated effluents. Additionally, the assessment evaluation potential impacts on-site and off-site due to radiological releases which may occur during the course of the proposed operations. Documents used in preparing the assessment included Licensee's submittals of Federal 11, 1983, July 18, 1983, August 1983, October 1983, October 27, 1983 and April 16, 1984; U.S. NRC Regulations and Regulatory Guides, and professional publications. In addition, the NRC staff conducted a site visit on July 7, 1983.

Based on these evaluations, the Commission's staff has determined that the proposed operations will not have a significant effect on the quality of the human environment. Specific reasons for making this determination are as follows:

(a) Ground-water control and monitoring is sufficient for detecting either vertical or horizontal excursions.

(b) The evaporation ponds are lined to prevent leakage of waste solutions into the subsurface. Additionally, the leak detection system beneath the liner should detect any leakage which may occur to assure that corrective action is promptly taken.

(c) Radiological releases from the proposed operations will be small and closely monitored to detect potential problems.

(d) Radioactive wastes will be disposed of at a licensed radioactive waste disposal site, and

(e) The proposed restoration and reclamation plans should be sufficient to return affected land and ground water to its pre-mining conditions. On a parameter-by-parameter basis, ground-water quality will be returned to as close to original quality as is reasonably achievable.

This funding, together with the environmental assessment setting forth the basis for the finding is available for public inspection and copying at the Commission's Uranium Recovery Field Office at 730 Simms Street, Suite 100, Golden, Colorado, and at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

Dated at Denver, Colorado, this 3rd day of October, 1984.

For the Nuclear Regulatory Commission.

Edward F. Hawkins,

Chief, Licensing Branch 1, Uranium Recovery Field Office, Region IV.

Summary

This Environmental Assessment was prepared by the staff of the U.S. Nuclear Regulatory Commission (NRC) and issued by the Commission's Uranium Recovery Field Office, Region IV.

1. This action is administrative.

2. The proposed action is the issuance of Source Material and Byproduct Material License SUA–1441 to Wyoming Fuel Company (WFC) for implementation of Crow Butte In Situ Leach Research and Development Project, Docket No. 40–8829, in accordance with the company's statement in its application and accompanying environmental report.

The proposed project consists of solution extraction (in situ leaching) operations involving uranium ore deposits within the Wyoming Fuel Company, Crow Butte ISL Project site in Dawes County, Nebraska. Research and development activities will include a 100 gallons per minute (gpm) process plant, two small evaporation ponds and two (5) five-spot wellfield patterns within .83 acres (.34 hectares) for the requested authorization. The project has an estimated lifetime of about 24 to 48 months for extraction and restoration operations.

3. Summary of environmental impacts and adverse effects:

a. The site has historically been used for livestock grazing. The R&D solution extraction project will encompass approximately 6.7 acres (2.7 hectares) on the land surface with less than 1 acre (.42 hectares) subject to intense activity. Less than 1 acre of ground water will be involved in the operation. All disturbed surface areas will be reclaimed and returned to a condition suitable for their original use, livestock grazing.

b. The long-term effects of the research and development project on ground-water use are expected to be minimal. Ground water in the ore zone within the immediate area of the well pattern is expected to temporarily contain increased concentrations of radioactive and toxic elements during the operation of all wellfields. The restoration goal will be to return this water baseline conditions on an indicator-by-indicator basis. Surface water will not be affected by normal operations.

c. There are no discharges of liquid effluents from the Crow Butte ISL Project site authorized by the proposed license. Atmospheric effluents are expected to be within acceptable limits, and the effects will be insignificant.

4. The action that the Commission is considering is the issuance of a source material license pursuant to Title 10, Code of Federal Regulations, Part 40. The alternatives available are to issue the license, with the appropriate conditions or to deny the application and not issue the license. The selection of either alternative is based on a consideration of a number of factors related to protection of health, safety, and the environment.

5. This Environmental Assessment will be made available to the public and to government agencies in October 1984.

6. From the analyses and evaluations made in this appraisal, it is proposed that, if a source material license is issued, it contain the following conditions:

(1) Authorized Place of Use: N½SE¼, Section 19, T31N, R51W, Dawes County, Nebraska, approximately 4.5 road miles (7.3 Km) southeast of Crawford and 70 road miles (112.7 Km) north of Scottsbluff.

(2) Authorized Use: For uranium recovery from pregnant lixiviant in accordance with statements, representations, and conditions contained in the licensee's February 11, 1983 Report, enclosed with License Application Form NRC–2, Sections 2.1, 3.1, 3.2, 3.3, 5.1–5.6, 5.7, and 6.0, and in supplements dated July 12, 1983, August 1983, October 1983, October 27, 1983 and April 16, 1984. Wherever the word "will" is used in the licensee's submittals, it shall denote a requirement. Notwithstanding the above, the following conditions shall override any conflicting statements contained in the licensee's application and supplements.

(3) Variation from the sodium bicarbonate-carbonate leach solution with either hydrogen peroxide or oxygen added as proposed by the licensee is prohibited.

(4) The baseline water quality data submitted by the licensee to the NRC and shown in Appendix A of this Environmental Assessment shall be used to establish upper control limits and restoration criteria. Additional preoperational data is needed to obtain a minimum of three (3) samples for baseline determination in monitoring wells PM–2, 3, 5, 6, 9, 10, and 11, and all proposed production wells in wellfield No. 1 and No. 2 with exception of PT–2, 7, 8, and 9. These wells shall be sampled and analyzed for the chemical indicators given in Appendix A–1A of this EA. The results shall be provided to the USNRC, Uranium Recovery Field Office, as an attachment to the proposed UCL's required in License Condition (8).

(5) The NRC has reviewed and approved the license's preliminary restoration plan as discussed in Section 6.1 of their February 11, 1983 Source Material License application. At least ninety (90) days prior to termination of mining activities, the licensee shall submit the specific plan for ground-water quality restoration at the test site including a description of restoration methods, a list of water quality indicators for which the composite restoration stream and represenative injection and recovery well water samples are to be analyzed and projected schedule of activity. The licensee shall notify the NRC within thirty (30) days of any subsequent changes in he restoration method. Injection of additional chemical agents is prohibited.

Restoration of the production aquifer ground water and any other ground waters that may be affected by mining operations shall be initiated within sixty (60) days after solution mining operations have been terminated. The goal of restoration shall be to return the ground-water quality, on an indicator-by-indicator basis, to baseline for each monitoring, injection and recovery well. The licensee shall provide written notification to NRC, Uranium Recovery Field Office, that restoration activities are being initiated.

During restoration operations, the licensee shall sample and analyze the composite restoration stream every other week. Sampling and analysis of representative injection or recovery wells in the wellfields shall be done on a monthly basis to monitor differences in the restoration progress within the wellfield. Sampling and analysis of all monitor wells shall continue on a routime operational basis as defined in Condition (7).

(6) The post-restoration monitoring plan shall consist of water sampling and

analysis of all production wells, as well as any monitor wells affected by mining operations, for the full suite of baseline indiators as shown in Appendix A–1A of this EA on a monthly basis for a minimum of six months to document stabilization of the ground-water quality.

(7) Monitor wells PM–1, 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11 shall be used for ground water quality monitoring during solution mining operations and during ground-water restoration. The NRC shall require that the excursion indicators for these wells include the following: chloride, conductivity, sulfate, alkalinity and sodium. These wells shall be sampled and analyzed for the excursion indicators biweekly. Water level elevations in these wells shall also be measured, prior to sampling, once every two (2) weeks. Once per quarter, a set of samples from all monitor wells, including the private wells within one (1) km of the restricted area boundary, shall be analyzed for the full suite of baseline indicators as shown in Appendix A–1A of this EA. results shall be reported graphically and in tabular form in the quarterly reports required in Condition (23).

(8) Upper Control Limit (UCL) criteria to be applied to monitor wells to determine when action must be taken to control excursions suring mining shall be based upon the premining baseline water quality data collection outlined in Condition (4). Proposed upper control limits for the excursion indicators listed in Condition (7) shall be submitted to the NRC prior to injection of lixiviant. NRC approval of the UCL's shall be in the form of a license amendment. The upper control limit for each excursion indicator shall be defined, on a well-by-well basis, as the maximum representative baseline water quality value plus 20%.

If two UCL values are exceeded in a well, or if one UCL value is exceeded by 20% of the UCL, the licensee shall take another water sample within twenty-four (24) hours and analyze it for at least the five (5) excursion indicators listed in Condition (7) above. If the second sample does not indicate violation of the UCL's, a third sample shall be taken within fourty-eight (48) hours from the first sample. If neither the second or third sample indicate violation of the UCL's, the first sample shall be considered in error. If the second or third sample indicates a violation of the UCL's, the well in question shall be placed in excursion status. An excursion is confirmed if two or more UCL values are exceeded or if one UCL value is exceeded by 20% of the UCL or more. Corrective action to mitigate the situation shall be initiated by the licensee when an excursion is confirmed and the NRC shall be notified by telephone within twenty-four (24) hours and within five (5) days in writing from the time the confirmation sample was taken. Corrective actions shall be maintained until the excursion is concluded. In addition to corrective actions, monitoring shall be intensified; sampling frequency and analysis of excursion satus wells shall be at least once every seven (7) ays for the five (5) indicators listed in Condition (7) above, as long as those wells are on excursion status. An excursion is considered concluded when the concentrations of excursion indicators are below the concentation levels defining an excursion for three (3) consecutive one-week samples.

If corrective actions have not been effective within sixty (6) days of excursion confirmation, the injection of lixiviant shall be terminated in the wellfield on excursion. Resumption of injection at the wellfield shall require NRC approval in the form of a license amendment.

(9) A formal report of events describing the corrective actions taken and detailed graphs and tables of all sample analyses shall be maintained during excursions as described in Condition (8) above to document actions and the ensuing results. This report along with pre-excursion and post-excursion data obtained from the analysis of at least two separate samples taken before and after an excursion, shall be submitted to the NRC as part of the routine quarterly reports required in Condition (23).

(10) Baseline water level elevations for each monitor well shall be defined and submitted to the NRC prior to injection of lixiviant. In addition, prior to injection of lixiviant in the wellfields, the applicant shall circulate ground water through the system to stabilize water levels. The licensee will provide for NRC approval, sufficient data to show water levels have been stabilized. Upon NRC approval of water level stabilization the licensee will monitor water levels in the monitoring wells prior to sampling in accordance with License Condition (7).

Net flow rates for the wellfields shall be recorded whenever monitor well water levels are measured; barometric pressure at the site or vicinity and its effect on water levels shall also be recorded. Hydrologic monitoring shall continue as described in this condition until restoration of the ore zone begins. An evaluation of the net flow balance, along with water level data, in graphical and tabular form, shall be submitted in a separate section of each quarterly report, as described in Condition (23) below, until the monitoring is discontinued.

(11) The site of the waste storage ponds shall be that site investigated in the report entitled, "Soils Engineering Report, Wyoming Fuel Company, Crow Butte Project, Pilot Test Pond Area," by Fisher, Harden and Fisher, dated December 1982.

(12) The licensee shall construct, operate and maintain the waste pond system in accordance with the statements, drawings, conclusions, specifications and recommendations in the licensee's October 1983 response to questions on Section 4.2 of their license application. Any waste disposal technique other than the waste storage ponds, as described above, will require prior NRC approval by license amendment.

(13) The licensee shall notify the Uranium Recovery Field Office, USNRC, Denver, Colorado, at least three (3) weeks prior to the completion of construction of the ponds to provide adequate time for on-site inspections by the NRC. The licensee shall also submit a report detailing the construction methods, construction controls, quality assurance programs, and testing methods that were actually utilized in the construction of the ponds and the installation of the leak detection system and liner. This report shall also provide locations of field tests and all test results obtained during construction and as-built drawings showing details of construction of the various components of the pond.

(14) The licensee shall at all times maintain sufficient reserve capacity in the evaporation pond system to enable the transfer of the contents of a pond to other ponds in the event of a leak. In the event of a leak and subsequent transfer of liquid, the freeboard requirements outlined in the licensee's responses to NRC questions on Section 4.2 of the application dated October 1983, shall be discontinued while the liner is being repaired.

(15) The volume of discharges to the evaporation ponds shall be recorded. In addition, quarterly grab samples of the discharge shall be analyzed for calcium, chloride, bicarbonate sodim, uranium, radium–226, sulfate and TDS. These analyses shall be reported in the quarterly report.

(16) The licensee shall perform daily visual inspections of all evaporation pond embankments, daily measurements and recording of pond

freeboard and daily checks of the leak detection system. Any fluid detected in the standpipes of the pond leak detection system shall be analyzed for calcuim, chloride, alkalinity, sodium, uranium, sulfate, and TDS. Should analyses indicate that the pond is leaking, the NRC, Uranium Recovery Filed Office, shall be notified by telephone within forty-eight (48) hours of verification and the pond level shall be lowered by transferring its contents into the other cell so that repairs can be made. Water quality samples taken at the standpipe shall be analyzed for at least chloride and TDS at least once every seven (7) days during the leak period and once every seven (7) days for at least two weeks following repairs, if any liquid is detected in the standpipes. Additionally, water samples collected at the standpipe shall be analyzed for all eight (8) parameters above at least once per month during the leak period.

A written report shall be filed with the NRC, Uranium Recovery Field Office, within thirty (30) days of first notifying the NRC that a leak exists. This report shall include all available analytical data and shall describe the action taken to stop the leak and the results of that action.

(17) the licensee shall immediately notify the Uranium Recovery Field Ofice, P.O. Box 25325, Denver, Colorado 80225, by telephone within fourty-eight (48) hours, of any failure of an evaporation pond, any break or rupture of any pipeline, or any similar failure of any other fluid or material conduit or storage facility which results in an uncontrolled release of radioactive materials, or of any unusual conditions which if not corrected could lead to such a failure. Such notification shall be followed, within seven (7) days, by submittal of a written report detailing the conditions leading to the failure or potential failure, corrective actions taken, and results achieved. This requirement is in addition to the requirements of 10 CFR Part 20.

(18) Final disposition of radioactive solid process and evaporation pond residues (byproduct material) shall be at a licensed radioactive waste disposal site.

(19) The uranium recovery plant shall be operated at a maximum flow rate of one-hundred (100) gallons per minute.

(20) Further treatment of the yellowcake slurry such as heat or vacuum drying is prohibited.

(21) The licensee shall conduct mechanical well integrity tests on each injection or recovery well before each well is put into service. The mechanical well integrity tests shall be conducted in accordance with the Nebraska Department of Environmental Control (DEC) permit. If any well casing failing the integrity test cannot be repaired or corrected, the well shall be plugged and abandoned in accordance with the Nebraska DEC permit. The results of the well integrity tests shall be submitted to the NRC prior to wellfield operation and injection of lixiviant.

(22) Flow rates on each injection and recovery well and manifold pressures on the entire system shall be measured at least once per day and recorded on a daily operational log. During wellfield operations, injection pressures shall not exceed the integrity test pressure at the injection well heads.

(23) A quarterly report shall be submitted to the NRC, Uranium Recovery Field Office, that summarizes the status of the R&D in situ test program, with supporting analytical data and evaluations regarding important environmental aspects of the operations such as water quality and water level data, lixiviant migration control, waste generation volumes, volumes and representative chemical analyses of injected lixiviant and pregnant solution produced. The quarterly report shall also contain the production data for the R&D facility. For the first two quarters, the operational data sheets, including such data as flow rates, chemical balance and injection pressures shall be included as an attachment to the quarterly report. The remaining quarterly reports will summarize the operational data, with the operational data sheets maintained on site. The Nebraska DEC Mining Monitoring Report (Figure 3.3.05) can be utilized as part of the quarterly report for the operational data. The quarterly report shall include all data on environmental monitoring as well as ground-water data. All water quality and water level data shall be presented in tabular and graphical form, with a written summary explaining what the data show.

(24) Any surface discharge of liquids is prohibited.

(25) This license shall not be terminated until the NRC has determined that all site reclamation, decommissioning, and wellfield restoration have met all applicable standards and regulations.

(26) All sampling and monitoring data, calibration records, reports on audits, inspections, and other analyses, training records, and safety meeting minutes, as well as any subsequent reviews, investigations, and corrective actions, shall be documented. Unless otherwise specified in the U.S. Nuclear Regulatory Commission regulations, all such documentation shall be maintained for a period of at least five (5) years.

(27) The licensee shall notify, in writing, the U.S. Nuclear Regulatory Commission, Uranium Recovery Field Office, P.O. Box 25325, Denver, Colorado 80225, at least six (6) weeks prior to commencing mining operations so that an NRC inspection may be conducted to review the licensee's development and implementation of administrative and operating procedures and monitoring programs.

(28) The licensee shall perform monthly surveys for natural uranium in the restricted area with the exception that they shall be increased to weekly for any area meeting the requirements of an "airborne radioactivity area" as described in 10 CFR 20.203(d), and an investigation of the cause of any high levels shall be made. Records shall be maintained of these investigations and results be furnished to the NRC in the quarterly reports described under License Condition (23).

The licensee shall perform monthly surveys for radon or radon progeny in the restricted area inhabited by workers with the exception that radon or radon progeny surveys shall be increased to weekly if the radon or radon progeny concentrations are found to exceed 8 pCi/l or 0.08 WL (Working Levels), respectively. Such weekly sampling shall be maintained until four (4) consecutive weekly samples exhibit less than 8 pCi/l or 0.08 WL. The licensee shall also be required to monitor on a monthly basis radon concentrations at near and the site boundary. Prior to commencing operations and within sixty (60) days of the issuance of this license, the licensee shall submit to the Uranium Recovery Field Office, for NRC review and approval in the form of a license amendment, the designated locations for surveys of airborne natural uranium and radon or radon progeny.

The calculation of internal exposure to radon, radon progeny, or natural uranium shall be based on a Time Weighted Exposure (TWE) calculation incorporating a consideration of both occupancy times and average airborne working levels or activity concentrations. If occupancy times are established as an average for each category of worker, the licensee shall also, by means of a semiannual time study, determine the basis upon which average occupancy periods are established.

If any worker reaches or exceeds 25 percent of the maximum permissible exposure limits as specified in 10 CFR Part 20 based upon a calculated TWE for the week or the calendar quarter, dependent on the solubility of the material, the Health Physics Technician

(HPT) shall initiate an investigation of the employee's work record and exposure history to identify the source of the exposure.

Necessary corrective measures shall be taken to ensure reduction of future exposures to as low as is reasonably achievable. Records shall be maintained of these investigations and results furnished to the NRC in the quarterly reports described in License Condition (23).

(29) Any changes in the process flow sheet, illustrated and described in Fugure 3.1–6 of the license application dated February 11, 1983, shall require the approval of the Corporate Radiation Safety Officer (CRSO) and shall be submitted to the U.S. Nuclear Regulatory Commission, Uranium Recovery Field Office, for prior approval in the form of a license amendment.

(30) Release of equipment, materials, or packages from the restricted area shall be in accordance with "Annex C—Guidelines for Decontamination of Facilities and Equipment Prior to Release for Unrestricted Use or Termination of Licenses for Byproduct, Source, or Special Nuclear Material," dated November 1976.

(31) All radiation monitoring, sampling, and detection equipment shall be recalibrated after each repair and as recommended by the manufacturer or at least semiannually, whichever is more frequent. In addition, all radiation survey instruments shall be operationally checked with a radiation source before each use.

(32) The license is hereby exempted from the requirements of § 20.203(e)(2) of 10 CFR Part 20 for posting areas within the facility, provided that all entrances to the restricted area are conspicuously posted with the words, "CAUTION—ANY AREA OR ROOM WITHIN THIS FACILITY MAY CONTAIN RADIOACTIVE MATERIAL."

(33) The licensee shall maintain a quality assurance program for all sampling and analyses performed as part of the in-plant radiation safety, ground-water and environmental monitoring programs that includes all of the recommended elements of a quality assurance program specified in USNRC Regulatory Guide 4.15, "Quality Assurance for Radiological Monitoring Programs (Normal Operations)—Effluent Stream and the Environment." In addtion, prior to commencing operations and within ninety (90) days of issuance of this license, the licensee shall submit to the USNRC, Uranium Recovery Field Office, for approval in the form of a license amendment, complete specifications for this quality assurance program.

(34) Prior to operation of wellfield No. 1, the licensee shall submit for NRC review and approval the location of two observation wells to be used to observe restoration along peripheral streamlines and contaminant transport outward along a path midway between production wells. The observation wells will be at least four (4) inches in diameter and screened over the same interval as the production wells. Baseline water quality data for the observation wells will be collected and analyzed in accordance with the requirements of License Condition (4). During restoration the licensee shall sample the observation wells every other week for the first four months and monthly thereafter. These observations well samples shall be analyzed for a minimum of conductivity, pH, alkalinity, sodium, sulfate, chloride. If restoration monitoring of these observation wells indicates that restoration has not been achieved at the completion of the proposed restoration program, the licensee will be required to drill additional wells and design a new pumping-injection scheme to restore the aquifer. the NRC will review and approve the location of the new wells and the new pumping and injection scheme prior to implementation.

(35) The NRC has reviewed and concurred with the Nebraska Department of Environmental Control's surety cost estimate for restoration of the Crow Butte site. The licensee shall maintain a surety to cover all ground-water restoration and all reclamation and decommissioning, including the cost of offsite disposal of radioactive solid process or evaporation pond residues and a decontamination survey. Surety arrangements covering the cost of restoration of Crow Butte ISL Site and the costs of decontamination, decommissioning, and reclamation of above-grade facilities shall be provided by Nebraska DEC Bond. The licensee will submit to the NRC a copy of the surety bond prior to beginning operations. At least ninety (90) days prior to the expiration date of existing Nebraska DEC Bond or of any subsequent sureties, or any revision to existing surety arrangements, the licensee shall submit a copy of the proposed new surety or revision, and supporting documentation providing a detailed basis for the covered restoration, reclamation and decommissioning costs, to the NRC, Uranium Recovery Field Office, for review and approval. Surety arrangements shall be updated at least annually to account for inflation.

7. The position of the NRC is as follows:

Solution extraction of uranium is a developing technology. Uncertainties regarding environmental impacts, particularly with respect to ground-water contamination and the effectiveness of ground-water restoration techniques, have been recognized. Testing and data collection in a research and development project is proposed by the applicant to reduce the uncertainties. The scope of an R&D facility is sufficiently limited in size to enable continued development of solution mining technology without significant environmental risk.

[FR Doc. 84-27284 Filed 10-15-84; 8:45 am]
BILLING CODE 7590-01-M

[NUREG–0800]

Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants; Issuance and Availability Revised SRP Section 18.0 and 18.1 and Appendix A to SRP Section 18.1

The U.S. Nuclear Regulatory Commission (NRC) has published a revision to section 18.0, "Human Factors Engineering—Introduction," section 18.1, "Control Room," and Appendix A to SRP section 18.1, "Evaluation Criteria for Detailed Control Room Design Reviews" of NUREG–0800, "Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants," LWR Edition (SRP).

The revision consists of SRP section 18.0, Rev. 1; section 18.1, Rev. 0; and an appendix to section 18.1, Appendix A, Rev. 0. The revised SRP sections incorporate the resolution of TMI Action Plan item I.D.1, "Control Room Design Reviews" of Supplement 1 to NUREG–0737—"Requirements for Emergency Response Capability" (Generic Letter 82–33). The acceptance criteria and guidelines incorporated into SRP section 18.1 and Appendix A to this section are a formalization of criteria that were previously approved and issued in Supplement 1 to NUREG–0737 as Generic Letter 82–33 dated December 17, 1982. Appendix A to section 18.1 was formerly Draft NUREG–0801, "Evaluation Criteria for Detailed Control Room Design Review, Draft Report for Comment." A notice of availability and request for public and industry comments on NUREG–0801 was published in the **Federal Register** on November 13, 1981 (46 FR 56087).

The revised SRP sections are effective immediately. A copy is expected to be available in the Public Document Room within two weeks. Copies of the revised

SRP sections or of the complete Standard Review Plan, NUREG–0800, Accession No. PD–81–920199, are available for purchase from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161; telephone (703) 487–4650.

Dated at Bethesda, Maryland this 10th day of October 1984.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 84–27285 Filed 10–15–84; 8:45 am]

BILLING CODE 7590–01–M

POSTAL RATE COMMISSION

[Docket No. MC84–1]

Mail Classification Schedule, 1984 Special Fourth-Class Mail Phase II (Library Rate); Establishment of Briefing Schedule in MC84–1, Phase II (Library Rate)

Issued October 11, 1984.

Notice is hereby given that on October 3, 1984, the United States Postal Service filed a request for establishment of a briefing schedule for consideration of issues associated with a proposal submitted by Association of American Publishers, Inc. and Recording Industry Association of America (AAP/RIAA) in this proceeding. This order grants the Postal Service's request and provides notice of the establishment of a briefing schedule in Phase II of this proceeding.

Initially in this proceeding, on May 18, 1984, the Postal Service filed a request with the Postal Rate Commission for recommended decisions on changes to the Domestic Mail Classification Schedule (DMCS), to permit computer-readable media containing prerecorded information, and books containing at least eight printed pages to be mailed as special fourth-class mail. This filing has been assigned Docket No. MC84–1.

At the September 12, 1984 prehearing conference APP/RIAA filed a motion to expand the MC84–1 docket. In that motion, AAP/RIAA requested that the Commission recommend a decision on a change to the DMCS computer-readable media to be mailed at library rate. Specifically, AAP/RIAA requested "an opportunity to present arguments in support of their position and proposed a briefing schedule." Motion at 2.

On September 26, 1984, AAP/RIAA filed a memorandum in support of its motion to expand the docket in response to the Presiding Officer's direction at the prehearing conference that the parties file comments on the procedural and substantive issues raised by the AAP/RIAA motion. Tr. at 17.

On September 26, the Postal Service simultaneously filed a Motion for Acceptance of Stipulation and Agreement and Reply to the Motion of AAP/RIAA to Expand the Docket. The Stipulation and Agreement concerns the Postal Service's initial request and is limited to special fourth-class mail. Stipulation at 2. Notably, AAP/RIAA is a signatory of the Stipulation and Agreement. The Postal Service urges that we not delay in recommending a decision regarding the Stipulation and Agreement and provide interested parties with notice and an opportunity to intervene in proceedings involving AAP/RIAA's library rate mail proposal. Reply at 3, 6.

We agree with the Postal Service that parties solely interested in the Postal Service's request as it relates to special fourth-class mail should not be compelled to wait for a decision on the Stipulation and Agreement until the issues surrounding AAP/RIAA's proposals are resolved. The Commission strives to promote the settlement of issues in its cases. In this proceeding, the parties have been cooperative and pursued informal settlement procedures. As a result, we have a stipulation and agreement before us. We believe that the parties should not be discouraged from making such efforts when it is clear, at least in the immediate proceeding that two issues are not interdependent, and we can very well consider and dispose of them separately. Therefore, we are considering the AAP/RIAA's proposal as distinct and separate from the request of the Postal Service so that the parties can benefit from a recommended decision on that Stipulation and Agreement as soon as possible. We think that this can be accomplished practically and efficiently by designating the Postal Service's request as Phase I of this proceeding and separating it from AAP/RIAA's proposal which is designated as Phase II of Docket MC84–1.

We also agree with the Postal Service that parties that may be interested in the AAP/RIAA's library rate proposal should be provided with notice and an opportunity to intervene. Accordingly, this notice will be published in the **Federal Register**. Any person not already participating, and desiring to be heard with reference to the proposal submitted by AAP/RIAA and to become a party to the proceeding should file a notice of intervention. Notices of intervention must be filed with the Secretary, Postal Rate Commission, Washington, D.C. 20268 on or before October 26, 1984, and must be in accordance with section 20 of the Commission's rules of practice (39 CFR 3001.20). Alternatively, persons seeking limited participation, but who do not wish to become parties may, on or before October 26, 1984, file a written notice of limited participation, pursuant to section 20a of the Commission's rules of practice (39 CFR 3001.20a). In addition, persons wishing to express their views informally, and not desiring to become a party or limited participant, may file comments pursuant to section 20b of the Commission's rules, 39 CFR 3001.20b.

The AAP/RIAA motion to expand the docket, which contains the request for a recommended decision on a change to the Domestic Mail Classification Schedule to permit computer-readable media and guides prepared for use with such media to be mailed at library rate, is on file with the Commission and available for public inspection during regular business hours.

The Postal Service filed an October 3, 1984 request stating that parties should only be allowed to file responses to AAP/RIAA's memorandum filed on September 26, 1984 in the form of reply memorandum. However, we recognize, as the Postal Service has pointed out in its September 26 Reply, that some procedural confusion has been generated by the course of events in this proceeding, including the separate filing of the Agreement and Stipulation limited to special fourth-class mail. In light of this, we believe that fairness requires that interested parties be provided with the opportunity to file legal memoranda on the procedural and substantive issues concerning AAP/RIAA's library rate proposal. Accordingly, we are establishing the following briefing schedule.

Initial Briefs Exchanged: November 2, 1984.

Reply Briefs Exchanged: November 16, 1984.

The Director, Office of the Consumer Advocate (OCA), Stephen A. Gold, will represent the interest of the general public in this phase of the proceeding. During this proceeding, he will direct the activities of Commission personnel assigned to assist him, and neither he nor such personnel will participate in or advise as to any Commission decision in this case. See 39 CFR 3001.8. He will supply, for the record, at the appropriate time, the names of all Commission personnel assigned to assist him in this case. In this proceeding, the OCA shall be separately served with three copies of all filings in addition to, and simultaneously with, service on the

Commission of the 25 copies required by section 10(c) of the rules of practice. 39 CFR 3001.10(c).

By order of the Commission.

Charles L. Clapp,

Secretary.

[FR Doc. 84-27287 Filed 10-15-84; 8:45 am]

BILLING CODE 7715-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 14182 (812-5684)]

E.F. Hutton & Co., et al.; Application for Order Amending Prior Order

October 5, 1984.

Notice is hereby given that Hutton Telephone Trust First Tax-Free Exchange Series and Subsequent Series (the "Trust"), One Battery Park Plaza New York, New York 10004, registered under the Investment Company Act of 1940 (the "Act") as a unit investment trust, and E.F. Hutton & Company Inc. ("E.F. Hutton"), the sponsor, depositor and principal underwriter of the Trust ("Applicants"), filed an application on July 25, 1984, to amend a Commission order dated February 24, 1984 (Investment Company Act Release No. 13787) (the "Prior Order"). The Prior Order, pursuant to sections 6(c) and 17(b) of the Act, granted an exemption from the provisions of section 17(a) of the Act to permit E.F. Hutton, as principal, to purchase the Trust's portfolio securities, issued under the dividend reinvestment plans of American Telephone & Telegraph ("AT&T") and the seven regional holding companies divested by AT&T (the "Regional Companies"), at a price equal to the Trust's tax basis in the shares acquired under the plans ("Plan Shares"). Applicants seek to amend the Prior Order to permit E.F. Hutton, as principal, to purchase Plan Shares at a price equal to the price used to determine the number of Plan Shares to be issued to the Trust, less 1% of the aggregate price so determined. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below, and to the Act for a statement of the relevant statutory provisions.

Applicants state that the Trust was designed to provide holders of AT&T common stock, through an exchange of their AT&T shares for units of the Trust, with a convenient method of maintaining an equity interest in AT&T and the Regional Companies. Applicants state that a second series of the trust was established after implementation of AT&T's plan of reorganization and was designed to provide holders of AT&T shares and the shares of the Regional Companies, through an exchange of their shares for units of the Trust, with a convenient method of maintaining their equity interests in AT&T and the Regional Companies. The Trust's investment portfolio consists exclusively of AT&T's and the Regional Companies' common stock.

Applicants state that, in April 1984, unitholders began receiving monthly income distributions from the Trust. Both AT&T and the Regional Companies have adopted similar dividend reinvestment plans (the "Plans") that may result in the purchase of Plan Shares by the Trust. Applicants state that the trust can participate in the Plans only if the Trustee determines that participation likely will increase the net dividend income of the Trust, and that Plan Shares will be sold to provide cash for payment of dividends. Under the Plans, the price of Plan Shares "purchased" with reinvestment dividends is equal to 95% of the average of the daily high and low sale prices of AT&T and Regional company shares on The New York Stock Exchange (the 'NYSE") for the period of five trading days ending on the day of such purchase (which is the dividend payment date on AT&T and Regional Company shares). E.F. Hutton has agreed to purchase Plan Shares from the Trust, immediately upon receipt, at a price equal to the Trust's tax basis in the shares. Applicants state that an Internal Revenue Service ruling provides that the tax basis for each Plan Share is equal to the average of the high and low sale prices on the NYSE on the dividend payment date.

Applicants submit that the price at which E.F. Hutton presently purchases Plan Shares does not recognize the purchaser's risk. Accordingly, Applicants propose that E.F. Hutton purchase Plan Shares at a price equal to 100% of the average of the daily high and low sales prices of the shares on the NYSE for the period of five trading days ending on the day of purchase, less 1% of the aggregate purchase price so determined. Applicants submit that the proposed pricing formula would permit E.F. Hutton to reduce its risk of loss from purchases of Plan Shares, while providing the Trust an attractive, objectively determined price for the shares it receives pursuant to the Plans.

Applicants assert that E.F. Hutton typically attempts to reduce the risk of buying Plan Shares by estimating the average high and low sales price on the day of purchase and attempting to sell the shares at the estimated price during that day. Currently, E.F. Hutton must estimate the price and attempt to sell the entire amount of Plan Shares in one day at the estimated price. Under the proposed formula, E.F. Hutton could attempt to protect itself by selling approximately 20% of the Plan Shares on each of the five days at the estimated price for that day. Applicants assert that, while E.F. Hutton would still bear significant risk of loss in purchasing Plan Shares, the ability to spread price estimates and sales over five days should reduce E.F. Hutton's exposure to loss. Applicants further assert that the 1% deduction from the five-day average price reflects E.F. Hutton's exposure to loss.

Applicants assert that the proposed change in the method of calculating the price to E.F. Hutton of Plan Shares, is fair and reasonable and does not involve overreaching on the part of any person concerned and that the proposed transaction is consistent with the policy of the Trust and the general purposes of the Act. Applicants further assert that granting the requested amendment would be appropriate in the public interest and consistent with the protection of investors because it would enhance E.F. Hutton's ability and willingness to purchase Plan Shares from the Trust, and, therefore, the Trust's ability to increase its income through participation in the Plans. Applicants assert that they have not been able to find a party not affiliated with the Trust who would be willing to enter into an arrangement to purchase Plan Shares from the Trust at a fixed price.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than October 30, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-27295 Filed 10-15-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 23446 (70-7024)]

Louisiana Power & Light Co.; Proposal for Pollution Control Financing; Exception From Competitive Bidding

October 5, 1984.

Louisiana Power & Light Company ("Company"), an electric utility subsidiary of Middle South Utilities, Inc. ("Middle South"), 142 Delarande Street, New Orleans, Louisiana, 70174, a registered holding company, has filed a proposal with this Commission pursuant to sections 6(a), 7, 9(a), 10, and 12(d) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 44(a), 44(b)(3), 50(a)(2), and 50(a)(5).

In order to meet certain federal and state pollution control standards at Unit 3 of its Waterford Steam Electric Generating Station ("Waterford 3") in St. Charles Parish, Louisiana, the Company is constructing and installing certain pollution control and solid waste disposal facilities ("Facilities"). To finance some or all of these Facilities, the Company proposes to enter into a sale agreement and supplements and/or amendments ("Sale Agreement") with the Parish of St. Charles Louisiana ("Parish"). The Parish is to enter into a trust indenture and supplement ("Trust Indenture") with a trustee ("Trustee"). Pursuant to the Trust Indenture, the Parish is to issue and sell in one or more series its pollution control revenue bonds ("Bonds") in an aggregate principal amount not to exceed $105,000,000. The Bond sale proceeds (net of any underwriter's discount or other expenses payable from such proceeds) are to be deposited with the Trustee and applied to the cost of the Facilities. Under the Sale Agreement, the Company is to sell the Facilities to the Parish for cash, and simultaneously repurchase the Facilities from the Parish for a purchase price, payable in installments for a period of years. The purchase price will be sufficient (together with any other moneys held by the Trustee) to pay the principal, the premium, if any, and the interest on such series or Bonds as they become due and payable. The installment payments are to be made directly to the Trustee pursuant to an assignment and pledge thereof by the Parish to the Trustee.

Upon the occurrence of certain events relating to the construction or operation of Waterford 3 or the Facilities, the Bonds will be redeemable by the Parish, at the direction of the Company. Any series of the Bonds may be made subject to a mandatory cash sinking fund. The Bonds will be subject to mandatory redemption in certain other cases. The payments by the Company in such circumstances shall be sufficient (together with any other moneys held by the Trustee under the Trust Indenture and available for the purpose) to pay the principal of the outstanding Bonds to be retired or redeemed at that time, together with interest accrued or to accrue thereon to the retirement or redemption date and any redemption premium. The Bonds will have a term of not more than 30 years.

The Sale Agreement and the Trust Indenture may provide for a fixed interest rate for one or more series of the Bonds and/or for an adjustable interest rate for one or more. As to series having an adjustable interest rate, the interest rate during the first Rate Period (the period during which the interest rate on such Bonds of a particular series is fixed) will be determined in discussions between the Company and the purchasers and will be based on the current tax-exempt market rate for comparable bonds having a maturity comparable to the length of the initial Rate Period. Thereafter, for each Rate Period, the interest rate on such Bonds (a) will, if no Bonds are tendered for repurchase, be determined by the appointed Indexing Agent based upon an index, derived from the then current market level for comparable securities or (b), if any of such Bonds are tendered for repurchase, will be that rate sufficient to remarket all tendered Bonds of such series at their principal amount. At the time of each adjustment, the interest rate will be no greater than 120% nor less than 80% of such index, subject to a maximum rate of interest of 15% per annum prior the Fixed Rate Date (the date from which the interest rate borne by Bonds of such series would be fixed until maturity) and a maximum rate of interest of 18% per annum for the period on and after the Fixed Rate Date.

The initial Rate Period will commence on that date when interest begins to accrue on Bonds of such series. Upon the termination of the initial Rate Period, each Rate Period thereafter, other than the period commencing on the Fixed Rate Date, will be a one year period. If the Fixed Rate Date for the Bonds of any series shall not have been fixed, the date which would have otherwise been the Anniversary Date (the first day of any Rate Period subsequent to the initial Rate Period, other than the last Rate Period if such shall begin on the Fixed Rate Date) shall be the Fixed Rate Date.

Bondholders will have the right to tender their Bonds and have them purchased at a price equal to the principal amount plus any accrued unpaid interest on each Anniversary Date and on the Fixed Rate Date. A Tender Agent will be appointed to facilitate the transfer of any Bonds. Any holders of Bonds wishing to have Bonds purchased will be required to deliver them to the Tender Agent 15 to 30 days preceding the purchase date. All obligations of the Company with respect to the purchase of Bonds so tendered will be terminated following the Fixed Rate Date.

Under the Sale Agreement the Company will be obligated to pay amounts equal to the amounts to be paid by the Tender Agent. Such amounts are to be paid by the Company on the dates such payments by the Tender Agent are to be made. However, the obligation of the Company to make any payment under the Sale Agreement would be reduced by the amount of any other moneys available, including the proceeds of the sale of such Bonds by the Remarketing Agent who will, upon delivery of the Bonds by holders to the Tender Agent for purchase, use its best efforts to resell the Bonds at a price equal to their stated principal amount at an annual interest rate of 80% to 120% of the index for the Rate Period established by the Indexing Agent. Under certain circumstances, Bonds may be remarketed at a discount (not to exceed 5% of the principal amount).

Adjustable interest rate Bonds will be subject to optional redemption, at the direction of the Company, in whole at any time, or in part from time to time, prior to and including the Fixed Rate Date. On each Anniversary Date and on the Fixed Rate Date the Bonds are redeemable at 100% of their principal amount or on each date six months after the Anniversary Date at 100% of their principal amount plus a premium not to exceed 0.125% plus any accrued or unpaid interest. After the Fixed Rate Date and at the direction of the Company, such Bonds will be subject to optional redemption, in whole or in part.

In order to obtain a more favorable rating and improve marketability, the Company may, in connection with and in support of any one or more series of the Bonds, arrange for an irrevocable letter of credit from a bank ("Bank") in favor of the Trustee. Payments with respect to principal, premium, if any,

interest and purchase obligations in connection with such series of the Bonds, coming due during the term of such letter of credit, would be secured by, and payable from funds drawn under the letter of credit. In order to induce the Bank to issue such letter of credit, the Company would enter into a reimbursement agreement with the Bank whereby the Company would agree to reimburse the Bank for all amounts drawn under its letter of credit, according to terms specified.

In the event that an irrevocable letter of credit is either not obtainable or not obtainable on acceptable terms, the Company may seek to improve the rating and the marketability of the Bonds by the authentication of one or more series of its first mortgage bonds ("First Mortgage Bonds") under the Company's Mortgage and Deed of Trust, dated April 1, 1944, as supplemented and to be further supplemented ("Mortgage").

The First Mortgage Bonds would evidence the obligation of the Company under the Sale Agreement to pay those installments of the purchase price of the Facilities which correspond to payments of the prinicpal and accrued interest of the Bonds. The First Mortgage Bonds will be issued on the basis of unfunded net property additions and pledged to the Trustee under the Trustee Indenture. The First Mortgage Bonds (i) would bear interest at a rate equal to the interest rate per annum on the Bonds (ii) would bear no interest or (iii) would bear interest at annual rates of interest borne by outstanding series of the Company's first mortgage bonds. In the case of (ii) or (iii), the aggregate principal amount of the First Mortgage Bonds would be equal to the principal amount of the Bonds plus up to 7 months (7/12) of the maximum annual interest payable on the Bonds.

It is contemplated that the respective series of the Bonds will be sold by the Parish pursuant to arrangements with the Underwriter and/or by private placement in a negotiated sale or negotiated sales. The Company will not be party to such underwriting arrangement or sales; however, the Sale Agreement will provide that the terms of the Bonds, and their sale by the Parish, shall be satisfactory to the Company.

The Company understands that interest payable on the Bonds will be exempt from Federal income taxes under the provisions of section 103 of the Internal Revenue Code of 1954, as amended. Additionally, the Company requests a finding of the Commission that competitive biddings is inappropriate.

The proposal and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by November 1, 1984, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the isues or fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered and will receive a copy of any notice or order issued in this matter. After said date, the proposal, as filed or as it may be amended, may be authorized.

For the Commisson, by the Office of Public Utility Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-27204 Filed 10-15-84; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Application No. 09/09-5352]

ABC Capital Corp.; Application for License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1984)), for a license to operate as a small business company (SBIC) under the provisons of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 *et seq.*), and the Rules and Regulations promulgates thereunder.

Applicant: ABC Capital Corporation

Address: 2225 West Commonwealth Avenue, Suite 216, Alhambra, California 91801

The proposed officers, directors and shareholders of the Applicant are as follows:

Name, Position, and Percent of Ownership

Anne B. Cheng, 700 S. Carriage Circle, Anaheim, California 92807, President and Chairman of the Board, 30%

Kao H. Cheng, 700 S. Carriage Circle, Anaheim, California 92807; Director, 20%

Miaw Y. H. Cheng, 700 S. Carriage Circle, Anaheim, California 92807; 30%

Chao Y. Cheng, 700 S. Carriage Circle, Anaheim, California 92807; 20%

Donald T. Young, 930 N. Monterey Street, #227, Alhambra, California 91801; Financial Consultant and Director

Susan F. Tseng, 2613 Roscomare Road, Los Angeles, California 90077; Treasurer and Assistant Secretary

Cecillia Chi, 2545 West Garvey Avenue, #8, Alhambra, California 91801; Secretary

The Applicant, a California Corporation, will begin operations with $1,000,000 of private capital and conduct its activities principally in the State of California.

As a small business investment company under section 301(d) of the Act, the Applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Act and will provide assistance solely to small concerns which will contribute to a well balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered of social or economic disadvantages.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 30 days from the date of publication of this Notice, submit written comments to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this notice should be published in a newspaper of general circulation in the Alhambra, California area.

Dated: October 4, 1984.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 84-27276 Filed 10-15-84; 8:45 am]

BILLING CODE 8025-01-M

[License No. 07/07-0091]

United Missouri Capital Corp.; Issuance of a Small Business Investment Company License

On June 12, 1984, a notice was published in the **Federal Register** (49 FR 24192) stating that an application has been filed by United Missouri Capital Corporation, 928 Grand Avenue, First Floor, Kansas City, Missouri 64106, with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1984)) for a license as a small business investment company.

Interested parties were given until close of business June 12, 1984, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 07/07-0091 on September 21, 1984, to United Missouri Capital Corporation to operate as a small business investment company.

Dated: October 2, 1984.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 84-27277 Filed 10-15-84; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 84-075]

Niantic River, CN; Public Hearing on Proposed Bridge

AGENCY: Coast Guard, DOT.

ACTION: Notice of public hearing.

SUMMARY: Notice is hereby given that the Commandant has authorized a public hearing be held by the Commander, Third Coast Guard District in conjunction with the Federal Highway Administration and the State of Connecticut at Waterford, Connecticut. The purpose of the hearing is to consider an application from the State of Connecticut to replace the existing Route 156 Bridge across the Niantic River, mile 0.1, between East Lyme and Waterford, Connecticut. All interested parties may present data, views and comments, orally or in writing concerning the impact of the proposed bridge on the environment and its effect on navigation. The Federal Highway Administration is the lead federal agency and in 1977 prepared an Environmental Impact Statement (EIS). The State of Connecticut is presently preparing a reevaluation of the EIS.

DATE: November 15, 1984 from 7:00 PM until all speakers in attendance wishing to comment have provided comments.

ADDRESS: Waterford High School, 20 Rope Ferry Road, Waterford, Connecticut.

FOR FURTHER INFORMATION CONTACT: William Heming, Bridge Administrator, Third Coast Guard District, Governors Island, New York, New York 10004, 212-668-7994.

SUPPLEMENTARY INFORMATION: The character of the proposed work is to replace the existing swing bridge with a bascule drawbridge on an alignment south of the existing alignment. The proposed minimum vertical clearance is 30 feet above mean high water through the navigational channel with the bridge in the closed position and unlimited in the open position. A horizontal clearance of 100 feet will be provided between the fender of the bascule piers measured normal to the axis of the channel. The existing bridge will remain in operation during the construction period and will be removed upon completion of the new stucture. During the construction period a 65-foot horizontal clearance will be provided through the project vicinity. The existing swing bridge provides nine feet of vertical clearance in the closed position above mean high water and unlimited in the open position. A 65-foot horizontal clearance is provided through the main navigational channel.

All comments to be presented at the scheduled hearing will be made part of the record and will be given full consideration in the permitting process. Presentations should include factual data to support comments received. The hearing will be informal. A Coast Guard representative will preside at the hearing, make a brief opening statement describing the proposed bridge, and announce the procedure to be followed at the hearing. Each person who wishes to make an oral statement should notify the Commander (oan-br), Third Coast Guard District at the above address prior to the hearing date. Such notification should include the approximate time required to make the presentation. A transcript will be made of the hearing and may be purchased or reviewed by the public in the Third Coast Guard District Offices approximately 30 days after the hearing date.

Interested persons who are unable to attend the hearing may also participate in the consideration of this bridge permit application by submitting their comments, in writing, on or before November 15, 1984 to the Commander (oan-br), Third Coast Guard District. Each comment should state the reason for any objections, comments or proposed changes to the plans, and the name and address of the person or organization submitting the comments.

Copies of all written communications will be available for examination by interested persons at the office of the Commander (oan-br), Third Coast Guard District. All comments received will be considered before final action is taken on the proposed bridge permit application.

(Sec. 502, Act of August 2, 1946, as amended; 33 U.S.C. 525, 49 U.S.C. 1655(G)(6)(C); 49 CFR 1.46 (c)(10))

Dated: October 9, 1984.

H.H. Kothe,

Captain, U.S. Coast Guard, Acting Chief, Office of Navigation.

[FR Doc. 84-27199 Filed 10-15-84; 8:45 am]

BILLING CODE 4910-14-M

Federal Highway Administration

Urban Mass Transportation Administration

Environmental Impact Statement; Harris County, TX

AGENCY: Federal Highway Administration (FHWA), and Urban Mass Transportation Administration (UMTA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA and UMTA are issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway and transitway project in Houston, Texas.

FOR FURTHER INFORMATION CONTACT:

Mr. John E. Inabinet, Federal Highway Administration (FHWA), 826 Federal Office Building, Austin, TX 78701, Phone: (512) 482-5516.

Mr. Sam Herrera, Urban Mass Transportation Administration (UMTA), 819 Taylor Street, Suite 9A32, Fort Worth, TX 76102, Phone: (817) 334-3787.

SUPPLEMENTARY INFORMATION: The FHWA and UMTA, in cooperation with the Texas Department of Highways and Public Transportation (DHT) and Metropolitan Transit Authority of Harris County (METRO), will prepare an environmental impact statement (EIS)

for a proposal to improve US 59 (Southwest Freeway) between Beltway 8 in southwest Houston, Texas and SH. 288, approximately 1.5 miles south of the central business district, a distance of 13.5 miles, and a 9.5 mile transitway from Beltway 8 to the vicinity of Weslayan Street. Construction will include grade separations at six locations for authorized vehicle access/egress. In conjunction with the transitway, a park and ride lot with a capacity for approximately 2,000 cars will be located in the vicinity of Beltway 8. Transit Centers are also proposed at Hillcroft and South Rice.

The design of the transitway will be integrated into the design of the 13.5 miles of widening and upgrading of US 59 from Beltway 8 to SH 288. It is proposed that essentially one, and for some short distances two or three, lanes be added in each direction along the existing freeway. Where possible, freeway ramps will be modified to reverse diamond configurations and, if necessary, some ramps may be closed.

The following alternatives to the proposed action will be examined in the Environmental Impact Statement to evaluate relative benefits and costs:

No-Build Alternative: The existing facilities and services and currently committed transportation improvements, including the expansion of METRO's regional peak-hour bus fleet to approximately 1,050 vehicles.

Low Capital Improvement: The existing facilities and services, currently committed transportation improvements, and an expansion of METRO's regional peak-hour bus fleet to approximately 1,550 vehicles.

Impacts identified for analysis include changes in the natural environment (air quality, noise, water quality, aesthetics), changes in the social environment (land use, development, neighborhoods), impacts on parklands and historic sites, changes in levels of service, associated changes in highway congestion, capital costs, and operating and maintenance costs. Impacts will be identified both for the construction period and for the long term operation of the alternatives.

Two public meetings were held within the project area during the early stages of project planning. Adequate public notice was given through news media as to meeting times and locations. These meetings helped establish the purpose, scope, framework, and approach for the environmental and socio-economic analysis. At these meetings, a description was presented of the proposed scope of the study using maps and visual aids. Members of the public and interested Federal, State, and local agencies were invited to comment on the proposed scope of work, alternatives to be assessed, impacts to be analyzed, and evaluation criteria to be used to arrive at a decision. Other impacts or criteria judged relevant to local decision-making were identified. Comments were made both orally at the meetings and in writing. The combined concerns and issues arising from the early public and agency coordination phase of project planning indicate that environmental impact disclosure should be made through an EIS.

Comments and questions concerning this proposal should be directed to the FHWA or UMTA at the address provided above.

John J. Conrado,

Division Administrator, Federal Highway Administration, Austin, Texas.

Paul T. Jensen,

Acting Regional Administrator, Urban Mass Transportation Administration, Fort Worth, Texas.

[FR Doc. 84-27348 Filed 10-15-84; 8:45 am]

BILLING CODE 4910-22-M

VETERANS ADMINISTRATION

Veterans Administration Medical Center, Coatesville, PA; New Kitchen/Dining Hall; Finding of No Significant Impact

The Veterans Administration (VA) has assessed the potential environmental impacts that may occur as a result of the New Kitchen/Dining Hall project and has determined that the potential environmental impacts will be minimal from the development of this project.

The project proposes a new 26,000 gross square feet kitchen and dining hall east of building no. 56 and north of building no. 57. The new building will be a one level structure. Renovation of the existing kitchen was considered and not selected because of substantial logistical problems, higher costs to renovate, and an end product that would not improve the inherent problems of a two-story kitchen.

Development of the project would have impacts on the human and natural environment as it affects storm water run-off, erosion, and landscaping. Additionally, construction noise, dust, and visual impacts will exist during construction of the project. The medical center is historically significant.

Mitigating actions shall include landscaping, control of erosion, dust and fumes, and noise abatement measures. Final detailing and elevations will be designed to ensure architectural compatibility with the existing historic buildings.

The VA will adhere to all applicable Federal, State, and local environmental regulations during construction and operation of this project.

The significance of the identified impacts has been evaluated relative to considerations of both context and intensity as defined by the Council on Environmental Quality, (Title 40 CFR 1508.27).

An Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, §§ 1501.3 and 1508.9. A "Finding of No Significant Impact" has been reached based upon the information presented in this assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. William F. Sullivan, Director, Office of Enviromental Affairs (088C), Room 423, Veterans Administration, 811 Vermont Avenue, N.W., Washington, D.C. 20420, (202) 389-3316. Questions or requests for single copies of the Environmental Assessment may be addressed to the above office.

Dated: October 9, 1984.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

[FR Doc. 84-27237 Filed 10-15-84; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 201
Tuesday, October 16, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

DEPARTMENT OF EDUCATION

National Council on Educational Research

ACTION: Full Council Meeting of the National Council on Educational Research.

MATTERS TO BE DISCUSSED: Receive committee reports; discussion and approval or disapproval of proposed resolutions; report from the Director of N.I.E.; Dr. Chester Finn Speech—"The N.C.E.R./N.I.E. Relationship: What Can Be Done?". Closed session—Internal Personnel Matters

DATE: Thursday, October 25, 1984.

ADDRESS: National Institute of Education, 1200 19th St., NW., Washington, D.C. (Room 823).

STATUS:

8:30 a.m.–9:30 a.m.—Closed
9:30 a.m.–11:45 a.m.—Open
11:45 a.m.–1:00 p.m.—Lunch Break
1:00 p.m.–3:00 p.m.—Open

TIME: 8:30 a.m.–3:00 p.m.

FOR FURTHER INFORMATION CONTACT: D. Renee Trent, National Council on Educational Research Associate, 2000 L St., NW., Suite 617B, Washington, D.C. 20036, 202–254–7490

SUPPLEMENTARY INFORMATION: The National Council on Educational Research is established under Section 405 of the General Provisions Act. The N.C.E.R. meeting will be closed to the public from 8:30 a.m. to 9:30 a.m. to discuss internal personnel matters including discussion of the vacancy to be left by the current Executive Director who will be resigning in subsequent weeks. The meeting will be closed under the provisions of 34 CFR 705.2 (a) (2) and (6) and 5 U.S.C., 552b(c) (2) and (6).

Records are kept of all Council proceedings and are available for public inspection at the office of the National Council on Educational Research at 2000 L St., NW., Suite 617B, Washington, D.C. 20036 from the hours of 8:30 a.m. to 5:00 p.m.

A summary of the activities at the closed session and related matters which are informative to the public consistent with the policy of Title 5 U.S.C. 552b will be available to the public within fourteen days of the meeting.

Dated: October 5, 1984.

James E. Hinish, Jr.,

Executive Director, National Council on Educational Research.

[FR Doc. 84-27335 Filed 10-11-84; 10:17 am]

BILLING CODE 4000-01-M

2

FEDERAL COMMUNICATIONS COMMISSION

October 10, 1984.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Wednesday, October 17, 1984, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, NW., Washington, DC.

Agenda, Item No., and Subject

Private Radio—1—Title: Frequency Coordination in the Private Land Mobile Radio Services. Summary: The FCC will consider whether to adopt a Notice of Proposed Rule Making modifying procedures in Part 90 of the rules concerning frequency coordination in the Private Land Mobile Radio Services.

Common Carrier—1—Title: Third Report and Order detariffing embedded customer premises equipment owned by Independent telephone companies and tariffed at the state level; CC Dkt. No. 81-893. Summary: The Commission will consider whether to adopt a report and order which establishes a detariffing framework for embedded customer premises equipment owned by Independent telephone companies and tariffed at the state level.

Common Carrier—2—Title: Final Report Regarding Staff Audit of Preoperational Expenses Associated with the Formation and Development of Products for AT&T Information Systems, Inc. Summary: The Commission will consider AT&T's accounting for preoperational expenses incurred on behalf of AT&T's subsidiary which offers enhanced services and customer premises equipment.

Common Carrier—3—Title: Memorandum Opinion and Order concerning request by Telephone Association of New England and certain of its members for interconnection and an interim order establishing divisions of charges for interstate communications. Summary: The Commission will consider whether to grant a petition by the Telephone Association of New England and certain of its members requesting Commission action concerning interim divisions of charges for interstate communications.

Common Carrier—4—Title: Elimination of the Separate Frequency Allocation Structure in the Public Land Mobile Service (Rule Section 22.501), CC Docket No. 83-1146; and Revision and Update of Part 22, CC Docket No. 80-57. Summary: Before the Commission is a Report and Order and Order on Reconsideration which discusses revisions of Section 22.501 in the Public Land Mobile Service, to allow all carriers to apply for the frequencies which are presently allocated separately for radio common carriers and wireline common carriers. Changes to rules in the Rural Radio Service are discussed also. For consideration also are petitions for reconsideration filed in the proceeding revising part 22 requesting reversal of the interim procedures established for the filing of applications during the pendency of the rulemaking proposing to eliminate the separate allocation.

Common Carrier—5—Title: Amendment of Part 31 Uniform System of Accounts to account for access revenues and expenses and conforming amendments to Annual Report Form M and FCC Report 901. Summary: The Commission is considering a Report and Order requiring new accounts to record carriers' access revenues and expenses required in Docket 78-72. In addition, the Report and Order contains conforming amendments to Annual Report Form M and FCC Report 901 to incorporate these new accounts.

Common Carrier—6—Title: Amendment of Part 31, Uniform System of Accounts for Class A and Class B Telephone Companies to provide for nonregulated activities. Summary: The Commission will consider requiring that nonregulated activities be accounted for in separate books of account.

Common Carrier—7—Title: Reconsideration of 2° Spacing Order in the Matter of Licensing Space Stations in the Domestic Fixed Satellite Service and Related Revisions of Part 25 of the Rules and Regulations. Summary: The Commission will consider petitions for reconsideration of its Report and Order in CC Docket No. 81-704 dealing with reduced orbital spacings between domestic satellites and revised satellite and earth station technical standards.

Common Carrier—8—Title: Establishment of an Advisory Committee on Implementation of Reduced Orbital Spacing Between Domestic Fixed Satellites. Summary: The Commission will consider the

establishment of such an advisory committee and its terms of reference.

Common Carrier—9—Title: Second Report and Order, General Docket No. 80-112. Summary: The Commission will consider adopting rules to allow the use of lotteries for the selection of Multichannel Multipoint Distribution Service licensees.

Mass Media—1—Title: Protection Standards for AM stations in Alaska. Summary: The Commission issued a Notice of Proposed Rule Making inviting comments on a proposal to provide increased interference protection to Alaskan AM stations. The Report and Order considers and resolves this matter and various related issues.

Mass Media—2—Title: Amendment of Section 73.37 Note 5 of the Commission's Rules concerning daytime power limitations for AM stations. Summary: The Commission issued a Notice of Proposed Rule Making to delete the restrictions on the daytime power which could be proposed by certain AM stations. The Report and Order resolves the matters raised in the proceeding.

Mass Media—3—Title: Commission Policy Regarding the Advancement of Minority Ownership in Broadcasting. Summary: The Commission adopted a *Notice of Proposed Rule Making* in Gen. Docket 82-797 which proposed to expand seller-creditor protections in a seller-financed sale of a broadcast property to a minority buyer. The Commission will consider whether it should adopt the proposal.

Mass Media—4—Title: Deregulation of Radio. Summary: The Commission will consider a petition for partial reconsideration of the *Second Report and Order* filed by National Radio Broadcasters Association. Petitioner requests that the Commission reduce its quarterly issues/programs list requirement to an annual requirement.

Mass Media—5—Title: Report and Order in Low Power Television and Television Translator Service, MM Docket No. 83-1350. Summary: The Commission will consider proposed rule changes for low power television and television translators which would: (1) Modify the present cut-off procedures; (2) eliminate the requirement to file financial information; and (3) create a separate or priority processing class for television translators.

Mass Media—6—Title: License Renewal Application of Station KTTL(FM), Dodge City, Kansas, licensed to Mr. & Mrs. Charles Babbs, d/b/a/ Cattle Country Broadcasting. Summary: The Commission considers petitions to deny KTTL's renewal application filed by the Dodge City Citizens for Better Broadcasting and the National Black Media Coalition; informal objections to KTTL's renewal application filed by the Attorney General of the State of Kansas, Robert T. Stephan, on behalf of the State of Kansas, the Anti-Defamation League of B' nai B'rith, the Jewish Community Relations Bureau of Kansas City, Missouri, and the Jewish War Veterans of the U.S.A; a timely-filed application from Community-Service Broadcasting, Inc., seeking a construction permit for a new FM broadcasting station in Dodge City, Kansas, which is mutually exclusive with the renewal application of KTTL; and an application for assignment of license from the licensee to Mr. Van Smith.

Mass Media—7—Title: A petition for reconsideration of the denial of the petition to deny filed against the renewal applications of WELR (AM & FM), Roanoke, Alabama, co-filed by the Concerned Citizens of Roanoke, Roy Terry, the National Black Media Coalition, and Puria W. Marshall and various related pleadings. Summary: The Commission considers a petition for reconsideration of the denial of a petition to deny the license renewal applications of WELR (AM & FM), Roanoke, Alabama.

Mass Media—8—Title: License renewal applications of certain broadcast stations serving various communities in the State of Texas. Summary: The Commission considers a petiton to deny filed by the National Black Media Coalition and others alleging that the licensees have not complied with the Commission's EEO rule.

Mass Media—9—Title: Compliant of Syracuse Peace Council against television station WTVH, Syracuse, New York. Summary: The Commission will consider whether to find the licensee in violation of the Fairness Doctrine.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Judith Kurtich, FCC Public Affairs Office, telephone number 254-7674.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84-27423 Filed 10-12-84; 3:02 pm]

BILLING CODE 6712-01-M

3

FEDERAL COMMUNICATIONS COMMISSION

October 10, 1984.

The Federal Communications Commission will hold a Closed Meeting on the subjects listed below on Wednesday, October 17, 1984, following the Open Meeting, which is scheduled to commence at 9:30 A.M., in Room 856, at 1919 M Street, N.W., Washington, D.C.

Agenda, Item No., and Subject

Hearing—1—Applications for Review, Petition to Enlarge Issues, and Petition to Intervene in the San Bernardino, California comparative proceeding for an interim operator for the facilities of former station KHOF-TV (MM Docket Nos. 83-1001, 83-1003, 83-1006, 83-1007).

Hearing—2—Petition for Reconsideration and Contingent Request for Enlargement of the Issues in the Nashua, New Hampshire AM/FM radio comparative proceeding (Docket Nos. 80-28 to 80-35).

Hearing—3—Petition for Reconsideration and Petition to Reopen the Record, Enlarge Issues and Remand for Further Hearings in the Brownfield, Texas, comparative FM proceeding (BC Docket Nos. 81-164 and 81-165).

Hearing—4—Applications for Review in the United Broadcasting Company, Inc., Washington, D.C. FM radio comparative renewal proceeding (BC Docket Nos. 479 to 80-481).

These items are closed to the public because they concern Adjudicatory Matters (See 47 CFR 0.603(j)).

The following persons are expected to attend:

Commissioners and their Assistants
Managing Director and members of his staff
General Counsel and members of his staff
Chief, Office of Public Affairs and members of his staff

Action by the Commission:

Hearings 1, 2, and 3, October 9, 1984. Commissioners Fowler, Chairman; Quello, Dawson, Rivera and Patrick voting to consider these items in Closed Session.

Hearing 4, September 18, 1984. Commissioners Fowler, Chairman; Quello, Dawson, Rivera and Patrick voting to consider this item in Closed Session.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Judith Kurtich, FCC Public Affairs Office, telephone number (202) 254-7674.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84-27424 Filed 10-12-84; 3:02 pm]

BILLING CODE 6712-01-M

4

FEDERAL RESERVE SYSTEM

TIME AND DATE: 11:00 a.m., Monday, October 22, 1984.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Pesonnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank

holding company applications scheduled for the meeting.

Dated: October 12, 1984.

James McAfee,
Associate Secretary of the Board.

[FR Doc. 84-27446 Filed 10-12-84; 3:58 pm]
BILLING CODE 6210-01-M

5

NATIONAL TRANSPORTATION SAFETY BOARD

[NM-84-31]

Correction

In FR Doc. 84-26747 beginning on page 39771 in the issue of Wednesday, October 10, 1984, make the following correction:

On page 39771, third column, in the "Time and Date:" line, insert "October 16, 1984", after the word "Tuesday".

BILLING CODE 1505-01-M

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NUCLEAR REGULATORY COMMISSION

DATE: Weeks of October 15, 22, 29, and November 5, 1984.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, D.C.

STATUS: Open and Closed.

MATTER TO BE CONSIDERED:

Week of October 15

Tuesday, October 16

10:00 a.m.
Continuation of Discussion on Indian Point Adjudicatory Proceeding (Public Meeting)

Wednesday, October 17

10:00 a.m.
Discussion with Staff on Fitness for Duty, Training and Requirements for Senior Managers (Public Meeting)

Thursday, October 18

3:30 p.m.
Affirmation Meeting (Public Meeting)
a. Grand Gulf

Week of October 22

Tentative

Monday, October 22

2:00 p.m.
Status of NTOL's (Open/Portions to be CLOSED)

Tuedays, October 23

10:00 a.m.
Discussion of Proposed Rule on Emergency Planning and Seismic Events (Public Meeting)
2:00 p.m.
Briefing and Discussion on the Hearing Process (Public Meeting)

Wednesday, October 24

9:45 a.m.
Security Meeting (Closed—Ex. 1)
10:00 a.m.
Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 & 6)
2:00 p.m.
Affirmation Meeting (Public Meeting) (if needed)

Week of October 26

Tentative

Monday, October 29

10:00 a.m.
Discussion of Material False Statements—Policy Options (Public Meeting) (Tentative)

Thursday, November 1

10:00 a.m.
Discussion of Proposed Amendments to 10 CFR Part 2 (Public Meeting)
2:00 p.m.
Executive Branch Briefing (Closed—Ex. 1)
3:30 p.m.
Affirmation Meeting (Public Meeting) (if needed)

Week of November 5

Tuesday, November 6

10:00 a.m.
Continuation of Discussion on Indian Point (Public Meeting)
2:00 p.m.
Briefing/Possible Vote on UCS 2.206 Petition on TMI-1 Emergency Feedwater (Public Meeting)

Wednesday, November 7

10:00 a.m.
Discussion of TMI-2 Cleanup Schedule and Funding (Public Meeting)

Thursday, November 8

10:00 a.m.
Affirmation Meeting (Public Meeting) (if needed)

TO VERIFY THE STATUS OF MEETINGS CALL: (Recording)—(202) 634-1498.

CONTACT PERSON FOR MORE INFORMATION: Julia Corrado (202) 634-1410.

George T. Mazuzan,
Office of the Secretary.
October 12, 1984

[FR Doc. 84-27443 Filed 10-12-84; 3:42 pm]
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Tuesday
October 16, 1984

Part II

Department of Housing and Urban Development

Office of Assistant Secretary for Fair Housing and Equal Opportunity

24 CFR Part 105

Fair Housing; Proposed Rule

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Fair Housing and Equal Opportunity

24 CFR Part 105

[R-84-1195; Docket FR 2012]

Fair Housing

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Proposed rule.

SUMMARY: The Department is proposing to revise regulations setting forth the procedures to be followed in processing complaints alleging the occurrence of discriminatory housing practices under the Fair Housing Act (Title VIII of the Civil Rights Act of 1968). The proposed rule would reorganize the provisions of Part 105, and would add more specific descriptions of the procedures used to investigate fair housing complaints, to make a determination to resolve matters raised in complaints and to try to eliminate and correct alleged discriminatory housing practices by informal means.

DATE: Comments must be received by December 17, 1984.

ADDRESSES: Comments should be sent to: Rules Docket Clerk, Office of General Counsel, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Thomas Jankowski, Director, Office of Fair Housing Enforcement and section 3 Compliance, Department of Housing and Urban Development, Room 5208, 451 Seventh Street, S.W., Washington, D.C. 20410, (202) 755-6836. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The Fair Housing Act (Title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3601 *et seq.*) states that it is the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States. The Fair Housing Act prohibits discrimination based on race, color, religion, sex or national origin in any aspect of a transaction relating to the sale, rental or financing of dwellings. The Fair Housing Act also prohibits blockbusting and discriminatory statements and advertisements, the denial of access to or membership or participation in multiple listing services and steering because of race, color, religion, sex or national origin.

The Fair Housing Act directs that the authority and responsibility for administering the Act shall be in the Secretary of Housing and Urban Development. A person who claims to have been injured by a discriminatory housing practice or who believes that he or she will be irrevocably injured by a discriminatory housing practice may file a complaint with the Secretary of the Department of Housing and Urban Development under section 810 of the Act (42 U.S.C. 3610). In the alternative, the rights to fair housing may be enforced through the initiation of civil actions in Federal district court by private individuals under section 812 of the Act (42 U.S.C. 3612).

Section 810 directs that upon receipt of a complaint the Secretary shall investigate the complaint and give notice as to whether the Secretary will attempt to resolve matters in the complaint. Where a determination to resolve the complaint is made, section 810 requires the Secretary to proceed to try to eliminate or correct the alleged discriminatory housing practice by informal methods of conference, conciliation and persuasion. Where these informal efforts are unsuccessful, section 810 provides for the initiation of civil actions by private individuals to vindicate their rights to fair housing. The authority to exercise the powers and responsibilities of the Secretary of Housing and Urban Development with respect to the processing of fair housing complaints has been delegated to the Assistant Secretary for Fair Housing and Equal Opportunity. (35 FR 6877, April 30, 1970).

In addition to the rights of a private individual to initiate administrative and judicial enforcement proceedings, the Fair Housing Act also empowers the Attorney General to commence civil actions whenever he or she believes that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of rights protected or that a denial or rights protected raises an issue of general public importance.

On January 4, 1969 the Department of Housing and Urban Development published as Part 71 of Title 24 Code of Federal Regulations, complaint processing regulations (Fair Housing: Procedures with Respect to Complaints). With a number of procedural revisions Part 71 was subsequently recodified as 24 CFR Part 105 on December 22, 1971 (36 FR 24458). Except for a revision to the Purpose and Definition sections of Part 105 (§§ 105.1(a) and 105.2(h)) to indicate the amendment of Title VIII of the Civil Rights Act of 1968 to prohibit discrimination based on sex contained in section 527 of the Housing and Community Development Act of 1974 (*see* 40 FR 20079, May 8, 1975), the procedural regulations have remained unchanged.

Since publication of this rule several courts in connection with civil actions brought under the Fair Housing Act have provided judicial interpretations on the standing of individuals as aggrieved persons to file suits and of the time limitations for filing of civil actions. Further, the Department has adopted policies regarding the investigation of complaints, the conciliation of cases and the referral of matters to the Department of Justice in addition to those set forth in the existing regulations.

In order to clarify procedural requirements for the filing of complaints with the Secretary, to indicate time limitations on the filing of civil actions in cases involving complaints, and to describe fully Department policies for processing complaints and attempting to resolve matters, the Department is revising and expanding its complaint procedures regulation.

Although Part 105 is procedural in nature, the Department desires to have the views of interested persons with respect to the proposed revisions. Therefore the Department has determined to publish these revisions as a proposed rule.

I. General

Section 105.2 of the regulations would be revised to include a definition of the Fair Housing Act, and references to Title VIII of the Civil Rights Act of 1968 and Title VIII would be replaced by the defined term.

In addition, the terms "violations of Title VIII" and "complainants" would be deleted from Part 105. The terms "discriminatory housing practice" and "aggrieved person" which are used in the Fair Housing Act would be used throughout the proposed rule. Also, the description of an aggrieved person who may file a complaint with HUD would be contained in § 105.12 of the proposal.

II. Complaints

A. Persons Against Whom a Complaint May be Filed

A new § 105.13 would be added to indicate that under the Fair Housing Act a complaint may be filed against any person alleged to be or have been engaged or be about to engage in any discriminatory housing practice. This section would also state that any person

who directs or controls or who has the authority to direct or control the conduct of a person is responsible for the discriminatory housing practices by such other person.

This provision is based on judicial precedents that persons involved in the sale, rental or financing of dwellings have a nondelegable duty to assure that all conduct relating to any aspect of the sale, rental or financing of dwellings complies with the Fair Housing Act and that a person who supervises, directs or employs other persons can be legally responsible for action of such other persons which violate the Fair Housing Act. (See *U.S.* v. *Youritan Construction Co.*, 370 F.Supp. 643 (N.D. Calif. 1973), modified as the relief and affirmed, 509 F.2d 623 (9th Cir. 1975); *Northside Realty* v. *U.S.*, 605 F.2d 1348 (5th Cir. 1979); *Marr* v. *Rife*, 503 F.2d 735 (6th Cir. 1974); *U.S.* v. *Northside Realty*, 474 F.2d 1164 (5th Cir. 1973); *Moore* v. *Townsend*, 525 F.2d 482 (7th Cir. 1975); *Johnson* v. *Jerry Pals Real Estate*, 485 F.2d 528 (7th Cir. 1973); *Dillon* v. *AFBIC Development Corp.*, 420 F. Supp. 572 (S.D. Ala. 1976); and *U.S.* v. *Real Estate Development Corp.*, 347 F. Supp. 776 (N.D. Miss. 1972)).

B. Procedures Relating to the Filing of Complaints

Section 105.14 of the proposed rule would revise Part 105 to indicate that complaints may be filed by mail with the Office of Fair Housing in Washington, with any HUD Regional or Field Office or with any other duly authorized representative of the Assistant Secretary for Fair Housing and Equal Opportunity.

In addition, § 105.16 of the proposed rule (§ 105.15 of the present regulation) would be revised to specify that the Assistant Secretary has authorized State and local agencies administering fair housing laws found by HUD pursuant to 24 CFR Part 115 to provide substantially equivalent rights and remedies to those available under the Act to receive complaints on behalf of the Department.

Section 810(b) of the Fair Housing Law provides that complaints can be reasonably and fairly amended at any time. Consistent with this provision § 105.16 of the proposed rule would state that amendments to cure technical defects or omissions may be made at any time during the pendency of a complaint and shall be deemed to be made as of the original filing date of the complaint. This section also would state that amendments to complaint to add other respondents may be made at any time during the pendency of a complaint. Including this provision is intended to make the public aware that HUD does not interpret the Fair Housing Act to impose upon a private individual the obligation of identifying all persons responsible for actions at the time of complaint filing.

C. Notices to Aggrieved Persons

Section 810(d) of the Fair Housing Act states:

> If within thirty days after a complaint is filed with the Secretary or within thirty days after expiration of any period of reference under subsection (c), the Secretary has been unable to obtain voluntary compliance with this title, the person aggrieved may, within thirty days thereafter, commence a civil action * * *.

HUD in promulgating its complaint processing regulation adopted, as the mechanism for commencing the thirty day time period for the filing of civil actions under section 810(d), a notice of a HUD determination not to resolve a complaint or to terminate efforts to conciliate (see § 105.16 of the existing rule). This procedure, which was similar to right to sue letters issued by the Equal Employment Opportunity Commission under Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e), advised aggrieved persons that the 30 day time limit for the filing of a civil action would commence as of the date of receipt of the notice. Substantial confusion has resulted from this section regarding the extent which civil actions can be filed under this section beyond the 180 day time limit for filing suit under section 812 of the Act.

While the HUD procedure has been accepted by some courts (*see Brown* v. *Ballas*, 331 F.Supp. 1033 (N.D. Texas 1971), and *Logan* v. *Carmack*, 368 F.Supp. 121 (E.D. Tenn. 1973)), several courts have rejected the procedure based upon a literal reading of the above cited provision of section 810(d). (*See Green* v. *Ten Eyck*, 572 F.2d 1233 (8th Cir. 1978); *Tatum* v. *Myrick*, 425 F.Supp. 809 (M.D. Fla. 1977); *Sumlin* v. *Brown*, 420 F.Supp. 78 (N.D. Fla. 1976); *Brown* v. *Blake & Bane*, 402 F.Supp. 621 (E.D. Va. 1975); and *Young* v. *AAA Realty*, 350 F.Supp. 1382 (M.D. N.C. 1972)). Strictly interpreted, these later decisions would require the filing of civil actions under section 810(d) within 60 days of the filing of the administrative complaint irrespective of the date on which the alleged discriminatory housing practice occurred and how long HUD takes to process the complaint.

As a result of this evolution of the case law HUD has adopted a policy of notifying aggrieved persons by letter at the time of complaint receipt or upon HUD reactivation of processing of a case referred to a State or locality administering a substantially equivalent fair housing law (see § 105.22 of the proposed rule and § 105.20 of the existing rule) of the time limits under section 810(d). A similar letter is sent to aggrieved persons after thirty days of HUD processing of a complaint. These letters advise that the failure to file suit within 60 days of HUD receipt of complaints could result in the loss of the right to file a civil action under section 810(d). The letter also advises aggrieved persons of their right to file a civil action under section 812 of the Fair Housing Act at any time within 180 days of the alleged discriminatory housing practice.

In an attempt to assure that the rights of aggrieved persons to file civil actions under the Fair Housing Act is not compromised in the Department's complaint processing, HUD is proposing to incorporate its present administrative practice into the complaint processing regulation. Thus, the Department is proposing to add a new § 105.45 advising the public of the specific procedures HUD has adopted to assure that aggrieved persons are aware of the time limitation for the filing of civil actions under the Fair Housing Act.

In addition, § 105.17 of the proposed rule (Filing of complaints) would substantially revise the section of the existing regulation describing the issuance of notices (§ 105.16 of the existing rule). Revisions to existing procedures would also be made in §§ 105.55 and 105.74 of the proposed rule.

D. Continuing Practices

Section 105.17(c) would provide that for the purpose of determining whether a complaint is timely filed in a case involving allegations of a continuing unlawful practice, HUD will accept and process any such case where the complaint is filed within 180 days of the last alleged occurrence of that practice. This provision is intended to incorporate specifically in the complaint processing rule the concept of continuing violations of the Fair Housing Act. This concept has been used in Equal Employment Opportunity cases under Title VII of the Civil Rights Act of 1964 and recently has been applied by the Supreme Court to a Fair Housing Act case. *Havens Realty* v. *Coleman*, 455 U.S. 363 (1982).

III. Complaints In Substantially Equivalent Jurisdictions

A new Subpart C, Referral of Complaints to State and Local Agencies, would be added to Part 105. This subpart would contain those sections of the existing rule describing the processing of complaints in States and localities with fair housing laws found by the Secretary under 24 CFR Part 115

to provide rights and remedies for alleged discriminatory housing practices which are substantially equivalent to those provided in Fair the Housing Act.

The proposed rule would adopt the existing procedures, with two modifications. First in § 105.21, Suspension of proceedings, a subsection would be added to clarify that even while HUD is taking no further action under section 810 of the Fair Housing Act where a referral to a State or local agency has been made, HUD may investigate matters in a complaint which raise issues cognizable under other civil rights authorities applicable to HUD programs.

Second, in connection with the reactivation of referred complaints, § 105.22 would describe more fully the basis on which HUD routinely will recall complaints for failure of the State or locality to process matters with reasonable promptness.

In connection with recall of complaints where State or local agencies have not processed matters with reasonable promptness, HUD, prior to reactivating its processing of a case, will confer with the agency to ascertain the reason for any delay. Where HUD has reason to believe that the agency will proceed expeditiously HUD may elect to leave the complaint in the referral status notwithstanding the expiration of the time periods for the investigation, conciliation or commencement of enforcement action.

IV. Enforcement Procedures

A. Summary

A new Subpart D—Procedures for Enforcement of Complaints would be added. This Subpart would indicate the purposes of HUD investigations (§ 105.31) and describe the nature of HUD Systemic, Accelerated and Rapid response processing (§§ 105.32, 105.33 and 105.34). The Subpart also would amplify the Secretary's authority to have access to information reasonably necessary for investigations (§ 105.35), to seek the cooperation and utilize the services of Federal, State and local agencies (§ 105.36) and to issue and enforce subpoenas and interrogatories (§ 105.37). The provisions of this Subpart reflect current procedures following by HUD in the investigation of Fair Housing Act complaints.

B. Conferences

Section 105.34 would provide for fact-finding conferences in connection with Rapid Response Processing of complaints. These conferences could be held by the Assistant Secretary upon the filing of a complaint. Although these conferences would be intended primarily to facilitate investigation through defining issues and identifying undisputed facts, HUD will also use the conferences as a mechanism to ascertain whether there is any basis for a settlement of the matters raised in the complaint.

Section 105.41 would include in the complaint processing regulation a provision indicating that the Department may in appropriate cases encourage and facilitate settlement of matters prior to the making of a determination to resolve. This section would state, however, that entry of a negotiated settlement by the person aggrieved and the respondent does not constitute any judgment on the merits of a complaint or preclude the Assistant Secretary from taking other appropriate actions.

The Department believes that incorporating these mechanisms into the HUD procedural regulation will encourage acceptable resolutions of complaints in furtherance of fair housing without the necessity for complete investigations, determinations to resolve and subsequent attempts to obtain resolution through the concilaition process under Subpart F.

V. Determinations

A. Determinations To Dismiss a Complaint

Section 105.50 sets forth procedures for notifying persons of the Department's determination to dismiss a complaint. This section indicates the basis for making the determination and provides parties adversely affected with an opportunity to request the Assistant Secretary to reconsider the dismissal. These procedures are now contained in § 105.21 of the existing regulation.

B. Determinations To Resolve.

Section 810(a) requires the Secretary, after investigation, to give notice in writing as to whether he or she intends to resolve a complaint. Section 105.55 of the proposed rule provides for the notification to the aggrieved person and the respondent as to whether the Assistant Secretary will attempt to resolve the complaint.

In order to clarify the nature of the Assistant Secretary's determination, this section, unlike the present rule (§ 105.21) would indicate the basis for a determination to resolve a complaint. Section 105.55(b) would state that a determination to resolve can be made if analysis of the facts developed in the investigation results in a conclusion that, more likely than not, race, color, religion, sex or national origin was a factor in an injury to the aggrieved person for which the respondent was responsible. Section 105.55(c) would indicate that where the Assistant Secretary, based on the investigation, determined not to proceed further on a complaint, he or she shall notify the person aggrieved and the respondent of the determination not to resolve the complaint. This section also would provide any party adversely affected by such a determination an opportunity to request the Assistant Secretary for reconsideration of the determination.

VI. Efforts To Obtain Resolution

Subpart F of the proposed rule contains procedures which will be followed in cases where a determination to resolve has been made. The Subpart indicates the types of relief which will be sought in Fair Housing Act complaints and describes enforcement actions available to the Secretary.

A. Access by Parties to Information

A new § 105.61 would be added providing guidelines for access to information gathered in investigations. Generally this section would state that no information contained in an investigation shall be made matters of public information during the pendency of a complaint before the Department. This section would provide, however, that investigatory material can be disclosed to the aggrieved person, the respondent and their representatives or to witnesses where the Assistant Secretary deems such disclosure necessary for securing appropriate relief. In addition, the section would authorize disclosure of information to Federal, State and local authorities where it is necessary to the carrying out of their civil rights responsibilities.

Section 105.61(c) provides that the Final Investigative Report of the Assistant Secretary shall be made available, upon request, to the aggrieved person or the respondent. This provision is intended to assure that parties to a complaint can have access to the investigatory report upon which the Assistant Secretary relied in making determinations. Although the Department recognizes that legislative revisions considered by the House and Senate in 1980 would have provided for such access to investigatory reports (See H.R. Rep. No. 98–865, 96th Cong., 2d Sess. p. 45, and S. Rep. No. 96–919, 96th Cong., 20 Sess. pp. 23 and 49) and similar provisions are contained in legislative revisions pending before Congress (See S. 1220 and H.R. 3482 and section 9 of S. 1670) HUD believes that the type of revision under consideration would be merely a technical amendment

to Title VIII. Since nothing in the Fair Housing Act precludes the release of Final Investigatory reports the Department has determined that permitting disclosure to parties by rulemaking is appropriate.

HUD has believed that efforts to obtain resolution of complaints by informal methods may be aided by the avoidance of controversy over the details of factual material developed in investigations. Therefore HUD has not made investigatory records available to parties to a complaint during the pendency of matters. Since the revision in proposed § 105.61 would represent a substantial change in current HUD procedures, the Department specifically requests comments on the impact of the release of investigatory materials on informal resolution of matters particularly from persons who have been parties or who have represented parties in conciliation activities.

B. Elements of Conciliation

Section 105.65 describes the objectives of conciliation. This section would indicate that in conciliating a compliant the Assistant Secretary shall attempt to achieve a just resolution of the complaint and to obtain assurances, where appropriate, that the respondent will satisfactorily remedy any violations of the rights of the aggrieved person and will take such other action as will assure the elimination of discriminatory housing practices or the prevention of their occurrence in the future.

Sections 105.67 and 105.70 amplify the dual goals of the Department's conciliation effort. Section 105.67 (Types of relief for complainants) describes the types of remedies that may be sought as appropriate for complainants; including monetary relief, other make whole relief and injunctive relief to eliminate discriminatory policies or practices. Section 105.70 (Types of provisions in the public interest), indicates the types of remedies to be sought, as appropriate, for the public interest. Such types of relief are elimination of discriminatory housing practices, prevention of future discriminatory housing practices, affirmative activities, reporting and monitoring.

C. Unsuccessful Conciliation Attempts

Section 105.73 (Inability to obtain voluntary compliance) and § 105.74 (Notification where voluntary compliance is not obtained) would contain the provisions of §§ 105.33 and 105.34 of the present regulations with minor modifications.

D. Confidentiality of Conciliation Attempts

Section 105.75 (Confidentiality of conciliation conferences) would restate the statutory prohibition against making public or using in subsequent proceedings under the Act anything said or done in the course of HUD informal endeavors to resolve complaints without the written consent of the persons concerned. Section 105.75(b) would indicate that failure of any employee of the Secretary to comply with the confidentiality provision in the Fair Housing Act would subject that person to penalties set forth in the section 810(a) of the Act.

The Department has not released or published conciliation agreements in the past because of the broad sweep of the statute regarding matters subject to the prohibitions against disclosure and the specific exception referring to written consent of the parties concerned. In addition, as a matter of policy HUD has believed that the release or publication of conciliation agreements without the consent of the parties could substantially interfere with the conciliation process. A concern has been held that the incentive to conciliate could be significantly reduced if the parties did not have reasonable assurance that their resolution of matters as embodied in a conciliation agreement, as well as the matters discussed in informal endeavors to resolve a complaint, would remain confidential.

In the only case which the Department is aware of dealing with confidentiality of conciliation agreements, *James* v. *Hafler*, 320 F.Supp. 397(D. Ga. 1970), the court held that a HUD approved conciliation agreement should not be expunged from a court record because a conciliation agreement "is the culmination of "* * * the course of such informal endeavors * * *" and is not prescribed by section 3610(a)." *Id.* at 398.

HUD has reconsidered its policy and now believes that the beneficial effects of publication of conciliation agreements, including making persons aware that their rights under the Act can be satisfactorily secured through the conciliation process and discouraging future discriminatory housing practices, outweighs the concern that potential disclosure may deter some respondents from entering into conciliation agreements. A policy of publishing the results of conciliations would be consistent with practices of fair housing agencies such as the Kentucky Commission on Human Rights.

Based on these considerations, proposed § 105.75(c) would state that nothing in the confidentiality provisions shall be construed to prevent the Assistant Secretary from disclosing the results of his or her informal endeavors including publishing any conciliation agreement. The Department specifically solicits comments on this proposed change in current policy.

E. Conciliation Agreements

Section 105.76 would describe the structure of conciliation agreements. Section 105.76 (Resolution of complaints) would indicate that a conciliation agreement may be executed if the aggrieved person and respondent agree to the relief provided and the Department and the respondent agree to the provisions vindicating the public interest. This section also would state that when failure to agree on the public interest occurs HUD will advise the parties that they are free to reach an agreement among themselves. However, since such an agreement between the parties would be outside HUD processing it would not preclude further actions the Assistant Secretary deems appropriate to address matters raised in the complaints.

Section 105.77 would provide for review and monitoring of compliance with the terms of conciliation agreements by the Assistant Secretary and indicates the authority of the Assistant Secretary to initiate efforts to enforce the terms of a conciliation agreement. The section also would state that methods of enforcement include referral of cases to the Attorney General with a recommendation for the filing of a civil action on behalf of the Secretary for the enforcement of the terms of a conciliation agreement.

F. Other Enforcement Activities

Section 105.80 would describe other actions which can be taken by the Assistant Secretary to enforce HUD civil rights responsibilities with respect to fair housing where voluntary compliance has not been obtained and an evaluation of the evidence indicates on balance that there has been a discriminatory housing practice. This section would adopt in large part the provisions of § 105.36 of the present regulation. The actions the Assistant Secretary could take under proposed § 105.80(a) include referral to the Attorney General where the Assistant Secretary believes there is a pattern or practice of discrimination.

In addition, this section would describe other enforcement actions which may be initiated. Under the

proposed revision the rule would specifically indicate that the administrative sanction of debarment under 24 CFR Part 24 may be sought and that HUD may make a finding of apparent noncompliance under Title VI of the Civil Rights Act of 1964 or possible noncompliance under E.O. 11063 based on Fair Housing Act investigations.

Further, this section would clarify that the Department can refer cases to the Attorney General or initiate actions leading to the imposition of administrative sanctions necessary to the effective operation and administration of Federal programs and activities at any time during the processing of cases.

A finding of No Significant Impact with respect to the environment has been made in accordance with HUD Regulations in 24 CFR Part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of the Executive Order on Federal Regulation issued by the President on February 17, 1981. Analysis of the rule indicate that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The rule was listed as item 240 in the Department's Semiannual Agenda of Regulations published on April 19, 1984 (49 FR 15902 at 15953) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

Pursuant to the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule would not have a significant economic impact on a substantial number of small entities. It would serve to relieve part of the regulatory burden on real estate developers, some of whom constitute small entities, but its effect is not expected to exceed the threshold set forth in the Act.

Paperwork Reduction Act.

The information collection requirement contained in this rule was submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520) and has been assigned OMB Control Number 2529–0011.

The Catalog of Federal Domestic Assistance program number is 14.400.

List of Subjects in Part 105

Fair housing.

Accordingly, Part 105 of Title 24 would be revised to read as follows:

PART 105—FAIR HOUSING

Subpart A—Purpose of Definitions

Sec.
105.1 Purpose.
105.2 Definitions.

Subpart B—Complaints

105.11 Submission of information.
105.12 Complaints to be filed by an aggrieved person.
105.13 Persons against whom complaints may be filed.
105.14 Where to file complaints.
105.15 Contents of complaints.
105.16 Form of complaint; amendments.
105.17 Filing of complaints.
105.18 Service of complaint; filing of answers.

Subpart C—Referral of Complaints to State and Local Agencies

105.20 Referrals to State and local fair housing agencies.
105.21 Suspension of proceedings.
105.22 Reactivation of referred complaints.

Subpart D—Procedures for Enforcement of Complaints

105.31 Investigations.
105.32 Systemic processing.
105.33 Accelerated processing.
105.34 Rapid response processing.
105.35 Access to information.
105.36 Cooperation with Federal, State and local agencies.
105.37 Subpoenas, interrogatories and investigative powers.
105.41 Settlement of complaints during investigatory process.
105.45 Notification of right to file civil action.

Subpart E—Determinations

105.50 Determination to dismiss a complaint.
105.55 Determination to resolve a complaint.

Subpart F—Informal Endeavors to Eliminate or Correct Discriminatory Housing Practices

105.60 General.
105.61 Access to information gathered in investigations.
105.65 Objectives of conciliation.
105.67 Types of relief for complainants.
105.70 Types of provisions for the public interest.
105.73 Inability to obtain voluntary compliance.
105.74 Notification where voluntary compliance is not obtained.
105.75 Confidentiality of conciliation conferences.
105.76 Resolution of complaints.
105.77 Review of compliance.
105.80 Other action by the Assistant Secretary.
Appendix—List of Department of Housing and Urban Development Regional and Field Offices and Jurisdictional Areas.

Authority: Title VIII, Civil Rights Act of 1968, 42 U.S.C. 3601–3619; section 7(d), Department of HUD Act, 42 U.S.C. 3535(d).

§ 105.1 Purpose.

(a) The regulations set forth in this part contain the procedures established by the Assistant Secretary for Fair Housing and Equal Opportunity in the Department of Housing and Urban Development for carrying out his or her responsibility with respect to any complaint filed with the Department under section 810 of the Fair Housing Act.

(b) Where a person charged with a discriminatory housing practice in a complaint filed under section 810 of the Fair Housing Act is also prohibited from engaging in similar practices under Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d–2000d–5, or Executive Order 11063 of November 20, 1962, on Equal Opportunity in Housing (27 FR 11527–30, November 24, 1962) or other applicable law, such person may also be subject to action by the Department of Housing and Urban Development or other Federal agency under the rules, regulations, and procedures prescribed from time to time pursuant to Title VI or Executive Order 11063 or other applicable law.

§ 105.2 Definitions

As used in this part,

(a) "Assistant Secretary" means the Assistant Secretary for Fair Opportunity and Equal Opportunity in the Department of Housing and Urban Development.

(b) "Department" means Department of Housing and Urban Development.

(c) "Discriminatory housing practice" means an act that is unlawful under section 804, 805, or 806 of the Fair Housing Act.

(d) "Dwelling" means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, or any vacant land which is offered for sale or lease for the construction or location thereon of any

such building, structure, or portion thereof.

(e) "Family" includes a single individual.

(f) "Fair Housing Act" means Title VIII of the Civil Rights Act of 1968, as amended, Pub. L. 90–284, 42 U.S.C. 3601–3619.

(g) "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and fiduciaries.

(h) "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or any of the territories and possessions of the United States.

(i) "To rent" includes to lease, to sublease, to let, and otherwise to grant for consideration the right to occupy premises not owned by the occupant.

Subpart B—Complaints

§ 105.11 Submission of information.

(a) The Assistant Secretary will receive information concerning alleged discriminatory housing practices from any person. Where the information constitutes a complaint within the meaning of the Fair Housing Act and this part and is furnished by an aggrieved person (as defined in § 105.12), it shall be deemed filed under § 105.17. Where additional information is required for purposes of perfecting a complaint under the Fair Housing Act, the Department will promptly advise what additional information is needed and will provide appropriate assistance in the filing of such complaint.

(b) If the information disclosed so warrants, appropriate enforcement procedures may be initiated by the Department under E.O. 11063 on Equal Opportunity in Housing or Title VI of the Civil Rights Act of 1964, and the information may also be referred to any other Federal, State or local agency having an interest in the matter.

§ 105.12 Complaints to be filed by an aggrieved person.

Any person who, in the opinion of the Assistant Secretary, is a person who claims to have been injured by a discriminatory housing practice or who believes that he or she will be irrevocably injured by a discriminatory housing practice that is about to occur, within the meaning of section 810 of the Fair Housing Act (hereinafter an "aggrieved person"), may file a complaint no later than 180 days after the alleged discriminatory housing practice occurred. Such complaint may be filed with the assistance of an authorized representative of the aggrieved person, including any organization acting on behalf of the aggrieved person.

§ 105.13 Persons against whom complaints may be filed.

(a) A complaint may be filed against any person alleged to be or have been engaged, or to be about to engage, in a discriminatory housing practice.

(b) Any person who directs or controls, or has the right to direct or control, the conduct of another person with respect to any aspect of the sale, rental, advertising or financing of dwelling or the provision of brokerage services relating to the sale or rental of dwellings is responsible for discriminatory housing practices by such other person.

§ 105.14 Where to file complaints.

Complaints may be filed by mail with Fair Housing, Department of Housing and Urban Development, Washington D.C. 20410, or any Regional or Field Office of the Department. Complaints may also be filed in person at any such office or with any other duly authorized representative of the Assistant Secretary. Generally, complaints will be processed through the Department's Regional Administrator having jurisdiction in the State in which the alleged discriminatory housing practice occurred. Systemic processing of complaints may be done through the Office of the Assistant Secretary. A list of Department Regional Office with their addresses and areas of jurisdiction and of Field Offices and their addresses appears as an appendix to this part.

§ 105.15 Contents of complaints.

Each complaint should contain substantially the following information:

(a) The name and address of the aggrieved person.

(b) The name and address of the person against whom the complaint is filed ("respondent").

(c) A description and the address of the dwelling which is involved, if appropriate.

(d) A concise statement of the facts, including pertinent dates, constituting the alleged discriminatory housing practice.

(The information collection requirements contained in this section were approved by the Office of Management and Budget under control number 2529–0011.)

§ 105.16 Form of Complaint; amendments.

(a) Each complaint shall be in writing and signed, and shall be sworn to before a notary public, or sworn to before a duly authorized representative of the Assistant Secretary. Such attestation may be made at the time of the investigation. The Assistant Secretary has authorized each State and local agency that administers a fair housing law found by the Department to provide rights and remedies which are substantially equivalent to the rights and remedies provided in the Fair Housing Act to accept complaints on behalf of the Department.

(b) The Assistant Secretary may also require complaints to be made on prescribed forms. Complaint forms shall be available to all persons in any Regional or Field Office of the Department or in any authorized State or local agency. Notwithstanding the use of the prescribed form, any written statement which substantially sets forth the allegations of a discriminatory housing practice will be accepted as a Fair Housing Act complaint. Appropriate assistance in filling out forms and in filing a complaint will be rendered by personnel in any of such offices.

(c) Complaints may be reasonably and fairly amended at any time. Amendments to complaints including those to cure technical defects or omissions such as failure to verify a complaint, clarification and amplification of allegations in a complaint or the addition of other respondents to a complaint may be made at any time during the pendency of the complaint and any amendment shall be deemed to be made as of the original filing date.

(The information collection requirements contained in paragraph (b) were approved by the Office of Management and Budget under control number 2529–0011.)

§ 105.17 Filing of complaints.

(a) A complaint shall be considered to be filed when it is received in such form as is found reasonably to meet the standards of §§ 105.15 and 105.16. The aggrieved person shall be notified of the date of filing and of his right to bring court action under sections 810 and 812. (See § 105.45 of ths part.

(b) Notwithstanding paragraph (a) of this section, a complaint may be deemed filed, for purposes of the 180-day period for the receipt of complaints by the Department under Section 810(b) of the Fair Housing Act, upon the receipt of written information sufficiently precise to identify the parties and describe generally the action or practice complained of.

(c) Where a complaint involves allegations of a continuing practice made unlawful under the Fair Housing

Act, the complaint shall be deemed timely filed if filed within 180 days of the last alleged occurence of that practice.

§ 105.18 Service of complaint; filing of answers.

Upon the filing of a complaint within the meaning of § 105.17(a), and upon any amendment of such a complaint, a copy thereof shall be furnished the respondent by certified mail or through personal service by Department representatives. The respondent may file an answer to the complaint at any time prior to the expiration of 7 days after the date he or she receives the complaint. The answer shall be sworn to before a notary public or sworn to before a duly authorized representative of the Assistant Secretary. With leave of the Assistant Secretary an answer may be amended at any time and sworn to as provided in this section. The Assistant Secretary will permit answers to be amended whenever he or she believes it would be reasonable and fair to do so.

Subpart C—Referral of Complaints to State and Local Agencies

§ 105.20 Referrals to State or local fair housing agencies.

Whenever the Assistant Secretary has determined pursuant to 24 CFR Part 115 that a State or local fair housing law provides rights and remedies substantially equivalent to those provided by the Fair Housing Act for a discriminatory housing practice alleged by an aggrieved person in a complaint filed with the Assistant Secretary hereunder, the Assistant Secretary shall notify the appropriate State or local agency of such complaint. The Assistant Secretary shall give the complainant and the respondent notice in writing of such referral. Notices under this section shall be by certified mail.

§ 105.21 Suspension of proceedings.

(a) When a fair housing complaint has been referred to a State or local fair housing agency pursuant to § 105.20, proceedings under this part for the Fair Housing Act shall be suspended and no further action shall be taken by the Assistant Secretary hereunder except as provided in § 105.22.

(b) Notwithstanding the referral of the Fair Housing Act complaint the Assistant Secretary may take appropriate action to review or investigate matters in a complaint which raise issues cognizable under other civil Rights authorities applicable to Departmental programs such as Title VI of the Civil rights Act of 1964 and Executive Order 11063.

§ 105.22 Reactivation of referred complaints.

(a) Whenever proceedings have been suspended pursuant to § 105.21, the Assistant Secretary may reactivate the case if he or she certifies that in his or her judgment the protection of the rights of the parties or the interests of justice require such action.

(b) As a matter of policy, such certification shall be made routinely:

(1) When the State or local agency has not commenced an investigation within 30 days following the referral of the complaint to it, or having commenced action, fails to carry such proceedings forth with reasonable promptness within the judgment of the Assistant Secretary. The Assistant Secretary will, in particular, consider reactivation of complaints in which the investigation has not been completed within sixty (60) days, or the agency has not completed conciliation efforts or begun other enforcement proceedings, as appropriate, within ninety (90) days; or

(2) Where upon completion of State or local processing the complaint has not been resolved to the satisfaction of the Assistant Secretary and the applicable State or local law fails to provide access to a State or local court.

Subpart D—Procedures for Enforcement of Complaints

§ 105.31 Investigations.

Generally, the purposes of an investigation of a complaint under the Fair Housing Act are:

(a) To obtain oral and documentary information concerning the events or transactions that are involved in the alleged discriminatory housing practice identified in the complaint.

(b) To document policies or practices of the respondent involved in the alleged discriminatory housing practice raised in the complaint.

(c) To develop factual data necessary for the Assistant Secretary to make a determination as to whether to attempt to eliminate or correct the alleged discriminatory housing practice by the informal methods of conference, conciliation and persuasion, or to initiate other enforcement actions provided for in § 105.80 of this Part, including referral of the matter to the Department of Justice for the consideration of the initiation of civil or criminal actions provided under the Fair Housing Act.

§ 105.32 Systemic processing.

Where the Assistant Secretary determines that the alleged discriminatory practices in a complaint are pervasive or institutional in nature or that the processing of the complaint will involve complex issues, novel questions of fact or law or will impact on a large number of persons, the complaint may be identified for systemic processing. This determination can be based on the face of the complaint or on information gathered in connection with an investigation. Systemic investigations can focus not only on documenting facts involved in the alleged discriminatory housing practice which is the subject of the complaint but also on compliance with Fair Housing Act requirements related to matters under investigation.

§ 105.33 Accelerated processing.

(a) Complaints regarding the rental of a dwelling which do not present complex factual issues or do not involve a respondent with a substantial number of dwellings may be investigated on an accelerated basis. Generally, complaints designated for accelerated processing will involve only situations in which the dwelling sought is available, the respondent owns, controls or manages fewer than 25 dwellings, and the complainant and respondent agree to such processing and the waiver of the provisions of § 105.18 of this Part relating to the filing of answers.

(b) Upon service of the complaint on the respondent the investigation of matters shall be commenced immediately and to the extent possible the investigatory process shall be concluded within two working days.

(c) Where accelerated processing fails to result in informal resolution pursuant to Subpart F of the Part, the complaint can be investigated further under §§ 105.31 or 105.32 of this Part.

§ 105.34 Rapid response processing.

(a) Where an aggrieved person asserts an alleged discriminatory housing practice involving a dwelling which continues to be available and the complainant is interested only in obtaining the dwelling the Assistant Secretary may designate the matter for rapid response processing prior to assigning the complaint for investigation under § 105.31 or 105.32. Generally, rapid response processing will not be used where the respondent owns, manages or controls more than 25 dwelling units.

(b) If the respondent and the aggrieved person agree to rapid response processing a fact finding conference shall be scheduled as soon as feasible after the expiration of the seven day period for the filing of an answer to the complaint.

(c) In addition to a discussion of the allegations involved in the complaint

and matters raised in answer thereto, the Department will provide the aggrieved person and the respondent an opportunity to negotiate a resolution. These efforts to resolve the matter shall not be considered part of the Department processing of a complaint and will not be made public by the Department or used in an investigation.

(d) Where the aggrieved person and the respondent agree to a remedy proposed at this conference the Department will consider the complaint as resolved and shall take no further action on matters raised in the individual complaint. Since the remedy in such cases is primarily limited to the offer and acceptance of a dwelling a written agreement need not be used. However, the Department will not close a case until the remedy agreed upon has been provided.

(e) Complaints which are not settled through rapid response processing may be subject to further investigation under § 105.31 or 105.32 of this Part.

§ 105.35 Access to information.

Pursuant to section 811(a) of the Fair Housing Act the Assistant Secretary, in conducting investigations under this Part, shall be provided access at all reasonable times to premises, records, documents, individuals, and other possible sources of evidence. The Assistant Secretary may also examine, record and copy such materials and take and record the testimony or statements of such persons as are reasonably necessary for the furtherance of an investigation.

§ 105.36 Cooperation with Federal, State and local agencies.

The Assistant Secretary, in processing Fair Housing Act complaints, may seek the cooperation and utilize the services of State and local agencies administering fair housing laws or ordinances and other appropriate Federal agencies.

§ 105.37 Subpoenas, interrogatories and investigative powers.

(a) The Assistant Secretary will seek voluntary cooperation of all persons in investigations under the part but will resort to the formal investigatory techniques under section 811 of the Fair Housing Act when, in his or her judgment, they are appropriate in order reasonably to expedite handling of complaints. Section 811 provides for the issuance and use of subpoenas by the Assistant Secretary on his or her own behalf or on behalf of a respondent, and the issuance and use by the Assistant Secretary of interrogatories to a respondent.

(b) The legality of each such issuance shall be approved by the General Counsel of the Department or his designee.

(c) Payment of witness and mileage fees shall be made as provided for in section 811(c) in an amount allowed under the rules governing such payment by the U.S. district courts. Fees payable to a witness summoned by subpoena issued at the request of a respondent shall be paid by respondent.

§ 105.41 Settlement of complaints during investigatory process.

At appropriate times prior to the issuance of a determination to resolve a complaint under § 105.55 of this part the Assistant Secretary may encourage and facilitate the settlement of matters raised in a complaint on terms that are agreeable to the person aggrieved and the respondent. Such settlements shall be reduced to writing and signed by the person aggrieved and the respondent. Upon execution the settlement shall be considered as constituting a withdrawal of the complaint and the Assistant Secretary shall take no further action on matters resolved under the agreement. Nothing in negotiated settlements shall be deemed as a determination by the Assistant Secretary on the merits of the complaint and shall not affect the processing of any other complaints or the referral of matters to the Department of Justice for review pursuant to § 105.80 of this part.

§ 105.45 Notification of right to file civil action.

(a) The Assistant Secretary shall notify all parties in Fair Housing Act complaints in writing of the availability of a civil action under section 810(d) and section 812 of the Fair Housing Act.

(b) In acknowledging receipt of allegations of discriminatory housing practices the Assistant Secretary shall notify the aggrieved person that under section 810(d) of the Fair Housing Act if the Assistant Secretary has been unable to obtain voluntary compliance within 30 days after the filing of a complaint the aggrieved person may file a civil action within 30 days thereafter. The notification will advise the aggrieved person that the failure to file suit within that 60 day time may result in the loss of the right to file suit under section 810(d). In addition, the aggrtieved person will be advised of his or her right to commence a civil action under section 812 in an appropriate U.S. District Court within 180 days of the last occurrence of a discriminatory housing practice.

(c) Whenever a Fair Housing Act complaint, referred to a State or local agency under § 105.20, is reactivated by the Assistant Secretary pursuant to § 105.22, the Assistant Secretary in notifying the aggrieved person of the Department's reactivation, shall advise the aggrieved person that under section 810(d) if the Assistant Secretary is unable to obtain voluntary compliance within 30 days of the date of reactivation, a civil action may be commenced within 30 days thereafter. The notice will advise the aggrieved person that the failure to file suit within that 60 day time limit may result in the loss of the right to file suit under section 810(d). In addition, the aggrieved person will be advised of his or her right to commence a civil action under section 812 in an appropriate U.S. District Court within 180 days of the last occurrence of a discriminatory housing practice.

(d) Thirty days after the receipt of a complaint which the Department is processing or thirty days after the reactivation of a complaint which had been referred to a State or local agency for processing, the Assistant Secretary shall notify the aggrieved person in writing of his or her right to file suit under section 810(d) within 30 days. The aggrieved person also will be advised of his or her right to commence a civil action under section 812 in an appropriate U.S. District Court within 180 days of the last occurrence of a discriminatory housing practice.

Subpart E—Determinations

§ 105.50 Determination to dismiss a complaint.

(a) Where the allegations of a complaint on their face, or as amplified by an investigation of the complainant, disclose that the complaint is not timely filed or otherwise fails to state a valid claim for relief under the Fair Housing Act, the Assistant Secretary may dismiss the complaint without further action.

(b) If the Assistant Secretary decides to dismiss a complaint under paragraph (a) of this section, he or she shall advise the aggrieved person in writing of the disposition of the case. The respondent shall also be notified in any case where he or she has been served with a copy of the complaint.

(c) Any party adversely affected by a determination under this section may, within 5 days of receipt of notice of a determination, request that the Assistant Secretary reconsider this action. Such request for reconsideration will be granted only on the basis of additional material evidence not previously available to the party requesting reconsideration or for other good cause shown.

§ 105.55 Determination to resolve a complaint.

(a) Within 30 days after a complaint is filed or within 30 days after reactivation by the Assistant Secretary in the case of a complaint referred to a State or local agency and subsequently reactivated pursuant to § 105.22, the Assistant Secretary shall investigate the complaint and give notice in writing to the aggrieved person and to the respondent if the Assistant Secretary intends to take further action with respect to the complaint.

(b) A determination to resolve can be make if analysis of the facts developed in the investigation results in a conclusion that, more likey than not, race, color, religion, sex, or national origin is a factor in an injury to the aggrieved person which has occurred or is about to occur for which the respondent was responsible.

(c) Where the Assistant Secretary, based on the analysis of the facts developed in the investigation, decides not to proceed further in a case, he or she shall notify the aggrieved person and the respondent of the determination not to resolve the complaint. Any party adversely affected by such a determination may, within 5 days of receipt of the notice of determination not to resolve the complaint, request the Assistant Secretary for reconsideration of the action.

Subpart F—Informal Endeavors to Eliminate or Correct Discriminatory Housing Practices

§ 105.60 General.

(a) When the Assistant Secretary has decided to resolve a complaint pursuant to section 810(a) of the Fair Housing Act, he or she shall proceed to try to eliminate or correct the alleged discriminatory housing practice by informal methods of conference, conciliation, and persuasion.

(b) Informal endeavors by the Assistant Secretary need not be terminated even if the aggrieved person has commenced a civil action in an appropriate court under the Fair Housing Act, but all efforts to obtain compliance by voluntary means shall immediately terminate when such civil action comes to trial, unless the court specifically requests assistance from the Assistant Secretary.

§ 105.61 Access to information gathered in investigations.

(a) No information contained in a complaint or developed in connection with an investigation of the Assistant Secretary shall be made matters of public information during the pendency of a Fair Housing Act complaint before the Department. This provision does not apply to disclosures of information or reports to the aggrieved person, the respondent and their representatives or witnesses where the Assistant Secretary deems such disclosure necessary for securing appropriate relief.

(b) This provision does not apply to disclosures to representatives of interested Federal, State, and local authorities as may be appropriate or necessary to the carrying out of their responsibilities for the administration and enforcement of civil rights requirements, nor to the publication of data derived from such information in a form which does not reveal the identity of aggrieved persons, respondents, or persons supplying the information.

(c) The Final Investigative Report of the Assistant Secretary shall be made available, upon request, to the aggrieved person or the respondent during the continuing processing of the complaint before the Department or thereafter.

§ 105.65 Objectives of conciliation.

In conciliating a complaint, the Assistant Secretary shall attempt to achieve a just resolution of the complaint and to obtain assurances, where appropriate, that the respondent will satisfactorily remedy any violations of the rights of the aggrieved person and will take such action as will assure the elimination of discriminatory housing practices or the prevention of their occurrence in the future. The terms of such settlement shall be reduced to a written conciliation agreement, signed by the aggrieved person and respondent, and for the Secretary of Housing and Urban Department by the Assistant Secretary for Fair Housing and Equal Opportunity or his or her representative. Such conciliation agreement shall seek to protect the interests of the complainant, other persons similarly situated, and the public interest.

§ 105.67 Types of relief for complainants.

The following are types of remedies that may be sught, as appropriate, for a complainant in conciliation.

(a) Monetary relief, which may include one or more of the following:

(1) Actual damages, including damages caused by humiliation or embarrassment.

(2) Attorney fees.

(b) Other make whole relief to the aggrieved person which may include one or more of the following where they are within the control of the respondent:

(1) The dwelling at issue.

(2) A comparable dwelling.

(3) The provision of services or facilities in connecton with a dwelling.

(4) Other specific relief.

(c) Injunctive relief appropriate to the elimination of discriminatory housing practices affecting the complainant.

§ 105.70 Types of provisions for the public interest.

The following are types of provisions that will be sought as appropriate, for the public interest.

(a) Elimination of discriminatory housing practices.

(b) Prevention of future discriminatory housing practices.

(c) Affirmative activities.

(d) Reporting requirements.

(e) Monitoring and enforcement activities.

§ 105.73 Inability to obtain voluntary compliance.

Should a respondent fail or refuse to confer with the Assistant Secretary or his representative, or should an aggrieved person or a respondent fail or refuse to make a good faith effort to resolve any dispute, or should the Assistant Secretary find for any other reason that voluntary agreement is not likely to result, the Assistant Secetary may terminate his or her efforts to conciliate the dispute.

§ 105.74 Notification where voluntary compliance is not obtained.

The aggrieved person and the respondent shall be notified in writing by registered or certified mail when the Assistant Secretary has determined that he is unable to obtain voluntary compliance through informal methods of conference, conciliation, or persuasion and the aggrieved person shall be notified of his or her legal right to file a civil action under section 810(d) and section 812 of the Fair Housing Act.

§ 105.75 Confidentiality of conciliation conferences.

(a) Once the Assistant Secretary had decided to resolve a complaint and the person aggrieved and respondent have agreed to participate in informal endeavors by the Assistant Secretary for such purposes, nothing that is said or done in the course of informal endeavors may be made public, or used as evidence in a subsequent proceeding under Title VIII, without the written consent of the persons concerned.

(b) Any employee of the Secretary who shall make public information relating to informal endeavors under this action shall be subject to the penalties enumerated in section 810(a) of the Fair Housing Act.

(c) This section shall not be construed to prevent the Assistant Secretary from disclosing the results of his or her

informal endeavors including publishing any conciliation agreement.

§ 105.76 Resolution of complaints.

(a) A conciliation agreement will be executed if:

(1) An aggrieved person and the respondent agree to the relief accorded the aggrieved person; and

(2) The Department and the respondent agree to the previsions vindicating the public interest. Such provisions will contain affirmative activities clearly necessary to protect the public interest.

(b) A conciliation agreement may not be executed if:

(1) The aggrieved person and the respondent do not agree on relief to be accorded the aggrieved person; or

(2) The Department and the respondent do not agree on provisions vindicating the public interest.

If failure to agree on the public interest provisions is the reason for not executing the agreement, the aggrieved person and the respondent shall be advised that they are free to reach an agreement among themselves outside of the conciliation process.

§ 105.77 Review of compliance.

The Assistant Secretary may, from time to time, review compliance with the terms of any conciliation agreement. Whenever the Assistant Secretary has reasonable cause to believe that a respondent has failed to comply with a conciliation agreement the Assistant Secretary may take such enforcement action as is provided for under the agreement or as may be appropriate including referral of the matter to the Attorney General with a recommendation for the filing of a civil action in the name of the Secretary of Housing and Urban Development for the enforcement of the terms of the conciliation agreement.

§ 105.80 Other action by the Assistant Secretary.

(a) If voluntary compliance has not been obtained and the Assistant Secretary has terminated efforts at conciliation in a case where after evaluation of the investigation the evidence on balance indicates there has been a discriminatory housing practice, the Assistant Secretary may pursue one or more of the following courses of action:

(1) Recommend to the Attorney General of the United States that he institute a civil action under section 813 of the Fair Housing Act for relief against a pattern or practice of resistance to the full enjoyment of any of the rights granted by the Act or a denial of rights under the Act to a group of persons raising an issue of general public importance.

(2) Refer the matter to the Attorney General for such other action as he or she may deem appropriate.

(3) Take appropriate steps to initiate proceedings leading to the debarment of the respondent from participation in HUD programs and activities pursuant to Part 24 of this Title.

(4) Pursuant to 24 CFR Part 1 issue a letter of apparent noncompliance with Title VI of the Civil Rights Act of 1964 or pursuant to 24 CFR Part 107 issue a letter of possible noncompliance with Executive Order 11063.

(5) Inform any other Federal agency appearing to have an interest in the enforcement of respondent's obligations with respect to nondiscrimination in housing.

(b) This Section shall not preclude:

(1) The referral of any matter to the Attorney General at any time where the Assistant Secretary determines that a complaint may involve a pattern or practice of discriminatory conduct or a denial of rights raising an issue of general public importance; or

(2) The initiation at any time of activity leading to the imposition of administrative sanctions where the Assistant Secretary determines that such action is necessary to the effective operation and administration of Federal programs or activities including supervision and exercise of regulatory responsibility.

Dated: September 18, 1984.

Antonio Monroig,

Assistant Secretary for Fair Housing and Equal Opportunity.

Appendix—List of Department of Housing and Urban Development Regional Offices and Jurisdictional Areas and Field Offices

1. Regional Offices

Region	Address	Jurisdictional area
I	Room 800 John F. Kennelh Federal Bldg., Boston, MA 02203-0801.	Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont.
II	26 Federal Plaza, New York, NY 10007-0068.	New Jersey, New York, Puerto Rico, Virgin Islands.
III	Curtis Bldg., Sixth and Walnut Sts., Philadelphia, PA 19106-3392.	Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia.
IV	Richard B. Russell Federal Bldg., 75 Spring St., SW., Atlanta, GA 30303-3109.	Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee.
V	300 South Wacker Dr., Chicago, IL 60606-6765.	Illinois, Indiana, Minnesota, Michigan, Ohio, Wisconsin.
VI	221 W. Lancaster, P.O. Box 2905, Fort Worth, TX 76113-2905.	Arkansas, Louisiana, New Mexico, Oklahoma, Texas.
VII	Professional Bldg., 1103 Grand Ave., Kansas City, MO 64106-2496.	Iowa, Kansas, Missouri, Nebraska.
VIII	Executive Tower Bldg., 1405 Curtis St., Denver, CO 80202-2349.	Colorado, Montana, North Dakota, South Dakota Utah, Wyoming.
IX	450 Golden Gate Ave., Post Office Box 36003, San Francisco, CA 94102-3448.	Arizona, California, Hawaii, Nevada, Guam, American Samoa.
X	Arcade Plaza Bldg., 1321 Second Ave., Seattle, WA 98101-2054.	Alaska, Idaho, Oregon, Washington.

2. HUD Field Office Addresses

Alabama

Birmingham Office, Daniel Building, 15 South 20th Street, Birmingham, Alabama 35233–2096

Alaska

Anchorage Office, 701 "C" Street, Box 64, Anchorage, Alaska 99513–0001

Arizona

Phoenix Office, Arizona Bank Building, 101 North First Avenue, Suite 1800, Post Office Box 13468, Phoenix, Arizona 85002–3468

Tucson Office, Arizona Bank Building, 33 North Stone Avenue, Suite 1450, Tucson, Arizona 85701–1467

Arkansas

Little Rock Office, Savers Building, 320 West Capitol, Suite 700, Little Rock, Arkansas 72201–3523

California

Fresno Office, 1315 Van Ness Street, Suite 200, Fresno, California 93721–1775

Los Angeles Office, 2500 Wilshire Boulevard, Los Angeles, California 90057–4361

Sacramento Office, 545 Downtown Plaza, Suite 250, Post Office Box 1978, Sacramento, California 95809–1978

San Diego Office, Federal Office Building, 880 Front Street, San Diego, California 92188–0100

Santa Ana Office, 34 Civic Center Plaza, Box 12850, Santa Ana California 92712–2850

Caribbean Office

Federico Degetau Federal Building, U.S. Courthouse, Room 428, Carlos E. Chardon Avenue, Hato Rey, Puerto Rico 00918–2276

Connecticut

Hartford Office, One Hartford Square West, Hartford, Connecticut 06104–2943

Delaware

Wilmington Office, IBM Building, 800 Delaware Avenue, Suite 101, Wilmington, Delaware 19801–1387

District of Columbia

Washington, D.C. Office, Universal North Building, 1875 Connecticut Avenue, NW., Washington, D.C. 20009–5768

Florida

Coral Gables Office, Gables 1 Tower, 1320 South Dixie Highway, Coral Gables, Florida 33146–2911
Jacksonville Office, 325 West Adams Street, Jacksonville, Florida 32202–4303
Orlando Office, Federal Office Building, 80 North Hughey, Orlando, Florida 32801–2226
Tampa Office, 700 Twiggs Street, Post Office Box 2097, Tampa, Florida 33601–4017

Hawaii

Honolulu Office, 300 Ala Moana Boulevard, Post Office Box 50007, Honolulu, Hawaii 96813–4991

Idaho

Boise Office, Federal Building—U.S. Courthouse, Post Office Box 042, 550 West Fort Street, Boise, Idaho 83724–0420

Illinois

Springfield Office, 524 S. Second Street, Room 600, Springfield, IL 62701–1774

Indiana

Indianapolis Office, 151 North Delaware Street, Indianapolis, Indiana 46204–2526

Iowa

Des Moines Office, Federal Building, 210 Walnut Street, Room 259, Des Moines, Iowa 50309–2155

Kansas

Topeka Office, 444 S.E. Quincy Street, Room 297, Topeka, Kansas 66683–3588

Kentucky

Louisville Office, 539 Fourth Avenue, Post Office Box 1044, Louisville, Kentucky 40201–1044

Louisiana

New Orleans Office, 1661 Canal Street, New Orleans, LA 70112–2887
Shreveport Office, New Federal Building, 500 Fannin, Street, Shreveport, Louisiana 71101–3077

Maine

Bangor Office, U.S. Federal & P.O. Bldg., 202 Harlow Street, Bangor, Maine 04401–1357

Maryland

Baltimore Office, The Equitable Building, 3rd Floor, 10 N. Calvert Street, Baltimore, Maryland 21202–1865

Michigan

Detroit Office, Patrick V. McNamara Federal Building, 477 Michigan Ave., Detroit, Michigan 48226–2592
Flint Office, Genessee Bank Bldg., Rm. 200, 352 S. Saginaw St., Flint, MI 48502–1953
Grand Rapids Office, 2922 Fuller Avenue, NE., Grand Rapids, Michigan 49505–3409

Minnesota

Minneapolis-St.Paul Office, 220 Second Street, South Minneapolis, Minnesota 55401–2195

Mississippi

Jackson Office, Federal Building, Suite 1016, 100 West Capital Street, Jackson, Mississippi 39269–1016

Missouri

St. Louis Office, 210 North Tucker Boulevard, St. Louis, Missouri 63101–1997

Montana

Helena Office, Federal Office Building Drawer 10095, 301 S. Park, Room 340, Helena, Montana 59626–0095

Nebraska

Omaha Office, Braiker/Brandeis Building, 210 South 16th Street, Omaha, Nebraska 68102–1622

Nevada

Las Vegas Office, 720 S. 7th St., Suite 221, Las Vegas, Nevada 89101–6930
Reno Office, 1050 Bible Way, P.O. Box 4700, Reno, Nevada 89505–4700

New Hampshire

Manchester Office, Norris Cotton Federal Bldg., 275 Chestnut Street, Manchester, N.H. 03101–2487

New Jersey

Camden Office, The Parkside Building, 519 Federal Street, Camden, New Jersey 08103–9998
Newark Office, Millary Park Building, 60 Park Place, Newark, New Jersey 07102–5504

New Mexico

Albuquerque Office, 625 Truman Street, NE., Albuquerque, N.M. 87110–6443

New York

Albany Office, Leo W. O'Brien Federal Bldg., N. Pearl St. and Clifton Ave., Albany, N.Y. 12207–2395
Buffalo Office, Mezzanine, Statler Bldg., 107 Delaware Avenue, Buffalo, N.Y. 14202–2986

North Carolina

Greensboro Office, 415 North Edgeworth Street, Greensboro, N.C. 27401–2107

North Dakota

Fargo Office, Fed. Bldg., P.O. Box 2483, 653 2nd Ave., N. Fargo, North Dakota 58102–4701

Ohio

Cincinnati Office, Federal Office Bldg., Rm 9002, 550 Main Street, Cincinnati, Ohio 45202–3253
Cleveland Office, 777 Rockwell Ave., 2nd Floor, Cleveland, Ohio 44114–1670
Columbus Office, 200 North High Street, Columbus, Ohio 43215–2499

Oklahoma

Oklahoma City Office, Murrah Federal Building, 200 NW. 5th Street, Oklahoma City, Oklahoma 73102–3202
Tulsa Office, 100 N. Main Street, 28th Floor, Robert S. Kerr Building, 440 S. Houston Ave., Room 200, Tulsa, Oklahoma 74127–8923

Oregon

Portland Office, 520 Southwest Sixth Avenue, Portland, Oregon 97204–1596

Pennsylvania

Pittsburgh Office, Fort Pitt Commons, 445 Fort Pitt Boulevard, Pittsburgh, PA 15219–1361

Rhode Island

Providence Office, 330 John O. Pastore Federal Bldg., & U.S. Post Office—Kennedy Plaza, Providence, R.I. 02903–1745

South Carolina

Columbia Office, Strom Thurmond Federal Bldg., 1835–45 Assembly Street, Columbia, S.C. 29201–2480

South Dakota

Sioux Falls Office, 119 Federal Building, U.S. Courthouse, 400 S. Phillips Street, Sioux Falls, S.D. 57102–0983

Tennessee

Knoxville Office, 1 Northshore Bldg., 1111 NorthShore Drive, Knoxville, Tennessee 37919–4090
Memphis Office, 100 N. Main Street, 28th Floor, Memphis, Tennessee 37919–4090

Nashville Office, 1 Commerce Place, Suite 1600, Nashville, TN 37239–37239–1600

Texas

Dallas Office, 1403 Slocum Street, Post Office Box 10050, Dallas, Texas 75207–0050

Houston Office, 2 Greenway Plaza E., Suite 200, Houston, Texas 77046–0294

Lubbock Office, Federal Office Building, 1205 Texas Avenue, Lubbock, Texas 79401–4001

San Antonio Office, Washington Square, 800 Dolorosa, P.O. Box 9163, San Antonio, Texas 78285–3301

Utah

Salt Lake City Office, 125 South State Street, Salt Lake City, Utah 84138–1102

Vermont

Burlington Office, 110 Main Street, Fairchild Square, Burlington, Vermont 05402–0989

Virginia

Richmond Office, 701 East Franklin Street, Richmond, Virginia 23219–2591

Washington

Spokane Office, West 920 Riverside Avenue, Spokane, Washington 99201–1075

West Virginia

Charleston Office, Kanawha Valley Building, Capitol and Lee Streets, Charleston, West Virginia 25301–1794

Wisconsin

Milwaukee Office, Henry S. Reuss Federal Plaza, 310 West Wisconsin Avenue, Suite 1380, Milwaukee, Wisconsin 53203–2290

Wyoming

Casper Office, 5225 Federal Office Building, P.O. Box 580, 100 East B Street, Casper, Wyoming 82601–1918

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Part III

Environmental Protection Agency

40 CFR Part 60

Standards of Performance for New Stationary Sources; Surface Coating of Metal Furniture; Proposed Rule

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-2644-4]

Standards of Performance for New Stationary Sources; Surface Coating of Metal Furniture

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed revision.

SUMMARY: The standard of performance that EPA promulgated under Section 111 of the Clean Air Act for new, modified, and reconstructed facilities engaged in the surface coating of metal furniture (40 CFR 60.310, Subpart EE) has been reviewed to determine if small metal furniture coating facilities should be exempt from the standard. On the basis of this review, EPA proposes to exempt small metal furniture coating facilities using less than 3,842 liters (1,000 gallons) of coating per year from the provisions of the standard.

If requested, a public hearing will be held to provide interested parties an opportunity for oral presentations of data, views, or arguments concerning the proposed revision.

DATES: *Comments.* Comments must be received on or before December 10, 1984.

Public Hearing. If anyone contacts EPA requesting to speak at a public hearing by October 31, 1984, a public hearing will be held on November 7, 1984 beginning at 10:00 a.m. Persons interested in attending the hearing should call Ms. Shelby Journigan at (919) 541-5578 to verify that a hearing will be held.

Request to Speak at Hearing. Persons wishing to present oral testimony must contact EPA by October 31, 1984.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate if possible) to: Central Docket Section (LE-131), Attention Docket Number A-84-15, U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460.

Public Hearing. If anyone contacts EPA requesting a public hearing, it will be held at EPA's Office of Administration Auditorium, Research Triangle Park, North Carolina. Persons interested in attending the hearing or wishing to present oral testimony should notify Ms. Shelby Journigan, Standards Development Branch (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5578.

Background Information Document. In preparing this revision, EPA is relying partly on the background information documents (BID's) for the metal furniture surface coating standards proposed on November 28, 1980 (45 FR 79390) and promulgated on October 28, 1982 (47 FR 49278). These documents may be obtained from the U.S. EPA Library (MD-35), Research Triangle Park, North Carolina 27711, telephone number (919) 541-2777. Please refer to "Surface Coating of Metal Furniture—Background Information for Proposed Standards" (EPA-450/3-80-007a). The BID for the promulgated standard is EPA-450/3-80-007b.

Docket. Docket No. A-84-15, containing supporting information used in developing the proposed revision, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street SW, Washington, D.C. 20460. A reasonable fee may be charged for copying.

Docket A-79-47 containing information considered by EPA in development of the promulgated standards is also available for public inspection at the above address. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. C. Douglas Bell, (919) 541-5624, Standards Development Branch, concerning regulatory decisions and the standard, and Mr. James Berry, (919) 541-5605, Chemicals and Petroleum Branch, concerning technical aspects of the industry. The address for both parties is Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5624.

SUPPLEMENTARY INFORMATION:

Background

On October 28, 1982, EPA promulgated standards of performance under Section 111 of the Clean Air Act for new, modified, and reconstructed facilities engaged in the surface coating of metal furniture [40 CFR 60.310 et seq. (Subpart EE)]. When the NSPS for surface coating of metal furniture was developed, the possibility of a cutoff level based on amount of coating used or the capacity of the coating line (a minimum size coating line for which the standard would be applicable) was considered. Although EPA was not aware of small operations in the United States that should have been exempted, comments on this issue specifically were requested. However, none were received and no information was available to EPA indicating the possible need for a lower size cutoff. Consequently, the standard was promulgated in 1982 without a cutoff level.

Subsequent to promulgation, the San Diego Air Pollution Control District (SDAPCD) expressed concern about a number of small local metal furniture coating operations that are exempt under the SDAPCD regulations but are subject to the new source performance standard (NSPS). A survey, conducted by the SDAPCD, indicates that at least 43 small metal furniture coating operations are located in San Diego County. The number that actually commenced construction after the date of proposal (November 28, 1980) and, therefore, the number subject to the NSPS as new sources is not known. However, small but undetermined number would be affected.

An affected facility is defined in the NSPS as "each metal furniture surface coating operation in which organic coatings are applied." Surface coating operation is further defined as "the system on a metal furniture surface coating line used to apply and dry or cure an organic coating on the surface of the metal furniture part or product. The surface coating operation may be a prime coat or a top coat operation and includes the coating application station(s), flash-off area, and curing oven."

The majority of the 43 small operations located in San Diego County meet the definition of a metal furniture surface coating operation.

These operations appear to use relatively low-cost, unsophisticated equipment. For example, of the 43 small operations identified in the SDAPCD survey, 39 use some type of application booth and 36 apply coating using air-spray technology. Only 7 operations cure their coatings in an oven, implying that only 7 use any of the more efficient spray application systems. Annual coating usage per facility averages approximately 1,100 liters (290 gallons), with a range of 190 to 2,200 liters (50 to 580 gallons). In addition, each facility annually uses approximately 590 liters (150 gallons) of solvent for thinner, reducing agent, or cleanup. Solvent usage per facility ranges from 180 to 2,200 liters (48 to 580 gallons). These facilities coat an average of 2,700 pieces per year ranging from 4 to 25,000 pieces.

The operations at these 43 facilities coat the spectrum of metal furniture products included in the NSPS. While some of these operations use coatings

that are exempted under the standard (e.g., powder coatings), a small but undetermined number would be subject to the standard if they were new, modified, or reconstructed. The San Diego APCD's rule 67.3 currently exempts small metal furniture coating operations that (1) use 1 gallon or less per day of applied coating, (2) emit not more than 10 lb of VOC per day, or (3) do not use more than 50 gallons annually at an individual source. The San Diego APCD has recommended that facilities exempted under the District's provisions also be exempted from the NSPS.

Analysis of the survey data provided by SDAPCD reveals two characteristics of these small furniture surface coating operations: (1) The low quantity of coating applied and (2) the batch nature of the operations. Currently, no data are available on the nationwide population of similar small operations. However, the San Diego data suggest that a number of such operations may exist throughout the country. Consequently, comments are requested on the number and location of similar small metal furniture coating operations.

Rational for Establishing Proposed Cutoff

During development of the background information for the NSPS, economic and other impacts of the standard were analyzed for several sizes of model plants (EPA–450/3–80–007a). Annual coating consumption was selected as the basis for determining size categories. The smallest plant analyzed used 3,842 liters (1,000 gallons) per year. The EPA's analysis, which is detailed in the proposed BID, showed that complying coatings and appropriate application equipment are available at reasonable cost for this and larger plant sizes. It did not demonstrate specifically that emission control technology is available at reasonable cost for smaller plants.

Because EPA has not thoroughly analyzed whether the existing standards reflect application of the best technology that is demonstrated (considering cost) for use at facilities using less than 3,842 liters (1,000 gallons) of coating annually, EPA proposes that those small operations be exempt from the NSPS. This cutoff level is consistent with the model plant data and the analyses on which the existing standard is based and therefore will limit the applicability of the standard to that category of facilities which the standard was intended to cover (i.e., facilities using at least 3,842 liters of coating per year). EPA believes that the cutoff at 3,842 liters (1,000 gallons) will serve to exempt from the standards the type of small metal furniture coating operations described in the SDAPCD survey.

Preliminary information gathered after promulgation of the standards suggests that the technology is not available for these smaller plants at reasonable cost. As stated previously, all of the operations identified in the SDAPCD survey apply significantly less than 3,842 liters (1,000 gallons) of coating annually. With this low coating usage, coating purchases reportedly are off-the-shelf in small unit quantities. One major coating supplier stated that coating performance needed for metal furniture products is not available in off-the-shelf waterborne coatings sold in retail stores (II–E–2) and two coating suppliers stated that small coating users do not have access to custom-formulated coatings due to lack of consumption (II–E–2) and (II–E–4). Small coating users are predominantly those of the type found in the SDAPCD survey, but could include users that are somewhat larger, ranging in size from 2,200 liters (580 gallons) to approximately 3,842 liters (1,000 gallons) per year. As a result, these small coating users are utilizing general purpose coatings which may not represent best demonstrated technology and which may not be suitable for use with the highly efficient coating application equipment upon which the standards are based. There appears preliminarily to be no basis for concluding that the technology upon which the standard is based is available to these small users. Moreover, it appears there are no means available to small operations for the purchase of complying coatings specifically formulated for metal furniture surface coating operations. As a result, EPA's preliminary information suggests that including small operations in the standard could preclude growth in this segment of the industry because of the difficulty, if not impossibility, of obtaining complying coatings.

Refinishing

SDAPCD also raised the issue of whether refinishing facilities should be exempted from the standard. Many industrial firms periodically refinish metal furniture including recoating, in use at the plant. This can be accomplished in a coating line similar to that used for continuous coating of new metal furniture or by a batch process similar to the small operations reported by San Diego. The costs used in the economic analysis during the development of the standard do not vary according to whether the furniture being coated is new or being refinished. Therefore, consistent with the discussion in the previous section, facilities using at least 3,842 liters (1,000 gallons) of coating per year that refinish metal furniture would continue to be subject to the NSPS because the economic analysis upon which the existing standard is based would indicate that the economic impact is reasonable. If refinishing is done by a small operation, the exemption discussed in the previous section would apply. In other words, small metal furniture coating operations that use less than 3,842 liters (1,000 gallons) of coating annually are exempt, whether they are coating new metal furniture or refinishing metal furniture.

This type of small operation will be investigated further during the 4-year review of the standard scheduled for 1988.

The Administrator specifically invites comments concerning the proposed cutoff for small operations. Any comments submitted on this issue should contain specific information and data pertinent to an evaluation of the magnitude and severity of any adverse impact and suggest alternative courses of action to avoid this impact.

Reporting and Recordkeeping Requirements

Exemption of small metal furniture coating operations from the existing standard will exempt them from the reporting and recordkeeping requirements in the current standards. However, small coating operations that use less than 3,842 liters (1,000 gallons) of coating per year are required to keep records to substantiate their coating usage. These types of records would normally be kept by most, if not all, operators in any event.

Administrative Requirements

Public Hearing

A public hearing will be held, if requested, to discuss the proposed revision in accordance with section 307(d)(5) of the Clean Air Act. Persons wishing to make oral presentations should contact EPA at the address given in the **ADDRESSES** section of this preamble. Oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement with EPA before, during, or within 30 days after the hearing. Written statements should be addressed to the Central Docket Section address given in the **ADDRESSES** section of this preamble.

A verbatim transcript of the hearing and written statements will be available for public inspection and copying during normal working hours at EPA's Central

Docket Section in Washington, D.C. (see **ADDRESSES** section of this preamble).

Docket

The docket is an organized and complete file of all the information submitted to or otherwise considered by EPA in the development of this proposed rulemaking. The principal purposes of the docket are: (1) to allow interested parties to identify and locate documents so that they can effectively participate in the rulemaking process and (2) to serve as the record in case of judicial review (except for interagency review materials [section 307(d)(7)(A)]).

Office of Management and Budget Reviews

Requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* are not applicable because no information collection requirements result from this proposed action.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This proposal action is not major because the proposed action exempts small operations from the existing standard and would result in none of the adverse economic effects set forth in Section 1 of the Order as grounds for finding a regulation to be major. This proposed rule was submitted to the Office of Management and Budget for review as required under Executive Order 12291.

Pursuant to the provisions of 5 U.S.C., 605(b), I hereby certify that this proposed rule, if promulgated, will not have a significant economic impact on small business entities because it exempts certain small entities from the requirements of an existing standard. During development of the background information for the existing standard, the smallest model plant subjected to economic and other impact analyses used 3,842 liters (1,000 gallons) of coating per year. Small coating operations using less than 3, 842 liters (1,000 gallons) of coating annually were not studied during development of the existing standard and therefore are being exempted from the standard.

List of Subjects in 40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Asphalt, Cement industry, Coal, Copper, Electric powerplants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Metallic minerals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel sulfuric acid plants, Waste treatment and disposal, Zinc, tires, Incorporation by reference, Can surface coating, Sulfuric acid plants, Industrial organic chemicals, Organic solvent clearers, Fossil fuel-fired steam generators, Fiberglass insulation, Synthetic fibers.

Dated: October 4, 1984.

William D. Ruckelshaus,

Administrator.

PART 60—[AMENDED]

It is proposed that 40 CFR Part 60 be amended by adding paragraph (c) to § 60.310 as follows.

§ 60.310 Applicability and designation of affected facility.

* * * * *

(c) Any owner or operator of a metal furniture surface coating operation that uses less than 3,842 liters of coating (as applied) per year and keeps purchase or inventory records or other data necessary to substantiate annual coating usage shall be exempted from all other provisions of this subpart. These records shall be maintained at the source for a period of at least 2 years.

* * * * *

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October 16, 1984

Part IV

Environmental Protection Agency

Pulp, Paper, and Paperboard; Point Source Category; Effluent Limitations Guidelines; Notice

Alaska Pulp Corp. (Formerly Alaska Lumber and Pulp Co., Inc.) Sitka, AL and Louisiana-Pacific Corp., Ketchikan, AL; Final Decision To Deny Fundamentally Different Factors Variance Requests; Notice

ENVIRONMENTAL PROTECTION AGENCY

[WH-10-FRL-2689-1]

Pulp, Paper, and Paperboard; Point Source Category; Effluent Limitations Guidelines

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of denial of petition to establish a separate Alaska subcategory.

SUMMARY: EPA is today providing notice that it is denying the petition submitted on behalf of Alaska Lumber and Pulp Co., Inc., Sitka, Alaska (ALP) and Louisiana-Pacific Corporation, Ketchikan, Alaska (LPK) for the establishment of a separate Alaska subcategory in the pulp, paper, and paperboard point source category.

Note.—Alaska Lumber and Pulp Co., Inc., recently changed its name to Alaska Pulp Corporation. In order to maintain consistency with other documents published on this petition, the Agency will continue to refer to this facility as Alaska Lumber and Pulp Co., Inc. or ALP in this notice.

ADDRESSES: Technical information may be obtained by writing to Robert W. Dellinger or Wendy D. Smith, Effluent Guidelines Division (WH–552), EPA, 401 M Street, SW., Washington, D.C. 20460, or by calling (202) 382–7137.

This action is based on the administrative record available for public review during normal business hours at the offices of the Environmental Protection Agency listed below:

Library, Region X, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101, 8:00 am to 4:30 pm; (206) 442–1259

Alaska Operations Office, Environmental Protection Agency, 3200 Hospital Drive, Suite 101, Juneau, Alaska 99801, 8:00 am to 4:30 pm; (907) 586–7610

Environmental Protection Agency, 401 M Street, SW., Room 919A East Tower, Washington, D.C. 20460, 8:00 am to 4:30 pm; (202) 382–7137

Copying machines are available at the EPA offices in Seattle, Washington; Juneau, Alaska; and Washington, D.C. The EPA information regulation [40 CFR Part 2] provides that a reasonable fee may be charged for copying.

The major documents related to this decision are the "Final Decision by the Region X Administrator Regarding the Request for Approval of Alternative Effluent Limitations for Alaska Pulp Corporation and Louisiana-Pacific Corporation Pursuant to 40 CFR Part 125, Subpart D," "Final Analysis of Water Pollution Control Expenditures at Alaska Lumber and Pulp Co., Inc., Sitka, Alaska and Louisiana-Pacific Corporation, Ketchikan, Alaska," and "Response to Comments on the September 16, 1983 Tentative Decision To Deny the Fundamentally Different Factors Variance Requests Submitted by Alaska Lumber and Pulp Co., Inc., Sitka, Alaska and Louisiana-Pacific Corporation, Ketchikan, Alaska." These documents are included in the administrative record or may be obtained free of charge from Wendy Smith at the address listed above.

FOR FURTHER INFORMATION CONTACT: Robert W. Dellinger or Wendy D. Smith at (202) 382–7137.

SUPPLEMENTARY INFORMATION:

Background

On November 19, 1980, ALP and LPK petitioned the EPA to establish a separate subcategory for the Alaskan mills within the pulp, paper, and paperboard point source category. Both facilities are currently within the dissolving sulfite pulp subcategory (40 CFR Part 430, Subpart K). The mills requested that the biochemical oxygen demand (BOD5) limitation be set at 75 pounds/ton (maximum 30-day average) instead of the 46.8 pounds/ton (maximum 30-day average) required by the best practicable control technology currently available (BPT) effluent limitations guidelines. Since the mills also filed fundamentally different factors (FDF) variance requests in March, 1980, the petition for resubcategorization was requested as an alternative form of relief from meeting the nationally-applicable BPT regulations.

The mills based their request for a new subcategory on the following factors: (1) The geographical and topographical location precludes landfilling sludges generated by additional secondary treatment; (2) insufficient energy is currently available to support an incinerator to burn the sludge that cannot be landfilled; the mills would have to obtain power from on outside source or install their own electrical generators; and (3) if excess sludges from additional secondary treatment are burned, SO_2 emissions will increase. Further, the mills' representatives claimed that EPA has the authority to create a subcategory based on non-water quality environmental factors, including energy requirements, and other factors such as geographic location.

In an August 3, 1981 submittal, ALP repeated the above claims and emphasized the lack of an external power source. ALP also added that insufficient construction space was available at the mill site. Finally, ALP included its estimated costs to achieve BPT effluent limitations and stated that since these costs are wholly out of proportion to the model mill costs, ALP is entitled to relief from the nationally-applicable BPT regulations.

Tentative Decision

On September 16, 1983, EPA published a tentative decision to deny the request for a separate Alaska subcategory (see 48 FR 41634). The basis for the tentative decision was that the available information indicated that the factors that exist at ALP and LPK are very similar to the factors that were considered by the Agency when developing the national effluent limitations for the dissolving sulfite pulp subcategory. The comment period closed on December 15, 1983.

Final Decision

Before discussing the final decision, it is appropriate to discuss one general comment. Commenters stated that the EPA did not specify the criteria for determining whether or not a petition for a new subcategory should be granted and that the EPA offered no rationale for its denial of the subcategory request. Further, commenters claimed that the EPA's statements on the subcategory request implied that the criteria for subcategorization are the same as for a FDF variance. They asserted that there was no evidence that the Agency gave adequate attention to the statutory "consideration" factors such as energy and non-water quality environmental impacts and cost in relation to effluent reduction benefits.

EPA disagrees with the comment. The tentative decision plainly stated the criteria for evaluating the mill's request—the factors found in § 304(b) of the Clean Water Act (CWA). Further, the entire administrative record provided the rationale for the tentative decision, not merely the **Federal Register** notice. The record makes clear that EPA considered each of the factors alleged by the mills to warrant a new subcategory.

The criteria for establishing a new subcategory and evaluating a FDF variance request are generally similar; therefore, it is not suprising that the analyses seemed similar. In developing subcategories, EPA considers the factors specified in § 304(b). Similarly, the factors that may be considered fundamentally different are all considerations that appear in § 304(b). In fact, the mills gave the same reasons

for requesting a separate subcategory and a FDF variance.

Under the Agency's regulations, in order to grant a FDF variance request, the factors pertinent to the facility must be: (1) Fundamentally different from those considered by EPA in establishing the national limitations, and (2) must result in either a removal cost wholly out of proportion to the cost considered during development of the national limits or a non-water quality environmental impact fundamentally more adverse than the impact considered during the development of the national limits. In order to resubcategorize, EPA need not find that factors are fundamentally different, wholly out of proportion, or fundamentally more adverse.

Rather, to resubcategorize, EPA would have to find that new factors or new information exist which, if known at the time the national limitations were developed, would have caused EPA to establish a new subcategory. Subcategorization is meant to account for significant differences among plants in an industry—not every difference. This is because the CWA has clearly established a goal of uniform national requirements for similar plants. Thus, the essential inquiry in deciding whether to create a new subcategory is not merely whether there are differences among plants, but whether these differences are significant enough to warrant different effluent limitations.

Our initial review of the petition for resubcategorization led us to conclude that there were no significant differences warranting a new Alaskan mills subcategory. We found that, with one exception, the mills reiterated comments EPA considered during the 1976 BPT rulemaking, raising old issues and submitting no new data. At that time, EPA examined unavailability of land to landfill wastewater sludges and the alternative technology of incineration of sludges. The Agency concluded that, even if the mills incurred the increased costs of sludge incineration, no adverse economic impacts would result. Additionally, EPA concluded that the effluent readuction benefits that would result from removing the pollutants contained in paper industry wastewaters more than compensated for the additional energy usage and air pollution that would result from burning wastewater threatment sludges.

After the BPT regulations were promulgated, representatives of the dissolving sulfite pulp subcategory petitiond for judicial review. The Court of Appeals rejected the dissolving sulfite pulp mills' argument that EPA did not adequately consider non-water quality environmental impacts such as energy usage, sludge generation and incineration, land availability, and air pollution—the same matters that are the subject of the resubcategorization requests. *Weyerhaeuser Company* v. *Costle*, 590 F.2d 1011 (D.C. Cir. 1978). Significantly, the court also rejected arguments that EPA failed adequately to consider factors peculiar to Alaskan paper mills. 590 F.2d 1054, n.71.

The only claim made by the Alaskan mills in their 1980 resubcategorization petition which was not raised previously was that no external power source was available to ALP and LPK. Except for the need to examine the importance of that difference, EPA would have had an adequate basis for rejecting the mills' petitions based on EPA's prior consideration of the issues raised by the mills, the mills' failure to support their request with new data, the *Weyerhaeuser Company* decision, and the need for finality in administrative proceedings. Nevertheless, in its discretion, EPA decided to provide the mills with an opportunity to submit new, additional data.

EPA assessed the additional data submitted and conducted a detailed review in conjunction with its consideration of the mills' FDR variance requests. As the Tentative Decision indicated, EPA's intensive review indicated that the new data that were submitted did not demonstrate that resubcategorization was warranted.

After reviewing the claims presented in the Alaskan mills' Novembr 1980 request for resubcategorization, the public comments, and the data submitted by the mills' the Agency examined the factors specified in Section 304(b) of the Clean water Act which EPA considers when developing the subcategorization scheme for an industrial category. We find that the factors that exist at the Alaskan mills are very similar to the factors that were considered by EPA when devloping the nationally-applicable BPT limitations for the dissolving sulfite pulp subcategory. Thus, EPA is denying ALP's and LPK's petition to establish a separate Alaska subcategory of the pulp, paper, and paperboard industry.

The Agency's detailed assessment of each of the factors which the Alaskan mills calimed as the basis for their resubcategorization petition is presented in the administrative record. Our evaluation is summarized below.

The Agency has determined that both ALP and KPK are capable of meeting the nationally-applicable BPT effluent limitations through the installation and operation of biological treatment, the technology identified by EPA as the best practicable control technology curently available for the dissolving sulfite pulp subcategory. The control technologies that would be installed by the Alaskan mills to achieve the BPT limtations would be similar to the technologies installed at other dissoving sulfite pulp mills.

EPA evaluated the cost that ALP and LPK have already expended for wastewater treatment now in place plus the costs for additional treatment claimed to be necessary to attain the nationally-applicable BPT limitations. EPA included the energy, solid waste disposal, and site preparation costs that would contribute to BPT compliance costs. The estimated capital and total annual costs at ALP to attain the nationally-applicable BPT limitations are 7.4 and 12.5–21.4 percent, respectively, higher than the costs considered by EPA when developing the BPT effluent limitations for viscose grade production at a dissolving sulfite pulp mill of the same size as ALP. These costs are within the range of variability given when EPA estimated the costs for the national BPT effluent limitations (see Final BPT Development Document, December, 1976, p. 449). The estimated capital and total annual costs at LPK to attain the nationally-applicable BPT limitations are 79.1 and 89.2–96.4 percent, respectively, of the costs considered by EPA when developing the BPT effluent limitations for viscose grade production at a dissolving sulfite pulp mill of the same size as LPK. Thus, the compliance costs of meeting BPT at the Alaskan mills are not different from the compliance costs considered by the Agency when developing the national BPT effluent limitations for viscose grade production in the dissolving sulfite pulp subcategory.

Because the costs of compliance for both ALP and LPK are similar to compliance costs considered by EPA when developing the national BPT effluent limitations for viscose grade dissolving sulfite pulp production, the Agency has determined that the total cost in relation to the effluent reduction benefits at either ALP or LPK is not different from that considered by EPA for mills in the dissolving sulfite pulp subcategory. Thus, resubcategorization is not justified on that basis.

Second, EPA assessed the data submitted for the Alaskan mills' resubcategorization request and reviewed the non-water quality environmental impacts that could result from the installation and operation of the wastewater treatment facilities, including solid waste disposal and

energy requirements. The Agency recognizes that the Alaskan mills may have to incinerate their wastewater sludges and may incur costs to comply with the State of Alaska emission standards. When developing the nationally-applicable BPT effluent limitations, the Agency considered incineration as one of the alternative methods of sludge disposal.

It is true that if excess wastewater sludges are burned, SO_2 emissions will increase. However, the emissions resulting from burning sludge at ALP and LPK will be identical to the emissions generated at any pulp mill incinerating wastewater sludges.

No new information was provided nor would the Agency have any reason to believe that the air pollution aspects of incinerating wastewater sludges in Alaska would be any different from the air pollution aspects of burning wastewater sludges at any pulp and paper mill. The technology, costs, and impacts of sludge incineration were carefully considered by the Agency when developing the BPT regulations. Therefore, the fact that the Alaskan mills may need to incinerate their sludge cannot be a basis for resubcategorization. Additionally, low sulfur fuel is available on a long-term basis to ALP and LPK which, if burned, will reduce SO_2 emissions substantially.

The Agency analyzed the energy requirements at ALP and LPK to attain the nationally-applicable BPT effluent limitations. EPA determined that ALP and LPK would require approximately 20 percent less and approximately the same energy, respectively, in treating their wastewaters to levels that would meet the BPT effluent limitations than would be required at similarly-sized viscose grade dissolving sulfite pulp mills. Thus, the mills do not face different energy requirements than those considered by EPA.

Regarding ALP's and LPK's claim that an external power source is unavailable to the Alaskan mills, EPA has determined that ALP and LPK are able to design and construct systems that can generate sufficient power to operate treatment systems capable of achieving the nationally-applicable BPT limitations. Thus, the potential absence of an external power source would not present compliance problems. It is possible that a need to be energy self-sufficient could result in higher compliance costs, but, as stated above, EPA found the mills' compliance costs to be comparable to those previously considered by the Agency.

Regarding ALP's claim that special site preparation would be required for treatment plant expansion because of insufficient construction space, the Agency has determined that special site preparation is not unique to Alaska but has been required at other mills to enable compliance with BPT. While ALP's precise situation was not specifically considered in the development of the final BPT effluent limitations, EPA included an engineering contingency factor of 15 percent to account for such problems in its development of BPT costs. As stated previously, neither mills' compliance cost was found to be different from that considered by EPA when developing the BFI effluent limitations for vicose grade production in the dissolving sulfite pulp subcategory.

For the above reason, we have concluded that there is no basis for establishing a new Alaska subcategory. The detailed justification of this decision may be found in the documents listed above, in the administrative record, and in the response to comments appendix to this notice.

In a separate **Federal Register** notice, EPA is denying requests submitted by ALP and LPK for fundamentally different factors (FDF) variances. Because the data accumulated and assessed for the FDF variance decision is relevant for this resubcategorization decision, EPA is using the same administrative record for both decisions. Based upon the extensive record of these two particular proceedings, EPA finds that each of the factors it concluded are not "fundamentally different" (the FDF variance standard) also were not significantly different to warrant a new subcategory.

Dated: September 21, 1984.

Jack E. Ravan,

Assistant Administrator for Water.

Appendix

Responses to Comments

A summary of the comments on the tentative decision that are not discussed elsewhere in this notice is presented below:

1. *Comment:* Commenters claimed that major differences exist between the Alaska mills and the "lower-48" mills in the dissolving sulfite pulp subcategory and that these differences justify creation of separate subcategory. The differences cited are as follows: (a) The Alaskan mills are the only mills producing viscose grade dissolving sulfite pulp; while guideline figures were determined for the acetate and nitration grades, none were determined for the viscose grade. Subsequently, the limitations for the Alaskan mills were determined from the acetate and nitration grade effluent limitations, (b) the Alaskan mills are the only mills required to incinerate wastewater sludges and do not have the option to landfill, (c) the Alaskan mills are the only mills required to generate their own electricity, (d) costs at the Alaskan mills to meet BPT are greater than the model mill costs, and (e) nonwater quality environmental impacts would differ from those anticipated by EPA because EPA assumed that wastewater solids would be landfilled.

Response: EPA disagrees with the claims listed above in (b), (c), (d), and (e). The Agency has reviewed the data submitted by the Alaskan mills as it applies to the 304(b)(1)(B) factors. As explained above and as documented in the administrative record, both ALP and LPK are capable of meeting the national BPT effluent limitations through the installation and operation of biological treatment, the technology identified as the best practicable control technology currently available. Further, the Agency has determined that the costs of meeting BPT and the resulting non-water quality impacts are not different from those anticipated by the Agency when developing BPT effluent limitations for the dissolving sulfite pulp subcategory.

EPA also disagrees with the claim in (a) above. The Alaskan mills may be the only facilities currently producing viscose grade pulp in the dissolving sulfite pulp subcategory, but other mills have produced viscose grade pulp at some time and could produce viscose grade pulp in the future. Even if this claim were true, it would not warrant resubcategorization. Within the dissolving sulfite pulp subcategory, there are four subgroups which are related enough to be treated as one subcategory (i.e., these mills employ variations of the same process to produce four types of dissolving sulfite pulp) even though only one or two of the dissolving sulfite pulp mills may be producing each grade.

Further, the commenter erroneously stated that no viscose limitations were determined and that the limitations for the Alaskan mills were derived from the acetate and nitration limitations. although only nitration and acetate grade model mill costs were presented in the development document supporting the BPT regulations, cost curves were included in the administrative record for the BPT rulemaking to enable a determination of viscose grade model mill costs. Effluent limitations were calculated for viscose grade pulp production using viscose data and the same methodology employed to develop the acetate and nitration grade limitations. (See 40 CFR 430.112).

Separate BPT effluent limitations were developed for each of the four subgroups (acetate, nitration, viscose, and cellophane) in the dissolving sulfite pulp subcategory.

2. *Comment:* One commenter stated that the Alaskan mills must use wastewater sludge handling and burning facilities which were not part of the BPT technology train for the typical mill.

Response: In developing BPT effluent limitations guidelines for the pulp, paper and paperboard industry, EPA accounted for the fact that certain mills, especially mills in the dissolving sulfite pulp subcategory, might need to incinerate sludges due to the lack of available land to dispose of wastewater solids. Additionally, the Agency included the cost of sludge incineration when assessing the economic impact of the BPT regulations (see 42 FR 1398). Even taking into account the extra costs associated with sludge incineration, EPA, in the BPT rulemaking, concluded that: "after consideration of the costs of sludge incineration, it has been determined that the differences in costs cause no significant differences in the results of the economic impact analysis." (See 42 FR 1420, response to comment number 5.) Thus, incineration of wastewater sludges was considered "part of the BPT technology train." Further, the U.S. Court of Appeals decision in *Weyerhaeuser Company, et al.* v. *Costle* 590 F. 2nd 1011, 1062 (D.C. Circuit 1978) stated that EPA identified a number of alternative sludge dewatering techniques to enable sludges to be incinerated or to be landfilled and concluded that "together all of them constitute a 'practicable technology' suitable to BPCTCA." Thus, the commenter's assertion has already been considered and rejected by the court in the above decision.

3. *Comment:* One commenter claimed that in August, 1974, EPA felt it necessary to consider other factors before imposing effluent limits on ALP and LPK, and asked EPA how these "other factors" were considered in the the resubcategorization decision. The "other factors" cited were the "peculiar land, energy, and logistic constraints" associated with the Alaskan mills.

Response: The Agency's consideration of these "other factors" in developing effluent limitations ten years ago was based on best engineering judgment because this Region X permit action occured before the 1976 nationally-applicable BPT effluent limitations were promulgated for the pulp, paper, and paperboard industry. Based on the extensive study supporting the 1976 regulations, the Agency's view changed and is reflected in the national effluent limitations. As discussed above and in the record, no new data pertaining to "peculiar land, energy, and logistic constraints" were submitted that would establish a basis for creating a new Alaska subcategory now.

4. *Comment:* The Alaskan mills requested that EPA use the same approach in the analysis of their resubcategorization as the Agency used with respect to the seafood processing industry.

Response: In the case of the seafood processing industry, EPA concluded that remoteness and other logistical considerations merited separate treatment for Alaskan plants. The primary basis for subcategorizing Alaskan processing plants, such as salmon canning plants, was that Alaskan processing plants incur much greater costs and treatment problems than processing plants in the "lower 48" states. Moreover, "remote" Alaskan seafood processing plants in isolated areas do not have access to more reliable, cost-effective control technology alternatives, such as solids reduction and recovery, as do "non-remote" plants located in seafood processing centers.

In contrast, our 1976 rulemaking record showed no justification for special treatment of the Alaskan pulp mills on the basis of logistics, and the mills have submitted no new data that evidence different logistical concerns from those EPA considered previously. The fact that a different conclusion was reached in the seafood rulemaking simply reflects the fact that there are differences between: (1) The Alaskan seafood and pulp industries, and (2) the relationship of the Alaskan seafood plants to seafood plants in the "lower 48" and the relationship of ALP and LPK to pulp mills in the "lower 48."

5. *Comment:* The statement was made that any additional treatment installed to achieve more stringent effluent limitations would not result in a concomitant improvement in water quality.

Response: It does not appear that the mills were seeking resubcategorization on this basis since their initial submission acknowledged that receiving water quality is not legally relevant to the establishment of BPT. This is correct; the Clean Water Act does not require or permit consideration of water quality problems attributable to particular point sources or industries, or water quality improvements in particular water bodies. See *Weyerhaeuser Company, et al.* v. *Costle,* 590 F.2d 1011 (D.C. Cir. 1978). Therefore, EPA has not considered these factors.

[FR Doc. 84-27439 Filed 10-15-84; 8:45 am]
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[WH-10-FRL-2683-8]

Final Decision To Deny Fundamentally Different Factors Variance Requests of Alaska Pulp Corp. (Formerly Alaska Lumber and Pulp Co., Inc.) Sitka, AL and Louisiana-Pacific Corp., Ketchikan, AL

AGENCY: Environmental Protection Agency.

ACTION: Notice of Final Decision to Deny Variance Requests.

SUMMARY: The Environmental Protection Agency (EPA), Region X is today providing notice of a Final Decision to deny fundamentally different factors (FDF) variance requests submitted by Alaska Pulp Corporation, Sitka, Alaska (APC) and Louisiana-Pacific Corporation, Ketchikan, Alaska (LPK). Appeal of this decision is governed by EPA regulations at 40 CFR 124.64.

ADDRESS: These actions are based on the administrative record available for public review during normal prevailing business hours at the offices of the Environmental Protection Agency described below:

Library, Region X, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101, 8:00 am to 4:30 pm, (206) 442-1259

Alaska Operations Office, Environmental Protection Agency, 3200 Hospital Drive, Suite 101, Juneau, Alaska 99801, 8:00 am to 4:30 pm, (907) 586-7619

Copying machines are available at the EPA offices in Seattle and Juneau, Alaska. The EPA information regulation [40 CFR Part 2] provides that a reasonable fee may be charged for copying.

The major documents related to this decision are the "Final Decision by the Region X Administrator Regarding the Request for Approval of Alternative Effluent Limitations for Alaska Pulp Corporation and Louisiana-Pacific Corporation Pursuant to 40 CFR Part 125, Subpart D" (Final Decision Document); "Final Analysis of Water Pollution Control Expenditures at Alaska Lumber and Pulp Co., Inc., Sitka, Alaska and Louisiana-Pacific Corporation, Ketchikan, Alaska" (Final Decision Support Document); and "Response to Comments on the September 16, 1983 Tentative Decision To Deny the Fundamentally Different Factors Variance Requests Submitted by

Alaska Lumber and Pulp Co., Inc., Sitka, Alaska and Louisiana-Pacific Corporation, Ketchikan, Alaska" (Response to Comments).

FOR FURTHER INFORMATION CONTACT:

Further information on these actions and requests for copies of the Final Decision, Final Decision Support Document and Response to Comments may be obtained from Mr. Danforth Bodien, Region X, Environmental Protection Agency (M/S 329), 1200 Sixth Avenue, Seattle, Washington 98101 (Telephone Number 206–442–1531).

Dated: September 21, 1984.

Ernesta B. Barnes,

Regional Administrator, EPA Region X.

[FR Doc. 84–27440 Filed 10–15–84; 8:45 am]

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Part V

Federal Emergency Management Agency

44 CFR Part 64

Suspension of Community Eligibility Under the National Flood Insurance Program; Connecticut et al.; Final Rule

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6626]

Suspension of Community Eligibility Under the National Flood Insurance Program; Connecticut et al.

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the flood plain management requirements of the program. If FEMA receives documentation that the community has adopted the required flood plain management measures prior to the effective suspension date, given in this rule, the suspension will be withdrawn by publication in the **Federal Register**.

EFFECTIVE DATES: The third date ("Susp.") listed in the fourth column.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 287-0222, 500 C Street, Southwest, FEMA—Room 509, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities are suspended on the effective date in the fourth column, so that as of that date flood insurance is no longer available in the community. However, those communities which, prior to the suspension date, adopt and submit documentation of legally enforceable flood plain management measures required by the program, will continue their eligibility for the sale of insurance. Where adequate their eligibility for the sale of insurance. Where adequate documentation is received by FEMA, a notice withdrawing the suspension will be published in the **Federal Register**.

In addition, the Director of Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fifth column of the table. No direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard areas of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Director finds that notice and public procedures under 5 U.S.C. 533(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified. Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required flood plain management measures are met prior to the effective suspension date. For the same reasons, this final rule may take effect within less than 30 days.

Pursuant to the provision of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. As stated in Section 2 of the Flood Disaster Protection Act of 1973, the establishment of local flood plain management together with the availability of flood insurance decreases the economic impact of future flood losses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to (adopt) (enforce) adequate flood plain management, thus placing itself in noncompliance of the Federal standards required for community participation. In each entry, a complete chronology of effective dates appears for each listed community.

List of Subjects in 44 CFR Part 64

PART 64—[AMENDED]

Section 64.6 is amended by adding in alphabetical sequences new entries to the table.

§ 64.6 List of Eligible Communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date [1]
Region I					
Connecticut, Windham	Canterbury, town of	090183A	Aug. 5, 1976, Emerg., Oct. 16, 1984, Reg., Oct. 16, 1984, Susp.	Jan. 10, 1975	Oct. 16, 1984
Maine, Cumberland	Falmouth, town of	0230045B	Apr. 14, 1975, Emerg., Oct. 16, 1984, Reg., Oct. 16, 1984, Susp.	Mar. 29, 1974 and Aug. 6, 1976	Do
Massachusetts, Suffolk	Revere, city of	250226B	Dec. 29, 1972, Emerg., Oct. 16, 1984, Reg., Oct. 16, 1984, Susp.	June 28, 1974 and Feb. 18, 1977	Do
Vermont, Rutland	Fair Haven, town of	500094B	June 23, 1975, Emerg., Oct. 16, 1984, Reg., Oct. 16, 1984, Susp.	July 19, 1974 and Feb. 11, 1977	Do
Region II					
New Jersey:					
Middlesex	Helmetta, borough of	340262B	Feb. 18, 1975, Emerg., Oct. 16, 1984, Reg., Oct. 16, 1984, Susp.	June 28, 1974 and Feb. 27, 1976	Do
Sussex	Sparta, township of	340535B	July 29, 1975, Emerg., Oct. 16, 1984, Reg., Oct. 16, 1984, Susp.	Dec. 20, 1974 and June 11, 1976	Do
Bergen	Teaneck, township of	340075B	May 2, 1975, Emerg., Oct. 16, 1984, Reg., Oct. 16, 1984, Susp.	June 14, 1974 and Oct. 3, 1975	Do

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date [1]
New York.					
Chemung	Elmira, town of	360151B	Feb. 9, 1973, Emerg., Oct. 16, 1984, Reg., Oct. 16, 1984, Susp.	Aug. 31, 1973 and June 25, 1976	Do.
Columbia	Gallatin, town of	361176B	Dec. 8, 1975, Emerg., Oct. 16, 1984, Reg., Oct. 16, 1984, Susp.	Oct. 25, 1974 and July 30, 1976	Do
Orange	Montgomery, town of	360623B	July 22, 1975, Emerg., Oct. 16, 1984, Reg., Oct. 16, 1984, Susp.	Mar. 22, 1974 and Aug. 20, 1976	Do
Do	Montgomery, village of	360624B	May 16, 1974, Emerg., Oct. 16, 1984, Reg., Oct. 16, 1984, Susp.	Mar 15, 1974 and Dec. 12, 1975	Do
Dutchess	Red Hook, town of	361143B	May 19, 1975, Emerg., Oct. 16, 1984, Reg., Oct. 16, 1984, Susp.	Oct. 18, 1974 and Aug. 6, 1976	Do
REGION V					
Illinois, Cook and Lake	Barrington, village of	170057C	Oct. 30, 1974, Emerg., Oct. 16, 1984, Reg., Oct. 16, 1984, Susp.	Mar. 22, 1974, Sept. 24, 1976 and Mar. 12, 1982.	Do.
Michigan, Livingston	Green Oak, township of	260440B	Mar. 10, 1982, Emerg., Oct. 16, 1984, Reg., Oct. 16, 1984, Susp.	May 27, 1977	Do.
Minnesota, Nicollet	Unincorporated areas	270625B	Apr. 17, 1974, Emerg., Oct. 16, 1984, Reg., Oct. 16, 1984, Susp.	Aug. 26, 1977	Do.
Wisconsin:					
Green	Browntown, village of	550161B	Aug. 16, 1978, Emerg., Oct. 16, 1984, Reg., Oct. 16, 1984, Susp.	Jan. 9, 1974 and June 4, 1976	Do
Waukesha	Oconomowoc Lake, village of	550582	July 29, 1975, Emerg., Oct. 16, 1984, Reg., Oct. 16, 1984, Susp.	Feb. 2, 1979	Do.
REGION VI					
Texas, Bexar	Unincorporated areas	480035B	Apr. 7, 1972, Emerg., Oct. 16, 1984, Reg., Oct. 16, 1984, Susp.	Jan. 31, 1978	Do.
REGION VII					
Missouri, Franklin	Unincorporated areas	290493B	June 21, 1974, Emerg., Oct. 16, 1984, Reg., Oct. 16, 1984, Susp.	Jan. 17, 1978	Do.

[1] Date certain Federal assistance no longer available in special flood hazard areas.
Code for reading 4th column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Administrator, Federal Insurance Administration)

Issued: October 10, 1984.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 84-27509 Filed 10-15-84; 11:21 am]
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Part VI

Department of Health and Human Services

Public Health Service

Availability of Research Quantities of Human T-Lymphotropic Retroviruses (HTLV-III) and Cell-Line Material for Research Purposes; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Availability of Research Quantities of Human T-Lymphotropic Retroviruses (HTLV-III) and Cell-Line Material for Research Purposes

AGENCY: Public Health Service, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services announces the availability of limited quantities of HTLV-III virus and cell-line material to be used for research purposes. To receive the virus and cell-line material, applicants must provide information as to the proposed use of the material, the facilities involved, and the qualifications of the technical staff. In addition, applicants must satisfy biosafety requirements and agree to restrictions on further redistribution of the virus and on sharing related information.

ADDRESS: Applications should be sent to Dr. Lowell T. Harmison, Science Advisor, OASH, Parklawn Building, Room 13-95, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-2650.

FOR FURTHER INFORMATION CONTACT: Dr. Lowell T. Harmison at the address listed above.

DATE: Applications received on or before October 31, 1984 will be considered within the next fifteen (15) working days. Applications received by November 30, 1984 will be considered within the next fifteen (15) working days. Subsequent applications will be considered as long as limited supplies remain available, taking into account other public health needs.

SUPPLEMENTARY INFORMATION: In order to be considered, applicants must supply the following information:

1. The name, organization, and address of the individual requesting the HTLV-III virus.
2. The proposed use of the virus, including the objectives and proposed plan of work, anticipated completion date, and final disposition of the virus.
3. The facilities involved including a description of the specific facilities and equipment to be used in handling the material.
4. The qualifications and experience of the technical personnel.
5. The membership of the organization's Institutional Biosafety Committee.
6. The date the Institutional Biosafety Committee approved the request to work with the virus and any conditions the Committee imposed on the approval.

In its application, the applicant must certify that it will (1) use any virus it receives in accordance with the information supplied in the application unless it receives specific permission in advance from the Department to do otherwise; and, (2) comply with applicable biosafety requirements, as set forth in the Appendix to this Notice. In addition, before virus is actually supplied, a successful applicant must submit a signed agreement concerning restrictions on redistribution of the virus and on sharing related information.

Selection of applicants will be based upon public health needs, the information supplied by each applicant, the relative merit of the applicant's proposal, and the amount of virus available.

Dated: October 12, 1984.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

Appendix—Biosafety Guidelines for Use of HTLV-III and Related Viruses

HTLV-III is a retrovirus which is the etiologic agent of acquired immune deficiency syndrome (AIDS) High concentrations of the virus can be produced in cell culture and the virus appears to be more infectious for human T_4 lymphocytes than HTLV-I or -II. No seroconversions are known to have occurred in laboratory workers, but definitive studies have not been done.

There is presently no evidence of AIDS transmission to laboratory or hospital personnel from contact with affected patients, clinical specimens or potentially infectious research materials. Epidemiologic and scientific evidence suggests that the probable mode of transmission is through sexual and parenteral contact. There is no evidence to suggest that aerosol transmission occurs in naturally occurring disease. Although the incidence of AIDS is striking in the identified high risk group (e.g., homosexual men) there is no significant indication that the disease is spreading among individuals who do not belong to one of the identified risk groups (i.e., homexual men, intravenous drug abusers, and hemophilic patients using Factor VIII products).

Parenteral inoculation, droplet exposure of mucous membranes, and contact exposure of broken skin are the primary presumed occupational hazards. Accidental exposures can occur in the laboratory through self-inoculataion with a hypodermic needle while aspirating or injecting infectious materials; pricking, puncturing or cutting of the skin with broken glassware, scalpels or other sharp objects that are contaminated with infectiuos materials; splashing and spraying of infectious fluids onto mucous membranes or broken skin surfaces; and the direct contact of mucous membranes with hands that have been contaminated with infectious materials. Although the potential for infection by aerosols has not been demonstrated, the settling of infectious droplet particles onto loboratory surfaces can provide opportunity for indirect contact.

Biosafety Level 2 practices, containment equipment, and facilities are recommended for activities utilizing known or potentially infectious body fluids and tissues. Additional containment equipment and special practices described for Biosafety Level 3 should be used for small-scale research activities involving HTLV-III, related viruses, and virus producing cell lines. Large-scale production and activities which involve the handling of large volumes of virus-producing cells should be restricted to Biosafety Level 3 facilities. The recommended Biosafety Level practices, containment equipment, and facility safeguards are described in Section III of the document *Biosafety in Microbiological and Biomedical Laboratories* (1). Laboratory directors and investigators who are working or plan to work with HTLV-III should carefully review all biosafety information provided in this publication.

The applicant requesting HTLV-III for research purposes must certify that Biosafety Level 3 "Standard Microbiological Practices", "Special Practices" and "Containment Equipment" safeguards as described on pages 14 through 16 of the referenced document(*1*) will be used for research involving HTLV-III and that the laboratory staff who will work with the virus is experienced and proficient in the use of these safeguards. In addition, the applicant must describe the facility in which the research will be conducted. The minimum facility specifications are those described for a Biosafety Level 2 facility. (See page 13 of the referenced document.) Production level activities must be restricted to Biosafety Level 3 facilities. (See pages 16 and 17 of the referenced document.)

(*1*) Biosafety in Microbiological and Biomedical Laboratories, J.H. Richardson and W.E. Barkley (eds.), HHS Publication No. (CDC) 84-8395, Centers for Disease Control and National Institutes of Health, U.S. Department of Health and Human Services, Public Health Service, March 1984.

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S. 1841 / Pub. L. 98-462

National Cooperative Research Act of 1984 (October 11 , 1984; 98 Stat. 1815) Price: $1.00

S.J. Res. 201 / Pub. L. 98-463

To provide for the designation of the week of November 25 through December 1, 1984, as "National Epidermolysis Bullosa Awareness Week". (October 11, 1984; 98 Stat. 1820) Price: $1.00

S. 2688 / Pub. L. 98-464

To authorize appropriations for fiscal year 1985 to carry out the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979, and for other purposes. (October 11, 1984; 98 Stat. 1821) Price: $1.00

S.J. Res. 237 / Pub. L. 98-465

To designate the week of November 25, 1984, through December 1, 1984, as "National Home Care Week". (October 11, 1984; 98 Stat. 1824) Price: $1.00

S. 197 / Pub. L. 98-466

To direct the Secretary of the Department of Transportation to conduct an independent study to determine the adequacy of certain industry practices and Federal Avaiation Administration rules and regulations, and for other purposes. (October 11, 1984; 98 Stat. 1825) Price: $1.00

S.J. Res. 273 / Pub. L. 98-467

To designate the week of October 7, 1984, through October 13, 1984, as "Smokey Bear Week". (October 11, 1984; 98 Stat. 1827) Price: $1.00

S.J. Res. 324 / Pub. L. 98-468

Designating the month of November 1984 as "National Christmas Seal Month". (October 11, 1984; 98 Stat. 1829) Price: $1.00

H.R. 5221 / Pub. L. 98-469

To extend through September 30, 1988, the peiod during which amendments to the United States Grain Standards Act contained in section 155 of the Omnibus Budget Reconciliation Act of 1981 remain effective, and for other purposes. (October 11, 1984; 98 Stat. 1831) Price: $1.00

H.R. 3130 / Pub. L. 98-470

To authorize amendments to a certain repayment and water service contract for the Frenchman Unit of the Pick-Sloan Missouri River Basin Program. (October 11, 1984; 98 Stat. 1833) Price: $1.00

S.J. Res. 260 / Pub. L. 98-471

Designating the week beginning on November 11, 1984, as "National Blood Pressure Awareness Week". (October 11, 1984; 98 Stat. 1835) Price: $1.00

S.J. Res. 295 / Pub. L. 98-472

To provide for the designation of the week of October 14 through October 20, 1984, as "Myasthenia Gravis Awareness Week". (October 11, 1984; 98 Stat. 1836) Price: $1.00

H.J. Res. 648 / Pub. L. 98-473

Making continuing appropriations for the fiscal year 1985, and for other purposes. (October 12, 1984; 98 Stat. 1837)

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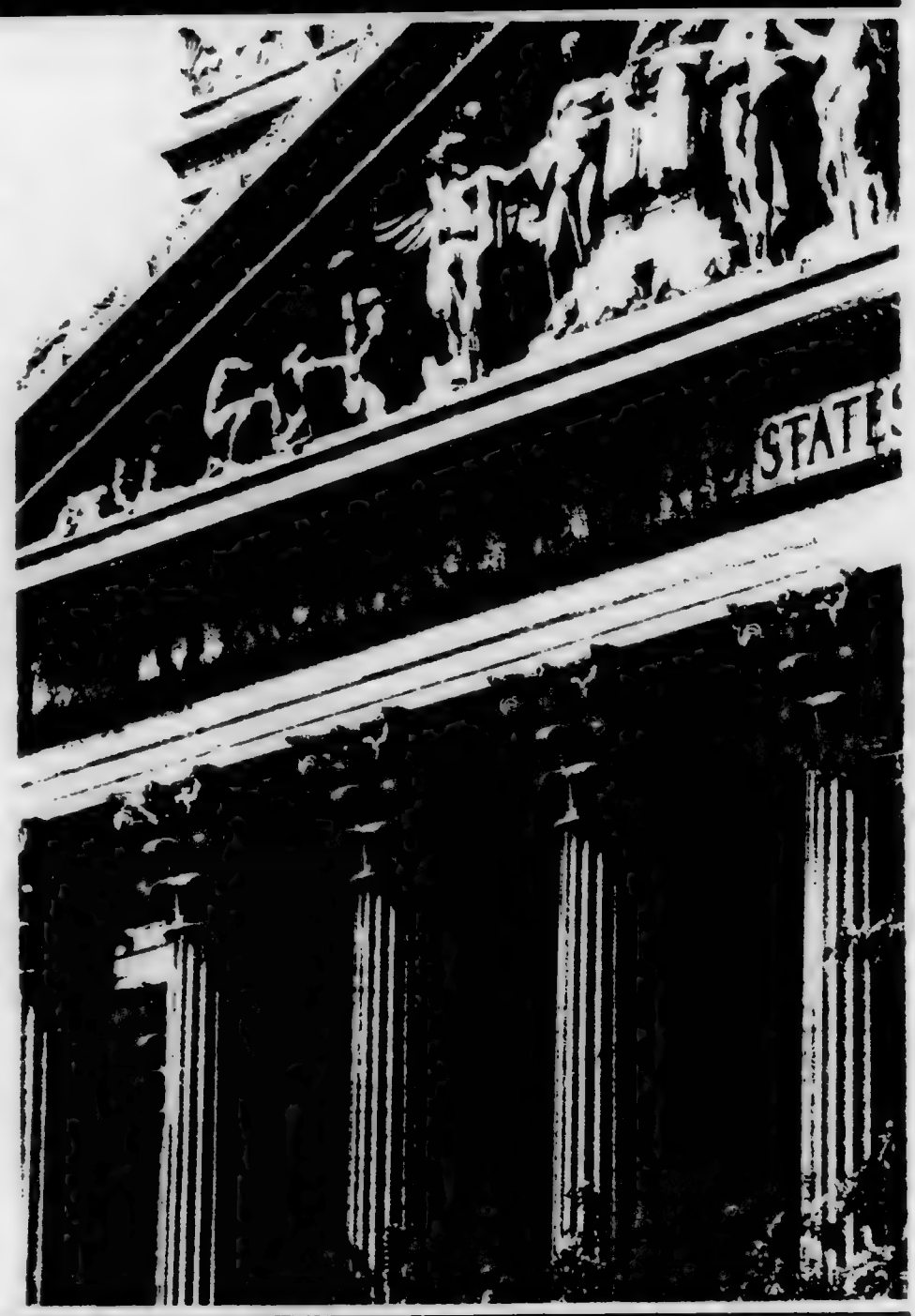

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Presidential Documents

Title 3—

The President

Proclamation 5288 of October 16, 1984

World Food Day, 1984

By the President of the United States of America

A Proclamation

The United States has a long tradition of sharing its rich agricultural abundance and technical expertise with those in need, and of leading the worldwide effort to eliminate hunger. All nations are not equally endowed with food potential, and the struggle against hunger continually presents us with challenges which sometimes appear overwhelming. However, we will not be diverted from our intention to achieve victory over world hunger.

The United States is dedicated to the proposition that real progress in eliminating hunger will be realized when more nations are able to produce or purchase enough food for their own people. It is heartening that the resurging economy of the United States is helping other nations toward new economic expansion, with lower rates of inflation and rising output in many countries.

This Nation—indeed, all nations—should move forward with domestic policies that encourage growth. At the same time we must vigorously resist policies which inhibit growth or discourage free and equitable international trade in food products.

Since the enactment of the Eisenhower Food for Peace Program in 1954, the American people have provided more than $33 billion in food aid to 164 nations. Thousands of technical experts have been sent to Africa, Asia, Latin America, and the Middle East to assist in the development of agricultural projects. We have trained tens of thousands of agriculturalists from developing nations to help them in building a sound economic foundation in their countries.

These efforts by other industrial countries and the United States have yielded promising results. Food production per person has increased 21 percent in the developing countries since 1954. Consumption of calories per capita has increased 7.5 percent since 1963. Unfortunately, Africa's progress in food production or the consumption of calories per capita have not shown equally encouraging results.

This year, the United States supports efforts by the Food and Agriculture Organization of the United Nations to recognize the role of women in agricultural development in the Third World. In some less developed countries, women and children constitute 80 percent or more of the agricultural work force—yet, rarely aided by modern agricultural technology, research or adequate training. We strongly support efforts to improve the efficiency of their agricultural techniques.

In recognition of the need to increase public awareness of world hunger, the Congress, by Senate Joint Resolution 332, has proclaimed October 16, 1984, as "World Food Day" and has authorized and requested the President to issue a proclamation in observance of that day.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby call upon the people of the United States to observe October 16, 1984, as World Food Day with appropriate activities to explore ways in which our Nation can further contribute to the elimination of hunger in the world.

IN WITNESS WHEREOF, I have hereunto set my hand this sixteenth day of October, in the year of our Lord nineteen hundred and eighty-four, and of the Independence of the United States of America the two hundred and ninth.

Ronald Reagan

[FR Doc. 84-27618
Filed 10-16-84; 10:45 am]
Billing code 3195-01-M

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Rules and Regulations

Federal Register
Vol. 49, No. 202
Wednesday, October 17, 1984

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 928

[Hawaiian Papaya Regulation 13, Amdt. 2]

Papayas Grown in Hawaii; Grade Requirement Amendment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Further amendment of interim final rule with request for comments.

SUMMARY: This amendment establishes grade requirements for intrastate shipments of Hawaiian papayas. Under the current regulation only papayas shipped to points outside of Hawaii are covered. The minimum grade established for fresh papaya shipments is Hawaii No. 1. The amendment is necessary to promote orderly marketing in the interest of producers and consumers.

DATES: *Effective date:* October 17, 1984. *Comments due:* November 16, 1984.

ADDRESS: Send two copies of comments to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This amended rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

This amended rule is issued under the marketing agreement and Order No. 928 (7 CFR Part 928), regulating the handling of papayas grown in Hawaii. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

Hawaiian Papaya Regulation 13, which became effective July 1, 1984, established grade requirements for export shipments of papayas at Hawaii No. 1. Interim final amendment 1 to Papaya Regulation 13, which became effective September 21, 1984, with a 30-day comment period, increased the tolerance for immature fruit in such shipments from 3 percent to 5 percent.

The export market is the principal outlet for Hawaiian papayas. Smaller quantities are sold locally in fresh form. As indicated, Hawaiian Papaya Regulation 13 applies only to export shipments of Hawaiian papayas. The committee reports that since that regulation became effective the local markets have become a diversion outlet for substantial quantities of lesser quality fruit with poor retail acceptance including substandard payayas culled out when fruit is packed for export. The availability of such fruit in the market place is having a price-depressing effect on sales of better quality fruit resulting in low returns to producers. Therefore, the Papaya Administrative Committee recommended that fresh papayas shipped to markets within Hawaii be required to meet the same grade requirements as those currently in effect for shipments to markets outside the State. The committee reports that ample supplies of papayas meeting the requirement of Hawaii No. 1 are available to satisfy fresh demand in both export and local markets. Hawaiian papaya cumulative fresh production during the January–September period has amounted to 49,260,000 pounds in 1984, compared with 30,611,000 in 1983. Papayas not meeting this minimum grade requirement may be utilized in processed products, such as puree.

Accordingly, the Secretary finds that upon good cause shown it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in other public procedures, and postpone the effective date of this amended rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between September 21, 1984, the date when information became available upon which this amended rule is based, and the effective date necessary to effectuate the declared policy of the act. The committee recommended that this amended rule become effective as soon as possible, due to the marketing situation confronting the Hawaiian papaya industry. Shipments of Hawaiian papayas are currently in progress, and papaya handlers have been apprised of the provisions and effective date of the amendment. The amended rule provides a 30-day comment period. All comments received will be considered prior to finalization of this amended rule. It is found that this amended rule will tend to effectuate the declared policy of the act.

List of Subjects in 7 CFR Part 928

Marketing agreements and orders, Papayas, Hawaii.

PART 928—[AMENDED]

Therefore, § 928.313 (49 FR 24109; 38094) is amended by revising paragraph (a) to read as follows:

§ 928.313 Hawaiian Papaya Regulation 13, Amendment 2.

(a) On and after October 17, 1984, no handler shall ship any container of papayas to any destination (except immature papayas handled pursuant to § 928.152) unless such papayas grade at least Hawaii No. 1: *Provided,* That not more than 5 percent shall be immature fruit: *Provided further,* That the weight requirements specified in this grade shall not apply to such shipments.

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: October 15, 1984.

Thomas R. Clark,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 84–27579 Filed 10–16–84; 8:45 am]
BILLING CODE 3410–02–M

VOL 49 ISS 202 OCT 17 1984 UMI

FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Reg. Z; TIL-1]

Truth in Lending; Official Staff Commentary Revisions

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final official staff interpretation.

SUMMARY: The Board is publishing in final form changes to the official staff commentary to Regulation Z (Truth in Lending), 12 CFR Part 226, that address the disclosure of fees for the use of automated teller machines. The Board is not adopting another proposed change to the official staff commentary that addressed the scope of the securities transaction exemption contained in § 226.3(d) of Regulation Z. The commentary applies and interprets the requirements of Regulation Z with regard to consumer credit transactions and is a substitute for individual staff interpretations of the regulation.

EFFECTIVE DATE: October 16, 1984.

FOR FURTHER INFORMATION CONTACT: Ruth R. Amberg and Gerald P. Hurst, Senior Attorneys, and Richard S. Garabedian, Staff Attorney, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, at (202) 452-3667.

SUPPLEMENTARY INFORMATION:

1. General

Effective October 13, 1981, an official staff commentary was published to interpret Regulation Z (12 CFR Part 226). The commentary is designed to provide guidance to creditors in applying the regulation to specific transactions and is updated periodically to address significant questions.

On December 6, 1983, the Board proposed to add a new comment 4(b)(2)-2 regarding the disclosure of fees in interchange or shared systems, and an additional example to comment 6(b)-1 (48 FR 54642). Final action on these proposals is being taken at this time. Although creditors are free to rely on the provisions as of the effective date, and are protected if they do so, they need not follow the revisions until October 1, 1985.

In addition, on January 18, 1984, the Board published a proposed change to comment 3(d)-1 of the official staff commentary that would have specifically addressed the application of the securities transaction exemption in § 226.3(d) of Regulation Z to margin credit transactions in consumer asset management accounts (49 FR 2211). These accounts combine transaction and investment features and are offered by brokerage and investment firms. The accounts offer the consumer the capability to place assets (for example, cash and securities) in one account for the purpose of engaging in consumer transactions, investing excess cash balances (in a money market mutual fund, for example), and buying and selling securities. Margin credit is extended by the broker if the uninvested free credit balances and the redemption of money market shares are insufficient to pay for the transaction. After further analysis of the proposal and of the comments received, the staff believes that Regulation Z should not be interpreted to apply to these margin credit transactions. The proposal is therefore not being adopted.

2. Commentary Revisions

Following is a brief description of the revisions to the commentary regarding the disclosure of fees for using an automated teller machine (ATM) to obtain a cash advance.

Subpart A—General

Section 226.4—Finance charge.

4(a) Definition.

Comment 4(a)-5 is added to provide that certain charges imposed on cardholders by card issuers for using an ATM to obtain a cash advance are not finance charges. The final provision has been substantially simplified from the proposal in response to operational and other concerns raised by the commenters, and has been relocated from the commentary on § 226.4(b) to the commentary on § 226.4(a).

The final comment has been revised from the proposal to apply to charges imposed by card issuers on cardholders for using an ATM to obtain a cash advance in a proprietary system, as well as to charges in interchange or shared systems. A charge imposed on the cardholder by the card issuer for obtaining a cash advance at an ATM is not a finance charge to the extent that the charge does not exceed the charge imposed by the card issuer for cash withdrawals from consumer asset accounts, such as checking or savings accounts, at the ATM.

Subpart B—Open-End Credit

Section 226.6—Initial disclosure statement.

6(b) Other charges.

Comment 6(b)-1 is revised by adding an example to clarify that the charges described in comment 4(a)-5 that are not finance charges must be disclosed as "other charges" under §§ 226.6(b). Comment 6(b)-2 is also revised by adding an example to clarify that the card issuer has no disclosure responsibilities on the initial disclosure statement for certain charges that might be imposed on the cardholder by other institutions for the use of their ATMs.

Section 226.7—Periodic statement.

7(b) Identification of transactions.

New comment 7(b)-2 is added for guidance on how charges imposed by terminal-operating institutions other than the card issuer should be disclosed on the card issuer's periodic statement.

List of Subjects in 12 CFR Part 226

Advertising, Banks, Banking, Consumer protection, Credit, Federal Reserve System, Finance, Penalties, Truth in lending.

PART 226—[AMENDED]

(3) *Text of revisions.* The revisions to the commentary (Supplement I to Part 226) read as follows:

Subpart A—General

* * * * *

Section 226.4—Finance charge.

4(a) Definition.

* * * * *

5. *Treatment of fees for use of automated teller machines.* Any charge imposed on a cardholder by a card issuer for the use of an automated teller machine (ATM) to obtain a cash advance (whether in a proprietary, shared, interchange, or other system) is not a finance charge to the extent that it does not exceed the charge imposed by the card issuer on its cardholders for using the ATM to withdraw cash from a consumer asset account, such as a checking or savings account. (See the commentary to § 226.6(b).)

* * * * *

Subpart B—Open-End Credit

* * * * *

Section 226.6—Initial disclosure statement.

* * * * *

6(b) Other charges.

1. *General; examples of other charges.* Under section 226.6(b), significant charges related to the plan (that are not finance charges) must also be disclosed. For example:

* * *

- Automated teller machine (ATM) charges described in comment 4(a)-5 that are not finance charges.

2. *Exclusions.* The following are examples of charges that are not "other charges": * * *

- Charges imposed on a cardholder by an institution other than the card issuer for the use of the other institution's ATM in a

shared or interchange system. (See also comment 7(b)–2.)

* * * * *

Section 226.7—Periodic statement.

* * * * *

7(b) Identification of transactions.

* * * * *

2. *Automated teller machine (ATM) charges imposed by other institutions in shared or interchange systems.* A charge imposed on the cardholder by an institution other than the card issuer for the use of the other institution's ATM in a shared or interchange system and included by the terminal-operating institution in the amount of the transaction need not be separately disclosed on the periodic statement.

* * * * *

Board of Governors of the Federal Reserve System, October 11, 1984.

William W. Wiles,

Secretary of the Board.

[FR Doc. 84–27348 Filed 10–16–84; 8:45 am]

BILLING CODE 6210–01–M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 741 and 746

Capitalization of the National Credit Union Share Insurance Fund

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: The NCUA Board (Board) has adopted final rules implementing Title VIII of Pub. L. 98–369, which provides for the capitalization of the National Credit Union Share Insurance Fund (Fund) through the maintenance of a deposit by each insured credit union in an amount equalling one percent of its insured shares. Insured credit unions will fund their one percent deposit during January 1985. Based upon the present level of the Fund, the Board has determined that this will enable a waiver of the 1985 share insurance premium and a distribution from current Fund equity. The net result is that each insured credit union will record its full one percent deposit asset in January 1985 while making a real transfer to the Fund of only .85–.90% of the credit union's total insured shares. Revised form NCUA 1308 will be provided to all insured credit unions in late 1984 for use in making the necessary calculations. This form will contain a preprinted statement of each credit union's pro rata share of the equity distribution. Also, Central Liquidity Facility loans and other assistance will be available on a case-by-case basis for those few insured credit unions that have a demonstrated liquidity problem or other hardship in funding their deposit.

EFFECTIVE DATE: December 1, 1984.

FOR FURTHER INFORMATION CONTACT: Charles Filson, Director, Office of Programs, or Robert Fenner, Director, Department of Legal Services, National Credit Union Administration, 1776 G Street NW, Washington, D.C., 20456. Telephone number: (202) 357–1132 (Mr. Filson), (202) 357–1030 (Mr. Fenner).

SUPPLEMENTARY INFORMATION:

Background

Recently enacted legislation, Title VIII of Pub. L. 98–369, provides for a strengthening of the National Credit Union Share Insurance Fund through the placement of a deposit with the Fund by each insured credit union in an amount equalling one percent of the credit union's insured shares. Essential elements of the legislation are as follows.

The legislation accomplishes the objective of a strong and viable Fund solely through the financial support of insured credit unions, i.e., through their one percent deposit. Once fully funded, the deposit of each credit union will be adjusted annually in accordance with changes in the credit union's insured shares.

The legislation establishes a new "normal operating level", or level of Fund equity to total insured shares, of 1.3%. Any funds in excess of that level must be distributed to insured credit unions at least annually. At this operating level, the Board projects that, in the absence of extraordinary expenses, the annual earnings on Fund assets will be sufficient to meet the expenses of the Fund, and also to allow a waiver or rebate of each credit union's annual insurance premium as well as the declaration of a dividend on Fund equity.

An insured credit union's deposit is returnable in the event the credit union's insurance coverage is terminated, it converts to coverage from another source, or the operations of the Fund are transferred from the NCUA Board. In view of both the returnable nature of the deposit and the expectation of an annual dividend, the deposit will be carried as an asset on the books of the credit union. This accounting treatment has been recommended as being in accordance with generally accepted accounting principles (GAAP) by the Fund's auditors, Ernst & Whinney.

Finally, concerning the legislation, it should be noted that both the amount of each credit union's one percent deposit and each credit union's annual insurance premium (one twelfth of one percent) will be determined as a percentage of the credit union's total *insured* shares. This is in contrast to the previous annual premium computation which was based on the total amount of a credit union's accounts, including amounts in excess of the insurance coverage limits per accountholder. Thus, the new method is more equitable in that a credit union contributes to the Fund only in relationship to the amount of its actual insurance protection.

Proposed Rulemaking

On August, 1, 1984, the Board issued a notice of proposed rulemaking (49 FR 30740) requesting comment on the issues relevant to implementation of the legislation. The notice identified five broad areas for comment. In order to adopt final rules in time for implementation of the legislation during the transition from the 1984 to the 1985 insurance year, the Board established a comment deadline of September 7, 1984. 201 comment letters were received in response to the proposal. After thorough consideration of the comments and further review, the Board has adopted final rules. A discussion of the Board's decision on each of the major issues and an explanation of the final rules follow.

Issues

The first major issue identified in the notice of proposed rulemaking related to funding of the one percent deposit. The Board proposed to incorporate both the initial funding of the deposit and subsequent adjustments into the present insurance cycle, pursuant to which statements are forwarded to insured credit unions in December of each year with payments due the following January. The commenters were virtually unanimous in their agreement with this proposal, and the deposit and annual adjustments will accordingly be incorporated into the present cycle.

Also related to funding of the deposit, the Board requested comment on whether to fund the full one percent in January of 1985 or, in the alternative, to provide for a phase-in by insured credit unions. In this connection, Section 202(c)(1)(A)(ii) of the Federal Credit Union Act (12 U.S.C. 1782(c)(1)(A)(ii)), as amended by Pub. L. 98–369, provides that "[t]he Board may, in its discretion, authorize insured credit unions to initially fund [the] deposit over a period of time in excess of one year if necessary to avoid adverse effects on the condition of insured credit unions." Thus, a phase-in over a period longer than one year is permitted by law only if necessary to avoid adverse effects on insured credit unions, and even then the

matter is committed to Board discretion. The notice of proposed rulemaking expressed a preference for immediate funding, based on NCUA staff's analysis that it would be the most economical method, but requested comment on the preferred approach. In response, 80 percent of the commenters either favored or did not oppose immediate funding. In addition, the Board received letters from only 20 credit unions indicating a financial difficulty in funding their deposit immediately. Further, on a system-wide basis, credit unions are extremely liquid, with over $38 billion in investments of which over $30 billion mature within 12 months. A transfer of less than $800 million of these funds will be required to effect immediate funding. An across the board three year phase-in (the method most often recommended by those favoring a phase-in) would, on the other hand, result in a direct expense to credit unions of $180–$280 million, because of the inability of the Fund to waive premiums or pay a dividend. Thus a demonstration of adverse effects on the condition of insured credit unions appears remote, and the Board has determined to call for full funding in January of 1985. NCUA will stand ready, on a case-by-case basis, to assist, through Central Liquidity Facility loans or otherwise, those credit unions that demonstrate a hardship in meeting the immediate funding requirements.

A limited number of commenters suggested that the Board accomplish a phase-in of the one percent deposit by establishing a lower normal operating level for the Fund in each of the first two years (e.g., .7 percent and 1 percent). It was suggested that this could be done pursuant to Section 202 (h)(2) of the Federal Credit Union Act as amended (12 U.S.C. 1782 (h)(2)), which defines the "normal operating level" of the Fund as 1.3 percent of all insured shares (i.e., the one percent deposit plus .3 percent existing equity) or "such lower level as the Board may determine." These commenters felt that such a course would allow a phase-in for *all* insured credit unions and yet prove less expensive to credit unions than immediate funding because it would allow for waivers of premiums in the first two years. (Section 202(c)(3) of the Act (12 U.S.C. 1782(c)(3)) allows such waivers when the Fund exceeds the normal operating level.) In the Board's view, regardless of how it is characterized, such a course of action would, as a matter of both law and fact, constitute a three year phase-in and would circumvent the requirement of Section 202(c)(1)(A)(ii) that a phase-in be authorized only if the Board finds it "necessary [in order] to avoid adverse effects on the condition of insured credit unions." Thus, the proposal would violate the spirit if not the letter of the law, and it is accordingly rejected.

As previously indicated, the Board has determined that immediate funding will enable it to waive the 1985 insurance premium. In addition, the Board has decided to declare a return of existing fund equity in an amount equalling .113 percent of each credit union's year-end 1983 insured accounts, or in other words 10–15 percent of the credit union's one percent deposit obligation. (The exact percentage will depend upon the credit union's share growth during 1984, since the amount of the 1 percent deposit is based upon year-end 1984 shares.) As a result, insured credit unions will record their 1 percent deposit asset in January 1985, while transferring to NCUA a net amount equalling only .85–.90 percent of the credit union's total insured shares.

The distribution of Fund equity was determined based on the year-end 1983 total of insured accounts in all federally insured credit unions. Based on NCUA's projection of total share growth, the equity level as of January 1985 will be approximately 1.24% of year-end 1984 total insured shares. During 1985, the level will rise above 1.3% of the year-end 1984 figure, as a result of earnings on Fund assets. The alternative would be to begin 1985 at 1.3% of the projected 1984 total insured shares and constantly operate above that level. The Board believes the course it has selected is more consistent with the statutory intent that the Fund not operate above the normal operating level.

Revised NCUA Form 1308 will be used by insured credit unions to make the necessary calculations. The form will be forwarded to each insured credit union with appropriate instructions in late 1984. As previously indicated, the form will contain a preprinted statement of each credit union's pro rata share of equity distribution. Each credit union will transfer to the Fund a net amount equalling its one percent deposit minus the equity distribution. Credit unions will be required to return the completed form and net amount due by January 20, 1985. The Form 1308 will be forwarded at the same time as the NCUA Financial and Statistical Report (Form 5300), thus facilitating both a single mailing by NCUA and a single return mailing by each credit union.

The final issue raised in the notice of proposed rulemaking relative to funding of the deposit was that of the normal operating level. The Board proposed to set the level initially at the statutory figure of 1.3%. With the exception of those who suggested phasing in to 1.3% over three years as a device for phasing in the 1% deposit, most commenters either agreed with the Board's proposal or expressed no preference. The final rule establishes the normal operating level at 1.3%. The Board believes that this is the level that makes the fund as safe as possible, as soon as possible. The Board is of the view that the authority to establish a lower operating level should be used only if experience over time demonstrates that a lower level would be advantageous. This is an area where the Board would not envision acting precipitously, but rather only after full communication with insured credit unions, the Congress and other interested parties.

The second broad issue raised in the notice of proposed rulemaking concerned return of the one percent deposit to a credit union that is no longer insured by the Fund. In this connection, Section 202(c)(1)(B) of the Act (12 U.S.C. 1782(c)(1)(B)), as amended, provides that the deposit shall be returned "in accordance with procedures and valuation methods determined by the Board" in the event that a credit union's insurance coverage is terminated, the credit union converts to other coverage, or the operations of the Fund are transferred from the Board. The Board proposed simply to return the full amount of the deposit immediately after the Fund no longer has an insurance liability to the credit union. In the case of conversion by a state chartered credit union to other insurance coverage, this would be immediately upon conversion. In the case of a change to uninsured status, the Fund's liability would continue for one year and the deposit would be returned at the end of that period. The commenters generally agreed with this proposal, and it is reflected in the final rule (see section 741.5(i)). Further, while the Act would allow the Board to delay the return of the deposit by up to one year after the termination of any insurance liability, the final rule provides that this will be done only if the Board determines that immediate payment would jeopardize the financial condition of the Fund. Additionally, the final rule provides that a credit union that receives a return of its deposit during an insurance cycle will have the option of leaving a nominal sum on deposit in order to qualify for a prorated share of the next declaration of earnings.

The third broad issue raised in the proposal concerns use of the deposits by

the Fund. Under normal circumstances, the deposit fund will be invested in United States Government-backed securities along with other Fund assets. Section 202(c)(1)(B)(iv) of the Act (12 U.S.C. 1782(c)(1)(B)(iv)), as amended, provides, however, that the Fund may utilize the deposit assets if necessary to meet its expenses, in which case the amount used must be expensed and replenished by insured credit unions "in accordance with procedures established by the Board." The notice of proposed rulemaking indicated the Board's intent not to develop expense and replenishment procedures at this time. A number of commenters disagreed, suggesting that procedures should be developed now and stand available in the event that unanticipated circumstances required use of the deposit funds. The Board continues to be of the view, however, that both the extreme unlikelihood of utilization and expense of deposit funds, and the need to act quickly in implementing other aspects of the legislation, weigh against developing specific procedures at this time. The Board does wish to reaffirm that the deposit assets would be used to meet fund expenses only in the extremely unlikely event of a major catastrophe that required utilization of all the Fund's investment income, all premium income, and the entire .3% nondeposit equity, and that expense and replenishment procedures would be developed at such time with the full participation of insured credit unions.

The fourth broad issue raised in the notice of proposed rulemaking concerned the insurance agreement that NCUA has entered into with each federally insured state chartered credit union. It was noted in the proposal that it will be necessary to modify the agreement to reflect the obligations of the Board and the credit unions concerning the one percent deposit. Comment was requested on whether and to what extent this opportunity should be used to revise and improve the overall agreement. Based upon the comments and further NCUA review, a revised agreement has been developed. With the exception of the addition of provisions concerning the one percent deposit, the changes are nonsubstantive. First, certain provisions of the previous agreement have been shortened and consolidated, resulting in nine separate items of agreement rather than the previous twelve. Second, the agreement has been revised to clarify existing requirements of Title I of the Federal Credit Union Act and provisions of Part 741 of NCUA's regulations with respect to surety bond coverage and reserve requirements. A copy of the new insurance agreement will be forwarded to all affected credit unions in the near future with a more complete explanation and instructions.

The final issue raised in the notice of proposed rulemaking concerned the requirement that the Board report annually to the Congress on the operating level of the Fund. The Board proposed to do this on a fiscal year basis, to coincide with the general operations of NCUA and the annual audits of the Fund. Those few commenters who addressed this issue generally agreed, and the Board will proceed as proposed.

The Board believes the annual audit should be conducted by an independent private CPA firm and should be prepared in accordance with generally accepted accounting principles (GAAP), applied on a consistent basis. GAAP is a set of objective standards for accounting policies and disclosures promulgated by the AICPA, the Financial Accounting Standards, Board, and other authoritative bodies. Such a report addresses any deviations from GAAP or inconsistencies in its application. In addition, GAAP requires disclosure of significant accounting policies and certain other disclosures. The presentation of financial statements in accordance with GAAP thus provides the reader with objective standards by which to evaluate the Fund's financial position and results of operation, as well as a basis for comparability to financial statements of other organizations.

Explanation of Final Rule

Three sections of NCUA's insurance regulations are being revised at this time.

First, § 741.5 (12 CFR 741.5), previously entitled "Insurance Premium Statements" has been rewritten to incorporate the capitalization legislation and is now entitled "Insurance Premium and One Percent Deposit." The new § 741.5 is comprised of nine subsections. Paragraph (a) is entitled Scope and explains that the section implements the requirements of the Federal Credit Union Act concerning maintenance of the one percent deposit and payment of annual premiums. Paragraph (b) defines the key terms used in the legislation and regulations, including "insured shares" and "normal operating level." Paragraph (c) sets forth the requirement that each insured credit union maintain its one percent deposit, and paragraph (d) states the requirement that each credit union pay its annual insurance premium. Paragraph (e) states the Board's policy on periodic adjustments (e.g., premium waivers, distributions of equity) to ensure that the Fund does not exceed its normal operating level. Paragraph (f) establishes NCUA Form 1308 as the prescribed form for computation of and adjustment of the deposit and any premium payment. Paragraphs (g) and (h) address the treatment of credit unions that obtain insurance from the Fund during an insurance year. Specifically, paragraph (g) addresses new charters and states NCUA's policy that a newly chartered credit union will not be required to pay its initial premium or fund its deposit until January of the following insurance year. Paragraph (h) provides that an existing credit union which converts to insurance coverage with the Fund during an insurance year will be required to immediately fund its deposit and pay a prorated share of any premium assessed for that year (i.e., prorated to reflect the remaining number of months in the year), based on its total insured shares as of the month-end prior to conversion. Paragraph (i) sets forth the Board's decision concerning return of the deposit to credit unions that leave the Fund, as previously described.

Section 741.7 of the regulations (12 CFR 741.7) sets forth the requirement that each federally insured credit union file a semiannual financial and statistical report on NCUA Form 5300. The Form 5300 has been revised to provide for the computation of total "insured shares" that is now necessary in connection with determining the credit union's one percent deposit (or annual ajdustment) and premium on Form 1308. As previously indicated, the year-end 5300 will be forwarded with the 1308, thus allowing both a single mailing by NCUA to each credit union and a single return mailing by the credit union. Section 741.7 has been revised to clarify the timing of the 5300 and to delete reference to certain obsolete supplementary forms.

Finally, Part 746 of the regulations (12 CFR Part 746), which sets forth premium rebate procedures for federally insured credit unions that are closed for liquidation, has been repealed in its entirety. This is a technical change to correspond to the repeal in 1982 (by Pub. L. 97–320) of the statutory provisions concerning such rebates.

Effective Date

The revised rules have been issued with a December 1, 1984, effective date. Thus, the rules will be in full force and effect for implementation of the legislation during the transition to the new insurance year.

Regulatory Flexibility Act

The NCUA Board hereby certifies that these final rules will not have a significant economic impact on a substantial number of small credit unions, because the rules and the legislation they implement will reduce the cost of insurance coverage to all federally insured credit unions.

List of Subjects

12 CFR Part 741

Credit unions, insurance.

12 CFR Part 746

Credit unions, insurance rebates.

By the NCUA Board on the 9th day of October, 1984.

Rosemary Brady,

Secretary of the Board.

Accordingly, NCUA's rules and regulations are revised as follows:

PART 741—[AMENDED]

1. The authority for §§ 741.5 and 741.7 reads as follows:

(12 U.S.C. 202(c), Pub. L. 98–369, sec. 2803, July 18, 1984)

2. 12 CFR 741.5 is revised to read as follows:

§ 741.5 Insurance premium and one percent deposit.

(a) *Scope.* This section implements the requirements of Section 202 of the Federal Credit Union Act (12 U.S.C. 1782) providing for capitalization of the National Credit Union Share Insurance Fund through the maintenance of a deposit by each insured credit union in an amount equalling one percent of its insured shares and payment of an annual insurance premium.

(b) *Definitions.* For purposes of this section:

(1) "Insurance year" means a calendar year period, from January 1 through December 31;

(2) "Insured shares" means the total amount of a credit union's share, share draft and share certificate accounts authorized to be issued to members, other credit unions or public units, exclusive of amounts in excess of insurance coverage limits as provided in 12 CFR Part 745, and, in the case of a federally insured state chartered credit union, shall include deposit accounts of members, other credit unions and public units if authorized by state law;

(3) "Fund" means the National Credit Union Share Insurance Fund; and

(4) "Normal operating level" means a total value of Fund equity equalling 1.3 percent of the aggregate of all insured shares in insured credit unions.

(c) *One Percent Deposit.* Each insured credit union shall maintain with the Fund during each insurance year a deposit in an amount equalling one percent of the total of the credit union's insured shares as of the close of the preceding insurance year. The deposit amount shall be adjusted annually on or before January 31, or as otherwise directed by the Board.

(d) *Premium.* Each insured credit union shall pay to the Fund, on or before January 31 of each insurance year or as otherwise directed by the Board, an insurance premium for that insurance year in an amount equalling one-twelfth of one percent of the credit union's total insured shares as of the close of the preceding insurance year.

(e) *Redistribution of Fund Equity.* When the Fund exceeds its normal operating level, the Board will, at least annually, make a proportionate adjustment for insured credit unions of the amount necessary to reduce the Fund to its normal operating level. Such adjustment will be in the form determined by the Board and may include a waiver of insurance premiums, premium rebates and/or distributions from Fund equity.

(f) *Form 1308.* A certified copy of NCUA Form 1308 will be completed by each insured credit union in connection with its computation and funding of its annual premium payment and any change in its one percent deposit. The Form 1308 provides for any adjustments declared by the Board, resulting in a single net transfer of funds between the credit union and NCUA. Copies of Form 1308 may be obtained from any NCUA office.

(g) *New Charters.* A newly chartered credit union that obtains share insurance coverage from the Fund during the insurance year in which it has obtained its charter shall not be required to pay an insurance premium for that insurance year. The credit union shall fund its one percent deposit on or before January 31 of the following insurance year, but shall not participate in any distribution from Fund equity related to the period prior to the credit union's funding of its deposit.

(h) *Conversion to Federal Insurance.* An existing credit union that converts to insurance coverage with the Fund during an insurance year shall immediately fund its one percent deposit based on the total of its insured shares as of the close of the month prior to conversion and shall pay a premium (unless waived in whole or in part for all insured credit unions during that year) in an amount that is prorated to reflect the remaining number of months in the insurance year. The credit union will be entitled to a prorated share of any distribution from Fund equity declared subsequent to the credit union's conversion.

(i) *Return of Deposit.* Any insolvent credit union that is closed for involuntary liquidation will not be entitled to a return of its deposit. Any other credit union whose insurance coverage with the Fund terminates will be entitled to a return of the full amount of its deposit immediately after the final date on which any shares of the credit union are insured, except that the Board reserves the right to delay payment by up to one year if it determines that immediate payment would jeopardize the financial condition of the Fund. A credit union that receives a return of its deposit during an insurance year shall have the option of leaving a nominal sum on deposit with the Fund until the next distribution from Fund equity and will thus qualify for a prorated share of the distribution.

3. 12 CFR 741.7 is revised to read as follows:

§ 741.7 Financial and statistical and other reports.

(a) Each operating insured credit union shall file with the National Credit Union Administration on or before January 31 and on or before July 31 of each year a semiannual Financial and Statistical Report on Form NCUA 5300, as of the previous December 31 (in the case of the January filing) or June 30 (in the case of the July filing).

(b) Insured credit unions shall, upon written notice from the Board or Regional Director, file such financial or other reports in accordance with instructions contained in such notice.

PART 746—[REMOVED]

4. The authority for Part 746 reads as follows:

Authority: 12 U.S.C. 202(c), Pub. L. 97–320, sec. 529, Oct. 15, 1982.

5. 12 CFR Part 746 is removed.

[FR Doc. 84–27236 Filed 10–16–84; 8:45 am]
BILLING CODE 7535–01–M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 102

Disclosure of Information and Privacy Act of 1974

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: The Small Business Administration hereby amends its regulations governing the disclosure of information. This procedural amendment permits disclosure of certain information to credit reporting agencies.

Historically, SBA has not reported information regarding commercial debts to reporting agencies. The amendment is necessary to provide notice of SBA's intention to implement OMB Bulletin No. 83–21 directing all Executive Departments and Establishments to report all non-tax commercial debts. This amendment also distinguishes SBA's reporting of consumer debts pursuant to the Debt Collection Act of 1982, and SBA's regulations implementing such Act, from such reporting of commercial debts.

DATES: This rule is effective October 17, 1984.

ADDRESS: Written comments should be addressed to C. Nicholas Kalcounos, Director, Freedom of Information/ Privacy Acts Appellate Office, Small Business Administration, Office of Hearings and Appeals, 1441 L Street, NW., Washington, D.C., 20416.

FOR FURTHER INFORMATION CONTACT: C. Nicholas Kalcounos, (202) 653–6460.

SUPPLEMENTARY INFORMATION: As a result of the Debt Collection Act of 1982, a new emphasis in Federal Agencies has been placed on the provision of credit information to, and the acquisition of credit information from, credit reporting agencies. The Act specifically eliminates the previous Privacy Act impediments to credit reporting of consumer debts, but does not mention credit reporting of commercial debts. On July 2, 1984, 49 FR 27138, SBA published a final rule concerning debt collection. That rule, appearing at 13 CFR Part 140, sets forth proposed procedures for (1) disclosing information regarding individual debtors to consumer reporting agencies, (2) offsetting the Federal pay of current and former SBA employees who are indebted to the United States, and (3) withholding money payable by the United States to, or held by the United States on behalf of, a person to satisfy a debt owed to SBA by such person. Such Part also permits SBA to withhold money due an individual where such individual is indebted to the United States. The regulation, like the Debt Collection Act, speaks only to credit bureau reporting of consumer debt, and is silent as to the reporting of commercial debt.

By Bulletin No. 83–21, the Office of Management and Budget directed all Executive Departments and Establishments to, among other things, report "all non-tax commercial debts and all delinquent, non-tax consumer debts to credit reporting agencies." These reportings were designed to increase the efficiency of government-wide efforts to collect debts owed the United States. This amendment provides notice of SBA's intention to implement this directive by reporting all commercial debts, regardless of status, to credit reporting agencies (credit bureaus), and clarifies SBA's procedural regulations regarding information disclosure to accomplish that reporting.

The reporting of commercial debts will not be conducted pursuant to the Debt Collection Act of 1982, nor pursuant to SBA's regulations of 13 CFR Part 140 implementing such Act. Written notice of SBA's intention to disclose commercial debts to credit bureaus is not, therefore, required.

This amendment clarifies SBA's intention to disclose information regarding commercial debts only to credit bureaus. The information referred to in § 102.3(b)(2) (v) and (vi) of these regulations will remain exempt from disclosure to all other institutions and to the general public.

SBA certifies that this rule does not constitute a major rule for the purpose of Executive Order 12291. It is procedural in nature and in and of itself does not impose costs upon the businesses which might be affected by it. In addition, since this rule is procedural in nature, it does not constitute a rule which is covered by the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., since it does not have a significant economic impact on a substantial number of small entities. SBA certifies that this rulemaking contains no reporting or recordkeeping requirements which are subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

List of Subjects in 13 CFR Part 102

Freedom of Information, Privacy.

Accordingly pursuant to section 5(b)(4) of the Small Business Act (15 U.S.C. 634(b)(4), Part 102 of 13 CFR is amended to read as follows:

PART 102—DISCLOSURE OF INFORMATION AND PRIVACY ACT OF 1974

Subpart A—Disclosure of Information

Section 102.3(b)(2) (v) and (vi) are revised to read as follows:

§ 102.3 Information and records available to the public and exempt from disclosure.

* * * * *

(b) *Information and records relating to SBA assistance programs.* (1) * * *

(2) Information exempt from disclosure to the public includes:

* * * * *

(v) Information concerning losses, delinquencies and defaults in individual cases, except that such information may be reported to credit reporting agencies pursuant to contract.

(vi) Names of participating lending institutions without their consent, except that the names and/or the Polk Identification Numbers for such institutions may be reported to credit reporting agencies pursuant to contract.

* * * * *

Dated: October 9, 1984.

James C. Sanders,

Administrator.

[FR Doc. 84–27279 Filed 10–16–84; 8:45 am]

BILLING CODE 8025–01–M

CIVIL AERONAUTICS BOARD

14 CFR Part 234

[Economic Regulations; Removal of Part 234; Docket 27891; Reg. ER–1393]

Flight Schedules of Certificated Air Carriers; Realistic Scheduling Required

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB hereby eliminates its rules concerning the filing or publishing of unrealistic flight schedules. In addition, reporting requirement concerning airborne times, which has been waived since 1981, is also eliminated. In place of the rule, the CAB is concurrently adopting a policy statement that states that unrealistic scheduling will be considered an unfair and deceptive practice and an unfair method of competition under section 411 of the Federal Aviation Act. This action is taken at the Board's initative.

DATES: *Adopted:* October 2, 1984. *Effective:* November 16, 1984.

FOR FURTHER INFORMATION CONTACT: Alexander J. Millard, Office of the General Counsel, (202) 673–6011, or Joanne Petrie, Office of the General Counsel, (202) 673–5442, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUPPLEMENTARY INFORMATION: By EDR–301B/PSDR–79, 48 FR 29879, June 29, 1983, the Board proposed to replace Part 234, which governs the scheduling of flights by certificated air carriers, with a policy statement that the Board finds unrealistic scheduling to be an unfair and deceptive practice and an unfair method of competition under section 411 of the Federal Aviation Act. Currently, Part 234 prohibits certificated air carriers performing scheduled passenger service in interstate air transportation from filing or publishing unrealistic flight schedules. Part 234 requires these

carriers to perform a minimum of 75 percent of their trips within the "block-to-block" time published in their schedules, plus a 15-minute of delay. The block-to-block time is the period between the time an aircraft leaves the departure gate and the time it arrives at the gate at its destination. Therefore, a flight can arrive several hours late and still satisfy the requirements of Part 234 if the flight itself did not exceed the elapsed time published in the carrier's schedule by more than 15 minutes.

Until 1981, those carriers subject to Part 234 were also required to file monthly reports (CAB Form 438) with the Board on scheduled arrival performance in the top 200 city-pair routes. This requirement was waived, however, on August 10, 1981, by Reporting Directive No. 26, because of disruptions in the national air traffic control system. The report has not been reinstated, pending the outcome of this rulemaking.

Part 234 was adopted in response to the practice by some certificated carriers of publishing flight schedules that did not accurately reflect actual air travel time. As a result, passengers could not rely upon published flight schedules and plan connecting flights and appointments. In addition, the Board found that failure to perform flights on schedule diminished the value of airmail service to its users and hampered the Postal Service in moving airmail on a priority basis.

In 1975, Aviation Consumer Action Project (ACAP) petitioned the Board to abandon its elasped-time standard and to substitute a requirement that carriers perform their flights in conformance with schedules filed with the Board. The Board's Office of the Consumer Advocate filed an answer in support of ACAP's petition. The Board then issued EDR-301, 41 FR 31568, July 29, 1976, and EDR-301A, 43 FR 54303, October 5, 1977, which invited public comment on whether such a standard should be adopted and how it should be defined. Comments were filed by ACAP, General Mills, Louisville & Jefferson County Air Board, the Michigan Department of State Highways & Transportation, Certain Members of the Air Transport Association, CAB's Office of the Consumer Advocate, American, Braniff, Eastern, Hughes Airwest, Northwest, and United.

Eight of the twelve commenters opposed adoption of an on-time arrival standard. In general, the opponents argued that the proposed rule would adversely affect safety, increase carrier costs because schedules would have to be adjusted to account for unforeseen delays, inconvenience the public, especially last-minute and connecting passengers, and impose an unnecessary and significant administrative burden.

In EDR-301B/PSDR-79, the Board indicated that it agreed with the majority of commenters that adoption of a more stringent on-time arrival standard at this time would be unnecessary and unwise. The carriers were concerned that adoption of an on-time standard might negatively affect safety. In addition, the Board noted the changes that had taken place in the airline industry's regulatory climate. Carriers have strong incentives to meet their published schedules to the best of their ability. Indeed, as the Board stated, "passenger satisfaction and carrier reputation are significant factors encouraging carriers to provide the most realistic scheduling possible."

The Board consequently proposed making two changes to its existing rules. First, the Board proposed to eliminate the reporting requirement because "the present reporting requirements of Part 234 are unnecessarily intrusive and involve significant amounts of paperwork." Secondly, the Board proposed to remove the general prohibition against unrealistic scheduling from Part 234 and shift it to Part 399, *Statements of General Policy*. Specifically, the Board proposed to amend and retitle § 399.81, *Deceptive practices in advertising of schedule performance*, in the enforcement subpart of Part 399 to read, *Unrealistic or deceptive scheduling*. This would make it clear that the Board considers unrealistic scheduling an unfair or deceptive practice under section 411 of the Act. Unrealistic scheduling is scheduling that carriers cannot generally and reasonably be expected to fulfill. However, it is not tied to a specific percentage of flights that arrive within a specific time standard.

Northwest, ACAP and Air BVI filed comments in response to EDR-301B/PSDR-79.

Northwest supported the proposed elimination of Part 234. It argued that a policy statement is unnecessary, however, since the Board has already stated in the notice of proposed rulemaking that unrealistic scheduling practices violated section 411.

The Board has decided that the policy statement is worthwhile. The provision will alert interested persons that even though the Board is removing and reserving Part 234, the action should not be construed as any lessening of its concern over unfair or deceptive scheduling practices within the meaning of section 411 of the Act.

ACAP endorsed the proposed § 399.81 as worded, but requested that the reporting requirements in Part 234 pertaining to actual on-time schedule performance be retained because the reports provide useful consumer information. The Board has balanced the desirability of providing this type of information to consumers against the administrative burdens imposed by the reporting and collection of these data. It finds the justification for reinstating the requirement to be unconvincing. On-time performance is influenced by many factors out of the control of an airline, some of which have been exacerbated in recent years—notably airport congestion, air controller workload, and the changing policies that have been instituted to cope with them. Weather and its different effects on different route systems are other such factors that make direct comparisons unrevealing or even unfair. For these reasons, the Board has decided not to revive the reporting requirement.

Air BVI supported the proposed changes, but asked the Board to go further and broaden the applicability of the policy statement to include all carriers' scheduled international operations to or from the United States and its territories and possessions—including the international operations of commuter air carriers. Air BVI is the flag carrier of the British Virgin Islands, providing scheduled service with less-than-60-seat aircraft. The carrier asserted that one of its competitors, a U.S. commuter air carrier, has published schedules that the carrier cannot possibly perform based on the number of aircraft in its fleet. Air BVI concluded that such actions violate section 411 and should be included within the scope of the policy statement.

The applicability of the proposed § 399.81 is based on Part 234, which had only applied to certificated air carriers. We tentatively agree with Air BVI that air taxis (including commuters), which are subject to section 411, should also be prohibited from unrealistic scheduling practices. The Board is, therefore, concurrently issuing a notice of proposed rulemaking that proposes to amend the new § 399.81 to remove the limitation of the rule's application to certificated air carriers.

Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b), as added by the Regulatory Flexibility Act, Pub. L. 96-534, the Board certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule will eliminate Form 438, which has been waived for almost two years. The policy statement in § 399.81 will replace the

Board's interpretation of section 411 of the Act that is currently expressed in Part 234 without placing any new burdens on small businesses.

List of Subjects in 14 CFR Part 234

Air carriers, Consumer Protection.

All Members concurred except Vice Chairman McConnell who concurred and dissented and filed the following concurring and dissenting statement.

Statement of Vice Chairman McConnell

I concur with the majority in the elimination of Part 234 concerning unrealistic scheduling by certificated air carriers. However, I do not agree that this rule should be replaced with a policy statement in section 399.81.

The Board has authority to act under section 411 against deceptive practices in both foreign and domestic air transportation, and has exercised that authority on an *ad hoc* basis when a problem is proven. There is no evidence of record that an industry-wide problem exists that would call for a Board policy or rule statement.

I see no reason to merely describe statutory authority in a policy statement. If a carrier schedules flights in an unfair or deceptive way the Board should take enforcement action under section 411 of the Act.

Barbara E. McConnell

Accordingly, the Civil Aeronautics Board revises Chapter II of 14 CFR as follows:

1. The authority for Part 234 is:

Authority: Secs. 204, 404, 405, 411 of Pub. L. 85–726, as amended; 72 Stat. 743, 760, 769; 49 U.S.C. 1324, 1374, 1375, 1381.

PART 234—[REMOVED]

2. 14 CFR Part 234, *Flight Schedules of Certificated Air Carriers; Realistic Scheduling Required* is removed and reserved.

By the Civil Aeronautics Board:

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84–27465 Filed 10–16–84; 8:45 am]

BILLING CODE 6320–01–M

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14 CFR Part 399

[Policy Statements Amdt. No. 86 to Part 399 Docket 27891; Reg. PS–111]

Statements of General Policy

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB is eliminating its rule that prohibits certificated air carriers performing scheduled passenger service in interstate air transportation from filing or publishing unrealistic flight schedules, and requires some of these air carriers to file monthly reports with the Board on schedule arrival performance. In its place, the CAB is adopting a new policy statement that unrealistic scheduling will be considered an unfair and deceptive practice and an unfair method of competition under section 411 of the Federal Aviation Act. This action is taken at the Board's initiative.

DATES: *Adopted:* October 2, 1984. *Effective:* November 16, 1984.

FOR FURTHER INFORMATION CONTACT: Alexander J. Millard, Office of the General Counsel, (202) 673–6011, or Joanne Petrie, Office of the General Counsel, (202) 673–5442, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUPPLEMENTARY INFORMATION: In ER–1393, adopted concurrently, the Board removed and reserved Part 234, *Flight Schedules of Certificated Air Carriers; Realistic Scheduling Required.* That part prohibited certain air carriers from publishing unrealistic flight schedules and required carriers in the top 200 city pairs to file monthly reports with the Board.

This final rule changes the title of § 399.81 from *Deceptive practices in the advertising of scheduling performance,* to *Unrealistic or deceptive scheduling,* and adds a new paragraph (a). That paragraph states that it is the policy of the Board to consider unrealistic scheduling of flights by any certificated air carrier providing scheduled passenger air transportation to be an unfair or deceptive method of competition within the meaning of section 411 of the Act. The previous § 399.81 is retained unchanged as paragraph (b).

Additional background information and reasons for the adoption of this rule are set forth in ER–1393, which is also published today.

Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b), as added by the Regulatory Flexibility Act, Pub. L. 96–534, the Board certifies that this rule will not have a significant economic impact on a substantial number of small entities. The policy statement in § 399.81 will replace the Board's interpretation of section 411 of the Act that was expressed in Part 234 without placing any new burdens on small businesses.

List of Subjects in Part 399

Administrative practice and procedure, Advertising, Air carriers, Airports, Antitrust, Archives and records, Consumer protection, Freight forwarders, Grant programs—Transportation, Hawaii, Intergovernmental relations, Motor carriers, Puerto Rico, Railroads, Reporting requirements, Travel agents, Virgin Islands.

PART 399—[AMENDED]

Accordingly, the Civil Aeronautics Board revises Part 399, *Policy Statements,* as follows:

1. The authority for Part 399 is:

Authority: Secs. 101, 102, 105, 204, 401, 402, 403, 404, 405, 406, 407, 408, 409, 411, 412, 414, 416, 801, 1001, 1002, 1102, 1104 of Pub. L. 85–726, as amended, 72 Stat. 737, 740, 92 Stat. 1708, 72 Stat. 743, 754, 757, 758, 760, 763, 766, 767, 768, 769, 770, 771, 782, 788, 797; 49 U.S.C. 1301, 1302, 1305, 1324, 1371, 1372, 1373, 1374, 1375, 1376, 1377, 1378, 1379, 1381, 1382, 1384, 1386, 1461, 1481, 1482, 1502, 1504; Pub. L. 96–354, 5 U.S.C. 601.

2. Section 399.81 is revised by amending the title and by adding a new paragraph (a), so that it reads:

§ 399.81 Unrealistic or deceptive scheduling.

(a) It is the policy of the Board to consider unrealistic scheduling of flights by any certificated air carrier providing scheduled passenger air transportation to be an unfair or deceptive practice and an unfair method of competition within the meaning of section 411 of the Act.

(b) With respect to the advertising of scheduled performance, it is the policy of the Board to regard as an unfair or deceptive practice or an unfair method of competition the use of any figures purporting to reflect schedule or on-time performance without indicating the basis of the calculation, the time period involved, and the pairs of points or the percentage of systemwide operations, thereby represented and whether the figures include all scheduled flights or only scheduled flights actually performed.

All Members concurred except Vice Chairman McConnell who concurred and dissented and filed a concurring and dissenting statement which is included in Regulation ER–1393.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84–27463 Filed 10–16–84; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Parts 373 and 399

[Docket No. 41031-4131]

Export of Computers; CPU Bus Rate Criteria No Longer Required for Licensing to Certain Countries

AGENCY: Office of Export Administration, International Trade Administration, Commerce.

ACTION: Interim rule with request for comments.

SUMMARY: This rule amends the Export Administration Regulations (15 CFR Parts 368–399) by dropping the Central Processing Unit (CPU) bus rate criteria as a requirement for licensing the export of computers to the Free World.

This change is based on an interagency review (Departments of Commerce, State, Energy and Defense) and an international review of the system of strategic export controls maintained by the United States and certain allied countries through the Coordinating Committee (COCOM). Because of changes in computer technology, the CPU bus rate, as a measurement of a computer's power to perform strategic calculations, is not as reliable as the Program Data Rate (PDR). Therefore, it has been determined that the PDR, rather than the CPU, is a more relevant factor in the licensing decision for export to the Free World of electronic computers covered under Export Control Commodity Number 1565A on the Commodity Control List (a listing of all items under Department of Commerce export control). Because PDR is only one of several factors used in reviewing license applications, this rule will have negligible effect on the number of licenses approved or denied.

DATES: This rule is effective October 17, 1984. Comments must be received by December 17, 1984.

ADDRESSES: Written comments (six copies) should be sent to: Betty Ferrell, Exporter Services Division, P.O. Box 273, Office of Export Administration, Washington, D.C. 20044.

FOR FURTHER INFORMATION CONTACT: Vincent Greenwald, Exporter Services Division, Telephone: (202) 377–3856.

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements and Invitation to Comment

1. The provisions of the Administrative Procedure Act requiring notice of proposed rulemaking, an opportunity for public participation, and a delay in effective date (5 U.S.C. 553) are inapplicable because this regulation involves a foreign affairs function of the United States. However, because of the importance of the issues raised by these regulations, this rule is issued in interim form and comments will be considered in developing final regulations. Accordingly, interested persons who desire to comment are encouraged to do so at the earliest possible time to permit the fullest consideration of their views.

2. This rule does not contain a collection of information requirement for purposes of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

3. Because a notice of proposed rulemaking is not being published for this rule, it is not a rule within the meaning of section 601(2) of the Regulatory Flexibility Act, 5 U.S.C. 601(2) and is not subject to the requirements of that Act. Accordingly, no initial or final Regulatory Flexibility Analysis has been or will be prepared.

4. Because this rule concerns a foreign affairs function of the United States, it is not a rule or regulation within the meaning of section 1(a) of Executive Order 12291 and, accordingly, is not subject to the requirements of that Order. Accordingly, no preliminary or final Regulatory Impact Analysis has been or will be prepared.

The period for submission of comments will close December 17, 1984. The Department will consider all comments received before the close of the comment period in developing final regulations. Comments received after the end of the comment period will be considered if possible, but their consideration cannot be assured. The Department will not accept public comments accompanied by a request that part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. The Department will return such comments and materials to the person submitting the comments and will not consider them in the development of final regulations.

All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, the Department requires comments in written form. Oral comments must be followed by written memoranda, which will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public record concerning these regulations will be maintained in the International Trade Administration Freedom of Information Records Inspection Facility, Room 4001, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Washington, D.C. 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the *Code of Federal Regulations*. Information about the inspection and copying of records at the facility may be obtained from Patricia L. Mann, International Trade Administration Freedom of Information Officer, at the above address or by calling (202) 377–3031.

List of Subjects in 15 CFR Parts 373 and 399

Exports.

Accordingly, the Export Administration Regulations (15 CFR Parts 368–399) are amended as follows:

PART 373—[AMENDED]

1. In Supplement No. 1 to Part 373, "Commodities Excluded from Certain Special Licensing Procedures," the entry reading "1565" is amended by removing the phrase "a CPU bus rate of 60 million bits per second or"; and footnote 2 to the entry 1565 is amended by removing the phrase "either a CPU bus rate of 500 million bits per second or" and the phrase "either a CPU bus rate of 200 million bits per second or".

PART 399—[AMENDED]

2. In *Group 5*, "Electronics and Precision Instruments," of Supplement No. 1 to section 399.1 (the Commodity Control List), ECCN 1565A is amended by removing the phrase "a CPU bus rate of 60 million bits per second or" from the paragraph titled *Special Licenses Available;* by removing the phrase "a bus rate of 60 million bits per second or more, or" from paragraph (b) under *Nuclear Non-Proliferation Controls;* by removing the phrase *"either a CPU bus rate of 500 million bits per second or"* from paragraph (b)(1) under *Nuclear Non-Proliferation Controls;* by removing the phrase *"either a CPU bus rate of 200 million bits per second or"* from paragraph (b)(2) under *Nuclear Non-Proliferation Controls;* by removing the phrase " 'CPU bus rate' and" and revising the phrase "the formulas for calculating those rates" to read "the formula for calculating that rate" in the first NOTE following the *Nuclear Non-Proliferation Controls* paragraph; and by removing the phrase "either a CPU bus rate of 500 million bits per second or" and the phrase "either a CPU bus rate of 200 million bits per second or" from the

third NOTE following the *Nuclear Non-Proliferation Controls* paragraph.

Authority: Secs. 203, 206, Pub. L. 95–223, Title II, 91 Stat. 1626, 1628 (50 U.S.C. 1702, 1704) Executive Order No. 12470 of March 30, 1984 (49 FR 13099, April 3, 1984).

Dated: October 12, 1984.

John K. Boidock,

Director, Office of Export Administration, International Trade Administration.

[FR Doc. 84–27445 Filed 10–16–84; 8:45 am]

BILLING CODE 3510–DT–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 239, 270, and 274

[Release Nos. 33–6555; IC–14193; File No. S7–14–84]

Certain Persons Not Deemed Interested Persons; Definition of Regular Broker or Dealer

AGENCY: Securities and Exchange Commission.

ACTION: Final rule amendments, rule adoption and technical amendments to registration statement forms.

SUMMARY: The Commission is adopting rule amendments that will conditionally exempt certain persons who are registered brokers or dealers or affiliated persons of registered brokers or dealers from being considered "interested persons" of an investment company, its investment adviser or principal underwriter. The amendments are intended to expand the pool from which directors who are not considered interested persons of the investment company may be chosen. The Commission is also adopting a rule to define the term "regular broker or dealer." The rule is designed to provide an objective standard by which an investment company can determine whether a particular broker or dealer is a "regular broker or dealer." The Commission is also adopting technical amendments to investment company registration statement forms to reflect the adoption of a definition of "regular broker or dealer."

EFFECTIVE DATE: November 16, 1984.

FOR FURTHER INFORMATION CONTACT: Elizabeth K. Norsworthy, Chief, Office of Regulatory Policy, (202) 272–2048, or Brian M. Kaplowitz, Staff Attorney, (202) 272–3024, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549.

After the effective date, questions should be directed to the Office of Chief Counsel (202) 272–2030, Division of Investment Management, 450 Fifth Street, NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission is adopting amendments to rule 2a–5 [17 CFR § 270.2a–5] (to be renumbered rule 2a19–1) under the Investment Company Act of 1940 ("Act") [15 U.S.C. 80a–1 *et seq.*]. Rule 2a–5 presently affords a narrow exemption from the definition of "interested person" contained in section 2(a)(19) of the Act [15 U.S.C. 80a–2(a)(19)] for certain persons who are within the definition solely because they are brokers or dealers registered under the Securities Exchange Act of 1934 [15 U.S.C. 78a–1 *et seq.*] ("Exchange Act") or are affiliated persons of such brokers or dealers. The amendments are intended to expand the pool from which directors who are not considered interested persons of an investment company ("disinterested directors") may be chosen. While brokers or dealers and their affiliated persons presently may serve on investment company boards of directors, in most cases they must be considered interested persons of the company, its investment adviser, and principal underwriter, even when they or their firms have no other business relationship with those entities.

The Commission is also adopting rule 10b–1 [17 CFR § 270.10b–1] to define the term "regular broker or dealer", which is used in section 10(b) of the Act [15 U.S.C. 80a–10(b)] and in form N–1R [17 CFR 274.101], the annual report for management investment companies.[1] Rule 10b–1 is intended to provide an objective standard by which an investment company can determine whether a particular broker or dealer is a "regular broker or dealer" of the company. At the same time, the Commission is adopting technical amendments to certain items recently added to investment company registration statement forms when rule 12d3–1 [17 CFR § 270.12d3–1] was adopted.[2] These amendments are adopted to reflect the adoption of rule 10b–1 and to clarify when a registrant is required to comply with the new registration statement form items.[3]

Since the background of section 2(a)(19) and rule 2a–5 was discussed in detail in the proposing release,[4] this release focuses primarily on commentator reaction to the proposal and on changes that have been made in the proposal in response to that reaction. The Commission's decision to adopt rule 10b–1 as proposed is also discussed in more detail below.

Discussion

1. The proposed amendments to rule 2a–5

a. The decision to adopt the proposal. The Commission proposed amendments to rule 2a–5 which would broaden the pool from which disinterested investment company directors may be chosen without the need for an exemptive order and which would standardize the conditions under which directors may be considered disinterested.[5] As proposed, the amendments provide that an investment company director who is, or who is affiliated with, a registered broker or dealer may be considered disinterested only where the broker or dealer does no portfolio or distribution business with the company or its complex.[6] The proposed amendments also provide that only a minority of the disinterested directors of any investment company using the revised rule may be affiliated with registered brokers or dealers.

The proposing release also requested public comment on an alternative formulation of the revised rule. The alternative would permit a director to be

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[1] The term would also appear in items 22 and 23 of proposed form N–SAR, a semi-annual report form which the Commission has proposed to substitute for form N–1R and other annual reporting forms presently used by investment companies. *See* Exchange Act Release No. 21206, dated August 6, 1984 [49 FR 32370].

[2] The Commission adopted rule 12d3–1 and related disclosure requirements in Investment Company Act Release No. 14036, dated July 13, 1984 [49 FR 29362]. That rule permits registered investment companies to acquire the securities of persons engaged in securities related businesses, *i.e.*, brokers, dealers, underwriters or investment advisers, under certain circumstances.

[3] The items added to the registration statement forms require a registrant to "state whether" the registrant has acquired the securities of any of its regular brokers or dealers during the registrant's most recent fiscal year. Certain language in the items has been changed in order to make clear that the Commission did not intend to require negative disclosure. The items also have been changed to make clear that in the case of an investment company with more than one series, disclosure is required only with respect to the series for which securities are being registered under the Securities Act of 1933. [15 U.S.C. 77a et seq.]

[4] Investment Company Act Release No. 13920, dated May 2, 1984 [49 FR 19519].

[5] As noted in the proposing release, directors with existing exemptive orders that provide broader exemptive relief than the revised rule may continue to rely on such orders.

[6] The proposed amendments defined "complex" to mean the company on whose board the director sits, its investment adviser, its principal underwriter and other investment companies having the same investment adviser or principal underwriter. As noted *infra*, the revised rule states that investment adviser in this context includes all accounts with respect to which the adviser has brokerage placement discretion.

considered disinterested even though the investment company or its complex does a limited amount of portfolio or distribution business with the director's affiliated broker or dealer. Under the alternative formulation, the broker or dealer, during its most recent fiscal year, could not have received more than one percent of its consolidated gross revenues from executing portfolio transactions for the company, engaging in principal transactions with the company and distributing shares of the company of five percent of its consolidated gross revenues from performing those functions for the complex. In addition, no investment company in the complex could use the broker or dealer as a "regular broker or dealer" as that term would be defined in rule 10b–1. The alternative was based on the assumption that a director would not be subject to potential conflicts of interest so long as the mark-ups and commissions earned by the director's affiliated broker or dealer do not exceed certain specified percentages.

The Commission received six letters of comment in response to the proposing release. All of the commentators supported liberalizing the definition of interested person contained in section 2(a)(19). They differed, however, on whether the revised rule should permit an investment company to do a limited amount of business with a director's affiliated broker or dealer, if the director is to be considered disinterested. Two commentators believed that the revised rule should not permit any business between the complex and the director's affiliated broker or dealer. Four commentators believed that some business could be permitted, as contemplated by the alternative formulation of the revised rule. Two of those commentators, however, recommended that the alternative be modified to take into account the nature of the director's affiliation with the broker or dealer.

The commentators who believed that the revised rule should not permit any business between the complex and the director's affiliated broker or dealer argued that disinterested directors should be removed as much as possible from potential conflicts of interest and that the proposal's conditions would be more effective in minimizing that potential. In this regard, one commentator noted that even if potential conflicts were sufficiently diminished by the conditions of the alternative, the public might still perceive that some directors were not "quite" independent. The other commentator supporting the proposal believed that it would be premature for the Commission to adopt a rule that permits the company and its complex to do a limited amount of business with a disinterested director's affiliated broker or dealer because an adequte precedent for permitting such relief has not yet been established by the exemptive orders previously granted by the Commission.

Of the four commentators who believed that an investment company should be permitted to do a limited amount of business with a disinterested director's affiliated broker or dealer, two supported the alternative proposal, believing that it sufficiently reduced potential conflicts of interest and gave investment companies enough flexibility to do business with brokers or dealers who could provide them with valuable services.

The remaining two commentators, while supporting the idea that the revised rule should permit a limited amount of business, recommended that the alternative be adopted with modifications reflecting the nature of the disinterested director's affiliation with the broker or dealer. One of those commentators suggested that where a director's affiliation with the broker or dealer is more remote, that is, with the broker's or dealer's parent, then the percentage of revenues test should be applied to revenues that the parent derives from its subsidiary's business with the complex. The other commentator believed the percentage of revenues test, as stated in the alternative rule formulation, should be applied only when directors are remotely affiliated with the broker or dealer, for example, when the director is an outside director of the broker or dealer. In cases of more significant affiliations, for example, where the disinterested director is the account executive of the broker or dealer who handles the account of the complex, that commentator believed that the percentage of revenues derived by the broker or dealer from its business with the complex should not exceed one percent.

The Commission has decided to adopt the amendments essentially as proposed. The revised rule should expand the pool from which disinterested directors may be chosen in a manner that is consistent with the legislative intent behind section 2(a)(19). As observed by some of the commentators, if the rule permitted the complex to do a limited amount of business with a disinterested director's affiliated broker or dealer, the director could be subject, or could be perceived as subject, to potential conflicts of interest. As noted in the proposing release, if it is in the best interest of the complex to use a director's affiliated broker or dealer to execute portfolio transactions or to distribute shares, the director could still serve on the investment company board as an interested person.

b. *Changes in response to comments.* Several of the commentators suggested clarification or modification of the amendments in certain respects. As discussed below, the Commission is adopting some of these recommended changes.

One commentator requested that the text of the rule be redrafted to clarify the time period during which a complex cannot do business with a disinterested director's affiliated broker or dealer. One commentator suggested that, as in rule 17a–4 [17 CFR 270.17a–4], the time period should begin six months before the director is to be considered disinterested and continue for as long as the director is considered disinterested.[7] The Commission agrees that an appropriate time period should be specified. While obviously the time period should coincide with the time period during which the director is to be considered disinterested, the Commission also agrees that a condition specifying that the complex do no business with the broker or dealer for at least six months prior to the time when the director is to be considered a disinterested person should provide a reasonable buffer against potential conflicts of interest arising out of a prior business relationship between the complex and the director's affiliated broker or dealer.

One commentator also suggested clarification of the term "complex" as defined in the proposed amendments. As proposed, "complex" would mean the investment company using the rule, its investment adviser, its principal underwriter and all other investment companies having the same investment adviser or principal underwriter. The commentator noted that although the

[7] Section 17(a) prohibits any affiliated person or promoter of or principal underwriter for a registered investment company, or any affiliated person of such a person, from selling or purchasing any security or other property to or from the company without first obtaining an order from the Commission permitting the transaction. Rule 17a–4 exempts from that section purchase and sale transactions pursuant to an investment company contract with a person who was not an affiliated person of the investment company, its promoter, its principal underwriter or one of their affiliates at the time the investment company entered into the contract or for six months prior thereto. *See* Investment Company Act Release No. 1072, dated June 16, 1947 [12 FR 5146].

definition appeared to include all accounts with respect to which the investment adviser has brokerage placement discretion, the proposal had not been clear on this point. A new phrase has been added to the definition of "complex" in the revised rule to make clear that the Commission *did* intend to include all discretionary accounts of an investment company's investment adviser.

The same commentator suggested that the proposed amendments be modified to require that the investment company's board of directors determine that the complex would be unlikely to use the director's affiliated broker or dealer to execute portfolio transactions or distribute shares. While the Commission does not believe that the directors of one investment company in a complex should be required to determine whether reliance on the rule could adversely affect *any* company in the complex, the final rule does require the directors to make that determination with respect to their own company. As pointed out by the commentator, virtually all of the prior applications for exemptive relief have contained this type of representation. The representation was phrased, however, in most cases, in terms of the company and not the complex.[8]

2. Proposed rule 10b–1

In its release proposing the revised rule, the Commission also proposed rule 10b–1 which would define the term "regular broker or dealer" as used in section 10(b)(1) of the Act and in form N–1R.[9] As proposed, "regular broker or dealer" would mean any broker or dealer which, during the company's most recently ended fiscal year, was among the ten brokers or dealers that (1) engaged as principal in the largest dollar amounts of portfolio transactions with the company,[10] (2) received the greatest dollar amounts of brokerage commissions by virtue of direct or indirect participation in the company's portfolio transactions,[11] or (3) sold the largest dollar amounts of the company's shares.[12] As unanimously recommended by the commentators, the Commission is adopting the definition as proposed.

Conclusion

The Commission is adopting rule 2a19–1 to exempt certain persons who are registered brokers or dealers or their affiliates from being considered "interested persons" of an investment company, its investment adviser or principal underwriter. The rule is being adopted substantially as proposed; the Commission has determined not to take any further action at this time on an alternative formulation of the rule that would have permitted an investment company and its complex to do a limited amount of business with a director's affiliated broker or dealer. Under the revised rule, an investment company director affiliated with a broker or dealer will be consider disinterested if (1) the company's complex did no portfolio or distribution business with that broker or dealer for at least six months prior to the time when the director is to be consider disinterested and the complex continues to do no business with that broker or dealer while the director is considered disinterested, (2) the company's board of directors determines that the company and its shareholders will not be adversely affected by not doing business with the broker or dealer and (3) no more than a minority of the company's disinterested directors are registered brokers or dealers or their affiliates. "Complex" is defined to mean the company, its investment adviser, its principal underwriter, and all other investment companies having the same investment adviser or principal underwriter. Investment adviser in this context includes all of the accounts over which the adviser has brokerage placement discretion.

The Commission is also adopting the proposed definition of "regular broker or dealer" and technical amendments to certain items that were recently added to investment company registration statement forms when rule 12d3–1 was adopted.

List of Subjects in 17 CFR Parts 239, 270, and 274

Investment companies, Reporting and recordkeeping requirements, Securities.

Text of Rule, Rule Amendments and Form Amendments

Parts 239, 270 and 274 of Chapter II of Title 17 of the Code of Federal Regulations are amended as set forth below:

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

1. By revising paragraph (e) and the instruction to paragraph (e) in item 9 of form N–2 described in § 239.14 to read as follows:

§ 239.14 Form N–2, registration statement of closed-end management investment companies.

* * * * *

Item 9. *Brokerage allocation and other practices.*

* * * * *

(e) If the registrant has acquired during its most recent fiscal year or during the period of time since organization, whichever is shorter, securities of its regular brokers or dealers or their parents, identify those brokers or dealers and state the value of the registrant's aggregate holdings of the securities of each subject issuer as of the close of the registrant's most recent fiscal year.

Instruction

The registrant need only disclose information with respect to an issuer that derived more than 15% of its gross revenues from the business of a broker, a dealer, an underwriter, or an investment adviser during its most recent fiscal year. If the registrant has issued more than one class or series of stock, the requested information must be disclosed for the class or series that has securities that are being registered.

* * * * *

2. By revising paragraph (e) and the instruction to paragraph (e) in item 17 of form N–1A described in § 239.15A to read as follows:

§ 239.15A Form N–1A, registration statement of open-end management investment companies.

* * * * *

Item 17. *Brokerage allocation and other practices.*

* * * * *

(e) If the registrant has acquired during its most recent fiscal year or during the period of time since organization, whichever is shorter, securities of its regular brokers or dealers of their parents, identify those brokers or dealers and state the value of the registrant's aggregate holdings of the securities of each subject issuer as of the close of the registrant's most recent fiscal year.

Instruction

The registrant need only disclose information with respect to an issuer that derived more than 15% of its gross revenues from the business of a broker, a dealer, an underwriter, or an investment adviser during its most recent fiscal year. If the registrant has issued more than one class or series of stock, the requested information must be

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[8] *See* proposing release *supra* note 4, at n. 26, n. 27, and accompanying text.

[9] *See supra* note 1.

[10] Disclosure concerning these brokers or dealers is currently required by item 30 of form N–1R and would be required by item 20 of proposed form N–SAR.

[11] Disclosure concerning these brokers or dealers is currently required by item 31 of form N–1R and would be required by item 18 of proposed form N–SAR.

[12] Although disclosure concerning these brokers and dealers is currently required by item 66 of form N–1R, the Commission has not proposed to include a comparable item in form N–SAR.

disclosed for the class or series that has securities that are being registered.

* * * * *

3. By revising paragraph (h) and the instruction to paragraph (h) in item 3 of form N–5 described in § 239.24 to read as follows:

§ 239.24 Form N–5, registration statement of small business investment company under the Securities Act of 1933 and the Investment Company Act of 1940.

* * * * *

Item 3. *Policies with respect to security investments.*

* * * * *

(h) If the registrant has acquired during its most recent fiscal year or during the period of time since organization, whichever is shorter, securities of its regular brokers or dealers or their parents, identify those brokers or dealers and state the value of the registrant's aggregate holdings of the securities of each subject issuer as of the close of the registrant's most recent fiscal year.

Instruction

The registrant need only disclose information with respect to an issuer that derived more than 15% of its gross revenues from the business of a broker, a dealer, an underwriter, or an investment adviser during its most recent fiscal year. If the registrant has issued more than one class or series of stock, the requested information must be disclosed for the class or series that has securities that are being registered.

* * * * *

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

4. By revising and redesignating § 270.2a–5 (rule 2a–5) as § 270.2a19–1 to read as follows:

§ 270.2a19–1 Certain investment company directors not considered interested persons.

(a) A director of a registered investment company will not be considered an interested person, as defined by section 2(a)(19) of the Act, of such company or of any investment adviser of or principal underwriter for such company solely because that director is a broker or dealer registered under the Securities Exchange Act of 1934 or an affiliated person of a registered broker or dealer, *provided that:*

(1) The broker or dealer does not execute any portfolio transactions for the company's complex, engage in any principal transactions with the complex or distribute shares for the complex for at least six months prior to the time that the director is to be considered not to be an interested person and for the period during which the director continues to be considered not to be an interested person;

(2) The company's board of directors determines that the company and its shareholders will not be adversely affected if the broker or dealer does not execute any portfolio transactions for the company, engage in any principal transactions with the company or distribute any shares of the company; and

(3) No more than a minority of the directors of the company who are not interested persons of the company are registered brokers or dealers or affiliated persons of registered brokers or dealers.

(b) For purposes of this rule, "complex" shall mean the registered investment company, its investment adviser (including all accounts over which the adviser has brokerage placement discretion), its principal underwriter and all other investment companies having the same investment adviser or principal underwriter.

5. By adding § 270.10b–1 (rule 10b–1) to read as follows:

§ 270.10b–1 Definition of regular broker or dealer.

The term "regular broker or dealer" of an investment company shall mean:

(a) One of the ten brokers or dealers that received the greatest dollar amount of brokerage commissions by virtue of direct or indirect participation in the company's portfolio transactions during the company's most recent fiscal year;

(b) One of the ten brokers or dealers that engaged as principal in the largest dollar amount of portfolio transactions of the investment company during the company's most recent fiscal year; or

(c) One of the ten brokers or dealers that sold the largest dollar amount of securities of the investment company during the company's most recent fiscal year.

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

6. By revising paragraph (e) and the instruction to paragraph (e) in item 17 of form N–1A described in § 274.11A to read as follows:

§ 274.11A Form N–1A, registration statement of open-end management investment companies.

* * * * *

Item 17. *Brokerage allocation and other practices.*

* * * * *

(e) If the registrant has acquired during its most recent fiscal year or during the period of time since organization, whichever is shorter, securities of its regular brokers or dealers as defined in rule 10b-1 under the 1940 Act [17 CFR § 270.10b–1], or their parents, identify those brokers or dealers and state the value of the registrant's aggregate holdings of the securities of each subject issuer as of the close of the registrant's most recent fiscal year.

Instruction

The registrant need only disclose information which respect to an issuer that derived more than 15% of its gross revenues from the business of a broker, a dealer, an underwriter, or an investment adviser during its most recent fiscal year. If the registrant has issued more than one class or series of stock, the requested information must be disclosed for the class or series that has securities that are being registered.

* * * * *

7. By revising paragraph (e) and the instruction to paragraph (e) in item 9 of form N–2 described in § 274.11a–1 to read as follows:

§ 274.11a–1 Form N–2, registration statement of closed-end management investment companies.

* * * * *

Item 9. *Brokerage allocation and other practices.*

* * * * *

(e) If the registrant has acquired during its most recent fiscal year or during the period of time since organization, whichever is shorter, securities of its regular brokers or dealers as defined in rule 10b–1 under the 1940 Act [17 CFR § 270.10b–1], or their parents, identify those brokers or dealers and state the value of the registrant's aggregate holdings of the securities of each subject issuer as of the close of the registrant's most recent fiscal year.

Instruction

The registrant need only disclose information with respect to an issuer that derived more than 15% of its gross revenues from the business of a broker, a dealer, an underwriter, or an investment adviser during its most recent fiscal year. If the registrant has issued more than one class or series of stock, the requested information must be disclosed for the class or series that has securities that are being registered.

* * * * *

8. By revising paragraph (h) and the instruction to paragraph (h) in item 3 of form N–5, described in § 274.4 to read as follows:

§ 274.4 Form N–5, registration statement of small business investment company under the Securities Act of 1933 and the Investment Company Act of 1940.

* * * * *

Item 3. *Policies with respect to security investments.*

* * * * *

(h) If the registrant has acquired during its most recent fiscal year or during the period of time since organization, whichever is shorter, securities of its regular brokers or dealers as

defined in rule 10b–1 under the Investment Company Act of 1940 [17 CFR § 270.10b–1], or their parents, identify those brokers or dealers and state the value of the registrant's aggregate holdings of the securities of each subject issuer as of the close of the registrant's most recent fiscal year.

Instruction

The registrant need only disclose information with respect to an issuer that derived more than 15% of its gross revenues from the business of a broker, a dealer, an underwriter, or an investment adviser during its most recent fiscal year. If the registrant has issued more than one class or series of stock, the requested information must be disclosed for the class or series that has securities that are being registered.

* * * * * *

9. By revising the second paragraph and the instruction in item 11 of form N–8B–2 described in § 274.12 to read as follows:

§ 274.12 Form N–8B–2, registration statement of unit investment trusts which are currently issuing securities.

* * * * * *

Information Concerning the Securities Underlying the Trust's Securities

Item 11 * * *

If the trust owns or will own any securities of its regular brokers or dealers as defined in rule 10b–1 under the Act [17 CFR 270.10b–1], or their parents, identify those brokers or dealers and state the value of the registrant's aggregate holdings of the securities of each subject issuer as of the close of the registrant's most recent fiscal year.

Instruction

The registrant need only disclose information with respect to an issuer that derived more than 15% of its gross revenues from the business of a broker, a dealer, an underwriter, or an investment adviser during its most recent fiscal year. If the registrant has issued more than one class or series of securities, the requested information must be disclosed for the class or series that has securities that are being registered.

* * * * * *

10. By revising paragraph (e) and the instruction to paragraph (e) in item 8 of form N–8B–4 described in § 274.14 to read as follows:

§ 274.14 Form N–8B–4, registration statement of face-amount certificate companies.

* * * * * *

Item 8. *Investments in securities.*

* * * * * *

(e) If the registrant has acquired during its most recent fiscal year or during the period of time since organization, whichever is shorter, securities of its regular brokers or dealers as defined in rule 10b–1 under the Act [17 CFR 270.10b–1], or their parents, identify those brokers or dealers and state the value of the registrant's aggregate holdings of the securities of each subject issuer as of the close of the registrant's most recent fiscal year.

Instruction

The registrant need only disclose information with respect to an issuer that derived more than 15% of its gross revenues from the business or a broker, a dealer, an underwriter, or an investment adviser during its most recent fiscal year. If the registrant has issued more than one class or series of stock, the requested information must be disclosed for the class or series that has securities that are being registered.

Regulatory Flexibility Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act [15 U.S.C. 605(b)], the Chairman of the Commission previously certified that adoption of revised rule 2a19–1 and rule 10b–1 will not have a significant impact on a substantial number of small entities. No comments were received on that certification.

Statutory Basis

Revised rule 2a19–1 is adopted pursuant to sections 6(c) and 38(a) of the Act [15 U.S.C. 80a–6(c) and 80a–37(a)]. Rule 10b–1 is adopted pursuant to the provisions of section 38(a). Technical amendments to investment company registration statement forms are adopted pursuant to sections 8, 30 and 38(a) of the Act [15 U.S.C. 80a–8, 80a–29 and 80a–37(a)] and sections 7, 10 and 19 of the Securities Act of 1933 [15 U.S.C. 77q, 77j and 77s].

Dated: October 12, 1984.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84–27501 Filed 10–16–84; 8:45 am]

BILLING CODE 8010–01–M

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17 CFR Part 240

[Release No. 34–21375; File No. 980]

Prompt Transfer of Securities

AGENCY: Securities and Exchange Commission.

ACTION: Adoption of amendments to rules.

SUMMARY: The Securities and Exchange Commission (the "Commission") is adopting amendments to certain rules under the Securities Exchange Act of 1934 (the "Act") that will subject low-volume transfer agents that handle depository-eligible securities to stated turnaround performance time-frames. The Commission believes that these amendments will result in improved transfer agent turnaround performance that will enhance confidence in, and increase the efficiency of, the National System for the Clearance and Settlement of Securities Transactions (the "National System").

EFFECTIVE DATE: December 31, 1984.

FOR FURTHER INFORMATION CONTACT: Sandra Sciole, Esq. at (202) 272–2855, Division of Market Regulation, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: On June 10, 1983, the Securities and Exchange Commission issued Securities Exchange Act Release No. 19861 (the "Proposing Release") [1] proposing for comment, among other things, amendments to certain rules respecting performance of transfer agent functions.[2] These amendments would establish a minimum performance standard for transfer agents that receive fewer than 500 securities certificates for processing or transfer during any six consecutive months. (Because these transfer agents are exempt from the 90 percent three business day turnaround [3] requirement of Rule 17Ad–2(a),[4] they are generally referred to as "exempt transfer agents.")

In response to the Proposing Release, the Commission received seven letters commenting on the amendments to Rules 17Ad–1 and 17Ad–2.[5] Nearly all of the commenters supported stricter turnaround standards for exempt transfer agents with respect to depository-eligible issues; some of the commenters, however, suggested changes to reduce transfer agent compliance costs. As discussed below, the Commission is adopting the proposed amendments with certain modifications responsive to commenters' suggestions.

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[1] 48 FR 28109 (June 20, 1983).

[2] *See* Rules 17Ad–1 through 17Ad–7, 17 CFR 240.17Ad–1 through 240.17Ad–7 (the "Turnaround Rules").

[3] "Turnaround" is defined in Rule 17Ad–1(e).

[4] *See* Rule 17Ad–4, 17 CFR 240.17Ad–4, which exempts these transfer agents from several of the performance and recordkeeping requirements of the turnaround rules, including the requirement that they turnaround, on a monthly basis, 90 percent of all routine items presented for transfer within three business days. Under Rule 17Ad–4, however, exempt transfer agents are still subject to certain performance, recordkeeping and reporting requirements. *See* 17 CFR 240.17Ad–4(b).

[5] *See* File No. S7–880. The Commission received comment letters from the Office of the Comptroller of the Currency, the American Bankers Association, American Stock Transfer, Inc., the Depository Trust Company, the First National Bank of Boston, the National Association of Securities Dealers, and New England Power Service Company. In accordance with Section 17A(d)(3)(A)(i) of the Act, the Commission has consulted with, and has requested the views of, the federal bank regulatory agencies at least fifteen days prior to this announcement.

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I. Basis, Purpose and General Discussion

In June 1983, the Commission proposed to amend Rule 17Ad–2 to require exempt transfer agents to turnaround, on a monthly basis, 90 percent of all routine items within five business days of receipt if the transfer agent performs transfer functions for a depository-eligible securities issue.[6] The Commission also proposed to amend Rule 17Ad–1 to define "depository-eligible securities issue" as "an issue of securities that is eligible for deposit at any securities depository that is registered with the Commission under the Securities Exchange Act of 1934 as a clearing agency."[7] As originally proposed, the 90 percent five business day standard would apply whenever a transfer agent first receives notice that one of the issues for which it performs transfer functions has become depository-eligible.

Those amendments were proposed to ensure timely transfer of ownership, through prompt cancellation and issuance of securities certificates, in issues of securities that are depository-eligible.[8] Because these securities issues are publicly traded and because trades in these issues are processed through clearing corporations and securities depositories in the National System, the Commission expected the amendments to enhance the efficiency of that System. As the Commission explained in the Proposing Release, exempt transfer agents currently must meet only a very general performance standard—they must turnaround routine items "promptly."[9] In contrast, non-exempt transfer agents must meet a rigorous, specific standard—they must turnaround 90% of all routine items, calculated on a monthly basis, within three business days of receipt. According to some industry representatives,[10] the absence of a specific definition for "promptly" in the turnaround rules has permitted some exempt transfer agents to delay, significantly, turnaround of routine items presented for transfer.[11] According to one commenter, the delays add significant costs and risks of loss to investors and the securities industry.

II. Suggestions by Commenters and Modifications to Proposed Rule 17Ad–2

As noted above, the commenters generally supported stricter turnaround standards for exempt transfer agents. For example, the National Association of Securities Dealers and one transfer agent believed the proposed standard would contribute to increased efficiency in the securities transfer process. Furthermore, the Office of the Comptroller of the Currency ("OCC") noted that fewer delays in processing items presented for transfer would reduce the associated costs and risks borne by institutional and individual investors, broker-dealers and the registered securities depositories. The OCC and the Depository Trust Company ("DTC") estimated that most smaller registered transfer agents normally meet at least a five-day standard and therefore will not incur materially increased compliance costs. In its comment letter, however, DTC noted that most issues transferred by exempt transfer agents are over-the-counter stocks experiencing intermittent periods of high volume. In DTC's experience, during such peak periods a small number of transfer agents cause significant turnaround delays. According to DTC, those delays inhibit DTC's ability to maintain the appropriate range of certificate denominations needed to satisfy participants' urgent withdrawal instructions. To correct that situation, DTC supports the proposed amendments. OCC also noted that the proposed amendments will not subject exempt transfer agents to any new recordkeeping requirements.

In the Proposing Release, the Commission specifically requested comment on the merits of the 90%/five business day turnaround performance standard. Although many commenters supported the proposal without referring specifically to the 90%/five business day standard, the OCC suggested that the Commission adopt, for depository-eligible securities issues transferred by exempt transfer agents, the 90%/three business day standard that already applies to non-exempt transfer agents with respect to routine items.[12] OCC believed that a uniform rule applicable to exempt and non-exempt transfer agents would lessen confusion in the industry without imposing significant costs on exempt transfer agents.

The Commission appreciates OCC's arguments for uniformity and expects that, in the future, all transfer agents will operate under the same turnaround performance standard. Nevertheless, at this time, the Commission believes that an interim 90%/five business day turnaround performance standard for exempt transfer agents is appropriate. That standard limits to a reasonable degree the increased costs incurred by exempt transfer agents that could attend a sudden change to a stated uniform performance standard while still substantially addressing presentor concerns about inferior exempt transfer agent turnaround performance. That standard also affords flexibility to exempt transfer agents in scheduling their activities under the new rule.

Another commenter sought to clarify whether the 90%/five business day requirement should apply to all securities issues handled by exempt transfer agents, even if only one of those issues were depository-eligible. As noted in the Proposing Release, the Commission continues to believe that as soon as any one issue handled by an exempt transfer agent becomes depository-eligible, the 90%/five business day standard governs the transfer agent's handling of all issues, regardless of whether those securities are corporate or municipal securities issues.[13] A transfer agent that handles a depository-eligible securities issue is an important component of the National System and has special responsibilities to that System. This approach should discourage exempt transfer agents from devoting a disproportionate amount of their time and resources to the turnaround of depository-eligible issues, while ignoring prompt turnaround of non-depository-eligible issues.[14] This

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[6] The terms "routine," "item," "turnaround," and "receipt" are defined in Rule 17Ad–1(i), (a), (e), and (g), respectively.

[7] *See* Rule 17Ad–1(j) as adopted, *infra*.

[8] Nearly all publicly traded corporate issues are now depository-eligible. With respect to municipal securities issued in registered form, many are either depository-eligible or will become depository-eligible in the near future.

[9] Rule 17Ad–2(e), which contains the requirement, does not define "promptly."

[10] *See e.g.*, File No. S7–884, letter from Merrill Lynch, Pierce, Fenner and Smith.

[11] As noted in the Proposing Release, such delays can result in significant financing costs for registered broker-dealers and significant market risks for securityholders and other market participants. *See* Proposing Release, 48 FR at 28109.

[12] *See* Rule 17Ad–2(a). Another commenter, American Stock Transfer, Inc. ("AST"), believed that the Commission should eliminate all distinctions between exempt and non-exempt transfer agents. AST nevertheless endorsed the proposal as a substantial improvement over the present standard.

[13] *See* Proposing Release, note 7, 48 FR at 28110.

[14] A related concern involves the treatment of municipal securities items in determining whether a transfer agent qualifies for exempt status under Rule 17Ad–4(b). The Commission believes that transfer agents need not count municipal securities "items" in determining whether they qualify for exempt status. There are a large number of municipal securities issues outstanding, including multiple issues from the same municipality. To count each of these items in determining a transfer agent's status could cause many small exempt bank transfer agents to lose their exemptions. As a result, these bank transfer agents could incur significant costs to comply with the three-business day performance standard and related recordkeeping

Continued

approach is also consistent with the longstanding interpretation that the 90%/three business day standard applies to activity in all securities issues handled by a transfer agent (including securities issues that are not registered under section 12 of the Act) if the transfer agent does not qualify for the exemption under Rule 17Ad–4(b).[15]

The American Bankers Association ("ABA") suggested that the Commission afford affected transfer agents sufficient time following notice of an issue's depository-eligibility before those agents must meet the 90%/five business day standard. According to the ABA, a depository's "notice" of eligibility, if given to the transfer agent the first time it presents securities for transfer, could create a special, sudden change in regulatory and processing responsibilities. Thus, the ABA noted, the exempt transfer agent may lack sufficient time to modify internal procedures to meet a new performance standard for all its transfer activities.

The Commission agrees that advance notice is appropriate and is modifying the proposed amendments accordingly. First, the Commission is delaying the effective date of the amendments until December 31, 1984, to accommodate any transitional changes needed by transfer agents that otherwise would become subject to the Rule immediately. Second, the Commission is modifying the proposal to provide a thirty-day grace period before an exempt transfer agent must conform to the new standard. This thirty-day period will begin to run from the first time the transfer agent receives notice of depository-eligibility. We believe that notice of eligibility will occur when the transfer agent receives either: (i) Securities certificates from a securities depository for transfer into its nominee name; or (ii) notice of depository eligibility through a depository's securities eligibility notice distribution program. The Commission cautions, however, that, until the effective date of the Rule, and during the thirty-day grace period after notice, exempt transfer agents must continue to turnaround routine items promptly.

III. Summary of the Final Regulatory Flexibility Analysis

The Commission has prepared a Final Regulatory Flexibility Analysis ("Analysis") in accordance with 5 U.S.C. 604 regarding amendments to Rules 17Ad–1 and 17Ad–2 adopted today. The Analysis notes that some commenters to the Proposing Release believe that many smaller transfer agents currently comply with the turnaround performance standard adopted today and therefore should not incur increased compliance costs. The Analysis also notes that the amendments do not impose any new recordkeeping or reporting requirements on smaller transfer agents and establish minimum performance, rather than design, standards. The Commission therefore believes that the benefits of the amendments, such as reduced broker-dealer financing costs and broker-dealer, bank, and securityholder processing costs caused by delays in turnaround, significantly outweigh the modest costs that may be incurred by a small number of transfer agents in complying with the amendments.

A copy of the Final Regulatory Flexibility Analysis may be obtained by contacting Jonathan Kallman, Esquire, Division of Market Regulation, 450 Fifth Street NW., Washington, D.C. 20549.

IV. Statutory Basis

Pursuant to the Securities Exchange Act of 1934 and particularly sections 3, 17A and 23(a) thereof, 15 U.S.C. 78c, 78q–1 and 78w(a), the Commission is adopting amendments to §§ 240.17Ad–1 and 240. 17Ad–2 in Chapter II of Title 17 of the Code of Federal Regulations in the manner set forth below. The Commission had determined, as discussed above, that the amendments will further the development of a prompt and accurate National System and will further the goals of section 17A of the Act. In accordance with section 23(a)(2) of the Act, the Commission has considered whether the amendments will impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Act. For the reasons discussed in the text of the Release above, the Commission finds that the costs imposed on exempt transfer agents by the amendments will be small. Moreover, the Commission finds that any burden on competition imposed by those increased costs is outweighed by the benefits to be obtained through enhancements in the safety and efficiency of the National System and therefore is appropriate in furtherance of the purposes of the Act and, in particular, section 17A of the Act.

List of Subjects in 17 CFR Part 240

Reporting and recordkeeping requirements, Securities.

Text of the Amendments

PART 240—[AMENDED]

17 CFR Part 240 is amended as follows:

1. By adding new paragraph (j) to § 240.17 Ad–1 as follows:

§ 240.17 Ad–1. Definitions.

* * * * *

(j) The term "depository-eligible securities issue" means an issue of securities that is eligible for deposit at any securities depository that is registered with the Commission under the Securities Exchange Act of 1934 as a clearing agency.

2. By revising paragraph (e) of § 240–17 Ad–2 as follows:

§ 240.17 Ad–2. Turnaround, processing and forwarding of items.

* * * * *

(e)(1) Except as provided in paragraph (e)(2) of this section, all routine items not turned around within three business days of receipt as required by paragraph (a) of this section and all items not processed within the periods required by paragraph (b) of this section shall be turned around promptly, and all nonroutine items shall receive diligent and continuous attention and shall be turned around as soon as possible.

(2) A transfer agent that is exempt under § 240.17Ad–4(b) and that has received 30 days notice of depository-eligibility of an issue for which it performs transfer agent functions shall turnaround ninety percent of all routine items received during a month within five business days of receipt. Such transfer agent shall devote diligent and continuous attention to the remaining ten percent of routine items and shall turnaround these items as soon as possible.

* * * * *

By the Commission.

Dated: October 5, 1984.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84–27292 Filed 10–16–84; 8:45 am]

BILLING CODE 8010–01–M

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Part 193

[FAP OH5263/R659; PH–FRL 2694–8]

Tolerances for Pesticides in Food; Ethephon

AGENCY: Environmental Protection Agency (EPA).

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and reporting requirements. Those increased costs and burdens ultimately might affect the handling of municipal securities issues, if these tranditionally exempt transfer agents passed their municipal securities work to unregulated or inexperienced processors.

[15] *See* Securities Exchange Act Release No. 17111 (Sept. 2, 1980), 45 FR 59840 (Sept. 11, 1980).

ACTION: Final rule.

SUMMARY: This rule extends a food additive regulation for the plant growth regulator ethephon in or on sugarcane molasses. This regulation is extended in conjunction with an experimental use permit requested by Union Carbide to permit the continued marketing of sugarcane molasses while further data are collected on ethephon.

EFFECTIVE DATE: Effective on October 17, 1984.

ADDRESS: Written objections, identified by the document control number [FAP OH5283/R659], may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Robert J. Taylor, Product Manager (PM) 25, Registration Division (TS–767C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 245, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–1800).

SUPPLEMENTARY INFORMATION: EPA issued a regulation, published in the **Federal Register** of March 12, 1981 (46 FR 16256), permitting the residues of the plant growth regulator ethephon [(2-choloroethyl)phosphomic acid] in sugarcane molasses with a tolerance limitation of 7 parts per million (ppm), resulting from the application of the plant growth regulator to growing sugarcane in conjunction with an experimental use program.

In the **Federal Register** of July 28, 1982 (47 FR 32525), at the request of the Union Carbide Agricultural Products Co., P.O. Box 12014, T.W. Alexander Dr., Research Triangle Park, NC 27799, EPA renewed the regulation to expire July 16, 1984.

The data submitted in the petition and other relevant material were evaluated and discussed in the initial regulation published in the **Federal Register** of March 2, 1981 (46 FR 16256).

The metabolism of ethephon is adequately understood, and an adequate analytical method is available for enforcement purposes. The pesticide is considered useful for the purpose for which the regulation is sought, and it is concluded that the pesticide can be safely used in the prescribed manner when such use is in accordance with the label and labeling registered pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (86 Stat. 973; 7 U.S.C. 136 *et seq.*).

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new food or feed additive levels, or conditions for safe use of additives, or raising such food or feed additive levels do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24945).

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 346(c)(1)))

List of Subjects in 21 CFR Part 193

Food additivies, Pesticides and pests.

Dated: September 27, 1984.

Steven Schatzow,

Director, Office of Pesticide Programs.

PART 193—[AMENDED]

Therefore, 21 CFR 193.186(b) is amended by extending the expiration date for sugarcane molasses, to read as follows:

§ 193.186 Ethephon.

* * * * *

(b) * * *

Foods	Parts per million	Company	Expiration date
*	*	*	*
Sugarcane, molasses	7.0	Union Carbide	July 19, 1986.
*	*	*	*

* * * * *

[FR Doc. 84–27234 Filed 10–16–84; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Parts 210, 212, 217, 218, 219, 228, 229, 241, and 243

Implementation of the Federal Oil and Gas Royalty Management Act of 1982

Correction

In FR Doc. 84–25018, beginning on page 37336 in the issue of Friday, September 21, 1984, make the following corrections:

1. On page 37344, column one, the third word in the twenty-first line of the first complete paragraph should read, "protect".

§ 212.51 [Corrected]

2. On page 37345, third column, in § 212.51(c), insert the word "records" between the words "keep" and "shall" in the third line.

§ 241.20 [Corrected]

3. On page 37352, first column, in § 241.20(b), add the word "for" to the end of the next to last line.

BILLING CODE 1505–01–M

GENERAL SERVICES ADMINISTRATION

48 CFR Ch. 5

[GSAR AC–84–8]

Disputes and Appeals

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Temporary regulation.

SUMMARY: This Acquisition Circular temporarily amends § 533.7103–1(c) (1) and (2) of the General Services Administration Acquisition Regulations (GSAR), APD 2800.12, to reverse the order for placement of documents in appeal files in order to conform with the June 1, 1984 rules of the GSA Board of Contract Appeals. The intended effect is to implement the requirement of the Board rules in the regulation.

DATES: *Effective Date:* October 5, 1984.

Expiration Date: This Acquisition Circular expires 6 months after issuance unless canceled earlier or extended.

FOR FURTHER INFORMATION CONTACT: Ida Ustad, Office of GSA Acquisition Policy and Regulations (VP), (202) 523–4754.

SUPPLEMENTARY INFORMATION:

Impact

The Director, Office of Management and Budget (OMB), by memorandum dated December 15, 1983, exempted agency procurement regulations from Executive Order 12291. The General Services Administration certifies that this document will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Therefore, no regulatory flexibility analysis has been prepared. The rule does not contain information collection requirements which require the approval of OMB under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

List of Subjects in 48 CFR Part 533

Government procurement.

Authority: 40 U.S.C. 486(c).

In 48 CFR Chapter 5, the following Acquisition Circular is added to Appendix C to read as follows:

General Services Administration Acquisition Regulation Acquisition; Circular AC–84–8

October 5, 1984.

TO: All GSA contracting activities.
SUBJECT: Disputes and Appeals.

1. *Purpose.* This Acquisition Circular temporarily amends the General Services Administration Acquisition Regulation (GSAR), APD 2800.12, Section 533.7103–1(c) (1) and (2) to reverse the order for placement of documents in the appeal file in order to conform with the Rules of the GSA Board of Contract Appeals.

2. *Background.* The Acting Administrator for General Services issued revised Rules of the GSA Board of Contract Appeals on June 1, 1984 (ADM 2806.4A). The amended rules reversed the order for arranging documents in the appeal file (see Rule 4(d)). Prior to the issuance of the June 1, 1984, rules, documents were placed in the appeal file in chronological order with the most recent document on top, i.e., the notice of appeal. Under the revised rules, documents are placed in the appeal file in chronological order with the earliest document on top, i.e., the contract.

3. *Effective date.* October 5, 1984.

4. *Expiration date.* This Acquisition Circular expires 6 months after issuance unless canceled earlier.

5. *Reference to regulation.* Section 533.7103–1(c) (1) and (2) of the GSAR.

6. *Explanation of change.* Section 533.7103–1 is amended to revise paragraphs (c) (1) and (2) to read as follows:

533.7103–1 Preparation of the appeal file.

* * * * *

(c) *Arrangement of documents.* (1) The first (top) document in the appeal file shall be the "Index of Exhibits". The index shall list, opposite each exhibit number the date and a brief description of the document and shall indicate which exhibits, if any, have been filed with the Board but not served on the other party because of their length or bulk. The exhibits shall be arranged in chronological order, earliest document first (as exhibit 1), and be separated by tabs for identification. For example:

	Exhibit	Date
Copy of basic contract, including referenced terms and conditions and any amendments.	1	May 20, 1984.
Notice of award	2	Do.
Notice to proceed and facsimile of Post Office receipt.	3	June 5, 1984.
Contractor's request for final decision or other documents of claim in response to which the decision was issued.	4	Aug. 5, 1984
Contracting officer's final decision letter applicable to the dispute and facsimile of Post Office receipt.	5	Aug. 25, 1984.
Notice of Appeal with attachment, if any.	6	Sept. 10, 1984.
Board of Contract Appeals acknowledgement of contractor's Notice of Appeal.	7	Sept. 15, 1984.

(2) In addition to the exhibits listed in (c)(1), above, other pertinent exhibits, such as the following, should be included and exhibited as applicable, in chronological order:

(i) Copy of the repurchase contract, including referenced terms and conditions.

(ii) Copies of specifications/drawings applicable to the dispute.

(iii) Copies of the abstract of offers and list of all offerors solicited for the repurchase contract.

(iv) Copy of letter of assessment, including worksheet showing calculation of excess costs and/or other damages including administrative costs.

(v) Copies of defaulted purchase/delivery orders.

(vi) Copies or purchase/delivery orders issued under the repurchase contract.

(vii) Proof of payment and a detailed disbursement listing annotated and certified, if applicable. (**Note.**—The information and documents needed shall be obtained from the appropriate GSA accounting center. The finance information will be include a detailed disbursement listing annotated with the check number and date, and the amount applicable to the repurchase order if different than the check amount. The disbursement listing will be certified by an appropriate finance division official whose title and date of signature will also be shown.)

(viii) Evidence of certification of the claim or claims, as applicable.

(ix) All other correspondence between the Government and the contractor relevant to the appeal.

(x) All documents and other physical evidence on which the contracting officer relied in making a decision.

Allan W. Beres,

Assistant Administrator for Acquisition Policy.

[FR Doc. 84–27436 Filed 10–16–84; 8:45 am]

BILLING CODE 6820–61–M

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48 CFR Part 504

[APD 2800.12 CHGE 4]

Administrative Matters

AGENCY: Office of Acquisition Policy GSA.

ACTION: Final rule.

SUMMARY: The General Services Administration Acquisition Regulation (GSAR) Chapter 5, is amended to permanently incorporate the contents of Acquisition Circular AC–84–1 on contract distribution into the regulation and to make miscellaneous other changes in Part 504, Administrative Matters, primarily concerning GSA's uniform procurement instrument identification system.

EFFECTIVE DATE: October 5, 1984.

FOR FURTHER INFORMATION CONTACT: Ida Ustad, Office of GSA Acquisition Policy and Regulations, (202) 523–4754.

SUPPLEMENTARY INFORMATION:

Impact

The Director, Office of Management and Budget (OMB), by memorandum dated December 15, 1983, exempted agency procurement regulations from Executive Order 12291. The General Services Administration (GSA) certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et. seq). Therefore, no regulatory flexibility analysis has been prepared. The rule does not contain information collection requirements which require the approval of OMB under 44 U.S.C. 3501 et. seq.

List of Subjects in 48 CFR Part 504

Government procurement.

1. The authority citation for 48 CFR Part 504 reads as follows:

Authority: 40 U.S.C. 486(c).

2. 48 CFR Part 504 is amended as follows:

PART 504—ADMINISTRATIVE MATTERS

3. The Table of Contents for Part 504 is amended to add two new Subparts 504.1 and 504.2 and related sections to read as follows:

Subpart 504.1—Contract Execution

504.103 Contract clauses.

Subpart 504.2—Contract Distribution

504.201 Procedures.

4. The Table of Contents for Part 504 is amended to revise the title in section 504.7001–3 to read as follows:

504.7001–3 Order and call instrument identification number.

5. Subpart 504.1 and section 504.103 is added to read as follows:

Subpart 504.1—Contract Execution

504.103 Contract clause.

Agency procedures do not require the use of the clause at FAR 52.204–1, Approval of Contract, in solicitations and contracts.

6. Subpart 504.2 and section 504.201 is added to read as follows:

Subpart 504.2—Contract Distribution

504.201 Procedures.

The contract distribution procedures in FAR 4.201 are supplemented to provide that when a "Duplicate Original" of the contract or modification is forwarded to the paying office it shall be certified as a true copy by the contracting officer on the award or modification form (i.e., SF 26, 33, 1442 etc.). The contracting officers original handwritten signature, in ink, must be placed on the award form certifying the copy as a "true copy". This requirement does not apply to:

(a) Leases of real property;

(b) Schedule contracts, or

(c) Standard or GSA multipage purchase/delivery order carbon forms.

7. Section 504.471(b) paragraphs (5) through (13) are revised to read as follows:

504.471 Processing security requirements checklist (DD Form 254).

* * * * *

(b) * * *

(5) *Item 5:* Check Item 5a, 5b, or 5c, as applicable and insert the date of the specification. If item 5b or 5c is checked also, enter the date for item 5a.

(6) *Item 6:* If the DD Form 254 is not for a follow-on contract, annotate block "Does Not Apply." If the DD Form 254 is for a follow-on contract, enter the preceding contract identification number from which this contract evolved and indicate whether accountability for classified material on the preceding contract is or is not transferred to the follow-on contract.

(7) *Item 7:* If there is a prime contract, complete items 7a and 7b, and 7c showing the complete name and address of the prime contractor's facility that will receive classified information in the performance of the prime contract identified in item 3a along with the responsible security office of that facility. If there is no prime contract and item 3c is completed, enter instead in items 7a and 7b the name and address of the contractor's facility to which the DD Form 254 is to be sent in connection with the RFP, RFQ, or IFB, or GSA program as described in GSAR 553.401, and the responsible security office of that facility. The identity of the responsible security office is obtainable from Section II of the GSA Form 1720.

(8) *Item 8:* If there is a first tier subcontract, complete items 8a and 8b showing the complete name and address of the subcontractor's facility that will receive classified information in performance of the subcontract listed in item 3b. If there is no first tier subcontract and item 3c is completed, enter instead the name and address of the subcontractor's facility to which the DD Form 254 is to be sent in connection with RFP, RFQ, IFB, and the responsible security office of that facility.

(9) *Item 9:* List in the proper order of succession beginning with the second tier, the subcontract's identification number and the complete name and address of the subcontractor of each successive tier, down to and including the subcontractor's facility for which the DD Form 254 is being provided, and the responsible security office of such last facility. If item 3c is completed, the last entry should be the name and address of the subcontractor's facility to which the particular DD Form 254 is to be sent in connection with the RFP, RFQ, or IFB, and the responsible security office of such facility.

(10) *Item 10:* Under item 10a, include a brief unclassified statement or notation of sufficient information to identify the nature of the procurement or program. If an unclassified notation cannot be made, enter the word "classified." Usually, item 10c is checked "no." If a case arises where the contracting officer believes item 10c should be checked "yes," the Director, Office of Internal Security should be contacted for further guidance.

Under item 10d, check "yes" or "no". If necessary, identify the specific areas or elements of the contract which are outside the inspection responsibility of the cognizant security office in item 15.

(11) *Item 11:* Check the appropriate box for each item listed. Use the "Remarks" column to elaborate as necessary. When either the RESTRICTED Data, Cryptographic Information, or Communication Analysis Information block is checked "yes," identify the applicable classification guide(s) pertinent to the contract or attach them to the DD Form 254. If these extracts are classified, forward them by separate correspondence. If it is necessary to check "yes" to the Defense Documentation Center of Defense Information Analysis Center services, coordinate with the GSA Office of Internal Security (ATOI), Office of Oversight.

(12) *Item 12:* Enter the name, address, telephone number, and office symbol of the GSA official to whom inquiries pertaining to classification guidance determinations or interpretations for the subcontract are to be directed. (This item must be completed even if the official is the same as the official identified in item 16(e).) In first tier subcontracting situations, show the name, address, and telephone number of the responsible official in the facility of the prime contractor listed in item 7a. In subcontracting situations beyond the first tier, show the name, address, and telephone number of the responsible official in the subcontractor's facility listed in item 3b or item 8, as appropriate to whom inquiries pertaining to classification guidance determinations or interpretations for the subcontract are to be directed.

(13) *Item 13:* Strike through "Direct" and "Through" boxes and enter "To: Director, Office of Internal Security (ATOI), General Services Administration Washington, DC 20405."

* * * * *

8. Section 504.671(b) paragraphs (7) and (8) are revised to read as follows:

504.671 Reporting taxpayer identification numbers.

* * * * *

(b) * * *

(7) When a prospective contractor fails to provide its TIN in an offer, it shall be handled as a minor informality. The contracting officer shall request that the prospective contractor cure the deficiency by providing the number. If the prospective contractor refuses, the contracting officer should inform the offeror that the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248), as amended by Pub. L. 98–67, requires that Government agencies

reduce payments due to contractors, who fail or refuse to provide the TIN, by twenty percent. The twenty percent withheld must be transferred and reported to the Internal Revenue Service using the wage reporting process.

(8) If the prospective contractor persists in its refusal to supply the TIN, the award shall be made and the Office of Finance shall be notified accordingly.

9. Section 504.803(a) paragraph (26) is revised to read as follows:

504.803 Contents of contract files.

(a) * * *

(26) Evidence of concurrence for legal sufficiency of the appropriate counsel (if applicable).

* * * * * *

10. Section 504.7001 is revised to read as follows:

504.7001 Uniform procurement instrument identification.

(a) This section is effective October 1, 1984, for all GSA contracting activities except for the contracting activities within the Public Buildings Service where the section is effective October 1, 1985.

(b) This section prescribes procedures for the identification of GSA contracts, orders, and other procurement instruments regardless of dollar threshold.

11. Section 504.7001–1 paragraphs (a) and (b) are revised to read as follows:

504.7001–1 Policy.

(a) The uniform procurement instrument identification system shall be used for procurement instruments listed in paragraph (f) of GSAR 504.7001–2. The system does not apply to purchases made through certified invoice procedures (see GSAR 513.70) or to imprest fund purchases.

(b) Identification shall be placed in spaces provided on the applicable procurement forms. If a space is not reserved for the prescribed number, it shall be placed in the upper right-hand corner of the form.

* * * * * *

12. Section 504.7001–2 is amended by revising the introductory text and paragraphs (c), (f) and (h) to read as follows:

504.7001–2 Basic procurement instrument identification number.

The basic procurement instrument identification number will normally be assigned at the time of award. However, the number may be assigned at the time a procurement request is received if assignment at that time will facilitate tracking of the procurement. The basic procurement instrument identification number shall remain unchanged for the life of the particular instrument and shall consist of 14 alphanumeric characters as follows:

* * * * * *

(c) The fifth character shall be a capital letter assigned to the service/office preparing the instrument as follows:

A—Office of Policy and Management Systems
B—Office of Comptroller
D—Federal Property Resources Services
F—Office of Federal Supply and Services
G—Board of Contract Appeals
H—Office of Civil Rights, Organization and Training
J—Office of Inspector General
K—Office of Information Resource Management
L—Office of General Counsel
N—National Archives and Records Service
P—Public Buildings Service

* * * * * *

(f) The tenth character shall be a capital letter assigned to indicate the type of procurement instrument code as follows:

A—Agreements, including basic agreements, basic ordering agreements, and blanket purchase agreements.
B—Reserved.
C—Contracts, including letter contracts, contracts referencing basic agreements, and contracts providing subsequent provisions, excluding indefinite delivery type contracts.
D—Indefinite delivery contracts, including indefinite delivery, indefinite quantity and requirements contracts.
E—Sales contracts.
F—Outleases or subleases of real property.
G–K—Reserved.
L—Leases of real property.
M—Purchase orders (open market small purchases)—manual.
N—Reserved.
P—Purchase orders—(open market small purchases)—automated.
Q—Reserved.
R—Reserved.
S—Schedule contract.
T–Z—Reserved.

* * * * * *

(h) An example of this procurement instrument identification number is:

Positions		GS	02	P	84	PF	L	0002
1-2	The agency designation code							
3-4	A two-digit code identifying the region or Central Office							
5	A capital letter identifying the service/office.							
6-7	The last two digits of the fiscal year.							
8-9	A two-digit alpha code assigned to the contracting office.							
10	A captial letter assigned to the type of instrument							
11-14	The four digit serial number.							

13. Section 504.7001–3 is amended by revising the introductory text and paragraph (f) to read as follows:

504.7001–3 Order and call instrument identification number.

Delivery orders under contracts (orders), orders under basic ordering agreements (orders), calls under blanket purchase agreements (calls), and orders under schedule contracts shall be identified by an "11" character alphanumeric identification number.

* * * * * *

(f) An example of a delivery order number is:

Position		P	01	84	P8	0001
1	Service/office issuing the order.					
2&3	Region issuing the order.					
4&5	Fiscal year.					
6&7	A two-digit code assigned to contracting office.					
8-11	Four digit serial number.					

14. Section 504.7001–4(b) is revised to read as follows:

504.7001–4 Supplemental procurement instrument identification number.

* * * * * *

(b) The second character shall be a capital letter identifying the type of action, as follows:

A—Administrative change.
C—Change order.
O—Other (includes exercise of options, price adjustments under escalation clauses and other changes made under specific contract clauses.)
S—Supplemental agreement (bilateral signatures).

* * * * *

Note.—Appendix A will not be published in this issue of the Federal Register, but will be published in the GSAR. Appendix A is filed with the original documents.

Dated: October 5, 1984.

Allan W. Beres,

Assistant Administrator for Acquisition Policy.

[FR Doc. 84-27437 Filed 10-16-84; 8:45 am]
BILLING CODE 6820-61-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[Docket No. 31012-199]

Atlantic Tuna Fisheries Closure

AGENCY: National Marine Fisheries Service (NOAA), Commerce.

ACTION: Notice of Harpoon Boat category closure.

SUMMARY: NOAA issues this notice to close the fishery for giant Atlantic bluefin tuna conducted by vessels permitted in the Harpoon Boat category. Closure of this fishery is necessary because the annual catch quota will be attained by the effective date. The intent of this action is to insure the overall U.S. quota for Atlantic bluefin tuna in the Western Atlantic Ocean will not be exceeded.

EFFECTIVE DATE: 0001 hours Eastern Daylight Time (EDT) October 14, 1984, through December 31, 1984.

FOR FURTHER INFORMATION CONTACT: William C. Jerome, Jr., 617-281-3600, extension 325, or David S. Crestin, 617-281-3600, extension 253.

SUPPLEMENTARY INFORMATION: Regulations promulgated under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971-971h) regulating the take of Atlantic bluefin tuna by persons and vessels subject to U.S. jurisdiction were published in the Federal Register on June 17, 1983 (48 FR 27745).

Section 285.22(b) of the regulations provides for an annual quota of 60 short tons (st) of giant Atlantic bluefin tuna to be taken by vessels permitted in the Harpoon Boat category in the Regulatory Area. This quota was subsequently increased to 75 st effective August 17, 1984 (49 FR 33132, published on August 21, 1984). The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), is authorized under § 285.20(b)(1) to monitor the catch and landing statistics and, on the basis of these statistics, to project a date when the total catch of Atlantic bluefin tuna will equal any quota under § 285.22. The Assistant Administrator, further, is authorized under § 285.20(b)(1) to prohibit the fishing for, or retention of, Atlantic bluefin tuna by the type of vessels subject to the quotas. The Assistant Administrator has determined, based on the reported catch of giant Atlantic bluefin tuna of 70 st, and the recent catch rate, that the annual quota of giant Atlantic bluefin tuna allocated to vessels permitted the Harpoon Boat category will be attained by the effective date. Fishing for, and retention of any Atlantic bluefin tuna by these vessels must cease at 0001 hours EDT on October 14, 1984.

Notice of this action has been mailed to all Atlantic bluefin tuna dealers and vessel owners holding a valid vessel permit for this fishery.

Other Matters

This action is taken under the authority of 50 CFR 285.20, and is taken in compliance with Executive Order 12291.

(Atlantic Tunas Convention Act of 1975, 16 U.S.C. 971 *et seq.*)

Dated: October 12, 1984.

William G. Gordon,

Assistant Administrator for Fisheries.

[FR Doc. 84-27382 Filed 10-13-84; 2:58 pm]
BILLING CODE 3510-22-M

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50 CFR Part 652

[Docket No. 41032-4132]

Atlantic Surf Clam and Ocean Quahog Fisheries

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Emergency interim rule.

SUMMARY: NOAA issues an emergency interim rule amending the Fishery Management Plan for Atlantic Surf Clam and Ocean Quahog Fisheries. This rule reduces the minimum size limit for surf clams to 5¼ inches for a limited time period and revises the method of inspecting surf clams for compliance. The intended effect of the rule is to reduce the discard mortality rate, resulting in greater short- and long-term yield from the resource.

EFFECTIVE DATE: October 14, 1984, through January 12, 1985.

ADDRESS: Copies of the environmental assessment, and the Woods Hole Laboratory Reference Report 84-25 supporting this rule are available from John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, Delaware 19901.

FOR FURTHER INFORMATION CONTACT: Salvatore Testaverde, 617-281-3600, ext. 273.

SUPPLEMENTARY INFORMATION: This emergency interim rule was prepared by the NMFS, with the concurrence of the Mid-Atlantic Fishery Management Council (Council).

The regulations implementing Amendment 3 to the Fishery Management Plan for Atlantic Surf Clam and Ocean Quahog Fisheries (FMP) were published on January 29, 1982 (47 FR 4268). The regulations contain provisions at § 652.25 that include a minimum size limit for surf clams of 5½ inches, allow fishermen to reserve from inspection 10 percent of the full cages of surf clams aboard the vessel, and provide for a tolerance of no more than 240 undersized surf clams in any single inspected cage. This results in a combined tolerance of about 19 percent for sublegal surf clams.

When the minimum size limit was developed, the Council tried to balance conflicting goals of the industry. The 5½ inch size was considered optimum in terms of product value, although maximum yield per recruit for surf clams occurs at a smaller size of approximately 4¾ inches. Surf clams occur in beds which are generally mixed in size, so that even the most careful fishermen catch some small clams. The tolerance in the implementing regulations was therefore considered necessary to minimize discarding. Discards are considered wasteful since a considerable portion (about 50 percent) of the discarded clams probably die.

In recent months, the present size distribution of surf clams, combined with the present minimum size limit, has resulted in discard rates of up to 50 percent of the clams harvested, when fishermen cull their catches to ensure that their harvests are of legal size.

The Council is preparing an amendment to the FMP to include a

framework measure which will allow the Regional Director, in consultation with the Council, to adjust the size limit. The Council asked for immediate action on an emergency basis to change the size limit consistent with the objectives of the proposed amendment.

This rule is being implemented using the emergency authority provided to the Secretary under section 305(e) of the Magnuson Fishery Conservation and Management Act. At its meeting on June 21, 1984, the Mid-Atlantic Fishery Management Council by majority vote requested this action. At its meeting on August 2, 1984, the Council was provided with scientific information and industry testimony and selected a new minimum size of 5¾ inches to be implemented as quickly as possible. This was based upon the conclusion that a reduction in the minimum size from 5½ inches to 5¼ inches will help to achieve the Council discarding goal and result in an acceptable portion of the catch being under minimum size. This slight reduction in minimum size will not negatively influence yield potential from cohorts of the clams as yield per recruit is maximized in the 4¾- to 5¼-inch size range. The scientific information supporting that size selection is contained in Woods Hole Laboratory Reference Report 84–25 and is available upon request from the address listed above.

The rule is also being revised to eliminate the set-aside of 10 percent of cages in possession. The only tolerance allowed is 240 clams less than 5¼ inches per cage, but no more than 50 clams may be less than 4¾ inches.

Classification

The Assistant Administrator for Fisheries, NOAA, has determined that this rule is necessary to respond to an emergency situation and is consistent with the Magnuson Act and other applicable law.

The Assistant Administrator also finds that, due to the potential for diminished long-term yield from the resource associated with the current high discard mortality rate among surf clams, the reasons justifying promulgation of this rule on an emergency basis also make it impracticable and contrary to the public interest to provide notice and opportunity for comment upon, or to delay for 30 days the effective date of these emergency regulations, under the provision of section 553 (b) and (d) of the Administrative Procedure Act.

The Assistant Administrator has determined that this rule does not directly affect the coastal zone of any State with an approved coastal zone management program.

This emergency rule is exempt from the normal review procedures of Executive Order 12291, as provided in section 8(a)(1) of that Order. This rule is being reported to the Director of the Office of Management and Budget, with an explanation of why it is not possible to follow the procedures of that Order.

An environmental assessment (EA) was prepared which analyzes the consequences of this action. The Assistant Administrator concluded that there will be no significant impact on the human environment. A copy of the EA is available from the Council at the address listed above.

This rule does not contain a collection of information requirement subject to the Paperwork Reduction Act.

This rule is exempt from the procedures of the Regulatory Flexibility Act because the rule is issued without opportunity for prior public comment.

List of Subjects in 50 CFR Part 652

Fisheries, Fishing.

Dated: October 12, 1984.

Joseph W. Angelovic,

Deputy Assistant Administrator for Science and Technology, National Marine Fisheries Service.

PART 652—[AMENDED]

For the reasons set out in the preamble, NOAA amends 50 CFR Part 652 as set forth below:

1. The authority citation for Part 652 reads as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. Section 652.25 is revised in its entirety to read as follows:

§ 652.25 Size restriction.

(a) *Minimum length.* A minimum size limit for surf clams of 5¼ inches in length is imposed with the following exception:

(1) *Tolerance.* As many as 240 surf clams in any cage inspected by an authorized officer may be less than 5¼ inches; but no more than 50 clams in any cage may be less than 4¾ inches.

(2) *Sampling.* If any cage is found to be in violation, all cages in possession will be deemed in violation of the size limit.

(b) *Measurement.* Length is measured at the longest dimension of the surf clam.

[FR Doc. 84–27457 Filed 10–12–84; 5:00 pm]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 49, No. 202
Wednesday, October 17, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

7 CFR Part 800

Fees for Official Services Performed by Agencies

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: In compliance with the requirement for the periodic review of existing regulations, the Federal Grain Inspection Service (FGIS or Service) has reviewed its regulation on fees for official services performed by agencies. FGIS proposes to amend this regulation by revising the approval requirements for ageny fees and adding or restating certain conditions for determining if the fees are reasonable and nondiscriminatory. Also proposed are requirements that fee schedules shall include fees all official servcies which agencies are delegated or designated the authority to perform, that fee schedules shall be prepared in a standard format, and the approval time in advance of the proposed effective date for the fees be 30 days. These proposed changes would clarify, update, and restate certain provisions so as to facilitate use of the regulations.

DATES: Comments must be submitted on or before December 17, 1984.

ADDRESS: Comments must be submitted in writing to Lewis Lebakken, Jr., Information Resources Management Branch, USDA, FGIS, Room 0667, South Building, 1400 Independence Avenue, SW., Washington, D.C. 20250, telephone (202) 382–1738. All written comments received will be made available for public inspection at the above address during the regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., at the above address, telephone (202) 382-1738.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This proposed rule has been issued in conformance with Executive Order 12291 and Departmental Regulation 1512–1. The action has been classified as "nonmajor" because it does not meet the criteria for a major regulation established in the Order.

Regulatory Flexibility Act Certification

Kenneth A. Gilles, Administrator, FGIS, has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) because most users of the official inspection and weighting services and those entities that perform these entities that perform these services do not meet the requirements for small entities.

Collection of Information Requirements

In compliance with the Office of Management and Budget (OMB) regulations (5 CFR Part 1320) which implement the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and section 3504(h) of that Act, the previously approved information collection and recordkeeping requirements contained in this proposed rule have been submitted to OMB for review. Comments concerning these requirements should be directed to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for the Department of Agriculture, Room 3201, NEOB, Washington, D.C. 20503.

Review of Regulations

The review of the regulations concerning fees for official services performed by agencies included a determination of the continued need for and consequences of the regulation. An objective of the review was to ensure that the regulations are serving their intended purpose, the language is clear, and the regulations are consistent with FGIS policy and authority. FGIS has determined that, in general, these regulations are serving their intended purpose, are consistent with FGIS policy and authority, and should remain in effect. FGIS, however, proposes to amend § 800.70 by:

1. Amending paragraph (b) *Approval required* by deleting the provision for internal approval of certain fee schedules, adding the requirement that only fees which meet the requirements stated in this section may be charged by an agency, and adding a general provision for case-by-case exceptions to the fee schedule approval requirements. When the current regulation was promulgated on March 11, 1980, an exception provision was established to provide interim approval of all agency fee schedules which were in effect on March 11, 1980. Since then, all agencies have received approval of their revised fee schedules. Therefore, this exception clause is no longer necessary.

Currently, § 800.70 provides that only fees which are approved as reasonable and nondiscriminatory may be charged by an agency. However, in reaching this determination, there are certain other criteria in § 800.70 that are considered during the review for approval process. Therefore, FGIS proposes to clarify the section to state that agency fees must meet all the requirements of § 800.70 as a condition for approval.

2. FGIS recognizes that all agencies may not be able to meet all of the requirements unconditionally. Therefore, FGIS proposes to grant case-by-case exceptions to the requirements of § 800.70 if the proposed exception can be justified by the agency, and if a determination is made that the agency's fees are reasonable and nondiscriminatory. These proposed provisions reflect more clearly the Service's policy for reviewing for approval agency fee schedules.

3. Adding a new paragraph (c)(4), requiring that fees be supported by sufficient information showing how they were developed. Such information is needed by FGIS to help determine whether the fees are reasonable.

4. Amending paragraph (e) by adding the requirement that fee schedules shall include fees for all official servcies which agencies are delegated or designated the authority to perform, and be in a standard format in accordance with instructions issued by the Service.

5. Currently, many agencies provide fees only for services which are customarily requested in their geographic area. When an applicant requests an official service which is not addressed in an agency fee schedule, the agency must revise its fee schedule and request FGIS approval of the proposed revision. Some fee revision requests would be eliminated if each agency were required to provide a fee for all official services which the agency

is delegated or designated the authority to perform. This requirement would promote consistency among agency fee schedules and would make the schedules more informative to applicants for official services.

6. At present, there is not a standard fee schedule format. The inconsistencies in format among agency fee schedules impede understanding and cause misinterpretations of the fees and charges. A standard fee schedule format would provide a needed degree of consistency and clarity.

7. Amending paragraph (f) by changing the request for approval time requirement to not less than 30 days in advance of the proposed effective date for the fees. Currently, agencies are required to submit requests for approval of new or revised fees to FGIS not less than 60 days in advance of the proposed effective date for the fees. However, unanticipated workload changes often require agencies to request that fee schedule revisions be effective in less than 60 days from the date of the request. Thirty days represents a more reasonable request for approval advance notice time requirement. Also, the sentence referring to case-by-case exceptions to the approval time requirement is not needed because FGIS proposes to grant case-by-case exceptions to the requirements of § 800.70 under paragraph (b)(2).

8. Miscellaneous non-substantive grammatical and format changes are also proposed to § 800.70 to clarify and facilitate the use of the regulations.

List of Subjects in 7 CFR Part 800

Administrative practice and procedure, Export, and Grain.

PART 800—GENERAL REGULATIONS

Accordingly, 7 CFR Part 800 of the regulations is proposed to be amended by revising § 800.70 paragraphs (b), (c), (d), (e)(i) and (f)(i) to read as follows:

§ 800.70 Fees for official services performed by agencies.

* * * * *

(b) *Approval required—(1) Restriction.* Only fees that meet the requirements stated in this section and are approved by the Service as reasonable and nondiscriminatory may be charged by an agency.

(2) *Exceptions.* For good cause shown, the Administrator may grant case-by-case exceptions to the requirements in this section provided that a determination is made that the agency fees would be reasonable and nondiscriminatory.

(c) *Reasonable fees.* In determining if an agency's fees are reasonable, the Service will consider whether the fees: (1) Cover the estimated total cost to the agency of (i) official inspection services, (ii) Class X or Class Y weighing services, or (iii) inspection equipment testing services, and (iv) related supervision and monitoring activities performed by the agency; (2) are reasonably consistent with fees assessed by adjacent agencies for similar services; (3) are assessed on the basis of the average cost of performing the same or similar services at all locations served by the agency; and (4) are supported by sufficient information which shows how the fees were developed.

(d) *Nondiscriminatory fees.* In determining if fees are nondiscriminatory, the Service will consider whether the fees are collected from all applicants for official service in accordance with the approved fee schedule. Charges for time and travel incurred in providing service at a location away from a specified service point shall be assessed in accordance with the approved fee schedule.

(e) *Schedule of fees to be established.* (1) Each agency shall establish a schedule of fees for official services which the agency is delegated or designated the authority to perform. The schedule shall be in a standard format in accordance with the instructions. Such schedules may include fees for other nonofficial services provided by the agency, but they shall be clearly identified and will not be subject to approval by the Service.

* * * * *

(f) *Request for approval of fees—* (1) *Time requirement.* A request for approval of a new or revised fee shall be submitted to the Service not less than 30 days in advance of the proposed effective date for the fee. Failure to submit a request within the prescribed time period may be considered grounds for postponement or denial of the request.

* * * * *

Authority.—Secs. 8, 9, and 16; Pub. L. 94–582, 90 Stat. 2873, 2875, 2884 (7 U.S.C. 79, 79a, and 87e).

Dated: October 2, 1984.

David R. Galliart,

Acting Administrator.

[FR Doc. 84–27283 Filed 10–16–84; 8:45 am]

BILLING CODE 3410–EN–M

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7 CFR Part 800

Licenses and Authorizations (For Individuals Only)

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: In compliance with the requirements for periodic review of existing regulations, the Federal Grain Inspection Service (FGIS or Service) reviewed the regulations under the United States Grain Standards Act (Act), as amended, concerning Licenses and Authorizations (For Individuals Only) and proposes no change to these regulations.

DATE: Comments must be submitted on or before December 17, 1984.

ADDRESS: Comments must be submitted in writing to Lewis Lebakken, Jr., Information Resources Management Branch (RM), FGIS, USDA, Room 0667 South Building, 1400 Independence Avenue, SW., Washington, D.C. 20250, telephone (202) 382–1738. All comments received will be made available for public inspection at the above address during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., address as above, telephone (202) 382–1738.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This proposed rule conforms with Executive Order 12291 and Departmental Regulation 1512–1. The proposed action is classified as nonmajor because it does not meet the criteria for a major rule established in the Order.

Regulatory Flexibility Act Certification

Dr. Kenneth A. Gilles, Administrator, FGIS, determined that this proposed action does not have a significant economic impact on a substantial number of small entities because most users of the official inspection and weighing services and those entities that perform these services do not meet the requirement for small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Information Collection and Recordkeeping Requirements

In compliance with the Office of Management and Budget (OMB) regulations (5 CFR Part 1320) which implements the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and section 3504(h) of the Act, the previously approved information collection and recordkeeping requirements contained in this proposed rule have been submitted to OMB for review. Comments concerning these requirements should be directed to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer

for the Department of Agriculture, Room 3201, NEOB, Washington, D.C. 20503.

Regulatory Review

The review of the regulations concerning Licenses and Authorizations (For Individuals Only) (7 CFR 800.170–.180) included a determination of continued need for and consequences of the regulations. The objective of the review was to ensure that the regulations are serving their intended purpose, the language is clear, and that the regulations are consistent with FGIS policy and authority. FGIS has determined that these regulations are serving their intended purpose, are consistent with FGIS policy and authority, and should remain in effect. Therefore, FGIS proposes that §§ 800.170–.180 be retained as presently written. These sections contain provisions relating to the licensing, authorization, or approval of individuals to perform inspections or Class X weighing. Included are sections on application and examination for licenses and their issuance as well as suspension, cancellation, termination, and renewal of licenses.

List of Subjects in 7 CFR Part 800

Administrative practices.

PART 800—GENERAL REGULATIONS

Accordingly, FGIS proposes to make no changes to §§ 800.170–.180 of the regulations at this time. Comments are solicited from the public regarding this action.

Authority: (Secs. 8, 9, 18, Pub. L. 94–582, 90 Stat. 2873, 2875, and 2884 (7 U.S.C. 79, 79a, and 87c)).

Dated: October 1, 1984.

David R. Galliart,

Acting Administrator.

[FR Doc. 84–27282 Filed 10–16–84; 8:45 am]

BILLING CODE 3410–EN–M

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 563 and 564

[No. 84–570]

Earnings-Based Accounts

Dated: October 15, 1984.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: The Federal Home Loan Bank Board ("Board"), as operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC" or "Corporation"), is proposing to place limitations on the issuance by insured institutions of accounts that provide for the payment of interest to be determined by reference to an index based on the profitability of specified assets of the institution. The intent of the proposed limitations is to address concerns regarding the safety and soundness of institutions issuing such accounts, the insurability of such instruments, and the advertising, sales, and distribution practices with respect to such instruments. The Board is also proposing to prohibit the issuance of any insured account in conjunction with the issuance of a security.

DATE: Comments must be received by: November 16, 1984.

ADDRESS: Send comments to Director, Information Services Section, Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552.

FOR FURTHER INFORMATION CONTACT: Christopher Bolle, (202) 377–7057, Attorney, Office of General Counsel, at the above address.

SUPPLEMENTARY INFORMATION: The Federal Home Loan Bank Board has recently become aware that a number of institutions, the accounts of which are insured by the Federal Savings and Loan Insurance Corporation ("insured institutions"), have issued or are considering the issuance of account instruments the return on which is based to some degree on the return received by the institution on specified assets. In some cases the assets are to be acquired with the account proceeds and in other cases the assets are already owned or controlled by the institution. The Board believes that this type of deposit program may prove to be a valuable technique for matching portions of insured institutions' asset and liability portfolios. The Board is concerned, however, by some features of these account programs which its staff has reviewed, and is therefore proposing certain limitations to protect the safety and soundness of institutions engaged in this activity and to protect persons investing in these instruments.

Definition of Earnings-Based Accounts

The Board is proposing to include in its definition of the term "earnings-based account" any account that provides for the payment of interest to be determined, to any extent and directly or indirectly, by reference to an index based upon the profitability of certain assets. This would include account instruments which guarantee a "floor" rate of return as well as making provision for contingent additional interest based on the return on specified assets. The assets would include those which are, directly or indirectly, owned, controlled by, or within the control of, the issuing institution, to cover a variety of arrangements possible in this type of account offering. The proposed definition would include assets acquired by investment of the account proceeds as well as assets already in portfolio or controlled indirectly by the issuing institution, such as assets of a subsidiary or affiliate.

In order to avoid uncertainty as to whether the instruments are "accounts" for purposes of FSLIC insurance coverage, the proposed definition of "earnings based account" would exclude any instrument having "participating" features that could lead to its characterization as an equity interest from the term "account." The presence of the following factors would disqualify the instrument from inclusion in the "safe harbor" of this account definition: (1) Provisions granting holders or owners of the instruments any form of ownership interest or rights in the specified assets, (2) a provision for the possibility of loss of principal of the account holders, directly or indirectly, or through a provision for negative interest, or (3) provisions requiring or permitting the payment of contingent or variable interest, however derived, in excess of 70 percent of the actual dollar amount of the fixed or guaranteed interest payable on the accounts.

With regard to the third factor, some programs of which the Board is aware purport to pay a return on the accounts comprising virtually all of the profits derived from the specified assets. The Board is concerned that if the economic interest of the issuer in the assets were so limited as to indicate that the institution was in effect managing the assets for the benefit of others, the institution would have given up a prime incentive to manage those assets in a prudent manner. There is also a question whether such an arrangement might later be characterized as an equity participation with unintended adverse consequences relating to tax treatment, securities regulations and insurability of the instruments as accounts. The Board is therefore proposing to remove this uncertainty, and the safety-and-soundness risks which inattentive asset management and adverse characterization of the instruments could have on the operations of insured institutions, by requiring that issuers limit the amount of return on assets to be reflected in the contingent interest payment to depositors to an amount not in excess of 70 percent of the dollar amount of fixed or guaranteed interest payable on the account. The Board

believes that this figure would maintain an economic incentive in the institutions after allowing for servicing and other costs associated with the account program. In addition, this provision would, in the view of the Board, ensure that the predominant characteristics of earnings-based accounts would be those of debt and not of equity.

Proposed Limitations

As noted above, the Board is aware that earnings-based accounts may offer advantages over fixed-rate instruments in terms of matching liabilities with assets. The Board believes that well-structured accounts of this type could prove to be very useful as part of the overall business plan of an institution. There are some features of these plans, however, that could cause serious difficulties for institutions.

1. Size of Issuance

The Board is concerned that an account program of this type which is disproportionately large in relation to the asset size of the institution may exacerbate the basic problems of credit risk and undue concentration of risk. Because the return on instruments issued under such programs depends to some extent upon the management expertise of the issuer, the instruments are not, for investment purposes, easily comparable with other savings accounts, such as fixed-rate CDs, nor even with similar instruments of other issuers. This aspect of these instruments tends to encourage large issuances so that a secondary market for that particular issuance may be created. The programs of which the Board is currently aware are, in most cases, in the $50–$100 million range. If a program of large size in relation to the size of the issuer were not to perform as expected, the issuer would not only be locked into a loss in terms of cash-flow for the life of the program, but could have severe liquidity problems if the specified assets did not yield a return sufficient to repay the principal on the instruments. The Board is also concerned that, while these accounts are attractive to institutions because of their matching function, it is not a safe or sound practice for an institution to rely too heavily on investments with one particular set of characteristics, even where the investments are matched to some extent.

The Board does not at this time believe that it would be appropriate for it to prescribe an asset diversification requirement for these programs. It does wish to note that the loans-to-one-borrower and conflicts-of-interest rules apply to investments made in connection with these programs, and that institutions, underwriters, and the public should be aware of the effect that those rules could have on earnings-based account programs. The Board does not believe, however, that such rules address all of its concerns about these programs, particularly where a small institution undertakes a very large program.

To address these concerns, the proposal would limit the total amount of earnings-based accounts issued by an institution to an amount equal to five percent of the assets of the institution, or up to 20 percent of the assets of the institution with prior approval from the Supervisory Agent. An application would be deemed complete when the Supervisory Agent had been supplied with the following: (1) A description of the anticipated and the maximum amounts of earnings-based accounts to be offered by the applicant; (2) information describing in detail the loans to be used in calculating the contingent interest on the certificates; (3) a description and analysis of the institution's underwriting and credit experience in the making of such loans; (4) the exact method of calculating contingent interest on the certificates; (5) information showing the financial condition of the applicant, including, but not limited to, the applicant's net worth; (6) a detailed analysis showing the extent to which the proposed offering would affect the applicant's exposure to interest-rate and credit risk; (7) information describing the deposit growth pattern of the applicant over the preceding 3 calendar years; and (8) a copy of a resolution adopted by the applicant's board of directors establishing a business plan designed, in conjunction with the offering, to reduce interest-rate and credit risk to the institution. An application would be deemed to be approved if a written notice by the Supervisory Agent of objection to the application stating the grounds for such objection were not received by such applicant within 30 days of the date the application was complete. Supervisory Agent approval would be contingent upon a number of factors, including the net worth of the institution, its deposit-growth pattern, its asset-underwriting capabilities, compliance with the assets-composition test contained in Internal Revenue Code section 7701(a)(19), and supervisory concerns. The Board believes that such a limitation is necessary to limit insured institutions' exposure to the risks attendant on such programs while permitting their utilization for matching purposes. The Board would specifically welcome comments on this aspect of the proposal, as well as suggestions with respect to additional or alternative limitations to address this concern.

2. Net-Worth Compliance

The Board is also concerned that institutions with low net worth would not have the resources to survive possible losses in the event that their earnings-based account program performed poorly. The Board believes that the risks attending such programs outweigh the possible benefits for very weak institutions. Therefore, the proposal would prohibit institutions which do not meet the regulatory net-worth requirement of 12 CFR 563.13(b) from issuing these accounts. Institutions meeting the regulatory net worth requirement could issue earnings-based accounts in amounts up to five percent of assets; institutions with a greater amount of net worth could issue earnings-based accounts to a greater extent with prior approval of the Supervisory Agent, as described above.

3. Asset Pools Used in Programs

The Board is concerned that institutions will attempt to finance acquisitions of equity interests by means of earnings-based account programs. The Board believes that the risk- and profit-sharing aspects of these programs would make such a device inappropriate. In order to address this concern, the proposal would limit the assets which could be used to establish the interest index to loans secured by real property. The Board believes that this provision would ensure that the programs were used for matching purposes, and limit the possibility that such instruments would be deemed to be equity investments by the depositors and thus not insurable by the FSLIC.

The Board is also concerned that the matching function could be significantly impaired were an institution to issue earnings-based accounts providing for the payment of interest to account holders based on contract return on the underlying assets rather than on the institution's actual return. The proposal therefore would prohibit the issuance of earnings-based accounts which would provide for the payment of contingent or variable interest to account holders in excess of the actual income derived by the institution from the specified assets.

4. Control Over Assets

Most of the earnings-based accounts of which the Board currently is aware are being offered through securities firms. Because the return on the instruments is dependent upon the

management efforts of the issuer, some underwriters are concerned that they may be liable if the issuer does not act in accordance with its disclosed policy. In some cases, the underwriter has retained the right to veto any investment decision of the institution under the program. While the Board recognizes that the concerns of underwriters prompting such provisions may be valid, it is concerned that such provisions may effectively abrogate the institution's asset-management responsibility and, further, may result in the institution becoming overly dependent upon the underwriter and encourage "brokerage deals" in which third parties take control of significant portions of an institution's asset and liability business. The Board is therefore proposing that no person other than the institution may exercise control over assets upon which the interest index is based or assets otherwise acquired in connection with the issuance of earnings-based accounts. This provision would not infringe on traditional contract provisions ensuring compliance with established prudent loan undewriting or asset acquisition standards. In addition, this proposed provision would not, of course, prohibit a borrower whose loan is being used in such a program from exercising control over the property in accordance with his ownership rights.

5. Disclosure and Related Issues

The Board has observed a number of potentially serious problems which could arise with respect to earnings-based accounts which would not be present for accounts with fixed interest rates or interest rates tied to indices outside the control of the insured institution. These concerns arise primarily in three areas. First, the depositor's return is dependent to a large extent upon the institution's ability to acquire high-quality assets and manage them so as to provide depositors with high rate of return. Thus the return on earnings-based accounts depends in part upon the management expertise of the issuer, although the principal must be guaranteed by the issuer and is insured by the FSLIC. The Board wishes to ensure, therefore, that potential investors have sufficient information as to the issuer's expertise and other material factors upon which to base their investment decision. Second, the Board is concerned that some institutions may attempt to abuse their control over the assets used to establish the return on earnings-based accounts by using low-quality assets to create their indices while retaining full use of their higher-quality assets. Third, the Board is concerned that the institution's ability to control the method of accounting for income from the assets could be abused to the detriment of the account holders.

To address these concerns, the proposal would require that, in connection with the issuance, purchase, sale, or redemption of any earnings-based account, the institution and its agents must disclose all material facts to the depositor. In addition, the proposal would prohibit fraudulent or deceptive practices by institutions and their agents in connection with any such issuance, sale, or redemption of earnings-based accounts.

The Board believes that this provision will encourage full and accurate disclosure of all material facts relating to earnings-based accounts to prospective depositors. Facts which the Board would deem to be material include, but are in no way limited to: identification of the index to be used in determining the rate of interest payable; the method used to calculate the actual interest to be paid; the minimum and/or guaranteed interest payable on the accounts; the limitations on FSLIC insurance coverage on contingent unaccrued interest; a description and analysis of the issuer's loan underwriting and management capabilities and experience; disclosure of any conflict of interest involved in or potentially affecting the program; and a statement that earnings-based accounts do not and cannot convey any ownership or security interest in the assets used to calculate the interest payable on the accounts.

6. Securities-Tied Accounts

The Board is aware of a growing interest on the part of insured institutions in the possibility of issuing insured accounts which would could be converted into stock of the issuing institution or which would be attached to warrants or options for the purchase of such stock. The Board is concerned that this constitutes a potential misuse of FSLIC insurance coverage on the account facet of the transaction while conveying an actual or potential ownership interest in the issuer. In addition, the Board believes that the addition of such a feature to an earnings-based account would result in equity features becoming predominant in the instruments, and thus would render them ineligible for FSLIC insurance coverage. The Board also believes that there is a great potential for confusion and abuse in the sales of such "packages" because of the difficulty in determining the insurance coverage and other rights created by an investment which attempts to be both an insured account and an equity investment. Therefore, the Board is proposing to prohibit the issuance or sale by an institution of insured accounts where such sale is linked in any manner to the purchase of any security.

7. Accounts Issued to Owners of Pool Assets

The Board is also concerned that some persons may wish to use these programs as a means of obtaining FSLIC insurance for their own investment in assets by using the insured institution as a straw party. The Board believes that such a practice would be abusive. Therefore, the proposal would require insured institutions issuing earnings-based accounts to take reasonable steps to ensure that persons having any interest in the underlying assets, including ownership of property securing loans in the pool, do not acquire these accounts. Such steps would include, but would not be limited to, the placement of a restrictive legend on the account instruments.

Insurance Coverage of Contingent Interest Amounts

A number of earnings-based CD programs provide for the use of the institution's interest in "equity kicker" loans or shared appreciation loans in calculating the contingent interest payable to the account holders. In some cases, where the interest on the accounts is calculated on the basis of the performance of a pool of such loans, this component of the interest is calculated on the basis of the funds derived from the total equity participations of the pool. However, such interest cannot be calculated until the institution actually receives the funds at the maturity of the loans or the sale of the mortgaged properties. Questions have arisen as to the manner in which FSLIC insurance coverage on such interest amounts would be determined.

The Board believes that it is inappropriate for the FSLIC to insure the mere expectations, as opposed to actual rights, of depositors under these or other programs not providing for specific interest rates. This is in accordance with the provisions of Title IV of the National Housing Act, which provides that accounts are insured up to the withdrawable value of the account. *See* 12 U.S.C. 1724(a). Under the current regulations, the insured amount of an account is the net withdrawable value of the account as of the date default. *See* 12 CFR 564.1(b). Contingent amounts of interest would not be withdrawable

under the terms of the account because they would not have unconditionally accrued to the account holders.

While the Board believes that the existing regulations provide some guidance as to the treatment of contingent interest in insurance settlement (e.g. a contingent interest would not be deemed to be withdrawable, as it would not have accrued), it believes that the use of the term "withdrawable" in the statute needs clarification. In practice, the use of "net withdrawable value" as used in Part 564 is often confused with early withdrawal penalty considerations, which are not relevant in determining insurance coverage. In fact, the question of the value of an account does not depend upon the amount which the depositor would have been able to withdrew himself on the date of default, but upon the amount for which the insured institution is unconditionally liable to the insured member as of that date. Therefore, the proposal would amend Part 564 to provide that the insured amount of an account does not include any interest or principal the payment or accrual of which is subject to any contingency under the terms of the account agreement.

In addition, earnings-based accounts would not be permitted to contain provisions for maturity in the event of insolvency of the institution, enforcement of other regulatory or supervisory action by regulatory authorities (other than an action to terminate an institution's status as an insured institution), or the appointment of a conservator or receiver. This provision would prevent institutions from attempting to evade the general insurance provision by using the insolvency of the institution to trigger the accrual of contingent interest, where the institutions would have no liability for such "interest" if it were healthy. The Board believes that these provisions would clarify the operation of the statute and the regulations with respect to these and other forms of account.

Monitoring of Earnings-Based Accounts Programs

Because earnings-based accounts programs are both novel and experimental, the Board believes that it is important that the use of such programs by the industry be closely observed, and has directed its Office of Examinations and Supervision to monitor the progress of such issuances and report its findings to the Board prior to consideration of a final regulation in this area.

Effective Date

The Board is aware of a large number of earnings-based accounts programs which, while not commenced as of this date, could be offered to the public in the very near future. For the reasons discussed above, the Board has strong concerns about the safety and soundness of these programs, and with the status of some earnings-based instruments as accounts. The Board is concerned that a large number of institutions may attempt to put their programs on the market before a final rule on this subject could go into effect. The proposal therefore provides that, if the portions of the proposal regarding earnings-based accounts were adopted as a final rule in substantially their proposed form, they would apply to all accounts issued on or after October 17, 1984, the date of the publication of this proposal. The Board is also aware, however, that several institutions have offered or are offering earnings-based deposits under programs which were submitted to their Supervisory Agents for approval and were approved by the Supervisory Agents for approval and were approved by the Supervisory Agent prior to the commencement of the offering. Because the Board does not wish to prejudice institutions that affirmatively relied on Board action prior to the issuance of this proposal, the rule would expressly provide that it would not, except for that portion regarding the insurance treatment of contingent interest amounts, apply to such programs.

Initial Regulatory Flexibility Analysis

Pursuant to Section 3 of the Regulatory Flexibility Act, Pub. L. No. 96–354, 94 Stat. 1164 (Sept. 19, 1980), the Board is providing the following initial regulatory flexibility analysis:

1. *Reasons, objectives, and legal bases underlying the proposed rules.* These elements have been discussed elsewhere in the supplementary information regarding the proposal.

2. *Small entities to which the proposed rules would apply.* The rules would apply to all insured institutions.

3. *Impact of the proposed rules on small institutions.* To the extent that the rules would affect small institutions, this has been discussed elsewhere in the proposal.

4. *Overlapping or conflicting federal rules.* There are no federal rules which duplicate, overlap, or conflict with the proposed rules.

5. *Alternatives to the proposed rules.* The proposal would permit issuance of earnings-based accounts to the maximum extent consistent with safety-and-soundness principles. Other alternatives, such as prohibiting such accounts entirely, would eliminate the benefits which they may offer to institutions and account customers.

List of Subjects in 12 CFR Parts 563 and 564.

Banks, banking, Bank deposit insurance, Federal Home Loan Bank Board, Federal Savings and Loan Insurance Corporation, Savings and loan associations.

Accordingly, the Board hereby proposes to amend Parts 563 and 564, Subchapter D, Chapter V, Title 12 of the *Code of Federal Regulations*, as set forth below.

Subchapter D—Federal Savings and Loan Insurance Corporation

PART 563—OPERATIONS

1. Add new § 563.3–10 as follows:

§ 563.3–10 Earnings-based accounts.

(a) *Definition.* An earings-based account is any account that provides for the payment of interest which is determined, to any extent, directly or indirectly, with reference to an index based upon the profitability of specified assets which are, directly or indirectly, owned by or under or within the control of the insured institution ("contingent interest"): *Provided*, that earnings-based instruments are not accounts if they: (1) provide for or permit the payment of contingent interest to insured members in excess of 70 percent of the dollar amount of fixed or unconditionally guaranteed interest payable on the account; (2) grant the investor an ownership interest of any kind, other than a security interest arising from operation of law, in such assets, or (3) put the investor's funds at risk by providing for negative interest or by limiting the obligation to repay principal on the basis of asset performance.

(b) *Limitations.* if authorized by applicable law, an insured institution may issue earnings-based accounts only in accordance with the following conditions:

(1) The total outstanding amount of all such accounts issued equal to five percent of the insured institution's assets, except that such amount may be increased to 20 percent of the insured institution's assets with prior approval of the Supervisory Agent pursuant to paragraph (c) of this section, if the Supervisory Agent finds that: (i) The insured institution meets or exceeds the net-worth test contained in § 563.4(a) of this Part or any amount of net worth required to be maintained in an

applicable supervisory directive or operating agreement, whichever is greater; (ii) the growth of the insured institution's deposit base has not been excessive nor would be so as a result of the proposed offering; (iii) the insured institution's underwriting experience indicates an ability to adequately underwrite the loans anticipated to be used in calculating in the index under the program; (iv) the insured institution meets the asset-composition test imposed on an institution seeking to qualify as a "domestic building and loan association" pursuant to section 7701(a) of the Internal Revenue Code of 1954 (as amended); and (v) there are no other bases for supervisory concern with respect to such insured institution;

(2) The insured institution is in compliance with its regulatory net-worth requirements under § 563.13(b) of this part;

(3) Assets the income or return on which is the basis for the index used in the accounts may only be loans secured by real property.

(4) Only the insured institution, and no other person, may exercise control over the selection or disposition of assets upon which the index is based or assets otherwise acquired in connection with the issuance of such accounts;

(5) No insured institution or its agents shall, directly or indirectly, (i) employ any device, scheme, or artifice to defraud, (ii) make any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances in which they were made, not misleading, or (iii) engage in any act, practice, or course of business which operates or would operate as a fraud or deceit on any account holder, in connection with the sale of issuance of any earnings-based account;

(6) An insured institution may not pay or commit to pay contingent interest in an amount greater than the amount of income actually received on the assets;

(7) The maturity of an earning-based account may not be conditioned on the financial condition of the insured institution or on any supervisory or other regulatory action, including, but not limited to, the appointment of a conservator or receiver, with respect to such insured institution;

(8) No insured institution shall issue, sell, or otherwise participate in the distribution of any earnings-based account the sale of which is accompanied by a right to purchase a security or any other insured account; and

(9) The issuing insured institution shall use all reasonable means to ensure that persons who hold or have a beneficial interest in such accounts do not have an interest of any kind in the assets used to calculate the contingent interest. Such means include, but are not limited to, the inclusion of an appropriate legend on the face of the account certificates.

(c) *Supervisory Agency approval.* (1) An application for prior approval pursuant to paragraph (b)(1) of this section shall be deemed approved by the Supervisory Agent 30 days after notification to the applicant that such application is complete, unless the applicant receives written notice from the Supervisory Agent within such period that objection has been taken. (2) An application shall be deemed to be complete for purposes of this section when the Supervisory Agent has received the following items: (i) a description of the anticipated and the maximum amounts of earnings-based accounts to be offered by the applicant; (ii) information describing in detail the loans to be used in calculating the contingent interest on the certificates; (iii) a description and analysis of the insured institution's underwriting and credit experience in the making of such loans; (iv) the exact method of calculating contingent interest on the certificates; (v) information showing the financial condition of the applicant including, but not limited to, the applicant's net worth; (vi) a detailed analysis showing the extent to which the proposed offering would affect the applicant's exposure to interest-rate and credit risk; (vii) information describing the applicant's deposit growth over the preceding three calendar years; and (viii) a copy of a resolution adopted by the applicant's board of directors establishing a business plan designed, in conjunction with the offering, to reduce interest-rate and credit risk to the insured institution.

(d) *Effective date.* This section shall be effective with respect to any accounts issued or sold on or after October 17, 1984, except that it shall not apply to instruments issued after such date under an earnings-based accounts program the commencement of which was approved by the Supervisory Agent prior to such date.

PART 564—SETTLEMENT OF INSURANCE

2. Revise § 564.1(b) as follows:

§ 564.1 Settlement of insurance upon default.

* * * * *

(b) *Amount of insured account.* The amount of an insured account is the amount which the insured member would have been entitled to withdraw as of the date of the default, plus interest on any savings account accrued to such date or dividends prorated to such date of the announced or anticipated rate without regard to whether such account is subject to any pledge: *Provided,* that the amount of an insured account shall not include any amount the accrual or payment of which is contingent or which has not been announced as of the date of default under the terms of the account. In the case of a savings account with a fixed or minimum term or a qualifying or notice period that has not expired as of such date, dividends or interest thereon shall be computed as if the account could have been withdrawn on such date without any penalty or reduction in the rate of earnings.

* * * * *

Authority: Secs. 401–405, 407, 48 Stat. 1255–1260, Sec. 308, Pub. L. 96–221, as amended; (12 U.S.C. 1724–1728, 1730); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–1948 Comp., p. 1071.

By the Federal Home Loan Bank Board.

J.J. Finn,

Secretary.

[FR Doc. 84–27512 Filed 10–16–84, 8:45 am]

BILLING CODE 6720–01–M

CIVIL AERONAUTICS BOARD

14 CFR Part 399

[Policy Statement Docket 42538; PSDR–84]

Statements of General Policy

Dated: October 2, 1984.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The CAB is proposing to amend its new policy statement concerning unrealistic scheduling to include air taxis. The CAB has authority under section 411 of the Federal Aviation Act to prohibit unfair and deceptive practices and an unfair method of competition by all air carriers. This amendment would put air taxis on notice that this policy will also apply to them. This action is taken in response to a comment by Air BVI.

DATES: Comments due: November 16, 1984.

Comments and relevant information received after this date will be considered by the Board only to the extent practicable.

ADDRESSES: Twenty copies of comments should be sent to Docket 42538, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Individuals may submit their views as

consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Joanne Petrie, Office of the General Counsel, (202) 673–5442, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUPPLEMENTARY INFORMATION: In PS–111, which was adopted and published concurrently, the Board added a new paragraph (a) to 14 CFR 399.81. That provision states that the CAB will consider unrealistic scheduling of flights by any certificated air carrier providing scheduled passenger air transportation to be an unfair or deceptive method of competition within the meaning of section 411 of the Act.

Air BVI filed comments in Docket 27891 asking the Board to explicitly prohibit commuter carriers from engaging in unrealistic scheduling practices. It alleged that one of its commuter competitors has published schedules that it cannot possibly perform based on the number of aircraft in its fleet. Air BVI argued that such actions violated section 411 and that commuters should be covered by the policy statement.

The Board notes that section 411 applies to scheduled operations by air taxis. The applicability of the new policy statement in § 399.81(a) was based on Part 234, which had only applied to certificated air carriers. In drafting the language of the new policy statement, the Board did not mean to imply that air taxis were free to engage in unrealistic scheduling practices. The Board, therefore, proposes to amend § 399.81(a) by removing the word "certificated." this change is designed to put air taxis on notice that the Board will consider unrealistic scheduling to be an unfair and deceptive practice and an unfair method of competition.

Regulatory Flexibility Act

In accordance with U.S.C. 605(b), as added by the Regulatory Flexibility Act, Pub. L. 96–534, the Board certifies that this rule would not, if adopted as proposed, have a significant economic impact on a substantial number of small entities. This rule will merely put air taxis on notice that unrealistic scheduling will be considered a violation of section 411 of the Act. The Board currently has this authority under section 411 and could take action against such violations without this policy statement.

List of Subjects in 14 CFR Part 399

Administrative practice and procedure, Advertising, Air carriers, Airports, Antitrust, Archives and records, Consumer protection, Freight forwarders, Grant programs—Transportation, Hawaii, Intergovernmental relations, Motor carriers, Puerto Rico, Railroads, Reporting requirements, Travel agents, Virgin Islands.

PART 399—[AMENDED]

Accordingly, the Civil Aeronautics Board proposes to amend paragraph (a) of § 399.81 by removing the word "certificated," so that it would read as follows:

§ 399.81 Unrealistic or deceptive scheduling.

(a) It is the policy of the Board to consider unrealistic scheduling of flights by any air carrier providing scheduled passenger air transportation to be an unfair or deceptive practice and an unfair method of competition within the meaning of section 411 of the Act.

* * * * *

(Secs. 101, 102, 105, 204, 401, 402, 403, 404, 405, 406, 407, 408, 409, 411, 412, 416, 801, 1001, 1002, 1102, 1104, of Pub. L. 85–726, as amended, 72 Stat. 737, 740, 92 Stat. 1708, 72 Stat. 743, 754, 757, 758, 760, 763, 766, 767, 768, 769, 770, 771, 782, 788, 797; 49 U.S.C. 1301, 1302, 1305, 1324, 1371, 1372, 1373, 1374, 1375, 1376, 1377, 1378, 1379, 1381, 1382, 1384, 1386, 1481, 1481, 1482, 1502, 1504; Pub. L. 96–354, 5 U.S.C. 601)

All Members concurred except Vice Chairman McConnell who concurred and dissented and filed a concurring and dissenting statement which is included in Regulation ER–1393.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84–27464 Filed 10–16–84; 8:45 am]

BILLING CODE 6320–01–M

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 505

[Army Reg. 340–21]

Privacy Act of 1974, as Amended; Army Privacy Act Program

AGENCY: Department of the Army, DOD.

ACTION: Proposed rule.

SUMMARY: The Department of the Army proposes to revise Part 505 of 32 CFR. This revision implements 5 U.S.C. 552a (Pub. L. 93–579); DOD Directive 5400.11, June 9, 1982; and DOD Regulation 5400.11–R, August 31, 1983.

DATE: Comments are invited and may be submitted in writing on or before November 1, 1984.

ADDRESS: Comments may be submitted to Headquarters, Department of the Army, Office of The Adjutant General (DAAG–AMR–S), 2461 Eisenhower Avenue, Alexandria, VA 22331–0301.

FOR FURTHER INFORMATION CONTACT: Mrs. Karkanen, at the above address; telephone: 703/325–6163.

SUPPLEMENTARY INFORMATION: The Department of the Army has determined that this revision is not a major rule as defined by Executive Order 12291, is not subject to the relevant provisions of the Regulatory Flexibility Act of 1980 (Pub. L. 90–354), and does not contain reporting or recordkeeping requirements under the criteria of the Paperwork Reduction Act of 1980 (Pub. L. 96–511).

List of Subjects in 32 CFR Part 505

Privacy.

Accordingly, it is proposed to revise Part 505 of 32 CFR to read as follows:

PART 505–THE ARMY PRIVACY PROGRAM

Sec.

505.1 General information.
505.2 Individual rights regarding access and amendment.
505.3 Disclosure of personal information to other agencies and third parties.
505.4 Record-keeping requirements under the Privacy Act.
505.5 Exemptions.
Appendix A—Example of System of Records Notice.
Appendix B—Example of Report for New System of Records.
Appendix C—Provisions of the Privacy Act from which a General or Specific Exemption may be claimed.

Authority: 5 U.S.C. 552a (Pub. L. 93–579); DoD Directive 5400.11 June 9, 1982; and DOD Regulation 5400.11–R, August 31, 1983.

§ 505.1 General information.

(a) *Purpose.* This regulation explains policies and outlines procedures that govern collecting personal information and safeguarding, maintaining, using, accessing, amending, and disseminating personal information kept by the Department of the Army in systems of records. It applies to all Army activities, including the US Army Reserve and Army National Guard, and the Army and Air Force Exchange Service.

(b) *Policy.* It is Army policy to:

(1) Protect, as required by the Privacy Act of 1974 (5 U.S.C. 552a), as amended, the privacy of individuals from unwarranted intrusion. Individuals covered by this protection are living citizens of the United States or aliens

lawfully admitted for permanent residence.

(2) Collect only that personal information about an individual which is legally authorized and necessary to support Army operations. Disclose this information only as authorized by the Privacy Act and this regulation.

(3) Keep only personal information that is timely, accurate, complete, and relevant to the purpose for which it was collected.

(4) Safeguard personal information to prevent unauthorized use, access, disclosure, alteration, or destruction.

(5) Let individuals know what records the Army keeps on them and let them review or get copies of these records, subject to exemptions authorized by law and approved by the Secretary of the Army. (See § 505.5.)

(6) Let individuals amend records about themselves contained in Army systems of records which they can prove are factually in error, are not up-to-date, not complete, or not relevant.

(7) Let individuals ask for an administrative review of decisions that deny them access to or the right to amend their records.

(8) Maintain only such information about an individual as is relevant and necessary to accomplish Army purposes required to be accomplished by statute or executive order of the President.

(9) Act on all requests promptly, accurately, and fairly.

(c) *Authority.* The Privacy Act of 1974 (5 U.S.C. 552a), as amended, is the statutory basis for the Army privacy program. The Act assigns overall Government-wide responsibilities for implementation to the Office of Management and Budget, and specific responsibilities to the Office of Personnel Management and the General Services Administration. Within the Department of Defense, the Act is implemented by DOD Directive 5400.11 and DOD Regulation 5400.11–R.

(d) *Terms.* The meaning of terms used in this regulation is as follows:

(1) *Access.* The review of a record or obtaining of a copy of a record or parts thereof in a system of records by an individual.

(2) *Agency.* For the purpose of disclosing records subject to the Act, the Department of Defense is considered a single agency. For all other purposes, including access, amendment, appeals from denials of access or amendment, exempting systems of records, and record-keeping as regards release to non-DOD agencies, the Department of the Army is an agency.

(3) *Access and Amendment Refusal Authority (AARA).* The Army Staff agency head or major Army commander designated sole authority by this regulation to deny access to, or refuse amendment of, records in his/her assigned area of proponency or functional specialization. (See § 505.1(f).)

(4) *Confidential Source.* A person or organization that has furnished information to the Federal Government under an express promise that their identity would be withheld or under an implied promise of such confidentiality if this implied promise was made before September 27, 1975.

(5) *Data subject.* The individual about whom the Army is maintaining information in a system of records.

(6) *Disclosure.* Giving information about an individual, by any means, to an organization, government agency, or to an individual who is not the subject of the record, the subject's designated agent or legal guardian. Within the context of the Privacy Act and this regulation, this term applies only to personal information that is part of a system of records.

(7) *Individual.* A living citizen of the United States or an alien admitted for permanent residence. The Privacy Act rights of an individual may be exercised by the parent or legal guardian of a minor or an incompetent. (The Privacy Act confers no rights on deceased persons, not may their next-of-kin exercise any rights for them.)

(8) *Maintain.* Collect, use, maintain, or disseminate.

(9) *Offical use.* Any action by a member or employee of DOD which is prescribed or authorized by law or a regulation, and is intended to perform a mission or function of the department.

(10) *Personal information.* Information about an individual that is intimate or private to the individual, as distinguished from information related solely to the individual's offical functions or public life.

(11) *Privacy Act regeust.* A request from an individual for information about the existence of, or for access to or amendment of, a record about him/her that is in a system of records. The request must cite or implicitly refer to the Privacy Act.

(12) *Record.* Any item, collection, or grouping of information about an individual that is kept by the government including, but not limited to, the individual's home address, home telephone number, social security number, education, financial transaction, medical history, and criminal or employment history, and that contains the individual's name, or the identifying number, symbol, or other identifying particular assigned to the individual such as a finger or voice print or a photograph.

(13) *Routine use.* Disclosure of a record outside the Department of Defense without the consent of a subject individual for use that is compatible with the purpose for which the information was collected and maintained by the Department of the Army. The routine use must be included in the published system notice for the system of records involved.

(14) *Statistical record.* A record maintained only for statistical research or reporting purposes and not used in whole or in part in making determinations about specific individuals.

(15) *System manager.* The official responsible for policies and procedures for operation and safeguarding a system of records. This official is located normally at Headquarters, Department of the Army.

(16) *System of record.* A group of records under the control of the Department of the Army from which information is retrieved by the individual's name or by some identifying number, symbol, or other identifying particular assigned to the individual. System notices for all systems of records must be published in the **Federal Register.** (A grouping or files series of records arranged chronologically or subjectively, that is not retrieved by individual identifier, is not a system of records, even though individual information could be retrieved by such an identifier, such as through a paper-by-paper search.)

(e) *Responsibilities.* (1) The Adjustant General is responsible for staff direction of the Army privacy program. In consultation with the Army General Counsel, he formulates overall policy concerning the Army privacy program.

(2) The Administrative Assistant to the Secretary of the Army and the Director of the Army Staff are responsible for supervision and execution of the privacy program in their respective areas.

(3) Heads of Army Staff agencies, field operating agencies, and commanders of major Army commands and subordinate commands are responsible for supervision and execution of the privacy program in their functional areas and activities under their command.

(4) Heads of Joint Service Agencies or Commands for which the Army is the Executive Agent, or otherwise has responsibility for providing fiscal, logistical or administrative support, will adhere to the policies and procedures in this regulation.

(5) Commander, Army and Air force Exchange Service is responsible for the supervision and execution of the privacy program within that command pursuant to this regulation.

(f) *Access and Amendment Refusal Authority (AARA).* Each Access and Amendment Refusal Authority is responsible for action on requests for access to or amendment of, records referred to them under this regulation. The officials listed below are the sole Access and Amendment Refusal Authorities for records in their functional areas:

(1) The adjutant General: For personnel records of Army retired, separated, and reserve military members; DOD dependent school student transcripts; and records not within the jurisdiction of another AARA.

(2) The Administrative Assistant to the Secretary of the Army: For records of the Secretariat.

(3) The President or Executive Secretary of Boards, councils, and similar bodies established by the Department of the Army to consider personnel matters, excluding the Army Board for Correction of Military Record

(4) Chief of Chaplains: For ecclesiastical records.

(5) Chief of Engineers: For records pertaining to civil works, including litigation; military construction; engineer procurement; other engineering matters not under the purview of another AARA; ecology; and contractor qualifications.

(6) Comptroller of the Army: For financial records.

(7) Deputy Chief of Staff for Personnel: For personnel records of current Federal civilian employees and active and former non-appropriated fund employees (except those in the Army and Air Force Exchange Service); military police records; prisoner confinement and correctional records; safety records; and alcohol and drug abuse treatment records. (Requests from former civilian employees to amend a record in an OPM system of records such as the Official Personnel Folder should be sent to the Office of Personnel Management, Assistant Director for Workforce Information. Compliance and Investigations Group, 1900 E Street, NW, Washington, DC 20415.)

(8) The Inspector General: For IG investigative records.

(9) The Judge Advocate General: For legal records for which responsible.

(10) The Surgeon General: For medical records, except those properly part of the Official Personnel Folder (OPM/GOVT–1 system of records).

(11) Commander, Army and Air Force Exchange Service: For records pertaining to employees, patrons, and other matters which are the responsibility of the Exchange Service.

(12) Commander, US Army Criminal Investigation Command: For criminal investigation reports and military police reports included therein.

(13) Commander, US Army Intelligence and Security Command: For intelligence and security investigative records.

(14) Commander, US Army Materiel Command: For records of Army contractor personnel, exclusive of those in paragraph (f) (5) of this section.

(15) Commander, US Army Military Personnel Center: For personnel and personnel-related records of active duty Army members.

(16) Commander, Military Traffic Management Command: For transportation records.

(17) Chief, National Guard Bureau: For personnel records of the Army National Guard.

(g) *DA Privacy Review Board.* The DA Privacy Review Board acts on behalf of the Secretary of the Army in deciding appeals from refusal of the appropriate Access and Amendment Refusal Authority to amend records. Board membership comprises the Administrative Assistant to the Secretary of the Army, The Adjutant General, and The Judge Advocate General or their representatives. The AARA may serve as a non-voting member when the Board considers matters in the AARA's area of functional specialization. The Adjutant General chairs the Board and provides the Recording Secretary.

(h) *Privacy Official.* (1) Heads of Army Staff agencies and commanders of major Army commands and subordinate commands and activities will designate a privacy official who will serve as a staff adviser on privacy matters. This function will not be assigned below battalion level.

(2) The privacy official will ensure that (i) requests are processed promptly and responsively, (ii) records subject to the Privacy Act in his/her command/agency are described properly by a published system notice, (iii) privacy statements are included on forms and questionnaires that seek personal information from an individual, and (iv) procedures are in place to meet reporting requirements.

§ 505.2 Individual rights of access and amendment.

(a) *Access under the Privacy Act.* Upon a written or oral request, an individual or his/her designated agent or legal guardian will be granted access to a record pertaining to that individual, maintained in a system of records, unless the record is subject to an exemption and the system manager has invoked the exemption (see § 505.5), or the record is information compiled in reasonable anticipation of a civil action or proceeding. The requester does not have to state a reason or otherwise justify the need to gain access. Nor can an individual be denied access solely because he/she refused to provide his/her Social Security Number unless the Social Security Number was required for access by statute or regulation adopted prior to January 1, 1975. The request should be submitted to the custodian of the record.

(b) *Notifying the individual.* The custodian of the record will acknowledge requests for access within 10 work days of receipt. Records will be provided within 30 days, excluding Saturdays, Sundays, and legal public holidays.

(c) *Relationship between the Privacy Act and the Freedom of Information Act.* A Privacy Act request for access to records should be processed also as a Freedom of Information Act request. If all or any portion of the requested material is to be denied, it must be considered under the substantive provisions of both the Privacy Act and the Freedom of Information Act. Any withholding of information must be justified by asserting a legally applicable exemption in each Act.

(d) *Functional requests.* Other Army regulations give individuals the right to access their records. If an individual asks for his/her record and does not cite, or reasonably imply, either the Privacy Act or the Freedom of Information Act, and another prescribing directive authorizes release, the records should be released under that directive. Examples of functional requests are military members asking to see their Military Personnel Records Jacket, or civilian employees asking to see their Official Personnel Folder.

(e) *Medical records.* If a determination is made that releasing medical information to the data subject could have an adverse affect on the mental or physical health of that individual, the requester should be asked to name a physician to receive the record. The data subject's failure to designate a physician is not a denial under the Privacy Act and cannot be appealed.

(f) *Third party information.* Third party information pertaining to the data subject may not be deleted from a record when the data subject requests access to the record unless there is an established exemption (see § 505.5(d)).

However, personnel data such as SSN and home address of third parties in the data subject's record normally do not pertain to the data subject and therefore may be withheld. Information about the relationship between the data subject and the third party would normally be disclosed as pertaining to the data subject.

(g) *Referral of records.* Requests for access to Army systems of records containing records that originated with other DOD Components or Federal agencies which claimed exemptions for them will be coordinated with or referred to the originator for release determination. The requester will be notified of the referral.

(h) *Fees.* Requesters will be charged only for the reproduction of requested documents. Normally, there will be no charge for the first copy of a record provided to the individual whose record it is. Thereafter, fees will be computed as set forth in AR 340–17.

(i) *Denial of access.* (1) The only officials authorized to deny a request from a data subject for records in a system of records pertaining to that individual are the appropriate Access and Amendment Refusal Authorities (see para § 505.1(f)), or the Secretary of the Army, acting through the General Counsel. Denial is appropriate only if the record:

(i) Was compiled in reasonable anticipation of a civil action or proceeding, or

(ii) Is properly exempted by the Secretary of the Army from the disclosure provisions of the Privacy Act (see § 505.5) there is a legitimate governmental purpose for invoking the exemption, and it is not otherwise required to be disclosed under the Freedom of Information Act.

(2) Requests for records recommended to be denied will be forwarded to the appropriate AARA within 5 work days of receipt, together with the request, disputed records, and justification for withholding.

(3) Within the 30 work day period (see § 505.2(b)), the AARA will give the following information to the requester in writing if the decision is to deny the request for access:

(i) Official's name, position title, and business address;

(ii) Date of the denial;

(iii) reasons for the denial, including citation of appropriate section(s) of the Privacy Act and this regulation;

(iv) the opportunity for further review of the denial by the General Counsel, Office, Secretary of the Army, The Pentagon, Washington, DC 20310, through the AARA within 60 calendar days. (For denials made by the Army when the record is maintained in one of OPM's government-wide systems of records, notices for which are described at Appendix B, AR 340-21-8, an individual's request for further review must be addressed to the Assistant Director for Agency Compliance and Evaluation, Office of Personnel Management, 1900 E Street, NW, Washington, DC 20415.)

(j) *Amendment of records.* (1) Individuals may request the amendment of their records, in writing, when such records are believed to be inaccurate as a matter of fact rather than judgment, irrelevant, untimely, or incomplete.

(2) The amendment procedures are not intended to permit challenge to a record that records an event that actually occurred nor are they designed to permit collateral attack upon that which has been the subject of a judicial or quasi-judicial action. If it can be shown that circumstances leading up to the event that is recorded on the document were challenged through administrative procedures and found to be inaccurately described, that the document is not exactly the same as the individual's copy, or that the document was not constructed in full accordance with the applicable recordkeeping requirements prescribed, then consideration of a request for amendment would be appropriate. For example, the amendment provisions do not allow an individual to challenge the merits of an adverse action. However, if the form that documents the adverse action contains an error on the fact of the record (e.g., the individual's name is misspelled, an improper date of birth or SSN was recorded), the amendment procedures may be used to request correction of the record.

(3) US Army Criminal Investigations Command reports of investigation (records in system notices A0501.08e Informant Register, A0508.11b Criminal Information Reports and Cross Index Files, and A0508.25a Index to Criminal Investigative Case Files) have been exempted from the amendment provisions of the Privacy Act. Requests to amend these reports will be considered under AR 195–2 by the Commander, US Army Criminal Investigation Command. Action by the Commander, US Army Criminal Investigation Command will constitute final action on behalf of the Secretary of the Army under that regulation.

(4) Records accessioned into the National Archives are exempted from the Privacy Act provision allowing individuals to request amendment of records. Most provisions of the Privacy Act apply only to those systems of records which are under the legal control of the originating agency; e.g., an agency's current operating files or records stored at a Federal records center.

(k) *Procedures.* (1) Requests to amend a record should be addressed to the custodian or system manager of that record. The request must reasonably describe the record to be amended and the changes sought (i.e. deletion, addition, amendment). The burden of proof rests with the requester; therefore, appropriate and convincing evidence must be provided. Generally, the alteration of evidence presented to courts, boards, and other official proceedings is not permitted. (An individual acting for the requester must supply a written consent signed by the requester.)

(2) The custodian or system manager will acknowledge the request within 10 work days and make final response within 30 work days.

(3) The record for which amendment is sought must be reviewed by the proper system manager or custodian for accuracy, relevance, timeliness, and completeness so as to assure fairness to the individual whose record it is in any determination about that individual which may be made on the basis of that record.

(4) If the amendment is proper, the custodian or system manager will physically amend the record by adding information, deleting information, or destroying the record or a portion of it, and notify the requester.

(5) If the amendment is not justified, the request and all relevant documents, including the reasons for not amending, will be forwarded to the appropriate AARA within 5 work days and the requester so notified.

(6) the AARA, on the basis of the evidence, either will amend the record and notify the requester and the custodian of that decision, or will deny the requst and inform the requester:

(i) Of reasons for not amending; and

(ii) Of his/her right to seek further review by the DA Privacy Review Board (through the AARA).

(7) On receipt of an appeal from a denial to amend, the AARA will append any additional records or background information that substantiates the refusal or otherwise renders the case complete and, within 5 work days of receipt, forward the appeal to the DA Privacy Review Board.

(8) The DA Privacy Review Board, on behalf of the Secretary of the Army, will complete action on a request for further review within 30 work days of its receipt by the AARA, except that the General Counsel may authorize an additional 30

days when unusual circumstances and good cause so warrant, the Board may seek additional information, including the appellant's official personnel file, if deemed relevant and necessary to deciding the appeal.

(i) If the Board determines that amendment is justified, it will amend the record and notify the requester, the AARA, the custodian of the record, and any prior recipients of the record.

(ii) If the Board denies the request, it will obtain the General Counsel's concurrence. Response to the appellant will include reasons for denial and the appellant's right to file a statement of disagreement with the Board's action and to seek judicial review of the Army's refusal to amend.

(9) Statements of disagreement will be an integral part of the record to which it pertains so that the fact that the record is disputed is apparent to anyone who subsequently may have access to, use of, or need to disclose from it. The disclosing authority may include a brief summary of the Board's reasons for not amending the disputed record. The summary will be limited to the reasons stated to the individual by the Board.

(l) *Privacy case files.* Whenever an individual submits a Privacy Act request, a case file will be established; see system notice A0240.01DAAG. In no instance will the individual's request and Army actions thereon be included in the individual's personnel file. The case file will comprise the request for access/amendment, grants, refusals, coordination action, and related papers. This file will not be used to make any determinations about the individual.

§ 505.3 Disclosure of personal information to other agencies and third parties.

(a) *Disclosure without consent.* The Army is prohibited from disclosing a record from a system of records without obtaining the prior written consent of the data subject, except when disclosure is:

(1) To those officers and employees of the Department of Defense who have a need for the record in the performance of their duties;

(2) Required under the Freedom of Information Act (see § 505.3(c)) for information normally releasable);

(3) Permitted by a routine use that has been published in the **Federal Register;**

(4) To the Bureau of the Census for purposes of planning or carrying out a census or survey or related activity pursuant to Title 13 of the United States Code;

(5) To a recipient who has provided the Army with advance adequate written assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable;

(6) To the National Archives of the United States as a record which has sufficient historical or other value to warrant its evaluation by the Administrator of General Services or his designee to determine whether the record has such value; (Records sent to Federal Records Centers for storage remain under Army control; these transfers are not disclosures and do not therefore need an accounting.)

(7) To another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the head of the agency or instrumentality has made a written request to the Army element which maintains the record specifying the particular portion desired and the law enforcement activity for which the record is sought, provided there is no federal statute that prohibits disclosure of the records;

(8) To a person pursuant to a showing of compelling circumstances affecting the health and safety of an individual (not necessarily the data subject). Upon such disclosure, the data subject must be notified in writing of the disclosure. This requirement is met when notification is sent to the data subject's last known address.

(9) To either House of Congress, or to a committee or subcommittee to the extent that the subject matter falls within the jurisdiction of the committee or subcommittee;

(10) To the Comptroller General, or any authorized representative of that office in the course of the performance of the duties of the General Accounting Office;

(11) Pursuant to the order signed by a judge of a court of competent jurisdiction. (Reasonable efforts must be made to notify the individual to whom the record pertains if the legal process is a matter of public record.); or

(12) To a consumer reporting agency in accordance with section 3(d) of the Federal Claims Collection Act of 1966 (originally codified at 31 U.S.C. 952(d); recodified at 31 U.S.C. 3711(f)), the name, address, SSN, other information identifying the individual; amount, status, and history of the claim, and the agency or program under which the case arose.

(b) *Blanket routine use disclosures.* In addition to the routine uses in each system notice, the following blanket routine uses apply to all Army systems of records except those which state otherwise.

(1) *Law enforcement.* If a system of records maintained by the Army to carry out its functions indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

(2) *Disclosure when requesting information.* A record from a system of records maintained by the Army may be disclosed as a routine use to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an Army decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

(3) *Disclosure of requested information.* A record from a system of records maintained by the Army may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

(4) *Congressional inquiries.* Disclosure from a system of records maintained by the Army may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

(5) *Private relief legislation.* Relevant information contained in all systems of records of the Department of Defense published on or before August 22, 1975, will be disclosed to the Office of Management and Budget (OMB) in connection with the review of private relief legislation as set forth in OMB Circular A–19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

(6) *Disclosures required by international agreements.* A record from a system of records maintained by the Army may be disclosed to foreign law

enforcement, security, investigatory, or administrative authorities to comply with requirements imposed by, or to claim rights conferred in, international agreements and arrangements including those regulating the stationing and status in foreign countries of DOD military and civilian personnel.

(7) *Disclosure to state and local taxing authorities.* Any information normally contained in Internal Revenue Service Form W–2 which is maintained in a record from a system of records of the Army may be disclosed to state and local taxing authorities with which the Secretary of the Treasury has entered into agreements under 5 U.S.C. § 5516, 5517, and 5520 and only to those state and local taxing authorities for which an employee or military member is or was subject to tax regardless of whether tax is or was withheld. This routine use is in accordance with Treasury Fiscal Requirements Manual Bulletin No. 76.07.

(8) *Disclosure to the Office of Personnel Management.* A record from a system of records subject to the Privacy Act and maintained by the Army may be disclosed to the Office of Personnel Management (OMP) concerning information on pay and leave, benefits, retirement deduction, and any other information necessary for the OPM to carry out its legally authorized government-wide personnel management functions and studies.

(9) *Disclosure to National Archives and Records Service, General Services Administration.* A record from a system of records maintained by the Army may be disclosed to the National Archives and Records Service, General Services Administration in records management inspections conducted under authority of Title 44 U.S.C. 2904 and 2906.

(10) *Disclosure to the Department of Justice for Litigation.* A record from a system of records maintained by the Army may be disclosed as a routine use to any component of the Department of Justice for the purpose of representing the Department of Defense, or any officer, employee, or member of the Department in pending or potential litigation to which the record is pertinent.

(c) *Disclosure to third parties.* Personal information which may be disclosed under the Freedom of Information Act:

(1) On military personnel: Name, rank, date of rank, gross salary, present and past duty assignments, future assignments that are officially established, office or duty telephone number, source of commission, promotion sequence number, awards and decorations, military and civilian educational level, duty status at any given time. However, lists or compilations or unit or office addresses or telephone numbers of military personnel are not released where the requester's primary purpose in seeking the information is to use it for commercial solicitation purposes.

(2) On civilian employees: Name, present and past position titles, present and past grades, present and past salaries, present and past duty stations which includes office or duty telephone numbers. However, disclosure of this information will not be made where the information requested is a list of present or past position titles, grades, salaries, and/or duty stations and, as such, is:

(i) Selected in such a way as to constitute a clearly unwarranted invasion of personal privacy because the nature of the request calls for a response that would reveal more about the employee on whom information is sought than the five enumerated items;

(ii) Would otherwise be protected from mandatory disclosure under an exemption of the Freedom of Information Act.

(iii) In addition to the information in § 505.3(c)(2) above, the following information may be made available to a prospective employer of a current or former Army employee: tenure of employment, civil service status, length of service in the Army and the Government and, when separated, the date and reason for separation shown on the Notification of Personnel Action, SF 50.

(d) *Accounting of disclosure.* (1) An accounting of disclosure is required whenever a record from an Army system of records is disclosed to someone other than the data subject, except when that record:

(i) Is disclosed to officials within the Department of Defense who have a need for it in the performance of official business;

(2) Since the characteristics of records maintained within the Army vary widely, no uniform method for keeping the disclosure of accounting is prescribed. For most paper records, the accounting may be affixed to the record being disclosed. It must be a written record and consist of:

(i) Description of the record disclosed;

(ii) Name, position title, and address of the person to whom disclosure was made;

(iii) Date, method, and purpose of the disclosure; and

(iv) Name and position title of the person making the disclosure.

(3) Purpose of the accounting of disclosure is to enable an individual:

(i) To ascertain those persons/agencies that have received information about the individual, and

(ii) To provide a basis for informing recipients of subsequent amendments or statements of dispute concerning the record.

(4) When an individual requests such an accounting, the system manager or designee shall respond within 10 work days and inform the individual of the items in § 505.3(d)(2) above.

(5) The only basis for not furnishing the data subject an accounting of disclosures are if disclosure was made for law enforcement purposes under 5 U.S.C. 552a(b)(7), or the disclosure was from a system of records for which an exemption from 5 U.S.C. 552a(c)(3) has been claimed (see Appendix C).

§ 505.4 Recordkeeping requirements under the Privacy Act.

(a) *Systems of records.*—(1) The term 'system of records' means a group of records under the control of the Army from which information is retrieved by the individual's name or other personal identifier.

(2) Notices of all Army systems of records are required by the Act to be published in the **Federal Register**. An example is at Appendix A. When new systems are established, or major changes occur in existing systems, which meet the criteria of OMB Guidelines summarized at paragraph (f)(2) of this section, advance notice is required to be furnished OMB and the Congress before the system or proposed changes become operational.

(3) Uncirculated personal notes, papers and records which are retained at the author's discretion and over which the Army exercises no control or dominion are not considered Army records within the meaning of the Privacy Act. Individuals who maintain such notes must restrict their use to that of memory aids. Disclosure from personal notes, either intentional or through carelessness, may subject the individual to litigation if such disclosure would not be permitted by the Act.

(4) Only such personal information as is relevant and necessary to accomplish a purpose or mission of the Army, required by Federal statute or Executive Order of the President, will be maintained in Army systems of records. Statutory authority, or the regulatory authority derived therefrom, to establish and maintain a system of records does not convey unlimited authority to collect and maintain all information which may be useful or convenient, as opposed to that which is relevant and necessary.

(5) Except for statistical records, most records could be used in making a determination about an individual's rights, benefits, or privileges. To ensure accuracy, personal information to be included in a system of records will be collected directly from the individual to the greatest extent practicable. Collection of information from third parties should be limited to verifying information for security or employment suitability determinations or obtaining performance data or opinion-type evaluations.

(b) *Privacy Act Statement.* Whenever personal information is requested from an individual which will become part of a system of records retrieved by reference to the individual's name or other personal identifier, the individual will be furnished a Privacy Act Statement. This is to ensure that individuals know why the information is collected concerning them and can make an informed decision on whether or not to furnish it. As a minimum, the Privacy Act Statement will include the following information in language which is explicit and easily understood and not so lengthy as to deter an individual from reading it:

(1) Cite the specific statute or Executive Order, including a brief title or subject, which authorizes the Army to collect the personal information requested. Inform the individual whether or not a response is mandatory or voluntary, and any possible consequences of failing to respond.

(2) Cite the principal purpose(s) for which the information will be used; and

(3) Cite the probable routine uses for which the information may be used. This may be a summary of information published in the applicable system notice.

The above information normally should be printed on the form used to record the information. In certain instances, it may be printed in a public notice in a conspicuous location such as check-cashing facilities; however, if the individual requests a copy of its contents, it must be provided.

(c) *Social Security Number (SSN).* Executive Order 9397 authorizes the Department of the Army to use the SSN as a system of identifying Army members and employees. Once a military member or civilian employee of the Department of the Army has disclosed his/her SSN for purposes of establishing personnel, financial, or medical records upon entry into Army service or employment, the SSN becomes his/her identification number. No other use of this number is authorized. Therefore, whether the SSN alone is requested from the individual, or the SSN together with other personal information, the Privacy Act Statement must make clear that disclosure of the number is voluntary. If the individual refuses to disclose his/her SSN, the Army activity must be prepared to identify the individual by alternate means.

(d) *Safeguarding personal information.* (1) The Privacy Act requires establishment of appropriate administrative, technical, and physical safeguards to ensure the security and confidentiality of records and to protect against any anticipated threats or hazards to their security or integrity which could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom information is required.

(2) At each location, and for each system of records, an official will be designated as having responsibility for safeguarding the information in that system. Consideration must be given to sensitivity of the data, need for accuracy and reliability in operations, general security of the area, cost of safeguards, etc. See AR 380–380. Ordinarily, personal information must be afforded at least the protection required for information designated as "For Official Use Only" (see Chapter IV, AR 340–17). Privacy Act data will be afforded reasonable safeguards to prevent inadvertent or unauthorized disclosure of record content during processing, storage, transmission, and disposal.

(e) *First Amendment rights.* No record describing how an individual exercises rights guaranteed by the First Amendment will be kept unless expressly authorized by Federal Statute, by the individual about whom the record pertains, or unless pertinent to and within the scope of an authorized law enforcement activity. Exercise of these rights includes, but is not limited to, religious and political beliefs, freedom of speech and the press, and the right of assembly and to petition.

(f) *System notice.* (1) The Army publishes in the **Federal Register** a notice describing each system of records for which it is responsible. A notice contains:

(i) Name and location(s) of the records;

(ii) Categories of individuals on whom records are maintained;

(iii) Categories of records in the system;

(iv) Authority (statutory or Executive Order) authorizing the system;

(v) Purpose(s) of the system;

(vi) Routine uses of the records, including the categories of users and the purpose of such uses;

(vii) Policies and practices for storing, retrieving, access controls, retaining, and disposing of the records;

(viii) Position title and business address of the responsible official;

(ix) Procedures an individual must follow to learn if a system of records contains a record about the individual;

(x) Procedures an individual must follow to gain access to a record about that individual in a system of records, to contest contents, and to appeal initial determinations;

(xi) Categories of sources of records in the system;

(xii) Exemptions from the Privacy Act claimed for the system. (See example notice at Appendix A.)

(2) New, or altered, systems which meet the requirements below, require a report to the Congress and the Office of Management and Budget. A new system is one for which no system notice is published in the **Federal Register**. An altered system is one which:

(i) Increases or changes the number or types of individuals on whom records are kept so that it significantly alters the character and purpose of the system of records.

(ii) Expands the types of categories of information maintained.

(iii) Alters the manner in which records are organized, indexed, or retrieved so as to change the nature or scope of those records.

(iv) Alters the purposes for which the information is used, or adds a routine use which is not compatible with the purpose for which the system is maintained.

(v) Changes the equipment configuration on which the system is operated so as to create potential for either greater or easier access.

(3) Report of a new or altered system must be sent to HQDA (DAAG–ARM–S) at least 120 days before the system or changes become operational, and include a narrative statement and supporting documentation.

(i) The narrative statement must contain the following items:

(A) System identification and name:

(B) Responsible official;

(C) Purpose(s) of the system, or nature of changes proposed (if an altered system);

(D) Authority for the systems;

(E) Number (or estimate) of individuals on whom records will be kept;

(F) Information on First Amendment activities;

(G) Measures to assure information accuracy;

(H) Other measures to assure system security (Automated systems require

risk assessment pursuant to AR 380–380.)

(l) Relations to State/local government activities. (See example at Appendix B.)

(4) Supporting documentation consists of system notice of the proposed new or altered system, and proposed exemption rule, if applicable.

(g) *Reporting requirements.* (1) The annual report required by the Act, as amended by Pub. L. 97–375, 96 Stat. 1821, focuses on two primary areas:

(i) Information describing the exercise of individual's rights of access to and amendment of records.

(ii) Changes in, or additions to, systems of records.

(2) Specific reporting requirements will be disseminated each year by The Adjutant General (DAAG–AMR–S) in a letter to reporting elements.

(h) *Rules of conduct.* System managers will ensure that all personnel, including government contractors or their employees, who are involved in the design, development, operation, maintenance, or control of any system of records, are informed of all requirements to protect the privacy of individuals who are subjects of the records.

(i) *Judicial sanctions.* The Privacy Act has both civil remedies and criminal penalties for violations of its provisions:

(1) Civil remedies: An individual may file a civil suit against the Army if Army personnel fail to comply with the Privacy Act.

(2) Criminal penalties: A member or employee of the Army may be found guilty of a misdemeanor and fined not more than $5,000 for willfully:

(i) Maintaining a system of records without first meeting the public notice requirements of publishing in the **Federal Register**;

(ii) Disclosing individually identifiable personal information to one not entitled to have it;

(iii) Asking for or getting another's record under false pretenses.

§ 505.5 Exemptions.

(a) *Exempting systems of records.* The Secretary of the Army may exempt Army systems of records from certain requirements of the Privacy Act. There are two kinds of exemptions: General and specific. The general exemption relieves systems of records from most requirements of the Act; the specific exemptions from only a few. See Appendix C.

(b) *General exemptions.* Only Army activities actually engaged in the enforcement of criminal laws as their primary function may claim the general exemption. To qualify for this exemption, a system must consist of:

(1) Information compiled to identify individual criminals and alleged criminals, which consists only of identifying data and arrest records; type and disposition of charges; sentencing, confinement, and release records; and parole and probation status;

(2) Information compiled for the purpose of a criminal investigation (including efforts to prevent, reduce, or control crime) and reports of informants and investigators associated with an identifiable individual; or

(3) Reports identifiable to an individual, compiled at any stage of the process of enforcement of the criminal laws, from arrest or indictment through release from supervision.

(c) *Specific exemptions.* The Secretary of the Army has exempted all properly classified information and a few systems of records that have the following kinds of information, from certain parts of the Privacy Act. The Privacy Act exemption cite appears in parentheses after each category.

(1) Classified information in every Army system of records. This exemption is not limited to the systems listed in § 505.5(d). Before denying an individual access to classified information, the Access and Amendment Refusal Authority must make sure that it was properly classified under the standards of Executive Orders 11652, 12065, or 12356 and that it must remain so in the interest of national defense or foreign policy. 5 U.S.C. 552a(k)(1).

(2) Investigatory data for law enforcement purposes (other than that claimed under the general exemption). However, if this information has been used to deny someone a right, privilege or benefit to which the individual is entitled by Federal law, it must be released, unless doing so would reveal the identity of a confidential source. 5 U.S.C. 552a(k)(2).

(3) Records maintained in connection with providing protective services to the President of the United States or other individuals protected pursuant to Title 18 U.S.C., section 3056. 5 U.S.C. 552a(k)(3).

(4) Statistical data required by statute and used only for statistical purposes and not to make decisions on the rights, benefits, or entitlements of individuals, except for census records which may be disclosed under Title 13 U.S.C., section 8. 5 U.S.C. 552a(k)(4).

(5) Data compiled to determine suitability, eligibility, or qualifications for Federal service, Federal coantracts, or access to classified information. This information may be withheld only to the extent that disclosure would reveal the identity of a confidential source. 5 U.S.C. 552a(k)(5).

(6) Testing material used to determine if a person is qualified for appointment or promotion in the Federal service. This information may be withheld only if disclosure would compromise the objectivity or fairness of the examination process. 5 U.S.C. 552a(k)(6).

(7) Information to determine promotion potential in the Armed Forces. Information may be withheld, but only to the extent that disclosure would reveal the identity of a confidential source. 5 U.S.C. 552a(k)(7).

(d) *Procedures.* When a system manager seeks an exemption for a system of records, the following information will be furnished The Adjutant General, HQDA, ATTN: DAAG–AMR–S, 2461 Eisenhower Avenue, Alexandria, VA 22331–0301: applicable system notice, exemptions sought, and justification. After appropriate staffing and approval by the Secretary of the Army, a proposed rule will be published in the **Federal Register**, followed by a final rule 30 days later. No exemption may be invoked until these steps have been completed.

Exempted Record System

(Specific Exemptions)

ID—AO224.04DAIG.

SYSNAME—Inspector General Investigative Files.

EXEMPTION—All portions of this system of records which fall within 5 U.S.C. 552a(k) (2) or (5) are exempt from the following provisions of Title 5 U.S.C. section 552a: (c)(3), (d), (e)(4)(G), (e)(4)(H), and (f).

AUTHORITY—4 U.S.C. 552a(k) (2) and (5).

REASONS—Selected portions and/or records in this system are compiled for the purposes of enforcing civil, criminal, or military law, including executive orders or regulations validly adopted pursuant to law. Granting individuals access to information collected and maintained in these files could interfere with enforcement proceedings; deprive a person of a right to fair trial or an impartial adjudication or be prejudicial to the conduct of administrative action affecting rights, benefits, or privileges of individuals, constitute an unwarranted invasion of personal privacy; disclose the identity of a confidential source; disclose nonroutine investigative techniques and procedures, or endanger the life or physical safety of law enforcement personnel; violate statutes which authorize or require certain information to be withheld from the public such as: Trade or financial information, technical data, National Security Agency information, or information relating to inventions. Exemption from access necessarily includes exemption from the other requirements.

Exempted Record Systems

(Specific Exemptions)

ID—AO224.05DAIG.

SYSNAME—Inspector General Action Request/Complaint Files.

EXEMPTION—All portions of this system of records which fall within 5 U.S.C. 552a(k) (2) or (5) are exempt from the following provisions of Title 5 U.S.C. section 552a: (c)(3), (d), (e)(4)(G), (e)(4)(H), and (f).

AUTHORITY—5 U.S.C. 552a(k) (2) and (5).

REASONS—Selected portions and/or records in this system are compiled for the purposes of enforcing civil, criminal, or military law, including Executive Orders or regulations validly adopted pursuant to law. Granting individuals access to information collected and maintained in these files could interfere with enforcement proceedings; deprive a person of a right to fair trial or an impartial adjudication or be prejudicial to the conduct of administrative action affecting rights, benefits, or privileges of individuals, constitute an unwarranted invasion of personal privacy; disclose the identity of a confidential source; disclose nonroutine investigative techniques and procedures, or endanger the life or physical safety of law enforcement personnel; violate statutes which authorize or require certain information to be withheld from the public such as: Trade or financial information, technical data, National Security Agency information, or information relating to inventions. Exemption from access necessarily includes exemption from the other requirements.

Exempted Record Systems

(General Exemptions)

ID—AO239.01DAAG.

SYSNAME—Request for Information Files.

EXEMPTION—Portions of this system of records which fall within 5 U.S.C. 552a(j)(2) are exempt from the following provisions of Title 5 U.S.C. section 552a: (c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H) (e)(5), (e)(8), (f), and (g). Portions of the system maintained by offices of Initial Denying Authorities which do not have a law enforcement mission and which fall within 5 U.S.C. 552(k)(1) through (k)(7) are exempt from the following provisions of Title 5 U.S.C., section 552a: (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), and (f).

AUTHORITY—5 U.S.C. 552a(j)(2) and (k)(1) through (k)(7).

REASONS—This system of records is maintained solely for the purpose of administering the Freedom of Information Act and processing routine requests for information. To insure an accurate and complete file on each case, it is sometimes necessary to include copies of records which have been the subject of a Freedom of Information Act request. This situation applies principally to cases in which an individual has been denied access and/or amendment of personal records under an exemption authorized by Title 5 U.S.C., section 552. The same justification for the original denial would apply to a denial of access to copies maintained in the Freedom of Information Act file. It should be emphasized that the majority of records in this system are available on request to the individual and that all records are used solely to process requests. This file is not used to make any other determinations on the rights, benefits or privileges of individuals.

Exempted Record Systems

(General Exemptions)

ID–A0240.01DAAG.

SYSNAME—Privacy Act Case Files.

EXEMPTIONS—Portions of this system which fall within 5 U.S.C. 552a(j)(2) are exempt from the following provisions of Title 5 U.S.C., section 552a: (c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(5), (e)(8), (f), and (g). Portions of this system maintained by the DA Privacy Review Board and by those Access and Amendment refusal Authorities which do not have a law enforcement mission and which fall within 5 U.S.C. 552a (k)(1) through (k)(7) are exempt from the following provisions of Title 5 U.S.C., section 552a: (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), and (f).

AUTHORITY—5 U.S.C. 552a(j)(2) and (k)(7).

REASONS—This sytem of records is maintained solely for the purpose of administering the Privacy Act of 1974. To insure an accurate and complete file on each case, it is sometimes necessary to include copies of records which have been the subject of a Privacy Act request. This situation applies principally to cases in which an individual has been denied access and/or amendment of personal records under an exemption authorized by Title 5 U.S.C., section 552a. The same justification for the original denial would apply to a denial of access and/or amendment of copies maintained in the Privacy Act Case File. It should be emphasized that the majority of records in this system are available on request to the individual and that all records are used solely to administer Privacy Act requests. This file is not used to make any other determinations on the rights, benefits or privileges of individuals.

Exempted Record Systems

(Specific Exemptions)

ID–A0241.01HQDA.

SYSNAME—HQDA Correspondence and Control/Central File System.

EXEMPTION—Portions of this system of records which fall within 5 U.S.C. 552a(k) are exempt from the following provisions of 5 U.S.C. 552a: (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), and (f).

AUTHORITY—5 U.S.C. 552a (k)(1) through (k)(7).

REASONS—Documents are generated by other elements of the Army or are received from other agencies and individuals. Because of the broad scope of the contents of this system and since the introduction of documents is largely unregulatable, specific portions or documents that may require an exemption cannot be predetermined. Therefore, and to the extent that such material is received and maintained, selected individual documents may be exempted from disclosure under any of the provisions of sections (k)(1) through (k)(7) of Title 5 U.S.C. 552a.

Exempted Record Systems

(General Exemptions)

ID–A0401.08DAJA.

SYSNAME—Prosecutorial Files.

EXEMPTION—Portions of this system of records which fall within 5 U.S.C. 552a(j)(2) are exempt from the following provisions of Title 5 U.S.C., section 552a: (c)(3), (c)(4), (d), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(8), (f), and (g).

AUTHORITY—5 U.S.C. 552a(j)(2).

REASONS—From subsection (c)(4), (d), (e)(4)(G), (e)(4)(H), (f), and (g) because granting individuals access to information collected and maintained by this component relating to the enforcement of laws could interfere with proper investigations and the orderly administration of justice. Disclosure of this information could result in the concealment, alteration or destruction of evidence, the identification of offenders or alleged offenders, nature and disposition of charges; and jeopardize the safety and well-being of informants, witnesses and their families, and law enforcement personnel and their families. Disclosure of this information could also reveal and render ineffectual investigative techniques, sources and methods used by this component, and could result in the invasion of the privacy of individuals only incidentally related to an investigation. Exemption from access necessarily includes exemption from other requirements.

From subsection (c)(3) because the release of accounting of disclosure would place the subject of an investigation on notice that he is under investigation and provide him with significant information concerning the nature of the investigation, thus resulting in a serious impediment to law enforcement investigations.

From subsection (e)(2) because in a criminal or other law enforcement investigation, the requirement that information be collected to the greatest extent practicable from the subject individual would alert the subject as to the nature or existence of the investigation and thereby present a serious impediment to effective law enforcement.

From subsection (e)(3) because compliance would constitute a serious impediment to law enforcement in that it could compromise the existence of a confidential investigation or reveal the identity of witnesses or confidential informants.

From subsection (e)(8) because compliance with this provision would provide an impediment to law enforcement by interfering with the ability to issue warrants or subpoenas and by revealing investigative techniques, procedures or evidence.

Exempted Record Systems

(Specific Exemptions)

ID–A0402.01aDAJA.

SYSNAME—General Legal Files.

EXEMPTION—Those portions of this system of records falling within 5 U.S.C. 552a(k) (1), (2), (5), (6), and (7) may be exempt from the following provisions of Title 5 U.S.C., section 552a: (c)(3), (d), (e)(1), and (f).

AUTHORITY—5 U.S.C. 552a(k) (1), (2), (5), (6), and (7).

REASONS—Various records from other exempted systems of records are sometimes submitted for legal review or other action. A copy of such records may be permanently incorporated into the General Legal Files system or records as evidence of the facts

upon which a legal opinion or review was based. Exemption of the General Legal Files system of records is necessary in order to ensure that such records continue to receive the same protection afforded them by exemptions granted to the systems of records in which they were originally filed.

Exempted Record Systems

(General Exemptions)

ID–A0404.02DAJA.

SYSNAME—Courts-Martial Files.

EXEMPTION—All portions of this system which fall under Title 5 U.S.C. 552a(j)(2) are exempt from the following provisions of Title 5 U.S.C. 552a: (d)(2), (d)(4), (e)(2), (e)(3), (e)(4)(H), and (g).

AUTHORITY—Title 5 U.S.C. 552a(j)(2).

REASONS—Courts-martial files are exempt because a large body of existing criminal law governs trials by court-martial to the exclusion of the Privacy Act. The Congress recognized the judicial nature of court-martial proceedings and exempted them from the Administrative Procedures Act by specifically excluding them from the definition of the term "agency" (Title 5 U.S.C. 551(1)(f). Substantive and procedural law applicable in trials by court-martial is set forth in the Constitution, the Uniform Code of Military Justice (UCMJ) Manual for Courts-Martial, United States, 1969 (Revised edition), and the decisions of the U.S. Court of Military Appeals and Courts of Military Review. The right of the accused not to be compelled to be a witness against himself and the need to obtain accurate and reliable information with regard to criminal misconduct necessitate the collection of information from sources other than the individual accused.

Advising the accused or any other witness of the authority for collection of the information, the purpose for which it is to be used, whether disclosure is voluntary or mandatory, and the effects on the individual of not providing the information would unnecessarily disrupt and confuse court-martial proceedings. It is the responsibility of the investigating officer or military judge to determine what information will be considered as evidence. In making the determination, the individual's rights are weighed against the accused's right to a fair trial. The determination is final for the moment and the witness' failure to comply with the decision would delay the proceeding and may result in prosecution of the witness for wrongful refusal to testify.

In a trial by court-martial, the accused has a unique opportunity to assure that the record is accurate, relevant, timely, and complete as it is made. He has the right to be present at the trial, to be represented by counsel at general and special courts-martial, and to consult with counsel in summary courts-martial, to review and challenge all information before it is introduced into evidence, to cross-examine all witnesses against him, to present evidence in his behalf and in general and special courts-martial, to review and comment upon the record of trial before it is authenticated. Procedures for correction of the record are controlled by paragraphs 82, 86, and 95, Manual for Courts-Martial, 1969 (Revised edition). After completion of appellate review, the record may not be amended. Article 76 of the Uniform Code of Military Justice (10 U.S.C. 876) provides that the proceedings, findings, and sentences of courts-martial as approved, reviewed or affirmed are final and conclusive and binding upon all departments, courts, agencies, and officers of the United States subject only to action upon a petition for new trial (Article 73, UCMJ), action by the Secretary concerned (Article 74, UCMJ), and the authority of the President.

Exempted Record Systems

(General Exemptions)

ID–A0501.08eUSACIDC.

SYSNAME—Informant Register.

EXEMPTION—All portions of this system of records which fall within 5 U.S.C. 552a (j)(2) are exempt from the following provisions of Title 5 U.S.C., section 552a: (c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(5), (e)(8), (f), and (g).

AUTHORITY—5 U.S.C. 552a(j)(2).

REASONS—From subsection (c)(3) because release of accounting of disclosures would provide the informant with significant information concerning the nature of a particular investigation, the internal methods and techniques involved in criminal investigation, and the investigative agencies (state, local or foreign) involved in a particular case resulting in a serious compromise of the criminal law enforcement processes.

From subsection (c)(4), (d), (e)(4)(G), (e)(4)(H), (f), and (g) because disclosure of portions of the information in this system of records would seriously impair the prudent and efficient handling of these uniquely functioning individuals: hamper the inclusion of comments and evaluations concerning the performance qualification, character, identity, and propensities of the informant; and prematurely compromise criminal investigations which either concern the conduct of the informant himself or investigations wherein he/she is integrally or only peripherally involved. Additionally, the exemption from access necessarily includes exemption from amendment, certain agency requirements relating to access and amendment of records and civil liability predicated upon agency compliance with specific provisions of the Privacy Act.

From subsection (d), (e)(4)(G), (e)(4)(H), and (f) are also necessary to protect the security of information properly classified in the interest of national defense and foreign policy.

From subsection (e)(1) because the nature of the criminal investigative function creates unique problems in prescribing what information concerning informants is relevant or necessary. Due to close liaison and existing relationships with other Federal, state, local and foreign law enforcement agencies, information about informants may be received which may relate to a case then under the investigative jurisdiction of another Government agency but it is necessary to maintain this information in order to provide leads for appropriate law enforcement purposes and to establish patterns of activity which may relate to the jurisdiction of both the USACIDC and other agencies. Additionally, the failure to maintain all known information about informants could affect the effective utilization of the individual and substantially increase the operational hazards incumbant in the employment of an informant in very compromising and sensitive situations.

From subsection (e)(2) because collecting information from the informant would potentially thwart both the criminal investigative process and the required management control over these individuals by appraising the informant of investigations or management actions concerning his involvement in criminal activity or with USACIDC personnel.

From subsection (e)(3) because supplying an informant with a form containing the information specified could result in the compromise of an investigation, tend to inhibit the cooperation of the informant, and render ineffectual investigative techniques and methods utilized by USACIDC in the performance of its criminal law enforcement duties.

From subsection (e)(5) because this requirement would unduly hamper the criminal investigative process due to type of records maintained and necessary for rapid information retrieval and dissemination. Also, in the collection of information about informants, it is impossible to determine what information is then accurate, relevant, timely and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation or contact brings new details to light. In the criminal investigative process, accuracy and relevance of information concerning informants can only be determined in a court of law. The restrictions imposed by subsection (e)(5) would restrict the ability of trained investigators to exercise their judgment in reporting information relating to informant's actions and would impede the development of criminal intelligence necessary for effective law enforcement.

From subsection (e)(8) because the notice requirements of this provision could present a serious impediment to criminal law enforcement by revealing investigative techniques, procedures, and the existence of confidential investigations.

Exempted record systems

(Specific Exemptions)

ID—A0501.10DAMI.

SYSNAME—Counterintelligence Research File Systems (SIRFS).

EXEMPTION—All portions of this system of records which fall within 5 U.S.C. 552a(k) (1), (2), or (5) are exempt from the following provisions of Title 5 U.S.C., section 552a: (c) (3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I), and (f).

AUTHORITY—5 U.S.C. 552a(k) (1), (2) and (5).

REASONS—Information in the files is obtained from overt and sensitive intelligence sources, and contains information classified in the interest of national security under the provisions of EEO 12356 and predecessor orders. The system contains investigatory material compiled for law enforcement purposes as well as for determining the

suitability for employment or military service and thus will also require the protection of confidential sources. Information may reflect the efforts of hostile intelligence services in the collection effort against the US Army.

Additionally, the following factors are at issue in disclosure of data from this system of records: release of exempted information would endanger the safety of sources involved in intelligence programs; release would invade the privacy of those individuals involved in intelligence programs; release would compromise and thus negate specialized techniques used to support intelligence programs; and release would interfere with and negate the orderly conduct of intelligence operations. Exemption from the remaining provisions is predicated upon the exemption from disclosure or upon the need for conducting complete and proper investigations.

Exempted Record Systems

(Specific Exemptions)

ID—A0502.03DAMI.

SYSNAME—Intelligence Collection Files.

EXEMPTION—All portions of this system of records which fall within 5 U.S.C. 552a(k) (1), (2) or (5) are exempt from the following provisions of Title 4 U.S.C., section 552a: (c)(3), (d), (e)(4)(G), (e)(4)(H), (e)(4)(I), and (f).

AUTHORITY—5 U.S.C. 552(k) (1), (2), and (5).

REASONS—Executive Order 12356 and predecessor orders provide for the protection of some official information and material which, because it bears directly on the effectiveness of our national defense and the conduct of our foreign relations, must be subject to some constraints for the security of our Nation and the safety of our people and our Allies. To protect against actions hostile to the United States, of both overt and covert nature, it is essential that such official information and material be given only limited dissemination. This exemption is also essential to protect the privacy and personal safety of the sources involved. It is vital to the conduct of secure operations under Director, Central Intelligence Directives 4 and 5 and Defense Intelligence Agency Manual 58–11. Additionally, the disclosure of data within the system of records is exempt to the extent the disclosure of such data would reveal the identity of sources who furnished information to the Government under an express or implied promise that source identities would be held in confidence. These assurances are essential to the frank and candid disclosure of information which is essential to the investigative purpose. Confidence in the integrity of government assurances must be maintained or the investigative process will be severely damaged. Exemption from the other requirements is premised on and follows from the rationale which requires exemption from access.

Exempted Record Systems

(Specific Exemptions)

ID—A0502.03bDAMI.

SYSNAME—Technical Surveillance Index.

EXEMPTION—All portions of this system of records which falls within 5 U.S.C. 552a(k) (1), (2), or (5) are exempt from the following provisions of Title 5 U.S.C., section 552a: (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), and (e)(4)(I).

AUTHORITY—5 U.S.C. 552a(k) (1), (2), or (5).

REASONS—The material contained in this record system contains data concerning sensitive sources and operational methods whose dissemination must be strictly controlled because of national security intelligence considerations. Disclosure of documents or the disclosure accounting record may compromise the effectiveness of the operation, and negate specialized techniques used to support intelligence or criminal investigative programs, or otherwise interfere with the orderly conduct of intelligence operations or criminal investigations.

Exempted Record Systems

(Specific Exemptions)

ID—A0502.10aDAMI.

SYSNAME—USAINTA Investigative File System.

EXEMPTION—All portions of this system of records which fall within 5 U.S.C. 552a(k) (1), (2), or (5) are exempt from the following provisions of Title 5 U.S.C., section 552a: (d), (e)(4)(G), (e)(4)(H), and (e)(4)(I).

AUTHORITY—5 U.S.C. 552a(k) (1), (2), and (5).

REASONS—Executive Order 12356 and predecessor orders provides for the protection of some official information and material which, because it bears directly on the effectiveness of our national defense and the conduct of our foreign relations, must be subject to some constraints for the security of our Nation and the safety of our people and our Allies. To protect against actions hostile to the United States, or both overt and covert nature, it is essential that such official information and material be given only limited dissemination. Additionally, in the conduct of such operations which produce these records, at times the methods and arrangements with our Allies pertinent to the conduct of intelligence operations are relevant to this issue of national security interests and must be safeguarded. Further, the disclosure of unclassified data within this record system is exempt only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express or implied promise that the identity of the source would be held in confidence. These assurances are essential to the frank and candid disclosure of information which is essential to the purposes of these investigations. Confidence in the integrity of the Government's assurances must be maintained or the investigative process will be severely damaged. Exemption from the other requirements is premised on and follows from the rationale which requires exemption from access.

Exempted Record Systems

(Specific Exemptions)

ID—AO53.03aDAMI.

SYSNAME—Department of the Army Operational Support Activities Files.

EXEMPTION—All portions of this system of records which fall within 5 U.S.C. 552a(k) (1), (2), or (5) are exempt from the following provisions of Title 5 U.S.C., section 552a: (c)(3), (d), (e)(4)(G), (e)(4)(H), (e)(4)(I), and (f).

AUTHORITY—5 U.S.C. 552a(k) (1), (2), and (5).

REASONS—Executive Order 12356 and predecessor orders provide for the protection of official information and material which, because it bears directly on the effectiveness of our national defense and the conduct of our foreign relations, must be limited in its accessibility. To protect against hostile actions, both overt and covert, it is essential that such official information and material be given only limited dissemination. Additionally, the following factors are at issue in disclosure of data from this system of records: Release of exempted information would endanger the safety of sources involved in intelligence programs; release would invade the privacy of those individuals involved in intelligence programs; release would compromise and thus negate specialized techniques used to support intelligence programs; and release would interfere with and negate the orderly conduct of intelligence operations. Exemption from the other provisions is premised on and follows from the rationale which exempts access to this system of records.

Exempted Record Systems

(Specific Exemptions)

ID—AO503.06aDAMI.

SYSNAME—Counterintelligence Operations File.

EXEMPTION—All portions of this system of records which fall within 5 U.S.C. 552a(k) (1), (2), or (5) are exempt from the following provisions of Title 5 U.S.C., section 552a: (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I), and (f).

AUTHORITY—5 U.S.C. 552a(k) (1), (2), and (5).

REASONS—Executive Order 12356 and predecessor orders provide for the protection of official information and material which, because it bears directly on the effectiveness of our national defense and the conduct of our foreign relations, must be limited in its accessibility. To protect against hostile actions, both overt and covert, it is essential that such official information and material be given only limited dissemination. Additionally, the following factors are at issue in disclosure of data from this system of records: Release of exempted information would endanger the safety of sources involved in intelligence programs; release would invade the privacy of those individuals involved in intelligence programs; release would compromise and thus negate specialized techniques used in support of intelligence programs; and release would interfere with and negate the orderly conduct of intelligence operations. Relevant to the above considerations, exemption is necessary from the requirements to provide an individual an accounting of disclosures and to inform an individual whether a record exists on him within this system of records, during the period in which an investigative interest and activity remains concerning that individual. This is necessary to avoid disclosure of the existence of on-going law

enforcement investigations and compromise of the purposes and objectives for such on-going investigations. Further, the disclosure of data within this record system is exempt to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express or implied promise that the identity of the source would be held in confidence. These assurances are essential to the frank and candid disclosure of information which is essential to the purposes of these investigations. Confidence in the integrity of the Government's assurances must be maintained or the investigative process will be severely damaged. The exemption of an individual's right of access to records on him in this system of records and the reasons therefore necessitate and provide the rationale for the exemption of this system of records from the requirements of record amendment and other cited provisions. Maintaining information which is strictly relevant to law enforcement purposes may result in exclusion of seemingly irrelevant data of significant value in determining the qualifications and suitability of individuals for Federal civilian employment, military service, Federal contracts or access to classsified information.

Exempted Record Systems

(Specific Exemptions)

ID—A0506.01fDAMI.

SYSNAME—Personal Security Clearance Information Files.

EXEMPTION—All portions of this system which fall within 5 U.S.C. 552a(k) (1), (2), or (5) are exempt from the following provisions of Title 5 U.S.C., section 552a: (d), (e)(4)(G), (e)(4)(H), (e)(4)(I), and (f).

AUTHORITY—5 U.S.C. 552a(k) (1), (2), and (5).

REASONS—Material contained in this record which is properly and currently classified under the Executive order 12356 and predecessor orders includes data concerning sensitive source and operational methods whose dissemination must be strictly controlled because of its relationship to national security intelligence considerations. Additionally, in the conduct of operations which produce these records, at times the methods and arrangements with our Allies pertinent to the conduct of intelligence operations are relevant to this issue of national security interests and must be safeguarded. Further, the disclosure of unclassified data within this record system is exempt only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of 5 U.S.C. 552a, under an implied promise that the identity of the source would be held in confidence. These assurances are essential to the purposes of these investigations. Confidence in the integrity of the Government's assurance must be maintained or the investigative process will be severely damaged. Exemption from access necessarily includes exemption from the other requirements.

Exempted Record Systems

(Specific Exemptions)

ID—A0508.07USACIDC.

SYSNAME—Criminal Investigation Accreditation Files.

EXEMPTION—All portions of this system of records which fall within 5 U.S.C. 552a(k) (2), (5) or (7) are exempt from the following provisions of Title 5 U.S.C., section 552a: (d), (e)(1), (e)(4)(G), (e)(4)(H), and (f).

AUTHORITY—5 U.S.C. 552a(k) (2), (5), and (7).

REASONS—From subsections (d), (e)(4)(G), (e)(4)(H), and (f) because disclosure of portions of the information in this system of records would seriously impair the selection and management of these uniquely functioning individuals; hamper the inclusion of comments, reports and evaluations concerning the performance, qualifications, character, actions and propensities of the agent; and prematurely compromise investigations which either concern the conduct of the agent himself or investigations wherein he or she is integrally or only peripherally involved. Additionally, the exemption from access necessarily includes exemptions from the amendment and the agency procedures which would otherwise be required to process these types of requests.

From subsection (e)(1) because the failure to maintain all known information about agents could affect the effective utilization of the individual and substantially increase the operational hazards incumbent in the employment of agents in very compromising and sensitive situations.

Exempted Record Systems

(General Exemptions)

ID—AO508.11aUSACIDC.

SYSNAME—Criminal Investigation and Crime Laboratory Files.

EXEMPTION—All portions of this system of records which fall within 5 U.S.C. 552a(j)(2) are exempt from the following provisions of Title 5, U.S.C., section 552a: (c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(5), (e)(8), (f), and (g).

AUTHORITY—5 U.S.C. 552(j)(2).

REASONS—From subsection (c)(3) because the release of accounting of disclosures would place the subject of an investigation on notice that he is under investigation and provide him with significant information concerning coordinated investigative effort and techniques and the nature of the investigation, resulting in a serious impediment to criminal law enforcement activities or the compromise of properly classified material.

From subsection (c)(4), (d), (e)(4)(G), (e)(4)(H), (f), and (g) because access might compromise on-going investigations, reveal classified information, investigatory techniques or the identity of confidential informants, or invade the privacy of persons who provide information in connection with a particular investigation. The exemption from access necessarily includes exemption from amendment, certain agency requirements relating to access and amendment of records, and civil liability predicated upon agency compliance with those specific provisions of the Privacy Act. The exemption from access necessarily includes exemption from other requirements.

From subsection (e)(1) because the nature of the investigative function creates unique problems in prescribed specific perimeters in a particular case as to what information is relevant or necessary. Also, due to close liaison and working relationships with other Federal, state, local, and foreign law enforcement agencies, information may be received which may relate to a case then under the investigative jurisdiction of another Government agency but it is necessary to maintain this information in order to provide leads for appropriate law enforcement purposes and to establish patterns of activity which may relate to the jurisdiction of both the USACIDC and other agencies.

From subsection (e)(2) because collecting information from the subject of criminal investigations would thwart the investigative process by placing the subject of the investigation on notice thereof.

From subsection (e)(3) because supplying an individual with a form containing the information specified could result in the compromise of an investigation, tend to inhibit the cooperation of the individual queried, and render ineffectual investigation techniques and methods utilized by USACIDC in the performance of their criminal law enforcement duties.

From subsection (e)(5) because this requirement would unduly hamper the criminal investigative process due to the great volume of records maintained and the necessity for rapid information retrieval and dissemination. Also, in the collection of information for law enforcement purposes, it is impossible to determine what information is then accurate, relevant, timely, and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light. In the criminal investigative process, accuracy and relevance of information can only be determined in a court of law. The restrictions imposed by subsection (e)(5) would restrict the ability of trained investigators to exercise their judgment in reporting on investigations and impede the development of criminal intelligence necessary for effective law enforcement.

From subsection (e)(8) because the notice requirements of this provision could present a serious impediment to criminal law enforcement by revealing investigative techniques, procedures, and the existence of confidential investigations.

Exempted Record Systems

(General Exemptions)

ID—AO508.11bUSACIDC.

SYSNAME—Criminal Information Reports and Cross Index Card Files.

EXEMPTION—All portions of this system of records which fall within 5 U.S.C. 552a(j)(2) are exempt from the following provisions of 5 U.S.C. 552a: (c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(5), (e)(8), (f), and (g).

AUTHORITY—5 U.S.C. 552a(j)(2).

REASONS—From subsection (c)(3) because the release of accounting of disclosures would place the subject of an investigation on notice that he is under investigation and provide him with significant information concerning coordinated investigative effort and techniques and the nature of the investigation, resulting in a serious impediment to criminal law enforcement activities or the compromise of properly classified material.

From subsections (c)(4), (d), (e)(4)(G), (e)(4)(H), (f), and (g) because access might compromise on-going investigations, reveal investigatory techniques and the identity of confidential informants, and invade the privacy of persons who provide information in connection with a particular investigation. The exemption from access necessarily includes exemption from amendment, certain agency requirements relating to access and amendment of records, and civil liability predicated upon agency compliance with those specific provisions of the Privacy Act. In addition, subsections (d), (e)(4)(G), (e)(4)(H), and (f) are necessary to protect the security of information properly classified in the interest of national and foreign policy.

From subsection (e)(1) because the nature of the criminal investigative function creates unique problems in prescribing specific perimeters in a particular case what information is relevant or necessary. Also, due to close liaison and working relationships with other Federal, state, local and foreign law enforcement agencies, information may be received which may relate to a case then under the investigative jurisdiction of another Government agency but it is necessary to maintain this information in order to provide leads for appropriate law enforcement purposes and to establish patterns of activity which may relate to the jurisdiction of both the USACIDC and other agencies.

From subsection (e)(2) because collecting information from the subject of criminal investigation would thwart the investigative process by placing the subject of the investigation on notice thereof.

From subsection (e)(3) because supplying an individual with a form containing the information specified could result in the compromise of an investigation, tend to inhibit the cooperation of the individuals queried and render ineffectual investigative techniques and methods utilized by USACIDC in the performance of their criminal law enforcement duties.

From subsection (e)(5) because this requirement would unduly hamper the criminal investigative process due to the great volume of records maintained and the necessity for rapid information retrieval and dissemination. Also, in the collection of information for law enforcement purposes, it is impossible to determine what information is then accurate, relevant, timely, and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light. In the criminal investigative process, accuracy and relevance of information can only be determined in a court of law. The restrictions imposed by subsection (e)(5) would restrict the ability of trained investigators to exercise their judgement in reporting on investigations and impede the development of criminal intelligence necessary for effective law enforcement.

From subsection (e)(8) because the notice requirements of this provision could present a serious impediment to criminal law enforcement by revealing investigative techniques, procedures, and the existence of confidential investigations.

Exempted Record Systems

(General Exemptions)

ID—A0508.16DAPE.

SYSNAME—Absentee Case Files.

EXEMPTION—All portions of this system of records which fall within 5 U.S.C. 552a(j)(2) are exempt from the following provisions of Title 5 U.S.C., section 552a: (c)(3), (c)(4), (d), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(8), (f), and (g).

AUTHORITY—5 U.S.C. 552a(j)(2).

REASONS—From subsection (c)(4), (d), (e)(4)(G), (e)(4)(H), (f), and (g) because granting individuals access to information collected and maintained by this component relating to the enforcement of laws could interfere with proper investigations and the orderly administration of justice. Disclosure of this information could result in the concealment, alteration or destruction of evidence, the identification of offenders or alleged offenders, nature and disposition of charges, and jeopardize the safety and well-being of informants, witnesses and their families, and law enforcement personnel and their families. Disclosure of this information could also reveal and render ineffectual investigative techniques, sources, and methods used by this component, and could result in the invasion of the privacy of individuals only incidentally related to an investigation. Exemption from access necessarily includes exemption from the other requirements.

From subsection (c)(3) because the release of accounting of disclosure would place the subject of an investigation on notice that he is under investigation and provide him with significant information concerning the nature of the investigation, thus resulting in a serious impediment to law enforcement investigations.

From subsection (e)(2) because in a criminal or other law enforcement investigation, the requirement that information be collected to the greatest extent practicable from the subject individual would alert the subject as to the nature or existence of the investigation and thereby present a serious impediment to effective law enforcement.

From subsection (e)(3) because compliance would constitute a serious impediment to law enforcement in that it could compromise the existence of a confidential investigation or reveal the identity of witnesses or confidential informants.

From subsection (e)(8) because compliance with this provision would provide an impediment to law enforcement by interfering with the ability to issue warrants or subpoenas and by revealing investigative techniques, procedures or evidence.

Exempted Record Systems

(General Exemptions)

ID—A0508.24aDAPE.

SYSNAME—Serious Incident Reporting Files.

EXEMPTION—All portions of this system of records which fall within 5 U.S.C. 552a(j)(2) are exempt from the following provisions of Title 5 U.S.C., section 552a: (c)(3), (c)(4), (d), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(8), (f), and (g).

AUTHORITY—5 U.S.C. 552a(j)(2).

REASONS—From subsections (c)(4), (d), (e)(4)(G), (e)(4)(H), (f), and (g) because granting individuals access to information collected and maintained by this component relating to the enforcement of criminal laws could interfere with orderly investigations and the orderly administration of justice. Disclosure of this information could result in the concealment, alteration or destruction of evidence, the identification of offenders or alleged offenders, nature and disposition of charges; and jeopardize the safety and well-being of informants, witnesses and their families, and law enforcement personnel and their families. Disclosure of this information could also reveal and render ineffectual investigative techniques, sources and methods used by this component, and could result in the invasion of the privacy of individuals only incidentally related to an investigation. Exemption from access necessarily includes exemption from the other requirements.

From subsection (c)(3) because the release of accounting of disclosure would place the subject of an investigation on notice that he is under investigation and provide him with significant information concerning the nature of the investigation, thus resulting in a serious impediment to law enforcement investigations.

From subsection (e)(2) because in a criminal or other law enforcement investigation, the requirement that information be collected to the greatest extent practicable from the subject individual would alert the subject as to the nature or existence of the investigation and thereby present a serious impediment to effective law enforcement.

From subsection (e)(3) because compliance would constitute a serious impediment to law enforcement in that it could compromise the existence of a confidential investigation or reveal the identity of witnesses or confidential informants.

From subsection (e)(8) because compliance with this provision would provide an impediment to law enforcement by interfering with the ability to issue warrants or subpoenas and by revealing investigative techniques, procedures or evidence.

Exempted Record Systems

(General Exemptions)

ID—A0508.25aUSACIDC.

SYSNAME—Index to Criminal Investigative Case Files.

EXEMPTION—All portions of this system of records which fall within 5 U.S.C. 552a(j)(2) are exempt from the following provisions of 5 U.S.C. 552a: (c)(3), (c)(4), (d), (e)(1), (e)(2),

(e)(3), (e)(4)(G), (e)(4)(H), (e)(5), (e)(8), (f), and (g).

AUTHORITY—5 U.S.C. 552a(j)(2).

REASONS—From subsection (c)(3) because the release of accounting of disclosures would place the subject of an investigation on notice that he is under investigation and provide him with significant information concerning coordinated investigative effort and techniques and the nature of the investigation, resulting in a serious impediment to criminal law enforcement activities or the compromise of properly classified material.

From subsection (c)(4), (d), (e)(4)(G), (e)(4)(H), (f), and (g) because access might compromise on-going investigations, reveal investigatory techniques and the identity of confidential informants, and invade the privacy of persons who provide information in connection with a particular investigation. The exemption from access necessarily includes exemption from amendment, certain agency requirements relating to access and amendment of records, and civil liability predicated upon agency compliance with those specific provisions of the Privacy Act. In addition, subsections (d), (e)(4)(G), (e)(4)(H), and (f) are necessary to protect the security of information properly classified in the interest of national and foreign policy.

From subsection (e)(1) because the nature of the criminal investigative function creates unique problems in prescribing specific perimeters in a particular case what information is relevant or necessary. Also, due to close liaison and working relationships with other Federal, state, local and foreign law enforcement agencies, information may be received which may relate to a case then under the investigative jurisdiction of another government agency but it is necessary to maintain this information in order to provide leads for appropriate law enforcement purposes and to establish patterns of activity which may relate to the jurisdiction of both the USACIDC and other agencies.

From subsection (e)(2) because collecting information from the subject of criminal investigations would thwart the investigative process by placing the subject of the investigation on notice thereof.

From subsection (e)(3) because supplying an individual with a form containing the information specified could result in the compromise of an investigation, tend to inhibit the cooperation of the individuals queried, and render ineffectual investigative techniques and methods utilized by USACIDC in the performance of their criminal law enforcement duties.

From subsection (e)(5) because this requirement would unduly hamper the criminal investigative process due to the great volume of record maintained and the necessity for rapid information retrieval and dissemination. Also, in the collection of information for law enforcement purposes, it is impossible to determine what information is then accurate, relevant, timely, and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light. In the criminal investigative process, accuracy and relevance of information can only be determined in a court of law. The restrictions imposed by subsection (e)(5) would restrict the ability of trained investigators to exercise their judgment in reporting on investigations and impede the development of criminal intelligence necessary for effective law enforcement.

From subsection (e)(8) because the notice requirements of this provision could present a serious impediment to criminal law enforcement by revealing investigative techniques, procedures, and the existence of confidential investigations.

Exempted Record Systems

(Specific Exemptions)

ID–A0509.08DAPE.

SYSNAME—Registration and Permit Files.

EXEMPTION—This system of records insofar is it contains information falling within 5 U.S.C. 552a(k)(2) is exempted from the following provisions of Title 5 U.S.C. section 552a: (c)(3).

AUTHORITY—5 U.S.C. 552a(k)(2).

REASONS—From subsection (c)(3) because the release of accounting of disclosures would place the subject of an investigation on notice that he is under investigation and provide him with significant information concerning the nature of the investigation thus resulting in a serious impediment to criminal law enforcement investigations, activities or the compromise of properly classified material.

Exempted Record Systems

(General Exemptions)

ID–AO509.10DAPE.

SYSNAME—Law Enforcement: Offense Reporting System (MPMIS).

EXEMPTION—All portions of this system of records which fall within 5 U.S.C. 552a(j)(2) are exempt from the following provisions of Title 5 U.S.C., section 552a: (c)(3), (c)(4), (d), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(8), (f), and (g).

AUTHORITY—5 U.S.C. 552a(j)(2).

REASONS—From subsections (c)(4), (d), (e)(4)(G), (e)(4)(H), (f), and (g) because granting individuals access to information collected and maintained by this component relating to the enforcement of criminal laws could interfere with orderly investigations and the orderly administration of justice. Disclosure of this information could result in the concealment, alteration or destruction of evidence, the identification of offenders or alleged offenders, nature and disposition of charges, and jeopardize the safety and well-being of informants, witnesses and their families, and law enforcement personnel and their families. Disclosure of this information could also reveal and render ineffectual investigative techniques, sources and methods used by this component, and could result in the invasion of the privacy of individuals only incidentally related to an investigation.

From subsection (c)(3) because the release of accounting of disclosure would place the subject of an investigation on notice that he is under investigation and provide him with significant information concerning the nature of the investigation, thus resulting in a serious impediment to law enforcement investigations.

From subsection (e)(2) because in a criminal or other law enforcement investigation, the requirement that information be collected to the greater extent practicable from the subject individual would alert the subject as to the nature or existence of the investigation and thereby present a serious impediment to effective law enforcement.

From subsection (e)(3) because compliance would constitute a serious impediment to law enforcement in that it would compromise the existence of a confidential investigation or reveal the identity of witnesses or confidential informants.

From subsection (e)(8) because compliance with this provision would provide an impediment to law enforcement by interfering with the ability to issue warrants or subpoenas and by revealing investigative techniques, procedures, or evidence.

Exempted Record Systems

(General Exemptions)

ID–AO509.18bDAPE.

SYSNAME—Expelled or Barred Person Files.

EXEMPTION—All portions of this system of records which fall within 5 U.S.C. 552a(j)(2) are exempt from the following provisions of Title 5 U.S.C., section 552a: (c)(3), (c)(4), (d), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(8), (f), and (g).

AUTHORITY—5 U.S.C. 552a(j)(2).

REASONS—From subsections (c)(4, (d), (e)(4)(G), (e)(4)(H), (f), and (g) because granting individuals access to information collected and maintained by this component relating to the enforcement of criminal laws could interfere with orderly investigations and the orderly administration of justice. Disclosure of this information could result in the concealment, alteration or distruction of evidence, the identification of offenders or alleged offenders, and the nature and disposition of charges; and jeopardize the safety and well-being of informants, witnesses and their families, and law enforcement personnel and their families. Disclosure of this information could also reveal and render ineffectual investigative techniques, sources, and methods used by this component, and could result in the invasion of the privacy of individuals only incidentally related to an investigation.

From subsection (c)(3) because the release of accounting would place the subject of an investigation on notice that he is under investigation and provide him with signficant information concerning the nature of the inveatigation, thus resulting in a serious impediment to law enforcement investigations.

From subsection (e)(2) because in a criminal or other law enforcement investigation, the requirement that information be collected to the greatest extent practicable from the subject individual would alert the subject as to the nature or existence of the investigation and thereby present a serious impediment to effective law enforcement.

From subsection (e)(3) because compliance would constitute a serious impediment to law enforcement in that it could compromise the existence of a confidential investigation or reveal the identity of witnesses or confidential informants.

From subsection (e)(8) because compliance with this provision would provide an impediment to law enforcement by interfering with the ability to issue warrants or subpoenas and by revealing investigative techniques, procedures or evidence.

Exempted Record Systems

(Specific Exemptions)

ID–AO509.19DAPE.

SYSNAME—Military Police Investigator Certification Files.

EXEMPTION—All portions of this system of records which fall within 5 U.S.C. 552a(k) (2), (5) or (7) are exempt from the following provisions of Title 5 U.S.C., section 552a: (d), (e)(4)(G), (e)(4)(H), and (f).

AUTHORITY—5 U.S.C. 552a(k) (2), (5) and (7).

REASONS—From subsections (d), (e)(4)(G), (e)(4)(H), (f), because disclosure of portions of the information in this system of records would seriously impair the selection and management of these uniquely functioning individuals; hamper the inclusion of comments, reports and evaluations concerning the performance, qualifications, character, actions and propensities of the agent; and prematurely compromise investigations which either concern the conduct of the agent himself or investigations wherein he or she is integrally or only peripherally involved. Additionally, the exemption from access necessarily includes exemptions from the amendment and the agency procedures which would otherwise be required to process these types of requests.

Exempted Record Systems

(General Exemptions)

ID–AO509.21DAPE.

SYSNAME—Local Criminal Information Files.

EXEMPTION—All portions of this system of records which fall within 5 U.S.C. 552a(j)(2) are exempt from the following provisions of Title 5 U.S.C., section 552a: (c)(3), (c)(4), (d), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(8), (f), and (g).

AUTHORITY—5 U.S.C. 552a(j)(2).

REASONS—From subsections (c)(4), (d), (e)(4)(G), (e)(4)(H), (f), and (g) because granting individuals access to information collected and maintained by this component relating to the enforcement of laws could interfere with proper investigations and the orderly administration of justice. Disclosure of this information could result in the concealment, alteration or distruction of evidence, the identifications of offenders or alleged offenders, nature and disposition of charges; and jeopardize the safety and well-being of informants, witnesses and their families, and law endorcement personnel and their families. Disclosure of this information could also reveal and render ineffectual investigative techniques, sources and methods used by this component and could result in the invasion of the privacy of individuals only incidentally related to an investigation. Exemption from access necessarily includes exemption from the other requirements.

From subsection (c)(3) because the release of accounting of disclosure would place the subject of an investigation on notice that he is under investigation and provide him with significant information concerning the nature of the investigation, thus resulting in a serious impediment to law enforcement investigations.

From subsection (e)(2) because, in a criminal or other law enforcement investigation, the requirement that information be collected to the greatest extent practicable from the subject individual would alert the subject as to the nature or existence of the investigation and thereby present a serious impediment to effective law enforcement.

From subsection (e)(3) because compliance would constitute a serious impediment to law enforcement in that it could compromise the existence of a confidential investigation or reveal the identity of witnesses or confidential informants.

From subsection (e)(8) because compliance with this provision would provide an impediment to law enforcement by interfering with the ability to issue warrants or subpoenas and by revealing investigative techniques, procedures or evidence.

Exempted Record Systems

(General Exemptions)

ID–AO511.05DAPE.

SYSNAME—Traffic Law Enforcement/ Vehicle Registration System: MPMIS.

EXEMPTION—All portions of this system of records which fall within 5 U.S.C. 552a(j)(2) are exempt from the following provisions of Title 5 U.S.C., section 552a: (c)(3), (c)(4), (d), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(8), (f), and (g).

AUTHORITY—5 U.S.C. 552a(j)(2).

REASONS—From subsections (c)(4), (d), (e)(4)(G), (e)(4)(H), (f), and (g) because granting individuals access to information collected and maintained by this component relating to the enforcement of laws could interfere with proper investigations and the orderly administration of justice. Disclosure of this information could result in the concealment, alteration or destruction of evidence, the identification of offenders or alleged offenders, nature and disposition of charges; and jeopardize the safety and well-being of informants, witnesses and their families, and law enforcement personnel and their families. Disclosure of this information could also reveal and render ineffectual investigative techniques, sources, and methods used by this component, and could result in the invasion of the privacy of individuals only incidentally related to an investigation. Exemption from access necessarily includes exemption from the other requirements.

From subsection (c)(3) because the release of accounting of disclosure would place the subject of an investigation on notice that he is under investigation and provide him with significant information concerning the nature of the investigation, thus resulting in a serious impediment to law enforcement investigations.

From subsection (e)(2) because in a criminal or other law enforcement investigation, the requirement that information be collected to the greatest extent practicable from the subject individual would alert the subject as to the nature or existence of the investigation and thereby present a serious impediment to effective law enforcement.

From subsection (e)(3) because compliance would constitute a serious impediment to law enforcement in that it could compromise the existence of a confidential investigation or reveal the identity of witnesses or confidential informants.

From subsection (e)(8) because compliance with the provision would provide an impediment to law enforcement by interfering with the ability to issue warrants or subpoenas and by revealing investigative techniques, procedures or evidence.

Exempted Record Systems

(Specific Exemptions)

ID—AO702.03aUSAREC.

SYSNAME—Enlistment Eligibility Files.

EXEMPTION—All portions of this system of records which fall within 5 U.S.C. 552a(k)(5) are exempt from the following provisions of Title 5 U.S.C., section 552a: (d).

AUTHORITY—5 U.S.C. 552a(k)(5).

REASONS—It is imperative that the confidential nature of evaluations and investigatory material on applicants applying for enlistment furnished to the US Army Recruiting Command under an express promise of confidentiality, be maintained to insure the candid presentation of information necessary in determinations of enlistment and suitability for enlistment into the United States Army.

Exempted Record Systems

(Specific Exemptions)

ID—AO702.08aDASG.

SYSNAME—Army Medical Procurement Applicant Files.

EXEMPTION—All portions of this system of records which fall within 5 U.S.C. 552a(k)(5) are exempt from the following provisions of Title 5 U.S.C., section 552a: (d).

AUTHORITY—5 U.S.C. 552a(k)(5).

REASONS—It is imperative that the confidential nature of evaluation and investigatory material on applicants furnished to the Army Medical Procurement Program under an express promise of confidentiality, be maintained to ensure that candid presentation of information necessary in determinations involving selection for AMEDD training programs and for suitability for commissioned service and future promotion.

Exempted Record Systems

(Specific Exemptions)

ID—AO704.10bMEPCOM.

SYSNAME—ASVAB Institutional Test Scoring and Reporting System.

EXEMPTION—All portions of this system which fall within 5 U.S.C. 552a(k)(6) are exempt from the following provisions of Title 5 U.S.C., section 552a: (d).

AUTHORITY—5 U.S.C. 552a(k)(6).

REASONS—Exemption is needed for the portion of records which pertains to individual item response on tests, to preclude compromise of scoring keys.

Exempted Record Systems

(Specific Exemptions)

ID—AO709.01aDAPE.

SYSNAME—United States Military Academy Candidate Files.

EXEMPTION—All portions of this system which fall within 5 U.S.C. 552a(K) (5), (6), or (7) are exempt from the following provisions of Title 5 U.S.C., section 552a: (d).

AUTHORITY—5 U.S.C. 552a(k) (5), (6), and (7).

REASONS—From subsection (d) because access might reveal investigatory and testing techniques. The exemption from access necessarily includes exemption from amendment, certain agency requirements relating to access and amendment of records, and civil liability predicated upon agency compliance with those specific provisions of the Privacy Act.

Exemption is necessary to protect the identity of individuals who furnished information to the United States Military Academy which is used in determining suitability, eligibility, or qualifications for military service and which was provided under an express promise of confidentiality.

Exemption is needed for the portion of records compiled within the Academy which pertain to testing or examination material used to rate individual qualifications, the disclosure of which would compromise the objectivity or fairness of the testing or examination process.

Exemption is required for evaluation material used by the Academy in determining potential for promotion in the Armed Services, to protect the identity of a source who furnished information to the Academy under an express promise of confidentiality.

Exempted Record Systems

(Specific Exemptions)

ID—AO709.03DAPE.

SYSNAME—U.S. Military Academy Personnel Cadet Records.

EXEMPTION—All portions of this system of records which fall within 5 U.S.C. 552a(k) (5) or (7) are exempt from the following provisions of Title 5 U.S.C., section 552a: (d).

AUTHORITY—5 U.S.C. 552a(k) (5) and (7).

REASONS—It is imperative that the confidential nature of evaluation and investigatory material on candidates, cadets, and graduates, furnished to the United States Military Academy under promise of confidentiality be maintained to insure the candid presentation of information necessary in determinations involving admission to the Military Academy and suitability for commissioned service and future promotion.

Exempted Record Systems

(Specific Exemptions)

ID—AO713–09aTRADOC.

SYSNAME—Skill Qualification Test.

EXEMPTION—All portions of this system which fall under 5 U.S.C. 552a(k)(6) are exempt from the following provisions of Title 5 U.S.C., section 552a: (d).

AUTHORITY—5 U.S.C. 552a(k)(6).

REASONS—An exemption is required for those portions of the Skill Qualification Test system pertaining to individual item responses and scoring keys to preclude compromise of the test and to insure fairness and objectivity of the evaluation system.

Exempted Record Systems

(General Exemptions)

ID—AO720.04DAPE.

SYSNAME—Army Correctional System: Correctional Treatment Records.

EXEMPTION—All portions of this system of records which fall within 5 U.S.C. 552a(j)(2) are exempt from the following provisions of Title 5 U.S.C., section 552a: (c)(3), (c)(4), (d), (e)(3), (e)(4)(G), (e)(4)(H), (e)(5), (e)(8), (f), and (g).

AUTHORITY—5 U.S.C. 552a(j)(2).

REASONS—Granting individuals access to information collected and maintained by this component relating to the enforcement of criminal laws could interfere with the orderly administration of justice. Disclosure of this information could jeopardize the safety and well-being of information sources, correctional supervisors and other confinement facility administrators. Disclosure of the information could also result in the invasion of privacy of persons who provide information used in developing individual treatment programs. Further, disclosure could result in a deterioration of a prisoner's self-image and adversely affect meaningful relationships between a prisoner and his counselor or supervisor. These factors are, of course, essential to the rehabilitative process. Exemption from the remaining provisions is predicated upon the exemption from disclosure or upon the need for proper functioning of correctional programs.

Exempted Record Systems

(Specific Exemptions)

ID—A0917.10DASG.

SYSNAME—Family Advocacy Case Management Files.

EXEMPTION—All portions of this system which fall within 5 U.S.C. 552a(k) (2) and (5) are exempt from the following provisions of Title 5 U.S.C. section 552a: (d).

AUTHORITY—5 U.S.C. 552a(k) (2) and (5).

REASONS—Exemptions are needed in order to encourage persons having knowledge of abusive or neglectful acts toward children to report such information and to protect such sources from embarrassment or recriminations as well as to protect their right to privacy. It is essential that the identities of all individuals who furnish information under an express promise of confidentiality be protected. In the case of spouse abuse, it is important to protect the privacy of spouses seeking treatment. Additionally, granting individuals access to information relating to criminal and civil law enforcement could interfere with on-going investigations and the orderly administration of Justice in that it could result in the concealment, alteration, destruction, or fabrication of information, could hamper the identification of offenders or alleged offenders, and the disposition of charges, and could jeopardize the safety and well-being of parents, children, and abused spouses.

Exempted Record Systems

(Specific Exemptions)

ID—A1012.01DAPE.

SYSNAME—Applicants/Students, US Military Academy Prep School.

EXEMPTION—Parts of this system which fall within 5 U.S.C. 552a(k)(f) and (7) are exempt from subsection (d) of Title 5 U.S.C., section 552a.

AUTHORITY—5 U.S.C. 552a(k) (5) and (7).

REASONS—It is imperative that the confidential nature of evaluation material on individuals, furnished to the US Military Academy Preparatory School under an express promise of confidentiality, be maintained to ensure the candid presentation of information necessary in determinations involving admission to or retention at the US Military Academy Preparatory School and subsequent admission to the United States Military Academy and suitability for commissioned military service.

(e) Exempt OPM records. Three Office of Personnel Management systems of records apply to Army employees, except for nonappropriated fund employees. These sysems, the specific exemptions determined to be necessary and proper, the records exempted, provisions of the Privacy Act from which exempted, and justification are set forth below:

(1) Personnel Investigations Records (OPM/CENTRAL–9). All material and information in these records that meets the criteria stated in 5 U.S.C. 552a(k) (1), (2), (3), (5), and (6) is exempt from the requirements of 5 U.S.C. 552a (c)(3) and (d). These provisions of the Privacy Act relate to making accountings of disclosures available to the data subject and access to and amendment of records.

The specific applicability of the exemptions to this system and the reasons for the exemptions are as follows:

(i) Personnel investigations may obtain from another Federal agency properly classified information which pertains to national defense and foreign policy. Application of exemption (k)(1) may be necessary to preclude the data subject's access to and amendment of such classified information under 5 U.S.C. 552a(d).

(ii) Personnel investigations may contain investigatory material compiled for law enforcement purposes other than material within the scope of 5 U.S.C. 552a(j)(2), e.g., investigations into the administration of the merit system. Application of exemption (k)(2) may be necessary to preclude the data subject's access to or amendment of such records, under 552a (c)(3) and (d).

(iii) Personnel investigations may obtain from another Federal agency information that relates to providing protective services to the President of the United States or other individuals pursuant to section 3056 of title 18. Application of exemption (k)(3) may be necessary to preclude the data subject's access to and amendment of such records under 5 U.S.C. 552a(d).

(iv) All information about individuals in these records that meets the criteria stated in 5 U.S.C. 552a(k)(5) is exempt from the requirements of 5 U.S.C. 552a(c) (3) and (4).

These provisions of the Privacy Act relate to making accountings of disclosures available to the data subject, and access to and amendment of records.

These exemptions are claimed because this system contains investigatory material compiled solely for the purpose of determining suitability, eligibility, and qualifications for Federal civilian employment. To the extent that the disclosure of material would reveal the identity of source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence, the application of exemption (k)(5) will be required to honor such a promise should the data subject request access to or amendment of the record, or access to the accounting of disclosures of the record.

(v) All material and information in these records that meets the criteria stated in 5 U.S.C. 552a(k)(6) is exempt from the requirements of 5 U.S.C. 552a(d), relating to access to and amendment of records by the data subject. This exemption is claimed because portions of this system relate to testing or examination materials used solely to determine individual qualifications for appointment or promotion in the Federal service. Access to or amendment of this information by the data subject would compromise the objectivity and fairness of the testing or examination process.

(2) Recruiting, Examining, and Placement Records (OPM/GOVT–5).

(i) All information about individuals in these records that meets the criteria stated in 5 U.S.C. 552a(k)(5) is exempt from the requirements of 5 U.S.C. 552a (c)(3) and (d). These provisions of the Privacy Act relate to making accountings of disclosures available to the data subject and access to and amendment of records. These exemptions are claimed because this system contains investigative material compiled solely for the purpose of determining the appropriateness of a request for approval of an objection to an eligible's qualification for employment in the Federal service. To the extent that the disclosure of such material would reveal the identify of a source who furnished information to the Government under an express promise that the identify of the source would be held in confidence, the application of exemption (k)(5) will be required to honor such a promise should the data subject request access to the accounting of disclosures of the record or access to or amendment of the record.

(ii) All material and information in these records that meets the criteria stated in 5 U.S.C. 552a(k)(6) are exempt from the requirements of 5 U.S.C. 552a(d), relating to access to and amendment of records by the subject. This exemption is claimed because portions of this system relate to testing or examination materials used solely to determine individual qualification for appointment or promotion in the Federal service and access to or amendment of this information by the data subject would compromise the objectivity and fairness of the testing or examining process.

(3) Personnel Research Test Validation Records (OPM/GOVT–6). All material and information in these records that meets the criteria stated in 5 U.S.C. 552a(k)(6) is exempt from the requirements of 5 U.S.C. 552a(d), relating to access to and amendment of the records by the data subject. This exemption is claimed because portions of this system relate to testing or examination materials used solely to determine individual qualifications for appointment or promotion in the Federal service. Access to or amendment of this information by the data subject would compromise the objectivity and fairness of the testing or examination process.

Appendix A.—Example of System of Records Notice

A0319.01 DACA

System name: Out-of-Service Accounts Receivables

System location: U.S. Army Finance and Accounting Center, Ft Benjamin Harrison, IN 46249.

Categories of individuals covered by the system: Separated and retired military/civilian personnel and others indebted to the U.S. Army.

Categories of records in the system: Records of current and former military members and civilian employees' pay accounts showing entitlements, deductions and payments exceeding entitlements. These records include, but are not limited to:

a. Individual military pay records, substantiating documents such as military pay orders, pay adjustment authorizations, military master pay account printouts from the Joint Uniform Military Pay System (JUMPS), records of travel payments, financial record data folders, miscellaneous vouchers, personal financial records, credit reports, promissory notes, individual financial statements, and correspondence;

b. Applications for waiver of erroneous payments or for remission of indebtedness with supporting documents, including, but not limited to statements of financial status (personal income and expenses), statements of commanders and/or accounting and finance officers, correspondence with members and employees;

c. Claims of individuals requesting additional payments for service rendered with supporting documents including, but not limited to, time and attendance reports, leave and earnings statements, travel orders and/or vouchers, and correspondence with members and employees.

d. Delinquent accounts receivable from field accounting and finance officers including, but not limited to, returned checks, medical services billings, collection records, and summaries of the Army Criminal Investigations Command and/or Federal Bureau of Investigation reports;

e. Reports from probate courts regarding estates of deceased debtors;

f. Reports from bankruptcy courts regarding claims of the United States against debtors.

Authority for maintenance of the system: 31 U.S.C., section 3711:10 U.S.C., section 2774; and 12 U.S.C., section 1715.

Purpose(s): To process, monitor, and post-audit accounts receivable, to administer the Federal Claims Collection Act, and to answer inquiries pertaining thereto.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information may be disclosed to:

US Department of Justice/US Attorneys: For legal action and/or final disposition of the debt claims. The litigation briefs (comprehensive, written referral recommendations) will restructure the entire scope of the collection cases.

Internal Revenue Service: To obtain locator status for delinquent accounts receivables; (Automated controls exist to preclude redisclosure of solicited IRS address data; and/or report write-off amounts as taxable income as pertains to amounts compromised and accounts barred from litigation due to age.

Private Collection Agencies: For collection action when the Army has exhausted its internal collection efforts.

Disclosure to Consumer Reporting Agencies: Disclosure pursuant to 5 U.S.C. 552a(b)(12) may be made to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims collection Act of 1966 (3 U.S.C. 3701(a)(3)) when an individual is responsible for a debt to the US Army, provided the debt has been validated, is overdue, and the debtor has been advised of the disclosure and his rights to dispute, appeal or review the claim and/or whenever a financial status report is requested for use in the administration of the Federal Claims Collection Act. Claims of the United States may be compromised, terminated or suspended when warranted by information collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in collection file folders and bulk storage; card files, computer magnetic tapes and printouts; microfiche.

Retrievability: By Social Security Number, name, and substantiating document number: conventional indexing is used to retrieve data.

Safeguards: The US Army Finance and Accounting Center employs security guards. An employee badge and visitor registration system is in effect. Hard copy records are maintained in areas accessible only to authorized personnel who are properly screened, cleared and trained. Computerized records are accessed by custodian of the records system and by persons responsible for servicing the record system in the performance of their official duties. Certifying finance and accounting officers of debts have access to debt information to confirm if the debt is valid and collection action is to be continued. Computer equipment and files are located in a separate secured area.

Retention and disposal: Individual military pay records and accounts receivables are converted to microfiche and retained for 6 years. Destruction is by shredding. Retention periods for other records vary according to category, but total retention does not exceed 56 years; these records are sent to the Federal Records Center, General Services

Administration at Dayton, Ohio; destruction is by burning or salvage as waste paper.

System manager(s) and address: Commander, US Army Finance and Accounting Center, Indianapolis, IN 46249.

Notification procedure: Individuals desiring to know whether this system of records contains information about them should contact the System Manager, ATTN: FINCP-E, furnishing full name, Social Security Number, and military status or other information verifiable from the record itself.

Record access procedures: Individuals seeking access to records in this system pertaining to them should submit a written request as indicated in "Notification procedure" and furnish information required therein.

Contesting record procedures: The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

Record source categories: Information is received from Department of Defense staff and field installations, Social Security Administration, Treasury Department, financial organizations, and automated system interface.

Systems exempted from certain provisions of the act: None.

Appendix B.—Example of Report for New System of Records

Narrative Statement

1. *System Identification and Name:* AO404.02DAJA, Courts-Martial Files.

2. *Responsible Official:* Mr. James D. Kemper, US Army Legal Services Agency, Office of The Judge Advocate General, Room, 204B, Nassif Building, Falls Church, VA 22041.

3. *Purpose of the System:* Records of trial by court-martial are necessary for the purpose of legal review and final action in court-martial cases. After completion of appellate review, they protect each accused against a subsequent trial for the same offense(s).

4. *Authority for the System:* Title 10 U.S.C., Chapter 47, Section 865 states that, in the case of a general court-martial or when sentences that includes a bad conduct discharge is approved by the convening authority in a special court-martial, the record will be sent to the Judge Advocate General. All other special and summary court-martial records will be reviewed by a Judge Advocate.

5. *Number (or estimate) of individuals on whom records will be maintained:* Approximately 7,000,000.

6. *Information on First Amendment Activities:* The system contains no information on First Amendment Activities per se; however, the system may include records of trial in which the charged misconduct was an activity arguably protected by the First Amendment.

7. *Measures to Assure Information Accuracy:* In a trial by court-martial, the accused has a unique opportunity to assure that his record is accurate, relevant, timely and complete as it is made. He has the right to be present at trial, to be represented by counsel in general and special courts-martial and to consult with counsel prior to a summary courts-martial, to review and challenge all information before it is introduced into evidence, to cross-examine all witnesses against him, to present evidence in his behalf, and in general and special courts-martial, to review and comment upon the record of trial before the convening authority's action.

8. *Other Measure to Assure System Security:* As courts-martial records reflect criminal proceedings ordinarily open to the public, copies are normally releasable to the public pursuant to the Freedom of Information Act. However, access to the original records is limited to authorized individuals. Security measures consist of standard physical security devices and civilian and military guards.

9. *Relationship to State/Local Government Activities:* None.

10. *Supporting Documentation:* Proposed system notice and proposed exemption rule are at Encl 1 and 2 respectively.

Appendix C.—Provisions of the Privacy Act From Which a General or Specific Exemption May Be Claimed

Exemption		Section of the Privacy Act
(j)(2)	(k)(1–7)	
No	No	(b)(1) Disclosures within the Department of Defense.
No	No	(2) Disclosures to the public
No	No	(3) Disclosures for a "Routine Use."
No	No	(4) Disclosures to the Bureau of Census.
No	No	(5) Disclosures for statistical research and reporting.
No	No	(6) Disclosures to the National Archives.
No	No	(7) Disclosures for law enforcement purposes.
No	No	(8) Disclosures under emergency circumstances.
No	No	(9) Disclosures to the Congress.
No	No	(10) Disclosures to the General Accounting Office.
No	No	(11) Disclosures pursuant to court orders.
No	No	(12) Disclosure to consumer reporting agencies.
No	No	(c)(1) Making disclosure accountings.
No	No	(2) Retaining disclosure accountings.
Yes	Yes	(c)(3) Making disclosure accounting available to the individual.
Yes	No	(c)(4) Informing prior recipients of corrections.
Yes	Yes	(d)(1) Individual access to records.
Yes	Yes	(2) Amending records.
Yes	Yes	(3) Review of the Component's refusal to amend a record.
Yes	Yes	(4) Disclosure of disputed information.
Yes	Yes	(5) Access to information compiled in anticipation of civil action.
Yes	Yes	(e)(1) Restrictions on collecting information.
Yes	No	(e)(2) Collecting directly from the individual.
Yes	No	(e)(3) Informing individuals from whom information is requested.
No	No	(e)(4)(A) Describing the name and location of the system.
No	No	(B) Describing categories of individuals.
No	No	(C) Describing categories of records.
No	No	(D) Describing routine uses.
No	No	(E) Describing records management policies and practices.
No	No	(F) Identifying responsible officials.
Yes	Yes	(e)(4)(G) Procedures for determining if a system contains a record on an individual.
Yes	Yes	(H) Procedures for gaining access.
Yes	Yes	(I) Describing categories of information sources.
Yes	No	(e)(5) Standards of accuracy.
No	No	(e)(6) Validating records before disclosure.
No	No	(e)(7) Records of First Amendment activities.
No	No	(e)(8) Notification of disclosure under compulsory legal process.
No	No	(e)(9) Rules of conduct.
No	No	(e)(10) Administrative, technical and physical safeguards.
No	No	(11) Notice for new and revised routine uses.
Yes	Yes	(f)(1) Rules for determining if an individual is subject of a record.
Yes	Yes	(f)(2) Rules for handling access requests.
Yes	Yes	(f)(3) Rules for granting access.
Yes	Yes	(f)(4) Rules for amending records.
Yes	Yes	(f)(5) Rules regarding fees.
Yes	No	(g)(1) Basis for civil action.
Yes	No	(g)(2) Basis for judicial review and remedies for refusal to amend.
Yes	No	(g)(3) Basis for judicial review and remedies for denial of access.
Yes	No	(g)(4) Basis for judicial review and remedies for other failure to comply.
Yes	No	(g)(5) Jurisdiction and time limits.
Yes	No	(h) Rights of legal guardians.
Yes	No	(i)(1) Criminal penalties for unauthorized disclosure.
No	No	(2) Criminal penalties for failure to publish.
No	No	(3) Criminal penalties for obtaining records under false pretenses.
Yes	No	(j) Rulemaking requirement.
N/A	No	(j)(1) General exemption for the Central Intelligence Agency.
N/A	No	(j)(2) General exemption for criminal law enforcement records.
Yes	N/A	(k)(1) Exemption for classified material.
N/A	N/A	(k)(2) Exemption for law enforcement material.
Yes	N/A	(k)(3) Exemption for records pertaining to Presidential protection.
Yes	N/A	(k)(4) Exemption for statistical records.
Yes	N/A	(k)(5) Exemption for investigatory material compiled for determining suitability for employment or service.
Yes	N/A	(k)(6) Exemption for testing or examination material.
Yes	N/A	(k)(7) Exemption for promotion evaluation materials used by the Armed Forces.
Yes	No	(l)(1) Records stored in GSA records centers.
Yes	No	(l)(2) Records archived before September 27, 1975.
Yes	No	(l)(3) Records archived on or after September 27, 1975.
Yes	No	(m) Applicability to government contractors.
Yes	No	(n) Mailing lists.
Yes[1]	No	(o) Reports on new systems.
Yes[1]	No	(p) Annual report.

[1] Only after consultation with the Defense Privacy Office, ODASD(A).

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

October 11, 1984.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[NC-011; A-4-FRL-2695-7]

Approval and Promulgation of Implementation Plans; North Carolina; Miscellaneous Regulatory Changes

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve certain regulation changes which North Carolina submitted as State Implementation Plan (SIP) revisions on April 17, 1984. EPA proposes approval of changes in the regulations dealing with New Source Performance Standards (NSPS) categories, emission control standards, air quality permit applications and hydrocarbons. EPA also proposes to approve numerous changes which would clarify and update the regulations. EPA is temporarily deferring action on the regulation dealing wth malfunctions, startups, and shutdowns. The public is invited to submit written comments on these changes in the North Carolina SIP.

DATE: Comments must be received on or before November 16, 1984 to be considered.

ADDRESSES: Written comments should be addressed to Janet Hayward of EPA, Region IV's Air Management Branch (see EPA, Region IV address below). Copies of the materials submitted by North Carolina may be examined during normal business hours at the following locations:

Air Management Branch, EPA, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365

Division of Environmental Management, North Carolina Department of Natural Resources & Community Development, Archdale Building, 512 North Salisbury Street, Raleigh, North Carolina 27611

FOR FURTHER INFORMATION CONTACT: Janet Hayward of the EPA, Region IV Air Management Branch at the above address and telephone number 404/881-3286 (FTS: 257-3286).

SUPPLEMENTARY INFORMATION: Following notice and public hearing in conformity with Federal requirements, the North Carolina Environmental Management Commission adopted numerous changes in the State's air pollution control regulations. These were submitted to EPA for approval as SIP revisions on April 17, 1984. EPA proposes to approve all the revisions except the malfunction regulation, 15 NCAC 2D.0535: Malfunction, Start-up and Shut-down. The changes are now described in the order that the affected regulations appear in the North Carolina Administration Code.

15 NCAC 2D.0101, Definitions and References: This regulation is amended to clarify the language in several definitions and to add the definitions of the phrases previously stated under Regulation 15 NCAC 2D.0102. The definitions of "Director", "CFR", "Fugitive emission", "FR" and "ug" were added to the list.

15 NCAC 2D.0102, Phrases: This regulation is repealed, as the definitions of the phrases are now included under Regulation 15 NCAC 2D.0101.

15 NCAC 2D.0103, Copies of Referenced Federal Regulations: This regulation is amended to correct errors in two addresses.

15 NCAC 2D.0201, Classification of Air Pollution Sources and 15 NCAC 2D.0202, Registration of Air Pollution Sources: These regulations are amended to clarify and simplify the language. Changes include the substitution of "pollution" for "contamination" throughout. The changes do not alter the meaning or intent of the regulations.

15 NCAC 2D.0302, Episode Criteria: This regulation is amended for the purposes of clarification and, in Paragraph (4), alteration of the party responsible for declaring an air pollution emergency from the Governor to the Secretary of the Department of Natural Resources and Community Development with the concurrence of the Governor.

15 NCAC 2D.0303, Emission Reduction Plans; 15 NCAC 2D.0304, Preplanned Abatement Program; 15 NCAC 2D.0305, Emission Reduction Plan—Alert Level; 15 NCAC 2D.0306, Emission Reduction Plan—Warning Level; 15 NCAC 2D.0307, Emission Reduction Plan—Emergency Level; and 15 NCAC 2D.0401, Purpose: These regulations are amended for purposes of clarification only. The changes do not affect the meaning or intent of the language.

15 NCAC 2D.0402, Sulfur Oxides; 15 NCAC 2D.0403, Suspended Particulates; 15 NCAC 2D.0404, Carbon Monoxide; and 15 NCAC 2D.0405, Ozone: The sampling and analysis procedures specified in these regulations were expanded to include equivalent methods established under 40 CFR Part 53.

Also, where test methods were referenced according to a **Federal Register** volume and number, the reference was changed to specify the test methods in accordance with certain Appendices of 40 CFR Part 50.

15 NCAC 2D.0406, Hydrocarbons: This regulation specified the ambient air quality guidelines for hydrocarbons; the State repealed it because of EPA's repeal of the corresponding national standard.

15 NCAC 2D.0407, Nitrogen Dioxide; and 15 NCAC 2D.0408, Lead: The sampling and analysis procedures specified in these regulations were expanded to include "equivalent methods established under 40 CFR Part 53". Also, where test methods were referenced according to a **Federal Register** volume and number, the reference was changed to specify the test methods in accordance with certain appendices of 40 CFR Part 50.

15 NCAC 2D.0501, Compliance With Emission Control Standards: This regulation is amended to incorporate revisions in testing procedures specified in Methods 1 and 3 through 8 of Appendix A of 40 CFR Part 60. Paragraph (h) is added to identify by date the December 1, 1983, version of the Federal rules referenced in the regulation.

15 NCAC 2D.0524, New Source Performance Standards: This regulation is amended to include the following New Source Performance Standards of 40 CFR Part 60:

1. Surface Coating of Metal Furniture;
2. Graphic Arts Industry: Publication Rotogravure Printing;
3. Industrial Surface Coating: Large Appliances;
4. Metal Coil Surface Coating;
5. Beverage Can Surface Coating Industry;
6. Asphalt Processing and Asphalt Roofing Manufacture; and
7. Bulk Gasoline Terminals.

These standards are adopted by referring to the versions of the new source performance standards appearing in the Code of Federal Regulations as of August 25, 1983.

15 NCAC 2D.0535, Malfunction, Start-up and Shut-down: This is a new regulation adopted in response to EPA's request that the State define its general policy for handling excess emissions resulting from malfunctions or from a facility's being in the process of starting or ceasing operation. EPA proposed to disapprove the original version of 15 NCAC 2D.0535 on December 21, 1983 (48 FR 56413), because it was not consistent with EPA's malfunction policy (Memorandum on "Policy on Excess Emission During Start-up, Shut down, Maintenance, and Malfunction," from Kathleen M. Bennett, Assistant Administrator for Air, Noise, and Radiation to Regional Administrators I-X, dated February 15, 1983).

The version of 15 NCAC 2d.0535 submitted to EPA for approval on April

17, 1984, remains inconsistent with that policy. In paragraph (g), excess emissions during startup and shut down are considered a violation of the appropriate regulation only if the owner cannot demonstrate that the excess emissions are unavoidable when requested to do so by the Director of the Division of Environmental Management. This regulation, as submitted by the State, would provide for automatic exemption of excess emissions during startup and shutdown unless the State requests that a demonstration of unavoidability be provided. According to EPA policy, excess emissions during startup and shutdown are to be treated as violations by the State unless a source adequately demonstrates that such excess emissions could not have been prevented through careful planning and design and that bypassing of control equipment was unavoidable to prevent loss of life, personal injury, or severe property damage.

The State has indicated that they will revise the regulation in order to eliminate the inconsistencies and submit the revision in the near future. EPA therefore is temporarily deferring action on this regulation until a revised version is submitted by the State.

15 NCAC 2D.0601, Purpose and Scope: In addition to several minor clarification changes, this monitoring and reporting regulation is amended to state that additional monitoring may be required by other regulations, such as 15 NCAC 2D.0524, New Source Performance Standards and 15 NCAC 2D.0525, National Emission Standards for Hazardous Air Pollutants.

15 NCAC 2D.0602, Definitions: The definition of "CFR" is deleted in this regulation and included in 15 NCAC 2D.0101, Definitions and References.

15 NCAC 2D.0603, Sources Covered by National Standards: The sources covered under this regulation are now covered by 15 NCAC 2D.0524, New Source Performance Standards and 15 NCAC 2D.0525, National Emission Standards for Hazardous Air Pollutants. This regulation is outdated and redundant and may therefore be repealed.

15 NCAC 2D.0604, Sources Covered by Implementation Plan Requirements; 15 NCAC 2D.0605, Wood and Wood-Fossil Fuel Combination Units; 15 NCAC 2D.0606, Other Coal or Residual Oil Burners; and 15 NCAC 2D.0607, Exceptions to Monitoring and Reporting Requirements: Revisions to these regulations are editorial in nature and do not change the meaning or intent of the language. As 15 NCAC 2D.0603 is now replaced by 15 NCAC.0524 and 15 NCAC.0525, the regulations are also modified to reflect those changes.

15 NCAC 2D.0608, Program Schedule: This regulation is amended to add monitoring program requirements to those sources covered by New Source Performance Standards under 15 NCAC 2D.0524 and National Emission Standards for Hazardous Air Pollutants under 15 NCAC 2d.0525. Under Paragraph (a), for those sources for which a monitoring program is required, the monitoring program must be in operation within 18 months after an existing source becomes subject to regulations 15 NCAC 2D.0604, .0605 or .0606, or upon beginning operation of a new source. The monitoring program must also remain in effect as long as the source is required to monitor and report its emissions.

15 NCAC 2D.0610, Delegation: The delegation authority of the Director of the Division of Environmental Management is set at a level not below that of the Regional Supervisor.

15 NCAC 2d.0801, Purpose and Scope (Complex Sources): Paragraph (6) is deleted from this regulation. This change removes specific applications and broadens the scope of the regulation to encompass any construction or modification of a facility, building, structure or installation, or combination thereof which may result in a violation of ambient air quality standards.

15 NCAC 2D.0802, Permits: The specific facilities previously described under paragraph (b) of 15 NCAC 2D.0801 are now required to receive a permit from the Commission before beginning construction or modification. Several other editorial changes are made which do not alter the meaning of the regulation.

15 NCAC 2D.0803, Highway Projects; and 15 NCAC 2D.0804, Airport Facilities: These regulations are amended for purposes of clarification and to include the permitting procedures described in Regulation 15 NCAC 2D.0802.

15 NCAC 2H.0601, Purpose and Scope (Air Quality Permits); and 15 NCAC 2H.0602, Definitions: The revisions to these regulations are editorial in nature and improve the clarity of the language. They do not alter the meaning or intent of the regulation.

15 NCAC 2H.0603 Applications (Air Quality Permits): The amendment to this regulation provides an opportunity for a public hearing to be held when emission limitations are based on stack heights that exceed good engineering practice. Taller stacks are needed by some sources because of downwash caused by adjacent buildings. This amendment satisfies the requirements and conditions of 40 CFR 51.18. Its need was noted by EPA in the original proposal of the State's stack height provisions (see issue of March 29, 1983, 48 FR 13052).

15 NCAC 2H.0604, Final Action on Permit Applications; 15 NCAC 2H.0605, Issuance, Revocation, and Enforcement of Permits; 15 NCAC 2H.0606, Delegation of Authority; and 15 NCAC 2H.0607, Copies of Referenced Documents: Revisions to those regulations update and clarify the language and in no way alter the meaning or intent of the regulations.

Action

EPA proposes to approve these changes in the North Carolina SIP but take no action on the malfunction regulation.

The public is invited to participate in this rulemaking by submitting written comments on the proposal.

Pursuant to 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

Under Executive Order 12291, today's action is not "Major." It has been submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB to EPA and any response are available for public inspection at the EPA, Region IV Office (see address above).

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Ozone, Sulfur oxides, Nitrogen dioxide, Lead Particulate matter, Carbon monoxide, Hydrocarbons.

(Sec. 110 of the Clean Air Act (42 U.S.C. 7410))

Dated: August 31, 1984.

John A. Little,

Acting Regional Administrator.

[FR Doc. 84-27411 Filed 10-16-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 180

[OPP-300103; PH-FRL 2695-2]

Zinc Stearate, Tintanium Dioxide, and Calcium Stearate, Proposed Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that zinc stearate, titanium dioxide, and calcium stearate be exempted from the requirement of a tolerance when used as

inert ingredients in pesticide formulations used in animal ear tags. These proposed regulations were requested by the Ralston Purina Co.

DATE: Written comments must be received on or before November 16, 1984.

ADDRESS: By mail, submit comments identified by the document control number [OPP–300103] to:

Information Services Section (TS–757C), Program Management and Support Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, bring comments to:

Registration Support and Emergency Response Branch, Registration Division (TS–767), Environmental Protection Agency, Rm. 724A, CM 2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTRACT: By mail: N. Bhushan Mandava, Registration Support and Emergency Response Branch (TS–767C), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. Office location and telephone number: Registration Support and Emergency Response Branch, Environmental Protection Agency, Rm. 716, CM 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–7700).

SUPPLEMENTARY INFORMATION: At the request of the Ralston Purina Co., the Administrator proposes to amend 40 CFR 180.1001(e) by establishing an exemption from the requirement of a tolerance for zinc stearate, titanium dioxide, and calcium stearate when used as inert ingredients in plastic ear tags for animals.

Inert ingredients are all ingredients which are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as water; baits such as sugar, starches, and meat scraps; dust carriers such as talc and clay; fillers; wetting and spreading agents; propellants in aerosol dispensers; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

Preambles to proposed rulemaking documents of this nature include the common or chemical name of the substance under consideration, the name and address of the firm making the request for the exemption, and toxicolgical and other scientific bases used in arriving at a conclusion of safety in support of the exemption.

Name of inert ingredient. Zinc stearate, titanium dioxide, and calcium stearate.

Name and address of requestor. Ralston Purina Co., St. Louis, MO 63164.

Bases for approval. The ear tags and tail devices are to be used as controlled release pesticide-dispensing devices, the active ingredient being incorporated into the plastic matrix in the same manner as flea and tick collars that are made for domestic pets.

1. Zinc stearate already has a clearance under 40 CFR 180.1001(e) when conforming to 21 CFR 582.5994 for use as a water repellant, desiccant, and coating agent. The present clearance can be amended to reflect this modest change of an additional use as a stabilizer in animal ear tags and tail devices.

2. Titanium dioxide is cleared under 21 CFR 177.2600 as an indirect food additive. The USDA has approved titanium dioxide at 0.1 percent for use in meat loaves, sausages, and other meat products containing isolated soy protein. Titanium dioxide is exempted under 40 CFR 180.1001(d) as a pigment/coloring agent in plastic bags used to wrap growing bananas (preharvest).

3. Calcium stearate is exempted under 40 CFR 180.1001(c) for post-harvest applications.

Based on the above information, and review of its use, it has been found that, when used in accordance with good agricultural practices, these ingredients are useful and do not pose a hazard to humans or the environment. It is concluded, therefore, that the proposed amendment to 40 CFR Part 180 will protect the public health, and it is proposed that the regulation be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains this inert ingredient, may request within 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating both the subject and the petition and document control number, "[OPP–300103]." All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the Registration Support and and Emergency Response Branch at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164 (5 U.S.C. 601–612)), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: October 3, 1984.

Robert V. Brown

Acting Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, it is proposed that 40 CFR 180.1001(e) be amended by revising the entry for zinc stearate and by adding and alphabetically inserting the inert ingredients as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(e) * * *

Inert ingredients	Limits	Uses
* *	*	* *
Calcium Stearate (CAS Reg. 1592–23–0).	.....	Stabilizer, component plastic animal tag.

Inert ingredients	Limits	Uses
• • •	•	•
Titanium dioxide (CAS Reg. No. 13463-67-7).	.....	Pigment/colorant in pesticide formulations for animal tag.
• • •	•	•
Zinc Stearate (CAS Reg. No. 557-05-1).	.....	Water repellant, desiccant, and coating agent; stabilizer, component of plastic animal tag.
• • •	•	•

• • • • •

[FR Doc. 84-27232 Filed 10-16-84; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 271

[OSWER-1-FRL-2695-5]

Massachusetts; Final Authorization of State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of tentative determination on application of Massachusetts for final authorization, public hearing, and public comment period.

SUMMARY: The Commonwealth of Massachusetts has applied for final authorization under the Resource Conservation and Recovery Act (RCRA). EPA has reviewed Massachusetts' application and has made the tentative determination that Massachusetts' hazardous waste program satisfies all of the requirements necessary to qualify for final authorization. Thus, EPA intends to grant final authorization to the Commonwealth of Massachusetts to operate its program in lieu of the Federal program.

Massachusetts' application for final authorization is available for public review and comment, and a public hearing will be held to solicit comments on the tentative determination.

DATES: A public hearing is scheduled for November 16, 1984 at 10:00 a.m. Massachusetts will participate in the public hearing held by EPA on this subject. All written comments on Massachusetts' final authorization application must be received by the close of business on November 20, 1984.

ADDRESSES: EPA will hold a public hearing on Massachusetts' application for final authorization on November 16, 1984 at 10:00 a.m. at the MA DEQE 10th floor conference room. One Winter Street, Boston, Massachusetts.

Written comments on the application and requests to speak at the hearing should be sent to: Gary B. Gosbee, Massachusetts State Coordinator, State Waste Programs Branch, U.S. EPA, Region I, John F. Kennedy Federal Building, Boston, Massachusetts 02203. Telephone: (617) 223-1922.

Copies of the Massachusetts final authorization application are available during normal business hours at the following addresses for inspection and copying by the public.

Massachusetts Department of Environmental Quality Engineering, Division of Hazardous Waste, 1 Winter Street, Boston, Massachusetts 02108. Telephone: (617) 292-5630.

Massachusetts Department of Environmental Quality Engineering, Division of Hazardous Waste, Central Regional Office, 75 Grove Street, Worcester, Massachusetts 01605. Telephone: (617) 791-3672.

U.S. EPA Headquarters Library, RM 211A, 401 M Street, SW., Washington, D.C. 20460, (202) 382-5926.

U.S. EPA Region I Library, JFK Federal Building, Room E 121, Boston, Massachusetts 02203, (617) 223-5791.

FOR FURTHER INFORMATION CONTACT: Gary B. Gosbee, State Waste Programs Branch, U.S. EPA, Room 409, JFK Building, Boston, Massachusetts, (617) 223-1922.

SUPPLEMENTARY INFORMATION: .

I. Background

Section 3006 of the Resource Conservation and Recovery Act (RCRA) allows EPA to authorize State hazardous waste programs to operate in the State in lieu of the Federal hazardous waste program. Two types of authorization may be granted. The first, type, known as "interim authorization", is a temporary authorization which is granted if EPA determines that the State program is "substantially equivalent" to the Federal program (Section 3006(c), 42 U.S.C., 6226(c)). EPA's implementing regulations at 40 CFR 271.121-271.137 established a phased approach to interim authorization: Phase I, covering the EPA regulations in 40 CFR Part 260-263 and 265 (universe of hazardous wastes, generator standards, transporter standards and standards for interim status facilities) and Phase II, covering the EPA regulations in 40 CFR Parts 124, 264, and 270 (procedures and standards for permitting hazardous waste management facilities). Phase II has three components. Phase IIA covers general permitting procedures and technical standards for containers, tanks, surface impoundments, and waste piles. Phase IIB covers incinerator facilities, and Phase IIC addresses landfills and land treatment facilities.

By statute, all interim authorizations expire on January 26, 1985.

Responsibility for the hazardous waste program returns (reverts) to EPA on that date if the State has not received final authorization.

The second type of authorization is a "final authorization" that is granted by EPA if the Agency finds that the State program: (1) Is "equivalent" to the Federal program, (2) is consistent with the Federal program and other State programs, and (3) provides for adequate enforcement (Section 3006(b), 42 U.S.C. 6226(b)). States need not to have obtained interim authorization in order to qualify for final authorization. EPA regulations for final authorization appear at 40 CFR 271.1-271.23.

II. Massachusetts

The Commonwealth of Massachusetts received Phase I interim authorization on February 25, 1981 and Phase II interim authorization, Components A, B, and C on August 3, 1984. On December 31, 1983, the State submitted a draft application for final authorization. Prior to submission of the offical application to EPA, Massachusetts held six public hearings during May, 1984 to solicit comments on the application.

In general, the sense of the comments from the regulated community at these public hearings was that they supported Massachusetts obtaining final authorization and opposed any State regulation that was more stringent than Federal regulation. In some cases, they felt that Federal regulations were already too stringent. The sense of the comments from public interest groups or environmental organizations was that the regulations should be still more stringent, particularly in the areas of financial responsibility and incineration of hazardous waste.

On July 2, 1984, Massachusetts submitted to EPA their official application for final authorization. On July 13, 1984, the application was determined to be complete. On August 22, 1984, EPA transmitted comments to the State requesting clarification on several issues. On September 7, 1984 the State responded to EPA's comments in a clarifying addendum. A team consisting of Headquarters and Regional personnel reviewed Massachusetts' official application and clarifications presented in the addendum and determined that the State satisfactorily resolved each of EPA's concerns. This determination is in part predicated on the assumption that the existing emergency regulations scheduled for promulgation as permanent regulations in October, 1984 become effective prior to our having to make a final determination on final authorization.

This tentative decision to grant final authorization is also predicated upon

the assumption that the Attorney General's statement, which will be formally submitted after the final Massachusetts regulations become effective, is submitted prior to the final determination and meets all applicable requirements.

Thus EPA tentatively intends to grant final authorization to Massachusetts to operate its program in lieu of the Federal program. Copies of Massachusetts' application are available for inspection and copying at the locations indicated in the "ADDRESSES" section of this notice.

In making its final decision, EPA will consider all public comments on the tentative determination. Issues raised by public comments on the tentative determination. Issues raised by public comments may be the basis for a decision to deny final authorization to Massachusetts. EPA expects to make a final decision on whether or not to approve Massachusetts' program by January 14, 1985. EPA will give notice of its final decision in the **Federal Register** by January 14, 1985. That notice will include a summary of the reasons for the final decision and a response to all major comments received during the public comment period.

It is possible that the schedule for EPA's final decision could be changed if substantial amendments are made to Massachusetts' application in response to public comments. This is because 40 CFR 271.5(c) provides that if the state's application materially changes during EPA's review period, the statutory review period begins again upon receipt of the revised submission. The State and EPA may also extend the review period by agreement (see 40 CFRA 271.5(d)). EPA will give notice of its final decision or of a change in schedule in the **Federal Register** by January 14, 1985. That notice will include a summary of the reasons for the final decision, if made at that time, and a response to all major comments received during the public comment period.

Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b). I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. The authorization suspends the applicability of certain Federal regulations in favor of the State program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Executive Order 12291

The Office of Management and Budget (OMB) has exempted this rule from the requirements of Section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 271

Hazardous materials, Indian lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Intergovernmental relations, Penalties, and Confidental business information.

Authority:

This notice is issued under the authority of sections 2002(a) and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C 6912(a), 6926, and 6974(b).

Michael R. Deland

Regional Administrator.

[FR Doc. 84-27229 Filed 10-16-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Parts 406, 407, 408, 409, 411, 422, 424, 426, 430, 431, 432, and 439

[FRL-2667-2]

Best Conventional Pollutant Control Technology Effluent Limitation Guidelines

Correction

In FR Doc. 84-24937 beginning on page 37046 in the issue of Thursday, September 20, 1984, make the following correction:

On page 37053, second column, Table 11, line twenty-six from the bottom, "Sodium Phophates", insert "X" in the fourth column.

BILLING CODE 1505-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 97

[PR Docket No. 84-960; RM-4781; RM-4784; FCC 84-471]

Allocation of Additional Frequencies for Certain Radio Services

AGENCY: Federal Communications Commission.

ACTION: Proposed rules.

SUMMARY: This document proposes to amend FCC rules regarding the frequencies available for amateur radio operation in order to implement the Final Acts of the World Administrative Radio Conference (Geneva, 1979).

DATES: Comments are due by December 17, 1984 and replies by January 16, 1985.

ADDRESS: Federal Communications Commission, 1919 M Street, NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: John J. Borkowski, Private Radio Bureau, Washington, D.C. 20554, (202) 632-4964.

SUPPLEMENTARY INFORMATION

List of Subjects in 47 CFR Part 97

Amateur radio, Defense communications, Satellites.

Notice of Proposed Rule Making

In the matter of amendment of Part 97 of the Commission's rules to implement allocation of additional frequencies for the Amateur Radio Service, the Radio Amateur Civil Emergency Service and the Amateur Satellite Service; FCC 84-471, PR Docket No. 84-960, RM-4781, RM-4784.

Adopted: October 4, 1984.
Released: October 10, 1984.

By the Commission.

Background

1. This document address two petitions for rule making which sought early implementation of allocation of additional frequencies to the Amateur Radio Service (47 CFR Part 97). These frequencies were allocated to the Amateur Radio Service pursuant to the Final Acts of the 1979 World Administrative Radio Conference (1979 WARC), which comprise an international treaty and which were ratified by the United States on September 6, 1983.

2. In the *Second Report and Order* in General Docket No. 80-739, 49 FR 2357 (January 19, 1984), we adopted changes in the Table of Allocations in Part 2 of the Commission's rules to implement the Final Acts of the 1979 WARC. These changes included: (1) Adding amateur operations on a primary basis in the 10.100-10.150 MHz frequency band; (2) adding the frequency bands 18.068-18.168 MHz and 24.890-24.990 MHz to the Amateur and Amateur Satellite Radio Services, subject to continued fixed service use through July 1, 1989 [1]; (3) adding footnote NG 135 to the Table to indicate that the frequency band 420-430 MHz is not allocated to the amateur service north of Line A; and (4) adding the frequency band 902-928 MHz to the amateur service for use on a secondary basis.[2]

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[1] See Footnote US 248 to the Table of Allocations in 47 CFR Part 2.

[2] See Footnotes US 216, US 287 and US 275 to the Table of Allocations in 47 CFR Part 2 for primary uses and other restrictions.

3. A petition (RM–4781) filed by Stuart D. Cowan, M.F. DeMaw, Robert P. Haviland, William I. Orr and A. Prose Walker seeks initiation of a rule making proceeding to immediately implement the 18.068–18.168 MHz and 24.890–24.990 MHz allocations in the Amateur Radio Service. Comments on this petition (the Cowan petition) included those of the Society for Promotion of Amplitude Modulation (Society), Guy O. Buckner, Donald Chester, John Roulstone Hall, Sr., Fred E. Huntly, Walter McCoy and Anthony J. Sivo. A second petition (RM–4784) filed by the American Radio Relay League (ARRL) seeks to immediately implement the 24.890–24.990 MHz and 902–928 MHz allocations in the Amateur Radio Service. Comments on this petition included those of the Central Pennsylvania Repeater Association, Inc. (CPRA), and Society.

Proposals

4. *Thirty meters.*[3] We allocated the 10.100–10.150 MHz band for amateur operations on a primary basis in General Docket No. 80–739. We also deleted footnote US 295 to the Table of Allocations, which had authorized temporary amateur use of the frequencies 10.100–10.109 MHz and 10.115–10.150 MHz.[4] We now propose to implement the new allocation by designating the frequency band 10.100–10.150 MHz in § 97.61 of our rules for operation by all General, Advanced or Amateur Extra Class licensees with A1 or F1 (including A2J) emissions. We propose no special power limitation for this frequency band.

5. We note that in the *Report and Order* in PR Docket No. 83–524, 49 FR 3186 (January 26, 1984), regarding amendment of the Amateur Radio Service rules to make additional frequencies available to the Radio Amateur Civil Emergency Service (RACES) during declared national emergencies, we did not include the new thirty meter band because it had not yet been incorporated into the amateur rules. Since we are now proposing to include this band in Part 97, we also propose to make it available for RACES purposes.

6. During the pendency of this proceeding, we will permit temporary use of the frequency band 10.100–10.150 MHz in the Amateur Radio Service by General, Advanced or Amateur Extra Class operator licensees. Such operation must be limited to A1 and F1 (including A2J) emissions on a secondary, noninterference basis. In such operation the peak envelope power output (transmitter power) must not exceed 200 watts.

7. *Seventeen meters.*[5] The frequency band 18.068–18.168 MHz is allocated to the Amateur Radio Service on a primary basis subject to the conditions set forth in footnote US 248 to the Table of Allocations. Footnote US 248 provides that this band will remain an alternative allocation to the fixed service until July 1, 1989. During this period all fixed service operations which are recorded in the International Telecommunications Union (ITU) Master Register will be reaccompanied. The Cowan petition requested early amateur access to the 18.068–18.168 MHz band. However, we have been informed by the United States Department of Commerce, National Telecommunications and Information Administration (NTIA), that it, acting upon advice from the Interdepartment Radio Advisory Committee, has concluded that United States government fixed operations in the 18.068–18.168 MHz band would preclude any Amateur Radio Service usage of this bank prior to 1989. Therefore we are not proposing early amateur access to the seventeen meter band.

8. *Twelve meters.*[6] We have allocated the frequency band 24.890–24.990 MHz to the Amateur Radio Service on a primary basis subject to the conditions set forth in footnote US 248 to the Table of allocations. Both the Cowan petition and the ARRL petition request early access to this band. We have been informed by NTIA that shared use of this band by the Amateur Radio Service with current United States government fixed operations would be acceptable, given the anticipated low level of solar activity during the next several years. Therefore, we are proposing immediate implementation of allocation of this band to the Amateur Radio Service and to the Amateur Satellite Radio Service.

9. The Cowan petition recommended that the frequency band 24.890–24.940 MHz be set aside exclusively for "A1 (Morse)" emissions, and that the frequency band 24.940–24.990 MHz be reserved for "A1 (Morse)" and "A3 (SSB)" emissions. The comments in RM–4781 generally objected to the Cowan petition's emissions scheme for this band as too narrow. They recommended adding emissions, eliminating subbands, or both. Additionally, several commentors objected to limiting A3 emissions to single sideband, noting that typically A3 emissions in the ARS are construed to include other emission types such as double sideband with carrier, double sideband with suppressed carrier and single sideband with suppressed carrier. The same commentors argued that limiting A3 emissions to single sideband would not promote diverse modes of communication or experimentation.

10. The ARRL petition recommended that the frequency band 24.890–24.930 MHz be set aside for A1 and F1 emissions, and that the frequency band 24.930–24.990 MHz be used for A1, A3, A4, A5, F3, F4 and F5 emissions. This concept appears to address the concerns of the commentors on RM–4781 and is more consistent with current high frequency (HF) emission schemes. The ARRL proposed no special power limitations in this band, and the CPRA urges that no power reductions be imposed due to dependence upon solar activity. At this point we see no reason to impose any power limitations other than those which generally govern the amateur service, set forth at § 97.67 of the Commission's rules. Therefore, we are proposing to assign the frequency band 24.890–24.990 MHz in the manner recommended by the ARRL in its petition for the use of General, Advanced and Amateur Extra Class licensees. We are also proposing to add language to Footnote US 248 to the Table of Allocations to make it clear that amateur operation in this band, pursuant to Footnote 543, will continue to be on a secondary basis to international fixed and mobile operations which have not yet been reacoommodated.

11. *420–430 MHz.* In General Docket No. 80–739 we also removed the allocation of the 420–430 MHz frequency band from the Amateur Radio Service north of line A. This action was taken by inclusion of new footnote NG 135 to the Part 2 Table of Allocations. Footnote NG 135 states:

> In the 420–430 MHz band the amateur service is not allocated north of line A (def. § 2.1). All amateur radio stations shall operate north of line A in accordance with the Agreement between the United States and Canada.[7]

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[3] The frequencies between 10.100 MHz and 10.150 MHz are commonly referred to in the amateur community as the thirty meter band.

[4] See *Order*, RM–3655, October 28, 1982 (FCC 82–495).

[5] The frequencies between 18.068 MHz and 18.168 MHz are commonly referred to in the amateur community as the seventeen meter band.

[6] The frequencies between 24.89 MHz and 24.99 MHz are commonly referred to in the amateur community as the twelve meter band.

[7] Arrangement between the Department of Communications of Canada and the National Telecommunications and Information Administration and the Federal Communications Commission of the United States concerning the use of the 406.1 MHz to 430 MHz band in Canada—United States border areas. Effected by exchange of notes at Washington, D.C. February 26 and April 7, 1982. Entered into force April 7, 1982.

12. At paragraph 32 of the *Second Report and Order* in General Docket No. 80–739, *supra*, we indicated that amateur radio operators may no longer operate north of line A in the 420–430 MHz frequency band without a waiver, that such waivers would be based upon appropriate technical considerations, and that due to treaty obligations such waivers must be subject to successful prior coordination by the FCC with the Canadian administration. We are proposing to implement the removal of the amateur 420–430 MHz allocation above line A, and to require that an amateur station obtain a waiver before operating north of line A. During the pendency of this proceeding, only those stations already operating north of line A in the band 420–430 MHz are authorized to continue to operate. These stations must cease their transmissions upon notification by us if the Government of Canada objects to their continued operation. We will initiate Canadian coordination for these existing stations as soon as possible. However, those stations which have not received a written waiver must cease operation at the termination of this proceeding.

13. *902–928 MHz.* The frequency band 902–928 MHz was added as an additional allocation to the amateur service on a secondary basis in General Docket No. 80–739. The ARRL has petitioned to implement allocation of this band to the Amateur Radio Service. We propose to implement allocation of this band to the Amateur Radio Service in all of the United States and its possessions except for Colorado, Wyoming and U.S. possessions in Region 3.[8] [9] Amateur operation in this frequency band would be secondary to the operation of Government stations, Automatic Vehicle Monitoring (AVM) systems, and industrial, scientific and medical (ISM) devices.[10] Additionally, United States amateurs would be required to avoid harmful interference to authorized fixed, mobile and broadcasting operations in Regions 1 and 3.

14. The ARRL in its petition sought a wide range of emissions and did not seek any division of the 902–928 MHz frequency band into subbands. Given the general sentiments expressed by the commentors in Rm–4781 relating to the 18 and 24 MHz proposals in favor of a wide range of emissions and against subbands we are proposing assignment of the 902–928 MHz frequency band consistent with the ARRL petition. This band would be available for the use of all amateur radio operators above the Novice Class.

[8] Footnote US 267 to the Table of Allocations in 47 CFR Part 2 prohibits amateur radio station operation in the frequency band 902–928 MHz in Colorado or Wyoming.

[9] The frequency band 902–928 MHz is not allocated for the amateur service outside of Region 2 in the International Table of Allocations.

[10] See Footnotes US 218 and US 275 to the Table of Allocations in 47 CFR Part 2.

Miscellaneous matters

15. We have also proposed, *sua sponte*, certain editorial changes to the amateur rules including: (1) Standardizing the use of kHz, MHz and GHz in the tables in § 97.61, 97.185 and 97.415; (2) clarifying who may modify RACES frequency usage otherwise prescribed in Section 97.185(b); and (3) placing the definition of line A in § 97.3 for ease of reference.

16. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rule making until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting. Presentations are prohibited between the time this public notice is issued until a full text of the order is released, or until it becomes clear that the Commission has postponed final consideration and returned the matter to the staff for further work. Thereafter, in either case, *ex parte* presentations are again permitted. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commision's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, § 1.1231 of the Commission's rules (47 CFR 1.123). A summary of the Commission's procedures governing *ex parte* contacts in informal rule makings is available from the Commission's Consumer Assistance Office, FCC, Washington, D.C. 20554 (202) 632–7000.

17. Authority for issuance of this Notice is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r). Pursuant to applicable procedures set forth in § 1.415 of the Commission's Rules (47 CFR 1.415) interested persons may file comments on or before December 17, 1984, and reply comments on or before January 16, 1985. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and providing that the fact of the Commission's reliance on such information is noted in the Report and Order.

18. In accordance with 1.419 of the Commission's Rules (47 CFR 1.419), formal participants must file an original and five copies of their comments and other materials. Participants who wish each Commissioner to have a personal copy of their comments should file an original and eleven copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. Each set of comments must state on its face the proceeding to which it relates (PR Docket Number) and should be submitted to: The Secretary, Federal Communications Commission, Washington, D.C. 20554. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

19. In accordance with Section 605 of the Regulatory Flexibility Act of 1980 (5 U.S.C. 605), the Commission certifies that these rules would not, if promulgated, have a significant economic impact on a substantial number of small entities, because these entities may not use the Amateur Radio Service for commercial radiocommunication (See 47 CFR 97.3(b)). Moreover, equipment for the proposed seventeen meter, twelve meter and thirty-five centimeter [11] bands

[11] The frequencies between 902 MHz and 928 MHz are commonly referred to in the amateur community as the thirty-five centimeter band.

would use state-of-the-art technology. Equipment is already available or easily convertible for use by amateur operators on these bands.

20. In view of the foregoing, and consistent with this Notice of Proposed Rule Making, rule making petition RM-4781 filed by Stuart D. Cowan, M. F. DeMaw, Robert P. Haviland, William I. Orr and A. Prose Walker is granted in part and denied in part. Rule making petition RM-4784 filed by the American Radio Relay League is granted.

21. It is ordered, That the Secretary shall cause a copy of this notice to be served upon the Chief Counsel for Advocacy of the Small Business Administration and that the Secretary shall also cause a copy of this notice to be published in the **Federal Register.**

22. For information concerning this proceeding, contact John J. Borkowski, Federal Communications Commission, Private Radio Bureau, Washington, D.C. 20554 (202) 632-4964.

Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William Tricarico,

Secretary.

Appendix

Parts 2 and 97 of Chapter I of Title 47 of the Code of Federal Regulations would be amended as follows:

PART 2—[AMENDED]

1. The following sentence would be added to the language in footnote US 248 to the Table of Allocations in § 2.106:

§ 2.106 Table of frequency allocations.

* * * * *

US 248 * * * Also, in the interim, transmissions of stations in the amateur service shall not cause harmful interference to operations in the fixed and mobile services outside the United States and stations in the amateur service shall make all necessary adjustments (including termination of transmission) if harmful interference is caused.

* * * * *

PART 97—[AMENDED]

2. Paragraph (i) of § 97.3 would be added to read:

§ 97.37 Definitions.

* * * * *

(i) Line A. Line A begins at Aberdeen, Washington, running by great circle arc the intersection of 48° N., 120° W., thence along parallel 48° N., to the intersection of 95° W., thence by great circle arc through the southernmost point of Duluth, Minn., thence by great circle arc to 45° N., 85° W., thence southward along meridian 85° W., to its intersection with parallel 41° N., thence along parallel 41° N., to its intersection with meridian 82° W., thence by great circle arc through the southernmost point of Bangor, Maine, thence by great circle arc through the southernmost point of Searsport, Maine, at which point it terminates.

3. Section 97.61 would be amended by revising paragraphs (a), (b)(3) and (b)(4) and by adding paragraphs (b)(14), (b)(15) and (b)(16) to read as follows:

§ 97.61 Authorized frequencies and emissions.

(a) The following frequency bands and associated emissions are available to amateur radio stations for amateur radio operation, other than repeater operation, auxiliary operation and automatically-controlled beacon operation, subject to the limitations of § 97.65 and paragraph (b) of this section.

Frequency band	Emissions	Limitations (see paragraph (b))
Kilohertz (kHz):		
1800–2000	A1, A3	
3500–4000	A1	
3500–3750	F1	
3750–4000	A3, A4, A5, F3, F4, F5	4
5167.5	A3A, A3J	13
7000–7300	A1	3, 4
7000–7150	F1	3, 4
7075–7100	A3, F3	11
7150–7300	A3, A4, A5, F3, F4, F5	3, 4
10100–10150	A1, F1	16
14000–14350	A1	
14000–14150	F1	
14150–14350	A3, A4, A5, F3, F4, F5	
21000–21450	A1	
21000–21200	F1	
21200–21450	A3, A4, A5, F3, F4, F5	
24890–24990	A1	
24890–24930	F1	
24930–24990	A3, A4, A5, F3, F4, F5	
28000–29700	A1	
28000–28300	F1	
28300–29700	A3, A4, A5, F3, F4, F5	
Megahertz (MHz):		
50.0–54.0	A1	
50.1–54.0	A2, A3, A4, A5, F1, F2, F3, F4, F5	
51.0–54.0	A0, F0	
144.0–148.0	A1	A1
144.1–148.0	A0, A2, A3, A4, A5, F0, F1, F2, F3, F4, F5	
220–225	A0, A1, A2, A3, A4, A5, F0, F1, F2, F3, F4, F5	5
420–450	A0, A1, A2, A3, A4, A5, F0, F1, F2, F3, F4, F5	5, 7, 15
902–928	A0, A1, A2, A3, A4, A5, F0, F1, F2, F3, F4, F5, P	3, 4, 5, 14
1215–1300	A0, A1, A2, A3, A4, A5, F0, F1, F2, F3, F4, F5	5
2300–2450	A0, A1, A2, A3, A4, A5, F0, F1, F2, F3, F5, P	5, 8
Gigahertz (GHz):		
*	* * * *	

(b) Limitations:

(3) Where, in adjacent regions or subregions, a band of frequencies is allocated to different services of the same category, the basic principle is the equality of right to operate. Accordingly, the stations of each service in one region or subregion must operate so as not to cause harmful interference to services in the other regions or subregions. (See International Telecommunication Union Radio Regulations, RR 346 (Geneva, 1979).)

(4) The frequency bands 3900–4000 kHz, 7100–7300 kHz and 902–928 MHz are not available in the following U.S. possessions: American Samoa (seven islands), Baker Island, the Commonwealth of Northern Mariana Islands, Guam Island, Howland Island, Jarvis Island, Palmyra Island (more than 50 islets) and Wake Island (Islets Peale, Wake and Wilkes).

* * * * *

(14) In the 902-928 MHz band, amateur radio stations shall not operate within the States of Colorado and Wyoming, bounded by the area of: latitude 39° to 42° N, and longitude 103° to 108° W. The band is allocated on a secondary basis to the amateur service subject to not causing harmful interference to the operations of Government stations authorized in this band or to Automatic Vehicle Monitoring (AVM) systems. Stations in the amateur service must tolerate any interference from the operations of industrial, scientific and medical (ISM) devices, AVM systems and the operations of Government stations authorized in this band.

(15) The 420–430 MHz band is not allocated to the Amateur Radio Service north of line A (see § 97.3 (i)). An amateur radio station may operate north of line A in the 420–430 MHz band only with a waiver, and only on a secondary basis to Canadian fixed and mobile operations in this band.

(16) The 10100-10150 kHz band is allocated to the fixed service on a primary basis outside the United States and its possessions. Transmissions of stations in the Amateur Radio Service in this band are secondary to foreign fixed service use in this band.

* * * * *

4. Section 97.185 would be amended by revising paragraphs (b) and (c) (5) and adding paragraph (c)(7) as follows:

§ 97.185 Frequencies available.

* * * * *

(b) In the even of an emergency which necessitates the invoking of the President's War Emergency Powers under the provisions of Section 606 of the Communications Act of 1934, as amended, RACES stations and amateur radio stations participating in RACES will be limited in operation to the following frequencies and frequency bands unless otherwise directed by the

President of the United States, by a person or persons designated by the President of the United States or by the FCC on behalf of the President of the United States:

Frequencies and frequency bands	Limitations
kHz:	
1800–1825	
1975–2000	1
3500–3550	
3930–3980	
3984–4000	
3997	2
7079–7125	
7245–7255	
10100–10150	7
14047–14053	
14220–14230	
14331–14350	
21047–21053	
21228–21267	
28550–28750	
29237–29273	
29450–29650	
MHz	
50.35–50.75	
52–54	
53.30	2
144.50–145.71	
146–148	
220–225	4
420–450	3,5,6
1240–1300	3
2390–2450	3

(c) Limitations: * * *

(5) The 420–430 MHz band is not allocated to the Amateur Radio Service north of line A (see § 97.3 (i)). An amateur radio station may operate north of line A in the 420–430 MHz band only with a waiver, and only on a secondary basis to Canadian fixed and mobile operations in this band.

(6) * * *

(7) The 10100–10150 kHz band is allocated to the fixed service on a primary basis outside the United States and its possessions. Transmissions of stations in the Amateur Radio Service in this band are secondary to foreign fixed service use in this band.

5. Section 97.415 would be revised to read:

§ 97.415 Frequencies available.

The following frequency bands are available for space operation, earth operation, and telecommand operation:

Frequency band[1]		
kHz	MHz	GHz
700–7100	144–146	24.00–24.05
14000–14250	[2]435–438	
21000–21450		
24890–24990		
28000–29700		

[1] The emission designations and limitations set forth in § 97.61 for each of the listed frequency bands also apply.
[2] Stations operating in the Amateur Satellite Service shall not cause harmful interference to other stations between 435 and 438 MHz (See International Telecommunication Union Radio Regulations, RR 664 (Geneva, 1979).)

[FR Doc 84-27166 Filed 10-16-84; 8:45 am]

BILLING CODE 6712-01-M

GENERAL SERVICES ADMINISTRATION

48 CFR Ch. 5

[GSAR Notice No. 5-78]

Acquisition Regulations

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice invites written comments on a proposed change to the General Sevices Administration Aquisition Regulation (GSAR) Chapter 5, that will cancel Acquisition Circulars AC–84–4, Contract Clauses; AC–84–5, Payment by Wire Transfer and Related Clauses; and AC–84–6, Basis of Award for Construction Contracts and incorporate the contents of the circulars into the regulation. The intended effect is to update and maintain the regulation for the benefit of contracting activities.

DATED: Comments are due in writing not later than November 16, 1984.

ADDRESS: Requests for a copy of the proposal and your comments should be addressed to Ms. Carol A. Farrell, Office of GSA Acquisition Policy and Regulations, 18th & F Sts., NW., Room 4027, Washington DC 20405.

FOR FURTHER INFORMATION CONTACT: Ida Ustad, Office of GSA Acquisition Policy and Regulations, (202) 523–4754.

SUPPLEMENTARY INFORMATION: The Director, Office of Management and Budget (OMB), by memorandum dated December 15, 1983, exempted agency procurement regulations from Executive Order 12291. The General Services Administration (GSA) certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Therefore, no regulatory flexibility analysis has been prepared. The rule does not contain information collection requirements which require the approval of OMB under 44 U.S.C. 3501 et seq.

List of Subjects in 48 CFR Parts 509, 532, 536, and 552

Government procurement.

(40 U.S.C. 486(c))

Dated: October 4, 1984.

Edward J. McAndrew,

Acting Director, Office of GSA Acquisition, Policy and Regulations.

[FR Doc. 84-27435 Filed 10-16-84; 8:45 am]

BILLING CODE 6820-61-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

[Docket No. 40918-4118]

Foreign Fishing

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Proposed rule.

SUMMARY: NOAA proposes the 1985 poundage fee schedule for foreign vessels fishing in the fishery conservation zone. Under this fee schedule, foreign vessels would pay for 23.8 percent of the FY 1984 Magnuson Fishery Conservation and Management Act costs. Comments are requested on this fee schedule. This action will comply with section 204(b)(10) of the Magnuson Fishery Conservation and Management Act.

DATE: Comments must be received on or before November 16, 1984.

ADDRESS: Send comments to: Fees, Permits and Regulations Division, F/M12, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C. 20235.

Copies of the draft regulatory impact review (RIR) and a detailed breakdown of NMFS costs are available at this address.

FOR FURTHER INFORMATION CONTACT: John D. Kelly, 202–634–7432.

SUPPLEMENTARY INFORMATION: NOAA proposes a schedule of poundage fees for fishing during 1985 by foreign vessels in the fishery conservation zone (FCZ). The new schedule would result in collections of about $40.6 million. This amount is determined as described below. As in previous years, no fee will be collected by the Federal government for U.S.-caught fish received at sea by foreign-flag processing vessels (joint ventures). Proposed 1985 permits fees are published in a separate action.

Background

Section 204(b)(10) of the Magnuson Fishery Conservation and Management Act (Magnuson Act) (16 U.S.C. 1801 *et seq.*) requires that owners or operators of foreign fishing vessels for which permits are issued pay fees * * * "at least in an amount sufficient to return to the United States an amount which bears to the total cost of carrying out the provisions of this Act * * * during [FY 1984] the same ratio as the aggregate quantity of fish harvested by foreign fishing vessels within the fishery conservation zone during [1983] bears to the aggregate quantity of fish harvested

by both foreign and domestic fishing vessels within such zone and the territorial waters of the United States during [1983]."

Fees have been collected for foreign fishing since 1977 under annual schedules contained at § 611.22. Fees collected under these schedules were $7.1 million in 1977, $8.8 million in 1978, $10.8 million in 1979, $16.7 million in 1980, $24.1 million in 1981, $33.4 million in 1982, and $41.3 million in 1983. Collections have not been completed for 1984, but under $44.6 million is anticipated. Poundage fees were assessed at a rate of 3.5 percent of the ex-vessel value of a species until 1980. Fees were increased in 1981 by amendment of the Magnuson Act, Pub. L. 96–561 to recover at least the foreign share of the cost. In proposing the fee schedule for 1983, NOAA established but did not exercise authority to collect fees in excess of the amounts specified as the foreign share above. (47 FR 51336).

The target fees proposed for 1985 are $40.7 million, substantially less than the $44.6 million poundage fee collection target in 1984. This amount is determined by applying the ratio of the foreign catch in the FCZ to the total catch in the FCZ and territorial waters, 23.8 percent, against the total Magnuson Act costs for FY 1984, $171,001.2 thousand. As in prior years, fees are apportioned by the projected value of the 1985 foreign harvest of each species (as discussed later). For 1985, NOAA proposes to forego adjustments of fees for management considerations. These adjustments had been made in every schedule since 1981; however, they have not effectively reduced the foreign incidental harvest of caught species important to U.S. fishermen or increased the foreign harvest of species of lower value to U.S. and foreign fishermen. Many representatives of foreign fishing nations who commented on prior schedules opposed these adjustments. As a result of these comments and a separate review of the effectiveness of the management factors, the fees for all species will be based on a uniform percentage of their exvessel value. The proposed 1985 species fees are shown in the table of § 611.22 of the amendatory text and discussed below.

FY 1983 Costs for Purposes of the Magnuson Act

The Federal government's costs of carrying out provisions of the Magnuson Act in FY 1984 were calculated by using the same estimating techniques that were used to estimate costs required for the fee schedules for 1982 (see 46 FR 55729), for 1983 (see 47 FR 51336 and 48 FR 27075) and for 1984 (see 48 FR 49670 and 49 FR 595). All National Marine Fisheries Service (NMFS) units submitted documentation of the planned use of their funding allocations. The documents are "operations plans," which include a narrative description of activities and the amount budgeted for labor, travel, contracts, etc. Operation plans were analyzed to identify the costs of performing functions directed toward provisions of the Magnuson Act, without regard to legislative authorizations for certain activities predating the Magnuson Act. NOAA's policy is to calculate the full direct and indirect costs, not incremental costs, for performing services for others (NOAA Budget Handbook, Chapter 2, Section 3). Documentation of NMFS's determination of Magnuson Act costs is available at the above address. The documentation specifies, by unit, the amount of each operations plan considered to contribute to carrying out provisions of the Magnuson Act. Using this process, the total FY 1984 NMFS cost was $63.2 million. The NMFS FY 1984 costs are two percent above the actual revised FY 1983 costs of $61.8 million. FY 1984 cost data for establishing the 1985 fee target are included in Table 1, together with comparative data for FY 1982, and FY 1983 for all Federal agencies carrying out provisions of the Magnuson Act.

The Department of State (DOS) estimates its FY 1984 costs at $280,000, the same level as in FY 1982 and FY 1983. The U.S.-Canadian boundary negotiations are not included within this DOS figure. NOAA costs in the Northeast Fisheries Center and the Northeast Regional office include $608,500 for these negotiations. Other NOAA costs have remained level or decreased, except for ship costs which increased by $680,200 for research in the Western Pacific.

Coast Guard costs in FY 1984 for enforcing the Magnuson Act are $95.9 million; this is down from $97.3 million in FY 1983. The Coast Guard states that more efficient resource use allowed Magnuson Act enforcement activity levels to continue in spite of the reduction.

The estimated total cost of carrying out the provisions of the Magnuson Act in FY 1984 is $171.001 million. This total is proposed to be adopted for the calculation of the foreign fishing fee target in 1985.

TABLE 1.—FISCAL YEAR 1984 AGENCY COSTS FOR PURPOSES OF THE MAGNUSON ACT AND COMPARISON WITH FISCAL YEARS 1982 AND 1983 COSTS

[In thousands of dollars]

	FY 1982—Line Office/Agency		FY 1983—Line Office/Agency		FY 1984—Line Office/Agency Costs	
	Costs	Differences	Costs	Difference		
NMFS:						
WOC	$13,157.0	+1,269.4	$14,426.4	+42.6	$14,469.0	
F/NEC	11,578.0	−197.2	11,378.8	+478.9(4%)	11,857.7	
F/SEC	8,999.5	−318.6	8,680.9	+773.6(8.9%)	9,454.5	
F/SWC	5,485.2	−167.0	5,318.2	+57.1	5,375.3	
F/NWC	676.0	+152.7	10,885.0	+77.0	10,905.0	
F/NER	2,749.6	+5.7	2,755.3	+400.0 (14.5%)	3,155.3	*Program decision to allocate increased P.L. 88-309 and 80-304 funds to Region.
F/SER	2,625.9	+43.9	2,582.0	−87.0	2,495.0	
F/SWR	1,773.3	+240.1	2,013.4	−87.3	1,926.1	
F/NWR	2,065.8	−389.9	2,455.7	−301.7 (−123%)	2,154.0	
F/AKR funds	1,919.6	−515.5	1,404.1	−20.3	1,383.8	*Decreased programmatic for Pacific Council.
Subtotals	61,027.9	+814.9	61,842.8	+1,332.9	63,175.7	

TABLE 1.—FISCAL YEAR 1984 AGENCY COSTS FOR PURPOSES OF THE MAGNUSON ACT AND COMPARISON WITH FISCAL YEARS 1982 AND 1983 COSTS

[In thousands of dollars]

	FY 1982—Line Office/Agency		FY 1983—Line Office/Agency		FY 1984—Line Office/Agency Costs	
	Costs	Differences	Costs	Difference		
Other NOAA:						
Ship costs	2,982.0	+6,520.8	9,502.8	+660.2	10,163.0	Ship costs determined by the same method in 1983 & 1984; cost increase due to increased ship time for MFCMA purposes.
Administration	506.3	+26.6	532.9	−347.3	185.6	
Sea grant	493.0	0.0	493.0	0.0	493.0	
Procurement and personnel	490.0	0.0	490.0	−115.2	374.8	
NESDIS	245.0	+9.8	254.8	+9.7	264.5	
Sub-totals	4,716.3	+6,557.2	11,273.5	+227.4	11,500.9	
DOC	147.8	+6.1	153.9	+15.3	169.2	
Coast Guard	78,100.0	+19,172.7	97,272.7	−1,397.3	95,875.4	
DOS	280.0	0.0	280.0	0.0	280.0	
Grand totals	144,272.0	+26,550.9	170,822.9	+178.3	171,001.2	

*Administrative costs decreased due to reorganization of administrative support in Department of Commerce.

Ratio of the 1983 Foreign Catch to Total Catch

Principles applied since enactment of Pub. L 96–561 for estimating the ratio of the foreign catch to the total catch in the fishery conservation zone (FCZ) and territorial waters are again used to the 1983 ratio. The 1983 catch data are the most current official data now available for the year preceding preparation of this fee schedule.

The U.S. catch in international waters and freshwater and U.S. catch of tunas is subtracted from the total U.S. reported commercial catch to obtain the U.S. commercial catch in the FCZ and territorial waters (which include internal marine waters). The resulting commercial catch is corrected to international standards by adding the weight of mollusk shells. The total U.S. catch in the FCZ and the territorial waters is obtained by adding the preliminary recreational catch to the corrected commercial catch. The foreign catch in the FCZ is taken from "Fisheries of the United States" but adjusted by removing the Canadian catch in the disputed portion of the FCZ. The ration for the 1985 fee schedule is 23.8 percent. Table 2 lists the 1983 data for this ratio.

TABLE 2.— ESTIMATE OF RATIO OF FOREIGN CATCH TO TOTAL CATCH, 1983

[Including internal waters]

		Metric tons
Total U.S. reported Catch [1]		3,501,365
Exclusion:		
International Waters (exc. Tunas)	28,135	
Tunas	265,803	
Freshwater (inc. G. Lakes alewives)	64,748	
Total		358,686
U.S. commercial catch in Territorial Waters and Fishery Conservation Zone (FCZ) 2,957,789		3,142,679
Correction for mollusks [2]		707,947
Recreational catch [3]		*271,621
Total U.S. catch, Territorial Waters and FCZ		4,122,247
Foreign catch, FCZ less Canadian catch		1,289,629
Total catch, Territorial Waters and FCZ (Pub. L. 94–265 as amended)		5,411,873

Ratio of foreign catch to total is 23.8 percent (Canadian catch is excluded).

[1] This figure and all following figures for U.S. commercial catch from pages 8–11, "Fisheries of the United States, 1983." Calculated in pounds and converted to metric tons—figures may not add to/total.

[2] Addition of mollusk shells. U.S. statistics for internal use include only edible portions of molluska, but international standard a whole animal.

[3] Based on preliminary 1980 data. Includes catch types A and B1, assumes average weight of B1 is similar to A.

[4] From page 22, "Fisheries of the United States, 1983."

*Sport fish figures per Mark Holiday (Recreational Program.

The 1985 Foreign Fishing Fee Collection Target

Section 204(b)(10) of the Magnuson Act requires that foreign fishing vessels owners or operators pay at least the amount calculated from the ratio of the foreign catch to the total catch. Therefore, at least 23.8 percent of the total costs ($171.001 million calculated in Table 1) should be paid by foreign vessels in 1985. That portion of the total costs is $40.7 million and is calculated as shown.

Fee target (1985) = ($171.001 million) × (0.238) = $40.698 million.

The foreign fee collection target to be derived from poundage fees and proposed for 1985 is $40.6 million. Approximately $110,000 is expected to be received for 1985 permit application fees. This is subtracted from $40.7 million to arrive at the amount to be collected in poundage fees. The 1985 poundage fee target is a $3.9 million decrease from 1984. The difference of 2.3 percent in the ratio of the harvests for 1984 and 1985 schedules (which represents an actual decrease 8.8 percent of the foreign fishing component) overrides the small increase (0.4 percent) in total Magnuson Act costs in FY 1984.

Proposed Species Fee

Since implementing the Magnuson Act, NOAA has collected the major portion of the foreign fees by fees for tonnages of species caught by foreign vessels. These are the poundage fees. The fee per ton for a species is based on an estimate of "exvessel value" of that species, that is, the value to the fishermen on delivering the catch to the first buyer. The Japan Fisheries Association (JFA) litigated the 1984 fee schedule on the grounds that some species fees selected for that schedule did not take into account relevant value considerations or were in error. In settling that suit NOAA reduced the fee for Alaska flatfish taken in the Bering Sea and Aleutian Islands management area and said it would work more closely with Japan (and by implication with other nations) to determine ex-

vessel values appropriate for the fee schedule.

Prior to this notice, NOAA met with JFA to consider methods for determining prices for the 1985 fee schedule. JFA contended that "fair market values" on the fishing grounds should be the prices paid by foreign vessels to U.S. fishermen for their catches (joint venture prices). It is NOAA's sense that joint venture prices do not approximate the ex-vessel values of the various species of fish. When compared to the other forms of fishing, joint ventures represent a lower cost operation in a number of respects—the fishing vessel is saved the expense of returning to port; other expenses such as nets and fuel are frequently supplied; no poundage fees are levied; and in some countries joint venture products are exempt from import duties. To this extent the joint venture prices would tend to be lower than the ex-vessel value that would be expected in a usual fishing operation. The agency also has seen wide variations among foreign nations in prices paid for joint ventures. Higher prices for some joint ventures may represent efforts to gain credit under the Magnuson Act's criteria for direct foreign allocations. The concept of fair market value "on the fishing grounds," to be useful, would require detailed information on the cost of vessel operations that has never been provided to NOAA despite repeated requests. Even if such information were provided, it would be difficult to compare figures from free market economies, subsidized economies, and planned economies to arrive at accurate prices "on the grounds" for all species. Thus, NOAA cannot agree with the JFA recommendation in its entirety.

NOAA has, however, continued to improve its process for determining ex-vessel values by asking foreign nations for price information on landings in their ports and prices at which fish caught in the FCZ, or reasonable market equivalents, would be sold by their vessels. Most nations conducting fishing in the FCZ provided some information on landings prices. One nation provided information on transport and freezing costs, cold storage costs, and financing costs. The information provided was considered in a general way because this involved comparisons of the different types of information provided by these countries. On October 10, 1984, the JFA submitted additional information concerning the ex-vessel value proposed for pollock, Alaska flatfish and Pacific squid. This information had been requested pursuant to the settlement for the 1984 litigation referenced above. Because of the need to publish these proposed rules promptly, NOAA has not evaluated these data at this time; however, the JFA data has been submitted to the representatives of other nations fishing in the FCZ. Prices for each fishery were determined as follows:

The Alaska Groundfish Fisheries

Most price information provided for these fisheries consisted of average landed values of frozen blocks at ports of foreign nations. In order to determine whether the same price relationships existed between these groundfish species in different product forms and markets, NOAA compared monthly prices of frozen blocks of a species averaged within the period April 1983 through March 1984 to a standard. The standard selected was the average price of a frozen block of Alaska pollock. Pollock was selected because of its volume in the world market and because more, albeit quite limited, information is available on frozen block production of pollock than the other species. Comparisons were made between the ratios of frozen blocks of other species to frozen blocks of pollock in ports of the Republic of Korea and in the Tokyo Central Wholesale Market, and to similar ratios for joint venture prices in the Bering Sea and the Gulf of Alaska. With two exceptions, these ratios were reasonably consistent. The two exceptions were that joint venture prices for Pacific cod were about 76 percent higher than frozen cod prices. (A possible reason is that foreign frozen cod prices, particularly in Japan, may reflect block compositions other than pure cod.) Secondly, a reasonable relationship was evident between the frozen product and joint venture prices in the Bering Sea for flatfish and sablefish, but joint venture prices for these two species when taken in the Gulf of Alaska were significantly higher. Two criteria were applied in selecting a ratio of the ex-vessel value of a species to the value of pollock. These were to select the ratio which would not adversely affect the economic position of U.S. fishermen and would not of itself cause a reduction in foreign fishing and a loss of fees for managing the fisheries. The ratios selected are shown in the following Table 3.

The second part of the analysis required selection of the ex-vessel value of pollock, following which ex-vessel values for all the groundfish species could be determined from the above ratios. Japanese landings data for June 1984 indicate that Alaska pollock surimi, top quality, S.A. sold for $0.85/pound if trawler processed, $0.80 if mothership processed, and $0.73-0.74 if joint venture processed. These prices were relatively stable in the months preceding and including June.

Mothership processed surimi product was selected as representative of the product of the foreign catches of pollock. NOAA assumed a 25 percent yield ratio, i.e. four tons of raw product to one ton of surimi, a profit mark-up of 20 percent and an added value for processing and transport two times the ex-vessel value (i.e., a processed and delivered price three times ex-vessel value) to deduce an ex-vessel value of $0.0555/pound. This is greater than the average 1983 joint venture prices of $0.042/pound. In part, this is explained by the addition of $0.013/pound for poundage fees to the joint venture price. Thus, NOAA proposes a base value of $0.0555/pound or $122 per metric ton for Alaska pollock in 1985. The following Table 3 shows the ex-vessel values for the Alaska fisheries by species and fishery proposed by this notice. The first ratio is the selected factor by which the pollock value should be multiplied to derive the ex-vessel value for another species. The second ratio (D/L), where shown, is that ratio derived by using U.S. landings. The D/L ratio is not used in any case but is only shown for comparison. The next column lists the source of the selected ratio, either from joint-venture (J/V) data or from foreign landings data (F/L), using the stated criteria. The last two columns list proposed 1985 ex-vessel values and, for comparison, the respective values used in the 1984 schedule before applying 1984 management factors (except for BSA flatfish).

Table 3. Proposed Ex-vessel Values for Alaska Groundfish Fisheries

Species	Fishery	Ratios		Source	Proposed value	1984 value
		Selected	Domestic		(Per mt)	(Per mt)
Alaska pollock	GOA	1.000	1.0	Standard	$122	$125
	BSA	1.000		Standard	122	125
Pacific cod	GOA	2.317	2.66	J/V	283	295
	BSA	2.317		J/V	283	295
Pacific ocean perch	GOA	3.158		F/L	385	399
	BSA	3.158		F/V	385	399
Other rockfish	GOA	2.975	6.2	J/V	363	436

Table 3. Proposed Ex-vessel Values for Alaska Groundfish Fisheries—Continued

Species	Fishery	Ratios		Source	Proposed value	1984 value
		Selected	Domestic		(Per mt)	(Per mt)
	BSA	2.975	6.2	J/V	363	436
Atka mackerel	GOA	1.646		F/L	201	269
	BSA	1.646		F/L	201	269
Flatfish	GOA	2.814	7.2	J/V	343	378
	BSA	1.620	(?)	F/L	198	[1] 192
Pacific squid	GOA	1.856		F/L	226	147
	BSA	1.856		F/L	226	147
Sablefish	GOA	5.052	8.1	J/V	616	663
	BSA	2.023	1.7	J/V	247	663
Other species	GOA	1.234		F/L	151	397
	BSA	1.234		F/L	151	397

Generally, the ex-vessel values proposed for 1985 are lower than the values adopted in the 1984 schedule. Major reductions in the "other groundfish" and BSA sablefish values are shown; there is a slight increase in Pacific squid and BSA flatfish valuation. These changes should not detract from NOAA's collection of the 1985 fee target, but redistribute fee burdens associated with catches of the species included in the fee schedule. Inasmuch as foreign nations have favored the removal of management factors and have had an opportunity to provide data for this analysis, NOAA concludes that such redistribution of the fees is readily absorbed in the foreign markets.

In addition to the foreign fisheries for the Alaska groundfish fisheries, a foreign fishery is conducted for snails. NOAA has no information on which to propose a new ex-vessel value for the 1985 schedule. Thus, the ex-vessel value of $256/mt used in the 1984 fee schedule is proposed to be continued for the 1985 fee schedule.

The Pacific groundfish fishery

No ex-vessel data were received for Pacific whiting other than a comment that the governmentally controlled Polish prices for Pacific whiting and Alaska pollock were the same. Joint venture prices for Pacific groundfish in 1983 were greater than the $0.0555/pound price proposed for Alaska pollock this year. Since the incidental species constituted only 0.05 percent of the total joint venture catch in this fishery, higher prices for the incidental species did not greatly affect the average joint venture prices for Pacific whiting.

NOAA believes an ex-vessel value for Pacific whiting in excess of the $122/mt ex-vessel value selected for Alaska pollock cannot be supported because of its low value in the usual world markets. Thus, NOAA proposes a $122/mt ex-vessel value for Pacific whiting for comments.

The ex-vessel values proposed for other species taken in the Pacific groundfish foreign trawl fisheries under the incidental catch provisions provided for by the Pacific Groundfish Fishery Management Plan are domestic prices and taken from the Pacific Fishery Management Council's preliminary Port Group Report: Commercial Groundfish estimated prices per pound for 1983 for all areas. The selected ex-vessel values for these incidental species are shown in Table 4 below.

Table 4. Ex-vessel Values Proposed for Incidental Foreign Harvest of Pacific Groundfish

Species/Group	1983 Price/Pound equals Proposed 1984 ex-vessel value	
	(per pound)	(per mt)
Sablefish	$0.250	$551
Pacific ocean perch	.217	479
Other rockfish, excluding Pacific ocean perch	.209	461
Flatfish	.271	598
Jack mackerel	.097	214
Other species [1]	.270	595

[1] Mean of roundfish and groundfish prices after removing other species above.

Northwest Atlantic Ocean Fisheries

Loligo and *Illex* squids and butterfish harvested by U.S. vessels are competitive in price with the foreign harvest of these species in the Atlantic. Therefore, ex-vessel values proposed in this fee schedule for these species are taken from the current average ex-vessel values for U.S. landings shown in Table 5 below. Except for butterfish, these values are reasonable consistent with information provided by the Government of Italy.

The current U.S. ex-vessel value of Atlantic mackerel is greater than prices offered in joint venture fisheries, but less than the base price used in 1984. NOAA proposed a value of $0.10/lb or $221/mt for the schedule. The proposed value lies within the range of the U.S. ex-vessel value and adjusted joint venture prices.

The base value proposed for red and silver hakes, river herring, and other finfish are the same as the base values used in 1984 because NOAA has no information to support any changes in 1985. Proposed 1985 values are shown below.

Table 5. Ex-vessel Values Proposed for Species Fished in the Northwest Atlantic Ocean Fisheries.

Species	Proposed 1985 ex-vessel value	Adopted 1984 value
	(per mt)	(per mt)
Squid, *Illex*	$221	$268
Squid, *Loligo*	441	860
River herring	179	179
Butterfish	616	699
Atlantic Mackerel	221	321
Red Hake	369	369
Silver Hake	393	393
Other finfish	268	268

Western Pacific fisheries

NOAA has not received any new information to cause a revision of the ex-vessel values adopted in 1984. Therefore, NOAA proposes that the same values be used for the 1985 schedule unless public comments justify changes in these values. These values are shown in Table 6 below.

Table 6. Values Proposed for the Western Pacific Fisheries

Species	Proposed ex-vessel values
Western Pacific corals	$50/kg.
Seamount groundfish	397/mt.
Dolphin fish	1500.
Wahoo	225
Sharks, Pacific	123
Striped Marlin	3,752
Billfish	1,503
Pacific swordfish	2,337

Summary of Proposed 1985 Species fees

The fee per ton for any species harvested by foreign vessels is determined from a percentage applied to the ex-vessel value of that species. This percentage is uniform for all species in 1985 and calculated from the ratio of the poundage fee collection target to the estimated total value of the foreign catch in 1985. The total value of the foreign catch is calculated by multiplying the estimated value of each species by the projected catch of that species in 1985. Catch projections were provided by NMFS Regional offices based on current understanding of the

TALFFs which may be available in 1985. The total value of the 1985 foreign catch is the sum of the values of the catches of all species. Table 7 shows the data used for these calculations and lists the entire set of proposed 1985 species fees. The raio of the poundage fee collection target ($40.6 million) to the estimated total value of the 1985 foreign catch ($167.4529 million) results in a percentage rate of 24.2 percent of the ex-vessel value for 1985.

The proposed 1985 percentage rate of 24.2 percent is greater than the 1984 final rate of 15.6 percent. The 1984 rate was lower because management factors, here abandoned, increased the average base ex-vessel values used to determine fees. Had management factors not been used in 1984, a uniform rate of assessment would have been 19.1 percent. The average base value in 1984 was $232.83/mt, the 1985 average is $139.71/mt. The 1985 proposed fee schedule would increase average species fees by $1.18/mt or 0.05 cents/pound over the actual average 1984 fees paid after the reduction of the Alaska flatfish fee in the Bering Sea and Aleutian Islands groundfish fishery.

TABLE 7.—DETERMINATION OF VALUE OF 1985 FOREIGN CATCH

Species	Fishery(ies)	Proposed 1985 ex-vessel value	1985 estimated foreign catch	Value of 1985 foreign estimated catch	Proposed species fee
1. Alaska pollock	All Alaska	$122/mt	935,000/mt	$114,070,000	$30/mt
2. Pacific cod	All Alaska	283	15,700	4,443,100	69
3. Pacific ocean perch	All Alaska	386	250	96,250	94
4. Other rock fish	All Alaska	363	250	90,250	88
5. Atka mackerel	All Alaska	201	150	30,150	49
6. Flatfish	GOA	343	5,000	1,715,000	83
	BSA	198	159,000	31,482,000	48
7. Pacific squid	All Alaska	226	4,100	925,600	55
8. Sablefish	GOA	616	100	61,600	150
	BSA	247	250	61,750	60
9. Other species	All Alaska	151	13,000	1,963,000	37
10. Smelts	BSA	256	325	83,200	62
11. Pacific whiting	WOC	122	40,000	4,880,000	30
12. Sablefish	WOC	561		38,570	134
13. Pacific ocean perch	WOC	479	25	11,975	116
14. Other rockfish	WOC	461	295	135,995	112
15. Flatfish	WOC	598	40	23,920	145
16. Jack mackerel	WOC	214	1,200	256,800	52
17. Other species	WOC	595	200	119,000	145
18. Squid, illex	NWA	221	3,000	663,000	54
19. Squid, Loligo	NWA	441	5,500	2,425,500	107
20. River herring	NWA	179	615	110,085	44
21. Butterfish	NWA	618	615	380,070	150
22. Atlantic mackerel	NWA	221	12,000	2,652,000	54
23. Red hake	NWA	368	615	226,935	90
24. Silver hake	NWA	393	615	241,695	96
25. Other finfish	NWA	268	615	164,820	65
26. Atlantic sharks	Atlantic	423	70	29,610	103
27. Coral	W Pacific	$206/kg		0	$501/kg
28. Groundfish seamount	W Pacific	397	160	63,520	96
29. Dolphin fish	W Pacific	1,500	0	0	365
30. Wahoo	W Pacific	225	0	0	55
31. Pacific sharks	W Pacific	123	0	0	30
32. Striped marlin	W Pacific	3,752	0	0	912
33. Pacific billfish	W Pacific	1,503	0	0	365
34. Pacific swordfish	W Pacific	2,337	0	0	568
				$167,446.9k	

Classification

NOAA has prepared a regulatory impact review (RIR) that discuss the economic consequences and impacts of the proposed fee schedule and its alternatives. Copies of the RIR are available at the above address. Based on the RIR, the Administrator, NOAA, has determined that the proposed schedule does not constitute a major rule under E.O. 12291. The regulatory impact review demonstrates that the proposed fee schedule complies with the requirements of section 2 of E.O. 12291.

The General Counsel for the Department of Commerce has certified that the proposed fee schedule will not have a significant economic impact upon a substantial number of small entities for purposes of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq. This certification has been forwarded to the Chief Counsel for Advocacy of the Small Business Administration. Because the proposed fee schedule will not have a significant economic impact upon a substantial number of small entities, a regulatory flexibility analysis is not required.

NOAA Directive 02-10 published at 45 FR 49312 (July 24, 1980) adopts internal procedures to implement the National Environmental Policy Act (NEPA), as amended (42 U.S.C. 4321 et seq.). Under those procedures, programmatic functions with no potential for significant environmental impacts are generally excluded from NEPA requirements.

The proposed fee schedule has no direct impact on the fishery resources in the FCZ. At the most, a fee schedule might affect the harvesting strategy of foreign fishing vessels and result in a different species mix being removed from the environment; however, the proposed schedule meets the criterion that fees should minimize disruption of traditional fishing patterns on target species. The proposed schedule is a change from the 1984 fee schedule, but it will not prevent the harvesting of the total allowable level of foreign fishing (TALFF). The environmental impact of harvesting the TALFF is described for each fishery management plan, and no further environmental assessment is necessary.

This proposed rule has no information collection provisions for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

List of Subjects in 50 CFR Part 611

Fish, Fisheries, Foreign relations, Reporting requirements.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

PART 611—[AMENDED]

For the reasons above, 50 CFR Part 611 is proposed to be amended as follows:

1. The authority citation for § 611.22 is:

Authority.—16 U.S.C. 1980.

2. Table 1 of § 611.22(a)(2) is revised to read as follows:

§ 611.22 Fee schedule for foreign fishing.

* * * * *

TABLE 1. SPECIES AND POUNDAGE FEE

[Dollars per metric ton, unless otherwise noted]

Species	Poundage fees
Northwest Atlantic Ocean fisheries:	
1. Butterfish	$150
2. Hake, red	89
3. Hake, silver	95
4. Herring, river	43
5. Mackerel Atlantic	53
6. Other finfish, Atlantic	85
7. Squid, *Illex*	53
8. Squid, *Loligo*	107
Atlantic and Gulf fisheries:	
9. Atlantic Shark	102
10. Shrimp, royal red	(1)
Alaska fisheries:	
11. Pollock Alaska	30
12. Cod, Pacific	68
13. Pacific ocean perch	93
14. Other rockfish (Alaska)	86
15. Mackerel, Atka	49
16. Squid, Pacific	55
17. Flatfish, Gulf of Alaska	83
Bering Sea and Aleutian Islands	48
18. Sablefish, Gulf of Alaska	149
Bering Sea and Aleutian Islands	60
19. Other species	37
20. Snails	62
Pacific fisheries:	
21. Whiting, Pacific	30
22. Sablefish	133
23. Pacific ocean perch	116
24. Other rockfish	112
25. Flounders	145
26. Mackerel, jack	52
27. Other species	144
Western Pacific fisheries:	
28. Coral	$50
29. Groundfish Seamount	96
30. Dolphin fish	383
31. Wahoo	54
32. Sharks, Pacific	30
33. Striped marlin	908
34. Pacific billfish	364
35. Pacific swordfish	566

(1) Reserved
(2) Dollars per kilogram.

[FR Doc. 84-27393 Filed 10-12-84; 2:32 pm]

BILLING CODE 3510-22-M

50 CFR Part 630

South Atlantic and Mid-Atlantic Fishery Management Councils

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Swordfish Fishery Management Plan; Notice of public hearing.

SUMMARY: The South Atlantic and Mid-Atlantic Fishery Management Councils will hold a public hearing in conjunction with their upcoming Council meetings to allow for discussion of the changes to the draft Swordfish Fishery Management Plan.

DATE: The hearing will be held on October 25, 1984, from 11:30 a.m. until noon in Virginia Beach, VA. Written comments will be accepted until November 30, 1984.

ADDRESSES: Send comments to David H.G. Gould, Executive Director, South Atlantic Fishery Management Council, 1 Southpark Circle, Suite 306, Charleston, SC 29407, or Jack T. Brawner, Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, St. Petersburg, FL 33702.

The hearing will take place at the Cavalier Hotel, Virginia Beach, Virginia.

FOR FURTHER INFORMATION CONTACT: David H.G. Gould, Executive Director, South Atlantic Fishery Management Council, 803–571–4366; or Jack Brawner, Regional Director, Southeast Region, 813–893–3141.

SUPPLEMENTARY INFORMATION: The hearings will deal with a fishery management plan which establishes a management regime for swordfish in the fishery conservation zone from Maine through Texas, including Puerto Rico and the U.S. Virgin Islands. Plan objectives and management measures are directed toward alleviating the following problems:

1. The catch of small swordfish has increased in recent years.

2. There is competition between domestic entangiement nets and other gear and actual conflict between domestic and Japanese longlines.

3. There is an incidental swordfish catch by Japanese tuna longlines and squid trawls.

The Council proposes the following management measures:

Data Year: January 1 through December 31.

Fishery Year: June 1 through May 31.

Management Strategy

1. A data collection program was implemented June 11, 1984, to collect data on the use of drift entanglement nets and require vessels that retain swordfish to be identified to allow more accurate sampling for data collection.

2. Domestic catches of small fish would be restricted by variable season closure for the five Council areas. The calculation of closed days takes into account seasonal landing patterns in each Council region. The fishery is monitored by sampling the sex, size, and age of fish taken in each Council area.

3. The Preliminary Fishery Management Plan for Billfish and Sharks is incorporated into the plan and foreign fishermen will have a cap on swordfish bycatch.

4. There are procedures whereby timely gear restrictions or regulation of fishing practices that complement the variable season closure can be implemented by regulatory amendments to this plan.

Data Collection Program

A data collection program was implemented on June 11, 1984, that (1) provides for observer coverage of boats using drift entanglement nets to collect information on species caught, fishing practices, and production rates; and (2) issues provisional permits to retain swordfish, which will supply information on the total number of commercial swordfish boats, gear types, locations, and fishing practices. Information given by fishermen for the permit will be confidential.

Domestic Fishing Management Measures

1. The variable season closure will reduce the catch of smaller fish (50 pounds and under) by a method equitable to all fishing areas in the management unit. The closure will apply to all fishing methods other than those exempted. The swordfish calendar is calculated, based on the percent of small fish taken in each area. The number of closed days and the dates to be applied to the calendar for the first year (1985) area:

Canada-VA/NC: Begin Nov. 6, 1985 for 24 days

NC–GA/FL: Begin Oct. 15, 1985 for 47 days

PR & U.S.V.I.: Begin Nov. 1, 1985 for 60 days

Tortugas-Mexico: Begin Nov. 1, 1985 for 37 days

2. Possession of fresh swordfish carcasses during a closure will be illegal ashore as well as at sea. Exemptions are noted below and require documented proof that a fish in possession was caught in an open area or by gear that was allowed during a closure, such as harpoon or rod and reel. All fish landed

(or imported) must be in the form of whole carcasses.

3. Landings in the Caribbean have been low and infrequent thus far. It is not possible to calculate a "swordfish calendar" for the Caribbean area; therfore, this area will adopt the Florida east coast calendar until landings in the Caribbean reach a sufficient level for calculations of a Caribbean calendar. In addition there will be an incidental catch limit of 1 swordfish per trip in the Caribbean during the closure; the sale of this fish is allowed.

4. Rod and reel gear is exempt from the closure but a "no-sale" provision will be in effect during the closure.

5. Harpoon gear may be used during a closure but the fish taken must have a minimum weight of 125 pounds dressed weight. These vessels cannot have nets or operable gear onboard. A maximum quota cap is to be placed on harpoon-caught fish during a closure. The cap is computed by discarding the highest and lowest years' landings for harpooned swordfish in the previous 10 years, and averaging the remaining eight years. (The New England Council has not approved this measure.)

6. Tuna longlining in the daytime (0500–1800 hours) is allowed, but no swordfish may be possessed during a closure.

7. Gear and fishing practices will be monitored and if any fishing practice results in an undesirable bycatch, conflicts with other gear, or changes that could complement or threaten the variable season closure, other restrictions may be justified by amending the regulations.

8. Statistical Reporting Requirements include:

a. All fishing boats that intend to catch swordfish by methods other than conventional rod and reel must complete a permit and send it to the NMFS Southeast Regional Director.

b. Some vessels will be selected to carry onboard technicians who will collect data. All vessels selected to be sampled are required to participate.

c. In the Mid-Atlantic region, at least 20 percent of swordfishermen will be sampled for other information.

d. Technicians are authorized to collect data on the bycatch in the swordfish fishery.

e. In the Caribbean area, mandatory reporting of catches is required.

Foreign Fishing Management Measures

1. Directed foreign fishing for swordfish is not allowed.

2. Adoption of existing requirements for observers on foreign vessels. All hooked swordfish must be released.

3. Adoption of area closures for foreign longliners except that the Gulf and the Tortugas closure from May 1 to December 31 will be kept in reserve so long as foreign vessels do not fish in these areas during this period.

4. Cap the foreign longline bycatch allotment (number of swordfish hooked) at 1½ percent of previous year's domestic harvest or 1,136 fish in the Atlantic and Caribbean and 400 fish in the Gulf of Mexico, whichever is less.

5. Reductions on domestic fishermen will result in an equivalent percent reduction of foreign bycatch allotment.

6. Foreign vessels with a Governing International Fisheries Agreement may not have a bycatch of swordfish over 9/10 of 1 percent (swordfish numbers/pounds of other catch).

7. All foreign longlining during the period of a closure would coincide with restrictions put on domestic fishermen.

(16 U.S.C. 1801 *et seq.*)

Dated: October 12, 1984.

Roland Finch,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 84-27442 Filed 10-16-84; 8:45 am]
BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 49, No. 202
Wednesday, October 17, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Select Committee on Uniform Rules; Public Meetings

Select Committee on Uniform Rules

Dates: Thursday, November 8, 1984 and Tuesday, December 4, 1984. Time: Both meetings are scheduled for 10:00 a.m. Location: 2120 L Street NW., Suite 500, Wash., D.C. Agenda: Discussion of committee members' attempts to draft uniform/model rules after reviewing agency comments on Department of Labor's consolidated rules of practice. Contact: Jeffrey Lubbers 202–254–7065.

Public Participation

Attendance at the committee meetings is open to the public, but limited to the space available. Persons wishing to attend should notify the contact person at least two days in advance of the meeting. The committee chairman may permit members of the public to present appropriate oral statements at the meeting. Any member of the public may file a written statement with a committee before, during, or after the meeting. Minutes of the meetings will be available on request to the contact persons. The contact persons' mailing address is: Administrative Conference of the United States, 2120 L Street NW., Suite 500, Washington, D.C. 20037. These meetings are subject to the Federal Advisory Committee Act (Pub. L. 92–463).

Dated: October 12, 1984.

Richard K. Berg,

General Counsel.

[FR Doc. 84-27375 Filed 10-16-84; 8:45 am]

BILLING CODE 6110-01-M

Committee on Adjudication; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Committee on Adjudication of the Administrative Conference of the United States, to be held at 10:00 a.m., Wednesday, November 7, 1984, at the offices of the Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, D.C.

The committee will meet to consider a proposed recommendation on disciplinary proceedings against Federal Administrative Law Judges.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman of the Administrative Conference at least two days prior to the meeting. The committee chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after meeting.

For further information concerning this meeting, contact Richard K. Berg, Office of the Chairman, Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, D.C. 20037. (Telephone: (202–254–7065.) Minutes of the meeting will be available on request.

Dated: October 12, 1984.

Richard K. Berg,

General Counsel.

[FR Doc. 84-27431 Filed 10-16-84; 8:45 am]

BILLING CODE 6110-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Irradiation Sterilized Chicken Studies

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of Availability of Reports.

SUMMARY: Agricultural Research Service (ARS) announces the availability, through the National Technical Information Service (NTIS), Department of Commerce, of research reports of studies conducted on irradiation sterilized chicken.

FOR FURTHER INFORMATION CONTACT: Richard M. Parry, ARS, USDA, Room 114, Building 005, Beltsville Agricultural Research Center-West, Beltsville, MD 20705; (301) 344–2734.

SUPPLEMENTARY INFORMATION: Certain contracted animal toxicological studies of irradiation sterilization of chicken have been completed and final reports have been submitted to ARS by the contractor. In addition to the toxicological studies, research on the chemical changes in food caused by irradiation were also carried out. These reports have been summarized and the complete data package made available to the Food and Drug Administration for review.

Copies of the reports and summaries may be purchased from NTIS, 5285 Port Royal Road, Springfield, VA 22161. Payment should accompany orders and may be made by check or money order payable to NTIS or by certain credit cards. Please call (703) 487–4650 for information as to which credit cards are acceptable.

The documents being made available, and their prices, are as follows:

IRRADIATION STERILIZED CHICKEN TOXICOLOGICAL STUDIES

Title	Order No.	Price
Wholesomeness Studies of Precooked (Enzyme Inactivated) Chicken Products in Vacuum Sealed Containers Exposed to Dose of Ionizing Radiation Sufficient to Achieve "Commercial Sterility" (Summary of Supporting Documents). 191 pages.	PB84-186960	$17.50 $4.50
Animal Feeding Study Protocol for Irradiation Sterilized Test Foods; Packaging Materials for Use During the Ionizing Irradiation Sterilization of Pre-Packaged Chicken Products; Irradiation Sterilized Chicken Products: Technology, Product Quality, Feasibility (Technical Report). 666 pages.	PB84-186998	$51.50 $7.50
Animal Feeding Study for Irradiated Sterilized Chicken (Quarterly Reports). 15,073 pages.	PB84-187004	$950.00 $51.50
Chronic Toxicity, Oncogenicity, and Multigeneration Reproductive Study Using CD-1 Mice to Evaluate Frozen, Thermally Sterilized, Cobalt-60 Irradiated, and 10 MeV Electron, Irradiated Chicken Meat (Final Report). 10,328 pages.	PB84-187012	$690.00 $40.50
Irradiation Sterilized Chicken Meat: A Chornic Toxicity ad Reproductive Performance Study in Beagle Dogs. Volumes 1 9. 6,861 pages.	PB84-187020	$475.00 $31.50
Irradiation Sterilized Chicken: Feeding Study in Rats. 401 pages.	PB84-187038	$34.50 $4.50

IRRADIATION STERILIZED CHICKEN TOXICOLOGICAL STUDIES—Continued

Title	Order No.	Price
Hamster, Mouse, Rabbit, and Rat Teratology Studies of Irradiation Sterilized Chicken Products. 836 pages.	PB84-187046	[1]70.00 [2]7.50
Genetic Studies: Dominant Lethal Study, Sex Linked Recessive Lethal, Ames Mutagenicity, and Heritable Translocation Test of Thermal Processed, Forozen, Electorn Irradiated, and Gamma Irradiated Chicken. 406 pages.	PB84-187053	[1]37.50 [2]7.50
Protein Efficiency Ratio Determinations of Irradiation Sterilized Chicken Products. 44 pages.	PB84-187061	[1]9.50 [2]4.50
Antivitamin Studies of Irradiation Sterilized Beef and Chicken, Assessment of Mutagenic Activity of Irradiated Beef Using the Ames Salmonella/Mammolian Mutagenicity Assay. 292 pages.	PB84-187079	[1]26.50 [2]4.50
Evaluation of the Health Aspects of Radiolytic Compounds Found in Irradiated Beef. 184 pages.	PB84-187087	[1]23.50 [2]4.50
Radiolysis Compounds in Bacon and Chicken. 466 pages.	PB84-187095	[1]37.50 [2]4.50

[1] PC = Photo copy.
[2] MF = Microfiche.

Done at Washington, D.C., on October 12, 1984.

T.B. Kinney, Jr.,

Administrator.

[FR Doc. 84-27489 Filed 10-16-84; 8:45 am]

BILLING CODE 3410-03-M

Forest Service

Jardine Joint Venture Project, Gold Mine and Milling Facilities; Gardiner Ranger District, Gallatin National Forest, Park County, MT; Intent To Prepare an Environmental Impact Statement

The Department of Agriculture, Forest Service, and the Montana Department of State Lands will prepare a joint Federal/State environmental impact statement for the proposed Jardine Joint Venture Project. The project includes an underground gold mine and associated surface milling facilities on the Gardiner Ranger District, Gallatin National Forest, proposed by Homestake Mining Company.

Federal, State, and local agencies, and other interested individuals or organizations who may be interested in or affected by the decision will be invited to participate in the scoping process.

There will be a public scoping meeting at the Gardiner High School cafeteria, Gardiner, Montana, on November 14, 1984 at 7:00 p.m.

Robert E. Breazeale, Forest Supervisor of the Gallatin National Forest is the responsible official.

The analysis is expected to take about 11 months. The draft environmental impact statement should be available for public review by May 15, 1984.

Written comments and suggestions concerning the analysis or questions about the proposed action and environmental impact statement should be directed to Sherm Sollid, Forest Geologist, Gallatin National Forest, P.O. Box 130, Bozeman, Montana 59771.

October 9, 1984.

Robert E. Breazeale,

Forest Supervisor.

[FR Doc. 84-27356 Filed 10-16-84; 8:45 am]

BILLING CODE 3410-11-M

CIVIL AERONAUTICS BOARD

Agency Information Collection Activities Under OMB Review

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Proposed Collection of Information under the Provisions of the Paperwork Reduction Act (44 U.S.C. 35).

SUMMARY: The Civil Aeronautics Board is requesting the Office of Management and Budget's approval of extension of the use of Form 297A, "Registration or Amendments under Part 297 of the Ecomomic Regulations of the Civil Aeronautics Board" pursuant to the reporting requirements contained in Section 297.20 of Part 297 of the Board's Economic Regulations.

DATE: October 10, 1984.

FOR FURTHER INFORMATION CONTACT: Bernie Stankus, Data Requirements Section, Information Management Division, Office of Comptroller, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673-6042.

SUPPLEMENTARY INFORMATION: Agency Clearance Officer from Whom a Copy of the Collection of Information and Supporting Documents is Available: Robin A. Caldwell (202) 673-5922.

How Often the Collection of Information Must Be filed: Occasionally.

Who is Asked or Required to Report: Foreign Indirect Cargo Carriers.

Estimate of Number of Annual Responses: 25.

Estimate of Number of Annual Hours Needed to Complete the Collection of Information: 50.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-27462 Filed 10-16-84; 8:45 am]

BILLING CODE 6325-01-M

Fitness Determination of Maui Airlines

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Commuter Air Carrier Fitness Determination—Order 84-10-20, Order to Show Cause.

SUMMARY: The Board is proposing to find that Maui Airlines is fits, willing, and able to provide commuter air carrier service under section 419(c)(2) of the Federal Aviation Act, as amended, and that the aircraft used in this service conform to applicable safety standards.

Responses: All interested persons wishing to respond to the Board's tentative fitness determination shall file their responses with the Special Authorities Division, Room 915, Civil Aeronautics Board, Washington, D.C. 20428, and serve them on all persons listed in Attachment A to the order. Responses shall be filed no later than October 29, 1984.

FOR FURTHER INFORMATION CONTACT: Nicholas S. Collins, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428 (202) 673-5216.

SUPPLEMENTARY INFORMATION: The complete text of Order 84-10-20 is available from the Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 84-10-20 to the address.

By the Civil Aeronautics Board: October 4, 1984.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-27490 Filed 10-16-84; 8:45 am]

BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

Hawaii Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Hawaii Advisory Committee to the Commission will convene at 12:00 noon and will end at 3:00 p.m., on November 10, 1984, at the Ala Moana Hotel, Board Room, 410 Atkinson Drive, Honolulu, Hawaii 96814.

The purpose of the meeting is to conduct program planning for Fiscal Year 1985 and plan follow-up activities to the Committee's report: *Policy v. Results: Affirmative Action in the Hawaii State Department of Education.*

Persons desiring additional information, or planning a presentation to the Committee, should contact the Western Regional Office at (213) 688–3437.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 11, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84–27360 Filed 10–16–84; 8:45 am]

BILLING CODE 6335–01–M

Hawaii Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Hawaii Advisory Committee to the Commission will convene at 10:00 a.m. and will end at 11:30 a.m., on November 10, 1984, at the Ala Moana Hotel, Board Room, 410 Atkinson Drive, Honolulu, Hawaii 96814. The purpose of the meeting is for the Subcommittee on Native Issues to review the status of implementation of the Hawaiian Homes Commission Act and to discuss recent U.S. Congressional Hearings on Native Hawaiian Home Lands.

Persons desiring additional information, or planning a presentation to the Committtee, should contact the Western Regional Office at (213) 688–3437.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 11, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84–27362 Filed 10–16–84; 8:45 am]

BILLING CODE 6335–01–M

Illinois Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission of Civil Rights, that a meeting of the Illinois Advisory Committee to the Commission will convene at 11:00 a.m. and will end at 2:00 p.m., on November 2, 1984, at the U.S. Commission on Civil Rights, Room 3290, 230 South Dearborn Street, Chicago, Illinois 60604. The purpose of the meeting is to develop program plans for Fiscal Year 1985.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Midwestern Regional Office at (312) 353–7479.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 11, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84–27363 Filed 10–16–84; 8:45 am]

BILLING CODE 6335–01–M

Michigan Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Michigan Advisory Committee to the Commission will convene at 6:00 p.m. and will end at 9:00 p.m., on November 8, 1984, at the Westin Hotel, Renoir Room, 400 East Jefferson, Renaissance Center, Detroit, Michigan 48243. The purpose of the meeting is to develop program plans for Fiscal Year 1985.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Midwestern Regional Office at (312) 353–7479.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 11, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84–27364 Filed 10–16–84; 8:45 am]

BILLING CODE 6335–01–M

Minnesota Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Minnesota Advisory Committee to the Commission will convene at 6:00 p.m. and will end at 9:00 p.m., on November 19, 1984, at the Holiday Inn, U.S. 52–W. Division Street and Street 15 at 37th Avenue, St. Cloud, Minnesota 56301. The purpose of the meeting is to discuss the status of current projects and program plans for Fiscal Year 1985.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Midwestern Regional Office at (312) 353–7479.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 11, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84–27361 Filed 10–16–84; 8:45 am]

BILLING CODE 6335–01–M

Nevada Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Nevada Advisory Committee to the Commission will convene at 10:00 a.m. and will end at 1:00 p.m., on November 3, 1984, at the Caesar's Palace, 3570 Las Vegas Boulevard South, Las Vegas, Nevada 89109. The purpose of the meeting is to discuss followup to the Community forum sessions and future program alternatives.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Midwestern Regional Office at (213) 688–3437.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 11, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84–27359 Filed 10–16–84; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 275]

Resolution and Order Approving the Application of the City of Valdez, AK, for a Foreign-Trade Zone in Valdez

Proceedings of the Foreign-Trade Zones Board, Washington, D.C.

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board has

adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the City of Valdez, Alaska, filed with the Foreign-Trade Zones Board (the Board) on April 17, 1984, requesting a grant of authority for establishing, operating, and maintaining a general-purpose foreign-trade zone in Valdez, Alaska, within the Valdez Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application, except for proposed Site 2.

As the proposal involves open space on which buidings may be constructed by parties other than the grantee, this approval includes authority to the grantee to permit the erection of such buildings, pursuant to Section 400.815 of the Board's regulations, as are necessary to carry out the zone proposal, providing that prior to its granting such permission it shall have the concurrences of the local District Director of Customs, the U.S. Army District Engineer, when appropriate, and the Board's Executive Secretary. Further, the grantee shall notify the Board's Executive Secretary for approval prior to the commencement of any manufacturing operation within the zone. The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant To Establish, Operate, and Maintain a Foreign-Trade Zone in Valdez, AK

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the City of Valdez, Alaska (the Grantee) has made application (filed April 17, 1984, Docket No. 15–84, 49 FR 17788) in due and proper form to the Board, requesting the establishment, operation, and maintenance of a foreign-trade zone in Valdez, Alaska, within the Valdez Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and,

Whereas, the Board has found that the requirements of the Act and the Board's regulations (15 CFR Part 400) are satisfied;

Now, therefore, the Board hereby grants to the Grantee the privilege of establishing, operating, and maintaining a foreign-trade zone, designated on the records of the Board as Zone No. 108 at the location mentioned above and more particularly described on the maps and drawings accompanying the application in Exhibits IX and X, subject to the provisions, conditions, and restrictions of the Act and the regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Activation of the foreign-trade zone shall be commenced by the Grantee within a reasonable time from the date of issuance of the grant, and prior thereto the Grantee shall obtain all necessary permits from Federal, State, and municipal authorities.

The Grantee shall allow officers and employees of the United States free and unrestricted access to and throughout the foreign-trade zone site in the performance of their official duties.

The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operations within the zone.

The grant shall not be construed to relieve the Grantee from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said zone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the Army District Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In witness whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer or his delegate at Washington, D.C. this 4th day of October 1984 pursuant to Order of the Board.

Foreign-Trade Zones Board.

Malcolm Baldrige,

Chairman and Executive Officer.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 84–27307 Filed 10–16–84, 8:45 am]

BILLING CODE 3510–DS–M

[Order No. 276]

Resolution and Order Approving the Application of the City of San Jose, CA, for a Special-Purpose Subzone in Fremont, CA, Within the San Francisco-Oakland Customs Port of Entry

Proceedings of the Foreign-Trade Zones Board, Washington, D.C.

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order;

The Board, having considered the matter, hereby orders:

After consideration of the application of the City of San Jose, California, grantee of Foreign-Trade Zone 18, filed with the Foreign-Trade Zones Board (the Board) on April 30, 1984, requesting subzone status for the automobile manufacturing facility of New United Motor Manufacturing, Inc., a joint venture between General Motors Corporation and Toyota Motor Corporation, in Fremont, California, within the San Francisco-Oakland Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant of Authority To Establish a Foreign-Trade Subzone in Fremont, CA, Within the San Francisco-Oakland Customs Port of Entry

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes", as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Board's regulations (15 CFR 400.304) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and where a significant public benefit will result;

Whereas, the City of San Jose, California, grantee of Foreign-Trade

Zone No. 18, has made application (filed April 30, 1984, Docket No. 20–84, 49 FR 18880) in due and proper form to the Board for authority to establish a special-purpose subzone at the automobile manufacturing plant of New United Motor Manufacturing, Inc. (NUMMI), located in Fremont, California, within the San Francisco-Oakland Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and,

Whereas, the Board has found that the proposal is in the public interest and that the requirements of the Act and the Board's regulations are satisfied;

Now, therefore, in accordance with the application filed April 30, 1984, the Board hereby authorizes the establishment of a subzone at NUMMI's auto plant in Fremont, designated on the records of the Board as Foreign-Trade Subzone No. 18B at the location mentioned above and more particularly described on the maps and drawings accompanying the application, said grant of authority being subject to the provisions and restrictions of the Act and the Regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Activation of the subzone shall be commenced within a reasonable time from the date of issuance of the grant, and prior thereto, any necessary permits shall be obtained from Federal, State, and municipal authorities.

Officers and employees of the United States shall have free and unrestricted access to and throughout the foreign-trade subzone in the performance of their official duties.

The grant shall not be construed to relieve responsible parties from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said subzone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and District Army Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In witness whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer or his delegate at Washington, D.C. this 5th day of October 1984 pursuant to Order of the Board.

Foreign-Trade Zones Board.

William T. Archey,

Acting Assistant Secretary of Commerce for Trade Administration, Chairman, Committee of Alternates.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 84–27366 Filed 10–16–84; 8:45 am]

BILLING CODE 3510–05–M

International Trade Administration

[A–580–405]

Grand and Upright Pianos from the Republic of Korea; Initiation of Antidumping Duty Investigation

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping duty investigation to determine whether grand and upright pianos from Korea are being, or are likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether imports of this product are causing material injury, or threaten material injury, to a United States industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before November 5, 1984, and we will make ours on or before February 28, 1985.

EFFECTIVE DATE: October 17, 1984.

FOR FURTHER INFORMATION CONTACT: Ken Shimabukuro, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377–5332.

SUPPLEMENTARY INFORMATION:

The Petition

On September 21, 1984, we received a petition in proper form filed on behalf of Aeolian Pianos, Inc., Baldwin Piano & Organ Co., Kohler & Campbell, Inc., and Sohmer & Co., Inc. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that the imports of the subject merchandise from the Republic of Korea are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports are causing material injury, or threaten material injury, to a United States industry.

The petitioners based the United States prices on actual sales and offers for sale of Korean grand and upright pianos, to U.S. purchasers, less Korean inland freight, ocean freight, brokerage fees and U.S. inland freight. The petitioners based foreign market value on retail prices in the home market, less an average retailer markup of 15 percent.

By comparing the prices calculated by the foregoing methods the petitioners alleged average dumping margins of 21.7 percent for the grand pianos and 38.6 percent for the upright pianos.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping duty investigation and whether it contains information reasonably available to the petitioners supporting the allegations.

We examined the petition on grand and upright pianos and have found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether grand and upright pianos from the Republic of Korea are being, or are likely to be, sold in the United States at less than fair value. If our investigation proceeds normally, we will make our preliminary determination by February 28, 1985.

Scope of Investigation

The products under investigation are grand and upright pianos as currently classified in the *Tariff Schedules of the United States, Annotated* (TSUSA), under items 725.0320 and 725.0100, respectively.

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by November 5, 1984, whether there is a reasonable indication that imports of grand and upright pianos from the Republic of Korea are causing material injury, or threaten material injury, to a United States industry. If its determination is negative the investigation will terminate; otherwise, it will proceed according to the statutory procedures.

Dated: October 11, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-27366 Filed 10-16-84; 8:45 am]
BILLING CODE 3510-DS-M

[C-469-408]

Preliminary Affirmative Countervailing Duty Determination; Certain Welded Carbon Steel Pipes and Tubes From Spain

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that certain benefits which constitute subsidies within the meaning of the Tariff Act of 1930, as amended ("the Act"), are being provided to manufacturers, produces, or exporters in Spain of certain welded carbon steel pipes and tubes ("welded pipes and tubes"). We estimate the net subsidy to be 1.14 percent *ad valorem*. In addition, we preliminarily determine that critical circumstances exist with respect to imports of welded pipes and tubes from Spain. We are directing the U.S. Customs Service to suspend liquidation of all unliquidated entries of welded pipes and tubes from Spain which are entered, or withdrawn from warehouse for consumption on or after the date which is 90 days before the date of publication of this notice in the **Federal Register**. The Customs Service shall require a cash deposit or bond on these products in the amounts equal to the estimated net subsidies. If this investigation proceeds normally, we will make our final determination by December 24, 1984.

EFFECTIVE DATE: October 17, 1984.

FOR FURTHER INFORMATION CONTACT: John M. Davies, Loc Nguyen, or Stuart Keitz, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-1784, (202) 377-0167, or (202) 377-1769.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based upon our investigation, we preliminarily determine there is reason to believe or suspect that certain benefits which constitute subsidies within the meaning of section 701 of the Act are being provided to manufacturers, producers, or exporters in Spain of welded pipes and tubes. The following programs are preliminarily determined to confer subsidies:

- Medium- and Long-term Loans and Loan Guarantees, and
- Certain Types of Short-term Loans Provided under the Privileged Circuit Exporter Credits Program.

We estimate the net subsidy to be 1.14 percent *ad valorem*.

Case History

On July 17, 1984, we received a petition from the Committee on Pipe and Tube Imports, a trade association composed of domestic pipe and tube producers, filed on behalf of the welded pipes and tubes industry. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), petitioner alleged that manufacturers, producers, or exporters in Spain of welded pipes and tubes receive, directly or indirectly, benefits which constitute subsidies within the meaning of section 701 of the Act, and that these imports are materially injuring, or threatening material injury to, a U.S. industry. Petitioner also alleged that "critical circumstances" exist under section 703(e) of the Act.

We found that the petition contained sufficient grounds upon which to initiate a countervailing duty investigation, and on August 6, 1984, we initiated an investigation (49 FR 32248). We stated that we expected to issue a preliminary determination by October 10, 1984.

Since Spain is a "country under the Agreement" within the meaning of section 701(b) of the Act, an injury determination is required for this investigation. On August 31, 1984, the U.S. International Trade Commission ("ITC") determined that there is a reasonable indication that these imports are materially injuring, or threatening material injury to, a U.S. industry (49 FR 35871).

We presented a questionnaire concerning the allegations to the government of Spain at its embassy in Washington, D.C., on August 13, 1984. We received responses from the government of Spain on September 25, 1984, from CONDESA and PERFRISA on September 26, 1984, and from JMA on October 9, 1984.

Scope of Investigation

The products covered by this investigation are "certain welded carbon steel pipes and tubes," specifically, certain small-diameter circular welded carbon steel pipes and tubes and light-walled rectangular tubing.

Small-diameter circular welded carbon steel pipes and tubes, with an outside diameter of 0.375 inch or more but not over 4.5 inches and with a wall thickness of not less than 0.065 inch, are currently classified in the *Tariff Schedules of the United States, Annotated* (TSUSA) under items 610.3231, 610.3234, 610.3241, 610.3242, and 610.3243. These products, commonly referred to in the industry as standard pipe or structural tubing, are produced to various ASTM specifications, most notably A-120 and A-135.

Light-walled rectangular (including square) welded carbon steel pipes and tubes having a wall thickness of less than 0.156 inch are currently classified under TUSSA item 610.4928. These products, commonly referred to in the industry as mechanical or structural tubing, are generally produced to ASTM specifications A-500 or A-513.

CONDESA, JMA, and PERFRISA are the only known producers and exporters in Spain of the subject products which were exported to the United States during the calendar year 1983, the period for which we are measuring subsidization. Altos Hornos de Vizcaya, S.A. and its subsidiary Laminaciones de Lesaca, S.A. produced but did not export welded pipes and tubes to the U.S. during 1983. CONDESA, JMA, and PERFRISA accounted for about 95 percent of Spanish welded pipes and tubes imports during 1983.

Analysis of Programs

CONDESA, JMA, and PERFRISA answered our questionnaire. For purposes of this preliminary determination, we have used the information provided by these companies.

Certain subsidies discussed in this notice were conveyed through a series of laws and decrees issued by the government of Spain. Those laws and decrees include the following:

Decree 669/1974 of March 14, 1974:

This decree established the National Steel Industry Program, 1974-1982. To achieve the specific goals established by this program, the government authorized certain benefits for integrated and non-integrated steel firms which included preferential loans and loan terms, accelerated amortization of non-liquid

investments, substantial reduction of certain taxes, and expropriation of land for new plant construction.

Law 60/1978 of December 23, 1978:

This law authorized government aid in the form of preferential loans and loan terms and capital infusions for the three integrated steel producers in Spain, including AHV and ENSIDESA.

Order of May 22, 1980:

This order authorized the Banco de Credito Industrial ("BCI") to extend additional government credits to non-integrated steel companies who had made investments under Decree 669/1974. BCI is a government credit institution which issues loans to companies in the Spanish steel industry.

Royal Decree 878/1981 of May 8, 1981:

This decree, also known as the Integral Iron and Steel Reconversion Plan, provided aid to the integrated steel producers in the form of preferential interest rates and terms on outstanding loans, new loans with preferential interest rates and terms, loan guarantees, and capital infusions. Certain of the subsidy programs are administered by the Institution Nacional de Industria ("INI"), a public holding company created in 1941 as an autonomous government agency to promote and stimulate the industrial development of Spain. INI's responsibilities cover a variety of sectors ranging from basic services to basic industries such as iron and steel.

General principles applied to the facts in this investigation are described in the "subsidies Appendix" contained in the **Federal Register** notice of our Final Affirmative Countervailing Duty Determination and Countervailing Duty Order on Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina (49 FR 18006).

We have found that there are no significant differences in the size and structure of the companies under investigation and in the usage of programs determined to confer subsidies. Therefore, in accordance with 19 CFR 355.28(a)(3), we have calculated a country-wide *ad valorem* subsidy rate, not company-specific *ad valorem* subsidy rates, for purposes of this preliminary determination.

Consistent with our practice in preliminary determinations, where a response to an allegation denies the existence of a program, receipt of benefits under a program, or eligibility of a company or industry under a program, and the Department has no persuasive evidence showing that the response is incorrect, we accept the response for purposes of the preliminary determination. All such responses, of course, are subject to rigorous verification. If the response cannot be supported at verification and the program is otherwise countervailable, the program will be considered a subsidy in the final determination.

Based upon our analysis of the petition, the material provided by the government of Spain in response to our questionnaire, and other available information, we determine the following:

I. Programs Preliminarily Determined to Confer Subsidies

We preliminarily determine that subsidies are being provided to manufacturers, producers, or exporters in Spain of welded pipes and tubes under the following programs:

A. Medium- and Long-term Loans and Loan Guarantees

Petitioner alleged benefits which constitute subsidies in the form of preferential loans, loan terms and loan guarantees. We requested information from each company under investigation on all medium- and long-term loans outstanding during the period of investigation. CONDESA, JMA, and PERFRISA reported medium- and long-term loans outstanding during the period for which we are measuring subsidization. Based on the company responses, we preliminarily determine that JMA and PERFRISA received loans from BCI at rates or on terms inconsistent with commercial considerations. None of the companies reported receiving loans with INI or other types of government guarantees.

Generally, to calculate a subsidy on these loans, we used the loan methodology detailed in the Subsidies Appendix. For fixed rate loans, we used long-term benchmark interest rates developed in previous countervailing duty investigations on Certain Steel Wire Rod from Spain (49 FR 51428) and on Carbon Steel Wire Rod from Spain (49 FR 19551). As best information on the weighted average cost of capital, we used the long-term benchmark interest rates used for fixed rate loans.

The loans reported by JMA and PERFRISA contained provisions for deferred principal repayment. We verified in our investigation of Certain Steel Products from Spain that loans made at preferential interest rates to these companies and loans made at commercial rates within and outside of Spain contained similar deferral provisions. Therefore, for purposes of this preliminary determination, we are not treating deferral of principal repayments as a separate countervailable benefit.

We allocated the countervailable benefit from each loan over the total sales values of steel production of the company. We preliminarily determine that the *ad valorem* subsidy for medium- and long-term loans is 0.05 percent for JMA and 0.06 percent for PERFRISA.

B. Certain Types of Short-term Loans Provided Under the Privileged Circuit Exporter Credits Program

Petitioner alleged benefits which constitute subsidies in the form of short-term preferential loans. We requested information on all short-term loans outstanding during the period for which we are measuring subsidization. CONDESA, JMA, and PERFRISA reported that they had obtained short-term financing under the Privileged Circuit Exporter Credits Program during the period of investigation.

The government of Spain requires all Spanish commercial banks to maintain a specific percentage of their lendable funds in privileged circuit accounts. These funds are made available to exporters at preferential interest rates through a variety of credit programs. While there is no direct outlay of government funds, the benefits conferred on the companies are the result of a government mandated program to promote exports. Of the four privileged circuit programs available to companies we preliminarily determine that welded pipes and tubes producers benefited from two programs, the working-capital loans program and the pre-financing of exports program.

For this preliminary determination, we compared nominal rates with nominal rates in our calculation of subsidies. For the final determination, we will try to get more information concerning these loans in order to make comparisons of effective to effective rates, where appropriate.

1. Working-Capital Loans

All three Spanish producers reported that they received working-capital loans. Under the Privileged Circuit Exporter Credits Program, firms may obtain working-capital loans for one year, the total of which is not to exceed a specified percentage of their previous year's exports. In 1983, the privileged circuit working-capital loan interest rate ceiling mandated by the Government was 10 percent, including fees and commissions.

To calculate the subsidy we compared the interest rate charged on working-capital loans with the national average commercial interest rate on loans. In our

September 11, 1984, Final Affirmative Countervailing Duty Determination on Potassium Chloride from Spain (49 FR 36424), we chose the weighted-average commercial lending rate for loans of one to three years as our benchmark for working-capital loans. Accordingly, we used the 1983 weighted-average commercial lending rate of 17.64 percent for loans of one to three years as our 1983 benchmark for short-term working-capital loans.

To determine the benefit, we compared the interest rate charged on working-capital loans with the national average commercial interest rate of 17.64 percent. This interest differential was multiplied by the working-capital loan amounts and by the term of the loans to arrive at the 1983 benefit amount. The total 1983 benefit amount for each company was allocated over the sales value of total company exports in 1983. We preliminarily determine that the *ad valorem* subsidy for working-capital loans is 0.42 percent for CONDESA, 1.93 percent for JMA, and 0.45 percent for PERFRISA.

2. Prefinancing of Exports

CONDESA and PERFRISA reported that they also received preferential short-term Privileged Circuit Exporter Credit loans for prefinancing of exports. These loans varied from two to nine months in duration and were used to finance exports of welded pipes and tubes to the United States.

In our September 11, 1984, Final Affirmative Countervailing Duty Determination on Potassium Chloride from Spain (49 FR 36424), we chose the weighted-average commercial lending rate for loans of three months as our benchmark for export prefinancing loans. Accordingly, we used the 1983 weighted-average commercial lending rate of 17.12 percent for loans of three months as our 1983 benchmark for short-term loans for prefinancing of exports.

To determine the benefit, we compared the interest rate charged on prefinancing of exports with the national average commercial interest rate of 17.12 percent. This interest differential was multiplied by the working capital loan amounts and by the term of the loans to arrive at the 1983 benefit amount. The total 1983 benefit amount for each company was allocated over the sales value of total company exports in 1983. We preliminarily determine that the *ad valorem* subsidy for short-term prefinancing of exports is 0.56 percent for CONDESA and 0.28 percent for PERFRISA.

II. Programs Preliminarily Determined Not To Confer Subsidies

We preliminarily determine that subsidies are not being provided to manufactuers, producers, or exporters in Spain of welded pipes and tubes under the following program:

A. Rebates of Indirect Taxes on Exports Under the Desgravacion Fiscal a la Exportation ("DFE")

Petitioner alleged that countervailable benefits are conferred on Spanish producers of welded pipes and tubes under the DFE program by the excessive rebate of indirect taxes on the export of welded pipes and tubes.

Spain employs a cascading tax system under which a turnover tax is levied on each intermediate sale of a product through its various stages of production, up to, but not including, the final sale at the retail level. The DFE is the program designed to rebate to exporters these accumulated turnover taxes as well as final stage taxes on exportation.

To calculate the amount of subsidy potentially conferred by the DFE it is necessary to determine whether the remission of indirect taxes is excessive. According to the government response, the indirect taxes borne by sheet (the only input identified as physically incorpoated in the final product) and the corresponding share of sheet to the value of welded pipes and tubes, resulted in an allowable rebate that exceeded the DFE payment of 14.5 percent (prior to July 11, 1984) and 12.3 percent (on or after July 11, 1984).

Information submitted by respondents indicates that CONDESA had purchased sheets and plates in coil from unrelated suppliers and therefore had paid turnover taxes on these physically incorporated inputs. PERFRISA had purchased sheets and plates in coil from a related supplier, but, according to its response, these raw materials were purchased at arm's-length prices and turnover taxes were paid on these purchases.

Accordingly, we find that the DFE does not constitute an excessive remission of indirect taxes for CONDESA and PERFRISA and hence confers no subsidy.

III. Programs Preliminarily Determined Not To Be Used

We have preliminarily determined that manufacturers, producers, or exporters in Spain of welded pipes and tubes do not use the following programs that were identified in the notice of initiation of Countervailing Duty Investigation of Certain Welded Carbon Steel Pipes and Tubes from Spain.

A. Certain Benefits Under Decree 669/1974

We preliminarily determined in section 1–A above that medium- and long-term loans and loan terms provided under Decree 669/1974 are countervailable. In addition, we preliminarily determine that the following types of benefits provided under Decree 669/1974 were not used by CONDESA, JMA, or PERFRISA during the period of investigation:

(1) Accelerated Depreciation of Non-liquid Investments,

(2) Reduction of Certain Taxes, and

(3) Expropriation of Land for New Construction.

B. Certain Benefits Under the Privileged Circuit Exporter Credits Program

We discussed the Privileged Circuit Exporter Credits Program in section 1–B above. We preliminarily determined that two programs, working-capital loans and prefinancing of exports provide subsidies to welded pipes and tubes manufacturers, producers, or exporters. In addition, we preliminarily determine that the following programs identified in our notice of initiation were not used by CONDESA, JMA, or PERFRISA during the period of investigation:

(1) Commercial Services Loans, and

(2) Short-term Export Credit.

C. Warehouse Construction Loans

Exporters desiring to construct warehouse facilities adjacent to loading zones may borrow 70–75 percent of the total investment. We preliminarily determine CONDESA, JMA, and PERFRISA have received no loans under this program.

D. National and Regional Investment Incentives Programs

The government of Spain and regional and municipal authorities provide various investment incentive programs. We preliminarily determine that CONDESA, JMA, and PERFRISH have not participated in these regional programs.

IV. Programs for Which Additional Information Is Needed

Petitioner alleged that the producers of welded pipes and tubes purchase their steel inputs from Spanish producers which may themselves be subsidized. At this time, we do not have sufficient information from petitioner or respondents to determine whether countervailable benefits are being provided or to quantify the *ad valorem* amount of the possible subsidies regarding steel inuts. CONDESA responded that it purchases steel inputs

from unrelated companies. PERFRISA responded that it purchases an unspecified amount of its raw material inputs from a related supplier.

In addition, we do not have sufficient information at this time to determine whether countervailable benefits are being provided to or to quantify the *ad valorem* amount of possible subsidies received by JMA with respect to DFE or steel inputs. Information in Department files does indicate that JMA purchases and pays turnover taxes on scrap metal which is used to make sheet for pipe and tube production.

Affirmative Determination of Critical Circumstances

Petitioner alleged that "critical circumstances" exist with respect to imports of certain welded carbon steel pipes and tubes from Spain. Under section 703(e)(1) of the Act, critical circumstances exist when there is a reasonable basis to believe or suspect that: "(A) the alleged subsidy is inconsistent with the Agreement, and (B) there have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period."

A. Inconsistency with the Agreement

One of the subsidies alleged in this case is short-term working capital loans under the Privileged Circuit Exporter Credits Program. As discussed above, we have preliminarily determined that each of these three Spanish producers has received countervailable subsidies from such loans.

In 1982, Spain acceded to the Subsidies Code with a time-limited reservation concerning its current export subsidy programs. On November 15, 1982, in our Final Affirmative Countervailing Duty Determination on Certain Steel Products from Spain, we concluded that "Spain's reservation does not preclude us from finding, for purposes of a critical circumstances determination, that Privileged Circuit Exporter Credits are inconsistent with the Subsidies Code." We continue to believe this; therefore this criterion for critical circumstances is satisified.

B. Massive Imports

In determining whether imports of welded pipes and tubes from Spain have been massive over a relatively short period of time, we have considered the following factors: whether recent imports have increased significantly; whether recent import penetration ratios have increased significantly; whether the pattern of recent imports may be explained by seasonal factors; and whether recent imports are significantly above average imports calculated over the last three years. Based on these factors, we find that imports of welded pipes and tubes from Spain have been massive over a relatively short period of time.

For the reasons discussed above, we preliminarily determine that critical circumstances exist within the meaning of section 705(a)(2) of the Act. Therefore, as discussed in the "Suspension of Liquidation" section below, the suspension of liquidation of entries of welded pipes and tubes from Spain will commence 90 days prior to publication of this notice in the **Federal Register.**

Verification

In accordance with section 776(a) of the Act, we will verify all data used in making our final determination.

Suspension of Liquidation

In accordance with section 703 of the Act, we are directing the U.S. Customs Service to suspend liquidation of all unliquidated entries of welded pipes and tubes from Spain which are entered, or withdrawn from warehouse, for consumption, or or after the date of publication of this notice in the **Federal Register.** The Customs Service shall require a cash deposit or the posting of a bond for each such entry of this merchandise in the amount of 1.14 percent *ad valorem.* This suspension will remain in effect until further notice.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivilieged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. The ITC will make its determination of whether these imports materially injure, or threaten to materially injure, a U.S. industry 45 days after the Department makes its final affirmative determination.

Public Comment

In accordance with § 355.35 of the Commerce Department Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination on November 8, 1984, at 10:00 a.m. at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room B–099, at the above address within 10 days of this notice's publication.

Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by September 30, 1984. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 355.34, within 30 days of this notice's publication, at the above address and in at least 10 copies.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

October 10, 1984.

[FR Doc. 84–27365 Filed 10–16–84; 8:45 am]

BILLING CODE 3510–DS–M

[A–469–402]

Certain Carbon Steel Products From Spain; Preliminary Determinations Regarding the Existence of Critical Circumstances

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We have preliminarily determined that "critical circumstances" exist in the antidumping investigations of hot-rolled carbon steel plate and carbon steel structural shapes from Spain. Therefore, we are amending the suspension of liquidation ordered in the Preliminary Determinations of Sales at Less Than Fair Value published on July 25, 1984 to apply to all unliquidated entries of the subject merchandise which were entered, or withdrawn from warehouse, for consumption on or after April 27, 1984, which is 90 days before the date on which the suspension of liquidation was first ordered. We have also notified the U.S. International Trade Commission (ITC) of these determinations.

EFFECTIVE DATE: October 17, 1984.

FOR FURTHER INFORMATION CONTACT: Steven Lim or Ken Stanhagen Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW.,

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Washington, D.C. 20230; telephone: (202) 377–1777.

SUPPLEMENTARY INFORMATION: We preliminarily determine that "critical circumstances" exist in the antidumping investigations of hot-rolled carbon steel plate and carbon steeel structural shapes from Spain, as provided in section 733(e) of the Tariff Act of 1930, as amended (19 U.S.C. 1673b(e)) (the Act). We also preliminarily determine that "critical circumstances" do not exist in the antidumping investigations of hot-rolled carbon steel sheet, cold-rolled carbon steel flat-rolled products, and galvanized carbon steel sheet, as provided in section 733(e) of the Act.

Case History

On February 10, 1984, we received a petition from the United States Steel Corporation, filed on behalf of the U.S. industries producing certain carbon steel structural shapes, carbon steel plate, hot-rolled carbon steel sheet, cold-rolled carbon steel flat-rolled products, and galvanized carbon steel sheet. In accordance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of certain carbon steel structural shapes, carbon steel plate, hot-rolled carbon steel sheet, cold-rolled carbon steel flat-rolled products and galvanized carbon steel sheet from Spain are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act and that these imports are materially injuring, or threatening to materially injure, U.S. industries.

After reviewing the petition, we determined that it contained sufficient grounds to initiate antidumping investigations. We initiated the investigations on March 8, 1984, and notified the ITC of our action (47 FR 8655–8, 8845–8). On March 26, 1984, we were informed by the ITC that there is a reasonable indication that imports of carbon steel structural shapes, hot-rolled carbon steel flat-rolled products, cold-rolled carbon steel flat-rolled products and galvanized carbon steel sheet are materially injuring U.S. industries.

On March 13, 1984, questionnaires were presented to counsel for Empresa Nacional Siderurgica, S.A. (Ensidesa), Altos Hornos de Vizcaya, S.A. (AHV), Altos Hornos Del Mediterraneo, S.A. (AHM), Jose Maria Aristrain, S.A. and Jose Maria Aristrain-Madrid, S.A. (Aristrain), and Hierros Madrid, S.A. Hierros Madrid and AHM did not respond to our questionnaire since they had no sales of the subject merchandise to the United States during the period of investigation.

On July 19, 1984, the preliminary determinations in these investigations were made. On September 11, 1984, counsel for the petitioner amended its February 10, 1984, petition to allege that "critical circumstances" exist in these investigations of carbon steel structural shapes, carbon steel plate, hot-rolled carbon steel sheet, cold-rolled carbon steel flat-rolled products, and galvanized carbon steel sheet, pursuant to section 733(e) of the Act. Based on a request from counsel for respondents, we postponed the date of our final determinations in these cases to not later than December 7, 1984.

Scope of Investigations

The products covered by these investigations are:

- carbon steel structural shapes,
- carbon steel plate,
- hot-rolled carbon steel sheet,
- cold-rolled carbon steel flat-rolled products, and
- galvanized carbon steel sheet.

The products are fully described in Appendix I which follows this notice. These investigations cover the period from September 1, 1983, through February 29, 1984.

Preliminary Affirmative Determinations of Critical Circumstances

Petitioner alleged that imports of carbon steel structural shapes, carbon steel plate, cold-rolled carbon steel flat-rolled products, hot-rolled carbon steel sheet, and galvanized carbon steel sheet from Spain present "critical circumstances." Under Section 733(e)(1) of the Act, critical circumstances are preliminarily determined to exist when the Department has a reasonable basis to believe or suspect that: (1) There have been massive imports of the merchandise under investigation over a relatively short period; and (2)(a) there is a history of dumping in the United States or elsewhere of the merchandise under investigation, or (b) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise under investigation at less than its fair value.

In preliminarily determining whether there is a reasonable basis to believe or suspect that there have been massive imports over a relatively short period, we considered the following factors: recent import penetration levels; whether imports have surged recently; whether recent imports are significantly above the average calculated over the last three years (1981–1983); and whether the patterns of imports over that three-year period may be explained by seasonal swings. Based upon our analysis of the information, we preliminarily determine that there have been massive imports of carbon steel plate, cold-rolled products and structural shapes over a relatively short period.

In analyzing import trends, we compared the monthly average of imports from Spain during the period February through May 1984, the four months following the filing of the petition, with the monthly average of imports during October 1983 through January 1984, the four months preceding the filing of the petition. In comparing average monthly imports for these periods, we found significant increases with respect to plate, cold-rolled products, and structural shapes from Spain and decreases with respect to hot-rolled sheet and galvanized sheet. There were no apparent seasonal factors.

We then considered trends in the import penetration levels for cold-rolled products, plate, and structural shapes from Spain. The import penetration of plate from Spain increased by 53 percent, that of cold-rolled products increased 77 percent, and that of structurals increased 12 percent. The import peneration levels for hot-rolled sheet and galvanized sheet decreased.

Based on our comparison of the data for the periods set forth above, we find that there have been massive imports of structural shapes, plate and cold-rolled products over a relatively short period of time. We find that there have not been massive imports of hot-rolled sheet and galvanized sheet over a short period of time.

We therefore proceeded to consider whether there is a history of dumping of plate, cold-rolled products, and structural shapes form Spain in the United States or elsewhere. We reviewed past antidumping findings of the Department of the Treasury as well as past Department of Commerce antidumping duty orders. We found no order on any of these products from Spain. We also reviewed the antidumping actions of other countries made available to us through the Antidumping Code Committee established by the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade. On December 7, 1983, in the finding of the Antidumping Tribunal in Inquiry No. ADT 10–83, Canada imposed antidumping duties on plate from Spain. This constitutes a history of dumping.

We also considered whether the person by whom, or for whose account,

these products were imported knew or should have known that the exporters were selling these products at less than fair value. It is the Department's position that where the margins calculated in an investigation are sufficiently large, there is a reasonable basis to believe or suspect that the importer know or should have known that a product was being sold at less than its fair value. In our preliminary determinations in these investigations we found weighted average margins of 19.75 percent with respect to cold-rolled products from Ensidesa, 17.76 percent with respect to cold-rolled products from AHV, and 29.46 percent with respect to structural shapes from Ensidesa. We found no weighted average margins with respect to structural shapes from Aristrain. Based on the margins found in the preliminary determinations in these investigations, we determine that there is a reasonable basis to believe or suspect that the importers knew or should have known that structural shapes, with the exception of structural shapes produced by Aristrain, were being sold in the United States at less than fair value.

For the reasons described above, we preliminarily determine that "critical circumstances" do not exist with respect to hot-rolled carbon steel sheet, galvanized carbon steel sheet, carbon steel structural shapes produced by Aristrain and cold-rolled carbon steel flat-rolled products. We preliminarily determine critical circumstances exist on structural shapes from all producers/exporters except Aristrain and on carbon steel plate.

In accordance with section 733(e)(2) of the Act, we are amending the suspension of liquidation ordered in the Preliminary Determinations of Sales at Less than Fair Value published July 25, 1984 (49 FR 29987), to apply to all unliquidated entries of structural shapes from all producers/exporters except Aristrain and on carbon steel plate which were entered, or withdrawn from warehouse, for consumption, on or after April 27, 1984 which is 90 days before the date on which the suspension of liquidation was first ordered.

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determinations. In addition, we are making available to the ITC all non-privileged and non-confidential information relating to these investigations. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

Dated: October 11, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-27447 Filed 10-16-84; 8:45 am]
BILLING CODE 3510-DS-M

[A-602-401]

Galvanized Carbon Steel Sheet From Australia; Preliminary Negative Determination Regarding the Existence of Critical Circumstances

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We have preliminarily determined that "critical circumstances" do not exist in the antidumping investigation of galvanized carbon steel sheet from Australia. We have notified the U.S. International Trade Commission (ITC) of this determination.

EFFECTIVE DATE: October 17, 1984.

FOR FURTHER INFORMATION CONTACT: Mary S. Clapp, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-2438.

SUPPLEMENTARY INFORMATION: We preliminarily determine that "critical circumstances" do not exist in the antidumping investigation of galvanized carbon steel sheet from Australia, as provided in section 7633(e) of the Tariff Act of 1930, as amended (19 U.S.C. 1673(b)(e)) (the Act).

Case History

On February 10, 1984, we received a petition from the United States Steel Corporation, filed on behalf of the U.S. industry producing galvanized carbon steel sheet. In accordance with the filing requirements of section 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of galvanized carbon steel sheet from Australia are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act and that these imports are materially injuring, a United States industry. After reviewing the petition, we determined that it contained sufficient grounds to initiate an antidumping investigation. We initiated the investigation on March 1, 1984 (49 FR 13442), and notified the ITC of our action. On April 4, 1984, the ITC found that there is a reasonable indication that imports of galvanized carbon sheet are materially injuring a U.S. industry.

On July 19, 1984, the preliminary determination in this investigation was made (49 FR 29993). On September 11, 1984, counsel for the petitioner amended its February 10, 1984, petition to allege that "critical circumstances" exist in this investigation of galvanized carbon steel sheet, pursuant to section 733(e) of the Act. Based on a request from counsel for the respondent, John Lysaght (Australia), Ltd., we postponed the date of our final determination in this case to not later than December 7, 1984.

Scope of Investigation

The merchandise covered by this investigation is galvanized carbon steel sheet. The term "galvanized carbon steel sheet" covers hot- or cold-rolled carbon steel sheet which has been coated or plated with zinc including any material which has been painted or otherwise covered after having been coated or plated with zinc, as currently provided for in items 608.0730, 608.1310, 608.1320 or 608.1330 of the *Tariff Schedules of the United States Annotated (TSUSA)*. Hot- or cold-rolled carbon steel sheet which has been coated or plated with metal other than zinc or with a zinc-aluminum or aluminum-zinc alloy is not included.

This investigation covers the period from September 1, 1983, through February 29, 1984.

Preliminary Negative Determination of Critical Circumstances

Counsel for petitioner alleged that imports of galvanized carbon steel sheet from Australia present "critical circumstances." Under Section 733(e)(1) of the Act, critical circumstances exist when the Department has a reasonable basis to believe or suspect that: (1) There have been massive imports of the merchandise under investigation over a relatively short period; and (2)(a) there is a history of dumping in the United States or elsewhere of the merchandise under investigation, or (b) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise under investigation at less than its fair value.

In preliminarily determining whether there is a reasonable basis to believe or suspect that there have been massive imports over a relatively short period,

we considered the following factors: Recent import penetration levels; whether imports have surged recently; whether recent imports are significantly above the average calculated over the last three years (1981–1983); and whether the patterns of imports over that three-year period may be explained by seasonal swings. Based upon our analysis of the information, we preliminarily determine that there have not been massive imports of galvanized carbon steel sheet over a relatively short period.

In analyzing import trends, we compared the monthly average of imports from Australia during the period February through May 1984, the four months following the filing of the petition, with the monthly average of imports during October 1983 through January 1984, the four months preceding the filing of the petition. In comparing average monthly imports for these periods, we found that following a significant increase in the earlier period, imports decreased sharply in the latter period with respect to galvanized carbon steel sheet from Australia. There were not apparent seasonal factors in effect. We then considered trends in the import penetration levels for galvanized carbon steel sheet from Australia. The import penetration of this merchandise did not exhibit a recent increase.

Based on our comparison of the data for the period set forth above, we find that there have not been massive imports of galvanized carbon steel sheet over a relatively short period of time. Therefore, we preliminary determine that critical circumstances do not exist.

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-confidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

Dated: October 11, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-27448 Filed 10-16-84; 8:45 am]

BILLING CODE 3510-DS-M

[A-405-401]

Carbon Steel Plate From Finland; Preliminary Negative Determination Regarding the Existance of Critical Circumstances

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We have preliminarily determined that "critical circumstances" do not exist in the antidumping investigation of carbon steel plate from Finland. We have notified the U.S. International Trade Commission (ITC) of this determination.

EFFECTIVE DATE: October 17, 1984.

FOR FURTHER INFORMATION CONTACT: Mary Jenkins, Office of Investigations, Import, Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377–1756.

SUPPLEMENTARY INFORMATION: We preliminarily determine that "critical circumstances" do not exist in the antidumping investigation of carbon steel plate from Finland, as provided in section 733(e) of the Tariff Act of 1930, as amended (19 U.S.C. 1673(b)(e)) (the Act).

Case History

On February 10, 1984, we received a petition from the United States Steel Corporation, filed on behalf of the U.S. industry producing carbon steel plate. In accordance with the filing requirements of section 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of carbon steel plate from Finland are being, or are likely to be, sold in the United States at less that fair value within the meaning of section 731 of the Act and that these imports are materially injuring, a United States industry.

After reviewing the petition, we determined that it contained sufficient grounds to initiate an antidumping investigation. We notified the ITC of our action and initiated the investigation on March 1, 1984 (49 FR 8656). On March 26, 1984, we were informed by the ITC that there is a reasonable indication that imports of carbon steel plate are materially injuring a U.S. industry.

On July 19, 1984, the preliminary determination in this investigation was made (49 FR 29986). On September 11, 1984, counsel for the petitioner amended its February 10, 1984 petition to allege that "critical circumstances" exist in the antidumping investigation of carbon steel plate, pursuant to section 733(e) of the Act. Based on a request from counsel for the respondent, Rautaruukki Oy, we postponed the date of our final determination in this case to not later than December 7, 1984.

Scope of Investigation

The merchandise covered by this investigation is carbon steel plate. Carbon steel plate is classified under item numbers 607.6620 and 607.6625 of the *Tariff Schedules of the United States* Annotated (TSUSA), which covers hot-rolled carbon steel products, whether or not corrugated or crimped; not pickled; not cold rolled; not in coils; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal and not clad; 0.1875 inch or more in thickness and over 8 inches in width.

Semi-finished products of solid rectangular cross section with a width at least four times the thickness and processed only through primary mill hot-rolling are not included.

This investigation covers the period from September 1, 1983, through February 29, 1984.

Preliminary Negative Determination of Critical Circumstances

Counsel for petitioner alleged that imports of carbon steel plate from Finland present "critical circumstances." Under Section 733(e)(1) of the Act, critical circumstances exist when the Department has a reasonable basis to believe or suspect that: (1) There have been massive imports of the merchandise under investigation over a relatively short period; and (2)(a) there is a history of dumping in the United States or elsewhere of the merchandise under investigation, or (b) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise under investigation at less than its fair value.

In preliminarily determining whether there is a reasonable basis to believe or suspect that there have been massive imports over a relatively short period, we considered the following factors: recent import penetration levels; whether imports have surged recently; whether recent imports are significantly above the average calculated over the last three years (1981–1983); and whether the patterns of imports over that three-year period may be explained by seasonal swings. Based upon our analysis of the information, we preliminarily determine that there have not been massive imports of carbon steel plate covered by this investigation over a relatively short period.

In analyzing import trends, we compared the monthly average of imports from Finland during the period February through May 1984, the four months following the filing of the petition, with the monthly average of imports during October 1983 through January 1984, the four months of preceding the filing of the petition. In comparing average monthly imports for these periods, we found that imports decreased with respect to carbon steel plate from Finland. There were no apparent seasonal factors in effect.

We then considered trends in the imports penetration levels for carbon steel plate from Finland. The import penetration of plate from Finland decreased during the period.

Based on our comparison of the data for the periods set forth above, we find that there have not been massive imports of carbon steel plate from Finland over a relatively short period of time. Therefore, we preliminarily determine that critical circumstances do not exist.

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-confidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

Dated: October 11, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc 84-27449 Filed 10-16-84; 8:45 am]

BILLING CODE 3510-DS-M

[A-570-007]

Antidumping Duty Order; Barium Chloride From the People's Republic of China

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: In separate investigations concerning barium chloride from the People's Republic of China (PRC), the United States Department of Commerce (the Department) and the United States International Trade Commission (the ITC) have determined that barium chloride from the PRC is being sold at less than fair value and that sales of barium chloride from the PRC are materially injuring a United States industry. Therefore, based on these findings, all unliquidated entries, or warehouse withdrawals, for consumption of barium chloride from the PRC made on or after April 6, 1984, the date on which the Department published its "Preliminary Determination of Sales At Less Than Fair Value" notice in the **Federal Register**, will be liable for the possible assessment of antidumping duties. Further, a cash deposit of estimated antidumping duties must be made on all such entries, and withdrawals from warehouse for consumption made on or after the date of publication of this antidumping duty order in the **Federal Register.**

EFFECTIVE DATE: October 17, 1984.

FOR FURTHER INFORMATION CONTACT: Michael Ready, Office of Investigations, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-2613.

SUPPLEMENTARY INFORMATION: The merchandise covered by this investigation is barium chloride, which is currently classifiable under item number 417.7000 of the *Tariff Schedules of the United States Annotated (TSUSA).*

In accordance with section 733 of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673b), on April 6, 1984, the Department published its preliminary determination that there was reason to believe or suspect that barium chloride from the PRC was being sold at less than fair value (49 FR 13728). On August 27, 1984, the Department published its final determination that these imports were being sold at less than fair value (49 FR 33916).

On October 4, 1984, in accordance with section 735(d) of the Act (19 U.S.C. 1673d(d)), the ITC notified the Department that such importations are materially injuring a United States industry.

Therefore, in accordance with sections 736 and 751 of the Act (19 U:S.C. 1673e and 1675 (the Department directs United States Customs officers to assess, upon further advice by the administering authority pursuant to section 736(a)(1) of the Act (19 U.S.C. 1673e(a)(1)), antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the United States price for all entries of barium chloride from the PRC. These antidumping duties will be assessed on all unliquidated entries of barium chloride entered, or withdrawn from warehouse, for consumption on or after April 6, 1984, the date on which the Department published its "Preliminary Determination of Sales At Less Than Fair Value" notice in the **Federal Register.**

On and after date of publication of this notice, United States Customs officers must require, at the same time as importers would normally deposit estimated Customs duties on this merchandise, a cash deposit equal to the estimated weighted-average antidumping duty margins as noted below:

Manufacturers/producers/exporters	Weighted-average margins (percent)
Chan National Chemicals Import and Export Corporation (SINOCHEM)	14.5
All Other Manufacturers/Producers/Exporters	14.5

This determination constitutes an antidumping order with respect to barium chloride from the People's Republic of China, pursuant to section 736 of the Act (19 U.S.C. 1673e) and § 353.48 of the Commerce Regulations (19 CFR 353.48). We have deleted from the Commerce Regulations, Annex I of 19 CFR Part 353, which listed antidumping findings and orders currently in effect. Instead, interested parties may contact the Office of Information Services, Import Administration, for copies of the updated list of orders currently in effect.

Notice of Review

In accordance with section 751(a) (1) of the Act (19 U.S.C. 1675(a) (1)) the Department hereby gives notice that it is commencing administrative review of this order on October 17, 1984. For further information regarding this review, contact Mr. William Matthews at (202) 377-5253.

This notice is published in accordance with section 736 of the Act (19 U.S.C. 1673e) and § 353.48 of the Commerce Regulations (19 CFR 353.48).

Dated: October 11, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-27497 Filed 10-16-84; 8:45 am]

BILLING CODE 3510-DS-M

Performance Review Board

Franklin J. Vargo, Deputy Assistant Secretary for Europe, who was appointed to the ITA Performance Review Board as announced in the **Federal Register** on August 20, 1984, is

replaced by Peter Hale, Director of the Office of Western Europe.

James T. King, Jr.,

Personnel Officer, International Trade Administration.

[FR Doc. 84-27491 Filed 10-16-84; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Pacific Fishery Management Council's committee on the Salmon Comprehensive Plan will meet in Portland, OR, on October 24–25, 1985, to determine procedures for developing such a plan. The plan will be a process-oriented document which describes existing management programs and authorities, and outlines various responsibilities for data development, coordination, and conflict resolution necessary for the Council and other management entities to achieve coordinated comprehensive management. The committee will prepare a recommended course of action for Council consideration.

In addition the Council's committee on the Function of Council Entities will meet in Portland, OR, on October 30–31, 1984, to review the composition, role, procedures, interactions, and effectiveness of Council advisory committees, staff, and the procedures of the Council itself. They will prepare a report of findings and recommendations for Council consideration.

These meetings are open to the public. For further information, contact Joseph C. Greenley, Executive Director, Pacific Fishery Management Council, 526 SW. Mill St., Portland, OR 97201; telephone: (503) 221–6352.

Dated: October 12, 1984.

Roland Finch,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 84-27461 Filed 10-16-84; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Intent To Grant Exclusive Patent License; Duphar and Zoecon Corp.

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Duphar of Lake Mary, Florida, an exclusive right to practice the invention embodied in U.S. Patent 4,166,107, "Sustained Release Bolus Formulations Containing Growth Regulators for Control of Livestock Pests," with respect to the use of diflubenzuron as the insect growth regulator and to Zoecon Corporation of Palo Alto, California, an exclusive right to practice the same patented invention with respect to the use of methoprene as the insect growth regulator. The patent rights in this invention have been assigned to the United States of America, as represented by the Secretary of Commerce.

The proposed exclusive licenses will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 41 CFR 101–4.1. The proposed licenses may be granted unless, within sixty days from the date of this published notice, NTIS receives written evidence and argument which establishes that the grant of the proposed licenses would not serve the public interest.

Inquiries, comments and other materials relating to the proposed licenses, must be submitted to the Office of Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

Douglas J. Campion,

Office of Federal Patent Licensing, National Technical Information Service, Department of Commerce.

[FR Doc. 84-27355 Filed 10-16-84; 8:45 am]

BILLING CODE 3510-04-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Reducing Import Charges for Certain Man-Made Fiber Textile Products Produced or Manufactured in Taiwan

October 12, 1984.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on October 17, 1984. For further information contact Eve Anderson, International Trade Specialist (202) 377–4212.

Background

A CITA directive dated December 30, 1983 (see 49 FR 927) established a restraint limit for man-made fiber work gloves in part of Category 631 (only T.S.U.S.A. numbers 704.3215, and 704.9000), among other categories, produced or manufactured in Taiwan and exported during the twelve-month period which began on January 1, 1984. It has been determined that imports amounting to 43,003 dozen pairs have been improperly charged to the restraint limit established for this category. Accordingly, in the letter to the Commissioner of Customs, published below, this amount is being deducted from the import charges.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), and July 16, 1984 (49 FR 28754).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

October 12, 1984.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury Washington, D.C.

Dear Mr. Commissioner: To facilitate implementation of the bilateral agreement of November 18, 1982 concerning cotton, wool and man-made fiber textile products from Taiwan, I request that, effective on October 17, 1984, you deduct 43,003 dozen pairs from the import charges made to the restraint limit established in the directive of December 30, 1983 for man-made fiber textile products in Category 631 pt., [1] produced or manufactured in Taiwan and exported during 1984.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-27450 Filed 10-16-84; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Medical Reimbursement Rates for Fiscal Year 1985

Summary: Notice is hereby given that

[1] In Category 631, only T.S.U.S.A. numbers 704.3215, 704.8525, and 704.9000.

the Principal Deputy Assistant Secretary of Defense (Comptroller) in a memorandum to the Assistant Secretary of Defense (Health Affairs) and the Assistant Secretaries of the Military Departments (FM) dated September 17, 1984, established reimbursement rates for inpatient and outpatient medical care provided during Fiscal Year 1984 as follows:

	IMET [1]	Inter-agency [2]	Other
Per inpatient day:			
• Burn Center, Brook Army Hospital	$613	$1,256	$1,368
• All other general medical and dental care	185	423	452
Per outpatient visit	25	53	56
Per FAA traffic controller examination		83	

[1] International Military Education and Training Students.
[2] Other Federal Agency-sponsored patients and Government civilian employees and their dependents outside the United States.

The per diem rate (supplies and subsistence) charged to dependents of military personnel in federal medical care facilities shall remain at $6.80 per day until further notice.—

Dated: October 12, 1984.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 84-27406 Filed 10-16-84; 8:45 am]

BILLING CODE 3810-01-M

Defense Intelligence Agency Scientific Advisory Committee; Closed Meeting

AGENCY: Defense Intelligence Scientific Advisory Committee.

ACTION: Notice of closed meeting.

SUMMARY: Pursuant to the provisions of subsection (d) of section 10 of Pub. L. 92-463, as amended by section 5 of Pub. L. 94-409, notice is hereby given that a closed meeting of a panel of the DIA Scientific Advisory Committee has been scheduled as follows:

DATE: 23 October 1984, 8:30 a.m. to 4:00 p.m.

ADDRESS: The Pentagon, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Major Harold E. Linton, USAF, Executive Secretary, DIA Scientific Advisory Committee, Washington, D.C. 20301 (202/373-4930).

SUPPLEMENTARY INFORMATION: The entire meeting is devoted to the discussion of classified information as defined in section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a study on Special Action.

Dated: October 12, 1984.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 84-27405 Filed 10-16-84; 8:45 am]

BILLING CODE 3810-01-M

Corps of Engineers, Department of the Army

To prepare Draft Supplement to Final Environmental Impact Statement (DSEIS); Norfolk Harbor and Channels, Virginia Deepening and Disposal

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of Intent to prepare a Draft Supplement to the Final Environmental Impact Statement (DSEIS).

SUMMARY: 1. The Draft Supplement to the Final Environmental Impact Statement will address additional alternatives for the disposal of dredged material from the deepening of the Norfolk Harbor and Channels and the subsequent maintenance.

2. In addition to the disposal alternatives recommended in the FEIS and Addendum, the Draft Supplement will address the use of the Craney Island Federal Disposal Area for the containment of material from the Norfolk Harbor Channel and the Channel to Newport News, as well as the use of a modified Dam Neck Ocean Disposal Site and area beaches for the disposal of material from Thimble Shoal Channel and the proposed channel in the Atlantic Ocean. Other disposal alternatives considered and rejected for various reasons in the FEIS and Addendum were Ocean View Area, Horseshoe Area off Buckroe, Chesapeake Bay and Suffolk Site.

3.a. *Public Involvement.* The main report, *Norfolk Harbor and Channels, Virginia, Deepening and Disposal,* including the Final EIS, and Addendum was extensively coordinated with various Federal and non-Federal interests. Public views were also obtained through public meetings. Section A of Appendix 2 to the main report (Public Views and Responses) discusses the public involvement program for this study in detail, and includes summaries of public meetings. Section B and C of Appendix 2 contains all pertinent correspondence and comments/responses on all major issues, respectively. This Supplement, in both draft and final forms, will be filed and cirulated in accordance with the procedural provisions of the National Environmental Policy Act of 1969 (NEPA), 43 FR 55978-56007, 1978. A Public Notice will be issued on or about 30 November 1984 inviting agency and public comment.

b. *Significant Issues.* Significant issues related to disposal in Dam Neck have been determined to be the 11 specific criteria for site selection contained in the EPA Ocean Dumping Regulations (40 CFR 228.6). The Supplement will address these criteria which include: Geographic and topographic characteristics of the site, location in relation to living resources and beaches, characteristics of the dredged material, currents and transport, previous discharges in the area, interference with other uses of the ocean, water quality and ecology of the site, potential for development of nuisance species, and proximity to significant natural or cultural resources.

Extensive research and investigations both completed and continuing have been conducted to identify problems and to address the above, and other concerns in the Supplement.

Significant environmental impacts related to the alternative of beach disposal will be evaluated under section 401 of the Clean Water Act and the 404(b)(1) Guidelines. The use of the Craney Island Disposal Area for all dredged material will also be evaluated.

4. In view the broad exposure this project has received over the years and the extensive coordination of all significant matters relating to Norfolk Harbor Deeping and Disposal, a scoping meeting will not be held.

5. The DSEIS will be available on or about 1 December 1984.

ADDRESS: Questions about the proposed action and DSEIS should be addressed to: District Engineer, Norfolk District, Corps of Engineers, ATTN: NAOPL-R (Mr. R. Muller), 803 Front Street, Norfolk, Virginia 23510-1096.

Dated: September 20, 1984.

Harvey F. Shumpert, Jr.,

LTC, Corps of Engineers Acting District Engineers.

[FR Doc. 84-27374 Filed 10-16-84; 8:45 am]

BILLING CODE 3710-EN-M

Department of the Army

Privacy Act of 1974; Addition to Inventory of System Notices

AGENCY: Department of the Army, DOD.

ACTION: Addition to Notices for Systems of Records.

SUMMARY: The Department of the Army proposes to amend its inventor of notices for systems of records subject to the Privacy Act of 1974, as amended, by adding a notice for records identified as A1019.010SA entitled "Civilian

Marksmanship Program". Records in this system have been in existence for many years; issuance of a public notice required by the Privacy Act was inadvertenty overlooked.

DATES: This notice is effective October 17, 1984.

ADDRESS: Comments may be submitted to the Director of Civilian Marksmanship/Executive Officer for the National Board for the Promotion of Rifle Practice, Officer of the Under Secretary of the Army, Washington DC 20314–0100.

FOR FURTHER INFORMATION CONTACT: Mrs. Dorothy Karkanen, Office of The Adjutant General, Headquarters, Department of the Army, 2461 Eisenhower Avenue, Alexandria, VA 22331–0301.

SUPPLEMENTARY INFORMATION: The Army's systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** as follows:

FR Doc 83–12048 (48 FR 25502), June 6, 1983
FR Doc 83–18883 (48 FR 32046), July 13, 1983
FR Doc 83–24161 (48 FR 40291), September 6, 1983
FR Doc 83–28792 (48 FR 49086), October 24, 1983
FR Doc 84–1118 (49 FR 2006), January 17, 1984
FR Doc 84–2331 (49 FR 3506), January 17, 1984
FR Doc 84–3683 (48 FR 5170), February 10, 1984
FR Doc 84–6438 (49 FR 8993), March 9, 1984
FR Doc 84–11652 (49 FR 1600), May 1, 1984
FR Doc 84–14035 (49 FR 22122), May 25, 1984
FR Doc 84–15558 (49 FR 24045), June 11, 1984
FR Doc 84–16178 (49 FR 24914), June 18, 1984
FR Doc 84–16520 (49 FR 25499), June 21, 1984
FR Doc 84–17271 (49 FR 26625), June 28, 1984
FR Doc 84–18684 (49 FR 28754), July 16, 1984
FR Doc 84–19506 (49 FR 29812), July 24, 1984

Report of a new system, required by 5 U.S.C 552a(o), was submitted on September 25, 1984. The Office of Management and Budget granted a waiver from the advance notice requirements of Transmittal Memorandum Nos. 1 and 3, OMB Circular A–108 for the reason that suspending operation of the system would adversely affect the public interest.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

October 11, 1984.

A1019.01OSA

SYSTEM NAME:

Civilian Marksmanship Program.

SYSTEM LOCATION:

Office of the Director of Civilian Marksmanship/Executive Office of the National Board for the Promotion of Rifle Practice, Office of the Under Secretary of the Army, Washington, DC 20314–0100.

CATEGORIES OF INDIVIDUAL COVERED BY THE SYSTEM:

US citizens who are members of civilian marksmanship clubs and State Marksmanship Associations enrolled with the Director of Civilian Marksmanship and are participants, competitors, or instructors in organized marksmanship programs; civilian and military competitors in National Matches; applicants seeking to purchase M1 rifles.

CATEGORIES OF RECORDS IN SYSTEM:

Applications of club membership consisting of the following documents: (a) DA Form 1271 (Application for Enrollment of a Civilian Rifle Club), (b) DA Form 1272 (Bond Application for Civilian Rifle Club), (c) DA Form 1273 (Requisition for Articles Authorized for Issue to Civilian Rifle Clubs), (d) DA Form 1274 (Description of Available Range Facilities for Civilian Rifle Clubs), (e) ODCM Form 137 (Roster of Club Members) identifying each member by full name, address, birthdate, firing courses participation by course title, score attained, and target fired for record, (f) DD Form 1584 (DOD) National Agency Check Request) for each adult leader and club officer, (h) ODCM Form 138 (Assurance of Compliance with Title VI Civil Rights Act of 1964); Name, title, and address of local or State law enforcement officer to whom the club is known; Certificates of qualification or badges to eligible club members; receipts for arms on loan from the Director of Civilian Marksmanship; Certificate for Purchase of Firearms; results of NAC investigation; relevant correspondence and reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C., section 4307–4313, 4652 and 32 U.S.C., section 316.

PURPOSE(S):

To promote, among citizens and other persons subject to induction into the Armed Forces of the United States not reached through training programs of the Armed Forces, practice in the use of military-type individual small arms; to promote competitions in the use of arms; and to issue equipment and awards therefor.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information may be disclosed to Federal, State and local law enforcement agencies when fraudulent or criminal activity or allegations warrant.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in rotary type Diebold containers; club records on magnetic tape/disc.

RETRIEVABILITY:

By Club name: by individual competitor/purchaser surname.

SAFEGUARDS:

Information in this system of records is available only to individuals have official need therefor. Records area is protected by an alarm system. Building housing records is protected by security guards.

RETENTION AND DISPOSAL:

Records on enrolled Civilian Rifle Clubs and State Associations are retained for life of club, plus 2 years, following which they are destroyed by shredding. Competitive score cards are maintained for 1 year; cumulative point system record of individuals is permanent. Record of firearms loan or sale is retained 1 year. Certificate (of individual) to retain firearm is retained permanently at the US Army Armament Material Readiness Command, Rock Island, IL 61299.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Civilian Marksmanship/ Executive Officer for the National Board for the Promotion of Rifle Practice, Office of the Under Secretary of the Army, Washington, DC 20314–0100.

NOTIFICATION PROCEDURE:

Individuals desiring to know whether or not this system of records contains information on them may write to the Director of Civilian Marksmanship at the above address, providing full name, birthdate, information such as club of which a member, competition in which participated, firearm purchased, etc., and signature.

RECORD ACCESS PROCEDURES:

Individuals desiring access to records about themselves in this system should submit a written request to the System Manager and provide information as required in "Notification procedure".

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the individual, enrolled clubs and State Associations, investigative reports of the Defense Investigative Service and/or Federal Bureau of Investigation, law enforcement agencies, Army records and reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 84-27396 Filed 10-16-84; 8:45 am]
BILLING CODE 3810-01-M

Defense Mapping Agency

Privacy Act of 1974; New System of Records.

AGENCY: Defense Mapping Agency, DOD.

ACTION: Notice of a new system of records.

SUMMARY: The Defense Mapping Agency (DMA) proposes to add a new system of records to its inventory of record systems subject to the Privacy Act of 1974. The new system of records is set forth below.

DATES: This new record system will be effective without further notice November 16, 1984 unless comments are received which would result in a contrary determination.

ADDRESS: Send any comments to the system manager identified in the record system notice.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas A. Sagar, Officer and Records Administrator, Defense Mapping Agency, Bldg. 56, Naval Observatory, Mass. Ave. at 34th Street, NW., Washington, DC 20305. Telephone: 202/653-1419.

SUPPLEMENTARY INFORMATION: The DMA systems of record notices subject to the Privacy Act of 1974, as amended (5 U.S.C. 552a) have been published in the **Federal Register** at FR Doc. 83-12048 (48 FR 25778) June 6, 1983. A new system report, as required by 5 U.S.C. 552a(o), was submitted by DMA on September 4, 1984 for this new record system.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

October 11, 1984.

B0302-13 HTA

SYSTEM NAME:

Record of Accounts Receivable.

SYSTEM LOCATION:

DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center (a), Office of the Comptroller. Finance and Acounting Division. See DMA Directory for complete address listing located at the end of the systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

List of Contract Sales Agents, domestic and foreign, DMA Contractors, and current and former DMA civilian employees with outstanding balances due DMA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Alphabetical file contains name of individual or company, address and special identifying code.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Budget and Accounting Procedure Act of 1950, Pub. L. 81-784.

PURPOSE(S):

to post credits and collection of accounts receivable balances.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

Information may be provided to other Federal agencies for the purpose of collecting debts owed by individuals employed or believed to be employed by those agencies and owing DMA monies.

See also the "blanket routine uses" for all DMA systems at the beginning of this agencies listing of record system notices.

Disclosure to Consumer Reporting Agencies:

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Hard copy manifests and/or computer printouts.

RETRIEVABILITY:

Alphabetically by name of account.

SAFEGUARDS:

Buildings or facilities employ security guards. Records are maintained in areas assessible only to authorized personnel that are properly screened, cleared and trained.

RETENTION AND DISPOSAL:

Records are maintained after case settlement for three years in working area and then in storage area for an additional two years prior to destruction.

SYSTEM MANAGER(S) AND ADDRESS:

Defense Mapping Agency, ATTN: Finance & Accounting Division, Building 56, U.S. Naval Observatory. Washington, DC 20305.

NOTIFICATION PROCEDURES:

Information may be obtained from above.

RECORD ACCESS PROCEDURES:

Written requests for information should be addressed to System Managers and contain the full name of the individuals current address and telephone number.

CONTESTING RECORD PROCEDURES:

The DMA rules for contesting contents and appealing initial determination may be obtained from System Manager.

RECORD SOURCE CATEGORIES:

Hard copy Accounts Receivable manifests prepared from finance and contractual documents.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 84-27396 Filed 10-16-84; 8:45 am]
BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

Grants for Special Educational Programs for Students Whose Families Are Engaged in Migrant and Other Seasonal Farmwork—High School Equivalency Program

AGENCY: Department of Education.

ACTION: Application Notice for Fiscal Year 1985.

Applications are invited for new grants under the High School Equivalency Program (HEP) to provide academic and supporting services and financial assistance to students who are engaged, or whose families are engaged, in migrant and other seasonal farmwork.

The authority for this program is contained in Section 418A of Title IV of the Higher Education Act, as amended by Pub. L. 96-374. (20 U.S.C. 1070d-2)

Eligible applicants are institutions of higher education (IHEs) and other public or nonprofit private agencies in cooperation with IHEs.

The purpose of HEP is to provide grants to IHEs and other agencies, in

cooperation with IHEs, to design and implement projects of academic and supporting services and financial assistance to address the special educational needs of migrant and seasonal farmworker students and to enhance the opportunity of these students for success at the postsecondary education level.

Closing date for transmittal of applications: An application for a new grant must be mailed or hand delivered by December 14, 1984.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.141, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education. If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark; or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program information: The Secretary awards HEP grants to IHEs and other agencies, in cooperation with IHEs, for projects of academic and supporting services and financial assistance to address the special educational needs of migrant and seasonal farmworker students and to enhance the opportunity of these students for success at the secondary education level.

The Secretary makes these grants to IHEs and other agencies, in cooperation with IHEs, to assist migrant and seasonal farmworker "drop-out" students in obtaining the equivalent of a secondary school diploma and subsequently gaining employment or being admitted to an IHE or other postsecondary education or training program.

Available funds: The Secretary estimates that there will be $6.3 million available for Fiscal Year (FY) 1985 grants. The Secretary estimates these funds will support 25 projects, with most awards ranging between $100,000 and $300,000. These estimates, however, do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application forms: Application forms and program information packages are expected to be ready for mailing by October 29, 1984. They may be obtained by writing to Division of Migrant Education Programs, Compensatory Education Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW. (Regional Office Building 3, Room 3616), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information package is only intended to aid applicants in applying for assistance under this program. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations. The Secretary urges that the narrative portion of an application not exceed 25 pages in length. The Secretary also urges that an applicant only submit information that is requested.

(Approved by the Office of Management and Budget under control number 1810-0054.)

Applicable regulations: Regulations applicable to this program include the following:

(1) The Migrant Education High School Equivalency Program and College Assistance Migrant Program Regulations (34 CFR Part 206).

(2) The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts, 74, 75, 77, and 78).

Further information: For further information contact Mr. Louis J. McGuinness, Director, Division of Migrant Education Programs, Compensatory Education Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., (Regional Office Building 3, Room 3616), Washington, D.C. 20202. Telephone (202) 245-2722.

(20 U.S.C. C1070d-2)

Dated: October 15, 1984.

(Catalog of Federal Domestic Assistance No. 84.141, Migrant Education—High School Equivalency Program)

Lawrence F. Davenport,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 84-27555 Filed 10-16-84; 8:45 am]

BILLING CODE 4000-01-M

Grants for Special Educational Programs for Students Whose Families Are Engaged in Migrant and Other Seasonal Farmwork—College Assistance Migrant Program

AGENCY: Department of Education.

ACTION: Application Notice for Fiscal Year 1985.

Applications are invited for new grants under the College Assistance Migrant Program (CAMP) to provide academic and supporting services and financial assistance to students who are engaged, or whose families are engaged, in migrant and other seasonal farmwork.

The authority for this program is contained in section 418A of Title IV of the Higher Education Act, as amended by Pub. L. 96-374. (20 U.S.C. 1070d-2)

Eligible applicants are institutions of higher education (IHEs) and other public or nonprofit private agencies in cooperation with IHEs.

The purpose of CAMP is to provide grants to IHEs and other agencies, in cooperation with IHEs to design and implement projects of academic and supporting services and financial assistance to address the special educational needs of migrant and seasonal farmworker students and to enhance the opportunity of these students for success at the postsecondary education level.

Closing date for transmittal of applications: An application for a grant must be mailed or hand delivered by December 14, 1984.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center,

Attention: 84.149, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education. If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark; or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program information: The Secretary awards CAMP grants to IHEs and other agencies, in cooperation with IHEs, for projects of academic and supporting services and financial assistance to address the special educational needs of migrant and seasonal farmworker students and to enhance the opportunity of these students for success at the postsecondary education level.

The Secretary makes these grants to IHEs and other agencies, in cooperation with IHEs, to assist migrant and seasonal farmworker students who are enrolled or are admitted for enrollment on a full-time basis in the first academic year at an IHE. CAMP provides assistance to help migrant and seasonal farmworker students in—

(1) Making the transition from secondary school to postsecondary school;

(2) Generating the motivation necessary to succeed in postsecondary school; and

(3) Developing he skills necessary to succeed in postsecondary school.

Available funds: The Secretary estimates that there will be $1.2 million available for Fiscal Year (FY) 1985 grants. The Secretary estimates these funds will support six (6) projects, with most awards ranging between $150,000 and $250,000. These estimates, however, do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise by statute or regulations.

Application forms: Application forms and program information packages are expected to be ready for mailing by October 29, 1984. They may be obtained by writing to Division of Migrants Education Programs, Compensatory Education Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW. (Regional Office Building 3, Room 3616), Washington, D.C. 20202.

An application must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information package is only intended to aid applicants in applying for assistance under this program. Nothing in the program information package is intended to impose any paperwork, application contents, reporting, or grantee performance requirements beyond those imposed under the statute and regulations governing this program. The Secretary urges that the narrative portion of an application not exceed 25 pages in length. The Secretary also urges that an applicant only submit information that is requested. (Approved by the Office of Management and Budget under control number 1810–0055.)

Applicable regulations: The regulations that apply include the following:

(1) The Migrant Education High School Equivalency Program and College Assistance Migrant Program Regulations (34 CFR Part 206).

(2) The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, and 78).

Further information: For further information contact Mr. Louis J. McGuinness, Director, Division of Migrant Education Programs, Compensatory Education Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., (Regional Office Building 3, Room 3616), Washington, D.C. 20202. Telephone (202) 245–2722.

(20 U.S.C. 107d–2)

Dated: October 15, 1984.

(Catalog of Federal Domestic Assistance No. 84.149, Migrant Education—College Assistance Migrant Program)

Lawrence F. Davenport,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 84–27556 Filed 10–16–84; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Office of Assistant Secretary for International Affairs and Energy Emergencies

International Atomic Energy Agreements; Civil Uses; Proposed Subsequent Arrangements; Germany, Italy

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of proposed "subsequent arrangements" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangements to be carried out under the above mentioned agreement involves approval of the following sales: Contract Number S–EU–822, to Kernforschungszentrum Karlsruhe Gmbh, the Federal Republic of Germany, 78 grams of normal uranium metal, for use as standard reference material.

Contract Number S–EU–823, to Fabbricazion, Nuclear, Italy, 296.8 grams of normal uranium, for use as standard reference material.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that these subsequent arrangements will not be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: October 11, 1984.

Dr. H. A. Merklein,

Assistant Secretary for International Affairs and Energy Emergencies.

[FR Doc. 84-27351 Filed 10-16-84; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Civil Uses; Proposed Subsequent Arrangement; Japan

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following sale:

Contract Number S-JA-351, to the Power Reactor and Nuclear Fuel Development Corp., Japan, 410.5 grams of natural uranium oxide, for use as standard reference material.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: October 11, 1984.

Dr. H.A. Merklein,

Assistant Secretary for International Affairs and Energy Emergences.

[FR Doc. 84-27350 Filed 10-16-84; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Civil Uses; Proposed Subsequent Arrangement; Euratom

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following sale:

Contract Number S-EU-824, to British Nuclear Fuels, Ltd., England, 0.0049 grams of uranium, enriched to 99.9% in U-235, for use as standard reference material.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: October 11, 1984.

Dr. H.A. Merklein,

Assistant Secretary for International Affairs and Energy Emergences.

[FR Doc. 84-27349 Filed 10-16-84; 8:45 am]

BILLING CODE 6450-01-M

Office of Conservation and Renewable Energy

[Docket No. CAS-RM-81-130]

Residential Conservation Service Program

AGENCY: Department of Energy.

ACTION: Notice of Utility Waiver Petition.

SUMMARY: In accordance with the provisions of the National Energy Conservation Policy Act (NECPA), the Department of Energy (DOE) has received a petition from the Central Vermont Puplic Service Corporation for a waiver of the prohibitions against supplying or installing residential energy conservation measures. Granting the waiver would allow Central Vermont Public Service Corporation to sell water heater insulation blankets, caulking and weatherstripping to its residential customers. DOE will consider written comments in reviewing the waiver petition.

DATE: Written comments must be received by November 16, 1984.

ADDRESS: Comments should be addressed to: Department of Energy, Office of Conservation and Renewable Energy, Hearings and Dockets Branch, Room 6B-025, Docket No. CAS-RM-81-130, 1000 Independence Avenue, SW., Washington, D.C. 20585. (202) 252-9319.

FOR FURTHER INFORMATION CONTACT:

Gina Urso, CE-115, Office of Building Energy Research and Development, Conservation and Renewable Energy, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-1650

Daniel Ruge, GC-12, Office of General Counsel, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-9519

SUPPLEMENTARY INFORMATION: As part of the Residential Conservation Service (RCS) Program, section 216(a) of the National Energy Conservation Policy Act (NECPA) (42 U.S.C. 8217(a)) prohibits public utilities from supplying or installing most residential energy conservation or renewable resource measures for their residential customers. In accordance with the provisions of section 216(e) of NECPA (42 U.S.C. 8217(e)), the Secretary of Energy may waive these prohibitions upon petition of a public utility.

The Department of Energy (DOE) has received a petition for a waiver from the Central Vermont Public Service (CVPS), an investor owned electric utility with corporate headquarters in Rutland, Vermont. CVPS is requesting a waiver to supply water heater insulation blankets and assorted low-cost conservation materials, such as caulking and weatherstripping, to its residential customers. The waiver would also apply to CVPS promotion and coordination of contractor installation services, if this activity is determined to be prohibited by section 216(a). This program is in response to a twenty-year plan developed by the Vermont Department of Public Service.

DOE will review the CVPS petition in accordance with the requirements of section 216(e) of NECPA to determine if (1) the petition demonstrates that, in supplying caulking, weatherstripping and water heater insulation blankets, fair and reasonable prices and rates of interest will be charged and (2) after consultation with the Federal Trade Commission (FTC), the CVPS program is not inconsistent with the prevention of unfair methods of competition and the prevention of unfair or deceptive acts or practices.

Accordingly, a copy of the CVPS petition is being sent to the FTC for review. In addition, DOE will receive public comments on the CVPS petition as indicated in the "DATE" and "ADDRESS" sections of this notice. Copies of the CVPS petition may be requested from Gina Urso at (202) 252-1650.

After reviewing the CVPS petition, consulting with FTC and considering any comments received as indicated in the "DATE" section of this notice, the Secretary of Energy will make a final determination.

Issued in Washington, D.C., October 5, 1984.

Pat Collins,

Acting Assistant Secretary, Conservation and Renewable Energy.

[FR Doc. 84-27352 Filed 10-16-84; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Docket No. 84-12-NG]

Natural Gas Imports; Cascade Natural Gas Corp.; Application To Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of Application for Authorization to Import Natural Gas from Canada.

SUMMARY: The Economic Regulatory Administration (ERA) gives notice of receipt on October 3, 1984, of the application of the Cascade Natural Gas Corporation (Cascade) to import, at a proposed price of $3.10 (U.S.) per MMBtu, up to 34.2 Mcf per day (up to 10 Bcf per year), and at a proposed price of $3.40 (U.S.) per MMBtu, up to 44.5 Mcf per day (up to 13 Bcf per year), of Canadian natural gas on a "reasonable-efforts," interruptible basis for a term of two years from November 1, 1984, through October 31, 1986. The imported volumes are to be purchased from Dome Petroleum Limited (Dome). Cascade requests that the authorization be effective November 1, 1984.

The application is filed with ERA pursuant to Section 3 the Natural Gas Act and DOE Delegation Order No. 0204-111. Protests, motions to intervene, notices of interventions, and written comments are invited.

DATE: Protests, motions to intervene or notices of intervention, as applicable, and written comments are to be filed no later than 4:30 p.m., on November 6, 1984.

FOR FURTHER INFORMATION CONTACT:

Robert Groner, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room, GA-007, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-9482

Diane Stubbs, Office of General Counsel, Natural Gas and Mineral Leasing, U.S. Department of Energy , Forrestal Building, Room, 6E-042, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-6667

SUPPLEMENTARY INFORMATION: Cascade Natural Gas Corporation (Cascade) is a gas utility that provides gas at retail to residential, commercial, and industrial customers in Washington and Oregon. It currently purchases all of its natural gas from Northwest Pipeline Corporation (Northwest) whose system covers much of the applicant's service area.

The applicant seeks authorization to import up to 34.2 Mcf per day of Canadian gas at a price of $3.10 (U.S) for a term of two years (20 Bcf for resale to industrial customers who previously used natural gas but are currently using residual fuel oil. The applicant also seeks authorization to import up to 44.5 Mcf per day of Canadian gas at a price of $3.40 (U.S.) for a term of two years (26 Bcf) for use in Cascade's industrial incentive gas sales program to retain the load of interruptible customers, principally in the State of Washington. On June 23, 1984, Cascade and Dome executed a letter of intent proposing this agreement. Cascade indicated that a copy of the contract would be submitted as a supplementary filing when executed. The gas will be sold on a "reasonable efforts," interruptible basis. Under the agreement, the prices are subject to adjustment on a quarterly basis to reflect changes in the market prices of competing energy sources in Cascade's service territory.

According to the application, no new facilities will be required to implement the proposed import. The imported volumes are to be transported by Westcoast Transmission Co., Ltd. (Westcoast) to the international boundary near Sumas, Washington; by NOVA, an Alberta Corporation, to the Alberta/British Columbia border; through the pipeline facilities of Alberta Natural Gas Company Limited to the Kingsgate, British Columbia, border export point; and thence through the pipeline facilities of Pacific Gas Transmission Company and Northwest Pipeline Corporation (Northwest) to points of interconnection with Cascade's distribution system. Dome is negotiating with Westcoast and other affected Canadian pipelines to arrange transportation of the natural gas proposed to be imported. Cascade is negotiating with Northwest for transportation of the natural gas to the point of interconnection with Cascade's facilities. Northwest holds a blanket certificate from the Federal Energy Regulatory Commission issued under Docket No. CP82-433-000 to transport natural gas. Cascade's existing distribution system will be used to complete the ultimate delivery of the gas. No final agreement has been reached between Dome and Westcoast and other affected Canadian pipelines and between Northwest and the applicant on transportation charges and services at the time of the applicant's filing.

According to Cascade, the base volume segment is intended for resale by the applicant to industrial customers who previously used natural gas but are currently using residual fuel oil, a market for which a price lower than $3.40 (U.S.) per MMBtu at the border is required in order to regain the load. In its application, Cascade asserts that the additional volume segment is intended for use in Cascade's industrial incentive gas sales program to retain the loads of interruptible customers, principally in the State of Washington, who otherwise would switch to residual No. 6 fuel oil, in the event that Northwest does not extend its own Canadian incentive gas program beyond the current October 31, 1984, termination date of its Federal Energy Regulatory Commission (FERC) certificate, or offer an equivalent program or price thereafter.

According to the application, Cascade will be entitled to purchase up to the maximum annual volumes contemplated by the agreement, but there will be no minimum purchase obligation or take-or-pay requirement. Deliveries will be on a "reasonable efforts" basis by Dome, as requested by Cascade in monthly volume nominations. Both Cascade and Dome will attempt to schedule deliveries at a uniform rate.

Cascade maintains that the volumes it plans to import will be competitive and not inconsistent with the public interest. In its application, Cascade asserts that it has negotiated with Dome an import arrangement that is designed to serve carefully and specifically defined incremental markets at a market-oriented and flexible price. The Dome gas supply will enable Cascade to compete in a market where gas purchased from Northwest either has not been competitive to date (lost customers) or has the potential not to be competitive in the near future. Therefore, Cascade considers itself to be in full conformance with the February 1984 policy guidelines and delegation orders issued by the Secretary of Energy.

The decision on this application will be made consistent with the Secretary of Energy's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest. Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant has

asserted that this import arrangement is competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

Other Information

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received by persons who are not parties will be considered in determining the appropriate procedural action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. They should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA-033-B, RG-43, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585. They must be filed no later than 4:30 p.m., November 6, 1984. A 20-day comment period has been provided to allow sufficient time to evaluate the application and any responses to this notice to meet insofar as possible the proposed November 1, 1984, effective date of the applicant's contract with Dome.

The Administrator intends to develop a decisional record on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or a trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceedding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Cascade Natural Gas Corporation's application is available for inspection and copying in the Natural Gas Division Docket Room, GA-033-B, at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., on October 12, 1984.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 84-27453 Filed 10-16-84; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 84-11-NG]

Natural Gas Imports, Northwest Natural Gas Co.; Application To Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of Application for Authorization to Import Natural Gas from Canada.

SUMMARY: The Economic Regulatory Administration (ERA) gives notice of receipt on October 3, 1984, of the application of the Northwest Natural Gas Company (NNG) to import on a "reasonable efforts" interruptible basis, two volume segments of Canadian natural gas for a term of two years from November 1, 1984, through October 31, 1986. The first volume segment provides for the purchase of up to 34.2 Mcf per day (up to a total of 14 Bcf over the 24-month period) of Canadian natural gas at a price of $3.00 (U.S.) pre MMBtu, subject to quarterly adjustment. The second volume segment provides for the purchase of up to 60.3 Mcf per day (up to a total of 35.2 Bcf during the same 24-month period) of Canadian natural gas at a price of $3.40 (U.S.) per MMBtu, also subject to quarterly adjustment. The imported volumes, from reserves in British Columbia, the Yukon Territory, and Alberta which are owned or controlled by Dome Petroleum Limited (Dome), will be purchased by NNG from Dome. Volumes from British Columbia and the Yukon Territory will be transported from the field gate to the export point by Westcoast Transmission Company (Westcoast), and from the export point by Northwest Pipeline Corporation. The Alberta volumes will be transported in Canada by NOVA and the Alberta Natural Gas Company Limited, and in the United States by Pacific Gas Transmission Company (PGT) and Northwest Pipeline Corporation. NNG requests that the authorization be made effective November 1, 1984.

The application is filed with the ERA pursuant to Section 3 of the Natural Gas Act and DOE Delegation Order No. 0204-111. Protests, motions to intervene or notices of intervention, and written comments are invited.

DATE: Protests, motions to intervene or notices or intervention, as applicable, and written comments are to be filed no later than 4:30 p.m. on November 6, 1984.

FOR FURTHER INFORMATION CONTACT:

Deborah Valentine, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA-007, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-9504

Diane Stubbs, Office of General Counsel, Natural Gas and Mineral Leasing, U.S. Department of Energy, Forrestal Building, Room 6E-042, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-6667

SUPPLEMENTARY INFORMATION:

Northwest Natural Gas Company (NNG) is a publIC utility that provides gas at retail to residential, commercial, and industrial customers in Oregon and Southwest Washington. It currently purchases most of its natural gas from Northwest Pipeline Corporation (Northwest Pipeline) whose system covers much of the applicant's service area.

The applicant seeks authorization to import up to 49.2 Bcf of Canadian gas for a term of two years for its customers. On June 21, 1984, NNG and Dome executed a letter of intent for the purchase of natural gas. NNG indicated that a copy of the contract would be submitted as a supplementary filing when it is executed. NNG is proposing to import two volume segments of natural gas. The first or base volume segment provides for the purchase and import of a maximum of 34.2 Mcf of natural gas per day on a best-efforts, interruptible basis at a price of $3.00 (U.S.) per MMBtu, subject to adjustment on a quarterly basis to reflect changes in

the market prices of competing energy sources in NNG's service territory , for a two-year term commencing November 1, 1984, and terminating October 31, 1986. The second volume segment provides for the purchase and import of up to 60.3 Mcf per day of natural gas during the same two-year period at a price of $3.40 (U.S.) per MMBtu, subject to the same quarterly adjustment.

According to the application, the gas will come from proven reserves owned or controlled by Dome in the provinces of British Columbia, Alberta, and the Yukon Territory. No new facilities will be required to implement the proposed import. The British Columbia and Yukon gas will be transported from the field gate to the Sumas, Washington, border point through the pipeline facilities of Westcoast, and then through the pipeline facilities of Northwest Pipeline to points of interconnection with NNG's distribution system in Washington and Oregon. Alberta gas will be transported by NOVA, an Alberta Corporation, to the Alberta/British Columbia border; through the pipeline facilities of Alberta Natural Gas Company Limited (ANG) to the Kingsgate, British Columbia, border export point; and then through the PGT and Northwest Pipeline facilities to points of interconnection with NNG's distribution system in Washington and Oregon. NNG's existing distribution system will be used to complete the ultimate delivery of the gas. Although negotiations were underway, no final transportation agreements had been reached at the date of the applicant's filing, either between Dome, Westcoast, and other affected Canadian pipelines, or between the applicant and Northwest Pipeline.

NNG proposes to sell the base volume segment of imported gas to its customers who will be resuming operation of existing electric cogeneration equipment, or who will be installing new electric cogeneration equipment, using natural gas to provide process heat, to generate electricity for sale into the local or regional power grid, or to provide an on-site electric power supply. NNG proposes to use the second or additional volume segment in its gas incentive sales program to regain or retain the loads of interruptible customers who otherwise would use residual fuel oil (#6 or Bunker C), in the event Northwest Pipeline does not extend its Canadian incentive gas program beyond the current October 31, 1984, termination of its Federal Energy Regulatory Commission (FERC) certificate, or offer an equivalent program or price thereafter.

The agreement entitles NNG to purchase up to the maximum annual volumes contemplated by the agreement, but there is no minimum purchase obligation or take-or-pay requirement. Deliveries will be on a "reasonable efforts" basis by Dome, as requested by NNG in monthly volume nominations. Both Dome and NNG will attempt to schedule deliveries at a uniform rate.

In its application, NNG asserts that without the supply of gas at a delivered price that makes cogeneration economical, one of its customers—Pacific Cogeneration, Inc., of Vancouver, Washington—will have to remain off the system. In addition, a number of the applicant's other industrial customers, including some large energy users, are studying the potential of cogeneration for internal power needs. Without the avalability of a low-cost gas supply, these customers may not pursue their interest, thus depriving the region of an efficient, low-cost supply of electric energy. Thus, NNG concludes that its proposed importation of the base volume segment is of direct economic benefit to all its customers.

NNG asserts that the additional volume segment is intended to maintain NNG's competitive position in an industrial (primarily boiler fuel) market where it competes directly with high sulfur residual fuel oil. NNG cites that it reduced its sales margin by more than half in May 1983 in an attempt to retain or regain this market, implementing a flexible rate tied to the price of oil. Northwest Pipeline provided a substantial boost to the program in the summer of 1983 with two short-term incentive programs at a rate of about $3.20 per MMBtu. Then on June 15, 1984, Northwest Pipeline and Westcoast cooperated in commencing an incentive program with Canadian gas at a border price of $3.40 per MMBtu under the Canadian Volume-Related Incentive Price (VRIP) program. This program also has had a substantial effect in keeping NNG competitive in a market that otherwise could be lost to oil, thereby depriving NNG of about 25 percent of its sales and of major revenue support for its system fixed costs. The result would be higher retail rates for all of NNG's utility customers in Oregon and Washington. Unfortunately, Northwest Pipeline's Canadian incentive gas program is scheduled to terminate on October 31, 1984. The second volume segment will provide a substitute supply in the event no new incentive program or its equivalent is undertaken.

NNG maintains that the import of gas pursuant to its agreement with Dome will be in the public interest. NNG's service territory has long been dependent on Canadian gas. NNG states that it and Domes have negotiated an import arrangement that is designed to serve carefully and specifically defined incremental markets at a market-oriented and flexible price. NNG contends that the proposed import will allow NNG to compete in two markets where gas either has not been competitive (dual-fuel industrial boilers). NNG believes, that as a result, its arrangement is in full conformance with the February 1984 natural gas import guidelines.

The decision on this application will be made consistent with the Secretary of Energy's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest. Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant has asserted that this import arrangement is competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

Other Information

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received by persons who are not parties will be considered in determining the appropriate procedural action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. They should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory

Administration, Room GA-033-B RG-43, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585. They must be filed no later than 4:30 p.m., November 6, 1984. A 20-day comment period has been provided to allow sufficient time to evaluate the application and any responses to this notice to meet insofar as possible the proposed November 1, 1984, effective date of the applicant's contract with Dome.

The Administrator intends to develop a decisional record on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or a trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trail-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trail-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR § 590.316.

A copy of NNG's application is available for inspection and copying in the Natural Gas Division Docket Room, GA-033-B, at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., on October 12, 1984.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 84-27483 Filed 10-16-84; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. RP83-85-001 and TA83-2-31-005]

Arkansas Louisiana Gas Co.; Tariff Filing

October 9, 1984.

Take notice that on September 27, 1984, Arkansas Louisiana Gas Company (Arkla) tendered for filing the following tariff sheets to its FERC Gas Tariff, Original Volume No. 3:

1st Revised Sheet No. 179
1st Revised Sheet No. 181
4th Revised Sheet No. 186
5th Revised Sheet No. 187C.

Arkla also filed 8th Revised Sheet No. 12D to its FERC Gas Tariff, First Revised Volume No. 1.

Arkla states that these tariff sheets are filed pursuant to the Federal Energy Regulatory Commission's (Commission) settlement order issued August 13, 1984, approving the stipulation and agreement of the parties in the referenced dockets.

Arkla proposes that the effective dates of the tariff sheets be the respective dates shown on each of the several sheets.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before October 15, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-27377 Filed 10-16-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-137-000]

Arkansas Louisiana Gas Co.; Tariff Filing

October 5, 1984.

Take notice that on September 14, 1984, Arkansas Louisiana Gas Company (Arkla) tendered for filing the following tariff sheets for filing its FERC Gas Tariff, First Revised Volume No. 2:

Rate Schedule No. TRG-1

Original Sheet No. 225
Original Sheet No. 226

These sheets relate to transportation service by Arkla of released gas for its large industrial customers.

Rate Schedule No. ECOSHARE-AIC

1st Revised Sheet No. 223
1st Revised Sheet No. 224

These sheets are adopted to accomodate the existence of Rate Schedule No. TRG-1.

ECOSHARE Transportation Rate Schedule

1st Revised Sheet No. 221
1st Revised Sheet No. 222

These sheets are adapted to accommodate the existence of Rate Schedule No. ECOSHARE-AIC.

Arkla proposes and effective data for these tariff sheets of September 14, 1984, and requests such approvals and waivers as may be necessary to permit this to be done.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR of the 385.211, 385.214). All such petitions or protests should be filed on or before October 12, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-27376 Filed 10-16-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-715-000]

Columbia Gulf Transmission Co.; Application

October 10, 1984.

Take notice that on September 17, 1984, Columbia Gulf Transmission Company (Applicant), P.O. Box 683, Houston, Texas 77001, file in Docket No. CP84-715-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Texas Eastern Gas Pipeline Company (Texas Eastern), all as more fully set forth in the application

which is on file with the Commission and open to public inspection.

Applicant proposes pursuant to a gas transportation agreement dated June 18, 1984, to transport on a contract demand basis, 750 Mcf of natural gas per day of Texas Eastern's gas produced from offshore Louisiana.

Applicant would receive Texas Eastern's gas at the inlet of its measurement facilities on Platform B in Eugene Island Block 313, offshore Louisiana, and transport such natural gas through its 12-inch pipeline facilities for redelivery to Sea Robin Pipeline Company (Sea Robin) for Texas Eastern's account at a side tap at the interconnection of Applicant's 12-inch pipeline and Sea Robin's 24-inch pipeline located in Eugene Island Block 313, offshore Louisiana

Texas Eastern would pay Applicant a contract demand charge of $1.24 per Mcf of natural gas received for transportation at its measurement facilities on Platform B in Eugene Island Block 313, offshore Louisiana. Applicant states that the transportation would continue for a period of five years from the date of initial delivery and yearly thereafter unless terminated by either party upon ninety days prior written notice.

Any persons desiring to be heard or to make any protest with reference to said application should on or before October 30, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-27379 Filed 10-16-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-734-000]

Columbia Gas Transmission; Request Under Blanket Authorization

October 9, 1984.

Take notice that on September 25, 1984, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, filed in Docket No. CP84-734-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Bethlehem Mines Corporation (Bethlehem Mines) under the certificate issued in Docket No. CP83-76-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open inspection.

Specifically, Columbia proposes to transport up to 4 billion Btu equivalent of natural gas per day for Bethlehem Mines through June 30, 1985. Columbia stats that the gas to be transported would be purchased from KEPCO, Inc. (KEPCO), and would be used as process gas in Bethelehem Mines' Hanover, Pennsylvania, plant. Columbia Gas has submitted an end-use profile for Bethlehem Mines' plant indicating that the volumes to be transported represent the plant's total gas requirements.

It is indicated that Bethlehem Mines has made arrangements to purchase this gas from KEPCO. Columbia states that it would receive the gas from KEPCO at any of three specified points in Kentucky and redeliver the gas to Columbia Gas of Pennsylvania, Inc. (CPA), the distribution company serving Bethlehem Mines, near Hanover, Pennsylvania. Further, Columbia states that depending upon whether its gathering facilities are involved, it would charge either (1) 40.11 cents per dt equivalent for storage and transmission, exclusive of company-use and unaccounted-for gas, or (2) 44.93 cents per dt equivalent for storage, transmission and gathering, exclusive of company-use and unaccounted-for gas, as set forth in Columbia's Rate Schedule TS-1. Columbia states that it would retain 2.85 percent of the total quantity of gas delivered into its system for company-use and unaccounted-for gas, as set forth in Columbia's Rate Schedule TS-1. Columbia Gas also states that it would charge Bethlehem Mines the Gas Research Institute Funding Unit.

Columbia Gas estimates that the annual volume, peak day volume, and average day volume would be 1,148,400 million Btu, 4 billion Btu and 3 billion Btu, respectively. Columbia Gas has submitted an affadavit from CPA that CPA has sufficient capacity to transport the gas without detriment to its other customers. Columbia Gas indicates that it will use existing facilities to provide the transportation service. Columbia Gas also has submitted an affadavit from the producer, KEPCO, stating that the gas is being sold under a June 1, 1984, contract at rates not in excess of the applicable ceiling rates established by the Natural Gas Policy Act of 1978 (NGPA).

Columbia Gas states that should it add or delete sources of gas obtained by the end-user or add or delete receipt/delivery points, it would file within 30 days, a supplement containing the following information provided that the additional sources would constitute the quantities to be transported, not to exceed those quantities:

1. Copy of the gas purchase contract between the seller and the end-user;
2. Statement as to whether the supply is attributable to gas under contract to and released by a pipeline or distributor and if so, identification of the parties, and specification of the current contract price;
3. Statement of the NGPA pricing categories of the added supply, if released gas, and the volumes attributable to each category;
4. Statement that the gas is not committed or dedicated within the meaning of NGPA section 2(18);
5. Location of the receipt/delivery points being added or deleted. For deletions provide the name of the producer/supplier;
6. Where an intermediary participates in the transaction between the seller and the end-user, the information required by § 157.209(c)(1)(ix) of the Commission's Regulations.
7. Identity of any other pipeline involved in the transportation.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice

of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-27378 Filed 10-16-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket NO. CP84-719-000]

Consolidated Gas Transmission Crop.; Application

October 10, 1984.

Take notice that on September 18, 1984, Consolidated Gas Transmission Corporation (Consolidated), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP84-719-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Consolidated to transport natural gas for Harvey Glass Company (Harvey), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Consolidated proposes to continue the transportation of up to 250 dt equivalent of natural gas per day on behalf of Harvey which transportation is currently rendered pursuant to § 157.209(a) of the Commission's regulations. It is explained that pursuant to an October 8, 1983, agreement, as amended, between Consolidated and Harvey, Consolidated would receive gas, purchased by Harvey in Calhoun County, West Virginia, from Ramco Oil and Gas Corporation and transport and redeliver such volumes, on an interruptible basis, to mutually agreeable points of interconnection between Consolidated and Hope Gas, Inc., in Harrison County, West Virginia, for further delivery to Harvey. Further, it has been represented to Consolidated that the gas was not committed or dedicated to interstate commerce on November 8, 1978. It is stated that Harvey uses the gas to fuel melting furnaces in the manufacturing of glass. The term of the proposed service extends to January 12, 1990.

The rate to be charged is that stated in Consolidated's Rate Schedule TI of its FERC Gas Tariff, Original Volume No. 1, which is currently 30.95 cents per dt, it is stated. Consolidated proposes that the treatment of revenues from this transportation service be in accordance with the provisions of its most recent rate settlement in Docket No. RP82-115-000. Consolidated states that in light of a statement in the Commission's Order No. 319 which arguably could preclude such revenue treatment under the blanket certificate program, Consolidated believes it prudent to seek a clarification and express authorization through this application.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 30, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214. or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules and Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Consolidated to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-27380 Filed 10-16-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2131-000]

Donald F. Kelly; Application

October 10, 1984.

Take notice that on October 3, 1984, Donald F. Kelly filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Vice President, Central Maine Power Company

Vice President and Director, Maine Electric Power Company, Inc.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211. 385.214). All such motions or protests should be filed on or before October 26, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-27381 Filed 10-16-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-142-000]

Great Lakes Gas Transmission Co.; Tariff Filing

October 9, 1984.

Take notice that on September 28, 1984, Great Lakes Gas Transmission Company (Great Lakes) tendered for filing the following tariff sheet to its FERC Gas Tariff, First Revised Volume No. 1:

Forty-Seventh Revised Sheet No. 57.

Great Lakes states that this tariff sheet separately identifies the purchased gas costs for the rate schedules stated therein, as required by the Federal Energy Regulatory Commission's (Commission) Order No. 380.

Great Lades indicates that copies of this filing have been served on all its customers and the public service commissions of Minnesota, Wisconsin and Michigan.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington,

D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211. 385.214). All such motions or protests should be filed on or before October 15, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-27382 Filed 10-16-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-139-000]

Kentucky West Virginia Gas Co.; Tariff Filing

October 5, 1984.

Take notice that on September 19, 1984, Kentucky West Virginia Gas Company (Kentucky West) tendered the following tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1:

Original Sheet No. 10-A; Eleventh Revised Sheet No. 27-A superseding Tenth Revised Sheet No. 27-A; Original Sheet Nos. 44-A, 44-B, 44-C and 44-D.

Kentucky West states that the tariff sheets are submitted in accordance with § 154.62 of the Federal Energy Regulatory Commission's (Commission) regulations, which tariff sheets relate to the filing of an initial Rate Schedule ITS for the interruptible transportation of natural gas.

Kentucky West requests that waiver be granted under § 154.51 of the Commission's regulations to permit these tariff sheets to become effective, September 19, 1984, in order that Kentucky West may provide transportation service under its blanket certificate authorization, which was issued in Docket No. CP82-496-000.

Kentucky West states that it has served copies of this filing upon PPG Industries, Inc. and Bethlehem Mines Corporation.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before October 12, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-27384 Filed 10-16-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-1825-001]

John V. Cleary, Jr.; Application

October 10, 1984.

Take notice that on October 4, 1984, John V. Cleary, Jr. filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Director, Vermont Electric Transmission Company, Inc.
Director, Vermont Electric Power Company, Inc.
President, Chief Executive Officer and Director, Green Mountain Power Corporation
Director, Vermont Yankee Nuclear Power Corporation

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before October 26, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-27383 Filed 10-16-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-63-001]

Mississippi River Transmission Corp.; Filing of Motion To Make Suspended Tariff Sheets Effective

October 9, 1984.

Take notice that on October 4, 1984, Mississippi River Transmission Corporation ("Mississippi") filed in the captioned docket a "Motion to Make Suspended Tariff Sheets Effective." The tariff sheets which Mississippi moves to make effective on October 5, 1984 are as follows:

Second Revised Volume No. 1

Eighth Revised Sheet No. 4
Third Revised Sheet No. 42
Second Revised Sheet No. 50
Second Revised Sheet No. 55
Third Revised Sheet No. 74

Original Volume No. 2

Seventh Revised Sheet No. 86

Mississippi states that pursuant to Commission order issued May 4, 1984, and as described in the Motion, revisions have been made to the rates and charges in the tariff sheets to reflect: (1) The elimination of costs associated with facilities not placed in service by September 30, 1984; (2) the actual balance of advance payments as of August 31, 1984 and the estimated recoupment of advances during September, 1984; and (3) the cost of purchased gas and Surcharge Adjustments as contained in Mississippi's PGA to be effective September 1, 1984.

Mississippi states that copies of the Motion, together with the revised tariff sheets and computations in support of the rate revisions, have been served on all jurisdictional customers, parties to this proceeding and interested State Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with sections 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 16, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-27385 Filed 10-16-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-2-25-002]

Mississippi River Transmission Corp.; Rate Change Filing

October 9, 1984

Take notice that on October 4, 1984, Mississippi River Transmission

Corporation ("Mississippi") tendered for filing Substitute Seventh Revised Sheet No. 4 to its FERC Gas Tariff, Second Revised Volume No. 1. Said tariff sheet is proposed to be effective as of September 1, 1984.

Mississippi states that the filing is being submitted pursuant to a Commission letter order dated August 21, 1984 at Docket No. TA84-2-25-000 and No. 4 to be effective September 1, 1984, subject to any downward adjustment necessary to reflect the proper rates for Mississippi's pipeline suppliers as of such date. Mississippi states that the instant filing reflects rate changes from Natural Gas Pipeline Company of America and Trunkline Gas Company. The combined annual cost reduction of this PGA revision to Mississippi's jurisdictional customers is approximately $1.9 million from rates contained in Mississippi's original PGA filing.

Mississippi states that copies of its filing have been served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Sections 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 16, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-27388 Filed 10-16-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP84-716-000]

Mountain Fuel Resources, Inc.; Application

October 10, 1984.

Take notice that on September 17, 1984, Mountain Fuel Resources, Inc. (Applicant), 79 South State Street, P.O. Box 11450, Salt Lake City, Utah 84147, filed in Docket No. CP84-716-000, an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a mainline cryogenic natural gas liquids processing plant, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the proposed natural gas liquids processing facility, with a nominal design capacity of 120,000 Mcf per day, would use cryogenic turboexpansion technology to separate and recover from the incoming gas stream ethane, propane, butane, pentanes and heavier hydrocarbons. The facility would be located near Rock Springs, Wyoming, adjacent to the existing Nightingale compressor station in Section 24, Township 18 North, Range 106 West, Sweetwater County, Wyoming. Applicant estimates the cost of construction at $18,546,000, exclusive of the cost of constructing a non-jurisdictional liquid products pipeline, estimated to cost $715,000, to connect the proposed natural gas liquids processing plant to an existing liquid products pipeline. Applicant states that these costs would be financed out of general funds on hand.

Applicant further states that the gas stream to be processed at the proposed facilities would consist of gas owned or controlled by Applicant. Applicant explains that this gas, produced in areas east of Rock Springs, Wyoming, would be comprised of (a) gas volumes currently under contract or transported for Mountain Fuel Supply Company (Mountain Fuel), an affiliated distribution company, under Applicant's FERC Rate Schedule X-33 (Wexpro Agreement gas); (b) additional purchases, and (c) Applicant's "developmental gas" (volumes to be developed under the Wexpro Agreement and transported for Mountain Fuel).

Applicant states that processing of the gas stream would provide economic benefits for Mountain Fuel, its sole sale for resale customer, and would help ensure the safe and reliable operation of its pipeline system. Recently increased transportation volumes are said to have changed operating conditions on Applicant's system, requiring the processing of the gas stream to avoid operating problems and to ensure Applicant's ability to meet gas quality specifications under transportation agreements with other pipelines. Further, Applicant asserts that the proposed facilities would also permit the removal of contaminants such as carbon dioxide and hydrogen sulfide should that be necessary in the future. Applicant states that operation of the proposed plant, which would be fully interruptible, would require approximately 6,100,000 Mcf of natural gas annually for fuel use and to offset shrinkage. During periods of high demand, Applicant states that it would interrupt operation of the plant to help balance load.

Applicant states that the annual cost of service of operating the proposed facilities, including the non-jurisdictional liquid products pipeline, and the cost of fuel and shrinkage would be $16,988,711 in the first year. Applicant also states that first year revenues from the sale of the extracted liquid hydrocarbons would approximate $23,845,140, for a net economic benefit of $6,856,429.

Applicant proposes to credit the net revenues in excess of the cost of service to Mountain Fuel, its distribution affiliate, under its FERC Rate Schedule CD-1; all of Applicant's sales for resale are to Mountain Fuel under Rate Schedule CD-1.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 30, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-27387 Filed 10-16-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket Nos. CP83-213-007 and CP83-214-004, CP83-251-008]

Northwest Pipeline Corp. and The Washington Water Power Co.; Petitions To Amend

October 10, 1984.

Take notice that on September 20, 1984, Northwest Pipeline Corporation (Northwest), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket Nos. CP83-213-007 and CP83-214-004 and The Washington Water Power Company (Water Power), E. 141 Mission Avenue, Spokane, Washington 99202, filed in Docket No. CP83-251-088, petitions to amend the Commission's order issued June 3, 1983, as amended, in Docket No. CP83-213-000, *et al.*, pursuant to section 7 of the Natural Gas Act so as to authorize an exchange and transportation of natural gas, storage of natural gas, and granting permission and approval to abandon the sale and delivery of storage gas, all as more fully set forth in the petitions which are on file with the Commission and open to public inspection.

It is stated that the June 3, 1983, order as amended May 21, 1984, authorized Northwest to abandon the sale and delivery to Water Power of a daily quantity of 630,000 therms and a seasonal quantity 21,825,000 therms of natural gas which Northwest had been authorized to sell and deliver to Water Power under Rate Schedule SGS-1 from Water Power's allocated capacity in the Jackson Prairie Storage Project (Jackson Prairie). Water Power was authorized to release equivalent quantities of storage capacity at Jackson Prairie to British Columbia and Hydro Power Authority (B.C. Hydro), it is stated. The orders also authorized Northwest to exchange on a deferred basis equivalent volumes of gas with Westcoast Transmission Company Limited (Westcoast) at Sumas, Washington, and to transport such exchanged gas to and from Jackson Prairie for Water Power on behalf of B.C. Hydro, it is explained. It is stated that the effect of these arrangements is to enable Water Power to release excess storage capacity to B.C. Hydro and to enable B.C. Hydro to use Jackson Prairie storage capacity to serve better its seasonal market requirements.

Northwest and Water Power state that an examination of the seasonal quantity associated with the maximum daily quantity has revealed a discrepancy between the seasonal quantity certificated and the intended seasonal quantity. It is stated that Water Power's share of the Jackson Prairie storage capacity prior to the releases to B.C. Hydro was 37,728,000 therms seasonally and 1,048,000 therms daily, a ratio of 36 to 1. Water Power intends to maintain that ratio for the released storage quantities, it is explained. Northwest and Water Power therefore request that the order be amended to authorize a change in the seasonal quantity from 21,825,000 therms to 22,680,000 therms.

Any person desiring to be heard or to make any protest with reference to said petitions to amend should on or before October 30, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-27388 Filed 10-16-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CI85-4-000]

Shell Offshore Inc. and Shell Western E&P Inc.; Application for Blanket Limited-Term Certificate of Public Convenience and Necessity and Limited Partial Abandonment Authorization

October 9, 1984.

Take notice that on October 2, 1984, SHELL OFFSHORE INC. (SOI) and SHELL WESTERN E&P INC. (SWEPI) One Shell Plaza, P.O. Box 2463, Houston, Texas 77001, filed and application, pursuant to sections 4 and 7 of the Natural Gas Act (NGA) (15 U.S.C. 717c and 717f), and Part 157 of the Commission's Regulations thereunder, for limited partial abandonment authorization and a Blanket Limited-Term Certificate of Public Convenience and Necessity authorizing Shell Offshore Inc. and Shell Western E&P Inc. (herein jointly called "Shell") to conduct a short-term spot sales marketing program, hereinafter referred to as the Shell Saver Program (Shell Saver), all as more fully set forth in the Application which is on file with the Federal Energy Regulatory Commission (Commission) and open to public inspection.

Approval would (i) authorize the sale of natural gas by SOI or SWEPI or its joint venture working interest owners in the same well and reservoir for resale in interstate commerce; (ii) permit temporary partial abandonment of cerain natural gas sales; (iii) confer pre-granted abandonment authorization for sales of natural gas made pursuant to the requested certificate; (iv) authorize transportation of natural gas by interstate pipeline companies able and willing to participate in Shell Saver; and (v) confer pre-granted abandonment authorization for the transportation service allowed under the requested certificate. This authority is necessary for implementing a short-term experimental spot sales marketing program. Under Shell Saver, SOI or SWEPI proposes to sell on a spot basis contractually committed natural gas qualifying for the section 102, 103, 107 or 108 rate under the Natural Gas Policy Act of 1978. SOI or SWEPI will seek temporary releases of gas from the purchasers to whom it is committed in order to meet market demand for spot sales. Releasing purchasers will be given relief from take-or-pay liability for any volumes of gas released and sold under the Shell Saver Program.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than normal for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before, October 15, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a

party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-27369 Filed 10-16-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-3-000]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Filing of Tariff Rate Adjustment Provisions

October 9, 1984.

Take notice that on October 3, 1984, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee) tendered for filing the following tariff sheets to its FERC Gas Tariff to be effective November 3, 1984:

Substitute First Revised Sheet No. 198
Substitute Second Revised Sheet No. 199
Substitute Third Revised Sheet No. 200
Substitute Fourth Revised Sheet No. 201
Substitute First Revised Sheet No. 202

Tennessee states that the purpose of this filing is to revise its PGA clause to permit it to direct bill on a lump-sum basis amounts related to large retroactive payments, such as those related to Order No. 94.

Tennessee states that copies of the filing have been mailed to all of its customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before October 16, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-27380 Filed 10-16-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA85-1-52-000 and TA85-1-52-001]

Western Gas Interstate Co.; Proposed PGA Rate Adjustment

October 9, 1984.

Take notice that on October 1, 1984, Western Gas Interstate Company ("Western") filed herein First Revised Sheet No. 3A and First Revised Sheet No. 3B to its FERC Gas Tariff, Alternate Revised Volume No. 1. Said tariff sheets are proposed to become effective on November 1, 1984.

Western states the proposed change in rates reflected on First Revised Sheet No. 3A is being filed in accordance with its Tariff's PGA clause which permits the recovery of increases in the cost of gas and of unrecovered purchased gas cost. Western further states the proposed Purchase Gas Cost Adjustment for the Northern Division is (3.63)¢ per Mcf; for the Western Division it is 0.00¢ per Mcf; and for the Southern Division it is (23.32)¢ per Mcf. The proposed surcharge adjustment is 20.41¢ per Mcf for the Northern Division; 0.00¢ per Mcf for the Western Division and (23.24)¢ per Mcf for the Southern Division.

Western also states that First Revised Sheet No. 3B reflects the Projected Incremental Pricing Surcharge Adjustment for the Period November 1, 1984 through April 30, 1985 as required by § 282.802(a)(ii) of the CFR.

Western states that copies of this filing were served upon Western's transmission system customers and the interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such petitions or protests should be filed on or before October 15, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-27381 Filed 10-16-84; 8:45 am]

BILLING CODE 6717-01-M

ANR Pipeline Co.; Request Under Blanket Authorization

October 11, 1984.

Take notice that on September 20, 1984, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP84-727-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to perform a transportation service for Sohio Oil Company (Sohio), an eligible end-user, under its certificate issued in Docket No. CP82-480-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

ANR states that the transportation service would be pursuant to §§ 157.209(b) 157.209(e) of the Commission's Regulations and a transportation agreement among ANR, Sohio and ANR Production Company, (ProdCo) dated October 14, 1983, as amended March 23, 1984, and August 10, 1984. ANR explains that it is advised that Sohio has entered into an agreement dated December 30, 1983, as amended August 10, 1984, with ProdCo to acquire natural gas. ANR states that to effectuate delivery of the acquired volumes ANR commenced transportation services on behalf of Sohio on August 15, 1984, pursuant to § 157.209(e)(1) of the Commission's Regulations and has agreed, subject to approval, to provide transportation services for up to an aggregate at 12,000 dt equivalent of gas per day for Sohio through June 30, 1985. It is submitted that pursuant to the agreements, Sohio would cause its seller, ProdCo, to tender or cause to tender the gas to ANR for Sohio's account and that ANR's system is interconnected with that of ProdCo, or others, at various existing and proposed points of interconnection in Kansas, Oklahoma, and Texas. ANR states that it would transport and deliver the volumes to Columbia Gas Transmission Corporation (Columbia) for Sohio's account in Paulding County, Ohio. ANR is advised that Columbia and its affiliate, Columbia Gas of Ohio, Inc., would provide additional transportation service for Sohio.

ANR asserts that as consideration for providing the transportation service ANR would receive 54.7 cents per dt for all gas transported from points of receipt in Kansas, Oklahoma, and Texas and delivered to Columbia for Sohio's account and that the rate is based upon Rate Schedule EUT-1 on file in ANR's FERC gas tariff original volume No. 1.

ANR also indicates it may need to add and/or delete receipt and/or redelivery points upon mutual agreement of the parties and has agreed to comply with certain filing agreements in implementing these changes. It advises that within 30 days following the addition or deletion of any gas suppliers or receipt or redelivery points ANR would file the following information:

(1) Any amendment to the transportation agreement adding or deleting points of receipt or points of delivery;

(2) A copy of the gas purchase contract between the seller and the end-user;

(3) A statement as to whether the supply is attributable to gas under contract to and are released by a pipeline or distributor and if so, identification of the parties, and specification of the current contract price;

(4) A statement of the Natural Gas Policy Act of 1978 (NGPA) pricing-categories of the added supply, if released gas, and the volumes attributable to each category;

(5) A statement that the gas is not committed or dedicated within the meaning of NGPA Section 2(18);

(6) The location of the receipt/delivery points being added or deleted and the appropriate transportation charge resulting from the addition or deletion of receipt or delivery points (for deletions, the name of the producer/supplier would be provided);

(7) Where intermediary participates in the transaction between the seller and the end-user, the information required by § 157.209(v)(1)(ix) of the Regulations.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,
Secretary.

[FR Doc. 84-27486 Filed 10-16-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP81-107-000, et al.]

Boundary Gas, Inc.; Canadian Import Project—Niagara Route Proposal, Notice of Intent To Prepare a Draft Environmental Impact Statement and Request for Comments on Its Scope

October 12, 1984.

Introduction

The Canadian Import Project is a major initiative to bring natural gas from western Canada to the eastern United States. The overall project consists of the Niagara Route Proposal and two major alternatives to it. One alternative is known as the U.S. Route Alternative and the other is known as the MIDCON Alternative. This notice of intent covers the Niagara Route Proposal.

Notice is hereby given that the staff of the Federal Energy Regulatory Commission (FERC) has determined that approval of the projects proposed in the following applications would constitute a major Federal action significantly affecting the quality of the human environment: Great Lakes Gas Transmission Company (Great Lakes), Docket Nos. CP84-540-000 and CP82-428-002; Washington 28 Gas Storage Company (Washington 28), formerly known as Couch Gas Storage Company, Docket No. CP84-14-001; Michigan Consolidated Gas Company—Interstate Storage Division (ISD), Docket No. CP82-502-002; Niagara Interstate Pipeline System (NIPS), Docket No. CP83-170-001; Algonquin Gas Transmission Company (Algonquin), Docket No. CP82-119-010; Transcontinental Gas Pipe Line Corporation (Transco), Docket No. CP82-385-003; Texas Eastern Transmission Corporation (Texas Eastern), Docket No. CP82-446-003; and Tennessee Gas Pipeline Company, a Division of Tenneco, Inc. (Tennessee), Docket No. CP81-296-008. Therefore, pursuant to § 2.82(b) of the Commission's Rules of Practice and Procedure (18 CFR 2.82(b)), a draft environmental impact statement (DEIS) will be prepared.

The applicants are seeking certificates of public convenience and necessity, under section 7(c) of the Natural Gas Act, authorizing construction and operation of a total of 835.2 miles of pipeline and 86,530 horsepower of compression, and transportation and storage service. Gas would be transported east from western Canada by TransCanada Pipelines Limited (TransCanada) to the facilities of Great Lakes. The gas would then be transported through the U.S. facilities of Great Lakes for redelivery to TransCanada and Union Gas Limited (Union) at the Canada-U.S. border. The gas would then be transported through the Canadian facilities of TransCanada and Union for delivery to the Canada-U.S. border near Niagara Falls, New York. The gas would be imported at the Niagara delivery point and transported through existing and proposed facilities, and sold to customers in the eastern United States.

Because of the history of these applications, some of the facilities have already been analysed in the *Tennessee/Boundary Looping Project: Final Environmental Impact Statement*, issued February 1983. To complete the environmental analysis of these applications, a second volume will be prepared entitled the *Canadian Import Project—Niagara Route Proposal*. This DEIS will address all proposed facilities that have not been analysed in the final EIS.

The Niagara Route Proposal in Detail

In Docket No. CP84-540-000, Great Lakes proposes to construct 350.4 miles of 36-inch diameter pipeline loop in 14 segments adjacent to its existing pipeline across northern Minnesota, Wisconsin, and Michigan. Great Lakes would also install a total of 27,500 horsepower of compression at two existing compressor stations in Delta and Clare Counties, Michigan, and modify piping and equipment at 11 other compressor stations on its transmission system. The Belle River Mills and St. Clair Meter Stations in St. Clair County, Michigan, would also be expanded under Docket Nos. CP84-540-000 and CP82-428-002. These facilities would be used to transport Canadian gas from the TransCanada-Great Lakes Emerson Interconnection, Manitoba, Canada to the TransCanada-Great Lakes Sault Ste. Marie and Union-Great Lakes St. Clair Interconnections in Ontario, Canada.

In Docket No. CP84-14-001, Washington 28 proposes to construct 3.1 miles of 6-, 12-, 16-, and 20-inch diameter pipeline and a 4,000-horsepower compressor station. The applicant would also develop and operate the Washington 28 field for underground storage by driling seven new wells, reworking six producing wells for injection-withdrawal, reworking one producing well for observation, plugging two producing wells, converting six plugged wells to observation, and replugging three plugged wells. All of these facilities would be in Macomb County, Michigan, and used to provide 10 billion cubic feet of storage service.

In Docket No. CP82-502-002, ISD proposes to constuct a 20-inch tap

interconnection between its existing facilities and Washington 28's proposed 20-inch diameter pipeline in Macomb County, Michigan. ISD's facilities would be used to transport storage gas to and from Great Lakes' transmission system.

In Docket No. CP83–170–001, NIPS has proposed to construct a pipeline system that is divided into two segments. The Northern Segment extends 48.6 miles from the U.S. and Canadian border crossing of the Niagara River in Niagara County, New York to East Aurora in Erie County, New York. The Southern Segment begins at East Aurora and ends at Leidy in Clinton County, Pennsylvania. The environmental aspects of the Northern Segment has already been analyzed in the *Tennessee/Boundary Looping Project: Final Environmental Impact Statement.* For the Southern Segment, NIPS proposes to construct 112.7 mile of 42-inch diameter pipeline, two meter stations, and a compressor station. The Coudersport Meter Station would be located within an existing compressor station in Potter County, Pennsylvania. The new Leidy Compressor and Meter Station would house a 11,600 horsepower compressor in Clinton County, Pennsylvania. These facilities would be used to deliver gas to Tennessee, Transco, Texas Eastern.

In Docket No. CP82–385–003, Transco proposes to contrust 150.18 miles of 10-, 16-, 24-, 30- and 36-inch diameter pipeline loop in eight segments adjacent to its existing pipelines in Pennsylvania and New Jersey. Transco would also install a total of 15,300 horsepower of compression at two existing compressor stations in Lycoming and Luzerne Counties, Pennsylvania, and construct a new 8,000-horsepower compressor station in Linden, Union County, New Jersey. These facilities would be used to transport gas from Leidy to Algonquin and to Transco market area in the northeast.

Texas Eastern requests authorization in Docket No. CP82–446–003 to construct 77.75 miles of 24- and 30-inch diameter loop in four segments adjacent to its existing pipelines in central Pennsylvania. These facilities would be used to transport gas from Leidy to Algonquin and to Texas Eastern's customers in the northeast.

In Docket No. CP82–119–010, Algonquin proposes to construct 28.4 miles of 10-, 12-, 16-, and 30-inch diameter pipeline loops in seven segments in New Jersey, Connecticut, Massachusetts, and Rhode Island. Algonquin also proposed to install 3,830 horsepower of compression at its Cromwell Compressor Station in Middlesex County, Connecticut and to construct a new meter station in Fairfield County, Connecticut. Algonquin further proposes to make piping modifications at two other compressor stations and to upgrade existing metering facilities on its transmission system. These facilities would be used to transport gas in the northeast to Algonquin's customers.

In Docket No. CP81–296–008 Tennessee proposes to construct a 7,000-horsepower compressor and regulator station in Sussex County, New Jersey. This is the only Tennessee facility that has not been previously proposed or discussed in the *Tennessee/Boundary Looping Project: Final Environmental Impact Statement.*[1]

Alternatives to the Niagara Route Proposal

Two major alternatives have been filed with the FERC. The U.S. Route Alternative, proposed in Docket Nos. CP84–318–000 and 001, CP84–363–000, and CP84–407–000, would import Canadian natural gas at an existing import point at Monchy, Saskatchewan. The gas would then be transported east to Leidy, Pennsylvania through the existing Northern Border Pipeline Company (Northern Border) pipeline and its proposed extension, an expanded ANR Pipeline Company pipeline, and the new pipeline system of Ohio Interstate Pipeline Company. These companies would construct approximately 847 miles of pipeline and 359,000 horsepower of compression. Most of the Niagara Route Proposal related facility expansion in Canada and in the United States, west and north of Leidy, would be replaced by the facilities of the U.S Route Alternative. However, Algonquin, Tennessee, Texas Eastern, and Transco would still need the facilities they have proposed east and south of the delivery points proposed at East Aurora, New York, and Coudersport and Leidy, Pennsylvania. The Michigan and Ontario storage would also still be required. Moreover, Tennessee may need additional looping on its system west of East Aurora or Coudersport toward the proposed connection with the U.S. Route Alternative. The extent of this looping is not yet known by the staff.

Natural Gas Pipeline Company of America (Natural) has filed another partial alternative to the Niagara Route Proposal, the MIDCON Alternative, in Docket No. CP84–325–001. The MIDCON Alternative would replace the U.S. Route Alternative proposal except for the addition of new compression on the existing Northern Border pipeline, and may also require substantial facility construction by several Niagara Route Proposal sponsors along their respective systems between Louisiana and the northeastern states. When details of the facilities required to complete the MIDCON Alternative and the route of the MIDCON Alternative become available, a Notice of Intent to prepare an EIS for that alternative project will be issued.

Comment Procedure

The FERC staff intends to prepare an EIS for these projects under the overall title: *Canadian Import Project* (CIP). The scope and geographic diversity of the three competing proposals would make a single volume EIS unwieldy. It is currently anticipated that separate volumes will be prepared for the Niagara Route Proposal, the U.S. Route Alternative, and the MIDCON Alternative. Because of the extended history of the Niagara Route Proposal, the project will be analyzed in two volumes; one of which has already been issued by the FERC staff and was entitled the *Tennessee/Boundary Looping Project: Final Environmental Impact Statement*, February 1983. A comparative analysis and discussion of the environmental considerations of the three proposals will also be prepared.

A copy of this notice and additional technical information about the proposed project, including general route maps, have been distributed to Federal, state, and local agencies, and parties to the proceedings. Interested readers of this notice are encouraged to comment on anticipated environmental concerns associated with the project. Comments will be used by the FERC staff to identify the issues which require indepth environmental analysis.

Comments should be addressed to the Secretary, Federal Energy Regulatory Commission, 825 N. Capitol Street, NE., Washington, D.C., 20426. Recommendations that the EIS address specific issues should be supported with a detailed explanation of the need to consider such issues. Written comments should be submitted by November 15, 1984, and reference Docket No. CP81–107–000, *et al.*

Additional information about the proposals, including detailed route maps

[1] Tennessee also proposes to construct 64.1 miles of 10-, 12-, and 30-inch diameter pipeline looping in nine segments on its transmission system in New Hampshire, Massachusetts, Pennsylvania, New Jersey and Connecticut. Tennessee would install 7,500 horsepower of compression at three existing compressor stations in Bradford and Potter Counties, Pennsylvania and Middlesex County, Massachusetts, and upgrade 1,800 horsepower of compression at one compressor station in Tioga County, Pennsylvania. All of these facilities have been analyzed in the final EIS issued in 1983.

for specific locations, is available from Mr. Kenneth Frye, Project Manager, at the above address, or by telephone at (202) 357–9039.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–27479 Filed 10–16–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP84–728–000]

Consolidated Gas Transmission Corporation; Application

October 11, 1984.

Take notice that on September 20, 1984, Consolidated Gas Transmission Corporation (Applicant), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP84–728–000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to bandon the Cabot compressor station (Cabot station) in Calhoun County, West Virginia, all as more fully described in the application which is on file with the Commission and open to public inspection.

Applicant proposes to abandon its 4,000 horsepower Cabot station. Applicant states that the recent construction of the Craig compressor station in Ritchie County, West Virginia, has made continued operation of the Cabot station unnecessary. It is explained that the Cabot station was constructed in 1919 and comprises eight 500 horsepower National Transit horizontal tandem gas engine compressors. Applicant states that these units are no longer manufactured and replacement parts are in many instances unavailable and have to be specially made, resulting in high maintenance and repair costs.

Applicant proposes no change in service to any of its customers as a result of the proposed abandonment.

Any person desiring to be heard or to make any protest with reference to said application should on or before Nov. 5, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–27468 Filed 10–16–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA84–2–22–009]

Consolidated Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

October 12, 1984.

Take notice that Consolidated Gas Transmission Corporation (Consolidated) on October 5, 1984, filed Substitute First Revised Sheet No. 31 to its FERC Gas Tariff, Original Volume No. 1. The substitute tariff sheet is filed in compliance with Ordering Paragraph (E) of the Commission's August 31, 1984, suspension order in this proceeding and is proposed to become effective on September 1, 1984.

The compliance filing, which reflects reduced rates from pipeline suppliers and a reduced cost of pipeline production, would reduce Consolidated's commodity sales rates by 3.62 cents.

Copies of the filing were served upon Consolidated's jurisdictional customers as well as interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214. 385.211). All such petitions or protests should be filed on or before October 19, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–27469 Filed 10–16–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA85–1–23–000 and TA85–1–23–001]

Eastern Shore Natural Gas Co.; Tariff Filing

October 12, 1984.

Take notice that Eastern Shore Natural Gas Company (Eastern Shore) on October 5, 1984, tendered for filing the following revised tariff sheets to Original Volume No. 1 of Eastern Shore's FERC Gas Tariff:

A. Proposed Tariff Sheets to Be Effective November 1, 1984

Twenty-Seventh Revised Sheet No. 5
Twenty-Seventh Revised Sheet No. 6
Eleventh Revised Sheet No. 7
Twenty-Seventh Revised Sheet No. 10
Twenty-Seventh Revised Sheet No. 11
Twenty-Seventh Revised Sheet No. 12
Fourth Revised Sheet No. 13

Eastern Shore states that the purpose of the filing is to reflect (1) a Purchased Gas Cost Current Adjustment, (2) a Demand Charge Adjustment (3) a Deferred Gas Cost Adjustment, and (4) to report the Projected Incremental Pricing Surcharges. This filing is being made in accordance with Sections 20, 21, and 23 of Eastern Shore's FERC Gas Tariff.

Eastern Shore states that copies of the filing have been mailed to each of its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 214 and 211 of the Commission Rules of Practice and Procedure (18 CFR 385.214 and 385.211). All petitions or protests should be filed on or before October 19, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to

intervene. Copies of this filing are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-27470 Filed 10-16-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES84-76-000]

Idaho Power Co.; Application

October 11, 1984.

Take notice that on September 26, 1984, Idaho Power Company filed an application with the Federal Energy Regulatory Commission seeking authority, pursuant to Section 204 of the Federal Power Act, to issue not more than $50 million of unsecured promissory notes or other evidence of indebtedness to be issued on or before December 31, 1985 with a final maturity no later than December 31, 1986.

Any persons desiring to be heard or to make any protest with reference to the application should file a motion to intervene or protest on or before October 26, 1984, with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-27471 Filed 10-16-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TC85-1-000]

K N Energy, Inc.; Motion for Extension of Time

October 11, 1984.

Take notice that on October 1, 1984, K N Energy, Inc. (K N), P.O. Box 15265, Lakewood, Colorado 80215, filed in Docket No. TC85-1-000 a motion pursuant to Rule 212 of the Commission's Rules of Practice and Procedure (18 CFR 385.212) for an extension of time for K N to comply with the filing requirement of Article 6.2, *Annual Three Year Forecast*, of the stipulation and agreement approved by the Commission by order issued November 21, 1981, in Docket Nos. RP76-90, *et al.*, All as more fully described in the motion which is on file with the Commission and open to public inspection.

Specifically, under Article 6.2, K N is required to file with the Commission for comments, on or before October 1 of each year, a three-year forecast of the gas requirements on its interstate system and the gas supply available to meet those requirements for twelve-month periods from November 1 through October 31. K N states that while its gas supply requirements have been defined, it will not have available a current gas supply forecast until the last week of October 1984. K N, therefore, requests that it be granted an extension of time to permit it to file the aforementioned forecast for this year no later than November 1, 1984.

Additionally, K N states that all parties to the stipulation and agreement in Docket Nos. RP76-90, *et al*, K N's wholesale customers, and the Commission staff have been informed of K N's intent to request this extension of time and that no one has objected.

Any person desiring to be heard or to make any protest with reference to the instant filing should on or before October 19, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-27472 Filed 10-16-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-752-000]

Northern Border Pipeline Co.; Application

October 11, 1984.

Take notice that on September 28, 1984, Northern Border Pipeline Company (Applicant), 224 South 108th Avenue, Omaha, Nebraska 68154, filed in Docket No. CP84-752-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the addition of a point of delivery located near Welcome, Minnesota, under its Rate Schedule X-1 interim transportation agreement with Northern Natural Gas Company, Division of InterNorth, Inc. (Northern Natural), and the operation of the existing facilities at such point to accommodate an increase in the maximum daily deliveries from 75,000 Mcf of gas to 125,000 Mcf, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant indicates that the increased volumes delivered at Welcome would provide additional operating flexibility on Northern Natural's system, reduce fuel consumption and thus improve service to Northern Natural's customers.

Applicant states that the instant proposal would not impact the cost of service allocation or charges on its system. Applicant also states that the proposed service can be accomplished with Applicant's existing facilities and that the proposal does not involve the construction of additional facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 26, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-27473 Filed 10-16-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GT85-3-000]

Northwest Pipeline Corp.; Proposed Change in FERC Gas Tariff

October 12, 1984.

Take notice that on October 4, 1984 Northwest Pipeline Corporation ("Northwest") tendered for filing and acceptance as part of its FERC Gas Tariff, Original Volume No. 2, the following tariff sheets which revise Special Rate Schedules X-15 and X-16.

Rate Schedule X-15

First Revised Sheet No. 4
First Revised Sheet No. 7

Rate Schedule X-16

Second Revised Sheet No. 20
First Revised Sheet No. 22
First Revised Sheet No. 23

The purpose of the revised tariff sheets filed herewith is to revise their respective rate schedules to allow for balancing of exchange and transportation volumes on a thermally equivalent basis.

To facilitate accounting for the change in exchange and transportation procedures and to implement the needed changes as soon as possible, Northwest requests waiver of §154.22 of the Commission's regulations to permit an effective date of October 1, 1984.

A copy of this filing is being mailed to Mountain Fuel Resources, Inc.

Any persons desiring to be heard or protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE. Washington D.C. 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before October 19, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-27474 Filed 10-16-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES84-75-000]

South Carolina Public Service Authority; Application

October 11, 1984.

Take notice that on September 24, 1984, the South Carolina Public Service Authority ("Authority") filed an application seeking an order authorizing the issuance of up to $50,000,000 of Tax-Exempt Commercial Paper over a two-year period. The Authority asks, in the alternative, an order dismissing the application for lack of jurisdiction.

Any person desiring to be heard or to make any protest with reference to this application should, on or before October 24, 1984, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, petitions to intervene or protests in accordance with 18 CFR 385.211 or 385.214. The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-27475 Filed 10-16-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP70-7-027]

Southern Natural Gas Co.; Petition To Amend

October 11, 1984.

Take notice that on September 12, 1984, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202-2563, filed in Docket No. CP70-7-027, a petition to amend the order issued October 29, 1969, in Docket No. CP70-7, as amended, pursuant to section 7(c) of the Natural Gas Act so as to authorized a decrease in the contract demand (CD) volume of the Utilities Board of the City of Trussville (Trussville) and a reallocation of the same CD to the City of Austell Natural Gas System (Austell) and The Waterworks and Gas Board of the City of Fultondale (Fultondale), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Southern contends that Trussville desires to reduce its CD from 16,000 Mcf of gas per day to 13,000 Mcf per day and has notified Southern of such decrease in its July 5, 1984, letter. Southern has also indicated that Trussville has entered into agreements with Austell and Fultondale, to provide for the transfer of 2,900 Mcf and 100 Mcf, respectively.

Southern further states that it can make deliveries of such quantities without constructing additional facilities.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before November 5, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-27477 Filed 10-16-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-511-000]

Arthur L. Bloom and the City of Boise, Idaho; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

October 11, 1984.

On September 24, 1984, Arthur L. Bloom, 4880 Barber Dam Road, Boise, Idaho 83702 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The 4140 kilowatt hydroelectric facility (P. 4881) will be located on the Boise River, approximately seven miles southeast of Boise, Idaho in Ada County.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to

the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

A separate application is required for a hydroelectric project license, preliminary permit of exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-27467 Filed 10-16-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-517-000]

Southern California Gas Co.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

October 10, 1984.

On September 28, 1984, Southern California Gas Company (Applicant) of P.O. Box 3249 Terminal Annex, Los Angeles, California 90051, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be a Phosphoric Acid Fuel Cell located at the Black Angus Restaurant, 17920 Brookhurst, Fountain Valley, California. Naturl Gas will be the primary energy source used by the fuel cell system. The power production capacity of the facility will be 40 kilowatts. The facility will supply electricity for onsite use and thermal energy for the domestic hot water system. The proposed facility is scheduled to be installed by December 1, 1984 and will be operated for a period of one to two years as part of a National Field Test.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-27478 Filed 10-16-84; 8:45 am]

BILLING CODE 6717-01-M

Oil Pipeline Tentative Valuation

October 12, 1984.

The Federal Energy Regulatory Commission by order issued February 10, 1978, established an Oil Pipeline Board and delegated to the Board its functions with respect to the issuance of valuation reports pursuant to section 19a of the Interstate Commerce Act.

Notice is hereby given that a tentative basic valuation is under consideration for the common carrier by pipline listed below:

1982 Basic Report

Valuation Docket No. PV-1482-000—Powder River Pipeline Corporation, P.O. Box 3114, Casper, Wyoming 82602

On or before November 19, 1984, persons other than those specifically designated in Section 19a(h) of the Interstate Commerce Act having an interest in this valuation may file, pursuant to rule 214 of the Federal Energy Regulatory Commission's "Rules of Practice and Procedure" (18 CFR 385.214), an original and three copies of a petition for leave to intervene in this proceeding.

If the petition for leave to intervene is granted the party may thus come within the category of "additional parties as the FERC may prescribe" under section 19a(h) of the Act, thereby enabling it to file a protest. The petition to intervene must be served on the company at its address shown above and an appropriate certificate of service must be attached to the petition. Persons specifically designated in section 19a(h) of the Act need not file a petition; they are entitled to file a protest as a matter of right under the statute.

Francis J. Connor,

Administrative Officer, Oil Pipeline Board.

[FR Doc. 84-27479 Filed 10-16-84; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[PF-388; PH-FRL 2693-8]

Certain Companies; Pesticide Tolerance Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide and feed additive petitions relating to the establishment and/or amendment of tolerances for certain pesticide chemicals in or on certain raw agricultural commodities.

ADDRESS: By mail, submit comments identified by the document control number [PF-388] and the petition number, attention Product Manager (PM) named in each petition, at the following address:

Information Services Section (TS-757C), Program Management and Support Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, bring comments to: Information Services Section (TS-757C), Rm. 236, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed in response to this notice will be available for public inspection in the Information Services Section office at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail Registration Division (TS-767C), Attn: (Product Manager (PM) named in each petition), Environmental Protection Agency, Office of Pesticide Programs, 401 M St., SW., Washington, D.C. 20460.

In person: Contact the PM named in each petition at the following office location/telephone number:

Product manager	Office location and telephone No.	Address
PM-17, Timothy A. Gardner.	Rm. 207, CM No. 2 (703-557-2690).	EPA, 1921 Jefferson Davis Hwy., Arlington, VA 22202.
PM-21, Henry Jacoby.	Rm. 229, CM No. 2 (703-557-1900).	Do.
PM-23, Richard Mountfort.	Rm. 253, CM No. 2 (703-557-1830).	Do.
PM-25, Robert Taylor.	Rm. 251, CM No. 2 (703-557-1800).	Do.

SUPPLEMENTARY INFORMATION: EPA has received pesticide (PP) and feed additive (FAP) petitions relating to the establishment and/or amendment of tolerances for residues of certain pesticide chemicals in or on certain raw agricultural commodities.

I. Initial Filings

1. *PP 4F3121.* American Cyanamid, P.O. Box 400, Princeton, NJ 08540. Proposes amending 40 CFR 180.361 by establishing tolerances for the combined residues of the herbicide pendimethanil [*N*-(1-ethylpropyl-3,4-dimethyl-2,6-dinitrobenzenaminel] and its metabolite (4-([1-ethylpropyl]amino)-2-methyl-3,5-dinitrobenzyl alcohol] in or on grapes at 0.1 part per million (ppm). The proposed analytical method for determining residues is gas liquid chromatography. (PM-25).

2. *PP 4F3122.* Zoecon Corp., A Sandoz Co., 975 California Ave., Palo Alto, CA 94304. Proposes amending 40 CFR 180.358 by establishing tolerances for the combined residues of the herbicide norflurazon [(4-chloro-5-methylamino)-2-(alpha, alpha, alpha-trifluoro-*m*-tolyl)-3(2*H*)-pyridazinone] and its desmethyl metabolite [4-chloro-5-(amino)-2-alpha, alpha, alpha-trifluoro-*m*-tolyl)-3(2*H*)-pyridazonone)] in or on the following:

Commodities	Parts per million (ppm)
Alfalfa; hay, meal, and seed	3.0
Small fruits and berries (boysenberry, currant, dewberry, elderberry, gooseberry, huckleberry, loganberry, olalke berry, and youngberry)	0.1
Tree nuts (beech nut, brazil nut, butternut, cashew, chestnut, chinquapin, hickory nut, and macadamia nut)	0.1

The proposed analytical method for determining residues is gas chromatography. (PM-23).

3. *PP 4F3111.* Rhone-Poulenc Inc., P.O. Box 125, Black Horse Lane, Monmouth Junction, NJ 08852. Proposes amending 40 CFR 180.399 by establishing tolerances for the combined residues of the fungicide iprodione [3-(3,5-dichlorophenyl)-*N*-(1-methylethyl)-2,4-dioxo-1-imidazolidinecarboxamide], its isomer [3-(1-methylethyl)-*N*-(3,5-dichlorophenyl)-2,4-dioxo-1-imidazolidinecarboxamide], and its metabolite [3-(3,5-dichlorophenyl)-2,4-dioxo-1-imidazolidinecarboxamide] in or on onions at 0.5 ppm. The proposed analytical method for determining residues is gas chromatography. (PM-21).

4. *PP 4F3128.* FMC Corp., Agricultural Chemical Group, 2000 Market St., Philadelphia, PA 19103. Proposes amending 40 CFR Part 180 by establishing tolerances for the residues of the herbicide 2-(2-chlorophenyl)-methyl-4,4-dimethyl-3-isoxazolidinone in or on soybeans at 0.05 ppm. The proposed analytical method for determining residues is gas chromatography. (PM-25).

5. *PP 4F3124.* Mobay Chemical Co., Agricultural Chemicals Division, P.O. Box 4913, Kansas City, MO 64120. Proposes amending 40 CFR 180.410 by establishing a tolerance for the combined residues of the fungicide 1-(4-chlorophenoxy)-3,3-dimethyl-1-(1*H*-1,2,4-triazol-1-yl)-2-butanone and its metabolite Beta-(4-chlorophenoxy)-alpha-(1,1-dimethylethyl)-1*H*-1,2,4-triazol-1-ethanol in or on strawberries at 0.3 ppm. The proposed analytical method for determining residues is gas chromatography employing a nitrogen-specific alkali flame detector. (PM-21).

II. Amended Petitions

1. *FAP 2H5340.* Shell Oil Co., Suite 200, 1025 Connecticut Ave., N.W. Washington, D.C. 20036. EPA issued a notice published in the **Federal Register** of February 8, 1984 (49 FR 4841), which announced that Shell Oil Co., had submitted FAP 2H5340 to the Agency proposing to amend 21 CFR Part 561 by establishing a regulation permitting residues of the insecticide cyano (3-phenoxyphenyl) methyl-4-chloro-alpha(1-methylethyl) benzeneacetate in or on the commodities grape pomace (dry) at 75.0 ppm, and raisin waste at 25.0 ppm.

Shell Oil Co. has amended the petition by increasing the tolerance level for raisin waste from 25.0 ppm to 30.0 ppm. (PM-17).

2. *PP 4F2998.* BASF Wyandotte Corp., P.O. Box 181, Parsippany, NJ 07054. EPA issued a notice published in the **Federal Register** of January 11, 1984 (49 FR 1423) which announced that BASF Wyandotte Corp., had submitted pesticide petition 4F2998 to the Agency proposing to amend 40 CFR 180.380 by establishing tolerances for residues of the fungicide 3-(3,5-dichlorophenyl)-5-ethenyl-5-methyl-2,4-oxazolidinedione and its metabolites containing the 3,5-dichloroaniline moiety in or on the commodities tomatoes at 2.0 ppm and cucumbers at 1.0 ppm.

BASF Wyandotte Corp. has amended the petition by adding peppers at 3.0 ppm. The proposed analytical method for determining residues is gas chromatography using an electron capture detector (Ni63). (PM-21).

(Secs. 408(d)(2) 68 Stat. 512 (21 U.S.C. 346a(d)(2)), 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)))

Dated: October 5, 1985.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 84-27140 Filed 10-16-84; 8:45 am]

BILLING CODE 6560-50-M

[OPP-30086; FRL-2691-5]

Microbial Pesticides; Interim Policy on Small Scale Field Testing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; Statement of Interim Policy.

SUMMARY: The Environmental Protection Agency (EPA, Agency) announces that, notwithstanding any prior Agency statements, it will require notification prior to all small scale field tests involving certain microbial pesticides in order to determine whether experimental use permits are required. Microbial pesticides covered by this policy are those which contain naturally occurring microorganisms for use in environments where they are not native (nonindigenous or exotic) or microorganisms which have been genetically altered or manipulated by humans. This interim policy will be in effect until the Agency adopts a final approach to these substances.

DATE: This interim policy is effective immediately. Comments identified by the document control number [OPP-30086], must be received on or before November 16, 1984.

ADDRESS: Written comments by mail to: Information Service Section, Program Management and Support Division [TS-757C], Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. In person, bring comments to: Rm. 236, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Frederick S. Betz, Hazard Evaluation Division (TS-769), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. Office location and telephone number: Rm. 1123, Crystal

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Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–8307).

SUPPLEMENTARY INFORMATION: Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136c, and the regulations issued pursuant to it, 40 CFR Parts 158 and 172, govern the issuance of experimental use permits (EUP's) for field studies involving unregistered pesticides or registered pesticides for unregistered uses. The conditions under which an EUP is required are specified at 40 CFR Part 172, which also provides guidance on how to determine whether an EUP must be obtained.

I. Background

Pursuant to section 5 of FIFRA and 40 CFR 172.2, any person wishing to accumulate information necessary to register (1) a pesticide not registered with the Agency, or (2) a registered pesticide for a use not previously approved in the registration of the pesticide may apply to the Administrator at any time for an experimental use permit. However, 40 CFR 172.3 provides that when a substance (or a mixture of substances) is being field tested only to determine whether it has value for pesticide purposes or to determine its toxicity or other properties, and the person conducting the test does not expect to receive any benefit in pest control from its use, an experimental use permit is not normally required. As provided in § 172.3, it is presumed that testing of substances in small scale field studies are for the purposes described above. Small scale field studies are: (1) Terrestrial field studies that involve 10 acres or less of land, provided that any food or feed crops involved in or affected by such tests, including rotational crops which may contain residues, shall be destroyed or consumed only by experimental animals unless a tolerance or exemption from tolerance has been established; (2) aquatic field studies that involve one surface acre or less of water, provided that waters that are involved in or affected by such tests will not be used for irrigation, drinking water, or body-contact recreational activities. Also, no such test shall be conducted in waters that contain any fish, shellfish, or other plants or animals taken for recreation or commercial purposes and used for food or feed unless a tolerance or exemption from tolerance has been established.

In proposing the EUP regulations, the Agency recognized "the necessity of striking a balance between facilitating—or, as a minimum, not unduly impeding—pesticide research and development and protecting against human and environmental injury" (39 FR 11306, March 27, 1974). Hence, EPA has not normally required an EUP to support small scale field testing. However, EPA has, in the past, taken a closer look at situations where even small scale field studies raised serious environmental or health concerns, and has in a limited number of instances required an EUP in such situations. Section 172.3 explicitly recognizes that a wide variety of testing situations may arise, and that a flexible regulatory approach is needed to deal with these situations.

Chemical pesticides have no independent mobility and reproductive capability and therefore when applied in small scale field studies their potential for causing adverse effects outside the treated area is extremely limited. Microbial pesticides, however, may replicate and spread beyond the site of application. Further, microbial pesticides that are introduced into new environments or that have been genetically altered or manipulated by humans may not be subject to natural control or dissipation mechanisms; they may be capable of spreading beyond the site of application with potential adverse effects. Therefore, small field studies with these microbial pesticides would raise many of the same concerns as more extensive use of conventional pesticides. Thus, of particular concern are those microbial pesticides which contain naturally occurring microorganisms for use in environments where they are not native (nonindigenous or exotic) or microorganisms which have been genetically altered or manipulated by humans.

At present, there is a higher degree of uncertainty in predicting the ecological impacts of introducing certain microbial pesticides into the environment than with conventionl pesticides. For example, microbial pesticides that are not native to the area of use or are genetically altered or manipulated could exhibit increased competitiveness, a greater ability to survive, a broader host range, production of a new toxin, or enhanced virulence, compared to indigenous microbes, or its introduction could lead to ecological perturbations. Moreover, because microorganisms can reproduce and be disseminated by a number of different mechanisms, they may be difficult to control or eradicate after being introduced. Finally, the genetic material in some genetically modified microbes may be unstable or transferable to other organisms. Although the Agency does not at this time have reason to believe that any of these conditions will necessarily occur (and thus be a cause for public concern), these factors have led the Agency to conclude on an interim basis that a closer look should be taken at small scale field tests of certain microbial pesticides.

II. Statement of Interim Policy

The Agency is currently developing procedures and data requirements to address specific issues of health and environmental concern for microbial pesticides. Until EPA adopts a final approach to these pesticides, which will include the opportunity for public comment, notification will be required as an interim procedure for all small scale field studies involving certain microbial pesticides. The microbial pesticides covered by this policy are those which contain naturally occurring microorganisms for use in environments where they are not native (nonindigenous or exotic) or microorganisms which have been genetically altered or manipulated by humans. This interim procedure does not apply to studies conducted in contained laboratory, growth chamber, greenhouse or other contained facilities where there is no direct release of the microbial pesticide into the environment. Based on the information contained in the notification, the Agency will determine whether an EUP is required. The Agency believes that notification, as detailed below, will allow EPA to evaluate the potential risks of field tests of these microbial pesticides, while having only a minimal impact on the development of beneficial novel microbial pesticides for use in the environment.

Notifications should include adequate information to allow the Agency to evaluate the small scale field testing program. Each notification should include the following information, or, where specific information is not submitted, documentation of why it is not practicable or necessary to provide the information:

A. Background Information on the Microbe

1. Identity of the microbe and means of detection using the most sensitive and specific methods available.

2. Description of the natural habitat of the nonindigenous or parental microorganism, including information on natural predators and parasites.

3. Information on infectivity and pathogenicity to nontarget organisms.

4. Information relevant to the survival and growth of the microbe in the

environment (e.g., laboratory or containment facility test data).

5. If the microbe is genetically altered, the following information should be provided in addition to the information listed in A. 1 through 4.

a. Information on the methods used to genetically alter the microbes.

b. The identity of the inserted/deleted gene segment in question (host source, nature, base sequence data or enzyme restriction map of the gene).

c. Information on the control region of the genes, and a description of the new traits or characteristics that are intended to be expressed.

d. Information on genetic transfer and exchange with other organisms.

B. Description of Proposed Test

1. The purpose or objectives of the proposed testing.

2. A detailed description of the proposed testing program, including test parameters.

3. A designation of the pest organism(s) involved, (common and scientific names).

4. A statement of composition for the formulation to be tested, giving the name and percentage by weight of each ingredient, active and inert, and where applicable the number of viable microorganisms per unit weight or volume of the product (or other appropriate system for designating the quantity of active ingredient).

5. The amount of pesticide product proposed for use and the method of application.

6. The States in which the proposed program will be conducted, and specific identification of the exact location of the test site(s).

7. The crops, fauna, flora, geographical description of treatment sites, dosage rates, frequency of application, and situation of application on or in which the pesticide is to be used.

8. A comparison of the natural habitat (of the nonindigenous or parental microorganism) with the proposed test site.

9. The number of acres, number of structural sites, or number of animals by State to be treated or included in the area of experimental use and the procedure to be used to protect the tests from intrusion by unauthorized individuals.

10. The proposed dates or period(s) during which the testing program is to be conducted, and the manner in which supervision of the program will be accomplished.

11. A description of the program for monitoring the microorganism during the field test and minimizing its movement from the test site.

12. The method of disposal or sanitation of plants, animals, soils etc., which were exposed during or after the field test.

13. Means of evaluating potential adverse effects and methods of controlling the microorganism is detected beyond the test area.

Upon notification, the Agency will have 90 days to evaluate the notice. Applicants would be free to perform their field test after that time period unless otherwise informed by the Agency. The Agency will regard as unlawful any sale, distribution, or use of an unregistered pesticide or a registered pesticide for an unregistered use which does not comply with this notice or for which an EUP has not been issued, except as provided in FIFRA section 6(a)(1).

The Agency emphasizes that this is an interim policy, subject to revision based on the comments received in response to this notice and the Agency's experiences with implementing this interim policy. Therefore, the Agency is actively soliciting comments on this interim policy. Responders are encouraged to provide information that may be of use to the Agency in determining its final procedures and to comment on related issues not addressed by these interim procedures.

Dated: September 28, 1984.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 84-26833 Filed 10-16-84; 8:45 am]

BILLING CODE 6560-50-M

[OPP-50624 PH-FRL 2695-1]

Pesticides; Issuance of Experimental Use Permits; Dow Chemical Program, et al.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted experimental use permits to the following applicants. These permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

FOR FURTHER INFORMATION CONTACT: By mail, the product manager cited in each experimental use permit at the address below: Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

In person or by telephone: Contact the product manager at the following address at the office location or telephone number cited in each experimental use permit: 1921 Jefferson Davis Highway, Arlington, VA.

SUPPLEMENTARY INFORMATION: EPA has issued the following experimental use permits:

464-EUP-73. Renewal. Dow Chemical Company, 9008 Building, P.O. Box 1706, Midland, MI 48640. This experimental use permit allows the use of 36,980.4 pounds of the herbicide triclopyr on conifers to evaluate conifer release. A total of 4,000 acres are involved; the program is authorized only in the States of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, Noirth Carolina, South Carolina, Tennessee, Texas, and Virginia. The permit was previously effective from July 15, 1982 to July 15, 1984. The permit is now effective from August 24, 1984 to August 24, 1986. (Robert Taylor, PM 25, Rm. 254, CM#2, (703-557-1800))

464-EUP-83. Issuance. Dow Chemical Company, 9008 Building, P.O. Box 1706, Midland, MI 48640. This experimental use permit allows the use of 750 pounds of the insecticide chlorpyrifos in a tank mix with vegetable oil on cotton and grain sorghum to evaluate the control of various insects. A total of 460 acres are involved; the program is authorized only in the States of Alabama, Arizona, and Texas. The experimental use permit is effective from August 15, 1984 to August 15, 1985. A permanent tolerance for residues of the active ingredient in or on cottonseed and grain sorghum has been established (40 CFR 180.342). (Jay Ellenberger, PM 12, Rm. 202, CM#2, (703-557-2386))

524-EUP-63. Issuance. Monsanto Company, 1101 17th St., NW., Washington, DC 20036. This experimental use permit allows the use of 5,400 pounds of the herbicide glyphosate on corn and grain sorghum to evaluate the control of various weeds. A total of 7,200 acres are involved; the program is authorized only in the States of Alabama, Arkansas, California, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, and Wisconsin. The experimental use permit is effective from August 24, 1984 to August 24, 1986. This permit is being issued with the limitation that all treated crops are

destroyed or used for research purposes only. (Robert Taylor, PM 25, Rm. 245, CM#2, (703–557–1800))

400–EUP–53. Renewal. Uniroyal Chemical, 74 Amity Rd., Bethany, CT 06525. This experimental use permit allows the use of 105 pounds of the plant growth regulator dimethipin on sunflowers as a defoliant. A total of 210 acres are involved; the program is authorized only in the States of Illinois, Minnesota, North Dakota, and South Dakota. The permit was previously effective from July 1, 1982 to July 1, 1983. The permit is now effective from August 24, 1984 to August 24, 1985. This permit is issued with the limitation that all treated crops will be destroyed or used for research purposes only. (Robert Taylor, PM 25, Rm. 245, CM#2, (703–557–1800))

Persons wishing to review these experimental use permits are are referred to the designated product managers. Inquiries concerning these permits should be directed to the persons cited above. It is suggested that interested persons call before visiting the EPA office, so that the appropriate file may be made available for inspection purposes from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, Pub. L. 95–396; 92 Stat. 828 (7 U.S.C. 136c))

Dated: October 5, 1984.

Douglas D. Campt,

Director Registration Division, Office of Pesticide Programs.

[FR Doc. 84–27233 Filed 10–16–84; 8:45 am]

BILLING CODE 6560–50–M

[PP OG2360/T462; PH–FRL 2694–7]

Ethephon; Renewal of Temporary Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has renewed a temporary tolerance for residues of the plant regulator ethephon in or on the raw agricultural commodity sugarcane.

DATE: This temporary tolerance expires July 19, 1986.

FOR FURTHER INFORMATION CONTACT: By mail: Robert Taylor, Product Manager (PM) 25, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Office location and telephone number: Rm. 245, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA, (703–557–1800).

SUPPLEMENTARY INFORMATION: EPA issued a notice that published in the **Federal Register** of August 25, 1982 (47 FR 37287), stating that a temporary tolerance had been extended for residues of the plant regulator ethephon [(2-chloroethyl)phosphonic acid] in or on the raw agricultural commodity sugarcane at 0.6 part per million (ppm). This tolerance is being renewed in response to pesticide petition PP OG2360, submitted by Union Carbide Agricultural Products Co., Inc., P.O. Box 12014, Research Triangle Park, NC 27709. Also, a related document (FAP OH5263) renewing a food additive regulation for residues of the plant regulator in sugarcane molasses at 7.0 parts per million (ppm), appears elsewhere in this issue of the **Federal Register**.

The company has requested a 2-year renewal of the temporary tolerance to permit the continued marketing of the above raw agricultural commodity when treated in accordance with the provisions of experimental use permit 264–EUP–59, which is being renewed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (Pub. L. 95–396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that a renewal of the temporary tolerance will protect the public health. Therefore, the temporary tolerance has been renewed on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. Union Carbide must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance, and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This tolerance expires July 19, 1986. Residues not in excess of this amount remaining in or on the above raw agricultural commodity after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerance. This tolerance may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necesary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act) Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(j), 68 Stat. 516 (21 U.S.C. 346a(j)))

Dated: September 27, 1984.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 84–27235 Filed 10–16–84; 8:45 am]

BILLING CODE 6560–50–M

[OPP–100014; FRL–2696–1]

Computer Science Corp. and Informatics General Corp.; Transfer of Data to Contractor

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA plans to transfer information submitted under section 3, 6, and 7 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) to Computer Sciences Corporation, 6565 Arlington, Boulevard, Falls Church, Virginia 22046, and its subcontractor, Informatics General Corporation, 3011 Executive Boulevard, Rockville, Maryland 20852, under Contract No. 68–01–6639. This contractor and subcontractor shall perform services for the Office of Pesticide Programs (OPP) of EPA. Some of the information that will be made available to the contractor has been claimed to be confidential business information (CBI). Information will be transferred to the contractor consistent with the requirements of 40 CFR 2.301(h). This action will enable the contractor to fulfill the obligations of the contract, and this notice serves to notify affected persons.

DATE: Computer Sciences Corporation and its subcontractor, Informatics General Corporation, will be given access to these documents no sooner than October 22, 1984.

FOR FURTHER INFORMATION CONTACT: By mail: William C. Grosse, Program

Management and Support Division (TS–757C), Office of Pesticide Programs Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460
Office location and telephone number:
Rm. 222, CM#2, 1921 Jefferson Davis Highway, Arlington, Virginia, (703–557–2613).

SUPPLEMENTARY INFORMATION: Under this contract, Computer Sciences Corporation, and its subcontractor, Informatics General Corporation shall organize, inventory and maintain chemical assessment project files in support of EPA's regulatory programs.

Section 10(e) of FIFRA provides that information that is considered by the submitter to be trade secret, commercial of financial as described by FIFRA section 10(d) may be disclosed to an authorized contractor when such disclosure is necessary for the performance of the contract. EPA routinely receives such CBI as part of the data that are submitted by pesticide registrants and others as provided for in FIFRA sections 3, 6 and 7. Contractors are authorized to receive such data if the EPA program office managing the contract makes the determinations specified in 40 CFR 2.301(h)(2) as referenced in § 2.307. Such determinations have been made concerning the contract with Computer Sciences Corporation and its subcontractor, Informatics General Corporation.

FIFRA section 10(f) provides a criminal penalty for wrongful disclosure of confidential business information, whether such disclosure is made by an EPA employee or an EPA contractor.

The contract with Computer Sciences Corporation and its subcontractor, Informatics General Corporation, specifically prohibits disclosure of confidential business information to any third party in any form without written authorization from EPA, and personnel of this contractor will be required to sign a nondisclosure agreement before they are permitted access to such information.

Dated: October 4, 1984.

Steven Schatzow,

Director, Office of Pesticide Programs.

[FR Doc. 84–27412 Filed 10–16–84; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–59168B/169B; FRL–2695–8]

Approval of Test Marketing Exemptions; Certain Chemcials

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of an application for two test marketing exemptions (TMEs) under section 5(h)(6) of the Toxic Substances Control Act (TSCA), TME–84–76 and TME–84–78. The test marketing conditions are described below.

EFFECTIVE DATE: October 4, 1984.

FOR FURTHER INFORMATION CONTACT: Jon Silberman, Premanufacture Notice Management Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–611B, 401 M Street SW., Washington, DC. 20460 (202)–382–3379).

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorized EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use, and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities, and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present any unreasonable risk of injury.

EPA hereby approves TME–84–76 and TME–84–78. EPA has determined that test marketing of the new chemical substances described below, under the conditions set out in the TME applications, and for the time period and restrictions (if any) specified below, will not present any unreasonable risk of injury to health or the environment. Numbers and identities of customers, production volume, number of workers exposed to the new chemical, and the levels and durations of exposure must not exceed those specified in the applications (as amended). All other conditions and restrictions described in the applications and in this notice must be met. The following additional restrictions apply: A bill of lading accompanying each shipment must state that use of the substance is restricted to that approved in each of the TMEs. In addition, the submitters shall maintain the following records until five years after the date they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:

1. The applicant of each TME must maintain records of the quantity of the TME substance produced and must make these records available to EPA upon request.

2. The applicant of each TME must maintain records of the dates of shipment to each customer and the quantities supplied in each shipment, and must make these records available to EPA upon request.

3. The applicant of each TME must maintain copies of the bill of lading that accompanies each shipment of the TME substance.

TME 84–76

Date of Receipt: August 10, 1984.
Notice of Receipt: August 24, 1984 (49 FR 33720).
Applicant: Allied Corporation.
Chemical: (G) Polyamide-graft-polyacrylate polymer.
Use: (G) Component of a polymer in mixture which will be molded into a variety of items.
Production Volume: Confidential.
Number and Identity of Customers: Confidential.
Worker Exposure: Confidential.
Test Marketing period: 6 months.
Commencing on: October 4, 1984.
Risk Assessment: EPA did not identify any significant health or environmental concerns. EPA estimates the worker exposure and environmental release of the test market substance to be low. The test market substance will not pose any unreasonable risk of injury to health or the environment.
Public Comments: None.

TME 84–78

Date of Receipt: August 23, 1978.
Notice of Receipt: August 31, 1984 (49 CFR 34574).
Applicant: Confidential.
Chemical: (G) Modified maleated metal resinate.
Use: Publication gravure printing inks.
Production Volume: Confidential.
Number and Identity of Customers: Confidential.
Worker Exposure: Confidential.
Test Marketing Period: Through April 1985.
Commencing on: October 4, 1984.
Risk Assessment: EPA did not identify any significant health or environmental concerns. EPA estimates the worker exposure and environmental release of the test market substance to be low. The test marketing substance will not pose any unreasonable risk of injury to health or the environment.
Public Comments: None.

TME 84–78

Date of Receipt: August 23, 1978.
Notice of Receipt: August 31, 1984 (49 CFR 34574).
Applicant: Confidential.

Chemical: (G) Modified maleated metal resinate.

Use: Publication gravure printing inks.

Production Volume: Confidential.

Number and Identity of Customers: Confidential.

Worker Exposure: Confidential.

Test Marketing Period: Through April 1985.

Commencing on: October 4, 1984.

Risk Assessment: EPA did not identify any significant healthor environmental concerns. The test marketing substance will not pose any unreasonable risk of injury to health or environment.

Public Comments: None.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present any unreasonable risk of injury to health or the environment.

Dated: October 4, 1984.

Don R. Clay,

Office of Toxic Substances.

[FR Doc. 84-27413 Filed 10-16-84; 8:45 am]

BILLING CODE 6560-50-M

[OW-FRL-2695-3]

Proposal To Recommend Designation of the Cross Valley Aquifer, Snohomish County, Washington, as a Sole Source Aquifer and Request for Public Comment

AGENCY: Environmental Protection Agency.

ACTION: Notice of public comment period and public hearing.

SUMMARY: The Region 10 office of the Environmental Protection Agency (EPA) is proposing to recommend that the Cross Valley Aquifer in Snohomish County, Washington, be designated as the sole or principal source of drinking water for the area. A Support Document providing the bases for this recommendation is available for review and public comments are requested. A hearing will be held if sufficient public interest is expressed.

DATES: Requests to hold a public hearing should be filed on or before November 16, 1984.

A public hearing is tentatively scheduled for December 12, 1984, in Snohomish, Washington at 7:00 p.m. The hearing will be cancelled if sufficient public interest is not expressed by November 16, 1984. The public is also encouraged to submit written comments regarding the support document, the proposed boundaries and the appropriateness of this designation. These must be submitted by December 28, 1984.

ADDRESSES: Persons requesting a hearing should notify Wendy Marshall, M/S 409, U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, Washington 98101.

The Support Document is available for public inspection and copying during normal business hours at the Environmental Protection Agency, Region 10 Library, 1200 Sixth Avenue, Seattle, Washington and the Snohomish Public Libary, First and Cedar, Snohomish, Washington.

A map of the area proposed for designation can be found in the Support Document or may be obtained by contacting Wendy Marshall at the address above.

The public hearing will be held at the Snohomish County PUD Auditorium, 807 Rainier Street, Snohomish, on December 12, 1984, from 7:00 p.m. to 9:00 p.m.

FOR FURTHER INFORMATION CONTACT: Wendy Marshall at (206) 442-1890 or FTS 399-1890.

SUPPLEMENTARY INFORMATION: Section 1424(e) of the Safe Drinking Water Act (Pub. L. 93-523) authorizes the Administrator to determine, on his own initiative or upon petition, that an area has an aquifier which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health. After such a determination is made, no commitment for Federal financial assistance (through a grant, contract, loan guarantee, or otherwise) may be entered into for any project which the Administrator determines may contaminate such an aquifer through a recharge zone so as to create a significant hazard to public health.

On July 29, 1983, the Mount Forest Protection Association and the Cross Valley Water Association, Inc. submitted a petition requesting that the Administrator of the EPA designated the aquifer underlying the Cross Valley Water Assocation Service Area as the sole drinking water source for the area. Notice of this petition was published in the **Federal Register** on September 15, 1983.

The EPA Region 10 office is proposing to recommend to the Administrator that sole source aquifer designation be made. The boundaries of the area being proposed for designation by the Regional Office, however, are not exactly the same as the boundaries of the petitioned area. The petitioned area is the Cross Valley Water Association Service Area, however, the aquifer does not underlie this entire area. Because the exact boundary of the aquifer is difficult to delineate, the Region 10 office is recommending designation of a project review area. This area is slightly larger than the aquifer area to provide a conservative margin for protecting the aquifer.

A Support Document providing the bases for the recommendation is available for public review. This document includes such information as a description of the location of the aquifer, boundary of the project review area, pertinent geologic and hydrologic information, climate, population, existence or absence of alternate drinking water source, and potential sources of contamination.

A hearing will be held to discuss the proposal and the Support Document if sufficient public interest is expressed. Requests for a public hearing should include the following information: (1) Name, address, and telephone number of the individual, organization, or other entity requesting a hearing and (2) a brief statement of the requesting person's interest in the proposed recommendation.

If the hearing is cancelled, those persons having expressed interest in attending the hearing will be notified by phone and by letter of the cancellation. Other persons should contact the Environmental Protection Agency at (206) 442-1890 to confirm the hearing date and time. EPA will also send notice of the hearing or of its cancellation to the local media.

Dated: August 3, 1984.

Robert S. Burd, Jr.,

Acting Regional Administrator.

[FR Doc. 84-27334 Filed 10-16-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[MM Docket Nos. 84-957 and 958; File Nos. BP-830823AH and BP-840124AC]

Mountain-High Broadcaster, Inc. and CBI, Inc.; Hearing Designation Order

In the matter of application of Mountain-High Broadcasters, Inc. Highlands, North Carolina, Req: 1100 kHz, 5 kW (2.5 kW-CH), D. (MM Docket No. 84-957, File No. BP-830823AH); and CBI, Inc. Highlands, North Carolina, Req: 1100 kHz, 10 kW, DA-D, (MM Docket No. 84-958, File No. BP-840124AC); for construction permit.

Adopted: October 2, 1984.
Released: October 10, 1984.
By the Chief, Mass Media Bureau.

1. The Commission by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has under

consideration the above-captioned mutually exclusive applications of Mountain-High Broadcasters, Inc. and CBI, Inc. for a construction permit for a new AM broadcast station.

2. The Commission has not received the required information from Mountain-High Broadcasters, Inc. regarding other broadcast interests held by the applicant or any party to the application. Section II of the application form (FCC Form 301) requires applicants to fully disclose any interest in or connection with any AM, FM, or TV broadcast station. Mountain High Broadcasters, Inc. indicated that it held other broadcast interests, yet failed to attach the required exhibit detailing these interests. Consequently, we are unable to determine whether the grant of its application would be in violation of the Commission's multiple ownership rule, Section 73.3555. Accordingly, an appropriate issue will be specified.

3. Section IV of the application form (FCC Form 301) requires applicants to file a narrative of the planned programming service. The application filed by Mountain-High Broadcasters, Inc. does not contain the required programming statement; this applicant must, therefore, file the required planned programming statement with the presiding Administrative Law Judge within 30 days of the release of this Order.

4. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding.

5. Accordingly, it is ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether grant of the Mountain-High Broadcasters, Inc. application would constitute a violation of the Commission's multiple ownership rule, § 72.3555, and in light thereof whether the applicant is legally qualified to construct and operate as proposed.

2. To determine which of the proposals would, on a comparative basis, better serve the public interest.

3. To determine in light of the evidence adduced pursuant to the foregoing issues, which of the applications, if any, should be granted.

6. It is further ordered, That Mountain-High Broadcasters, Inc. shall submit a statement of planned programming to the presiding Administrative Law Judge within 30 days of the release of this Order.

7. It is further ordered, That in addition to the copy served on the Chief, Hearing Branch, a copy of each amendment filed in this proceeding subsequent to the date of adoption of this Order shall be served on the Chief, Data Management Staff, Audio Services Division, Mass Media Bureau, Room 350, 1919 M St., N.W., Washington, D.C. 20554.

8. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in tripliacte a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

9. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 84-27421 Filed 10-16-84; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL HOME LOAN BANK BOARD

[No. AC-401]

First Federal Savings & Loan Association of Bowling Green, Bowling Green, KY; Final Action; Approval of Conversion Application

Dated: October 10, 1984.

Notice is hereby given that on September 14, 1984, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of First Federal Savings and Loan Association of Bowling Green, Bowling Green, Kentucky, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street NW., Washington, D.C. 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of Cincinnati, Post Office Box 598, Cincinnati, Ohio 45201.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 84-27401 Filed 10-16-84; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-400]

The Elmira Savings Bank; FSB Elmira, NY; Final Action Approval of Conversion Application

Dated: October 10, 1984.

Notice is hereby given that on September 12, 1984, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel of his designee, approved the application of The Elmira Savings Bank, FSB, Elmira, New York, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, DC 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of New York, One World Trade Center, Floor 103, New York, New York 10048.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 84-27402 Filed 10-16-84; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 206-010650.

Title: Westbound Spanish Olive Agreement.

Parties:

Italy, South France, South Spain, Portugal/U.S. Gulf and the Island of Puerto Rico (Med-Gulf) Conference

Iberian/U.S. North Atlantic Westbound Freight Conference

Synopsis: The proposed agreement would authorize the parties to jointly establish and enter into service contracts for the carriage of olives from Spain to U.S. Atlantic and Gulf ports, or U.S. points via such ports. The parties have requested a shortened review period.

By Order of the Federal Maritime Commission.

Dated: October 12, 1984.

Bruce A. Dombrowski,

Assistant Secretary.

[FR Doc. 84-27444 Filed 10-16-84; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Chillicothe State Bancorp, Inc., et al.; Formation of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than November 8, 1984.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Chillicothe State Bancorp, Inc.*, Chillicothe, Illinois; to become a bank holding company by acquiring at least 81.46 percent of the voting shares of Chillicothe State Bank, Chillicothe, Illinois.

2. *Comerica Incorporated*, Detroit, Michigan; to acquire 100 percent of the voting shares of Comerica Bank-Grand Rapids, N.A., Grand Rapids, Michigan, (in organization).

3. *Gateway Bancorp, Inc.*, Sturgis, Michigan; to become a bank holding company by acquiring at least 88.1 percent of the voting shares of First Bank & Trust Company, Sturgis, Michigan.

4. *Indiana Bancshares, Inc.*, Bargersville, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of The Bargersville State Bank, Bargersville, Indiana.

B. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *First Commercial Corporation*, Little Rock, Arkansas; to acquire at least 80 percent of the voting shares of First National Bank of Russellville, Russellville, Arkansas.

2. *First Farmers Corporation of Madisonville*, Madisonville, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of Farmers Bank and Trust Company of Madisonville, Madisonville, Kentucky.

3. *Mid South Bancshares, Inc.*, Paragould, Arkansas; to become a bank holding company by acquiring at least 97.35 percent of the voting shares of Security Bank, Paragould, Arkansas.

Board of Governors of the Federal Reserve System, October 11, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-27347 Filed 10-16-84; 8:45 am]

BILLING CODE 6210-01-M

Leasing Equipment Service, Inc.; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 8, 1984.

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Leasing Equipment Services, Inc.*, Kansas City, Missouri; to become a bank holding company by acquiring 56 percent of the voting shares of University State Bancshares, Inc., Lawrence, Kansas, thereby indirectly acquiring University State Bank, Lawrence, Kansas. Applicant also proposes to engage in leasing real or personal property and making and servicing loans.

Board of Governors of the Federal Reserve System, October 11, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-27345 Filed 10-16-84; 8:45 am]

BILLING CODE 6210-01-M

Sovran Financial Corp., et al.; Applications To Engage De Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the resasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 7, 1984.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Sovran Financial Corporation*, Norfolk, Virginia; to engage *de novo* through its subsidiary, Sovran Credit Corporation in making direct consumer installment loans, secured and unsecured, to individuals; purchasing consumer installment sales finance contracts, extending direct loans to dealers for the financing of inventory (floor planning) and working capital purposes; making, acquiring and servicing, for its own account or for the account of others, loans secured principally by mortgages on real property and acting as agent for the sale of credit life and credit accident and health insurance and physical damage and property insurance (pursuant to exception (B) in section 4(c)(8)), all of which are directly related to extensions of credit. These activities would be performed in Goldsboro, North Carolina, and the surrounding area.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Marshall & Ilsley Corporation*, Milwaukee, Wisconsin; to expand the geographic scope of its subsidiary, First National Leasing Corp., Indianapolis, Indiana, to include leasing personal or real property in the entire United States.

2. *Merchants National Corporation*, Indianapolis, Indiana; to engage *de novo* through its subsidiary, Merchants Mortgage Corporation, Indianapolis, Indiana, in the equity financing of commercial or industrial income-producing real estate in Indiana, Michigan, Ohio, Kentucky, Illinois, and Wisconsin.

3. *Merchants National Corporation*, Indianapolis, Indiana; to engage through its subsidiary, Mortgage Company of Indiana, Inc., Indianapolis, Indiana, in the equity financing of commercial or industrial income-producing real estate; and to expand the geographic scope of Mortgage Company of Indiana, Inc.'s mortgage banking activities. These activities would be performed in the States of Indiana, Michigan, Ohio, Kentucky, Illinois, and Wisconsin.

Board of Governors of the Federal Reserve System, October 11, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-27346 Filed 10-16-84; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Information Collection; Trade Regulation, Consumer Protection; Hearing Aids

AGENCY: Federal Trade Commission.

ACTION: Application to OMB under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq*). for review of two voluntary consumer surveys.

SUMMARY: The FTC is requesting OMB review under 5 CFR Part 1320 of a voluntary mail survey of consumers who have purchased and returned a hearing aid in the past two years. The survey will be used to assist in determining consumer experiences in the purchase and use of hearing aids, including expectations, claims, and the availability of trial periods. The FTC is also requesting OMB review of a voluntary mail survey of individuals who have placed a friend or relative in a nursing home in the past two years. The information will be used to assist in determining consumer experiences in the selection and placement of the individual in the nursing home, including information about use, cost, transfer policies, and claims made.

DATES: Comments on these requests for OMB review must be submitted on or before November 16, 1984.

ADDRESS: Send comments to Mr. Don Arbuckle, Office of Information Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, D.C. Copies of the applications may be obtained from: Public Reference Branch, Room 130, Federal Trade Commission, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Thomas J. Maronick, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580 (202) 523-4810.

John H. Carley,

General Counsel.

[FR Doc. 84-27403 Filed 10-16-84; 8:45 am]

BILLING CODE 6750-01-M

[84-0903, et al.]

Dynalectron Corp., et al.; Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A to the Clayton Act, 15, U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

The following transactions were granted early termination of the waiting period provided by law and the permerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect

to these proposed acquisitions during the applicable waiting period:

Transaction	Waiting period terminated effective
(1) 84-0905—Dynatectron Corporation's proposed acquisition of voting securities of Midcoast Aviation, Incorporated.	Sept. 24, 1984.
(2) 84-0906—Barlow Rand Limited's proposed acquisition of assets of St. Regis' Flexible Packaging Products Division, and Grocery Sack Division, (St. Regis Corporation, UPE).	Do.
(3) 84-0911—Raffinerie Tirlemontoise S.A.'s proposed acquisition of assets of Stock & Guggenheimer, Incorporated, (Consolidated Foods Corporation, UPE).	Do.
(4) 84-0922—PacifiCorp's proposed acquisition of assets of Ford Motor Corporation.	Do.
(5) 84-0925—Carl E. Meltzer's proposed acquisition of assets of Bethlehem Steel Corporation.	Do.
(6) 84-0934—Brierley Investments Limited's proposed acquisition of voting securities of The Higbee Company.	Do.
(7) 84-0935—Brierley Investments limited's proposed acquisition of voting securities of The Higbee Company.	Do.
(8) 84-0938—Integrated Resources, Incorporated's proposed acquisition of voting securities of Guardsman Life Insurance Company, (American General Corporation, UPE).	Do.
(9) 84-0939—Instrument Systems Corporation's proposed acquisition of voting securities of Onalla Knitting Mills.	Do.
(10) 84-0909—Faulkayer Corporation's proposed acquisition of voting securities of Yahr-Lange, Incorporated.	Sept. 25, 1984.
(11) 84-0919—Lucky Stores, Incorporated's proposed acquisition of assets of Smith's Management Corporation.	Do.
(12) 84-0943—Great American Industries, Incorporated's proposed acquisition of voting securities of voting securities of Chemold Corporation, (Richard E. and Burton I. Koffman, UPE).	Do.
(13) 84-0878—Transamerica Corporation's proposed acquisition of assets of Fleet-Van Corporation.	Sept. 26, 1984.
(14) 84-0887—Siemens Aktiengesellschaft's proposed acquisition of voting securities of Tel-Plus Communications, Incorporated, (Telecom Plus International, Incorporated, UPE).	Do.
(15) 84-0936—Mr. Gasket Company's (Joe Hrudka, UPE) of assets of The Allen Group Incorporated.	Do.
(16) 84-0861—Freeport-McMoRan Incorporated's proposed acquisition of voting securities of Midlands Energy Company.	Do.
(17) 84-0862—Freeport-McMoRan Incorporated's proposed acquisition of voting securities of Midlands Energy Company.	Do.
(18) 84-0863—Freeport-McMoRan Incorporated's proposed acquisition of voting securities of Midlands Energy Company.	Do.
(19) 84-0881—Cabot Corporation's proposed acquisition of assets of Pioneer Corporation plus all of the voting securities of six wholly-owned subsidiaries.	Sept. 27, 1984.
(20) 84-0917—Pioneer Corporation's proposed acquisition of assets of Cabot Corporation.	Do.
(21) 84-0937—Acme-Cleveland Corporation's proposed acquisition of voting securities of Communications Technology Corporation.	Do.
(22) 84-0942—Becton Dickinson and Company's proposed acquisition of voting securities of Applied Biosystems Incorporated.	Do.
(23) 84-0946—Nabisco Brands, Incorporated's proposed acquisition of voting securities of Entertainment and Sports Programming Network, Incorporated, (American Broadcasting Companies, Incorporated, UPE).	Do.
(24) 84-0957—Bally Manufacturing Company's proposed acquisition of voting securities of Scandinavian Health Spa Incorporated, (Frank Leoneso, UPE.	Do.
(25) 84-0969—Genstar Corporation's proposed acquisition of assets of SCA Services, Incorporated, (Waste Management, Incorporated, UPE).	Do.
(26) 84-0975—GIT Industries, Incorporated's, (Richard Cohen, UPE) proposed acquisition of assets of Base Investment Limited Partnership.	Do.
(27) 84-0976—GIT Industries, Incorporated's, (Richard Cohen, UPE) proposed acquisition of assets of First Boston Incorporated.	Do.
(28) 84-0932—Zelman Development Company's (Ben Reiling, UPE) proposed acquisition of voting securities of Wincorp Realty Investments, Incorporated.	Oct. 1, 1984.
(29) 84-0933—New England Mutual Life Insurance Company's proposed acquisition of voting securities of Wincorp Realty Investments, Incorporated.	Do.
(30) 84-0938—United Savings of America's proposed acquisition of assets of Aetna Finance Company, Computer Equipment Leasing Corporation, (ITT Corporation, UPE).	Do.
(31) 84-0955—Kotobuki Fudosan, Ltd's proposed acquisition of voting securities of Chateau St. Jean.	Do.
(32) 84-0979—Cabot Corporation's proposed acquisition of voting securities of CDE Company and certain assets of Ashland Oil, Incorporated.	Do.
(33) 84-0920—H & C Communications, Incorporated's proposed acquisition of voting securities of Cowles Broadcasting, Incorporated.	Oct. 2, 1984.
(34) 84-0868—PHH Group Incorporated's proposed acquisition of voting securities of U.S. Mortgage Corporation.	Do.
(35) 84-0973—Wilco Chemical Corporation's proposed acquisition of voting securities of Continental Carbon Company, (E.I. Dupont de Nemours and Company, UPE).	Do.
(36) 84-0897—Gerald Krevans' proposed acquisition of voting securities of Ross-Viking Merchandise Corporation, (Michael Tribush, UPE.	Oct. 4, 1984.
(37) 84-0940—Interlake, Incorporated's proposed acquisition of voting securities of Cham-Tronics, Incorporated.	Do.
(38) 84-0951—Mazda Motor Corporation's proposed acquisition of voting securities of Mazda Distributors (Pacific) Incorporated, (Sumitomo Corporation, UPE).	Do.
(39) 84-0966—Hovnanian Enterprises, Incorporated's (K. Hovnanian, UPE) proposed acquisition of voting securities of Calton, Incorporated.	Do.
(40) 84-0980—Royal Dutch Petroleum Company's proposed acquisition of assets of Houston Industries, Incorporated.	Do
(41) 84-0999—Societe Quebecoise d'Initative Petrolieres' proposed acquisition of voting securities of Sundance Oil Company.	Do.
(42) 84-1036—Ben H. Carpenter's proposed acquisition of voting securities of Southland Financial Corporation.	Oct. 5, 1984.
(43) 84-1037—John W. Carpenter, III's proposed acquisition of voting securities of Southland Financial Corporation.	Do

FOR FURTHER INFORMATION CONTACT: Patricia A. Foster, Compliance Specialist, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3894.

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 84-27406 Filed 10-16-84; 8:45 am]

BILLING CODE 6750-01-M

GENERAL SERVICES ADMINISTRATION

Revocation of Delegations of Authority

AGENCY: General Services Administration.

ACTION: Notice of Revocation of Delegations of Authority.

SUMMARY: Document revokes certain delegations of authority granted to other agencies by the Administrator of General Services under the Federal Property and Administrative Services Act of 1949 (68 Stat. 378; 40 U.S.C. et seq.).

EFFECTIVE DATE: This document is effective October 17, 1984.

Expiration date: This document expires on April 17, 1985.

Revocation: This revocation identifies those delegations which are no longer in force due to completion of the proceedings for which they were issued. Accordingly, the following delegations of authority are hereby revoked:

Subject	Delegations of authority
Delegations of authority to the Secretary of Defense—regulatory proceedings.	E-79-1, E-79-3 through E-79-8, E-79-10 through E-79-13, E-79-15 through E-79-21, E-79-23, E-79-24, E-80-1 through E-80-24, E-81-1 through E-81-28, E-81-30, E-81-31, E-81-32, E-81-34, E-81-35, E-81-37, E-81-38, E-81-39, E-82-1 through E-82-19, E-82-21, E-82-23 through E-82-25, F-79-1, F-79-6, F-80-1, F-80-2, F-80-6, F-80-8, F-80-9, F-80-11, F-80-13, F-80-14, F-80-17 through F-80-23, F-81-1 through F-81-10, F-81-12 through F-81-21, F-82-1 through F-82-26.
Delegations of authority to the Secretary of Energy—regulatory proceedings.	E-81-29, E-81-33, E-81-36, E-81-40, E-82-20.

Dated: October 9, 1984.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 84-27434 Filed 10-16-84; 8:45 am]

BILLING CODE 6820-24-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committee; Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also summarized the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

Meeting: The following advisory committee meeting is announced:

Vaccines and Related Biological Products Advisory Committee

Date, time, and place. November 1, 9 a.m. to 3:30 p.m., Bldg. 29, Rm. 121, 8800 Rockville Pike, Bethesda, MD.

Type of meeting and contact person. Open public hearing, 9 a.m. to 10 a.m.; closed committee deliberations, 10 a.m. to 3:30 p.m.; Jack Gertzog, Center for Drugs and Biologics (HFN–31), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5455.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of vaccines and related biological products intended for use in the diagnosis, prevention, or treatment of human diseases.

Agenda—Open public hearing. Interested persons requesting to present data, information, or views, orally or in writing, on issues pending before the committee should communicate with the contact person.

Closed committee deliberations. The committee will review trade secret or confidential commercial information relevant to pending license applications. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings. This guideline was published in **Federal Register** of April 13, 1984 (49 FR 14723). These procedures are primarily intended to expedite media access to FDA's public proceedings, including hearings before a public advisory committee conducted pursuant to Part 14 of the agency's regulations. Under this guideline, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including the presentation of participants at a public hearing. Accordingly, all interested persons are directed to the guideline, as well as the **Federal Register** notice announcing issuance of the guideline, for a more complete explanation of the guideline's effect on public hearings.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of comittee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA–305), Rm. 4–62, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday. The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94–409), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; informatiom of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature dislosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial of financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative sessions to formulate advice and recommendations to the agency on

matters that do not independently justify closing.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA's regulations (21 CFR Part 14) on advisory committees.

Dated: October 15, 1984.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 84-27013 Filed 10-16-84; 10:21 am]

BILLING CODE 4160-01-M

[Docket No. 84F-0329]

Union Carbide Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Union Carbide Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of polyarylsulfone resins intended for use in contact with food.

FOR FURTHER INFORMATION CONTACT: James H. Maryanski, Center for Food Safety and Applied Nutrition (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–474–5740.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 4B3823) has been filed by Union Carbide Corp., P.O. Box 670, Bound Brook, NJ 08805, proposing that Part 177 (21 CFR Part 177) of the food additive regulations be amended to provide for the safe use of polyarylsulfone resins intended for use in contact with food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: October 5, 1984.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 84-27338 Filed 10-16-84; 8:45 am]

BILLING CODE 4160-01-M

Health Resources and Services Administration

National Advisory Council on Health Professions Education; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), annoucement is made of the following National Advosory body scheduled to meet during the month of November 1984:

Name: National Advisory Council on Health Professions Education.

Date and Time: November 15–16, 1984, 9:00 a.m.

Place: Conference Room O & P, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Closed on November 15, 1984, 9:00 a.m.—5:00 p.m.; Open for the remainder of meeting.

Purpose: The Council advises the Secretary with respect to the administration of programs of financial assistance for the health professions and makes recommendations based on its review of applications requesting such assistance. This also involves advice in the preparation of regulations with respect to policy matters.

Agenda: The open portion of the meeting will cover: welcome and opening remarks; report of the Administrator, budget update, progress report from Council members dealing with prospective reimbursement of clinical education costs, update on funding preferences, discussion on proposals for prioritizing and implementing new initiatives, discussion on role of Federal Government in Health Education, update on Health Promotion Disease Prevention workshops, discussion on health professions student loans, and future agenda items. The meeting will be closed to the public on November 15, 1984, 9:00 a.m. to 5:00 p.m. for the review of grant application for Advanced Financial Distress. The closing is in accordance with the provisions set forth in sectioin 552b(c)(6), Title 5, U.S. Code, and the Determination by the Administrator, Health Resources and Services Administration, pursuant to Public Law 92–463. Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should write to or contact Mr. Robert L. Belsley, Executive Secretary, National Advisory Council on Health Professions Education, Bureau of Health Professions, Health Resources and Services Administration, Room 8C–22, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–6880.

Agenda items are subject to change as priorities dictate.

Dated: October 11, 1984.

Jackie E. Baum,

Advisory Committee Management Officer, Health Resources and Services Administration.

[FR Doc. 84-27340 Filed 10-16-84; 8:45 am]

BILLING CODE 4160-15-M

National Institutes of Health

National Heart, Lung, and Blood Institute; Meeting

Notice is hereby given of the meeting of the Interagency Technical Committee (IATC) or Heart, Blood Vessel, Lung, and Blood Diseases and Blood Resources, sponsored by the National Heart, Lung, and Blood Institute on November 28, 1984, from 9:00 a.m. to 12:00 p.m., Building 31, C Wing, Conference Room 10, at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205.

The entire meeting will be open to the public. The Interagency Technical Committee (IATC) is meeting to examine and coordinate Federal research activities that concern heart, blood vessel, lung, and blood diseases and blood resources. This meeting will focus on Prevention and Education.

The Office of Prevention, Education, and Control of the National Heart, Lung, and Blood Institute will make lead presentation that will include a description of major risk factor initiatives (smoking, cholesterol, and hypertension) that are education-related and illustrate how research findings are translated and transferred into medical practice and into public decision-making. Other speakers will present topics on prevention limited to space available.

For detailed program information, agenda, and minutes of the meeting, contact: Ms. Joan Long, Office of Program Planning and Evaluation, National Heart, Lung, and Blood Institute, Building 31, Room 5A03, NIH, 9000 Rockville Pike, Bethesda, Maryland 20205, (301) 496–5031.

Dated: October 9, 1984.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 84-27342 Filed 10-16-84; 8:45 am]

BILLING CODE 4140-01-M

National Cancer Institute; President's Cancer Panel; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the President's Cancer Panel, November 9, 1984, at the Cancer Center of Hawaii, University of Hawaii at Manoa, Room 401, 1236 Lauhala Street, Honolulu, Hawaii.

The entire meeting will be open to the public from 9:00 a.m. to adjournment. Agenda items include reports by the Chairman, President's Cancer Panel, and the Director, National Cancer Institute; and discussions to obtain information

regarding centers programs supported by the National Cancer Institute. Attendance by the public will be limited to space available.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will provide summaries of the meeting and rosters of Panel members, upon request.

Dr. Elliott Stonehill, Executive Secretary, President's Cancer Panel, National Cancer Institute, Building 31, Room 11A23, National Institutes of Health, Bethesda, Maryland 20205 (301/496–1148) will furnish substantive program information.

Dated: October 9, 1984.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 84-27343 Filed 10-16-84; 8:45 am]

BILLING CODE 4140-01-M

Office of the Secretary

Social Security Administration; Statement of Organization, Functions and Delegation of Authority

Part S, Social Security Administration (SSA) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services is amended to reflect the consolidation of responsibilities associated with SSA's administrative, management and statistical information systems under the Deputy Commissioner, Systems. The activities currently performed by the Office of Administrative and Management Systems (as published in 48 FR 342 on January 4, 1983, and amended in 48 FR 36906–07 on August 15, 1983) and the Division of Management Information (as published in 44 FR 46329–10 on August 7, 1979) will be transferred to a newly-created Office of Information Systems under the Deputy Commissioner, Systems, and these two organizations will be abolished.

To effect this consolidation, the following changes are made to Part S:

Section SM.00 *The Office of Management, Budget and Personnel*—(Mission):

3. Delete from lines 22 and 23: "management information, and work measurement."

Section SM.10 *The Office of Management, Budget and Personnel*—(Organization):

D. *The Office of Management Planning and Analysis* (SMP) Delete "4. The Division of Management Information (SMP 5)" Renumber remaining Subsection 5. to 4.

Section SM.20 *The Office of Management, Budget and Personnel* (Functions):

D. The Office of Management Planning and Analysis (SMP) Delete from line 4: "It develops and maintains the SSA management information and work measurement systems."

Delete in its entirety:

"4. The Division of Management Information (SMP 5)."

Section SU.00 *Office of System Integration*—(Mission):

Delete from line 42: "It directs the development, maintenance and with OSO, the implementation of software systems for administrative, management information and statistical applications."

Section SU.10 *The Office of System Integration*—(Organization): Delete:

"I. The Office of Administrative and Management Systems (SUG);

1. The Technical Support Staff (SUG1);

2. The Division of Administrative Systems (SUG2);

3. The Division of Program Statistics (SUG3); and

4. The Division of Specialized Software Systems (SUG4)"

Reletter remaining Section J. to I.

Section SU.20 *The Office of System Integration*—(Functions): Delete in its entirety:

"I. The Office of Administrative and Management Systems (SUG);

1. The Technical Support Staff (SUG 1);

2. The Division of Administrative Systems (SUG 2);

3. The Division of Program Statistics (SUG 3); and

4. The Division of Specialized Software Systems (SUG 4)."

Reletter remaining Section J. to I.

Section S.10 *The Social Security Administrations*—(Organization):

Add Subsection: "Y. The Office of Information Systems (SY)."

Section SY.00 *The Office of Information Systems*—(Mission):

The Office of Information Systems (OIS) directs, develops and coordinates SSA-wide administrative, management and statistical information (AMSI) systems throughout the systems life cycle in accordance with SSA's Software Engineering Technology (SET). OIS is responsible for long-range planning and analyses to define new and improved system processes to support SSA's long-term AMSI needs.

OIS directs the development and coordination of information requirements, systems specifications, software development and implementation of new systems and modifications to existing systems in direct support of SSA's multiple AMSI systems. OIS is responsible for the development, implementation and management of All SEA work-measurement systems. Maintains a comprehensive, updated and integrated set of systems documentation. OIS directs validation of AMSI systems operations against user defined requirements, ADP standards and performance criteria and approves the resulting system for operational acceptance. OIS directs the development of procedures and instructions to support user needs in effective implementation of all AMSI systems. OLIS directs the evaluation of the effect of proposed legislation, policies or regulations to determine the impact on SSA AMSI systems. OIS develops information requirements and procedures as they relate the new legislation, regulations and SSA policy directives. OIS directs the coordination of user requirements with private contractors, the entire SSA user community and the State Disability Determination Services (DDS) to ensure the efficiency and effectiveness of administrative and management information needs and overall systems support. Based on input from users, OIS translates organizational information requirements and priorities into plans and, in coordination with the Office of System Requirements (OSR), the Office of System Integration (OIS), the Office of System Operations (OSO) systems targets, develops and maintains the annual AMSI ADP plan prioritizing application needs. OIS directs information resource management efforts to evaluate the general application and use of modern technologies in AMSI process redesign plans. The Office Directs the design and implementation of pilot tests to assess the cost-effectiveness of technology improvements and develops and implements formal quality assurance activities of SSA AMSI. This includes establishing formal policies, procedures and standards which define critical design and product verification reviews to assure compliance with ADP standards and configuration management procedures and controls. OIS directs a comprehensive data base administration program for the control of SSA's AMSI data bases including the identification and analysis of data bases considered critical to SSA AMSI systems operations. Develops technical policies and standards governing the logical structure, data content and right of access to AMSI data bases; and assures the integrity and security of data base managment software. OIS

develops to technical specifications for the acquisition, and directs the implementation and operation of AMSI ADP and telecommunications resources associated with new capabilities, recompetition of existing facilities or system redesign and assesses workload requirements and other acceptance criteria for these acquisitions. OIS directs systems engineering activities related to acquisition of Agencywide AMSI processing facilities and directs efforts to support the SSA user community in self-directed decision support systems.

Section SY.10 *The Office of Information Systems*—(Organization):

The Office of Information Systems, under the leadership of the Associate Commissioner for Information Systems, includes:

A. The Associate Commissioner for Information Systems (SY);

B. The Deputy Associate Commissioner for Information Systems (SY);

C. The Immediate Office of the Associate Commissioner for Information Systems (SY);

D. The Office of Information Systems Development (SYA);

E. The Office of Information Systems Management and Technology (SYB).

Section SY.20 *The Office of Information Systems*—(Functions):

A. The Associate Commissioner for Information Systems (SY) is directly responsible to the Deputy Commissioner for Systems for carrying out the Office of Information Systems (OIS) mission and providing general supervision to the major components of OIS.

B. The Deputy Associate Commissioner for Information Systems (SY) assists the Associate Commissioner in carrying out his/her responsibilities and performs other duties as the Associate Commissioner may prescribe.

C. The Immediate Office of the Associate Commissioner for Information Systems (SY) provides the Associate Commissioner and Deputy Associate Commissioner with staff assistance on the full range of their responsibilities.

D. *The Office of Information Systems Development* (SYA): The Office of Information Systems Development (OISD) is responsible for the entire system development life cycle of all administrative, management and statistical information (AMSI) systems. Directs the design and development of new or changed AMSI application systems, and the maintenance of existing AMSI application systems. Assists the Office of Information Systems Management and Technology (OISMT) in procurements associated with application projects. Prepares project initiation, documents, compiles feasibility study documents and performs cost benefit analyses for AMSI projects and develops project work plans and schedules for application projects. Develops functional requirements documents, systems specifications, data base specifications, test and validation plans, program specifications and the program code for application projects, user and operating procedures and program maintenance manuals.

E. *The Office of Information Systems Management and Technology* (SYB): The Office of Information Systems Management and Technology (OISMT) directs the workload control, production and resource reporting requirements for all levels of Social Security Administration (SSA) management. Directs, coordinates and analyzes a variety of administrative, management and statistical information (AMSI) activities. Validates AMSI data versus actual activities and products. Recommends Agencywide management information policies, reviews systems software development standards, recommends ways to implement them and enforce use of Software Engineering Technology (SET) for systems development. Maintains project development plans for all AMSI systems. Coordinates and manages the operating budget for the OIS. Analyzes existing management information reporting statistics and prepares executive summaries. Acts as liaison with other Federal agencies and others outside of SSA requesting statistical and management information. Plans and develops technical specifications for systems software, and data communication integration for SSA AMSI computing needs and initiates hardware, system software and data communications acquisitions. Ensures security of all AMSI hardware, software and data communications. Reviews, approves, initiates and processes requirements documentation and requisitions in support of AMSI related activities. Operates an Information Center as a central point of contact for end user computing throughout SSA. Assists users in developing office automation and microcomputer requirements and procurement justifications and trains users in the use of office automation systems and in operation of Local Area Networks. Assists and supports the entire SSA AMSI user community in the selection, implementation and operation of mini/microcomputer hardware and software for decision support and other AMSI related activities. Defines all entities of OIS data base standards and monitors adherence to those standards. Coordinates all AMSI data bases and administers all data bases directly under OIS control.

Dated: October 5, 1984.

Margaret M. Heckler,

Secretary of Health and Human Services.

[FR Doc. 84-27433 Filed 10-16-84; 8:45 am]

BILLING CODE 4110-07-M

DEPARTMENT OF THE INTERIOR

Presidential Commission on Indian Reservation Economies; Rescheduled Work Session

AGENCY: Presidential Commission on Indian Reservation Economies, Interior.

SUMMARY: This notice announces the rescheduling of the work session of the Presidential Commission on Indian Reservation Economies. On Wednesday, October 3, 1984, a notice appeared at 49 FR 39111 (FR Doc. 84-26197) announcing a work session of the Presidential Commission on Indian Reservation Economies scheduled October 17-19, 1984, in Tahlequah, Oklahoma. On Friday, October 12, 1984, an announcement was issued on page 40101 49 FR (FR Doc. 84-26955) postponing the work session until a later date.

The Commission's work session has been rescheduled November 2-4, 1984, 9:00 a.m. until 4:00 p.m., at the Williams Plaza (Westin Hotel), 10 E. Second Street, Williams Center, in Tulsa, Oklahoma. The purpose of the work session will be to discuss administrative reports, programmatic findings and such matters as may be presented by Members and staff of the Commission. Attendance by the public will be limited to available space.

FOR FURTHER INFORMATION CONTACT: Eric Rudert, Deputy Director, Presidential Commission on Indian Reservation Economies, 1717 H. Street, Northwest, Washington, D.C. 20006. Telephone: 202-653-2436.

Eric Rudert,

Deputy Director.

[FR Doc. 84-27429 Filed 10-16-84; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

Arizona, Safford District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting of the Safford District Grazing Advisory Board.

DATE: Friday, November 16, 1984, 9:00 a.m.

ADDRESS: Lazy B Ranch, Duncan, Arizona.

SUMMARY: The agenda for the meeting will include:

1. Tour of the Lazy B Ranch (Savory Grazing Method)
2. Request for Advisory Board money to fund FY 85 Range Improvement projects
3. BLM Management Update
4. Business from the floor

Board members will meet at the BLM Office, 425 E. 4th Street, Safford, Arizona at 9:00 a.m. From here we will depart via BLM-provided vehicles to the Lazy B ranch for a field tour of a portion of the ranch. Members of the public may accompany the tour but must provide their own transportation.

After the field trip a meeting of the Board members will be held at the Lazy B ranch headquarters. It is expected the Board members will return to the Safford District Office at approximately 5:00 p.m.

The meeting will be open to the public. Interested persons may make oral statements to the Board when in session. A written copy of the oral statement may be required to be provided at the conclusion of the presentation. Written statements may also be filed for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 425 E. 4th St., Safford, Arizona 85546, by 4:15 p.m., Thursday, November 15, 1984.

Summary minutes of the Board meeting will be maintained in the District Office and will be available for public inspection and reproduction (during regular business hours) within thirty (30) days following the meeting.

Dated: October 5, 1984.

Vernon L. Saline,

Acting District Manager.

[FR Doc. 84-27357 Filed 10-16-84; 8:45 am]

BILLING CODE 4310-84-M

[W-83885]

Wyoming; Proposed Reinstatements of Terminated Oil and Gas Leases

October 5, 1984.

Pursuant to the provisions of Pub. L. 31-245 and title 43 Code of Federal Regulations, § 3108.2-1(c), and Pub. L. 97-451, petition for reinstatement of oil and gas lease W-83585 in Johnson County, Wyoming was timely filed and was accompanied by all the required rentals accruing from April 1, 1984, the date of termination.

The lessees have agreed to new lease terms for rentals and royalties at rates of $5.00 per acre, and 16⅔ percent, respectively.

The lessees have paid the required $500 administrative fee and $106.25 to reimburse the Department for the cost of this **Federal Register** notice.

The lessees having met all the requirements for reinstatement of the leases as set out in section 31 (d) and (e) of the Mineral Land Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate lease W-83585 subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Jim H. Taylor,

Acting Chief, Branch of Fluid Minerals.

[FR Doc. 84-27354 Filed 10-16-84; 8:45 am]

BILLING CODE 4310-84-M

[C-39308]

Colorado; Proposed Withdrawal; Opportunity for Public Hearing

October 9, 1984.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of Agriculture, Forest Service, has filed application for withdrawal of 4,595 acres of National Forest System lands from location and entry under the United States mining laws only for protection of existing and planned recreational facilities at Keystone, Colorado. The area proposed for withdrawal is the Keystone Ski and Recreation Area and is within the boundaries of the Arapaho National Forest. This notice segregates the land from operation of the mining laws for a period of two years. During the two year period, the Forest Service will prepare the necessary supporting documentation for the withdrawal of this site which is proposed for a period of 100 years, the projected life term of the facilities. The land continues to be open to all uses other than the mining laws.

DATE: Comments or requests for hearing should be received on or before January 15, 1984.

ADDRESS: Correspondence should be addressed to Colorado State Office, 2020 Arapahoe Street, Denver, Colorado 80205.

FOR FURTHER INFORMATION CONTACT: Richard D. Tate, BLM Colorado State Office, 303-294-7626.

The Department of Agriculture proposes that the National Forest System lands identified below be withdrawn from location and entry under the United States mining laws only, subject to valid existing rights, pursuant to the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714:

Arapahoe National Forest, Sixth Principal Meridian

T. 5 S., R. 76 W.,
- Sec. 19, lots 28 thru 38, 40 thru 51, and 28.734 acres in the SW¼NE¼ and SE¼NW¼ [1];
- Sec. 29, W½SW¼;
- Sec. 30, lots 1 thru 4, NE¼ exclusive of patented land, E½W½ and NE¼SE¼;
- Sec. 31, lots 1 thru 4, W½NE¼, SE¼NE¼, E½W½ and SE¼;
- Sec. 32, NW¼NW¼.

T. 5 S., R. 77 W.,
- Sec. 24, lots 8, 9, SE¼, and 10.83 acres in the S½N½NE¼ and N½S½NE¼;
- Sec. 25, NE¼, NE¼NW¼, E½SE¼, NW¼SE¼;
- Sec. 36, NW¼SE¼NW¼, S½SE¼NW¼, E½NE¼SW¼, W½NW¼SE¼, and S½SE¼.

T. 6 S., R. 76 W.,
- Sec. 6, lots 3 thru 6, 11 thru 14, E½SW¼, and W½SE¼;
- Sec. 7, lots 1 thru 4, NE¼, E½NW¼, NE¼SW¼, and N½SE¼.

T. 6 S., R. 77 W.,
- Sec. 1, lots 1 thru 4, S½N½, and S½;
- Sec. 2, E½SE¼;
- Sec. 12, NE¼, N½NW¼, SE¼NW¼, and N½SE¼.

The area described aggregates approximately 4,595 acres of National Forest System lands in Summit County, Colorado.

Effective on date of publication, these lands are segregated from operation of the United States mining laws only. The lands remain open to mineral leasing and to Forest Service management.

The segregative effect of this pending application will terminate 2 years from the date of this publication unless final withdrawal action is taken or the application is terminated prior to that date. Notice of any action will be published in the **Federal Register**.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuation may present their views in writing to the Colorado State Office.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal. All interested

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[1] Those parcels of land can be more specifically identified in Exchange file Colorado 23301 in the Colorado State Office.

persons who desire to be heard on this proposed action must submit a written request for a hearing to the Colorado State Director within 90 days from the date of this publication.

If it is determined that a public hearing should be held, notice of the time and place of the hearing will be published in the **Federal Register** at least 30 days prior to the hearing. The hearing will be scheduled and conducted in accordance with Bureau of Land Management Manual, Section 2351.16B.

The Department of the Interior's regulations provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demands for the land and its resources. The authorized officer will also undertake negotiations with the applicant agency to assure that the area sought is the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the land for purposes other than the applicant's, and to reach an agreement on the concurrent management of the land and its resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the land will be withdrawn and reserved as requested by the applicant agency. The determination of the Secretary on this application will be published in the **Federal Register**.

Robert D. Dinsmore,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84-27428 Filed 10-16-84; 8:45 am]

BILLING CODE 4310-JB-M

Fish and Wildlife Service

Availability of a Draft Environmental Impact Statement; Restoration of Atlantic Salmon in New England Rivers

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the Draft Environmental Impact Statement for the Restoration of Atlantic Salmon in New England Rivers is available for public review. Comments and suggestions are requested.

The Fisfh and Wildlife Service (FWS) proposes, in participation with other State and Federal fisheries agencies in New England, to restore Atlantic Salmon to the Connecticut, Pawcatuck, Merrimack, Saco, Penobscot, St. Croix, Meduxnekeag, and Aroostook Rivers; maintain the Atlantic salmon broodstock program in the River; and maintain the existing wild salmon populations in the Sheepscot, Ducktrap, Narraguagus, Pleasant, Machias, East Machias, and Dennys Rivers. The Proposed Action is projected to increase the U.S. adult salmon population levels from current levels of 3,000–6,000 to nearly 54,000 individuals during the next 25 years. Both nonconsumptive uses such as salmon watching, and consumptive uses such as sport fishing will be increased significantly. It is projected that sport fishing will produce 12,000 salmon harvested and 140,000 angler-days of recreation yearly.

DATES: Written comments are requested by December 14, 1984. Public meetings on the draft EIS will be held on November 7, 1984 at the Ramada Inn, 357 Odlin Road, Bangor, Maine and on November 14, 1984 at the Ramada Inn, 112 North Main Street, Concord, New Hampshire. Both meetings will begin at 7:30 p.m.

The public is encouraged to submit written comments at any time during the comment and at the public meetings.

ADDRESS: Comments should be addressed to: Howard N. Larsen, Regional Director, Region Five, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158 (ATTN: AFR).

FOR FURTHER INFORMATION CONTACT: Dan C. Kimball, U.S. Fish and Wildlife Service, Fishery Resources, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158 (617/965–5100 ext. 208).

Copies of the Draft EIS are available for inspection at the following FWS facilities:

Regional Office, FWS One Gateway Center, Newton Corner, Mass. 02158
Berkshire National Trout Hatchery, Hartsville, Mass.
Craig Brook National Fish Hatchery, East Orland, Maine
Green Lake National Fish Hatchery Ellsworth, Maine
Nashua National Fish Hatchery, Nashua, New Hampshire
North Attleboro National Fish Hatchery, North Attleboro, Mass.
Sunderland National Salmon Station, Sunderland, Mass.
White River National Fish Hatchery, Bethel, Vermont
Connecticut River Coordinator Office, Hadley, Mass.
Merrimack River Coordinator Office, Concord, New Hampshire
Laconia Office of Fishery Assistance, Laconia, New Hampshire
Montpelier Office of Fishery Assistance, Montpelier, Vermont.

A copy of the Draft EIS may be requested from the U.S. Fish and Wildlife Service (AFR), One Gateway Center, Suite 700, Newton Corner, MA 02158.

SUPPLEMENTARY INFORMATION: The proposed action of the USFWS as discussed in the Draft EIS is to continue its role in the restoration at the present level of activity. Specifically the Service would:

1. Utilize existing Atlantic salmon hatcheries and supporting facilities to produce juvenile salmon for stocking in restoring and maintaining Atlantic salmon populations;
2. Utilize the current New England Fisheries Assistance field stations to provide coordination for the inter-State programs (Connecticut and Merrimack Rivers), and to conduct the biological assessments necessary to achieve the restoration objectives;
3. Maintain Ecological Services review of Federal projects, permits and licenses that may impact the program;
4. Continue to administer the Federal Aid program that provides funds to the State resource agencies; and
5. Conduct research on Atlantic salmon biology.

In addition, the Proposed Action will require that private and/or public hydroelectric energy producers construct or retrofit existing upstream fish passage facilities at 40 dams. There may also be a need to address downstream fish passage at 69 dams.

Impacts, benefits and cost estimates of the Proposed Action and three Alternative Actions are described in the EIS.

Alternative Actions Considered in the EIS Draft Are As Follows:

Alternative 1 is similar to the Proposed Action except that the Service would enlarge its fish cultural contribution by constructing and operating an Atlantic salmon egg incubation and fry rearing facility. This action, in addition to the present activities, will make it likely that the rivers under restoration would reach their restoration goal sooner.

Alternative 2 would, in addition to addressing 16 rivers of the Proposed Action, include nine new rivers for restoration activities; the Thames, Exeter, Lamprey, Cocheco, Royal, Androscoggin, Kennebec, and St. George Rivers, and Prestile Stream.

Alternative 3 would have the Service pursuue Atlantic salmon restoration program by doing only legally mandated activities. The Service would cease all hatchery production of Atlantic salmon, eliminate those Fisheries Assistance

activities directed at Atlantic salmon, redirect the activities of or close those facilities that currently support the salmon hatchery program, and curtail major research on Atlantic salmon biology. The Service would continue only the review processes legally required of Ecological Services and administer the Federal Aid Program to the State fisheries agencies.

Dated: October 10, 1984.

Howard N. Larsen,

Regional Director, Region 5, U.S. Fish and Wildlife Service.

[FR Doc. 84-270009 Filed 10-16-84; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

Scientific Committee of the Outer Continental Shelf (OCS) Advisory Board; Notice and Agenda of Meeting

This notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Pub. L. 92-463, 5 U.S.C. App. I and the Office of Management and Budget's Circular A-63 Revised.

The Scientific Committee of the Outer Continental Shelf Advisory Board will neet on November 14 and 15, 1984, in Prospectors Hall at the Clarion Hotel Denver Airport, 3203 Quebec (at the Intersection of Martin Luther King Avenue), Denver, Colorado 80207. The Scientific Committee will meet during the period 8:30 a.m. to 5:00 p.m. on November 14, 1984, and 8:00 a.m. to 5:00 p.m. on November 15, 1984.

Agenda for the meeting will include the following subjects:

- Committee Organization and Method of Operation
- Environmental Studies Planning and Procurement Process
- Memorandum of Understanding Between the Environmental Protection Agency and the Department of the Interior
- Deep Water Environmental Studies
- Environmental Productivity and Sensitivity Analyses
- The Federal Budget Process

The meeting of this committee is open to the public. Approximately 40 vistors can be accommodated on a first-come/first-served basis. All inquiries concerning this meeting should be addressed to:

Dr. Piet deWitt, Chief, Offshore Environmental Assessment Division (644), Minerals Management Service, Department of the Interior, 18th and C Street, NW., Washington, D.C. 20240; telephone: (202) 343-2097.

Dated: October 15, 1984.

John B. Rigg,

Associate Director for Offshore Minerals Management.

[FR Doc. 84-27503 Filed 10-16-84; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Delta Region Preservation Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Delta Region Preservation Commission will be held at 7:30 p.m., CST, on November 29, 1984, at the Jefferson Parish Council Chambers, 3330 North Causeway Boulevard, Metairie, Louisiana.

The Delta Region Preservation Commission was established pursuant to Pub. L. 95-265, section 907(a) to advise the Secretary of the Interior in the selection of sites for inclusion in Jean Lafitte National Historical Park, and in the development and implementation of a general management plan and of a comprehensive interpretive program of the natural, historic, and cultural resources of the Region.

The matters to be discussed at this meeting include:

—Crawfishing regulations
—Co-operative agreements
—Development Projects (a) Barataria (b) Chalmette
—Land Protection Plan

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited, and persons will be accommodated on a first-come, first-serve basis. Any member of the public may file a written statement concerning the matters to be discussed with the Superintendent, Jean Lafitte National Historical Park.

Persons wishing further information concerning this meeting, or who wish to submit written statements may contact James Isenogle, Superintendent, Jean Lafitte National Historical Park, U.S. Customs House, 423 Canal Street, Room 206 New Orleans, Louisiana 70130, telephone 504 589-3882. Minutes of the meeting will be available for public inspection four weeks after the meeting at the office of Jean Lafitte National Historical Park.

Dated: October 9, 1984.

Robert Kerr,

Regional Director, Southwest Region.

[FR Doc. 84-27455 Filed 10-16-84; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-196]

Certain Apparatus for Installing Electrical Lines and Components Therefor; Commission Decision Not To Review Initial Determination Amending Complaint and Notice of Investigation

AGENCY: U.S International Trade Commission.

ACTION: The Commission has determined not to review the initial determination (Order No. 1) (I.D.) amending the complaint and notice of investigation to add Ming Chang Carpenter Auger Bit Co., Ltd., as a respondent in the above-captioned investigation.

Authority: Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and §§ 210.20(d) and 210.53 of the Commission's Rules of Practice and Procedure (19 CFR 210.20(d), as amended at 48 FR 35388, August 4, 1983, and 210.53).

SUPPLEMENTARY INFORMATION CONTACT: The Commission received no petitions for review of the I.D. and no comments from Government agencies.

FOR FURTHER INFORMATION CONTACT: William D. Perry, Esq., Office of the General Counsel, U.S International Trade Commission, telephone 202-523-0499.

By order of the Commission.

Issued: October 10, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-27461 Filed 10-16-84; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 713-TA-149 (Final)]

Barium Chloride From the People's Republic of China

Determination

On the basis of the record [1] developed in the subject investigation, the Commission determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)), that an industry in the United States is materially injured by reason of imports from the People's Republic of China of barium chloride, provided for in item 417.70 of the Tariff Schedules of the United States, which the Department of Commerce has found are being sold in the United States at less than fair value (LTFV).

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[1] The "record" is defined in § 207.2(i) of the Commission's *Rules of Practice and Procedure* (19 CFR 207.2(i)).

Background

The Commission instituted this final antidumping investigation, effective April 6, 1984, following a preliminary determination by the Department of Commerce that imports of barium chloride from the People's Republic of China are being, or are likely to be, sold in the United States at LTFV (49 FR 13728). Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of May 2, 1984 (49 FR 18791). On May 29, 1984, Commerce postponed the date for making its final LTFV determination (49 FR 22365). Accordingly, the Commission published a notice in the **Federal Register** of June 13, 1984 (49 FR 24457) revising its schedule for the conduct of its investigation.

On August 27, 1984, Commerce published its affirmative final LTFV determination in the **Federal Register** (49 FR 33916).

The Commission's hearing was held on August 23, 1984, and all persons who requested the opportunity were permitted to appear in person or through counsel. The Commission's determination in this investigation was made in an open "Government in the Sunshine" meeting, held on September 25, 1984.

The Commission transmitted its report on this investigation to the Secretary of Commerce on October 11, 1984. A public version of the Commission's report, Barium Chloride From the People's Republic of China (investigation No. 731–TA–149 (Final), USITC Publication 1584, October 1984), contains the views of the Commission and information developed during the investigations.

By order of the Commission.

Issued: October 10, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–27484 Filed 10–16–84; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 701–TA–222 (Preliminary)]

Certain Cast-Iron Pipe Fittings From India

AGENCY: United States International Trade Commission.

ACTION: Notice of withdrawal of petition in countervailing duty investigation.

SUMMARY: On October 5, 1984, counsel for the Cast Iron Pipe Fittings Committee, the petitioner in the subject investigation, filed a letter with the U.S. Department of Commerce and the U.S. International Trade Commission withdrawing its petition concerning imports of certain cast-iron pipe fittings from India. Having received this letter, Commerce did not initiate an investigation as provided for in section 702(c) of the Tariff Act of 1930. Accordingly, the Commission hereby gives notice that the countervailing duty investigation, involving imports from India of non-allowy cast-iron pipe and tube fittings other than for cast-iron soil pipe, provided for in items 610.62, 610.65, 610.70, and 610.74 of the Tariff Schedules of the United States (investigation No. 701–TA–222 (Preliminary)), will not be continued further.

EFFECTIVE DATE: October 11, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Carpenter, Office of Investigations, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, telephone 202–523–0399.

This notice is published pursuant to § 207.40 of the Commission's Rules of Practice and Procedure (19 CFR 207.40).

By order of the Commission.

Issued: October 11, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–27483 Filed 10–16–84; 8:45 am]

BILLING CODE 7020–02–M

[332–198]

Possible Impacts of Changes in U.S. Chemical Trade With the Developing Countries

AGENCY: United States International Trade Commission.

ACTION: Institution of an investigation under section 332(b) of the Tariff Act of 1930 (19 U.S.C. 1332(b)) for the purpose of assessing the possible impacts of changes in chemical trade with developing countries on the United States as well as on those countries.

EFFECTIVE DATE: October 4, 1984.

FURTHER INFORMATION CONTACT: Dr. Aimison Jonnard or Mr. Kenneth Conant, Energy and Chemicals Division, U.S. International Trade Commission, Washington, D.C. 20436 (telephone 202–523–3087, 202–523–0495).

Background and Scope of Investigation

The Commission instituted the investigation on its own motion to assess the possible impacts of changes in chemical trade with developing countries on the United States and on those countries. The United States has historically assisted other nations to strengthen their economies. The Generalized System of Preferences and the Caribbean Basin Initiative are examples of programs designed to aid developing countries to increase exports to the United States in order to generate revenue which can be used for industrial development thus strengthening their economies. Some of these programs are designed to encourage U.S. direct investment in the developing countries; however, some of these countries are reportedly impeding such direct investment at the same time that imports from these countries are impacting U.S. industries.

The Commission expects to complete its study by July 22, 1985.

Written Submissions

While there is no public hearing scheduled for this study, written submissions from interested parties are invited. Although the Commission is not actively seeking proprietary company data, commercial or financial information which a party desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested parties. To be ensured of consideration by the Commission, written statements should be received by the close of business on March 4, 1985. All submissions should be addressed to the Secretary at the Commission's office in Washington, D.C.

By order of the Commission.

Issued: October 12, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–27456 Filed 10–16–84; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 701–TA–218 (Final)]

Certain Cold-Rolled Carbon Steel Products From the Republic of Korea

AGENCY: United States International Trade Commission.

ACTION: Institution of a final countervailing duty investigation and scheduling of a hearing to be held in connection with the investigation.

SUMMARY: As a result of an affirmative preliminary determination by the U.S. Department of Commerce that certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930 (19 U.S.C. 1671) are being provided to manufacturers, producers, or exporters in the Republic of Korea (Korea) of cold-rolled carbon steel sheets and plates, provided for in item 607.83 of the Tariff Schedules of the United States, the United States International Trade Commission hereby gives notice of the institution of investigation No. 701–TA–218 (Final) under section 705(b) of the act (19 U.S.C. 167d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materialy retarded, by reason of imports of such merchandise. The Commission will make its final injury determination by January 15, 1985 (19 CFR 207.25).

EFFECTIVE DATE: September 18, 1984.

FOR FURTHER INFORMATION CONTACT: Nancy Fulcher (202–523–0290), Office of Industries, U.S. International Trade Commission.

SUPPLEMENTARY INFORMATION:

Background

On August 2, 1984, the Commission notified the Department of Commerce that, on the basis of the information developed during the course of its preliminary investigation, there was a reasonable indication that an industry in the United States was materially injured by reason on imports of certain cold-rolled carbon steel products from Korea. The preliminary investigation was instiued in response to a petition filed on June 18, 1984, by United States Steel Corp., Pittsburgh, PA.

Participation in the investigation

Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than 21 days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairwoman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Upon the expiration of the period for filing entries of appearance, the Secretary shall prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation, pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)). Each document filed by a party to this investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service (19 CFR 201.16(c)).

Staff Report

A public version of the staff report containing preliminary findings of fact in this investigation will be placed in the public record on November 28, 1984, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing

The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m., on December 11, 1984, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC 20436. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on November 20, 1984. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 9:30 a.m., on November 27, 1984, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is December 6, 1984.

Testimony at the public hearing is governed by section 207.23 of the Commission' rules (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 (19 CFR 207.22. Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on December 17, 1984.

Written Submissions

As mentioned, parties to this investigation may file prehearing and posthearing brief by the dates shown above. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before December 17, 1984. A signed original and fourteen (14) true copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the the Commission's rules (19 CFR 201.8). All written submission except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submission must be clearly labeled "Confidential Business Information." Confidential submissions and requests for cenfidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, Subparts A and C (19 CFR Part 207), and part 201, Subparts A through E (19 CFR Part 201).

Authority: This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR § 207.20).

By order of the Commission.

Issued: October 9, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–27661 Filed 10–16–84; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337–TA–183]

Certain Indomethacin; Commission Decision Not To Review Initial Determination Terminating the Investigation

AGENCY: U.S International Trade Commission.

ACTION: Notice is hereby given that the Commission has determined not to review an initial determination of the presiding office terminating the above-captioned investigation.

Authority: 19 U.S.C. 1337 and 1337a; 19 CFR 210.50, 210.53, and 210.54.

SUPPLEMENTARY INFORMATION: The subject investigation is being conducted to determine whether there is violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337 and 1337a) in the importation or sale of certain indomethacin. See 49 FR 6811 (Feb. 23, 1984). The imported inndomethacin allegedly is manufactured by a process that would infringe claims 1, 2, 4, and 7 of U.S. Letters Patent 3,629,284 if the

process were practiced in the United States.

On Sepetembe 11, 1984, the presiding officer issued an initial determination terminating the investigation (Order No. 41). The initial determination was based on a terminal disclaimer filed in connection with the subject patent. The terminal disclaimer provided that the subject patent would automatically expire if it ceased to be commonly owned with four other patents. The subject patent was assigned to complainant Merk & Co. from Sumitomo Chemical Co., Ltd. in an assignment which did not transfer the four related patents specified in the disclaimer. Thus, the presiding officer determined that the subject patent expired in accordance with the terms of the terminal disclaimer.

Complainant Merck filed a petition for review of the ID. The Commission investigative attorney and two responents filed responses opposing Merck's petition.

Copies of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection Monday through Friday during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S International Trade Commission, Docket Section, 701 E Street, NW., Washington, D.C. 20436, telephone 202–523–0471.

FOR FURTHER INFORMATION CONTACT: M.H. Sundeen, Esq., Office of the General Counsel, U.S International Trade Commission, 701 E Street, NW., Washington, D.C. 20436; telephone 202–523–1693.

By order of the Commission.

Issued: October 12, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–27485 Filed 10–16–84; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–206]

Certain Surgical Implants for Fixation of Bone Fragments; Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on September 6, 1984, under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), on behalf of Synthes Ltd. (U.S.A.), 983 Old Eagle School Road, Wayne, Pennsylvaina 19087. The complaint alleges unfair methods of competition and unfair acts in the importation of certain surgical implants for fixation of bone fragments into the United States, or in their sale, by reason of alleged direct, contributory, and induced infringement of claims 1–4, 6, 7, 11, and 14 of U.S. Letters Patent Re. 31,628. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

The complainant requests the Commission to institute an investigation and, after a full investigation, to issue a permanent exclusion order and permanent cease and desist orders.

FOR FURTHER INFORMATION CONTACT: Juan Cockburn, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, telephone 202–523–1272.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in § 210.12 of the Commission's Rules of Practice and Procedure (19 CFR 210.12).

Scope of Investigation

Having considered the complaint, the U.S. International Trade Commission, on October 4, 1984, order that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, an investigation be instituted to determine whether there is a violation of subsection (a) of section 337 in the unlawful importation of certain surgical implants for fixation of bone fragments into the United States, or in their sale, by reason of alleged direct, contributory, and induced infringementof claims 1–4, 6, 7, 11, or 14 of U.S. Letters Patent Re. 31,628, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—Synthes Ltd. (U.S.A.), 983 Old Eagle School Road, Wayne, Pennsylvania 19087.

(b) The respondents are the following companies, alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

DePuy, S.A., Avenida Ausias March, 42, Valencia, Spain

DePuy, Inc., U.S. Highway 30 East, Warsaw, Indiana 46580.

(c) Juan Cockburn, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, 701 E Street N.W., Room 128, Washington, D.C. 20436, shall be the Commission investigative attorney, a party to this investigation; and

(3) For the investigation so instituted, Janet D. Saxon, Acting Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding officer.

Responses must be submitted by the named respondents in accordance with § 210.21 of the Commission's Rules of Practice and Procedure (19 CFR 210.21). Pursuant to §§ 201.16(d) and 210.21(a) of the rules, such response will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings.

The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room 156, Washington, D.C. 20436, telephone 202–523–0471.

By Order of the Commission.

Issued: October 9, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–27480 Filed 10–16–84; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–174]

Certain Woodworking Machines; Commission Decision Not To Review Initial Determination Terminating Respondent on the Basis of a Consent Order; Issuance of Consent Order

AGENCY: U.S. International Trade Commission.

ACTION: The Commission has determined not to review the presiding officer's initial determination (ID) (Order No. 36) termination respondent CTT Tools, Inc., (CTT) in the above-captioned investigation on the basis of a consent order.

Authority: Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and 19 CFR 210.51, 210.53, and 211.21.

SUPPLEMENTARY INFORMATION: On August 28, 1984, complainant Delta International Corp. and respondent CTT Tools, Inc. filed a joint motion (Motion No. 174–36) to terminate CTT as a respondent in the above-captioned investigation based upon a consent order. The presiding officer issued an ID granting the motion for termination on September 10, 1984. The Commission has not received any petitions for review of the ID nor comments from Government agencies or the public.

Termination of the investigation as to respondent CTT Tools, Inc. on the basis of a consent order furthers the public interest by conserving Commission resources and those of the parties involved.

Copies of the presiding officer's ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: Hannelore V.M. Hasl, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0359.

By order of the Commission.

Issued: October 10, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–27482 Filed 10–16–84; 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30531]

East Camden and Highland Railroad Co.; Exemption, Acquisition and Operation

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from 49 U.S.C. 10901 the acquisition and operation by the East Camden and Highland Railroad Company of a 26.28-mile rail line extending from Milepost 99.0 at El Dorado, AR, to Mile Post 125.28 at Lillie, LA.

DATES: This exemption shall be effective on November 16, 1984. Petitions to stay the effective date must be filed by October 29, 1984, and petitions for reconsideration must be filed by November 6, 1984.

ADDRESSES: Send pleadings referring to Finance Docket No. 30531 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representative: Charles W. Chapman, 1000 Thomas Jefferson St. NW., Suite 600, Washington, D.C. 20007.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (DC Metropolitian area) or toll free (800) 424–5403.

Decided: October 9, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett, Gradison, Simmons, Lamboley and Strenio.

James H. Bayne,

Secretary.

[FR Doc. 84–27414 Filed 10–16–84; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. 388 (Sub-No. 36)]

Intrastate Rail Rate Authority; Wisconsin

AGENCY: Interstate Commerce Commission.

ACTION: Notice of decision.

SUMMARY: The Commission is extending the provisional certification of Wisconsin under 49 U.S.C. 11501(b) to regulate intrastate rail transportation, pending submission of a letter confirming the official adoption of its standards and procedures as filed with the Commission, or a copy of its legislatively adopted standards and procedures, as noted in the full decision.

DATES: Wisconsin must submit a letter confirming the official adoption of its standards and procedures as filed with the Commission, or a copy of its legislative adopted standards and procedures by November 1, 1984, or its provisional certification will expire.

FOR FURTHER INFORMATION, CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, D.C. 20423, or call 289–4357 (DC Metropolitan area) or toll free (800) 424–5403.

Dated: October 5, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett, Gradison, Simmons, Lamboley and Strenio.

James H. Bayne,

Secretary.

[FR Doc. 84–27413 Filed 10–16–84; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Waste Management, Inc. and WM Acquiring Corp.; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)–(h), that a proposed Final Judgment, Stipulation and Competitive Impact Statement have been filed with the United States District Court for the District of Columbia in *United States* v. *Waste Management, Inc. and WM Acquiring Corp.*, Civil Action No. 84–2832. The Complaint filed by the Department of Justice in this case alleges that the proposed acquisition of SCA Services, Inc. ("SCA") by Waste Management, Inc. ("WMI") would violate Section 7 of the Clayton Act, 15 U.S.C. § 18, because it might substantially lessen competition in the provision of a number of solid waste collection and disposal services in 20 local geographic markets throughout the United States and substantially lessen competition in the provision of hazardous waste landfill services in the southeastern United States and portions of the midwestern United States.

The proposed Final Judgment would permit WMI to proceed with its acquisition of SCA but would require WMI to divest to Genstar Corporation ("Genstar"), through its subsidiary, Genstar Refuge Services Corporation ("GRS"), either the SCA operation or the WMI operation in all cases in which there is substantial competition between WMI and SCA. The businesses acquired by GRS are to be operated separately and independently from WMI. The operations to be divested are as follows:

System Disposal Service (Cudahy, California)

SCA Services of Colorado (Denver/Arvada, Colorado)

SCA Services of Florida (excluding SCA Services of Tallahassee and Tallahassee Landfill operating

centers) (West Palm Beach and Port St. Lucie, Florida)
Twin City Paper (West Palm Beach, Florida)
SCA Services of Tampa (Tampa, Florida)
SCA Services of Atlanta (excluding proposed Atlanta Landfill) (Atlanta, Georgia)
Barton Landfill (South Roxanna, Illinois)
Tyler Landfill (Sulphur, Kentucky)
United Disposal Corporation (Gaithersburg, Maryland)
Triangle Resources (Laurel, Maryland)
Berkley Div. Cal's Collection (including paper recovery) (Assonett, Massachusetts)
Eastern Collection (Rowley, Massachusetts)
Eastern Transfers (transfer stations) (diverse locations in Massachusets)
J. K. Municipal (Rowley, Massachusetts)
Howard Disposal (including transfer station) (South Boston, Massachusetts)
Bell Pick-Up Service (Grand Rapids, Michigan)
Independent Collection (Muskegon, Michigan)
Independent Landfill (Muskegon, Michigan)
Commercial Removal (including Southfield and Livonia transfer stations) (Southfield, Michigan)
SCA Services of Detroit (including transfer station) (Dearborn, Michigan)
SCA Services of Pontiac (Pontiac, Michigan)
United Disposal (St. Louis, Mississippi)
S&T Hauling (O'Fallon, Missouri)
Interstate Waste Removal Co. (including transfer station permit) (Trenton, New Jersey)
Triangle Resources (Reidsville, North Carolina)
Acme Industrial Waste Services (excluding Canton and Youngstown businesses) (Akron, Ohio)
SCA Services of Dayton (excluding closed Dayton landfill) (Dayton, Ohio)
SCA South Carolina (Chemical landfill) (Pinewood, South Carolina)
SCAT (including kitty litter) (Pinewood, South Carolina)
Triangle Resources (Greenbrier, Tennessee)
SCA Services of Ft. Worth (Ft. Worth, Texas)
Ft. Worth Landfill (Ft. Worth, Texas)
SCA Services of Dallas (Dallas, Texas)

In addition, Genstar will acquire SCA's interest in any existing or proposed landfill sites in Denver, Colorado or Fort Worth, Texas and SCA's interest in its proposed resource recovery permit and site in San Marcos, California It will also acquire any interest SCA has in SeaBurn Inc. or Stolt-Nielsen, Inc., and in a proposed hazardous waste treatment/incineration facility in Laurenburg, North Carolina. Genstar will acquire WMI's interest in a proposed hazardous waste landfill permit and site in Northwood, Ohio. The decree also provides for the creation of a new $3 million solid waste collection business in Orange County, California, which will be divested to GRS.

The Final Judgment provides that GRS will acquire possession and operational control of those assets to be divested to it upon consummation of the tender offer. Title will pass within 20 days after the merger of WMI and SCA occurs. GRS has the option of refusing to take one or more of the designated businesses or of disposing of any of them if it fails to realize an agreed-upon return. The proposed Final Judgment provides that if GRS exercises these options on or before August 31, 1985, GRS and WMI may attempt to sell those businesses, but if they have not been sold in six months after exercise of the option, they will be divested to a court-appointed trustee for sale. GRS must continue to operate the businesses until they are sold, or if they are transferred to a trustee, until six months after the transfer. The businesses must be sold as ongoing businesses, and sale is subject to approval by the United States or by the Court.

Under other provisions of the Final Judgment, WMI is enjoined for a period of five years from acquiring a significant interest in firms that provide or are seeking to provide PCB incineration services or hazardous waste landfill services. If, during the 5-year period, WMI seeks to acquire more than a 5% interest in any company that provides other hazardous waste management services and has annual revenues of $3 million or more, or in any company with annual revenues of $3 million or more from solid waste collection or disposal services that compete with WMI, it must first give the United States 45 days' written notice.

Comments regarding the proposed decree are invited from the public. The statutory comment period is 60 days from the date of this publication in the **Federal Register**. Such comments and responses thereto will be filed with the Court and published in the **Federal Register**. Comments should be directed to John W. Clark, Chief, Special Trial Section, Antitrust Division, U.S. Department of Justice, 10th and Pennsylvania Avenue, NW., Washington, D.C. 20530.

Joseph H. Widmar,
Director of Operations, Antitrust Division.

United States District Court, for the District of Columbia

United States of America, Plaintiff, v. *Waste Management, Inc. and WM Acquiring Corp.*, Defendants.

Civil Action No. 842832; filed: Sept. 12, 1984.

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

(1) The parties consent that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16), and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants, and by filing that notice with the Court.

(2) The parties shall abide by and comply with the provisions of the Final Judgment pending entry of the Final Judgment, and shall from the date of filing of this Stiplulation comply with all the terms and provisions thereof as though the same were in full force and effect as an order of the Court.

(3) In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

Dated: September 11, 1984.

Helmut F. Furth,
Acting Assistant Attorney General.
Mark Leddy,
John W. Clark,
Attorneys, Department of Justice.
J. Robert Kramer II,
John F. Greaney,
Gregory B. Hovendon,
Patricia G. Chick,
Charles R. Schwidde,
John M. Toohey,
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For Defendants Waste Management, Inc., and WM Acquiring Corp.:

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Michael Sennett,

A Member of the Firm. Three First National Plaza, Chicago, Illinois 60602.

United States District Court for the District of Columbia

United States of America, Plaintiff, v. *Waste Management, Inc. and WM Acquiring Corp.*, Defendants.

Civil Action No. 842832; filed: Sept. 12, 1984.

Voluntary Submission to the Jurisdiction of the Court

(1) Genstar Corporation ("Genstar"), Genstar Refuse Services Corporation ("GRS"), their successors and assigns hereby voluntarily submit to the jurisdiction of the Court in the captioned case of *United States of America* v. *Waste Management, Inc., et al.* to the extent set forth below.

(2) Genstar, GRS, their successors and assigns agree to be bound by Sections IV, V, VI, VII, VIII, IX, X and XIV of the proposed Final Judgment and shall abide by and comply with such provisions of the proposed Final Judgment pending entry of the Final Judgment, and shall from the date of filing of this Voluntary Submission until the times referred to in paragraph (3) below comply with all of the terms and conditions thereof as though the same were in full force and effect as an order of the Court.

(3) Genstar's and GRS' agreements to be bound by the Final Judgment set forth in paragraph (2) above shall end on the Election Date (as defined in Section VI A. of the Final Judgment) except as follows:

(a) If GRS elects to reject any relevant businesses pursuant to Section 1.5 of the Transaction Agreement or elects to dispose of any or all relevant businesses pursuant to Sections 8.2 or 8.6 thereof, the agreements of Genstar and GRS with respect to such businesses shall end upon the earlier of the sale thereof or the transfer to the trustee except that, in the case of the transfer to the trustee, such agreements respecting such businesses so transferred shall continue for so long as GRS is managing and operating such businesses for such trustee pursuant to the Final Judgment.

(b) If GRS terminates the Transaction Agreement pursuant to Section 14.1 of the Transaction Agreement, the agreements of Genstar and GRS set forth in paragraph (2) shall thereupon terminate, except that in the case of the transfer of relevant businesses to the trustee pursuant to the Final Judgment, such agreements respecting such businesses so transferred shall continue for so long as GRS is managing and operating such businesses for such trustee pursuant to the Final Judgment and Section 14.1(b) of the Transaction Agreement.

(4) In the event plaintiff withdraws its consent to the proposed Final Judgment, or if the proposed Final Judgment is not entered pursuant to the stipulation entered in respect thereto, this Voluntary Submission shall be of no effect whatsoever.

Dated: September 11, 1984.

For Genstar Corporation and Genstar Refuse Services Corporation:

Shearman & Sterling,
R. Bruce MacWhorter,
A Member of the Firm, 53 Wall Street, New York New York 10005, 202/483-1000.

United States District Court for the District of Columbia

United States of America Plaintiff, v. *Waste Management, Inc. and WM Acquiring Corp.*, Defendants.

Civil Action No. 842832; filed: Sept. 12, 1984.

Final Judgment

Whereas, plaintiff, United States of America, having filed its Complaint herein on September 12, 1984, and plaintiff and defendants, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein and without this Final Judgment constituting any evidence against or any admission by any party with respect to any such issue;

And Whereas, the following facts and circumstances underlie the parties' agreement to the entry of this Final Judgment:

Defendant Waste Management, Inc. ("WMI") and SCA Services, Inc. ("SCA") are each engaged in the provision of waste collection and disposal services in the United States.

Defendants WMI and WM Acquiring Corp. ("WMAC"), a corporation formed by WMI for the purpose of acquiring SCA, entered into an agreement, appended hereto as Exhibit A, with Genstar Corporation ("Genstar") and Genstar Refuse Services Corporation ("GRS") on July 13, 1984 ("Transaction Agreement") providing, among other things, that:

(a) WMI shall cause WMAC to commence a cash tender offer for the outstanding shares of common stock of SCA, to be followed as promptly as practicable by a merger by which SCA would become a wholly-owned subsidiary of WMAC, which in turn would be followed as promptly as practicable by the distribution to GRS of certain businesses and operations of SCA;

(b) upon completion of the tender offer GRS shall immediately begin to operate the businesses to be divested, such operation to be in the normal course of business and independent of WMI; and

(c) GRS shall, within a limited period of time, have the right to reject certain SCA businesses or to sell some or all of the SCA businesses under circumstances which give GRS certain rights of reimbursement, indemnification and payment against WMI. In the event of such an election, WMI has certain rights to find a purchaser for such businesses.

On August 15, 1984, WMAC commenced a tender offer for all outstanding shares of the common stock of SCA and expects to acquire a majority of such shares by midnight September 12, 1984.

The parties agree that prompt and certain divestiture is the essence of this agreement, and that said divestiture is to be accomplished according to the Transaction Agreement, except that where the terms of the Transaction Agreement are inconsistent with the terms of this Final Judgment the terms of the Final Judgment shall prevail.

The defendants have agreed to be bound by the provisions of this Final Judgment. Genstar and GRS, to the extent set forth in the Voluntary Submission to the Jurisdiction of the Court dated September 11, 1984 and filed in the captioned case (the "Voluntary Submission"), have agreed to be bound by the provisions of Sections IV, V, VI, VII, VIII, IX, X, and XIV of this Final Judgment.

Now, Therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby

Ordered, Adjudged and Decreed as follows:

I

This Court has jurisdiction of the subject matter of this action and of each of the parties hereto. The Complaint states a claim upon which relief may be granted against defendants under Section 7 of the Clayton Act, as amended (15 U.S.C. § 18).

II

As used in this Final Judgment:

A. "WMI" means the defendant Waste Management, Inc., including each division, subsidiary or affiliate thereof and each officer, director, employee, attorney, agent or other person acting for or on behalf of any of them.

B. "Genstar" means Genstar Corporation, including each division, subsidiary or affiliate thereof (other than GRS), and each officer, director, employee, attorney, agent or other person acting for or on behalf of any of them.

C. "GRS" means Genstar Refuse Services Corporation, including each division, subsidiary or affiliate thereof (other than Genstar), and each officer, director, employee, attorney, agent or other person acting for or on behalf of any of them. In the event GRS transfers any relevant business to Genstar, the meaning of "GRS" shall include Genstar with respect to such transferred relevant business.

D. "WMAC" means the defendant WM Acquiring Corp., including each division, subsidiary or affiliate thereof (other than Genstar or GRS), and each officer, director, employee, attorney, agent or other person acting for or on behalf of any of them.

E. "SCA" means SCA Services, Inc., including each division, subsidiary or affiliate thereof prior to the conclusion of the Tender Offer.

F. "Defendants" means WMI and WMAC.

G. "Person" means any natural person, corporation, association, firm, partnership or other business or legal entity.

H. "Waste collection or disposal service" means the provision or sale of any product or service within SIC 4953 including, but not limited to, any solid waste collection service, transfer station operation or service, solid waste landfill operation or service, reclamation or recovery plant operation or service or hazardous waste management service.

I. The term "hazardous waste" means those waste products which exhibit the characteristics identified in 40 CFR 261.21, 261.22, 261.23, 261.24 or which are listed in 40 CFR 261.31, 261.32, 261.33, and revisions thereof; and those waste products which contain polychlorinated biphenyls ("PCB").

J. The term "hazardous waste management service" means the collection, transportation, treatment, storage or disposal of hazardous waste products or the clean-up of hazardous waste from contaminated areas.

K. "Transportation Agreement" means the contract between WMI, WMAC, Genstar and GRS entered into on July 13, 1984, as amended on August 13, 1984 and September 11, 1984, a copy of which is attached hereto as Exhibit A.

L. "Relevant businesses" means: (i) the following SCA and WMI divisions, subsidiaries or affiliates at or associated with (or in the case of customers, serviced from) the locations noted below and such additional operations, businesses and assets with respect thereto as GRS is entitled to receive under the Transaction Agreement:

SCA Services of Chandler (Chandler, Arizona)
Chandler Landfill (Chandler, Arizona)
SCA Services of Phoenix (Phoenix, Arizona)
Sani-Tainer, Inc. (San Diego, California)
Chula Vista Sanitary Service (excluding Oceanside business) (Chula Vista, California)
System Disposal Service (Cudahy, California)
SCA Services of Colorado (Denver/Arvada, Colorado)
SCA Services of Florida (excluding SCA Services of Tallahassee and Tallahassee Landfill operating centers) (St. Lucie, Florida)
Twin City Paper (West Palm Beach, Florida)
SCA Services of Tampa (Tampa, Florida)
SCA Services of Atlanta (excluding proposed Atlanta Landfill) (Atlanta, Georgia)
Barton Landfill (South Roxanna, Illinois)
Tyler Landfill (Sulphur, Kentucky)
United Disposal Corporation (Gaithersburg, Maryland)
Triangle Resources (Laurel, Maryland)
Berkley Div./Cal's Collection (including paper recovery) (Assonett, Massachusetts)
Eastern Collection (Rowley, Massachusetts)
Eastern Transfers (transfer stations) (diverse locations in Massachusetts)
J. K. Municipal (Rowley, Massachusetts)
Howard Disposal (including transfer station) (South Boston, Massachusetts)
Bell Pick-Up Service (Grand Rapids, Michigan)
Independent Collection (Muskegon, Michigan)
Independent Landfill (Muskegon, Michigan)
Commercial Removal (including Southfield and Livonia transfer stations) (Southfield, Michigan)
SCA Services of Detroit (including transfer station) (Dearborn, Michigan)
SCA Services of Pontiac (Pontiac, Michigan)
United Disposal (St. Louis, Missouri)
S&T Hauling (O'Fallon, Missouri)
Interstate Waste Removal Co. (including transfer station permit) (Trenton, New Jersey)
Triangle Resources (Reidsville, North Carolina)
Acme Industrial Waste Services (excluding Canton and Youngstown businesses) (Akron, Ohio)
SCA Services of Dayton (excluding closed Dayton landfill) (Dayton, Ohio)
SCA South Carolina (Chemical landfill) (Pinewood, South Carolina)
SCAT (including kitty litter) (Pinewood, South Carolina)
Triangle Resources (Greenbrier, Tennessee)
SCA Services of Ft. Worth (Ft. Worth, Texas)
Ft. Worth Landfill (Ft. Worth, Texas)
SCA Services of Dallas (Dallas, Texas)

Unless otherwise indicated above, all relevant businesses, operations and assets shall be those relating to collection operations. Names and locations of operating centers are given for identification purposes and do not necessarily reflect the actual or legal name of the operation or the geographical location of all relevant assets. The listing of certain transfer stations shall not be construed to exclude other transfer stations not listed if such other transfer stations would constitute an asset of a GRS business within the meaning of the Transaction Agreement:

(ii) any right, interest or contract of SCA in or with SeaBurn Inc. or Stolt-Nielsen, Inc.;

(iii) any right, interest, or contract of SCA relating to its proposed hazardous waste treatment permit and site in Laurinburg, North Carolina;

(iv) any right, interest, or contract of SCA relating to existing, closed and any proposed solid waste landfill sites and permits in the Denver, Colorado and Ft. Worth, Texas metropolitan areas;

(v) any right, interest, or contract of WMI relating to its proposed hazardous waste landfill permit and site (a ninety-acre site on the LOF property bounded on the west by Wales Road and on the north by the Chesapeake and Ohio R.R.) in Northwood, Ohio;

(vi) any right, interest, or contract of SCA relating to its proposed resource recovery permit and site in San Marcos, California; and

(vii) three million dollars in business (approximately one-half of which shall be roll-off business and one-half front load business) and all assets and operations primarily relating to such business in Orange County, California that will be spun-off from SCA's Orange County operations in the following manner:

(a) Promptly upon approval as provided in subpart (c) below, defendants shall cause the transfer to GRS of contiguous solid waste collection routes previously served by SCA within Orange County, California representing in the aggregate three million dollars ($3,000,000) of annual revenues for the SCA fiscal year ending March 31, 1984, from customers existing as of the

transfer date. The transfer shall be of entire routes composed of approximately one-half front end loader and one-half roll-off customers, except that if less than an entire route is necessary to raise the aggregate annual revenues of the transferred routes to the specified level, such a partial route may be transferred;

(b) The Orange County routes transferred shall be capable of existing as a viable separate business entity and shall include all vehicles and equipment; all customer lists; all rights, title and interest in and to the contracts entered into with the route customers (together with any associated bid and performance bonds); and all books, records and files associated therewith;

(c) Within sixty (60) days after the Merger, defendants and GRS shall submit to plaintiff a written plan for the transfer of such Orange County routes. Such submission shall set forth the full details of the plan including the routes to be transferred and the date upon which the transfer shall occur; current and proposed route maps; regularly maintained records of the equipment used on each route; monthly revenue, revenue per yard and profitability data maintained by SCA in the normal course of its business for each route; and all other such documents relating to the proposed route transfer. Defendants shall also provide to plaintiff such other regularly maintained documents and information related to the route transfer as the plaintiff may reasonably request;

(d) Within fifteen days after receipt of the route transfer plan plaintiff shall give written notice to WMI if it objects to the proposed route transfer and of the grounds for its objections. If plaintiff objects to the proposal, plaintiff shall propose an alternative plan for the route transfer. If plaintiff fails to object within the period specified, or if plaintiff gives written notice to WMI that it does not object, then the route transfer shall be implemented as set forth in the plan submitted by defendants and GRS. Upon objection by plaintiff, the Court shall consider the proposals of the parties and order the implementation of one of them. Such implementation shall occur within twenty days following entry of the Court's order hereunder; and

(e) Defendants are hereby enjoined and restrained for a period of six months from the date of the transfer of the Orange County routes described herein to GRS, from: (1) soliciting in any manner whatsoever any customer served by GRS on such Orange County routes at the time of the transfer; and (2) formally or informally opposing, interfering with or commenting upon in any way any permit or franchise application which may be filed by GRS to render solid waste management services in any portion of Orange County, *provided, however,* that defendants shall be permitted freely to bid upon or apply for any exclusive permit or franchise opportunity that arises in Orange County notwithstanding the provisions hereof.

III

A. The provisions of this Final Judgment shall apply to the defendants, their successors and assigns (but not to Genstar, GRS or their respective successors and assigns except as specifically set forth in the Voluntary Submission) and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

B. WMI shall require, as a condition of the sale or other disposition of all or substantially all of its assets involved in the provision of waste collection or disposal services, that the acquiring party agree to be bound by the provisions of this Final Judgment.

C. WMI shall provide written notice to the plaintiff no later than thirty days subsequent to the effective date of any action whereby WMI (1) changes its name, (2) liquidates or otherwise ceases operation, (3) declares bankruptcy, (4) is acquired by (or becomes a subsidiary of) another firm, or (5) makes a sale or disposition of the type referred to in Section III B. above.

IV

A. WMI and WMAC shall divest themselves, permanently and in good faith, of all legal and equitable ownership, rights or other interests in the relevant businesses. This divestiture shall be accomplished in accordance with the terms of this Final Judgment and of the Transaction Agreement to the extent that such Agreement is consistent with the provisions of this Final Judgment. The defendants, Genstar and GRS shall not modify or waive any provision of the Transaction Agreement, in any manner inconsistent with the Final Judgment and shall not cancel, rescind or extend any provision of the Transaction Agreement except pursuant to the termination provisions of Section 14 of of the Transaction Agreement, without plaintiff's approval, which approval shall not be unreasonably refused if consistent with the terms and intent of this Final Judgment, or, failing that, without the Court's approval.

B. WMI has, pursuant to Section 4.1 of the Transaction Agreement and by the Second Amendment thereto, dated September 11, 1984, designated each relevant business as a GRS business.

C. Upon consummation of the Tender Offer, and subject to Section II L.(vii) hereof, the day-to-day operation and control of the relevant businesses shall forthwith become vested in GRS. GRS shall operate the relevant businesses according to the terms of Sections 7.1 (a) and (b) of the Transaction Agreement. In the event GRS elects to refuse or to dispose of any relevant business or businesses pursuant to Sections 1.5, 8.2 or 8.6 of the Transaction Agreement, GRS shall continue to operate and control such relevant business or businesses in accordance with the terms and provisions of Section 7.1 (a) and (b) of the Transaction Agreement until the earlier of (i) the sale or other disposition to a third party of such relevant business or businesses, or (ii) the date when such relevant business or businesses are to be transferred to a trustee under this Final Judgment (in which event GRS's obligations to continue to operate such business or businesses shall be as elsewhere provided in this Final Judgment).

V

A. Defendants, Genstar and GRS shall use their best efforts promptly to complete the distribution of the relevant businesses pursuant to the Transaction Agreement and to meet their obligations under the Transaction Agreement. Defendants shall promptly notify plaintiff of any fact, circumstance or event that is likely to delay or prevent the consummation of the Tender Offer, the Merger, the Division Closing Date or any other material event as provided in the Transaction Agreement. Genstar and GRS agree to provide to the plaintiff a copy of any written notice given to WMI pursuant to the Transaction Agreement.

B. Defendants, Genstar and GRS shall report to plaintiff promptly, upon plaintiff's reasonable request, in whatever manner requested by plaintiff, including sworn affidavit, on all steps taken and all actions contemplated to accomplish the distribution of the relevant businesses pursuant to the Transaction Agreement.

C. WMI shall provide to plaintiff, on the same day that it provides to Genstar and GRS, a copy of the written notice as to the apportionment of the total costs of the acquisition, made pursuant to Section 4.4 of the Transaction Agreement.

VI

A. In the event that GRS elects to refuse any relevant business pursuant to Section 1.5 of the Transaction

Agreement or to dispose of any relevant business pursuant to Section 8.2 of the Transaction Agreement or to dispose of all relevant businesses pursuant to Section 8.6 of the Transaction Agreement, it shall do so by August 31, 1985 (the "Election Date"); *provided, however,* that if the Division Closing Date (as defined in the Transaction Agreement) shall not have occurred by November 30, 1984, then the Election Date may be extended by the plaintiff or the Court upon a showing that the delay is beyond the reasonable control of WMI, GRS or Genstar, and that WMI, GRS and Genstar have used their best efforts to cause the Division Closing Date to occur.

B. If GRS makes any such election it shall provide simultaneously to plaintiff all notices provided to WMI regarding such election.

C. Any sale by GRS or WMI of any or all relevant businesses as a result of such election by GRS shall be subject to the provisions of Section IX of this Final Judgment.

D. If after any such election by GRS pursuant to Section 8.2 or 8.6 of the Transaction Agreement, GRS reaches a bona fide agreement or understanding in good faith with a third party for the disposition of any such relevant business as contemplated by Section 8.3(a) of the Transaction Agreement or WMI reaches an agreement or understanding with a substitute party in accordance with Section 8.3(b) of the Transaction Agreement, and the plaintiff objects to the proposed divestiture to such third party (or, in the event such substitute party is found, to such substitute party) pursuant to Section IX(C) of this Final Judgment, such relevant businesses shall be divested by a trustee in accordance with Sections VIII and IX of this Final Judgment. In each such event, title to such relevant business or businesses shall be transferred to and shall be vested in the trustee as soon as practicable. Pending such divestiture by the trustee, in the event that a manager reasonably satisfactory to the plaintiff shall not be provided by WMI, GRS shall operate and manage each such relevant business for a period not in excess of six months. WMI shall provide Genstar and GRS with payment, indemnification, compensation and reimbursement in accordance with Section 7 of the Amendment to the Transaction Agreement dated September 11, 1984.

E. If after any such election by GRS pursuant to Sections 1.5, 8.2 or 8.6 of the Transaction Agreement, any or all of the relevant businesses are not sold by GRS or WMI within six months after such election, such relevant businesses shall be divested by the trustee in accordance with Sections VIII and IX of this Final Judgment. In such event, title to such relevant businesses shall be transferred to and shall be vested in the trustee six months after such election by GRS with respect to such relevant business. Pending divestiture by the trustee, in the event that a manager reasonably satisfactory to the plaintiff shall not be provided by WMI, GRS shall operate and manage each such relevant business for a period not in excess of six months. WMI shall provide Genstar and GRS with payment, indemnification, compensation and reimbursement in accordance with Section 8 of the Amendment to the Transaction Agreement dated September 11, 1984.

VII

A. In the event that, pursuant to Section 14 of the Transaction Agreement, GRS elects to terminate the Transaction Agreement, GRS shall simultaneously provide a copy to plaintiff of its notice to WMI regarding such election.

B. In the event of an election by GRS to terminate the Transaction Agreement pursuant to Section 14.1(b) thereof, the relevant businesses shall be divested by a trustee in accordance with Sections VIII and IX of this Final Judgment. In such event, title to such relevant businesses shall be transferred to and shall be vested in the trustee as soon as practicable after such election. Pending such divestiture by the trustee, in the event that a manager reasonably satisfactory to the plaintiff shall not be provided by WMI, GRS shall operate and manage such relevant businesses in accordance with Section 14.1 of the Transaction Agreement. WMI shall provide Genstar and GRS with payment, indemnification, compensation and reimbursement in accordance with Section 9 of the Amendment to the Transaction Agreement dated September 11, 1984.

VIII

A. In the event that any or all relevant businesses are to be divested by a trustee in accordance with Sections VI and VII of this Final Judgment, WMI or plaintiff shall promptly petition the Court to appoint a trustee to perform his or her duties in a timely fashion as contemplated in this Final Judgment. Such appointment shall become effective not later than thirty days following the filing of the petition.

B. The trustee shall have the full power and authority and shall use all reasonable efforts to dispose of such relevant businesses as promptly as practicable to a financially responsible person or persons at whatever price and terms are then obtainable. The trustee shall have such other powers as the Court shall deem appropriate. The trustee shall operate such relevant businesses in a responsible manner and without recourse to Genstar or GRS.

C. WMI and plaintiff shall notify each other in writing of the names and qualifications of not more than two nominees for the position of trustee for the required divestiture (1) thirty days before the expiration of the six months period during which GRS or WMI may seek to dispose of any or all relevant businesses pursuant to Section VI(D) of this Final Judgment, or (2) thirty days after the termination of the Transaction Agreement by GRS pursuant to Section 14.1(b) of the Transaction Agreement. Plaintiff and WMI shall attempt to agree upon one of the nominees to serve as trustee. If plaintiff and WMI are able to agree on a trustee within thirty days of the exchange of names, plaintiff shall notify this Court of the person upon whom the plaintiff and WMI agreed and this Court shall appoint such person as the trustee. If plaintiff and WMI are unable to agree within that time period, plaintiff shall furnish this Court the names of the nominees. This Court may hear plaintiff and WMI as to the qualifications of the nominees and shall appoint one of the nominees as the trustee.

D. The trustee shall serve at the cost and expense of WMI, on such terms and conditions as the Court may prescribe, and shall account for all monies derived from a sale of any relevant business and all costs and expenses so incurred. After approval by the Court of the trustee's accounting, including fees for its services, all remaining monies shall be paid to WMI and the trust shall then be terminated. The compensation of such trustee shall be fixed by the Court and shall be based in significant part on a fee arrangement providing the trustee with an incentive based on the price and terms of the divestiture and the speed with which it is accomplished.

E. WMI, Genstar and GRS shall use their best efforts to assist the trustee in accomplishing the required divestiture. The trustee shall have full and complete access to the personnel, books, records and facilities of the businesses to be divested, and WMI, Genstar and GRS shall develop such financial or other information relevant to the assets to be divested as the trustee may request. WMI, Genstar and GRS shall take no action to interfere with or impede the trustee's accomplishment of the divestiture.

F. After appointment, the trustee shall file monthly reports with plaintiff, WMI, GRS and the Court setting forth the trustee's efforts to accomplish divestiture as contemplated under this Final Judgment. If the trustee has not accomplished such divestiture within six months after appointment, the trustee shall thereupon promptly file with the Court a report setting forth (i) the trustee's efforts to accomplish the required divestiture, (ii) the reasons, in the trustee's judgment, why the required divestiture has not been accomplished, and (iii) the trustee's recommendations. The trustee shall at the same time furnish such report to the plaintiff, WMI and GRS, who shall each have the right to be heard and to make additional recommendations consistent with the purpose of the trust. The Court shall thereafter enter such orders as it shall deem appropriate in order to carry out the purpose of the trust, which shall, if necessary, include extending the trust and the term of the trustee's appointment.

IX

A. Any divestiture of any or all relevant businesses by GRS, WMI or the trustee pursuant to Section VI or VII of this Final Judgment shall be made in such a manner as to ensure reasonably that such businesses will be sold as ongoing businesses.

B. WMI, GRS or the trustee, whichever is then responsible for effecting the divestiture of any or all relevant businesses pursuant to Sections VI or VII of this Final Judgment, shall take all reasonable steps to accomplish said divestiture, including making known, by usual and customary means, the availability of such relevant businesses for sale as ongoing businesses. WMI, GRS or the trustee, whichever is then responsible, shall, subject to a suitable confidentiality agreement, furnish to all bona fide prospective purchasers who so request all pertinent information regarding the relevant businesses and shall permit them to make such inspection of physical facilities and any and all financial, operational or other documents and information as may be relevant to the sale of the relevant businesses.

C. At least thirty days prior to the scheduled closing date of any proposed divestiture pursuant to Sections VI or VII of this Final Judgment, WMI, GRS or the trustee, whichever is then responsible for effecting the divestiture required herein, shall notify the plaintiff of the proposed divestiture. If a trustee is responsible, the trustee shall similarly notify GRS and WMI. The notice shall set forth the details of the proposed transaction and list the name, address and telephone number of each person not previously identified who offered to acquire or expressed an interest in acquiring or a desire to acquire any ownership interest in any or all relevant businesses, together with full details of same. Within ten days of receipt by plaintiff of such notice, the plaintiff may request reasonable additional information concerning the proposed divestiture and the proposed purchaser. The additional information shall be furnished within ten days of the receipt of the request, unless otherwise agreed. Within ten days after receipt of the additional information the plaintiff shall notify in writing WMI, GRS and the trustee, if there is one, if it objects to the proposed divestiture because WMI, GRS or the trustee has failed to show that (i) the purchase is for the purpose of competing effectively in the provision of waste collection or disposal services, (ii) the purchase will not lessen competition substantially or tend to create a monopoly in any line of commerce in any section of the country, and (iii) the purchaser will have the managerial, operational and financial capability to compete effectively in the provision of waste collection or disposal services. If the plaintiff fails to object with the period specified, or if the plaintiff notifies in writing WMI, GRS and the trustee, if there is one, that it does not object, then the divestiture may be consummated. Upon objection by the plaintiff the proposed divestiture shall not be accomplished unless approved by the Court.

X

A. Upon the acquisition of control of SCA by WMAC pursuant to the Tender Offer, defendants, Genstar and GRS shall take all reasonable steps necessary to ensure that the relevant businesses are operated independently of and separately from WMI.

B. WMI shall not:

(1) participate in the selection or appointment of employees or managers for any relevant business;

(2) exercise or attempt to exercise, directly or indirectly, any control, supervision, or influence over the policies, management, operations or acts of any relevant business; or

(3) have access to any confidential business information, data or records of any relevant business, except as it may be necessary to obtain such information to carry out the provisions of the Transaction Agreement.

C. WMI shall promptly advise in writing all managerial employees engaged in any waste collection or disposal service of the provisions of this Section X, and shall furnish to the plaintiff a copy of such notification and an affidavit stating that such notification has been accomplished.

D. Nothing in this Section X shall give WMI any rights greater than those contained in the Transaction Agreement.

XI

WMI shall not acquire, directly or indirectly, any legal or equitable right, title or interest in or obtain or exercise any control over Genstar or GRS or any successor in interest to all or substantially all of Genstar's or GRS's assets or businesses. WMI shall not without plaintiff's prior concent, acquire, directly or indirectly, five percent (5%) or more of the voting securities of, or obtain or exercise control over, any entity that has acquired or otherwise obtained ownership or control of any relevant business from Genstar, GRS or their respective successor and assigns.

XII

For a period of five (5) years from the date thereof, WMI shall not, without forty-five (45) days prior written notice to plaintiff, acquire or otherwise obtain five percent (5%) or more of the voting securities of, or any other legal or equitable interest, right or title in, or obtain or exercise any control over, any person or business:

(a) providing hazardous waste management services generating revenues during the twelve (12) months preceding the proposed acquisition of $3 million or more;

(b) providing solid waste collection services in any county where as of the date thereof WMI provides solid waste collection services and where the person or business to be acquired had collection revenues during the twelve (12) months preceding the proposed acquisition of $3 million or more;

(c) providing solid waste disposal services in any county whereas of the date thereof WMI provides solid waste disposal services and where the person or business to be acquired had disposal revenues during the twelve (12) months preceding the proposed acquisition of $3 million or more;

(d) having a pending application to treat, incinerate or dispose of PCB.

XIII

For a period of five (5) years from the date hereto, WMI is hereby enjoined and restrained from acquiring five percent (5%) or more of the voting securities of any person engaged in incinerating PCB or seeking permits to

incinerate PCB or engaged in the landfilling of hazardous wastes, or from acquiring any assets relating to the incineration of PCB or the landfilling of hazardous waste from any such person, except pursuant to supply arrangements or otherwise in the ordinary course of business, without first obtaining the consent of plaintiff or, if plaintiff objects, the approval of this Court upon WMI's establishing, by a preponderance of the evidence, that the acquisition will not lessen competition substantially or tend to create a monopoly in any line of commerce in any section of the country.

XIV

For the purposes of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, from time to time:

A. Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to any defendant or GRS made to its principal office, be permitted:

(1) access during office hours of such defendants or GRS to inspect any copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of such defendant or GRS, who may have counsel present, relating to any matters contained in this Final Judgment; and

(2) subject to the reasonable convenience of such defendant or GRS and without restraint or interference from either of them, to interview officers, employees and agents of such defendant or GRS, who may have counsel present, regarding any such matters.

B. Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division made to the principal office of any defendants or GRS, such defendant or GRS shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested.

No information or documents obtained by the means provided in this Section XIV or pursuant to Section VB. shall be divulged by a representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

C. If at the time information or documents are furnished by any defendant or GRS to plaintiff, such defendant or GRS represents and identifies in writing the material in any such informaiton or documents to which a claim of protectin may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and such defendant or GRS marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7), of the Federal Rules of Civil Procedure," then ten days' notice shall be given by plaintiff to such defendant or GRS prior to divulging such material in any legal proceeding (other than a grand jury proceeding).

XV

Jurisdiction is retained by this Court for the purpose of enabling plaintiff, defendants, Genstar or GRS to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith, or for the punishment of any violations hereof.

XVI

This Final Judgment will expire on the tenth anniversary of the date of its entry.

XVII

Entry of this Final Judgment is in the public interest.

Dated:

United States District Judge.

Exhibit A.—Transaction Agreement Among Waste Management, Inc., Genstar Corporation, Genstar Refuse Services Corporation and WM Acquiring Corp., July 13, 1984

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Transaction Agreement

Agreement dated as of July 13, 1984 by and among Waste Management, Inc., a Delaware corporation ("WMI"), Genstar Corporation, a Canadian Corporation ("Genstar"), Genstar Refuse Services Corporation, a Delaware corporation ("GRS") and an indirect wholly-owned subsidiary of Genstar, and WM Acquiring Corp., a Delaware corporation ("WMAC") owned by WMI and GRS.

Witnesseth:

Whereas, WMI desires to acquire and operate certain of the assets, businesses and operations of SCA Services, Inc., a Delaware corporation ("SCA"), which are principally those assets, businesses and operations located or operating in the cities, counties, municipalities and other areas set forth on Exhibit A hereto and also includes all additional assets, businesses and operations of SCA which are not distributed to GRS pursuant to the terms of this Agreement;

Whereas, GRS desires to acquire and operate certain of the assets, businesses and operations of SCA located or operating in the cities, counties, municipalities and other areas set forth on Exhibit B hereto and such additional assets, businesses and operations of SCA which as may be added thereto pursuant to the terms of this Agreement;

Whereas, WMI and GRS have determined to acquire such assets, businesses and operations of SCA by causing WMAC to commence a cash tender offer for the outstanding shares of common stock of SCA and, following completion of such tender offer, to effect a subsequent cash merger or other transaction pursuant to which SCA would become a wholly-owned subsidiary of WMAC and, as promptly as practicable thereafter, to divide and distribute to WMI and GRS the assets, businesses and operations of SCA in the manner provided for in this Agreement; and

Whereas, the parties hereto are entering into this Agreement to set forth the terms and conditions of such tender offer, merger and division and distribution of the assets, businesses and operations of SCA.

Now, Therefore, in consideration of the premises and the mutual agreements, covenants and provisions herein contained, the parties hereto hereby agree as follows:

Article I.—WM Acquiring Corp.

Section 1.1. *Incorporation; Charter and By-Laws.* WMI has caused the incorporation of WMAC under the laws of the State of Delaware. Copies of the Restated Certificate of Incorporation and By-Laws of WMAC have been heretofore provided by WMI to GRS. neither of such documents shall be amended or modified by WMAC or WMI without the prior written consent of GRS.

Section 1.2. *Conduct of WMAC Business.* (a) WMI and WMAC represent and warrant to GRS that (i) WMAC has been duly incorporated and is a validly existing corporation under the laws of the State of Delaware, with full corporate power to own and lease its assets and properties and to carry on its business as contemplated by this Agreement (ii) prior to the date hereof, WMAC has conducted no operations and incurred no obligations or liabilities whatsoever, whether or not involving the payment of money or otherwise and (iii) no rights, options, warrants or other agreements or arrangements for the purchase or other acquisition from, or sale or issuance by, WMAC of any shares of its capital stock are outstanding.

(b) WMI covenants that, except with the prior written consent of GRS or as specifically provided for in this Agreement, it shall not permit WMAC to (i) engage in any other business or operations whatsoever or (ii) declare, make or pay any dividend or other distribution in respect of the outstanding capital stock of WMAC. WMI shall also cause WMAC to do all things reasonably necessary to accomplish the purposes and objectives of this Agreement and the transactions contemplated hereby:

Section 1.3. *Board of Directors.* A majority of the Board of Directors of WMAC shall at all times be comprised of representatives or designees of WMI. GRS shall have the right after completion of the Tender Offer to designate two individuals as members of the Board of Directors of WMAC. WMI covenants that at such time, it shall vote, or cause the Class A Common Stock to be voted, in favor of GRS's designees to the Board of Directors of WMAC. WMI further covenants that, in the event either or both of such designees of GRS shall cease to be members of the Board of Directors of WMAC, such designees shall be replaced by other designees of GRS, and WMI shall vote, or cause the Class A Common Stock to be voted, in favor of such substitute designees.

Section 1.4. *Capital Investment by WMI and GRS in WMAC.* (a) As of the date hereof WMI is the record and beneficial owner of 500 shares of Class A Common Stock, all of which is voting common stock, and GRS is the record and beneficial owner of 500 shares of Class B Common Stock, all of which is non-voting common stock, which together represent all of the issued and outstanding shares of capital stock of WMAC.

(b) WMI and GRS each agree to make such additional contributions of capital to WMAC in respect of their respective investments in WMAC as described in paragraph (a) above, as follows:

(i) WMI agrees to contribute to WMAC in respect of the Class A

Common Stock an amount in cash such that the sum of such amount plus the purchase price for the Class A Common Stock referred to in paragraph (a) above will be equal to 60% of the aggregate amount required by WMAC to purchase all outstanding SCA Shares pursuant to the Tender Offer and Merger and to pay the related expenses (the "WMI Initial Investment"), which amount shall be subject to adjustment as hereinafter provided in this Agreement.

(ii) GRS agrees to contribute to WMAC in respect of the Class B Common Stock an amount in cash such that the sum of such amount plus the purchase price of the Class B Common Stock referred to in paragraph (a) above will be equal to 40% of the aggregate amount required by WMAC to purchase all outstanding SCA Shares pursuant to the Tender Offer and Merger and to pay the related expenses (the "GRS Initial Investment"), which amount shall be subject to adjustment as hereinafter provided in this Agreement; *provided, however,* that except as, and only to the extent, set forth in Section 1.5(d)(i) hereof, GRS shall not be obligated under any circumstances to make any payments in respect of capital investment in WMAC, including payments made by GRS to WMI hereunder, in excess of the aggregate amount of $200 million plus the Fair Market Value of any SCA Corporate Assets acquired by GRS pursuant to this Agreement (the "$200 Million Limitation"), it being agreed, however, that in computing the capital investment subject to the $200 Million Limitation neither (x) the amount of any interest payable by GRS to WMAC in respect of any such capital investment, nor (y) any payment on account of income taxes imposed on the transfer of any SCA Businesses or SCA Corporate Assets, nor (z) any indemnification payment made to WMI or WMAC hereunder, shall be treated as a capital investment.

(c) The times at which the capital contributions referred to in paragraph (b) above shall be made, and the manner in which they shall be adjusted are as hereinafter provided in this Agreement, it being understood that any direct payment by WMI or GRS on account of the purchase price for SCA Shares acquired otherwise than pursuant to the Tender Offer or Merger, plus interest thereon computed in accordance with Section 4.3 hereof, or any such direct payment of any cost or expense which is included in the Total Cost of Acquisition as determined pursuant to Section 4.3, shall be treated as a capital contribution made as of the date of payment and shall be given effect in computing the amount owing as of any given time by the payor in respect of its then required aggregate capital contribution.

Section 1.5. *Effect of Calculation of the Total GRS Capital Investment in Excess of the $200 Million Limitation.* (a) If, after the final determination of the Apportioned Cost of the GRS Businesses and the WMI Businesses pursuant to Section 4.4 hereof, and the determination of such other matters as shall be necessary, the total capital investment required to be made by GRS hereunder is calculated to be in excess of the $200 Million Limitation, then the provisions of this Section 1.5 set forth below shall apply.

(b) If WMI shall not have added to Exhibit B hereto (pursuant to Section 4.1 hereof) any further businesses of SCA to be included within the meaning of "GRS Businesses" hereunder, then the total capital investment required by GRS attributable to the GRS Businesses shall be automatically reduced to $200 million without affecting any other provisions of this Agreement.

(c) If WMI shall have added to Exhibit B hereto (pursuant to Section 4.1 hereof) any further businesses of SCA to be included within the meaning of "GRS Businesses" hereunder (the "Additional GRS Businesses"), then WMI shall determine that portion of the Apportioned Cost of the GRS Businesses which is represented by each of the Additional GRS Businesses (collectively, the "Additional Cost"). To the extent that the total capital investment calculated to be made by GRS *less* the amount of the Additional Cost exceeds the $200 Million Limitation, the total capital investment calculated to be made by GRS in respect of the GRS Businesses other than the Additional GRS Businesses shall be reduced to $200 million.

(d) If, as a result of the addition by WMI of one or more of the Additional GRS Businesses to Exhibit B hereto, the total capital investment calculated to be made by GRS hereunder (after giving effect to any reduction pursuant to paragraph (c) above in respect of the GRS Businesses other than the Additional GRS Businesses) would exceed the $200 Million Limitation, then GRS shall have the right, in its sole discretion, to take the following action until ten (10) business days after notification of the final determination of the Apportioned Cost of the GRS Businesses pursuant to Section 4.4 hereof:

(i) GRS may accept any one or more of such Additional GRS Businesses, in which case GRS shall increase its total capital investment above the $200 Million Limitation to the extent, if any, necessary to cover the increase attributable to that portion of the Apportioned Cost of the GRS Businesses which is represented by such Additional GRS Businesses so accepted; and/or

(ii) GRS may reject any increase which would be required in its capital investment attributable to any one or more of such Additional GRS Businesses or any one or more other GRS Businesses, the acceptance of which would otherwise result, based on the portion of the Apportioned Cost of the GRS Businesses represented by such rejected Businesses, in the total capital investment required to be made by GRS to exceed the sum of the $200 Million Limitation plus any increase over the $200 Million Limitation required pursuant to clause (i) above. Any GRS Businesses so rejected by GRS shall thereupon be deemed to be included in the "WMI Businesses" for purposes of all calculations and other financial determinations hereunder, including appropriate recalculations of Apportioned Cost of the GRS Businesses and WMI Businesses, which recalculations shall be made for all purposes of this Agreement, but any GRS Business so rejected shall, subject to the provisions of paragraph (e) below, nevertheless be transferred to GRS on the Division Closing Date.

(e) In the event that GRS determines to reject any of the GRS Businesses pursuant to paragraph (d)(ii) above, GRS shall undertake to sell such GRS Businesses to a third party or entity (other than WMI, WMAC or any of their Affiliates) which shall have adequate financial resources to operate such GRS Busjnesses independently of WMI or WMAC or their Affiliates. GRS and WMI shall cooperate in using all reasonable efforts to dispose of such rejected GRS Businesses in a commercially reasonable manner and, if so directed by WMI, GRS will transfer, in a manner consistent with Section 8.4 hereof, such rejected GRS Businesses to a trust of a type referred to in Section 8.4. The proceeds of any such sales shall be paid over by GRS to WMI promptly following the receipt by GRS thereof. WMI agrees that during the period such rejected GRS Businesses are operated by GRS pending disposition as contemplated above, WMI shall (x) assume, pay, perform, defend, discharge, indemnify and hold harmless GRS, Genstar and their Affiliates against all debts, liabilities, actions or suits, obligations and contracts of any kind, character, description whether known or unknown, direct or indirect, accrued,

absolute, liquidated or unliquidated, contingent or otherwise relating to or arising out of the operation of such GRS Businesses or the sale or disposition thereof hereunder; (y) reimburse GRS and its Affiliates for any out-of-pocket expenses arising out of or relating to the operation of such GRS Businesses during such period, including but not limited to all salaries, expenses or benefits accrued by, or on behalf of, any employee of GRS or its Affiliate supervising or managing the operations of such GRS Businesses; and (z) pay to GRS a fee, payable quarterly, in an amount equal to 10% of the revenues generated by such GRS Businesses since the date of rejection referred to in paragraph (d)(ii) above, in consideration for the continued operation of such GRS Businesses by GRS and its Affiliates. GRS agrees that it shall restore to any rejected GRS Business any cash or other assets distributed to it by such GRS Business after the Division Closing Date.

Section 1.6. *Adjustment to Capital Investments in WMAC; Time of Investments.* (a) If the Apportioned Cost of the GRS Businesses determined pursuant to Section 4.4 hereof (plus the Fair Market Value of any SCA Corporate Assets acquired by GRS pursuant to this Agreement) exceeds the amount of the GRS Initial Investment, as such amount may have been previously adjusted, and/or if the Apportioned Cost of the WMI Businesses as so determined (plus the Fair Market Value of any SCA Corporate Assets acquired by WMI and less the amount of the SCA Corporate Liabilities assumed by WMI) exceeds the amount of the WMI Initial Investment, as such amount may have been previously adjusted, then GRS or WMI or both, as the case may be, shall promptly contribute to WMAC such additional amount of capital in cash as shall be necessary so that the total capital investment by GRS and WMI shall be in an amount equal to the Apportioned Cost of the GRS Businesses and the WMI Businesses, repectively but increased in each case by the Fair Market Value of SCA Corporate Assets acquired and reduced by any SCA Corporate Liabilities assumed; *Provided, however,* That the amount of GRS's total required capital investment hereunder shall be subject to the limitations of Sections 1.4 and 1.5 hereof. Such contributions of additional capital, to the extent of any corresponding reduction in capital contribution by the other party pursuant to paragraph (b) below, shall be made with interest thereon at the Prime Rate from the date of the other party's corresponding overpayment.

(b) If the Apportioned Cost of the GRS Businesses determined pursuant to Section 4.4 hereof (plus the Fair Market Value of any SCA Corporate Assets acquired by GRS pursuant to this Agreement) is less than the amount of the GRS Initial Investment, as such amount may have been previously adjusted, and/or if the Apportioned Cost of the WMI Businesses as so determined (plus the Fair Market Value of any SCA Corporate Assets not acquired by GRS and less the amount of the SCA Corporate Liabilities assumed by WMI) is less than the amount of the WMI Initial Investment, as such amount may have been previously adjusted, then WMAC shall promptly pay in cash to GRS or WMI, as the case may be, an amount equal to such excess amount together with interest thereon at the Prime Rate from the date of such overpayment.

(c) The contributions to WMAC of the WMI Initial Investment and the GRS Initial Investment shall be made substantially simultaneously in two or more installments (each such installment payment by the parties being in the same 60%/40% proportion) at such times as shall be necessary to make payment when due for SCA Shares purchased pursuant to the Tender Offer and Merger and to pay when due related expenses. The final adjustments to such Initial Investments pursuant to paragraphs (a) and (b) above shall be made as promptly as practicable after the appropriate amount of such adjustments shall have been finally determined. If such final adjustments shall not have theretofore been made, interim adjustments to such Initial Investments shall be made on the Division Closing Date, at which time GRS shall pay to WMAC or its successor (unless otherwise agreed by the parties hereto) an amount equal to the Fair Market Value (as reasonably estimated by GRS at such time) of the SCA Corporate Assets designated by GRS to be acquired by GRS plus an amount equal to 40% of the estimated Total Cost of Acquisition (as reasonably estimated by WMI at such time, giving effect to the foregoing estimate made by GRS), *less* the amount of the aggregate capital investment theretofore made by GRS hereunder.

Article II.—The Tender Offer

Section 2.1. *Commencement of Tender Offer.* As promptly as advisable, but not more than sixty days after the date hereof or such other date as the parties may agree, WMI will cause WMAC to publicly announce, and within five business days after such announcement to commence (within the meaning of Rule 14d–2(a) under the Exchange Act) the Tender Offer. The Tender Offer shall be commenced pursuant to an Offer to Purchase and related Letter of Transmittal substantially in the form of the drafts thereof dated the date hereof, with such changes and modifications thereto as the parties hereto shall agree. WMAC's obligation to purchase any SCA Shares pursuant to the Tender Offer shall be subject to the condition, among other things, that the number of SCA Shares that shall have been validity tendered and not withdrawn prior to the expiration of the Tender Offer, together with the SCA Shares otherwise owned by the parties hereto, shall represent a majority of the voting power of all the capital stock of SCA outstanding on the date that the SCA Shares are first accepted for payment pursuant to the Tender Offer (the "Minimum Condition"). WMI shall be under no obligation to cause WMAC to commence the Tender Offer if any conditions shall exist which would entitle WMAC under the conditions to the Tender Offer not to purchase or pay for any SCA Shares which might be validly tendered pursuant to the Tender Offer. The parties hereto shall promptly terminate the Tender Offer if this Agreement is terminated for any reason whatsoever prior to the purchase of any SCA Shares thereunder.

Section 2.2. *Amendments or Modifications to Tender Offer.* WMI shall have the right, in its sole discretion, to cause WMAC to amend or modify any terms of the Tender Offer in any manner, or waive any provisions or conditions thereof other than the Minimum Condition and that it be all cash, which conditions may be waived only with the consent of GRS.

Section 2.3. *Tender Offer Materials.* (a) WMAC shall prepare and file with the SEC on the date of commencement of the Tender Offer a Tender Offer Statement on Schedule 14D–1 (the "Schedule 14D–1") under the Exchange Act and the rules and regulations promulgated thereunder and will promptly file, as required, any and all necessary amendments and supplements thereto. The Schedule 14D–1 and the exhibits thereto (including the Offer to Purchase and the related Letter of Transmittal), and any amendments and supplements thereto (including any amendments and supplements to the Offer to Purchase), shall be in form and substance statisfactory to GRS prior to filing. WMI and WMAC shall not disseminate any material in connection with the Tender Offer other than the Schedule 14D–1 and the exhibits thereto (including the Offer to Purchase) and

such other materials, if any, as GRS may specifically approve prior to their use. Prior to disseminating or permitting the dissemination of the Schedule 14D–1 and the exhibits thereto and any such other materials in connection with the Tender Offer, or the filing of any of the foregoing with SEC or with any other person. WMI and WMAC shall submit copies of such material to GRS and give reasonable consideration to the comments of GRS, if any, with respect thereto. In the event that WMI or WMAC disseminates or permits the dissemination of, or files with the SEC or any other person, any material in connection with the Tender Offer (including the Schedule 14D–1 and any exhibits thereto) and any amendment or supplement thereto (i) which has not been submitted to GRS for its comments or (ii) which has been so submitted and with respect to which GRS has made comments (other than comments relating to the financial terms of the Tender Offer or the Merger) to WMI or WMAC, but which comments have not resulted in changes therein to reflect or respond reasonably satisfactorily to the material comments of GRS, then GRS shall have the right to terminate this Agreement and to withdraw from participation in the Tender Offer. Notwithstanding anything to the contrary in this paragraph (a), the financial terms of the Tender Offer shall not be subject to approval by GRS.

(b) WMI and WMAC represent and warrant that the Schedule 14D–1 and the exhibits thereto, and any amendments or supplements thereto, shall comply as to form in all material respects with the applicable requirements of the Exchange Act and the rules and regulations thereunder at the respective dates of filing with the SEC, publication and distribution to holders of SCA Shares and, as of each such date, the Schedule 14D–1, or any amendment or supplement thereto, will not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements made therein, in light of the circumstances under which they are made, not misleading. GRS and Genstar represent and warrant that any information which is supplied in writing to WMI and WMAC by GRS or Genstar specifically for use in the Schedule 14D–1, and any amendments or supplements thereto, will not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements made therein, in light of the circumstances under which they are made, not misleading.

(c) WMI and WMAC represent and warrant that the Tender Offer, including any related borrowing by WMI, will fully comply with all applicable requirements of law, including applicable regulations of any governmental agency or instrumentality having jurisdiction, and, except as set forth in the Offer to Purchase, no consent, order, authorization, exemption or approval of or filing with any governmental authority, Federal, state, local or foreign, is required in connection with the making or consummation by WMAC or WMI of the Tender Offer or the other transactions contemplated in this Agreement.

(d) GRS and Genstar represent and warrant that, subject to the control of the Tender Offer by WMI and WMAC, Genstar's participation in the Tender Offer, including any related borrowing by either GRS or Genstar, will fully comply with all applicable requirements of law, including applicable regulations of any governmental agency or instrumentality having jurisdiction, and, except as set forth in the Offer to Purchase, no consent, order, authorization, exemption or approval of or filing with any governmental authority, Federal, state local or foreign, is required in connection with Genstar's participation in the Tender Offer or the other transactions contemplated in this Agreement.

Section 2.4. *Indemnification.* (a) WMI agrees, whether or not the Tender Offer is made or any SCA Shares are purchased pursuant thereto, to indemnify and hold harmless GRS and Genstar, their officers, directors and employees, and any person who controls GRS or Genstar within the meaning of Section 20 of the Exchange Act (GRS, Genstar and each such person to be so indemnified being referred to in this paragraph (a) as an "Indemnified Person"), from and against any and all claims, losses, expenses, damages or liabilities whatsoever, joint or several (including, but not limited to, all legal or other expenses reasonably incurred in connection with the investigation, preparation and defense of any litigation or proceeding, whether or not resulting in any liability) to which such Indemnified Person may become subject under the Exchange Act or otherwise, (i) caused by, arising out of or based upon any untrue statement of a material fact or alleged untrue statement of a material fact contained in either the Schedule 14D–1 or any other Tender Offer materials, any amendment or supplement thereto, or any press release issued or authorized by WMI or WMAC, or caused by, arising out of or based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements made therein not misleading, in light of the circumstances under which they were made, or (ii) otherwise caused by, arising out of, relating to or in connection with the Tender Offer (other than those out-of-pocket costs or expenses included within the meaning of Total Cost of Acquisition as defined in Section 4.3 hereof), except in each case to the extent any claim, loss, expense, damage or liability (x) arises out of or is caused by a material misstatement contained in, or a material omission from, any information furnished in writing to WMI and WMAC by GRS or Genstar specifically for use in the Schedule 14D–1 or any other Tender Offer materials, or (y) is otherwise primarily attributable to the acts or omissions of GRS or Genstar.

(b) GRS and Genstar agree, whether or not the Tender Offer is made or any SCA Shares are purchased pursuant thereto, to indemnify and hold harmless WMAC and WMI, their officers, directors and employees, and any person who controls WMAC or WMI within the meaning of Section 20 of the Exchange Act (WMI, WMAC and each such person to be so indemnified being referred to in this paragraph (b) as an "Indemnified Person"), from and against any and all claims, losses, expenses, damages or liabilities whatsoever, joint or several (including, but not limited to, all legal or other expenses reasonably incurred in connection with the investigation, preparation and defense of any litigation or proceeding, whether or not resulting in any liability) to which such Indemnified Person may become subject under the Exchange Act or otherwise (other than out-of-pocket costs and expenses included within the meaning of Total Cost of Acquisition as defined in Section 4.3 hereof) and which is (i) caused by, arises out of or is based upon any untrue statement of a material fact or alleged untrue statement of a material fact contained in any of the information furnished in writing to WMI and WMAC by GRS or Genstar specifically for use in the Schedule 14D–1 or any of the other Tender Offer materials, any amendment or supplement thereto, or the omission or alleged omission therefrom to state a material fact required to be stated therein or necessary to make the statements made therein, in light of the circumstances under which they were made, not misleading, or (ii) otherwise primarily attributable to the acts or omissions of GRS or Genstar.

Article III.—The Merger

Section 3.1. *The Merger.* (a) Subject to the terms and conditions hereof and as soon as practicable after completion of the Tender Offer, WMAC shall take such action as may reasonably be necessary to cause a subsidiary of WMAC to be merged (the "Merger") with SCA. The form of the Merger will be selected by WMAC and an appropriate plan of merger, in conformity with the requirements of applicable law and consistent with the terms of this Agreement, will be executed and delivered by and between the corporations participating in the Merger. Upon the consummation of the Merger, (i) each then outstanding SCA Share not owned by WMAC, WMI, GRS or their Affiliates (other than those SCA Shares held in the treasury of SCA or held by stockholders of SCA who properly exercise any dissenters' rights available under applicable law) shall, without any action on the part of the holder thereof, be cancelled and converted into a right to receive in cash such amount per share as WMAC, in its sole discretion, may determine, and (ii) SCA shall become a wholly-owned subsidiary of WMAC.

(b) WMI and WMAC represent and warrant that any proxy statement or information statement used in connection with the Merger will comply fully with all applicable requirements of law. Genstar and GRS represent and warrant that any information respecting Genstar or GRS which is supplied in writing to WMI or WMAC by GRS or Genstar specifically for use in any such proxy statement or information statement will not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements made therein, in light of the circumstances under which they are made, not misleading.

Section 3.2. *Consummation of the Merger.* As promptly as practicable after the consummation of the Tender Offer and the receipt of any required approval of the stockholders of SCA (or, if such approval is not required, any other corporate action by SCA required as a precondition to effect the Merger), and subject to the terms and conditions hereof, the parties hereto will cause the Merger to be consummated by delivering an appropriate certificate of merger to the Secretary of State of the State of Delaware, all as required by and executed in accordance with the relevant provisions of applicable law.

Article IV.—Valuation of SCA Businesses and Apportionment of SCA Businesses between WMI and GRS

Section 4.1. *Final Determination of GRS Businesses.* (a) If WMI determines in good faith that the ownership by WMI of any businesses of SCA (whether subsidiaries of SCA or otherwise) which are not listed on Exhibit B hereto might not be permitted under the antitrust laws, then WMI shall have the right, by giving written notice thereof to GRS as promptly as practicable but in no event later than the Effective Time of the Merger, to add such businesses of SCA to those listed on Exhibit B hereto. The SCA Businesses listed on Exhibit B together with those SCA Businesses added thereto pursuant to this Section 4.1 (subject to the right of GRS to reject SCA Businesses pursuant to Section 1.5 hereof) shall be the "GRS Businesses" for purposes of this Agreement. Subject to the provisions of this Agreement, WMI's determinations as to the composition of the GRS Businesses shall be final and binding.

(b) By the later of (i) ten business days after WMI has provided to Genstar the financial description of the SCA Corporate Assets pursuant to Section 4.2 hereof or (ii) the Effective Time of the Merger, GRS shall have the right to designate as included in the GRS Businesses those regional offices, buildings and other facilities or properties, together with related equipment and fixtures which it reasonably deems necessary or desirable for the conduct of the GRS Businesses and which are not reasonably deemed essential by WMI to the operations of the WMI Businesses.

Section 4.2 *Valuation of WMI Businesses, GRS Businesses and SCA Corporate Assets.* (a) As promptly as practicable after the election or designation by WMAC or WMI of the majority of the Board of Directors of SCA, WMI shall prepare a financial description of each indivudual GRS Business and each individual WMI Business, including a reasonably detailed description of the assets (tangible and intangible) and liabilities included within each such Business. The SCA Corporate Assets and SCA Corporate Liabilities shall be separately described by WMI.

(b) As promptly as practicable thereafter, (i) the parties hereto shall arrive at the valuations of the WMI Businesses, the GRS Businesses and the SCA Corporate Assets in accordance with the procedures, and within the time periods, as set forth in Exhibit C hereto, (ii) WMI shall prepare a good faith best estimate of the Total Cost of Acquisition pursuant to Section 4.3 hereof, subject to later adjustments as the components thereof become finally determined, (iii) WMI shall deliver to GRS all work papers and other relevant financial data used by WMI in connection with the valuations and estimate, such materials to include reasonably detailed balance sheets, income statements and other relevant material respecting each of the GRS Businesses, each of the WMI Businesses and each of the SCA Corporate Assets, and (iv) WMI shall make available to GRS, Genstar and their Affiliates, and their respective officers, accountants, counsel and other representatives during normal business hours all of SCA's (including its subsidiaries') properties, books, and records and shall furnish, or shall cause the officers and other representatives of SCA to furnish, such additional financial and operating data and other information as to the SCA Businesses, SCA Corporate Assets and SCA Corporate Liabilities as GRS or Genstar may from time to time reasonably request in order to review the valuations and estimate arrived at by WMI; *provided, however,* that, insofar as any such materials to be made availabe to Genstar or GRS include confidential or proprietary information concerning the WMI Businesses (including such information as is contained in the corporate records of SCA), such information will be made available only as WMI may agree, with appropriate safeguards against misuse by unauthorized personnel, including limiting access to only those persons having a need to know solely for purposes of complying with the valuation provisions of this Agreement.

(c) In preparing the valuations referred to in paragraph (b), neither WMI nor WMAC shall have access to any confidential or proprietary information concerning the GRS Businesses (including such information as is contained in the corporate records of SCA), except as GRS may agree, with appropriate safeguards against misuse by unauthorized personnel, including limiting access to only those persons having a need to know solely for purposes of complying with the valuation provisions of this Agreement.

(d) The fair market value of each WMI Business and each GRS Business and each SCA Corporate Asset, as determined pursuant to the procedures set forth in Exhibit C shall be the "Fair Market Value" thereof for purposes of this Agreement.

Sectioin 4.3. *Determination of Total Cost of Acquisition.* (a) WMI shall calculate a good faith best estimate of

the Total Cost of Acquisition which shall be the sum of the following amounts:

(i) the total cash purchase price paid to SCA stockholders for the SCA Shares purchased pursuant to the Tender Offer and the Merger (together with the amount per share paid pursuant to the Merger in respect of all SCA Shares as to which dissenters' rights have been properly exercised), other than any SCA Shares referred to in clause (ii) or (iii) below which may be so purchased;

(ii) the cash purchase price paid by WMI (or any Affiliate of WMI) for any SCA Shares acquired otherwise than pursuant to the Tender Offer or Merger, including interest on such amunt calculated at the Prime Rate from the date of purchase of such SCA Shares to the Effective Time of the Merger;

(iii) the cash purchase price paid by GRS (or any Affiliate of GRS) for any SCA Shares acquired otherwise than pursuant to the Tender Offer or Merger, including interest on such amount calculated at the Prime Rate from the date of purchase of such SCA Shares to the Effective Time of the Merger;

(iv) the excess, if any, of the amount of the SCA Corporate Liabilities as of the Valuation Date, over the fair market value of the SCA Corporate Assets, as determined as of the Valuation Date;

(v) the costs incurred (or reasonably expected to be incurred) as a result of satisying the rights of any corporate officers and members of the corporate staff of SCA to compensation and such other pre-existing contractual rights, if any, of such persons, as may arise from the transactions contemplated by this Agreement or in lieu thereof, any economic incentive to remain with SCA and, as to all SCA employees, amounts paid or payable in settlement of outstanding employee stock options, stock appreciation rights and similar rights; and

(vi) the out-of-pocket costs and expenses of WMI, Genstar, GRS and WMAC relating to the Tender Offer, the Merger, this Agreement and the transactions contemplated hereunder and activities since April 1, 1984 in connection with the proposed acquisition of control of SCA, including, but not limited to, fees and expenses of investment banking and financial advisers, accountants, engineers and technical consultants, appraisers and legal counsel, printing costs and transfer taxes resulting from the transactions contemplated hereby (but specifically excluding any interest expense incurred by WMI, Genstar or GRS and any direct or indirect costs of the corporate staff of WMI, Genstar or GRS); *provided, however,* that from and after the date occuring thirty days after the Division Closing Date, no costs or expenses incurred thereafter (including litigation costs and expenses) shall be so included other than those incurred in connection with the appraisals being made in connection with this Agreement and the exercise of dissenters' rights by SCA stockholders in connection with the Merger;

less the excess, if any, of the Fair Market Value of the SCA Corporate Assets determined as of the Valuation Date over the amount of the SCA Corporate Liabilities as of the Valuation Date.

(b) The final determination of the Total Cost of Acquisition shall be made as promptly as practicable after the several components thereof are determined with reasonable certainty to the satisfaction of WMI and GRS.

Section 4.4. *Apportionment of Total Cost of Acquisition Between the GRS Businesses and the WMI Businesses.* As promptly as practicable after the determination of the Fair Market Value of the WMI Businesses and the GRS Businesses pursuant to Section 4.2 hereof and the final determination of the Total Cost of Acquisition pursuant to Section 4.3(b) hereof, the "Apportioned Cost" of the GRS Businesses, on the one hand, and the WMI Businesses, on the other hand, shall be determined by applying to such Total Cost of Acquisition the ratio of the Fair Market Value of the GRS Businesses or the WMI Businesses, as the case may be, to the combined Fair Market Value of the GRS Businesses and WMI Businesses. The Apportioned Costs of the GRS Businesses and the WMI Businesses may be subject to recalculation for final determination as a result of the provisions of Section 1.5 hereof. WMI shall give written notice to GRS and Genstar upon its determination of the Apportioned Cost of the GRS Businesses and the WMI Businesses.

Section 4.5. *Adjustment to Capital Investments in WMAC.* Following apportionment of the Total Cost of Acquisition between the GRS Businesses and the WMI Businesses as contemplated in Section 4.4 hereof, the capital investment of WMI and GRS in WMAC shall be adjusted, as required, in accordance with the provisions of Sections 1.6 and 4.6 hereof.

Section 4.6. *Disposition of SCA Corporate Assets and Corporate Liabilities.* (a) During the sixty-day period following the election or designation by WMAC or WMI of a majority of the Board of Directors of SCA, WMI shall identify to GRS any SCA Corporate Assets which are not necessary to the operation by WMI of its businesses and GRS shall be entitled to acquire any such asset, together with the other properties to be received by it at such asset's Fair Market Value. WMI shall acquire at their Fair Market Value all SCA Corporate Assets which are not so purchased by GRS. The capital contribution to WMAC of the party so acquiring any SCA Corporate Asset shall be increased by an amount equal to the Fair Market Value of any such SCA Corporate Asset.

(b) All SCA Corporate Liabilities shall be retained by SCA and assumed by WMI in accordance with the provisions of Article VI hereof. The capital contribution to WMAC of WMI shall be decreased by the amount of such SCA Corporate Liabilities, net of SCA Corporate Assets, as of the Valuation Date.

Section 4.7. *Allocation of Apportioned Cost to Individual GRS Businesses.* As promptly as practicable after the final determination of the Apportioned Cost of the GRS Busineses pursuant to Section 4.4 hereof, WMI, in its sole discretion, shall allocate to each individual GRS Business a portion (the "Allocated Cost") of the Apportioned Cost of the GRS Businesses for purposes of establishing the Minimum Disposition Price thereof, and shall give prompt written notice of such Allocated Costs to GRS. The aggregate amount of all Allocated Costs respecting all GRS Businesses shall equal the Apportioned Cost of the GRS Businesses. WMI's determination of such Allocated Costs for such purposes shall be final and binding.

Section 4.8. *Final Adjustments.* After the Division Closing Date there shall be an equitable adjustment to cover income, expense (including the expenses of SCA respecting the transactions contemplated by this Agreement or related transaction), capital improvement and corporate overhead occurring between the Valuation Date and the Division Closing Date.

Article V.—Conduct of SCA Businesses From Consummation of Tender Offer Until Division Closing Date

Section 5.1. *Conduct of SCA Businesses.* WMI and WMAC on the one hand and GRS and Genstar (with respect to any managerial employees appointed by GRS pursuant to the provisions of Section 5.3 hereof) on the other hand agree that, during the period from the date of consummation of the Tender Offer to the Division Closing Date, except (i) as otherwise consented in writing by GRS or WMI respectively, which consent shall not be

unreasonably withheld, or (ii) to the extent SCA otherwise becomes obligated prior to the date WMAC acquires control of SCA following completion of the Tender Offer:

(a) to carry on the SCA Businesses in, and only in, the ordinary course consistent with prior practice (including normal and customary insurance coverage) and use their best efforts to preserve the business and prospects of each of such businesses, and preserve the relationship with customers, suppliers and others having business dealings with such businesses;

(b) not to sell, assign or transfer any assets of such businesses (except for sales of inventory, or sales of equipment that is either replaced by other suitable equipment or the failure to replace which will not materially adversely affect the condition (financial or otherwise), earnings affairs, business or propsects of any of such businesses, in each case in the ordinary course of business and consistent with prior practice), or any patent, tradermark, trade name, copyright, license, franchise, design or other intangible assets or property; and not to mortgage, pledge or grant or suffer to exist any lien or other encumbrances or charge on any material assets or properties, tangible or intangible, except for (i) liens or encumbrances existing at the date of the completion of the Tender Offer, (ii) liens for taxes not yet delinquent, and (iii) such other liens, encumbrances or charges which do not materially adversely affect the condition (financial or otherwise), earnings, affairs, business or prospects of any of such businesses or waive any rights of material value or cancel any material debts or claims;

(c) not to permit SCA to declare, make or pay any dividend or other distribution in respect of the SCA Shares;

(d) not to permit SCA to make or to commit to, or agree to make, any capital expenditures otherwise than in the ordinary course of business;

(e) not to permit SCA to enter into or amend any agreement or other instrument relating to the borrowing of money or other contracting or payment of indebtness, including any guarantees thereof otherwise than in the ordinary course of business;

(f) not to permit SCA, with respect to any officer, director or employee of SCA whose employment is primarily related to the GRS Business, to (i) pay, or agree to pay, any severance or termination pay, or make or commit to make any such payment, (ii) grant any increase in compensation or benefits, or (iii) enter into any employment agreement or consulting agreement;

(g) not to permit SCA to enter into any contract, understanding, agreement or transaction with WMI or any Affiliate of WMI otherwise than in the ordinary course of business or as specifically contemplated by this Agreement;

(h) not to permit SCA to take any action which may materially adversely affect the long-term assets or long-term liabilities of SCA;

(i) not to permit SCA to otherwise take any action which would result in the inclusion of an extraordinary item on the financial statements of SCA, as such term is used under generally accepted accounting principles; and

(j) not to authorize or propose any of the foregoing, or enter into any contract, agreement, commitment or arrangement to do any of the foregoing or otherwise enter into any agreement or transaction which may have a materially adverse effect on the condition (financial or otherwise), earnings, affairs, business or prospects of any of the SCA Businesses.

WMI and WMAC agree that during the thirty-day period beginning after WMAC's acquisition of control of SCA after consummation of the Tender Offer, neither WMI nor WMAC shall terminate or cause the termination of the employment of any of the SCA corporate level personnel, including the administrative and corporate staff of SCA. For 90 days following the acquisition of control of SCA, WMI and WMAC will give at least thirty days' prior written notice to GRS of any such action involving any proposed termination of employees of SCA. WMI and WMAC will inform GRS as soon as practicable of all significant actions affecting SCA corporate level personnel, including any decision to terminate such personnel.

Section 5.2. *SCA Board of Directors: Executive Officers.* At any time following WMAC's acquisition of control of SCA after consummation of the Tender Offer and upon five days' notice to WMI or WMAC, GRS shall have the right to (i) designate two individuals as members of the Board of Directors of SCA which directors shall not constitute a majority of the Board of Directors of SCA, but who shall also constitute a committee to oversee the management and operations of the GRS Businesses, and (ii) appoint such executive officer or officers of SCA as shall have primary responsibility for managing or supervising the GRS Businesses.

Section 5.3. *Management of SCA; Negotiations with Employees.* Following WMAC's acquisition of control of SCA after consummation of the Tender Offer and prior to the Division Closing Date, GRS shall operate the GRS Businesses independently of the WMI Businesses. GRS shall immediately have the right to (i) designate individuals who shall have the right to effectively direct the operations of the GRS Businesses, and (ii) appoint such of the managerial employees of SCA who have primary responsibility for the day-to-day operations of the GRS Businesses. In addition, during such period, GRS shall have the right to negotiate, and WMI shall support such negotiations, with any employee of SCA whose employment is not primarily related to the WMI Businesses with respect to the continued employment of such employees by GRS or its designee from and after the Division Closing Date. WMI and WMAC agree to cooperate fully in the orderly transition of the GRS Businesses to GRS, and assist GRS in developing a corporate level administrative staff.

Section 5.4. *Access and Information.* WMI shall afford to GRS and to the officers, accountants, counsel and other representatives of GRS full access during normal business hours to all of SCA's (including its subsidiaries') properties, books, and records (other than those primarily relating to the WMI Businesses) and shall cause the officers and other representatives of SCA to furnish to GRS such additional financial and operating data and other information as to the SCA Businesses (other than that primarily relating to the WMI Businesses) as GRS may from time to time reasonably request.

Article VI.—Division of SCA

Section 6.1. *Method of Division of SCA.* WMAC shall determine whether to file an election under Section 338 taking into account the best interests of both WMI and GRS. WMI shall bear and timely pay that portion of the tax liability resulting from such election which is attributable to the WMI Businesses and any SCA Corporate Assets acquired by WMI and GRS shall bear and timely pay that portion of the tax liability resulting from such election which is attributable to the GRS Businesses and any SCA Corporate Assets acquired by GRS. If a Section 338 election is not timely made, the GRS Businesses and any SCA Corporate Assets to be acquired by GRS shall be distributed in a manner mutually agreeable to the parties hereto. Such distribution shall be made at the Division Closing Date, which shall be a date as promptly as practicable following the Effective Time of the Merger, but in no event more than five business days thereafter, unless a preliminary or permanent injunction or

other order by a court of competent jurisidiction shall have been issued and remain in effect which would prohibit such distribution; *provided, however,* that the parties hereto shall have used their best efforts to prevent such injunction or order; and *provided, further,* that upon lifting, cancellation or dissolution of such injunction or order the distribution of the GRS Businesses shall be consummated as soon as practicable thereafter. In the event that WMAC does not file a Section 338 election, Genstar and GRS will not permit to be taken any action which would result in a "deemed" Section 338 election with respect to the WMI Businesses and WMI will not permit to be taken any action which would result in a "deemed" Section 338 election with respect to the GRS Businesses.

Section 6.2. *Assets of the GRS Businesses To Be Distributed to GRS.* (a) Subject to the terms and conditions hereof, at the Division Closing Date, SCA and WMAC shall distribute, assign, transfer, convey and deliver to GRS, and GRS shall acquire and accept, all of the identifiable assets, rights, properties and materials, tangible or intangible, of the GRS Businesses which are primarily used in the operations of such GRS Businesses, including, but not limited to, the following:

(i) all machinery, fixtures, equipment, vehicles, furniture, tools, dies, molds and all other tangible personal property;

(ii) all customer lists, vendor lists, catalogs, sales promotion literature, advertising materials, field performance data, formulas, research material, technical information, management information systems, software, inventions, trade secrets, all covenants not to compete, specifications, designs, drawings, processes and quality control data;

(iii) intellectual property rights, including patents, trademarks, trade names, the name "SCA Services, Inc." and any combination of words utilizing or similar to such words, service marks, technology and know-how;

(iv) inventory;

(v) accounts and notes receivable;

(vi) all certificates for outstanding shares of capital stock of any subsidiary of SCA whose assets, businesses and operations are primarily used in the GRS Businesses;

(vii) all rights, title and interests in and to owned or leased real property together with appurtenances, licenses and permits;

(viii) all rights, title and interest in and to the contracts entered into with customers (together with associated bid and performance bonds), suppliers, sales representatives, distributors, agents, personal property lessors, personal property lessees, licensors, licensees, consignors and consignees, including all contracts for the collecting, carting, hauling and disposal of solid waste, and all rights and contracts to operate, manage or maintain solid waste disposal sites;

(ix) all rights under warranties and guarantees, express or implied;

(x) all books, records and files;

(xi) all items of prepaid expense;

(xii) all licenses and regulatory permits;

(xiii) all known and unknown, liquidated or unliquidated, contingent or fixed, rights or causes of action which such businesses have or may have against any third party and all such rights which such businesses have or may have in or to any asset of such businesses; and

(xiv) goodwill related to the foregoing.

(b) With respect to any technology, know-how, processes or intellectual property rights of SCA distributed to GRS as contemplated in paragraph (a) above, GRS convenants and agrees that upon the written request of WMI, GRS will execute a non-exclusive royalty-free license, in form and substance satisfactory to GRS and WMI (which shall not include the right to sublicense), permitting the continued use of such technology, know-how, processes or intellectual property right by WMI for any Affiliate for so long as WMI deems necessary or appropriate.

(c) With respect to any technology, know-how, processes or intellectual property rights of SCA not distributed to GRS as contemplated in paragraph (a) above, WMI convenants and agrees that upon the written request of GRS, WMI will execute a non-exclusive royalty-free license, in form and substance satisfactory to GRS and WMI (which shall not include the right to sublicense), permitting the continued use of such technology, know-how, processes or intellectual property right by GRS or any Affiliate for so long as GRS deems necessary or appropriate.

Section 6.3. *"As Is" Condition.* GRS acknowledges and agrees that it is acquiring the GRS Businesses "as is" and that WMAC has not given, and will not give, any warranties or guarantees with respect to the condition (financial or otherwise) of any of the GRS Businesses, including, without limitation, the financial stability of any of the GRS Businesses which are conducted in a corporate capacity or the condition of any assets included in the definition of GRS Businesses at the time of distribution, the fitness of such assets for a particular purpose, or as to the absence of any liens, mortgages, pledges, encumbrances, conditional sales agreements, security interests or title retention devices of any kind or other liabilities (contingent or otherwise) relating to such assets. No description of, or any assertions concerning, the GRS Businesses or the WMI Businesses contained in this Agreement shall be construed to create any warranty or guarantee relative to any of those businesses.

Section 6.4. *Liabilities To Be Assumed by GRS; Indemnity.* In connection with the distribution of the GRS Businesses, and subject to the provisions of Article VIII hereof, GRS hereby agrees to assume and agrees to pay, perform and discharge, and indemnify and hold harmless, WMI, WMAC and SCA against all debts, liabilities, actions, suits, obligations, taxes and contracts of any kind, character or description, whether known, unknown, direct or indirect, accrued, absolute, liquidated or unliquidated, contingent or otherwise, no matter whether arising before or after the Division Closing Date primarily relating to or arising out of the business, operations, other activities or commitments of the GRS Businesses (excluding from the scope of this Section 6.4 any such Businesses rejected by GRS pursuant to Section 1.5 hereof) including, but not limited to: (a) current liabilities primarily related to the GRS Businesses, to the extent that such liabilities have not been paid, performed or discharged as of the Division Closing Date; (b) obligations and liabilities primarily related to the GRS Businesses for any period subsequent to the Division Closing Date, if and when due, to the extent not paid, performed, defended or discharged as of the Division Closing Date with respect to the GRS Businesses and arising under (i) every lien, mortgage, pledge, encumbrance, conditional sales agreement, security interest or title retention device, (ii) every lease contract or arrangement, (iii) every license, license agreement and permit, (iv) any employee benefit or pension plan, (v) any unfilled supply contract, or (vi) other commitments made or incurred by the GRS Businesses or by SCA in the ordinary course of conducting the GRS Businesses; and (c) all income, property, transfer or other taxes (Federal, state, local or foreign), without regard to the tax period to which they relate or the party against which they are asserted, relating or allocable to the conduct of the GRS Businesses (excluding, however, taxes included as part of the Total Cost of Acquisition). Except as expressly provided in Section 6.1 hereof or as mutually agreed pursuant thereto, GRS

shall not assume or pay liabilities for income taxes resulting from the transfer of the GRS Businesses to GRS pursuant to Section 6.1 (or SCA Corporate Assets acquired by GRS pursuant to Section 4.6).

Except as, and only to the limited extent, set forth above in this Section 6.4, GRS shall have no obligation whatsoever to pay, perform, defend or discharge (or indemnify WMI, WMAC or SCA against) any debts, liabilities, actions, suits or obligations or contracts of any kind, character or description, whether known, unknown, direct or indirect, accrued, absolute, liquidated, unliquidated, contingent or otherwise relating to or arising out of any businesses or operations of SCA.

Section 6.5. *Liabilities To Be Retained by WMI, WMAC and SCA; Idemnity.* WMI and WMAC hereby agree to assume and to pay, perform, defend or discharge, and indemnify and hold harmless GRS and Genstar against, all debts, liabilities, actions, suits, obligations, taxes and contracts of any kind, character or description, whether known, unknown, direct or indirect, accrued, absolute, liquidated or unliquidated, contingent or otherwise, no matter whether arising before or after the Division Closing Date relating to or arising out of any business, operations, other activities or commitments of SCA (other than those primarily and directly related to the GRS Businesses) including, but not limited to: (a) current liabilities of SCA to the extent that such liabilities have not been paid, performed or discharged as of the Division Closing Date; (b) obligations and liabilities of SCA for the period subsequent to the Division Closing Date, if and when due, to the extent not paid, performed, defended or discharged as of the Division Closing Date and which arise under (i) any lien, mortgage, pledge, encumbrance, conditional sales agreement, security interest, or title retention device, (ii) any lease contract or arrangement, (iii) any license, license agreement and permit (iv) any employee benefit and pension plan, (v) any unfilled supply contract, or (vi) other commitments made or incurred in the ordinary course of such business; and (c) all income, property, transfer or other taxes (Federal, State, local or foreign), without regard to the tax period to which they relate or the party against which they are asserted, relating or allocable to the conduct of the businesses of SCA.

Section 6.6. *Closing.* (a) The transactions contemplated by this Article shall occur on the Division Closing Date, at a closing held at such place as the parties shall agree.

(b) On the Division Closing Date, WMAC and/or SCA shall deliver to GRS, in form and substance satisfactory to GRS, the following:

(i) with respect to any of the GRS Businesses consisting of identifiable assets, all appropriate bills of sale, deeds, permits, licenses, assignments of contract and any other instruments of sale, conveyance, transfer and assignment;

(ii) with respect to any of the GRS Businesses which are conducted in a corporate capacity, certificates for all of the outstanding capital stock of such corporations owned by SCA, duly endorsed in blank or accompanied by one or more duly executed stock powers, with signatures guaranteed; and

(iii) documents or other instruments which GRS may reasonably require as necessary or desirable to transfer, assign and convey to GRS as of the Division Closing Date all of SCA's right, title and interest in the GRS Businesses and the SCA Corporate Assets acquired by GRS hereunder, together with any insurance policies related thereto.

(c) On or after the Division Closing Date, WMAC shall also take such steps as may be required to put GRS in actual possession and operating control of the GRS Businesses and the SCA Corporate Assets Acquired by GRS.

(d) Against delivery of the items specified in clause (b) hereof, on the Division Closing Date GRS shall deliver to WMAC (i) if requested by WMAC a certificate or certificates representing all of the then outstanding shares of Class B Common Stock held by GRS, duly endorsed in blank or accompanied by one or more duly executed stock powers, with signatures guaranteed, which certificates shall thereafter be cancelled and marked as having been redeemed in full in accordance with the provisions of the Delaware General Corporation Law, and (ii) an instrument of assumption of liabilities as contemplated by Section 6.4 hereof in form and substance satisfactory to WMAC.

Section 6.7. *Passage of Title and Risk of Loss.* Legal title, equitable title and risk of loss with respect to the GRS Businesses to be distributed at the Division Closing Date shall pass to GRS at such closing.

Section 6.8. *Pension Plans.* Subject to the provisions of any applicable collective bargaining agreement, the benefits attributable to GRS Employees (which term shall mean employees and former employees of the GRS Businesses) under each pension plan (within the meaning of section 3(2) of the Employee Retirement Income Security Act of 1974, as amended (ERISA)) maintained by SCA which covers GRS Employees (collectively, the "Old Pension Plans") shall be determined in accordance with this Section 6.8.

(a) As soon as practicable after and effective as of the Division Closing Date, GRS shall or shall cause an Affiliate to adopt or make available pension plans (collectively, the "New Pension Plans") that will provide benefits comparable to those provided under the Old Pension Plans as constituted on the day before the Division Closing Date. Each New Pension Plan shall be equivalent in all material respects to the corresponding Old Pension Plan, shall give full credit for all purposes for service with SCA before the Division Closing Date and shall provide that the benefit which each GRS Employee would receive if the New Pension Plan terminated immediately after the transfer of assets described below shall in no event be less than that which he would have received if the corresponding Old Pension Plan had terminated immediately before the transfer of assets. Nothing herein shall prevent GRS from amending or terminating the New Pension Plans.

(b) As soon as practicable after the expiration of sixty days after the later of (i) filing Form 5310 with the Internal Revenue Service and (ii) receipt of an opinion of counsel for GRS to the effect that the provisions of each New Pension Plan substantially satisfy the qualification requirements of Section 401(a) of the Internal Revenue Code, WMAC shall cause the funding agency under each of the Old Pension Plans to transfer to the funding agency under the corresponding New Pension Plan, in accordance with the requirements of Section 414(l) of the Internal Revenue Code, and the regulations thereunder, such portion of the assets of such Old Pension Plan as is attributable to the GRS Employees (determined as provided below).

(c) In the case of each Old Pension Plan that is a defined contribution plan, the amount to be so transferred shall be equal to the account balances of the GRS Employees determined as of the date of transfer. In the case of each Old Pension Plan that is a defined benefit plan, the amount to be so transferred shall be equal to the present value of the accrued benefits of the GRS Employees participating in that Pension Plan, determined as of the Division Closing Date, plus an additional amount equal to the allocable portion of the excess, if

any, of the total value of plan assets on that date over the present value of the accrued benefits of all participants in that plan. Such allocable portion shall be a fraction of such excess, of which the numerator is the present value of the accrued benefits of the GRS Employees and the denominator is the present value of the accrued benefits of all employees and former employees of SCA participating in the relevant plan.

(d) Such determination of the present value of accrued benefits shall be made on a plan termination basis on the basis of the actuarial assumptions and methods used by the Pension Benefit Guaranty Corporation as of the Division Closing Date, or such other basis as WMAC and GRS may agree to. It shall be made by an actuary appointed by GRS with appropriate supporting detail, and shall either be accepted by GRS within ten business days after submission to its actuary or, if disputed, shall be submitted within such period to binding arbitration by a third actuary selected by the actuaries appointed by the parties hereto, whose decision thereon shall be rendered within ten business days after submission and shall be final, and the arbitrator shall determine who shall bear the expenses of such arbitration.

(e) With respect to any pension plan covering the GRS Employees as of the Division Closing Date which is a "multi-employer plan" with the meaning of Section 3(37) of ERISA, GRS shall make such contributions to each multi-employer plan and furnish such bond or escrow arrangement or obtain a variance of such requirement (all at WMI's cost) as is necessary to satisfy Section 4204(a) of ERISA. In addition, if GRS withdraws in a complete withdrawal or a partial withdrawal with respect to operations (as those terms are used in Section 4204(a) of ERISA) during the first five plan years after the Division Closing Date, WMI shall remain secondarily liable for any withdrawal liability it would have had to the plan with respect to the operations (but for Section 4204(a) of ERISA) if the liability of GRS with respect to the plan is not paid.

Section 6.9 *Consents.* WMAC shall use its reasonable best efforts to obtain and shall deliver to GRS on the Division Closing Date, or as soon thereafter as practicable all necessary and/or desirable leases, permits, licenses and other rights which are a part of the GRS Business including all consents that it has been able to obtain authorizing the transfer and assignment to GRS of all contracts relating to and used in connection with the GRS Businesses and being assumed by GRS. GRS shall cooperate with and use reasonable efforts to assist WMAC in obtaining any required consents of third parties to the assignment or novation to GRS by any third party of any contract, lease, permit, license, or other right which is part of the GRS Businesses. To the extent that the assignment or novation of any such contract, lease, permit, license or other right shall require the consent of any other party and such consent shall not have been obtained on or before the Division Closing Date, the parties hereto shall use all reasonable efforts and shall cooperate in any reasonable arrangement to assure GRS the benefits of such contract, lease, permit, license or other right. To the extent practicable and reasonable under the circumstances, pending the obtaining of any such necessary consent after the Division Closing Date, GRS shall perform all of the obligations of the GRS Businesses after the Division Closing Date under such contract, lease, permit, license or other right in the same manner as though GRS were the contracting party, lessee, licensee, permittee or holder of such right. WMAC and its successor shall be entitled to act and shall act with respect to any contract, lease, permit, license or other right of the GRS Businesses until consent to the assignment or novation therefor is obtained, according to directions of GRS furnished to WMAC; provided, that such directions are consistent with the terms of such contract, lease, permit license or other right. WMAC shall promptly remit to GRS all collections received by WMAC, and GRS shall promptly reimburse WMAC for all expenses incurred by WMAC, in respect of such contracts, leases, permits, licenses or other rights.

Section 6.10. *No Breach.* It is the intention of WMI and GRS that this Agreement shall not constitute an assignment of attempted assignment or any lease, license, commitment or other contract or agreement if any such assignment or attempted assignment would constitute a breach or violation thereof.

Article VII.—Conduct of GRS Businesses From Division Closing Date Until Disposition Adjustment Date

Section 7.1. *Conduct of GRS Businesses.* Except as otherwise permitted by this Agreement or as otherwise consented to by WMI in writing, which consent will not be unreasonably withheld, during the nine-month period following the Division Closing Date, or until the Disposition Adjustment Date (with respect to those GRS Businesses which GRS elects not to retain pursuant to Article VIII hereof), GRS agrees and agrees to cause each of such GRS Businesses (as long as such GRS Businesses are controlled by GRS) to be operated independently of the WMI Businesses, and:

(a) to carry on the GRS Businesses in, and only in, the ordinary course consistent with prior practice (including normal and customary insurance coverage) and use its best efforts to preserve the business and prospects of each of the GRS Businesses, and preserve the relationship with customers, suppliers and others having business dealings with the GRS Businesses; and

(b) not to sell, assign or transfer any assets included within the definition of the GRS Businesses (except for sales of inventory, or sales of equipment that is either replaced by other suitable equipment or the failure to replace which will not materially adversely affect the condition (financial or otherwise), earnings, affairs, business or prospects of any of the GRS Businesses, in each case in the ordinary course of business and consistent with prior practice) or any patent, trademark, trade name, copyright, license, franchise, design or other intangible assets or property; and not to mortgage, pledge or grant or suffer to exist any lien or other encumbrances or charge on any material assets or properties, tangible or intangible, except for (i) liens or encumbrances existing at the Division Closing Date, (ii) liens for taxes not yet delinquent, and (iii) such other liens, encumbrances or charges which do not materially adversely affect the condition (financial or otherwise), earnings, affairs, business or prospects of any of the GRS Businesses or waive any rights of material value or cancel any material debts or claims.

Article VIII.—Post-Closing Dispositions by GRS of GRS Businesses

Section 8.1. *Possible Disposition of GRS Businesses.* The parties hereto acknowledge that, although GRS intends to acquire the GRS Businesses for the purposes of owning and operating the GRS Businesses as a going concern, GRS may determine to dispose of one or more of such GRS Businesses to third parties following the acquisition thereof at the Division Closing Date.

Section 8.2. *Notification and Manner of Disposition.* (a) In the event that GRS determines to dispose of any of the GRS Businesses at any time during the nine-month period following the Division Closing Date, GRS shall promptly, and in any event prior to the expiration of such nine-month period, notify WMI in

writing of such decision, which notification shall specifically identify any such GRS Businesses proposed to be disposed of (each a "Designated GRS Business").

(b) GRS shall use all reasonable efforts to sell any Designated GRS Business as a going concern in a commercially reasonable manner and for the highest price therefor (which price could be a negative amount as contemplated in the definition of "Actual Disposition Price" contained in Section 15.1 hereof) which is reasonably attainable within a reasonable time.

Section 8.3. *Notification of Agreement in Principle: WMI right to Find Substitute Buyer.* (a) GRS shall promptly notify WMI in writing of any agreement in principle or similar understanding, reached with a third party respecting the disposition of any Designated GRS Business (the "GRS Disposition"), advising WMI in such notification of (i) the name of the party to whom GRS proposes to dispose of the Designated GRS Business, (ii) the consideration for which such third party proposes to acquire such Designated GRS Business, and (iii) any other material terms of the GRS Disposition. As soon as the same shall become available, GRS shall furnish to WMI a copy of all written instruments relating to the GRS Disposition.

(b) Upon receipt of the written notification pursuant to paragraph (a) above, WMI shall have the right to attempt to dispose of the Designated GRS Business for consideration in excess of that set forth in such notification to an entity (other than WMI or an Affiliate of WMI) which shall have adequate financial resources to operate the Designated GRS Business; *provided, however,* that any such disposition by WMI shall be on terms and conditions which are no less favorable to GRS than those relating to the GRS Disposition. WMI shall have the right for the one-month period following receipt of such notification to find such substitute buyer and reach an agreement in principle or similar understanding with such substitute party during such time period. In the event WMI reaches such agreement in principle or understanding during such one-month period, GRS shall, at WMI's direction, dispose of the Designated GRS Business in accordance with the terms thereof.

Section 8.4. *Failure to Dispose of a Designated GRS Business.* If after using all reasonable efforts to dispose of a Designated GRS Business for a period not longer than three months following notification to WMI pursuant to Section 8.2 hereof, GRS has not disposed of or entered into a definitive agreement to dispose of such Designated GRS Business, then WMI shall have the right for a period of three months thereafter to seek to find a buyer (other than WMI or an Affiliate of WMI) with adequate financial resources to operate the Designated GRS Businesses and to give and does give adequate indemnity to GRS with respect to the Designated GRS Businesses sold. GRS shall, at WMI's direction, dispose of such Designated GRS Business to such a buyer. If, at the end of such three-month period, WMI shall not have found a buyer for such Designated GRS Business, WMI shall direct GRS in writing within five days thereafter to dispose of such Designated GRS Business to a suitable trust created by WMI with sufficient financial resources to operate such Designated GRS

Business in a responsibile manner and without any recourse to GRS or any of its Affiliates. The trustees of such trust shall be bound to (i) keep and operate such Designated GRS Business separaately from the WMI Businesses and (ii) sell such Designated GRS Business to a financially responsibile party as promptly as practicable.

In the event of any failure of WMI to direct GRS to dispose of the Designated GRS Business to the trust described above (i) the expiration of the five-day period referred to above shall be deemed the date of disposition of such Designated GRS Business for purposes of this Agreement, and (ii) WMI shall assume, agree to pay, perform, defend and discharge, indemnify and hold harmless GRS against all debts, liabilities, actions or suits, obligations and contracts of any kind, character or description whether known or unknown, direct or indirect, accrued, absolute, liquidated or unliquidated, contingent or otherwise relating to or arising out of such Designated GRS Business from and after such deemd date of disposition of such Designated GRS Business.

In the event of any disposition or deemed disposition of a Designated GRS Business pursuant to this Section 8.4 other than to a buyer designated by WMI paying valuable consideration therefor, such Designated GRS Business shall thereupon be deemed for purposes of Sections 8.5 and 8.7 hereof to have been disposed of for no consideration.

Section 8.5. *WMI Reimbursement Agreement.* If any Designated GRS Business which is disposed of pursuant to Section 8.2, 8.3 or 8.4 hereof prior to the Disposition Adjustment Date is disposed of for an Actual Disposition Price which is less than the Minimum Disposition Price respecting such Designated GRS Business, then in any such event WMI shall become obligated to make the payment provided for in Section 8.7 hereof on the Disposition Adjustment Date.

Section 8.6. *Disposition of All GRS Businesses.* (a) If, at the end of any interim period for which financial statements are prepared for the entire nine-month period following the Division Closing Date, the financial statements of the GRS Businesses demonstrate that the GRS Businesses have not achieved income equal to (before interest and taxes and before Genstar corporate charges) at least 10% of revenues for the entire period from the Division Closing Date until the end of the month) preceding the notification from GRS to WMI pursuant to this Section 8.6(a), GRS may dispose of all the GRS Businesses to a buyer with the intent and ability (financial and otherwise) to operate those businesses in the waste services industry. GRS shall promplty, and in any event prior to the expiration of such nine-month period, notify WMI in writing of such decision and WMI shall have the rights provided in Section 8.3 hereof with respect to any proposed disposition pursuant to this paragraph (a). WMI shall be obligated to pay to GRS on the earlier of (i) the date of actual disposition of such GRS Businesses by GRS to such a buyer, or (ii) in the event there is not such an actual disposition, the date which is six months after the notification of GRS to WMI pursuant to this Section 8.6, in either case an amount in cash equal to the excess, if any, of (x) the aggregate of the Minimum Disposition Prices of all the GRS Businesses plus an imputed rate of return of 6.5% per annum on the Apportioned Cost of the GRS Businesses (as reduced from time to time by the amount of any dividends, distributions, or other transfers of assets of the GRS Businesses to GRS since the Division Closing Date and as increased by the amount of any additional investments in the ordinary course of business made by GRS in such businesses during such period) from the Division Closing Date to the date of disposition over (y) the Actual Disposition Prices of the GRS Businesses.

(b)(i) In the event that GRS has not disposed of the GRS Businesses prior to the date which is six months after the notification of GRS pursuant to this Section 8.6, WMI shall direct GRS in writing within five days thereafter to dispose of such GRS Businesses to a suitable trust created by WMI with sufficient financial resources to operate such GRS Businesses in a responsible manner without any recourse to GRS or

any of its Affiliates. The trustees of such trust shall be bound to (x) keep and operate such GRS Businesses separate from the WMI Businesses and (y) sell the GRS Businesses to a financially responsible party as promptly as practicable.

(ii) In the event of any failure of WMI to direct GRS to dispose of the GRS Businesses to the trust described above, (x) the expiration of the five-day period referrd to above shall be deemed the date of disposition of such GRS Businesses for purposes of this Agreement, and (y) WMI shall assume, agree to pay, perform, defend and discharge, indemnify and hold harmless GRS against all debts, liabilities, actions or suits, obligations and contracts of any kind, character or description, whether known or unknown, direct or indirect, accrued, absolute, liquidated or unliquidated, contingent or otherwise relating to or arising out of the conduct of such GRS Businesses from and after such date of disposition of such GRS Businesses.

(c) For purposes of this Section 8.6 only, the term "GRS Businesses" shall also include any SCA Corporate Assets acquired by GRS pursuant to this Agreement and shall not include any GRS Businesses disposed of or deemed to have been disposed of pursuant to Section 8.2, 8.3 or 8.4 of this Article VIII.

Section 8.7. *Payments on Disposition Adjustment Date; Offset.* With respect to any Designated GRS Businesses which are disposed of pursuant to Section 8.2, 8.3 or 8.4 hereof, WMI shall make a cash payment to GRS on the Disposition Adjustment Date in an amount determined as follows:

(i) in the case of any Designated GRS Businesses disposed of where the minimum Disposition Price exceeds the Actual Disposition Price, the aggregate amount of such excess, *minus*

(ii) in the case of any Designated GRS Businesses disposed of where the Actual Disposition Price exceeds the Minimum Disposition Price, the aggregate amount of such excess.

Thereafter, WMI shall have no further obligation to reimburse GRS in respect of the sales price of any GRS Businesses. The provisions of this Article VIII shall apply to dispositions of GRS Businesses other than to Affiliates of GRS. In respect of the GRS Businesses as to which GRS is indemnified pursuant to Section 8.8, the amount of the excess, if any, of the Actual Disposition Price over the Minimum Disposition Price of such GRS Businesses paid by GRS pursuant to Section 8.8 hereof shall not be used in the calculations provided for in this Section 8.7, and this Section 8.7 shall not apply to any GRS Business rejected pursuant to Section 1.5 hereof.

Section 8.8. *Indemnity.* Without limiting the generality of the foregoing, in the case of any GRS Business primarily engaged in the collection, treatment or disposal of hazardous chemical waste disposed of pursuant to Section 8.2, 8.3, 8.4 or 8.6 hereof, WMI and WMAC shall specifically assume and agree to pay, perform, defend and discharge, and indemnify and hold harmless GRS and Genstar against all debts, liabilities, actions or suits, obligations and contracts of any kind, character or description whether known or unknown, direct or indirect, accrued, absolute, liquidated or unliquidated, contingent or otherwise relating to or arising out of the conduct of such GRS Business prior to the Division Closing Date or subsequent to the date such GRS Business is disposed of pursuant to the terms of this Article VIII; *provided, however,* that in the case of those GRS Businesses disposed of pursuant to this Article VIII as to which GRS is indemnified pursuant to this Section 8.8, where the Actual Disposition Price exceeds the Minimum Disposition Price, GRS shall pay such excess to WMI.

Article IX.—Additional Covenants and Agreements

Section 9.1. *Best Efforts; Cooperation.* Subject to the terms and conditions of this Agreement, each of the parties hereto shall use its best efforts to comply promptly with all filing requirements which federal or state law may impose on the parties hereto with respect to the transactions contemplated hereby, use its best efforts to cooperate with and furnish information promptly to the other in connection with any such filing requirements imposed upon it in connection with the transactions contemplated hereby and cooperate with the other party hereto in every way in carrying out the transactions contemplated hereby. Each of the parties hereto shall deliver to the other party any documents or instruments necessary to effectuate the transactions contemplated hereby, including any such documents or instruments necessary to transfer the assets or capital stock of any of the corporations included in the definition of the GRS Businesses, and any other documents or instruments deemed reasonably necessary or useful to effectuate the transactions contemplated hereby by counsel for any party hereto and shall take all action, and do, or cause to be done, all things necessary, proper or advisable under applicable laws, including obtaining all governmental licenses and consents and making all filings with governmental agencies, foreign or domestic, to consummate and make effective the transactions contemplated by this Agreement, including the conveyance of all of SCA's rights in the GRS Businesses to GRS.

Section 9.2. *Independent Operation of WMI Businesses and GRS Businesses.* It is the intent of the parties to this Agreement that the WMI Businesses and GRS Businesses will be operated independently of each other.

Section 9.3. *HSR Filings.* WMAC, WMI, GRS and Genstar shall file, as promptly as practicable, all required Notification and Report Forms under the HSR Act with the Federal Trade Commission (the "FTC") and the Antitrust Division of the Department of Justice (the "Antitrust Division") with respect to the transactions contemplated hereby and shall use their best efforts to respond as promptly and completely as practicable to requests from the FTC or Antitrust Division for additional information or documentation.

Section 9.4. *Insurance.* Before the Division Closing Date the insurance coverage of the WMI Businesses or the GRS Businesses shall not be terminated or modified without the consent of the parties hereto. WMI and GRS shall use their best efforts to make arrangements to their mutual satisfaction so that each of them will have the benefit, from and after the Division Closing Date, of the appropriate portion of the insurance coverage on the assets and operations of SCA as is in effect on the date WMAC acquires more than a majority of the outstanding capital stock of SCA pursuant to the Tender Offer of otherwise.

Section 9.5. *Notice of Certain Events.* Each of the parties hereto shall give prompt notice to the other of (i) the occurrence or failure to occur, of any event the occurrence or failure of which would be likely to cause any representation or warranty contained in this Agreement to be untrue or inaccurate in any material respect at any time from the date hereof to the Disposition Adjustment Date, and (ii) any material failure by either party, or any officer, director, employee or agent thereof, to comply with or satisfy any covenant, condition or agreement to be complied with or satisfied by it hereunder; *provided, however,* that no such notification shall affect the represenatations or warranties of the parties or the conditions to the obligations to the parties hereunder.

Section 9.6. *No Public Announcement.* Each of the parties hereto agrees that it will not make any press release or other

similar public announcement concerning the transactions contemplated by this Agreement without the prior approval of the other party, except to the extent otherwise required by law.

Section 9.7. *No Solicitation of Other Offers.* Each of the parties hereto agrees that it will not prior to the Division Closing Date directly or indirectly (i) initiate contact with any person (except SCA) in an effort to solicit an "acquisition proposal" (as used herein, "acquisition proposal" shall mean any proposal for a merger or other business combination involving SCA or for the acquisition of a substantial interest in the equity or assets of SCA), (ii) authorize or knowingly permit any of the officers, directors or employees or other representatives (including investment bankers, attorneys and accountants) to directly or indirectly initiate any such contact, (iii) cooperate with or furnish or cause to be furnished any non-public information to any person or entity in connection with any possible acquisition proposal, and (iv) promptly advise the other party orally and in writing of any inquiry or proposal which it reasonably expects may lead to such an acquisition proposal.

Section 9.8. *No Further Purchases of SCA Shares.* Neither party hereto will purchase or otherwise acquire any SCA Shares after the date hereof without the prior written consent of the other party hereto.

Article X.—Conditions

Section 10.1. *Conditions to the Tender Offer.* The obligations of WMAC to purchase SCA Shares pursuant to the Tender Offer shall be subjet to the fulfillment of the conditions set forth in the Offer to Purchase as it may be amended from time to time pursuant to this Agreement.

Section 10.2. *Conditions to the Merger and Other Transactions Contemplated by This Agreement.* The obligations of the parties hereto to effect the Merger shall be subject to the following conditions:

(a) WMAC shall have purchased SCA Shares pursuant to the Tender Offer;

(b) The Merger shall have been duly approved by the requisite vote or consent of the holders of SCA Shares, if such approval is required by applicable law;

(c) All applicable waiting periods required by the HSR Act shall have expired or have been terminated; and

(d) No preliminary or permanent injunction or other order by any court of competent jurisdiction shall have been issued and remain in effect which would (i) make illegal the acquisition or holding of SCA Shares by WMAC, WMI or GRS; (ii) otherwise prevent consummation of the Merger; or (iii) impose material limitations on the ability of WMAC, WMI or GRS effectively to acquire or hold or to exercise full rights of ownership to the SCA Shares acquired by WMAC, including, but not limited to, the right to vote the SCA Shares purchased by it on all matters properly presented to the stockholders of SCA; *provided, however,* that WMAC, WMI and GRS shall have used their reasonable best efforts to prevent such injunctions or other order; *provided, further,* that upon the lifting, cancellation or dissolution of any such injunction as a result of the best efforts of WMAC, WMI or GRS, the Merger and other transactions contemplated hereby shall be consumated as soon as practicable thereafter.

Article XI.—WMI Representations and Warranties

WMI represents and warrants to GRS as follows:

Section 11.1. *Due Incorporation.* WMI has been duly incorporated and is validly existing as a corporation in good standing under the laws of the State of Delaware, and has full corporate power and authority to own, lease and operate its assets, properties and business and to carry on its business as now being and as heretofore conducted.

Section 11.2. *Due Authorization.* WMI has all requisite corporate power and authority to enter into and perform all of its obligations hereunder, and WMI is duly authorized to execute, deliver and perform this Agreement; this Agreement has been duly executed by WMI, is a valid and binding agreement of WMI, and is enforceable against WMI in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, receivership or other similar laws applicable to creditors' rights and other equitable remedies.

Section 11.3. *No Violation.* The execution, delivery and performance by WMI of this Agreement do not violate or conflict with or result in a breach of or constitute (or with notice or lapse of time or both would constitute) a default under (i) WMI's Restated Certificate of Incorporation or By-Laws, as amended, or any material license or other consent or authorization granted by any governmental authority to which WMI or any of its subsidiaries is a party or is otherwise bound; (ii) (subject to obtaining appropriate waivers from the banks under WMI's revolving credit agreement and the lenders under its insurance company loan agreements, which WMI covenants to use its best efforts to obtain or to replace such credit facilities) any material indenture, mortgage, bond, license, lease, permit, loan agreement or other agreement to which WMI is a party or by which WMI or any of its subsidiaries or properties may be bound; or (iii) any law, rule, regulation, judgment, decree or order of any court applicable to or affecting the business or operations of WMI or any of its subsidiaries.

Section 11.4. *SCA Shares.* As of the date of this Agreement, WMI is the beneficial owner of 625,000 SCA Shares, which shares constitute all of the SCA Shares which WMI beneficially owns on the date hereof.

Section 11.5. *Securities Laws.* No authorization, approval or consent of any court or governmental authority or agency is required in connection with the valid authorization, issuance, sale or delivery of the Class A Common Stock or Class B Common Stock. The offer, issue, sale and delivery of the Class A Common Stock and the Class B Common Stock under the circumstances contemplated by this Agreement constitute exempt transactions under the Securities Act of 1933, as amended, and under any applicable state securities laws, and the registration of the Class A Common Stock and the Class B Common Stock is not required under the circumstances contemplated by this Agreement.

Section 11.6. *Investment.* WMI is acquiring and will acquire the Class A Common Stock for its own account for investment and not with a view to, or for sale in connection with, any distribution thereof.

Section 11.7. *No Brokers.* All negotiations relative to this Agreement and the transactions contemplated hereby have been carried on by WMI and GRS without the intervention of any other person or firm as the result of any act of WMI in such manner as to give rise to any valid claim against any of the parties hereto for a brokerage commission, finder's fee or other like payment to any person or entity, except for the payment of an investment banking fee to Merrill Lynch Capital Markets.

Article XII.—GRS Representations and Warranties

GRS represents and warrants to WMI as follows:

Section 12.1. *Due Incorporation.* GRS has been duly incorporated and is validly existing as a corporation in good standing under the laws of the State of Delaware, and has full corporate power and authority to own, lease and operate its assets, properties and business and

to carry on its business as now being and as heretofore conducted.

Section 12.2. *Due Authorization.* GRS has all requisite corporate power and authority to enter into and perform all of its obligations hereunder and GRS is duly authorized to execute, deliver and perform this Agreement; this Agreement has been duly executed by GRS, is a valid and binding agreement of GRS, enforceable against GRS in accordance with its terms except as such enforceability may be limited by bankruptcy, insolvency, receivership or other similar laws applicable to creditors' rights and other equitable remedies.

Section 12.3. *No Violation.* The execution, delivery and performance by GRS of this Agreement do not violate or conflict with or result in a breach of or constitute (or with notice or lapse of time or both would constitute) a default under (i) GRS's Certificate of Incorporation or By-Laws, or any material license or other consent or authorization granted by any governmental authority to which GRS or any of its subsidiaries is a party or is otherwise bound; (ii) any material indenture, mortgage, bond, license, lease, permit, loan agreement or other agreement to which GRS is a party or by which GRS or any of its subsidiaries or properties may be bound; or (iii) any law, rule, regulation, judgment, decree or order of any court applicable to or affecting the business or operations of GRS or any of its subsidiaries.

Section 12.4. *SCA Shares.* As of the date of this Agreement, neither GRS nor any of its Affiliates is the beneficial owner of any SCA shares.

Section 12.5. *Investment.* GRS is acquiring and will acquire the Class B Common Stock for its own account for investment and not with a view to, or for sale in connection with, any distribution thereof.

Section 12.6. *Waste Services Business.* GRS has determined to enter the waste services industry through the acquisition of the GRS Businesses and has the intention of operating those businesses in that industry and does not intend to sell any of the GRS Businesses within the foreseeable future subject to the right of GRS to conduct and manage its businesses, affairs and properties in a manner it deems appropriate or advisable.

Section 12.7. *No Brokers.* All negotiations relative to this Agreement and the transactions contemplated hereby have been carried on by WMI and GRS without the intervention of any other person or firm as the result of any act of GRS, in such manner as to give rise to any valid claim against any of the parties hereto for a brokerage commission, finder's fee or other like payment to any person or entity, except to the extent as otherwise provided in this Agreement.

Article XIII.—Genstar Representations and Warranties

Genstar represents and warrants to WMI as follows:

Section 13.1. *Due Incorporation.* Genstar has been duly incorporated and is validly existing as a corporation in good standing under the laws of Canada, and has full corporate power and authority to own, lease and operate its assets, properties and business and to carry on its business as now being and as heretofore conducted.

Section 13.2. *Due Authorization.* Genstar has all requisite corporate power and authority to enter into and perform all of its obligations hereunder, and Genstar is duly authorized to execute, deliver and perform this Agreement; this Agreement has been duly executed by Genstar, is a valid and binding agreement of Genstar, and is enforceable against Genstar in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, receivership or other similar laws applicable to creditors' rights and other equitable remedies.

Section 13.3. *No Violation.* The execution, delivery and performance by Genstar of this Agreement do not violate or conflict with or result in a breach of or constitute (or with notice or lapse of time or both would consititute) a default under (i) Genstar's Restated Articles of Incorporation or By-Laws or any material license or other consent or authorization granted by any governmental authority to which Genstar or any of its subsidiaries is a party or is otherwise bound; (ii) or to any material indenture, mortgage, bond, license, lease, permit, loan agreement or other agreement to which Genstar is a party or by which Genstar or any of its subsidiaries or properties may be bound; or (iii) any law, rule, regulation, judgment, decree or order of any court applicable to or affecting the business or operations of Genstar or any of its subsidiaries.

Section 13.4. *SCA Shares.* As of the date of this Agreement, neither Genstar nor any of its Affiliates is the beneficial owner of any SCA Shares.

Section 13.5. *No Brokers.* All negotiations relative to this Agreement and the transactions contemplated hereby have been carried on by Genstar without the intervention of any other person or firm as the result of any act of Genstar in such manner as to give rise to any valid claim against any of the parties hereto for a brokerage commission, finder's fee or other like payment to any person or entity, except to the extent as otherwise provided in this Agreement.

Article XIV.—Termination and Waiver

Section 14.1. *Termination.* (a) This Agreement may be terminated at any time prior to the purchase of SCA Shares pursuant to the Tender Offer (i) by WMI in the event that the Tender Offer is not commenced pursuant to this Agreement or in the event that WMI causes WMAC to terminate the Tender Offer without purchasing any SCA Shares thereunder or (ii) by GRS if within six months after the date hereof WMAC has not purchased any SCA Shares pursuant to the Tender Offer, provided that GRS gives at least forty-five (45) days' prior written notice to such effect to WMI.

(b) If the Division Closing Date has not occurred within one year following the purchase of SCA Shares pursuant to the Tender Offer, then GRS, in its sole discretion, may offer the Class B Common Stock to WMI for purchase pursuant to this Section 14.1 and thereby, subject to the following provisions of this Section 14.1, terminate this Agreement.

(c) Within ten days of receipt by WMI of GRS's written notice of the offer of GRS pursuant to paragraph (b) above, WMI may accept such offer by payment to GRS in cash of an amount equal to the sum of the aggregate capital investment made by GRS hereunder, together with interest on such amount (as such amount may have been reduced from time to time by the amount of any dividends, distributions and other transfers of assets to GRS from WMAC) at the Prime Rate from the dates of such investments to the date of WMI's acceptance of GRS's offer *less* the amount of all dividends, distributions and other transfers of assets of WMAC to GRS. If WMI accepts the offer of GRS, then for a period of one year following the date of such acceptance GRS or one of its Affiliates shall manage and operate the GRS Businesses. WMI and WMAC shall:

(i) assume, pay, perform, defend, discharge, indemnify and hold harmless GRS, Genstar and their Affiliates against all debts, libilities, actions or suits, obligations and contracts of any kind, character, description whether known or unknown direct or indirect, accrued, absolute, liquidated or unliquidated, contingent or otherwise relating to or arising out of the operation of the GRS Businesses, (ii) reimburse, or

cause SCA and/or one or more of the subsidiaries of SCA to reimburse GRS, Genstar and their Affiliates for all out-of-pocket costs and expenses arising out of or relating to the operation of the GRS Businesses, including but not limited to all salaries, expenses or benefits accrued by, or on behalf of, any employee of GRS, Genstar or their Affiliates supervising or managing the operations of the GRS Businesses, and (iii) pay, or cause SCA and/or one or more of the subsidiaries of SCA to pay to GRS or its Affiliate a fee equal to 10% of the pre-tax profits generated by the GRS Businesses (before Genstar corporate office charges) during such one-year period or such shorter period as may be applicable under paragraph (d) below, but in no event less than $1.5 million per annum or pro rata for any period less than a year, in consideration for the operation of the GRS Businesses by GRS or its Affiliate.

(d) During the one-year period of operation of the GRS Businesses by GRS or its Affiliate, WMI may, at any time, instruct GRS or its Affiliate to transfer the GRS Businesses to any person or entity (other than WMI or an Affiliate of WMI) who has the intent and ability (financial and otherwise) to operate the GRS Businesses in the waste services industry without any recourse to GRS, Genstar or their Affiliates, and GRS or its Affiliate shall, at WMI's instruction, so transfer the GRS Businesses and promptly pay over to WMI any proceeds received by GRS in connection with any such transfer.

(e) In the event that during the one-year period of operation of the GRS Businesses by GRS or its Affiliate WMI has not instructed GRS or its Affiliate to transfer the GRS Businesses, GRS shall, upon expiration of such one-year period, transfer the GRS Businesses to a suitable trust created by WMI with sufficient financial resources to operate the GRS Businesses in a responsible manner and without any recourse to GRS or any of it Affiliates. The trustees of such trust shall be bound to (i) keep and operate the GRS Businesses separately from the WMI Businesses and (ii) sell the GRS Businesses to a financially responsible party as promptly as practicable.

(f) In the event that WMI does not accept the offer of GRS within the ten-day period specified in paragraph (c) above, GRS shall have a further ten-day period in which to purchase from WMI the Class A Common Stock of WMAC by payment to WMI in cash of an amount equal to the capital investment made by WMI hereunder *less* the amount of all dividends, distributions and other transfers of assets of WMAC to WMI.

(g) If, at the end of the ten-day period specified in paragraph (f) above GRS shall not have purchased from WMI the Class A Common Stock of WMAC, then WMI must immediately purchase from GRS the Class B Common Stock of WMAC by payment to GRS in cash of an amount equal to the sum of the aggregate capital investment made by GRS to WMAC, *less* the amount of all dividends, distributions and other transfers of assets of WMAC to GRS. For a period of one year following the date of the purchase by WMI of the Class B Common Stock pursuant to this paragraph (g) GRS or one of its Affiliates shall manage and operate the GRS Businesses upon the terms set forth in paragraphs (c), (d), and (e) above.

(h) In the event of any transfers of the GRS Businesses pursuant to paragraph (d) or (e) of this Section 14.1, WMI and WMAC shall assume, agree to pay, perform, defend and discharge, indemnify and hold harmless GRS, Genstar and their Affiliates against all debts, liabilities, actions or suits, obligations and contracts of any kind, character or description, whether known or unknown, direct or indirect, accured, absolute, liquidated or unliquidated, contingent or otherwise relating to or arising out of the conduct of the GRS Businesses. For purposes of this Section 14.1 the term GRS Businesses shall include any SCA Corporate Assets acquired by GRS pursuant to this Agreement.

(i) This Agreement may be terminated at any time by GRS if GRS withdraws from the Tender Offer pursuant to Section 2.3(a) hereof.

Section 14.2. *Effect of Termination.* (a) If this Agreement is terminated pursuant to Section 14.1 hereof, the Tender Offer shall thereupon be terminated, this Agreement shall forthwith become void and there shall be no liability on the part of WMI, GRS or WMAC or their respective officers or directors to any other party hereto, except that the agreements contained in Sections 1.5, 2.4, 6.4, 6.5, 14.1, 14.2, and 16.2 and all indemnities provided for in this Agreement shall survive the termination hereof. The parties hereto shall promptly terminate the Tender Offer if this Agreement is terminated for any reason whatsoever prior to the purchase of any SCA Shares thereunder.

(b) If this agreement is terminated pursuant to Section 14.1(a) hereof and within the period of six months thereafter WMI acquires all or a substantial portion of the WMI Businesses, WMI shall thereupon pay to GRS a termination fee in cash of $5,000,000.

(c) If within the period of twelve months following the date of this Agreement either party hereto sells any of the SCA Shares owned by it on the date hereof, such party shall share with the other party its Investment Profit realized upon the sale of such SCA Shares in the same proportion as each party's capital investment in WMAC bears to the total equity investment of both parties; *provided however*, that WMI shall have no such obligation to GRS if WMI is obligated to pay GRS the termination fee pursuant to Section 14.2(b) above.

Section 14.3. *Waiver.* Any term or provision of this Agreement may be waived in writing at any time by the party which is entitled to the benefits thereof. Any agreement on the part of a party hereto to any such waiver shall be valid if set forth in an instrument in writing signed on behalf of such party.

Article XV.—Definitions and Accounting Terms

Section 15.1. *Certain Defined Terms.* As used in this Agreement, the following terms shall have the meanings set forth respectively after each:

"Actual Disposition Price" means (i) a positive amount in the amount of the consideration actually received by GRS or WMI, as the case may be, for the disposition of any Designated GRS Business, (ii) zero in the case of a deemed disposition or other disposition for no consideration or (iii) a negative amount in the amount of the consideration actually paid by GRS or WMI, as the case may be, for the disposition of any Designated GRS Business, in any case less the costs and expenses of disposing of any Designated GRS Business.

"Affiliate" has the meaning in Rule 501 under the Securities Act of 1933, as amended.

"Allocated Cost" means, with respect to each GRS Business, that portion of the Apportioned Cost of all GRS Businesses allocated by WMI to such GRS Business pursuant to Section 4.7 hereof.

"Apportion Date" means the date on which, pursuant to Section 4.4 hereof, the Apportioned Cost of the GRS Businesses on the one hand and the Apportioned Cost of the WMI Businesses on the other, shall be specified.

"Apportioned Cost" means, with respect to the WMI Businesses as a whole and the GRS Businesses as a whole, respectively, that portion of the Total Cost of Acquisition apportioned

by WMI pursuant to Section 4.4 hereof, and means, with respect to any SCA Corporate Assets acquired by GRS or WMI pursuant to Section 4.6 hereof, the Fair Market Value thereof.

"*Class A Common Stock*" means the Class A Common Stock, par value $1.00 per share, of WMAC.

"*Class B Common Stock*" means the Class B Common Stock, par value $1.00 per share, of WMAC.

"*Designated GRS Business*" means any GRS Business designated by GRS pursuant to Section 8.2 hereof.

"*Disposition Adjustment Date*" means the date which is 15 months after the Division Closing Date, on which the adjustments pursuant to Section 8.7 shall be made.

"*Division Closing Date*" means the date which shall be as promptly as practicable after the Effective Time of the Merger, but in no event more than five business days thereafter, and on which date the GRS Businesses and the SCA Corporate Assets acquire by GRS shall be distributed to GRS.

"*Effective Time of the Merger*" means the time that the Merger becomes effective in accordance with applicable law.

"*Exchange Act*" means the Securities Exchange Act of 1934, as amended.

"Fair Market Value" means the fair market value of the WMI Businesses, the GRS Businesses and the SCA Corporate Assets as determined pursuant to the procedures set forth in Exhibit C hereto.

"*GRS Businesses*" means (i) all the assets, businesses or operations of SCA (whether subsidiaries of SCA or otherwise) located or operating in the locations listed on Exhibit B hereto, and (ii) those assets, businesses or operations of SCA (whether subsidiaries of SCA or otherwise) which shall be identified by WMI pursuant to Section 4.1 hereof. The GRS Businesses shall include all contracts for the collecting, carting, hauling and disposal of waste and all rights and contracts to operate, manage or maintain waste disposal sites that primarily relate to such GRS Businesses. Each such asset, business or operation is herein individually referred to as a GRS Business.

"*HSR Act*" means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended.

"*Investment Profits*" means, with respect to each party's obligation pursuant to Article XIV hereof to share its profits realized on SCA Shares purchased prior to the date hereof, the price at which such SCA Shares are sold, *less:*

(i) the amount paid by such party in purchasing such SCA Shares (the "Purchase Price"); and

(ii) interest on the Purchase Price at the Prime Rate from the date of purchase of the SCA Shares to the date of sale of such shares.

"*Merger*" means the merger provided for in Article III hereof.

"*Minimum Disposition Price*" means, with respect to the sale of any GRS Business or SCA Corporate Asset pursuant to Article VIII, (i) the sum of (a) the Allocated Cost of such GRS Business, or, in the case of an SCA Corporate Asset, the Fair Market Value of such SCA Corporate Asset, (b) an imputed rate of return on the amount of such Allocated Cost or Fair Market Value, as the case may be (as reduced from time to time by the amount of any dividends, distributions or transfers referred to in clause (ii) below and as increased by the amount of any additional investments made by GRS in such businesses or assets) from the Division Closing Date to the date of sale, calculated at a rate of 52% of the Prime Rate as in effect from time to time, (c) the amount of all additional investments made by GRS in such businesses or assets, (d) the reasonable costs of any geological testing respecting the facilities of such GRS Businesses, and (e) an amount equal to the tax liability attributable to such GRS Business or SCA Corporate Asset resulting from a Section 338 election, *less* (ii) the amount of all dividends, distributions and other transfers of assets of the GRS Business or the SCA Corporate Assets to GRS (or any Affiliate) since the Division Closing Date.

"*Prime Rate*" means the fluctuating interest rate per annum that shall be in effect from time to time which rate per annum shall at all times to equal to the rate of interest announced publicly by Citibank, N.A. in New York, New York, from time to time as Citibank, N.A.'s base rate.

"*SCA Businesses*" means the GRS Businesses and the WMI Businesses considered as a whole representing all the assets and liabilities of SCA other than the SCA Corporate Assets and SCA Corporate Liabilities.

"*SCA Corporate Assets*" means those assets of SCA which are not included as assets of the GRS Businesses or the WMI Businesses. Each of the SCA Corporate Assets will be specifically identified in a list prepared by WMI pursuant to Section 4.2 hereof and agreed to by GRS as constituting an SCA Corporate Asset.

"*SCA Corporate Liabilities*" means those liabilities of SCA reflected on the consolidated balance sheet of SCA and its subsidiaries (which, for purposes of the determination of the Total Cost of Acquisition, includes all prepayment premiums, redemption costs and other similar costs and charges provided for or required by the instruments relating to such liabilities which are incurred, or reasonably expected to be incurred, as a result of the transactions contemplated hereunder) and which are not included as liabilities of the GRS Businesses or the WMI Businesses. Each of the SCA Corporate Liabilities will be specifically identified in a list prepared by WMI pursuant to Section 4.2 hereof and agreed to by GRS as constituting an SCA Corporate Liability.

"*SCA Shares*" means the shares of Common Stock, par Value $1.00 per share, of SCA.

"*SEC*" means the Securities and Exchange Commission.

"*Section 338*" means Section 338 of the Internal Revenue Code of 1954, as amended.

"*Tender Offer*" means the all cash offer by WMAC to purchase outstanding SCA Shares as contemplated by this Agreement.

"*Total Cost of Acqusition*" means the amount determined in accordance with the provisions of Section 4.3 hereof.

"*Valuation Date*" means the date which shall be the end of the most recently completed calendar month for which financial statements are available prior to the determinations made pursuant to Article IV.

"*WMI Businesses*" means (i) all the assets, businesses or operations of SCA (whether subsidiaries of SCA or otherwise) located or operating in the locations listed on Exhibit A hereto and (ii) any other assets, businesses or operations of SCA not distributed to GRS pursuant to the terms of this Agreement. The WMI Businesses shall include all contracts for the collecting, carting, hauling, and disposal of waste and all rights and contracts to operate, manage or maintain waste disposal sites that primarily relate to such WMI Businesses. Each such asset, business or operation is herein individually referred to as WMI Business.

Section 15.2. *Accounting Terms.* All accounting terms not specifically defined herein shall be construed in accordance with generally accepted accounting principles then applicable.

Article XVI.—General Provisions

Section 16.1. *Survival of Representations, Warranties and Agreements.* The representations,

warranties and agreements contained in this Agreement and in any document delivered or to be delivered pursuant to this Agreement shall not survive the Disposition Adjustment Date, except that the agreements contained in Sections 1.5(e), 2.4, 6.4, 6.5, 8.4, 8.6, 8.8, 14.2(b), 14.2(c) and 16.2 hereof and all indemnities provided for in this Agreement shall survive such date.

Section 16.2. *Expenses.* If this Agreement is terminated before the Division Closing Date, all costs and expenses incurred by WMI and GRS in connection with this Agreement and the transactions contemplated hereby, including but not limited to fees and expenses of investment banking and financial advisers, engineers and technical consultants, appraisers and legal counsel and printing and mailing costs and other fees, charges and expenses relating to the Tender Offer, the Merger, this agreement and the transactions contemplated hereby, shall be shared on the basis of 60% by WMI and 40% by GRS; *provided, however,* that from and after the date occurring thirty days after the Division Closing Date, no costs or expenses incurred (including litigation costs and expenses) shall be so included other than those incurred in connection with the appraisals being made in connection with this Agreement and the exercise of dissenters' rights by SCA stockholders in connection with the Merger.

Section 16.3. *Notices.* All notices and other communications given or made pursuant hereto shall be in writing and shall be deemed to have been given or made if in writing and delivered personally or sent by registered or certified mail (postage prepaid, return receipt requested) to the parties at the following addresses:

(a) If to WMI, to: Waste Management, Inc., 3003 Butterfield Road, Oak Brook, Illinois 60521. Attention: J. Steven Bergerson, Esq.

With a copy to: Bell, Boyd & Lloyd, Three First National Plaza, Suite 3200, Chicago, Illinois 60602. Attention: John T. McCarthy, Esq.

(b) If to GRS, to: Genstar Refuse Services Corporation, Suite 3800, 4 Embarcadero Center, San Francisco, California 94111, Attention: Leonard Holman.

With a copy to: Shearman & Sterling, 53 Wall Street, New York, New York 10005. Attention: Stephen R. Volk, Esq.

(c) If to Genstar, to: Genstar Corporation, Suite 3800, 4 Embarcadero Center, San Francisco, California 94111. Attention: Ross Turner.

With a copy to: Shearman & Sterling, 53 Wall Street, New York, New York 10005, Attention: Stephen R. Volk, Esq.

or at such other addresses as shall be furnished by the parties by like notice, and such notice or communication shall be deemed to have been given or made as of the date so delivered or mailed.

Section 16.4. *Specific Performance.* The parties hereto acknowledge and agree that irreparable damage would occur and that the parties hereto would not have an adequate remedy at law in the event that any of the provisions of this Agreement were not performed in accordance with their specifications or otherwise breached. It is accordingly agreed that the parties shall be entitled to, and each hereby consents to, the entry of an injunction or injunctions to prevent breaches of the provisions of this Agreement and to enforce specifically the terms and provisions hereof in any court of the United States or any state thereof having jurisdiction, this being in addition to any other remedy to which they may be entitled at law or in equity.

Section 16.5. *Severability.* If any provision of this Agreement should be or should become fully or partly invalid or unenforceable for any reason whatsoever or should violate any applicable law, this Agreement shall be considered divisible as to such provision and such provision shall be deemed deleted from this Agreement, and the remainder of this Agreement shall be valid and binding as if such provision were not included herein. There shall be substituted for any such provision deemed to be deleted a suitable provision which, as far as is legally possible, comes nearest to what the parties desired or would have desired according to the sense and purpose of this Agreement, had they considered the point when concluding this Agreement.

Section 16.6. *Entire Agreement.* This Agreement, together with the Exhibits hereto, constitutes the entire Agreement among the parties, and supersedes all other agreements and understandings, both written and oral, between the parties with respect to the subject matter hereof.

Section 16.7. *Binding Effect; Assignment.* This Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns and are not intended to confer upon any other person any rights or remedies. Neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned by any party hereto without the prior written consent of the other party.

Section 16.8. *Bulk Sales Law.* WMI and GRS hereby waive compliance with the provisions of Article 6 of the Uniform Commercial Code as it is in effect in the states where any of the GRS Businesses are conducted which, as contemplated hereunder, are to be transferred to GRS.

Section 16.9. *Applicable Law.* This Agreement shall be governed by, and construed in accordance with, the laws of the State of Delaware without giving effect to principles of conflicts of laws.

Section 16.10. *Counterparts.* This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement and each of which shall be deemed an original.

Section 16.11. *Headings.* The headings contained in this Agreement are inserted for convenience only and do not constitute a part of this Agreement.

In Witness Whereof, WMI, Genstar, GRS and WMAC have caused this Agreement to be signed by their respective officers thereunto duly authorized, all as of the date first written above.

Waste Management, Inc.
Donald F. Flynn,
Senior Vice President & Chief Financial Officer.
Genstar Corporation.
R.J. Turner,
Chairman & Chief Executive Officer.
Genstar Refuse Services Corporation.
J.L. Holman,
President.
WM Acquiring Corp.
Donald F. Flynn,
Vice President & Treasurer.

Exhibit A.—WMI Businesses

Set forth below is a listing of the cities, counties, municipalities and other areas where the businesses or operations of SCA are to be retained by WMI, subject to the terms and conditions of this Agreement. Unless otherwise indicated, all businesses and operations in the locations set forth below are collection operations.

Little Rock, Arkansas
Little Rock, Arkansas (Solid waste landfill)
Pine Bluff, Arkansas
Pine Bluff, Arkansas (Solid waste landfill)
Mobile, Alabama
Tucson, Arizona
Baldwin Park, California
Cathedral City, California
Irvine, California
Oceanside, California
Orange County-Santa Anna, California
Sacremento, California
New Milford, Connecticut

New Milford, Conecticut (Solid waste landfill)
Tallahassee, Florida
Tallahassee, Florida (Solid waste landfill)
Port of St. Lucie, Florida
Dalton, Georgia
Savannah, Georgia
Chicago, Illinois (Chemical waste incinerator)
Fort Wayne, Indiana
Fort Wayne, Indiana (Chemical waste landfill)
Muncie, Indiana
Louisville, Kentucky
Louisville, Kentucky (Solid waste landfull)
Louisville-Campground, Kentucky (Solid waste landfill)
Shreveport, Louisiana
Braintree, Massachusetts (Chemical waste incinerator and transfer station)
Haverhill, Massachusetts (Solid waste landfill)
Lawrence, Massachusetts (Bio-medical/chemical waste incinerator)
Laurel, Maryland (Chemical waste transfer facility)
Shayne (D.C.), Maryland
Portland, Maine
Saginaw, Michigan
St. Louis-Chain of Rock, Missouri (Solid waste landfill)
Londonberry, New Hampshire
Newark, New Jersey (Chemical detoxification plant)
Rio Grande, New Jersey
Vineland, New Jersey
Buffalo, New York (Chemical waste transfer facility)
Model City, New York (Chemical waste landfill)
Utica, New York
Utica, New York (Solid waste landfill)
Reidsville, North Carolina (Chemical waste transfer facility)
Canton, Ohio
Canton, Ohio (Solid waste landfill)
Cleveland, Ohio
Cleveland, Ohio (Solid waste landfill)
Findley, Ohio
Lima, Ohio
Lima, Ohio (Solid waste landfill)
Youngstown, Ohio
Oklahoma City, Oklahoma
Oklahoma City, Oklahoma (Solid waste landfill)
Portland, Oregon
Broomall, Pennsylvania
Elizabethtown, Pennsylvania
Honeybrook, Pennsylvania
Landcaster, Pennsylvania
Philadelphia, Pennsylvania
Pottstown, Pennsylvania
Pottstown, Pennsylvania (Solid waste landfill)
York, Pennsylvania
York, Pennsylvania (Solid waste landfill)
Charleston, South Carolina
Charleston, South Carolina (Solid waste landfil)
Pinewood, South Carolina (Chemical waste landfill)
Greenbriar, Tennessee (Chemical waste transfer facility)
Jackson, Tennessee
Memphis, Tennesee

Exhibit B.—GRS Businesses

Set forth below is a listing of the cities, counties, municipalities and other areas where the businesses or operations of SCA are to be distributed to GRS, subject to the terms and conditions of this Agreement. Unless otherwise indicated, all businesses and operations in the locations set forth below are collection operations.
Chandler, Arizona
Phoenix, Arizona
Chula Vista, California
Cudahy, California
San Diego, California
Arvada/Denver, Colorado
Tampa, Florida
West Palm Beach, Florida
Atlanta, Georgia
Assonet, Massachusetts
Rowley, Massachusetts
South Boston, Massachusetts
Gaithersburg (D.C.), Maryland
Detroit (Area), Michigan
Grand Rapids, Michigan
Muskegon Heights, Michigan (Solid waste landfill)
Muskegon, Michigan
Southfield, Michigan
O'Fallon, Missouri
St. Louis, Missouri
St. Louis–Milam, Missouri (Solid waste landfill)
Mt. Holly, New Jersey (Solid waste landfill)
Trenton, New Jersey
Trenton, New Jersey (Solid waste landfill)
Arkron, Ohio
Dayton, Ohio
Dayton, Ohio (Solid waste landfill)
Dallas, Texas
Fort Worth, Texas
Fort Worth, Texas (Solid waste landfill)

Exhibit C.—Valuation Procedures

(A) Procedure for Valuation of Solid Waste Collection Operations

(1) With respect to those SCA Businesses engaged primarily in the solid waste collection business (the "Collection Businesses"), WMI Shall develop a formula for determining the fair market value of each of such Businesses for purposes of this Agreement and shall submit such formula to GRS for its approval by not later than thirty (30) calendar days (or such additional reasonable period of time as to which GRS shall consent, which consent shall not be unreasonably withheld) following the election or designation by WMAC or WMI of a majority of the Board of Directors of SCA. In the event GRS approves such formula, or suggests changes therein which are acceptable to WMI, then, except as provided in paragraph (3) below, the approved formula shall be used for all purposes of this Agreement to determine the Fair Market Value of the Collection Businesses included in the GRS Businesses and the WMI Businesses as of the Valuation Date.

(2) In the event that WMI and GRS are unable to agree on a formula within thirty (30) calendar days following submission of a formula to GRS pursuant to paragraph (1) above, then the formula proposed by WMI pursuant to paragraph (1) shall be submitted by WMI to a "Big Eight" public accounting firm selected by GRS (other than Arthur Andersen & Co. or Coopers & Lybrand), which firm shall determine, as promptly as practicable, the revisions, if any, which it deems appropriate to such formula and the formula, as so revised by such firm, shall be final and WMI, WMAC, GRS and Genstar agree that, except as provided in paragraph (3) below, such formula shall be used for all purposes of this Agreement to determine the Fair Market Value of the Collection Businesses included in the GRS Businesses and the WMI Businesses as of the Valuation Date.

(3) It is understood that, notwithstanding the provisions of paragraphs (1) and (2), there will be certain infrequent instances where, in the reasonable opinion of either WMI or GRS, the formula will not provide an adequate valuation with respect to particular Collection Businesses included in the GRS Businesses and/or the WMI Businesses and in such instances the parties agree that (x) WMI shall submit a suggested valuation to GRS and (y) such Businesses shall be valued for all purposes of this Agreement at a fair market value as of the Valuation Date as agreed upon by the parties hereto. The values of such particular Collection Businesses so agreed upon shall be the Fair Market Value thereof.

(B) Procedure for Valuation of Solid Waste Disposal Operations and Chemical Waste Service Operations

(1) With respect to those SCA Businesses engaged primarily in the solid waste disposal business or the chemical waste service business

(collectively, the "Disposal/Chemical Businesses"), WMI shall prepare a determination of the fair market value of each such Disposal/Chemical Business included in the GRS Businesses and the WMI Businesses and submit such valuations, together with the supporting data, to GRS for its review by not later than sixty (60) calendar days (or such additional reasonable period of time as to which GRS shall consent, which consent shall not be unreasonably withheld) following the election or designation by WMAC or WMI of a majority of the Board of Directors of SCA.

(2) After reviewing the valuations submitted by WMI within the sixty (60) calendar days following submissions thereof to GRS pursuant to paragraph (1) above, GRS may accept all of such valuations by so notifying WMI in writing of such acceptance or, at its election it may select approximately 20% in number of the aggregate of the GRS Businesses and WMI Businesses which are Disposal/Chemical Businesses for appraisal by Arthur D. Little & Co., or such other independent appraisal firm as GRS and WMI shall mutually agree upon, with instructions to determine, as promptly as practicable, the fair market value, as of the Valuation Date, of each such Business so submitted.

(3) In the event appraisal is elected by GRS pursuant to the provisions of paragraph (2) above, the values assigned by the appraiser shall be reviewed by GRS and WMI and if the aggregate of the appraised values assigned by the appraiser to the businesses appraised is within 10% (plus or minus) of the aggregate of the values assigned such businesses by WMI pursuant to paragraph (1) above, no further appraisal rights shall be available to GRS and each of the values assigned by WMI pursuant to paragraph (1) above with respect to all Disposal/Chemical Businesses shall be final and WMI, WMAC, GRS and Genstar agree that such final values shall constitute the Fair Market Value of such businesses as of the Valuation Date for all purposes of this Agreement other than Section 4.7 hereof.

(4) In the event the aggregate of the appraised values assigned by the appraiser pursuant to the provisions of paragraph (3) above is not within 10% (plus or minus) of the aggregate of the values assigned such businesses by WMI pursuant to paragraph (1) above, then, unless otherwise agreed among the parties, GRS may select an additional approximate 20% in number of the aggregate of the GRS Business and WMI Businesses which are Disposal/Chemical Businesses for appraisal in the manner provided in paragraph (3) and in the event the aggregate of the values assigned by the appraiser to the businesses appraised pursuant to the provisions of this paragraph (4), when added to the aggregate of the values of the businesses assigned by the appraiser pursuant to paragraph (3) above, are within 10% (plus or minus) of the aggregate of the values assigned such businesses by WMI pursuant to paragraph (1) above, then no further appraisal rights shall be available to GRS and, except as provided hereafter in this paragraph (4), each of the values assigned by WMI pursuant to paragragh (1) above with respect to all Disposal/Chemical Businesses shall be reduced or increased, as the case may be, by an amount equal to the percentage difference between such values assigned by the appraiser and those assigned by WMI and shall be final and constitute the Fair Market Value of such business as of the Valuation Date for all purposes of this Agreement other than Section 4.7 hereof; *provided, however,* that, at its election, WMI may select an additional approximate 20% in number of the aggregate of GRS Businesses and WMI Businesses which are Disposal/Chemical Businesses for appraisal in the manner provided in paragraph (2) and the aggregate of the values assigned by the appraiser to the businesses appraised pursuant to the provisions of this proviso to paragraph (4) when added to the aggregate of the values assigned by the appraiser pursuant to paragraph (3) and the above provisions of this paragraph (4) shall be divided by the aggregate of the values determined for such businesses by WMI pursuant to the provisions of paragraph (1) and each of the values assigned by WMI pursuant to paragraph (1) above with respect to all Disposal/Chemical Businesses shall be reduced or increased, as the case may be, by an amount equal to the percentage difference resulting therefrom and such valuations shall constitute the Fair Market Value of such businesses as of the Valuation Date for all purposes of this Agreement other than Section 4.7 hereof.

(5) In the event the appraised values determined pursuant to the provisions of paragraph (4) respecting the SCA Business appraised is not within 10% of the values assigned such businesses by WMI pursuant to paragraph (1) hereof WMI and GRS shall agree upon a percentage to be applied to the values so assigned by WMI, which percentage shall be used to determine the fair market value of all of the Disposal/Chemical Businesses included in the SCA Businesses for all purposes of this Agreement other than Section 4.7 hereof, and in the event such percentage cannot be agreed upon within 15 days of receipt of the appraised values under paragraph (4) the appraisal process shall continue as promptly as practicable in increments of approximate 20% in number of the aggregate of such GRS Bussiness and WMI Businesses until such time as a valuation percentage is agreed upon or the entirety of such GRS Businesses and WMI Businesses has been appraised, whichever first occurs, and the resulting valuation shall be final and shall constitute the Fair Market Value of such businesses as of the Valuation Date for all purposes of this Agreement other than Section 4.7 hereof.

(C) Procedure for Valuation of SCA Corporate Assets

(1) With respect to SCA Corporate Assets selected to be acquired by either WMI and GRS, the fair market value thereof shall be determined by the mutual agreement of WMI and GRS. In the event of the failure of such parties to reach agreement as to the fair market value of any such asset within sixty days after the election or designation by WMAC or WMI of a majority of the Board of Directors of SCA, it shall be submitted for appraisal to Arthur D. Little & Co., or such other independent appraisal firm as WMI and GRS shall mutually agree upon, with instructions to determine, as promptly as practicable, the fair market value as of the Valuation Date of each such Business so submitted.

(2) With respect to SCA Corporate Assets which are not selected to be acquired by either WMI or GRS, and the value cannot be agreed upon within ten days, then WMAC shall cause SCA to sell such assets for cash and the consideration paid in connection with such sale shall be the Fair Market Value of such asset for purposes of this Agreement. In the event of the failure to sell any such asset for three months, such asset shall be submitted for appraisal in accordance with paragraph (1) above and the value assigned thereto by the appraiser shall be the Fair Market Value thereof for purposes of this agreement.

Waste Management, Inc., WM Acquiring Corp., 3003 Butterfield Road, Oak Brook, Illinois

August 13, 1984.

Genstar Corporation,
Genstar Refuse Services Corporation,
Suite 3800, Four Embarcadero

Center, San Francisco, California 94111.

Agreement and Amendment to Transaction Agreement

Gentlemen: Referring to the Transaction Agreement (the "Transaction Agreement") dated as of July 13, 1984 among Waste Management, Inc. ("WMI"), Genstar Coorporation ("Genstar"), Genstar Refuse Services Corporation ("GRS") and WM Acquiring Corp. ("WMAC"), WMI and WMAC propose to enter into an Option Agreement dated August 13, 1984 (the "Option Agreement") and an Acquisition Agreement dated August 13, 1984 (the "Acquisition Agreement") with SCA Services, Inc. ("SCA").

The Option Agreement grants to WMAC options to acquire (i) shares of common stock of SCA, $1.00 par value per share (the "Common Option Shares"), (ii) shares of Series A Preferred Stock of SCA (the "Preferred Option Shares") and (iii) certain assets, businesses and operations of SCA specified in the Option Agreement (the "Option Businesses"). The price at which the option respecting the Common Option Shares, the option respecting the Preferred Option Shares and the option respecting the Option Businesses is exercisable as provided in the Option Agreement is herein referred to as the "Option Exercise Price" respecting each such option. Due to the grant of such options to WMAC, this Agreement and Amendment is required in light of the purposes and objectives of the Transaction Agreement and is to be construed in accordance with such purposes and objectives. Otherwise than the specific amendment or modification to the Transaction Agreement as contemplated herein, this Agreement and Amendment does not otherwise amend or modify the Transaction Agreement in any other respect, it being specifically understood that all indemnities provided for in the Transaction Agreement shall remain in full force and effect and that the total capital investment by GRS in WMAC shall not exceed the $200 Million Limitation except pursuant to Section 1.5 of the Transaction Agreement or pursuant to paragraph I(3) below. If the options provided for in the Option Agreement are not exercised, this Agreement and Amendment shall not otherwise affect the provisions of the Transaction Agreement. Capitalized terms used herein have the meaning set forth in the Transaction Agreement, unless otherwise provided herein.

You and we agree as follows:

I. Common Option Shares and Preferred Option Shares

1. The options respecting the Common Option Shares or the Preferred Option Shares may only be exercised or assigned by WMAC upon the written concurrence of both WMI and GRS.

2. If and only if the Division Closing Date provided for in the Transaction Agreement shall occur, the costs of exercising any option under the Option Agreement relating to the Common Option Shares or the Preferred Option Shares shall be included as part of the Total Cost of Acquisition.

3. You and we shall make all appropriate capital contributions in a manner consistent with the terms of the Transaction Agreement, and in particular Section 1.4 thereof, as may be necessary to provide funds to WMAC to pay the exercise price of any such options on the basis of 60% by WMI and 40% by GRS (the "GRS Share Purchase Contribution"). If the capital contributions required to be made by GRS pursuant to the Transaction Agreement and the provisions hereof would exceed the $200 Million Limitation, GRS shall make such excess contribution, up to but not exceeding the amount of the GRS Share Purchase Contribution, if and only if WMI undertakes to refund such contribution (the "Refund Amount") within six months, with interest thereon at the Prime Rate from the date of the GRS Share Purchase Contribution to the date of the refund in the manner set forth below:

(a) any SCA Corporate Assets consisting of cash, commercial paper, treasury bills or other readily marketable short-term investments, at the option of WMI and/or WMAC, may be distributed to GRS (or in such other manner as Genstar or GRS may request) but only in an amount equal to the Refund Amount plus interest;

(b) if such refund is made by the distribution provided in subparagraph (a) above, the aggregate capital contributions made by GRS to WMAC and the Total Cost of Acquisition shall each be deemed reduced by the Refund Amount;

(c) if such refund is made directly by WMI otherwise than by the distribution provided for in subparagraph (a) above in (cash or otherwise as GRS and WMI may agree), the aggregate capital contributions made by GRS to WMAC shall be deemed reduced by the Refund Amount and the aggregate capital contributions made by WMI to WMAC shall be deemed increased by the Refund Amount;

(d) the assets so distributed shall not be considered SCA Corporate Assets for purposes of the Transaction Agreement; and

(e) the rights of GRS under Section 1.5 of the Transaction Agreement shall be determined after giving effect to any adjustments effected pursuant to this paragraph 3.

4. Any Option shares or Perferred Option Shares purchased by exercise of the option may only be transferred or sold by WMAC pursuant to paragraph I(5) hereof or upon the written concurrence of both WMI and GRS on all terms of the sale including price and identity of purchaser, and the voting by WMAC of all Common Option Shares and Preferred Option Shares purchased by exercise of the option shall be by mutual consent of GRS and WMI, except that if WMI purchases from GRS its Class B Common Stock of WMAC or if GRS purchases from WMI its Class A Common Stock of WMAC pursuant to Section 14.1 of the Transaction Agreement, then the party purchasing such WMAC stock thereafter shall have the exclusive right to determine the manner of disposition and voting of the Common Option shares and Preferred Option Shares purchased by exercise of the option and held by WMAC. If any of the Option Shares are disposed of prior to the disposition, if any, by GRS of its Class B Common Stock of WMAC pursuant to Section 14.1 of the Transaction Agreement, 40% of the proceeds from such disposition of Option Shares shall be distributed by WMAC of GRS and 60% of such proceeds shall continue to be held by WMAC or distributed in accordance with the instructions of WMI. For purposes of the purchase by WMI of the Class B Common Stock of WMAC pursuant to Section 14.1 of the Transaction Agreement, the aggregate capital investment made by GRS in WMAC shall (i) include the GRS Share Purchase Contribution (net of any Refund Amount refunded) and (ii) in the event of any distribution to GRS of proceeds of the sale of any Option Shares, be reduced by the lower to the GRS Share Purchase Contribution made in respect of such sold Option Shares (net of the proportionate amount of any Refund Amount refunded) and the proceeds of GRS of such sale of Option Shares.

5. Unless otherwise agreed between WMI and GRS, and Common Option Shares and Preferred Option Shares purchased by WMAC shall be treated pursuant to the Transaction Agreement in the same manner as SCA Shares purchased pursuant to the Tender Offer,

except that if no SCA Shares are purchased pursuant to the Tender Offer then as to any Common Option Shares and Preferred Option Shares held by WMAC on the date of Termination of the Transaction Agreement:

(a) 60% thereof shall continue to be held by WMAC or distributed in accordance with the directions of WMI; and

(b) 40% thereof shall be distributed to GRS.

II. Option Businesses

1. Those Option Businesses which are also listed on Exhibit A to the Transaction Agreement shall be treated as WMI Businesses for all purposes of the Transaction Agreement (herein the "WMI Option Businesses"), and those Option Businesses which are also listed on Exhibit B to the Transaction Agreement shall be treated as GRS Businesses for all purposes of the Transaction Agreement (herein the "GRS Option Businesses"). If, pursuant to Section 4.1 of the Transaction Agreement, or prior to distribution thereof pursuant to paragraph 5(a) below, as the case may be, WMI determines that ownership by WMI of any WMI Option Businesses might not be permitted under the antitrust laws, then in accordance (and in a manner consistent with) the procedures set forth in the Transaction Agreement, those businesses shall be added to the GRS Option Businesses.

2. You and we agree to make all capital contributions to WMAC pursuant to (and in a manner consistent with) the terms of the Transaction Agreement, and in particular Section 1.4 thereof, as may be necessary to provide funds to WMAC to pay the Option Exercise Price respecting the Option Businesses, as follows:

(a) By WMI in th amount of 60% of the Option Exercise Price of the Option Businesses; and

(b) GRS in the amount of 40% of the Option Exercise Price of the Option Businesses.

3. The Option Businesses acquired by exercise of the option shall be conducted by WMAC, from the date of such acquistion until the Division Closing Date or the date of distribution thereof pursuant to paragraph 5(a) below, in the manner provided for and on the same terms as are applicable under Article V of the Transaction Agreement to the conduct of SCA Businesses during the period from the date of consummation of the Tender Offer to the Division Closing Date. In all other respects, the Option Businesses acquired pursuant to exercise of the option shall be dealt with under the Transaction Agreement in the same manner as if they were acquired pursuant to the Merger provided for in the Transaction Agreement. The thirty-day period beginning after WMAC's acquisition of control of SCA after consummation of the Tender Offer during which neither WMI nor WMAC shall terminate SCA corporate level personnel as well as the ninety-day period following the acquisition of control of SCA during which WMI and WMAC will give notice to GRS of any proposed termination of SCA employees, referred to in the last paragraph of Section 5.1 of the Transaction Agreement shall with respect to the corporate level personnel associated with the Option Businesses commence on the date on which the Option Businesses are acquired by WMAC by exercise of the option.

4. If the Division Closing Date provided for in the Transaction Agreement occurs, then, as to the WMI Option Businesses and GRS Option Businesses which have been acquired by WMAC on exercise of the option:

(a) the aggregate amount of the capital contributions respecting the Option Exercise Price of the Option Businesses and the costs and expenses of the type referred to in Section 4.3(a)(vi) relating to this Agreement and Amendment, the Option Agreement and the Acquisition Agreement shall be included in the Total Cost of Acquisition;

(b) the valuation procedures set forth in Article IV of the Transaction Agreement shall apply and the Option Exercise Price of the Option Businesses shall not affect such procedures; and

(c) WMAC shall transfer the GRS Option Businesses to GRS on the Division Closing Date.

5. If the Division Closing date provided for in the Transaction Agreement does not occur; then upon termination of the Transaction Agreement:

(a) The WMI Option Businesses shall be retained by WMAC or distributed to or at the direction of WMI and the GRS Option Bussinesses shall be transferred to GRS upon the same terms and in the same manner as provided in Article VI of Transaction Agreement. For purposes of Article VI and Section 4.8 of the Transaction Agreement, the date of such transfer shall be deemed the "Division Closing Date."

(b) The provisions of Article IV of the Transaction Agreement shall be applied to any SCA Corporate Assets, the WMI Option Businesses and the GRS Option Businesses acquired by WMAC upon exercise of the option and

(1) WMI shall prepare the financial description required by Section 4.2(a) of the Transaction Agreement of each individual GRS Option Business, WMI Option Business and SCA Corporate Asset as promptly as practicable after the acquisition by WMAC of such businesses, using the valuation procedures set forth in Exhibit C to the Transaction Agreement, the time periods for the commencement of which valuation procedures shall commence on the date of the acquisition by WMAC of the Option Businesses upon exercise of the option.

(ii) The Option Exercise Prices of the GRS Option Businesses or WMI Option Businesses acquired upon exercise of the option and those costs and expenses of the type referred to in Section 4.3(a)(vi) relating to this Agreement and Amendment, the Option Agreement and the Acquisition Agreement shall be included in the Total Cost of Acquisition.

(iii) The 60-day period provided for in Section 4.6 of the Transaction Agreement during which GRS may identify those SCA Corporate Assets it desires to acquire shall commence on the date of the acquisition by WMAC of the Option Businesses upon exercise of the option.

(c) The provisions of the Articles VII and VIII of the Transaction Agreement shall apply to the GRS Option Businesses except that references to the "Division Closing Date" in Article VII and VIII and in the terms "Disposition Adjustment Date" and "Minimum Disposition Price" used in Article VIII shall be changed to the "date of transfer to GRS of the GRS Option Businesses purchased pursuant to the exercise of the option."

(d) The $5,000,000 fee provided for in Section 14.2(b) of the Transaction Agreement shall not be payable if WMAC exercises the option and acquires the Option Businesses but no other SCA businesses thereafter. If, after acquisition of the Option Businesses by exercise of the option, the Transaction Agreement is terminated and WMI otherwise acquires additional assets businesses or operations of SCA, the $5,000,000 fee shall be payble if those additional assets, businesses or operations represent all or a substantial portion of the assets, businesses and operations of SCA exclusive of the Option Businesses.

(e) With respect to Section 14.2(c) of the Transaction Agreement, each party shall share its Investment Profit with the other in the same proportion as the Apportioned Cost of the Option Businesses acquired by such party bears to the Total Cost of Acquisition.

6. If the Option Businesses are to be purchased by WMAC pursuant to exercise of an option under the Option Agreement, WMI agrees to give to GRS prior written notice of such proposed exercise.

7. If the Option Businesses are acquired by exercise of the option, then upon termination of the Transaction Agreement all provisions thereof which are necessary to accomplish the purposes of this Agreement and Amendment shall survive the termination of the Transaction Acquisition Agreement.

8. The Acquisition Agreement is deemed to amend Article V of the Transaction Agreement to the extent that such Article V is inconsistent with the provisions of the Acquisition Agreement.

III. Other Amendments

Section 16.2 of the Transaction Agreement shall be deleted and in its place shall be inserted the following:

Section 16.2. *Expenses.* If this Agreement is terminated without the Merger having taken place and without the acquisition of any Option Businesses by WMAC, all costs and expenses incurred by WMI and GRS prior to such termination in connection with this Agreement, the Amendment thereto, the Option Agreement and the Acquisition Agreement and the transactions contemplated hereby and thereby, including but not limited to fees and expenses of investment banking and financial advisers, engineers and technical consultants, appraisers and legal counsel and printing and mailing costs and other fees, charges and expenses relating to the Tender Offer, the Merger, this Agreement, the Amendment thereto, the Option Agreement and the Acquisition Agreement and the transactions contemplated hereby and thereby, shall be shared on the basis of 60% by WMI and 40% by GRS.

Please acknowledge your agreement to the foregoing by executing the enclosed copy of this letter and returning the copy so signed to us.

Very truly Yours,
Waste Management, Inc.
J. Steven Bergerson,
Vice President. General Counsel.
WM Acquiring Corp.
J. Steven Bergerson,
Vice President.

Agreed and accepted as of the date first above written

Genstar Corporation
R. J. Turner,
Chairman of the Board.
Genstar Refuse Services Corporation
R. J. Turner,
Chairman.

Waste Management, Inc., WM Acquiring Corporation, 3003 Butterfield Road, Oak Brook, Illinois

Genstar Corporation,
Genstar Refuse Services Corporation, Suite 3800, Four Embarcadero Center, San Francisco, California 94111.

September 11, 1984.

Second Amendment to Transaction Agreement

Gentlemen: Reference is made to the Transaction Agrement dated as of July 13, 1984, as amended by the Agreement and Amendment to Transaction Agreement dated August 13, 1984 (such Transaction Agreement and Agreement and Amendment are hereinafter referred to as the "Transaction Agreement") among Waste Management, Inc. ("WMI"), Genstar Corporation ("Genstar"), Genstar Refuse Services Corporation ("GRS") and WM Acquiring Corporation ("WMAC"). Unless otherwise defined herein, all terms defined in the Transaction Agreement are used herein as therein defined. The parties to the Transaction Agreement hereby agree that, effective as of the date hereof, the Transaction Agreement is hereby further amended as follows:

1. Exhibit A and Exhibit B attached hereto replace Exhibit A and Exhibit B to the Transaction Agreement. The assets, businesses and properties of SCA added to Exhibit B (which are denoted by an asterisk) shall be treated as GRS Businesses for all purposes of the Transaction Agreement and shall be deemed to have been added to Exhibit B for purposes of Section 1.5 of the Transaction Agreement except that Barton Landfill, South Roxanna, Illinois shall not be deemed to have been added to Exhibit B for purposes of Section 1.5 of the Transaction Agreement.

2. The solid waste landfill, operations and equipment at Sulphur, Kentucky owned by WMI and designated on Exhibit B shall be deemed to be part of the SCA assets, businesses and operations for all purposes of the Transaction Agreement and WMI agrees to transfer, of cause to be transferred, on the Division Closing Date, all of its right, title and interest in such solid waste landfill, operations and equipment to GRS subject, except as otherwise provided in this Amendment, to all of the terms and conditions of the Transaction Agreement, and WMI further agrees to indemnify and hold harmless GRS and Genstar and their Affiliates from and against all liabilities, claims or losses arising from the ownership or operation of such landfill prior to the transfer thereof to GRS.

3. The proposed chemical waste landfill site at Northwood, Ohio owned by WMI and designated on Exhibit B shall be deemed to be a part of the SCA assets, businesses and operations for all purposes of the Transaction Agreement and WMI agrees to transfer, or cause to be transferred, on the Division Closing Date, all of its right, title and interest in such proposed chemical waste landfill to GRS subject, except as otherwise provided in this Amendment, to all of the terms and conditions of the Transaction Agreement, and WMI further agrees to indemnify and hold harmless GRS and Genstar and their Affiliates from and against all liabilities, claims or losses arising form the ownership or operation of such landfill during the time it was owned or operated by WMI or any direct or indirect subsidiary of WMI.

4. The properties transferred to GRS pursuant to paragraphs numbered 2 and 3 above shall be treated as GRS Businesses under the Transaction Agreement for all purposes, including the valuation thereof, except for purposes of Section 1.4(b)(ii) and Section 1.5(d)(ii) thereof. Accordingly, such properties may not be rejected by GRS pursuant to said Section 1.5 nor shall the value of such properties be taken into account when applying the $200 Million Limitation.

5. In the event that the Merger (as that term is defined in the Transaction Agreement) is consummated pursuant to Section 253 of the Delaware Business Corporation Law, the term "Division Closing Date" shall be amended to mean "the date which shall be as promptly as practicable after the Effective Time of the Merger, but in no event more than twenty business days thereafter, and on which date the GRS Businesses and the SCA Corporate Assets acquired by GRS shall be distributed to GRS."

6. Reference is made to (i) that certain Stipulation dated September 11, 1984 (the "Stipulation") entered into between the parties to the acton entitled *United States of America* vs. *Waste Management, Inc. et al.* in the United States District Court for the District of Columbia (Civil Action No. ———) and to be filed with such Court on September 12, 1984 (the plaintiff in such action being hereinafter referred to as the "Plaintiff"); (ii) the related proposed Final Judgment attached thereto (the

"Final Judgement") to be filed therewith; and (iii) the related Voluntary Submission to the Jurisdiction of the Court dated September 11, 1984 (the "Submission") to be filed with such Court on September 12, 1984 on behalf of Genstar and GRS. The parties hereto have agreed to certain provisions of the Final Judgment which modify or affect the rights and obligations of the parties as heretofore agreed upon pursuant to the Transaction Agreement as heretofore amended. The agreements and undertakings contained in Articles VI, VII, and VIII of the Final Judgment pursuant to which any party hereto obligates itself to or for the benefit of another party hereto are hereby incorporated herein by reference and shall be deemed agreements and undertakings made pursuant to this agreement with the same force and effect as if they were actually included herein.

7. If after any election by GRS pursuant to Section 8.2 or 8.6 of the Transaction Agreement, GRS reaches a bona fide agreement or understanding in good faith with a third party for the disposition of any GRS Business with respect to which such election has been made, as contemplated by Section 8.3(a) of the Transaction Agreement, or WMI reaches an agreement or understanding with a substitute party in accordance in Section 8.3(b) of the Transaction Agreement, and the Plaintiff objects to the proposed sale to such third party of such GRS Business (or, in the event such substitute party is found, to such substitute party) pursuant to Section IX(C) of the Final Judgment, then as soon as practicable such GRS Businesses shall be transferred to and shall be vested in the trustee appointed in accordance with the Final Judgment. In such event (i) Genstar, GRS and their Affiliates shall be indemnified and held harmless by WMI with respect to such GRS Business or Businesses to the same extent and upon the same terms as were contained in the proposed agreement or understanding with such third party; and (ii) promptly after such objection by the Plaintiff, GRS shall be paid by WMI in respect of such GRS Business or Businesses the consideration for which such third party (or, in the event such substitute party is found, such substitute party) proposed to acquire such GRS Business or Businesses. Thereafter, in the event such election was pursuant to Section 8.2 of the Transaction Agreement, GRS shall also be paid by WMI pursuant to Sections 8.5 and 8.7 of the Transaction Agreement in respect of such GRS Businesses. In the event that GRS operates and manages any such GRS Business after transfer thereof to such trustee as contemplated in the Final Judgment, GRS shall be compensated and shall receive reimbursement from WMI for the period that GRS operates and manages such GRS Business upon the terms set forth in clauses (z) and (y), respectively, of Section 1.5(e) of the Transaction Agreement.

8. If after any election by GRS pursuant to Sections 1.5, 8.2 or 8.6 of the Transaction Agreement any or all of the GRS Businesses are not sold by GRS or WMI within six months after such election, such GRS Businesses shall be transferred to and shall be vested in a trustee, appointed in accordance with the Final Judgment, six months after such election by GRS with respect to such GRS Business. In such event: (i) Genstar and GRS and their Affiliates shall be indemnified and held harmless by WMI with respect to such GRS Businesses to the same extent and upon the same terms as set forth in clause (x) of Section 1.5(e) of the Transaction; and (ii) in the event such election by GRS shall have been made pursuant to Section 8.2 of the Transaction Agreement, GRS shall be paid by WMI in accordance with Sections 8.5 and 8.7 of the Transaction Agreement in respect of such GRS Businesses and for such purpose such GRS Businesses shall be deemed to have been disposed of for no consideration on the date six months after such election by GRS; and in the event such election by GRS shall have been made pursuant to Section 8.6 of the Transaction Agreement, GRS shall be paid by WMI in accordance with the last sentence of Section 8.6(a) of the Transaction Agreement with respect to all such GRS Businesses. In the event that GRS operates and manages such GRS Businesses after transfer thereof to such trustee as contemplated in the Final Judgment, GRS shall be compensated and shall receive reimbursement from WMI for the period that GRS operates and manages such GRS Businesses upon the terms set forth in clauses (z) and (y), respectively, of Section 1.5(e) of the Transaction Agreement.

9. In the event of an election by GRS to terminate the Transaction Agreement pursuant to Section 14.1(b) thereof, as soon as practicable after such election the GRS Businesses shall be transferred to and shall be vested in a trustee appointed in accordance with the Final Judgment. In such event: (i) Genstar and GRS and their Affiliates shall be indemnified and held harmless by WMI with respect to such GRS Businesses to the same extent and upon the same terms as set forth in clause (i) of Section 14.1(c) of the Transaction Agreement; and (ii) GRS shall be paid in accordance with Section 14.1(c) of the Transaction Agreement in respect with its Class B Common Stock of WMAC. In the event that GRS operates and manages such GRS Businesses after transfer thereof to such trustee as contemplated in the Final Judgment, GRS shall be compensated and shall receive reimbursement from WMI for the period that GRS so operates and manages such GRS Businesses upon the terms set forth in clauses (ii) and (iii) of Section 14.1(c) of the Transaction Agreement.

10. In the event that the Division Closing Date shall not have occurred by twenty (20) days prior to the Election Date (as defined in the Final Judgment) then GRS shall have the right to make the elections contemplated in Section 8.2 of the Transaction Agreement, and Genstar and GRS shall have all the rights contemplated under the Transaction Agreement which result from any such election, notwithstanding the non-occurrence of the Division Closing Date. In the event that the Division Closing Date shall not have occurred by November 30, 1984, for purposes of the 10 percent of revenues test in the first clause of Section 8.6(a) of the Transaction Agreement, Division Closing Date shall be deemed to have occurred on November 30, 1984 and GRS shall have the right to make the election contemplated in Section 8.6, and shall have all the rights contemplated under the Transaction Agreement which result from any such election, notwithstanding the non-occurrence of the actual Division Closing Date.

Please acknowledge your agreement to the foregoing by executing the enclosed copy of this letter and returning the copy so signed to us.

Very truly yours,
Waste Management, Inc.
J. Steven Bergerson,
Vice President and General Counsel.
WM Acquiring Corporation,
J. Steven Bergerson,
Vice President.

Agreed to and accepted as of the date first written above.
Genstar Corporation,
J. E. Hartz,
Senior Vice President
Genstar Refuse Services Corporation,
J. E. Hartz,
Vice President.

Exhibit A.—WMI Businesses

Set forth below is a listing of the cities, counties, municipalities and other areas where the businesses or operations of SCA

are to be retained by WMI, subject to the terms and conditions of this Agreement. Unless otherwise indicated, all businesses and operations in the locations set forth below are collection operations.
Little Rock, Arkansas
Little Rock, Arkansas (Solid waste landfill)
Pine Bluff, Arkansas
Pine Bluff, Arkansas (Solid waste landfill)
Mobile, Alabama
Tucson, Arizona
Baadlwin Park, California
Cathedral City, California
Irvine, California
Oceanside, California
Orange County-Santa Ana, California
Sacramento, California
New Milford, Connecticut
New Milford, Connecticut (Solid waste landfill)
Tallahassee, Florida
Tallahassee, Florida (Solid waste landfill)
Atlanta, Georgia (Proposed solid waste landfill)
Dalton, Georgia
Savannah, Georgia
Chicago, Illinois (Chemical waste incinerator)
Fort Wayne, Indiana
Fort Wayne, Indiana (Chemical waste landfill)
Muncie, Indiana
Louisville, Kentucky
Louisville, Kentucky (Solid waste landfill)
Louisville-Campground, Kentucky (Solid waste landfill)
Shreveport, Louisiana
Amesbury, Massachusetts (Closed solid waste landfills)
Berkeley, Massachusetts (Closed solid waste landfill)
Braintree, Massachussetts (Chemical waste incinerator and transfer station)
Haverhill, Massachussetts (Solid waste landfill)
Lawrence, Massachussetts (Bio-medical/chemical waste incinerator)
Shayne (Temple Hills), Maryland
Portland, Maine
Romeo, Michigan (Closed Solid waste landfill)
Saginaw, Michigan
St. Louis-Chain of Rock, Illinois (Solid waste landfill)
St. Louis-Milam, Illinois (Solid waste landfill)
Londonderry, New Hampshire
Howell, New Jersey (Closed solid waste landfill)
Mt. Holly, New Jersey (Solid waste landfill)
Newark, New Jersey (Chemical waste detoxification facility)
Rio Grande, New Jersey
Bordentown and Trenton, New Jersey (Solid waste landfills)
Vineland, New Jersey
Buaffalo, New York (Chemical waste transfer facility)
Model City, New York (Chemical waste landfill)
Utica, New York
Utica, New York (Solid waste landfill)
Canton, Ohio
Canton, Ohio (Solid waste landfill)
Cleveland, Ohio
Cleveland, Ohio (Solid waste landfill)
Dayton, Ohio (Closed solid waste landfill)
Findley, Ohio
Lima, Ohio
Lima, Ohio (Solid waste landfill)
St. Paris, Ohio (Solid waste landfill)
Tiffin, Ohio
Tiffin, Ohio (Solid waste landfill)
Troy, Ohio (Solid waste transfer facility)
Youngstown, Ohio
Oklahoma City, Oklahoma
Oklahoma City, Oklahoma (Solid waste landfill)
Portland, Oregon
Broomall, Pennsylvania
Elizabethtown, Pennsylvania
Honeybrook, Pennsylvania
Lancaster, Pennsylvania
Philadelphia, Pennsylvania
Pottstown, Pennsylvania
Pottstown, Pennsylvania (Solid waste landfill)
York, Pennsylvania
York, Pennsylvania (Solid waste landfill)
York, Pennsylvania (Closed solid waste landfill)
Charleston, South Carolina
Charleston, South Carolina (Solid waste landfill)
Jackson, Tennessee
Memphis, Tennessee
Memphis/Shelby County, Tennessee (Proposed chemical waste treatment facility)

Exhibit B.—GRS Businesses

Set forth below is a listing of the cities, counties, municipalities and other areas where the businesses or operations of SCA are to be distributed to GRS, subject to the terms and conditions of this Agreement. Unless otherwise indicated, all businesses and operations in the locations set forth below are collection operations.
(i)—
SCA Services of Chandler (Chandler, Arizona)
Chandler Landfill (Chandler, Arizona)*
SCA Services of Phoenix (Phoenix, Arizona)
Sani-Tainer, Inc. (San Diego, California)
Chula Vista Sanitary Service (excluding Oceanside business) (Chula Vista, California)
System Disposal Service (Cudahy, California)
SCA Services of Colorado (Denver/Arvada, Colorado)
SCA Services of Florida (excluding SCA Services of Tallahassee and Tallahassee Landfill operating centers (West Palm Beach and *Port St. Lucie, Florida)
Twin City Paper (West Palm Beach, Florida)*
SCA Services of Tampa (Tampa, Florida)
SCA Services of Atlanta (excluding proposed Atlanta Landfill) (Atlanta, Georgia)
Barton Landfill (South Roxanna, Illinois)*
Tyler Landfill (Sulphur, Kentucky)
United Disposal Corporation (Gaithersburg, Maryland)
Triangle Resources (Laurel, Maryland)*
Berkley Div./Cal's Collection (including paper recovery) (Assonett, Massachusetts)
Eastern Collection (Rowley, Massachusetts)
Eastern Transfers (transfer stations) (diverse locations in Massachusetts)
J. K. Municipal (Rowley, Massachusetts)
Howard Disposal (including transfer station) (South Boston, Massachusetts)
Bell Pick-Up Service (Grand Rapids, Michigan)
Independent Collection (Muskegon, Michigan)
Independent Landfill (Muskegon, Michigan)
Commercial Removal (including Southfield and Livonia transfer stations) (Southfield, Michigan)
SCA Services of Detroit (including transfer station) (Dearborn, Michigan)
SCA Services of Pontiac (Pontiac, Michigan)
United Disposal (St. Louis, Missouri)
S&T Hauling (O'Fallon, Missouri)
Interstate Waste Removal Co. (including transfer station permit (Trenton, New Jersey)
Triangle Resources (Reidsville, North Carolina)*
Acme Industrial Waste Services (excluding Canton and Youngstown Businesses (Akron, Ohio)
SCA Services of Dayton (excluding closed Dayton landfill) (Dayton, Ohio)
SCA South Carolina (Chemical landfill) (Pinewood, South Carolina)*
SCAT (including kitty litter) (Pinewood, South Carolina)*
Triangle Resources (Greenbrier, Tennessee)*
SCA Services of Ft. Worth (Ft. Worth, Texas)
Ft. Worth Landfill (Ft. Worth, Texas)
SCA Services of Dallas (Dallas, Texas)

Names and locations of operating centers are given for identification purposes and do not necessarily reflect the acutal or legal name of the operation or the geographical location of all relevant assets. The listing of certain transfer stations shall not be construed to exclude other transfer stations not listed if such other transfer stations would constitute an asset of a GRS business within the meaning of the Transaction Agreement:

*(ii) any right, interest or contract of SCA in or with SeaBurn Inc. or Stolt-Nielsen, Inc.;

*(iii) any right, interest, asset or contract of SCA relating to its proposed hazardous waste treatment permit and site in Laurinburg, North Carolina;

(iv) any right, interest, asset or contract of SCA relating to existing, closed and any proposed solid waste landfill sites and permits in the Denver, Colorado* and Ft. Worth, Texas metropolitan areas;

(v) any right, interest, asset or contract or WMI relating to its proposed hazardous waste landfill permit and site (a ninety-acre site on the LOF property bounded on the west by Wales Road and on the north by the Chesapeake and Ohio R.R.) in Northwood, Ohio;

*(vi) any right, interest, asset or contract of SCA relating to its proposed resource recovery permit and site in San Marcos, California; and

*(vii) three million dollars in business (approximately one-half of which shall be roll-off business and one-half front load business) and all assets and operations primarily relating to such business in Orange County, California that will be spun-off from SCA's Orange County operations.

United States District Court, for the District of Columbia

United States of America, Plaintiff, v. *Waste Management, Inc. and WM*

Acquiring Corp., Defendants. Civil Action No. 842832; filed: Sept. 12, 1984.

Competitive Impact Statement

The United States, pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act ("APPA"), 15 U.S.C. § 16(b)-(h), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I.—Nature and Purpose of the Proceeding

On September 12, 1984, the United States filed a civil antitrust Complaint under Section 15 of the Clayton Act, 15 U.S.C. § 25, challenging the proposed acquistion of SCA Services, Inc. ("SCA") by Waste Management, Inc. ("WMI") as a violation of Section 7 of the Clayton Act, 15 U.S.C. § 18. Named as defendants in the Complaint were WMI and WM Acquiring Corp. ("WMAC"), a corporation formed by WMI for the purpose of acquiring SCA. The Complaint alleges that the effect of the acquisition may be substantially to lessen competition in the provision of a number of solid waste collection and disposal services in 20 local geographic markets throughout the United States and substantially to lessen competition in the provision of hazardous waste landfill services in the southeastern United States and portions of the midwestern United States. The Complaint seeks a permanent injunction preventing defendants from consummating the proposed acquisition or any similar plan whereby WMI or WMAC would acquire any securities or assets of SCA.

Plaintiff and defendants have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify and enforce the proposed Final Judgment.

II.—Events Giving Rise to the Alleged Violation

A. The Transaction

On August 13, 1984, WMI announced that it had reached an agreement with SCA Services, Inc., ("SCA") to purchase all the common stock of SCA. Under the terms of the agreement, WMAC would make a cash tender offer for the SCA stock, with funds provided by WMI and Genstar Corporation ("Genstar"). After completion of the tender offer, SCA would be merged into WMAC and the assets of SCA divided between WMI and Genstar Refuse Services Corporation ("GRS"), a wholly owned subsidiary of Genstar.

WMI is the largest company in the United States in the business of providing waste collection and disposal services, and ranks first in revenues from both solid waste and hazardous waste management. SCA is the third largest company in the United States in the business of providing waste collection and disposal services, and ranks third in revenues from solid waste management and fourth in revenues from hazardous waste management. WMI competes directly with SCA in the collection and disposal of solid waste in many local markets across the country which are either moderately or highly concentrated. WMI and SCA also provide hazardous waste treatment and disposal services to commercial gnerators at facilities in a number of areas of the United States, and have disposal facilities that compete directly with each other in the Southease and Midwest.

Genstar is a Canadian corporation with headquarters in San Francisco. It is engaged principally in the manufacture and supply of building materials and services, the development of land and real estate and the provision of financial services. Genstar operates solid waste landfills in the western and southwestern United States, but provides no collection services and does not operate in any geographic area in which WMI or SCA currently provides waste disposal services. Genstar is also a potential entrant into the hazardous waste management business both in Canada and in California, where it is seeking approval to reopen an idle cement plant and use it in part to incinerate hazardous waste.

Genstar's role in the proposed acquisition is to provide a solution to the antitrust problems that would otherwise be posed by WMI's acquisition of SCA. Under the terms of an Agreement signed between WMI and Genstar on July 13, 1984, and amended August 13, 1984 and September 11, 1984, if WMI determines that its ownership of any SCA business might not be permitted under the antitrust laws, it may designate that business and Genstar will acquire it, through its subsidiary, GRS. Further, under the terms of the Acquisition Agreement reached between WMI, SCA, WMAC, Genstar and GRS on August 13, 1984, WMI is obligated to designate for divestiture all assets or businesses of SCA disposition of which is required in order to secure approval for the tender offer from the Antitrust Division.

B. Solid Waste

Solid waste collection and disposal is the collection of paper, food, construction material and other solid wastes from residential, commercial and industrial customers and the disposal of such wastes in a sanitary landfill. Collection from residential, commercial and industrial customers are distinct services, defined by the different types of service and equipment used for each. For example, residential collection is generally hand-load collection, whereas almost all commercial collection is containerized service provided by front load and rear load equipment. Industrial customers are generally served by roll-off equipment.

The geographic market for solid waste collection services is generally a local one, essentially defined by transportation economics and political jurisdictions. Within a given local market, collection services may be provided by a number of haulers who compete freely with each other and contract directly with their customers for collection services. Collection may also be provided under a system of municipal franchises or under a municipal contract. In the case of a franchise, a hauler is granted the right, normally exclusive, to collect specified solid wastes generated in specified areas, and is usually paid by the customers serviced. Under a contract, the hauler contracts with a local authority to collect specified wastes in a specified area, and is paid directly by that authority.

Within a given local market there is continuous competition among companies providing collection services directly to residential, commercial and/or industrial customers. In the case of an exclusive contract or franchise, there is no competition for the service covered by the contract or franchise during its term. These contracts or franchises are generally awarded periodically through a competitive bidding procedure, however, and thus there is competition periodically to obtain them. Moreover, a company may bid on a large municipal contract or franchise even though it is not providing solid waste collection or disposal services in the local market covered by that contract or franchise. Large waste management companies such as WMI and SCA bid on large municipal contracts and franchises throughout the United States.

Solid waste disposal services, like solid waste collection services, are provided in local geographic markets. There are substantial barriers to entry in the provision of solid waste disposal

services arising from the regulatory requirements for establishing sanitary landfills, and there is competition for the control of or access to these sites in and around the collection markets. Sanitary landfills may be owned and operated by private companies or by governmental authorities, or may be owned by governmental authorities and operated by a waste management company pursuant to a contract.

WMI and SCA both provide solid waste collection and disposal services in numerous local geographic markets throughout the United States, through various affiliates and subsidiaries. There is substantial direct competition between them in commercial solid waste collection and in industrial solid waste collection in 14 local geographic markets, and there is substantial direct competition between them in residential solid waste collection in 14 local geographic markets, some of which are the same. There is also substantial direct competition between them in the provision of solid waste disposal services in the Fort Worth, Texas and Louisville, Kentucky geographic markets. All these geographic markets are at least moderately concentrated, with HHIs in excess of 1000, and the acquisition of SCA by WMI would increase the HHIs in each market by at least 100. In addition, WMI and SCA are two of a small number of waste management companies that compete for large municipal collection and disposal contracts and franchises throughout the United States.

C. Hazardous Waste

Hazardous waste management is separate and distinct from solid waste management, and consists of the transportation, treatment, storage and disposal of hazardous waste. Commercial hazardous waste firms offer off-site treatment and disposal services to generators of the waste.

The provision of hazardous waste management services is regulated by the United States Environmental Protection Agency ("EPA") and by the states pursuant to the Resource Conservation and Recovery Act of 1976 ("RCRA"). In addition, treatment and disposal of polychlorinated biphenyls ("PCB"), a cancer-causing compound long used in electrical equipment manufacture but now banned by law, is regulated under the Toxic Substances Control Act ("TOSCA"). Hazardous waste treatment or dosposal facilities operate under RCRA permits issued by EPA, or by states that have qualified to manage their own RCRA regulatory programs, or under permits issued under TOSCA to treat or dispose of PCB. Such facilities also require local zoning and operating approvals. The costs and uncertainties of this pervasive regulatory scheme, as well as long-term liabilities imposed upon disposers of hazaradous waste for future adverse environmental effects, constitute substantial entry barriers into commercial hazardous waste management services.

The most common and least expensive method of disposal of hazardous waste in a solid state is burial in a secure chemical landfill. Secure chemical landfills are distinguished from sanitary landfills by higher technological and opertating standards, including the use of barriers to separate incompatible wastes, clay or synthetic liners, leachate collection and monitoring systems. For many hazardous wastes there will be no feasible alternative to landfilling in the foreseeable future, and many treatment options produce residues which are themselves hazardous wastes requiring burial in a secure chemical landfill.

In analyzing the effect of the proposed acquisition on competition, we concluded that commercial off-site hazardous waste management is a market separate from on-site management by the companies that generate the waste. We also concluded that within the commercial hazardous waste management business there are definable markets, and that for purposes of measuring the competitive impact of this acquisition landfilling of hazardous wastes and incineration of polyclorinated biphenyls (PCB) are relevant markets. In addition, regulatory costs and organized local opposition to the permitting of new treatment or disposal sites also constitute substantial barriers to new entry.

At present there are 38 secure chemical landfills in the United States temporarily permitted to accept hazardous waste, and increasingly stringent regulatory requirements make it very likely that many secure chemical landfills now in operation will be closed. WMI operates a secure chemical landfill at Emelle, Alabama. SCA operates a secure chemical landfill at Pinewood, South Carolina. These two facilities are the only landfills in the southeastern United States permitted to accept hazardous waste. They compete for customers throughout the Southeast, but especially in areas of Florida, Georgia and Tennessee where neither enjoys a significant transportation cost advantage over the other and their customers have no feasible landfilling alternatives.

WMI and SCA also compete substantially with one another in providing hazardous waste landfilling services in portions of the midwestern United States. WMI operates a secure chemical landfill near Toledo, Ohio (the Evergreen landfill). SCA operates a secure chemical landfill in Fort Wayne, Indiana (the Adams Center landfill). Evergreen and Adams center compete with three other landfills for customers in central and eastern Indiana, western Ohio, Michigan, and Kentucky. The HHI in this hazardous waste disposal market is at least 2000. The acquisition of SCA by WMI would increase the HHI by substantially more than 100.

SCA also operates hazardous waste treatment or disposal facilities in Massachusetts, New York and New Jersey. WMI has no facilities in the Northeast. WMI operates treatment and disposal facilities along the Texas and Lousiana gulf coasts and on the West Coast. SCA has no competing facilities in either of these regions.

III.—Explanation of the Proposed Final Judgment

Plaintiff and defendants have stipulated that the proposed Final Judgment may be entered by the Court at any time after compliance with the APPA. The proposed Final Judgment constitutes no admission by any party as to any issue of fact or law. Under the provisions of Section 2(e) of the APPA, entry of the proposed Final Judgment is conditioned upon a determination by the Court that the proposed Final Judgment is in the public interest.

A. Divestiture

The proposed judgment is designed to ensure that the acquisition of SCA by WMI does not substantially lessen competition in the provision of solid waste collection or disposal services or in the provision of hazardous waste management services in any geographic area in the country, by requiring that WMAC divest to GRS either the SCA operation or the WMI operation in all cases in which there is substantial competition between WMI and SCA. Under this decree, GRS will acquire 26 SCA solid waste collection operations, including those in the 19 geographic markets alleged in the complaint. It will acquire five SCA solid waste disposal operations, including the one in the Fort Worth, Texas market, and will acquire the WMI Tyler landfill in the Louisville, Kentucky geographic market alleged in the Complaint. It will also acquire SCA's Pinewood, South Carolina hazardous waste landfill, together with the transfer stations affiliated with it, and WMI's interest in a proposed hazardous waste

landfill permit and site in Northwood, Ohio.

Thus, in any local or regional market in which there is currently substantial competition between SCA and WMI, the proposed transaction will result in a new and different competitor, GRS, rather than an increase in concentration. Moreover, because all these operations will be divested to a single, large company which will have waste collection and disposal operations throughout the United States, the new competitor will be a major competitive factor in the waste collection and disposal business. GRS should be in a good position to compete effectively with WMI in bidding for large municipal contracts and franchises throughout the county. It should also be in a good position to compete with WMI in the hazardous waste management business, which has substantial barriers to entry and requires considerable resources. In this connection, the decree also requires divestiture of any interest SCA may have in Triangle Resources, which has hazardous waste transfer stations and clean-up operations; in SeaBurn Inc., which is a potential entrant into ocean incineration of hazardous waste; and in a proposed hazardous waste treatment/incineration facility in Laurinburg, North Carolina, all of which should enhance GRS' ability to compete with WMI in the future as a full-service hazardous waste management firm.

The decree also provides for the creation of a new, $3 million solid waste collection business in Orange County, California, which will be divested to GRS. WMI and SCA do not currently compete in Orange County. SCA does business there, however, and in 1983 made an acquisition of a competitor, Toro Disposal Inc., which the Division believes violated Section 7 of the Clayton Act. The two businesses have been merged in a way that makes divestiture impracticable, but the parties have agreed, as part of this judgment, to divest a portion of the existing SCA Orange County operation, approximating Toro in size and service area, to remedy the antitrust problems created by that acquisition.

Under the terms of this judgment, upon consummation of the tender offer GRS will acquire possession and operational control of those assets to be divested to it. Title will pass within 20 days of the consummation of the merger. GRS has the option of refusing to take one or more of the designated businesses if its required capital contribution would thereby exceed certain agreed-upon limits. It also has the option of disposing of any of the designated businesses, or of disposing of all of them if it fails to realize an agreed-upon return. In the event that it exercises any of these options, GRS is nevertheless obligated to operate and manage the businesses for a period of six months after they are transferred to a trustee for sale.

In the event that GRS elects to refuse or to offer for sale some or all of the businesses it acquires from WMAC, the decree provides that GRS and WMI may attempt to sell those businesses, as ongoing businesses and subject to the approval of the United States. If the businesses have not been sold within six months after such election, they are divested to a court-appointed trustee for sale. Similarly, if Genstar should terminate the Transaction Agreement under the very limited circumstances provided therein, the businesses to be divested to it will be disposed of by a trustee. Under the terms of this Final Judgment, the trustee serves at WMI's expense, and has full power and authority to dispose of those businesses at such price and upon such terms as are then obtainable. The sale must be made in such a manner as to ensure that the businesses will be sold as ongoing businesses, however, and must be approved by the United States or, if the United States objects, by the Court.

All the parties to the tender offer and divestiture are bound to take all reasonable steps to insure that the businesses acquired by GRS are operated independently and separately from WMI. In addition, WMI is prohibited from exercising or attempting to exercise any control over those businesses, either directly or indirectly, and is limited in its access to confidential business information relating to those businesses.

B. Other Provisions

The proposed Final Judgment contains a five-year injunction against further acquisitions by WMI of a significant interest in firms that provide or as seeking to provide PCB incineration services or that provide hazardous waste landfill services. Under this injunction, WMI may not acquire any assets from or more than 5% of the voting securities of such a company without first obtaining approval from the United States or from the Court. Moreover, if the United States objects to the acquisition, WMI has the burden of proving that it will not violate Section 7 of the Clayton Act if it seeks Court approval.

The proposed Final Judgment also requires for a period of 5 years that, if WMI seeks to acquire more than a 5% interest in any company that provides other hazardous waste management services and has annual revenues of $3 million or more, or in any company with annual revenues of $3 million or more from solid waste collection or disposal services that compete with WMI, it must first give the United States 45 days' written notice. This is an important provision from the perspective of future antitrust enforcement in these industries, where concentration has been increasing through acquisitions, many of which are sufficiently small that no pre-merger notification is required under the Hart-Scott-Rodino Antitrust Improvements Act.

The decree also contains a number of provisions designed to allow plaintiff to determine and secure compliance with this Final Judgment.

Genstar and GRS are not defendants in this action and are not parties to this proposed Final Judgment. They are, however, integrally involved in the transaction which is the subject of the Final Judgment, and have agreed to be bound by those sections of it that are relevant to them during the period that their presence is required to implement this proposed Final Judgment. Their agreement and voluntary submission to the jurisdiction of the Court have been filed with the Court. The parties to this proposed Final Judgment and Genstar and GRS have all agreed to be bound from the date of filing.

IV.—Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act (15 U.S.C. § 15) provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in Federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorney fees. Entry of the Final Judgment will neither impair not assist the bringing of any private antitrust damages actions. Under the provisions of Section 5(a) of the Clayton Act (15 U.S.C. § 16(a)), the Final Judgment has no *prima facie* effect in any private lawsuit that may be brought against the defendants.

V.—Procedures Available for Modification of the Proposed Final Judgment

As provided by the APPA, any person wishing to comment upon the Final Judgment may within the statutory 60-day comment period submit written comments to John W. Clark, Chief, Special Trial Section, Antitrust Division, United States Department of Justice, Washington, D.C. 20530. These comments and the Department's

responses will be filed with the Court and published in the **Federal Register**. All comments will be given due consideration by the Department, which remains free to withdraw its consent to the Judgment at any time prior to entry. The Judgment provides that the Court retains jurisdiction over this action, and any party may apply to the Court for any order necessary or appropriate for its modification, interpretation, or enforcement.

VI.—Alternatives to the Proposed Final Judgment

The Complaint alleges violations in two markets in which the relief provided by the proposed Final Judgment is different from the relief the Government originally considered. The Complaint alleges violations in hazardous waste landfilling in portions of the midwestern United States and in solid waste disposal in the Louisville, Kentucky market. In both cases, the Government considered requiring divestiture of the SCA operations, but concluded that our competitive concerns would be satisfied by the divestiture of the competing WMI operations instead.

SCA owns a secure chemical landfill in Fort Wayne, Indiana, called Adams Center, which is situated about 90 miles from the WMI secure chemical landfill near Toledo, Ohio (the Evergreen landfill). There are currently five landfills, operated by five companies, primarily serving hazardous waste generators in parts of Indiana, western Ohio, Michigan and Kentucky. The proximity of the SCA and WMI facilities creates an area for effective competition between them for these customers. Little competition exists now between Evergreen and Adams Center because Evergreen has permit limitations, and only one year of useful life under its present permit. However, WMI has applied for a new, much broader permit at a 90-acre site adjacent to the present landfill, and there is likely to be substantial competition in the future under that new permit.

WMI has agreed to satisfy our concern for future competition between the sites, by divesting to Genstar the new Evergreen site, its zoning permit, and all work done to date on a RCRA permit application. Officials of US EPA Region V and the Ohio State EPA have assured us that this transfer of ownership will not impact adversely, nor significantly delay, the permitting process.

In the Louisville, Kentucky area, SCA currently owns two sanitary landfills which are the only two close-in sanitary landfills permitted to take putrescrible waste in that local market; one of these landfills is scheduled to close in the near future. WMI owns a sanitary landfill, which is the nearest competing facility, about 35 miles from Louisville. Divestiture of the WMI Tyler landfill to Genstar, instead of the SCA one, will result in a change in ownership but no change in concentration, and therefore is a satisfactory solution from an antitrust perspective.

The Government also considered requiring divestiture to GRS of SCA's hazardous waste incinerator, but ultimately determined that there was no violation in that market. The proposed Final Judgment does contain relief designed to limit future concentration in incineration of PCB.

SCA's incinerator in Chicago is one of only four commercial incinerators in the country permitted to burn PCB, and accounts for nearly half of all available capacity. WMI is not presently a competitor in PCB incineration, but it is a potential entrant into the market. It owns two incinerator ships, the Vulcanus I and Vulcanus II, which are capable of burning large volumes of liquid PCB at sea, and for which it is currently seeking permits for ocean incineration. SCA is also a potential entrant into ocean-based incineration, under a joint venture agreement it has with Stolt-Nielsen, Inc. (SeaBurn Inc.), which is a potential entrant.

EPA, which is the authority empowered to issue those permits, last Spring denied WMI a permit and announced it would not consider further applications for such permits until it has final regulations on ocean incineration in place. Those regulations are due to be proposed shortly, but there will necssarily be a considerable time lag between the issuance of the proposed regulations and the final ones. Even if WMI does obtain an EPA permit, it must still obtain a local permit for a loading terminal. It has thus far faced severe local opposition in its efforts to do so. The Government concluded, based on the best information available, that the possibility of WMI obtaining the necessary permits within a year was remote at best.

WMI remains a potential competitor of SCA in PCB incineration. There are a number of other potential competitors, however, and any unique advantage WMI enjoyed by already owning incinerator ships is being eroded by the delay in the permitting process. One other potential entrant into ocean incineration will shortly have two ships available similar to the Vulcanus. There is another potential entrant into ocean incineration which uses a different technology and could be in a position to enter the market within a year of final regulations, and also land-based potential entrants that are at various stages in the permitting process. For all these reasons, the Government concluded that WMI was not in such a position, as a potential competitor, that divestiture of the Chicago incinerator should be required. The decree does provide, however, that any surviving interest of SCA in the SeaBurn joint venture agreement must be divested to GRS, and enjoins WMI for a period of 5 years from acquiring more than a 5% interest in any firm that is engaged in or seeking permits for incinerating PCB, to prevent WMI from increasing its actual or potential share of this concentrated market through aquisition.

Litigation is, of course, always an alternative to a consent decree in a Section 7 case. We are confident in this case, however, that the proposed Final Judgment provides substantially the same relief we could reasonably expect if this matter were litigated.

VII.—Determinative Materials and Documents

The Department considered the attached Transaction Agreement between WMI, WMAC, Genstar and GRS and the attached Acquisition Agreement between WMI, SCA, WMAC, Genstar and GRS, in formulating the Judgment.

Dated: September 12, 1984.

Respectfully submitted.

J. Robert Kramer II,
John F. Greaney,
Gregory B. Hovendon,
Patricia G. Chick,
Attorneys, Department of Justice, Antitrust Division, Washington, D.C. 20530.
Telephone: 202/724-6583.

Exhibit A—Transaction Agreement Among Waste Management, Inc., Genstar Corporation, Genstar Refuse Services Corporation and WM Acquiring Corp., July 13, 1984

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TRANSACTION AGREEMENT

Agreement dated as of July 13, 1984 by and among Waste Management, Inc., a Delaware corporation ("WMI"), Genstar Corporation, a Canadian Corporation ("Genstar"), Genstar Refuse Services Corporation, a Delaware corporation ("GRS") and an indirect wholly-owned subsidiary of Genstar, and WM Acquiring Corp., a Delaware corporation ("WMAC") owned by WMI and GRS.

Witnesseth:

Whereas, WMI desires to acquire and operate certain of the assets, businesses and operations of SCA Services, Inc., a Delaware corporation ("SCA"), which are principally those assets, businesses and operations located or operating in the cities, counties, municipalities and other areas set forth on Exhibit A hereto and also includes all additional assets, businesses and operations of SCA which are not distributed to GRS pursuant to the terms of this Agreement;

Whereas, GRS desires to acquire and operate certain of the assets, businesses and operations of SCA located or operating in the cities, counties, municipalities and other areas set forth on Exhibit B hereto and such additional assets, businesses and operations of SCA as may be added thereto pursuant to the terms of this Agreement;

Whereas, WMI and GRS have determined to acquire such assets, businesses and operations of SCA by causing WMAC to commence a cash tender offer for the outstanding shares of common stock of SCA and, following completion of such tender offer, to effect a subsequent cash merger or other transaction pursuant to which SCA would become a wholly-owned subsidiary of WMAC and, as promptly as practicable thereafter, to divide and distribute to WMI and GRS the assets, businesses and operations of SCA in the manner provided for in this Agreement; and

Whereas, the parties hereto are entering into this Agreement to set forth the terms and conditions of such tender offer, merger and division and distribution of the assets, businesses and operations of SCA.

Now, Therefore, in consideration of the premises and the mutual agreements, covenants and provisions herein contained, the parties hereto hereby agree as follows:

Article I.—WM Acquiring Corp.

Section 1.1. *Incorporation; Charter and By-Laws.* WMI has caused the incorporation of WMAC under the laws of the State of Delaware. Copies of the Restated Certificate of Incorporation and By-Laws of WMAC have been heretofore provided by WMI to GRS. Neither of such documents shall be amended or modified by WMAC or WMI without the prior written consent of GRS.

Section 1.2. *Conduct of WMAC Business.* (a) WMI and WMAC represent and warrant to GRS that (i) WMAC has been duly incorporated and is a validly existing corporation under the laws of the State of Delaware, with full corporate power to own and lease its assets and properties and to carry on its business as contemplated by this

Agreement (ii) prior to the date hereof, WMAC has conducted no operations and incurred no obligations or liabilities whatsover, whether or not involving the payment of money or otherwise and (iii) no rights, options, warrants or other agreements or arrangements for the purchase or other acquisition from, or sale or issuance by, WMAC of any shares of its capital stock are outstanding.

(b) WMI covenants that, except with the prior written consent of GRS or as specifically provided for in this Agreement, it shall not permit WMAC to (i) engage in any other business or operations whatsoever or (ii) declare, make or pay any dividend or other distribution in respect of the outstanding capital stock of WMAC. WMI shall also cause WMAC to do all things reasonably necessary to accomplish the purposes and objectives of this Agreement and the transactions contemplated hereby.

Section 1.3. *Board of Directors.* A majority of the Board of Directors of WMAC shall at all times be comprised of representatives or designees of WMI. GRS shall have the right after completion of the Tender Offer to designate two individuals as members of the Board of Directors of WMAC. WMI covenants that at such time, it shall vote, or cause the Class A Common Stock to be voted, in favor of GRS's designees to the Board of Directors of WMAC. WMI further covenants that, in the event either or both of such designees of GRS shall cease to be members of the Board of Directors of WMAC, such designees shall be replaced by other designees of GRS, and WMI shall vote, or cause the Class A Common stock to be voted, in favor of such substitute designees.

Section 1.4. *Capital Investment by WMI and GRS in WMAC.* (a) As of the date hereof WMI is the record and beneficial owner of 500 shares of Class A Common Stock, all of which is voting common stock, and GRS is the record and beneficial owner of 500 shares of Class B Common Stock, all of which is non-voting common stock, which together represent all of the issued and outstanding shares of capital stock of WMAC.

(b) WMI and GRS each agree to make such additional contributions of capital to WMAC in respect of their respective investments in WMAC as described in paragraph (a) above as follows:

(i) WMI agrees to contribute to WMAC in respect of the Class A Common Stock an amount in cash such that the sum of such amount plus the purchase price for the Class A Common Stock referred to in paragraph (a) above will be equal to 60% of the aggregate amount required by WMAC to purchase all outstanding SCA Shares pursuant to the Tender Offer and Merger and to pay the related expenses (the "WMI Initial Investment"), which amount shall be subject to adjustment as hereinafter provided in this Agreement.

(ii) GRS agrees to contribute to WMAC in respect of the Class B Common Stock an amount in cash such that the sum of such amount plus the purchase price of the Class B Common Stock referred to in paragraph (a) above will be equal to 40% of the aggregate amount required by WMAC to purchase all outstanding SCA Shares pursuant to the Tender Offer and Merger and to pay the related expenses (the "GRS Initial Investment") which amount shall be subject to adjustment as hereinafter provided in this Agreement; *provided, however,* that except as, and only to the extent, set forth in Section 1.5(d)(i) hereof, GRS shall not be obligated under any circumstances to make any payments in respect of capital investment in WMAC, including payments made by GRS to WMI hereunder, in excess of the aggregate amount of $200 million plus the Fair Market Value of any SCA Corporate Assets acquired by GRS pursuant to this Agreement (the "$200 Million Limitation"), it being agreed, however, that in computing the capital investment subject to the $200 Million Limitation neither (x) the amount of any interest payable by GRS to WMAC in respect of any such capital investment, nor (y) any payment on account of income taxes imposed on the transfer of any SCA Businesses or SCA Corporate Assets, nor (z) any indemnification payment made to WMI or WMAC hereunder, shall be treated as a capital investment.

(c) The times at which the capital contributions referred to in paragraph (b) above shall be made, and the manner in which they shall be adjusted are as hereinafter provided in this Agreement, it being understood that any direct payment by WMI or GRS on account of the purchase price for SCA Shares acquired otherwise than pursuant to the Tender Offer or Merger, plus interest thereon computed in accordance with Section 4.3 hereof, or any such direct payment of any cost or expense which is included in the Total Cost of Acquisition as determined pursuant to Section 4.3, shall be treated as a capital contribution made as of the date of payment and shall be given effect in computing the amount owing as of any given time by the payor in respect of its then required aggregate capital contribution.

Section 1.5. *Effect of Calculation of the Total GRS Capital Investment in Excess of the $200 Million Limitation.* (a) If, after the final determination of the Apportioned Cost of the GRS Businesses and the WMI Businesses pursuant to Section 4.4 hereof, and the determination of such other matters as shall be necessary, the total capital investment required to be made by GRS hereunder is calculated to be in excess of the $200 Million Limitation, then the provisions of this Section 1.5 set forth below shall apply.

(b) If WMI shall not have added to Exhibit B hereto (pursuant to Section 4.1 hereof) any further businesses of SCA to be included within the meaning of "GRS Businesses" hereunder, then the total capital investment required by GRS attributable to the GRS Businesses shall be automatically reduced to $200 million without affecting any other provisions of this Agreement.

(c) If WMI shall have added to Exhibit B hereto (pursuant to Section 4.1 hereof) any further businesses of SCA to be included within the meaning of "GRS Businesses" hereunder (the "Additional GRS Businesses"), then WMI shall determine that portion of the Apportioned Cost of the GRS Businesses which is represented by each of the Additional GRS Businesses (collectively, the "Additional Cost"). To the extent that the total capital investment calculated to be made by GRS *less* the amount of the Additional Cost exceeds the $200 Million Limitation, the total capital investment calculated to be made by GRS in respect of the GRS Businesses other than the Additional GRS Businesses shall be reduced to $200 million.

(d) If, as a result of the addition by WMI of one or more of the Additional GRS Businesses to Exhibit B hereto, the total capital investment calculated to be made by GRS hereunder (after giving effect to any reduction pursuant to paragraph (c) above in respect of the GRS Businesses other than the Additional GRS Businesses) would exceed the $200 Million Limitation, then GRS shall have the right, in its sole discretion, to take the following action until then (10) business days after notification of the final determination of the Apportioned Cost of the GRS Businesses pursuant to Section 4.4 hereof:

(i) GRS may accept any one or more of such Additional GRS Businesses, in which case GRS shall increase its total capital investment above the $200 Million Limitation to the extent, if any, necessary to cover the increase attributable to that portion of the

Apportioned Cost of the GRS Businesses which is represented by such Additional GRS Businesses so accepted; and/or

(ii) GRS may reject any increase which would be required in its capital investment attributable to any one or more of such Additional GRS Businesses or any one or more other GRS Businesses, the acceptance of which would otherwise result, based on the portion of the Apportioned Cost of the GRS Businesses represented by such rejected Businesses, in the total capital investment required to be made by GRS to exceed the sum of the $200 Million Limitation plus any increase over the $200 Million Limitation required pursuant to clause (i) above. Any GRS Businesses so rejected by GRS shall thereupon be deemed to be included in the "WMI Businesses" for purposes of all calculations and other financial determinations hereunder, including appropriate recalculations of Apportioned Cost of the GRS Businesses and WMI Businesses, which recalculations shall be made for all purposes of this Agreement, but any GRS Business so rejected shall, subject to the provisions of paragraph (e) below, nevertheless be transferred to GRS on the Division Closing Date.

(e) In the event that GRS determines to reject any of the GRS Businesses pursuant to paragraph (d)(ii) above, GRS shall undertake to sell such GRS Businesses to a third party or entity (other than WMI, WMAC or any of their Affiliates) which shall have adequate financial resources to operate such GRS Businesses independently of WMI or WMAC or their Affiliates. GRS and WMI shall cooperate in using all reasonable efforts to dispose of such rejected GRS Businesses in a commercially reasonable manner and, if so directed by WMI, GRS will transfer, in a manner consistent with Section 8.4 hereof, such rejected GRS Businesses to a trust of a type referred to in Section 8.4. The proceeds of any such sales shall be paid over by GRS to WMI promptly following the receipt by GRS thereof. WMI agrees that during the period such rejected GRS Businesses are operated by GRS pending disposition as contemplated above, WMI shall (x) assume, pay, perform, defend, discharge, indemnify and hold harmless GRS, Genstar and their Affiliates against all debts, liabilities, actions or suits, obligations and contracts of any kind, character, description whether known or unknown, direct or indirect, accrued, absolute, liquidated or unliquidated, contingent or otherwise relating to or arising out of the operation of such GRS Businesses or the sale or disposition thereof hereunder; (y) reimburse GRS and its Affiliates for any out-of-pocket expenses arising out of or relating to the operation of such GRS Businesses during such period, including but not limited to all salaries, expenses or benefits accrued by, or on behalf of, any employee of GRS or its Affiliates supervising or managing the operations of such GRS Businesses; and (z) pay to GRS a fee, payable quarterly, in an amount equal to 10% of the revenues generated by such GRS Businesses since the date of rejection referred to in paragraph (d)(ii) above, in consideration for the continued operation of such GRS Businesses by GRS and its Affiliates. GRS agrees that it shall restore to any rejected GRS Business any cash or other assets distributed to it by such GRS Business after the Division Closing Date.

Section 1.6. *Adjustment to Capital Investments in WMAC; Time of Investments.* (a) If the Apportioned Cost of the GRS Businesses determined pursuant to Section 4.4 hereof (plus the Fair Market Value of any SCA Corporate Assets acquired by GRS pursuant to this Agreement) exceeds the amount of the GRS Initial Investment, as such amount may have been previously adjusted, and/or if the Apportioned Cost of the WMI Businesses as so determined (plus the Fair Market Value of any SCA Corporate Assets acquired by WMI and less the amount of the SCA Corporate Liabilities assumed by WMI) exceeds the amount of the WMI Initial Investment, as such amount may have been previously adjusted, then GRS or WMI or both, as the case may be, shall promptly contribute to WMAC such additional amount of capital in cash as shall be necessary so that the total capital investment by GRS and WMI shall be in an amount equal to the Apportioned Cost of the GRS Businesses and the WMI Businesses, respectively, but increased in each case by the Fair Market Value of SCA Corporate Assets acquired and reduced by any SCA Corporate Liabilities assumed; *provided, however,* that the amount of GRS's total required capital investment hereunder shall be subject to the limitations of Sections 1.4 and 1.5 hereof. Such contributions of additional capital, to the extent of any corresponding reduction in capital contribution by the other party pursuant to paragraph (b) below, shall be made with interest thereon at the Prime Rate from the date of the other party's corresponding overpayment.

(b) If the Apportioned Cost of the GRS Businesses determined pursuant to Section 4.4 hereof (plus the Fair Market Value of any SCA Corporate Assets acquired by GRS pursuant to this Agreement) is less than the amount of the GRS Initial Investment, as such amount may have been previously adjusted, and/or if the Apportioned Cost of the WMI Businesses as so determined (plus the Fair Market Value of any SCA Corporate Assets not acquired by GRS and less the amount of the SCA Corporate Liabilities assumed by WMI) is less than the amount of the WMI Initial Investment, as such amount may have been previously adjusted, then WMAC shall promptly pay in cash to GRS or WMI, as the case may be, an amount equal to such excess amount together with interest thereon at the Prime Rate from the date of such overpayment.

(c) The contributions to WMAC of the WMI Initial Investment and the GRS Initial Investment shall be made substantially simultaneously in two or more installments (each such installment payment by the parties being in the same 60%/40% proportion) at such times as shall be necessary to make payment when due for SCA Shares purchased pursuant to the Tender Offer and Merger and to pay when due related expenses. The final adjustments to such Initial Investments pursuant to paragraphs (a) and (b) above shall be made as promptly as practicable after the appropriate amount of such adjustments shall have been finally determined. If such final adjustments shall not have theretofore been made, interim adjustments to such Initial Investments shall be made on the Division Closing Date, at which time GRS shall pay to WMAC or its successor (unless otherwise agreed by the parties hereto) an amount equal to the Fair Market Value (as reasonably estimated by GRS at such time) of the SCA Corporate Assets designated by GRS to be acquired by GRS plus an amount equal to 40% of the estimated Total Cost of Acquisition (as reasonably estimated by WMI at such time, giving effect to the foregoing estimate made by GRS), *less* the amount of the aggregate capital investment theretofore made by GRS hereunder.

Article II.—The Tender Offer

Section 2.1. *Commencement of Tender Offer.* As promptly as advisable, but not more than sixty days after the date hereof or such other date as the parties may agree, WMI will cause WMAC to publicly announce, and within five business days after such announcement to commence (within the meaning of Rule 14d-2(a) under the Exchange Act) the Tender Offer. The Tender Offer shall be commenced pursuant to an Offer to

Purchase and related Letter of Transmittal substantially in the form of the drafts thereof dated the date hereof, with such changes and modifications thereto as the parties hereto shall agree. WMAC's obligation to purchase any SCA Shares pursuant to the Tender Offer shall be subject to the condition, among other things, that the number of SCA Shares that shall have been validly tendered and not withdrawn prior to the expiration to the Tender Offer, together with the SCA Shares otherwise owned by the parties hereto, shall represent a majority of the voting power of all the capital stock of SCA outstanding on the date that the SCA Shares are first accepted for payment pursuant to the Tender Offer (the "Minimum Condition"). WMI shall be under no obligation to cause WMAC to commence the Tender Offer if any conditions shall exist which would entitle WMAC under the conditions to the Tender Offer not to purchase or pay for any SCA Shares which might be validly tendered pursuant to the Tender Offer. The parties hereto shall promptly terminate the Tender Offer if this Agreement is terminated for any reason whatsoever prior to the purchase of any SCA Shares thereunder.

Section 2.2. *Amendments or Modifications to Tender Offer.* WMI shall have the right, in its sole discretion, to cause WMAC to amend or modify any terms of the Tender Offer in any manner, or waive any provisions or conditions thereof other than the Minimum Condition and that it be all cash, which conditions may be waived only with the consent of GRS.

Section 2.3. *Tender Offer Materials.* (a) WMAC shall prepare and file with the SEC on the date of commencement of the Tender Offer a Tender Offer Statement on Schedule 14D–1 (the "Schedule 14D–1") under the Exchange Act and the rules and regulations promulgated thereunder and will promptly file, as required, any and all necessary amendments and supplements thereto. The Schedule 14D–1 an the exhibits thereto (including the Offer to Purchase and the related Letter of Transmittal), and any amendments and supplements thereto (including any amendments and supplements to the Offer to Purchase), shall be in form and substance satisfactory to GRS prior to filing. WMI and WMAC shall not disseminate any material in connection with the Tender Offer other than the Schedule 14D–1 and the exhibits thereto (including the Offer to Purchase) and such other materials, if any, as GRS may specifically approve prior to their use. Prior to disseminating or permitting the dissemination of the Schedule 14D–1 and the exhibits thereto and any such other materials in connection with the Tender Offer, or the filing of any of the foregoing with the SEC or with any other person, WMI and WMAC shall submit copies of such material to GRS and give reasonable consideration to the comments of GRS, if any, with respect thereto. In the event that WMI or WMAC disseminates or permits the dissemination of, or files with the SEC or any other person, any material in connection with the Tender Offer (including the Schedule 14D–1 and any exhibits thereto) and any amendment or supplement thereto (i) which has not been submitted to GRS for its comments or (ii) which has been so submitted and with respect to which GRS has made comments (other than comments relating to the financial terms of the Tender Offer or the Merger) to WMI or WMAC, but which comments have not resulted in changes therein to reflect or respond reasonably satisfactorily to the material comments of GRS, then GRS shall have the right to terminate this Agreement and to withdraw from participation in the Tender Offer. Notwithstanding anything to the contrary in this paragraph (a), the financial terms of the Tender Offer shall not be subject to approval by GRS.

(b) WMI and WMAC represent and warrant that the Schedule 14D–1 and the exhibits thereto, and any amendments or supplements thereto, shall comply as to form in all material respects with the applicable requirements of the Exchange Act and the rules and regulations thereunder at the respective dates of filing with the SEC, publication and distribution to holders of SCA Shares and, as of each such date, the Schedule 14D–1, or any amendment or supplement thereto, will not contain any untrue statement or a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements made therein, in light of the circumstances under which they are made, not misleading. GRS and Genstar represent and warrant that any information which is supplied in writing to WMI and WMAC by GRS or Genstar specifically for use in the Schedule 14D–1, and any amendments or supplements thereto, will not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements made therein, in light of the circumstances under which they are made, not misleading.

(c) WMI and WMAC represent and warrant that the Tender Offer, including any related borrowing by WMI, will fully comply with all applicable requirements of law, including applicable regulations of any governmental agency or instrumentality having jurisdiction, and, except as set forth in the Offer to Purchase, no consent, order, authorization, exemption or approval of or filing with any governmental authority, Federal, state, local or foreign, is required in connection with the making or consummation by WMAC or WMI of the Tender Offer or the other transactions contemplated in this Agreement.

(d) GRS and Genstar represent and warrant that, subject to the control of the Tender Offer by WMI and WMAC, Genstar's participation in the Tender Offer, including any related borrowing by either GRS or Genstar, will fully comply with all applicable requirements by law, including applicable regulations of any governmental agency or instrumentality having jurisdiction, and, except as set forth in the Offer to Purchase, no consent, order, authorization, exemption or approval of or filing with any governmental authority, Federal, state, local or foreign, is required in connection with Genstar's participation in the Tender Offer or the other transactions contemplated in this Agreement.

Section 2.4. *Indemnification.* (a) WMI agrees, whether or not the Tender Offer is made or any SCA Shares are purchased pursuant thereto, to indemnify and hold harmless GRS and Genstar, their officers, directors and employees, and any person who controls GRS or Genstar within the meaning of Section 20 of the Exchange Act (GRS, Genstar and each such person to be so indemnified being referred to in this paragraph (a) as an "Indemnified Person"), from and against any and all claims, losses, expenses, damages or liabilities whatsoever, joint or several (including, but not limited to, all legal or other expenses reasonably incurred in connection with the investigation, preparation and defense of any litigation or proceeding, whether or not resulting in any liability) to which such Indemnified Person may become subject under the Exchange Act or otherwise, (i) caused by, arising out of or based upon any untrue statement of a material fact or alleged untrue statement of a material fact contained in either the Schedule 14D–1 or any other Tender Offer materials, any amendment or supplement thereto, or any press release issued or authorized by WMI or WMAC, or caused by, arising out of or based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make

the statements made therein not misleading, in light of the circumstances under which they were made, or (ii) otherwise caused by, arising out of, relating to or in connection with the Tender Offer (other than those out-of-pocket costs or expenses included within the meaning of Total Cost of Acquisition as defined in Section 4.3 hereof), except in each case to the extent any claim, loss, expense, damage or liability (x) arises out of or is caused by a material misstatement contained in, or a material omission from, any information furnished in writing to WMI and WMAC by GRS or Genstar specifically for use in the Schedule 14D–1 or any other Tender Offer materials, or (y) is otherwise primarily attributable to the acts or omissions of GRS or Genstar.

(b) GRS and Genstar agree, whether or not the Tender Offer is made or any SCA Shares are purchased pursuant thereto, to indemnify and hold harmless WMAC and WMI, their officers, directors and employees, and any person who controls WMAC or WMI within the meaning of Section 20 of the Exchange Act (WMI, WMAC and each such person to be so indemnified being referred to in this paragraph (b) as an "Indemnified Person"), from and against any and all claims, losses, expenses, damages or liabilities whatsoever, joint or several (including, but not limited to, all legal or other expenses reasonably incurred in connection with the investigation, preparation and defense of any litigation or proceeding, whether or not resulting in any liability) to which such Indemnified Person may become subject under the Exchange Act or otherwise (other than out-of-pocket costs and expenses included within the meaning of Total Cost of Acquisition as defined in Section 4.3 hereof) and which is (i) caused by, arises out of or is based upon any untrue statement of a material fact or alleged untrue statement of a material fact contained in any of the information furnished in writing to WMI and WMAC by GRS or Genstar specifically for use in the Schedule 14D–1 or any of the other Tender Offer materials, any amendment or supplement thereto, or the omission or alleged omission therefrom to state a material fact required to be stated therein or necessary to make the statements made therein, in light of the circumstances under which they were made, not misleading, or (ii) otherwise primarily attributable to the acts or omissions of GRS or Genstar.

Article III.—The Merger

Section 3.1. *The Merger.* (a) Subject to the terms and conditions hereof and as soon as practicable after completion of the Tender Offer, WMAC shall take such action as may reasonably be necessary to cause a subsidiary of WMAC to be merged (the "Merger") with SCA. The form of the Merger will be selected by WMAC and an appropriate plan of merger, in conformity with the requirements of applicable law and consistent with the terms of this Agreement, will be executed and delivered by and between the corporations participating in the Merger. Upon the consummation of the Merger, (i) each then outstanding SCA Share not owned by WMAC, WMI, GRS or their Affiliates (other than those SCA Shares held in the treasury of SCA or held by stockholders of SCA who properly exercise any dissenters' rights available under applicable law) shall, without any action on the part of the holder thereof, be cancelled and converted into a right to receive in cash such amount per share as WMAC, in its sole discretion, may determine, and (ii) SCA shall become a wholly-owned subsidiary of WMAC.

(b) WMI and WMAC represent and warrant that any proxy statement or information statement used in connection with the Merger will comply fully with all applicable requirements of law. Genstar and GRS represent and warrant that any information respecting Genstar or GRS which is supplied in writing to WMI or WMAC by GRS or Genstar specifically for use in any such proxy statement or information statement will not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements made therein, in light of the circumstances under which they are made, not misleading.

Section 3.2. *Consummation of the Merger.* As promptly as practicable after the consummation of the Tender Offer and the receipt of any required approval of the stockholders of SCA (or, if such approval is not required, any other corporate action by SCA required as a precondition to effect the Merger), and subject to the terms and conditions hereof, the parties hereto will cause the Merger to be consummated by delivering an appropriate certificate of merger to the Secretary of State of the State of Delaware, all as required by and executed in accordance with the relevant provisions of applicable law.

Article IV.—Valuation of SCA Businesses and Apportionment of SCA Businesses Between WMI and GRS

Section 4.1. *Final Determination of GRS Businesses.* (a) If WMI determines in good faith that the ownership by WMI of any businesses of SCA (whether subsidiaries of SCA or otherwise) which are not listed on Exhibit B hereto might not be permitted under the antitrust laws, then WMI shall have the right, by giving written notice thereof to GRS as promptly as practicable but in no event later than the Effective Time of the Merger, to add such businesses of SCA to those listed on Exhibit B hereto. The SCA Businesses listed on Exhibit B together with those SCA Businesses added thereto pursuant to this Section 4.1 (subject to the right of GRS to reject SCA Businesses pursuant to Section 1.5 hereof) shall be the "GRS Businesses" for purposes of this Agreement. Subject to the provisions of this Agreement, WMI's determination as to the composition of the GRS Businesses shall be final and binding.

(b) By the later of (i) ten business days after WMI has provided to Genstar the financial description of the SCA Corporate Assets pursuant to Section 4.2 hereof or (ii) the Effective Time of the Merger, GRS shall have the right to designate as included in the GRS Businesses those regional offices, buildings and other facilities or properties, together with related equipment and fixtures which it reasonably deems necessary or desirable for the conduct of the GRS Businesses and which are not reasonably deemed essential by WMI to the operations of the WMI Businesses.

Section 4.2. *Valuation of WMI Businesses, GRS Businesses and SCA Corporate Assets.* (a) As promptly as practicable after the election or designation by WMAC or WMI of a majority of the Board of Directors of SCA, WMI shall prepare a financial description of each individual GRS Business and each individual WMI Business, including a reasonably detailed description of the assets (tangible and intangible) and liabilities included within each such Business. The SCA Corporate Assets and SCA Corporate Liabilities shall be separately described by WMI.

(b) As promptly as practicable thereafter, (i) the parties hereto shall arrive at the valuations of the WMI Businesses, the GRS Businesses and the SCA Corporate Assets in accordance with the procedures, and within the time periods, as set forth in Exhibit C hereto, (ii) WMI shall prepare a good faith best estimate of the Total Cost of Acquisition pursuant to Section 4.3 hereof, subject to later adjustments as the components thereof become finally determined, (iii) WMI shall deliver to GRS all work papers and other relevant financial data used by WMI in connection with the valuations and estimate, such materials

to include reasonably detailed balance sheets, income statements and other relevant material respecting each of the GRS Businesses, each of the WMI Businesses and each of the SCA Corporate Assets, and (iv) WMI shall make available to GRS, Genstar and their Affiliates, and their respective officers, accountants, counsel and other representatives during normal business hours all of SCA's (including its subsidiaries') properties, books, and records and shall furnish, or shall cause the officers and other representatives of SCA to furnish, such additional financial and operating data and other information as to the SCA Businesses, SCA Corporate Assets and SCA Corporate Liabilities as GRS or Genstar may from time to time reasonably request in order to review the valuations and estimate arrived at by WMI: *provided, however,* that, insofar as any such materials to be made available to Genstar or GRS include confidential or proprietary information concerning the WMI Businesses (including such information as is contained in the corporate records of SCA), such information will be made available only as WMI may agree, with appropriate safeguards against misuse by unauthorized personnel, including limiting access to only those persons having a need to know solely for purposes of complying with the valuation provisions of this Agreement.

(c) In preparing the valuations referred to in paragraph (b), neither WMI nor WMAC shall have access to any confidential or proprietary information concerning the GRS Businesses (including such information as is contained in the corporate records of SCA), except as GRS may agree, with appropriate safeguards against misuse by unauthorized personnel, including limiting access to only those persons having a need to know solely for purposes of complying with the valuation provisions of this Agreement.

(d) The fair market value of each WMI Business and each GRS Business and each SCA Corporate Asset, as determined pursuant to the procedures set forth in Exhibit C shall be the "Fair Market Value" thereof for purposes of this Agreement.

Section 4.3. *Determination of Total Cost of Acquisition.* (a) WMI shall calculate a good faith best estimate of the Total Cost of Acquisition which shall be the sum of the following amounts:

(i) the total cash purchase price paid to SCA stockholders for the SCA Shares purchased pursuant to the Tender Offer and the Merger (together with the amount per share paid pursuant to the Merger in respect of all SCA Shares as to which dissenters' rights have been properly exercised), other than any SCA Shares referred to in clause (ii) or (iii) below which may be so purchased;

(ii) the cash purchase price paid by WMI (or any Affiliate of WMI) for any SCA Shares acquired otherwise than pursuant to the Tender Offer or Merger, including interest on such amount calculated at the Prime Rate from the date of purchase of such SCA Shares to the Effective Time of the Merger;

(iii) the cash purchase price paid by GRS (or any Affiliate of GRS) for any SCA Shares acquired otherwise than pursuant to the Tender Offer or Merger, including interest on such amount calculated at the Prime Rate from the date of purchase of such SCA Shares to the Effective Time of the Merger;

(iv) the excess, if any, of the amount of the SCA Corporate Liabilities as of the Valuation Date, over the fair market value of the SCA Corporate Assets, as determined as of the Valuation Date;

(v) the costs incurred (or reasonably expected to be incurred) as a result of satisfying the rights of any corporate officers and members of the corporate staff of SCA to compensation and such other pre-existing contractual rights, if any, of such persons, as may arise from the transactions contemplated by this Agreement or in lieu thereof, any economic incentive to remain with SCA and, as to all SCA employees, amounts paid or payable in settlement of outstanding employee stock options, stock appreciation rights and similar rights; and

(vi) the out-of-pocket costs and expenses of WMI, Genstar, GRS and WMAC relating to the Tender Offer, the Merger, this Agreement and the transactions contemplated hereunder and activities since April 1, 1984 in connection with the proposed acquisition of control of SCA, including, but not limited to, fees and expenses of investment banking and financial advisers, accountants, engineers and technical consultants, appraisers and legal counsel, printing costs and transfer taxes resulting from the transactions contemplated hereby (but specifically excluding any interest expense incurred by WMI, Genstar or GRS and any direct or indirect costs of the corporate staff of WMI, Genstar or GRS); *provided, however,* that from and after the date occurring thirty days after the Division Closing Date, no costs or expenses incurred thereafter (including litigation costs and expenses) shall be so included other than those incurred in connection with the appraisals being made in connection with this Agreement and the exercise of dissenters' rights by SCA stockholders in connection with the Merger; *less* the excess, if any, of the Fair Market Value of the SCA Corporate Assets determined as of the Valuation Date over the amount of the SCA Corporate Liabilities as of the Valuation Date.

(b) The final determination of the Total Cost of Acquisition shall be made as promptly as practicable after the several components thereof are determined with reasonable certainty to the satisfaction of WMI and GRS.

Section 4.4. *Apportionment of Total Cost of Acquisition Between the GRS Businesses and the WMI Businesses.* As promptly as practicable after the determination of the Fair Market Value of the WMI Businesses and the GRS Businesses pursuant to Section 4.2 hereof and the final determination of the Total Cost of Acquisition pursuant to Section 4.3(b) hereof, the "Apportioned Cost" of the GRS Businesses, on the one hand, and the WMI Businesses, on the other hand, shall be determined by applying to such Total Cost of Acquisition the ratio of the Fair Market Value of the GRS Businesses or the WMI Businesses, as the case may be, to the combined Fair Market Value of the GRS Businesses and WMI Businesses. The Apportioned Costs of the GRS Businesses and the WMI Businesses may be subject to recalculation for final determination as a result of the provisions of Section 1.5 hereof. WMI shall give written notice to GRS and Genstar upon its determination of the Apportioned Cost of the GRS Businesses and the WMI Businesses.

Section 4.5. *Adjustment to Capital Investments in WMAC.* Following apportionment of the Total Cost of Acquisition between the GRS Businesses and the WMI Businesses as contemplated in Section 4.4 hereof, the capital investment of WMI and GRS in WMAC shall be adjusted, as required, in accordance with the provisions of Sections 1.6 and 4.6 hereof.

Section 4.6. *Disposition of SCA Corporate Assets and Corporate Liabilities.* (a) During the sixty-day period following the election or designation by WMAC or WMI of a majority of the Board of Directors of SCA, WMI shall identify to GRS any SCA Corporate Assets which are not necessary to the operation by WMI of its businesses and GRS shall be entitled to acquire any such asset, together with the other properties to be received by it at such asset's Fair Market Value. WMI shall acquire at their Fair Market Value all SCA Corporate Assets which are not so purchased by GRS. The capital contribution to WMAC of the party so

acquiring any SCA Corporate Asset shall be increased by an amount equal to the Fair Market Value of any such SCA Corporate Asset.

(b) All SCA Corporate Liabilities shall be retained by SCA and assumed by WMI in accordance with the provisions of Article VI hereof. The capital contribution to WMAC of WMI shall be decreased by the amount of such SCA Corporate Liabilities, net of SCA Corporate Assets, as of the Valuation Date.

Section 4.7. *Allocation of Apportioned Cost to Individual GRS Businesses.* As promptly as practicable after the final determination of the Apportioned Cost of the GRS Businesses pursuant to Section 4.4 hereof, WMI, in its sole discretion, shall allocate to each individual GRS Business a portion (the "Allocated Cost") of the Apportioned Cost of the GRS Businesses for purposes of establishing the Minimum Disposition Price thereof, and shall give prompt written notice of such Allocated Costs to GRS. The aggregate amount of all Allocated Costs respecting all GRS Businesses shall equal the Apportioned Cost of the GRS Businesses. WMI's determination of such Allocated Costs for such purpose shall be final and binding.

Section 4.8. *Final Adjustments.* After the Division Closing Date there shall be an equitable adjustment to cover income, expense (including the expenses of SCA respecting the transactions contemplated by this Agreement or related transactions), capital improvement and corporate overhead occurring between the Valuation Date and the Division Closing Date.

Article V.—Conduct of SCA Businesses From Consummation of Tender Offer Until Division Closing Date

Section 5.1 *Conduct of SCA Businesses.* WMI and WMAC on the one hand and GRS and Genstar (with respect to any managerial employees appointed by GRS pursuant to the provisions of Section 5.3 hereof) on the other hand agree that, during the period from the date of consummation of the Tender Offer to the Division Closing Date, except (i) as otherwise consented in writing by GRS or WMI respectively which consent shall not be unreasonably withheld, or (ii) to the extent SCA otherwise becomes obligated prior to the date WMAC acquires control of SCA following completion of the Tender Offer:

(a) to carry on the SCA Businesses in, and only in, the ordinary course consistent with prior practice (including normal and customary insurance coverage) and use their best efforts to preserve the business and prospects of each of such businesses, and preserve the relationship with customers, suppliers and others having business dealings with such businesses;

(b) not to sell, assign or transfer any assets of such businesses (except for sales of inventory, or sales of equipment that is either replaced by other suitable equipment or the failure to replace which will not materially adversely affect the condition (financial or otherwise), earnings, affairs, business or propects of any of such businesses, in each case in the ordinary course of business and consistent with prior practice), or any patent, trademark, trade name, copyright, license, franchise, design or other intangible assets or property; and not to mortgage, pledge or grant or suffer to exist any lien or other encumbrances or charge on any material assets or properties, tangible or intangible, except for (i) liens or encumbrances existing at the date of the completion of the Tender Offer, (ii) liens for taxes not yet delinquent, and (iii) such other liens, encumbrances or charges which do not materially adversely affect the condition (financial or otherwise), earnings, affairs, business or prospects of any of such businesses or waive any rights of material value or cancel any material debts or claims;

(c) not to permit SCA to declare, make or pay any dividend or other distribution in respect of the SCA Shares;

(d) not to permit SCA to make or to commit to, or agree to make, any capital expenditures otherwise than in the ordinary course of business;

(e) not to permit SCA to enter into or amend any agreement or other instrument relating to the borrowing of money or other contracting or payment of indebtedness, including any guarantees thereof otherwise than in the ordinary course of business;

(f) not to permit SCA, with respect to any officer, director or employee of SCA whose employment is primarily related to the GRS Business, to (i) pay, or agree to pay, any severance or termination pay, or make or commit to make any such payment, (ii) grant any increase in compensation or benefits, or (iii) enter into any employment agreement or consulting agreement;

(g) not to permit SCA to enter into any contract, understanding, agreement or transaction with WMI or any Affiliate or WMI otherwise than in the ordinary course of business or as specifically contemplated by this Agreement;

(h) not to permit SCA to take any action which may materially adversely affect the long-term assets or long-term liabilities of SCA;

(i) not to permit SCA to otherwise take any action which would result in the inclusion of an extraordinary item on the financial statements of SCA, as such term is used under generally accepted accounting principles; and

(j) not to authorize or propose any of the foregoing, or enter into any contract, agreement, commitment or arrangement to do any of the foregoing or otherwise enter into any agreement or transaction which may have a materially adverse effect on the condition (financial or otherwise), earnings, affairs, business or prospects of any of the SCA Businesses.

WMI and WMAC agree that during the thirty-day period beginning after WMAC's acquisition of control of SCA after consummation of the Tender Offer, neither WMI nor WMAC shall terminate or cause the termination of the employment of any of the SCA corporate level personnel, including the administrative and corporate staff of SCA. For 90 days following the acquisition of control of SCA, WMI and WMAC will give at least thirty days' prior written notice to GRS of any such action involving any proposed termination of employees of SCA. WMI and WMAC will inform GRS as soon as practicable of all significant actions affecting SCA corporate level personnel, including any decision to terminate such personnel.

Section 5.2. *SCA Board of Directors; Executive Officers.* At any time following WMAC's acquisition of control of SCA after consummation of the Tender Offer and upon five days' notice to WMI or WMAC, GRS shall have the right to (i) designate two individuals as members of the Board of Directors of SCA which directors shall not constitute a majority of the Board of Directors of SCA, but who shall also constitute a committee to oversee the management and operations of the GRS Businesses, and (ii) appoint such executive officer or officers of SCA as shall have primary responsibility for managing or supervising the GRS Businesses.

Section 5.3. *Management of SCA; Negotiations with Employees.* Following WMAC's acquisition of control of SCA after consummation of the Tender Offer and prior to the Division Closing Date, GRS shall operate the GRS Businesses independently of the WMI Businesses. GRS shall immediately have the right to (i) designate individuals who shall have the right to effectively direct the operations of the GRS Businesses, and (ii) appoint such of the managerial employees of SCA who have primary responsibility for the day-to-day operations of the GRS Businesses. In

addition, during such period, GRS shall have the right to negotiate, and WMI shall support such negotiations, with any employee of SCA whose employment is not primarily related to the WMI Businesses with respect to the continued employment of such employees by GRS or its designee from and after the Division Closing Date. WMI and WMAC agree to cooperate fully in the orderly transition of the GRS Businesses to GRS to assist GRS in developing a corporate level administrative staff.

Section 5.4. *Access and Information.* WMI shall afford to GRS and to the officers, accountants, counsel and other representatives of GRS full access during normal business hours to all of SCA's (including its subsidiaries') properties, books, and records (other than those primarily relating to the WMI Businesses) and shall cause the officers and other representatives of SCA to furnish to GRS such additional financial and operating data and other information as to the SCA Businesses (other than that primarily relating to the WMI Businesses) as GRS may from time to time reasonably request.

Article VI.—*Division of SCA*

Section 6.1. *Method of Division of SCA.* WMAC shall determine whether to file an election under Section 338 taking into account the best interests of both WMI and GRS. WMI shall bear and timely pay that portion of the tax liability resulting from such election which is attributable to the WMI Businesses and any SCA Corporate Assets acquired by WMI and GRS shall bear and timely pay that portion of the tax liability resulting from such election which is attributable to the GRS Businesses and any SCA Corporate Assets acquired by GRS. If a Section 338 election is not timely made, the GRS Businesses and any SCA Corporate Assets to be acquired by GRS shall be distributed in a manner mutually agreeable to the parties hereto. Such distribution shall be made at the Division Closing Date, which shall be a date as promptly as practicable following the Effective Time of the Merger, but in no event more than five business days thereafter, unless a preliminary or permanent injunction or other order by a court of competent jurisdiction shall have been issued and remain in effect which prohibit such distribution; *provided, however,* that the parties hereto shall have used their best efforts to prevent such injunction or order; and *provided, further,* that upon lifting, cancellation or dissolution of such injunction or order the distribution of the GRS Businesses shall be consummated as soon as practicable thereafter. In the event that WMAC does not file a Section 338 election, Genstar and GRS will not permit to be taken any action which would result in a "deemed" Section 338 election with respect to the WMI Businesses and WMI will not permit to be taken any action which would result in a "deemed" Section 338 election with respect to the GRS Businesses.

Section 6.2. *Assets of the GRS Businesses To Be Distributed to GRS.* (a) Subject to the terms and conditions hereof, at the Division Closing Date, SCA and WMAC shall distribute, assign, transfer, convey and deliver to GRS, and GRS shall acquire and accept, all of the identifiable assets, rights, properties and materials, tangible or intangible, of the GRS Businesses which are primarily used in the operations of such GRS Businesses, including, but not limited to, the following:

(i) all machinery, fixtures, equipment, vehicles, furniture, tools, dies, molds and all other tangible personal property;

(ii) all customer lists, vendor lists, catalogs, sales promotion literature, advertising materials, field performance data, formulas, research material, technical information, management information systems, software, inventions, trade secrets, all covenants not to compete, specifications, designs, drawings, processes and quality control data;

(iii) intellectual property rights, including patents, trademarks, trade names, the name "SCA Services, Inc." and any combination of words utilizing or similar to such words, service marks, technology and know-how;

(iv) inventory;

(v) accounts and notes receivable;

(vi) all certificates for outstanding shares of capital stock of any subsidiary of SCA whose assets, businesses and operations are primarily used in the GRS Businesses;

(vii) all rights, title and interest in and to owned or leased real property together with appurtenances, licenses and permits;

(viii) all rights, title and interest in and to the contracts entered into with customers (together with associated bid and performance bonds), suppliers, sales representatives, distributors, agents, personal property lessors, personal property lessees, licensors, licensees, consignors and consignees, including all contracts for the collecting, carting, hauling and disposal of solid waste, and all rights and contracts to operate, manage or maintain solid waste disposal sites;

(ix) all rights under warranties and guarantees, express or implied;

(x) all books, records and files;

(xi) all items of prepaid expense;

(xii) all licenses and regulatory permits;

(xiii) all known and unknown, liquidated or unliquidated, contingent or fixed, rights or causes of action which such businesses have or may have against any third party and all such rights which such businesses have or may have in or to any asset of such businesses; and

(xiv) goodwill related to the foregoing.

(b) With respect to any technology, know-how, processes or intellectual property rights of SCA distributed to GRS as contemplated in paragraph (a) above, GRS covenants and agrees that upon the written request of WMI, GRS will execute a non-exclusive royalty-free license, in form and substance satisfactory to GRS and WMI (which shall not include the right to sublicense), permitting the continued use of such technology, know-how, processes or intellectual property right by WMI for any Affiliate for so long as WMI deems necessary or appropriate.

(c) With respect to any technology, know-how, processes or intellectual property rights of SCA not distributed to GRS as contemplated in paragraph (a) above, WMI covenants and agrees that upon the written request of GRS, WMI will execute a non-exclusive royalty-free license, in form and substance satisfactory to GRS and WMI (which shall not include the right to sublicense), permitting the continued use of such technology, know-how, processes or intellectual property right by GRS or any Affiliate for so long as GRS deems necessary or appropriate.

Section 6.3. *"As Is" Condition.* GRS acknowledges and agrees that it is acquiring the GRS Businesses "as is" and that WMAC has not given, and will not give, any warranties or guarantees with respect to the condition (financial or otherwise) of any of the GRS Businesses, including, without limitation, the financial stability of any of the GRS Businesses which are conducted in a corporate capacity or the condition of any assets included in the definition of GRS Businesses at the time of distribution, the fitness of such assets for a particular purpose, or as to the absence of any liens, mortgages, pledges, encumbrances, conditional sales agreements, security interests or title retention devices of any kind or other liabilities (contingent or otherwise) relating to such assets. No description of, or any assertions concerning, the GRS Businesses or the

WMI Businesses contained in this Agreement shall be construed to create any warranty or guarantee relative to any of those businesses.

Section 6.4. *Liabilities To Be Assumed by GRS; Indemnity.* In connection with the distribution of the GRS Businesses, and subject to the provisions of Article VIII hereof, GRS hereby agrees to assume and agrees to pay, perform and discharge, and indemnify and hold harmless, WMI, WMAC and SCA against all debts, liabilities, actions, suits, obligations, taxes and contracts of any kind, character or description, whether known, unknown, direct or indirect, accrued, absolute, liquidated or unliquidated, contingent or otherwise, no matter whether arising before or after the Division Closing Date primarily relating to or arising out of the business, operations, other activities or commitments of the GRS Businesses (excluding from the scope of this Section 6.4 any such Businesses rejected by GRS pursuant to Section 1.5 hereof) including, but not limited to: (a) current liabilities primarily related to the GRS Businesses, to the extent that such liabilities have not been paid, performed or discharged as of the Division Closing Date; (b) obligations and liabilities primarily related to the GRS Businesses for any period subsequent to the Division Closing Date, if and when due, to the extent not paid, performed, defended or discharged as of the Division Closing Date with respect to the GRS Businesses and arising under (i) every lien, mortgage, pledge, encumbrance, conditional sales agreement, security interest or title retention device, (ii) every lease contract or arrangement, (iii) every license, license agreement and permit, (iv) any employee benefit or pension plan, (v) any unfilled supply contract, or (vi) other commitments made or incurred by the GRS Businesses or by SCA in the ordinary course of conducting the GRS Businesses; and (c) all income, property, transfer or other taxes (Federal, state, local or foreign), without regard to the tax period to which they relate or the party against which they are asserted, relating or allocable to the conduct of the GRS Businesses (excluding, however, taxes included as part of the Total Cost of Acquisition). Except as expressly provided in Section 6.1 hereof or as mutually agreed pursuant thereto, GRS shall not assume or pay liabilities for income taxes resulting from the transfer of the GRS Businesses to GRS pursuant to Section 6.1 (or SCA Corporate Assets acquired by GRS pursuant to Section 4.6).

Except as, and only to the limited extent, set forth above in this Section 6.4, GRS shall have no obligation whatsoever to pay, perform, defend or discharge (or indemnify WMI, WMAC or SCA against) any debts, liabilities, actions, suits or obligations or contracts of any kind, character or description, whether known, unknown, direct or indirect, accrued, absolute, liquidated, unliquidated, contingent or otherwise relating to or arising out of any businesses or operations of SCA.

Section 6.5. *Liabilities To Be Retained by WMI, WMAC and SCA; Indemnify.* WMI and WMAC hereby agree to assume and to pay, perform, defend or discharge, and indemnify and hold harmless GRS and Genstar against, all debts, liabilities, actions, suits, obigations, taxes and contracts of any kind, character or description, whether known, unknown, direct or indirect, accrued, absolute, liquidated or unliquidated, contingent or otherwise, no matter whether arising before or after the Division Closing Date relating to or arising out of any business, operations, other activities or commitments of SCA (other than those primarily and directly related to the GRS Businesses) including, but not limited to: (a) current liabilities of SCA to the extent that such liabilities have not been paid, performed or discharged as of the Division Closing Date; (b) obligations and liabilities of SCA for the period subsequent to the Division Closing Date, if and when due, to the extent not paid, performed, defended or discharged as of the Division Closing Date and which arise under (i) any lien, mortgage, pledge, encumbrance, conditional sales agreement, security interest, or title retention device, (ii) any lease contract or arrangement, (iii) any license, license agreement and permit, (iv) any employee benefit and pension plan, (v) any unfilled supply contract, or (vi) other commitments made or incurred in the ordinary course of such business; and (c) all income, property, transfer or other taxes (Federal, state, local or foreign), without regard to the tax period to which they related or the party against which they are asserted, relating or allocable to the conduct of the businesses of SCA.

Section 6.6. *Closing.* (a) The transactions contemplated by this Article shall occur on the Division Closing Date, at a closing held at such place as the parties shall agree.

(b) On the Division Closing Date, WMAC and/or SCA shall deliver to GRS, in form and substance satisfactory to GRS, the following:

(i) with respect to any of the GRS Businesses consisting of identifiable assets, all appropriate bills of sale, deede, permits, licenses, assignments of contract and any other instruments of sale, conveyance, transfer and assignment;

(ii) with respect to any of the GRS Businesses which are conducted in a corporate capacity, certificates for all of the outstanding capital stock of such corporations owned by SCA, duly endorsed in blank or accompanied by one or more duly executed stock powers, with signatures guaranteed; and

(iii) documents or other instruments which GRS may reasonably require as necessary or desirable to transfer, assign and convey to GRS as of the Division Closing Date all of SCA's right, title and interest in the GRS Businesess and the SCA Corporate Assets acquired by GRS hereunder, together with any insurance policies related thereto.

(c) On or after the Division Closing Date, WMAC shall also take such steps as may be required to put GRS in actual possession and operating control of the GRS Businesses and the SCA Corporate Assets acquired by GRS.

(d) Against delivery of the items specified in clause (b) hereof, on the Division Closing Date GRS shall deliver to WMAC (i) if required by WMAC a certificate or certificates representing all of the then outstanding shares of Class B Common Stock held by GRS, duly endorsed in blank or accompanied by one or more duly executed stock powers, with signatures guaranteed, which certificates shall thereafter be cancelled and marked as having been redeemed in full in accordance with the provisions of the Delaware General Corporation Law, and (ii) an instrument of assumption of liabilities as contemplated by section 6.4 hereof in form and substance satisfactory to WMAC.

Section 6.7. *Passage of Title and Risk of Loss.* Legal title, equitable title and risk of loss with respect to the GRS Businesses to be distributed at the Division Closing Date shall pass the GRS at such closing.

Section 6.8. *Pension Plans.* Subject to the provisions of any applicable collective bargaining agreement, the benefits attributable to GRS Employees (which term shall means employees and former employees of the GRS Businesses) under sach pension plan (within the meaning of section 3(2) of the Employee Retirement Income Security Act of 1974, as amended (ERISA)) maintained by SCA which covers GRS Employees (collectively, the "Old Pension Plans") shall be

determined in accordance with this Section 6.8.

(a) As soon as practicable after and effective as of the Division Closing Date, GRS shall or shall cause an Affiliate to adopt or make available pension plans (collectively, the "New Pension Plans") that will provide benefits comparable to those provided under the Old Pension Plans as constituted on the day before the Division Closing Date. Each New Pension Plan shall be equivalent in all material respects to the corresponding Old Pension Plan, shall give full credit for all purposes for service with SCA before the Division Closing Date and shall provide that the benefit which each GRS Employee would receive if the New Pension Plan terminated immediately after the transfer of assets described below shall in no event be less than that which he would have received if the corresponding Old Pension Plan had terminated immediately before the transfer of assets. Nothing herein shall prevent GRS from amending or termination the New Pension Plans.

(b) As soon as practicable after the expiration of sixty days after the later of (i) filing Form 5310 with the Internal Revenue Service and (ii) receipt of an opinion of counsel for GRS to the effect that the provisions of each New Pension Plan substantially satisfy the qualification requirements of Section 401(a) of the Internal Revenue Code, WMAC shall cause the funding agency under each of the Old Pension Plans to transfer to the funding agency under the corresponding New Pension Plan, in accordance with the requirements of Section 414(l) of the Internal Revenue Code, and the regulations thereunder, such portion of the assets of such Old Pension Plan as is attributable to the GRS Employees (determined as provide below).

(c) In the case of each Old Pension Plan that is a defined contribution plan, the amount to be so transferred shall be equal to the account balances of the GRS Employees determined as of the date of transfer. In the case of each Old Pension Plan that is a defined benefit plan, the amount to be so transferred shall be equal to the present value of the accured benefits of the GRS Employees participating in that Pension Plan, determined as of the Division Closing Date, plus an additional amount equal to the allocable portion of the excess, if any, of the total value of plan assets on that date over the present value of the accured benefits of all participants in that plan. Such allocable portion shall be a fraction of such excess, of which the numerator is the present value of the accrued benefits of the GRS Employees and the denominator is the present value of the accrued benefits of all employees and former employees of SCA participating in the relevant plan.

(d) Such determination of the present value of accrued benefits shall be made on a plan termination basis on the basis of the actuarial assumptions and methods used by the Pension Benefit Guaranty Corporation as of the Division Closing Date, or such other basis as WMAC and GRS may agree to. It shall be made by an actuary appointed by WMAC and shall be submitted to an actuary apppointed by GRS with appropriate supporting detail, and shall either be accepted by GRS within ten business days after submission to its actuary or, if disputed, shall be submitted within such period to binding arbitration by a third actuary selected by the actuaries appointed by the parties hereto, whose decision thereon shall be rendered within ten business days after submission and shall be final, and the arbitrator shall determine who shall bear the expenses of such arbitration.

(e) With respect to any pension plan covering the GRS Employees as of the Division Closing Date which is a "multi-employer plan" with the meaning of Section 3(37) of ERISA, GRS shall make such contributions to each such multi-employer plan and furnish such bond or escrow arrangement or obtain a variance of such requirement (all at WMI's cost) as is necessary to satisfy Section 4204(a) of ERISA. In addition, if GRS withdraws in a complete withdrawal or a partial withdrawal with respect to operations (as those terms are used in Section 4204(a) of ERISA) during the first five plan years after the Division Closing Date, WMI shall remain secondarily liable for any withdrawal liability it would have had to the plan with respect to the operations (but for Section 4204(a) of ERISA) if the liability of GRS with respect to the plan is not paid.

Section 6.9. *Consents.* WMAC shall use its reasonable best efforts to obtain and shall deliver to GRS on the Division Closing Date, or as soon thereafter as practicable all necessary and/or desirable leases, permits, licenses and other rights which are a part of the GRS Businesses including all consents that it has been able to obtain authorizing the transfer and assignment to GRS of all contracts relating to and used in connection with the GRS Businesses and being assumed by GRS. GRS shall cooperate with and use reasonable efforts to assist WMAC in obtaining any required consents of third parties to the assignment or novation to GRS by any third party of any contract, lease, permit, license, or other right which is part of the GRS Businesses. To the extent that the assignment or novation of any such contract, lease, permit, license or other right shall require the consent of any other party and such consent shall not have been obtained on or before the Division Closing Date, the parties hereto shall use all reasonable efforts and shall cooperate in any reasonable arrangement to assure GRS the benefits of such contract, lease, permit, license or other right. To the extent practicable and reasonable under the circumstances, pending the obtaining of any such necessary consent after the Division Closing Date, GRS shall perform all of the obligations of the GRS Businesses after the Division Closing Date under such contract, lease, permit, license or other right in the same manner as though GRS were the contracting party, lessee, licensee, permittee or holder of such right. WMAC and its successor shall be entitled to act and shall act with respect to any contract, lease, permit, license or other right of the GRS Businesses until consent to the assignment or novation therefor is obtained, according to directions of GRS furnished to WMAC; provided, that such directions are consistent with the terms of such contract, lease, permit, license or other right. WMAC shall promptly remit to GRS all collections received by WMAC, and GRS shall promptly reimburse WMAC for all expenses incurred by WMAC, in respect of such contracts, leases, permits licenses or other rights.

Section 6.10. *No Breach.* It is the intention of WMI and GRS that this Agreement shall not constitute an assignment or attempted assignment of any lease, license, commitment or other contract or agreement if any such assignment or attempted assignment would constitute a breach or violation thereof.

Article VIII.—Conduct of GRS Businesses From Division Closing Date Until Disposition Adjustment Date

Section 7.1. *Conduct of GRS Businesses.* Except as otherwise permitted by this Agreement or as otherwise consented to by WMI in writing, which consent will not be unreasonably withheld, during the nine-month period following the Division Closing Date, or until the Disposition Adjustment Date (with respect to those GRS Businesses which GRS elects not to retain pursuant to Article VIII hereof), GRS agrees and agrees to cause each of such GRS Businesses (as long as such

GRS Businesses are controlled by GRS) to be operated independently of the WMI Businesses, and:

(a) to carry on the GRS Businesses in, and only in the ordinary course consistent with prior practice (including normal and customary insurance coverage) and use its best efforts to preserve the business and prospects of each of the GRS Businesses, and preserve the relationship with customers, suppliers and others having business dealing with the GRS Businesses; and

(b) not to sell, assign or transfer any assets included within the definition of the GRS Businesses (except for sales of inventory, or sales of equipment that is either replaced by other suitable equipment or the failure to replace which will not materially adversely affect the condition (financial or otherwise), earnings, affairs, business or prospects of any of the GRS Businesses, in each case in the ordinary course of business and consistent with prior practice) or any patent, trademark, trade name, copyright, license, franchise, design or other intangible assets or property; and not to mortgage, pledge or grant or suffer to exist and lien or other encumbrances or charge on any material assets or properties, tangible or intangible, except for (i) liens or encumbrances existing at the Division Closing Date, (ii) liens for taxes not yet delinquent, and (iii) such other liens, encumbrances or charges which do not materially adversely affect the condition (financial or otherwise), earnings, affairs, business or prospects of any of the GRS Businesses or waive any rights of material value or cancel any material debts or claims.

Article VIII.—Post-Closing Dispositions by GRS of GRS Businesses

Section 8.1. *Possible Disposition of GRS Businesses.* The parties hereto acknowledge that, although GRS intends to acquire the GRS Businesses for the purposes of owning and operating the GRS Businesses as a going concern, GRS may determine to dispose of one or more of such GRS Businesses to third parties following the acquisition thereof at the Division Closing Date.

Section 8.2. *Notification and Manner of Disposition.* (a) In the event that GRS determines to dispose of any of GRS Businesses at any time during the nine-month period following the Division Closing Date, GRS shall promptly, and in any event prior to the expiration of such nine-month period, notify WMI in writing of such decision, which notification shall specifically identify any such GRS Businesses proposed to be disposed of (each a "Designated GRS Business").

(b) GRS shall use all reasonable efforts to sell and Designated GRS Business as a going concern in a commercially reasonable manner and for the highest price therefor (which price could be a negative amount as contemplated in the definition of "Actual Disposition Price" contained in Section 15.1 hereof) which is reasonably attainable within a reasonable time.

Section 8.3. *Notification of Agreement in Principle; WMI Right to Find Substitute Buyer.* (a) GRS shall promptly notify WMI in writing of any agreement in principle, or similar understanding, reached with a third party respecting the disposition of any Designated GRS Business (the "GRS Disposition"), advising WMI in such notification of (i) the name of the party to whom GRS proposes to dispose of the Designated GRS Business, (ii) the consideration for which such third party proposes to acquire such Designated GRS Business, and (iii) any other material terms of the GRS Disposition. As soon as the same shall become available, GRS shall furnish to WMI a copy of all written instruments relating to the GRS Disposition.

(b) Upon receipt of the written notification pursuant to paragraph (a) above, WMI shall have the right to attempt to dispose of the Designated GRS Business for consideration in excess of that set forth in such notification to an entity (other than WMI or an Affiliate of WMI) which shall have adequate financial resources to operate the Designated GRS Business; *provided, however,* that any such disposition by WMI shall be on terms and conditions which are no less favorable to GRS than those relating to the GRS Disposition. WMI shall have the right for the one-month period following receipt of such notification to find such substitute buyer and reach an agreement in principle or similar understanding with such substitute party during such time period. In the event WMI reaches such agreement in principle or understanding during such one-month period, GRS shall, at WMI's direction, dispose of the Designated GRS Business in accordance with the terms thereof.

Section 8.4. *Failure to Dispose of a Designated GRS Business.* If after using all reasonable efforts to dispose of a Designated GRS Business for a period not longer than three months following notification to WMI pursuant to Section 8.2 hereof, GRS has not disposed of or entered into a definitive agreement to dispose of such Designated GRS Business, then WMI shall have the right for a period of three months thereafter to seek to find a buyer (other than WMI or an Affiliate of WMI) with adequate financial resources to operate the Designated GRS Businesses and to give and does give adequate indemnity to GRS with respect to the Designated GRS Businesses sold. GRS shall, at WMI's direction, dispose of such Designated GRS Business to such a buyer. If, at the end of such three-month period, WMI shall not have found a buyer for such Designated GRS Business, WMI shall direct GRS in writing within five days thereafter to dispose of such Designated GRS Business to a suitable trust created by WMI with sufficient financial resources to operate such Designated GRS Business in a responsible manner and without any recourse to GRS or any of its Affiliates. The trustees of such shall be bound to (i) keep and operate such Designated GRS Business separately from the WMI Businesses and (ii) sell such Designated GRS Business to a financially responsible party as promptly as practicable.

In the event of any failure of WMI to direct GRS to dispose of the Designated GRS Business to the trust described above (i) the expiration of the five-day period referred to above shall be deemed the date of disposition of such Designated GRS Business for purposes of this Agreement, and (ii) WMI shall assume, agree to pay, perform, defend and discharge, indemnify and hold harmless GRS against all debts, liabilities, actions or suits, obligations and contracts of any kind, character or description whether known or unknown, direct or indirect, accrued, absolute, liquidated or unliquidated, contingent or otherwise relating to or arising out of such Designated GRS Business from and after such deemed date of disposition of such Designated GRS Business.

In the event of any disposition or deemed disposition of a Designated GRS Business pursuant to this Section 8.4 other than to a buyer designated by WMI paying valuable consideration therefor, such Designated GRS Business shall thereupon be deemed for purposes of Sections 8.5 and 8.7 hereof to have been disposed of for no consideration.

Section 8.5. *WMI Reimbursement Agreement.* If any Designated GRS Business which is disposed of pursuant to Section 8.2, 8.3 or 8.4 hereof prior to the Disposition Adjustment Date is disposed of for an Actual Disposition Price which is less than the Minimum Disposition Price respecting such Designated GRS Business, then in any such event WMI shall become obligated to make the payment provided for in

Section 8.7 hereof on the Disposition Adjustment Date.

Section 8.6. *Disposition of all GRS Businesses.* (a) If, at the end of any interim period for which financial statements are prepared for the entire nine-month period following the Division Closing Date, the financial statements of the GRS Businesses demonstrate that the GRS Businesses have not achieved income equal to (before interest and taxes and before Genstar corporate office charges) at least 10% of revenues for the entire period from the Division Closing Date until the end of the month preceding the notification from GRS to WMI pursuant to this Section 8.6(a), GRS may dispose of all of the GRS Businesses to a buyer with the intent and ability (financial and otherwise) to operate those businesses in the waste services industry. GRS shall promptly, and in any event prior to the expiration of such nine-month period, notify WMI in writing of such decision and WMI shall have the rights provided in Section 8.3 hereof with respect to any proposed disposition pursuant to this paragraph (a). WMI shall be obligated to pay to GRS on the earlier of (i) the date of actual disposition of such GRS Businesses by GRS to such a buyer, or (ii) in the event there is not such an actual disposition, the date which is six months after the notification of GRS to WMI pursuant to this Section 8.6, in either case an amount in cash equal to the excess, if any, of (x) the aggregate of the minimum Disposition Prices of all the GRS Businesses plus all imputed rate of return of 6.5% per annum on the Apportioned Cost of the GRS Businesses (as reduced from time to time by the amount of any dividends, distributions, or other transfers of assets of the GRS Businesses to GRS since the Division Closing Date and as increased by the amount of any additional investments in the ordinary course of business made by GRS in such businesses during such period) from the Division Closing Date to the date of disposition over (y) the Actual Disposition Prices of the GRS Businesses.

(b)(i) In the event that GRS has not disposed of the GRS Businesses prior to the date which is six months after the notification of GRS pursuant to this Section 8.6, WMI shall direct GRS in writing within five days thereafter to dispose of such GRS Businesses to a suitable trust created by WMI with sufficient financial resources to operate such GRS Businesses in a responsible manner without any recourse to GRS or any of its Affiliates. The trustees of such trust shall be bound to (x) keep and operate such GRS Businesses separate from the WMI Businesses and (y) sell the GRS Businesses to a financially responsible party as promptly as practicable.

(ii) In the event of any failure of WMI to direct GRS to dispose of the GRS Businesses to the trust described above, (x) the expiration of the five-day period referred to above shall be deemed the date of disposition of such GRS Businesses for purposes of this Agreement, and (y) WMI shall assume, agree to pay, perform, defend and discharge, indemnify and hold harmless GRS against all debts, liabilities, actions or suits, obligations and contracts of any kind, character or description, whether known or unknown, direct or indirect, accrued, absolute, liquidated or unliquidated, contingent or otherwise relating to or arising out of the conduct of such GRS Businesses from and after such date of disposition of such GRS Businesses.

(c) For purposes of this Section 8.6 only, the term "GRS Business" shall also include any SCA Corporate Assets acquired by GRS pursuant to this Agreement and shall not inlcude any GRS Business disposed of or deemed to have been disposed of pursuant to Section 8.2, 8.3 or 8.4 of this Article VIII.

Section 8.7. *Payments on Disposition Adjustment Date; Offset.* With respect to any Designated GRS Businesses which are disposed of pursuant to Section 8.2, 8.3 or 8.4 hereof, WMI shall make a cash payment to GRS on the Disposition Adjustment Date in an amount determined as follows:

(i) in the case of any Designated GRS Businesses disposed of where the Minimum Disposition Price exceeds the Actual Disposition Price, the aggregate amount of such excess, *minus*

(ii) in the case of any Designated GRS Businesses disposed of where the Actual Disposition Price exceeds the Minimum Disposition Price, the aggregate amount of such excess.

Thereafter, WMI shall have no further obligation to reimburse GRS in respect of the sales price of any GRS Businesses. The provisions of this Article VIII shall apply to dispositions of GRS Businesses other than to Affiliates of GRS. In respect of the GRS Businesses as to which GRS is indemnified pursuant to Section 8.8, the amount of the excesses, if any, of the Actual Disposition Price over the Minimum Disposition Price of such GRS Businesses paid by GRS pursuant to Section 8.8 hereof shall not be used in the calculations provided for in this Section 8.7, and this Section 8.7 shall not apply to any GRS Business rejected pursuant to Section 1.5 hereof.

Section 8.8 *Indemnity.* Without limiting the generality of the foregoing, in the case of any GRS Business primarily engaged in the collection, treatment or disposal of hazardous chemical waste disposed of pursuant to Section 8.2, 8.3, 8.4 or 8.6 hereof, WMI and WMAC shall specifically assume and agree to pay, perform, defend and discharge, and indemnify and hold harmless GRS and Genstar against all debts, liabilities, actions or suits, obligations and contracts of any kind, character or description whether known or unknown, direct or indirect, accured, absolute, liquidated or unliquidated, contingent or otherwise relating to or arising out of the conduct of such GRS Business prior to the Division Closing Date or subsequent to the date such GRS Business is disposed of pursuant to the terms of this Article VIII; *provided, however,* that in the case of those GRS Businesses disposed of pursuant to this Article VIII as to which GRS is indemnified pursuant to this Section 8.8, where the Actual Disposition Price exceeds the Minimum Disposition Price, GRS shall pay such excess to WMI.

ARTICLE IX.—Additional Covenants and Agreements

Section 9.1. *Best Efforts; Cooperation.* Subject to the terms and conditions of this Agreement, each of the parties hereto shall use its best efforts to comply promptly with all filing requirements which federal or state law may impose on the parties hereto with respect to the transactions contemplated hereby, use its best efforts to cooperate with and furnish information promptly to the other in connection with any such filing requirements imposed upon it in connection with the transactions contemplated hereby and cooperate with the other party hereto in every way in carrying out the transactions contemplated hereby. Each of the parties hereto shall deliver to the other party any documents or instruments necessary to effectuate the transactions contemplated hereby, including any such documents or instruments necessary to transfer the assets or capital stock of any of the corporations included in the definition of the GRS Businesses, and any other documents or instruments deemed reasonably necessary or useful to effectuate the transactions contemplated hereby by counsel for any party hereto and shall take all action, and do, or cause to be done, all things necessary, proper or advisable under applicable laws, including obtaining all governmental

licenses and consents and making all filings with governmental agencies, foreign or domestic, to consummate and make effective the transactions contemplated by this Agreement, including the conveyance of all of SCA's rights in the GRS Businesses to GRS.

Section 9.2. *Independent Operation of WMI Businesses and GRS Businesses.* It is the intent of the parties to this Agreement that the WMI Businesses and GRS Businesses will be operated independently of each other.

Section 9.3. *HSR Filings.* WMAC, WMI, GRS and Genstar shall file, as promptly as practicable, all required Notification and Report Forms under the HSR Act with the Federal Trade Commission (the "FTC") and the Antitrust Division of the Department of Justice (the "Antitrust Division") with respect to the transactions contemplated hereby and shall use their best efforts to respond as promptly and completely as practicable to requests from the FTC or Antitrust Division for additional information or documentation.

Section 9.4. *Insurance.* Before the Division Closing Date the insurance coverage of the WMI Businesses or the GRS Businesses shall not be terminated or modified without the consent of the parties hereto. WMI and GRS shall use their best efforts to make arrangements to their mutual satisfaction so that each of them will have the benefit, from and after the Division Closing Date, of the appropriate portion of the insurance coverage on the assets and operations of SCA as is in effect on the date WMAC acquires more than a majority of the outstanding capital stock of SCA pursuant to the Tender Offer or otherwise.

Section 9.5. *Notice of Certain Events.* Each of the parties hereto shall give prompt notice to the other of (i) the occurrence, or failure to occur, of any event the occurrence or failure of which would be likely to cause any representation or warranty contained in this Agreement to be untrue or inaccurate in any material respect at any time from the date hereof to the Disposition Adjustment Date, and (ii) any material failure by either party, or any officer, director, employee or agent thereof, to comply with or satisfy any covenant, condition or agreement to be complied with or satisfied by it hereunder; *provided, however,* that no such notification shall affect the representations or warranties of the parties or the conditions to the obligations to the parties hereunder.

Section 9.6. *No Public Announcement.* Each of the parties hereto agrees that it will not make any press release or other similar public announcement concerning the transactions contemplated by this Agreement without the prior approval of the other party, except to the extent otherwise required by law.

Section 9.7. *No Solicitation of Other Offers.* Each of the parties hereto agrees that it will not prior to the Division Closing Date directly or indirectly (i) initiate contact with any person (except SCA) in an effort to solicit an "acquisition proposal" (as used herein, "acquisition proposal" shall mean any proposal for a merger or other business combination involving SCA or for the acquisition of a substantial interest in the equity or assets of SCA), (ii) authorize or knowingly permit any of the officers, directors or employees or other representatives (including investment bankers, attorneys and accountants) to directly or indirectly initiate any such contact, (iii) cooperate with or furnish or cause to be furnished any non-public information to any person or entity in connection with any possible acquisition proposal, and (iv) promptly advise the other party orally and in writing of any inquiry or proposal which it reasonably expects may lead to such an acquisition proposal.

Section 9.8. *No Further Purchases of SCA Shares.* Neither party hereto will purchase or otherwise acquire any SCA Shares after the date hereof without the prior written consent of the other party hereto.

Article X.—Conditions

Section 10.1. *Conditions to the Tender Offer.* The obligations of WMAC to purchase SCA Shares pursuant to the Tender Offer shall be subject to the fulfillment of the conditions set forth in the Offer to Purchase as it may be amended from time to time pursuant to this Agreement.

Section 10.2. *Conditions to the Merger and Other Transactions Contemplated by This Agreement.* The obligations of the parties hereto to effect the Merger shall be subject to the following conditions:

(a) WMAC shall have purchased SCA Shares pursuant to the Tender Offer;

(b) The Merger shall have been duly approved by the requisite vote or consent of the holders of SCA Shares, if such approval is required by applicable law;

(c) All applicable waiting periods required by the HSR Act shall have expired or have been terminated; and

(d) No preliminary or permanent injunction or other order by any court of competent jurisdiction shall have been issued and remain in effect which would (i) make illegal the acquisition or holding of SCA Shares by WMAC, WMI or GRS; (ii) otherwise prevent consumation of the Merger; or (iii) impose material limitations on the ability of WMAC, WMI or GRS effectively to acquire or hold or to exercise full rights of ownership to the SCA Shares acquired by WMAC, including, but not limited to, the right to vote the SCA Share purchased by it on all matters properly presented to the stockholders of SCA; *provided, however,* that WMAC, WMI and GRS shall have used their reasonable best efforts to prevent such injunctions or other order; *provided, further,* that upon the lifting, cancellation or dissolution of any such injunction as a result of the best efforts of WMAC, WMI or GRS, the Merger and other transactions contemplated hereby shall be consummated as soon as practicable thereafter.

Article XI.—WMI Representations and Warranties

WMI represents and warrants to GRS as follows:

Section 11.1. *Due Incorporation.* WMI has been duly incorporated and is validily existing as a corporation in good standing under the laws of the State of Delaware, and has full corporate power and authority to own, lease and operate its assets, properties and business and to carry on its business as not being and as heretofore conducted.

Section 11.2. *Due Authorization.* WMI has all requisite corporate power and authority to enter into and perform all of its obligations hereunder, and WMI is duly authorized to execute, deliver and perform this Agreement; this Agreement has been duly executed by WMI, is a valid and binding agreement of WMI, and is enforceable against WMI in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency receivership or other similar laws applicable to creditors' rights and other equitable remedies.

Section 11.3. *No Violation.* The execution, delivery and performance by WMI of this Agreement do not violate or conflict with or result in a breach of or constitute (or with notice or lapse of time or both would constitute) a default under (i) WMI's Restated Certificate of Incorporation on By-Laws, as amended, or any material license or other consent or authorization granted by any governmental authority to which WMI or any of its subsidiaries is a party or is otherwise bound; (ii) (subject to obtaining appropriate waivers from the banks under WMI's revolving credit agreement and the lenders under its insurance company loan agreements,

which WMI covenants to use its best efforts to obtain or to replace such credit facilities) any material indenture, mortgage, bond, license, lease, permit, loan agreement or other agreement to which WMI is a party or by which WMI or any of its subsidiaries or properties may be bound; or (iii) any law, rule, regulation, judgement, decree or order of any court applicable to or affecting the business or operations of WMI or any of its subsidiaries.

Section 11.4. *SCA Shares.* As of the date of this Agreement, WMI is the beneficial owner of 625,000 SCA Shares, which shares constitute all of the SCA Shares which WMI beneficially owns on the date hereof.

Section 11.5. *Securities Laws.* No authorization, approval or consent of any court or governmental authority or agency is required in connection with the valid authorization, issuance, sale or delivery of the Class A Common Stock or Class B Common Stock. The offer, isssue, sale and delivery of the Class A Common Stock and the Class B Common Stock under the circumstances contemplated by this Agreeement constitute exempt transactions under the Securities Act of 1933, as amended, and under any applicable state securities laws, and the registration of the Class A Common Stock and the Class B Common Stock is not required under the circumstances contemplated by this Agreement.

Section 11.6. *Investment.* WMI is acquiring and will acquire the Class A Common Stock for its own account for investment and not with a view to, or for sale in connection with, any distribution thereof.

Section 11.7. *No Brokers.* All negotiations relative to this Agreement and the transactions contemplated hereby have been carried on by WMI and GRS without the intervention of any other person or firm as the result of any act of WMI in such manner as to give rise to any valid claim against any of the parties hereto for a brokerage commission, finder's fee or other like payment to any person or entity, except for the payment of an investment banking fee to Merrill Lynch Capital Markets.

Article XII.—GRS Representations and Warranties

GSA represents and warrants to WMI as follows:

Section 12.1. *Due Incorporation.* GRS has been duly incorporated and is validly existing as a corporation in good standing under the laws of the State of Delaware, and has full corporate power and authority to own, lease and operate its assets, properties and business and to carry on its business as not being and as heretofore conducted.

Section 12.2. *Due Authorization.* GRS has all requisite corporate power and authority to enter into and perform all of its obligations hereunder and GRS is duly authorized to execute, deliver, and perform this Agreement; this Agreement has been duly executed by GRS, is a valid and binding agreement of GRS, enforceable against GRS in accordance with its terms except as such enforceability may be limited by bankruptcy, insolvency, receivership or other similar laws applicable to creditors' rights and other equitable remedies.

Section 12.3. *No Violation.* The execution, delivery and performance by GRS of this Agreement do not violate or conflict with or result in a breach of or constitute (or with notice or lapse of time or both would constitute) a default under (i) GRS's Certificate of Incorporation or By-Laws, or any material license or other consent or authorization granted by any governmental authority to which GRS or any of its subsidiaries is a party or is otherwise bound; (ii) any material indenture, mortgage, bond, license, lease, permit, loan agreement or other agreement to which GRS is a party or by which GRS or any of its subsidiaries or properties may be bound; or (iii) any law, rule, regulation, judgement, decree or order of any court applicable to or affecting the business or operations of GRS or any of its subsidiaries.

Section 12.4. *SCA Shares.* As of the date of this Agreement, neither GRS nor any of its Affiliates is the beneficial owner of any SCA Shares.

Section 12.5. *Investment.* GRS is acquiring and will acquire the Class B Common Stock for its own account for investment and not with a view to, or for sale in connection with, any distribution thereof.

Section 12.6. *Waste Services Business.* GRS has determined to enter the waste services industry through the acquisition of the GRS Businesses and has the intention of operating those businesses in that industry and does not intend to sell any of the GRS Businesses within the foreseeable future subject to the right of GRS to conduct and manage its businesses, affairs and properties in a manner it deems appropriate or advisable.

Section 12.7. *No Brokers.* All negotiations relative to this Agreement and the transactions contemplated hereby have been carried on by WMI and GRS without the intervention of any other person or firm as the result of any act of GRS, in such manner as to give rise to any valid claim against any of the parties hereto for a brokerage commission, finder's fee or other like payment to any person or entity, except to the extent as otherwise provided in this Agreement.

Article XIII.—Genstar Representations and Warranties

Genstar represents and warrants to WMI as follows:

Section 13.1. *Due Incorporation.* Genstar has been duly incorporated and is validly existing as a corporation in good standing under the laws of Canada, and has full corporate power and authority to own, lease and operate its assets, properties and businesses and to carry on its business as now being and as heretofore conducted.

Section 13.2. *Due Authorization.* Genstar has all requisite corporate power and authority to enter into and perform all of its obligations hereunder, and Genstar is duly authorized to execute, deliver and perform this Agreement; this Agreement has been duly executed by Genstar, is a valid and binding agreement of Genstar, and is enforceable against Genstar in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, receivership or other similar laws applicable to creditors' rights and other equitable remedies.

Section 13.3. *No Violation.* The execution, delivery and performance by Genstar of this Agreement do not violate or conflict with or result in a breach of or constitute (or with notice or lapse of time or both would constitute) a default under (i) Genstar's Restated Articles of Incorporation or By-Laws or any material license or other consent or authorization granted by any governmental authority to which Genstar or any of its subsidiaries is a party or is otherwise bound; (ii) or to any material indenture, mortgage, bond, license, lease, permit, loan agreement or other agreement to which Genstar is a party or by which Genstar or any of its subsidiaries or properties may be bound; or (iii) any law, rule, regulation, judgment, decree or other of any court applicable to or affecting the business or operations of Genstar or any of its subsidiaries.

Section 13.4. *SCA Shares.* As of the date of this Agreement, neither Genstar nor any of its Affiliates is the beneficial owner of any SCA Shares.

Section 13.5. *No Brokers.* All negotiations relative to this Agreement and the transactions contemplated hereby have been carried on by Genstar without the intervention of any other person or firm as the result of any act of

Genstar in such manner as to give rise to any valid claim against any of the parties hereto for a brokerage commission, finder's fee or other like payment to any person or entity, except to the extent as otherwise provided in this Agreement.

Article XIV.—Termination and Waiver

Section 14.1. *Termination.* (a) This Agreement may be terminated at any time prior to the purchase of SCA Shares pursuant to the Tender Offer (i) by WMI in the event that the Tender Offer is not commenced pursuant to this Agreement or in the event that WMI causes WMAC to terminate the Tender Offer without purchasing any SCA Shares thereunder or (ii) by GRS if within six months after the date hereof WMAC has not purchased any SCA Shares pursuant to the Tender Offer, provided that GRS gives at least forty-five (45) days' prior written notice to such effect to WMI.

(b) If the Division Closing Date has not occurred within one year following the purchase of SCA Shares pursuant to the Tender Offer, then GRS, in its sole discretion, may offer the Class B Common Stock to WMI for purchase pursuant to this Section 14.1 and thereby, subject to the following provisions of this Section 14.1, terminate this Agreement.

(c) Within ten days of receipt by WMI of GRS's written notice of the offer of GRS pursuant to paragraph (b) above, WMI may accept such offer by payment to GRS in cash of an amount equal to the sum of the aggregate capital investment made by GRS hereunder, together with interest on such amount (as such amount may have been reduced from time to time by the amount of any dividends, distributions and other transfers of assets to GRS from WMAC) at the Prime Rate from the dates of such investments to the date of WMI's acceptance of GRS's offer *less* the amount of all dividends, distributions and other transfers of assets of WMAC to GRS If WMI accepts the offer of GRS, then for a period of one year following the date of such acceptance GRS or one of its Affiliates shall manage and operate the GRS Businesses. WMI and WMAC shall:

(i) assume, pay, perform, defend, discharge, indemnify and hold harmless GRS, Genstar and their Affiliates against all debts, liabilities, actions or suits, obligations and contracts of any kind, character, description whether known or unknown, direct or indirect, accrued, absolute, liquidated or unliquidated, contingent or otherwise relating to or arising out of the operation of the GRS Businesses, (ii) reimburse, or cause SCA and/or one or more of the subsidiaries of SCA to reimburse GRS, Genstar and their Affiliates for all out-of-pocket costs and expenses arising out of or relating to the operation of the GRS Businesses, including but not limited to all salaries, expenses or benefits accrued by, or on behalf of, any employee of GRS, Genstar or their Affiliates supervising or managing the operations of the GRS Businesses, and (iii) pay, or cause SCA and/or one or more of the subsidiaries of SCA to pay to GRS or its Affiliate a fee equal to 10% of the pre-tax profits generated by the GRS Businesses (before Genstar corporate office charges) during such one-year period or such shorter period as may be applicable under paragraph (d) below, but in no event less than $1.5 million per annum or pro rata for any period less than a year, in consideration for the operation of the GRS Businesses by GRS or its Affiliate.

(d) During the one-year period of operation of the GRS Businesses by GRS or its Affiliate, WMI may, at any time, instruct GRS or its Affiliate to transfer the GRS Businesses to any person or entity (other than WMI or an Affiliate of WMI) who has the intent and ability (financial and otherwise) to operate the GRS Businesses in the waste services industry without any recourse to GRS, Genstar or their Affiliates, and GRS or its Affiliate shall, at WMI's instruction, so transfer the GRS Businesses and promptly pay over to WMI any proceeds received by GRS in connection with any such transfer.

(e) In the event that during the one-year period of operation of the GRS Businesses by GRS or its Affiliate WMI has not instructed GRS or its Affiliate to transfer the GRS Businesses, GRS shall, upon expiration of such one-year period, transfer the GRS Businesses to a suitable trust created by WMI with sufficient financial resources to operate the GRS Businesses in a responsible manner and without any recourse to GRS or any of it Affiliates. The trustees of such trust shall be bound to (i) keep and operate the GRS Businesses separately from the WMI Businesses and (ii) sell the GRS Businesses to a financially responsible party as promptly as practicable.

(f) In the event that WMI does not accept the offer of GRS within the ten-day period specified in paragraph (c) above, GRS shall have a further ten-day period in which to purchase from WMI the Class A Common Stock of WMAC by payment to WMI in cash of an amount equal to the capital investment made by WMI hereunder *less* the amount of all dividends, distributions and other transfers of assets of WMAC to WMI.

(g) If, at the end of the ten-day period specified in paragraph (f) above GRS shall not have purchased from WMI the Class A Common Stock of WMAC, then WMI must immediately purchase from GRS the Class B Common Stock of WMAC by payment to GRS in cash of an amount equal to the sum of the aggregate capital investment made by GRS to WMAC, *less* the amount of all dividends, distributions and other transfers of assets of WMAC to GRS. For a period of one year following the date of the purchase by WMI of the Class B Common Stock pursuant to this paragraph (g) GRS or one of its Affiliates shall manage and operate the GRS Businesses upon the terms set forth in paragraph (c), (d) and (e) above.

(h) In the event of any transfers of the GRS Businesses pursuant to paragraph (d) or (e) of this Section 14.1, WMI and WMAC shall assume, agree to pay, perform, defend and discharge, indemnify and hold harmless GRS, Genstar and their Affiliates against all debts, liabilities, actions or suits, obligations and contracts of any kind, character or description, whether known or unknown direct or indirect, accrued, absolute, liquidated or unliquidated, contingent or otherwise relating to or arising out of the conduct of the GRS Businesses. For purposes of this Section 14.1, the term GRS Businesses shall include any SCA Corporate Assets acquired by GRS pursuant to this Agreement.

(i) This Agreement may be terminated at any time by GRS if GRS withdraws from the Tender Offer pursuant to Section 2.3(a) hereof.

Section 14.2. *Effect of Termination.* (a) If this Agreement is terminated pursuant to Section 14.1 hereof, the Tender Offer shall thereupon be terminated, this Agreement shall forthwith become void and there shall be no liability on the part of WMI, GRS or WMAC or their respective officers or directors to any other party hereto, except that the agreements contained in Sections 1.5, 2.4, 6.4, 6.5, 14.1, 14.2 and 16.2 and all indemnities provided for in this Agreement shall survive the termination therof. The parties hereto shall promptly terminate the Tender Offer if this Agreement is terminated for any reason whatsoever prior to the purchase of any SCA Shares therunder.

(b) If this agreement is terminated pursuant to Section 14.1(a) hereof and within the period of six months thereafter WMI acquires all or a substantial portion of the WMI Businesses, WMIO shall therupon pay to

GRS a termination fee in cash of $5,000,000.

(c) If within the period of twelve months following the date of this Agreement either party hereto sells any of the SCA Shares owned by it on the date hereof, such party shall share with the other party its Investment Profit realized upon the sale of such SCA Shares in the same proportion as each party's capital investment in WMAC bears to the total equity investment of both parties; *provided, however,* that WMI shall have no such obligation to GRS if WMI is obligated to pay GRS the termination fee pursuant to Section 14.2(b) above.

Section 14.3 *Waiver.* Any term or provision of this Agreement may be waived in writing at any time by the party which is entitled to the benefits thereof. Any agreement on the part of a party hereto to any such waiver shall be valid if set forth in an instrument in writing signed on behalf of such party.

Article XV.—Definitions and Accounting Terms

Section 15.1 *Certain Defined Terms.* As used in this Agreement, the following terms shall have the meanings set forth respectively after each:

"Actual Disposition Price" means (i) a positive amount in the amount of the consideration actually received by GRS or WMI, as the case may be, for the disposition of any Designated GRS Business, (ii) zero in the case of a deemed disposition or other disposition for no consideration or (iii) a negative amount in the amount of the consideration actually paid by GRS or WMI, as the case may be, for the disposition of any Designated GRS Business, in any case less the costs and expenses of disposing of any Designated GRS Business.

"Affiliate" has the meaning in Rule 501 under the Securities Act of 1933, as amended.

"Allocated Cost" means, with respect to each GRS Business, that portion of the Apportioned Cost of all GRS Businesses allocated by WMI to such GRS Business pursuant to Section 4.7 hereof.

"Apportion Date" means the date on which, pursuant to Section 4.4 hereof, the Apportioned Cost of the GRS Businesses on the one hand and the Apportioned Cost of the WMI Businesses on the other, shall be specified.

"Apportioned Cost" means, with respect to the WMI Businesses as a whole and the GRS Businesses as a whole, respectively, that portion of the Total Cost of Acquisition apportioned by WMI pursuant to Section 4.4 hereof, and means, with respect to any SCA Corporate Assets acquired by GRS or WMI pursuant to Section 4.6 hereof, the Fair Market Value thereof.

"Class A Common Stock" means the Class A Common Stock, par value $1.00 per share, of WMAC.

"Class B Common Stock" means the Class B Common Stock, par value $1.00 per share, of WMAC.

"Designated GRS Business" means any GRS Business designated by GRS pursuant to Section 8.2 hereof.

"Disposition Adjustment Date" means the date which is 15 months after the Division Closing Date, on which the adjustments pursuant to Section 8.7 shall be made.

"Division Closing Date" means the date which shall be as promptly as practicable after the Effective Time of the Merger, but in no event more than five business days thereafter, and on which date the GRS Businesses and the SCA Corporate Assets acquired by GRS shall be distributed to GRS.

"Effective Time of the Merger" means the time that the Merger becomes effective in accordance with applicable law.

"Exchange Act" means the Securities Exchange Act of 1934, as amended.

"Fair Market Value" means the fair market value of the WMI Businesses, the GRS Businesses and the SCA Corporate Assets as determined pursuant to the procedures set forth in Exhibit C hereto.

"GRS Businesses" means (i) all the assets, business or operations of SCA (whether subsidiaries of SCA or otherwise) located or operating in the locations listed on Exhibit B hereto, and (ii) those assets, businesses or operations of SCA (whether subsidiaries of SCA or otherwise) which shall be identified by WMI pursuant to Section 4.1 hereof. The GRS Businesses shall include all contracts for the collecting, carting, hauling and disposal of waste and all rights and contracts to operate, manage or maintain waste disposal sites that primarily relate to such GRS Businesses. Each such asset, business or operation is herein individually referred to as a GRS Business.

"HSR Act" means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended.

"Investment Profits" means, with respect to each party's obligation pursuant to Article XIV hereof to share its profits realized on SCA Shares purchased prior to the date hereof, the price at which such SCA Shares are sold, *less:*

(i) the amount paid by such party in purchasing such SCA Shares (the "Purchase Price"); and

(ii) interest on the Purchase Price at the Prime Rate from the date of purchase of the SCA Shares to the date of sale of such shares.

"Merger" means the merger provided for in Article III hereof.

"Minimum Disposition Price" means, with respect to the sale of any GRS Business or SCA Corporate Asset pursuant to Article VIII, (i) the sum of (a) the Allocated Cost of such GRS Business, or, in the case of an SCA Corporate Asset, the Fair Market Value of such SCA Corporate Asset, (b) an imputed rate of return on the amount of such Allocated Cost or Fair Market Value, as the case may be (as reduced from time to time by the amount of any dividends, distributions or transfers referred to in clause (ii) below and as increased by the amount of any additional investments made by GRS in such businesses or assets) from the Division Closing Date to the date of sale, calculated at a rate of 52% of the Prime Rate as in effect from time to time, (c) the amount of all additional investments made by GRS in such businesses or assets, (d) the reasonable costs of any geological testing respecting the facilities of such GRS Businesses, and (e) an amount equal to the tax liability attributable to such GRS Business or SCA Corporate Asset resulting from a Section 338 election, *less* (ii) the amount of all dividends, distributions and other transfers of assets of the GRS Business or the SCA Corporate Assets to GRS (or any Affiliate) since the Division Closing Date.

"Prime Rate" means the fluctuating interest rate per annum that shall be in effect from time to time which rate per annum shall at all times be equal to the rate of interest announced publicly by Citibank, N.A. in New York, New York, from time to time as Citibank, N.A.'s base rate.

"SCA Businesses" means the GRS Businesses and the WMI Businesses considered as a whole representing all the assets and liabilities of SCA other than the SCA Corporate Assets and SCA Corporate Liabilities.

"SCA Corporate Assets" means those assets of SCA which are not included as assets of the GRS Businesses or the WMI Businesses. Each of the SCA Corporate Assets will be specifically identified in a list prepared by WMI pursuant to Section 4.2 hereof and agreed to by GRS as constituting an SCA Corporate Asset.

"SCA Corporate Liabilities" means those liabilities of SCA reflected on the consolidated balance sheet of SCA and its subsidiaries (which, for purposes of the determination of the Total Cost of

Acquisition, includes all prepayment premiums, redemption costs and other similar costs and charges provided for or required by the instruments relating to such liabilities which are incurred, or reasonably expected to be incurred, as a result of the transactions contemplated hereunder) and which are not included as liabilities of the GRS Businesses or the WMI Businesses. Each of the SCA Corporate Liabilities will be specifically identified in a list prepared by WMI pursuant to Section 4.2 hereof and agreed to by GRS as constituting an SCA Corporate Liability.

"SCA Shares" means the shares of Common Stock, par value $1.00 per share, of SCA.

"SEC" means the Securities and Exchange Commission.

"Section 338" means Section 338 of the Internal Revenue Code of 1954, as amended.

"Tender Offer" means the all cash offer by WMAC to purchase outstanding SCA Shares as contemplated by this Agreement.

"Total Cost of Acquisition" means the amount determined in accordance with the provisions of Section 4.3 hereof.

"Valuation Date" means the date which shall be the end of the most recently completed calendar month for which financial statements are available prior to the determinations made pursuant to Article IV.

"WMI Businesses" means (i) all the assets, businesses or operations of SCA (whether subsidiaries of SCA or otherwise) located or operating in the locations listed on Exhibit A hereto and (ii) any other assets, businesses or operations of SCA not distributed to GRS pursuant to the terms of this Agreement. The WMI Businesses shall include all contracts for the collecting, carting, hauling, and disposal of waste and all rights and contracts to operate, manage or maintain waste disposal sites that primarily relate to such WMI Businesses. Each such asset, business or operation is herein individually referred to as a WMI Business.

Section 15.2. *Accounting Terms.* All accounting terms not specifically defined herein shall be construed in accordance with generally accepted accounting principles then applicable.

Article XVI.—General Provisions

Section 16.1. *Survival of Representations, Warranties and Agreements.* The representations, warranties and agreements contained in this Agreement and in any document delivered or to be delivered pursuant to this Agreement shall not survive the Disposition Adjustment Date, except that the agreements contained in Sections 1.5(e), 2.4, 6.4, 6.5, 8.4, 8.6, 8.8, 14.2(b), 14.2(c) and 16.2 hereof and all indemnities provided for in this Agreement shall survive such date.

Section 16.2. *Expenses.* If this Agreement is terminated before the Division Closing Date, all costs and expenses incurred by WMI and GRS in connection with this Agreement and the transactions contemplated hereby, including but not limited to fees and expenses of investment banking and financial advisers, engineers and technical consultants, appraisers and legal counsel and printing and mailing costs and other fees, charges and expenses relating to the Tender Offer, the Merger, this Agreement and the transactions contemplated hereby, shall be shared on the basis of 60% by WMI and 40% by GRS; *provided, however,* that from and after the date occurring thirty days after the Division Closing Date, no costs or expenses incurred (including litigation costs and expenses) shall be so included other than those incurred in connection with the appraisals being made in connection with this Agreement and the exercise of dissenters' rights by SCA stockholders in connection with the Merger.

Section 16.3. *Notices.* All notices and other communications given or made pursuant hereto shall be in writing and shall be deemed to have been given or made if in writing and delivered personally or sent by registered or certified mail (postage prepaid, return receipt requested) to the parties at the following addresses:

(a) If to WMI, to: Waste Management, Inc., 3003 Butterfield Road, Oak Brook, Illinois 60521. Attention: J. Steven Bergerson, Esq.

With a copy to: Bell, Boyd & Lloyd, Three First National Plaza, Suite 3200, Chicago, Illinois 60602. Attention: John T. McCarthy, Esq.

(b) If to GRS, to: Genstar Refuse Services Corporation, Suite 3800, 4 Embarcadero Center, San Francisco, California 94111. Attention: Leonard Holman.

With a copy to: Shearman & Sterling, 53 Wall Street, New York, New York 10005. Attention: Stephen R. Volk, Esq.

(c) If to Genstar, to: Genstar Corporation, Suite 3800, 4 Embarcadero Center, San Francisco, California 94111. Attention: Ross Turner.

With a copy to: Shearman & Sterling, 53 Wall Street, New York, New York 10005. Attention: Stephen R. Volk, Esq.

or at such other addresses as shall be furnished by the parties by like notice, and such notice or communication shall be deemed to have been given or made as of the date so delivered or mailed.

Section 16.4. *Specific Performance.* The parties hereto acknowledge and agree that irreparable damage would occur and that the parties hereto would not have an adequate remedy at law in the event that any of the provisions of this Agreement were not performed in accordance with their specifications or otherwise breached. It is accordingly agreed that the parties shall be entitled to, and each hereby consents to, the entry of an injunction or injunctions to prevent breaches of the provisions of this Agreement and to enforce specifically the terms and provisions hereof in any court of the United States or any state thereof having jurisdiction, this being in addition to any other remedy to which they may be entitled at law or in equity.

Section 16.5. *Severability.* If any provision of this agreement should be or should become fully or partly invalid or unenforceable for any reason whatsoever or should violate any applicable law, this Agreement shall be considered divisible as to such provision of and such provision shall be deemed deleted from this Agreement, and the reminder of this Agreement shall be valid and binding as if such provision were not included herein. There shall be substituted for any such provision deemed to be deleted a suitable provision which, as far as is legally possible comes nearest to what the parties desired or would have desired according to the sense and purpose of this Agreement had they considered the point when concluding this Agreement.

Section 16.6. *Entire Agreement.* This Agreement, together with the Exhibits hereto, constitutes the entire Agreement among the parties, and supersedes all other agreements and understandings, both written and oral, between the parties with respect to the subject matter hereof.

Section 16.7. *Binding Effect; Assignment.* This Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns and are not intended to confer upon any other person any rights or remedies. Neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned by any party hereto without the prior written consent of the other party.

Section 16.8. *Bulk Sales Law.* WMI and GRS hereby waive compliance with the provisions of Article 6 of the Uniform Commercial code as it is in effect in the states where any of the GRS Businesses are conducted which,

as contemplated hereunder, are to be transferred to GRS.

Section 16.9. *Applicable Law.* This Agreement shall be governed by, and construed in accordance with, the laws of the State of Delaware without giving effect to principles of conflicts of laws.

Section 16.10. *Counterparts.* This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement and each of which shall be deemed an original.

Section 16.11. *Headings.* The headings contained in this Agreement are inserted for convenience only and do not constitute a part of this Agreement.

In witness whereof, WNMI, Genstar, GRS and WMAC have caused this Agreement to be signed by their respective officers thereunto duly authorized, all as of the date first written above.

Waste Management, Inc.

Donald F. Flynn,

Senior Vice President & Chief Financial Officer.

Genstar Corporation.

R.J. Turner,

Chairman & Chief Executive Officer.

Genstar Refuse Services Corporation

J.L. Holman,

President.

WM Acquiring Corp.

Donald F. Flynn,

Vice President & Treasurer.

Exhibit A.—WMI Businesses

Set forth below is a listing of the cities, counties, municipalities and other areas where the businesses or operations of SCA are to be retained by WMI, subject to the terms and conditions of this Agreement. Unless otherwise indicated, all businesses and operations in the locations set forth below are collection operations.

Little Rock, Arkansas
Little Rock, Arkansas (Solid waste landfill)
Pine Bluff, Arkansas
Pine Bluff, Arkansas (Solid waste landfill)
Mobile, Alabama
Tucson, Arizona
Baldwin Park, California
Cathedral City, California
Irvine, California
Oceanside, California
Orange County-Santa Anna, Califorina
Sacramento, California
New Milford, Connecticut
New Milford, Connecticut (Solid waste landfill)
Tallahassee, Florida
Tallahassee, Florida (Solid waste landfill)
Port of St. Lucie, Florida
Dalton, Georgia
Savannah, Georgia
Chicago, Illinois (Chemical waste incinerator)
Fort Wayne, Indiana
Fort Wayne, Indiana (Chemical waste landfill)
Muncie, Indiana
Louisville, Kentucky
Louisville, Kentucky (Solid waste landfill)
Louisville-Campground, Kentucky (Solid waste landfill)
Shreveport, Louisiana
Braintree, Massachusetts (Chemical waste incinerator and transfer station)
Haverhill, Massachusetts (Solid waste landfill)
Lawrence, Massachusetts (Bio-medical/chemical waste incinerator)
Laurel, Maryland (Chemical waste transfer facility)
Shayne (D.C.), Maryland
Portland, Maine
Saginaw, Michigan
St. Louis-Chain of Rock, Missouri (Solid waste landfill)
Londonberry, New Hampshire
Newark, New Jersey (Chemical detoxification plant) Rio Grande, New Jersey
Vineland, New Jersey
Buffalo, New York (Chemical waste transfer facility)
Model City, New York (Chemical waste landfill)
Utica, New York
Utica, New York (Solid waste landfill)
Reidsville, North Carolina (Chemical waste transfer facility)
Canton, Ohio
Canton, Ohio (Solid waste landfill)
Cleveland, Ohio
Cleveland, Ohio (Solid waste landfill)
Findley, Ohio
Lima, Ohio
Lima, Ohio (Solid waste landfill)
Youngstown, Ohio
Oklahoma City, Oklahoma
Oklahoma City, Oklahoma (Solid waste landfill)
Portland, Oregon
Broomall, Pennsylvania
Elizabethtown, Pennsylvania
Honeybrook, Pennsylvania
Lancaster, Pennsylvania
Philadelphia, Pennsylvania
Pottstown, Pennsylvania
Pottstown, Pennsylvania (Solid waste landfill)
York, Pennsylvania
York, Pennsylvania (Solid waste landfill)
Charleston, South Carolina
Charleston, South Carolina (Solid waste landfill)
Pinewood, South Carolina (Chemical waste landfill)
Greenbriar, Tennessee (Chemical waste transfer facility)
Jackson, Tennessee
Memphis, Tennessee

Exhibit B.—GRS Businesses

Set forth below is a listing of the cities, counties, municipalities and other areas where the businesses or operations of SCA are to be distributed to GRS, subject to the terms and conditions of this Agreement. Unless otherwise indicated, all businesses and operations in the locations set forth below are collection operations.

Chandler, Arizona
Phoenix, Arizona
Chula Vista, California
Cudahy, California
San Diego, California
Arvada/Denver, Colorado
Tampa, Florida
West Palm Beanch, Florida
Atlanta, Georgia
Assonet, Massachussetts
Rowley, Massachussetts
South Boston, Massachussetts
Gaithersburg (D.C), Maryland
Detroit (Area), Michigan
Grand Rapids, Michigan
Muskegon Heights, Michigan (Solid waste landfill)
Muskegon, Michigan
Southfield, Michigan
O'Fallon, Missouri
St. Louis, Missouri
St. Louis-Milam, Missouri (Solid waste landfill)
Mt. Holly , New Jersey (Solid waste landfill)
Trenton, New Jersey
Trenton, New Jersey (Solid waste landfill)
Akron, Ohio
Dayton, Ohio
Dayton, Ohio (Solid waste landfill)
Dallas, Texas
Fort Worth, Texas
Fort Worth, Texas (Solid waste landfill)

Exhibit C.—Valuation Procedures

(A) Procedure for Valuation of Solid Waste Collection Operations

(1) With respect to those SCA Businesses engaged primarily in the solid waste collection business (the "Collection Businesses"), WMI shall develop a formula for determining the fair market value of each of such Businesses for purposes of this Agreement and shall submit such formula to GRS for its approval by not later than thirty (30) calendar days (or such additional reasonable period of time as to which GRS shall consent, which consent shall not be unreasonably withheld) following the election or designation by WMAC or WMI of a majority of the Board of Directors of SCA. In the event GRS approves such formula, or suggests changes therein which are acceptable to WMI, then except as provided in paragraph (3) below, the approved formula shall be used for all purposes of this Agreement to determine the Fair Market Value of the Collection Businesses included in the GRS Businesses and the WMI Businesses as of the Valuation Date.

(2) In the event that WMI and GRS are unable to agree on a formula within thirty (30) calendar days following submission of a formula to GRS pursuant to paragraph (1) above, then the formula proposed by WMI pursuant to paragraph (1) shall be submitted by WMI to a "Big Eight" public accounting firm selected by GRS (other than Arthur Andersen & Co. or Coopers & Lybrand), which firm shall determine, as promptly as practicable, the revisions, if any, which it deems appropriate to such formula and the formula, as so revised by such firm, shall be final and WMI, WMAC, GRS and Genstar agree that, except as provided in paragraph (3) below, such formula shall be used for all purposes of this Agreement to determine the Fair Market Value of the Collection Businesses included in the GRS Businesses

and the WMI Businesses as of the Valuation Date.

(3) It is understood that, notwithstanding the provisions of paragraphs (1) and (2), there will be certain infrequent instances where, in the reasonable opinion of either WMI or GRS, the formula will not provide an adequate valuation with respect to particular Collection Businesses included in the GRS Businesses and/or the WMI Businesses and in such instances the parties agree that (x) WMI shall submit a suggested valuation to GRS and (y) such Businesses shall be valued for all purposes of this Agreement at a fair market value as of the Valuation Date as agreed upon by the parties hereto. The values of such particular Collection Businesses so agreed upon shall be the Fair Market Value thereof.

(B) Procedure for Valuation of Solid Waste Disposal Operations and Chemical Waste Service Operations

(1) With respect to those SCA Businesses engaged primarily in the solid waste disposal business or the chemical waste service business (collectively, the "Disposal/Chemical Businesses"), WMI shall prepare a determination of the fair market value of each such Disposal/Chemical Business included in the GRS Businesses and the WMI Businesses and submit such valuations, together with the supporting data, to GRS for its review by not later than sixty (60) calendar days (or such additional reasonable period of time as to which GRS shall consent, which consent shall not be unreasonably withheld) following the election or designation by WMAC or WMI of a majority of the Board of Directors of SCA.

(2) After reviewing the valuations submitted by WMI within the sixty (60) calendar days following submissions thereof to GRS pursuant to paragraph (1) above, GRS may accept all of such valuations by so notifying WMI in writing of such acceptance or, at its election, it may select approximately 20% in number of the aggregate of the GRS Businesses and WMI Businesses which are Disposal/Chemical Businesses for appraisal by Arthur D. Little & Co., or such other independent appraisal firm as GRS and WMI shall mutually agree upon, with instructions to determine, as promptly as practicable, the fair market value, as of the Valuation Date, of each such Business so submitted.

(3) In the event appraisal is elected by GRS pursuant to the provisions of paragraph (2) above, the values assigned by the appraiser shall be reviewed by GRS and WMI and if the aggregate of the appraised values assigned by the appraiser to the businesses appraised is within 10% (plus or minus) of the aggregate of the values assigned such businesses by WMI pursuant to paragraph (1) above, no further appraisal rights shall be available to GRS and each of the values assigned by WMI pursuant to paragraph (1) above with respect to all Disposal/Chemical Businesses shall be final and WMI, WMAC, GRS and Genstar agree that such final values shall constitute the Fair Market Value of such businesses as of the Valuation Date for all purposes of this Agreement other than Section 4.7 hereof.

(4) In the event the aggregate of the appraised values assigned by the appraiser pursuant to the provisions of paragraph (3) above is not within 10% (plus or minus) of the aggregate of the values assigned such businesses by WMI pursuant to paragraph (1) above, then, unless otherwise agreed among the parties, GRS may select an additional approximate 20% in number of the aggregate of the GRS Businesses and WMI Businesses which are Disposal/Chemical Businesses for appraisal in the manner provided in paragraph (3) and in the event the aggregate of the values assigned by the appraiser to the businesses appraised pursuant to the provisions of this paragraph (4), when added to the aggregate of the values of the businesses assigned by the appraiser pursuant to paragraph (3) above, are within 10% (plus or minus) of the aggregate of the values assigned such businesses by WMI pursuant to paragraph (1) above, then no further appraisal rights shall be available to GRS and, except as provided hereafter in this paragraph (4), each of the values assigned by WMI pursuant to paragraph (1) above with respect to all Disposal/Chemical Businesses shall be reduced or increased, as the case may be, by an amount equal to the percentage difference between such values assigned by the appraiser and those assigned by WMI and shall be final and constitute the Fair Market Value of such business as of the Valuation Date for all purposes of this Agreement other than Section 4.7 hereof; *provided, however,* that, at its election, WMI may select an additional appropriate 20% in number of the aggregate of GRS Businesses and WMI Businesses which are Disposal/Chemical Businesses for appraisal in the manner provided in paragraph (2) and the aggregate of the values assigned by the appraiser to the businesses appraised pursuant to the provisions of this proviso to paragraph (4) when added to the aggregate of the values assigned by the appraiser pursuant to paragraph (3) and the above provisions of this paragraph (4) shall be divided by the aggregate of the values determined for such businesses by WMI pursuant to the provisions of paragraph (1) and each of the values assigned by WMI pursuant to paragraph (1) above with respect to all Disposal/Chemical Businesses shall be reduced or increased, as the case may be, by an amount equal to the percentage difference resulting therefrom and such valuations shall constitute the Fair Market Value of such businesses as of the Valuation Date for all purposes of this Agreement other than Section 4.7 hereof.

(5) In the event the appraised values determined pursuant to the provisions of paragraph (4) respecting the SCA Business appraised is not within 10% of the values assigned such businesses by WMI pursuant to paragraph (1) hereof WMI and GRS shall agree upon a percentage to be applied to the values so assigned by WMI, which percentage shall be used to determine the fair market value of all of the Disposal/Chemical Businesses included in the SCA Businesses for all purposes of this Agreement other than Section 4.7 hereof, and in the event such percentage cannot be agreed upon within 15 days of receipt of the appraised values under paragraph (4) the appraisal process shall continue as promptly as practicable in increments of approximate 20% in number of the aggregate of such GRS Business and WMI Businesses until such time as a valuation percentage is agreed upon or the entirety of such GRS Businesses and WMI Businesses has been appraised, whichever first occurs, and the resulting valuation shall be final and shall constitute the Fair Market Value of such businesses as of the Valuation Date for all purposes of this Agreement other than Section 4.7 hereof.

(C) Procedure for Valuation of SCA Corporate Assets

(1) With respect to SCA Corporate Assets selected to be acquired by either WMI and GRS, the fair market value thereof shall be determined by the mutual agreement of WMI and GRS. In the event of the failure of such parties to reach agreement as to the fair market value of any such asset within sixty days after the election or designation by WMAC or WMI of a majority of the Board of Directors of SCA, it shall be submitted for appraisal to Arthur D. Little & Co., or such other independent appraisal firm as WMI and GRS shall mutually agree upon, with instructions to determine, as promptly as practicable, the fair market value as of the Valuation Date of each such Business so submitted.

(2) With respect to SCA Corporate Assets which are not selected to be acquired by either WMI or GRS, and the value cannot be agreed upon within ten days, then WMAC shall cause SCA to sell such assets for cash and the consideration paid in connection with such sale shall be the Fair Market Value of such asset for purposes of this Agreement. In the event of the failure to sell any such asset for three months, such asset shall be submitted for appraisal in accordance with paragraph (1) above and the value assigned thereto by the appraiser shall be the Fair Market Value thereof for purposes of this agreement.

Waste Management, Inc., WM Acquiring Corp., 3003 Butterfield Road, Oak Brook, Illinois

August 13, 1984.

Genstar Corporation,

Genstar Refuse Services Corporation, Suite 3800, Four Embarcadero Center, San Francisco, California 94111.

Agreement and Amendment to Transaction Agreement

Gentlemen: Referring to the Transaction Agreement (the "Transaction Agreement") dated as of July 13, 1984 among Waste Management, Inc. ("WMI"), Genstar Corporation ("Genstar"), Genstar Refuse Services Corporation ("GRS") and WM Acquiring Corp. ("WMAC"), WMI and WMAC propose to enter into an Option Agreement dated August 13, 1984 (the "Option Agreement") and an Acquisition Agreement dated August 13,

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1984 (the "Acquisition Agreement") with SCA Services, Inc. ("SCA").

The Option Agreement grants to WMAC options to acquire (i) shares of common stock of SCA, $1.00 par value per share (the "Common Option Shares") (ii) shares of the Series A Preferred Stock of SCA (the "Preferred Option Shares") and (iii) certain assets, businesses and operations of SCA specified in the Option Agreement (the "Option Businesses"). The price at which the option respecting the Common Option Shares, the option respecting the Preferred Option Shares and the option respecting the Option Businesses is exercisable as provided in the Option Agreement is herein referred to as the "Option Exercise Price" respecting each such option. Due to the grant of such options to WMAC, this Agreement and Amendment is required in light of the purposes and objectives of the Transaction Agreement and is to be construed in accordance with such purposes and objectives. Otherwise than the specific amendment or modification to the Transaction Agreement as contemplated herein, this Agreement and Amendment does not otherwise amend or modify the Transaction Agreement in any other respect, it being specifically understood that all indemnities provided for in the Transaction Agreement shall remain in full force and effect and that the total capital investment by GRS in WMAC shall not exceed the $200 Million Limitation except pursuant to Section 1.5 of the Transaction Agreement or pursuant to paragraph I(3) below. If the options provided for in the Option Agreement are not exercised, this Agreement and Amendment shall not otherwise effect the provisions of the Transaction Agreement. Capitalized terms used herein have the meanings set forth in the Transaction Agreement, unless otherwise provided herein.

You and we agree as follows:

I. Common Option Shares and Preferred Option Shares

1. The options respecting the Common Option Shares or the Preferred Option shares may only be exercised or assigned by WMAC upon the written concurrence of both WMI and GRS.

2. If and only if the Division Closing Date provided for in the Transaction Agreement shall occur, the costs of exercising any option under the Option Agreement relating to the Common Option Shares or the Preferred Option Shares shall be included as part of the Total Cost of Acquisition.

3. You and we shall make all apropriate capital contributions in a manner consistent with the terms of the Transaction Agreement, and in particular Section 1.4 thereof, as may be necessary to provide funds to WMAC to pay the exercise price of any such options on the basis of 60% by WMI and 40% by GRS (the "GRS Share Purchase Contribution"). If the capital contributions required to be made by GRS pursuant to the Transaction Agreement and the provisions hereof would exceed the $200 Million Limitation, GRS shall make such excess contribution, up to but not exceeding the amount of the GRS Share Purchase Contribution, if and only if WMI undertakes to refund such contribution (the "Refund Amount") within six months, with interest thereon at the Prime Rate from the date of the GRS Share Purchase Contribution to the date of the refund in the manner set forth below.

(a) any SCA Corporate Assets consisting of cash, commercial paper, treasury bills or other readily marketable short-term investments, at the option of WMI and/or WMAC, may be distributed to GRS (or in such other manner as Genstar or GRS may request) but only in an amount equal to the Refund Amount plus interest;

(b) if such refund is made by the distribution provided in subparagraph (a) above, the aggregate capital contributions made by GRS to WMAC and the Total Cost of Acquisition shall each be deemed reduced by the Refund Amount;

(c) if such refund is made directly by WMI otherwise than by the distribution provided for in subparagraph (a) above in (cash or otherwise as GRS and WMI may agree), the aggregate capital contributions made by GRS to WMAC shall be deemed reduced by the Refund Amount and the aggregate capital contributions made by WMI to WMAC shall be deemed increased by the Refund Amount;

(d) the assets so distributed shall not be considered SCA Corporate Asserts for purposes of the Transaction Agreement; and

(e) the rights of GRS under Section 1.5 of the Transaction Agreement shall be determined after giving effect to any adjustments effected pursuant to this paragraph 3.

4. Any Common Option Shares or Preferred Option Shares purchased by exercise of the option may only be transferred or sold by WMAC pursuant to paragraph I(5) hereof or upon the written concurrence of both WMI and GRS on all terms of the sale including price and identity of purchaser, and the voting by WMAC of all Common Option Shares and Preferred Option Shares purchased by exercise of the option shall be by mutual consent of GRS and WMI, except that if WMI purchases from GRS its Class B Common Stock of WMAC or if GRS purchases from WMI its Class A Common Stock of WMAC pursuant to Section 14.1 of the Transaction Agreement, then the party purchasing such WMAC stock thereafter shall have the exclusive right to determine the manner of disposition and voting of the Common Option Shares and Preferred Option Shares purchased by exercise of the option and held by WMAC. If any of the Option Shares are disposed of prior to the disposition, if any, by GRS of its Class B Common Stock of WMAC pursuant to Section 14.1 of the Transaction Agreement, 40% of the proceeds from such disposition of Option Shares shall be distributed by WMAC to GRS and 60% of such proceeds shall continue to be held by WMAC or distributed in accordance with the instructions of WMI. For purposes of the purchase by WMI of the Class B Common Stock of WMAC pursuant to Section 14.1 of the Transaction Agreement, the aggregate capital investment made by GRS in WMAC shall (i) include the GRS Share Purchase Contribution (net of any Refund Amount refunded) and (ii) in the event of any distribution of GRS of proceeds of the sale of any Option Shares, be reduced by the lower of the GRS Share Purchase Contribution made in respect of such sold Option Shares (net of the proportionate amount of any Refund Amount refunded) and the proceeds to GRS of such sale of Option Shares.

5. Unless otherwise agreed between WMI and GRS, any Common Option Shares and Preferred Option Shares purchased by WMAC shall be treated pursuant to the Transaction Agreement in the same manner as SCA Shares purchased pursuant to the Tender Offer, except that if no SCA Shares are purchased pursuant to the Tender Offer then as to any Common Option Shares and Preferred Option Shares held by WMAC on the date of Termination of the Transaction Agreement:

(a) 60% thereof shall continue to be held by WMAC or distributed in accordance with the directions of WMI; and

(b) 40% thereof shall be distributed to GRS.

II. Option Businesses

1. Those Option Businesses which are also listed on Exhibit A to the Transaction Agreement shall be treated as WMI Businesses for all purposes of the Transaction Agreement (herein the "WMI Option Businesses"), and those

Option Businesses which are also listed on Exhibit B to the Transaction Agreement shall be treated as GRS Businesses for all purposes of the Transaction Agreement (herein the "GRS Option Businesses"). If, pursuant to Section 4.1 of the Transaction Agreement, or prior to distribution thereof pursuant to paragraph 5(a) below, as the case may be, WMI determines that ownership by WMI of any WMI Option Businesses might not be permitted under the antitrust laws, then in accordance (and in a manner consistent with) the procedures set forth in the Transaction Agreement, those businesses shall be added to the GRS Option Businesses.

2. You and we agree to make all capital contributions to WMAC pursuant to (and in a manner consistent with) the terms of the Transaction Agreement, and in particular Section 1.4 thereof, as may be necessary to provide funds to WMAC to pay the Option Exercise Price respecting the Option Businesses, as follows:

(a) by WMI in the amount of 60% of the Option Exercise Price of the Option Businesses; and

(b) by GRS in the amount of 40% of the Option Exercise Price of the Option Businesses.

3. The Option Businesses acquired by exercise of the option shall be conducted by WMAC, from the date of such acquisition until the Division Closing Date or the date of distribution thereof pursuant to paragraph 5(a) below, in the manner provided for and on the same terms as are applicable under Article V of the Transaction Agreement to the conduct of SCA Businesses during the period from the date of consummation of the Tender Offer to the Division Closing Date. In all other respects, the Option Businesses acquired pursuant to exercise of the option shall be dealt with under the Transaction Agreement in the same manner as if they were acquired pursuant to the Merger provided for in the Transaction Agreement. The thirty-day period beginning after WMAC's acquisition of control of SCA after consummation of the Tender Offer during which neither WMI nor WMAC shall terminate SCA corporate level personnel as well as the ninety-day period following the acquisition of control of SCA during which WMI and WMAC will give notice to GRS of any proposed termination of SCA employees, referred to in the last paragraph of Section 5.1 of the Transaction Agreement shall with respect to the corporate level personnel associated with the Option Businesses commence on the date on which the Option Businesses are acquired by WMAC by exercise of the option.

4. If the Division Closing Date provided for in the Transaction Agreement occurs, then as to the WMI Option Businesses and GRS Option Businesses which have been acquired by WMAC on exercise of the option:

(a) the aggregate amount of the capital contributions respecting the Option Exercise Price of the Option Businesses and the costs and expenses of the type referred to in Section 4.3(a)(vi) relating to this Agreement and Amendment, the Option Agreement and the Acquisition Agreement shall be included in the Total Cost of Acquisition;

(b) the valuation procedures set forth in Article IV of the Transaction Agreement shall apply and the Option Exercise Price of the Option Businesses shall not affect such procedures; and

(c) WMAC shall transfer the GRS Option Businesses to GRS on the Division Closing Date.

5. If the Division Closing Date provided for in the Transaction Agreement does not occur, then upon termination of the Transaction Agreement:

(a) The WMI Option Businesses shall be retained by WMAC or distributed to or at the direction of WMI and the GRS Option Businesses shall be transferred to GRS upon the same terms and in the same manner as provided in Article VI of the Transaction Agreement. For purposes of Article VI and Section 4.8 of the Transaction Agreement, the date of such transfer shall be deemed the "Division Closing Date."

(b) The provisions of Article IV of the Transaction Agreement shall be applied to any SCA Corporate Assets, the WMI Option Businesses and the GRS Option Businesses acquired by WMAC upon exercise of the option and

(i) WMI shall prepare the financial description required by Section 4.2(a) of the Transaction Agreement of each individual GRS Option Business, WMI Option Business and SCA Corporate Asset as promptly as practicable after the acquisition by WMAC of such businesses, using the valuation procedures set forth in Exhibit C to the Transaction Agreement, the time periods for the commencement of which valuation procedures shall commence on the date of the acquisition by WMAC of the Option Businesses upon exercise of the option.

(ii) The Option Exercise Prices of the GRS Option Businesses or WMI Option Businesses acquired upon exercise of the option and those costs and expenses of the type referred to in Section 4.3(a)(vi) relating to this Agreement and Amendment, the Option Agreement and the Acquisition Agreement shall be included in the Total Cost of Acquisition.

(iii) The 60-day period provided for in Section 4.6 of the Transaction Agreement during which GRS may identify those SCA Corporate Assets it desires to acquire shall commence on the date of the acquisition by WMAC of the Option Businesses upon exercise of the option.

(c) The provisions of Articles VII and VIII of the Transaction Agreement shall apply to the GRS Option Businesses except that references to the "Division Closing Date" in Articles VII and VIII and in the terms "Disposition Adjustment Date" and "Minimum Disposition Price" used in Article VIII shall be changed to "the date of transfer to GRS of the GRS Option Businesses purchased pursuant to the exercise of the option."

(d) The $5,000,000 fee provided for in Section 14.2(b) of the Transaction Agreement shall not be payable if WMAC exercises the option and acquires the Option Businesses but no other SCA businesses thereafter. If, after acquisition of the Option Businesses by exercise of the option, the Transaction Agreement is terminated and WMI otherwise acquires additional assets, businesses or operations of SCA, the $5,000,000 fee shall be payable if those additional assets, businesses or operations represent all or a substantial portion of the assets, businesses and operations of SCA exclusive of the Option Businesses.

(e) With respect to Section 14.2(c) of the Transaction Agreement, each party shall share its Investment Profit with the other in the same proportion as the Apportioned Cost of the Option Businesses acquired by such party bears to the Total Cost of Acquisition.

6. If the Option Businesses are to be purchased by WMAC pursuant to exercise of an option under the Option Agreement, WMI agrees to give to GRS prior written notice of such proposed exercise.

7. If the Option Businesses are acquired by exercise of the option, then upon termination of the Transaction Agreement all provisions thereof which are necessary to accomplish the purposes of this Agreement and Amendment shall survive the termination of the Transaction Agreement.

8. The Acquisition Agreement is deemed to amend Article V of the Transaction Agreement to the extent that such Article V is inconsistent with the provisions of the Acquisition Agreement.

III. Other Amendments

Section 16.2 of the Transaction Agreement shall be deleted and in its place shall be inserted the following:

Section 16.2. *Expenses.* If this Agreement is terminated without the Merger having taken place and without the acquisition of any Option Businesses by WMAC, all costs and expenses incurred by WMI and GRS prior to such termination in connection with this Agreement, the Amendment thereto, the Option Agreement and the Acquisition Agreement and the transactions contemplated hereby and thereby, including but not limited to fees and expenses of investment banking and financial advisers, engineers and technical consultants, appraisers and legal counsel and printing and mailing costs and other fees, charges and expenses relating to the Tender Offer, the Merger, this Agreement, the Amendment thereto, the Option Agreement and the Acquisition Agreement and the transactions contemplated hereby and thereby, shall be shared on the basis of 60% by WMI and 40% by GRS.

Please acknowledge your agreement to the foregoing by executing the enclosed copy of this letter and returning the copy so signed to us.

Very truly yours,
Waste Management, Inc.
J. Steven Bergerson,
Vice President and General Counsel.
WM Acquiring Corp.
J. Steven Bergerson,
Vice President.

Agreed and accepted as of the date first above written.

Genstar Corporation,
R.J. Turner,
Chairman of the Board.
Genstar Refuse Services Corporation,
R.J. Turner,
Chairman.

Waste Management, Inc., WM Acquiring Corporation, 3003 Butterfield Road, Oak Brook, Illinois

Genstar Corporation,
Genstar Refuse Services Corporation, Suite 3800, Four Embarcadero Center, San Francisco, California 94111.

September 11, 1984.

Second Amendment to Transaction Agreement

Gentlemen: Reference is made to the Transaction Agreement dated as of July 13, 1984, as amended by the Agreement and Amendment to Transaction Agreement dated August 13, 1984 (such Transaction Agreement and Agreement and Amendment are hereinafter referred to as the "Transaction Agreement") among Waste Management, Inc. ("WMI"), Genstar Corporation ("Genstar"), Genstar Refuse Services Corporation ("GRS") and WM Acquiring Corporation ("WMAC"). Unless otherwise defined herein, all terms defined in the Transaction Agreement are used herein as therein defined. The parties to the Transaction Agreement hereby agree that, effective as of the date hereof, the Transaction Agreement is hereby further amended as follows:

1. Exhibit A and Exhibit B attached hereto replace Exhibit A and Exhibit B to the Transaction Agreement. The assets, businesses and properties of SCA added to Exhibit B (which are denoted by an asterisk) shall be treated as GRS Businesses for all purposes of the Transaction Agreement and shall be deemed to have been added to Exhibit B for purposes of Section 1.5 of the Transaction Agrement except that Barton Landfill, South Roxanna, Illinois shall not be deemed to have been added to Exhibit B for purposes of Section 1.5 of the Transaction Agreement.

2. The solid waste landfill, operations and equipment at Sulphur, Kentucky owned by WMI and designated on Exhibit B shall be deemed to be part of the SCA assets, businesses and operations for all purposes of the Transaction Agreement and WMI agrees to transfer, or cause to be transferred, on the Division Closing Date, all of its right, title and interest in such solid waste landfill, operations and equipment to GRS subject, except as otherwise provided in this Amendment, to all of the terms and conditions of the Transaction Agreement, and WMI further agrees to indemnify and hold harmless GRS and Genstar and their Affiliates from and against all liabilities, claims or losses arising from the ownership or operation of such landfill prior to the transfer thereof to GRS.

3. The proposed chemical waste landfill site at Northwood, Ohio owned by WMI and designated on Exhibit B shall be deemed to be a part of the SCA assets, businesses and operations for all purposes of the Transaction Agreement and WMI agrees to transfer, or cause to be transferred, on the Division Closing Date, all of its rights, title and interest in such proposed chemical waste landfill to GRS subject, except as otherwise provided in this Amendment, to all of the terms and conditions of the Transaction Agreement, and WMI further agrees to indemnify and hold harmless GRS and Genstar and their Affiliates from and against all liabilities, claims or losses arising from the ownership or operation of such landfill during the time it was owned or operated by WMI or any direct or indirect subsidiary of WMI.

4. The properties transferred to GRS pursuant to paragraphs numbered 2 and 3 above shall be treated as GRS Businesses under the Transaction Agreement for all purposes, including the valuation thereof, except for purposes of Section 1.4(b)(ii) and Section 1.5(d)(ii) thereof. Accordingly, such properties may not be rejected by GRS pursuant to said Section 1.5 nor shall the value of such properties be taken into account when applying the $200 Million Limitation.

5. In the event that the Merger (as that term is defined in the Transaction Agreement) is consummated pursuant to Section 253 of the Delaware Business Corporation Law, the term "Division Closing Date" shall be amended to mean "the date which shall be as promptly as practicable after the Effective Time of the Merger, but in no event more than twenty business days therefter, and on which date the GRS Businesses and the SCA Corporate Assets acquired by GRS shall be distributed to GRS."

6. Reference is made to (i) that certain Stipulation dated September 11, 1984 (the "Stipulation") entered into between the parties to the acion entitled *United States of America* vs. *Waste Management, Inc. et al.* in the United States District Court for the District of Columbia (Civil Action No. ———) and to be filed with such Court on September 12, 1984 (the plaintiff in such action being hereinafter referred to as the "Plaintiff"); (ii) the related proposed Final Judgment attached thereto (the "Final Judgment") to be filed therewith; and (iii) the related Voluntary Submission to the Jurisdiction of the Court dated September 11, 1984 (the "Submission") to be filed with such Court on September 12, 1984 on behalf of Genstar and GRS. The parties hereto have agreed to certain provisions of the Final Judgment which modify or affect the rights and obligations of the parties as heretofore agreed upon pursuant to the Transaction Agreement as heretofore amended. The agreements and undertakings contained in Articles VI, VII and VIII of the Final Judgment pursuant to which any party hereto obligates itself to or for the benefit of another party hereto are hereby incorporated herein by reference and shall be deemed agreements and undertakings made pursuant to this agreement with the same force and effect as it they were actually included herein.

7. If after any election by GRS pursuant to Section 8.2 or 8.6 of the

Transaction Agreement, GRS reaches a bona fide agreement or understanding in good faith with a third party for the disposition of any GRS Business with respect to which such election has been made, as contemplated by Section 8.3(a) of the Transaction Agreement, or WMI reaches an agreement or understanding with a substitute party in accordance in Section 8.3(b) of the Transaction Agreement, and the Plaintiff objects to the proposed sale to such third party of such GRS Business (or, in the event such substitute party is found, to such substitute party) pursuant to Section IX(C) of the Final Judgment, then as soon as practicable such GRS Businesses shall be transferred to and shall be vested in the trustee appointed in accordance with the Final Judgment. In such event (i) Genstar, GRS and their Affiliates shall be indemnified and held harmless by WMI with respect to such GRS Business or Businesses to the same extent and upon the same terms as were contained in the proposed agreement or understanding with such third party; and (ii) promptly after such objection by the Plaintiff, GRS shall be paid by WMI in respect of such GRS Business or Businesses the consideration for which such third party (or, in the event such substitute party is found, such substitute party) proposed to acquire such GRS Business or Businesses. Thereafter, in the event such election was pursuant to Section 8.2 of the Transaction Agreement, GRS shall also be paid by WMI pursuant to Sections 8.5 and 8.7 of the Transaction Agreement in respect of such GRS Businesses. In the event that GRS operates and manages any such GRS Business after transfer thereof to such trustee as contemplated in the Final Judgment, GRS shall be compensated and shall receive reimbursement from WMI for the period that GRS operates and manages such GRS Business upon the terms set forth in clauses (z) and (y), respectively, of Section 1.5(e) of the Transaction Agreement.

8. If after any election by GRS pursuant to Section 1.5, 82 or 8.6 of the Transaction Agreement any or all of the GRS Businesses are not sold by GRS or WMI within six months after such election, such GRS Businesses shall be transferred to and shall be vested in a trustee, appointed in accordance with the Final Judgment, six months after such election by GRS with respect to such GRS Business. In such event: (i) Genstar and GRS and their Affiliates shall be indemnified and held harmless by WMI with respect to such GRS Businesses to the same extent and upon the same terms as set forth in clause (x) of Section 1.5(e) of the Transaction Agreement; and (ii) in the event such election by GRS shall have been made pursuant to Section 8.2 of the Transaction Agreement, GRS shall be paid by WMI in accordance with Sections 8.5 and 8.7 of the Transaction Agreement in respect of such GRS Businesses and for such purpose such GRS Businesses shall be deemed to have been disposed of for no consideration on the date six months after such election by GRS; and in the event such election by GRS shall have been made pursuant to Section 8.6 of the Transaction Agreement, GRS shall be paid by WMI in accordance with the last sentence of Section 8.6(a) of the Transaction Agreement with respect to all such GRS Businesses. In the event that GRS operates and manages such GRS Businesses after transfer thereof to such trustee as contemplated in the Final Judgment, GRS shall be compensated and shall receive reimbursement from WMI for the period that GRS operates and manages such GRS Businesses upon the terms set forth in clauses (z) and (y), respectively, of Section 1.5(e) of the Transaction Agreement.

9. In the event of an election by GRS to terminate the Transaction Agreement pursuant to Section 14.1(b) thereof, as soon as practicable after such election the GRS Businesses shall be transferred to and shall be vested in a trustee appointed in accordance with the Final Judgment. In such event: (i) Genstar and GRS and their Affiliates shall be indemnified and held harmless by WMI with respect to such GRS Businesses to the same extent and upon the same terms as set forth in clause (i) of Section 14.1(c) of the Transaction Agreement; and (ii) GRS shall be paid in accordance with Section 14.1(c) of the Transaction Agreement in respect with its Class B Common Stock of WMAC. In the event that GRS operates and manages such GRS Businesses after transfer thereof to such trustee as contemplated in the Final Judgment, GRS shall be compensated and shall receive reimbursement from WMI for the period that GRS so operates and manages such GRS Businesses upon the terms set forth in clauses (ii) and (iii) of Section 14.1(c) of the Transaction Agreement.

10. In the event that the Division Closing Date shall not have occurred by twenty (20) days prior to the Election Date (as defined in the Final Judgment) then GRS shall have the right to make the elections contemplated in Section 8.2 of the Transaction Agreement, and Genstar and GRS shall have all the rights contemplated under the Transaction Agreement which result from any such election, notwithstanding the non-occurrence of the Division Closing Date. In the event that the Division Closing Date shall not have occurred by November 30, 1984, for purposes of the 10 percent of revenues test in the first clause of Section 8.6(a) of the Transaction Agreement, the Division Closing Date shall be deemed to have occurred on November 30, 1984 and GRS shall have the right to make the election contemplated in Section 8.6, and shall have all the rights contemplated under the Transaction Agreement which result from any such election, notwithstanding the non-occurrence of the actual Division Closing Date.

Please acknowledge your agreement to the foregoing by executing the enclosed copy of this letter and returning the copy so signed to us.

Very truly yours,

Waste Management, Inc.

J. Steven Bergerson,

Vice President and General Counsel.

WM Acquiring Corporation.

J. Steven Bergerson,

Vice President.

Agreed to and accepted as of the date first written above.

Genstar Corporation.

J.E. Hartz,

Senior Vice President.

Genstar Refuse Services Corporation.

J.E. Hartz,

Vice President.

Exhibit A.—WMI Businesses

Set forth below is a listing of the cities, counties, municipalities and other areas where the businesses or operations of SCA are to be retained by WMI, subject to the terms and conditions of this Agreement. Unless otherwise indicated, all businesses and operations in the locations set forth below are collection operations.

Little Rock, Arkansas
Little Rock, Arkansas (Solid waste landfill)
Pine Bluff, Arkansas
Pine Bluff, Arkansas (Solid waste landfill)
Mobile, Alabama
Tucson, Arizona
Baldwin Park, California
Cathedral City, California
Irvine, California
Oceanside, California
Orange County-Santa Ana, California
Sacramento, California
New Milford, Connecticut
New Milford, Connecticut (Solid waste landfill)
Tallahassee, Florida
Tallahassee, Florida (Solid waste landfill)
Atlanta, Georgia (Proposed solid waste landfill)
Dalton, Georgia
Savannah, Georgia
Chicago, Illinois (Chemical waste incinerator)
Fort Wayne, Indiana

Fort Wayne, Indiana (Chemical waste landfill)
Muncie, Indiana
Louisville, Kentucky
Louisville, Kentucky (Solid waste landfill)
Louisville-Campground, Kentucky (Solid waste landfill)
Shreveport, Louisiana
Amesbury, Massachusetts (Closed solid waste landfills)
Berkeley, Massachusetts (Closed solid waste landfill)
Braintree, Massachusetts (Chemical waste incinerator and transfer station)
Haverhill, Massachusetts (Solid waste landfill)
Lawrence, Massachusetts (Bio-medical/chemical waste incinerator)
Shayne (Temple Hills), Maryland
Portland, Maine
Romeo, Michigan (Closed Solid waste landfill)
Saginaw, Michigan
St. Louis-Chain of Rock, Illinois (Solid waste landfill)
St. Louis-Milam, Illinois (Solid waste landfill)
Londonderry, New Hampshire
Howell, New Jersey (Closed solid waste landfill)
Mt. Holly, New Jersey (Solid waste landfill)
Newark, New Jersey (Chemical waste detoxification facility)
Rio Grande, New Jersey
Bordentown and Trenton, New Jersey (Solid waste landfills)
Vineland, New Jersey
Buffalo, New York (Chemical waste transfer facility)
Model City, New York (Chemical waste landfill)
Utica, New York
Utica, New York (Solid waste landfill)
Canton, Ohio
Canton, Ohio (Solid waste landfill)
Cleveland, Ohio
Cleveland, Ohio (Solid waste landfill)
Dayton, Ohio (Closed solid waste landfill)
Findley, Ohio
Lima, Ohio
Lima, Ohio (Solid waste landfill)
St. Paris, Ohio (Solid waste landfill)
Tiffin, Ohio
Tiffin, Ohio (Solid waste landfill)
Troy, Ohio (Solid waste transfer facility)
Youngstown, Ohio
Oklahoma City, Oklahoma
Oklahoma City, Oklahoma (Solid waste landfill)
Portland, Oregon
Broomall, Pennsylvania
Elizabethtown, Pennsylvania
Honeybrook, Pennsylvania
Lancaster, Pennsylvania
Philadelphia, Pennsylvania
Pottstown, Pennsylvania
Pottstown, Pennsylvania (Solid waste landfill)
York, Pennsylvania
York, Pennsylvania (Solid waste landfill)
York, Pennsylvania (Closed solid waste landfill)
Charleston, South Carolina
Charleston, South Carolina (Solid waste landfill)
Jackson, Tennessee
Memphis, Tennessee
Memphis/Shelby County, Tennessee (Proposed chemical waste treatment facility)

Exhibit B.—GRS Businesses

Set forth below is a listing of the cities, counties, municipalities, and other areas where the businesses or operations of SCA are to be distributed or GRS, subject to the terms and conditions of this Agreement. Unless otherwise indicated, all businesses and operations in the locations set forth below are collection operations.

(i)—
SCA Services of Chandler (Chandler, Arizona)
Chandler Landfill (Chandler, Arizona)*
SCA Services of Phoenix (Phoenix, Arizona)
Sani-Tainer, Inc. (San Diego, California)
Chula Vista Sanitary Service (excluding Oceanside business) (Chula Vista, California)
System Disposal Service (Cadahy, California)
SCA Service of Colorado (Denver/Arvada, Colorado)
SCA Service of Florida (excluding SCA Service of Tallahassee and Tallahassee Landfill operating centers) (West Palm Beach and *Port St. Lucie, Florida)
Twin City Paper (West Palm Beach, Florida)*
SCA Sevices of Tampa (Tampa, Florida)
SCA Services of Atlanta (excluding proposed Atlanta Landfill) (Atlanta, Georgia)
Barton Landfill (South Roxanna, Illinois)*
Tyler Landfill (Sulphur, Kentucky)
United Disposal Corporation (Gaithersburg, Maryland)
Triangle Resources (Laurel, Maryland)*
Berkley Div./Cal's Collection (including paper recovery) (Assonett, Massachusetts)
Eastern Collection (Rowley, Massachusetts)
Eastern Transfers (transfer stations) (diverse locations in Massachusetts)
J.K. Municipal (Rowley, Massachusetts)
Howard Disposal (including transfer station) (South Boston, Massachusetts)
Bell Pick-Up Service (Grand Rapids, Michigan)
Independent Collection (Muskegon, Michigan)
Independent Landfill (Muskegon, Michigan)
Commercial Removal (including Southfield and Livonia transfer stations) (Southfield, Michigan)
SCA Services of Detroit (including transfer station) (Dearborne, Michigan)
SCA Services of Pontaic (Pontaic, Michigan)
United Disposal (St. Louis, Missouri)
S & T Hauling (O'Fallon, Missouri)
Interstate Waste Removal Co. (including transfer station permit) (Trenton, New Jersey)
Triangle Resources (Reidsville, North Carolina)*
Acme Industrial Waste Services (including Canton and Youngstown businesses) (Akron, Ohio)
SCA Services of Dayton (excluding closed Dayton landfill) (Dayton, Ohio)
SCA South Carolina (Chemical landfill (Pinewood, South Carolina)*
SCAT (including kitty litter) (Pinewood, South Carolina)*
Triangle Resources (Greenbrier, Tennessee)*
SCA Services of Ft. Worth (Ft. Worth Texas)
Ft. Worth Landfill (Ft. Worth, Texas)
SCA Service of Dallas (Dallas, Texas)

Names and locations of operating centers are given for identification purposes and do not necessarily reflect the actual or legal name of the operation or the geographical location of all relevant assets. The listing of certain transfer stations shall not be construed to exclude other transfer stations other transfer stations not listed if such transfer stations would constitute an asset of a GRS business within the meaning of the Transaction Agreement:

*(ii) any right, interest or contract of SCA in or with SeaBurn Inc. or Stolt-Nielsen, Inc.;

*(iii) any right, interest, asset or contract of SCA relating to its proposed hazardous waste treatment permit and site in Laurinburg, North Carolina;

(iv) any right, interest, asset or contract of SCA relating to existing, closed and any proposed solid waste landfill sites and permits in the Denver, Colorado* and Ft. Worth, Texas metropolitan areas;

(v) any right, interest, asset or contract of WMI relating to its proposed hazardous waste landfill permit and site (a ninety-acre site on the LOF property bounded on the west by Wales Road and on the north by the Chesapeake and Ohio R.R.) in Northwood, Ohio;

*(vi) any right, interest, asset or contract of SCA relating to its proposed resource recovery permit and site in San Marcos, California; and

*(vii) three million dollars in business (approximately one-half of which shall be roll-off business and one-half front load business) and all assets and operations primarily relating to such business in Orange County, California that will be spun-off from SCA's Orange County operations.

Exhibit B.—Acquisition Agreement

Acquisition Agreement dated August 13, 1984 by and among Waste Management, Inc., a Delaware corporation ("WMI"), Genstar Corporation, a Canadian Corporation ("Genstar"), Genstar Refuse Services Corporation, a Delaware corporation ("GRS") and an indirect wholly owned subsidiary of Genstar, WM Acquiring Corp., a Delaware corporation ("WMAC") all of the outstanding voting stock of which is owned by WMI and all of the outstanding nonvoting stock of which is owned by GRS, and SCA Services, Inc., a Delaware corporation (the "Company").

WITNESSETH

Whereas, WMI, WMAC, Genstar and GRS have entered into a Transaction Agreement (the "Transaction Agreement") dated July 13, 1984, copies of which have previously been furnished to the Company, providing for, among other things, the division of the businesses of the Company between WMI and GRS; and

Whereas, WMI, WMAC and the Company have entered into an Option

Agreement dated the date hereof (the "Option Agreement"), providing for the grant by the Company to WMAC of options to purchase capital stock and certain assets of the Company.

Now, Therefore, in consideration of the premises and of the mutual agreements, provisions and convenants herein contained, WMI, WMAC and the Company hereby agree, and Genstar and GRS agree to the extent specifically set forth herein, as follows:

I. The Tender Offer

1.1. *The Tender Offer.* As soon as practicable, but no later than, August 20, 1984, WMI will cause WMAC to commence a tender offer (the "Tender Offer") for all outstanding shares of Common Stock, $1.00 par value (the "Shares"), of the Company at a price of $28.50 per Share, net to the seller in cash. The Tender Offer will be made in compliance with the requirements of applicable law and will be subject to the condition that at least a number of Shares which, together with the 625,000 Shares already owned by WMI, constitutes a majority of the voting power represented by all Shares entitled generally to vote in the election of directors of the Company after giving effect to the exercise or conversion of all outstanding options, rights and securities convertible into such voting securities shall have been properly tendered and not withdrawn as of the expiration of the Tender Offer (the "Minimum Condition") and to the conditions set forth in Exhibit A hereto. WMI shal be under no obligation to cause WMAC to make the Tender Offer if any condition shall exist which would entitle WMAC under the conditions to the Tender Offer set forth in Exhibit A hereto not to purchase or pay for any Shares which might be tendered pursuant to the Tender Offer.

1.2. *Company Action.* Promptly after commencement of the Tender Offer, the Company shall file with the Securities and Exchange Commission (the "Commission") and mail to the holders of Shares a Solicitation/Recommendation Statement on Schedule 14D–9 (the "Schedule 14D–9"). The Schedule 14D–9 will set forth that the Board of Directors of the Company has determined that the terms of the Tender Offer and Merger are fair to the Company's stockholders from a financial point of view and that it has recommended that all holders of Shares accept the Tender Offer, and the Company agrees that WMI and WMAC may refer to such recommendation in making the Tender Offer as hereinabove provided. In connection with the Tender Offer, the Company will cause its transfer agent to furnish WMAC with a list of the holders of the Shares, and mailing labels containing the names and address of all such holders of the Shares and lists of security positions of the Shares held in stock depositories. The Company will furnish WMAC with such additional information, including updated lists of the stockholders of the Company, mailing labels and lists of security positions, and such assistance as WMI or WMAC or their agent may reasonably request in communicating the Tender Offer to the record and beneficial holders of the Shares.

II. The Merger

2.1. *Merger.* Subject to the terms and conditions hereof, the Company will be merged (the "Merger") with or into a subsidiary of WMAC ("Sub") as promptly as practicable following the expiration of the Tender Offer. The form of the Merger will be selected by WMI and an appropriate plan of merger (the "Plan of Merger"), in conformity with the requirements of applicable law and consistent with the terms of this Agreement, will be executed and delivered by and between the corporations participating in the Merger in connection therewith. Upon the consummation of the Merger, (a) each then outstanding Share not owned by WMI, WMAC, Genstar, GRS or any other direct or indirect subsidiary of WMI or Genstar (other than those Shares held in the treasury of the Company or held by stockholders of the Company who properly exercise and dissenters' rights available under applicable law) shall be converted into a right to receive in cash an amount per Share equal to the highest price paid per share pursuant to the Tender Offer (the "Merger Price"), (b) each then outstanding Share owned by WMI, WMAC, Genstar, GRS or any other direct or indirect subsidiary of WMI or Genstar (and any issued or outstanding shares of preferred stock of the Company) shall be cancelled, and (c) the shares of Sub shall be or become (depending on whether such subsidiary is the surviving or merged corporation) the shares of common stock of the surviving corporation.

2.2. *Stockholders' Meeting of the Company.* Promptly after expiration of the Tender Offer, the Company will take all action necessary or advisable in accordance with applicable law and its Certificate of Incorporation and By-Laws to convene a meeting (the "Meeting") of the stockholders of the Company as promptly as practicable after the expiration of the Tender Offer to consider and vote upon the approval of the Merger, if such vote is required by applicable law. The Board of Directors of the Company has determined that the terms of the Tender Offer and Merger are fair to the Company's stockholders from a financial point of view and has approved the Merger and has adopted a resolution recommending that the holders of the Shares approve the Merger, if such vote is required. The Company agrees not to call any meeting of its stockholders other than the Meeting until the earlier of the Effective Time (as defined below) or the termination of the Tender Offer. The Company shall use its best efforts to solicit from stockholders of the Company proxies in favor of such adoption and approval and shall take all other action necessary or, in the opinion of WMI or WMAC, helpful to secure a vote of stockholders in favor of the Merger. At the Meeting all of the Shares then owned by WMI, WMAC, Genstar, GRS or any other direct or indirect subsidiary of WMI or Genstar will be voted in favor of the Merger.

2.3. *Proxy Statements.* Promptly after expiration of the Tender Offer, if required the Company shall file with the Commission, a proxy statement or information statement, as appropriate (the "Proxy Statement"), with respect to the Meeting. The information provided and to be provided by WMI, Genstar, GRS, WMAC, Sub and the Company, respectively, for use in the Proxy Statement shall be true and correct in all material respects and shall not omit to state any material fact necessary in order to make such information and the Proxy Statement not misleading as of the date of the Proxy Statement.

2.4. *Consummation of the Merger.* As soon as practicable after the expiration of the Tender Offer and the receipt of any required approval of the stockholders of the Company (or, if such approval is not required, any other corporate action by the Company required as a precondition to effect the Merger), and subject to the satisfaction or waiver of the conditions hereinafter set forth, the parties hereto will cause the Merger to be consummated by delivering an appropriate certificate or merger to the Secretary of State of Delaware, all as required by and executed in accordance with the relevant provisions of applicable law. The time that the Merger becomes effective in accordance with applicable law is hereinafter referred to as the "Effective Time."

2.5. *Dissenters' Rights.* Shares that have not been voted for adoption of the Merger and with respect to which appraisal shall have been properly demanded in accordance with Section

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262 of the General Corporation Law of the State of Delaware ("GCL") ("Dissenting Shares") shall not be converted into the right to receive the Merger Price per Share in cash at or after the Effective Time unless and until the holder of such Shares withdraws his or her demand for such appraisal (in accordance with Section 262(k) of the GCL) or becomes ineligible for such appraisal. If a holder of Dissenting Shares shall withdraw (in accordance with Section 262(k) of the GCL) his or her demand for such appraisal or shall become ineligible for such appraisal, then, as of the Effective Time or the occurrence of such event, whichever last occurs, such holder's Dissenting Shares shall cease to be Dissenting Shares and shall be converted into and represent the right to receive the Merger Price.

2.6. *Procedures for Submitting Certificates.*

(a) As soon as practicable after the Effective Time, the surviving corporation or such bank or trust company as WMAC may determine (subject to the Company's consent, which shall not be unreasonably withheld), acting as Disbursing Agent to effect the exchange of certificates (the "Disbursing Agent"), shall mail to each holder of record (other than WMAC, WMI, GRS, or Genstar, or any direct or indirect subsidiary of WMI, Genstar, or the Company) of a certificate or certificates which immediately prior to the Effective Time represented outstanding Shares (the "Certificates"), (i) a form letter of transmittal, and (ii) instructions for use in effecting the surrender of the Certificates in exchange for cash. Upon surrender of a Certificate for cancellation to the Disbursing Agent or to such other agent or agents as may be appointed by WMAC, together with such letter of transmittal, duly executed, the holder of such Certificate shall be entitled to receive in exhange therefor a check for cash, without interest thereon, in an amount per Share equal to the Merger Price, and the Certificate so surrendered shall forthwith be cancelled. If payment is to be made to a person other than the person in whose name a surrendered Certificate is registered, it shall be a condition to such payment that the Certificate so surrendered shall be endorsed or shall be otherwise in proper form for transfer and that the person requesting such payment shall have paid any transfer and other taxes required by reason of such payment in a name other than that of the registered holder of the Certificate surrendered or shall have established to the satisfaction of WMAC or the Disbursing Agent that such tax either has been paid or is not payable. WMAC will pay or provide, or will cause the surviving corporation to pay or provide, the Disbursing Agent with all funds necessary to make all payments to holders of Certificates required to be made pursuant hereto.

(b) All payments in respect of Shares which are made in accordance with the terms hereof shall be deemed to have been made in full satisfaction of all rights pertaining to such Shares, subject, however, to the surviving corporation's obligation to pay any dividends which may have been declared by the Company on such Shares and which remain unpaid at the Effective Time.

(c) After the Effective Time, there shall be no further registration of transfers on the stock transfer books of the surviving corporation of the Shares which were outstanding immediately prior to the Effective Time. If, after the Effective Time, Certificates formerly representing such Shares are presented to the Surviving Corporation, they shall be cancelled. From and after the Effective Date, the holders of Certificates evidencing ownership of Shares outstanding immediately prior to the Merger shall cease to have any rights with respect to said Shares except as otherwise provided herein or by law.

III. Representations and Warranties

3.1. *Representations and Warranties of WMI and WMAC.* WMI and WMAC hereby represent and warrant to the Company that:

(a) Except such as would not have a material adverse effect on the businesses, financial condition or operations of the Company and its subsidiaries taken as whole, WMI and WMAC and each corporations duly organized, validly existing and in good standing under the laws of the State of Delaware and have all necessary corporate power to own their properties and carry on their businesses as now being conducted and are duly qualified as foreign corporations to do business, and in good standing, in the respective jurisdictions where the character of their properties owned or leased or the nature of their activities makes such qualification necessary.

(b) The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized by all necessary corporate action on the part of WMI and WMAC and this Agreement and the Transaction Agreement are valid and binding obligations of WMI and WMAC, enforceable against WMI and WMAC in accordance with their terms. The execution and delivery of this Agreement do not, and the performance of this Agreement and the consummation of the transactions contemplated hereby and the Transaction Agreement will not, constitute a breach, violation or default under the Certificate of Incorporation or By-Laws of WMI or WMAC or under any law other than any state law relating to takeovers or any other laws, federal, state or foreign, relating to licenses or permits used in the operations of the Company's businesses, as to which MWI and WMAC need not make any representation), or any judgment, decree, order, to which WMI or WMAC is subject, except such as would not have material adverse effect on the financial condition or the businesses of WMI and its subsidiaries taken as a whole.

(c) The tender offer materials (as defined in Rule 14d–1(b)(5) adopted pursuant to the Securities Exchange Act of 1934, as amended (the "1934 Act")) relating to the Tender Offer will contain (or will be amended in a timely manner to contain) all information which is required to be included therein in accordance with the 1934 Act and the rules and regulations thereunder and none of such material will, on the date of filing thereof with the Commission or on the date of dissemination to holders of Shares, contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements made therein, in light of the circumstances under which they were made, not misleading; provided, however, that the foregoing representation and warranty shall not include or relate to any information either furnished to WMI by the Company or contained in the Company's public filings with the Commission and which, in either such case, is included or referred to in such tender offer materials or the related Schedule 14D–1.

(d) The information furnished to the Company by WMI or WMAC for inclusion in the Schedule 14D–9 to be filed by the Company in connection with the Tender Offer or the Proxy Statement on the date so furnished, shall not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements made therein, in light of the circumstances under which they were made, not misleading.

(e) WMAC has an authorized capital stock of 1,000 shares, of which 500 shares are designated Class A Common Stock and 500 shares are designated Class B Common Stock. All of the Class A Common Stock, which is voting

common stock, is issued and outstanding as of the date hereof, and is owned by WMI. All of the Class B Common Stock, which is nonvoting common stock, is issued and outstanding, as of the date hereof, and is owned by GRS.

(f) As of the date hereof, WMAC has sufficient cash or cash equivalent funds available or committed to it by WMI or GRS and Genstar pursuant to the Transaction Agreement to purchase all outstanding Shares at a price of $28.50 per Share and to pay all anticipated expenses of WMAC in connection with the Tender Offer and the Merger.

(g) Except for payments to Merrill Lynch Capital Markets, neither WMI nor WMAC has paid or become obligated to pay any fee or commission to any broker, finder, or intermediary for or on account of the transactions contemplated by the Tender Offer or the Merger.

3.2. *Representations and Warranties of the Company.* The Company hereby represents and warrants to WMI and WMAC that:

(a) Except such as would not have a material adverse effect on the business, financial condition or operations of the Company and its subsidiaries taken as a whole, the Company and each of its subsidiaries are corporations duly organized, validly existing and in good standing under the laws of their respective jurisdictions of incorporation and have all necessary corporate power to own their properties and carry on their businesses substantially as now being conducted, and the Company and each of its subsidiaries are duly qualified as foreign corporations to do business and are in good standing, in the respective jurisdictions where the character of their properties owned or leased or the nature of their activities makes such qualification necessary.

(b) The Company owns the entire equity interest in each of its subsidiaries, except San Dimas Disposal Co., Lake County Land Development, Inc., Warner Hill Development Company, and Warner Hill Improvement Company, and no person other than the Company or any of such subsidiaries has any preemptive, stock purchase or other rights to acquire any shares of capital stock of any of such subsidiaries other than pursuant to the Option Agreement.

(c) The authorized capital stock of the Company on the date hereof consists of 35,000,000 Shares, of which 14,362,658 Shares are outstanding as of the date hereof, net of Shares held in the Company's treasury, and 100,000 shares of $1 par value Preferred Stock, none of which are presently outstanding as of the date hereof. Except with respect to outstanding employee stock options to acquire an aggregate of 550,684 Shares and outstanding stock appreciation rights relating to an aggregate of not more than 387,500 Shares, outstanding rights under an employment contract relating to a maximum of 30,000 Shares, outstanding performance stock awards relating to a maximum of 160,700 Shares, and options granted to WMAC by the Company pursuant to the terms of the Option Agreement, the Company does not have outstanding any subscriptions, options, warrants, rights, convertible securities or other agreements or commitments of any character relating to the issued or unissued capital stock or other securities of the Company obligating the Company to issue any such capital stock or other securities. No stockholder of the Company has any preemptive rights with respect to the capital stock of the Company.

(d) The execution and delivery of this Agreement, the consummation of the transactions contemplated hereby and any recommendation to the Company's stockholders that they approve the Merger have been duly authorized by all necessary corporate action on the part of the Company, subject only (with respect to the Merger) to approval by the holders of a majority of the Shares, if such approval is required by applicable law. This Agreement is a valid and binding obligation of the Company, enforceable against the Company in accordance with its terms.

(e) The Board of Directors of the Company has consented to the Tender Offer and has recommended acceptance of the Tender Offer to the holders of the Shares.

(f) The execution and delivery of this Agreement, do not, and the performance of this Agreement and the consummation of the Tender Offer and the Merger will not, constitute a breach, violation or default under the Certificate of Incorporation or By-Laws of the Company or any of its subsidiaries or under any law (other than any United States federal or state or foreign antitrust law or any state law relating to takeovers, or any other laws, federal, state or foreign, relating to licenses or permits used in the operations of the Company's businesses, as to which the Company need not make any representation, or any judgment, decree, order to which the Company or any of its subsidiaries is subject, except such as would not have a material adverse effect on the financial condition or the businesses of the Company and its subsidiaries taken as a whole.

(g) The Company has heretofore delivered to WMI copies of all reports pursuant to the 1934 Act since March 31, 1982, as filed by it with the Commission. Each of such reports was prepared in accordance with the requirements of the 1934 Act and the rules and regulations thereunder and, as of the respective dates thereof, none of such reports contains any untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements made therein, in light of the circumstances under which they were made, not misleading. Each of the consolidated balance sheets contained in such reports (including any related notes and schedules) fairly presents the financial position of the Company and its subsidiaries as of its date and the consolidated statements of income and of sources and uses of cash contained in such reports (including any related notes) fairly present the consolidated income and sources and uses of cash, as the cash may be, of the Company and its subsidiaries for the periods set forth therein, in each case in accordance with generally accepted accounting principles consistently applied during the periods involved subject to any adjustments described in the notes to such financial statements.

(h) Since March 31, 1984, except as otherwise disclosed to WMI and WMAC in writing or in the Company's filings under the 1934 Act since such date, the Company and its subsidiaries have conducted their respective businesses only in the ordinary and usual course, and, except as otherwise contemplated by this Agreement or the Option Agreement, there has not been (i) any material adverse change in the financial condition or in the results of operations or the businesses of the Company and its subsidiaries taken as a whole; (ii) any damage, destruction or loss, whether covered by insurance or not, materially and adversely affecting the properties or businesses of the Company and its subsidiaries taken as a whole, (iii) any declaration, setting aside or payment of any dividend (whether in cash, stock or property) with respect to the capital stock of the Company, except regular quarterly cash dividends not in excess of $.05 per Share; (iv) other than as disclosed in writing to WMAC by the Company prior to the execution of this Agreement or in the ordinary course of the Company's business, any increase in the compensation payable or to become payable by the Company to its officers or key employees, any increase in any bonus, insurance, pension or other employee benefit plan, payment or arrangement made to, for or with any such officers or key employees, or any

grant of stock options, stock appreciation rights, performance stock awards or any other right to acquire any Shares, in each case, other than as disclosed in writing to WMAC by the Company prior to the execution of this Agreement; (v) any entry into any commitment or transaction material to the Company and its subsidiaries taken as a whole (including, without limitation, any borrowing or sale of assets, or any employment agreement); or (vi) any capital expenditure exceeding $10,000,000 individually or $35,000,000 in the aggregate.

(i) Except for Kidder, Peabody & Co. Incorporated, neither the Company nor any of its subsidiaries has paid or become obligated to pay any fee or commission to any broker, finder or intermediary for or on account of the transactions contemplated by the Tender Offer or the Merger.

(j) The information furnished to WMAC by the Company for inclusion in the Schedule 14D–1 (and documents included therein) to be filed by WMAC in connection with the Tender Offer in connection therewith, or the date so furnished, shall not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements made therein, in light of the circumstances under which they were made, not misleading.

(k) The Schedule 14D–9 will contain all information which is required to be included therein in accordance with the 1934 Act and the rules and regulations thereunder and none of such material will, on the date of filing thereof with the Commission or on the date of dissemination to holders of Shares, contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements made therein, in light of the circumstances under which they were made, not misleading; provided, however, that the foregoing representation and warranty shall not include or relate to any information either furnished to the Company by WMI or WMAC and included in such Schedule 14D–9.

IV. Covenants

4.1 *Stock Options and Stock Appreciation Rights.* At or immediately prior to the Effective Time, the Company shall take all such action as may be necessary with respect to all of the outstanding options to purchase Shares which have heretofore been granted pursuant to the Company's 1971 Stock Option Plan, 1979 Stock Option Plan or 1983 Stock Option Plan or granted pursuant to any employment agreement currently in effect regarding any director or executive officer of the Company and all outstanding stock appreciation rights which have heretofore been granted pursuant to the Company's 1979 Stock Option Plan so that the Company shall make all such adjustments to such stock options and stock appreciation rights to provide that in cancellation and settlement thereof the Company shall immediately prior to the Effective Time make a cash payment to the holder of each such cancelled option or stock appreciation right in an amount equal to the difference between the Merger Price and the per Share exercise price of such option or stock appreciation right, as the case may be, multiplied by the number of Shares covered by such option or stock appreciation right.

4.2 *Performance Awards.* Upon the acquisition by WMAC of more than 25% of the outstanding Shares (i) the Company shall determine the amount of all of the outstanding cash awards and stock awards, to the extent payable at such time, which have heretofore been granted pursuant to the terms of the Company's 1978 Performance Share Plan or 1983 Performance Share Plan, such determination to be made in accordance with the terms of the latter plan, and (ii) the Company shall make a cash payment to each holder of such an award equal to the amount thereof (in the case of a cash award) or the Merger Price multiplied by the number of Shares covered by such award (in the case of a stock award), in each case determined as hereinabove provided. Upon such payments, each such award shall be cancelled.

4.3 *Acquisition Proposals.* Neither the Company nor any of its subsidiaries shall negotiate, solicit, initiate or encourage inquiries concerning any acquisition proposal. As used herein, "acquisition proposal" means any proposal for a merger or other business combination involving the Company or for the acquisition of a substantial equity interest in, or a substantial portion of the assets of, the Company, other than the acquisition contemplated by this Agreement, the Option Agreement, and the Transaction Agreement. The Company will promptly advise WMI and GRS of, and communicate to WMI and GRS the terms of, any such inquiry or proposal the Company may receive. With respect to any standstill agreement to which the Company is a party as of the date of this Agreement or to which it shall hereafter become a party, the Company shall perform, and shall use its best efforts (including, without limitation, at the request of WMAC the commencement and vigorous prosecution of litigation seeking specific performance in respect of which litigation WMAC and WMI shall indemnify and hold harmless the Company against any loss, damages, claims, costs, expenses (including reasonable fees and expenses of counsel) incurred as a result of the commencement of such litigation) to cause each other party to such an agreement to perform all of their respective obligations thereunder in accordance with the terms of such agreement, and shall not intentionally take or omit to take any action to waive or release, or that could operate as a waiver or release, of any of the obligations of such other party or take or omit to take any action giving such other party a right to terminate such agreement or that could result in the expiration or termination of any such agreement. As used herein, "standstill agreement" means any agreement imposing limitations on or prohibit any acquisition of securities or rights to acquire securities, or any solicitation of proxies or consents in respect of such securities, without the consent of the Board of Directors of the Company or any other person or persons under the control of the Company.

4.4. *Interim Operations.* During the period from the date of this Agreement to the Effective Time, the Company will conduct the businesses of the Company and its subsidiaries only in the ordinary and usual course substantially in the manner heretofore conducted, except as expressly contemplated by this Agreement or the Option Agreement. During the period from the date of this Agreement to the Effective Time, neither the Company nor any of its subsidiaries will, except as expressly contemplated by this Agreement or the Option Agreement or as authorized and approved by the Operations Committee (as defined in Section 4.8 hereof) or as otherwise permitted by WMI in writing:

(a) fail to use their reasonable efforts to preserve the business and prospects of each of such businesses, and preserve the relationship with customers, suppliers and others having business dealings with such businesses;

(b) other than in the ordinary course of business and consistent with prior practice, (i) sell, assign or transfer any assets of such businesses (except for sales of inventory, or sales of equipment that is replaced by other suitable equipment), or any patent, trademark, trade name, copyright, license, franchise, design or other intangible assets or property, except for assets having an aggregate net book value on the date of this Agreement not in excess of $10,000,000; or (ii) mortgage, pledge or

grant or suffer to exist any lien or other encumbrance or charge on any material assets or properties, tangible or intangible, except for (i) liens or encumbrances existing at the date of this Agreement, (ii) liens for taxes not yet delinquent, and (iii) such other liens, encumbrances or charges on assets having an aggregate net book value on the date of this Agreement not in excess of $10,000,000; or waive any rights of value or cancel any debts or claims, in each case, material to the Company and its subsidiaries taken as a whole;

(c) redeem, purchase or otherwise acquire, directly or indirectly, any of its capital stock, or issue any shares of capital stock other than pursuant to the Option Agreement or pursuant to any option or agreement existing on the date hereof and covered by the options referred to in Section 3.2(c) hereof or issue any options, warrants, rights or other securities convertible into shares of capital stock or enter into any agreement or commitments to issue any of the foregoing, or declare, make or pay any dividend or other distribution in respect of the Shares other than the Company's regular quarterly dividend of $.05 per Share;

(d) make or to commit to, or agree to make, any capital expenditures other than as contemplated by the Company's capital expenditure budget for the fiscal year ending March 31, 1985, aggregating $70,000,000;

(e) amend or otherwise change the charter or by-laws of the Company or any of its subsidiaries or enter into or amend any agreement or other instrument relating to the borrowing of money or other contracting or payment of indebtedness, including any guarantees thereof, otherwise than in the ordinary course of business and other than agreements (including the waiver of agreements) involving indebtedness not exceeding $10,000,000 in the aggregate for the period ending October 31, 1984 and not exceeding an additional $15,000,000 in the aggregate thereafter until December 31, 1984 and not exceeding an additional $55,000,000 in the aggregate after December 31, 1984.

(f) with respect to any officer, director or employee of the Company (i) pay, or agree to pay, any severance or termination pay, or make or commit to make any such payment, other than pursuant to agreements existing on the date hereof and disclosed in writing to WMAC pursuant to Exhibit C hereto or otherwise, prior to the execution of this Agreement, (ii) grant any increase in compensation or benefits except in the ordinary course of business in accordance as to terms and amounts consistent with past practice or pursuant to collective bargaining agreements currently in effect, or (iii) enter into any employment agreement or consulting agreement except in the ordinary course of business and consistent as to terms and amounts with past practice; or

(g) authorize or propose any of the foregoing, or enter into any contract, agreement, commitment or arrangement to do any of the foregoing.

4.5 *Additional Agreements.*

(a) Upon notice, the Company shall (and shall cause each of its subsidiaries to) afford WMI and GRS and their respective representatives reasonable access during normal business hours throughout the period prior to the Effective Time to all of its properties, books, contracts, commitments and records and, during such period, the Company shall (and shall cause each of its subsidiaries to) furnish promptly to WMI and GRS (i) a copy of each report, schedule and other document filed or received by it pursuant to the requirements of federal or state securities laws and (ii) all other information concerning its business, properties and personnel as WMI or GRS may reasonably request, provided that no investigation pursuant to this Section shall affect or be deemed to modify any representations or warranties or the conditions to the obligations of the parties to consummate the Merger. Except to the extent necessary pursuant to Section 4.5(b), WMI and GRS will not use such information and will otherwise hold such documents, work papers and other material in confidence unless and until such time as such information otherwise becomes publicly available, and in the event of the termination of this Ageement, WMI and GRS will deliver to the Company all documents, work papers and other material and copies thereof so obtained by WMI and GRS.

(b) Subject to the terms and conditions herein provided, the Company and, subject to the proviso in Section 5.1(c), WMI and WMAC, agree to use all reasonable efforts to take, or cause to be taken, all action and to do, or cause to be done, all things necessary, proper or advisable under applicable laws and regulations to consummate and make effective the transactions contemplated by the Merger. In case at any time after the Effective Time any futher action is necessary or desirable to carry out the purposes of this Agreement, the proper officers and/or directors of WMI, the Company and WMAC shall take all such necessary action.

4.6. *Hart-Scott.* WMI and the Company will each file as promptly as practicable the required notification and report pursuant to the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (the "HSR Act") with respect to the Tender Offer and the purchase of Shares pursuant thereto and, at the request of WMI, the Company will file as promptly as practicable the required notification and report with respect to any purchase pursuant to the Option Agreement and, in each case, will use their respective best efforts to furnish promptly any additional information duly requested pursuant to such Act.

4.7. *Employment Agreements.* The surviving corporation in the Merger shall assume and honor the employment, severance, or termination agreements with the personnel listed on Exhibit C which are in effect immediately prior to the Effective Time.

4.8. *Representation on Board.* Promptly upon the purchase by WMAC of such number of Shares as represents (including Shares owned by WMI) at least a majority of the outstanding Shares ("Share Purchase Date") and from time to time thereafter, WMAC shall be entitled to designate to the Board of Directors of the Company such number of directors as will constitute one less than a majority of the directors (and the Board of Directors shall consist of at least eleven directors) and the Company shall, upon request by WMAC, promptly increase the size of the Board of Directors of the Company or exercise its best efforts to secure the resignations of such number of directors as is necessary to enable WMAC's designees to be elected to the Board of Directors of the Company and shall cause WMAC's designees to be so elected. The Company shall take all action necessary to effect any such election, including, if required, mailing to its stockholders the information contemplated by Section 14(f) of the 1934 Act and Rule 14f–1 promulgated thereunder. The Company shall, upon request of WMAC create a committee of the Board of Directors (the "Operations Committee") vested solely with the exclusive power of the Board of Directors to supervise the business operations of the Company, and such committee shall have no power to take any other actions, including without limitation any action which would cause the Company to breach this Agreement or materially impede or delay the consummation of the Tender Offer or the Merger, and shall appoint all of the designees of WMAC and two other directors of the Board to such committee.

4.9. *Employee Benefit Plans.* For a period of five years after the Effective

Time, WMAC will maintain to the extent practicable all employee pension, profit-sharing, thrift, retirement, insurance and other health and welfare plans and programs of the Company and subsidiaries in effect at the Effective Time, or provide similar benefits to Company or subsidiary employees which are no less favorable than those currently provided by the Company or the subsidiary; provided, however, that employees covered by industry wide collective bargaining agreements need not be provided such benefits.

4.10. *Directors' and Officers' Liability Insurance.* WMAC agrees to maintain or provide directors' and officers' liability insurance for current directors and officers of the Company on the date of this Agreement for a period of five years, which insurance shall be substantially similarly to the insurance in effect as of the date of this Agreement and for such five years period shall take no action to amend the Certificate of Incorporation or By-Laws of the Company or corporation surviving the Merger so as to preclude indemnification and insurance of the Company's directors and officers.

4.11. *Funding of Tender Offer and Merger.* WMI shall contribute and Genstar shall cause GRS to contributed by WMI and GRS, respectively, in accordance with the Transaction Agreement to enable WMAC to purchase all Shares which WMAC shall be obligated to purchase in accordance with the terms of the Tender Offer and to consummate the Merger.

4.12. *Compliance with Antitrust Laws.* To the extent required by the United States Department of Justice, WMI shall use, and shall cause WMAC to use, its best efforts to prevent any preliminary or permanent injunction or other order referred to in Section 5.1(c) hereof relating to or arising under antitrust laws and, if issued, to appeal such injunction or order through the United States Court of Appeals for the relevant circuit including all of the following, without limitation and to the full extent necessary to secure government antitrust clearance upon expiration of the applicale HSR waiting period: (A) adding to the GRS Businesses pursuant to the Section 4.1 of the Transaction Agreement all assets or businesses of the Company as may be necessary to secure government antitrust approval; and (B) offering to accept and accepting a consent decree or order that requires the action referred to in the preceding clause (A) and/or incorporating other terms consisting with the Transaction Agreement; and (C) offering to accept and accepting a hold separate agreement pending resolution of any outstanding antitrust issue.

4.13. *Standstill.* In the event that the Tender Offer is terminated otherwise than pursuant to condition (a) to the Tender Offer as set forth in Exhibit A hereto without any Shares being purchased pursuant thereto, WMI and WMAC will not, without the consent of the Board of Directors of the Company, purchase any additional Shares of the Company prior to August 13, 1988 other than Shares purchased prior thereto pursuant to the Option Agreement.

4.14. *No Termination of the Transaction Agreement.* Unless the Company otherwise consents, as long as the Acquisition Agreement remains in full force and effect:

(i) WMI and Genstar agree not to terminate the Transaction Agreement by mutual consent;

(ii) WMI and WMAC agree not take any action which would give GRS or Genstar the right to terminate the Transaction Agreement;

(iii) GRS and Genstar agree to acquire the GRS Businesses in accordance with the Transaction Agreement and WMI and WMAC agree not to consent to any amendment or waiver of the Transaction Agreement which would have the effect of relieving GRS or Genstar of their obligations to acquire the GRS Businesses in accordance with the Transaction Agreement;

(iv) WMI, WMAC, GRS and Genstar agree (x) not to amend the termination provisions of the Transaction Agreement, (y) that to the extent that the Transaction Agreement and this Agreement are inconsistent, the terms of this Agreement shall apply, and (z) that the Transaction Agreement shall be deemed amended by this Agreement to the extent necessary to give full effect to the terms of this Agreement.

V. Conditions

5.1. *Conditions to Obligations to Effect the Merger.* The respective obligations of WMAC and the Company to effect the Merger shall be subject to the fulfillment at or prior to the Effective Time to the following conditions:

(a) The holders of the required number of Shares shall have duly approved the Merger, if shareholder approval is required by applicable law;

(b) The waiting period (and any extension thereof) applicable to the consummation of the Merger under the HSR Act shall have expired or been terminated; and

(c) No preliminary or permanent injunction or other order by a United States court of competent jurisdiction shall have been issued and remain in effect which would (i) make the acquisition or holding by WMAC of some or all of the Shares illegal; (ii) otherwise prevent consummation of the Merger or (iii) impose material limitations on the ability of WMAC effectively to acquire or hold or to exercise full rights of ownership of the Shares acquired by it, including, but not limited to, the right to vote the Shares purchased by it on all matters properly presented to the stockholders of the Company and the right to control the board of directors of the Company; *provided, however,* that WMI shall have used and shall have caused WMAC to use its best efforts to prevent any such injunction or other order relating to or arising under antitrust laws, and, if issued, to appeal such injunction or order through the United States Court of Appeals for the relevant circuit, including all of the following, without limitation and to the full extent necessary to secure government antitrust clearance upon expiration of the applicable HSR waiting period: (A) adding to the GRS Businesses pursuant to Section 4.1 of the Transaction Agreement all assets or businesses of the Company that may be necessary to secure government antitrust approval; and (B) offering to accept and accepting a consent decree or order that requires the action referred to in the preceding clause (A) and/or incorporating other terms consistent with the Transaction Agreement; and (C) offering to accept and accepting a hold separate agreement (including an agreement containing the provisions referred to in clause (c) (iii) above) pending resolution of any outstanding antitrust issue.

5.2. *Additional Conditions to Obligation of the Company.* The obligation of the Company to effect the Merger is also subject to the condition that WMI and WMAC and GRS and Genstar shall have complied with the covenants set forth herein to be performed by each of them.

5.3. *Additional Conditions to Obligations of WMI and WMAC.* The obligations of WMI and WMAC to effect the Merger are also subject to the condition that from the date hereof until immediately prior to consummation of the Merger, the Company shall not have failed to perform or otherwise breached in any material respect any of the covenants of the Company set forth in Sections 4.1, 4.2, subparagraphs (a), (b), (c), (d), (e), (f), and (g) of Section 4.4, Section 4.5 and Section 4.8 of this Agreement.

VI. Miscellaneous

6.1 *Termination.* This Agreement may be terminated and the Merger contemplated herein may be abandoned:

(a) by the mutual consent of the Boards of Directors of WMI, WMAC and the Company;

(b) by either WMI or the Company, if the Merger has not been consummated on or before July 13, 1985, provided that the respect to WMI, this clause (b) shall not apply in the event that WMI or WMAC, directly or indirectly, acquires any Shares pursuant to the Tender Offer or the Option Agreement or acquires any of the Company's assets pursuant to the Option Agreement;

(c) by either WMI or the Company, if any United States federal or state statute, rule or regulation is enacted or promulgated after the date the Tender Offer is consummated which makes consummation of the Merger illegal;

(d) by WMI, if the Tender Offer does not commence by August 20, 1984 by reason of the last sentence of Section 1.1 hereof or if the Tender Offer shall have been terminated pursuant to its terms prior to the purchase of any shares thereunder; or

(e) by the Company, if the Tender Offer does not commence by August 20, 1984 or if the Tender Offer is terminated without any purchase of Shares pursuant thereto prior to November 18, 1984.

In the event of such termination and abandonment, no party hereto (or any of its directors of officers) shall have any liability or further obligation to any other party to this Agreement, other than pursuant to Sections 4.5 (confidential information), 4.13 (standstill), and 6.2 (fees and expenses) and except that nothing herein will relieve any party from liability for any willful breach of this Agreement.

6.2. *Expenses.* Whether or not the Tender Offer and the Merger are consummated, all out-of-pocket costs and expenses incurred in connection with the Tender Offer, the Merger and this Agreement will be paid by the party incurring such expenses.

6.3. *Non-Survival of Representations, Warranties and Agreements.* None of the representations, warranties or agreements in this Agreement shall survive the Effective Time other than those set forth in Sections 4.9 (employee benefit plans), 4.10 (insurance and indemnity of directors and officers) and 6.2 (fees and expenses).

6.4. *Waiver and Amendment.* Any provisions of this Agreement may be waived at any time by the party which is, or whose shareholders are, entitled to the benefits thereof and this Agreement may be amended or supplemented at any time. No such waiver, amendment or supplement shall be effective unless in writing and signed by the party or parties sought to be bound thereby.

6.5. *Entire Agreement.* This Agreement (and Exhibits A, B and C hereto) contains the entire agreement among WMI, Genstar, GRS, WMAC and the Company with respect to the Tender Offer, the Merger and the other transactions contemplated hereby, except for the Option Agreement, the Transaction Agreement and an agreement relating to severance policies dated August 13, 1984.

6.6. *Binding Effect.* Except as otherwise provided for herein, this Agreement shall inure only to the benefit of and be binding upon WMI, Genstar, GRS, WMAC and the Company and their respective successors and assigns..

6.7. *Applicable Law.* This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware applicable to contracts made and to be performed in that State.

6.8. *Descriptive Headings.* The descriptive headings contained herein are for convenience of reference only and shall not affect in any way the meaning or interpretation of this Agreement.

6.9. *Notices.* All notices or other communications hereunder shall be in writing and shall be deemed to have been duly given if delivered personally or sent by registered or certified mail, postage prepaid, with return receipt requested, addressed as follows:

If to WMI or WMAC, to; Waste Management, Inc., 3003 Butterfield Road, Oak Brook, Illinois 60521. Attention; Dean L. Buntrock,

With copies to: Bell, Boyd & Lloyd, Three First National Plaza, Chicago, Illinois 60602. Attention: John T. McCarthy.

It to Genstar or GRS, to: Genstar Refuse Services Corporation, Suite 3800, Four Embarcadero Center, San Francisco, California 94111. Attention: J. Ernest Hartz, Jr.

With copies to: Shearman & Sterling, 53 Wall Street, New York, New York 10005, Attention: Stephen R. Volk.

If to the Company, to: SCA Services, Inc., 60 State Street, Boston, Massachusetts 02109, Attention: Charles W. Schmidt.

With copies to: Kirkland & Ellis, 200 E. Randolph Drive, Chicago, Illinois 60601, Attention: Donald G. Kempf, Jr.; and Skadden, Arps, Slate, Meagher & Flom, 919 Third Avenue, New York, New York 10022–9931. Attention: Morris J. Kramer

6.10. *Public Statements.* The parties hereto agree to consult with each other prior to issuing each public announcement or statement with respect to the Tender Offer or the Merger.

6.11. *Counterparts.* This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original but all of which together shall constitute but one agreement.

6.12. *Specific Performance.* The parties hereto agree that irreparable damage would occur in the event that any of the provisions of this Acquisition Agreement were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that the parties shall be entitled to an injunction or injuctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions hereof in any court of the United States or any state having jurisdiction, this being in addition to any other remedy to which they are entitled at law or in equity.

6.13 WMI and WMAC shall fully defend, indemnify and hold harmless the Company, its officers, directors, employees, investment bankers, counsel and other agents and representatives, against and in respect of any and all claims, actions, suits and proceedings instituted by Browning-Ferris Industries, Inc. in respect of this Agreement or the transactions contemplated hereby, and any all judgments, costs and expenses resulting from such claims, actions, suits and proceedings. Any such defense shall be conducted by counsel selected by WMI and reasonably satisfactory to the Company.

In Witness Whereof, this Acquisition Agreement has been duly executed and delivered by the fully authorized officers of the parties hereto on the date first hereinabove written.

Waste Management, Inc.

J. Steven Bergerson,

Vice President and General Counsel.

WM Acquiring Corp.

J. Steven Bergerson,

Vice President.

SCA Services, Inc.

Charles W. Schmidt,

President and Chief Executive Officer.

Genstar Corporation,
R. J. Turner,
Chairman of the Board.
Genstar Refuse Services Corporation
R. J. Turner,
Chairman.

Exhibit A.—Conditions to the Tender Offer

The Purchaser will not be required to accept for payment, purchase or pay for any Shares tendered, and may terminate or amend the Offer, and may postpone the acceptance for payment of, or payment for, Shares if the Minimum Condition is not satisfied or if, at any time prior to the time of payment for any such Shares (whether or not any Shares have theretofore been accepted for payment or paid for pursuant to the Offer), any of the following shall occur:

(a) except as contemplated by the Merger Agreement or the Option Agreement, the Company shall have (i) issued, authorized or proposed the issuance of, or purchased or proposed the purchase of, any shares of its capital stock of any class (including the Shares), or securities convertible into any such shares or any rights, warrants or options to acquire any such shares or convertible securities (other than the issuance of shares upon the exercise in accordance with the current terms of employee stock options or employee agreements outstanding on August 13, 1984), (ii) issued, authorized or proposed the issuance of any other securities in respect of, in lieu of, or in substitution for the Shares outstanding on August 13, 1984, (iii) declared or paid any dividend or distribution on any Shares, other than regular quarterly cash dividends not in excess of $.05 per share, (iv) authorized, recommended or proposed, or announced its intention to authorize, recommend or propose or enter into an agreement in principle with respect to, any merger, consolidation or business combination (other than the Merger) or any acquisition or disposition of assets or securities (other than pursuant to or in accordance with the Option Agreement or the Transaction Agreement or any settlement or consent decree between the Antitrust Division of the U.S. Department of Justice and Waste Management or any of its affiliates) or change in its capitalization, or any release or relinquishment of any contract rights not in the ordinary course of business, except such as in the aggregate would not have a material adverse effect on the business, financial condition or operations of the Company and its subsidiaries taken as a whole, or (v) shall have proposed or adopted any amendment to its certificate of incorporation or by-laws or have authorized or permitted any subsidiary of the Company to amend its charter or by-laws; or

(b) except as contemplated by the Merger Agreement or the Option Agreement, any change shall have occurred in the business, assets, capitalization, or financial condition, of the Company or any of its subsidiaries that is materially adverse to the Company and its subsidiaries taken as a whole; or

(c) there shall have occurred (i) any general suspension of, or limitation on prices for, trading in securities on the NYSE, (ii) a declaration of a banking moratorium or any suspension of payments in respect of banks in the United States, (iii) a commencement of a war, armed hostilities or other international or national calamity or emergency directly or indirectly involving the United States, (iv) a material change in United States or any other currency exchange rates or a suspension of, or limitation on, the markets therefor or (v) any limitation imposed by Federal, state or Canadian governmental authorities on the extension of credit by lending institutions that materially and adversely affects the ability of Waste Management or Genstar to obtain extensions of credit; or, in the case of any of the foregoing existing at the time of the commencement of the Offer, a material acceleration or worsening thereof; or

(d) a preliminary or permanent injunction or other order shall have been entered and remain in effect in any action or proceeding before any United States federal or state court or governmental agency or other United States or state regulatory or administrative agency or commission (other than in any action or proceeding based upon or arising under United States federal or state or foreign antitrust laws) (i) making the purchase of, or payment for, some or all of the Shares pursuant to the Offer or the Merger Agreement illegal, or resulting in a material delay in the ability of the Purchaser to accept for payment or pay for some or all of the Shares, or (ii) imposing material limitations on the ability of the Purchaser effectively to acquire or hold or to exercise full rights of ownership of the Shares acquired by it, including, but not limited to, the right to vote the Shares purchased by it on all matters properly presented to the stockholders of the Company and the right to control the board of directors of the Company; or

(e) there shall have been any United States federal or state statute, rule or regulation enacted or promulgated after the date of the Offer that is likely to, directly or indirectly, result in any of the consequences referred to in clause (i) and (ii) of paragraph (d) above; or

(f) a preliminary or permanent injunction or other order by a United States court of competent jurisdiction relating to or arising under antitrust laws shall have been issued and remain in effect which would (i) make the acquisition or holding by Purchaser of some or all of all Shares illegal; (ii) otherwise prevent consummation of the Merger of (iii) impose material limitations on the ability of Purchaser effectively to acquire or hold or to exercise full rights of ownership of the Shares acquired by it, including, but not limited to, the right to vote the Shares purchased by it on all matters properly-presented to the stockholders of the Company and the right to control the board of directors of the Company; *provided, however*, that Waste Management shall have used, and shall have caused the Purchaser to use its best efforts to prevent any such injunction or other order, and, if issued, to appeal such injunction or order through the United States Court of Appeals for the relevant circuit, including all of the following, without limitation and to the full extent necessary to secure government antitrust clearance upon expiration of the applicable HSR waiting period: (A) adding to the GRS Businesses pursuant to Section 4.1 of the Transaction Agreement all assets or businesses of the Company that may be necessary to secure government antitrust approval; (B) offering to accept and accepting a consent decree or order that requires the action referred to in the preceding clause (A) incorporating other terms consistent with the Transaction Agreement; and (C) offering to accept and accepting a hold separate agreement including an agreement containing the provisions referred to in paragraph (f)(iii) above pending resolution of any outstanding antitrust issue.

Exhibit B.—Outstanding Stock Options, Right and Awards

Exhibit C.—Management Personnel

(I) *Employment Agreements:* C.W. Schmidt, H.E. Russell, and S.K. Lee.

(II) *Employment/Severance Agreements:* P. Casey, J. Eiras, T.K. Mullare, Jr., R. Petersen, J. Boren, T. Blackman, D. Grimm, C. Flood, D. Moore, W. Zorkers, T. Bogen, J. Jackson,

S.K. Lee, R. Chase, J. Bernstein, R. Hayden, and R. Noonan.

Certificate of Service

I hereby certify that I have served the foregoing Competitive Impact Statement upon the following counsel by hand delivery on September 12, 1984:

Michael Sennett, Bell, Boyd & Lloyd, 1775 Pennsylvania Ave., NW., Washington, D.C.

R. Bruce MacWhorter, Shearman & Sterling, 53 Wall Street, New York, New York 10005.

J. Robert Kramer II.

[FR Doc. 84-27228 Filed 10-16-84; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Economics; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Economics.

Date & Time: November 2 & 3, 1984; Friday—9:00 am–all day; Saturday—9:00 am–12:00 pm.

Place: Room 1240, National Science Foundation, 18th and G Street, NW., Washington, DC 20550.

Type of Meeting: Closed.

Contact person: Daniel H. Newlon, Program Director for Economics, Room 312, National Science Foundation, Washington, DC 20550. Telephone (202) 357–9674.

Purpose of advisory panel: To provide advice and recommendations concerning support for research in the Economics Program.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, of July 6, 1979.

Dated: October 12, 1984.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 84-27486 Filed 10-16-84; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel on Regulation and Policy Analysis; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory panel on Regulation & Policy Analysis.

Date/time: November 2, 1984—8:00 a.m. to 6:00 p.m.

Place: National Science Foundation, 1800 G St., NW (Rm. 628) Washington, DC 20550.

Type of Meeting: Closed.

Contact person: Dr. Laurence C. Rosenberg, Program Director Regulation & Policy Analysis, National Science Foundation, Washington, DC 20550, Room 335, Phone (202) 357-7417.

Purpose of advisory panel: To provide advice and recommendations concerning research in Regulation and Policy Analysis.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF on July 6, 1979.

Dated: October 12, 1984.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 84-27487 Filed 10-16-84; 8:45 am]

BILLING CODE 7555-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 23447 (70-7023)]

Alabama Power Co.; Proposal To Supplement Installment Sales Agreements in Connection With the Issuance of Pollution Control Bonds

October 10, 1984.

Alabama Power Company ("Alabama"), 600 North 18th Street, Birmingham, Alabama 35291, a subsidiary of The Southern Company, a registered holding company, has proposed a transaction with this Commission subject to Sections 9(a), 10, and 12(d) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 44(b)(3) thereunder.

By prior Commission Order, Alabama was authorized to execute two Installment Sales Agreements ("Agreements") with the Industrial Board of Columbia, Alabama ("Board") to finance certain pollution control facilities at Alabama's Farley Nuclear Plant ("Project") (HCAR No. 20545, May 16, 1978). Pursuant to the Agreements, the Board purchased the project from Alabama, completed construction, and sold it back to Alabama for the cost of construction price ("Price") payable semi-annually for a term of years. The Board had a secured interest in the Project, subject to an Indenture lien between Alabama and Chemical Bank. The Price was financed from the proceeds from its issuance of $1,650,000 of Series A pollution control revenue bonds, pursuant to a Trust Indenture ("Trust"), effective May 1, 1978. The Trust received the proceeds, and secured the issuance with an assignment of interests under the Agreement by the Board.

Alabama now proposes to request the Board to issue up to $250,000,000 of Series B Bonds ("Bonds") subject to the terms of the original Agreements, but including an increase in the semi-annual purchase payments reflecting an amount sufficient to pay principal, premium, and interest on the Bonds as they become due. The Trust will be supplemented to provide for the Bonds.

The supplement will provide for redemption provisions for the Bonds comparable to those provided for the Series A Bonds. As in the Series A, it is proposed that the Bonds will mature not more than 30 years from the first day of the month in which they are initially issued. The Bonds may be entitled to the benefit of serial maturities and/or a mandatory sinking fund calculated to retire a portion of the Bonds prior to maturity.

It is contemplated that arrangements will be made by the Board with one or more investment bankers providing for the placement of underwriting of the Bonds or that the Board will place the Bonds with a commercial bank or banks for a relatively short period with a view toward making such arrangements with one or more investment bankers. In accordance with the laws of the State of Alabama, the interest rate to be borne by the Bonds will be fixed by the Board and will be either a fixed rate or a rate which will fluctuate in accordance with a specified prime of base rate or rates. Bond counsel will issue an opinion that interest on the Bonds will be exempt from federal income taxation. Alabama has been advised that the annual interest rates on obigations, the interest on which is tax exempt, recently have been and can be expected, at the time of

issue of the Bonds, to be approximately two and one-half to three and one-half percentage points lower than the rates of obligations of like tenor and comparable quality, interest on which is fully subject to federal income taxation.

The proposal and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by November 2, 1984, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the proposal, as filed or as it may be amended, may be authorized.

For the Commission, by the Office of Public Utility Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-27418 Filed 10-16-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 14191; (812-5935)]

Forest City Investment Partners II Limited Partnership, et al.; Application for an Order For Exemption

October 11, 1984.

Notice is bereby given that Forest City Investment Partners II Limited Partnership (the Partnership"), 10800 Brookpark Road, Cleveland, Ohio, a District of Columbia limited partnership, and its general partner, Forest City Dillon, Inc. (the "General Partner") (collectively with the Partnership, "Applicants"), filed an application on September 11, 1984, for an order, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), exempting the Partnership from all provisions of the Act and the rules and regulations thereunder. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below, and to the Act and rules thereunder for the text of the applicable provisions.

Applicants state that the Partnership was formed on August 30, 1984, and intends to offer 90 units of limited partnership interest (the "Units") at $93,730 per Unit, subject to adjustment and payable in seven annual installments. The Units will be offered pursuant to Section 4(2) of the Securities Act of 1933, and each limited partner will be furnished a private placement memorandum (the "Memorandum"), attached as an exhibit to the application. The aggregate offering is $8,435,700. Applicants state that the Partnership will operate as a "two-tier" investment; i.e., the Partnership will acquire a 99% limited partner interest in four limited partnerships that will own and maintain government assisted multiunit housing ("Operating Partnerships"). The General Partner will serve as the general partner of each of the Operating Partnerships. One Operating Partnership rents primarily to low and moderate income elderly and handicapped persons and the remaining three rent primarily to low and moderate income elderly persons and families, all in accordance with the purposes and criteria set forth in Investment Company Act Release No. 8456 (August 9, 1974) (the "Release").

Subscription proceeds from the offering will be deposited in a separate account maintained by a bank unaffiliated with the General Partner or the placement agent, Shearson Lehman/American Express, Inc. ("Placement Agent"). Subscription proceeds will not be released until the Partnership purchases an Operating Partnership ("Closing"). If Closing does not occur for one or more of the Operating Partnership by December 31, 1984, then the subscription proceeds and investor notes allocable to such Operating Partnerships will be returned to investors. Compensation and fees payable to the General Partner and affiliates will be reduced accordingly.

Applicants represent that the Partnership will invest only in the four Operating Partnership and will not acquire any other investments. A limited partnership, Applicants state, is the only form of organization that provides investors with both the ability to claim on their individual tax returns the tax benefits arising from the Partnership's investment in the Operating Partnerships and a liability limited to the amount of their investment.

Subscription for Units will be effected through the Placement Agent and other broker-dealers engaged by the Partnership who are members of the National Association of Securities Dealers, Inc. The Placement Agent and any other broker-dealers will be retained on a best efforts basis. The General Partner must approve all subscriptions based on representations made by limited partners as to the suitability of an investment in the Partnership. An investor must represent in writing that: He is acquiring the Units for investment and not with a view towards resale or distribution, and that they understand the risks and terms of the offering; that he either (i) has a net work per Unit or fraction thereof of at least the greater of (a) twice the subscription price of the Units or (b) $200,000 (exclusive of home, furnishings and automobiles) or (ii) is an "accredited investor" under Regulation D; that he is subject to a marginal tax rate of at least 45% from 1984 through 1990; and that he has such knowledge and experience in financial and business affairs that he is capable of evaluating the merits and risk the investment.

Applicant believe that the suitability standards are consistent with the terms of the Release and are consistent with the guidelines of states prescribing suitability standards wherein the Units may be sold.

Applicants also assert that, in acordance with the Release, the requirements of fair dealing by the general partner are codified in the basic organizational documents of the Partnership. The Partnership Agreement and Memorandum contain numerous provisions, Applicants state, that ensure fair dealing by the General Partner with limited partner investors. Applicants further state that all compensation to be paid the General Partner and its affiliates are disclosed in the Memorandum and Partnership Agreement, and no compensation will be payable to the General Partner or its affiliates not so specified, unless that compensation is fair and on terms no less favorable to the Partnership than would be the case if arrangements had been made with independent third parties and is disclosed to all partners. Further, Applicants believe that the amount of compensation meets all applicable guidelines necessary to permit the Units to be offered and sold in the various states selected by the General Partner which prescribe such guidelines. Applicants also represent that all potential conflict of interest between the General Partner and investors are disclosed in the Memorandum.

The application states that the Partnership will be controlled by the General Partner and that limited partners will not be entitled to participate in the control of the Partnership's business. Applicants assert however, that a majority in interest of limited partners have the

right to sell, exchange or dispose of the Partnership's interest in an Operating Partnership, amend the Partnership Agreement, dissolve the Partnership, remove any general partner for cause (without cause by unanimous consent) and elect a replacement therefor, and continue the Partnership upon the death, insanity, retirement or bankruptcy of a sole general partner, provided that counsel opines or a court of competent jurisdiction determines that such rights will not adversely affect the tax status of the Partnership or limited liability status of the limited partners. Under the Partnership Agreement, limited partners are entitled to review all books and records of the Partnership during reasonable business hours upon three days prior written notice to the General Partner. Copies of the list of names and addresses of the limited partners and Units owned will also be available.

Applicants contend that the Partnership, by investing in the Operating Partnerships, will implement the policy pronounced by Congress in Title IX of the Housing and Urban Development Act of 1968 in making available, by private participation, the provision of housing for low or moderate income persons. The predominant form of government assistance received by the Operating Partnerships is mortgage insurance and rental subsidies administered by the Department of Housing and Urban Development. The application states that investment in low and moderate income housing involving several housing projects is not feasible without the tax and organizational advantages of the limited partnership form. Without conceding that the Partnership is an investment company under the Act, Applicants assert that the requested exemption is both necessary and appropriate in the public interest and is consistent with the purposes and policies underlying the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than November 5, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-27416 Filed 10-16-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 14186; (811-33391)]

IDS Government Securities Money Fund, Inc.; Filing of Application for an Order Declaring That Applicant Has Ceased to be an Investment Company

October 9, 1984.

Notice is hereby given that IDS Government Securities Money Fund, Inc. ("Applicant"), 1000 Roanoke Building, Minneapolis, MN 55402, registered, under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on March 5, 1984, for an order of the Commission, pursuant to Section 8(f) of the Act, declaring that Applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the relevant provisions thereof.

According to the application, Applicant registered under the Act and filed a registration statement pursuant to Section 8(b) of the Act on December 3, 1981. On June 9, 1983, Applicant's board of directors approved the sale of all the assets of Applicant to IDS Cash Management Fund, Inc. ("Cash"), in exchange for Cash's capital stock. Applicant's shareholders approved the reorganization on August 29, 1983. The application represents that both Applicant and Cash maintained their capital stock at $1.00 per share and Applicant immediately exchanged the shares of Cash received from the sale of its assets for Applicant's outstanding shares on a one to one basis. Applicant states that on August 30, 1983, it had 16,299,139 shares of capital stock outstanding, with a total net asset value of $16,299,139.

The application represents that Applicant now has no shareholders and is not now engaged in, nor does it propose to engage in, any business activities other than those necessary for the winding up of its affairs. Applicant further represents that it has retained no assets, no debts or other liabilities, and it is not a party to any litigation or administrative proceeding. Finally, Applicant states that it has not within the past 18 months transfered any of its assets to a separate trust.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than November 2, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-27430 Filed 10-16-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 14185; (812-5905)]

Shearson Lehman/Coast Savings Housing Partners, Limited, et al.; Application for an Order for Exemption

October 9, 1984.

Notice is hereby given that Shearson Lehman/Coast Savings Housing Partners, Limited ("Partnership"), 1880 Century Park East Los Angeles, California 90067, a California limited partnership, and its general partners, Shearson Housing Programs Corporation II ("Shearson General Partner"), National Partnership Investments Corp. ("NAPICO"), and Coast housing Investment Associates ("CHIA")(collectively referred to hereinafter as "General Partners," and together with the Partnership, as "Applicants"), filed an application on July 25, 1984, and an amendment thereto on October 5, 1984, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), for an order exempting the Partnership from all provisions of the Act. All interested persons are referred to the application on file with the commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of the applicable statutory provisions.

Applicants state that the Partnership was formed under the California Limited Partnership Act on May 15, 1984, and is designed to implement the policy of Title IX of the Housing and Urban Development Act of 1968 of providing private investors with a means of acquiring equity interests in government-assisted low and moderate income housing. The Partnership will primarily acquire limited partnership interests in local limited partnerships ("Local Limited Partnerships") that own or lease government-assisted rental housing projects for low and moderate income persons.

Applicants state the Partnership is organized as a limited partnership because that form of organization is the only one which provides an investor with both liability limited to his capital investment and the right to claim on his individual tax return the deductions, losses, credits and other tax items a partnership can pass through to its partners.

Applicants further represent that one of the primary objectives of the Partnership is to pass through to its partners during the early years of the investment net losses which may be used to offset other taxable income. It is stated that other primary objectives of the Partnership are to invest in projects which will appreciate in value and to obtain reasonable protection for its capital investments.

Applicants further represent that the Partnership filed a registration statement under the Securities Act of 1933, pertaining to the sale of 240 to 8,000 investment units ("Units") at $5,000 per Unit. Each Unit consists of two limited partnership interests and one warrant, entitling the investor to purchase two additional limited partnership interests, exercisable in January 1985 (the "Warrants"). The Warrants will entitle an investor to purchase the related limited partnership interests for $2,500 each, the equivalent price per limited partnership interest acquired pursuant to the purchase of a Unit. It is also stated that in the event that any Warrant is not exercised, the respective limited partnership interests may be sold by the Partnership to other qualifying offerees.

Offers to sell and sales of the Units to the public are proposed to be effected through Shearson Lehman/American Express, Inc. and other selected members of the National Association of Securities Dealers, Inc. Such broker-dealers will use their best efforts as agents for the Partnership to obtain subscriptions for Units and thereafter to sell any limited partnership interests available upon the non-exercise of the Warrants.

In addition, Applicants state that no subscription for Units will be accepted unless the subscribing investor represents in the subscription agreement for Units (1) that he has a net worth (exclusive of home, furnishing, and automobiles) of at least $30,000 and an annual gross income of at least $30,000, or that he has a net worth (exclusive of home furnishings, and automobiles) of at least $200,000, or that he is purchasing in a fiduciary capacity for a person or entity having such net worth and annual gross income; and (2) that he is aware of the risks involved in investing in the Partnership. He also must represent that some part of his annual income for the current tax year will be taxable at the federal tax rate of 38% or more, and that he anticipates some part of his income for the succeeding four years will, but for the effect of his investment in the Units and any limited partnership interests of other tax shelters, be taxable at such 38% rate. In addition, the Restated Certificate and Agreement of Limited Partnership Agreement of the Partnership ("Partnership Agreement") will require that until January 1, 1989, each transferee of limited partnership interests represent that he meets the suitability standards set forth above.

Applicants state that the General Partners will be entitled to receive 1% of the Partnership's profits, losses and distributions subject to the condition that their 1% share of net cash flow will be reduced each year by the amount of annual management fees which are paid or payable to them in that year. In addition to their 1% participation in the Partnership's profits, losses and distributions, the General Partners will receive certain fees for overseeing the conduct of the Partnership's affairs and the continuing operation of each project. Applicants represent that these fees are in substantial conformity with the standards imposed by the North American Securities Administrators Association, Inc. and the California Corporations Commissioner, and that to the best of their knowledge all such fees are in compliance with the current rules promulgated by such authorities.

During the Partnership's operational period, the General Partners will receive, in consideration of their management services rendered to Local Limited Partnerships owing government-assisted housing projects, an annual fee, payable out of the Partnership's general funds, in an amount equal to 0.5% of invested assets of the Partnership. As noted above, this annual management fee will be applied against the General Partners' 1% share of the Partnership's net cash flow. Finally, when a project is sold, the General Partners will receive, in addition to a subordinated real estate brokerage commission, a liquidation fee based upon the net proceeds only after payment to the limited partners of an amount equal to the greater of their invested capital in the project, or an amount sufficient to pay their federal and state taxes.

The Partnership will file with the Commission pursuant to Section 15(d) of the Securities Exchange Act of 1934 ("Exchange Act") all required annual reports, quarterly reports, and current reports on Form 10–K, 10–Q and 8–K, as well as any other reports required by the Exchange Act. The General Partners will also send each limited partner a year-end report containing financial statements audited by the Partnership's independent accountants and tax information required for the preparation of each limited partner's federal income tax return. In addition, each limited partner will receive a report at least semi-annually of the Partnership's activities and the operational status of its investments, as well as interim reports regarding acquisitions.

Applicants state that under the California Limited Partnership Act, and under the terms of the Partnership Agreement, the General Partners (NAPICO has registered as an investment adviser under the Investment Advisers Act of 1940) are fiduciaries of the Partnership and its limited partners. Applicants state that under the Partnership Agreement, the officers and directors of Shearson General Partner and NAPICO and the Partners of CHIA will be indemnified only when a court finds that such persons' conduct fairly and equitably merit indemnity in the amount claimed.

Without conceding that the Partnership is an investment company as defined in the Act, Applicants request that the Partnership be exempted from all provisions of the Act pursuant to Section 6(c). Applicants contend that such exemption is both necessary and appropriate in the public interest. It is asserted that the form of organization of the Partnership, *i.e.*, a limited partnership, which is necessary to limit the liability of private investors investing in subsidized low and moderate income housing, is incompatible with the regulatory framework of the Act. Applicants contend that to discourage the two-tier limited partnership arrangement by application of the Act to entities such as itself would eliminate the primary means of attracting private equity

capital into government-assisted housing and would frustrate the national policy declared by Congress "to encourage the widest possible participation by private enterprise in the provision of housing for low and moderate income persons."

Notice is further given that any interested person wishing to request a hearing on the application may, not later than October 29, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, and order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-27417 Filed 10-16-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21389; File No. SR-MSRB-84-17]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by the Municipal Securities Rulemaking Board

October 10, 1984.

The Municipal Securities Rulemaking Board ("MSRB") on October 3, 1984, submitted copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder, to amend rule G-6, to require municipal securities brokers and dealers that are NASD members to meet the fidelity bonding requirements of the NASD. The proposed rule change would delete the references in rule G-6 to SECO firms and to SEC Rule 15b10-11 which was rescinded in 1983.[1]

This proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act. At any time within sixty days of filing of this proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Publication of this notice is expected to be made in the **Federal Register** during the week of October 15, 1984. Interested persons are invited to submit written comments concerning the submission within 21 days from the date of publication in the **Federal Register.** Persons submitting written comments should file six copies with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Comments should refer to File No. SR-MSRB-84-17.

Copies of the submission and all related items, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available at the office of the MSRB.

For the Commission, by the Division of Market Regulation pursuant to delegated authority. 17 CFR 200.30-3(a)(12).

Shirley E. Hollis,

Acting Secretary.

FR Doc. 84-27419 Filed 10-16-84; 8:45 am]

BILLING CODE 8010-01-M

[1] *See* Securities Exchange Act Release No. 20409 (November 22, 1983), 48 FR 53688.

Agency Information Collection Activities Under OMB Review

Agency Clearance Officer: Kenneth A. Fogash, (202) 272-2142.

Upon written request copy available from: Securities and Exchange Commission, Office of Consumer Affairs and Information Services, 450 5th Street, NW., Washington, D.C. 20549.

Reinstatement

Rule 203-1 [17 CFR 275.203-1]—File No. 270-39
Rule 203-2 [17 CFR 275.203-2]—File No. 270-40
Rule 204-1 [17 CFR 275.204-1]—File No. 270-41
Rule 204-3 [17 CFR 275.204-3]—File No. 270-42
Form ADV [17 CFR 279.1]—File No. 270-39
Form ADV-W [17 CFR 279.2]—File No. 270-40

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for reinstatement of OMB approval Rules 203-1, 203-2, 204-1 and 204-3 under the Investment Advisers Act of 1940 ("Advisers Act"); Form ADV, the apllication for registration under the Advisers Act; and Form ADV-W, the form for withdrawing registration under the Advisers Act.

Comments should be submitted to OMB Desk Officer: Ms. Katie Lewin, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235 NEOB, Washington, D.C. 20503.

October 5, 1984.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-27482 Filed 10-16-84; 8:45 am]

BILLING CODE 8010-01-M

Agency Information Collection Activities Under OMB Review

Agency Clearance Officer: Kenneth A. Fogash, (202) 272-2142.

Upon written request copy available from: Securities and Exchange Commission, Office of Consumer Affairs and Information Services, 450 5th Street, NW., Washington, D.C. 20549.

Extension

Rule 17f-4 [17 CFR 270.17f-4]
File No. 270-232

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for extension of OMB approval Rule 17f-4 under the Investment Company Act of 1940, which regulates the process by which investment companies or their custodians deposit portfolio securities with securities depositories for central handling.

Comments should be submitted to OMB Desk Officer: Ms. Katie Lewin, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235 NEOB, Washington, D.C. 20503.

October 11, 1984.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-27483 Filed 10-16-84; 8:45 am]

BILLING CODE 8010-01-M

Agency Information Collection Activities Under OMB Review

Agency Clearance Officer: Kenneth A. Fogash, (202) 272-2142.

Upon written request copy available from: Securities and Exchange Commission, Office of Consumer Affairs and Information Services, 450 5th Street, NW., Washington, D.C. 20549.

Reinstatement

Rule 30d-1 [17 CFR 270.30d-1]

Form N–2 [17 CFR 274.11a-1]
File No. 270–21

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for reinstatement of OMB approval Rule 30d-1, which requires every registered management investment company to transmit a report to stockholders semi-annually, and Form N–2, the registration form for closed-end investment companies under both the Securities Act of 1933 and the Investment Company Act of 1940.

Comments should be submitted to OMB Desk Officer: Ms. Katie Lewin, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235 NEOB, Washington, D.C. 20503.

October 5, 1984.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-27486 Filed 10-16-84; 8:45 am]

BILLING CODE 8010-01-M

Agency Information Collection Activities Under OMB Review

Agency Clearance Officer: Kenneth A Fogash, (202) 272–2142.

Upon written request copy available from: Securities and Exchange Commission, Office of Consumer Affairs and Information Services, Washington, D.C. 20549.

New

Rule 2a19–1
No. 270–294

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), the Securities and Exchange Commission has submitted for clearance proposed rule 2a19–1 (17 CFR 270.2a19–1) under the Investment Company Act of 1940 (15 U.S.C. 80a–1 et seq.) to exempt from the definition of "interested person" any investment company director who would be deemed "interested" solely because he is a registered broker or dealer or any affiliated person of a registered broker or dealer under certain conditions. Adoption of this rule would obviate the necessity of investment companies' filing applications for exemptive orders granting such an exemption.

Comments should be submitted to: Ms. Katie Lewin, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235 NEOB, Washington, D.C. 20503.

October 11, 1984.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-27485 Filed 10-16-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34–21390; File No. SR–PHLX 84–20]

Self-Regulatory Organizations; Proposed Rule Change by Philadelphia Stock Exchange, Inc., Relating to Permitting Specialists, ROTs, and Customers To Open Against Closing Cabinet Bids or Offers

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on September 21, 1984, Philadelphia Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Philadelphia Stock Exchange, Inc. ("PHLX") pursuant to Rule 19b–4 of the Securities Exchange Act of 1934 ("Act"), hereby proposes to amend Rule 1059 which governs cabinet trading. (Brackets indicate language to be deleted; italics indicate new language.)

Rule 1059. Cabinet trading shall be available for each series of options open for trading on the Exchange under the following terms and conditions:

(i) Trading shall be conducted in accordance with other Exchange Rules except as otherwise provided herein or unless the context otherwise requires.

(ii) The specialist registered in each class of option contracts shall supervise the operation of the cabinet for that class.

(iii) Only closing limit orders at a price of $1 per option contract for the accounts of customer, firm, specialists and ROT[']s may be placed in the cabinet. Such orders must be submitted to the specialist in writing.

(iv) All orders placed in the cabinet shall be assigned priority based upon the sequence in which such orders are received by the specialist.

(v) [All bids and offers must be submitted to the specialist in writing, and the specialist shall effect all cabinet transactions by matching such orders placed with him] *Bids or offers on orders to open for the accounts of customer, firm, specialists and ROTs may be made at $1 per option contract, but such orders may not be placed in and must yield to all orders in the cabinet.*

(vi) [Orders may be placed in the cabinet for customer and firm accounts and for the accounts of specialists and Registered Traders, but only in connection with closing transaction.] *Specialists shall effect all cabinet transactions by matching closing purchase or sale orders which have been placed in the cabinet or, provided there is no matching closing purchase or sale order in the cabinet, by matching a closing purchase or sale order in the cabinet with an opening purchase or sale order.*

(vii) Specialists and [Registered Options Traders] *ROTs* shall not be subject to the requirements of Rule 1014 in respect of orders placed pursuant to this Rule. This provisions of Rule 1033 (b) and (c), Rule 1034 and Rule 1038 shall not apply to orders placed in the cabinet. Cabinet transactions shall not be reported on the ticker.

(viii) All cabinet transactions shall be reported to the Exchange following the close each business day.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statememts.

A. Self-Regulatory Organization's Statements of the Purpose of, and Statutory Basis for the Proposed Rule Change

The purpose of the proposed rule change is to amend Rule 1059 concerning cabinet transactions in order to permit specialists market makers and customers, to enter into opening transactions at a limit price of $1 per contract, but only in cases where there is no matching closing cabinet bid or offer.

Cabinet or accommodation trading of option contracts is intended to accommodate persons wishing to effect

closing transactions in those series of options dealt in on the Exchange for which, due to the absence of a bid at the lowest fractional price per contract ($6.25) permitted by PHLX Rule 1034, there is no auction market. Only orders which would result in closing (liquidating) transactions may be placed in the cabinet. Orders placed in the cabinet must be submitted in writting and at a limit price of $1 per contract. All orders so placed are assigned priority in accordance with the sequence in which they are received at the trading post by the specialist in the particular class of options. Specialists have the obligation to supervise accommodation trading.

Specialists may effect accommodation transactions either by-(1) matching closing purchase or sale orders which have been placed in the cabinet or (2) matching a closing purchase or sale order which has been placed in the cabinet with an opening purchase or sale order for the account of customer, firm, specialist and registered options trader ("ROT") at the cabinet bid or offer ($1), provided there is no matching closing purchase or sale order which has been placed in the cabinet. The second alternative is provided to accommodate orders for accounts wishing to close out their positions in options series for which there is currently no matching closing cabinet order. Further, by giving specialists and ROT's in limited circumstances, the ability to engage in hedge transactions in a series subject to cabinet trading, it potentially increases their capacity to make markets in other series in the class. Under the same limited circumstances the public is also permitted to open at the cabinet bid or offer in a series of options which is not restricted pursuant to PHLX Rule 1046 (Restriction of Out-of-the-Money Options).

Since cabinet trading does not involve any of the principles of the exchange auction market, the market making obligations of specialists and registered options traders do not extend to these types of accounts, no priority is given based on the type of accounts (customers, members, member organizations, specialists, registered options traders) for orders placed in the cabinet (e.g., closing transactions), and the only priority given with respect to transactions placed in the cabinet is the time of entry of the order with the specialist. However, as noted above, opening transactions may not be initiated at the cabinet bid or offer ($1) unless there is no matching closing purchase or sale order available in the cabinet.

The basis for the proposed rule change is found in section 6(b)(5) of the Act which provides, in pertinent part, that the rules of the Exchange be designed to facilitate transactions in securities and to protect investors and the public interest.

B. Self-Regulatory Organizations Statement on Burden on Competition

The PHLX believes that the proposed rule change will not impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approved such proposed rule change, or,

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Person making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by November 7, 1984.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 10, 1984.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-27406 Filed 10-16-84; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms, and Recordkeeping Requirements: Submittals to OMB August 22–September 25, 1984

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: This notice lists those forms, reports, and recordkeeping requirements, transmitted by the Department of Transportation, during the period Aug. 22–Sept. 25, 1984, to the Office of Management and Budget (OMB) for its approval. This notice is published in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

FOR FURTHER INFORMATION CONTACT: John Windsor, John Chandler, or Annette Wilson, Information Requirements Division, M–34, Office of the Secretary of Transportation, 400 7th Street, SW., Washington, D.C. 20590, (202) 426–1887 or Gary Waxman or Sam Fairchild, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, D.C. 20503, (202) 395–7340.

SUPPLEMENTARY INFORMATION:

Background

Section 3507 of Title 44 of the United States Code, as adopted by the Paperwork Reduction Act of 1980, requires that agencies prepare a notice for publication in the **Federal Register**, listing those information collection requests submitted to the Office of Management and Budget (OMB) for approval under that Act. OMB reviews and approves agency submittals in accordance with critefia set forth in that Act. In carrying out its responsibilities, OMB also considers public comments on the proposed forms, reporting and recordkeeping requirements. As needed, the Department of Transportation will publish in the **Federal Register** a list of those forms, reporting and recordkeeping requirements that it has submitted to OMB for review and approval under the Paperwork Reduction Act. The list will include new

items imposing paperwork burdens on the public as well as revisions, renewals and reinstatements of already existing requirements. OMB approval of an information collection requirement must be renewed at least once every three years. The published list also will include the following information for each item submitted to OMB:

(1) A DOT control number.

(2) An OMB approval number if the submittal involves the renewal, reinstatement or revision of a previously approved item.

(3) The name of the DOT Operating Administration or Secretarial Office involved.

(4) The title of the information collection request.

(5) The form numbers used, if any.

(6) The frequency of required responses.

(7) The persons required to respond.

(8) A brief statement of the need for, and uses to be made of, the information collection.

Information Availability and Comments

Copies of the DOT information collection requests submitted to OMB may be obtained from the DOT officials listed in the "For Further Information Contact" paragraph set forth above. Comments on the requests should be forwarded, as quickly as possible, directly to the OMB officials listed in the "For Further Information Contact" paragraph set forth above. If you anticipate submitting substantive comments, but find that more than 10 days from the date of publication are needed to prepare them, please notify the OMB officials of your intent immediately.

Items Submitted for Review by OMB

The following information collection requests were submitted to OMB from Aug. 22–Sept. 25, 1984:

DOT No: 2487;
OMB No: New;
By: Office of the Secretary;
Title: Quarterly Report of MBE–DWE/WBE Awards and Commitments;
Forms: Form approval pending herewith;
Frequency: Quarterly;
Respondents: Recipients of DOT financial assistance funds;
Need/Use: This quarterly reporting form is needed in order to provide a uniform format which recipients of Department of Transportation financial assistance funds will use to report awards to MBE–DWE/WBEs as required by DOT regulations.

DOT No: 2488;
OMB NO: New;
By: Maritime Administration;
Title: Claimants against MARAD under the Federal Tort Claims Act;
Forms: SF–95;
Frequency: On occasion;
Respondents: Claimants against MARAD for damage, injury, or death;
Need/Use: Claimants must file a form to register their claim.

DOT No: 2490;
OMB No: New;
By: Federal AviationAdministration;
Title: Aviation Insurance;
Forms: None;
Frequency: One time application;
Respondents: Air Carriers;
Need/Use: To apply for Federal Aviation Insurance, air carriers must demonstrate that commercial insurance is not available on reasonable terms and conditions.

DOT No: 2491
OMB No: 2120–0010;
By: Federal Aviation Administration;
Title: Repair Station Certification—FAR 145;
Forms: FAA Form 8310–3;
Frequency: On occasion;
Respondents: Applicants for Repair Station Certification;
Need/Use: The Federal Aviation Act of 1958, Section 607 (49 USC 1427) authorizes certification of repair stations for the repair, alteration, and maintenance of aircraft. 14 CFR 145 prescribes rules governing certificated repair station operators and the issue of certificates. Information collected is used for certfication and to determine compliance.

DOT No: 2492
OMB No: 2125–0016;
By: Federal Highway Administration;
Title: Driver's Duty Status Record;
Forms: None;
Frequency: Daily/Recordkeeping;
Respondents: Motor Carriers;
Need/Use: For FHWA and motor carriers to determine compliance with the maximum driving limitation for 24-hour periods as required by CFR 395.3, and to detemine the overall safety compliance status of motor carriers. This is a revision of the recordkeepng requirement as a result of a court decision in mid-1984.

DOT No: 2493
OMB No: New;
By: National Highway Traffic Safety Administration;
Title: Evaluation of New York State Mandatory Occupant Restraint Law;
Forms: None;
Frequency: On occasion;
Respondents: Individuals or households;
Need/Use: To evaluate the effect of the recently enacted mandatory occupant restraint law in the State of New York. These surveys will be used to determine the public's knowledge, attitudes and behavior regarding restraint use in light of the mandatory occupant restraint law.

DOT No: 2494;
OMB No: 2120–0014;
By: Federal Aviation Administration;
Title: Procedures for Non-Federal Navigation Facilities FAR 171;
Forms: FAA Forms 198, 6030–1, 418, 6790–4;
Frequency: On occasion, and monthly inspections recorded in log;
Respondents: State and local Governments;
Need/Use: The Non-Federal navigation facilities are aids to air navigation which are purchased, installed, operated and maintained by a public entity other than the FAA and are available for use by the flying public. These navaids have requirements for inspection and periodic maintenance. Work done on these facilities must be recorded in a log. Copies of this log are periodically sent to the official record of the performance of the facility. This log must be available for inspection whenever needed.

DOT No: 2495;
OMB No: 2120–0049;
By: Federal Aviation Administration;
Title: Agricultural Aircraft Operations—FAR–137;
Forms: FAA Form 8710–3;
Frequency: On occasion;
Respondents: Applicants for agricultural aircraft operator certification;
Need/Use: 14 CFR 137 prescribes regulations governing agricultural aircraft operations. Information collected is concerning applicant compliance with regulations, and will determine the eligibility for certification by FAA.

DOT No: 2496;
OMB No: 2127–0503, combined with 0504, 0508, 0509, 0513 and 0514;
By: National Highway Traffic Safety Administration;
Title: Consolidated Labeling Requirements for Motor Vehicle Tires and Rims (FMVSS Nos. 109, 110, 117, 119, 120 and Regulations Part 569 and 574);
Forms: None;
Frequency: On occasion;
Respondents: Manufacturers of tires and rims;
Need/Use: These standards require the manufacturers to label all motor vehicle tires and rims with certain information, for safety of consumer usage.

DOT No: 2497;

OMB No: 2115–0041;
By: U.S. Coast Guard;
Title: Outer Continental Shelf Lands Act of 1978 Facility Application for Certificate of Financial Responsibility;
Forms: CG–5210;
Frequency: On occasion;
Respondents: Owner or Operator of Offshore Drilling Rigs and Facilities;
Need/Use: This information collection requirement is needed to provide evidence of financial responsibility as required by 43 USC 1815. Coast Guard Offshore Oil Pollution Compensation Fund uses the information submitted on the application form to evaluate the request for certification of financial responsibility.

DOT NO: 2498;
OMB NO: 2125–0196;
By: Federal Highway Administration;
Title: Time Record;
Forms: None;
Frequency: Daily;
Respondents: Motor Carriers;
Need/Use: Provides for exemption from driver's record of duty status if accurate time records are maintained. Is used by FHWA and motor carriers to determine compliance with maximum time limitations as required by 49 CFR, and carriers' overall compliance with safety requirements.

Issued in Washington, D.C. on October 5, 1984.

Jon H. Seymour,
Deputy Assistant Secretary for Administration.

[FR Doc. 84-27353 Filed 10-16-84; 8:45 am]
BILLING CODE 4910-62-M

Federal Aviation Administration

Radio Technical Commission for Aeronautics (RTCA), Executive Committee Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting of the RTCA Executive Committee to be held on November 13, 1984 in Salons F and G, Marriott Crystal Gateway Hotel, 1700 Jefferson Davis Highway, Arlington, Virginia commencing at 9:00 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Opening Remarks (2) Approval of Minutes of Meeting Held on September 14, 1984; (3) Chairman' Report on RTCA Administration and Activities; (4) Special Committee Activities Report for September and October 1984; (5) Consideration of Proposals to Establish New Special Committees; (6) Approval of Special Committee 137 Report "Minimum Operational Performance Standards for Airborne Area Navigation Equipment Using Milti-Sensor Inputs"; (7) Approval of Special Committee 136 Subcommittee Report on ELT Battery Problems and Recommended Corrective Actions; (8) Approval of Change 1 to RTCA Document DO–185, "Minimum Operational Performance Standards for Air Traffic Control Radar Beacon/Mode Select (ATCRBS/Mode-S) Airborne Equipment"; (9) Approval of Change 1 to RTCA Document DO–173, "Minimum Operational Performance Standards for Airborne Weather and Ground Mapping Pulse Radars"; (10) Review of European Organization for Civil Aviation Electronics (EUROCAE) Activities; (11) Comments and Reports from RTCA International Associates; and (12) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, D.C. 20005; (202) 682–0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on October 5, 1984

Karl F. Bierach,
Designated Officer.

[FR Doc. 84-27425 Filed 10-16-84; 8:45 am]
BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA), Special Committee 154—Airborne Thunderstorm Detection Equipment; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 154 on Airborne Thunderstorm Detection Equipment to be held on November 1–2, 1984 in the RTCA Conference Room, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of the Third Meeting Held on August 1–2, 1984; (3) Review Task Assignments From Previous Meeting; (4) Review of Updated Second Draft of Committee Report on Minimum Operational Performance Standards for Airborne Thunderstorm Detection Equipment; and (5) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, D.C. 20005; (202) 682–0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on October 5, 1984.

Karl F. Bierach,
Designated Officer.

[FR Doc. 84-27426 Filed 10-16-84; 8:45 am]
BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA), Special Committee 157—User-Selectable Navigational Data Base; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 157 on User-Selectable Navigational Data Base to be held on November 7–9, 1984 in the RTCA Conference Room, One McPherson Square, 1425 K Street, N.W., Suite 500, Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Review of Committee Terms of Reference; (3) Presentations on Production of Source Data and Production of Data Bases for Users; (4) Define Scope of Work and Establish a Plan for Accomplishment; (5) Review of Draft Material for Inclusion in the Committee Report; (6) Assignment of Tasks; and (7) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, N.W., Suite 500, Washington, D.C. 20005; (202) 682–0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on October 5, 1984

Karl F. Bierach,

Designated Officer.

[FR Doc. 84-27427 Filed 10-16-84; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Supplemental Environmental Impact Statement; Jamestown, Newport County, RI

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that a supplemental environmental impact statement, both Draft and Final, will be prepared for a proposed highway project in Jamestown, Newport County, Rhode Island. This is a supplement to the EIS for I-895. That entire Interstate route was withdrawn on May 20, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Mario Tocci, Assistant Division Administrator, Federal Highway Administration, 380 Westminister Mall, Fifth Floor, Providence, Rhode Island, 02903, Telephone (401) 528-4541; or Mr. Joseph F. Arruda, Assistant Director for Planning, Rhode Island Department of Transportation, State Office Building, Providence, Rhode Island, 02903, Telephone (401) 277-2694.

SUPPLEMENTARY INFORMATION: The FHWA in cooperation with the Rhode Island Department of Transportation will prepare a supplemental environmental impact statement (SEIS) on a proposal to improve State Route 138 (SR 138) from the touchdown point of the new Jamestown Bridge in Jamestown, Rhode Island, easterly and southerly approximately 2.65 miles to the Newport Bridge approaches in Jamestown, Rhode Island.

The proposed project is intended to improve the existing two lane roadway to a modern safe highway. Special attention will be given to the section of SR 138 through the watershed area of the Jamestown Municipal Water Supply. The commitment has been made in this area to provide a closed roadway drainage system and remove the roadway runoff from the watershed area.

Existing SR 138, (Eldred Avenue and East Shore Road) within Jamestown is a two lane facility with poor horizontal and vertical geometry in specific locations. During the summer months, traffic delays exist due to capacity problems. Several possible alternative actions will be studied including upgrading of existing roadways, construction of roadways on new location and doing nothing.

To ensure that a full range of alternatives related to this proposed action are addressed and that all significant environmental issues are identified for study, those agencies, groups, or citizens affected by or interested in the proposed action are invited to participate by sending their written comments or questions to any of the contact individuals noted above within twenty-one days after publication of this Notice. No formal meeting is planned, but contacts with those agencies, groups, or individuals responding to this Notice will be made to clarify indicated environmental issues. This will constitute the scoping process.

Continued citizen input will also be maintained throughout the Jamestown Design Study Committee, an organization established by the Director of the RIDOT to recommend a concept plan, a series of workshops, and a public hearing. Workshops and a public hearing will be conducted in the project area during the course of the study which is expected to be completed by January 1986.

(Catalog of Federal Assistance Program number 20.205, Highway Research Planning and Construction)

The provisions of OMB Circular A-95 regarding State and local clearinghouse review of Federal and Federally assisted programs and projects apply to this project.

Issued on: October 9, 1984.

Mario H. Tocci,

Assistant Division Administrator, Providence, Rhode Island.

[FR Doc. 84-27358 Filed 10-16-84; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Dept. Cir., Public Debt Series—No. 32-84]

Treasury Notes of October 31, 1986, Series Z-1986

October 11, 1984

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $8,800,000,000 of United States securities, designated Treasury Notes of October 31, 1986, Series Z-1986 (CUSIP No. 912827 RK 0). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The securities will be dated October 31, 1984, and will bear interest from that date, payable on a semiannual basis on April 30, 1985, and each subsequent 6 months on October 31 and April 30 until the principal becomes payable. They will mature October 31, 1986, and will not be subject to call for redemption prior to maturity. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next-succeeding business day.

2.2. The securities are subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Securities registered as to principal and interest will be issued in denominations of $5,000, $10,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of registered and book-entry securities, and the transfer of registered securities will be permitted. Bearer securities will not be available, and the interchange of registered or book-entry securities for bearer securities will not be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20239, prior to 1:00 p.m., Eastern Daylight Saving Time, Wednesday, October 17, 1984. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, October 16, 1984, and received no later than Wednesday, October 31, 1984.

3.2. The face amount of securities bid for must be stated on each tender. The minimum bid is $5,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue being auctioned prior to the designated closing time for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.500. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.5. must be made or completed on or before Wednesday, October 31, 1984. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Monday, October 29, 1984. In addition, Treasury Tax and Loan Note Option Depositaries may make payment for allotted securities for their own accounts and for account of customers by credit to their Treasury Tax and Loan Note Accounts on or before Wednesday, October 31, 1984. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the

securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20239. The securities must be delivered at the expense and risk of the holder.

5.4. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, and to receive payment for and make delivery of securities on full-paid allotments.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public annoucement of such changes will be promptly provided.

Carole Jones Dineen,

Fiscal Assistant Secretary.

[FR Doc. 84-27336 Filed 10-16-84; 8:45 am]

BILLING CODE 4810-40-M

Office of the Secretary

[Amdmt. to Dept. Circ. Public Debt Series—No. 28-84]

Treasury Notes of October 15, 1991, Series G-1991

October 11, 1984.

Department of the Treasury Circular, Public Debt Series—No. 28-84, dated October 5, 1984, descriptive of Treasury Notes of Series G-1991, is hereby amended, effective October 10, 1984. The notes will be auctioned Tuesday, October 16, 1984, and will accrue interest from Tuesday, October 23, 1984.

The same numbered paragraphs of Department of the Treasury Circular, Public Debt Series—No. 28-84, are hereby amended and replaced with the following paragraphs. The other terms and conditions remain unchanged.

2. Description of Securities.

2.1. The securities will be dated October 23, 1984, and will bear interest from the date, payable on a semiannual basis on April 15, 1985, and each subsequent 6 months on October 15 and April 15 until the principal becomes payable. They will mature October 15, 1991, and will not be subject to call for redemption prior to maturity. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next-succeeding business day.

3. Sale Procedures.

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20239, up to 1:00 p.m., Eastern Daylight Saving time, Tuesday, October 16, 1984. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, October 15, 1984, and received no later than Tuesday, October 23, 1984.

5. Payment and Delivery.

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.5. must be made or completed on or before Tuesday, October 23, 1984. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Friday, October 19, 1984. In addition, Treasury Tax and Loan Note Option Depositaries may make payment for allotted securities for their own accounts and for account of customers by credit to their Treasury Tax and Loan Note Accounts on or before Tuesday, October 23, 1984. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

The foregoing amendment was effected under authority of Chapter 31 of Title 31, United States Code. Notice and public procedures thereof are unnecessary as the fiscal policy of the United States is involved.

Carole Jones Dineen,

Fiscal Assistant Secretary.

[FR Doc. 84-27399 Filed 10-12-84; 2:09 pm]

BILLING CODE 4810-40-M

[Amdt. to Dept. Cir. Public Debt Series—No. 29-84]

Treasury Bonds of 2004

October 11, 1984.

Department of the Treasury Circular, Public Debt Series—No. 29-84, dated October 5, 1984, descriptive of Treasury Bonds of 2004, is hereby amended, effective October 11, 1984. The bonds will be auctioned Tuesday, October 23, 1984, and will accrue interest from Tuesday, October 30, 1984.

The same numbered paragraphs of Department of the Treasury Circular, Public Debt Series—No. 29-84, are hereby amended and replaced with the following paragraphs. The other terms and conditions remain unchanged.

2. Description of Securities.

2.1. The securities will be dated October 30, 1984, and will bear interest from that date, payable on a semiannual basis on May 15, 1985, and each subsequent 6 months on November 15 and May 15 until the principal becomes payable. They will mature November 15, 2004, and will not be subject to call for redemption prior to maturity. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next-succeeding business day.

3. Sale Procedures.

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239, prior to 1:00 p.m., Eastern Daylight Saving time, Tuesday, October 23, 1984. Noncompetitive tenders as defined below will be considered timely if postmarked no later

than Monday, October 22, 1984, and received no later than Tuesday, October 30, 1984.

5. Payment and Delivery.

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.5. must be made or completed on or before Tuesday, October 30, 1984. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Friday, October 26, 1984. In addition, Treasury Tax and Loan Note Option Depositaries may make payment for allotted securities for their own accounts and for account of customers by credit to their Treasury Tax and Loan Note Accounts on or before Tuesday, October 30, 1984. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

The foregoing amendment was effected under authority of Chapter 31 of Title 31, United States Code. Notice and public procedures thereof are unnecessary as the fiscal policy of the United States is involved.

Carole Jones Dineen,

Fiscal Assistant Secretary.

[FR Doc. 84-27400 Filed 10-12-84; 2:00 pm]

BILLING CODE 4810-40-M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 202
Wednesday, October 17, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

October 11, 1984.

TIME AND DATE: 2:30 p.m., Thursday, October 11, 1984.

PLACE: Room 600, 1730 K Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and discuss the following:

1. MSHA/ on behalf of Larry Duty v. West Virginia Rebel Coal Company, Docket Nos. KENT 83-232-D, KENT 83-161-D. (Petition for Interlocutory Review.)

It was determined by a unanimous vote of Commissioners that a meeting be held on this matter and that no earlier announcement of the meeting was possible. 5 USC § 552b(e)(1).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, (202) 653-5632.

Jean Ellen,

Agenda Clerk.

[FR Doc. 84-27560 Filed 10-15-84; 2:52 pm]

BILLING CODE 6735-01-M

2

INTERNATIONAL TRADE COMMISSION

[USITC SE-84-50]

TIME AND DATE: 3:00 p.m., Thursday, October 25, 1984.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary.
5. Investigations 701-TA-221 and 222 [Preliminary] (Certain Iron Pipe Fittings from Brazil)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, *Secretary*, (202) 523-0161.

[FR Doc. 84-27480 Filed 10-15-84; 9:33 am]

BILLING CODE 7020-02-M

3

INTERNATIONAL TRADE COMMISSION

[USITC SE-84-49]

TIME AND DATE: 10:00 a.m., Monday, October 22, 1984.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary.
5. Investigations 303-TA-15 and 701-TA-213 [Final] (Potassium Chloride from Israel and Spain)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, *Secretary*, (202) 523-0161.

[FR Doc. 84-27480 Filed 10-15-84; 8:55 am]

BILLING CODE 7020-02-M

4

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

DATE AND TIME: October 19, 1984, 10:00 a.m. to 4:00 p.m.

PLACE: Council on Library Resources, Room 313, 1785 Massachusetts Ave., NW., Washington, DC.

STATUS: Open Limited Space, Advance Notice Required, (202) 382-0840.

MATTERS TO BE DISCUSSED: Review paper on the role of fees in supporting library and information services.

CONTACT PERSON: Toni Carbo Bearman, Executive Director, NCLIS.

Toni Carbo Bearman,

Executive Director.

October 12, 1984.

[FR Doc. 84-27559 Filed 10-15-84; 2:52 pm]

BILLING CODE 7527-01-M

5

PAROLE COMMISSION

Public Announcement

DATE AND TIME: Tuesday, October 23, 1984—9:00 a.m. to 1:00 p.m.

PLACE: Room 420-F, One North Park Building, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Appeals to the Commission of approximately 23 cases decided by the National Commissioners pursuant to a reference under 28 CFR 2.17 and appealed pursuant to 28 CFR 2.27. These are all cases originally heard by examiner panels wherein inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION: Linda Wines Marble, Chief Case Analyst, National Appeals Board, United States Parole Commission, (301) 492-5987.

Dated: October 15, 1984.

Joseph A. Barry,

General Counsel, United States Parole Commission.

[FR Doc. 84-27547 Filed 10-15-84; 2:27 pm]

BILLING CODE 4410-01-M

6

PAROLE COMMISSION

Public Announcement

DATE AND TIME:

Tuesday, October 23, 1984—2:30 p.m. to 5:30 p.m.
Wednesday, October 24, 1984—9:00 a.m. to 5:30 p.m.
Thursday, October 25, 1984—9:00 a.m. to 2:00 p.m.

PLACE: Room 420-F, One North Park Building, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of minutes of open business meeting of July 12 through 14, 1984, and open business meeting of August 3, 1984, via conference call.
2. Comments by and discussion with Lord Windlesham, Chairman, Parole Board of England.
3. Reports from the Chairman, Vice Chairman, Commissioners, Legal, Research,

Case Operations, and the Administrative Section.

4. Impact of recently passed legislation.

5. Drug guidelines—incarceration of peripheral participants.

6. Vote buying—rating of this offense.

7. Drug conspiracies—consideration of number of participants on a graduated scale.

8. Proposed new filing system.

9. Structuring of the meeting agendas.

10. Discussion of repetitious parole violations.

11. Youth Correction Act Cases.

12. Local revocation hearings.

Consent Agenda

The following Consent Agenda Items shall be deemed adopted by consent and will not be discussed at the meeting unless a request to discuss a particular item has been received by October 19, 1984.

13. Adoption of the Rules and Procedures Manual dated October 1, 1984.

CONTACT PERSON FOR MORE INFORMATION: Peter B. Hoffman, Director of Research, United States Parole Commission, (301) 492–5980.

Dated: October 15, 1984.

Joseph A. Barry,

General Counsel, United States Parole Commission.

[FR Doc. 84–27548 Filed 10–15–84; 2:27 pm]

BILLING CODE 4410–01–M

VOL
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federal register

Wednesday
October 17, 1984

Part II

Office of Management and Budget

Cumulative Report on Budget Rescissions and Deferrals; Notice

VOL 49 ISS 202 OCT 17 1984 UMI

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Budget Rescissions and Deferrals

October 1, 1984.

This report is submitted in fulfillment of the requirements of section 1014(e) of the Impoundment Control Act of 1974 (Pub. L. 94–344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year for which, as of the first day of the month, a special message has been transmitted to the Congress.

This report gives the status as of October 1, 1984 of 15 deferrals contained in the first special message of FY 1985. This message was transmitted to the Congress on October 1, 1984.

Recissions (Table A and Attachment A)

As of October 1, 1984, there were no rescission proposals pending before the Congress.

Deferrals (Table B and Attachment B)

As of October 1, 1984, $1,298.7 million in 1985 budget authority was being deferred from obligation and $19.9 million in 1985 outlays was being deferred from expenditure. Attachment B shows the history and status of each deferral reporting during FY 1985.

Information From Special Messages

The special messages containing information on the rescission proposals and deferrals covered by this cumulative report are printed in the **Federal Register** listed below:

Vol. 49, FR p. 39464, Friday, October 5, 1984

David A. Stockman,

Director, Office of Management and Budget.

BILLING CODE 3110-01-M

TABLE A

STATUS OF 1985 RESCISSIONS

	Amount (In millions of dollars)
Rescissions proposed by the President	$ 0
Accepted by the Congress	0
Rejected by the Congress	0
Pending before the Congress	$ 0

****

TABLE B

STATUS OF 1985 DEFERRALS

	Amount (In millions of dollars)
Deferrals proposed by the President	$ 1,318.6
Routine Executive releases through October 1, 1984 (OMB/ Agency Releases of $0 million and cumulative adjustments of $0 million)	0
Overturned by the Congress	0
Currently before the Congress	$ 1,318.6

a/ This amount includes $19.9 million in outlays for a Department of the Treasury deferral (D85-13).

Attachments

Attachment A - Status of Rescissions - Fiscal Year 1985

As of October 1, 1984 Amounts in Thousands of Dollars Agency/Bureau/Account	Rescission Number	Amount Previously Considered by Congress	Amount Currently before Congress	Date of Message	Amount Rescinded	Amount Made Available	Date Made Available	Congressional Action
None.								

Attachment B - Status of Deferrals - Fiscal Year 1985

As of October 1, 1984 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 10-1-84
FUNDS APPROPRIATED TO THE PRESIDENT									
Appalachian Regional Development Programs									
Appalachian regional development programs	085-1	10,000		10-1-84					10,000
Economic support fund	085-2	280,500		10-1-84					280,500
Military assistance	085-3	18,500		10-1-84					18,500
DEPARTMENT OF AGRICULTURE									
Forest Service									
Timber salvage sales	085-4	9,704		10-1-84					9,704
Expenses, brush disposal	085-5	55,850		10-1-84					55,850
DEPARTMENT OF DEFENSE - MILITARY									
Military Construction									
Military construction, all services	085-6	300,000		10-1-84					300,000
DEPARTMENT OF DEFENSE - CIVIL									
Wildlife Conservation, Military Reservations									
Wildlife conservation	085-7	1,127		10-1-84					1,127
DEPARTMENT OF HEALTH AND HUMAN SERVICES									
Office of Assistant Secretary for Health									
Scientific activities overseas (special foreign currency program)	085-8	424		10-1-84					424
Social Security Administration									
Limitation on administrative expenses (construction)	085-9	15,488		10-1-84					15,488
DEPARTMENT OF THE INTERIOR									
Bureau of Land Management									
Payments for proceeds, sale of water, Mineral Leasing Act of 1920, sec. 40 (d)	085-10	49		10-1-84					49
DEPARTMENT OF TRANSPORTATION									
Federal Aviation Administration									
Facilities and equipment (airport and airway trust)	085-11	537,205		10-1-84					537,205
DEPARTMENT OF THE TREASURY									
Office of Revenue Sharing									
Local government fiscal assistance trust fund	085-12	55,400		10-1-84					55,400
	085-13	19,900		10-1-84					19,900
OTHER INDEPENDENT AGENCIES									
Pennsylvania Avenue Development Corporation									
Land acquisition and development fund	085-14	14,300		10-1-84					14,300
Railroad Retirement Board									
Milwaukee Railroad restructuring, administration	085-15	108		10-1-84					108
TOTAL, DEFERRALS		1,318,562	0		0	0		0	1,318,562

Notes: All of the above amounts represent budget authority except the Local Government Fiscal Assistance Trust Fund (085-13) of outlays only.

[FR Doc. 84-27432 Filed 10-16-84; 8:45 am]

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Wednesday
October 17, 1984

Part III

Postal Service

39 CFR Parts 447 and 956
Filing of Confidential Statements, Post-Employment Activities; Rules of Practice; Final Rule

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POSTAL SERVICE

39 CFR Parts 447 and 956

Code of Ethical Conduct; Filing of Confidential Statements, Post-Employment Activities; Rules of Practice

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Postal Service amends its regulations relating to conflicts of interests in several respects. The first amendment adds new sections to the Postal Service's Code of Ethical Conduct to implement the provisions of 18 U.S.C. 207, which imposes restrictions on the conduct of former employees and provides administrative sanctions for former employees who are found to be in violation of § 207. The second amendment adds new sections to the Code to govern the submission by postal employees of the financial disclosure reports as required by Title II of the Ethics in Government Act. The final amendment adopts rules of practice for the proceedings relating to the imposition of the administrative sanctions to which reference is made above.

EFFECTIVE DATE: November 16, 1984.

FOR FURTHER INFORMATION CONTACT: Charles D. Hawley, (202) 245–4584.

SUPPLEMENTARY INFORMATION: On May 12, 1983, the Postal Service published in the **Federal Register**, 48 FR 21343, a notice of proposed rulemaking to amend in various respects its Code of Ethical Conduct for Postal Employees. The Postal Service received no comments on any of the proposed amendments, and on October 18, 1983, adopted that part of the proposal which dealt with the acceptance by postal employees of gifts of little value. (48 FR 48231.) The remaining proposed regulations, with certain exceptions discussed below, are being adopted substantially as proposed.

One part of the regulations amends the Postal Service's Code of Ethical Conduct, 39 CFR Part 447, to implement the provisions of 18 U.S.C. 207, which generally places restrictions on the post-employment conduct of Federal employees. The statute operates to prohibit former employees from taking, or being in a position which might allow them to take, unfair advantage of their previous status as employees. The regulations hereby adopted, new §§ 447.33 and 447.34, establish rules and procedures which (1) summarize the restrictions contained in 18 U.S.C. 207; (2) permit, as provided by 18 U.S.C. 207(f), the communication of scientific or technological information to the Postal Service by former employees; and (3) in accordance with 18 U.S.C. 207(j), provide for the imposition of administrative sanctions upon former employees are found in violation of 18 U.S.C. 207(a)–(c). These administrative sanctions include (1) the denial of the right to appear before or communicate with the Postal Service as a representative of another for up to five years, and (2) debarment from contracting or entering into other business arrangements with the Postal Service directly or as a subcontractor for up to three years. See new § 447.34(e).

Complementing these regulations is a new Part 956, which establishes rules of practice to govern the conduct of hearings in the Postal Service's Judicial Officer Department. Such hearings may be held in connection with the imposition of the sanctions provided in new § 447.34(e).

The Postal Service also adopts regulations which govern the submission by its employees of the financial disclosure reports as required by Title II of the Ethics in Government Act, Pub. L. 95–521. These regulations supplement and amend 39 CFR 447.41, which deals with the related subject of confidential financial statements. The newly adopted regulations set forth categories of employees who are required to submit financial disclosure reports and the circumstances under which they are required to submit them. See generally 39 CFR 447.41(a) and new § 447.42.

The proposed regulations concerning the submission of financial disclosure reports have been modified as follows, and are adopted as modified. Subsequent to the publication of the proposed amendments, the compensation structure of Postal Career Executive Service (PCES) I was changed. As a result, executives with positions in newly established salary levels 1 and 2 of PCES I now have fixed salaries which exceed the minimum of GS–16, rather than salaries which could be at any point within a range that extends below this minimum. In order to make the application of Title II of the Ethics in Government Act to the Postal Service as clear as is practicable, reference is now made in new § 447.42(a)(5) to those positions whose occupants are required to submit these reports.

One proposed provision, § 447.42(b)(iv), is not being adopted. This provision would have required employees to submit reports when their salaries had undergone an absolute decrease to a level below the rate of basic pay for first step of GS–16. The Postal Service is not adopting this proposed rule because, as a practical matter, decreases involving reporting individuals are infrequent, and because, with the continuing requirement to submit confidential financial statements, the rule seems unnecessary.

The proposed regulations pertaining to the debarment, under certain circumstances, of former employees from contracting or entering into other business relationships with the Postal Service, are also being modified, and are adopted as modified. Proposed new § 447.34(e)(2) is modifed so that the maximum period of debarment is three, rather than five, years. This modification is made in order to be consistent with the length of the sanction provided in a regulation dealing with debarment in the Postal Contracting Manual, section 1–604.2.

The Postal Service has also decided not to adopt proposed § 447.34 (e)(3) and (f)(2), which would have permitted it to cancel contracts or other business arrangements with parties who are found to have violated 18 U.S.C. 207 in a manner that affected the contract or business arrangement. These regulations are not being adopted because of the difficulty of establishing procedures which would be consistent with both 18 U.S.C. 207(j) and the general provisions for the termination of contracts as contained in the Postal Contracting Manual, and because such a sanction is not clearly authorized by 18 U.S.C. 207. Consistent with the decision not to adopt proposed § 447.34(e)(3), the Postal Service has amended new Part 956 to remove a reference to proposed § 447.34(e)(3).

The amendments of the Postal Service's Code of Ethical Conduct hereby adopted have been approved by the Director, Office of Government Ethics.

List of Subjects in 39 CFR Parts 447 and 956

Conflict of interests, Government employees, Administrative practice and procedure, Postal Service.

For the above reasons, 39 CFR is amended as follows:

PART 447—CODE OF ETHICAL CONDUCT FOR POSTAL EMPLOYEES

1. Add new §§ 447.33 and 447.34 reading as follows:

§ 447.33 Post-Employment Activities.

(a) Restrictions on the post-employment activities of persons who have been employed by the Postal Service are imposed by section 207 of title 18, United States Code. In general,

the restrictions contained in 207(a) permanently prohibit appearance as an agent or attorney before Federal agencies or courts in behalf of a private party in any particular matter in which the employee participated in some substantial way while a postal employee. Section 207(b) generally prohibits for two years after leaving postal employment the representation of a private party before Federal agencies or courts in any particular matter that was under the employee's official responsibility within one year prior to leaving postal employment. Section 207(c), which applies only to the Officers of the Postal Service, designated as Senior Employees, generally prohibits any appearance before or communication with the Postal Service, with an intent to influence any Postal Service action, for one year after leaving the Postal Service.

(b) Criminal sanctions of imprisonment and fines are provided for violations of section 207. The Attorney General of the United States is responsible for initiating criminal prosecution of persons believed to have violated that statute. To this end, on receipt of information regarding a possible violation of section 207, and after having determined that such information appears substantial, the Ethical Conduct Officer shall expeditiously furnish this information to the Chief Inspector who shall bring it to the attention of the Criminal Division, Department of Justice, and to the Director, Office of Government Ethics. Any investigation or administrative action conducted thereafter by the Postal Service should be coordinated with the Department of Justice to avoid prejudice to any criminal prosecution, unless the Department has determined that it does not intend to initiate such prosecution.

(c) The Postal Service may impose administrative sanctions in the case of a violation of section 207, even though criminal prosecution is not sought. Regulations governing the imposition of these sanctions, which may include prohibiting the former employee for up to five years from appearing before or communicating with the Postal Service, are contained in § 447.34 below. Rules of practice before the Judicial Officer Department in proceedings arising under these regulations are found in Part 956.

(d) Notwithstanding the prohibitions described above, section 207 permits certain types of communications. Any former postal employee may:

(1) Give testimony under oath and make statements required to be made under penalty of perjury (section 207(h));

(2) Appear before or communicate with a Federal agency or court on a matter of a personal and individual nature, such as personal income taxes or retired pay (section 207(i)); or

(3) If he receives no compensation other than established witness fees, make a statement based on his special knowledge (section 207(i)).

(e) In accordance with section 207(f), the prohibitions of section 207(a)–(c) do not apply to the making of communications by former employees solely for the purpose of furnishing scientific or technological information to the Postal Service under either of the following circumstances:

(1) The former employee shall submit to the Ethical Conduct Officer a notice in writing stating the nature of the restriction that is applicable to him and describing his participation in behalf of the Postal Service which gives rise to the restriction. He shall summarize briefly the information he wishes to communicate and shall describe the circumstances under which he intends to communicate the information. The Ethical Conduct Officer may approve the proposed communcation, either as submitted by the former employee or with such modification as he deems necessary to protect the public interest.

(2) A former employee having outstanding qualifications in a scientific, technological or other technical discipline may be exempted from the restrictions of section 207(a)–(c) if the Postmaster General, after consultation with the Director, Office of Government Ethics, makes a certification which is published in the **Federal Register**. The certification shall state that the former postal employee has outstanding qualifications in a scientific, technological or other technical discipline; that he is acting with respect to a particular matter which requires such qualifications; and that the national interest would be served by the former employee's participation.

§ 447.34 Administrative Enforcement Procedures.

(a) Whenever the Ethical Conduct Officer determines that there is reasonable cause to believe that a former employee has violated section 207 (a), (b) or (c) of title 18, United States Code, in any matter affecting the Postal Service, he may initiate an administrative disciplinary action as provided in this part.

(b) The notice shall inform the respondent of the subsection that he is alleged to have violated and of the basis for the allegation in sufficient detail to enable him to prepare an adequate defense. It shall also inform him of the disciplinary action which is proposed, of his right to a public hearing on the allegation, and of the method of requesting a hearing.

(c) A respondent may, within 20 days following the receipt of the notice of proposed disciplinary action, file an answer with the Recorder in the Postal Service's Judicial Officer Department. The answer shall be in writing and shall comply with the Rules of Practice provided in Part 956 of this title, which shall govern all subsequent proceedings in the Judicial Officer Department.

(d) If no answer is filed, the allegations of the notice shall be taken as admitted and the proposed disciplinary action shall become effective as the final agency decision. The Ethical Conduct Officer may, however, at the expiration of the period for filing an answer or any time thereafter, for good cause, mitigate or remit all or any part of a proposed disciplinary action or a sanction imposed by a final agency decision following default. If an answer is filed, the final agency decision shall be rendered pursuant to Part 956.

(e) Disciplinary action taken in accordance with a final agency decision may consist of:

(1) Prohibiting the respondent from making on behalf of any other person (except the United States) any formal or informal appearance before or, with the intent to influence, any oral or written communication to the Postal Service on any matter of business for a period not to exceed five years;

(2) Excluding the respondent from entering into any contract, lease, permit or other business arrangement with, or any subcontract involving, the Postal Service for a reasonable, specified period of time, not to exceed three years; or

(3) Such other action as may be appropriate to the violation upon which it is based.

(f) In the event that the proposed disciplinary action is that authorized by paragraph (e)(2), relating to exclusion from entering into contracts, the provisions of this section and of Part 956 shall govern to the exclusion of the provisions of, and of any rights or procedures which might otherwise be available to the respondent pursuant to, section 1, Part 6 of the Postal Contracting Manual and Part 957 of this title.

(g) A final agency decision imposing disciplinary action is subject to judicial review, as provided in 18 U.S.C. 207(j), as enacted by Pub. L. 95–521.

2. Revise § 447.41(a)(l) and add new § 447.42 to read as follows:

§ 447.41 Confidential Statements.

(a) *Employees required to file statements.* (1) Each employee who is in one or more of the following categories (other than a special employee or one required by §447.42(a) to file a Financial Disclosure Report for Executive Branch Personnel (Standard From 278)) shall file a Confidential Statement of Employment and Financial Interests (Postal Service Form 2417):

* * * * *

§ 447.42 Public Financial Disclosure Reports.

(a) *Employees required to submit reports.* Each employee who is in one or more of the following categories shall submit a financial disclosure report as prescribed by the Director, Office of Government Ethics, (hereinafter, The Director), currently on Standard Form 278, in accordance with this section.

(1) The Postmaster General;

(2) The Deputy Postmaster General;

(3) The Ethical Conduct Officer;

(4) Each Administrative Law Judge;

(5) Each employee who occupies a position that is compensated at or above level 2 of PCES I; and

(6) Each employee not in (1)–(5) of this subsection, whose basic rate is equal to or greater than the rate of basic pay for the first step of GS–16.

(b) *Person with whom reports should be filed and time for filing.* (1) Financial disclosure reports required under this section shall be filed with the Ethical Conduct Officer. Reports are due as follows:

(i) Within 30 days of assuming a position described in paragraph (a)(1)–(5) of this section, unless the employee has, within 30 days prior to assuming that position, left another position in which he or she has filed a current report;

(ii) Within 30 days of the effective date of an increase in the rate of basic pay to the level described in paragraph (a)(6) or of an initial appointment at such a rate;

(iii) Within 30 days of the termination of employment with the Postal Service, by retirement or otherwise, unless the employee enters a similarly covered position with another agency in the Executive Branch of the Government;

(iv) On or before May 15 of each year when he or she has been in one of the categories in paragraph (a) for more than 60 days during the previous calendar year.

(2) The Ethical Conduct Officer may, for good cause shown, grant to an employee or class of employees an extension of up to 45 days. An additional extension of up to 45 days may be granted by the Director for good cause shown. An employee requesting such an additional extension shall submit in writing a statement of specific reasons for the extension to the Ethical Conduct Officer who shall transmit the request with his comments to the Director.

(c) *Information required to be reported—reporting forms.* (1) Instructions as to the extent of the information to be provided in the report are included with the report form. More detailed instructions may be found in title 5, Code of Federal Regulations, Part 734.

(2) Each report submitted to the Ethical Conduct Officer shall be a full and complete statement, on the form prescribed by the Director and in accordance with instructions issued by him. The form currently in use is Standard Form 278.

(3) The basic categories of information to be included in the report are: Income from sources other than the Postal Service; interests in property; purchases, sales and exchanges of property; gifts and reimbursements; liabilities; positions held; and relations with other employees.

(d) *Reviewing reports and remedial action.* (1) Financial disclosure reports filed in accordance with the provisions of this section shall, within 60 days after the date of filing, be reviewed by the Ethical Conduct Officer, who shall either approve the report, or make an initial determination that a conflict or appearance thereof exists. In conducting this review, the Ethical Conduct Officer may utilize the assistance of the reporting employee's Associate Ethical Conduct Officer or his or her designee.

(2) If the reviewing official considers that additional information is needed to complete the report or to allow an adequate review to be conducted, the official shall request the reporting employee to furnish that information by a specified date. The reporting employee shall promptly comply with that request.

(3) If the reviewing official determines initially that a conflict or the appearance of a conflict exists, he shall proceed as provided in § 447.32, relating to remedial action.

(4) The Ethical Conduct Officer shall refer to the Postmaster General the name of any employee he or she has reasonable cause to believe has wrongfully failed to file a report or has falsified or wrongfully failed to report required information.

(5) The Postmaster General may take any appropriate personnel or other action in accordance with applicable law or regulations against any employee whose name is so referred. He shall cause the Chief Inspector to refer to the Attorney General the name of any employee he has reasonable cause to believe has willfully failed to file a report or has willfully falsified or failed to report required information.

(e) *Custody of and public access to reports.* (1) Retention of reports. Each report filed with the Ethical Conduct Officer shall be retained by him for a period of six years. After the six-year period, the report shall be destroyed unless needed in connection with an investigation then pending.

(2) Availability for public inspection. Each report shall, within 15 days after it is received, be available for inspection by, or a copy of it shall be furnished to, any person who makes a written application stating:

(i) The person's name, occupation and address;

(ii) The name and address of any other person or organization on whose behalf the inspection or copy is requested; and

(iii) That the person is aware of the prohibitions on the obtaining or use of the report, as set forth in section 205(c)(1) of Pub. L. 95–521, the Ethics in Government Act.

The application shall be available to the public throughout the remainder of the period during which the report itself is available to the public. A reproduction fee of 10 cents per page shall be charged if the aggregate number of pages furnished to or for the benefit of a person or related persons exceed 30 pages.

(3) Official Position Description. A copy of the official position description of the position held by the reporting employee shall, if available, be attached by the Ethical Conduct Officer to each report. If an official position description is not available, but another form of position description is, the latter shall be attached. A copy of the position description shall be available or furnished to the public together with the report to which it pertains.

(f) *Waiver regarding certain personal gifts.* An individual seeking an exemption pursuant to subsection 202(a)(2)(D) of Pub. L. 95–521, the Ethics in Government Act (to exempt one or more gifts from aggregation under the provisions of said subsection) shall file a request with the Director which sets forth the identity and occupation of the donor; a statement that the relationship between the donor and the reporting individual is purely personal in nature; and a statement that neither donor nor

any person or organization for whom the donor actually works or serves as a representative conducts business with, or is subject to regulation by, or is directly affected by action taken by the agency by which the reporting individual is employed. In the event that the immediately preceding statement cannot be made without qualification, the reporting individual may indicate such qualifications along with a statement demonstrating that he or she plays no role in any official action which might directly affect the donor or any organization for which such donor works or serves as a representative. Such a request will be made publicly available if, and at the time, it is granted.

3. Add new Part 956 reading as follows:

PART 956—RULES OF PRACTICE IN PROCEEDINGS RELATIVE TO DISCIPLINARY ACTION FOR VIOLATION OF RESTRICTIONS ON POST-EMPLOYMENT ACTIVITY

Sec.

956.1 Authority for rules.
956.2 Scope of rules.
956.3 Definitions.
956.4 Initiation of proceedings.
956.5 Answer.
956.6 Hearing election.
956.7 Notice of hearing.
956.8 Reply.
956.9 Service and filing of documents for the record.
956.10 Respondent's failure to appear at the hearing.
956.11 Amendment of pleadings.
956.12 Continuances and extensions.
956.13 Hearings.
956.14 Appearances.
956.15 Presiding officer.
956.16 Burden of proof and evidence.
956.17 Discovery—Depositions.
956.18 Interrogatories to parties, admission of facts, and production of documents.
956.19 Transcript.
956.20 Proposed findings and conclusions.
956.21 Decisions.
956.22 Exceptions to initial decision or tentative decision.
956.23 Judicial Officer.
956.24 Motion for reconsideration.
956.25 Modification or revocation of orders.
956.26 Computation of time.
956.27 Official record.
956.28 Ex parte communications.

Authority: 18 U.S.C. 207(j), 39 U.S.C. 204, 401.

§ 956.1 Authority for rules.

The rules in this part are issued by the Judicial Officer of the Postal Service pursuant to authority delegated by the Postmaster General (39 U.S.C. 204, 401).

§ 956.2 Scope of rules.

The rules in this part shall be applicable in all formal proceedings before the Postal Service pertaining to proposed disciplinary action initiated under § 447.34(e) of this title.

§ 956.3 Definitions.

(a) The term "Ethical Conduct Officer" has the same meaning as in § 447.31 of this title and includes his authorized representative.

(b) "Respondent" means any individual who has been served a written notice of proposed disciplinary action pursuant to § 447.34 of this title.

(c) The "Recorder" means the Recorder of the U.S. Postal Service, 475 L'Enfant Plaza West, S.W., Washington, D.C. 20260.

§ 956.4 Initiation of proceedings.

(a) The Ethical Conduct Officer shall initiate a proceeding by serving upon the proposed respondent a written notice of proposed disciplinary action in the manner hereinafter (§ 956.9(d)) provided for the service of all other papers.

(b) The notice shall:

(1) State that disciplinary action is being proposed;

(2) Inform the respondent of the subsection of section 207 (18 U.S.C. 207) that he is alleged to have violated and of the basis of the allegation;

(3) Inform the respondent of the disciplinary action which is proposed;

(4) Advise the respondent that he may oppose the proposed disciplinary action by filing an answer within 20 days following receipt of the notice;

(5) State that the disciplinary action will not become effective until after a final agency decision is issued;

(6) Inform the respondent of the rules in this part, a copy of which shall be enclosed with the notice.

(c) If no answer is filed within 20 days following the receipt of the notice, the proposed disciplinary action set forth in the notice shall become the final agency decision without further notice to the respondent.

§ 956.5 Answer.

Within 20 days from receipt of the notice of proposed disciplinary action, the respondent may file an answer setting forth simple, concise, and direct statements admitting, denying or explaining each of the allegations set forth in the notice.

§ 956.6 Hearing election.

Either party may, within, 10 days following the filing of the respondent's answer, request a hearing. If a timely request is not made, the case shall be submitted on the record without a hearing. Submission of the case without a hearing does not relieve the parties of the necessity of proving the facts supporting their allegations or defenses. Affidavits, depositions, admissions, answers to interrogatories and stipulations may be employed to supplement the pleadings which consitute the record. The presiding officer may permit such submission to be supplemented by oral argument (transcribed if requested) and by proposed findings of fact and conclusions of law.

§ 956.7 Notice of hearing.

(a) When a request for a hearing is filed, a notice of hearing, stating the time and place thereof and advising the respondent of the consequences of a failure to appear at the hearing, will be issued (see § 956.10). In setting a hearing date, due regard shall be given to the respondent's need for:

(1) Adequate time to prepare a defense properly; and

(2) An expeditious resolution of allegations that may be damaging to his or her reputation. Subject to those considerations, whenever practicable, the hearing date shall be within 30 days of the date of the notice of hearing.

(b) The notice of proposed disciplinary action and the answer together with the reply, if any, shall become the pleadings in any proceeding in which a hearing is held.

§ 956.8 Reply.

Not more than 15 days from the service of the answer, the Ethical Conduct Officer may submit a reply.

§ 956.9 Service and filing of documents for the record.

(a) Each party shall file with the Recorder pleadings, motions, orders and other documents for the record. The Recorder shall cause copies to be served promptly on other parties to the proceeding and on the presiding officer.

(b) The parties shall submit four copies of all documents unless otherwise ordered by the presiding officer. One copy shall be signed as the original.

(c) Documents shall be dated and shall state the docket number and title of the proceeding. Any pleading or other document required by these rules or by order of the presiding officer to be filed by a specified date shall be filed with the Recorder on or before such date. The filing date shall be entered thereon by the Recorder.

(d) Service of all papers shall be effected by mailing the same, postage prepaid registered or certified mail,

return receipt requested, or by causing said notice to be personally served on the proposed respondent by an authorized representative of the Postal Service. In the case of personal service, the person making service shall, if possible, secure from the proposed respondent or his agent, a written acknowledgment of receipt of said notice, showing the date and time of such receipt. If the person upon whom service is made will not acknowledge receipt, the person effecting service shall execute a statement, showing the time, place and manner of service, which shall constitute evidence of service. The acknowledgment, statement, or return receipt, when service is effected by mail, shall be made a part of the record by the Ethical Conduct Officer. The date of delivery, as shown by the acknowledgment or statement of personal service or the return receipt, shall be the date of service.

§ 956.10 Respondent's failure to appear at the hearing.

If the respondent shall fail to appear at the hearing, the presiding officer shall receive the Ethical Conduct Officer's evidence and render a decision without requirement of further notice to the respondent.

§ 956.11 Amendment of pleadings.

(a) By consent of the parties, a pleading may be amended at any time. Also, a party may move to amend a pleading at any time prior to the close of the hearing, provided that the proposed amendment is reasonably within the scope of the proceeding.

(b) When issues not raised by the pleadings but reasonably within the scope of the proceedings initiated by the notice of proposed disciplinary action are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings. Such amendments, as may be necessary to make the pleadings conform to the evidence and to raise such issues, shall be allowed at any time upon the motion of any party.

(c) If a party objects to the introduction of evidence at the hearing on the ground that it is not within the issues framed by the pleadings, but fails to satisfy the presiding officer that an amendment of the pleadings would prejudice him on the merits, the presiding officer may allow the pleadings to be amended and may grant a continuance to enable the objecting party to rebut the evidence presented.

(d) The presiding officer may, upon reasonable notice and upon such terms as are just, permit service of a supplemental pleading setting forth transactions, occurrences, or events which have transpired since the date of the pleading sought to be supplemented and which are relevant to any of the issues involved.

§ 956.12 Continuances and extensions.

Continuances and extensions will not be granted by the presiding officer except for good cause shown.

§ 956.13 Hearings.

(a) Hearings are held at the headquarters of the Postal Service, Washington, D.C. 20260, or other locations designated by the presiding officer.

(b) A party may, not later than 7 days prior to the scheduled date of a hearing, file a request that such hearing be held at a place other than that designated in the notice of hearing. He shall support his request with a statement outlining:

(1) The evidence to be offered in such place;

(2) The names and addresses of the witnesses who will testify;

(3) The reasons why such evidence cannot be produced at the place designated in the notice of hearing.

The presiding officer shall give consideration to the convenience and necessity of the parties and the relevance of the evidence to be offered.

§ 956.14 Appearances.

(a) A respondent may appear and be heard in person or by attorney.

(b) An attorney may practice before the Postal Service in accordance with applicable rules issued by the Judicial Officer (see Part 951 of this chapter).

(c) When a respondent is represented by an attorney, all pleadings and other papers subsequent to the notice of proposed disciplinary action shall be mailed to the attorney.

(d) All counsel shall promptly file notices of appearance. Changes of the respondent's counsel shall be recorded by notices from retiring and succeeding counsel and from the respondent.

(e) After an answer has been filed pursuant to the rules in this part, the Law Department shall represent the Ethical Conduct Officer in further proceedings relative to the hearing and shall in its notice of appearance identify the individual member of such department who has been assigned to handle the case on its behalf.

§ 956.15 Presiding officer.

(a) The presiding officer shall be an Administrative Law Judge qualified in accordance with law. The Chief Administrative Law Judge shall assign cases under this part upon rotation so far as practicable. The Judicial Officer may, for good cause found, preside at the reception of evidence upon request of either party.

(b) The presiding officer shall have authority to:

(1) Administer oaths and affirmations;

(2) Examine witnesses;

(3) Rule upon offers of proof, admissibility of evidence, and matters of procedure;

(4) Order any pleading amended upon motion of a party at any time prior to the close of the hearing;

(5) Maintain discipline and decorum and exclude from the hearing any person acting in an indecorous manner;

(6) Require the filing of briefs or memoranda of law on any matter upon which he is required to rule;

(7) Order prehearing conferences for the purposes of the settlement or simplification of issues by the parties;

(8) Permit oral argument by any party;

(9) Order the proceeding reopened at any time prior to his decision for the receipt of additional evidence;

(10) Render an initial decision, if the presiding officer is not the Judicial Officer, which becomes the final agency decision unless a timely appeal is taken; the Judicial Officer may issue a tentative or a final decision;

(11) Take such other and further action as may be necessary properly to preside over the proceeding and render decision therein.

§ 956.16 Burden of proof and evidence.

(a) Each party may introduce and examine witnesses and submit physical evidence. The Ethical Conduct Officer has the burden of proof in any proceeding under this part and must establish a violation by a preponderance of the evidence.

(b) Except as otherwise provided in these rules, the Federal Rules of Evidence shall be applicable to the hearings conducted under this part. Such rules may be relaxed, however, to the extent that the presiding officer deems proper to insure a fair hearing.

(c) Testimony shall be under oath or affirmation, and witnesses shall be subject to cross-examination.

(d) Agreed statements of fact may be received in evidence.

(e) Official notice or knowledge may be taken of the types of matters of which judicial notice or knowledge may be taken.

(f) Each party may present oral argument.

§ 956.17 Discovery—Depositions.

(a) The parties are encouraged to engage in voluntary discovery

procedures. In connection with any deposition or other discovery procedure, the presiding officer may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense; and those orders may include limitations on the scope, method, time and place for discovery, and provisions for protecting the secrecy of confidential information or documents.

(b) After an answer has been filed, the parties may mutually agree to, or the presiding officer may, upon application of either party and for good cause shown, order the taking of the testimony of any person by deposition upon oral examination or written interrogatories before any officer authorized to administer oaths at the place of examination, for use as evidence or for purposes of discovery. The application for order shall specify whether the purpose of the deposition is discovery or for use as evidence.

(c) The time, place, and manner of taking depositions shall be mutually agreed by the parties or, failing such agreement, governed by order of the presiding officer.

(d) No testimony taken by depositions shall be considered as part of the evidence in a hearing unless and until such testimony is offered and received in evidence at such hearing. It will not ordinarily be received in evidence if the deponent is present and can testify personally at the hearing. In such instances, however, the deposition may be used to contradict or impeach the testimony of the witness given at the hearing. In cases submitted on the record, the presiding officer may, in his discretion, receive depositions as evidence in supplementation of that record.

(e) Each party shall bear its own expenses associated with the taking of any deposition.

§ 956.18 Interrogatories to parties, admission of facts, and production of documents.

(a) After an answer has been filed, a party may serve on the other party written interrogatories to be answered separately in writing, signed under oath and returned within 30 days. Upon timely objection by the party, the presiding officer will determine the extent to which the interrogatories will be permitted. The scope and use of interrogatories will be controlled by § 956.17.

(b) After an answer has been filed, a party may serve upon the other party a request for the admission of specified facts. Within 30 days after service, the party served shall answer each requested fact or file objections thereto. The factual propositions set out in the request shall be deemed admitted upon the failure of a party to respond to the request for admission.

(c) Upon motion of any party showing good cause therefore, and upon notice, the presiding officer may order the other party to produce and permit the inspection and copying or photocopying of any designated documents or objects, not privileged, specifically identified, and their relevance and materiality to the cause or causes in issue explained, which are reasonably calculated to lead to the discovery of admissible evidence. If the parties cannot themselves agree thereon, the presiding officer shall specify just terms and conditions in making the inspection and making the copies and photographs.

§ 956.19 Transcript.

Testimony and argument at hearings shall be reported verbatim, unless the presiding officer otherwise orders. Transcripts or copies of the proceedings shall be supplied to the parties at such rates as may be fixed by contract between the reporter and the Postal Service.

§ 956.20 Proposed findings and conclusions.

(a) Each party to a proceeding, except one who fails to appear at the hearing may, unless the presiding officer orders otherwise, submit proposed findings of fact, conclusions of law and supporting reasons, either in oral or written form at the discretion of the presiding officer. The presiding officer may also require parties to any proceeding to submit proposed findings of fact and conclusions of law with supporting reasons. Unless ordered otherwise by the presiding officer, the date set for filing of proposed findings of fact and conclusions of law shall be within 15 days after the delivery of the official transcript to the Recorder who shall notify both parties of the date of its receipt. The filing date for proposed findings shall be the same for both parties. If not submitted by such date, or unless an extension of time for the filing thereof is granted, they will not be included in the record or given consideration.

(b) Proposed findings of fact shall be set forth in serially numbered paragraphs and shall state with particularity all evidentiary facts in the record with appropriate citations to the transcript or exhibits supporting the proposed findings. Each proposed conclusion shall be separately stated.

§ 956.21 Decisions.

(a) A written initial decision by an Administrative Law Judge shall be rendered with all due speed. The initial decision shall include findings of fact and conclusions of law, with the reasons therefor, upon all the material issues of fact or law presented on the record, and an appropriate order. A tentative decision shall become the final decision of the Postal Service unless exceptions are filed in accordance with § 956.22.

(b) When the Judicial Officer presides at the hearing, he shall issue a final or a tentative decision. Such decision shall include findings of fact and conclusions of law, with the reasons therefor, upon all the material issues of fact or law presented on the record, and an appropriate order. A tentative decision shall become the final decision of the Postal Service unless exceptions are filed in accordance with § 956.22.

§ 956.22 Exceptions to initial decision or tentative decision.

(a) A party in a proceeding presided over by an Administrative Law Judge, except a party who failed to file an answer, may appeal to the Judicial Officer by filing exceptions in a brief on appeal within 15 days from the receipt of the Administrative Law Judge's written initial decision.

(b) A party in a proceeding presided over by the Judicial Officer, except one who has failed to file an answer, may file exceptions within 15 days from the receipt of the Judicial Officer's written tentative decision.

(c) Upon receipt of the brief on appeal from an initial decision of an Administrative Law Judge, the Recorder shall promptly transmit the record to the Judicial Officer. The date for filing the reply to a brief on appeal or to a brief in support of exceptions to a tentative decision by the Judicial Officer is 10 days after the receipt thereof. No additional briefs shall be received unless requested by the Judicial Officer.

(d) Briefs on appeal or in support of exceptions and replies thereto shall be filed in quadruplicate with the Recorder and contain the following matter in the order indicated:

(1) A subject index of the matters presented, with page references; a table of cases alphabetically arranged; a list of statutes and texts cited, with page references.

(2) A concise abstract or statement of the case.

(3) Numbered exceptions to specific findings of fact or conclusions of law of the presiding officer.

(4) A concise argument clearly setting forth points of fact and of law relied

upon in support of, or in opposition to, each exception taken, together with specific references to the pertinent part of the record and the legal or other authorities relied upon.

(e) Unless permission is granted by the Judicial Officer, no brief on appeal or in support of exceptions shall exceed 50 printed or 100 typewritten pages double spaced.

(f) The Judicial Officer will extend the time to file briefs only upon motion for good cause found. The movant shall be promptly notified of the Judicial Officer's decision on the motion.

§ 956.23 Judicial Officer.

The Judicial Office is authorized:

(a) To act as presiding officer at hearings;

(b) To render tentative decisions;

(c) To render final decisions of the Postal Service;

(d) To refer the record in any proceedings to the Postmaster General or the Deputy Postmaster General who will make the final decision of the Postal Service; and

(e) To revise or amend these rules of practice. In determining appeals from initial decisions or exceptions to tentative decisions, the entire official record will be considered before a final decision of the Postal Service is rendered. Before rendering a final decision of the Postal Service, the Judicial Officer may order the hearing reopened for the presentation of additional evidence by the parties.

§ 956.24 Motion for reconsideration.

Within 10 days from the date thereof, or such longer period as may be fixed by the Judicial Officer, either party may file a motion for reconsideration of the final agency decision. Each motion for reconsideration shall be accompanied by a brief clearly setting forth the points of fact and of law relied upon in support of said motion. The Judicial Officer, in his discretion, may hold a hearing on the issues raised by the motion.

§ 956.25 Modification or revocation of orders.

A party against whom an order has been issued may file an application setting forth reasons which he believes warrant the modification or revocation of the order. The Recorder shall transmit a copy of the application to the Ethical Conduct Officer who shall file a written reply. A copy of the reply shall be sent to the applicant by the Recorder. The Judicial Officer, in his discretion, may hold a hearing on the issues raised by the application. Thereafter an order granting or denying such application will be issued by the Judicial Officer.

§ 956.26 Computation of time.

A designated period of time under the rules of this part excludes the day the period begins and includes the last day of the period unless the last day is a Saturday or Sunday or legal holiday, in which event the period runs until the close of business on the next business day.

§ 956.27 Official record.

The transcript of testimony together with all pleadings, orders, exhibits, briefs, and other documents filed in the proceeding shall constitute the official record of the proceeding.

§ 956.28 Ex parte communications.

The provisions of 5 U.S.C. 551(14), 556(d) and 557(d) prohibiting ex parte communications are made applicable to proceedings under these rules of practice.

(39 U.S.C. 401, 18 U.S.C. 207(j))

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 84-27430 Filed 10-16-84; 8:45 am]

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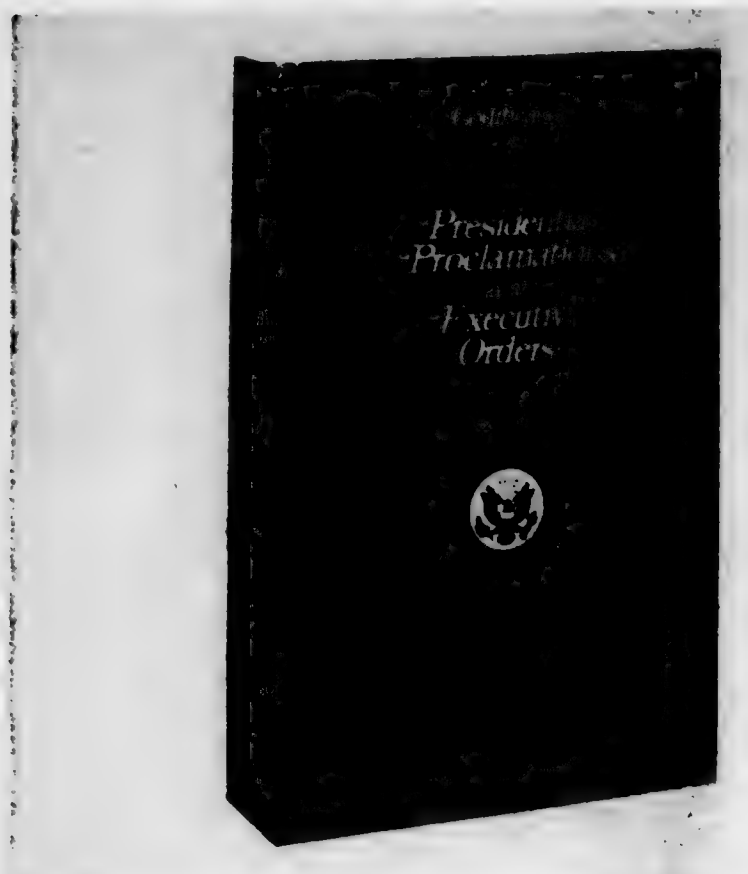

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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Presidential Documents

Title 3—

The President

Proclamation 5261 of October 15, 1984

Myasthenia Gravis Awareness Week, 1984

By the President of the United States of America

A Proclamation

For most of us, combing our hair or crossing the room to turn on the light are simple, routine tasks. But for more than 100,000 Americans who suffer from myasthenia gravis, these everyday activities are enough to exhaust them for hours.

Myasthenia gravis is a serious neuromuscular disease whose cause is not yet known. It can strike anyone at any time, draining people of their vitality, producing muscle weakness and abnormally rapid fatigue.

Though there is still much to be learned, scientists now know that myasthenia gravis depletes its victim of an essential chemical—without which nerve cells cannot tell muscles to work. Based on this knowledge, scientists have made important progress in managing this disorder. Today, several new forms of treatment are available, and myasthenia gravis patients can expect to lead nearly normal lives.

But because we still do not know how to prevent this disease, the quest for answers continues. Scientists supported by the Myasthenia Gravis Foundation and the Federal government's National Institute of Neurological and Communicative Disorders and Stroke remain dedicated to this crucial research effort. These investigators are inspired by the courage and tenacity shown by myasthenia gravis patients and their families.

In order that the public be made aware of myasthenia gravis and the need to conquer this debilitating disorder, the Congress, by Senate Joint Resolution 295, has designated the week of October 14 through October 20, 1984, as "Myasthenia Gravis Awareness Week" and authorized and requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning October 14, 1984, as Myasthenia Gravis Awareness Week. I call upon all government agencies, health organizations, communications media, and people of the United States to observe this week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this fifteenth day of October, in the year of our Lord nineteen hundred and eighty-four, and of the Independence of the United States of America the two hundred and ninth.

Ronald Reagan

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 427

[Amdt. No. 2; Doc. No. 1339S]

Oat Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby amends the Oat Crop Insurance Regulations (7 CFR Part 427), effective for the 1985 and succeeding crop years by: (1) Changing the end of insurance period in Alaska to September 25; (2) eliminating the "7-day residue" provision; (3) clarifying specific quality standards stated in the policy; (4) changing the term "mature production" back to "harvested production"; (5) dividing Virginia into fall (September 30) and spring (April 5) counties for insurance purposes; and (6) adding "failure of the irrigation water supply after planting due to unavoidable causes" as an insured cause of loss. The intended effect of this rule is to update the provisions of the contract for insuring oats, clarify terminology, add another cause of loss, and provide for a different insurance period in Alaska to conform with current farming practices.

EFFECTIVE DATE: November 19, 1984.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 477–3325.

The Impact Statement describing the options considered in developing this rule and the impact of implementing each option is available upon request from Peter F. Cole.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Departmental Regulation No. 1512–1 (December 15, 1983). This action does not constitute a review as the need, currency, clarity, and effectiveness of these regulations under that memorandum. The sunset review date established for these regulations is February 1, 1987.

Merritt W. Sprague, Manager, FCIC, has determined that this action (1) is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), because it will not result in (a) an annual effect on the economy of $100 million or more; (b) a major increases in costs or prices for consumers, individual industries, Federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) will not increase the Federal paperwork burden for individuals, small businesses, and other persons.

The title and number of the Federal Assistance Program to which this rule applies are: Title—Crop Insurance; Number 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115 (June 24, 1983).

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

On Friday, June 8, 1984, FCIC published a notice of proposed rulemaking in the **Federal Register** at 49 FR 23852, to amend the Oat Crop Insurance Regulations (7 CFR Part 427), effective for the 1985 and succeeding crop years, as follows:

1. Section 1—add "failure of the water supply after planting due to unavoidable causes" as an insurable cause of loss.

2. Section 7—change the date for the end of insurance period in Alaska to September 25.

3. Section 8—eliminate the "7-day residue" provision.

4. Section 9e(2)—State specific quality standards, in place of the grade designation (e.g.; U.S. No. 4) contained in current polices.

5. Section 9e(3)—change "mature production" back to "harvested production."

6. Section 15d—split Virginia into fall (September 30) and spring (April 15) counties.

The public was given 30 days in which to submit written data, comments, and opinions, but none were received. Therefore, the proposed rule as published with minor non-substantive clerical changes is hereby made final. In order to provide continuity the proposed amendment herein contains the policy for insuring oats in its entirety and includes the changes itemized above.

List of Subjects in 7 CFR Part 427

Crop Insurance, Oats.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby amends the Oat Crop Insurance Regulations (7 CFR Part 427), effective for the 1985 and succeeding crop years, in the following instances:

1. The Authority Citation for 7 CFR Part 427 is:

Authority: Secs. 508, 516, Pub. L. 75–430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

2. 7 CFR 427.7(d) is amended by revising the policy therein to read as follows:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Oat—Crop Insurance Policy

(This is a continuous contract. Refer to Section 15.)

AGREEMENT TO INSURE: We will provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us," and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of loss.

a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

(1) Adverse weather conditions;
(2) Fire;
(3) Insects;
(4) Plant disease;
(5) Wildlife;
(6) Earthquake;
(7) Volcanic eruption; or
(8) Unavoidable failure of the irrigation water supply after planting; unless those causes are excepted, excluded, or limited by the actuarial table or section 9e(7).

b. We will not insure against any loss of production due to:
(1) The neglect, mismanagement, or wrongdoing of you, any member of your household, your tenants, or employees;
(2) The failure to follow recognized good oat farming practices;
(3) Damage resulting from the impoundment of water by any governmental, public or private dam or reservoir project; or
(4) Any cause not specified in section 1a as an insured loss.

2. Crop, acreage, and share insured.
a. The crop insured will be oats planted for harvest as grain, oats planted in the same manner for harvest as silage or hay, and grain mixtures in which oats are the predominant grain; which are grown on insured acreage and for which a guarantee and premium rate are provided by the actuarial table.
b. The acreage insured for each crop year will be oats planted on insurable acreage as designated by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we elect.
c. The insured share will be your share as landlord, owner-operator, or tenant in the insured oats at the time of planting.
d. We do not insure any acreage:
(1) Planted with flax or vetch;
(2) Where the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;
(3) Which is irrigated and an irrigated practice is not provided by the actuarial table unless you elect to insure the acreage as nonirrigated by reporting it as insurable under section 3;
(4) Which is destroyed and it is practical to replant to oats but such acreage is not replanted;
(5) Initially planted after the final planting date contained in the actuarial table unless you agree in writing on our form to coverage reduction;
(6) Of volunteer oats; or
(7) Planted to a type or variety of oats not established as adapted to the area or excluded by the actuarial table.
e. Where insurance is provided for an irrigated practice:
(1) You must report as irrigated only the acreage for which you have adequate facilities and water, at the time of planting, to carry out a good oat irrigation practice; and
(2) Any loss of production caused by failure to carry out a good oat irrigation practice, except failure of the water supply from an unavoidable cause occurring after the beginning of planting, will be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities will not be considered as a failure of the water supply from an unavoidable cause.
f. Acreage which is planted for the development or production of hybrid seed or for experimental purposes is not insured unless we agree in writing to insure such acreage.
g. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to planting.

3. Report of acreage, share, and practice.
You must report on our form:
a. All the acreage of oats in the county in which you have a share;
b. The practice; and
c. Your share at the time of planting.
You must designate separately any acreage that is not insurable. You must report if you do not have a share in any oats planted in the county. This report must be submitted annually on or before the reporting date established by the actuarial table. All indemnities may be determined on the basis of information you have submitted on this report. If you do not submit this report by the reporting date, we may elect to determine by unit the insured acreage, share, and practice or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. Production guarantees, coverage levels, and prices for computing indemnities.
a. The production guarantees, coverage levels, and prices for computing indemnities are in the actuarial table.
b. Coverage level 2 will apply if you do not elect a coverage level.
c. You may change the coverage level and price election on or before the closing date for submitting applications for the crop year as established by the actuarial table.

5. Annual premium.
a. The annual premium is earned and payable at the time of planting. The amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time of planting, times the applicable premium adjustment percentage contained in the following table.

PREMIUM ADJUSTMENT TABLE [1]

[Percent adjustments for favorable continuous insurance experience]

	Numbers of years continuous experience through previous year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
.00 to .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 to .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 to .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 to .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 to 1.00	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

[Percent adjustments for unfavorable insurance experience]

	Numbers of loss years through previous year [3]															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
1.10 to 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 to 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 to 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 to 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 to 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 to 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 to 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 to 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 to 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300

PREMIUM ADJUSTMENT TABLE [1] —Continued

	Numbers of loss years through previous year [2]															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
6.00 and up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

[1] For premium adjustment purposes, only the years during which premiums were earned shall be considered.
[2] Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.
[3] Only the most recent 15 crop years shall be used to determine the number of "Loss Years". (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year.)

b. Interest will accrue at the rate of one and one-half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. Any premium adjustment applicable to the contract will be transferred to:

(1) The contract of your estate or surviving spouse if you die;

(2) The contract of the person who succeeds you if such person had previously participated in the farming operation; or

(3) Your contract if you stop farming in one county and start farming in another county.

d. If participation is not continuous, any premium will be computed on the basis of previous unfavorable insurance experience but no premium reduction under section 5a will be applicable.

6. Deductions for debt.

Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. Insurance period.

a. Insurance attaches when the oats are planted except that in counties with an April 15 cancellation date. Insurance on fall planted oats attached on April 16 following planting if there is an adequate stand on this date to produce a normal crop.

b. Insurance ends at the earliest of:

(1) Total destruction of the oats;

(2) Combining, threshing, harvesting for silage or hay, or removal from the field;

(3) Final adjustment of a loss; or

(4) The date shown below of the calendar year in which oats are normally harvested:

(a) Alaska	Sept. 25.
(b) All other states	Oct. 31.

8. Notice of damage or loss.

a. In case of damage or probable loss:

(1) You must give us written notice if:

(a) During the period before harvest, the oats on any unit are damaged and you decide not to further care for or harvest any part of them;

(b) You want our consent to put the acreage to another use;

(c) You want to harvest the oats for silage or hay (After such notice is given, we will appraise the potential grain production. *However*, if we are unable to do so before harvest, you may harvest the crop provided representative samples are left for appraisal purposes); or

(d) After consent to put acreage to another use is given, additional damage occurs.

Insured acreage may not be put to another use until we have appraised the oats and given written consent. We will not consent to another use until it is too late to replant. You must notify us when such acreage is put to another use.

(2) If you anticipate a loss on any unit, you must give us notice:

(a) At least 15 days before the beginning of harvest; or

(b) Immediately, if probable loss is later determined. A representative sample of the unharvested oats (at least 10 feet wide and the entire length of the field) must be left intact for a period of 15 days from the date of notice, unless we give you written consent to harvest the sample.

(3) In addition to the notices required by this section, if you are going to claim an indemnity on any unit, we must be given notice not later than 30 days after the earliest of:

(a) Total destruction of the oats on the unit;

(b) Harvest of the unit; or

(c) The date for the end of the insurance period.

b. You must obtain written consent from us before you destroy any of the oats which are not to be harvested.

c. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with.

9. Claim for indemnity.

a. Any claim for indemnity on a unit must be submitted to us on our form not later than 60 days after the earliest of:

(1) Total destruction of the oats on the unit;

(2) Harvest of the unit; or

(3) The date for the end of the insurance period.

b. We will not pay any indemnity unless you:

(1) Establish the total production of oats on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity will be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total production of oats to be counted (see section 9e);

(3) Multiplying the remainder by the price election; and

(4) Multiplying this result by your share.

d. If the information reported by you results in a lower premium than the actual premium determined to be due, the indemnity will be reduced proportionately.

e. The total production to be counted for a unit will include all harvested and appraised production.

(1) Mature oat production which otherwise is not eligible for quality adjustment will be reduced .12 percent for each .1 percentage point of moisture in excess of 14.0 percent; or

(2) Mature oat production which, due to insurable causes, has a test weight of less than 27 pounds per bushel or, as determined by a licensed grain grader in accordance with the Official United States Grain Standards, contains less than 80 percent sound oats or is smutty, garlicky, or ergoty, will be adjusted by:

(a) Dividing the value per bushel of such oats by the price per bushel of U.S. No. 2 oats; and

(b) Multiplying the result by the number of bushels of such oats.

The applicable price for No. 2 oats will be the local market price on the earlier of the day the loss is adjusted or the day such oats were sold.

(3) Any harvested production from other crops growing in the oats will be counted as oats on a weight basis.

(4) Appraised production to be counted will include:

(a) Potential production lost due to uninsured causes and failure to follow recognized good oat farming practices;

(b) Not less than the guarantee for any acreage which is abandoned or put to another use without our prior written consent or damaged solely by an uninsured cause;

(c) Any unharvested production.

(5) Any appraisal we have made on insured acreage for which we have given written consent to be put to another use will be considered production unless such acreage:

(a) Is not put to another use before harvest of oats becomes general in the county;

(b) Is harvested; or

(c) Is further damaged by an insured cause before the acreage is put to another use.

(6) We may determine the amount of production of any unharvested oats on the basis of field appraisals conducted after the end of the insurance period.

(7) When you have elected to exclude hail and fire as insured causes of loss and the oats are damaged by hail or fire, appraisals for uninsured causes will be made in accordance with Form FCI–78, "Request To Exclude Hail And Fire".

(8) The commingled production of units will be allocated to such units in proportion to our liability on the harvested acreage of each unit.

f. You will not abandon any acreage to us.

g. You may not bring suit or action against us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is mailed to and received by you.

h. We will pay the loss within 30 days after we reach agreement with you or entry of a final judgment. In no instance will we be liable for interest or damages in connection with any claim for indemnity, whether we approve or disapprove such claim.

i. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after the oats are planted for any crop year, any indemnity will be paid to the person(s) we determine to be beneficially entitled thereto.

j. If you have fire insurance, fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we will be liable for loss due to fire only for the smaller of:

(1) The amount of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) The amount by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purposes of this section, the amount of loss from fire will be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. Concealment or fraud.

We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract. Such voidance will be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. Transfer of right to indemnity on insured share.

If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee will have all rights and responsibilities under the contract.

12. Assignment of indemnity.

You may assign to another party your right to an indemnity for the crop year, only on our form and with our approval. The assignee will have the right to submit the loss notices and forms required by the contract.

13. Subrogation. (Recovery of loss from a third party.)

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such rights. If we pay you for your loss then your right of recovery will at our option belong to us. If we recover more than we paid you plus our expenses, the excess will be paid to you.

14. Records and access to farm.

You must keep, for two years after the time of loss, records of the harvesting, storage, shipment, sale or other disposition of all oats produced on each unit including separate records showing the same information for production from any uninsured acreage. Any person designated by us will have access to such records and the farm for purposes related to the contract.

15. Life of contract: cancellation and termination.

a. This contract will be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, the contract will continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract will terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due:

(1) If deducted from an indemnity will be the date you sign the claim; or

(2) If deducted from payment under another program administered by the United States Department of Agriculture will be the date both the payment under such other program and set off are approved.

d. The cancellation and termination dates are:

State and county	Cancellation and termination dates
New Mexico except Taos County, Oklahoma and Texas.	Aug. 31.
Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee and Patrick, Franklin, Pittsylvania, Campbell, Appomattox, Fluvanna, Buckingham, Louisa, Spotsylvania, Caroline, Essex and Westmoreland Counties, Virginia and all counties east thereof.	Sept. 30.
Arizona and California except Del Norte, Humboldt, Lassen, Modoc, Plumas, Shasta, Siskiyou and Trinity Counties.	Oct. 31.
Del Norte, Humboldt, Lassen, Modoc, Plumas, Shasta, Siskiyou and Trinity Counties, California; Taos County, New Mexico; all other Virginia counties and all other States.	Apr. 15

e. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract will terminate as of the date of death, judicial declaration, or dissolution. *However,* if such event occurs after insurance attaches for any crop year, the contract will continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership will dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons will dissolve the joint entity.

f. The contract will terminate if no premium is earned for five consecutive years.

16. Contract changes.

We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table will provide the price election which you are deemed to have elected. All contract changes will be available at your service office by December 31 preceding the cancellation date for counties with an April 15 cancellation date and by May 31 preceding the cancellation date for all other counties. Acceptance of any changes will be conclusively presumed in the absence of any notice from you to cancel the contract.

17. Meaning of terms.

For the purposes of oat crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, practices, insurable and uninsurable acreage, and related information regarding oat insurance in the county.

b. "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown by the actuarial table.

c. "Crop year" means the period within which the oats are normally grown and is designated by the calendar year in which the oats are normally harvested.

d. "Harvest" of oats on the unit means the completion of combining, threshing or cutting for hay or silage.

e. "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

f. "Insured" means the person who submitted the application accepted by us.

g. "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

h. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

i. "Tenant" means a person who rents land from another person for a share of the oats or a share of the proceeds therefrom.

j. "Unit" means all insurable acreage of oats in the county on the date of planting for the crop year:

(1) in which you have a 100 percent share; or

(2) which is owned by one entity and operated by another entity on a share basis.

Land rented for cash, a fixed commodity payment, or any consideration other than a share in the oats on such land will be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office or by written agreement with us. Units will be determined when the acreage is reported. Errors in reporting units may be corrected by us to conform to applicable guidelines when adjusting a loss. We may consider any acreage and share thereof reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

18. Descriptive headings.

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. Determinations.

All determinations required by the policy will be made by us. If you disagree with our determinations, you may obtain reconsideration of or appeal those determinations in accordance with Appeal Regulations.

20. Notices.

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

Done in Washington, D.C., on July 11, 1984.

Diana Moslak,

Acting Secretary, Federal Crop Insurance Corporation.

Dated: October 1, 1984.

Approved by:

Michael Bronson,

Acting Manager.

[FR Doc. 84-28509 Filed 10-17-84; 8:45 am]

BILLING CODE 3410-08-M

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7 CFR Part 432

[Doc. No. 1288S; Amdt. No. 2]

Corn Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby amends Appendix A to the Corn Crop Insurance Regulations (7 CFR Part 432) to include additional counties recently approved by FCIC's Board of Directors for corn crop insurance, to list counties inadvertently omitted from previous county listing publications, and to republish Appendix A in its entirety to reflect all counties currently designated for corn crop insurance. The intended effect of this rule is to update the list of counties wherein corn crop insurance is authorized to be offered under the provisions of the Corn Crop Insurance Regulations and to notify all interested parties in the additional affected counties that they are now eligible to participate in the program.

EFFECTIVE DATE: November 19, 1984.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Departmental Regulation No. 1512-1 (December 15, 1983). This action does not constitute a review as to the need, currency, clarity, and effectiveness of these regulations under that memorandum. The sunset review date established for these regulations is April 1, 1988.

Merritt W. Sprague, Manager, FCIC, has determined that this action (1) is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), because it will not result in: (a) An annual effect on the economy of $100 million or; (b) major increases in costs or prices for consumers, individual industries, Federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) will not increase the Federal paperwork burden for individuals, small businesses, and other persons.

The title and number of the Federal Assistance Program to which this final rule applies are: Title—Crop Insurance; Number 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR 3015, Subpart V, published at 48 FR 29115 (June 24, 1983).

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

On Thursday, June 14, 1984, FCIC published a notice of proposed rulemaking in the **Federal Register** at 49 FR 24533, to amend Appendix A to the Corn Crop Insurance Regulations (7 CFR Part 432), listing counties wherein such insurance is otherwise authorized to be offered. The public was given 30 days in which to submit written comments, data, and opinions on the proposed rule, but none were received. Therefore, the proposed rule is adopted as final.

Under the provisions of 7 CFR 432.1, before any insurance is offered in any county, there shall be published by appendix to this part the names of the counties in which corn crop insurance shall be offered. The Board of Directors has approved additional counties for corn crop insurance and the Manager will make crop insurance available in those counties effective with the 1984 and succeeding crop years. The additional counties were listed and identified in Appendix A in the proposed rule by an asterisk ("*").

In reviewing the county listing for corn crop insurance, FCIC noted that several counties had been inadvertently omitted from previous regulations published in the **Federal Register**. These counties were included in Appendix A when published as a proposed rule and identified by two asterisks ("**").

Because of the number of changes to Appendix A, FCIC is republishing Appendix A in its entirety.

List of Subjects in 7 CFR Part 432

Crop insurance, Corn.

Final Rule

PART 432—[AMENDED]

Accordingly, under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby amends the Corn Crop Insurance Regulations (7 CFR Part 432), effective for the 1984 and succeeding crop years, in the following instances:

1. The Authority Citation for 7 CFR Part 432 is:

Authority: Secs. 506, 516, Pub. L. 75-430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

2. 7 CFR Part 432 is amended by revising and reissuing Appendix A thereto to read as follows:

APPENDIX A—Counties Designated for Corn Crop Insurance

The following counties are designated for Corn Crop Insurance under the provisions of 7 CFR 432.1.

Alabama

Autauga	Geneva
Baldwin	Greene
Barbour	Hale
Bibb	Henry
Blount	Houston
Bullock	Jackson
Butler	Jefferson
Calhoun	Lamar
Chambers	Lauderdale
Cherokee	Lawrence
Chilton	Lee
Choctaw	Limestone
Clarke	Lowndes
Clay	Macon
Cleburne	Madison
Coffee	Marengo
Colbert	Marion
Conecuh	Marshall
Coosa	Mobile
Covington	Monroe
Crenshaw	Montgomery
Cullman	Morgan
Dale	Perry
Dallas	Pickens
De Kalb	Pike
Elmore	Randolph
Escambia	Russell
Etowah	St. Clair
Fayette	Shelby
Franklin	Sumter

Talladega
Tallapoosa
Tuscaloosa
Walker
Washington
Wilcox
Winston

Arizona

Apache
Cochise
Coconino
Graham
Greenlee
Maricopa
Navajo
Pima
Pinal
Yavapai

Arkansas

Arkansas
Ashley
Benton
Boone
Bradley
Calhoun
Carroll
Chicot
Clark
Clay
Cleburne
Cleveland
Columbia
Conway
Craighead
Crawford
Crittenden
Cross
Dallas
Desha
Drew
Faulkner
Franklin
Fulton
Grant
Greene
Hempstead
Hot Spring
Howard
Independence
Izard
Jackson
Jefferson
Johnson
Lafayette
Lawrence
Lee
Lincoln
Little River
Logan
Lonoke
Madison
Marion
Miller
Mississippi
Monroe
Nevada
Ouachita
Perry
Phillips
Pike
Poinsett
Polk
Pope
Prairie
Pulaski
Randolph
St. Francis
Saline
Scott
Sebastian
Sevier
Sharp
Stone
Van Buren
Washington
White
Woodruff
Yell

California

Alameda
Amador
Butte
Colusa
Contra Costa
Fresno
Glenn
Humboldt
Kern
Kings
Lassen
Madera
Mendocino
Merced
Modoc
Monterey
Riverside
Sacramento
San Benito
San Bernardino
San Diego
San Joaquin
San Luis Obispo
Santa Barbara
Santa Cruz
Shasta
Siskiyou
Solano
Sonoma
Stanislaus
Sutter
Tehama
Tulare
Yolo
Yuba

Colorado

Adams
Arapahoe
Archuleta
Baca
Bent
Boulder
Cheyenne
Conejos
Crowley
Delta
Dolores
Douglas
Elbert
El Paso
Fremont
Garfield
Huerfano
Jefferson
Kiowa
Kit Carson
La Plata
Larimer
Las Animas
Lincoln
Logan
Mesa
Moffat
Montezuma
Montrose
Morgan
Otero
Ouray
Phillips
Prowers
Pueblo
Saguache
Sedgwick
Washington
Weld
Yuma

Connecticut

Fairfield
Hartford
Litchfield
Middlesex
New Haven
New London
Tolland
Windham

Delaware

Kent
New Castle
Sussex

Florida

Alachua
Baker
Bay
Bradford
Calhoun
Citrus
Collier
Columbia
Dade
Desoto
Dixie
Duval
Escambia
Flagler
Gadsden
Gilchrist
Glades
Gulf
Hamilton
Hendry
Hernando
Highlands
Holmes
Indian River
Jackson
Jefferson
Lafayette
Lake
Leon
Levy
Liberty
Madison
Manatee
Marion
Nassau
Okaloosa
Orange
Osceola
Palm Beach
Polk
Putnam
St. Johns
Santa Rosa
Seminole
Sumter
Suwannee
Taylor
Union
Volusia
Wakulla
Walton
Washington

Georgia

Appling
Atkinson
Bacon
Baker
Baldwin
Banks
Barrow
Bartow
Ben Hill
Berrien
Bibb
Bleckley
Brantley
Brooks
Bryan
Bulloch
Burke
Butts
Calhoun
Camden
Candler
Carroll
Catoosa
Charlton
Chatham
Chattooga
Cherokee
Clark
Clay
Clayton
Clinch
Coffee
Colquitt
Columbia
Cook
Coweta
Crawford
Crisp
Dade
Dawson
Decatur
De Kalb
Dodge
Dooly
Dougherty
Douglas
Early
Echols
Effingham
Elbert
Emanuel
Evans
Fannin
Fayette
Floyd
Forsyth
Franklin
Fulton
Gilmer
Glascock
Glynn
Gordon
Grady
Greene
Gwinnett
Habersham
Hall
Hancock
Haralson
Harris
Hart
Heard
Henry
Houston
Irwin
Jackson
Jasper
Jeff Davis
Jefferson
Jenkins
Johnson
Jones
Lamar
Lanier
Laurens
Lee
Liberty
Lincoln
Long
Lowndes
Lumpkin
McDuffie
McIntosh
Macon
Madison
Marion
Meriwether
Miller
Mitchell
Monroe
Montgomery
Morgan
Murray
Muscogee
Newton
Oconee
Oglethorpe
Paulding
Peach
Pickens
Pierce
Pike
Polk
Pulaski
Putnam
Quitman
Rabun
Randolph
Richmond
Rockdale
Schley
Screven
Seminole
Spalding
Stephens
Stewart
Sumter
Talbot
Taliaferro
Tattnall
Taylor
Telfair
Terrell
Thomas
Tift
Toombs
Towns
Treutlen
Troup
Turner
Twiggs
Union
Upson
Walker
Walton
Ware
Warren
Washington
Wayne
Webster
Wheeler
White
Whitfield
Wilcox
Wilkes
Wilkinson
Worth

Idaho

Ada
Adams
Bannock
Bingham
Blaine
Bonner
Bonneville
Canyon
Caribou
Cassia
Clark
Elmore
Franklin
Fremont
Gem
Gooding
Jefferson
Jerome
Kootenai
Lemhi
Lincoln
Madison
Minidoka
Oneida
Owyhee
Payette
Power
Teton
Twin Falls
Washington

Illinois

Adams
Alexander
Bond
Boone
Brown
Bureau
Calhoun
Carroll
Cass
Champaign
Christian
Clark
Clay
Clinton
Coles
Cook
Crawford
Cumberland
De Kalb
De Witt
Douglas
Du Page
Edgar
Edwards
Effingham
Fayette
Ford
Franklin
Fulton
Gallatin
Greene
Grundy
Hamilton
Hancock
Hardin
Henderson
Henry
Iroquois
Jackson
Jasper
Jefferson
Jersey
Jo Daviess
Johnson
Kane
Kankakee
Kendall
Knox

Lake
La Salle
Lawrence
Lee
Livingston
Logan
McDonough
McHenry
McLean
Macon
Macoupin
Madison
Marion
Marshall
Mason
Massac
Menard
Mercer
Monroe
Montgomery
Morgan
Moultrie
Ogle
Peoria
Perry
Piatt
Pike
Pope
Pulaski
Putnam
Randolph
Richland
Rock Island
St. Clair
Saline
Sangamon
Schuyler
Scott
Shelby
Stark
Stephenson
Tazewell
Union
Vermilion
Wabash
Warren
Washington
Wayne
White
Whiteside
Will
Williamson
Winnebago
Woodford

Indiana

Adams
Allen
Bartholomew
Benton
Blackford
Boone
Brown
Carroll
Cass
Clark
Clay
Clinton
Crawford
Daviess
Dearborn
Decatur
De Kalb
Delaware
Dubois
Elkhart
Fayette
Floyd
Fountain
Franklin
Fulton
Gibson
Grant
Greene
Hamilton
Hancock
Harrison
Hendricks
Henry
Howard
Huntington
Jackson
Jasper
Jay
Jefferson
Jennings
Johnson
Knox
Kosciusko
LaGrange
Lake
La Porte
Lawrence
Madison
Marion
Marshall
Martin
Miami
Monroe
Montgomery
Morgan
Newton
Noble
Ohio
Orange
Owen
Parke
Perry
Pike
Porter
Posey
Pulaski
Putnam
Randolph
Ripley
Rush
St. Joseph
Scott
Shelby
Spencer
Starke
Steuben
Sullivan
Switzerland
Tippecanoe
Tipton
Union
Vanderburgh
Vermillion
Vigo
Wabash
Warren
Warrick
Washington
Wayne
Wells
White
Whitley

Iowa

Adair
Adams
Allamakee
Appanoose
Audubon
Benton
Black Hawk
Boone
Bremer
Buchanan
Buena Vista
Butler
Calhoun
Carroll
Cass
Cedar
Cerro Gordo
Cherokee
Chickasaw
Clarke
Clay
Clayton
Clinton
Crawford
Dallas
Davis
Decatur
Delaware
Des Moines
Dickinson
Dubuque
Emmet
Fayette
Floyd
Franklin
Fremont
Greene
Grundy
Guthrie
Hamilton
Hancock
Hardin
Harrison
Henry
Howard
Humboldt
Ida
Iowa
Jackson
Jasper
Jefferson
Johnson
Jones
Keokuk
Kossuth
Lee
Linn
Louisa
Lucas
Lyon
Madison
Mahaska
Marion
Marshall
Mills
Mitchell
Monona
Monroe
Montgomery
Muscatine
O'Brien
Osceola
Page
Palo Alto
Plymouth
Pocahontas
Polk
East Pottawattamie
West Pottawattamie
Poweshiek
Ringgold
Sac
Scott
Shelby
Sioux
Story
Tama
Taylor
Union
Van Buren
Wapello
Warren
Washington
Wayne
Webster
Winnebago
Winneshiek
Woodbury
Worth
Wright

Kansas

Allen
Anderson
Atchison
Barber
Barton
Bourbon
Brown
Butler
Chase
Chautauqua
Cherokee
Cheyenne
Clark
Clay
Cloud
Coffey
Comanche
Cowley
Crawford
Decatur
Dickinson
Doniphan
Douglas
Ewards
Elk
Ellis
Ellsworth
Finney
Ford
Franklin
Geary
Gove
Graham
Grant
Gray
Greeley
Greenwood
Hamilton
Harper
Harvey
Haskell
Hodgeman
Jackson
Jefferson
Jewell
Johnson
Kearny
Kingman
Kiowa
Labette
Lane
Leavenworth
Lincoln
Linn
Logan
Lyon
McPherson
Marion
Marshall
Meade
Miami
Mitchell
Montgomery
Morris
Morton
Nemaha
Neosho
Ness
Norton
Osage
Osborne
Ottawa
Pawnee
Phillips
Pottawatomie
Pratt
Rawlins
Reno
Republic
Rice
Riley
Rooks
Rush
Russell
Saline
Scott
Sedgwick
Seward
Shawnee
Sheridan
Sherman
Smith
Stafford
Stanton
Stevens
Sumner
Thomas
Trego
Wabaunsee
Wallace
Washington
Wichita
Wilson
Woodson
Wyandotte

Kentucky

Adair
Allen
Anderson
Ballard
Barren
Bath
Bell
Boone
Bourbon
Boyd
Boyle
Bracken
Breathitt
Breckinridge
Bullitt
Butler
Caldwell
Calloway
Campbell
Carlisle
Carroll
Carter
Casey
Christian
Clark
Clay
Clinton
Crittenden
Cumberland
Daviess
Edmonson
Elliott
Estill
Fayette
Flemming
Floyd
Franklin
Fulton
Gallatin
Garrard
Grant
Graves
Grayson
Green
Greenup
Hancock
Hardin
Harlan
Harrison
Hart
Henderson
Henry
Hickman
Hopkins
Jackson
Jefferson
Jessamine
Johnson
Kenton
Knott
Knox
Larue
Laurel
Lawrence
Lee
Leslie
Letcher
Lewis
Lincoln
Livingston
Logan
Lyon
McCracken
McCreary
McLean
Madison
Magoffin
Marion
Marshall
Martin
Mason
Meade
Menifee
Mercer
Metcalfe
Monroe
Montgomery
Morgan
Muhlenberg
Nelson
Nicholas
Ohio
Oldham
Owen
Owsley
Pendleton
Perry
Pike
Powell
Pulaski
Robertson
Rockcastle
Rowan
Russell
Scott
Shelby
Simpson
Spencer
Taylor
Todd
Trigg
Trimble
Union
Warren
Washington
Wayne
Webster
Whitley
Wolfe
Woodford

Louisiana

Acadia
Allen
Ascension
Assumption
Avoyelles
Beauregard
Bienville
Bossier
Caddo
Calcasieu
Caldwell
Cameron
Catahoula
Claiborne

Concordia
De Soto
East Baton Rouge
East Carroll
East Feliciana
Evangeline
Franklin
Grant
Iberia
Iberville
Jackson
Jefferson Davis
Lafayette
Lafourche
La Salle
Lincoln
Livingston
Madison
Morehouse
Natchitoches
Ouachita
Pointe Coupee
Rapides
Red River
Richland
Sabine
Saint Helena
St. James
St. John the Baptist
St. Landry
St. Martin
St. Mary
Saint Tammany
Tangipahoa
Tensas
Terrebonne
Union
Vermilion
Vernon
Washington
Webster
West Baton Rouge
West Carroll
West Feliciana
Winn

Maine

Androscoggin
Aroostook
Cumberland
Franklin
Hancock
Kennebec
Knox
Lincoln
Oxford
Penobscot
Piscataquis
Sagadahoc
Somerset
Waldo
Washington
York

Maryland

Allegany
Anne Arundel
Baltimore
Calvert
Caroline
Carroll
Cecil
Charles
Dorchester
Frederick
Garrett
Harford
Howard
Kent
Montgomery
Prince Georges
Queen Annes
St. Marys
Somerset
Talbot
Washington
Wicomico
Worcester

Massachusetts

Barnstable
Berkshire
Bristol
Dukes
Essex
Franklin
Hampden
Hampshire
Middlesex
Norfolk
Plymouth
Worchester

Michigan

Alcona
Alger
Allegan
Alpena
Antrim
Arenac
Baraga
Barry
Bay
Benzie
Berrien
Branch
Calhoun
Cass
Charlevoix
Cheboygan
Chippewa
Clare
Clinton
Crawford
Delta
Dickinson
Eaton
Emmet
Genesee
Gladwin
Gogebic
Grand Traverse
Gratiot
Hillsdale
Houghton
Huron
Ingham
Ionia
Iosco
Iron
Isabella
Jackson
Kalamazoo
Kalkaska
Kent
Keweenaw
Lake
Lapeer
Leelanau
Lenawee
Livingston
Luce
Mackinac
Macomb
Manistee
Marquette
Mason
Mecosta
Menominee
Midland
Missaukee
Monroe
Montcalm
Montmorency
Muskegon
Newaygo
Oakland
Oceana
Ogemaw
Ontonagon
Osceola
Oscoda
Otsego
Ottawa
Presque Isle
Roscommon
Saginaw
St. Clair
St. Joseph
Sanilac
Schoolcraft
Shiawassee
Tuscola
Van Buren
Washtenaw
Wayne
Wexford

Minnesota

Aitkin
Anoka
Becker
Beltrami
Benton
Big Stone
Blue Earth
Brown
Carlton
Carver
Cass
Chippewa
Chisago
Clay
Clearwater
Cook
Cottonwood
Crow Wing
Dakota
Dodge
Douglas
Faribault
Fillmore
Freeborn
Goodhue
Grant
Hennepin
Houston
Hubbard
Isanti
Itasca
Jackson
Kanabec
Kandiyohi
Kittson
Koochiching
Lac qui Parle
Lake
Lake of the Woods
Le Sueur
Lincoln
Lyon
McLeod
Mahnomen
Marshall
Martin
Meeker
Mille Lacs
Morrison
Mower
Murray
Nicollet
Nobles
Norman
Olmsted
East Otter Tail
West Otter Tail
Pennington
Pine
Pipestone
East Polk
West Polk
Pope
Ramsey
Red Lake
Redwood
Renville
Rice
Rock
Roseau
St. Louis
Scott
Sherburne
Sibley
Stearns
Steele
Stevens
Swift
Todd
Traverse
Wabasha
Wadena
Waseca
Washington
Watonwan
Wilkin
Winona
Wright
Yellow Medicine

Mississippi

Adams
Alcorn
Amite
Attala
Benton
Bolivar
Calhoun
Carroll
Chickasaw
Choctaw
Claiborne
Clarke
Clay
Coahoma
Copiah
Covington
DeSoto
Forrest
Franklin
George
Greene
Grenada
Hancock
Harrison
Hinds
Holmes
Humphreys
Issaquena
Itawamba
Jackson
Jasper
Jefferson
Jefferson Davis
Jones
Kemper
Lafayette
Lamar
Lauderdale
Lawrence
Leake
Lee
Leflore
Lincoln
Lowndes
Madison
Marion
Marshall
Monroe
Montgomery
Neshoba
Newton
Noxubee
Oktibbeha
Panola
Pearl River
Perry
Pike
Pontotoc
Prentiss
Quitman
Rankin
Scott
Sharkey
Simpson
Smith
Stone
Sunflower
Tallahatchie
Tate
Tippah
Tishomingo
Tunica
Union
Walthall
Warren
Washington
Wayne
Webster
Wilkinson
Winston
Yalobusha
Yazoo

Missouri

Adair
Andrew
Atchison
Audrain
Barry
Barton
Bates
Benton
Bollinger
Boone
Buchanan
Butler
Caldwell
Callaway
Camden
Cape Girardeau
Carroll
Carter
Cass
Cedar
Chariton
Christian
Clark
Clay
Clinton
Cole
Cooper
Crawford
Dade
Dallas
Daviess
De Kalb
Dent
Douglas
Dunklin
Franklin
Gasconade
Gentry
Greene
Grundy
Harrison
Henry
Hickory
Holt
Howard
Howell
Iron
Jackson
Jasper
Jefferson
Johnson
Knox
Laclede
Lafayette
Lawrence
Lewis
Lincoln
Linn
Livingston
McDonald
Macon
Madison
Maries
Marion
Mercer
Miller
Mississippi
Moniteau
Monroe
Montgomery
Morgan
New Madrid
Newton
Nodaway
Oregon
Osage
Ozark
Pemiscot
Perry
Pettis
Phelps
Pike
Platte
Polk
Pulaski
Putnam
Ralls
Randolph
Ray
Reynolds
Ripley
St. Charles
St. Clair
St. Genevieve
St. Francois
St. Louis
Saline
Schuyler
Scotland
Scott
Shannon
Shelby
Stoddard
Stone
Sullivan
Taney
Texas
Vernon
Warren
Washington
Wayne
Webster
Worth
Wright

Montana

Big Horn
Blaine
Broadwater
Carbon

Carter
Cascade
Chouteau
Custer
Dawson
Fallon
Fergus
Flathead
Gallatin
Garfield
Glacier
Golden Valley
Hill
Judith Basin
Lake
Liberty
McCone
Missoula
Musselshell
Phillips
Powder River
Prairie
Ravalli
Richland
Roosevelt
Rosebud
Sanders
Sheridan
Stillwater
Toole
Treasure
Valley
Wibaux
Yellowstone

Nebraska

Adams
Antelope
Arthur
Banner
Blaine
Boone
Box Butte
Boyd
Brown
Buffalo
Burt
Butler
Cass
Cedar
Chase
Cherry
Cheyenne
Clay
Colfax
Cuming
Custer
Dakota
Dawes
Dawson
Deuel
Dixon
Dodge
Douglas
Dundy
Fillmore
Franklin
Frontier
Furnas
Gage
Garden
Garfield
Gosper
Grant
Greeley
Hall
Hamilton
Harlan
Hayes
Hitchcock
Holt
Hooker
Howard
Jefferson
Johnson
Kearney
Keith
Keya Paha
Kimball
Knox
Lancaster
Lincoln
Logan
Loup
McPherson
Madison
Merrick
Morrill
Nance
Nemaha
Nuckolls
Otoe
Pawnee
Perkins
Phelps
Pierce
Platte
Polk
Red Willow
Richardson
Rock
Saline
Sarpy
Saunders
Scotts Bluff
Seward
Sheridan
Sherman
Sioux
Stanton
Thayer
Thomas
Thurston
Valley
Washington
Wayne
Webster
Wheeler
York

Nevada

Churchill
Lincoln
Lyon
Nye
Washoe
White Pine

New Hampshire

Belknap
Carroll
Cheshire
Coos
Grafton
Hillsborough
Merrimack
Rockingham
Strafford
Sullivan

New Jersey

Atlantic
Burlington
Camden
Cape May
Cumberland
Gloucester
Hunterdon
Mercer
Middlesex
Monmouth
Morris
Ocean
Salem
Somerset
Sussex
Warren

New Mexico

Bernalillo
Chaves
Colfax
Curry
De Baca
Dona Ana
Eddy
Grant
Guadalupe
Hidalgo
Lea
Lincoln
Luna
McKinley
Mora
Otero
Quay
Rio Arriba
Roosevelt
Sandoval
San Juan
San Miguel
Santa Fe
Sierra
Socorro
Torrance
Union
Valencia

New York

Albany
Allegany
Broome
Cattaraugus
Cayuga
Chautauqua
Chemung
Chenango
Clinton
Columbia
Cortland
Delaware
Dutchess
Erie
Essex
Franklin
Fulton
Genesee
Greene
Herkimer
Jefferson
Lewis
Livingston
Madison
Monroe
Montgomery
Niagara
Oneida
Onondaga
Ontario
Orange
Orleans
Oswego
Otsego
Rensselaer
St. Lawrence
Saratoga
Schenectady
Schoharie
Schuyler
Seneca
Steuben
Suffolk
Sullivan
Tioga
Tompkins
Ulster
Warren
Washington
Wayne
Wyoming
Yates

North Carolina

Alamance
Alexander
Alleghany
Anson
Ashe
Avery
Beaufort
Bertie
Bladen
Brunswick
Buncombe
Burke
Cabarrus
Caldwell
Camden
Carteret
Caswell
Catawba
Chatham
Cherokee
Chowan
Clay
Cleveland
Columbus
Craven
Cumberland
Currituck
Dare
Davidson
Davie
Duplin
Durham
Edgecombe
Forsyth
Franklin
Gaston
Gates
Graham
Granville
Greene
Guilford
Halifax
Harnett
Haywood
Henderson
Hertford
Hoke
Hyde
Iredell
Jackson
Johnston
Jones
Lee
Lenoir
Lincoln
McDowell
Macon
Madison
Martin
Mecklenburg
Mitchell
Montgomery
Moore
Nash
New Hanover
Northampton
Onslow
Orange
Pamlico
Pasquotank
Pender
Perquimans
Person
Pitt
Polk
Randolph
Richmond
Robeson
Rockingham
Rowan
Rutherford
Sampson
Scotland
Stanly
Stokes
Surry
Swain
Transylvania
Tyrrell
Union
Vance
Wake
Warren
Washington
Watauga
Wayne
Wilkes
Wilson
Yadkin
Yancey

North Dakota

Adams
Barnes
Benson
Billings
Bottineau
Bowman
Burke
Burleigh
Cass
Cavalier
Dickey
Divide
Dunn
Eddy
Emmons
Foster
Golden Valley
Grand Forks
Grant
Hettinger
Kidder
Lamoure
Logan
McHenry
McIntosh
McKenzie
McClean
Mercer
Morton
Mountrail
Nelson
Oliver
Pembina
Pierce
Ramsey
Ransom
Renville
Rolette
Sargent
Sheridan
Sioux
Slope
Stark
Steele
Stutsman
Towner
Traill
Walsh
Ward
Wells
Williams

Ohio

Adams
Allen
Ashland
Ashtabula
Athens
Auglaize
Belmont
Brown
Butler
Carroll
Champaign
Clark
Clermont
Clinton
Columbiana
Coshocton
Crawford
Cuyahoga
Darke
Defiance
Delaware
Erie
Fairfield
Fayette
Franklin
Fulton
Gallia
Geauga
Greene
Guernsey
Hamilton
Hancock
Hardin
Harrison
Henry
Highland
Hocking
Holmes
Huron
Jackson
Jefferson
Knox
Lake
Lawrence
Licking
Logan
Lorain
Lucas
Madison
Mahoning
Marion
Medina
Meigs
Mercer
Miami
Monroe
Montgomery
Morgan
Morrow
Muskingum
Noble
Ottawa
Paulding
Perry
Pickaway
Pike
Portage
Preble
Putnam
Richland
Ross
Sandusky
Scioto
Seneca
Shelby
Stark

Summit
Trumbull
Tuscarawas
Union
Van Wert
Vinton
Warren
Washington
Wayne
Williams
Wood
Wyandot

Oklahoma

Adair
Alfalfa
Atoka
Beaver
Beckham
Blaine
Bryan
Caddo
Canadian
Carter
Cherokee
Choctaw
Cimarron
Cleveland
Coal
Comanche
Craig
Creek
Custer
Delaware
Dewey
Ellis
Garfield
Garvin
Grady
Grant
Harmon
Harper
Haskell
Hughes
Jefferson
Johnston
Kingfisher
Kiowa
Latimer
Le Flore
Lincoln
Love
McClain
McCurtain
McIntosh
Major
Marshall
Mayes
Murray
Muskogee
Noble
Nowata
Okfuskee
Oklahoma
Okmulgee
Osage
Ottawa
Pawnee
Payne
Pittsburg
Pontotoc
Pottawatomie
Pushmataha
Roger Mills
Rogers
Seminole
Sequoyah
Stephens
Texas
Tillman
Tulsa
Wagoner
Washington
Washita
Woods
Woodward

Oregon

Baker
Benton
Clackamas
Columbia
Coos
Douglas
Gilliam
Jackson
Jefferson
Josephine
Lane
Linn
Malheur
Marion
Morrow
Multnomah
Polk
Umatilla
Washington
Yamhill

Pennsylvania

Adams
Allegheny
Armstrong
Beaver
Bedford
Berks
Blair
Bradford
Bucks
Butler
Cambria
Cameron
Carbon
Centre
Chester
Clarion
Clearfield
Clinton
Columbia
Crawford
Cumberland
Dauphin
Delaware
Elk
Erie
Fayette
Forest
Franklin
Fulton
Greene
Huntingdon
Indiana
Jefferson
Juniata
Lackawanna
Lancaster
Lawrence
Lebanon
Lehigh
Luzerne
Lycoming
McKean
Mercer
Mifflin
Monroe
Montgomery
Montour
Northampton
Northumberland
Perry
Pike
Potter
Schuylkill
Snyder
Somerset
Sullivan
Susquehanna
Tioga
Union
Venango
Warren
Washington
Wayne
Westmoreland
Wyoming
York

Rhode Island

Bristol
Kent
Newport
Providence
Washington

South Carolina

Abbeville
Aiken
Allendale
Anderson
Bamberg
Barnwell
Beaufort
Berkeley
Calhoun
Charleston
Cherokee
Chester
Chesterfield
Clarendon
Colleton
Darlington
Dillon
Dorchester
Edgefield
Fairfield
Florence
Georgetown
Greenville
Greenwood
Hampton
Horry
Jasper
Kershaw
Lancaster
Laurens
Lee
Lexington
McCormick
Marion
Marlboro
Newberry
Oconee
Orangeburg
Pickens
Richland
Saluda
Spartanburg
Sumter
Union
Williamsburg
York

South Dakota

Aurora
Beadle
Bennett
Bon Homme
Brookings
Brown
Brule
Buffalo
Butte
Campbell
Charles Mix
Clark
Clay
Codington
Corson
Custer
Davison
Day
Deuel
Dewey
Douglas
Edmunds
Fall River
Faulk
Grant
Gregory
Haakon
Hamlin
Hand
Hanson
Harding
Hughes
Hutchinson
Hyde
Jackson
Jerauld
Jones
Kingsbury
Lake
Lawrence
Lincoln
Lyman
McCook
McPherson
Marshall
Meade
Mellette
Miner
Minnehaha
Moody
Pennington
Perkins
Potter
Roberts
Sanborn
Shannon
Spink
Stanley
Sully
Todd
Tripp
Turner
Union
Walworth
Yankton
Ziebach

Tennessee

Anderson
Bedford
Benton
Bledsoe
Blount
Bradley
Campbell
Cannon
Carroll
Carter
Cheatham
Chester
Claiborne
Clay
Cocke
Coffee
Crockett
Cumberland
Davidson
Decatur
DeKalb
Dickson
Dyer
Fayette
Fentress
Franklin
Gibson
Giles
Grainger
Greene
Grundy
Hamblen
Hamilton
Hancock
Hardeman
Hardin
Hawkins
Haywood
Henderson
Henry
Hickman
Houston
Humphreys
Jackson
Jefferson
Johnson
Knox
Lake
Lauderdale
Lawrence
Lewis
Lincoln
Loudon
McMinn
McNairy
Macon
Madison
Marion
Marshall
Maury
Meigs
Monroe
Montgomery
Moore
Morgan
Obion
Overton
Perry
Pickett
Polk
Putnam
Rhea
Roane
Robertson
Rutherford
Scott
Sequatchie
Sevier
Shelby
Smith
Stewart
Sullivan
Sumner
Tipton
Trousdale
Unicoi
Union
Van Buren
Warren
Washington
Wayne
Weakley
White
Williamson
Wilson

Texas

Anderson
Andrews
Angelina
Arkansas
Armstrong
Atascosa
Austin
Bailey
Bandera
Bastrop
Bee
Bell
Bexar
Blanco
Bosque
Bowie
Brazoria
Brazos
Briscoe
Brooks
Brown
Burleson
Burnet
Caldwell
Calhoun
Callahan
Cameron
Camp
Carson
Cass
Castro
Chambers
Cherokee
Cochran
Coke
Coleman
Collin
Colorado
Comal
Comanche
Cooke
Coryell
Cottle
Crosby
Culberson
Dallam
Dallas
Deaf Smith
Delta
Denton
De Witt
Dickens
Dimmit
Donley
Duval
Eastland
Ellis
El Paso
Erath
Falls
Fannin
Fayette
Floyd
Fort Bend
Franklin
Freestone
Frio
Gaines
Galveston
Gillespie
Glasscock
Goliad
Gonzales
Gray
Grayson
Grimes
Guadalupe
Hale
Hamilton
Hansford
Hardin
Harris
Harrison
Hartley
Haskell
Hays
Hemphill
Henderson
Hidalgo
Hill

Hockley
Hood
Hopkins
Houston
Hudspeth
Hunt
Hutchinson
Jack
Jackson
Jasper
Jeff Davis
Jefferson
Jim Wells
Johnson
Jones
Karnes
Kaufman
Kendall
Kenedy
Kerr
Kimble
King
Kinney
Kleberg
Knox
Lamar
Lamb
Lampasas
La Salle
Lavaca
Lee
Leon
Liberty
Limestone
Lipscomb
Live Oak
Llano
Lubbock
Lynn
McCulloch
McLennan
McMullen
Madison
Marion
Martin
Mason
Matagorda
Maverick
Medina
Menard
Milam
Mills
Montague
Montgomery
Moore
Morris
Motley
Nacogdoches
Navarro
Newton
Nolan
Nueces
Ochiltree
Oldham
Palo Pinto
Panola
Parker
Parmer
Polk
Potter
Presidio
Rains
Randall
Reagan
Red River
Reeves
Refugio
Roberts
Robertson
Rockwall
Runnels
Rusk
Sabine
San Augustine
San Jacinto
San Patricio
San Saba
Scurry
Shackelford
Shelby
Sherman
Smith
Somervell
Starr
Stephens
Stonewall
Sutton
Swisher
Tarrant
Taylor
Terry
Throckmorton
Titus
Tom Green
Travis
Trinity
Tyler
Upshur
Uvalde
Van Zandt
Victoria
Walker
Waller
Washington
Webb
Wharton
Wheeler
Wichita
Wilbarger
Willacy
Williamson
Wilson
Wise
Wood
Yoakum
Young
Zapata
Zavala

Utah

Beaver
Box Elder
Cache
Carbon
Davis
Duchesne
Emery
Garfield
Grand
Iron
Juab
Kane
Millard
Morgan
Piute
Salt Lake
San Juan
Sanpete
Sevier
Tooele
Uintah
Utah
Washington
Wayne
Weber

Vermont

Addison
Bennington
Caledonia
Chittenden
Essex
Franklin
Grand Isle
Lamoille
Orange
Orleans
Rutland
Washington
Windham
Windsor

Virginia

Accomack
Albemarle
Alleghany
Amelia
Amherst
Appomattox
Augusta
Bath
Bedford
Bland
Botetourt
Brunswick
Buchanan
Buckingham
Campbell
Caroline
Carroll
Charles City
Charlotte
Chesterfield
Clarke
Craig
Culpeper
Cumberland
Dickenson
Dinwiddie
Essex
Fairfax
Fauquier
Floyd
Fluvanna
Franklin
Frederick
Giles
Gloucester
Goochland
Grayson
Greene
Greensville
Halifax
Hanover
Henrico
Henry
Highland
Isle of Wight
James City
King and Queen
King George
King William
Lancaster
Lee
Loudoun
Louisa
Lunenburg
Madison
Mathews
Mecklenburg
Middlesex
Montgomery
Nelson
New Kent
Northampton
Northumberland
Nottoway
Orange
Page
Patrick
Pittsylvania
Powhatan
Prince Edward
Prince George
Prince William
Pulaski
Rappahannock
Richmond
Roanoke
Rockbridge
Rockingham
Russell
Scott
Shenandoah
Smyth
Southampton
Spotsylvania
Stafford
Surry
Sussex
Tazewell
Warren
Washington
Westmoreland
Wise
Wythe
York
Chesapeake City
Hampton
Newport News
Suffolk City
Virginia Beach

Washington

Adams
Benton
Clark
Columbia
Cowlitz
Douglas
Ferry
Franklin
Grant
Grays Harbor
Island
Jefferson
King
Kitsap
Kittitas
Klickitat
Lewis
Lincoln
Okanogan
Pend Oreille
Pierce
Skagit
Snohomish
Stevens
Thurston
Wahkiakum
Walla Walla
Whatcom
Whitman
Yakima

West Virginia

Barbour
Berkeley
Boone
Braxton
Brooke
Cabell
Calhoun
Clay
Doddridge
Fayette
Gilmer
Grant
Greenbrier
Hampshire
Hancock
Hardy
Harrison
Jackson
Jefferson
Kanawha
Lewis
Lincoln
Logan
McDowell
Marion
Marshall
Mason
Mercer
Mineral
Mingo
Monongalia
Monroe
Morgan
Nicholas
Ohio
Pendleton
Pleasants
Pocahontas
Preston
Putnam
Raleigh
Randolph
Ritchie
Roane
Summers
Taylor
Tucker
Tyler
Upshur
Wayne
Webster
Wetzel
Wirt
Wood
Wyoming

Wisconsin

Adams
Ashland
Barron
Bayfield
Brown
Buffalo
Burnett
Calumet
Chippewa
Clark
Columbia
Crawford
Dane
Dodge
Door
Douglas
Dunn
Eau Claire
Florence
Fond du Lac
Forest
Grant
Green
Green Lake
Iowa
Iron
Jackson
Jefferson
Juneau
Kenosha
Kewaunee
La Crosse
Lafayette
Langlade
Lincoln
Manitowoc
Marathon
Marinette
Marquette
Menominee
Milwaukee
Monroe
Oconto
Oneida
Outagamie
Ozaukee
Pepin
Pierce
Polk
Portage
Price
Racine
Richland
Rock
Rusk
St. Croix
Sauk
Sawyer
Shawano
Sheboygan
Taylor
Trempealeau
Vernon
Vilas
Walworth
Washburn
Washington
Waukesha
Waupaca
Waushara
Winnebago
Wood

Wyoming

Big Horn
Campbell
Converse
Crook
Fremont
Goshen
Hot Springs
Laramie
Natrona
Niobrara
Park
Platte
Sheridan
Washakie
Weston

Done in Washington, D.C., on July 17, 1984.

Diana Moslak,

Acting Secretary, Federal Crop Insurance Corporation.

Dated: October 1, 1984.

Approved by:

Michael Bronson,

Acting Manager.

[FR Doc. 84-27520 Filed 10-17-84; 8:45 am]

BILLING CODE 3410-08-M

Agricultural Marketing Service

7 CFR Part 981

Handling of Almonds Grown in California; Changes in Administrative Rules and Regulations Concerning The Definition of "Inedible Kernel" and Quality Control

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule adds a new section to the administrative rules and regulations established under the Federal marketing order for California almonds to modify the definition of "inedible kernel" contained in the order. It also lowers the tolerance for inedible almonds specified in those regulations from one percent to zero percent. Both of these changes are designed to improve the quality of California almond shipments.

EFFECTIVE DATE: Effective with the 1984–85 crop year, which began July 1, 1984.

FOR FURTHER INFORMATION CONTACT: Frank M. Grasberger, Acting Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS USDA, Washington, D.C. 20250 (202) 447–5053.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified a "non-major" rule under criteria contained therein.

Eddie F. Kimbrell, Acting Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

It is found that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553) in that: (1) The changes made by this action should apply to 1984 crop almonds, which handlers now are receiving, processing, and marketing in volume; (2) handlers are aware of this action and need no additional time to comply; and (3) no useful purpose would be served by delaying the effective date of this action.

Notice of this action was published in the September 7, 1984, issue of the **Federal Register** (49 FR 35382), and interested persons were afforded an opportunity to submit written comments. No comments were received.

This final rule adds § 981.408 to Subpart—Administrative Rules and Regulations (7 CFR 981.401–981.474; 49 FR 19798) and amends § 981.442(a)(4) of that subpart. Section 981.408 is issued pursuant to § 981.8 of the marketing agreement and Order No. 981 (7 CFR 981), both as amended, regulating the handling of almonds grown in California and hereinafter referred to collectively as the "order." The amendment to § 981.442(a)(4) is issued pursuant to § 981.42(a) of the order. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The actions taken herein are based on recommendations of the Almond Board of California, hereinafter referred to as the "Board," which works with USDA in administering the order.

Section 981.8 of the order defines "inedible kernel" as a "kernel, piece, or particle of almond kernel with any defect scored as serious damage, or damage due to mold, gum, shrivel, or brown spot, as defined in the United States Standards for Shelled Almonds, or which has embedded dirt not easily removed by washing."

The term "inedible kernel" is used in connection with the implementation of the order's quality control provisions. The purpose of these provisions is to separate "inedible kernels" from "edible kernels," and require the disposal of the inedible kernels in non-normal markets such as almond oil and animal feed.

Section 981.8 also provides that the definition of "inedible kernel" "may be modified by the Board with the approval of the Secretary: *Provided*, That the Board shall submit any recommendation for modification to the Secretary not later than August 1." The Board recommended two changes in the definition of "inedible kernel."

This action makes those changes by adding a new § 981.408 to the administrative rules and regulations established under the order. The first change adds the words "or other foreign material" after "embedded dirt" so almonds with embedded shell will not be eligible for disposition in normal market channels. The second change adds the words "or has internal discoloration" after "not easily removed by washing." Discoloration is a darkening of an almond kernel's interior and usually results when almond lots have excessive moisture or are subjected to high temperatures during storage or drying. The interior of an almond kernel normally is cream-colored, whereas a discolored kernel is yellowish-brown or, in serious cases, brown. Hence, discolored almonds are unsuitable for normal market uses and should be classed as "inedible almonds."

The Board also recommended that § 981.442(a)(4) of the administrative rules and regulations be amended to lower the tolerance for calculating a handlers inedible disposition obligation. Section 981.442(a)(4) currently requires the weight of inedible almond kernels in each variety in excess of one percent of the kernel weight received by handlers to be reported to the Board. This weight must be accumulated during processing and delivered to the Board or Board-accepted crushers, feed manufacturers, or feeders.

To further tighten quality requirements, § 981.442(a)(4) is revised by lowering the tolerance for calculating a handler's disposition obligation from one percent to zero percent. Therefore, a handler's disposition obligation will be equal to the weight of inedible kernels in each variety of almonds received by such handler.

The industry has the capability of implementing the stricter quality control required by this action due to improvements over recent years in crop quality and in almond processing equipment.

After consideration of all relevant matter presented, including that in the notice, the Board's recommendations, and other available information, it is further found that to change Subpart—Administrative Rules and Regulations (7 CFR 981.401–981.474; 49 FR 19798) by adding a new § 981.408 and by amending § 981.442(a)(4) will tend to effectuate the declared policy of the act.

List of Subjects in 7 CFR Part 981

Marketing agreements and orders, Almonds, and California.

PART 981—[AMENDED]

Therefore, Subpart—Administrative Rules and Regulations (7 CFR 981.401–981.474; 49 FR 19798) is changed as follows:

1. A new § 981.408 is added to read as follows:

§ 981.408 Inedible kernel.

Pursuant to § 981.8, the definition of "inedible kernel" is modified to mean a kernel, piece, or particle of almond kernel with any defect scored as serious damage, or damage due to mold, gum, shrivel, or brown spot, as defined in the United States Standards for Shelled Almonds, or which has embedded dirt or other foreign material not easily removed by washing, or has internal discoloration.

§ 981.442 [Amended]

2. Section 981.442(a)(4) is amended by changing "one percent" to "zero percent."

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: October 15, 1984.

Thomas R. Clark,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 84–27513 Filed 10–17–84; 8:45 am]

BILLING CODE 3410–02–M

Farmers Home Administration

7 CFR Part 1910 and 1944

Individual Credit Reports

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) revises its regulations for ordering and processing individual credit reports by requiring the collection of a $20.00 nonrefundable credit report fee from the applicant before a credit report is ordered rather than including the fee as part of the FmHA loan. The amendment is needed to reduce unnecessary costs to the Government for credit reports obtained in conducting the credit investigation of individual applicants, their partners, cosigner, or individual members of associations. The intended effect of this action is to establish a procedure which will reduce the costs to FmHA for credit reports without placing undue financial burden on the applicants.

EFFECTIVE DATE: November 19, 1984.

FOR FURTHER INFORMATION CONTACT: Mathias J. Felber, Branch Chief, Special Program Branch, Single Family Housing Processing Division, Farmers Home Administration, USDA, Room 5340, South Agriculture Building, 14th and Independence Avenue, SW., Washington, DC 20250, telephone (202) 382–1543.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1512–1 which implements Executive Order 12291, and was designated "nonmajor" since the annual effect on the economy is less than $100 million and there will be no significant increase in costs or prices for consumer, individual industries, organizations, government agencies, or geographic regions. There will be no significant adverse effects on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In the March 3, 1983, **Federal Register**, Volume 48, No. 43, pages 9016 through 9022, the Farmers Home Administration published a notice of proposed rulemaking soliciting written comments from the general public. All comments received were considered in the preparation of this final rule. Following is a summary of the comments received and our reasons for adopting or not adopting the changes recommended:

1. All commenters, including the National Association of County Supervisors, FmHA, USDA, agreed that a fee should be collected before a credit report is ordered. However, some suggested that the credit report fee be paid by the applicant when the loan application is filed. It is estimated that over 50 percent of the fees collected would be for nonessential credit reports or for reports that would never be ordered if this suggestion were adopted. In addition, if FmHA were to collect the fee and order the reports when the loan application would be filed, many credit reports would be too old to be of much value by the date of loan approval since many FmHA County Offices have a backlog of applications. It is estimated that updated reports would be needed in at least 25 percent of the cases if FmHA were to collect the fee and order the credit report at the time the application would be filed. The suggestion was not adopted because it is our intent to order credit reports only when the County Supervisor determines that a loan will probably be processed within six months. The handling of funds received from an applicant for a service that may not be performed could become awkward and cumbersome. The policy is to collect from the applicant when there is assurance that a credit report will be ordered, a loan will be processed within six months, and the fees collected from the applicant will be remitted to the Finance Office promptly.

2. Several commenters suggested that the amendment to collect a fee before the credit report is ordered should apply only to prospective applicants and should not include applicants on the waiting lists for FmHA loans. The suggestion was not adopted since two systems for handling the amount charged the applicant would be needed: (a) A system for when the fee is collected from the applicant prior to ordering the credit report, and; (b) a system for including the amount charged the applicant in the FmHA loan. Full implementation of the new system could not be completed until all applicants now on waiting lists were processed which could take more than a year.

3. It was suggested that a fee be collected not only to pay for the cost of the credit report but also to cover all the costs of application processing. All services needed to complete application processing other than credit reports and legal services are already available within the Agency and need not be purchased from the outside. The suggestion was not adopted since, in most cases, the lack of resources of the families we serve make such a fee prohibitive.

4. A commenter suggested that the credit report cover 3 years rather than 2 years as now provided for in the regulation. A 3-year coverage was previously tried and was soon discontinued since the additional information obtained did not change the content and quality of the report significantly, and the cost for the extra year was excessive. Therefore, the 2-year coverage for credit reports remains as prescribed in the current regulation.

5. It was suggested that the credit report fee collected from the applicant be mailed directly to the credit bureau by FmHA, accompanied by the credit report order ticket. This would save one step in the process by not involving the Finance Office in the handling of the payment. FmHA decided to continue the present practice of submitting payments collected to the Finance Office and to make payments from the Finance Office to the credit report contractor. The reasons for not adopting the suggestion are: (a) It would be difficult to keep accountability in the process since payments generally are not made to the reporting bureau but to the credit report contractor who may have numerous subcontracting bureaus throughout the country. Presently, payments are made on a monthly basis to the contractor for all credit reports received during the month after the services received are verified by the local FmHA office and the Finance Office; (b) lost payments would be difficult to trace as there would be a large number of payments made every day by employees from all county offices, and; (c) the monitoring by the FmHA Contracting Officer for compliance with all clauses of the various contracts let by the Agency, would be costly and complicated.

6. A comment regarding clarification of the proposed § 1910.53 of Subpart B of Part 1910, Chapter XVIII, Title 7, Code of Federal Regulations was adopted in part. The proposed rule could have been misinterpreted to suggest not using credit reports for section 504 loans. The language in this final rule indicates that a credit report may be ordered for 504 and 502 loan applicants requesting $7,500 or less, but it will be without charge to the applicant. It is our policy not to use credit reports for the above applicants except in rare cases.

7. It was suggested that the authority to order credit reports for servicing loan

accounts be reinstated. We agree that in some rare cases a credit report may be useful in processing liquidation cases. However, the use would be limited, and in those rare cases the credit investigation could be completed by FmHA personnel rather than by the use of credit reports.

8. Although no comments were received, we adopted a nonrefundable credit fee in this Final Rule. This was adopted because the cost of processing a refund of a credit report fee is almost equal to the fee, and; very few, if any, credit report fees will be collected from applicants for reports that are never ordered. We also adopted a one-time credit report fee in the Final Rule. This was adopted because the need for updated credit reports should be rare and in most cases would be caused by FmHA's failure to process a loan in a timely manner.

The Catalog of Federal Domestic Assistance programs affected are:

CFDA No.	Program title
10.404	Emergency Loans.
10.405	Farm Labor Housing Loans and Grants.
10.406	Farm Operating Loans.
10.407	Farm Ownership Loans.
10.410	Low-Income Housing Loans.
10.414	Resource Conservation and Development Loans.
10.415	Rural Rental Housing Loans.
10.416	Soil and Water Loans.
10.417	Very Low-Income Housing Repair Loans and Grants.
10.418	Watershed Protection and Flood Prevention Loans.

This document has been reviewed in accordance with 7 CFR, Part 1940, Subpart G "Environmental Program." It is the determination of FmHA that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190, an Environmental Impact Statement is not required.

Intergovernmental consultation should be carried out in accordance with 7 CFR Part 3015 Subpart V, "Intergovernmental Review of Department of Agriculture Programs and Activities".

Credit reports will be ordered when the County Supervisor determines that a credit report is needed to determine the eligibility of a loan applicant. A nonrefundable $20.00 credit report fee will be collected from the applicants when it appears that the applicant is eligible based on information submitted on the application and when the requested loan will likely be processed within 6 months. Credit reports will not be ordered: when available information indicates that a loan will be not made; when the applicant lives in a remote area and the credit reporting company would not be able to provide sufficient credit information in connection with servicing a loan; for section 504 RH loan applicants and section 502 RH loan applicants if the requested loan will likely not exceed $7,500, unless the County Supervisor determines a report is necessary.

Applicants will not be charged the nonrefundable credit report fee when: A credit report is determined necessary for an applicant requesting a loan of $7,500 or less; an additional credit report is needed for undating provided the applicant already paid the fee to FmHA when the original credit report was ordered; a current and reliable credit report has been delivered directly to FmHA by a credit reporting company which was ordered by a packager of Section 502 Rural Housing loan application.

List of Subjects

7 CFR Part 1910

Administrative practice and procedure, Applications, Credit, Government contracts, Loan programs—Agriculture, Loan programs—Housing and community development, Low and moderate income housing, Marital status discrimination, Recordkeeping and Reporting requirements, Sex discrimination.

7 CFR Part 1944

Aged, Grant programs—Housing and community development, Home improvement, Loan programs—Housing and community development, Low and moderate income housing—Rental, Mortgages, Rural housing, Subsidies.

Therefore, Chapter XVIII, Title 7, Code of Federal Regulations is amended as follows:

PART 1910—GENERAL

Subpart A—Receiving and Processing Applications

1. Section 1910.3 is amended by adding a new paragraph (m) to read as follows:

§ 1910.3 Receiving applications.

* * * * *

(m) Fees for the total amount charged for individual credit reports as indicated in Exhibit A (available in any FmHA office) of Subpart B of Part 1910 of this chapter, will be collected from the loan applicants before credit reports are ordered, except in the case of section 504 and section 502 Rural Housing loan applicants, whose requested loan will likely not exceed $7,500. It is the policy not to order credit reports for rural housing loans of $7,500 or less, but if the County Supervisor determines that a credit report is necessary, it will be ordered at no cost to the loan applicant as provided for in § 1910.53(g) of Subpart B of Part 1910 of the chapter.

2. Subpart B of Part 1910 is revised to read as follows:

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER H—PROGRAM REGULATIONS

PART 1910—GENERAL

Subpart B—Credit Reports (Individual)

Sec.
1910.51 Purpose.
1910.52 General.
1910.53 Policy.
1910.54 Definitions
1910.55 Credit reporting company requirements.
1910.56–1910.58 [Reserved]
1910.59 Type of credit report to be ordered.
1910.60 Processing order tickets.
1910.61 Collecting fees, invoicing and payments.
1910.62 Loan documentation procedure.
1910.63 Unsatisfactory contractor performance.
1910.64 Confidential handling of credit information.
1910.65–1910.100 [Reserved]

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; Sec. 10 Pub. L. 93-357, 88 Stat. 392; 7 CFR 2.23; 7 CFR 2.70.

Subpart B—Credit Reports (Individual)

§ 1910.51 Purpose.

This subpart prescribes the policies and procedures for obtaining individual type credit reports. Credit reports will be ordered when needed to determine the eligibility of applicants requesting Farmers Home Administration (FmHA) loans.

§ 1910.52 General.

(a) FmHA obtains credit reports from credit reporting companies (contractors) listed in Exhibit A of this Subpart (available in any FmHA office) authorized by the Contracting Officer, National Office, FmHA. County Supervisors are cautioned to order only from those firms. Furthermore, special reports, supplemental employment reports, joint reports, commercial credit reports, and special services are not authorized.

(b) Whenever Exhibit A (available in any FmHA Office) does not list a contractor for a particular town or area, the local FmHA official should request, through the State Director, the address of other contractors from the Director.

Directives and Administrative Services Division, National Office. If the Director, Directives and Administrative Services Division, informs the State Director that there are no other contractors for that particular area, the local FmHA official should follow the procedures outlined in Exhibit A, *CREDIT REPORT CONTRACTS*, (a). In the meantime, § 1910.4 (a)(1), (2), (4), (5), (6) and (7) of Subpart A of Part 1910 of this Chapter will be followed in obtaining and verifying the applicants qualifications and credit needs.

(c) Credit reports may be ordered under the provisions of this subpart only by FmHA employees.

(d) Order tickets are printed by, and at the expense of, the contractor and supplied to County Offices. Order tickets of one contractor must not be used to order credit reports from another contractor. Only FmHA employees may use these order tickets. They will not be supplied to brokers, packagers, etc.

(e) Regardless of the amount of the fee charged the Government, the non-refundable cost charged the applicant for each credit report is as indicated in Exhibit A (available in any FmHA Office), *General*, (b). (This figure is not to be confused with the schedule of fees charged by credit reporting companies appearing in Exhibit A).

§ 1910.53 Policy.

(a) The County Supervisor will determine the need and be responsible for ordering credit reports. These will be obtained whenever the credit information from a credit report would be helpful or is needed to determine the eligibility of a loan applicant and when it appears that the credit report will not have to be updated before loan closing.

(b) If the applicant appears eligible based on the information submitted on the application form and a credit report is needed, a nonrefundable credit report fee will be collected when the application is received if the County Supervisor determines that the requested loan will likely be processed within 6 months. If the County Supervisor determines that the loan probably will not be processed within 6 months, the non-fundable credit report fee will be collected at the time the applicant is notified the County Supervisor is ready to process the loan application.

(c) Credit reports will not be ordered when: (1) The information available indicates that a loan will not be made. County Supervisors must train their staffs in the proper evaluation of loan applications, not only to preclude the ordering of unnecessary credit reports, but also to assure that adequate consideration is given to the application.

(2) An applicant resides in a remote area and the credit reporting company would not be able to provide sufficient or conclusive credit information; however, County Supervisors are cautioned that information relative to judgments, garnishment of wages, foreclosures and bankruptcies can be more efficiently obtained from credit reports than from searches conducted by the County Supervisor.

(3) A current and reliable credit report has been delivered directly to FmHA by the credit reporting company. Packagers of section 502 Rural Housing loan application *will not* be encouraged to provide credit reports. Packagers may, however, at their discretion, order a credit report to be mailed directly to the FmHA Office by the credit reporting company but FmHA will not pay for or collect a fee from an applicant to pay for the report ordered by a packager.

(d) "Individual" credit reports will be ordered instead of the more costly "joint reports" which are no longer authorized. County Supervisors will determine when "individual" credit reports will be ordered for both the applicant and co-applicant. Except as indicated in paragraph (g) of this section, two "individual" reports will always be ordered when the incomes of both applicant and co-applicant are needed to show repayment ability.

(e) A nonrefundable credit report fee of the amount shown in Exhibit A (available in any FmHA office), *GENERAL*, (b) of this subpart will be a one time charge for each initial credit report ordered. If a credit report is ordered for both the applicant and co-applicant, twice the amount shown will be collected.

(f) No credit reports will be ordered in connection with servicing loans. Any investigation needed to complete a servicing action will be conducted by the County Supervisor.

(g) A credit report will not be ordered for a section 504 RH loan applicant or a section 502 RH loan applicant if the requested loan will likely not exceed $7,500, unless the County Supervisor determines a report is necessary. Although it is the policy not to order a report for RH loans of $7,500 or less, a credit report may be necessary if the application indicates numerous debts or out of the area credit history. If a credit report is determined necessary, it will be ordered without charge to the applicant.

(h) An additional credit report to update the applicant's credit will not be ordered unless more than 6 months have elapsed since the last report, and the County Supervisor determines that the applicant's circumstances have substantially changed. If an unusual circumstance occurs and an additional credit report is needed, it will be ordered at no cost to the applicant, provided the applicant has already paid the fee to FmHA when the original credit report was ordered.

§ 1910.54 Definitions.

For the purpose of this subpart, the following definitions apply:

(a) "Antecedent Report" is a previous residence report required when the minimum 2 year up-to-date credit coverage is not available in the contractor's reporting territory. The report includes information obtained from another contractor which covers an area outside of the area covered by the reporting contractor.

(b) "Applicant" also includes coapplicant(s), spouse, cosigner(s), each individual in an association, and general partner(s) in a partnership.

(c) "Basic Report"is a report that does not include supplemental or antecedent information and which contains all credit and public record information available, covering no less than a 2 year period.

(d) "County Supervisor" also includes Assistant County Supervisor for all duties and responsibilities which are included in the employee's job description and for authorizations which have been delegated in writing in accordance with FmHA Instruction 2006–F (available in any FmHA office). For Alaska it also includes Area Loan Specialist. For the Western Pacific Territories it also includes Area Supervisors.

(e) "Individual Report" is a report providing information on one person only. It may be supplemented by "antecedent" and/or "supplemental credit reference" reports to provide all the information required by the 2 year report period.

(f) "Order Ticket" is the format used for ordering a credit report.

(g) "Report Period" is the 2 year period before the date the credit report is prepared.

(h) "Repository" is an entity engaged in gathering, recording, and updating information relative to the credit history of individuals in an area. The area covered may encompass several towns, cities, counties, or parts of counties.

(i) "Special Services" are any services which are not included in § 1910.54 (a), (c), (e), and (j) of this subpart and which will result in additional cost. Special Services are not authorized under this Subpart.

(j) "Supplemental Credit Reference Report" is a report which is required when the applicant lives in the contractor's reporting area but credit references are located in another contractor's reporting area.

§ 1910.55 Credit reporting company requirements.

(a) The contractor must provide *ALL* credit and public record information available for the report period as defined in § 1910.54(g) of this subpart.

(b) The contractor must make appropriate certifications regarding the search and/or source of public records and credit record history.

(c) The trade or credit history portion of the report must cover the past 2 years brought up to date. Accounts must be rated to indicate past and current payment records, original amount of debt, monthly installment, and unpaid balance of the debt. All additional available account information must be furnished. The contractor must clear bank, savings and loan, and credit union accounts and clear all local references indicating the date the account was cleared.

(d) Public record information must be obtained by special check of public records or, as an equivalent, from accumulated and regularly filed records of a qualified legal reporting service. All items of public record information must be reported except that obsolete items are to be excluded as provided under section 605 of the Fair Credit Reporting Act, 15 U.S.C. 1681c. For purposes of these contracts, all adverse items which antedate the report by 7 years, may be excluded.

(e) Reports which do not require antecedent information shall be delivered by the contractor within 8 working days of receipt of the order or 12 working days when antecedent information is required.

§§ 1910.56–1910.58 [Reserved]

§ 1910.59 Type of credit report to be ordered.

Pursuant to the Equal Credit Opportunity Act (ECOA), credit reporting companies will maintain credit information in three different forms on a married couple: individual accounts on each spouse; joint accounts covering both spouses; and, undesignated accounts (those accounts not designated by the credit grantor as either individual or joint accounts). However, only "individual" reports as defined in § 1910.54(e) of this subpart may be ordered by FmHA. If credit report information is needed on other persons to complete the credit investigation, a separate "individual" report request, which will be paid by the applicant, is prepared for each person as opposed to the more costly "joint" or "special services" reports. See § 1910.53(d) of this subpart for requirements concerning when two "individual" credit reports must be ordered.

§ 1910.60 Processing order tickets.

Order tickets will be processed as follows:

(a) An original and 3 copies of the order ticket will be prepared, except that an extra copy will be furnished when requested by a contractor. A copy will be kept in the applicant's file. The original and the remaining copies will be sent to the contractor serving *the place of residence* of the applicant.

(b) All appropriate entries on the order ticket will be completed. Extra entries for "special services," which would result in additional costs, are not authorized.

(c) The "Subject's Former Name," "Previous Residence Address" and "Length of Residence" blocks must be completed. If an applicant has resided less than 2 years at the present address, the "Subject's Previous Residence Address" block must be completed so that the contractor will know where to obtain an antecedent report.

(d) USDA/FmHA should appear on the order ticket with State and County Office Code, applicant's social security number and loan fund code. Loan fund codes are listed in Exhibit A of FmHA Instruction 450.1 (available in any FmHA office). If an applicant is to receive more than one type of loan, use the loan fund code for the largest loan.

§ 1910.61 Collecting fees, invoicing and payments.

(a) When credit reports are needed, the total amount will (except as indicated in paragraph (g) of § 1910.53) be collected (preferably, in the form of a money order or check) from the loan applicant before credit reports are ordered, and:

(1) The County Supervisor will acknowledge receipt of cash for the credit report fee by using Form FmHA 451–1, "Acknowledgement of Cash Payment."

(2) Collected credit report fees will be recorded by the person who collected the fee:

(i) By stamping Form FmHA 410–4, "Application for Rural Housing Assistance (Non Farm Tract), credit report fee paid" and then entering the amount of the fee collected, the date collected, and the collecting official's name in the appropriate spaces on the stamp; and

(ii) By entering the date and amount of the credit report fee collected in column 8 of Form FmHA 1905–4, "Application and Processing Card-Individual."

(3) Collections for credit report fees will be promptly remitted to the Finance Office on a separate Form FmHA 451–2, "Schedule of Remittances," as Miscellaneous Collections, in accordance with the Forms Manual Insert (FMI) and FmHA Instruction 1951–B (available in any FmHA office).

(b) Invoicing and payments, Option 1: (1) Contractor returns a copy of the order ticket (with billing data completed) to the local FmHA office with each credit report. Contractor also sends a monthly statement to the Finance Office with one copy of each order ticket attached.

(2) The County Supervisor will review the report, verify the billing data against the schedule of charges in Exhibit A of this subpart, and, if acceptable, complete the "Verified Correct" certification on the order ticket and forward the order ticket to the Finance Office.

(3) The Finance Office will match order tickets received from contractor against those verified and received from the FmHA office, and make payment accordingly.

(c) Invoicing and payments Option 2: (1) Contractor sends a monthly invoice to the local FmHA office that ordered the credit report with a copy of the order ticket attached to support each credit report charge.

(2) The County Supervisor will review the report and verify the billing data against the schedule of charges shown in Exhibit A of this subpart or in other credit report contracts authorized by the Contracting Officer, FmHA. If acceptable, a stamp or handwritten certification and signature will be placed on the invoice to the effect that services were satisfactorily rendered and that it is approved for payment. The invoice with attachments, will then be sent to the Finance Office for payment to the contractor.

(d) In all cases: (1) When a credit report is received without an order ticket attached, the County Supervisor will contact the contractor to ensure that FmHA *is not* being billed for credit reports ordered by parties other than FmHA. Such reports are not encouraged as they frequently result in extra expenses to the loan applicant and extra work for the County Supervisor in verifying the authenticity of the information in the report.

(2) If a report is not acceptable and/or the billing data is incorrect, the County Supervisor will contact the contractor

for corrections. If no agreement is reached, the County Supervisor will submit to Director/SPH/PD, Farmers Home Administration, Room 5343, South Agriculture Building, 14th and Independence Avenue, Washington, D.C. 20250, for review and final determination, the following items:

(i) A memorandum stating the reasons for not accepting the credit report and/or for changing the billing data on the order ticket; and

(ii) The result of the County Supervisor's contact with the contractor; and

(iii) A copy of the order ticket with corrected billing data.

(3) At the same time the County Supervisor submits the information itemized in paragraph (d)(2) of this section to the National Office, a memorandum (with a copy of the memorandum sent to the National Office and a copy of the order ticket) should also be sent to the Finance Office (ATTN: FC–360–D1) informing them the payment should not be made for the attached order ticket until authorized by the National Office. A copy of the memorandum from the National Office authorizing Finance Office to make, readjust, or deny payment to the contractor will be sent to the County Supervisor.

(4) Order tickets received in the Finance Office which do not match those received from the contractor will be returned to the responsible FmHA field office for reconciliation.

(5) The credit report certification date and cost is posted to the order ticket copy kept in the appplicant's file.

§ 1910.62 Loan documentation procedure.

(a) When Form FmHA 1940–41, "Truth in Lending Disclosure Statement," Form FmHA 440–58, "Estimate of Settlement Costs," or Form FmHA 1940–59, "Settlement Statement," is required, the cost to the applicant of the credit report will be entered on these forms in accordance with the appropriate FMI.

(b) Any funds collected as payment for credit reports will not reduce the amount due on the applicant's future loan indebtedness.

§ 1910.63 Unsatisfactory contractor performance.

The County Supervisor will monitor credit reports received for promptness, completeness, and adequacy and discuss any deficiencies found with the credit reporting company for the correction of such deficiencies. In the case of recurring deficiencies, the County Supervisor will request the State Director to contact the credit reporting company's parent office in an attempt to improve the company's performance. If adequate response is not obtained, the State Director will report the problem to the Contracting Officer in the Directives and Administrative Services Division of the National Office.

§ 1910.64 Confidential handling of credit information.

The confidential information furnished to FmHA in a credit report shall be used only as an aid in conducting FmHA business. It is based on information obtained by the credit bureau from sources deemed reliable. Disclosure of information contained in the credit report to the subject of the report will be made by the credit reporting company as required by the Fair Credit Reporting Act, Pub. L. 91–508; except that FmHA must make credit reports available to the subject of the report in response to a request made under the Privacy Act of 1974. Requests from creditors and/or credit bureaus, for information about FmHA borrowers or applicants will be handled in accordance with the provisions of Subpart F of Part 2018 of this chapter.

§ 1910.65–1910.100 [Reserved]

PART 1944—HOUSING

Subpart A—Section 502 Rural Housing Loan Policies, Procedures and Authorizations

§ 1944.3 [Amended]

3. Section 1944.3 (b) (9) is amended by removing the words "credit reports."

4. Section 1944.26 (b) is amended by changing the reference "Form FmHA 405–4 to read as "Form FmHA 1905–A.

5. Section 1944.26 is amended by revising paragraph (c)(1) to read as follows:

§ 1944.26 Application processing.

* * * * *

(c) * * *

(1) Selected applicants will be notified that they have not more than 30 days in which to submit the necessary material (including the amount the applicant must pay to FmHA for each credit report needed to complete the credit investigation) to continue the processing to the loan. It is the policy not to order a credit report for RH loan applicants whose requested loan will likely not exceed $7,500 , but if the County Supervisor determines that a credit report is necessary, it will be ordered at no cost to the loan applicant as provided for in § 1910.53 (g) of Subpart B of Part 1910 of this chapter. When credit reports will be ordered, the notification must also indicate that the credit report fee paid by the applicant is nonrefundable after credit reports have been ordered. The amount charged the applicant for each credit report is as prescribed in Exhibit A (available in any FmHA office) of Subpart B of Part 1910 of this chapter.

* * * * *

Subpart J—Section 504 Rural Housing Loans and Grants

§ 1944.456 [Amended]

6. Section 1944.456 (i) is amended by removing the words "credit reports."

7. Section 1944.467 is amended by revising paragraph (c) to read as follows:

§ 1944.467 Processing Applications.

* * * * *

(c) *Credit investigation.* Form FmHA 410–8, "Applicant Reference Letter," will be used for all applicants when it is believed by the County Supervisor that sufficient information can be obtained by use of Form FmHA 410–8 to establish the applicant's credit history and credit worthiness. Credit reports may be ordered at the discretion of the County Supervisor for loan applicants. If the County Supervisor determines a credit report is necessary, it will be ordered at no cost to the 504 loan applicant as provided for in § 1910.53 (g) of Subpart A of Part 1910 of this chapter. Credit reports will not be ordered in connection with the processing of section 504 grants.

* * * * *

8. Section 1944.500 is added to read as follows:

§ 1944.500 OMB control number.

The collection of information requirements in this regulation have been approved by the Office of Management and Budget and have been assigned OMB control number 0575–0062.

(7 U.S.C 1989; 42 U.S.C. 1480; 5 U.S.C. 301; Sec. 10, Pub. L. 93–357, 88 Stat. 392; 7 CFR 2.23; 7 CFR 2.70)

Dated: September 20, 1984.

Charles W. Shuman,

Administrator, Farmers Home Administration.

[FR Doc. 84–27580 Filed 10–17–84; 8:45 am]
BILLING CODE 3410–07–M

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FEDERAL RESERVE SYSTEM

12 CFR Part 205

[Reg. E; Docket No. R-0502]

Electronic Fund Transfers; Final Rule and Update to Official Staff Commentary

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule and official staff interpretation.

SUMMARY: The Board is adopting amendments to Regulation E (Electronic Fund Transfers) to: (1) Cover, within the definition of electronic fund transfer, all transfers resulting from debit card transactions, including transactions that do not involve an electronic terminal at the time of the transaction; (2) extend the time periods for error resolution with respect to transfers resulting from point-of-sale transactions; (3) provide an exception from the provisional recrediting requirement when a consumer asset account is subject to the Board's Regulation T; and (4) provide more flexibility for the disclosure of charges for electronic fund transfers on periodic statements. The notice also contains several changes to the official staff commentary to Regulation E.

EFFECTIVE DATES: October 16, 1984, for the amendments to: § 205.1(a) which adds the control number required by the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), § 205.9(b)(3) which extends the error resolution periods for point-of-sale transactions, § 205.11(c)(3) which excepts financial institutions from the provisional recrediting requirement when the alleged error involves a consumer asset account subject to Regulation T, and § 205.11(c)(4) which provides additional flexibility in the disclosure of charges for electronic fund transfers on periodic statements; and for the revisions to the Official Staff Commentary on Regulation E (EFT-2, Supp. II to 12 CFR Part 205).

The amended definition in § 205.2(g) is effective: (1) on November 16, 1984, for purposes of the limitations on consumer liability for unauthorized transfers (§ 205.6) resulting from debit card transactions not involving electronic terminals at the time of the transaction, and of the restrictions on the unsolicited issuance of debit cards (§ 205.5) for transactions not involving electronic terminals; and (2) on April 16, 1985, for purposes of all other requirements of the regulation that are applicable to transfers resulting from debit card transactions that do not involve electronic terminals at the time of the transaction.

FOR FURTHER INFORMATION CONTACT: Regarding the regulation and commentary, contact: Gerald P. Hurst or John C. Wood, Senior Attorneys, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, (202) 452-3667 or (202) 452-2412. Regarding the economic impact analysis, contact: Frederick J. Schroeder, Staff Economist, Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, (202) 452-2584.

SUPPLEMENTARY INFORMATION: (1) *General.* The Electronic Fund Transfer Act (15 U.S.C. 1693 *et seq.*) governs any transfer of funds to or from a consumer's asset account that constitutes an electronic fund transfer (EFT) as defined in the Act. This statute is implemented by the Board's Regulation E (12 CFR Part 205).

In January 1984 (49 FR 2204) the Board proposed an amendment to Regulation E to cover fund transfers resulting from debit card transactions that do not involve electronic terminals but that are processed electronically. The Board also proposed to extend certain error resolution periods for these transfers. In addition, the Board proposed an amendment that would provide flexibility in the disclosure of electronic fund transfer charges on periodic statements by allowing disclosure of these charges as a total amount or on a transaction-by-transaction basis.

The Board has now adopted these amendments to Regulation E in final form, with the modifications discussed below.

(2) *Transfers resulting from transactions that do not involve electronic terminals.* Certain debit card transactions do not involve an electronic terminal but do involve the transmission of transaction information by electronic means to the account-holding institution. In January 1984, the Board published a proposed amendment to its EFT regulation to cover these transfers.

The Board based its proposal on the following findings:

- The authority granted to the Board by the Congress to carry out the purposes of the act and to define "electronic fund transfer," as set forth in the act and its legislative history, supports coverage so as to ensure that the basic purpose of the act is effectuated—that is, that the rights and responsibilities of all the parties to the transfers are established.
- The fund transfers resulting from the transactions can be viewed as electronically initiated and thus within the electronic fund transfer definition.
- The transactions, and the resultant transfers, are not excluded from the general definition of an electronic fund transfer by the exclusion for "transactions[s] originated by check, draft, or similar paper instrument."

The Board received 74 comments on the proposal; they were about evenly divided between those who supported and those who opposed the proposal.

The commenters supporting the proposal generally agreed with the Board's analysis and stated that the proposal would avoid confusion and provide consumer protection.

About twenty of the commenters opposing the proposal questioned the Board's authority to amend the regulation to cover these transfers, on the grounds that the transfers resulting from debit card transactions that do not involve electronic terminals cannot be viewed as initiated electronically and, as a result, cannot be viewed as EFTs. A number of them took the position that these transfers should not be covered because the EFT definition in the Act and the regulation excludes transactions "originated by check, draft, or similar paper instrument," and the debit card transactions involve a sales slip. Many of them cited the lack of evidence of consumer problems or financial institution abuse, and stated that absent such evidence the Board should not expand the regulation's coverage.

The purpose of the Electronic Fund Transfer Act, as stated in section 902(b) of the Act (15 U.S.C. 1693(b)), is "to provide a basic framework establishing the rights, liabilities, and responsibilities of participants in electronic fund transfer systems. The primary objective, however, is the provision of individual consumer rights." The Board believes that this objective would be unfulfilled for an increasing number of consumers and transfers in the absence of coverage by Regulation E.[1] Absence of Regulation E coverage could be particularly troublesome for consumers who may be taking protections under federal law for granted because of the similarity between debit cards and credit cards, in both appearance and function, and because use of the card in some transactions clearly results in electronic

[1] In addition to the recent increase in the number of debit cards issued by financial institutions under the VISA and Mastercard tradenames for use in transactions that may not involve electronic terminals, there are pilot programs currently under way that could result in the issuance of many additional debit cards for such transactions.

fund transfers that are covered by the Act and regulation. Allowing a legal distinction to exist would result in a situation in which a consumer's rights would depend on whether the consumer (or the thief, in the case of a stolen debit card) used the debit card at an electronic or non-electronic terminal.

After consideration of the comments and further analysis, the Board concludes that coverage of the transfers resulting from these transactions under Regulation E would further the objectives of the Act in establishing the rights and responsibilities of the parties to these transfers, and is within the rulewriting authority that the Congress gave the Board to insure the Act's effectiveness in providing for consumer protections in this area. The Board believes that it has the responsibility, as well as the authority, to deal with questions of coverage and to prescribe regulations that will carry out the purposes of the Act.

The Board believes that the EFT definition in the Act is broad enough to include transfers resulting from debit card transactions that do not involve electronic terminals at the inception of the transactions.[2] In most cases, the sales slips in these transactions are truncated at the merchant's financial institution and the data are converted to an electronic form and transmitted to the account-holding financial institution, where debits are made to the consumers' asset accounts. As a result, the Board believes that the transfers can be viewed as electronically inititated and thus within the definition of an EFT.

To focus solely on whether an electronic terminal is used at the time of the transactions to determine coverage results in a narrow reading of the Act's coverage that would significantly undermine the legislative purpose. The Board has also concluded that the exclusion in the EFT definition for transactions "originated by check, draft, or similar paper instrument" does not apply to these fund transfers because the transactions are originated, for purposes of the Electronic Fund Transfer Act and Regulation E, with the card (or the card in combination with the sales slip), not by the sales slip alone; and although the transaction involves a paper sales slip, that sales slip is not a "similar paper instrument" as that term is used in the Act and regulation.

In some cases the merchant's financial institution may be the same as the account-holding financial institution. In these cases the transfers may involve electronic processing only within the account-holding institution. The Board had solicited comment in the proposal on whether transfers resulting from these transactions should also be covered. There was comment both for and against coverage. Some of the commenters believed that these transfers could not be covered as EFTs, while others favored coverage in order to provide uniform protection and avoid uncertainty for consumers and financial institutions.

The Board believes that coverage of all debit card transactions—including those in which the financial institution processing the transaction is the same as the institution maintaining the consumer asset account—is necessary to prevent confusion as to the protections available to consumers in this class of transactions. Coverage will avoid a situation in which a consumer's protections when using a debit card would depend upon whether a merchant and the consumer do business with the same institution.

(3) *Compliance burden and adjustments to regulatory provisions.* The Board has considered the extent of the compliance burden that might result from this amendment to Regulation E. Many financial institutions are already complying with the regulation for certain transfers because the debit cards are capable of being used at electronic point-of-sale terminals or at automated teller machines. As a result, these institutions have already provided intial disclosure statements, are furnishing periodic statements that comply with the regulation, and have established error resolution procedures. In addition, certain regulatory requirements do not apply to these transfers, and hence represent no compliance problem. For example, unless they capture data electronically, the terminals at the point of the transaction are not "electronic terminals" for purposes of the regulation, even though the resulting transfers are characterized as *electronic fund transfers*. Thus the requirement for terminal receipts does not apply. Similarly, in the absence of an electronic terminal, the periodic statement need not include a terminal location—a disclosure that, if applicable, might have represented a significant problem.

One regulatory provision that, without modification, could have imposed a significant compliance burden is error resolution. Regulation E permits the financial institution to take up to 45 calendar days to resolve an error, but requires in such cases that the financial institution provisionally recredit the consumer's account within 10 business days. When an error is alleged, it is often necessary to obtain documentation of the transaction in order to verify the date, amount, or other information. Obtaining documentation, usually in the form of a copy of the sales slip, often takes longer than 10 business days.

In the proposal the Board solicited comment on an amendment to allow longer periods for resolving error allegations related to point-of-sale transactions not involving an electronic terminal. The Board proposed to extend, from 10 business days to 20 business days, the time within which a financial institution must provisionally recredit the consumer's account with the amount of the alleged error. In addition, the Board proposed to increase the time allowed for final resolution of an error allegation from 45 calendar days to 90 calendar days.

Several commenters questioned whether any increase in the time periods for error resolution was necessary. The overwhelming majority of the comments, however, supported increased periods for error resolution if the Board were to adopt the proposed change in coverage. A number of the comments urged yet longer periods.

Some of the commenters also urged that the longer error resolution periods be made available for *all* point-of-sale debit card transactions. This change would avoid requiring financial institutions to distinguish between the transactions that involved electronic terminals at the point of sale, and those that did not involve electronic terminals.

The Board has adopted the longer error resolution periods that were proposed. The Board believes that periods longer than 20 business days and 90 calendar days are not necessary or appropriate. In light of the Board's desire to minimize confusion and uncertainty for everyone concerned, the Board is also amending the regulation to apply the longer time periods for error resolution to *all* transfers resulting from point-of-sale debit card transactions. This change seems especially appropriate since only a small portion of the point-of-sale debit card transactions currently involve electronic terminals. Thus the compliance savings to financial institutions in not having to distinguish between types of point-of-sale debit card transactions appears to exceed the slight loss of consumer protections.

(4) *Exception from the provisional recrediting requirement for certain consumer asset accounts.* Comments received from representatives of the securities industry expressed concern

[2] These debit card transactions include both transactions for the purchase of goods or services and transactions to obtain cash. For simplicity, the discussion, although applicable to both types, focuses on point-of-sale transactions for the purchase of goods or services.

that the provisional recrediting requirement might in some cases result in conflict with the margin and other requirements of the Board's Regulation T (12 CFR Part 220).[3]

The Board believes that it is important to avoid the possibility of any such conflict, which could result in increased compliance costs for financial institutions with little or no consumer benefit. As a result, the Board is amending Regulation E to provide an exception from the requirement for provisional recrediting when the consumer asset account is subject to the margin requirements or other aspects of Regulation T. The other Regulation E error resolution provisions, including the requirement for prompt investigation of alleged errors, continue to apply (subject to the extended time limits, where applicable).

(5) *Disclosure of EFT charges.* Regulation E currently requires that the periodic statement disclose, as a total sum, all charges assessed against the account during the statement period for electronic fund transfers (or for the right to make such transfers) or for account maintenance. Some financial institutions would like to itemize EFT charges on a transaction-by-transaction basis, rather than disclose a total charge. As a result the Board proposed in January to amend the regulation to allow for such disclosure, which is likely to be at least as informative to the consumer as the disclosure of a total figure. The comments supported this proposal and the Board is therefore amending the regulation to permit disclosure of charges on an itemized basis. Disclosure of a total amount continues to be permitted as an alternative, at the institution's option.

(6) *Effective dates of amendments.* Some of the amendments reduce the requirements of the regulation, or provide additional flexibility, and their applicability is not limited to transfers resulting from debit card transactions not involving electronic terminals at the time of the transaction; these amendments are effective on October 18, 1984. They are the amendments extending the error resolution periods for point-of-sale transactions, excepting financial institutions from having to provisionally recredit disputed amounts to consumer asset accounts that are subject to Regulation T, and providing additional flexibility in the disclosure of EFT charges on periodic statements.

No later than November 16, 1984, financial institutions must comply with the limitations on consumer liability for unauthorized transfers resulting from debit card transactions that do not involve electronic terminals, and follow the Regulation E procedures for issuance of access devices when issuing debit cards.

Financial institutions have unitl April 16, 1985, to comply with the other requirements of the regulation applicable to transfers resulting from debit card transactions that do not involve electronic terminals. Financial institutions that have provided Regulation E disclosures for certain transfers made with the debit card need not issue revised disclosures to their existing customers. Any disclosures given on or after April 16, 1985, must reflect that all transfers resulting from debit card transactions are now electronic fund transfers under the regulation.

(7) *Economic impact analysis.—Introduction.* The Board has amended Regulation E by extending its coverage to transfers resulting from debit card transactions that do not involve data capture by electronic terminals at the time of the transaction. In addition, the regulation has been amended to extend the time periods for the resolution of error allegations related to all point-of-sale debit card transactions, and to exempt accounts that are subject to the margin requirements or other aspects of Regulation T (12 CFR Part 220) from the provisional recrediting requirement applicable in some error resolution proceedings. The Board has also adopted an amendment to provide greater flexibility in the periodic statement disclosure requirements for the charges for electronic fund transfers.

Prior to the amendments, certain debit card transactions led to fund transfers that many financial institution did not treat as electronic fund transfers covered by Regulation E. For example, transactions initiated at point of sale when an embossed debit card is used to imprint a paper sales slip could result in electronic debits to the consumer's asset account. In most cases, such paper sales slips are truncated at the merchant's financial institution and the transaction data are converted to electronic form for transmission to the consumer's financial institution.

According to figures provided by industry sources, the number of debit cards outstanding has been increasing rapidly. As of the end of 1978, there were approximately 400,000 debit card accounts with 590,000 cardholders. Currently, the number of debit cardholders is estimated to be in excess of 6 million. The number and dollar volume of transactions made with these cards have also increased. Information from industry sources indicates that approximately 50 million transactions with a value of about $2.4 billion were made with debit cards at the point of sale in the past year. It is estimated that more than 90 percent of these debit card transactions were not covered by Regulation E because they did not involve electronic data capture at the time of the transaction.

Analysis. While representing only a small share of all transactions by consumers at point of sale, paper-based debit transactions have grown substantially in number since enactment of the Electronic Fund Transfer Act. The extension of Regulation E coverage to these transactions is expected to provide benefits through the definition of rights and responsibilities of parties involved in these transactions. The costs of implementing and complying with the amendments are not expected to be great for four reasons:

While all financial institutions will have to familiarize themselves with the rule changes, relatively few institutions currently issue debit cards that are not already covered by Regulation E. Regulation E applies to financial institutions, defined to include (1) depository institutions and any other person who, directly or indirectly, holds and EFT-accessible account belonging to a consumer; and (2) any person who issues an EFT access device and agrees with a consumer to provide EFT services. The amendments will primarily affect only the relatively few financial institutions not already covered by Regulation E and Offering point-of-sale debit cards that can be used in transactions not involving electronic terminals. The impact of the amendments is expected to be small because of the relatively narrow class of affected institutions and because most issuers of POS debit cards also provide other EFT services to consumers. For these reasons, these institutions will already have established the compliance procedures required by the amendments.

Even if compliance procedures are already in place, financial institutions are expected to incur some additional costs because of the amendments. This is because institutions will experience some growth in the volume of alleged EFT errors as the newly covered transactions become subject to the regulation's error resolution procedures.

[3] According to industry sources approximately two million debit cards have been issued in connection with various consumer asset management accounts involving securities. Transactions involving the purchase or sale of securities remain subject to the Board's margin requirements under Regulation T and other applicable securities regulations.

Based on evidence from consumer surveys conducted for the Federal Reserve Board, the incremental cost burden of this increased error resolution activity is not expected to be great because the incidence of errors is low relative to the volume of EFT transactions.

The large credit and debit card associations have existing operating systems in place that are available to facilitate compliance for most affected institutions.

It is anticipated that most of the issuers affected will belong to the major credit card associations. While a significant and growing number of transactions will be covered, the issuers and their associations have well-established systems and methods in place for resolving errors, providing documentation, and otherwise controlling credit card transactions. Member debit card issuers can make use of these systems. The amendments are unlikely to impose a significant additional burden on these systems.

The overall economic impact on small financial institutions is not expected to be significant. Relatively few small institutions issue debit cards, and the small institutions that do issue debit cards are likely to receive compliance guidance from third-party providers of EFT systems or from the large credit and debit card associations.

The terminal receipt requirements will not apply and an extension of error resolution procedure time limits will minimize the impact of the amendments.

An important feature of the amendments is the absence of any terminal receipt requirements. Because the terminals involved in paper-based debit card transactions are not electronic terminals for purposes of the act and regulation, no specific documentation at POS is required by the regulation. Consumers would, however, normally receive some form of documentation. Furthermore, because there is no required terminal receipt, there is no obligation to conform the information in periodic statements with the information on POS receipts. Periodic statements must identify third parties to whom funds were transferred by EFT, but this information would appear in any case as the merchant identification for each transaction.

The amendments also extend the time periods allowed for error resolution. It is important to note that the extended time periods will apply to *all* transfers resulting from point-of-sale debit card transactions, including those that *do* involve an electronic terminal. The modification allows 20 business days for error resolution before the provisional recrediting provisions of Regulation E take effect, with a maximum of 90 days for error resolution. Before the amendments, the existing regulation allowed 10 business days and 45 days, respectively, for error resolution, except that 20 business days and 90 days, respectively, are allowed for error resolution with respect to EFTs initiated in foreign countries. Most commenters and industry representatives have indicated that the proposed time limits appear adequate for resolving most errors. These changes substantially reduce or eliminate the compliance burden associated with these requirements of the regulation, without significantly reducing the consumer protections intended by the Act.

Accounts subject to the margin requirements or other aspects of Regulation T are exempted from the provisional recrediting rules.

This amendment will preclude a confusing and potentially costly conflict with the margin requirements of Regulation T, if a provisional recrediting to such an account later had to be reversed. It is estimated that approximately two million of the debit cards now in existence have been issued in connection with consumer asset accounts or asset management plans. No significant loss of consumer protection is expected to follow from this amendment.

In summary, the incremental compliance requirements of the amendments are not expected to be very burdensome. Nonetheless, many financial institutions are likely to incur some cost associated with familiarizing themselves with and interpreting these amendments to determine whether the specific provisions apply. Those institutions to which the amendments apply will have to incur the costs of revising operating manuals and procedures. The assistance that the large credit and debit card organizations make available to their members is expected to streamline compliance for most institutions and minimize the burden of compliance requirements.

Section 904(a)(2) of the EFT Act requires the Board to prepare an analysis of the economic impact of any regulations under the Act. In addition, section 604 of the Regulatory Flexibility Act (5 U.S.C. 604) requires that regulations be accompanied be a final regulatory flexibility analysis. The foregoing analysis satisfies both of these requirements.

(8) *Update to official staff commentary.* The Board is also publishing an update to the official staff commentary interpreting Regulation E (EFT–2, Supp. II to 12 CFR Part 205). The changes were published in proposed form on January 12, 1984 (49 FR 2204), and are now being adopted in final form. This represents the second periodic update; the first was published on April 6, 1983 (48 FR 14880).

The questions that have been added are self-explanatory. Some of the revisions relate to the regulatory amendments with respect to debit card transactions not involving electronic terminals.

The proposed change to Question 10–19 (regarding a consumer's stop payment order on a preauthorized debit) has not been adopted, due to the lack of support in the comments; existing Question 10–19 remains in effect. A change has been made to the commentary that was not contained in the proposal: Question 9–36 (regarding identification of the type of transfer) has been expanded to codify a longstanding staff position applicable to cases in which the amount of the transfer reflects the value of the goods purchased plus the sum of cash that the consumer received from the merchant.

The staff expects to publish the next proposed update to the official staff commentary in November 1984. The public is invited to identify issues that may warrant inclusion in that proposal; suggested items must be received by November 9, 1984, in order to assure consideration. It is contemplated that the final version of the next update will be published in March 1985.

List of Subjects in 12 CFR Part 205

Banks, Banking, Consumer protection, Electronic fund transfers, Penalties.

PART 205—[AMENDED]

(9) *Regulatory text.* Pursuant to the authority granted in section 904 of the Electronic Fund Transfer Act, 15 U.S.C. 1693b, the Board amends Regulation E, 12 CFR Part 205, by adding an OMB control number to § 205.1 and by revising §§ 205.1(a), 205.2(g), 205.9(b)(3), and 205.11(c)(3) and (c)(4), to read as follows:

§ 205.1 Authority, purpose, and scope.

(a) *Authority.* This regulation, issued by the Board of Governors of the Federal Reserve System, implements title IX (Electronic Fund Transfer Act) of the Consumer Credit Protection Act, as amended (15 U.S.C. 1601 *et seq.*).

* * * * *

[Information collection requirements contained in this regulation have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. 3501 *et seq.* and have been assigned OMB No. 7100–0200.]

§ 205.2 Definitions and rules of construction.

* * * * *

(g) "Electronic fund transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephone, or computer or magnetic tape for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account. The term includes, but is not limited to, point-of-sale transfers, automated teller machine transfers, direct deposits or withdrawals of funds, and transfers initiated by telephone. It includes all transfers resulting from debit card transactions, including those that do not involve an electronic terminal at the time of the transaction. The term does not include payments made by check, draft, or similar paper instrument at an electronic terminal.

* * * * *

§ 205.9 Documentation of transfers.

* * * * *

(b) *Periodic statement.* * * *

(3) The amount of any fees or charges, other than a finance charge under 12 CFR 226.7(f), assessed against the account during the statement period for electronic fund transfers or the right to make such transfers, or for account maintenance.

* * * * *

§ 205.11 Procedures for resolving errors.

* * * * *

(c) *Investigation of errors.* * * *

(3) A financial institution shall comply with all requirements of this section except that it need not provisionally recredit the consumer's account if—

(i) It requires but does not receive timely written confirmation of oral notice of an error; or

(ii) The notice of an error involves an account that is subject to the margin requirements or other aspects of Regulation T (12 CFR Part 220).

(4) If a notice of an error involves an electronic fund transfer that was not initiated in a state as defined in § 205.2(k), or involves an electronic fund transfer resulting from a point-of-sale debit card transaction, the applicable time periods for action in subsections (c), (e), and (f) shall be 20 business days in place of 10 business days, and 90 calendar days in place of 45 calendar days.

* * * * *

(10) *Text of revision to official staff commentary.* The revisions to the Official Staff Commentary on Regulation E (EFT-2, Supp. II to 12 CFR Part 205) read as follows:

* * * * *

Section 205.2—Definitions and Rules of Construction

* * * * *

2-21.5 Q: *Fund transfer—debit card transaction.* A consumer uses a debit card to purchase goods or services or to obtain cash. The card is used to generate a sales slip and no electronic terminal is involved. The consumer's asset account is later debited for the amount of the transaction. Is this transfer subject to the regulation?

A: Yes. The definition of "electronic fund transfer" covers transfers resulting from debit card transactions whether or not an electronic terminal is involved at the time of the transaction. (See question 2-24.) (§ 205.2(g))

* * * * *

2-24 Q: *Point-of-sale terminals.* Does the regulation cover POS transactions in which the consumer presents an access device such as a debit card, and does the terminal receipt requirement apply?

A: The regulation applies to all transfers resulting from debit card transactions at point of sale whether or not an electronic terminal is involved. However, if there is no electronic terminal, a terminal receipt is not required and the periodic statement need not disclose terminal location. Point-of-sale terminals are electronic terminals for purposes of the regulation if they capture data electronically, for debiting or crediting to the consumer's asset account, using the consumer's access device—for example, when the consumer's personal identification number is required, in part, to activate the terminal. (See question 2-21.5. Also see § 205.11(c)(4) regarding the extension of certain error resolution deadlines.) (§§ 205.2(h) and 205.9(a))

* * * * *

Section 205.3—Exemptions

* * * * *

3-3.5 Q: *Securities exemption—asset management accounts.* Some consumer financial services include both an electronic fund transfer service and the purchase and sale of securities. An example is a program involving a debit card issued by a bank or other card issuer which the consumer uses to purchase goods or services, and a money market mutual fund held by a broker. Debits are processed by the card issuer and transmitted to the broker for payment from the money market mutual fund. Are such transfers exempt from coverage under the securities exemption?

A: No. The exemption applies only to transfers whose "primary purpose" is the purchase or sale of securities—for example, a telephone order to a stockbroker to buy or sell securities. It does not apply to transfers resulting from use of the card for the purchase of goods or services or to obtain cash. (A transaction involving the purchase or sale of securities also remains subject to the Board's margin requirements under Regulation T (12 CFR Part 220) and other applicable securities regulations.) (§ 205.3(c))

* * * * *

Section 205.5—Issuance of Access Devices

* * * * *

5-1.5 Q: *Issuance—addition of new accounts.* A consumer has been issued an access device for accessing an asset account. The account-holding institution wants to make an additional account accessible to the consumer by means of the same access device. May the institution do so without a request by the consumer?

A: No. Making an additional account accessible through an existing access device is equivalent to issuing an access device for that account, and is subject to the unsolicited issuance provisions. (Additional disclosures may be required in some circumstances. See question 7-5.5.) (§ 205.5(a)(1))

* * * * *

Section 205.6—Liability of Consumer for Unauthorized Transfers

* * * * *

6-6.5 Q: *Consumer negligence.* A consumer writes the PIN on the ATM card or on a piece of paper kept with the card—actions that may constitute negligence under state law. Do such actions affect the liability for unauthorized transfers that may be imposed on the consumer?

A: No. The extent of the consumer's liability is determined by the promptness in reporting loss or theft of an access device or unauthorized transfers appearing on a periodic statement. Negligence on the consumer's part cannot be taken into account to impose greater liability than is permissible under the act and Regulation E. (§ 205.6(b))

* * * * *

Section 205.7—Initial Disclosure of Terms and Conditions

* * * * *

7-5.5 Q: *Addition of new accounts.* A consumer arranges for electronic fund transfers to and from an account, and receives disclosures. Later, the consumer arranges for transfers involving an additional account at the same financial institution. Does the addition of the new account require further disclosures?

A: The addition of a new account would require the institution to furnish any of the required disclosures that differ from those previously given. (See questions 5-1.5 and 7-6.) (§ 205.7(a))

* * * * *

7-6.5 Q: *Addition of service—in interchange system.* A financial institution operates electronic terminals through which consumers can access their accounts, and gives the required disclosures regarding the service. Later, the institution joins an interchange or shared system of terminals, giving consumers access to terminals operated by other institutions in the system. Are new disclosures required?

A: The institution must provide any of the required disclosures that differ from those previously given. (§ 205.7(a))

* * * * *

7–15.5 Q: *Charges—in interchange system.* Charges are imposed on the account-holding institution by the operator of a shared or interchange ATM system for the use of the system. In addition, charges may be imposed by other institutions in the system for the use of their ATMs. Must such charges be disclosed by the account-holding institution in the initial disclosures?

A: The fact that charges are imposed on the account-holding institution by the system or terminal-operating institution does not, by itself, require a disclosure to the consumer. However, the institution must disclose any charges it imposes on the consumer for EFT services, including charges for ATM transactions in an interchange or shared ATM system.

Charges for use of an ATM imposed on the consumer by an institution other than the account-holding institution are not within the purview of the account-holding institution's relationship with its customer and need not be disclosed in the initial disclosures. (See question 4–1.) (§§ 205.7(a)(5) and 205.4(a))

* * * * *

Section 205.9—Documentation of Transfers

* * * * *

9–31 Q: *Periodic statements—charges.* What charges must be disclosed on the periodic statement?

A: Financial institutions should disclose the charges assessed against the account during the statement period for electronic fund transfers or the right to make transfers, or for account maintenance (including both EFT and non-EFT and both fixed fees and per-item charges). The charges may be disclosed as a total or may be itemized in part or in full, at the institution's option. (§ 205.9(b)(3))

9–31.5 Q: *Periodic statements—charges in interchange system.* Charges are imposed on the account-holding institution by the operator of a shared or interchange ATM system for the use of the system. In addition, charges may be imposed by other institutions in the system for the use of their ATMs. Must such charges be disclosed by the account-holding institution on the periodic statement?

A: The fact that charges are imposed on the account-holding institution by the system or terminal-operating institution does not, by itself, require a disclosure to the consumer. However, the institution must disclose any charges it imposes on the consumer for EFT services, including charges for ATM transactions in an interchange or shared ATM system.

Charges for use of an ATM imposed on the consumer by an institution other than the account-holding institution and included in the amount of the transfer by the terminal-operating institution need not be separately disclosed on the periodic statement. (§ 205.9 (a)(1), (b)(1)(i), and (b)(3))

* * * * *

9–36 Q: *Receipts/periodic statements—type of transfer.* What degree of specificity is required on terminal receipts and periodic statements for the type of transfer?

A: Common descriptions are sufficient. There is no prescribed terminology, although some examples are contained in the regulation. On periodic statements, for example, it is enough simply to show the amount of the transfer in the debit or the credit column if other information on the statement (such as a terminal location or third-party name) enables the consumer to identify the type of transfer. As a further example, when a consumer obtains cash from a merchant in addition to purchasing goods, it is not necessary to treat the transaction as involving two different types of transfers. (§ 205.9 (a)(3) and (b)(1)(iii))

* * * * *

9–40.5 Q: *Receipts/periodic statements—interchange system; terminal location.* In a shared or interchange system, a consumer uses terminals operated by institutions other than the account-holding institution. The terminal operators have terminals at more than one location, and the terminal receipts include a street address, city, and state in addition to the name of the terminal operator. In contrast, the periodic statement provided by the account-holding institution identifies the terminal location for these transfers by listing the name of the terminal operator and the city and state. Does this identification comply with the regulation?

A: Yes. For transfers initiated at non-proprietary terminals, the account-holding institution may describe the location on the periodic statement by naming the entity at whose place of business the terminal is located (or which owns or operates the terminal), plus the city and state. It need not repeat on the periodic statement the street address given on the terminal receipt; similarly, it need not include identification codes or terminal numbers shown on the receipt by the terminal operator. (§ 205.9 (a)(5) and (b)(1)(iv))

* * * * *

Section 205.10—Preauthorized Transfers

* * * * *

10–18.5 Q: *Preauthorized debits—authorization.* A consumer telephones the financial institution or designated payee to arrange for preauthorized electronic fund transfers from the consumer's account, and subsequently receives a form for authorizing the fund transfers. The consumer signs and returns one copy of the form, and retains a copy. Does this procedure comply with the regulation?

A: Yes; the confirmation form serves as the required written authorization. The regulation does not require that a prescribed format be used. (§ 205.10(b))

* * * * *

Section 205.12—Relation to State Law

12–1 Q: *Preemption of state EFT laws—specific determinations.* The regulation prescribes standards for determining whether state laws that govern electronic fund transfers are preempted by the act and the regulation. If, under these standards, a state law is inconsistent with the federal law, and is not more protective, is it automatically preempted by operation of law, absent a Board determination of preemption?

A: State law may be preempted even if the Board has not issued a determination. Interested parties may seek a Board determination by following the procedures set forth in the regulation. (§ 205.12 (a) and (b))

* * * * *

By order of the Board of Governors of the Federal Reserve System, October 11, 1984.

William W. Wiles,

Secretary of the Board.

[FR Doc. 84–27344 Filed 10–17–84; 8:45 am]

BILLING CODE 6210–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 84–NM–61–AD; Amdt. 39–4939]

Airworthiness Directives; McDonnell Douglas Model DC–9 and C–9 (Military) Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adds a new airworthiness directive (AD) which requires a one-time visual inspection of the elevator control system on McDonnell Douglas DC–9 and Military C–9 series airplanes. This action is prompted by an incident where a rod end separated and thread damage occurred due to a loose jamnut. This condition, if undetected, could cause loss of elevator control movements.

DATES: Effective November 26, 1984.

Comments must be received by November 26, 1984.

ADDRESSES: The applicable service information may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846. Attention: Director, Publications and Training, C1–750 (54–60). This information also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Michael N. Asahara, Sr., Aerospace Engineer, Airframe Branch, ANM–122L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808: telephone (213) 548–2824.

SUPPLEMENTARY INFORMATION: A DC–9 operator reported that, during a preflight "roll out" of the flight controls, the control column jammed in the nose down position. Inspection of the elevator control system revealed that

the forward rod end, part number (P/N) SM4–6T3, had pulled out of the right hand tab pushrod assembly, P/N 4918127–501. The threads on both parts were damaged. Investigation revealed that the most probable cause of the thread damage and eventual rod end separation was improper jamnut torque, which allowed motion between the parts under normal reversing loads and vibration. Accomplishment of the visual inspections as outlined in McDonnell Douglas Service Bulletin A27–266, dated March 12, 1984, or later FAA approved revisions, will reduce the probability of a detached forward rod end and subsequent jamming, thus precluding the potential of severe degradation of aircraft controllability at the critical flight regime.

Since this situation is likely to exist or develop on other airplanes of the same type design, this AD is being issued to require visual inspections of the forward rod end and pushrod assemblies.

The compliance time for this amendment has been established by the agency on the basis of safety considerations. This compliance time provides the lead time necessary for operators to schedule and plan compliance with the AD with the least possible burden consistent with safety requirements. To prescribe the inspection required by this AD under the usual notice and public procedures followed by the agency would necessarily result in a reduction of the compliance time for the inspection required by the AD. This could leave operators with insufficient time to schedule airplanes for compliance with the AD. Therefore, accomplishment of the inspection required by this AD within the time the agency has determined is necessary makes strict compliance with the notice and public procedure provisions of the Administrative Procedure Act impracticable and, accordingly, this amendment becomes effective 30 days after publication in the **Federal Register.**

Although this action is in the form of a final rule, interested persons are invited to submit such written data, views, or arguments as they may desire regarding this AD within the next 30 days. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Directives Rules Docket No. 84–NM–61–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168. All communications received before the effective date will be considered by the Administrator, and the AD may be changed in light of the comments received. Operators are urged to submit their comments as early as possible since it may not be possible to evaluate comments received near the effective date in sufficient time to amend the AD before it becomes effective.

The substance of the AD has been informally coordinated with the manfacturer, the McDonnell Douglas Corporation, and the Air Transport Association of America.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

McDonnell Douglas: Applies to McDonnell Douglas Model DC–9, and C–9 (Military) series airplanes, certificated in all categories. Compliance required as indicated unless previously accomplished. To prevent jamming of the elevator controls by a detached forward rod end, accomplish the following:

A. Within the next 650 hours time in service or 90 calendar days, whichever occur first after the effective date of this AD, visually inspect the fitting assembly (rod end) part number (P/N) 3938704–1 and pushrod P/N 3938705–501, in accordance with McDonnell Douglas DC–9 Alert Service Bulletin A27–266, dated March 12, 1984, hereinafter referred to as ASB27–266, or later FAA approved revisions.

B. If results of visual inspection are satisfactory, accomplish paragraph 4 of Part 2, Accomplishment Instructions, of ASB27–266.

C. If results of visual inspection are unsatisfactory, proceed in accordance with paragraph 5, Accomplishment Instructions of ASB27–266.

Note.—If rod end P/N SM4–6T3 (exclude DC–9–80 series) is required and not available, P/N SM4–6T may be substituted. The latter has only one grease fitting which must be oriented to allow access for scheduled lubrication.

D. Alternative inspections, modifications, or other actions which provide an equivalent level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1–750 (54–60). These documents also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California.

This amendment becomes effective November 26, 1984.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89)

Note.—The Federal Aviation Administration has determined that this document involves an amendment that only adds a one-time visual inspection and does not impose any additional regulatory or economic burden on any person. This amendment is, therefore, not major under Executive Order 12291 (46 FR 13193; February 19, 1981) and not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Because its anticipated impact is so minimal, it does not warrant preparation of a regulatory evaluation. For these reasons and because few, if any, Model DC–9 airplanes are operated by small entities I certify that it will not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Seattle, Washington, on October 10, 1984.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 84–27546 Filed 10–17–84; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 84–NM–101–AD; Amdt. 39–4938]

Airworthiness Directives; Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) applicable to certain Boeing Model 727 series airplanes which requires inspection and repair, if necessary, of the forward frame of the Number 3 cargo door cutouts. This action is prompted by several recent reports of cracks in the door frame. Failure to detect cracks in this area reduces the load-carrying capability of the door support structure and could result in the separation of the cargo door from the airplane and subsequent rapid decompression.

EFFECTIVE DATE: October 30, 1984.

ADDRESSES: The service documents may be obtained upon request from the Boeing Commercial Airplane Company,

P.O. Box 3707, Seattle, Washington 98124. This information also may be examined at the Federal Aviation Administration, Northwest Mountain Region, Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Don Gonder, Airframe Branch, ANM-120S; telephone (206) 431-2927. Mailing address: Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: There have been recent reports of cracks in the forward frame of the Number 3 cargo door cutout on seven Boeing Model 727-200 series airplanes. The cracking, attributed to fatigue, originated at a fastener hole in the inner flange of the frame. In several cases, it was reported that cracking had progressed through the inner chord and the web of the frame. Such a situation can cause loss of the load-carrying capability of the frame and transfer of load to the local fuselage skin, thus, greatly reducing the fatigue life of the skin. Such increases in skin loads will precipitate fatigue skin cracks and could result in the separation of the door from the airplane and subsequent rapid decompression.

Since this condition is likely to exist or develop on other airplanes of the same type design, an airworthiness directive is being issued to require inspection and repair, if necessary, of the forward frame of the Number 3 cargo door cutout on Boeing Model 727-200 series airplanes equipped with the optional Number 3 cargo door.

Since a situation exists which requires immediate adoption of this amendment it is found that notice and public procedure hereon are impracticable and good cause exists for making this AD effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Boeing: Applies to Boeing Model 727-200 series airplanes equipped with the Number 3 cargo door, certificated in all categories, listed in Boeing Alert Service Bulletin No. 727-53A169, Original Issue, dated September 11, 1984.

Compliance is required as indicated unless already accomplished.

To detect cracks in the forward frame of the Number 3 cargo door cutout, accomplish the following:

A. Within the next 300 landings after the effective date of this AD or prior to accumulating 29,000 landings, whichever occurs later, unless accomplished within the last 1,900 landings, visually inspect the forward frame of the Number 3 cargo door for cracks in accordance with Boeing Alert Service Bulletin No. 727-53A169, Original Issue or later FAA approved revisions. Repeat the inspections at intervals not to exceed 2,200 landings.

B. Repair cracked structure before further flight in accordance with Boeing Alert Service Bulletin No. 727-53A169, Original Issue or later FAA approved revisons. After repair, reinspect the frame prior to accumulating an additional 29,000 landings after repair and thereafter at intervals not to exceed 2,200 landings.

C. On request by an operator, an FAA Principal Maintenance Inspector, subject to prior approval by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, may adjust the inspection times in this AD, if the request contains substantiating data to justify the increase for that operator.

D. Aircraft may be ferried to a maintenance base for repair in accordance with FAR 21.197 and 21.199.

E. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

All persons affected by this directive who have not already received the appropriate service bulletins from the manufacturer may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents also may be examined at the FAA, Northwest Mountain Region, Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective October 30, 1984.

(Secs. 313(a), 314(a), and 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in the aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

Issued in Seattle, Washington, on October 10, 1984.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 84-27545 Filed 10-17-84; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 75

[Airspace Docket No. 83-AWP-17]

Alteration of Jet Route, California

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule realigns a segment of Jet Route J-7 in the State of California to facilitate a more efficient use of the navigable airspace.

EFFECTIVE DATE: 0901 G.m.t., December 20, 1984.

FOR FURTHER INFORMATION CONTACT: William C. Davis, Airspace and Air Traffic Rules Branch (AAT-230), Airspace—Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

History

On June 29, 1984, the FAA proposed to amend Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to realign a segment of Jet Route J-7 in the State of California (49 FR 26750). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 75.100 of Part 75 of the Federal Aviation Regulations was republished in Handbook 7400.6 dated January 3, 1984.

The Rule

This amendment to Part 75 of the Federal Aviation Regulations deletes the segment of Jet Route J-7 between Oakland, CA, Sacramento, CA, and Reno, NV, and establishes a segment between Los Angeles, CA, and Reno, NV. This action improves efficiency through the codification of a route that is routinely requested by pilots. Also, a reduction in controller workload is realized by this action because

controllers will no longer need to provide pilots with radar navigational assistance along the route.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in CFR Part 75

Aviation safety, Jet routes.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) is amended, as follows:

J-7 [Amended]

By deleting the words "Oakland, CA, via Sacramento, CA;" and substituting the words "Los Angeles, CA, via INT Los Angeles 319° and Avenal, CA, 145° radials; INT Avenal 145° and Friant, CA, 181° radials; Friant;"

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)); and 14 CFR 1169)

Issued in Washington, D.C., on October 11, 1984.

John W. Baier,

Acting Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 84-27543 Filed 10-17-84; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 2, 154, 201, 270 and 271

[Docket Nos. RM83-72-001, et al. and RM82-16-001, et al.]

Production Under Section 2(21) of the Natural Gas Policy Act of 1978

Issued: October 11, 1984.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order granting rehearing for further consideration.

SUMMARY: On August 22, 1984, the Federal Energy Regulatory Commission (Commission) issued Order No. 391 (28 FERC ¶ 61,263; 49 FR 33849 (August 27, 1984)) which amended the Commission's regulations relating to first sales of pipeline production under the Natural Gas Policy Act of 1978. A number of requests for rehearing of Order No. 391 have been received. In order to afford additional time for consideration of the issues raised in the requests for rehearing, the Commission is granting rehearing of Order No. 391 for the limited purpose of further consideration.

EFFECTIVE DATE: October 11, 1984.

FOR FURTHER INFORMATION CONTACT: Richard Mattingly, Producer Regulation Section, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol St., NE., Washington, D.C. 20426, (202) 357-9123.

First Sales of Pipeline Production Under Section 2(21) of the Natural Gas Policy Act of 1978 and First Sales by Affiliates: Order Granting Rehearing for Further Consideration

[Docket Nos. RM83-72-001, 002, 003, 004, 005, 006, 007, 008, and 009; Docket Nos. RM82-16-001, 002, 003, 004, 005, 006, 007, 008, and 009]

Issued: October 11, 1984.

Before Commissioners: Raymond J. O'Connor, Chairman; Georgiana Sheldon, A.G. Sousa, Oliver G. Richard III and Charles G. Stalon.

On August 22, 1984, the Commission issued a final rule designated as Order No. 391 in the above-captioned proceeding. A number of timely requests have been received seeking rehearing of Order No. 391.

In order to afford sufficient time for consideration of the issues raised in the requests for rehearing, we will grant rehearing of Order No. 391 for the limited purpose of further consideration. As provided by Rule 713, no answers to the requests for rehearing are permitted.

The Commission orders:

Rehearing of Order No. 391 is hereby granted for the limited purpose of further consideration.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-27502 Filed 10-17-84; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 134

[T.D. 84-214]

Country of Origin Marking of Imported Rotary Metal Cutting Tools; Change of Practice

AGENCY: U.S. Customs Service, Treasury.

ACTION: Final change of practice.

SUMMARY: This document gives notice that Customs is modifying its current practice of exempting imported rotary metal cutting tools from being individually marked with the country of origin provided such tools reach the ultimate purchaser in the U.S. in individual tubes or containers which are properly marked.

After reviewing the comments received in response to the notice proposing this change, Customs will not limit the exemption to twist drill sets imported in sealed index storage boxes or in retail blister packs which are designed for retail marketing and in which the majority of twist drills in the set are incapable of being individually marked. Twist drills having a diameter of *less than* three-sixteenths (3/16) of an inch shall be considered incapable of being individually marked.

EFFECTIVE DATE: January 16, 1985.

FOR FURTHER INFORMATION CONTACT: Harold Loring, Entry Procedures and Penalties Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5765).

SUPPLEMENTARY INFORMATION:

Background

Section 304, Tariff Act of 1930, as amended (19 U.S.C. 1304), provides that every article of foreign origin or its container imported into the U.S. shall be legibly, permanently, and conspicuously marked to indicate the English name of the country of origin to an ultimate purchaser in the U.S. unless specifically exempted. Part 134, Customs Regulations (19 CFR Part 134), sets forth the country of origin marking requirements of 19 U.S.C. 1304.

By Treasury Decision 74-122, published in the **Federal Register** on April 15, 1974 (39 FR 13538), Customs required that imported rotary metal cutting tools (i.e., interchangeable tools for hand or machine tools such as drill bits and twist drills of the kind classifiable in items 649.43, 649.44, and 649.46, Tariff Schedules of the United States; 19 U.S.C. 1202) must be marked

by means of die stamping in a contrasting color, by raised lettering, by engraving, or by some other method of producing a legible, conspicuous, and permanent mark to clearly indicate the country of origin. The decision allowed for an exception, however, *i.e.*, if the containers or individual tubes of the tools were properly marked and would reach the ultimate purchaser with the tool contained therein, then the tool itself could be exempted from individual marking.

Two trade associations representing the domestic industry have requested that Customs abolish this exception and require that each metal tool be individually marked. It is suggested that only tools too small to be marked be exempted from marking and that certification requirements be applied in those cases. This request is based both on the contention that there exists a consumer preference for domestic tools and on submitted proof that unmarked tools are reaching ultimate purchasers with their foreign source undisclosed. The domestic industry claims that the country of origin marking requirements of these tools are circumvented by importers not selling directly to the ultimate purchasers, but rather to distributors who often remove the tools from their individual containers or tubes. In some cases it is alleged that these tools are repackaged in order to conceal the country of origin from the ultimate purchaser. Concealing the tool's country of origin defeats the legislative purpose of 19 U.S.C. 1304 which is to enable the ultimate purchaser of the goods to decide for himself whether or not to buy foreign-made articles. In view of the concerns of the domestic industry, Customs, by a notice published in the **Federal Register** on April 25, 1984 (49 FR 17772), determined that a review of this matter was warranted and invited public comments on it before any change was made.

Discussion of Comments

Eighty-two comments were received in response to the notice; seventy-eight favored the change of practice, four opposed. Commenters supporting the change of practice do not disagree entirely with T.D. 74–122. They agree that rotary metal cutting tools should be marked in a permanent manner. However, the majority of commenters object to an exception being made for tools imported in marked containers. These commenters allege that domestic industry is harmed by the large number of rotary metal cutting tools which reach ultimate purchasers without any marking, having been separated from their containers in distribution. Aware of a consumer preference for domestic tools, it is alleged that distributors take the unmarked tools from their marked containers and dispose of the containers. It is claimed that some distributors repackage the unmarked tools in private brand labelled packages. Domestic industry, favoring the abolition of the exception, believes that foreign-made rotary metal cutting tools are inferior and when product failure occurs, domestic industry is held accountable when the consumer, seeing no foreign identification, erroneously believes the failed product to be American-made. Commenters point out that foreign governments subsidize foreign tool manufacturers and that the U.S. government should protect domestic industry by requiring foreign tools to be marked. Domestic industry claims it needs protection because of the foreign manufacturers' attempt to copy U.S. products, causing confusion in the marketplace. The domestic cutting tool industry states that it is essential for U.S. defense needs, and demands government protection, at least to the extent of requiring foreign tools to be identified.

Commenters favoring the change in practice also point out that individual tool marking is not expensive and can be performed at the same time the other tool markings are made, *i.e.*, size markings. If a permanent mark is made in the "holding" area of the tool, then no injury to the tool will occur. Thus, these commenters believe that individual tool marking will burden only those who seek to evade the marking statute.

From a legal point of view, commenters favoring the change note that T.D. 74–122 granted the exception to individual tool marking pursuant to § 134.32(d), Customs Regulations, which excepts articles "for which the marking of the containers will reasonably indicate the origin of the articles." Because the containers are separated from the tools during distribution, these commenters argue that the exception can no longer be justified.

Commenters in opposition to the change of practice argue that domestic industry overstates the degree to which distribution channels cause a tool to become separated from its marked container. In most cases, these commenters contend, it is too expensive to remove cutting tools from their containers, i.e., the value of concealing the foreign source is less than the cost of removing the product from its package. Therefore, the marked package is likely to reach the ultimate purchaser unopened. In addition, these commenters do not believe that Customs has the personnel to enforce a rule which would require that each tool be marked—for to do so would require Customs to remove tools from their containers for inspection. Many rotary metal cutting tools, such as twist drills, are very small and, these commenters suggest, markings would be very difficult to see. It is alleged that Customs would be bowing to protectionist pressure in changing the practice. It is argued that country of origin marking of individual tools would increase the cost of the tools. This is anti-competitive and is said to encourage U.S. inefficiency. Another commenter believes that the requirement for individual tool marking would cause unnecessary delay in the flow of commerce, *i.e.*, both Customs and importers would spend a great deal of time in checking for individual marking.

One commenter who imports rotary metal cutting tools believes that the exception should remain for twist drill sets packaged in expensive index boxes which are certain to remain with the product through distribution and reach the ultimate purchaser. This commenter agrees that twist drills imported in open stock sizes in individual envelopes or 5–10 units of one size to an envelope are more likely to be repackaged.

To the contrary, domestic industry argues that repackaging is not expensive and this is proved by the current evasive practices of distributors and importers. Commenters, favoring the change, believe that no great delay in the flow of commerce will occur if normal sampling procedures are used. They say that the change will be simple to enforce because Customs will not have to follow tools into commerce to detect violations. Individual tool marking will permit determinations to be made at time of entry. Finally, if foreign manufacturers will be marking tools individually in any event, then it would be simple to mark every tool, permitting no exceptions notwithstanding how elaborate the packaging.

Decision

Section 304, Tariff Act of 1930, as amended (19 U.S.C. 1304), requires that, unless excepted, every article of foreign origin *or its container* must be legibly, permanently, and conspicuously marked to indicate the English name of the country of origin to an ultimate purchaser in the U.S. Container marking will suffice provided the container, properly marked, is virtually certain to reach the ultimate purchase unopened. Thus, 19 U.S.C. 1304(a)(3)(D), as implemented by § 134.32(d), Customs Regulations, excepts an article from

individual country of origin marking if marking the container will reasonably indicate the origin of the article. In accordance with these principles, T.D. 74–122 ruled on the proper marking of individual rotary metal cutting tools, but provided for an exception from individual marking requirements in the case of tools imported in individual tubes or containers which are marked to indicate the origin of the tools inside.

Customs has reviewed domestic industry's petition, the comments received to the proposed change of practice, and the available evidence, and concludes that the exception created in T.D. 74–122 to individual tool marking has been abused.

Although we adhere to T.D. 74–122 (insofar as it holds that imported rotary metal cutting tools must be marked by means of die stamping in a contrasting color, by raised lettering, by engraving, or by some other permanent method of marking) we are making the following modifications to the exception created therein:

Rotary metal cutting tools may not be excepted from individual country of origin marking merely because they are imported in individual tubes or containers that are marked, *unless* it can be shown to the satisfaction of Customs officers at the port of entry that the containers are of a kind that are virtually certain to reach ultimate purchasers unopened, *i.e.*, twist drill sets imported in sealed index storage boxes or in retail blister packs which are designed for retail marketing and in which the majority of twist drills in the set are incapable of being individually marked. Rotary metal cutting tools imported in individual tubes or containers of carboard or plastic, must be individually marked in accordance with T.D. 74–122, notwithstanding that the container is marked.

In accordance with ORR Ruling 639–69, dated January 2, 1970, twist drills having a diameter *less than* three-sixteenths (3/16) of an inch shall be considered incapable of being marked. When these twist drills are imported in bulk, the containers shall be marked, and the importer shall be subject to the certification requirements of § 134.25, Customs Regulations (19 CFR 134.25), as amended by T.D. 84–155, published in the **Federal Register** on July 26, 1983 (48 FR 33860). Section 134.25 requires that if articles incapable of being marked are repackaged, the container must be marked to indicate the country of origin of the repackaged contents by either the importer who repackages the articles, or the purchaser or transferee of the articles who does the repackaging. At the time of entry of the articles, the importer must certify to the district director that the repackaged containers will be marked or that the importer will notify the purchaser or transferee of the marking requirement.

The basis for allowing the exception to continue in the case of certain twist drill sets rests in the substantial nature of various retail packages in which these twist drill sets are sold. The packaging often contains retail information and compartmentalized holders meant to attract consumers and retain their usefulness as holders even after purchase. The cost of removing the packaging would outweigh the value of concealing the country of origin marking. This cannot be said of larger twist drills imported in individual tubes or packets where the quality of such packaging is insubstantial (*i.e.*, cardboard or plastic) and small in value in comparison with the drill inside. It is noted that, in the case of twist drill sets, the majority of twist drills are under 3/16-inch and incapable of being legibly marked. For these sets, the exception should continue.

Whenever a container bears a U.S. address, or the words "United States" or "American" or "U.S.A.", then the country of origin preceded by the words "Made in" or "Product of" must appear in close proximity, and in a size comparable, to any U.S. address, location, notation, or reference, whether or not the article inside is marked. See § 134.46, Customs Regulations (19 CFR 134.36).

In the case of individual rotary cutting tool marking, adhesive labels or slip-on labels will continue to be considered inadequate for country of origin marking purposes in accordance with T.D. 74–122 and T.D. 70–27(1), dated December 23, 1969.

Drafting Information

The principal author of this document was Glen E. Vereb, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subject in 19 CFR Part 134

Customs duties and inspection, Imports, Labeling, Packaging and containers.

Dated: October 1, 1984.

William von Raab,

Commissioner of Customs.

Approved:

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

[FR Doc. 84–27586 Filed 10–17–84; 8:45 am]

BILLING CODE 4820–02–M

EMPLOYEE-MANAGEMENT RELATIONS COMMISSION

22 CFR Ch. VIII

Removal of Regulations

The Employment-Management Relations Commission was established by Executive Order 11636, "Employment-Management Relations in the Foreign Service of the United States" (36 FR 24901, Dec. 24, 1971). The regulations for its operation were promulgated at 37 FR 7594, April 18, 1972 and codified in Chapter VIII of Title 22, Code of Federal Regulations.

Chapter 10 of the Foreign Service Act of 1980 (Pub. L. 96–465, October 17, 1980, 94 Stat. 2071 (22 U.S.C. 3901 *et seq.*)) provided for the creation of the Foreign Service Labor Relations Board and the Foreign Service Impasse Disputes Panel. Following the enactment of this Act and in order to conform existing Executive orders to changes resulting from the Act, the President issued Executive Order 12292 (46 FR 13967, February 25, 1981) which revoked Executive Order 11636. Regulations implementing Chapter 10 of the Foreign Service Act of 1980 appear at 22 CFR, Chapter XIV (Part 1411 to 1471 and Appendices).

The Office of the Federal Register is in receipt of a letter from the Federal Labor Relations Authority confirming the information cited above and indicating that the regulations contained in 22 CFR Chapter VIII (Part 801–806) are obsolete and should be removed from the CFR.

Therefore, pursuant to the authority of the Director of the Federal Register to assure orderly development of the Code of Federal Regulations (1 CFR 8.2), Chapter VIII of Title 22 is found to be obsolete, the regulations are removed, and the chapter is vacated.

BILLING CODE 1505–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 150

[T.D. 7985]

Temporary Excise Tax Regulations Under the Crude Oil Windfall Profit Tax Act of 1980; Regulations Under Section 6232, Relating to the Conditions Under Which the Partnership May Be Authorized To Act on Behalf of the Partners of the Partnership in the Determination, Assessment, and Collection of the Windfall Profit Tax

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document provides temporary excise tax regulations relating to the conditions under which a partnership may be authorized to act on behalf of its partners in the determination, assessment, and collection of the windfall profit tax. The Tax Equity and Fiscal Responsibility Act of 1982 amended the tax law to allow for consolidated administrative and judicial proceedings to determine the tax treatment of partnership items at the partnership level rather than at the partner level. That Act also provides that the partnership may act on behalf of the partners in the determination, assessment, and collection of the windfall profit tax. These regulations provide guidance to partners and partnerships subject to these new rules.

DATES: The temporary regulations are effective for calendar years 1983 and 1984 only.

FOR FURTHER INFORMATION CONTACT: Nerman Dobynes Hubbard of the Legislative and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202–566–3297).

SUPPLEMENTARY INFORMATION:

Background

Code section 6232, added by the Tax Equity and Fiscal Responsibility Act of 1982, amended the tax laws to provide for consolidated administrative and judicial proceedings to determine the tax treatment of partnership items for windfall profit tax purposes at the partnership level rather than at the partner level. The section also permits the partnership to be treated as authorized to act on behalf of the partners in the determination, assessment, and collection of the windfall profit tax to the extent provided in regulations. This document contains temporary regulations which set out the conditions under which the partnership will be treated as having this authority. These regulations are included in 26 CFR Part 150, Temporary Excise Tax Regulations Under the Crude Oil Windfall Profit Tax Act of 1980. The temporary regulations provided by this document apply only to calendar years 1983 and 1984.

Explanation of Provisions

Section 6232(c)(1) provides that a partnership shall be treated as authorized to act on behalf of the partners in the determination, assessment, and collection of the windfall profit tax to the extent provided in regulations. These temporary regulations make this authority elective. A partnership seeking this authority must notify the Service that it intends to act on behalf of the partners. This authority to act on behalf of the partners is subject to certain elections by the partners. The temporary regulations require the electing partnership to notify the partners of the election and of their rights to negate the authority of the partnership.

Any group of partners owning in the aggregate at least 5 percent of the income interest of the partnership may negate the authority of the partnership to act on behalf of the partners by making a "5-percent election." Additionally, any partner may negate the authority of the partnership to act on behalf of that particular partner by filing an "individual election." The procedures for making these elections are set forth in the temporary regulations.

If the partnership elects to act on behalf of the partners and a "5-percent election" is not made, the partnership shall compute the windfall profit tax liability (taking into account the net income limitation, independent producer amounts, and exemptions) of partners who have not made the "individual election" and pay any additional tax owed or file a claim for refund or credit due on behalf of those partners. Since those partners will be represented by the partnership in all administrative and judicial proceedings, they are not entitled to receive notice regarding these proceedings or permitted to attend these proceedings. The partnership is not required to furnish these partners a Form 6248. Instead, the partnership shall furnish them a statement indicating the amount of windfall profit tax withheld or paid during removal year 1983 (or 1984, as the case may be).

The temporary regulations are consistent with the guidance provided earlier in Rev. Proc. 84–4, 1984–4 I.R.B. 28 (January 23, 1984) (also released as IR–84–2, dated January 6, 1984) except for three provisions. First, the temporary regulations make clear that a partnership election to represent partners is valid even if the partnership fails to mail the required notice to one or more partners. Rev. Proc. 84–4 indicated that the partnership could make a valid election only if it actually mailed notice to all partners. Second, the temporary regulations provide that a partner who makes an "individual" election shall treat the Form 6248 received from the partnership in the same manner as a Form 6248 received from another source. Thus, the partner may aggregate data from different sources and file a single Form 720 if there is a net underpayment of windfall profit tax or a single claim for refund if there is a net overpayment. The partner shall file the return or claim with the service center designated in the appropriate instructions. Rev. Proc. 84–4 stated that the partner should file the return or claim with the Austin Service Center. Third, the temporary regulations permit the partnership to file a claim for refund on behalf of the partners at any time within the applicable limitations period; Rev. Proc. 84–4 required the partnership to file a claim with respect to any overpayment apparent on the Form 6248 by August 31, 1984.

The rules set forth in the temporary regulations are effective for 1983 and 1984 only. For taxable periods beginning after 1984, see the proposed regulations under section 6232 in the Proposed Rules section of this issue of the **Federal Register**.

Non-Applicability of Executive Order 12291

The Treasury Department has determined that this temporary regulation is not a major rule as defined in Executive Order 12291 and that a regulatory impact analysis is therefore not required.

Paperwork Reduction Act

The collection of information requirements contained in this regulation have been submitted to the Office of Management and Budget (OMB) in accordance with the requirements of the Paperwork Reduction Act of 1980. These requirements have been approved by OMB. (Control No. 1545–0224)

Regulatory Flexibility Act

No general notice of proposed rulemaking is required by 5 U.S.C. 553 (b) for temporary regulations. Accordingly, the Regulatory Flexibility Act does not apply and no Regulatory Flexibility Analysis is required for this rule.

Drafting Information

The principal author of these regulations was Donald W. Stevenson of the Legislation and Regulations Division

of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects in 26 CFR Part 150

Excise taxes, Petroleum, Crude Oil Windfall Profit Tax Act of 1980.

Adoption of Amendments to the Regulations

Accordingly, the Temporary Excise Tax Regulations under the Crude Oil Windfall Profit Tax Act of 1980 (26 CFR Part 150) are amended as follows:

New §§ 150.623(c)–1 through 150.6232(c)–5 are added in the appropriate place to read as follows:

§ 150.6232(c)–1 Partnership authorized to act on behalf of partners for removal year 1983 or 1984.

(a) *Overview of partnership authority and responsibilities*—(1) *In general.* Except to the extent otherwise provided in paragraph (a) (2) and (3) of this section, the partnership, acting through its tax matters partner, shall be authorized to act on behalf of its partners in the determination, assessment, and collection of the windfall profit tax for removal year 1983 or 1984 if the partnership elects to do so in accordance with the requirements of § 150.6232 (c)–2 (b). If the partnership elects to act on behalf of the partners in this regard the partnership's responsibilities to file with the Service and furnish to the partner any information, statement, or return are set forth in this section. If the partnership does not elect to act on behalf of the partners, it shall file with the Service and furnish to the partners any information, statement, or return required by other provisions of this part or by Part 51 of this chapter in the time and manner prescribed by those regulations.

(2) *Partnership authority negated by "5-percent election."* The authority of the partnership to act on behalf of the partners with respect to the windfall profit tax is negated if partners who in the aggregate own at least a 5-percent interest in the income of the partnership make the election provided in § 150.6232(c)–3. See paragraph (d) of this section for the responsibilities of the partnership in the event that a 5-percent election is made.

(3) *Partnership authority negated by "individual election."* The authority of the partnership to act on behalf of a particular partner with respect to the windfall profit tax is negated if that partner makes the election provided in § 150.6232(c)–4. See paragraph (c) of this section for the responsibilities of the partnership with respect to a partner who makes the "individual election."

(4) *Rules applicable to partner not represented by partnership.* For rules applicable to a partner when the partnership authority to act on behalf of the partner is negated by an election under § 150.6232(c)–3 or § 150.6232(c)–4, see § 150.6232(c)–5.

(b) *Partnership responsibility with respect to partner who does not elect to negate the authority of the partnership to act on its behalf*—(1) *In general.* If the partnership elects to be treated as authorized to act on behalf of the partners and no 5-percent election is made is accordance with § 150.6232(c)–3, this paragraph (b) shall apply with respect to any partner who has not made an individual election under § 150.6232(c)–4 to negate the authority of the partnership.

(2) *Information to be furnished to partner*—(i) *Information in lieu of Form 6248.* The partnership is not required to furnish the partner a Form 6248. Instead, the partnership shall furnish the partner a statement indicating the partner's allocable share of the windfall profit tax paid or withheld during removal years 1983 (or 1984, as the case may be). See § 150.6232(c)–2 for the time for furnishing this statement to the partners.

(ii) *Later adjustments.* If the partnership—

(A) Pays any additional windfall profit tax, or

(B) Receives any credit or refund of windfall profit tax paid or withheld, with respect to a partner's share of partnership production for removal year 1983 (or 1984, as the case may be), the partnership shall notify the partner of the adjustment so that the partner may take the amount of the adjustment into account appropriately for income tax purposes. The partnership shall provide this notice at the same time as the partnership furnishes information to the partner with respect to windfall profit tax withheld or paid during the removal year in which the adjustment occurs.

(3) *Partnership required to file Form 6248 with Service.* The partnership shall furnish a Form 6248 with respect to the partner to the Austin Service Center (at the address specified in paragraph (e) of this section) by the first August 31 following the year to which the form relates. This Form 6248 shall show the amount of windfall profit tax allocable to the partner that was actually withheld or paid during 1983 (or 1984, as the case may be) and any adjustment made by the partnership with respect to that partner to eliminate any overpayment or underpayment. The partnership shall furnish a separate Form 6248 for each partner; the partnership is not permitted to submit an aggregate Form 6248 for all partners.

(4) *Partnership shall pay tax or file claim for credit or refund*—(i) *In general.* The partnership shall compute the windfall profit tax liability of a partner with respect to partnership production (taking into account the net income limitation and the partner's independent producer amounts and exemptions) for the removal year. On or before the date on which the partnership furnishes to the Service the Form 6248 with respect to a partner under paragraph (b)(3) of this section, the partnership shall file with the Austin Service Center (at the address set out in paragraph (e) of this section) a Form 720, Quarterly Federal Excise Tax Return, with Form 6047, Windfall Profit Tax, attached and pay any additional tax owed with respect to the partner. The partnership may also, at any time within the applicable period of limitations, file a Form 843, Claim, and claim any credit or refund due with respect to the partner. The partnership is not authorized to seek any adjustment in withholding to offset any overpayment of windfall profit tax during 1983 or 1984.

(ii) *Partnership may file aggregate return or claim.* The partnership may file an aggregate return or claim for refund on behalf of all partners for whom the partnership is authorized to act. The partnership shall attach to the aggregate return or claim a statement showing the amount of the underpayment or overpayment allocable to each partner. If partners hold identical "unit" interests and the underpayment or overpayment with respect to each "unit" is the same, the partnership may state the underpayment or overpayment with respect to a "unit," identify each person holding a "unit," and specify the number of "units" held by each person.

(iii) *Partnership to assume that partner certifications are correct.* For purposes of computing the windfall profit tax liability of a partner, the partnership shall treat as correct certifications furnished by the partner as to the partner's producer status. Accordingly, if the partner certifies that the partner is an independent producer or a qualified royalty owner, the partnership shall assume that the partner is in fact an independent producer or a qualified royalty owner in computing the partner's liability.

(iv) *Partner barred from filing claim based on partnership items.* The partnership has an exclusive right to file

a claim for refund of an overpayment of windfall profit tax if the overpayment arises from partnership items. The partner may file a claim for refund only if the overpayment arises from nonpartnership items; for example, the partner may file a claim for refund on the grounds that the partner is an independent producer but failed to certify that fact to the partnership.

(5) *Partnership shall represent partner in all proceedings.* The tax matters partner shall represent the partner in all administrative and judicial proceedings with respect to partnership items. Therefore, the partner shall not be permitted to participate in these proceedings or be entitled to receive the notices described in section 6223(a). The tax matters partner shall not be required to keep the partner informed of administrative or judicial proceedings. However, the partnership shall furnish to the partner upon request any and all windfall profit tax information necessary for the verification of the tax computed by the partnership or the determination of the partner's entitlement to independent producer lower rates or royalty owner exemptions.

(6) *Settlement authority.* Any settlement entered into by the tax matters partner is binding on the partner. The partner is not permitted to enter into a separate settlement with the Service; accordingly, the partner is not permitted to request consistent settlement terms under section 6224(c).

(c) *Partnership responsibilities with respect to partner who has made an individual election*—(1) *In general.* If the partnership makes the election described in § 150.6232(c)–2 to act on behalf of the partners and no 5-percent election is made, this paragraph (c) shall apply with respect to any partner who makes the individual election under § 150.6232(c)–4 to negate the authority of the partnership.

(2) *Partnership shall furnish Form 6248.* The partnership shall furnish a Form 6248 with respect to the partner to the Austin Service Center (at the address specified in paragraph (e) of this section) and to that partner by the first August 31 following the year to which the form relates. Because the partnership is not authorized to make any adjustment to eliminate an overpayment or underpayment with respect to the partner, the Form 6248 will not show any adjustment made by the partnership.

(3) *Partnership may not file return or claim on behalf of partner.* The partnership may not file any return (Form 720) or any claim for credit or refund (Form 843) on behalf of the partner.

(4) *Partnership does not represent partner in proceedings.* Unless otherwise agreed upon between the partner and the partnership, the partnership shall not represent the partner in administrative or judicial proceedings to determine the proper treatment of partnership items with respect to the windfall profit tax.

(d) *Partnership responsibilities in event 5-percent election is made.* If the partnership elects to act on behalf of the partners in accordance with § 150.6232 (c)–2 but a 5-percent election is made to negate that authority, the partnership shall furnish a Form 6248 with respect to each partner in the partnership to the Service and to the partner by the first August 31 following the year to which the form relates. The Forms 6248 furnished to the Service shall be filed with the service center designated on that form. The partnership will not be permitted to make any adjustments with respect to the partners under these circumstances.

(e) *Address of Austin Service Center.* The address of the Austin Service Center to be used for purposes of this section and §§ 150.6232 (c)–2 through 150.6232 (c)–5 is: Internal Revenue Service Center, WPT Staff, P.O. Box 1231, Austin, Texas 78767, Stop 89.

(f) *Extension of time for filing return.* Any provision in this section or in § 150.6232 (c)–5 (b) that permits any return to be filed or a payment to be made later than the date otherwise prescribed for the filing of that return or the making of that payment by the Code or the regulations operates as an automatic extension of the period otherwise prescribed.

(Information and collection requirements approved by the Office of Management and Budget under control No. 1545–0224)

§ 150.6232 (c)–2 Election to act on behalf of partners for removal year 1983 or 1984.

(a) *In general.* The partnership may elect to be treated as authorized to act for each partner of the partnership for removal year 1983 or 1984 by furnishing the notice described in paragraph (b) of this section. This election is an annual election. The partnership must furnish a separate notice for each removal year for which the partnership wishes to make this election.

(b) *Notice to the Service*—(1) *Content of notice.* The partnership shall furnish to the Internal Revenue Service a notice that states that the partnership intends to—

(i) Act on behalf of all partners in any judicial or administrative proceeding with respect to partnership items for windfall profit tax purposes;

(ii) Pay on behalf of the partners any additional windfall profit tax determined to be due to reflect the proper treatment of partnership items;

(iii) Receive on behalf of the partners any credit for, or refund of, any overpayment of windfall profit tax attributable to partnership items; and

(iv) Reimburse the Service upon request for any duplicate refund made to a partner.

(2) *Time and place for filing.* The notice shall be furnished to the Austin Service Center (at the address specified in § 150.6232(c)–1(e)) on or before the first March 31 following the year to which the election relates. The notice shall identify the partnership by name, address, and identification number and shall be signed by a person authorized to sign the Form 1065.

(c) *Notice to the partners*—(1) *In general.* A partnership that makes an election by filing a notice under paragraph (b) of this section shall furnish to each partner of the partnership, by the first March 31 following the year to which the election relates, a notice that includes the information contained in the notice under paragraph (b) of this section.

(2) *Further information required.* In addition the notice shall—

(i) Inform each partner of the partner's allocable share of the windfall profit tax paid or withheld during 1983 (or 1984, as the case may be) with respect to partnership production (so that the partner may claim an income tax deduction for that amount);

(ii) Explain the right of any partner or any group of partners holding a 5-percent or greater interest in the income of the partnership to negate the authority of the partnership to act on behalf of all partners by filing a notice in accordance with § 150.6232(c)–3; and

(iii) Explain the right of each partnership individually to elect not to have the partnership act on behalf of that partner by filing a notice in accordance with § 150.6232(c)–4.

(Information and collection requirements approved by the Office of Management and Budget under control No. 1545–0224)

§ 150.6232(c)–3 "5-percent" election for removal year 1983 or 1984.

(a) *In general.* Any partner or group of partners owning in the aggregate at least 5 percent of the income interest of the partnership may elect to negate the authority of the partnership to act on behalf of the partners for removal year 1983 or 1984 by filing a written notice to that effect.

(b) *Procedure for making election*—(1) *Time and place for filing.* The notice described in paragraph (a) of this section shall be filed with the Austin Service Center (at the address specified in § 150.6232(c)–1(e)) on or before the first June 30 following the year to which the election relates.

(2) *Content of notice.* The notice shall—

(i) Identify the partnership by name, address, and identification number;

(ii) Identify the partners forming the 5-percent group by name, address, identification number, and percentage interest in the partnership;

(iii) Be signed by all members of the group making the election; and

(iv) Be clearly identified as an election to negate the authority of the partnership to act for all partners.

Any notice not clearly identified as a notice of election under this section shall be treated as an individual election under § 150.6232(c)–4. Thus, for example, a notice by a single partner owning a 5-percent interest that is not clearly identified as an election to negate the authority of the partnership to act for all partners shall be treated as an individual election under § 150.6232(c)–4.

(3) *Copy for partnership.* A copy of the notice shall be furnished to the partnership.

(Information and collection requirements approved by the Office of Management and Budget under control No. 1545–0224)

§ 150.6236(c)–4 Individual election for removal year 1983 or 1984.

(a) *In general.* Any partner desiring that the partnership not be authorized to act on its behalf for removal year 1983 or 1984 shall file a notice in accordance with the rules set forth in this section.

(b) *Procedure for making election*—(1) *Time and place for filing.* The notice described in paragraph (a) of this section shall be filed with the Austin Service Center (at the address specified in § 150.6232(c)–1(e)) on or before the first June 30 following the year to which the election relates.

(2) *Content of notice.* The notice shall clearly identify the partner and the partnership by name, address, and identification number and shall state that it constitutes an election to deny the partnership the right to represent the partner in proceedings related to windfall profit tax on partnership production during 1983 (or 1984, as the case may be). The notice shall be signed by the partner.

(3) *Copy for partnership.* A copy of the notice shall be furnished to the partnership within the period prescribed for filing the notice.

(Information and collection requirements approved by the Office of Management and Budget under control No. 1545–0224)

§ 150.6232(c)–5 Partner responsibility when partnership authority is negated for removal year 1983 or 1984.

(a) *In general.* If the partnership makes an election under § 150.6232(c)–2 to act on behalf of the partners for removal year 1983 or 1984, this section shall apply with respect to—

(1) All partners if an election under § 150.6232(c)–3 is made, and

(2) Any partner who makes an election under § 150.6232(c)–4.

(b) *Partner shall pay additional tax or claim credit or refund.* The partner shall aggregate the Form 6248 information received from the partnership with Form 6248 information received from other sources to determine whether a net overpayment or underpayment of windfall profit tax exists for the partner's interests in oil properties. If a net underpayment exists, the partner shall file Form 720 with the service center designated on that form and pay any tax due by the first October 31 following the year to which the election relates. See § 150.6232(c)–1([f), relating to extension of time for filing a return and paying tax. If a net overpayment exists, the partner may file a Form 843 or any other appropriate form to claim a credit or refund in accordance with the applicable instructions.

(c) *Partners in same position as under rules for income tax proceedings.* The partner retains any right with respect to the determination of the tax treatment of partnership items for windfall profit tax purposes that the partner would possess with respect to similar determinations for income tax purposes under sections 6221 through 6231 and the regulations under those sections. For example, the partner is entitled to receive notice of the proceedings from the tax matters partner or the Service if that partner is entitled to receive notice under section 6223 of the Code, and the partner is entitled to participate in any administrative or judicial proceeding. Similarly, a settlement agreement entered into between the Service and the tax matters partner is binding on the partner if a settlement entered into under section 6224(c) of the Code would be binding on the partner.

(Information and collection requirements approved by the Office of Management and Budget under control No. 1545–0224)

There is need for immediate guidance with respect to the subject matter of this Treasury decision. For this reason, it is found impracticable to issue this Treasury decision with notice and public procedure under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

This Treasury decision is issued under the authority contained in sections 6232 and 7805 of the Internal Revenue Code of 1954 (96 Stat. 666, 26 U.S.C. 6232; 68A Stat. 917, 26 U.S.C. 7805).

Approved by the Office of Management and Budget under control number 1545–0224.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: September 26, 1984.

Ronald A. Pearlman,

Acting Assistant Secretary of Treasury.

[FR Doc. 84–27601 Filed 10–17–84; 8:45 am]

BILLING CODE 4830–01–M

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26 CFR Part 601

Internal Revenue Practice; Statement of Procedural Rules; Miscellaneous Amendments

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction.

SUMMARY: This document corrects errors contained in the miscellaneous amendments to the Statement of Procedural Rules (SPR) published in the **Federal Register** on September 18, 1984.

DATE: This correction is effective as of September 18, 1984.

FOR FURTHER INFORMATION CONTACT: Michel A. Daze of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, Attention: CC:LR:T (202–566–3458, not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On September 18, 1984, the **Federal Register** published miscellaneous amendments to the SPR (49 FR 36497), including an amendment to § 601.104(b) relating to extensions of time for filing returns.

Need for Correction

There is a need to conform the amendment to § 601.104 to T.D. 7885, which amended § 1.6081–3, relating to the automatic extension of time for filing a corporate income tax return, and which was published in the **Federal Register** on April 18, 1983 (48 FR 16483).

Drafting Information

The principal author of this correction is Michel A. Dazé of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service.

Correction of Amendments to the Statement of Procedural Rules

Accordingly, FR Doc. 84–24575 (49 FR 36497) is amended as follows:

§ 601.104 [Amended]

In § 601.104, paragraph (b)(2), the last 15 lines of the first column and the first 12 lines of the middle column on page 36499 are removed and the following is added instead.

* * * * *

(2) *Corporations.* On or before the date prescribed by law for filing its income tax return, a corporation may obtain an automatic 6-month extension of time (a 3-month extension in the case of taxable years ending before December 31, 1982) for filing the income tax return by filing Form 7004 and paying the full amount of the properly estimated unpaid tax liability. For taxable years beginning before 1983, however, the corporation must remit with Form 7004 an estimated amount not less than would be required as the first installment of tax should the corporation elect to pay the tax in installments.

This correction is issued under the authority contained in 5 U.S.C. 301 and 552.

George H. Jelly,

Director, Legislation and Regulations Division.

[FR Doc. 84-27002 Filed 10-17-84; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

[CGD13 84–15]

Anchorage Ground: Puget Sound Area, Washington

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending the regulations describing several anchorage grounds within the Puget Sound Area. These amendments involve only name changes for some of the navigational aids used to delineate anchorage boundaries; the physical boundaries of the anchorage grounds remain the same. The intended effect of this action is to update the Regulations so that the names used therein are consistent with the recently changed names of the aids stated in the Light Lists, Coast Pilots and other publications.

DATES: This regulation becomes effective October 18, 1984. Comments on this regulation must be received on or before December 15, 1984.

ADDRESS: Comments should be mailed to Commander (mps), Thirteenth Coast Guard District, 915 Second Avenue, Seattle, WA, 98174. The comments will be available for inspection or copying at 915 Second Avenue, Room 3506, Seattle, WA. Normal office hours are from 8:00 a.m. to 4:00 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant M. P. Bernard, USCG, Commander (mps), Thirteenth Coast Guard District, 915 Second Avenue, Rm. 3506, Seattle, WA, 98174. Telephone (206) 442–5537.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was not published for this regulation and it is being made effective in less than 30 days from the date of publication. Due to the purely administrative nature of this change, following normal rulemaking procedures is unnecessary. The regulation should have little or no economic impact and no adverse comments are expected concerning the terms of the regulation. Although this regulation is published as a final rule without prior notice, an opportunity for public comment is nevertheless desirable to ensure that the regulation is both reasonable and workable. Accordingly, persons wishing to comment may do so by submitting written comments to the office listed under "ADDRESS" in this preamble. Commenters should include their names and addresses, identify the docket number for the regulation, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped, self-addressed postcard or envelope is enclosed. Based upon comments received, the regulation may be changed.

Drafting Information

The drafters of this notice are Lieutenant M. P. Bernard, USCG, Project Officer, Port Safety Branch, Thirteenth Coast Guard District, and Lieutenant Aubrey Bogle, USCG, Project Attorney, Thirteenth Coast Guard District Legal Office.

Discussion of Proposed Regulation

The names of a number of the navigational aids which delineate the boundaries for several anchorage grounds in Puget Sound, Washington are being changed by this Regulation. These changes are necessary to bring the naming of these aids to navigation into compliance with International Association of Lighthouse Authorities standards and have been reflected in changes to the Light List publications for Puget Sound. This change is purely administrative as the location of the reference points and the physical boundaries of the anchorage grounds remain the same.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

Final Regulation

In consideration of the foregoing, Part 110 of Title 33, Code of Federal Regulations, is amended by revising § 110.230 (a)(4), (a)(6), (a)(7)and (a)(13) to read as follows:

§ 110.230 Puget Sound Area, Washington.

(a) * * *

(4) Port Gardner General Anchorage, Possession Sound. Beginning at a point bearing 211°, 560 yards, from Snohomish River Light 5; thence 180°, 675 yards; thence 216°, 250 yards; thence 254°, 800 yards; thence 302°, 1,700 yards; thence 49°, 1,280 yards; thence approximately 115°, 1,525 yards, to the point of beginning.

* * * * *

(6) Thorndike Bay Emergency Explosives Anchorage, Hood Canal. Beginning at a point bearing 267°, 3,500 yards, from Hood Canal Light 7; thence 180°, 1,000 yards to a point approximately 251°, 3,725 yards, from Hood Canal Light 7; thence 270°, 1,350 yards to a point approximately 256°, 5,000 yards, from Hood Canal Light 7; thence due north 1,000 yards, to a point approximately 268°, 4,900 yards, from Hood Canal Light 7; thence approximately 90°, 1,350 yards, to the point of beginning.

(7) Smith Cove General Anchorage (west), Elliott Bay. Shoreward of a line beginning at Fourmile Rock Light; thence to a point bearing 207°, 1,100 yards, from Fourmile Rock Light; thence southeasterly to a point bearing 6°30', 2,075 yards, from Duwamish Head Light 2; thence due north to the shore of Smith Cove.

* * * * *

(13) Commencement Bay General Anchorage. A quadrilateral area bounded as follows: Beginning at latitude 47°17'37" N., longitude 122°26'00" W.; thence due south to latitude 47°17'19" N., longitude 122°26'00" W.; thence due east to a point bearing 286° T from Hylebos Waterway Light 1 at a distance of 450 yards; thence due north to latitude 47°17'33" N., longitude 122°25'00" W.; thence west northwest to the point of beginning.

* * * * *

(33 U.S.C. 471; 49 CFR 1.46; and 33 CFR 1.05–1(g))

Dated: October 3, 1984.

R.R. Garrett,

Captain, U.S. Coast Guard, Acting Commander, 13th Coast Guard District.

[FR Doc. 84-27567 Filed 10-17-84; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 165

[Regulation 84-09]

COTP Hampton Roads, VA, Safety Zone Regulations; James River, Newport News, Virginia

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a safety zone in the James River, Newport News, Virginia. This zone is needed to protect watercraft from possible damage during the launching of the aircraft carrier USS THEODORE ROOSEVELT from Newport News Shipbuilding Shipway No. 12. Entry into this zone is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATES: This regulation becomes effective at 11:30 a.m., Eastern Daylight Time, 27 October 1984. It terminates at 2:00 p.m., Eastern Daylight Time, 27 October 1984.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander D. A. SANDE, Chief, Port Operations Department, Coast Guard Marine Safety Office, Hampton Roads, Norfolk, Virginia 23510 (804) 441-3296.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was not published for this regulation and it is being made effective in less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to safeguard watercraft and their occupants from the associated dangers involved.

Drafting Information

The drafter of this regulation is Lieutenant Commander D. A. SANDE, project officer for the Captain of the Port.

Discussion of Regulation

To prevent possible damage to watercraft and possible injury to their occupants during the launching of the USS THEODORE ROOSEVELT on Saturday, 27 October 1984, no watercraft will be permitted to remain in, enter, moor in, anchor in, or transit this safety zone unless specifically authorized by the Captain of the Port, Hampton Roads, Virginia. U.S. Coast Guard patrol vessels will be on scene to enforce the safety zone monitoring VHF-FM channels 16 and 13. This action is necessary due to the hazards involved in launching and moving an aircraft carrier within a restricted waterway such as the James River. During the launching, the USS THEODORE ROOSEVELT will be out of control until assisting tugs can secure the vessel. This rule is issued in response to a request by the Newport News Shipbuilding and Drydock Company for the Coast Guard to provide traffic control and escort vessels in connection with the launching. This action is designed to prevent damage to watercraft and possible injury to their occupants in the event of collision with the USS THEODORE ROOSEVELT. It is intended that this rule will accomplish this end by preventing all such traffic from entering the safety zone.

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Security measures, Vessels, Waterways.

PART 165—[AMENDED]

Regulation

In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations, is amended by adding § 165.T543 to read as follows:

§ 165.T543 Safety Zone: James River, Newport News, Virginia.

(a) *Location.* The following area is a safety zone: All waters within 1000 yards from the shoreline of the northern portion of Newport News Shipbuilding and Drydock Company into the James River. Specifically all waters within the following boundaries constitute a safety zone: A line beginning at 37°00'3" N. Latitude, 76°27'01" W. Longitude, thence south along the shoreline to 36°59'15" N. Latitude, 76°26'40" W. Longitude, thence to 36°58'00" N. Latitude, 76°27'10" W. Longitude, thence to 37°00'12" N. Latitude, 76°27'54" W. Longitude, thence to the point of beginning. The safety zone will commence at 11:30 a.m., Eastern Daylight Time, 27 October 1984, and will terminate at 2:00 p.m., Eastern Daylight Time, 27 October 1984.

(b) *Regulations.* (1) In accordance with the general regulations in 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port.

(33 U.S.C. 1225 and 1231; 49 CFR 1.46; 33 CFR 165.3)

Dated: October 5, 1984.

D.C. O'Donovan,

Captain, U.S. Coast Guard, Captain of the Port, Hampton Roads.

[FR Doc. 84-27568 Filed 10-17-84; 8:45 am]

BILLING CODE 4910-14-M

VETERANS ADMINISTRATION

38 CFR Part 21

Vocational Rehabilitation Amendments

AGENCY: Veterans Administration.

ACTION: Final Regulations.

SUMMARY: Title I of Public Law 96-466, Education and Rehabilitation Amendments of 1980, revised and updated the VA vocational rehabilitation program. The enactment of Public Law 96-466 represented the culmination of a period of sustained study and consideration of the vocational rehabilitation program and the steps necessary to improve the program.

The changes revise the purpose of the program to enable veterans with service-connected disabilities to achieve maximum independence in daily living and, to the maximum extent feasible, to become employable and to obtain and maintain suitable employment. This change expands the scope of vocational rehabilitation beyond training to include both employment and independence in daily living and marked a fundamental change in the philosophy and purpose of the program.

Other changes were designed to carry out this broadened purpose.

EFFECTIVE DATES: The following sections are effective October 1, 1980: §§ 21.21, 21.22, the portion of § 21.70(c) limiting the duration of a vocational rehabilitation program, §§ 21.78(b)(3), 21.132(c), 21.148(c), 21.152(c), 21.160(e), 21.162 (b) and (c), 21.252 (b) and (c), 21.256, the portion of § 21.260(a) providing for payment of a subsistence allowance, § 21.260(b), 21.266(e), 21.268, 21.274, 21.276, 21.320, 21.322(a), (f), (g), (h), 21.324 (a through n), 21.328, 21.332, 21.380, 21.382, 21.390, 21.400, 21.402, 21.410, 21.412, 21.414.

All sections not listed in the preceding paragraph are effective April 1, 1981.

FOR FURTHER INFORMATION CONTACT: Dr. Karen Boies, Assistant Director for Policy and Program Development, Vocational Rehabilitation and Counseling Service, Department of Veterans Benefits (282), 810 Vermont Avenue, NW, Washington, DC 20420, (202) 389-2886.

SUPPLEMENTARY INFORMATION: In the enactment of Pub. L. 95–202, the Veterans Administration was called upon to conduct a thorough study of the provisions of the veterans' vocational rehabilitation program with a view to making recommendations for legislative or administrative changes in the program. This study was completed and submitted to the President and the Congress on September 26, 1978 (Senate Committee on Veterans' Affairs Print No. 26, 95th Congress; House Committee on Veterans' Affairs Print No. 167, 95th Congress). This study found that the veterans' vocational rehabilitation program was essentially patterned after the original program in 1943 and was in need of substantial revision and modernization.

The findings and recommendations of this study were adopted by the President in his message to the Congress on the status of Vietnam era veterans submitted October 19, 1978. The President concluded that the current chapter 31 vocational rehabilitation program required "major updating."

The program of vocational rehabilitation in effect at that time was designed in 1943 when it was a progressive and responsible formulation and had generally served disabled veterans well for more than 30 years. Nevertheless, the program needed revision to take advantage of what had been accomplished in rehabilitation during the intervening 3 decades. Congress, in requiring the study, directed the VA to analyze its authority to provide vocational rehabilitation services in comparison with the authority provided the state-federal vocational rehabilitation program under the Rehabilitation Act of 1973. Our study concluded that an updating of our own rehabilitation authority was necessary and appropriate.

A major feature of the traditional VA vocational rehabilitation program limited the purpose of vocational rehabilitation to restoring a veteran's employability lost by virtue of a handicap due to a service-connected disability or disabilities. Our study recommended that the purpose of this program should encompass not only the achievement of employability, but also entry into and adjustment in suitable employment, including self-employment where appropriate. Such revision is consistent with the generally accepted goal and criterion of vocational rehabilitation. This revision is also consistent with current practice under which a rehabilitation agency is seen as the most effective agent for carrying the process of vocational rehabilitation to its completion in successful employment.

The chapter 31 definition which equated vocational rehabilitation with training was seen as incomplete in two important areas. First, it omitted certain essential services. There was neither provision for pretraining services for veterans whose training and employment goal is indeterminate, nor for direct employment placement and adjustment services necessary for the achievement of actual employment. Second, the limited definition resulted in a fragmented concept of vocational rehabilitation which did not consider rehabilitation to be a unified, multidisciplinary process. Consequently, the definition promoted the provision of VA vocational rehabilitation services as separate services, rather than as integrated and coordinated components of an overall process. The study recommended that the program provide all services needed—pretraining, training, and post-training, beginning with the identification of the handicapped, service-disabled veteran and continuing through the rehabilitation process on into employment whenever feasible.

Additional recommendations concerned changes in eligibility and entitlement, the need for an ongoing training and staff development program, and other provisions to bring about desired improvements in the program. The Congress, after consideration which included legislative proposals offered by the Veterans Administration, enacted the new vocational rehabilitation program as Title I of Pub. L. 96–466, of which some of the provisions were effective October 1, 1980. The remaining provisions became effective by April 1, 1981.

The changes enacted revise the purpose of the program to enable veterans with service-connected disabilities to achieve maximum independence in daily living and, to the maximum extent feasible, to become employable and to obtain and maintain suitable employment.

The scope of services which can be authorized (including employment services) is broadened. A comprehensive initial evaluation is provided in each case as a basis for determining eligibility and enhancing program planning. An extended evaluation is accomplished to determine if vocational rehabilitation is reasonably feasible when this determination cannot be made during an initial evaluation. The basic period of eligibility is increased from 9 years to 12 years. An individualized rehabilitation plan is jointly formulated by the VA and each veteran with an employment handicap who elects to participate in the vocational rehabilitation program. Subsistence allowance is increased. A program of staff development is established. Finally, the VA is directed to conduct a 4-year independent living pilot program to assist veterans for whom achievement of a vocational goal is not reasonably feasible.

Due to enactment of Pub. L. 96–466, the VA has taken a number of steps to help assure that the new program would be effectively implemented. Prior to enactment of Pub. L. 96–466, the development of policy and procedure for vocational rehabilitation was the responsibility of the Education and Rehabilitation Service. Field operations had been placed under the jurisdiction of the Veterans Services Division in the regional offices. In an effort to prepare for implementation of the new law, the Administrator approved a reorganization in both Central Office and regional offices which resulted in the establishment of the VR&C (Vocational Rehabilitation and Counseling) Service on October 1, 1980. VR&C was charged with the responsibility for developing policies and procedures for the administration of the chapter 31 program and for provision of counseling services under chapters 32, 34, 35 and other education programs administered by the VA. Concurrently, units were established at each regional office. These operational units were designated Vocational Rehabilitation and Counseling Divisions.

In considering the implementation of the sweeping changes in the program, the VA made several basic decisions. It was determined that the most practicable approach to establishing the new program was to develop a series of comprehensive issues on all provisions of the law affecting direct delivery of services. These issues detailed both policy and procedure, and enabled field staff to begin administration of the provisions of law as they became effective in October 1980 and April 1981. Guidelines dealing with chapter 31 eligibility and entitlement, initial and extended evaluations, Individualized Written Rehabilitation Plans, authorization of supplies, and new provisions for payment of monthly allowances were issued April 7, 1981. Two additional issues dealing with employment services and the pilot program of independent living were issued later in 1981. All issues were subsequently published in the **Federal Register**. No comments were received on

any of the issues published in the **Federal Register**.

A second decision was made to totally reorganize and restructure chapter 31 regulations, rather than modify the existing regulations. The proposed regulations were published in five separate sections and are now resubmitted together following the comment period for the fifth section. The first section of the proposed regulations was published for comment on April 29, 1982 in the **Federal Register**, volume 47, number 83, at pages 18381 to 18386. The regulations were concerned with definition of terms used in the law such as "employment handicap", "vocational goal", "independent living". In addition this section included regulations dealing with the purpose of the program, periods of eligibility, and basic entitlement.

The second section of the proposed regulations was published for comment in the **Federal Register** on September 15, 1982, volume 47, number 179 at pages 40649 through 40659. The regulations in this section implemented provisions of law dealing with the following: the provision of a comprehensive initial evaluation of the veteran's situation by a counseling psychologist in the VR&C Division to determine eligibility for and entitlement to assistance and to provide a basis for planning a rehabilitation program; the establishment of an IWRP (Individualized Written Rehabilitation Plan) based upon findings made in the course of the initial evaluation; and the duration of a period of rehabilitation services. In addition the role of the VRP (Vocational Rehabilitation Panel), formerly the Vocational Rehabilitation Board, has been restructured. The VRP now serves as a consultative rather than a decision-making body. The Vocational Rehabilitation Panel is a multidisciplinary group whose main function is to assist VR&C staff members to plan and carry out a program of rehabilitation services for seriously disabled veterans.

The third section of the proposed regulations was published in the **Federal Register** volume 48, number 91 at pages 20939 through 20949 on May 9, 1983. This section deals with provisions for approving and authorizing subsistence allowances, measuring full and part-time participation in a rehabilitation program, and approving leaves of absence during the period of rehabilitation services.

The fourth section of the proposed regulations was published in the **Federal Register** volume 48, number 180 at pages 41438 through 41449 on September 15, 1983. This section deals with a new system of case statuses, satisfactory conduct and cooperation, entrance into a rehabilitation program, travel, and approval of courses and facilities utilized under chapter 31.

The fifth and final section of the proposed regulations was published in the **Federal Register** volume 48, number 192 at pages 45123 through 45137 on October 3, 1983. This section includes personnel and staff development, the Veterans Advisory Committee on Rehabilitation, furnishing supplies, independent living services, counseling, educational and vocational training services, special rehabilitation services, medical care, and employment services.

The final regulations are now republished in their correct numerical sequence as a unit. (The original 5 publications for comment did not appear in chronological sequence.)

The Veterans Administration received comments from two organizations on proposed regulations concerning eligibility and entitlement to vocational rehabilitation services. We received no comments on other sections of the regulations during the comment period. Our action on these comments is described in the following paragraphs.

One organization had several comments on § 21.42(b) and § 21.42(c) pertaining to periods of eligibility.

Section 21.42 generally provides that the 12-year period of eligibility is the date that the veteran is discharged unless the date is deferred for one of the reasons given in § 21.42 (a), (b), or (c). § 21.42(b) states that the beginning date of the 12-year period may be deferred if it is determined that the veteran was not discharged under other than honorable conditions or that the discharge is a bar to benefits which is later removed. If such a change is made, then the beginning date of the 12-year period would be the date of the change in the veteran's status. The organization is concerned that the reasons for removing a bar to benefits and the agency which can make such a change (i.e., Discharge Review Board or Board of Corrections for Military Discharges) are not specified in § 21.42(b) or elsewhere. It is suggested that either the regulation be made more specific or that a cross-reference be made to CFR 3.12 which generally governs changes in character of discharge determinations.

The provision of law on which § 21.42(b) is based includes the reasons for removal of bars to benefits. These determinations are made under the provision of existing § 3.12. It was therefore not believed necessary or desirable to restate those provisions in § 21.42(b). However, we agreed that a cross-reference to § 3.12 is appropriate.

The organization also requests that § 21.42(c) be clarified to include drug and alcohol conditions as a basis for deferral of the beginning date of the 12-year period of eligibility. The reasons for deferral of the period of eligibility under this provision are determined under the same policies and procedures as are applicable under chapter 34 to extension of the delimiting date because of physical or mental disability. Since drug and alcohol disabilities may not in and of themselves be the basis of an extension of the delimiting date under chapter 34, neither may an extension be approved under chapter 31. On the other hand, drug and alcohol problems are considered in determining a veteran's basic entitlement to vocational rehabilitation services. Under § 21.53(a)(3), the effects of alcoholism and drug abuse are to be considered in the same manner as other nonservice-connected disabilities in evaluating restrictions on the veteran's employability. Therefore, no changes were made in § 21.42(c).

Comments were received on the provisions of § 21.52 concerning the determination of a serious employment handicap. Establishment of basic eligibility (§ 21.40) requires that the veteran have a compensable service-connected disability and an employment handicap.

A separate determination whether a serious employment handicap exists must be made in each case in which an employment handicap is found. A finding of serious employment handicap is a recognition that the veteran has experienced or can be expected to experience serious problems in training and employment. For each of these individuals special measures may be needed, such as extension of the period of eligibility, additional training or employment services as well as more intensive assistance from VR&C staff during the period the veteran is participating in a rehabilitation program to assure a successful outcome.

Section 21.52(c) states that if an employment handicap exists, a serious employment handicap shall always be held to exist under certain conditions; i.e., service-connected disability of 50% or more, and neuropsychiatric disability evaluated at 30 to 40%. While agreeing with the intent of the paragraph, the comment was that the use of the phrase that "a serious employment handicap always exists" under the specific conditions cited could lead such veterans "with disabilities evaluated at 50% or more disabling who have made a satisfactory employment adjustment to believe they are exceptional." We agreed the statement in question could be more aptly worded and have

modified the proposed regulation accordingly.

Another comment on this same section states that the situations of veterans with a non-neuropsychiatric service-connected disability evaluated at 30 or 40% disabling be examined to assure that the veteran is satisfied with his or her current employment. The comment stated that, if the veteran is not satisfied with his or her employment, he or she should be found to have a serious employment handicap on the basis of his or her dissatisfaction with current employment. In considering this suggestion, it should be noted that the veteran's satisfaction or dissatisfaction with current employment is considered in the determination of basic entitlement. A part of the determination of basic entitlement is made in accordance with § 21.51(c)(4), Consistency with Abilities, Aptitudes, and Interests. The veteran's expressed satisfaction or dissatisfaction with current or prior employment and the reasons for the veteran's feelings provide important data in determining if employment is consistent with the veteran's pattern or abilities, aptitudes and interests.

The provisions of § 21.52(d) allow for the establishment of serious employment handicap on the basis of a prior history of poor prior adjustment, or current problems which indicate a need for special assistance. Within this context, dissatisfaction with current or prior employment is considered insofar as the effects of such dissatisfaction are manifested in the veteran's prior history or current situation. If evidence of serious employment or ajdustment problems warranting a finding of serious employment handicap does not exist, the counseling psychologist would determine that the veteran was eligible for the comprehensive vocational rehabilitation benefits and services which may be provided on the basis of employment handicap, but ineligible for the special forms of assistance which are provided only on the basis of serious employment handicap. Therefore, we have made no revision of the section commented upon.

Section 21.52(e) states that a serious employment handicap will not normally be found if a veteran has a service-connected disability evaluated at less than 30% disabling. This paragraph allows a positive finding if especially servere problems of work adjustment exist. A suggestion was made that a finding of serious employment handicap be permitted if a veteran is totally dissatisfied with his or her employment even if such dissatisfaction is not shown in an unstable work history. This recommendation is similar to the previous proposal regarding a finding of serious employment handicap in the case of a veteran with a disability rated at 30 or 40% disabling; and our response is subject to the same considerations. The effects of the veteran's dissatisfaction with his or her employment in establishing the existence of a serious employment handicap are considered within the context of its contribution to serious problems in or maintaining employment. Therefore, this suggestion was also rejected. Section 21.60 establishes the Vocational Rehabilitation Panel. The purpose of the Panel is to provide technical assistance in the planning of rehabilitation programs for seriously disabled veterans and dependents. This purpose is carried out through use of a wide range of professionals from public and private agencies including the VA, community agencies and organizations participating in individual cases. A question was raised whether accredited representatives of veterans organizations may participate only in those panels which concern an individual they represent, or if accredited representatives may be asked to be permanent members of panels based upon their ongoing interest in the welfare of veterans. Section 21.60(b) describes the composition of the Panel. The Panel must include a counseling psychologist in the VR&C Division as chairperson, a VRS (vocational rehabilitation specialist) in VR&C, a medical consultant from a VA medical center, and a social worker from a VA medical center. In addition other specialists from the VA may be utilized to assist on an individual as-needed basis. It was not intended that persons outside the VA would serve as members of the Vocational Rehabilitation Panel. For this reason we have amended § 21.60(b)(5) to delete language in subparagraph (b)(5) which implies otherwise. The VA, from time to time, as appropriate may seek from non-VA sources information for use by the Panel in evaluating a case, but those sources will not participate in the Panel's review. Therefore the role of the accredited representative from the service organization representing the particular veteran is not changed by this regulation.

Section 21.62(b)(4) requires the Panel to review all discontinued cases involving veterans with service-connected disability of 50% or more. It was suggested that the Panel also review discontinuances of veterans with service-connected disability evaluated at less than 50% disabling. The role of the Panel in cases evaluated at 50% or more disabling is to focus on the special problems which arise in cases of the most seriously disabled veterans. The Panel's review of discontinuance actions in these cases is consistent with its general role. Adding to this responsibility would vitiate the special role of the VRP and would not add to the quality of service being furnished service-disabled veterans with disability ratings of less than 50%, so the proposal is rejected.

In addition to the specific changes made in response to comments, editorial, grammatical and technical changes have also been made in the text. In some instances the provisions have been revised to more clearly follow the text of the authorizing statutory language, to improve readability, or to improve organization of the material. None of the changes made are of such a nature as to significantly amend the substance of the original proposals and republication of the final regulations for comment is not necessary.

Regulatory Flexibility Act

The Administrator hereby certifies that these final rules will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), these rules are therefore exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. The reasons for this certification are that, to the extent the rules are directed to small entities, they follow the requirements of Public Law 96–466, or codify pre-existing agency policy and practice. Thus, no new regulatory burdens are imposed on small entities. In addition, only a limited number of service-connected disabled veterans are in training under this program at any given time. These rules will therefore have no significant economic impact on small entities.

The Catalog of Federal Domestic Assistance Number is 64.116.

Executive Order 12291

These regulations do not meet the criteria for major rules as contained in Executive Order 12291, Federal Regulation. There will be no new reporting or recordkeeping requirements, or other compliance costs, to business or educational institutions caused by these rules. The rules will not affect other agencies. However, these rules may induce some veterans to train under 38 U.S.C., chapter 31, who would

not have done so otherwise. Furthermore, these regulations will affect every veteran who is eligible to train under 38 U.S.C., chapter 31. However, these effects of the law do not place the regulations in the category of major rules. Since these regulations are not major rules they do not require regulatory analysis. They will not have an effect of $100 million in any year. They will not create major increases in costs or prices. They will not cause major additional costs to recipients. Accordingly, the VA has not prepared an analysis of these regulations.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs, Loan programs, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: August 28, 1984.
By direction of the Administrator.

Everett Alvarez, Jr.,
Deputy Administrator.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

The Veterans Administration is amending 38 CFR Part 21 as follows:

1. The table of contents for Part 21 is revised to read as follows.

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1a. Section 21.1 and the center heading preceding it are revised to read as follows:

Vocational rehabilitation overview

§ 21.1 Training and rehabilitation for veterans with service-connected disabilities.

(a) *Purposes.* The purposes of this program are provide to eligible veterans with compensable service-connected disabilities all services and assistance necessary to enable them to achieve maximum independence in daily living and, to the maximum extent feasible, to become employable and to obtain and maintain suitable employment. (38 U.S.C. 1500)

(b) *Basic requirements.* Before a service-disabled veteran may receive training and rehabilitation services under chapter 31, title 38, United States Code, three basic requirements must be met:

(1) The Veterans Administration must first find that the veteran has basic entitlement to services as prescribed by § 21.40. (38 U.S.C. 1502)

(2) The services necessary for training and rehabilitation must be identified by the Veterans Administration and the veteran. (38 U.S.C. 1506)

(3) An individual written plan must be developed by the Veterans Administration and the veteran describing the goals of the program and the means through which these goals will be achieved. (38 U.S.C. 1507)

§ 21.2 [Removed]

2. Section 21.2 is removed.

§ 21.3 [Removed]

3. Section 21.3 is removed.

§ 21.20 [Removed]

3a. The center heading preceding § 21.20 is revised to read:
NONDUPLICATION.

4. Section 21.20 is removed.

5. Section 21.21 is revised to read as follows:

§ 21.21 Nonduplication—38 U.S.C. Chapters 31, 32, 34, and 35.

(a) *Election.* A veteran who has basic entitlement to rehabilitation under chapter 31, and is also eligible for educational assistance under chapters 32, 34, and 35 must elect which benefit he or she will currently receive. The veteran may reelect at any time. (38 U.S.C. 1795)

(b) *Prior training.* If a veteran has pursued an educational or training program under chapter 32, 33 (prior to its repeal), 34 or 35, the earlier program of education or special restorative training shall be utilized to the extent practicable in determining the character and duration of vocational rehabilitation to be furnished. (38 U.S.C. 1795)

6. Section 21.22 is revised to read as follows:

§ 21.22 Nonduplication—Federal programs.

(a) *Allowances.* A service-disabled veteran who is eligible for benefits under chapter 31, may not receive a subsistence allowance or elect payment of an allowance at the educational assistance rate under chapter 34 pursuant to § 21.264 if the veteran:

(1) Is on active duty and is pursuing a course of education which is being paid for by the Armed Forces (or by the Department of Health and Human Services in the case of the Public Health Service), or

(2) Is attending a course of education or training paid for under chapter 41, Title 5, United States Code and whose full salary is being paid to such veteran while so training. (38 U.S.C. 1781)

(b) *Services which may be authorized.* A service-disabled veteran who is in one of the two categories defined in paragraph (a) of this section is entitled to receive all benefits, other than an allowance, to which he or she is otherwise entitled under chapter 31, including:

(1) Payment of any tuition and fees not paid for by the Armed Forces.

(2) The cost of special services, such as reader services, tutorial assistance, and special equipment during the period of such training. (38 U.S.C. 1781)

7. Section 21.30 is revised to read as follows:

§ 21.30 Claims.

A specific claim in the form prescribed by the Veterans Administration must be filed for:

(a) A program of rehabilitation services, or

(b) Employment assistance. (38.U.S.C. 1502, 1517)

8. Section 21.31 is revised to read as follows:

§ 21.31 Informal claim.

Any communication or action indicating an intent to apply for rehabilitation or employment assistance, from a veteran, a duly authorized representative, or a Member of Congress may be considered an informal claim. Upon receipt of an informal claim, if a formal claim has not been filed, an application form will be forwarded to the veteran for execution. In the case of a claim for rehabilitation, or employment assistance, the formal claim will be considered filed as of the date of receipt of the informal claim if received within 1 year from the date it was sent to the veteran, or before cessation of the course, whichever is earlier. (38 U.S.C. 3013)

9. Section 21.32 is revised to read as follows:

§ 21.32 Time limit.

(a) *Time limit for filing evidence.* The provisions of this paragraph are applicable to an original application, formal or informal, for rehabilitation or employment assistance and to a claim for increased benefits by reason of the existence of a dependent.

(1) If a claimant's application is incomplete, the claimant will be notified of the evidence necessary to complete the application;

(2) If the evidence is not received within 1 year from the date of such notification, benefits may not be paid by reason of that application. (38 U.S.C. 3013)

(b) *Failure to furnish claimant form of notice of time limit.* Failure to furnish a potential claimant any form of information concerning the right to file a claim, or to furnish notice of the time limit for the filing of a claim or submission of evidence will not extend the periods allowed for these actions. As to appeals, see 38 CFR 19.110. (38 U.S.C. 3013)

Cross-references: § 3.103, Due process. § 3.110, Computation of time limits.

10. A new center heading and a § 21.35 are added to read as follows:

Definitions

§ 21.35 Definitions.

(a) *Employment handicap.* This term means an impairment of a veteran's ability to prepare for, obtain, or retain employment consistent with such veteran's abilities, aptitudes, and interests. (38 U.S.C. 1501(1))

(b) *Independence in daily living.* This term means the ability of a veteran, without the service of others, or with a reduced level of the services of others, to live and function within such veteran's family and community. (38 U.S.C. 1501(2))

(c) *Program of education.* This term means:

(1) A combination of subjects or unit courses pursued at a school which is generally acceptable to meet requirements for a predetermined educational, professional or vocational objective; or

(2) Such subjects or courses which are generally acceptable to meet requirements for more than one objective if all objectives pursued are generally recognized as being related to a single career field; or

(3) Any unit course or subject, or combination of courses or subjects, pursued by an eligible veteran at any educational institution required by the Administrator of the Small Business Administration as a condition to obtaining financial assistance under the provisions of section (7)(i)(1) of the Small Business Act. (15 U.S.C. 636(i)(1), 38 U.S.C. 1652(b))

(d) *Program of independent living services and assistance.* This term includes:

(1) The services provided in this program that are needed to enable a veteran to achieve maximum independence in daily living, including counseling, diagnostic, medical, social, psychological, and educational services determined by the Veterans Administration to be necessary, and

(2) The monthly allowance authorized by 38 U.S.C. ch. 31 for such a veteran. (38 U.S.C. 1501(4))

(e) *Rehabilitated to the point of employability.* This term means that the veteran is employable in an occupation, for which a vocational rehabilitation program has been provided under this program (38 U.S.C. 1501(5))

(f) *Rehabilitation program.* This term includes, when appropriate:

(1) A vocational rehabilitation program (see paragraph (i) of this section);

(2) A program of independent living services and assistance (see paragraph (d) of this section) for a veteran for whom a vocational goal has been determined not to be reasonably feasible; or (38 U.S.C. 1501(6))

(3) A program of employment services for employable veterans who are prior participants in Veterans Administration or state-federal vocational rehabilitation programs. (38 U.S.C. 1517)

(g) *Serious employment handicap.* This term means a significant impairment of a veteran's ability to prepare for, obtain, or retain employment consistent with such veteran's abilities, aptitudes, and interests. (38 U.S.C. 1501(7))

(h) *Vocational goal.* This term means a gainful employment status consistent with a veteran's abilities, aptitudes, and interests. (38 U.S.C. 1501(8))

(i) *Vocational rehabilitation program.* This term includes:

(1) The services that are needed for the accomplishment of the purposes of 38 U.S.C. ch. 31 including such counseling, diagnostic, medical, social, psychological, independent living, economic, educational, vocational, and employment services as are determined by the Veterans Administration to be needed;

(i) In the case of a veteran for whom the achievement of a vocational goal has not been found to be infeasible such services include:

(A) Determining whether a vocational goal is reasonably feasible;

(B) Improving the veteran's potential to participate in a program of services designed to achieve a vocational goal;

(C) Enabling the veteran to achieve maximum independence in daily living;

(ii) In the case of a veteran for whom achievement of a vocational goal is feasible, such services include assisting the veteran to become, to the maximum extent feasible, employable and to obtain and maintain suitable employment; or

(2) The term also includes the monetary assistance authorized by 38 U.S.C. ch. 31 for a veteran receiving any of the services described in this paragraph. (38 U.S.C. 1501(9))

(j) *Program of employment services.* This term includes the counseling, medical, social, and other placement and post-placement services provided to a veteran under 38 U.S.C. ch. 31 to assist the veteran in obtaining or maintaining suitable employment. (38 U.S.C. 1517)

(k) *Other terminology.* The following are primarily intended as explanations rather than definitions of terms to which frequent reference will be made in these regulations.

(1) *Counseling psychologist.* Unless otherwise stated, the term "counseling psychologist" refers to a counseling psychologist in the Vocational Rehabilitation and Counseling Service in the Department of Veterans Benefits, Veterans Administration. (38 U.S.C. 1518(c))

(2) *Vocational rehabilitation specialist.* Unless otherwise stated, the term "vocational rehabilitation specialist" refers to a vocational rehabilitation specialist in the Vocational Rehabilitation and Counseling Service in the Department of Veterans Benefits of the Veterans Administration, or to a Veterans Administration counseling psychologist

performing the duties of a Vocational Rehabilitation Specialist. (38 U.S.C. 1518(c))

(3) *School, educational institution, institution.* These terms means any public or private school, secondary school, vocational school, correspondence school, business school, junior college, teachers' college, college, normal school, professional school, university, or scientific or technical institution, or other institution furnishing education for adults. (38 U.S.C. 1652(c))

(4) *Training establishment.* This term means any establishment providing apprentice or other training on the job, including those under the supervision of a college or university or any State department of education, or any State apprenticeship agency, or any State board of vocational education, or any joint apprenticeship committee, or the Bureau of Apprenticeship and Training established in accordance with 29 U.S.C. Chapter 4C, or any agency of the Federal Government authorized to supervise such training. (38 U.S.C. 1652(e))

(5) *Rehabilitation facility.* This term means a distinct organizational entity, either separate or within a larger insititution or agency, which provides goal-oriented comprehensive and coordinated services to individuals designed to evaluate and minimize the handicapping effects of physical, mental, social and vocational disadvantages, and to effect a realization of the individual's potential. (38 U.S.C. 1515(a))

(6) *Workshop.* This term means a charitable organization or institution, conducted not for profit, but for the purpose of carrying out an organized program of evaluation and rehabilitation for handicapped workers and/or for providing such individuals with remunerative employment and other occupational rehabilitative activity of an educational or therapeutic nature. (38 U.S.C. 1515(a))

11. The center heading and § 21.40 are revised to read as follows:

Basic Entitlement

§ 21.40 Basic entitlement.

A veteran shall be entitled to a program of rehabilitation services under 38 U.S.C. chapter 31 if all of the following conditions are met:

(a) *Service-connected disability.*

(1) The veteran has a service-connected disability which is, or but for the receipt of a retired pay would be, compensable under 38 U.S.C. ch. 11 and which was incurred or aggravated in service on or after September 16, 1940, or

(2) A serviceperson is hospitalized for a service-connected disability in a hospital over which the Secretary concerned has charge pending discharge or release from active military, naval or air service and is suffering from a disability which will likely be compensable under 38 U.S.C. ch. 11. (38 U.S.C. 1502)

(b) *Employment handicap.* The veteran is determined to be in need of rehabilitation to overcome an employment handicap. (38 U.S.C. 1502)

12. A new center heading is added and § 21.41 is revised to read as follows:

Periods of Eligibility

§ 21.41 Basic period of eligibility.

A veteran having basic entitlement may be provided a program of rehabilitative services the twelve-year period following discharge. The beginning date of the twelve-year period is the day of the veteran's discharge or release from his or her last period of active military, naval, or air service and the ending date is twelve years from the discharge or release date, unless the beginning date is deferred or the ending date is deferred or extended as provided in §§ 21.42, 21.44, and 21.45. (38 U.S.C. 1503(a))

13. Section 21.42 is revised to read as follows:

§ 21.42 Basic period of eligibility deferred.

The basic twelve-year period of eligibility does not run if the veteran was prevented from beginning or continuing a vocational rehabilitation program for one of the following reasons:

(a) *Compensable service-connected disability not established.* The basic twelve-year period shall not begin to run until the veteran establishes the existence of a compensable service-connected disability. When the veteran establishes the existence of a compensable service-connected disability, the basic twelve-year period begins on the day the Veterans Administration notifies the veteran of this. The ending date is twelve years from the beginning date. (38 U.S.C. 1503(b)(3))

(b) *Character of discharge.* (1) The basic twelve-year period of eligibility shall not begin to run during any period when the veteran had not met the requirement of a discharge or release from the active military, naval or air services under conditions other than dishonorable before:

(i) The discharge or release was changed by appropriate authority, or

(ii) The Veterans Administration determines that the discharge or release was under conditions other than dishonorable.

(2) The basic twelve-year period shall not begin to run during any period in which the veteran's discharge or dismissal was considered a bar to benefits by the Veterans Administration, before this bar is removed by the Veterans Administration.

(3) When there is a change in the character of discharge or dismissal under paragraphs (b) (1) or (2) of this section the beginning date of the basic twelve-year period of eligibility is the effective date of the change. Determination of character of discharge and change in the character of discharge shall be made under the provisions of § 3.12. The ending date is twelve years from the beginning date. (38 U.S.C. 1502(b) (2))

(c) *Medical condition prevents initiation or continuation.* The basic twelve-year period of eligibility shall not begin to run or continue to run during any period of 30 days or more in which the veteran's participation in vocational rehabilitation is infeasible because of the veteran's medical condition. The twelve-year period shall begin or resume when it is feasible for the veteran to participate in a vocational rehabilitation program, as that term is defined in § 21.35. (38 U.S.C. 1503(b)(1))

§ 21.43 [Removed]

14. Section 21.34 is removed.

15 New § 21.44 is added to read as follows:

§ 21.44 Extension beyond basic period of eligibility because of serious employment handicap.

The basic period of eligibility of a veteran with a serious employment handicap may be extended when the veteran's employment and particular handicap necessitate an extension as necessary to pursue a vocational rehabilitation program under the following conditions:

(a) *Not rehabilitated to the point of employability.* The basic period of eligibility may be extended when the veteran has not previously been rehabilitated to the point of employability. (38 U.S.C. 1503(c))

(b) *Rehabilitated to the point of employability.* The veteran was previously declared rehabilitated to the point of employability, under the Veterans Administration vocational rehabilitation program, but either:

(1) The veteran's service-connected disability or disabilities have worsened

to the extent that he or she is unable to perform the duties of the occupation in which he or she is trained, or in a related occupation; or

(2) The occupation in which the veteran was rehabilitated to the point of employability is not presently suitable in view of the veteran's current employment handicap and capabilities. (The finding of unsuitability must be based upon objective evidence developed in the course of reconsideration which shows that the nature or extent of the veteran's employment handicap and his or her capabilities are significantly different than were previously found.) or;

(3) Occupational requirements have changed and additional services are needed to help the veteran continue in the occupation in which he or she was trained or in a related field. (38 U.S.C. 1503(c))

16. New § 21.45 is added to read as follows:

§ 21.45 Extension beyond basic period of eligibility for a program of independent living services.

The period of eligibility for a veteran to pursue a program of independent living services may be extended beyond the basic twelve-year period under the following conditions:

(a) The veteran's medical condition (service and nonservice-connected disabilities) is so severe that achievement of a vocational goal is not reasonably feasible, and (b) the extension is necessary to ensure that he or she will achieve maximum independence in daily living. (38 U.S.C. 1503(d))

17. New § 21.47 is added to read as follows:

§ 21.47 Eligibility for employment assistance.

(a) *Eligibility of current participants in chapter 31.* Each veteran currently in a vocational rehabilitation program under 38 U.S.C. ch. 31 is eligible for assistance in obtaining and maintaining suitable employment. (38 U.S.C. 1517)

(b) *Eligibility of prior participants in vocational rehabilitation programs.* A veteran who has been in a vocational rehabilitation program under chapter 31 or a similar program under the Rehabilitation Act of 1973 and is employable in competitive employment or in a sheltered workshop or other special situation at the minimum wage is eligible for employment assistance under the following conditions:

(1) The veteran has filed a claim for vocational rehabilitation or employment assistance;

(2) The veteran has a service-connected disability which:

(i) Was incurred on or after September 16, 1940; and

(ii) Is compensable, but for payment of retired pay; and

(3) The veteran:

(i) Completed a vocational rehabilitation program under 38 U.S.C. ch. 31 or participated in such a program for at least 90 days on or after September 16, 1940; or

(ii) Completed a vocational rehabilitation program under the Rehabilitation Act of 1973 after September 26, 1975, or participated in such a program which included at least 90 days of post-secondary education or vocational training. (38 U.S.C. 1517)

(c) *Exclusion of period of employment assistance from period of eligibility for vocational rehabilitation.* The periods during which employment assistance may be provided are not subject to limitations on periods of eligibility for vocational rehabilitation provided in §§ 21.41 through 21.45. (38 U.S.C. 1505)

18. New § 21.48 is added to read as follows:

§ 21.48 Severance of service connection—reduction to noncompensable degree.

When a rating action is taken which proposes severance of service-connection or reduction to a noncompensable degree, the provisions of the following paragraphs will govern the veteran's entitlement to rehabilitation and employment assistance under 38 U.S.C. ch. 31.

(a) *Applicant.* If the veteran is an applicant for rehabilitation or employment assistance when the proposed rating action is taken, all processes respecting determination of entitlement or induction into training shall be immediately suspended. In no event shall any veteran be inducted into a rehabilitation program or provided employment assistance during the interim periods provided in § 3.105 (d) and (e) of this title. If the proposed rating action becomes final, the application will be denied. See also § 21.50 as to initial evaluation. (38 U.S.C. 1504)

(b) *Reduction while in a rehabilitation program.* If the proposed rating action is taken while the veteran is in a rehabilitation program and results in a reduction to a noncompensable rating of his or her disability, the veteran may be retained in the program until the completion of the program, except if "discontinued" under § 21.198 he or she may not reenter. (38 U.S.C. 1503)

(c) *Severance while in a rehabilitation program.* If the proposed rating action is taken while the veteran is in a rehabilitation program and results in severance of the service-connection of his or her disability, rehabilitation will be terminated effective as of the last day of the month in which severance of service-connection becomes final. (38 U.S.C. 1503)

19. A new center heading and new §§ 21.50, 21.51, 21.52, 21.53, 21.57, 21.58, and 21.59 are added to read as follows:

Initial and Extended Evaluation

§ 21.50 Initial evaluation.

(a) *Eligibility for initial evaluation.* The Veterans Administration shall provide an initial evaluation to each individual who applies for benefits under chapter 31, if the individual is:

(1) A veteran who has a compensable service-connected disability which was incurred in, or aggravated by service on or after September 16, 1940; or

(2) A serviceperson who is hospitalized for a service-connected disability in a hospital over which the Secretary concerned has charge pending discharge or release from active military, naval or air service, and the serviceperson is suffering from a disability which the Veterans Administration has determined will likely be compensable.

(38 U.S.C. 1502(1))

(b) *Purpose.* An initial evaluation will be provided to each individual who meets the conditions of paragraph (a) of this section to:

(1) Determine the existence of an employment handicap;

(2) Determine the basic twelve-year period of eligibility;

(3) Determine whether an employment handicap shall be considered a serious employment handicap;

(4) Determine whether the basic twelve-year period of eligibility is extended for a veteran with a serious employment handicap;

(5) Determine as expeditiously as possible, without an extended evaluation, whether achievement of a vocational goal is reasonably feasible;

(6) Evaluate the ability of the veteran to live and function independently within the veteran's family and community;

(7) Determine if the veteran is eligible for employment services under § 21.47;

(8) Develop information necessary to plan an individual program for a veteran found eligible and entitled to services under chapter 31; and

(9) Assist a veteran who is found ineligible for assistance under chapter 31 to identify other resources and programs for which he or she may be eligible.

(38 U.S.C. 220, 1506(a), 1516)

(c) *Scope of initial evaluation.* The initial evaluation shall include consideration of:

(1) The handicapping effects of the veteran's service-connected disability on employability and independence in daily living;

(2) The veteran's residual physical and mental capabilities which contribute to employability and independence in daily living;

(3) The veteran's ability to function independently in family and community;

(4) Prior assessments of employability by a counseling psychologist;

(5) Assessments authorized to provide additional information necessary for initial evaluation; and

(6) The veteran's personal history including:

(i) Education and training;

(ii) Employment;

(iii) Nonservice-connected disability(ies), and

(iv) Family and community adjustment.

(38 U.S.C. 1506(a))

(d) *Responsibility for initial evaluation.* (1) All determinations regarding service requirements for basic entitlement and, the beginning and ending dates of a veteran's basic twelve-year period of eligibility shall be made by appropriate staff of the Adjudication Division.

(2) All other determinations, including extension of the basic twelve-year period because of serious employment handicap, and entitlement to assistance under chapter 31 shall be made by appropriate staff of the Vocational Rehabilitation and Counseling Division.

(38 U.S.C. 1502, 1503, 1515(a))

(e) *Cooperation of the veteran.* The cooperation of the veteran is essential to an initial evaluation. The purpose of the initial evaluation and the steps in the process shall be explained to the veteran and his or her cooperation requested. If the veteran does not cooperate in the initiation or completion of the initial evaluation the counseling psychologist shall make a reasonable effort through counseling to secure the veteran's cooperation. If the veteran's cooperation cannot be secured, the counseling psychologist shall suspend the initial evaluation until such time as the veteran cooperates. The veteran will be informed of any suspension of the initial evaluation, the reasons for this action, and the steps necessary to resume the evaluation.

(38 U.S.C. 1511)

§ 21.51 Employment handicap.

(a) *Importance of decision.* The proper determination of employment handicap is a critical decision for rehabilitation planning and program accountability. To the extent possible, necessary information shall be developed in the course of initial evaluation and the significance of the information under paragraphs (d) and (e) of this section for determining employment handicap shown in each case.

(38 U.S.C. 1501(1), 1502)

(b) *Definition.* The term "employment handicap" means an impairment of the veteran's ability to prepare for, obtain, or retain employment consistent with the veteran's abilities, aptitudes, and interests.

(38 U.S.C. 1501(1))

(c) *Components of employment handicap.* Components of employment handicap include:

(1) *Impairment.* This term means the restrictions on employability caused by:

(i) The veteran's service and nonservice-connected disabilities;

(ii) Deficiencies in education and training;

(iii) Negative attitudes toward the disabled; and

(iv) Other pertinent factors.

(2) *Service-connected disability.* The veteran's service-connected disability need not be the sole or primary cause of the employment handicap but it must materially contribute to the impairment described in paragraph (c)(1) of this section. Therefore its effects must be identifiable, measurable, or observable.

(3) *Nonservice-connected disability.* This term includes all physical and mental disabilities which have not been found to be service-connected by the Veterans Administration, including alcoholism and drug abuse. The effects of alcoholism and drug abuse are to be considered in the same manner as other nonservice-connected disabilities in evaluating restrictions on employability. When the manifestations of alcoholism, drug abuse or other nonservice-connected disabilities raise questions as to the reasonable feasibility of a vocational goal for a veteran otherwise entitled to assistance under chapter 31 such questions will be resolved under provisions of § 21.53.

(4) *Consistency with abilities, aptitudes, and interests.* The following points should be considered to determine if the veteran's training and employment are consistent with his or her abilities, aptitudes and interests:

(i) A finding that a veteran is employed in an occupation which is consistent with his or her abilities, aptitudes and interests may not be made if the occupation does not require reasonably developed skills, except under conditions described in paragraphs (e) (2) and (3), of this section;

(ii) The veteran's residual capacities, as well as limitations arising from the veteran's service and nonservice-connected disabilities are relevant;

(iii) Evidence of the consistency of interests with training and employment may be based on:

(A) The veteran's statements to a Veterans Administration counseling psychologist during initial evaluation or subsequent reevaluation;

(B) The veteran's history of participation in specific activities; or

(C) Information developed by the Veterans Administration through use of interest inventories.

(38 U.S.C. 1502)

(d) *Determining extent of impairment.* The extent of the veterans impairment shall be assessed through consideration of factors described in paragraph (c)(1) of this section:

(38 U.S.C. 1502)

(e) *Material contribution of service-connected disability to the impairment.* A finding that the veteran's service-connected disability materially contributes to his or her impairment to employment will be made by assessing the following factors:

(1) *Preparation for employment.* The service-connected condition adversely affects the veteran's current ability to prepare for employment in one or more fields which would otherwise be consistent with the veteran's abilities, aptitudes, and interests. An adverse effect is demonstrated when the physical or psychological results of the service-connected condition:

(i) Impair the veteran's ability to train;

(ii) Prevent or impede access to training facilities; or

(iii) Diminish the veteran's motivation and ability to mobilize his or her energies for education or training.

(2) *Obtaining employment.* The service-connected condition places the veteran at a competitive disadvantage with similarly circumstanced nondisabled persons in obtaining employment. A veteran without reasonably developed specific job skills shall be considered to be at a competitive disadvantage unless evidence of record shows a history of current, stable, continuing employment.

(3) *Retaining employment.* The physical or psychological effects of a service-connected condition adversely

affect the veteran's ability to maintain employment which requires reasonably developed skills. This criterion is not met if a veteran though lacking reasonably developed skills, has a history of continuing, stable employment.

(38 U.S.C. 1501(1))

(f) Determination of employment handicap. The counseling psychologist may find the veteran has an employment handicap.

(1) An employment handicap which entitles the veteran to assistance under this program exists when all of the following conditions are met:

(i) The veteran has an impairment of employability;

(ii) The veteran's service-connected disability materially contributes to the impairment of employability;

(iii) The veteran has not overcome the effects of the impairment of employability through employment in, or qualification for employment in an occupation consistent with his or her pattern of abilities, aptitudes, and interests.

(2) An employment handicap does not exist when *any* of the following conditions is present:

(i) The veteran's employability is not impaired.

(ii) The veteran's employability is impaired, but his or her service-connected disability does not materially contribute to the impairment of employability.

(iii) The veteran has overcome the effects of the impairment of employability through employment in, or qualification for employment in an occupation consistent with his or her pattern of abilities, aptitudes and interests.

(38 U.S.C. 1502(2))

(g) *Eligibility for employment assistance.* If a veteran is not found to have an employment handicap delete a separate determination of his or her eligibility for employment assistance will be made under provisions of § 21.47.

(38 U.S.C. 1517)

(h) *Responsibility for determinations.* The determination of an employment handicap and eligibility for employment assistance may only be made by a counseling psychologist in the Vocational Rehabilitation and Counseling Division.

(38 U.S.C. 1506(a))

§ 21.52 Serious employment handicap.

(a) *Requirement of determination of serious employment handicap.* A separate determination whether a serious employment handicap exists shall be made in each case in which an employment handicap is found.

(38 U.S.C. 1506(a))

(b) *Definition.* The term "serious employment handicap" means a significant impairment of a veteran's ability to prepare for, obtain or retain employment consistent with such veteran's abilities, aptitudes, and interests.

(38 U.S.C. 1501(7))

(c) *Serious employment handicap exists.* A veteran who has been found to have an employment handicap shall also be held to have serious employment handicap if he or she has:

(1) A neuropsychiatric service-connected disability rated at thirty percent or more disabling; or

(2) Any other service-connected disability rated at fifty percent or more disabling.

(38 U.S.C. 1506(a))

(d) *Serious employment handicap may exist.* A veteran with a nonneuropsychiatric service-connected disability may be found to have a serious employment handicap even though the disability is rated at thirty or forty percent disabling, when either of the following conditions exists:

(1) The veteran has a prior history of poor adjustment in training and employment, and special efforts will be needed if the veteran is to be rehabilitated; or

(2) The veteran's situation presents special problems due to nonservice-connected disability, family pressures, etc., and a number of special and supportive services are needed to effect rehabilitation.

(38 U.S.C. 1506(a))

(e) *Serious employment handicap normally not found.* A finding of serious employment handicap will normally not be made when a veteran's service-connected disability is rated at less than thirty percent disabling. A finding of serious employment handicap may nevertheless be made when:

(1) The veteran's service-connected disability has caused substantial periods of unemployment or unstable work history;

(2) The veteran has demonstrated a pattern of maladaptive behavior which is shown by a history of withdrawal from society or continuing dependency on government income support programs; and

(3) The Vocational Rehabilitation Panel has reviewed the case under provisions of § 21.62 and forwarded its evaluation to the counseling psychologist.

(38 U.S.C. 1506(a))

(f) *Responsibility for determining serious employment handicap.* A counseling psychologist in the Vocational Rehabilitation and Counseling Division shall make determinations of serious employment handicap.

(38 U.S.C. 1506(a))

§ 21.53 Reasonable feasibility of achieving a vocational goal.

(a) *Requirement.* The Veterans Administration shall determine the reasonable feasibility of achieving a vocational goal in each case in which a veteran has either:

(1) An employment handicap, or

(2) A serious employment handicap.

(38 U.S.C. 1506(a))

(b) *Definition.* The term "vocational goal" means a gainful employment status consistent with the veteran's abilities, aptitudes, and interests.

(38 U.S.C. 1501(8))

(c) *Expeditious determination.* The determination of reasonable feasibility shall be made as expeditiously as possible when necessary information has been developed in the course of initial evaluation. If an extended evaluation is necessary as provided in § 21.57 a decision of feasibility shall be made by the end of the extended evaluation. Any reasonable doubt shall be resolved in favor of a finding of feasibility.

(38 U.S.C. 1505(d))

(d) *Vocational goal is reasonably feasible.* Achievement of a vocational goal is reasonably feasible for a veteran with either an employment or serious employment handicap when the following conditions are met:

(1) Vocational goal(s) has (have) been identified;

(2) The veteran's physical and mental conditions permit training for the goal(s) to begin within a reasonable period; and

(3) The veteran:

(i) Possesses the necessary educational skills and background to pursue the vocational goal; or

(ii) Will be provided services by the Veterans Administration to develop such necessary educational skills as part of the program.

(38 U.S.C. 1504(a)(1), 1506(a))

(e) *Criteria for reasonable feasibility not met.* (1) When all of the criteria of paragraph (d) of this section are not met,

the Veterans Administration may find that:

(i) A period of extended evaluation is necessary to determine whether achievement of a vocational goal is reasonably feasible,

(ii) Achievement of a vocational goal is infeasible.

(2) A finding that achievement of a vocational goal is infeasible without a period of extended evaluation requires:

(i) Consultation with the Vocational Rehabilitation Panel, and

(ii) Compelling evidence which establishes infeasibility beyond any reasonable doubt.

(38 U.S.C. 1504(a)(1), 1506(b))

(f) *Responsibility for determining the reasonable feasibility of achieving a vocational goal.* A counseling psychologist in the Vocational Rehabilitation and Counseling Division shall determine whether achievement of a vocational goal is reasonably feasible.

(38 U.S.C. 1506(b))

§ 21.57 Extended evaluation.

(a) *Purpose.* The purpose of an extended evaluation for a veteran with a serious employment handicap is to determine the feasibility of the veteran achieving a vocational goal, when this decision reasonably cannot be made on the basis of information developed during the initial evaluation.

(38 U.S.C. 1506(c))

(b) *Scope of services.* During the extended evaluation, a veteran may be provided:

(1) Diagnostic and evaluative services;

(2) Services to improve his or her ability to attain a vocational goal;

(3) Services to improve his or her ability to live and function independently in the community;

(4) An allowance as provided in § 21.260.

(38 U.S.C. 1504)

(c) *Determination.* The determination of the reasonable feasibility of a vocational goal will be made at the earliest time possible during an extended evaluation, but no later than the end of the period of evaluation or an extension of that period. Any reasonable doubt as to feasibility will be resolved in the veteran's favor.

(1) When a vocational goal is reasonably feasible, an IWRP (Individualized Written Rehabilitation Plan) will be developed as indicated in § 21.84.

(2) When a vocational goal is not reasonably feasible, information developed in the evaluation will be the basis for recommendations and referral to the Vocational Rehabilitation Panel. The Panel will consider the case under provisions of § 21.62(b).

(38 U.S.C. 1506(b))

(d) *Responsibility for determining the need for a period of extended evaluation.* A counseling psychologist in the Vocational Rehabilitation and Counseling Division shall determine whether a period of extended evaluation is needed.

(38 U.S.C. 1506(c))

§ 21.58 Redetermination of employment handicap and serious employment handicap.

(a) *Prior to induction into a program.* A determination as to employment handicap, serious employment handicap, or eligibility for a program of employment services will not be changed except for:

(1) Unmistakable error in fact or law; or

(2) New and material evidence which justifies a change.

(38 U.S.C. 1502, 1506)

(b) *After induction into a program.* (1) The Veterans Administration will not redetermine a finding of employment handicap, serious employment handicap, or eligibility for a program of employment services subsequent to the veteran's induction into a program because of a reduction in his or her disability rating, including a reduction to 0 percent:

(2) The Veterans Administration may consider whether a finding of employment handicap should be changed to serious employment handicap when there is an increase in the degree of service-connected disability, or other significant change in the veteran's situation;

(3) A redetermination of employment handicap, serious employment handicap, or eligibility for a program of employment services will be made when there is a clear and unmistakable error of fact or law.

(38 U.S.C. 1502, 1506)

(c) *Following rehabilitation or discontinuance.* A veteran's eligibility and entitlement to assistance must be redetermined in any case in which:

(1) The veteran is determined to be rehabilitated to the point of employability under the provisions of § 21.190;

(2) The veteran is determined to meet the requirements for rehabilitation under the provisions of § 21.196; or

(3) The veteran's program is discontinued under the provisions of § 21.198, except as described in § 21.198(c)(3).

(38 U.S.C. 1502, 1511)

§ 21.59 Review and appeal of decisions on eligibility and entitlement.

A veteran may appeal decisions of the Vocational Rehabilitation and Counseling staff on eligibility and entitlement to rehabilitation services to the Board of Veterans Appeals as provided in §19.2 of Title 38, CFR. However, the veteran or an accredited representative, on his or her behalf, may request administrative review by Central Office prior to filing an appeal to BVA. A case already on appeal to BVA may not be referred to Central Office for administrative review or advisory opinion.

(38 U.S.C. 1507(c))

20. New §§ 21.60 and 21.62 and a center heading are added to read as follows:

Vocational Rehabilitation Panel

§ 21.60 Vocational Rehabilitation Panel.

(a) *Establishment of the Panel.* A Vocational Rehabilitation Panel will be established at each field station by the station head. The purpose of the Panel is to provide technical assistance in the planning of rehabilitation programs for seriously disabled veterans and dependents. This purpose will be most effectively carried out through use of the services of a wide range of professionals to bring the resources of the Veterans Administration and the community to bear on problems presented in the individual case.

(38 U.S.C. 1504(a))

(b) *Composition of the Panel.* The Panel will include, but not be limited to the following:

(1) A counseling psychologist in the VR&C (Vocational Rehabilitation and Counseling) Division as the chairperson;

(2) A vocational rehabilitation specialist in VR&C;

(3) A medical consultant from a Veterans Administration Medical Center;

(4) A member of the Social Services staff from a Veterans Administration Medical Center; and

(5) Other specialists from the Veterans Administration.

(38 U.S.C. 1504(a), 1515(a))

(c) *Appointment to the Panel.*

(1) The VR&C (Vocational Rehabilitation and Counseling) Officer may not serve as either chairperson or member of the Panel.

(2) The VR&C Officer will arrange for the participation of nonmedical professional staff in the Panel's meetings.

(38 U.S.C. 1515(a)(2))

(d) *Scope of Panel review.* The Panel will review each case which has been referred to it in relation to:

(1) Specific reason for the referral; and

(2) Other problem areas which the Panel identifies in the course of its consideration of the case.

(38 U.S.C. 1504(a))

(e) *Referral.* A case may be referred to the Panel by:

(1) A counseling psychologist in VR&C;

(2) A vocational rehabilitation specialist in VR&C; or

(3) The VR&C officer.

(38 U.S.C. 1504(a))

(f) *Report.* The Panel must prepare a report on its findings and recommendations in each case. The Panel's recommendations may include specific actions which are warranted on the basis of current information, or may identify additional information needed to provide a sounder basis for planning the veteran's program of rehabilitation.

(38 U.S.C. 1504(a))

§ 21.62 Duties of the Vocational Rehabilitation Panel.

(a) *Consultation requested.* The Panel shall provide technical and consultation services when requested by professional staff of the Vocational Rehabilitation and Counseling Division to:

(1) Assist the staff in planning and carrying out rehabilitation plans for seriously disabled veterans and dependents and

(2) Consider other cases of individuals eligible for, or being provided, assistance under chapters 31, 32, 34, and 35 or title 38, U.S.C. in which interdisciplinary review will be valuable.

(38 U.S.C. 1504(a))

(b) *Consultation required.* The Panel's consideration is required in the following instances:

(1) *Serious employment handicap.* The Panel will review each case in which the counseling psychologist is considering whether a veteran with a disability rating of less than thirty percent has a serious employment handicap as required by § 21.52(e)(3).

(38 U.S.C. 1506(a))

(2) *Extended evaluation.* The Panel's review is required for programs of extended evaluation which:

(i) Were originally planned to be completed within 12 months and there is a reasonable expectation that a decision can be reached during an extension not to exceed six months;

(ii) Are planned for more than 12 but less than 18 months;

(iii) Are planned for more than 18 months.

(38 U.S.C. 1505(a))

(3) *Rehabilitation not reasonably feasible.* The Panel will review each finding by VR&C staff that a rehabilitation program is not reasonably feasible, if the Panel has not previously participated in consideration of the case. This includes:

(i) A finding that vocational rehabilitation is not reasonably feasible; or

(ii) A finding that a program of independent living services is not reasonably feasible because:

(A) The veteran's level of independence cannot be measurably improved; or

(B) Such a program is medically contraindicated at this time.

(38 U.S.C. 1506(a))

(4) *Discontinuance.* The Panel shall review any case in which discontinuance is being considered for a veteran with a service-connected disability rated fifty percent or more disabling.

(38 U.S.C. 1504 (a))

(c) *Independent living services.* The Panel has a key responsibility to assure that seriously disabled service-connected veterans who need independent living services to increase their independence in daily living are provided necessary services. In carrying out this responsibility the Panel shall:

(1) Review all cases which come before it to assure that the proposed program of rehabilitation includes those services necessary to increase the veteran's level of independence in vocational pursuits and capacity for functioning in family and community;

(2) Review cases in which a preliminary finding of infeasibility has been made, to evaluate whether such findings are due to failure to include services which could be authorized under chapter 31 to improve the veteran's functional capacity;

(3) Review all cases in which the counseling psychologist prepares an IILP (Individualized Independent Living Service Program) for participation in the independent living program authorized under chapter 31 as provided in § 21.160 and § 21.162.

(d) *Dependents.* The specific duties of the Panel with respect to dependents are more fully described in § 21.3300, § 21.3301, § 21.3304 § 21.4105, § 21.4276.

(38 U.S.C. 1736, 1740, 1741, 1742, 1743)

21. A new center heading and new §§ 21.70, 21.72, 21.73, 21.74, 21.76 and 21.78 are added to read as follows:

Duration of Rehabilitation Programs

§ 21.70 Vocational rehabilitation.

(a) *General.* The goal of a vocational rehabilitation program is to:

(1) Evaluate and improve the veteran's ability to achieve a vocational goal;

(2) Provide services needed to qualify for suitable employment;

(3) Enable the veteran to achieve maximum independence in daily living;

(4) Enable the veteran to become employed in a suitable occupation and to maintain suitable employment.

(38 U.S.C. 1501(9))

(b) *Vocational rehabilitation program.* This term includes:

(1) The services that are needed for the accomplishment of the purposes of chapter 31, including such counseling, diagnostic, medical, social, psychological, independent living, economic, educational, vocational, and employment services as are determined by the Veterans Administration to be needed:

(i) In the case of a veteran for whom the achievement of a vocational goal has not been found to be infeasible such needed services include:

(A) Determining whether a vocational goal is reasonably feasible;

(B) Improving the veteran's potential to participate in a program of services designed to achieve a vocational goal;

(C) Enabling the veteran to achieve maximum independence in daily living;

(ii) In the case of a veteran for whom achievement of a vocational goal is feasible, such needed services include assisting the veteran to become, to the maximum extent feasible, employable and to obtain and maintain suitable employment; or

(2) The term also includes the monetary assistance authorized by chapter 31 for a veteran receiving any of the services described in this paragraph.

(38 U.S.C. 1501(9))

(c) *Duration of vocational rehabilitation.* Decisions on the duration of periods for attaining the goals named in paragraph (a) of this section are made in the course of development and approval of the Individualized Written Rehabilitation Plan. However, the duration of a vocational rehabilitation program may not exceed 48 months (or its equivalent when pursued on a part-time basis), except as provided in § 21.78.

(38 U.S.C. 1795, 1505)

§ 21.72 Rehabilitation to the point of employability.

(a) *General.* Rehabilitation to the point of employability may include the services needed to:

(1) Evaluate and improve the veteran's ability to undertake training;

(2) Train the veteran to the level generally recognized as necessary for entry into employment in a suitable occupational objective. Where a particular degree, diploma, or certificate is generally necessary for entry into the occupation, e.g., an MSW for social work, the veteran shall be trained to that level.

(38 U.S.C. 1504)

(b) *When duration of training may exceed general requirements.*—(1) *Employment handicap.* If the amount of training necessary to qualify for employment in a particular occupation in a geographical area where a veteran lives or will seek employment exceeds the amount generally needed for employment in that occupation, the Veterans Administration will provide, or arrange for the necessary additional training.

(38 U.S.C. 1505(c))

(2) *Serious employment handicap.* The Veterans Administration will assist a veteran with a serious employment handicap to train to a higher level than is usually required to qualify in a particular occupation, when one of the following conditions exist:

(i) The veteran is preparing for a type of work in which he or she will be at a definite disadvantage in competing with nondisabled persons for jobs or business, and the additional training will help to offset the competitive disadvantage;

(ii) The number of feasible occupations are restricted, and additional training will enhance the veteran's employability in one of those occupations;

(iii) The number of employment opportunities within feasible occupations are restricted.

(38 U.S.C. 1505(c))

(c) *Responsibility for estimating duration of training.* (1) The counseling psychologist shall estimate the duration of training and the estimate shall be incorporated in the IWRP (Individualized Written Rehabilitation Plan). When the period of training is estimated to exceed 48 months, the concurrence of the Vocational Rehabilitation and Counseling Officer is required, prior to approving the IWRP, under conditions listed in § 21.78.

(2) The estimated duration of the period of training required to complete an original or amended IWRP may be extended when necessary. Authorization of an extension is the responsibility of the counseling psychologist, except as provided in paragraph (d) of this section. Any extension which will result in use of more than 48 months of entitlement must meet conditions described in § 21.78.

(38 U.S.C. 1795)

(d) *Extension of training by the vocational rehabilitation specialist.* (1) The VRS (Vocational Rehabilitation Specialist) may authorize an extension of up to six months of the period of vocational rehabilitation training authorized by the IWRP when:

(i) The veteran is in "rehabilitation to the point of employability" status under § 21.190;

(ii) The veteran has completed more than half of the prescribed training;

(iii) The veteran is making satisfactory progress;

(iv) The extension is necessary to complete training;

(v) Training can be completed within six months; and

(vi) The extension will not result in use of more than 48 months of entitlement under chapter 31 alone or in combination with other programs identified in § 21.4020.

(2) If the conditions listed in paragraph (d)(1) of this section are not met, and an extension is needed to complete the program, the case will be referred to the counseling psychologist for a determination.

(38 U.S.C. 1505(c))

§ 21.73 Employment assistance.

(a) *Duration.* Employment assistance may be provided to the veteran for the period necessary to enable the veteran to secure employment in a suitable occupation, and to adjust in the employment. This period shall not exceed 18 months. A veteran may be provided such assistance if he or she:

(1) Has completed the period of rehabilitation to the point of employability, or

(2) Is eligible for employment assistance as provided in § 21.47.

(38 U.S.C. 1505(b))

(b) *Employment assistance not charged against chapter 31 entitlement.* The period of employment assistance provided in paragraph (a) of this section is not charged against the months of entitlement under chapter 31 (see § 21.70.

(38 U.S.C. 1505(b))

§ 21.74 Extended evaluation.

(a) *General.* An extended evaluation may be authorized for the period necessary to determine whether the attainment of a vocational goal is reasonably feasible for the veteran. The services which may be provided during the period of extended evaluation are listed in § 21.57(b).

(b) *Duration.* An extended evaluation may not be for less than two weeks (full or part-time equivalent) nor for more than twelve months, unless a longer period is necessary to determine whether achievement of a vocational goal is reasonably feasible.

(38 U.S.C. 1505(a))

(c) *Approval of the period of an extended evaluation.* (1) The counseling psychologist may approve an initial period of up to 12 months for an extended evaluation.

(2) An additional period of extended evaluation of up to six months may be approved by the counseling psychologist, if there is reasonable certainty that the feasibility of achieving a vocational goal can be determined during the additional period. The counseling psychologist will obtain technical assistance from the Vocational Rehabilitation Panel in each veteran's case before granting an extension of a period of extended evaluation.

(3) An extension beyond a total period of 18 months for additional periods of up to six months each may only be approved by the counseling psychologist if there is substantial certainty that a determination of feasibility may be made within this extended period. The concurrence of the Director, Vocational Rehabilitation and Counseling Service is also required for this extension.

(38 U.S.C. 1505(a))

§ 21.76 Independent living.

(a) *General.* A program of independent living services may be authorized to enable the veteran to:

(1) Reach the goals of the program, and

(2) Maintain the newly achieved level of independence in daily living.

(38 U.S.C. 1501(4), 1504(b))

(b) *Period of independent living services.* The duration of an independent living services program may not exceed 24 months unless the counseling psychologist finds, following consultation with the Vocational Rehabilitation Panel, that an additional period of up to six months would enable the veteran to substantially increase his or her level of independence in daily living.

(38 U.S.C. 1505(d))

§ 21.78 Approving more than 48 months of rehabilitation.

(a) *General.* Neither the basic period of entitlement which may be authorized for a program of rehabilitation under chapter 31 alone, nor a combination of entitlement of chapter 31 and other programs listed in § 21.4020 shall exceed 48 months except as indicated in paragraphs (b) and (c) of this section.

(38 U.S.C. 1795)

(b) *Employment handicap.* A rehabilitation program for a veteran with an employment handicap may only be extended beyond 48 months when:

(1) The veteran previously completed training for a suitable occupation but the veteran's service-connected disability has worsened to the point that he or she is unable to perform the duties of the occupation for which training had been provided, and a period of training in the same or a different field is required. An extension beyond 48 months under chapter 31 alone shall be authorized for this purpose.

(38 U.S.C. 1505(c)(1)(A))

(2) The occupation in which the veteran previously completed training is found to be unsuitable because of the veteran's abilities and employment handicap. An extension beyond 48 months under chapter 31 alone shall be approved for this purpose.

(38 U.S.C. 1505(c)(1)(B))

(3) The veteran previously used entitlement under other programs administered by the Veterans Administration, including chapters 32, 34, or 35 of title 38 U.S.C. and the additional period of assistance to be provided under chapter 31 which the veteran needs to become employable will result in more than 48 months being used under all Veterans Administration education programs. Under these conditions the number of months necessary to complete the program may be authorized under chapter 31, provided that the length of the extension will not result in authorization of more than 48 months under chapter 31 alone.

(38 U.S.C. 1795)

(4) A veteran in an approved chapter 31 program has elected payment of benefits at the chapter 34 educational assistance rate. The 48 month limitation may be exceeded only:

(i) To the extent that the entitlement in excess of 48 months does not exceed the entitlement previously used by the veteran in a course at the secondary school level under § 21.4235, or

(ii) If the veteran is in a course on a term, quarter, or semester basis which began before the 45 months limitation on chapter 34 entitlement was reached, and completion of the course will be possible by permitting the veteran to complete the training under chapter 31.

(38 U.S.C. 1795)

(5) The assistance to be provided in excess of 48 months consists only of a period of employment assistance (see § 21.73).

(38 U.S.C. 1505(b))

(c) *Serious employment handicap.* The duration of a rehabilitation program for a veteran with a serious employment handicap may be extended beyond 48 months under chapter 31 for the number of months necessary to complete a rehabilitation program under the following conditions:

(1) To enable the veteran to complete a period of rehabilitation to the point of employability;

(2) To provide an extended evaluation in cases in which the total period needed for an extended evaluation and for rehabilitation to the point of employability would exceed 48 months;

(3) To provide a program of independent living services, including cases in which achievement of a vocational goal becomes feasible during or following a program of independent living services;

(4) Following rehabilitation to the point of employability:

(i) The veteran has been unable to secure employment in the occupation for which training has been provided despite intensive efforts on the part of the Veterans Administration and the veteran, and a period of retraining or additional training is needed;

(ii) The skills which the veteran developed in training for an occupation in which he or she was employed are no longer adequate to maintain employment in that field and a period of retraining is needed;

(iii) The veteran's service-connected disability has worsened to the point that he or she is unable to perform the duties of the occupation for which the veteran has been trained, and a period of training in the same or different field is required;

(iv) The occupation in which the veteran previously completed training is found to be unsuitable due to the veteran's abilities and employment handicap.

(5) The assistance to be provided in excess of 48 months consists, only of a period of employment assistance. (see § 21.73).

(38 U.S.C. 1505(c)(2))

(d) *Approval of extension beyond 48 months.* All extensions of a rehabilitation program beyond 48 months of total entitlement under all Veterans Administration programs requires the approval of the counseling psychologist and concurrence of the Vocational Rehabilitation and Counseling Officer. Concurrence of the VR&C officer is not required for an extension due to provision of employment assistance (see § 21.21).

(38 U.S.C. 1505(b))

22. A new center heading and new §§ 21.80, 21.82, 21.84, 21.86, 21.88, 21.90, 21.92, 21.94, 21.96, and 21.98 are added to read as follows:

Individualized Written Rehabilitation Plan

§ 21.80 Requirement for a rehabilitation plan.

(a) *General.* An IWRP (Individualized Written Rehabilitation Plan) will be developed for each veteran eligible for rehabilitation services under chapter 31. The plan is intended to assist in:

(1) Providing a structure which allows VR&C staff to translate the findings made in the course of the initial evaluation into specific rehabilitation goals and objectives;

(2) Monitoring the veteran's progress in achieving the rehabilitation goals established in the plan;

(3) Assuring the timeliness of assistance by Veterans Administration staff in providing services specified in the plan; and

(4) Evaluating the effectiveness of the planning and delivery of rehabilitation services by VR&C staff.

(38 U.S.C. 1507(a))

(b) *When a plan is prepared.* A plan will be prepared in each case in which a veteran will pursue:

(1) A vocational rehabilitation program, as that term is defined in § 21.35(i);

(2) An extended evaluation program;

(3) An independent living services program; or

(4) An employment program.

(38 U.S.C. 1507(a))

(c) *Plan—a generic term.* The term "plan" refers to the IWRP (Individualized Written Rehabilitation Plan) § 21.84, IEEP (Individualized Extended Evaluation Plan) § 21.86, IEAP (Individualized Employment Assistance Plan) § 21.88, and IILP (Individualized Independent Living Plan) § 21.90.

(38 U.S.C. 1507(a))

(d) *Plan not required.* A plan will not be prepared for a veteran who is not

eligible for any assistance under chapter 31. Veterans Administration staff, with the veteran's assistance and cooperation, will utilize information developed in the course of an initial evaluation to assist the veteran to develop alternatives for education and training, independence in daily living, or employment assistance. This assistance should help the veteran in achieving attainable vocational, independent living and employment goals utilizing benefits and services for which the veteran may be eligible under other Veterans Administration or non-Veterans Administration programs.

(38 U.S.C. 220)

§ 21.82 Completing the plan under chapter 31.

(a) *Serious employment handicap.* Each plan for a veteran with a serious employment handicap shall provide for completion of the program provided by the plan under chapter 31. The provisions of § 21.70 and § 21.78(c) are designed to enable a veteran with a serious employment handicap to pursue and complete a rehabilitation plan under Veterans Administration auspices. These provisions shall be used as necessary to accomplish the goals of the plan.

(38 U.S.C. 1505(c), 1507)

(b) *Employment handicap.* A plan for a veteran with an employment handicap that is not a serious employment handicap shall require that the program be completed within 48 months, if the veteran is not eligible for an extension as provided in § 21.78. When the program provided by the plan cannot be completed under chapter 31 because of limitations imposed by the veteran's termination date or months of remaining entitlement, realistic, comprehensive and detailed arrangements must be made which will enable the veteran to successfully complete training under other auspices. If an arrangement cannot be made which meets these requirements, the long-range vocational goal of the veteran must be reevaluated, and another vocational goal selected which can be completed using the veteran's remaining chapter 31 resources.

(38 U.S.C. 1507(a))

(c) *Employment assistance when training is not completed under chapter 31.* A plan for employment assistance may be implemented even though the veteran's training has not been or will not be completed under chapter 31.

(38 U.S.C. 1517(a))

§ 21.84 Individualized written rehabilitation plan.

(a) *Purpose.* The purposes of the IWRP (Individualized Written Rehabilitation Plan) are to:

(1) Identify goals and objectives to be achieved by the veteran during the period of rehabilitation services that will lead to the point of employability;

(2) Plan for placement of the veteran in the occupational field for which training and other services will be provided; and

(3) Specify the key services needed by the veteran to achieve the goals and objectives of the plan.

(38 U.S.C. 1507)

(b) *Elements of the plan.* A plan will include the following:

(1) A statement of long-range rehabilitation goals. Each statement of long-range goals shall include at a minimum:

(i) One vocational goal for a veteran with an employment handicap; or

(ii) One vocational goal and, if applicable, one independent living goal for a veteran with a serious employment handicap.

(2) Intermediate rehabilitation objectives; Intermediate objectives are statements of achievement expected of the veteran to attain the long-range goal. The development of appropriate intermediate objectives is the cornerstone of an effective plan. Intermediate objectives should have the following characteristics:

(i) The activity specified relates to the achievement of the goal;

(ii) The activity specified is definable in terms of observable behavior (e.g., pursuing an A.A. degree);

(iii) The activity has a projected completion date;

(iv) The outcome desired upon completion is measurable (e.g., receiving an A.A. degree).

(3) the specific services to be provided by the Veterans Administration as stated. Counseling shall be included in all plans for a veteran with a serious employment handicap.

(4) The projected starting and completion dates of the planned services and the duration of each service;

(5) Objective criteria and an evaluation procedure and schedule for determining whether the objectives and goals are being achieved as set forth; and

(6) The name, location, and phone number of the DVB case manager is included.

(38 U.S.C. 1507(a))

§ 21.86 Individualized extended evaluation plan.

(a) *Purpose.* The purpose of an IEEP (Individualized Extended Evaluation Plan) is to identify the services needed for the Veterans Administration to determine the veteran's ability to achieve a vocational goal when this cannot reasonably be determined during the initial evaluation.

(38 U.S.C. 1507)

(b) *Elements of the plan.* An IEEP shall include the same elements as an IWRP except that:

(1) The long-range goals shall be to determine whether achievement of a vocational goal is reasonably feasible;

(2) The intermediate objectives relate to problems or questions which must be resolved for the Veterans Administration to determine the reasonable feasibility of achieving a vocational goal.

(38 U.S.C. 1507(a))

§ 21.88 Individualized employment assistance plan.

(a) *Purpose.* The purpose of the IEAP (Individualized Employment Assistance Plan) is to assure that a comprehensive, thoughtful approach is taken, enabling eligible veterans to secure suitable employment.

(38 U.S.C. 1507)

(b) *Requirement for a plan.* An IEAP will be prepared:

(1) As part of an IWRP; or

(2) When the veteran is eligible for employment assistance under provisions of § 21.47.

(38 U.S.C. 1507(a))

(c) *Elements of the plan.* The IEAP shall follow the same structure as the IWRP. Each IEAP will include full utilization of community resources to enable the veteran to:

(1) Secure employment; and

(2) Maintain employment.

(38 U.S.C. 1517)

(d) *Preparation of the IEAP.* Preparation of the IEAP will be completed:

(1) No later than 60 days before the projected end of the period of rehabilitation services leading to the point of employability; or

(2) Following initial evaluation when employment services constitute the whole of the veteran's program under provisions of § 21.47

(38 U.S.C. 1507(a))

§ 21.90 Individualized independent living plan.

(a) *Purpose.* The purpose of the IILP (Individualized Independent Living Plan) is to identify the steps through which a veteran, whose disabilities are so severe that a vocational goal is not reasonably feasible, can become more independent in daily living within the family and community.

(38 U.S.C. 1508)

(b) *Elements of the plan.* The IILP shall follow the same structure as the IWRP. The plan will include:

(1) Services which may be provided under chapter 31 to achieve independence in daily living (38 U.S.C. 1504);

(2) Utilization of programs with a demonstrated capacity to provide independent living services for severely handicapped persons (38 U.S.C. 1504(b), 1520(a));

(3) Services provided under other Veterans Administration and non-Veterans Administration programs needed to achieve the goals of the plan (38 U.S.C. 1507);

(4) Arrangements for maintaining the improved level of independence following completion of the plan (38 U.S.C. 1507(a)).

§ 21.92 Preparation of the plan.

(a) *General.* The plan will be jointly developed by Veterans Administration staff and the veteran.

(38 U.S.C. 1507(a))

(b) *Approval of the plan.* The terms and conditions of the plan must be approved and agreed to by the counseling psychologist, the vocational rehabilitation specialist, and the veteran.

(38 U.S.C. 1507(a))

(c) *Implementation of the plan.* The vocational rehabilitation specialist or counseling psychologist designated as case manager has the primary role in carrying out Veterans Administration responsibility for implementation of the plan.

(38 U.S.C. 1507(a))

(d) *Responsible staff.* The counseling psychologist has the primary responsibility for the preparation of plans.

(38 U.S.C. 1507(a))

§ 21.94 Changing the plan.

(a) *General.* The veteran, the counseling psychologist or the vocational rehabilitation specialist may request a change in the plan at any time.

(38 U.S.C. 1507(c))

(b) *Long-range goals.* A change in the staement of a long-range goal may only be made following a reevaluation of the veteran's rehabilitation program by the counseling psychologist. A change may be made when:

(1) Achievement of the current goal(s) is no longer reasonably feasible; or

(2) The veteran's circumstances have changed or new information has been developed which makes rehabilitation more likely if a different long-range goal is established; and

(3) The veteran fully participates and concurs in the change.

(38 U.S.C. 1507(b))

(c) *Intermediate objectives or services.* A change in intermediate objectives or services provided under the plan may be made by the case manager when such change is necessary to carry out the statement of long-range goals. The veteran must concur in the change.

(38 U.S.C. 1507(b))

(d) *Minor changes.* Minor changes in the plan (e.g., changing the date of a scheduled evaluation) by the case manager may be made without the participation and concurrence of the veteran.

(38 U.S.C. 1507(b))

(e) *Changes in duration of the plan.* Any change in the total duration of a veteran's rehabilitation plan is subject to provisions on duration of a rehabilitation program described in §§ 21.70–21.78.

(38 U.S.C. 1507(b))

§ 21.96 Review of the plan.

(a) *General.* The veteran's progress in reaching the goals of the plan will be reviewed and evaluated as scheduled in the plan by the case manager and the veteran.

(38 U.S.C. 1507(b))

(b) *Comprehensive review required.* The case manager and the veteran will review all of the terms of the plan and the veteran's progress at least every twelve months. On the basis of such review the veteran and the case manager will agree whether the plan should be:

(1) Retained in its current form;

(2) Amended; or

(3) Redeveloped

(38 U.S.C. 1507(b))

§ 21.98 Appeal of disagreement regarding development of, or change in, the plan.

(a) *General.* The veteran may request a review of a proposed, original, or amended plan when Veterans Administration staff and the veteran do not reach agreement on the terms and conditions of the plan. A veteran who requests a review of the plan must submit a written statement to the case manager which:

(1) Requests a review of the proposed, original, or amended plan; and

(2) Details his or her objections to the terms and conditions of the proposed, original, or amended plan.

(38 U.S.C. 1507(c))

(b) *Review by Vocational Rehabilitation and Counseling Officer.* Upon receipt of the veteran's request for review of the plan, the counseling psychologist or the case manager will forward the request together with relevant comment to the VR&C Officer who will:

(1) Review relevant information; and

(2) Inform the veteran of his or her decision within 90 days.

(38 U.S.C. 1507(c))

(c) *Review by Vocational Rehabilitation and Counseling Service.* The veteran's request shall be reviewed by the Director, Vocational Rehabilitation and Counseling Service in any case in which the Vocational Rehabilitation and Counseling Officer is the case manager. The veteran will be informed of the decision within 90 days.

(38 U.S.C. 1507(c))

(d) *Appeal to the Board of Veterans Appeals.* The veteran may appeal an adverse decision of the Vocational Rehabilitation and Counseling Officer, or the Director, Vocational Rehabilitation and Counseling Service to the Board of Veterans Appeals.

(38 U.S.C. 1507(c))

23. A new center heading and a new § 21.100 are added to read as follows:

Counseling

§ 21.100 Counseling.

(a) *General.* A veteran requesting or being furnished assistance under chapter 31 shall be provided professional counseling services by VR&C (Vocational Rehabilitation and Counseling) Service and other staff as necessary to:

(1) Carry out an initial evaluation in each case in which assistance is requested;

(2) Develop a rehabilitation plan or plan for employment services in each case in which the veteran is found during the initial evaluation to be eligible and entitled to services;

(3) Assist veterans found ineligible for services under chapter 31 to the extent provided in § 21.82, and

(4) Try to overcome problems which arise during the course of the veteran's rehabilitation program or program of employment services. (38 U.S.C. 1501)

(b) *Types of counseling services.* The VA will furnish comprehensive counseling services, including but not limited to

(1) Psychological;

(2) Vocational;

(3) Personal adjustment;

(4) Employment;

(5) Educational. (38 U.S.C. 1504)

(c) *Qualifications.* Counseling services may only be furnished by VA or other personnel who meet requirements established under provisions of § 21.380 and other policies of the VA pertaining to the qualifications of staff providing assistance under chapter 31. (38 U.S.C. 1518)

(d) *Limitation.* Counseling services necessary to carry out the initial evaluation and the development of a rehabilitation plan or a program of employment services will be furnished by staff of the VR&C Service of the Department of Veterans Benefits. (38 U.S.C. 1515)

24. The following new center heading and §§ 21.120 through 21.129 are added:

Educational and Vocational Training Services

§ 21.120 Educational and vocational training services.

(a) *Purposes.* The purposes of providing educational and vocational training services are to enable a veteran eligible for, and entitled to, services and assistance under chapter 31 to:

(1) Meet the requirements for employment in the occupational objective established in the IWRP (Individualized Written Rehabilitation Plan);

(2) Provide incidental training which is necessary to achieve the employment objective in the IEAP (Individualized Employment Assistance Plan);

(3) Provide incidental training needed to achieve the goals of an IILP (Individualized Independent Living Plan); or

(4) Provide training services necessary to implement an IEEP (Individualized Extended Evaluation Plan). (38 U.S.C. 1507)

(b) *Selection of courses.* The VA will generally select courses of study and training, completion of which usually results in a diploma, certificate, degree, qualification for licensure, or employment. If such courses are not available in the area in which the veteran resides, or if they are available but not accessible to the veteran, other arrangements may be made. Such arrangements may include, but are not limited to:

(1) Relocation of the veteran to another area in which necessary services are available, or

(2) Use of an individual instructor to provide necessary training. (38 U.S.C. 1507)

(c) *Charges for education and training services.* The cost of education and training services will be one of the factors considered in selecting a facility when:

(1) There is more than one facility in the area in which the veteran resides which:

(i) Meets requirements for approval under §§ 21.292 through 21.298;

(ii) Can provide the education and training services, and other supportive services specified in the veteran's plan; and

(iii) Is within reasonable commuting distance;

(2) The veteran wishes to train at a suitable facility in another area, even though training can be provided at a suitable facility in the area in which the veteran resides. (38 U.S.C. 1515(a))

§ 21.122 School course.

(a) *Explanation of terms—schools, educational institution, and institution.* These terms mean any public or private school, secondary school, vocational school, correspondence school, business school, junior college, teacher's college, college, normal school, professional school, university, scientific or technical institution, or other institution funishing education for adults. (38 U.S.C. 1652(c))

(b) *Course.* A course generally consists of a number of areas of subject matter which are organized into learning units for the purpose of attaining a specific educational or vocational objective. Organized instruction in the units comprising the course is offered within a given period of time and credit toward graduation or certification is generally given. (38 U.S.C. 1504(a)(7))

(c) *School course.* A "school course" is a course as defined in paragraph (b) of this section offered by a facility identified in paragraph (a) of this section. (38 U.S.C. 1515)

§ 21.123 On-job course.

(a) *Training establishment.* This term means any establishment providing apprentice or other training on the job, including those under the supervision of a college or university or any State department of education, or any state apprenticeship agency, or any State board of vocational education, or any joint apprenticeship committee, or the Bureau of Apprenticeship and Training established in accordance with 29 U.S.C. chapter 4C, or any agency of the Federal government authorized to supervise such training. (38 U.S.C. 1652(e))

(b) *On-job course.* An on-job course is pursued toward a specified vocational objective, provided by a training establishment. The trainee learns, in the course of work performed under supervision, primarily by receiving formal instruction, observing practical demonstration of work tasks, and assisting in those tasks. Productive work should gradually increase with greater independence from formal instruction as the course progresses. (38 U.S.C. 1507(a)(7))

§ 21.124 Combination course.

(a) *General.* A combination course is a course which combines training on the job with training in school. For the purpose of VA vocational rehabilitation, a course will be considered to be a combination course, if the student spends full-time on the job and one or more times a week also attends school on a part-tme basis. A veteran may pursue the components of a combination course in the following manner:

(1) Concurrent school and on-job training;

(2) Primarily on-job with some related instruction in school;

(3) In a school as a preparatory course to entering on-job training; or

(4) First training on-job followed by the school portion. (38 U.S.C. 1507(e)(7))

(b) *Cooperative course.* A cooperative course is a special type of combination course which usually:

(1) Has an objective which the student attains primarily through school instruction with the on-job portion being supplemental to the school course;

(2) Is at the college or junior college level although some cooperative courses are offered at post-secondary schools which do not offer a college degree or at secondary schools;

(3) Requires the student to devote at least one-half of the total training period to the school portion of the course; and

(4) Includes relatively long periods each of training on the job and in school such as a full term in school followed by a full term on the job. (38 U.S.C. 1504(e)(7))

§ 21.126 Farm cooperative course.

(a) *Definition.* An approvable farm cooperative course is a full-time course designated to restore employability by training a veteran to:

(1) Operate a farm which he or she owns or leases; or

(2) Manage a farm as the employee of another. (38 U.S.C. 1504(a)(7))

(b) *Reaching the goal of a farm cooperative course.* The farm cooperative course must enable a veteran to become proficient in the type of farming for which he or she is being provided rehabilitation services. The areas in which proficiency is to be established include:

(1) Planning;
(2) Producing;
(3) Marketing;
(4) Maintaining farm equipment;
(5) Conserving farm resources;
(6) Financing the farm;
(7) Managing the farm; and
(8) Keeping farm and home accounts. (38 U.S.C. 1504(a)(7))

(c) *Instruction, including organized group instruction.* Instruction in a farm cooperative course may be by a mixture of organized group (classroom) instruction and individual instruction or by individual instruction alone. A course which includes organized group instruction must meet the following criteria to be considered as full-time:

(1) The number of clock hours of instruction which should be provided yearly shall meet the requirements of § 21.310(a)(4) and § 21.4264 pertaining to full-time pursuit of a farm cooperative course:

(2) The individual instructor portion of a farm cooperative course shall include at least 100 hours of individual instruction per year. (38 U.S.C. 1504(a)(7))

(d) *Instruction given solely by an individual instructor.* (1) Instruction in a farm cooperative course may be given solely by an individual instructor if organized group instruction is:

(i) Not available within reasonable commuting distance of the veteran's farm; or

(ii) The major portion of the organized group instruction that is available does not have a direct relation to the veteran's farming operation and pertinent VA records are fully and clearly documented accordingly.

(2) To be considered full-time pursuit the individual instruction provided in these course must:

(i) Consist of at least 200 hours of instruction per year;

(ii) Be given by a fully qualified individual instructor by contract between the VA and the instructor or an educational agency which employs the instructor. (38 U.S.C. 1504(a)(7))

(e) *Plan requirements for farm operator or farm manager.* (1) The plan for training developed by the case manager and the veteran in collaboration with the instructor must include:

(i) A complete written survey including but not limited to the areas identified in § 21.298 (a) and (b);

(ii) An overall, long-term plan based upon the survey of the operation of the farm;

(iii) An annual plan identifying the part of the overall plan to be implemented which will be prepared before the beginning of each crop year; and

(iv) A detailed individual training program showing the kind and amount of instruction, classroom and individual, or individual; and

(2) The farm must meet the requirements for selecting a farm found in § 21.298. (38 U.S.C. 1507(a)(7))

§ 21.128 Independent study course.

A veteran may pursue a course by independent study under the following conditions:

(a) *College level.* The course is offered by a college or university. (38 U.S.C. 1504(a)(7))

(b) *College degree.* The course leads to or is fully creditable towards a standard college degree. (38 U.S.C. 1504(a)(7))

(c) *Course content.* The course consists of a prescribed program of study with provision for interaction between the student and regularly employed faculty of the university or college by mail, telephone, personally, or class attendance. (38 U.S.C. 1504(a)(7))

(d) *School responsibility.* The university or college:

(1) Evaluates the course in semester or quarter hours or the equivalent; and

(2) Prescribes a period for completion. (38 U.S.C. 1504(a)(7))

§ 21.129 Home study course.

(a) *Definition.* A "home study" course is a course conducted by mail, consisting of a series of written lesson assignments furnished by a school to the student for study and preparation of written answers, solutions to problems, and work projects which are corrected and graded by the school and returned to the trainee. (38 U.S.C. 1504(a)(7))

(b) *Limitations on inclusion of home study courses, in rehabilitation plans.* A veteran and his or her case manager may include a home study course in a rehabilitation plan only when it supplements the major part of the program. The purpose of the home study course is to provide the veteran with theory or technical information directly related to the practice of the occupation for which the veteran is training. (38 U.S.C. 1504(a)(7))

Center heading and §§ 21.131, 21.133, 21.135–21.138 [Removed]

25. The center heading "SUBSISTENCE ALLOWANCE" and §§ 21.131, 21.133, and 21.135 through 21.138 are removed; and §§ 21.130, 21.132 and 21.134 are revised as follows:

§ 21.130 Education and vocational courses outside the United States.

(a) *General.* The VA may provide educational and vocational courses outside a State if the case manager determines that such training is in the best interest of the veteran and the Federal Government. (38 U.S.C. 1514)

(b) *Specific conditions.* (1) The training must be necessary to enable the veteran to qualify for, obtain, and retain suitable employment in the occupational objective; and

(2) Either:

(i) The training is not available in the United States; or

(ii) The training is available in the United States, but personal hardship would result from requiring that the veteran pursue training in this country; and

(3) All necessary supportive services, including medical care and treatment, can be provided. (38 U.S.C. 1514)

§ 21.132 Repetition of the course.

(a) *Repeating all or part of the course.* A veteran, having completed a course under chapter 31 according to the standards and practices of the institution, ordinarily will not pursue it again at the expense of the VA. However, the VA may approve repetition of all, or any part of the course when the VA determines that the repetition is necessary to accomplish the veteran's vocational rehabilitation. A veteran repeating a course under chapter 31 is subject to the same requirements for satisfactory pursuit and completion of the course as are other veterans taking the course unless a longer period is needed because of the veteran's reduced work tolerance. (38 U.S.C. 1504(a)(7))

(b) *Review course.* A veteran who has completed a course of training under chapter 31 may pursue a review course, such as a bar review course, if it is specifically organized and conducted as a review course. (38 U.S.C. 1504(a)(7))

(c) *Auditing a subject.* Auditing, as defined in § 21.4200(i), may not be authorized as a part of any rehabilitation plan. However, if an individual repeats a course under the conditions described in paragraph (a) of this section, the course shall not be considered an audited course, if pursued

in the same manner as a subject offered for credit. The individual must meet the same requirements as other students, and not be a mere listener. (38 U.S.C. 1780(a))

§ 21.134 Limitations on flight training.

Authorization of flight training under chapter 31 is subject to the same limitations applicable to flight training under chapter 34, including the following:

(a) *Prior to October 1, 1981.* A veteran in a nondegree flight training program prior to October 1, 1981, may continue in his or her program until rehabilitation to the point of employability, interruption of more than six months, or discontinuance, whichever is earliest. (38 U.S.C. 1504(c))

(b) *After October 1, 1981.* After October 1, 1981, flight training may only be authorized in degree curriculums in the field of aviation that include required flight training. (38 U.S.C. 1504(c))

§ 21.145 [Removed]

26. Section 21.145 is removed and a new center heading and §§ 21.140 through 21.156 are added as follows:

Special Rehabilitation Services

§ 21.140 Evaluation and improvement of rehabilitation potential.

(a) *General.* The purposes of these services are to:

(1) Evaluate if the veteran:

(i) Has an employment handicap;

(ii) Has a serious employment handicap; and

(iii) Is reasonably feasible for a vocational goal or an independent living goal.

(2) Provide a basis for planning:

(i) A program of services and assistance to improve the veteran's potential for vocational rehabilitation or independent living;

(ii) A suitable vocational rehabilitation program; or

(iii) A suitable independent living program.

(3) Reevaluate the vocational rehabilitation or independent living potential of a veteran participating in a rehabilitation program under chapter 31, as necessary.

(4) Enable a veteran to achieve:

(i) A vocational goal; or

(ii) An independent living goal. (38 U.S.C. 1504)

(b) *Periods during which evaluation and improvement services may be provided.* Evaluation and improvement services may be provided concurrently, whenever necessary, with a period of rehabilitation services, including:

(1) Initial evaluation or reevaluation;

(2) Extended evaluation:

(3) Rehabilitation to the point of employability:

(4) A program of independent living services: or

(5) Employment services, incidental to obtaining or maintaining employment. (38 U.S.C. 1505)

(c) *Duration of full-time assistance.* If evaluation and improvement services are furnished on a full-time basis as a preliminary part of the period of rehabilitation to the point of employability, or as the vocational rehabilitation program, the duration of such assistance may not exceed 12 months, except as provided in § 21.74(c). (38 U.S.C. 1505)

(d) *Scope of services.* Evaluation and improvement services include:

(1) Diagnostic services;

(2) Personal and work adjustment training;

(3) Medical care and treatment;

(4) Independent living services;

(5) Language training, speech and voice correction, training in ambulation, and one-hand typewriting;

(6) Orientation, adjustment, mobility and related services; and

(7) Other appropriate services. (38 U.S.C. 1504(a)(1))

§ 21.142 Adult basic education.

(a) *Definition.* The term "adult basic education" means an instructional program for the undereducated adult planned around those basic and specific skills most needed to help him or her to function adequately in society. (38 U.S.C. 1504(a)(1))

(b) *Purposes.* The purposes of providing adult basic education are to:

(1) Upgrade a veteran's basic educational skills;

(2) Provide refresher training; or

(3) Remedy deficiencies which prevent the veteran from undertaking a course of education or vocational training. (38 U.S.C. 1504(a)(1))

(c) *Periods during which basic adult education may be provided.* Basic adult education may be authorized, as necessary, during;

(1) Rehabilitation to the point of employability;

(2) Extended evaluation; and

(3) Independent living services. (38 U.S.C. 1504(a)(1))

§ 21.144 Vocational course in a sheltered workshop or rehabilitation facility.

(a) *General.* A vocational course in a sheltered workshop or rehabilitation facility may be an institutional, on-job, or combination course which has been modified to facilitate successful pursuit by a person with a disability that would otherwise prevent or impair the person's participation in the course. (38 U.S.C. 1504(a)(7))

(b) *Authorization.* A vocational course in a sheltered workshop or rehabilitation facility may be authorized when the training offered is a sound method of restoring a veteran's employability. (38 U.S.C. 1504(a)(7))

§ 21.146 Independent instructor course.

(a) *Definition.* An independent instructor course is a full-time course of vocational training which the veteran pursues with an individual instructor, who, independently of a training institution or on-job training establishment, furnishes and conducts a vocational course at a suitable place of training. (38 U.S.C. 1504(a)(7))

(b) *Limitations on including an independent instructor course in a rehabilitation plan.* A veteran and his or her case manager may include an independent instructor course in a rehabilitation plan, other than one involving a farm cooperative program, only when either or both of the following conditions exist:

(1) Training is not available through an established school, on-job training establishment, rehabilitation facility or sheltered workshop within a reasonable commuting distance from the veteran's home; or

(2) The veteran's condition or other circumstances do not permit the veteran to attend an otherwise suitable facility within commuting distance. See § 21.126.

(c) *Training in the home.* Training in the home is a specialized type of independent instructor course which the veteran pursues in his or her home if:

(1) He or she is unable to pursue training at an otherwise suitable facility because of the effects of his or her disability;

(2) Based on proper medical opinion, the veteran is able to pursue the prescribed training; and

(3) The veteran's home provides a favorable educational environment with adequate work and study space. (38 U.S.C. 1504(a)(7))

(d) *Planning an individual instructor course.* The case manager, the veteran, and the instructor should jointly plan the training program for a veteran for whom an independent instructor course is prescribed. (38 U.S.C. 1504(A)(7))

(e) *Assuring employment.* Since the customary channels leading to employment may not be readily available to a veteran requiring an individual instructor course, the IEAP (Individual Employment Assistance Plan) shall indicate thorough consideration of plans and prospects for seeking and obtaining employment,

including self-employment, upon completion of training. (38 U.S.C. 1504(a)(7))

(f) *Rate of pursuit.* A veteran in an independent instructor program shall pursue training at a rate comparable to the rate at which similar training is pursued on an institutional basis, unless the veteran's work tolerance is reduced by the effects of his or her disability. (38 U.S.C. 1504(a)(7))

§ 21.148 Tutorial assistance.

(a) *General.* A veteran may be provided individualized tutorial assistance, if the VA determines that special assistance beyond that ordinarily given by the facility to students pursuing the same or a similar subject is needed to correct a deficiency in a subject. (38 U.S.C. 1504(a)(7))

(b) *Authorization of tutorial assistance.* Tutorial assistance may be provided during any period of rehabilitation services authorized by the VA. (38 U.S.C. 1504(a)(7))

(c) *Use of relatives precluded.* Tutorial assistance at VA expense may not be provided by a relative of the veteran. The term "relative" has the same meaning as under § 21.374 pertaining to the use of a relative as an attendant. (38 U.S.C. 1692)

(d) *Payment at the chapter 34 rate.* If a veteran has elected payment at the educational assistance rate payable under chapter 34, he or she may not be provided individualized tutorial assistance under provisions of chapter 31. See § 21.334. (38 U.S.C. 1508(f))

§ 21.150 Reader service.

(a) *Limitations on vision.* A veteran considered to have a visual impairment necessitating reader service includes a veteran:

(1) Whose best corrected vision is 20/200 in both eyes;

(2) Whose central vision is greater than 20/200 but whose field of vision is limited to such an extent that the widest diameter of a visual field subtends to an angle no greater than 20 degrees; or

(3) With impaired vision, whose condition or prognosis indicates that the residual sight will be adversely affected by the use of his or her eyes for reading. (38 U.S.C. 1504(a)(14))

(b) *Periods during which reader service may be provided.* reader service necessary to the development of a rehabilitation plan, or the successful pursuit of a rehabilitation program may be provided during:

(1) Initial evaluation or reevaluation;

(2) Extended evaluation;

(3) Rehabilitation to the point of employability;

(4) Independent living services; or

(5) Employment services, including an initial employment period of up to three months. (38 U.S.C. 1504(a)(14))

(c) *Reader responsibility.* The reader should be able to do more than read to the veteran. The reader should have an understanding of the subject matter based upon prior training or experience which allows him or her to:

(1) Read printed material with understanding; and

(2) Test the veteran's understanding of what has been read. (38 U.S.C. 1504(a)(14))

(d) *Extent of service.* The number of hours of service will be determined in each case by the amount of reading necessitated by the course and the efficacy of other equipment with which the verteran has been furnished to enable him or her to read printed material unassisted. (38 U.S.C. 1504(a)(14))

(e) *Recording.* The VA will not normally pay for recording textbooks or other materials as a part of reader services, since excellent recording services are provided by volunteer organizations at no cost. (38 U.S.C. 1504(a)(14))

(f) *Selecting a relative as a reader.* Utilization of a relative of the veteran as a reader is subject to the limitations on use of a relative as an attendant under § 21.374. (38 U.S.C. 1504(a)(14))

§ 21.152 Interpreter service for the hearing impaired.

(a) *General.* The main purpose of interpreter service for the hearing impaired is to facilitate instructor-student communication. The VA will provide interpreter service as necessary for the development and pursuit of a rehabilitation program. This service will be provided if:

(1) A VA physician determines that:

(i) The veteran is deaf or his or her hearing is severely impaired; and

(ii) All appropriate services and aids have been furnished to improve the veteran's residual hearing; or

(2) A VA physician determines that the veteran:

(i) Can benefit from language and speech training; and

(ii) Agrees to undertake language and speech training. (38 U.S.C. 1504(a)(14))

(b) *Periods during which interpreter service may be provided.* Interpreter service may be furnished during:

(1) Initial evaluation or reevaluation;

(2) Extended evaluation;

(3) Rehabilitation to the point of employability;

(4) Independent living services; or

(5) Employment services, including the first three months of employment. (30 U.S.C. 1504(a)(14))

(c) *Selecting the interpreter.* Only certified interpreters or persons meeting generally accepted standards for interpreters shall provide interpreter service. When an individual is not certified by a State or professional association, the VA shall seek the assistance of a State certifying agency or a professional association in ascertaining whether the individual is qualified to serve as an interpreter. (38 U.S.C. 1504(a)(14))

(d) *Relatives.* Interpreter service at VA expense may not be provided by a relative of the veteran. The term "relative" has the same meaning as under § 21.374 pertaining to the use of relatives as attendants. (38 U.S.C. 1692)

§ 21.154 Special transportation assistance.

(a) *General.* A veteran, who because of the effects of disability has transportation expenses in addition to those incurred by persons not so disabled, shall be provided a transportation allowance to defray such additional expenses. The assistance provided in this section is in addition to provisions for interregional and intraregional travel which may be authorized under provisions of §§ 21.370 through 21.376. (38 U.S.C. 1504(a)(13))

(b) *Periods during which special transportation allowance may be provided.* A special transportation allowance may be provided during:

(1) Extended evaluation;

(2) Rehabilitation to the point of employability;

(3) Independent living services; or

(4) Employment services, including the first three months of employment. (38 U.S.C. 1504(a)(14))

(c) *Scope of transportation assistance.* (1) Transportation assistance includes mileage, parking fees, reasonable fee for a driver, transportation furnished by a rehabilitation facility or sheltered workshop, and other reasonable expenses which may be incurred in local travel;

(2) The veteran's monthly transportation allowance may not exceed the lesser of actual expenses incurred or one-half of the subsistence allowance of a single veteran in full-time institutional training, unless extraordinary arrangements, such as transportation by ambulance, are necessary to enable a veteran to pursue a rehabilitation program. (38 U.S.C. 1504(a)(13))

(d) *Determining the need for a transportation allowance.* The case manager will determine the need for a transportation allowance. The assistance of a medical consultant shall

be utilized, as necessary, to determine the need for special transportation assistance and to develop transportation arrangements which do not unduly tax the veteran's ability to travel and pursue a rehabilitation program. (38 U.S.C. 1513(a)(13))

(e) *Use of a relative precluded.* A relative of the veteran may not be paid any part of a special transportation allowance. The term "relative" has the same meaning as under § 21.374 pertaining to the use of a relative as an attendant. (38 U.S.C. 1504(a)(13))

§ 21.155 Services to a veteran's family.

(a) *General.* The VA shall provide services to a veteran's family which are necessary to the implementation of the veteran's rehabilitation plan. The term "family" includes the veteran's immediate family, legal guardian, or any individual in whose home the veteran certifies an intention to live. (38 U.S.C. 1504(a)(11))

(b) *Scope of services to a veteran's family.* The services which may be furnished to the family are generally limited to consultation, homecare training, counseling, and mental health services of brief duration which are designed to enable the family to cope with the veteran's needs. Extended medical, psychiatric or other services may not be furnished to family members under these provisions. (38 U.S.C. 1504(a)(11))

(c) *Providing services to a veteran's family.* VR&C Staff will:

(1) Identify services which family members may need to facilitate the rehabilitation of the veteran; and

(2) Arrange for provision of the services which have been identified. (38 U.S.C. 1504(a)(11))

(d) *Resources for provision of services to family members.* (1) The established program and services which are furnished by DM&S (Department of Medicine and Surgery) to family members of veterans eligible for chapter 31 should be used to the extent practicable; but

(2) If services are not readily available through regular DM&S programs, necessary services will normally be secured through arrangements with other public and nonprofit agencies. (38 U.S.C. 1504(a)(11))

§ 21.156 Other incidental goods and services.

(a) *General.* Other incidental goods and services may be authorized if the case manager determines them to be necessary to implement the veteran's rehabilitation plan. For example, a calculator may be authorized for a veteran pursuing an engineering degree, even though the veteran may not be required to have a calculator for any specific subject in his or her course, where there is substantial evidence that lack of a calculator places the veteran at a distinct disadvantage in successfully pursuing the course. (38 U.S.C. 1504(a)(10))

(b) *Limitation on cost.* The costs of incidental goods and services normally should not exceed five percent of training costs for any twelve-month period. (38 U.S.C. 1504(a)(10))

27. A new center heading and new §§ 21.160 and 162 are added as follows:

Independent Living Services

§ 21.160 Independent living services.

(a) *Purpose.* The purpose of independent living services is to assist eligible veterans whose ability to function independently in family, community, or employment is so limited by the severity of disability (service and nonservice-connected) that vocational or rehabilitation services need to be appreciably more extensive than for less disabled veterans. (38 U.S.C. 1501)

(b) *Definitions.* The term "independence in daily living" means the ability of a veteran, without the services of others or with a reduced level of the services of others, to live and function within the veteran's family and community. (38 U.S.C. 1501(2))

(c) *Situations under which independent living services may be furnished.* Independent living services may be furnished:

(1) As part of a program to achieve rehabilitation to the point of employability;

(2) As part of an extended evaluation to determine the reasonable feasibility of achieving a vocational goal;

(3) Incidental to a program of employment services; or

(4) As the whole of a rehabilitation program. (38 U.S.C. 1504)

(d) *Services which may be authorized.* The services which may be authorized as part of an IILP (Individualized Independent Living Plan) include:

(1) Any appropriate service which may be authorized for a vocational rehabilitation program as that term is defined in § 21.35(i), except for a course of education or training as described in § 21.120; and

(2) Independent living services offered by approved independent living centers and programs which are determined to be necessary to carry out the veteran's plan including:

(i) Evaluation of independent living potential;

(ii) Training in independent living skills;

(iii) Attendant care;

(iv) Health maintenance programs; and

(v) Identifying appropriate housing accommodations. (38 U.S.C. 1504(b))

(e) *Coordination with other VA elements and other Federal, State, and local programs.* Implementation of programs of independent living services and assistance will generally require extensive coordination with other VA and non-VA programs. The resources of VA medical centers shall be utilized as prescribed in § 21.242. If appropriate arrangements cannot be made to provide these services through VA medical centers, other governmental and private nonprofit programs may be used to secure necessary services if the program meets the requirements of § 21.294. (38 U.S.C. 220, 1509, 1520)

§ 21.162 Participation in a program of independent living services.

(a) *Approval of a program of independent living services.* A program of independent living services and assistance is approved when:

(1) All steps required by § 21.90 and § 21.92 to the development and preparation of an IILP (Individualized Independent Living Plan) have been completed; and

(2) The Director, Vocational Rehabilitation and Counseling Service, concurs in the IILP. (38 U.S.C. 1509, 1520)

(b) *Special considerations affecting approval by the Director, Vocational Rehabilitation and Counseling Service.* The Director, Vocational Rehabilitation and Counseling Service, shall consider the following factors before approving the participation of a veteran in an independent living program:

(1) Conformity of the proposed plan with provisions of paragraph (a)(1);

(2) If the VA resources available limit the number of veterans who may be provided a program of independent living services and assistance, the first priority shall be given to veterans for whom the reasonable feasibility of achieving a vocational goal is precluded solely as a result of service-connected disability;

(3) A substantial proportion of veterans provided with programs of independent living services and assistance shall be receiving long-term care in VA hospitals and nursing homes;

(4) The veterans provided programs of independent living and assistance shall be from all geographic areas of the country; and

(5) If a veteran's independent living plan could be approved, but for one of the other requirements of this section, the veterans shall have priority over

other veterans with the same or lower ratings for service-connected disability applying during the following fiscal year. (38 U.S.C. 1520)

(c) *Limitations.* (1) A program of independent living services and assistance may not be approved after September 30, 1985. Programs authorized prior to that date may be continued until completion or other termination;

(2) Any contract for services initiated before September 30, 1985, may be continued in effect for the purpose of providing necessary services and assistance;

(3) The limitations on provision of independent living services to veterans for whom such services constitute the whole of a program are not applicable to veterans being provided independent living services as part of a rehabilitation program during periods identified in § 21.160(c)(1), (2), and (3). (38 U.S.C. 1504(b), 1520)

28. The following new centerheading and § 21.180 are added as follows:

Case Status

§ 21.180 Case status system.

(a) *General.* Each veteran's case will be assigned to a specific case status from the point of initial contact until all appropriate steps in the rehabilitation process have been completed. The case status system will:

(1) Assist VR&C staff to fulfill its case management responsibility to provide authorized assistance to enable the veteran to successfully pursue his or her program; and

(2) Assure program management and accountability. (38 U.S.C. 1507)

(b) *Responsibility for change of case status.* The case manager is responsible for assigning a case to the appropriate case status at each point in the rehabilitation process. (38 U.S.C. 1506(e))

(c) *Case manager.* The VR&C (Vocational Rehabilitation and Counseling) Officer or his or her designee will assign a case manager when the veteran's case is placed in "evaluation and planning" status. The VR&C Officer or his or her designee may assign case management responsibility for development and implementation of a rehabilitation plan authorized under chapter 31 to a counseling psychologist or vocational rehabilitation specialist in the VR&C Division. The case manager assigned will, unless replaced by the VR&C Officer, continue to be responsible for case management throughout the course of the veteran's rehabilitation program. The DVB case manager should coordinate efforts to secure necessary medical and other services with DM&S (Department of Medicine and Surgery) staff assigned case management responsibility at a VA medical center as appropriate in the individual case. (38 U.S.C. 1506(e))

(d) *Informing the veteran.* The veteran will be informed in writing of changes in case status by the VA which affect his or her receipt of benefits and services under chapter 31. The letter to the veteran will include the reason for the change of case status, and other information required under provisions of § 21.420. (38 U.S.C. 1507)

(e) *Normal progression for eligible veterans.* The cases of veterans who are eligible for and entitled to services under chapter 31 for whom individualized plans have been prepared will generally undergo the following changes of status:

(1) *Individualized written rehabilitation plan.* A veteran with an IWRP (Individualized Written Rehabilitation Plan) will generally move sequentially from "applicant" status through "evaluation and planning" status "rehabilitation to the point of employability" status, "employment services" status, and "rehabilitated" status.

(2) *Individualized extended evaluation plan.* A veteran with an IEEP (Individualized Extended Evaluation Plan) will generally move from "applicant" status through "evaluation and planning" status to "extended evaluation" status. Once in "extended evaluation" status there will generally be a finding which leads to development of an IWRP (paragraph (e)(1) of this section), or IILP (Individualized Independent Living Plan) (paragraph (e)(3) of this section).

(3) *Individualized independent living plan.* A veteran with an IILP (Individualized Independent Living Plan) will generally move from "applicant" status through "evaluation and planning," "extended evaluation," "independent living," and "rehabilitated status.

(4) *Individualized employment assistance plan.*

(i) A veteran with an IEAP (Individualized Employment Assistance Plan) which is a part of an IWRP will move through the case statuses described in paragraph (e)(1) of this section, or in some cases through the steps in paragraph (e)(2) of this section.

(ii) A veteran for whom only employment services are provided will generally move from "applicant" through "evaluation and planning," "employment services" to "rehabilitated" status. (38 U.S.C. 1507)

(f) *Normal progression for ineligible veterans.* A veteran found ineligible for services under chapter 31 will generally move from "applicant" to "evaluation and planning" status, to "ineligible" status. (38 U.S.C. 1507)

(g) *Changes of status.* The case manager may change the case status when:

(1) Conditions for change specified in the status are met;

(2) The change is not specifically precluded by the status to which change is being considered; and

(3) The change is consistent with provisions of other applicable regulations. (38 U.S.C. 1506)

29. Section 21.182 is added as follows:

§ 21.182 "Applicant" status.

(a) *Purpose.* The purposes of "applicant" status are to:

(1) Process a veteran's claim for assistance under chapter 31 in a timely manner; and

(2) Identify service-disabled veterans whom the VA should contact individually to increase their awareness and understanding of how they may benefit from services furnished under chapter 31. (38 U.S.C. 1502)

(b) *Assignment to "applicant" status.* The VA will assign a veteran's records to "applicant" status when either:

(1) The VA receives a formal or informal application from a veteran for services under chapter 31; or

(2) The VR&C (Vocational Rehabilitation and Counseling) Division:

(i) Advises a veteran in writing of the veteran's potential eligibility for chapter 31 services, or

(ii) Is informed that the veteran has been advised in writing of his or her potential eligibility for chapter 31 services by other VA elements. (38 U.S.C. 1502(2))

(c) *Termination of "applicant" status.* "Applicant" status will be terminated when:

(1) An appointment for an initial evaluation has been kept by the veteran; or

(2) The veteran's service-connected disability is reduced to a noncompensable degree; or

(3) The veteran's service-connected disability is severed; or

(4) The veteran's application is invalid because of fraud or error; or

(5) The veteran withdraws his or her claim, or otherwise indicates that no further assistance is desired. (38 U.S.C. 1506)

Cross-Reference: See §§ 21.30 Claims, 21.31 Informal claims, and 21.32 Time limits.

30. Section 21.184 is added as follows:

§ 21.184 "Evaluation and planning" status.

(a) *Purpose.* The purpose of "evaluation and planning" status is to identify veterans for whom evaluation and planing services are needed to:

(1) Accomplish an initial evaluation as provided in § 21.50;

(2) Develop an IWRP (Individualized Written Rehabilitation Plan), IEEP (Individualized Extended Evaluation Plan), IILP (Individualized Independent Living Plan) or IEAP (Individualized Employment Assistance Plan); or

(3) Reevaluate:

(i) Findings made in prior initial evaluations, or

(ii) Current or previous individualized rehabilitation plans. (38 U.S.C. 1506, 1507)

(b) *Assignment to "evaluation and planning" status.* A veteran's records will be assigned to "evaluation and planning" Status for any of the purposes specified in paragraph (a) of this section. (38 U.S.C. 1506, 1507)

(c) *Termination of "evaluation and* planning" status for any of the purposes veteran's records to "evaluation and planning" status may be terminated under the following conditions:

(1) *Evaluation and planning completed.* The services necessary to complete evaluation and planning have been provided. These services are:

(i) Completion of an initial evaluation;

(ii) Development of an IWRP (Individualized Written Rehabilitation Plan) or other individual rehabilitation plan in those cases in which eligibility and entitlement to services provided under chapter 31 are established; or

(iii) Completion of reevaluation of prior findings made in initial evaluation or modification of a rehabilitation plan.

(2) *Evaluation and planning not completed.* The VR&C Division shall make every reasonable effort to enable the veteran to complete the evaluation and planning phase of the rehabilitation process. A determination that every reasonable effort by the VA has been made, and that little likelihood exists that continued efforts will lead to completion of planning and evaluation, may be made under the following conditions:

(i) The veteran writes the VA and requests that his or her case be inactivated;

(ii) The veteran fails to keep scheduled appointments following his or her initial appointment; or

(ii) The veteran otherwise fails to cooperate with the VA in the evaluation and planning process. If the veteran fails to cooperate, the provisions of § 21.362 are applicable. (38 U.S.C. 1506, 1507)

Cross-Reference: See §§ 21.50 through 21.58 Initial and extended evaluation, and §§ 21.80 through 21.98 Individualized written rehabilitation plan.

31. Section 21.186 is added as follows:

§ 21.186 "Ineligible" status.

(a) *Purpose.* The purpose of "ineligible" status is to identify the cases in which a veteran requests services under chapter 31, but the request is denied by the VA, usually, on the basis of information developed when the veteran was in "evaluation and planning" status. (38 U.S.C. 1506)

(b) *Assignment to "ineligible" status.* A veteran's case will be assigned to "ineligible" status following a finding by the VA that the veteran is not eligible for or entitled to services under chapter 31. The finding must preclude all possible chapter 31 services. (38 U.S.C. 1506, 1507)

(c) *Termination of "ineligible" status.* The assignment of the veteran's case to "ineligible" status should be terminated if the veteran thereafter becomes eligible to receive any chapter 31 service. Placement of the case in "ineligible" status is a bar to reconsideration of eligibility unless a material change in circumstances occurs. (38 U.S.C. 1506)

32. Section 21.188 is added as follows:

§ 21.188 "Extended evaluation" status.

(a) *Purpose.* The purposes of "extended evaluation" status are to:

(1) Identify a veteran for whom a period of "extended evaluation" is needed; and

(2) Assure that necessary services are provided by the VA during the extended evaluation. (38 U.S.C. 1508)

(b) *Assignment to "extended evaluation" status.* A veteran's case may be assigned or reassigned to "extended evaluation" status under provisions of § 21.57, § 21.74, § 21.86, § 21.94, § 21.96, or § 21.98. (38 U.S.C. 1507)

(c) *Continuation in "extended evaluation" status.* A veteran's case will be in "extended evaluation" status during periods in which:

(1) The veteran is pending induction into the facility at which rehabilitation services will be provided;

(2) The veteran is receiving rehabilitation services prescribed in the IEEP (§ 21.86); or

(3) The veteran is on authorized leave of absence during an extended evaluation. (38 U.S.C. 1508)

(d) *Termination of "extended evaluation status.* A veteran in "extended evaluation" status will remain in that status until one of the following events occur:

(1) Following notification of necessary arrangements to begin an extended evaluation, the date the extended evaluation begins, and instructions as to the next steps to be taken, the veteran:

(i) Fails to report and does not respond to followup contact by the case manager;

(ii) Declines or refuses to enter the program; or

(iii) Defers induction for a period exceeding 30 days beyond the scheduled date of induction, except where the deferment is due to illness or other sufficient reason;

(2) The VA determines the reasonable feasibility of a vocational goal for the veteran before completion of all of the planned evaluation because the decision does not require the further evaluation;

(3) The veteran completes the extended evaluation;

(4) Either the veteran or the VA interrupts the extended evaluation;

(5) Either the veteran or the VA discontinues the extended evaluation; or

(6) Service-connection for the veteran's service-connected disability is severed by the VA or his or her continued eligibility otherwise ceases. (38 U.S.C. 1506)

Cross-References: See §§ 21.57 Extended evaluation, 21.322 Commencing dates, 21.324 Reduction or termination.

33. Section 21.190 is added as follows:

§ 21.190 "Rehabilitation to the point of employability" status.

(a) *Purpose.* The "rehabilitation to the point of employability" status serves to:

(1) Identify veterans who receive training and rehabilitation services to enable them to attain a vocational goal; and

(2) Assure that services specified in the veteran's IWRP are provided in a timely manner by the VA. (38 U.S.C. 1501)

(b) *Assignment.* A veteran's case may be assigned or reassigned to "rehabilitation to the point of employability" status under the provisions of §§ 21.84, 21.94, 21.96, or 21.98. (38 U.S.C. 1507)

(c) *Continuation in "rehabilitation to the point of employability" status.* A veteran will be assigned to "rehabilitation to the point of employability" status during periods in which:

(1) The veteran has progressed through "applicant" status and "evaluation and planning" status (including extended evaluation status when appropriate), and is pending induction into the facility at which training and rehabilitation services will be provided;

(2) The veteran is receiving training and rehabilitation services prescribed in the IWRP; or

(3) The veteran is on authorized leave of absence. (38 U.S.C. 1504, 1508)

(d) *Termination of "rehabilitation to the point of employability" status when goals of the IWRP for this period are achieved.* The VA will consider a veteran to have completed the period of rehabilitation to the point of employability, and will terminate this status under the following conditions:

(1) The veteran achieves the goals of, and has been provided services specified in, the IWRP;

(2) The veteran who leaves the program has completed a sufficient portion of the services prescribed in the IWRP to establish clearly that he or she is generally employable as a trained worker in the occupational objective established in the IWRP;

(3) The veteran, who has not completed all prescribed services in the IWRP, accepts employment in the occupational objective established in the IWRP with wages and other benefits commensurate with wages and benefits received by trained workers; or

(4) The veteran:

(i) Satisfactorily completes a prescribed program, the practice of which requires pursuing an examination for licensure, but

(ii) Is unable to take the licensure examination prior to the basic twelve-year termination date and there is no basis for extension of that date. (38 U.S.C. 1507)

(e) *Other conditions for termination of "rehabilitation to the point of employability" status.* In addition to termination under conditions described in paragraph (d) of this section, the classification of the veteran's records in this status may be terminated under any of the following conditions:

(1) A veteran who has been notified of necessary arrangements to begin the program, the date the program begins and instructions as to the next steps to be taken:

(i) Fails to report and does not respond to initial or subsequent followup by the case manager;

(ii) Declines or refuses to enter the program; or

(iii) Defers induction for a period exceeding 30 days beyond the scheduled beginning date of the program, except where the deferment is due to illness or other sufficient reason.

(2) Either the veteran or the VA interrupts the period of rehabilitation to the point of employability;

(3) Either the VA or the veteran discontinues the period of rehabilitation to the point of employability;

(4) The veteran reaches his or her termination date, and there is no basis for extension under § 21.44;

(5) The veteran's entitlement to training and rehabilitation services under chapter 31 is exhausted, and there is no basis for extension under § 21.78; or

(6) Service-connection for the veteran's service-connected disability is served by the VA or he or she otherwise ceases to be eligible. (38 U.S.C. 1507)

(f) *Payment of employment adjustment allowance.* An employment adjustment allowance will be paid when the veteran's classification in "rehabilitation to the point of employability" status is terminated under provisions of paragraph (d) of this section. An employment adjustment allowance will not be paid if termination is for one of the reasons specified in paragraph (e) of this section. (38 U.S.C.1508(a))

Cross-References: See §§ 21.120 Educational and vocational trainings services. 21.282 Effective date of induction into a rehabilitation program, and 21.284 Reentering into a rehabilitation program.

34. Section 21.192 is added as follows:

§ 21.192 "Independent living program" status.

(a) *Purpose.* The "independent living program" status serves to:

(1) Identify veterans who are being furnished a program of independent living services by the VA; and

(2) Assure that such veterans receive necessary services from the VA in a timely manner. (38 U.S.C.1507)

(b) *Assignment to "independent living program" status.* A veteran may be assigned or reassigned to "independent living program" status under the provisions of §§ 21.88, 21.94, 21.96, or 21.98.(38 U.S.C. 1507)

(c) *Continuation in "independent living program" status.* A veteran will be in "independent living program" status during periods in which:

(1) The provisions of § 21.282 for induction into a program are met, but the veteran is pending induction into the facility at which rehabilitation services will be provided;

(2) The veteran receives rehabilitation services prescribed in an IILP; or

(3) The veteran is on authorized leave of absence status. (38 U.S.C. 1509, 1520)

(d) *Termination of "independent living program" status.* When a veteran's case has been assigned to "independent living program" status, the case will be terminated from that status, if one of the following occurs:

(1) A veteran, who has been notified of necessary arrangements to begin a program, the date the program begins and instructions as to the next steps to be taken:

(i) Fails to report and does not respond to followup contact by the case manager;

(ii) Declines or refuses to enter the program; or

(iii) Defers entry for more than 30 days beyond the scheduled beginning date, unless the deferment is due to illness or other sufficient reason.

(2) The veteran completes the IILP;

(3) Either the veteran or the VA interrupts the program;

(4) Either the veteran or the VA discontinues the program; or

(5) Service-connection for the veteran's service-connected disability is severed by the VA or he or she otherwise ceases to be eligible. (38 U.S.C. 1509, 1510)

Cross-References: See §§ 21.160 Independent living services. 21.282 Effective date of induction into a rehabilitation program. 21.322 Commencing date. 21.324 Reduction or termination date.

35. Section 21.194 is added as follows:

§ 21.194 "Employment services" status.

(a) *Purpose.* The status "employment services" serves to:

(1) Identify veterans who are being furnished employment services; and

(2) Assure that these veterans receive necessary services in a timely manner. (38 U.S.C. 1517)

(b) *Assignment to "employment services" status.* A veteran's case may be assigned or reassigned to "employment services" status under the provisions of §§ 21.84, 21.88, 21.94 and 21.98.(38 U.S.C. 1517

(c) *Continuation in "employment services" status.* A case will remain in "employment services" status for the period specified in the IEAP, subject to the limitations specified in paragraph (d) of this section. (38 U.S.C. 1517)

(d) *Termination of "employment services" status.* The veteran will continue in "employment services" status until the earliest of the following events occurs:

(1) He or she is:

(i) Employed in the occupational objective for which training was provided or in a closely related objective for sixty days, and

(ii) Adjusted to the duties and responsibilities of the job;

(2) He or she qualifies for placement in "rehabilitation" status under the provisions of § 21.196(b)(2);

(3) Either the veteran or the VA interrupts the employment services program;

(4) Either the veteran or the VA discontinues the employment services program;

(5) He or she reaches the end of the period for which employment services have been authorized and there is no basis for extension; or

(6) Service-connection for the veteran's service-connected disability is severed or he or she otherwise ceases to be eligible. (38 U.S.C. 1517)

Cross-References: See §§ 21.47 Eligibility for employment assistance, 21.250 Overview of employment services, and 21.326 Authorization of employment services.

36. Sections 21.196 through 21.198 are added as follows:

§ 21.196 "Rehabilitated" status.

(a) *Purpose.* The purpose of "rehabilitated" status is to identify those cases in which the goals of a rehabilitation program or a program of employment services have been substantially achieved.

(b) *Assignment to "rehabilitated" status.* A veteran's case shall be assigned to "rehabilitated" status under the following conditions:

(1) *Achieving and maintaining suitable employment.* A veteran's case shall be assigned to "rehabilitated" status from "employment services" status as provided in § 21.194(d)(1) pertaining to the achievement and maintenance of suitable employment, following attainment of the goals of a plan. This includes:

(i) An IEAP (Individualized Employment Assistance Plan) which is part of an IWRP (Individualized Written Rehabilitation Plan); or

(ii) An IEAP which constitutes the program of services to be provided under chapter 31.

(2) *Rehabilitation to the point of employability not completed.* A veteran who has not completed the planned period of rehabilitation to the point of employability shall be assigned to "rehabilitated" status if he or she:

(i) Is employed and adjusted in employment for 60 days in the occupational objective established in the IWRP, with wages and benefits commensurate with wages and other benefits received by other workers in the same occupation; or

(ii) Is employed and adjusted in employment for 60 days in a job other than the one prescribed by the IWRP Panel which provides wages and benefits commensurate with the wages and benefits of workers in the occupation for which the veteran was training, is compatible with the limiting effects of the veteran's service and nonservice-connected disabilities, and otherwise consistent with the veteran's abilities and interests.

(3) *IEAP not completed.* A veteran in an IEAP which constitutes the whole of the veteran's program of services will be assigned to "rehabilitated" status from "employment services" status, even if the IEAP is not completed when:

(i) He or she is employed and adjusted in employment for 60 days in an occupation which provides wages and benefits commensurate with the wages and benefits received by workers in the occupational objective of the IEAP, and

(ii) The occupation in which the veteran is employed is compatible with the limiting effects of the veteran's service and nonservice-connected disabilities and otherwise consistent with the veteran's abilities and interests.

(4) *Independent living services plan.* A veteran in an IILP shall be considered rehabilitated when;

(i) The goal(s) of the IILP is (are) achieved, and

(ii) The veteran has maintained the increased level of independence for sixty days; or

(iii) The veteran has not achieved the goals of the IILP, but the VA determines that the veteran has received maximum benefits from the services provided, and has achieved a substantial increase in the level of independence. (38 U.S.C. 1507, 1517)

(c) *Termination of "rehabilitated" status.* A veteran's case will not be removed from "rehabilitated" status once that status has been assigned, unless the determination of rehabilitation is set aside for a reason specified in § 21.284. (38 U.S.C. 1500)

Cross-Reference: See § 21.284 Reentrance into a rehabilitation program.

§ 21.197 "Interrupted" status.

(a) *Purpose.* The purpose of "interrupted" status is to recognize that a variety of situations may arise in the course of a rehabilitation program in which a temporary suspension of the program is warranted. In each case, the VA first must determine that the veteran will be able to return to a rehabilitation program or a program of employment services following the resolution of the situation causing the interruption. This determination will be documented in the veteran's record. (38 U.S.C. 1517)

(b) *Assignment to "interrupted" status.* A veteran's case will be assigned to "interrupted" status when:

(1) The VA determines that a suspension of services being provided is necessary; and

(2) Either:

(i) A definite date for resumption of the program is established; or

(ii) The evidence indicates the veteran will be able to resume the program at some future date, which can be approximately established. (38 U.S.C. 1510)

(c) *Reasons for assignment to "interrupted" status.* A veteran's case may be interrupted and assigned to "interrupted" status for reasons including but not limited to the following:

(1) *Veteran does not initiate or continue rehabilitation process.* If a veteran does not begin or continue the rehabilitation process, the veteran's case will be interrupted and assigned to "interrupted" status, including:

(i) A case in "applicant" status;

(ii) A case in "evaluation and planning" status;

(iii) A case in "extended evaluation" status;

(iv) A case in "rehabilitation to the point of employability" status;

(v) A case in "independent living program" status or

(vi) A case in "employment services" status.

(2) *Unsatisfactory conduct and cooperation.* If a veteran's conduct or cooperation becomes unsatisfactory, services and assistance may be interrupted as determined under provisions of §§ 21.362 and 21.364.

(3) *Services not available.* The veteran cannot continue the program because the necessary training and rehabilitation services are unavailable.

(4) *Prior to assignment to "discontinued" status.* A veteran's case shall be assigned to "interrupted" status prior to discontinuance and assignment to "discontinued" status in all cases except the veteran's death. The purpose of assignment to "interrupted" status is to assure that all appropriate actions have been taken to help the veteran continue in his or her program before discontinuing benefits and services.

(5) *Absences.* The veteran is not entitled to be placed on authorized absence under §§ 21.340 through 21.350 while in interrupted status. (38 U.S.C. 1511)

(d) *Reentrance from "interrupted" status.* (1) A veteran in "interrupted" status may be assigned to his or her prior status or other appropriate status, if he or she reports for entrance or reentrance into the prescribed program at the time and place scheduled for the resumption of the rehabilitation program.

(2) If a veteran in "interrupted" status fails to report for entrance or reentrance into the program at the appointed time and place, the veteran's case will remain in "interrupted" status. The case

manager will then determine whether there is a satisfactory reason for the veteran's failure to enter a new or reenter the prior program. If the evidence of record does not establish a satisfactory reason, the veteran's case will be discontinued and assigned to "discontinued" status. (38 U.S.C. 1507)

(e) *Case management responsibility during a period of interruption.* The case manager shall maintain contact with the veteran during "interruption" and shall arrange for appropriate medical or other services the veteran needs to be able to enter or reenter a rehabilitation program or a program of employment services. (38 U.S.C. 1507)

Cross-Reference: See § 21.324 Reduction or termination date.

§ 21.198 "Discontinued" status.

(a) *Purpose.* The purpose of "discontinued" status is to identify situations in which termination of all services and benefits received under chapter 31 is necessary. (38 U.S.C. 1508, 1511)

(b) *Placement in "discontinued".* The VA will discontinue the veteran's case and assign the case to "discontinued" status following assignment to "interrupted" status as provided in § 21.197 for reasons including but not limited to the following:

(1) *Veteran declines to initiate or continue rehabilitation process.* If a veteran does not initiate or continue the rehabilitation process and does not furnish an acceptable reason for his or her failure to do so following assignment to "interrupted" status, the veteran's case will be discontinued and assigned to "discontinued" status. This includes:

(i) A case in "applicant" status;

(ii) A case in "evaluation and planning" status;

(iii) A case in "extended evaluation" status;

(iv) A case in "rehabilitation to the point of employability" status;

(v) A case in "independent living program" status;

(vi) A case in "employment services" status; or

(vii) A case in "interrupted" status; (38 U.S.C. 1508, 1511)

(2) *Unsatisfactory conduct and cooperation.* When a veteran's conduct or cooperation becomes unsatisfactory, services and assistance may be discontinued and assigned to "discontinued" status as determined under provisions of §§ 21.362 and 21.364.

(3) *Eligibility and entitlement.* Unless the veteran desires employment assistance, the veteran's case will be discontinued and assigned to "discontinued" status when:

(i) The veteran reaches the basic twelve-year termination date, and there is no basis for extension; or

(ii) The veteran has used 48 months of entitlement under one or more VA programs, and there is no basis for extension of entitlement.

(4) *Medical and related problems.* A veteran's case will be discontinued and assigned to "discontinued" status when:

(i) The veteran will be unable to participate in a rehabilitation program because of a serious physical or emotional problem for an extended period; and

(ii) VA medical staff are unable to estimate an approximate date by which the veteran will be able to begin or return to the program.

(5) *Withdrawal.* Veteran voluntarily withdraws from the program.

(6) *Failure to progress.* The veteran's case will be discontinued and assigned to "discontinued" status if his or her failure to progress in a program is due to:

(i) Continuing lack of application by the veteran unrelated to any personal or other problems; or

(ii) Inability of the veteran to benefit from rehabilitation services despite the best efforts of the VA and the veteran. (38 U.S.C. 1508, 1511)

(c) *Termination of "discontinued" status.* Except as noted in paragraph (c)(3) of this section assignment of the veteran's case to the same status from which the veteran was discontinued or to a different one requires that the VA first find:

(1) The reason for the discontinuance has been removed; and

(2) The VA has redetermined his or her eligibility and entitlement under chapter 31.

(3) In addition to the criteria described in paragraphs (c) (1) and (2) of this section a veteran placed into "discontinued" status as a result of a finding of unsatisfactory conduct or cooperation under §§ 21.362 and 21.364 must also meet the requirements for reentrance into a rehabilitation program found in § 21.364. (38 U.S.C. 1511)

(d) *Followup of cases placed in "discontinued" status.* The VA shall establish appropriate procedures to follow-up on cases which have been placed in "discontinued" status. The purpose of such followup is to determine if:

(1) The reasons for discontinuance may have been removed, and reconsideration of eligibility and entitlement is possible; or

(2) The veteran is employed, and criteria for assignment to "rehabilitated" status are met. (38 U.S.C. 1507)

Cross-Reference: See § 21.324 Reduction or termination dates of subsistence allowance.

Center headings and §§ 21.200–21.209 [Removed]

37. Center headings "Vocational Rehabilitation Training Under Chapter 31, Title 38, United States Code" and "Status of Veterans Prior to Induction Into Training", and §§ 21.200 through 21.209 are removed.

Center headings and §§ 21.211, 21.221,1 21.223, 21.225, 21.226, 21.227 [Removed]

38. Center headings: "SELECTING THE TRAINING FACILITY", "THE INDIVIDUAL TRAINING PROGRAM" and "INDUCTING THE VETERAN INTO TRAINING" and §§ 21.211, 21.221, 21.223, 21.225, 21.226 and 21.227 are removed. A new center heading is added. Sections 21.210, 21.212, 21.220, 21.222, and 21.224 are revised, and sections 21.214, 21.216, 21.218 and 21.219 are added, so that the revised and added material reads as follows:

Supplies

§ 21.210 Supplies.

(a) *Purpose of furnishing supplies.* Supplies are furnished to enable a veteran to pursue rehabilitation and achieve the goals of his or her program. (38 U.S.C. 1504(a))

(b) *Definition.* The term "supplies" includes books, tools, and other supplies and equipment which the VA determines are necessary for the veteran's rehabilitation program. (38 U.S.C. 1504(a))

(c) *Periods during which supplies may be furnished.* Supplies may be furnished during:

(1) Extended evaluation;

(2) Rehabilitation to the point of employability;

(3) Employment services; and

(4) An independent living services program. (38 U.S.C. 1504(a))

(d) *Supplies precluded.* Notwithstanding the provisions of paragraph (c) of this section, supplies may not be furnished to a veteran who has elected, or is in receipt of, payment at the educational assistance rate paid under chapter 34. (38 U.S.C. 1508(a))

§ 21.212 General policy in furnishing supplies during periods of rehabilitation.

(a) *Furnishing necessary supplies during a period of rehabilitation services.* A veteran will be furnished supplies that are necessary for a program of rehabilitation services. For example, a veteran training in a school will be furnished the supplies needed to pursue the school course. If additional supplies are subsequently needed to secure employment, they will be

furnished during the period of employment services as provided in § 21.214(d). (38 U.S.C. 1504(a))

(b) *Determining supplies needed during a period of rehabilitation.* Subject to the provisions of §§ 21.210 through 21.222, the VA will authorize only those supplies which are required:

(1) To be used by similarly circumstanced non-disabled persons in the same training or employment situation;

(2) To mitigate or compensate for the effects of the veteran's disability while he or she is being evaluated, trained or assisted in gaining employment; or

(3) To allow the veteran to function more independently and thereby lessen his or her dependence on others for assistance. (38 U.S.C. 1504(a))

(c) *When supplies may be authorized.* Supplies should generally be authorized subsequent to the date of enrollment in training or beginning date of other rehabilitation services unless there are compelling reasons to authorize them earlier. Supplies may not be authorized earlier than the date the veteran's rehabilitation plan is approved by the VA and the veteran is accepted by the facility or individual providing services. (38 U.S.C. 1504(a))

(d) *Supplies needed, but not specifically required.* The VA may determine that an item, such as a calculator, while not required by the school for the pursuit of a particular school subject, is nevertheless necessary for the veteran to successfully pursue his or her program under the provisions of § 21.156 pertaining to incidental goods and services. The item may be authorized if:

(1) It is generally owned and used by students pursuing the course; and

(2) Students who do not have the item would be placed at a distinct disadvantage in pursuing the course. (38 U.S.C. 1504(a))

(e) *Supplies for special projects and theses.* The amount of supplies that the VA may authorize for special projects, including theses, may not exceed the amount generally needed by similarly circumstanced nonveterans in meeting course or thesis requirements. (38 U.S.C. 1504(a))

(f) *Responsibility for authorization of supplies.* The case manager is responsible for the authorization of supplies, subject to requirements for prior approval contained in § 21.258 and other instructions governing payment of program charges. (38 U.S.C. 1506(e))

§ 21.214 Furnishing supplies for special programs.

(a) *General.* A veteran pursuing one of the following types of vocational rehabilitation programs is eligible for any types of supplies listed in § 21.212. The following paragraphs clarify the applicability of the general provisions of § 21.212 to these special situations. (38 U.S.C. 1504(a))

(b) *Supplies furnished to veterans pursuing training in the home.* The VA may furnish to veterans training in the home:

(1) Books, tools, and supplies which schools or training establishments that train individuals outside the home for the objective the veteran is pursuing at home ordinarily require all students and trainees to personally possess;

(2) Supplies and equipment which are essential to the prescribed course of training because the veteran is pursuing the course at home. Equipment in this category consists of items which ordinarily are not required by a school or training establishment;

(3) Special equipment, such as a vise or drafting table;

(4) Supplies needed to enable the veteran to function more independently in his or her home and community. (38 U.S.C. 1504(a))

(c) *Supplies furnished to a veteran in farm cooperative training.* The books and related training supplies which the VA may furnish a veteran in farm cooperative training depend upon the type of instruction he or she is receiving:

(1) When organized, group instruction is part of a veteran's course, the VA will furnish those books and supplies which the school requires all students in the school portion of the course to own personally or on a rental basis;

(2) When all instruction is given on the veteran's farm by an individual instructor, the VA will furnish to a student only those textbooks and other supplies which would ordinarily be required by a school. (38 U.S.C. 1504(a)(7))

(d) *Obtaining and maintaining employment.* A veteran being furnished employment services may receive supplies which:

(1) The employer requires similarly circumstanced nonveterans to own upon begining employment to the extent that the items were not furnished during the period in which the veteran was training for the objective, or the items that were furnished for training purposes are not adequate for employment;

(2) The VA determines that special equipment is necessary for the veteran to perform his or her duties, subject to the obligation of the employer to make reasonable accommodation to the disabling effects of the veteran's condition. (38 U.S.C. 1504(a), 2012)

(e) *Self-employment.* The supplies and services which may be furnished, subject to the requirements prescribed under § 21.258, to a veteran for whom self-employment has been approved as the occupational objective, are generally limited to those necessary to begin operations:

(1) Minimum stocks of materials, e.g., inventory of saleable merchandise or goods, expendable items required for day-to-day operations, and items which are consumed on the premises;

(2) Essential equipment, including machinery, occupational fixtures, accessories, and appliances; and

(3) Other incidental services such as business license fees. (38 U.S.C. 1504(a)(2))

(f) *Supplies and related assistance which may not be furnished for self-employment.* The VA may not authorize assistance for:

(1) Purchase of, or part payment for, land and buildings;

(2) Making full or part payment of leases or rentals;

(3) Purchase or rentals of trucks, cars, or other means of transportation;

(4) Stocking a farm for animal husbandry operations. (38 U.S.C. 1504(a)(12))

§ 21.216 Special equipment.

(a) *General.* Special equipment should be authorized as necessary to enable a veteran to mitigate or overcome the effects of disability in pursuing a rehabilitation program. The major types of special equipment which may be authorized include:

(1) *Equipment for educational or vocational purposes.* This category includes items which are ordinarily used by nondisabled persons pursuing evaluation or training, modified to allow for use by disabled persons. e.g., calculators with speech capability for blinded persons.

(2) *Sensory aids and prostheses.* This category includes items which are specifically designed to mitigate or overcome the effects of disability. They range from eyeglasses and hearing aids to closed-circuit TV systems which amplify reading material for veterans with severe visual impairments.

(3) *Modifications to improve access.* This category includes adaptations of environment not generally associated with education and training, such as adaptive equipment for automobiles or supplies necessary to modify a veteran's home to make either training or self-employment possible. (38 U.S.C. 1504(a))

(b) *Coordination with other VA elements in securing special equipment.* In any case in which the veteran needs special equipment and is eligible for

such equipment under other VA programs, such as medical care and treatment at VA medical centers, the items will be secured under that program. The veteran must be found ineligible for needed special equipment under other programs and benefits administered by VA before the item may be authorized under chapter 31. (38 U.S.C. 1515)

§ 21.218 Methods of furnishing supplies.

(a) *Supplies furnished by the school or facility.* The VA will make arrangements for the school or other facility furnishing a veteran training, rehabilitation assistance, or employment under chapter 31 to provide supplies to the extent practicable. This method is the one most likely to assure that supplies are available and can be secured expeditiously. A facility may be considered to be furnishing supplies when the facility itself is the supplier, or the facility has designated a supplier. Prior authorization of supplies by the case manager is required, except for standard sets of books, tools, or supplies which the facility requires all trainees or employees to have. (38 U.S.C. 1504(a))

(b) *Issuance of supplies not furnished by the facility.* The VA will issue authorized supplies directly to the veteran, if the supplies are not furnished by the facility providing training, rehabilitation services, or employment. (38 U.S.C. 1504(a))

Cross-Reference: See 48 CFR 831. Contract cost principles and procedures.

§ 21.219 Supplies consisting of clothing, magazines and periodicals, and items which may be personally used by the veteran.

(a) *Furnishing protective articles and clothing.* Protective articles or apparel worn in place of ordinary clothing will be furnished at VA expense, when the school or training establishment requires similarly circumstanced nonveterans to use the articles of apparel. No other clothing will be supplied. (38 U.S.C. 1504(a)(7))

(b) *Furnishing magazines and periodicals.* Appropriate past issues of magazines, periodicals, or reprints may be furnished in the same manner as text material, when relevant to the course or training. (38 U.S.C. 1504(a)(7))

(c) *Furnishing items which may be personally used.* Musical instruments, cameras, or other items which could be used personally by the veteran may only be furnished if required by the facility to meet requirements for degree or course completion. (38 U.S.C. 1504(a)(7))

§ 21.220 Replacement of supplies.

(a) *Lost, stolen, misplaced or damaged supples.* The VA will replace articles which are necessary to further pursuit of the veteran's program and which are lost, stolen, misplaced, or damaged beyond repair through no fault of the veteran;

(1) The VA will make an advancement from the Vocational Rehabilitation Revolving Fund to a veteran to replace articles for which the VA will not pay, if the veteran is without funds to pay for them;

(2) If a veteran refuses to replace an article indispensable to the program after the VA determines that its loss or damage was his or her fault, the veteran's refusal may be considered as noncooperation under § 21.364;

(3) If the veteran's program is discontinued under provisions of § 21.364(b), he or she will be reentered into the program only when he or she replaces the necessary articles. (38 U.S.C. 1504(a))

(b) *Personally purchased supplies.* The VA will not generally reimburse a veteran who personally buys supplies. The VA may pay for the required supplies which a training facility or other vendor sells to a veteran, if the facility chooses to return to the veteran the amounts he or she paid, so that the charges stand as an unpaid obligation of the VA to the facility. If the facility does not agree to such an arrangement, the VA may still pay the veteran, if the facts and equities of the case are demonstrated. (38 U.S.C. 1515)

(c) *Supplies used in more than one part of the program.* Except as provided in paragraph (a) of this section, the VA will generally furnish any nonconsumable supplies only one time, even though the same supplies may be required for use by the veteran in another subject or in another quarter, semester, or school year. (38 U.S.C. 1504(a)(7))

§ 21.222 Release of, and repayment for, training and rehabilitation supplies.

The value of supplies authorized by the VA will be repaid under the provisions of this section, when the veteran fails to complete the program as planned.

(a) *Consumable supplies.* The VA will require reimbursement from a veteran for consumable supplies authorized, unless:

(1) The veteran fails to complete the rehabilitation program through no fault of his or her own;

(2) The employment objective of the rehabilitation plan is changed as a result of reevaluation by VA staff;

(3) The total value of the supplies for which repayment is required is less than $100; or

(4) The veteran dies. (38 U.S.C. 1504)

(b) *Nonconsumable supplies (general).* In addition to the exceptions noted in paragraph (c) of this section, the VA will not require reimbursement from a veteran for nonconsumable supplies authorized, if:

(i) The veteran and VA change the long-range goal of the rehabilitation plan and those supplies are not required for the veteran's pursuit of training for the new goal;

(ii) The veteran's failure to complete the program was not his or her fault;

(iii) The veteran was pursuing the program at a facility which recovers nonconsumable supplies from veterans through contractural arrangements with the VA, and the veteran returned to the facility all the nonconsumable supplies furnished at VA expense;

(iv) The veteran reenters the Armed Forces or is in the process of reentering the Armed Forces;

(v) The veteran satisfactorily completed one-half or more of a noncollege degree course (or at least two terms in the case of a college course) for which the VA furnished the supplies;

(vi) The veteran certifies that he or she is using in current employment the supplies furnished during training;

(vii) The total value of the supplies for which repayment is required is less than $100;

(viii) The veteran dies;

(ix) The veteran is furnished supplies during a period of employment services but loses the job through no fault of his or her own;

(x) A veteran discontinued from an "independent living services" program is using supplies and equipment to reduce his or her dependence on others; or

(xi) The veteran is declared rehabilitated.

(2) The amount which a veteran must repay will be the lesser of the current value of the supplies, or the original cost of the supplies. The VA will accept supplies in lieu of repayment of the value of the supplies if the VA has authorized a change of objective. (38 U.S.C. 1504(a))

(c) *Training in the home and self-employment.* In addition to the reasons for not requiring repayment or return of nonconsumable supplies listed in paragraph (b) of this section, the VA will not require a veteran to pay for or return nonconsumable supplies if: (1) In the case of a veteran training in the home:

(i) VA furnished such supplies to equip his or her home as a place of training; and

(ii) The veteran has completed enough of his or her training program to be considered employable, and has been declared rehabilitated to the point of employability;

(2) A veteran in a self-employment program not in the home is declared rehabilitated; or

(3) The veteran dies and the Director, VR&C Service determines that the facts and equities of the family situation warrant waiver of all or a part of the requirements for repayment. (38 U.S.C. 1504(a)(12))

§ 21.224 Prevention of abuse.

Supplies are to be furnished under the most careful checks by the case manager as to what is needed by the veteran to pursue his or her program. Determinations of the supplies needed to enable the veteran to successfully pursue his or her rehabilitation program are made under the provisions of §§ 21.210 through 21.222. (38 U.S.C 1504, 1511)

Center heading and §§ 21.230–21.239 [Removed]

39. The center heading "SUPPLIES" and §§ 21.230 through 21.239 are removed.

Center heading and §§ 21.241, 21.243, 21.244 and 21.245 [Removed]

40. The center heading "SUPERVISION OF THE INDIVIDUAL VETERAN" and §§ 21.241, 21.243, 21.244 and 21.245 are removed: a new center heading is added; and §§ 21.240 and 21.242 are revised to read as follows:

Medical and Related Services

§ 21.240 Medical treatment, care and services.

(a) *General.* A chapter 31 participant shall be furnished medical treatment, care and services which the VA determines are necessary to develop, carry out and complete the veteran's rehabilitation plan. The provision of such services is a part of the veteran's entitlement to benefits and services under chapter 31, and is limited to the period or periods in which the veteran is a chapter 31 participant. (38 U.S.C. 1504, 1507)

(b) *Scope of services.* The services which may be furnished under chapter 31 include the treatment, care and services described in part 17 of this title. In addition the following services may be authorized under chapter 31 even if not included or described in part 17:

(1) Prosthetic appliances, eyeglasses, and other corrective or assistive devices;

(2) Services to a veteran's family as necessary for the effective rehabilitation of the veteran;

(3) Special services (including services related to blindness and deafness) including:

(i) Language training; speech and voice correction, training in ambulation, and one-hand typewriting;

(ii) Orientation, adjustment, mobility and related services;

(iii) Telecommunications, sensory and other technical aids and devices. (38 U.S.C. 1504)

(c) *Eligibility.* A veteran is eligible for the services described in paragraph (b) of this section during periods in which he or she is considered a chapter 31 participant. These periods include:

(1) Initial evaluation;

(2) Extended evaluation;

(3) Rehabilitation to the point of employability;

(4) Independent living services program;

(5) Employment services; and

(6) Other periods to the extent that services are needed to begin or continue in any of the statutes described in paragraphs (c)(1) through (5) of this section. Such periods include but are not limited to services needed to facilitate reentry into rehabilitation following:

(i) Interruption; or

(ii) Discontinuance because of illness or injury. (38 U.S.C. 1504)

Cross-Reference: See § 17.48(g). Participating in a rehabilitation program under chapter 31.

§ 21.242 Resources for provision of treatment, care and services.

(a) *General.* VA medical centers are the primary resources for the provision of medical treatment, care and services for chapter 31 participants which may be authorized under the provisions of § 21.240. The availability of necessary services in VA facilities shall be ascertained in each case. (38 U.S.C. 1515)

(b) *Hospital care and medical service.* Hospital care and medical services provided under chapter 31 shall only be furnished in facilities over which the VA has direct jurisdiction, except as authorized on a contract or fee basis under the provisions of part 17 of this title. (38 U.S.C. 1515(b))

Cross-References: See § 17.30(l). Hospital care. § 17.30(m) Medical services.

Center Heading and § 21.253 [Removed]

41. The center heading "VOCATIONAL REHABILITATION BOARD" and § 21.253 is removed; §§ 21.250, 21.252, 21.254, and 21.256 are revised; a new center heading and new §§ 21.257 and 21.258 are added so that the revised and added material reads as follows:

Employment Services

§ 21.250 Overview of employment services.

(a) *General.* Employment services shall be provided if:

(1) Eligibility for employment services exists;

(2) The employment services which are needed have been identified; and

(3) The services which have been identified are incorporated in the veteran's IWRP (Individualized Written Rehabilitation Plan) or IEAP (Individualized Employment Assistance Plan). (38 U.S.C. 1507, 1517)

(b) *Definitions.* (1) The term "program (period) of employment services" includes the counseling, medical, social, and other placement and postplacement services provided to a veteran under 38 U.S.C. chapter 31 to assist the veteran in obtaining or maintaining suitable employment. The term "program of employment services" is used only if the veteran's eligibility under chapter 31 is limited to employment services.

(2) The term "job development" means a comprehensive professional service to assist the individual veteran to actually obtain a suitable job, and not simply the solicitation of jobs on behalf of the veteran. Continuing and mutually beneficial relationships with employers should be established by VA staff through referral of suitable employees and supportive services (e.g., adjustment counseling and job modification). Job development activities by VA staff are intended to provide disabled workers with a chance for suitable employment with cooperating employers. (38 U.S.C. 1501, 1507, 1516, 1517)

(c) *Determining eligibility for, and the extent of, employment services.*

(1) A veteran's eligibility for employment services shall be determined under provisions of § 21.47 if he or she is not found to have an employment handicap under provisions of § 21.52;

(2) The duration of the period of employment services is determined under provisions of § 21.72;

(3) An IEAP (Individualized Employment Assistance Plan) shall be prepared under provisions of § 21.88;

(4) A veteran shall be placed in and removed from "Employment Assistance Status" under provisions of § 21.194. (38 U.S.C. 1501, 1517)

§ 21.252 Job development and placement services.

(a) *General.* Job development and placement services may include:

(1) Direct placement assistance by the VA;

(2) Utilization of the job development and placement services of:

(i) DVOP (Disabled Veterans Outreach Program) specialists;

(ii) Programs authorized under the Rehabilitation Act of 1973, as amended;

(iii) The State Employment Services and the Veterans Employment Service of the Department of Labor;

(iv) The Office of Personnel Management; and

(v) The services of any other public or nonprofit organization having placement services available. (38 U.S.C. 1517)

(b) *Promotion of employment and training opportunities.* As funding permits, VA employees engaged in the administration of chapter 31 will promote the establishment of employment, training, and related opportunities to accomplish the purposes described in § 21.1. (38 U.S.C. 1501)

(c) *Advocacy responsibility.* The VA shall take reasonable steps to ensure that a veteran being provided employment services receives the benefit of any applicable provision of law or regulation providing for special consideration or emphasis or preference of the veteran in employment or training, especially programs and activities identified in the preceding paragraphs of this section. (38 U.S.C. 220)

(d) *Interagency coordination.* VA employees providing assistance to chapter 31 participants shall coordinate their job development, placement, promotional, and advocacy activities with similar or related activities of:

(1) The Department of Labor and State employment security agencies as provided by written agreement or other arrangement;

(2) The State approving agencies;

(3) Other public and nonprofit agencies providing employment and related services. (38 U.S.C. 1516, 1517)

§ 21.254 Supportive services.

(a) *General.* Supportive services which may be provided during a period or program of employment services include a broad range of medical treatment, care and services, supplies, license and other fees, special services, including services to the blind and deaf, transportation assistance, services to the veteran's family, and other appropriate services, subject to the limitations provided in VA regulations governing the provisions of these services under chapter 31. (38 U.S.C. 1504(a))

(b) *Exclusions.* The following benefits may not be provided to the veteran by the VA during a period or program of employment services:

(1) Subsistence allowance, or payment of an allowance at the educational assistance rate paid under chapter 34 for similar training;

(2) Education and training services, other than brief courses, such as review courses necessary for licensure;

(3) Revolving Fund Loan; and

(4) Work-study allowance. (38 U.S.C. 1504(a))

(c) *Disabled veterans trained for self-employment under a State rehabilitation agency.* A service-disabled veteran who has trained for self-employment under the auspices of a State rehabilitation agency may be provided supplemental equipment and initial stocks and supplies similar to the materials supplied to the most severely disabled veterans in self-employment programs under chapter 31, if the following conditions are met;

(1) The veteran is eligible for employment assistance under provisions of § 21.47;

(2) An official of the State rehabilitation program with responsibility for administration of self-employment programs certifies that:

(i) The veteran has successfully completed training for a self-employment program;

(ii) The assistance needed is not available through the State rehabilitation program, or other non-VA sources;

(iii) The assistance requested is a part of the veteran's IWRP (Individualized Written Rehabilitation Plan) developed by the State rehabilitation program;

(3) The requirements of § 21.258 pertaining to self-employment for the most severely disabled veterans are met; and

(4) The Director, VR&C Service approves the request, if the cost of supplies is more than $2,500. The approval of the Director is required prior to authorization of supplies. (38 U.S.C. 1517(b))

§ 21.256 Incentives for employers.

(a) *General.* The VA may make payments to employers to enable a veteran who has been rehabilitated to employability to begin and maintain employment or to provide on-job training. The purpose of such payment is to facilitate the placement of veterans who are generally qualified for employment but may lack some specific training or work experience which the employer requires or who are difficult to place due to their disability. The specific conditions which must be met before this option may be considered are contained in paragraphs (b) through (d) of this section. (38 U.S.C. 1516(b))

(b) *Requirements for payments to employers.* Payments may be made to employers to provide on-job training or to begin and maintain employment if all of the following conditions are met:

(1) The veteran is in need of an on-job training situation or is generally qualified for employment but such on-job situation or employment opportunity is not otherwise available despite repeated and intensive efforts on the part of VA and the veteran to secure such opportunities. These conditions are also considered to be met when:

(i) There are few employers within commuting distance of the veteran's home who can provide a training or employment opportunity consistent with the veteran's plan; and

(ii) The veteran reasonably could not be required to seek on-job or employment opportunities in other areas due to the effects of his or her disability, family situation, or other pertinent factors; and

(iii) The available local employers will only provide a training or employment opportunity if the VA agrees to reimburse for direct expenses to the degree permitted under this section.

(2) The training establishment or employer is in compliance with provisions of § 21.290 (a) and (b), pertaining to the approval of courses and facilities.

(3) The VA entered into an agreement with the employer in writing prior to the beginning of the period of on-job training or employment, whereby the employer will be reimbursed for direct expenses approved under provisions of paragraph (c) of this section.

(4) The on-job training program or employment of the veteran does not displace a current employee or prevent the recall of a laid-off employee. (38 U.S.C. 1516(b))

(c) *Limitation on payment.* Payments to the employer may be made only for the employer's direct expenses as a result of hiring the veteran and generally may not exceed one-half of the wage paid to other employees in the same or similar job. Direct expenses include:

(1) Instruction;

(2) Instructional aids;

(3) Training materials and supplies provided to the veteran;

(4) Minor modification of equipment to the special limitations of the veteran;

(5) Significant loss of productivity of the employer caused by using the

veteran as opposed to a nondisabled employee. (38 U.S.C. 1516(b))

(d) *Duration.* The period for which the employer is paid may not exceed the period necessary to accomplish on-job training or to begin and maintain employment at the journeyman level for at least 2 months. The period for which payment may be authorized may not exceed 9 months, unless the Director, VR&C Service, approves a longer period. (38 U.S.C. 1516(b))

(e) *Benefits and services.* (1) An eligible veteran on whose behalf payments are made to the employer shall be provided all other chapter 31 benefits and services furnished to other veterans receiving employment services. A veteran may not be paid a subsistence allowance during the period in which job training or work experience is furnished under this section.

(2) Notwithstanding any other provisions of these regulations, if the program in which the veteran is participating meets the criteria for approval of on-job training under chapter 34, the veteran may be paid educational assistance under chapter 34 to the extent that he or she has remaining eligibility and entitlement under chapter 34. (See § 21.264) (38 U.S.C. 1516(b))

(f) *Non-duplication.* The VA will not make payments under the provisions of this section to an employer receiving payments from any other program for the same training or employment expenses. (38 U.S.C. 1516(b))

§ 21.257 Self-employment.

(a) *General.* Vocational rehabilitation will generally be found to have been accomplished by the veteran when he or she achieves suitable employment in the objective selected, in an existing business, agency or organization in the public or private sector. Rehabilitation of the veteran may be achieved through self-employment in a small business, if the veteran's access to the normal channels for suitable employment in the puplic or private sector is limited because of his or her disability or other circumstances in the veteran's situation warrant consideration of self-employment as an additional option. (38 U.S.C. 1504(a)(12))

(b) *Self-employment plan.* VA staff will conduct a comprehensive survey and analysis of the feasibility of self-employment prior to authorization of a rehabilitation plan leading to self-employment. The analysis and self-employment plan developed on the basis of such analysis shall be made a part of the veteran's chapter 31 record. The survey and plan shall include:

(1) An analysis of the economic viability of the proposed small business plan;

(2) A cost analysis which specifies the amount and type of assistance, if any, which the VA would be committed to furnish;

(3) Provision for development of a market for the veteran's services during the period of rehabilitation to the point of employability, and/or employment services;

(4) A suitable occupational objective in which employment can normally be secured in the public or private sector;

(5) Training necessary for the operation of a successful small business;

(6) Availability of non-VA financing, including the veteran's financial resources, local banks and other sources;

(7) Coordination with the Small Business Administration to secure special consideration under section 8 of the Small Business Act, as amended;

(8) The location of the site selected for the business and the cost of the site, if any. (38 U.S.C. 1504(a)(12))

§ 21.258 Special assistance for veterans in self-employment.

(a) *General.* A veteran in a self-employment program is eligible for certain special assistance in addition to the services for which veterans in a vocational rehabilitation program are generally eligible under the provisions of § 21.252. A veteran may be provided the assistance described under § 21.214 to the extent of his or her eligibility for such services as determined under paragraphs (b) and (c) of this section and § 21.254(c). (38 U.S.C. 1516, 1517)

(b) *Special services for the most severely disabled veterans.* Special services listed in § 21.254(e) shall be provided as necessary for the most severely disabled veterans. The term "most severely disabled veteran" means a veteran who has been determined to have a serious employment handicap and limitations on employability arising from the effects of disability (service-connected and nonservice-connected). which necessitates selection of self-employment as the veteran's vocational goal. This category includes veterans requiring:

(1) Homebound training and self-employment; or

(2) Self-employment for other reasons even though the veteran is able to pursue training on other than a homebound basis, e.g., lack of suitable employment opportunities in the area. (38 U.S.C. 1504(a)(12))

(c) *Special services for other veterans.* Special services described in § 21.214(e) may be furnished to a veteran with a serious employment handicap if the veteran also meets the following conditions:

(1) Self-employment is clearly shown to be the soundest method of achieving rehabilitation, and the cost of assistance requested under the provisions of § 21.214(e) will not exceed $15,000, except as approved by the Director, VR&C Service; or

(2) Self-employment is selected as an alternative to retaining the veteran in another occupation, and the cost of a self-employment program will not exceed the cost of retraining in another occupation. (38 U.S.C. 1504(a)(12))

(d) *Assisting a veteran with an employment handicap to become self-employed.* A veteran with an employment handicap may not be furnished any of the special services described in § 21.214(e). However, if it is determined that consideration of self-employment is warranted, the VA may provide:

(1) Incidental training in the management of a small business;

(2) License or other fees required for employment and self-employment; and

(3) The tools and supplies which would ordinarily be required for the veteran to begin employment in the field in which the veteran has trained. (38 U.S.C. 1504(a)(12))

(e) *Approval of the Director, VR&C (Vocational Rehabilitation and Counseling) Service.* The prior approval of the Director, VR&C Service is required in all cases considered under this section in which the cost of special assistance furnished under § 21.214(e) will exceed $2,500. The approval of the Director is required prior to final agreement with the veteran on the inclusion of self-employment in the veteran's plan. (38 U.S.C. 1504(a)(12))

42. Section 21.260 and the center heading preceding the section are revised as follows:

Monetary Assistance Services

§ 21.260 Subsistance allowance.

(a) *General.* A veteran in a rehabilitation program under chapter 31 will receive a monthly subsistence allowance at the rates specified in paragraph (b), unless he or she has elected to receive payment at the rate of the monthly educational assistance allowance payable under chapter 34 for similar training. See § 21.264 and § 21.4136. (38 U.S.C. 1508(a))

(b) *Rate of payment.* Subsistence allowance is paid at the following rates effective October 1, 1980.

Type of program	Monthly rate of subsistence allowance			
	No dependents	One dependent	Two dependents	Additional amount for each dependent over two
Institutional:[1]				
Full-time	$282	$349	$411	$30
¾ time	212	262	308	23
½ time	141	175	206	15
Nonpay on-job training or experience in a federal agency; training in the home; vocational course in a rehabilitation facility or sheltered workshop; independent instructor: Full-time only	282	349	411	30
Farm cooperative apprenticeship or other on-job training:[2] Full-time only	246	297	343	22
Combination (institutional and OJT) (Full-time only):				
Institutional ½ time or more	282	349	411	90
OJT ½ time or more	246	297	343	22
Non-farm cooperative (Full time only):				
Institutional	282	349	411	30
On-job	246	297	343	22
Improvement of rehabilitation potential: Full time only	282	349	411	30
Independent living: Extended evaluation:[3]				
Full time	282	349	411	30
¾ time	212	262	308	23
½ time	141	175	206	15
¼ time	71	87	103	8

[1] Measurement of rate of pursuit (§§ 21.4270–21.4275).
[2] For on-job training, subsistence allowance may not exceed the difference between the monthly training wage, exclusive of overtime, and the entrance journeyman wage for the veteran's objective.
[3] Rates for extended evaluation effective April 1, 1981.

(c) *Subsistence allowance precluded.* A subsistence allowance may not be paid for any period during which the only authorized services being furnished to the veteran by the VA are:

(1) Initial evaluation;

(2) Employment services; or

(3) Counseling. (38 U.S.C. 1508(a))

§ 21.261 [Removed]

43. Section 21.261 is removed.

44. Section 21.262 is revised as follows:

§ 21.262 Procurement and reimbursement of cost for training and rehabilitation services, supplies, or facilities.

(a) *General.* Whenever services, supplies and facilities from source outside the VA are required by any of these regulations, they shall be provided through contract, agreement of other cooperative arrangement between the VA and the vendor. (38 U.S.C. 1515(b))

(b) *VA Acquisition Regulations.* Payments of charges for training and rehabilition services, supplies, or facilities, authorized under chapter 31 are subject to the provisions of applicable VA Acquisition Regulations especially 48 CFR Part 831 and Subpart 871.2. and (38 U.S.C. 1515(a))

§ 21.263 [Removed]

45. Section 21.263 is removed.

46. Section 21.264 is revised as follows:

21.264 Election of payment at the chapter 34 educational assistance rate.

(a) *Eligibility.* A veteran who applies for, and is found entitled, to training or education under chapter 31, may elect to receive payment at the educational allowance rate and other assistance furnished under chapter 34, for similar training in lieu of a subsistence allowance, provided the following criteria are met:

(1) The veteran has remaining eligibility for, and entitlement to, educational assistance under chapter 34;

(2) The veteran enrolls in a program of education or training approved for benefits under chapter 34;

(3) The program of education is part of an IWRP (Individualized Written Rehabilitation Plan) approved by the VA. (38 U.S.C. 1508)

(b) *Reelection of subsistence allowance.* Reelection of payment of benefits at the chapter 31 subsistence allowance rate may be made only after completion of a term, quarter, semester, or other period of instruction unless:

(1) Chapter 34 eligibility or entitlement ends earlier;

(2) Failure to approve immediate reelection would prevent the veteran from continuing in the rehabilitation program. (38 U.S.C. 1508(f))

(c) *Services precluded.* A veteran entitled to vocational rehabilitation training or education who elects payment at the educational assistance rate payable under chapter 34 shall be provided the same training and rehabilitation services as other veterans under chapter 31, but may not be provided:

(1) Subsistence allowances;

(2) Loans from the revolving fund loan;

(3) Payment of costs for:

(i) Vocational and other training services;

(ii) Supplies; or

(iii) Individualized tutorial assistance. (38 U.S.C. 1508(f)

(d) *Chapter 34 provisions applicable.* A veteran who has elected payment at the chapter 34 educational assistance rate must meet the same terms and conditions as other veterans pursuing similiar training under chapter 34. (38 U.S.C. 1508(f))

§ 21.265 [Removed]

47. Section 21.265 is removed.

48. Section 21.266 is revised as follows:

§ 21.266 Payment of subsistence allowance under special conditions.

(a) *Hospitalized veteran or serviceperson.* A veteran pursuing a VA rehabilitation program under chapter 31 while hospitalized in a VA medical center or in any other hospital at VA expense may receive the subsistence allowance otherwise payable. The subsistence allowance will be paid at the rates specified in § 21.260, except:

(1) The amount of subsistence allowance or the allowance provided under § 21.264 that may be paid to a veteran pursuing a rehabilitation program for any month for which the veteran receives compensation at the rate prescribed in § 3.401(h) of this title, as the result of hospital treatment (not including post-hospital convalescence) or observation at the expense of the VA may not exceed, when added to any compensation to which such veteran is

entitled for the month, an amount equal to the greater of:

(i) The sum of: (A) the amount of monthly subsistence of the allowance payable under § 21.264, and (B) the amount of monthly disability compensation that would be paid to the veteran if he or she was not receiving compensation at the temporary 100 percent rate as the result of such hospital treatment or observation, or

(ii) The amount of monthly disability compensation payable under § 3.401(h) of this title.

(2) A veteran pursuing a rehabilitation program while in post hospital convalescence (§ 3.401(h)) will be paid the regular rate of subsistence allowance.

(3) A serviceperson pursuing a rehabilitation program under chapter 31 will not receive a subsistence allowance if he or she is hospitalized in a medical facility under the jurisdiction of the Secretary pending final discharge from the armed forces. (38 U.S.C. 1508(h))

(b) *Specialized rehabilitation facility.* (1) A veteran in a specialized rehabilitation facility will be paid the regular rate of subsistence allowance at the institutional rate. The VA may pay the cost of room and board in lieu of subsistence allowance when:

(i) The specialized rehabilitation facility requires that similarly circumstanced persons pay the same charges for room and board, and

(ii) The case manager finds and the veteran agrees that it is to the veteran's advantage for the VA to pay the cost of room and board.

(2) Even though the VA pays the cost of room and board, the veteran will be paid that portion of subsistence allowance otherwise payable for dependents. (38 U.S.C. 1508(e))

(c) *Non-pay work experience or training in a Federal agency.* A veteran in an on-job program or being provided work experience in a Federal agency at no or nominal pay shall receive subsistence allowance at the institutional rate. (38 U.S.C. 1508(c))

(d) *Extended evaluation and independent living program.* A veteran in a program of extended evaluation or independent living service program shall be paid subsistence allowance for full or part-time participation at the rate specified for institutional training in § 21.260. If an extended evaluation or independent living program is pursued on a less than a quarter-time basis, as measured under § 21.310(d), the VA will only pay established charges for services furnished. (38 U.S.C. 1508(h))

(e) *On-job training.* A veteran in an on-job training program will be paid subsistence allowance at the rate provided under § 21.260(b), except that subsistence allowance may not exceed the difference between the monthly training wage, exclusive of overtime, and the entrance journeyman wage for the veteran's objective. (38 U.S.C. 1508(c))

§ 21.267 [Removed]

49. Section 21.267 is removed.

50. Section 21.268 is revised as follows:

§ 21.268 Employment adjustment allowance.

(a) *General.* A veteran who completes a period of rehabilitation and reaches the point of employability will be paid an employment adjustment allowance for a period of two months at the full-time subsistence allowance rate for the type of program the veteran was last pursuing. (See §21.190(d)) (38 U.S.C. 1508(a))

(b) *Reelection of subsistence allowance.* A veteran who has elected payment at the chapter 34 educational assistance allowance rate may be paid an employment adjustment allowance only if he or she reelects subsistence allowance to become effective not later than the date following completion of the period of rehabilitation to the point of employability. (38 U.S.C. 1508(f))

(c) *Special programs.* An employment adjustment allowance will be paid at the institutional rate of subsistence allowance for veterans in any of the following programs:

(1) On-job training at no or nominal pay in a Federal agency;

(2) Training in the home program;

(3) Independent instructor program;

(4) Cooperative program; or

(5) Self-employment program. (38 U.S.C. 1508(a))

(d) *Combination program.* A veteran who has pursued a combination program will be paid an employment adjustment allowance at the full-time rate for the type of training the veteran was actually pursuing at the completion of the period of rehabilitation to the point of employability. (38 U.S.C. 1508(a))

(e) *Subsequent payments of employment adjustment allowance.* If a veteran has ever received an employment adjustment allowance following rehabilitation to the point of employability, he or she may, nevertheless, receive it again when completing an additional rehabilitation program to the point of employability if:

(1) The prior determination of rehabilitation to the point of employability is set aside; and

(2) The veteran is reinducted into a new vocational rehabilitation program as provided in § 21.282. (38 U.S.C. 1508(a))

(f) *Employment adjustment allowance not charged against entitlement.* An employment adjustment allowance will not be charged against the veteran's basic entitlement. (38 U.S.C. 1508(a))

51. Sections 21.270 and 21.272 are added as follows:

§ 21.270 Payment of subsistence allowance during leave and between periods of instruction.

(a) *Payment during leave.* The VA will pay an eligible veteran a subsistence allowance during any period of approved leave including a veteran:

(1) Receiving medical or rehabilitation services on an outpatient basis at a VA medical center, and who provides his or her own room and board;

(2) Receiving service department retirement or retained pay while not on active duty;

(3) Hospitalized at a VA medical center while on approved leave. If the veteran becomes eligible for payment of disability compensation at the temporary 100 percent rate, under § 3.401(h) of this title due to hospitalization, payment will be made under provisions of § 21.266(a). (38 U.S.C. 1510)

(b) *Payment for intervals between periods of instruction.* Subsistence allowance will paid to a veteran during the following periods unless the case manager and the veteran jointly determine that such payment is not in the veteran's interest:

(1) A period between consecutive terms within an emrollment period that does not exceed 1 full calendar month;

(2) A period between consecutive school terms, when the veteran, as part of his or her approved program of vocational rehabilitation, transfers from one educational institution to another for the purpose of enrolling in, and pursuing, the same objective at the second institution, provided the period does not exceed 30 days;

(3) A period which does not exceed 30 days, between a semester, term, or quarter, when the educational institution certifies the enrollment of the veteran on an individual semester, term, or quarter basis. (38 U.S.C. 1510, 1780(a))

(c) *Payment for other periods.* Subsistence allowance will be paid for:

(1) Weeekend and legal holidays, or customary vacation periods associated with them;

(2) Periods in which the school is closed temporarily under emergency conditions described in § 21.4138(f). (38 U.S.C. 1510, 1780(a))

§ 21.272 Veteran-student-services.

(a) *Eligibility.* Veterans who are pursuing full-time programs of education or training under chapter 31 are eligible to receive a work-study allowance. (38 U.S.C. 1504(a)(4), 1685)

(b) *Selection criteria.* Whenever feasible, the VA will give priority to veterans with service-connected disabilities rated at 30 percent or more disabling in selection of recipients of this allowance. The VA shall consider the following additional selection criteria:

(1) Need of the veteran to augment the subsistence allowance or payment made at the chapter 34 rate;

(2) Motivation of the veteran; and

(3) Compatibility of the work assignment with the veteran's physical condition. (38 U.S.C. 1504(a)(4), 1685)

(c) *Utilization.* Veteran-student services may be utilized in connection with:

(1) The VA outreach service program as carried out under the supervision of a VA employee;

(2) Preparation and processing of necessary VA papers and other documents at educational institutions, regional offices or other VA facilities;

(3) Hospital and domiciliary care and medical treatment at VA facilities; and

(4) Any other appropriate activity of the VA. (38 U.S.C. 1504(a)(4), 1685)

(d) *Rate of payment.* (1) In return for the veteran's agreement to perform services for the VA totaling 250 hours during an enrollment period, the VA will pay an allowance in an amount equal to the higher of:

(i) The amount of the hourly minimum wage in effect under section 6(a) of the Fair Labor Standards Act of 1938 times 250; or

(ii) $625.

(2) The VA will pay a proportionately smaller allowance to a veteran who agrees to perform a lesser number of hours services. (38 U.S.C. 1504(a)(4), 1685)

(e) *Payment in advance.* The VA shall pay in advance an amount equal to 40 percent of the total amount payable under the contract. (38 U.S.C. 1504(a)(4), 1685(a))

(f) *Veteran reduces rate of pursuit.* In the even the veteran ceases to be a full-time student before completing an agreement, the veteran may, with the approval of the Director, or designee, of the VA field station, be permitted to complete the portion of the agreement that remains. The veteran must complete the remaining portion of the agreement in the same term, quarter or semester in which the veteran ceases to be a full-time student or within three months thereafter. (38 U.S.C. 1504(a)(4), 1685)

(g) *Veteran terminates training.* If the veteran terminates all training before completing an agreement, the VA:

(1) Will permit him or her to complete the portion of the agreement represented by the sum of money the VA has advanced to the veteran for which he or she has not performed any services; but

(2) Will not permit him or her to complete that portion of an agreement for which no advance has been made. (38 U.S.C. 1504(a)(4), 1685)

(h) *Indebtedness for unperformed service.* (1) If the veteran has received an advance for hours of unperformed service that remain after application of paragraphs (f) and (g) of this section, that advance:

(i) Will be a debt due the United States; and

(ii) Will be subject to recovery in the same manner as any other debt due the United States;

(2) For each hour of unperformed service, the amount of indebtedness shall equal the hourly wage upon which the contract was made. (38 U.S.C. 1504(a)(4), 1685)

(i) *Survey.* The VA will conduct an annual survey of its regional offices to determine the number of veterans whose services can be utilized effectively. (38 U.S.C. 1504(a)(4), 1685)

52. Section 21.274 is revised as follows:

§ 21.274 Revolving fund loan.

(a) *Establishment of revolving fund loan.* A revolving fund is established to provide advances to veterans who would otherwise be unable to begin or continue in a rehabilitation program without such assistance. (38 U.S.C. 1512)

(b) *Definition.* The term "advance" means a non-interest loan from the revolving fund. (38 U.S.C. 1512)

(c) *Eligibility.* A veteran is eligible for an advance if the following conditions are present:

(1) An Individualized Written Rehabilitation Plan, Individualized Extended Evaluation Plan, or Individualized Independent Living Plan has been prepared; and

(2) The veteran and VA staff agree on the terms and conditions of the plan. (38 U.S.C. 1512)

(d) *Advance conditions.* (1) An advance may be approved when the following conditions are met:

(i) The purpose of the advance is clearly and directly related to beginning, continuing, or reentering a rehabilitation program;

(ii) The veteran would otherwise be unable to begin, continue or reenter his or her rehabilitation program;

(iii) The advance does not exceed either the amount needed, or twice the monthly subsistence allowance for a veteran without dependents in full-time institutional training; and

(iv) The veteran has elected, or is in receipt of, subsistence allowance.

(2) An advance may not be made to a veteran who meets conditions described in paragraph (d)(1) of this section if the veteran:

(i) Has not fully repaid an advance;

(ii) Does not agree to the terms and conditions for repayment; or

(iii) Will not be eligible in the future for payments of pension, compensation, subsistence allowance, educational assistance, or retired pay. (38 U.S.C. 1512).

(e) *Determination of the amount of the advance.* (1) If the conditions described in paragraphs (c) and (d)(2) of this section are met, a counseling psychologist or vocational rehabilitation specialist in the VR&C Division will:

(i) Document the findings; and

(ii) Determine the amount of the advance.

(2) Loans will be made in multiples of $10. (38 U.S.C. 1512)

(f) *Repayment.* (1) *Offset possible.* The amount advanced will be repaid in monthly installments from future VA payments for compensation, pension, subsistence allowance, educational assistance allowance or retired pay.

(i) Repayment will begin on the earlier of the following dates:

(A) The first day of the month following the month in which the advance is granted; or

(B) The first day of the month after receipt of the advance in which the veteran receives a subsistence allowance

(ii) The VR&C staff person who approves the advance will determine the rate of repayment.

(iii) The monthly rate of repayment may not be less than 10 percent of the amount advanced unless the monthly benefit against which the advance is being offset is less than that amount. (38 U.S.C. 1512)

(2) *Offset not possible.* If the amount advanced cannot be repaid from the benefits cited in paragraph (f)(1) of this section because the veteran is not in receipt of any of these benefits, collection of the amount due will be made in the same manner as any other debt payable to the VA. (38 U.S.C. 1512)

53. Section 21.276 is added as follows:

§ 21.276 Incarcerated veterans

(a) *General.* The provisions contained in this section describe the limitations on payment of subsistence allowance and charges for tuition and fees for:

(1) Incarcerated veterans;

(2) Formerly incarcerated veterans in halfway houses; and

(3) Incarcerated and formerly incarcerated veterans in work release programs (38 U.S.C. 1508(g), 1780(a))

(b) *Definition.* The term "incarcerated veterans" means any veteran incarcerated in a Federal, State, or local prison, jail, or other penal institution for either:

(1) A felony (convicted or unconvicted); or

(2) A misdemeanor (convicted or unconvicted). (38 U.S.C. 1508(g), 1780(a))

(c) *Subsistence allowance not paid to an incarcerated veteran.* A subsistence allowance may not be paid to any incarcerated veteran, as that term is described in paragraph (b) of this section, if:

(1) Tuition and fees are paid by a non-VA Federal, State, or local government; or

(2) There are no charges for tuition and fees. (38 U.S.C. 1780(a))

(d) *Felony conviction.* A subsistence allowance may not be paid to an incarcerated veteran convicted of a felony, but the VA may pay all or part of the veteran's tuition and fees. (38 U.S.C. 1508(g))

(e) *Half-way house.* A subsistence allowance may not be paid to a veteran pursuing a rehabilitation program while residing in a halfway house as a result of a felony conviction when all of the veteran's living expenses are paid by a non-VA Federal, State, or local government program. (38 U.S.C. 1780(a))

(f) *Work-release program.* A subsistance allowance may not be paid to a veteran in a work release program as a result of a felony conviction if all of the veteran's living expenses are being paid by a non-VA Federal, State, or local government program. (38 U.S.C. 1508(g), 1780(a))

(g) *Subsistence allowance paid.* When the conditions described in paragraphs (c) through (f) of this section do not preclude the payment of a subsistence allowance, the veteran will be paid at the rate applicable to the type of program and rate of pursuit of the program. (38 U.S.C. 1508(g))

(h) *Payment of tuition, fees, and other charges.* The VA may not pay tuition, fees, and other course costs if there are no charges for the course, but may pay tuition, fees and other course costs to the extent these costs are not paid by a non-VA Federal, State or local government program for similarly circumstanced non-veterans. (38 U.S.C. 1508(g), 1780(a))

(i) *Services.* The VA may provide other appropriate services, including but not limited to medical, reader service, and tutorial assistance necessary for the veterans to pursue his or her rehabilitation program. (38 U.S.C. 1508(a), 1780(a))

(j) *Apportionment.* (1) *Felony conviction.* Apportionment of subsistence allowance may be continued or made to dependents of an incarcerated veteran convicted of a felony if:

(i) The apportionment began before October 17, 1980, or

(ii) The convicted felon is in a halfway house or in a work-release program, and all of his or her living expenses are not being paid by a governmental agency other than the VA.

(2) *Not convicted of a felony.* Apportionment to dependents of a veteran not convicted of a felony may be made under § 21.330 if the veteran meets conditions for payment of subsistence allowance described in paragraphs (c) and (g) of this section. (38 U.S.C. 1508(g), 1780(a))

(k) *Payment of allowances at the rates paid under chapter 34.* An incarcerated veteran, or a veteran in a halfway house or work release program who elects payment at the educational assistance rate paid under chapter 34 shall be paid in accordance with the provisions of law applicable to other incarcerated veterans training under chapter 34. (38 U.S.C. 1780(a))

§§ 21.278 and 21.279 [Removed]

54. Sections 21.278 and 21.279 are removed.

§§ 21.280, 21.281 21.283, 21.286 and 21.287 [Removed]

55. The center heading "Termination of Training" and §§ 21.280, 21.281, 21.283, 21.286 and 21.287 are removed.

56. A new center heading "Entering a Rehabilitation Program," and §§ 21.282 and 21.284 are added to read as follows:

Entering a Rehabilitation Program

§ 21.282 Effective date of induction into a rehabilitation program.

(a) *General.* Except as provided in paragraph (b) the effective date of induction of a veteran into a rehabilitation program will be one of the dates provided in §§ 21.320 through 21.334. (38 U.S.C. 1508)

(b) *Retroactive induction.* (1) A veteran may be inducted into a vocational rehabilitation program retroactively when all of the following conditions are met:

(i) The period for which retroactive induction is requested is within the veteran's basic period of eligibility or extended eligibility as provided in §§ 21.41 through 21.44;

(ii) The veteran was entitled to disability compensation during the period for which retroactive induction is requested, and met the criteria of entitlement to vocational rehabilitation for that period; and

(iii) The training the veteran pursued during the period is applicable to the occupational objective that is confirmed in initial evaluation to be compatible with his or her disability, consistent with his or her abilities, interests, and aptitudes, and otherwise suitable for accomplishing vocational rehabilitation. (38 U.S.C. 3013)

(2) A veteran shall not be inducted into a vocational rehabilitation program retroactively if any of the following conditions exist even though all conditions of paragraph (b) of this section are met;

(i) Timely induction was prevented by the veteran's lack of cooperation in completing an initial evaluation;

(ii) The veteran has previously received benefits under another VA program of education or training for any period for which retroactive benefits are being requested under chapter 31;

(iii) A period of extended evaluation is authorized to determine the reasonable feasibility of a vocational goal; or

(iv) The veteran's claim is not received within the time limits described in § 21.31. (38 U.S.C. 1501(9))

(c) *Effective date of retroactive induction.* The effective date of a veteran's retroactive induction into training shall be no earlier than one year prior to the date of application for chapter 31 benefits but in no event may precede:

(1) The effective date of the establishment of the veteran's compensable service-connected disability; or

(2) The first date the veteran began training in the program leading to the occupational objective established in the veteran's plan. (38 U.S.C. 3013)

§ 21.284 Reentrance into a rehabilitation program.

(a) *Reentrance into rehabilitation to the point of employability following a determination of rehabilitation.* A veteran who has been found "rehabilitated" under provisions of § 21.196 may be provided an additional period of training or services only if the following conditions are met:

(1) The veteran has a compensable service-connected disability and either;

(2) Current facts, including any relevant medical findings, establish that the veteran's service-connected disability has worsened to the extent that the effects of the service-connected disability considered in relation to other

facts precludes him or her from performing the duties of the occupation for which the veteran previously was found rehabilitated; or

(3) The occupation for which the veteran previously was found rehabilitated under chapter 31 is found to be unsuitable on the basis of the veteran's specific employment handicap and capabilities. (38 U.S.C. 1501(a))

(b) *Reentrance into a program of independent living services following a determination of rehabilitation.* A finding of rehabilitation following a program of independent living services may only be set aside, and an additional period of independent living services provided, if the following conditions are met:

(1) Either:

(i) The veteran's condition has worsened and as a result the veteran has sustained a substantial loss of independence; or

(ii) Other changes in the veteran's circumstances have caused a substantial loss of independence; and

(2) the provisions of § 21.162 pertaining to participation in a program of independent living services are met. (38 U.S.C. 1509)

(c) *Reentrance into rehabilitation to the point of employability during a period of employment services.* A finding of rehabilitation to the point of employability by the VA may be set aside during a period of employment services and an additional period of training and related services provided, if any of the following conditions are met:

(1) The conditions for setting aside a finding of rehabilitation under paragraph (a) of this section are found;

(2) The rehabilitation services originally given to the veteran are now inadequate to make the veteran employable in the occupation for which he or she pursued rehabilitation;

(3) Experience during the period of employment services has demonstrated that employment in the objective or field for which the veteran was rehabilitated to the point of employability should not reasonably have been expected at the time the program was originally developed; or

(4) The veteran, because of technological change, which occurred subsequent to the declaration of rehabilitation to the point of employability, is no longer able:

(i) To perform the duties of the occupation for which he or she trained, or in a related occupation; or

(ii) To secure employment in the occupation for which he or she trained, or in a related occupation. (38 U.S.C. 1517)

§ 21.291 [Removed]

57. The centerheading "Assisting Veterans in Obtaining Employment" and § 21.291 are removed.

58. A new heading is added, and § 21.290 is revised as follows:

Course Approval and Facility Selection

§ 21.290 Training and rehabilitation resources.

(a) *General.* For the purpose of providing training and rehabilitation services under chapter 31 the VA may:

(1) Use facilities, staff and other resources of the VA;

(2) Employ any additional personnel and experts needed;

(3) Use the facilities and services of any:

(i) Federal agency;

(ii) State agency;

(iii) Other public agency; or

(iv) Agency maintained by joint Federal and state contributions.

(4) Use the facilities and services of any:

(i) Public institution or establishment;

(ii) Private institution or establishment; or

(iii) Private individual. (38 U.S.C. 1515)

(b) *Agreement required.* Use of facilities and services provided under paragraph (a) of this section shall be procured through contract, agreement, or other cooperative arrangement. The specific requirements for use of contracts or other arrangements are described in 48 CFR 871.2. (38 U.S.C. 1515)

59. Section 21.292 is added as follows:

§ 21.292 Course approvals.

(a) *Courses must be approved.* Only those courses approved by the Veterans' Administration shall be utilized to provide training and rehabilitation services under chapter 31. (38 U.S.C. 1506)

(b) *General.* VA staff in consultation with the veteran will select courses and services needed to carry out the rehabilitation plan only from those which the VA determines are offered by a training or rehabilitation facility which:

(1) Meets the requirements of §§ 21.120 through 21.162;

(2) Meets the criteria of §§ 21.290 through 21.299; and

(3) Is in compliance with title VI of the Civil Rights Act of 1964, section 503(a) Veterans Readjustment Act of 1972, and sections 501–504 of the Rehabilitation Act of 1973. (38 U.S.C. 1515)

(c) *Obtaining information necessary for approval.* In determining whether services and courses may be approved for a veteran's training and rehabilitation under chapter 31, the Veterans' Administration may use information relevant to the approval or certification of such services and courses for similar purposes developed by:

(1) The State approving agencies;

(2) The Department of Labor;

(3) State vocational rehabilitation agencies;

(4) Nationally recognized accrediting associations;

(5) The Committee on Accreditation of Rehabilitation Facilities; and

(6) Other organizations and agencies. (38 U.S.C. 1515)

(d) *Course not approved.* If a course or program is not approved by one of the agencies identified in paragraph (c) of this section, VR&C staff shall develop necessary information to determine whether criteria given in paragraphs (a) and (b) of this section are met. (38 U.S.C. 1515)

(e) *Course disapproved.* Only the Director, VR&C Service may approve courses which have been disapproved by one of the agencies identified in paragraph (c) of this section. (38 U.S.C. 1515)

60. Section 21.294 is added as follows:

§ 21.294 Selecting the training or rehabilitation facility.

(a) *Criteria the facility must meet.* In addition to approval of the courses offered, all facilities which provide training and rehabilitation services under chapter 31 must meet the criteria contained in §§ 21.290 through 21.299 applicable to the type of facility. Each facility must:

(1) Have space, equipment, instructional material and instructor personnel adequate in kind, quality, and amount to provide the desired service for the veteran;

(2) Fully accept the obligation to give the training or rehabilitation services in all parts of the plan which call for the facility's participation;

(3) Provide courses or services which:

(i) Meet the customary requirements in the locality for employment in the occupation in which training is given when employment is the objective of the program; and

(ii) Meet the requirements for licensure or permit to practice the occupation, if such is required;

(4) Agree:

(i) To cooperate with the VA, and

(ii) To provide timely and accurate information covering the veteran's attendance, performance, and progress in training in the manner prescribed by the VA. (38 U.S.C. 1515)

(b) *Selecting a facility for provision of independent living services.* (1)

Facilities offering independent living services will be utilized to:

(i) Evaluate independent living potential;

(ii) Provide a program of independent living services to veterans for whom an IILP (Individualized Independent Living Plan) has been developed; or

(iii) Provide independent living services to veterans as part of an IWRP (Individualized Written Rehabilitation Plan) or an IEEP (Individualized Extended Evaluation Plan).

(2) The VA will only utilize public and nonprofit agencies to provide independent living services. These facilities must be:

(i) VA medical centers which provide independent living services;

(ii) Facilities which meet standards established by the State rehabilitation agency for rehabilitation facilities or for providers of independent living services; or

(iii) Facilities which are neither approved nor disapproved by the State rehabilitation agency, but are determined by the VA to be able to provide necessary services in an individual veteran's case. (38 U.S.C. 1515)

(c) The VA policy normally shall be to utilize VA facilities to provide rehabilitation services for veterans in a rehabilitation program under chaper 31. Non-VA facilities may be used to provide rehabilitation services only when necessary services are not readily availble at a VA medical center. (38 U.S.C. 1515)

(d) *Selection of individual to provide training or rehabilitation services.* Persons selected to provide individual instruction or other services as part of a program leading to the long-range goal of a veteran's plan must meet one of the following criteria:

(1) State requirements for teaching in the field or occupation for which training is being provided; or

(2) Expertise demonstrated through employment in the field in which the veteran is to be trained; or

(3) Requirements established by professional associations to provide the services needed by the veteran. (38 U.S.C. 1515)

(e) *Relatives.* Relatives of the veteran may not be selected to provide services, even if otherwise qualified, unless such use is specifically permitted by the VA regulation governing provision of the service. Selection of a training or rehabilitation facility owned by the veteran or a relative, or in which the veteran or a relative of the veteran has an interest is precluded, except for selection of a farm as provided in § 21.298. The term relative has the same meaning as in § 21.374. (38 U.S.C. 1515)

(f) *Contracts or agreements required.* The Veterans Administration will negotiate formal contracts for reimbursement to providers of services as requred by § 21.262. However, a letter contract will be effected immediately to permit the induction of the veteran into a program if:

(1) The veteran is immediately entered into a school with which a contract is required;

(2) The veteran's rehabilitation plan will be jeopardized by withholding services until a contract can be completed; and

(3) There are no known reasons to indicate that a contract may not be completed in a reasonable time. (38 U.S.C. 1515)

(g) *Training outside the United States.* The VA may only use those facilities and courses outside the United States to provide training under chapter 31 which meet requirements for approval under §§ 21.4250(c) and 21.4260. The conditions under which training outside the United States may be approved are contained in § 21.130. (38 U.S.C. 1514)

(h) *Flight training.* Flight training may only be provided in educational institutions which offer a standard college degree. The specific conditions under which flight training may be approved are contained in § 21.134. (38 U.S.C. 1515)

(i) *Additional consideration.* The case manager will consider the veteran's preference for a particular training or rehabilitation facility but the VA has final responsibility for selection of the facility. (38 U.S.C. 1515)

61. Section 21.296 is added as follows:

§ 21.296 Selecting a training establishment for on-job training.

(a) *Additional criteria for selecting a training establishment.* In addition to meeting all of the requirements of § 21.294 the training establishment must:

(1) Sign an agreement to provide on-job training to disabled veterans;

(2) Provide continuous training for each veteran without interruption except for normal holidays and vacation periods;

(3) Provide daytime training for the veteran except when the veteran cannot obtain necessary on-job or related training during the working hours of the day;

(4) Modify the program when necessary to compensate for the limitations resulting from the veteran's disability or needs;

(5) Organize training into definite steps or units which will result in progressive training;

(6) Encourage rapid progress of each veteran rather than limit the progress of the individual to the progress of the group;

(7) Not, during the period of training, use the veteran on production activities beyond the point of efficient training;

(8) Agree to pay the veteran during training (except as provided in paragraphs (b) and (c) of this section) a salary or wage rate:

(i) Commensurate with the value of the veteran's productive labor,

(ii) Not less than that prescribed by the Fair Labor Standards Act of 1938, as amended, and

(iii) Not less than that customarily paid to nonveteran-trainees in the same or similar training situation;

(9) Agree to provide the veteran with employment at the end of the training program, provided the veteran's conduct and progress have been satisfactory; and

(10) Agree to furnish the VA a statement in writing showing wages, compensation, and other income paid directly or indirectly to each veteran in training under chapter 31 during the month. (38 U.S.C. 1508(c), 1515)

(b) *On-job training at subminimum wage rates.* A subminimum hourly wage rate for handicapped workers may be considered where necessary in order to prevent curtailment of opportunities for employment. Payment at the subminimum rate must be approved by the Wage and Hour Division of the Department of Labor. (38 U.S.C. 1515)

62. Section 21.298 and 21.299 are added as follows:

§ 21.298 Selecting a farm.

(a) *Control of the farm—farm operator.* A farm selected for farm cooperative training must be under the control of the veteran by ownership, lease or other written tenure arrangement. If the veteran does not own the farm, the lease or other written agreement shall:

(1) Afford the veteran control of the farm at least until the end of his or her course;

(2) Allow the veteran's control to be such that he or she is able:

(i) To carry out the provisions of the training program; and

(ii) To operate the farm in accordance with the farm and home plan developed by the case manager and the veteran in collaboration with the instructor, and when appropriate, the landowner or lessor;

(3) Permit instruction in the planning, management, and operation of farming enterprise in the veteran's farm and home plan;

(4) At least by the end of the necessary minimum period of training, assure the veteran a reasonably satisfactory living under normal economic conditions;

(5) Provide for the necessary buildings and equipment to enable the veteran to satisfactorily begin pursuit of the course of farm cooperative training;

(6) Provide for resources which give reasonable promise that any additional items required for the pursuit of the course, including livestock, will be available as they become necessary;

(7) Provide for capital improvements to be made which are necessary for carrying out the farm and home plan, with the veteran furnishing no greater portion of the costs than the benefits accruing to the veteran warrant; and

(8) Provide for the landowner or leasor to share the costs of improved practices put into effect in proportion to the returns he or she will receive from such practices. (38 U.S.C. 1515)

(b) *Farms on which more than one person trains—farm operator.* If a veteran in training is a partner of another person or if more than one person is involved in operating the farm, the farm shall be of such size and character that the firm:

(1) Together with the instruction part of the course will occupy the full time of the veteran; and

(2) Meets all requirements of paragraph (a) of this section. (38 U.S.C. 1515)

(c) *Selecting a farm—farm manager.* The farm on which a veteran trains to become a farm manager shall be of such size and character that, together with the group instruction part of the course the farm:

(1) Will occupy the full time of the veteran;

(2) Will permit instruction in all aspects of the management and operation of a farm of the type for which the veteran is being trained; and

(3) Meets the requirements of paragraph (a) of this section. (38 U.S.C. 1515)

(d) *Employer agreement.* The VA may approve a farm on which a veteran is to train to become a farm manager only if the employer-trainer agrees:

(1) To instruct the veteran in various aspects of farm management in accordance with the individual's plan;

(2) To pay the veteran for each successive period of training a salary or wage rate:

(i) Commensurate with the value of the veteran's productive labor; and

(ii) Not less than that customarily paid to a nonveteran trainee in the same or similar training situation in that community; and

(3) To employ the veteran as a manager of the farm on which he or she is being trained if his or her conduct and progress remain satisfactory, or assure that the veteran will be employed as manager of a specified comparable farm. (38 U.S.C. 1515)

§ 21.299 Use of facilities of United States agencies for on-job training at no or nominal pay.

(a) *Use of facilities of United States agencies permitted.* Notwithstanding any other provision of regulations governing chapter 31, the facilities of any agency of the United States may be used to provide training or work experience at no or nominal pay as all or part of the veteran's program of vocational rehabilitation under § 21.123, provided the counseling psychologist and case manager determine the training or work experience is necessary to accomplish vocational rehabilitation. (38 U.S.C. 1515)

(b) *Employment status of veterans in facilities of United States agencies.* While pursuing training or work experience in a facility or agency of the United States, a veteran:

(1) Shall be deemed to be an employee of the United States for the purposes of benefits under chapter 81, Title 5, United States Code; but

(2) Shall not be deemed an employee of the United States for the purpose of laws administered by the Office of Personnel Management. (38 U.S.C. 1515)

63. New §§ 21.310 through 21.350 and center-headings are added as follows:

Rate of Pursuit

§ 21.310 Rate of pursuit of a rehabilitation program.

(a) *Programs offered at educational institutions.* This section provides policy for determining the full-time and part-time rate of pursuit of a rehabilitation program by a veteran whose ability to pursue a program has not been reduced by the effects of disability.

(1) *Measuring full and part-time training.* The VA will measure the full-time and part-time rate of pursuit of training offered at educational institutions according to the criteria found in §§ 21.4270 through 21.4275, except as provided in paragraphs (a) (2) and (3) of this section.

(2) *Independent study course.*

(i) For certain seriously disabled veterans described in subdivision (i)(A) of this subparagraph the VA may measure the veteran's enrollment:

(A) In an independent study course as half-time or greater training, or

(B) Both in independent study subjects and subjects requiring class attendance on the basis of the combined training load when the number of credit hours of independent study equals or exceeds the number of other credit hours.

(ii) To qualify for measurement described in paragraph (a)(2)(i) of this section:

(A) The seriously disabled veteran must have a disability or circumstances which preclude regular attendance at an institution of higher learning, and

(B) Independent study must be a sound method for providing the training necessary for restoring the veteran's employability.

(iii) In all other cases the VA will measure independent study according to the provisions of § 21.4280. (38 U.S.C. 1508(d))

(3) *Special school.* If training is pursued in a special school, such as those for persons with visual or hearing disabilities, the rate of pursuit will be measured under §§21.2470 through 21.4275 unless it is the established policy of the school to measure the rate of pursuit for full-time or particular level or part-time training based upon fewer semester, credit, or clock hours of attendance than prescribed in these regulations.

(4) *Farm cooperative.* If training in a farm cooperative program is provided by an educational institution, the rate of pursuit shall be determined the same as under § 21.4270 for that type of training.

(5) *Course offered under contract.* When a school or other entity furnishes all or part of a vocational rehabilitation program under contact with another school, the VA will measure the course or courses as appropriate for the school or other entity actually providing the training. (38 U.S.C. 1508(d))

(b) *Education or training not furnished by an educational institution.* The following types of training which are not furnished by an educational institution (§ 21.35(k)(3) may only be pursued full-time:

(1) *On-job training.* Full-time training in an on-job program is the lesser of the number of hours in the prevailing workweek for:

(i) Journeyman employees in the same job categories at the establishment where training is being provided;

(ii) Other persons in on-job training for the same or similar occupations at the facility where the veteran is training or at other facilities in the locality.

(2) *Farm cooperative training.* If training in a farm cooperative program is provided by an individual instructor, the full-time rate of pursuit must meet the requirements of § 21.126.

(3) *Independent instructor.* The full-time rate of pursuit for a veteran in an

independent instructor program must meet the requirements of § 21.146.

(4) *Training in the home.* The full-time rate for a training program provided in the veteran's home must meet the requirements of § 21.146.

(5) *Vocational course in a rehabilitation facility or sheltered workshop.* A vocational course of training offered by a rehabilitation facility or sheltered workshop (§ 21.35(k)(5) and (6)), will be measured under provisions of § 21.4270(b) for trade or technical nonaccredited courses, unless it is the established policy of the facility to measure the rate of pursuit for full-time or a particular level of part-time training based upon fewer clock hours of attendance than provided in that regulation. (38 U.S.C. 1508(d))

(c) *Combination and cooperative programs.* The rate of pursuit of a program which combines institutional training and on job training will be measured as follows:

(1) The institutional part will be assessed under §§ 21.4270 through 21.4275, and

(2) The on-the-job part will be assessed under paragraph (b)(1) of this section. (38 U.S.C. 1508(d))

(d) *Rehabilitative services.* Measurement of the rate of pursuit for veterans in programs consisting primarily of services designed to evaluate and improve physical and psychological functioning will be assessed under this paragraph.

(1) The services assessed under this paragraph include:

(i) Evaluation and improvement of the rehabilitation potential of a veteran for whom attainment of a vocational goal is reasonably feasible;

(ii) Extended evaluation to determine whether attainment of a vocational goal is reasonably feasible; or

(iii) A program of independent living services to enable a veteran to function more independently in his or her family and community when attainment of a vocational goal is not reasonably feasible.

(2) Measurement of the rate of pursuit for services and programs named in paragraph (d)(1) of this section will be:

(i) As provided in paragraph (a) of this section for services furnished by educational institutions; or

(ii) According to the noneducational facility's customary criteria for full-time and part-time pursuit. If the facility does not have established criteria for full-time and part-time pursuit, or services are being provided by more than one facility, the rate of pursuit will be assessed in the following manner:

Rate of pursuit	Clock hours per month
Full-time	120 or more.
Three-quarter time [1]	90–119.
Half-time [1]	60–89.
Quarter-time [1]	30–59.

[1] Extended evaluation and independent living. (38 U.S.C. 1508(d)).

§ 21.312 Reduced work tolerance.

(a) *General.* The VA will consider that a veteran with reduced work tolerance is pursuing a rehabilitation program full-time when the amount of time the veteran is devoting to his or her program is as great as the effects of his or her disability (service and nonservice-connected) will permit. (38 U.S.C. 1508(d))

(b) *Pursuit of a program.* A veteran with reduced work tolerance may pursue a rehabilitation program when the following conditions are met:

(1) Reduced work tolerance has been determined.

(2) Achievement of the goals of the program are reasonably feasible;

(3) The IWRP (Individualized Written Rehabilitation Plan) or other plan provides for completion of the program under chapter 31. (38 U.S.C. 1508(d))

(c) *Redetermination of work tolerance.* As necessary, but not less than once yearly, the veteran's work tolerance will be reevaluated. The rate of pursuit required to meet the standard of full-time pursuit will be modified if there is either an increase or decrease in the work tolerance of the veteran. (38 U.S.C. 1508(d))

(d) *Payment of allowance.* A veteran with a reduced work tolerance will be paid a subsistence allowance, at the full-time rate for the type of program being pursued, when the veteran meets the standard for full-time pursuit established for him or her in the Plan. A veteran with reduced work tolerance, who elects benefits at the chapter 34 rate, will have to meet normal attendance requirements for that chapter, however. (38 U.S.C. 1508(d))

(e) *Determining work tolerance.* A VA physician will make all determinations and redeterminations of work tolerance. (38 U.S.C. 1508(d))

§ 21.314 Pursuit of training under special conditions.

A veteran is required to pursue a rehabilitation program at a rate which meets the requirement for full- or part-time participation described in §§ 21.310 and 21.312. However, a veteran may pursue a rehabilitation program at a lesser rate, if such pursuit is a part of the veteran's plan. Subsistence allowance is not payable during such periods. (38 U.S.C. 1508(d))

Authorization of Subsistence Allowance and Training and Rehabilitation Services

§ 21.320 Awards for subsistence allowance and authorization of rehabilitation services.

Awards providing for payment of a subsistence allowance and authorization of services necessary for rehabilitation may be prepared when an IWRP (Individualized Written Rehabilitation Plan) or other plan has been completed and other requirements for entrance or reentrance into a rehabilitation program have been met.

(a) *Commencing date of subsistence allowance.* The commencing date of an award of subsistence allowance will be determined under the provisions of § 21.322. (38 U.S.C. 1508(a))

(b) *Commencing date of authorization of training and rehabilitation services.* The commencing date for authorization of training and rehabilitation services is the same as the effective date for awards for subsistence allowance under provisions of § 21.322, except when:

(1) The commencing date for authorization of a program of employment services is determined under provisions of § 21.326;

(2) An earlier commencement date is established in the veteran's plan or the veteran is entitled to earlier induction under § 21.282;

(3) The veteran elects payment at the educational assistance allowance rate, in which case the commencing date of payment is determined under provisions applicable to commencement of payment under chapter 34. (38 U.S.C. 1508(a))

(c) *Ending date of subsistence allowance.* The ending date of an award for subsistence allowance will be the earliest of the following dates:

(1) The ending date provided in the veteran's IWRP or other plan;

(2) The ending date of a period of enrollment as certified by a training or rehabilitation facility;

(3) The ending date specified in § 21.324. (38 U.S.C. 1508)

(d) *Ending date for training and rehabilitation services.* The ending date of training and rehabilitation services will be the same as the termination date for subsistence allowance under paragraph (c) of this section, except when:

(1) The ending date for a period of employment services is determined under provisions of § 21.326;

(2) A later termination date is established in the veteran's plan;

(3) A veteran has elected payment at the educational assistance rate paid under chapter 34. The ending date of the

award is determined under regulations applicable to termination of training under chapter 34. (38 U.S.C. 1508(a))

§ 21.322 Commencing dates of subsistence allowance.

(a) *General.* The VA will determine the commencing date of an award or increased award of subsistence allowance under this section. The VA will not authorize subsistence allowance for any period prior to the earliest date for which disability compensation is payable or would be payable but for the veteran's receipt of retired pay. (38 U.S.C. 1508, 3013)

(b) *Entrance or reentrance into vocational rehabilitation, extended evaluation, independent living services.* Except in the case of retroactive induction into a rehabilitation program, as provided in § 21.282, the commencing date of an award of subsistence allowance shall be the earlier of:

(1) The date the facility requires the veteran to report for prescribed activities; or

(2) The date training or rehabilitation services begin. (38 U.S.C. 1508)

(c) *Increase for dependents.* (1) The date of the entrance or reentrance if:

(i) The VA receives the claim for the increase within 1 year of the date of entrance or reentrance, and

(ii) The VA receives any necessary evidence within 1 year of its request.

(2) The date the VA receives notice of the dependent's existence if:

(i) The VA receives the claim for the increase more than 1 year after the date of the entrance or reentrance, and

(ii) The VA receives any necessary evidence within 1 year of its request. (38 U.S.C. 1508)

(d) *Correction of military records.* In accordance with the facts found, but not earlier than the date the change, correction, or modification was made by the service department, if eligibility of a veteran arises as the result of correction or modification of military records under 10 U.S.C. 1552, or change, correction or modification of a discharge or dismissal under 10 U.S.C. 1553, or other competent military authority. (38 U.S.C. 1503(b))

(e) *Bar to benefits removed by the VA.* In accordance with the facts found, but not earlier than the date the change was made by the VA, if eligibility of a veteran arises as the result of review of the evidence of record regarding the character of discharge by the VA, when the veteran's discharge or dismissal was a bar to benefits under 38 U.S.C. 3101. (38 U.S.C. 1503(b))

(f) *Incarcerated veterans.* (1) Date of release from Federal, State, or local penal institution of a veteran incarcerated for conviction of a felony.

(2) Earlier of the following dates in the case of a veteran residing in a half-way house or participating in a work-release program as a result of a felony conviction.

(i) Date of release from the half-way house or work-release program, or

(ii) Date a veteran becomes obligated to pay part of his or her living expenses.

(3) Date a veteran who is incarcerated for other than a felony conviction in a Federal, State or local prison ceases to have all of his or her tuition and fees paid by a non-VA government agency or is first required to pay tuition and fees in a course for which no charges were made. (38 U.S.C. 1508(g), 1780(a))

(g) *Temporary 100 percent award terminated.* Date of reduction of a temporary award of disability compensation at the 100 percent rate because of hospitalization. (38 U.S.C. 1508(h))

(h) *Liberalizing laws and VA issues.* In accordance with facts found, but not earlier than the date of the act or administrative issue. (38 U.S.C. 3013)

§ 21.324 Reduction or termination dates of subsistence allowance.

(a) *General.* The effective date of the reduction of the amount paid or termination of payment of subsistance allowance will be the earliest of the dates specified in this section. If an award is reduced, the reduced rate will be effective the day following the date of termination of the greater benefit. (38 U.S.C. 3013)

(b) *Death of a veteran.* Date of death, if death occurs while the veteran is in attendance or authorized leave status; otherwise date of last attendance. (38 U.S.C. 3013)

(c) *Death of dependent.* Last day of the calender year in which death occurred, unless the veteran's program is terminated earlier under other provisions. (38 U.S.C. 3013)

(d) *Divorce.* Last day of the calendar year in which divorce occurs, unless the veterans's program is terminated earlier under other provisions. (38 U.S.C. 3013)

(e) *Child.* (1) *Marriage.* Last day of the calendar year in which the marriage occurs, unless the veteran's program is terminated earlier under other provisions.

(2) *Age 18.* Day preceding the child's 18th birthday.

(3) *School attendance.*

(i) Last day of the month in which the child ceases attending school; or

(ii) The day preceding the child's 23rd birthday, whichever is earlier.

(4) *Helplessness.* Last day of the month in which 60 days has passed from the VA's notice to the payee that the child's helplessness has ceased. (38 U.S.C. 3013)

(f) *Interrupted, rehabilitation to the point of employability, independent living program completed, and extended evaluation completed status.* Last day of attendance, or approved leave status, whichever is applicable. (38 U.S.C. 3013)

(g) *Discontinued.* Last day of attendance or approved leave status, whichever is applicable, except as follows:

(1) If the VA places the veteran in "discontinued" status following the veteran's withdrawal from all courses with nonpunitive grades or following his or her completion of all courses with nonpunitive grades and the case manager does not find mitigating circumstances, the VA will terminate subsistence allowance effective:

(i) The first date of the term, or

(ii) December 1, 1976, whichever is later.

(2) If the VA places the veteran in "discontinued" status following a term in which the grades the veteran receives include both those that count in the grade point average and nonpunitive grades, and the case manager does not find mitigating circumstances:

(i) The VA will terminate subsistence allowance for courses in which the veteran receives nonpunitive grades effective the first day of the term or December 1, 1976, whichever is later.

(ii) The VA will terminate subsistence allowance for courses in which the veteran receives grades that will count in the grade point average effective the veteran's last day of attendance or approved leave status, whichever is applicable. (38 U.S.C. 1780(a))

(h) *Wages or salary received in apprentice or on-job training.* (1) If the sum of the training wage plus the scheduled subsistence allowance is more than the journeyman wage when the training commences, the subsistence allowance will be decreased by the VA effective the first day of the second month following the month in which the veteran enters on-job training.

(2) Subsequent adjustments will be effective the first day of the second month following the month in which wages or salary changes are made which justify the adjustment under provisions of § 21.266(e). (38 U.S.C. 1508)

(i) *Reduction in rate of pursuit of the program.* End of month in which reduction occurs, except that if the rate of pursuit is reduced as a result of the veteran's withdrawal from a unit course or courses with nonpunitive grade(s) or as a result of the veteran's completion of a unit course or courses with nonpunitive grade(s) (§ 21.4200(j)), the

VA will reduce subsistence allowance as follows:

(1) If it is determined that there are mitigating circumstances:

(i) Withdrawal with nonpunitive grades: The end of the month or the end of the term in which the veteran withdraws, whichever is earlier; if the reduction occurs at the beginning of the term benefits will be reduced the first day of the term in which the veteran withdraws or December 1, 1976, whichever is the later.

(ii) Completion with nonpunitive grades. No reduction required.

(2) If it is determined there are no mitigating circumstances the VA will reduce the veteran's subsistence allowance effective the first day of the term in which the veteran withdraws or which the veteran completes with nonpunitive grades, or December 1, 1976, whichever is later. (38 U.S.C. 1780(a))

(j) *Severance of service-connection.* Last day of the month in which the severance becomes final. (38 U.S.C. 3013)

(k) *Fraud.* The later of the following dates:

(1) The beginning date of the award of subsistence allowance, or

(2) The day preceding the date of the fraudulent act. (38 U.S.C. 3503(a))

(l) *Error.* (1) *Payee error.* Effective date of the award of subsistence allowance or day preceding the act, whichever is later, but not prior to the date the veteran's entitlement ceases, on an erroneous award based on an act of commission or omission by a payee with his or her knowledge.

(2) *Administrative error.* Except as provided in paragraph (j) of this section, date of last payment on an erroneous award based solely on administrative error or an error in judgment by a VA employee. (38 U.S.C. 3013)

(m) *Treasonable acts, subversive activities.* The later of the following dates:

(1) Beginning date of the award of subsistence allowance, or

(2) Day preceding the date of commission of the treasonable act or subversive activities for which the veteran is convicted. (38 U.S.C. 3013)

(n) *Incarceration in prison or jail.* (1) *Felony conviction.* If a veteran's subsistence allowance must be reduced because of incarceration for a felony conviction under provisions of § 21.276, his or her rate of payment will be reduced the later of:

(i) The date of his or her incarceration in a prison or jail; or

(ii) The commencing date of his or her award as determined by § 21.322.

(2) *Non-felony incarceration.* If a veteran's subsistence allowance must be reduced because of incarceration for reasons other than a felony conviction under provisions of § 21.276, his or her rate will be reduced the date a non-VA government program either begins paying or would normally begin paying the tuition and fees which are required to be paid for similarly circumstanced nonveterans, but not earlier than the date of incarceration.

(3) *Half-way house or work-release program.*

(i) The subsistence allowance of a veteran in a half-way house or work-release program as a result of conviction of a felony will be reduced under the provisions of § 21.276 the latest of the following dates:

(A) The date the veteran enters the half-way house;

(B) The commencing date of the award, as determined by § 21.322; or

(C) The date on which the Federal government, or a State or local government, pays all the veteran's living expenses.

(ii) The subsistence allowance of a veteran incarcerated for reasons other than conviction of a felony will be reduced:

(A) The date on which the Federal government pays all of the veteran's tuition and fees; or

(B) The first date of any period for which the veteran incurs no charges for tuition and fees. (38 U.S.C. 1508(a), 1780(a))

(o) *Specialized rehabilitation facility.* Date payment for room and board by VA begins, reduce the rate paid to the amount payable for dependents. (38 U.S.C. 1508(i))

(p) *Termination of subsistence allowance while hospitalized at VA expense.* Date before the beginning date of the increased disability compensation award, which results in a reduced subsistence allowance under the provisions of § 21.266. (38 U.S.C. 1508(h))

§ 21.326 Authorization of employment services.

(a) *General.* Authorization of employment services shall be based upon the services identified and goals established in an IEAP (Individualized Employment Assistance Plan) under provisions of § 21.88. The effective dates for the commencement, or termination of such services will be determined under this section. (38 U.S.C. 1517(a))

(b) *Commencing date.* The commencing date authorizing a period of employment services will be the later of:

(1) The date following completion of the period of rehabilitation to the point of employability; or

(2) The date of the original IEAP. (38 U.S.C. 1507, 1517(a))

(c) *Termination of the authorization of employment services.* Authorization for employment services will be terminated the earliest of:

(1) The last day employment services are provided under the terms of an IEAP when employment services are interrupted, discontinued, or the veteran is rehabilitated;

(2) The date the authorization is found to be erroneous because of an act of omission or commission by the veteran, or with his or her knowledge;

(3) The last day of the month in which severance of service connection becomes final;

(4) The day proceding the date of a fraudulent act;

(5) The date preceding the commission of a treasonable or subversive act for which the veteran is convicted. (38 U.S.C. 1508, 3013)

§ 21.328 Two veteran cases—dependents.

If both partners in a marriage are veterans, and if each is receiving either subsistence allowance for a vocational rehabilitation program or an educational assistance allowance under another VA program, each is entitled to receive the additional allowances payable for each other and for their children. (38 U.S.C. 1508(a))

§ 21.330 Apportionment.

(a) *General.* Where in order, the VA will apportion subsistence allowance in accordance with § 3.451 of this title, subject to the limitations of § 3.458 of this title. If the veteran is in receipt of benefits at the chapter 34 rate, apportionments shall be in accordance with § 21.4140. (38 U.S.C. 3107(c))

(b) *Effective date.* The effective date of apportionment will be as prescribed in § 3.400(e) of this title. (38 U.S.C. 3107(c))

(c) *Child adopted out of family.* Where evidence establishes that a veteran is the natural parent of a child or children legally adopted outside of the veteran's family, the VA will apportion in favor of the child or children only that additional amount of subsistence allowance payable on account of the existence of the child or children. The veteran is not entitled in his or her own right to the additional amount of subsistence allowance payable for the child because of the existence of the child unless the veteran is contributing to the child's support. (38 U.S.C. 3107(c))

(d) *Veteran convicted of a felony.* The subsistence allowance of a veteran in a rehabilitation program after October 17, 1980, may not be apportioned if the veteran is incarcerated because of

conviction for a felony. (38 U.S.C. 1508(g))

§ 21.332 Payments of subsistence allowance.

(a) *Eligibility.* At the end of the month, the VA shall pay to an eligible veteran enrolled in a rehabilitation program, subsistence allowance at the rates specified in § 21.260 for the type of program pursued during the month, unless advance payment is approved. The VA will continue payments during those intervals described in § 21.270. (38 U.S.C. 1508)

(b) *Advance payment criteria.* The VA will make an advance payment of subsistence allowance only when:

(1) The veteran specifically requests an advance payment; and

(2) The educational institution at which the veteran is accepted or enrolled has agreed to, and can carry out, satisfactorily, the provisions of 38 U.S.C. 1780(d) (4) and (5) pertaining to:

(i) Receipt, delivery or return of advance checks; and

(ii) Certifications of delivery and enrollment. (38 U.S.C. 1780(d))

(c) *Advance payment.* (1) The amount of advance payment is not to exceed:

(i) The veteran's subsistence allowance for the month or part of a month in which his or her course will begin; plus

(ii) The veteran's subsistence allowance for the following month.

(2) Upon application and completion of arrangements for enrollment of a veteran who meets the criteria for an advance payment, the VA shall mail a check payable to the veteran to the unstitution for delivery to the veteran upon registration.

(3) An institution shall not deliver an advance payment check to a veteran more than 30 days in advance of commencement of his or her program. (38 U.S.C. 1780(d))

(d) *Certification for advance payment.* The VA will authorize advance payment upon receipt of the institution's certification of the following information:

(1) The veteran is eligible for benefits;

(2) The institution has accepted the veteran or he or she is eligible to continue his or her training;

(3) The veteran has notified the institution of his or her intention to attend or to reenroll;

(4) The number of semester or clock hours the veteran will pursue; and

(5) The beginning and ending dates of the enrollment period. (38 U.S.C. 1780(d))

(e) *Time of advance payment.* The VA will authorize advance payment only:

(1) At the beginning of an ordinary school year; or

(2) At the beginning of any other enrollment period which begins after a break in enrollment of one full calendar month or longer. (38 U.S.C. 1780(d))

(f) *Other payments.* (1) The VA will make all payments other than advance payments at the end of the month for the veteran's training during that month.

(2) The VA may withhold final payment until:

(i) The VA receives certification that the veteran has completed his or her course; and

(ii) The VA makes all necessary adjustments in the veteran's award resulting from that certification. (38 U.S.C. 1780(g))

(g) *Payments for courses which are repeated.* The VA may pay subsistence allowance to a veteran who repeats a course under conditions described in § 21.132. (38 U.S.C. 1780(a))

§ 21.334 Election of payment at the chapter 34 rate.

(a) *Election.* When the veteran elects payment of an allowance at the chapter 34 rate, the effective dates for commencement or reduction and termination shall be in accordance with §§ 21.4130 through 21.4135. (38 U.S.C. 1508, 1780)

(b) *Election of payment at the chapter 34 rate subsequent to induction into a rehabilitation program.* Election of payment at the chapter 34 rate subsequent to induction into training is permissible under provisions of § 21.264 (a) and (b). The effective date of the election is the latest of the following dates:

(1) The commencing date of the program under provisions of § 21.4131; or

(2) The day following the end of the period for which the VA paid tuition, fees or other program charges under this chapter. (38 U.S.C. 1508(f))

(c) *Reelection of subsistence allowance subsequent to induction.* If a veteran reelects subsistence allowance under provisions of § 21.264(b), the effective date of the change is earliest of the following:

(1) The date following completion of the term, semester, quarter, or other period of instruction in which the veteran is currently enrolled;

(2) The veteran's chapter 34 delimiting date;

(3) The day after exhaustion of chapter 34 entitlement; or

(4) The day following the date of a VA determination that failure to approve reelection would prevent the veteran from continuing the rehabilitation program. (38 U.S.C. 1508(f))

(d) *Election or reelection during leave or between periods of instruction.* (1) *Payment at the chapter 34 rate.* If an otherwise eligible veteran elects payment at the chapter 34 rate during a period between periods of instruction, the effective date of the election shall be the first day of the next period of instruction.

(2) *Subsistence allowance.* If an otherwise eligible veteran reelects subsistence allowance during leave or between periods of instruction following election of payment at the chapter 34 rate, the effective date of the change will be the date of the reelection or the beginning of the next period of training, whichever is to the veteran's benefit. (38 U.S.C. 1508(b))

Leaves of Absence

§ 21.340 Introduction.

(a) *General.* The VA may approve leaves of absence under certain conditions. During approved leaves of absence, a veteran in receipt of subsistence allowance shall be considered to be pursuing a rehabilitation program. Leave may be authorized for a veteran during a period of:

(1) Rehabilitation to the point of employability;

(2) Extended evaluation; or

(3) Independent living services. (38 U.S.C. 1510)

(b) *Election of subsistence allowance.* If a veteran elects to receive subsistence allowance and payment of rehabilitation services by the VA, he or she may be authorized leave of absence under §§ 21.342 through 21.350. (38 U.S.C. 1510)

(c) *Election of payment at the chapter 34 rate.* If a veteran elects to receive an allowance and other assistance equivalent to that provided under chapter 34, the effect of absences is determined under provisions of §§ 21.4204 and 21.4205. (38 U.S.C. 1510)

§ 21.342 Leave accounting policy.

(a) *Amount of leave.* A veteran pursuing one of the programs listed in § 21.340(a) may be authorized up to 30 days of leave by the case manager during a twelve-month period. The beginning date of the first twelve-month period is the commencing date of the original award, and the ending date is twelve months from the beginning date, with subsequent twelve-month periods running consecutively thereafter. (38 U.S.C. 1510)

(b) *Additional leave under exceptional circumstances.* A veteran in a program offered by an institution of higher learning which leads to a standard college degree may be

authorized up to 15 additional days of leave during the twelve-month period by the case manager under exceptional circumstances, such as extended illness of family problems. (38 U.S.C. 1510)

(c) *Absence.* For the purpose of determining when a leave of absence may be authorized, a veteran who elects subsistence allowance shall be considered absent during any period in which he or she is:

(1) Not in attendance under the rules and regulations of the educational institution, rehabilitation center, or sheltered workshop;

(2) Not considered at work under the rules of the training establishment; or

(3) Not present at a scheduled period of individual instruction. (38 U.S.C. 1510)

(d) *System of records.* An educational institution, training establishment, rehabilitation center, or other facility or individual providing training and rehabilitation services under chapter 31 may utilize the same system of records to determine absence as the one used for similarly circumstanced nonveterans. (38 U.S.C. 1510)

(e) *Change in rate of pursuit.* The amount of approved leave is not affected by the veteran's rate of pursuit of a rehabilitation program. (38 U.S.C. 1510)

(f) *Charging leave.* The VA shall charge 1 day of leave for each day or part of a day of absence from pursuit of a rehabilitation program. (38 U.S.C. 1510)

(g) *Limitation on carrying leave over to another period.* The veteran may not carry over unused days of leave from one twelve-month period to another. (38 U.S.C. 1510)

§ 21.344 Facility offering training or rehabilitation services.

(a) *Approval of leaves of absence required.* Leaves of absence normally must be approved in advance by the case manager when the facility offering training or rehabilitation services arranges for the leave. The approval of the case manager is required:

(1) During periods in a rehabilitation program identified in § 21.342(c); or

(2) A period of hospitalization at VA expense during one of the periods identified in § 21.342(c). (38 U.S.C. 1510)

(b) *Responsibility of the veteran in obtaining leave.* The VA will not authorize leave without a verbal or written request by the veteran, and the approval of the facility. (38 U.S.C. 1510)

(c) *Conditions permitting approval of leaves of absence.*

(1) The case manager may approve leaves of absence up to a total of 30 days during a twelve-month period if the facility certifies that the use of the leave does not interfere materially with the veteran's progress;

(2) An additional period of up to 15 days of leave in the same twelve-month period under exceptional circumstances may be approved by the case manager for a veteran in a program leading to a standard college degree if failure to approve leave will:

(i) Result in personal hardship, or

(ii) Adversely affect the veteran's ability to continue in his or her rehabilitation program. (38 U.S.C. 1510)

§ 21.346 Facility temporarily not offering training or rehabilitation services.

(a) *Approval of leave of absence not required.* A veteran may receive subsistence allowance, during a period when the facility temporarily is not offering services, without the veteran's being charged with leave when:

(1) The facility is closed temporarily under an executive order of the President or due to an emergency situation;

(2) The veteran is pursuing on-job training and he or she receives holidays established by Federal or State law;

(3) The veteran is pursuing farm cooperative training and is required in the ordinary day to day conduct of farm business to be absent:

(i) From the farm; or

(ii) From that part of a farm cooperative course which is given at the educational institution.

(4) The veteran is pursuing a standard college degree; and

(i) There is an interval between consecutive semesters, terms, quarters or periods of instruction *within a certified enrollment period* which does not exceed a full calendar month;

(ii) There is an interval, which does not exceed a full calendar month between semesters, terms or quarters when the educational institution only certifies enrollment on a semester, term, or quarter basis; or

(iii) There is an interval, which does not exceed 30 days, when the veteran, as part of his or her approved program of vocational rehabilitation, transfers from one educational institution to another for the purpose of enrolling in and pursuing a similar program at the second institution;

(5) The veteran is pursuing a non-college-degree course and there is a period of up to 5 days per twelve-month period during which the school offering non-college-degree courses is not operating, because instructors are attending professional meetings. (38 U.S.C. 1510)

(b) *Case manager responsibility.* The case manager may disapprove leave under paragraph (a)(4) of this section if:

(1) Approval would result in or lead to use of more than 48 months of entitlement under chapter 31, alone; or

(2) Approval would require extension of the scheduled completion date of the veteran's program. (38 U.S.C. 1510)

(c) *Approval of leaves of absence required.* A veteran, who wishes to receive subsistence allowance while the facility temporarily is not offering training under conditions other than those identified in paragraph (a) of this section, must seek an approved leave of absence and be charged leave. (38 U.S.C. 1510)

§ 21.348 Leave following completion of a period of training or rehabilitation services.

(a) *Leave following completion of training or rehabilitation services.* Leave may not be approved following completion of a period of rehabilitation services described in § 21.340(a). (38 U.S.C. 1510)

(b) *Postponement of the date of completion of a period of rehabilitation services prohibited.* The date of completion of the veteran's program may not be extended for the purpose of allowing the veteran to use leave. (38 U.S.C. 1510)

§ 21.350 Unauthorized absences.

A veteran who is unable to obtain an authorized leave of absence in advance may seek to have the unauthorized absence excused.

(a) *Excusing unauthorized absences.* The VA may excuse an unauthorized absence and make proper charges against the veteran's leave when:

(1) The veteran has absented himself or herself when advance approval from the VA is impracticable; and

(2) Conditions for approval of leave are otherwise met. (38 U.S.C. 1510)

(b) *Unexcused, unauthorized absences.* When an unauthorized absence is not satisfactorily explained, the VA will take necessary action, including recoupment of subsistence allowance for that period of absence. (38 U.S.C. 1510)

64. The following new centerheading and § 21.362 are added to read as follows:

Conduct and Cooperation

§ 21.362 Satisfactory conduct and cooperation.

(a) *General.* The successful development and implementation of a program of rehabilitation services require the full and effective participation of the veteran in the rehabilitation process.

(1) The veteran is responsible for satisfactory conduct and cooperation in

developing and implementing a program of rehabilitation services under chapter 31;

(2) The staff is responsible for insuring satisfactory conduct and cooperation on the veteran's part; and

(3) The VA staff shall take required action when the veteran's conduct and cooperation are not satisfactory. (See § 21.364) (38 U.S.C. 1511)

(b) *VA responsibility.* The VA shall make a reasonable effort to inform the veteran and assure his or her understanding of:

(1) The services and assistance which may be provided under chapter 31 to help the veteran maintain satisfactory cooperation and conduct and to cope with problems directly related to the rehabilitation process, especially counseling services;

(2) Other services which VR&C staff can assist the veteran in securing through non-VA programs; and

(3) The specific responsibilities of the veteran in the process of developing and implementing a program of rehabilitation services, especially the specific responsibility for satisfactory conduct and cooperation. (38 U.S.C. 1511)

(c) *Veteran's responsibility.* A veteran requesting or being provided services under chapter 31 must:

(1) Cooperate with VA staff in carrying out the initial evaluation and developing a rehabilitation plan;

(2) Arrange a schedule which allows him or her to devote the time needed to attain the goals of the rehabilitation plan;

(3) Seek the assistance of VA staff, as necessary, to resolve problems which affect attainment of the goals of the rehabilitation plan;

(4) Conform to procedures established by the VA governing pursuit of a rehabilitation plan including:

(i) Enrollment and reenrollment in a course;

(ii) Changing the rate at which a course is pursued;

(iii) Requesting a leave of absence;

(iv) Requesting medical care and treatment;

(v) Securing supplies; and

(vi) Other applicable procedures.

(5) Conform to the rules and regulations of the training or rehabilitation facility at which services are being provided. (38 U.S.C. 1511)

(d) *Responsibility for determining satisfactory conduct and cooperation.* VR&C staff with case management responsibility in the veteran's case will:

(1) Monitor the veteran's conduct and cooperation as necessary to assure consistency with provisions of paragraph (c) of this section.

(2) Provide assistance which may be authorized under chapter 31, or for which arrangements may be made under other programs to enable the veteran to maintain satisfactory conduct and cooperation. (38 U.S.C. 1511)

65. Section 21.364 is added as follows:

§ 21.364 Unsatisfactory conduct and cooperation.

(a) *General.* If the VA determines that a veteran has failed to maintain satisfactory conduct or cooperation, the VA may, after determining that all reasonable counseling efforts have been made and are found not reasonably likely to be effective, discontinue services and assistance to the veteran, unless the case manager determines that mitigating circumstances exist. In any case in which such services and assistance have been discontinued, the VA may reinstitute such services and assistance only if the counseling psychologist determines that:

(1) The unsatisfactory conduct or cooperation of such veteran will not be likely to recur; and

(2) The rehabilitation program which the veteran proposes to pursue (whether the same or revised) is suitable to such veteran's abilities, aptitudes, and interests. (38 U.S.C. 1511)

(b) *Unsatisfactory conduct or cooperation exists.* When the case manager determines that the veteran's conduct and/or cooperation are not in conformity with provisions of § 21.362(c), the case manager will:

(1) Discuss the situation with the veteran;

(2) Arrange for services, particularly counseling services, which may assist in resolving the problems which led to the veteran's unsatisfactory conduct or cooperation;

(3) Interrupt the program to allow for more intense efforts, if the unsatisfactory conduct and cooperation persist. If a reasonable effort to remedy the situation is unsuccessful during the period in which the program is interrupted, the veteran's case will be discontinued and assigned to "discontinued" status unless mitigating circumstances are found. When mitigating circumstances exist the case may be continued in "interrupted" status until VA staff determines the veteran may be reentered into the same or a different program because the veteran's conduct and cooperation will be satisfactory, or if a plan has been developed, to enable the veteran to reenter and try to maintain satisfactory conduct and cooperation. Mitigating circumstances include:

(i) The effects of the veteran's service and nonservice-connected condition;

(ii) Family or financial problems which have led the veteran to unsatisfactory conduct or cooperation; or

(iii) Other circumstances beyond the veteran's control. (38 U.S.C. 1511)

66. The following new centerheading and § 21.370 are added as follows:

Interregional and Intraregional Travel of Veterans

§ 21.370 Intraregional travel at government expense.

(a) *Introduction.* The VA may authorize transportation expenses for intraregional travel to a veteran in a rehabilitation program or a program of employment services for the purposes presented in paragraph (b) of this section. When approved for purposes stated in paragraph (b) of this section, authorization of travel is limited to the veteran's transportation, and does not include transportation for the veteran's dependents, or for moving personal effects. (38 U.S.C. 111, 1504(a)(13))

(b) *Necessary condition for intraregional travel at government expense.* The VA may authorize a veteran to travel at government expense within the regional territory of the VA field station of jurisdiction when:

(1) The VA determines that the travel is necessary in the discharge of the government's obligation to the veteran; and

(2) The veteran is instructed to travel for any of the following reasons:

(i) To report to the chosen school or training facility for the purpose of starting training;

(ii) To report to a prospective employer-trainer for an interview prior to induction into training, when there is definite assurance in advance of approving the travel that, upon interview, the employer will start the veteran in training, if the employer finds the veteran acceptable, or

(iii) To report to the chosen school for a personal interview prior to induction into training when:

(A) The school requires the interview as a condition of admission,

(B) There is assurance before the travel is approved that the veteran's records (school, counseling, etc.) show he or she meets all basic requirements for induction under § 21.282; and

(C) The veteran submits to the school a transcript of his or her high school credits and a transcript from any school he or she attended following high school.

(iv) To report to a rehabilitation facility or sheltered workshop;

(v) To return to his or her home from the training or rehabilitation facility when:

(A) Services are not available for a period of 30 days or more (including summer vacation periods), and

(B) Travel from his or her home to the training or rehabilitation facility was at government expense;

(vi) To return to the training or rehabilitation facility from his or her home, when:

(A) The purpose of the travel is to continue the rehabilitation program, and

(B) Travel from the training or rehabilitation facility to the veteran's home was at government expense;

(vii) To return to the point from which he or she was transported at government expense, upon being placed in "discontinued" or "interrupted" status for any reason, except abandonment of training by the veteran without good reason;

(viii) To report to a place of prearranged satisfactory employment upon completion of vocational rehabilitation for the purpose of beginning work;

(ix) To return to his or her home from the place of training following rehabilitation to the point of employability, when suitable employment is not available;

(x) To return from the place of training to the veteran's prior location, when the VA could have approved travel to the place of training at government expense, but did not issue the necessary travel authorization; and

(xi) To report to a place to take a scheduled examination required to practice the trade or profession for which the veteran has been trained. This travel shall be limited to points within the state in which the veteran has pursued his or her training or, if the veteran returned to the state from which he or she was sent to pursue training, he or she may be sent at government expense to a place within that state to take the examination. If there is more than one place within the state at which the veteran may take the examination, travel shall be limited to the nearest place. (38 U.S.C. 11)

(c) *Approval of intraregional transfer.* Intraregional travel must be approved by the case manager. (38 U.S.C. 1504(a)(13))

67. Section 21.372 is added as follows:

§ 21.372 Interregional transfer at government expense.

(a) *Introduction.* A veteran may need to transfer from the jurisdiction of one VA field station to another in order to accomplish rehabilitation. This section states the conditions which will permit the transfer to be made at government expense. Authorization of travel is limited to the veteran's transportation, and does not include transportation for the veteran's dependents or for moving personal effects. (38 U.S.C. 111, 1504(a)(13))

(b) *Conditions which permit interregional transfers at government expense.* A veteran may be provided travel at government expense when it has been determined that such travel is necessary to accomplish rehabilitation. The VA will authorize an interregional transfer at government expense only to allow the veteran:

(1) To enter training in the nearest satisfactory facility if:

(i) The nearest satisfactory facility is within the jurisdiction of another VA field station; or

(ii) There are no satisfactory facilities within the jurisdiction of the field station in which the veteran resides.

(2) To enter training in the state in which the veteran has long-standing family and social ties, and in which he or she plans to live following rehabilitation;

(3) To report to an employer-trainer when all necessary steps have been taken to establish an on-job training program;

(4) To report to rehabilitation facility or sheltered workshop;

(5) To return to his or her home from the place of training when:

(i) Training is not available for a period of 30 days or more (including summer vacation periods), and

(ii) Travel from his or her home to the place of training or rehabilitation services was at government expense;

(6) To return to the place of training or rehabilitation services from his or her home, when:

(i) The purpose of the travel is to continue training or rehabilitation services; and

(ii) Travel from the place of training or rehabilitation services to the veteran's home was at government expense;

(7) To return to the point from which he or she was transferred at government expense, upon being assigned to "discontinued" or "interrupted" status, for any reason, except abandonment of training by the veteran without good reason;

(8) To report to a place of prearranged satisfactory employment or for a prearranged employment interview following completion of his or her program of vocational rehabilitation, when:

(i) There is no satisfactory opportunity for employment in the veteran's occupation within the jurisdiction of the field station which has jurisdiction over his or her residence, and

(ii) The veteran has a serious employment handicap.

(9) To return to his or her home, from which he or she was transferred at government expense to pursue training, when, upon completion of his or her course, satisfactory employment is not available;

(10) To return to the location from which he or she traveled without authorization because the VA did not issue the necessary travel authorization on a timely basis. (38 U.S.C. 111)

(c) *Approval of interregional transfer.* Interregional travel must be approved by the case manager. (38 U.S.C. 1504(a)(13))

68. Section 21.374 is added as follows:

§ 21.374 Authorization for travel of attendants.

(a) *Travel for attendants.* The services of an attendant to accompany a veteran while traveling for rehabilitation purposes may be provided when such services are necessitated by the severity of the veteran's disability. Attendants may only be used to enable a veteran to attend appointments for initial evaluation, counseling, or intraregional or interregional travel at government expense under § 21.370 and § 21.372. (38 U.S.C. 111)

(b) *Attendants not employed by the Federal government.* (1) The VA may authorize persons not in regular civilian employment of the Federal government to act as attendants. Payment of travel expenses for attendants will be authorized on the same basis as for the veteran the attendant is accompanying. The VA:

(i) Will furnish the attendant with common-carrier transportation, meal and lodging expenses; or

(ii) Will grant the attendant a mileage allowance in lieu of furnishing the assistance cited in paragraph (b)(1)(i) of this section.

(2) The VA will not pay the attendant a fee if he or she is a relative of the veteran. A relative, for this purpose, is a person who by blood or marriage is the veteran's

(i) Spouse,
(ii) Parent,
(iii) Child,
(iv) Brother,
(v) Sister,
(vi) Uncle,
(vii) Aunt,
(viii) Niece, or
(ix) Nephew. (38 U.S.C. 111)

(c) *Attendant employed by the Federal government.* (1) The VA may authorize a person in the regular civilian

employment of the Federal government to act as an attendant. When assigned, the attendant:

(i) Will be entitled to transportation and expenses, or

(ii) May be allowed per diem in place of subsistence in accordance with the provisions of the Federal Travel Regulations. (15 U.S.C. chapter 571)

(2) The VA will pay no fee to civilian employees of the Federal government who act as attendants. (38 U.S.C. 111)

69. Section 21.376 is added as follows:

§ 21.376 Travel expenses for initial evaluation and counseling.

When the VA asks a disabled veteran to report to a designated place for an initial evaluation, reevaluation or counseling (including personal or vocational adjustment counseling), the veteran will travel to and from the place of evaluation and counseling at government expense. When a veteran, because of a severe disability, requires the services of an attendant while traveling, the VA will authorize payment of travel expenses for the attendant under the provisions of § 21.374. (38 U.S.C. 111)

70. New center headings and new §§ 21.380, 21.382, 21.390, 21.400, 21.402, 21.420, and 021.430 are added as follows:

Personnel Training and Development

§ 21.380 Establishment of qualifications for personnel providing assistance under chapter 31.

(a) *General.* Notwithstanding any other provision of law or regulation, the VA shall establish qualification standards for DVB personnel providing evaluation, rehabilitation, and case management services to eligible veterans under chapter 31, including:

(1) Counseling psychologists;

(2) Vocational rehabilitation specialists; and

(3) Other staff providing professional and technical assistance. (38 U.S.C. 1518(c))

(b) *Rehabilitation Act of 1973.* The VA shall consider qualification standards established for comparable personnel under the Rehabilitation Act of 1973, when setting agency standards. (38 U.S.C. 1518(c))

§ 21.382 Training and staff development for personnel providing assistance under chapter 31.

(a) *General.* The VA shall provide a program of ongoing professional training and development for staff of the VR&C Service engaged in providing rehabilitation services under chapter 31. The objective of such training shall be to insure that rehabilitation services for disabled veterans are provided in accordance with the most advanced knowledge, methods, and techniques available for the rehabilitation of disabled persons. The areas in which training and development services may be provided to enhance staff skills include:

(1) Evaluation and assessment;

(2) Medical aspects of disability;

(3) Psychological aspects of disability;

(4) Counseling theory and techniques;

(5) Personal and vocational adjustment;

(6) Occupational information;

(7) Placement processes and job development;

(8) Special considerations in rehabilitation of the seriously disabled;

(9) Independent living services;

(10) Resources for training and rehabilitation; and

(11) Utilizing research findings and professional publications. (38 U.S.C. 1518)

(b) *Training and development resources.* For the purpose of carrying out the provisions of paragraph (a) of this section the VA may:

(1) Employ the services of consultants;

(2) Make grants to and contract with public and private agencies, including institutions of higher learning, to conduct workshop and training activities;

(3) Authorize individual training at institutions of higher learning and other appropriate facilities; and

(4) Utilize chapter 41 of title; 5, U.S.C., and related instructions to provide training and staff development activities on a group and individual basis. (38 U.S.C. 1518(b))

(c) *Interagency coordination.* VA shall coordinate with the Commissioner of the Rehabilitation Services Administration and the Assistant Secretary for Veterans' Employment in planning and carrying out personnel training in areas of mutual programmatic concern. (38 U.S.C. 1518(c))

Rehabilitation Research and Special Projects

§ 21.390 Rehabilitation research and special projects.

(a) *General.* The VA shall carry out an ongoing program of activities for the purpose of advancing the knowledge, methods, techniques, and resources available for use in rehabilitation programs for veterans. For this purpose, the VA may conduct research and development, provide support for research and development, or both conduct and provide support for the development and conduct of:

(1) Studies and research concerning the psychological, educational, social, vocational, industrial, and economic aspects of rehabilitation; and

(2) Projects which are designed to increase the resources and potential for accomplishing the rehabilitation of disabled veterans. (38 U.S.C. 1519(a))

(b) *Grants.* The VA may make grants to, or contract with, public on nonprofit agencies, including institutions of higher learning, to carry out the provisions of paragraph (a) of this section. (38 U.S.C. 1519(b))

(c) *Research by VR&C (Vocational Rehabilitation and Counseling) Service.* Research by the staff of the VR&C Service directed to problems affecting service delivery, initiation and continuation in rehabilitation programs, and other areas directly affecting the quality of service to veterans being provided assistance under chapter 31 shall be encouraged. (38 U.S.C. 1519(a))

(d) *Interagency coordination.* The VA shall cooperate with the Commissioner of the Rehabilitation Services Administration and the Director of the National Institute of Handicapped Research in the Department of Education, the Assistant Secretary for Veterans' Employment in the Department of Labor, and the Secretary of Health and Human Services regarding rehabilitation studies, research, and special projects of mutual programmatic concern. (38 U.S.C. 1519(c))

Veterans' Advisory Committee on Rehabilitation

§ 21.400 Veterans' Advisory Committee on Rehabilitation.

(a) *General.* The Administrator shall appoint an advisory committee to be known as the Veterans' Advisory Committee on Rehabilitation. (38 U.S.C. 1521(a))

(b) *Purpose.* The purposes of the Veterans' Advisory Committee on Rehabilitation, hereafter referred to as the committee, are to:

(1) Assess the rehabilitation needs of service and nonservice-disabled veterans; and

(2) Review the programs and activities of the VA designed to meet such needs; (38 U.S.C. 1521(c))

(c) *Members.* The committee shall include:

(1) Members of the general public;

(2) Appropriate representation of veterans with service-connected disabilities; and

(3) Persons who have distinguished themselves in the public and private sectors in the fields of rehabilitation, and employment and training programs. (38 U.S.C. 1521(a))

(d) *Members terms.* The Administrator shall appoint members of

the committee for three-year terms. Members may be reappointed for additional three-year terms. (38 U.S.C. 1521(a))

(e) *Chairperson.* The Administrator will designate one of the members of the committee to chair the committee. (38 U.S.C. 1521(a))

(f) *Ex-officio members.* The committee shall also include ex-officio members named by the following agencies. The ex-officio members shall include one representative from:

(1) The Department of Medicine and Surgery;

(2) The Department of Veterans Benefits;

(3) The Rehabilitation Services Administration and one from the National Institute for Handicapped Research of the Department of Education; and

(4) The Assistant Secretary of Labor for Veterans' Employment of the Department of Labor. (38 U.S.C. 1521(a))

§ 21.402 Responsibilities of the Veterans' Advisory Committee on Rehabilitation.

(a) *Consultation with the Administrator.* The Administrator shall regularly, but not less than twice yearly, consult with and seek the advice of the committee with respect to the administration of veterans' rehabilitation programs authorized under title 38, United States Code. (38 U.S.C. 1521(b), (c))

(b) *Submission of an annual report.* The committee shall:

(1) Submit to the Administrator an annual report on the rehabilitation programs and activities of the VA; and

(2) Submit such other reports and recommendations to the Administrator as the committee determines appropriate. (38 U.S.C. 1521(c))

(c) *Contents of the committee's annual report.* The committee's annual report shall include:

(1) An assessment of the rehabilitation needs of veterans; and

(2) A review of the programs and activities of the VA designed to meet needs identified in subparagraph (1) of this paragraph. (38 U.S.C. 1521(c))

(d) *Administrator's annual report.* The findings of the committee shall be incorporated in the Administrator's annual report submitted to the Congress under 38 U.S.C. 214. In addition the Administrator shall submit, together with this annual report, a copy of all reports and recommendations of the committee submitted to the Administrator since the previous annual report was submitted to the Congress. (38 U.S.C. 1521(c))

71. A new centerheading and § 21.410 are added as follows:

Additional Administrative Consideration

§ 21.410 Delegation of authority.

Authority is delegated to the Chief Benefits Director, and to supervisory or non-supervisory personnel within the jurisdiction of the Vocational Rehabilitation and Counseling Service designated by the Chief Benefits Director, to make findings and decisions under 38 U.S.C. chapter 31 and the applicable regulations, precedents and instructions, as to rehabilitation services for disabled veterans. (38 U.S.C. 212(a))

Cross-Reference: See § 21.4001 Delegation of authority.

72. Section 21.412 is added as follows:

§ 21.412 Finality of decisions.

(a) *Field station of original jurisdiction.* The decision of a VA field station in a given veteran's case:

(1) Will be final and binding upon all field stations of the VA as to conclusions based on evidence on file at that time; and

(2) Will not be subject to revision on the same factual basis except by duly constituted appellate authorities or except as provided in §§ 21.410 and 21.414. (See §§ 19.153, 19.154, and 19.155. (38 U.S.C. 212(a), 4003)

(b) *Adjudicative determinations.* Current determinations of line of duty, character of discharge, relationship, and other pertinent elements affecting eligibility for training and rehabilitation services or payment of subsistence allowance under chapter 31, made by an adjudicative activity by application of the same criteria and based on the same facts, are binding upon all other adjudicative activities in the absence of clear and unmistakable error. (38 U.S.C. 212(a))

73. Section 21.414 is added as follows:

§ 21.414 Revision of decision.

The revision of a decision on which an action is based is subject to the following regulations:

(a) Clear and unmistakable error, § 3.105(a);

(b) Difference of opinion, § 3.105(b);

(c) Character of discharge, § 3.105(c);

(d) Severance of service-connection, § 3.105(d);

(e) Reduction to less than compensable evaluation, § 3.105(e). (See §§ 21.48, 21.322, and 21.324) (38 U.S.C. 3012)

74. Sections 21.420 and 21.430 and center headings are added as follows:

Informing the Veteran

§ 21.420 Informing the veteran.

(a) *General.* The VA will inform a veteran in writing of findings affecting receipt of benefits and services under chapter 31. This includes veterans:

(1) Requesting benefits and services; or

(2) In receipt of benefits and services. (38 U.S.C. 1502)

(b) *Notification.* (1) Each notification should include the decision or finding, the reasons, including fact and law, for the decision, the effective date of the decision or finding; and

(2) The veteran's appeal rights, if any. (38 U.S.C. 1502)

(c) *Adverse action.* An adverse action is one, other than an interim action such as a suspension of benefits pending development, which:

(1) Denies chapter 31 benefits, when such benefits have been requested;

(2) Reduces or otherwise diminishes benefits being received by the veteran; or

(3) Terminates receipt of benefits for reasons other than scheduled interruptions which are a part of the veteran's plan. (38 U.S.C. 1502)

(d) *Prior notification of adverse action.* The VA shall give the veteran a period of at least 30 days to indicate his or her disagreement with an adverse action other than one which arises as a consequence of a change in dependency, training time, or other such alteration in circumstances. If the veteran disagrees, he or she shall be given the opportunity, before appealing the adverse action as provided in § 21.59, to:

(1) Meet informally with a representative of the VA;

(2) Review the basis for the VA decision, including any relevant written documents or material; and

(3) Submit to the VA any material which he or she may have relevant to the decision. (38 U.S.C. 1502)

Accountability

§ 21.430 Accountability for authorization and payment of training and rehabilitation services.

(a) *General.* The VA shall maintain policies and procedures which provide accountability in the authorization and payment of program costs for training and rehabilitation services. The procedures established under this section are applicable to all program costs except subsistence allowance (or the optional allowance at chapter 34 rates). Policies and procedures governing payment of subsistence allowance are governed by §§ 21.260 through 21.276, and §§ 21.320 through 21.334. (38 U.S.C. 1515(a)(4))

(b) *Determining necessary costs for training and rehabilitation services.* The estimates of program costs during a calendar year or lesser period shall be

based upon the services necessary to carry out the veteran's rehabilitation plan during that period (§§ 21.80 through 21.98). The estimates will be developed by the DVB case manager. If additional approval is required, the DVB case manager shall secure such additional approval prior to authorization of services. (38 U.S.C. 1515(a)(4))

(c) *Limitations.* The limitations for authorization of program costs, exclusive of subsistence allowance (optional allowance) are:

(1) The DVB case manager may not authorize payment of program costs which will exceed $2,500 per year. If program costs for a year exceed $2,500, additional concurrence is required as specified in paragraphs (c) (2) through (4) of this section;

(2) Program costs which will be greater than $2,500 but not more than $7,500 per year, may be approved by the Vocational Rehabilitation and Counseling officer;

(3) Program costs which will be greater than $7,500 per year, but not more than $15,000 per year, may be approved by the Director, VA Regional Office; and

(4) Program costs which will exceed $15,000 per year, may be approved by the Director, VR&C Service. (38 U.S.C. 1515(a)(4))

Cross-References: See § 21.156. Other incidental goods and services. § 21.258. Special assistance for veterans in self-employment.

Center heading and §§ 21.700–21.735 [Removed]

75. The center heading "COUNSELING" and §§ 21.700 through 21.735 are removed.

[FR Doc. 84-27438 Filed 10-17-84; 8:45 am]

BILLING CODE 6320-01-M

POSTAL SERVICE

39 CFR Part 601

Procurement of Property and Services; Amendments to Postal Contracting Manual

AGENCY: Postal Service.

ACTION: Amendments to Postal Contracting Manual.

SUMMARY: The Postal Service announces that it is amending the Postal Contracting Manual to expand the Protection of Information clause, to include Asian-Indian Americans in the definition of Minority Business Enterprise, to delete the particular approval now required for certain procurements from minority business enterprises, to raise the threshold at which brand name or equal purchase descriptions must be approved, to expand the clause entitled "Drawings and other Data to Become Property of Postal Service," and to make certain minor, editorial and technical amendments.

EFFECTIVE DATE: October 4, 1984.

FOR FURTHER INFORMATION CONTACT: Eugene A. Keller, (202) 245–4818.

SUPPLEMENTARY INFORMATION: The Postal Contracting Manual, which is incorporated by reference in the Code of Federal Regulations (see 39 CFR 601.100), has been amended by the issue of PCM Circular 84–5, dated October 4, 1984.

In accordance with 39 CFR 601.105, notice of these changes is hereby published in the **Federal Register** and the text of the changes is filed with the Director, Office of the Federal Register. Subscribers to the basic manual will receive these amendments from the Postal Service. (For other availability of the Postal Contracting Manual, see 39 CFR 601.104.)

List of Subjects in 39 CFR Part 601

Government procurement, Postal Service, Incorporation by reference.

Explanation of Changes

1–324.7 The Protection of Information clause is expanded. (The heading of 1–324 is changed to reflect the additional coverage.)

1–701.7 The definition of Minority Business Enterprise is revised to include Asian-Indian Americans.

1–704.2(a) This section is revised to delete the requirement for approval by the Assistant Postmaster General, Procurement and Supply Department, to select more than 20 percent of the estimated annual dollar amount of any requirement for procurement from minority business enterprises. The blanket deviation dated May 21, 1982, signed by the Assistant Postmaster General, Procurement and Supply Department, is cancelled.

1–1105.2(a) The threshold at which brand name or equal purchase descriptions must be approved by the General Manager, Procurement Technical Support Division, Procurement and Supply Department, is raised to $50,000 from $30,000.

Section 7 Several obsolete paragraphs are deleted.

7–603.2 The definition of Minority Business Enterprise is revised to be consistent with the definition at 1–701.7.

9–105.10(b) The clause entitled "Drawings and Other Data to Become Property of Postal Service," required in contracts for architect-engineer services, is expanded to encompass software and other media on which drawings and data might be reproduced or stored.

18–101 This section on relocation policy is revised to reflect postal policy more accurately and to direct readers to governing postal regulations.

(5 U.S.C. 552(a); 39 U.S.C. 401, 404, 410, 411)

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 84-27510 Filed 10-17-84; 8:45 am]

BILLING CODE 7710-12-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 61

[CC Docket No. 83-992; FCC 84-353]

Amendment of the Commission's Rules With Regard to Tariffs

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission revises Part 61 and § 1.773 of its Rules, governing tariffs, which implement section 203 of the Communications Act. These revisions are intended to clarify and reorganize the Rules, and to ensure that formal agency procedures reflect contemporary tariff practices in the telecommunications industry. The most important changes to these rules are the reduced notice periods for dominant carriers and the increase in exemption amount for provision of cost support materials. This major revision, the first since 1939, will greatly reduce the administrative burdens associated with tariff filings.

EFFECTIVE DATE: November 19, 1984.

FOR FURTHER INFORMATION CONTACT: Joanne M. Salvatore, Tariff Division, Common Carrier Bureau, (202) 632–6917.

SUPPLEMENTARY INFORMATION:

Lists of Subjects

47 CFR Part 1

Administrative practice and procedure.

47 CFR Part 61

Communications common carriers, Radios, Tariffs, Telegraph, Telephone.

Report and Order (Proceeding Terminated)

In the matter of amendment of Parts 1 and 61 of the Commission's Rules: CC Docket No. 83–992.

Adopted: July 26, 1984.
Released: October 9, 1984.

By the Commission.

I. Introduction

1. On October 5, 1983, the Commission released a Notice of Proposed Rulemaking [1] (NPRM) proposing a

[1] Amendment of Parts 1 and 61 of the Commission's Rules, 95 FCC 2d 45 (1983).

recodification and revision of Part 61 of the Commission's Rules, 47 CFR 61.1 *et seq.*, and a single amendment to § 1.773 of Part 1, 47 CFR 1.773. Part 61 provides the procedures that common carriers must follow when filing tariffs with the Commission pursuant to Section 203 of the Communications Act of 1934, 47 U.S.C. 203. This recodification and revision represents the first overall review of these rules since 1939. It eliminates unnecessary regulations, clarifies remaining regulations and adopts more flexible procedural options which will ease carriers' compliance burdens. These revised rules will enable the Commission to meet its statutory oversight obligations while allowing subject carriers to operate more efficiently and to respond more effectively to competition. After careful consideration of the comments filed in this proceeding, we conclude that this revision of the rules, substantially as proposed, will benefit the public interest.

2. Eighteen parties filed comments in response to our NPRM, and thirteen parties filed reply comments.[1] These comments generally favored the proposed revisions of Part 61. The majority of the comments pertained to the proposed notice period reductions and customer notification requirements in Section 61.58, the increase in exemption amount for Section 61.38 submissions, and the tariff posting requirement in Section 61.72. The comments did not address all of the proposed revisions, but several commenters suggested further changes to certain rules. These proposals will be discussed in the following paragraphs in a section-by-section review. Appendix A contains the final text of the rules as amended.[2]

II. Analysis

3. *Section 61.12(a), (b) and (f):*[3] *Definitions of concurring carrier, connecting carrier, and other participating carrier.* In the NPRM, we clarified the "concurring carrier" definition and added definitions of "connecting carrier" and "other participating carrier." The BOCs[4] comment that these categories may no longer be distinguishable in light of AT&T's divestiture of the BOCs pursuant to the Modification of Final Judgment.[5] The BOCs contended that after divestiture carriers who were considered to be "connecting carriers" will not either be "issuing carriers" or "connecting carriers". The BOCs also argue that the term "through service" used in the definition of "other participating carrier" is no longer applicable "in the end-on-end environment created by access charges."

4. We disagree with the BOCs. These definitions are unaffected by AT&T's divestiture of the operating companies and serve as necessary administrative categories to determine carrier participation and responsibility for the offering of a given service. Divestiture only affected the BOCs and other carriers continue to enter into service arrangements defined by these terms. Accordingly, we shall adopt these definitions as proposed in the NPRM.

5. *Section 61.12(c): Definition of dominant carrier.* In the NPRM, we proposed the deletion of the "dominant carrier" definition in Section 61.15a(a) because we determined that it was unnecessary in light of the "non-dominant carrier" definition in proposed Section 61.12(e).[6] Commenting parties suggested that this definition be retained. SNET stated that the omission of this definition might give rise to an erroneous presumption as to how dominant carrier status is attained. In order to reduce confusion concerning this term, we have decided not to eliminate a definition of "dominant carrier."

6. *Section 61.12(e): Non-Dominant Carrier.* The proposed definition of "non-dominant carrier" replaces existing Section 61.15a(b) and reflects the language used in the Competitive Carrier Rulemaking[7] for a "dominant carrier."[8] A "non-dominant carrier" is "one found by the Commission not to have market power (*i.e.* power to control price)". The BOCs proposed the following definition of a "non-dominant carrier": "a carrier found by the Commission not to have market power over a service (*i.e.* power to control prices of a particular service)."

7. In the Fourth Report and Order in the Competitive Carrier Rulemaking, the Commission found that a firm's market power was indicated by the level and change in its share of a relevant market and that "* * * all interstate, domestic, interexchange telecommunications services comprise a single relevant product market with no relevant submarket."[10] The proposed definition could amount to a substantive change in the Commission's treatment of certain carriers under the Competitive Carrier proceeding. In order to avoid confusion in this Part 61 rulemaking, we have decided to retain the existing definition that was determined in the First Report and Order of the Competitive Carrier Rulemaking.[11] See Appendix A.

8. *Proposed Section 61.18:* "Minor tariff filing." AT&T proposed that a new category of "minor tariff filings" be added to the rules. This category was defined as: "a filing proposing a rate

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[1] The following parties filed comments: American Broadcasting Companies, Inc., National Broadcasting Company, Inc. and CBS Inc. (Networks), American Telephone and Telegraph Company (AT&T), Association of Data Processing Service Organizations, Inc. (ADAPSO), Bell Operating Companies (BOCs), Communications Satellite Corporation (COMSAT), FTC Communications, Inc. (FTCC), GTE Service Corporation (GTE), Home Box Office, Inc. (HBO), International Communications Association (ICA), MCI Communications Corporation (MCI), Mountain States Telephone and Telegraph Company, Pacific Northwest Bell Telephone Company and Northwestern Bell Telephone Company (U S West), National Telephone Cooperative Association (NTCA), RCA Communications, Inc. (RCA), Satellite Business Systems (SBS), Southern New England Telephone Company (SNET), Tele-Communications Association (TCA), United States Telephone Association (USTA) and Western Union Telegraph Company (Western Union). Reply comments were filed by: Aeronautical Radio, Inc. (ARINC), Alascom, Inc. (ALASCOM), AT&T, ADAPSO, BOCs, ICA, Networks, MCI, RCA, SBS, Teltec Saving Communications Co. (Teltec), U S West, and Western Union.

[2] Appendix A contains the final text of Part 61 rules. Appendix B contains the single rule amendment of Part 1. Appendix A includes Section 61.40 which was added to the Commission's Rules in Private Line Rate Structure and Volume Discount Practices, CC Docket No. 79-246, FCC 84-147, released April 24, 1984, 49 FR 18107 (April 27, 1984). Petition for recon. pending.

[3] Section 61.12(f) is the same as former § 61.12(e) in the NPRM. This rule was relettered because the definition for dominant carrier was inserted. See discussion in Section 61.12(c).

[4] The comments in this proceeding were filed prior to AT&T's divestiture of its operating companies on January 1, 1984. The current seven regional holding companies filed one set of comments under the name "Bell Operating Companies" and will be referred to as the "BOCs" in this Report and Order.

[5] United States v. American Telephone and Telegraph Co., 552 F. Supp. 131 (D.D.C.1982), *aff'd sub nom.* Maryland v. United States, 103 S. Ct. 1240 (1983). (Modification of Final Judgment or MFJ).

[6] The "non-dominant carrier" definition was Section 61.12(d) in the NPRM and is now Section 61.12(e) because we added the "dominant carrier" definition to this section.

[7] Policy and Rules Concerning Rates and Facilities Authorizations for Competitive Carrier Services (CC Docket No. 79-252), Notice of Inquiry and Proposed Rulemaking, 77 FCC 2d 308 (1979), First Report and Order, 85 FCC 2d 1 (1980), Further Notice of Proposed Rulemaking, 84 FCC 2d 445 (1981), Second Report and Order, 91 FCC 2d 59 (1982), *recon.*, FCC No. 83-69, released March 21, 1983, Second Further Notice of Proposed Rulemaking, FCC No. 82-187, released April 21, 1982, Third Further Notice of Proposed Rulemaking, Mimeo No. 33547, released June 14, 1983, 48 FR 28292 (June 21, 1983), Third Report and Order, Mimeo No. 012, released October 6, 1983, 48 FR 46791 (October 15, 1983), Fourth Report and Order, 95 FCC 2d 554 (1983), Fourth Further Notice of Proposed Rulemaking, FCC No. 84-82, released March 22, 1984, 49 FR 11856, March 28, 1984. (Competitive Carrier Rulemaking).

[8] *Id.*

[10] Fourth Report and Order at paras. 5 and 14.

[11] First Report and Order at 51-52.

change which (1) results in an annual revenue change of less than $5,000,000 and (2) less than a 10% change in any existing rate structure." AT&T argued that the addition of this category would increase its ability to compete without compromising the Commission's review functions and the Commission could apply full regulatory treatment when necessary through investigations, requests for additional information and the complaint procedures under Sections 206–208 of the Communications Act, 47 U.S.C. 206–08. Several parties urged the Commission to reject AT&T's proposed section as imprecise. They also stated that creation of such a category goes beyond the scope of this proceeding and would be more properly dealt with in the Competitive Carrier Rulemaking or in the Commission's proceeding on Long-Run Regulation of AT&T.[12]

9. "Minor tariff filings" might well be major in terms of their impact on particular customer groups or on relatively small services. Possible reforms of this type are under consideration in the Long-Run Regulation proceeding. For these reasons, AT&T's proposed section on "minor tariff filings" will not be adopted.[13]

10. *Section 61.22: Supplement.* As a result of comments we received pertaining to the scope of § 61.56, we have redefined "supplement" to be consistent with the language in § 61.56.[14] Section 61.56 only allows a supplement to be filed for a suspension or cancellation of a tariff publication. The § 61.22 definition to be adopted as a final rule shall be: "a publication filed as part of a tariff for the purpose of suspending or cancelling that tariff or tariff publication, and numbered independently from the tariff page series."

11. *Section 61.33(b): Letters of Transmittal.* In the NPRM, we simplified the language of this rule and directed carriers to furnish a reference to any facility authorizations necessary to implement the proposed tariff. FTCC sought either to delete this facility authorization list requirement or to allow a carrier to state generally that it is authorized to serve the point or points included in the tariff or that it has such an authorization pending.

12. We agree that the listing of facility authorizations could be burdensome to carriers. Accordingly, we shall delete the reference to facility authorizations from this section. See Appendix A for the final rule.

13. *Section 61.33(c): Letters of Transmittal.* In the NPRM we set forth the information that must be routinely submitted with tariff transmittals and specified the exact letter format required. FTCC commented that the actual letter of transmittal form did not need to be included in the rules and should be replaced by a list of requirements.

14. The Commission has had difficulty in obtaining the proper information necessary for tariff review. By following the form provided in the rules, carriers will save the Commission staff time, reduce the need for Commission requests for further information and reduce tariff processing delays. This requirement will impose no significant additional burden on the carriers. The letter of transmittal format in § 61.33(c) will appear in Part 61 as proposed.

15. *Section 61.38(a): Supporting Information to be submitted with letters of transmittal—Scope.* The major proposed revision to this rule was the expansion of the exemption to carriers with annual revenues of less than $500,000. This rule presently exempts carriers with annual revenues of less than $200,000. Most of the commenting parties approved of an increase in the exemption amount. They disagreed, however, as to the level to which it should be raised. MCI, COMSAT, and ICA supported the proposed exemption increase to $500,000 but MCI and ICA agreed that this exemption should not apply to access charge tariffs. In reply comments, MCI supported a $1,000,000 exemption but emphasized that revenues of affiliated companies must be aggregated before an exemption is applied.

16. The BOCs suggested that the exemption be in the range of $2,000,000 to $2,500,000 while U S West[15] and NTCA[16] recommended a $2,500,000 exemption. U S West additionally suggested that the Commission should forbear from regulation when a carrier has in place state tariffs covering the same type of service and at the same rates. USTA commented that a $5,000,000 exemption would be appropriate but questioned the use of revenue as a determination for this exemption. USTA suggested that some other measure such as number of access lines be used. Finally, FTCC suggested that an additional clause be added to § 61.38 exempting "de minimis rate changes" from its coverage.[17]

17. We have carefully considered the above arguments but are not persuaded that the exemption should be increased over the proposed amount of $500,000. Several commenters provided statistics to substantiate an increase to the proposed $500,000 exemption.[18] These figures, however, were in conflict with each other and did not provide any hard evidence as to which specific carriers or categories of carriers now required to file tariffs with the Commission would be exempted at annual gross revenue levels that exceed $500,000. While our proposal will substantially reduce the burden of compliance for small carriers, we cannot justify increasing the exemption over the proposed $500,000 without more specific information as to what types of carriers will be exempted and whether the cost of compliance outweighs the public benefit.

18. In light of the new and untested environment after divestiture, we shall not apply this exemption to exchange access tariff filings. The importance to the Commission of obtaining as much information as possible to determine accurate access charges outweighs the burden on the carriers in this instance. Although this rule contains no specific exception as to exchange access tariff filings, the Commission invokes its right to require a carrier to submit such information as may be necessary for review of a tariff filing pursuant to § 61.38(a).

19. We will not change the exemption criterion from annual gross revenue to some other measure for the exemption as USTA proposed. Annual gross revenue is a standard measure that can be easily determined. No substantive reasons have been presented to illustrate any inadequacy of the current measure. Nor shall we adopt U S West's

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[12] Long-Run Regulation of AT&T's Domestic Services, CC Docket 83–1147, Notice of Inquiry, FCC 83–482, released October 27, 1983, 48 FR 51340, November 8, 1983. (Long-Run Regulation)

[13] AT&T also suggested several rule changes that incorporated references to the proposed Section 61.18 on "minor tariff filings." For the reasons cited in the text, AT&T's proposed changes to Sections 61.38(a) and 61.58(c) and the additions of Sections 1.773(a)(iii) and 61.58(c)(1)(iv) will not be adopted.

[14] For further clarification of this matter, see discussion in Section 61.58 at paras. 42 and 43, *infra*.

[15] U S West (Mountain States Telephone and Telegraph Company, Pacific Northwest Bell Telephone Company and Northwestern Bell Telephone Company) concurred and joined in the BOC's comments but also filed supplemental comments to propose additional changes to the rules.

[16] NTCA also recommended that the Commission consider creating a simplified cost justification form for the remaining nonexempt "small companies." NTCA had no specific recommendations for this form and did not define "small companies." The proposal will not be adopted.

[17] This suggestion was very similar to AT&T's proposal on "minor tariff filings." FTCC's proposal for exemption of "de minimis rate changes" will not be adopted.

[18] These statistics included figures from the 1982 REA Statistical Report Rural Telephone Borrowers and the USITA Annual Statistics Volume II.

suggestion that we exempt tariffs that duplicate state filings. Non-exempt carriers can apply for waivers of these cost support requirements when good cause exists.

20. *Section 61.38(b): Explanation and data supporting either changes or new tariff offerings.* The NPRM proposed no change in the first paragraph of this rule. This paragraph outlines the materials to be submitted for "a tariff change which affects rates or changes or for a tariff offering a new service." These materials include an "explanation of the changed or new matter, reasons for the filing, the basis of ratemaking employed, and economic information to support the changed or new matter." FTCC commented that the phrase "basis of ratemaking employed" used in this provision is vague and should be more specifically defined.

21. The phrase "basis of ratemaking employed" simply requires the carrier to explain the process it used to derive the rates set forth in the tariff. It is impossible to list in the rules all the factors that could be considered by carriers when formulating a rate. For this reason, the phrase "basis of ratemaking employed" will not be more specifically defined.

22. *Section 61.38(b)(2)(ii): Explanation and data supporting new tariff offerings.* We did not propose to revise this provision in the NPRM. It requires a carrier submitting a tariff filing for a new service offering to provide "estimates of the effect of the new matter on the traffic and revenues from the service to which the new matter applies, the carrier's other service classifications, and the carrier's overall traffic and revenues." SNET questions the meaning of the term "other service classifications" as it is used in this provision and how it relates to information required about a carrier's unregulated activities.

23. Part 61 only prescribes rules for a carrier's regulated activities. A carrier's "other service classifications" are those services that are regulated under the Communications Act that may be affected by the proposed rate change. We need information as to effects of tariff filings on these "other service classifications" in order to check for cross-subsidies or any cross-elastic effects. For example, a reduction in an MTS rate may reduce the demand for WATS or private line service.

24. *Section 61.38(c)(1): Working papers and statistical data.* This provision requires the filing carrier to supply the Tariff Review Branch with "two sets of working papers containing the information underlying the data supplied in response to paragraph (b) of this section". Although the language in this proposed rule was streamlined, the substance of this section remains the same as the existing rule. FTCC commented that the above statement is unclear as to the quantity and type of information required. It also suggested that the Commission consider requiring this information only upon special request of the Commission staff.

25. This proposed rule does not delineate specific working paper requirements for carriers. It was intended that this rule be a flexible one in order to accommodate differing amounts of information necessary to support different tariff filings and to avoid disproportionate burdens of compliance on the carriers. Each carrier, therefore, must present the amount of supporting data necessary for compliance according to the individual circumstances of the carrier and tariff filing in question. The proposed rule will not be modified.

26. *Section 61.52(a): Form, size, type, legibility, etc.* This proposed rule requires, *inter alia,* that tariffs be printed on white paper with margins of not less than one inch. AT&T supported the existing standard requirement of ⅝ inch margins, explaining that one inch margins would increase the volume of all filings and therefore, the cost of filing tariffs. AT&T stated that its tariffs currently on file with the Commission have ⅝ inch margins and that it did not want to reproduce all these existing tariffs with one inch margins. Western Union replied that tariffs with margins of less than one inch were very difficult to read when placed in binders and, therefore, the one inch margin standard should be adopted as proposed.

27. We shall adopt the provision as proposed. The ⅝ inch margin requirement was originally imposed when tariffs were published in pamphlet form. Now that tariffs are no longer published in this form, but instead published in looseleaf form and placed in binders, one inch margins are required to facilitate their reading. Because this rulemaking is prospective, tariffs now on file need not be reproduced with the larger margin. Any new tariffs filed or new pages to be inserted in existing tariffs, however, must have one inch margins. We expect that no hardship or confusion will ensue from the compliance with this rule. A carrier can apply for a waiver of this rule if such difficulties arise.

28. Another proposed revision of § 61.52(a) requires all tariffs to be printed on white paper. MCI requested that the color of tariff pages not be specified in the rules, arguing that paper color does not affect its legibility.

29. Our experience indicates that use of paper colors other than white can decrease legibility and reproduction quality. Therefore, we shall adopt this provision as proposed. Once again, we emphasize that this rule is prospective in nature. Any new tariffs or new pages to be inserted in existing tariffs must be printed on white paper.

30. *Sections 61.52(b) (1) and (2) and 61.54(b)(4): Form, size, type, legibility, etc. and Composition of Tariffs.* These proposed sections, *inter alia,* designate where an issuing officer's name should appear in a tariff. SNET and the BOCs recommended that only the issuing officer's title be required, arguing that issuing officers may change while a tariff is effective.

31. We require the issuing officer be identified in the tariff so that, if necessary, the public can contact that officer. We have determined that this requirement will be satisfied by providing the issuing officer's title. A carrier must update its tariff if the issuing officer's title changes. A carrier, if it prefers, may include the issuing officer's name to provide the public more specific information. Accordingly, these sections shall be adopted with the above modification. See Appendix A.

32. *Section 61.54(b)(5): Composition of tariffs—Revised title page.* This provision requires a carrier to make a notation of the original tariff effective date when a revised title page is issued. The NPRM did not propose to modify this provision except for a one word change stating that a carrier "must," rather than "shall" make the notation. FTCC questioned the need to require that the original effective date of a tariff be noted on the revised title page.

33. When tracing the history of a tariff rate or regulation revision, the original effective date on the revised title page is very useful for research purposes. This notation reduces time and confusion for the tariff user and the Commission staff. For this reason, we shall not eliminate this requirement.

34. *Section 61.54(c)(3): Composition of tariffs.* This provision pertains to the revision of the tariff check sheet when tariff pages are revised or added, or when supplements are issued. We proposed to revise this provision to include the following statement on the revised check sheet. "*Page issued———(date)." AT&T commented that it is redundant to specify the date after the asterisk because the check sheet issue date would be the same. To eliminate this redundancy but still retain the indication of a change, AT&T recommended that the words "New or revised page" follow the asterisk.

35. We agree that the repetition of the date in the asterisked statement on the revised check sheet is unnecessary. Using the statement "New or revised page" is consistent with our intent to notify the public that specific pages have been revised or added at the time of issuance. Therefore, we shall adopt the modification that AT&T proposed and the final rule will contain the asterisked statement "New or revised page". See Appendix A.

36. *Section 61.54(h): List of other participating carriers.* In the NPRM, we proposed to clarify the existing requirement of providing a list of other participating carriers with a tariff. The proposed language is: "This list must contain the exact name of every other carrier subject to the Act engaging or participating in the communication service to which the tariff or supplement applies, together with the name of the city or town in which the principal office of such carrier is located." The BOCs indicated that the requirement of listing other participating carriers is burdensome because these carriers are difficult to identify and constant updating of this list would be necessary.

37. The commenting parties may be misinterpreting the term "other participating carrier." By definition,[19] an "other participating carrier" is one that is subject to the Communications Act and provides through service in conjunction with another carrier subject to the Act. A carrier should have written agreements with "other participating carriers" to guarantee through service and should easily be able to list these carriers in order to comply with this long-standing requirement.[20] We will adopt this modified rule as proposed in the NPRM for the foregoing reasons.

38. *Section 61.54(i)(3): Composition of tariff.* This proposed rule requires that "items which have not been in effect 30 days when brought forward on revised pages must be shown as reissued * * *." Both FTCC and Western Union sought clarification of this proposed rule. FTCC suggested that the rule be deleted.

39. This provision clearly requires that a tariff item must be designated as reissued when that item has not been in effect for thirty days and a subsequent change is made to other items on that page. The object of this rule is to eliminate confusion as to what items on a page are actually in effect. Assume, for example, that a tariff is filed on May 1, 1984 with a ninety day notice period, thus becoming effective on July 30, 1984 if no suspension is ordered. A subsequent tariff filing takes place on July 1, 1984 and includes revisions of several pages that were issued in the May 1, 1984 filing. Items changed in the May 1 filing but unchanged on these subsequent tariff filing pages will not have to be shown as reissued unless these pages are to become effective less than thirty days after the initial filing becomes effective. Thus, if the July 1, 1984 filing becomes effective prior to August 30, 1984, the items originally filed May 1 will have to be shown as reissued. If the July 1, 1984 filing becomes effective after August 30, 1984, the items originally filed May 1, 1984 must not be shown as reissued.[21] We shall adopt this provision as a proposed in the MPRM.

40. *Section 61.54(i): Rates and general rules, regulations, exceptions and conditions.* This section combines and simplifies the language of two existing rules. The substance of this proposed section is unchanged from the existing rules. A provision of this proposed rule prohibits a tariff from containing a "rate, rule, regulation, exception or condition," which "in any way attempts to substitute a rate, rule, regulation, exception, or condition named in any other tariff." FTCC commented that this provision is inconsistent with current international record carrier practice. According to FTCC, international record carriers are required by Commission order [22] to reference the tariffs of other common carriers for interconnected international and domestic telex calls, and to collect on the basis of rates specified in such tariffs. FTCC requested that these facts be reflected appropriately in the rules.

41. We are aware that where it is necessary in order to implement Commission policy, carriers will occasionally be ordered to take an action that differs from the procedures established in the rules. For practical purposes, however, the Commission's rules cannot be segmented to meet highly specific individual carrier needs. Rather, the rules must apply generally to all carriers. Therefore, we will adopt this revision of § 61.54(j) as proposed. Carriers may request waivers of this rule supported by a showing of good cause when special circumstances arise.

42. *Section 61.58: Supplements.* This section was proposed to allow a supplement to be filed only when a tariff is suspended or cancelled. We combined and revised existing §§ 61.56 and 61.116 to create this proposed section.[23] Both FTCC and the BOCs requested that this proposed section be expanded to allow supplements to a "part" of a tariff. COMSAT proposed that Section 61.116 be retained to allow the filing of supplements that are specially authorized by the Commission. Western Union agreed with the BOCs.

43. We have intentionally limited the use of supplements, since a supplement is generally filed at the back of a tariff and therefore, can be easily missed by a party reviewing the tariff. The tariff user could also be misled by tariff page information that is subsequently changed by a supplement filed at the back of the tariff. Important tariff changes such as rates or effective dates must be shown on revised tariff pages so that this information is easily accessible to tariff users. In the case of cancellation or suspension of a tariff, however, short time intervals require that supplements be allowed. In order to further clarify this requirement, we have revised the definition of supplement [24] and added the word "publication" to § 61.56. This latter addition will reflect the carrier's ability to supplement documents other than the tariff itself.[25] The section will be adopted with this modification. Special waivers can be requested under § 61.152 when the situation warrants.

44. *Section 61.58(a)(4): Notice requirements-customer notification.* This proposed section requires a carrier to inform affected customers when it issues a tariff publication that would increase any rate or charge, or that would discontinue, reduce or otherwise impair service to those customers. The proposed rule also includes examples of appropriate methods of notification. In our NPRM, we proposed that non-dominant carriers be exempted from the customer notification requirements under § 61.58 and that dominant carriers be exempted from these customer notification requirements for rate revisions that involve only an "insubstantial" increase over a twelve month period. We did not propose a precise rule revision because we lacked sufficient information and desired public

[19] See § 61.12(f)—"other participating carrier" definition in Appendix A.

[20] Presently, "connecting carriers" are listed in a separate tariff and carriers have been allowed by Commission order to waive Section 61.74 reference requirements. The "connecting carrier" can reference this separate tariff in its other tariffs. If the list of "other participating carriers" becomes unduly long, carriers could apply for a waiver of Section 61.74.

[21] See also discussion of Section 61.59, *infra*, paras. 64 and 65.

[22] FTCC gave no specific cites to Commission orders requiring such references.

[23] As a result of this revision, the NPRM proposed the deletion of Section 61.116.

[24] See Section 61.22 at para. 10.

[25] See Section 61.24 in Appendix A for definition of tariff publication.

comment before formulating a new rule. Most commenters favored elimination of customer notification requirements for non-dominant carriers but many disagreed with reducing notification requirements for dominant carriers. Other parties attempted to define an "insubstantial" rate increase but could reach no consensus.

45. Commenting parties supporting exemption of non-dominant carriers from customer notification requirements agreed with the Commission views set forth in the NPRM. We stated in the NPRM that under the constraints of the marketplace, non-dominant carriers will voluntarily provide satisfactory notice to their customers in order to remain competitive. The commenting parties agreed that this reliance on the marketplace was a reasonable and less burdensome alternative to the Section 61.58 requirements of customer notification for non-dominant carriers. Parties opposing the proposed rule argued that customers need actual prior notification of rate changes and service discontinuances to enable them to review tariffs for discrimination and unjustness and to file petitions for suspension or rejection if necessary. Moreover, they claimed, customers need actual prior notice in order to consider alternative carriers and to adjust any affected contracts. HBO specifically requested the exclusion of domestic satellite carriers (domsats) and miscellaneous common carriers (MCCs) from this exemption because these carriers have few customers and limited competitive alternatives are available to these customers.

46. Through the Competitive Carrier Rulemaking, we determined that non-dominant carrier tariffs are presumed lawful and that because of their lack of market power, non-dominant carriers are constrained by the availability of competitive alternatives to provide service to their customers at just and reasonable rates and on reasonable terms and conditions. As noted in the NPRM, less than a dozen petitions asserting the unlawfulness of non-dominant carriers' filings have been filed per year since the adoption of the First Report and Order in the Competitive Carrier Rulemaking. After review, all of these petitions were found to lack merit. The purpose of the notification requirement was to assure that customers would be aware of any rate increase in case they wished to file a petition. The rule was not developed to facilitate customer changes in service. As with any other competitive industry, customers will be adequately notified of rate changes as the marketplace demands. Under the proposed rule, non-dominant carriers will be under no obligation to give customers actual prior notice of rate increases and service discontinuances, and customers can use the complaint process under section 208 of the Communications Act, 47 U.S.C. 208, to protest unjust and discriminatory rates. In accordance with our views in the NPRM and with concurrence from several commenting parties, we have revised § 61.58(a)(4) to exempt non-dominant carriers from customer notification requirements.[26] (See Appendix A.)

47. The other proposed exemption from customer notification requirements would eliminate dominant carrier filings which involve an "insubstantial" rate increase. Generally, the parties agreed that the exemption should be set low enough so as not to adversely affect the public, but they did not agree on a specific definition of an "insubstantial" rate increase. The BOCs considered an "insubstantial" rate increase to be one that: (1) Equals less than the cost of notification; (2) is less than $1,000,000 per state; (3) is less than a 2% increase per customer per year; and (4) affects fewer than 1% of the carrier's customers. AT&T referred to its "minor tariff filing" proposal and indicated the same criterion be used to determine an "insubstantial" rate increase.[27] Western Union proposed that dominant carriers notify customers of rate increases that exceed 10% for any rate or rate element either alone or in combination for a twelve month period, or any that involve access charges, new service or a discontinuance, reduction or other impairment of service to any customer. GTE suggested that anything less than a 5% increase or decrease of a rate could be considered insubstantial and also suggested that an overall revenue limit be set per service category.

48. The Networks, TCA, ADAPSO, ICA and ARINC essentially agreed that dominant carriers should no be exempted from the customer notification requirements, arguing that "insubstantial" rate increases are difficult to define and that the cumulative effect of "insubstantial" rate increases could equal a very substantial increase. These carriers also argued that dominant carriers would be able to change a term or condition without customer notification and thereby increase charges for certain customers without an actual rate change.

49. Since there is no general agreement as to the definition of "insubstantial" rate increases not requiring notification of customers, we shall continue to study this issue. The issues raised by opponents of this proposal, specifically, the cumulative effect of "insubstantial" rate increases and the possibility of "hidden" rate changes, must be addressed. We will not for the present, therefore, revise this section to reduce customer notification requirements for dominant carriers.

50. *Section 61.58 (c): Notice requirements-other carriers.* In this section, the NPRM proposed a substantial reduction in the length of the notice period which a carrier must afford the Commission and the public before new tariff proposals can go into effect. The NPRM proposed to reduce current notice periods of seventy and ninety days to thirty-five and forty-five days respectively.[28] We proposed this change to permit carriers to respond quickly to competitive offerings, new technologies and new circumstances. We balanced this policy, however, against the need to preserve our ability to perform our oversight responsibility under the Communications Act. It has been our experience that most tariffs can be reviewed by the Commission and the public in this proposed amount of time. For controversial or complex tariffs, the Commission can require the full ninety day notice period if necessary. See § 61.58(a)(2).

51. All of the commenting parties agreed that the reduction of the seventy day notice period to thirty-five days presented no difficulties. There was disagreement, however, as to the proposed reduction in the ninety day notice period. The commenters in favor of the ninety day notice reduction generally echoed the positive effects of this proposed change cited by the Commission in the NPRM. They asserted that this proposal struck a balance between the public interest and competitive necessity and that, if adopted, this notice reduction would

[26] This exemption will include all non-dominant carriers. Domestic satellite carrier and miscellaneous common carriers are subject to the same competitive constraints as other non-dominant carriers pursuant to the Competitive Carrier proceeding.

[27] See paras. 8 and 9 *supra*.

[28] The associated pleading cycles for petitions and replies addressing these filings are contained in Section 1.773(a)(2)(ii). No revisions to this section were proposed in the NPRM. This section prescribes a twenty-five day pleading deadline for a ninety day filing and a fifteen day pleading deadline for a filing made on at least thirty days but less than ninety days notice. Pursuant to this section, therefore, when the ninety day notice period is reduced to forty-five days, the pleading cycle is reduced to fifteen days. The change in the seventy day notice period to thirty-five days does not affect the associated pleading cycle which remains fifteen days.

allow dominant carriers to compete effectively with carriers subject to reduced regulation as a result of the Competitive Carrier proceeding.[29]

52. Several parties suggested additional modifications to this notice reduction proposal. U S West endorsed a reduction of notice periods to thirty days to coincide with state commission notice periods. FTCC suggested carriers should maintain tariff mailing lists of interested parties that would receive direct copies of every filing. Western Union proposed that a ninety day notice period be retained for "significant filings,"[1] which it precisely defined in the context of its customer notification requirements proposal.[30] GTE agreed with the reduction in notice periods for all dominant carriers except AT&T, arguing that the issue of whether AT&T should be allowed shorter notice periods does not belong in this proceeding but rather in the Long-Run Regulation proceeding. GTE also proposed that dominant carriers other than AT&T be required to issue a Public Notice, giving a complete and fair summary of their tariff filings and that interested parties would be allowed fifteen days to comment on these proposed summaries. GTE stated that this modification would allow interested parties to monitor current tariff filings and to take timely action. These proposed modifications were not generally accepted by the other commenting parties.

53. The parties opposing reduction of the ninety day notice period were mainly concerned about the associated reduction in the pleading cycle to fifteen days pursuant to Section 1.773(a)(2)(ii).[31] Their main agrument was that a reduction in the pleading cycle would preclude the public from conducting meaningful tariff review and, therefore, enable unlawful tariffs to go into effect. Other arguments were directed specifically against AT&T. Commenters asserted that AT&T should still be considered to possess market power after divestiture and should not be given an even greater competitive advantage. Furthermore, they said, any decision to reduce notice periods for AT&T was premature and should be addressed in the Long-Run Regulation proceeding. Parties also cited AT&T's generally poor record of having many of its tariffs rejected and stated that the full notice period was definitely needed to review AT&T filings. According to TELTEC, a notice period reduction for AT&T would put resellers at a distinct disadvantage because they would have inadequate time to adjust their contracts for compensatory pricing, if any AT&T rate increase should go into effect. SBS also proposed that if notice periods were shortened for AT&T, a mechanism for instant publication of its tariff filings should be put in place so the public could immediately file petitions requesting application of the full notice period.

54. We continue to believe, as stated in our NPRM, that a reduction in the ninety day notice period will benefit the public without compromising the Commission's responsibility to review tariff filings completely, and without precluding meaningful public analysis. For most filings, shortened notice periods will benefit the public allowing new services to go into effect more quickly. The proposed reduction of notice periods is purely a procedural change and is properly included in this proceeding.[32] The Commission will continue to monitor dominant carrier tariff filings closely and review all associated pleadings filed in accordance with § 1.773(a)(2)(ii). The Commission reserves the right to apply the full notice period for filings requiring additional review time. The Commission's procedures are flexible and on our own motion or on request from any interested person, we will consider extending the time for public comment.[33] Our procedures will be altered as necessary in order to allow for complex tariff filings. We understand that under certain circumstances parties may have a difficult time in adhering to the pleading cycle and the Commission will provide adequate review time on its own motion or when reasonable requests are made. Indeed, we could even request additional rounds of comments on specific issues. In light of this procedural flexibility and the public benefits, we shall adopt Section 61.58(c) as proposed.

55. With regard to the commenting parties' recommendations for further revisions to § 61.58(c), we have determined that none of these proposals should be adopted. The thirty day notice period suggested by U S West might be inadequate to review dominant carrier tariffs, and state tariff requirements have no bearing on the Commission's review obligations. The proposals to require immediate notification of tariff filings or direct mailing lists certainly point out valid concerns for the effective and timely flow of information. Based upon our experience, we do not anticipate problems in this area. The Commission, therefore, does not believe it is reasonable to impose additional requirements and expenses on the carriers for tariff filing notifications. The Commission has designed its tariff processing procedures to insure the timely availability of tariff information to the public. The Commission prepares a daily log of all tariff filings that is available in the Tariff Reference Room located on the fifth floor of the main Commission building. Parties interested in monitoring tariffs can avail themselves of this information during normal office hours.

56. *Section 61.58(c)(1)(ii): Other carriers.* The proposed rule was a consolidation of three existing rules. It states, *inter alia*, that tariff filings involving new rates and regulations not previously filed at, from, to or via points on new lines must be made on or at least fifteen days' notice. FTCC sought clarification of the term "new lines" although this term was contained in the existing rules. FTCC questioned whether the following situations would be considered "new lines:" (1) Provision of a new service on a previously used circuit; (2) an old service on a new circuit; and (3) provision of direct service that replaces service via transit points.

57. The focus of this rule should be on two things: "now rates and regulations" in combination with "new lines," "new radio facilities" and "new points of radio communications." A carrier files a tariff on fifteen day notice when it wishes to establish a new rate or regulation for these points. It appears that FTCC is interpreting this proposed rule in terms of the physical routing of circuits necessary to provide a service. Physical routing of circuits may change but the same rates and regulations may remain in effect. When circuit rerouting causes rates and regulations to change, then a tariff should be filed pursuant to

[29] See note 8 *supra*. Non-dominant carriers are permitted to file tariffs on fourteen days' notice and carriers subject to forbearance are not required to file tariffs. See Section 61.58(b).

[30] See para. 47 *supra*.

[31] See note 28 *supra*.

[32] The Long-Run Regulation proceeding addressed several aspects of our regulation of AT&T. Some of these are related to the substantive issue of AT&T's market power, which we do not address by our action today. Other specific procedural aspects of our regulation, including the proposed shortening of tariff notice periods, were addressed by some commenters in the Long-Run Regulation proceeding. Commenters in favor of shortened notice periods were Vermont Department of Public Service and Vermont Public Service Board, Michigan Public Service Commission, Cargill, Inc., and Office of the Consumer's Counsel of Ohio. Parties commenting against shortened notice periods were the Federal Executive Agencies and the Association of American Railroads.

[33] The Commission has for some time now routinely granted special permission under § 61.58 to permit filings on forty-five days notice without regard to their controversial nature. Where necessary, our ability to defer the filing to the full ninety days has proven effective to balance competing interests.

this rule. We shall adopt this provision as proposed in the NPRM.

58. *Section 61.58(c)(1)(iii): Other carriers.* AT&T proposed to add a provision to this section that would allow fifteen days' notice for "special arrangements furnished to the United States Government which supplement or modify existing services." AT&T's rationale was that a notice period longer than fifteen days was unnecessary for a service offering that affected only one party. ADAPSO replied that changes to a government service were clearly more important and complicated than other changes contained in this section and required a longer notice period.[34] ADAPSO also commented that the corresponding seven day pleading cycle was inadequate for public review.[35]

59. There has been no persuasive rationale offered that would warrant the reduction of notice periods for Government-related tariffs. The Commission and the public need an adequate period to review these tariffs pursuant to proposed § 61.58(c). AT&T's proposed addition to Section 61.58(c)(1)(iii) will not be adopted.

60. *Proposed Section 61.58(d).* Western Union proposed the addition of a section stating that "Tariff filings made involving decreases in charges for a period of three months or less may be made on one day's notice." Western Union claimed that the addition of this provision would encourage carrier creativity and increase competition by allowing a carrier to put a promotional discount immediately into effect. This one day notice period; it maintained would eliminate tariff limitation. Western Union observed that under the existing rules, carriers can match the original carrier's discount before that carrier's rate becomes effective and, in effect, deprive the original carrier of its market advantage. AT&T agreed with Western Union, while MCI and RCA objected to this proposal because it relaxed tariff regulations for dominant carriers.

61. Western Union's proposal on one day notice periods for short-term rate reductions could result in the introduction of rate changes having significant impact on customers and competitors without any prior review by the Commission. Therefore, we shall not adopt Western Union's amendment. Carriers may use the special permission procedures to request a reduced notice period for a temporary promotional tariff. In addition, we are aware that varying notice periods allow non-dominant carriers to put promotional tariffs into effect more rapidly than dominant carriers. (See § 61.58 (b) and (c).) Reduced notice periods adopted in this rulemaking should mitigate this situation. Dominant carriers, too, may receive permission to implement promotional tariff changes on a timetable comparable to that afforded non-dominant carriers. The Commission has and will continue to handle special permission applications expeditiously to benefit the public with lawful promotional discounts.[36]

62. *Proposed Section 61.58(e): Notice Requirements.* The NPRM proposed to delete § 61.58(d) which provided that a carrier may apply for special permission pursuant to § 61.152 to request a reduced notice period if no petitions seeking suspension or rejection of that tariff are filed within the filing periods established in § 1.773(a)(2). AT&T proposed to retain that section with modifications that would allow carriers to refile unopposed tariff sections to become effective on five days' notice. (Due to the reorganization of the rules it would be called Section 61.58(e).) ADAPSO objected to this proposal stating that the shortened review period could be potentially harmful to the public interest.

63. The NPRM proposed to delete this section as unnecessary in light of the shortened notice periods in proposed § 61.58(c) and the overall special permission provision in § 61.152. In addition, AT&T's proposal does not consider that the Commission itself may have objections to a tariff even if no petitions are filed against it and may, therefore, require the full notice period to review it. For these reasons, AT&T's proposed § 61.56(e) will not be adopted and § 61.58(d) will be deleted as proposed in the NPRM. Carriers may still apply for special permission to advance the effective date of a tariff.

64. *Section 61.59: Effective period required before changes.* This proposed rule restates existing § 61.59(a) and adds an exception for corrections authorized by the Commission. This section requires a carrier to wait thirty days before changing any newly established rate or regulation. AT&T, FTCC and the BOCs proposed the deletion of this section so that changes could be made to a new rate or regulation at any time. Several commenters opposed this deletion, arguing that multiple filings by a dominant carrier in a short period of time would be burdensome on the Commission and the public and that elimination of this requirement would cause instability and "rate churn."[37]

65. We agree that allowing a carrier to change a rate or regulation within thirty days after it has been established creates confusion for the public and introduces unnecessary complexity in the tariff review process. It has not been shown that this thirty day interval between rate changes has caused a burden to the carriers, especially in the light of the ability to request shorter notice as is done routinely under the existing rules.[38] Accordingly, we shall retain the effective period as set forth in the NPRM.

66. *Section 61.64: Rates and Regulations for Ticker Services.* The NPRM made no substantive change to this existing rule which specifies the rates and regulations for installation of ticker services. Western Union suggested that this provision should be deleted because no future installations of ticker service are planned and no new installations have taken place in the last several years.

67. After reviewing Western Union's comments and the status of ticker service in general, we agree that there is no longer a need for a provision regarding rates and regulations for it. Since this rule lacks future applicability, we will delete § 61.64 from the rules.

68. *Section 61.66: Changes in message telegraph service point listings where basic schedules of rates and regulations are already effective.* This proposed rule was unchanged in the NPRM except for the deletion of "money order services" which is no longer a tariffed offering. This provision specifies notice periods for changes in existing message telegraph service points. Western Union indicated that this provision should be eliminated as a result of the conclusions in the *Regulation of Domestic Public Message Service*, 75 FCC 2d 345 (1980). Western Union maintained that this decision released it from the requirement of seeking Commission approval before adding, deleting or

[34] This proposed section now requires that fifteen day notice periods be applied, *inter alia*, to a change in the name of a carrier, a change in the vertical and horizontal coordinates and a change in the lists of mileages.

[35] Section 1.773(a)(2)(i) allows a seven day pleading cycle for a tariff notice period of less than thirty days.

[36] Special permission applications may be submitted either to waive the prescribed notice period before filing the rate decrease or to advance the effective date of a rate decrease. The special permission process has been running smoothly and most applications have been acted upon within twenty-four hours of receipt. An example of such a special permission being granted is Special Permission No. 84–187 which allowed AT&T to offer a promotional discount for a limited duration in the Charleston, West Virginia area.

[37] "Rate churn" is the constant changing of rates causing customer confusion and lack of certainty as to the actual rates in effect at any given time period.

[38] See discussion regarding Section 61.54(i)(3) in paras. 38 and 39.

changing the hours of offices and agencies.

69. We agree with Western Union's interpretation of the Commission's decision and conclude that notice need not be given for changes in message telegraph service point listings where basic rates and regulations are already effective. We shall, therefore, delete Section 61.66 from the rules.

70. *Section 61.67: New or Discontinued telephone, telegraph, teletypewriter service points; mileage.* This rule, unchanged by the NPRM, states when additions or discontinuances in telephone and teletypewriter service points and when additions in message telegraph service points must be filed with the Commission. Western Union, using the same rationale that it used for changes to §§ 61.64 and 61.66, proposed that this section be modified to delete references to "teletypewriter" and "message telegraph service points."

71. We agree that the term "message telegraph service points" should be deleted. The carrier keeps a list of these service points at its centralized telephone bureaus, and it is unnecessary to maintain this list in the carrier's tariff filing.[39] Western Union is still required, however, to file lists of teletypewriter exchange service points in its tariffs because of their relation to the rate structure, and Western Union is responsible for updating these lists when any additions or discontinuances of these points take place.[40] Section 61.67, therefore, remains applicable to teletypewriter exchange service points. See Appendix A for the revised language of § 61.67.

72. *Section 61.68(a): Special Notation.* This proposed section requires a special notation when all or part of a tariff is filed on less than the notice required in § 61.58. This proposed special notation is: "Issued on not less than —— days' notice under authority of —— ——. (specific reference to the special permission, decision, order or section of these rules)." We simplified the language of this section but it remained substantively unchanged. AT&T and Western Union proposed that the requirement that the specific number of days' notice stated be deleted because this number is sometimes difficult to ascertain.

73. We specifically retained this requirement because we consider it important to a tariff reader's understanding of the proceedings associated with the tariff. The number of days is easily calculated by counting the number of days between the issue date and the effective date. The precise method of calculation is delineated in § 1.4(a) of the Commission's rules, 47 CFR 1.4(a).

74. *Section 61.69: Rejection.* This proposed section combined two existing rules concerning the rejection of tariff publications by the Commission.[41] Specifically, this proposed rule requires that a subsequent publication issued in lieu of a tariff rejected by the Commission must bear a notation to that effect. FTCC suggested deletion of this provision because it believes that such a notation on a current tariff leads the public to make inaccurate inferences about the carrier's ability to conduct business efficiently.

75. The proposed requirement is purely administrative and is in no way intended to reflect on a carrier's business image. Since partial rejections and suspensions of tariffs are possible, some rejected tariff material may remain physically in the tariffs. The notation simply informs the public what action has been taken on the carrier's tariff and indicates which tariff material is currently effective so that the appropriate rates and terms can be ascertained. The parties using the tariffs on any regular basis should be familiar with Commission procedures and understand the reason for such a notation. This section will be adopted as proposed in the NPRM.

76. *Section 61.72: Posting.* The existing section was revised to clarify existing posting requirements. These posting requirements can be satisfied by following one of two methods. The first method requires a filing carrier to post the schedule of rates and regulations in the main office while the second method requires these schedules to be posted in each state a carrier operates. In our NPRM, we requested comments on the appropriateness of imposing these posting requirements in the future. Several posting alternatives were suggested in the comments and the commenting parties stressed that carriers should be given maximum flexibility and discretion to determine the best method of posting for its operation. Carriers indicated that the current posting requirements were burdensome because it is costly to reproduce tariffs and maintain them at several locations. In addition, some carriers provided figures to show that these posted tariffs were seldom used by the public and that most interested parties arranged to receive copies of tariffs directly from tariff publishing and distribution contractors.

77. Several recommendations for revised posting procedures were offered by commenting parties. These methods of fulfilling the posting requirements included making tariff information available to customers through written request procedures, telephone call-in services or subscription services. Another suggestion was to limit actual tariff posting to one location per company, per state. Most parties indicated that a variety of methods could be acceptable as long as current posting requirements were reduced. ADAPSO questioned whether the posting requirement could be totally eliminated because Section 203 of the Communications Act of 1934 specifically states that rate schedules should be posted and kept for public inspection in such places designated by the Commission.

78. After careful review of these comments and further consideration of the matter, we have decided to modify the existing rule. Carriers will now be required to post their tariffs in one office per state or territory in which they operate. In addition, each carrier will be required to maintain a telephone number for public inquiry about information contained in the tariffs. By providing a telephone call-in service readily available to interested parties and by posting only one copy of a tariff per state or territory, a carrier should experience a reduced regulatory burden without any loss of tariff information to the public. See Appendix A for this revision.

79. *Section 61.74: References to other instruments.* The NPRM made no changes to this rule which requires a tariff publication to contain no references to other tariffs, documents or instruments except as otherwise provided in Part 61. Several parties commented that this section should be expanded to allow referencing to other tariffs and, in some cases, other documents. These parties cited the access tariffs as an example of referencing allowed by the Commission. According to these commentors, referencing of other tariffs and documents would contribute to administrative efficiency and eliminate applications for waviers pursuant to § 61.152.

80. A tariff should be complete when filed. Confusion may result if references

[39] Western Union Tariff No. 283 which contains a list of message telegraph service points will still be required for other important rate information it provides.

[40] Western Union must provide a list of teletypewriter exchange service points in Western Union Tariff F.C.C. No. 258 and a list of telex service points in Western Union Tariff F.C.C. No. 240

[41] This section consolidates existing Sections 61.69(a) and 61.117

to other tariffs are allowed since all important information will not be consolidated in one place and references may be incomplete. In addition, referenced documents may not be easily accessible to the public. We will continue to require complete tariffs with no referencing except as indicated by this rule. Special permission applications will be granted where good cause can be shown. Therefore, we shall not alter Section 61.74.

81. *Section 61.131: Concurrences-Scope.* This provision was entirely restructured in the NPRM. In addition to describing the general scope of the concurrence rules and delineating the two broad categories of concurrences, this rule prohibits the filing of limited or partial concurrences. Carriers filing concurrences must concur in the filing carrier's entire tariff. Several parties proposed that this restriction on limited and partial concurrences be removed. They argued that this restriction is burdensome because it causes a carrier to duplicate existing tariff material of another carrier. Some parties pointed out that waivers to this Section had been granted in certain instances.

82. Our policy of only allowing carriers to concur in the entirety of another tariff must prevail in order to avoid confusing the public. It must be absolutely clear what provisions are being adopted from another carrier's tariff; the most effective way of presenting this material is by duplicating the exact provisions in the issuing carrier's tariff. This duplication eliminates any possibility of failure on the carriers's part to describe adequately the limitation of the concurrence desired. Carriers can apply for special permission waivers of this rule pursuant to Section 61.152 where good cause can be shown. We shall adopt this rule as proposed in the NPRM.

83. *Section 61.136: Revocation of concurrences.* In the NPRM, this rule required not less than ninety days' notice for a revocation of a concurrence. This rule has been changed to reflect the shortened notice period of forty-five days pursuant to the rationale set forth for the Section 61.58(c) revision.[42] See Appendix A.

84. *Section 61.137: Alaskan carriers and licensees of mobile radio stations.* This proposed rule was renumbered and rewritten to clarify the concurrence procedures for Alaskan carriers and licensees of mobile radio stations. ALASCOM [43] commented that this rule currently has no practical application and was needed only when Alaskan carriers were government-owned and not required to file tariffs with the Commission. ALASCOM requested the deletion of this section and indicated that Alaskan carriers should follow the general concurrence rules contained in §§ 61.131 through 61.136.

85. As we noted in the NPRM, we offered the entire recodification of Part 61 for public comment in order to be sure the provisions are consistent and uniformly applied. We agree with ALASCOM that there is no longer any reason for Alaskan carriers and licensees of mobile radio stations to be treated differently with regard to concurrence procedures. Section 61.137 will be deleted from the rules and Alaskan carriers and licenses of mobile radio stations must now adhere to the concurrence rules contained in §§ 61.131 through 61.136.[44]

86. *Section 61.152: Terms of Applications and Grants.* Proposed Section 61.152 consolidated requirements for special permission applications now set out in §§ 61.152 and 61.153. A special permission application must be made whenever a carrier wishes to be excused from compliance with any Section of Part 61. Carriers must show good cause as to why special permissions should be granted. Western Union commented that it should not be necessary to apply for special permission when a Commission order has directed a carrier to act and proposed that the followng sentence be added to this section: "No application for special permission is necessary to perform an action directed by a Commission order". AT&T agreed with Western Union and suggested that the Commission include appropriate authorization for action in its orders.

87. Recent Commission orders have included appropriate authorizations for carriers to act. It is our intention that all orders will carry these authorizations where necessary and that carriers will normally not have to file separate special permission applications when a Commission order directs it to act. We will not, therefore, adopt Western Union's proposed revision because implementation of the above Commission policy makes it unnecessary. We will, however, reduce the burden on carriers with respect to cancellation of an original grant of special permission. Carriers will no longer have to apply to the Commission for cancellation of a special permission grant. If this grant is not used within sixty days of its effective date, it will be automatically cancelled by the Commission. See Appendix A for the new language reflecting this change in § 61.152.

88. *Section 61.153: Method of filing applications.* This proposed rule consolidates existing format requirements and filing procedures for special permission applications. It also formalizes the practice of attaching illustrative tariff pages to the application. Western Union commented that filing illustrative tariff pages can be burdensome because it may require extensive duplication of pages in a short interval of time. As an alternative, Western Union suggested that a carrier be permitted to describe the proposed changes when that method would be more convenient.

89. We have decided to formalize the requirement of illustrative tariff pages because it has been our experience that the descriptions of proposed changes often do not match the actual revised tariff pages. In order to make a reasoned conclusion as to whether special permission should be granted, we require the submission of illustrative tariff pages. It has been our practice, however, to accept illustrative pages in rough form, and we shall continue to do so. We will not modify this section according to Western Union's proposal and this action shall be adopted as proposed in the NPRM.

90. *Section 61.171: Adoption Notice.* We substantially altered the procedure for adoption of tariffs by successor carriers in this proposed section. Adoption of tariffs take place when a carrier's name changes or when a merger is conducted or when an acquisition of one carrier by another takes place. The proposed rule gives the successor carrier the option to immediately reissue the entire adopted tariff in its own name or to immediately file an adoption notice. When an adoption notice has been filed, the carrier has fifteen days to reissue the tariff in its own name according to the proposed rule. The BOCs commented and Western Union agreed that fifteen days is insufficient time for the reissuance of a tariff. They suggested that a forty-five day period would be more reasonable.

91. This rule was specifically modified in the NPRM to reduce customer confusion and administrative difficulty for the Commission staff when an

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[42] See paras. 50–55 *supra.*

[43] ALASCOM did not file initial comments in this proceeding but did file reply comments regarding § 61.137. ALASCOM requested a waiver to have its reply comments accepted. No parties opposed this request and ALASCOM supported its request with a showing of good cause. For these reasons, we accept ALASCOM's comments.

[44] Sections 61.131 and 61.134 have been revised accordingly to delete references to Section 61.137. See Appendix A.

offering carrier's name has changed. The successor carrier has been given two alternative methods for adoption to suit its convenience and it is important that required changes be made as quickly as possible. A successor carrier must reproduce the tariff pages with the new carrier name, the original paging sequence and the new issuing officer's name. We have decided to allow thirty-five days for the successor carrier to make these tariff changes. The final rule shall reflect this change from fifteen days to thirty-five days. See Appendix A.

92. *Sections 61.191, 61.192, 61.193: Suspensions.* The NPRM proposed no substantive changes to these rules but streamlined their language. Sections 61.191 and 61.192 require that a supplement indicating the term of suspension and prior effective tariff publication be issued when a suspension has been ordered. Section 61.193 requires that a supplement be issued when the Commission vacates a suspension order. Western Union proposed the following changes: (1) That a carrier have the option to file revised tariff pages noting the suspension rather than filing a supplement when it would be more convenient for the carrier; (2) that § 61.192 be deleted so that carriers will not be required to issue a supplement indicating what prior tariff publication is effective during the suspension period; and (3) that § 61.193 have specific language clearly stating that it only applies to Commission orders vacating tariffs and does not apply to a suspension order that has expired by operation of law.

93. We have considered Western Union's recommendations and these rules will not be modified for the following reasons. While we require revised tariff pages for permanent changes, we consider revised tariff pages with a caption noting a suspension to be unnecessarily repetitive and time consuming. A supplement filed pursuant to the rules is adequate. A supplement must contain explicit references to the effective tariff pages during the suspension period so that appropriate rates can be ascertained with a minimum of confusion. Section 61.193 begins with the phrase "If the Commission vacates a suspension order" and any further language clarification appears to be unnecessary. The rule does not contain any reference to suspensions that expire by operation of law and a supplement does not have to be filed in this case. No other parties filed comments to indicate that these proposed sections were confusing or needed modification. These proposed rules will be adopted without changes.

94. *Proposed Section 1.773(a)(iv).* AT&T proposed to add this section to the Commission's rules: "Any petition to suspend or reject filed by a party offering the same or closely substitutable services or offerings must be accompanied by an exhibit displaying the rate structure, rates and terms under which such party offers the competing services." AT&T stated that the purpose of this section was to dissuade competitors from using the regulatory structure in anticompetitive ways. One of the anticompetitive ways cited was that these petitions caused delays which affected AT&T and its customers directly. Several commenting parties objected to this proposal as burdensome and anticompetitive. Many commenters stated that this information is irrelevant to the Commission's analysis of justness and reasonableness pursuant to 47 U.S.C. 202. Others commented that AT&T's proposal is anticompetitive because it has a chilling effect on potential petitioners and it removes pricing uncertainty that is crucial to a competitive environment. Another argument put forth is that a petitioner who complains of competitive injury has the obligation to substantiate its claim and to choose the appropriate methods for proving this injury.

95. While we cannot precisely discern the motives of those who participate in our proceedings, we do recognize that parties may seek to use our processes to delay competitive offerings. We consider the present petitioning procedures under § 1.773 to be satisfactory. Since the Commission determines whether a petition should be denied or approved, delays in effective tariff dates will only occur when Commission review warants it. Therefore, the filing carrier will not experience any delays as a result of spurious petitions. For the foregoing reasons, AT&T's proposed § 1.773(a)(iv) will not be adopted.

96. *Miscellaneous Proposals.* The following proposals were not associated with any specific section of Part 61 but were included in the comments received in response to the NPRM.

a. *SNET* proposed that Part 61 be published in an easily updatable looseleaf binder. We understand the appeal of this method of publication. The Commission, however, is subject to the publishing requirements of the Government Services Administration and no change in the rules format has been contemplated or arranged for at this time. Since the NPRM was the first overall revision to Part 61 in forty-five years, we do not envision extensive future rule changes that would warrant the use of a looseleaf binder. We shall not adopt SNET's proposal and the rules will continue to be published in pamphlet form.

b. *ADAPSO* proposed that tariff filing materials be produced in machine readable form to ease the Commission's administrative burden. At the present time, the Commission does not have the capability to accept electronic tariff filings. While this method would have obvious advantages, there are no present plans or ongoing studies to convert the tariff process to an electronic filing system and there is no projection for such studies contained in the budgets for the next two fiscal years. For this reason, ADAPSO's proposal will not be adopted.

c. *MCI* requested streamlined regulation for non-dominant international carriers. MCI indicated that consumers would be the ultimate beneficiaries if non-dominant international carriers were allowed to file presumptively lawful tariffs on fourteen days' notice like non-dominant domestic carriers. This request is clearly beyond the scope of this Part 61 Rulemaking and should be dealt with in the Competitive Carrier Rulemaking.

Part 61 Revisions—Final Analysis

97. The final text of Part 61 as contained in Appendix A represents the accomplishment of our objectives set out in the NPRM. These goals included the clarification and the streamlining of the rules that would facilitate competition by reducing lead time for the introduction of new services and by minimizing carrier exposure to the regulatory process to the extent possible. In addition, we have reformed the regulations to retain only those requirements that are necessary for carrying out responsible oversight functions in accordance with our mandate under the Communications Act.

98. We have taken into account the various issued raised by the public concerning the proposed rules. As a result of these comments and whenever compatible with the stated objectives, we have modified our proposals. Although all comments may not be specifically cited, all have been considered. We shall continue in the future to examine alternatives that will reduce burdens and eliminate any unnecessary regulations.

Ordering Clauses

99. Authority for this rulemaking is contained in section 4(i) and 4(j) of the

Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), and section 553 of the Administrative Procedure Act, 5 U.S.C. 553.

100. Accordingly it is ordered, that Part 61 and Part 1 of the Commission's Rules and Regulations are amended as specified in Appendices A and B, effective November 19, 1984.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

Part 61 of Chapter 1 of Title 47 of the Code of Federal Regulations is revised in its entirety as follows:

PART 61—TARIFFS

Sec.

61.1 Purpose and Application.
61.2 Clear and Explicit Explanatory Statements.

Definitions

61.11 Act.
61.12 Carriers.
61.13 Change in rate structure.
61.14 Charges.
61.15 Commercial Contractor.
61.16 Commission.
61.17 Corrections.
61.18 New service offering.
61.19 Rate.
61.20 Rate increase.
61.21 Regulations.
61.22 Supplement.
61.23 Tariff.
61.24 Tariff publication, or publication.
61.25 Text change.
61.26 United States.

General Rules

61.32 Method of filing publications.
61.33 Letters of transmittal.
61.35 Delivered free of charges.
61.36 Tariff publications not returned.
61.38 Supporting information to be submitted with letters of transmittal.
61.40 Private Line Rate Structure Guidelines.

Specific Rules for Tariff Publications

61.52 Form, size, type, legibility, etc.
61.53 Consecutive numbering.
61.54 Composition of tariffs.
61.56 Supplements.
61.57 Cancellations.
61.58 Notice requirements.
61.59 Effective period required before changes.
61.67 New or discontinued telephone and teletypewriter service points; mileages.
61.68 Special notations.
61.69 Rejection.
61.71 Reissued matter.
61.72 Posting.
61.73 Duplication of rates or regulations.
61.74 References to other instruments.

Concurrences

61.131 Scope.
61.132 Method of filing concurrences.
61.133 Format of concurrences.
61.134 Concurrences for through services.
61.135 Concurrences for other purposes.
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61.191 Carrier to file supplement when notified of suspension.
61.192 Contents of supplement announcing suspension.
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Authority: Sections 61.1 to 61.193 issued under sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interpret or apply sec. 203, 48 Stat. 1070; 47 U.S.C. 203.

§ 61.1 Purpose and Application.

(a) The purpose of this part is to prescribe the framework for the initial establishment of and subsequent revisions to tariff publications.

(b) Tariff publications filed with the Commission must conform to the rules in this part. Failure to comply with any provisions of this part may be grounds for rejection of the non-complying publication.

(c) No carrier required to file tariffs may provide any interstate or foreign communication service until every tariff publication for such communication service is on file with the Commission and in effect.

§ 61.2 Clear and explicit explanatory statements.

In order to remove all doubt as to their proper application, all tariff publications must contain clean and explicit explanatory statements regarding the rates and regulations.

Definitions

§ 61.11 Act.

The Communications Act of 1934 (48 Stat. 1004; 47 U.S.C. Chapter 5), as amended.

§ 61.12 Carriers.

(a) *Concurring carrier.* A carrier (other than a connecting carrier) subject to the act which concurs in and assents to schedules of rates and regulations filed on its behalf by an issuing carrier or carriers.

(b) *Connecting Carrier.* A carrier engaged in interstate or foreign communication solely through physical connection with the facilities of another carrier not directly or indirectly controlling or controlled by, or under direct or indirect common control with such carrier.

(c) *Dominant Carrier.* A carrier found by the Commission to have market power (i.e. power to control prices.)

(d) *Issuing Carrier.* A carrier subject to the Act which publishes and files a tariff or tariffs with the Commission.

(e) *Non-Dominant Carrier.* A carrier not found to be dominant.

(f) *Other Participating Carrier.* A carrier subject to the Act which publishes a tariff containing rates and regulations applicable to the portion of through service it furnishes in conjunction with another subject carrier.

§ 61.13 Change in Rate Structure.

A restructuring of the rate components for existing service.

§ 61.14 Charges.

The price for service based on tariffed rates.

§ 61.15 Commercial Contractor.

The commercial firm to whom the Commission annually awards a contract to make copies of Commission records for sale to the public.

§ 61.16 Commission.

The Federal Communications Commission.

§ 61.17 Corrections.

The remedy of errors in typing, spelling, or punctuation.

§ 61.18 New Service Offering.

A tariff which provides for a class or sub-class of service not previously offered.

§ 61.19 Rate.

The tariff price per unit of service.

§ 61.20 Rate Increase.

Any change in a tariff which results in an increased rate or charge to any of the filing carrier's customers.

§ 61.21 Regulations.

The body of carrier prescribed rules in a tariff governing the offering of service in that tariff including rules, practices, classifications and definitions.

§ 61.22 Supplement.

A publication filed as part of a tariff for the purpose of suspending or cancelling that tariff, or tariff publication and numbered independently from the tariff page series.

§ 61.23 Tariff.

Schedules of rates and regulations filed by common carriers.

§ 61.24 Tariff Publication, or Publication.

A tariff, supplement, revised page, additional page, concurrence, notice of revocation, adoption notice, or any other schedule of rates or regulations.

§ 61.25 Text Change.

A change in the text of a tariff which does not result in a change in any rate or regulation.

§ 61.26 United States.

The several States and Territories, the District of Columbia, and the possessions of the United States.

General Rules

§ 61.32 Method of filing publications.

Publications sent for filing must be addressed to "Secretary, Federal Communications Commission, Washington, D.C. 20554." Two copies of tariff publications must be filed under a letter of transmittal. The date on which the publication is received by the Secretary of the Commission, or by the Mail Room where submitted by mail, is considered the official filing date. Simultaneously with the filing of the publication, and by the same means, the issuing carrier must send a copy of the publication, supporting information specified in Section 61.38, and transmittal letter to (1) the commercial contractor (at its office on Commission premises) and (2) the Chief, Tariff Review Branch. The latter should be clearly labelled as the "Public Reference Copy." The copies of supporting information required here are in addition to those required by Section 61.38(c).

§ 61.33 Letters of Transmittal.

(a) All publications filed with the Commission must be accompanied by a letter of transmittal, 8½ by 11 inches in size. All letters of transmittal must (1) concisely explain the nature and purpose of the filing; (2) specify whether supporting information under Section 61.38 is required; (3) state whether copies have been delivered to the Commercial Contractor and Chief, Tariff Review Branch as required by Section 61.32.

(b) In addition to the requirements set forth in (a), the letter of transmittal must specifically reference by number any special permission necessary to implement the tariff publication. Special permission must be granted prior to the filing of the tariff publication, and may not be requested in the transmittal letters.

(c) The letter of transmittal must be substantially in the following format.

(Exact name of carrier in full) ————————
(Post Office Address) ————————
(Date) ————, 19—— ————————
Transmittal No. ——
Secretary.
Federal Communications Commission
Washington, D.C. 20554

ATTENTION: Common Carrier Bureau

The accompanying tariff (or other publication) issued by ———, and bearing FCC No. ———, effective ———, 19———, is sent to you for filing in compliance with the requirements of the Communications Act of 1934, as amended. (Here give the additional information required.)

(Name of issuing officer or agent) ————————
(Title) ————————

(d) A separate letter of transmittal may accompany each publication, or the above format may be modified to provide for filing as many publications as desired with one transmittal letter.

Note.—If a receipt for the accompanying publication is desired, the letter of transmittal must be sent in duplicate. One copy showing the date of receipt by the Commission will then be returned to the sender.

§ 61.35 Delivered free of charges.

Tariff publications must be delivered to the Commission free from all charges, including claims for postage.

§ 61.36 Tariff publications not returned.

Tariff publications will not be returned.

§ 61.38 Supporting information to be submitted with letters of transmittal.

(a) *Scope.* This section applies to dominant carriers whose annual gross revenues exceed $500,000 for the most recent 12 month period of operations or are estimated to exceed $500,000 for a representative 12 month period. However, the Commission may require any carrier to submit such information as may be necessary for review of a tariff filing.

(b) *Explanation and data supporting either changes or new tariff offerings.* The material to be submitted for a tariff change which affects rates or charges or for a tariff offering a new service, must include an explanation of the changed or new matter, the reasons for the filing, the basis of ratemaking employed, and economic information to support the changed or new matter.

(1) For a tariff change the carrier must submit the following, including complete explanations of the bases for the estimates.

(i) A cost of service study for all elements for the most recent 12 month period;

(ii) A study containing a projection of costs for a representative 12 month period;

(iii) Estimates of the effect of the changed matter on the traffic and revenues from the service to which the changed matter applies, the carrier's other service classifications, and the carrier's overall traffic and revenues. These estimates must include the projected effects on the traffic and revenues for the same representative 12 month period used in (ii) above.

(2) For a tariff filing offering a new service, the carrier must submit the following, including complete explanations of the bases for the estimates.

(i) A study containing a projection of costs for a representative 12 month period; and

(ii) Estimates of the effect of the new matter on the traffic and revenues from the service to which the new matter applies, the carrier's other service classifications, and the carrier's overall traffic and revenues. These estimates must include the projected effects on the traffic and revenues for the same representative 12 month period used in (i) above.

(c) *Working papers and statistical data.* (1) Concurrently with the filing of any tariff change or tariff filing for a service not previously offered, the Chief, Tariff Review Branch must be provided two sets of working papers containing the information underlying the data supplied in response to paragraph (b) of this section, and a clear explanation of how the working papers relate to that information.

(2) All statistical studies must be submitted and supported in the form prescribed in § 1.363 of the Commission's Rules.

(d) *Form and content of additional material to be submitted with certain rate increases.* In the circumstances set out in (1) and (2) below, the filing carrier must submit all additional cost, marketing and other data underlying the working papers to justify a proposed rate increase. The carrier must submit this information in suitable form to serve as the carrier's direct case in the event the rate increase is set by the Commission for investigation.

(1) Rate increases affecting single services or tariffed items.

(i) A rate increase in any service or tariffed item which results in more than $1 million in additional annual revenues, calculated on the basis of existing quantities in service, without regard to the percentage increase in such revenues; or

(ii) A single rate increase in any service or tariffed item, or successive rate increases in the same service or

tariffed item within a 12 month period, either of which results in:

(A) At least a 10 percent increase in annual revenues from that service or tariffed item, and

(B) At least $100,000 in additional annual revenues, both calculated on the basis of existing quantities in service.

(2) Rate increases affecting more than one service or tariffed item.

(i) A general rate increase in more than one service or tariffed item occurring at one time, which results in more than $1 million in additional revenues calculated on the basis of existing quantities in service, without regard to the percentage increase in such revenues; or

(ii) A general rate increase in more than one service or tariffed item occurring at one time, or successive general rate increases in the same services or tariffed items occurring within a 12 month period, either of which results in:

(A) at least a 10 percent increase in annual revenues from those services or tariffed items, and

(B) at least $100,000 in additional annual revenues, both calculated on the basis of existing quantities in service.

(e) *Submission of explanation and data by connecting carriers.* If the changed or new matter is being filed by the issuing carrier at the request of a connecting carrier, the connecting carrier must provide the data required by paragraphs (b) and (c) of this section on the date the issuing carrier files the tariff matter with the Commission.

(f) *Copies of explanation and data to customers.* Concurrently with the filing of any rate for special construction (or special assembly equipment and arrangements) developed on the basis of estimated costs, the offering carrier must transmit to the customer a copy of the explanation and data required by paragraphs (b) and (c) of this section.

§ 61.40 Private Line Rate Structure Guidelines.

(a) The Commission uses a variety of tools to determine whether a carrier's private line tariffs are just, reasonable, and nondiscriminatory. The carrier's burden of cost justification can be reduced when its private line rate structures comply with the following five guidelines.

(1) Rate structures for the same or comparable services should be integrated;

(2) Rate structures for the same or comparable services should be consistent with one another;

(3) Rate elements should be selected to reflect market demand, pricing convenience for the carrier and customers, and cost characteristics; a rate element which appears separately in one rate structure should appear separately in all other rate structures;

(4) Rate elements should be consistently defined with respect to underlying service functions and should be consistently employed through all rate structures; and

(5) Rate structures should be simple and easy to understand.

(b) The guidelines do not preclude a carrier, in a given case when a private line tariff does not comply with these guidelines, from justifying its departure from the guidelines and showing that its tariff is just, reasonable, and nondiscriminatory.

Specific Rules for Tariff Publications

§ 61.52 Form, size, type, legibility, etc.

(a) All tariff publications must be in loose-leaf form of size 8½ by 11 inches, and must be plainly printed in black print on white paper of durable quality. Less than 6-point type may not be used. Erasures or alterations in writing must not be made in any tariff publication filed with the Commission or in those copies posted for public convenience. A margin of no less than one inch in width must be allowed at the left edge of every tariff publication.

(b) Pages of tariffs must be printed on one side only, and must be numbered consecutively and designated as "Original title page," "Original page 1," "Original page 2," etc.

(1) All such pages must show, in the upper left-hand corner the name of the issuing carrier; in the upper right-hand corner the FCC number of the tariff, with the page designation directly below; in the lower left-hand corner the issued date; in the lower right-hand corner the effective date; and at the bottom, center, the street address of the issuing officer. The carrier must also specify the issuing officer's title either at the bottom center of all tariff pages, or on the title page and check sheet only.

(2) As an alternative, the issuing carrier may show in the upper left-hand corner the name of the issuing carrier, the title and street address of the issuing officer, and the issued date; and in the upper right-hand corner the FCC number of the tariff, with the page designation directly below, and the effective date. The carrier must specify the issuing officer's title in the upper left-hand corner of either all tariff pages, or on the title page and check sheet only. A carrier electing to place the information at the top of the page should annotate the bottom of each page to indicate the end of the material, e.g., a line, or the term "Printed in USA," or "End".

(3) Only one format may be employed in a tariff publication.

§ 61.53 Consecutive numbering.

Carriers should file tariff publications under consecutive FCC numbers. If this cannot be done, a memorandum containing an explanation of the missing number or numbers must be submitted. Supplements to a tariff must be numbered consecutively in a separate series.

§ 61.54 Composition of tariffs.

(a) Tariffs must contain in consecutive order: A title page; check sheet; table of contents; list of concurring, connecting, and other participating carriers; explanation of symbols and abbreviations; application of tariff; general rules (including definitions), regulations, exceptions and conditions; and rates. If the issuing carrier elects to add a section assisting in the use of the tariff, it should be placed immediately after the table of contents.

(b) The title page of every tariff and supplement must show:

(1) *FCC number, indication of cancellations.* In the upper right-hand corner, the designation of the tariff or supplement as "FCC No. ————," or "Supplement No. ———— to FCC No. ————," and immediately below, the FCC number or numbers of tariffs or supplements cancelled thereby.

(2) *Name of carrier, class of service, geographical application, means of transmission.* The exact name of the carrier, and such other information as may be necessary to identify the carrier issuing the tariff publication; a brief statement showing each class of service provided; the geographical application; and the type of facilities used to provide service.

(3) *Expiration Date.* When the entire tariff or supplement is to expire with a fixed date, the expiration date must be shown in connection with the effective date in the following manner:

Expires at the end of ———————— (date) unless sooner canceled, changed or extended.

(4) *Title and address of issuing officer.* The title and street address of the officer issuing the tariff or supplement in the format specified in Section 61.52.

(5) *Revised title page.* When a revised title page is issued, the following notation must be shown in connection with its effective date:

Original tariff effective ———————— (here show the effective date of the original tariff).

(c)(1) The page immediately following the title page must be designated as

"Original page 1" and captioned "Check Sheet." When the original tariff is filed, the check sheet must show the number of pages contained in the tariff. For example, "Page 1 to 150, inclusive, of this tariff are effective as of the date shown." When new pages are added, they must be numbered in continuing sequence, and designated as "Original page ————." For example, when the original tariff filed has 150 pages, the first page added after page 150 is to be designated as "Original page 151," and the foregoing notation must be revised to include the added pages.

(2) If pages are to be inserted between numbered pages, each such page must be designated as an original page and must bear the number of the immediately preceding page followed by an alpha or numeric suffix. For example, when two new pages are to be inserted between pages 44 and 45 of the tariff, the first inserted page must be designated as Original page 44A or 44.1 and the second inserted page as Original page 44B or 44.2. Issuing carriers may not utilize both the alpha and numeric systems in the same publication.

(3) When pages are revised, when new pages (including pages with letter or numeric suffix as set forth above) are added to the tariff, or when supplements are issued, the check sheet must be revised accordingly. Revised check sheets must indicate with an asterisk the specific pages added or revised. In addition to the notation in (1), the check sheet must list, under the heading "The original and revised pages named below (and Supplement No. ————) contain all changes from the original tariff that are in effect on the date shown," all original pages in numerical order that have been added to the tariff and the pages which have been revised, including the revision number. For example:

Page	Number of revision except as indicated
Title	1st
1	*8th
3	5th
5A	*Orig.
10	*8th
151	Orig.

*New or Revised page.

(4) Changes in, and additions to tariffs must be made by reprinting the page upon which a change or addition is made. Such changed page is to be designated as a revised page, cancelling the page which it amends. For example, "First revised page 1 cancels original page 1," or "Second revised page 2 cancels first revised page 2," etc. When a revised page omits rates or regulations previously published on the page which it cancels, but such rates or regulations are published on another page, the revised page must make specific reference to the page on which the rates or regulations will be found. This reference must be accomplished by inserting a sentence at the bottom of the revised page that states "Certain rates (or regulations) previously found on this page can now be found on page ————." In addition, the page on which the omitted material now appears must bear the appropriate symbol opposite such material, and make specific reference to the page from which the rates or regulations were transferred. This reference must be accomplished by inserting a sentence at the bottom of the other page that states "Certain rates (or regulations) on this page formerly appeared on page ————."

(5) Rejected pages must be treated as indicated in § 61.69.

(d) *Table of contents.* The table of contents must contain a full and complete statement showing the exact location and specifying the page or section and page numbers, where information by subjects under general headings will be found. If a tariff contains so small a volume of matter that its title page or its interior arrangement plainly discloses its contents, the table of contents may be omitted.

(e) *Tariff User's guide.* At its option, a carrier may include a section explaining how to use the tariff.

(f) *List of concurring carriers.* This list must contain the exact name or names of carriers concurring in the tariff, alphabetically arranged, and the name of the city or town in which the principal office of every such carrier is located. If there are no concurring carriers, then the statement "no concurring carriers" must be made at the place where the names of the concurring carriers would otherwise appear. If the concurring carriers are numerous, their names may be stated in alphabetical order in a separate tariff filed with the Commission by the issuing carrier. Specific reference to such separate tariff by FCC number must be made in the tariff at the place where such names would otherwise appear.

(g) *List of connecting carriers.* This list must contain the exact name or names of connecting carriers, alphabetically arranged, for which rates or regulations are published in the tariff, and the name of the city or town in which the principal office of every such carrier is located. If there are no connecting carriers, then the statement "no connecting carriers" must be made at the place where their names would otherwise appear. If connecting carriers are numerous, their names may be stated in alphabetical order in a separate tariff filed with the Commission by the issuing carrier. Specific reference to such separate tariff by FCC number must be made in the tariff at the place where such names would otherwise appear.

(h) *List of other participating carriers.* This list must contain the exact name of every other carrier subject to the Act engaging or participating in the communication service to which the tariff or supplement applies, together with the name of the city or town in which the principal office of such carrier is located. If there is no such other carrier, then the statement "no participating carriers" must be made at the place where the names of such other carriers would otherwise appear. If such other carriers are numerous, their names may be stated in alphabetical order in a separate tariff filed with the Commission by the issuing carrier. Specific reference must be made in the tariff at the place where such names would otherwise appear. The names of concurring and connecting carriers properly listed in a tariff published by any other participating carrier need not be repeated in this list.

(i)(1) *Symbols, reference marks, abbreviations.* The tariff must contain an explanation of symbols, reference marks, and abbreviations of technical terms used. The following symbols used in tariffs are reserved for the purposes indicated below:

R to signify reduction.
I to signify increase.
C to signify changed regulation.
T to signify a change in text but no change in rate or regulation.
S to signify reissued matter.
M to signify matter relocated without change.
N to signify new rate or regulation.
D to signify discontinued rate or regulation.
Z to signify a correction.

(2) The uniform symbols must be used as follows.

(i) When a change of the same character is made in all or in substantially all matter in a tariff, it may be indicated at the top of the title page of the tariff or at the top of each affected page, in the following manner: "All rates in this tariff are increases," or, "All rates on this page are reductions, except as otherwise indicated."

(ii) When a change of the same character is made in all or substantially all matters on a page or supplement, it may be indicated at the top of the page or supplement in the following manner: All rates on this page (or supplement) are increases," or, "All rates on this page (or supplement) are reductions except as otherwise indicated."

(3) Items which have not been in effect 30 days when brought forward on revised pages must be shown as reissued, in the manner prescribed in § 61.54(i)(1). Items which have been in effect 30 days or more and are brought forward without change on revised pages must not be shown as reissued items.

(j) *Rates and general rules, regulations, exceptions and conditions.* The general rules (including definitions), regulations, exceptions, and conditions which govern the tariff must be stated clearly and definitely. All general rules, regulations, exceptions or conditions which in any way affect the rates named in the tariff must be specified. A special rule, regulation, exception or condition affecting a particular item or rate must be specifically referred to in connection with such item or rate. Rates must be expressed in United States currency, per chargeable unit of service for all communication services, together with a list of all points of service to and from which the rates apply. They must be arranged in a simple and systematic manner. Complicated or ambiguous terminology may not be used, and no rate, rule, regulation, exception or condition shall be included which in any way attempts to substitute a rate, rule, regulation, exception or condition named in any other tariff.

§ 61.56 Supplements.

A carrier may not file a supplement except to suspend or cancel a tariff publication.

§ 61.57 Cancellations.

The following paragraphs govern the cancellation of tariffs and supplements.

(a) *By tariff or supplement.* A carrier may cancel any tariff or supplement in whole or in part by another tariff or supplement. Cancellation of a tariff automatically cancels every supplement to that tariff, except a cancelling supplement.

(b) *By expiration.* Subject to § 61.59, a carrier may cancel a tariff or supplement in whole or in part by fixing a date on which the rates or regulations will expire.

(c) *Indication of.* (1) A carrier which cancels a tariff or supplement in whole by another tariff or supplement must comply with § 61.54(b)(1). Cancellation of tariffs or supplements in whole by expiration must be indicated as provided in § 61.54(b)(3).

(2) Where a carrier issues a tariff, supplement, or revised page partially cancelling another tariff, supplement, or revised page, it must specifically state what portion of the other tariff publication is cancelled. Such other tariff or supplement must at the same time be correspondingly amended, effective on the same date.

(3) When only a part of tariff or supplement is to expire, a carrier must show the expiration date on the same page, and associate it with the matter which is to expire. Changes in expiration date must be made pursuant to the notice requirements of § 61.58, unless otherwise authorized by the Commission. Expirations must be indicated as follows:

Expires at the end of————————(date) unless sooner cancelled, changed or extended.

(d) *Rates and regulations to apply.* When a carrier cancels a tariff or supplement in whole or in part by another tariff or supplement, the cancelling publication must show where all rates and regulations will be found, or what rates and regulations will apply.

(e) *Omissions.* When a tariff or supplement cancelling a previous tariff or supplement omits points of origin or destination, rates or regulations, or routes, which were contained in such tariff or supplement, the new tariff or supplement must indicate the omission in the manner prescribed in paragraph (c) of this section. If such omissions effect changes in rates of regulations, that fact must be indicated by the use of the uniform symbols prescribed in § 61.54(i)(1).

(f) *Carriers ceasing operations.* When a carrier ceases operations without a successor, it must cancel its tariffs pursuant to the notice requirements of § 61.58, unless otherwise authorized by the Commission.

§ 61.58 Notice requirements.

(a) Every proposed tariff filing must bear an effective date and, except as otherwise provided by regulation, special permission, or Commission order, must be made on at least the number of days notice specified in this section.

(1) Notice is accomplished by filing the proposed tariff changes with the Commission. Any period of notice specified in this section begins on and includes the date the tariff is received by the Commission, but does not include the effective date. If a tariff filing proposes changes governed by more than one of the notice periods listed below, the longest notice period will apply. In computing the notice period required, all days including Sundays and holidays must be counted.

(2) The Chief, Common Carrier Bureau may require the deferral of the effective date of any tariff filing made on less than 90 days' notice, so as to provide for a maximum total of 90 days' notice, regardless of whether petitions under § 1.773 of the Commission's rules have been filed.

(3) Tariff filings proposing corrections must be made on at least 3 days' notice, and may be filed notwithstanding the provisions of § 61.59. Corrections to tariff materials not yet effective cannot take effect before the effective date of the original material.

(4) This subsection applies only to dominant carriers. If the tariff publication would increase any rate or charge, or would effectuate and authorized discountinuance, reduction or other impairment of service to any customer, the offering carrier must inform the affected customers of the content of the tariff publication. Such notification should be made in a form appropriate to the circumstance, and may include written notification, personal contact, or advertising in newspapers of general circulation.

(b) *Non-Dominant Carriers.* Tariff filings of non-dominant carriers must be made on at least 14 days' notice.

(c) *Other Carriers.* (1) Tariff filings in the instances specified (i), (ii) and (iii) below must be made on at least 15 days' notice.

(i) Tariffs filed in the first instance by new carriers.

(ii) Tariffs filings involving new rates and regulations not previously filed at, from, to or via points on new lines; at, from to or via new radio facilities; or for new points of radio communication.

(iii) Tariff filings involving a change in the name of a carrier, a change in Vertical and Horizontal coordinates (or other means used to determine airline mileages), a change in the lists of mileages, a change in the lists of connecting, concurring or other participating carriers, text changes, or the imposition of termination charges calculated from effective tariff provisions. The imposition of termination charges does not include the initial filing of termination liability provisions.

(2) Tariff filings involving a change in rate structure, a new service offering, or a rate increase must be made on at least 45 days' notice.

(3) All tariff filings not specifically assigned a different period of public

notice in this part must be made on at least 35 days' notice.

§ 61.59 Effective period required before changes.

Except as provided in § 61.58(a)(3) or except as otherwise authorized by the Commission, new rates or regulations must be effective for at least 30 days before any change may be made.

§ 61.67 New or discontinued telephone and teletypewriter service points; mileages.

Message toll telephone service points and teletypewriter exchange service points added or discontinued during a calendar month may be filed not later than 20 days after the end of such month where the basic schedules of rates and regulations applicable to such message toll telephone and teletypewriter exchange service points are effective and the effective date of each addition of discontinuance is shown.

§ 61.68 Special Notations.

(a) A tariff filing must contain a statement of the authority for any matter to be filed on less than the notice required in § 61.58. The following must be used:

"Issued on not less than — days' notice under authority of — (specific reference to the special permission, decision, order or section of these rules)." If all the matter in a tariff publication is to become effective on less than the notice required in Section 61.58, specific reference to the Commission authority must be shown on the title page. If only a part of the tariff publication is to become effective on less than the notice required in Section 61.58, reference to the Commission authority must appear on the same page(s), and be associated with the pertinent matter.

(b) When a portion of any tariff publication is issued in order to comply with the Commission order, the following notation must be associated with that portion of the tariff publication: "In compliance with the order of the Federal Communication Commission in — (a specific citation to the applicable order should be made)."

§ 61.69 Rejection.

When a tariff publication is rejected by the Commission, its number may not be used again. The rejected tariff publication may not be referred to as cancelled or revised. The publication that is subsequently issued in lieu of the rejected tariff publication must bear the notation "In lieu of —, rejected by the Federal Communications Commission."

§ 61.71 Reissued matter.

Matter in effect for less than 30 days and brought forward without change from another tariff publication must bear the appropriate symbol provided in § 61.54(i)(1) for reissued matter. The number and original effective date of the tariff publication in which the matter was originally published must be associated with the reissued matter.

§ 61.72 Posting.

(a) Offering carriers must post (i.e., keep accessible to the public) during the carrier's regular business hours, a schedule of rates and regulations. This schedule must include all effective and proposed rates and regulations pertaining to the services offered to and from the community or communities served, and must be the same as that on file with the Commission. This posting requirement must be satisfied by the following methods:

(1) Where the filing has an office or offices open to the public in states or territories of the United States, the carrier must post the schedule of rates and regulations in one office in each state or territory of its operation.

(2) A carrier must provide a telephone number for public inquiries about information contained in its tariffs. This telephone number should be made readily available to all interested parties.

(3) A carrier must post a notice in each business office of the carrier open to the public in that state or territory, stating the street address of the location in which the schedule of rates and regulations can be found and the telephone number for public inquiries on tariffs.

(b) The posting of rates and regulations shall be considered timely if they are available for public inspection at the posting locations within 15 days of their filing with the Commission.

§ 61.73 Duplication of rates or regulations.

A carrier concurring in schedules of another carrier must not publish conflicting or duplicative rates or regulations.

§ 61.74 References to other instruments.

(a) Except as otherwise provided in this and other sections of this part, no tariff publication filed with the Commission may make reference to any other tariff publication or to any other document or instrument.

(b) Tariffs for end-on-end through services may reference the tariffs of other carriers participating in the offering.

(c) Tariffs may reference concurrences for the purpose of starting where rates or regulations applicable to a service not governed by the tariff may be found.

Concurrences

§ 61.131 Scope.

Sections 61.132 through 61.136 apply to a carrier which must file concurrences reflecting rates and regulations for through service provided in conjunction with other carriers and to a carrier which has chosen, as an alternative to publishing its own tariff, to arrange concurrence in an effective tariff of another carrier. Limited or partial concurrences will not be permitted.

§ 61.132 Method of filing concurrences.

A carrier proposing to concur in another carrier's effective tariff must deliver two copies of the concurrence to the issuing carrier in whose favor the concurrence is issued. The concurrence must be signed by an officer or agent of the carrier executing the concurrence, and must be numbered consecutively in a separate series from its FCC tariff numbers. At the same time the issuing carrier revises its tariff to reflect such a concurrence, it must submit both copies of the concurrence to the Commission. The concurrence must bear the same effective date as the date of the tariff filing reflecting the concurrence.

§ 61.133 Format of concurrences.

(a) Concurrences must be issued in the following format:

Concurrence

F.C.C. Concurrence No. ————
(Cancels F.C.C. Concurrence No. ——
(Name of Carrier ————)
(Post Office Address ————)
(Date) ———— 19—.

Secretary,
Federal Communications Commission,
Washington, D.C. 20554.

This is to report that (name of concurring carrier) assents to and concurs in the tariffs described below. (Name of concurring carrier) thus makes itself a party to these tariffs and obligates itself (and its connecting carriers) to observe every provision in them, until a notice of revocation is filed with the Commission and delivered to the issuing carrier.

This concurrence applies to interstate (and foreign) communication:

1. Between the different points on the concurring carrier's own system;

2. Between all points on the concurring carrier's system and the systems of its connecting carriers; and

3. Between all points on the system of the concurring carrier and the systems of its connecting carriers on the one

hand, and, on the other hand, all points on the system of the carrier issuing the tariff or tariffs listed below and the systems of its connecting carriers and other carriers with which through routes have been established.

(Note.—Any of the above numbered paragraphs may be omitted or the wording modified to state the points to which the concurrence applies.)

Tariff

(Here describe the tariff or tariffs concurred in by the carrier, specifying FCC number, title, date of issuance, and date effective. Example: A.B.C. Communications Company, Tariff FCC No. 1, Interstate Telegraph Message Service, Issued January 1, 1983, Effective April 1, 1983).

Cancels FCC Concurrence No. ——, effective ——, 19—.

(Name of concurring carrier) ————————
By ————————
(Title) ————————

(b) No material is to be included in a concurrence other than that indicated in the above-prescribed form, unless specially authorized by the Commission. A concurrence in any tariff so described will be deemed to include all amendments and successive issues which the issuing carrier may make and file. All such amendments and successive issues will be binding between customers and carriers. Between carriers themselves, however, the filing by the issuing carrier of an amendment or successive issue with the Commission must not imply or be construed to imply an agreement to the filing by concurring carriers. Such filings do not affect the contractual rights or remedies of any concurring carrier(s) which have not, by contract or otherwise, specifically consented in advance to such amendment or successive issue.

§ 61.134 Concurrences for through services.

A carrier filing rates or regulations for through services between points on its own system and points on another carrier's system (or systems), or between points on another carrier's system (or systems), must list all concurring, connecting or other participating carriers as provided in § 61.54(f), (g) and (h). A concurring carrier must tender a properly executed instrument of concurrence to the issuing carrier. If rates and regulations of the other carriers engaging in the through service(s) are not specified in the issuing carrier's tariff, that tariff must state where the other carrier's rates and regulations can be found. Such reference(s) must contain the FCC number(s) of the referenced tariff publication(s), the exact name(s) of the carrier(s) issuing such tariff publication(s), and must clearly state how the rates and regulations in the separate publications apply.

§ 61.135 Concurrences for other purposes.

When an issuing carrier permits another carrier to concur in its tariff, the issuing carrier's tariff must state the concurring carrier's rates and points of service.

§ 61.136 Revocation of concurrences.

A concurrence may be revoked by a revocation notice or cancelled by a new concurrence. A revocation notice or a new concurrence, if less broad in scope than the concurrence it cancels, must bear an effective date not less than 45 days after its receipt by the Commission. A revocation notice is not given a serial number, but must specify the number of the concurrence to be revoked and the name of the carrier in whose favor the concurrence was issued. It must be in the following format:

Revocation Notice

(Name of carrier ————————)
(Post office address ————————)
(Date) ————————, 19—.
Secretary,
Federal Communications Commission,
Washington, D.C. 20554.

Effective ——, 19— FCC Concurrence No. —, issued by (Name of concurring carrier) in favor of (Name of issuing carrier) is hereby cancelled and revoked. Rates and regulations of (Name of concurring carrier) and its connecting carriers will thereafter be found in Tariff FCC No. — issued by —— (If the concurring carrier has ceased operations, the revocation notice must so indicate.)

(Name of carrier) ————————
By ————————
(Title) ————————

Applications for Special Permission

§ 61.151 Scope.

Sections 61.152 and 61.153 set forth the procedures to be followed by a carrier applying for a waiver of any of the rules in this part.

§ 61.152 Terms of applications and grants.

Applications for special permission must contain (1) a detailed description of the tariff publication proposed to be put into effect; (2) a statement citing the specific rules and the grounds on which waiver is sought; and (3) a showing of good cause. If approved, the carrier must comply with all terms and use all authority specified in the grant. If a carrier elects to use less than the authority granted, it must apply to the Commission for modification of the original grant. If a carrier elects not to use the authority granted within sixty days of its effective date, the original grant will be automatically cancelled by the Commission.

§ 61.153 Method of filing applications.

A carrier applying for special permission must submit two copies of the application (including illustrative tariff pages, associated amendments and exhibits) to the Secretary, Federal Communications Commission, Washington, D.C. 20554. Simultaneously, and by the same means, a carrier must furnish a separate copy with all attachments to the Chief, Tariff Review Branch. If a carrier applies for special permission to revise joint tariffs, the application must state that it is filed on behalf of all carriers participating in the affected service. Applications must be numbered consecutively in a series separate from the FCC tariff numbers, bear the signature of the officer or agent of the carrier, and be in the following format: Application No. —— (Date) ——

Secretary,
Federal Communications Commission,
Washington, D.C. 20554.

Attention: Common Carrier Bureau
(here provide the statements required by Section 61.152).

(Exact name of carrier) ————————
(Name of officer or agent) ————————
(Title of officer or agent) ————————

Adoption of Tariffs and Other Documents of Predecessor Carriers

§ 61.171 Adoption notice.

When a carrier's name is changed, or its operating control transferred from one carrier to another in whole or in part, the successor carrier must file tariff revisions to reflect the name change. The successor carrier may either immediately reissue the entire tariff in its own name, or immediately file an adoption notice. Within 35 days of filing an adoption notice, the successor must reissue the entire tariff in its own name. The reissued tariff must be numbered in the series of the successor carrier, and must contain all original pages without changes in regulations or rates. The transmittal letter must state the tariff is being filed to show a change in the carrier's name pursuant to § 61.171 of the Commission's Rules. The adoption notice, if used, must read as follows: The (Exact name of successor carrier or receiver) here adopts, ratifies and makes its own in every respect, all applicable

tariffs and amendments filed with the Federal Communications Commission by (predecessor) prior to (date).

§ 61.172 Changes to be incorporated in tariffs of successor carrier.

When only a portion of properties is transferred to a successor carrier, that carrier must incorporate in its tariff the rates applying locally between points on the transferred portion. Moreover, the predecessor carrier must simultaneously cancel the corresponding rates from its tariffs, and reference the FCC number of the successor carrier's tariff containing the rates that will thereafter apply.

Suspensions

§ 61.191 Carrier to file supplement when notified of suspension.

If a carrier is notified by the Commission that its tariff filing has been suspended, the carrier must file immediately a consecutively numbered supplement without an effective date, which specifies the schedules which have been suspended.

§ 61.192 Contents of supplement announcing suspension.

(a) A supplement announcing a suspension by the Commission must specify the term of suspension imposed by the Commission.

(b) A supplement announcing a suspension of either an entire tariff or a part of a tariff publication, must specify the applicable tariff publication effective during the period of suspension.

§ 61.193 Vacation of suspension order; supplements announcing same; etc.

If the Commission vacates a suspension order, the affected carrier must issue a supplement or revised page stating the Commission's action as well as the lawful schedules.

Appendix B

Part 1 of Chapter 1 of Title 47 of the Code of Federal Regulations is amended by revising Section 1.773(a)(1) and by adding paragraph (b)(iv) as follows:

PART 1—PRACTICE AND PROCEDURE

§ 1.773 Petitions for suspension and investigation, or rejection of new or revised tariff filings.

(a) * * *

(1) * * *

(i) Petitions seeking suspension and investigation, or rejection of a new or revised tariff filing or any provision of such a publication, must specify the pertinent Federal Communications Commission tariff number and carrier transmittal number; the matters protested; and the specific reasons why the tariff warrants suspension and investigation, or rejection. When a single petition asks for more than one form of relief, it must separately and distinctly plead and support each form of relief. However, no petiton may ask that it also be considered a formal complaint. Formal complaints must be separately lodged, as provided in § 1.721.

(ii) For purposes of this section, tariff filings be nondominant carriers will be considered *prima facie* lawful, and will not be suspended by the Commission unless the petition requesting suspension shows:

(A) That there is a high probability the tariff would be found unlawful after investigation;

(B) That the harm alleged to competition would be more substantial than the injury to the public arising from the unavailability of the service pursuant to the rates and conditions proposed in the tariff filing;

(C) That irreparable injury will result if the tariff filing is not suspended; and

(D) That the suspension would not otherwise be contrary to the public interest.

* * * * *

(b) * * *

(iv) Where all petitions against a tariff filing have not been filed on the same day, the publishing carrier may file a consolidated reply to all the petitions. The time for filing such a consolidated reply will begin to run on the last date for timely filed petitions, as fixed by (a)(1)(i)–(iii) of this section, and the date on which the consolidated reply is due will be governed by (b)(1)(i)–(iii) of this section.

* * * * *

[FR Doc. 84-27422 Filed 10-17-84; 8:45 am]
BILLING CODE 6712-01-M

Proposed Rules

Federal Register
Vol. 49, No. 203
Thursday, October 18, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Standards; Definition of Small Business for Preferential Treatment in Purchase of Special Salvage Timber Sales (SSTS)

AGENCY: Small Business Administration.

ACTION: Proposed rule.

SUMMARY: A change is proposed in the size standard for small business concerns to be eligible for preferential award of Special Salvage Timber Sales (SSTS). The proposed size standard would remove all restrictions on disposal of special salvage sale timber and incorporate SSTS sold by the Bureau of Land Management (BLM).

DATES: Comment are invited on or before November 19, 1984.

ADDRESS: Address Comments to: Andrew A. Canellas, Director, Size Standards Staff, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: Joseph E. Kernan, Director, Office of Natural Resources, Sales Assistance, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416, Telephone: (202) 653–6078.

SUPPLEMENTARY INFORMATION:

General

In connection with sale of Government-owned special salvage timber designated by the U.S. Forest Service (USFS) as SSTS, by regulation, a small business is a concern that:

(1) Is primarily engaged in the logging or forest products industry;

(2) Is independently owned and operated;

(3) Is not dominant in its field of operations; and

(4) Together with its affiliates, its number of employees has not exceeded 25 persons during any pay period for the last 12 months.

(5) Other regulatory restrictions are also applicable depending upon the eventual use to be made of timber.

(a) When special salvage timber being purchased is to be resold, a concern is a small business when: It agrees not to sell more than 30 percent (50 percent in Alaska) of such timber to a concern which is not a small business or,

(b) When special salvage timber purchased is not to be resold in the form of sawlogs, a concern is a small business when: it agrees that it will manufacture a significant portion of the logs with its own employees and, it also agrees to accomplish a significant portion of the logging operation, exclusive of hauling, with its own employees or subcontract such logging only to concerns eligible for preferential award of an SSTS sale.

6. Disposal restrictions do not apply when there are less than two qualified mills in the market area.

The size standard as presently constructed places an undue economic hardship on the small loggers and sawmill owners with 25 or fewer employees. The provision has restricted the ability of these businesses to dispose of SSTS timber, and has precluded purchasers of SST sales from making the most economical utilization of the timber. The intent of the SSTS program is to harvest dead, down and dying timber from the Forest, thereby utilizing timber that might not otherwise be harvested. Experience has shown that economical markets for such timber may be highly restricted in a given area, and that the SSTS purchaser needs the flexibility to take advantage of all available markets for this timber.

In addition, the SBA/USFS joint SSTS program is separate and distinct from the regular small business set-aside program involving USFS timber.

As presently written sale of Government-owned Special Salvage Timber designated by the Bureau of Land Management (BLM) as SSTS is not covered by the current size standard definition of a small business concern for eligibility for preferential award of an SSTS (see 13 CFR 121.6). The proposed rule would incorporate the BLM special salvage timber sales, by specific reference, into 13 CFR 121.6. Existing provisions relating to logging and manufacturing of the SSTS timber are retained without change.

Under the current rule the purchaser of an SST sale must agree that it will not sell to a concern which is not a small business more than 30% of the volume from that SSTS timber sale. The only relief to this disposal restriction occurs if there are less than two qualified mills in a market area. The present rule has proven to be subject to an unacceptable range of interpretation and application due, in part, to the subjectivity of what constitutes a qualified mill. The mere geographic presence of two qualified mills does not guarantee competition or insure that the seller of sawlogs from an SST sale can realize a fair market price for those sawlogs. The situation is further complicated by the possible changes in market conditions between the time of the sale and the time that the timber is eventually harvested and brought to market.

This proposed rule change is also intended to eliminate all restrictions on the disposal of special salvage sale timber. Removal of the disposal restriction responds to the needs of all SSTS eligible concerns.

SBA hereby certifies that this proposed rule if adopted in final form would not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 501, *et. seq.*

SBA also certifies that this proposed rule does not constitute a major rule for the purpose of Executive Order 12291. Gross sales in each of the last seven years have not exceeded $15,000,000 per year and SBA does not anticipate sales in excess of that figure for this or next year.

This rule contains no reporting or recordkeeping requirements subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

List of Subjects in 13 CFR Part 121

Small Business, Small business size standards.

PART 121—[AMENDED]

Accordingly, pursuant to 15 U.S.C. 632, 13 CFR 121.6 is proposed to be amended by revising (c)(1) introductory text, (c)(2), and (c)(3) and removing (c)(4) as follows:

§ 121.6 Small business for sales or lease of Government property.

* * * * *

(c) * * *

(1) In connection with the sale of Government-owned special salvage timber by the USFS and BLM a small business is a concern that:

* * * * * *

(2) In the case of Government-owned special salvage reserved of small businesses, when the special salvage timber being purchased is to be resold, a concern is a small business when:

(i) It is a small business within the meaning of paragraph (c)(1) of this section, and

(ii) It agrees that as an eligible logger, it will accomplish a significant portion of the logging operation, exclusive of hauling, with its own employees. Significant logging of timber means using its own employees to accomplish two or more of the following elements: (A) Felling and bucking, (B) yarding, (C) loading. It further agrees that such SSTS logging elements not accomplished with its own employees will be subcontracted only to concerns eligible for preferential award of an SSTS.

(3) In the case of Government-owned special salvage timber reserved for or involving preferential treatment of small businesses when the special salvage timber purchased is not to be resold in the form of sawlogs to be manufactured into lumber and timbers, a concern is a small business when:

(i) It meets the criteria contained in paragraph (c)(1) of this section, and

(ii) It agrees that it will manufacture a significant portion of the logs with its own employees. Manufacture of logs means, at the minimum, a breakdown of the log into the rough cut of the finished product.

(iii) It further agrees that, it will accomplish the logging of SSTS timber, exclusive of hauling, with its own employees, or will subcontract such logging only to concerns eligible for preferential award of an SSTS.

* * * * * *

Dated: September 18, 1984.

James C. Sanders,

Administrator.

[FR Doc. 84-27587 Filed 10-17-84; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 84-ASO-20]

Proposed Alteration of VOR Federal Airways; Cape Hatteras, NC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the descriptions of VOR Federal Airways V-56, V-290 and V-189 located in the vicinity of Cape Hatteras, NC. The state of North Carolina has requested additional airway segments to support the increasing traffic to the Outer Banks area.

DATES: Comments must be received on or before December 3, 1984..

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Southern Region, Attention: Manager, Air Traffic Division, Docket No. 84-ASO-20, Federal Aviation Administration, P.O. Box 20636, Atlanta, GA 30320.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Air Traffic Rules Branch (ATO-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 84-ASO-20." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the descriptions of VOR Federal Airways V-56, V-189 and V-290 located in the vicinity of Cape Hatteras, NC. The state of North Carolina has requested the designation of additional airway segments to support the ever increasing traffic in the Outer Banks development area. The Dare County Regional Airport, the Billy Mitchell and Ocracoke Island Airports, located in the area, are experiencing growth problems. This action would aid flight planning, improve traffic flow and reduce controller workload. Section 71.123 of Part 71 of the Federal Aviation regulations was republished in Handbook 7400.6 dated January 3, 1984.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is

certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal airways.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

V–56 [Amended]

By removing the words "New Bern." and substituting the words "New Bern; INT New Bern 042°T(050°M) radials and Hatteras Inlet, NC, NDB 302°T(311°M) bearing; to Hatteras Inlet."

V–189 [Amended]

By removing the words "From Tar River, NC," and substituting the words "From Wright Brothers, NC, via Tar River, NC;" after "Hopewell, VA." add "The airspace within R–5302 and R–5314 is excluded."

V–290 [Amended]

By removing the words "to Hatteras NDB" and substituting the words "Hatteras Inlet NDB; Pamlico, NC, NDB; INT Pamlico 321°T(330°M) bearing and Tar River, NC, 110°T(115°M) radial; to Tar River."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); [49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983)); and 14 CFR 11.65)

Issued in Washington, D.C., on October 10, 1984.

John W. Baier,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 84–27542 Filed 10–17–84; 8:45 am]

BILLING CODE 4910–13–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 270

[Release No. IC–14190; File No. S7–33–84]

Exemptive Relief for Variable Annuity Separate Accounts Relating to Deduction of Certain Charges From Account Assets

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: The Commission is proposing for comment a rule under the Investment Company Act of 1940 for variable annuity separate accounts that would codify standards the Commission had developed in processing applications seeking exemptions to deduct certain risk charges from account assets. If adopted, the proposed rule would eliminate the need for individual exemptive orders in connection with these matters. The Commission is also proposing related technical amendments to one of the general rules under the Act.

DATE: Comments must be received on or before December 14, 1984.

ADDRESS: Comments should be sent in triplicate to Shirley E. Hollis, Acting Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Comment letters should refer to File No. S7–33–84. All comments received will be available for public inspection in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Michael Berenson, Chief of Office, (202–272–2060), or Jeffrey S. Puretz, Attorney (202–272–3010), Office of Insurance Products and Legal Compliance, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission ("Commission") today is publishing for comment proposed rule 26a–3 under the Investment Company Act of 1940 [15 U.S.C. 80a–1 et seq.] ("Act"), which would provide registered insurance company separate accounts (sometimes referred to as "separate accounts" or "accounts")[1] that offer or sell variable annuity contracts ("contracts")[2] with exemptions from various provisions of the Act. The exemptions also would be available for any insurance company sponsor of, or underwriter for, such accounts ("insurer," and together with separate account, sometimes referred to as "applicants"). Proposed rule 26a–3 would codify standards the Commission has developed with respect to applications seeking exemptions from the provisions of sections 12(b), 26(a), and 27(c)(2) of the Act [15 U.S.C. 80a–12(b), 80a–26(a), and 80a–27(c)(2)] and rule 12b–1 thereunder [17 CFR 270.12b–1] in connection with an insurer's deduction of mortality risk charges and expense risk charges (collectively, "risk charges") from account assets. In addition, the Commission is proposing several related technical amendments to rule 0–1(e) [17 CFR 270.0–1(e)] of its General Rules and Regulations under the Act. The proposals are the last significant step in the Commission's effort to codify the standards that it has developed reviewing applications filed by separate accounts for routine "start-up" exemptions and for other relief under the Act.[3]

Discussion

Section 26(a) of the Act contains various requirements for unit investment trusts and effectively prohibits, as here relevant, most payments from trust assets to the sponsor of a trust account.[4] By virtue of section 27(c)(2) of the Act, the requirements of section 26(a), in addition to being directly applicable to any trust account, are made applicable to any management account offering periodic payment plan certificates, such as variable annuity contracts.[5]

---

[1] The term "separate account" is defined in section 2(a)(37) of the Act [15 U.S.C. 80a–2(a)(37)]. A substantially identical definition of that term, as it is used in various rules under the Act, is contained in rule 0–1(e)(1) under the Act [17 CFR 270.0–1(e)(1)]. The term "insurance company" is defined in section 2(a)(17) of the Act [15 U.S.C. 80a–2(a)(17)]. A separate account may be registered under the Act either as a unit investment trust ("trust account") or as an open-end management company ("management account").

[2] The term "variable annuity contract" is defined in rule 0–1(e) under the Act.

[3] For a variety of reasons, separate accounts must obtain so-called "start-up" relief from various provisions of the Act prior to offering their variable annuity contracts to the public. Through a recent series of rules, the Commission has attempted to eliminate the need for newly registered separate accounts to file such individual exemptive applications. *See, e.g.*, Investment Company Act Rel. No. 13407 (July 28, 1983) [48 FR 36243, Aug. 10, 1983] (rule 11a–2); Investment Company Act Rel. No. 13406 (July 28, 1983) [48 FR 36097, Aug. 9, 1983] (rule 6c–8); Investment Company Act Rel. No. 13687 (Dec. 23, 1983) [49 FR 1477, Jan. 12, 1984] (rule 6c–7 and amended rule 14a–2).

[4] Section 26(a) provides, in relevant part, that: No principal underwriter for or depositor of a registered unit investment trust shall sell, except by surrender to the trustee for redemption, any security of which such trust is the issuer (other than short-term paper), unless the trust indenture, agreement of custodianship, or other instrument pursuant to which such security is issued—

. . . . . .

(2) provides, in substance, * * * (C) that no payment to the depositor of or a principal underwriter for such trust, or to any affiliated person or agent of such depositor or underwriter, shall be allowed the trustee or custodian as an expense (except that provision may be made for the payment to any such person of a fee, not exceeding such reasonable amount as the Commission may prescribe as compensation for performing bookkeeping and other administrative services, of a character normally performed by the trustee or custodian itself); * * *.

[5] *See, e.g., Prudential Ins. Co. of Am.*, 41 SEC 335, 348, *aff'd sub nom. Prudential Ins. Co. of Am.* v. *Securities and Exchange Commission*, 326 F.2d 383 (3d Cir.), *cert. denied*, 377 U.S. 953 (1964).

The Commission regularly receives exemptive requests to permit individual separate accounts to deduct amounts from account assets designed to compensate the insurer for assuming certain "mortality risks," or "expense risks," or both, in connection with the contracts.[6]

The Commission measures these exemptive requests against the standards set forth in section 6(c) of the Act [15 U.S.C. 80a–6(c)] [7] and the purposes of section 26(a)(2).[8] In applying these standards to risk charges, the Commission has also been mindful of the element of insurance present in them. Accordingly, the review has not focused on attempting to regulate the insurance aspects of risk charges but on ensuring that the charges bear a reasonable relationship to risks that are actually assumed under the contracts and that investors receive adequate disclosure regarding possible use of the monies derived from these risk charges.[9]

Applicants have made either of two general representations addressing these concerns. Most applicants represent that the level of their risk charge is within the range of industry practice for comparable annuity contracts. In the large, competitive market for variable annuity contracts, this representation has served as a practical, quantifiable basis for concluding that a contract's charges are reasonable in relation to the risks assumed under the contract and, therefore, that exemptive relief should be granted to applicants making this representation. Alternatively, some represent that the level of their charge is reasonable in relation to the risks assumed and guarantees provided in their particular contracts.[10] Whichever representation is made,[11] applicants have agreed to maintain a memorandum, available for Commission review upon request, outlining the methodology underlying their representation, and have briefly described the methodology in their applications.[12]

Additional representations are made where (i) a portion of the risk charge is a distribution risk charge (*see* note 6, *supra*) or (ii) applicants represent that there is a possibility that proceeds from explicit sales loads deducted from the contracts will be insufficient to cover expected distribution costs and that this "shortfall" may be made up from the general account (non-separate account) assets of the insurer which include, *inter alia*, amounts derived from risk charges. Since these two situations could be considered direct or indirect use of account assets to finance distribution, the requested representations are intended to parallel determinations called for by rule 12b–1.[13] Accordingly, the insurer represents that it has concluded that there is a reasonable likelihood that the proposed distribution financing arrangement will benefit the separate account and contract owners,[14] and undertakes to maintain and make available to the Commission upon request a memorandum setting forth the basis for this conclusion.

In addition to the insurer's representation, the separate account makes a representation, the character of which depends on the classification of the account. A trust account represents that it will invest only in management companies which have undertaken to have a board of directors, a majority of whom are not interested persons of the management company, formulate and approve any plan for financing distribution expenses under rule 12b–1 of the Act. A management account represents that it will have a board of directors with a majority of disinterested members formulate and approve any plan under rule 12b–1 to finance distribution expenses.[15]

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[6] The Insurer assumes a "mortality risk" by promising to pay annuities according to annuity rates set forth in the contract, without regard to the annuitant's own longevity or any improvement in life expectancy for the general population. In addition, many insurers further assume a mortality risk by including in their contracts a guarantee that if the named annuitant dies before annuity payments begin, or before attaining a certain age, the beneficiary will receive the greater of the sum of all purchase payments (less withdrawals) or the then current value accumulated under the contract.

The "expense risk" borne by the insurer is the risk that its actual expenses of administering the contracts will exceed the proceeds of the explicit fees it imposes for providing these services. [For a discussion of provision of administrative services by an insurer, and the related compensation arrangements, see Investment Company Act Rel. No. 13705 (Jan. 9, 1984) [49 FR 1735, Jan. 13, 1984].] These fees are often guaranteed not to exceed the levels specified in the contract. Where a portion of the expense risk component is designed to cover the risk that amounts realized from explicit sales loads imposed on contracts will be insufficient to cover actual distribution expenses, applicants may designate it as a "distribution risk charge." Risk charges are typically imposed daily as a percentage of account assets, rather than as a fixed dollar amount.

[7] Section 6(c) authorizes the Commission to exempt any person, security, or transaction from any provisions of the Act "if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of [the Act]."

[8] In enacting this section, Congress sought to limit the ability of the trust sponsor to derive fees from the trust and to prohibit the sponsor from "reaping hidden profits" through use of such fees. *H.R. Rep. No.* 2639, 76th Cong., 3d Sess. 22 (1940). *See also S. Rep. No.* 1775, 76th Cong., 3d Sess. 8, 18 (1940).

[9] *See* text following footnote 12.

[10] Applicants have generally made this alternative representation when either they have been unable to identify a sufficient number of comparable products for a meaningful comparison or there is something about the applicant's particular circumstances which makes a meaningful comparison impossible.

[11] It should be noted that, while these two general representations have been incorporated into the proposed rule based on the staff's experience, prospective contract issuers always have the option of presenting alternative justifications for this relief through an individual application.

[12] Applicants typically represent that they have analyzed publicly available information about several other annuity contracts, taking into consideration such factors as current charge levels, the manner in which charges are imposed, presence of charge level or annuity rate guarantees, and the markets in which their contracts will be offered.

[13] Rule 12b–1 prohibits any open-end management investment company, including any management account, from directly or indirectly financing distribution of the company's shares except in compliance with the rule's requirements. The rule requires, among other things, that a company directly or indirectly financing distribution formulate a written plan describing all material aspects of the proposed arrangement and that the plan be approved initially by the company's shareholders, by its directors, and by its disinterested directors. The company may implement or continue a plan only if the directors, who are required to vote annually on continuation, conclude, in the exercise of their reasonable business judgment and in light of their fiduciary duties under state law and under the Act, that there is a reasonable likelihood that implementation or continuation of the plan will benefit the company and its shareholders. Section 12(b) and rule 12b–1 apply only to open-end management companies. Therefore, despite the great functional similarity between management accounts and trust accounts, only the former are directly affected by these provisions.

[14] For example in connection with contracts subject to a contingent deferred sales load (*see* 17 CFR 270.6c–8), this representation arises as follows. Because the imposition of the sales load is contingent, applicants may be unable to state with certainty that amounts realized from the sales load will cover all distribution expenses, and they usually represent that any shortfall will be made up from the insurer's general account, which may include amounts derived from risk charges. Insurers typically represent, however, that the contingent type of sales loan benefits contract-owners more than a comparable front-end sales load because a greater amount of purchase payments is invested on behalf of the contract owner, who may not be subject to the sales load if he retains his investment for the requisite period. This representation is made by the insurer, rather than by the separate account, because the insurer is the party primarily responsible for, and with access to financial information relating to, the distribution financing arrangement.

[15] While the representation made in the case of a trust and a management account necessarily must differ because of their differing structures, the Commission has sought to ensure that all separate accounts are subject to equivalent regulation. Indeed, although superficially the required representation would appear to be more onerous for a trust account than a management account, experience has shown that is not the case. First, it has been the staff's experience that many trust and management accounts already need to satisfy the required representations because of the requirement of section 10(a) that an investment company must have a board of directors with a majority of disinterested members in order to use certain related persons as regular broker or principal

Continued

Recently, management accounts also have been requesting relief from section 12(b) of the Act and rule 12b–1, insofar as the two situations described above might be deemed to involve direct or indirect use of account assets for distribution.[16] In these situations, the Commission has granted relief because it recognizes that compliance with rule 12b–1 may be burdensome for management accounts and could cause them to incur expenses to which trust accounts offering identical contracts would not be subject.[17] In light of these factors, and the staff's general review of risk charges which is discussed above, the Commission has granted the relief requested by management accounts in these limited circumstances.[18]

Proposed Rule and Rule Amendments

1. Proposed Rule 26a–3

In view of its experience with the above described issues, the Commission is proposing to codify in proposed rule 26a–3 relief for deduction of risk charges by all separate accounts, and for the possible use of a portion of these charges by management accounts to finance distribution of contracts.

Paragraph (a) of the proposed rule exempts any separate account, and any depositor of a principal underwriter for such account, from the provisions of sections 26(a)(2)(C) and 27(c)(2) to the extent necessary to permit deduction of a charge for the assumption by the insurer of mortality and/or expense risks in connection with a contract. This paragarph also requires that the separate account's registration statement under the Securities Act of 1933 [15 U.S.C. 77a et seq.] ("1933 Act") include a representation that rule 26a–3 is being relied upon, along with the various representations [19] and undertakings discussed above concerning use of assets for distribution. Having this information in the registration statement will enable the Commission's staff to monitor use of and compliance with the rule.

Paragraph (b) provides that risk charges may not be imposed or increased by a registration statement or amendment thereto which becomes effective by lapse of time pursuant to section 8(a) of the 1933 Act [15 U.S.C. 77h(a)] or rule 486 thereunder [17 CFR 230.486]. Therefore, such filings must be the subject of an acceleration request. [20] This provision ensures that the staff will have the opportunity to conduct the review of these charges contemplated in the rule.

In paragraph (c) of the proposed rule, the Commission is proposing to codify relief from section 12(b) and rule 12b–1 for the risk charge related distribution financing arrangements described above,[21] to the extent that their operation triggers the applicability of these provisions. A condition for the relief is that the risk charge has been implemented pursuant to rule 26a–3.

2. Proposed Technical Amendments to Rule 0–1(e)

Rule 0–1 of the General Rules and Regulations under the Act defines various terms in those rules. Rule 0–1(e) defines the term "separate account" and sets forth the conditions for availability of exemptive relief for separate accounts pursuant to the general rules. The Commission is proposing to amend rule 0–1(e) to include rule 26a–3 as one of the rules listed therein.

List of Subjects in 17 CFR Part 270

Investment companies, reporting and recordkeeping requirements, Securities.

Text of Proposed Rule 26a–3 and Proposed Amendments to Rule 0–1(e)

It is proposed that Part 270 of Chapter II of Title 17 of the Code of Federal Regulations be amended as follows:

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

By revising paragraphs (e) introductory text, and (e)(2) of § 270.0–1 to read as follows:

§ 270.0–1 Definition of terms used in this part.

* * * * *

(e) Definition of separate account and conditions for availability of exemption under §§ 270.6c–6, 270.6c–7, 270.6c–8, 270.11a–2, 270.14a–2, 270.15a–3, 270.16a–1, 270.22d–3, 270.22e–1, 270.26a–3, 270.27a–1, 270.27a–2, 270.27a–3, 270.27c–1, and 270.32a–2 of this chapter.

* * * * *

(2) As conditions to the availability of exemptive Rules 6c–6, 6c–7, 6c–8, 11a–2, 14a–2, 15a–3, 16a–1, 22d–3, 22e–1, 26a–3, 27a–1, 27a–2, 27a–3, 27c–1, and 32a–2, the separate account shall be legally segregated, the assets of the separate account shall, at the time during the year that adjustments in the reserves are made, have a value at least equal to the reserves and other contract liabilities with respect to such account, and at all other times, shall have a value approximately equal to or in excess of such reserves and liabilities; and that portion of such assets having a value equal to, or approximately equal to, such reserves and contract liabilities shall not be chargeable with liabilities arising out of any other business which the insurance company may conduct.

2. By adding new § 270.26a–3 to read as follows:

§ 270.26a–3 Exemption from certain provisions of sections 12(b), 26, and 27, and rule 12b–1 for registered variable annuity separate accounts and others regarding deduction of mortality and expense risk charges and distribution.

(a) Except as provided in paragraph (b) of this section, a registered separate account, and any depositor of or principal underwriter for such account ("insurer"), shall be exempt from the provisions of sections 26(a)(2)(C) and 27(c)(2) of the Act [15 U.S.C. 80a–26(a)(2)(C) and 80a–27(c)(2)] with respect to any variable annuity contract participating in such account to the extent necessary to permit the deduction of a charge for the assumption of mortality and/or expense risks in connnection with such contract ("risk

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underwriter. Second, in the case of trust accounts, tax law effectively requires them to invest only in management companies established by the insurance company which sponsors the trust account. *See* Revenue Ruling 81–225, 1981–41 I.R.B. (Oct. 13, 1981).

[16] For a summary of arguments presented in favor of granting this relief, see Investment Company Act Rel. No. 13130 (Mar. 31, 1983) [48 FR 15059, April 6, 1983].

[17] *See, e.g.*, Investment Company Act Rel. No. 13241 (May 13, 1983) (order); Investment Company Act Rel. No. 13130 (Mar. 31, 1983) [48 FR 15059, April 6, 1983] (notice).

[18] As the Commission pointed out the first time it issued an order to a management account granting relief from section 12(b) and rule 12b–1 thereunder, its action should not be interpreted as establishing any precedent for mutual funds to seek similar relief in order, for example, to use advisory fees for distribution. *See* Investment Company Act Rel. No. 13241 (May 13, 1983). Rule 12b–1 was drafted precisely to deal with use of mutual fund assets for distribution and will continue to govern such activity.

[19] The staff believes that risk charges imposed in the past pursuant to a representation that they are within the range of industry practice for comparable annuity contracts has resulted in charges that are reasonable in relation to the risks assumed. If changes occur in the market for annuity contracts which suggest that this is no longer true, the Commission will have to consider the continuing appropriateness of basing exemptive relief on an industry comparability representation.

[20] Thus, for example, where a registrant sought in reliance on the rule to impose or increase a risk charge by means of a posteffective amendment, the registrant should file the amendment pursuant to rule 486(a) and specify the maximum period under that rule before the amendment would automatically become effective (i.e., 60 days after filing). In the cover letter accompanying the filing, the registrant should highlight that the filing would affect the risk charge and that it will request acceleration of the filing after the staff has completed its review. In addition, the registrant should undertake to file another amendment under rule 486 (a) and (d), if necessary, in order to avoid having the initial amendment become effective without acceleration by the staff.

[21] *See* text following footnote 12.

charge"), *Provided*, That Part II of the separate account's registration statement under the Securities Act of 1933 [15 U.S.C. 77a et seq.] includes:

(1) A representation that his section is being relied upon;

(2) A representation that the level of the risk charge either is (i) within the range of industry practice for comparable annuity contracts, or (ii) reasonable in relation to the risks assumed under the contract;

(3) A brief description of the methodology used to support the representation made in response to paragraph (a)(2) of this section and an undertaking to maintain and make available to the Commission upon request the memoradum or other documentation setting forth the methodology used to support the representation made in response to paragraph (a)(2) of this section; and

(4) A representation that either (i) the proceeds from explicit sales loads will be sufficient to cover the expected costs of distributing the contracts; or (ii)(A) the insurer has concluded that there is a reasonable likeihood that the account's distribution financing arrangement will benefit the separate account and contractowners, and that it will maintain and make available to the Commission upon request a memorandum setting forth the basis for this representation; and

(B)(*1*) If the separate account is registered under the Act as an open-end management company, a representation that the account will have a board of directors, a majority of whom are not interested persons of the separate account, formulate and approve any plan under rule 12b-1 of the Act [17 CFR 270.12b-1] to finance distribution expenses; or

(*2*) If the separate account is registered under the Act as a unit investment trust, a representation that the account will invest only in open-end management companies which have undertaken to have a board of directors, a majority of whom are not interested persons of the open-end management company, formulate and approve any plan under rule 12b-1 to finance distribution expenses.

(b) No risk charge may be deducted in reliance upon this section if the registration statement or amendment thereto which initially sets forth the imposition of such charge or its increase becomes effective by lapse of time pursuant to section 8(a) of the Securities Act of 1933 [15 U.S.C. 77h(a)] or rule 486 thereunder [17 CFR 230.486].

(c) Any separate account registered under the Act as an open-end management investment company shall be exempt from section 12(b) of the Act [15 U.S.C. 80a–12(b)] and rule 12b–1 thereunder to the extent that the insurer uses monies derived from a risk charge imposed pursuant to this section to finance distribution of annuity contracts issued in connection with the separate account.

Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act [5 U.S.C. 605(b)], the Chairman of the Commission has certified that the rule proposed herein will not, if adopted, have a significant economic impact on a substantial number of small entities. This certification, including the reasons therefor, is attached to this release.

Paperwork Reduction Act

The information collection requirement imposed by rule 26a–3 has been submitted to the Office of Management and Budget for clearance.

Statutory Authority

Proposed rule 26a–3 is issued pursuant to the provisions of sections 6(c) and 38(a) of the Act [15 U.S.C. 80a–6(c) and 80a–37(a)]. The proposed amendments to rule 0–1(e) [17 CFR 270.0–1(e)] are issued pursuant to the provisions of section 38(a) of the Act [15 U.S.C. 80a–37(a)].

By the Commisson.

Dated: October 11, 1984.

Shirley E. Hollis,

Acting Secretary.

Regulatory Flexibility Act Certification

I, John S.R. Shad, Chairman of the Securities and Exchange Commission, hereby certify pursuant to 5 U.S.C. 605(b) that proposed rule 26a–3 under the Investment Company Act of 1940, if adopted, will not have a signficant economic impact on a substantial number of small entities. The reason for the certification is that there are few, if any, registered insurance company separate accounts, when considered in conjunction with their sponsoring insurance companies, that qualify as "small entities" as that term has been defined in the Commission's rules. Moreover, the reduction in costs to such separate accounts, if any, resulting from the proposed rule's elimination of their need to file certain exemptive applications will not have a significant economic impact on any such separate accounts.

Dated: October 11, 1984.

John S.R. Shad,

Chairman.

[FR Doc. 84–27594 Filed 10–17–84; 8:45 am]

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DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 151

Proposed Customs Regulations Amendments Relating to Approval of Commercial Gaugers and Accreditation of Commercial Testing Laboratories

AGENCY: U.S. Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations to provide procedures for Customs approval of commercial gaugers (including public gaugers) who perform weighting, measuring, and/or gauging of certain commodities. The results of these activities, which are performed by non-governmental businesses, may be used by Customs in determining the proper rate of duty for the commodities. The document also proposes a procedure for Customs accreditation of commercial testing laboratories. The current regulations contain no provision for assessing the technical soundness of commercial testing laboratories not operated by a public gauger. Furthermore, the term "public gauger", which is found in the current regulations, is primarily associated with petroleum and there are other commodities for which Customs requires both quantity measurements and laboratory terting. The proposed amendments would correct these current deficiencies and provide for future needs.

DATE: Comments must be received on or before December 17, 1984.

ADDRESS: Written comments may be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229. Comment relating to the information collection aspects of the proposal should be addressed to the Office of Information and Regulatory Affairs, Attention: Desk Officer for U.S. Customs Service, Office of Management and Budget, Washington, D.C 20503, as well as to the Commissioner of Customs, as noted above.

FOR FURTHER INFORMATION CONTACT: Roger J. Crain or Carolyn E. Damon, Technical Services Division, Room 7113, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C 20229 (202–566–2446).

SUPPLEMENTARY INFORMATION:

Background

Public gaugers are commercial organizations of individuals who perform certain activities, such as measuring the density, to obtain quantity measurements of imported petroleum. Once this information is obtained, it may be used by Customs in determining the proper rate of duty for the petroleum.

The term "public gauger" is associated primarily with petroleum. There are other commodities, however, for which examination, measurement, guaging, or sampling is required by Customs. The commercial organizations or individuals who perform these activities for commodities other than petroleum are known as "commercial gaugers". Public gaugers are a type of commercial gauger and the the term "commercial gauger" is understood to include public gaugers.

Section 151.43, Customs Regulations (19 CFR 151.43), currently provides that a district director of Customs may accept reports on imported petroleum from public gaugers approved by the Commissioner of Customs. In addition, Customs Delegation Order No. 64, published as T.D. 82-142 in the **Federal Register** on August 13, 1982 (47 FR 35391), delegated authority to the Director of the Technical Services Division at Customs Headquarters in Washington, D.C., to conduct on-site inspections of commercial laboratories operated by Customs-approved public gaugers. However, the current regulations contain no provision for assessing the technical soundness of commercial testing laboratories not operated by a public gauger. Furthermore, the term "public gauger", which is found in § 151.43, is primarily associated with petroleum and there are other commodities for which Customs requires both quantity measurements and laboratory testing. To correct these current deficiencies and to provide for future needs, it is proposed to amend the regulations to provide a general procedure for both the approval of commercial guagers (including public gaugers) who perform weighing, measuring, and/or gauging, and for the accreditation of commercial testing laboratories not operated by a public gauger.

Executive Order 12291

Because this document will not result in a regulation which would be a "major" rule as defined by section 1(b) of E.O. 12291, a regulatory impact analysis and review as prescribed by section 3 of the E.O. is not required.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis are not applicable to the proposal because the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This document is subject to section 3504(h) of the Paperwork Reduction Act of 1980, Pub. L. 96-511. Public comments relating to the information collection aspects of the proposal should be addressed to the Office of Management and Budget and to Customs at the addresses set forth in the ADDRESS portion of this document.

Authority

These amendments are proposed under the authority of R.S. 251, as amended, 77A Stat. 14, sec. 499, 46 Stat. 728, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1202 (Gen Hdnotes 1-6, 11, 12, Tariff Schedules of the United States) 1499, 1624).

Comments

Before adopting this proposal, consideration will be given to any written comments timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552) and § 1.6, Treasury Department Regulations (31 CFR 1.6), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m., and 4:30 p.m. at the Regulations Control Branch, Room 2426, Customs Headquarters, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Drafting Information

The principal author of this document was Glen E. Vereb, Regulations Control Branch, Office of Regulations and Rulings, Customs Headquarters. However, personnel from other Customs offices participated in its development.

List of Subjects in 19 CFR Part 151

Customs duties and inspection, Imports, Chemicals, Flammable materials, Petroleum, Sugar.

Proposed Customs Regulations Amendments

It is proposed to amend Part 151, Customs Regulations (19 CFR Part 151), in the following manner:

PART 151—EXAMINATION, SAMPLING, AND TESTING OF MERCHANDISE

1. It is proposed to revise § 151.10 to read as follows:

§ 151.10 Sampling.

When deemed necessary, the district director may obtain samples of merchandise for appraisement, classification, or other official Customs purposes. Representative samples shall be taken by an authorized Customs officer or by a public gauger or commercial gauger approved by Customs as provided for in § 151.13. All samples shall be properly marked to insure identification and retained according to established policies.

2. It is proposed to amend Part 151 by adding new §§ 151.13 and 151.14 to Subpart A to read as follows:

§ 151.13 Commercial gaugers.

Commercial gaugers are commercial organizations and individuals who perform examinations, measurements, gauging, or sampling required by Customs for certain commodities. Public gaugers, which deal primarily with petroleum, are a type of commercial gauger and the term "commercial gauger," as used in Part 151, includes public gaugers. Subject to the conditions listed in this section, the results of the activities performed by commercial gaugers on designated commmodities may be accepted for Customs purposes. Laboratories operated by commercial gaugers are subject to the controls listed in § 151.14.

Acceptance of reports. Subject to the controls listed in this section, the district director may accept, for Customs purposes, the reports of commercial gaugers approved by Customs in accordance with this section, provided that:

(1) Customs offficers have exercised the supervision required by any section of this part, and

(2) Customs is not aware of any evidence that the commercial gauger has failed to comply with the provisions of this section.

(b) *Approval of commercial gaugers.* Commercial gaugers seeking approval shall send an application to the Commissioner of Customs U.S. Customs Service, Attention: Director, Technical Services Division, Washington, D.C.

20229. Applications, which may be in the form of a letter, shall contain or be accompanied by the following:

(1) The applicant's name and address, including the addresses of the principal place of business and subsidiary offices, if any;

(2) The service(s) and commodity(ies) for which the applicant is seeking approval;

(3) Detailed statements of ownership and any partnerships, affiliations, or parent-subsidiary relationships with organizations such as, but not limited to, importers, producers, refiners, etc., of the commodity(ies) for which approval is being sought; brokers; commercial laboratories; commercial sampling organizations; etc.;

(4) A statement of financial condition;

(5) If a corporation, a copy of its articles of incorporation and a list of its officers and directors;

(6) A detailed statement of the qualifications of each professional or technical employee; and

(7) A written agreement in the following form to avoid conflict-of-interest situations and to comply with requirements prescribed by Customs:

Commercial Gauger Agreement

As conditions for the approval of this application, I agree:

—To have no financial interest in, or other connection with, any business or other activity which might be considered to affect the unbiased performance of my duties as a commercial guager for Customs purposes, in accordance with the standards and procedures approved by the Commissioner of Customs. I understand that this does not apply to the acceptance of the usual fees for professional services.

—To comply with the requirements of Part 151, Customs Regulations (19 CFR Part 151), and with any procedures prescribed by the Commissioner, or the Director, Technical Services Division, U.S. Customs Service, pursuant to that part.

—To promptly notify the Commissioner of any change of name, address, ownership, partnership, affiliation, etc., or financial condition, and, if a corporation, of any change in its articles of incorporation, officers, directors, or parent-subsidiary relationship.

—To immediately notify the Commissioner of any attempt to influence, impede, or coerce me in the performance of any aspect of my duties.

—To furnish a bond, in the amount of $10,000, to ensure that these services will be performed in conformance with approved standards and procedures, and with such procedures as may be prescribed by the Director, Technical Services Division, U.S. Customs Service, pursuant to paragraph (g) of this section.

(c) *Dual Approval.* (1) Applications for the accreditation of commercial testing laboratories operated by commercial gaugers seeking Customs approval under the procedures outlined in this section may be submitted concurrently providing they fulfill the requirements described for such laboratories in § 151.14. Public gaugers having Customs approval on the date of enactment of these regulations need not reapply and may continue to gauge petroleum and petroleum products under the conditions described in this section.

(2) If a district director has been accepting quantity or test reports from Customs-approved public gaugers for commodities other than petroleum, or from non-approved commercial gaugers for any commodity, he may continue to do so for a period not to exceed 6 months from the effective date of these regulations. In order to be allowed to provide such reports to Customs after the 6-month grace period, a gauger must apply for and receive Customs approval within this 6-month period in accordance with the procedure prescribed in this section.

(d) *Investigation of applicant.* The Commissioner of Customs shall direct the Technical Services Division to determine the applicant's competence, and shall direct the Office of Investigations to determine the applicant's fitness and reputation and to verify the statements made in the application.

(e) *Notice of approval, disapproval, suspension, or revocation.* When the investigations have been completed, the Director, Technical Services Division, will either advise the application that his applicant has been approved or will state the reasons for disapproval. The Commissioner of Customs may suspend or revoke such approvals at any time to failure to comply with any provision in this section, and may assess liquidated damages under the commercial gauger bond. Notices of approval and of suspension or revocation shall be published from time to time in the Customs Bulletin.

(f) *Operational requirements.* To be approved for Customs purposes, a commercial gauger shall conform to the following requirements:

(1) *Equipment.* All equipment, accessories, and other devices used shall be maintained in first class condition, and shall be of a type prescribed by published industry standards such as, but not limited to, those of the American Society for Testing and Materials (ASTM), the American Petroleum Institute (API), or the American National Standards Institute (ANSI), as appropriate, or shall have performance characteristics equal to or superior to those required to conduct analyses described in such standards.

(2) *Procedures.* All procedures shall be in conformance with published industry standards, such as those of the ASTM, API, or International Commission for Uniform Methods of Sugar Analysis (ICUMSA), and shall conform to such specific procedures as the Director, Technical Services Division, may require in accordance with paragraph (g) of this section.

(3) *Qualifications.* Each commercial gauger and each other person authorized to sign gauging reports shall furnish Customs with a written certificate that he has a minimum of 6 months training and experience in performing the same service(s) with the same commodity(ies).

(4) *Results.* The commercial gauger shall investigate promptly any apparent irregularities, procedural difficulties, or indications of systematic bias called to his attention by either the district director or the Director, Technical Services Division, or of which he otherwise may become aware, and shall take corrective measures immediately. Both the district director and the Director, Technical Services Division, shall be promptly notified of such matters and of any actions taken.

(g) *Procedures prescribed by the Director, Technical Services Division.* The Director, Technical Services Division, is authorized to prescribe general or specific procedures to be followed by each approved commercial gauger at each location.

(h) *Recordkeeping requirements.* Records of the commercial gauger pertaining to work performed for acceptance by Customs shall be of the type normally kept in the ordinary course of business. These shall be maintained for 5 years from the date of entry of the merchandise in accordance with §§ 162.1a and 162.1c of this chapter.

(i) *Verification requirement*—(1) *Compliance.* To ensure compliance with the provisions of this section and accuracy and uniformity in the information submitted by commercial gaugers, the Director, Technical Services Division, is authorized to conduct:

(i) On-site inspections;

(ii) Integrity checks;

(iii) Reviews of any records described above.

(2) *Resolution of discrepancies.* Any discrepancy between the reports by the commercial gauger and the quantity found by Customs, in excess of any tolerance published in these regulations, shall be resolved in favor of Customs unless the commercial gauger produces

clear and convincing evidence that Customs is in error.

(3) *Sanctions.* If a commercial gauger's reports are repeatedly inaccurate to a significant degree, the commercial gauger's approval may be suspended or revoked in accordance with paragraph (j) of this section, or liquidated damages may be assessed under the terms of the commercial gauger's bond.

(j) *Suspension or revocation of Customs approval*—(1) *Grounds.* Failure to comply with the provisions of this section may be grounds for suspension or revocation of Customs approval of a commercial gauger.

(2) *Notice.* The Director, Technical Services Division, shall give written notice of a proposed suspension or revocation of approval to the commercial gauger. The notice shall give specific grounds for the proposed action and shall become final unless the commercial gauger files a written reply in accordance with paragraph (j)(3) of this section.

(3) *Reply.* Within 30 days of receipt of the notice, the commercial gauger may file a written reply with the Director, Technical Services Division. This reply may contain: (i) Answers to the allegations, (ii) rebuttal evidence, and (iii) a request to make an oral presentation to the Director, Technical Services Division, or his designee, as to why this action should not be taken.

(4) *Action on reply.* If the Director, Technical Services Division, is persuaded by the commercial gauger's reply or oral presentation, he shall notify the commercial gauger and the case shall be closed. If not, the Director, Technical Services Division, shall suspend or revoke the commercial gauger's approval and shall notify the commercial gauger that he may request review of this action by the Commissioner of Customs in accordance with paragraph (j)(6) of this section. The Director, Technical Services Division, shall forward an information copy of his actions to the district director(s) involved.

(5) *Stay of suspension or revocation.* An adverse decision by the Director, Technical Services Division, shall not become final until the time for requesting a review by the Commissioner of Customs has passed and no request has been filed by the commercial gauger, or the decision has been upheld.

(6) *Review of suspension of revocation.* The commercial gauger may petition the Commissioner of Customs to review an adverse decision by the Director, Technical Services Division. such petitions shall be filed, in duplicate, with the Director, Technical Services Division, within 30 days of the date of the action, and should clearly state the reasons why such action should not become final. The Commissioner, or his designee, shall review the petition and shall forward his written decision to the Director, Technical Services Division, for delivery to the commercial gauger.

(7) *Publication.* Notice of any final action by the Director, Technical Services Division, or the Commissioner of Customs suspending or revoking the approval of a commercial gauger shall be published in the **Federal Register** and the Customs Bulletin.

(k) *Supplemental applications.* A Customs-approved commercial gauger may apply to extend his approval to additional services and/or commodities by submission of a supplemental application. Supplemental applications, which may be submitted at any time, need only provide the information described in paragraphs (b) (1), (2), and (6), of this section.

(l) *Expense incurred by utilization of Customs-approved commercial gaugers.* No expense incurred by an importer's utilization of a Customs-approved commercial gauger shall be borne by the Government.

§ 151.14 Commercial testing laboratories.

(a) *Acceptance of laboratory analysis reports.* Subject to the controls outlined in this section, the district director may accept, for Customs purposes, laboratory analysis reports by Customs-accredited commercial testing laboratories (including those operated by Customs-approved commercial gaugers) for the following commodities and their respective characteristics by the indicated methods. However, the samples shall have been taken by a Customs officer, or an approved commercial gauger (see § 151.13), or shall have been certified, by the importer as being representative of the importation, and there must be no evidence that the commercial laboratory failed to comply with any provision of this section. The characteristics and the commodities are as follows:

(1) American Petroleum Institute (API) gravity, the amount of bottom sediment and water (BS&W), the antiknock index, and distillation characteristics for petroleum and petroleum products by the most recent applicable American Society for Testing and Materials (ASTM) methods.

(2) Sugar degrees determined by the polariscopic test, percent soluble nonsugar solids, percent total sugars, and weight per gallon in air at 60° F for sugars, sirups, and molasses by the most recent official International Commission for Uniform Methods of Sugar Analysis (ICUMSA) methods.

(b) *Accreditation of commercial testing laboratories.* Commercial testing laboratories (including those operated by commercial gaugers) seeking accreditation shall send an application to the Commissioner of Customs, U.S. Customs Service, Attention: Director, Technical Services Division, Washington, D.C. 20229. (Laboratories which were operated by public gaugers having Customs approval on the date of enactment of these regulations shall be recognized as Customs-accredited laboratories for the analysis of petroleum and petroleum products as described in paragraph (a)(1) of this section, and shall be subject to the conditions described in this section.) Applications, which may be in the form of a letter, shall contain or be accompanied by the following:

(1) The applicant's name and address, including the addresses of the principal place of business and subsidiary offices, if any;

(2) The commodity(ies), test(s), and corresponding test method(s) for which the applicant is seeking approval. (Note: each test method should be completely documented by name, designation, and literature reference.)

(3) Detailed statements of ownership and any partnerships, affiliations, or parent-subsidiary relationships with organizations such as, but not limited to, importers, producers, or refiners etc., of the commodity(ies) for which approval is being sought; brokers; commercial laboratories; commercial sampling organizations; commercial gaugers; etc.;

(4) A statement of financial condition;

(5) If a corporation, a copy of its articles of incorporation and a list of its officers and directors;

(6) A detailed statement of the qualifications of each professional or technical employee and a complete description of all laboratory facilities and equipment; and

(7) A written agreement in the following form to avoid conflict-of-interest situations and to comply with operating requirements prescribed by Customs:

Commercial Testing Laboratory Agreement

As conditions for the approval of this application, I agree:

—To have no financial interest in, or other connection with, any business or other activity which might be considered to affect the unbiased performance of my duties as a commercial laboratory performing testing for Customs purposes, in accordance with the standards and procedures approved by the Commissioner of Customs. I understand that this does not

apply to the acceptance of the usual fees for professional services.

—To comply with the requirements of Part 151, Customs Regulations (19 CFR Part 151), and with any procedures prescribed by the Commissioner or the Director, Technical Services Division, pursuant to that part.

—To promptly notify the Commissioner of any change of name, address, ownership, partnership, affiliation, etc., or financial condition, and, if a corporation, of any change in its articles of incorporation, officers, directors, or parent-subsidiary relationship.

—To immediately notify the Commissioner of any attempt to influence, impede, or coerce me or my employees in the performance of any aspect of my duties.

—To promptly notify the Director, Technical Services Division, of any significant changes in the professional staff, physical facilities, instruments, or test methods in use in the laboratory.

—To furnish a bond, in the amount of $10,000, to ensure that the laboratory tests and associated procedures will be in conformance with industry-recognized standards and with such procedures as may be specifically prescribed by the Director, Technical Services Division, pursuant to paragraph (f) of this section.

(c) *Investigation of applicant.* The Commissioner of Customs shall direct the Technical Services Division to determine the applicant's professional competence, and shall direct the Office of Investigations to determine the applicant's fitness and reputation and to verify the statements made in the application.

(d) *Notice of approval, disapproval, suspension, or revocation.* When the investigations have been completed, the Director, Technical Services Division, will either advise the applicant that his laboratory has been granted accreditation or will state the reasons for denial. The Commissioner of Customs may suspend or revoke accreditation of a laboratory at any time for failure to comply with any provision in this section, and may assess liquidated damages under the commercial laboratory's bond. Notices of accreditation and of suspension or revocation of accreditation shall be published from time to time in the Customs Bulletin.

(e) *Operational requirements.* To be accredited for Customs purposes, a commercial testing laboratory's operations shall conform to the following requirements:

(1) *Equipment.* All analytical instruments, accessories, and other equipment used by the laboratory will be maintained in first class condition. For all major instruments, including analytical balances, a log shall be kept. All instruments, accessories, and other equipment shall be of a type prescribed by published industry standards such as those of the ASTM, API, or American National Standards Institute (SNSI), as appropriate, or shall have performance characteristics equal to or superior to those required to conduct analyses described in such standards.

(2) *Procedures.* Each specified ASTM or ICUMSA method, shall be reviewed and approved for use by the Director, Technical Services Division [see § 151.14(b)(2)]. Other technical procedures shall be in conformance with published industry standards, such as those of the ASTM or the API, and all laboratory operations, including analytical methods and technical procedures, shall conform to such specific procedures as the Director, Technical Services Division, may require in accordance with paragraph (f) of this section.

(3) *Qualifications.* Each professional employee authorized to sign or approve laboratory analysis reports shall have a minimum of a bachelor's degree in the physical sciences or engineering and at least 2 years of full-time professional experience in the analysis of the product(s) the laboratory is accredited to test. Each employee authorized to assist in laboratory analyses to be used for Customs purposes shall have a minimum of 2 years of general experience and 2 years of specialized experience which includes at least 1 year of full-time experience in an analytical laboratory, 6 months of which shall have been spent in the analysis of the designated product(s). Post high school education in an accredited college, junior college, or technical institute many be substituted, year for year, for the required general experience and for 1 year of the specialized experience, providing each substituted education year included at least 12 semester hours in any combination of courses such as physical science, engineering, or any branch of mathematics except financial and commercial mathematics.

(4) *Results.* The director of the commercial testing labortory shall investigate promptly any apparent irregularities, procedural difficulties, or indications of systematic bias in analytical results; shall take corrective measures immediately; and shall promptly notify both the district director(s) and the Director, Technical Services Division, of such matters and of any actions taken.

(f) *Procedures prescribed by the Director, Technical Services Divison.* The Director, Technical Services Division, is authorized to prescribe general or specific procedures to be followed by each accredited commercial testing laboratory.

(g) *Recordkeeping requirements.* The commercial testing laboratory shall maintain records of the type normally kept in the ordinary course of business and also those decribed below for 5 years from the date of entry of the merchandise in accordance with §§ 162.1a and 162.1c of this chapter. Except as otherwise noted, the records described below shall be kept in hardbound (not loose-leaf) books with consecutively numbered pages and all entries shall be in ink.

(1) *Sample log book.* Each page must be "approved" by the laboratory director or his designee within 5 days of first entry. An electronic Sample Log Book is permitted in lieu of a hardbound book, but a complete "hard-copy" record must be made, approved as above, and maintained as an official record. Samples for Customs purposes shall be separately recorded in a Sample Log Book that is used exclusively for this purpose. At a minimum, each entry in the Sample Log Book must contain the following information.

(i) Unique identifying number for each sample (which must also be marked on the sample itselt);

(ii) Date sample received;

(iii) Description of sample, including type of product, marks or other unique identifying characteristics on the sample container, etc.;

(iv) Customs entry date, entry number, and port of entry;

(v) Name of importer, carrier, and broker;

(vi) Name of manufacturer, exporter (if different), and country-of-origin;

(vii) Source of sample (such as name of sampling officer, commercial gauger, registered mail number, etc.);

(viii) Date sample reported.

(2) *Major instrument log book.* [See paragraph (e)(1) of this section.] The major instrument log must show, at a minimum, the dates and circumstances of all instances of servicing, upgrading, malfunction, recalibration, or any other action which might affect analytical results. Each entry must be initialed and dated by the laboratory director or his designee.

(3) *Analytical procedures book.* This may be loose-leaf, and should contain all analytical procedures, calibration methods, etc., as provided in paragraph (e)(2) of this section. Each analysis procedure must have a sheet showing, by date and signature, that each professional or technical employee has "read and understood" the procedure.

(4) *Laboratory notebook.* A laboratory notebook must be assigned to each

professional or technical employee, and the record of such assignments is itself a "record" subject to the requirements of this section. The notebook must contain all information or data (such as sample weights, temperatures, references to filed spectra, chromatograms, photographs, etc.) associated with the analysis, and each entry must bear the number of the sample to which it pertains. Each page of the laboratory notebook must be dated and initialed as "read and understood" by the employee's immediate supervisor within 5 days of entry.

(h) *Verification requirement*—(1) *Compliance.* To ensure compliance with the provisions of this section and the accuracy and uniformity of analytical results submitted to Customs by commercial testing laboratories, the Director, Technical Services Division, is authorized to conduct:

(i) On-site inspections;

(ii) Interlaboratory sample exercises;

(iii) Reviews of any records described above.

(2) *Sanctions.* If a laboratory's analytical results are repeatedly inaccurate to a significant degree, or if it fails to comply with any provision in this section, the laboratory's accreditation may be suspended or revoked in accordance with paragraph (i) of this section, or liquidated damages may be assessed under the terms of the laboratory's bond.

(i) *Suspension or Revocation of Customs accredition*—(1) *Grounds.* Failure to comply with any of the provisions of this section may be grounds for suspension or revocation of Customs accreditation of a commercial laboratory.

(2) *Notice* The Director, Technical Services Division, shall give written notice of a proposed suspension or revocation of accreditation to the laboratory. This notice shall give specific grounds for the proposed action and shall become final unless the laboratory files a reply in accordance with paragraph (i)(3) of this section

(3) *Reply.* Within 30 days of receipt of the notice, the laboratory may file a written reply with the Director, Technical Services Division. This reply may contain answers to the allegations, rebuttal evidence, and a request to make an oral presentation to the Director, Technical Services Division, or his designee, as to why this action should not be taken.

(4) *Action on reply.* If the Director, Technical Services Division, is persuaded by the laboratory's reply or oral presentation, he shall notify the laboratory and the case shall be closed. If not the Director, Technical Services Division, shall suspend or revoke the laboratory's accreditation and shall notify the director of the laboratory that he may request review of this action by the Commissioner in accordance with paragraph (i)(6) of this section. The Director, Technical Services Division, shall forward an information copy of his actions to the district director(s) involved.

(5) *Stay of suspension or revocation.* An adverse decision by the Director, Technical Services Division, shall not become final until the time for requesting a review by the Commissioner has passed and no request has been filed by the laboratory, or the decision has been upheld.

(6) *Review of suspension or revocation.* The laboratory may petition the Commissioner of Customs to review an adverse decision by the Director, Technical Services Division. Such petitions shall be filed, in duplicate, with the Director, Technical Services Division, within 30 days of the date of the action, and should clearly state the reasons why such action should not become final. The Commissioner, or his designee, shall rev iew the petition and shall forward his written decision to the Director, Technical Services Division, for delivery to the laboratory.

(7) *Publication.* Notice of any final action by the Director, Technical Services Division, or the Commissioner of Customs suspending or revoking the accreditation of a commercial testing laboratory shall be published in the **Federal Register** and the Customs Bulletin.

(j) *Supplemental applications.* The operator of a Customs-accredited commercial testing laboratory may apply to extend the laboratory's accreditation to additional tests and/or commodities by submission of a supplemental application. Supplemental applications, which may be submitted at any time, need only provide the information described in paragraphs (b) (1), (2), and (6), of this section.

(k) *Expense incurred by utilization of Customs-accredited commercial testing laboratories.* No expense incurred by an importer's utilization of a Customs-accredited commercial testing laboratory shall be borne by the Government.

3. It is proposed to revise § 151.31(a) to read as follows:

§ 151.31 Review of tests of sugar, sirup, and molasses.

(a) *Notification to importer.* When the test of the sugar has been determined and accepted by Customs for an importation of sugar, sirup, or molasses, the district director shall immediately send the importer a copy of the report showing the average test of the importation and the quantity and test of each lot from which such average test is obtained.

* * * * *

4. It is proposed to amend § 151.42 by removing the words "positive displacement" from paragraph (a)(1)(i); removing paragraph (a)(1)(ii) and redesignating paragraphs (a)(1)(iii) and (a)(1)(iv) as (a)(1)(ii) and (a)(1)(iii), respectively; adding a new paragraph (a)(3); removing the word "shall" and inserting the word "may" in paragraph (b) introductory text; and adding a new paragraph (d). The amended and revised portions would read as follows:

§ 151.42 Controls on unlading and gauging.

(a) * * *

(1) * * *

(i) Customs approved meters at installations where provided by the importer;

(ii) Shore tank gauging; or

(iii) Weighing for trucks and railroad cars.

* * * * *

(3) Meters provided by importers, described in paragraph (a)(1)(i) of this section, are approved by Customs on a case by case basis upon application to the district director who, with the concurrence of the Director, Technical Services Division, or his designee, shall give tentative or final approval.

(b) *Duties of Customs officers.* Customs officers may perform or witness ullaging and gauging as follows:

* * * * *

(d) *Acceptance of quantity reports.* (1) Subject to such controls and checks as he may deem necessary, the district director may accept, for shore tank gauging and closing carrier ullages, the reports of quantities of imported petroleum and petroleum products made by commercial gaugers approved by Customs in accordance with this section provided that Customs has exercised the supervision required by § 151.42(b) and there is no evidence that the commercial gauger has failed to comply with the provisions of this section.

(2) The district director may also accept the laboratory analysis reports performed by a laboratory operated by an approved commercial gauger as part of the services provided by him for his customers provided that the laboratory complies with all requirements of § 151.14.

§ 151.43 [Removed and Reserved]

5. It is proposed to amend Part 151 by removing § 151.43 and reserving it.

§ 151.45 [Amended]

6. It is proposed to amend § 151.45(a) by removing the words "required by § 153.43".

7. It is proposed to revise § 151.47 to read as follows:

§ 151.47 Entered quantities of petroleum or petroleum products released under entry or immediate delivery.

(a) *Optional entry of net quantity.* As an alternative to stating on the entry summary the gross quantity of petroleum or petroleum products released under the immediate delivery procedure in § 142.21 of this chapter, or under the entry documentation in § 142.3(a), the importer may file an entry summary for the net quantity of petroleum or petroleum products unladed. The net quantity shall be determined in accordance with § 158.13 of this chapter, with an allowance made for sediment and excessive water present, as prescribed in the table found in § 151.46, and reported in a laboratory test made by a Customs-accredited commercial laboratory. The laboratory analysis report shall be filed with the entry summary.

(b) *Use of laboratory tests in liquidation.* The analytical results (that is, API gravity, BS&W, and distillation characteristics) reported by a Customs-accredited laboratory shall be used for Customs purposes if the difference between these results and the Customs laboratory results do not exceed the differences in the following table:

Percentage of BS&W found by Customs	Maximum percentage difference allowable
0.05 to 0.50	0.1
0.51 to 1.50	0.2
More than 1.50	0.3

The analytical results reported by a Customs laboratory shall be used for Customs purposes if the difference between these results and those of the Customs-accredited laboratory exceed the limits in the table above, and if the Customs-accredited laboratory cannot present clear and convincing evidence that Customs is in error.

§ 151.54 [Amended]

8. It is proposed to amend § 151.54 by removing the words "chief chemist" both times it appears in the introductory text and inserting, in its place, the word "director".

Approved: October 1, 1984.

William von Raab,

Commissioner of Customs.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

[FR Doc. 84-27585 Filed 10-17-84; 8:45 am]

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 290 and 886

[Docket No. R-84-0707; FR-432]

Management and Disposition of HUD-Owned Multifamily Projects

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: HUD proposes to revise its regulations governing management and disposition of HUD-acquired multifamily rental projects. The proposed rule is intended to conform the regulation more closely to section 203 of the Housing and Community Development Amendments of 1978, as amended; to decrease reliance on project-based section 8 subsidies as a means of maintaining availability of units to low- and moderate-income persons; and to conform the rental structure in HUD-owned properties to statutory changes in rents charged under subsidy programs.

DATE: Comments are due December 17, 1984.

ADDRESS: Interested persons are invited to submit comments regarding this rule to the Rules Docket Clerk, Office of General Counsel, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Marvin Hilman, Director, Property Disposition Division, Department of Housing and Urban Development, Room 6154, 451 7th Street, SW., Washington, DC 20410. Telephone (202) 755-7343. [This is not a toll-free number.]

SUPPLEMENTARY INFORMATION: HUD insures mortgages covering multifamily residential projects under various authorities provided in Title II of the National Housing Act. Following mortgage default, and in conjunction with payment of the lender's insurance claim, the mortgage is usually assigned to the Secretary, who may then acquire title to the project through foreclosure or acceptance of a deed in lieu of foreclosure. Instead of assigning the mortgage, mortgagees may foreclose the mortgage or take a deed in lieu of foreclosure and then convey title to the Secretary.

Section 207(1) of the National Housing Act provides:

> Notwithstanding any other provisions of law relating to the acquisition, handling, or disposal of real and other property by the United States, the Secretary shall . . . have power, for the protection of the interests of the General Insurance Fund, to pay out of the General Insurance Fund all expenses or charges in connection with, and to deal with, complete, reconstruct, rent, renovate, modernize, insure, make contracts for the management of, or establish suitable agencies for the managment of, or sell for cash or credit or lease in his discretion, any property acquired by him under this section.

Section 207(1) is applicable to mortgages insured under authorities of the National Housing Act other than section 207. See, e.g., sections 221(g), (section 221 mortgages) 238(a)(2) (section 236 mortgages) (12 U.S.C. 1715(g), 1715z-3(a)(2)).

It has been long established that HUD determinations regarding the management and disposition of multifamily projects acquired by it following loan default must be made consistently with national housing policy. See e.g., *Cole* v. *Lynn*, 389 F. Supp. 99 (D.D.C. 1975) (Section 236 project). In an effort to synthesize HUD's objective of protecting the insurance funds with the fundamental purposes underlying the programs pursuant to which mortgage insurance was granted, HUD first promulgated a regulatory statement of policies and procedures governing disposition of HUD-owned properties through an interim rule published on January 27, 1977 (42 FR 5049). The regulation prescribed two objectives of the disposition program:

(a) To reduce the inventory of HUD-owned projects in such a manner as to ensure the maximum return to the mortgage insurance funds consistent with the need to preserve and maintain urban residential areas and communities, and to protect the financial interests of the Government by obtaining a satisfactory return based on the project's present market value and anticipated future use.

(b) To maintain through a rental subsidy, or otherwise, rents at levels low-to-moderate-income families can afford, if the project was intended to serve low-to-moderate-income groups.

Congress legislated specifically in the field through section 203 of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701 z–11) (hereinafter referred to as "Section 203"). As originally enacted, section 203 stated that the purpose of the property management and disposition program shall be to manage and dispose of projects in a manner which will protect the financial interests of the Federal Government and be less costly to the Federal Government than other reasonable alternatives by which the Secretary can further the goals of:

(1) Preserving the housing units so that they can remain available to and affordable by low- and moderate-income families;

(2) Preserving and revitalizing residential neighborhoods;

(3) Maintaining the existing housing stock in a decent, safe and sanitary condition;

(4) Minimizing the involuntary displacement of tenants; and

(5) Minimizing the need to demolish projects.

Recognizing a tension among the stated objectives and that the feasibility of attaining certain of the goals will be affected by individual project circumstances, Congress further provided in Section 203 that the Secretary, in determining the manner by which a project shall be managed or disposed of, may balance competing goals in individual projects so as to further the achievement of the overall purpose of the section.

On October 1, 1979, HUD published a complete revision of its January 1977 property disposition regulation as an amended interim rule. 44 FR 56608. The amended rule contained significant changes from the prior rule, based in part on section 203. The amended interim rule continues in effect and appears at 24 CFR Part 290.

In the Housing and Community Development Act of 1980, Congress amended section 203 in several respects. Two amendments affected the statement of the purposes of the management and disposition program referred to above. The goal of preserving units so that they may remain available to and affordable by low- and moderate-income families was expanded to cover units which were vacant at the time of acquisition. There was added an additional goal of maintaining the project for the purpose of providing rental or cooperative housing.

A key feature of the Department's property disposition program has been the attaching of section 8 project-based subsidies to the sales of acquired projects in order to ensure their continued availability for low- and moderate-income tenants. Under the interim rule published in January 1977, a rental subsidy generally would be provided for eligible tenants of a formerly subsidized project unless a determination was made that comparable housing units or comparable assistance was available which would allow disposition without a rental subsidy without affecting eligible tenants.

The amended interim rule published in October 1979 expanded the use of Section 8 subsidies in property sales by changing the focus of the Department's inquiry from the availability of comparable housing or assistance for the project tenants to the sufficiency of the stock of affordable housing for low- and moderate-income families in the community. It also expanded coverage of the requirement for subsidy to include formerly unsubsidized projects which constituted a "lower income housing resource by virtue of the income levels of the tenants".

The Section 8 subsidy contract attached to a project requiring no rehabilitation or only moderate rehabilitation is generally for a term of 15 years. A subsidy contract for a project requiring substantial rehabilitation will generally be for 20 years. See 24 CFR 886.311.

Without waiver, Part 290 permits the use of certificates under the Section 8 Existing Housing Program—i.e., subsidies which are not attached to the project but permit the tenant to remain in the project or to move elsewhere with the subsidy—only to eligible tenants residing in a formerly unsubsidized project which has not become a lower income housing resource.

Legislative changes affecting the subsidy program have diminished the feasibility of broad reliance on project-based section 8 contacts in the property disposition program. Section 16 of the Housing Act of 1937 (42 U.S.C. 1437n), enacted in 1981, severely limits the availability of Section 8 subsidies to families whose incomes exceed 50% of the area median income. As a result, Section 8 subsidies may not be available to assist tenants of HUD-owned projects who are lower-income families (i.e., less than 80% of area median income) but not very-low income families (less than 50% of area median income).

In addition, the Department's experience under the property disposition program has led it to conclude that the almost automatic attachment of long-term Section 8 contracts to projects being sold is neither necessary to ensure the continued availability of stock to low- and moderate-income families nor an efficient utilization of subsidy resources. Accordingly, the Department increasingly has waived the regulatory provisions for project-based subsidy contracts for good cause on case-by-case determinations. The bases for this policy and an evaluation thereof were discussed in a review by the United States General Accounting Office as follows:

> The increased use of Section 8 subsidies is largely attributable to the implementing regulations which provide little latitude for HUD field offices to dispose of projects other than with Section 8 subsidies attached to the maximum extent the regulations provided. The regulations called for HUD to attach Section 8 subsidies to 100 percent of the units in formerly subsidized projects, and in formerly unsubsidized projects to the units occupied by eligible tenants or vacant at the time of acquisition.
>
> In developing and implementing its policy HUD never performed a thorough analysis of the projects sold without subsidies attached to establish the degree to which these projects were or were not continuing to effectively serve low- and moderate-income tenants. Our review indicated that it may not always be necessary or effective to attach Section 8 subsidies to project units to the extent called for in the regulations. Our review of 18 projects sold without subsidies attachd to the units and 14 projects sold with subsidies attached showed mixed results. All projects sold without a subsidy continued to serve low- and moderate-income tenants but generally to a lesser extent than projects sold with subsidies. The physical condition of projects sold both with and without subsidies varied from good and bad. Overall project success appeared to be more related to project location, surrounding neighborhood, owner/management competence, and socioeconomic characteristics rather than whether the project was sold with or without Section 8 subsidies attached to the units.
>
> In the fall of 1981, however, HUD began to change its policy on the sale of its acquired multifamily housing projects with Section 8 subsidies attached. Our review of 48 HUD disposition decisions made between March 15 and May 4, 1982, showed that HUD is achieving disposition flexibility by selling its projects based on each project's individual circumstances rather than rigidly following existing regulatory requirements. Depending on the availability of lower income housing units in the area, HUD is deciding in some cases to attach Section 8 subsidies to all units in formerly subsidized projects; in other cases, when justified, it is attaching the subsidy to fewer than 100 percent of the projects' units. Also, in some cases HUD is not attaching any subsidies to the project units but does provide eligible tenants with

Section 8 Certificates of Family Participation. To achieve this flexibility, HUD has had to waive its regulations in some instances. We believe, however, that such flexibility is needed and should reduce the level that Section 8 subsidies were being attached to project units under the policy established in 1977. (GAO letter to General Deputy Assistant Secretary for Housing, September 30, 1982.)

The Department now proposes to revise 24 CFR Part 290 in order to reflect its experience and to conform more directly to Section 203, as amended.

A basic purpose of the proposed revision is to permit the Department to approach multifamily project disposition decisions on a case-by-case basis, taking fully into account all pertinent individual circumstances of the particular project, its tenants, and its community. This, the Department believes, is the essential thrust of Section 203, contrary to the present Part 290 regulations which virtually dictate the outcome of disposition decisions based on some, but less than all, of the critical circumstances.

Section 203 requires the Secretary to take certain purposes and goals into consideration in every property disposition decision. As applied to particular cases, these goals often are, and were recognized by Congress to be, contradictory. Therefore, although the Secretary is obligated to consider and act consistently with achieving those purposes and goals, their consideration rarely, if ever, dictates a single outcome and the Secretary retains broad discretion to choose among outcomes that seek to accomplish the statutory objectives.

As stated by the General Accounting Office:

> In our opinion, the language of the existing law basically provides sufficient flexibility for HUD to dispose of any particular project in a manner that is in the best interest of the Government, tenants, and community. In disposing of a project HUD should base its disposal decision on an analysis and consideration of the factors contained in the Act. We believe that Section 203 of the Act only mandates that these factors be considered an impact on the decision as appropriate. It is important, however, that the basis for each decision, as well as the analysis and consideration given to the various factors, be thoroughly supported and documented in order to justify the decision and protect the Department against any pontential lawsuits resulting from the decision. (GAO letter to General Deputy Assistant Secretary for Housing, September 30, 1982.)

The key provisions of the proposed revised Part 290 which embody this trust are §§ 290.5, 290.20, and 290.25.

Proposed § 290.5 states the purpose of the property management and disposition program, and the necessity of balancing competing goals relating to individual projects in a manner which will further the achievement of the overall purpose of the program, in the same terms as paragraph (a) of section 203. Section 290.20 enumerates the factors to be considered in determining the manner by which an individual project is to be disposed of to further the achievement of the overall purpose of the program as stated in § 2909.5.

Section 290.25 provides that while the Secretary ordinarily will seek to achieve the maximum return to the mortgage insurance funds, a project may be disposed of for its "fair value for use" when the Secretary finds that achievement of the purpose of the program in the particular disposition case requires disposition at less than full market value based on highest and best use. In such a case, § 290.25 further provides that the Secretary may impose such conditions upon the sale and the future use and operation of the project as may be necessary or appropriate to furthering the program purpose.

Proposed § 290.25(d) provides that the purchaser may be required, as a condition and term of the sale, to perform repairs to the project after purchase in order to return the project to decent, safe and sanitary condition.

Proposed § 290.25(f) provides that Certificates of Family Participation under the Section 8 Existing Housing Program may be given to eligible tenants who are very low-income families if determined to be necessary to permit such families to remain in their units after disposition. Certificates also may be provided for the same purpose to low-income families who are not very low-income families if permitted pursuant to regulations and procedures implementing section 16(b) of the Housing Act of 1937.

Proposed § 290.25(f) also permits providing a project-based Section 8 subsidy contract if found necessary in order to ensure the financial feasibility of the project after disposition. HUD also proposes, in this rulemaking proceeding, an amendment to 24 CFR 886.311 which would permit the Secretary to enter into a project-based Section 8 contract for a term of less than 15 years if the Secretary determines that such a lesser term is adequate to assure financial feasibility of the project after disposition.

Proposed § 290.20(b) provides for notice to project tenants prior to final determination of the manner of disposition of a project. The notice, which invites tenant comment for a 30-day period, must state:

(1) The proposed manner of disposition, including contemplated conditions on future use and operations of the project and repairs that may be required to be performed by the purchaser;

(2) The extent to which either tenant-based or project-based subsidy will be provided and the eligibility requirements therefor; and

(3) The extent to which temporary or permanent displacement is anticipated, the nature of displacement assistance to be made available, and the eligibility requirements therefor.

While paragraph (a) of proposed § 290.25 provides, consistently with subsection (b)(1) of section 203, that disposition of a multifamily project may be on a negotiated, competitive bid or other basis, paragraph (h) provides that the Secretary generally will seek to maximize competition in project dispositions. Consistently with current § 290.53(c), proposed § 290.25(h) permits negotiated sale to a State or local government agency, tenant cooperative, nonprofit consumer cooperative, or uniquely qualified nonprofit or limited dividend entity. Negotiations for sale to any other purchaser, or for sale to a nonprofit or limited dividend entity, may not be commenced without approval of the Secretary or the Assistant Secretary for Housing.

Provisions regarding displacement assistance are contained in proposed § 290.35, which is substantively similar to current § 290.47 and is consistent with subsection (d) of section 203.

Paragraph (b) covers tenants who will be displaced temporarily as a result of repairs to a multifamily project performed by HUD during its ownership or by a purchaser after disposition. It provides, in accordance with subsection (d)(2)(A) of section 203, that, wherever practicable, such tenants will be afforded the opportunity to return to repaired units in the same project. Consistent with current requirements, the proposed regulation requires that each tenant identified for temporary displacement will be provided a decent, safe and sanitary dwelling unit during the period of temporary displacement, will be reimbursed for expenses incurred in moving to and from a temporarily occupied unit, and will be further reimbursed for any net increase in monthly housing costs incurred during the period of temporary displacement.

Paragraph (c) of proposed § 290.35 covers tenants who will be displaced permanently as a result of the conversion of use or demolition of a project. It provides that tenants facing permanent displacement will be offered

such assistance of the following categories as may be appropriate in their individual circumstances (including alternative assistance where appropriate):

1. Advisory services necessary to locate replacement housing and minimize harships in adjusting to displacement;

2. Preference for occupancy of available units in other HUD-owned multifamily projects or, to the extent that the tenant may be eligible therefore, other HUD-assisted projects;

3. Certificates under the Section 8 existing housing program if the tenant is eligible therefor; and

4. Reimbursement for reasonable moving expenses.

Paragraph (e) of proposed § 290.35 provides that the Secretary may require, as a condition and term of the sale, that the purchaser of a project from which displacement will occur will be obligated to provide displacement assistance to the extent provided for in the sale documents.

Paragraph (f) of proposed § 290.35 provides, consistent with current § 290.47(a), that where disposition is to a State agency which will acquire a project with Federal financial assistance, displacement benefits will be provided in accordance with the Uniform Relocation Act.

Proposed § 290.30 provides that the Secretary may determine to demolish or require a purchaser to demolish a multifamily project or a part thereof if the Secretary determines that the project or a portion thereof is obsolete or unsuitable for housing purposes by reason of physical condition, location or other factors and that no economically feasible program would return the project or portion there to useful life as decent, safe and sanitary housing. The Secretary also may provide for the demolition of a portion of the project if the demolition will help to ensure the useful life of the remaining portion of the project. The criteria for requiring or permitting demolition of a multifamily project are similar to those prescribed by recent legislation regarding demolition of public housing projects. See section 18 of the United States Housing Act of 1937, as added by section 214 of the Housing and Urban-Rural Recovery Act of 1983, Pub. L. 98-181.

Proposed § 290.30 further provides that for purposes of making the required determinations regarding demolition of a multifamily project, the Secretary may find that a program of repairs or other modifications which will cost more than the estimated fair market value of the project after completion of such program is not economically feasible.

Section 290.10, dealing with management of a multifamily project owned by the Secretary, is based on section 203(b)(2). Paragraph (b) of § 290.10 provides that the Secretary generally will seek to maximize competition in the procurement of management services for multifamily projects.

Proposed § 290.12 provides that occupancy in multifamily projects acquired by the Secretary shall be available on a first come, first served basis to persons who meet established standards for tenant selection, consistent with the program objectives stated in § 290.5, except that preference shall be given to tenants of other multifamily projects who are eligible for relocation assistance in accordance with proposed § 290.35.

Paragraph (b) of § 290.12 states the objective of maintaining full occupancy in HUD-owned projects in conformity with section 203(c)(2) of the 1978 Act. Paragraph (c) provides that evictions from HUD-owned projects are governed by 24 CFR Part 450, Subpart B.

Acquisition of title to a project by the Secretary, or acquisition of title by the mortgagee and conveyance to the Secretary, extinguishes the mortgage and any per-existing subsidy contracts. Accordingly, except as many be provided in the terms of outstanding leases, the statutory and regulatory bases for the determination of tenant rents in insured or assisted projects also are extinguished. Proposed § 290.14 would revise the current regulatory provisions governing the rents charged to tenants of HUD-owned projects.

Under current § 290.17, all tentants in formely subsidized projects are charged a rent equal to 25% of adjusted income. This includes tenants of projects formerly subsidized under shallow subsidy programs such as section 221(d)(3) BMIR and section 236. As a result, acquisition of a project by the Secretary has frequently resulted in a substantial increase in the effective subsidy provided to the tenants.

Under the current regulation, tenants of formerly unsubsidized projects as charged at the lower of a market rental rate determined by HUD and the "FHA rate"—i.e., the rent that FHA would have permitted to be charged under the mortgage that existed prior to foreclosure—unless a determination is made to permit lower rents in such projects "to maintain the existing economic mix in the project or to prevent undesirable turnover."

Revision of the current provisions regarding rent charges payable by tenants of HUD-owned projects is desirable in order to conform such provisions to legislative changes enacted in 1981 affecting tenant contributions by Section 8 tenants. In addition, the Department proposes to replace the concept of "FHA rent" in view of revisions in the manner of calculating rents in FHA insured multifamily projects promulgated in 1983.

Proposed § 290.14 provides that following acquisition of title, the Secretary will establish a maximum rent schedule for each unit in a project based on market rents for comparable units in the area. The new maximum rents will become applicable as permitted under the terms of existing leases, except that rent increases may be phased in if necessary to avoid a substantial impact on tenants or to prevent a substantial number of tenants from terminating their leases.

Relief from the foregoing provisions may be available for tenants who would be eligible for Section 8 assistance. Paragraph (c) of proposed § 290.14 provides that tenants who are determined to be "very low-income families" (i.e., with incomes not exceeding 50% of the area median income) may be charged a Section 8 rent, except that no such tenant will be entitled to a decrease below the rent paid prior to acquisition of the project by the Secretary. In the case of applicants admitted to the project after acquisition, "very low-income families" may be charged a rent equal to a Section 8 contribution if necessary in order that an available unit in the project may be affordable to such persons at a rental comparable to that being charged to persons of similar income for comparable units in the project.

Paragraph (d) applies to tenants who are "low income families"—i.e., with incomes not exceeding 80% of area median income but exceeding 50% of area median income. Such a tenant in occupancy at the time of project acquisition may be charged a Section 8 rent if necessary to permit the tenant to remain in the unit. In the case of a new tenant, a Section 8 rent contribution will be charged only if found necessary in order to obtain full occupancy of the project.

Paragraph (e) provides a transitional rule for tenants of HUD-owned projects whose rents are determined by the current regulation at the date of effectiveness of the regulation change. The rent of such a tenant will be determined as if the transitional rules for Section 8 tenants in occupancy at the time of effectiveness of the statutory

Section 8 rent increases were applicable. For example, if the regulation change were to become effective on October 1, 1984, the rent of such a tenant would not be increased to more than 29% of adjusted income and would be subject to a 10% annual cap on rent increases.

Proposed Section 290.40 implements section 204 of the Housing and Community Development Amendments of 1978. It provides that the purchaser of a multifamily project will be required to agree not to refuse unreasonably to lease a dwelling unit in the project which rents for an amount not greater than the fair market rent for a comparable unit in the area to a holder of a certificate of family participation under the Section 8 existing housing program solely because of such prospective tenant's status as a certificate holder.

Proposed § 290.14 provides that Part 290 applies to the management and disposition of any multifamily rental housing project acquired by the Secretary which, prior to such acquisition by the Secretary, was assisted or insured under the National Housing Act, or was subject to a loan under section 202 of the Housing Act of 1959 or section 312 of the Housing Act of 1964. This conforms the coverage of Part 290 to that of Section 203.

A proposed Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implements the National Environmental Policy Act of 1969. (42 U.S.C. 4321–4347). The Finding of No Significant Impact is available for public inspection and copying during regular business hours in the Office of the Rules Docket Clerk, Office of the General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulation. Analysis of the rule indicated that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic export markets.

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 605(b)) the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. This rule would revise the standards governing the Department's determination concerning the manner of sale of HUD-owned projects and would revise the method for computing rents during the Department's management of the project. These revisions should not affect the ability of small entities, relative to larger entities, to bid for and acquire projects that the Department determines to sell.

This rule was listed as Item 104 in the Department's Semiannual Agenda of Regulations, published on April 19, 1984 (49 FR 15902, 15929) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

List of Subjects

24 CFR Part 290

Mortgage insurance, Low and moderate-income housing.

24 CFR Part 886

Grant program—housing and community development, Low and moderate income housing, Rent subsidies.

Accordingly, the Department proposes to amend Chapters II and VII of Title 24 of the Code of Federal Regulations as follows:

1. In Chapter II, Part 290 is proposed to be revised to read as follows:

PART 290—MANAGEMENT AND DISPOSITION OF HUD-OWNED MULTIFAMILY PROJECTS

Sec.

290.1 Applicability.
290.5 Management and disposition objectives.
290.10 Management.
290.12 Occupancy during ownership by the Secretary.
290.14 Rental rates during ownership by the Secretary.
290.20 Factors considered for disposition.
290.25 Manner of disposition.
290.30 Demolition.
290.35 Displacement assistance.
290.40 Occupancy in projects acquired from the Secretary.
290.50 Delegation of authority.

Authority: Secs. 202, 203, 204, Housing and Community Development Amendments of 1978, as amended (12 U.S.C. 1715z–1b, 1701z–11, 1701z–12); Sec. 207, 211, National Housing Act (12 U.S.C. 1713, 1715b); Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)).

§ 290.1 Applicability.

This part applies to the management and disposition of any multifamiliy rental housing project acquired by the Secretary pursuant to any provision of law which, prior to such acquisition by the Secretary, was assisted or insured under the National Housing Act, or was subject to a loan under section 202 of the Housing Act of 1959 or section 312 of the Housing Act of 1964. Any such project owned by the Secretary is referred to in this part as a "multifamily project."

§ 290.5 Management and disposition objectives.

The purpose of the property management and disposition program for multifamily projects owned by the Secretary is to manage and dispose of such projects in a manner which will protect the financial interests of the Federal Government and be less costly to the Federal Government than other reasonable alternatives by which HUD can further the goals of:

(a) Preserving the housing units so that at least those units which, at the time of acquisition, are occupied by low- and moderate-income persons or are vacant are available to and affordable by such persons;

(b) Preserving and revitalizing residential neighborhoods;

(c) Maintaining the existing housing stock in a decent, safe, and sanitary condition;

(d) Minimizing the involuntary displacement of tenants;

(e) Minimizing the need to demolish projects; and

(f) Maintaining the project for the purpose of providing rental or cooperation housing.

In determining the manner by which a multifamily project shall be managed or disposed of, the Secretary may balance competing goals relating to individual projects in a manner which will further the achievement of the overall purpose stated in this section.

§ 290.10 Management.

(a) Except only to the extent determined by the Secretary, on a case-by-case basis, to be clearly inappropriate, given the manner by which an individual project is to be managed or disposed of, HUD will seek to maintain all occupied multifamily projects owned by the Secretary in a decent, safe, sanitary condition.

(b) The Secretary may contract for management services for a multifamily project owned by the Secretary on a negotiated, competitive bid, or other basis on such terms as HUD shall determine to be reasonable, with a manager determined by the Secretary to be capable of (1) implementing a sound financial and physical management program; (2) responding to the needs of tenants and working cooperatively with

resident organizations; (3) providing adequate organizational, staff, and other resources to implement a management program determined by the Secretary; (4) complying with State and local property management licensing requirements; and (5) meeting such other requirements as the Secretary may determine to be necessary or appropriate.

(c) HUD generally will seek to maximize competition in the procurement of management services for multifamily projects: Management services may be procured on a noncompetitive basis only (1) on an interim basis for a period not exceeding 120 days, or (2) with prior approval of the Secretary under negotiation procedures which comply with Part 15 of the Federal Acquisition Regulations (48 CFR Part 15) and Part 2415 of the HUD Acquisition Regulations (48 CFR Part 2415).

§ 290.12 Occupancy during ownership by the Secretary.

(a) Occupancy in multifamily projects acquired by the Secretary shall be available on a first-come, first-served basis to persons who meet established standards for tenant selection consistent with the objectives stated in § 290.5, except that preference shall be given to tenants of other multifamily projects acquired by the Secretary who are eligible for assistance in accordance with § 290.35.

(b) Except only to the extent determined by the Secretary, on a case-by-case basis, to be clearly inappropriate, given the manner by which an individual project is to be managed or disposed of, HUD will seek, to the greatest extent possible, to maintain full occupancy in all multifamily projects.

(c) Evictions from multifamily projects shall be governed by 24 CFR Part 450, Subpart B.

§ 290.14 Rental rates during ownership by the Secretary.

(a) Following acquisition of a project by the Secretary, HUD will establish a maximum rental rate schedule for each unit in the project which shall be comparable to the rates charged for comparable rental housing accommodations in the area, based on unit size, location, condition, services, and amenities provided, and conducive to attracting high occupancy without impacting adversely on the viability of comparable projects in the area. Such maximum rental rate schedule shall be reviewed and updated periodically to assure current comparability. Tenants in occupancy at the time of acquisition of the project by the Secretary shall continue to be charged at the rental rates provided under the terms of leases in effect immediately prior to acquisition until establishment of the maximum rental schedule described in the preceding sentence or such later time as rental changes may be permitted to be effected under the terms of such leases.

(b) When implementation of the maximum rental schedule established in accordance with paragraph (a) of this section, will require increases in the rents payable by tenants, such increases may be effected in phases if necessary to avoid substantial financial impact on tenants or to prevent a substantial number of tenants from terminating their leases.

(c) Notwithstanding the provisions of paragraph (a) of this section, rents charged to persons who are determined to be "very low-income families" (as defined in 24 CFR Part 813) and would be otherwise eligible for assistance under 24 CFR Part 882 may be limited to the rent that would be payable by such persons if the provisions of 24 CFR 813.107(a) were applicable, if the Secretary determine that such limitation is necessary:

(1) In the case of persons who are tenants at the time of acquisition of the project by the Secretary, in order that the unit occupied by such tenants will remain available to and affordable by such tenants, except that the rent payable by any such tenants shall not be required to be decreased below the rent or contribution charged under the lease in effect at the time of acquisition of the project by the Secretary, and

(2) In the case of persons who obtain or apply for admission to the project after acquisition of the project by the Secretary, in order that an available unit in the project may be affordable to such persons at a rental comparable to that being charged to persons of similar income for comparable units in the project.

(d) Notwithstanding the provision of paragraph (a) of this section, rents charged to tenants who are determined to be low-income families other than very low income (as defined in 24 CFR Part 813) and would be otherwise eligible for assistance under 24 CFR Part 882 (without regard to the limitations of 24 CFR 813.105) may be limited to the rent that would be payable by such tenant if the provisions of 24 CFR 813.107(a) were applicable, if the Secretary determines that such limitation is necessary:

(1) In the case of a tenant in occupancy at the time of acquisition of the project by the Secretary, in order that the unit occupied by such tenant will remain available to and affordable by such tenant, except that the rent payable by any such tenant shall not be required to be decreased below the amount charged under the lease in effect at the time of acquisition of the project by the Secretary, and

(2) In the case of a tenant who obtains or applies for occupancy after acquisition of the project by the Secretary, in order to obtain full occupancy of the project.

(e) Notwithstanding the provisions of paragraph (a)–(d) of this section, the rent charged to any tenant of a formerly subsidized multifamily project acquired by the Secretary prior to [effective date of this ruled], who was in occupancy at such date and whose rent was governed by the first sentence of 24 CFR 290.17(b) as in effect prior to [effective dare of this rule] shall be determined as if the provisions of 24 CFR 813.107(b) and (c)(2) were applicable to such tenant.

§ 290.20 Factors considered for disposition.

(a) In determining the manner by which an individual multifamily project is to be disposed of to further the achievement of the overall purpose stated in § 290.5, the Secretary shall consider:

(1) The history of the project, including the purposes of the loan or insurance program or program of HUD assistance under which the project was developed or assisted and the probable causes of project failure resulting in its acquisition by the Secretary;

(2) A financial analysis of the project, including an appraisal of the fair market value of the property for its highest and best use, taking into account the potential for conversion to cooperative or condominium ownership;

(3) A physical analysis of the project, including the condition of the structure(s) and grounds, the need for rehabilitation or repairs, and the estimated costs of any such rehabilitation or repairs;

(4) The income levels of the occupants of the project at the time of its acquisition by the Secretary and, if more than six months have expired since such acquisition and prior to the time of determination of the manner of disposition, at a time reasonably approximate to the time of such determination;

(5) Characteristics, including rental levels, of comparable housing in the area, with particular reference to whether current conditions and discernible trends in the market area fairly indicate a likelihood that, for the foreseeable future after disposition, the

project will continue to provide rental or cooperative housing and market rentals obtainable in the project will be affordable by low- or moderate-income persons;

(6) The availability of or need for rental housing for low- and moderate-income persons in the area, including actions being taken or projected to be taken to address such needs and the impact of such actions on the project;

(7) Feasibility of conversion to cooperative ownership, including the degree of interest and support from present occupants, whether the occupants have the capacity to pay conversion costs, and the impact of conversion on neighborhood preservation and revitalization;

(8) Whether there is interest and capacity the part of any State or local government agency in acquiring the project or in providing assistance for the maintenance of the project as rental or cooperative housing;

(9) An assessment of the number of occupants who might be displaced as a result of the manner of disposition; and

(10) An assessment and/or other findings in accordance with HUD requirements implementing the National Environmental Policy Act of 1969, as amended, in 24 CFR Part 50 and such other statutes, executive orders and HUD standards cited in § 50.4 that are applicable to the disposition of the project.

(b) Except only to the extent determined by the Secretary, on a case-by-case basis, to be clearly inappropriate, given the manner by which an individual project is to be disposed of, HUD will seek to ensure maintenance of the project for purposes of providing rental or cooperative housing for the longest feasible period.

(c) A final determination of the manner by which an individual project is to be disposed of shall not be made until notice of the proposed manner of disposition shall have been given to each tenant of the project, containing an invitation to submit written comments thereon during a period of not less than 30 days following the giving of such notice, and comments received during the stated period have been considered. Such notice shall:

(1) State briefly the proposed manner of disposition of the project, including such conditions upon the sale and the future use and operation of the project as may be contemplated and the extent of any repairs that may be required to be performed by the purchaser after disposition;

(2) State the extent to which assistance under 24 CFR Parts 882 or 886, Subpart C, may be provided pursuant to § 290.25(f) and the eligibility requirements therefor;

(3) State the extent to which temporary or permanent displacement is anticipated as a result of repairs or the proposed disposition, including any anticipated conversion of use, the nature of displacement assistance to be made available pursuant to § 290.35, and the eligibility requirements therefor; and

(4) State that the final determination by the Secretary of the manner by which the project is to be disposed of will not be made until after consideration of comments received from tenants prior to expiration of the specified comment period.

§ 290.25 Manner of Disposition.

(a) HUD may dispose of a multifamily project owned by the Secretary on a negotiated, competitive bid, or other basis, on such terms as the Secretary deems appropriate to furthering the purpose stated in § 290.5, considering the low- and moderate-income character of the project, including the number of units in the project occupied by low- and moderate-income persons.

(b) HUD ordinarily will seek to dispose of each multifamily project owned by the Secretary in such manner as will ensure the maximum return to the mortgage insurance funds. However, HUD may dispose of a project at its fair value for use when the Secretary finds that achievement of the purpose stated in § 290.5 in the disposition of the individual project requires that the project be disposed of at less than its full fair market value for highest and best use.

(c) When the Secretary determines that a project shall be sold at a consideration which is less than its fair market value for highest and best use in order to further a goal stated in § 290.5, the Secretary may impose such conditions upon the sale and the future use and operation of the project as the Secretary deems necessary or appropriate to furthering the achievement of such goal. HUD may require the purchaser of the project to enter into a regulatory or use agreement with HUD containing such terms and conditions (including, when deemed appropriate by HUD, regulation or restriction of rents and rate of return) as the Secretary may determine, whether the project is disposed of for cash or subject to a mortgage held or insured by HUD, which regulatory or use agreement shall be for such term (not less than the term of the mortgage if the property is disposed of subject to a mortgage held or insured by the Secretary) as the Secretary shall determine.

(d) HUD may require that repairs be performed to a project by the purchaser after disposition in order to return the project to decent, safe, and sanitary condition, and may provide such conditions or arrangements as the Secretary shall deem appropriate in order to ensure full and timely performance of such obligation by the purchaser. HUD may provide assistance for the performance of such repairs upon such terms and conditions as the Secretary shall determine.

(e) The Secretary may require the inclusion of appropriate convenants running with the land in the instrument effecting or recording the transfer of a project if the Secretary deems it necessary or appropriate in order to ensure that (1) the project will be maintained for the purpose of providing rental or cooperating housing for the longest feasible period, (2) repairs are completed, or (3) such other commitments as the Secretary may require that a right of reentry, or such other remedy as the Secretary deems appropriate, be included in such covenants.

(f) In connection with the disposition of a multifamily project, HUD:

(1) May provide Certificates of Family Participation pursuant to 24 CFR Part 882 to tenants of the project who are determined to be "very low-income families" (as defined in 24 CFR Part 813) and are otherwise eligible for such assistance, or to tenants of the project who are determined to be lower income families other than very low-income (as defined in 24 CFR Part 813) and are otherwise eligible for such assistance if permitted pursuant to 24 CFR 813.105, if determined by the Secretary to be necessary in order that the units occupied by such tenants will remain available to and affordable by such persons (and may require the purchaser to execute appropriate Housing Assistance Payments Contracts), and

(2) May enter into a contract with the purchaser of such project pursuant to 24 CFR Part 886, Subpart C, to make assistance payments under Section 8 of the United States Housing Act of 1937 with respect to such number of units, and for such term, as the Secretary may deem necessary in order to ensure the financial feasibility of the project after disposition.

(g) Each purchaser of a multifamily project owned by the Secretary shall be determined by HUD to be capable of (1) satisfying the conditions of the disposition; (2) implementing a sound financial and physical management program; (3) responding to the needs of the tenants and working cooperatively with resident organizations; (4) providing adequate organizational, staff and financial resources to the project;

and (5) meeting such other requirements as HUD may determine. All purchasers except Federal, State or local government agencies must be approved under the Previous Participation Review and Clearance procedures in 24 CFR 200.210 *et seq.*

(h) HUD generally will seek to maximize competition in the disposition of multifamily projects. The foregoing policy is intended for the benefit of the insurance funds in order to ensure the maximum return available therefor, after taking into account the Secretary's determinations regarding intended use of the project after disposition resulting from the balancing of goals under § 290.5, and is not intended to give to a prospective purchaser or other party a protectible interest in the Secretary's determination whether to dispose of a project on a competitive basis or otherwise. The Secretary may determine to dispose of a project on a negotiated basis when the Secretary has determined, after consideration of the factors enumerated in § 290.20 in the light of the purpose stated in § 290.5, that it is necessary or appropriate that disposition of the project be made to:

(1) A State or local government agency;

(2) A nonprofit cooperative corporation formed by the present or prospective tenants for the purpose of holding title to the project;

(3) A nonprofit consumer cooperative with successful experience in the operation of nonprofit housing, and a feasible plan for conversion to cooperative ownership;

(4) A nonprofit or limited dividend entity which, on the basis of an established record, is determined to be uniquely qualified in the locality as a source of ownership capable of the successful long-term operation of a project which the Secretary has determined should remain available to and affordable by low- and moderate-income persons.

Negotiations with a view to disposition under circumstances other than those described in paragraphs (h)(1)–(4) of this section may not be commenced without the prior approval of the Secretary. Authority to grant such approval, or to approve the consummation of a disposition on a negotiated basis under any circumstances (including those described in paragraphs (h)(1)–(4) of this section), may be delegated to the Assistant Secretary for Housing but may not be redelegated.

§ 290.30 Demolition.

The Secretary may determine to demolish, or require a purchaser to demolish, a multifamily project or a part thereof if the Secretary determines that the project or a portion thereof is obsolete or unsuitable for housing purposes by reason of physical condition, location or other factors and that no economically feasible program would return the project or portion thereof to useful life as decent, safe, and sanitary housing. In the case of a portion of a project, the Secretary also may determine to demolish, or require a purchaser to demolish, such portion if the Secretary determines that such demolition will help to assure the useful life of the remaining portion of the project. For purposes of making such determinations, the Secretary may find that a program of repairs or other modifications which will cost more than the estimated fair market value of the project after completion of such program is not economically feasible.

§ 290.35 Displacement assistance.

(a) Tenants who are or will be displaced from a multifamily project owned by the Secretary as a result of the repair, conversion of use, or demolition of the project shall be eligible for assistance in accordance with this section.

(b) Tenants who will be displaced temporarily as a result of repairs to a multifamily project owned by the Secretary, or repairs required to be made by the purchaser of a project pursuant to § 290.25(d), will, whenever practicable, be afforded the opportunity to return to repaired units in the same project. Each tenant identified for temporary displacement shall be provided a decent, safe and sanitary dwelling unit during the period of temporary displacement which, to the extent feasible, shall be in a location not generally less desirable than that currently occupied. A temporary displacee will be reimbursed for the expenses incurred in moving to and from a temporarily occupied unit in an amount determined by HUD to be reasonable for the household size and circumstances of the move, and for any net increase in monthly housing costs (rent and reasonable utility costs) incurred during the period of temporary displacement.

(c) Tenants who will be displaced permanently as a result of the conversion of use or demolition of a project shall be offered such assistance of the following categories as may be appropriate in the circumstances of individual tenants (including alternative assistance where appropriate):

(1) Advisory services (provided by HUD or by an appropriate agency designated by HUD) necessary to locate replacement housing and minimize hardships in adjusting to displacement.

(2) Preference for occupancy of available units in other multifamily projects owned by the Secretary or, to the extent that the tenant may be eligible for occupancy therein, in projects assisted by HUD.

(3) Assistance under 24 CFR Part 882 if the tenant is determined to be eligible therefor.

(4) Reimbursement for reasonable moving expenses not to exceed an amount determined by HUD to be reasonable for the household size and circumstances of the move.

(d) Tenants who will be displaced and are eligible for assistance under this section shall be given notice of the pending displacement and of the assistance offered not less than 30 days prior to the projected date of displacement. A tenant to whom such notice is given who moves from the project after such notice shall be eligible for the assistance specified in such notice.

(e) HUD may require that the purchaser of a project from which displacement will occur shall be obligated to provide assistance in accordance with this section to the extent provided for in the documents providing for the disposition.

(f) Where disposition is to a State agency (as defined in 24 CFR 42.85) which will acquire a project with Federal financial assistance (as defined in 24 CFR 42.61), displacement benefits will be provided in accordance with 24 CFR Part 42 in lieu of assistance specified in this section.

§ 290.40 Occupancy in projects acquired from the Secretary.

The purchaser of any multifamily project shall be required to agree not to refuse unreasonably to lease a dwelling unit in the project which rents for an amount not greater than the fair market rent for a comparable unit in the area as determined pursuant to 24 CFR 888.102 to a holder of a Certificate of Family Participation pursuant to 24 CFR Part 882 solely because of such prospective tenant's status as a certificate holder. Such agreement shall be contained in any contract of sale and also may be contained in any regulatory agreement, use agreement, or deed entered into connection with the disposition.

§ 290.50 Delegation of authority.

The functions, powers, and duties of the Secretary provided in this Part are delegated to the Assistant Secretary for Housing—Federal Housing Commissioner, who is authorized to

exercise such functions, powers, and duties in the name of the Secretary and, except as expressly limited in this part, to redelegate and authorize successive redelegations of such authority.

PART 886—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—SPECIAL ALLOCATIONS

2. Section 886.311 is proposed to be amended by revising paragraph (a) to read as follows:

§ 886.311 Term of contract.

* * * * *

(a) If the project units require no rehabilitation or moderate rehabilitation, the term shall not exceed 15 years.

* * * * *

Dated: September 13, 1984.

Maurice L. Barksdale,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 84-27326 Filed 10-17-84; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 51

[LR-220-83]

Tax Treatment of Partnership Items for Windfall Profit Tax Purposes

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The document contains proposed regulations relating to the tax treatment of partnership items for pruposes of the windfall profit tax. The Tax Equity and Fiscal Responsibility Act of 1982 changed the applicable tax law. The proposed regulations would provide guidance to partnerships with oil production subject to windfall profit tax, their partners, and Internal Revenue Service personnel.

DATES: Written comments must be delivered or mailed by December 17, 1984.

The regulations extending the rules for consolidated partnership proceedings to windfall profit tax (§ 51.6232(a)–1) and setting out the definition of partnership items (§ 51.6232(a)–2) are proposed to be effective for taxable periods beginning after December 31, 1982. The remaining regulations are proposed to be effective for taxable periods beginning after December 31, 1984.

ADDRESS: Send comments to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR–220–83), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Nerman Dobynes Hubbard of the Legislation and Regulations Division, Internal Revenue Service (202–566–3297).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed regulations under section 6232 of the Internal Revenue Code of 1954, relating to extension of the partnership audit rules under Code sections 6221 through 6231 to the windfall profit tax. The Tax Equity and Fiscal Responsibility Act of 1982 added sections 6221 through 6232 to the Code. These proposed regulations are to be issued under the authority contained in sections 6232 (96 Stat. 666; 26 U.S.C. 6232) and 7805 (68A Stat. 917; 26 U.S.C. 7805) of the Internal Revenue Code of 1954.

Explanation of Provisions

Section 6232 provides for consolidated administrative and judicial proceedings to determine the proper tax treatment of partnership items for purposes of the windfall profit tax. The proposed regulations provide that, unless otherwise specifically provided in the proposed regulations, the rules and procedures for determining the tax treatment of partnership items for income tax purposes will apply in the determination of the tax treatment of partnership items for windfall profit tax purposes. For example, the tax matters partner for income tax purposes shall be the tax matters partner for windfall profit tax purposes. Similarly, the period of limitation for filing an administrative adjustment request under section 6227 and for assessing any deficiency attributable to partnership items under section 6229 shall apply except that the reference in section 6227 or 6229 to the partnership return shall, for windfall profit tax purposes, refer to the Form 6248 filed by the partnership. The proposed regulations also define the term "partnership item" for purposes of the windfall profit tax.

Section 6232(c)(1) permits the partnership to be treated as authorized to act on behalf of the partners in the determination, assessment, and collection of the windfall profit tax. The proposed regulations make this authority elective and explain how to make the election. This provision gives the partnership, acting through the tax matters partner, broad authority to act as agent for the partners on all matters relating to the windfall profit tax.

Partners, however, have the right to elect to negate the partnership's agency authority. Any partner or any group of partners owning in the aggregate at least 5 percent of the income interest of the partnership may negate the authority of the partnership to act on behalf of the partners by filing a "5-percent election." Additionally, any partner may negate the authority of the partnership to act on his or her behalf by filing an "individual election." The procedures for filing these elections are set forth in the regulations.

If the partnership elects to act on behalf of the partners and no 5-percent election is made, the partnership shall compute the windfall profit tax liability with respect to each partner represented by the partnership (taking into account the net income limitation, independent producer amounts, and producer exemptions) and pay any additional windfall profit tax owed or file a claim for refund or credit due on behalf of those partners. Since such a partner will be represented by the partnership in all administrative and judicial proceedings, the partner is not entitled to receive notice regarding these proceedings or permitted to attend these proceedings. However, the partnership shall furnish that partner any and all windfall profit tax information necessary for the verification of the tax computed by the partnership or the determination of the partner's entitlement to independent producer lower rates or royalty owner exemptions if the partner requests such information.

The partnership is not required to furnish a Form 6248 to a partner represented by the partnership. Instead, the partnership shall furnish the partner a statement indicating the amount of windfall profit tax withheld or paid for the partner's share of partnership production during the removal year and the amount of the partner's share of any partnership level adjustment made during the removal year with respect to an earlier removal year.

Comments and Public Hearing

Before adoption of these proposed regulations, consideration will be given to any written comments that are submitted (preferably eight copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying.

The collection of information requirements contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act. Comments on these requirements should be sent to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer

for Internal Revenue Service, New Executive Office Building, Washington, D.C. 20503. The Internal Revenue Service requests that persons submitting comments on these requirements to OMB also send copies of those comments to the Service.

Regulatory Flexibility Act and Executive Order 12291

The Secretary of the Treasury has certified that the regulations proposed herein will not have a significant economic impact on a substantial number of small entities. The proposed regulations attempt to limit the paperwork burden to the minimum necessary to ensure that partners are aware of their rights and that the Service is able to administer the law efficiently. The paperwork burden will be substantial only for partnerships that have a very large number of partners. Accordingly, these proposed regulations are not subject to the requirements of the Regulatory Flexibility Act of 1980 (5 U.S.C. chapter 6).

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined Executive Order 12291 and that a regulatory impact analysis is therefore not required.

Drafting Information

The principal author of these proposed regulations was Donald W. Stevenson of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Evaluation of the effectiveness of the proposed regulations after issuance will be based upon comments received from offices within Treasury and the Internal Revenue Service, other governmental agencies, and the public.

List of Subjects in 26 CFR Part 51

Excise tax, Petroleum, Crude Oil Windfall Profit Tax Act of 1980.

Amendment of Regulations

Accordingly, it is proposed to amend the Excise Tax Regulations under the Crude Oil Windfall Profit Tax Act of 1980 (26 CFR Part 51) as follows:

The following new §§ 51.6232(a)–1, 51–6232(a)–2, and 51–6232(c)–1 through 51.6232(c)–5 are added in the appropriate place to read as follows:

§ 51.6232(a)–1 Partnership items for windfall profit tax purposes determined at the partnership level.

(a) *Sections 6221 through 6231 of the Code made applicable to windfall profit tax*—(1) *In general.* Except as otherwise provided in §§ 51.6232(c)–1 through 51.6232(c)–5 or this section, the rules and procedures for determining the tax treatment of partnership items for income tax purposes as set forth in sections 6221 through 6231 of the Code and the regulations under those sections shall apply in determining the tax treatment of partnership items (as defined in § 51.6232(a)–2) for windfall profit tax purposes. For example, the partner who is the tax matters partner for income tax purposes shall also be the tax matters partner for windfall profit tax purposes.

(2) *Information furnished for income tax purposes shall be used for windfall profit tax purposes.* Information furnished to the Service for income tax purposes by the tax matters partner or any other person under sections 6221 through 6231 (for example, information furnished to identify a previously unidentified partner or information furnished to determine whether the partner is entitled to notice) shall be used to the extent possible for windfall profit tax purposes.

(3) *Periods of limitations.* The period of limitation for filing a request for an administrative adjustment of, or for assessing any tax attributable to, any partnership item for purposes of the windfall profit tax shall be determined under section 6227 or 6229, except that any reference to the partnership return shall mean the "first" Form 6248 which is required to be filed by the partnership with the Service for the removal year to which the return relates. The last day for filing the "first" Form 6248 (determined without regard to extensions) shall be May 31 of the first year following the close of the removal year in which the crude oil was removed. See § 51.6232 (c)–1 (b)(7) for extension of time for taking certain actions.

(4) *Request for administrative adjustment*—(i) *In general.* Any claim for credit or refund or any return with respect to any overpayment or underpayment of windfall profit tax on partnership production shall be treated as a request for administrative adjustment within the meaning of section 6227 to the extent that the claim or return treats any partnership item in a manner that is inconsistent with the treatment of that item on the "first" Form 6248 filed by the partnership. Thus, for example, section 6228 applies in determining when a partner may file suit if the request for adjustment is not allowed.

(ii) *Certain rules as to form disregarded.* Requirements that a request for administrative adjustment for income tax purposes be filed on a particular form or in a particular manner do not apply in the case of a request for administrative adjustment for windfall profit tax purposes. The partnership or the partner may file a claim for credit or refund, or a return, of windfall profit tax with respect to partnership production in the same manner as a claim or return with respect to nonpartnership production.

(b) *Other windfall profit tax regulations remain applicable.* Except to the extent otherwise provided in §§ 51.6232(c)–1 and 51.6232(c)–5, the partnership and each partner shall comply with the requirements set forth in other provisions of this part or in Part 150 of this chapter for furnishing information, filing returns, paying additional tax, or claiming a credit or refund. For example, a partnership that does not make an election to represent partners under section 6232(c) shall furnish to partners and file with the Service the Form 6248 in the time and manner prescribed in § 51.4997–2.

(c) *Income tax deduction for windfall profit tax paid.* The partner shall take the partner's share of the windfall profit tax paid or withheld with respect to partnership oil removed during the removal year as reported by the partnership into account in determining the partner's income tax deduction for windfall profit tax paid during that year. In making that determination the partner shall also take into account any statement received from the partnership regarding any additional windfall profit tax paid, or any credit or refund of windfall profit tax received, during that removal year by the partnership on behalf of that partner with respect to any earlier removal year. If the partnership, as a result of receiving additional information, furnishes the partner a revised statement with respect to the amounts described above, the partner shall amend the partner's income tax return (if already filed) to reflect the revisions.

(d) *Effective date.* The rules set forth in this section are applicable to taxable periods beginning after December 31, 1982.

§ 51.6232 (a)–2 Definition of partnership item.

(a) *In general.* For purpose of section 6232 and the regulations thereunder, the term "partnership item" means any item relating to the determination of the tax

imposed by chapter 45 to the extent that such item is more appropriately determined at the partnership level than at the partner level.

(b) *Partnership items.* The following items with respect to oil removed from any property in which the partnership holds an interest are more appropriately determined at the partnership level than at the partner level and, therefore, are partnership items:

(1) The tier or tiers of the crude oil;

(2) The quantity of crude oil in each tier;

(3) The adjusted base price and removal price;

(4) The severance tax adjustment;

(5) The determination of whether the oil qualifies as exempt Alaskan oil;

(6) The determination of when removal from the premises occurs and what constitutes the property;

(7) The percentage interest of each partner in the oil removed;

(8) The amount of (and each partner's share of) the windfall profit tax withheld from, or paid by, the partnership for partnership oil removed during the taxable period;

(9) The windfall profit tax liability of each partner for that partner's share of the partnership oil removed during the taxable period (computed without regard to the net income limitation and on the assumption that information furnished to the partnership by the partner with respect to the partner's status as an independent producer or exempt status is correct); and

(10) The net income limitation to the extent that the limitation can be computed at the partnership level.

(c) *Effective date.* The provisions of this section are applicable to taxable periods beginning after December 31, 1982.

§ 51.6232 (c)–1 Partnership authorized to act on behalf of partners for a removal year beginning after 1984.

(a) *Overview of partnership authority and responsibilities*—(1) *In general.* Except to the extent otherwise provided in paragraph (a) (2) and (3) of this section, the partnership, acting through its tax matters partner, shall be authorized to act on behalf of the partners of that partnership in the determination, assessment, and collection of the windfall profit tax for a removal year beginning after 1984 if the partnership elects to do so in accordance with the requirements of § 51.6232 (c)–2 (b). If the partnership elects to act on behalf of the partners in this regard, the partnership's responsibilities to file with the Service and furnish to the partner any information, statement, or return are set forth in this section. If the partnership does not elect to act on behalf of the partner, it shall file with the Service and furnish to the partners any information, statement, or return required by other provisions of this part or by Part 150 of this chapter in the time and manner prescribed by those regulations.

(2) *Partnership authority negated by "5-percent election."* The authority of the partnership to act on behalf of the partners with respect to the windfall profit tax is negated if any partner or any group of partners who in the aggregate own at least a 5-percent interest in the income of the partnership make the election provided in § 51.6232 (c)–3. Paragraph (d) of this section sets out the responsibilities of the partnership in the event that a 5-percent election is made.

(3) *Partnership authority negated by "individual election."* The authority of the partnership to act on behalf of a particular partner with respect to the windfall profit tax is negated if that partner makes the election provided in § 51.6232(c)–4. Paragraph (c) of this section sets out the responsibilities of the partnership with respect to a partner who makes the "individual election."

(4) *Rules applicable to partner not represented by partnership.* For rules applicable to a partner when partnership authority to act on behalf of the partner is negated by an election under § 51.6232(c)–3 or § 51.6232(c)–4, see § 51.6232(c)–5.

(5) *Cross reference.* For rules applicable to removal years 1983 and 1984, see § 150.6232(c)–1.

(b) *Partnership responsibility with respect to partner who does not elect to negate the authority of the partnership to act on its behalf*—(1) *In general.* If the partnership elects to be treated as authorized to act on behalf of the partners and no 5-percent election is made in accordance with § 51.6232(c)–3, this paragraph (b) shall apply with respect to any partner who has not made an individual election under § 51.6232(c)–4 to negate the authority of the partnership.

(2) *Information to be furnished to partner*—(i) *Information in lieu of 6248.* The partnership is not required to furnish the partner a Form 6248. Instead, the partnership shall furnish to the partner a statement indicating the partner's allocable share of the windfall profit tax paid or withheld during the removal year; see § 51.6232 (a)–1 (c). This statement shall be furnished to the partner by the first March 31 following the removal year to which the statement relates.

(ii) *Later adjustments.* If the partnership—

(A) Pays an additional windfall profit tax, or

(B) Receives any credit or refund of windfall profit tax paid or withheld, with respect to a partner's share of partnership production for a removal year for which the partnership is authorized to act on behalf of the partner, the partnership shall notify the partner of the adjustment so that the partner may take the amount of the adjustment into account appropriately for income tax purposes. The partnership shall provide this notice at the same time as the partnership furnishes information to the partner with respect to windfall profit tax withheld or paid during the removal year in which the adjustment occurs.

(3) *Partnership required to file Form 6248 with Service.* The partnership shall furnish a Form 6248 with respect to the partner to the Austin Service Center (at the address specified in paragraph (e) of this section) by the first June 30 following the year to which the form relates. This Form 6248 shall show the amount of windfall profit tax allocable to the partner that was actually withheld or paid during the removal year and any adjustment made by the partnership with respect to that partner to eliminate any overpayment or underpayment. The partnership shall furnish a separate Form 6248 for each partner; the partnership is not permitted to submit an aggregate Form 6248 for all partners.

(4) *Partnership shall pay tax or file claim for credit or refund*—(i) *In general.* The partnership shall compute the windfall profit tax liability of the partner with respect to partnership production (taking into account the net income limitation and the partner's independent producer amounts and exemptions) for the removal year. On or before the date on which the partnership furnishes to the Service the Form 6248 with respect to a partner under paragraph (b)(3) of this section, the partnership shall file with the Austin Service Center (at the address set out in paragraph (e) of this section) a Form 720, Quarterly Federal Excise Tax Return, with Form 6047, Windfall Profit Tax, attached and pay any additional tax owed with respect to the partner. The partnership may also, at any time within the applicable limitations period, file a Form 843, Claim, and claim any credit or refund due with respect to the partner. The partnership is not authorized to seek any adjustment in withholding to offset any overpayment of windfall profit tax during the removal year.

(ii) *Partnership may file aggregate return or claim.* The partnership may file

an aggregate return or claim for refund on behalf of all partners for whom the partnership is authorized to act. The partnership shall attach to the aggregate return or claim a statement showing the amount of the underpayment or overpayment allocable to each partner. If partners hold identical "unit" interests and the underpayment or overpayment with respect to each "unit" is the same, the partnership may state the underpayment or overpayment with respect to a "unit," identify each person holding a "unit," and specify the number of "units" held by each person.

(iii) *Partnership to assume that partner certifications are correct.* For purposes of computing the windfall profit tax liability of a partner, the partnership shall treat as correct certifications furnished by the partner as to the partner's producer status. Accordingly, if the partner certifies that the partner is an independent producer or a qualified royalty owner, the partnership shall assume that the partner is in fact an independent producer or a qualified royalty owner in computing the partner's liability.

(iv) *Partner barred from filing claim based on partnership items.* The partnership has an exclusive right to file a claim for refund of an overpayment of windfall profit tax if the overpayment arises from partnership items. The partner may file a claim for refund only if the overpayment arises from nonpartnership items; for example, the partner may file a claim for refund on the grounds that the partner is an independent producer but failed to certify that fact to the partnership.

(5) *Partnership shall represent partner in all proceedings.* The tax matters partner shall represent the partner in all administrative and judicial proceedings. Therefore, the partner shall not be permitted to participate in these proceedings or be entitled to receive the notices described in section 6223(a). The tax matters partner shall not be required to keep the partner informed of administrative or judicial proceedings. However, the partnership shall furnish to the partner upon request any and all windfall profit tax information necessary for the verification of the tax computed by the partnership or the determination of the partner's entitlement to independent producer lower rates or royalty owner exemptions.

(6) *Settlement authority.* Any settlement entered into by the tax matters partner is binding on the partner. The partner is not permitted to enter into a separate settlement with the Service; accordingly, the partner is not permitted to request consistent settlement terms under section 6224(c).

(7) *Extension of time for certain actions.* The provisions of paragraphs (b)(3) and (b)(4) of this section that permit a return to be filed or a payment to be made later than the date otherwise prescribed for the filing of that return or the making of that payment under the Code or the applicable regulations operate an extensions of the period otherwise prescribed.

(c) *Partnership responsibilities with respect to partner who has made an individual election*—(1) *In general.* If the partnership makes the election described in § 51.6232(c)–2 to act on behalf of the partners and no 5-percent election is made, this paragraph (c) shall apply with respect to any partner who makes the individual election under § 51.6232(c)–4 to negate the authority of the partnership.

(2) *Partnership shall furnish Form 6248.* The partnership shall furnish a Form 6248 with respect to the partner to the Austin Service Center (at the address specified in paragraph (e) of this section) and to that partner within the time period prescribed in § 51.4997–2. Since the partnership is not authorized to make any adjustment to eliminate an overpayment or underpayment with respect to the partner, the Form 6248 will not show any adjustment made by the partnership.

(3) *Partnership may not file return or claim on behalf of partner.* The partnership may not file any return (Form 720) or any claim for credit or refund (Form 843) on behalf of the partner.

(4) *Partnership does not represent partner in proceedings.* Unless otherwise agreed upon between the partner and the partnership, the partnership shall not represent the partner in administrative or judicial proceedings to determine the proper treatment of partnership items with respect to the windfall profit tax.

(d) *Partnership responsibilities in event 5-percent election is made.* If the partnership elects to act on behalf of the partners in accordance with § 51.6232(c)–2 but a 5-percent election is made to negate that authority, the partnership shall furnish a Form 6248 with respect to each partner in the partnership to the Service and to the partner by the time prescribed in § 51.4997–2. The Forms 6248 furnished to the Service shall be filed with the service center designated on that form. The partnership is not permitted to make any adjustment with respect to the partners under these circumstances.

(e) *Address of Austin Service Center.* The address of the Austin Service Center to be used for purposes of this section and §§ 51.6232(c)–2 through 51.6232(c)–5 is: Internal Revenue Service Center, WPT Staff, P.O. Box 1231, Austin, Texas 78767, Stop 89.

§ 51.6232(c)–2 Election to act on behalf of partners for a removal year after 1984.

(a) *In general.* The partnership may elect to be treated as authorized to act for its partners for a removal year after 1984 by furnishing to the Service the notice described in paragraph (b) of this section. This election is an annual election. The partnership must furnish a separate notice for each removal year for which the partnership wishes to make this election. For rules with respect to removal years 1983 and 1984, see § 150.6232(c)–2.

(b) *Notice to the Service*—(1) *Content of notice.* The partnership shall furnish to the Internal Revenue Service a notice that identifies the partnership by name, address, and identification number and is signed by the tax matters partner. The notice shall state that the partnership intends to:

(i) Act on behalf of all partners in any judicial or administrative proceeding with respect to partnership items for windfall profit tax purposes for a removal year;

(ii) Pay on behalf of the partners any additional windfall profit tax determined to be due to reflect the proper treatment of partnership items for that removal year;

(iii) Receive on behalf of the partners any credit for, or refund of, any overpayment of windfall profit tax attributable to partnership items for that removal year; and

(iv) Reimburse the Service upon request for any duplicate refund made to a partner.

(2) *Time and place for filing.* The notice shall be filed with the Austin Service Center (at the address specified in § 51.6232 (c)–1 (e)) on or before September 30 of the removal year to which the election applies.

(c) *Notice to the partners*—(1) *In general.* A partnership that makes an election by filing a notice under paragraph (b) of this section shall furnish to each of its partners by September 30 of the removal year to which the notice relates a notice that includes the information contained in the notice under paragraph (b) of this section.

(2) *Further information required.* The notice sent to the partners shall also—

(i) Explain the right of any partner or any group of partners holding a 5-

percent or greater interest in the income of the partnership to negate the authority of the partnership to act on behalf of all partners by filing a notice in accordance with § 51.6232(c)–3; and

(ii) Explain the right of each partner individually to elect not to have the partnership act on behalf of that partner by filing a notice in accordance with § 51.6232(c)–4.

§ 51.6232(c)–3 "5 percent" election for removal years after 1984.

(a) *In general.* Any partner or group of partners owning in the aggregate at least 5 percent of the income interest of the partnership may elect to negate the authority of the partnership to act on behalf of the partners for a removal year after 1984 by filing a written notice to that effect. For rules with respect to removal years 1983 and 1984 see § 150.6232(c)–3.

(b) *Procedure for making election*—(1) *Time and place for filing.* The notice described in paragraph (a) of this section shall be filed with the Austin Service Center (at the address specified in § 51.6232 (c)–1 (e)) on or before December 31 of the removal year to which the election applies.

(2) *Content of notice.* The notice shall—

(i) Identify the partnership by name, address, and identification number;

(ii) Identify the partners forming the 5–percent group by name, address, identification number, and percentage interest in the partnership;

(iii) Be signed by all members of the group making the election; and

(iv) Be clearly identified as an election to negate the authority of the partnership to act for all partners.

Any notice not clearly identified as a notice of election under this section shall be treated as an individual election under § 51.6232(c)–4. Thus, for example, a notice by a single partner owning a 5–percent interest that is not clearly identified as an election to negate the authority of the partnership to act for all partners shall be treated as an individual election under § 51.6232(c)–4.

(3) *Copy for partnership.* A copy of the notice shall be furnished to the partnership.

§ 51.6232(c)–4 Individual election for removal years after 1984.

(a) *In general.* Any partner desiring that the partnership not be authorized to act on its behalf for a removal year after 1984 shall file a notice in accordance with the rules set forth in this section. For rules with respect to removal years 1983 and 1984, see § 150.6232(c)–4.

(b) *Procedure for making election*—(1) *Time and place for filing.* The notice described in paragraph (a) of this section shall be filed with the Austin Service Center (at the address specified in § 150.6232 (c)–1 (e)) on or before December 31 of the removal year to which the election applies.

(2) *Content of notice.* The notice shall clearly identify the partner and the partnership by name, address, and identification number and shall state that it constitutes an election to deny the partnership the right to represent the partner in proceedings related to windfall profit tax on partnership production during the removal year. The notice shall be signed by the partner.

(3) *Copy for partnership.* A copy of the notice shall be furnished to the partnership within the period prescribed for filing the notice.

§ 51.6232(c)–5 Partner responsibility when partnership authority is negated for removal year after 1984.

(a) *In general.* If the partnership makes an an election under § 51.6232(c)–2 to act on behalf of the partners for a removal year after 1984, this section shall apply with respect to—

(1) All partners if an election under § 51.6232(c)–3 is made, and

(2) Any partner who makes an election under § 51.6232(c)–4.

For rules with respect to removal years 1983 and 1984. see § 150.6232(c)–5.

(b) *Partner shall pay additional tax or claim credit or refund.* The partner shall aggregate the Form 6248 information received from the partnership with Form 6248 information received from other sources to determine whether a net overpayment or underpayment of windfall profit tax exists for the partner's interests in oil properties. If a net underpayment exists, the partner shall file Form 720 with the service center designated on that form and pay any tax due by the time prescribed in § 51.6076–1. If a net overpayment exists, the partner may file a Form 843 of any other appropriate form to claim a credit or refund in accordance with the applicable instructions.

(c) *Partner is in same position as under rules for income tax proceedings.* The partner retains any right with respect to the determination of the tax treatment of partnership items for windfall profit tax purposes that the partner would possess under sections 6221 through 6231 and the regulations under those sections. For example, the partner is entitled to receive notice of the proceedings from the tax matters partner or the Service if that partner is entitled to receive notice under section 6223 of the Code, and the partner is entitled to participate in any administrative or judicial proceeding. Similarly, a settlement agreement entered into between the Service and the tax matters partner is binding on that partner if a settlement entered into under section 6224(c) of the Code would be binding on the partner.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 84–27600 Filed 10–17–84; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD7–84–34]

Drawbridge Operation Regulations; Gulf Intracoastal Waterway—Florida

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Florida Department of Transportation, the Coast Guard is considering a change to the regulations governing the Pinellas Bayway, Structure "C", drawbridge by permitting the number of openings to be limited during certain periods. This proposal is being made because of a steady increase in both marine and vehicular traffic at the bridge.

This action should accommodate the needs of vehiclar traffic and should still provide for the reasonable needs of navigation.

DATE: Comments must be received on or before December 3, 1984.

ADDRESSES: Comments should be mailed to Commander (oan), Seventh Coast Guard District, 51 Southwest 1st Avenue, Miami, Florida 33130.

The comments and other materials referenced in this notice will be available for inspection and copying at 51 Southwest 1st Avenue, Room 816, Federal Building, Miami, Florida 33130. Normal office hours are between 7:30 a.m. and 4:00 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Mr. Walt Paskowsky, Bridge Administration Specialist, telephone: (305) 350–4103.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data, or arguments. Persons submitting comments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal.

Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

The Commander, Seventh Coast Guard District, will evaluate all communications received and determine a course of final action on this proposal. The proposed regulations may be changed in light of comments received.

Drafting Information

The drafters of this notice are Mr. Walt Paskowsky, Bridge Administration Specialist, project officer, and Lieutenant Commander, Ken Gray, project attorney.

Discussion of Proposed Regulations

Vehicular and marine traffic is heaviest on weekends when there is a conflict aggravated by multiple drawbridge openings. The proposed rule will provide for 4 openings per hour on weekends from 9:00 a.m. to 6:00 p.m. which is about the same number that actually occurred during the 15-day traffic count taken in May 1984. However, this operation will eliminate the multiple drawbridge openings. The regulations if approved will exempt public vessels of the United States, tugs with tows, and vessels in distress which shall be passed through the draw at any time.

Economic Assessment and Certification

These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of the proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. We conclude this because navigation upon the waterway is primarily recreational in character and the regulations will exempt tugs with tows. Since the economic impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

In consideration of the foregoing, The Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations, by redesignating paragraph (e) of § 117.287 as paragraph (e–2) without change and adding a new paragraph (e–1) to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.287 Gulf Intracoastal Waterway, Caloosahatchee River to Perdido River.

* * * * *

(e–1) The draw of the Pinellas Bayway, Structure "C" bridge, mile 114, at St. Petersburg Beach shall open on signal; except that from 9:00 a.m. to 6:00 p.m. on Saturdays, Sundays, and holidays, the draw need be opened only on the hour, quarter-hour, half-hour, and three-quarter hour.

* * * * *

(33 U.S.C. 499; 49 CFR 1.46 (c)(5); 33 CFR 1.05–1 (g)(3))

Dated, October 5, 1984.

A.R. Larzelere,

Captain, U.S. Coast Guard, Acting Commander, Seventh Coast Guard District.

[FR Doc. 84–27561 Filed 10–17–84; 8:45 am]

BILLING CODE 4910–14–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. 6625]

Proposed Flood Elevation Determinations; Alabama et al.

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations and proposed modified base flood elevations listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, D C. 20472 (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the proposed determinations of base (100-year) flood elevations for selected locations in the nation, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a)).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or Regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The proposed base (100-year) flood elevations for selected locations are:

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Alabama	Unincorporated Areas of Baldwin County	Mobile River	Just upstream of Interstate 65	*12
			At confluence of Alabama River	*19
		Tombigbee River	At confluence of Alabama River	*19
			About 3.5 miles upstream of confluence of Alabama River.	*19
		Magnolia River	At mouth at Weeks Bay	*10
			About 2100 feet upstream of County Highway 49	*10
			About 1000 feet downstream of U.S. Highway 98	*24
		Bon Secour River	About 1.4 miles downstream of confluence of Brights Creek.	*10
			About 1.25 miles upstream of County Highway 10	*10
		Blackwater River	About 3.1 miles downstream of U.S. Highway 90	*87
			Just upstream of U.S. Highway 90	*83
			At confluence of Mill Creek	*86
		Fish River	Just upstream of U.S. Highway 98	*10
			Just downstream of County Highway 32	*10
			About 1.0 mile upstream of U.S. Highway 90	*104
		Threemile Creek	At confluence with Fish River	*104
			Just downstream of Interstate 10	*114
		Styx River	About 1.1 miles downstream of confluence of Styx River Tributary.	*189
			Just downstream of County Highway 40	*238
		Styx River Tributary	At confluence with Styx River	*191
			Just downstream of Unnamed Road	*223
		D'Olive Creek	Just downstream of Lake Forest dam	*12
			Just upstream of Lake Forest dam	*22
			Just downstream of U.S. Highway 90	*31
		D'Olive Creek Tributary	At confluence with D'Olive Creek	*28
			About 1.03 miles upstream of confluence with D'Olive Creek.	*59
		Tiawasee Creek	At confluence with D'Olive Creek (Lake Forest)	*22
			About 120 feet upstream of Ridgewood Drive	*45
			About 1400 feet upstream of Ridgewood Drive	*63
		Tiawasee Creek Tributary	At confluence with Tiawasee Creek	*47
			About 1.1 miles upstream of Greenwood Drive	*101
		Red Hill Creek	About 4700 feet downstream of State Highway 225	*11
			About 2.4 miles upstream of State Highway 225	*101
		Red Hill Creek Tributary	At confluence with Red Hill Creek	*11
			About 1.48 miles upstream of confluence with Red Hill Creek.	*53
		McCurtin Creek	About 2300 feet downstream of U.S. Highway 31	*156
			About 250 feet downstream of the Louisville and Nashville Railroad.	*192
			Just upstream of the Louisville and Nashville Railroad	*203
			About 170 feet upstream of County Highway 59	*205
		McCurtin Creek Tributary	At confluence with McCurtin Creek	*203
			About 3700 feet upstream of County Highway 59	*222
		Whitehouse Creek	About 2.5 miles downstream of State Highway 138	*118
			About 1.75 miles upstream of State Highway 138	*218
		Whitehouse Creek Tributary	At confluence with Whitehouse Creek	*129
			About 550 feet upstream of Unnamed Road	*164
		Dogwood Creek	About 4650 feet downstream of Unnamed Road	*166
			About 1.8 miles upstream of Unnamed Road	*221
		Dogwood Creek Tributary	At confluence with Dogwood Creek	*176
			About 1.15 miles upstream of confluence with Dogwood Creek.	*202
		Honeycut Creek	At mouth at Tensaw River	*11
			Just downstream of the Louisville and Nashville Railroad	*82
			Just upstream of the Louisville and Nashville Railroad	*92
			About 4,700 feet upstream of the Louisville and Nashville Railroad.	*103
		Stony Hill Creek	At mouth at Hurricane Bayou	*11
			Just downstream of the Louisville and Nashville Railroad.	*62
			Just upstream of the Louisville and Nashville Railroad	*89
			About 1,500 feet upstream of State Highway 225	*89
		Bay Minette Creek	About 1,000 feet downstream of confluence of Bay Minette Creek Tributary.	*117
			About 1.3 miles upstream of confluence of Bay Minette Creek Tributary	*156
		Bay Minette Creek Tributary	At confluence with Bay Minette Creek	*121
			About 1.9 miles upstream of confluence with Bay Minette Creek.	*179
		Hollinger Creek	Just upstream of Unnamed Road	*177
			About 2.5 miles upstream of Unnamed Road	*216
		Rock Creek (Daphne)	Just upstream of Eastern Shore Boulevard	*11
			About 2.1 miles upstream of U.S. Highway 98	*76
		Rock Creek (Robertsdale)	At confluence with the Blackwater River	*72
			Just upstream of County Highway 52	*84
			About 1.2 miles upstream of County Highway 52	*100
		Boggy Branch	At confluence with the Bon Secour River	*10
			Just upstream of State Highway 59	*20
		Perone Branch	At confluence with the Fish River	*35
			Just upstream of State Highway 104	*40
		Bay Branch	At confluence with the Fish River	*87
			Just downstream of U.S. Highway 90	*104
		Corn Branch	At confluence with the Fish River	*56

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Just downstream of County Highway 49	*163
		Durbin Branch	About 2.8 miles upstream of the mouth	*174
			About 3.6 miles upstream of the mouth	*202
		Martin Branch	At mouth at Red Hill Creek	*11
			About 2.3 miles upstream of State Highway 225	*97
		Tatumville Gully	Just downstream of Mobile Avenue	*10
			Just upstream of Mobile Avenue	*22
			Just downstream of Dirt Road	*42
			Just upstream of Dirt Road	*47
			Just downstream of Section Street	*50
			About 1,950 feet upstream of Section Street	*70
		Gulf of Mexico	Along the southern shoreline of Little Lagoon from the Town of Gulf Shores corporate limits to a point about 1.14 miles west of the Town of Gulf Shores westernmost corporate limits.	*8
			Abut 1,300 feet south of State Highway 180 at a point about 6 6 miles east of Mobile Point.	*8
			About 750 feet south of intersection of State Highway 135 and County Highway 2, located about 1,800 feet east of Town of Gulf Shores eastern corporate limits.	*8
			About 2.3 miles east of the Town of Gulf Shores eastern corporate limits along State Highway 182.	*8
			Along shoreline from Mobile Point to the State boundary at Perdido Bay.	*12
		Gulf of Mexico/Perdido Bay	About 700 feet north of the intersection of State Highway 161 and State Highway 182 at Cotton Bayou.	*7
			At the eastern end of County Highway 2 at Terry Cove	*7
		Gulf of Mexico/Perdido Bay (continued)	Along shoreline from State Highway 182 bridge over Perdido Pass to about 1.3 miles southeast of Bear Point.	*8
		Guld of Mexico/Mobile Bay	About 1.7 miles east of the end of State Highway 180 at Fort Morgan and about 600 feet south of the southern shoreline of Mobile Bay.	*7
			Along State Highway 180 from about 1.0 mile east of the west end of State Highway 180 at Fort Morgan to about 4.8 miles east of the end of highway.	*9
			Along shoreline from about 1.7 miles west of mouth of St. Andrews Bay to Fort Morgan.	*9
		Mobile Bay	About 1.0 mile south of the intersection of County Highway 32 and Davis Road.	*9
			Just west of the State Highway 59 bridge over the Intracoastal Waterway.	*10
			About 400 feet upstream of the mouth of Weeks Branch.	*10
			Just downstream of County Highway 26 bridge over Weeks Creek.	*10
			Just upstream of the County Highway 49 bridge over skunk Bayou.	*10
			Along shoreline at Mobile Bay from Little Point Clear to about 1.7 miles west of the mouth of St. Andrews Bay.	*10
			Just upstream of the Eastern Shore Boulevard bridge over Point Clear Creek.	*10
			Along shoreline (Bon Secour Bay) from about 1.14 miles east of Three Rivers to Little Point Clear.	*11
			Along Mobile River from Lousiville and Nashville Railroad to Interstate 65.	*11
			Along shoreline (Bon Secour Bay) from about 1.14 miles to about 3.2 miles east of Three Rivers.	*12
			Along Mobile River from divergence of Spanish River north to Louisville and Nashville Railroad.	*12
			Along shoreline from about 800 feet west of the intersection of U.S. Highway 98 and County Highway 32 to about 2.6 miles north of Fish River Point.	*12
			Just upstream of the Eastern Shore Boulevard bridge over Fly Creek.	*12
			Along shoreline (Bon Secour Bay) from about 2.6 miles north of Fish River Point to about 3,500 feet south of mouth of Weeks Bay.	*13
			Along shoreline (Bon Secour Bay) from about 3.2 miles to 4.8 miles east of Three Rivers.	*13
			Along Bay Minette Creek from about 500 feet downstream of State Highway 225 bridge over Bay Minette Creek to about 4.0 miles upstream.	*13
			About 1,300 feet south of the intersection of U.S.Highway 98 and Old State Highway 42.	*13
			Along shoreline from about 1.7 miles north of Great Point Clear to about 800 feet west of the intersection of U.S. Highway 98 and County Highway 32.	*13
			Alone shoreline from City of Fairhope southern corporate limits southward for about 0.65 mile.	*14
			Along shoreline (Bon Secour Bay) from about 3,500 feet south of the mouth of Weeks Bay to about 7.0 miles southwest of the mouth of the Bon Secour River.	*14

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Along the Spanish River from U.S. Highway 90 bridge to just downstream of the divergence from the Mobile River.	*15
			At Grand Bay	*15
			Along shoreline from about 800 feet south of the City of Daphne southern corporate limits.	
			to the City of Fairhope northern corporate limits	*15
			Along shoreline from the mouth of D'Olive Bay to about 1,000 feet north of the mouth of Baptizing Branch at the Tensaw River.	*16
			Along U.S. Highway 98 over Mobile Bay to the county boundary.	*16
			Along shoreline from City of Daphne southern corporate limits southerly for about 800 feet.	*16
			Along shoreline from the City of Daphne northern corporate limits to about 3,100 feet northeast of the intersection of U.S. Highway 98 and County Highway 11.	*17
		Mobile Bay/Bon Secour Bay	About 1.3 miles south of Little Point Clear and about 1.3 miles west of Three Rivers on Bon Secour Bay	*8
		Perdido Bay	Along Soldier Creek about 3.0 miles upstream of mouth at Perdido Bay.	*4
			About 3,500 feet upstream of County Highway 99 bridge over Manuel Bayou near Perdido Bay	*4
			About 2,200 feet downstream of County Highway 99 bridge over Peterson Branch near Perdido bay	*4
			Along Palmetto Creek upstream of confluence of Spring Branch.	*4
			At Rabbit Island near the eastern state boundary	*5
			Along the southern shoreline of Amical Bay near Perdido Bay	*5
			Along shoreline from Amica Bay to about 1.6 miles north of mouth of Manuel Bayou at Perdido Bay	*5
			Along shoreline from Suarez Point to about 0.5 mile north of U.S. Highway 98 bridge.	*6
			Just downstream of U.S. Highway 90 bridge over Perdido River	*6
			Along Blackwater River from mouth at the Perdido River to about 5.7 miles upstream of mouth.	*6
			Along shoreline from about 0.5 mile north of U.S Highway 98 bridge to about 2.3 miles northeast of U.S. Highway 98 bridge	*7
			Along the shoreline from about 2.3 miles northeast of the U.S. Highway 98 bridge over Perdido Bay to about 0.5 mile north of Caney Bayou.	*8
		Wolf Bay	Just upstream of the County Highway 20 bridge over Hammock Creek	*4
			At the western end of County Highway 42 near mouth of Hammock Creek at Wolf Bay	*6
			About 1.3 miles upstream of the County Highway 20 bridge over Wolf Creek	*6
			Just upstream of the County Highway 20 bridge over Sandy Creek	*6
			About 1 mile upstream of the County Highway 20 bridge over Miflin Creek	*6
			About 0.8 mile west of Wolf Bay at Mulberry Point	*6
			Along the eastern shoreline of Wolf Bay from about 3,600 feet north of Sapling Point to the mouth of Hammock Creek	*8
		Perdido Bay/Wolf Bay	Along Ingram Bayou about 3,200 feet upstream of mouth at Bay La Launch	*5
			Along the southern shoreline of Bay La Launch	*5
			Along the shourthern shoreline of Wolf Bay	*6
			Along the northern shoreline of Bay La Launch to the mouth of Wolf Bay	*7
			Along the western shoreline of Wolf Bay from the mouth of Portage Creek to the mouth of Graham Bayou	*8

Maps available for inspection at the Baldwin County Courthouse, Bay Minette, Alabama. Send comments to Honorable Neil Lauder, Chairman, Baldwin County Commission, Baldwin County Courthouse, P.O. Box 146, Bay Minette, Alabama 36507

Alabama	City of Bayou LaBatre Mobile County	Gulf of Mexico/Mississippi Sound	Intersection of Davenport Street and Castelin Avenue	*10
			Intersection of Shell Belt Road and Warner Street	*12
			Intersection of McLean Street and Bates Avenue	*12
			About 4,500 feet upstream of mouth of Bayou LaBatre	*13
			Along Shoreline	*17

Maps available for inspection at the City Hall, Bayou LaBatre, Alabama. Send comments to Honorable M.G. Temme, Mayor, City of Bayou LaBatre, City Hall, Bayou LaBatre, Alabama 36509

Alabama	City of Daphne Baldwin County	Rock Creek	About 800 feet downstream of confluence of Unnamed Tributary A	*62
			About 800 feet upstream of confluence of Unnamed Tributary B	*93
		Mobile Bay	About 300 feet east of shoreline and about 1450 feet northwest of intersection of Old County Road and Whiting Court.	*13

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			About 1,300 feet upstream of mouth of Campbell Creek and about 900 feet south of Maxwell Drive.	*13
			Along shoreline from southern corporate limits to about 3,000 feet west of intersection of Main Street and Santa Rosa Avenue.	*16
			Along shoreline from northern corporate limits to about 3,000 feet west of intersection of Main Street and Santa Rosa Avenue.	*17
Maps available for inspection at the City Hall, Daphne, Alabama. Send comments to Honorable Victor Guarisco, Mayor, City of Daphne, City Hall, Daphne, Alabama 36526.				
Alabama	Town of Gulf Shores Baldwin County	Gulf of Mexico	Along southern shoreline of Little Lagoon	*8
			At intersection of East Second Avenue and East Fourth Street.	*8
			Along shoreline	*12
		Mobile Bay	Along Intracoastal Waterway eastward from Gulf Shores Parkway.	*8
			Along West Canal Drive westward from West First Street.	*10
			At western corporate limits 2,900 feet north of Intracoastal Waterway.	*12
Maps available for inspection at the Town Hall, Gulf Shores, Alabama. Send comments to Honorable Dr. Thomas Norton, Mayor, Town of Gulf Shore, Town Hall, Gulf Shores, Alabama 36542.				
Alabama	Unincorporated Areas	Mobile River	About 0.4 mile downstream of Interstate 65	*11
			About 3.65 miles upstream of confluence of Alabama River.	*19
		Escatawpa River	About 1.25 miles downstream of Illinois Central Gulf Railroad.	*81
			About 2.4 miles upstream of Beverly Jeffries Highway	*128
		Unnamed Tributary to Escatawpa River.	At mouth	*92
			About 2.95 miles upstream of Unnamed Road	*176
		Fowl River	About 2.65 miles downstream of Fowl River Road	*8
			At the confluence with the East Fowl River	*8
			Just north of Delcamps Road Bridge over the Narrows	*8
			About 1,700 feet downstream of Cedar Point Road bridge over East Fowl River.	*8
			Just downstream of Louisville and Nashville Railroad	*46
			Just downstream of U.S. Highway 90	*56
			About 3,200 feet upstream of County Highway 30	*128
		Fowl River Tributary No. 3	At mouth	*14
			Just downstream of Cleveland Avenue	*53
		Fowl River Tributary No. 1	At mouth	*57
			About 0.8 mile upstream of Murray Hill Road	*98
		Fowl River Tributary No. 2	At mouth	*22
			About 5,900 feet upstream of Half Mile Road	*38
		Unnamed Tributary to Little River	About 1.7 miles upstream of mouth	*20
			About 3.0 miles upstream of mouth	*51
		Borrow Creek	At mouth	*16
			About 3.7 miles upstream of Burlington Northern Railroad.	*87
		Chickasaw Creek	About 3,250 feet downstream of Industrial Parkway	*20
			About 3.65 miles upstream of confluence of Sand Hill Creek.	*183
		Chickasaw Creek Tributary No. 2	About 3,200 feet downstream of State Highway 158	*11
			About 1,050 feet upstream of State Highway 158	*20
		Gunnison Creek	About 550 feet downstream of Interstate 65	*11
			Just downstream of Hatters Dam	*36
		Sawmill Creek	Just upstream of Hatters Dam	*40
			About 2.15 miles upstream of confluence of Rocky Branch.	*118
		Red Creek	Just upstream of Bear Fork Road	*73
			About 1.75 miles upstream of Schillinger Road	*151
		Eightmile Creek	About 4,300 feet downstream of Shelton Beach Road	*41
			About 3,500 feet upstream of Shelton Beach Road	*54
		Halls Mill Creek	At mouth	*10
			Just downstream of Cody Road	*40
			Just upstream of Cody Road	*43
			About 2,250 feet upstream of Leroy Stevens Road	*84
		Pierce Creek	At mouth	*54
			About 700 feet upstream of Bryant Street	*189
		Second Creek	Just upstream of Cody Road	*45
			About 2,650 feet upstream of Cottage Hill Road	*66
		Unnamed Tributary to Second Creek.	At confluence with Second Creek	*66
			Just upstream of Schillinger Road	*99
		Second Creek (Above confluence of Unnamed Tributary to Second Creek).	Just upstream of confluence of Unnamed Tributary to Second Creek.	*66
			About 4,800 feet upstream of confluence of Unnamed Tributary to Second Creek.	*87
		Bennett Creek	At mouth	*126
			About 0.65 mile upstream of U.S. Highway 45	*197
		Lotts Mill Creek	At mouth	*119
			About 1.75 miles upstream of mouth	*123
		Nobodies Creek	At mouth	*118
			About 0.33 mile upstream of Beverly Jeffries Highway	*208

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Pond Creek	At mouth	*114
			At State Boundary	*172
		Isleiet Creek	At mouth	*110
			At State Boundary	*158
		Puppy Creek	At mouth	*106
			About 1.4 miles upstream of Russell Road	*242
		West Fork Puppy Creek	At mouth	*182
			Just downstream of Russell Road	*197
		Scarbo Creek	At mouth	*81
			About 250 feet upstream of Unnamed Road	*88
		Cedar Creek	At mouth	*17
			About 1.2 miles upstream of Averett Patrick Road	*164
		Little Creek	At mouth	*67
			About 0.6 mile upstream of Wood Road (about 5.5 miles upstream of mouth)	*162
		Little Creek Tributary	At mouth	*102
			About 1.7 miles upstream of mouth	*136
		Sister Creek	At mouth	*15
			About 0.15 mile upstream of Burlington Northern Railroad	*28
			About 1.9 miles upstream of Burlington Northern Railroad	*79
		Indian Grave Creek	At mouth	*49
			About 1.5 miles upstream of confluence of Indian Grave Creek Tributary No. 2	*106
		Indian Grave Creek Tributary No. 1	At mouth	*58
			About 2.1 miles upstream of mouth	*110
		Indian Grave Creek Tributary No. 2	At mouth	*70
			About 2.6 miles upstream of mouth	*122
		Flat Creek	About 1.15 miles downstream of County Highway 74	*112
			About 2.75 miles upstream of County Highway 74	*168
		Juniper Creek	At mouth	*121
			About 0.4 mile upstream of County Highway 86	*188
		Big Creek	About 0.2 mile downstream of State Boundary	*30
			Just downstream of Tanner Williams Road	*67
			Just upstream of Tanner Williams Road	*112
			About 2.4 miles upstream of Earl Booth Road	*220
		Collins Creek	At mouth	*118
			About 2.8 miles upstream of Glenwood Road	*180
		Crooked Creek	At mouth	*112
			About 0.95 mile upstream of County Highway 68	*180
		Hamilton Creek	At mouth	*112
			About 0.7 mile upstream of Howells Ferry Road	*150
		Pasture Creek	At mouth	*44
			About 4.1 miles upstream of County Highway 56	*106
		Miller Creek	At mouth	*38
			About 2.05 miles upstream of Repoll Road	*151
		Turkey Creek	At mouth	*78
			About 2.6 miles upstream of Oyler Road	*129
		Deakle Creek	At mouth	*64
			About 1.2 miles upstream of County Highway 33	*110
		Baker Creek	At mouth	*71
			About 1.55 miles upstream of Wear Road	*150
		Jackson Creek	About 0.1 mile downstream of State Boundary	*16
			About 0.25 mile upstream of Deb Bosby Road	*140
		Unnamed Tributary to Jackson Creek	At mouth	*34
			About 2.0 miles upstream of mouth	*58
		Sand Hill Creek	At mouth	*120
			About 2.1 miles upstream of U.S. Highway 45	*141
		Meekars Creek	At mouth	*54
			Just downstream of Walter Moore Road	*108
		Log Creek	At mouth	*72
			About 6.2 miles upstream of Chunchula Georgetown Road	*138
		Silver Creek	At mouth	*49
			About 2.6 miles upstream of U.S. Highway 45	*118
		Williams Creek	At mouth	*45
			Just downstream of confluence of Gallops Creek	*82
		Reedbreak Creek	Just upstream of confluence of Gallops Creek	*82
			Just downstream of confluence of Lewis Williams Branch	*120
		Miller Spring Branch	Just upstream of confluence of Lewis Williams Branch	*120
			About 1.5 miles Upstream of confluence of Lewis Williams Branch	*166
		Seabury Creek	Just upstream of U.S. Highway 45	*26
			About 5.15 miles upstream of U.S. Highway 45	*118
		Magee Creek	At mouth	*36
			About 2.7 miles upstream of U.S. Highway 45	*112
		Gallops Creek	At mouth	*82
			About 0.2 mile upstream of confluence of George Spring Branch	*138
		Clear Creek	About 0.12 mile downstream of Illinois Central Gulf Railroad	*107
			About 0.6 mile upstream of Illinois Central Gulf Railroad	*125
		Rabbit Creek	About 1.2 miles downstream of Todd Acres Drive	*10
			About 250 feet upstream of Todd Acres Drive	*19

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			About 500 feet upstream of Louisville and Nashville Railroad.	*31
		Muddy Creek	About 1.1 miles upstream of Old Pascagoula Road	*92
			At mouth	*8
		Franklin Creek	About 0.35 mile upstream of Swedetown Road	*64
			About 0.5 mile downstream of Confluence of Reedy Branch.	*16
			About 0.5 mile upstream of Fernland Road	*98
		Franklin Creek Tributary No. 1	About 2.7 miles downstream of Potter Tract Road	*18
			About 1.6 miles upstream of Henderson Camp Road	*72
		Franklin Creek Tributary No. 2	At mouth	*65
			About 1.2 miles upstream of Ramsey Road	*95
		Carls Creek	Just upstream of Padgett Switch Road	*14
			Just downstream of confluence of Hammer Creek	*37
		Bishop Manor	Just upstream of Confluence of Hammer Creek	*37
			About 1.4 miles upstream of Argyle Road	*84
		Hammer Creek	At mouth	*37
			About 2.7 miles upstream of Three Mile Road	*85
		Unnamed Tributary to Hammer Creek.	At mouth	*68
			About 0.15 mile upstream of Argyle Road	*90
		Milkhouse Creek	Just upstream of Cody Road	*106
			Just downstream of Dam	*127
			Just upstream of Dam	*132
			About 1,900 feet upstream of Airport Boulevard	*172
		Double Branch	At confluence with Red Creek	*112
			About 5,000 feet upstream of Schillinger Road	*139
		Halls Branch	About 4,400 feet downstream of Burlington Northern Railroad.	*11
			About 6,300 feet upstream of Burlington Northern Railroad.	*25
		Jim Bell Branch	About 1.75 miles upstream of confluence with Mobile River.	*19
			About 2.2 miles upstream of confluence with Mobile River.	*20
		Beaver Pond Branch	At mouth	*156
			About 1.6 miles upstream of Unnamed Road	*204
		Lott Branch	At mouth	*149
			Just downstream of State Boundary	*176
		Denmark Spring Branch	At mouth	*128
			About 1.7 miles upstream of mouth	*174
		Bull Branch	At mouth	*37
			About 1.45 miles upstream of Sandy Ridge Road	*158
		Citronelle Branch	At mouth	*93
			About 2.6 miles upstream mouth	*159
		Jackson Branch	At mouth	*144
			About 2.0 miles upstream of Howard Morris Road	*188
		Boggy Branch	At confluence with Big Creek	*112
			About 1.3 miles upstream of County Highway 5	*158
		Big Branch	At mouth	*54
			About 0.75 mile upstream of (Unnamed Road About 1.75 miles upstream of mouth).	*106
		Island Branch	At mouth	*39
			About 1.45 miles upstream of Tom Gaston Road	*75
		Bell Branch	At mouth	*41
			About 1.7 miles upstream of County Highway 11	*102
		Bay Branch	At mouth	*24
			About 1.4 miles upstream of County Highway 33	*77
		Long Branch	At mouth	*92
			About 2.1 miles upstream of Illinois Central Gulf Railroad.	*135
		Sweetwater Branch	At mouth	*106
			About 3.9 miles upstream of U.S. Highway 45	*179
		Reedy Branch	At mouth	*20
			About 1.9 miles upstream of Interstate 10	*50
		Hells Swamp Branch	About 4.1 miles upstream of mouth	*80
			About 5.55 miles upstream of mouth	*132
		Cypress Branch	At mouth	*67
			About 1.9 miles upstream of mouth	*104
		North Fork	At mouth	*18
			About 3.35 miles upstream of mouth	*117
		Bayou Sara	About 7,200 feet downstream of Interstate 65	*16
			About 2.0 miles upstream of Walter Moore Road	*248
		Rattlesnake Bayou	About 1,950 feet downstream of Louisville and Nashville Railroad.	*10
			Just downstream of Interstate 10	*46
			About 250 feet upstream of Interstate 10	*51
			About 1,800 feet upstream of Interstate 10	*53
		Unnamed Tributary to Bayou La Batre.	About 0.2 mile downstream of Unnamed Road (Unnamed Road about 2.0 miles upstream of mouth).	*20
			About 0.1 mile upstream of Unnamed Road (Unnamed Road about 3.5 miles upstream of mouth).	*54
		Unnamed Tributary to Bayou La Fourche.	About 1.35 miles downstream of Miller Lane	*19
			About 1.1 miles upstream of Potter Tract Road	*57
		Dog River	Along Dog River shoreline from Cedar Point Road bridge to the confluence of Rabbit Creek.	*10

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
			About 3,100 feet west along Island Road from the intersection of Cedar Point Road and Island Road.	*10
		Gulf of Mexico/Mississippi Sound	About 6,500 feet west along Bienville Boulevard from the intersection of State Highway 163 and Bienville Boulevard on Dauphin Island	*8
			About 1,500 feet north along State Highway 163 from the intersection of State Highway 163 and Bienville Boulevard on Dauphin Island.	*8
			About 2.3 miles east along Bienville Boulevard from the intersection of State Highway 163 and Bienville Boulevared on Dauphin Island.	*8
			At state boundary (about 2,100 feet south of U.S. Highway 90)	*9
			About 700 feet east of state boundary and 1,200 feet north of Turkey Farm Road.	*9
			About 250 feet downstream of Old Rock Road Bridge over Bayou Jonas.	*9
			Just upstream of Bellingrath Road bridge over Bayou Jonas.	*9
			Just upstream of Zirlott Road bridge over West Fowl River	*9
			Entire shoreline of Sand Island	*9
			Just south of Delchamps Road bridge over The Narrows.	*9
			About 3,900 feet north of the intersection of Zirlott Road and State Highway 188	*9
			About 3,900 feet east of the intersection of Zirlott Road and State Highway 188.	*9
			Just upstream of Cedar Point Road bridge over Delchamps Bayou.	*9
			Along the northern shoreline of Dauphin Island from about 1,400 feet east of western tip to about 2,100 feet west of LaPitte Bay.	*10
			Along north eastern shorelines of Little Dauphin and Dauphin Islands from Bayou Matagua to about 600 feet northwest of Pelican Point.	*10
			Along entire shoreline of Pelican Island	*10
			About 550 feet downstream of Manne Laboratory Road bridge over Unnamed Tributary to Bayou La Batre	*10
			About 1,800 feet north of Judy Road and about 1,000 feet west of Russell Avenue.	*10
			Just upstream of State Highway 188 bridge over West Fowl River	*10
			Along shoreline from about 1,300 feet north of Cedar Point to 300 feet west of State Highway 163	*11
			About 4,700 feet north of the mouth of Grand Bayou	*11
			About 1,600 feet east of State boundary and 3,900 feet south of Turkey Farm Road	*11
			About 1,150 feet upstream of Manne Laboratory Road bridge over Unnamed Tributary to Little River.	*11
			Just downstream of Russell Avenue bridge over Bayou Coden	*11
			Just upstream of State Highway 188 bridge over Bayou Coden	*11
			About 400 feet north of the intersection of Old Rock Road and Gwodz Road	*11
			About 3,000 feet upstream of Old Rock Road bridge over Bayou Jonas	*11
			Just upstream of Bayou Street bridge over Bayou Sullivan	*11
			About 4,200 feet west of the intersection of Williams Road and Heron Bay Road	*11
			About 5,800 feet upstream of the mouth of Heron Bayou	*11
			Along southern shoreline of Dauphin Island from western tip to Pelican Point	*12
			Along southern shoreline from about 4,300 feet north of Barron Point to about 1,300 feet north of Cedar Point	*12
			Along entire shoreline of Cat Island	*12
			Along entire shoreline of Lady Island	*12
			Along shoreline from about 7,300 feet south of the mouth of West Fowl River to about 4,300 feet north of Barron Point	*13
			Along entire shoreline of Raccoon Island	*13
			Along shoreline from about 1,050 feet west of the intersection of Coden Belt Road and Bosarge Road to about 7,300 feet south of the mouth of West Fowl River	*14
			Along entire shoreline of Marsh Island	*14
			About 5,900 feet north of the end of Manne Laboratory Road.	*14
			Along shoreline from about 900 feet east of the mouth of Bayou Coden to about 1,050 feet west of the intersection of Coden Belt Road and Bosarge Road.	*15

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
		Mobile Bay	Along shoreline from about 2,850 feet west of the mouth of Bayou Coden to about 900 feet east of the mouth of Bayou Coden.	*16
			Along shoreline from the state boundary to about 3,400 feet east of Little Bay Island	*16
			Along entire shoreline of Isle Aux Herbes	*16
			From South Rigolets Island to Barton Island	*16
			Along shoreline from about 3,400 feet east of Little Bay Island to about 2,650 feet west of the mouth of Bayou Coden	*17
			About 5,000 feet north and aboiut 150 feet west of the intersection of Delchamps Road and Cedar Point Road	*7
			About 2,400 feet south of the intersection of Cedar Point Road and Faustina Beach Road	*7
			About 1,100 feet west of the intersection of Kearns Road and Jackson Road	*8
			About 100 feet south of the intersection of Kearns Road and Jackson Road.	*8
			About 2,800 feet south along Cedar Point Road from the intersection of Cedar Point Road and State Highway 188	*8
			Just downstream of Cedar Point Road bridge over Delchamps Bayou	*8
			About 100 feet west and 650 feet north of the intersection of Cedar Point Road any Byrnewood Road.	*9
			About 2,100 feet south of the intersection of Riverview Nursery Road and Salt Aire Road	*9
			Along shoreline from about 1.0 mile north of the intersection of Salt Aire Road and Kearns Road to about 1,700 feet (continued) south of the mouth of South Fork Deer River.	*9
			About 1,050 feet north and 190 feet east of the intersection of Jackson Road and Kearns Road.	*9
			About 1,000 feet north and 1,800 feet east of the intersection of East Cedar Wood Drive and Cedar Point Road	*9
			Along shoreline from about 300 feet west of State Highway 163 to about 2,500 feet north of the mouth of Whitehouse Bayou	*9
			About 2,300 feet downstream of Cedar Point Road bridge over East Fowl River	*9
			Along shoreline from about 1,700 feet south of the mouth of South Fork Deer River to about 200 feet downstream of state Highway 163 bridge over Dog River	*10
			About 400 feet west of the intersection of Cedarwood Court and Ramsey Drive.	*10
			About 1,700 feet north and 1,600 feet east of the intersection of East Cedarwood Drive and Cedar Point Road.	*10
			About 2,400 feet upstream of Cedar Point Road (continued) Fork Deer River.	*10
			About 3,200 feet upstream of Cedar Point Road bridge over North Fork Deer River.	*10
			Just upstream of Island Road bridge over Alligator Bayou	*10
			About 300 feet east along Island Road from the intersection of Island Road and San Marino	*10
			About 850 feet north of the intersection of Range Line Road and Island Road.	*10
			Along shoreline from about 2,500 feet north of the mouth of Whitehouse Bayou to about 1,200 feet north of East Fowl River.	*10
			Along shoreline from about 4,000 feet north of north end of Goat Island to about 5,200 feet north of the intersection of Salt Aire Road and Kearns Road.	*10
			Along shoreline from about 1,200 feet north of the mouth of East Fowl River to about 4,000 feet north of Goat Island.	*11
			About 11.1 miles east and 0.1 miles south of the intersection of Cody Road and Airport Boulevard	*12

Maps available for inspection at the Mobile County Building Department, Bay Hass Building, Government Street Send comments to Honorable Dan Wiley, President, Mobile County Commission, P.O. Box 1443, Mobile, Alabama 36633

Alabama	City of Mobile, Mobile County	East Eslava Creek	Just upstream of Louisville and Nashville Railroad	*10
			Just upstream of Bel Air Boulevard	*21
		West Eslava Creek	At mouth	*38
			Just upstream of Lleyn Avenue	*60
			Just upstream of McGregor Avenue	*90
		Twelvemile Creek	At mouth	*88
			Just downstream of Old Shell Road	*134
			About 1,550 feet upstream of Brandy Run Road	*160
		Halls Mill Creek	At confluence with Dog River	*10
			Just downstream of Cody Road	*40
		Spring Creek	At confluence with Halls Mills Creek	*11

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
			Just upstream of Girby Road	*30
			About 1,250 feet upstream of Yorkwood Road South	*55
		Clear Creek	At confluence with Red Creek	*65
			About 2.0 miles upstream of Moffat Road	*107
		Threemile Creek	Just upstream of Norfolk Southern Railway	*12
			Just upstream of Interstate 65	*43
			Just downstream of Ziegler Boulevard (downstream crossing)	*70
			Just upstream of downstream crossing of Ziegler Boulevard.	*80
			Just upstream of Gaillard Drive	*91
			Just upstream of Carnegie Street	*151
			Just downstream of Ziegler Boulevard (upstream crossing).	*183
		Threemile Creek Tributary	At mouth	*91
			Just upstream of Illinois Central Gulf Railroad	*123
			About 1,200 feet upstream of Overlook Road	*152
		Toulmins Spring Branch	At mouth	*12
			Just upstream of Craft Highway	*15
		Second Creek	At confluence with Mikihouse Creek	*30
			Just downstream of Cody Road	*45
		Bolton Branch West	At mouth	*33
			About 200 feet downstream of Azalea Road	*63
			Just upstream of Azalea Road	*74
			About 1,800 feet upstream of Thornton Place	*81
		Bolton Branch East	At confluence with East Eslava Creek	*10
			Just upstream of Halls Mill Road	*10
		Woodcock Branch	At mouth	*10
			Just downstream of Airport Boulevard	*12
		Moore Creek	At mouth	*11
			About 425 feet downstream of U.S. Highway 90	*23
			About 375 feet downstream of U.S. Highway 90	*34
			About 625 feet upstream of U.S. Highway 90	*38
		Spencer Branch	About 625 feet upstream of U.S. Highway 90	*38
			Just downstream of Burma Road West	*74
			Just upstream of Burma Road West	*82
			Just downstream of Cottage Hill Road	*104
		Eightmile Creek	Just upstream of Bear Fork Road downstream crossing.	*40
			At confluence of Clear Creek	*65
		Red Creek	At confluence of Clear Creek	*65
			About 1,650 feet upstream of confluence of Clear Creek.	*72
		Montlimar Creek	At mouth	*10
			About 3,300 feet upstream of Airport Boulevard	*39
		Milkhouse Creek	At confluence with Halls Mill Creek	*27
			Just downstream of Grelot Road	*84
			Just upstream of Grelot Road	*88
			Just downstream of Cody Road	*108
		Dog River	From mouth to Louisville and Nashville Railroad	*10
		Mobile Bay	Along shoreline from southern corporate limits to about 50 feet north of southern corporate limits at Dauphin Island Parkway.	*10
			Along shoreline from about 50 feet north of southern corporate limits at Dauphin Island Parkway to Hannon Road	*11
			Along Chickasaw Creek from Louisville and Nashville Railroad to Burlington Northern.	*11
			At intersection of Dauphin Island Parkway and Hannon Road.	*11
			At intersection of Dearborn Street and New Jersey Street.	*12
			At intersection of Congress Street and Washington Avenue.	*12
			Along shoreline from Hannon Road to U.S. Highway 90.	*12
			Along Mobile River from mouth to U.S. Highway 90	*12
			About 1,500 feet north of the U.S. Highway 90 and Interstate 10 interchange.	*13
			Along Spanish River from the mouth to about 1,700 feet downstream of its divergence from Mobile River	*15
			About 6,700 feet east along U.S. Highway 90 and Interstate 10 interchange	*16
		Mobile River	From Divergence of Spanish River to Louisville and Nashville Railroad.	*11
			From Louisville and Nashville Railroad to northern corporate limits	*12

Maps available for inspection at the City Engineer's Office, City Hall, Mobile, Alabama. Send comments to Honorable Lambert Mimms, Mayor, City of Mobile, City Hall, P.O. Box 148, Mobile, Alabama 36633

California	Bishop (City)	North Fork Bishop Creek	At U.S. Highway 6	*4,142
	Inyo County	South Fork Bishop Creek	At Main Street	*4,141

Maps available at Planning Department, 377 W. Line Street, Bishop, California.
Send comments to the Honorable Roger Rogers, P.O. Box 1236, Bishop, California 93514

California	La Quinta (City), Riverside County	Bear Creek	Intersection of Calle Tampico and Avenida Bermudas	*42
		Shallow Flooding	Intersection of Calle Sonora and Avenida Alvarado	#2

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps are available for inpsection at the Planning Department, 78-105 Calle Estodl, La Quinta, California Send comments to the Honorable Lawrence O. Allen, P.O. Box 1504, La Quinta, California 92253				
California	San Buenaventura (City) Ventura County	Santa Clara River	700 feet south along Ventura Road from the intersection with the Southern Pacific Railroad.	*64
		Ventura River	50 feet upstream from the centerline of West Main Street.	*21
		Harmon Barranca	Centerline of Bristol Road	*138
		Brown Barranca	50 feet upstream from the centerline of Telegraph Road.	*241
			Intersection of Santa Paula Freeway (State Highway 126) and South Wells Road.	*185
			Intersection of Pajaro Avenue and Citrus Drive	*180
			Intersection of North Wells Road and Citrus Drive	*#1
		Mills Road Drain	Intersection of Sidonia Avenue and Rexford Street	*#1
			Intersection of Lemon Grove Avenue and Channel Drive.	*68
		Barlow Barranca	Intersection of East Main Street and Interchange Ramp for Santa Paula Freeway (State Highway 126).	*#1
		Pacific Ocean	At mouth of Venture River	*9
			At Ventura Marina	*6
Maps available at the Office of the Chief Engineer, 501 Poli Street, San Buenaventura, California. Send comments to the Honorable Jack Orrock, P.O. Box 99, San Bueaventure, California 93002.				
California	Santa Cruz County (unincorporated areas)	Aptos Creek	20 feet upstream from center of State Highway 1 (Cabrillo Freeway).	*24
		Arana Gulch	Intersection of Arana Gulch and center of State Highway 1 (Cabrillo Freeway).	*65
		Carbonera Creek At Santa Cruz	450 east from intersection of Plymouth Street and Emeline Avenue.	*42
		Carbonera Creek At Scotts Valley	460 feet downstream from center of State Highway 17	*462
		Corralitos Creek	50 feet upstream from center of Green Valley Road	*108
			50 feet upstream from center of Brown Valley Road	*240
		Coward Creek	Intersection of Coward Creek and center of Riverside Road.	*40
		Harkins Slough	Intersection of Harkins Slough and Harkins Slough Road.	*14
		Pajaro Rover	200 feet upstream from center of State Highway 1	*27
		Pajaro River—without consideration of levee.	Intersection of West Beach Street and Thurwachter Road.	*14
		Rodeo Creek Gulch	190 feet upstream from center of State Highway 1	*78
		Salsipuedes Creek	Intersection of College Road and Cutter Drive	*62
		San Lorenzo River	150 feet upstream from center of Ocean Street	*66
			110 feet upstream from center of brimblecom Road	*492
			Intersection of San Lorenzo River and center of McGaffigan Mill Road.	*658
		San Vicente Creek	65 feet upstream from center of State Highway 1	*25
		Schwans Lagoon	Intersection of Schwans Lagoon and center of East Cliff Drive.	*13
		Soquel Creek	Intersection of Soquel Drive and Porter Street	*40
		Struve Slough	Intersection of Struve Slough and center of State Highway 1.	*15
		Tomasello Creek	Intersection of Thomasello Creek and center of Riverside Road.	*54
		Thompson Creek	10 feet upstream from center of Riverside Road	*51
		Watonsville Slough	Intersection of Watsonville Slough and center of Ford Street.	*23
		Zayante Creek	50 feet upstream from center of Quail Hollow Road	*336
		College Lake	Intersection of Laken Drive and Laken Court	*70
		Lake Tynan	Along entire lake shoreline	*42
Maps available for inspection at County Planning Department, 701 Ocean Street, Santa Cruz, California. Send comments to the Honorable Robley Levy, 701 Ocean Street, Santa Cruz, California 95060.				
California	Susanville (city) Lassen County	Susan River	Intersection of Cornell Street and Small Street	*4,179
		Puite Creek	Intersection of Parkdale Avenue and Mark Street	*4,206
Maps available at Building Department, 66 N. Lassen Street. Susvanville, California. Send comments to the Honorable Helen M. Leve, 66 N. Lassen Street, Susanville, California 96130.				
Colorado	Fountain (city) El Paso County	Fountain Creek	100 feet downstream of U.S. Highway 85 and 87	*5,515
		Jimmy Camp Creek	Centerline of the Denver and Rio Grande Western Railroad.	*5,522
		Security Creek	800 feet upstream from the confluence with Widefield Creek.	*5,667
		Widefield Creek	Intersection of Southmoor Drive and Prado Road	*5,643
Maps are available at City Hall, 116 South Main, Fountain, Colorado. Send comments to the Honorable Howard Thompson, 116 South Main, Fountain, Colorado 80817.				
Colorado	Green Mountain Falls (town), El Paso County	Fountain Creek	Center line of Hotel Street	*7,709
Maps available for inspection at Town Hall, Green Mountain Falls, Colorado. Send comments to the Honorable Gary Rogers, Box 524, Green Mountain Falls, Colorado 80819.				
Colorado	Hotchkiss (town), Delta County	North Fork, Gunnison River	40 feet downstream from centerline of State Highway 92.	*5,318

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
Maps available for inspection at Public Works Department, B & Main, Hotchkiss, Colorado. Send comments to the Honorable John R. Neal, B & Main, Hotchkiss, Colorado 81419.				
Colorado	Ouray County (Unincorporated Areas)	Uncompahgre River	At the center of County Road 24	*6,885
			30 feet downstream from the Center of Potter Lane	*7,068
			At the confluence of Corbett Creek and the Uncompahgre River	*7,437
			1,500 feet west of the intersection of Cutler Creek and U.S. Highway 550.	#1
		Uncompahgre River West Arm	At the confluence of Park Ditch and the Uncompahgre River West Arm	*7,191
Maps available for inspection at Special Assistance Office, 541 4th Street, Ouray, Colorado. Send comments to Honorable Howard Williams, 541 4th Street, Ouray, Colorado 81427				
Colorado	Ouray (city), Ouray County	Uncompahgre River	At the confluence of Bridalveil Creek and the Uncompahgre River	*7,629
			30 feet upstream from the center of Seventh Avenue	*7,710
			50 feet upstream from the center of Oak Street	*7,750
Maps available for inspection at City Hall, 320 6th Avenue, Ouray, Colorado. Send comments to the Honorable Jack E. Clark, 320 6th Avenue, Ouray, Colorado 81427				
Colorado	Yuma County (unincorporated areas)	North Fork Republican River	100 feet upstream of center of Road MM	*3,445
			50 feet upstream from center of Road 33.75	*3,637
Maps available at County Clerk's Office, 202 East 3rd, Wray, Colorado. Send comments to the Honorable Harvey Pletcher, 202 East 3rd, Wray, Colorado 80758				
Colorado	Wray (city), Yuma County	North Fork Republican River	Intersection of Adams Street and West 2nd Street	*3,520
Maps available at City Manager's Office, 245 West 4th, Wray, Colorado. Send comments to the Honorable Jack Sloniker, Box 35, Wray, Colorado 80758				
Georgia	Unincorporated Areas of Rabun County	Stekoa Creek	Just upstream of U.S. Route 441	*1,849
			About 1.35 miles upstream of Bethel Church Road	*1,861
			City of Clayton northern corporate limits	*1,935
			About 1.0 mile upstream of City of Clayton northern corporate limits	*2,050
		Scott Creek	City of Clayton corporate limits	*1,886
			Just downstream of U.S. Rout 76	*2,009
		Saddle Gap Branch	About 2,800 feet downstream of County Road 173	*1,895
			About 2,300 feet upstream of County Road 173	*1,976
		Norton Creek	Just upstream of Warwoman Road	*1,899
			About 500 feet upstream of County Road 49	*1,919
Maps available for inspection at the Rabun County Courthouse, Clayton, Georgia. Send comments to Honorable Virgil Ledford, Chairman, Rabun County Commission, Rabun County Courthouse, P.O. Box 925, Clayton, Georgia 30525.				
Idaho	Wardner (city), Shoshone County	Milo Creek	715 feet northeast along Main Street from its intersection with Price Street	*2,493
			180 feet southeast along Downs Street from its intersection with Main Street.	*2,829
Maps available at City Hall, 700 Main Street, Wardner, Idaho. Send comments to the Honorable Charles R. Peterson, 700 Main Street, Wardner, Idaho 83837				
Illinois	Unincorporated Areas of Cumberland County	Embarras River	About 1.7 miles downstream of confluence of Muddy Creek.	*513
			About 3.0 miles upstream of County Route 9	*564
Maps available for inspection at the County Clerk's Office, Cumberland County Courthouse, Toledo, Illinois. Send comments to Honorable Micheal D. Walk, Chairman, Cumberland County Board, Cumberland County Courthouse, P.O. Box 146, Toledo, Illinois 62468				
Illinois	City of Galesburg, Knox County	Cedar Creek	Just upstream of County Line Road	*726
			About 1,500 feet upstream of North Farnham Street	*780
		North Branch Court Creek	Just downstream of East Fremont Street	*762
			Just upstream of East Fremont Street	*771
			About 160 feet upstream of Torrey Pines Road	*779
Maps available for inspection at the City Hall, Galesburg, Illinois. Send comments to Honorable Jerry Miller, Mayor, City of Galesburg, City Hall, P.O. Box 1387, Galesburg, Illinois 61402				
Illinois	Unincorporated areas of Grundy County	Illinois River	About 0.3 mile downstream of Conrail	*498
			At confluence of Kankakee River	*509
		Des Plaines River	At confluence of Kankakee River	*509
			About 0.5 mile upstream of confluence of Kankakee River	*510
		Kankakee River	Mouth at Illinois River	*509
			Just downstream of County Line Road	*510
		East Fork Mazon River	About 3,800 feet downstream of Interstate 55	*568
			About 3,400 feet upstream of Rice Road	*585
		East Fork Mazon River Tributary	Mouth at East Fork Mazon River	*583
			About 1,900 feet upstream of mouth	*585
		Nettle Creek	About 7,000 feet downstream of Conrail	*506
			Just downstream of Conrail	*516
		East Fork Nettle Creek	Just upstream of Interstate 80	*535
			About 5,000 feet upstream of Gore Road	*556
		East Fork Nettle Creek Tributary	About 5,000 feet downstream of Ashley Road	*522
			About 400 feet downstream of U.S. Route 6	*534
			Just downstream of Interstate 80	*544
		Aux Sable Creek	About 2.8 miles downstream of Minooka Road	*535

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Gooseberry Creek	About 2,000 feet upstream of Interstate 80	*548
			Just upstream of Old Mazon Road	*612
			Just downstream of Livingston Road	*619
		West Fork Gooseberry Creek	About 3,100 feet downstream of Scully Road	*614
			About 2,800 feet upstream of Interstate 55	*526
		Claypool Ditch	Just upstream of Jugtown Road	*541
			Just downstream of Broadway Road	*547

Maps available for inspection at the Building, Planning and Zoning Office, Grundy County Courthouse, 111 E. Washington, Morris, Illinois. Send comments to Honorable William Waters, Chairman, Grundy County Board, Grundy County Courthouse, 111 E. Washington, Morris, Illinois 60450.

Illinois	Unincorporated areas of Henry County	Rock River	About 2.2 miles downstream of confluence of Green River	*573
			About 2.3 miles upstream of State Route 92	*583
		Green River	Mouth at Rock River	*574
			About 0.95 mile upstream of Interstate 80	*583

Maps available for inspection at the Zoning Office, Henry County Courthouse, Cambridge, Illinois. Send comments to Honorable Lauren L. Truninger, Chairman, Henry County Board, Henry County Courthouse, Cambridge, Illinois 61238.

Iowa	City of Waterloo Black Hawk County	Cedar River	About 1.75 miles downstream of Illinois Central Gulf Railroad	*833
			About 2.15 miles upstream of confluence of Stream No. 13.	*859
		Sink Creek	About 950 feet downstream of Shaulis Road	*833
			About 2,650 feet upstream of Hammond Avenue	*907
		Crossroads Creek	Mouth at Cedar River	*840
			Just upstream of Chicago, Rock Island and Pacific Railroad.	*845
		Blowers Creek	About 120 feet upstream of Hammond Avenue	*862
			Just upstream of closure structure	*228
			Just downstream of Illinois Central Gulf Railroad (about 1,500 feet upstream of closure structure).	*832
			About 200 feet upstream of Illinois Central Gulf Railroad (about 1,800 feet upstream of closure structure).	*838
			About 100 feet downstream of LaFayett Street	*839
			Just upstream of LaFayett Street	*844
		Maywood Branch	At confluence of Maywood Branch	*856
			At confluence with Blowers Creek	*856
			Just upstream of Newell Street	*866
		Blowers Creek (Upstream of Maywood Branch).	At confluence with Maywood Branch)	*856
			Just upstream of Newell Street	*880
		Virden Creek	Just upstream of Culvert Inlet	*855
			About 0.97 mile upstream of East Donald Street	*871
		Virden Creek Tributary	About 1,900 feet downstream of West Airline Highway	*871
			About 100 feet upstream of Big Rock Road	*908
		Black Hawk Creek	Mouth at Cedar River	*854
			About 0.61 mile upstream of West Shaulis Road	*872
		Prescotts Creek	Mouth at Black Hawk Creek	*866
			About 500 feet upstream of Hoff Road	*891
		City View Branch	Mouth at Blowers Creek	*853
			Just downstream of Illinois Central Guld Railroad	*862
		Stream No. 13	Just upstream of Wagner Road	*857
			About 0.53 mile upstream of Big Rock Road	*875
		Stream No. 36	Mouth at Stream No. 13	*865
			About 0.81 mile upstream of Big Rock Road	*872
		Stream No. 37	Mouth at Stream No. 13	*867
			Just upstream of Burton Avenue	*876
		Stream No. 39	Mouth at Stream No. 13	*873
			Just upstream of Burton Avenue	*879
		Dry Run Creek	About 1,300 feet downstream of Mitchell Avenue	*868
			Just downstream of Bontrager Park outlet structure	*883
			Just upstream of Bontrager Park outlet structure	*889
			Just downstream of Park Lane	*889
			Just upstream of Park Lane	*894
			Just downstream of San Marnin Drive	*902
			Just upstream of State Highway 412	*907
			Just downstream of U.S. Highway 520	*910
			Just upstream of U.S. Highway 520	*915
			About 350 feet upstream of West Shaulis Road	*941
		Cedar River Diversion	Within corporate limits	*859
		Shallow Flooding (Overflow from Culvert on Virden Creek downstream of U.S. Highway 63).	At the intersection of Center Street and Logan Avenue	*851
			About 500 feet west of intersection of Utica Street and Lafayette Street.	*851
			About 400 feet northeast of intersection of Dawson Street and Logan Avenue.	*855

Maps available for inspection at the City Hall, 715 Mulberry, Waterloo, Iowa. Send comments to Honorable Del Bowers, Mayor, City of Waterloo, City Hall, 715 Mulberry, Waterloo, Iowa 50703.

Maine	Acton, Town, York County	Little Ossipee River	At Hansen Pond (within corporate limits)	*517
			Downstream corporate limits	*518
			Access Road (upstream side) located approximately 1 mile upstream of corporate limits.	*533
			Balch Pond Road (upstream side)	*553

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Balch Pond Dam (downstream side)	*560
		Balch Pond	Entire shoreline within community	*560

Maps available for inspection at the Acton Town Hall, P.O. Box 85, Acton, Maine.
Send comments to Honorable Victor Mee, Jr., Chairman of the Acton Board of Selectmen, Town Hall, P.O. Box 85, Acton, Maine 04001.

Maine	Cape Elizabeth, Town Cumberland County	Casco Bay	Shoreline at Oakhurst Road (extended)	*16
			Shoreline approximately 800 feet southeast of Oakhurst Road (extended).	*12
			Shoreline at Singles Road (extended)	*18
			Shoreline at Portland Head	*18
		Atlantic Ocean	Shoreline at Broad Cove Road (extended)	*13
			Shoreline at Park Road (extended)	*14
			Shoreline approximately 800 feet northeast of McKenney Point.	*11
			Dunes along Seal Cove	#2
			Dunes along Atlantic Ocean	#1
			Shoreline at mouth of Spurwink River	*15
			Shoreline of Spurwink River approximately 1,000 feet upstream from mouth.	*10
			Entire shoreline of Ram Island	*18
			Dunes on east side of Richmond Island	#2
			Shoreline of Richmond Island at Clam Cove	*12
			Shoreline of Richmond Island on east side of Adams Head.	*19
			Shoreline of northwest side of Richmond Island	*9
		Trout Brook	Approximately 0.34 miles downstream of Spurwink Avenue.	*51
			Upstream side of Spurwink Avenue	*53

Maps available for inspection at the Code Enforcement Office, Town Office Building, c/o Jerry Daigle, 86 Fowler Road, Cape Elizabeth, Maine.
Send comments to Honorable K. Wayne Murray, Chairman of the Cape Elizabeth Town Council, Town Office Building, 86 Fowler Road, Cape Elizabeth, Maine 04107.

Maine	Newfield, Town, York County	Little Ossipee River	At downstream corporate limits	*354
			Approximately 1 mile downstream of Newfield Road	*363
			Upstream side of Newfield Road	*385
			Approximately 2.8 miles upstream of Newfield Road	*420
			Approximately 0.6 mile downstream of State Route 11	*455
			Downstream side of State Route 11	*474
			Upstream side of State Route 11	*487
			Downstream side of Old State Route 11	*499
			Upstream side of Shaplegh Pond and Dam Road	*516
			Upstream side of Whitehouse Road	*533
			Upstream side of Balch Pond Road	*553
			Upstream side of Balch Pond Dam	*560
		Balch Pond	Entire shoreline within community	*560

Maps available for inspection at the Newfield Town Hall, P.O. Box 62, Newfield, Maine.
Send comments to Honorable Frank Davis, Chairman of the Board of Selectmen, Town Hall, P.O. Box 62, West Newfield, Maine 04095.

Maine	Scarborough, Town, Cumberland County	Atlantic Ocean	Shoreline at Oak Street (extended south)	*15
			Shoreline at Champion Street (extended)	*15
			Shoreline at Pearl Street (extended)	*19
			Shoreline at Ferry Road (extended east)	*15
			Shoreline at East Point	*15
			Shoreline 1,000 feet east of Checkly Point	*22
		Scarborough River	Shoreline at northern end of Pillsbury Drive (extended)	*14
			Eastern shoreline of Boston and Maine Railroad embankment 1,000 feet south of the Scarborough River crossing.	*11
			Western shoreline at Boston and Maine Railroad crossing.	*9
		Nonesuch River	Shoreline at confluence with Scarborough River	*12
			Shoreline at Plummer Island Road (extended)	*10
			Shoreline at Boston and Main Railroad crossing	*9
		Jones Creek	Shoreline at Pearl Street (extended north)	*8

Maps available for inspection at the office of Charlie Anderson, Engineer-Planner, Scarborough, Maine.
Send comments to Honorable John Griffith, Chairman of the Scarborough Town Council, P.O. Box 360, Scarborough, Maine 04074.

Maine	South Berwick, Town, York County	Great Works River	Leighs Mill Pond Dam	*33
			160' upstream Brattle Dam No. 2	*57
			Upstream Brattle Street	*85
			Downstream Hooper Sands Road	*97
			Upstream corporate limits	*105

Maps available for inspection at the South Berwick Town Clerk's Office, South Berwick, Maine.
Send comments to Honorable John S. Eldridge, III, Town Manager of South Berwick, Town Offices, South Berwick, Maine 03908.

Maine	Turner, Town, Androscoggin County	Martin Stream	Confluence with Nezinscot River	*309
			State Route 117 (upstream side)	*322
			Ricker Hill Road (upstream side)	*328
			Tidewell Road (upstream side)	*339
			North Turner Dam (upstream side)	*355
			Upstream corporate limits	*366
		Lively Brook	Confluence with Martin Stream	*336
			Tidewell Road (upstream side)	*348
			Confluence with House Brook	*352
		House Brook	Pleasant Pond Dam (downstream side)	*376
			Confluence with Lively Brook	*352

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Approximately 1,800 feet upstream of Merrill's Mills Road.	*357
		Bear Pond Stream	Confluence with Martin Stream downstream of Bean Street.	*363
		Crystal Pond Brook	Confluence with Martin Stream	*331
			State Route 4 (upstream side)	*330
		Bear Pond	Entire shoreline	*375
		Crystal Pond	Entire shoreline	*330
		Pleasant Pond	Entire shoreline	*383
	Maps available for inspection at the Office of Don Prince, Planning Board, Turner, Maine. Send comments to Honorable Bernice Gilbert, Chairman of the Turner Board of Selectmen, Box 157, Turner, Maine 04282.			
Maryland	Fruitland, City, Wicomico County	Tuxents Branch	At downstream corporate limits	*8
			At upstream side of Covered Bridge Road	*16
			At upstream side of South Camden Avenue	*21
		Slab Bridge Creek	At downstream corporate limits	*22
			At upstream corporate limits	*22
	Maps available for inspection at the Fruitland City Hall, Fruitland, Maryland. Send comments to Honorable Rick Pollitt, Fruitland City Manager, P.O. Box F, Fruitland, Maryland 21826.			
Massachusetts	Billerica, town, Middlesex County	Concord River	At most downstream corporate limits	*106
			1,000' downstream of Faulkner Street	*107
			Talbot Mill Dam Upstream side	*115
			1,000' upstream of Pollard Street	*116
			Boston Road, upstream side	*117
			U.S. Route 3, upstream side	*118
			Nashua Road, upstream side	*119
			Most upstream corporate limits	*119
		Shawsheen River	At downstream corporate limits	*89
			Salem Road upstream side	*97
			At confluence of Jones Brook	*98
			Boston Road upstream side	*99
			At upstream corporate limits	*99
		Jones Brook	At confluence with Shawsheen River	*98
			Golf Course Culvert upstream side	*105
			Approximately 720' upstream of Baldwin Road	*109
		Content Brook	At most downstream corporate limits	*92
			Whipple Road, upstream side	*98
			200' upstream of Andover Road	*102
			Boston and Maine Railroad, upstream side	*106
			At confluence of Middlesex Canal	*107
		Middlesex Canal	At confluence with Content Brook	*107
			Pond Street, downstream side	*110
		Lubbock Brook	At downstream corporate limits	*103
			Cook Street, upstream side	*104
			At upstream corporate limits	*104
	Maps available for inspection at the Board of Health Office, Billerica, Massachusetts. Send comments to Honorable Paul Talbot, Billerica Town Administrator, Town Hall, Concord Road, Billerica, Massachusetts 01821.			
Massachusetts	Bourne, Town, Barnstable County	Cape Cod Bay	Shoreline at Plymouth-Barnstable County boundary	*25
			Shoreline at Pilgrim Road (extended)	*17
			Dune area along Phillips Road at Sandwich-Bourne corporate limits.	#2
		Buzzards Bay	Shoreline approximately .3 mile northwest of Ocean Avenue (extended).	*26
			Shoreline at Eustis Beach	*18
			Shoreline at Sea Lane (extended)	*22
			Shoreline approximately .3 mile southeast of Long Point.	*14
			Shoreline at Cedar Point Drive (extended)	*20
			Shoreline at Barlows Landing Road (extended)	*19
			Eastern shoreline of Bassetts Island	*19
			Southwestern shoreline of Bassetts Island	*22
			Shoreline approximately .2 mile north of Lighthouse Lane (extended).	*29
			Shoreline at Beverly Road (extended)	*15
			Shoreline of Tobys Island	*21
			At sothernmost end southwest shoreline of Tobys Island.	*23
			North side of Emmons bridge to Tobys Island	*17
			South side of Emmons bridge to Tobys Island	*19
			Dune area at St. Johns Avenue (extended)	#1
			Shoreline at Mashnee Road (extended)	*23
			Shoreline at Tower Lane (extended west)	*18
		Cape Cod Canal	At Sandwich-Bourne corporate limits	*10
			At U.S. Route 6 (Sagamore bridge)	*11
			Approximately .5 mile upstream of U.S. Route 6	*12
			Approximately .3 mile downstream of State Route 28	*13
			At State Route 28 (Bourne bridge)	*14
			At Tower Lane (extended southeast)	*17
			At confluence with Buzzards Bay	*20
		Buttermilk Bay	Shoreline at Nye Lane (extended)	*23
			At confluence of Red Brook	*18
			Shoreline at Catskill Drive (extended)	*15
			Shoreline at Maynard Lane (extended)	*22

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available for inspection at Don Cambell's Office, Town Hall, Bourne, Massachusetts. Send comments to Honorable Barry Johnson, Chairman of the Bourne Board of Selectmen, 24 Perry Avenue, Buzzards Bay, Massachusetts 02532.				
Massachusetts	Brewster, Town, Barnstable County	Cape Cod Bay	Shoreline at Bonnie Doone Road (extended)	*17
			Shoreline at Underpass Road (extended)	*24
			Shoreline at Breakwater Road (extended)	*20
			Shoreline at confluence of Stony Brook and Cape Cod Bay.	*17
		Freeman's Pond Brook	Entire shoreline within community	*12
		Stony Brook	Confluence with Cape Cod Bay	*13
			Upstream of Cranberry Highway	*7
Maps available for inspection at the Brewster Department of Public Works, 709 Main Street, Brewster, Massachusetts. Send comments to Honorable Robert A. Sawtelle, Chairman of the Board of Selectmen for the Town of Brewster, Town Hall, Main Street, Brewster, Massachusetts 02631.				
Massachusetts	Duxbury, Town, Plymouth County	Massachusetts Bay	Shoreline at most southern corporate limits	*17
			Shoreline approximately 1.2 miles north of southern corporate limits.	*16
			Duxbury Beach approximately 0.9 mile south from Powder Point bridge.	*15
			Shoreline at northern corporate limits	*19
		Shallow Flooding	Between shorelines at Duxbury Beach	∠1
			Between seawall and Gurnet Road	∠2
		Duxbury Bay	Shoreline at southern corporate limits	*10
			Shoreline at Water Road (extended)	*13
			Shoreline at Spring Street (extended)	*14
		Kingston Bay	Shoreline at Howlands Landing (extended)	*11
			Shoreline at Landing Road (extended)	*14
			Shoreline at Myrtons Hole (extended)	*13
			Corporate limits approximately 400 feet west of Parks Street.	*9
		Bluefish River	Approximately 1,000 feet downstream of Washington Street bridge.	*12
			Upstream side of Washington Street bridge	*10
			Approximately 0.4 mile upstream of Washington Street bridge.	*9
		Pine Point River	At mouth of Pine Point River	*12
			At northern corporate limits	*11
		Little Wood Island River	At mouth of Little Island Wood River	*12
			At northern corporate limits	*11
		Duck Hill	Shoreline at Cove Street (extended)	*11
Maps available for inspection at the Duxbury Town Clerk's Office, Tremont Street, Duxbury, Massachusetts, and the Duxbury Free Library, 147 St. George Street, Duxbury, Massachusetts. Send comments to Honorable John P. Leonard, Chairman of the Board of Selectmen for the Town of Duxbury, Town Hall, Tremont Street, Duxbury, Massachusetts 02332.				
Massachusetts	Fairhaven, Town Bristol County	Buzzards Bay	Entire shoreline of Little Bay	*18
			Shoreline at west end of Bluepoint Road (extended)	*15
			Shoreline at west end of Winsagansett Street (extended).	*18
			Area approximately 150 feet north of northwest end of Monodack Avenue (extended).	#2
			Shoreline approximately 150 feet west of Fort Street (extended)	*20
			Shoreline approximately 300 feet west of Fort Street (extended)	*25
			Shoreline of Angelica Rock	*16
		Acushnet River	Entire shoreline within community	*6
Maps available for inspection at the Office of Nicholas Tanguay, Town Hall, Fairhaven, Massachusetts. Send comments to Honorable Robert Foster, Chairman of the Fairhaven Board of Selectmen, 40 Center Street, Fairhaven, Massachusetts 02719				
Massachusetts	Gloucester, city, Essex County	Mill River	Upstream side of Dr. Osman Babson Road	*10
			Upstream side of Cherry Street	*16
			Approximately 800 feet upstream of Cherry Street	*21
		Atlantic Ocean Essex Bay	South shore of Essex Bay	*12
		Ipswich Bay	Entire shoreline of Wingaersheek Beach	*15
			Shoreline at Folly Point	*20
			Approximately 300 feet past end of Atlantic Street	#1
		Massachusetts Bay	Shoreline at Norman Woe Cove	*30
		Gloucester Harbor	Shoreline at Western Harbor	*13
			Entire shoreline of Inner Harbor	*10
			East shore of Gloucester Harbor	*12
		Briar Neck	Shoreline at Briar Neck	*25
Maps available for inspection at the City Library, Gloucester, Massachusetts, and the Planning Office, Forbes Building, Gloucester, Massachusetts Send comments to Honorable Richard Silva, Mayor of the City of Gloucester, City Hall, Dale Avenue, Gloucester, Massachusetts 01930				
Massachusetts	Mashpee, Town Barnstable County	Nantucket Sound	Shoreline at Waquoit Bay	*17
			Shoreline at Greensward Road (extended)	*23
			Shoreline at Beach Road (extended)	*17
			Shoreline at Overlook Knoll Road (extended)	*21
			Shoreline at Popponesset Beach	*17
			Island in Popponesset Bay	#1
		Waquoit Bay	Shoreline at Dead Neck	*13
			Shoreline at Seconsett Island	*14
		Hamblin Pond	Shoreline at Seconsett Island	*11
			Shoreline at mouth of Red Brook	*14

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available for inspection at the office of Harold Collins, Building Inspector, Mashpee, Massachusetts. Send comments to Honorable Willard Hanson, Chairman of the Mashpee Board of Selectmen, P.O. Box 1108, Mashpee, Massachusetts 02649.				
Massachusetts	Somerset, Town Bristol County	Lee River	At Interstate Route 195	*15
			Shoreline at Brayton Point	*22
		Mount Hope Bay	Intersection of Swan Street and Angus	*15
			Shoreline at Angus (extended)	*22
		Taunton River	Shoreline at Sandy Point Road (extended)	*15
			At Interstate Route 195	*22
Maps available for inspection at the Hearing Room, Town Hall, Somerset, Massachusetts. Send comments to Honorable James B. Healey, Chairman of the Board of Selectmen for the Town of Somerset, Somerset Town Office Building, 140 Wood Street, Somerset, Massachusetts 02726				
Massachusetts	Truro, Town Barnstable County	Atlantic Ocean	Shoreline at Truro-Provincetown corporate limits	*18
			Shoreline at Coast Guard Road (extended)	*28
			Shoreline approximately 1.5 miles south of Longnook Road (extended)	*14
		Cape Cod Bay	Shoreline at Truro-Provincetown corporate limits	*15
			Shoreline at Great Hollow Road (extended)	*18
			Shoreline at Pamet Harbor	*17
			Shoreline at Stevens Way (extended)	*20
			Shoreline at Rolling Hills Road (extended)	*24
Maps available for inspection at the Selectmen's Office, Truro Town Hall, Truro, Massachusetts. Send comments to Honorable Monica Kraft, Chairman of the Board of Selectmen for the Town of Truro, P.O. Box U, Truro, Massachusetts 02666.				
Massachusetts	Yarmouth, town, Barnstable County	Nantucket Sound	Shoreline at Bayview Street (extended)	*16
			Shoreline at Beach Road (extended)	*13
			Shoreline at Smith's Point	*10
			Shoreline at Point Gammon	*19
			Shoreline at Bass River Light	*15
		Cape Cod Bay	Shoreline at mouth of Lone Tree Creek	*15
			Shoreline at mouth of Chase Garden Creek	*17
		Bass River	Shoreline at Bass River Terrace (extended)	*13
			Shoreline at Highland Avenue (extended)	*9
			Shoreline at Oyster Cove Road (extended)	*7
			Entire shoreline of Follins Pond	*5
		Parkers River	Shoreline at Compass Drive (extended)	*11
			South end of Niagra Lane	*13
			Entire shoreline of Swan Pond	*9
Maps available for inspection at the office of Mr. Ed Donnelly, Town Planner, Yarmouth Town Hall, South Yarmouth, Massachusetts. Send comments to Honorable Robert Lawton, Executive Secretary of the Board of Selectmen for the Town of Yarmouth, Yarmouth Town Hall, South Yarmouth, Massachusetts 02664				
Massachusetts	Wellfleet, town, Barnstable County	Cape Cod Bay	Shoreline at south end of Jeremy Point	*17
			Shoreline approximately 750 feet southwest of Duck Harbor Road (extended).	*15
			Shoreline approximately 1,000 feet north of Duck Harbor Road (extended).	*19
			Shoreline at north corporate limits	*17
		Wellfleet Harbor (North and West Shores).	Shoreline at southeast end of Jeremy Point	*17
			Shoreline at northernmost point of Great Island	*11
		Shallow Flooding	South end of Great Island	#2
			West end of Great Island	#1
			North of Duck Harbor Road	#2
		Wellfleet Harbor (East Shore)	Shoreline 120 feet west of Samoset Avenue	*15
			Shoreline at D Street (extended)	*20
			Shoreline at north end of King Philip Road (extended)	*12
			Shoreline at south corporate limits	*14
		Duck Creek	At downstream side of Pine Point Road bridge over Duck Creek.	*12
		Blackfish Creek	Shoreline at Barker Road (extended)	*15
			Shoreline at First Street (extended)	*13
			Approximately 100 feet downstream of U.S. Route 6	*12
		Ponding Area	In vicinity of Herring River	*3
		Atlantic Ocean	Shoreline at Gross Hill Road (extended)	*23
			Shoreline at Marconi Station Road (extended)	*25
			Shoreline 100 feet north or southern corporate limits	*24
Maps available for inspection at the Wellfleet Town Hall, Hearing Room, Wellfleet, Massachusetts. Send comments to Honorable Florence A. Schmidt, Chairman of the Board of Selectmen for the Town of Wellfleet, Town Hall, P.O. Box A, Wellfleet, Massachusetts 02667.				
Missoun	City of Granby, Newton County	Shoal Creek	About 1,300 feet downstream of confluence of Culpepper Creek	*1,033
			About 3,600 feet upstream of Burlington Northern railroad.	*1,037
		Culpepper Creek	At mouth	*1,034
			Just downstream of County Highway E	*1,068
			Just upstream of County Highway E	*1,074
Maps available for inspection at the City Hall, Granby, Missouri. Send comments to Honorable Joyce Mann, Mayor, City of Granby, P.O. Box 358, N. Main Street, Granby, Missoun 64844.				
Missoun	City of Pleasant Hill, Cass County	Big Creek	About 1,400 feet downstream of Missoun Pacific Railroad.	*855
			Just upstream of Boardman Street	*864
		North Overflow Big Creek	About 400 feet downstream of State Highway 7	*851
			Just downstream of abandoned railroad	*855

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
		Shallow Flooding	Area east of Second Street, north of Commercial Street and south of Cedar Street	#2

Maps available for inspection at the City Hall, 203 Paul Street, Pleasant Hill, Missouri. Send comments to Honorable Terry C. Wilson, Mayor, City of Pleasant Hill, City Hall, 203 Paul Street, Pleasant Hill, Missouri 64080.

Nebraska	City of Lincoln, Lancaster County	Salt Creek	About 0.5 mile downstream of 98th Street	*1,121
			Just upstream of confluence of Cardwell Branch	*1,177
		Stevens Creeek	At mouth	*1,131
			Just downstream of Chicago, Rock Island and Pacific Railroad.	*1,148
			Just upstream of Chicago, Rock Island and Pacific Railroad	*1,154
			About 1.2 miles upstream of A Street	*1,203
		Stevens Creek Overflow	At confluence with Salt Creek	*1,124
			At divergence from Stevens Creek	*1,140
		Stevens Creek Tributary	At mouth	*1,185
			About 1.85 miles upstream of 112th Street	*1,249
		Oak Creek	Confluence with Salt Creek	*1,147
			Just upstream of U.S. Highway 34	*1,179
		Lynn Creek	At mouth	*1,148
			About 800 feet upstream of Interstate 80	*1,163
		Elk Creek	At mouth	*1,176
			About 0.85 mile upstream of U.S. Highway 34	*1,245
		Antelope Creek	At mouth	*1,148
			Just downstream of Holmes Lake Dam	*1,214
			Just upstream of Holmes Lake Dam	*1,246
			About 1.4 miles upstream of Pioneers Boulevard	*1,306
		Middle Creek	At mouth	*1,153
			About 1.3 miles upstream of Interstate 80	*1,206
		Haines Branch	At mouth	*1,155
			About 800 feet upstream of Burlington Northern railroad.	*1,171
		Bear Slough	At mouth	*1,158
			Just downstream of Burlington Northern railroad (upstream of Pine Lake Road)	*1,272
			Just upstream of Burlington Northern railroad (upstream of Pine Lake Road).	*1,276
			About 150 feet upstream of South 70th Street	*1,294
		Cardwell Branch	At mouth	*1,177
			About 0.70 mile upstream of Southwest 27th Street	*1,207

Maps available for inspection at the City County Building, 555 S. 10th, Lincoln, Nebraska. Send comments to Honorable Rolland Luedtke, Mayor, City of Lincoln, City County Building, 555 S 10th, Lincoln, Nebraska 68508.

New Jersey	Old Bridge, township, Middlesex County	Tennents Brook	Upstream side of Bordentown Avenue	*12
			Approximately 190' upstream of First Golf Course Road	24
			Upstream side of U.S. Route 9	*35
		Iresick Brook	Approximately 50' upstream of Riverdale Avenue Dam	*17
			Approximately 350' upstream of Englishtown Road	*24
			Upstream side of Birch Street	*31
			Approximately 1,075' downstream of Pleasant Valley Road	*50
		Barclay Brook	At confluence with Matchaponix Brook	*35
			Approximately 370' downstream of State Route 529	*39
			Approximately 140' downstream of Hawkins Road	*50
			At upstream corporate limits	*74
		Deep Run	At Water Works Road	*12
			Approximately 40' upstream of State Route 516	*14
			Approximately 300' upstream of U.S. Route 9	*42
			Approximately 200' downstream of corporate limits	*57
		South River	At Bordentown Avenue	*12
			At Duhernal Lake Dam	*12
		Matchaponix Brook	At confluence of Matchaponix Brook	*15
			At confluence with South River	*15
			Downstream side of Texas Road State Route 520	*33
			Approximately 80' downstream of Old Bridge-English Road State Route 529	*50
			At downstream corporate limits	*56
		Raritan Bay	At Garden State Parkway over Cheesequake Creek	*12
			At State Route 35 over Marquis Creek	*13
			At State Route 35 over Cheesequake Creek	*15
			At Ocean Boulevard over Whale creek	*15
			Along entire shoreline	*18

Maps available for inspection at the Old Bridge Township Engineer's Office, Township Hall, 1 Old Bridge Plaza, Old Bridge, New Jersey.
Send comments to Honorable Russell Azzarello, Mayor of the Township of Old Bridge, Old Bridge Municipal Complex, 1 Old Bridge Plaza, Old Bridge, New Jersey 08857

New Jersey	Parsippany-Troy Hills, Township, Morris County	Rockaway River	At downstream corporate limits (confluence of Whippany River).	*174
			At U.S. Route 46	*175
			At Vail Road	*177
			Upstream Knoll Road	*184
			Upstream Greenback Road	*199
			Downstream Boonton Reservior Dam	*212
			Upstream Boonton Reservior Dam	*309
			Upstream corporate limits	*313
		Whippany River	At confluence with Rockaway River	*174

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Troy Brook	At upstream corporate limits	*178
			At confluence with Whippany River	*175
			Upstream side of Beverwyck Road	*196
			Upstream side of Troy Road	*207
			Upstream side of Spillway at Forge Pond	*227
			Upstream side of Smith Road (2nd upstream crossing)	*263
			Upstream side of Interstate Route 80	*279
			Upstream side of Interstate Route 287	*291
			Upstream side of Parsippany Boulevard	*302
			Upstream side of Homer Street	*310
			Downstream side of Cherry Mill Road	*319
		West Brook	At confluence with Troy Brook	*175
			Upstream side of Beverwyck Road	*177
			Upstream side of Preston Road	*202
			Upstream side of West Brook Pond Dam	*208
		Eastmans Brook	At confluence with Troy Brook	*212
			Upstream side of Old Spillway Ruins	*226
			Downstream side of Smith Road	*239
			At UPS Boulevard	*251
			Downstream side of Interstate Route 287 culvert	*272
			Shoreline of Lake Parsippany	*286
		Watnong Brook	Upstream side of State Route 10 Culvert	*448
			Approximately 430' upstream of Foot Bridge (opposite Tarn Drive).	*459
			Approximately 150' downstream of CONRAIL	*470
			At Powder Mill Road	*506

Maps available for inspection at the Township Engineer's Office, Township Municipal Building, Parsippany-Troy Hills, New Jersey.

Send comments to Honorable Frank Priore, Mayor of the Township of Parsippany-Troy Hills, 1001 Parsippany Boulevard, Parsippany, New Jersey 07054.

New Jersey	Raritan, township, Hunterdon County	Neshanic River	At downstream corporate limits	*121
			Upstream side of Everitts Road	*124
			Upstream side of Kuhl's Road	*136
		First Neshanic River	At confluence with Neshanic River	*136
			Upstream side of U.S. Route 202 (State Route 31)	*153
			Downstream side of Dayton Road	*160
			Approximately 460 feet upstream of Dayton Road	*162
		Second Neshanic River	At confluence with Neshanic River	*136
			Upstream Black River and Western Railroad	*144
			Downstream side of Johanna Farms Road	*170
			Approximately 50 feet upstream side of State Route 523.	*225
			Approximately 950 feet upstream side of State Route 523.	*239
		Third Neshanic River	At confluence with Neshanic River	*135
			Upstream side of Everitts Road	*150
			At upstream corporate limits (downstream Easton Trenton Turnpike).	*161
		Walnut Brook	At confluence with First Neshanic River	*153
			60 feet downstream of Private Drive	*170
			Upstream side of Mine Street	*189
			Approximately 50 feet upstream of Capner Street	*224
		Route 202 Tributary	At confluence with South River Branch Raritan River	*102
			Downstream side of Dory Dilts Road	*120
			Downstream sise of Vorhees Corner Road	*142
			Upstream side of Vorhees Corner Road	*150
		Bushkill Brook	At confluence with South Branch Raritan River	*107
			Approximately 100 feet upstream of Black River and Western Railroad.	*113
			Downstream side of Flemington Junction Road	*126
			Upstream side of State Route 31	*130
			Approximately 1,160 feet upstream of State Route 31	*134
		Assiscong Creek	Upstream side of CONRAIL	*117
			Downstream side of State Route 31	*160
			Approximately 100 feet upstream of Old Clinton Road	*205
			Upstream side of Private Drive (adjacent to Chapel-view Drive)	*250
			Downstream side of 4th upstream Private Drive	*278
			Downstream side of 5th upstream Private Drive	*363
		South Branch Raritan River	At downstream corporate limits	*97
			At confluence of Route 202 Tributary	*102
			Downstream side of Black River and Western Railroad	*107
			Upstream side of 2nd CONRAIL crossing	*111
			Downstream side of Flemington White House Road	*115

Maps available for inspection at the Raritan Township Municipal Building, South Main Street, Flemington, New Jersey.

Send comments to Honorable Don Gootee, Mayor of the Township of Raritan, Raritan Township Municipal Building, South Main Street, P.O. Box 622, Flemington, New Jersey 08822.

New Jersey	Rockaway, borough, Morris County	Rockaway River	At downstream corporate limits	*513
			Upstream side of East Main Street	*523
			At confluence of Fox Brook	*532
			At upstream corporate limits	*541
		Beaver Brook	At confluence with Rockaway River	*513
			Upstream corporate limits	*513
		Fox Brook	At confluence with Rockaway River	*532
			Upstream side of East Main Street	*549
			Downstream side of dam at Foxes Pond	*586
			At upstream corporate limits of Foxes Pond	*604

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
Maps available for inspection at Rockaway Borough Clerk's Office, 1 East Main Street, Rockaway, New Jersey Send comments to Honorable David L. Smith, Mayor of the Borough of Rockaway, Borough hall, 1 East Main Street, Rockaway, New Jersey 07866.				
New Jersey	Washington, township, Morris County	Musconetcong River	Downstream corporate limits	*424
			Stephensburg Road (upstream side)	*435
			Ruth Lane (upstream side)	*443
			Kings Highway (upstream side)	*468
			Newberg Road (upstream side)	*484
			State Route 24 (upstream side)	*503
			East Avenue (upstream side)	*514
			Upstream corporate limits	*522
		Stephensburg Brook	Confluence with Musconetcong River	*436
			Stephensburg Road (upstream side)	*484
			Upstream of fourth upstream dam	*548
		Tributary B	Confluence with Musconetcong River	*482
			Esna Drive (upstream side)	*513
			Approximately 90 feet upstream of State Route 24	*625
		South Branch Raritan River	Downstream corporate limits	*488
			CONRAIL (upstream side)	*501
			State Route 24 (upstream side)	*532
			Naughnght Road (upstream side)	*563
			Upstream of dam upstream of North Four Bridges Road	*581
			Upstream corporate limits	*608
		Electnc Brook	Confluence with South Branch Raritan River	*540
			CONRAIL (upstream side)	*548
			Fairview Avenue (upstream side)	*566
			Approximately .35 mile upstream of Fairview Avenue	*647
			Approximately .29 mile downstream Lake George Dam	*729
			Approximately .22 mile downstream Lake George Dam	*810
			Downstream of Lake George Dam	*891
		Stony Brook	Confluence with South Branch Raritan River	*551
			CONRAIL (upstream side)	*560
			Naughnght Road (upstream side)	*597
			Downstream of Fairview Avenue	*615
		Drakes Brook	Confluence with South Branch Raritan River	*585
			Downstream corporate limits	*595
		Tanners Brook	Downstream corporate limits State Route 24 (upstream side).	*711
			At Valley Brook Road	*751
			Downstream of Old Farmers Road	*773
		Drakes Brook Overflow Channel	At confluence with South Branch Raritan River	*575
			At Four Bridges Road	*581
			Inlet from Drakes Brook	*588
Maps available for inspection at the Clerk's office, Washington Township Municipal Building, Long Valley, New Jersey Send comments to Honorable Edward J. Shields, Mayor of the Township of Washington, P.O. Box 216, Washington Township Municipal Building, Long Valley, New Jersey 07853				
New York	Cazenovia, Town, Madison County	Chittenango Creek	At downstream corporate limits	*548
			Approximately 1 mile upstream of corporate limits	*606
			Approximately 90' upstream of State Route 13	*882
			Approximately 0.7 mile upstream of State Route 13	*935
			Upstream side of Bingley Road	*1,008
			Approximately 1 mile upstream of Bingley Road	*1,081
			At Village of Cazenovia downstream corporate limits	*1,145
			At Village of Cazenovia upstream corporate limits	*1,199
			Upstream side of Rippleton Crossing Road	*1,219
			Upstream Ballina Road	*1,254
			Approximately 1.4 miles upstream of Ballina Road	*1,929
Maps available for inspection at the Cazenovia Town Hall, 7 Albany Street, Cazenovia, New York Send comments to Honorable Donald R. Callahan, Town Supervisor of Cazenovia, 7 Albany Street, Cazenovia, New York 13035				
New York	Cazenovia, Village, Madison County	Chittenango Creek	Downstream Corporate Limits	*1,143
			Approximately 100' Upstream of Downstream Dam	*1,174
			William Street (Upstream side)	*1,182
			U.S. Route 20 (Upstream side)	*1,188
			Mill Street (Upstream side)	*1,195
			Upstream Corporate Limits	*1,199
Maps available for inspection at the Cazenovia Village Hall, 90 Albany Street, Cazenovia, New York Send comments to Honorable John W. Ryan, Mayor of the Village of Cazenovia, Municipal Building, 90 Albany Street, Cazenovia, New York 13035.				
New York	Delhi, Town, Delaware County	West Branch Delaware River	Downstream corporate limits	*1,296
			Approximately 75' downstream of Platner Brook	*1,314
			Approximately 200' downstream of confluence of Peaks Brook	*1,325
			At confluence of Little Delaware River	*1,344
			At the downstream Village of Delhi corporate limits	*1,349
			At the upstream Village of Delhi corporate limits	*1,370
			At confluence of Elk Creek	*1,384
			At confluence of Kidd Brook	*1,395
			At upstream corporate limits	*1,410
		Little Delaware River	At confluence with West Branch Delaware River	*1,344
			Approximately .5 mile upstream of Upper Golf Course footbridge.	*1,373
			Approximately 620 feet upstream of Thompson Cross Road Bridge.	*1,398

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available for inspection at the Town Clerk's Office, Delhi, New York. Send comments to Honorable David C. Anderson, Sr., Supervisor of the Town of Delhi, 5 Elm Street, Delhi, New York 13753.				
New York	Delhi, Village, Delaware County	West Branch Delaware River	Approximately 500' downstream of downstream corporate limits.	*1,346
			Upstream side of Bridge Street	*1,363
			Upstream corporate limits	*1,370
		Steel Brook	At confluence with West Branch Delaware River	*1,356
			Upstream side of Wooleton Street	*1,412
			Upstream of Delhi Reservoir Dam	*1,567
Maps available for inspection at the Village Clerk's Office, Delhi, New York. Send comments to Honorable Marc E. Guy, Mayor of the Village of Delhi, P.O. Box 326, Delhi, New York 13753.				
New York	Glens Falls City, Warren County	Hudson River	Downstream corporate limits	*211
			Upstream corporate limits	*275
		Halfway Creek	Area affecting community	*332
Maps available for inspection at the Department of Public Works, 42 Cooper Street, Glens Falls, New York. Send comments to Honorable Edward M. Bartholomew, Mayor of the City of Glens Falls, City Hall, 42 Ridge Street, Glens Falls, New York 12801.				
New York	Hurley, Town, Ulster	Esopus Creek	Approximately 250 feet downstream of U.S. Route 209	*163
			Upstream side of County Route 29A	*167
			Upstream corporate limits	*176
Maps available for inspection at the Town Clerk's Office, Hurley, New York. Send comments to Honorable Raymond Croswell, Town Supervisor of Hurley, P.O. Box 10, Hurley, New York 12443.				
New York	Ithaca Town, Tompkins County	Cayuga Inlet	At downstream corporate limits	*390
			Approximately 600' upstream of State Route 13	*407
			Approximately 80' upstream of second crossing of CONRAIL.	*415
			At upstream corporate limits	*444
		Fall Creek	Approximately 100' upstream of Plantation Road	*825
			Upstream side of Caldwell Road	*832
			At second upstream dam	*880
		Cascadilla Creek	At downstream corporate limits	*823
			Upstream side of New York State Route 366	*841
			Approximately 1,500 feet upstream of Fish Hatchery Road.	*876
		Cayuga Lake	Entire shoreline within community	*386
Maps available for inspection at the Town Hall, Ithaca, New York. Send comments to Honorable Noel Desch, Supervisor of the Town of Ithaca, 126 E. Seneca Street, Ithaca, New York 14850.				
New York	Liberty, Town, Sullivan County	Little Beaver Kill	Approximately 2,130' downstream of downstream corporate limits.	*1,501
			Downstream corporate limits	*1,515
			At State Route 17 (1st crossing)	*1,561
			At State Route 17 (2nd crossing)	*1,579
			Approximately 2,200' downstream of confluence of Tributary to Little Beaver Kill.	*1,620
			At confluence of Tributary to Little Beaver Kill	*1,665
			Upstream side of Lilly Pond Road	*1,691
			Approximately 1,520' upstream of Lily Pond Road	*1,726
		Tributary to Little Beaver Kill	At confluence with Little Beaver Kill	*1,665
			Approximately 1,040' upstream of County Route 176	*1,676
		West Branch Hardin Brook	Downstream corporate limits	*1,292
			Upstream side of dam	*1,329
			At Kelley Road	*1,335
			Downstream side of Shore Road	*1,342
			Downstream side of White Sulphur Road	*1,349
		Middle Mongaup River	At downstream corporate limits	*1,224
			Approximately 1 mile upstream of downstream corporate limits.	*1,256
			Approximately 2 miles upstream of downstream corporate limits.	*1,301
			Approximately 1,240' downstream of County Route 72	*1,328
			Upstream side of County Route 72	*1,354
			At most downstream corporate limits for Village of Liberty.	*1,375
			At most upstream corporate limits for Village of Liberty	*1,402
			At State Route 55	*1,417
Maps available for inspection at the Town Clerk's Office, Town Hall, Liberty, New York. Send comments to Honorable Abraham Kleinman, Liberty Town Supervisor, Town Hall, 120 North Main Street, Liberty, New York 12754.				
New York	Lloyd, Town, Ulster County	Hudson River	Entire Shoreline within community	*9
Maps available for inspection at the Town Hall, 12 Church Street, Highland, New York. Send comments to Honorable Jon Decker, Town Supervisor of Lloyd, 12 Church Street, Highland, New York 12528.				
New York	Marlborough, Town, Ulster County	Hudson River	At downstream corporate limits	*8
			At upstream corporate limits	*9
Maps available for inspection at the Town Clerk's Office and the Building Inspector, Town Hall, Marlborough, New York. Send comments to Honorable Michael Canosa, Marlborough Town Supervisor, Town Hall, Route 9 W, Milton, New York 12547.				
New York	Newburgh, City, Orange County	Quassaic Creek	At confluence with Hudson River	*8
			At Candle Factory Bridge	*43

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
			At Walsh Road	*102
			Upstream side of Lake Street	*120
			At North Lake Drive	*135
			At confluence of Gidneytown Creek	*147
		Gidneytown Creek	Confluence with Quassaic Creek	*147
			Upstream side of Dupont Avenue	*184
			Upstream face of Creek Industries Dam	*223
			Upstream corporate limit	*238
		Hudson River	Entire shoreline within community	*8

Maps available for inspection at the City Clerk's Office, City Hall, Newburgh, New York
Send comments to Honorable Matthew Gallitan, Newburgh City Manager, City Hall, 83 Broadway Newburgh, New York 12550

New York	Newburgh, Town, Orange County	Quassaic Creek	Approximately 250 feet downstream of Winona Lake Dam	*266
			Upstream side of Township Route 52	*274
			Upstream side of Power Mill Road	*283
			Upstream side of Union Avenue	*333
			Upstream side of Insulpane Road	*382
			Downstream side of Chadwick Lake Dam	*447
		Bushfield Creek	At confluence with Quassaic Creek	*275
			Upstream side of Powder Mill Road	*318
			Upstream side of Union Avenue	*357
			Upstream side of Interstate Route 87	*391
			Downstream side of Elmhurst Avenue	*464
			At confluence with Orange Lake	*491
		Gidneytown Creek	Approximately 245 feet downstream of corporate limits	*230
			Upstream of Gardnertown Road	*246
			Approximately .42 mile upstream of Garnertown Road	*283
			Approximately .58 mile upstream of Gardnertown Road	*324
			Upstream side of Cronomer Pond Dam	*364
			At confluence of Fostertown Creek	*378
		Fostertown Creek	At confluence with Gidneytown Creek	*378
			Approximately .25 mile downstream of North Fostertown Road.	*406
			At North Fostertown Road	*433
		Hudson River	Entire shoreline within community	*8
		Orange Lake	Entire shoreline	*491
		Chadwick Lake	Entire shoreline	*456

Maps available for inspection at the Town Engineer's Office, 105 Plattekill Turnpike, Newburgh, New York
Send comments to Honorable Robert Kirkpatrick, Newburgh Town Supervisor, Town Hall, 20-26 Union Avenue Extension, Newburgh, New York 12550

New York	Schaghticoke, Village, Rensselaer County	Hoosic River	Downstream corporate limits	*139
			Approximately 940' Downstream State Route 40	*185
			Upstream State Route 40	*243
			Upstream corporate limits	*277

Maps available for inspection at the Schaghticoke Municipal Building, Schaghticoke, New York
Send comments to Honorable Albert McDonald, Mayor of the Village of Schaghticoke, Municipal Building, Schaghticoke, New York 12154.

New York	South Glens Falls, Village, Saratoga County	Hudson River	Entire shoreline from South Glens Falls Dam to upstream corporate limits	*226

Maps available for inspection at the South Glens Falls Village Hall, 46 Saratoga Avenue, Box 1210, South Glens Falls, New York
Send comments to Honorable Harry Van Scoy, Mayor of the Village of South Glens Falls, Village Hall, 46 Saratoga Avenue, Box 1210, South Glens Falls, New York 12801

New York	Valley Falls, Village, Rensselaer County	Hoosic River	Downstream corporate limits	*290
			Upstream dam	*315
			Upstream corporate limits	*316

Maps available for inspection at the Valley Falls Village Hall, 216 State Street, Valley Falls, New York
Send comments to Honorable William Madigan, Mayor of the Village of Valley Falls, 216 State Street, Valley Falls, New York 12185

North Carolina	Unincorporated areas of Chowan County	Albemarle Sound	Within community	*7
		Chowan River	Mouth at Albemarle Sound	*7
			Just upstream of Holiday Island	*9
		Pembroke Creek	From mouth at Albemarle Sound to just downstream of SR 1208	*8

Maps available for inspection at the Chowan County Courthouse, Edenton, North Carolina. Send comments to Honorable Cliff Copeland, County Manager, Chowan County, Chowan County Courthouse, P.O. Box 1030, Edenton, North Carolina 27932.

North Carolina	Town of Edenton, Chowan County	Albermarle Sound/Edenton Bay	Along southern shoreline from western extraterritorial limit to about 200 feet southeast of Cameron Drive	*7
			Along southern shoreline from about 200 feet southeast of Cameron Drive to mouth of Queen Anne Creek	*8
		Pembroke Creek	Within community	*8
		Northeast Tributary of Pembroke Creek.	At extraterritorial limits	*8
			About 1.0 mile upstream of extraterritorial limits	*10
		Queen Anne Creek	From mouth to just downstream of Paxton Lane	*8
			Just upstream of Paxton Lane	*8
			Just downstream of Southern Railway	*17
		Northwest Tributary of Queen Anne Creek.	At confluence with Queen Anne Creek	*11
			Just downstream of Old Hertford Road	*13
		Northeast Tributary of Queen Anne Creek.	From mouth at Queen Anne Creek to about 2,000 feet upstream of the mouth.	*11

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Filberts Creek	From mouth at Pembroke Creek to about 260 feet downstream of Virginia Road.	*8
		Filberts Creek Tributary	From confluence with Filberts Creek to about 250 feet downstream of U.S. Highway 17.	*8

Maps available for inspection at the Town Hall, Edenton, North Carolina. Send comments to the Honorable Samuel Noble, Jr., Town Administrator, Town of Edenton, P.O. Box 300, Edenton, North Carolina 27932.

North Carolina	Town of Hertford, Perquimans County	Perquimans River	Within community	*7

Maps available for inspection at Town Hall, Hertford, North Carolina. Send comments to the Honorable William D. Cox, Mayor, Town of Hertford, Town Hall, P.O. Box 32, Hertford, North Carolina 27944.

North Carolina	Unincorporated Areas of Perquimans County	Albermarle Sound	Along southern shoreline from Stevenson Point to about 3,000 feet west of Reed Point.	*5
			Along southern shoreline from Harvey Point to just east of SR 1351.	*5
			Along southern shoreline from just east of SR 1351 to Holiday Lane.	*6
			Along southern shoreline from Holiday Lane to mouth of Yeopim River.	*7
		Perquimans River	Along southwest shoreline from Harvey Point to About 4,500 feet downstream of Blount Point.	*5
			Along northeast shoreline from about 3,000 feet west of Reed Point to Sueola Beach.	*6
			Along shoreline from Sueola Beach to White Hat Landing.	*6
			Along shoreline from White Hat Landing to about 1 mile upstream of confluence of Goodwin Mill Creek.	*7
			About 0.7 mile upstream of SR 1202	*10
		Little River	Along shoreline from Stevenson Point to about 3.7 miles upstream of Stevenson Point.	*5
			Along shoreline from about 3.7 miles upstream of Stevenson Point to just northeast of SR 1332.	*6
			From just northeast of SR 1332 to about 2.6 miles downstream of U.S. Highway 17.	*7
			About 1.46 miles upstream of U.S. Highway 17	*10

Maps available for inspection at the Perquimans County Courthouse, Hertford, North Carolina. Send comments to Honorable Joseph W. Nowell, Jr., Chairman, Perquimans County Board of Commissioners, Perquimans County Courthouse, P.O. Box 74, Herford, North Carolina 27944.

North Carolina	Town of Winfall, Perquimans County	Perquimans River	Within community	*7
		Mill Creek	Within community	*7

Maps available for inspection at the Town Hall, Winfall, North Carolina. Send comments to Honorable L. R. Morgan, Mayor, Town of Winfall, P.O. Box 206, Winfall, North Carolina 27985.

North Dakota	Thompson (City), Grand Forks County	Elm Coulee	Intersection of Crescent Drive and Pacific Avenue	*864

Maps are available at City Hall, 208 Pacific Avenue, Thompson, North Dakota. Send Comments to the Honorable James W. Webber, P.O. Box 307, Thompson, North Dakota 58278.

Ohio	City of Galion, Crawford County	Olentangy River	Just upstream of Hosford Road	*1110
			Just downstream of Cummings Avenue	*1152

Maps available for inspection at the City Hall, 301 Hardingway, East, Galion, Ohio. Send comments to Honorable Donald E. Yunker, Mayor, City of Galion, City Hall, 301 Hardingway, East, Galion, Ohio 44833.

Ohio	Unincorporated Areas of Logan County	Mad River	At downstream county boundary	*1079
			Just downstream of County Route 5	*1208
			Just upstream of County Route 5	*1219
			Just downstream of State Route 540	*1266
		Mud Run	At mouth	*1079
			About 400 feet upstream of Conrail	*1097
		Tributary A	At mouth	*1107
			Just downstream of County Route 5	*1125
		Tributary B	At mouth	*1132
			Just downstream of County Route 29	*1188
		Tributary C	At mouth	*1145
			Just downstream of County Route 5	*1165
		Tributary D	At mouth	*1152
			About 0.57 mile upstream of County Route 5	*1207
		Sugar Creek	At mouth	*1174
			About 200 feet upstream of Private Drive	*1193
		Tributary E	At mouth	*1235
			About 1.08 miles upstream of mouth	*1300
		Tributary F	At mouth	*1251
			About 750 feet upstream of County Route 25	*1270
		Tributary G	At mouth	*1258
			About 800 feet upstream of County Route 25	*1272
		Peter Ditch	At mouth	*1149
			About 0.3 mile upstream of U.S. Route 33 (upstream of County Route 153).	*1194
		Tributary H	At mouth	*1173
			About 0.56 mile upstream of U.S. Route 33	*1213
		Macochee Creek	At mouth	*1088
			About 1.2 mile upstream of County Route 28	*1197
		Tributary I	At mouth	*1129
			Just upstream of Township Highway 166	*1169
		Tributary J	At mouth	*1160
			About 0.3 mile upstream of Township Highway 178	*1194
		Bokengehalas Creek	About 1100 feet upstream of month	*974

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
			About 0.21 mile upstream of County Route 130	*1188
		Tributary K	At mouth	*1069
			About 1.2 miles upstream of mouth	*1098
		Blue Jacket Creek	At mouth	*1049
			About 500 feet upstream of Conrail (upstream of Troy Road)	*1197
		Tributary L	Just upstream of Ludlow Road	*1241
			Just downstream of Brennan Road	*1273
		Tributary N	At mouth	*1243
			About 650 feet upstream of mouth	*1245
		Possum Run	At mouth	*1155
			About 600 feet upstream of a Private Drive (downstream of City of Bellefontaine corporate limits)	*1175
		Wissahicken Creek	At mouth	*1157
			About 0.45 mile upstream of mouth	*1178
		Flat Branch	At mouth	*1077
			Just downstream of Wish Road	*1256
		Tributary M	At mouth	*1134
			About 0.63 mile upstream of Township Highway 56	*1224
		Stony Creek	About 900 feet upstream of mouth	*977
			About 300 feet upstream of County Route 31	*1011
		Lee Creek	At mouth	*982
			Just upstream of County Route 64	*1041
		Graves Creek	At mouth	*983
			About 1.06 miles upstream of County Route 62	*994
		Tributary P	At mouth	*987
			At county boundary	*995
		Black Lake Outlet	Within community	*983
		Mc Kees Creek	At mouth	*997
			Just downstream of Township Highway 45	*1061
			Just upstream of Township Highway 45	*1070
			Just downstream of Ludlow Road	*1243

Maps available for inspection at the County Commissioner's Office, Logan County Courthouse, Bellefontaine, Ohio. Send comments to Honorable Warren W. Smith, Chairman, Logan County Commission, Logan County Courthouse, Bellefontaine, Ohio 43311

Oregon	Klamath Falls (City), Klamath County	Lake Ewauna	Intersection of lake and Burlington Northern Railroad	*4086
		Link River	50 feet downstream of center of Link River Dam	*4140
		Upper Klamath Lake	Intersection of Bismark Street and Melhase Avenue	*4142

Maps available for inspection at the Planning Department, City Hall, Klamath Falls, Oregon. Send comments to the Honorable George Flitcraft, P.O. Box 237, Klamath Falls, Oregon 97601

Tennessee	City of Oak Ridge, Roane and Anderson Counties	Clinch River	About 4.7 miles downstream of Bethel Valley Road	*797
			About 1320 feet upstream of confluence of Ernes Creek	*798
		Gamble Valley Creek	Mouth at East Fork Poplar Creek	*854
			About 0.05 mile upstream of the abandoned railroad bridge	*870
		Ernes Creek	Mouth at Clinch River	*798
			Just downstream of Fairbanks Road	*830
			Just upstream of Fairbanks Road	*836
			About 0.51 mile upstream of Fairbanks Road	*852
		Emory Valley Creek	Mouth at Clinch River	*798
			About 2530 feet upstream of Columbia Drive	*836
		East Fork Poplar Creek	Just upstream of U.S. Department of Energy Boundary	*782
			Just downstream of Wiltshire Drive	*828
			About 0.74 mile upstream of East Tulsa Road	*881

Maps available for inspection at the Planning Department, City Hall, Oak Ridge, Tennessee. Send comments to Honorable Lyle Lacy III, City Manager, City of Oak Ridge, City Hall, P.O. Box 1, Oak Ridge, Tennessee 37830.

Texas	Harris County	Halls Bayou	Approximately 1.0 mile upstream of confluence with Greens Bayou	*33
			Approximately 800 feet downstream of confluence of Tributary 6.71	*58
			At downstream corporate limits	*61
			At Bertrand (upstream side)	*68
			At Aldine Westfield Road (upstream side)	*70
			At confluence of Tributary 11.96	*74
			At Airline Drive (upstream side)	*78
			Downstream side of Sweetwater Road	*81
			Upstream side of Steubner Airline Road	*87
			Approximately 1.4 miles upstream of Steubner Airline Road	*90
			Approximately 0.6 mile downstream of Ann Louise Road	*96
			Downstream of Moselee Road	*100
		Tributary 6.71 to Halls Bayou	At downstream corporate limits	*58
			At Hopper Road (upstream side)	*62
			Approximately 1,950 feet upstream of Hartwick Lane	*63
		Tributary 11.96 to Halls Bayou	At confluence with Halls Bayou	*74
			Approximately 350 feet downstream of East Canna Road	*76
		Big Gulch	At confluence with Greens Bayou	*24
			Upstream side of Wallisville Road	*25
			Approximately 0.9 mile upstream of Wallisville Road	*32
			Approximately 0.4 mile downstream of Villagrove	*38
			Upstream side of Tidwell Road	*44

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
			Approximately 300 feet downstream of Little York (extended).	*47
		Spring Gully	At confluence with Greens Bayou	*26
			Approximately 1.3 miles upstream of confluence with Greens Bayou.	*32
		Garners Bayou	Confluence with Greens Bayou	*57
			Approximately 0.8 mile downstream of confluence of Tributary 3.19.	*58
			Approximately 1,700 feet upstream of confluence of Tributary 3.19.	*62
			At corporate limits	*65
		Williams Gully	Confluence with Garners Bayou	*57
			Approximately 1.1 miles upstream of confluence with Garners Bayou.	*59
			Approximately 1,400 feet upstreat of confluence of Tributary 2.01.	*64
			Approximately 2.3 miles upstreat of confluence of Tributary 2.01.	*68
		Tributary 2.01 to Williams Gully	Confluence with Williams Gully	*63
			Approximately 0.9 mile upstream of confluence with Williams Gully.	*66
			Approximately 1.9 miles upstream of confluence with Williams Gully.	*72
		Tributary 3.19 to Garners Bayou	Confluence wity Garners Bayou	*61
			Upstream corporate limits	*68
		Tributary 0.55 to Tributary 3.19 to Garners Bayou.	Confluence with Tributary 3.19	*65
			Upstream corporate limits	*67
		North Fork Greens Bayou	Confluence with Greens Bayou	*92
			Upstream side of Ella Boulevard	*94
			Upstream side of most downstream Shell Road	*104
			Upstream side of most upstream Shell Road	*107
			Approximately 1,675 feet upstream of Walters Road	*108
		Tributary 1.95 to North Fork Greens Bayou.	Confluence with North Fork Greens Bayou	*95
			Approximately 0.6 mile upstream of Kuykendahl Road	*104
			Approximately 0.9 mile upstream of Harral-Dwyer Road	*112
		Tributary 14.27 to Greens Bayou	At confluence with Greens Bayou	*41
			At corporate limits	*44
		Tributary 14.82 to Greens Bayou	At confluence with Greens Bayou	*43
			Approximately 1.2 miles upstream of confluence with Green Bayou.	*48
			Upstream side of East Houston Dyersdale Road	*57
			Upstream side of Shendan Roan	*62
			At upstream corporate limits	*64
		Tributary 20.88 to Greens Bayou	At confluence with Greens Bayou	*59
			Upstream of Parame Drive	*62
			Corporate limits at Old Humble Road	*68
			Corporate limits at Lee Road (upstream side)	*73
			Approximately .38 mile upstream of Lee Road	*74
		Mason Creek	At corporate limits with the City of Houston	*98
			Upstream side of Fry Road	*102
			Upstream side of park Pine Road	*110
			Approximately 0.5 mile downstream of Interstate 10/ State Route 90.	*123
			Upstream of Interstate Route 10	*125
			At Colonial Parkway	*126
			Approximately 0.4 mile upstream of Franz Road	*130
		Tributary 4.96 to Mason Creek	Confluence with Mason Creek	*125
			Approximately 0.9 mile upstream of Mason Road	*128
			Approximately 1.9 miles upstream of Mason Road	*132
			Approximately 100 feet downstream of Katy-Fort Bend Road	*135
		Tributary 52.9 to Buffalo Bayou	At corporate limits	*98
			Approximately 1,850 feet upstream of confluence of Tributary 2.17 to Tributary 52.9 to Buffalo Bayou.	*102
		Tributary 2.17 to Tributary 52.9 to Buffalo Bayou.	Confluence with Tributary 52.9 to Buffalo Bayou	*100
			Approximately 0.8 mile upstream of confluence with Tributary 52.9 to Buffalo Bayou.	*103
		Cane Island Branch	Approximately 0.6 mile downstream of county boundary.	*147
			Approximately 0.6 miles upstream of Morton Road	*156
			At Pitts Road	*159
		Hunting Bayou	Confluence with Buffalo Bayou	*12
			At upstream corporate limits (with Galena Park)	*12
		Carpenters Bayou	Confluence with Buffalo Bayou	*12
			Upstream side of Woodford Drive	*24
			Upstream side of Walhsville Road	*33
		Tributary 3.33 to Carpenters Bayou	Confluence with Carpenters Bayou	*13
			Approximately 850 feet upstream of Elgin Road	*29
		Tributary 11.71 to Carpenters Bayou.	Confluence with Carpenters Bayou	*40
			Aproximately 1.0 mile upstream of Hatchery Road	*46
		Sheldon Reservior	Entire shoreline	*49
		Buffalo Bayou	At confluence of Tucker Bayou	*12
			At confluence of Tributary 6.77	*12
			At confluence of Sims Bayou	*12
			At Dairy Ashford Road and Houston corpoarate limits	*78
			At confluence of Langham Creek	*80
			Downstream of State Route 6	*80

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
		Turkey Creek	At downstream City of Houston corporate limits	*88
			At first upstream Houston corporate limits	*92
			Corporate limits at Clay Road	*104
			Upstream side of Tanner Road	*108
			At Fisher Road	*110
		Tributary 3.9 to Turkey Creek	At City of Houston corporate limits	*107
			Approximately 3,000 feet upstream of Tanner Road	*114
		Glenmore Ditch	Confluence with Buffalo Bayou	*12
		Tributary 8.17 to Buffalo Bayou	Confluence with Buffalo Bayou	*12
			At corporate limits	*12
		Tucker Bayou	Confluence with Buffalo Bayou	*11
			At corporate limits with Deer Park	*11
		Patrick Bayou	Confluence with Buffalo Bayou	*12
			At corporate limits	*12
		Panther Creek	Confluence with Buffalo Bayou	*12
			At corporate limits	*12
		Vince Bayou	Confluence with Buffalo Bayou	*12
		Little Vince Bayou	At confluence with Vine Bayou	*12
		Tributary 6.77 to Buffalo Bayou	At confluence with Buffalo bayou	*12
		Tributary 8.17 to Buffalo Bayou	At confluence with Buffalo Bayou	*12
		Goose Creek	Approximately 200 feet upstream of corporate limits	*25
			Approximately 4 mile upstream of Interstate Route 10	*30
			Approximately 200 feet upstream of Wallisville Road East	*35
			Approximately 4 mile upstream of Fig Orchard Road	*42
		Extreme downstream elevation at corporate limits	*18	
		East Fork Goose Creek	Approximately 950 feet upstream of Lynchburg-Cedar Bayou Road	*18
		Forest Lake	Downstream corporate limits	*11
			Corporate limits with the City of Pasadena	*11
			Approximately 1,200 feet upstream of corporate limits	*11
		Clear Creek	Upstream corporate limits of unincorporated areas of Harris County/City of Seabrook	*15
			Approximately 2.0 miles downstream of confluence of Cow Bayou	*12
			At confluence of Cow Bayou	*11
			Upstream side of Interstate Route 45/U.S. Route 25	*12
			Upstrea side of FM 528	*18
			Upstream side of Edgewood Avenue/FM 2351	*23
			At confluence of Halls Road Ditch	*27
			At downstream corporate limits of Harris County/City of Pearland	*36
			At upstream corporate limits of Harris County/City of Pearland	*39
			At downstream corporate limits of Harris County/City of Houston	*53
			Upstream side of Cullen Boulvard/FM 518	*53
			Upstream side of County Route 403	*59
			At county boundary	*63
		Taylor Bayou	Entire shoreline within county	*11
		Cow Bayou	Downstream corporate limits	*12
			Approximately 620 feet upstream of El Camino Real Boulevard	*16
		Tributary 10.08 to CLear Creek	Downstream corporate limits	*11
			Corporate limits at West Nasa Road	*17
			Approximately 1,550 feet upstream of third downstream corporate limits	*24
		Cedar Gully	Confluence with Clear Creek	*21
			Approximately 1,388 feet upstream of confluence with Cedar Creek	*21
		Turkey Creek	Confluence with Clear Creek	*26
			Downstream corporate limits of the City of Houston	*32
			At most upstream corporate limits with the City of Houston	*32
		Tributary 0.16 to Turkey Creek	Confluence with Turkey Creek	*26
			Approximately 0.7 mile upstream of confluence with Turkey Creek	*29
		Halls Road Ditch	Confluence with Clear Creek	*27
			At downstream corporate limits with City of Houston	*32
			Most upstream corporate limits	*36
		Galveston Bay	Shoreline of southwestern corporate limits at Atkinson Island	*15
			Shoreline approximately 1.1 miles east of Lee Drive (extended)	*16
			Shoreline at Diversion Channel	*19
			Shoreline of eastern corporate limits south of the City of Baytown	*17
		White Oak Bayou	Downstream corporate limits with City of Houston	*84
			Upstream corporate limits with City of Houston	*89
			Fairbanks-North Houston Road (upstream side)	*97
			Windfern Road (upstream side)	*100
			Upstream corporate limits of City of Jersey Village	*110
			Jones Road (upstream side)	*120
		Addicks-Fairbanks Road (upstream side)	*128	
			Huffmeister Road (upstream side)	*133
		Brickhouse Gully	Downstream corporate limits	*100

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Approximately 300 feet upstream of Gessner Road	*101
		Cole Creek	Downstream corporate limits	*97
			Windfern Road (upstream side)	*97
			Hempstead Road (upstream side)	*101
			Approximately 1,150 feet upstream of Sommermeyer Road (upstream side).	*102
		Vogel Creek	Downstream corporate limits	*86
			West Mount Houston Road (upstream side)	*87
			Chippewa Boulevard (downstream side)	*95
			Romana Boulevard (upstream side)	*101
			Silent Wood Land (upstream side)	*105
			Bunker Wood Land (upstream side)	*107
			Approximately 2,2500 feet upstream of Fairbanks-North Houston Road.	*115
		Tributary 15.8 to White Oak Bayou	Confluence with White Oak Bayou	*92
			Warren Road (upstream side)	*101
			Rodney Ray Boulevard (upstream side)	*109
			Taub Road (downstream side)	*113
		Rolling Fork	Confluence with White Oak Bayou	*99
			Rodney Boulevard (downstream side)	*106
			Prairie Drive (upstream side)	*112
			Approximately 1,100 feet upstream of Taub Road	*117
			Approximately 2.0 miles upstream of Taub Road	*120
		Tributary 19.82 to White Oak Bayou.	Downstream corporate limits	*110
			Jones Road (upstream side)	*111
			Hempstead Road (upstream side)	*117
		East Fork San Jacinto River	Confluence with Lake Houston	*50
			Approximately 2.75 miles downstream of confluence of Caney Creek.	*58
			Approximately 4 miles upstream of confluence of Church House Gully.	*68
			County boundary	*69
			Confluence with Lake Houston	*50
		West Fork San Jacinto River	Approximately 1.5 upstream of confluence of Bear Branch (Tributary to Kingwood Village).	*58
			Downstream of U.S. Route 59	*64
		White Oak Creek	Downstream corporate limits	*59
			Upstream corporate limits	*85
		Mills Branch	Confluence with White Oak Creek	*61
			Approximately 106 feet upstream of Hamblen Road	*75
		Tributary 16.6 to West Fork San Jacinto River.	Confluence with West Fork San Jacinto River	*62
			Upstream corporate limits	*62
		Tributary 17.7 to West Fork San Jacinto River.	Confluence with West Fork San Jacinto River	*64
			Approximately 0.9 mile upstream of confluence	*64
		Bens Branch	At downstream corporate limits	*50
			Approximately 500 feet upstream of Kingwood Drive	*54
			At county boundary	*74
		Jordon Gully	At corporate limits	*61
			Approximately 2,000 feet upstream of FM 1960	*85
		San Jacinto River	Downstream corporate limits	*14
			Interstate Route 10 upstream	*14
			Missouri Pacific Railroad upstream	*16
			Approximately 2 miles upstream of Missouri Pacific Railroad.	*17
			Approximately 21,120 feet above Missouri Pacific Railroad.	*19
			Beaumont Highway (U.S. Route 90)	*26
			Upstream corporate limits	*32
			Approximately 3,250 feet downstream of Lake Houston Dam.	*33
		Lake Houston	Entire shoreline within community	*50
		Cedar Bayou	Confluence with Galveston Bay	*15
			Upstream side of Tri-Cities Beach Road	*12
			Upstream side of Ferry Road/State Route 146	*15
			Approximately 600 feet upstream of downstream crossing of Southern Pacific Railroad.	*20
			Upstream side of Interstate Route 10/U.S. Route 75	*22
			At Crosby-Barbers Hill Road/FM 1942	*31
			At confluence of Buck Gully	*35
			At confluence of Adlong Ditch	*44
			Approximately 2.1 miles upstream of confluence of Adlong Ditch.	*48
			Upstream side of upstream crossing of Southern Pacific Railroad.	*57
			Upstream side of Crosby-Eastgate Road	*63
			Upstream side of Ramsey Road	*66
			Upstream county boundary	*72
		Cary Bayou	Confluence with Cedar Bayou	*14
			Upstream side of Southern Pacific Railroad	*21
			Upstream side of East Archer Road	*28
			Approximately 0.5 mile upstream of East Archer Road	*30
		McGee Gully	Confluence with Cedar Bayou	*18
			Approximately 350 feet upstream of Needlepoint Road	*26
			At Sjolander Road	*29
			Approximately 1.4 miles upstream of Sjolander Road	*34
		Cypress Creek	Confluence with Spring Creek	*76
			Confluence of Wild Cow Gulch	*76

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Upstream side of Aldine-Westfield Road	*82
			Downstream side of Missoun-Pacific Railroad	*88
			Upstream Interstate Route 45 (southbound)	*96
			Upstream Kuykendahl Road	*104
			Upstream side of Kuykendahl Road	*104
			Confluence of Spring Gully	*107
			Upstream side of Seubner-Airline Road	*111
			Confluence of Dry Gully	*115
			Approximately .36 mile upstream of Champion Forest Drive	*117
			Upstream Chicago Rock Island and Pacific Railroad	*118
			Upstream FM 149	*120
			Confluence of Faulkey Gully	*123
			Upstream side of Grant Road	*130
			Confluence of Little Cypress Creek	*135
			Downstream side of Telge Road	*138
			Upstream side of Woodworth Drive	*141
			Upstream side of Southern Pacific Railroad	*144
			Approximately 1.2 miles upstream of Southern Pacific Railroad.	*145
			Upstream side of House Hahl Road	*149
			Approximately 1 mile upstream of House Hahl Road	*150
			Approximately 2.1 miles upsteam of House Hahl Road	*153
			Confluence of Tributary 40.7	*157
			At confluence of Tributary 40.7	*157
			Downstream Katy Hockley Road	*160
			Confluence of Tributary 44.5	*166
			Upstream Sharp Road	*169
			County boundary	*171
		Wild Cow Gulch	Confluence with Cypress Creek	*76
			Upstream Treaschwig Road	*76
			Downstream Hickory Gate Drive	*90
		Schultz Gully	Confluence with Cypress Creek	*84
			Approximately 800' upstream of Aldine Westfield Road	*89
		Lemm Gully	Confluence with Cypress Creek	*90
			Upstream Lockridge Drive	*90
			Confluence of Wunsche Gully	*104
			Approximately 1,200 feet downstream of Spring-Cypress Road.	*112
		Turkey Creek	Confluence with Cypress Creek	*76
			Approximately 4,200 upstream of confluence	*76
			Downstream Humble Westfield Road	*82
			Upstream Aldine Westfield Road	*86
			Approximately 4,700' upstream of W.W. Thorne Boulevard	*88
			Downstream Hardy Road	*91
			Downstream Imperial Valley Drive	*100
			Upstream North Vista Drive	*105
		Senger Gully	Confluence with Lemm Gully	*90
			Upstream Northill Drive	*92
			Upstream Cypresswood Drive	*104
			Upstream side of Louetta Road	*115
		Wunsche Gully	Confluence with Lemm Gully	*104
			Upstream Spring-Cypress Road	*125
			Approximately 1,550' upstream of Interstate Route 45	*127
		Seals Gully	Confluence with Cypress Creek	*99
			Upstream Candle Creek Road	*103
			Downstream Louetta Road	*111
			Upstream side of Spring-Cypress Road	*124
			Upstream side of Rhodes Road	*131
		Kothman Gully	Confluence with Seals Gully	*108
			Upstream Spring-Cypress Road	*129
			Downstream FM 2920	*131
			Approximately 1,400' upstream of Spring Stuebner Road.	*139
		Spring Gully	Confluence with Cypress Creek	*107
			Confluence of Theiss Gully	*111
			Upstream side of Spring Creek Oak Drive	*117
			Downstream side of Spring-Cypress Road	*133
			Approximately .87 mile upstream of Spring-Cypress Road.	*140
		Theiss Gully	Confluence with Spring Gully	*111
			Downstream side of Louetta Road	*117
			Downstream Theisswood Road	*124
			upstream Spring-Cypress Road	*141
			Approximately 1.5 miles upstream of Spring-Cypress Road	*147
		Tributary 2.1 to Spring Gully	Confluence with Spring Gully	*118
			Downstream Spring-Cypress Road	*130
			Approxately 1.2 milesupstream of Spring-Cypress Road.	*136
		Dry Gully	Confluence with Cypress Creek	*115
			Downstream side of Herts Road	*116
			Approximately 1.57 miles upstream of Louetta Road	*139
		Pillot Gully	Confluence with Cypress Creek	*119
			Upstream side of Cane Creek Road	*124
			Downstream Cossey Road	*134
			Downstream Huffsmith-Kohrville Road	*143

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Faulkey Gully	Confluence with Cypress Creek	*123
			Downstream side of Malcomson Road	*126
			Upstream of Spring-Cypress Road	*143
			Approximately 1 mile upstream of Spring-Cypress Road.	*151
			Upstream Shaw Road	*155
			Approximately 3,650' upstream of Shaw Road	*158
		Little Cypress Creek	Confluence with Cypress Creek	*134
			Upstream side of Kluge Road	*137
			Approximately 1 mile upstream of Kluge Road	*141
			Upstream side of Spring-Cypress Road	*146
			Approximately 1 mile upstream of Spring-Cypress Road.	*148
			Approximately 2 miles upstream of Spring-Cypress Road.	*152
			Approximately .72 mile downstream of Cypress Rosehill Road.	*157
			Upstream Cypress Rosehill Road	*162
			At confluence of Tributary 9.36	*167
			Approximately .93 mile upstream of Mueschke Road	*173
			Approximately 2.6 miles upstream of Mueschke Road	*179
			Upstream Bauer Road	*189
			Downstream side of Becker Road	*197
			Upstream side of Roberts Road	*206
			Upstream side of Bauer-Hockley Road (downstream crossing).	*210
			Downstream side of Bauer-Hockley Road (upstream crossing).	*218
			Approximately 1,400' upstream of Warren Ranch Road	*221
		Thirbutary 9.36 to Little Cypress Creek.	At confluence with Little Cypress Creek	*167
			Upstream side of Mueschke Road	*173
		Tributary 10.99 to Little Cypress Creek.	Confluence with Little Cypress Creek	*173
			Downstream side of Juergen Road	*180
			Approximately .95 mile upstream of Juergen Road	*202
			Approximately 1.4 miles upstream of Juergen Road	*213
		Tnbutary 13.92 to Little Cyress Creek.	Confluence with Little Cypress Creek	*187
			Downstream Bauer Road	*189
			Approximately 3,400' downstream of Bothkins Road	*201
			Downstream Botkins Road	*210
			Approximately 2,000' upstream of Botkins Road	*216
		Tnbutary 0.12 to Tributary 13.92 to Little Cypress Creek.	Confluence with Tributary 13.92 to Little Cypress Creek.	*187
			Approximately 1 mile upstream of Bauer-Hockley Road at Private Road crossing.	*201
		Dry Creek	Confluence with Cypress Creek	*142
			Downstream side of Spring-Cypress Road	*146
			Upstream side of Skinner Road	*150
			Upstream side of Cypress Rosehill Road	*154
			Upstream side of Mueschke Road	*156
			Approximately 1.1 miles above Mueschke Road	*159
		Tnbutary 36.6 to Cypress Creek	Confluence with Cypress Creek	*148
			Approximately 5,000' upstream of confluence with Cypress Creek.	*149
			Approximately 1.9 miles upstream of confluence with Cypress Creek.	*152
			Approximately 2.4 miles upstream of confluence with Cypress Creek.	*153
		Tribuary 37.1 to Cypress Creek	Confluence with Cyress Creek	*149
			Approximately 5,000' upstream of confluence with Cypress Creek.	*154
		Tnbuary 40.7 to Cypress Creek	Confluence with Cypress Creek	*157
			Upstream House Road	*172
			Approximately 5,000' upstream of House Road	*189
			Approximately 1.8 upstream	*195
		Tribuary 42.7 to Cypress Creek	Confluence with Cypress Creek	*161
			Approximately .47 mile upstream of Katy-Hockley Road.	*162
			Approximately 1,450' downstream of Jack Road	*164
			Upstream of Southern Pacific Railroad	*180
			Approximately 1.1 upstream of Southern Pacific Railroad.	*192
			Approximately 300' south of Mound Creek	*195
		Rock Hollow	Confluence with Cypress Creek	*162
			Approximately .95 upstream of confluence with Cypress Creek.	*165
			At confluence of Tributary 1.63	*166
			Approximately 1 mile upstream of confluence of Tributary 1.63.	*171
			Upstream Jack Road	*178
			Approximately 1 mile upstream of Warren Lake Dam	*197
			Approximately 1,450' upstream of Mound Road	*206
		Tnbutary 1.63 to Rock Hollow	Confluence with Rock Hollow	*166
			Upstream side of Waren Ranch Road	*171
			Approximately 1.1 miles upstream of Warren Ranch Road.	*181
			Approximately 1.8 miles upstream of Warren Ranch Road.	*194
		Tributary 44.5 to Cypress Creek	Confluence with Cypress Creek	*166

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Upstream Warren Ranch Road	*170
			Approximately 1 mile upstream of Warren Ranch Road	*172
			Approximately 2 miles upstream of Warren Ranch Road	*176
			Approximately 3 miles upstream of Warren Ranch Road	*184
			Approximately 4.1 miles upstream of Warren Ranch Road	*206
		Mound Creek	At most downstream county boundary	*192
			Approximately 2.46 miles upstream of confluence with Cypress Creek and Snake Creek	*198
			Approximately .66 mile downstream of confluence of Little Mound Creek	*203
			At most upstream county boundary	*206
		Little Mound Creek	Confluence with Mound Creek	*205
			Approximately 5,000' upstream of confluence with Cypress Creek.	*212
			Upstream side of Betka Road	*219
			Approximately .9 mile upstream of Betka Road	*232
		Tributary 7.62 to Mound Creek	At county boundary	*221
			Approximately 800' upstream of county boundary	*225
		Tributary 8.18 to Mound Creek	At corporate limits	*264
			Approximately 1,600' upstream of corporate limits	*271
		Luce Bayou	At confluence with East Fork San Jacinto River	*50
			Downstream county boundary	*52
			Confluence of Shook Gully	*55
			Confluence of Mexican Gully	*59
			Approximately 3.6 miles upstream of confluence of Mexican Gully	*67
		Shook Gully	At confluence with Luce Bayou	*55
			Approximately 1.3 mile upstream of Aftonway Road	*76
		Mexican Gully	At confluence with Luce Bayou	*59
			Approximately 0.3 mile upstream of confluence with Luce Bayou.	*67
		Jackson Bayou	At confluence with the San Jacinto River	*29
			Upstream Avenue E	*29
			Upstream Runneburg Road	*46
			Downstream side of Ramsey Road	*49
		Gum Gully	At confluence with Jackson Bayou	*29
			Approximately .95 mile upstream of Diamondhead Boulevard.	*30
			At confluence of Tributary 3.08	*35
			Approximately .95 mile of confluence of Tributary 3.08.	*41
			Upstream side of Foley Road	*47
			Upstream Humble Crosby Road	*53
			Approximately 1,475' upstream of Stroker Road	*59
		Tributary 2.70 to Gum Gully	At confluence with Gum Gully	*33
			Upstream side of Martin Spike Drive	*41
			Approximately 950' upstream of Humble Crosby Road	*52
		Tributary 3.08 to Gum Gully	At confluence with Gum Gully	*35
			Approximately .59 mile upstream of Golf Creek Road	*46
			Approximately 1.4 miles upstream of Golf Club Road	*54
		Bear Creek	Approximately 5.6 miles upstream of confluence with South Mayde Creek	109
			Approximately 1.1 miles downstream of Barker Cypress Road	*111
			Upstream side of Barker Cypress Road	*115
			Approximately .81 mile upstream of Clay Road	*122
			Upstream side of Barker Cypress Road	*126
			Approximately 1.33 miles upstream of Barker Cypress Road	*130
			Approximately 2.27 miles of Barker Cypress Road	*132
			Approximately 1.88 miles downstream of Stockdick Road	*135
			Approximately .93 mile downstream of Stockdick Road	*141
			Upstream Stockdick Road	*146
			Upstream FM 529	*150
			Approximately .95 mile upstream of FM 529	*154
			Approximately .78 mile upstream of Logenbaugh Road	*161
		Langham Creek	At downstream corporate limits	*111
			Upstream side of West Little York Road	*114
			Approximately 1.4 miles upstream of West Little York Road.	*118
			Downstream Barker Cypress Road	*124
			Approximately 1,600' upstream of Freeman Road	*130
			Approximately 2.3 miles upstream of Freeman Road	*141
			Approximately 4.3 miles upstream of Freeman Road	*150
			Approximately 7.1 miles upstream of Freeman Road	*156
		Dinner Creek	At confluence with Langham Creek	*124
			Approximately 1 mile upstream of confluence with Langham Creek.	*127
			Approximately 2,200' downstream of Freeman Road	*128
			Approximately 1.4 miles upstream of Freeman Road	*143
		Horsepen Creek	At downstream corporate limits	*110
			Approximately 2,800' upstream of West Little York Road.	*112
			Upstream Huffmeister Road	*117
			Upstream side of State Route 6	*120

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Approximately 1 mile upstream of State Route 6	*132
			Approximately 2 miles upstream of State Route 6	*136
			Approximately 2.9 miles upstream of State Route 6	*141
			Approximately 4.81 miles upstream of State Route 6	*144
		Tributary 9.4 to South Mayde Creek.	At confluence with South Mayde Creek	*122
			Upstream side of Elrod Road	*135
			Downstream Peek Road	*138
			Upstream side of Porter Road	*143
			Downstream Katy Hockley Cutoff	*146
		South Mayde Creek	Approximately 2,000' downstream of Barker-Cypress Road.	*105
			Downstream Groeschke Road	*109
			Downstream Greenhouse Road	*112
			At confluence of Tributary 9.4	*122
			Upstream Clay Road	*130
			Upstream Stockdick Road	*142
			Downstream side of Katy Hockley Cutoff	*154
			At most upstream corporate limits	*171
		Vince Bayou	Confluence with Buffalo Bayou	*12
			Upstream corporate limits	*12
		Little Vince Bayou	Confluence with Vince Bayou	*12
			Upstream corporate limits	*12
		Greens Bayou	At confluence with Buffalo Bayou	*12
			Corporate limits at Missouri Pacific Railroad crossing	*14
			Downstream side of Normandy Drive	*16
			Approximately 1.14 miles upstream of Normandy Drive	*22
			At confluence of Big Gulch	*24
			Upstream side of South Lake Houston Parkway	*26
			Approximately 1.19 miles upstream of South Lake Houston Parkway.	*28
			Upstream Southern Pacific Railroad	*31
			Upstream Green River Drive	*33
			Downstream Tidwell Road	*35
			Downstream confluence of Tributary 14.27	*40
			Upstream North Lake Houston Parkway	*49
			At confluence of Garners Bayou	*57
			Upstream side of Southern Pacific Railroad	*63
			Upstream U.S. Route 59	*66
			At confluence of Tributary 24.97	*69
			Upstream side of FM 525	*72
			Corporate limits upstream of North Belt	*74
			Upstream side of Aldine Westfield Road	*76
			Corporate limits located downstream of East Hardy Road.	*80
			Pedestrian bridge downstream of Greens Road	*85
			Upstream side of Interstate Route 45	*91
			Downstream Gears Road	*95
			Upstream of Stuebner-Airline Road	*105
			Upstream side of Bammel North Houston Road	*111
			Upstream side of Cutten Road	*118
			Upstream side of Mills Road	*122
			Downstream of Louedd Road	*129
		Sulphur Gully	At confluence with Greens Bayou	*26
			Upstream Thrasher Street	*32
			Approximately 2,000' upstream of Thrasher Street	*33
		Tributary 24.97 to Greens Bayou	At confluence with Greens Bayou	*69
			Upstream side of Aldine Westfield Road	*72
			Upstream side of Reeveston Road	*76
			Downstream side of Sweetwater	*86
			Approximately .5 mile upstream of most upstream crossing of Interstate Route 45.	*87
		Tributary 26.64 to Greens Bayou	Upstream Aldine Westfield Road	*86
			Approximately .8 mile upstream of Aldine Westfield Road.	*88
			Approximately 1.8 miles upstream of Aldine Westfield Road.	*91
		Tributary 32.23 to Greens Bayou	At confluence with Greens Bayou	*93
			Upstream side of Spears Gears Road	*99
			Approximately 1,500' upstream of Hugh Road	*103
		Tributary 34.60 to Greens Bayou	AT confluence with greens Bayou	*101
			Upstream Ann Louise Road	*105
			Approximately .51 mile upstream of Ann Louise Road	*106
		Spring Creek	Downstream county boundary	*73
			Confluence of Cypress Creek	*76
			Approximately 2.0 miles upstream of confluence of Cypress Creek.	*78
			Approximately 1.8 miles downstream of confluence of Bender Lake.	*82
			Confluence of Bender Lake	*87
			Approximately 1.6 miles upstream of confluence of Bender Lake.	*92
			Approximately I mile of Riley Fussel Road	*96
			Riley Fussel Road upstream	*99
			Approximately 8,448' upstream of Riley Fussel Road	*103
			Interstate Route 45 upstream	*106
			Approximately 1 mile upstream of Interstate Rourt 45	*111
			Confluence of Tributary 21.08 to Spring Creek	*116

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
			Approximately 8.4 miles upstream of confluence of Tributary 21.08.	*139
			Huffsmith-Conroe Road	*151
			Downstream City of Tomball Corpoate limits	*156
			Upstream City of Tomball corporate limits	*162
			Approximately 2.66 miles upstream of Cypress-Rosehill-Decker Road.	*185
		Boggs Gully	Confluence with Spring Creek	*151
			Confluence of Tributary 1.25	*158
			Zion Road downstream	*167
		Tributary 1.25 to Boggs Gully	At Confluence with Boggs Gully	*158
			At corporate limits located at upstream side of Zion Road	*171
			Upstream of Huffsmith Road	*173
		Willow Creek	Confluence with Spring Creek	*120
			First Golf Cart bridge (supstream side)	*122
			Confluence of Hughes Gully	*129
			First crossing of Huffsmith-Kohrville Road (upstream side)	*135
			Stuebner-Airline Road (upstream side)	*144
			Second crossing of Huffsmith-Kohrville Road (upstream side)	*152
			West Montgomery Road (upstream side)	*159
			Telge Road (upstream side)	*164
			Cypress-Rosehill Road (upstream side)	*171
			Juergen Road (upstream side)	*176
			Approximately 7,150 feet upstream of Juergen Road	*196
		Tributary 0.26 to Willow Creek	Confluence with Willow Creek	*121
			Approximately 3,270 feet upstream of confluence with Willow Creek.	*120
		Tributary 2.44 to Willow Creek	Confluence with Willow Creek	*121
			Approximately 5,100 feet upstream of confluence with Willow Creek.	*130
			Approximately 8,450 feet upstream of confluence with Willow Creek.	*135
		Huges Gully	Confluence with Willow Creek	*129
			Approximately 3,070 feet upstream of confluence with Willow Creek.	*135
		Cannon Gully	Confluence with Willow Creek	*130
			Approximately 500 feet upstream of confluence of Metzler Creek.	*135
			Kuykendahl Road (upstream side)	*139
		Metzler Creek	Confluence with Cannon Gully	*131
			Approximately 1,430 feet upstream of London Way Drive.	*140
		Tributary 6.52 to Willow Creek	Confluence with Willow Creek	*138
			Approximately 1.02 mile upstream of confluence with Willow Creek.	*142
			Approximately 1.99 miles upstream of confluence with Willow Creek.	*150
		Tributary 8.16 to Willow Creek	Confluence with Willow Creek	*145
			Tomball Country Club Road (upstream side)	*147
			Approximately .7 mile upstram of Tomball Country Club Road	*158
		Tributary 13.50 to Willow Creek	Confluence with Willow Creek	*160
			Humble Road (upstream side)	*169
			Access Road (downstream side)	*174
			Approximately 1,600 feet upstream of Trechel Road	*176
		Tributary 26.20 to Brays Bayou	At confluence with Brays Bayou	*79
			Approximately 1,700 feet upstream of Piping Rock	*86
		Tributary 29.16 to Brays Bayou	At confluence with Brays Bayou	*84
			Upstream side of Addicks Clodine Road	*87
		Brays Bayou	Downstream corporate limits	*74
			Upstream side of Southern Pacific Railroad	*81
			Approximately 1,100' upstream Clodine Road	*87
		Keegans Bayou	Downstream corporate limits	*86
			At county boundary	*86

Maps available for inspection at the Harris County Permit Office, County Annex, 301 Main Street, Houston, Texas.
Send comments to Honorable John J. Lindsay, County Judge, Harris County Administration Building, 1001 Preston, Houston, Texas 77002

Texas	Houston, City, Fort Bend, Harris and Montgomery Counties.	Mustang Bayou	Quail Glen Drive (extended)	*75
		Turkey Creek	Upstream Humbel-Westfield Road	*83
			Upstream corporate limits	*86
		Spring Creek	Confluence with San Jacinto River	*66
			Approximately 2 miles upstream of corporate limits	*74
		Armand Bayou	Near the northeastern corporate limits along Genoa-Red Bluff Road and approximately 1,200 feet north of Tributary 9.40 to Armand Bayou at its downstream corporate limits.	*21
		Horsepen Bayou	Downstream corporate limits	*15
			Ellington Air Force Base Runway (upstream side)	*25
		Tributary 4.13 to Horsepen Bayou	Approximately 2.37 miles upstream of confluence with Horsepen Bayou.	*24
		Tributary 5.44 to Horsepen Bayou	Confluence with Horsepen Bayou	*21
			Approximately .66 mile upstream of confluence with Horsepen Bayou.	*21
		Tributary 9.40 to Armand Bayou	At downstream corporate limits	*19

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Approximately .57 mile upstream corporate limits	*25
			Approximately 1.7 miles upstream of corporate limits	*31
		San Jacinto River	At Black Duck Bay north of Baytown Tunnell	*15
			At Crystal Bay at northern end of Goat Island	*15
			At Little Eddy	*32
			At Lake Houston Dam (downstream face)	*34
		Lake Houston	Entire shoreline	*50
		East Fork, San Jacinto River	Confluence with Lake Houston	*50
			Confluence of Caney Creek	*56
			Approximately 110 miles upstream of corporate limits	*58
		Luce Bayou	Confluence with East Fork San Jacinto River	*50
			Upstream side of Wolf Road	*50
			Approximately .24 mile upstream of corporate limits	*52
		Caney Creek	Confluence with East Fork San Jacinto River	*56
			Confluence of White Oak Creek	*56
			At corporate limits	*64
		White Oak Creek	Confluence with Caney Creek	*56
			Upstream of Dogwood Lane	*59
			Upstream corporate limits	*65
		West Fork San Jacinto River	Confluence with Lake Houston	*50
			Confluence of Jordon Gully	*61
			At upstream side of Southern Pacific Railroad	*64
			Upstream corporate limits	*68
		Jordon Gully	At confluence with West Fork San Jacinto River	*61
			At corporate limits	*61
		Bens Branch	At confluence with West Fork San Jacinto River	*50
			At corporate limits	*50
		Buffalo Bayou	Confluence with San Jacinto River	*11
			Confluence with Greens Bayou	*12
			Confluence with Brays Bayou	*12
			Upstream side of 69th Street	*15
			Upstream side of Lockwood Drive	*23
			Upstream side of Jensen Drive	*28
			Upstream side of McKee	*33
			Upstream side of Main Street	*38
			Upstream side of Shepherd Drive	*41
			Upstream side of Interstate Route 610	*46
			At confluence of Sonng Branch	*52
			Corporate limits at Voss Road	*58
			Upstream side of San Felipe	*61
			At corporate limits within City of Piney Point Village	*64
			Upstream side of Briar Forest Drive	*67
			Upstream side of West Belt Drive	*72
			Upstream side of North Wilcrest Drive	*74
			Upstream side of Dairy Ashford Road	*78
			At confluence of Turkey Creek	*79
			Upstream side of State Route 6	*80
		Spring Branch	At confluence with Buffalo Bayou	*52
			At Interstate Route 10	*55
			Upstream side of Westview Drive	*65
			Upstream side of Bingle Road	*69
			Upstream side of Bracher Road	*73
			Upstream side of Longpoint Road	*79
			Approximately 900' upstream of Campbell Road	*85
		Bering Ditch	At confluence with Buffalo Bayou	*56
			Upstream side of Woodway Drive	*62
			Olympia Drive (extended)	*66
		Turkey Creek	At confluence with Buffalo Bayou	*60
			Upstream side of Old Katy Road	*84
			At most downstream corporate limits	*85
			Approxomately 200' upstream of second upstream corporate limits.	*93
			Hammerly Boulevard (extended)	*99
			Downstream side of Clay Road	*103
		Tributary 3.9 to Turkey Creek	At confluence with Turkey Creek	*104
			At corporate limits	*106
		Briar Branch	At confluence with Spring Branch	*51
		Rummel Creek	At confluence with Buffalo Bayou	*72
			250' downstream of Interstate Route 10	*72
		Hunting Bayou	Most downstream corporate limits	*15
			Interstate Route 10 (upstream side)	*24
			Wallisville Road (upstream side)	*31
			McCarty Road (upstream side)	*39
			Homestead Road (upstream side)	*45
			Approximately 0.2 mile upstream of U.S. Route 59	*47
		Tributary 5.22 to Hunting Bayou	Confluence with Hunting Bayou	*25
			Upstream side of Mercury Drive	*30
			Approximately 250 feet downstream of Gellhorn Drive	*35
		Tributary 12.05 to Hunting Bayou	Confluence with Hunting Bayou	*45
			Approximately 0.3 mile upstream of Lockwood Road	*51
		Tributary 12.70 to Hunting Bayou	Confluence with Hunting Bayou	*48
			Upstream side of Octavia Street	*46
		Tributary 13.85 to Hunting Bayou	Confluence with Hunting Bayou	*47
			Bain Street (extended)	*47
		Barker Reservoir	Entire shoreline	*98
		Addicks Reservoir	Entire shoreline	*104
		Bear Creek	Approximately 3.8 miles upstream of confluence with South Mayde Creek.	*102

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
			Approximately 4.8 miles upstream of South Mayde Creek	*106
			Upstream corporate limits	*110
		Horsepen Creek	Confluence with Langham Creek	*109
			At corporate limits	*110
		Langham Creek	Approximately 3 miles upstream of confluence with Bear Creek	*104
			Approximately 4 miles upstream of confluence with Bear Creek	*107
			At corporate limits	*111
		South Mayde Creek	Approximately 3,300' downstream side of Barker-Cypress Road	*104
			Upstream side of Barker Cypress Road	*108
			Downstream side of Greenhouse Road	*112
		Mason Creek	At confluence with Buffalo Bayou	*98
			At corporate limits	*98
		Tributary 52.9 to Buffalo Bayou	At confluence with Buffalo Bayou	*98
			At corporate limits	*98
		Clodoine Ditch	Approximately 850 feet upstream of Noble-Goar Road	*80
			Approximately .95 mile upstream of Becker Road	*91
			Approximately .95 mile downstream of Barker-Clodine Road	*92
			Approximately 1,475 feet upstream of Barker-Clodine Road	*95
		Halls Bayou	At confluence with Greens Bayou	*33
			Approximately 500 feet upstream of FM 527	*34
			Approximately 0.9 mile upstream of FM 527	*40
			At Missouri Pacific Railroad	*46
			Unstream side of Homestead Road	*50
			Upstream side of Hirsch Road	*57
			Upstream side of Jensen Drive	*60
			Approximately 0.47 mile upstream of Little York Road	*64
			Corporate limits at Sweetwater Road	*81
			Corporate limits at Sunnywood Street	*83
			Approximately 400 feet upstream of Stuebner-Airline	*87
		Tributary 14.27 to Greens Bayou	At downstream corporate limits	*44
			Approximately 350 feet downstream of Mesa	*50
			Approximately 550 feet upstream of Little York Road	*57
			Approximately 100 feet downstream of Van Zandt	*64
		Tributary 14.82 to Greens Bayou	At downstream corporate limits	*64
			Upstream side of Suburban Road	*64
		Tributary 20.89 to Greens Bayou	Approximately 400' upstream of Smith Road	*67
			At downstream face of Old Humble Road	*68
			At upstream face of Lee Road	*73
		Garners Bayou	At downstream corporate limits	*75
			Approximately 1,400 feet upstream of Jetero Boulevard (westbound)	*82
			Aproximately 400 feet downstream of Lee Road	*84
			At upstream corporate limits	*91
		Reinhardt Bayou	At confluence with Garners Bayou	*65
			Approximately 300 feet upstream of Southern Pacific Railroad	*68
			Approximately 0.8 mile downstream of Lee Road	*75
			Approximately 900 feet upstream of Lee Road	*78
			Approximately 1 mile upstream of Lee Road	*80
		Sims Bayou	Confluence with Buffalo Bayou	*12
			La Porte Freeway/State Route 225 (upstream side)	*14
			Galveston Houston and Henderson Railroad (upstream side)	*18
			Interstate Route 45/U.S. Route 75/Gulf Freeway (upstream side)	*28
			Bellfort Avenue (upstream side)	*32
			Swallow Street (upstream side)	*35
			Timber Branch Road (upstream side)	*39
			Cullen Boulevard (upstream side)	*42
			State Route 288 (upstream side)	*48
			Almeda Road (upstream side)	*54
			White Heather Drive (upstream side)	*56
			Heatherbrook Drive (upstream side)	*59
			Hillcroft (upstream side)	*64
			Approximately 2,400 feet upstream of Settlement Road	*69
		Plum Creek	Confluence with Sims Bayou	*14
			La Porte Freeway/State Route 225 (upstream side)	*25
			Interstate 610 culvert (downstream side)	*27
			Interstate 610 culvert (upstream side)	*30
		Pine Gully	Confluence with Sims Bayou	*15
			Broadway Boulevard (upstream side)	*29
			Interstate Route 45/U.S. Route 75/Gulf Freeway (upstream side)	*32
			Plum Drive(upstream side)	*36
		Berry Bayou	Confluence with Sims Bayou	*17
			Allendale Road (upstream side)	*20
			Richey (upstream side)	*23
			Lavaun	*33
			Approximately 1,200 feet upstream of Gilpin Street	*35
		Berry Creek	Confluence with Berry Bayou	*19
			Winkler Road (upstream)	*31

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Wynlee	*37
			Scranton Street	*39
			Approximately 2,200 feet upstream of third crossing of West Monroe Street.	*42
		Tributary 2.00 to Berry Bayou	Confluence with Berry Bayou	*22
			Wynbelts (extended)	*32
			College Avenue culvert (upstream side)	*34
		Tributary 3.31 to Berry Bayou	Downstream corporate limits	*33
			Approximately 650 feet upstream of Edgebrook Drive	*36
		Tributary 10.12 to Sims Bayou	Confluence with Sims Bayou	*39
			Vasser (upstream side)	*40
			Bellfort Avenue (upstream side)	*41
		Tributary 10.77 to Sims Bayou	Confluence with Sims Bayou	*40
			Approximately 3,900 feet upstream of Selinsky Road	*43
		Tributary 13.73 to Sims Bayou	Confluence with Sims Bayou	*45
			Approximately 2,950 feet upstream of Airport Boulevard.	*47
		Tributary 17.76 to Sims Bayou	Confluence with Sims Bayou	*54
			Approximately 2,550 feet upstream of Tidewater Drive	*54
		Tributary 20.12 to Sims Bayou	Confluence with Sims Bayou	*58
			Gatewood (upstream side)	*63
		Greens Bayou	At confluence with Buffalo Bayou	*12
			Approximately .95 mile upstream of confluence with Buffalo Bayou.	*12
			Upstream side of Port Terminal Railroad Association Railroad.	*13
			Upstream side of Interstate Route 10	*15
			Downstream side of Normandy Drive	*18
			Eastbrook Drive (extended)	*23
			Upstream side of South Lake (Houston Parkway)	*26
			Downstream side of U.S. Route 90	*30
			Corporate limits located approximately .87 mile upstream of Greenriver Drive.	*34
			At corporate limits located at confluence of Tributary 26.64.	*74
			Corporate limits at Aldine Westfield Road	*75
			Corporate limits located upstream of East Hardy Road	*81
			At corporate limits upstream of Greens Road	*87
		Tributary 24.97 to Greens Bayou	Corporate limits located at Aldine Westfield Road	*72
			Corporate limits located approximately 150 feet downstream of Old Creek (extended).	*83
			Downstream side of Airline Drive	*86
			Upstream of the most upstream crossing of Interstate Route 45.	*87
		Tributary 26.64 to Greens Bayou	At confluence with Greens Bayou	*74
			Upstream side of Greens Road	*74
			Upstream side of Rankin Road	*80
			Downstream side of Aldine Westfield Road	*85
		Clear Creek	Downstream corporate limits	*43
			State Route 35/Telephone Road (upstream side)	*46
			Stone Road (upstream side)	*52
			Second upstream corporate limits	*53
			Third upstream corporate limits	*65
			Most upstream corporate limits	*66
		Cow Bayou	Downstream corporate limits	*12
			Most upstream corporate limits	*12
		Turkey Creek	Downstream corporate limits	*31
			Corporate limits located upstream of Scarsdale Boulevard.	*32
			Downstream side of Sagedowne Lane	*32
		Halls Road Ditch	Downstream corporate limits	*32
			Kirkfair Drive (upstream side)	*35
			Approximately .66 mile upstream of Fuqua	*40
		Brays Bayou	Confluence with Buffalo Bayou	*12
			Upstream side of Forest Hill Boulevard	*19
			Upstream side of Telephone Road	*28
			Upstream side of Scott	*36
			Houston Belt and Terminal Railroad (upstream side)	*40
			Braeswood Boulevard (upstream side)	*45
			Buffalo Speedway (upstream side)	*50
			Hillcroft Avenue (upstream side)	*60
			South Gessner Road (upstream side)	*64
			Confluence of Tributary 20.86 to Brays Bayou	*68
			Bellaire Boulevard (upstream side)	*72
			Upstream corporate limits	*75
		Willow Waterhole	Confluence with Brays Bayou	*53
			South Post Oak Road (upstream side)	*55
			Approximately 600 feet upstream of Landsdowne Drive	*61
		Chimney Rock Diversion	Confluence with Brays Bayou	*56
			Stillbrooke Drive (upstream side)	*58
			Confluence with Willow Waterhole Bayou	*60
		Tributary 17.42 to Brays Bayou	Confluence with Brays Bayou	*61
			Bissonnet Road (upstream side)	*65
			Upstream of Leader	*67
		Fondren Diversion Channel	Confluence with Brays Bayou	*61
			McLain Boulevard (upstream side)	*68
			Approximately 2,000 feet upstream of Energy Dissipator.	*68

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
		Keegans Bayou	Confluence with Brays Bayou	*64
			Wilcrest Drive (upstream side)	*78
			Kirkwood Road (upstream side)	*82
			Dairy Ashford Road (upstream side)	*84
			Approximately 2,000 feet upstream of corporate limits	*86
		Tributary 19.77 to Brays Bayou	Confluence with Brays Bayou	*66
			Approximately 1,000 feet upstream of Neff	*69
		Tributary 20.86 to Brays Bayou	Confluence with Brays Bayou	*68
			Neff extended (upstream side)	*74
			Downstream of Alief Road	*76
		Tributary 20.90 to Brays Bayou	Confluence with Brays Bayou	*68
			Boone Road (downstream side)	*74
			Approximately 250 feet downstream of Kirkwood Road	*81
		Tributary 21.95 to Brays Bayou	Confluence with Brays Bayou	*71
			Kirkwood Road (upstream side)	*78
			Synott Road (downstream side)	*85
		Tributary 22.69 to Brays Bayou	Confluence with Brays Bayou	*72
			Approximately 400 feet upstream of intersection of Cooper Road and corporate limits (extended)	*75
		Tributary 23.53 to Brays Bayou	Confluence with Brays Bayou	*73
			Upstream of Cook Road	*80
			Approximately 100 feet downstream of Synott Road	*85
		White Oak Bayou	Confluence with Buffalo Bayou	*35
			Houston Avenue (upstream side)	*41
			Yale Street (upstream side)	*45
			Second crossing of West T.C. Jester Boulevard (upstream side)	*50
			Interstate Route 610/State Route 90 (upstream side)	*53
			Most downstream crossing of Fort Worth and Denver Railroad/Chicago Rock Island and Pacific Railroad (upstream side).	*59
			Pinemont Drive (upstream side)	*63
			West Little York Road (upstream side)	*78
			North Houston-Rosslyn Road (upstream side)	*87
			Upstream corporate limits	*91
		White Oak Bayou	Confluence with Little White Oak Bayou	*41
			Trimblee (upstream)	*43
			Cavalcade Road (upstream)	*53
			Stokes	*60
			Victoria Drive	*63
			West Tidwell Road	*71
			North Shepherd Drive	*78
			West Rittenhouse (upstream)	*82
		Tributary 4.29 to Little White Oak Bayou.	Confluence with Little White Oak Bayou	*61
			North Main (upstream side)	*63
			Approximately 360 feet upstream of Tulane	*69
		Tributary 5.93 to Little White Oak Bayou	Confluence with Little White Oak Bayou	*64
			Interstate Route 45 and State Route 75 (upstream side)	*74
			Downstream of West Rittenhouse	*60
		Brickhouse Gully	Confluence with White Oak Bayou	*61
			Costa Rica Road (upstream side)	*71
			Bolm Road (upstream side)	*75
			Bingle Road (upstream side)	*80
			Colleen Road (upstream side)	*85
			Campbell Road (upstream side)	*89
			Palo Pinto Drive (upstream side)	*97
			Talma Way (upstream side)	*100
		Tributary 1.61 to Brickhouse Gully	Confluence with Brickhouse Gully	*73
			Lang Road (upstream side)	*80
			Pinemont Drive (upstream side)	*85
		Tributary 10.1 to White Oak Bayou	Confluence with White Oak Bayou	*63
			Rosslyn Extended (upstream side)	*78
			Approximately 2,200 feet upstream of Oak Forest Drive	*84
		Cole Creek	Confluence with White Oak Bayou	*67
			Antoine Road (upstream side)	*76
			Bingle Road (upstream side)	*81
			Langfield Road (upstream side)	*84
			Fairbanks-North Houston Road (upstream side)	*95
			Downstream of Hempstead Road	*100
		Vogel Creek	Confluence with White Oak Bayou	*77
			Maple Tree Drive (upstream side)	*83
			Upstream corporate limits	*86

Maps available for inspection at the City Hall, 901 Bagby, P.O. Box 1561, Houston, Texas
Send comments to Honorable Kathryn Whitmire, City Hall, 901 Bagby, P.O. Box 1561, Houston, Texas 77251.

Texas	Unincorporated Areas of Jackson County	Lavaca Bay	Along shoreline at Garcitas Cove	*20
			Along shoreline at Swan Lake	*20
			Along shoreline at Redfish Lake	*18
			At Navidad River just downstream of FM 616	*15
		Keller Bay	At Keller's Creek just downstream of State Route 35	*12
		Carancahua Bay	At the mouth of Five mile Branch	*15
			At Five mile Draw just downstream of State Route 35	*12
		Tres Palacios Bay	Approximately 1,500 feet southeast of the intersection of FM 3280 and State Route 35	*12

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
Maps available for inspection at the Office of the Jackson County Judge or the Office of the Floodplain Administrator, Jackson County Courthouse, 411 North Wells, Edna, Texas 77957 Send comments to Judge Sam Seale, Jackson County Judge, or Mr. Jim Highberg, Floodplain Administrator, County Health Department, Jackson County Courthouse, 411 North Wells, Edna, Texas 77957				
Texas	Jones Creek, Village Brazoria County	Brazos River	Frontier Lane	*13
			Peach Point Road	*15
		Gulf of Mexico	Eastern corporate limits	*7
*National Geodetic Vertical Datum of 1929, 1979 Releveling Maps available for inspection at the Community Hall, 7207 Stephen F. Austin Drive, Jones Creek, Texas. Send comments to Honorable Larry Willis, Mayor of the Village of Jones Creek, Community Hall, 7207 Stephen F. Austin Drive, Jones Creek, Texas 77531.				
Texas	Liverpool, City, Brazoria County	Chocolate Bayou	At downstream corporate limits	*16
			Downstream side of Calhoun Street	*17
			At upstream corporate limits	*18
Maps available for inspection at the City Hall, Liverpool, Texas. Send comments to Honorable Marjone Glassford, Mayor of the City of Liverpool, City Hall, P.O. Box 68, Liverpool, Texas 77577				
Texas	Mansfield, City, Tarrant County	Walnut Creek	At downstream corporate limits	*538
			At confluence of Ragland Branch	*555
			At Ragland Road (upstream side)	*565
			Confluence of Hogpen Branch	*573
			Walnut Creek Drive (upstream side)	*584
			Southern Pacific Railroad (upstream side)	*591
			Confluence of Willow Branch	*598
			Upstream corporate limits	*609
		Ragland Branch	At confluence with Walnut Creek	*555
			Approximately 1,800' upstream of Ragland Road	*561
		Hogpen Branch	Confluence with Walnut Creek	*573
			Country Club Drive (upstream side)	*584
			Debbie Lane (upstream side)	*609
			U.S. Route 287 (Southbound) (upstream side)	*634
			Spur 496 Mansfield Highway (upstream side)	*665
		Watson Branch	Confluence with Walnut Creek	*577
			House Road (upstream side)	*619
			Approximately 120' downstream of FM 157	*638
		Pond Branch	At confluence with Walnut Creek	*585
			Dallas Street (upstream side)	*608
		Nichols Branch	At confluence with Walnut Creek	*591
			Approximately 2,500' upstream of Newt Patterson Road.	*607
		Willow Branch	Confluence with Walnut Creek	*598
			Approximately 600 upstream of corporate limits	*603
		Low Branch	Downstream corportate limits	*538
			Seeton Road (upstream side)	*561
			Southern Pacific Railroad (upstream side)	*580
			Mitchell Mansfield Road (upstream side)	*592
			Approximately 600' upstream of upstream corporate limits	*617
Maps available for inspection at the City Hall, 1305 East Broad Street, Mansfield, Texas Send comments to Honorable Wayne Wilshire, Mayor of the City of Mansfield, 1305 East Broad Street, Mansfield, Texas 76063				
Texas	New Braunfels, City, Comal County	Alligator Creek	Approximately 0.44 mile upstream of corporate limits (extended).	*627
			Approximately .82 mile upstream of corporate limits (extended)	*632
			Approximately 1.37 miles upstream of corporate limits (extended)	*638
		Comal River	At confluence with Guadalupe River	*611
			At confluence of Old Channel Comal River	*616
		Dry Comal Creek	At confluence of Old Channel Comal River	*616
			Downstream side of Missoun-Pacific Railroad	*623
			Downstream side of North Live Oak Avenue	*634
			Upstream side of State Loop 337	*641
			Downstream side of Missoun-Kansas Texas Railroad	*650
			At upstream corporate limits	*663
		Old Channel Comal River	At confluence with Comal River	*616
			At confluence of New Channel Comal River	*622
		Comal Springs	At confluence with New Channel Comal River	*622
			At Klingermann Street	*633
		Blieders Creek	Approximately 840' downstream of Lakeview Boulevard	*633
			At upstream corporate limits	*651
		Guadalupe River	At downstream corporate limits	*585
			At confluence of North Guadalupe Tributary	*596
			Upstream side of U.S. Route 81	*607
			Downstream side of East Common Street	*612
			Upstream side of State Loop 337	*615
			At upstream corporate limits	*627
		North Guadalupe Tributary	At confluence with Guadalupe River	*596
			Approximately .75 mile upstream of confluence with Guadalupe River.	*603
			Downstream side of Seguin Avenue	*614
			Upstream side of McQueeny Road	*625
			Approximately .43 mile upstream of McQueeny Road	*630
			Downstream side of Mesquite Avenue	*652
			Approximately 50' upstream of Farm Road 1044	*679

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
		South Guadalupe Tributary	At confluence with North Guadalupe Tributary	*596
			Downstream side of Seguin Avenue	*614
			Upstream side of McQueeny Road	*626
			Approximately .65 mile upstream of McQueeny Road	*640
			At upstream corporate limits	*659

Maps available for inspection at the New Braunfels City Hall, New Braunfels, Texas.
Send comments to Honorable Barbara Tieken, Mayor of the City of New Braunfels, City Hall, P.O. Box 1109, New Braunfels, Texas 78130.

Texas	City of Portland, San Patricio County	Nueces Bay	Approximately 750 feet along Cliff Drive from the intersection of Cliff Drive and Moore Avenue.	*14
		Corpus Christi Bay	The point approximately 200 feet shoreward from the intersection of Markham Place and Shore Drive.	*11

Maps available for inspection at the City Hall, 900 Moore Avenue, Portland, Texas 78374
Send comments to Mayor Bouby Whittington or Mr. William H. Lewis, City Manager, City Hall, P.O. Drawer 1285, Portland, Texas 78374.

Texas	Quintana, Village, Brazoria County	Gulf of Mexico	Entire shoreline within corporate limits	*>51

Maps available for inspection at the City Hall (Village of Quintana), Freeport, Texas.
Send comments to Honorable Woody Irving, Mayor pro tem of the Village of Quintana, Route 1, Box 461, Freeport, Texas 77541.

Texas	Richland Hills, City, Tarrant County	Big Fossil Creek	Downstream of State Route 21	*505
			Approximately 2,000' upstream of downstream corporate limits.	*506
			Upstream corporate limits	*509
		Mackey Creek	Upstream of Baker Boulevard	*532
			Upstream corporate limits	*534
		Stream BF-5	Approximately 340 feet upstream of Big Fossil Creek Levee.	*501
			Upstream of Park Place Drive	*521
			Upstream of Baker Boulevard	*541
			Upstream of Brooks Avenue	*560
			Downstream of Hardisty Street	*581
		Stream BF-5A	Confluence with Stream BF-5	*508
			Upstream of Park Place Drive	*520
			Upstream of Baker Boulevard	*541
		Stream BF-5B	Confluence with Stream BF-5	*501
			Upstream of Allena Lane	*505
			Downstream of Cates Street	*528
		Calloway Branch	Downstream corporate limits	*549
			Upstream corporate limits	*557
		Stream WF-9	Downstream corporate limits	*515
			Upstream of State Route 121	*527
			Downstream of Bridges Avenue	*547

Maps available for inspection at the Richland Hills City Hall, 3200 Diana Drive, Fort Worth, Texas.
Send comments to Honorable David L. Reagan, Mayor of the City of Richland Hills, City Hall, 3200 Diana Drive, Fort Worth, Texas 76118.

Texas	River Oaks, City, Tarrant County	Stream WF-5	River Oaks Boulevard (upstream side)	*574
			At upstream corporate limits	*591
		West Fork Trinity River	At downstream corporate limits	*563
			Amherst Street (extended)	*567
			At upstream corporate limits	*570

Maps available for inspection at the River Oaks City Hall, 4900 River Oaks Boulevard, Fort Worth, Texas.
Send comments to Honorable Thomas M. Holland, Mayor of the City of River Oaks, City Hall, 4900 River Oaks Boulevard, Fort Worth, Texas 76114.

Texas	Surfside Beach, Village, Brazoria County	Gulf of Mexico	Entire shoreline within corporate limits	*15

Maps available for inspection at the Village Hall, Freeport, Texas.
Send comments to Honorable Bob Caraway, Mayor of the Surfside Beach Village, Village Hall, Route 2, P.O. Box 909, Freeport, Texas 77541.

Texas	Timbercreek Canyon, Village, Randall County	Prairie Dog Town Fork of Red River.	At downstream corporate limits	*3,417
			Upstream side of Roberts Drive	*3,423
			At upstream corporate limits	*3,427

Maps available for inspection at the Mayor's Office, Route 7, Box 4-5, Amarillo, Texas.
Send comments to Honorable Ed Tunnicliffs, Mayor of the Village of Timbercreek Canyon, Route 7, Box 4-5, Amarillo, Texas 79105.

Texas	Westover Hills, Town of, Tarrant County	Stream WF-10	Most downstream Corporate Limits	*557
			Upstream side of Roaring Springs Road	*599
			Approximately 80 feet upstream of Indian Creek Drive	*604
		Stream WF-10A	At confluence with Stream WF-10	*599
			Approximately 90 feet upstream of Spring Road	*642

Maps available for inspection at Westover Hills Town Hall, 5824 Merrymount Road, Fort Worth, Texas.
Send comments to Honorable R.B. Kelly, Jr., Mayor of the Town of Westover Hills, 5824 Merrymount Road, Fort Worth, Texas 76107.

Vermont	Manchester, Town, Bennington	Batten Kill	Upstream side of Union Street	*682
			Confluence of West Branch Batten Kill	*691
			Upstream side of Depot Street	*700
			Downstream side of Dufresne Dam	*704
		West Branch Batten Kill	Confluence with Battan Kill	*691
			Upstream side of Depot Street	*698
			Downstream side of Dam	*720
		Bourn Brook	Confluence with Batten Kill	*687
			Upstream side of Vermont Road	*690
			Upstream side of Richville Road	*701
			Upstream side of Old Glen Road	*740

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Approximately 80' upstream of U.S. Route 7	*747
			Upstream side of Glen Road	*765
Maps available for inspection at the Office of David Durell, Zoning Administrator Manchester Vermont. Send comments to Honorable Orland C. Campbell, Chairman of the Board of Selectmen of the Town of Manchester, Town Office, Box 909, Route 1130, Manchester, Vermont 05255.				
Virginia	Broadway, Town, Rockingham County	North Fork Shenandoah River	Approximately 1,000' downstream of Shenandoah Road.	*1,031
			Approximately 130' upstream of Shenandoah Road	*1,033
		Linville Creek	At confluence with North Fork Shenandoah River	*1,032
			Upstream side of Holly Hill Street	*1,040
			Approximately 530' upstream of State Route 766	*1,048
Maps available for inspection at the Broadway Town Hall, P.O. Box 234, Broadway, Virginia. Send comments to Honorable Charles Lohr, Town Manager of Broadway, P.O. Box 234, Broadway, Virginia 22815.				
Virginia	Dayton, Town, Rockingham County	Cooks Creek	At downstream corporate limits	*1,202
			Approximately 200 feet upstream of State Route 701 (second crossing).	*1,208
			At northwest corporate limits	*1,221
Maps available for inspection at the Dayton Municipal Building, Dayton, Virginia. Send comments to Honorable Manon I. Eberly, Mayor of the Town of Dayton, Municipl Building, P.O. Box 215, Dayton, Virginia 22821.				
Virginia	Mt. Crawford, Town, Rockingham County	North River	Approximately 420 feet downstream of corporate limits	*1,154
			Upstream side of State Route 727	*1,555
			Upstream corporate limits	*1,157
Maps available for inspection at French's Antique Shop, Mt. Crawford, Virginia. Send comments to Honorable Roscoe Bishop, Mayor of the Town of Mt. Crawford, P.O. Box 187, Mt. Crawford, Virginia 22841.				
Virginia	Timberville, Town, Rockingham County	North Fork Shenandoah River	At downstream corporate limits	*995
			Downstream side of State Route 42	*1,003
			At upstream corporate limits	*1,010
Maps available for inspection at the Town Hall, Timberville, Virginia. Send comments to Honorable Beverly Coffman, Mayor of the Town of Timberville, P.C. Box 102, Timberville, Virginia 22853.				
West Virginia	Vienna, City, Wood County	Ohio River	9th Street (extended)	*612
			39th Street (extended)	*613
		Pond Run	At downstream corporate limits	*612
			Approximately .35 mile upstream of 26th Street bridge	*624
		Tributary A	At downstream corporate limits	*613
			Approximately 620 feet upstream of downstream corporate limits.	*617
Maps available for inspection at the City Building, 609 29th Street, Vienna, West Virginia. Send comments to Honorable Walter Pifer, Mayor of the City of Vienna, 609 29th Street, Vienna, West Virginia 26105.				
Wisconsin	Unincorporated Areas of Grant County	Mississippi River	About 2.3 miles downstream of Dam No. 11	*611
			About 0.4 mile upstream of confluence of Wisconsin River.	*628
		Wisconsin River	Mouth at Mississippi River	*628
			About 0.7 mile upstream of State Highway 80	*682
		Platte River	About 1.3 miles downstream of U.S. Highway 81 (at Ellenboro).	*720
			About 700 feet downstream of U.S. Highway 81 (at Ellenboro).	*730
		Little Platte River	Just upstream of County Highway A	*943
			About 4,500 feet upstream of County Highway A	*962
		Crooked Creek	Mouth of Wisconsin River	*656
			About 3.0 miles upstream of State Highway 133	*706
		Sanders Creek	Just downstream of Chicago, Milwaukee, St. Paul and Pacific Railroad.	*670
			About 1.75 miles upstream of Fremont Street	*694
		Rattlesnake Creek	About 1,650 feet downstream of State Highway 133	*870
			About 1,100 feet upstream of State Highway 133	*881
		Kiser Creek	About 1.0 mile upstream of confluence with Menominee River.	*830
			Just downstream of County Highway H	*882
		Louisburg Creek	About 2.8 miles upstream of confluence with Menominee River.	*880
			Just downstream of County Highway H	*917
		Beetown Branch	About 2,700 feet downstream of State Highway 81	*760
			About 3,700 feet upstream of State Highway 81	*858
Maps available for inspection at the Zoning Administrator's Office, Grant County Courthouse, Lancaster, Wisconsin. Send comments to Honorable Mary Wirth, Chairman, Grant County Board, Grant County Courthouse, Lancaster, Wisconsin 53813.				

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Administrator)

Issued: September 27, 1984.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 84–27112 Filed 10–17–84; 8:45 am]

BILLING CODE 6718–03–M

VOL 49 ISS 203 OCT 18 1984 UMI

FEDERAL MARITIME COMMISSION

46 CFR Parts 550 and 580

[Docket No. 84-35]

Electronic Filing of Tariffs by Common Carriers in the Foreign and Domestic Offshore Commerce of the United States

AGENCY: Federal Maritime Commission.

ACTION: Proposed rules.

SUMMARY: The Commission is proposing to amend its foreign and domestic offshore tariff filing rules by permitting the electronic receipt of filings outside of the Commission's offices subject to certain stated conditions. The purpose of the proposed rule is to provide the additional tariff file space and to simultaneously make provision for the continuation of a secure and workable means for electronic filings.

DATE: Comments due November 19, 1984.

ADDRESS: Comments (Original and twenty (20) copies) to: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573.

FOR FURTHER INFORMATION CONTACT: James A. Warner, Chief Office of Foreign Tariffs, Bureau of Tariffs, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573 (202) 523-5827.

SUPPLEMENTARY INFORMATION: In 1983, the Commission amended its tariff filing rules (46 CFR Part 536 (now 46 CFR Part 580) and 46 CFR Part 531 (now 46 CFR Part 550)) to permit the electronic filing of tariff pages (see 48 FR 9646 of March 8, 1983 and 48 FR 55573 of December 15, 1983). These provisions were limited to filing via commercial data processing terminals and required the receiving machines to annotate the tariff page with the date of receipt. The receiving machines were required to be physically located in the Commission's offices in Washington, D.C.

The Commission has now had eighteen months of generally satisfactory experience with electronic tariff filing under these rules. During this time the volume of tariff filing has increased and the nature and types of tariff materials filed is also expanding and changing. The Shipping Act of 1984, Pub. L. 98-237, 98 Stat. 67 (46 U.S.C. app. 1701-1720) has added new responsibilities to the Commission in its provisions for the filing of service contracts. These new responsibilities are reflected in pending Docket No. 84-21, *Publishing and Filing Tariffs by Common Carriers in the Foreign Commerce of the United States-Service Contracts and Time/Volume Contracts.* (49 FR 18849; May 3, 1984).

To implement the contract filings, the Commission recognizes that its tariff files will expand. In order to accommodate this expansion it is necessary for the Agency to optimize its limited headquarters' office space. The purpose of the proposed rule is to provide the additional tariff file space and to simultaneously make provision for the continuation of a secure and workable means for electronic filings. To make these provisions possible, it is proposed that the current restriction that the receiving terminals for electronic filings be located within the Commission's offices be lifted. Substituted in its place are two new requirements which will ensure the integrity of electronically filed tariff material.

By the proposed rule, the receipt of electronic filings will continue under the present procedures except the filing must be received on terminals located in the same building as the Commission's offices, i.e. 1100 L Street, NW., Washington, D.C. This is made possible as the commercial vendors of electronic filing services are now able to secure commercial office space through the General Services Administration in the same building as the Commission. Indeed, a number of commercial vendors of tariff information are presently located at the same address as the Commission. The relocation of the data processing receiving terminals for electronic filing outside of the Commission's actual offices, but in the same building, is not perceived as an operational problem for the Commission provided that the additional data element, described below, is added to the electronic filing to preserve their integrity and provide adequate controls.

The Commission, by this rule, will require the receiving terminal(s) to print on the bottom of each page transmitted, in addition to the date received, a unique number. This number will identify the specific terminal and is to be registered with the Director, Bureau of Tariffs. The purpose of requiring the unique number and its registration with the Commission is to preserve the intergrity of electronically filing material which is received by the Commission outside of its immediate offices. By implementing this procedure, the Commission will have a safeguard against improper filings and will be able to ensure that electronically transmitted materials are not received at locations outside of its headquarters building. By restricting the receiving locations to its headquarters building, the Commission can provide surveillance over the receiving terminals by knowing their locations and by having immediate access to these terminals by virtue of their location. Upon implementation of this rule the receiving terminals operated by the commercial services will no longer be located in the Commission's offices.

The Commission has determined that these rules are not a "major rule" as defined in Executive Order 12291 dated February 17, 1981, because they will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individuals industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovations, or on the ability of United States-based enterprises to compete with Foreign-based enterprises in domestic or export markets.

The Chairman, Federal Maritime Commission certifies that these rules will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units and small governmental jurisdictions.

List of Subjects in 46 CFR Parts 580 and 550

Maritime carriers, Rates and fares, Reporting and recordkeeping requirements.

PART 580—[AMENDED]

Therefore, for the reasons set out in the **SUPPLEMENTARY INFORMATION,** and pursuant to 5 U.S.C. 553; secs. 8, 9 and 17 of the Shipping Act of 1984 (46 U.S.C. app. 1770, 1708, and 1716); secs. 18(a) and 43 of the Shipping Act, 1916 (46 U.S.C. app. 817(a) and 41(a); and sec. 2 of the Intercoastal Shipping Act, 1933 (46 U.S.C. app. 844) the Federal Maritime Commission proposes to amend Parts 580 and 550 of Subchapter D, Chapter IV of Title 46 of the Code of Federal Regulations as follows:

1. In § 580.2, revising paragraph (w) to read as follows:

§ 580.2 Definitions.

* * * * *

(w) *Tariff filings, electronic.* The transmission of tariff filing to the Commission through the use of commercial data processing terminals. The data processing receiving terminal(s) are to be colocated within the same building at the Commission's Washington, D.C. offices. Tariff material filed electronically must conform to all

the regulations applicable to permanent tariff filings, except as follows:

(1) Electronically filed tariff pages received from data processing terminals may be used for filing with the Commission; and

(2) Electronically filed tariff matter shall be accompanied by an electronically filed letter of transmittal.

* * * * *

2. In § 580.3, revising paragraph (a)(2) to read as follows:

§ 580.3 Filing of tariffs; general.

* * * * *

(a) * * *

(2) The Commission will receive tariff filings on an around-the-clock basis. Receipt of tariff filings during other than normal business hours will be time stamped at a tariff mail drop located in the lobby of the Commission's Washington, D.C. offices. Electronic tariff filings transmitted to the Commission by electronic modes will be receipted by a date/time device on the receiving machine which will imprint the date and time on the bottom of each received tariff page. The receiving machine will also imprint a unique machine registration number on the bottom of each tariff page. The unique machine registration number must be registered with the Director, Bureau of Tariffs.

* * * * *

PART 550—[AMENDED]

3. In § 550.2, revising paragraph (i) to read as follows:

§ 550.2 Definitions.

* * * * *

(i) *File, Filed, Filing (of Tariff Matter).* The actual receipt by the Federal Maritime Commission at its offices in Washington, D.C. The Commission will receive tariff filings on an around-the-clock basis. Receipt of tariff filings during other than normal business hours will be time stamped at a tariff mail drop in the lobby of the Commission's Washington, D.C. offices. Electronic tariff filings transmitted to the Commission by electronic modes will be receipted by a date/time device on the receiving terminals located with the same building as the Commission's Washington, D.C. offices. Terminals receiving electronic filings must imprint the date and time received on the bottom of each page as well as imprint a unique machine registration number. The unique machine registration number must be registered with the Director, Bureau of Tariffs.

* * * * *

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 84-27503 Filed 10-17-84; 8:45 am]

BILLING CODE 6730-01-M

Notices

Federal Register
Vol. 49, No. 203
Thursday, October 18, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

October 12, 1984.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404–W Admin. Bldg., Washington, D.C. 20250, (202) 447–2118.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, ATTN: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

Revision

• Farmers Home Administration
7 CFR 1980–B, Guaranteed Farmer Program Loans
FmHA 449–11, FmHA 449–12
On occasion
Individuals or households, State or local governments, Farms, Businesses or other for-profit; 12,580 responses, 23,620 hours; not applicable under 3504(h)
Jack Holston (202) 382–9736

New

• Federal Grain Inspection Service
Applications for Service and Designation under USGSA and AMA '46 CP–5, CP–5–1, CP–6, CP–33, FGIS–435, WH–30, FGIS 4, FGIS 907, FGIS 908, and FGIS 950
Annually
State or local governments, Businesses or other for profit; 162,902 responses, 28,285 hours; not applicable under 3504(h)
Lewis Lebakken, Jr. (202) 382–1738

Donald Hulcher,

Acting Departmental Clearance Officer.

[FR Doc. 84–27581 Filed 10–17–84; 8:45 am]

BILLING CODE 3410–01–M

Soil Conservation Service

Highland Park Critical Area Treatment RC&D Measure, VA

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Highland Park Critical Area Treatment RC&D Measure, Washington County, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. Manly S. Wilder, State Conservationist, Soil Conservation Service, 400 North Eighth Street, Richmond, Virginia 23240, telephone 804–771–2455.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Manly S. Wilder, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for grading, shaping and seeding eroding areas in Washington County, Virginia. The planned work will include the establishment of ten (10) acres of permanent vegetative cover, installing a diversion, grassed waterway, and rock-lined waterway.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Manly S. Wilder.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: October 9, 1984.

Manly S. Wilder,

State Conservationist.

[FR Doc. 84–27540 Filed 10–17–84; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

Office of the Secretary

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration
Title: Application for Commission in the NOAA Corps
Form Number: Agency—NOAA 56–42, 42A, 42C, 42D; OMB—0648–0047
Type of Request: Extension of the expiration date of a currently approved collection
Burden: 216 respondents; 216 reporting hours
Needs and Uses: This collection of information is used to initiate application for commissioning in the Commissioned Corps of the National Oceanic and Atmospheric Administration. Information is used to establish eligibility and degree of qualification of applicants for commissioning in the NOAA Corps.
Affected Public: Individuals
Frequency: On occasion
Respondent's Burden: Required to obtain or retain a benefit
OMB Desk Officer: Sheri Fox, 395–3785.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals (202) 377–4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW, Washington, DC. 20230.

Written comments and recommendations for the proposed information collection should be sent to Sheri Fox, OMB Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Dated: October 15, 1984.

Edward Michals,

Departmental Clearance Officer.

[FR Doc. 84–27550 Filed 10–17–84; 8:45 am]

BILLING CODE 3510–CW–M

International Trade Administration

[C–533–063]

Certain Iron-Metal Castings From India; Final Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of Final Results of Administrative Review of Countervailing Duty Order.

SUMMARY: On August 16, 1984, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on certain iron-metal castings from India. The review covers the period January 1, 1982, through December 31, 1982.

We gave interested parties an opportunity to comment on the preliminary results. After review of the comment received, the Department has determined the net subsidy during the period of review to be 2.58 percent *ad valorem*.

EFFECTIVE DATE: October 18, 1984.

FOR FURTHER INFORMATION CONTACT: Susan E. Silver or Stephen Nyschot, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone (202) 377–2786.

SUPPLEMENTARY INFORMATION: .

Background

On August 16, 1984, the Department of Commerce ("the Department") published in the **Federal Register** (49 FR 32779) the preliminary results of its administrative review of the countervailing duty order on certain iron-metal castings from India (46 FR 16921, October 16, 1980). The Department has now completed that administrative review, in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of Indian manhole covers and frames, and catch basin grates and frames. Such merchandise is currently classifiable under items 657.0950 and 657.0990 of the Tariff Schedules of the United States Annotated. The review covers the period January 1, 1982, through December 31, 1982, and nine programs: (1) A rebate upon export of indirect taxes under the Cash Compensatory Support Program ("CCS"); (2) pre-shipment export loans; (3) income tax deductions under the Export Markets Development Allowance; (4) grants through the Market Development Assistance Program; (5) the sale of Import Replenishment Licenses; (6) extension of the Kandla Free Trade Zone; (7) supply of raw materials at "subsidized prices"; (8) preferential freight rates; and (9) import duty exemptions on capital equipment purchases.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received a comment from the Engineering Export Promotion Council ("the EEPC").

Comment. The EEPC claims that in calculating the weighted average overrebate of indirect taxes under the CCS Program, we reversed the proportion of total exports for two companies, thus undervaluing the allowable indirect tax incidence and overstating the total benefit.

Department's Position

We agree and, accordingly, have adjusted our calculation of the benefit under the CCS program for assessment and cash deposit purposes. We have determined the net subsidy under the CCS program to be 1.66 percent *ad valorem* during the review period and 1.45 percent *ad valorem* for cash deposit purposes.

Final Results of the Review

After review of the comment received, adjusting for the change described in the comment, we determine the net subsidy to be 2.58 percent *ad valorem* for the period January 1, 1982, through December 31, 1982. The Department will instruct the Customs Service to assess countervailing duties of 2.58 percent of f.o.b. invoice price on any shipments of this merchandise exported on or after January 1, 1982 and on or before December 31, 1982.

The Department will instruct the Customs Service to collect a cash deposit of estimated countervailing duties, as provided by section 751(a)(1) of the Tariff Act, of 2.19 percent of the entered value on shipments of this merchandise entered, or with drawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review. The Department intends to begin immediately the next administrative review.

The Department encourages interested parties to review the public record and submit applications for protective orders as early as possible after the Department's receipt of the requested information.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: October 11, 1984.

Alan F. Holmer,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 84–27588 Filed 10–17–84; 8:45 am]

BILLING CODE 3510–DS–M

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Application.

SUMMARY: The Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce has received an application

for an Export Trade Certificate of Review. This notice summarizes the conduct for which certification is sought and invites interested parties to submit information relevant to the determination of whether a certificate should be issued.

DATES: Comments on these applications must be submitted on or before November 7, 1984.

ADDRESS: Interested parties should submit their written comments, original and five (5) copies, to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 5618, Washington, D.C. 20230.

Comments should refer to this application as "Export Trade Certificate of Review, application number 84–00033."

FOR FURTHER INFORMATION CONTACT: George Muller, Acting Director, Office of Export Trading Company Affairs, International Trade Administration, 202/377–5131, or Eleanor Roberts Lewis, Assistant General Counsel for Export Trading Companies, Office of General Counsel, 202/377–0937. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (Pub. L. 97–290) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 48 FR 10596–10604 (Mar. 11, 1983) (codified at 15 CFR Part 325). A certificate of review protects its holder and the members identified in it from private treble damage actions and from civil and criminal liability under Federal and state antitrust laws for the export trade, export trade activities and methods of operation specified in the certificate and carried out during its effective period in compliance with its terms and conditions.

Standards For Certification

Proposed export trade, export trade activities, and methods of operation may be certified if the applicant establishes that such conduct will:

1. Result in neither a substantial lessening of competition or restraint of trade within the United States nor a substantial restraint of the export trade of any competitor of the applicant,
2. Not unreasonably enhance, stabilize, or depress prices within the United States of the goods, wares, merchandise, or services of the class exported by the applicant,
3. Not constitute unfair methods of competition against competitors engaged in the export of goods, wares, merchandise, or services of the class exported by the applicant, and
4. Not include any act that may reasonably be expected to result in the sale for consumption or resale within the United States of the goods, wares, merchandise, or services exported by the applicant.

The Secretary will issue a certificate if he determines, and the Attorney General concurs, that the proposed conduct meet these four standards. For a further discussion and analysis of the conduct eligible for certification and of the four certification standards, see "Guidelines for the Issuance of Export Trade Certificates of Review," 48 FR 15937–15940 (April 13, 1983).

Request for Public Comments

The Office of Export Trading Company Affairs (OETCA) is issuing this notice in compliance with section 302(b)(1) of the Act which requires the Secretary to publish a notice of the application in the **Federal Register** identifying the persons submitting the application and summarizing the conduct proposed for certification. The OETCA and the applicant have agreed that this notice fairly represents the conduct proposed for certification. Through this notice, OETCA seeks written comments from interested persons who have information relevant to the Secretary's determination to grant or deny the application below. Information submitted by any person in connection with the application(s) is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552).

The OETCA will consider the information received in determining whether the proposed conduct is "export trade," "export trade activities," or a "method of operation" as defined in the Act, regulations and guidelines and whether it meets the four certification standards. Based upon the public comments and other information gathered during the analysis period, the Secretary may deny the application or issue the certificate with any terms or conditions necessary to assure compliance with the four standards.

The OETCA has received the following application for an Export Trade Certificate of Review:

Application: International Continental Agri-Tech, Inc., Route 2, Box 8–A, Florence, Mississippi 39073, Telephone: 504/524–3223
Application #: 84–00033
Date Received: September 28, 1984
Date Deemed Submitted: October 5, 1984
Members in Addition to Applicant: Mr. R.S. Norsworthy, Florence, Mississippi; Mr. G.F. Corcoran, New Orleans, Lousiana
Controlling Entity: None

Summary of the Application

International Continental Agri-Tech, Inc. has submitted an application seeking certification for the following export-related activities:

A. Export Markets

The Applicant and its members intend to export and market products and services worldwide.

B. Export Trade

The applicant will act as an agent, distributor, consultant or representative for U.S. suppliers of goods and services for export. The goods and services which the applicant intends to export or represent for export include all agricultural produce, fish and fish products (including all processed foods and kindred products), forest products, metallic minerals (ores), lignite, anthracite and bituminous coal, and services related to the production, gathering, processing or distribution of these products; work clothing and footwear, paper and allied products, educational materials, rubber and miscellaneous plastics products, stone, clay and glass products, fabricated metal products, machinery, transportation equipment, instruments and related products, for use in the course of, or as supplies to facilities engaged in, the production, gathering processing or distribution of agriculture, forest, fish, ore, coal or petroleum products; lumber and wood products, excluding furniture, and chemical and allied products.

The following export trade services may be provided or secured by the Applicant and its members for U.S. suppliers of goods and services for export: Accounting, advertising, agency, architectural, brokerage, clerical, communications, consultation, currency conversion, custom documentation, engineering, feasibility studies, financial, freight forwarding, insurance, investment, legal, management, marketing & sales service, packaging, product design, export services, representation, real estate, sales, translation, transportation and warehousing.

C. Export Trade Activities and Methods of Operation

The Applicant and its members seek to enter into exclusive and non-exclusive agency, distributorship, consulting and representation agreements with U.S. suppliers of goods

and services for export, including competing suppliers in the same industry. These agreements may contain territorial, customer, price and/or quantity restrictions.

The Applicant and its members further propose to enter into, and from time to time terminate, exclusive and non-exclusive agreements with distributors, sales representatives, agents and customers located in foreign countries and in the United States for goods and services being exported or in the course of being exported. The foregoing agreements may contain territorial, customer, price and/or quantity restrictions.

In addition, the Applicant and its members seek to have certified the "packaging" of quotations responsive to invitations to bid, including the supply of products or services in the same industry, and seek certification for the designation and coordination of the sharing of business among suppliers of the applicant and its members. Also, with respect to goods and/or services to be exported or in the course of being exported, the Applicant and its members propose to consult and exchange information with competitors, to ascertain the existence of, prepare bids for, and share business from foreign customers.

The OETCA is issuing this notice in compliance with section 302(b)(1) of the Act which requires the Secretary to pubish a notice of the application in the **Federal Register** identifying the persons submitting an application and summarizing the conduct proposed for certification. Interested parties have twenty (20) days from the publication of this notice in which to submit written information relevant to the determination of whether a certificate should be issued.

Dated: October 15, 1984.

Richard H. Shay,

Deputy General Counsel.

[FR Doc. 84-27557 Filed 10-17-84; 8:45 am]

BILLING CODE 3510-DR-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishing a Specific Limit for Certain Man-Made Fiber Textile Products Produced or Manufactured in the Dominican Republic

October 15, 1984.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on October 19, 1984. For further information contact Kyle Poole, Trade Reference Assistant, (202) 377-4212.

Background

On March 8, 1984 a notice was published in the **Federal Register** (49 FR 8658) which established an import restraint limit for women's, girls' and infants' suits in Category 644, produced or manufactured in the Dominican Republic and exported during the twelve-month period which began on November 30, 1983 and extends through November 30, 1984. During consultations with the Government of the Dominican Republic agreement was reached under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Agreement of December 30, 1983 between the Governments of the United States and the Dominican Republic to establish a specific limit of 43,000 dozen for goods exported during the twelve-month period which began on June 1, 1984 and extends through May 31, 1985. Flexibility in the form of swing, carryover and carryforward is available for application to this new specific limit.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), and July 16, 1984 (49 FR 28754).

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

October 15, 1984

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This directive cancels and supersedes the directive of March 5, 1984.

Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 30, 1983, between the Governments of the United States and the Dominican Republic; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on October 19, 1984, entry into the United States for consumption and withdrawal from warehouse for consumption of man-made fiber textile products in Category 644, produced or manufactured in the Dominican Republic and exported during the period which began on June 1, 1984 and extends through May 31, 1985, in excess of 43,000 dozen.[1]

Textile products in Category 644 which have been exported to the United States prior to June 1, 1984 shall not subject to this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), and July 16, 1984 (49 FR 28754).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-27549 Filed 10-17-84; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Department of the Army

Cancellation of Notice of Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Proposed Small Flood Protection Project at Willoughby Hills, Lake County, OH

AGENCY: U.S. Army Engineer District, Buffalo, Department of Defense.

ACTION: Cancellation of Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: The Buffalo District of the U.S. Army Corps of Engineers hereby cancels its Notice of Intent to Prepare a Draft Environmental Impact Statement as published in 49 FR 5986, 16 February 1984. The DEIS was to be prepared for a proposed Federal action to reduce flood damages within the Chagrin River flood plain.

The Notice is cancelled because at a public meeting held on 26 June 1984, local residents rejected the only feasible alternative—relocation. As a result, the Buffalo District will recommend no further Federal action except to provide technical advice on floodproofing and flood warning to the local interests. The

[1] The level has not been adjusted to account for any imports exported after May 31, 1984.

cancellation of the Federal project nullifies any need for environmental review associated with that project.

ADDRESS: Questions can be forwarded to Mr. William Werick, Small Projects and Special Services Branch, Planning Division, U.S. Army Engineer District, Buffalo, 1776 Niagara Street, Buffalo, NY 14207, Phone (716) 876–5454 or FTS 473–2144.

Dated: October 9, 1984.

Robert R. Hardiman,

Colonel, Corps of Engineers, District Commander.

[FR Doc. 84–27525 Filed 10–17–84; 8:45 am]

BILLING CODE 3710–GP–M

Department of the Navy

Privacy Act of 1974; Addition of a New System of Records and an Altered System of Records

AGENCY: Department of the Navy, DOD.

ACTION: Notice of a new and altered system of records.

SUMMARY: The Department of the Navy proposes to add one system of records and alter an existing system of records in its inventory of systems of records subject to the Privacy Act of 1974.

DATES: The proposed action will be effective without further notice November 19, 1984, unless comments are received which would result in a contrary detemination.

ADDRESS: Send any comments to the system manager identified in the particular system notice.

FOR FURTHER INFORMATION CONTACT: Mrs. Gwendolyn R. Aitken, Privacy Act Coordinator, Office of the Chief of Naval Operations (Op–Q9B30) Department of the Navy, The Pentagon, Washington, DC 20350. Telephone: 202/697–1459.

SUPPLEMENTARY INFORMATION: The Department of the Navy systems notices for records systems subject to the Privacy Act of 1974 (5 U.S.C 552a) Pub. L. 93–579 were published in the **Federal Register** as follows:

FR Doc. 83–109 (49 FR 26029) June 6, 1983
FR Doc. 84–2616 (49 FR 3901) January 31, 1984
FR Doc. 84–2828 (49 FR 4124) February 2, 1984
FR Doc. 84–4908 (49 FR 6867) February 24, 1984
FR Doc. 84–8893 (49 FR 13350) April 4, 1984
FR Doc. 84–8901 (49 FR 13399) April 4, 1984
FR Doc. 84–10509 (49 FR 15601) April 19, 1984
FR Doc. 84–10681 (49 FR 16777) April 20, 1984
FR Doc. 84–14818 (49 FR 23107) June 4, 1984
FR Doc. 84–16521 (49 FR 25507) June 21, 1984
FR Doc. 84–23495 (49 FR 35172) September 6, 1984
FR Doc. 84–25459 (49 FR 37825) September 26, 1984

The Department of the Navy has submitted both a new, and an altered, system report for these systems of record on September 4, 1984 under the provisions of 5 U.S.C. 552a(o) of the Privacy Act of 1974, as amended.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

October 11, 1984.

NO5353–1

SYSTEM NAME:

Treatment Effectiveness Assessment System.

SYSTEM LOCATION:

Primary system—Alcohol Rehabilitation Branch, Health Promotion Division, Naval Medical Command, 23rd and E Streets, NW, Washington, DC 20372.

Secondary system—27 Alcohol Rehabilitation Services at Naval Hospitals in Bethesda, Maryland; Jacksonville, Florida; Pensacola, Florida; Orlando, Florida; San Diego, California; Long Beach, California; Oakland, California; Camp Pendleton, California; Bremerton, Washington; Charleston, South Carolina; Beaufort, South Carolina; Corpus Christi, Texas; Great Lakes, Illinois; Groton, Connecticut; Camp LeJeune, North Carolina; Millington, Tennessee; Newport, Rhode Island; Philadelphia, Pennsylvania; Quantico, Virginia; Guam; Guantanamo Bay, Cuba; Naples, Italy; Roosevelt Roads, Puerto Rico; Okinawa, Japan; Yokosuka, Japan; Subic Bay, Republic of the Philippines; and Rota, Spain.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All individuals who have successfully completed a six-week residential alcohol rehabilitation program at a Navy alcohol rehabilitation service.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information collected is in three categories:

a. *Treatment Facility Records.* Title and address of facility; prognosis of individual; dates of treatment completion; and entry for whether an individualized aftercase program has been established.

b. *Reviewer's Information.* Reviewing official's name, grade and title, and date of review.

c. *Service Member's Information.* Name, SSNA, grade, date of birth, current status, type of discharge, if applicable, and general information regarding individual's progress subsequent to treatment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101 and 10 U.S.C. 5031.

PURPOSE(S):

For officials and employees of the Naval Medical Command to maintain a data base which will permit monitoring treatment effectiveness of services that provide alcohol rehabilitation (Alcohol Rehabilitation Services/Substances Abuse Departments) at Navy medical treatment facilities in accordance with the Navy Substance Abuse program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Blanket Routine Uses that appear at the beginning of the Department of the Navy's compilation apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on hard copy forms in a secured safe.

RETRIEVABILITY:

Data will be indexed by name and social security number.

SAFEGUARDS:

The records will be maintained in a secured, locked safe accessible only by combination number. Access to the secured safe is under the control of authorized personnel during working hours. In addition, access to the compound is protected by uniformed guards and requires positive identification for admission.

RETENTION AND DISPOSAL:

Records are retained for three years after the individual successfully completes a residential Navy alcohol rehabilitation program. The records are then destroyed.

SYSTEMS MANAGER(S) AND ADDRESS:

Head, Alcohol Rehabilitation Branch, Health Promotion Division, Naval Medical Command, Department of the Navy, 23rd and E Streets, NW, Washington, DC 20372.

NOTIFICATION PROCEDURES:

Information should be obtained from the system manager. Requesting individuals should specify their full names. Visitors should be able to identify themselves by any commonly recognized evidence of identity. Written requests must be signed by the requesting individual.

RECORD ACCESS PROCEDURES:

The agency's rules for access to records may be obtained from the system manager.

CONTESTING RECORD PROCEDURES:

The agency's rules for contesting contents and appealing initial determinations by the individual concerned may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information in this system comes from the individual to whom it applies, the individual's current duty station, and from Alcohol Rehabilitation Service in which attended.

SYSTEM EXEMPTED FROM CERTAIN PROVISION OF THE ACT:

None.

N06320–1

System name:

Uncollectible Accounts (48 FR 26128) June 6, 1983.

Changes:

System location:

Delete lines one and two in their entirety and substitute with: "Primary System-Commander, Naval Medical Command, Navy * * *"

Categories of records in the system:

Delete the entire entry and substitute with the following: "Individual's name and SSN, sponsor's SSN, if applicable, paygrade, branch of service, duty station address, account number, activity performing service, insurance company, civilian employer, patient category, time and dates of service, units of service, physicians' and hospitals' statements of service and total charges for treatment including interest, administrative and penalty charges, payment receipts, admission documents, correspondence relating to collection attempts to ascertain eligibility status, patient category, and third party insurer liability, records of payment received and outstanding balances, letter reports of uncollectible accounts receivable, records suspending or terminating collection action or effecting compromise settlement agreements, and requests for recovery of Champus funds and substantiating documents."

Purpose(s):

Add the following entry: "To identify and facilitate payment of amounts owed the U.S. Users of the information include Naval Medical Command personnel who are directly involved in processing payments or billings of patient accounts. The information is used to determine amounts owed, methods to be employed to effect recovery, whether or not the claim can be compromised or collection action thereon terminated or suspended, and to collect charges for utility bills and other miscellaneous items. File may be forwarded to the Naval Investigative Service for investigation or to any component of DOD, as needed, in the performance of their duties related to same.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete the entire entry and substitute with the following: "The Blanket Routine Uses that appear at the beginning of the Department of the Navy's compilation apply to this system."

Disclosure to consumer reporting agencies:

Add caption and insert: "Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3))."

Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:

Storage:

Delete the entire entry and substitute with: "Records are maintained on magnetic disk, magnetic tape and hard copy forms."

Retrievability:

Delete the entire entry and substitute with: "Automated records are retrieved by either a query or a request for a standard report. Data may be indexed by any data element although the primary search keys are name and SSN. Paper records are filed alphabetically by last name of debter."

Safeguards:

Delete the entire entry and substitute with: "Access to the automated system requires user account number and password sign on. Access to the paper records and/or terminals are limited to only authorized personnel that are properly screened and trained. Office space where records and/or terminals are located is locked after official working hours."

System manager(s) and address:

In lines one and two, delete the phrase "Chief, Bureau of Medicine and Surgery, * * *" and substitute with: "Commander, Naval Medical Command, * * *" In lines five and six, delete the words: "* * * Command of the Chief, Bureau of Medicine and Surgery," and substitute with: "* * * Commander, Naval Medical Command."

Notification procedure:

In line two, delete the phrase: "* * * Chief, Bureau of Medicine and Surgery" and substitute with: "Commander, Naval Medical Command." In line seven, delete the entire sentence beginning with: "The requester may visit the Comptroller, Bureau * * *"

Records source categories:

Delete the entire entry and substitute with the folowing: "Automated patient administration system records produced at Medical Treatment Facilities include but not limited to Inpatient Admission/Disposition Records, NAVMEDCOM 6300/5; Report of Treatment Furnished Pay Patients-Hospitalization/Outpatient Treatment Furnished, DOD 7/7A, Part A/B. Other record source categories are: OCHAMPUS, Denver; U.S. Postal Service; Military Locator Services; State Departments of Motor Vehicles; any component of the DOD; the Department of Justice, the General Accounting Office, retail credit associations, financial institutions, current or previous employers, educational institutions, trade associations, automated system interfaces, local law enforcement agencies, the Department of Health and Human Services, the Internal Revenue Service, and the Office of Personnel Management."

N06320–1

SYSTEM NAME:

Uncollectible Accounts.

SYSTEM LOCATION:

Primary system-Commander, Naval Medical Command, Navy Department, Washington, DC 20372.

Decentralized Segments-Naval Hospitals and Medical Centers which provide services or perform work giving rise to such accounts receivable. (Mailing addresses are listed in the directory of Department of the Navy mailing addresses in the Appendix to the Component System Notice.)

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Individuals' name and SSN, sponsor's SSN, if applicable, paygrade, branch of service, duty station address, account number, activity performing service, insurance company, civilian employer, patient category, time and dates of service, units of service, physicians' and hospitals' statements of services and total charges for treatment including interest, administrative and penalty

charges, payment receipts, admission documents, correspondence relating to collection attempts to ascertain eligibility status, patient category, and third party insurer liability, records of payment received and outstanding balances, letter reports of uncollectible accounts receivable, records suspending or terminating collection action or effecting compromise settlement agreements, and requests for recovery of Champus funds and substantiating documents.

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PURPOSES(S):

To identify and facilitate payment of amounts owed the U.S. Users of the information include Naval Medical Command personnel who are directly involved in processing payments or billings of patient accounts. The information is used to determine amounts owed, methods to be employed to effect recovery, whether or not the claim can be compromised or collection action thereon terminated or suspended, and to collect charges for utility bills and other miscellaneous items. File may be forwarded to the Naval Investigative Service for investigation or to any component of DOD, as needed, in the performance of their duties related to same.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Blanket Routine Uses that appear at the beginning of the Department of the Navy's compilation apply to this system.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosure may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (16 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on magnetic disk, magnetic tape and hard copy forms.

RETRIEVABILITY:

Automated records are retrieved by either a query or a request for a standard report. Data may be indexed by any data element although the primary search keys are name and SSN. Paper records are filed alphabetically by last name of debter.

SAFEGUARDS:

Access to the automated system requires user account number and password sign on. Access to the paper records and/or terminals are limited to only authorized personnel that are properly screened and trained. Office space where records and/or terminals are located is locked after official working hours.

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SYSTEM MANAGER(S) AND ADDRESS:

Commander, Naval Medical Command, Navy Department, Washington, DC 20372 and Commanding Officers of Medical Treatment Facilities under the Commander, Naval Medical Command.

NOTIFICATION PROCEDURES:

Information may be obtained from the Commander, Naval Medical Command. Requests should provide the full name of the debter, the military or dependency status of the debter, and the location and approximate dates of treatment or examination.

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RECORD SOURCE CATEGORIES:

Automated patient administration system records produced at Medical Treatment Facilities include but not limited to Inpatient Admission/ Disposition Records, NAVMEDCOM 6300/5; Report of Treatment Furnished Pay Patients—Hospitalization/ Outpatient Treatment Furnished, DOD 7/7A, Part A/B. Other record source categories are: OCHAMPUS, Denver; U.S. Postal Service; Military Locator Services; State Departments of Motor Vehicles; any component of the DOD; the Department of Justice, the General Accounting Office, retail credit associations, financial institutions, current or previous employers, educational institutions, trade associations, automated system interfaces, local law enforcement agencies, the Department of Health and Human Services, the Internal Revenue Service, and the Office of Personnel Management.

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[FR Doc. 84-27198 Filed 10-17-84; 8:45 am]

BILLING CODE 3810-01-M

Privacy Act of 1974; Amended Systems of Records

AGENCY: Department of the Navy.

ACTION: Notice of amendments of systems of records.

SUMMARY: The Department of the Navy proposes to amend sixteen systems of records in its inventory of systems of records subject to the Privaoy Act of 1974.

DATES: The proposed actions will be effective without further notice November 19, 1984, unless comments are received which would result in a contrary determination.

ADDRESS: Send any comments to the systems managers identified in the systems notices.

FOR FURTHER INFORMATION CONTACT: Mrs. Gwendolyn R. Aitken, Privacy Act Coordinator, Office of the Chief of Naval Operations (Op-09B30), Department of the Navy, The Pentagon, Washington, DC 20350. Telephone: (202) 697-1459.

SUPPLEMENTARY INFORMATION: The Department of the Navy systems notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a) Pub. L. 93-579 were published in the **Federal Register** as follows:

FR Doc. 83-109 (48 FR 26029) June 6, 1984
FR Doc. 84-2616 (49 FR 3901) January 31, 1984
FR Doc. 84-2828 (49 FR 4124) February 2, 1984
FR Doc. 84-4908 (49 FR 6967) February 24, 1984
FR Doc. 84-8693 (49 FR 13350) April 4, 1984
FR Doc. 84-8901 (49 FR 13399) April 4, 1984
FR Doc. 84-10509 (49 FR 15601) April 19, 1934
FR Doc. 84-10681 (49 FR 16777) April 20, 1984
FR Doc. 84-14818 (49 FR 23107) June 4, 1984
FR Doc. 84-16521 (49 FR 25507) June 21, 1984
FR Doc. 84-23495 (49 FR 35172) September 6, 1984
FR Doc. 84-25459 (49 FR 37825) September 26, 1984

The proposed amendments are not within the purview of the provision of 5 USC 552a(o) which requires the submission of altered systems reports.

Patricia H. Means,

OSD Federal Register Liaison Oficer, Department of Defense

October 11, 1984.

N01070-3

System name:

Navy Personnel Records System (49 FR 4124) February 2, 1984.

Changes:

System location:

Delete the first and second lines in their entirety and substitute with the following: "Primary System—Navy Military Personnel Command, Navy Department."

Purpose(s):

Delete the entire entry and substitute with the following: "To assist officials and employees of the Navy in the management, supervision and administration of Naval personnel

(officer and enlisted) and the operations of related personnel affairs and functions."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete paras 1, 2, 9 and 11 in their entirety. In para 5, delete lines 9 through 16 beginning with: "* * * The Senate or the * * *". At the end of the entry, add the following paragraphs:

State, local, and foreign (within status of Forces agreements) law enforcement agencies or their authorized representatives in connection with litigation, law enforcement, or other matters under the jurisdiction of such agencies.

When required by Federal statute, by Executive Order, or by treaty, personnel record information will be disclosed to the individual, organization, or governmental agency as necessary.

The Blanket Routine Uses that appear at the beginning of the Department of the Navy's compilation also apply to this system."

System Manager(s) and address:

Delete the first line in its entirety and substitute with the following: "Commander, Naval Military Personnel Command,"

The revised portions of System N01070–3 read as follows:

N01070–3

SYSTEM NAME:

Navy Personnel Records System.

SYSTEM LOCATION:

Primary System—Naval Military Personnel Command, Navy Department, Washington, D.C. 20370; Naval Reserve Personnel Center, Naval Support Activity (East Bank), Bldg 603, New Orleans, LA 70159; and local activity to which individual is assigned (see Directory of Department of the Navy Mailing Addresses).

Secondary System—Department of the Navy Activities in the Chain of Command between the local activity and the Headquarters level (see Directory of the Department of the Navy Mailing Addresses); Federal Records Storage Centers; National Archives.

* * * * *

PURPOSE(S):

To assist officials and employees of the Navy in the management, supervision and administration of Naval personnel (officer and enlisted) and the operations of related personnel affairs and functions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To officials and employees of other Departments and Agencies of the Executive Branch of government, upon request, in the performance of their official duties related to the management, supervision and administration of military personnel and the operation of personnel affairs and functions.

To officials and employees of the National Research Council in Cooperative Studies of the National History of Disease; of Prognosis and of Epidemology. Each study in which the records of members and former members of the naval service are used must be approved by the Commander, Naval Military Personnel Command.

To officials and employees of the Department of Health and Human Services, Veterans Administration, and Selective Service Administration in the performance of their official duties related to eligibility, notification and assistance in obtaining benefits by members and former members of the Navy.

To officials and employees of Navy Relief and the American Red Cross in the performance of their duties related to assistance of the members and their dependents and relatives.

To duly appointed Family Ombudsmen in the performance of their duties related to the assistance of the members and their families.

To state and local agencies in performance of their official duties related to verification of status for determination of eligibility for Veterans Bonuses and other benefits and entitlements.

To officials and employees of the Office of the Sergeant at Arms of the United States House of Representatives in the performance of their official duties related to the verification of the active duty naval service of members of Congress.

Information as to current military addresses and assignments may be provided to military banking facilities who provide banking services overseas and who are reimbursed by the Government for certain checking and loan losses. For personnel separated, discharged or retired from the Armed Forces information as to last known residential or home of record address may be provided to the military banking facility upon certification by a banking facility officer that the facility has a returned or dishonored check negotiated by the individual or the individual has defaulted on a loan and that if restitution is not made by the individual the United States Government will be liable for the losses the facility may incur.

To state, local, and foreign (within Status of Forces agreements) law enforcement agencies or their authorized representatives in connection with litigation, law enforcement, or other matters under the jurisdiction of such agencies.

When required by Federal statute, by Executive Order, or by treaty, personnel record information will be disclosed to the individual, organization, or governmental agency as necessary.

The Blanket Routine Uses that appear at the beginning of the Department of the Navy's compilation also apply to this system.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Naval Military Personnel Command, Washington, D.C. 20370; Commanding Officers, Officers in Charge, and Heads of Department of the Navy activities as listed in the Directory of the Department of the Navy Mailing Addresses.

* * * * *

N01080–1

System name:

Enlisted Master File Automated System (48 FR 26043) June 6, 1983.

Changes:

System location:

Delete the first line in its entirety and substitute with the following: "Naval Military Personnel Command, Navy * * *"

Purpose(s):

Add the following new paragraph: "To assist in the administration, management, and supervision of Navy enlisted personnel and the operation of personnel affairs and functions."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete the entire entry and substitute with the following:

"To officials and employees of other Departments and Agencies of the Executive Branch of government, upon request, in the performance of their official duties related to the management, supervision and administration of Navy enlisted personnel affairs and functions.

When required by Federal statute, by Executive Order, or by treaty, personnel record information will be disclosed to

the individual, organization, or governmental agency as necessary.

The Blanket Routine Uses that appear at the beginning of the Department of the Navy compilation also apply to this system."

System Manager(s) and address:

Delete the first line in its entirety and substitute with the following: "Commander, Naval Military Personnel Command, Navy * * *"

Notification Procedure:

In line 3, delete the phrase: "* * * Chief of Naval Personnel * * *" and substitute with: "Commander, Naval Military Personnel Command * * *"

The revised portions of System N01080–1 read as follows:

N01080–1

SYSTEM NAME:

Enlisted Master File Automated System.

SYSTEM LOCATION:

Naval Military Personnel Command, Navy Department, Washington, D.C. 20370; Personnel Management Information Center, New Orlenas, LA 70149; Naval Reserve Personnel Center, New Orleans, LA 70149

* * * * *

PURPOSE(S):

To assist in the administration, management, and supervision of Navy enlisted personnel and the operation of personnel affairs and functions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To officials and employees of other Departments and Agencies of the Executive Branch of government, upon request, in the performance of their official duties related to the management, supervision and administration of Navy enlisted personnel affairs and functions.

When required by Federal statute, by Executive Order, or by treaty, personnel record information will be disclosed to the individual, organization, or governmental agency as necessary.

The Blanket Routine Uses that appear at the beginning of the Department of the Navy compilation also apply to this system."

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Naval Military Personnel Command, Navy Department, Washington, D.C. 20370.

NOTIFICATION PROCEDURES:

Requests by correspondence from active duty enlisted personnel shall be addressed to: Commander, Naval Military Personnel Command (Attn: Privacy Act Coordinator), Navy Department, Washington, D.C. 20370; requests by correspondence from inactive duty and reserve personnel shall be addressed to: Commanding Officer, Naval Reserve Personnel Center (Attn: Privacy Act Coordinator), New Orleans, LA 70149; request shall contain full name, social security account number, rank, status, and signature of requester.

* * * * *

N01080–2

System name:

Officer Master File Automated System (48 FR 26044) June 6, 1983.

Changes:

System location:

Delete the first line in its entirety and substitute with the following: "Naval Military Personnel Command, Navy * * *"

Purpose(s):

Add the following new paragraph: "To assist officials and employees of the Navy in their official duties related to the management, supervision, and administration of both active duty and retired Naval officers, and in the operation of personnel affairs and functions."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete the entire entry and substitute with the following:

"To officials and employees of other Departments and Agencies of the Executive Branch of government, upon request, in the performance of their official duties related to the management, supervision and administration of Navy officer personnel and the operation of personnel affairs and functions.

When required by Federal statute, by Executive Order, or by treaty, personnel record information will be disclosed to the individual, organization, or governmental agency as necessary.

The Blanket Routine Uses that appear at the beginning of the Department of the Navy compilation also apply to this system."

System manager(s) and address:

In line 1, delete the phrase: "Chief of Naval Personnel * * *" and substitute with: "Commander, Naval Military Personnel Command * * *"

Notification Procedure:

In lines 3 and 4, delete the phrase: "* * * Chief of Naval Personnel * * *" and substitute with: "Commander, Naval Military Personnel Command * * *"

The revised portions of System N01080–2 read as follows:

N01080–2

SYSTEM NAME:

Officer Master File Automated System.

SYSTEM LOCATION:

Naval Military Personnel Command, Navy Department, Washington, D.C. 20370; Personnel Management Information Center, New Orleans, LA 70149; Naval Reserve Personnel Center, New Orleans, LA 70149.

* * * * *

PURPOSE(S):

To assist officials and employees of the Navy in their official duties related to the management, supervision and administration of both active duty and retired Naval officers, and in the operation of personnel affairs and functions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To officials and employees of other Departments and Agencies of the Executive Branch of government, upon request, in the performance of their official duties related to the management, supervision and administration of Navy officer personnel and the operation of personnel affairs and functions.

When required by Federal statute, by Executive Order, or by treaty, personnel record information will be disclosed to the individual, organization, or governmental agency as necessary.

The Blanket Routine Uses that appear at the beginning of the Department of the Navy compilation also apply to this system.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Naval Military Personnel Command, Department of the Navy, Washington, D.C. 20370.

NOTIFICATION PROCEDURE:

Active duty Navy Officers/Officer Candidates shall make requests by correspondence addressed to: Commander, Naval Military Personnel

Command (Attn: Privacy Act Coordinator), Navy Department, Washington, D.C. 20370. Naval Reserve and retired officers shall make requests by correspondence to the Commanding Officer, Naval Reserve Personnel Center, New Orleans, LA 70149. Requests shall contain full name, social security account number, rank, status, address and signature of the requester.

* * * * *

N01301-2

System name:

Naval Officer Development and Distribution Support System (48 FR 26050) June 6, 1983.

Changes:

System location:

Delete the entire entry and substitute with the following: "Naval Military Personnel Command, Navy Department, Washington, D.C. 20370."

Purpose(s):

Add the following new paragraph: "To assist Navy officials and employees in the classification, qualification determinations, assignment, placement, career development, education, training, recall and release of officer personnel pursuant to meet manpower allocations and requirements."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete the entire entry and substitute with the following:

"To officials and employees of other Departments and Agencies of the Executive Branch of government, upon request, in the performance of their official duties related to the management and administration of Naval officer personnel to meet manpower allocations and requirements.

When required by Federal statute, by Executive Order, or by treaty, personnel record information will be disclosed to the individual, organization, or governmental agency as necessary.

The Blanket Routine Uses that appear at the beginning of the Department of the Navy compilation also apply to this system.

System manager(s) and address:

Delete the entire entry and substitute with the following: "Commander, Naval Military Personnel Command, Navy Department, Washington, D.C. 20370."

Notification procedure:

In para 1, lines 2 and 3, delete the phrase: "* * * Chief of Naval Personnel * * *" and substitute with: "* * * Commander, Naval Military Personnel Command * * * *"

In para 2, lines 1 and 2, delete the phrase: "* * * Chief of Naval Personnel * * *" and substitute with: "* * * Commander, Naval Military Personnel Command * * *"

The revised portions of system N01301-2 read as follows:

N01301-2

SYSTEM NAME:

Naval Officer Development and Distribution Support System.

SYSTEM LOCATION:

Naval Military Personnel Command, Navy Department, Washington, D.C. 20370.

* * * * *

PURPOSE(S):

To assist Navy officials and employees in the classification, qualification determinations, assignment, placement, career development, education, training, recall and release of officer personnel pursuant to meet manpower allocations and requirements.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To officials and employees of other Departments and Agencies of the Executive Branch of government, upon request, in the performance of their official duties related to the management and administration of Naval officer personnel to meet manpower allocations and requirements.

When required by Federal statute, by Executive Order, or by treaty, personnel record information will be disclosed to the individual, organization, or governmental agency as necessary.

The Blanket Routine Uses that appear at the beginning of the Department of the Navy compilation also apply to this system.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Naval Military Personnel Command, Navy Department, Washington, D.C. 20370.

NOTIFICATION PROCEDURE:

Requests by correspondence should be addressed to: Commander, Naval Military Personnel Command (Attn: Privacy Act Coordinator), Navy Department, Washington, D.C. 20370. The letter should contain full name, rank, social security account number, designator, address and signature.

The individual may visit the Commander, Naval Military Personnel Command, Arlington Annex (FOB 2), Rm. 1066, Washington, D.C. for assistance. Advance notification is requested for personal visits. Proof of identification will consist of military identification card.

* * * * *

N01306-1

System name:

Enlisted Development and Distribution Support System (48 FR 26051) June 6, 1983

Changes:

System location:

Delete lines 1 and 2 in their entirety and substitute with the following: "Primary System-Naval Military Personnel Command, Navy Department * * *"

Purpose(s):

Add the following new paragraph: "To assist Navy officials and employees in the initiation, development, implementation of policies pertaining to enlisted personnel assignment, placement, retention, career enhancement, and motivation, and other career related matters, in order to meet manpower allocations and requirements.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete the entire entry and substitute with the following:

"To officials and employees of other Departments and Agencies of the Executive Branch of government, upon request, in the performance of their official duties related to the management and administration of Navy enlisted personnel in order to meet manpower allocations and requirements.

When required by Federal statute, by Executive Order, or by treaty, personnel record information will be disclosed to the individual, organization, or governmental agency as necessary.

The Blanket Routine Uses that appear at the beginning of the Department of the Navy compilation also apply to this system."

System manager(s) and address:

Delete line 1 in its entirety and substitute with the following: "Commander, Naval Military Personnel Command, Navy * * *"

Notification procedure:

In lines 2, 3, 16, and 17, delete the phrase: "Chief of Naval Personnel" and substitute with: "Commander, Naval Military Personnel Command."

The revised portions of System N01306–1 read as follows:

N01306–1

SYSTEM NAME:

Enlisted Development and Distribution Support.

SYSTEM LOCATION:

Primary System-Naval Military Personnel Command, Navy Department, Washington, D.C. 20370. Secondary System-Enlisted Personnel Management Information Center, New Orleans, LA 70149 and Naval Reserve Personnel Center, Naval Support Activity (East Bank), Bldg 603, New Orleans, LA 70146.

* * * * *

PURPOSE(S):

To assist Navy officials and employees in the initiation, development, implementation of policies pertaining to enlisted personnel assignment, placement, retention, career enhancement, and motivation, and other career related matters, in order to meet manpower allocations and requirements.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To officials and employees of other Departments and Agencies of the Executive Branch of government, upon request, in the performance of their official duties related to the management and administration of Navy enlisted personnel in order to meet manpower allocations and requirements.

When required by Federal statute, by Executive Order, or by treaty, personnel record information will be disclosed to the individual, or governmental agency as necessary.

The Blanket Routine Uses that appear at the beginning of the Department of the Navy compilation also apply to this system.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Naval Military Personnel Command, Navy Department, Washington, D.C. 20370.

NOTIFICATION PROCEDURE:

Requests by correspondence should be addressed to: Commander, Naval Military Personnel Command (Attn: Privacy Act Coordinator), Navy Department, Washington, D.C. 20370: or, for Training and Administration of Reserve personnel only, to Commanding Officer, (Attn: Privacy Act Coordinator), Naval Reserve Personnel Center, Naval Support Activity (East Bank), Bldg. 603, New Orleans, LA 70146. The letter should contain full name, social security account number (and/or enlisted service number), rate, military status, and signature of the requester. The individual may visit the Commander, Naval Military Personnel Command, Arlington Annex (FOB 2), Rm. 1066, Washington, D.C. for assistance with records located in that building; or Training and Administration of Reserve personnel may visit the Commanding Officer (Privacy Act Coordinator), Naval Support Activity (East Bank), Bldg. 603, New Orleans, LA 70146. Proof of identification will consist of military identification card for persons having such cards, or other picture-bearing identification.

* * * * *

N01420–1

System name:

Officer Promotion System (48 FR 26052) June 6, 1983.

Changes:

System location:

In line 1, delete the phrase: "Bureau of Naval Personnel * * *" and substitute with: "Naval Military Personnel Command * * *"

Purpose(s):

Add the following new paragraph: "To assist officials and employees of the Department of the Navy relating to the promotion of naval officers."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete the entire entry and substitute with the following:

"To officials and employees of other Departments and Agencies of the Executive Branch of government, upon request, in the performance of their official duties related to the Navy's Officer Promotion System and the records contained therein.

When required by Federal statute, by Executive Order, or by treaty, personnel record information will be disclosed to the individual, organization, or governmental agency as necessary.

The Blanket Routine Uses that appear at the beginning of the Department of the Navy compilation also apply to this system."

System manager(s) and address:

In line 1, delete the phrase "Chief of Naval Personnel * * *" and substitute with the following: "Commander, Naval Military Personnel Command * * *"

Notification procedure:

In lines 2, 3, 12 and 13, delete the phrase: "Chief of Naval Personnel" and substitute with the following: "Commander, Naval Military Personnel Command * * *"

The revised portions of System N01420–1 read as follows:

N01420–1

SYSTEM NAME:

Officer Promotion System.

SYSTEM LOCATION:

Naval Military Personnel Command, Navy Department, Washington, D.C. 20370; and Reporting Seniors (see Directory of the Department of the Navy Mailing Addresses); Federal Records Storage Centers; National Archives.

* * * * *

PURPOSE(S):

To assist official and employees of the Department of the Navy relating to the promotion of naval officers.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To officials and employees of other Departments and Agencies of the Executive Branch of government, upon request, in the performance of their official duties related to the Navy's Officer Promotion System and the records contained therein.

When required by Federal statute, by Executive Order, or by treaty, personnel record information will be disclosed to the individual, organization, or governmental agency as necessary.

The Blanket Routine Uses that appear at the beginning of the Department of the Navy complilation also apply to this system.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Naval Military Personnel Command, Navy Department, Washington, D.C. 20370.

NOTIFICATION PROCEDURE:

Requests by correspondence should be addressed to: Commander, Naval Military Personnel Command (Attn: Privacy Act Coordinator), Navy Department, Washington, D.C. 20370; or to Reporting Seniors (see Director of the Department of the Navy Mailing Addresses). The letter should contain

full name, social security account number (and/or officer file number), rank, military status, address and signature of the requester.

The individual may visit the Commander, Naval Military Personnel Command, Arlington Annex (FOB 2), Rm. 1066, Washington, D.C. for assistance with records located in that building; or the individual may visit the Reporting Senior for records maintained for that individual. Proof of identification will consist of military identification card.

* * * * * *

N01610–1

System name:

Navy Personnel Evaluation System (48 FR 26061) June 6, 1983.

Changes:

System location:

In line 1, delete the phrase: "Bureau of Naval Personnel * * *" and substitute with: "Naval Military Personnel Command * * *"

Purpose(s):

Add the following new paragraph: "To assist in personnel administration of Navy members, including but not limited to retention, assignment, and separation."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete the entire entry and substitute with the following:

"To the Director, Veterans Administration, and Director, Selective Service Administration and their officials and employees in connection with notification and assistance in obtaining benefits by members and former members;

To officials and employees of other Departments and Agencies of the Executive Branch of government, upon request, in the performance of their official duties related to personnel administration.

To state and local government agencies in the performance of their official duties related to personnel administration.

When required by Federal statute, by Executive Order, or by treaty, personnel record information will be disclosed to the individual, organization, or governmental agency as necessary.

The Blanket Routine Uses that appear at the beginning of the Department of the Navy compilation also apply to this system."

System manager(s) and address:

In line 1, delete the phrase: "Chief of Naval Personnel * * *" and substitute with: "Commander, Naval Military Personnel Command * * *".

Notification procedure:

In lines 2, 3, and 10, delete the phrase: "Chief of Naval Personnel" and substitute with: "Commander, Naval Military Personnel Command".

The revised portions of System N01610–1 read as follows:

N01610–1

SYSTEM NAME:

Navy Personnel Evaluation System.

SYSTEM LOCATION:

Commander, Naval Military Personnel Command, Navy Department, Washington, D.C. 20370.

* * * * *

PURPOSE(S):

To assist in personnel administration of Navy members, including but not limited to retention, assignment, and separation.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PROPOSES OF SUCH USES:

To the Director, Veterans Administration, and Director, Selective Service Administration and their officials and employees in connection with notification and assistance in obtaining benefits by members and former members.

To officials and employees of other Departments and Agencies of the Executive Branch of government, upon request, in the performance of their official duties related to personnel administration.

To state and local government agencies in the performance of their official duties related to personnel administration.

When required by Federal statute, by Executive Order, or by treaty, personnel record information will be disclosed to the individual, organization, or governmental agency as necessary.

The Blanket Routine Uses that appear at the beginning of the Department of the Navy compilation also apply to this system.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Naval Military Personnel Command, Navy Department, Washington, D.C. 20370.

NOTIFICATION PROCEDURE:

Requests by correspondence should be addressed to: Commander, Naval Military Personnel Command (Attn: Privacy Act Coordinator), Navy Department, Washington, D.C. 20370. The letter should contain full name, social security account number, rank/rate/civilian status, address and notarized signature of the requester. The individual may visit the Commander, Naval Military Personnel Command, Arlington Annex (FOB 2), Rm. 1066, Washington, D.C. for assistance with records located in that building. Prior written notification of personal visits is required to ensure that all parts of the record are available at the time of the visit. Proof of identity will be required and will consist of a military identification card for persons having such cards and picture-bearing identification.

* * * * *

N01740–1

System name:

Personal Services and Dependents Services Support System (48 FR 26063) June 6, 1983.

Changes:

System location:

In lines 1 and 2, delete the phrase: "* * * Bureau of Naval Personnel * * *" and substitute with: "* * * Naval Military Personnel Command * * *"

Purpose(s):

Add the following new paragraph: "To assist in the management, supervision, and administration of personal services, benefits and entitlements for Navy service members and their dependents."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete the entire entry and substitute with the following:

"To officials and employees of the Veterans Administration in the performance of their official duties related to eligibility, notification and assistance in obtaining benefits by members and former members of the Navy.

To officials and employees of Navy Relief and American Red Cross in the performance of their duties related to assistance of members, their dependents and relatives.

To state and local government agencies in the performance of their official duties related to assistance of members and their dependents.

To non-government agencies only to assist members and their dependents.

When required by Federal statute, by Executive Order, or by treaty, personnel record information will be disclosed to the individual, organization, or governmental agency as necessary.

The Blanket Routing Uses that appear at the beginning of the Department of the Navy compilation also apply to this syster."

System manager(s) and address:

In line 1, delete the phrase: "Chief of Naval Personnel * * * " and substitute with the following: "Commander, Naval Military Personnel Command * * * "

Notification procedure:

In lines 2 and 17, delete the phrase: "Chief of of Naval Personnel * * * " and substitute with: "Commander, Naval Military Personnel Command * * * "

The revised portions of System NO 1740–1 read as follows:

N01740–1

SYSTEM NAME:

Personal Services and Dependents Services Support System.

SYSTEM LOCATION:

Primary System-Naval Military Personnel Command, Navy Department, Washington, D.C. 20370; Navy Family Allowance Activity, Anthony J. Celebreeze Federal Building, Room 967, Cleveland, Ohio 44199; local activity to which individual is assigned (see Directory of the Department of the Naval Mailing Addresses).

Secondary System-Department of the Navy Activities in the Chain of Command between the local activity and the Headquarters level (see Directory of the Department of the Naval Mailing Addresses).

* * * * *

PURPOSE(S):

To assist in the management, supervision, and administration of personal services, benefits and entitlements for Navy service members and their dependents.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

"To officials and employees of the Veterans Administration in the performance of their official duties related to eligibility, notification and assistance in obtaining benefits by members and former members of the Navy.

To officials and employees of Navy Relief and American Red Cross in the performance of their duties related to assistance of members, their dependents and relatives.

To state and local government agencies in the performance of their official duties related to assistance of members and their dependents.

To non-government agencies only to assist members and their dependents.

When required by Federal statute, by Executive Order, or by treaty, personnel record information will be disclosed to the individual, organization, or governmental agency as necessary.

The Blanket Routine Uses that appear at the beginning of the Department of the Navy compilation also apply to this syster.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Naval Military Personnel Command, Navy Department, Washington, D.C. 20370.

NOTIFICATION PROCEDURE:

Requests by correspondence should be addressed to: Commander, Naval Military Personnel Command (Attn: Privacy Act Coordinator), Navy Department, Washington, D.C. 20370; or in accordance with the Directory of the Navy Mailing Addresses (i.e., local activities). The letter should contain full name, social security account number, (and/or enlisted service number/officer file number), rank/rate, military status, or name of the dependent, name of sponsor, sponsor's social security account number, and signature of the requester.

The individual may visit the Commander, Naval Military Personnel Command, Arlington Annex, (FOB 2), Rm. 1066, Washington, D.C. for assistance with records located in that building; or the individual may visit the local activity for access to locally maintained records. Proof of identification will consist of military identification card for persons having such cards, or other picture-bearing identification.

* * * * *

N01746–1

System name:

Nonappropriated Fund Activity Information Support System (48 FR 26064) June 6, 1983.

Changes:

System location:

In line 1, delete the phrase: "Bureau of Naval Personnel * * *" and substitute with: "* * * Naval Military Personnel Command * * *" In line 5, delete the phrase: "Chief of Naval Pesonnel" and substitute with: "Comander, Naval Military Personnel Command."

Categories of individuals covered by the system:

In line 9, delete the phrase: "* * * Chief of Naval Personnel," and substitute with "* * * Commander, Naval Military Personnel Command."

Categories of records in the system:

In line 9, delete the phrase: "* * * Chief of Naval Personnel," and substitute with: "* * * Commander, Naval Military Personnel Command."

Purpose(s):

Add the following new paragraph: "To assist in the management, supervision and administration of Nonappropriated Fund Activities such as messes, clubs, package stores and special-services facilities."

Routine uses of records maintained in the system including categories of users and the purposes of such uses:

Delete the entire entry and substitute with the following:

"When required by Federal statute, by Executive Order, or by treaty, personnel record information will be disclosed to the individual, organization, or governmental agency as necessary.

The Blanket Routine Uses that appear at the beginning of the Department of the Navy compilation also apply to this system."

System Manager(s) and address:

In line 1, delete the phrase: "Chief of Naval Personnel * * *" and substitute with the following: "Commander, Naval Military Personnel Command * * *"

Notification Procedure:

In lines 2, 3, 11, and 12, delete the phrase: "* * * Chief of Naval Personnel * * *" and substitute with: "Commander, Naval Military Personnel Command * * *"

The revised portions of System NO1746–1 read as follows:

N01746–1

SYSTEM NAME:

Nonappropriated Fund Activity Information Support System.

SYSTEM LOCATION:

Naval Military Personnel Command, Navy Department, Washington, D.C. 20370; and local Nonappropriated Fund Activities under the cognizance of the Commander, Naval Military Personnel Command.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals authorized under current regulations to use Commissioned Officers Messes (open), Chief Petty Officer Messes, Petty Officer First and Second Class Messes, Enlisted Men's Clubs, Consolidated Package Stores, Special Services facilities, and other Nonappropirated Fund Activities under the cognizance of the Commander, Naval Military Personnel Command.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence, records, membership applications, membership and user listings of Nonappropriated Fund Activity facilities, accounts receivable records, bad check listings, investigatory reports involving abuse of facilities, required for management of Nonappropriated Fund Activities under the cognizance of the Commander, Naval Military Personnel Command.

* * * * *

PURPOSE(S):

To assist in the management, supervision and administration of Nonappropriated Fund Activities such as messes, clubs, package stores and special-services facilities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

When required by Federal statute, by Executive Order, or by treaty, personnel record information will be disclosed to the individual, organization, or governmental agency as necessary.

The Blanket Routine Uses that appear at the beginning of the Department of the Navy compilation also apply to this system.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Naval Military Personnel Command, Navy Department, Washington, DC 20370.

NOTIFICATION PROCEDURE:

Requests by correspondence should be addressed to: Commander, Naval Military Personnel Command (Attn: Privacy Act Coordinator), Navy Department, Washington, DC 20370; or to the head of the local Nonappropriated Fund Activity concerned. The letter should contain full name, social security account number, status, address, and signature of the requester.

The individual may visit the Commander, Naval Military Personnel Command, Washington, DC 20370 (Arlington Annex, FOB 2) for assistance with records located in that building; or the individual may visit the local activity for access to locally maintained records. Proof of identification will consist of military identification card for persons having such cards, or other picture-bearing identification.

* * * * *

N01770–1

System name:

Decedent Affairs Records System (48 FR 26065) June 6, 1983.

Changes:

System location:

Delete the entire entry and substitute with the following: "Commander, Naval Medical Command, 23rd, & E Sts, NW., Washington, DC 20372; Office of Medical Affairs Geographic Commands and Commanding Officers, Naval Medical Treatment Facilities."

Purpose(s):

Add the following new paragraph: "To facilitate and monitor the return of remains and associated benefits; to verify eligibility of beneficiaries for benefits; to assist officials in the identification, care and return of decedent's remains, and the notification of the next of kin of the cause of death, and payment of allowances thereto."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete the entire entry and substitute with the following: "The Blanket Routine Uses that appear at the beginning of the Department of the Navy compilation apply to this system."

Retention and disposal:

Delete the last word "bureau" in the entry and substitute with "Command." Add the following new sentence at the end: "Records are held for two years and then destroyed at the Office of Medical Affairs Geographic Commands."

System manager(s) and address:

Delete the entire entry and substitute with the following: "Commander, Naval Medical Command, 23rd & E Sts, NW., Washington, DC 20372; Office of Medical Affairs Geographic Commands and Commanding Officers, Naval Medical Treatment Facilities."

Notification procedure:

In lines 6 and 7, delete the phrase: "Bureau of Medicine and Surgery (Code 73) * * *" and substitute with: "Naval Medical Command * * *"

The revised portions of system N01770–1 read as follows:

N01770–1

SYSTEM NAME:

Decedent Affairs Records System.

SYSTEM LOCATION:

Commander, Naval Medical Command, 23rd & E Sts, NW., Washington, D.C. 20372; Office of Medical Affairs Geographic Commands and Commanding Officers, Naval Medical Treatment Facilities.

* * * * *

PURPOSE(S):

To facilitate and monitor the return of remains and associated benefits; to verify eligibility of beneficiaries for benefits; to assist officials in the identification, care and return of decedent's remains, and the notification of the next of kin of the cause of death, and payment of allowances thereto.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Blanket Routine Uses that appear at the beginning of the Department of the Navy compilation apply to this system.

* * * * *

RETENTION AND DISPOSAL:

Permanent-Records are accumulated chronologically and filed alphabetically by fiscal year; held three years and retired to the Federal Records Center for permanent retention under control of this Command. Records are held for two years and then destroyed at the Office of Medical Affairs Geographic Commands.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Naval Medical Command, 23rd & E Sts, NW., Washington, D.C. 20372; Office of Medical Affairs Geographic Commands and Commanding Officers, Naval Medical Treatment Facilities.

NOTIFICATION PROCEDURE:

Address inquiries to the systems manager. Inquiry must include name of decedent, military status at time of death, SSAN and/or service number, and date of death. Requester may visit the Naval Medical Command, 23rd & E Sts NW., Washington, D.C. 20372.

* * * * *

N01770–2

System name:

Casualty Information Support System (48 FR 26066) June 6, 1983.

Changes:

System location:

In lines 1 and 2, delete the phrase: "Chief of Naval Personnel * * *" and substitute with: "Commander, Naval Military Personnel Command . . ."

Purpose(s):

Add the following new paragraph: "To assist in the management of the casualty assistance program and to provide swift accurate responses to beneficiaries and survivors of Navy military personnel; to aid in the efficient settlement of the service member's estate and other affairs."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete the entire entry and substitute with the following:

"To officials and employees of the Department of Health and Human Services in connection with eligibility, notification and assistance in obtaining benefits due.

To officials and employees of the Veterans Administration and the Selective Service Administration in connection with eligibility, notification and assistance in obtaining benefits due.

To officials and employees of state and local government agencies in connection with eligibility, notification and assistance in obtaining benefits due.

When required by Federal statute, by Executive Order, or by treaty, personnel record information will be disclosed to the individual, organization, or governmental agency as necessary.

The Blanket Routine Uses that appear at the beginning of the Department of the Navy compilation also apply to this system."

System manager(s) and address:

In line 1, delete the phrase: "Chief of Naval Personnel * * *" and substitute with: "Commander, Naval Military Personnel Command * * *"

Notification procedure:

In lines 2, 3, 15, and 16, delete the phrase: "Chief of Naval Personnel * * *" and substitute with: "Commander, Naval Military Personnel Command * * *"

The revised portions of system N01770–2 read as follows:

N01770–2

SYSTEM NAME:

Casualty Information Support System.

SYSTEM LOCATION:

Primary System-Commander, Naval Military Personnel Command, Navy Department, Washington, D.C. 20370 and local activity to which individual is assigned (see Directory of the Department of the Navy Mailing Addresses); Washington National Records Center, Suitland, Maryland.

* * * * *

PURPOSE(S):

To assist in the management of the casualty assistance program and to provide swift accurate responses to beneficiaries and survivors of Navy military personnel; to aid in the efficient settlement of the service member's estate and other affairs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To officials and employees of the Department of Health and Human Services in connection with eligibility, notification and assistance in obtaining benefits due.

To officials and employees of the Veterans Administration and the Selective Service Administration in connection with eligibility, notification and assistance in obtaining benefits due.

To officials and employees of state and local government agencies in connection with eligibility, notification and assistance in obtaining benefits due.

When required by Federal statute, by Executive Order, or by treaty, personnel record information will be disclosed to the individual, organization, or governmental agency as necessary.

The Blanket Routine Uses that appear at the beginning of the Department of the Navy compilation also apply to this system.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Naval Military Personnel Command, Navy Department, Washington, D.C. 20370.

NOTIFICATION PROCEDURE:

Requests by correspondence should be addressed to: Commander, Naval Military Personnel Command (Attn: Privacy Act Coordinator), Navy Department, Washington, D.C. 20370; or, in accordance with the Directory of the Department of the Navy Mailing Addresses (i.e., local activities). The letter should contain full name, social security account number (and/or enlisted service number/officer file number), rank/rate, military status, date of casualty and status at time of casualty, and signature of the requester. The individual may visit the Commander, Naval Military Personnel Command, Arlington Annex (FOB 2), Rm. 1066, Washington, D.C. for assistance with records located in that building; or the individual may visit the local activity for access to locally maintained records. Proof of identification will consist of military identification card for persons having such cards, or other picture-bearing identification.

* * * * *

N05340–2

System name:

Personal Commercial Affairs Solicitation Privilege File System (48 FR 26090) June 6, 1983.

Changes:

System location:

In lines 1 and 2, delete the phrase: "Chief of Naval Personnel * * *" and substitute with: "Commander, Naval Military Personnel Command * * *"

Purpose(s):

Add the following new paragraph: "To assist in responding to letters of application for solicitation privileges, granting letters of accreditation, responding to appeals and compiling of statistics pertaining thereto."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete the entire entry and substitute with the following:

"To state and local agencies in the performance of their official duties related to agent qualifications.

To private firms whose agents have been banned may request verification of the status of agents.

When required by Federal statute, by Executive Order, or by treaty, personnel record information will be disclosed to the individual, organization, or governmental agency as necessary.

The Blanket Routine Uses that appear at the beginning of the Department of the Navy compilation also apply to this system."

System Manager (s) and address:

In line 1, delete the phrase: "Chief of Naval Personnel * * *" and substitute with: "Commander, Naval Military Personnel Command * * *"

Notification Procedure:

In lines 2, 3, 13, and 14, delete the phrase: "Chief of Naval Personnel * * *" and substitute with: "Commander, Naval Military Personnel Command * * *"

The revised portions of system N05340–2 read as follows:

N05340–2

SYSTEM NAME:

Personal Commercial Affairs Solicitation Privilege File System.

SYSTEM LOCATION:

Primary System-Commander, Naval Military Personnel Command, Navy Department, Washington, D.C. 20370.

Secondary System-Local Navy Activities involved in the Personal Commercial Affairs Solicitation Privilege System (see Directory of Department of the Navy Mailing Addresses).

* * * * *

PURPOSE(S):

To assist in responding to letters of application for solicitation privileges, granting letters of accreditation, responding to appeals and compiling of statistics pertaining thereto.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To state and local agencies in the performance of their official duties related to agent qualifications.

To private firms whose agents have been banned may request verification of the status of agents.

When required by Federal statute, by Executive Order, or by treaty, personnel record information will be disclosed to the individual, organization, or governmental agency as necessary.

The Blanket Routine Uses that appear at the beginning of the Department of the Navy compilation also apply to this system."

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Naval Military Personnel Command, Navy Department, Washington, D.C. 20370.

NOTIFICATION PROCEDURE:

Requests by correspondence should be addressed to: Commander, Naval Military Personnel Command (Attn: Privacy Act Coordinator), Navy Department, Washington, D.C. 20370; or, in accordance with the Directory of the Department of the Navy Mailing Addresses (i.e., local activities). The letter should contain full name, social security account number of the applicant, firm represented and dates or time period in question, and signature of the requester. The individual may visit the Commander, Naval Military Personnel Command, Arlington Annex (FOB 2), Rm. 1066, Washington, D.C. for assistance with records located in that building; or the individual may visit the local activity for access to locally maintained records. Proof of identification will consist of picture-bearing identification.

* * * * *

N05350–1

System name:

Navy Personnel Rehabilitation Support System (48 FR 26091) June 6, 1983.

Changes:

Purpose(s):

Add the following new paragraph: "To assist in the identification, diagnosis, prognosis, or treatment of personnel requiring same for drug or alcohol abuse; to assist them in the prevention of such abuse and to do same for dependents and civilian employees."

System manager(s) and address:

In line 1, delete the phrase: "Chief of Naval Personnel * * *" and substitute with: "Commander, Naval Military Personnel Command * * *"

Notification procedure:

In lines 3, 4, and 13, delete the phrase: "* * * Chief of Naval Personnel * * *" and substitute with: "Commander, Naval Military Personnel Command * * *"

The revised portions of System N05350–1 read as follows:

N05350–1

SYSTEM NAME:

Navy Personnel Rehabilitation Support System.

* * * * *

PURPOSE(S):

To assist in the identification, diagnosis, prognosis, or treatment of personnel requiring same for drug or alcohol abuse; to assist them in the prevention of such abuse and to do same for dependents and civilian employees.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Naval Military Personnel Command, Navy Department, Washington, D.C. 20370.

NOTIFICATION PROCEDURE:

Written requests should be addressed to activity to which the individual received treatment or to the Commander, Naval Military Personnel Command, Arlington Annex (FOB 2), Washington, D.C. 20370. Requests must contain full name, social security account number, military status, address and signature of requester. (Those inquiring about records at Confinement Centers must have their signature notarized, if not confined at the time of the request.) The individual may visit the Commander, Naval Military Personnel Command, Arlington Annex (FOB 2) for assistance with records located in the Naval Military Personnel Command; the individual may also visit local activities concerned (see Directory of Department of the Navy mailing addresses). Proof of identification will consist of military identification card for persons having such cards, or other picture-bearing identification.

* * * * *

N05354–1

System name:

Equal Opportunity Information and Support System (48 FR 26092) June 6, 1983.

Changes:

System location:

In lines 1 and 2, delete the phrase: "* * * Bureau of Naval Personnel * * *" and substitute with: "* * * Naval Military Personnel Command * * *"

Purpose(s):

Add the following new paragraph: "To assist in equal opportunity measures, including but not limited to, investigations and correspondence."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete the entire entry and substitute with the following:

"When required by Federal statute, by Executive Order, or by treaty, personnel record information will be disclosed to the individual, organization, or governmental agency, as necessary.

The Blanket Routine Uses that appear at the beginning of the Department of the Navy compilation also apply to this system."

System manager(s) and address:

In line 1, delete the phrase: "Chief of Naval Personnel * * *" and substitute with: "Commander, Naval Military Personnel Command * * *"

Notification procedures:

In lines 2, 3, 12, and 13, delete the phrase: "* * * Chief of Naval Personnel * * *" and substitute with: "Commander, Naval Military Personnel Command * * *"

The revised portions of System NO5354–1 read as follows:

N05354-1

SYSTEM NAME:

Equal Opportunity Information and Support System.

SYSTEM LOCATION:

Primary System-Commander, Naval Military Personnel Command, Navy Department, Washington, D.C. 20370; and local activity to which individual is attached (see Directory of the Department of the Navy Mailing Addresses).

Secondary System-Department of the Navy Activities in the Chain of Command between the local activity and the Headquarters level (see Directory of the Department of the Navy Mailing Addresses).

PURPOSE(S):

To assist in equal opportunity measures, including but not limited to, investigations and correspondence.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

When required by Federal statute, by Executive Order, or by treaty, personnel record information will be disclosed to the individual, organization, or governmental agency as necessary.

The Blanket Routine Uses that appear at the beginning of the Department of the Navy compilation also apply to this system."

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Naval Military Personnel Command, Navy Department, Washington, D.C. 20370.

Requests by correspondence should be addressed to the Commander, Naval Military Command (Attn: Privacy Act Coordinator), Washington, D.C. 20370; or, in accordance with the Directory of the Department of the Navy Mailing Addresses (i.e., local activities). The letter should contain full name, social security account number, rank/rate, military status, and signature of requester.

The individual may visit the Commander, Naval Military Personnel Command, Arlington Annex, (FOB 2), Rm. 1066, Washington, D.C. for assistance with records located in that building; or the individual may also visit local activity to which attached for access to locally maintained records. Proof of identification will consist of military identification card for persons having such cards, or other picture-bearing identification.

* * * * *

N05520-1

System name:

Personnel Security Eligibility Information System (48 FR 26095) June 6, 1983.

Changes:

System location:

In lines 2 and 3, delete the phrase: "* * * Bureau of Naval Personnel * * *" and substitute with "* * * Naval Military Personnel Command * * *"

Purpose(s):

Add the following new paragraph: "To determine service member's eligibility for acceptance and retention, personnel security clearances, assignment to the Nuclear Weapon Personnel Reliability Program and other "high risk" programs requiring quality control."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete the entire entry and substitute with the following:

"To state and local government agencies in the performance of their officials duties relating to personnel security eligibility.

To officials and employees of other Executive Branches of the government, upon request, in the performance of their duties related to personnel security eligibility.

When required by Federal statute, by Executive Order, or by treaty, personnel record information will be disclosed to the individual, organization, or governmental agency as necessary.

The Blanket Routine Uses that appear at the beginning of the Department of the Navy compilation also apply to this system."

System manager(s) and address:

In line, delete the phrase: "Chief of Naval Personnel * * *" and substitute with: "Commander, Naval Military Personnel Command * * *"

Notification procedure:

In lines 2, 3, and 13, delete the phrase: "Chief of Naval Personnel * * *" and substitute with: "* * * Commander, Naval Military Personnel Command * * *"

The revised portions of System N05520-1 read as follows:

N05520-1

SYSTEM NAME:

Personnel Security Eligibility Information System.

* * * * *

SYSTEM LOCATION:

Primary System-Commander, Naval Military Personnel Command, Navy Department, Washington, D.C. 20370.

Secondary System-local activity to which individual is assigned (see Directory of Department of the Navy Mailing Addresses).

PURPOSE(S):

To determine service member's eligibility for acceptance and retention, personnel security clearances, assignment to the Nuclear Weapon Personnel Reliability Program and other "high risk" programs requiring quality control.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To state and local government agencies in the performance of their officials duties relating to personnel security eligibility.

To officials and employees of other Executive Branches of the government, upon request, in the performance of their duties related to personnel security eligibility.

When required by Federal statute, by Executive Order, or by treaty, personnel record information will be disclosed to the individual, organization, or governmental agency as necessary.

The Blanket Routine Uses that appear at the beginning of the Department of the Navy compilation also apply to this system.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Naval Military Personnel Command, Navy Department, Washington, D.C. 20370.

NOTIFICATION PROCEDURE:

Requests by correspondence should be addressed to Commander, Naval Military Personnel Command, (Attn: Privacy Act Coordinator), Navy Department, Washington, D.C. 20370; or in accordance with the Directory of the Department of the Navy Mailing Addresses (i.e., local activities). The letter should contain full name, social security account number, rank/rate/civilian status, address and notarized signature of the requester. The individual may visit the Commander, Naval Military Personnel Command, Arlington Annex (FOB 2), Rm. 1066, Washington, D.C. for assistance with records located in that building; or the individual may visit the local activity to which attached for access to locally maintained records. Prior written notification of personal visits is required

to ensure that all parts of the record will be available at the time of the visit. Proof of identity will be required and will consist of a military identification card for persons having such cards and picture-bearing identification.

N12290–1

System name:

Record System for Civilian Employees of Nonappropriated Fund (NAF) Activities (48 FR 26151) June 6, 1983.

Changes:

System location:

In line 1, delete the phrase: "Bureau of Navel Personnel * * *" and substitute with: "Naval Military Personnel Command * * *"

Categories of individuals covered by the system:

In line 3, delete the phrase: "Chief of Naval Personnel," and substitute with: "Commander, Naval Military Personnel Command."

Purpose(s):

Add the following new paragraph: "To manage, supervise, and administer the Nonappropriated Fund civilian program."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete the entire entry and substitute with the following:

When required by Federal statute, by Executive Order, or by treaty personnel record information will be disclosed to the individual, organization, or governmental agency as necessary.

The Blanket Routine Uses that appear at the beginning of the Department of the Navy compilation also apply to this system."

System Manager(s) and address:

In line 1, delete the phrase: "Chief of Naval Personnel * * *" and substitute with: "Commander, Naval Military Personnel Command* * *"

Notification Procedure:

In lines 2, 3, 13, and 14, delete the phrase: "* * * Chief of Naval Personnel * * *" and substitute with: "* * * Commander, Naval Military Personnel Command * * *"

The revised portions of System N12290–1 read as follows:

N12290–1

SYSTEM NAME:

Record System for Civilian Employees of Nonappropriated Fund (NAF) Activities.

SYSTEM LOCATION:

Primary System-Commander, Naval Military Personnel Command, Washington, D.C. 20370; and local activity to which individual is assigned (see Directory of the Department of the Navy Mailing Addresses); National Personnel Records Center, St. Louis, Missouri 63132.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Civilian employees of Nonappropriated Fund Activities under the cognizance of the Commander, Naval Military Personnel Command.

* * * * *

PURPOSE(S):

To manage, supervise, and administer the nonappropriated fund civilian program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

When required by Federal statute, by Executive Order, or by treaty, personnel record information will be disclosed to the individual, organization, or governmental agency as necessary.

The Blanket Routine Uses that appear at the beginning of the Department of the Navy compilation also apply to this system.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Naval Military Personnel Command, Department of the Navy, Washington, D.C. 20370.

NOTIFICATION PROCEDURE:

Requests by correspondence should be addressed to: Commander, Naval Military Personnel Command (Attn: Privacy Act Coordinator), Navy Department, Washington, D.C. 20370; or, in accorance with the Directory of the Department of the Navy Mailing Addresses (i.e., local activities).

The letter should contain full name, social security account number, activity at which employed, and signature of the requester.

The individual may visit the Commander, Naval Military Personnel Command, Arlington Annex (FOB 2), Rm. 1066, Washington, D.C. for assistance with records located in that building; or the individual may visit the local activity in which attached for access to locally maintained records.

* * * * *

[FR Doc. 84–27397 Filed 10–17–84; 8:45 am]
BILLING CODE 3810–01–M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Record of Decision the Expanded Residential Weatherization Program

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Record of decision.

SUMMARY: The Administrator of the Bonneville Power Administration has decided to expand the present BPA Residential Weatherization Program to make "house tightening" measures—storm windows, other window treatments conserving energy, wall insulation, weatherstripping, caulking, and door treatments such as thermal pane replacements—available to all electrically heated homes in the BPA service area otherwise eligible for the program, and to adopt mitigation strategies to lessen the risk of adverse human health effects. The mitigation strategies include: (1) Giving program participants (residents) information on indoor air pollutant sources and practical steps for reducing concentrations; (2) giving program participants options for having their homes monitored for radon concentrations; and (3) partially subsidizing the installation of a proven mitigation device, if radon concentrations exceed 5 picoCuries per liter, the action level selected by BPA

This is the "preferred alternative" analyzed in BPA's Final Environmental Impact Statement for The Expanded Residential Weatherization Program, issued August 10, 1984 (DOE/EIS–0095F).

Five alternatives were analyzed and compared in reaching the above decision: (1) *No action,* or continuation of the present Residential Weatherization Program, which limits the availability of house tightening measures to dwellings devoid of possible major sources of radon, formaldehyde, and combustion by-products; (2) the *proposed action,* offering house tightening measures to all electrically heated homes in the BPA service area; (3) the *preferred alternative,* which offers house tightening measures to all electrically heated homes in the service area plus mitigates the increment of indoor air pollution by giving information on indoor air pollutants, providing options for radon monitoring and subsidized air-to-air heat exchanges to program participants; (4) the *environmentally preferred alternative,* which entails tightening all electrically heated homes in the service area plus fully mitigating

the increment of indoor air pollution by installing air-to-air heat exchangers in each participating home; and (5) the *delayed action alternative*, which retains the restrictions of the present program for another 3 to 5 years, to see if ongoing research throughout the country leads to a better understanding of indoor air pollution and associated health risks.

The following decision factors entered into the decision to implement the preferred alternative: (1) *Health risk*, the increment of risk to human health from house tightening measures; (2) *energy savings*, the amount of electric power acquired under each alternative; (3) *cost*, the price of each alternative; (4) *public comment*, the views of those responding to the Draft Environmental Impact Statement; (5) *statutory mission*, BPA's obligations under the Pacific Northwest Electric Power Planning and Conservation Act including the obligation to give first priority to energy conservation; (6) *Northwest Conservation and Electric Power Plan*, consistency with the plan of the Northwest Power Planning Council; (7) *choice*, the voluntary nature of participation in the program by residents, and the effect of their actions on indoor air pollutant concentrations in their dwellings; (8) *self-help*, the ability of occupants to reduce indoor air pollution by avoiding known pollution sources or exercising other options based on information received; (9) *uncertainty*, the recent recognition of the problem of indoor air pollution and lack of conclusive information on related health effects; (10) *behavioral variability*, that differences in resident's ways of life contribute to differences in indoor air pollution; (11) *home variability*, that indoor air pollution varies across dwellings because they differ in construction practices, structure, air volume, pollutant sources, and emission rates of these sources; (12) *environmental policy*, the protection of the quality of the human environment, taking into account the effectiveness of alternative means for reducing risks of ill-health, and the possible need of acquiring electric generating plants, in lieu of conservation, which would consume land and water resources; (13) *administrative practicality*, the ease and fairness of administering a regional program in cooperation with Pacific Northwest utilities, States, and other entities; (14) *intergovernmental relations*, minimizing conflict over differences in conservation programs with Federal, State, and local agencies; (15) *BPA's role*, the agency's limited ability to regulate individual behavior in private homes; and (16) *employment*, providing jobs.

The Administrator is using his discretionary authority in deciding to implement the preferred alternative rather than any of the other four alternatives considered. In reaching this decision, a series of policy judgments were made, based on the foregoing decision factors, to develop a risk management strategy that balances the uncertain incremental risk of ill health from house tightening with the costs of reducing that risk while obtaining most of the cost-effective potential energy savings which are available from home weatherization.

The preferred alternative is chosen over the other alternatives because:

—By offering all tightening measures to all homes, more potential energy savings from home weatherization can be obtained, thereby fulfilling the mandates of Congress and recommendations of the Northwest Power Planning Council for giving first priority to cost-effective conservation before acquiring other forms of electric energy resources;

—By offering to monitor for radon, the agency is taking steps to identify the presence of a pollutant in individual homes which can present a serious health hazard, accounting for almost half of the health risks from the indoor air pollutants reviewed for this record of decision; radon monitoring devices are readily available, practical to use in a regional program, inexpensive, and give relatively reliable results;

—By offering radon monitoring to program participants, there will be opportunity to identify high risk homes which can then be matched with appropriate mitigation; mitigation in homes with high radon concentrations will reduce the risk of cancer from randon exposure for individuals living in these dwellings, and will eliminate their incremental health risk from house tightening; therefore, the expenditures of funds for radon monitoring is warranted;

—By paying for mitigation in high risk homes, BPA's mitigation expenditures (about 8 percent of the funds needed for program expansion) will directly benefit those program participants at high risk; although these participants are few in number (about 5 percent of all potential program participants), they carry a disproportionate share of the regional health risk from radon exposure, and therefore warrant the expenditures of funds for radon mitigation;

—By giving mitigation only to high risk homes, rather than all homes participating in the program, energy savings will be increased and program costs reduced while attaining a level of risk likely to be accepted by program participants; and

—Because public comments on the Draft Environmental Impact Statement indicated strong support for informing program participants about the relationship between house tightening and indoor air quality, and letting them make their own choices regarding house tightening and mitigation.

The decision to implement the preferred alternative means that no special steps will be taken to monitor and mitigate for formaldehyde and combustion by-products, other than informing program participants about these indoor pollutants. The factors contributing to this policy judgment are:

—Formaldehyde is a very minor contributor to the increment of cancer risk from house tightening;

—Mitigation devices are not warranted for formaldehyde because of its transient nature (as home products containing formaldehyde age, the off-gassing of this chemical decreases);

—Information is the most effective means for mitigating health effects from formaldehyde, which include irritation to skin, eyes, mucous membranes and the respiratory tract, because residents are likely to be aware of recently installed furnishings containing formaldehyde (e.g., kitchen cabinets);

—The uncertainty associated with the effectiveness of available techniques for reducing formaldehyde concentrations does not warrant the expense of paying for the mitigation, or expending energy to operate mitigation devices;

—Because combustion by-products are present in a home directly as a result of human activities such as smoking or operating woodstoves, and because combustion can easily be detected through the senses, it was decided that the most effective way of mitigating for the health effects of house tightening is to inform residents about how to recognize combustion pollutants and correct for them, thereby letting them make their own choices regarding the incremental risks of ill-health from combustion in a tightened house;

—Of the various combustion by-products, benzo-a-pyrene was shown to contribute over half of the risk increment from house tightening; however, no special monitoring was incorporated into the preferred alternative for combustion by-

products in general, or benzo-a-pyrene in particular, because the technology for such monitoring is neither well-developed nor readily available.

In summary, the expanded weatherization program constitutes a risk management strategy which will lead to most of the potential energy savings possible from home weatherization at a cost-effective price. It allows for the matching of homes at high risk from radon gas with appropriate mitigation at an acceptable cost, while keeping risk at a minimum level. It gives information to program participants regarding pollutants which they can recognize and control themselves if they so choose, thereby limiting BPA's intrusion into areas normally left to individual choice.

All practical means will be adopted to avoid or minimize environmental harm from the alternative selected. In 1983, BPA entered into a Programmatic Memorandum of Agreement with the Advisory Council for Historic Preservation and the State Historic Preservation Officers of the States served by the agency, to avoid adverse effects to properties on or eligible for the National Register of Historic Places.

This agreement is standard policy for all BPA conservation programs, including this action. All conservation programs also have oversight and compliance features to insure that program implementors meet all requirements for avoiding or minimizing adverse effects on the quality of the human evnvironment. A standard environmental monitoring program is not applicable to residential conservation programs. However, the results of research on indoor air quality effects and mitigation being conducted by BPA, and other entities across the Nation, will be reviewed regularly to determine whether adjustments need to be made in the preferred alternative to avoid or minimize environmental harm.

SUPPLEMENTARY INFORMATION:

Background

The Revised Environmental Assessment for the current Residential Weatherization Program, which went into effect in September 1981, showed that occupants of dwellings would be exposed to increased concentrations of indoor air pollutants as a result of installing conservation measures which reduce air infiltration (i.e., caulking, storm windows and doors, weatherstripping, and switchplate and outlet box gaskets). This would, in turn, increase occupants' risks of adverse health effects, including the risk of lung cancer, and the risk of more headaches, eye, nose, and throat irritation.

To avoid these effects, the agency developed and implemented a limited program. Of the homes eligible for the program, only those which met the following criteria were allowed to receive house tightening measures: (1) Presence of a fully ventilated crawlspace, as specified by the 1979 Uniform Building Code; (2) absence of wood-stoves, unvented combustion appliances, and urea foam formaldehyde insulation; and (3) domestic water supplied from surface water or municipal water system. Also, no tightening measures were to be installed in mobile homes, which tend to have higher concentrations of formaldehyde than other types of homes. The crawlspace requirement allows for ventilation of radon gas, which enters dwellings mainly from the soils on which they are built. The other requirements reduce the probability that dwellings with major sources of indoor air pollutants, especially combustion by-products and formaldehyde, will receive tightening measures financed by BPA. These homes, however, may still receive nontightening measures such as ceiling insulation and clock thermostats.

Brochures on indoor air quality are distributed to all present program participants, on the assumption that once informed about indoor air quality, some people may take steps to upgrade their indoor air quality. Since indoor air quality is extensively affected by consumer practices and household activities, BPA believes public education is one way of enhancing indoor air quality in dwellings.

Upon implementation of the limited program, the agency began preparation of a Draft Environmental Impact Statement (EIS) which examined more thoroughly the effects of 3 alternatives and 11 mitigation strategies for offering tightening measures to electrically heated dwellings in the agency's service territory. The Draft EIS was issued in August 1983. The Final EIS, issued in August 1984, assessed 5 alternatives and 11 mitigation strategies, reflecting public comments received on the Draft EIS.

The Environmental Effects of Alternatives Considered in the Final Environmental Impact Statement

1. *No action* (continuing the present BPA Residential Weatherization Program).

Increase in annual risk of cancer: 0.047 per 100,000 persons above a baseline of 5.3 cancers per 100,000 persons because house tightening increases existing levels of indoor air pollutants, even in homes meeting the criteria for receiving house tightening measures.

Range of uncertainty for estimated risk increase: 0.0074 to 0.39 per 100,000 persons per year. Range of uncertainty for baseline: 1.76 to 35.05 per 100,000 persons per year.

Increase in annual cancer risk by pollutant:

- Benzo-a-pyrene: 0.04 per 100,000 above a baseline of 2.6 per 100,000;
- Radon: 0.004 per 100,000 above a baseline of 2.5 per 100,000 persons;
- Formaldehyde: 0.003 per 100,000 above a baseline of 0.2 per 100,000.

Homes eligible for tightening measures: 327,000 dwellings.

Homes eligible for non-tightening measures: 1,209,000 dwellings.

Energy saved: 191 megawatts (1981 estimate).

Energy savings foregone because tightening measures applicable to only 30 percent of electrically heated homes: 105.7 average annual megawatts.

Cost: $550 million or a levelized cost of 25.9 mills per kilowatt hour (1983 estimate).

Land and water resources foregone since a generating plant may have to be built sooner to cover foregone energy savings: 2, 535 acres of land; 134,000 acre-feet of water.

2. *The proposed action* (offering tightening measures to all electrically heated homes in the BPA service area).

Increase in risk of cancer: 0.79 per 100,000 people per year above the *no action* level.

Range of uncertainty for estimated annual risk increase: 0.102 to 7.95 cancers per 100,000 people.

Increase in annual cancer risk by pollutant:

- Benzo-a-pyrene: 0.43 per 100,000 persons above *no action;*
- Radon: 0.32 per 100,000 persons above *no action;*
- Formaldehyde: 0.04 per 100,000 above *no action.*

Homes in program assuming 85 percent participation rate: 1,209,000 dwellings.

Energy saved: 105.7 average annual megawatts above *no action.*

Energy foregone: none because all homes participating in program will be eligible for tightening measures.

Cost: $843.9 to $1569.3 million above the *no action* level, or a levelized cost of 13.4 to 23.3 mills per kilowatt hour (kWh).

Land and water resources foregone: none in comparison to *no action.*

3. *The preferred alternative* (offering tightening measures to all electrically heated homes in the BPA service area plus mitigating the increment in indoor air pollution by giving information and

options for monitoring and air-to-air heat exchangers to program participants).

Increase in risk of cancer: 0.78 per 100,000 people per year above the *no action* level.

Range of uncertainty for estimated risk increase: 0.092 to 7.95 per 100,000 people per year.

Increase in annual cancer rate by pollutant:

Benzo-a-pyrene: slightly less than *proposed action;*

Radon: 0.31 per 100,000 people above *no action;*

Formaldehyde: slightly less than *proposed action.*

Homes in program: same as *proposed action.*

Homes expected to exceed action level for radon and be eligible for proven mitigation devices: about 60,500 dwellings. (The U.S. Census Bureau estimates that in 1984 the average household size is 2.71 persons.)

Energy saved: 104.5 average annual megawatts above *no action.*

Energy foregone: 1.2 average annual megawatts for operation of mitigation devices.

Cost: $920.5 to $1699.3 million above *no action,* or a levelized cost of 14.3 to 25.9 mills per kWh.

Land and water resources foregone: almost none in comparison to *no action.*

Special Note

The risk assessment model which was used to estimate the health effects of the various alternatives, discussed in detail in the Final EIS, contains the assumption that all homes have the same average concentrations of indoor air pollutants, including radon. This means that the residents of these homes have the same average risks of ill-health from indoor air pollutants, and the same average incremental risk from house tightening. In reality, a relatively small percentage (about 4 to 6 percent) of the 1,209,000 homes likely to participate in the program are expected to have radon concentrations which exceed BPA's action level of 5 picoCuries per liter. These homes carry a disproportionate share of the incremental regional risk of cancer from house tightening. The monitoring and mitigation risk management strategy of the preferred alternative concentrates precisely on those homes which are at high risk from radon. Therefore, the overall health effects of the risk management strategy can reasonably be expected to be considerably greater than those estimated by the model, which assumes that the risk reduction effect of mitigation is spread evenly across all homes (see section 7 for more discussion).

As radon monitoring data becomes available from implementation of the preferred alternative, BPA will be able to prepare a more realistic estimate of the efficacy of its monitoring and mitigation strategy for reducing health risks from house tightening. This strategy accounts for about 8 percent of the costs of the preferred alternative, or about 1 mill per kWh of the levelized cost. BPA takes the position that the monitoring and mitigation strategy, which will facilitate a comprehensive residential weatherization program by assisting program participants at high risk from radon exposure, warrants the additional expenditure of funds.

4. *The environmentally preferred alternative* (offering tightening measures to all electrically heated homes in the BPA service area, plus mitigating the indoor air pollution increment by installing air-to-air heat exchangers in each home) considered to be environmentally preferable because it yields some additional energy savings without increasing risks of ill health.

Increase in risk of cancer: similar to *no action.*

Homes in program: similar to *proposed action.*

Energy saved: 87.4 average annual megawatts above *no action.*

Energy savings foregone: 18.3 average annual megawatts for operation of mitigation devices.

Cost: $1409.1 $2956.6 million above *no action* or a levelized cost of 19.8 to 50.6 mills per kWh.

Land and water resources foregone: 183 to 2, 104 acres of land and 111,000 to 7.1 million acre-feet of water.

5. *The delayed action alternative* (retaining the present program's restrictions until continuing research leads to a better understanding of indoor air pollution and associated health effects).

Increase in risk of cancer: same as *no action* until a new decision is made.

Homes in program: same as *no action* until a new decision is made.

Energy saved: same as *no action* until a new decision is made.

Energy savings foregone: same as *no action* until a new decision is made.

Cost: same as *no action* plus cost of any additional research which BPA chooses to incorporate into its present indoor air quality research program.

Land and water resources foregone: same as *no action* until a new decision is made.

The Nature of the Decision

The decisoin to select the preferred alternative consists of a series of policy judgments, using the decision factors listed in the summary. The decision will result in a strategy for managing risks which balances the incremental risk of ill health resulting from house tightening with the costs of reducing that risk while acquiring all available cost-effective electric energy savings from home weatherization. The Administrator exercises discretion in choosing the preferred alternative by making a judgment of the best course for pursuing residential energy conservation. In making this judgment, the Administrator determines the appropriate expenditure of Federal funds in the execution of a Federal action, The Expanded Residential Weatherization Program.

Decisions Made and Underlying Reasoning

1. *The decision to expand the present program.*—BPA's five alternatives for expanding the current residential weatherization program present three different basic courses of action from which to choose. The proposed action, the preferred alternative, and the environmentally preferred alternative all expand the program in some way. The no action plan means continuing the program as is, without additional action. The delayed action alternative means postponing decisions until a future date. Essentially, the alternatives are to do something, do nothing, or postpone action. The paramount considerations in making this choice were the amount of energy savings to be acquired, the costs of the energy savings to be acquired, the potential increment of harmful health effects from conservation, and public preferences.

The acquisition of an additional 104.5 average annual energy savings from program expansion will aid the agency in assuring an adequate, efficent, economical, and reliable power supply in its service area, as stated by the Pacific Northwest Electric Power Planning and Conservation Act (the Act). This acquisition is also consistent with the Act's requirement that the agency give first priority to the acquisition of cost-effective conservation in assuring an adequate power supply. Finally, the expansion of the weatherization program is consistent with the Two-Year Action Plan of the Northwest Power Planning Council, which asks BPA to acquire cost-effective conservation by weatherizing the existing, electrically heated housing stock.

In deciding to acquire an additional 104.5 average annual megawatts of conservation, the Administrator took into account that the current surplus of electic energy resources is projected to continue through about 1991, after which additional resources may have to be in place to assure an adequate electric power system. To have sufficient cost-effective conservation on hand for the projected future deficits, the agency must begin acquiring the resource now. Energy savings from the expanded weatherization program will occur incrementally, house by house, over 10

years of program operation before maxium conservation is reached.

The entire residential weatherization program, with the expansion described here, is estimated to have a levelized cost of between 21.6 and 25.8 mills per kilowatt-hour. These estimates are within the Northwest Power Planning Council's current cost-effectiveness limit of 40 mills per kilowatt-hour.

The Pacific Northwest Electric Power Planning and Conservation Act requires the Administrator to examine the environmental costs and benefits of an action as well as its monetary costs when determining the cost-effectiveness. In the case of the preferred alternative, the Administrator determines that no environmental costs will result from program expansion. Therefore, there are no environmental costs to be incorporated into the cost-effectiveness calculations.

This determination evolves from the following considerations:

(1) The employment effects of expansion cannot be counted as an environmental benefit because these are already counted as program expenses for the labor to install conservation measures.

(2) The land and water resources effects are indirect effects of program expansion and would only become an environmental cost when generating plants, which directly affect these resources, are acquired. Such environmental costs would be estimated and applied to generating facilities when making a cost-effective determination for their acquisition.

(3) There is no way of quantifying, and therefore of pricing other effects attributable to the expanded program such as increased home comfort from weatherization.

(4) The increment in risk of ill-health, from house tightening, is the only environmental effect directly attributable to program expansion which is eligible for inclusion in cost-effectiveness calculations.

In reviewing the features of the expanded program and the economic procedures for pricing health risks, the Administrator makes the policy judgment that the environmental cost of the incremental risk of ill-health from the program will be taken into account by participants in the expanded program, and therefore has a value of zero. A central theme of the expanded program (see sections 4 and 5) consists of informing program participants about incremental health risks from house-tightening, and offering them options for mitigation if they volunteer to proceed with house-tightening. Residents will have the opportunity to weigh the health risks from house-tightening against the value of the energy savings to be derived therefrom, inmaking their own voluntary decisions about the extent of their participation in the expanded program. Since quality of indoor air is largely affected by individual residence characteristics and by the habits and actions of residents, informed program participants are in the best position to judge the value of house-tightening to them, given their own health and indoor air quality situation. In this way program health risks become an internal part of the decisions to be made by program participants. When program participants decide to accept the health risks from house tightening, they must also accept the health costs. Therefore, these costs are not environmental costs to be included in cost-effectiveness determinations.

Although the foregoing determination, that the environmental costs of the preferred alternative are zero, may be disputed, it is clear that the wide uncertainty range of the health risk estimates would, if converted to dollars, produce cost values which are much less meaningful than a straightforward social policy consideration based on the number of human lives at risk from house tightening. The Administrator has fully considered these risks in the context of BPA's responsibility for public health and energy efficiency, and therefore has complied with section 4(e)(2) of the Pacific Northwest Electric Power Planning and Conservation Act. This section requires consideration of environmental costs when determining the cost-effectiveness of actions to save or acquire energy.

By choosing to expand the program the agency will, in the long run, keep down the costs of providing an economic and reliable power supply. If energy savings are not acquired through program expansion, the savings would have to be acquired through other forms of conservation, or through acquisition of additional power generation several years sooner than otherwise. Other forms of conservation and power generation are more costly than acquiring energy savings through expansion of the program.

The increased risks to public health from program expansion are not found to be of a sufficiently substantial nature to dissuade the Administrator from acquiring the energy savings that expansion is expected to yield. Several factors entered into this policy judgment. First, the increment of risk is relatively low when compared to risks which people are normally willing to accept. The incremental risk of cancer from the expanded program is similar to the risk of one person contracting cancer out of 100,000 who smoke 10 to 30 cigarettes over a lifetime, or the risk of one person having a fatal accident out of 100,000 who travel in a motor vehicle for 600 miles. Second, risk estimates for all the alternatives considered are highly uncertain because data are lacking on the distribution of indoor air pollutant concentrations in the region's homes. To compensate for this lack of data, the assumptions about indoor air pollution, on which the risk estimates are based, were systematically varied to yield a range of health risk for each alternative. These risk ranges describe the uncertainty of the risk estimate. As a result of these uncertainties, the high end of the risk range for the no action alternative overlaps with the low end of the risk range for the preferred alternative. Third, the potential incremental health risks of the expanded program will be borne by participants who will benefit from the energy savings which house tightening yields. Fourth, means are available for reducing the risks to health which are expected to result from program expansion.

If the Administrator chose not to expand the program, the foregone conservation would probably have to be made up through construction of a generating facility several years sooner than otherwise, which would have its own environmental effects, including the certain loss of some land and water resources. In view of the uncertainties surrounding the increment of health risk from program expansion and program opportunities for mitigating that risk, the Administrator has decided to expand the program rather than incur the certain losses of natural resources because of the earlier need for more generation.

Public comments on the Draft EIS also influenced the decision to expand the program. Commentors indicated a strong preference for conserving energy through program expansion over delaying or not taking any action, and urged that program participants be allowed to choose whether to accept the increases in risk of ill health therefrom.

2. *The decision to include all categories of homes in the expanded program.*—This decision will allow all categories of electrically heated homes otherwise eligible for the program to receive house-tightening measures. This is not the case in the current program, where only certain types of homes (e.g., homes with fully ventilated crawlspaces) are eligible for these measures.

This decision is being made, among other reasons, because the increment of

risks to health from house-tighening cannot be readily attributed to any particular house characteristic. Any or all of the following factors, which vary across dwellings, affect the concentrations of indoor air pollutants: geological characteristics of locale and the house lot, local climate, and very specific residence characteristics such as construction practices and materials, and dwelling volume. Factors such as these affect pollutant source strengths and daily pollutant emission rates which, in turn, affect indoor air quality. These factors, whose variability across homes is not known, may account more for the level of indoor air pollutant concentrations in any particular home than do gross indicators of the possible presence of pollutants based on house type (e.g., homes with well-ventilated crawlspaces are presumed to have less radon than homes with basements).

In addition, there is virtually no empirical evidence to support a risk management strategy of not allowing certain types of homes to receive tightening measures. For example, to date, BPA's ongoing studies of randon in individual homes do not indicate a correspondence between house type and levels of radon concentration.

A risk management strategy of excluding certain types of homes from an expanded program also does not take into account the fact that behavioral variability, such as smoking, the operation of woodstoves, the use of household chemicals, and the purchase of products containing formaldehyde, can greatly affect indoor air quality and related health risks.

The decision to drop the present restrictions for indoor air quality is also premised on the following considerations. (1) More energy savings can be acquired by removing the restrictions, monitoring to identify high-risk homes, and then mitigating those with ventilation devices instead of mitigating by automatically excluding certain types of homes. (2) The program will be more practical to administer without having to evaluate each house for consistency with the restrictions. (3) The program will be less confusing and more equitable and fair to occupants of electrically heated homes if no otherwise eligible house type is excluded. (4) Public comments received on the Draft EIS gave strong support to including all categories of homes; there was virtually no support for continuing to exclude certain categories of homes. (5) Removal of present restrictions will make the expanded programs more consistent with programs offered by other entities, thereby reducing conflict with Federal, State, and local agencies.

3. *The decision to include all cost-effective tightening measures.*—This decision entailed choosing those tightening measures with potentials for energy savings that are commensurate with the costs of purchasing and installing them. The current menu of technically proven tightening measures includes storm windows and doors, thermal pane replacement glass for windows and sliding doors, insulated entrance doors, caulking, weatherstripping, batt insulation, blown-in/loose-fill wall insulation, and outlet box and switchplate gaskets.

Of the measures on this list, blown-in wall insulation will be added to the expanded program. This measure was not offered under the current program because of possible problems from moisture becoming trapped in the insulation, and the difficulties of inspecting the measure after it is installed to assure that it is yielding the expected energy savings. The agency's research on the moisture problem indicates that it is of negligible concern. To solve the inspection problem, the agency has developed specifications for appropriate installation, and has adjusted downward the energy savings expected to result from wall insulation. Even so, wall insulation remains cost effective.

Two measures on the above list are not cost effective, and therefore will be excluded from the expanded program. Because storm doors malfunction easily, they do not yield enough savings to compensate for their high capital costs. Switchplate and outlet box gasket yield too little savings to be cost effective if paid labor is used to install them.

All the other measures listed above are being offered in the current program, and will be retained for the expanded program. The reasons which enter into this decision are; (1) By including all these measures, the energy savings from the expanded program can be maximized. (2) The measures are cost effective. (3) Inclusion of all cost-effective measures will make it easier to administer the program by increasing its acceptance; past experience indicates there is a reluctance to participate in programs which do not offer the full range of standard conservation measures including house tightening. (4) Inclusion of all the cost-effective measures will make the expanded program more consistent with the Northwest Conservation and Electric Power Plan, and programs offered by others, including Federal, State, and local agencies, and Pacific Northwest electric utilities. (5) Public comments received on the Draft EIS were supportive of these measures.

4. *The decision to allow residents to make an informed choice about the extent of their participation in the expanded program.*—The preferred alternative gives options to program participants which allow for individual circumstances and willingness to accept an incremental risk of ill-health. The exercise of these options is based on informed consent.

First, program participants will receive information on how to recognize the presence of indoor air pollutants, especially formaldehyde and combustion by-products, and the steps that can be taken to upgrade indoor air quality. Second, after being informed about indoor air quality, residents have several options for proceeding, based on their assessment of the risk. These include: declining the house-tightening measures; accepting house-tightening without radon monitoring; and accepting tightening with radon monitoring. Residents can choose to have their homes monitored for radon, a naturally occurring gas, either before or after the installation of house-tightening and other conservation measures. If the monitoring shows that a dwelling exceeds the action level of 5 picoCuries/liter (discussed in section 7), the residents thereof can choose to have an air-to-air heat exchanger installed, for which BPA will pay 85 percent of its cost, up to a maximum BPA contribution of $850. If the heat exchangers are installed and used according to BPA specifications, in most instances the devices will compensate for house tightening by increasing air changes to what they were estimated to be prior to installation of tightening measures.

The decision to let citizens exercise informed choice about their program participation is based on the following factors: (1) Program participants are in a better position to assess their own risks from indoor air pollutants, after receiving information, than are program implementors; (2) individual variability in creating, evaluating, and accepting risk; (3) the continuing uncertainty as to the extent of risk; and (4) BPA's ability to correct for indoor air quality if future studies show greater reason for concern.

The quality of indoor air in any given home is affected by dwelling characteristics and individual activities, as well as pollutant source strengths and emission rates. After being informed about indoor air pollutants and "self-help" measures for controlling them, program participants can assess their own risks of having their health affected

by house-tightening, based on their own ways of life and awareness of the characteristics of their homes. This assessment may lead some people to decline tightening measures while others accept them.

The incremental risk may be seen as very serious by some people and negligible by others. The expanded program does not pre-judge the incremental risk by offering tightening measures without informed consent or by restricting the measures to the lower risk homes. The elimination of pre-judgment is appropriate in this instance, because the increment of risk from house tightening is much smaller than the baseline risk of cancer from residential indoor air pollutants. The decision to allow informed choice means that, as a matter of policy, the Administrator defers the judgment of risk to those who potentially face the increased risk. This decision also best meets the needs of both program participants who are willing to accept the risk increment and those who are unwilling.

Other factors which contributed to the decision to allow informed choice included the following: (1) People commenting on the Draft EIS strongly urged that the agency supply information and allow choices, because individual households are in the best position to choose the level of program participation which is most appropriate to their situations. (2) The availability of informed choice will optimize the amount of energy savings from the expanded program. Some of the region's residents chose not to participate at all in the current program because their homes were ineligible for tightening measures, thus precluding energy savings from non-tightening conservation measures such as ceiling insulation. With informed choice, energy savings can be obtained from those homes where occupants are willing to accept the incremental risk of ill-health. (3) In a society based on democratic principles and individual freedom, people prefer assuming control and responsibility for their own actions, including control of factors affecting their own health. (4) Likewise, BPA has only limited authority to regulate people's actions in their own dwellings.

5. *The decision to supply mitigation in the form of information.*—This decision, which is a central theme of the expanded weatherization program, requires the communication of information from BPA to those making weatherization decisions and those exposed to the risks resulting from these decisions. For this purpose, information packets will be prepared and distributed to all potential program participants. The packet will describe indoor air pollutants, the effects of house tightening measures on pollutant levels, how residents can recognize the presence of pollutants which can be sensed, the health risks associated with each pollutant, and the "self-help" steps which people can choose to take to control pollutants. The packet will also describe the expanded weatherization program, the availability of radon monitoring at no expense to program participants and the availability of mitigation in the form of air-to-air heat exchangers, on a cost-sharing basis, if monitoring shows that a dwelling exceeds the chosen action level of 5 picoCuries per liter (discussed in section 7).

The decision to supply information is a direct outgrowth of the decision to use informed consent as part of the risk management strategy, instead of conditioning the availability of house tightening measures on BPA's evaluation of health risk increases from tightening.

The following factors entered into the decision to treat information as a form of mitigation. (1) With the exception of radon, information on standard household air pollutants is generally applicable to all situations, but reducing or controlling these pollutants requires specific actions which residents can choose to take (e.g., increasing ventilation when wood stoves are being operated). (2) The agency can neither regulate voluntary actions which increase indoor air pollution, nor require residents to take mitigation steps, however easy, to reduce health risks from these pollutants. (3) Providing information is a simple, inexpensive, and administratively easy means to incorporate risk management into the program. (4) Public comments on the Draft EIS indicated broad support for providing information.

6. *The decision to offer monitoring and mitigation for radon.*—Under this decision, program participants can choose from a number of options after having had an opportunity to read the information packet described above. The options are: (1) Decline house tightening measures. (2) Accept house tightening measures without radon monitoring. (3) Accept radon monitoring prior to installation of tightening measures; after monitoring results are available, program participants can either decline or accept house tightening measures. If monitoring shows that radon concentrations in a dwelling exceed the action level of 5 picoCuries per liter, residents accepting the house tightening measures will also have the option of having an air-to-air heat exchanger installed as mitigation, for which BPA will pay a large share of the cost. (4) Accept radon monitoring after installation of house tightening and other conservation measures; if monitoring indicates a dwelling exceeds the action level, its occupants can choose to install a partially subsidized air-to-air heat exchanger.

The means chosen for radon monitoring are relatively easy, inobtrusive, and inexpensive. The monitoring device, similar in size to a wrist watch, is attached for 3 to 12 months to a wall or placed on a shelf. Afterward, the device, which is sensitive to radioactive alpha particles, is sent to a laboratory for analysis; the results are then sent to BPA and the program sponsors for distribution to residents who had their homes monitored, along with an interpretation. Monitoring costs of $36.30 per house will be borne by BPA.

The decision to incorporate radon monitoring and mitigation into the risk management strategy for the expanded weatherization program was based on the following considerations.

(1) Radon exposure, in contrast to other pollutants, is neither detectable through the senses nor affected by human choices, except for the length of time one chooses to be inside a dwelling. The only accurate way to identify homes where health risks from radon exposure exceed acceptable levels is through monitoring.

(2) The monitoring results will enhance residents' abilities to make informed choices about program participation.

(3) The monitoring results, in contrast to other strategies, will allow for a fairly precise matching of homes at high risk from radon with appropriate mitigation. Since radon concentrations vary across homes, mitigation strategies not based on monitoring tend to "over-correct" or "under-correct" for radon exposure. For example, excluding homes without ventilated crawlspaces from tightening may eliminate homes with low radon levels, which really shouldn't be eliminated, from the program. At the same time, allowing homes with well-ventilated crawlspaces to receive tightening measures may lead to the tightening of homes which, unbeknownst to anyone, have high radon levels.

(4) The incremental risk of ill health from house tightening will be fully mitigated in those homes where air-to-air heat exchangers are installed and used according to BPA specifications.

The devices will compensate for house tightening by increasing air changes to what they were estimated to be prior to the installation of conservation measures.

(5) Although the decision to offer radon monitoring and mitigation will increase program costs by somewhere between $76.6 million and $130 million, the expanded weatherization program still remains cost effective in comparison to the cost of other resources for satisfying electric energy demand (Pacific Northwest Electric Power Planning and Conservation Act, section 4(e)(1)). Moreover, this approach to risk management, in contrast to other approaches such as excluding certain types of homes, insures that money spent for mitigation will in fact serve the purpose of helping those program participants who are at high risk from radon exposure.

(6) The energy savings of 1.2 average annual megawatts which will be foregone because of air-to-air heat exchanger electric consumption is less than the savings which would be foregone with other approaches to risk managment.

(7) Commentors on the Draft EIS who discussed mitigation expressed a preference for monitoring and air-to-air heat exchangers.

7. The decision to adopt an action level of 5 picoCuries per liter for radon mitigation.

BPA is establishing a radon "action level" of 5 picoCuries per liter. Homes which are monitored for radon and found to have concentrations that will exceed this level when tightened will be eligible for financial assistance to help in the purchase of an air-to-air heat exchanger or comparable proven mitigation. In most cases, this will prevent increases in radon concentrations due to house tightening, provided the device is installed and used according to BPA specifications.

Selection of 5 picoCuries per liter (pCi/1) as the action level is based on: (1) A review of proposed standards, guidelines, or recommendations suggested by various agencies or organizations for controlling health hazards associated with airborne radon in residences; (2) an analysis of the regional health effects from radon, the uncertainty surrounding the level of health effects, and the relative accuracy of the proposed monitoring and mitigation strategy; and (3) a review of program economics, including cost of mitigation and estimates of the number of residences which exceed the action level.

By examining these three items, BPA can establish an action level which both provides for the public welfare and allows the agency to pursue its energy conservation goals. This action level balances the estimated health effects against the costs and benefits of weatherization and mitigation.

Several organizations in the U.S.A., and two countries outside the U.S.A., have proposed various guidelines or standards for indoor airborne radon exposure. Several of these guidelines were suggested for the general population and its assumed exposure; some were suggested for specific exposure situations such as occupational or high risk settings. Each was established to provide some measure of acceptable health risk for the exposed population. The various guidelines are outlined in Table 1.

TABLE 1.—VARIOUS GUIDELINES RECOMMENDED FOR EXPOSURE TO RADON

Organization	Level	Type of level
American Society of Heating, Refrigeration, and Air Conditioning Engineers (ASHRAE).	2 pCi/l	Recommended (for ventilation)
Environmental Protection Agency (EPA).	4 pCi/l	Regulation for U.S. sites contaminated by uranium processing wastes.
Do	4 pCi/l	Recommendation to Governor of Florida for phosphate-reclaimed land-radon in homes.
Canadian Atomic Energy Control Board (AECB).	4 pCi/l [1]	Regulation non-occupational connected to the operation of a nuclear facility.
Canadian Task Force on Radioactivity.	3 pCi/l [1] (investigate). 7 pCi/l [1] (primary action). 50 pCi/l [1] (prompt action).	Guideline—non-occupational.
Sweden	3.8 pCi/l (new residence) 10.8 pCi/l (refurbished residences) 21.6 pCi/l (existing residences).	Regulation for residential situations.
National Council on Radiation Protection and Measurement (NCRP).	8 pCi/l [2]	Recommended action level for general population exposure.
Mine Safety and Health Administration (MSHA).	16 pCi/l [3]	Regulation for miners.

[1] Equilibrium factor = 0.5.
[2] Equilibrium factor = 0.3 (Canadian recommended equilibrium factor for residences).
[3] Assumed radon gas concentration with equilibrium factor of 0.5 and continuous yearlong exposure.

The BPA action level of 5 pCi/1 is roughly in the middle of the various non-occupational guidelines established by these organizations. The range of levels is from a low of 2 pCi/1 to a high of 50 pCi/1. However, the two highest levels (i.e., 50 pCi/1, and 21.6 pCi/1) are parts of standards which have multiple levels. If the next lowest level (which represents a primary action level for refurbished residences) is used, the range of levels is 2 pCi/1 to 10.8 pCi/1. The majority of general population guidelines fall between 4 to 8 pCi/1. BPA, by choosing an action level of 5 pCi/1, is selecting a level which is slightly toward the conservative end of this range. When considering the degree of uncertainty for the estimated health effects predicted in the Final EIS, and the potential inaccuracies of a large-scale monitoring program, the selection of a 5 pCi/1 action level over levels of 2 to 4 pCi/1 is appropriate. Likewise, a selection of an action level above 5 pCi/1 (e.g., 7 to 8 pCi/1) may ignore some potentially significant effects over the long term for occupants of tightened residences.

Estimates in the Final EIS, based on average, "worst-case" assumptions, indicate that if the program were expanded to include tightening for all electrically heated homes which are now ineligible for tightening, the impact from increased radon concentration on the regional lung cancer rate would add 0.31 cancers per 100,000 persons per year to a baseline of 2.5 per 100,000 per year. The range in the increased lung cancer rate would extend from 0.03 to 3.7 per 100,000 persons per year above a baseline range of 1.3 to 9.4 per 100,000 persons per year. These wide ranges indicate the relative uncertainty associated with the regional baseline and health effects estimates.

The regional health estimates were calculated by assuming average radon concentrations in all homes. In contrast, data collected on a limited number of residences in the region under actual conditions indicate that radon concentrations vary greatly, with the majority of residences having low concentrations (e.g., 1 pCi/1) and a few residences having higher than average concentrations (e.g., 5 pCi/1 or more). The BPA action level was established at a point which clearly differentiates between the "high radon" residence and the normal residence. Although these few "high radon" residences have a disproportionate share of residential radon concentrations in the region, this is not reflected in the average radon concentrations used to estimate health impacts in the EIS.

Because the risk analysis in the Final EIS is based on average radon concentrations, the increased health risks from house tightening are also

spread evenly over all residences. Likewise, the risk reduction from mitigation in a few homes is averaged over all residences expected to participate in the program. Consequently, the risk estimates in the Final EIS convey the impression that mitigation has very little effect on the incremental risk of ill-health from house tightening.

In reality, the few residences with higher radon concentrations have a disproportionate share of the regional risk. Therefore, the purpose of radon monitoring is to identify these few "high radon" residences. Then, by mitigating these residences, a substantial reduction in overall regional risk is possible, which is not captured by the risk modeling procedures used for estimating health risks in the Final EIS.

The accuracy of the radon monitoring technique also was considered in setting the action level at 5 pCi/1. The accuracy of the radon detector to be used varies according to the length of time it is exposed and the concentration to which it is exposed. If the monitoring time is held constant, the statistical uncertainty of the detector result drops as the concentration increases. For example, a detector exposed for 3 months which measured a concentration of 1.3 pCi/1 will have an uncertainty of ± 50 percent (i.e., the actual concentration is somewhere between 0.65 to 1.95 pCi/1). However, a detector exposed for 3 months which measured 13 pCi/1 will have an uncertainty of ± 20 percent (i.e., the concentration is somewhere between 10.4 and 15.6 pCi/1). For a measured radon concentration of 5 pCi/1 (the BPA action level), the uncertainty factor is approximately 30 percent. Thus the actual concentration might be as low as 3.5 pCi/1 or as high as 6.5 pCi/1. The low end of this range falls in the middle of the cut off (3–4 pCi/1) between "high randon" residences and normal residences found in a BPA radon study of 270 homes. Therefore, an action level of 5 pCi/1 will insure that all "high radon" residences will be identified.

The accuracy of radon monitoring may also be affected because measurements will occur under a variety of conditions. Less accuracy may occur because of errors in detector deployment, distrubances by the residents, or detector handling. It is impossible to predict the effects of these actions on detector results. Since the only goal of the monitoring program is to identify the "high radon" residences, an action level is accptable which is slightly above the observed break-point of 3–4 pCi/1 between the many homes which have low radon levels and the few that have high levels.

The costs of the radon monitoring and mitigation strategy also influenced selection of the action level. The purpose of monitoring is to match "high radon" homes with mitigation, rather than offering air-to-air heat exchangers to any or all residences. With the action level set at 5 pCi/1, above 4 to 6 percent of the region's 1.209 million electrically heated homes are expected to exceed it and to be eligible for radon mitigation.

This means that the value of the energy savings to be obtained from all participating residences will offset both the cost of monitoring many of these homes and giving mitigation to a few. Currently available mitigation devices (e.g., air-to-air heat exchangers) are estimated to cost between $550 and $1350. Program information and monitoring for each home will cost $36.30. Assuming the higher cost value for mitigation, the cost of monitoring radon in 1.209 million homes and supplying mitigation devices to 4 to 6 percent of these homes will increase the total cost of the preferred alternative by about $85 to $120 per dwelling, or 0.6 to 1.3 mills per kilowatt-hour. Since the cost of mitigating comparatively few homes is spread over all homes in the program, the program remains cost effective.

The choice of the action level was also based on the energy savings that would be affected. An air-to-air heat exchanger, the current mitigation device, consumes about 10 percent of the energy savings to be realized from house tightening. (This estimate includes both infiltration and thermal effects of measures such as wall insulation and storm windows.) With the action level set at 5 pCi/1, about 1.2 average annual megawatts of energy savings will be foregone for operation of the mitigation devices.

In balancing the various aspects of a risk management strategy that includes radon monitoring and mitigation, the Administrator takes the position that 5 pCi/1 is an appropriate action level. A lower action level would increase program costs and reduce energy savings without necessarily obtaining a proportionate reduction in health risks. This is because of the uncertainties associated with monitoring accuracy at lower radon concentration levels and the wide uncertainty range surrounding the health risk estimates.

8. *The decision to adopt an 85 percent cost-sharing plan up to a ceiling of $850 for radon mitigation.*—BPA will subsidize the cost of radon mitigation devices by adopting a cost-sharing plan. Under this plan, BPA will pay 85 percent of the cost of purchasing and installing an air-to-air heat exchanger, up to $850. Only those program participants will be eligible for this subsidy whose homes exceed the action level for radon and who are willing to have house tightening measures installed, either before or after radon monitoring.

The decision to incorporate a cost-sharing plan into the expanded program is premised on the following considerations.

(1) By following radon monitoring with an offer of mitigation where it is warranted, BPA will help residents to reduce a newly identified risk to their health. The Administrator takes the position that since BPA's expanded program will lead to identification of health risks, the agency should also offer risk mitigation.

(2) By partially rather than fully subsidizing mitigation, BPA gives a program participant an incentive to make a conscious decision about having an air-to-air heat exchanger. The effectiveness of this ventilation device to reduce the health risks from house tightening depends on a resident's willingness to operate the equipment according to standard instructions. If a resident chooses to turn it off, there is no mitigation. PBA takes the position that by requiring payment of a small portion of the mitigation cost, program participants who choose mitigation will be more likely to have a commitment to operating it according to instructions, thereby avoiding health risks from house tightening. Program participants who qualify for the low-income residential weatherization program will receive a 100 percent subsidy, up to $1000, for mitigation devices.

(3) The cost-sharing plan for mitigation is being set at 85 percent to make it similar to the cost-sharing plan for conservation measures. This will avoid confusion among program participants and make the program easier to administer.

(4) The ceiling of $850 in the cost-sharing plan was selected on the assumption that for most installations the retail price of the mitigation equipment will not exceed $1000. The price of the equipment is partly dependent on its size. Larger devices are needed for larger homes. By placing a ceiling on its subsidy, BPA encourages program participants to exert pressure on dealers to maintain competitive prices for mitigation devices.

9. *The decision to exclude monitoring and mitigation devices for other pollutants.*—BPA will rely only on its information packet to assist program

participants in reducing health risks from indoor air pollutants other than radon. The packet describes the steps residents can take to reduce or avoid the health effects from formaldehyde, combustion by-products, and various gases. Neither monitoring nor mitigation will be offered for these pollutants by BPA other than the provision of information for voluntary self-help.

This decision takes into account the capacity of the human senses for detecting different types of pollutants, the ability of program participants to control or avoid exposure to different pollutants, the availability of proven technologies for monitoring and mitigating various pollutants, and the costs of monitoring and mitigation. Because formaldehyde and combustion by-products differ from radon on these matters, BPA has adopted a different approach to the health risks from these pollutants.

Of the various combustion by-products, benzo-a-pyrene is of greatest concern because the health risks of exposure to this carcinogen are comparable to those of exposure to radon. BPA has chosen not to offer monitoring and mitigation, other than information, for benzo-a-pyrene because:

(1) People may sense the presence of combustion by-products without aid of monitoring.

(2) The amount of benzo-a-pyrene present in a home depends almost exclusively on the amount of tobacco smoking and wood stove operation which are voluntary activities.

(3) The results of monitoring for this pollutant will only be valid for a certain level of combustion activity. As soon as a house-hold changes its smoking or wood stove burning habits, the monitoring results would no longer be valid.

(4) The monitoring technology for benzo-a-pyrene is not adequately developed to permit inexpensive, easily administered monitoring on a large scale.

(5) In its present state of development, monitoring would have to be conducted in homes by trained staff using complex equipment, and so constitutes a household intrusion.

In view of these considerations, BPA made the policy judgment that informed choice is the best available means for reducing health risks from increases in benzo-a-pyrene concentrations.

Formaldehyde is also a pollutant of great concern because even at low levels of exposure it can lead to severe allergic reactions in about 10 to 20 percent of the general population. The reactions involve skin, eyes, mucous membranes and the respiratory tract. Nonsensitive individuals can experience eye, noise and throat irritation when exposed to low levels of the chemical. In addition, formaldehyde may be carcinogenic (nasal cancer). Nonetheless, BPA is also relying on informed consent for reducing the health risks from formaldehyde because of the following considerations.

Formaldehyde off-gassing is a transient phenomenon which is influenced by a wide array of interacting variables, including temperature, humidity and the recency of purchases containing formaldehyde. As a result, formaldehyde monitoring is only accurate for the time period in which it occurs, and may not be indicative of the true, long-term situation. Because of the pollutant's transiency, dwellings previously insulated with urea-formaldehyde (UF) foam, a major source of high formaldehyde concentrations, will not present problems. UF foam insulation has virtually disappeared from the market; the unavailability of this product during the past 2 years means that any UF foam insulation existing today will have had sufficient time to off-gas and ventilate thereby reducing formaldehyde concentrations prior to the time of house-tightening. Furthermore, this type of insulation is unlikely to be used in the future because of its effects on health.

In addition, homes built in recent years, which tend to have high formaldehyde concentrations at the outset from newly installed particle board, plywood, furniture, and carpets, will have had time to off-gas before being tightened. Only those dwellings constructed prior to April 15, 1983, are eligible for inclusion in the expanded weatherization program. By the time house-tightening occurs, these homes are expected to have low formaldehyde concentrations.

Other factors contributing to the decision not to monitor and mitigate for formaldehyde are: (1) Excessive concentrations of this gas can be detected through the human senses; (2) residents can take steps on their own to reduce formaldehyde concentrations; and (3) the effectiveness of mitigation devices such as air-to-air heat exchangers in reducing formaldehyde concentration is uncertain; the increased ventilation from these devices may increase the rate of off-gassing in the short run so that reductions in formaldehyde concentrations might not occur.

In balancing the additional cost of $20 to $25 million dollars for formaldehyde monitoring and mitigation against such factors as the great individual variability in sensitivity to formaldehyde, the ability of people to help themselves in regard to this pollutant, the difficulty of obtaining valid measurements of a transient phenomenon, and the uncertain efficacy of mitigation, the Administrator concludes that the beneficial results of formaldehyde monitoring and mitigation would be too few and uncertain to merit the costs thereof.

Other indoor air pollutants, which include gases such as carbon monoxide, carbon dioxide and oxides of nitrogen, and respirable suspended particles dissipate quickly and are thought to cause mainly chronic health effects such as nose and throat irritation. Since there is no simple monitoring technology yet available for these pollutants, monitoring would be expensive and difficult to administer, and would require trained staff to perform monitoring in people's homes. In weighing these various factors, the Administrator concludes that monitoring and mitigation are also not warranted for these pollutants.

10. *The decision not to adopt the environmentally preferred alternative.*—The environmentally preferred alternative would allow for provision of air-to-air heat exchangers to all homes in which tightening measures are installed, thereby virtually eliminating the increment of risk of ill-health from house-tightening.

The Administrator determines that the almost complete avoidance of health effects from the environmentally preferred alternative is not a sufficient reason for choosing this course of action in light of the following considerations.

(1) If many larger-sized air-to-air heat exchangers need to be installed, this alternative would increase costs to the point where the expanded program would no longer be cost effective.

(2) This alternative would mitigate health effects from the program in homes that are at low risk as well as in those at high risk since there is no provision for identifying high risk homes; to supply mitigation where it is not needed is not an appropriate use of agency funds.

(3) Approximately 18.3 average annual megawatts of energy savings would be foregone under this alternative; if a generating plant were built sooner to compensate for the energy savings not obtained, there would be adverse effects on land and water resources.

(4) This alternative would limit freedom of choice and intrude on privacy by requiring all program participants to take an air-to-air heat exchanger along with tightening

measures. Since program participants would not be given an opportunity to choose mitigation and make a commitment to it, the likelihood is increased that some participants may choose not to operate the device, including those who may be at high risk from radon without knowing it.

(5) The public comments received on the draft EIS gave virtually no support to mitigation for all homes participating in the program.

FOR FURTHER INFORMATION CONTACT: For information and for additional copies of the Record of Decision or the Final Environmental Impact Statement, contact Anthony Morrell, Environmental Manager, BPA, P.O. Box 3621–SJ, Portland, Oregon 97208; (503) 230–5136.

Issued in Portland, Oregon, September 25, 1984.

James J. Jura,

Acting Administrator.

[FR Doc. 84–27518 Filed 10–17–84; 8:45 am]

BILLING CODE 6450–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Privacy Act of 1974; Revisions to Existing Systems of Records

AGENCY: Federal Emergency Management Agency.

ACTION: The purposes of this notice are to clarify portions of the existing Privacy Act system of records entitled, "FEMA/SLPS–12, Real Property Acquisition and Relocation File" to clarify that this system contains both temporary and permanent personal and real property acquisition and relocation records; to clarify the system locations; and to further clarify the categories of records for both the temporary and permanent personal and real preperty acquisition and relocation files. These revisions are consistent with the purpose for which the system of records was established and are made to further clarify to the public the types of records being maintained. These revisions do not constitute substantive changes and do not require filing a "Report on New Systems."

EFFECTIVE DATE: The revisions will become effective on October 18, 1984.

FOR FURTHER INFORMATION CONTACT: Linda M. Keener, FOIA/Privacy Specialist, (202) 287–0313.

SUPPLEMENTARY INFORMATION: Under the Privacy Act of 1974, as amended by the Congressional Reports Elimination Act of 1982 (Pub. L. 97–375), agencies are required to publish a notice of systems of records they maintain that are subject to the Act only when the agency is establishing a new system or when it substantively alters an existing system. A substantive change to an existing system is one which would also require a "Report on New Systems" and is described in the Office of Management and Budget's Circular A–108, Transmittal Memorandum No. 1 and No. 3. Thus, a change to the system notice that does not require such a report need only be described in a **Federal Register** notice, without the necessity of publishing the complete text of the notice. The new information is being printed in italics for convenience of the readers. The full text of the system notice appeared in the **Federal Register** on Tuesday, April 12, 1983 (48 FR 15710) and Tuesday, October 25, 1983 (48 FR 49376).

Dated: October 16, 1984.

James L. Holton,

Director, Office of Public Affairs, Federal Emergency Management Agency.

FEMA/SLPS–12

Delete the current name and revise to read:

SYSTEM NAME:

Temporary and Permanent Personal and Real Property Acquisition and Relocation Files.

SYSTEM LOCATION:

At the end of the current entry, add the following:

** * * Information on temporary relocation assistance will be collected by FEMA employees and maintained at a site office, at a Regional office, or at Headquarters, Washington, D.C., depending upon who administers the program.*

CATEGORIES OF RECORDS:

Delete the current entry and revise to read:

The file may contain the following: (1) Appraisals, appraisal contracts and reviews, and approval documents; (2) Amounts paid for purchase of property including records of negotiations and offers; (3) Title search documentation, including property titles, title company correspondence, closing papers, tax records, and contracts; (4) Loan interest payment information including mortgage payment papers, loan documentation claims, and FEMA approvals; (5) Information for determining benefit amounts for real property acquisition including tax records, mortgage information and divorce decrees; (6) Information concerning replacement housing determinations including tax information, affidavits, and determinations; (7) Relocation claims payment information including documents which verify that funds have been spent, deeds, contracts, building estimates, construction bills, loan papers, leases, cancelled checks, claim forms, and Decent, Safe and Sanitary Inspection Forms; (8) Deeds, contractual sale documents, notations of follow-up actions, appraiser qualifications, rent supplement information, insurance verifications, moving cost information, permanent relocation questionnaires including background information on displaced persons, and information supplied by displaced persons to support claims for real property acquisition and relocation assistance. The temporary relocation assistance file may contain the following: (1) Applicant contact sheets; (2) Application for assistance; (3) Leases and/or reimbursement agreements and corresponding housing inspection reports; (4) Requests for payment with supporting bills, receipts, etc., for relocation expenses and payments records to individuals and businesses; and (5) Move-out records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

There are no changes to this section, however, the last notice in the **Federal Register** (48 FR 15711, April 12, 1983) printed this section as a run-on to the Categories of records in the system and it is being republished again in the event that it is inadvertently deleted with the above changes. The Authority for maintenance of the system should read:

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Comprehensive Environmental Response Compensation Liability Act of 1980, Executive Order 12316, Uniform Relocation Assistance and Real Property Acquisition Policies Act (42 U.S.C. 4601 et seq.), section 1362 of the National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), as amended, 42 U.S.C. 4001–4128, Reorganization Plan No. 3 of 1978, and Executive Order 12127.

SAFEGUARDS:

Revise to read:

Personnel screening; hardware and software computer security measures. Paper records are retained in a locked container and/or locked room. Records are maintained in areas that are secured by building guards during non-business hours. *Records which are maintained at a site office might not be secured by building guards during non-business hours but are retained in a locked*

container and/or locked room. Records are retained in areas accessible only to authorized personnel who are properly screened, cleared and trained.

[FR Doc. 84-27736 Filed 10-17-84; 10:47 am]
BILLING CODE 6715-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) purusant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 221-002715-001.
Title: Baltimore Marine Terminal Agreement.
Parties:
Maryland Port Administration (Port)
Ramsay, Scarlett & Company (Ramsay)

Synopsis: This agreement provides for the granting by the Port to Ramsay of an amendment to an existing lease in order to provide for the consolidation of several short-term storage and office leases into a longer term pier lease at the North Locust Point Marine Terminal. The premises will continue to be used as a marine terminal. The term of the agreement will be for eight years. The parties have requested a shortened review period for the agreement.

Agreement No.: 202-005600-051.
Title: Philippines North America Conference.
Parties:
American President Lines, Ltd.
Hapag-Lloyd AG.
Lykes Bros. Steamship Co., Inc.
A.P. Moller (Maersk Line)
Sea-Land Services, Inc.
United States Lines, Inc.

Synopsis: The proposed amendment would clarify the procedure whereby a member line's designated senior executive could exercise independent action via telex supported by a confirming letter prior to the effective date of the action.

Agreement No.: 202-010636-001.
Title: U.S. Atlantic North Europe Conference.
Parties:
Atlantic Container Line (G.I.E.)
Dart-ML Limited
Hapag-Lloyd AG
Sea-Land Service, Inc.
Trans Freight Lines, Inc.
United States Lines, Inc.

Synopsis: The proposed amendment would allow the parties to put rates, charges, rules, service contracts and other tariff matters into effect prior to December 12, 1984. The parties have requested a shortered review period.

Agreement No.: 202-010637-001.
Title: North Europe-U.S. Atlantic Conference.
Parties:
Atlantic Container Line (G.I.E.)
Dart-ML Limited
Hagag-Lloyd AG
Sea-Land Service, Inc.
Trans Freight Lines, Inc.
United States Lines, Inc.

Synopsis: The proposed amendment would allow the parties to put rates, charges, rules, service contracts and other tariff matters into effect prior to December 12, 1984. The parties have requested a shortened review period.

By Order of the Federal Maritime Commission.

Dated: October 12, 1984.

Francis C. Hurney,
Secretary.

[FR Doc. 84-27514 Filed 10-17-84; 8:45 am]
BILLING CODE 6730-01-M

[Docket No. 84-36]

Seattle Crescent Container Service, Inc. v. Port of Seattle; Filing of Complaint and Assignment

Notice is given that a complaint filed by Seattle Crescent Container Service, Inc. against the Port of Seattle was served October 12, 1984. Complainant alleges that respondent has violated section 17 of the Shipping Act, 1916, in connection with establishment of rules concerning indemnity and insurance provisions and the responsibility for loss and damage to persons and property.

This proceeding has been assigned to Administrative Law Judge Seymour Glanzer. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the presiding officer in this proceeding shall be issued by October 15, 1985, and the final decision of the Commission shall be issued by February 17, 1986.

Francis C. Hurney,
Secretary.

[FR Doc. 84-27558 Filed 10-17-84; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

First Citizens Bancshares, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than November 9, 1984.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street NW., Atlanta, Georgia 30303:

1. *First Citizens Bancshares, Inc.*, Morgan City, Louisiana; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank in St. Mary Parish, Morgan City, Louisiana.

B. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *First Bancorp of Mascoutah, Ltd.*, Mascoutah, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank in Mascoutah, Mascoutah, Illinois.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *United Banks of Colorado, Inc.*, Denver, Colorado; to acquire 100 percent of the voting shares of Intrawest Bank of Colorado Springs, N.A., Colorado Springs, Colorado.

D. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Terrell Bancshares, Inc.*, Terrell, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of The Terrell State Bank, Terrell, Texas.

Board of Governors of the Federal Reserve System, October 12, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-27517 Filed 10-17-84; 8:45 am]

BILLING CODE 6210-01-M

Manufacturers National Corp., et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR. 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produced benefits to the public, such as greater convenience, increased competion, or gains in efficency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any question of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 6, 1984.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Manufacturers National Corporation*, Detroit, Michigan; to engage *de novo* through its subsidiary, Manufacturers Bank-Delaware, Wilimington, Delaware, in the business of providing consumer credit through credit cards, accessed lines of credit and through unsecured revolving credit plans of various kinds; and to borrow money and accept deposits of money providing such deposits bear a maturity date of no less than thirty days beyond the date of such deposit and are in a amount not less than $100,000. In addition, to engage *de novo* through Manufacturers Service Corporation, Detroit, Michigan, in providing service functions for Company, such as customer services including collections, resolution of billing disputes and the expediting of lost cards or stolen card reports.

2. *Marshall & Ilsley Corporation*, Milwaukee, Wisconsin; to engage *de novo* through its subsidiary, Marshall & Ilsley Trust Company of Florida, N.A., Naples, Florida, in performing functions of activities that are ordinarily conducted by a trust company. These services are to be conducted in the State of Florida.

Board of Govenors of the Federal Reserve System, October 12, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-27515 Filed 10-17-84; 8:45 am]

BILLING CODE 6210-01-M

PNC Financial Corp., et al., Formations of; Acquisitions by; and Mergers of Bank Holding Companies and Acquisitions of Nonbanking Companies

The companies listed in this notice have applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed companies have also applied under § 225.23(a)(2) of Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The applications are available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 9, 1984.

A. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *PNC Financial Corp.*, Pittsburgh, Pennsylvania; to merge with Northeastern Bancrop, Inc., Scranton, Pennsylvania, thereby indirectly acquiring Northeastern Bank of Pennsylvania, Wilkes-Barre, Pennsylvania and Coment National Bank, Northhampton, Pennsylvania. Applicant also proposes to engage *de novo* through its subsidiaries, Northeastern Trust Company of Florida, N.A., Vero Beach, Florida in performing functions or activities that may be performed by a trust company, in the

manner authorized by federal or state law; Norbanc Lease, Inc., Scranton, Pennsylvania in leasing personal property or acting as agent, broker, or adviser in leasing such property on a nonoperating basis; Regency consumer Discount Company, Scranton, Pennsylvania in making loans or other extensions of credit for the company's account on an installment basis to individuals; and Norbanc Life Insurance Company, Phoenix, Arizona, in underwriting as reinsurer credit life insurance and credit accident and health insurance that is directly related to extensions of credit by affiliates.

B. **Fedral Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Franklin Capital Corporation,* Wilmette, Illinois; to merge with Western Capital Corporation, Wilmette, Illinois, thereby indirectly acquiring Western National Bank of Cicero, Cicero, Illinois; North Shore Capital Corporation, Wilmette, Illinois North Shore National Bank, Chicago, Illinois; NSCC Leasing Corp., Chicago, Illinois; and Morton Grove Bank, Morton Grove, Illinois. Applicant also proposes to engage *de novo* through its subsidiary, NSCC Leasing Corp., Chicago, Illinois, in acting as agent, broker or advisor in the leasing of real and personal property and equipment, and in acquiring, for the account of others only loans and other extensions of credit, primarily to finance the acquisition of personal property and equipment.

Board of Governors of the Federal Reserve System, October 12, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-27510 Filed 10-17-84; 8:45 am]

BILLING CODE 6210-01-M

First National State Bancorp.; Application To Engage de Novo in Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(3) of the Board's Regulation Y (12 CFR 225.23(a)(3)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)), to engage *de novo* through a state-chartered bank subsidiary in deposit-taking, including the taking of demand deposits, and other activities specified below. The proposed subsidiary will not engage in commercial lending transactions as defined in Regulation Y. The Board has determined by order that such activities are closely related to banking. *U.S. Trust Company* (70 Federal Reserve Bulletin 371 (1984)). Although the Board is publishing notice of this application, under established Board policy the record of the application will not be regarded as complete and the Board will not act on the application unless and until a preliminary charter for the proposed state-chartered bank subsidiary has been submitted to the Board.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Federal Reserve Bank or the offices of the Board of Governors not later than October 26, 1984.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *First National State Bancorporation,* Newark, New Jersey; to engage through a state-chartered bank subsidiary, FNS Bank of New York, New York, New York, in consumer and mortgage lending, trust services and deposit-taking, including demand deposits; serving the New York City area.

Board of Governors of the Federal Reserve System, October 12, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-27583 Filed 10-17-84; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 77N-0240; DESI 1786]

Certain Single-Entity Coronary Vasodilators—Oral Nitroglycerin; Drug Efficacy Study Implementation; Revocation of Exemption; Announcement of Marketing Conditions; Correction

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration is correcting a document on certain coronary vasodilator drugs that was published in the **Federal Register** of Friday, September 7, 1984.

FOR FURTHER INFORMATION CONTACT: Mary E. Catchings, Center for Drugs and Biologics (HFN-366), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In FR Doc. 84-23655, appearing at page 35428 in the **Federal Register** of Friday, September 7, 1984, the following corrections are made in page 35429:

1. In the second column, in the item numbered "23," "6.4" is changed to read "6.5;"

2. In the third column on the same page:

a. In the item numbered "27," "6.5" is changed to read "2.5;"

b. In the item numbered "29," the firm name "Ascot Hospital Pharmaceuticals" is deleted and "Inwood Laboratories" is inserted in its place.

Dated: October 9, 1984.

Paul Parkman,

Acting Director, Center for Drugs and Biologics.

[FR Doc. 84-27505 Filed 10-17-84; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 84N-0168 (DESI No. 7832); Formerly Docket No. 79N-0001]

Cyclandelate: Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Commissioner of Food and Drugs is granting a hearing on the proposal to withdraw approval of the new drug application for Cyclospasmol Capsules and Tablets containing cyclandelate. Cyclospasmol is presently indicated for adjunctive therapy in intermittent claudication; arteriosclerosis obliterans; thrombophlebitis (to control associated

vasospasm and muscluar ischemia); nocturnal leg cramps; Raynaud's phenomenon; and for selective cases of ischemic cerbral vascular disease. The hearing will consider issues of drug effectiveness, but not revocation of the "paragraph XIV" exemption of the drugs.

DATES: Notices of participation shall be filed with the Dockets Management Branch no later than November 19, 1984. Disclosure of data and information and submission of narrative statements by December 17, 1984. Prehearing conference on January 15, 1985, at 10:00 a.m.

ADDRESSES: Written notices of participation, disclosures, and statements to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857. (Submissions should be identified with docket number 84N–0168 and clearly labeled "Cyclospasmol Hearing.") Prehearing conference in the FDA Hearing Room, Rm. 4A–35, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Robert J. Rice, Jr., Regulations Policy Staff (HFC–10), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3480.

SUPPLEMENTARY INFORMATION:

Background of this Proceeding

In a notice (DESI 7832) published in the **Federal Register** of July 20, 1971 (36 FR 13347), the Food and Drug Administration (FDA) evaluated the effectiveness of certain peripheral vasodilators for oral use. These products included Cyclospasmol Capsules and Tablets both containing cyclandelate. Cyclospasmol is approved under a new drug application (NDA 11–544) held by Ives Laboratories, Inc., 685 Third Ave., New York, NY 10017.

The 1971 notice, part of the Drug Efficacy Study Implementation (DESI) program, stated that FDA had evaluated reports received from the National Academy of Sciences/National Research Council, Drug Efficacy Study Group, together with other available evidence, and had concluded that certain peripheral vasodilators, including Cyclospasmol Capsules and Tablets, were possibly effective for their labeled indication except for those claims specifically found in the notice to lack substantial evidence of effectiveness. That notice requested the holder of any previously approved new drug application to submit as a supplement to its application, revised labeling deleting those claims which had been classified as lacking substantial evidence of effectiveness.

On September 15, 1971, Ives submitted revised labeling deleting the ineffective claims. The remaining possibly effective claims were for adjunctive therapy in intermittent claudication; arteriosclerosis obliterans; thrambophlebitis (to control associated vasospasm in muscular ischemia); nocturnal leg cramps; Raynaud's phenomenon; and for selective cases of ischemic cerebral vascular disease. Ives was provided six months to submit adequate and well-controlled studies to demonstrate the effectiveness of Cyclospasmol for those indications. See 35 FR 11273.

Subsequently, in a notice published in the **Federal Register** of December 14, 1972 (37 FR 26623), FDA announced that certain peripheral vasodilators, including Cyclospasmol Capsules and Tablets, would be permitted to remain on the market beyond the time limits prescribed for implementation of the DESI program. In a followup notice published in the **Federal Register** of July 11, 1973 (38 FR 189477), FDA required that by September 10, 1973, persons interested in conducting clinical studies to determine the effectiveness of peripheral vasodilators submit protocols and notify the agency with the date when such studies were expected to begin.

Following publication of these notices, Ives conducted and submitted the results of clinical studies for use in peripheral and cerebral vascular disease. On June 20, 1978, Ives submitted a status report of five completed studies for peripheral vascular disease and five completed studies for cerebral vascular disease. Upon review of these data and other available information, the Director of the Bureau of Drugs (now the Center for Drugs and Biologics) concluded that there was a lack of substantial evidence that Cyclospasmol is effective for its labeled indications (21 U.S.C. 355(d), 21 CFR 314.111(a)(5)). Accordingly, by notices in the **Federal Register** of May 25, 1979 (44 FR 30436, 30443), FDA announced its conclusions concerning the effectiveness data for Cyclospasmol, revoked the temporary exemption for continued marketing of the drug, reclassified the drug as lacking substantial evidence of effectiveness, proposed to withdraw the NDA for the product, and offered an opportunity for a hearing on the proposed withdrawal. Ives was also provided until May 26, 1980, to complete any studies that has not yet been completed but which were underway.

Request of a Hearing

On June 25, 1979, American Home Products Corporation and Ives, its wholly-owned subsidiary, requested a hearing. Thereafter, Ives submitted data and other information in support of its hearing request. Ives primarily relies upon two studies to support an indication for peripheral vascular disease, primarily in patients with arterioscleriosis obliterans (MDS 96 and MDS 176), and three studies to support an indication for cerebral vascular disease (MDS 368, MDS 197, and MDS 196).

In addition to Ives, the following drug manufacturers and organization filed hearing requests:

1. Cord Laboratories, Inc., 2555 West Midway Blvd., Broomfield, CO 80020;

2. Premo Pharmaceutical Laboratories, Inc., 111 Leuning St., South Hackensack, NJ (now Lemmon Co., Sellersville, PA 18960);

3. National Association of Pharmaceutical Manufacturers, 747 Third Ave., New York, NY 10017.

Only Cord submitted information in support of its hearing request, which consisted primarily of references to published articles on peripheral and cerebral vascular disease. Cord also incorporated by reference the materials submitted by Ives.

On August 21, 1984, Lemmon withdrew its hearing request.

Review of the Hearing Requests by the Director of the Center for Drugs and Biologics

The Director of the Center for Drugs and Biologics evaluated the requests for a hearing on the issue of whether there is substantial evidence (21 U.S.C. 355(d)) of the effectiveness of Cyclospasmol, and recommended that a hearing be granted on this issue. The Director also considered the request for a hearing on the temporary exemption for continued marketing, known as the "Paragraph XIV" exemption, of Cyclospasmol, which was revoked on May 25, 1979 (44 FR 30436). Paragraph XIV of the court order in *American Public Health Ass'n* v. *Veneman*, 349 F.Supp. 1311 (D.D.C. 1972), allowed FDA administrative enforcement discretion, pending completion of scientific studies, with respect to continued marketing of less-than-effective drugs that were part of the DESI program. See 37 FR 26623. The Director concluded that Ives is not entitled to a hearing on the Paragraph XIV revocation issue and recommended the hearing request on this issue be denied. The basis of the Director's

denial recommendation is set forth below.

The Director's Recommendation Concerning a Hearing on FDA's Revocation of the Paragraph XIV Exemption for Cyclospasmol

For reasons discussed below, the Director concluded that Ives' request for a hearing on the Paragraph XIV exemption for Cyclospasmol was meritless and, accordingly, recommended that a hearing be denied as to this issue.

Ives was notified in 1971 that FDA considered Cyclospasmol to be less-than-effective for its indications. But unlike most drugs found to be less-than-effective under the DESI program, in 1972, under Paragraph XIV of the *Veneman* court order, Cyclospasmol was permitted to remain on the market pending completion of scientific studies to determine its effectiveness.

Over the next ten years, Ives conducted numerous studies to demonstrate the effectiveness of Cyclospasmol for these indications. As of June 20, 1978, Ives reported ten completed studies and six ongoing studies. (All of these studies now have been completed. Ives primarily relies upon only four of these sixteen studies to demonstrate Cyclospasmol's effectiveness.)

After evaluating these data, as well as data relating to other peripheral vasidilators, FDA concluded that no further time was needed to study these drugs. Accordingly, on May 25, 1979, FDA revoked the temporary exemption for continued marketing of all peripheral vasodilators, including Cyclospasmol. See 44 FR 30436.

Ives now contends that there was no rational basis for FDA to revoke the Paragraph XIV exemption, and that the revocation violated due process and the Administrative Procedure Act ("APA"). Ives is mistaken.

First, the revocation of the Paragraph XIV exemption was based upon the fact that a reasonable amount of time had been allowed for manufacturers of these drugs to conduct clinical investigations with acceptable designs. Ives does not allege that it was unable to conduct well-designed clinical studies. In fact, as discussed earlier, Ives conducted sixteen studies, all of which now have been completed. Rather, Ives claims that "FDA failed to make any inquiry of (Ives) to explain the reasons why their tests were not yet complete or to check on the problems that the companies were encountering in carrying out the protocols." The problems encountered by these companies, however, were not that they could not complete adequate studies but rather that they were unable to demonstrate the drugs' effectiveness. It is for this reason that FDA implemented procedures to remove these drugs from the marketplace. Ives' subsequent action in submitting to FDA only one study in support of its effectiveness claim during the five years that followed the 1979 revocation notice is further evidenced of the rationality of FDA's decision to revoke the Paragraph XIV exemption.

Nor is there any merit to Ives' assertion that the revocation of the Paragraph XIV exemption is procedurally defective under the due process clause of the Fifth Amendment of the Constitution and under the APA.

Ives contends that Paragraph XIV status is a valuable asset entitling Ives to continue marketing Cyclospasmol, and that it cannot be taken away by the government without affording Ives procedural due process, i.e., notice and comment. The Paragraph XIV exemption, however, is not permission to market a drug product. Its revocation does not remove a drug product from the market. New drugs are marketed only on the basis of an approved new drug application. That approval cannot be withdrawn until procedures that fully satisfy all statutory and constitutional due process concerns, and which go far beyond notice and comment, are met. See *Weinberger* v. *Hynson, Westcott & Dunning, Inc.*, 412 U.S. 609 (1973). FDA's revocation of the Paragraph XIV exemption is merely a preliminary evaluation of the drug, an action that has never been conditioned upon prior notice to holders of the new drug applications.

In addition, Ives contends that FDA's revocation of the Paragraph XIV exemption violated the APA, specifically section 9(b) of the Act (5 U.S.C. 558(c)). That section concerns licenses, which Ives contends applies to the Paragraph XIV exemption. A "license" is defined under the APA as a "form of permission." See 5 U.S.C. 551(8). As discussed above, the Paragraph XIV exemption is not a form of permission to market a drug. Its revocation has no impact on the marketability of the drug. Therefore, it is not a license and not subject to the licensing requirements of the APA.

The legal issues presented by revocations of Paragraph XIV exemptions are discussed in further detail in other notices granting hearings on DESI drugs. *See, e.g.*, 49 FR 36440, September 17, 1984; 49 FR 38365, September 28, 1984.

The Commissioner's Ruling on the Hearing Requests

Subject to the limitation discussed below, the Commissioner is now granting the hearing request of Ives on the proposal to withdraw approval of the NDA for Cyclospasmol. Approval of this NDA will be withdrawn unless there exists substantial evidence that the products have the clinical effect that they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in their labeling (21 U.S.C. 355(d), 21 CFR 314.111(a)(5)).

Under 21 CFR 314.200(f), the Commissioner shall not evaluate or rule upon a Director's recommendation that a hearing be denied as to some (but not all) issues. Further, the regulation provides that those issues as to which the Director has recommended a denial should not be included in the notice of hearing. Accordingly, the issue on FDA's revocation of the Paragraph XIV exemption for Cyclospasmol is not included in this notice.

Issues in this Proceeding

In light of the Director's recommendation and the requirements of 21 CFR 314.200, two questions will be addressed in this proceeding with respect to these products:

1. Whether there is evidence consisting of adequate and well-controlled investigations, including clinical investigations, by experts qualified by scientific training and experience to evaluate the effectiveness of the drugs; and

2. Whether, on the basis of any such adequate and well-controlled investigations that exist, it could fairly and responsibly be concluded by experts qualified by scientific training and experience to evaluate the effectiveness of drugs that the drug products in question will have the effect that they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in the labeling thereof (21 U.S.C. 355(d)).

Parties to the Hearing

The parties to the hearing will be FDA's Center for Drugs and Biologics, Ives Laboratories, Inc., and Cord Laboratories, Inc. The presiding officer will be Administrative Law Judge Daniel J. Davidson. In addition, the National Association of Pharmaceutical Manufacturers and any other interested person shall be permitted to participate in the hearing as nonparty participants (see 21 CFR 12.89), provided that they file a notice of participation pursuant to 21 CFR 12.45(a).

Disclosure of Information by the Center and Hearing Participants

In accordance with 21 CFR 12.85(a)(4), the Center for Drugs and Biologics has filed with the Dockets Management Branch a narrative statement setting forth its position on the issues of the hearing and a summary of the types of evidence to be introduced in support of its position in the hearing, together with copies of data contained in the Center's files that relate to the issues raised herein. Interested persons may obtain a copy of the Center's narrative statement from the Dockets Management Branch (address above). Participants other than the Center for Drugs and Biologics shall disclose data and information and submit their narrative statements pursuant to 21 CFR 12.85 on or before December 17, 1984. Pursuant to 21 CFR 10.20(j)(2)(ii), confidential material submitted must be segregated and clearly marked. Interested persons may also examine the data on the drugs subject to this hearing notice (with the exception of any data identified as confidential pursuant to the provisions of 21 CFR 10.20(j)) at the Dockets Management Branch from 9:00 a.m. to 4:00 p.m., Monday through Friday.

Prehearing Conference

The prehearing conference will be held on January 15, 1985, at 10:00 a.m.,in the FDA Hearing Room, Rm. 4A–35, 5600 Fishers Lane, Rockville, MD 20857. The hearing will be held in the FDA Hearing Room on a date to be set at the prehearing conference. Written notices of participation shall be filed with the Dockets Management Branch no later than November 19, 1984. All participants are required both to attend the prehearing conference and to be prepared to comply with the provisions of 21 CFR 12.92.

Media Coverage of the Hearing

The hearing will be open to the public. Any participant may appear in person, or by or with counsel, or with other qualified representatives, and may be heard on matters relevant to the issues under consideration.

Because this is a public hearing, it is subject to FDA's guideline concerning the policy and procedures for electronic media coverage of public agency administrative proceedings. This guideline was published in the **Federal Register** of April 13, 1984 (49 FR 14723). These procedures are primarily intended to expedite media access to FDA public proceedings, including formal evidentiary hearings conducted pursuant to Part 12 of the agency's regulations. Under this guideline, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including the testimony of witnesses in the proceeding. Accordingly, the parties and nonparty participants to this hearing, and all other interested persons, are directed to the guideline, as well as the **Federal Register** notice announcing issuance of the guideline, for a more complete explanation of the guideline's effect on this hearing.

Therefore, under the Federal Food, Drug, and Cosmetic Act (section 505, 52 Stat. 1052 as amended (21 U.S.C. 355)), and under authority delegated to me (21 CFR 5.10), I order that a public hearing by held on the issues set out in this notice.

Dated: October 10, 1984.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 84–27504 Filed 10–17–84; 8:45 am]

BILLING CODE 4160–01–M

Health Resources and Services Administration

Application Announcement for Grants for Programs for Physician Assistants

The Bureau of Health Professions, Health Resources and Services Administration, announces that applications for Fiscal Year 1985, Grants for Programs for Physician Assistants are being accepted under the authority of section 783(a) of the Public Health Service Act.

Section 783(a) authorizes the award of grants to accredited schools of medicine or osteopathy and other public or nonprofit private entities, whose principal functions include health and/or education, to assist in meeting the cost of planning, developing and operating or maintaining programs for the training of physician assistants as defined under section 701(8) of the Public Health Service Act.

To receive support, programs must meet the requirements of sections 701(8) and 783(a) of the Act and the regulations implementing these sections published in Title 42 of the Code of Federal Regulations, Part 57, Subpart H.

Funding preference will be accorded approved applications with projects in which:

1. A program is conducted for training physician assistants to provide primary care patient services under the supervision of a doctor of medicine or osteopathy; and/or

2. Substantial training experience is provided in a health manpower shortage area(s), as defined in section 332 of the PHS Act, or in an area health education center funded, at least in part, under section 781 of the Act; and/or

3. A program is established in a State which does not have such a program; and/or

4. A program is conducted in conjunction with primary care physician education in a manner which shares educational resources and encourages the utilization of physician assistants by physicians.

Application materials are being made available without final action on the Fiscal Year 1985 budget and the enactment of health professions renewal legislation. Therefore, financial adjustments and programmatic changes may be necessary at a later date. Should such changes be necessary all applicants will be notified.

Requests for application materials and questions regarding grants policy should be directed to: Grants Management Officer (D–21), Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Rm. 8C–22, Rockville, Maryland 20857, Telephone: (301) 443–6960.

Questions regarding programmatic information should be directed to: Multidisciplinary Resources Development Branch, Division of Medicine, Bureau of Health Professions, Health Resources and Services Administration, 5700 Fishers Lane, Rm. 4C–25, Rockville, Maryland 20857, Telephone: (301) 443–6817.

The application deadline date is November 23, 1984. Applications shall be considered as meeting the deadline if they are either (1) *received* on or before the deadline date, or (2) *postmarked* on or before the deadline and received in time for submission to the independent review group. A legibly dated receipt from a commercial carrier or the U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks shall not be acceptable as proof of timely mailing.

This program is listed at 13.886 in the *Catalog of Federal Domestic Assistance.* Applications submitted in response to this announcement are not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs, or 45 CFR Part 100.

Dated: October 14, 1984.

Robert Graham,

Administrator, Assistant Surgeon General.

[FR Doc. 84–27553 Filed 10–17–84; 8:45 am]

BILLING CODE 4160–16–M

Public Health Service

Health Education Assistance Loan Program; Maximum Interest Rates for Quarter Ending December 31, 1984 and Rate of Insurance Premium

Section 727 of the Public Health Service Act (42 U.S.C. 294) authorizes the Secretary of Health and Human Services to establish a Federal program of student loan insurance for graduate students in health professions schools.

A. Section 60.13(a)(4) of the program's implementing regulations (42 CFR Part 60, previously 45 CFR Part 126) provides that the Secretary will announce the interest rate in effect on a quarterly basis.

The Secretary announces that for the period ending December 31, 1984, two interest rates are in effect for loans executed through the Health Education Assistance Loan (HEAL) program.

1. For loans made before January 27, 1981, the variable interest rate is 11⅞ percent. Using the regulatory formula (45 CFR 126.13(a) (2) and (3)), in effect prior to January 27, 1981, the Secretary would normally compute the variable rate for this quarter by finding the sum of the fixed annual rate (7 percent) and a variable component calculated by subtracting 3.50 percent from the average bond equivalent rate of 91-day U.S. Treasury bills for the preceding calendar quarter (10.78 percent), and rounding the result (14.28 percent) upward to the nearest ⅛ percent (14⅜ percent). Thus, the variable rate for this 3-month period would normally be at the annual rate of 14⅜ percent (7⅜ percent plus 7 percent). However, the regulatory formula also provides that the annual rate of the variable interest rate for a 3-month period shall be reduced to the highest one-eighth of 1 percent which would result in an average annual rate not in excess of 12 percent for the 12-month period concluded by those 3 months. For the previous 3 quarters the variable interest at the annual rate was as follows: 11⅜ percent for the quarter ending March 31, 1984; 12 percent for the quarter ending June 30, 1984; and 12⅜ percent for the quarter ending September 30, 1984. Therefore, in order to maintain an average annual rate of 12 percent for the 12-month period ending December 31, 1984, the variable interest rate for the quarter ending December 31, 1984, would be at an annual rate of 11⅞ percent.

2. For fixed rate loans executed during the period of October 1, 1984 through December 31, 1984, and for variable rate loans executed after January 27, 1981, the interest rate is 14⅜ percent. Using the regulatory formula (42 CFR 60.13(a)(3)), in effect since January 27, 1981, the Secretary computes the maximum interest rate at the beginning of each calendar quarter by determining the average bond equivalent rate for the 91-day U.S. Treasury bills during the preceding quarter (10.78 percent); adding 3.50 percent (14.28 percent); and rounding that figure to the next higher one-eighth of 1 percent (14⅜ percent).

B. Section 60.14(b) of the regulations provides that the rate of the insurance premium shall not exceed 2 percent per year of the loan principal and that the Secretary will announce the rate of the insurance premium on a quarterly basis through a notice published in the **Federal Register.**

The Secretary announces that for the period ending December 31, 1984, the rate of the insurance premium continues to be 2 percent per year of the loan principal for loans executed through the HEAL program.

(Catalog of Federal Domestic Assistance No. 13.108, Health Education Assistance Loans)

Dated: October 14, 1984.

Robert Graham,

Administrator, Assistant Surgeon General.

[FR Doc. 84-27554 Filed 10-17-84; 8:45 am]

BILLING CODE 4160-15-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[U-50537]

Realty Action; Exchange of Public Lands in Beaver County, Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: It is proposed to exchange public lands described as T. 29 S., R. 7 W., SLBM, sec. 18, lot 1, NW¼NE¼ and NE¼NW¼, totaling 120.10 acres, for non-federal land owned by Gilbert T. Yardley described as T. 31 S., R. 8 W., SLBM, sec. 18, SE¼SW¼, SW¼SE¼, and sec. 22, SW¼NW¼, totaling 120 acres, pursuant to section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716).

SUMMARY: The purpose of this exchange is to eliminate small private inholdings in large blocks of public land and acquire private lands with resources valuable for public purposes.

DATES: Comments must be submitted on or before December 3, 1984.

ADDRESS: Detailed information concerning this exchange is available for review at the Bureau of Land Management Beaver River Resource Area Office, 444 South Main, Cedar City, Utah 84720, (801) 586-2458. Comments should also be sent to the same address.

SUPPLEMENTARY INFORMATION: The terms and conditions applicable to the exchange are:

1. There is reserved to the United States a right-of-way for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. The exchange will be for surface estate only. Minerals will remain with the United States Government.

3. Title will be subject to all existing valid rights.

The publication of this notice in the **Federal Register** segregates the public lands described above from appropriation under the public land laws, including the mining laws.

Any comments received during the comment period will be evaluated and the District Manager may vacate or modify this realty action. In the absence of any action by the District Manager, this realty action notice will be the final determination of the Department of the Interior.

Dated: October 10, 1984.

J. Kent Giles,

Acting District Manager.

[FR Doc. 84-27527 Filed 10-17-84; 8:45 am]

BILLING CODE 4310-DQ-M

Cedar City District Advisory Council; meeting

Notice is hereby given in accordance with Pub. L. 92-463, that a meeting of the Cedar City District Advisory Council will be held November 13, 1984.

The meeting will begin at 9:30 a.m. at the BLM's Red Cliffs Campground near Leeds, Utah. The agenda will include discussion of recreation and R&PP grants in conjunction with and around Quail Creek Reservior, update on a regional interagency recreation plan, discussion or right-of-way requests for utilities in Washington County, and a review of realty cases in Washington County.

All Advisory Council meetings are open to the public. Interested persons may make oral statements at 9:30 a.m. at Red Cliffs or may submit written statements for the Council's consideration. Anyone wishing to make an oral statement must notify the District Manager, P.O. Box 724, Cedar City, Utah 84720 by November 9, 1984. Depending on the number of persons wishing to make a statement, a per person time limit may be established by the District Manager or Council Chairman.

Dated: October 10, 1984.

J. Kent Giles,

Acting District Manager.

[FR Doc. 84-27526 Filed 10-17-84; 8:45 am]

BILLING CODE 4310-DQ-M

[M 59125]

Montana; Conveyance and Order Providing for Opening of Public Land

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Conveyance of Public Land in Garfield and Dawson Counties and Order Providing for Opening of Public Land in Custer County, Montana.

SUMMARY: This order will open the lands reconveyed in an exchange under the Act of October 21, 1976, 43 U.S.C. 1701, et seq., to the operation of the public land laws. All minerals in the offered lands were reserved to the private parties, their successors or assigns, or to their predecessors. The United States reserved all mineral deposits on all of the public lands transferred.

DATE: At 9 a.m. on December 5, 1984, the lands reconveyed to the United States shall be open to the operation of the public land laws, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law. The segregation of the public land that was subsequently transferred to the private parties, which was created by the Notice of Realty Action published in the **Federal Register** on May 22, 1984 (49 FR 21568–21569), terminated on issuance of the patents on September 6, 1984.

FOR FURTHER INFORMATION CONTACT: Edward H. Croteau, Chief, Lands Adjudication, BLM, Montana State Office, P.O. Box 36800, Billings, MT 59107, Phone: (406) 657–6082.

SUPPLEMENTARY INFORMATION: Notice is hereby given that pursuant to section 206 of the Act of October 21, 1976 (43 U.S.C. 1716), the following described surface estate was transferred by patent to the parties shown:

1. August and/or Mary Sobotka, with rights of survivorship:

Principal Meridian, Montana

T. 18 N., R. 57 E.,
Sec. 20, lots 7, 8, 9 and 10; and
Sec. 21, lot 6.

Containing 202.81 acres, and all accretions thereto—Dawson County.

2. LR Ranch Co.:

Principal Meridian, Montana

T. 19 N., R. 36 E.,
Sec. 2, NE¼†SE¼.

T. 19 N., R. 37 E.,
Sec. 9, SW¼NE¼;
Sec. 10, S½NW¼;
Sec. 15, SW¼NW¼;
Sec. 29, SE¼SW¼; and
Sec. 35, W½NW¼.

Aggregating 320 acres—Garfield County

3. J. Barnard Murnion and Loriene Murnion, with right of survivorship:

Principal Meridian, Montana

T. 19 N., R. 36 E.,
Sec. 12, NE¼.

T. 19 N., R. 37 E.,
Sec. 7, lot 1, N½NE¼, NE¼NW¼.

Agregating 314.17 acres—Garfield County.

Total acreage patented: 836.98

In exchange for the above selected land, the United States acquired the surface estate of the following described land in Custer County, Montana:

Principal Meridian, Montana

T. 9 N., R. 48 E.,
Sec. 30 lots 5 and 6, and that portion of the W½SE¼ lying westerly of the Chicago, Milwaukee, St. Paul and Pacific Railroad right-of-way. The said right-of-way is described on the deed dated June 25, 1906, recorded August 23, 1906 in Book R of Deeds, Page 193, in the records of Custer County, Montana.

Containing 74.38 acres, more or less.

At 9 a.m. on December 5, 1984, the above described land that was conveyed to the United States will be open to the operation of the public land laws.

Dated: October 10, 1984.

John A. Kwiatkowski,

Deputy State Director, Division of Lands and Renewable Resources.

[FR Doc. 84-27522 Filed 10-17-84; 8:45 am]

BILLING CODE 4310-84-M

[AA-6703-C; AA-6703-E]

Alaska Native Claims Selections

In accordance with Departmental regulation 43 CFR 3650.7(d) notice is hereby given that a decision to issue conveyance (DIC) under the provisions of section 12 of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1611 (1976), will be issued to The Tatitlek Corporation, for approximately 35, 570 acres. The lands involved are within the Copper River Meridian, Alaska:

T. 9 S., R. 1 E.
T. 10 S., R. 1 E.
T. 10 S., R. 2 E.
T. 9 S., R. 3 E.
T. 10 S., R. 3 E.
T. 11 S., R. 4 E.

Upon issuance, the DIC will be published once a week for four (4) consecutive weeks, in the Cordova Times. For information on how to obtain copies, contact the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest which is adversely affected by the decision shall have until November 19, 1984, to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements in 43 CFR Part 4, Subpart E (1983) (as amended, 49 FR 6371, February 21, 1984) shall be deemed to have waived their rights.

Barbara A. Lange,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 84-27551 Filed 10-16-84; 8:45 am]

BILLING CODE 4310-JA-M

[OR 37654]

Oregon; Proposed Recreation and Public Purpose Act Lease; Meeting

In accordance with section 212(a) of the Federal Land Policy and Management Act of 1976, notice is hereby given that a meeting will be held on November 15, 1984, in the conference room of the Vale District Office, 100 Oregon Street, Vale, Oregon. The meeting will begin at 7:00 P.M.

The purpose of the meeting is to accept public comments and discuss possible alterntives on a regional shooting center proposed by the Snake River Sportsmen, Inc., a non-profit group incorporated under the laws of the State of Oregon.

The proponents have requested to lease approximately 480 acres of public land in Malheur County, Oregon, under the authority of the Recreation and Public Purposes Act of 1926, as amended:

T. 19 S., R. 45 E., Willamette Meridian,
Sec. 4, SW ¼ NW ¼, SE ¼ NW ¼ west of Lytle Blvd., N ½ SW ¼, SW ¼ SW ¼;
Sec. 5, SE ¼ NE ¼, SE ¼;
Sec. 8, NE ¼ NE ¼;
Sec. 9, NW ¼ NW ¼.

The meeting will be open to the public and time will be provided for public comment.

For further information contact: Barry Rose, Public Affiars Officer, (503) 473–3144.

Dated: October 9, 1984.

David Lodzinski,

Acting District Manager.

[FR Doc. 84-27529 Filed 10-17-84; 8:45 am]

BILLING CODE 4310-33-M

[W-87650]

Wyoming; Realty Action

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed Lease of Public Lands in Sweetwater County, Wyoming.

SUMMARY: The BLM is proposing to enter into a lease with Mr. Cleve Martin and Mr. Tom McGuire to authorize the continued operation of a total containment sewage lagoon for a 15 year period. The lagoon is located ½ mile north of Rock Springs in:.

T. 19N., R. 105 W., 6th P.M.,
Sec. 8: S½N½SE¼SE¼, S½SE¼SE¼.
Comprising 30 acres.

The applicants will be responsible for the cost of processing the lease and for payment of an annual rent to be determined by BLM appraisal.

The lease is to be authorized under the provisions of Section 302 of the Federal Land Policy and Management Act of 1976 and 43 CFR Part 2920.

DATE: The public is invited for a period of 30 days from the date of publication of this notice to submit written comments.

CONTACT ADDRESS: Clinton Hanson, Big Sandy Resource Area Manager, BLM, Box 1170, Rock Springs, Wyoming 82902; (307) 382-6422.

Dated: October 5, 1984.

Donald H. Sweep,

District Manager.

[FR Doc. 84-27530 Filed 10-17-84; 8:45 am]

BILLING CODE 4310-22-M

[F-14908-A]

Alaska Native Claims Selection

On July 17, 1974, Sitnasuak Native Corporation, for the Native village of Nome, filed selection application F-14908-A, as amended, under the provisions of section 12 of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1611, (ANCSA), for the surface estate of certain lands in the vicinity of Nome.

On April 6, 1962, Public Land Order (PLO) 2642 withdrew certain lands in the Nome area for use by the Federal Aviation Administration (FAA) as an air navigation facility. The lands are described as:

U.S. Survey No. 5270, Alaska, lot 2 situated in the vicinity of Nome, Alaska.
Containing 32.94 acres.

The lands described above have been serialized as F-70624, and are subject to a determination pursuant to section 3(e) of ANCSA which states:

"Public lands" means all Federal lands and interests therein located in Alaska except: (1) The smallest practicable tract, as determined by the Secretary, enclosing land actually used in connection with the administration of any Federal installation . . . .

On June 11, 1984, the Bureau of Land Management (BLM) made a section 3(e) determination, that the following described lands are the smallest practicable tract enclosing lands actually used in connection with the administration of this FAA facility at Nome:

A tract of land located within lot 2, U.S. Survey No. 5270, Sec. 32, T. 11 S., R. 33 W., Kateel River Meridian, more particularly described as follows:

Beginning at corner No. 1, of lot 2 of U.S. Survey No 5270, proceed approximately N. 83° W., for a distance of approximately 1345 ft., to the center of the building within this RCAG site, thence approximately N. 48°40'W., 100 ft., to corner No. 1, the point of beginning.
From corner No. 1, by metes and bounds.
N. 41°20' E., 150 ft., to corner No. 2;
S. 48°40' E., 200 ft., to corner No. 3;
S. 41°20' W., 300 ft., to corner No. 4;
N. 48°40' W., 200 ft., to corner No. 5;
N. 41°20' E., 150 ft., to corner No. 1, the point of beginning.

The tract as described contains approximately 1 acre.

Accordingly, selection application F-14908-A, as amended, must be and is hereby rejected as to the above-described lands.

As to the lands described below, selection application F-14908-A, as amended, submitted by Sitnasuak Native Corporation, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to section 12(a) of ANCSA, containing approximately 32 acres, is considered proper for acquisition by Sitnasuak Native Corporation and is hereby approved for conveyance:

That portion of land located within lot 2, U.S. Survey No. 5270, Sec. 32, T. 11 S., R. 33 W., Kateel River Meridian, *excluding* Mineral Survey No. 2300 and the lands described as follows:

Beginning at corner No. 1, of U.S. Survey No. 5270, proceed approximately N. 83°W. for a distance of approximately 1345 ft., to center of the building within the RCAG site, thence approximately N. 48°40'W., 100 ft., to corner No. 1, the point of beginning.

From corner No. 1, by metes and bounds.
N. 41°20' E., 150 ft., to corner No. 2;
S. 48°40' E., 200 ft., to corner No. 3;
S. 41°20' W., 300 ft., to corner No. 4;
N. 48°40' W., 200 ft., to corner No. 5;
N. 41°20' E., 150 ft., to corner No. 1, the point of beginning.

Containing approximately 32 acres.

There are no inland water bodies considered to be navigable within the above-described lands.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(f); and

2. Pursuant to section 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1616(b), the following public easements, referenced by easement identification number (EIN) on the easement map attached to this document, a copy of which will be found in case file F-14908-EE, are reserved to the United States. All easements are subject to applicable Federal, State or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

Utility Easement—The uses allowed for a power line are those uses associated with the construction, operation and maintenance of a power line.

60 Foot Road—The uses allowed on a sixty (60) foot wide road easement are: Travel by foot, dogsleds, animals, snowmobiles, two- and three-wheel vehicles, small and large all-terrain vehicles (ATV's), track vehicles, four-wheel drive vehicles, automobiles, and trucks.

a. (EIN 133b C4, I) An easement twenty-five (25) feet in width for an existing powerline from powerline easement EIN 133a C4, I (which terminated at the western boundary of lot 2, U.S. Survey No. 5270, Sec. 32, T. 11 S., R. 33 W., Kateel River Meridian), southeasterly to the RCAG site in lot 2, U.S. Survey No. 5270. The uses allowed are those activities associated with the construction operation and maintenance of a powerline facility.

b. (EIN 200 I) An easement restricting use of the lands within lot 2 U.S. Survey No. 5270 within a 1,000 foot radius of the center of the RCAG building located in Sec. 32, T. 11 S., R. 33 W., Kateel River Meridian. The uses allowed include the uses associated with the construction, reconstruction, operation, and maintenance of the RCAG and NDB sites, the right to clear and keep the lands clear from

any obstruction infringing upon or penetrating the airspace, and the right to prohibit use on and remove from the lands beneath the airspace any source which would create interference for users of the RCAG and NDB electronic signals.

c. (EIN 201 I) An easement sixty (60) feet in width for a existing access road from Beam Road, a Federal Aid Highway, in Sec. 32, T. 11 S., R. 33 W., Kateel River Meridian, easterly to the RCAG site in Sec. 32, T. 11 S., R. 33 W., Kateel River Meridian. The uses allowed are those listed above for a sixty (60) foot wide road easement. The use of this easement is restricted to government use only.

d. (EIN 202 I) An easement prohibiting use of the lands within lot 2, U.S. Survey No. 5270 within a 400 foot radius of the center of the NDB site located approximately N. 84° E., for a distance of approximately 525 feet from the center of the building within the RCAG site. The uses allowed are those activities associated with the construction, operation, and maintenance of the NDB facility.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official supplemental plat of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Any right-of-way interest in Federal Aid Secondary (FAS) Route No. 141 (Beam Road) from FAS Route No. 130 in Nome, north to FAS Route No. 1451 at Coffee Creek transferred to the State of Alaska by the quitclaim deed dated June 30, 1959, executed by the Secretary of Commerce under the authority of the Alaska Omnibus Act, Pub. L. 86–70, 73 Stat. 141, as to T. 11 S., R. 33 W., Kateel River Meridian;

3. A right-of-way, F–12414, located within Sec. 32, T. 11 S., R. 33 W., Kateel River Meridian, 200 feet in width, for a Federal Aid Highway. Act of August 27, 1958, as amended, 23 U.S.C. 317;

4. A right-of-way, F–12415, located within Sec. 32, T. 11 S., R. 33 W., Kateel River Meridian, for a Federal Aid Highway. Act of August 27, 1958, as amended, 23 U.S.C. 317;

5. A right-of-way, F–12544, located within Sec. 32, T. 11 S., R. 33 W., Kateel River Meridian, for a Federal Aid Material Site and Haul Road. Act of August 27, 1958, as amended, 23 U.S.C. 317;

6. A right-of-way, F–12545, located within Sec. 32, T. 11 S., R. 33 W., Kateel River Meridian, for a Federal Aid Material Site. Act of August 27, 1958, as amended, 23 U.S.C. 317;

7. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under section 6(g) of the Alaska Statehood Act of July 7, 1958, 48 U.S.C. Ch. 2, Sec. 6(g)), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to section 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1616(b)(2), (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law; and

8. Requirements of section 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(c), as amended, that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Sitnasuak Native Corporation is entitled to conveyance of 161,280 acres of land selected pursuant to section 12(a) of ANCSA. Together with the lands herein approved for conveyance, the total acreage conveyed or approved for conveyance is approximately 152,447 acres. The remaining entitlement of approximately 8,833 acres will be conveyed at a later date.

Pursuant to section 14(f) of ANCSA and Departmental regulations in Title 43 CODE OF FEDERAL REGULATIONS (CFR) 2652.4, conveyance of the subsurface estate of the lands described above shall be issued to Bering Straits Native Corporation when the surface estate is conveyed to Sitnasuak Native Corporation, and shall be subject to the same conditions as the surface conveyance, except for those provisions under section 14(c) of ANCSA; also the right to explore, develop, or remove mineral materials from the subsurface estate in lands within the boundaries of the Native village of Nome shall be subject to the consent of Sitnasuak Native Corporation.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week for four (4) consecutive weeks, in the NOME NUGGET.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in 43 CFR Part 4, Subpart E, as revised. However, pursuant to the Alaska National Interest Lands Conservation Act of December 2, 1980, 43 U.S.C. 1631, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of Conveyance Management (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of this decision by personal service or certified mail, return receipt requested, shall have thirty days from receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt, and parties who received a copy of this decision by regular mail which is not certified, return receipt requested, shall have until November 19, 1984, to file an appeal.

Any party, known or unknown, who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of Conveyance Mangement.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is filed, the parties to be served with a copy of the notice of appeal are:

Federal Aviation Administration, Alaska Region, 701 C Street Box 14, Anchorage, Alaska 99513
Sitnasuak Native Corporation, P.O. Box 172, Nome, Alaska 99762
Bering Straits Native Corporation, P.O. Box 1008, Nome, Alaska 99762.

Barbara A. Lange,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 84–27552 Filed 10–17–84; 8:45 am]
BILLING CODE 4310–JA–M

Bureau of Reclamation

Parker Division Channel Modification Project, Colorado River Front Work and Levee System, AZ—CA; Intent To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior proposes to prepare an Environmental Impact Statement for river stabilization in a 28-mile reach of the Colorado River known as the Parker Division. This reach of river extends from the Agness Wilson Bridge south of Parker, Arizona,

to the Palo Verde Diversion Dam near Blythe, California.

Lateral movement in this reach of the Colorado River has caused extensive bank cutting and channel shifting. As a result of this, increased sediment loading has occurred, a substantial amount of property has been lost, and the increased sediment has caused major operating problems with the Palo Verde Diversion Dam and adversely impacts the stability of the lower river system.

The Bureau of Reclamation has the responsibility for maintaining the Colorado River by the authority of the Colorado River Front Work and Levee System Act of 1927, as amended. To alleviate the problems caused by the unstabilized river, a plan has been developed to improve this reach of river for hydraulic efficiency and reduction of sediment loading.

The proposed plan would include:

1. The elimination of two sharp meanders by means of cuts throught the land portions.

2. The placement of riprap, training structures, and jetties on the existing banks, where required.

3. Dredging the river channel in selected locations to preserve channels around islands and deepen other shallow areas in the river channel to maintain a river channel base width of 450 feet.

4. Development of the open water areas created by the elimination of the meanders for fish-and-wildlife, recreation, and other purposes.

Several alternatives to the basic plan will also be considered in the environmental impact statement. These alternatives will range from channelization of the complete reach of the river to stabilzing the bankline in selected sections.

Public meetings will be scheduled in the near future to introduce the public to the project study. The meetings will also serve as scoping sessions to identify significant environmental impacts and issues that should be studied and addressed in the environmental impact statement. The times and locations of these public meetings will be announced later in local newspapers, as well as in mailed notices to those individuals, groups, and agencies that have expressed an interest in the proposed action.

To insure that the full range of issues related to the proposed action are identified and addressed, comments and suggestions are invited from all interested parties. For further information on the environmental impact statement contact Del Kidd, Bureau of Reclamation, Yuma Projects Office, P.O. Bin 12487, Yuma, Arizona 85365, Telephone (602) 726–2679.

Dated: October 12, 1984.

Robert A. Olson,

Acting Commissioner.

[FR Doc. 84–27570 Filed 10–17–84; 8:45 am]

BILLING CODE 4310–09–M

Fish and Wildlife Service

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Service's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Service clearance officer and the OMB Interior Desk Officer, Washington, D.C. 20503, telephone 202–395–7313

Title: Certification of Hunting and Fishing License Holders Abstract: Part I (Form 3–154a) is used to collect numbers of paid hunting and fishing license holders from State fish and wildlife agencies. The information is used by the service to apportion grant funds to each State under the Federal aid in sport fish and wildlife restoration acts, as amended. Part II (Form 3–154b) is used to collect information on hunting and fishing license sales and is made available to the public.

Service Form Number: 3–154b
Frequency: Annually
Description of Respondents: State and local governments
Annual Responses: 50
Annual Burden Hours: 50
Service Clearance Officer: Arthur J. Ferguson, 202–653–7499

Dated: October 9, 1984.

Robert E. Gilmore,

Associate Director—Federal Assistance.

[FR Doc. 84–27536 Filed 10–17–84; 8:45 am]

BILLING CODE 4310–55–M

Endangered Species Permit; Receipt of Applications; Mesker Park Zoo, and Audubon Park & Zoological Gardens

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

Applicant: Mesker Park Zoo Evansville, IN; PRT—683602.

The applicant requests a permit to import two captive-born female hog deer *[Axis (=Cervus) porcinus annamiticus]* from Howletts and Port Lympne Estates, Kent, England for enhancement of propagation.

Applicant: Audubon Park & Zoological Gardens, New Orleans, LA; APP# 5905BM.

The applicant requests a permit to import two capitive-born female hog deer *[Axis (=Cervus) porcinus annamiticus]* from Howletts and Port Bympne Estates Ltd., Kent, England for public display and enhancement of propagation.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 North Glebe Rd., Arlington, Virginia, or by writing to the U.S. Fish & Wildlife Service, WPO, P.O. Box 3654, Arlington, VA 22203.

Interested persons may comment on any of these applications with 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT 2#, APP# or PRT# when submitting comments.

Dated: September 28, 1984.

R. K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 84–27733 Filed 10–17–84; 10:45 am]

BILLING CODE 4310–55–M

Minerals Management Service

Development Operations Coordination Document; Shell Offshore Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Shell Offshore Inc. has submitted a DOCD describing the activities it proposes to conduct on Lease OCS 0478, Block 116, Eugene Island Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Morgan City, Louisiana.

DATE: The subject DOCD was deemed submitted on October 9, 1984.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838–0875.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised Section 250.34 of Title 30 of the CFR.

Dated: October 10, 1984.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 84–27537 Filed 10–17–84; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; Walter Oil and Gas Corp.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Walter Oil and Gas Corporation has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 4259, Block 389, Galveston Area, offshore Texas. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Galveston, Texas.

DATE: The subject DOCD was deemed submitted on October 10, 1984.

ADDRESS: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Ms. Angie Gobert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838–0876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and produres under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised Section 250.34 of Title 30 of the CFR.

Dated: October 10, 1984.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 84–27538 Filed 10–17–84; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; Superior Oil Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that The Superior Oil Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS 0797, Block 105, Eugene Island Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Intracoastal City, Louisiana.

DATE: The subject DOCD was deemed submitted on October 9, 1984.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838–0875.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: October 10, 1984.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 84–27532 Filed 10–17–84; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; Chevron USA Inc.

AGENCY: Mineral Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Chevron U.S.A. Inc. has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 3410, Block 352, Eugene Island Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Morgan City, Louisiana.

DATE: The subject DOCD was deemed submitted on October 9, 1984.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838–0875.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendment of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executive of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: October 10, 1984.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 84-27533 Filed 10-17-84; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; Union Oil Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Union Oil Company of California has submitted A DOCD describing the activities it proposes to conduct on Lease OCS–G 3530, Block 58, East Cameron Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Intracoastal City, Louisiana.

DATE: The subject DOCD was deemed submitted on October 10, 1984.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service; Gulf of Mexico OCS Region: Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; phone (504) 838–0875.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: October 10, 1984

John L. Rankin,

Regional Director, Gulf of Mexico OCSA Region.

[FR Doc. 84-27534 Filed 10-17-84; 8:45 am]

BILLING CODE 4310-MR-M

Environmental Documents Prepared for Proposed Oil and Gas Operations on the Gulf of Mexico Outer Continental Shelf (OCS)

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Availability of Environmental Documents Prepared for OCS Mineral Exploration Proposals on the Gulf of Mexico OCS.

SUMMARY: The Minerals Management Service (MMS), in accordance with Federal Regulations (40 CFR 1501.4 and 1506.6) that implement the National Environmental Policy Act (NEPA), announces the availability of NEPA-related Environmental Assessments ((EAs) and Findings of No Significant Impact (FONSIs), prepared by the MMS for the following oil and gas exploration activities proposed on the Gulf of Mexico OCS. This listing includes all proposals for which FONSIs were prepared by the Gulf of Mexico OCS in the three month period preceding this Notice.

Activity/operator	Location	Date
Exxon Co., U.S.A., eight exploratory wells, OCS–G 8428.	Destin Dome Block 284, 72 miles southwest of Panama City, FL.	Sept. 13, 1984.

Persons interested in reviewing environmental documents for the proposals listed above or obtaining information about EAs and FONSIs prepared for activities on the Gulf of Mexico OCS are encouraged to contact the MMS office in the Gulf of Mexico OCS Region.

FOR FURTHER INFORMATION CONTACT: Regional Supervisor (LE), Leasing and Environment, Gulf of Mexico OCS Region, Minerals Management Service, Post Office Box 7944, Metairie, Louisiana 70010, Telephone (504) 838–2755.

SUPPLEMENTARY INFORMATION: The MMS prepares EAs and FONSIs for proposals which relates to exploration for and the development/production of oil and gas resources on the Gulf of Mexico OCS. The EAs examine the potential environmental effects of activities described in the proposals and present MMS conclusions regarding the significance of those effects. EAs are used as a basis for determining whether or not approval of the proposals constitutes major Federal actions that significantly affect the quality of the human environment in the sense of NEPA 102(2)(C). A FONSI is prepared in those instances where the MMS finds that approval will not result in significant effects on the quality of the human environment. The FONSI briefly presents the basis for that finding and includes a summary or copy of the EA.

This notice constitutes the public notice of availability of environmental documents required under the NEPA Regulations.

Dated: October 10, 1984.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 84-27531 Filed 10-17-84; 8:45 am]

BILLING CODE 4310-MR-M

DEPARTMENT OF JUSTICE

Proposed Consent Decree in Clean Water Act Enforcement Action; Maine Electronics, Inc.

In accordance with Departmental Policy, 28 C.F.R. 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Maine Electronics, Inc.*, Civil Action No. 84–0317–P (D.Me.) has been lodged with the United States District Court for the District of Maine. The consent decree cites the proposed consolidation of the case with *Sierra Club* v. *Maine Electronics, Inc.*, Civ. No. 84–0141P (D.Me.) and notes a related case of *State of Maine* v. *Maine Electronics* filed in the Superior Court of the State of Maine, Docket No. CV–84–282. The consent decree requires the defendant to install pollution control equipment and comply with a National Pollutant Discharge Elimination System permit and to pay penalties for any future violations of the terms and conditions of the decree. The consent decree further includes a provision for reopening in the event that Maine Electronics does not pay a penalty of $78,500 to the State of Maine for past violations.

The consent decree may be examined at (1) the office of the United States Attorney, District of Maine, 156 Federal Street, Portland, Maine 04104; (2) the Office of Regional Counsel, U.S. Environmental Protection Agency, Region I, John F. Kennedy Federal Building, Boston, Massachusetts 02203; and (3) the Environmental Enforcement Section, Land and Natural Resources Division, United States Department of Justice, Room 1515 Main Justice Building, 10th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail at the Environmental Enforcement Section at a cost of $1.90 per copy ($0.10 per page reproduction charge). In requesting a copy, please refer to *United States* v. *Maine Electronics, Inc.* D.J. #90–5–1–1–2175.

The Department of Justice will receive comments concerning the decree for thirty (30) days from publication of this Notice. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530 and should reference *United States* v. *Maine Electronics, Inc.* DOJ #90–5–1–1–2175.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 84–27539 Filed 10–17–84; 8:45 am]

BILLING CODE 4410–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[84–79]

NASA Advisory Council (NAC), Space and Earth Science Advisory Committee (SESAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space and Earth Science Advisory Committee, Space Station Task Force.

DATE AND TIME: November 13–14, 1984, 8:30 a.m. to 5 p.m., and November 15, 1984, 8:30 a.m. to 3:30 p.m.

ADDRESS: National Aeronautics and Space Administration, Goddard Space Flight Center, Building 8, Room 200, Greenbelt, MD 20771.

FOR FURTHER INFORMATION CONTACT: Dr. Kenneth J. Frost, Code 684.0, NASA/ Goddard Space Flight Center, Greenbelt, MD 20771 (301/344–8167).

SUPPLEMENTARY INFORMATION: The Space Station Task Force was established under the NAC Space and Earth Science Advisory Committee to counsel NASA on plans for and work in progress on the scientific utilization of the new capabilities which will be afforded by the Space Station, including the relationship of these plans to the existing space science program. The meeting will be open to the public up to the seating capacity of the room (approximately 50 persons including Committee members and other participants). Topics under discussion at this meeting will include status reports on the Space Station Task Force and the Earth System Sciences Committee (ESSC); the Space Science Board Long Range Planning; and the activities of the Office of Science and Technology Policy in regard to the Space and Earth Science Program.

Type of meeting: Open.

Agenda

November 13, 1984

8:30 a.m.—Welcome and Update on Task Force Activities.
9:30 a.m.—Support Needs of Office of Space Science & Applications.
10:30 a.m.—Support Needs of Office of Space Station (OSS).
1:15 p.m.—Report on NASA Advisory Council Meeting at Woods Hole.
2 p.m.—Team Meetings.
3:45 p.m.—Report by team leaders.
5 p.m.—Adjourn.

November 14, 1984

8:30 a.m.—Office of Space Science and Applications Budget Trends.
9:30 a.m.—Space Station Implied Costs.
12:45 p.m.—Space Station/User Interaction.
3:15 p.m.—Discussion of 1985 Tasks.
5 p.m.—Adjourn.

November 15, 1984

8:30 a.m.—Space Station Performance Envelope.
10:15 a.m.—Office of Technology Assessment Report.
11 a.m.—Final Report Comments.
12:45 p.m.—End-to-End Data Systems
3:30 p.m.—Adjourn.

Dated: October 11, 1984.

Richard L. Daniels,

Deputy Director, Logistics Management and Information Programs Division, Office of Management.

[FR Doc. 84–27508 Filed 10–17–84; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Council on the Arts; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the National Council on the Arts will be held on November 2–4, 1984, from 9:00 a.m.–5:30 p.m. in room M–09 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, D.C. 20506.

A portion of this meeting will be open to the public on November 2, from 9:00 a.m.–4:00 p.m. and on November 3, from 9:00 a.m.–5:30 p.m. The topics for discussion will include Program Review and Guidelines for: Design Arts, Media Arts, Dance Touring Initiative, Locals Test Pilot, Music Presenters and Festivals, Visual Arts Organizations and Dance; Policy Questions regarding Service Organizations, Publications, Arts Education and Criticism.

The remaining sessions of this meeting on November 2, from 4:00–5:30 p.m. and on November 4, from 9:00–5:30 p.m. are for the purpose of Council review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants, and for discussion of internal practices. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (2), (4), (6) and (9) (B) of section 552b, Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682–5433.

Dated: October 15, 1984.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 84–27578 Filed 10–17–84; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL SCIENCE FOUNDATION

Permit Application Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of Permit Application Received Under Antarctic Conservation Act of 1978, Pub. L. 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act of 1978 at Title 45 Part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATE: Interested parties are invited to submit written data, comments, or views with respect to this permit application by November 9, 1984. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESS: Comments should be addressed to Permit Office, Room 627, Division of Polar Programs, National Science Foundation, Washington, D.C. 20550.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers at the above address or (202) 357–7934.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541), has developed regulations that implement the "Agreed Measures for the Conservation of Antarctic Fauna and Flora" for all United States citizens. The Agreed Measures, developed in 1964 by the Antarctic Treaty Consultative Parties, recommended establishment of a permit for various activities in Antarctica and designation of certain animals and certain geographic areas as requiring special protection. The regulations establish such a permit system to designate Specially Protected Areas and Sites of Special Scientific Interest. Additional information was published in the 30 July 1984 **Federal Register**, page 30377.

The application received is as follows:

1. *Applicant:* Phillip R. Kyle, New Mexico Institute of Mining and Technology, Socorro, New Mexico 87801.

Activity for Which Permit Requested: Enter Site of Special Scientific Interest.

The applicant proposes to enter Site of Special Scientific Interest No. 4—Cape Crozier to collect rock samples, particularly ultra-basic inclusions from the Ross Island volcanic complex. These rocks are not readily accessible anywhere else.

Location: Cape Crozier, Ross Island, Antarctica.

Dates: November 10, 1984 through January 31, 1985.

Authority to publish this notice has been delegated by the Director, NSF to the Director, Division of Polar Programs.

Peter E. Wilkniss,

Division Director, Division of Polar Programs.

[FR Doc. 84–27523 Filed 10–17–84; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Panel for the Decontamination of Three Mile Island, Unit 2; Meeting

Notice is hereby given pursuant to the Federal Advisory Committee Act that the Advisory Panel for the Decontamination of Three Mile Island Unit 2 (TMI–2) will be meeting on November 8, 1984, from 7:00 p.m. to 10:00 p.m. at the Lancaster Council Chambers, Public Safety Building, 201 N. Duke Street, Lancaster, Pennsylvania 17603. The meeting will be open to the public.

At the meeting the Panel will receive reports from the licensee and U.S. Environmental Protection Agency on the results of onsite and offsite Krypton 85 monitoring during the reactor pressure vessel head lift operation. The Department of Health, Commonwealth of Pennsylvania, will present a summary of health related studies conducted in the vicinity of the TMI site since the accident. The licensee will also brief the Panel on their investigation into a recently discovered instance of apparent noncompliance with administrative procedures that occurred during the refurbishment of the polar crane.

Further information on the meeting may be obtained from Dr. Michael T. Masnick, Three Mile Island Program Office, U.S. Nulcear Regulatory Commission, Washington, DC 20555, telephone 301/492–7466.

Dated: October 15, 1984.

John C. Hoyle,

Advisory Committee, Management Officer.

[FR Doc. 84–27582 Filed 10–17–84; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–155]

Consumers Power Co.; Issuance of Amendment to Operating License and Negative Declaration

Pursuant to the Atomic Safety and Licensing Board's (ASLB), "Initial Decision," dated August 29, 1984 and "Supplemental Initial Decision," dated September 25, 1984, the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 70 to Facility Operating License No. DPR–6 to Consumers Power Company (the licensee), which revised the license and the Technical Specifications for operation of the Big Rock Point Plant. The Big Rock Point Plant is located in Charlevoix County, Michigan. The amendment is effective as of the date of issuance.

The amendment authorizes an increase in the spent fuel pool storage capacity from 193 assemblies to 441 assemblies. The amendment also adds seven conditions to the license as a result of the ASLB's "Initial Decision," dated August 29, 1984. Also, the amendment adds Technical Specifications which:

(1) Limit the fuel loading of assemblies placed in the pool to a maximum of 28.3 grams of uranium-235 per axial centimeter.

(2) Require the spent fuel pool remote makeup system to be operable during power operation.

(3) Limit the maximum spent fuel pool heat load during operation such that a maximum pool temperature of 150°F will not be exceeded if normal pool cooling is lost.

(4) Require functional testing of the trip mechanism on the spent fuel transfer cask safety sling.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. This amendment completes the proposed action encompassed within the scope of the Notice of Proposed Issuance of Amendment to Facility Operating License which was published in the **Federal Register** on July 23, 1979 (44 FR 43126). In a Board order dated January 17, 1980, the ASLB granted the petitions of Ms. Christa-Maria, Ms. Joanne Bier and Mr. Jim Mills (as a single party intervenor), and Mr. John O'Neill to intervene. The ASLB's "Supplemental Initial Decision," dated September 25, 1984, completes this portion of the adjudicatory process.

The Commission has issued an Environmental Impact Appraisal dated May 15, 1981 and revised May 10, 1982, for this action and has concluded that an Environmental Impact Statement for this action is not warranted because the action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see (1) the application for

amendment dated June 26, 1979; also see licensee letters dated April 23, 1979, July 6, 1979, October 1, 1979, October 19, 1979, October 25, 1979, December 28, 1979, January 7, 1980, January 16, 1980, February 1, 1980, June 26, 1980, August 11, 1980, August 14, 1980, December 5, 1980, May 8, 1981, May 8, 1982, October 29, 1982, January 10, 1983, April 14, 1983, June 8, 1983, June 10, 1983, July 12, 1983, August 3, 1983, August 9, 1983, September 9, 1983, September 14, 1983, September 28, 1983, October 7, 1983, October 25, 1983, October 27, 1983, December 16, 1983, February 20, 1984, and April 6, 1984; (2) Amendment No. 70 to License No. DPR–6; (3) the Commission's related Safety Evaluation and Environmental Impact Appraisal, dated May 15, 1981 with revisions and supplements dated May 10, 1982, September 30, 1983, and November 17, 1983; and (4) the ASLB's Initial Decisions dated August 6, 1982, September 14, 1982, September 15, 1982, August 1, 1983, August 29, 1984, and September 25, 1984. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the North Central Michigan College, 1515 Howard Street, Petoskey, Michigan 49770. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director of Licensing.

Dated at Bethesda, Maryland, this 11 day of October 1984.

For the Nuclear Regulatory Commission.

Walter A. Paulson,

Acting Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 84–27586 Filed 10–17–84; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Federal Prevailing Rate Advisory Committee; Open Committee Meeting

According to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on:

Thursday, November 1, 1984
Thursday, November 8, 1984
Thursday, November 29, 1984.

These meetings will start at 10 a.m. and will be held in Room 5A06A, Office of Personnel Management Building, 1900 E Street NW., Washington, D. C.

The Federal Prevailing Rate Advisory Committee is composed of a Chairman, representatives from five labor unions holding exclusive bargaining rights for Federal blue-collar employees, and representatives from five Federal agencies. Entitlement to membership of the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the Prevailing Rate System and other matters pertinent to establishing prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management.

These scheduled meetings will start in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chairman to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would unacceptably impair the ability of the Committee to reach a consensus on the matters being considered and would disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public because of a determination made by the Director of the Office of Personnel Management under the provisions of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463) and 5 U.S.C. 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

Annually, the Committee publishes for the Office of Personnel Management, the President, and Congress a comprehensive report of pay issues discussed, concluded recommendations, and related activities. These reports are available to the public, upon written request to the Committee's Secretary.

The public is invited to submit material in writing to the Chairman on Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information on these meetings may be obtained by contacting the Committee's Secretary, Office of Personnel Management, Federal Prevailing Rate Advisory Committee, Room 1340, 1900 E Street NW., Washington, D.C. 20415, (202) 632–9710).

Dated: October 10, 1984.

William B. Davidson, Jr.,

Chairman, Federal Prevailing Rate Advisory Committee.

[FR Doc. 84–27469 Filed 10–17–84; 8:45 am]

BILLING CODE 6325–01–M

POSTAL RATE COMMISSION

[Order No. 583; Docket No. A85–1]

Ames, Nebraska 68621 (Veronica Flamme, James L. Poulas, Petitioners); Order Accepting Appeal and Establishing Procedural Schedule

Issued: October 12, 1984.

Before Commissioners: Janet D. Steiger, Chairman; Henry R. Folsom, Vice-Chairman; Simeon M. Bright, John W. Crutcher; James H. Duffy.

Docket No.: A85–1.

Name of Affected Post Office: Ames, Nebraska.

Name(s) of Petitioner(s): Veronica Flamme, James L. Poulas.

Type of Determination: Consolidation.

Date of Filing of Appeal Papers: October 1, 1984.

Categories of Issues Apparently Raised:

1. Whether the petition was timely filed, so as to give the Commission jurisdiction to hear the appeal.

2. Effect on employees [39 U.S.C. 404(b)(2)(B)].

3. Effect on postal services [39 U.S.C. 404(b)(2)(C)].

Other legal issues may be disclosed by the record when it is filed; or, conversely, the determination made by the Postal Service may be found to dispose of one or more of these issues.

In the interest of expedition within the 120-day decision schedule [39 U.S.C. 404(b)(5)] the Commission reserves the right to request of the Postal Service memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request; a copy shall be served on the Petitioners. The record in this case was filed on October 5, 1984. On October 5, 1984, the Service filed a motion to dismiss Veronica Flamme's appeal. As the proceeding is established by this Order, the Postal Service motion of October 5, 1984, to dismiss the proceeding is accepted. We also note that we received an appeal letter from James L. Poulas on September 28, 1984. Petitioners have 20 days from the date of this Order to file a response.

The Commission orders:

(A) Petitioner's response to the Postal Service Motion to Dismiss shall be filed within 20 days from the date of this Order.

(B) The Secretary shall publish this Notice and Order and Procedural Schedule in the Federal Register.

By the Commission.

Charles L. Clapp,

Secretary.

Appendix

October 1, 1984, Filing of Petition
October 12, 1984, Notice and Order of Filing of Appeal
October 26, 1984, Last day for filing of petitions to intervene [*see* 39 CFR 3001.111(b)]
November 5, 1984, Petitioner's Participant Statement or Initial Brief [*see* 39 CFR 3001.115 (a) and (b)]
November 26, 1984, Postal Service Answering Brief [*see* 39 CFR 3001.115(c)]
December 11, 1984, (1) Petitioner's Reply Brief should petitioner choose to file one [*see* 39 CFR 3001.115(d)]
December 18, 1984, (2) Deadline for motions by any party requesting oral argument. The Commission will exercise its discretion, as the interest of prompt and just decision may require, in scheduling or dispensing with oral argument [*see* 39 CFR 3001.116]
January 29, 1985, Expiration of 120-day decisional schedule [*see* 39 U.S.C. section 404(b)(5)].

[FR Doc. 84-27535 Filed 10-16-84; 8:45 am]

BILLING CODE 7715-01-M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash (202) 272-2142.

Upon Written Request Copy Available from: Securities and Exchange Commission, Office of Consumer Affairs and Information Services, 450 5th Street, NW., Washington, DC 20549.

Form N-30A-2 [17 CFR 274.102]
Form N-30A-3 [17 CFR 274.103]
File No. 270-52

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for extension of OMB approval Forms N-30A-2 and N-30A-3. Form N-30A-2 is the annual report form for unit investment trusts which are currently issuing securities and Form N-30A-3 is the annual report for unincorporated management investment companies currently issuing periodic payment plan certificates. Such reports permit the Commission, shareholders and the investing public to monitor the operations of registered investment companies.

Comments should be submitted to OMB Desk Officer: Ms. Katie Lewin, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503.

Dated: October 1, 1984.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-27506 Filed 10-17-84; 8:45 am]

BILLING CODE 8010-01-M

Forms Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272-2142.

Upon written request, copy available from: Securities and Exchange Commission, Office of Consumer Affairs and Information Services, 450 5th Street, NW., Washington, D.C. 20549.

Approval

Proposed Rule 26a-3 [17 CFR 270.26a-3]
File No. 270-293

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for clearance proposed Rule 26a-3, which would exempt insurance company separate accounts that offer variable annuity contracts from provisions of the Investment Company Act of 1940 to permit the deduction of certain risk charges from account assets. Adoption of this rule would obviate the need for the filing of exemptive orders with the Commission to permit such deductions.

Comments should be submitted to OMB Desk Officer: Katie Lewin, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235 NEOB, Washington, D.C. 20503.

Dated: October 12, 1984.

Shirley E. Hollis,

Acting Secretary

[FR Doc. 84-27507 Filed 10-17-84; 8:45 am]

BILLING CODE 8010-01-M

Forms Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272-2142.

Upon Written Request Copy Available From: Securities and Exchange Commission, Office of Consumer Affairs and Information Services, 450 5th Street, NW., Washington, DC 20549.

Extension

Form N-8b-3 [17 CFR 274.13]
File No. 270.179

Form N-8b-4 [17 CFR 274.14]
File No. 270.180

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for extension of OMB approval Form N-8b-3, the registration statement used by unincorporated management investment companies currently issuing periodic payment plan certificates to register as investment companies under the Investment Company Act of 1940, and Form N-8b-4, the registration statement designated for use by face-amount certificate companies.

Comments should be submitted to OMB Desk Officer: Ms. Katie Lewin, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235 NEOB, Washington, D.C. 20503.

Dated: October 11, 1984.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 27598 Filed 10-17-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-21391; File No. SR-PHLX 84-21]

Self-Regulatory Organizations; Proposed Rule Change by Philadelphia Stock Exchange, Inc.; Relating to Listing of Foreign Currency Options Series of Twelve Month Duration

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on September 21, 1984, Philadelphia Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Philadelphia Stock Exchange, Inc. ("PHLX" or "Exchange") proposes to amend Rule 1012 entitled "Series of Options Open for Trading" in order to permit the listing of foreign currency options which expire in twelve months.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statements of the Purpose of, and Statutory Basis for the Proposed Rule Change

The purpose of the proposed rule change is to permit up to four expiration months for foreign currency options, with the longest having an expiration period of twelve months.

The PHLX perceives that the current lack of an option exceeding nine months on a best case basis and six months on a worst case basis has acted and will continue to act as a disincentive to corporate treasurers who may desire to replace or supplement their interbank forward marking hedging of their foreign currency risk with PHLX foreign currency options. In the PHLX's discussions with various individuals employed by multinational corporations to hedge such risk, the lack of twelve month foreign currency options series has been cited as an advantage of foreign currency forward hedging when compared with foreign currency options hedging. In addition, the competitive over-the-counter foreign currency options market offers twelve month contracts. The PHLX thus believes that its inability to offer a twelve month foreign currency options contract has acted and will continue to act as a disincentive to the use of foreign currency options by multinational corporations.

The statutory basis for the proposed rule change is found in section 6(b)(5) of the Securities Exchange Act of 1934 ("Act") which provides, in pertinent part, that the rules of the Exchange be designed to facilitate transactions in securities and to protect investors and the public interest.

B. Self-Regulatory Organizations Statement on Burden on Competition

The PHLX believes that the proposed rule change will not impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or,

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by November 8, 1984.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 10, 1984.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-27580 Filed 10-17-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-21382; File No. SR-PHLX 84-19]

Self-Regulatory Organizations; Proposed Rule Change by Philadelphia Stock Exchange, Inc.; Relating to Options on the Value Line Stock Average Index

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on September 27, 1984, Philadelphia Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Philadelphia Stock Exchange, Inc. ("PHLX" or "Exchange") hereby proposes to trade options on the Value Line Average Stock Index. These options will be traded pursuant to current PHLX rules governing the trading of index options. (See particularly PHLX Rules 1000A through 1103A and generally PHLX Rules 1000 through 1070).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statements of the Purpose of, and Statutory Basis for the Proposed Rule Change

The purpose of the proposed rule change is to accommodate options trading on the Value Line Average Stock Index. The specifications of the Value Line Average Stock Index option contract are as follows:

Ticker Symbol: XVL.

Underlying Index: The Value Line Average Stock Index is an unweighted broad-based index currently composed

of 1,693 stocks of which 1,502 are industrial, 177 are utility, and 14 are rail stocks. Collectively these stocks account for approximately 96 percent of all dollar trading volume in U.S. equity markets and are regularly reviewed in the "Value Line Investment Survey." The majority, or approximately 80 percent of the stocks composing this index, are listed on the New York Stock Exchange, and the remainder are listed on the American Stock Exchange. The Value Line Average Stock Index measures the average percent of change of the market price of these issues. Futures on the Value Line Index have been traded on the Kansas City Board of Trade since February 24, 1984. The specifications of the Value Line Average Stock Index are as follows:

Unit of Trading: Each contract will represent $100, the index multiplier, times the index value. For example, an index value of 180 will result in a dollar contract value of $18,000 ($100 × 180).

Exercise Prices: Exercise prices will be set at five point intervals in terms of the current value of index. Additional exercise prices will be added whenever the index value touches the highest or lowest existing exercise price. For example, assume exercise prices of 165, 170, and 175 are outstanding. When the index reaches 175, the PHLX would normally add an exercise price of 180.

Aggregate Exercise Price: This aggregate exercise price is found by multiplying the index multiplier ($100) by the exercise price.

Expiration Cycle: The PHLX will trade consecutive and cycle month series pursuant to PHLX Rule 1101A.

Premium Quotions: Premiums will be expressed in terms of dollars and fractions of dollars pursuant to PHLX Rule 1033A. For example, a bid or offer of 1–¼ will represent a premium per contract of $125 (1–¼ × $100).

Position and Exercise Limits: The PHLX will employ position and exercise limitations pursuant to PHLX Rules 1001A and 1002A which shall not be larger than the equivalent of $300 million on the same side of the market.

The most current price of each of the separate issues comprising the index is divided by the price of the issue at the time of the preceding value computation, with the preceding price being index at 100. The resulting indices of change in price are geometrically averaged [1] for 1693 issues in the index. The geometric average of change in price is then multiplied by the value of the index at the preceding computation to arrive at the latest value.

When stock splits or dividends occur, the preceding day's price is adjusted accordingly and the index of change computed thereafter. Also, as stocks are added to or deleted from the Value Line Investment Survey the average is adjusted accordingly.

The Value Line Stock Average Index will be updated dynamically every minute during the trading day. PHLX will retain Bridge Data, Inc, to compute the Value Line Stock Average Index. Pursuant to PHLX Rule 1100A, updated index values will be disseminated and displayed by means of the Consolidated Last Sale Reporting System and the facilities of the Options Price Reporting Authority. The index value will also be available on broker-dealer interrogation devices to subscribers of the information. In addition, the closing index value will be published in "The Wall Street Journal" and other financial publications.

B. Self-Regulatory Organizations Statement on Burden on Competition

The Exchange does not believe the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commissioin will:

(A) By order approve such proposed rule change, or,

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by November 8, 1984.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 10, 1984.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-27595 Filed 10-17-84; 8:45 am]

BILLING CODE 8010-01-M

[1] A geometric average is defined as the nth root of the product of items. A geometric average of N items is: the product of all N items. Thus, the geometric average of three items is the cube root of the product of the three items. *I.e.*, the geometric average of 3, and 4, and 5 (3 times) is: $3 \times 4 \times 5 = 60 = 3.91$.

In the case of the Value Line Composite Average Stock Index the geometric average is the 1693rd root of the product of 1693 ratios.

SMALL BUSINESS ADMINISTRATION

[Designation of Disaster Loan Area No. 6221]

Georgia; Designation of Disaster Loan Area

Chatham, Bryan, Liberty, McIntosh, Glynn, and Camden Counties in the State of Georgia constitute a disaster area because of the severe freeze which occurred in December 1983, which impacted adversely on spawning of shrimp and is now resulting in extraordinarily low landing of shrimp. Eligible small businesses without credit elsewhere and small agricultural cooperatives without credit elsewhere may file applications for economic injury assistance until the close of business on July 11, 1985, at the address listed below: Disaster Area 2 Office, Small Business Administration, Richard B. Russell Federal Bldg., 75 Spring St., S.W., Suite 822, Atlanta, Georgia 30303, or other locally announced locations. The interest rate for eligible small business applicants without credit elsewhere is 4% and 10.5% for eligible small agricultural cooperatives without credit elsewhere.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: October 11, 1984.

James C. Sanders,

Administrator.

[FR Doc. 84-27591 Filed 10-17-84; 8:45 am]

BILLING CODE 8025-01-M

Florida; Region IV Advisory Council Meeting

The U.S. Small Business Administration Region IV Advisory Council located in the geographical area of Miami, Florida, will hold a public meeting at 9:00 a.m., on Wednesday, October 24, 1984, at the Miami Airport Inn-Best Western, 1550 N.W. LeJeune Road, Miami, Florida, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others.

For further information, write or call John L. Carey, District Director, U.S. Small Business Administration, 2222 Ponce de Leon Blvd., 5th Floor, Coral Gables, Florida 33134. Telepone (305) 350-5533.

Dated: October 11, 1984.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 84-27589 Filed 10-17-84; 8:45 am]

BILLING CODE 8025-01-M

Kentucky; Region IV Advisory Council Meeting

The U.S. Small Business Administration Region IV Advisory Council, located in the geographical area of Louisville, Kentucky will hold a public meeting at 10:00 a.m., on Friday, November 16, 1984, at the Louisville District Office, 600 Federal Place, Room 188, Louisville, Kentucky, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, P.O. Box 3517, Louisville, KY 40201—(502) 582-5971.

Dated: October 11, 1984.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 84-27580 Filed 10-17-84; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[CM-8/776]

National Committee on the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that the National Committee of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on November 19, 1984 at 10:00 a.m. in Room 1107, Department of State, 2201 C Street, NW., Washington, D.C.

The National Committee assists in the resolution of administrative/procedural problems pertaining to U.S. CCITT activities; provides advice on matters of policy and positions in the preparation for CCITT Plenary Assemblies and meetings of the International Study Groups; provides advice and recommendations in regard to the work of the U.S. CCITT Study Groups; and recommends the disposition of proposed U.S. contributions to the international CCITT which are submitted to the Committee for consideration.

The purpose of the meeting on November 19 is to review the results of the VIIIth CCITT Plenary Assembly (October 8-19, 1984, Malaga-Torremolinos, Spain) and to take steps to establish the work program for the 1985-1988 plenary period within the U.S. National Committee.

Members of the general public may attend the meeting and join in the discussion subject to instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. It is requested that prior to the meeting, persons who plan to attend, so advise Mr. Earl Barbely, Department of State; telephone (202) 632-3405. All attendees must use the C Street entrance to the building.

Dated: October 1, 1984.

Earl S. Barbely, Chairman,

U.S. CCITT National Committee.

[FR Doc. 84-27573 Filed 10-7-84; 8:45 am]

BILLING CODE 4710-07-M

[CM-8/778]

Secretary of State's Advisory Committee on Private International Law; Study Group on Arbitration; Meeting

There will be a meeting of the Study Group on Arbitration, a study group of the subject Advisory Committee, at 10:30 a.m. on Friday, November 30, 1984, at the United States Mission to the United Nations in New York City. Members of the general public may attend up to the capacity of the meeting room and participate in the discussion subject to instructions of the Chairman.

The primary purpose of the meeting is to consider draft United States government comments on the draft model law on international commercial arbitration which has been prepared by a working group of the United Nations Commission on International Trade Law (UNCITRAL). United States comments will then be finalized and forwarded to the Secretary of UNCITRAL. An analytical compilation of the comments received from governments and international organizations will be placed before UNCITRAL at its eighteenth plenary session in June 1985. At that session the draft model law will be reviewed and subsequently submitted, in its final form, to the United Nations General Assembly.

The United States Mission is located at the corner of 45th Street and First Avenue. Participants in the meeting should use the auditorium entrance on 45th Street. As entry is controlled and will be facilitated by advance arrangements, members of the general public planning to attend are requested, no later than November 28, 1984, to notify Mrs. Rochelle Mendoza, Office of the Assistant Legal Adviser for Private International Law, Department of State, Washington, DC (telephone (202) 632-8134), of their name, affiliation, address, and phone number.

Members of the general public who wish to receive copies of the draft model law and the draft comments prior to the meeting should direct their requests to Mrs. Mendoza.

Dated: September 27, 1984.

George Taft,

Attorney-Adviser.

[FR Doc. 84-27571 Filed 10-17-84; 8:45 am]

BILLING CODE 4710-08-M

[CM-8/779]

Shipping Coordinating Committee; Subcommittee on Safety of Life at Sea; Working Group on Radio Communications; Meeting

The Working Group on Radio Communications of the Subcommittee on Safety of Life at Sea will conduct an open meeting on November 21 at 9:30 AM in Room 8336 of the Department of Transportation, 400 Seventh Street, SW., Washington, D.C.

The purpose of the meeting is to prepare position documents for the Twenty-eighth Session of the Subcommittee on Radiocommunications of the International Maritime Organization to be held in London in April 1985. The working group will discuss the following topics:

Maritime Distress System
Digital Selective Calling

Satellite Emergency Position Indicating Radio Beacon (EPIRBs)
Preparations for the International Telecommunication Union (ITU) World Administrative Radio Conference (WARC) for Mobile Telecommunications
Preparations for International Radio Consultative Committee (CCIR) Study Group 8

Members of the public may attend up to the seating capacity of the room.

For further information contact Mr. Richard Swanson, U.S. Coast Guard Headquarters (G-TTP-3/63), 2100 Second Street, SW., Washington, D.C. 20593. Telephone: (202) 426-1231.

Dated: October 1, 1984.

Samuel V. Smith,

Executive Secretary, Shipping Coordinating Committee.

[FR Doc. 84-27370 Filed 10-17-84; 8:45 am]
BILLING CODE 4710-07-M

[CM-8/775]

Study Group C of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that Study Group C of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on November 19, 1984 at 9:30 a.m., Room 1406 of the Department of State, 2201 C Street, NW., Washington, D.C.

The meeting will be concerned with visual telephony.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled. All persons wishing to attend the meeting must contact the office of Mr. Earl Barbely, Department of State, Washington, D.C.; telephone (202) 632-3405. All attendees must use the C Street entrance to the building.

Dated: October 1, 1984.

Earl S. Barbely,

Chairman, U.S. CCITT National Committee.

[FR Doc. 27374 Filed 10-17-84; 8:45 am]
BILLING CODE 4710-07-M

[CM-8/777]

Study Group CMTT of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Group CMTT of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on November 7, 1984, in Conference Room B, 19th Floor, AT&T Building, 1120 20th Street, NW., Washington, D.C. The meeting will begin at 9:30 a.m.

Study Group CMTT deals with the specifications to be satisfied by telecommunication systems for transmission of radio and television programs over long distances. The purpose of the meeting will be to prepare the work program for the meeting of international Study Group CMTT in October 1985.

Members of the general public may attend the meeting and join in the discussions subject to the instructions of the Chairman. Requests for further information should be directed to Mr. Richard Shrum, State Department, Washington, D.C. 20520; telephone (202) 632-2592.

Dated: October 2, 1984.

Richard E. Shrum,

Chairman, U.S. National CCIR Committee.

[FR Doc. 27372 Filed 10-17-84; 8:45 am]
BILLING CODE 4710-07-M

[CM-8-774]

Study Group D of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that Study Group D of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on November 8, 1984 at 9:00 a.m. in Room 1107, Department of Commerce Building, 325 South Broadway, Boulder, Colorado.

This Study Group deals with matters in telecommunication relating to the development of international digital data transmission. The purpose of the meeting is to discuss U.S. objectives for work under new CCITT Question 4/VII "Connectionless Service in Public Networks".

Members of the general public may attend the meeting and join in the discussion subject to the instructions of the Chairman. Requests for further information may be directed to Mr. Earl S. Barbely, State Department, Washington, D.C. 20520; telephone (202) 632-3405.

Dated: October 2, 1984.

Richard E. Shrum,

Acting Director, Office of International Communications Policy.

[FR Doc. 84-27375 Filed 10-17-84; 8:45 am]
BILLING CODE 4710-07-M

[CM-8/780]

UNESCO Monitoring Panel; Meeting

The UNESCO Monitoring Panel will meet November 9-10 at the University of South Carolina, Campstone Building, Columbia, South Carolina. The morning session of the meeting on November 9 will commence at 9:00 a.m. and will be open to the public. The Friday afternoon and the Saturday morning sessions will be closed to the public as they will involve discussion and drafting of the Panel's final report to the Secretary.

The purpose of this last meeting of the UNESCO Monitoring Panel is to discuss the Panel's monitoring activities, decide on their recommendations to the Secretary and draft their final report. The principal agenda items will include:

(a) Discussion of the results of the 120th Executive Board;

(b) Reports of the informal Task Forces;

(c) Drafting of the Final Report.

The first two agenda items will be discussed in the open session, the morning of November 9. The Panel will reconvene in an afternoon session to draft the final report, and hold a session the morning of November 10, if needed to finish drafting. This segment of the Panel's meeting has been closed pursuant to section 10(d) of the Federal Advisory Committee Act and section 5 U.S.C. b(c)(9)(b).

The public may attend the open portion of the meeting up to the seating capacity of the room. Members of the public may present written statements. Any oral interventions by interested members of the public will be made at the discretion of the Chairman.

For further information, call or write the Executive Secretary of the UNESCO Monitoring Panel, Mr. Lee Sanders, or Assistant Executive Secretary, Ms. Jamie Miller at: IO/CU Room 4808, Department of State, 21st and C Streets, NW., Washington, D.C. 20250, (202) 632-2674.

Dated: September 25, 1984.

Jamie Miller,

Acting Executive Secretary, UNESCO Monitoring Panel.

[FR Doc. 84-27588 Filed 10-17-84; 8:45 am]

BILLING CODE 4710-16-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD-84-078]

National Boating Safety Advisory Council; Subcommittee on Boat Pox (osmotic blistering); Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 94-463; 5 U.S.C. App. 1), notice is hereby given of a meeting of the National Boating Safety Advisory Council's Subcommittee on Boat Pox (osmotic blistering) to be held on Wednesday, November 14, 1984 at the Sheraton New Orleans, 500 Canal Street, New Orleans, Louisiana, beginning at 2:00 p.m. and ending at 5:00 p.m. The agenda for the meeting will be as follows:

1. Review and discuss the Subcommittee's Task Statement.
2. Review Subcommittee's findings thus far.
3. Formulate plans for further action.

Attendance is open to the interested public. With advance notice to the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should so notify the Executive Director no later than the day before the meeting. Any member of the public may present a written statement to the Council at any time. Additional information may be obtained from Captain R.F. Ingraham, Executive Director, National Boating Safety Advisory Council, U.S. Coast Guard (G-BBS), Washington, DC 20593, or by calling (202) 426-1080.

Issued in Washington, DC, October 15, 1984.

A.D. Breed,

Commodore, U.S. Coast Guard, Chief, Office of Boating, Public, and Consumer Affairs.

[FR Doc. 84-27563 Filed 10-17-84; 8:45 pm]

BILLING CODE 4910-14-M

[CGD-84-080]

National Boating Safety Advisory Council; Subcommittee on Capacity Plate Replacement; Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1), notice is hereby given of a meeting of the National Boating Safety Advisory Council's Subcommittee on Capacity Plate Replacement to be held on Wednesday, November 14, 1984 at the Sheraton New Orleans, 500 Canal Street, New Orleans, Louisiana, beginning at 2:00 p.m. and ending at 5:00 p.m. The agenda for the meeting will be as follows:

1. Review and discuss the Subcommittee's Task Statement.
2. Review Subcommittee's findings thus far.
3. Prepare report for full Council.

Attendance is open to the interested public. With advance notice to the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should so notify the Executive Director no later than the day before the meeting. Any member of the public may present a written statement to the Council at any time. Additional information may be obtained from Captain R. F. Ingraham, Executive Director, National Boating Safety Advisory Council, U.S. Coast Guard, (G-BBS), Washington, DC, 20593, or by calling (202) 426-1080.

Issued in Washington DC, October 15, 1984.

A.D. Breed,

Commodore, U.S. Coast Guard, Chief, Office of Boating, Public and Consumer Affairs.

[FR Doc. 84-27564 Filed 10-17-84; 8:45 am]

BILLING CODE 4910-14-M

[CGD-84-076]

National Boating Safety Advisory Council; Subcommittee on Consumer Education; Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1), notice is hereby given of a meeting of the National Boating Safety Advisory Council's Subcommittee on Consumer Education to be held on Wednesday, November 14, 1984 at the Sheraton New Orleans, 500 Canal Street, New Orleans, Louisiana, beginning at 2:00 p.m. and ending at 5:00 p.m. The agenda for the meeting will be as follows:

1. Review and discuss the Subcommittee's Task Statement.
2. Review Subcommittee's finding thus far.
3. Formulate plans for further action.

Attendance is open to the interested public. With advance notice to the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should so notify the Executive Director no later than the day before the meeting. Any member of the public may present a written statement to the Council at any time. Additional information may be obtained from Captain R.F. Ingraham, Executive Director, National Boating Safety Advisory Council, U.S. Coast Guard (G-BBS), Washington, DC 20593, or by calling (202) 426-1080.

Issued in Washington, DC, October 15, 1984.

A.D. Breed,

Commodore, U.S. Coast Guard, Chief, Office of Boating, Public, and Consumer Affairs.

[FR Doc. 84-27566 Filed 10-17-84; 8:45 am]

BILLING CODE 4910-14-M

[CGD-84-079]

National Boating Safety Advisory Council; Subcommittee on Visual Distress Signals; Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1), notice is hereby given of a meeting of the National Boating Safety Advisory Council's Subcommittee on Visual Distress Signals to be held on Wednesday, November 14, 1984 at the Sheraton New Orleans, 500 Canal Street, New Orleans, Louisiana, beginning at 2:00 p.m. and ending at 5:00 p.m. The agenda for the meeting will be as follows:

1. Review and discuss the safety and useful life of various distress signals.
2. Fomulate plans for further action.

Attendance is open to the interested public. With advance notice to the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should so notify the Executive Director no later than the day before the meeting. Any member of the public may present a written statement to the Council at any time. Additional information may be obtained from Captain R. F. Ingraham, Executive Director, National Boating Safety Advisory Council, U.S. Coast Guard, (G-BBS), Washington, DC, 20593, or by calling (202) 426-1080.

Issued in Washington, DC, October 15, 1984.

A. D. Breed,

Commodore, U.S. Coast Guard Chief, Office of Boating, Public, and Consumer Affairs.

[FR Doc. 84-27562 Filed 10-17-84; 8:45 am]

BILLING CODE 4910-14-M

[CGD-84-077]

National Boating Safety Advisory Council; Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S..C App. 1), notice is hereby given of a meeting of the National Boating Safety Advisory Council to be held on Thursday and Friday, November 15 & 16, 1984, at the Sheraton New Orleans Hotel, 500 Canal Street, New Orleans, Louisiana, beginning at 9:00 a.m. and ending at 4:00 p.m. on both days. The agenda for the meeting will be as follows:

1. Introduction of new Council Members.
2. Review of action taken at the 33rd meeting of the Council.
3. Members' items.
4. Executive Director's report.
5. Consumer Education Subcommittee report.
6. Capacity Plate Replacement Subcommittee report.
7. Status report on the hybrid personal flotation device project.
8. Subcommittee on Boat Box (osmotic blistering) report.
9. Visual Distress Signal Life Expectancy Subcommittee report.
10. Discussion on Safe Powering Regulations.
11. Discussion on alcohol as a gasoline additive.
12. Remarks by Chief, Office of Boating, Public, and Consumer Affairs.
13. Reply to members' items.
14. Chairman's session.

Attendance is open to the interested public. With advance notice to the chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should so notify the Executive Director no later than the day before the meeting. Any member of the public may present a written statement to the Council at any time. Additional information may be obtained from Captain R. F. Ingraham, Executive Director, National Boating Safety Advisory Council, U.S. Coast Guard, (G-BBS), Washington, DC, 20593, or by calling (202) 426-1060.

Issued in Washington DC., October 15, 1984.

A.D. Breed,

Commodore, U.S. Coast Guard Chief, Office of Boating, Public, and Consumers Affairs.

[FR Doc. 84-27586 Filed 10-17-84; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

Heliport Design Guide Workshop

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice on Workshop.

SUMMARY: This notice announces a workshop to obtain industry input on revised guidelines for heliport design. The results of a 1-year FAA Technical Study of requirements for VFR and IFR Heliports will be discussed, as well as the contents of the draft AC 150/5390-1C. Helicopter/Heliport users, operators, and designers are invited to attend, as well as those involved with air transportation and heliport system planning.

DATES: The workshop will be held November 27, 28, and 29, 1984, beginning at 9:00 a.m. and adjourning at about 5:00 p.m. each day.

ADDRESS: The meeting will be held at the Cross Keys Inn, 5100 Falls Road, Baltimore, Maryland 21210, Phone: (301) 532-6900.

FOR FURTHER INFORMATION CONTACT: Ms. Cathy Nickolaisen (703) 243-3633 or Mr. Richard Adams (305) 968-4200. The workshop is being managed under contract to the FAA by Systems Control Technology, Inc. The FAA Washington Headquarters contact is Mr. Richard Livingston, Rotorcraft Program Office (202) 426-8748.

David W. Ostrowski,

Acting Director, Rotorcraft Program Office, ARO-1.

[FR Doc. 84-27541 Filed 10-17-84; 8:45 am]

BILLING CODE 4910-13-M

[Summary Notice No. PE-84-19]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued; A.W. Peterson, et al.

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before: November 7, 1984.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. , 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received and a copy of any final disposition are filled in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C. on October 11, 1984.

John H. Cassady,

Assistant Chief Counsel, Regulations and Enforcement Division.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
24250	A.W. Peterson	14 CFR 121.383(c)	To allow petitioner to continue to serve as a pilot in Part 121 operations after reaching his 60th birthday.
18114	Flying Tigers	14 CFR 121.547(c) & 121.583(a)	To extend the termination date of Exemption 2600, as amended to allow petitioner to carry a reporter, photographer, or journalist aboard DC-8 and B-747 aircraft, subject to certain conditions and limitations.

PETITIONS FOR EXEMPTION—Continued

Docket No.	Petitioner	Regulations affected	Description of relief sought
19647	Eli Lilly Corp.	14 CFR 61.58(c)	To extend the termination date of Exemption 2836, as amended, to allow petitioner's pilots to complete a 24-month pilot-in-command check in an approved simulator.
24252	Dept. of Air Force	14 CFR 101.13(a)(2) & 101.13(a)(4)	To allow the 1st Special Operations Wing to conduct training with the Fulton Recovery System.
24257	Ecuatoriana Airlines	14 CFR 91.303	To allow petitioner to operate four Boeing 707's and two Boeing 720's Stage 1 aircraft in noncompliance with the operating noise limits through December 31, 1987, or until it retrofits them with "hush kits" or obtains noise compliant aircraft, whichever period is shorter.

DISPOSITIONS OF PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
23825	Harold's Air Service	14 CFR 135.1819(a)(1)	To permit Harold's Air Service to operate Cessna Model 206, single-engine aircraft in instrument flight rule and over-the-top conditions while transporting fare-paying passengers. *Denied 10/3/84.*
24121	Airlift Int'l. Inc.	14 CFR 121.3 & section 610(a)(4) of FA Act of 1958.	To allow petitioner to conduct authorized wet-lease flights for Air Haiti using Haiti's flight numbers and call sign. *Denied 10/4/84.*
24032	Aerolineas Nacionales Del Ecuador	14 CFR 91.303	To allow petitioner to operate one DC-8 aircraft until January 1, 1988 in noncompliance with the operating noise limits. *Denied 9/27/84.*
23977	Air France	14 CFR 91.303	To allow petitioner to operate one Boeing 727-200 until March 31, 1985, in noncompliance with the operating noise limits. *Denied 9/27/84.*
21776	Watcha McCollum Aviation Inc.	14 CFR 61.58(c)(1) & 91.4	To permit petitioner to serve as pilot in command on certain large aircraft without completing the required proficiency checks in each particular type of aircraft. *Partial grant 10/9/84.*
24093	Albuquerque Int'l. Balloon Fiesta, Inc.	14 CFR 61.3, & 91.27	To allow foreign-registered pilots and balloons to fly in the Albuquerque Balloon Fiesta without complying with the pilot certification and airworthiness requirements of these sections. *Partial grant 9/28/84.*
23176	Tenneco, Inc.	14 CFR 91.169(a)	To extend Exemption 3961 to allow petitioner and its affiliated companies to inspect helicopters in accordance with a continuous inspection program. *Granted 1/31/84.*
24056	Aviation Methods, Inc.	14 CFR 61.58(c)	To permit petitioner to complete the entire 24-month pilot-in-command check in an FAA-approved simulator. *Granted 10/9/84.*
12227	Nat'l. Business Aircraft Assn., Inc.	14 CFR 91.169 & 91.181(a)	To extend Exemption 1637, as amended, to allow petitioner's members to use inspection programs required for large turbojet or turboprop-powered airplanes for their small civil airplanes and helicopters. It will also allow their operation of the aircraft under Subpart D of Part 91. *Granted 9/26/84.*

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
22767	Eastern Metro Express	14 CFR sections 5(a)(g)(i) & (j) of SFAR #41	To amend Exemption 3548 to permit supplemental type certification of the British Aerospace Model 3101 Jetstream without complying with § 25.815 of the FAR, which was imposed as a limitation in grant of exemption 3548. *Granted 10/1/84.*
24058	Alaska Helicopters, Inc.	14 CFR sections 135.429(a) & 135.435(a)	To permit petitioner to utilize British Airways Helicopters, Ltd (BAH), as an overhaul facility for its Boeing Vertol 234 components. *Granted 10/1/84.*
23261	Atlantic Richfield Co.	14 CFR Portions of Part 21 & 91	To extend Exemption 3614 which expires September 30, 1984 to allow petitioner to operate B-727 aircraft utilizing the provisions of a minimum equipment list. *Granted 9/26/84.*
12738	Union de Transports Aeriens	14 CFR section 61.3 & 63.3	To extend termination date of Exemption 1775, as amended, to allow petitioner to operate three leased, U.S.-registered DC-10 airplanes using an FAA-approved continuous airworthiness maintenance and inspection program and a DC-10 minimum equipment list. *Granted 9/28/84.*
24214	EG & G Special Projects, Inc.	14 CFR section 125.327(a)(8)	To allow petitioner to comply with § 121.571 regarding the use of fire extinguishers. It would allow flight attendants to be thoroughly trained in their location and use rather than briefing all passengers. *Withdrawn 9/26/84.*
23392	Beaver Aviation	14 CFR section 141.91(a)	To Extend Exemption 3682, which expires January 1, 1985, to permit petitioner to conduct flight training and instruction in its approved courses of training at its satellite base located at Ft. Myers, FL. *Granted 9/28/84.*
24160	Caterpillar Tractor Company	14 CFR section 21.181	To allow petitioner to operate three Hawker Siddeley HS 125-700 aircraft, N255CT, N277CT, and N299CT, using a Federal Aviation Administration (FAA)-approved minimum equipment list. *Granted 10/9/84.*

[FR Doc. 84-27544 Filed 10-17-84; 8:45 am]
BILLING CODE 4910-13-M

National Highway Traffic Safety Administration

Denial of Petition To Commence Defect Proceeding

This notice sets forth the reasons for the denial of a petition to commence a proceeding to determine whether to issue an order pursuant to section 152(b) of the National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1412(b).

On January 19, 1984, Steve E. Gobin of San Francisco, California, petitioned for an investigation of possibly safety related defects in his 1983 Ford F-100 pickup truck. The first question concerned the adequacy of the gauge of sheet metal in the pickup bed area, which petitioner complained was thin and dented easily. This condition, while annoying to a vehicle owner, presents no hazard which could be construed as relating to safety.

The second area of complaint was that the vehicle was equipped with 3-ply tires, which petitioner felt were inadequate at highway speeds of 55 mph. NHTSA replied to the petitioner that truck tires are today judged by "load rating" rather than "ply rating," a less meaningful term. Information from Ford Motor Company showed that the

truck was equipped with the standard tires for that truck, load rated at 1,477 pounds. Thus no safety problem exists.

Finally, petitioner alleged that there was an absence of tint in his windshield. Ford informed NHTSA that the production order for Mr. Gobin's truck included tinted glass. However, there is no Federal requirement that windshield glazing be tinted, nor does its absence create a safety problem.

NHTSA concluded that there was no reasonable possibility that an order of the nature requested would be issued at the conclusion of an investigation, and denied the petition on April 10, 1984.

(Secs. 124, 152, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1410a, 1412); delegations of authority of 49 CFR 1.50 and 501.8).

Issued on September 27, 1984.

George L. Parker,

Associate Administrator for Enforcement.

[FR Doc. 84-27577 Filed 10-17-84; 8:45 am]

BILLING CODE 4910-59-M

Federal Highway Administration

Environmental Impact Statement; Jackson to Dyersburg, Madison, Crockett, and Dyer Counties, TN

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed project from Jackson to Dyersburg in Madison, Crockett, and Dyer Counties, Tennessee.

FOR FURTHER INFORMATION CONTACT: Mr. E. G. Oakley, Division Administrator, Federal Highway Administration, Federal Building, U.S. Courthouse, 801 Broadway—Suite A-926, Nashville, Tennessee 37203, telephone (615) 251-5394.

SUPPLEMENTAL INFORMATION: The FHWA in cooperation with the Tennessee Department of Transportation will prepare an environmental impact statement (EIS) on a proposal to construct an improvement to State Route 20 in Madison, Crockett, and Dyer Counties, Tennessee. The proposed improvement would involve the construction of a new four-lane facility from Jackson to Dyersburg. The proposed improvement would begin at Interstate 40 north of Jackson and proceed along or near the existing State Route 20 corridor in a northwesterly direction and end at the west end of the Dyersburg Bypass. The proposed improvement would have a length of approximately 36 miles. Improvements to the corridor are considered necessary in order to relieve the traffic congestion along the existing route.

Alternatives under consideration include: (1) Taking no action; (2) postponement; (3) reduced facility design; and (4) constructing a new four-lane facility on one of the four proposed alternative "build" alignments. One of the proposed "build" alignments would closely follow the existing roadway for most of its entire distance. The remaining alternatives would have a short portion on new location with the remainder of each of these two alternatives closely following the existing roadway.

Letters describing the proposed action and soliciting comments were sent to appropriate Federal, State, and local agencies in 1982 for the proposed alternative entirely on new location and for the proposed alternative closely following the existing roadway. Public meetings were held in Friendship and in Jackson in 1983. Questions and comments from the public at these meetings are providing input into the planning of the facility. As a result of these public meetings, two sections on new location near the existing roadway that were mentioned in the above paragraph have been added for study in the EIS. In addition, a corridor public hearing and a design public hearing will be held. Public notices will be given of the time and place of the public hearings. The draft EIS will be available for public and agency review and comment. These activities are providing input regarding the scope of the EIS.

To insure that the full range of issues related to the proposed action are addressed and all significant issues identified, comments and suggestions concerning the proposed action and the EIS should be directed to the FHWA at the address provided above. (Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of OMB Circular No. A-95 regarding State and local clearinghouse review of Federal and Federally assisted programs and projects apply to this program.)

Issued on: October 10, 1984.

Ira D. Degges,

Assistant Administrator, Tennessee Division.

[FR Doc. 84-27519 Filed 10-17-84; 8:45 am]

BILLING CODE 4910-22-M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 203
Thursday, October 18, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: 9:30 a.m. (Eastern Time), Tuesday, October 23, 1984.

PLACE: Clarence Mitchell Jr., Conference Room No. 200–C on the 2nd floor of the Columbia Plaza Office Building, 2401 "E" Street NW, Washington, D.C. 20507.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Announcement of Notation Votes
2. A Report on Commission Operations (Optional)
3. Freedom of Information Act Appeal No. 84–7–FOIA–97–SL, concerning a request for a confidential affidavit from a closed ADEA charge file.
4. Freedom of Information Act Appeal No. 84–03–FOIA–76–PA, concerning a request for documents from a closed Title VII charge file.
5. Freedom of Information Act Appeal No. 84–7–FOIA–087–CT, concerning a request for statements from a charging party.
6. Freedom of Information Act Appeal No. 84–08–FOIA–196–MK, concerning a request for access to an age charge file.
7. Freedom of Information Act Appeal No. 84–7–FOIA–86–SL, concerning a request for access to records in a charge file.
8. Freedom of Information Act Appeal No. 84–06–FOIA–103/104–BA, concerning a request for access to contents of part of two charge files.
9. Freedom of Information Act Appeal No. 84–5–FOIA–69–MM, concerning a request for a partial denial of age charge information.
10. Freedom of Information Act Appeal No. 84–8–FOIA–21–LA, concerning a request for documents from a closed ADEA charge file.
11. Freedom of Information Act Appeal No. 84–8–FOIA–BA–95/96, concerning a request for an investigative file.

Closed

1. Litigation Authorization; General Counsel Recommendations
2. Proposed Contract in connection with a court case
3. Proposed Commission Decisions: ORA Decisions and Guidance Decisions
4. Proposed Subpoenas

Note.—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the Federal Register, the Commission also provides a recorded announcement a full week in advance on future Commission sessions.

Please telephone (202) 634–6748 at all times for information on these meetings.

CONTACT PERSON FOR MORE INFORMATION: Treva McCall, Executive Secretary to the Commission at (202) 634–6748.

This Notice issued October 16, 1984.

Treva McCall,

Executive Secretary to the Commission.

[FR Doc. 84–27659 Filed 10–16–84; 2:21 pm]

BILLING CODE 6750–06–M

2

FEDERAL COMMUNICATIONS COMMISSION

October 15, 1984.

Deletion of Agenda Item From October 17, 1984 Open Meeting.

The following item has been deleted at the request of the Chief, Mass Media Bureau, from the list of agenda items scheduled for consideration at the October 17, 1984, Open Meeting and previously listed in the Commission's Notice of October 10, 1984.

Agenda, Item No. and Subject

Mass Media—3—*Title:* Commission Policy Regarding the Advancement of Minority Ownership in Broadcasting. *Summary:* The Commission adopted a *Notice of Proposed Rule Making* in Gen. Docket 82–797 which proposed to expand seller-creditor protections in a seller-financed sale of a broadcast property to a minority buyer. The Commission will consider whether it should adopt the proposal.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84–27606 Filed 10–16–84; 10:11 am]

BILLING CODE 6712–01–M

3

FEDERAL COMMUNICATIONS COMMISSION

Deletion of Agenda Item from October 17, 1984 closed meeting

October 15, 1984.

The following item has been deleted at the request of the Office of General Counsel from the list of agenda items scheduled for consideration at the October 17, 1984 Closed Meeting and previously listed in the Commission's Notice of October 10, 1984.

Agenda, Item no. and Subject

Hearing—4—Applications for Review in the United Broadcasting Company, Inc., Washington, D.C. FM radio comparative renewal proceeding (BC Docket Nos. 479 to 80–481).

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84–27609 Filed 10–16–84; 10:11 am]

BILLING CODE 6712–01–M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 9:15 p.m. on Monday, October 15, 1984, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider recommendations with respect to administrative enforcement actions against certain insured banks (names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director C.-T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act; (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Dated: October 16, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84-27679 filed 10-16-84; 3:33 pm]

BILLING CODE 6714-01-M

5

FEDERAL DEPOSIT INSURANCE CORPORATION

[38444]

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 3:30 p.m. on Friday, October 17, 1984, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to (1) receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Oneida Bank & Trust Company, Oneida, Tennessee, which was closed by the Commissioner of Financial Institutions for the State of Tennessee on Friday, October 12, 1984; (2) accept the bid for the transaction submitted by Energy Bank, Oak Ridge, Tennessee (formerly Bank of Oak Ridge), an insured State nonmember bank; (3) adopt an order approving the application of Energy Bank, Oak Ridge, Tennessee, for consent to purchase certain assets of and to assume the liability to pay deposits made in Oneida Bank & Trust Company, Oneida, Tennessee, and for consent to establish the sole office of Oneida Bank & Trust Company as a branch of Energy Bank; and (4) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to effect the purchase and assumption transaction.

At the same meeting, the Board of Directors also considered a personnel matter. In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was recessed at 3:32 p.m., and at 4:32 p.m. that same day the meeting was reconvened, by telephone conference call, at which time the Board of Directors (1) received bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Bucklin State Bank of Bucklin, Missouri, Bucklin, Missouri, which was closed by the Commissioner of Finance for the State of Missouri on Friday, October 12, 1984; (2) accepted the bid for the transaction submitted by United Missouri Bank of Brookfield, Brookfield, Missouri, an insured State nonmember bank; (3) approved the application of United Missouri Bank of Brookfield, Brookfield, Missouri, for consent to purchase certain assets of and to assume the liability to pay deposits made in Bucklin State Bank of Bucklin, Missouri, Bucklin, Missouri, and for consent to establish the sole office of Bucklin State Bank of Bucklin, Missouri as a branch of United Missouri Bank of Brookfield; and (4) provided such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction.

In reconvening the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: October 15, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84-27632 Filed 10-16-84; 12:24 pm]

BILLING CODE 6714-01-M

6

FEDERAL ELECTION COMMISSION

DATE AND TIME: Monday, October 22, 1984, 2:00 p.m.

PLACE: 1325 K Street NW., Washington, D. C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Expedited Compliance.

DATE AND TIME: Tuesday, October 23, 1984, 10:00 p.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Compliance. Litigation. Audits. Personnel.

DATE AND TIME: Wednesday, October 24, 1984, 2:00 p.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Expedited Compliance.

DATE AND TIME: Thursday, October 25, 1984, 10:00 p.m.

PLACE: 1325 K Street NW., Washington, D.C. (Fifth Floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates of future meetings
Correction and approval of minutes
Eligibility for candidates to receive Presidential primary matching funds
Draft Advisory Opinion #1984-50, Geraldine A. Ferraro, Member of Congress
Draft Advisory Opinion #1984-52, Marty Russo, Member of Congress
Classification Action: Position description for GS-14 nonsupervisory senior attorney
Finance Committee report
Routine Administration Matters

DATE AND TIME: Thursday, October 25, 1984, 2:00 p.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Expedited Compliance.

DATE AND TIME: Friday, October 26, 1984, 2:00 p.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Expedited Compliance.

DATE AND TIME: Monday, October 29, 1984, 2:00 p.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Expedited Compliance.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, 202–523–4065.

Majorie W. Emmons,

Secretary to the Commission.

[FR Doc. 84–27660 Filed 10–16–84; 2:35 pm]

BILLING CODE 6715–01–M

7

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9:00 a.m.—October 26, 1984.

PLACE: Hearing Room One—1100 L Street, NW., Washington, D.C. 20573.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Docket No. 84–22: Actions to Address Conditions Unduly Impairing Access of U.S. Flag vessels to Ocean Trade Between Foreign Ports—Consideration of comments and proposed final rules.
2. Docket No. 84–23: Filing of Tariffs and Dual Rate Contract Systems in the Foreign Commerce of the United States—Consideration of comments and proposed final rules.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523–5725.

Francis C. Hurney,

Secretary.

[FR Doc. 84–27582 Filed 10–15–84; 4:19 pm]

BILLING CODE 6730–01–M

8

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Wednesday, October 24, 1984.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed purchase of computer equipment within the Federal Reserve System.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: October 16, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84–27687 Filed 10–16–84; 8:45 am]

BILLING CODE 6210–01–M

9

INTERSTATE COMMERCE COMMISSION

TIME AND DATE: 9:00 a.m., Thursday, October 25, 1984.

PLACE: Hearing Room A, Interstate Commerce Commission, Building, 12th & Constitution Ave., NW., Washington, DC. 20423.

STATUS: Open Special Conference.

MATTER TO BE DISCUSSED: FY 1985 Budget.

CONTACT PERSON FOR MORE INFORMATION: Robert R. Dahlgren, Office of Public Affairs, Telephone: (202) 275–7252.

James H. Bayne,

Secretary.

[FR Doc. 84–27622 Filed 10–16–84; 12:05 pm]

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Part II

Environmental Protection Agency

40 CFR Part 87

Control of Air Pollution From Aircraft and Aircraft Engines; Exemptions for Low Production Engines; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 87

[AMS-FRL 2662-1]

Control of Air Pollution From Aircraft and Aircraft Engines; Exemptions for Low Production Engines

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This action grants a petition submitted by the Aerospace Industries Association (AIA) on August 31, 1983, asking that the maximum annual production limit of 20 engines per year be eliminated from the low production engine provisions of the EPA aircraft engine emission standards (40 CFR Part 87.7(b)). This action would provide greater flexibility to manufacturers for scheduling engine production rates during the final years. Several unrelated minor revisions are also contained in this document to clarify the provisions in § 87.10.

DATE: This action is effective November 19, 1984.

ADDRESS: Material relevant to this action is contained in Public Docket A-83-39, located at the Central Docket Section (LE-131A), West Tower Lobby, 401 M Street SW., Washington, D.C., 20460. The docket is open to the public and may be inspected between 8:00 am and 4:00 pm on weekdays. A reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: Mr. Richard S. Wilcox, Office of Mobile Sources, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan 48105. Telephone: (313) 668-4390.

SUPPLEMENTARY INFORMATION:

I. Background

One provision of the EPA aircraft engine emissions standards, as amended on December 30, 1982, specified that engines produced in very low quantities could be exempted from compliance with the standards (§ 87.7(b)). Two criteria were established to determine whether an engine type qualifies for exemption, as follows:

(1) A maximum annual production rate after January 1, 1984 of 20 units covered by the same type certificate; and

(2) A maximum total production after January 1, 1984 of 200 units covered by the same type certificate.

On August 31, AIA submitted a petition which recommended that the annual production limit be eliminated, because some low production engines are very likely to be ordered and built in quantities above 20 units per year during their last few production years, even though the total produced will not exceed 200. In response to a request from EPA for more complete information to support the petition, letters were submitted by three engine manufacturers, Rolls Royce, General Electric and General Motors. Copies of the AIA petition, the EPA letter requesting more information and the three responses from manufacturers are available in Public Docket A-83-39.

On June 22, 1984, EPA proposed (49 FR 25643) that the AIA petition be granted. The proposal explained that the air quality impact of eliminating the annual production limit would be negligible, while the benefits of greater flexibility for manufacturers to schedule engine production rates during the final years appeared to justify favorable consideration of the AIA petition.

The EPA proposal also contained minor revisions to the fuel venting applicability provisions of § 87.10, to more specifically identify the compliance requirements for various categories of in-use engines and to improve compatibility with the Federal Aviation Administration (FAA) enforcement regulations. In addition, several revisions to the test fuel specifications were proposed in response to reported difficulties in obtaining fuels meeting these specifications in some parts of the U.S. A letter from AIA which describes this problem and recommends appropriate changes is also available for review in Public Docket A-83-39.

II. Discussion of Issues

Five comments were received in response to the proposal and they will be discussed by subject.

A. Low Production Exemption Limit

The date for compliance with the EPA standards which are the subject of the AIA petition was January 1, 1984 and the standards have been enforced by the FAA since that time. Experience to date has indicated a need for more clarification of the intent of the "very low production" provisions of § 87.7(b).

The FAA asked whether it was intended that the 200 engine limit be an automatic upper limit for all engines meeting the low production criteria, no matter how many of any given type were actually scheduled to be built, or whether the award of a low production engine exemption should be for only the exact number of engines (up to 200) which can be identified in reasonably firm plans to manufacture engines for either sales or inventory.

In response to this question, it should be emphasized that the 200 engine "very low production" engine limit was intended to relieve a manufacturer from the costs of developing and installing low emissions technology on engines whose estimated remaining production life is limited. The 200 engine maximum limit was estimated as a sales figure below which the costs of compliance with emissions standards could not be recovered without an exorbitant impact on engine selling price. This limit should not be misconstrued as a mechanism for granting manufacturers the option to build 200 additional non-complying engines of any type after the January 1, 1984 compliance date.

Therefore, EPA intends that the amended criterion for exemption of "very low production" engines be satisfied by the presentation of FAA of convincing documentation that some given number of engines (200 or less) represents an accurate estimate of the lifetime future production of engines covered by that application. The exact process for making such a request to FAA is defined in 14 CFR Parts 11, 21, 43, 45 and 91 (48 FR 56735). EPA expects that any exemption granted under the provisions of § 87.7(b) would apply to the number of engines determined by FAA to represent a reasonable estimate of the future production expectations for engines covered by an application. A manufacturer granted an exemption for some number of engines less that 200 would retain the prerogative to reapply at a later date for additional exemptions up to the 200 total, provided that he support his application with revised production forecasts which continue to show that the prospects for additional sales beyond that number are too poor to justify the costs of compliance with emission standards.

EPA recognizes that the projection of future sales for any product is an uncertain art and that such projections will continually change. FAA has asked for clarification of the situation in which an engine may qualify initially as a "very low production" engine and at a later date be found to have significantly improved prospects for future sales above the 200 limit. EPA believes that this situation would justify the incorporation of emission control technology and any further request for exemption for whatever reason should be based on the provisions of § 87.7(c), "Exemptions for New Engines in Other Categories", since the subject engine would no longer qualify as a "very low production" engine.

Another point needing clarification is whether only engines intended for commercial or general aviation use within the U.S. should apply towards the 200 engine limit or whether the total should include sales for all applications, such as engines sold for military or foreign service which are not subject to the U.S. emissions standards.

While the total number of engines produced for all types of applications may be a more accurate figure for many production planning purposes, the costs of compliance with emissions standards must be recovered in most cases from only those engines intended for the U.S. civil aviation market and which thereby incorporate low emissions technology. Therefore, EPA intends for the 200 engine maximum future production limit after January 1, 1984 to include only those engines manufactured for U.S. civil aviation sales and section 87.7(b) has been reworded to make this clear.

Additional comments were received from General Motors, Rolls Royce and Gulfstream Aerospace, all endorsing the proposal to grant the AIA petition.

B. Applicability of Fuel Venting Standard

No comments were received on the proposal to amend the wording of the fuel venting applicability provisions to improve compatibility with FAA's enforcement standards, which will be finalized as proposed.

C. Test Fuel Specifications

The AIA provided recommendations on this topic which differed from the EPA proposal only in the lower limit for "Naphthalenes". The existing lower limit was 1.0 percent by volume, consistent with the current EPA standard. This was unchanged in the proposal, although AIA recommended 0.3 percent by volume. Since naphthalenes content has some influence on engine smoke behavior, EPA is reluctant to reduce the lower limit to a value as low as 0.3, which is far below the naphthalenes levels of many commercial fuels. An examination was made of the most recent survey of jet fuel properties available to EPA, "Aviation Fuels, 1983", April, 1984, published by the National Institute for Petroleum and Energy Research. Of 53 samples of Jet A Aviation Turbine Fuel, only 7 fell below the 1.0 lower naphthalenes limit, while none exceeded the proposed new 3.0 upper limit. Therefore, EPA has concluded that fuels meeting the proposed new naphthalenes limits are reasonably available and in fact, the proposed 3.0 percent upper limit may have no controlling influence on test fuel availability, since none of the samples approached or exceeded this level.

Comments by Rolls Royce suggested that the fuel specifications in several areas, including naphthalenes, need not be specified as both upper and lower limits when the influence of the particular fuel property on engine emissions is predictable. Rolls Royce suggested that the only limits which need to be specified are those designed to prevent the test fuel from causing engine emissions lower than would be characteristic of typical commercial fuels. It asserted that this can be accomplished by specifying either an upper or a lower limit for some fuel properties, but that both upper and lower limits were unnecessary. Accordingly, the commenter proposed that the upper limits for "Aromatics", "Kinematic viscosity", and "Naphthalenes" and the lower limit for "Smoke point" all be eliminated. This change would permit the use of a wider range of petroleum products as emission test fuels and reduce the need for segregated fuel storage at engine test facilities.

The Rolls Royce comments may well be valid, but their proposal to eliminate the fixed range of allowable values for some fuel properties is a departure from the basic concept that the EPA and International Civil Aviation Organization (ICAO) test fuel specifications should describe a typical, mid-range commerical fuel. EPA believes that this proposal should not be acted on without opportunity for public comment and discussion by other interested parties. Therefore, it will not be responded to as a part of this rulemaking action, but EPA will recommend that it be included as a discussion item at the next meeting of the ICAO Committee on Aircraft Engine Emissions to consider corrections and possible changes to the international standards.

Rolls Royce also recommended that the lower limits for "10% boiling point," "Final boiling point" and "Kinematic viscosity" be reduced below the values proposed. In the first two instances, the proposed Rolls Royce limits fall at or close to the low extremes shown by the distillation data in the report "Aviation Fuels" referenced earlier (the characteristics of commercial fuels available within the United Kingdom were not included in this survey). There is no information available to EPA to indicate that the commenter has been unable to locate fuels falling within the present specification limits and the new limits proposed would improve its flexibility in this respect. Nevertheless, EPA believes that the reduced distillation limits proposed by Rolls Royce should not influence engine emissions significantly and would likely give it access to a wider range of potential test fuels, since it is understood that fuels marketed in the United Kingdom tend to be more volatile than those marketed in the U.S. Accordingly, the final rule will incorporate the lower distillation limits recommended by Rolls Royce.

However, the reduced viscosity suggested by Rolls Royce is of somewhat greater concern, since viscosity has a strong influence on fuel atomization behavior and since advances in fuel atomization have played a large part in the improvements in engine emissions which have been achieved by industry to date. Inasmuch as the other engine manufacturers have agreed on the viscosity limits proposed, EPA believes that this property should be finalized as proposed. In the event that Rolls Royce (or anyone else) has difficulty procuring fuels meeting the revised viscosity limits, a deviation from the test fuel specification can be requested from FAA.

A more detailed discussion of test fuel issues is presented in a supporting document to this rulemaking, which is available in Docket A-83-39.

III. Action

Accordingly, this rulemaking action will grant the AIA petition to eliminate the 20 engine maximum annual limit for engines qualifying for exemption under § 87.7(b) and clarify the intent of the expression "very low production engine". Section 87.10 on fuel venting applicability and § 87.61 covering fuel specifications for emission testing are revised as proposed, except for incorporation of the revised lower distillation limits recommended by Rolls Royce.

IV. Regulatory Analysis

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirements for a Regulatory Impact Analysis. This rulemaking is not major because it will not result in adverse effects on the economy greater than $100 million and because there are no discernible effects on competition, productivity, investment, employment or innovation. For these reasons, EPA has not prepared a formal Regulatory Impact Analysis.

This rulemaking has been sent to the Office of Management and Budget (OMB) for review pursuant to Executive Order 12291. Any comments from OMB

and any EPA responses thereto are in the public docket for this rulemaking.

V. Impacts on Reporting Requirements

This rule does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

VI. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, EPA is required to determine when a regulation will have a significant effect on a substantial number of small entities so as to require a Regulatory Flexibility Analysis. This regulation should have no significant effect on small entities, since it affects only aircraft engines which are not manufactured by small businesses. Accordingly, I certify that this regulation will not have a significant impact on a substantial number of small entities. Therefore, no Regulatory Flexibility Analysis has been prepared.

List of Subjects in 40 CFR Part 87

Air pollution control, Aircraft engines.

Dated: October 9, 1984.

William D. Ruckelshaus,

Administrator.

Authority.—Sec. 321, 301(a), Clean Air Act as amended (42 U.S.C. 7571, 7601(a)).

PART 87—[AMENDED]

As set forth in the preamble, Part 87 of Title 40 of the Code of Federal regulations is amended as follows:

1. Section 87.7 is amended by revising introductory text of paragraph (b) to read as follows:

§ 87.7 Exemptions.

* * * * *

(b) *Exemptions for very low production models.* The emissions standards of this part do not apply to engines of very low total production after the date of applicability. For the purpose of this part, "very low production" is limited to a maximum total production for United States civil aviation applications of no more than 200 units covered by the same type certificate after January 1, 1984.

* * * * *

2. Section 87.10 is revised to read as follows:

§ 87.10 Applicability.

(a) The provisions of this subpart are applicable to all new aircraft gas turbines of classes T3, T8, TSS and TF equal to or greater than 36 kilonewton rated output, manufactured on or after January 1, 1974, and to all in-use aircraft gas turbine engines of classes T3, T8, TSS and TF equal to or greater than 36 kilonewton rated output manufactured after February 1, 1974.

(b) The provisions of this subpart are also applicable to all new aircraft gas turbines of class TF less than 36 kilonewton rated output and class TP manufactured on or after January 1, 1975 and to all in-use aircraft gas turbines of class TF less than 36 kilonewton rated output and class TP manufactured after January 1, 1975.

3. Section 87.61 is revised to read as follows:

§ 87.61 Turbine fuel specifications.

For exhaust emission testing, fuel meeting the specifications listed below shall be used. Additives used for the purpose of smoke suppression (such as organometallic compounds) shall not be present.

Property and Allowable Range of Values

Specific gravity at 15 °C: 0.78–0.82.
Distillation temperature, °C: 10% boiling point, 160–201; final boiling point, 240–285.
Net heat of combustion, kJ/kg: 42,860–43,500.
Aromatics, volume %: 15–20.
Naphthalenes, volume %: 1.0–3.0.
Smoke point, mm: 20–28.
Hydrogen, mass %: 13.4–14.0.
Sulfur, mass %: less than 0.3%.
Kinematic viscosity at −20 °C, mm/s: 4.0–6.5.

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Part III

Environmental Protection Agency

40 CFR Part 45
Training Assistance; Final Rule
40 CFR Part 46
Fellowship Assistance; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 45

[OA-FRL 2621-2(a)]

Training Assistance; Final Rule

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This final rule revises the Environmental Protection Agency's (EPA) regulation at 40 CFR Part 45 governing the award and administration of EPA training assistance. The revisions are designed to ensure consistency with EPA's "General Regulation for Assistance Programs" and to reflect current EPA policies on training assistance awards.

DATE: This rule applies to all training assistance which EPA awards on or after October 18, 1984.

FOR FURTHER INFORMATION CONTACT: Richard A. Johnson, Grants Administration Division (PM-216), Environmental Protection Agency, 401 M Street SW., Washington, D.C., 20460 (202) 382-5296.

SUPPLEMENTARY INFORMATION: Part 45 establishes the policies and procedures for the award of training assistance by EPA. We have not updated the training assistance rule since October 20, 1977.

This document updates Part 45 and incorporates changes to EPA policies on training assistance awards. Since the revisions to this rule are largely technical in nature, we did not publish a proposed rule for public comment. The changes to the rule include:

Stipend Levels

In the previous rule, we had a dollar limit on the use of awarded funds for stipend amounts in any particular budget period and a dollar limit on the amount of an annual stipend. We deleted those levels from this rule in order to provide program offices the flexibility to make changes in the stipend levels based on program needs and funding levels without seeking a deviation from the rule.

Subpart B—Manpower Forecasting

EPA anticipated funding for manpower forecasting when the Agency was first established, therefore, we reserved Subpart B for the development of policies and procedures for manpower forecasting assistance agreements. Since no funds have been available for such agreements, and none is anticipated, we deleted the reference to manpower forecasting in the title of this part and in the table of contents.

Consistency With 40 CFR Part 30, "General Regulation for Assistance Programs"

EPA published a final revision to 40 CFR Part 30 on September 30, 1983 (48 FR 45056). EPA revised this rule to make it consistent with the revised 40 CFR Part 30, "General Regulation for Assistance Programs," September 30, 1983.

Regulation Development

Under Executive Order 12291, EPA is required to make a judgement whether a regulation is "major" and, therefore, subject to the regulatory impact analysis requirements of the Order. We have determined that this rule is not "major" because it will not have a substantial impact on the Nation's economy or large numbers of individuals or businesses. There will be no major increases in costs or prices for consumers, individuals, industries, or Federal, State, or local governments. The rule was submitted to the Office of Management and Budget as required by Executive Order 12291.

Under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq., the information provisions in this rule have been approved by the Office of Management and Budget (OMB clearance number 2010-0004).

List of Subjects in 40 CFR Part 45

Administrative practice and procedures, Environmental protection, Grant programs—environmental protection, Reporting and recordkeeping requirements.

Dated: October 3, 1984.

William D. Ruckelshaus,

Administrator.

Accordingly, title 40, Chapter I is amended by revising Part 45 to read as follows.

PART 45—TRAINING ASSISTANCE

Sec.

45.100 Purpose and scope.
45.105 Authority.
45.110 Objectives.
45.115 Definitions.
45.120 Applicant eligibility.
45.125 Application requirements.
45.130 Evaluation of applications.
45.135 Supplemental conditions.
45.140 Budget and project period.
45.145 Allocability and allowability of costs.
45.150 Reports.
45.155 Continuation assistance.
Appendix A—Environmental Protection Agency Training Programs

Authority: Sec. 103 of the Clean Air Act, as amended (42 U.S.C. 7403), sec. 104(g), 109, and 111 of the Clean Water Act, as amended (33 U.S.C. 1254(g), 1259, and 1261), secs. 7007 and 8001 of the Solid Waste Disposal Act, as amended (42 U.S.C. 6977 and 6981); sec. 1442 of the Safe Drinking Water Act, as amended (42 U.S.C. 300j-1).

§ 45.100 Purpose and scope.

This part establishes the policies and procedures for the award of training assistance by the Environmental Protection Agency (EPA). The provisions of this part supplement EPA's "General Regulation for Assistance Programs," 40 CFR Part 30.

§ 45.105 Authority.

The EPA is authorized to award training assistance under the following statutes:

(a) Section 103 of the Clean Air Act, as amended (42 U.S.C. 7403);

(b) Section 104(g), 109, and 111 of the Clean Water Act, as amended (33 U.S.C. 1254(g), 1259, and 1261);

(c) Sections 7007 and 8001 of the Solid Waste Disposal Act, as amended (42 U.S.C. 6977 and 6981);

(d) Section 1442 of the Safe Drinking Water Act, as amended (42 U.S.C. 300j-1).

§ 45.110 Objectives.

Assistance agreements are awarded under this part to support students through traineeships for occupational and professional training, and to develop career-oriented personnel qualified to work in occupations involving environmental protection and pollution abatement and control. Training assistance is available to:

(a) Assist in developing, expanding, planning, implementing, and improving environmental training;

(b) Increase the number of trained pollution control and abatement personnel;

(c) Upgrade the level of occupational and professional training among State and local environmental control personnel;

(d) Train people to train others in occupations involving pollution abatement and control; and

(e) Bring new people into the environmental control field.

§ 45.115 Definitions.

The following definitions supplement the definitions in 40 CFR 30.200.

Stipend. Supplemental financial assistance, other than tuition and fees, paid directly to the trainee by the recipient organization.

Trainee. A student selected by the recipient organization who receives support to meet the objectives in § 45.110.

§ 45.120 Applicant eligibility.

Institutions, organizations, and individuals are eligible for EPA training awards as follows:

(a) *Clean Air Act.* Section 103(b)—Air pollution control agencies, public and nonprofit private agencies, institutions, organizations, and individuals. No award may be made under this Act to any private, profitmaking organization.

(b) *Clean Water Act.* (1) Section 104(b)(3)—State water pollution control agencies, interstate agencies, other public or nonprofit private agencies, institutions, organizations, and individuals. No award may be made to any private, profitmaking organization.

(2) Section 104(g)(3)(A)—Public or private agencies and institutions, and individuals.

(3) Sections 104(g)(1) and 104(g)(3)(C)—State and interstate agencies, municipalities, educational institutions and other organizations and individuals.

(4) Sections 109, 110, and 111—Institutions of higher education, or combinations of such institutions.

(c) *Solid Waste Disposal Act.* (1) Section 8001(a)—Public or private authorities, agencies, and institutions and individuals. No award may be made to any private, profitmaking organization.

(2) Section 7007(a)—State or interstate agencies, municipalities, educational institutions, and other organizations.

(d) *Safe Drinking Water Act.* Sections 1442(b) and 1442(d)—Public agencies, educational institutions, and other organizations. No awards may be made to profitmaking agencies or institutions.

§ 45.125 Application requirements.

Applicants must submit their requests for assistance on EPA Form 5700–12, "Application for Federal Assistance." Applicants must submit the original and two copies of the application to EPA. If the assistance agreement is to be awarded by EPA Headquarters, the applicant must send the application to the Environmental Protection Agency, Grants Administration Division, Grants Operation Branch (PM–216), 401 M Street SW., Washington, D.C. 20460. If the assistance agreement is to be awarded by an EPA Regional Office, the applicant must send the application to the appropriate Regional Office. (OMB clearance number 2010–0004.)

§ 45.130 Evaluation of applications.

(a) Consistent with 40 CFR 30.301, the appropriate EPA program office staff will review training applications in accordance with the following criteria:

(1) Relevance of proposal to Agency objectives, priorities, achievement of national goals and technical merit;

(2) Competency of the proposed staff in relation to the type of project proposed;

(3) Feasibility of the proposal;

(4) Adequacy of the applicant's resources available for the project;

(5) Amount of funds necessary for the completion of the project;

(b) In addition, awards under section 104(g)(1) of the Clean Water Act, are subject to the following criteria:

(1) Assessment of need for training in a State or municipality based on problems with existing wastewater treatment plants, such as violation of discharge permit conditions, and faulty or improper operation or maintenance.

(2) Need for operating training based on the number of wastewater treatment construction grants in the State.

§ 45.135 Supplemental conditions.

Training awards are subject to the following conditions:

(a) Trainees must be citizens of the United States, its territories, or possessions, or lawfully admitted to the United States for permanent residence.

(b) Recipients shall not require the performance of personal services by individuals receiving training as a condition for assistance.

(c) Trainees are entitled to the normal student holidays observed by an academic institution, or the holiday and vacation schedule applicable to all trainees at a nonacademic institution.

(d) Training awards may include a provision to pay stipends to trainees. Stipends must be paid under section 111 of the Clean Water Act consistent with prevailing practices under comparable federally supported programs.

(e) Training awards under section 111 of the Clean Water Act are subject to the following conditions:

(1) Recipients must obtain the following agreement in writing from persons awarded scholarships for undergraduate study of the operation and maintenance of treatment works:

I agree to enter and remain in an occupation involving the design, operation, or maintenance of wastewater treatment works for a period of two years after the satisfactory completion of my studies under this program. I understand that if I fail to perform this obligation I may be required to repay the amount of my scholarship.

(2) Recipients must take such action as may be reasonably required to enforce the condition in paragraph (e)(1). Recipients shall credit or pay EPA for any repayments.

§ 45.140 Budget and project period.

The budget and project periods for training awards may not exceed three years.

§ 45.145 Allocability and allowability of costs.

(a) Allocability and allowability of costs will be determined in accordance with 40 CFR 30.410.

(b) Costs incurred for the purchase of land or the construction of buildings are not allowable.

§ 45.150 Reports.

(a) Recipients must submit the reports required in 40 CFR 30.505.

(b) A draft of the final project report is required 90 days before the end of the project period. The recipient shall prepare the final projects report in accordance with the project officer's instructions, and submit the final project report within 30 days after the end of the project period.

§ 45.155 Continuation assistance.

To be eligible for continuation assistance, the recipient must:

(a) Demonstrate satisfactory performance during all previous budget periods;

(b) Include in the application a detailed progress report showing the progress achieved and explain special problems or delays, a budget for the new budget period, and a detailed work plan for the new budget period; and

(c) Submit a preliminary financial statement for the current budget period that includes estimates of the amount the recipient expects to spend by the end of the current budget period and the amount of any uncommitted funds which the recipient proposes to carry over beyond the term of the current budget period.

APPENDIX A—ENVIRONMENTAL PROTECTION AGENCY TRAINING PROGRAMS

	Administering office	
	Headquarters	Regional
Office of Air, Noise, and Radiation:		
Air Pollution Control Manpower Training Grants.	X	
Air Pollution Control—Technical Training.	X	
Office of Water:		
Water Pollution Control—Professional Training Grants.	X	X.
Safe Drinking Water Professional Training Grants.	X	
Safe Drinking Water—Occupational Training.	X	
Office of Solid Waste and Emergency Response: Hazardous Waste Training.	X	

[FR Doc. 84–27406 Filed 10–17–84; 8:45 am]
BILLING CODE 6560–50–M

40 CFR Part 46

[OA–FRL 2621–2(b)]

Fellowships; Final Rule

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This final rule revises the Environmental Protection Agency's (EPA) regulation at 40 CFR Part 46, "Fellowships," governing the award and administration of EPA fellowship assistance. The revisions are designed to ensure consistency with EPA's "General Regulation for Assistance Programs" (40 CFR Part 30) and to reflect current EPA policies on fellowship awards.

DATE: This rule is effective for all fellowships which EPA awards on or after October 18, 1984.

FOR FURTHER INFORMATION CONTACT: Richard A. Johnson, Grants Administration Division (PM–216), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460 (202) 382–5296.

SUPPLEMENTARY INFORMATION: Part 46 establishes the policies and procedures for the award of fellowships by EPA. We have not substantially updated the fellowship rule since June 30, 1973. This document updates Part 46 and incorporates changes to EPA policies on fellowship awards. Since the revisions to this rule are largely technical in nature, we did not publish a proposed rule for public comment. The changes to the rule include:

Stipend Levels

In the previous rule, we had a dollar level for the maximum annual stipend. We deleted the reference to a maximum level in this rule in order to give the program offices the flexibility to make changes in stipend levels based on program needs and funding levels without seeking a deviation from the rule.

Book Allowance

We increased the book allowance from $250 to $750

Authority

We updated the Authority section of the existing regulation to include references to two additional fellowship programs. The two additional programs are section 8001 of the Solid Waste Disposal Act and section 1442(d)(2) of the Safe Drinking Water Act, as amended.

Consistency With 40 CFR Part 30, "General Regulation for Assistance Programs"

EPA published a final revision to 40 CFR Part 30 on September 30, 1983 (48 FR 45056). We revised this rule to make it consistent with the revised 40 CFR Part 30, "General Regulation for Assistance Programs," September 30, 1983.

Regulation Development

Under Executive Order 12291, EPA is required to make a judgment whether a regulation is "major" and, therefore, subject to the regulatory impact analysis requirements of the Order. We have determined that this rule is not "major" because it will not have a substantial impact on the Nation's economy or large numbers of individuals or businesses. There will be no major increases in costs or prices for consumers, individuals, industries, or Federal, State, or local governments. The rule was submitted to the Office of Management and Budget as required by Executive Order 12291.

Under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq., the information provisions in this rule have been approved by the Office of Management and Budget (OMB clearance number 2010–0004).

List of Subjects in 40 CFR Part 46

Administrative practice and procedures, Environmental Protection, Grant programs—environmental protection, Reporting and recordkeeping requirements.

Dated: October 3, 1984.

William D. Ruckelshaus,

Administrator.

Accordingly, title 40, chapter I is amended by revising Part 46 to read as follows:

PART 46—FELLOWSHIPS

Sec.

46.100 Purpose.
46.105 Authority.
46.110 Objectives.
46.115 Types of fellowships.
46.120 Definitions.
46.125 Benefits.
46.130 Eligibility.
46.135 Submission of applications.
46.140 Evaluation of applications.
46.145 Fellowship agreement.
46.150 Fellowship agreement amendment.
46.155 Supplemental conditions.
46.160 Acceptance of fellowship award.
46.165 Duration of fellowship.
46.170 Initiation of studies.
46.175 Completion of studies.
46.180 Payment.
Appendix A—Environmental Protection Agency Fellowship Programs.

Authority: Sec. 103(b)(5) of the Clean Air Act as amended, (42 U.S.C. 7403(b)(5)); secs. 104(b)(5) and 104(g)(3)(B) of the Clean Water Act, as amended, (33 U.S.C. 1254(b)(5) and 1254(g)(3)(B)); sec. 1442(d)(2) of the Safe Drinking Water Act, as amended, (42 U.S.C. 300j-1(d)(2)); and sec. 8001 of the Solid Waste Disposal Act, as amended, (42 U.S.C. 6981).

§ 46.100 Purpose.

This part establishes the policies and procedures for all Environmental Protection Agency (EPA) fellowships and supplements the requirements in 40 CFR Part 30, "General Regulation for Assistance Programs."

§ 46.105 Authority.

The EPA is authorized to award fellowships under the following statutes:

(a) Section 103(b)(5) of the Clean Air Act as amended (42 U.S.C. 7403(b)(5));

(b) Section 104(b)(5) and 104(g)(3)(B) of the Clean Air Act, as amended (33 U.S.C. 1254(b)(5) and 1254(g)(3)(B);

(c) Section 1442(d)(2) of the Safe Drinking Water Act, as amended (42 U.S.C. 300j-1(d)(2); and

(d) Section 8001 of the Solid Waste Disposal Act as amended (42 U.S.C. 6981).

§ 46.110 Objectives.

Fellowships awarded under this part are intended to enhance the capability of State or local agencies responsibile for environmental pollution control or other agencies with similar pollution control responsibilities; provide educational renewal opportunities for their career oriented personnel to achieve additional knowledge through academic professional training; and to bring new people into the environmental control field.

§ 46.115 Types of fellowships.

(a) *Local agency fellowships* are awarded to current or prospective employees of a local environmental pollution control or regulatory agency for academic professional training in pollution control science, engineering, and technology and in specialty areas supportive of pollution abatement and control efforts.

(b) *State agency fellowships* are awarded to current or prospective employees of a State environmental pollution control or regulatory agency to provide academic professional training in the areas of pollution abatement and control.

(c) *Special fellowships* are awarded to individuals for education and training in pollution control science, engineering, and technology and in specialty areas

supportive of pollution abatement and control efforts.

§ 46.120 Definitions.

The following definitions supplement the definitions in 40 CFR 30.200.

Full-time fellow. An individual enrolled in an academic educational program directly related to pollution abatement and control, and taking a minumum of 30 credit hours or an academic workload otherwise defined by the institution as a full-time curriculum for a school year. The fellow need not be pursuing a degree.

Part-time fellow. An individual enrolled in an academic educational program directly related to pollution abatement an control and taking at least 6 credit hours but less than 30 credit hours per school year, or an academic workload otherwise defined by the institution as less than a full-time curriculum. The fellow need not be pursuing a degree.

Special fellow. An individual enrolled in an educational program relating to environmental sciences, engineering, professional schools, and allied sciences.

Stipend. Supplemental financial assistance other than tuition, fees, and book allowance, paid directly to the fellow.

§ 46.125 Benefits.

(a) Recipients of assistance under this part shall be entitled to tuition and fees. Recipients may receive an allowance for books and supplies up to a maximum of $750 for the school year for a full-time fellow, and are entitled to the normal student holidays observed by the academic institution.

(b) Recipients of a fellowships may receive a stipend at a level determined by the EPA program office based on EPA's needs and resources, and on the student's course load.

(c) Part-time fellows will not be paid more than the maximum amount paid to an equivalent full-time fellow under the same fellowships program.

§ 46.130 Eligibility.

(a) All applicants for fellowships under this part must be:

(1) Citizens of the United States, its territories, or possessions, or lawfully admitted to the United States for permanent residence; and

(2) Accepted by an accredited educational institutional for full-time or part-time enrollment for academic credit in an educational program directly related to pollution abatement and control.

(b) Applicants for State or local agency fellowships must be current or prospective employees of a State or local agency with responsibilities for environmental pollution control, and must be recommended by the administrator, or designee, of the State or local agency. The administrator, or designee, will recommend applicants based on the State or local need for academic professional training which will enhance the capability of the State or local agency.

§ 46.135 Submission of applications.

(a) Applicants must submit their requests for assistance on EPA Form 5770–2, "Fellowship Application." Applicants must submit the original and two copies of the application and undergraduate or graduate transcripts, as appropriate, to the Grants Administration Division, Grants Operation Branch (PM–216), Environmental Protection Agency, 401 M Street SW., Washington, D.C., 20460. (OMB clearance number 2010–0004.)

(b) The applicant must submit documentation to show compliance with the eligibility requirements in § 46.130, and any additional information required by the award official. Instructions for filing are contained in the application kit.

§ 46.140 Evaluation of applications.

(a) EPA will evaluate fellowship applications based upon:

(1) Their relevance to EPA's program needs;

(2) The availability of funds; and

(3) EPA's priorities.

(4) Appropriateness of the fellow's proposed course of study:

(5) Evaluation of the applicant in terms of potential for study, as evidenced by academic record, letters of reference, training plans; and any other available information.

§ 46.145 Fellowship agreement.

(a) The fellowship agreement is the written agreement, including amendments, between EPA and a fellow. The agreement, EPA Form 5770–8, "Fellowship Agreement," will state the terms and conditions governing the fellowship. (OMB clearance number 2010–0004.)

(b) EPA will not participate in costs incurred by the fellow before both the award official and the fellow sign the agreement.

(c) The fellow must use the funds for the purposes stated in the fellowship agreement. If the fellow fails to comply with the terms and conditions of the award, the award official may apply the sanctions in 40 CFR Part 30, Subpart I.

§ 46.150 Fellowship agreement amendment.

(a) The fellow must receive a formal amendment before implementing:

(1) Changes in the objective of the agreement;

(2) Changes in the assistance amount;

(3) Substantial changes within the scope of the agreement; or

(4) Changes in the project period.

(b) Fellows must submit a completed EPA Form 5770–6, "Fellowship Amendment" (OMB clearance number 2010–0004) when requesting an amendment to the fellowship agreement.

(c) Minor changes in the agreement that are consistent with the objective of the agreement and within the scope of the agreement do not require a formal amendment before the fellow implements the change. However, such changes do not obligate EPA to provide Federal funds for any costs incurred by the fellow in excess of the assistance amount unless the award official approves the change in advance under § 46.150(a). The fellow must inform the EPA project officer in writing before implementing minor changes.

§ 46.155 Supplemental conditions.

Recipients of a State or local fellowship receiving financial assistance under section 1442(d)(2) of the Safe Drinking Water Act, as amended; sections 104(b)(5) and 104(g)(3)(B) of the Clean Water Act as amended; and section 8001 of the Solid Waste Disposal Act must agree to remain in the employment of the State or local agency that recommended the recipient for an EPA fellowship for twice the period of the fellowship. If the recipient fails to perform this obligation the recipient may be required to repay the amount of the EPA fellowship.

§ 46.160 Acceptance of fellowship award.

The applicant accepts the fellowship by signing and returning the fellowship agreement to the EPA award official within three weeks after receipt, or within any extension of such time that may be permitted by the EPA award official. If the applicant does not sign and return the agreement to the award official or request an extension of the acceptance time within three calendar weeks after receiving the agreement, the offer is null and void.

§ 46.165 Duration of fellowship.

(a) Full-time fellowships will not exceed one year.

(b) Part-time fellowships will not exceed three years.

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§ 46.170 Initiation of studies.

(a) The fellow must submit EPA 5770–7 "Fellowship Activation Notice" when they start their course of studies (OMB clearance number 2010–0004).

(b) If the EPA Grants Administration Division has not received the signed Fellowship Activation Notice within six months following the date of the award, EPA may terminate the fellowship.

§ 46.175 Completion of studies.

Fellows must submit EPA Form 5770–9 "EPA Fellowship Termination Notice," when the fellow completes the course of study. (OMB clearance number 2010–0004)

§ 46.180 Payment.

(a) EPA will pay stipends directly to the fellow on a monthly basis or any other basis approved by the Project Officer, only after EPA has received the signed EPA Form 5770–7, "Fellowship Activation Notice." (OMB clearance number 2010–0004).

(b) EPA will pay the book allowance directly to the fellow only after EPA receives the signed EPA Form 5770–7.

(c) EPA will pay tuition and fees in a lump payment directly to the sponsoring institution only after EPA has received the signed EPA Form 5770–7.

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federal register

Friday
October 19, 1984

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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Rules and Regulations

Federal Register
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Friday, October 19, 1984

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 371

Organization, Functions, and Delegations of Authority

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document revises the statement of organization, functions and delegations of authority of the Animal and Plant Health Inspection Service (APHIS) by amending the locations of principal field offices of Plant Protection and Quarantine to indicate new addresses for the Western and Latin American Regional Headquarters, located in Sacramento, CA, and Mexico City, D.F., Mexico, respectively.

EFFECTIVE DATE: October 19, 1984.

FOR FURTHER INFORMATION CONTACT: John C. Frey, Classification, Employment and Executive Resources Program, Human Resources Division, Animal and Plant Health Inspection Service, Room 221, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782 [301–436–6466].

SUPPLEMENTARY INFORMATION: This amendment makes a change in the addresses of the Plant Protection and Quarantine Western and Latin American Regions.

This rule relates to internal agency management, and therefore, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect thereto are impractical and contrary to the public interest, and good cause is found for making this rule effective less than 30 days after publication in the **Federal Register.** Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12291. Finally, this action is not a rule as defined by Pub. L. 96–354, the Regulatory Flexibility Act, and thus, is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 371

Organization and functions (Government agencies).

PART 371—ORGANIZATION, FUNCTIONS, AND DELEGATIONS OF AUTHORITY

Accordingly, 7 CFR Part 371 is amended as follows:

1. The authority citation for Part 371 reads as follows:

Authority: 5 U.S.C. 301.

2. In § 371.1, paragraph (c)(1) is revised to read as follows:

§ 371.1 General Statement.

* * * * *

(c) * * *

(1) Plant Protection and Quarantine.

Regions

Northeastern: 505 South Lenola Road, Building Blason II, First Floor, Moorestown, NJ 08057
Southeastern: 3505 25th Avenue, P.O. Box 3659, Gulfport, MS 39501
South Central: 2100 Boca Chica Boulevard, Suite 400, Brownsville, TX 78521
Western: 83 Scripps Drive, Sacramento, CA 95825
Latin American: American Embassy. Reforma 305, Col. Cuauhtemoc 06500 Mexico, D.F. Mailing Address: c/o U.S. Embassy, Mexico City, P.O. Box 3087, Laredo, TX 78044.

* * * * *

Dated: October 9, 1984.

Bert W. Hawkins,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 84–27628 Filed 10–18–84; 8:45 am]
BILLING CODE 3410–34–M

Federal Crop Insurance Corporation

7 CFR Part 431

[Docket No. 1269S; Amdt No. 2]

Soybean Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby amends Appendix A to the Soybean Crop Insurance Regulations (7 CFR Part 431) to include additional counties recently approved by FCIC's Board of Directors for soybean crop insurance, to list counties inadvertently omitted from previous county listing publications, and to republish Appendix A in its entirety to reflect all counties currently designated for soybean corp insurance. The intended effect of this rule is to update the list of counties wherein soybean corp insurance is authorized to be offered under the provisions of the Soybean Crop Insurance Regulations and to notify all interested parties in the additional affected counties that they are now eligible to participate in the program.

EFFECTIVE DATE: November 19, 1984.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone (202) 447–3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Departmental Regulation No. 1512–1 (December 15, 1983). This action does not constitute a review as to the need, currency, clarity, and effectiveness of these regulations under that memorandum. The sunset review date established for these regulations is April 1, 1988.

Merritt W. Sprague, Manager, FCIC, has determined that this action (1) is not a major rule as defined by Executive Order no. 12291 (February 17, 1981), because it will not result in: (a) An annual effect on the economy of $100 million or; (b) major increases in costs or prices for consumers, individual industries, Federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) will not increase the Federal paperwork burden for individuals, small businesses, and other persons.

The title and number of the Federal Assistance Program to which this final rule applies are: Title—Crop Insurance; Number 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

On Thursday, June 14, 1984, FCIC published a notice of proposed rulemaking in the **Federal Register** at 49 FR 24529, to amend Appendix A to the Soybean Crop Insurance Regulations (7 CFR Part 431), listing counties wherein such insurance is otherwise authorized to be offered. The public was given 30 days in which to submit written comments, data, and opinions on the proposed rule, but none were received. Therefore, the proposed rule is adopted as final.

Under the provisions of 7 CFR 431.1, before any insurance is offered in any county, there shall be published by appendix to this part the names of the counties in which soybean crop insurance shall be offered. The Board of Directors has approved additional counties for soybean crop insurance and the Manager will make crop insurance available in those counties effective with the 1984 and succeeding crop years. The additional counties were listed and identified in Appendix A when it was published as a proposed rule by an asterisk ("*").

In reviewing the county listing for soybean crop insurance, FCIC noted that several counties had been inadvertently omitted from previous regulations published in the **Federal Register**. These counties were included in Appendix A when published as a proposed rule and identified by two asterisks ("**").

To be sure that Appendix A lists every county wherein soybean crop insurance is otherwise authorized to be offered, FCIC is republishing Appendix A in its entirety.

List of Subjects in 7 CFR Part 431

Crop insurance, Soybean.

Final Rule

PART 431—[AMENDED]

Accordingly, under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby amends the Soybean Crop Insurance Regulations (7 CFR Part 431), effective for the 1984 and succeeding crop years, in the following instances:

1. The Authority Citation for 7 CFR Part 431 is:

Authority: Secs. 506, 516, Pub. L. 75-430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

2. 7 CFR Part 431 is amended by revising and reissuing Appendix A thereto to read as follows:

APPENDIX A.—Counties Designated for Soybean Crop Insurance

The following counties are designated for Soybean Crop Insurance under the provisions of 7 CFR 431.1.

Alabama

Autauga
Baldwin
Barbour
Bibb
Blount
Bullock
Butler
Calhoun
Chambers
Cherokee
Chilton
Choctaw
Clarke
Cleburne
Coffee
Colbert
Conecuh
Covington
Crenshaw
Cullman
Dale
Dallas
De Kalb
Elmore
Escambia
Etowah
Fayette
Franklin
Geneva
Greene
Hale
Henry
Houston
Jackson
Jefferson
Lamar
Lauderdale
Lawrence
Lee
Limestone
Lowndes
Macon
Madison
Marengo
Marion
Marshall
Mobile
Monroe
Montgomery
Morgan
Perry
Pickens
Pike
Randolph
Russell
St. Clair
Shelby
Sumter
Talladega
Tallapoosa
Tuscaloosa
Walker
Washington
Wilcox
Winston

Arkansas

Arkansas
Ashley
Benton
Bradley
Calhoun
Chicot
Clark
Clay
Cleburne
Cleveland
Conway
Craighead
Crawford
Crittenden
Cross
Dallas
Desha
Drew
Faulkner
Franklin
Greene
Hempstead
Hot Spring
Howard
Independence
Jackson
Jefferson
Johnson
Lafayette
Lawrence
Lee
Lincoln
Little River
Logan
Lonoke
Miller
Mississippi
Monroe
Nevada
Ouachita
Perry
Phillips
Pike
Poinsett
Pope
Prairie
Pulaski
Randolph
St. Francis
Saline
Scott
Sebastian
Sevier
Sharp
Stone
Washington
White
Woodruff
Yell

Delaware

Kent
New Castle
Sussex

Florida

Alachua
Bay
Bradford
Calhoun
Columbia
Escambia
Gadsden
Gilchrist
Gulf
Hamilton
Holmes
Jackson
Jefferson
Leon
Levy
Liberty
Madison
Marion
Okaloosa
Pasco
Santa Rosa
Sumter
Suwannee
Union
Walton
Washington

Georgia

Appling
Atkinson
Bacon
Baker
Baldwin
Banks
Barrow
Bartow
Ben Hill
Berrien
Bibb
Bleckley
Brantley
Brooks
Bryan
Bulloch
Burke
Butts
Calhoun
Candler
Carroll
Catoosa
Chatham
Chattooga
Clarke
Clay
Clayton
Coffee
Colquitt
Columbia
Cook
Coweta
Crawford
Crisp
Decatur
Dodge
Dooly
Dougherty
Early
Echols
Effingham
Elbert
Emanuel
Evans
Fayette
Floyd
Forsyth
Franklin
Fulton
Glascock
Gordon
Grady
Greene
Gwinnett
Hancock
Haralson
Harris
Hart
Heard
Henry
Houston
Irwin
Jackson
Jasper
Jeff Davis
Jefferson
Jenkins
Johnson
Jones
Lamar
Lanier
Laurens
Lee
Long
Lowndes
McDuffie
Macon
Madison
Marion
Meriwether
Miller
Mitchell
Monroe
Montgomery
Morgan
Murray
Newton
Oconee
Oglethorpe
Peach
Pickens
Pierce
Pike
Polk
Pulaski
Quitman
Randolph
Richmond
Rockdale
Schley
Screven
Seminole
Spalding
Stewart
Sumter
Talbot
Tattnall
Taylor
Telfair
Terrell
Thomas
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Troup
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Upson
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Illinois

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Indiana

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Dearborn
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De Kalb
Delaware
Dubois
Elkhart
Fayette
Floyd
Fountain
Franklin
Fulton
Gibson
Grant
Greene
Hamilton
Hancock
Harrison
Hendricks
Henry
Howard
Huntington
Jackson
Jasper
Jay
Jefferson
Jennings
Johnson
Knox
Kosciusko
Lagrange
Lake
La Porte
Lawrence
Madison
Marion
Marshall
Martin
Miami
Monroe
Montgomery
Morgan
Newton
Noble
Ohio
Orange
Owen
Parke
Perry
Pike
Porter
Posey
Pulaski
Putnam
Randolph
Ripley
Rush
St. Joseph
Scott
Shelby
Spencer
Starke
Steuben
Sullivan
Switzerland
Tippecanoe
Tipton
Union
Vanderburgh
Vermillion
Vigo
Wabash
Warren
Warrick
Washington
Wayne
Wells
White
Whitley

Iowa

Adair
Adams
Allamakee
Appanoose
Audubon
Benton
Black Hawk
Boone
Bremer
Buchanan
Buena Vista
Butler
Calhoun
Carroll
Cass
Cedar
Cerro Gordo
Cherokee
Chickasaw
Clarke
Clay
Clayton
Clinton
Crawford
Dallas
Davis
Decatur
Delaware
Des Moines
Dickinson
Dubuque
Emmet
Fayette
Floyd
Franklin
Fremont
Greene
Grundy
Guthrie
Hamilton
Hancock
Hardin
Harrison
Henry
Howard
Humboldt
Ida
Iowa
Jackson
Jasper
Jefferson
Johnson
Jones
Keokuk
Kossuth
Lee
Linn
Louisa
Lucas
Lyon
Madison
Mahaska
Marion
Marshall
Mills
Mitchell
Monona
Monroe
Montgomery
Muscatine
O'Brien
Osceola
Page
Palo Alto
Plymouth
Pocahontas
Polk
East Pottawattamie
West Pottawattamie
Poweshiek
Ringgold
Sac
Scott
Shelby
Sioux
Story
Tama
Taylor
Union
Van Buren
Wapello
Warren
Washington
Wayne
Webster
Winnebago
Winneshiek
Woodbury
Worth
Wright

Kansas

Allen
Anderson
Atchison
Barber
Barton
Bourbon
Brown
Butler
Chase
Chautauqua
Cherokee
Cheyenne
Clay
Cloud
Coffey
Comanche
Cowley
Crawford
Dickinson
Doniphan
Douglas
Edwards
Elk
Ellsworth
Finney
Ford
Franklin
Geary
Grant
Gray
Greenwood
Harvey
Haskell
Jackson
Jefferson
Jewell
Johnson
Kearny
Kingman
Kiowa
Labette
Leavenworth
Lincoln
Linn
Lyon
McPherson
Marion
Marshall
Meade
Miami
Mitchell
Montgomery
Morris
Nemaha
Neosho
Osage
Osborne
Ottawa
Pawnee
Pottawatomie
Pratt
Reno
Republic
Rice
Riley
Saline
Scott
Sedgwick
Seward
Shawnee
Sheridan
Sherman
Smith
Stafford
Stanton
Stevens
Sumner
Thomas
Wabaunsee
Washington
Wichita
Wilson
Woodson
Wyandotte

Kentucky

Adair
Allen
Ballard
Barren
Bath
Boone
Bourbon
Boyle
Breckinridge
Bullitt
Butler
Caldwell
Calloway
Carlisle
Carroll
Casey
Christian
Clark
Clinton
Crittenden
Cumberland
Daviess
Edmonson
Fayette
Fleming
Franklin
Fulton
Gallatin
Graves
Grayson
Green
Greenup
Hancock
Hardin
Harrison
Hart
Henderson
Henry
Hickman
Hopkins
Jefferson
Jessamine
Larue
Lewis
Lincoln
Livingston
Logan
Lyon
McCracken
McLean
Madison
Marion
Marshall
Mason
Meade
Mercer
Metcalfe
Monroe
Montgomery
Muhlenberg
Nelson
Ohio
Oldham
Pendleton
Powell
Pulaski
Rowan
Russell
Scott
Shelby
Simpson
Spencer
Taylor
Todd
Trigg
Trimble
Union
Warren
Washington
Wayne
Webster
Woodford

Louisiana

Acadia
Allen

Ascension
Assumption
Avoyelles
Beauregard
Bienville
Bossier
Caddo
Calcasieu
Caldwell
Cameron
Catahoula
Concordia
De Soto
East Baton Rouge
East Carroll
East Feliciana
Evangeline
Franklin
Grant
Iberia
Iberville
Jefferson Davis
Lafayette
Lafourche
La Salle
Madison
Morehouse
Natchitoches
Ouachita
Pointe Coupee
Rapides
Red River
Richland
St. Charles
St. Helena
St. James
St. John the Baptist
St. Landry
St. Martin
St. Mary
St. Tammany
Tangipahoa
Tensas
Terrebonne
Vermilion
Vernon
Washington
Webster
West Baton Rouge
West Carroll
West Feliciana
Winn

Maryland

Anne Arundel
Baltimore
Calvert
Caroline
Carroll
Cecil
Charles
Dorchester
Frederick
Harford
Howard
Kent
Montgomery
Prince Georges
Queen Annes
St. Marys
Somerset
Talbot
Wicomico
Worcester

Michigan

Allegan
Arenac
Barry
Bay
Berrien
Branch
Calhoun
Cass
Clinton
Eaton
Genesee
Gladwin
Gratiot
Hillsdale
Huron
Ingham
Ionia
Iosco
Isabella
Jackson
Kalamazoo
Kent
Lapeer
Lenawee
Livingston
Macomb
Midland
Monroe
Montcalm
Muskegon
Oakland
Ottawa
Saginaw
St. Clair
St. Joseph
Sanilac
Shiawassee
Tuscola
Van Buren
Washtenaw
Wayne

Minnesota

Aitkin
Anoka
Becker
Benton
Big Stone
Blue Earth
Brown
Carver
Cheippwa
Chisago
Clay
Cottonwood
Crow Wing
Dakota
Dodge
Douglas
Faribault
Fillmore
Freeborn
Goodhue
Grant
Hennepin
Houston
Isanti
Jackson
Kanabec
Kandiyohi
Kittson
Lac qui Parle
Le Sueur
Lincoln
Lyon
McLeod
Mahnomen
Marshall
Martin
Meeker
Mille Lacs
Morrison
Mower
Murray
Nicollet
Nobles
Norman
Olmsted
East Otter Tail
West Otter Tail
Pine
Pipestone
East Polk
West Polk
Pope
Red Lake
Redwood
Renville
Rice
Rock
Scott
Sherburne
Sibley
Stearns
Steele
Stevens
Swift
Todd
Traverse
Wabasha
Wadena
Waseca
Washington
Watonwan
Wilkin
Winona
Wright
Yellow Medicine

Mississippi

Adams
Alcorn
Amite
Attala
Benton
Bolivar
Calhoun
Carroll
Chickasaw
Choctaw
Claiborne
Clarke
Clay
Coahoma
Copiah
Covington
Desoto
Forrest
Franklin
George
Greene
Grenada
Hancock
Harrison
Hinds
Holmes
Humphreys
Issaquena
Itawamba
Jackson
Jasper
Jefferson
Jefferson Davis
Jones
Kemper
Lafayette
Lamar
Lauderdale
Lawrence
Leake
Lee
Leflore
Lincoln
Lowndes
Madison
Marion
Marshall
Monroe
Montgomery
Neshoba
Newton
Noxubee
Oktibbeha
Panola
Pearl River
Perry
Pike
Pontotoc
Prentiss
Quitman
Rankin
Scott
Sharkey
Simpson
Smith
Stone
Sunflower
Tallahatchie
Tate
Tippah
Tishomingo
Tunica
Union
Walthall
Warren
Washington
Wayne
Webster
Wilkinson
Winston
Yalobusha
Yazoo

Missouri

Adair
Andrew
Atchison
Audrain
Barry
Barton
Bates
Benton
Bollinger
Boone
Buchanan
Butler
Caldwell
Callaway
Cape Girardeau
Carroll
Cass
Cedar
Chariton
Clark
Clay
Clinton
Cole
Cooper
Crawford
Dade
Daviess
De Kalb
Dunklin
Franklin
Gasconade
Gentry
Greene
Grundy
Harrison
Henry
Hickory
Holt
Howard
Jackson
Jasper
Jefferson
Johnson
Knox
Laclede
Lafayette
Lawrence
Lewis
Lincoln
Linn
Livingston
McDonald
Macon
Madison
Maries
Marion
Mercer
Miller
Mississippi
Moniteau
Monroe
Montgomery
Morgan
New Madrid
Newton
Nodaway
Osage
Pemiscot
Perry
Pettis
Phelps
Pike
Platte
Polk
Putnam
Ralls
Randolph
Ray
Ripley
St. Charles
St. Clair
St. Genevieve
St. Francois
St. Louis
Saline
Schuyler
Scotland
Scott
Shelby
Stoddard
Sullivan
Vernon
Warren
Wayne
Worth

Nebraska

Adams
Antelope
Boone
Buffalo
Burt
Butler
Cass
Cedar
Clay
Colfax
Cuming
Custer
Dakota
Dixon
Dodge
Douglas
Fillmore
Franklin
Furnas
Gage
Greeley
Hall
Hamilton
Harlan
Holt
Howard
Jefferson
Johnson
Kearney
Knox
Lancaster
Madison
Merrick
Nance
Nemaha
Nuckolls
Otoe
Pawnee
Phelps
Pierce
Platte
Polk
Red Willow
Richardson
Saline
Sarpy
Saunders
Seward
Sherman
Stanton
Thayer
Thurston
Valley
Washington
Wayne
Webster
Wheeler
York

New Jersey

Atlantic
Burlington
Camden
Cape May
Cumberland
Gloucester
Hunterdon
Mercer
Middlesex
Monmouth
Ocean
Salem
Somerset
Warren

New York

Cayuga
Livingston
Ontario
Orleans
Seneca
Wayne

North Carolina

Alamance
Alexander
Anson
Beaufort
Bertie
Bladen
Brunswick
Burke
Cabarrus
Caldwell
Camden
Carteret
Caswell
Catawba
Chatham
Cherokee
Chowan
Cleveland
Columbus
Craven
Cumberland
Currituck

Dare
Davidson
Davie
Duplin
Durham
Edgecombe
Forsyth
Franklin
Gaston
Gates
Granville
Greene
Guilford
Halifax
Harnett
Henderson
Hertford
Hoke
Hyde
Iredell
Johnston
Jones
Lee
Lenoir
Lincoln
Martin
Mecklenburg
Montgomery
Moore
Nash
New Hanover
Northampton
Onslow
Orange
Pamlico
Pasquotank
Pender
Perquimans
Person
Pitt
Polk
Randolph
Richmond
Robeson
Rockingham
Rowan
Rutherford
Sampson
Scotland
Stanly
Stokes
Surry
Tyrrell
Union
Vance
Wake
Warren
Washington
Wayne
Wilkes
Wilson
Yadkin

North Dakota

Barnes
Cass
Dickey
Eddy
Grand Forks
Griggs
La Moure
Pembina
Ransom
Richland
Sargent
Steele
Stutsman
Traill
Walsh

Ohio

Adams
Allen
Ashland
Ashtabula
Auglaize
Brown
Butler
Champaign
Clark
Clermont
Clinton
Columbiana
Coshocton
Crawford
Cuyahoga
Darke
Defiance
Delaware
Erie
Fairfield
Fayette
Franklin
Fulton
Gallia
Geauga
Greene
Hamilton
Hancock
Hardin
Henry
Highland
Hocking
Huron
Jackson
Knox
Lake
Licking
Logan
Lorain
Lucas
Madison
Mahoning
Marion
Medina
Mercer
Miami
Montgomery
Morrow
Muskingum
Ottawa
Paulding
Perry
Pickaway
Pike
Portage
Preble
Putnam
Richland
Ross
Sandusky
Scioto
Seneca
Shelby
Stark
Summit
Trumbull
Tuscarawas
Union
Van Wert
Warren
Washington
Wayne
Williams
Wood
Wyandot

Oklahoma

Bryan
Canadian
Choctaw
Cleveland
Craig
Creek
Delaware
Garvin
Grady
Haskell
Hughes
Kay
Le Flore
McClain
McCurtain
McIntosh
Mayes
Muskogee
Nowata
Okfuskee
Okmulgee
Osage
Ottawa
Pawnee
Pittsburg
Pottawatomie
Rogers
Seminole
Sequoyah
Tulsa
Wagoner
Washington

Pennsylvania

Adams
Berks
Bucks
Chester
Columbia
Dauphin
Lancaster
Lebanon
Lehigh
Lycoming
Mercer
Montgomery
Montour
Northampton
Northumberland
York

South Carolina

Abbeville
Aiken
Allendale
Anderson
Bamberg
Barnwell
Beaufort
Berkeley
Calhoun
Charleston
Cherokee
Chester
Chesterfield
Clarendon
Colleton
Darlington
Dillon
Dorchester
Edgefield
Fairfield
Forence
Georgetown
Greenville
Greenwood
Hampton
Horry
Jasper
Kershaw
Lancaster
Laurens
Lee
Lexington
Marion
Marlboro
Newberry
Oconee
Orangeburg
Pickens
Richland
Saluda
Spartanburg
Sumter
Union
Williamsburg
York

South Dakota

Aurora
Beadle
Bon Homme
Brookings
Brown
Brule
Charles Mix
Clark
Clay
Codington
Davison
Day
Deuel
Douglas
Grant
Hamlin
Hanson
Hughes
Hutchinson
Kingsbury
Lake
Lincoln
McCook
Marshall
Miner
Minnehaha
Moody
Roberts
Spink
Sully
Turner
Union
Yankton

Tennessee

Bedford
Benton
Bledsoe
Blount
Bradley
Cannon
Carroll
Cheatham
Chester
Claiborne
Clay
Cocke
Coffee
Crockett
Cumberland
Davidson
Decatur
Dekalb
Dickson
Dyer
Fayette
Fentress
Franklin
Gibson
Giles
Grainger
Greene
Grundy
Hamblen
Hamilton
Hardeman
Hardin
Hawkins
Haywood
Henderson
Henry
Hickman
Houston
Humphreys
Jackson
Jefferson
Knox
Lake
Lauderdale
Lawrence
Lewis
Lincoln
Loudon
McMinn
McNairy
Macon
Madison
Marion
Marshall
Maury
Meigs
Monroe
Montgomery
Morgan
Obion
Overton
Perry
Pickett
Polk
Putnam
Rhea
Robertson
Rutherford
Sequatchie
Sevier
Shelby
Smith
Stewart
Sumner
Tipton
Trousdale
Van Buren
Warren
Wayne
Weakley
White
Williamson
Wilson

Texas

Bailey
Bowie
Brazoria
Brazos
Briscoe
Calhoun
Castro
Chambers
Colorado
Deaf Smith
Delta
Fannin
Fayette
Floyd
Fort Bend
Galveston
Grimes
Hale
Hardin
Harris
Hopkins
Houston
Jackson
Jefferson
Lamar
Lamb
Liberty
Lubbock
Matagorda
Medina
Moore
Newton
Orange
Parmer
Polk
Red River
San Jacinto
Sherman
Swisher
Tyler
Uvalde
Waller
Wharton
Zavala

Virginia

Accomack
Albemarle
Amelia
Appomattox
Bedford
Brunswick
Campbell
Caroline
Charles City
Charlotte
Chesterfield
Culpeper
Cumberland
Dinwiddie
Essex
Fauquier
Fluvanna
Franklin
Gloucester
Goochland
Greensville
Halifax
Hanover
Henrico
Henry
Isle of Wight
James City
King and Queen
King George
King William
Lancaster
Loudoun
Louisa
Lunenburg
Mathews
Mecklenburg
Middlesex
Nelson
New Kent
Northampton
Northumberland
Nottoway
Orange
Patrick
Pittsylvania
Powhatan
Prince Edward
Prince George
Richmond
Southampton
Spotsylvania
Stafford

Surry	Chesapeake City
Sussex	Suffolk City
Westmoreland	Virginia Beach
York	

West Virginia

Mason

Wisconsin

Adams	Lincoln
Barron	Manitowoc
Buffalo	Marquette
Burnett	Milwaukee
Calumet	Monroe
Chippewa	Outagamie
Clark	Ozaukee
Columbia	Pepin
Crawford	Pierce
Dane	Polk
Dodge	Portage
Door	Racine
Dunn	Richland
Eau Claire	Rock
Fond du Lac	St. Croix
Grant	Sauk
Green	Sheboygan
Iowa	Trempealeau
Jackson	Walworth
Jefferson	Washington
Juneau	Waukesha
Kenosha	Waupaca
LaCrosse	Waushara
Lafayette	Winnebago
Langlade	Wood

Done in Washington, D.C., on July 17, 1984.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Dated: October 11, 1984.

Approved by:

Merritt W. Sprague,

Manager.

[FR Doc. 84-27661 Filed 10-18-84; 8:45 am]

BILLING CODE 3410-08-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 486]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 180,000 cartons during the period October 21–27, 1984. Such action is needed to provide for orderly marketing of fresh lemons for the period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: October 21, 1984 to October 27, 1984.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

This final rule is issued under Marketing Order No. 910, as amended (7 CFR Part 910) regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy currently in effect. The committee met publicly on October 16, 1984, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports that lemon demand is easier.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the Act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

PART 910—[AMENDED]

Section 910.786 is added as follows:

§ 910.786 Lemon Regulation 486.

The quantity of lemons grown in California and Arizona which may be handled during the period October 21, 1984, through October 27, 1984, is established at 180,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: October 17, 1984.

Thomas R. Clark,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 84-27804 Filed 10-18-84; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 103, 214, and 292a

Powers and Duties of Service Officers; Availability of Service Records; Nonimmigrant Classes; Listing of Free Legal Services Programs; Miscellaneous Amendments

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule makes technical amendments necessary to 8 CFR reflecting the transfer of appellate authority formerly held by INS regional commissioners to the Associate Commissioner, Examinations. The transfer of authority was effective October 3, 1983, pursuant to a final rule published in the **Federal Register** of September 22, 1983 (48 FR 43160).

EFFECTIVE DATE: October 19, 1984.

FOR FURTHER INFORMATION CONTACT: Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C. 20536, Telephone: (202) 633–3048.

SUPPLEMENTARY INFORMATION: A final rule amending 8 CFR 103.1(f) published 9–22–83 (48 FR 43160) transferred to the Associate Commissioner, Examinations authority to consider all appeals concerning proceedings by immigration judges to withdraw the approval of petitions by schools, as provided in § 214.4(j) of this title and applications by organizations to be listed on the Service listing of free legal services programs and removal therefrom under § 292a of this title. This rule amends §§ 214 and 292a to reflect these changes. This rule also corrects a typographical error that occurred in final rule published 9–22–83 (48 FR 43160) amending 8 CFR 103.1(f).

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary

because the rule is limited to a matter relating to agency management.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that this rule, if promulgated, will not have a significant economic impact on a substanital number of small entities.

This order is not a rule within the definition of Section 1(a) of E.O. 12291 because it relates to agency organization and management.

List of Subjects

8 CFR Part 103

Administrative practice and procedure, Authority designation (Government agencies), Organization and functions.

8 CFR Part 214

Aliens, Employment, Schools, Students.

8 CFR Part 292a

Accreditation, Representation of others, Legal service.

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended to read as follows:

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

In § 103.1, paragraph (f)(2)(iv) is revised to read as follows:

§ 103.1 [Amended]

* * * * *

(f) * * *

(2) * * *

(iv) Revoking approval of certain petitions under § 205.2 of this title;

* * * * *

PART 214—NONIMMIGRANT CLASSES

In § 214.4, paragraphs (i) and (j) are revised to read as follows:

§ 214.4 Withdrawal of school approval.

* * * * *

(i) *Finality of order.* The order of the special inquiry officer shall be final except when the case is certified as provided in Part 103 of this chapter or an appeal is made by the respondent or the trial attorney.

(j) *Appeals.* Pursuant to Part 103 of this chapter, an appeal from a decision of a special inquiry officer under paragraph (g) of this section may be made. An appeal shall be taken within 15 days after the mailing of a written decision or the stating of an oral decision. The reasons for the appeal shall be stated briefly in the notice of appeal, Form I–290B; failure to do so may constitute a ground for dismissal of the appeal.

* * * * *

PART 292a—LISTING OF FREE LEGAL SERVICES PROGRAMS

Section 292a.5 is revised to read as follows:

§ 292a.5 Removal of an organization from list.

If the district director or officer-in-charge is satisfied that an organization listed under § 292a.1 does not meet the qualifications as set out in § 292a.2, he/she shall notify the organization concerned, in writing, of his/her intention to remove its name from the Service list. The organization may submit an answer within 30 days from the date the notice was served. If, after considering the answer by the organization, in the event an answer is submitted, the district director or officer-in-charge determines that the organization does not qualify under § 292a.2, he/she shall remove its name from the list. Removal must be based on the failure of the organization to meet the qualifications specified in § 292a.2 of this chapter. The organization shall be advised of its right to appeal in accordance with §§ 103.1 and 103.3 of this chapter. If an organization applies to the district director or officer-in-charge to have its name removed from the Service list, that request shall be honored.

Authority: The amendments to Parts 103, 214 and 292a issued under section 103 of the Immigration and Nationality Act, as amended; 8 U.S.C. 1103.

Dated: October 15, 1984.

Andrew J. Carmichael, Jr.,

Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 84–27628 Filed 10–18–84; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 84–073]

Specifically Approved States Authorized To Receive Mares and Stallions Imported From CEM-Affected Countries

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: This document affirms the interim rule which added Tennessee to the lists of approved States authorized to receive certain mares and stallions imported into the United States from countries affected with contagious equine metritis (CEM). This action is needed because the Deputy Administrator for Veterinary Services has determined that Tennessee has laws or regulations in effect to require the additional inspection, treatment, and testing of such horses to further ensure their freedom from CEM as required by the regulations. This action is necessary in order to avoid the imposition of unnecessary restrictions on importers of mares and stallions from countries affected with CEM.

EFFECTIVE DATE: October 19, 1984.

FOR FURTHER INFORMATION CONTACT: Dr. M. P. Dulin, VS, APHIS, USDA, Room 843, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8170.

SUPPLEMENTARY INFORMATION:

Background

Section 92.2(i) of the regulations in 9 CFR Part 92, among other things, authorizes the importation of certain horses (mares and stallions over 731 days of age) into the United States from countries affected with contagious equine metritis (CEM) when specific requirements to prevent their introducing CEM into the United States are met, and the animals imported are moved into approved States for further inspection, treatment, and testing.

A document published in the **Federal Register** on June 4, 1984 (49 FR 23036–23037), set forth an interim rule amending § 92.4 of the regulations in 9 CFR Part 92 by adding Tennessee to the lists of States approved to receive these mares and stallions. The addition of Tennessee to the lists was based on the finding that it meets certain minimum standards concerning treatment, testing, and handling procedures for these mares and stallions.

The interim rule was made effective upon publication. Comments were solicited for 60 days after publication of the amendments. No comments were received. The factual situation which was set forth in the document of June 4,

1984, still provides a basis for the amendments.

Executive Order 12291 and Regulatory Flexibility Act

This action has been reviewed in conformance with Executive Order 12291 and has been determined to be not a major rule. Based on information compiled by the Department, it has been determined that this action will not result in a significant annual effect on the economy; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not have any adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this rulemaking action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

It is anticipated that fewer than 15 mares and stallions from countries affected with CEM will be imported into the State of Tennessee annually. This compares with 320 such animals imported into the entire United States during Fiscal Year 1983 and with approximately 40,000 horses of all classes imported into the United States during that same period.

Based on the circumstances explained above, Mr. Bert W. Hawkins, Administrator, Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 9 CFR Part 92

Animal diseases, Canada, Imports, Livestock and livestock products, Mexico, Poultry and poultry products, Quarantine, Transportation, Wildlife.

Accordingly, the interim rule which was published at 49 FR 23036–23037 on June 4, 1984, is adopted as a final rule.

Authority: Sec. 2, 32 Stat. 792, as amended; secs. 4 and 11, 76 Stat. 130, 132; 21 U.S.C 111, 134c 134f; 7 CFR 2.17, 2.51, and 371.2(d).

Done at Washington, D.C., this 12th day of October 1984.

G.P. Pierson,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 84-27627 Filed 10-18-84; 8:45 am]

BILLING CODE 3410-34-M

FEDERAL ELECTION COMMISSION

11 CFR Parts 4 and 5

[Notice 1984-17]

Public Records and the Freedom of Information Act; Access to Public Disclosure Division Documents; Amendment of Fee Provisions

AGENCY: Federal Election Commission.

ACTION: Notice of effective date and correction of final rule.

SUMMARY: On July 31, 1984, (48 FR 30458), the Commission published the text of revised regulations governing the fee schedules for reproduction of materials available under the Freedom of Information Act and through the Commission's Public Disclosure Division. These regulations were transmitted to Congress on July 26, 1984. The Commission announces that these rules are effective as of October 19, 1984. Additionally, the Commission is correcting the authority citation for Part 5, (49 FR 30459).

EFFECTIVE DATE: October 19, 1984.

FOR FURTHER INFORMATION CONTACT: Ms. Kim L. Bright, Acting Assistant General Counsel, 1325 K Street NW., Washington, D.C. 20463, (202) 523-4143 or (800) 424-9530.

SUPPLEMENTARY INFORMATION: 2 U.S.C. 438(d) requires that regulations prescribed by the Commission to implement the provisions of Title 2, United States Code, be transmitted to the Speaker of the House of Representatives and the President of the Senate prior to final promulgation. Since the revisions to 11 CFR Part 5 implement provisions of Title 2, these regulations were transmitted to Congress on July 26, 1984. Thirty legislative days expired on October 9, 1984.

Announcement of effective date, 11 CFR Parts 4 and 5, as published at 49 FR 30458, are effective as of October 18, 1984.

In addition to announcing the effective date for these regulations, the Commission is correcting the authority citation for Part 5 which appears on page 30459, column 2. As corrected, the authority citation for Part 5 reads as follows:

Authority: 2 U.S.C. 437f(d), 437g(a)(4)(B)(ii), 438(a) and 31 U.S.C. 9701.

Dated: October 16, 1984.

Lee Ann Elliott,

Chairman, Federal Election Commission.

[FR Doc. 84-27677 Filed 10-18-84; 8:45 am]

BILLING CODE 6715-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. C-1161]

Foremost Dairies, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Set Aside Order.

SUMMARY: This Order reopens the proceeding and sets aside the divestiture Order issued against a dairy products processor on January 23, 1967 (71 F.T.C. 56) and modified on February 17, 1983 (101 F.T.C. 343) by deleting provision requiring prior Commission approval for any acquisitions made by the company. After considering request of successor company, McKesson Corporation, together with supporting materials and other relevant data, the Commission found that the competitive problem that had prompted issuance of the divestiture order no longer existed and that termination of the Order to relieve respondent of compliance costs was in the public interest.

DATES: Consent Order issued January 23, 1967; Modifying Order issued February 17, 1983; Set Aside Order issued September 18, 1984.

FOR FURTHER INFORMATION CONTACT: L/301-1, Elliot Feinberg, Washington, D.C. 20580, (202) 634-4604.

SUPPLEMENTARY INFORMATION: In the matter of Foremost Dairies, Inc., a corporation.

List of Subjects in 16 CFR Part 13

Pharmaceutical products.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

Order Reopening and Setting Aside Modified Order Issued on January 23, 1967

[Docket No. C-1161]

Commissioners: James C. Miller III, Chairman, Michael Pertschuk, Patricia P. Bailey, George W. Douglas, Terry Calvani.

In the matter of Foremost Dairies, Inc., a corporation.

By a petition filed on May 16, 1984, and a supplement thereto dated June 29, 1984, McKesson Corporation (formerly Foremost-McKesson, Inc. and Foremost Dairies, Inc. and hereafter "McKesson") requests that the Commission reopen the proceeding in Docket No. C-1161 and set aside the modified order against McKesson issued by the Commission on January 23, 1967. Pursuant to § 2.51 of the Commission's Rules of Practice, McKesson's petition was placed on the public record for comment. No comments were received.

Upon consideration of McKesson's petition and supporting materials, and other relevant information, the Commission now finds that changed conditions of fact and the public interest warrant reopening the proceeding and setting aside the modified order. The record demonstrates that the competitive problem Paragraph IV of the order intended to remedy no longer exists and termination of the order to relieve respondent of compliance costs is in the public interest.

Accordingly, it is ordered that this matter be, and it hereby is reopened and that the Commission's modified order be, and it is hereby set aside.

By direction of the Commission. Chairman Miller did not participate.

Issued: September 18, 1984.

Emily H. Rock,

Secretary.

[FR Doc. 84-27085 Filed 10-18-84; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 618

Federal Supplemental Benefits; Revocation of Regulations

AGENCY: Employment and Training Administration, Labor.

ACTION: Revocation.

SUMMARY: The Department of Labor revokes 20 CFR Part 618, originally established under the Emergency Unemployment Compensation Act of 1974, Pub. L. 93-572, which provided for

the payment of benefits from January 1975 to January 1978. The Federal Supplemental Benefits (FSB) program was a temporary program of unemployment assistance which paid benefits to workers who continued to be unemployed after exhausting their regular and extended unemployment benefits. The FSB program expired on January 31, 1978, and all benefit activities have ceased. There is no longer a need for the regulations.

EFFECTIVE DATE: October 19, 1984.

FOR FURTHER INFORMATION CONTACT: Director, Unemployment Insurance Service, Employment and Training Administration, U.S. Department of Labor, 601 "D" Street NW., Washington, D.C. 20213; Telephone: (202) 376–6636 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The revocation of these regulations merely removes regulations that are no longer necessary because the program to which they applied ceased operating in February 1978. Subsection (b) of 5 U.S.C. 553 requires that a notice of proposed rulemaking be published in the **Federal Register**, except when the agency for good cause finds that notice and public procedures thereon are impracticable, unnecessary, or contrary to the public interest. I have determined that the notice and comment procedures of Section 553(b) are unnecessary since the purpose and effect of this rule are merely to remove regulations that are no longer useful. For the same reason, this revocation is made effective upon publication in the **Federal Register**, pursuant to 5 U.S.C. 553(d).

Drafting Information

This document was prepared under the direction and control of the Director of the Unemployment Insurance Service, Employment and Training Administration, U.S. Department of Labor, 601 "D" Street NW., Washington, D.C. 20213; Telephone: (202) 376–6636 (this is not a toll-free number).

Classification—Executive Order 12291

The rule in this document is not classified as a "major rule" under Executive Order 12291 on Federal Regulations and, therefore, no regulatory impact analysis is required.

Regulatory Flexibility Act

Because notice of proposed rulemaking is not required for this rule under 5 U.S.C. 553(b), the requirements of the Regulatory Flexibility Act, 5, U.S.C. 601 et seq., pertaining to regulatory flexibility analyses, do not apply to this rule.

List of Subjects in 20 CFR Part 618

Labor, Federal Supplemental Benefits (FSB), Unemployment compensation.

Words of Issuance

PART 20—[REMOVED]

Accordingly, for the reasons set out in the preamble, 20 CFR Part 618 is hereby revoked and removed and reserved.

(Pub. L. 93–572, 88 Stat. 1869 (26 U.S.C. 3304 note); Secretary's Order No. 4–75 (40 FR 18515))

Signed at Washington, D.C., on October 11, 1984.

Patrick J. O'Keefe,

Deputy Assistant Secretary of Labor.

[FR Doc. 84–27711 Filed 10–18–84; 8:45 am]

BILLING CODE 4510–30–M

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20 CFR Parts 621 and 655

Labor Certification Process for the Temporary Employment of Aliens on Guam: Termination of Program; Adverse Effect Wage Rates; Apprenticeship Wages

AGENCY: Employment and Training Administration, Labor.

ACTION: Final rule.

SUMMARY: The Department of Labor (DOL) is revising its temporary alien labor certification regulations to indicate that it no longer will be advising the Immigration and Naturalization Service (INS) on the availability of qualified United States workers for temporary employment offered to nonimmigrant aliens in the Territory of Guam, or on the adverse effect of such employment on similarly employed U.S. workers. This is as a result of the action of the (INS), transferring this advisory function from DOL to the Governor of Guam.

EFFECTIVE DATE: June 18, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Richard C. Gilliland, Director, U.S. Employment Service, Employment and Training Administration, U.S. Department of Labor, Washington, D.C. 20213. Telephone 376–6289.

SUPPLEMENTARY INFORMATION: On April 18, 1984, there was published in the **Federal Register** a final rule by the Immigration and Naturalization Service (INS) which transfers from the Secretary of Labor to the Governor of Guam the advisory function set out at section 214(c) of the Immigration and Nationality Act (8 U.S.C. 1184(c)), with respect to employment in the Territory of Guam. 49 FR 15182. The INS regulation provides, effective June 18, 1984, that the Governor of Guam, or the Governor's designated representative within the Territorial Government, will advise INS whether qualified United States workers are available for temporary employment offered to nonimmigrant aliens (beneficiaries of H–2 visa petitions) in the Territory of Guam, and whether employment of those nonimmigrant aliens adversely affects the wages and working conditions of similarly employed U.S. workers. 8 CFR 214.2(h)(3); 49 FR 15183 (April 18, 1984).

The Department of Labor (DOL), therefore, is amending its regulations at 20 CFR Part 621 and Part 655, Subpart B, to terminate its temporary alien labor certification program for Guam. DOL continues, however, to have the statutory responsibility to certify the permanent employment of immigrant aliens in the Territory of Guam, and this document does not affect, therefore, the regulations at 20 CFR Part 656 governing that program. See 8 U.S.C. 1182(a)(14).

On October 16, 1981, DOL published in the **Federal Register** an advance notice of proposed rulemaking, requesting comments on revising the adverse effect wage rate methodology for the temporary employment of nonimmigrant alien construction workers in Guam. 46 FR 50961. This final rule constitutes the completion of that rulemaking.

Also on October 16, 1981, DOL published in the **Federal Register** a notice of proposed rulemaking, requesting comments on revising the methodology for setting wage rates for construction industry apprentices covered by the temporary alien certification program in Guam. 46 FR 50982. This final rule constitutes the completion of that rulemaking.

Since the recent INS rulemaking removes from DOL the authority for a temporary alien labor certification program in Guam, DOL finds it impracticable, unnecessary, and contrary to the public interest to publish a general notice of proposed rulemaking on this subject. 5 U.S.C. 553(b)(B). This rule is effective June 18, 1984, contemporaneous with the effective date of the INS rule.

Development of Final Rule

This final rule was prepared under the direction and control of Mr. Richard C.

Gilliland, Director, U.S. Employment Service, Employment and Training Administration, U.S. Department of Labor, Washington, D.C. 20213.

Regulatory Impact

This document reflects the removal of regulations for which there are no longer any authority. Therefore, it is not a rule or regulation as defined in E.O. 12291.

With the exception of the October 16, 1981, proposed rulemaking on apprentice wages (46 FR 50982), this document was not preceded by a general notice of proposed rulemaking, and, therefore, is not a rule as defined in the Regulatory Flexibility Act. 5 U.S.C. 601(2) and 604(a). At the time that proposed rule was published, DOL notified the Chief Counsel for Advocacy, Small Business Administration, and made the certification pursuant to 5 U.S.C. 605(b), that the rule proposed therein would not have had a significant economic impact on a substantial number of small entities.

(Catalog of Federal Domestic Assistance Number: This program was listed in the *Catalog of Federal Domestic Assistance* at 17.203.)

List of Subjects

20 CFR Part 621

Administrative practice and procedure, Aliens, Employment, Guam, Labor, Wages.

20 CFR Part 655

Administrative practice and procedure, Agriculture, Aliens, Employment, Forests and forest products, Guam, Labor, Migrant labor, Wages.

Promulgation of Final Rule

Accordingly, Parts 621 and 655 of Chapter V of Title 20, Code of Federal Regulations, are amended as follows:

PART 621—CERTIFICATION OF TEMPORARY FOREIGN LABOR FOR OCCUPATIONS OTHER THAN AGRICULTURE OR LOGGING

1. Section 621.1 is revised to read as follows:

§ 621.1 Scope and purpose.

(a) *Purpose.* This part and Part 655, Subpart A, of this chapter set forth the procedures governing the temporary labor certification process for occupations other than agriculture and logging.

(b) *Territory of Guam.* (1) This part and Part 655 of this chapter do not apply to temporary employment in the Territory of Guam, and the Department of Labor does not certify to the Immigration and Naturalization Service (INS) the temporary employment of nonimmigrant aliens in the Territory of Guam. Pursuant to the INS's regulation at 8 CFR 214.2(h)(3), that function is performed by the Governor of Guam, or the Governor's designated representative within the Territorial Government.

(2) Certification to the INS and the Department of State of the permanent employment of immigrant aliens in the Territory of Guam is performed by the Department of Labor pursuant to 8 U.S.C. 1182(a)(14) and the regulations at 20 CFR Part 656.

PART 655—LABOR CERTIFICATION PROCESS FOR THE TEMPORARY EMPLOYMENT OF ALIENS IN THE UNITED STATES

2. A new § 655.000 is added to read as follows:

§ 655.000 Territory of Guam.

(a) *Temporary employment.* This part and Part 621 of this chapter do not apply to temporary employment in the Territory of Guam, and the Department of Labor does not certify to the Immigration and Naturalization Service (INS) the temporary employment of nonimmigrant aliens in the Territory of Guam. Pursuant to the INS's regulation at 8 CFR 214.2(h)(3), that function is performed by the Governor of Guam, or the Governor's designated representative within the Territorial Government.

(b) *Permanent employment.* Certification to the INS and the Department of State of the permanent employment of immigrant aliens in the Territory of Guam is performed by the Department of Labor pursuant to 8 U.S.C. 1182(a)(14) and the regulations at 20 CFR Part 656.

§§ 655.100—655.110–(Subpart B) [Removed]

3. Part 655 is amended by removing Subpart B consisting of §§ 655.100 through 655.110.

Authority: Secs. 101(a)(15)(H)(ii) and 214(c) of the Immigration and Nationality Act (8 U.S.C 1101(a)(15)(H)(ii); Wagner-Peyser Act (29 U.S.C 49 *et seq.*); and 8 CFR 214.2(h)(3).

Signed in Washington, DC, this 15th day of October, 1984.

Ford B. Ford,

Under Secretary of Labor.

[FR Doc. 84-27713 Filed 10-18-84; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Ch. I

[Docket No. 78N-0158]

Uniform Effective Date for Food Labeling Regulations; Notice to Manufacturers, Packers, and Distributors

AGENCY: Food and Drug Administration.

ACTION: Notice; final rule-related.

SUMMARY: The Food and Drug Administration (FDA) is establishing July 1, 1987 as its new uniform effective date for compliance with all FDA final food labeling regulations that are published in the **Federal Register** after October 19, 1984 and before July 1, 1986.

FDA periodically has announced uniform effective dates for compliance with new food labeling requirements because the economic impact of requiring individual label changes on separate dates would probably be substantial. In addition, industry needs sufficient lead time to make label changes and the current uniform effective date of July 1, 1985, is less than 1 year away. Therefore, the agency has concluded that a new uniform effective date should be established.

EFFECTIVE DATE: July 1, 1987, for compliance with food labeling regulations published after October 19, 1984, and before July 1, 1986, except as otherwise provided in individual regulations.

FOR FURTHER INFORMATION CONTACT: Robert L. Lake, Center for Food Safety and Applied Nutrition (HFF-302), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0162.

SUPPLEMENTARY INFORMATION: FDA periodically issues various regulations requiring changes in labeling for packaged food. If these labeling changes were individually required on separate dates, the cumulative economic impact on the food industry of frequent changes would probably be substantial. Therefore, the agency periodically has announced uniform effective dates for compliance with new food labeling requirements (see, e.g., the **Federal Register** of August 13, 1982 (47 FR 35185)). Use of a uniform effective date also provides for an orderly and economical industry adjustment to new labeling requirements by allowing sufficient lead time to plan for the use of existing label inventories and the development of new labeling materials. The agency believes that this policy

serves consumers' interest as well because the increased cost of multiple short-term label revisions that would otherwise occur would likely be passed on to consumers in the form of higher food prices.

The agency has decided that a new uniform effective date of July 1, 1987 should be established for future FDA regulations requiring changes in food labels where special circumstances do not justify a different effective date. Action is appropriate now because the current uniform effective date is less than 1 year away. The agency has selected July 1, 1987 to ensure adequate time for implementation of any changes in food labeling that may be required by FDA final regulations published after October 19, 1984 and before July 1, 1986.

The agency encourages industry, however, to comply with new labeling regulations earlier than the required date wherever this is feasible. Thus, when industry members voluntarily change their labels, FDA believes that it is appropriate that they incorporate any new requirements that have been published as final regulations up to that time.

The new uniform effective date will apply only to final FDA food labeling regulations published after October 19, 1984 and before July 1, 1986. Those regulations will specifically identify July 1, 1987, as their effective date for compliance. If any food labeling regulation involves special circumstances that justify an effective date other than July 1, 1987, the agency will determine for that regulation an appropriate effective date that will be specified when the regulation is published.

This notice is not intended to change existing requirements. Therefore, all final FDA food labeling regulations previously published in the **Federal Register** that announced July 1, 1985, as their effective date will still go into effect on that date. Final regulations published in the **Federal Register** with effective dates earlier than July 1, 1985 (e.g., July 1, 1983) are also unaffected by this notice.

The current uniform effective date of July 1, 1985, for new final regulations affecting the labeling of food products was announced in the **Federal Register** of August 13, 1982 (47 FR 35185). Foods initially introduced or initially delivered for introduction into interstate commerce on or after July 1, 1985, are still required to comply with any final FDA regulations that identify July 1, 1985, as their effective date for compliance.

Dated: October 15, 1984.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-27614 Filed 10-18-84; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 285

[T.D. ATF-185; Correction]

Electronic Fund Transfer for Alcohol and Tobacco Taxpayments; Correction.

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule on electronic fund transfer for alcohol and tobacco taxpayments which appeared in the issue of Tuesday, September 25, 1984 (49 FR 37585). This action is necessary to correct a technical error.

FOR FURTHER INFORMATION CONTACT: John A. Linthicum, FAA, Wine and Beer Branch (202) 566-7626

SUPPLEMENTARY INFORMATION: In FR Doc. 84-25342, appearing in the issue of Tuesday, September 25, 1984, an omission occurred on page 37585.

§ 285.27 [Corrected]

Immediately preceding the statutory authority for 27 CFR 285.27, the OMB Control Number for the section should be displayed, to read as follows:

(Approved by the Office of Management and Budget under Control Number 1512-0457)

Approved: October 10, 1984.

Stephen E. Higgins,

Director.

[FR Doc. 84-27709 Filed 10-18-84; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 914

Approval of Permanent Program Amendments From the State of Indiana Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: OSM is announcing the approval of certain amendments to the Indiana regulatory program (hereinafter referred to as the Indiana program) under the provisions of the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

On March 19, 1984, Indiana submitted an amendment to its program which consisted of modifications to the Indiana statute pertaining to the hearing on a lands unsuitable petition, various provisions on the blasting plan and use of explosives, administrative and judicial review of decisions on permit applications, requirements for signs and markers, and protection of underground mining.

After providing opportunity for public comment and conducting a thorough review of the program amendments, the Director of OSM has determined that the amendments meet the requirements of SMCRA and the Federal regulations, with the exception of several provisions discussed below. Accordingly, the Director is approving those amendments which are consistent and has notified Indiana, pursuant to 30 CFR 732.17, of additional program amendments which are required. Pursuant to 30 CFR 732.17(f), Indiana must respond to this notification within 60 days.

The Federal rules at 30 CFR Part 914 which codify decisions concerning the Indiana program are being amended to implement these actions.

EFFECTIVE DATE: October 19, 1984.

ADDRESSES: Copies of the Indiana program and the Administrative Record on the Indiana program are available for public inspection and copying during business hours at:

Office of Surface Mining Reclamation and Enforcement, Room 5124, 1100 L Street, NW., Washington, D.C. 20240

Office of Surface Mining Reclamation and Enforcement, Federal Building and U.S. Courthouse, Room 522, 46 East Ohio Street, Indianapolis, Indiana 46204

Indiana Department of Natural Resources, 608 State Office Building, Indianapolis, Indiana 46204

FOR FURTHER INFORMATION CONTACT: Mr. Richard D. McNabb, Director, Indianapolis Field Office, Office of Surface Mining Reclamation and Enforcement, Federal Building and U.S. Courthouse, Room 522, 46 East Ohio Street, Indianapolis, Indiana 46204. Telephone: (317) 269-2600.

SUPPLEMENTARY INFORMATION:

I. Background

Information regarding the general background on the Indiana State Program, including the Secretary's Findings, the disposition of comments and a detailed explanation of the conditions of approval of the Indiana program can be found in the July 26, 1982, **Federal Register** (47 FR 32071–32108).

On March 19, 1984, the Director, Indiana Department of Natural Resources, submitted to OSM, pursuant to 30 CFR 732.17, a proposed State program amendment for approval. The proposed amendment to the Indiana regulations would modify various provisions of the approved Indiana program. Briefly, the proposed modifications and regulation cites are:

1. Indiana proposed changes to regulations concerning hearing requirements for lands unsuitable determinations. 310 IAC 12–2–8.

2. Indiana would change some requirements for information in the blasting plan required for permit applications. 310 IAC 12–3–43.

3. A change was proposed concerning administrative review of decisions by the commission on permit applications. 310 IAC 12–3–118.

4. Changes were proposed in the requirements for signs and markers. 310 IAC 12–5–6 and 310 IAC 12–5–73.

5. Changes were proposed in the use of explosives provisions for preblasting survey, public notice of blasting schedule, surface blasting requirements, and records of blasting operations. 30 IAC 12–5–34, 12–5–35, 12–5–36, 12–5–38, and 310 IAC 12–5–100, 12–5–101, 12–5–103.

6. A change was proposed in the requirements for protection of underground mining. 310 IAC 12–5–40.

7. A new section was proposed for underground mining use of explosives detailing requirements for public notice of a blasting schedule. 310 IAC 12–5–100.5.

OSM published a notice in the **Federal Register** on April 9, 1984, announcing receipt of the amendments, and procedures for the public comment period and for requesting a public hearing on the adequacy of the amendment (49 FR 13891). The public comment period ended May 9, 1984. Since no one requested a public hearing, the hearing, scheduled for May 4, 1984, was not held.

During its review of the proposed Indiana amendment, OSM identified several concerns. These were relayed to the State in a letter dated June 1, 1984. The State responded in a letter dated June 8, 1984, with explanation and modification of the identified provisions, to address OSM's concerns.

On July 30, 1984, OSM published a notice in the **Federal Register** reopening and extending the public comment period on the proposed amendment in light of the State's response (49 FR 30334). The comment period ended on August 14, 1984.

II. Director's Findings

A. General findings

The Director finds, in accordance with SMCRA and 30 CFR 732.17, that the amendments submitted by Indiana on March 9, 1984, as modified in Indiana's June 8, 1984, letter to OSM, meet the requirements of SMCRA and the Federal regulations with the exception of several provisions discussed below. Only those provisions of particular interest or concern are discussed in the specific findings which follow. Unless specifically stated, the Director approves the revisions to the Indiana program. Discussion of only those provisions for which specific findings are made does not imply any deficiency in any provision not discussed. The provisions not specifically discussed are found to be no less stringent than the Act and no less effective than the Federal rules. All of the amended provisions are cited at the end of this notice in the amendatory language for § 914.15 and § 914.16. Indiana has also made non-substantive changes which the Director finds consistent with Federal requirements.

The amendment submitted by Indiana modifies requirements for hearings on lands unsuitable petitions, various provisions on the blasting plan and use of explosives, administrative and judicial review of decisions on permit applications, requirements for signs and markers and protection of underground mining.

B. Specific Findings

1. Indiana has modified its procedures for hearing requirements at 310 IAC 12–2–8. The changes give the Director of Indiana Department of Natural Resources the authority to subpoena witnesses as necessary and modify the language pertaining to data base and inventory items to be included in the record. Other less substantive changes were also made. The Director finds that these amended provisions are no less effective than the Federal requirements at 30 CFR 764.17.

2. Indiana has amended its requirements for a blasting plan at 310 IAC 12–3–43 to require that the plan include certain information on ground vibration and airblast limits, methods to control adverse effects of blasting, a description of warning and site access control equipment and procedures to be used, and a description of information recording and retention procedures. Indiana has also revised the requirements for a description of the blast monitoring system to be used. The Director finds these revised provisions to be no less effective than the Federal requirements at 30 CFR 780.13.

3. Indiana has deleted language at 310 IAC 12–3–43 (c), (d) and (e) and has added new language at 310 IAC 12–3–43(c) to require that blasting operations proposed to be conducted within 500 feet of an active underground mine be jointly approved by the commission, the Indiana Bureau of Mines and Mining and the Mine Safety and Health Administration. The Director finds those amended provisions to be no less effective than the provisions of 30 CFR 780.13(c).

4. Indiana has made various minor changes to the rule at 310 IAC 12–3–118 concerning administrative and judicial review of decisions on permit applications and to 310 IAC 12–5–6 and 12–5–73 concerning signs and markets, which the Director finds to be no less effective than the Federal rules at 30 CFR 787.11 for administrative review and at 30 CFR 816.11 and 817.11 for signs and markers.

5. Indiana has made various editorial changes and a substantive change concerning blasting signs to requirements for signs and markers at 310 IAC 12–5–6 and 12–5–73, which the Director finds to be no less effective than corresponding Federal provisions at 30 CFR 816.11 and 817.11.

6. At rules 310 IAC 12–5–34 and 12–5–100, Indiana has modified its requirements for preblasting surveys and has added requirements for the permittee to notify area residents or owners how to request a preblasting survey and for the permittee to publish notice that preblasting surveys will be performed upon request. The requirements at 310 IAC 12–5–34(e) and 12–5–100(e) for written reports of surveys performed to be provided to the director have been changed to allow that "a copy of the survey need not be submitted to the director if the request for survey is made of the permittee and is part of a voluntary program by the permittee to encourage all dwelling owners to have surveys conducted." The Director finds these changes to be no less effective than the Federal requirements with the exception of the above-quoted language from 310 IAC 12–5–34(e) and 12–5–100(e). OSM in its June 1, 1984, letter pointed out that this

exception to providing copies of preblast surveys to the regulatory authority is not contained in the Federal rules.

Indiana responded on June 8, 1984, by explaining that, in Indiana, some operators voluntarily contact all residents and owners of structures within one mile of the permit area and arrange for preblast surveys. The surveys are initiated by the operator, not in response to a request. Only these operator-initiated surveys would be exempt from providing copies to the regulatory authority.

The Director has considered Indiana's explanation and would find the explained intent to be acceptable. However, the Director finds that Indiana's rule does not clearly distinguish between surveys requested of the permittee by a resident or owner and surveys voluntarily made by the permittee, for purposes of the exemption. Therefore, the Director requires that Indiana amend this provision to clearly require that copies of any reports on preblasting surveys conducted at the request of a resident or dwelling owner, be provided to the regulatory authority. The exception proposed by Indiana is acceptable only if clearly reserved for those instances when the survey was initiated by the permittee not as a result of a request by a resident or owner.

7. Indiana has amended 310 IAC 12–5–35 and added 310 IAC 12–5–100.5 pertaining to public notice of blasting schedule for surface and underground mining, respectively. These sections cover requirements for publication of blasting schedules, distribution of schedules, contents of the blasting schedules, and public notice of schedule changes. The Director finds these provisions to be no less effective than the Federal rules for blasting schedules at 30 CFR 816.64.

8. Indiana has amended 310 IAC 12–5 sections 36 and 101 concerning surface blasting requirements for surface and underground mining, respectively. The rules cover blasting times, warning signals, airblast standards and monitoring, maximum peak particle velocity, scaled-distance equation, ground vibration, and other blasting topics. The Director finds the amended provisions to be no less effective than Federal provisions at 30 CFR 816.67 and 817.67, which establish requirements for control of adverse effects of blasting, with the following three exceptions.

(a) Indiana 310 IAC 12–5–36(h)(1) and 12–5–101(h)(1) would require the establishment of a limit on ground vibration to prevent damage to active underground mines. The Federal rules at 30 CFR 816.67(d)(1) and 817.67(d)(1) require such protection for underground mines whether active or inactive. In response to OSM's concern that Indiana omits inactive underground mines from this protection, Indiana in its June 8, 1984, letter stated that its intent in this provision was to be consistent with 30 CFR 780.13(c) which requires joint regulatory authority concurrence for blasting within 500 feet of an active underground mine.

While it is true that 30 CFR 780.13(c) specifies "active" underground mines, this is because the provision is concerned with protection of workers in underground mines, so only active underground mines would be involved. As to protection of the underground mine itself, section 515(b)(15)(c)(iii) of SMCRA provides that explosives regulations shall limit use of explosives so as to prevent "adverse impacts on any underground mine." Accordingly, 30 CFR 816.67(d)(1) and 817.67(d)(1) require that any underground mines be protected from damage. The Director requires that Indiana amend its provisions at 310 IAC 12–5–36(h)(1) and 12–5–101(h)(1) to delete the word "active" from the phrase "active underground mines."

(b) Indiana requires at 310 IAC 12–5–36(f) and 12–5–101(f) that flyrock shall not be cast from the blasting site more than ½ the distance to the nearest dwelling or occupied structure or beyond the area of regulated access under section 310 IAC 12–5–36(d) or 12–5–101(d). The Federal rules at 30 CFR 816.67(c)(3) and 817.67(c)(3) contain the additional requirement that flyrock shall not be cast from the blasting site beyond the permit boundary. In its June 8, 1984 letter to OSM, Indiana acknowledged that there appeared to be an inadvertent omission. Indiana stated that it would review the record and, if necessary, revise the provision by adding the language "or beyond the boundary of the bonded area." The Director requires that Indiana revise its provisions to be no less effective than Federal rules which require that flyrock travelling in the air or along the ground not be cast from the blasting site beyond the permit boundary. Revising the language to read "or beyond the boundary of the bonded area" would not be as effective as the Federal provision since the bonded area expands and contracts within the permit area as bonds are posted and released on incremental areas within the permit area.

(c) Federal rules at 30 CFR 816.67(b)(1)(ii) and 817.67(b)(1)(ii) require that, if necessary to prevent damage, the regulatory authority shall specify lower maximum airblast levels than those contained in referenced airblast limits rules, for use in the vicinity of a specific blasting operation. The Indiana rules do not contain this requirement. In its June 1 letter to the State, OSM expressed concern over this omitted provision. Indiana responded that the language at 310 IAC 12–5–36(e)(4) and 12–5–101(e)(4) provides for the director to impose additional restrictions on blasting operations. Indiana stated that, in addition, the permit review process would identify where lower airblast limits were required, and permits would then be modified as necessary.

The Director, after review of the above-cited Indiana requirements, finds that Indiana's provisions are less effective than the Federal requirements. Indiana rules 310 IAC 12–5–36(e)(4) and 12–5–101(e)(4), rather than giving the regulatory authority the responsibility to require lower airblast levels than those contained in the rules, actually impede the regulatory authority from doing so. This is because the rule, rather than specifically giving the regulatory authority the responsibility to lower the airblast levels, requires the regulatory authority to perform airblast measurements before imposing additional restrictions. The rule does not impose a responsibility on the regulatory authority and only serves to impede the responsibility that it implies. Nor does Indiana's permitting process provide for the flexibility needed to change airblast levels for a specific blasting operation.

Therefore, the Director requires that Indiana amend this provision to be no less effective than the Federal rules which require that, if necessary to prevent damage, the regulatory authority shall specify lower maximum allowable airblast levels than those specified in the Section, for use in the vicinity of a specific blasting operation.

9. Indiana has amended its rules at 310 IAC 12–5–38 and 12–5–103 concerning records of blasting operations. The revisions render the rules similar to new Federal rules for records of blasting operations at 30 CFR 816.68 and 817.68. The Director finds the amended rules to be no less effective than the Federal rules.

10. Indiana amendments at 310 IAC 12–5–40 on protection of underground mining add a clarifying clause which the Director finds no less effective than the Federal provisions at 30 CFR 816.79.

III. Public Comments

A number of comments were received on the proposed Indiana blasting performance standards. Almost all of the commenters objected to the

proposed standards at 310 IAC 12–5–36(h)(2) and 12–5–101(h)(2) which establish maximum peak particle velocity standards. These commenters urged that the maximum allowable peak particle velocity of 1.25 inches per second at the location of certain buildings within the 0 to 300 foot distance from the blasting site, be lowered at least to 1.00. The commenters stated that damage to homes had already resulted with the maximum 1.00 inch per second standard currently in effect in Indiana (until approval of these rules).

Some of the commenters cited specific damage to their homes that they believed resulted from blasting at nearby coal mines under the 1.00 inch per second standard. One commenter suggested that a survey or study be conducted "to show the degree of structural response on homes built atop old underground mines." Another commenter also discussed the importance of past underground mining in the area when considering peak particle velocity limits. The commenter felt that individual and public rights of the citizens of Indiana would not be protected if the rule amendment were adopted as proposed.

A coal company representative submitted a favorable response to the proposed rule changes. This commenter said that the proposed rules are no less effective than the corresponding Federal rules. The commenter said that "the revisions were the product of substantial public participation at the state level," and that all comments were carefully considered.

Another representative of the same company submitted comments which also supported approval of the rules. This commenter specifically requested approval of 310 IAC 12–5–34(e) and 12–5–100(e) concerning pre-blast surveys. The commenter stated that coal operators participating in the voluntary pre-blast survey program should be exempt from the requirement to submit copies of the report to the regulatory authority. The commenter said that the extra expense of submitting copies of all reports to the regulatory authority would discourage companies from making voluntary pre-blast surveys.

Concerning the comments on maximum airblast limits, OSM has reviewed the revised Indiana rules and found them to be no less effective than the Federal rules except for the provisions specifically requiring amendment under Finding number 8 above. The 1.25 inches per second maximum for airblast measurements at certain buildings within 0 to 300 feet of the blasting location, is the same as that at Federal rules 30 CFR 816.67(d)(2) and 817.67(d)(2). Also, Indiana rules 310 IAC 12–5–36(h)(5) and 12–5–101(h)(5) require the regulatory authority to reduce maximum ground violation limits if determined necessary to provide damage protection. This requirement should help to ensure protection from blasting damage for such buildings.

Regarding the comment on pre-blast survey reports, OSM does not object to Indiana granting an exception to the requirement that pre-blast survey reports be submitted to the regulatory authority when the pre-blast surveys are performed voluntarily by the operator and not as a result of a request from a resident or dwelling owner. However, the language at 310 IAC 12–5–34(e) and 12–5–100(e) does not clearly reserve this exception for instances where no request is made of the permittee but the permittee makes the survey voluntarily. OSM is requiring an amendment to this provision to clarify when the exception will be granted.

OSM sought comments from the Environmental Protection Agency (EPA) on Indiana's proposed regulatory amendments. The EPA responded that it had no objections to approval of the amendments.

IV. Director's Decision

The Director, based on the above findings, is approving the Indiana regulatory Amendments as submitted on March 19, 1984, including the modifications submitted on June 8, 1984, under the provisions of 30 CFR 732.17. As indicated in the findings above, there are a number of provisions which are inconsistent with SMCRA and the Federal regulations. The Director has notified Indiana, pursuant to 30 CFR 732.17, that certain program amendments are required. The State must reply within 60 days after notification by submitting either the text of the proposed amendment or a description of the amendment to be proposed and a timetable for enactment which is consistent with established administrative procedures in the State.

The Federal rules at 30 CFR Part 914 are being amended to implement this decision.

V. Procedural Matters

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 914

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Accordingly, 30 CFR Part 914 is amended as set forth herein.

Dated: October 15, 1984.

John D. Ward,

Director, Office of Surface Mining.

Authority: Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1202 *et seq.*).

PART 914—INDIANA

1. 30 CFR 914.15 is amended by adding a new paragraph (e) as follows:

§ 914.15 Approval of regulatory program amendments.

* * * * *

(e) The following amendments are approved effective October 19, 1984. Revisions submitted March 19, 1984, amending Indiana regulations at 310 IAC 12–2–8, 12–3–43, 12–3–118, 12–5–6, 12–5–34, 12–5–35, 12–5–36, 12–5–38, 12–5–40, 12–5–73, 12–5–100, 12–5–101, and 12–5–103, and adding section 310 IAC 12–5–100.5; with the exception of those provisions identified in § 914.16(b) which require further amendment.

2. 30 CFR 914.16 is amended by revising the introductory paragraph and by adding a new paragraph (b) to read as follows:

§ 914.16 Required program amendments.

Pursuant to 30 CFR 732.17, Indiana is required to make the following program amendments:

(b) Within 60 days of notification of required amendments Indiana shall submit for OSM approval:

* * * * *

(1) An amendment to 310 IAC 12–5–34(e) and 12–5–100(e) to clarify that copies of preblast survey reports conducted at the request of a resident or dwelling owner, be promptly provided to the regulatory authority. Exceptions provided by this provision must be clearly reserved for those instances when a survey was initiated by the permittee not as a result of a request by a resident or dwelling owner.

(2) An amendment to 310 IAC 12–5–36(h)(1) and 12–5–101(h)(1) to delete the word "active" from the phrase "active underground mines."

(3) An amendment at 310 IAC 12–5–36(f) and 12–5–101(f) to add the requirement that flyrock traveling in the air or along the ground not be cast from the blasting site beyond the permit boundary.

(4) An amendment to 310 IAC 12–5–36(e) and 12–5–101(e) to require that, if necessary to prevent damage, the regulatory authority shall specify lower maximum airblast levels than those contained in 310 IAC 12–5–36(e)(1) and 12–5–101(e)(1) for use in the vicinity of a specific blasting operation.

[FR Doc. 84–27686 Filed 10–18–84; 8:45 am]
BILLING CODE 4310–05–M

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30 CFR Part 935

Ohio Abandoned Mine Land Reclamation Plan Amendment

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: On April 22, 1984, the State of Ohio submitted to OSM a proposed amendment to its Abandoned Mine Land Reclamation (AMLR) Plan. Contents of the amendment consist of administrative, realty, project identification and public participation procedure. After opportunity for public comment and review of the amendment, the Assistant Secretary for Land and Minerals Management of the Department of the Interior has determined that the Ohio AMLR plan amendment meets the requirements of SMCRA and the Secretary's regulations (30 CFR Chapter VII, Subchapter R, 47 FR 28574–28604, June 30, 1982). Accordingly, the Assistant Secretary has approved the Amendment.

EFFECTIVE DATE: The rule is effective November 19, 1984.

ADDRESSES: Copies of the full text of the proposed amendment are available for review during regular business hours at the following locations:

Ohio Department of Natural Resources, Fountain Square, Columbus, Ohio 43224

Office of Surface Mining Reclamation and Enforcement, Columbus Field Office, 2242 South Hamilton Road, Columbus, Ohio 43232.

Office of Surface Mining Reclamation and Enforcement, Administrative Record, Rm. 5315, 1100 "L" Street, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Nina Rose Hatfield, Columbus Field Office Director, Office of Surface Mining Reclamation and Enforcement, 2242 South Hamilton Road, 2nd Floor, Columbus, Ohio 43232, telephone FTS (614) 866–0578.

SUPPLEMENTARY INFORMATION: Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), Pub. L. 95–87, 30 U.S. 1201 *et seq.*, establishes an abandoned mine land reclamation program for the purposes of reclaiming anf restoring land and water resources adversely affected by past mining. This program is funded by a reclamation fee imposed upon the production of coal. Lands and water eligible for reclamation are those that were mined or affected by mining and abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continuing reclamation responsibility under State or Federal Law. Title IV provides that a State with an approved AMLR program has the responsibility and primary authority to implement an abandoned mine land reclamation program.

The Ohio AMLR Plan was initially approved on August 16, 1982, and was subsequently amended on April 12, 1984. An approved State AMLR Plan can be amended under the provisions of 30 CFR 884.15. Under these provisions, if the amendment or revision changes the objectives, scope, or major policies followed by the State in the conduct of its reclamation program, the Director of the Office of Surface Mining should follow the procedures set out in 30 CFR 884.14 in approving an amendment or revision of a State reclamation plan. The Director has followed these procedures and recommended to the Assistant Secretary on July 31, 1984 that the Ohio AML plan amendment be approved.

OSM published a notice of proposed rulemaking on the Ohio amendment and requested public comment on June 11, 1984 (49 FR 22108). No public comments were received.

The amended plan is available for public inspection at the offices of OSM and at the State organization listed above under **ADDRESSES.**

To codify information application to individual States under SMCRA, including decisions on State reclamation plans and amendments, OSM has established a new Subchapter T of 30 CFR Chapter VII. Subchapter T consists of parts 900 through 953. Provisions relating to Ohio are found in 30 CFR 935.

Contents of the Ohio amendment pertains to:

1. Administration and management
2. Realty procedures
3. Project identification and selection
4. Public participation

Assistant Secretary's Findings

In accordance with section 405 of SMCRA, the Assistant Secretary finds that Ohio has submitted an amendment to its Abandoned Mine Land Reclamation Plan and has determined, pursuant to 30 CFR 884.15, that:

1. The public has been given adequate notice and opportunity to comment, and the record does not reflect major unresolved controversies.

2. Comments of other Federal agencies have been solicited, but none were received.

3. The State has the legal authority, policies and administrative structure to carry out the amendment.

4. The amendment meets all requirements of the OSM, AMLR Program provisions.

5. The State has an approved Surface Mining Regulatory Program.

6. The amendment is in compliance with all applicable State and Federal laws and regulations.

Disposition of Comments

No comments were received

Additional Findings

The Office of Surface Mining has examined this proposed rulemaking under section 1(b) of Executive Order No. 12291 (February 17, 1981) and has determined that, based on available quantitative data, it does not constitute a major rule. The reasons underlying this determination are as follows:

1. Approval will not have an effect on costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; and

2. Approval will not have adverse effects on competition, employment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rulemaking has been examined pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* and the Office of Surface Mining has determined that the rule will not have significant economic effects on a substantial number of small entities. The reason for this determination is that approval will not have demographic effects, direct costs, information collection and recordkeeping requirements, indirect costs, nonquantifiable costs, competitive effects, enforcement costs or aggregate effects on small entities.

Further, the Office of Surface Mining has determined that the Ohio AML plan amendment does not have a significant effect on the quality of the human environment because the decision relates only to the policies, procedures and organization of the State's Abandoned Mine Land Reclamation Program. Therefore, under the Department of the Interior Manual DM 5162.3(A)(1), the Assistant Secretary's decision on the Ohio amendment is categorically excluded from the National Environmental Policy Act requirements.

As a result, no environmental assessment (EA) nor environmental impact statement (EIS) has been prepared on this action. It should be noted that a programmatic EIS was prepared by OSM in conjunction with the implementation of Title IV. Moreover, an EA or an EIS will be prepared for the approval of grants for the abandoned mine land reclamation projects under 30 CFR Part 886.

List of Subjects in 30 CFR Part 935

Abandoned mine land reclamation, Coal mining, Intergovernmental regulations, Surface mining, Underground mining.

Dated: July 31, 1984.

J. Lisle Reed,

Director, Office of Surface Mining.

Dated: August 8, 1984.

J. Steven Griles,

Acting Assistant Secretary for Lands and Minerals Management.

Authority: Pub. L. 95-87, 304 U.S.C. 1201, *et seq.*

PART 935—OHIO

Therefore, Part 935.20 is revised to read as follows:

§ 935.20 Approval of Ohio Abandoned Mine Land Reclamation Plan Amendment.

The Ohio Abandoned Mine Land Reclamation Plan, as submitted on August 16, 1982, is approved. Amendments to this Plan, as submitted on May 7, 1984 are also approved. Copies of the approved program, as amended, are available at:

Ohio Department of Natural Resources, Fountain Square, Columbus, Ohio 43224

Office of Surface Mining Reclamation and Enforcement, Columbus Field Office, 2242 South Hamilton Road, Columbus, Ohio 43232

Office of Surface Mining and Reclamation and Enforcement, Administrative Record—Room 5315, 1100 L Street NW., Washington, D.C. 20240.

[FR Doc. 84-27716 Filed 10-18-84; 8:45 am]
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DEPARTMENT OF DEFENSE

Department of the Army

35 CFR Part 253

Regulations of the Secretary of the Army; Panama Canal Employment System

AGENCY: Department of the Army, Defense.

ACTION: Final rule.

SUMMARY: By this document, certain portions of the regulations governing employment and compensation for Federal agencies in Panama covered by the Panama Canal Employment System are amended. They are intending to provide an employment ladder for Panamanian citizens seeking employment with the Panama Commission and to effectively meet the spirit of the Panama Canal Act of 1979.

EFFECTIVE DATE: These amendments to 35 CFR Part 253 are effective October 18, 1984.

ADDRESS: Department of the Army, Office of the Assistant Secretary of the Army (CW), Washington, D.C. 20310.

FOR FURTHER INFORMATION CONTACT: LTC Roger Baldwin, Office of the Assistant Secretary of the Army (CW), Washington, D.C. 20310, Tel (202) 695-1370.

SUPPLEMENTARY INFORMATION: Because this rule pertains to personnel of agencies covered by these regulations, it is not necessary to issue a notice of proposed rulemaking under 5 U.S.C. 553.

List of Subjects in 35 CFR Part 253

Administrative practice and procedure, Employment, Government employees, Panama Canal.

Adoption of Amendments

Accordingly, effective as indicated above, the following amendments to Title 35, Code of Federal Regulations are adopted:

PART 253—[AMENDED]

1. Section 253.8 is amended by adding a new paragraph (c)(10) to read as follows:

§ 253.8 [Amended]

* * * * *

(c) * * *

(10) Positions at non-manual grade 5 and grade 7 (not to exceed 15 in number) designated for use by the Panama Canal Commission for filling positions in the Professional and Administrative Career Intern Program with high-potential Panamanian citizens.

* * * * *

2. Section 253.44 is amended by adding paragraph (e) to read as follows:

§ 253.44 [Amended]

* * * * *

(e) A Professional and Administrative Career Intern Program participant who has successfully completed the prescribed training program may be noncompetitively appointed to positions at non-manual grades 9 and above for which he/she meets the qualification requirements.

3. Section 253.45 is amended by revising paragraph (e) to read as follows:

§ 253.45 [Amended]

* * * * *

(e) The noncompetitive appointment of a person who successfully completed a cooperative work-study program or a Professional and Administrative Career Intern Program under paragraph (c) or (e), respectively, of § 253.44 shall be made as a Canal Area Career-Conditional Appointment or Canal Area Career Appointment and may be subject to the satisfactory completion of a probationary period of one year. Canal Area Career-Conditional Appointments shall be automatically converted to Canal Area Career Appointments upon completion of the Service requirements.

(5 U.S.C. 5102, E.O. 12173, 12215)

Dated: September 22, 1984.

William R. Gianelli,

Chairman, Panama Area Personnel Board.

[FR Doc. 84-27222 Filed 10-18-84; 8:45 am]
BILLING CODE 3710-02-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-9-FRL-2697-1]

Approval and Promulgation of Implementation Plans; Arizona State Implementation Plan Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final rulemaking.

SUMMARY: Today's notice takes final action to approve revisions to the State of Arizona's rules and regulations. These revisions were submitted by the Arizona Department of Health Services (ADHS) as revisions to the Arizona State Implementation Plan (SIP). These revisions generally are administrative and retain the previous emission control requirements. EPA has reviewed these rules and determined that they are consistent with the requirements of the Clean Air Act and EPA policy.

DATE: This action is effective December 18, 1984.

ADDRESSES: A copy of the revision is available for public inspection during normal business hours at the EPA Region 9 office and at the following locations.

Arizona Department of Health Services, State Health Building, 1740 West Adams Street, Phoenix AZ 85007

Public Information Reference Unit, Environmental Protection Agency, 401 "M" Street SW., Washington, D.C. 20460

EPA Library, Office of the Federal Register, 1100 "L" Street NW., Room 8401, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Thomas Rarick, Chief, State Implementation Plan Section, A-2-3, Air Management Division, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105 (415) 974-7641 FTS: 454-7641.

SUPPLEMENTARY INFORMATION:

Background

The Arizona Department of Health Services submitted as SIP revisions the following rules on February 3, 1984:

- R9-3-101 Definitions (Nos. 98 and 158)
- R9-3-201 Particulate Matter
- R9-3-202 Sulfur Oxides
- R9-3-203 Hydrocarbons (Reserved)
- R9-3-204 Ozone
- R9-3-205 Carbon Monoxide
- R9-3-206 Nitrogen Dioxide
- R9-3-207 Lead
- R9-3-215 Ambient Air Quality Monitoring Methods & Procedures
- R9-3-218 Violations
- R9-3-310 Arizona Testing Manual for Air Pollutant Emissions
- R9-3-322 Temporary Conditional Permits
- R9-3-402 Unlawful Open Burning
- R9-3-404 Open Areas
- R9-3-502 Unclassified Sources
- R9-3-515 Standards of Performance for Existing Primary Copper Smelters
- R9-3-529 Standards of Performance for Cotton Gins
- R9-3-1101 Jurisdiction
- Appendix I—Filing Instructions for Installation Permit Application
- Appendix II—Allowable Particulate Emissions Computations

Evaluation

These rule revisions are administrative and do not affect current emission control requirements. The above mentioned rules (1) add new definitions and reflect a renumbering change, (2) transfer testing procedures to procedures manual, and (3) improve the enforceability of the SIP.

Under section 110 of the Clean Air Act as amended, and 40 CFR Part 51, EPA is required to approve or disapprove these regulations as SIP revisions. All rules submitted have been evaluated and found to be in accordance with the Clean Air Act, EPA policy and 40 CFR Part 51. EPA's detailed evaluation of the submitted rules is available at the location indicated in the **ADDRESSES** section of this notice.

EPA Action

This notice approves the rule revisions listed above and incorporates them into the Arizona SIP. This is being done without prior proposal because the revisions are noncontroversial, have limited impact, and no comments are anticipated. The public should be advised that this action will be effective 60 days from the date of this **Federal Register** notice. However, if notice is received within 30 days that someone wishes to submit adverse comments, the approval will be withdrawn and a subsequent notice will be published. The subsequent notice will indefinitely postpone the effective date, modify the final action to a proposed action, and establish a comment period.

Regulatory Process

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291. Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by 60 days from today. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

Incorporation by reference of the State Implementation Plan for the State of Arizona was approved by the Director of the Federal Register on July 1, 1982.

Authority: Sections 110 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410, 7502 and 7601(a)).

List of Subjects in 40 CFR Part 52

Intergovernmental relations, Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Dated: October 15, 1984.

William D. Ruckelshaus,

Administrator.

PART 52—[AMENDED]

Subpart D of Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart D—[Arizona]

1. Section 52.120 is amended by adding paragraph (c)(56) to read as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

(56) The following amendments to the plan were submitted on February 3, 1984, by the Governor's designee.

(i) Arizona State Rules and Regulations for Air Pollution Control.

(A) New or amended rules R9-3-101 (No.'s 98 and 158), R9-3-201 to R9-3-207, R9-3-215, R9-3-218, R9-3-310, R9-3-322, R9-3-402, R9-3-404, R9-3-502, R9-3-515 (paragraph (c)), R9-3-529, R9-3-1101, and Appendices I and II.

* * * * *

[FR Doc. 84-27633 Filed 10-18-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[A-1-FRL-2696-6]

Approval and Promulgation of Implementation Plans Connecticut; Alternative Emission Reductions

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA is approving State Implementation Plan revisions submitted by the State of Connecticut.

These revisions include an amendment to Connecticut's generic bubble regulation for volatile organic compounds allowing additional sources to comply with applicable emission limitations by bubbling. The intended effect of this action is to propose approval of the State's request to expand the scope of its generic bubble regulation. This action is being taken in accordance with Section 110 of the Clean Air Act. EPA is also disapproving a separate revision to Connecticut's generic bubble regulation.

EFFECTIVE DATE: November 19, 1984.

ADDRESSES: Copies of the submittal are available for public inspection at Room 2313, JFK Federal Building, Boston, MA 02203; Public Information Reference Unit, EPA Library, 401 M Street SW., Washington, D.C. 20460; Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20408 and Department of Environmental Protection, State Office Bldg., Hartford, CT 06162.

FOR FURTHER INFORMATION CONTACT: Marcia L. Spink (617) 223–4868, FTS 223–4868.

SUPPLEMENTARY INFORMATION: On May 9, 1984 (49 FR 19681), EPA published a Notice of Proposed Rulemaking (NPR) for the State of Connecticut. The NPR proposed action on revisions to the Connecticut State Implementation Plan (SIP). The revisions include amendments to Connecticut regulation 19–508–20(cc), "Alternative Emissions Reductions." This regulation is more commonly referred to as Connecticut's generic volatile organic compound (VOC) bubble regulation, and was originally approved by EPA on June 7, 1982 (47 FR 24552).

As discussed in the May 9, 1984 NPR, the revisions add two regulations to the list of those Connecticut VOC regulations that may be met by bubbling under 19–508–20(cc). EPA proposed to approve the addition of one of the regulations, 19–508–20(ee), and to disapprove the addition of the other, 19–508–20(l). The revisions and the rationale for EPA's proposed action were fully explained in the NPR and will not be restated here. The one public comment received on the proposal supported EPA's action.

Therefore, under the federally-approved version of 19–508–20(cc), VOC sources subject to Connecticut's Regulations 19–508–20(m), can coating; (n), coil coating; (o), fabric and vinyl coating; (p), metal furniture coating; (q), paper coating; (r), wire coating; (s), miscellaneous metal parts; (t), manufacture of synthesized pharmaceutical products; (v), graphic arts-rotogravure and flexography; and (ee) which requires reasonable available control technology (RACT) on otherwise unregulated 100 TPY sources may apply to meet applicable SIP emission limits by bubbling under 19–508–20(cc).

Sources subject to Regulation 19–508–20(ee) must have RACT defined and imposed on a case by case basis. Once RACT has been determined for a subject source, it must be submitted and approved as a revision to the SIP. Only after EPA has completed rulemaking approving a RACT determination may a source be issued a generic bubble order by the State of Connecticut under 19–508–20(cc). This sequence of events is necessary to insure federal enforceability of both the RACT level and any bubble designed to comply with that RACT level.

As stated in EPA's original approval of Connecticut's generic bubble regulation (47 FR 24552), plant owners may propose emission limits different from those specified in the SIP so long as on a solids-applied basis emissions from the plant are equivalent to or below RACT-required levels. In accordance with EPA policy, Connecticut may approve bubbles under 19–508–20(cc) which demonstrate equivalency to RACT-required levels, as described above, on a plantwide daily weighted average basis (averaging times not to exceed 24 hours). Bubbles with averaging times longer than 24 hours must still be submitted as source-specific SIP revisions. Bubble orders issued by the Connecticut Department of Environmental Protection in accordance with EPA's approval of 19–508–20(cc) need not be submitted as individual SIP revisions.

The May 9, 1984 NPR (49 FR 19681) also proposed approval of revisions which require sources subject to 19–508–20(ee) to comply with 19–508–20(aa), (bb), and (dd). Subsections (aa), (bb), and (dd) are the applicability, compliance methods, and afterburner usage provisions of 19–508–20, respectively. No comments were received on this portion of the NPR.

Final Action: EPA is approving a revision to Connecticut Regulation 19–508–20(cc), "Alternative Emission Reductions," which adds Regulation 19–508–20(ee) to the list of VOC regulations that may be met by bubbling under the State's generic regulation. EPA is also approving revisions which require sources subject to 19–508–20(ee) to comply with 19–508–20 (aa), (bb) and (dd). EPA is disapproving a revision to 19–508–20(cc) which adds Regulation 19–508–20(l) to the list of VOC regulations that may be met by bubbling under Connecticut's generic regulation.

The disapproval action taken by this rulemaking will not have a significant impact on a substantial number of small entities. Emission trades such as bubbles are undertaken by sources on a voluntary basis, and are not mandated by the Clean Air Act. Although not approved to trade under Connecticut's generic VOC bubble regulation, sources subject to 19–508–20(l), solvent metal degreasers, may be approved to emission trade by source-specific revisions to the SIP.

Under Executive Order 12291, today's action is not "Major." It has been submitted to the Office of Management and Budget (OMB) for review.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit 60 days from today. This action may not be challenged later in proceedings to enforce its requirements (See 307(b)(2).).

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations, and Incorporation by Reference.

Authority: Sections 110(a) and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410(a) and 7610(a)).

Note.—Incorporation by reference of the State Implementation Plan for the State of Connecticut was approved by the Director of the Federal Register on July 1, 1982.

Dated: October 15, 1984.

William D. Ruckelshaus,

Administrator.

PART 25—[AMENDED]

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart H—Connecticut

1. Section 52.370, is amended by adding paragraph (c)(33) as follows:

§ 52.370 Identification of plan.

* * * * * *

(c) * * *

(33) Revision to Regulation 19–508–20(cc), "Alternative Emission Reductions" [made part of the SIP under subparagraph (23) of this Section] to add Regulation 19–508–20(ee) to the list of VOC regulations that may be met by bubbling under Connecticut's generic rule after source-specific RACT determinations have been made part of the SIP. Revisions requiring sources subject to Regulation 19–508–20(ee) to

comply with 19-508-20 (aa), (bb), and (dd). These revisions were submitted by the Connecticut Department of Environmental Protection on September 20, 1983.

[FR Doc. 84-27638 Filed 10-18-84; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 52

[A-9-FRL-2696-8]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: In today's notice EPA is finalizing action on rule revisions of the Bay Area and South Coast Air Quality Management Districts proposed for approval on December 7, 1983 (48 FR 54832). These revisions were submitted by the California Air Resources Board (ARB) as revisions to the California State Implementation Plan (SIP). These revisions generally are administrative and retain the previous emission control requirements. EPA reviewed these rules with respect to the Clean Air Act and determined that they should be approved.

DATE: This action is effective November 19, 1984.

ADDRESSES: A copy of the revisions is available for public inspection during normal business hours at the EPA Region 9 office and at the following locations:

California Air Resources Board, 1102 "Q" Street, Sacramento, CA 95814
Library, Office of the Federal Register, 1100 "L" Street, NW., Room 8401, Washington, D.C. 20460
Public Information Reference Unit, EPA, 401 N Street SW., Washington, D.C. 20460

FOR FURTHER INFORMATION CONTACT: Thomas Rarick, Chief, State Implementation Plan Section, Air Programs Branch, Air Management Division, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105, (415) 974-7641, FTS: 454-7641.

SUPPLEMENTARY INFORMATION:

Background

On December 7, 1983 [48 FR 54832], EPA published a notice which proposed approval of revisions to rules and regulations for the Bay Area and South Coast AQMDs. That notice should be used as a reference in reviewing today's notice. The December 7, 1983 notice provides a description and an evaluation of the proposed rules and compares them to the requirements of the Clean Air Act, as amended in 1977.

Public Comments

The Notice of Proposed Rulemaking provided for a 30-day comment period. No comments were received.

EPA Actions

EPA is taking final action under Section 110 of the Clean Air Act to approve the following rules, submitted on the indicated dates, since they strengthen the SIP and are consistent with the Clean Air Act and 40 CFR Part 51.

August 6, 1982

Bay Area Air Quality Management District (BAAQMD)

Rule 2-1-207 Organic Compounds, Precursor
Rule 2-1-208 Reasonably Available Control Technology (RACT)
Rule 2-1-301 Authority to Construct
Rule 2-1-304 Denial, Failure to Meet Emission Limitations
Rule 2-1-307 Failure to Meet Permit Conditions

February 3, 1983

BAAQMD

Rule 2-2-113.2 Exemption, Congeneration Project
Rule 2-2-115 Exemption, Temporary Replacement
Rule 2-2-209 Organic Compounds,
Rule 2-2-210 Organic Compounds Non-Precursor
Rule 2-2-211 Organic Compounds, Precursor
Rule 2-2-303.2 Offset Requirements
Rule 2-2-304.1 Emission Calculation Standards
Rule 2-2-304.2 Emission Calculation Standards
Rule 2-2-404 Publication and Public Comments

Regulation 3—FEES

Rule 3-312 Emission Caps and Alternative Compliance Plans

South Coast Air Quality Management District (SCAQMD)

Rule 301 Permit Fees
Rule 304 Analysis Fees
Rule 401(b) Visible Emissions (Roofing Construction Equipment)
Rule 1148 Thermally Enhanced Oil Recovery Wells

July 19, 1983

SCAQMD

Rule 301 Permit Fees
Rule 301.1 Permit Fees Rates
Rule 301.2 Fee Schedules
Rule 431.1 Sulfur Content of Gaseous Fuels

Regulatory Process

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1982.

Authority: Sec. 110 and 301(a) of the Clean Air Act, as amended (42 U.S.C. §§ 7410, 7502 and 7601(a)).

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxides, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Dated: October 15, 1984

William D. Ruckelshaus,
Administrator.

PART 52—[AMENDED]

Subpart F of Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. Section 52.220 is amended by adding paragraphs (c) (124)(i)(D), (c)(127)(i)(D) and (vii)(C), and (c) (137)(vii)(B) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(124) * * *

(i) * * *

(D) New or amended Regulation 2: Rules 2-1-207, 2-1-208, 2-1-301, 2-1-304, and 2-1-307.

* * * * *

(127) * * *

(i) * * *

(D) New or amended Regulation 2: Rules 2-2-113.2, 2-2-115, 2-2-209, 2-2-210, 2-2-211, 2-2-303.2, 2-2-304.1, 2-2-304.2, and 2-2-404; and Regulation 3: Rule 3-312.

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(vii) * * *

(C) New or amended Rules 301, 304, 401(b) and 1148.

* * * * *

(137) * * *

(vii) * * *

(B) New or amended Rules 301, 301.1. 301.2 and 431.1.

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[FR Doc. 84-27634 Filed 10-18-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Parts 52 and 81

[TN-017; A-4-FRL-2696-5]

Approval and Promulgation of Implementation Plans Designation of Areas for Air Quality Planning Purposes; Tennessee; Approval of Plan Revisions and Redesignations

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA today approves four (4) State Implementation Plan (SIP) revisions submitted by the Tennessee Department of Health and Environment. These revisions involve: (1) the redesignation of two areas within Rockwood in Roane County from unclassified to attainment for total suspended particulates (TSP), (2) the redesignation of the Mt. Pleasant sulfur dioxide (SO_2) unclassified area to attainment, (3) an individual compliance schedule for Maremont's Pulaski facility, and (4) two revised SIP permits for Kingsport Press.

EFFECTIVE DATE: This action will be effective on December 18, 1984 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Written comments should be addressed to Michael Cooper of EPA Region IV, Air Management Branch (see EPA Region IV address below). Copies of the materials submitted by Tennessee may be examined during normal business hours at the following locations:

Air Management Branch, EPA Region IV, 345 Courtland Street NE., Atlanta, Georgia 30365

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460

Library, Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C.

Tennessee Air Pollution Control Division, 150 9th Avenue North, Nashville, Tennessee 37203.

Also, a Technical Support Document which further explains the basis for EPA's action today may be examined at EPA's Region IV Office (address given above).

FOR FURTHER INFORMATION CONTACT: Mr. Michael Cooper, EPA Region IV, Air Management Branch, at the above listed address, telephone 404/881-3286.

SUPPLEMENTARY INFORMATION: The purpose of this notice is to announce action on four (4) SIP revisions adopted by the Tennessee Air Pollution Control Board on August 11, 1983, following public hearings conducted on May 5, and August 4, 1983. They were submitted to EPA on September 15, 1983. EPA also received additional information on January 16, 1984, thereby completing the submittal. The revisions are detailed below. Additionally, the basis for EPA's action on Tennessee's submittal is set forth in greater detail in a TSD that has been placed in the rulemaking record for this Agency action. It is available at EPA Region IV.

1. Redesignation of Rockwood Unclassified Areas

A portion of Section 1.3 of the Tennessee nonregulatory SIP was revised to redesignate the Rockwood particulate unclassified areas to attainment. The two areas involved are the Clymersville section of Rockwood (Roane County) and the downtown section of Rockwood (Roane County).

Clymersville section of Rockwood. EPA's position concerning the status of the Clymersville section is set forth in the August 8, 1983, **Federal Register** (48 FR 35920). Basically, EPA's position is that the portion of Roane County within the Clymersville section of Rockwood is already designated attainment for TSP.

Therefore, no EPA action is required concerning the Tennessee request to redesignate the Clymersville section of Rockwood from unclassifiable to attainment for TSP.

Downtown Section of Rockwood. Concerning the redesignation of the particulate unclassified area within the downtown section of Rockwood, Tennessee has submitted the most recent eight (8) quarters of ambient air quality data showing attainment as required by EPA redesignation policy. The data justifies the request and EPA is approving the redesignation of the area within the downtown section of Rockwood attainment for TSP.

2. Redesignation of Mt. Pleasant for SO_2

A portion of Section 1.3 of the Tennessee nonregulatory SIP was revised by the Tennessee Board to redesignate the Mt. Pleasant sulfur dioxide unclassified area to attainment. Tennessee has requested that EPA reclassify the same area to attainment.

On March 3, 1978, EPA published a list of areas in each state that were either meeting or not meeting the NAAQS. Also within that list were areas indentified as unclassifiable. This list was published as required by Section 107 of the Clean Air Act (CAA) as amended in 1977.

In the listing of Tennessee areas, EPA listed an area near Mt. Pleasant in Maury County as unclassifiable for SO_2. It is noted that this area actually could have been listed as attainment, but there was a small degree of uncertainty since the main SO_2 source in the area had just installed control equipment in 1977. Prior to the installation of the control equipment, the source had begun operating three ambient SO_2 monitors in the immediate vicinity. Monitoring data from these monitors indicate a marked improvement in air quality commensurate with the start up of the control equipment. By the time 1979 SIPs were due the area was attaining the National Ambient Air Quality Standard (NAAQS) for sulfur dioxide. On the basis of the available monitoring date showing attainment, and marked reduction in SO_2 emissions, EPA is approving the redesignation of Pleasant from unclassifiable to attainment for SO_2.

3. Individual Compliance Schedule for Maremont's Pulaski Facility.

On March 9, 1981, Maremont Corporation petitioned the Tennessee Division of Air Pollution Control for an individual volatile organic compound (VOC) compliance schedule for its Pulaski facility in Giles County in Western Tennessee. This area is currently designated attainment (June 21, 1984, 49 FR 25451). Maremont's Pulaski facility is devoted to the manufacture of shock absorbers for cars and trucks and operates its own final coating lines for the coating of shock absorbers parts with various surface coatings which constitute a source of VOC's. The plant is subject to VOC emission regulations under provisions of the Tennessee Air Pollution Control Regulations, Chapter 1200-3-18. These regulations were developed as a requirement of the 1979 Part D State Implementation Plans (SIPs). In developing their Part D plan, Tennessee used the "accommodate SIP" approach which requires control of existing sources in rural unclassified or nonattainment areas thereby allowing new sources to construct without having to get offsetting emissions reductions. The Maremont plant is an existing source in a rural area and is regulated under rule 1200-3-18-.21. The Maremont

plant is subject, under rule 1200–3–18–.21, to an emission limit of 100 tons of VOC per year, to have been complied with by December 31, 1982. The matter went to public hearing on January 6, 1982, and August 4, 1983, in Nashville and became state-effective on August 11, 1983. The individual compliance schedule extends the final compliance date for VOC emissions at the Pulaski plant from the December 31, 1982, deadline to January 1, 1985.

Maremont has committed to the development of low-solvent coating and compatible equipment in place of RACT add-on controls to control its VOC emissions. The company has (1) adequately demonstrated the economic burden of RACT add-on controls, (2) specified an alternate compliance plan, and (3) demonstrated phased VOC reductions early in the program, thus satisfying concerns which EPA expressed at the January 6, 1982 public hearing. EPA encourages the use of low-solvent coatings instead of add-on controls where feasible and the Agency generally supports low-solvent coating development programs that are properly documented and which do not interfere with expeditious attainment of National Ambient Air Quality Standards. Since Tennessee's submittal satisfies the above criteria, EPA approves the individual compliance schedule for Maremont's Pulaski facility.

4. Revised SIP Permits for Kingsport Press

Two operating permits issued to Kingsport Press were revised by Tennessee to more accurately specify control equipment. The Kingsport Press facility in Kingsport prints and processes magazines and other publications. The two permits involved here limit the amount of particulate matter that can be emitted from two points—a sanding system with fabric filter control (permit #011468P) and a waste paper handling system with cyclone #8 control (permit #011283P). In reviewing the submittal, a typographical error was detected in condition #4 of both permits. (A reference to "1200–3–18.01(5)(g)(9)" should read "1200–3–18–.1(5)(g) 10.") the remainder of the submittal has been found to be adequate and with the assurance from Tennessee that the error has been corrected, EPA approves the two revised permits for Kingsport Press.

Action. EPA has reviewed these four (4) revisions to the Tennessee SIP and is approving them. This action is taken without prior proposal because the revisions are noncontroversial and EPA anticipates no comments on them. The public should be advised that this action will be effective 60 days from the date of this **Federal Register** notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 18, 1984. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

The Director of the office of the Federal Register approved the incorporation by reference of the Tennessee implementation plan on July 1, 1982.

List of Subjects in 40 CFR Part 52

Air pollution control, intergovernmental relations, ozone, sulfur oxides, nitrogen dioxide, lead, particulate matter, carbon monoxide, hydrocarbons, national parks, wilderness areas.

(Section 110 of the Clean Air Act (42 U.S.C. 7410))

Dated: October 15, 1984.

William D. Ruckelshaus,

Administrator.

PART 52—[AMENDED]

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart RR—Tennessee

1. Section 52.2220 is amended by adding paragraph (c)(61) as follows:

§ 52.2220 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * *

(61) Material related to a compliance schedule for Maremont Corporation in Pulaski, and two permits for the Kingsport Press in Kingsport, submitted on September 15, 1983, and January 16, 1984, by the Tennessee Department of Health and Environment.

PART 81—[AMENDED]

Part 81 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart C—Section 107 Attainment Status Designations

§ 81.343 [Amended]

2. In §81.343 the Tennessee—TSP table is amended by removing the first entry for Roane County (downtown Rockwood) and by removing the words "Rest of" from the remaining entry for Roane County.

3. In §81.343 the Tennessee—SO_2 table is amended by removing the first entry for Maury County (Mt. Pleasant) and by removing the words "Rest of" from the remaining entry for Maury County.

[FR Doc. 84–27635 Filed 10–16–84; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 60

[AD–FRL 2655–7]

Standards of Performance for New Stationary Sources Glass Manufacturing Plants

AGENCY: Environmental Protection Agency [EPA].

ACTION: Final rule.

SUMMARY: This action promulgates amendments to the standards of performance for glass manufacturing plants. The amendments were proposed in the **Federal Register** on November 2, 1983 (48 FR 50670). The amendments provide separate standards for particulate matter emissions from glass melting furnaces using modified processes; exempt experimental glass melting furnaces from the standards; exclude forming channels from the definition of "glass melting furnace" as applied to wool fiberglass and textile fiberglass furnaces; revise the definitions of specific glass recipes to use glass composition; and exempt glass melting furnaces from the numerical emission limits during periods of add-on control maintenance, not to exceed 6 days per year.

Under section 307(b)(1) of the Clean Air Act, judicial review of these amendments to standards of performance is available *only* by the filing of a petition for review in the U.S. Court of Appeals for the District of

Columbia Circuit within 60 days of today's publication of this rule. Under section 307(b)(2) of the Clean Air Act, the requirements that are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Docket. A docket, number A–79–2, containing information considered by EPA in the development of the promulgated amendments for glass manufacturing plants, is available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section (A–130), West Tower Lobby, Gallery 1, 401 M Street SW., Washington, D.C. 20460. A reasonable fee may be charged for copying.

EFFECTIVE DATE: October 19, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Gilbert Wood, Emission Standards and Engineering Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541–5578.

SUPPLEMENTARY INFORMATION:

Background

On October 7, 1980, EPA promulgated in the **Federal Register** (45 FR 66742) standards of performance for glass manufacturing plants. Following promulgation of the standards, EPA received petitions to reconsider the standards from PPG Industries, Inc. (PPG); the Glass Packaging Institute, their 18 member companies, 5 other companies, and the Glass Industry Air Quality Group (GPI *et al.*): Owens-Corning Fiberglass Corporation (OCF); Libbey-Owens-Ford Company (LOF); and Ford Motor Company (Ford). EPA reviewed the petitions, acquired new information, and met with the glass manufacturers for additional clarification of the issues. Based on this review of the petitioner's requests, EPA decided to convene a proceeding to reconsider several aspects of the standards. EPA also decided to deny reconsideration of certain other issues raised by the petitioners. A notice of the grant and denial of the petitions for reconsideration and the proposal of amendments was published in the **Federal Register** (48 FR 50670) on November 2, 1983.

Public Participation

An opportunity to request a public hearing was presented in the November 2, 1983, **Federal Register** notice (48 FR 50670). However, no person requested a public hearing. The public comment period was open from November 2, 1983, to January 4, 1984. Six comment letters were received concerning issues relative to the amendments. Five letters were received from glass manufacturing industry representatives, and one letter was received from a State air pollution regulatory agency. The comments have been carefully considered and, where determined appropriate by the Administrator, changes have been made.

Comments and Responses

The comments on the proposed amendments and EPA's responses to the comments are discussed in this notice. Some of the comment letters received contained multiple comments; and, for some issues, the same comment was made by several commenters. The comments and responses are discussed below.

Emission Limits for Furnaces Using Modified Processes

In the petitions for reconsideration, OCF and GPI, *et al.*, raised the issue of the reasonableness of the cost of the standards as the standards affect glass melting furnaces which effectively control emissions using modified processes. Upon evaluating the supporting information provided in the petitions and additional information obtained from glass manufacturers, EPA decided that to the extent modified processes are effective in continuously reducing emissions, they should be considered in establishing standards for glass melting furnaces. Accordingly, EPA proposed to establish separate standards for a class of sources that can effectively and continuously reduce particulate emissions without the use of add-on controls.

Comment 1: Three comments supported and one comment opposed the proposed emission limits of glass melting furnaces using modified processes. One commenter stated that the proposed particulate standard of 0.5 g/kg represents a strict, but nonetheless achievable, emission limit for a flat glass melting furnace using modified processes. A second commenter stated that the proposed standards for glass melting furnaces using modified processes will allow the continued development and commercialization of advanced modified-process technology for the manufacture of fiberglass. A third commenter stated that the standard proposed by EPA for glass melting furnaces using modified processes offers a meaningful alternative for container glass manufacturers.

In contrast to the comments supporting the standards, one commenter opposed the standards for glass melting furnaces using modified processes because they are less restrictive than the particulate emission limits allowed by the commenter's State implementation plan (SIP) for glass manufacturing plants. The commenter is concerned that the glass manufacturing industry would locate plants in other States rather than comply with the SIP. In the commenter's opinion, EPA has failed to properly define "modified processes" and to establish the corresponding equivalency to add-on control equipment. The commenter asserts that EPA does not have an adequate basis upon which to develop standards of performance for glass melting furnaces using modified processes. Furthermore, the commenter believes that EPA is exempting new glass melting furnaces from best available control technology (BACT) and lowest achievable emission rate (LAER) requirements because most modified processes cannot be considered BACT or LAER.

Response 1: Modified processes for glass melting furnaces are any techniques (e.g., furnace design modifications or raw material batch formulation changes) whch result in particulate emissions lower than those normally vented in exhaust gases from conventional glass melting furnaces. Modified processes achieve various levels of particulate emission reduction. Some modified processes can reduce particulate matter emissions to a level that almost achieves the emission limits for glass melting furnaces using add-on controls. Upon consideration by EPA of the reasonableness of the standards in light of the relatively high cost of add-on control devices and the small increment of emission reduction achievable beyond the levels which can be achieved by effective modified processes, EPA proposed emission limits for glass melting furnaces using modified processes based upon test results for the most effective modified processes demonstrated to date. If a glass melting furnace using modified processes cannot achieve the numerical emission limits, then add-on controls must be used to achieve the standards. Therefore, EPA believes there is sufficient basis to justify setting numerical emission limits for glass melting furnaces using modified processes.

The location of new glass manufacturing plants should be determined primarily by economic considerations such as the proximity of the plant location to the intended market for the glass product and the availability of labor and raw material

supplies. Regardless of the location selected for a new glass manufacturing plant, the plant must achieve the new source performance standards for glass manufacturing plants by using either add-on controls or modified processes. In addition, the plant must comply with the SIP requirements applicable to the area where the plant is to be located. The emission limits for glass melting furnaces using modified processes are more restrictive than the levels typically required by SIP's. In response to the commenter's specific concern, EPA compared the emission limits for glass melting furnaces using modified processes with the emission limits required by the commenter's SIP. This comparison shows that, except for flat glass manufacturing, all glass manufacturing plants achieving the emission limit for glass melting furnace using modified processes should also achieve the emission limit required by the commenter's SIP. Because the limit for flat glass manufacturing plants using modified process can be considered typical on a national basis, EPA sees no reason to change the emission limit for flat glass melting furnaces using modified processes. EPA believes that the level of the standards of glass melting furnaces does discourage the glass manufacturing industry from locating plants in other States rather than comply with a particular SIP.

The standards of performance of glass manufacturing plants establish the minimum BACT and LAER emission levels. However, because the BACT or LAER requirement for a specific glass manufacturing plant is determined on a case-by-case basis, more stringent levels can be established. Since modified processes for glass melting furnaces achieve various levels of particulate emission reduction, a BACT or LAER determination for a source could be set based on the most stringent emission level achievable by glass melting furnaces using modified processes, or on the numerical emission limits for glass melting furnaces using add-on controls. Thus, EPA is not exempting new glass melting furnaces from BACT and LAER requirements. Instead, the amendments to the standards will provide guidance for BACT and LAER determinations.

Comment 2: One commenter expressed the opinion that the existing numerical emission limits for glass melting furnaces using add-on controls should be increased to the levels proposed for glass melting furnaces using modified processes.

Response 2: This issue was addressed in reconsidering the standards with respect to the use of modified processes. As discussed in the **Federal Register** notice proposing the amendments to the standards (48 FR 50673), EPA initially considered revising standards based only on use of modified processes. However, after thorough examination of the supporting information provided in the petitions and additional information obtained from glass manufacturers, EPA concluded that modified processes are not an adequately demonstrated means of emission reduction which could necessarily be applied by all glass manufacturers. As a consequence, EPA considers the emission limits established for add-on controls to reflect representative performance of these controls. Thus, there is no reason to establish limits for add-on controls at any other level. Therefore, even though EPA continues to believe that in certain instances modified processes may be capable of substantial continuous reduction of particulate emissions from glass melting furnaces; the emission limits previously promulgated based on add-on control devices of known and proven effectiveness remain in effect for those individual sources which cannot use modified processes.

Comment 3: A few commenters contended that the 30 percent emission allowance for oil firing provided in the existing standards for glass melting furnaces should also apply to glass melting furnaces using modified processes.

Response 3: The information EPA used to select the proposed emission limits for glass melting furnaces using modified processes included data on the application of modified process technology to oil-fired furnaces. These data indicate that glass melting furnaces using modified processes and firing fuel oil can achieve the emission limits for modified processes. Furthermore, selection of the fuel type burned in a glass melting furnace is an integral component of modified process techniques. Any additional particulates that might be generated by firing fuel oil can be compensated by modified process techniques. No information was provided by the commenters to show why it was inappropriate for EPA to select the proposed emission limits for modified processes. Therefore, the emission limits for glass melting furnaces using modified processes remain the same as proposed.

Comment 4: Two commenters expressed the opinion that a uniform filter box temperature of 177 °C for all Method 5 tests be allowed regardless of the sulfur content of the fuel fired. Another commenter disagreed with the proposal to allow a maximum sampling temperature of 177 °C for glass melting furnaces using modified processes and firing a fuel containing more than 0.5 percent sulfur. The commenter stated the belief that this proposal is not consistent with EPA's intent to encourage application of modified processes to glass melting furnaces in order to reduce sulfur dioxide emissions to offset increased particulate emissions.

Response 4: As part of their petitions for reconsideration, glass industry representatives suggested that Method 5 be used with a sampling temperature of 177 °C (350 °F) to determine compliance with the emission limits for glass melting furnaces using modified processes. According to the industry representatives, a sampling temperature of 177 °C prevents inclusion of condensible acid gases in the particulate emission results. EPA agreed in part with this suggestion, and proposed a maximum sampling temperature of 177 °C for glass melting furnaces using modified processes and firing a fuel containing more than 0.5 percent sulfur. However, EPA believed that it is neither necessary nor appropriate to do so for furnaces using modified processes and firing a fuel containing less than 0.5 percent sulfur. Furthermore, EPA's decision to propose a maximum sampling temperature of 177 °C was based solely upon the technical considerations of the effects of sulfuric acid on Method 5 sampling for particulate matter. Although reduced sulfur oxide emissions can be a benefit of the application of modified processes to glass melting furnaces, the basis for the proposed emission limits for glass melting furnaces using modified processes was not reduced levels of sulfur oxide emissions.

The effects of sulfuric acid on sampling of particulates were included in the data EPA used to select the proposed emission limits for glass melting furnaces using modified processes. EPA recognizes that excess sulfuric acid from the combusion of fuels containing more than 0.5 weight percent sulfur exists as a gas as it is collected and then condenses onto the filter at a temperature of about 121°C (250 °F). A sampling temperature of 177 °C is above the dew point of condensible acid gases and, consequently, any excess sulfuric acid from fuel combustion passes through the filter as a gas. However, no data were provided by the commenters which disproves EPA's conclusion that the firing of fuels having a sulfur content less than 0.5 weight percent does not influence the quantity of particulates measured by Method 5 when using a

sampling box temperature of about 121°C. Therefore, the Method 5 sampling box temperature requirements remain the same as proposed.

Continuous Opacity Monitoring

The use of opacity monitors for glass melting furnaces using modified processes was proposed to ensure that the furnace is continuously operated and maintained to achieve the same level of emission reduction observed during the performance test. Opacity monitoring during the performance test would be used to determine, on a case-by-case basis, a statistical relationship for each furnace between particulate emissions and its opacity. Using this statistical relationship, the furnace would be monitored for opacity, and excess emissions reported to EPA. The excess emission reports would be used to alert EPA enforcement personnel to consider whether the facility was being properly operated and maintained consistent with good air pollution control practices. As an alternative to continuous opacity monitoring, EPA proposed provisions permitting the continuous monitoring of a process parameter provided the owner or operator of the affected facility demonstrates that monitoring the process parameter is equivalent to opacity monitoring.

Comment: One commenter agreed with EPA's proposed approach for continuous opacity monitoring by stating that the proposed provisions properly establish a method for setting opacity guidelines on a furnace-by-furnace basis, allow those guidelines to be adjusted over time, and treat the guidelines as indicators and not tests of compliance. Another commenter requested that the provisions allowing alternative monitoring of process parameters be retained in the final standards. It is the commenter's opinion that opacity measurements are not indicative of the level of particulate emissions from a glass melting furnace; and, therefore, the alternative of process parameter monitoring is necessary. In contrast, one commenter stated that the use of process monitoring as a substitute for opacity monitoring should not be allowed because it is the commenter's opinion that there is no demonstrated correlation of process parameters with opacity. Furthermore, the commenter stated that specific limits on opacity should be mandated for glass melting furnaces using modified processes and should be enforced through the use of continuous opacity monitors.

Response: Compliance of a glass melting furnace using modified processes with the numerical limits is determined using Method 5. Because neither the operator of a glass melting furnace using modified processes nor EPA would have any indicator for knowing whether the facility is continuing to maintain the emission reduction observed during the performance test, EPA proposed that opacity monitors be installed and operated on such sources. Specific limits on opacity were not proposed because of the expected variability in opacity from a glass melting furnace as a function of the type of modified process used as well as the type of glass being produced. However, EPA's investigation of the relationship between opacity and emission rates for individual sources shows that opacity monitoring is a useful indicator of the overall performance of a control device or, in this case, a glass melting furnace using modified processes when applied on a source-by-source basis.

Although EPA does not have sufficient data to clearly demonstrate that the use of process monitoring is an acceptable substitute for opacity monitoring, EPA has no reason or desire to preclude the alternative of monitoring process parameters if a relationship between a process parameter and emission rates can be demonstrated. Therefore, the provisions permitting the continuous monitoring of a process parameter provided the owner or operator of the affected facility demonstrates to EPA the equivalency of the monitoring method with opacity monitoring remains the same as proposed.

Experimental Furnaces

A petition for reconsideration submitted by PPG raised the issue of the reasonableness of the cost of the standards on experimental glass melting furnaces (furnaces used solely for research and development of new glass manufacturing technologies and new glass products). After considering PPG's petition and additional information, EPA concluded that the economic impact of the standards is unreasonable for experimental furnaces. Therefore, EPA proposed to exempt experimental glass melting furnaces from the standards.

Comment: One commenter supported the experimental furnace exemption as proposed. Two other commenters supported the concept of exempting experimental furnaces, but disagreed with EPA's proposed definition of "experimental furnace."

Response: The proposed definition of "experimental furnace" was based on EPA's understanding of the application of experimental furnaces by the glass industry. Information provided to EPA by glass manufacturers indicates that experimental furnaces have historically been used by some, but not all, segments of the glass industry to test new batch formulas and glass compositions, to provide glass for new product development and testing, and to develop new glass melting technologies. These furnaces tend to have small capacities and short useful life spans. In EPA's judgment, the proposed definition of "experimental furnace" best characterizes experimental furnaces used by the glass industry. Therefore, the definition of "experimental furnace" remains the same as proposed.

Test Methods

Method 5 requires that the collected particulate sample must weigh at least 50 milligrams (mg). PPG requested in a petition for reconsideration that EPA permit an alternative test method which would allow the collection of particulate from a minimum exhaust gas sample volume of 90 actual cubic feet (acf). EPA denied this request because sampling particulates from 90 acf volume sample would collect a particulate sample significantly below the minimum weight considered necessary to assure an acceptable level of precision.

Comment: One commenter stated that the accuracy of a source test using Method 5 is a function of both flowrate and sampling time. Therefore, EPA's requirement that a 50 mg sample be collected regardless of sampling time and flowrates imposes a "needless burden."

Response: The requirement for a 50 mg particulate sample is not related to flowrate or sampling time. Instead, EPA established the requirement of collecting a minimum of 50 mg of particulate sample to reduce potential sampling error resulting from sampling technique to an acceptable level. The total particulate sample collected using Method 5 procedures is determined by adding the weight of particulates deposited on the filter plus the weight of particulates which accumulate on the inside walls of the sampling probe. To obtain an accurate and precise sample weight, it is important that the sampling probe be thoroughly cleaned to minimize any sample losses due to leaving particulates inside the probe. The significance of any errors introduced by improper cleaning of the sampling probe increases as the total weight of the particulate sample decreases. Therefore, the requirement of collecting a minimum of 50 mg of particulate sample is necessary to ensure the test method is accurate and precise. Compliance of a glass melting furnace with the particulate standards is determined only by a performance test and it is,

therefore, important that the test method be accurate and precise. A 50 mg particulate sample can be obtained from most glass melting furnaces using standard sampling equipment in a sampling period of 1 to 2 hours. For glass melting furnaces having special flow conditions, Method 5 may be run using equipment which operates at sampling flow rates greater than the standard flow rate. Thus, EPA's requirement does not impose a "needless burden" on glass manufacturers.

Exemptions During Periods of Maintenance

In their petition for reconsideration, GPI, *et al.*, requested an exemption from numerical emission limits during periods of add-on control device maintenance. EPA reviewed this request and found that such an exemption may be required by some glass manufacturers in certain situations. Therefore, EPA proposed to exempt glass melting furnaces from the emission limits during periods of routine maintenance of add-on control devices not to exceed 6 calendar days per year.

Comment: Two commenters stated support for EPA's proposal to exempt an operator of a glass melting furnace from the standards during periods of routine maintenance of add-on controls, subject to the limitation of 6 days per year, application of good air pollution control practices, and a reporting requirement. Another commenter stated that a limitation of 9 days per year would be more practical.

Response: The proposed limitation of 6 days per year was based on information about control equipment maintenance practices that EPA obtained from equipment manufacturers and glass companies operating control systems. The 6-day period was selected to allow semiannual inspection and routine maintenance for an ESP having compartments which cannot be isolated, and thus requiring complete bypass of the ESP unit to allow maintenance personnel to enter the compartments. Other control system designs that are expected to be installed by glass companies require less frequent inspection and maintenance intervals, have individual compartments which can be isolated to perform maintenance and repairs without bypass of the system, or allow maintenance to be performed external to the control system compartments. The commenter presented no new information to justify increasing the limitation to 9 days. A review of the data base EPA used to select the 6-day period (see docket reference VI–D–11) showed that at only one glass manufacturing plant was more than 6 days per year required to perform inspection and routine maintenance of an ESP unit. At this plant, three single compartment ESP units are normally operated simultaneously in a parallel configuration. The ESP unit maintenance procedure performed at the plant is unusual because it involves performing maintenance while routinely suspending glass production and placing the furnace in the idling mode. The operating configuration allows the ESP units to be serviced by isolating one unit for maintenance while venting the reduced volume of exhaust gases from the furnace through the other two units. Thus, the ESP units are essentially operated as a multiple compartment ESP unit with compartments that can be isolated. Based on these considerations, the limitation of 6 days remains the same as proposed.

Glass Definitions

Comment: One commenter questioned EPA's rationale for changing the definitions of the glass recipes to use glass composition. Specifically, it is not clear to the commenter which emission limit will apply to glass melting furnaces producing "lead recipe" glass. Furthermore, the effect of changing the definition of lead recipe glass on the national ambient air quality standard for lead was not presented by EPA.

Response: As part of the analysis to decide whether to revise the definition of "lead recipe" to be based on glass composition, EPA did not evaluate the impact of a lead recipe definition revision on the national ambient air quality standard for lead. An analysis of the impact of the glass melting furnace lead emissions was not necessary because the lead recipe definition revision being considered would not change the numerical emissions limits for any glass manufacturing plant industry segment using lead compounds as a raw material. Using the proposed glass definitions, if a glass melting furnace fired with a gaseous fuel produced a glass product containing 18 to 35 percent lead oxide then the maximum allowable particulate matter emission rate is 0.1 grams of particulate per kilogram of glass produced (g/kg). If the same furnace produces a glass product containing less than 18 percent lead oxide, then the maximum allowable particulate matter emission rate is 0.25 g/kg. These are the same emission levels allowed by the originally promulgated definition of lead glass recipe. Therefore, the revised definition of lead glass recipe remains the same as proposed.

Significance of Source Category

GPI, *et al.*, petitioned EPA to reconsider EPA's determination that glass manufacturing plants "cause [ ], or contribute [ ] significantly to air pollution which may be reasonably anticipated to endanger public health or welfare." Section 111(b)(1)(A). Other petitioners joined GPI, *et al.* in this issue. After reviewing the petitions, EPA found that even though new data and information may be available, the objection raised by these new data and information is not of central relevance to the outcome of this issue, and, therefore, EPA denied reconsideration of this issue.

Comment: One commenter restated their position that the facts do not support EPA's determination that the glass industry is an appropriate category for regulation by new source performance standards.

Response: As was stated in the **Federal Register** notice discussing EPA's denial of reconsideration of this issue (48 FR 50671), EPA believes that any major industrial source category with potential emission rates of the magnitude associated with glass manufacturing plants and with projected new plant growth is appropriately considered a significant contributor to air pollution and is appropriately regulated under Section 111. Therefore, EPA decided that reconsideration of this issue is not warranted.

Other Comments

One comment was received concerning specific wording used in the November 2, 1983, **Federal Register** notice (48 FR 50670). On page 50679 of the **Federal Register** notice, the applicability of the standards of performance for glass manufacturing plants to existing flat glass melting furnaces was discussed. Under today's promulgated amendments to the standards, if an existing flat glass melting furnace is determined to be an affected facility due to a modification as defined in 40 CFR 60.14, then the affected flat glass melting furnace is subject to achieving the standard of 0.5 g/kg if modified processes are used or to achieving the standard of 0.225 g/kg if add-on controls are used. Major alterations that do not result in increased emissions, such as alterations where air pollution control equipment is added or upgraded to maintain emissions at their previous level, are not considered modifications.

The same commenter also suggested that EPA provide, in the public record, support for its references to "high

quality flat glass" and "normal quality and production levels" on page 50679 of the Federal Register notice. The term "high quality" was used to describe the type of flat glass being produced by a flat glass melting furnace during an EPA-conducted emission source test. As is noted in docket reference VI–D–12, the term "high quality" flat glass is referring to architectural flat glass. The phrase "normal quality and production levels" was used in the statement: "Flat glass manufacturing companies are achieving emission levels less than 0.225 g/kg while maintaining normal glass quality and production." This statement is referring to the fact that two glass manufacturers have been able to reduce particulate emissions from flat glass melting furnaces to levels less than 0.225 g/kg by installation of add-on controls without affecting the glass quality or production levels that the two glass manufacturers would be able to achieve in the absence of any add-on controls.

Docket

The docket is an organized and complete file of all the information considered by EPA in the development of this rulemaking. The docket is a dynamic file, since material is added throughout the rulemaking process. The docketing system is intended to allow members of the public and industry involved to identify and locate documents so that they can participate effectively in the rulemaking process. Along with the statement of basis and purpose of the proposed and promulgated standards and EPA responses to significant comments, the contents of the docket will serve as the record in case of judicial review, except for interagency review materials (Section 307(d)(7)(A)).

Miscellaneous

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not "major" because it would reduce the cost of compliance with the current standards.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection at Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street SW, Washington, D.C. 20460.

The Administrator certifies that a regulatory flexibility analysis under 5 U.S.C. 701, et seq., is not required for this rulemaking, because the rulemaking would not have significant impact on a substantial number of small entities. This regulation would reduce the cost of compliance with the current standards.

The information collection requirements contained in this rule have been approved by OMB under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501, *et seq.*, and have been assigned OMB control number 2060–0054.

List of Subjects in 40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Asphalt, Cement industry, Coal, Copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Metallic Minerals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel sulfuric acid plants, Waste treatment and disposal, Zinc, Tires, Incorporation by Reference, Can surface coating, Sulfuric acid plants, Industrial organic chemicals, Organic solvent cleaners, Fossil fuel-fired steam generators, Fiberglass insulation, Synthetic fibers.

Dated: October 12, 1984.

William D. Ruckelshaus,

Administrator.

PART 60—[AMENDED]

40 CFR Part 60, Subpart CC, is amended as follows:

1. In § 60.291, the following definitions are revised: "Borosilicate recipe," "Glass melting furnace," "Lead recipe," and "Sodalime recipe;" and the following definitions are added in alphabetical order: "Experimental furnace," "Flow channels," "Textile fiberglass," and "With modified-processes;" as follows:

§ 60.291 Definitions.

* * * * *

"Borosilicate recipe" means glass product composition of the following approximate ranges of weight proportions: 60 to 80 percent silicon dioxide, 4 to 10 percent total R_2O (e.g., Na_2O and K_2O), 5 to 35 percent boric oxides, and 0 to 13 percent other oxides.

* * * * *

"Experimental furnace" means a glass melting furnace with the sole purpose of operating to evaluate glass melting processes, technologies, or glass products. An experimental furnace does not produce glass that is sold (except for further research and development purposes) or that is used as a raw material for nonexperimental furnaces.

* * * * *

"Flow channels" means appendages used for conditioning and distributing molten glass to forming apparatuses and are a permanently separate source of emissions such that no mixing of emissions occurs with emissions from the melter cooling system prior to their being vented to the atmosphere.

"Glass melting furnace" means a unit comprising a refractory vessel in which raw materials are charged, melted at high temperature, refined, and conditioned to produce molten glass. The unit includes foundations, superstructure and retaining walls, raw material charger systems, heat exchangers, melter cooling system, exhaust system, refractory brick work, fuel supply and electrical boosting equipment, integral control systems and instrumentation, and appendages for conditioning and distributing molten glass to forming apparatuses. The forming apparatuses, including the float bath used in flat glass manufacturing and flow channels in wool fiberglass and textile fiberglass manufacturing, are not considered part of the glass melting furnace.

* * * * *

"Lead recipe" means glass product composition of the following ranges of weight proportions: 50 to 60 percent silicon dioxide, 16 to 35 percent lead oxides, 5 to 20 percent total R_2O (e.g., Na_2O and K_2O), 0 to 8 percent total R_2O_3 (e.g., Al_2O_3), 0 to 15 percent total RO (e.g., CaO, MgO), other than lead oxide, and 5 to 10 percent other oxides.

* * * * *

"Soda-lime recipe" means glass product composition of the following ranges of weight proportions: 60 to 75 percent silicon dioxide, 10 to 17 percent total R_2O (e.g., Na_2O and K_2O), 8 to 20 percent total RO but not to include any PbO (e.g., CaO, and MgO), 0 to 8 percent total R_2O_3 (e.g., Al_2O_3), and 1 to 5 percent other oxides.

"Textile fiberglass" means fibrous glass in the form of continuous strands having uniform thickness.

"With modified-processes" means using any technique designed to minimize emissions without the use of add-on pollution controls.

(Sec. 111, 301(a), of the Clean Air Act as amended (42 U.S.C. 7411, 7601(a)))

2. In § 60.292, paragraphs (d) and (e) are added as follows:

§ 60.292 Standards for particulate matter.

* * * * *

(d) An owner or operator of an experimental furnace is not subject to the requirements of this section.

(e) During routine maintenance of add-on pollution controls, an owner or operator of a glass melting furnace

subject to the provisions of § 60.292(a) is exempt from the provisions of § 60.292(a) if:

(1) Routine maintenance in each calendar year does not exceed 6 days;

(2) Routine maintenance is conducted in a manner consistent with good air pollution control practices for minimizing emissions; and

(3) A report is submitted to the Administrator 10 days before the start of the routine maintenance (if 10 days cannot be provided, the report must be submitted as soon as practicable) and the report contains an explanation of the schedule of the maintenance.

(Sec. 111, 301(a), of the Clean Air Act as amended (42 U.S.C. 7411, 7601(a)))

3. Section 60.293 is added as follows:

§ 60.293 Standards for particulate matter from glass melting furnace with modified-processes.

(a) An owner or operator of a glass melting furnaces with modified-processes is not subject to the provisions of § 60.292 if the affected facility complies with the provisions of this section.

(b) On and after the date on which the performance test required to be conducted by § 60.8 is completed, no owner or operator of a glass melting furnance with modified-processes subject to the provisions of this subpart shall cause to be discharged into the atmosphere from the affected facility:

(1) Particulate matter at emission rates exceeding 0.5 gram of particulate per kilogram of glass produced (g/kg) as measured according to paragraph (e) of this section for container glass, flat glass, and pressed and blown glass with a soda-lime recipe melting furnaces.

(2) Particulate matter at emission rates exceeding 1.0 g/kg as measured according to paragraph (e) of this section for pressed and blown glass with a borosilicate recipe melting furnace.

(3) Particulate matter at emission rates exceeding 0.5 g/kg as measured according to paragraph (e) of this section for textile fiberglass and wool fiberglass melting furnaces.

(c) The owner or operator of an affected facility that is subject to emission limits specified under paragraph (b) of this section shall:

(1) Install, calibrate, maintain, and operate a continuous monitoring system for the measurement of the opacity of emissions discharged into the atmosphere from the affected facility.

(2) During the performance test required to be conducted by § 60.8, conduct continuous opacity monitoring during each test run.

(3) Calculate 6-minute opacity averages from 24 or more data points equally spaced over each 6-minute period during the test runs.

(4) Determine, based on the 6-minute opacity averages, the opacity value corresponding to the 97.5 percent upper confidence level of a normal distribution of average opacity values.

(5) For the purposes of § 60.7, report to the Administrator as excess emissions all of the 6-minute periods during which the average opacity, as measured by the continuous monitoring system installed under paragraph (c)(1) of this section, exceeds the opacity value corresponding to the 97.5 percent upper confidence level determined under paragraph (c)(4) of this section.

(d)(1) After receipt and consideration of written application, the Administrator may approve alternative continuous monitoring systems for the measurement of one or more process or operating parameters that is or are demonstrated to enable accurate and representative monitoring of an emission limit specified in paragraph (b)(1) of this section.

(2) After the Administrator approves an alternative continuous monitoring system for an affected facility, the requirements of paragraphs (c) (1) through (5) of this section will not apply for that affected facility.

(3) An owner or operator may redetermine the opacity value corresponding to the 97.5 percent upper confidence level as described in paragraph (c)(4) of this section if the owner or operator:

(i) Conducts continuous opacity monitoring during each test run of a performance test that demonstrates compliance with an emission limit of paragraph (b) of this section,

(ii) Recalculates the 6-minute opacity averages as described in paragraph (c)(3) of this section, and

(iii) Uses the redetermined opacity value corresponding to the 97.5 percent upper confidence level for the purposes of paragraph (c)(5) of this section.

(e) Test methods and procedures as specified in § 60.296 shall be used to determine compliance with this section except that to determine compliance for any glass melting furnace using modified processes and fired with either a gaseous fuel or a liquid fuel containing less than 0.50 weight percent sulfur, Method 5 shall be used with the probe and filter holder heating system in the sampling train set to provide a gas temperature of 120±14 °C.

(Sec. 111, 114, 301(a), of the Clean Air Act as amended (42 U.S.C. 7411, 7414, 7601(a)))

4. In § 60.296, the introductory text of paragraph (a) is revised, and paragraph (g) is added as follows:

§ 60.296 Test methods and procedures.

(a) Reference methods in Appendix A of this part, except as provided under § 60.8(b), shall be used to determine compliance with § 60.292 and § 60.293 as follows:

* * * * *

(g) If an owner or operator changes an affected facility from a glass melting furnace with modified processes to a glass melting furnace without modified processes or from a glass melting furnace without modified processes to a glass melting furnace with modified processes, the owner or operator shall notify the Administrator 60 days before the change is scheduled to occur.

(Sec. 111, 114, 301(a), of the Clean Air Act as amended (42 U.S.C. 7411, 7414, 7601(a)))

[FR Doc. 84-27840 Filed 10-18-84; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 271

[OSWER-8-FRL-2697-3]

Colorado; Final Authorization of State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of final determination of application of State of Colorado for final authorization.

SUMMARY: Colorado has applied for final authorization under the Resource Conservation and Recovery Act (RCRA). EPA has reviewed Colorado's application and found it includes all the information necessary for final authorization. Colorado has addressed to EPA's satisfaction all EPA requirements and all concerns identified in the August 6, 1984 notice. EPA grants to Colorado final authorization to operate its hazardous waste program in lieu of the federal program.

EFFECTIVE DATE: Final Authorization for Colorado shall be effective at 1:00 p.m. on November 2, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Brinkman, EPA Region 8, 1860 Lincoln Street, Denver, Colorado 80295, Telephone: [303] 844-2221.

SUPPLEMENTARY INFORMATION: Section 3006 of the Resource Conservation and Recovery Act (RCRA) allows EPA to authorize State hazardous waste programs to operate in the State in lieu of the Federal hazardous waste program. Two types of authorization

may be granted. The first type is known as "interim authorization". It is a temporary authorization and is not addressed here.

The second type of authorization is a "final" authorization that is granted by EPA if the Agency finds the State program: (1) Is "equivalent" to the Federal program, (2) is consistent with the Federal program and other State programs, and (3) provides for adequate enforcement (Section 3006(b), 42 U.S.C. 6226(b)). EPA regulations for final authorization appear at 40 CFR Part 271.

The State of Colorado submitted a draft application for final authorization to EPA on September 15, 1983. EPA comments were made to the State for their consideration and revision on January 4, 1984. A public hearing to solicit comments was held by Colorado on March 5, 1984 on the revised application. The application for final authorization of the Colorado hazardous waste management program was received by EPA on March 13, 1984. A notice announcing EPA's tentative decision to grant authorization of the Colorado hazardous waste program was published in Volume 49, No. 152, Page 31301 of the **Federal Register** on August 6, 1984, at which time a public comment period was opened and held open through September 4, 1984, the date on which a Public Hearing was held.

The tentative determination to authorize the Colorado program was made after development of a Capability Assessment evaluating Colorado's past performance in hazardous waste program participation and its resources to implement the hazardous waste program after authorization and upon a commitment by Colorado to provide additional materials to EPA. The additional materials were presented during the period between the State's receipt of the EPA comments up through September 5, 1984. EPA concerns were adequately addressed by these materials as follows:

1. The Memorandum of Agreement was expanded to include additional detail on the procedure for negotiation when there is disagreement between the State and EPA on the review of waiver, variance or permit applications.

2. A permit call-in strategy for permitting all existing facilities over a specified period of time was added to the Program Description.

3. Detail was provided in the Program Description on the staffing of the hazardous waste program.

4. Colorado Hazardous Waste Regulations were revised to limit minor modification to situations as provided for in the Federal regulation.

5. Colorado Hazardous Waste Regulations were revised to limit changes allowed during interim status to those allowed in the Federal Hazardous Waste program regulations.

6. The authority of Colorado to extend the storage of hazardous waste by generators beyond the 30 days specified in the Federal regulations was deleted from the Colorado regulations.

7. Colorado Hazardous Waste Regulations were revised to limit the use of the trial permits to situations not controlled by the Resource Conservation and Recovery Act regulations.

8. The Attorney General certified the legality of all commitments made in the Memorandum of Agreement and the changes in the Colorado Hazardous Waste regulations.

Comments were received by mail and by presentation at the Public Hearing. Correspondence was received which supported the transfer of the regulation of hazardous waste to the State and which expressed a strong belief that local government should be involved in the process.

Several presentations were made at the Public Hearing. None refuted the Authorization of the State hazardous waste program. However, two areas of reservation were expressed. The ability of the State to fund and staff an adequate hazardous waste effort and the possibility of withholding authorization until a specific facility had been permitted by EPA were questioned.

EPA analysis of the State resources available to the hazardous waste program demonstrates that resources are presently adequate and that the resources will increase as workload increases due to the State hazardous waste fee system that becomes effective upon Authorization.

EPA has determined, further, that the Authorization should not be delayed to allow for permitting of any specific facility. The permit review conducted under authorization will continue to be rigorous with EPA overseeing State permitting efforts.

Colorado satisfied all of EPA's concerns by revision of the Program Description, Memorandum of Agreement, Hazardous Waste Regulations, and the Attorney General's Statement. Thus, EPA grants final authorization to Colorado to operate its program in lieu of the federal program.

In making its final decision, EPA has considered all public comments on the tentative determination and the measures taken by the State to address EPA's concerns.

Decision

After review of the public comment and the changes the State has made to its application/program since the tentative decision, I conclude that the Colorado application for final authorization meets all statutory and regulatory requirements established by RCRA. Accordingly, Colorado is granted authorization to operate its hazardous waste program. Upon the effective date of this authorization, Colorado has responsibility for permitting hazardous waste treatment, storage and disposal facilities within its borders and for carrying out other aspects of the approved Colorado program. Colorado also has primary enforcement responsibility, although EPA retains the right to conduct inspections under Section 3007 of RCRA and to take enforcement actions under Sections 3008, 3013 and 7003 of RCRA.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. The authorization suspends the applicability of certain Federal regulations in favor of the State program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Compliance With Executive Order 12291

The Office of Management and Budget (OMB) has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 271

Hazardous materials, Indian-lands; Reporting and recordkeeping requirements, Waste treatment and disposal, Intergovernmental relations, Penalties, Confidential business information.

Authority

This notice is issued under the authority of Sections 2002(a), and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b), EPA Delegations 7.

Dated: October 15, 1984.

John G. Welles,

Regional Administrator.

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40 CFR Part 271

[OSWER-6-FRL-2697-4]

South Dakota; Decision on Final Authorization of State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of final determination on application of South Dakota for final authorization.

SUMMARY: South Dakota has applied for final authorization under the Resource Conservation and Recovery Act (RCRA). EPA has reviewed South Dakota's application and has reached a final determination that South Dakota's hazardous waste program satisfies all of the requirements necessary to qualify for final authorization. Thus, EPA is granting final authorization to the State to operate its program in lieu of the Federal program.

EFFECTIVE DATE: Final Authorization for South Dakota shall be effective at 1:00 p.m. on November 2, 1984.

FOR FURTHER INFORMATION CONTACT: Henry C. Schroeder, EPA/Region 8, 1860 Lincoln Street, Denver, Colorado 80295, Telephone: (303) 844-2221.

SUPPLEMENTARY INFORMATION: Section 3006 of the Resource Conservation and Recovery Act (RCRA) allows the Environmental Protection Agency (EPA) to authorize State hazardous waste programs to operate in the State in lieu of the Federal hazardous waste program. To qualify for final authorization, a State's program must (1) be "equivalent" to the Federal program; (2) be consistent with the Federal program and other State programs; and (3) provide for adequate enforcement (Section 3006(b) of RCRA, 42 U.S.C. 6226(b)).

On March 16, 1984, South Dakota submitted a complete application to obtain final authorization to administer the RCRA program. Following detailed review of the complete application and the development of a Capability Assessment evaluating past State program performance and present resource capacity for future program implementation, EPA published a tentative decision announcing its intent to grant South Dakota final authorization on July 10, 1984. Further background on the tentative decision to grant authorization appears at Vol. 49, No. 133 **Federal Register**, page 28074, July 10, 1984. This tentative decision notice reviewed all issues raised in the consolidated EPA comments to the State and the State intended responses to these comments.

South Dakota's official responses to the consolidated EPA comments were negotiated with the State Department of Environmental Quality, the Attorney General's Office and approved by the Board of Minerals and Environment. The comments and responses are as follows:

1. Program description must provide an explanation of the relationship between the Board of Minerals and Environment and the Department. Also, if necessary, obtain a statement from the Board that they will operate in a manner consistent with the State Hazardous Waste Program.

The State described the relationship between the Board and the Department, and the Board also signed a letter agreeing to operate in a manner consistent with the State Hazardous Waste Program.

2. The Attorney General's Statement must be revised to further explain why 1-26-30.1 of South Dakota's Administrative Procedures Act is consistent with the requirements of Authorization of the State Hazardous Waste Program.

The State Attorney General revised the Statement to provide sufficient explanation proving the consistency of the State Administrative Procedures Act with RCRA.

Along with the tentative determination EPA announced the availability of the application in the State, EPA Region VIII, and EPA Headquarters for public comment and the date of a public hearing on the application. The public hearing was held on August 16, 1984 in Pierre, South Dakota. Approximately ten individuals were in attendance including one local television reporter. One written statement was received and one oral statement was made. No adverse comments were expressed at the public hearing.

Decision

After reviewing the public comment and the changes the State made to its application/program prior to the tentative decision, I conclude that South Dakota's application for final authorization meets all of the statutory and regulatory requirements established by RCRA. South Dakota continues to demonstrate a commitment to hazardous waste program implementation as documented in the Capability Assessment developed for tentative decision. Accordingly, South Dakota is granted final authorization to operate its hazardous waste program. This means that South Dakota now has the responsibility for permitting treatment, storage and disposal facilities within its borders and carrying out the other aspects of the RCRA program. South Dakota also has primary enforcement responsibility, although EPA retains the right to conduct inspections under Section 3007 of RCRA and to take enforcement actions under Sections 3008, 3012, and 7003 of RCRA.

Compliance with Executive Order 12291

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 505(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. The authorization effectively suspends the applicability of certain Federal regulations in favor of South Dakota's program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 271

Hazardous materials, Indian lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Intergovernmental relations, Penalties, Confidential business information.

Authority

This notice is issued under the authority of Sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: October 15, 1984.

John G. Welles,

Regional Administrator.

[FR Doc. 84-27636 Filed 10-18-84; 8:45 am]

BILLING CODE 6560-50-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Ch. 18

Acquisition Regulations, Promulgation of NASA FAR Supplement Directive 84-2

AGENCY: Procurement Policy Division, NASA.

ACTION: Final rule.

SUMMARY: This document promulgates miscellaneous amendments to NASA acquisition regulations contained in NASA FAR Supplement Directive (NFSD) 84–2.

EFFECTIVE DATE: October 19, 1984.

FOR FURTHER INFORMATION CONTACT: James H. Wilson, Procurement Policy Division (Code HP), Office of Procurement, NASA Headquarters, Washington, DC 20546, or call (202) 453–2118.

SUPPLEMENTARY INFORMATION: On August 29, 1984, as corrected September 18, 1984, proposed amendments to the NASA FAR Supplement were published, for review and public comment. No comments were received. However, in section 1804.674–4, Preparation of individual procurement action report (NASA Form 507), paragraph (O), the parenthetical statement "(see Supplement 50, Subpart 1)" is revised to read "(see NPR Supplement 50, Subpart 1)".

List of Subjects in 48 CFR Ch. 18

Government procurement.

S.J. Evans,

Assistant Administrator for Procurement.

Accordingly, 48 CFR, Ch. 18 is amended as set forth herein. The authority citation for 48 CFR chapter 18 reads as follows:

Authority: 42 U.S.C. 2473(c)(1).

PART 1801—NATIONAL AERONAUTICS AND SPACE ADMINISTRATION FEDERAL ACQUISITION REGULATION SUPPLEMENT

2. Section 1801.105–1 is revised to read as follows:

1801.105–1 NASA FAR Supplement requirements.

The following OMB control numbers apply:

NASA FAR Supplement Segment: All
OMB Approval Number: 2700–0043
Expiration Date: 03/31/87.

1801.471 [Amended]

3. Section 1801.471, paragraph (a) is amended in the second sentence by changing the word "his" to read "that person's."

PART 1803—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

4. Subpart 1803.5 is added to read as follows:

Subpart 1803.5—Other Improper Business Practices

1803.502 Subcontractor kickbacks.

Suspected violations of the Anti-Kickback Act shall be reported in accordance with 1809.470.

5. In section 1803.7001, paragraph (c) is amended by adding a sentence at the end of the paragraph to read as follows:

1803.7001 Policy.

(c) * * * Such documentation is not required if formal advertising is used.

* * * * *

1803.7002 [Amended]

6. Section 1803.7002 is amended beginning with the word "except." by adding "except IFB's" after "solicitations" and before the period.

PART 1804—ADMINISTRATIVE MATTERS

7. In section 1804.202, paragraph (a) is revised to read as follows:

1804.202 Agency distribution requirements

* * * * *

(a) For research or research and development projects one copy of the contract plus a copy of the contractor's technical proposal and/or Statement of Work will be furnished to the Scientific and Technical Information Office, Code NIT–4, NASA Headquarters.

* * * * *

1804.671–1 [Amended]

8. In section 1804.671–1, paragraph (a)(3), (a)(4) and paragraph (b)(1) and (b)(2) are amended by revising the dollar amount at each paragraph to read "$25,000" in place of "$10,000."

9. Section 1804.671–4 is amended as follows:

a. Paragraph (c), the codes in paragraph (e), the entry for code 53 in paragraph (f), and paragraphs (x) and (dd) are revised.

b. Paragraph (i) is amended by removing "Code HM–1" and inserting in its place "Code HM".

c. Paragraph (o) is amended by revising the last two sentences in the introductory text.

d. Paragraph (w)(3)(i) is amended by removing "NASA FAR Supplement 70" and inserting in its place "Supplement 50"; (w) (4) and (5) are amended by removing "Supplement 70" and inserting in its place "Supplement 50".

e. Paragraph (ii) is amended by removing "$10,000" and inserting in its place "$25,000".

f. Paragraph (mm) is amended by removing "NBS–LO–1967" and "NBS–10–1967" and inserting in their places "NBS–LC–1067". It is further amended by removing "leave this item blank" and inserting in its place "enter U.S.".

1804.671–4 Preparation of individual procurement action report (NASA Form 507).

* * * * *

(c) *Contract numbering scheme.*

(1) The method of numbering contracts and purchase orders is set forth in 1804.71 (*e.g.*, NAS9–14000, NAS10–9080, NASW–2080).

(2) The method of numbering grants is set forth in the NASA Grant and Cooperative Agreement Handbook, NHB 5800.1B paragraph 306.1 (*e.g.*, NAGW–1, NAG2–308).

(3) The method of numbering cooperative agreements is set forth in the NASA Grant and Cooperative Agreement Handbook, NHB 5800.1B, paragraph 306.2 (e.g., NCC 2–1).

(4) Utility Contracts/Purchase Orders Serial Number Scheme.

* * * * *

(e) *Item 4—Accounting installation number* (2 positions). * * *

Code and Installation

10—NASA Headquarters
17—Agency Reimbursable Financial Operations
21—Ames Research Center
22—Lewis Research Center
23—Langley Research Center
51—Goddard Space Flight Center
55—NASA Resident Office—JPL
62—George C. Marshall Space Flight Center
64—National Space Technology Laboratories
72—Lyndon B. Johnson Space Center
76—John F. Kennedy Space Center

* * * * *

(f) *Item 5—Procuring installation number* (2 Positions). * * *

* * * * *

53—Wallops Flight Facility

* * * * *

(o) *Item 15—Procurement placement code (2 positions).* * * * Refer to the procurement placement code (PPC) matrix (see NPR Supplement 50, Subpart 1). See paragraph 1804.671–6 for special Procurement Placement Codes.

* * * * *

(x) *Item 24—Proposed procurement synopsized* (1 position). Enter "1" if the procurement was synopsized prior to award in the Department of Commerce publication "Synopsis of U.S. Government Proposed Procurement, Sales, and Contract Awards." Enter "2" if the procurement was not synopsized. Enter "3" if the procurement was not synopsized due to unusual or compelling emergency.

* * * * *

(dd) *Item 30—Subcontracting program plan* (1) position). Enter Y (yes) or N (no)

to indicate whether the contract contains a subcontract plan requiring the contractor to furnish the information prescribed on Standard Forms 294 and 295 (see 1804.674). Enter W (Waiver) if there are no subcontracting opportunities or other waivers.

* * * * *

10. Section 1804.671–6 if amended by changing the dollar amount in the heading and paragraphs (b) and (c) to read "$25,000" in place of "$10,000" and by adding new paragraphs (d) and (e) to read as follows:

* * * * *

1804.671–6 Special procurement placement codes (PPC) for certain procurements under $25,000 (no NASA Form 507 required.

* * * * *

(d) All procurement awards over $25,000 and the Accounting copies on procurement actions under $25,000 (no NASA Form 507 required) placed through the Small Business Administration to a disadvantaged business firm under Section 8(a) of the Small Business Act shall be coded with PPC *PS*. (See PPC matrix.)

(e) All procurement awards funded through the Small Business Innovation Research (SBIR) program shall be coded with PPC *HS*. (See PPC matrix.)

11. Section 1804.677 is added to read as follows:

1804.677 Reporting requirements under Public Law 96–72.

(a) NASA is required annually to report to the Congress with respect to negotiations for award of each applicable sole source contract (see 1815.105–2 (c) and (d) and each contract resulting from an unsolicited proposal (see 1815.507(c)) if the head of the procuring activity or his deputy did not approve the authority to enter into such contract.

(b) NASA contracting offices shall record the number of such negotiations and annually submit it to Assistant Administrator for Procurement (Attn: Code HM).

PART 1805—PUBLICIZING CONTRACT ACTIONS

12. Section 1805.303–70 is amended by revising pagagraph (a)(1)(iii) to read as follows:

1805.303–70 Furnishing additional procurement information to the public.

(a) *Policy.* (1) * * *

(iii) After the date established for receipt of bids or proposals, the names of firms which submitted bids or proposals; and

* * * * *

PART 1807—ACQUISITION PLANNING

13. In section 1807.7102, paragraphs (a), introductory text, (a)(2), and (d)(2) are revised, and paragraph (d)(3) is added to read as follows:

1807.7102 Applicability.

(a) The Master Buy Plan Procedure is applicable to each negotiated procurement, when the expected dollar value of that procurement, or aggregate amount of follow-up procurements (see 1807.103(b)(2)), is expected to equal or exceed the dollar value in paragraph (c) below, for the installation making the award. This procedure is also applicable to the following special procurements which are less than the paragraph (c) amounts—

* * * * *

(2) Procurement of architect-engineer services for $1,000,000 or more including those services described at 1815.903–70.

* * * * *

(d) * * *

(1) * * *

(2) A supplemental agreement (except one that provides only for the addition or deletion of funds for incremental funding purposes) that contains either new work, a debit change order, or a credit change order (or any combination/consolidation thereof) where any one of which (new work or an individual change order) equals or exceeds the dollar value in paragraph (c) above for the installation making the award.

(3) A supplemental agreement that contains one or more elements (new work and/or individual change orders) of a sensitive nature which, in the judgment of the installation or Headquarters, warrants Headquarters consideration under the Master Buy Plan Procedure, notwithstanding the fact that the monetary amount under consideration does not equal or exceed the installation's limitation in paragraph (c) above.

* * * * *

14. In section 1807.7104 the existing paragraph is designated as (a) and paragraph (b) is added to read as follows:

1807.7104 Procedures for procurements selected for Headquarters review and approval.

* * * * *

(b) When selecting procurements from field installation Master Buy Plans, responsible Headquarters Officials will decide whether to also require a Headquarters review of the associated request for proposals. Where responsibility for review of a request for proposals is delegated to the field installation, it may subsequently be rescinded if a Headquarters review is deemed more appropriate. Headquarters reviews will normally be conducted by the Assistant Administrator for Procurement with the Attendance of the cognizant Program Associate Administrator or Deputy Associate Administrator, the Assistant General Counsel for Procurement Matters, and the NASA Chief Engineer. The following procedure shall apply:

(1) Appropriate personnel in the Program Operations Division, Code HS, shall establish an acceptable schedule for conducting the review upon notification by the field installation that the draft request for proposals is near completion.

(2) Ten working days prior to the scheduled review, field installations shall submit to the Assistant Administrator for Procurement (Code HS) ten copies of the following documents:

(i) The draft request for proposals containing, as a minimum, the Statement of Work, evaluation factors and criteria, as appropriate (including order of relative importance), the proposed sample contract, and any other data having an impact on proposal evaluation.

(ii) Any special or unusual provisions to be included in the request for proposals or negotiated into any resultant contract, such as ceilings on rates, change control procedures reporting requirements, type of contract.

(iii) The Source Evaluation Board evaluation methodology, including the rationale for the selection of the Mission Suitability Factors and their associated evaluation criteria, the expected significant discriminators that should result, and the proposed method to be used in developing the Source Evaluation Board probable-cost comparison. Any other significant cost or other factors that are expected to have a bearing on the evaluation should be discussed. Numerical weightings to be employed in the evaluation process shall not be disclosed in the request for proposals.

(3) After a preliminary review of the documentation submitted under paragraph (b)(2) above and coordination with cognizant Headquarters offices, a determination will be made, in consultation with the field installation involved, as to the need for either a meeting in Headquarters or a telephone conference to discuss the request for proposals. If either should be required, participation should be limited to officials-in-charge of cognizant Headquarters offices or their designees.

Field installation attendees should be limited to those determined by the Procurement Officer to be necessary for the review. The Assistant Administrator for Procurement, with the concurrence of the Program Associate Administrator or Deputy Associate Administrator, will have the results of the request for proposals review documented and forwarded to the Procurement Officer of the involved field installation for implementation.

1807.7105 [Amended]

15. Section 1807.7105(a) is amended by revising the words "paragraph 403 of that manual," to read "paragraph 403 of NHB 5103.6A, as amended."

16. Section 1807.7106 is amended by revising the introductory text and notes (2) and (6) and the parenthetical material at the end of the section. Also notes (7), (8), and (9) are added.

1807.7106 Format of Master Buy Plan

In accordance with the requirements of 1807.7103–1 and 1807.7103–2, Master Buy Plans and amendents to Master Buy Plans will be prepared in the following format:

* * * * *

(2) Include N to indicate new or FO to indicate follow-on procurement.

* * * * *

(6) List procurements from prior fiscal year(s) Master Buy Plans and amendments to Master Buy Plans that have not been completed (1807.7103–1).

(7) Name and FTS number of cognizant installations procurement person under Remarks.

(8) List one procurement per page and number sequentially.

(9) Number each page.

(Form should be prepared on 8½ x 11 size paper. Use separate sheets as necessary.

PART 1808—REQUIRED SOURCES OF SUPPLIES AND SERVICES

17. In section 1808.002–74, the last sentence in paragraph (f)(1) is revised and paragraph (f)(3) is added as follows:

1808.002–74 Acquisition of propellants.

* * * * *

(f) *Reporting requirements.* (1) * * * Reports shall be submitted in duplicate on AF Form 858, Forecast of Propellant Requirements.

* * * * *

(3) Estimated requirements and other pertinent data required from contractors shall be obtained on Air Force Form 858, and OMB Approval Number 0701–0013 shall be cited.

* * * * *

1808.002–75 [Amended]

18. Section 1808–002–75 is amended by revising the second word in paragraph (b)(1) to read "for" in place of "from."

PART 1809—CONTRACTOR QUALIFICATIONS

19. Sections 1809.104 and 1809.104–1 are added to read as follows:

1809.104 Standards.

1809.104–1 General standards.

FAR 9.104–1(d) provides that a prospective contractor, to be determined responsible, must have a satisfactory record of integrity. Prior to rejecting an offer based on a determination that the offeror is nonresponsible because of a lack of integrity, the contracting officer shall promptly furnish the offeror notice of the specific reasons for the determination and establish a reasonable time for the offeror to respond. A formal hearing is not required.

PART 1813—SMALL PURCHASE AND OTHER SIMPLIFIED PURCHASE PROCEDURES

20. Section 1813.302 is added to read as follows:

1813.302 Conditions for use.

Pursuant to FAR 13.302(a), the dollar limitation for NASA is hereby established as the small purchase ceiling for defense agencies.

1813.403–70 [Amended]

21. Section 1813.403–70 is amended as follows:

a. Paragraph (a) is amended by removing "Financial Management Manual paragraphs 9650–2 through 9650–15" and inserting in its place "Financial Management Manual 9650".

b. Paragraph (c)(1) is amended by removing "Financial Management Manual paragraph 9650–5" and inserting in its place "Financial Management Manual 9650".

c. Paragraph (c)(2)(ii) is amended by removing "Financial Management Manual paragraph 9650–10(c)." and inserting in its place "Financial Management Manual paragraph 9650."

1813.405 [Amended]

22. Section 1813.405(f)(1) is amended by removing "Financial Management Manual paragraph 9650–9" and inserting in its place "Financial Management Manual 9650".

PART 1815—CONTRACTING BY NEGOTIATION

1815.105 [Amended]

23. Section 1815.105–70 is amended in paragraph (d), introductory text, by removing "The original and 10 copies" and inserting in its place "The original and 2 copies (or other quantities required for installation purposes)". Paragraph (d)(1) is amended by removing "For purchases of $1,000 or less" and inserting in its place "For small purchases over $1,000".

24. Section 1815.303 is added to read as follows:

1815.303 Class D&F's.

The effective period specified in each class D&F shall not ordinarily exceed one year except when used in conjunction with a definitive Phased Procurement Plan such as those based upon NMI 7121.1B, dated July 1, 1972, entitled "Planning and Approval of Major Research and Development Projects," in which case the period shall not normally exceed three years. When periods longer than the foregoing are considered appropriate and necessary, they should be stated with the reasons therefor.

25. Section 1815.307–71 is amended by redesignating paragraph (a) to read (a)(1) paragraphs (1), (2) and (3) to read (i), (ii), and (iii) paragraph (b) to read (2). Newly redesignated paragraph (a)(2) is further amended by changing "Code HS–1" to read "Code HS." New paragraph (b) is added to read as follows:

1815.307–71 Determinations and findings below the Administrator level.

* * * * *

(b) D&F's under the authority of 10 U.S.C. 2304(a) (2), (7), (8), or (10) may be executed by the contracting officer for individual purchases and contracts.

1815.371–3 [Amended]

26. Section 1815.371–3 is amended by revising the parenthetical reference in the last sentence of paragraph (b) to read "(see 1815.303)" in place of "see paragraph (c) below."

27. In section 1815.413, a new sentence is added to the end of the paragraph to read as follows:

1815.413 Disclosure and use of information before award.

* * * (See 1805.303–70(a)(1)(iii) regarding release of the names of firms which submitted bids or proposals.)

28. In section 1815.805–5, paragraph (e) is added to read as follows:

1815.805–5 Field pricing support.

* * * * *

(e) When the threshold at 1815.805–5 (a) is met and the cost proposal is for a product of a follow-on nature, notwithstanding any other provision of this 1815.805–5, a complete field pricing report shall be requested from the cognizant contract administration office. The field pricing report shall include, but not be limited to, actuals incurred under the previous contract, learning experience, technical and production analysis, and subcontract proposal analysis.

29. In section 1815.807–70(c), the existing paragraph immediately after the italicized heading is designated (1) and paragraph (2) is added as follows:

1815.807–70 Content of the Prenegotiation Position Memorandum.

(c) *Cost and profit/fee analysis.*

* * * * *

(2) Include particulars of the disposition of audit recommendations here. Resolution shall be considered accomplished when negotiation approval is granted. If, for some reason, they cannot be included in the Prenegotiation Position Memorandum, the disposition of the audit recommendations must be documented in the price negotiation memorandum (see FAR 15.808) or in other relevant file memoranda.

1815.871 [Amended]

30. Section 1815.871 is amended by removing paragraph (c).

31. Section 1815.872 is added to read as follows:

1815.872 Tracking and resolution of expenditure and system audit findings.

(a) This section is NASA's implementation of OMB Circular A–50. Expenditure and system audit recommendations shall be resolved by formal review and approval procedures analogous to those at 1815.807–71 and 1815.807–72.

(b) On expenditure or system audits where a major disagreement exists between the contracting officer and auditor and that disagreement, in the opinion of the Procurement Officer, produces a significant impact on the action involved, the planned resolution will be coordinated with NASA Headquarters, Code HC, prior to final action.

(c) The contract audit follow-up system will track all audit recommendations arising out of expenditure and system type audits where NASA has cognizant determination authority. Included will be audits involving actions such as contract incurred costs, indirect cost settlements, termination settlements, defective pricings, final pricings or contract closings, estimating systems surveys, accounting systems and internal control reviews, CAS non-compliance reports, and operations audits. The objective of the tracking system is to insure that resolutions of audit recommendations will occur as expeditiously as possible, but at a maximum, within six months of the date of the audit report. All audit recommendations involving questioned cost in the aforementioned covered categories shall be tracked. (Audit recommendations involving the placement of contracts shall *not* be included in the tracking system.)

(d) The identification and tracking of expenditure and system audits under NASA cognizance will be accomplished in cooperation with DCAA by means of a form called the "Contract Audit Followup Summary Sheet." The original form will be attached to the original audit report and sent to the contracting officer having negotiation or resolution responsibility. The second, and only other copy, will be sent to the NASA Headquarters focal point (Code HC). The summary sheet will identify the total costs questioned or considered avoidable and whether the audit recommendations, in the opinion of the auditor, are considered significant. The form also identifies the responsible contracting officer and provides a space to be completed by the contracting officer upon resolution of the matter with a statement describing how the audit recommendation was resolved including, where appropriate, dollar values.

(e) Documentation in support of the contractor's procedures shall be made available to authorized Government personnel.

32. Section 1815.903–70 is added to read as follows:

1815.903–70 Contracting officer authority for negotiating architect-engineer fees.

It is NASA policy that if a contract, regardless of type, covers any type services other than the production and delivery of designs, plans, drawings, and specifications, that part of the contract price for such other services shall not be subject to the 6 percent fee limitation.

PART 1816—TYPES OF CONTRACTS

33. In section 1816.301–3, the existing paragraph is designated as (a) and paragraph (b) is added to read as follows:

1816.301–3 Limitations.

* * * * *

(b) Set forth below is a format for the D&F's to be made by the contracting officer with respect to the use of a cost, cost-plus-fixed-fee, cost-plus-award fee, or incentive type contract, as required by 10 U.S.C. 2306(c) (see FAR 16.301–3(c)). The format may be modified as appropriate.

National Aeronautics and Space Administration

Determination and Findings

Authority To Use a (1) Contract

Upon the basis of the following findings and determination which I hereby make pursuant to the authority of 10 U.S.C. 2306(c), the proposed contract described below may be entered into on a ...(1)... basis.

Findings

1. The ...(2)... proposes to enter into a ...(1)... contract for the procurement of ...(3)... at an estimated cost of $...(4)....

2. The work to be performed is ...(5)....

Determination

1. It is impracticable to secure services of the kind or quality required without the use of the proposed type of contract. (6)

[Alt: The use of the proposed type of contract is likely to be less costly than other methods.] (6)

[Alt: It is impracticable to secure services of the kind or quality required without the use of the proposed type of contract and the use of such type of contract is likely to be less costly than any other method.] (6)

2. the estimated cost of the proposed contract is $...(4)...(7)

Date ————.

Notes:

(1) Enter type of contract to be used, *i.e.*, fixed-price incentive, cost-plus-incentive-fee, cost, cost-plus-fixed-fee, or cost-plus-award fee.

(2) Installation.

(3) Brief description of supplies or services.

(4) Enter amount to nearest thousand.

(5) Describe the nature of the work to be performed and set forth the facts (for the type of contract proposed, see the pertinent paragraphs of FAR Part 16, that show why it is impracticable to secure supplies or services of the kind or quality required without the use of such type of contract, or that such method of contracting is likely to be less costly than other methods. The supporting facts should be confined to those pertinent to the specific determination being made. However where the facts adequately support alternative determinations, they should be set forth conjunctively when conjunctive determinations are to be used.

(6) Use the determination responsive to the findings. See Note (5) above.

(7) Determination to be made when a cost-plus-fixed fee contract is proposed.

PART 1817—SPECIAL CONTRACTING METHODS

34. Section 1817.207–70 is added to read as follows:

1817.207-70 Exercise of options for extensions to service contracts.

(a) Where the proposed extension requires negotiation to firm up the contractual arrangements, the option provision is considered merely an agreement to agree. In such cases, the following documentation is required in the contract file:

(1) A new determination and finding (D&F) authorizing negotiation.

(2) A new method of contracting D&F.

(3) A Justification for Noncompetitive Procurement (JNCP) is *not* required to negotiate with the incumbent contractor for the proposed extension period, provided the proposed extension period was included in the Source Selection Official's (SSO) selection statement and the applicable approved procurement plan. In such circumstance, a "Justification for Source Selection" signed by the Procurement Officer which clearly and convincingly demonstrates the advantages to the Government in contracting with the incumbent contractor for the proposed extension period must be prepared in lieu of the JNCP.

(4) A copy of the approved procurement plan and a copy of the SSO's selection statement.

(b) If the proposed extension can be effected without negotiation by the exercise of an existing firm priced option and the initial D&F authorizing negotiation included the option, no new D&F is required. The requirements of FAR Subpart 17.2 must be adhered to by the contracting officer.

PART 1819—SMALL BUSINESS AND DISADVANTAGED BUSINESS CONCERNS

35. Section 1819.502-2 is added to read as follows:

1819.502-2 Total set-asides

(a) In making R&D small business set-asides, there must also be a reasonable expectation of obtaining from small business the best scientific and technological sources consistent with the demands of the proposed procurement for the best mix of cost, performance, and schedules.

(b) Every proposed procurement for construction, including maintenance and repairs, in excess of $25,000 and under $2 million (except dredging under $1 million) shall be considered individually, as though the small business specialist has initiated a set-aside request and the procedures of FAR 19.501(g) shall apply.

(c) Every proposed procurement of $2 million or more for construction or $1 million or more for dredging shall be considered on an individual procurement basis under FAR 19.502-2.

PART 1823—ENVIRONMENT, CONSERVATION, AND OCCUPATIONAL SAFETY

36. Section 1823.303 and 1823.303-70 are added to read as follows:

1823.303 Contract clause.

1823.303-70 NASA clause.

Any solicitation involving the procurement of potentially hazardous items shall contain as a line item, and the resulting contract shall contain as a line item of the Schedule, a requirement for the contractor or subcontractor to furnish complete design information and drawings showing all details of construction, including materials, for those items or components which are designated as potentially hazardous. In addition, the contracting officer shall include the clause at 1852.223-72, potentially Hazardous Items, in all solicitations and contracts for potentially hazardous items.

PART 1825—FOREIGN ACQUISITION

37. Section 1825.103 is amended by removing the word "or" at the end of paragraph (b)(1), inserting the word "or" after paragraph (b)(2), and adding new paragraph (b)(3) to read as follows:

1825.103 Agreements with certain foreign governments.

* * * * *

(b) * * *

(3) Contracts for basic and applied research in Canada. (See NMI 1362.1.)

PART 1828—BONDS AND INSURANCE

38. Section 1828.371 is added to read as follows:

1828.371 Clause for inter-party waiver of liability during STS Operations.

Contracting officers shall insert the clause at 1852.228-72, Inter-Party Waiver of Liability During STS Operations, in all NASA prime contracts, new work modifications or extensions to existing contracts, and solicitations of $100,000 or more where the work is to be performed in support of STS Operations (as defined in paragraph (d) of the clause). In addition, the contracting officer shall insert the clause in all contracts containing either of the indemnification under Public Law 85-804 clauses prescribed at 1850.403-3. At the discretion of the contracting officer, this clause may be used in contracts, new work modifications or extensions to existing contracts, and solicitations under $100,000 in appropriate circumstances such as when the value of contractor property on a Government installation used in the performance of the contract is significant.

PART 1830—COST ACCOUNTING STANDARDS

39. Section 1830.304 is revised to read as follows:

1830.304 Waiver.

All requests for waiver of CAS requirements shall be forwarded through the Procurement Officer to NASA Headquarters, Code HC, for review and submitted to the Assistant Administrator for Procurement for authorization of contract award after the contracting officer has made the determination required by FAR 30.304(a).

PART 1832—CONTRACT FINANCING

40. Section 1832.406-70 is revised to read as follows:

1832.406-70 Federal Cash Transaction Report.

The report required by paragraph (m) of the clause at FAR 52.232-12, Advance Payments, shall be submitted on Standard Form 272, Federal Cash Transaction Report, and if appropriate, Standard Form 272A, Federal Transition Report Continuation.

41. Section 1832.470 is revised to read as follows:

1832.470 Reporting of installation advance payment approvals.

Each Installation procurement office shall report to Headquarters no later than 30 days after the end of each fiscal year, Attention: Code HS, a listing of Advance Payment amounts and recipients approved at the Installation during the prior fiscal year.

PART 1836—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

42. Section 1836.601-1 is amended by adding paragraph (c) to read as follows:

1836.602-1 Selection criteria.

* * * * *

(c) NASA will consider the immediate past 10 years as the period of time for evaluation under FAR 36.601-1 (a)(2) and (4).

PART 1842—CONTRACT ADMINISTRATION

43. Subpart 1842.3, consisting of 1842.302 and 1842.302-70, is added to read as follows:

Subpart 1842.3—Contract Administration Office Functions

1842.302 Contract administration functions.

1842.302-70 Modified functions.

In connection with the functions listed at FAR 42.302(a)(11)(ii) and (iii) the following exception applies: for those contractors with whom advance agreements are negotiated of the type discussed under FAR 31.205-18, the Government contracting officer responsible for such agreements shall have full authority for determinations related to CAS 420.

PART 1843—CONTRACT MODIFICATIONS

44. Subpart 1843.3, consisting of 1843.301, is added to read as follows:

Subpart 1843.3—Forms

1843.301 Use of forms.

(a) FAR 43.301(a)(1)(iv) requires the use of Standard Form 30 for administrative changes such as changes in accounting and appropriation data. However, contract modifications need only include fund citations (i.e., accounting and appropriations data) applicable to the particular modification. The cumulative inception-to-date listing of funding citations for previous modifications is discouraged unless there is a contractual requirement which requires such a listing. Modifications should include the prior total, the change taking place, and a new total value as a minimum.

(b) When an internal administrative transfer of funding citations on a contract is required, the official determining the need for such action shall initiate, acquire approvals, and forward documentation to the financial management officer and the contracting officer to facilitate the change. An administrative modification of the contract will not be required, in most cases, unless it affects the billing or reporting requirements placed upon the contractor.

(c) These procedures in no way reduce the contracting officer's responsibility for ensuring that obligations are made only on the basis of duly appropriated funds.

PART 1845—GOVERNMENT PROPERTY

1845.104 [Amended]

45. Section 1845.104 is amended by removing existing paragraph (a) and redesignating existing paragraph (b) as paragraph (a) and existing paragraph (c) as paragraph (b). At the end of newly redesignated paragraph (a), remove the words "Supplement 3" and insert "1845.72" in its place.

46. Section 1845.104-70 is revised to read as follows:

1845.104-70 Contract property administration by the Government.

Contract property administration by the Government shall be conducted by DOD or NASA in accordance with 1845.72.

47. In section 1845.106-70, paragraph (a) is amended by changing the words "for preparing DD Form 1419)." to read "on preparing DD Form 1419)." The introductory text of paragraph (b) is amended by changing the colon at the end to a period and adding two sentences, paragraph (b)(1) is revised, paragraphs (b)(2) and (b)(3) are redesignated as (b)(3) and (b)(4) and new paragraph (b)(2) is added to read as follows:

1845.106-70 NASA contract clauses.

* * * * *

(b) * * * The nature and extent of such property shall be identified in the Schedule of the contract and the property made available to the contractor on a no-charge-for-use basis by the installation supply and equipment management officer. The applicable installation property management directives shall also be listed in the contract.

(1) The clause may also be used when Government property is provided to off-site local support service contractors. In the latter case, the concurrence of the installation supply and equipment management officer must be obtained and indicated in the procurement request.

(2) To preclude diluting contractor responsibilities when they include separate procurement authority and responsibility, such contractors may be precluded from utilizing the installation's central receiving facility for receiving contractor-acquired property. When it is desired to accomplish this, the clause shall be used with its Alternate 1. The contracting officer should then review the acquisitions reported by the contractor for their appropriateness, and the supply and equipment management officer should ensure the items are placed on records as materials inventory or controlled equipment, as appropriate.

* * * * *

48. Section 1845.301 is revised to read as follows:

1845.301 Definitions.

"Provide," as used in this Subpart, as used in the context of such phrases as "Government property provided to the contractor" and "Government-provided property," means either to furnish, as in "Government-furnished property," or to acquire, as in "contractor-acquired property."

"Space property," (see 1645.501).

49. Sections 1845.302-2 and 1845.302-270 are added to read as follows:

1845.302-2 Facilities contracts.

1845.302-270 Extension and termination.

A facilities contract shall be terminated when the Government production and research property covered thereby is no longer required for the performance of Government contracts or subcontracts, unless such termination is detrimental to the Government's interests. The contractor shall not be granted the unilateral right, at its election, to extend the time during which it is entitled to use the property provided under the facilities contract.

50. Section 1845.302-70 is added to read as follows:

1845.302-70 Securing approval of facilities projects.

(a) If a facilities project involves construction, expansion, modification, rehabilitation, repair, or replacement of real property, facility project approval pursuant to NASA Management Delegation A730.1B dated December 13, 1974 shall be secured prior to providing or authorizing use of Government-owned facilities.

(b) The scope of any project shall not be changed, and the estimated cost of any facility project shall not be exceeded, unless approved in writing by the approving authority.

51. Subpart 1845.6, consisting of sections 1845.604 through 1845.615, are added to read as follows:

Subpart 1845.6—Reporting, Redistribution, and Disposal of Contractor Inventory

Sec.

1845.604 Restrictions on purchase or retention of contractor inventory.
1845.604-70 Other restrictions.
1845.606 Inventory schedules.
1845.606-1 Submission of inventory schedules.
1845.607 Scrap.
1845.607-70 [Reserved]
1845.607-71 [Reserved]
1845.607-72 Contractor's approved scrap procedure.
1845.608 Screening of contractor inventory.
1845.608-1 General.
1845.608-6 Waiver of screening requirements.
1845.610 Sale of surplus contractor inventory.
1845.610-2 Exemptions from sale by GSA.
1845.610-3 Proceeds of sale.

Sec.
1845.610-4 Contractor inventory in foreign countries.
1845.613 Property disposal determinations.
1845.615 Accounting for contractor inventory.

Subpart 1845.6—Reporting, Redistribution, and Disposal of Contractor Inventory

1845.604 Restrictions on purchase or retention of contractor inventory.

1845.604-70 Other restrictions.

(a) A contractor, when authorized to sell contractor inventory, shall not sell such inventory to persons known by it to be NASA employees or civilian or military personnel of the Department of Defense who were or are engaged in the administration or termination of NASA contracts.

(b)(1) The authority of a contractor to approve a sale, purchase, or retention at less than cost, by a subcontractor, and the authority of a subcontractor to sell, purchase, or retain at less than cost, contractor inventory with the approval of the next higher-tier contractor does not include authority to approve—

(i) A sale by a subcontractor to the next higher-tier contractor or to an affiliate of such contractor or of the subcontractor; or

(ii) A sale, purchase, or retention at less than cost, by a subcontractor affiliated with the next higher-tier contractor.

(2) Each excluded sale, purchase, or retention requires the written approval of the plant clearance officer.

1845.606 Inventory schedules.

1845.606-1 Submission of inventory schedules.

See 1845.505-6 for special instructions on intra-agency screening of Centrally Reportable Equipment.

1845.607 Scrap.

1845.607-70 [Reserved]

1845.607-71 [Reserved]

1845.607-72 Contractor's approved scrap procedure.

(a) When a contractor has an approved scrap procedure, certain property may be routinely disposed of in accordance with that procedure and not processed under this Part. Production scrap and production spoilage may be disposed of through the contractor's approved scrap procedure.

(b) A plant clearance case shall not be established for property that is disposed of through the contractor's approved scrap procedure.

(c) The contractor's scrap and salvage procedure, particularly the sales aspects thereof, shall be reviewed by the plant clearance officer prior to its approval by the property administrator. The plant clearance officer shall assure that the procedure contains adequate requirements for inspection and examination of items to be disposed as scrap. When the contractor's approved scrap procedure does not require physical segregation and disposition of Government-owned from contractor-owned scrap, care shall be exercised to assure that a contract change that generates a large quantity of property, does not result in an inequitable return to the Government. In these cases, a determination shall be made as to whether separate disposition of Government scrap would be appropriate.

(d) Scrap, other than that disposed of through the contractor's approved scrap procedure, shall be reported on appropriate inventory schedules for disposition in accordance with the provisions of FAR Part 45 and this NASA FAR Supplement.

(e) Silver, gold, platinum, palladium, rhodium, iridium, osmium and ruthenium; scrap bearing such metals; and items containing recoverable quantities thereof will be reported to the Defense Property Disposal Service, DPDS-R, Federal Center, Battle Creek, Michigan 49016, for disposition instructions.

1845.608 Screening of contractor inventory.

1845.608-1 General.

In addition to the screening instructions described in FAR 45.608, EVS Coordinators are the focal points at NASA installations for intra-agency screening of Centrally Reportable Equipment (see 1845.505-6). Property Disposal Officers (PDO's) are the focal points at NASA installations for intra-agency screening of all other contractor inventory. EVS Coordinators/PDO's shall acknowledge receipt of inventory schedules within 30 days of receipt and, at the same time, provide the plant clearance officer a NASA screening completion/release date. Screening shall be accomplished in accordance with NHB 4200.1 and NHB 4300.1.

1845.608-6 Waiver of screening requirements.

The Chief of Supply and Equipment Management (Code NIE) has been designated to authorize exceptions to screening requirements.

1845.610 Sale of surplus contractor inventory.

1845.610-2 Exemptions from sale by GSA.

Letters seeking exemptions from GSA conducted sales shall be directed to the Chief of Supply and Equipment Management, Code NIE.

1845.610-3 Proceeds of sale.

When payments are due the contractor under the applicable contract, and unless otherwise provided in the contract, the Government Property clause provides that the proceeds of any sale, purchase, or retention shall be credited to the Government as part of the settlement agreement, or otherwise credited to the price or cost of the work covered by the contract, or applied in the manner directed by the contracting officer. The plant clearance officer will maintain an open suspense record until he or she has verified that credit has in fact been applied unless another Government representative has specifically assumed this responsibility.

1845.610-4 Contractor inventory in foreign countries.

Foreign disposal shall comply with NHB 4300.1.

1845.613 Property disposal determinations.

Determinations to abandon or destroy NASA contractor inventory shall be referred to the installation PDO for subsequent review by the Property Disposal Review Board under NHB 4300.1.

1845.615 Accounting for contractor inventory.

In addition to the distribution requirements for SF 1424, Inventory Disposal Report, a copy of the form shall be provided to the NASA installation Industrial Property Officer or Property Disposal Officer.

52. Subpart 1845.72, consisting of sections 1845.7201 through 1845.7212-13, is added to read as follows:

Subpart 1845.72—Contract Property Management

Sec.
1845.7201 Definitions.
1845.7272 General.
1845.7203 Delegations of property administration and plant clearance.
1845.7204 Retention of property administration and plant clearance.
1845.7205 Functional oversight of property administration and plant clearance.
1845.7206 Responsibilities of property administrators and plant clearance officers.
1845.7206-1 Property administrators.
1845.7206-2 Plant clearance officers.

Sec.
1845.7207 Initiation of property administration.
1845.7207-1 Control of assignments.
1845.7207-2 Analysis of contract and establishment of contract property control data files.
1845.7208 Initial evaluation and approval of contractor's property control system.
1845.7208-1 General.
1845.7208-2 Review of procedures.
1845.7208-3 Exit interview with the contractor.
1845.7208-4 Record of system evaluation.
1845.7208-5 Notification of deficiencies.
1845.7208-6 Resolution of differences.
1845.7208-7 Letter of approval.
1845.7209 Property administration during contractor performance.
1845.7209-1 Property administration plan.
1845.7209-2 System surveys: surveillance.
1845.7209-3 System surveys: scheduling and planning.
1845.7209-4 Testing the system.
1845.7209-5 Performing the system survey.
1845.7209-6 System survey summary.
1845.7209-7 Correction of unsatisfactory conditions.
1845.7209-8 Survey case file.
1845.7209-9 Statistical sampling.
1845.7209-10 Additional administrative responsibilities.
1845.7209-11 Declaration of excess property.
1845.7210 Closure of contracts.
1845.7210-1 Completion or termination.
1845.7210-2 Final review and closing of contracts.
1845.7211 Special subjects.
1845.7211-1 Government property at alternate locations of the prime contractor and subcontractor plants.
1845.7211-2 Loss, damage, or destruction of Government property.
1845.7211-3 Loss, damage, or destruction of Government property while in contractor's possession or control.
1845.7211-4 Financial reports.
1845.7212 Contractor utilization of Government property.
1845.7271-1 Utilization surveys.
1845.7212-2 Records of surveys.
1845.7212-3 Scope of survey.

Subpart 1845.72—Contract Property Management

1845.7201 Definitions.

"Category," as used in this subpart, means a major segment of a contractor's property control system (*e.g.*, acquisition, receiving, records, storage and movement, consumption, utilization, maintenance, physical inventories, subcontractor control, and disposition).

"Characteristic," as used in this subpart, means a segment of a functional area subject to analysis or review. Characteristics are classified as Class I, which is subject to statistical sampling, and Class II, which is subject to judgment or observation techniques.

"Lot," as used in this subpart, means an aggregation of documents, records, articles, or actions selected for review due to common characteristics. For evaluation of the lot all characteristics for which a lot is tested must be common to all units within the lot.

"Supporting responsibility," as used in this subpart, relates to the assignment of a subcontract, or a portion of a prime contract being performed at a secondary location of the prime contractor, to a property administrator other than the individual assigned to the prime location.

"Property control system," as used in this subpart, identifies a contractor's internal management program encompassing the protection, preservation, accounting for, and control of property from its acquisition through disposition.

1845.7202 General.

This subpart describes three major elements of the NASA Contract Property Management Program. It provides guidance to NASA installation personnel responsible for NASA contract property (NASA personal property in the possession of contractors and grantees). It applies to all NASA installation personnel charged with such responsibility, including Industrial Property Officers and Specialists, Property Administrators, and Plant Clearance Officers. It also provides detailed procedures for the performance of property administration. The NASA Contract Property Management Program includes the following major elements:

(a) Performance of property administration and plant clearance by DOD under delegations from NASA, pursuant to 1842.101.

(b) Performance of property administration and plant clearance by NASA under certain situations, pursuant to 1842.203.

(c) Maintenance of property administration and plant clearance functional oversight, regardless of delegations, pursuant to 1842.175.

1845.7203 Delegations of property administration and plant clearance.

When delegated to DOD, property administration and plant clearance is performed in accordance with DOD's applicable regulations and procedures, as amended by the NASA Letter of Contract Administration Delegation, Special Instructions on Property Administration and Plant Clearance. These Special Instructions are developed by NASA Headquarters, Supply and Equipment Management Branch, Code NIE, and are available from that office upon request. NASA installations shall issue the Special Instructions with delegations whenever Government property will be involved. Additional or more tailored property instructions are not proscribed but must be coordinated with Code NIE before issuance.

1845.7204 Retention of property administration and plant clearance.

NASA may occasionally retain the property administration and plant clearance function, such as for contract work performed on the installation awarding the contract and not subject to the clause in 1852.245-71, Installation-Provided Government Property. In these cases, property administration will be performed in accordance with Subparts 2 through 7 of this Supplement; plant clearance will be performed in accordance with FAR 45.6 and 1845.6. (Under the provisions of the clause at 1852.245-71, property administration and plant clearance are neither delegated nor retained; they are simply not required because the property is treated as installation property rather than contract property.)

1845.7205 Functional oversight of property administration and plant clearance.

NASA contracting officers retain functional management responsibility for their contracts. Utilization of the contract administration services of another Government agency in no way relieves NASA contracting officers of their ultimate responsibility for the proper and effective management of contracts. The functional management responsibility for contract property is outlined below. Beyond individual contracting officers, each NASA installation has designated an Industrial Property Officer to manage and coordinate property matters among the various contracting officers, technical officials, contractor officials, and delegated property administrators and plant clearance officers. Generally, that individual is responsible for the entire Contract Property Management function outlined below; the installation is responsible for the entire function regardless of how it is organized and distributed. The responsibilities are as follows:

(a) Provide a focal point for all contract property management matters. This includes Government property (Government-furnished and contractor-acquired) provided to universities as well as to industry, and to grantees as well as to contractors.

(b) Provide guidance to contracting, grant, and other personnel on the NASA FAR Supplement and Grant Handbook property provisions.

(c) To the extent feasible, review property provisions of procurement plans, contracts, and modifications for potential problems. Propose changes as necessary.

(d) To the extent feasible, participate in pre-award surveys/post-award orientations when significant amounts of Government property will be involved.

(e) Ensure vesting-of-title determinations are made and documented pursuant to FAR 35.014(b).

(f) Maintain effective communications with delegated property administrators and plant clearance officers to keep fully informed about contractor performance and progress on any property control problems.

(1) Obtain and review property control system survey summaries which disclose any unsatisfactory conditions. Advise Headquarters Code NIE of any severe or continuing problems.

(2) Provide property administrators copies of all pertinent contract property documentation.

(g) Work with the Equipment Visibility System (EVS) Coordinator and contracting officers to ensure contractor reporting to and screening of the EVS.

(1) Monitor contractor's performance in submitting DD Form 1419's before acquiring Centrally Reportable Equipment (CRE) and in submitting DD Form 1342's after receiving CRE.

(2) Ensure an annual EVS verification is performed in accordance with 1845.505–670(c) and NHB 4200.1B, paragraph 5.406b.

(h) Review and analyze NASA Form 1018's, Reports of Government-Owned/Contractor-Held Property.

(1) Ensure an annual comparison of 1018's with EVS is made in accordance with NHB 4200.1B, paragraph 5.406c, to detect possible over/under reporting to EVS and possible failure to screen EVS.

(2) Check new disparities disclosed by paragraph (h)(1) above with the appropriate property administrator and document the results.

(i) Negotiate, or ensure the negotiation of, Facilities contracts when required by FAR 45.302 and 18–45.302. Advise Headquarters Code NIE annually of new and completed Facilities contracts.

(j) Review property administrator's approvals of relief of responsibility for lost, damaged, and destroyed property and question any excessive or repetitive approvals.

(k) Make recommendations to source evaluation boards and performance evaluation boards regarding property management, when appropriate, also, make recommendations on award fee criteria and evaluation regarding property management, when appropriate.

(l) Monitor plant clearance status to preclude delays in contract closeout.

(m) Maintain contract property files for all transactions and correspondence associated with each contract/grant. Upon receipt of Standard Form 1424, Inventory Disposal Report, and DD Form 1593, Contract Administration Completion Record, or equivalents, merge all property records for the contract/grant and forward for inclusion with the official completed file.

(n) Perform on-site property administration and plant clearance when not delegated to DOD and the property is not subject to the clause in 1852.245–71. (The remainder of this Subpart provides detailed guidance on such property administration).

1845.7206 Responsibilities of property administrators and plant clearance officers.

1845.7206–1 Property administrators.

(a) The property administrator shall evaluate the contractor's management and control of Government property and ascertain whether the contractor is effectively complying with the contract provisions. These responsibilities include—

(1) Developing and applying a system survey program for each contractor under the property administrator's cognizance;

(2) Evaluating the contractor's property control system and approving or recommending disapproval of the system;

(3) Advising the contracting officer of the contractor's noncompliance with approved procedures and other significant problem areas which the property administrator cannot resolve, whether this information is obtained through a formal system survey or through other means, and recommending appropriate action, which may include disapproval;

(4) Resolution of property administration matters as necessary with the contractor's management, personnel from Government procurement and logistics activities, and representatives of the NASA Office of the Inspector General, Defense Contract Audit Agency (DCAA) and of other Government agencies; and

(5) Recognition of the functions of other Government personnel having cognizance of Government property, and obtaining their assistance when required. (These functions include, but are not limited to, contract audit, quality assurance, engineering, pricing, and other technical areas. Assistance and advice on matters involving analyses of the contractor's books and accounting records and on any other audit matters deemed appropriate shall be obtained from the cognizant auditor.)

(b) Property administrators' (or other Government industrial property personnel) participation in pre-award surveys/post-award orientations is required whenever significant amounts of Government property will be involved in order to reveal and resolve property management problems early in the procurement cycle.

1845.7206–2 Plant clearance officers.

When not delegated to DOD, NASA plant clearance officers shall be responsible for—

(a) Providing the contractor with instructions and advice regarding the proper preparation of inventory schedules:

(b) Accepting or rejecting inventory schedules and DD Form 1342;

(c) Conducting or arranging for inventory verification;

(d) Initiating prescribed screening and effecting resulting actions;

(e) Final plant clearance of contractor inventory;

(f) Pre-inventory scrap determinations, as appropriate;

(g) Evaluating the adequacy of the contractor's procedures for effecting property disposal actions;

(h) Determining method of disposal;

(i) Surveillance of any contractor-conducted sales;

(j) Accounting for all contractor inventory reported by the contractor;

(k) Advising and assisting, as appropriate, the contractor, Supply and Equipment Management Officer, other federal agencies, or higher headquarters in all actions relating to the proper and timely disposal of contractor inventory;

(l) Approving method of sale, evaluating bids, and approving sale prices for any contractor-conducted sales;

(m) Recommending the reasonableness of selling expenses on any contractor-conducted sales;

(n) Securing antitrust clearance, as required; and

(o) Advising the contracting officer on all property disposal matters.

1845.7207 Initiation of property administration.

1845.7207–1 Control of assignments.

(a) The Procurement Officer or designee shall establish and maintain a Contract Assignment Control Register for each contractor, showing—

(1) The contractor's name and address;

(2) Contract number;

(3) Type of contract;
(4) Date of assignment of the property administrator and his or her name; and
(5) Date of completion or rescission of the contract, or transfer of the property administrator.

(b) Property reported to have been received at a contractor's plant without contractual coverage shall be carried in a suspense file, pending investigation and resolution by the property administrator.

1845.7207-2 Analysis of contract and establishment of contract property control data files.

(a) The property administrator shall analyze each contract providing for Government property to estimate the property administration effort which must be applied. The analysis shall be sufficient to establish the management controls necessary for assuring compliance with contract requirements and the development of a suitable system survey program.

(b) A Property Summary Data Record shall be established by the property administrator containing—
(1) Contractor's name and address, and the contract number;
(2) Type of contract, modifications (including change orders), and special or nonstandard clauses pertaining to Government property;
(3) Date of final review and date of execution and transmittal of the DD Form 1593 or equivalent;
(4) Supporting property administration assignments; and
(5) Name(s) of the property administrator(s) and date(s) of tenure.

(c)(1) The property administrator shall establish a Contract Property Control Data File which shall include as a minimum—
(i) Property Summary Data Record;
(ii) Copy of the contract or extract of provisions thereof pertinent to property administration, and comparable data regarding any subcontracts involving Government property;
(iii) Record of initial review, evaluation, and approval of the contractor's property control system; and, if applicable, record of withdrawal of approval and basis therefor, reinstatement of approval, and deviations granted;
(iv) Record of visits, property system surveys performed including appropriate work papers, deficiencies disclosed and corrective actions taken;
(v) Contractor's receipts for Government property, when required;
(vi) Record of final review and execution of property administrator's statement of closure of the contract property account;
(vii) Other pertinent correspondence and documents, including as applicable, inventory adjustments, investigations, recommendations, and determinations;
(viii) Records concerning supporting property administration delegations; assist actions involving special reviews; and other applicable reviews at subcontractor's plants;
(ix) Records of inspection and audits performed by other activities; and
(x) Reports relating to Government property prepared by the contractor pursuant to the contracts.

(2) When more than one contract is involved at the same contractor's location, records relating to more than one contract shall be transferred to a contractor's General File and the Property Summary Data Record shall be so annotated.

1845.7208 Initial evaluation and approval of contractor's property control system.

1845.7208-1 General.

Normally, the initial contact by the Contract Administration Office with a contractor is through a post-award orientation conference or post-award letter. When a conference is held, the property administrator shall assure suitable discussion of property administration requirements and responsibilities. When a conference is not held, the property administrator, upon assignment of a contract, shall forward a letter to the contractor—

(a) Inviting attention to the contractor's responsibilities regarding Government property under the contract, including any specialized controls, and the extent of the contractor's liability for loss, damage or destruction of Government property during any period in which the contractor's property control system does not have the written approval of the property administrator;

(b) Requesting the name of the contractor's representatives to contact for review and discussion of the proposed property control system; and

(c) Requesting that policies, instructions and procedures necessary to fully implement the property control system be available for evaluation.

1845.7208-2 Review of procedures.

(a) Following assignment of an initial contract, the property administrator shall review the contractor's property control system to determine—

(1) Inadequate or questionable areas in the proposed procedures for compliance with NASA contract requirements;

(2) Essential controls not provided by the proposed procedures;

(3) Areas in the proposed procedures requiring physical observation or verification; and

(4) Subcontractors, or secondary locations of prime contract performance, and the need for physical observation or verification of property controls at those locations.

(b) It is normal industry practice to provide for the control of property by means of written procedures that communicate company standards, techniques, and instructions to operational personnel for uniform application. However, a contractor with few employees may not have a need for written procedures for effective management of Government property. In such cases, the property administrator shall evaluate the adequacy of the contractor's system on the basis of the contractor's explanation of its controls and observation of the application thereof, and shall prepare a brief description of the applicable procedures for inclusion in the Contract Property Control Data File. In the latter instance, the contractor's signature shall be obtained signifying its concurrence with the property administrator's written description.

(c) The contractor's plant will be visited to determine that its operation of the system provides adequate controls for the Government property to be furnished or acquired.

(d) The choice of the methods to be used to obtain the information necessary for approval of the contractor's property control system is a matter of judgment by the property administrator. Test examinations and verification in specific categories may be necessary to assure the reliability of the final evaluation and conclusions as to the acceptability of controls for all categories and the system as a whole.

(e) The property administrator shall examine the contractor's procedures to be used to determine the extent to which they meet the criteria for property control required by the contract requirements, as appropriate. He or she shall make necessary tests of the contractor's system, and as each portion is analyzed, the acceptability of the procedures shall be appropriately noted or commented upon as the basis for preparation of the record of system evaluation (see 1845.7208-4).

(f) When the contractor's property control system has previously been approved and a new contract requires the expansion of existing or the establishment of additional controls, the review should normally be limited to the new requirements. If the system is adequate, the property administrator

shall record this fact on the Property Summary Data Record for the contract. Notification to the contractor is not required. However, if the property administrator determines that the contractor's property control system does not adequately meet the new contract requirements, the Property Summary Data Record for the contract involved shall be appropriately annotated and the contractor shall be notified in writing of the required changes.

(g) In the review of the contractor's property control system, the property administrator shall consider the provisions of 1845.505.14 and shall assure that the contractor's system provides for maintenance of financial data and the furnishing of required reports within the time limits specified.

1845.7208-3 Exit interview with the contractor.

Upon completion of the property administrator's review, he or she shall hold an exit interview with the contractor to discuss any category in which the controls or procedures were found to be inadequate and will advise where corrective action is required before an approval of the system can be granted. When the contractor is willing to correct a deficiency or questionable practice immediately, the documentation supporting the property administrator's findings and conclusions shall include a statement to this effect. The contracting officer responsible for the predominant value of NASA property at the facility shall also attend the exit interview with the contractor when major deficiencies exist in the property control system, past deficiencies remain uncorrected, or the dollar value of the personal property involved is in excess of $1,000,000.

1845.7208-4 Record of system evaluation.

Upon completing the evaluation of the contractor's system, the property administrator shall prepare a written summary of findings to support approval of the system or requirement for corrective action prior to such approval. A report of visit or other documentation may be utilized if the participating contractor and Government personnel are listed, actions taken are adequately described, and the property administrator's determination is clearly stated.

1845.7208-5 Notification of deficiencies.

The property administrator shall prepare a letter to the contractor for signature by the contracting officer who attended the exit interview, listing the deficiencies found during the evaluation of the contractor's property control system and noting any agreement by the contractor to correct deficiencies. The contractor shall be requested to respond within 30 days and to provide the precise action to be taken and the time required to correct each deficiency.

1845.7208-6 Resolution of differences.

When the contractor's response to the contracting officer's letter is unsatisfactory, the contracting officer, along with the property administrator, shall meet with the contractor in an effort to arrive at a corrective program that is mutually satisfactory. The contractor will be requested to confirm in writing any new commitments arising out of these discussions. In the event the contractor fails to correct deficiencies in its property control system within a reasonable period, the contracting officer will refer the matter by memorandum to appropriate levels of management within the NASA installation and Headquarters staff offices, depending on the criticality of the problem involved. The memorandum shall include—

(a) A specific, concise, and documented statement of the problem;

(b) A statement of the contractor's position; and

(c) The recommended action.

1845.7208-7 Letter of approval.

(a) The approval of a contractor's property control system by the property administrator shall be conditioned upon a joint determination by the property administrator and the contracting officer who attended the exit interview, that no deficiencies exist in the property control system or that where minor deficiencies exist the contractor has agreed to take satisfactory corrective action.

(b) When the contractor's property control system is acceptable, the property administrator shall advise the contractor in writing. However, when the approval has been preceded by an exchange of correspondence between the contracting officer and the contractor (1845.7208-5 and 6), the property administrator will make reference to the correspondence in the approval and advise the contractor that the corrective action taken or planned is acceptable. A copy of the letter of approval shall be sent to the contracting officer who attended the exit interview.

(c) When the contract involves Government property at subcontractor plants or prime contractor secondary locations, or both, and the controls for the property at such locations have been determined to be adequate, the approval shall be expanded to include the procedures governing Government property at such locations.

1845.7209 Property administration during contractor performance.

1845.7209-1 Property administration plan.

(a) A property administration plan shall be developed for each contractor's plant covering the property control system utilized in connection with Government contracts. The plan shall provide for surveys and shall be augmented to cover responsibilities imposed by new contracts, changing conditions, or marginal performance. In the event approval of the contractor's system is unduly delayed at inception of the contract due to failure of the contractor to provide an acceptable system, or is withdrawn due to unsatisfactory conditions disclosed after approval, the property administration plan shall be expanded to the degree necessary to reasonably assure that loss, damage, or destruction of Government property is disclosed in a timely manner. Further, special attention shall be given to reasonably assuring that any loss, damage, or destruction occurring during a period when a contractor's system is not approved is identified prior to approval or reapproval.

(b) The property administrator must exercise judgment in developing the plan and in determining what categories (see Annex I to this subpart) of the contractor's property control system warrant examination. Limited dollar amounts and activity, types of property, complexity of the contractor's system, risk to the Government, and previous experience regarding the adequacy of contractor controls are factors determining the extent and scope of the system survey plan.

1845.7209-2 System surveys: surveillance.

A complete system survey shall be conducted at least once each calendar year to obtain thorough knowledge of the contractor's system of property control and the contractor's efficiency. Completion of a system survey, involving complex property control systems, may require detailed tests and evaluations over an extended period of time. If deficiencies in physical control or records are disclosed, corrective action must be secured, and the effectiveness of such correction evaluated. In such instances, test and evaluation of any one category shall be completed as expeditiously as possible, and the working papers and analysis retained for consideration and incorporation into the summary and survey case file.

1845.7209–3 System surveys: scheduling and planning.

(a) At the beginning of each calendar year, the property administrator shall prepare a schedule showing the names of the contractors and the projected dates on which each system survey shall be initiated and completed.

(b) Prior to initiation of any system survey, the property administrator shall establish a survey plan which shall provide, as a minimum—

(1) Identification and listing of the categories, functional areas and characteristics to be evaluated (see Annex I);

(2) Evaluation of approved property control procedures applicable to the categories to be examined, and noting of any portions thereof that should be reviewed with operating personnel for possible updating (if any functional area of the property control system is not covered by procedures, no attempt should be made to survey that area at that time, but that portion of the system should be recorded as unsatisfactory and action taken to correct the condition); and

(3) Preparation of work papers necessary to document the file.

1845.7209–4 Testing the system.

In conducting tests of the contractor's property control system, the following factors should be considered to assure adequate coverage of requirements peculiar to particular classes of property and functional areas:

(a) *Materials.* Materials should be considered as bulk quantities, as contrasted to individual items. Examinations should be directed to—

(1) Tracing inbound transportation units from (i) bills of lading or other transportation documents to receiving reports, in order to determine that the receiving reports are accurately prepared and that proper action is taken on shortages, damages, or other discrepancies, and (ii) stock records to assure that the receipts were accurately posted;

(2) Abstracting nomenclature and balance data from stock records and making physical counts to determine accuracy of the stock records;

(3) Tracing posting of credits to (i) stock records (by date, reference number, and quantity) and (ii) issue documents, in order to assure accuracy of the postings and validity of the documents (signature by authorized individual and indication of reasons for issue or point of delivery, or both, to indicate proper contract use); and

(4) Determining to what extent practicable at the point of receipt and use, whether undue quantities are issued, charged to cost, and held on plant floor rather than being held under better security in stores.

(b) *Custodial items.* Issues shall be traced from store's records to tool cribs, office stock rooms, uniform rooms, and the like, to determine that they are taken into account as part of a sound control system. It should be determined that issues to contractor personnel are covered by tool chits, uniform slips, or other mechanisms designed to assure return, or ability to locate items which are to be returned, assuring that new items are not issued without return of worn-out items or that suitable explanation is provided.

(c) *End items.* General techniques for survey of materials are applicable to end items placed in storage pending shipment. Examination shall include tracing from Government acceptance records of the contractor's claims for reimbursement to physical quantities on hand and quantities on validated shipping documents.

(d) *Plant equipment costing less than $5,000.* In the event summary record accounting is utilized for this class of property, examination using the "bulk quantities" approach in paragraph (a) above is applicable but shall also cover—

(1) Identification is required pursuant to FAR 45.505–5; any identification numbers shall be physically verified; and

(2) Location as prescribed in FAR 45.505(g), creating need for physical verification of presence or absence of the property in the location shown by the location record.

(e) *Plant equipment costing $5,000 or more.* Testing on an item-by-item basis is usually required to achieve desired results. Determinations demanding special attention include whether—

(1) Government screening and approval requirements are observed;

(2) Classification of property is accurate, both at time of requisition or purchase and at time of receipt through the use of Cataloging Handbooks H2–1, H2–2, and H2–3;

(3) An item is actually applied to the requirement for which acquired, and, if deviation is made, that necessary notice and Government approval (when applicable) have been obtained;

(4) Receiving documentation is complete and accurate, indicating assignment of identification number, treatment of accessory and auxiliary equipment as required and the DD Form 1342 (DOD Property Record) is prepared and processed when required by 1845.505–670;

(5) From physical inspection of the property, the equipment records are accurate, including location and classification as to use (examination shall be conducted from property to records and from records to property); and

(6) Disposition action is initiated as required when a piece of equipment is no longer required at the plant (examination shall include adequacy of procedure for the preparation and submission of DD Form 1342 (Property Record) where specified, propriety of authority for shipment, and proper accounting for accessory and auxiliary equipment).

(f) *Special test equipment.* The examination of special test equipment shall be essentially the same as for plant equipment costing $5,000 or more except for recognizing the greater complexity of assemblies classified as single items and the possible need for assistance and advice of engineering personnel. Examinations shall include tracing of individual components into the assembly to assure a clear trail, particularly with respect to general purpose test equipment components, and propriety of disposition of components upon disassembly.

(g) *Special tooling.* Testing for plant equipment, as in paragraphs (d) and (e) above, may be used as a guide to establishment of the method and sampling to be utilized for special tooling. When option as to title to special tooling is involved under terms of the contract (see the clause at FAR 52.245–17, Special Tooling), examination need only be sufficient to comply with the request of the contracting officer.

(h) *Real property.* After initial turnover of real property to a contractor, tests and examinations normally shall be directed to work orders of the contractor and documentation from Government sources as to additions and other capital improvements or disposals or capital decreases.

(i) *Scrap and salvage.* Tests relating to scrap and salvage may be similar to those for materials as outlined in paragraph (a) above. However, special attention should be given to—

(1) Tracing from credit entries on materials records (showing turn-in to scrap) to corresponding debits to scrap records;

(2) Determining from analysis of consumption of materials over a given period of time that the quantities indicated as being scrapped or spoiled are matched with comparable receipts in the scrap and salvage accounts; and

(3) Determining that when conversions of units of property to pounds of scrap or from estimated to scale weights or to other units of

measure are made, the formula for the conversion is shown on the document affected, or is readily available in the approved contractor procedure.

(j) *Analyzing consumption of materials.* It shall be determined by both physical examination and analysis of records that quantities consumed are for proper purposes and in reasonable amounts. In analyzing consumption of component parts or other production materials, unit allowance (equalling amount required per end-item plus normal spoilage) for each line item of materials may be available in the contract, bill of materials, blueprints, or shop drawing of items fabricated, or in cost computations supporting the end-item price. If such unit allowance information is not available, technical personnel may be consulted as to whether quantities consumed are within accepted standards of the industry.

(k) *Testing of physical inventories.* The property administrator has the option of conducting tests of the contractor's physical inventories either during the performance of the inventory or subsequent to its completion. In either event, tests shall evidence physical counts of selected items without knowledge of record balances, verification of the entries on count slips, comparisons with records, preparation of documents necessary to any adjustments required, approval of adjustments, and the referral of lists of adjustments to the property administrator pursuant to FAR 45.508–2.

(l) *Examination of maintenance program.* The actions scheduled shall be traced to determine that they are or have been performed and that the actions stated by the contractor's procedures have been included. Also, the records of the maintenance or repair shop or the contractor's purchase orders shall be examined as to causes of breakdowns of equipment to determine whether they were the result of inadequate preventive or routine maintenance.

1845.7209–5 Performing the system survey.

(a) In performing the survey, the property administrator shall follow the procedures in paragraphs (b) through (e) below.

(b)(1) The lot size shall be estimated. Insofar as possible, lots selected shall consist of all the following current operations of the contractor:

(i) Those transactions (excepting disposition transactions) which have occurred during the last 90 days immediately preceding the date of sampling and the documents recording those actions. (If no transactions have taken place during the last 90 days, samples will be taken from transactions going back to the last system survey.) The lot should encompass the maximum number of units possible within a functional area. For example, transactions pertaining to special tooling, special test equipment, and plant equipment may be combined into a single lot and sampled for their common characteristics. Characteristics that are not common to units sampled shall be extracted for evaluation as a part of a separate lot. Sample sizes shall be selected from the attached table (Annex *II* to this Subpart).

(ii) Articles in the possession or control of the contractor at that time.

(iii) Disposition actions occurring since the last survey was made.

(2) The lot should encompass the maximum number of units possible within a functional area. For example, transactions pertaining to special tooling, special test equipment, and plant equipment may be combined into a single lot and sampled for their common characteristics. Characteristics that are *not* common to units sampled shall be extracted for evaluation as a part of a separate lot. Sample sizes shall be selected from the attached table (Annex II to this Subpart).

(c) After the examinations are performed and the findings recorded, the findings shall be analyzed and the conclusions and recommendations recorded. Decisions as to satisfactory or unsatisfactory conditions shall be made for each lot at the functional area level.

(d) When any category is found to be unsatisfactory during a survey, the property administrator shall determine the effects upon the complete system. All other applicable categories shall be subjected to survey actions in order to ascertain the existence of other defective areas and the full scope of defectiveness in the overall system.

(e) Problems disclosed during the survey shall be discussed with the contractor's personnel as they are noted, or during the exit interviews. Every effort shall be made to resolve differences on an informal basis. Resolved problem areas shall be reported in the record of system evaluation with the notation that they were corrected.

1845.7209–6 System survey summary.

(a) A formal record shall be prepared by the property administrator at the conclusion of each system survey in the format set forth below:

(1) *Introduction:* contractor's name and address, period of survey, and types of property involved.

(2) *Method used:* explain method of performing the survey.

(3) *Conclusions:* state conclusions reached (In event of finding of unsatisfactory categories, functional areas, or characteristics, identify the defects found).

(4) *Action required:* state actions, if any, necessary to correct unsatisfactory conditions.

(b) A summary of the system survey shall be forwarded to the contractor. The contractor shall be advised of any unsatisfactory conditions and requested to correct them within the time limitations agreed to during the exit interview. The contractor shall also be advised by letter that failure to correct the unsatisfactory conditions may result in disapproval of its property control system. A copy of the summary shall also be retained in a survey case file, and whenever unsatisfactory conditions have been disclosed, a copy of the summary shall be provided to the administrative contracting officer. When conditions dictate, *i.e.*, indication of significant noncompliance with contract requirements or other continued failures jeopardizing the interest of the Government, the purchasing office and the pre-award survey monitor shall also be advised in writing.

1845.7209–7 Correction of unsatisfactory conditions.

In the case of disclosure of unsatisfactory conditions, the property administrator shall maintain follow-up to ascertain that corrective action is taken. In the event the contractor fails to take corrective action or to respond to the letter forwarded as prescribed in 1845.7209–6 above, the property administrator shall proceed in accordance with 1845.7209–6 and FAR 45.104(c).

1845.7209–8 Survey case file.

A case file shall be established for each system survey performed, containing the survey plan, work papers, and the summary. The case file shall be maintained in the Contract Property Control Data File or the Contractor's General File.

1845.7209–9 Statistical sampling.

(a) *General.* Statistical sampling is a tool to support the property administrator's judgment; it does not supplant his judgment. Statistical sampling is accomplished by examination of characteristics, as to defects, in order to evaluate and determine the performance level for each functional area and category within each property control system.

The lot should encompass the maximum possible number of line items of property, records and documents. Care should be exercised, however, to assure that the items in the lot have common characteristics and that the same control elements of the property control system apply; otherwise, more than one lot will be necessary. Items selected for sampling may be used to examine characteristics of more than one category (*i.e.*, items selected under records may be used to examine characteristics of acquisition, stock control, storage and movement, maintenance, physical inventory, utilization, and consumption).

(b) *Use of statistical sampling plants.* The Government's risk shall not exceed 10% (a 90% confidence level) excepting any slight variations due to changes in lot sizes. Annex II contains sampling plans for use in achieving a confidence level of 90 percent. A table of random numbers which may be used is available from the NASA Headquarters Supply and Equipment Management Branch. The number of samples examined shall be equal to the sample sizes given in the tables. Either table, however, may be used.

(c) *Random number table.* (1) The following information is a guide which may be used in drawing a sample with a table of random numbers. Other randomization techniques may be applied *provided* they are defined beforehand in the property administration survey plan and exhibit clear protection against bias. Care must be exercised to assure that the number of items in the lot is not overestimated so as to avoid selection of random numbers greater than the lot. For example, if the lot is 9,000, only numbers lower than 9,001 shall be selected. Using a random table to draw a random sample requires the following four steps:

(i) *First step:* A pattern must be established between the numbers in the table and items in the lot to be sampled. It is possible to use the whole random number or any portion thereof. For instance, the number 18,967 may appear in the table. If the lot size is more than 99 but less than 1,000, a three digit number is required and either the first three digits (189) or the last three (967) may be used. If the lot size is more than 999 but less than 10,000, a four digit number is required and either the first four digits (1,896) or the last four (8,967) may be used. Once this pattern has been established, it must be consistently used throughout the sample selection process.

(ii) *Second step:* A procedure for selecting the numbers from the table must be selected. Any systematic path for going through the table, if the path is clear and does not cross over or re-use any number previously used, is acceptable. It is possible to proceed across rows, down columns, diagonally, clockwise, counter-clockwise, or in some combinations of these methods; however, it is usually desirable to choose a simple pattern and go down columns or across rows.

(iii) *Third step:* The starting point in the table shall be selected at random. The most used method is to open the table of random numbers to any page and to use the number upon which the pencil point falls as the starting point.

(iv) *Fourth step:* Beginning at the starting point and proceeding through the table as planned in the second step, record the numbers found in succession in the table, using all or part of the number as planned in the first step. Duplicate numbers shall be skipped. The selection process shall be continued until the required sample size is drawn.

(2) Numbers taken from the the random table shall be arranged and recorded in numerical order. If the units of the lot to be examined are already consecutively numbered, the units having the numbers corresponding to those taken from the random table become the sample units. Otherwise, the sample units shall be found by counting to the numbers taken from the random table.

1845.7209-10 Additional administrative responsibilities.

The initial review, evaluation, and subsequent visits should provide the property administrator with a reasonable indication of future workload with each contractor. Loss, damage, destruction, or excessive consumption of Government property are areas which demand significant and prompt attention by the property administrator. This is particularly important in the case of a contractor whose system is in an unapproved status.

1845.7209-11 Declaration of excess property.

A problem area often disclosed by systems surveys is the failure of a contractor to report Government property which is not needed (is excess) in performance of the contract. The property administrator shall fully document and report any such finding to the administrative contracting officer. After a report of excess received from a contractor has been referred to the plant clearance officer for screening and ultimate disposition, the property administrator shall maintain followup to assure prompt disposition action. For centrally reportable plant equipment, the property administrator shall—

(a) Assure the preparation and submission of individual reports (DD Form 1342 or equivalent) required of the contractor;

(b) Accomplish such verifications as necessary to permit certifications required by the forms; and

(c) Transmit the report to the NASA Industrial Property Officer.

1845.7210 Closure of contracts.

1845.7210-1 Completion or termination.

Upon completion or termination of a contract, the property administrator shall—

(a) Monitor the actions of the contractor in returning excess Government property not referred to the plant clearance officer; and

(b) Advise the cognizant plant clearance officer as to the existence at a contractor's plant of residual property requiring disposal.

1845.7210-2 Final review and closing of contracts.

(a) When informed that disposition of Government property under a contract has been completed, the property administration shall perform a final review which shall include a signed determination that—

(1) Disposition of Government property has been properly accomplished and documented;

(2) Adjustment documents, including request of the contractor for relief from responsibility, have been processed to completion;

(3) Proceeds from disposals or other property transactions, including adjustments, have been properly credited to the contract or paid to the Government as directed by the contracting officer;

(4) All questions as to title to property fabricated or acquired under the contract have been resolved and appropriately documented; and

(5) The Contract Property Control Record File is complete and ready for retirement.

(b) When final review pursuant to paragraph (a) above reveals that such action is proper, the property administrator shall accomplish and sign a DD Form 1593, *Contract Administration Completion Record*, or equivalent.

(c) The executed DD Form 1593 shall be forwarded to the contracting officer and the Property Summary Data Record shall be so annotated, and shall be retired with the contract file.

1845.7211 Special subjects.

1845.7211-1 Government property at alternate locations of the prime contractor and subcontractor plants.

(a) Government property provided to a prime contractor may be located at other plants of the prime contractor or at subcontractor locations. The prime contractor is accountable and responsible to the Government for such property.

(b) A Government property administrator cognizant of the location where the property is situated shall normally be designated to perform required surveys of the property control system and exercise surveillance over such property as a supporting responsibility.

(c) When the property administrator determines that supporting property administration is required, he or she shall direct a written request to the cognizant contract administration office asking that a property administrator be assigned. The request for supporting property administration shall include—

(1) The name and address of the prime contractor;

(2) The prime contract number;

(3) The name and address of the alternate location of the prime contractor, or of the subcontractor where the property is to be located;

(4) A listing of the property to be furnished, or, if property is to be acquired locally, a statement to this effect; and

(5) A copy of the subcontract or other document under which the property is to be furnished or acquired.

(d) Concurrent with the action cited in paragraph (c) above, the property administrator shall ascertain whether the prime contractor will perform the necessary reviews and surveillance with the contractor's own personnel, or elect to rely upon the system approval and continuing surveillance by a supporting property administrator of the property control system at the alternate location or subcontractor plant. If the prime contractor indicates that it will accept the findings of a supporting property administrator, a statement in writing to that effect shall be obtained. If the prime contractor does not so elect, it shall be required to perform the requisite reviews and surveillance and document its actions and findings.

(e) If a single item or limited quantities of property will be so located, the property administrator may determine that supporting property administration is unnecessary, provided—

(1) That the prime contractor's records shall adequately reflect the location and use being made of such property;

(2) The nature of the property is such that the possibility of its use for unauthorized purposes is unlikely; and

(3) The nature of the property is such that a program of preventive maintenance is not required.

(f) When supporting property administration will not be requested, the services of a property administrator in the contract administration office cognizant of the site where the property is located may be requested on an occasional basis to perform special reviews or such other support as may be necessary. Repeated requests for such assistance indicate a requirement for requesting supporting property administration.

1845.7211-2 Loss, damage, or destruction of Government property.

(a) Normally, contract provisions provided for assumption of risk of loss, damage, or destruction of Government property as described below:

(1) Advertised and certain negotiated fixed-price contracts provide that the contractor assumes the risk for all Government property provided thereunder (see the clause at FAR 52.245-2, Government Property (Fixed-Price Contracts)).

(2) Other negotiated fixed-price contracts provide that the contractor assumes the risk for all Government property provided thereunder, with the exceptions set forth in the clause at FAR 52.245-2, Alternate I and Alternate II.

(3) Cost-reimbursement contracts (see the clause at FAR 52.245-5, Government Property (Cost-Reimbursement, Time-and-Material, or Labor-Hour Contracts)) provide that the Government assume the risk for all Government property provided thereunder when there is no willful misconduct or lack of good faith of any of the contractor's managerial personnel as defined in the terms of the contract.

(4) There are certain events for which the Government does not assume the risk of loss, damage, or destruction of Government property, such as risks which the contract expressly requires the contractor to insure against. Therefore, contract clauses should be thoroughly reviewed and understood before a conclusion is reached by the property administrator or a determination made by the contracting officer. Advice shall be obtained from appropriate legal counsel on questions of legal meaning or intent.

(5) "Willful misconduct" may involve any intentional or deliberate act or failure to act which causes, or results in, the loss, damage, or destruction of Government property.

(6) "Lack of good faith" may involve gross neglect or disregard of the terms of the contract or of appropriate directions of the contracting officer or his authorized representatives. Examples of lack of good faith may be demonstrated by the failure of the contractor's managerial personnel to establish and maintain proper training and supervision of employees and proper application of controls in compliance with instructions issued by authorized Government personnel.

(b) In the event any portion of the contractor's system is found to be unsatisfactory, increased surveillance of the deficient portion will be instituted to prevent, to the extent possible, any loss, damage or destruction of Government property. Further, special attention shall be given to reasonably assuring that any loss, damage or destruction occurring during a period when a contractor's system is not approved is identified prior to approval or reinstatment of approval.

1845.7211-3 Loss, damage, or destruction of Government property while in contractor's possession or control.

(a) The property administrator shall require the contractor to report to him or her all cases of loss, damage, or destruction of Government property in its possession or control (including such property in the possession or control of its subcontractors) as soon as such fact becomes known.

(b) When physical inventories, consumption analyses, or other actions disclose (1) consumption of Government property that is considered unreasonable by the property administrator, or (2) loss, damage, or destruction of Government property that has not been reported by the contractor, the property administrator shall prepare a statement of the items and amount of loss involved. This statement shall be furnished to the contractor for investigation and submission of a written statement to the property administrator relative to the incidents reported.

(c) The contractor's report and statement referenced in paragraphs (a) and (b) above shall contain factual data as to the circumstances surrounding the loss, damage, destruction, or excessive consumption, including—

(1) the contractor's name and the contract number;

(2) A description of items lost, damaged, destroyed, or unreasonably consumed;

(3) The cost of property lost, damaged destroyed, or unreasonably consumed and cost or repairs in instances of damages (in event actual cost is not known, use reasonable estimate);

(4) The date, time (if pertinent) and cause or origin of the loss, damage, destruction, or consumption;

(5) Known interests in any commingled property of which the Government property lost, damaged, destroyed, or unreasonably consumed is (or was) a part;

(6) Insurance, if any, covering the Government property or any part of interest in any commingled property;

(7) Actions taken by the contractor to prevent further loss, damage, destruction, or unreasonable consumption and to prevent repetition of similar incidents; and

(8) Other facts or circumstances relevant to determination of liability and responsibility for repair or replacement.

(d) The property administrator shall investigate the incident to the degree required to reach a valid and supportable conclusion as to (1) liability of the contractor for the loss, damage, destruction, or unreasonable consumption under the terms of the contract, and (2) the course of action required to conclude the adjustment action. When required, the assistance of the quality assurance representative, the industrial specialist, the insurance officer, legal counsel, or other technician will be secured. When the contractor acknowledges liability, the property administrator shall forward a copy of the credit memorandum or other adjusting document to the administrative contracting officer and auditor, if appropriate, to assure proper credit. In the event analysis of contact provisions and circumstances establishes that the loss, damage, destruction, or consumption constitutes risks assumed by the Government, the property administrator shall so advise the contract in writing, thereby relieving the contractor of responsibility for the property. A copy of the documentation and notification to the contractor shall be retained in the Contract Property Control Data File for the contract.

(e)(1) If the property administrator concludes that the contractor should be liable for the loss, damage, destruction, or unreasonable consumption of Government property, the administrator shall forward the complete file with his or her conclusion and recommendations to the contracting officer for review and determination. The file shall contain—

(i) A statement of facts as supported by investigation;

(ii) Recommendations as to contractor's liability, and the amount thereof;

(iii) Recommendations as to action to be taken with regard to third party liability, if appropriate;

(iv) Requirements for disposition, repair, or replacement of the damaged property; and

(v) Other pertinent comments.

(2) A copy of the determination shall be furnished to the contractor and to the property administrator, and a copy shall be retained in the files of the contracting officer. The property administrator's copy shall be filed in the Contract Property Control Data Files for the contract when all pertinent actions, such as compensation to the Government or repair or replacement of the property, have been completed.

1845.7211-4 Financial reports.

The property administrator is responsible for obtaining financial reports as prescribed in 1845.505-14 for all contracts assigned to him or her. Reports shall be accumulated, reviewed and distributed as required. Contractors are required to submit separate reports on each contract that contains the property reporting clause (1852.245-73) except as noted in 1845.7101, paragraph 4(c).

1845.7212 Contractor utilization of Government property.

1845.7212-1 Utilization surveys.

(a) Responsibility for assuring that the contractor has effective procedures to evaluate Government property utilization rests with the property administrator. However, when necessary, the contract administration office shall provide specialists qualified to perform the technical portion of utilization surveys to assist the property administrator in determining the adequacy of the contractor's utilization procedures.

(b) Upon assignment of an initial contract under which Government-owned plant equipment in particular is to be provided to a contractor, the property administrator shall require the contractor to establish procedures and techniques for controlling the utilization of Government-owned plant equipment. The property administrator, with the assistance of technical specialists, if necessary, shall evaluate the procedures established by the contractor for effective utilization of plant equipment. A record of the evaluation shall be prepared and become a part of the property administration file. If the procedures are determined inadequate, the record shall identify the deficiencies and the corrective actions necessary. In the event the deficiencies are not corrected by the contractor, the property administrator shall promptly refer the matter to the contracting officer.

(c) Follow-up surveys of the contractor's utilization procedures related to Government-owned equipment shall be performed at least annually. At contractor facilities having a substantial quantity of plant equipment items, the surveys should normally be conducted on a continual basis, reviewing equipment utilization records and physically observing a group of preselected items during each portion of the survey. Such follow-up surveys shall be conducted to the degree determined necessary considering the findings of prior surveys and the contractor's performance history in identifying and declaring equipment excess to authorized requirements. The contractor shall be required to support the retention of all Government-owned plant equipment by data keyed to specific Government programs. Maximum use will be made of contractor's machine loading data, order boards, production planning records, and machine time records and other production methods.

(d) Special surveys shall be conducted when a significant change occurs in the contractor's production schedules. Examples of such changes are terminations, completion of contracts or major adjustments in programs. Special surveys may be limited to a given department, activity, or division of a contractor's operation.

(e) In the absence of adequate justification for retention, Government-owned plant equipment will be identified and reported in accordance with FAR 45.502(g) and FAR 45.509-2(b)(4). Items which are part of approved inactive package plants or standby lines are exempted from utilization surveys. The contract administration office shall ascertain periodically whether existing authorizations for standby or lay-away requirements are current.

1845.7212-2 Records of surveys.

The property administrator shall prepare a record incorporating written findings, conclusions and recommendations at the conclusion of each survey. Where appropriate, the record of the property administrator may be limited to a statement expressing concurrence with the reports of other specialists. One copy of each record shall be retained in the property administration file. Additional copies shall be prepared and distributed as

findings and conclusions may necessitate.

1845.7212-3 Scope of survey.

The following matters are among those which shall be considered and used to the extent applicable in preparing for, conducting, and recording the results of the plant equipment utilization surveys:

(a) Identification of contracts under which plant equipment was furnished or acquired.

(b) Number and dollar value of plant equipment items in contractor's possession.

(c) Adequacy of equipment usage records.

(d) Identification of contracts for which use of plant equipment is authorized.

(e) Other authorized use (Government or commercial) of the plant equipment, whether required approvals have been obtained, and whether rental payment is required.

(f) Planned machine loadings (including performance of a physical review of selected plant equipment items).

(g) Whether contractor-owned equipment of like function is loaded prior to loading Government-owned plant equipment.

(h) Items reported by quality assurance representatives or other personnel to be in a questionable use and utilization status.

(i) Items of plant equipment that may be made available for other use by combining work of two or more machines on a single machine with low utilization rate. In such case the survey record should indicate the date the DD Form 1342, DoD Property Record or equivalent, was forwarded to the NASA contracting officer.

Annex I to Subpart 1845.72

Categories, Functional Areas, Characteristics

(This is not an exclusive list and may be modified as necessary.)

Category 1

Acquisition. The process of acquiring Government property either through requisition or transfer from Government sources or through purchase, including those made from contractors stores.

a. Functional Area: Government-furnished property.

Class and Characteristic

I—(1) Item is contractually authorized.
I—(2) Requesting document is properly prepared and processed.
I—(3) Quantity requested is reasonable but not available in existing stocks at the plant site for use of the requiring contract.
I—(4) Requests are controlled until items are received or requirement cancelled. Status file is maintained.
II—(5) Requests are submitted in a timely manner to minimize use of emergency priorities.

b. Functional Area: Contractor-acquired property.

I—(1) Item is contractually authorized.
I—(2) Quantity ordered is reasonably required but not available in existing stocks at the plant site for use on requiring contract.
I—(3) Distribution, cancellation, and change of purchase orders is properly controlled.
I—(4) Item description, contract number, price, are reflected in purchase order.
I—(5) Consent or approval by the contracting officer as required.

Category 2

Receiving. The process of Government property initially entering into a contractor's custody.

Functional Area: Receiving process.

Class and Characteristic

I—(1) Receiving report adequately describes item and shows count and condition. Where quantity, condition, or description differs from that shown on inbound shipping document, proper adjustment document is prepared and property administrator notified.
I—(2) Receiving report is promptly and properly prepared and controlled, and distribution includes copy to property accounting organization.
I—(3) Item received is properly classified (e.g., special tooling).
I—(4) Item is properly identified and marked during the receiving process.
II—(5) Returnable and reusable containers are properly controlled and accounted for.
II—(6) Misdirected shipments are adequately controlled pending receipt of disposition instructions.

Category 3

Records. The official accounting and subsidiary records maintained by a contractor to show status and to control all Government property furnished to it or otherwise acquired by it.

a. Functional Area: Inventory control (real and personal property).

Class and Characteristic

I—(1) Accounting record conforms to FAR and NASA FAR Supplement requirements and is accurate.
I—(2) Documentation in support of accounting entries is sufficient.
I—(3) Accounting entries are made without undue delay.
I—(4) Stock levels and reorder points are reflected on record, are reasonably sound, and are consistent with contract provisions.
I—(5) Accounting records are closed by means of proper accounting entry, adequately supported by documentation.
I—(6) Locator system is adequate and accurate.

b. Functional Area: Fabrication records.

I—(1) Records of items fabricated conform to FAR requirements and are accurate.
I—(2) Documentation in support of accounting entries is sufficient.

c. Functional Area: Receipt and issue file.

I—Records of items conform to FAR and NASA FAR Supplement requirements and are accurate.

d. Functional Area: Custodial records.

I—(1) Custodial record is adequate and accurate.
I—(2) Records are properly closed.

e. Functional Area: Scrap and salvage records.

I—(1) Scrap and savage records are adequate and accurate.
I—(2) Items reclaimed during salvage operations are properly classified.
I—(3) Documentation in support of record is adequate.
I—(4) Records are properly closed.

f. Functional Area: Multicontract cost and material control system.

I—(1) Records conform to FAR requirements and are accurate.
I—(2) Documentation in support of record is adequate.
I—(3) Accounting entries are made promptly.
I—(4) Records are properly closed.

Category 4

Storage and movement. The process of storing and moving all types of Government property includes movement from one point to another, for any purpose, and protection during movement and storage.

a. Functional Area: Warehousing.

Class and Characteristic

II—(1) Housekeeping is adequate.
II—(2) Government property is segregated from contractor property.
II—(3) Adequate protection of Government property is provided including hazardous material, precious metals, sensitive items, etc.
II—(4) Adequate measures for corrosion prevention, age control, etc.

b. Functional Area: Internal and external movements.

II—(1) Item is moved under proper authority, supported by issue slip, shipping ticket, location change order, etc.
II—(2) Adequate protection is provided during movement, such as packing, covering, skidding, proper handling equipment and techniques, and safety precautions.
II—(3) Loss or damage occurring during movement is reported to the property administrator.

Category 5

Consumption. The process of incorporating Government-owned property into an end item or otherwise consuming it in performance of a contract.

a. Functional Area: Reasonableness of consumption.

Class and Characteristic

I—(1) Quantities consumed are reasonable when compared to bill of material, material requirement lists, established scrap rates, etc.

II—(2) Serially numbered or selectively matched items are incorporated in appropriate end item.

b. Functional Area: Conservation.

II—(1) Excesses are promptly returned to stores and recorded.

II—(2) Where appropriate, maximum use is made of repair and salvage procedures in lieu of using new items.

II—(3) Where appropriate, a first-in first-out (FIFO) system is employed with respect to "dated" items.

Category 6

Utilization. The process of utilizing plant equipment, special tooling, special test equipment, material, and space property for the purpose for which furnished or acquired.

a. Functional Area: Plant equipment, special tooling, special test equipment.

Class and Characteristic

I—(1) Item is being used for purpose authorized by contract (not diverted to other use).

I—(2) Degree of utilization justifies retention.

b. Functional Area: Material and space property.

I—(1) Item is used for purpose for which authorized (not diverted to other use).

I—(2) Degree of utilization justifies retention of stock on hand.

Category 7

Maintenance. The process of providing the amount of care necessary to obtain a high quality of production and the most useful life of Government property.

a. Functional Area: Preventive and corrective maintenance.

Class and Characteristic

I—(1) Item is scheduled for periodic maintenance (including technical order compliance).

I—(2) Maintenance is performed according to schedule.

I—(3) Records of normal maintenance and corrective actions are adequate and accurate.

b. Functional Area: Capital-type rehabilitation (includes real property).

I—(1) Inspection is scheduled to determine need for major repair, replacement, or other rehabilitation.

II—(2) Inspection is performed as scheduled and results are reported.

II—(3) Rehabilitation is accomplished when authorized.

II—(4) Records of major repair, replacement, or other rehabilitation, including cost, are adequate and accurate.

Category 8

Physical inventories. The process of physically inventorying Government property and comparing it to records of such property includes locating and counting, tagging or marking, describing, recording, and reporting results to the property administrator.

a. Functional Area: Performance.

Class and Characteristic

II—(1) Periodic physical inventories are performed.

II—(2) Physical inventories are performed upon termination or completion of contract unless waived by property administrator.

I—(3) Inventoried property is appropriately tagged/marked.

I—(4) Inventory count is accurate.

II—(5) Inventory procedures provide that personnel who perform inventory are not those who maintain the property records or have custody of the property unless the size of the contractor's operation is so small as to make this impracticable.

II—(6) Results of inventories are reported to property administrator within 30 days.

b. Functional Area: Reconciliation and adjustment.

II—(1) Each instance of loss and discovery of unrecorded property is investigated.

II—(2) Causes are determined for above discrepancies.

II—(3) Actions necessary to prevent recurrence are determined and taken for above discrepancies.

II—(4) Adjustments to records (other than for property losses) are made within 30 days.

II—(5) Adjustments to records for property losses are made within 30 days of contracting officer's or property administrator's notification of relief of responsibility or other determination.

Category 9

Subcontract control. The process of prime contractor control over subcontractor with respect to Government property.

a. Functional Area: Prime contractor controls.

Class and Characteristic

I—(1) Subcontract reflects adequate instructions with respect to subcontractor responsibilities.

I—(2) Records of Government property in possession of subcontractor conform to FAR and NASA FAR Supplement requirements.

I—(3) Adequate documentation supports accounting entries.

I—(4) Prime contractor surveillance over Government property in possession of subcontractors is adequate.

b. Functional Area: Subcontractor control. If the prime contractor has designated records and controls of a subcontractor as the official contract records and controls of Government property in the possession of the subcontractor or if adequacy of controls cannot be determined by review of the prime contractor's control, the subcontractor's property control system will be evaluated in the same manner as that of a prime contractor, in accordance with procedures and criteria set forth in this Subpart 18–45.72.

Category 10

Disposition. The process of requesting disposition instructions and effecting disposal of Government property.

a. Functional Area: Disclosure of excess.

Class and Characteristic

I—(1) Excess items are screened against need on other contracts prior to declaration as excess.

I—(2) Items determined excess are promptly reported.

I—(3) Declaration as excess is complete and accurate.

I—(4) Item was allocable to contract from which declared excess.

b. Functional Area: Disposal.

I—(1) There is proper authority for disposition.

I—(2) Item was disposed of within a reasonable time period after disposal authority was received.

I—(3) Identification tag is removed from item prior to disposal when appropriate.

I—(4) Documentation of disposition is complete and reflects authority, disposal action, and date of disposal and is posted to record.

I—(5) When appropriate, proceeds have been credited to the Government.

Annex II to Subpart 1845.72

SINGLE SAMPLING PLAN

[90 pct. confidence of rejecting lots having 10 pct. or more defectives]

Lot size	Sample size	Limits	
		Satisfactory	Unsatisfactory
1 to 17	All	0	1
18–50	17	0	1
51–90	31	1	2
91–150	44	2	3
Over 150	65	3	4

DOUBLE SAMPLING PLAN

[90 pct. confidence of rejecting lots having 10 pct. or more defectives]

Lot range	Sample size 1	Accept if defects in sample 1 are	Reject if defects in sample 1 are	Continue with sample 2 if defects in sample 1 are	Sample size 2	Accept if sum of defects in samples 1 and 2 equals or is less than	Reject if sum of defects in samples 1 and 2 equals or exceeds
1 to 18	All	0	1				
19 to 50	18	0		1			
51 to 90	21	0	2	1	21	1	2
91 to 150	25	0	3	1 or 2	25	2	3
151 to 400	32	0	4	1, 2 or 3	32	3	4
401 to 10,000	34	0	4	1, 2 or 3	34	3	4
10,001 to 35,000	40	0	5	1, 2, 3, or 4	40	4	5
35,000 to 100,000	46	0	6	1, 2, 3, 4, or 5	46	5	6
100,000 plus	52	0	7	1, 2, 3, 4, 5, or 6	52	6	7

PART 1846—QUALITY ASSURANCE

53. Subpart 1846.7, consisting of sections 1846.703 through 1984.770, is added to read as follows:

Subpart 1846.7—Warranties

Sec.
1846.703 Criteria for use of warranties.
1846.703–70 Additional criteria.
1846.704 Authority for use of warranties.
1846.709 Warranties of commercial items.
1846.709–70 Limitation.
1846.770 Administration.

Subpart 1846.7—Warranties

1846.703 Criteria for use of warranties.

1846.703–70 Additional criteria.

In deciding whether to use a warranty clause, at least the following factors shall be considered in addition to those at FAR 46.703:

(a) cost of correction or replacement, either by the contractor of another source, in the absence of a warranty.

(b) operation of the warranty as a deterrent against furnishing of defective or nonconforming supplies.

(c) whether the contractor's present quality program is reliable enough to provide adequate protection without a warranty, or, if not, whether a warranty would cause the contractor to institute an effective and reliable quality program.

(d) reliance on "brand-name" integrity.

(e) whether a warranty is regularly given for a commercial component of a more complex end item.

1846.704 Authority for use of warranties.

(a) A warranty clause shall be used when it is found to be in the best interests of the Government, after an analysis of the factors listed in 1846.703 and FAR 46.703.

(b) Except for the warranty clause for commercial items covered in FAR 46.709 and FAR 46.710(a)(2), and warranties contained in federal, military, or construction specifications, the decision to use a warranty clause or to include a warranty provision in a specification other than a federal, military, or construction specification shall be made only upon the written authorization of the Procurement Officer or his designee. This decision may be made either for individual procurements or for classes of procurements.

(c) Warranties required by applicable architect-engineer specifications shall be included in advertised or negotiated construction contracts.

1846.709 Warranties of commercial items.

1846.709–70 Limitation.

In either formally advertised or negotiated procurements involving a commercial supply or service or construction, the contracting officer may include in the solicitation a warranty clause which is standard or customary in the trade, or one which is substantially similar to and not in excess of a standard or customary trade warranty—*provided* in either case the contracting officer, after reviewing the factors listed in 1846.703 and FAR 46.703, decides that inclusion of such a clause is in the best interests of the Government.

1846.770 Administration.

When the contracting officer is notified of a defect in warranted items, he should ascertain whether the warranty is currently in effect and assure that proper and timely notice of the defect is given to the contractor.

PART 1850—EXTRAORDINARY CONTRACTUAL ACTIONS

54. Subpart 1850.4, consisting of sections 1850.402 through 1850.470, is amended to read as follows:

Subpart 1850.4—Residual Powers

Sec.
1850.402 General.
1850.403 Special procedures for unusually hazardous or nuclear risks.
1850.403–1 Indemnification requests.
1850.403–2 Action on indemnification requests.
1850.403–3 Contract clause.
1850.403–70 Reporting and records requirements.
1850.470 Lead NASA Center.

Subpart 1850.4—Residual Powers

1850.402 General.

All proposals for the exercise of indemnification authority shall be forwarded to the Assistant Administrator for Procurement (Code HS), who will review and forward the Contractor requests for indemnification through channels to the Administrator for approval. If the Administrator approves the use of indemnification authority, the Administrator shall sign a Memorandum Decision.

1850.403 Special procedures for unusually hazardous or nuclear risks.

1850.403–1 Indemnification requests.

(a) In addition to the information required at FAR 50.403–1(a), the contractor's request for indemnification shall also include a copy of the relevant third-party comprehensive liability policies and products liability policies or the equivalent.

1850.403–2 Action on indemnification requests.

(b) In accordance with FAR 50.403–2, the contracting officer shall forward contractors' requests for indemnification for which the contracting officer recommends approval to the Assistant Administrator for Procurement (Code HS) for final processing to the Administrator.

1850.403–3 Contract clause.

(a) In lieu of the claus or the clause with its Alternate I prescribed at FAR 50.403.3, the following clauses shall be used:

(1) To indemnify the contractor against unusually hazardous or nuclear risks in fixed-price contracts when approved in accordance with FAR Subpart 50.4 and this Subpart 1850.4, the contracting officer shall insert the clause at 1852.250–70, Indemnification Under Public Law 85–804—Fixed-Price Contracts (OCTOBER 1984).

(2) To indemnify the contractor against unusually hazardous or nuclear risks in cost-reimbursement contracts when approved in accordance with FAR Subpart 50.4 and this Subpart 1850.4, the contracting officer shall insert the clause at 1852.250–71, Indemnification Under Public Law 85–804—Cost-Reimbursement Contracts (OCTOBER 1984).

(b) The contracting officer shall insert the clause at 1852.250–72, Space Activity—Unusually Hazardous Risks (OCTOBER 1984), in all contracts containing either of the indemnification under Public Law 85–804 clauses prescribed at 1850.403–3(a) above, unless the Administrator approves a different definition of unusually hazardous risks to be used in a particular contract.

1850.403–70 Reporting and records requirements.

(a) Concurrent with including indemnification provisions in any NASA prime contract pursuant to the authority of an indemnification Memorandum Decision by the Administrator, the congnizant contracting officer shall submit a report directly to the Contract Adjustment Board which—

(1) References and provides two copies of the Administrator's Memorandum Decision;

(2) Provides two copies of any clause which deviates from the clauses prescribed at 1850.403–3;

(3) Complies with the reporting requirements of Pub. L. 85–804, 50 U.S.C.

1434, and Executive Order 10789, which currently states—

With respect to actions which involve actual or potential cost to the United States in excess of $50,000 the report shall * * *

(1) Name the contractor;

(2) State the actual cost or estimated potential cost involved;

(3) Describe the property or service involved; and

(4) State further the circumstances justifying the action taken.

(4) Provides the contract number and date of award.

(5) If applicable, provides the contract modification number and date.

(b) The Contract Adjustment Board shall be responsible for maintaining two copies of each Memorandum Decision required by FAR 50.403–2(b) and, for such duration deemed appropriate by the Board, one copy of each report submitted by cognizant contracting officers.

1850.470 Lead NASA Center.

(a) Contractors applying for indemnification shall be responsible for initially determining which NASA Center has the most significant amount of the contractor's procurement contracts, measured by either dollars or numbers, which are related to NASA space activities rather than total NASA business. The request for indemnification would be submitted to the Procurement Officer for that Center, who will then designate a cognizant contracting officer. This determination should be done at the highest entity of the firm possible to prevent duplicate requests from associate divisions, subsidiaries, or central offices of the Contractor. NASA reserves the right to reassign a lead Center for purposes of the processing indemnification requests made under this regulation.

(b) Relying on the Contractor's submission, the receiving contracting officer will process the request using the procedures at FAR Subpart 50.4 and this Subpart 1850.4. The receiving Center will become the lead Center and will remain so indefinitely. Lead Center designation may change to another Center if the losing and gaining Procurement Officers agree to the change. For example, a new award may so substantially alter the focus of a contractor's procurement contracts related to space activities toward a different Center that a change may be appropriate. Should a change occur in the lead Center, all records related to indemnification of that contractor shall be transferred to the gaining Center.

PART 1851—USE OF GOVERNMENT SOURCES BY CONTRACTORS

1851.102 [Amended]

55. Section 1851.102(c) paragraph (1)(i) in the format is amended by inserting in the first line after "property" the phrase "and/or services."

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1852.203–70 [Amended]

56. Section 1852.203–70 is amended by adding at the end of the introductory sentence the words "except IFB's".

1852.215–10 [Amended]

57. Section 1852.215–10 is amended by revising the introductory text after the word "paragraphs" to read "(a), (b), (c) of FAR 52.215–10 in NASA solicitations." The clause is amended as follows:

NASA Alternate I (October 1984)

a. The date in the heading is revised to read "OCTOBER 1984" in place of "(APRIL 1984)."

b. In the introductory text of paragraph (a) after the word "award", remove "is made."

c. In paragaph (a)(1) remove the word "mailed" and insert the word "postmarked."

d. In paragraph (b) after "award" remove "is made."

e. In paragraph (c), in the last sentence, after the word "award" remove "is made."

58. 1852.215–70 is amended by revising the provision to read as follows:

1852.215–70 Increases in estimated costs.

* * * * *

Increases in Estimated Cost (October 1984)

Once the apparent successful offeror has been selected, that offeror may not unilaterally increase the estimated costs submitted with its proposal except for:

(a) Changes resulting from updating of the certified cost or pricing data submitted with its proposal;

(b) Costs resulting from the Government's directed correction of identified weaknesses in the offeror's proposal which must be corrected as a condition of contracting; or

(c) Minor changes in the requirements of the requests for proposals. In such cases, the Government will consider only those increases arising from those requirements that are actually affected by the changes (irrespective of whether the changes result in an increase or decrease in the requirements or are initiated by the Government or the Offeror) and then only to the extent such changes are identified and justified.

(End of provision)

59. Section 1852.223–3 and 1852.223–370 are added to read as follows:

1852.223–3 Hazardous Material Identification and Material Safety Data.

1852.223–370 NASA Deviation.

When the clause at FAR 52.223–3 is included in a solicitation or contract, modify subparagraph (e)(5) thereof to delete the reference to the FAR clause at 52.227–18, Rights in Data, and substitute a reference to the NASA FAR Supplement clause at 1852.227–74, Rights in Data—General.

60. Section 1852.223–72 is added to read as follows:

1852.223–72 Potentially Hazardous Items.

As prescribed in 1823.303–70, insert the following clause:

Potentially Hazardous Items (October 1984)

(a) The Contractor agrees to furnish complete design information and drawings showing all details of construction, including materials, for the items or components which are designated in the Schedule of this contract as potentially hazardous to employees and subcontractors who are to perform any work in connection with installing such items or components in combination with other equipment, or in testing such items or components either alone or in combination with other components, items or equipment, or in handling such items or components; and to inform such employees or subcontractors of the potentially hazardous nature of such items or components; before requesting or directing the performance of such work.

(b) The requirement herein for delivery of data supersedes any terms of this contract permitting withholding of data.

(c) The Contractor shall include this clause including this paragraph (c) in each subcontract at any tier awarded under the contract that calls for the manufacture or handling of the items or components designated in paragraph (a) as potentially hazardous.

(End of clause)

61. Section 1852.228–72 is added to read as follows:

1852.228–72 Inter-Party Waiver of Liability During STS Operations.

Insert the following clause as prescribed at 1828.371.

Inter-Party Waiver of Liability During STS Operations (October 1984)

(a) The contractor undertakes the obligations of, agrees to be bound by, and shall receive the protection and benefits of a NASA contractor under the no-fault, no-subrogation inter-party waiver of liability provision with users for Space Shuttle services to the extent provided for and reprinted in paragraph (d) below.

(b) This inter-party waiver of liability shall not apply to damage caused by NASA to the contractor's employees or property nor shall it apply to damage caused by the contractor to NASA's employees or property.

(c) This clause, including this paragraph (c) shall be included in all subcontracts hereunder where the work is to be performed in support of STS Operations.

(d) The applicable definitions and the no-fault, no-subrogation inter-party waiver of liability provision which is contained in NASA agreements with users for Space Shuttle services provides in relevant part:

1. *General.*

a. [Paragraph a. of the Shuttle Launch Agreement has been intentionally omitted since it is not relevant.]

b. For purpose of this [Shuttle Launch] Agreement, the following definitions shall be applicable:

(1) "Liability" shall include payments made pursuant to United States' treaty, any judgment by a court of competent jurisdiction, administrative and litigation costs, and, after consultation with the User, settlement payments.

(2) "Damage" shall mean bodily injury to or death of any person, damage to or loss of any property, and loss of revenue or profits or other direct, indirect or consequential damages arising therefrom.

2. [Paragraph 2 of the Shuttle Launch Agreement has been intentionally omitted since it is not relevant.]

3. *Damage to Persons or Property Involved in STS Operations.*

a. For purposes of this Paragraph 3., the following definitions shall be applicable:

(1) "STS Operations" shall mean:

(a) All Space Transportation System activity:

(b) All Payload activity:

(c) All tangible personal property (including ground support, test, training and simulation equipment) related to (a) and (b) above;

(d) Research, design, development, test, manufacture, assembly, integration, transportation, or use of any materials related to (a), (b) or (c) above.

(e) Performance of any services related to (a) through (d) above.

(2) "Protected STS Operations" shall mean a period of time during which STS Operations are being performed as follows:

(a) Beginning with the signature of an Agreement or Arrangement with NASA for Space Transportation System services and (i) when any employee, Payload or property arrives at a United States Government Installation, or (ii) during transportation of such to the installation by a United States Government conveyance or (iii) at ingress of such into an Orbiter, for the purpose of fulfilling such Agreement or Arrangement, whichever occurs first.

(b) Ending with regard to any employee when (i) the employee departs a United States Government Installation, or (ii) the Orbiter if it lands at other than such Installation, or (iii) a United States Government conveyance which transports the employee from such Installation or Orbiter, whichever occurs last.

(c) Ending with regard to a Payload or property, not Jettisoned or Deployed, under the same conditions as set forth in Subparagraph 3.a.(2)(b) above.

(d) Ending with whichever occurs last with regard to a Deployed or Jettisoned payload or property (i) after such impacts the earth; or (ii) if retrieved by the Orbiter, under the same conditions set forth in Subparagraph 3.a.(2)(b) above.

b. NASA and the User (the parties) will respectively utilize their property and employees in STS Operations in close proximity to one another and to others. Furthermore, the parties recognize that all participants in STS Operations are engaged in the common goal of meaningful exploration, exploitation and uses of outer space. In furtherance of this goal, the parties hereto agree to a no-fault, no-subrogation, inter-party waiver of liability pursuant to which each party agrees not to bring a claim against or sue the other party or other users and agrees to absorb the financial and any other consequences for Damage it incurs to its own property and employees as a result of participation in STS Operations during Protected STS Operations, irrespective of whether such Damage is caused by NASA, the User, or other users participating in STS Operations, and regardless of whether such Damage arises through negligence or otherwise. Thus, the parties, by absorbing the consequences of damage to their property and employees without recourse against each other or other users participating in STS Operations during Protected STS Operations, jointly contribute to the common goal of meaningful exploration of outer space.

c. The parties agree that this common goal will also be advanced through extension of the inter-party waiver of liability to other participants in STS Operations. Accordingly, the parties agree to extend the waiver as set forth in Subparagraph 3.b. above to contractors and subcontractors at every tier of the parties and other users, as third party beneficiaries, whether or not such contractors or subcontractors causing damage bring property or employees to a United States Government Installation or retain title to or other interest in property provided by them to be used, or otherwise involved, in STS Operations. Specifically, the parties intend to protect these contractors and subcontractors from claims, including "products liability" claims, which might otherwise be pursued by the parties, or the contractors or subcontractors of the parties, or other users or the contractors or subcontractors of other users. Moreover, it is the intent of the parties that each will take all necessary and reasonable steps in accordance with Subparagraph 3.e. below to foreclose claims for Damage by any participant in STS Operations during Protected STS Operations, under the same conditions and to the same extent as set forth in Subparagraph 3.b. above, except for claims between the User and its contractors or subcontractors and claims between the United States Government and its contractors and subcontractors.

d. The parties intend that the inter-party waiver of liability set forth in Subparagraphs 3.b. and 3.c. above be broadly construed to achieve the intended objectives.

e. NASA will require all Space Transportation system users entering into Launch and Associated Services Agreements with NASA after December 1, 1982, to agree to the inter-party waiver of liability as set forth in Subparagraphs 3.b. and 3.c. above. The User, and each other user, will require the following to agree to the waiver of liability set forth in Subparagraph 3.c. above: (i) all persons and entities to whom it assigns all or part of its right to Launch and Associated Services; (ii) any person or entity to whom it has sold or leased or otherwise agreed to provide all or any portion of its Payload or Payload services prior to the completion of NASA's launch services for a particular Payload; (iii) all its prime contractors; and (iv) all its subcontractors who will have persons or property involved in STS Operations during Protected STS Operations. NASA will require all the following to agree to the waiver of liability set forth in Subparagraph 3.c. above: (i) all its prime contractors; and (ii) all its subcontractors who will have persons or property involved in STS operations during Protected STS Operations. Furthermore, NASA has required all STS users entering into Launch and Associated Services Agreements prior to December 1, 1982, to agree to a more limited waiver of liability, a copy of which is available from NASA upon request. Failure of any party to obtain a waiver agreement required above shall not affect such party's right to the protections otherwise provided by this Paragraph 3.

(End of clause)

1852.243-70 [Amended]

62. Section 1852.243-70 is amended by changing clause date to read "August 1984" in place of "April 1984," and the citation in paragraphs (a) and (b) of the clause to read "DOD-STD-480A" in place of "MIL-STD-480."

1852.245-70 [Amended]

63. Section 1852.245-70 is amended by revising the clause date to read "May 1984" in place of "April 1984," by designating the first paragraph in the clause as (a) and the second paragraph as (b). In paragraph (a), internal designations are revised to read "(1)," "(2)," and "(3)" in place of "(a)," "(b)," and "(c)." In paragraph (b) of the clause, the parenthetical statement in the first sentence is revised to read "unless for incorporation into flight qualified or flight monitoring deliverable end items)."

64. Section 1852.245-71 is amended by adding after the clause "Alternate I" as follows:

1852.245-71 Installation-provided government property.

* * * * *

Alternate I (OCTOBER 1984).

If the contract includes procurement authority for property, separate from the installation procurement process, and it is desired to preclude the Contractor from utilizing the installation's central receiving facility, the following shall be added to paragraph (b) of the clause:

The contractor shall not utilize the installation's central receiving facility for receipt of Contractor-acquired property. However, the Contractor shall provide listings suitable for establishing accountable records of all such property received, on a quarterly basis, to the Contracting Officer and the Supply and Equipment Management Officer.

65. Section 1852.245–570 is added to read as follows:

1852.245–570 NASA Deviation.

When using the clause at FAR 52.245–5 with its Alternate I, make the following changes in subparagraph (c)(4) of Alternate I: in the first line change "equipment" to "equipment (and other tangible personal property)." In the first and second sentence change $1,000 to $5,000.

1852.250–1 [Removed]

66. Section 1852.250–1, Indemnification under Pub. L. 85–804, is removed.

67. Sections 1852.250–70, 1852.250–71, and 1852.250–72 are added to read as follows:

1852.250–70 Indemnification Under Public Law 85–804—Fixed-Price Contracts.

Insert the following clause as prescribed in 1850.403–3(a)(1):

Indemnification Under Public Law 85–804—Fixed-Price Contracts (October 1984)

(a) Pursuant to Public Law 85–804 (50 U.S.C. 1431–1435) and Executive Order 10789, as amended, and notwithstanding any other provision of this contract, but subject to the following paragraphs of this clause, the Government shall hold harmless and indemnify the Contractor against:

(1) Claims (including reasonable expenses of litigation or settlement) by third persons (including employees of the Contractor) for death, personal injury, or loss of, damage to, or loss of use of property;

(2) Loss of or damage to property of the Contractor, and loss of use of such property but excluding loss of profit; and

(3) Loss of, damage to, or loss of use of property of the Government but excluding loss of profit; to the extent that such a claim, loss or damage (i) arises out of or results from a risk defined in this contract to be unusually hazardous in nature and (ii) is not compensated by insurance or otherwise. Any such claim, loss or damage within deductible amounts of Contractor's insurance shall not be covered under this clause.

(b)(1) The Government shall not be liable for:

(i) Claims by the United States (other than those arising through subrogation) against the Contractor;

(ii) Losses affecting the property of such Contractor, when the claim, loss or damage was caused by the willful misconduct or lack of good faith on the part of any of the Contractor's directors or officers, or principal officials. (For purposes of this clause, the term "principal officials" means any of the Contractor's managers, superintendents, or other equivalent representatives who have supervision or direction of:

(A) All or substantially all of the Contractor's business, or

(B) All or substantially all of the Contractor's operations at any one plant or separate location in which this contract is being performed, or

(C) A separate and complete major industrial operation in connection with the performance of this contract.); or

(iii) Loss of, damage to, or loss of use of property of the Contractor unless the total amount for such loss, damage and loss of use, excluding loss of profit, is in excess of the Contractor's insurance or $500,000,000. Specifically, the Government shall only be liable for such loss, damage and loss of use in excess of the Contractor's insurance or $500,000,000 whichever is the larger amount.

(2) The Contractor shall not be indemnified under this clause for liability assumed under any contract or agreement unless such assumption of liability has been specifically authorized by the Administrator and approved by the Contracting Officer. When the Government has assumed liability for subcontracts, the term "Contractor" in this paragraph (b) shall include subcontractors.

(c) No payment shall be made by the Government under this clause unless the amount thereof shall first have been certified to be just and reasonable by the Administrator or his representative designated for such purpose. The rights and obligations of the parties under this clause shall survive the termination, expiration, or completion of this contract. The Government may discharge its liability under this paragraph by making payments to the Contractor or directly to parties to whom the Contractor may be liable.

(d) With the prior written approval of the Contracting Officer, the Contractor may include in any subcontract under this contract, the same provisions as those in this clause, whereby the Contractor shall indemnify the subcontractor against any risk defined in this contract to be unusually hazardous. Such a subcontract shall provide the same rights and duties, and the same provisions for notice, furnishing of evidence or proof, and the like, between the Contractor and the subcontractor as are established by this clause. The Contracting Officer may also approve similar indemnification of subcontractors at any tier upon the same terms and conditions. Subcontracts providing for indemnification within the purview of this clause shall provide for the prompt notification to the Contracting Officer of any claim or action against, or of any loss by, the subcontractor which is covered by this clause, and shall entitle the Government at its election, to control or assist in the settlement or defense of any such claim or action. The Government shall indemnify the Contractor with respect to this obligation to subcontractors under subcontract provisions thus approved by the Contracting Officer. The Government may discharge its obligations under this paragraph by making payments directly to subcontractors or to parties to whom the subcontractor may be liable.

(e) If insurance coverage or other financial protection program approved by the Administrator is reduced, the liability of the Government under this clause shall not be increased by reason of such reduction.

(f) The Contractor shall (1) promptly notify the Contracting Officer of any claim or action against, or of any loss by, the Contractor or any subcontractor which reasonably may be expected to involve indemnification under this clause, (2) furnish evidence or proof of any claim, loss or damage covered by this clause in the manner and form required by the Government, and (3) immediately furnish to the Government copies of all pertinent papers received by the Contractor. The Government may direct, control or assist in the settlement or defense of any such claim or action. The Contractor shall comply with the Government's directions, and execute any authorizations required in regard to such settlement or defense.

(End of clause)

1852.250–71 Indemnification Under Public Law 85–804—Cost-Reimbursement Contracts.

Insert the following clause as prescribed in 1850.403–3.

Indemnification Under Pubic Law 85–804—Cost-Reimbursement Contract (October 1984)

(a) Pursuant to Public Law 85–804 (50 U.S.C. 1431–1435) and Executive Order 10789, as amended, and notwithstanding any other provision of this contract, but subject to the following paragraphs of this clause, the Government shall hold harmless and indemnify the Contractor against:

(i) Claims (including reasonable expenses of litigation or settlement) by third persons (including employees of the Contractor) for death, personal injury, or loss of, damage to, or loss of use of property;

(ii) Loss of or damage to property of the Contractor, and loss of use of such property but excluding loss of profit; and

(iii) Loss of, damage to, or loss of use of property of the Government but excluding loss of profit; to the extent that such a claim, loss or damage (A) arises out of or results from a risk defined in this contract to be unusually hazardous in nature and (B) is not compensated by insurance or otherwise. Any such claim, loss or damage within deductible amounts of Contractor's insurance shall not be covered under this clause.

(b)(1) The Government shall not be liable for:

(i) Claims by the United States (other than those arising through subrogation) against the Contractor;

(ii) Losses affecting the property of such Contractor when the claim, loss or damage was caused by the willful misconduct or lack of good faith on the part of any of the Contractor's directors or officers, or principal officials. (For purposes of this clause, the term "principal officials" means any of the Contractor's managers, superintendents, or other equivalent representatives who have supervision or direction of:

(A) All or substantially all of the Contractor's business, or

(B) All or substantially all of the Contractor's operations at any one plant or separate location in which this contract is being performed, or

(C) A separate and complete major industrial operation in connection with the performance of this contract.); or

(iii) Loss of, damage to, or loss of use of property of the Contractor unless the total amount for such loss, damage and loss of use, excluding loss of profit, is in excess of the Contractor's insurance or $500,000,000. Specifically, the Government shall only be liable for such loss, damage and loss of use in excess of the Contractor's insurance or $500,000,000, whichever is the larger amount.

(2) The Contractor shall not be indemnified under this clause for liability assumed under any contract or agreement unless such assumption of liability has been specifically authorized by the Administrator and approved by the Contracting Officer. When the Government has assumed liability for subcontracts, the term "Contractor" in this paragraph (b) shall include subcontractors.

(c) No payment shall be made by the Government under this clause unless the amount thereof shall first have been certified to be just and reasonable by the Administrator or his representative designated for such purpose. The rights and obligations of the parties under this clause shall survive the termination, expiration, or completion of this contract. The Government may discharge its liability under this paragraph by making payments to the Contractor or directly to parties to whom the Contractor may be liable.

(d) With the prior written approval of the Contracting Officer, the Contractor may include in any subcontract under this contract, the same provisions as those in this clause, whereby the Contractor shall indemnify the subcontractor against any risk defined in this contract to be unusually hazardous. Such a subcontract shall provide the same rights and duties, and the same provisions for notice, furnishing of evidence or proof, and the like, between the Contractor and the subcontractor as are established by this clause. The Contracting Officer may also approve similar indemnification of subcontractors at any tier upon the same terms and conditions. Subcontractors providing for indemnification within the purview of this clause shall provide for the prompt notification to the Contracting Officer of any claim or action against, or of any loss by, the subcontractor which is covered by this clause, and shall entitle the Government at its election, to control or assist in the settlement or defense of any such claim or action. The Government shall indemnify the Contractor with respect to his obligations to subcontractors under subcontract provisions thus approved by the Contracting Officer. The Government may discharge its obligations under this paragraph by making payments directly to subcontractors or to parties to whom the subcontractors may be liable.

(e) If insurance coverage or other financial protection program approved by the Administrator is reduced, the liability of the Government under this clause shall not be increased by reason of such reduction.

(f) In addition to the Contractor's responsibilities under the "Insurance—Liability to Third Persons" clause of this contract, which are hereby made applicable to claims under this clause, the Contractor shall (i) promptly notify the Contracting Officer of any claim or action against, or of any loss by, the Contractor or any subcontractor which reasonably may be expected to involve indemnification under this clause, (ii) furnish evidence or proof of any claim, loss or damage covered by this clause in the manner and form required by the Government, and (iii) to the extent required by the Government, permit and authorize the Government to direct, control or assist in the settlement or defense of any such claim or action. The cost of insurance (including self-insurance), covering a risk defined in this contract as unusually hazardous shall not be reimbursed either as a direct or indirect cost except to the extent that such insurance has been required or approved under the "Insurance—Liability to Third Persons" clause hereof.

(g) "Limitation of Cost" and "Limitation of Government's Obligation" clauses of this contract do not apply to the Government's obligations under this clause. Such obligations shall be excepted from the release required under the "Allowable Cost" clause of this contract.

(End of clause)

1852.250–72 Space Activity—Unusually Hazardous Risks.

Insert the following clause as prescribed at 1850.403–3(b).

Space Activity—Unusually Hazardous Risks (October 1984)

The risks for which indemnification is authorized are solely those risks resulting from or arising out of the use or performance of the following products or services in NASA's space activities. For this purpose, the use or performance of such products or services in NASA's space activities begins only when such products or services are provided to the U.S. Government at a U.S. Government installation for one or more Shuttle launches and are actually used or performed in NASA's space activities:

(a) Provision of Space Transportation System and cargo flight elements or components thereof.

(b) Provision of Space Transportation System and cargo ground support equipment of components thereof.

(c) Provision of Space Transportation System and cargo ground control facilities and services for their operation.

(d) Repair, modification overhaul support and services, and other support and services directly relating to the Space Transportation System, its cargo, and other elements used in NASA's space activities.

(End of clause)

PART 1853—FORMS

68. Section 1853.107 is revised to read as follows:

1853.107 Obtaining forms.

NASA installations and offices may obtain forms prescribed in the FAR or in this Part from Goddard Space Flight Center, Code 853.9. Orders should be placed on a NASA Form 2.

69. Section 1853.208–70 is amended by revising the section title and paragraph (b) to read as follows:

1853.208–70 Other Government sources (SF 1080, AF 858, DOE EV 375, NRC 3131).

* * * * *

(b) *Air Force Form 858, Forecast of Propellant Requirements.* AF 858, prescribed at 1808.002–74(f), shall be used to report periodic estimated requirements for missile propellants and related items to the Department of the Air Force.

* * * * *

70. Section 1853.232 is revised to read as follows:

1853.232 Contract financing (SF 272, 272A).

(a) *Standard Form 272, Federal Cash Transaction Report* prescribed at 1832.406–70, will be submitted by non-profit organizations that receive advance funding.

(b) *Standard Form 272A, Federal Cash Transaction Report* Continuation, prescribed at 1853.406–70, is used in conjunction with SF–272 when reporting, more than one contract.

1853.303 [Amended]

71. Section 1853.303 is amended by removing 1853.303–558, NASA Form 558, and by adding 1853.303–AF–858, Air Force Form 858, Forecast of Propellant Requirements.

BILLING CODE 7510–01–M

1853.303-AF-858

FORECAST OF REQUIREMENTS (Missile Propellants and Pressurants)	DATE OF PREPARATION (YYMMDD)	REPORT CONTROL SYMBOL	OMB APPROVAL NO. 0701-0013

REPORTING ACTIVITY (Name and address as listed in DOD Activity Address Directory)	REPORTING PERIOD (YYMMDD) FROM	TO
SHIP TO (Name and address of activity where forecasted product will be delivered and used)	METHOD OF SHIPMENT (Check applicable boxes) ☐ TANK CAR ☐ CYL/DRUM ☐ TRUCK TRAILER	
MARK FOR (As required)		

STOCK NO. AND NOUN	UNIT OF ISSUE	STORAGE AVAILABILITY AT DESTINATION	MAXIMUM QUANTITY SHIPMENT ACCEPTANCE

CONTRACT NUMBER						
PROGRAM SUPPORTED						
FUNDING DATA (Leave blank if unknown)	FUNDS					
	SYSTEMS MGT CODE					
	SALES CODE					
CY	MO/QTR	QUANTITIES (Must be compatible with Unit of Measurement)				
(Enter first six months by months, remainder by qtr)						

METHOD OF COMPUTATION AND REMARKS (Explain new or unusual requirement)

REPORTING ACTIVITY

PREPARED BY (Signature)	DATE (YYMMDD)	APPROVED BY (Signature)	DATE (YYMMDD)

APPROVING ACTIVITY
(Major Command or Funds Management Office Controlling Funding for Propellant and Pressurant Requirements being forecast)

APPROVED BY (Signature)	DATE (YYMMDD)	APPROVED BY (Signature)	DATE (YYMMDD)

AF FORM JUN 82 858 PREVIOUS EDITION IS OBSOLETE

[FR Doc. 84-27803 Filed 10-18-84; 8:45 am]

BILLING CODE 7510-01-C

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 641

[Docket No. 40800-4100]

Reef Fish Fishery of the Gulf of Mexico

Correction

In FR Doc. 84-26494 beginning on page 39548 in the issue of Tuesday, October 9, 1984, make the following correction:

§ 641.8 [Corrected]

On page 39556, in § 641.8(d)(2), third column, in the first line the Morse Code should have read as follows:

"(.-. -.-- -.-. -.--)"

BILLING CODE 1505-01-M

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50 CFR Part 655

Civil Procedures; Permit Sanctions and Denials; Correction

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Interim rule; correction.

SUMMARY: This document corrects a typographical error contained in an interim rule consolidating NOAA's procedural regulations for sanctioning permits issued under many of the statutes for which it has enforcement responsibility. The rule was published in the **Federal Register** of Friday, January 6, 1984 (49 FR 1037).

FOR FURTHER INFORMATION CONTACT: Linda Marks, (202) 254-8350, NOAA Office of General Counsel, Room 533, Page 2 Building, 3300 Whitehaven Street NW., Washington, D.C. 20235.

Dated: October 16, 1983.

Joseph W. Angelovic,

Deputy Assistant Administrator for Science and Technology, National Marine Fisheries Service.

The following correction is made in FR Doc. 84-14 appearing on page 1037 in the issue of January 6, 1984:

1. On page 1043, column three, item 30, "(e)" is corrected to read "(c)"; "(g)" is corrected to read "(e)"; and "(l)" is corrected to read "(j)".

[FR Doc. 84-27667 Filed 10-18-84; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 49, No. 204
Friday, October 19, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 443

[Amdt. Docket No. 1238S]

Hybrid Seed Corp Insurance Regulations

AGENCY: Federal Corp Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Corp Insurance Corporation (FCIC) proposed to amend the Hybrid Seed Corp Insurance Regulations (7 CFR Part 443), effective for the 1985 and succeeding crop years, by making several changes in the policy for insuring hybrid seed grown under contract relative to changing the dates found in the policy; providing for a germination test when necessary; clarifying production to count; prohibiting of overinsuring; adding definitions of certain terms; deleting Appendix A; and other minor changes in language and format. The intended effect of this rule is to clarify and improve several sections of the policy for insuring hybrid seed. The authority for the promulgative of this rule is contained in the Federal Crop Insurance Act, as amended.

DATE: Comment date: Written comments, data, and opinions on this proposed rule must be submitted not later than November 19, 1984, to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation No. 1512-1 (December 15, 1983). This action constitutes a review as the the need, currency, clarity, and effectiveness of these regulations under these procedures. The sunset review date established for these regulations is December 1, 1989.

Merritt W. Sprague, Manager, FCIC, has determined that this action (1) is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), because it will not result in : (a) An annual effect on the economy of $100 million or more; (b) major incureases in costs or prices for consumers, individual industries, Federal, State, or local governments, or a georgraphical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) will not increase the Federal paperwork burden for individuals, small businesses, and other persons.

The title and number of the Federal Assistance Program to which this proposed rule apply are: Title—Crop Insurance; Number 10.450.

This progam is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR 3015, Subpart V, Published at 48 FR 29115 (June 24, 1983).

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This acion is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Other than minor changes to language and format, the principal changes are contained in the policy for insuring hybrid seed are:

1. *Section 1.a.*—Add the failure of irrigation water supply because of unavoidable cause as an insurable cause of loss. This was added to clarify intent since it appears as an implied cause of loss in Section 2.e.(2).

2. *Section 1.b.(5) and 7.d*—Delete the present date of October 20 and provide for placing the date in the Actuarial Table. This will allow FCIC to set dates according to area.

3. *Section 1.b.*—Add a provision requiring a germination test, before insuring against inadequate germination.

4. *Section 4.b.*—Change to allow a determination of yield in the event of a loss. The producer usually does not know what yield can be expected from the pedigree of the corn. At the time of application the producer elects a coverage level and dollar amount of insurance per acre. Yield usually cannot be determined before harvest.

5. *Section 5.a.*—Remove the Premium Adjustment Table. The crop will be insured on an average yield basis for the type and variety. Coverages will therefore reflect the actual production history of the crop. Insureds with good loss experience who are now receiving a premium discount are protected since they may retain a discount under the present schedule through the 1989 crop year or until their loss experience causes them to lose the advantage, whichever is earlier.

6. *Section 5.c.*—Remove the provisions for transfers of insurance experience and for premium computation when insurance has not been continuous. Deletion of the Premium Adjustment Table eliminates the need for these sections.

7. *Section 8(2)*—Add a provision for FCIC to make an inspection and germination test when necessary.

8. *Section 9.c. and e.*—Specify that corn which tests 80 percent or more germination warm test will be considered as seed production to count in determining indemnity.

9. *Section 9.c.*—Change to clarify the use of use production and non-seed production in indemnity calculation.

10. *Section 9.d.*—Effective for the 1986 crop year allow the guarantee only on the acreage, share, or practice reported but credit production on the acreage, share, or practice actually planted if the acreage, share or practice reported results in a premium less than the acreage, share or practice actually planted. When acres are underreported, the production from acres will be applied against the reported acres in calculating indemnities. This change will reduce indemnities when acres are underreported and will reduce the complexity of calculations.

11. *Section 9.e.*—Change to clarify the use of seed production and non-seed production in determining production to count.

12. *Section 9.j.*—Expand the computation used to determine the indemnity when other fire insurance is obtained to include indemnities due when other insurance is obtained against other causes of loss. This change will reduce the possibility of fraud by eliminating the ability to over insure the value of the crop.

13. *Section 17.b, g, and l.*—Add definitions for "Commercial Seed," "Initially Planted," and "Seed Company."

14. In addition to the policy changes, FCIC also proposes to eliminate the codification of Appendix A. Federal crop insurance for hybrid seed has been expanded into almost all counties where hybrid seed is produced. FCIC service offices will be able to advise a producer if hybrid seed insurance is offered in a county.

Because of the number of changes and the necessity of renumbering sections, FCIC republishes the hybrid seed crop insurance policy in its entirety.

FCIC is soliciting comments on this proposed rule for 30 days after publication in the **Federal Register**. All written comments made pursuant to this action will be made available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 443

Crop insurance, Hybrid seed.

PART 443—[AMENDED]

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation herewith proposes to amend the Hybrid Seed Crop Insurance Regulations (7 CFR Part 443), effective for the 1985 and succeeding crop years, in the following instances:

1. The Authority citation for 7 CFR Part 443 is:

Authority: Secs 506, 516, Pub. L. 75–430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

2. 7 CFR 443.1 is revised to read:

§ 443.1 Availability of hybrid seed crop insurance.

Insurance shall be offered under the provisions of this subpart on hybrid seed in counties within the limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation.

3. 7 CFR 443.4 is revised to read:

§ 443.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, involuntary transfer or other similar interest shall not entitle the holder of the interest to any benefit under the contract.

4. 7 CFR § 443.6 is revised as follows:

§ 443.6 The contract.

(a) The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. The contract shall cover the hybrid seed crop as provided in the policy. The contract shall consist of the application, the policy and the county actuarial table. Any changes made in the contract shall not affect its continuity from year to year. The forms referred to in the contract are available at the applicable service offices.

§ 443.7 [Amended]

5. 7 CFR 443.7, paragraph (d) is revised to read:

* * * * *

(d) The application for the 1985 and succeeding crop years is found at Subpart D of Part 400—General Administrative Regulations (7 CFR 400.37, 400.38) and may be amended from time to time for subsequent crop years. The provisions of the Hybrid Seed Crop Insurance Policy for the 1985 and succeeding crop years are as follows:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Hybrid Seed—Crop Insurance Policy

(This is a continuous contract. Refer to Section 15.)

AGREEMENT TO INSURE: We will provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us" and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of loss.

a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

(1) Adverse weather conditions;
(2) Fire;
(3) Insects;
(4) Plant disease;
(5) Wildlife;
(6) Earthquake;
(7) Volcanic eruption; or
(8) Failure of the irrigation water supply due to an unavoidable cause occurring after the beginning of planting;

unless those causes are excepted, excluded, or limited by the actuarial table or section 9e(5).

b. We will not insure against any loss of production due to:

(1) The use of unadapted, incompatible or other genetically deficient male or female seed;

(2) The neglect, mismanagement, or wrongdoing of you, any member of your household, your tenants or employees;

(3) The failure to follow recognized good farming practices or the grower provisions of the seed contract;

(4) The impoundment of water by any governmental, public or private dam or reservoir project;

(5) Damage resulting from frost or freeze after the date designated on the actuarial table;

(6) Inadequate germination caused by an insured cause of loss unless inspected and accepted by us before harvest is completed;

(7) Failure or breakdown of irrigation equipment or facilities; or

(8) Any cause not specified in section 1a as an insured loss.

2. Crop, Acreage, and share insured.

a. The crop insured will be any type of female seed ("crop") you elect:

(1) Which is planted for harvest and the production is intended for the purpose of commercial seed to produce a type of the crop for grain or silage;

(2) Which is grown under contract executed with a seed company prior to planting;

(3) Which is grown on insured acreage; and

(4) For which an amount of insurance and premium rate are provided by the actuarial table.

b. An instrument in the form of a "lease" under which you retain control of the acreage on which the insured crop is grown and which provides for delivery of the crop under certain conditions and at a stipulated price(s) will be treated as a contract under which you have the share in the crop.

c. The acreage insured for each crop year will be the crop planted on insurable acreage as designated by the actuarial table.

d. The insured share will be your share as landlord, owner-operator, or tenant in the insured crop at the time of planting.

e. We do not insure any acreage:

(1) Which is destroyed, it is practical to replant the crop, and such acreage was not replanted;

(2) Where the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;

(3) Which is irrigated and an irrigated practice is not provided by the actuarial table unless you elect to insure the acreage as nonirrigated by reporting it as insurable under section 3;

(4) Initially planted after the final planting date contained in the actuarial table unless you agree in writing on our form to coverage reduction;

(5) Of a volunteer crop;

(6) Planted to a type of variety of the crop not established as adapted to the area or indicated as noninsurable by the actuarial table;

(7) Planted with another type of crop;

(8) Occupied by rows planted with a mixture of female and male seed;

(9) Planted and occupied by the male plants;

(10) Planted for experimental purposes;

(11) Planted for any purpose other than for commercial seed;

(12) When less than 75 percent of the male seed has not been planted by the final planting date, unless we agree in writing to insure such acreage; or

(13) Grown under a contract with any seed company, and that seed company refuses to provide us records required by us to determine the average yield.

f. If insurance is provided for an irrigated practice:

(1) You must report as irrigated only the acreage for which you have adequate facilities and water to carry out a good crop irrigation practice at time of planting; and

(2) Any loss of production caused by failure to carry out a good crop irrigation practice, except failure of the water supply from an unavoidable cause occurring after the beginning of planting, will be considered as due to an uninsured cause.

g. We may limit the insured acreage to any acreage limitations established under any Act of Congress, if we advise you of the limit prior to planting.

3. Report of acreage, share, and practice.

You must report on our form

a. All the acreage of the crop planted in the county in which you have a share;

b. The practice; and

c. Your share at the time of planting.

You must designate separately any acreage that is not insurable. You must report if you do not have a share in any acreage of the insured crop in the county. This report must be submitted annually before the reporting date established by the actuarial table. All indemnities may be determined on the basis of information you have submitted on this report. If you do not submit this report by the reporting date, we may elect to determine by unit the insured acreage, share, and practice or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. Production guarantees, coverage levels, and amounts of insurance.

a. The amounts of insurance and coverage levels are in the actuarial table.

b. Your production guarantee per acre by type will be 50, 65, or 75 percent of the average yield per acre for each variety grown on the unit which will be determined in the event of a loss. The yields by each specific hybrid seed production variety for the 5-year period immediately preceding the current crop year as provided by the seed company for the county or local geographic area will be used. If less than 5 years of yield records are available for any variety, the average yield per acre will be established by us. Where more than one variety is grown on a unit, the unit guarantee will be the combination of the guarantees of each variety.

c. Coverage level 2 will apply if you have not elected a coverage level.

d. You may change the coverage level and the amount of insurance before the closing date for submitting applications for the crop year as established by the actuarial table.

5. Annual premium.

a. The annual premium is earned and payable at the time of planting. The amount is computed by multiplying the amount of insurance, times the premium rate, times the insured acreage, times your share at the time of planting.

b. Interest will accrue at the rate of one and one-half percent (1½%) simple interest per calendar month, or any part thereof, on ay unpaid premium balance starting on the first day of the month following the first premium billing date.

c. If you are eligible for a premium reduction in excess of 5 percent based on insuring experience through the 1983 crop year under the terms of the Experience Table contained in the hybrid seed crop policy for the 1984 crop year, you will continue to receive the benefit of that reduction subject to the following conditions:

(1) No premium reduction will be retained after the 1989 crop year;

(2) The premium reduction will not increase because of favorable experience;

(3) The premium reduction will decrease because of unfavorable experience in accordance with the terms of the 1984 policy;

(4) Once the loss ratio exceeds .80 no further premium reduction will be applicable; and

(5) Participation must be continuous.

6. Deductions for debt.

Any unpaid amount due as may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. Insurance period.

Insurance attaches when both the male and female plant seed are planted and terminates at the earliest of:

(a) Total destruction of the crop;

(b) Combining; threshing, or picking;

(c) Final adjustment of a loss; or

(d) The calendar date established by the actuarial table.

8. Notice of damage or loss.

a. In case of damage or probable loss:

(1) You must give us written notice promptly if:

(a) During the period before harvest, the crop on any unit is damaged and you decide not to further care for or harvest any part of it;

(b) You want our consent to put the acreage to another use; or

(c) After consent to put acreage to another use is given, additional damage occurs.

Insured acreage may not be put to another use until we have appraised the crop and given written consent. We will not consent to another use until it is too late to replant. You must notify us when such acreage has been put to another use.

(2) You must give us notice at least 15 days before the beginning of harvest if you anticipate either a germination of less than 80 percent or a loss of any unit.

(3) If probable loss is later determined, immediate notice must be given. A representative sample of the unharvested crop (at least 10 feet wide and the entire length of the field) must remain unharvested for a period of 15 days from the date of notice, unless we give you written consent to harvest the sample.

(4) In addition to the notices required by this section, if you are going to claim an indemnity on any unit, we must be given notice not later than 30 days after the earliest of:

(a) Total destruction of the crop on the unit;

(b) Harvest of the unit; or

(c) The calendar date for the end of the insurance period.

b. You must obtain written consent from us before you destroy any of the crop which is not to be harvested.

c. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with.

9. Claim for indemnity.

a. Any claim for indemnity on a unit must be submitted to us on our form not later than 60 days after the earliest of:

(1) Total destruction of the crop on the unit;

(2) Harvest of the unit; or

(3) The calendar date for the end of insurance period.

b. We will not pay you any indemnity unless you:

(1) Establish the total production of the crop on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity will be determined on each unit by:

(1) Multiplying the insured acreage by the amount of insurance per acre;

(2) Substracting from this product the sum of:

(a) The dollar amount obtained by multiplying seed production to count (see section 9e(1)(a)) by the price determined by dividing the amount of insurance per acre by the production guarantee per acre; plus,

(b) The dollar amount obtained by multiplying non-seed production to count (see section 9e(1)(b)) by the local market price of such production on the earlier of the date the loss is adjusted or the date such production is sold; and

(3) Multiplying this remainder by your share.

d. If the information reported by you under Section 3 of the policy:

(1) In the 1985 crop year results in a lower premium than the actual premium determined to be due, the indemnity will be reduced proportionately.

(2) in the 1986 and succeeding crop years results in a lower premium than the premium determined to be due, the guarantee on the unit will be computed on the information reported and not on the actual information determined. All production from insurable acreage, whether or not reported as insurable will count against the production guarantee.

e. The total production to be counted for a unit will include all harvested and appraised production.

(1) For crop type field corn:

(a) Total seed production to count will include:

(i) All corn delivered to and accepted by the seed company;

(ii) All corn delivered to but not accepted by the seed company unless the germination is less than 80 percent warm test as determined by a certified seed test conducted at the time of delivery; and

(iii) All harvested and appraised production which does not qualify under (i) and (ii) above because of uninsured causes.

(b) Total non-seed production to count will include all harvested and appraised production which does not qualify as seed production.

(c) For the purpose of determining the quantity of harvested production:

(i) Shelled corn will be reduced .12 percent for each .1 percentage point of moisture in excess of 15.5; and

(ii) Ear corn will be measured at 70 pounds of ear corn equaling 56 pounds (one bushel) of shell corn. The weight of ear corn required to equal one bushel of shell corn will be increased 2 pounds for each percentage point of moisture in excess of 14 percent.

(2) Appraised production to count as seed production will include:

(a) Unharvested production on harvested acreage and potential production lost due to uninsured causes and failure to follow recognized good farming practices;

(b) Not less than your guarantee for any acreage which is abandoned or put to another use without our prior written consent or damaged solely by an uninsured cause; and

(c) Any appraised production on unharvested acreage.

(3) Any appraisal we have made on insured acreage and given written consent to be put to another use will be considered as seed production unless such acreage is:

(a) Not put to another use before harvest of the crop becomes general in the county;

(b) Harvested; or

(c) Further damaged by an insured cause before the acreage is put to another use.

(4) The amount of production of any unharvested acreage of the crop may be determined on the basis of field appraisals conducted after the end of the insurance period.

(5) When you have elected to exclude hail and fire as insured causes of loss and the crop is damaged by hail or fire, appraisals will be made in accordance with Form FCI-78, "Request To Exclude Hail And Fire".

(6) The commingled production of units will be allocated to such units in proportion to our liability on the harvested acreage of each unit.

f. You must not abandon any acreage to us.

g. You may not bring suit or action against us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is mailed to and received by you.

h. We will pay the loss within 30 days after we reach agreement with you or entry of a final judgment. In no instance will we be liable for interest or damages in connection with any claim for indemnity, whether we approve or disapprove such claim.

i. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after the crop is planted for any crop year, any indemnity will be paid to the person(s) we determine to be beneficially entitled thereto.

j. If you have other insurance against the perils insured under this contract, and damage as a result of those perils occurs during the insurance period, we will be liable for loss due to those perils only for the smaller of:

(i) The amount of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) The amount by which the loss from those perils exceeds the indemnity paid or payable under such other insurance. For the purpose of this section, the amount of loss from those perils will be the difference between the fair market value of the production on the unit before the loss and after the loss.

10. Concealment or fraud.

We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due to us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance will be effective as of the beginning of the crop year.

11. Transfer of right to indemnity on insured share.

If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium either you or your transferee or both. The transferee will have all rights and responsibilities under the contract.

12. Assignment of indemnity.

You may assign to another party your right to an indemnity for the crop year, only on our form and with our approval. The assignee will have the right to submit the loss notices and forms required by the contract.

13. Subrogation. (Recovery of loss from a third party.)

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such rights. If we pay you for your loss then your right of recovery will at our option belong to us. If we recover more than we paid you plus our expenses, the excess will be paid to you.

14. Records and access to farm.

You must keep, for two years after the time of loss, records of the harvest, storage, shipment, sale or other disposition of all of the crop produced on each unit including separate records showing the same information for production for any uninsured acreage. Any person designated by us will have access to such records and the farm for purposes related to the contract.

15. Life of contract: Cancellation and termination.

a. This contract will be in effect for the crop year specified on the application and may not be canceled by you for such crop year. Thereafter, the contract will continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any crop year by giving written notice to the other on or before the cancellation date preceding such crop year.

c. This contract will terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date for the policy on which the amount is due. The date of payment of the amount due:

(1) If deducted from an indemnity will be the date you sign the claim; or

(2) If deducted from payment under another program administered by United States Department of Agriculture will be the date both such payment and set-off are approved.

d. The cancellation and termination dates are April 15.

e. If you die or are judicially declared incompetent, or the insured entity is other than an individual and such entity is dissolved, the contract will terminate as of the date of death, judicial declaration, or dissolution. If such event occurs after insurance attaches, the contract will continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership will dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons will dissolve the joint entity.

f. The contract will terminate if no premium is earned for five consecutive years.

16. Contract changes.

We may change any of the terms and provisions of the contract form year to year. If your amount of insurance is no longer offered, the actuarial table will provide the amount of insurance which you are deemed to have elected. All contract changes will be available at your service office by December 31 preceding the cancellation date. Acceptance of any changes will be conclusively presumed in the absence of any notice from you to cancel the contract.

17. Meaning of terms.

For the purposes of hybrid seed crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the coverage levels, premium rates, amounts of insurance, practices, insurable and uninsurable acreage, and related information regarding hybrid seed insurance in the county.

b. "Commerical seed" means the offspring of two individual seeds of different genetic character produced as a result of crossing. A portion of this resultant offspring is the product intended for the purpose or use on a commerical basis by the agricultural producer (farmer) to produce the field crop type of grain or silage.

c. "County" means the county shown on the application and any additional land located in a local producing area bordering

on the county, as shown by the actuarial table.

d. "Crop year" means the period within which the crop is normally grown and is designated by the calendar year in which the crop is normally harvested.

e. "Female plant" means the plants grown for the purpose of producing commercial seed.

f. "Harvest" means the completion of combining, threshing or picking of the crop on the unit.

g. "Initially planted" means the completion of planting of both the female and more than 74 percent of the male seed before the final planting date.

h. "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

i. "Insured" means the person who submitted the application accepted by us.

j. "Male plant" means the plants grown for the purpose of shedding pollen on female plants.

k. "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

l. "Seed company" means a company which contracts with a grower to produce or grow for the production of hybrid seed.

m. "Service office " means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

n. "Tenant" means a person who rents land from another person for a share of the crop or a share of the proceeds therefrom.

o. "Type" means the crop grown: i.e., corn, grain surghum, sunflower, popcorn, etc.

p. "Unit" means all insurable acreage of any one of the crop types in the county on the date of planting for the crop year:

(1) In which you have a 100 percent share; or

(2) Which is owned by one entity and operated by another entity on a share basis.

Land rented for cash, a fixed commodity payment, or any consideration other than a share in the crop on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office or by written agreement between you and us. Units as herein defined will be determined when the acreage is reported. Errors in reporting such units may be corrected by us to conform to applicable guidelines when adjusting a loss. We may consider any acreage and share thereof reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

q. "Variety" means the seed produced from a pair of genetically identifiable parents.

18. Descriptive headings.

The descriptive heading of the various policy terms and conditions is formulated for convenience only and is not intended to affect the construction or meaning of any of the provisions of the contract.

19. Determinations.

All determinations required by the policy will be made by us. If you disagree with our determinations, you may obtain reconsideration of or appeal those determinations in accordance with Appeal Regulations.

20. Notices.

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

Approved by the Board of Directors on August 16, 1984.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Approved by:

Michael Bronson,

Acting Manager.

Dated: October 12, 1984.

[FR Doc. 84-27849 Filed 10-18-84; 8:45 am]

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD

24 CFR Parts 207, 220, 221, and 231

[Docket No. R-84-1196; FR-1872]

Insurance of Graduated Payment Mortgages for Multifamily Housing

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: The Housing and Urban-Rural Recovery Act of 1983, contains provisions authorizing the Department to insure alternative mortgage instruments that do not provide for a fixed interest rate with level payments. This proposed rule would implement the new legislation with respect to GPMs for certain multifamily projects. It would also provide for the insurance of graduated payment mortgage loans (GPMs). Use of such mortgage loans will be possible under the four FHA rental housing programs: (1) Multifamily housing projects under section 207 of the National Housing Act (NHA), (2) urban renewal projects under section 220 of the NHA, (3) moderate income projects under section 221 of the NHA, and (4) elderly housing projects under section 231 of the NHA.

A multifamily GPM is a mortgage loan that provides for varying rates of amortization corresponding to anticipated variations in project income. The owner's initial payments to principal and interest (debt service) are less than the payments which would be required on the same loan if it were being retired as a level annuity monthly payment (LAMP) loan. In subsequent years, the payments rise and eventually exceed the payments that would be due on a LAMP mortgage.

DATES: Comment due date: December 18, 1984.

ADDRESS: Interested persons are invited to submit comments to the Rules Docket Clerk, Office of the General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Communications should refer to the above docket number and title. A copy of each communication will be available for public inspection during regular hours at the above address.

FOR FURTHER INFORMATION CONTACT: James L. Hamernick, Director, Insured Multifamily Housing Development, Room 6128, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755-5720. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

The Housing and Urban-Rural Recovery Act of 1983, Pub. L. No. 98-181, effective November 30, 1983 (1983 Act), contains provisions authorizing the Department to insure alternative mortgage instruments that do not provide for a fixed interest rate with level payments. This proposed rule would implement the new legislation with respect to GPMs for certain multifamily projects.

Section 442 of the 1983 Act amends section 245 of the National Housing Act (as amended in section 441) by providing that the Secretary may insure, under any provision of Title II relating to multifamily housing projects "mortgages and loans with provisions of varying rates of amortization corresponding to anticipated variations in project income". Such mortgages or loans must, as determined by the Secretary, meet the following requirements: "(A) Have promise for expanding housing opportunities or meet special needs; (B) can be developed to include any safeguards for mortgagors, tenants, or purchasers that may be necessary to offset special risks of such mortgages; and (C) have a potential for acceptance in the private market."

A review of the legislation history of Section 442 indicates Congressional

concern about the major obstacles inhibiting the production of multifamily rental housing such as high cost of financing and the reluctance of lenders to invest in traditional, fixed-rate mortgages with maturities of 30 to 40 years. GPMs represent alternative forms of mortgage loans which will satisfy lenders' concerns about exposure in an uncertain mortgage market and enable developers to secure more affordable financing terms. Use of this type of mortgage instrument should encourage the revitalization of a rental housing market.

II. Features of the GPM program

GPMs would be insured under the department's multifamily insuring authority in sections 207, 220, 221 and 231 of the NHA. Therefore, any mortgagors or mortgagees eligible to participate in those insurance programs would be eligible under the GPM program. *Only* areas with properties and locations which have a favorable potential for increases in future market desirability will be eligible for GPM insurance. Additionally, the section 207 insurance program pursuant to section 223(f) is specifically excluded from the GPM program.

The proposed regulation addresses such matters as the permissible mortgage limits, permissible payment plans and the appropriate mortgage insurance premium for a GPM. The Department's overall concern in evaluating a GPM insurance application is that the project demonstrate potential to provide the mortgagor with adequate revenues so that the required mortgage payments under the financing plan can be made.

III. Proposed limitations

Under this proposed rule, the sum of payments to principal and interest may increase annually for a period of five years at a rate not to exceed five percent. Any required increase in payments shall occur on the anniversary date of the beginning of amortization. Any such plan will result in negative amortization during the early years of the loan. Payment amounts will be level during each year and adjusted annually for the first five years. In the sixth year, the payments will be level for the remaining term of the mortgage.

The original maximum insurable mortgage amount of the GPM loan for the programs affected by this proposed rule will not exceed the lesser of (1) the limits prescribed by the particular program under which the GPM is insured, or (2) the maximum insurable mortgage amount based upon debt service calculated as follows: The lesser of (a) 90 percent of the Commissioner's estimate of the net income for the first year divided by the first year's effective debt service rate (the interest rate selected by the mortgagee for calculating the first year's level payment schedule, plus MIP, plus initial curtail, *i.e.*, the factor used to establish payments to principal for the initial year), or (b) 100 percent of the Commissioner's estimate of the net income for the first year divided by the permanent mortgage debt service rate (permanent mortgage interest rate, plus MIP, plus initial curtail, *i.e.*, the factor used to establish payments to principal for the initial year) as if the mortgage were to be amortized by level annuity monthly payments (LAMP) for the life of the mortgage.

The method for calculating the original maximum mortgage amount under (a) above, requires the application of a hypothetical initial curtail and interest rate. In fact, under a graduated payment mortgage, payments toward the reduction of the mortgage principal do not occur until after the payment schedule has been adjusted for the last time. Similarly, payments made during the initial years of the mortgage term are insufficient to cover the amount required under the actual mortgage interest rate. Thus, payments of the annual shortfalls are deferred to subsequent years in the mortgage term. This deferral of interest payments results in the mortgage's outstanding principal balance being increased during the first years of the mortgage term (*i.e.*, negative amortization). However, under the proposed rule, the outstanding principal of the mortgage may increase to an amount (including all deferred interest which is added to principal) not to exceed at any time 100 percent of the projected value of the property. Projected value will be calculated by increasing the appraised value of the property or its replacement cost (as appropriate) as of the date the mortgage is accepted for insurance, by no more than 2.5 percent per annum.

The Department is proposing to establish a one percent mortgage insurance premium (MIP) because the Department's exposure as insurer of a multifamily GPM loan is greater than for a fixed rate mortgage.

IV. Coinsurance

The Department is now developing new requirements governing coinsurance in connection with the construction and substantial rehabilitation of multifamily projects, to be codified at 24 CFR Part 251. The Department anticipates that the final coinsurance rule will become effective during the pendency of this proposed rule making concerning GPMs. Comment is invited on whether the coinsurance procedures set out in Part 251, as amended, should be made applicable to GPMs.

V. Findings

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implements section 102(2)(c) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the General Counsel, Rules Docket Clerk, Room 10276, 451 Seventh Street, SW., Washington, DC 20410.

This rule does not constitute a major rule as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulation issued on February 17, 1981. Analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601), the Undersigned certifies that this rule does not have a significant economic impact on a substantial number of small entities because this rule merely expands the types of mortgages eligible for HUD insurance to include graduated payment mortgages. It will, even when final and effective, impose no involuntary economic benefits or burdens.

This proposed rule was listed as item number 76 in the Department's Semiannual Agenda of Regulations published on April 19, 1984 (49 FR 15902 at page 15925), under Executive Order 12291 and the Regulatory Flexibility Act.

Mortgage insurance programs for multifamily housing projects are listed in the Catalog of Federal Domestic Assistance, as program numbers 14.134, 14.135, 14.138 and 14.139.

List of Subjects

24 CFR Part 207

Mortgage insurance, Rental housing, Mobile home parks.

24 CFR Part 220

Home improvement, Mortgage insurance, Urban renewal, Rental housing, Loan programs, Housing and community development, Projects.

24 CFR Part 221

Condominiums, Low and moderate income housing, Mortgage insurance, Displaced families, Single family housing, Projects, cooperatives.

24 CFR Part 231

Aged, Mortgage insurance.

Accordingly the Department proposes to amend 24 CFR Parts 207, 220, 221, and 231 as follows:

PART 207—MULTIFAMILY HOUSING MORTGAGE INSURANCE

1. By adding a new § 207.31e to read as follows:

§ 207.31e Eligibility of graduated payment mortgages.

A mortgage that contains provisions for varying rates of amortization shall be eligible for insurance under this subpart subject to compliance with the additional requirements of this section.

(a) *Amortization provisions:* The mortgage shall contain complete amortization provisions satisfactory to the Secretary requiring monthly payments by the mortgagor not in excess of its reasonable ability to pay as determined by the Secretary. The sum of the payments by the mortgagor may increase annually for a period of five years at a rate not to exceed 5 percent. Any required increase in payments shall occur on the anniversary date of the beginning of amortization. On the termination of the period of annual increases of payments, at the end of five years, the sum of the payments to principal and interest shall be substantially the same for the remaining term of the mortgage. The mortgage may provide that any interest, which accrues and which is unpaid under a financing plan approved by the Secretary, shall be added to the principal obligation of the mortgage.

(b) *Interest rate:* The interest rate charged for a graduated payment mortgage shall be at a rate agreed upon by the mortgagee and the mortgagor.

(c) *Mortgage term:* The graduated payment mortgage shall have a term of up to 40 years.

(d) *Pre-loan disclosure:* The mortgagee shall fully explain to the mortgagor the nature of the obligation undertaken and the mortgagor shall certify that he or she fully understands the obligation.

(e) *Maximum mortgage amounts:* The original maximum insurable mortgage amount shall not exceed the lesser of (1) the limits prescribed in § 207.4, or maximum insurable mortgage amount based on debt service calculated as follows: The lesser of (a) 90 percent of the Commissioner's estimate of the net income for the first year divided by the first year's effective debt service rate (the interest rate selected by the mortgagee for calculating the first year's level payment schedule, plus MIP, plus initial curtail, *i.e.*, the facto used to establish payments to principal for the initial year) or (b) 100 percent of the Commissioner's estimate of the net income for the first year divided by the permanent mortgage debt service rate (permanent mortgage interest rate, plus MIP, plus initial curtail, *i.e.*, the factor used to establish payments to principal for the initial year) as if the mortgage were to be amortized by level annuity monthly payments (LAMP) for the life of the mortgage. Thereafter, the outstanding principal of the mortgage may increase to an amount (including all deferred interest which is added to principal) not to exceed at any time 100 percent of the projected value of the property. Projected value shall be calculated by increasing the appraised value of the property as of the date the mortgage is accepted for insurance, by no more than 2.5 percent per annum.

(f) *Eligibility of property:* The mortgage shall be on real estate located in an area where such real estate has a favorable potential for increases in future market desirability as determined by the Secretary. Marginally acceptable locations and properties shall not be eligible for insurance under this section.

(g) *Cross-reference:* Section 207.6 (payment requirements) shall not apply to this section. This section shall not apply to Section 207.32a (Eligibility of mortgages on existing projects). Section 207.13(a)(3) shall not apply during the period of annual increases in payments under the amortization schedule.

2. By adding a new § 207.252f as follows:

§ 207.252f Premiums—graduated payment mortgages.

All of the provisions of §§ 207.252 and 207.252a governing mortgage insurance premiums shall apply to graduated payment mortgages insured under this subpart, except that for graduated payment mortgages, the mortgage insurance premium due on such mortgages in accordance with §§ 207.252 and 207.252a shall be calculated on the basis of one percent.

PART 220—URBAN RENEWAL MORTGAGE INSURANCE AND INSURED IMPROVEMENT LOANS

3. By adding a new § 220.528 to read as follows:

§ 220.528 Eligibility of graduated payment mortgages.

A mortgage that contains provisions for varying rates of amortization shall be eligible for insurance under this subpart subject to compliance with the additional requirements of this section.

(a) *Amortization provisions:* The mortgage shall contain complete amortization provisions satisfactory to the Secretary requiring monthly payments by the mortgagor not in excess of its reasonable ability to pay as determined by the Secretary. The sum of the payments by the mortgagor may increase annually for a period of five years at a rate not to exceed 5 percent. Any required increase in payments shall occur on the anniversary date of the beginning of amortization. On the termination of the period of annual increases of payments, at the end of five years, the sum of the payments to principal and interest shall be substantially the same for the remaining term of the mortgage. The mortgage may provide that any interest, which accrues and which is unpaid under a financing plan approved by the Secretary, shall be added to the principal obligation of the mortgage.

(b) *Interest rate:* The interest rate charged for a graduated payment mortgage shall be at a rate agreed upon by the mortgagee and the mortgagor.

(c) *Mortgage term:* The graduated payment mortgage shalll have a term of up to 40 years.

(d) *Pre-loan disclosure:* The mortgagee shall fully explain to the mortgagor the nature of the obligation undertaken and the mortgagor shall certify that he or she fully understands the obligation.

(e) *Maximum mortgage amounts:* The original maximum mortgage amount shall not exceed the lesser of (1) the limits prescribed in §§ 220.507, 220.508, and 220.509 or (2) the maximum insurable mortgage amount based on debt service calculated as follows: The lesser of (a) 90 percent of the Commissioner's estimate of the net income for the first year divided by the first year's effective debt service rate (the interest rate selected by the mortgagee for calculating the first year's level payment schedule, plus MIP, plus initial curtail, *i.e.*, the factor used to establish payments to principal for the initial year) or (b) 100 percent of the

Commissioner's estimate of the net income for the first year divided by the permanent mortgage debt service rate (permanent mortgage interest rate, plus MIP, plus initial curtail, *i.e.*, the factor used to establish payments to principal for the initial year) as if the mortgage were to be amortized by level annuity monthly payments (LAMP) for the life of the mortgage. Thereafter, the outstanding principal of the mortgage may increase to an amount (including all deferred interest which is added to principal) not to exceed at any time 100 percent of the projected value of the property. Projected value shall be calculated by increasing the replacement cost of the property as of the date the mortgage is accepted for insurance, by no more than 2.5 percent per annum.

(f) *Eligibility of property:* The mortgage shall be on real estate located in an area where such real estate has a favorable potential for increases in future market desirability as determined by the Secretary. Marginally acceptable locations and properties shall not be eligible for insurance under this section.

(g) *Cross-reference:* Section 207.6 (payment requirements) shall not apply to this section. Section 207.13(a)(3) shall not apply during the period of annual increases in payments under the amortization schedule.

PART 221—LOW COST AND MODERATE INCOME MORTGAGE INSURANCE

4. By adding a new § 221.560d to read as follows:

§ 221.560d Eligibility of graduated payment mortgages.

A mortgage that contains provisions for varying rates of amortization shall be eligible for insurance under this subpart subject to compliance with the additional requirements of this

(a) *Amortization provisions:* The mortgage shall contain complete amortization provisions satisfactory to the Secretary requiring monthly payments by the mortgagor not in excess of its reasonable ability to pay as determined by the Secretary. The sum of the payments by the mortgagor may increase annually for a period of five years at a rate not to exceed 5 percent. Any required increase in payments shall occur on the anniversary date of the beginning of amortization. On the termination of the period of annual increases of payments at the end of five years, substantially the same for the remaining term of the mortgage. The mortgage may provide that any interest, which accrues and which is unpaid under a financing plan approved by the Secretary, shall be added to the principal obligation of the mortgage.

(b) *Interest rate:* The interest rate charged for a graduated payment mortgage shall be at a rate agreed upon by the mortgagee and the mortgagor.

(c) *Mortgage term:* The graduated payment mortgage shall have a term of up to 40 years.

(d) *Pre-loan disclosure*: The mortgagee shall fully explain to the mortgagor the nature of the obligation undertaken and the mortgagor shall certify that he or she fully understands the obligation.

(e) *Maximum mortgage amounts:* The original maximum mortgage amount shall not exceed the lesser of (1) the limits prescribed in §§ 221.514 and 221.515, or (2) the maximum insurable mortgage amount based on debt service calculated as follows: The lesser of (a) 90 percent of the Commissioner's estimate of the net income for the first year divided by the first year's effective debt service rate (the interest rate selected by the mortgagee for calculating the first year's level payment schedule, plus MIP, plus initial curtail, *i.e.*, the factor used to establish payments to principal for the initial year) or (b) 100 percent of the Commissioner's estimate of the net income for the first year divided by the permanent mortgage debt service rate (permanent mortgage interest rate, plus MIP, plus initial curtail, *i.e.*, the factor used to establish payments to principal for the initial year) as if the mortgage were to be amortized by level annuity monthly payments (LAMP) for the life of the mortgage. Thereafter, the outstanding principal of the mortgage may increase to an amount (including all deferred interest which is added to principal) not to exceed at any time 100 percent of the projected value of the property. Projected value shall be calculated by increasing the replacement cost of the property as of the date the mortgage is accepted for insurance, by no more than 2.5 percent per annum.

(f) *Eligibility of property:* The mortgage shall be on real estate located in an area where such real estate has a favorable potential for increases in future market desirability as determined by the Secretary. Marginally acceptable locations and properties shall not be eligible for insurance under this section.

(g) *Cross-reference:* Section 207.6 (payment requirements) shall not apply to this section. This section shall not apply to Section 207.32a (Eligibility of mortgages on existing projects). Section 207.13(a)(3) shall not apply during the period of annual increases in payments under the amortization schedule.

5. By revising § 221.755 to read as follows:

§ 221.755 Premiums first, second, third and operating loss loans.

All of the provisions of §§ 207.252 and 207.252a of this chapter, relating to mortgage insurance premiums, apply to mortgages insured under this subpart that provide for interest at the market rate prescribed in § 221.518(a) except that as to mortgages insured under this subpart pursuant to section 238(c) of the Act, or mortgages that provide for varying rates of amortization of the original loan balance of the mortgage terms, all mortgage insurance premiums due in accordance with §§ 207.52 and 207.252a shall be calculated on the basis of one percent. The provisions of §207.252 shall not apply to:

(a) Mortgages that provide for interest during the construction period at the market rate and for interest subsequent to final endorsement at the below market rate prescribed in § 221.518(b); or

(b) Mortgages encumbering a project in which all units are covered by an annual contributions contract issued pursuant to section 10(c) of the Housing Act of 1937.

PART 231—HOUSING MORTGAGE INSURANCE FOR THE ELDERLY

6. By adding a new § 231.17 to read as follows:

§ 231.17 Eligibility of graduated payment mortgages.

A mortgage that contains provisions for varying rates of amortization shall be eligible for insurance under this subpart subject to compliance with the additional requirements of this section.

(a) *Amortization provisions:* The mortgage shall contain complete amortization provisions satisfactory to the Secretary requiring monthly payments by the mortgagor not in excess of its reasonable ability to pay as determined by the Secretary. The sum of the payments by the mortgagor may increase annually for a period of five years at a rate not to exceed 5 percent. Any required increase in payments shall occur on the anniversary date of the beginning of amortization. On the termination of the period of annual increases of payments at the end of five years, the sum of the payments to principal and interest shall be substantially the same for the remaining term of the mortgage. The mortgage may provide that any interest, which accrues and which is unpaid under to a

financing plan approved by the Secretary, shall be added to the principal obligation of the mortgage.

(b) *Interest rate:* The interest rate charged for a graduated payment mortgage shall be at a rate agreed upon by the mortgagee and mortgagor.

(c) *Mortgage term:* The graduated payment mortgage shall have a term of up to 40 years.

(d) *Pre-loan disclosure:* The mortgagee shall fully explain to the mortgagor the nature of the obligation undertaken and the mortgagor shall certify that he or she fully understands the obligation.

(e) *Maximum mortgage amounts:* The original maximum mortgage amount shall not exceed the lesser of (1) the limits prescribed in §§ 231.3, 231.5, and 231.6, or (2) the maximum insurable mortgage amount based on debt service calculated as follows: The lesser of (a) 90 percent of the Commissioner's estimate of the net income for the first year divided by the first year's effective debt service rate (the interest rate selected by the mortgagee for calculating the first year's level payment schedule, plus MIP, plus initial curtail, *i.e.*, the factor used to establish payments to principal for the initial year) or (b) 100 percent of the Commissioner's estimate of the net income for the first year divided by the permanent mortgage debt service rate (permanent mortgage interest rate, plus MIP, plus initial curtail, *i.e.*, the factor used to establish payments to principal for the initial year) as if the mortgage were to be amortized by level annuity monthly payments (LAMP) for the life of the mortgage. Thereafter, the outstanding principal of the mortgage may increase to an amount (including all deferred interest which is added to principal) not to exceed at any time 100 percent of the projected value of the property. Projected shall be calculated by increasing the replacement cost of the property as of the date the mortgage is accepted for insurance, by no more then 2.5 percent per annum.

(f) *Eligibility of property:* The mortgage shall be on real estate located in an area where such real estate has a favorable potential for increases in future market desirability as determined by the Secretary. Marginally acceptable locations and properties shall not be eligible for insurance under this section.

(g) *Cross-reference:* Section 207.6 (payment requirements) shall not apply to this section. Section 207.13(a)(3) shall not apply during the period of annual increases in payments under the amortization schedule.

PART 236—MORTGAGE INSURANCE AND INTEREST REDUCTION PAYMENTS FOR RENTAL PROJECTS

7. Section 236.1 of Subpart A, by inserting in the cross-reference table after "221.580 Eligibility of refinanced mortgages" and before "221.575 Protection of work in process" the following:

221.580 Eligibility of graduated payment mortgages.

PART 241—SUPPLEMENTARY FINANCING FOR INSURED MORTGAGES

8. By adding a new § 241.5 in Subpart A to read as follows:

§ 241.5 Graduated payment mortgages.

A project improvement loan cannot be eligible for insurance under this subpart if the project is covered by an insured mortgage that is a graduated payment mortgage.

9. By revising § 241.55 in Subpart A to read as follows:

§ 241.55 Method of loan payment.

The loan shall provide for monthly payments on the first day of each month on account of interest and principal and shall provide for payments in accordance with the amortization plan as agreed upon by the borrower, the lender, and the Commissioner. The loan may not provide for amortization of the loan amount based on a schedule of graduated payments.

10. By revising § 241.540(a) in Subpart C to read as follows:

§ 241.540 Method of loan payment and amortization period.

(a) *Monthly payments.* The loan shall provide for monthly payments on the first day of each month on account of interest and principal and shall provide for payment in accordance with the amortization plan as agreed upon by the borrower, the lender and the Commissioner. The loan may not provide for amortization of the loan based on a schedule of graduated payments.

Authority: Sections 207, 220, 221, 231, 236 and 241 of the National Housing Act (12 U.S.C. 1713, 1715k, 1715l, 1715v, 1715z–1 and 1715z–6); Sec. 7(d), Department of Housing and Urban Development Act, (42 U.S.C. 3535(d)).

Dated: September 13, 1984.

Maurice L. Barksdale,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 84–27847 Filed 10–18–84; 8:45 am]
BILLING CODE 4210–27–M

24 CFR Part 882

[Docket No. R–84–1209; FR–1800]

Section 8 Housing Assistance Payments Program—Portability of Existing Housing Certificates

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: Section 8 of the United States Housing Act of 1937 authorizes programs of housing assistance payments to aid lower income persons in renting decent, safe and sanitary housing. The Section 8 Certificate Program (also called the Section 8 Existing Housing Program) implements this statutory authorization by providing assistance to Families through public housing agencies (PHAs) across the United States. This proposed rule would amend the Department's regulations for the Certificate Program to establish basic procedures to allow Section 8 Certificate holders to move freely from one jurisdiction to another, by requiring that one PHA accept a Family from another PHA, under certain stated conditions.

DATES: Comment due date: December 18, 1984.

ADDRESSES: Interested persons are invited to submit comments on this rule to the Office of General Counsel, Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection during regular business hours at the above address. Comments on the information collection requirements contained in this proposed rule should be submitted to the Office of Information and Regulatory Affairs, Office of Management and budget, Washington, D.C. 20503, Attention: Desk Officer for HUD.

FOR FURTHER INFORMATION CONTACT: Madeline Hastings, Office of Elderly and Assisted Housing, Room 6124, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. Telephone (202) 755–6887. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

Background

Section 8 of the United States Housing Act of 1937 (the Act) authorizes programs of housing assistance

payments to aid lower income persons in renting decent, safe, and sanitary housing. Two such programs are the Section 8 Certificate Program (also called the Section 8 Existing Housing Program) and the new Housing Voucher Demonstration Program, established by section 207 of the Housing and Urban-Rural Recovery Act of 1983. Pub. L. 98-181, approved November 30, 1983. (See Notice announcing the Voucher program in the July 12, 1984 edition of the **Federal Register**, 49 FR 28458.)

Current HUD regulations implementing the Section 8 Certificate program are contained in 24 CFR Part 882, Subparts A and B, and Parts 812, 813, and 888. Section 882.103 of the current regulations encourages public housing agencies (PHAs) to promote greater choice of housing opportunities for eligible Families with Certificates by (1) seeking participation of owners within the PHA's jurisdiction, (2) advising Families of their opportunities to lease housing throughout the PHA's area of operation, (3) cooperating with other PHAs issuing Certificates by issuing Certificates to Families already receiving the benefit of Section 8 housing assistance payments who wish to move from the operating area of one PHA to another, and (4) entering into administrative arrangements with other PHAs in order to permit Certificate holders to seek housing in the broadest range of areas. Section 882.209(m)(2) provides that if a participant moves out of the PHA jurisdiction, the Family may obtain continued housing assistance only if the Family is admitted to participation in the Section 8 program of the PHA operating in the area to which the Family moves. The new PHA is not required to admit the Family to its program.

The proposed rule is patterned substantially on a successfully operating mobility program devised by PHAs from the Section 8 Administrator's Association in the State of Massachusetts.

As proposed, a Certificate holder or Section 8 Existing participant could move to any jurisdiction in the country that has a Section 8 Certificate program by requiring a PHA in the new jurisdiction to issue a certificate to the Family, subject to existing program regulations and requirements.

The Proposed Rule

This proposed rule would amend Part 882 by adding new provisions to provide for a system of permitting national mobility of Certificate holders and participants in the Program. As proposed, there would be no limit on the numbers of Families that could take advantage of the opportunity for portability of assistance. Any Certificate holder or participant in the Section 8 Certificate Program would be permitted to take advantage of this opportunity.

Funds for assistance to the Family are provided by the Initial PHA. For this reason, the Initial PHA must have sufficient funding for continued assistance on behalf of the Family. Since amounts needed to cover housing assistance payments and administrative costs are paid by the Initial PHA to the Receiving PHA, the new PHA's waiting list is not affected by the entry of the new Family.

A Family applies for Section 8 assistance to the Initial PHA. The Initial PHA makes a determination that the applicant qualifies as a Family and is income-eligible, under applicable HUD regulations. When the PHA determines that a Certificate is available it issues a Certificate to the Family.

The Family may elect to use the Certificate within the jurisdiction of the Initial PHA or notify the Initial PHA that the Family wants to move, and request that the Initial PHA issue a "Portability Statement" to the Family. (The Family may request a Portability Statement if it lives in the Initial PHA's jurisdiction and holds a current Certificate, or if it is already a participant (see 24 CFR 882.209) in the Initial PHA's Section 8 program.) The Initial PHA issues to the Family a Portability Statement and other necessary information.

The Initial PHA must issue a Portability Statement at the request of the Certificate holder or participant unless (1) the Initial PHA determines that it does not have sufficient funds for continued assistance for the Family under the Certificate Program or (2) the Initial PHA determines that grounds exist for denying or terminating assistance under § 882.210. If the Initial PHA decides to deny issuance of a Portability Statement to a Certificate holder or participant, the PHA shall give the Family the opportunity for an informal hearing.

The expiration date is stated on the Portability Statement. For a Family who is a current participant in the Initial PHA's program, the Portability Statement expires 120 days from the issuance of the Portability Statement. For a Certificate holder who is not yet a participant, the Portability Statement expires 120 days from the original issuance of the Certificate. These dates may not be extended.

When the Family arrives in the new area, it presents the Portability Statement to the Receiving PHA.

The Receiving PHA must reexamine Family income and composition in accordance with HUD procedures to determine the appropriate unit size and initial Tenant Rent. The Receiving PHA then issues the Family a Certificate, unless it has grounds for denying a Certificate as specified in § 882.210. The term of the Certificate expires upon expiration of the term of the Portability Statement. The Family must submit a Request for Lease Approval before the expiration of the Certificate. If the Receiving PHA determines that the unit is in Decent, Safe and Sanitary condition and that it meets all other program requirements, the Receiving PHA will approve the lease and will enter into an assistance contract with the Owner based on the FMR in effect in the Receiving PHA's area and will make assistance payments to the Owner on behalf of the Family.

The Receiving PHA must provide notice to the Initial PHA if the following situations arise:

The Family submits a Request for Lease Approval before the expiration date of the Portability Statement. The Receiving PHA must so notify the Initial PHA no later than 10 days after the expiration date; or

The Family ceases to be a current paticipant in the Receiving PHA's Certificate Program.

The Department is considering additional notices which may be required in the final rule.

The Initial PHA may assume that the Certificate has expired (and that it is free to issue the Certificate to another Family) if it has not received notice from another PHA within 10 days if the expiration period of the Portability Statement and is not responsible for reimbursing the Receiving PHA for housing assistance payments or administrative fees on behalf of the Family.

The Receiving PHA is responsible for payments to the Owner in the new jurisdiction. To accomplish this, the Receiving PHA bills the Initial PHA for the amount of the Housing Assistance Payments. The Initial PhA is reimbursed for this Housing Assistance Payment amount as part of its regular Quarterly Requisition of funds under the ACC.

If Families move to areas with lower rents, subsidy outlays by the Initial PHA may be reduced. This savings could offset any increases in outlays for Families that move to areas with higher rents. Where PHA experiences a net increase in subsidy outlays (for housing assistance payments and administrative fees), portability of Certificates may become an additional factor leading to the need for contract amendments at some future date. Subject to availability

of funds as appropriated by Congress and as determined by the Secretary, such amendments will continue to be made according to established procedures.

In addition to billing for the assistance payment, the Receiving PHA may also bill the Initial PHA for a portion of the administrative fee, as determined by HUD. The fee for preliminary costs will always go to the Initial PHA. Currently, the Department intends that the Initial PHA will retain an amount between 1½% and 2½% of the FMR, and the Receiving PHA will receive an amount between 6% and 7% of the FMR.

If the portability Family leaves the Section 8 Certificate program, the Initial PHA is free to use the funding previously needed to support payment of subsidy for the Family, for use in the Certificate Program of the Initial PHA.

Special Circumstances

In general, the regular Section 8 Certificate regulations will apply to assistance on behalf of a Family that moves from the jurisdiction of one PHA to the jurisdiction of another. The only changes to existing regulations will be to ensure the workability of the portability element of a Certificate. There are, however, two specific circumstances the Department believes it is appropriate to point out in this proposed rule:

Existing regulations (see 24 CFR 882.209(a)(4)) state that "Applicants who are working or who have been notified that they are hired to work in the jurisdiction shall be treated as residents of the jurisdiction." However, proposed § 882.218(b)(1) states that a Certificate holder who notifies the Initial PHA that it wishes to receive a Portability Statement must actually reside in the Initial PHA's jurisdiction. This provision should limit the possibility of "jurisdiction shopping" by a Family, and limit portability to Families who reside in one area but, for whatever reason, feel the need to relocate.

The Receiving PHA does not redetermine income eligibility of a Family presenting a Portability Statement from an Initial PHA (absent a defect in the eligibility determination by the Initial PHA). The Receiving PHA must reexamine Family income or composition in accordance with HUD procedures to determine Tenant Rent and the appropriate unit size.

The proposed rule also contains several conforming amendments to current Subparts A and B of Part 882, to recognize the existence of portability feature of the Section 8 Existing program. It also includes some technical amendments not related directly to the portability of Section 8 Certificates.

Request for Comments

The Department seeks comments on this proposed rule as well as another portability plan explained in the Voucher program notice. In that Notice (49 FR 28458, July 12, 1984), we announced the establishment of a national pool of 200 Certificates to promote opportunities for Families (other than those whose heads, spouses or sole members are at least 62 years old) to move to a different state in another PHA's jurisdiction for employment purposes without interrupting housing assistance. We also stated our intention to expand the portability feature to the Certificate program and to make it available for interjurisdictional as well as interstate moves. Comment was invited on both the Voucher portability system and options for expanding portability.

The Department has decided to depart from the system described in the Voucher notice for purposes of this proposal. The proposal explained in this document relies more on local initiative and provides a broader range of opportunities for Families, because it does not limit the geographic area or age of the mover and because it does not make portability contingent on the availability of a limited number of Certificates designated for that purpose.

Other Matters

A Finding of No Significant Impact with respect to the environment required by the National Environmental Policy Act (42 U.S.C. 4321–4347) is unnecessary since the Section 8 Existing Housing program is categorically excluded under HUD regulations at 24 CFR 50.20(d).

This rule does not constitute a "major rule" as that term is defined in section 1(b) of the Executive Order 12291 on Federal Regulation issued on February 17, 1981. Analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities, because there is no effect on the program composition of a particular PHA, as reflected in its Annual Contributions Contract.

This rule was listed as item 121 under the Office of Housing in the Department's Semiannual Agenda of Regulation published on April 19, 1984 (49 FR 15902, 15933) under Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance program number is 14156—Lower-Income Housing Assistance Program (Section 8).

Paperwork Reduction Act. The information collection requirements contained in this rule have been submitted to the Office of Management and Budget for review under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520). No person may be subjected to a penalty for failure to comply with these information collection requirements until they have been approved and assigned an OMB control number. The OMB control number, when assigned, will be announced by separate notice in the **Federal Register.**

List of Subjects in 24 CFR Part 882

Grant programs: Housing and community development, Manufactured homes, Rent subsidies, Reporting and recordkeeping requirements.

PART 882—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—EXISTING HOUSING

Accordingly, the Department proposes to amend 24 CFR Part 882 as follows:

1. Section 882.101 is proposed to be amended by removing paragraph (b), making paragraph (a) an undesignated paragraph, and by revising the section heading to read as follows:

§ 882.101 Applicability.

2. Section 882.102 is proposed to be amended by revising the definition of "Existing Housing" as set forth below and by adding the other following definitions in alphabetical order:

§ 882.102 Definitions.

* * * * *

Certificate Program (or *Section 8 Certificate Program).* See definition of "Existing Housing Program" in this section.

* * * * *

Existing Housing. See § 882.110(a)(2).

Existing Housing Program (or *Section 8 Existing Housing Program*). The program under this Part (except Subparts D and E of this Part).

* * * * *

Initial PHA. A PHA that issues a Portability Statement to a Family.

Jurisdiction (or *PHA Jurisdiction*). Areas in which a PHA is not legally barred from entering into Contracts.

* * * * *

Portability Statement. A statement issued by the Initial PHA to a Family who wants to move out of the jurisdiction of the Initial PHA. The Portability Statement enables the Family to receive assistance through the Receiving PHA under the Section 8 Certificate Program. The Family presents the Portability Statement to the Receiving PHA, and the Receiving PHA issues a Section 8 Certificate to the Family (see §882.218).

* * * * *

Receiving PHA. A PHA that administers a Section 8 Certificate Program in any area where a Family with a Portability Statement wants to live.

* * * * *

3. Section 882.110 is proposed to be amended by redesignating paragraph (a) as paragraph (a)(1), and by adding a new paragraph (a)(2) to read as follows:

§ 882.110 Types of housing.

(a)(1) * * *

(2) Existing Housing assisted under the Certificate Program may not include (i) A unit which is covered by an Agreement to Enter Into Housing Assistance Payments Contract or by a Housing Assistance payments Contract under any section 8 program other than the Certificate Program; (ii) a unit which is owned by the PHA administering the ACC for the Certificate Program; or (iii) housing assisted under the Act other than under section 8 or section 17.

* * * * *

4. Section 822.116 is proposed to be amended by revising paragraphs (d) and (k) to read as follows:

§ 882.116 Responsibilities of the PHA.

* * * * *

(d) Issuance of Certificates to Families, including the issuance of a Certificate to a Family presenting a Portability Statement issued by another PHA.

* * * * *

(k) Making of housing assistance payments, and payment to a Receiving PHA of amounts required for housing assistance payments and HUD-approved administrative fees, on behalf of a Family to whom the PHA issued a Portability Statement, and who was admitted to the section 8 Certificate Program of the Receiving PHA on the basis of such Portability Statement.

* * * * *

5. Section 882.118 is proposed to be amended by revising paragraph (b)(3) to read as follows:

§ 882.118 Obligations of the Family.

* * * * *

(b) * * *

(3) Receive assistance under the Certificate Program while occupying, or receiving duplicative assistance (as determined by HUD) for occupancy of, any other unit assisted under any Federal housing assistance program (including any section 8 program). In the case of a Family that is issued a Portability Statement (see § 882.218), the Family shall vacate any Federally assisted dwelling unit in the jurisdiction of the Initial PHA no later than the beginning of the term of the Assisted Lease under the Certificate Program of the Receiving PHA.

6. Section 882.119 is proposed to be amended by revising paragraph (a) to read as follows:

§ 882.119 Single ACC.

(a) All of the units adminstered by a PHA under the Certificate Program (except where the PHA jurisdiction is within the responsibility of more than one HUD Field Office) shall, unless otherwise determined by HUD, be covered by and administered under a single ACC.

* * * * *

7. Section 882.209 is proposed to be amended by revising paragraphs (a)(9), (b)(3) and (m)(2) and by adding new paragraphs (a)(12) and (d)(3), to read as follows:

§ 882.209 Selection and participation.

(a) * * *

(9)(i) Nothing in this Part is intended to confer on an applicant for participation any right to be listed on the PHA waiting list, to any particular position on the waiting list to receive a Certificate, or to participate in the PHA's Section 8 Program. The foregoing sentence shall not be deemed to affect or prejudice any judicially-recognized cause of action arising independent of this Part.

(ii) Notwithstanding the provisions of paragraph (a)(9)(i) of this section, the holder of a Portability Statement shall have the right to issuance of a Certificate by the Receiving PHA in accordance with this Part, and to participate in the Section 8 Program of the Receiving PHA. Such right shall be subject to satisfaction of applicable program requirements (including the requirements for PHA approval of a proposed Lease and dwelling unit), and the Receiving PHA may deny issuance of a Certificate to a holder of a Portability Statement in accordance with § 882.210.

* * * * *

(12) The following provisions of this section shall not be applicable when the holder of a Portability Statement from another PHA applies for admission to a Receiving PHA's Certificate Program under § 882.218: paragraphs (a)(2), (a)(3), (a)(4), (a)(6), (a)(7), (a)(8) and (b)(1).

(b) * * *

(3) The PHA shall maintain a system to assure that the PHA will be able to honor all outstanding Certificates and all amounts payable to Receiving PHAs on behalf of Families issued Portability Statements under § 882.218 with the funding committed by HUD under the PHA's ACC, plus where the PHA acts as a Receiving PHA for a Family under § 882.218, amounts to be paid by the Initial PHA on behalf of the Family.

* * * * *

(d) * * *

(3) With respect to the initial issuance of a Certificate by a Receiving PHA to the holder of a Portability Statement under § 882.218: (i) Paragraphs (d)(1) and (d)(2) of this section shall not apply (but shall be applicable to the subsequent issuance of another Certificate to the Family under § 882.209(m)(1)); and (ii) the Certificate shall expire upon expiration of the term of the Portability Statement issued by the Initial PHA (see § 882.218(c)) unless within that time the Family submits a Request for Lease Approval. Such term may not be extended.

* * * * *

(m) * * *

(2) If a current Certificate holder or Participant in the PHA's Certificate Program wants to move out of the PHA jurisdiction, the Family may ask the PHA to issue a Portability Statement under § 882.218, so that the Family can receive assistance under the Certificate Program of another PHA (with funding provided by the Initial PHA).

8. Section 882.210 is proposed to be amended by revising paragraph (a), and the introductory text of paragraph (b) to read as follows:

§ 882.210 Grounds for denial or termination of assistance.

(a) The section states the grounds for denial of assistance to an applicant for participation in the PHA's Certificate Programs, or for denial or termination of assistance to a participant in the program, because of action or inaction by the applicant or participant. (Such grounds shall apply to the denial of a Portability Statement to a Certificate holder or Participant, and to the refusal

to issue a Certificate to the holder of a Portability statement from another PHA, or to enter into a Contract or approve a Lease for such holder.)

(b) The PHA may deny an applicant (including the holder of a Portability Statement from another PHA) admission to participation in the PHA's Certificate Program, may deny issuance of another Certificate to a participant who wants to move to another dwelling unit in the PHA's jurisdiction (see § 882.209(m)(1)), may deny issuance of a Portability statement to a Certificate holder or participant who wants to move to the jurisdiction of another PHA (see § 882.218), and may decline to enter into a Contract, or to approve a Lease, if requested by a Participant, in the following cases:

* * * * *

8. Section 882.216 is proposed to be amended by revising the heading of paragraph (b) and by revising paragraph (b)(1) to read as follows:

§ 882.216 Informal review or hearing.

* * * * *

(b) *Informal Hearing on PHA Decision Affecting Participant Family and on PHA Decision Affecting Portability of Assistance.* (1)(i) The PHA shall give a participant in the PHA's Certificate Program an opportunity for an informal hearing in the following cases:

(A) A determination of the amount of the Total Tenant Payment or Tenant Rent (not including determination of the PHA's schedule of Utility Allowances for Families in the PHA's Certificate Program).

(B) A decision to deny or terminate assistance on behalf of the participant.

(C) A determination that a participant Family is residing in a unit with a larger number of bedrooms than appropriate under the PHA standards (see §§ 882.209(b)(2) and 882.213), and the PHA's determination to deny the Family's request for an exception from the standards.

(D) In the case of an assisted Family who wants to move to another dwelling unit with continued assistance in the PHA Certificate Program (see § 882.209(m)(1)), a determination of the number of bedrooms entered on the Certificate under the standards established by the PHA (see § 882.209(b)(2)).

(ii) The PHA shall give the opportunity for an informal hearing in the following cases:

(A) In the case of a Certificate holder or Participant who wants to move to the jurisdiction of another PHA, a decision by the Initial PHA to deny issuance of a Portability Statement (see § 882.218).

(B) In the case of a Family who presents a current Portability Statement issued by another PHA, and is seeking admission to the Receiving PHA's Certificate Program, a decision to deny the Family admission to participation in the Receiving PHA's Certificate Program.

(iii) The purpose of an informal hearing under paragraph (b) of this section shall be to consider whether PHA decisions relating to the individual circumstances of the Family are in accordance with law, HUD regulations and PHA rules.

* * * * *

9. Part 882 is proposed to be amended by adding a new § 882.218, to read as follows:

§ 882.218 Family Decision to move from PHA Jurisdiction—Portability of Assistance Under Certificate Program.

(a) *Purpose.* This section establishes a procedure for continued assistance under the national Section 8 Certificate Program to a Certificate holder or Participant Family who wants to move out of the jurisdiction of the original PHA (Initial PHA) and to receive assistance under the Certificate Program of another PHA (Receiving PHA). The Initial PHA issues a document (Portability Statement) to a Certificate holder or Participant Family who qualifies for continuing assistance. The Family presents the Portability Statement to the PHA administering the Certificate Program in the jurisdiction where the Family wants to live. The Receiving PHA then issues a Certificate to the Family.

(b) *Families qualified.* At the request of the Family, an Initial PHA shall issue a Portability Statement to either:

(1) A Family (other than a current participant in the Certificate Program of the Initial PHA) who, at the time of such request, is living in the jurisdiction of the Initial PHA and is the holder of a current Certificate of Family Participation.

(2) A Family who is a current participant in the Certificate Program of the Initial PHA.

(c) *Term of Portability Statement.* The term of the Portability Statement shall begin upon issuance by the Initial PHA, and shall expire as follows:

(1) In the case of a Family described in paragraph (b)(1) of this section, the term of the Portability Statement shall expire 120 days from the date of originial issuance of a Certificate to the applicant by the Initial PHA (without regard to any extension of such Certificate granted by the Initial PHA under § 882.209(d)(2)).

(2) In the case of a Family described in paragraph (b)(2) of this section, the term of the Portability Statement shall expire 120 days from the date of issuance of the Portability Statement by the Initial PHA.

(d) *Issuance of Portability Statement.* (1) The Initial PHA shall issue a Portability Statement at the request of the Family unless (i) the PHA determines (in accordance with HUD requirements and procedures) that it does not have sufficient funding for continued assistance for the Family under the Certificate Program, or (ii) the PHA denies issuance of a Portability Statement in accordance with § 882.210.

(2) A Portability Statement shall be in the form prescribed by HUD, and shall specify the date on which the term of the Portability Statement expires (as determined consistent with paragraph (c) of this section).

(e) *Presentation of Portability Statement to Receiving PHA.* (1) The Family shall present the Portability Statement to a PHA administering the Section 8 Certificate Program in the area where the Family wants to live, and shall request the issuance of a Certificate.

(2) The Receiving PHA shall not deny issuance of a Certificate on the ground that the Family income is above limits for Certificate Program participation in that jurisdiction. The Receiving PHA shall, however, be responsible for reexamination of Family income and composition in accordance with HUD requirements (see §§ 813.109 and 882.212) for the purpose of determining the amount of housing assistance and rent under Part 813, and of determining the appropriate unit size under the PHA standards (see § 882.209(b)(2)).

(3) The Receiving PHA shall issue a Certificate to the Family unless the PHA denies issuance of a Certificate in accordance with § 882.210.

(f) *Notices from Receiving PHA to Initial PHA.* (1) If the Family submits a Request for Lease Approval to the PHA before expiration of the term of the Portability Statement, the Receiving PHA shall notify the Initial PHA of this fact (in accordance with notice procedures prescribed by HUD) no later than 10 days after the expiration of the term. Unless the Initial PHA receives such notice within such period, the Initial PHA shall not be responsible for reimbursing the Receiving PHA (in accordance with paragraph (g) of this section) for housing assistance payments or administrative fees on behalf of the Family, and the Receiving PHA shall be required to cover amounts for housing assistance payments to the

Family within the funding provided under the ACC of the Receiving PHA.

(2) The Receiving PHA shall promptly notify the Initial PHA if the Family ceases to be a current participant in the Certificate Program of the Receiving PHA.

(g) *Reimbursement to Receiving PHA.* (1) The Initial PHA shall pay the Receiving PHA the full amount of housing assistance payments incurred by the Receiving PHA of behalf of the Family. The Initial PHA shall also be required to pay a portion of the administrative costs of the Receiving PHA, in amounts as determined by HUD.

(2) The scheduling of billings by the Receiving PHA to the Initial PHA for amounts payable in accordance with paragraph (g)(1) of this section shall be determined in accordance with HUD procedures and requirements.

Authority: Section 7(d) of the Department of HUD Act, 42 U.S.C. 3535(d).

Dated: September 18, 1984.

Maurice L. Barksdale,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 84-27680 Filed 10-18-84; 8:45 am]
BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 250

Nondiscrimination in Outer Continental Shelf Contracting

AGENCY: Minerals Management Service, Interior.

ACTION: Proposed rule.

SUMMARY: The proposed rule in implementation of section 604 of the Outer Continental Shelf Lands Act Amendments (OCSLAA) of 1978 would prohibit unlawful discrimination in lessees' contracting and subcontracting related to OCS activities and provide for the enforcement of such prohibition.

DATE: Comments must be delivered or postmarked no later than November 19, 1984.

ADDRESS: Written comments must be mailed or hand delivered to: Department of the Interior, Minerals Management Service, 12203 Sunrise Valley Drive, Mail Stop 646, Reston, Virginia 22091, Attention: David A. Schuenke.

FOR FURTHER INFORMATION CONTACT: David A. Schuenke; Chief, Branch of Rules, Orders, and Standards; Offshore Rules and Operations Division; Minerals Management Service; 12203 Sunrise Valley Drive; Mail Stop 646; Reston, Virginia 22091; Telephone: (703) 860-7916 or (FTS) 928-7916.

SUPPLEMENTARY INFORMATION: Section 604 of the OCSLAA provides that "no person shall, on the grounds of race, creed, color, national origin, or sex, be excluded from receiving or participating in any activity, sale or employment, conducted pursuant to the provisions of * * * the Outer Continental Shelf Lands Act." That section also calls for the promulgation of such rules as the Secretary "deems necessary to carry out the purposes of this section. * * *"

Unlawful discrimination in employment practices on the OCS is already barred by section 17 of the Minerals Management Service (MMS) lease (Form MMS-2005). That section incorporates by reference portions of Executive Order 11246 and the implementing regulations at 41 CFR 60-1.4 et seq., which are for the purpose of preventing employment discrimination against persons on the basis of race, color, religion, sex, or national origin. We believe those provisions adequately address any unlawful discrimination in employment practices that may arise on the OCS.

However, no Federal regulations address discrimination based on race, creed, color, national origin, or sex that might occur in the award by lessees of contracts or subcontracts related to OCS activities. Although MMS is not aware of any such discrimination occurring in OCS-related contracts or subcontracts, we believe that our policy should be clear and that procedures to implement that policy should be available.

It is our policy to prohibit and to prevent discrimination based on race, creed, color, national origin, or sex in OCS-related contracts and subcontracts. To achieve that purpose, we are proposing regulations which affirm our policy against such discrimination. We are also proposing procedures under which any person who believes they were denied a contract or subcontract because of prohibited discrimination may complain of such discrimination to an MMS Regional Manager. Should the alleged unlawful discrimination be established using procedures already in place under the regulations in Part 250 of Title 30, a penalty may be imposed. Those regulations provide for investigation of alleged violations, subpoenaing of witnesses and documents, an administrative hearing, and the right to appeal. A maximum penalty of $10,000 per violation is authorized. Each day of noncompliance is considered to be a separate violation. Additionally, the Director may use any other remedy available under the OCS Lands Act (Act), regulations, or lease agreement.

Because no pattern or instance of unlawful discrimination in OCS contracting and subcontracting is known to us, we see no purpose at this time in proposing the establishment of specific contracting programs or in the imposition of new recordkeeping or reporting requirements concerning such contracts.

We are aware that many OCS lessees have contracting programs intended to provide for increased participation of minority-owned and women-owned businesses in OCS work. We believe the proposed rules will not interfere with such voluntary programs but will be compatible with and supportive of such programs.

The Department of the Interior (DOI) has determined that this document does not constitute a major rule under Executive Order 12291 as the total cost is not expected to exceed $5,000 per year. The DOI has also determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) because hydrocarbon and other mineral or material activities on the OCS are technically complex and require extensive capital. Such conditions are generally beyond the capability of a small entity.

The information collection requirements in this proposed rule do not require approval by the Office of Management and Budget under 44 U.S.C. 3504(h) because there are less than 10 respondents per year.

Author: This document was prepared by David Schuenke, Offshore Rules and Operations Division, Minerals Management Service.

List of Subjects in 30 CFR Part 250

Continental shelf, Environmental impact statements, Environmental protection, Government contracts, Investigations, Mineral royalties, Oil and gas reserves, Penalties, Pipelines, Public lands/mineral resources, Reporting requirements.

Dated: August 21, 1984.

William D. Bettenberg,

Director, Minerals Management Service.

For the reasons set forth above, 30 CFR Part 250 is proposed to be amended by adding Subpart O as follows:

PART 250—OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

Subpart O—Nondiscrimination in Outer Continental Shelf Contracting

Sec.
250.210 Purpose.
250.211 Application of this subpart.
250.212 Definitions.
250.213 Discrimination prohibited.
250.214 Complaint.
250.215 Process.
250.216 Remedies.

Authority: 43 U.S.C. 1863.

Subpart O—Nondiscrimination in Outer Continental Shelf Contracting

§ 250.210 Purpose.

The purpose of this subpart is to implement the provisions of section 604 of the Outer Continental Shelf Lands Act Amendments of 1978 which provides that "no person shall, on the grounds of race, creed, color, national origin, or sex, be excluded from receiving or participating in any activity, sale, or employment, conducted pursuant to the provisions of * * * the Outer Continental Shelf Lands Act."

§ 250.211 Application of this subpart.

This subpart applies to any contract or subcontract entered into by a lessee after the effective date of these regulations to provide goods, services, facilities, or property in an amount of $10,000 or more in connection with any activity related to the exploration for or development and production of oil, gas, or other minerals or materials on the OCS under the Act.

§ 250.212 Definitions.

As used in this subpart, the following terms shall have the meanings given below:

"Lessee" means the party authorized by a lease, grant of right-of-way, or an approved assignment thereof to explore, develop, produce, or transport oil, gas or other minerals or materials on the OCS pursuant to the Act and this part.

"Contract" means any business agreement or arrangement (in which the parties do not stand in the relationship of employer and employee) between a lessee and any person which creates an obligation to provide goods, services, facilities, or property.

"Subcontract" means any business agreement or arrangement (in which the parties do not stand in the relationship of employer and employee) between a lessee's contractor and any person other than a lessee that is in any way related to the performance of any one or more contracts.

"Person" means a person or company, including but not limited to, a corporation, partnership, association, joint stock venture, trust, mutual fund, or any receiver, trustee in bankruptcy, or other official acting in a similar capacity for such company.

§ 250.213 Discrimination prohibited.

No contract or subcontract to which this subpart applies shall be denied to or withheld from any person on the grounds of race, creed, color, national origin, or sex.

§ 250.214 Complaint.

(a) Whenever any person believes that he or she has been denied a contract or subcontract to which this subpart applies on the grounds of race, creed, color, national origin, or sex, such person may complain of such denial or withholding to the Regional Manager of the OCS Region in which such action is alleged to have occurred.

(b) The complaint referred to in paragraph (a) of this section shall be accompanied by such evidence as may be available to a person and which is relevant to the complaint including affidavits and other documents.

§ 250.215 Process.

Whenever a Regional Manager determines on the basis of any information, including that which may be obtained under § 250.214 of this title, that a violation of or failure to comply with any provision of this subpart probably occurred, the Regional Manager shall proceed in accordance with the provisions of §§ 250.70, 250.71, 250.72, and 250.80 of this title.

§ 250.216 Remedies.

In addition to the penalties available under §§ 250.80–1 and 250.80–2 of this title, the Director may invoke any other remedies available to him or her under the Act of regulations for the lessee's failure to comply with provisions of the Act, regulations, or lease.

[FR Doc. 84–27081 Filed 10–18–84; 8:45 am]
BILLING CODE 4310–MR–M

Notices

Federal Register
Vol. 49, No. 204
Friday, October 19, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Uranium Mill Tailing Remedial Action Program; Memorandum of Agreement

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice. Programmatic Memorandum of Agreement regarding the conduct of the Department of Energy's Uranium Mill Tailing Remedial Action Program in the State of Colorado in a manner affording consideration to historic and cultural properties.

SUMMARY: The Advisory Council on Historic Preservation proposes to execute a Programmatic Memorandum of Agreement (PMOA) pursuant to Section 800.8 of the Council's regulations, "Protection of Historic and Cultural Properties" (36 CFR Part 800), with the Department of Energy and the Colorado State Historic Preservation Officer. The PMOA provides for the consideration of means to avoid, minimize, or mitigate adverse effects on historic and cultural properties included in or eligible for the National Register of Historic Places in the implementation of the Department of Energy's Uranium Mill Tailings Remedial Action Program within the State of Colorado. The proposed PMOA will establish procedures by which historic and cultural properties in Colorado will be identified, evaluated, and protected in order to meet the requirements of Section 106 of the National Historic Preservation Act (16 U.S.C. 470f).

DATE: *Comments Due:* November 19, 1984.

ADDRESS: Chief, Western Division of Project Review, Advisory Council on Historic Preservation, 730 Simms Street, Room 450, Golden, Colorado 80401.

Dated: October 15, 1984.
Robert R. Garvey, Jr.,
Executive Director.
[FR Doc. 84-27875 Filed 10-18-84; 8:45 am]
BILLING CODE 4310-10-M

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments; University of Chicago, et al.

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897; 15 CFR Part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with § 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket No. 84-208. Applicant: University of Chicago, Operator of Argonne National Laboratory, 9700 S. Cass Avenue, Argonne, IL 60439. Instrument: Streak Camera with Delay, Model C979. Manufacturer: Hamamatsu Photonics, Japan. Intended use: Determination of the detailed molecular mechanism of the conversion of sunlight of chemical energy by photosynthesis. These studies involve both the natural photosynthetic organisms and laboratory systems designed to mimic features of natural photosynthesis. Application received by Commissioner of Customs: June 6, 1984.

Docket No. 84-273. Applicant: The Children's Hospital, 1056 E. 19th Avenue, Denver, CO 80218. Instrument: Electron Microscope, Model EM 10 C/CA/CR. Manufacturer: Carl Zeiss, West Germany. Intended use: The instrument is intended to be used in a research program focused upon gaining a better understanding of pathologic processes, so as to develop improved means of diagnosis and treatment of childhood diseases. A wide variety of mainly biological specimens will be subjected to ultrastructural study, ranging from tissue sections (at magnifications as low as 150X) to isolated virus particles (at magnifications as high as 250,000X). The projects under investigation include the following:

(1) Correlative study of light and electron microscopic features of pediatric tumors.

(2) Application of electron microscopy to the diagnosis of aseptic meningitis.

(3) Morphometric characterization of Birbeck granules in histiocytosis X cells and epidermal langerhans cells.

(4) Synthetic skin for burn coverage.

(5) Precancerous gingival lesions resulting from snuff abuse.

In addition, the instrument will be used for educational purposes in the course "Electron Microscopy in Human Medicine" to produce graduates capable of using this diagnostic tool with competence in their future practice. Application received by Commissioner of Customs: August 6, 1984.

Docket No. 84-290. Applicant: University of Chicago, Operator of Argonne National Laboratory, 9700 South Cass Avenue, Argonne, IL 60439. Instrument: MAZ Updating Discriminator, Model 4606. Manufacturer: Lecroy Research Systems, Switzerland. Intended use: Studies aimed at the understanding of the behavior of the nucleus through the use of nuclear reactions. Several experiments address the study of the reaction mechanisms, others look at the properties of the nuclei formed in the reactions. Application received by Commissioner of Customs: June 27, 1984.

Docket No. 84-295. Applicant: Lamont Doherty-Geological Observatory/Columbia University, Route 9W, Palisades, NY 10964. Instrument: Wireline-based borehole stress-measuring system. Manufacturer: Befeld Einmechanic, West Germany. Intended use: Measurement of Earth stress through the hydraulic fracturing of boreholes. The primary experiment to be conducted is to characterize the nature of stress variations that occur in bedded sandstone-shale sequences which might serve as hydrocarbon reservoirs. The objective of the research is to develop a better understanding of the factors which influence the distribution of horizontal stresses prevailing in the uppermost kilometer of the Earth's crust and, where appropriate, evaluate the

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importance of the results with regard to the stimulation of oil and gas reservoirs. Data gathered will be used in the writing of a thesis which constitutes part of Ph.D. requirements. Application received by Commissioner of Customs: September 26, 1984.

Docket No. 84–303. Applicant: Maryland State Police, Crime Laboratory, 1201 Reisterstown Road, Pikesville, MD 21208. Instrument: Video Spectral Comparator, Model VSC–1A/V. Manufacturer: Foster & Freeman Ltd., United Kingdom. Intended use: Provide valuable means of detecting alterations, erasures and substitutions in suspect documents. Application received by Commissioner of Customs: September 14, 1984.

Docket No. 84–315. Applicant: University of Arizona, Department of Biochemistry, Biological Sciences West, Tucson, AZ 85721. Instrument: Rotating Anode X-ray Generator, Model GX-20 with Accessories. Manufacturer: Marconi Avionics, United Kingdom. Intended use: Studies of crystals of myosin subfragment-1 to obtain the three-dimensional crystal structure of the myosin molecule and understand the molecular basis of muscle contraction. The instrument will also be used by graduate and undergraduates for thesis and research work. Application received by Commissioner of Customs: September 26, 1984.

Docket No. 84–317. Applicant: University of Illinois at Chicago, Department of Physics, P.O. Box 4348, Chicago, IL 60680. Instrument: Nb-Sn Superconducting Magnet System, with Accessories. Manufacturer: Oxford Instruments, United Kingdom. Intended use: Studies of Group II–VI semiconductor superlattices. The experiments to be performed will include resistivity, Hall effect, cyclotron resonance and electron-dipole excited spin resonance. The objectives of these experiments are: (a) characterization of new material, (b) study properties of two-dimensional electron gas that is not possible in the Group VI and Group III–V, and (c) study of collective ground state at high magnetic fields. The instrument will be used by graduate students during their dissertation research. Application received by Commissioner of Customs: September 26, 1984.

Docket No. 84–318. Applicant: U.S. Environmental Protection Agency, National Enforcement Investigations Center, Building 53, Box 25227, Ent. E–2, Denver, CO 80225. Instrument: Inductively Coupled Plasma Source Mass Spectrometer, Model ELAN 250. Manufacturer: Sciex, Inc., Canada. Intended Use: Studies of ground water underlying hazardous waste disposal sites, samples of hazardous waste taken from drums, pits, piles, tankers and spill areas; wastewater from a variety of industrial sources, surface water, soil, sediment, air particulates, fuel such as gasoline and gasohol and industrial products, byproducts and waste materials. Experiments to be conducted will include analysis of materials to correlate environmental contamination to sources based on fingerprinting the elemental and isotopic composition of the materials. Application received by Commissioner of Customs: September 26, 1984.

Docket No. 84–319. Applicant: Indiana University, 1101 E. 17th Street, Bloomington, IN 47405. Instrument: Electrophoresis System, Model Mark II with Accessories. Manufacturer: Rank Brothers, United Kingdom. Intended Use: Examination of the use of electrophoresis as a method of separating pyrite from coal and in general reducing the sulfur content of coal. Microelectrophoresis experiments with various aqueous suspension media will be conducted. Application received by Commissioner of Customs: September 26, 1984.

Docket No. 84–320. Applicant: North Texas State University, P.O. Box 13915, Denton, TX 76203. Instrument: Electron Microscope. Model JEM–100CX with Accessories. Manufacturer: JEOL, Ltd., Japan. Intended Use: The instrument will be used by biology faculty and graduate students for ultrastructural studies of procaryotic and eucaryotic organisms with the objective of elucidating structure-function relationships in these systems. In addition, the research will be directed toward phylogenetic studies of insects. Faculty and graduate students in the physical sciences will use the instrument for materials analysis. The instrument will also be used in the course "Electron Microscopy" to acquaint students with the theory as well as the methods used in electron microscopy. Application received by Commissioner of Customs: September 26, 1984.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84-27819 Filed 10-18-84; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-053]

Birch 3-Ply Doorskins From Japan; Preliminary Results of Administrative Review of Antidumping Finding and Intent To Revoke in Part

AGENCY: International Trade Administration/Result Administration, Department of Commerce.

ACTION: Notice of preliminary results of administrative review of antidumping finding and intent to revoke in part.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on birch 3-ply doorskins from Japan. The review covers the 23 known manufacturers and/or exporters of this merchandise to the United States currently covered by the finding and generally the period February 1, 1982 through January 31, 1983. The review indicates the existence of dumping margins for certain firms during the period.

As a result of the review, the Department has preliminarily determined to assess dumping duties equal to the calculated differences between United States price and foreign market value on each of their sales during the period of review. The Department intends to revoke the finding with respect to Japanese birch 3-ply doorskins manufactured by Marutama Industries Co., Ltd. and exported to the United States by Toyo Menka Kaisha Ltd., Mitsui & Co., Ltd., Mitsubishi Corporation, and Nichimen Co., Ltd.

Interested parties are invited to comment on these preliminary results and intent to revoke in part.

EFFECTIVE DATE: October 18, 1984.

FOR FURTHER INFORMATION CONTACT: Dennis U. Askey or Robert J. Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377–2923/5255.

SUPPLEMENTARY INFORMATION:

Background

On May 25, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 22578) a tentative determination to revoke in part the antidumping finding on birch 3-ply doorskins from Japan (41 FR 7389, February 18, 1976) with respect to such merchandise manufactured and sold for export to the United States by Marutama Industries Co., Ltd. On July 20, 1983, the Department published in the **Federal Register** (48 FR 33026–7) the final results of its next administrative

review of the finding and announced its intent to conduct the next administrative review. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of birch 3-ply doorskins, manufactured in a variety of glue types, sizes, and colors. Birch 3-ply doorskins are currently classifiable under items 240.1420, 240.1440, and 240.1460 of the Tariff Schedules of the United States Annotated.

The review covers the 23 known manufacturers and/or exporters of Japanese birch 3-ply doorskins to the United States currently covered by the finding and generally the period February 1, 1982, through January 31, 1983.

Eleven firms did not ship Japanese birch 3-ply doorskins to the United States during the period. For those firms the estimated antidumping duties cash deposit rate will be the most recent rate for each firm.

We have preliminarily determined not to cover two firms, Hokusei, and Tokiwa Plywood in this or future section 751 reviews. Hokusei is no longer in business, and Tokiwa no longer manufactures birch 3-ply doorskins. This is not a proposal to revoke the finding with respect to Hokusei or Tokiwa Plywood. Should those firms export Japanese birch 3-ply doorskins to the United States, we will treat those firms as new exporters.

United States Price

In calculating United States price the Department used purchase price, as defined in section 772 of the Tariff Act. Purchase price was based on the f.o.b. price to unrelated Japanese trading companies for export to the United States. Where appropriate, we made deductions for foreign inland freight and loading charges. No other adjustment were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used either the price to a third-country (Canada) or constructed value both as defined in section 773 of the Tariff Act, since insufficient quantities of such or similar merchandise were sold in the home market to provide a basis for comparison. Third-country price was based f.o.b. Japan price to the first unrelated purchaser in Canada with adjustments, where appropriate, for foreign inland freight and loading charges. No other adjustments were claimed or allowed.

Constructed value was calculated as the sum of materials, fabrication costs, general expenses, profit, and the cost of packing. The amount added for general expenses was ten percent of the sum of materials and fabrication costs or actual general expenses, whichever was higher. The amount added for profit was eight percent of the sum of materials, fabrication costs, and general expenses or actual profit, whichever was higher.

Preliminary Results of the Review and Intent to Revoke in Part

As a result of our comparison of United States price to foreign market value, we preliminarily determine that the following margins exist:

Manufacturer/exporter	Time period	Margin (percent)
Matsumoku Industries, Ltd./ C. Itoh & Co., Ltd	02/01/82-01/31/83	[1] 0
Mitsubishi Corporation	02/01/82-01/31/83	[1] 0
Nitta Venneer/C. Ioh & Co., Ltd	02/01/82-01/31/83	0
Sanmoku Lumber Co., Ltd./C. Itoh & Co., Ltd	02/01/82-01/31/83	0
Associated Lumber Co., Ltd	02/01/82-01/31/83	[1] 0
Toyo Menka Kaisha, Ltd	02/01/82-01/31/83	0
Mitsui & Co., Ltd	02/01/82-01/31/83	0
Mitsubishi Corporation	02/01/82-01/31/83	0
Sattsuru Venneer Co., Ltd./ C. Itoh & Co., Ltd	02/01/82-01/31/83	0.007
Mitsubishi Corporation	02/01/82-01/31/83	0.03
Mitsui & Co., Ltd	02/01/82-01/31/83	0
Toyo Menka Kaisha, Ltd	02/01/82-01/31/83	0.5
Yuasa Trading Co., Ltd	02/01/82-01/31/83	0
Teshiogawa Lumber Co., Ltd./Ikeuchi Industries Co., Ltd	02/01/82-01/31/83	0
Ataka Kensai, K.K. (formerly Ataka & Co.)	02/01/82-01/31/83	[1] 5.0
Fujikawa Veneer Co., Ltd	02/01/82-01/31/83	[1] 0
Iwakura Gumi/Mitsubishi Corporation	02/01/82-01/31/83	[1] 0
Toyo Menka Kaisha Ltd	02/01/82-01/31/83	[1] 0
All other exporters	02/01/82-01/31/83	[1] 7.2
Keisei Lumber Co., Ltd	02/01/82-01/31/83	[1] 0
Kiyosato Rinsan/Nissho/ Iwai	02/01/82-01/31/83	[1] 1.6
All other exporters	02/01/82-01/31/83	[1] 0.7
Okura & Co	02/01/82-01/31/83	[1] 1.6
Shingu Shokko	02/01/82-01/31/83	[1] 0
Showa Lumber	02/01/82-01/31/83	[1] 0
Marutama Industries Co., Ltd./Toyo Menka Kaisha Ltd	02/01/81-05/25/82	0
Mitsui & Co., Ltd	02/01/81-05/25/82	0
Mitsubishi Corporation	02/01/81-05/25/82	0
Nichimen Co., Ltd	02/01/81-05/25/82	0

[1] No shipments during the period.

As a result of our review we intend to revoke the finding on birch 3-ply doorskins from Japan with respect to such merchandise manufactured by Marutama Industries and exported to the United States by Toyo Menka Kaisha Ltd., Mitsui & Co., Ltd., Mitsubishi Corporation, and Nichimen Co., Ltd. These firms made all sales at not less than fair value from February 18, 1976 through May 25, 1982, the date of our tentative determination to revoke in part. As provided for in § 353.54(e) of the Commerce Regulations, Marutama has agreed in writing to an immediate suspension of liquidation and reinstatement in the finding under circumstances as specified in the written agreement.

If the finding is revoked, it will apply to all entries of Japanese birch 3-ply doorskins produced by Marutama Industries Co., Ltd., exported to the United States by Toyo Menka Kaisha Co., Ltd., Mitsui & Co., Ltd., Mitsubishi Corporation, and Nichimen Co., Ltd., and entered, or withdrawn from warehouse, for consumption on or after May 25, 1982.

Interested parties may submit written commenits on these preliminary results and intent to revoke in part within 30 days of the date of publication of this notice and may request disclosure and/ or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the Customs Service shall assess, dumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Further, as provided for by section 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based on the above margins shall be required for those firms. Since the margins for Sattsuru Veneer Co., Ltd./C. Itoh & Co., Ltd. and Sattsuru Veneer Co., Ltd./Mitsubishi Corp. are less than 0.5 percent and, therefore, de minimis for cash deposit purposes, the Department shall waive the cash deposit requirement for those combinations. For any future entries from a new exporter not covered in this or prior administrative reviews, whose first shipments of Japanese birch 3-ply doorskins occurred after January 31, 1983, and who is unrelated to any reviewed firm, a cash deposit of 0.5 percent shall be required. These deposit requirements and waivers are effective for all shipments of Japanese birch 3-ply doorskins entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review.

This administrative review, intent to revoke in part, and notice are in

accordance with sections 751(a)(1) and (c) of the Tariff Act (19 U.S.C 1675(a)(1), (c)) and §§ 353.53 and 353.54 of the Commerce Regulations (19 CFR 353.53 and 353.54).

Dated: October 12, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-27674 Filed 10-18-84; 8:45 am]

BILLING CODE 3510-DS-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Requesting Public Comment on Bilateral Textile Consultations With Korea To Review Trade in Category 359pt.

October 16, 1984.

On October 1, 1984, the Goverment of the United States requested consultations with the Government of the Republic of Korea with respect to cotton vests in Category 359pt. (only TSUSA numbers 379.0270, 379.0654, 379.3950, 379.5700, 379.5820, 383.0628, 383.4200 and 383.4320), produced or manufactured in Korea. This request was made on the basis of the agreement of December 1, 1982, as amended, between the Governments of the United States and the Republic of Korea relating to trade in cotton, wool and man-made fiber textiles and textile products.

The purpose of this notice is to advise the public that if no solution is agreed upon in consultations with Korea, the Committee for the Implementation of Textile Agreements may later establish a limit for the entry and withdrawal from warehouse for consumption of textile products in Category 359pt., produced or manufactured in Korea and exported to the United States during the twelve-month period which began on January 1, 1984 and extends through December 31, 1984.

Anyone wishing to comment or provide data or information regarding the treatment of this category from Korea under the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreements, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in this category, is invited to submit such comments or information in ten copies to Mr. Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C., and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-27668 Filed 10-18-84; 8:45 am]

BILLING CODE 3510-DR-M

Amending Import Restraint Levels for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Mexico

October 16, 1984.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on October 22, 1984. For further information contact Eve Anderson, International Trade Specialist (202) 377-4212.

Background

The Governments of the United States and Mexico have exchanged letters amending their Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of February 26, 1979, as amended and extended, to increase for 1984, among other things, the designated consultation levels for dresses in Category 336 to 40,000 dozen and blouses in Category 341 to 90,000 dozen. These changes apply to good produced and manufactured in Mexico and exported during 1984. Accordingly, the Chairman of CITA is directing the Commissioner of Customs to adjust the levels to the designated amounts.

A description of textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), and July 16, 1984 (49 FR 28754).

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

October 16, 1984.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of December 9, 1983 from the Chairman of the Committee for the Implementation of Textile Agreements concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in Mexico and exported during 1984.

Effective on October 22, 1984, you are directed to further amend the directive of December 9, 1983 to increase the levels established for cotton textile products in Categories 336 and 341 to the following:

Category	Amended 12-mo restraint level[1]
336	40,000 dozen.
341	90,000 dozen

[1] The levels have not been adjusted to reflect any imports exported after December 31, 1983

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-27669 Filed 10-18-84; 8:45 am]

BILLING CODE 3510-DR-M

Increasing the Import Limit for Certain Cotton Textile Products From Pakistan

October 16, 1984.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on October 23, 1984. For further information contact Carl Ruths, International Trade Specialist (202) 377-4212.

Background

A CITA directive dated December 13, 1983 (48 FR 55892) established limits for certain specified categories of cotton textile products, including Categories

300–369, as a group, and, among others, individual Categories 331 (gloves), 363 (terry and other pile towels), and 369 pt. (dish towels and shop towels in T.S.U.S.A. numbers 366.1820, 366.1840, 366.2120, 366.2140, 366.2420, 366.2440 and 366.2740), produced or manufactured in Pakistan and exported during the agreement year which began on January 1, 1984. Under the terms of the Bilateral Cotton Textile Agreement of March 9 and 11, 1982, as amended, between the Governments of the United States and Pakistan and at the request of the Government of Pakistan, swing and carryforward are being applied, variously, to the restraint limits established for cotton textile products in the forgoing categories, increasing those limits for goods exported during 1984.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), and July 16, 1984 (49 FR 28754).

Ronald I. Levin

Acting Chairman, Committee for the Implementation of Textile Agreements.

October 16,1984.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of December 13, 1983 from the Chairman of the Committee for the Implementation of Textitle Agreements concerning imports into the United States of certain cotton textile products, produced or manufactured in Pakistan.

Effective on October 23, 1983, the directive of December 14, 1982 is hereby further amended to include increased restraint limits for cotton textile products in the following categories, exported during the agreement year which began on January 1, 1984: [1]

Category	Adjusted 12-Mo. restraint limit [1]
300–369	244,176,402 square yards equivalent.
331	601,419 dozen pairs.
363	23,811,818 numbers.

[1] The Bilateral Cotton Textile Agreement of March 9 and 11, 1982, as amended, between the Governments of the United States and Pakistan provides, among other things, that: (1) Within the aggregate limit specific restraint limits may be exceeded by designated percentages; (2) specific limits may be increased for carryover and carryforward; and (3) administrative arrangements or adjustments may be made to resolve problems arising in the implementation of the agreement.

Category	Adjusted 12-Mo. restraint limit [1]
369 pt.[2]	2,196,599 pounds.

[1] The limits have not been adjusted to reflect any imports exported after December 31, 1983.
[2] In Category 369 only T.S.U.S.A. numbers 366.1820, 366.1840, 366.3120, 366.2140, 366.2420, 366.2440, and 366.2740.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84–27671 Filed 10–18–84; 8:45 am]

BILLING CODE 3510-DR-M

Withdrawal of Call on Certain Cotton Apparel Products Produced or Manufactured in Turkey

October 16, 1984.

On March 19, 1984 a notice was published in the **Federal Register** (49 FR 10143) which announced the establishment of a twelve-month limit for men's and boys' knit shirts in Category 338, produced or manufactured in Turkey and exported during the twelve-month period which began on December 29, 1983 and extends through December 28, 1984. The purpose of this notice is to announce that the United States Government has concluded that there is no further need to control this category at the designated limit of 264,000 dozen at this time; however, should it become necessary to discuss this category with the Government of Turkey at a later date, further notice will be published in the **Federal Register**.

Effective Date: October 22, 1984.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

October 16, 1984.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This letter cancels and supersedes the directive of March 12, 1984 concerning cotton textile products in Category 338, produced or manufactured in Turkey, effective on October 22, 1984.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84–27670 Filed 10–18–84; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Little Rock District; Intent To Prepare a Draft Environmental Impact Statement (DEIS) for Proposed Pumped Storage Projects at Petit Jean and Manitou Mountains (White Oak), AR

AGENCY: Army Corps of Engineers, DOD.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY:

Proposed Actions

The Arkansas River Hydropower Study was authorized by a resolution adopted on June 20, 1979 by the United States Senate Committee on Environment and Public Works. The study is being documented by a series of interim reports. The fourth interim report prepared by the Little Rock District contains construction plans for the Petit Jean and White Oak Pumped Storage projects as well as plans for expansion of the existing Ozark and Dardanelle powerhouses. The pumped storage projects are unique to the overall study. The previous interim report addressed conventional hydropower additions at existing navigation locks and dams. Due to no significant impacts or public controversy, Findings of No Significant Impacts were issued on the conventional hydropower additions on Locks and Dams 13, 9, 8, 2–6, Murray, and are foreseen for the Ozark and Dardanelle Lock and Dam additions.

Due to possible adverse impacts to aesthetic, aquatic, and archelogical resources the publicly controversial pumped storage projects warrant further environmental studies.

Projects

The following projects are to be addressed in the Draft Environmental Statement:

(1) Petit Jean—The Petit Jean powerhouse would be located on the right bank between Lock and Dam No. 9 (at Morrilton) and Dardanelle Lock and Dam, near navigation mile 186. The forebay reservoir would be located atop

Petit Jean Mountain about 2 miles north of Lake Bailey. The plan includes the construction of a powerhouse adjacent to the right bank of the Arkansas River. The powerhouse would contain reversible Francis-type pump/turbines. The number of units and overall plant capacity have not been determined. A tunnel would connect the powerhouse with the forebay reservoir located on top of Petit Jean Mountain. During low power demand periods at night the units would operate as pumps to fill the forebay. During peak power demand periods the water stored in the forebay would be used to generate power. The project would operate on a weekly cycle.

(2) White Oak—The White Oak project would be located on the left bank about 4 miles upstream of Ozark Lock and Dam. The forebay reservoir for the White Oak project would be located atop Manitou Mountain. The plan includes the construction of a powerhouse on the left bank of the Arkansas River at navigation mile 206.8. The powerhouse would contain reversible Francis-type pump turbines. The number of units and overall plant capacity have not been determined. The operation of the project is the same as the Petit Jean project described above.

Scoping Process

a. *Public Involvement*—A Public Notice was issued on June 3, 1982 announcing the initiation of preauthorization studies. Public meetings were held on 11 September 1984 and 13 September 1984 at Petit Jean and Ozark, Arkansas, respectively. The public meetings encouraged public participation in the study. The majority of landowners and state agencies in attendance at the meetings expressed opposition to the construction of pumped storage projects.

Coordination with Federal, State, and local officials has been and will continue to be maintained through a series of meetings and mailings.

b. *Significant issues to be addressed in the DEIS are:*

(1) Aesthetic impacts to both mountaintops and surrounding environment.

(2) Location and mitigation of possible archeological sites; i.e., petroglyphs and pictographs.

(3) Fishery impact within Pool No. 9 and Ozark Lake in the Arkansas River due to pumped storage operations.

(4) Recreational impacts.

(5) Impacts related to construction activities; i.e., noise, dust, and traffic control.

(6) Disposal material and borrow areas.

c. *Other environmental review and consultation requirements.* This project will be reviewed for compliance with the following:

Fish and Wildlife Act of 1958
Fish and Wildlife Coordination Act of 1958
National Historic Preservation Act of 1969
National Environmental Policy Act of 1969
Endangered Species Act of 1973
Water Resource Development Act of 1976
Executive Order 11990, Wetlands Protection, May 1977
Executive Order 11988, Floodplain Management, May 1977
Clean Air Act of 1977
Clean Water Act of 1977
Corps of Engineers, Department of the Army, Policy and Procedure for Implementing NEPA (ER 200-2-2)
Corps of Engineers, Department of the Army, 33 CFR Part 230, Environmental Quality

Estimated Date of DEIS Release

It is anticipated that the DEIS will be available to the public in June 1985.

ADDRESS: Questions about the proposed action and DEIS can be answered by Ken Carter, Project Reports Section, Planning Branch, U.S. Army Corps of Engineers, Little Rock District, P.O. Box 867, Little Rock, Arkansas 72203-0867 (telephone 501-378-5607).

Dated: September 28, 1984.

John O. Roach,

Department of the Army Liaison Offices with the Federal Register.

(FR Doc. 84-27672 Filed 10-18-84; 8:45 am)
BILLING CODE 3710-GL-M

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

National Resource Centers Program and Foreign Language and Area Studies Fellowships Program; Application Notice for New Projects for Fiscal Year 1985

Applications are invited for new projects under the National Resource Centers Program and the Foreign Language and Area Studies Fellowships Program.

Authority for these programs is contained in Section 602 of the Higher Education Act of 1965, as amended. (20 U.S.C. 1122)

These programs issue awards to institutions of higher education.

The purpose of the awards under the National Resource Centers Program is to provide general assistance for nationally recognized centers of excellence in modern foreign languages and area studies and in modern foreign languages and international studies. The purpose of the Foreign Language and Area Studies Fellowships Program is to provide incentive awards to meritorious students undergoing advanced training in modern foreign languages and related area studies. The fellowships are awarded through approved institutions of higher education with nationally recognized programs of excellence.

Closing date for transmittal of applications: An application for a grant must be mailed or hand delivered by December 19, 1984.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.015, National Resource Centers and Fellowships Porgrams, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with the local post office.

An applicant is encouraged to use registered or at least first class mail. Late applications will not be considered and will be returned to the applicant.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program information: The eligibility requirements for National Resource Centers are contained in § 656.2 of the program regulations while the selection criteria are contained in § 656.31 of the regulations (34 CFR 656.2 and 656.31). The institutional eligibility requirements

for fellowships are contained in § 657.2(a) of the program regulations while the selection criteria are contained in § 657.31 (34 CFR 657.2(a) and 657.31). These regulations were published in the **Federal Register** on April 1, 1982 in 47 Fr 14118–14122.

Funding Priorities for National Resource Centers

The regulations governing the National Resource Centers Program permit the establishment of funding priorities (34 CFR 656.31(m) and 656.33). This year the Secretary has not established binding priorities for centers but suggests that applicants submit applications that propose to—

(1) Develop and implement a comprehensive plan for evaluating its foreign language program for the purpose of adopting for its program standards and evaluation procedures (testing) compatible with the most recent national standards and procedures adopted by the American Council on the Teaching of Foreign Languages. Copies of these standards and information about the procedures are available from the Council. The address is 579 Broadway, Hastings-on-Hudson, New York 10706.

(2) Initiate or strengthen effective linkages between language and area studies and professional schools, such as business, education, law, library science and journalism.

(3) Strengthen its language program by increasing to ten hours of instruction per week its introductory and intermediate language skill courses and by adding advanced third and fourth year regular language skill courses. (Such advanced courses do not include literature or tutorial courses.)

(4) Initiate or strengthen summer intensive language institutes in cooperation with other institutions of higher education offering the languages to be taught. Summer institutes shall offer systematic instruction in languages not taught on a regular basis in the United States during the summer, shall provide instruction in introductory and intermediate courses of not less than 20 hours per week and shall provide the equivalent of a full academic year's work of language training.

(5) Initiate or expand outreach activities in the area of teacher education through technical assistance and in-service training programs in foreign language and area studies and international education for teachers in local elementary and secondary schools and institutions of higher education. Applicants proposing outreach activities in cooperation with elementary and secondary schools are encouraged to provide evidence of a formal agreement which describes the nature of such cooperation.

Priorities for Foreign Language and Area Studies Fellowships

The regulations governing this program permit the establishment of priorities for languages, academic disciplines, world areas, countries, and topics (34 CFR 657.31(n)). The priorities established below are not weighted. The Secretary will give priority to applicants that—

(1) Propose to award fellowships to students, including those enrolled in terminal masters degree programs, who combine language and area studies with professional studies such as business, law or journalism.

(2) Propose to award fellowships to students studying the less commonly taught languages and cultures of non-Western countries.

(3) Propose to award fellowships to students or faculty members enrolled in cooperative, advanced, intensive foreign language programs in the United States or abroad.

(4) In their selection of fellows, will assign the lowest consideration to students—

(i) Who are studying French, Iberian Spanish, German, and Italian;

(ii) Who already possess language fluency equivalent to educated native speakers in the language for which the award is sought;

(iii) Who are taking the first 18 semester hours (27 quarter hours) or their equivalent in Latin American Spanish and Russian language instruction;

(iv) Who are taking the first 12 semester hours (18 quarter hours) in chinese and Japanese language instruction; and

(v) Who are not planning to study language during their fellowship tenure.

(5) For the following specific world areas, propose to give the highest consideration in the selection of fellows to students enrolled in the academic disciplines listed for that world area—

(i) For Africa: Economics, geography, sociology, and the humanities other than history;

(ii) For East Asia: Economic, geography, linguistics, sociology, humanities other than history and literature, and professional fields;

(iii) For Latin America: Economics, geography, linguistics, sociology, humanities other than history and literature, and professional fields;

(iv) For the Middle East: Economics, geography, linguistics, sociology, humanities other than history and literature, and professional fields;

(v) For South Asia: Economics, geography, sociology, humanities other than history, and professional fields;

(vi) For Southeast Asia: Humanities other than history;

(vii) For USSR and Eastern Europe: Anthropology, economics, geography, sociology, humanities other than history and literature, and professional fields, as well as giving lowest priority to literature;

(viii) For Western Europe: Anthropology, economics, political science, sociology, humanities other than history and literature, and professional fields, as well as giving lowest priority to literature.

Relevance to Employment

Applicants for an allocation of fellowships are reminded that their applications are reviewed for relevance to employment possibilities (§ 657.31(1)) and are thus advised to provide information concerning the placement of all graduates at the master and doctoral levels for the past three years.

Available funds: The Administration's budget for Fiscal Year (FY) 1985 does not request an appropriation for these programs. However, based on previous years' appropriations, approximately $12,100,000 may be made available for the Centers Program in FY 85 if it were to be funded. These funds could support approximately 90 awards to centers at an average level of approximately $134,000. Up to 15 percent of the awards may be used for undergraduate centers and approximately 15 percent of the awards may be used for centers in comparative area studies, or for international affairs or topic-oriented centers. The remaining funds would help insure the maintenance of a minimal national capability in modern foreign languages and area studies for every major region in the world. The apportioning of funds will favor priority activities.

Approximately $7,200,000 may be available for the Fellowship Program. Approximately 800 awards could be made in FY 85 at this level of funding. Stipend levels would be $5,000 for an academic year fellowship and $1,250 for a summer intensive language fellowship. Fellowships transported to summer cooperative programs on other campuses or abroad may also include up to $500 each in travel funds.

Applications for fellowships would be considered for all world areas and the general international category. Institutions would apply for allocations for the academic year or summer or both.

These estimates do not bind the U.S. Department of Education except as may be required by the applicable statute and regulations.

Funding commitments would be for three years, with second and third year funding dependent on performance and availability of funds.

Application forms: Application forms and program information packages may be obtained by writing to the Advanced Training and Research Branch, Center for International Education, U.S. Department of Education, 400 Maryland Avenue SW. (Room 3923 ROB–3), Washington, DC 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The program information package is intended to aid applicants in applying for assistance under this competition. Nothing in the program information package is intended to impose any paperwork, application content reporting, or grantee performance requirements beyond those specifically imposed under statute and regulations governing the competition. The Secretary strongly urges that the narrative portion of the application not exceed 75 pages, double-spaced, for single institutions and 100 pages for consortia, and appendices be limited to course lists and vitae of faculty and professional staff. (Approved by OMB under control number 1840–0068).

Applicable regulations: Regulations applicable to these programs include the following:

(a) Regulations governing the National Resource Centers Program 34 CFR Parts 655 and 656.

(b) Regulations governing the Foreign Language and Area Studies Fellowships Program, 34 CFR Parts 655 and 657.

(c) Regulations governing both programs: Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77 and 78.

Further information: For further information contact Joseph F. Belmonte, Advanced Training and Research Branch, Center for International Education, U.S. Department of Education, 400 Maryland Avenue SW., (Room 3923, ROB–3), Washington, DC 20202. Telephone: (202) 245–9425.

(20 U.S.C. 1122)

(Catalog of Federal Domestic Assistance No. 84.015—National Resource Centers and Fellowships Programs)

Dated: October 9, 1984.

T. H. Bell,

Secretary of Education.

[FR Doc. 84–27257 Filed 10–18–84; 8:45 am]

BILLING CODE 4000–01–M

Intergovernmental Advisory Council on Education; Hearing

AGENCY: Intergovernmental Advisory Council on Education.

ACTION: Notice of Hearing.

SUMMARY: This notice sets forth the schedule of a hearing of the Intergovernmental Advisory Council on Education. Notice of this hearing is required under section 10(a)(2) of the Federal Advisory Committee Act.

DATE: November 30, 1984.

ADDRESS: Federal Office Building, 601 East 12th Street, Room 140, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Laverne Johnson, Intergovernmental Advisory Council on Education, Department of Education, 300 7th Street SW., Room 513, Washington, D.C. 20202 (202) 472–6464.

SUPPLEMENTARY INFORMATION: The Intergovernmental Advisory Council on Education is established under section 213 of the Department of Education Organization Act (20 U.S.C. 3423). The Council was established to provide assistance and make recommendations to the Secretary and the President concerning intergovernmental policies and relations pertaining to education

The Intergovernmental Advisory Council on Education will conduct a Public Hearing on November 30, 1984. The hearing schedule is as follows:

9:30 a.m.—Educational Partnerships
11:00 a.m.—Student Achievement and Discipline
2:00 p.m.—Higher Education Reauthorization Proposals
3:30 p.m.—Press Availability.

Individuals, organizations, and associations need to register for the November 30 hearing. To register due to limited space and time, write or call Ms. Laverne Johnson, Intergovernmental Advisory Council on Education, 300 7th Street SW., Room 513, Washington, D.C. 20202, (202) 472–6464. (Testifiers will be limited to five (5) minutes. Each testifier must provide written comments. Those wishing to submit comments only may do so by mailing them to Ms. Johnson.)

Records are kept of all Council proceedings and are available for public inspection at the Office of Intergovernmental Advisory Council on Education, 300 7th Street SW., Room 513, Washington, D.C. 20202.

Signed at Washington, D.C., on Friday, October 12, 1984.

A. Wayne Roberts,

Deputy Under Secretary for Intergovernmental and Interagency Affairs.

[FR Doc. 84–27648 Filed 10–18–84; 8:45 am]

BILLING CODE 4000–01–M

Office of Vocational and Adult Education

Application Notice for Transmittal of Applications for Fiscal Year 1985 for a Model Retraining Project Serving Unemployed Displaced Workers in the Johnstown, PA Area

Applications are invited for the development of a model retraining project for displaced workers, including counseling, placement, follow-up, and other support services for unemployed residents of the Johnstown, Pennsylvania area. Public and private agencies may apply. Training must be provided in the Johnstown area.

Authority for this program is contained in Pub. L. 98–396, making supplemental appropriations for fiscal year 1984 and sections 171(a)(1) and 132(a)(1) of the Vocational Education Act of 1963, as amended.

Closing Date for Transmittal of Applications

Applications for this award must be mailed or hand delivered by November 19, 1984.

Applications Delivered by Mail

An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.051, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of Education. If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying

on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand

An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building No. 3, 7th and D Streets, SW., Washington D.C.

The Application Control Center will accept hand-delivered applications between the hours of 8:00. a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information

The Division of Innovation and Development of the Office of Vocational And Adult Education supports a range of research, development and demonstration activities designed to produce techniques and materials to meet the unique vocational education and training needs of certain special populations.

The funding provided under this notice is to be used for the development of an exemplary model for retraining program displaced workers, including vocational retraining, counseling, placement, follow-up, and other support services for unemployed residents of the Johnstown, Pennsylvania area. Public and private agencies and organizations may apply under this notice. However, training must be provided in the Johnstown area. The Secretary strongly encourages applicants to utilize existing training programs, facilities, equipment, and materials, where possible, and that the proposed projects be closely linked with ongoing economic development activities.

The award period is up to three years. The Secretary intends to provide financial assistance ot the successful applicant through a grant.

Background

The economy of the Johnstown area was built on coal, steel, and support industries. These industries were particularly hard hit by recent economic developments. Layoffs and plant closing during 1982 and 1983 drove the unemployment rate in the Johnstown area to 24.9 percent in April, 1983, the highest in the Nation. Johnstown continued to hold the highest unemployment rate in the Nation for three months during 1983, and the rate remains high.

Residents of the Johnstown area have embarked on a number of self-help efforts including a range of economic development activities and a modest retraining program. However, prospects for a sizeable reduction in unemployment depend, in part, on the retraining of unemployed workers for jobs in other occupations. Current efforts are restricted by a lack of funding. In recognition of this emergency situation, Congress has authorized the transfer of funds to the Department of Education to fund a Model Displaced Worker Retraining Project for Johnstown. The training must be provided in the Johnstown area. The Secretary strongly urges that the project supports and be linked to current and planned economic development efforts, Job Training Partnership Act (JTPA) initiatives, and Pennsylvania State Employment Service activities.

Where unemployed workers are currently receiving subsistence or maintenance support from labor unions, the Secretary encourages applicants to use persons designated by such unions in planning the project and, to the extent possible, to train such persons to work with the project in recruiting, counseling, training, and placement functions.

The enabling legislation specifically provides that *no* funds may be used for construction.

The Secretary encourages applications that provide the following services:

(a) Expansion of current retraining activities and development of retraining programs in new occupations, as appropriate, to train 300 unemployed residents of Cambria and Somerset counties for full-time employment. Persons would be trained in occupations where jobs are currently available or where jobs are expected to become available as a result of economic development activities.

(b) Development of techniques and materials that could serve as a model for other retraining efforts nationwide including—

(1) Trainee recruitment and screening procedures;

(2) Identification of trainee characteristics;

(3) Retraining curricula, based on trainee characteristics and occupational requirements, which do not duplicate existing curricula;

(4) Evaluation methods and materials; and

(5) Final project evaluation.

(c) Development of placement materials and negotiation of agreements with area employers to place all trainees who are ready for employment, using, where possible, the placement mechanisms of the Johnstown Office of the Pennsylvania State Employment Service.

(d) Provision of career and personal counseling.

(e) Provision of a program of post-placement follow-up and supportive services.

(f) Reports and other deliverables as specified in the application package.

Intergovernmental Review

On June 24, 1983, the Secretary published in the **Federal Register** final regulations (34 CFR Part 79, published at 48 FR 29158 *et seq.*) implementing Executive Order 12372 entitled "Intergovernmental Review of Federal Programs." The regulations took effect September 30, 1983.

This program is subject to the requirements of the Executive Order and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

The Executive Order—

- Allows States, after consultation with local officials, to establish their own process for review and comment on proposed Federal financial assistance;
- Increases Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why those views will not be accommodated; and
- Revokes OMB Circular A–95.

Transactions with nongovernmental entities, including State postsecondary educational institutions and federally recognized Indian tribal governments, are not covered by Executive Order 12372. Also excluded from coverage are research, development, or demonstration projects that do not have a unique geographic focus and are not directly relevant to the governmental responsibilities of a State or local government within that geographic area.

This proposed funding action affects only the State of Pennsylvania. The State of Pennsylvania has established a process, designated a single point of contact, and has selected this program for review. The Pennsylvania single point of contact has indicated that applications for this project must be submitted to the single point of contact under Executive Order 12372 procedures. Immediately upon receipt of this notice, applicants that are governmental entities, including local

educational agencies, must contact the State single point of contact to find out about, and to comply with, the State's process under the Executive Order. The address for the State single point of contact for Pennsylvania is Pennsylvania Intergovernmental Council, P.O. Box 1288, Harrisburg, Pennsylvania, 17108. *Attn.:* Charles Griffiths, Executive Director, Telephone (717) 783–3700.

Any State process recommendation and other comments submitted by the State single point of contact and any comments from State, areawide, regional, and local entities must be mailed or hand delivered by December 19, 1984 to the following address:

The Secretary, U.S. Department of Education, Room 4181, (CFDA No. 84.051), 400 Maryland Avenue, SW., Washington, D.C. 20202. (Proof of mailing will be determined on the same basis as applications.)

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION. *DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.*

Available Funds

The Secretary has reserved funds to award one grant for the Model Retraining Project in the amount of $570,000 for up to a three-year period.

However, this notice does not bind the U.S. Department of Education to fund any project in this area, or to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application Forms

Application forms and program information packages may be obtained by writing or calling the Office of Vocational and Adult Education, U.S. Department of Education, 400 Maryland Avenue, SW. (ROB 3, Room 5052), Washington, D.C. 20202. (Attention: Timothy Halnon) Telephone (202) 245–2774.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information package is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those specifically imposed under the statute and regulations.

The Secretary urges that applicants not submit information that is not requested.

Applicable Regulations

Regulations governing this program include the following:

Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, 78, and 79.

Since this grant program is being carried out under newly enacted legislation, the applications for new awards will be evaluated competitively under the selection criteria for a grant program that does not have regulations (34 CFR 75.210). Under § 75.210(c) of EDGAR, the Secretary is authorized to distribute an additional 15 points to those already assigned to each criterion. The distribution of these points results in the following values for each criterion:

(1) Meeting the Purposes of the Authorizing Statute (40).
(2) Extent of Need for the Project (20).
(3) Plan of Operation (20).
(4) Quality of Key Personnel (7).
(5) Budget and Cost Effectiveness (5).
(6) Plan of Evaluation (5).
(7) Adequacy of Resources (3).

Further information: For further information, contact Timothy Halnon, Office of Vocational and Adult Education, U.S. Department of Education, 400 Maryland Avenue, SW., (ROB–3, Room 5052), Washington, D.C. 20202. Telephone: (202) 245–2774.

(Pub. L. 98–396; secs. 171(a)(1) and 132(a)(1) of the Vocational Education Act of 1963, as amended)

(Catalog of Federal Domestic Assistance No. 84.050, Vocational Education: Programs of National Significance)

Dated: September 12, 1984.

T.H. Bell,

Secretary of Education.

[FR Doc. 84–27724 Filed 10–18–84; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Availability of the Bonneville Power Assistance Instructions

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice of Document Availability.

SUMMARY: Copies of the Bonneville Power Assistance Instructions (BPAI) which establishes the procedures BPA uses in the solicitation, award, and administration of financial assistance instruments (principally grants and cooperative agreements) are now available from BPA for $10 each.

ADDRESS: Copies of the BPAI may be obtained by sending a check to the General Accounting Section—DTKC, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon 97208.

FOR FURTHER INFORMATION CONTACT: N. L. Linscott, Contracts Manager at the above address, 503–230–4513.

SUPPLEMENTARY INFORMATION: The Bonneville Power Administration was established in 1937 as a Federal Power Marketing agency in the Pacific Northwest. BPA is a nonappropriated fund entity which finances its operations from power revenues. Its financial assistance operations are conducted under 16 U.S.C. 832a (f) and (g) as well as 16 U.S.C. 839 et. seq. The BPAI utilizes the special authorities referred to in the preceding sentence as a basis for establishing BPA financial assistance policy; however, it follows the principles provided in the relevant OMB circulars.

All BPA financial assistance solicitations include notice of applicability and availability of the BPAI for the information of proposers on particular solicitations.

Issued in Portland, Oregon, October 10, 1984.

Peter T. Johnson,

Administrator.

[FR Doc. 84–27663 Filed 10–18–84; 8:45 am]

BILLING CODE 6450–01–M

Proposed Long Term Intertie Access Policy; Intent to Prepare an Environmental Impact Statement

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement (EIS), Announcement of Scoping Meetings, and Request for Comment. *BPA File No:* IAP–EIS.

SUMMARY: BPA has proposed to establish a long term policy on access to its Pacific Intertie capacity which will govern all future requests by other entities for Pacific Intertie transmission services (48 FR 33515). BPA hereby gives public notice of its intent to hold two scoping meetings and to prepare and consider an EIS analyzing the environmental effects of this proposed policy. BPA also requests suggestions for issues which should be resolved in a long term policy.

BPA presently has resources surplus to its existing loads and most Pacific Northwest (PNW) utilities are in a

similar surplus condition. Thus, there has been and likely will be more demand for use of the Intertie than available Intertie capacity. The Intertie Access Policy will set forth conditions and provisions for access to BPA's share of the AC and DC transmission lines from the PNW to the Pacific Southwest (PSW), both present and future capacity. This long term proposal may have an effect on long term resource planning.

Consistent with the National Environmental Policy Act, BPA is soliciting suggestions and comments to identify the actions, alternatives, and impacts to be considered in the preparation of the EIS on the Intertie Access Policy. BPA will hold public scoping meetings (see dates below) to clarify the proposal and to invite suggestions to assist in defining the scope of the EIS and the major issues which the policy should address.

Responsible Official: Mr. James L. Jones, Deputy Power Manager, is the official responsible for the development of the long term Intertie Access Policy. For questions on the policy itself, please contact Mr. Jones at 503–230–5152.

DATES: Registration for the scoping meetings will be at 8:30 a.m., an the meeting will begin at 9 a.m. Dates and locations are:

November 7, 1984, Sheraton Inn—Portland International Airport, 8235 NE Airport Way, Columbia C–D Room, Portland, Oregon

November 14, 1984, Holiday Inn—Convention Center, 50 Eighth Street, San Francisco, California.

The comment period will close on November 30, 1984.

ADDRESS: BPA also welcomes written comments that will help to determine the scope of the EIS and the major issues to be addressed in the policy. Written comments should be submitted to Mr. Anthony R. Morrell, Environmental Manager, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 97212. Written comments pursuant to this notice will be accepted through November 30, 1984. Additional opportunities to comment on the scope may be identified at some future time. Please indicate which comments are directly related to the scope of the environmental issues that should be examined in the EIS, and which are more related to the scope of the policy.

FOR FURTHER INFORMATION CONTACT: Questions regarding the EIS should be directed to Mr. Anthony R. Morrell, Environmental Manager at BPA. For further information on the public involvement process or on the scoping meetings, call Ms. Lynn Baker, Public Involvement Office, 503–230–3478. Oregon callers may use 800–452–8429; callers in California, Idaho, Montana, Nevada, Utah, Washington, and Wyoming may use 800–547–6048. Information may also be obtained from:

Mr. George Gwinnutt, Lower Columbia Area Manager, Suite 288, 1500 Plaza Building, 1500 NE. Irving Street, Portland, Oregon 97232, 503–230–4551.

Mr. Ladd Sutton, Eugene District Manager, Room 206, 211 East Seventh Avenue, Eugene, Oregon 97401, 503–687–6952.

Mr. Wayne R. Lee, Upper Columbia Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509–456–2518.

Mr. George E. Eskridge, Montana District Manager, 800 Kensington, Missoula, Montana 59801, 406–329–3060.

Mr. Ronald K. Rodewald, Wenatchee District Manager, P.O. Box 741, Wenatchee, Washington 98801, 509–662–4377, extension 379.

Mr. Richard D. Casad, Puget Sound Area Manager, 415 First Avenue North, Room 250, Seattle, Washington 98109, 206–442–4130.

Mr. Thomas Wagenhoffer, Snake River Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509–522–6226.

Mr. Robert N. Laffel, Idaho Falls District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208–523–2706.

Mr. Frederic D. Rettenmund, Boise District Manager, Owyhee Plaza, Suite 245, 1109 Main Street, Boise, Idaho 83707, 208–334–9137.

SUPPLEMENTARY INFORMATION: BPA's proposed long term policy will set forth conditions and provisions for access by existing and new resources to BPA's share of the Intertie. The long term Intertie Access Policy is necessary because questions are raised regarding the interrelationship of Intertie access priorities to long term firm power transactions, to new Intertie facilities development, and to new resource development. These long term questions require consideration of new issues and involve potentially different impacts than those addressed in the near term Intertie Access Policy (see Related Issues).

Central to BPA's concern is that the long term policy create no substantial interference with its power marketing program. So long as BPA's policy furthers its power marketing program, BPA believes that adoption of an appropriate long term Intertie Access Policy can provide substantial additional benefits to the PNW, BPA, and the PSW. These benefits include increased certainty of Intertie access for economic and desirable long term transactions; more certainty for associated resource planning issues; and maximum opportunity to capitalize on diversity between the Northwest system and the Southwest system. In addition, extraregional entities may be encouraged to participate more fully and constructively in both PNW and PSW resource planning and operations as a means of gaining increased access.

In developing such a policy, BPA is mindful of the need to develop a policy which addresses several significant concerns. These include:

1. The impact on PNW power supply as a consequence of granting long term Intertie access.

2. The impact on utility planning and operations within the Western Systems Coordinating Council's system.

3. The impact on fish and wildlife.

4. The sharing of benefits of the Intertie between the PNW and PSW.

5. How benefits should be shared among BPA and other PNW utilities.

6. The impact on resource operations by both PBA and PNW utilities, as related to limits set by applicable licenses and permits, or otherwise established pursuant to law.

Alternatives

BPA will consider a range of alternatives in developing the policy and preparing the EIS. The alternatives which BPA has identified to date (other than the no action alternative) reflect varying proportional allocations among BPA and non-Federal entities, and appropriate methods to provide access for firm and nonfirm energy sales. The need for one alternative or another will change depending on the expected size of the Intertie, but the alternatives identified here encompass the full range of appropriate policies.

In the first alternative, BPA would not propose a long term access policy, and would return to prior scheduling policies.

The second alternative would reserve enough capacity on the lines to meet all of BPA's sales, both firm and nonfirm. This reservation would vary yearly as water conditions changed, providing little certainty for other PNW entities, which would have access to the remaining capacity on a nonfirm basis.

The third alternative reserves firm transmission capacity to assure delivery of contracted firm sales only, without limit for both BPA and non-Federal entities. BPA and all other PNW entities would share access to remaining capacity for non-Federal nonfirm.

The fourth alternative provides assured access for BPA and PNW utilities up to the levels of their respective firm surpluses without the need for an underlying contract for sale of power. Nonfirm access for all utilities, including BPA, would be allocated on the remaining capacity as in Alternative 3.

Other reasonable alternatives may also be identified through the scoping process.

Issues

Within this range of alternatives, BPA will be exploring various treatments of specific provisions and issues. Examples of some of these follow, and undoubtedly more issues will be suggested during the scoping process.

1. One area of analysis is how a long term policy may affect long term resource development decisions in the PNW. The EIS will examine whether any incentives for resource development result from increased marketability due to assured delivery of firm sale contracts and, if so, whether the policy predicts the type of resource development.

2. What kinds of environmental and other criteria (if any), including provisions for fish and wildlife, should be incorporated into the policy as conditions on access for new or existing resources? Other bases for limiting Intertie access also may be suggested through the public comment process.

3. How any alternative selected would provide for long term agency or bilateral sales.

4. How any alternative selected would provide for access to extraregional resources.

5. What procedures should be in place in case the PNW needs to import power in the future?

It is not clear at this time whether there are environmental differences among either the policy level alternatives or the specific provisions. The scoping process will aid in this evaluation and ensure that environmental considerations are taken into account as the policy is developed.

Related Issues

BPA has proposed and put into effect on an interim basis a near term Intertie Access Policy to provide intertie access for existing PNW resources only. This policy is effective only until March 1, 1985. At that time, BPA will adopt a policy to be effective until approximately summer 1986 or when the long term Intertie Access Policy can be finalized.

BPA's near term policy focuses on the hour-by-hour allocation of the Intertie for the marketing of currently operating PNW resources only and provides assured delivery under certain circumstances for firm sales contracts. BPA is preparing an Environmental Assessment (EA) on the near term policy to follow the policy presently in effect, and plans to distribute the EA for public review in early 1985.

It is intended that the long term Intertie Access Policy apply to all capacity controlled by BPA by ownership or contract right, including both current capacity and planned uprates, the DC Intertie terminal expansion, and the AC Intertie uprates acted upon by Congress in the Fiscal Year 1985 Energy and Water Developments Appropriation Act. BPA believes that these Intertie uprates are economic based upon potential nonfirm economy energy transactions involving existing surplus energy. Use of BPA Intertie capacity from both existing facilities and uprates for long term transactions will be analyzed in the course of preparing this EIS.

BPA is also acting as agent working with PNW and PSW utilities to negotiate long term power sales arrangements between the two regions and may sell firm displacement or other power to PNW utilities making bilateral sales arrangements with PSW utilities. Long term intertie access may be an important component of such transactions, and this EIS will examine the implications of such access.

Related Documents

July. 22, 1983 Notice of Intent to Develop a Policy (48 FR 33515).

Feb. 16, 1984 Discussion paper of policy issues and issue alert (49 FR 5990).

July. 30, 1984 Draft Near Term Policy (49 FR 30098).

Issued in Portland, Oregon, on October 10, 1984.

Peter T. Johnson,

Administrator.

[FR Doc. 84-27804 Filed 10-18-84; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

Oil Pipeline Tentative Valuation

October 15, 1984.

The Federal Energy Regulatory Commission by order issued February 10, 1978, established an Oil Pipeline Board and delegated to the Board its functions with respect to the issuance of valuation reports pursuant to section 19a of the Interstate Commerce Act.

Notice is hereby given that a tentative basic valuation is under consideration for the common carrier by pipeline listed below:

1982 Basic Report

Valuation Docket No. PV-1479-000—General American Pipe Line Company, 944 Adams Building, Bartlesville, Oklahoma 74004.

On or before November 23, 1984, persons other than those specifically designated in section 19a(h) of the Interstate Commerce Act having an interest in this valuation may file pursuant to rule 214 of the Federal Energy Regulatory Commission's "Rules of Practice and Procedure" (18 CFR 385.214), an original and three copies of a petition for leave to intervene in this proceeding.

If the petition for leave to intervene is granted the party may thus come within the category of "additional parties as the FERC may prescribe" under section 19a(h) of the Act, thereby enabling it to file a protest. The petition to intervene must be served on the individual company at its address shown above and an appropriate certificate of service must be attached to the petition. Persons specifically designated in section19a(h) of the Act need not file a petition; they are entitled to file a protest as a matter of right under the statute.

Francis J. Connor,

Administrative Officer, Oil Pipeline Board.

[FR Doc. 84-27804 Filed 10-18-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-705-000]

Boston Edison Co.; Filing

October 12, 1984.

The filing Company submits the following:

Take notice that on September 27, 1984, Boston Edison Company (Boston Edison) tendered for filing revised Exhibit B's, designated as Rate S-8, to its rate schedules for its three customers served under its total requirements wholesale rate. Those customers and their FERC rate schedules are as follows:

	FERC Rate Schedule No.
Town of Concord	47
Town of Norwood	48
Town of Wellesley	51

Boston Edison also tendered for filing a revised Exhibit B to its Contract

Demand tariff under which partial requirements service is furnished to the Town of Reading.

Boston Edison states that the proposed increase is to be made effective in two steps and that the amounts by which the Step A and Step B increases respectively exceed the presently effective rates based on the test year beginning October 1, 1984 is:

	Step A	Step B
Town of Concord	$485,787	$559,085
Town of Norwood	623,730	828,929
Town of Wellesley	894,357	924,327
Town of Reading	407,782	545,782

Boston Edison requests that Step A increases be granted an effective date of November 27, 1984 and Step B increases be granted an effective date of November 28, 1984. Boston Edison has asked that the Step A increase for a customer be deemed withdrawn if the Step A and Step B increase for the customer are both suspended for one day or both suspended for five months. According to Boston Edison, it has filed the rate increases in order to recover its increased costs of providing electric service and to earn a fair return on its investment dedicated to the public service.

Boston Edison has also included with this filing a rate schedule supplement to reflect the present status of its 1980 agreement with each of the Rate S customers that wholesale rate increases may not be made effective sooner than retail rate increases. That agreement was to terminate on March 1, 1985 if notice of termination was given within the twelve months preceding March 1, 1984. The proposed supplements reflect the fact that the required termination notice was given and that the rate filing agreements terminates as of March 1, 1985. The Company has requested that the supplements be made effective on November 27, 1984.

Boston Edison further states that a copy of the filing has been served upon each of the customers affected by the proposed changes and to the Massachusetts Department of Public Utilities.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 23, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-27690 Filed 10-18-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES85-1-000]

Canal Electric Co., Application

October 12, 1984.

Take notice that on October 2, 1984, Canal Electric Company filed an application with the Federal Energy Regulatory Commission seeking authority pursuant to section 204 of the Federal Power Act, to issue not more than $85 million of short-term debt on or before December 31, 1986 with a final maturity no later than December 31, 1987.

Any person desiring to be heard or to make any protest with reference to the application should file a motion to intervene or protest on or before October 31, 1984, with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-27691 Filed 10-18-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85-6-000]

Central Louisiana Electric Co., Inc.; Filing

October 12, 1984.

The filing Company submits the following:

Take notice that on October 1, 1984, Central Louisiana Electric Company, Inc. (CLECO) tendered for filing notices of cancellation for rate schedules listed below. CLECO states that all rate schedules to be cancelled have expired by their own terms or have been terminated where service is no longer needed.

Rate schedule No.(s)	Other parties	Date	Expiration date
FPC No. 28	Gulf States Utilities Co.	2/5/71	12/5/80
FPC No. 31	City of Franklin, Louisiana.	9/15/75	1/1/76
FERC No. 34	Louisiana Power & Light Co.	7/5/78	10/1/78
FERC No. 36	Gulf States Utilities Co.	10/16/78	11/15/79
FERC No. 37	Gulf States Utilities Co.	11/27/78	12/1/79
FERC No. 38	Gulf States Utilities Co.	11/29/78	1/1/80
FERC No. 40	Gulf States Utilities Co.	11/7/79	6/1/81
FERC No. 41	Gulf States Utilities Co.	11/7/79	1/1/81
FERC No. 42	Gulf States Utilities Co.	10/24/80	1/1/82
FERC No. 43	Cajun Electric Power Cooperative, Inc.	5/11/81	5/27/82
FERC No. 49	Louisiana Energy and Power Authority.	9/21/82	12/31/82

CLECO requests the effective dates as stated above (expiration date), and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 26, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-27692 Filed 10-18-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-736-000]

Columbia Gas Transmission Corp.; Request Under Blanket Authorization

October 12, 1984.

Take notice that on September 25, 1984, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP84-736-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of W. R.

Grace & Co., Davison Chemical Division (W. R. Grace), under the certificate issued in Docket No. CP83–76–000 pursuant to section 7 of the Natural Gas Act, all as more fully set fully set forth in the request which is on file with the Commission and open to public inspection.

Specifically, Columbia proposes to transport up to 4.5 billion Btu equivalent of natural gas per day for W. R. Grace through June 30, 1985. Columbia states that the gas to be transported would be purchased from Ohio Gas Marketing, Inc. (OGM), and would be used as boiler fuel and process gas in W. R. Grace's Baltimore, Maryland, plant.

It is indicated that W. R. Grace has made arrangements to purchase this gas from OGM. Columbia states that it would receive the gas from OGM and redeliver the gas to Baltimore Gas & Electric Company (BG&E), the distribution company serving W. R. Grace, near Baltimore, Maryland. Further, Columbia states that depending upon whether its gathering facilities are involved, it would charge either (1) 40.11 cents per dt equivalent for storage and transmission, exclusive of company-use and unaccounted-for gas, or (2) 44.93 cents per dt equivalent for storage, transmission, and gathering, exclusive of company-use and unaccounted-for gas, as set forth in Columbia's Rate Schedule TS–1. Columbia states that it would retain 2.85 percent of the total of gas delivery into its system for company-use and unaccounted-for gas, as set forth in Columbia's Rate schedule TS–1.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR) 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-27693 Filed 10-18-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85–10–000]

Consolidated Edison Company of New York, Inc.; Filing

October 12, 1984.

The filing Company submits the following:

Take notice that on October 3, 1984, Consolidated Edison Company of New York, Inc. (Con Edison) tendered for filing a supplement (the Supplement) to its Rate Schedule FERC No. 55, an agreement to provide transmission service to Philadelphia Electric Company (Philadelphia). The Supplement increases the transmission charge from 2.6 mills to 2.7 mills per kilowatt hour for interruptible transmission of power and energy purchased by Philadelphia from Central Hudson Gas & Electric Corporation and Orange and Rockland Utilities, Inc. The Supplement would increase annual revenues from jurisdictional service during Period I by $2,070.40.

Con Edison requests waiver of the notice requirements of the Commission's regulations so that the Supplement can be made effective as of September 15, 1984.

Con Edison states that a copy of this filing has been served by mail upon Philadelphia.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Federal Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 30, 1984. Protests will be considered by the Commission in determining the approporiate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 27694 Filed 10-18-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84–706–000]

Dayton Power and Light Co.; Filing

October 12, 1984.

The filing Company submits the following:

Take notice that on September 27, 1984, Dayton Power and Light Company (DP&L) tendered for filing an executed Purchase and Resale Agreement (Agreement) between DP&L and the Village of Mendon (Mendon), Ohio.

DP&L states that the proposed Agreement allows Mendon to purchase energy requirements from third parties who will use existing Interconnection Agreement Rate schedules to deliver the energy requirements to DP&L for delivery to Mendon.

DP&L requests the Commission waive its notice and filing requirements and permit the proposed Agreement to become effective October 1, 1984.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 23, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-27695 Filed 10-18-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85–11–000]

Florida Power & Light Co.; Filing

October 12, 1984.

The filing Company submits the following:

Take notice that on October 3, 1984, Florida Power and Light Company (FP&L) tendered for filing a document entitled Amendment Number Nine to Agreement to provide specified transmission service between FP&L and the Tampa Electric Company (Rate Schedule FERC No. 57).

FP&L states that under Amendment Number Nine, FP&L will transmit power and energy for Tampa Electric Company as is required in the implementation of its interchange agreement with City of Starke, Florida.

FP&L requests waiver of the Commission's regulations be granted and that the proposed Amendment be made effective immediately.

Copies of this filing were served upon Tampa Electric Company.

Any person desiring to be heard or to protest said filing should file a motion to

intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 30, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-27696 Filed 10-18-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85-13-000]

Florida Power & Light Co.; Filing

October 12, 1984.

The filing Company submits the following:

Take notice that on October 3, 1984, Florida Power & Light Company (FP&L) tendered for filing a document entitled Amendment Number Eight to Agreement to provide specified transmission service between FP&L and Jackson Electric Authority (Rate Schedule FERC No. 60).

FP&L states that under Amendment Number Eight, FP&L will transmit power and energy for Jacksonville Electric Authority as is required in the implementation of its interchange agreement with City of Starke and City of St. Cloud.

FP&L requests that waiver of the Commission's regulations be granted and that the proposed Amendment be made effective immediately.

Copies of this filing were served upon Jacksonville Electric Authority.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 30, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-27698 Filed 10-18-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85-2-000]

Illinois Power Co., Filing

October 12, 1984.

The filing Company submits the following:

Take notice that on October 2, 1984, Illinois Power Company (Illinois) tendered for filing a proposed Revised Facility Use Agreement between Union Electric Company (UE) and Illinois dated August 9, 1984, replacing in its entirety the Facility Use Agreement between the parties dated February 14, 1972.

Illinois indicates that this filing is made to provide for future replacement of facilities installed by one party for the benefit of another, or for the mutual benefit of both parties. A termination charge is provided for, in the case of a party benefitting from facilities provided by another party but no longer requiring those facilities. Illinois states that a copy of the filing was served on UE and the Illinois Commerce Commission.

Illinois requests an effective date of September 1, 1984, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 26, 1984. Protest will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-27699 Filed 10-18-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85-14-000]

Florida Power & Light Co.; Filing

October 12, 1984.

The filing Company submits the following:

Take notice that on October 3, 1984, Florida Power & Light Company (FP&L) tendered for filing a document entitled Amendment Number Thirteen to Agreement to provide specified Transmission service between FP&L and City of Homestead, Florida (Rate Schedule FERC No. 55).

FP&L states that under Amendment Number Thirteen, FP&L will transmit power and energy for City of Homestead, Florida as is required in the implementation of its interchange agreement with City of Starke, Florida.

FP&L requests that waiver of the Commission's regulations be granted and that the proposed Amendment be made effective immediately.

Copies of this filing were served upon Homestead, Florida.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 30, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-27697 Filed 10-18-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER-85-000]

Montana Power Co. Filing

October 12, 1984.

The filing Company submits the following:

Take notice that on October 1, 1984, Montana Power Company (Montana) tendered for filing a revised Index of Purchasers, identified as Seventh Revised Sheets Nos. 9 and 10 under FERC Electric Tariff, 2nd Revised Volume No. 1, which has been revised to show the addition of the Eugene Water and Electric Tariff, summaries of sales made under the Company's FERC Electric Tariff, 2nd Revised Volume No. 2, during January, February, March, April, May and June, 1984, along with cost justifications for the rates charged.

Montana requests an effective date of June 30, 1984, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 26, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-27700 Filed 10-18-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2132-000]

Nancy L. Jacob; Application

October 12, 1984.

Take notice that on October 9, 1984, Nancy L. Jacob filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Member of the Board of Directors, Puget Sound Power & Light Company

Member of the Board of Directors, Frank Russell Investment Company

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 31, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-27701 Filed 10-18-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85-1-000]

PacifiCorp, d.b.a. Pacific Power & Light Co.; Cancellation

October 12, 1984.

The filing Company submits the following:

Take notice that on October 1, 1984, PacifiCorp, doing business as Pacific Power & Light Company (Pacific), tendered for filing Notices of Cancellation of bilateral Rate Schedule FERC Nos. 206, 207 and 217. Pacific states that these Rate Schedules have expired by their own terms.

Pacific requests an effective date of sixty (60) days after date of filing.

Pacific states that copies of this filing have been served upon the Washington Water Power Company and Washington Utilities and Transportation Commission; the Bonneville Power Administration and Public Utility Commission of Oregon; and the Western Area Power Administration and Public Service Commission of Wyoming.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 214). All such motions or protests should be filed on or before October 26, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-27702 Filed 10-18-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85-4-000]

Puget Sound Power & Light Co.; Filing

October 12, 1984.

The filing Company submits the following:

Take notice that on October 1, 1984, Puget Sound Power & Light Company (Puget) tendered for filing under its Electric Tariff Original Volume No. 3, a Service Agreement with the Western Area Power Administration, dated as of August 9, 1984. In general, the Service Agreement makes service under the referenced tariff available to the customer with whom the agreement was made.

Puget requests an effective date of August 9, 1984, and therefore requests waiver of the Commission's notice requirements.

A copy of the filing was served upon said customer.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 26, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-27703 Filed 10-18-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP84-48-000]

Natural Gas Policy Act; Arco Oil and Gas Co., Division of Atlantic Richfield, J.R. Phillips "A" No. 9, FERC JD No. 84-14328; Petition to Reopen Final Determination and Request for Withdrawal of Applications

Issued: October 12, 1984.

On August 14, 1984, Arco Oil & Gas Company, a Division of Atlantic Richfield Company (Arco), filed with the Federal Energy Regulatory Commission (Commission) a petition to reopen and a request to withdraw its application for a final determination pursuant to § 275.202 of the Commission's regulations (18 CFR 275.202 (1983)). Under the affirmative determination made by the Oil Conservation Division of the State of New Mexico's Department of Energy and Minerals (New Mexico), natural gas from the J. R. Phillips "A" No. 9 Well, located in Lea County, New Mexico, qualifies as stripper well gas under section 108 of the Arco Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301-3432 (1982). This determination became final on October 8, 1983, pursuant to section 503(d) of the NGPA and § 275.202(a) of the Commission's regulations. Gas produced from this well is sold to El Paso Natural Gas Company.

Arco requests the reopening of this final determination so that it can withdraw its application for said

determination on the basis that it has been discovered that an incorrect number of producing days was used for determining whether the production from the J. R. Phillips "A" No. 9 Well complied with the permissible crude oil and gas production limits under § 271.803 (b), (c) and (d) of the Commission's regulations in qualifying for stripper well status.

Arco states that, in compiling its application for said determination, Arco relied upon information from the appropriate field office that the well had no non-producing days during the qualifying period. Upon being notified by El Paso Natural Gas Company that there was an error in the number of production days reported, Arco performed additional analysis of the pumper reports for the period in question and found that El Paso was correct. Therefore, the correct data does not support an application for a section 108 category determination for this well, as the average daily production exceeds the limits established under § 271.803 (b), (c) and (d) of the Commission's regulations. Arco concludes by noting that Arco and El Paso have confirmed that the section 108 price has never been paid for production from this well, hence no refunds are due.

Notwithstanding, Arco's statement on refunds, the Commission hereby gives notice that the question of whether refunds plus interest calculated under § 154.102(c) (18 CFR 154.102(c) (1983)), will be required is a matter which is subject to the review and final determination of the Commission.

Any person desiring to be heard or to make any protest to the requested reopening and withdrawal should file within 30 days after this notice is published in the **Federal Register** the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of Rule 214 or 211 of the Commission's Rules of Practice and Procedure (18 CFR 384.214 or .211(1983)). All protests filed will be considered but will not make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-27704 Filed 10-18-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85-7-000]

Tampa Electric Co.; Filing

October 12, 1984.

The filing Company submits the following:

Take notice that on October 1, 1984, Tampa Electric Company (Tampa) tendered for filing Service Schedule X providing for extended economy interchange service between Tampa and the City of Gainesville, Florida (Gainesville). Tampa states that Service Schedule X is submitted for inclusion as a supplement under the existing agreement for interchange service between Tampa and Gainesville, designated as Tampa's Rate Schedule FERC No. 19.

Tampa proposes an effective date of October 1, 1984, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing have been served on Gainesville and the Florida Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 26, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-27705 Filed 10-18-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85-8-000]

Toledo Edison Co.; Filing

October 12, 1984.

The filing Company submits the following:

Take notice that on October 1, 1984, Toledo Edison Company (Toledo Edison) tendered for filing the First Addendum to the Muncipal Resale Service Rate Agreement between Toledo Edison and American Municipal Power-Ohio, Inc. (AMP-Ohio).

Toledo Edison states that the First Addedum to the Municipal Resale Service Rate Agreement provides for an increase in charges to AMP-Ohio for firm power service of $318,370 (2.1%) effective October 1, 1984, and an additional increase in charges of $343,115 (2.2%) effective June 1, 1985. Toledo Edison states that such increases are consistent with the provisions of the Municipal Resale Service Rate Agreement and have been agreed upon by AMP-Ohio.

Toledo Edison requests waiver of the Commission's regulations to permit the first step of the rates to become effective October 1, 1984. Toledo Edison further requests waiver of the Commission's regulations to the extent necessary to permit the second step of the rates incorporated in the First Addendum to become effective on June 1, 1985.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions for protests should be filed on or before October 26, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-27706 Filed 10-18-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP84-33-000]

Natural Gas Policy Act; Montana Pacific Oil and Gas Co., Federal No. 4-2-R well, FERC JD No. 84-17691, Federal No. 4-4-34R-2W well, FERC JD No. 84-17692; Motion of the United States Department of Interior, Bureau of Land Management To Withdraw Pleadings and for Dismissal of Proceeding

Issued: October 12, 1984.

On April 20, 1984, the United States Department of Interior, Bureau of Land Management (BLM) filed a petition with the Federal Energy Regulatory Commission (Commission) to reopen final determinations for Montana Pacific Oil and Gas Company's Federal No. 4-4-34N-2W and Federal No. 4-2-R wells. Both of these wells received new onshore reservoir determinations under section 102(c)(1)(C) of the Natural Gas

Policy Act of 1978 (NGPA).[1] These wells area located in Toole County, Montana and the determinations applied to the Ellis-Madison reservoir. Notice of BLM's Petition to Reopen was issued May 4, 1984 (49 FR 19708, May 9, 1984).

In order for a reservoir to qualify as a new onshore reservoir under section 102(c)(1)(C) of the NGPA, the reservoir must not have produced gas in commercial quantities before April 20, 1977. A reservoir cannot qualify under this section if the reservoir was penetrated before April 20, 1977, by an old well from which crude oil or natual gas was or could have been produced in commercial quantities.

BNLM stated that its request to reopen was based on information which indicated that commercial sales of natural gas from wells drilled in the Ellis-Madison reservoir were made from the Neuman No. 2 and No. 4 wells prior to April 20, 1977. Department of Interior records show that the Neuman No. 2 well had an initial production rate of 1,000 Mcf per day from this reservoir and produced for a period of 32 years. The Neuman No. 4 well had an initial production rate of 3,000 Mcf per day, and there is no record of abandonment for this well. BLM stated that based on the high initial production rates for the Neuman wells, it felt that it was unlikely that the gas produced was used exclusively for lease purposes. BLM asserted that according to Mr. G. B. Coolidge, a former employee of Treasure State Pipe Line Company (Treasure), sales were made from the Neuman No. 2 and No. 4 wells in the Ellis-Madison reservoir during the 1930's and 1940's by Treasure to the Texas Refining Company.

On May 21, 1984, the Montana Department of Natural Resources and Conservation, Board of Oil & Gas Conservation (Montana), filed a timely Notice of Intervention in this docket, thereby becoming a party to this proceeding.[2] Montana stated that it was interested in this docket because it has made section 102 determinations for wells in the subject reservoir based on identical evidence as was submitted to the BLM. Montana was in opposition to the BLM's Petition to Reopen. In a letter to the Commission dated May 30, 1984, Montana stated that it has no evidence of any commercial sales from the subject reservoir and that the use of gas discussed by Mr. Coolidge could not be considered as a commercial sale of gas.

On June 4, 1984, the Montana Pacific Oil & Gas Company (Montana Pacific) filed a timely Motion to Intervene in this docket. Montana Pacific was also in opposition to the BLM's Petition to Reopen. Montana Pacific submitted the affidavit of Mr. Coolidge which refuted the allegations of the BLM that there were commercial sales from the Ellis-Madison reservoir.

In a letter to Commission Staff dated September 10, 1984, the BLM requested that its Petition to Reopen in this docket be withdrawn. BLM states that further search of its records indicates that any gas produced prior to April 20, 1977, was either used on the lease or was used by the land owners.

Any person desiring to be heard or to protest this Motion should file within 30 days after notice is published in the Federal Register, with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, a Motion to Intervene or a Protest in accordance with the requirements of Rules 211 or 214 of the Commission's Rules of Practice and Procedure. All protests filed will be considered but will not make the protestants parties to the proceedings.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-27707 Filed 10-18-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85-3-000]

Washington Water Power Co.; Cancellation

October 12, 1984.

The filing Company submits the following:

Take notice that on October 1, 1984, the Washington Water Power Company (Washington) tendered for filing Notices of Cancellation of Washington's Rate Schedules Nos. 50, 121 and 124. Washington states that the associated agreements have been cancelled in accordance with their definitions, have expired by their own terms, and that Notices of Cancellation have been submitted to the participating parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 26, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-27708 Filed 10-18-84; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Cases Filed; Week of September 21 Through September 28, 1984

During the Week of September 21 through September 28, 1984, the appeals and applications for other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585.

Date: October 15, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

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[1] 15 U.S.C. 3301-3432 (1982).

[2] By virtue of § 385.214 of the Commission's Regulations, any State Commission becomes a party to a proceeding upon filing a timely Notice of Intervention.

List of Cases Received by the Office of Hearings and Appeals

[Week of September 21 through September 28, 1984]

Date	Name and Location of Applicant	Case No.	Type of Submission
September 24, 1984	Atlantic Richfield Co., Los Angeles, CA	HRH-0219	Request for evidentiary hearing. If granted: An evidentiary hearing would be convened in connection with the statement of objections submitted by Atlantic Richfield Co. in response to the proposed remedial order issued to it (Case No. HRO-0219).
Do	Lotus Petroleum, Inc. *et al*, Washington, DC	HRD-0236, HRH-0236	Motion for discovery and request for evidentiary hearing. If granted: Discovery would be granted and an evidentiary hearing would be convened in connection with the statement of objections submitted by Lotus Petroleum, Inc. *et al.* in response to the May 25, 1984, proposed remedial order issued to it (Case No. HRO-0233)
Do	Raymond D. Reister, Hamilton, OH	HFA-0250	Appeal of an information request denial. If granted: The Sept. 5, 1984 freedom of information request denial issued by the San Francisco Operations Office would be rescinded, and Raymond D. Reister would receive access to documents pertaining to him or matters relating to the "Death-Ray Beam Plans" submitted by Mr. Reister to Mr. Thomas A. Boster in 1973.
September 25, 1984	Traco Petroleum Co., Houston, TX	HRD-0237, HRH-0237	Motion for discovery and request for evidentiary hearing. If granted: Discovery would be granted and an evidentiary hearing would be convened in connection with the statement of objections submitted by Traco Petroleum Co. in response to the January 12, 1983, proposed remedial order issued to it (Case No. HRO-0212).
September 27, 1984	Lucky Stores, Inc., Tampa, FL	HEG-0037	Petition for special redress. If granted: Pursuant to the July 18, 1984, U.S. district court order, the office of hearings and appeals would determine whether Oasis Petroleum Corp. (Oasis) overcharged Lucky Stores in sales of motor gasoline from Aug. 10, 1979, through Apr. 10, 1980; whether Oasis violated the normal business practices rule as it applied to the applicable price rule in Oasis' sales to Lucky Stores; and whether Oasis' violations were willful.
Do	Tighe, Curhan & Pifero, Washington, DC	HFA-0251	Appeal of an information request denial. If granted: The Sept. 17, 1984 freedom of information request denial issued by the Idaho Operations Office would be rescinded, and Tighe, Curhan & Pifero would receive access to certain DOE information pertaining to request for procurement No. C84-130482 "Shipping Casks to Transport Three Mile Island (TMI Unit 2 Core) WOC-105-84."

Refund Applications Received

[Week of September 21 to September 28, 1984]

Date	Name of Refund Proceeding/Name of Refund Applicant	Case No.
Sept. 17, 1984	Amtel/Krum Oil Co.	RF46-1
Sept. 24, 1984	Gulf/Herb Asch	RF40-112
Do	Gulf/George's Gulf	RF40-113
Do	Gulf/Vander Pluym Oil Co., Inc	RF40-114
Do	Gulf/Chestnut Hill Gulf	RF40-115
Do	Willis/Ethwan's Mobil	RF41-8
Do	Willis/Gartner-Harf Co	RF41-9
Sept. 25, 1984	Gulf/Leslie Reisinger	RF40-116
Do	Gulf/Victor Paglio	RF40-117
Do	Manon/Stauffer Chemical Co	RF37-17
Sept. 26, 1984	Gulf/J W. Glass Gulf Service	RF40-118
Do	Amtel/Linwood Freeway	RF46-2
Do	Amtel/Riverside Freeway	RF46-3
Do	Amtel/McRich Freeway Service	RF46-4
Do	Amtel/Okolona Freeway	RF46-5
Do	Amtel/Moore's Premier Service	RF46-6
Do	Amtel/Taylor Boulevard Freeway	RF46-7
Do	Amtel/Magic Mile Freeway	RF46-8
Do	Amtel/North 81 Freeway	RF46-9
Sept. 27, 1984	Gulf/City Coal Co. of Springfield, Inc	RF40-119
Do	Gulf/Highway Transport, Inc	RF40-120
Do	Gulf/Alma Bohlken	RF40-121
Sept. 28, 1984	Gulf/McNamara Vans & Warehouses, Inc	RF40-122
Do	Gulf/Campbell Sixty-Six Express, Inc	RF40-123
Do	Gulf/Hogan's Transfer & Storage Co	RF40-124

[FR Doc. 84-27661 Filed 10-18-84; 8:45 am]

BILLING CODE 6450-01-M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of Implementation of Special Refund Procedures and Solicitation of Comments.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the appropriate procedures to be followed in refunding $42,325.95 in consent order funds to members of the public. This money is being held in escrow following the settlement of enforcement proceedings involving the White Petroleum Company, Inc., a reseller of refined petroleum products located in Shirley, Indiana.

DATE AND ADDRESS: Comments must be filed on or before November 19, 1984 and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585. All comments should conspicuously display a reference to case number HEF-0196.

FOR FURTHER INFORMATION CONTACT: Thomas O. Mann, Deputy Director, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-2094.

SUPPLEMENTARY INFORMATION: In accordance with Section 205.282(b) of

the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision relates to a consent order entered into by the White Petroleum Company, Inc., which settled possible violations of DOE price controls in the firm's sales of motor gasoline, No. 2 fuel oil, and No. 2 diesel fuel to its customers during the November 1, 1973 through April 30, 1974 period.

The Proposed Decision sets forth the procedures and standards that the DOE has tentatively formulated to distribute the contents of an escrow account funded by White Petroleum Company, Inc. pursuant to the consent order. The DOE has tentatively established procedures under which purchasers of White Petroleum Compny products during the audit period may file claims for refunds from the consent order fund. Applications for Refund should *not* be filed at this time. Appropriate public notice will be given when the submission of claims is authorized.

Any member of the public may submit written comments regarding the proposed refund procedures. Parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of publication of this notice in the **Federal Register**, and should be sent to the address set forth at the beginning of this notice. All comments received in this proceeding will be available for public inspection between the hours of 1:00 to 5:00 p.m., Monday through Friday, except federal holidays, in the Public Docket Room of the Office of Hearings and Appeals, located in Room 1E–234, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

Date: September 17, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

September 17, 1984.

Proposed Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

Name of Firm: White Petroleum Company, Inc.

Date of Filing: October 13, 1983.

Case Number: HEF–0196.

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special procedures to make refunds in order to remedy the effects of violations of DOE regulations. *See* 10 CFR Part 205, Subpart V. The Subpart V regulations set forth general guidelines by which OHA may formulate and implement a plan of distribution for funds received as a result of an enforcement proceeding. The Subpart V process is intended to be used in situations where DOE is unable readily to ascertain the persons who were injured or the amounts that such persons may be eligible to receive as a result of enforcement proceedings. *See Office of Enforcement*, 9 DOE ¶ 82,553 at 85,284 (1982).

I. Background

Pursuant to the provisions of Subpart V, on October 13, 1983, ERA filed a Petition for the Implementation of Special Refund Procedures in connection with a consent order that it entered into with White Petroleum Company, Inc. (White). White was a reseller of motor gasoline and fuel oils as that term was defined in 10 CFR 212.31, with its main office located in Shirley, Indiana. A DOE audit of White's records revealed possible regulatory violations with respect to the firm's pricing of motor gasoline, No. 2 fuel oil and No. 2 diesel fuel during the period November 1, 1973 through April 30, 1974 (hereinafter referred to as the audit period). In order to settle all claims and disputes between White and DOE regarding the firm's sales of motor gasoline and fuel oils during the audit period, White and DOE entered into a consent order on September 24, 1981. Under the terms of the consent order White agreed to remit $68,627.45 plus accrued interest to DOE in 36 equal monthly installments. To date, White has paid $42,325.95. White has filed for bankruptcy, and no further payments are expected in the near future. This sum is being held in an interest-bearing escrow account established with the United States Treasury pending a determination of its proper distribution. As of July 31, 1984, the White escrow account had earned $7,167.20 in interest. This Proposed Decision concerns the distribution of the $42,325.95 that was deposited into the escrow account, plus the accrued interest.

II. Proposed Refund Procedures

We have considered ERA's Petition for the Implementation of Special Refund Procedures and determined that it is appropriate to establish such a proceeding with respect to the White consent order fund. As we have stated in previous Decisions, refunding moneys obtained through DOE enforcement proceedings is the focus of Subpart V proceedings. *See, e.g., Office of Enforcement*, 8 DOE ¶ 82,597 (1981). Based upon our experience with Subpart V cases, we believe that the distribution of refunds in the present case should take place in two stages. In the first stage, we will attempt to refund money to identifiable purchasers of motor gasoline, No. 2 fuel oil and No. 2 diesel fuel who may have been injured by White's pricing practices during the period November 1, 1973 through April 30, 1974. After meritorious claims are paid in the first stage, a second stage refund procedure may become necessary. *See generally Office of Special Counsel*, 10 DOE ¶ 85,048 (1982) (hereinafter cited as *Amoco*) (refund procedures established for first stage applicants, second stage refund procedures proposed).

A. Refunds to Identifiable Purchasers

We propose that the White consent order funds be distributed to claimants who satisfactorily demonstrate that they were injured by White's alleged pricing violations. The information available to us at this time regarding White's operations during the consent order period does not provide names and addresses of the firm's customers. From our experience we believe that the claimants in this proceeding will fall into the following categories: (1) Resellers (including retailers), and (2) firms, individuals, or organizations that were consumers (end-users). The petroleum products purchased by these claimants were purchased either directly from White or from other firms in a chain of distribution leading back to White. In order to receive a refund, each claimant will be required to submit a schedule of its monthly purchases of White motor gasoline, No. 2 fuel oil, and No. 2 diesel fuel for the period November 1, 1973 through April 30, 1974. If the products were not purchased directly from White the claimant must include a statement setting forth its reasons for believing the product originated with White. In addition, a reseller or retailer that files a claim generally will be required to establish that it was injured by virtue of being unable to pass the alleged overcharges on to its customers. To make this showing, a reseller or retailer claimant will be required to show that it maintained "banks" of unrecovered increased product costs in order to demonstrate that it did not subsequently recover those costs by increasing its prices. *See Office of Enforcement*, 10 DOE ¶ 85,029 at 88,125 (1982) (hereinafter cited as *Ada*). In addition, it will have to demonstrate that, at the time it purchased the product from White, it did not increase its prices to pass through the additional costs

associated with the alleged overcharges. *See Office of Special Counsel/Standard Oil Company (Indiana),* 10 DOE ¶ 85,048 at 88,215 (1982) (hereinafter cited as *Amoco*). Alternatively, a reseller can show competitive injury by demonstrating that the prices it paid for products purchased from other suppliers were lower than those it paid to White. *See Amoco.*

As in many prior special refund cases, we will adopt several presumptions. First, we will adopt a presumption that the alleged overcharges were dispersed equally in all sales of products made by White during the consent period. OHA has referred to this presumption in the past as a volumetric refund amount. Second, we will adopt a presumption of injury with respect to small claims. Finally, we will adopt a presumption that end-users and consumers were injured by the alleged overcharges.

Presumptions in refund cases are specifically authorized by applicable DOE procedural regulations. Section 205.282(e) of those regulations states that:

> [i]n establishing standards and procedures for implementing refund distributions, the Office of Hearings and Appeals shall take into account the desirability of distributing the refunds in an efficient, effective and equitable manner and resolving to the maximum extent practicable all outstanding claims. In order to do so, the standards for evaluation of individual claims may be based upon appropriate presumptions.

10 CFR 205.282(e). The three presumptions we will adopt in this case are used to permit claimants to participate in the refund process without incurring disproportionate expenses. In order to prove a claim for refund, an applicant must compile and submit detailed factual information regarding the impact of alleged overcharges which took place many years ago. This procedure is generally time-consuming and expensive, and in the case of small claims, the cost of gathering this factual information may be many times the expected refund amount. Failure to allow simplified application procedures for small claimants, mainly individual consumers and small businesses, could operate to deprive them of any opportunity to obtain a refund, and thus not recognize many injuries. The use of presumptions is also invaluable to administrative efficiency because it allows the OHA to process a large number of the refund claims quickly.

In essence, presumptions allow us to find injury in an equitable way, thereby avoiding the task of tracing overcharges through the multiple levels of the petroleum distribution system and precisely quantifying their effects. That task is a complex one, since petroleum products are fungible goods, and their provenance disappears when they come to rest in a purchaser's inventory. Similarly, deciding how the particular applicant would have operated its business and what it would have charged its customers in the absence of the alleged overcharges is not a straightforward task.

We now turn to a discussion of the three presumptions which we will adopt in this case. First, the pro rata (*i.e.* volumetric) refund presumption assumes that alleged overcharges were spread equally over all gallons of product marketed by a particular firm. In the absence of better information, this assumption is sound because of the manner in which the DOE price regulations required a regulated firm to account for increased costs in determining its prices. However, we also recognize that the impact on an individual purchaser could have been greater, and any purchaser is allowed to file a refund application based on a claim that the impact of the alleged overcharge on it was greater than the pro rata amount determined by the volumetric method. *See, e.g., Sid Richardson Carbon and Gasoline Co. and Richardson Products Co./Siouxland Propane Co.,* 12 DOE ¶ 85,054 (1984) and cases cited therein at 88,164.

Second, we will utilize a presumption that claimants seeking refunds up to a certain threshold level (*i.g.,* 50,000 gallons per month) were injured by the pricing practices settled in the White consent order. This presumption allows only a limited class of claimants to receive small refunds without submitting further evidence of injury, and then only up to a specified monthly amount. Because the threshold level is set by OHA conservatively, small claimants can benefit from the simplified procedure, and there is no danger that they will obtain a windfall as a result. This presumption insures that refunds will be distributed in an efficient, effective and equitable manner. 10 CFR 205.282(e).

In addition, we will adopt a presumption of injury for end-users. Unlike regulated firms in the petroleum industry, end-users of White petroleum products operated in an unregulated environment and they were not required to keep records which justified selling price increases by reference to cost increases. Without records of that nature, it would likely be impossible for us to determine whether an end-user could have passed on the alleged overcharges. For these reasons, special refund proceedings have not attempted to ascertain the impact of alleged overcharges on an end-user such as a firm manufacturing non-petroleum products or governmental entity providing services to taxpayers. *See Office of Enforcement, Economic Regulatory Administration: In the Matter of PVM Oil Associates, Inc.,* 10 DOE ¶ 85,072 (1983). We therefore will adopt a presumption that end-users of White petroleum products were injured by the alleged overcharges, and they may receive a pro rata (*i.e.* volumetric) refund by simply documenting their purchase volumes from White. Customers who purchased from a firm which purchased from White must also document the chain of distribution leading back to White. *See, e.g., Standard Oil Co. (Indiana)/Union Camp Corp.,* 11 DOE ¶ 85,007 (1983).

Under the presumptions we are adopting, a reseller or retailer claimant will not be required to submit any additional evidence of injury if its refund claim is based on monthly purchases below a threshold level. *See Ada* at 88,122. In this case that level will be 200,000 gallons or less.(1) The adoption of a threshold level below which a claimant does not have to submit any further evidence of injury is based on several factors. As noted above, the Subpart V regulations authorize the use of presumptions for this purpose. *See* 10 CFR ¶ 205.282(e). We are especially concerned that the cost of compiling information sufficient to show injury not exceed the amount of the refund to be gained. In this case, where the per gallon refund amount is fairly low, and the time period of the consent order was quite distant, we believe that the establishment of a presumption of injury for all claims of 200,000 gallons or less per month is reasonable. *See Office of Special Counsel: In the Matter of Conoco, Inc.,* 11 DOE ¶ 85,226 (1984) and cases cited therein.

If a reseller or retailer made only spot purchases from White, however, we propose that it should not receive a refund because it is not likely to have suffered an injury. As we have previously stated with respect to spot purchasers:

> [T]hose customers tend to have considerable discretion in where and when to make purchases and would therefore not have made spot market purchases of [the firm's product] at increased prices unless they were able to pass through the full amount of [the firm's] quoted selling price at the time of purchase to their own customers.

Vickers at 85,396–97. We believe the same rationale holds true in the present case. Accordingly, a spot purchaser which files a claim should submit

additional evidence to establish that it was unable to recover the increased prices it paid for White petroleum products. *See Amoco* at 88,200.

As discussed above, we have adopted a presumption that end-users (*i.e.*, consumers) of White petroleum products were injured by the firm's pricing practices, and they will not be required to submit any other evidence of injury in order to qualify for a refund. *See Standard Oil Co. (Indiana)/Union Camp Corp.*, 11 DOE ¶85,007 (1983); *Standard Oil Co. (Indiana)/Elgin, Joliet, and Eastern Railway*, 11 DOE ¶85,105 (1983) (end-users of various refined petroleum products granted refunds solely on the basis of documented purchase volumes). Therefore, in this proceeding a consumer need only document the specific quantities of White petroleum products it purchased during the consent order period.

A successful refund applicant will receive a refund based upon a volumetric method of allocating refunds. Under this method, a volumetric refund amount is calculated by dividing the settlement amount by our estimate of the total gallonage of products covered by the consent order. In the present case, based on the information available to us at this time, the volumetric refund amount is $.00446233 per gallon. (*2*)

As in previous cases, we will establish a minimum refund amount of $15.00 for first stage claims. We have found through our experience in prior refund cases that the cost of processing claims in which refunds are sought for amounts less than $15.00 outweighs the benefits of restitution in those situations. *See, e.g., Uban Oil Co.*, 9 DOE ¶82,541 at 85,225 (1982).

Detailed procedures for filing applications will be provided in a final Decision and Order. Before disposing of any of the funds received as a result of the consent order involved in this proceeding, we intend to publicize widely the distribution process to solicit comments on the proposed refund procedures and to provide an opportunity for any affected party to file a claim. In addition to publishing notice in the **Federal Register**, notice will be provided to the Independent Gasoline Marketers Council, the National Oil Jobbers Council, the Service Station Dealers of America, the National Association of Convenience Stores, the National Association of Truck Stop Operators, and the Society of Independent Gasoline Marketers of America. These organizations should be helpful in advising potential claimants of this proceeding. In addition, we are continuing our efforts to obtain a list of the names and addresses of first purchasers of White petroleum products.

B. Distribution of the Remainder of the Consent Order Funds

In the event that money remains after all first stage claims have been disposed of, undistributed funds could be distributed in a number of different ways. However, we will not be in a position to decide what should be done with any remaining funds until the first stage refund procedure is completed. We encourage the submission of comments containing proposals for alternative distribution schemes.

It Is Therefore Ordered That:

The refund amount remitted to the Department of Energy by the White Oil Company pursuant to the consent order executed on January 19, 1981 will be distributed in accordance with the foregoing Decision.

Notes

(*1*) Resellers whose monthly purchases during the period for which a refund is claimed exceed 200,000 gallons, but who cannot establish that they did not pass through the price increases, or who limit their claims to the threshold amount, will be eligible for a refund for purchases up to the 200,000 gallons per month threshold amount without being required to submit evidence of injury. *See Vickers* at 85,396; *see also Ada* at 88,122.

(*2*) During the Consent Order Period, White sold 9,485,167 gallons of motor gasoline and middle distillates. $42,325.95/9,485,167 = $.00446233 gallon.

[FR Doc. 84-27982 Filed 10-18-84; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51540; TSH-FRL 2693-7]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of eleven PMNs and provides a summary of each.

DATES: Close of Review Period:

PMN 84-1230—December 28, 1984.
PMN 85-1—December 29, 1984.
PMN 85-2, 85-3, 85-4, 85-5, 85-6 and 85-7—December 30, 1984.
PMN 85-8 and 85-9—December 31, 1984.
PMN 85-10—January 1, 1985.

Written comments by:

PMN 84-1230—November 26, 1984.
PMN 85-1—November 29, 1984.
PMN 85-2, 85-3, 85-4, 85-5, 85-6 and 85-7—November 30, 1984.
PMN 85-8 and 85-9—December 1, 1984.
PMN 85-10—December 2, 1984.

ADDRESS: Written comments, identified by the document control number "[OPTS-51540]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Chemical Information Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E-201, 401 M St., SW., Washington, DC 20460, (202-382-3532).

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M St., SW., Washington, DC 20460, (202-382-3725).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E-107 at the above address.

PMN 84-1230

Importer. Confidential.

Chemical. (G) Methyl sulfate, quaternized polyurethane

Use/Production. (S) Thermosensitizing agent for latex binder systems, on non-woven materials. Import range: Confidential.

Toxicity Data. Acute oral: <5,000 mg/kg; Irritation: Skin – Slight, Eye – Non-irritant.

Exposure. Processing: dermal, a total of 3 workers, up to 8 hr/shift, 1 hr each.

Environmental Release/Disposal. 10 to 100 kg/yr released.

PMN 85-1

Importer. Confidential.

Chemical. (G) Aromatic oxime.

Use/Import. (G) Highly dispersive use. Import range: Confidential.

Toxicity Data. Acute oral: 125-1,000 mg/kg; Irritation: Skin – Minimal, Eye – Minimal; Phototoxicity: Non-photosensitizer; Photoallergenicity test:

Non-photosensitizer; Open epicutaneous test: Non-allergenic.

Exposure. Confidential.

Environmental Release-Disposal. Confidential. Disposal by publicly owned treatment work (POTW).

PMN 85–2

Manufacturer. Confidential.

Chemical. (G) Nitro alcohol.

Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral: Male—0.28 g/kg and Female 0.088 g/kg; Acute dermal: Male—1.4 g/kg and female—2.4 g/kg; Irritation: Skin—Slight, Eye—Irritant.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

PMN 85–3

Manufacturer. Essex Specialty Products, Inc.

Chemical. (G) Polyurethane polymer.

Use/Production. (S) Curative used in compounded sealant. Prod. range: 50,000–250,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal and ocular.

Environmental Release/Disposal. No release.

PMN 85–4

Manufacturer. Confidential.

Chemical. (G) Substituted phenol.

Use/Import. (G) Ingredients for use in consumer products and highly dispersive use. Import range: 1–10 kg/yr.

Toxicity Data. Skin sensitization: No delayed contact hypersensitivity.

Exposure. Use: dermal, a total of 4 workers, up to 2 hrs/da, up to 20 da/yr.

Environmental Release/Disposal. No release.

PMN 85–5

Manufacturer. Emery Industries.

Chemical. (S) Adipic acid, azelaic azic, and phthalic and anhydride with ethylene glycol terminated with 2-ethyl hexanol.

Use/Production. (S) Industrial plasticizer for polyvinyl chloride. Prod. range: 450,000–900,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 3–5 workers, up to 4 hrs/da, up to 22–44 da/yr.

Environmental Release/Disposal. 75 per 10,000 charge released to water with 185 per 10,000 charge to land. Disposal by POTW and approved landfill.

PMN 85–6

Manufacturer. Confidential.

Chemical. (G) Alkyl phosphate potassium salt.

Use/Production. (G) Contained use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 85–7

Manufacturer. Confidential.

Chemical. (G) Spiro[isobenzofuran xanthene].

Use/Production. (G) Minor color-forming component in paper coatings. Prod. range: Confidential.

Toxicity Data. Ames Test: Negative.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 85–8

Manufacturer. Hercules Incorporated.

Chemical. (G) Polyether polyester urethane.

Use/Production. (G) Destructive use printing industry. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal, a total of 6 workers.

Environmental Release/Disposal. Less than .001 to 5 kg/batch released to air with 10 kg/batch to water and 204 kg/batch to land. Disposal by POTW and incineration.

PMN 85–9

Manufacturer. Ethox Chemicals, Inc.

Chemical. (G) Fatty alcohol, ethoxylated, propoxylated, fatty acid ester.

Use/Production. (S) Fiber lubricant for use on synthetic fibers. Prod. range: 100,000–200,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 2 workers, up to 2 hrs/da, up to 11 da/yr.

Environmental Release/Disposal. 20 kg released to water. Disposal by POTW.

PMN 85–10

Manufacturer. E. I. du Point de Nemours and Company.

Chemical. (S) Benzothiazolium, 2-(2-ethoxyl-1-propenyl)-3-ethyl, ethyl sulfate.

Use/Production. (G) Dye intermediate (contained use). Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

Dated: October 9, 1984.

Linda A. Travers,

Acting Director, Information Management Division.

[FR Doc. 84–27141 Filed 10–18–84; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–51529A; TSH–FRI 2698–1]

Alkyl Ester; Premanufacture Notice; Extension of Review Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is extending the review period for an additional 90 days for premanufacture notice (PMN) 84–968, under the authority of section 5(c) of the Toxic Substances Control Act (TSCA). The review period will now expire on January 12, 1985.

FOR FURTHER INFORMATION CONTACT: Anna Coutlakis, Chemical Control Division (TS–794), Environmental Protection Agency, Rm. E–613B, 401 M St., SW., Washington, D.C. 20460 (202–382–2252).

SUPPLEMENTARY INFORMATION: On July 17, 1984, EPA received PMN 84–968 for a new chemical substance, alkyl ester. The submitter claimed its identity, the specific chemical identity, production volume, process information, and portions of a mixture to be confidential business information. Notice of receipt was published in the **Federal Register** of July 27, 1984 (49 FR 30238). The original 90-day review period was scheduled to expire on October 14, 1984.

Based on its analysis, EPA finds that there is a possibility that the substance submitted for review in this PMN may be regulated under TSCA. The Agency requires an extension of the review period, as authorized by section 5(c) of TSCA, to investigate further potential risk, to examine its regulatory options, and to prepare the necessary documents, should regulatory action be required. Therefore, EPA has determined that good cause exists to extend the review period for an additional 90 days, to January 12, 1985.

PMNs are available for public inspection in Rm. E–107, at the EPA headquarters, address given above, from 8 a.m. to 4. p.m., Monday through Friday, except legal holidays.

Dated: October 12, 1984.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 84–27643 Filed 10–18–84; 8:45 am]

BILLING CODE 6560–50–M

[OPTS-59173; TSH-FRL 2697-8]

Certain Chemicals; Test Marketing Exemption Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5(a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722. This notice, issued under section 5(h)(6) of TSCA, announces receipt of two applications for exemptions, provides a summary, and requests comments on the appropriateness of granting each of the exemptions.

DATE: Written comments by: November 5, 1984.

ADDRESS: Written comments, identified by the document control number "[OPTS-59173]" and the specific TME number should be sent to: Document Control Officer (TS-793), Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E-4201 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M Street, SW, Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the TMEs received by EPA. The complete non-confidential document is available in the Public Reading Room E-107 at the above address.

TME 85-1

Close of Review Period. November 11, 1984.

Manufacturer. Confidential.

Chemical. (G) Modified styrene copolymer.

Use/Production. (G) Industrial coating. Prod. range: 9,400 kg/6 months.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal, a total of 11 workers, up to 4 hrs/da, up to 19 da/yr.

Environmental Release/Disposal. 3 to 4 kg/batch released to land. Disposal by incineration and landfill.

TME 85-2

Close of Review Period. November 23, 1984.

Manufacturer. Confidential.

Chemical. (G) Modified polymer of alkanedioic acid.

Use/Production. (S) A spray applied resin component of an industrial coating. Prod. range: 75,000 kg/1 year.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal, a total of 38 workers, up to 3 hrs/da, up to 225 da/yr.

Environmental Release/Disposal. 40 to 55 kg/batch released with 4 kg/batch to land. Disposal by incineration and landfill.

Dated: October 15, 1984.

Linda A. Travers,

Acting Director, Information Management Division.

[FR Doc. 84-27644 Filed 10-18-84; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51541; BH-FRL 2698-2]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of seventeen PMNs and provides a summary of each.

DATES: Close of Review Period: PMN 85-11, 85-12, 85-13 and 85-14, January 2, 1985. PMN 85-15 and 85-16, January 6, 1985. PMN 85-17, 85-18, 85-19, 85-20, 85-21, 85-22 and 85-23, January 7, 1985, PMN 85-24, 85-25, 85-26 and 85-27 January 8, 1985. Written comments by: PMN 85-11, 85-12, 85-13 and 85-14, December 3, 1984. PMN 85-15 and 85-16, December 7, 1984. PMN 85-17, 85-18, 85-19, 85-20, 85-21, 85-22, 85-23, December 8, 1984. PMN 85-24, 85-25, 85-26 and 85-27, December 9, 1984.

ADDRESS: Written comments, identified by the document control number "[OPTS-51541]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Chemical Information Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E-201, 401 M St., SW., Washington, DC 20460 (202-382-3532).

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M St., SW., Washington, DC 20460 (202-382-3729).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E-107 at the above address.

PMN 85-11

Importer. Confidential.

Chemical. (G) Aryl substituted aliphatic thiol.

Use/Import. (G) Ingredients for use in consumer products; highly dispersive use. Import range: 1-10 kg/yr.

Toxicity Data. Skin sensitization: Non-Hypersensitizer.

Exposure. Import: Dermal, a total of 4 workers, up to 2 hrs/da, up to 20 da/yr.

Environmental Release/Disposal. No release.

PMN 85-12

Manufacturer. Confidential.

Chemical. (G) Aliphatic nitrile.

Use/Production. (G) Highly dispersive use. Prod. Range: Confidential.

Toxicity Data. Acute oral: 2.0 ml/kilo and 1 ml./kilo; irritation: Eye—Non-Irritant.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by publicly owned treatment works (POTW).

PMN 85-13

Manufacturer. Allied Corporation.

Chemical. (G) Substituted borazole polymer.

Use/Production. (S) Industrial boron dopant for semiconductor fabrication Prod. range: Confidential.

Toxicity Data. Acute oral: Between 3 and 10 mL/kg; Ames test: Mutagenic; Skin corrosivity: Corrosive agent; Guinea pig maximization test: Weak sensitizer.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 85–14

Manufacturer. Petrarch Systems, Inc.

Chemical. (S) Dimethylsila-17-Crown-6.

Use/Production. (G) Contained use. Prod. range: 75–300 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: Dermal, a total of 2 workers, up to 24 hrs/da, up to 5 da/yr.

Environmental Release/Disposal. Less than 1 kg/batch released to land. Disposal by approved landfill.

PMN 85–15

Manufacturer. Owens-Corning Fiberglas Corporation.

Chemical. Halogenated fatty acid ester.

Use/Production. (G) Size ingredient. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: A total of 2–10 workers, up to 24 hrs/da, up to 350 da/yr.

Environmental Release/Disposal. Release to air and water. Disposal by POTW, incineration and on-site treatment plant.

PMN 85–16

Manufacturer. Confidential.

Chemical. (G) Acrylamide unsaturated quaternary ammonium copolymer.

Use/Production. (G) Water treating chemical. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 85–17

Manufacturer. Confidential.

Chemical. (G) Acrylic copolymer.

Use/Production. (G) Protective coating for metallized polyester film. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 85–18

Manufacturer. Confidential.

Chemical. (G) Substituted amino anthraquinone.

Use/Production. (S) Coloration of petroleum products. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 85–19

Manufacturer. General Electric Company.

Chemical. (G) Terephthalic acid, polymer with 2-oxepanone, and an alkane diol.

Use/Production. (S) Industrial consumer and sporting goods, automotive and fasteners. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: Dermal, a total of 130 workers, up to 10 hrs/da, up to 100 da/yr.

Environmental Release/Disposal. Less than 10 kg/batch released to land. Disposal by landfill.

PMN 85–20

Manufacturer. Confidential.

Chemical. (G) Arylhydrozonotrimethylindolium, salt.

Use/Production. (S) Site-limited and industrial dye intermediate. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: Dermal, a total of 2 workers, up to 3 hrs/da, up to 27 da/yr.

Environmental Release/Disposal. Release to air and water. Disposal by POTW.

PMN 85–21

Manufacturer. Confidential.

Chemical. (G) Substituted alkenyl dimethylchlorosilane.

Use/Production. (S) Site-limited intermediate for chemical synthesis. Prod. range: 500–1,500 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: Demal, a total of 7 workers.

Environmental Release/Disposal. Less than 0.0001 to less than 0.5 kg/batch released to air. Disposal by incineration.

PMN 85–22

Manufacturer. Confidential.

Chemical. (G) Polymer of isooctyl acrylate and N-t-octylacrylamide.

Use/Production. (G) Adhesive. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: Dermal, a total of 46 workers.

Environmental Release/Disposal. 4 to 80 kg/batch released with 135 to 1,000 kg/batch to land. Disposal by POTW, incineration and landfill.

PMN 85–23

Importer. Confidential.

Chemical. (G) Iron complex of a substituted phenyl azo.

Use/Importer. (S) Dye intermediate. Import range: Confidential.

Toxicity Data. No data submitted.

Exposure. Processing: Dermal, a total of 1 worker, up to 1 hr/da, up to 2 da/yr.

Environmental Release/Disposal. No release to air, water and land.

PMN 85–24

Manufacturer. Confidential.

Chemical. (G) 3-Substituted propionic acid.

Use/Production. (G) Open, non-dispersive. Prod. range: Confidential.

Toxicity Data. Acute oral: 5 g/kg; Irritation: Skin—No reaction, Eye—Irritant.

Exposure. Manufacture and processing: Dermal and inhalation, a total of 32 workers, up to 4 hrs/da, up to 117 da/yr.

Environmental Release/Disposal. 350 kg/batch released to water. Disposal by on-site biological treatment system and National Pollution Disposal and Elimination System (NPDES).

PMN 85–25

Manufacturer. Confidential.

Chemical. (G) Methyl (aryl) indolylazo-thiazolium, salt.

Use/Production. (S) Site-limited and industrial dye intermediate. Prod. range: 12,000–20,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: Dermal, a total of 2 workers, up to 3 hrs/da, up to 21 da/yr.

Environmental Release/Disposal. Release to air and water. Disposal by POTW.

PMN 85–26

Importer. Confidential.

Chemical. (G) Substituted phenyl disulfide.

Use/Import. (G) Preservative. Prod. range: Confidential.

Toxicity Data. Ames Test: Negative; LC_{50} 24 hr (Rainbow trout): 1.8 mg/1; LC_{50} 48 hr (Rainbow trout): 1.6 mg/1; LC_{50} 72 and 96 hr (Rainbow trout): 1.2 mg/1; IC_{50} Respiration rate test: 100 mg/1; 48 hr (Japanese rice fish): 1.24 jg/1; BOD_5 0.04 g/g; COD: 0.69 g/g; TOC: 0.19 g/g.

Exposure. None.

Environmental Release/Disposal. No data submitted.

PMN 85–27

Manufacturer. Confidential.

Chemical. (S) 1-(2-aminophenyl)ethanone hydrochloride.

Use/Production. (G) Chemical intermediate. Prod. range: 150 kg/yr.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture and use: A total of 6 workers, up to 0.2 hr/da, up to 2 da/yr.

Environmental Release/Disposal. No release. Less than 0.2 kg/batch incinerated.

Dated: October 15, 1984.

Linda A. Travers,

Acting Director, Information Management Division.

[FR Doc. 84-27043 Filed 10-18-84; 8:45 am]

BILLING CODE 6560-50-M

[OW-8-FRC-267-7]

National Pollutant Discharge Elimination System General Permit for Construction Activities in the State of South Dakota

AGENCY: U.S. Environmental Protection Agency (EPA), Region VIII.

ACTION: Notice of Issuance of Final General Permit.

SUMMARY: On May 20, 1983, the Regional Office published notice of its intent (48 FR 22791) to issue a General National Pollutant Discharge Elimination System (NPDES) Permit for construction-related discharges. Pursuant to this notice, the Region received written comments from the following parties:

1. Mr. John M. Krakar, P.E., Superintendent, Environmental Affairs, Natural Gas Pipeline Company of America, 122 South Michigan Avenue, Chicago, Illinois 60603
2. Mr. R. J. Masiel, President, Chevron Piple Line Company, 555 Market Street, P.O. Box 7141, San Francisco, California 94120-7141
3. Mr. J. J. Moon, Environment and Consumer Protection Division, Phillips Petroleum Company, Bartlesville, Oklahoma 74004
4. Mr. Donald Pay, Technical Information Project, P.O. Box 682, Pierre, South Dakota 57501.

Two of the parties were very supportive of the issuance of this general permit. One party suggested some clarification to insure that routine hydrostatic testing discharge authorizations were included within the regulated activities of this general permit. This language has been clarified.

Another of the parties provided a substantial number of recommendations to the draft general permits for construction-related activities. That party seemed to question the viability of regulating these industries through a general permit believing that only the largest construction facilities would be inclined to comply and that the EPA was, by this action, in effect making "potential lawbreakers out of a great many people engaged in miscellaneous construction projects." Contrary to this statement, we believe that the general permit will provide the opportunity to provide authorizations for discharges which, prior to the general permit, went substantially unregulated despite such discharges being fully subject to the NPDES permit discharge requirements. The party also felt that the language of the permit was not sufficiently broad to encompass all the anticipated spectrum of discharges which could, otherwise, be authorized under the permit.

It was also suggested that the general permit establish a "de minimis" level of operations which would essentially be excused from complying with the effluent and management conditions of the general permit. The original general permit proposal established a monitoring frequency schedule based on the discharge flow level. In order to maintain simplicity of this schedule, only two minimum frequencies were established. In the absence of any statutory or regulatory basis, creation of a "de minimis" level of discharger which is exempt from the conditions of the permit is beyond the reasonable discretion of this Regional Office.

The last party suggested that the permit was not stringent enough and additional sampling and monitoring should be required. Pursuant to these comments, the proposed final permit has been slightly modified to stress that the schedule represents the minimum monitoring requirements and that the permittee's actual monitoring frequency must be adequate to provide information which is truly representative of the nature and quantity of the discharge.

The Region has fully considered these comments in the development of this final proposed permit. Although one party requested a public hearing on the issuance of the South Dakota general permit, the Region has determined that there is insufficient interest or basis to warrant a public hearing on this matter.

The one request for a public hearing was primarily based on an apparent misunderstanding of the Clean Water Act's relationship to water quality standards promulgated by the State of South Dakota. Further, the party did not realize that the general permit's exclusion of cold water fishery streams did not preclude a facility attempting to secure discharge authorization under an individual NPDES permit.

EPA has certified this permit on behalf of the State of South Dakota.

EFFECTIVE DATE: This General Permit shall be effective November 19, 1984.

FOR FURTHER INFORMATION AND COPIES OF FINAL PERMIT CONTACT: Marshall Fisher, Region VIII, U.S. Environmental Protection Agency, Compliance Branch, Water Management Division, 1860 Lincoln Street, Denver, Colorado 80295-0699, (303) 844-4901.

SUPPLEMENTARY INFORMATION:

[Permit No. SDG070000]

General Permit Authorization Under the National Pollutant Discharge Elimination System for Construction Activities in South Dakota Hydrostatic Testing and Excavation Dewatering

In compliance with the provision of the Clean Water Act, as amended (33 U.S.C. 1251, et seq.) (hereinafter referred to as "the Act") and with the exception of "new sources" as defined at 40 CFR 122.2 of the regulations promulgated thereunder, operations engaged either in construction dewatering of groundwaters and/or hydrostatic testing of fluid vessels are authorized to discharge from locations throughout the State of South Dakota to waters of the United States in accordance with effluent limitations, monitoring requirements and other conditions set forth in this permit.

This permit and the authorization to discharge shall expire at midnight, July 31, 1989.

A. Coverage Under This Permit

Under this permit, authorization to discharge waste waters (after necessary treatment) from construction dewatering (both from groundwater and surface runoff impounded on the site) and/or hydrostatic testing operations into waters of the United States (as defined at 40 CFR 122.2) may be granted. However, discharges to receiving waters classified by the State of South Dakota as *cold water permanent fish life propagation* or *cold water marginal fish life propagation* are *not* eligible for discharge authorization under this General Permit. Information concerning receiving water classification may be obtained from the South Dakota Department of Water and Natural Resources at the location given below. In addition, this permit does not authorize discharges from "new sources" as defined at 40 CFR 122.2.

In order to be considered eligible for discharge authorization under the terms and conditions of this permit, the owner and/or operator of the facility desiring to discharge must submit by *certified* letter the following information:

1. Name, address, and descriptive location of the facility;
2. Name of principal in charge of operation of the facility;

3. Name of water receiving the discharge;

4. Brief description of the type of activity resulting in the discharge including the anticipated duration of activity and/or the discharge, anticipated volume and rate of discharge, and the source of water which is to be discharged;

5. For hydrostatic testing only:

a. the type of vessel being tested (e.g., pipe, etc.);

b. the material from which the vessel was constructed (e.g. concrete pipe, glass lined steel tank, etc.);

c. whether the vessel has been previously used or is of virgin material;

d. a description of the fluid material normally contained and/or transported through the vessel; and,

6. A map or schematic diagram showing the general area and/or routing of the activity.

At least thirty (30) days prior to the anticipated date of discharge, such information shall be submitted to:

U.S. Environmental Protection Agency, Suite 280, 1860 Lincoln Street, Denver, Colorado 80295, Attention: Water Management Division Compliance Branch, Telephone: (303) 844–4901

South Dakota Department of Water and Natural Resources, Joe Foss Building, Pierre, South Dakota 57501, Attention: Office of Water Quality, Telephone: (605) 773–5270.

During this thirty (30) day period after receipt of the above information, the permit issuing authority may either grant the authorization, deny the authorization, or defer the final decision pending receipt of additional data for any particular facility.

After the close of the thirty (30) day period, authorization to discharge in accordance with the conditions of the permit shall be deemed granted unless the person proposing the discharge received, from the State of South Dakota and/or EPA, either a request for additional information or a notification of denial of discharge authorization.

This permit does not authorize discharges from "new sources" as defined at 40 CFR 122.2.

Authorizations under this general permit are made pursuant to Section 402 of the Clean Water Act. This permit does not constitute authorization under 33 U.S.C. 1344 (Section 404 of the Clean Water Act) of any stream dredging or filling operations (e.g., the discharge of fill material used in the construction of coffer dams).

Permittees authorized by this general permit are requested to provide EPA, Region VIII, and the State of South Dakota with information on the location of sites, where and whenever any construction dewatering activity becomes involved with any known or suspected hazardous waste or toxic pollutant. Dewatering discharges may not contain any chemicals, toxic pollutants, and/or priority pollutants pursuant to Section B.6. of this permit.

B. Effluent Limitations and Conditions

1. There shall be no discharge of any process generated waste waters except those waste waters resulting from dewatering of groundwater and/or surface runoff from construction sites and/or hydrostatic testing of pipelines or other fluid vessels.

2. This permit does not authorize discharges from dewatering activities at hazardous waste sites or the discharge of toxic materials from any location.

3. There may be no discharge of sanitary waste waters from toilets or related facilities.

4. The permittee shall take such steps as are necessary to prevent or minimize stream channel scouring caused by the discharge.

5. There shall be no discharge of floating solids or visible foam in other than trace amounts.

6. No chemicals, toxic pollutants, and/or any priority pollutants in 40 CFR Part 122 Appendix D are to be added to the discharge unless prior permission for the use of the additive is specifically granted by the permit issuing authority. The U.S. Environmental Protection Agency will maintain a list of additives and supporting records approved under this permit. The list and records are subject to public review.

7. The use of lime or aluminum salts to promote flocculation and settling of solids will not be subject to prior approval described in Section B.6. above.

8. The use of chlorinated water (e.g., potable tap water) for a hydrostatic testing fluid shall not be allowed unless it can be demonstrated that the chlorine substantially dissipates prior to discharge and/or possess no potential for toxic impacts to the receiving waters.

9. The concentration of Oil and Grease in any single sample shall not exceed 10 mg/1 nor shall there be any visible sheen in the discharge.

10. The pH of discharged waters shall not be less than 6.5 nor more than 9.0 units.

11. The concentration of Total Suspended Solids shall be limited as follows:

Parameter	Sample limitation [a] [b]
Total Suspended Solids, mg/1.	90 (grab or composite sample).

[a] A grab sample is defined as a single "dip and take" sample collected at a representative point in the discharge stream.

[b] A composite sample is defined as a sample composed of a minimum of four (4) grab samples taken at 2-hour intervals proportioned to flow volume at the time of sampling.

C. Monitoring and Reporting

1. Daily Logs.

The permittee shall maintain a daily log relating to the authorized discharge(s). The log shall contain:

a. flow information and data;

b. sample results; and,

c. records of any visual observations.

2. Frequency and Type of Sampling.

Samples and measurements taken as required herein shall be representative of the general nature and volume of the discharge. Flow measurements shall be taken using properly constructed and calibrated flow measuring devices (e.g., flume, weir, etc.) or demonstrated equivalent methods. The *minimum* frequency and type of sampling required by this permit shall be as follows:

a. *Hydrostatic Testing.*

(1) Record daily discharge flow rate and total volume discharged.

(2) Daily grab sample for Total Suspended Solids during discharge.

(3) Daily grab sample or in situ measurement for pH during discharge.

(4) Daily observation for the presence of Oil and Grease in the discharge. In addition, a monthly grab sample for Oil and Grease if the average discharge rate exceeds 1 cubic foot per second (cfs).

b. *Construction Dewatering.*

(1) Instantaneous flow measurements shall be made on a daily basis if the discharge flow rate is greater than 1 cfs. Instantaneous flow measurements shall be made on a montly basis in all other cases.

(2) Weekly grab sample for Total Suspended Solids and pH if discharge flow rate exceeds 1 cfs. Montly grab sample for Total Suspended Solids and pH in all other cases.

(3) Daily observation for the presence of Oil and Grease in the discharge. In addition, a monthly grab sample for Oil and Grease if the average discharge rate exceeds 1 cfs.

3. Test Procedures.

Test procedures for the analysis of pollutants shall conform to regulations published pursuant to section 304(h) of the Act, under which such procedures may be required.

4. Recording of Results.

For each measurement or sample taken pursuant to the requirements of

this permit, the permittee shall record the following information:

a. The exact place, date, and time of sampling;

b. The dates the analyses were performed;

c. The person(s) who performed the analyses;

d. The analytical techniques or methods used; and,

e. The results of all required analyses.

5. Reporting Requirements.

a. Within thirty (30) days after completion of the construction related activity, the permittee shall submit a report summarizing the results of all discharge samples. If the construction activity extends beyond a period of one (1) year, a summary report must be submitted on an annual basis and is due thirty (30) days after the anniversary of the discharge authorization. Failure to submit this report by that date shall constitute cause for immediate revocation of the discharge authorization under the General Permit.

b. If, for any reason, the permittee does not comply with the maximum effluent limitations specified by this permit, the permittee shall submit the following information within five (5) days of becoming aware of such condition:

(1) The results of any sample analysis which indicated the noncompliance including the date, time, and type of sample taken;

(2) A description of the cause of noncompliance; and,

(3) A description of any corrective actions taken or proposed to be taken with respect to the noncompliance.

c. The permittee shall provide immediate (within 24 hours) telephone notification of the occurrence of any discharge or spill not specifically authorized by the permit (including pipe failure and/or rupture from hydrostatic testing). Such notification shall be followed up in writing in accordance with the requirements of paragraph b. above.

d. Reports and notification shall be provided to the South Dakota Department of Water and Natural Resources and the U.S. Environmental Protection Agency; addresses identified in Section A. of this permit.

6. Records Retention—40 CFR 122.41(h).

All records and information resulting from the monitoring activities required by this permit including all records of analyses performed and calibration and maintenance of instrumentation and recordings from continuous monitoring instrumentation shall be retained for a minimum of three (3) years, or longer if requested by the Regional Administrator or the South Dakota Department of Water and Natural Resources.

General Conditions

1. *Duty to Comply*—40 CFR 122.41(a).

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and is grounds for possible enforcement action.

2. *Duty to Mitigate*—Prevention of Adverse Impact—40 CFR 122.41(d).

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health, the waters receiving the discharge, or the environment. Such steps shall include measures to prevent or minimize stream channel scouring caused by the discharge.

3. *Facilities Operation*—40 CFR 122.41(e).

The permittee shall at all times maintain in good working order and operate as efficiently as possible, all control facilities or systems installed or used by the permittee to achieve compliance with the terms and conditions of this permit.

Bypass of treatment facilities is prohibited except as provided for and in accordance with the requirements at 40 CFR 122.41(m) and/or (n).

4. *Removed Substances.*

Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of waste waters shall be disposed of in a manner such as to prevent any pollutant from such materials from entering navigable waters.

5. *Upset Conditions*—40 CFR 122.41(n).

An "upset" means an exceptional incident in which there is an unintentional and temporary noncompliance with the effluent limitations of the permit because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed or inadequate treatment facilities, lack of preventative maintenance, or careless or improper operations.

An upset may constitute an affirmative defense for action brought for the noncompliance. The permittee has the burden of proof to provide evidence and demonstrate that none of the factors specifically listed above were responsible for the noncompliance.

6. *Right of Entry*—40 CFR 122.41(i).

The permittee shall allow the head of the State of South Dakota Department of Water and Natural Resources, the Regional Administrator, and/or their authorized representatives, upon the presentation of credentials:

a. To enter upon the permittee's premises where a real or potential discharge is located or in which any records are required to be kept under the terms and conditions of this permit; and

b. At reasonable times to have access to any copy any records required to be kept under the terms and conditions of this permit; to inspect any monitoring equipment or monitoring method required in this permit; and to sample any discharge of pollutants.

7. *Availability of Reports.*

Except for data determined to be confidential under Section 308 of the Act, all reports prepared in accordance with terms of this permit shall be available for public inspection at the offices of the State of South Dakota Department of Water and Natural Resources and/or the Regional Administrator. As required by the Act, effluent data shall not be considered confidential.

8. *Duty to Provide Information*—40 CFR 122.41(h).

The permittee shall furnish to the Regional Administrator or his designee, within a reasonable time, any information which the Regional Administrator or his designee may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The permittee shall also furnish, upon request, copies of records required to be kept by this permit.

9. *Signatory Requirements*—40 CFR 122.41(k).

All reports or information submitted pursuant to the requirements of this permit must be signed and certified by a ranking official or duly authorized agent of the permittee. Signatory regulations are established in 40 CFR 122.22 (as amended 48 FR 39611, September 1, 1983).

10. *Toxic Pollutants*—40 CFR 122.44(e)(3).

If a toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is established under Section 307(a) of the Act for a toxic pollutant which is present in the discharge and such standard or prohibition is more stringent than any limitation for such pollutant in this permit, this permit shall be revised or modified in accordance with the toxic effluent standard or prohibition and the permittee so notified.

11. *Civil and Criminal Liability.*

Nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance.

12. *Oil and Hazardous Substance Liability.*

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under section 311 of the Act.

13. *State Laws.*

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or regulation under authority preserved by section 510 of the Act.

14. *Penalties for Violations of Permit Conditions.*

The Clean Water Act provides that any person who violates a permit condition implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Clean Water Act is subject to a civil penalty not to exceed $10,000 per day of such violation. any person who willfully or negligently violates permit conditions implementing sections 301, 302, 306, 307, or 308 of the Clean Water Act is subject to a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than one (1) year, or both.

15. *Need to Halt or Reduce Not a Defense*—40 CFR 122.41(c).

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.

16. *Penalties for Falsification of Reports.*

The Clean Water Act provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than six (6) months per violation, or by both.

17. *Property Rights*—40 CFR 122.41(g).

The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations.

18. *Severability.* The provisions of this permit are severable and, if any provision of this permit or the application of any provision of this permit to any circumstance is held invalid, the application of such provision to other circumstances and the remainder of this permit shall not be affected thereby.

19. *Requiring an Individual NPDES Permit*—40 CFR 122.28(b)(2).

The Regional Administrator or his designee may require any owner or operator covered under this permit to apply for and obtain an individual NPDES permit for reasons that include the following:

a. The discharger is not in compliance with the conditions of this General Permit; or,

b. Conditions or standards have changed so that the discharger no longer qualifies for a General Permit.

The owner or operator must be notified in writing that an application for an individual NPDES permit is required. When an individual NPDES permit is issued to an owner or operator otherwise covered under this General Permit, the applicability of the General Permit to that owner or operator is automatically terminated upon the effective date of the individual NPDES permit.

20. *Requesting an Individual NPDES Permit*—40 CFR 122.28(b)(F)(iii).

Any owner or operator covered by this General Permit may request to be excluded from the coverage by applying for an individual NPDES Permit.

21. *Requesting General Permit Coverage*—40 CFR 122.28(b)(F)(iv) and (v).

The owner or operator of a facility excluded from coverage by this General Permit solely because that facility already has an individual permit may request that the individual permit be revoked and that the facility be covered by this General Permit.

22. *Permit Modification, Revocation, Termination*—40 CFR 122.41(f).

This General Permit may be modified, revoked and reissued, or terminated with cause in accordance with the requirements of the National Pollutant Discharge Elimination System (NPDES) Permit Program Regulations at 40 CFR Parts 122 and 124.

23. *Reaffirmation of Permit Eligibility*—40 CFR 122.41(b).

Periodically during the term of this permit and at the time of its reissuance, the permittee may be requested to reaffirm its eligibility to discharge under this permit. Failure of any facility to respond to a written request from the permit issuing authority for reaffirmation shall constitute cause for revocation of discharge authorization.

Additional Information

A. Economic Impact (Executive Order 12291)

The Office of Management and Budget (OMB) has exempted this action from the review requirements of Executive Order 12291 pursuant to section 8(b) of that Order.

B. Regulatory Flexibility Act

After review of the facts presented in the notice printed above, I hereby certify, pursuant to the provisions of 5 U.S.C. 605(b), that this general NPDES permit will not have a significant impact on a substantial number of small entities. Compliance with general permit will not involve significant costs; moreover, the general permit reduces a significant administrative burden on regulated sources.

C. Paperwork Reduction Act

Information Collection Requirements contained in this general permit have been approved by the Office of Management and Budget pursuant to the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) under a comprehensive submission made for the Clean Water Act's NPDES permit program.

Signed this 10th day of August 1984.

Max H. Dodson,

Acting Regional Administrator.

[FR Doc. 84–27639 Filed 10–18–24; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–2696–7]

Availability of Environmental Impact Statements Filed October 9, 1984 Through October 12, 1984 Pursuant to 1984 40 CFR 1506.9

Responsible Agency: Office of Federal Activities, General Information (202) 382–5073 or (202) 382–5075.

EIS No. 840462, Draft, SCS, IL, Lower Des Plaines Tributaries Watershed Multipurpose Plan, Cook, DuPage, and Lake Counties, Due: December 3, 1984, Contact: John Eckes (217) 398–5271

EIS No. 840463, Draft, FWS, CT, RI, VT, NH, MA, ME, New England Rivers Atlantic Salmon Restoration, Due: December 14, 1984, Contact: Bruce Blanchard (202) 343–3891

EIS No. 840464, DSuppl, COE, NB, Papillion Creek and Tributaries Flood Control Plan, Douglas, Washington and Sarpy Counties, Due: December 3, 1984, Contact: Arvid Thomsen (402) 221–4575

EIS No. 840466, Final, EPA, AK, Akutan Solid Waste Incinerator Residue, Ocean Disposal Site, Designation, Akutan Island, Due: November 19, 1984, Contact: Ronald Lee (206) 442-1442

EIS No. 840467, Final, EPA, AK, Red Dog Mine Project, Permits, Red Dog Creek, DeLong Mountains, Due: November 19, 1984, Contact: William Riley (206) 442-1760

EIS No. 840468, Final, BLM, FWS, NPS, AK, Red Dog Mine Project, Permits, Red Dog Creek, DeLong Mountains, Due: November 19, 1984, Contact: William Riley (206) 442-1760

Amended Notices:

EIS No. 840424, Final, BLM, CA, Coast/Valley Planning Area, Resource Management Plan, Due: November 6, 1984, Published FR 09-28-84—Review extended

EIS No. 840315, Draft, AFS, AK, Quartz Hill Molybdenum Mine Development, Construction and Operations, Approval/Permits, Due: October 31, 1984, Published FR 07-27-84—Review extended

EIS No. 840391, Draft, FWS, AK, Alaska Peninsula National Wildlife Refuge Management Plan, Due: December 3, 1984, Published FR 09-07-84—Review extended.

Dated: October 16, 1984.

Allan Hirsch,

Director, Office of Federal Activities.

[FR Doc. 84-27722 Filed 10-18-84; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-2697-2]

Availability of EPA Comments Prepared October 1, 1984 Through October 5, 1984 Pursuant to the Environmental Review Process (ERP), Under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act, as Amended

Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382-5075/76.

Summary of Rating Definitions

Environmental Impact of the Action

LO—Lack fo Objections

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more then minor changes to the proposal.

EC—Environmental Concerns

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

ED—Environmental Objections

The EPA review has identified significant environmental impacts that must be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

EU—Environmentally Unsatisfactory

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or evironmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potential unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the CEO.

Adequacy of the Impact Statement

Category 1—Adequate

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis, but the reviewer may suggest the addition of clarifying language or information.

Category 2—Insufficient Information

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analysis, or discussion should be included in the final EIS.

Category 3—Inadequate

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impact involved, this proposal could be a candidate for referral to the CEQ.

Draft EISs

ERP No. D-AFS-L67015-AK, Rating EO2

Quartz Hill Molybdenum Mine Development, Construction and Operations, Approval/Permits, AK. SUMMARY: EPA identified potential air quality standard violations associated with the project and recommended more thorough evaluations of the acid generation potential of the waste rock, water supply alternatives, and mamine mill tailings discharge alternatives.

ERP No. DA-COE-F36006-MN, Rating EC1

Chaska Flood Control Plan, Minnesota R., MN. SUMMARY: EPA is concerned that the project promotes incompatible uses of the floodplain. EPA identified evacuation of floodplain as environmentally preferred alternative and recommended local governments adopt strict floodplain managment regulations.

ERP No. D-COE-L32007-WA, Rating EC1

Quillayute R. Navigation Project, Operation and Maintenance, WA. SUMMARY: EPA generally concurs with preferred alternative, but is concerned with provisions which would allow for fish entrainment associated with hydraulic dredging after March 31 (critical time period for juvenile salmon migration). EPA maintains that proper scheduling of hydraulic dredging will avoid entrainment after March 31.

ERP No. D-NRC-C06011-NY, Rating LO

Nine Mile Point Nuclear Station, Unit 2, Operating License, NY. SUMMARY: EPA does not anticipate any significant adverse impacts, but requested additional radiological, air quality, and groundwater information.

FINAL EISs

ERP No. F-BLM-K07005-NV, White Pine Coal

Fired Electric Generating Station, Development, Righ-of-Way, NV. SUMMARY: The FEIS responded to EPA's concerns on the DEIS except that the project still lacks the required Prevention of Significant Deterioration (PSD) permit. EPA recommneded that the Record of Decision reflect the additional groundwater studies which will be undertaken and provide for the

implementation of necessary mitigation measures.

ERP No. F–COE–E34023–00, Sugar Creek

Drainage Basin, Flood Control and Conservation Plans, NC SC. SUMMARY: EPA believes the overall plan is well conceived and is in general agreement with the selected alternatives to alleviate flooding.

ERP No. F–COE–E60011–00, Tennessee

Tombigbee Waterway, Wildlife Mitigation Study, AL MS. SUMMARY: Although there may be legitimate differences of opinion regarding the appropriate methodologies to use in determining mitigation of environmental losses. EPA continues to believe that the US Fish and Wildlife Service has the most comprehensive expertise in making mitigation determinations and has the most accurate figures to formulate actual mitigation.

Dated: Octover 16, 1984.

Allan Hirsch,

Director, Office of Federal Activities.

[FR Doc. 84–27723 Filed 10–18–84; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

National Industry Advisory Committee, Common Carrier Communications Subcommittee; Meeting

Pursuant to the provisions of Pub. L. 92–463, announcement is made of a public meeting of the Common Carrier Communications Subcommittee of the National Industry Advisory Committee (NIAC) to be held Monday, November 5, 1984. The Subcommittee will meet at 9:30 a.m. at AT&T Communications, 1120 20th Street, NW., Washington, D.C. in Conference Room A/B on the 10th Floor.

Purpose: To consider emergency communications matters.

Agenda

As follows:

1. Opening remarks by Chairman.
2. Remarks by Mimi Weyforth Dawson, Defense Commissioner.
3. Information briefing by Mr. J. Randolph MacPherson, Chief Regulatory Counsel (Telecommunications), Department of Defense:

—Proposed revisions to the definition of National Security and Emergency Preparedness (NS/EP) communications services and circuits.

—Status of National Communications System review of priority restoration requirements and procedures.

4. Review by FCC staff of present FCC rules and procedures for the assignment of priorities for the restoration of leased intercity private lines.
5. Status report by Mr. Alan McKie regarding the proposed transfer of emergency communications planning functions to the Federal Emergency Management Agency (FEMA).
6. Briefing by Mr. Bruce Campbell of FEMA concerning the FEMA National Emergency Management System and describing its organizational and functional capabilities.
7. Adjournment.

Any member of the public may attend or file a written statement with the Subcommittee either before of after the meeting. Any member of public wishing to make an oral statement must consult with the Subcommittee prior to the meeting. Those desiring more specific information about the meeting may telephone the NIAC Executive Secretary in the FCC Emergency Communications Division at (202) 634–1549.

William J. Tricarico,

Federal Communications Commission.

[FR. Doc. 84–27610 Filed 10–18–84; 8:45 am]

BILLING CODE 6712–01–M

[Report No. 1481]

Petitions for Reconsideration of Actions in Rulemaking Proceedings

October 12, 1984.

The following listings of petitions for reconsideration filed in Commission rulemaking proceedings is published pursuant to CFR 1.429(e). Oppositions to such petitions for reconsideration must be filed within 15 days after publication of this Public Notice in the **Federal Register.** Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: The Revision of Programming and Commercialization Policies, Ascertainment Requirements, and Program Log Requirements for Commercial Television Stations. (MM Docket No. 83–670)

Filed by: Henry Geller and Donna Lampert on 9–24–84. Barbara R. Shufro & Wilhelmina Reuben Cooke, Attorneys for The Telecommunications Research and Action Center, et al., on 9–24–84.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84–27611 Filed 10–18–84; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on October 12.

Public Health Service

Health Resources and Services Administration

Subject: Health Maintenance Organization National Data Reporting Requirements—Revision (0915–0063)
Respondents: State and Local Governments, Businesses Non-Profit Institutions
OMB Desk Officer: Fay S. Iudicello

Alcohol Drug Abuse and Mental Health Administration

Subject: A Study of Patterns of Alcohol Consumption Among Americans of Japanese Ancestry and Native Hawaiians—Pilot Test—New
Respondents: Individuals
OMB Desk Officer: Fay S. Iudicello

Food and Drug Administration

Subject: Patient Prescription Drug Information Study—Revision (0910–0063)
Respondents: Individual
OMB Desk Officer: Bruce Artim

Health Care Financing Administration

Subject: Comprehensive Outpatient Rehabilitation Facility Eligibility and Survey Forms and Information Collection Requirements in 42 CFR 488.56, 58, 60, 64, 66, and 405.262 (HCFA–359, HCFA–360, HCFA–R–55)—
Respondents: State survey agencies
Subject: Medicaid Program Budget Report HCFA–24—Revision (0938–0101)
Respondents: States
OMB Desk Officer: Fay S. Iudicello

Social Security Administration

Subject: Benefits for Individuals Who Perform Substantial Gainful Activity Despite Severe Medical Impairment
Respondents: Disabled and Blind Supplemental Security Income

Recipients—Extension—No Change (0960–0267)
Subject: Annual Earnings Test Direct Mail Followup Program Evaluation Questionnaire—New
Respondents: Individuals
Subject: SSA/DDS Cost Effectiveness Measurement System Data Reporting Form—New
Respondents: Disability Determination Services Agencies in the Various States
OMB Desk Officer: Robert J. Fishman

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202–245–6511.

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503, Attn: (name of OMB Desk Officer).

Dated: October 12, 1984.

Wallace O. Keene,

Acting Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 84-27506 Filed 10-18-84; 8:45 am]

BILLING CODE 4150-04-M

Centers for Disease Control

Methodologies for Worksite Neurotoxicity Evaluation; Meeting

The following meeting will be convened by the National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control (CDC) and will be open to the public for observation and participation, limited only by the space available:

Date: October 31, 1984.
Time: 9 a.m.–4:00 p.m.
Place: Room B–66, Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

Purpose: To review and discuss a project intended to develop, instrument, and evaluate tests to screen worker populations for neurotoxicity. Viewpoints and suggestions from industry, organized labor, academia, other government agencies, and the public are invited.

Additional information may be obtained from: W. Kent Anger, Ph.D., Division of Biomedical and Behavioral Science, NIOSH, CDC, 4676 Columbia Parkway, Cincinnati, Ohio 45226, Telephones: FTS: 684–8383, Commercial: 513/684–8383.

Dated: October 12, 1984.

Donald R. Hopkins,

Acting Director, Centers for Disease Control.

[FR Doc. 84-27606 Filed 10-18-84; 8:45 am]

BILLING CODE 4160-19-M

Safety and Occupational Health Study Section; Reestablishment

Pursuant to the Federal Advisory Committee Act, Pub. L. 92–463 (5 U.S.C., Appendix I), the Centers for Disease Control announces the reestablishment by the Secretary of Health and Human Services, on September 27, 1984, of the following Federal advisory committee:

Designation: Safety and Occupational Health Study Section.

Purpose: This Study Section shall provide advice and make recommendations to the Secretary, the Assistant Secretary for Health, the Director, Centers for Disease Control, and the Director, National Institute for Occupational Safety and Health, on Scientific, research, and training areas related to occupational safety and health which are in need of special emphasis and on the competency available to meet such needs. The Study Section shall provide review for scientific and technical merit of all research and demonstration grant applications, as well as fellowships in the program areas related to the cause, prevention, and control of diseases and injuries in the occupational environment; provide review for educational, scientific, and technical merit of safety and occupational health training grant applications; and shall recommend grant applications which merit support to the appropriate national advisory council.

Authority for this committee will expire June 30, 1986, unless the Secretary of Health and Human Services, with the concurrence of the Committee Management Secretariat, General Services Administration, formally determines that continuance is in the public interest.

Dated: October 12, 1984.

Donald R. Hopkins,

Acting for Director, Centers for Disease Control.

[FR Doc. 84-27605 Filed 10-18-84; 8:45 am]

BILLING CODE 4160-18-M

Food and Drug Administration

[Docket No. 84G–0320]

Heinz U.S.A.; Filing of Petition for Affirmation of GRAS Status

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Heinz U.S.A. has filed a petition (GRASP 4G0290) proposing that the generally recognized as safe (GRAS) regulations be amended to provide for the safe use of acacia (gum arabic) at a maximum usage level of 6 percent in quiescently frozen confection products.

DATE: Comments by January 17, 1985.

ADDRESS: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Mary C. Custer, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–426–9463.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))) and the regulations for affirmation of GRAS status in § 170.35 (21 CFR 170.35), Notice is given that a petition (GRASP 4G0290) has been filed by Heinz U.S.A., Pittsburgh, PA 15230, proposing that § 184.1330 (21 CFR 184.1330) of the generally recognized as safe (GRAS) regulations be amended to provide for the safe use of acacia (gum arabic) at a maximum usage level of 6 percent in quiescently frozen confection products.

The petition has been placed on display at the Dockets Management Branch (address above).

Any petition that meets the format requirements outlined in § 170.35 is filed by the agency. There is no prefiling review of the adequacy of data to support a GRAS conclusion. Thus, the filing of a petition for GRAS affirmation should not be interpreted as a preliminary indication of suitability for GRAS affirmation.

Interested persons may, on or before January 17, 1985, review the petition and/or file comments (two copies, identified with the docket number found in brackets in the heading of this document) with the Dockets Management Branch (address above). Comments should include any available information that would be helpful in determining whether this use is or is not GRAS. A copy of the petition and received comments may be seen in the Dockets Management Branch, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 5, 1984.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 84-27615 Filed 10-18-84; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 84F-0316]

Radiation Technology, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Radiation Technology, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of a source of gamma radiation to control insect and microbial contamination in certain dried enzyme preparations.

FOR FURTHER INFORMATION CONTACT: Clyde A. Takeguchi, Center for Food Safety and Applied Nutrition (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 4M3815) has been filed by Radiation Technology, Inc., Lake Denmark Rd., Rockaway, NJ 07866, proposing that Part 179—Irradiation in the Production, Processing and Handling of Food (21 CFR Part 179) be amended to provide for the safe use of a Cobalt 60 or Cesium 137 source of gamma radiation to control insect and microbial infestation in certain dried enzyme preparations at doses not to exceed 1 megarad.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: October 9, 1984.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 84-27616 Filed 10-18-84; 8:45 am]

BILLING CODE 4160-01-M

Public Health Service

National Center for Health Services Research; Assessment of Medical Technology

The Public Health Service (PHS), through the Office of Health Technology Assessment (OHTA), announces that it is coordinating an assessment of what is known of the safety, clinical effectiveness, appropriateness, and use of carotid body resections to relieve pulmonary symptoms.

The PHS assessment consists of a synthesis of information obtained from appropriate organizations in the private sector and from PHS agencies and others in the Federal Government. PHS assessments are based on the most current knowledge concerning the safety and clinical effectiveness of a technology. Based on this assessment, a PHS recommendation will be formulated to assist the Health Care Financing Administration in establishing Medicare coverage policy. Any person or group wishing to provided OHTA with information relevant to this assessment should do so in writing no later than January 15, 1985, or within 90 days from the date of publication of this notice.

The information being sought is a review and assessment of past, current, and planned research related to this technology, a bibliography of published, controlled clinical trials and other well-designed clinical studies. Information related to the characterization of the patient population most likely to benefit, the clinical acceptability, and the effectiveness of this technology is also being sought.

Written material should be submitted to: National Center for Health Services Research, Office of Health Technology Assessment, Park Building, Room 3-10, 5600 Fishers Lane, Rockville, Maryland 20857.

Dated: October 15, 1984

Enrique D. Carter,

Director, Office of Health Technology Assessment, National Center for Health Services Research.

[FR Doc. 84-27685 Filed 10-18-84; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Shakopee Mdewakanton Indian Reservation Proclaiming Certain Lands as Part of the Reservation of the Shakopee Mdewakanton Sioux

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.1.

On October 11, 1984, pursuant to authority contained in section 7 of the Act of June 18, 1934 (48 Stat. 986; 25 U.S.C. 467), the following described land, located in Scott County, Minnesota, is hereby proclaimed to be a part of the Shakopee Mdewakanton Sioux Reservation.

The South ½ of the NE¼ of the NW¼ and the NW¼ of the NE¼, except the West 330.00 feet of the North ½ of said NW¼ of the NE¼, as measured at right angles to the West line thereof. Also except the North 896.87 feet, as measured along the East and West lines, of that part of said Northwest ¼ of the NE¼ lying East of the West 330.00 feet, as measured at right angles to the West line of said NW¼ of NE¼. All in Section 33, Township 115, Range 22, Scott County, Minnesota.

The above parcel contains 35 acres more or less and is subject to all valid existing easements, rights-of-way and other rights of record.

Dated: October 11, 1984.

John W. Fritz,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 84-27855 Filed 10-18-84; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[M-61069]

Realty Action, Musselshell County, MT

AGENCY: Bureau of Land Management, Miles City District Office, Interior.

ACTION: Notice of Realty Action M-61069, Exchange of Public and Private Lands in Musselshell County, Montana.

SUMMARY: The following described lands have been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Principal Meridian, Montana

T. 9 N., R. 25 E.,
Sec. 19, SE1/4;
Sec. 20, All;
Sec. 28, SE1/4;
Sec. 29, All;
Sec. 33, N1/2, SE1/4.
Aggregating 2,080 acres.

In exchange for these lands, the United States Government will acquire the surface estate in the following described lands:

Principal Meridian, Montana

T. 8 N., R. 24 E.,
Sec. 2, Lots 9,10,15,16 S1/2 and 11 acres within Lots 13 and 14 described as: The point of beginning lies 16 rods north of

the southeast corner of Lot 14. From this point, run south 16 rods to the southeast corner of Lot 14, then west 160 rods, then north 6 rods, then northeasterly to the point of beginning. (This metes and bounds description taken from deed in Musselshell County Courthouse);
Sec. 10, SE1/4;
Sec. 11, All;
Sec. 12, All;
Sec. 14, N1/2NE1/4, SWS1/4NE1/4, NW1/4.

Aggregating 2,211 acres.

DATES: For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, Bureau of Land Management, Garryowen Road, P.O. Box 940, Miles City, Montana 59301.

Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of this department.

FOR FURTHER INFORMATION CONTACT: Information related to this exchange, including the environmental assessment and land report, is available for review at the Billings Resource Area Office, 810 East Main, Billings, Montana 59101.

SUPPLEMENTARY INFORMATION: The purpose of this exchange is to provide management enhancement in providing vehicle access, improved wildlife habitat, and increased recreational access. This exchange will improve a multiple-use federal program including, but not limited to recreation, wildlife habitat and efficiency of management.

The exchange is consistent with the Bureau's planning for the lands involved and has been discussed with state and local officials. Musselshell County Commissioners were consulted on March 6, 1984, and concurred there is no need for a public meeting to be held. The public interest will be served by making the exchange. The publication of this notice segregates the public lands described above from appropriation under the public land laws, including the mining laws, but not from exchange pursuant to section 206 of the Federal Land Policy and Management Act of 1976.

The exchange will be made subject to:

1. A reservation to the United States of a right-of-way for ditches or canals constructed by the authority of the United States in accordance with 43 U.S.C. 945, for lands being transferred out of Federal ownership.

2. The reservation to the United States of minerals interests in the lands being transferred out of Federal ownership.

3. All valid existing rights (e.g. rights-of-way, easements, and leases of record.)

4. Value equalization by cash payment or acreage adjustment.

5. The exchange must meet the requirements of 43 CFR 4110.4-2(b).

Dated: October 9, 1984.

Ray Brubaker,

District Manager.

[FR Doc. 84-27662 Filed 10-18-84, 8:45 am]

BILLING CODE 4310-DN-M

Fish and Wildlife Service

Receipt of Application for Permit; San Francisco Zoological Garden

Notice is hereby given that an applicant has applied in due form for a marine mammal permit to import a polar bear as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407) and the Regulations governing the taking and importing of Marine Mammals (50 CFR Part 18).

1. Applicant: San Francisco Zoological Garden, Zoo Road and Skyline Boulevard, San Francisco, CA.
2. Type of Permit: Import.
3. Name and Number of Animals: Polar bear (*Ursus maritimus*) -1-.
4. Type of Activity: Public display.
5. Period of Activity: Import upon issuance of import permit for permanent public display.

The purpose of this application is to import from Manitoba, Canada, a 2½ year-old nuisance polar bear that currently is being held in Churchill by the Manitoba Department of Natural Resources.

Concurrent with the publication of this notice in the **Federal Register** the Federal Wildlife Permit Office is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

The application has been assigned PRT# 683815. Written data or views, or requests for copies of the complete application or for a public hearing on this application should be submitted to the Director, U.S. Fish and Wildlife Service (FWPO), P.O. Box 3654, Arlington, VA 22203, within 30 days of the publication of this notice. Individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Director.

All statement and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the United States Fish and Service.

Documents submitted in connection with the above application are available for review during normal business hours in room 601, 1000 N. Glebe Road, Arlington, VA.

Dated: October 15, 1984.

R.K. Robinson,

Chief, Permit Branch, Federal Wildlife Permit Office.

[FR Doc. 84-27620 Filed 10-18-84, 8:45 am]

BILLING CODE 4310-55-M

Receipt of Application for Permit; International Animal Exchange, et al.

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

Applicant: International Animal Exchange, Ferndale, MI; PRT #683073

The applicant requests a permit to purchase in interstate commerce one male and one female captive-bred Andean condor (*Vultur gryphus*) and export them to Seoul Grand Park Zoo, Korea for enhancement of propagation.

Applicant: Wildlife Branch/Natural Resources Division, Fort Bragg, NC; APP #3759BM

The applicant requests a permit to take (band, harass) red-cockaded woodpeckers (*Picoides borealis*) in the Fort Bragg area for scientific research.

Applicant: Wild World Animal Park, Bastrop, TX; APP #2658BM

The applicant requests a permit to purchase in interstate commerce from Frank Thompson Inc., Bradenton, FL a captive-bred ocelot (*Felis pardalis*) for enhancement of propagation.

Applicant: Herp Osteo Specimens, Canoga Park, CA; PRT-684371

The applicant requests a permit to export to Japan, skeletal preparations of the following species: (1) African dwarf crocodile (*Osteolaemus t. tetraspis*), (2) American crocodiles (*Crocodylus acutus*), (2) mugger crocodiles (*C. p. Palustris*) and (1) black caiman (*Melanosuchus niger*) for scientific research purposes.

Applicant: Vance Grannis, Jr., Inver Grove Hgts, MN; PRT-682605

The applicant requests a permit to import 5 pairs of each of the following captive-red pheasants: bar-tailed (*Syrmaticus humaie*), Mikado (*S. mikado*), Elliot's (*S. ellioti*), Edward's (*Lophura edwardsi*), and Swinhoe's (*L. swinhoii*) from Robert Gardner, Peterborough, Ontario, Canada for enhancement of propagation.

Applicant: Kansas City Zoological Gardens, Kansas City, MO; PRT–684035

The applicant requests a permit to import 2 captive-bred Japanese cranes (*Grus japonenis*) from the Carl Hagenbeck Tierpark, Hamburg, West Germany, for enhancement of propagation.

Applicant: Charles C. Nugent, Kimbolton, OH; APP #3490BM

The applicant requests a permit to purchase 13 captive-born Hawaiian (-*nene) geese [Nesochen (-Branta) sandvicensis*] in interstate commerce from Sherwood Costen, Point Pleasant, WV for enhancement of propagation.

Applicant: Jackson Zoological Park Jackson, MS; PRT–683664

The applicant requests a permit to export one male captive-born red-fronted lemur (*Lemur fulvus rufus*) to the Saarbucken Zoo. Saarbucken, West Germany for enhancement of propagation.

Applicant: Jackson Zoological Park, Jackson, MS; APP #3922BM

The applicant requests a permit to export one male captive-born Brazilian tapir (*Tapirus terrestris*) to the Ruhr Zoo, Gelsenkirchen, West Germany for enhancement of propagation.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 am to 4:15 pm) Room 601, 1000 North Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service, P.O. Box 3654, Arlington, Virginia 22203.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT/APP number when submitting comments.

Dated: October 12, 1984.

R.K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 84–27621 Filed 10–18–84; 8:45 am]

BILLING CODE 4310–55–M

Minerals Management Service

Development Operations Coordination Document; Texaco, U.S.A.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Texaco U.S.A. has submitted a DOCD describing the activities it proposes to conduct on Lease OCS 0310, Block 218, South Marsh Island Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from onshore bases located at Louisa and Morgan City, Louisiana.

DATE: The subject DOCD was deemed submitted on October 11, 1984.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838–0875.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: October 11, 1984.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 84–27656 Filed 10–18–84; 8:45 am]

BILLING CODE 4310–MR–M

Development Operations Coordination Document; Texaco, U.S.A.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Developent Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Texaco, U.S.A. has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 2868, Block 31, Vermilion Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from onshore bases located at Louisa and Morgan City, Louisiana.

DATE: The subject DOCD was deemed submitted on October 9, 1984.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838–0875.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: October 10, 1984.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 84–27657 Filed 10–18–84; 8:45 am]

BILLING CODE 4310–MR–M

National Park Service

Upper Delaware National Scenic and Recreational River; Meeting

AGENCY: Upper Delaware Citizens Advisory Council, National Park Service.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the date of the forthcoming meeting of the Upper Delaware Citizens Advisory Council. Notice of this meeting is required under the Federal Advisory Committee Act.

DATE: October 26, 1984, 7:00 p.m.

ADDRESS: Town of Tusten, Narrowsburg, New York.

FOR FURTHER INFORMATION CONTACT: John T. Hutzky, Superintendent, Upper Delaware National Scenic and

Recreational River, Drawer C, Narrowsburg, N.Y. 12764–0159. (717) 729–7135.

SUPPLEMENTARY INFORMATION: The Advisory Council was established under section 704(f) of the National Parks and Recreation Act of 1978, Pub. L. 95–625, 16 U.S.C. 1274 note, to encourage maximum public involvement in the development and implementation of the plans and programs authorized by the Act. The Council is to meet and report to the Delaware River Basin Commission, the Secretary of the Interior, and the Governors of New York and Pennsylvania in the preparation of a management plan and on programs which relate to land and water use in the Upper Delaware region. The agenda for the meeting will include items regarding continuance of discussion of requirements for a river management plan. The meeting will be open to the public. Any member of the public may file with the Council a written statement concerning agenda items. The statement should be addressed to the Council c/o Upper Delaware National Scenic and Recreational River, Drawer C, Narrowsburg, N.Y. 12764–0159. Minutes of meeting will be available for inspection four weeks after the meeting at the permanent headquarters of the Upper Delaware National and Recreational River, River Road, 1¾ miles north of Narrowsburg, N.Y., Damascus Township, Pennsylvania.

Dated: October 15, 1984.

John W. Bond,

Acting Regional Director, Mid-Atlantic Region.

[FR Doc. 84–27676 Filed 10–18–84; 8:45 am]

BILLING CODE 4310–70–M

Information Collection Submitted for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comment and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget reviewing official, Washington, D.C. 20503, telephone 202–395–7340.

Title: National Register of Historic Places Inventory-Nomination Form

Abstract: The form collect information which is necessary to conform to the requirements of the National Historic Preservation Act.

Bureau Form Number: 10–900 & 10–900a

Frequency: On Occasion

Description of Respondents: Individuals; State and Local Governments

Annual Responses: 6,392

Annual Burden Hours: 92,964

Bureau Clearance Officer: Russell K. Olsen.

Dated: October 11, 1984.

Russell K. Olsen,

Information Collection Clearance Officer.

[FR Doc. 84–27653 Filed 10–18–84; 8:45 am]

BILLING CODE 4310–70–M

Fish and Wildlife Service

Bureau of Land Management

Proposed Guidelines for Alaska Land Bank Program Availability

AGENCY: National Park Service; U.S. Fish and Wildlife Service; Bureau of Land Management, Interior.

ACTION: Extension of Comment Period on Proposed Guidelines.

SUMMARY: The Alaska Land Bank Program was established by section 907 of the Alaska National Interest Lands Conservation Act, 94 Stat. 2371, 43 U.S.C. 1936, which provides that certain private landowners may participate in the Land Bank Program by entering into a written agreement with the Secretary regarding the use and development of their lands. The program was established to "enhance the quantity and quality of Alaska's renewable resources and to facilitate the coordinated management and protection of Federal, State and Native and other private lands." 43 U.S.C. 1636(a).

On June 26, 1984 the Department published a notice in the **Federal Register**, 49 FR 26154, requesting comments on the proposed guidelines on or before September 27, 1984. As a result of several requests for an extension of the comment period, the Department has determined to extend the comment period until December 15, 1984.

Comments should be directed to: William P. Horn, Deputy Under Secretary, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: David Watts, Assistant Solicitor, Conservation and Wildlife, Department of the Interior, Washington, D.C. 20240.

Dated: October 9, 1984.

William P. Horn,

Deputy Under Secretary.

[FR Doc. 84–27654 Filed 10–18–84; 8:45 am]

BILLING CODE 4310–70–M

Bureau of Reclamation

Municipal and Industrial Water Service Ratesetting Policy, Central Valley Project (CVP), CA.; Availability of Policy Options Document and Intent to Hold Public Workshops and Hearings

The Department of the Interior, through the Bureau of Reclamation, has developed a municipal and industrial (M&I) water ratesetting option paper for the CVP. The paper was prepared pursuant to the Reclamation Projects Act of 1939 (53 Stat. 1187), Pub. L. 88–44 (Act of June 21, 1963, 77 Stat. 68), and the Reclamation Reform Act of 1982, title II, Pub. L. 97–293 (96 Stat. 1263).

The CVP was originally authorized as an Army Corps of Engineers project by the Rivers and Harbors Act of August 30, 1935 (49 Stat. 1028, 1038). Congressional reauthorization of the project under Reclamation law was provided in Section 2 of the Rivers and Harbors Act of August 26, 1937 (50 Stat. 844), and by the Rivers and Harbors Act of October 17, 1940 (54 Stat. 1198). Congress further reauthorized the project by the Act of October 14, 1949 (63 Stat. 852) and the Act of September 26, 1950 (64 Stat. 1036). Additional units were authorized by the Congress as integral parts of the project by the Acts of August 12, 1955 (69 Stat. 719); June 3, 1960 (74 Stat. 156); October 23, 1962 (76 Stat. 1191 and 1192); September 2, 1965 (79 Stat. 615); August 19, 1967 (81 Stat. 167); August 27, 1967 (81 Stat. 173); October 23, 1970 (84 Stat. 1097); and September 28, 1976 (90 Stat. 1328).

The initial M&I water service contracts for the CVP were written for a term of 40 years. Water rates were established for each service area and remained constant during the contract term. The initial CVP water rate structure for M&I was $9.00 per acre-foot in the Sacramento Valley near the source of supply, and was $10.00 per acre-foot for all service in the San Joaquin Valley south of the Sacramento-San Joaquin River Delta. Since the late 1960's, it has become evident that fixed-rate contracts do not ensure return of an appropriate share of the project costs to the Treasury. M&I contracts entered into since 1970 have rate change provisions, but the early ones are severely restricted.

The establishment of a projectwide M&I ratesetting policy for the CVP is a complex undertaking. Previous efforts included a series of public hearings on the 1981 ratesetting proposal from which comments have been incorporated into a policy options document.

The proposed ratesetting policy options document has been developed to ensure adequate returns to the Treasury, and to provide equitable charges among water users for services received. The proposed policy is formalized and is available for review by interested parties. The policy options document reviews the water rate history of the CVP and discusses the need for a standard ratesetting policy. The calculations reflect application of the various proposed policy options.

The proposed policy options document includes several feasible alternatives for consideration. Sample calculations which demonstrate the impacts of the proposals are provided to enhance understanding of the alternatives.

To facilitate an indepth understanding of this proposal, there will be a series of informal workshop sessions at which the policy options and calculations will be explained in detail. There will be ample opportunity for open discussion and to ask questions. The sessions are open to the general public and are to promote an exchange of ideas and to answer questions prior to the public hearings. All workshops will begin at 1:00 p.m. in the following locations.

Concord—Tuesday, October 23, 1984, at the Concord Inn (Walnut Room), 1401 Willow Pass Road

Fresno—Thursday, October 25, 1984, at The Fresno Convention Center (Wine Room), 700 M Street

Sacramento—Tuesday, October 30, 1984, at The Convention Center, Activities Bldg. (Yuba/Placer Room), 14th & K Streets

Public hearings dates have been scheduled to receive comments on the proposed policy options document from interested individuals and organizations. The public hearings will begin at 1:00 p.m. in the following locations:

Concord—Tuesday, December 4, 1984, at the Concord Inn (Walnut Room), 1401 Willow Pass Road

Fresno—Thursday, December 6, 1984, at The Fresno Convention Center (Wine Room), 700 M Street

Sacramento—Tuesday, December 11, 1984, at The Convention Center, Activities Bldg. (Yuba/Placer Room), 14th & K Streets

Requests to speak may be made at the hearings. Those individuals or organizations which desire to speak at a specified time should send a written request for such to the address listed below. Each hearing will continue until all persons desiring to comment have been heard.

The time permitted for oral presentations at the hearings should be limited to 15 minutes per speaker. Speakers will not be permitted to trade or consolidate their scheduled time to make longer individual presentations. However, the person presiding at the hearing may allow additional oral comments by anyone after all scheduled speakers have been heard. Written statements by persons who desire to supplement their oral presentations may be submitted to the Regional Director at the address listed below. Any such written statements or other comments on the ratesetting policy will be accepted through January 15, 1985.

Copies of the draft policy may be obtained without charge by writing to the Regional Director, Bureau of Reclamation, Water Rate Policy (MP-440), 2800 Cottage Way, Sacramento, California 95825. Questions by telephone should be directed to Donna Tegelman at (916) 484-4540.

Dated: October 17, 1984.

Kenneth R. Pedde,

Acting Assistant Commissioner of Reclamation.

[FR Doc. 84-27805 Filed 10-18-84; 8:45 am]

BILLING CODE 4310-09-M

INTERSTATE COMMERCE COMMISSION

Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or to use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: IC Industries, Inc., One Illinois Center, 111 East Wacker Drive, Chicago, Illinois 60601.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

Abex Corporation, Six Landmark Square, Stamford, Connecticut 06902-2268 (Incorporated in Delaware)

Accent International, Inc., 400 South Fourth Street, St. Louis, Missouri 63102 (Incorporated in Delaware)

Alton Manufacturing Company, 4830 Transport Drive, Dallas, Texas 75247 (Incorporated in Texas)

Bolingbrook 55 Corporation, 111 East Wacker Dr., 27th Floor, Chicago, Illinois 60601 (Incorporated in Illinois)

Boston Bean Pot, Inc., 400 South Fourth Street, St. Louis, Missouri 63102 (Incorporated in Massachusetts)

Bubble-Up Company, Inc., 2800 North Talman Avenue, Chicago, Illinois 60618 (Incorporated in Delaware)

Chesley Industries, Inc., 20775 Chesley Drive, Farmington, Michigan 48204 (Incorporated in Michigan)

Chicago Intermodal Company, 233 North Michigan Avenue, Chicago, Illinois 60601 (Incorporated in Delaware)

Cosmic Enterprises, Inc., 225 North Michigan Avenue, Chicago, Illinois 60601 (Incorporated in Delaware)

Cosmic Stores, Inc., 225 North Michigan Avenue, Chicago, Illinois 60601 (Incorporated in New York)

Cove Development Corporation, 111 E. Wacker Dr., 27th Floor, Chicago, Illinois 60601 (Incorporated in Delaware)

Dad's Root Beer Company, 2800 North Talman Avenue, Chicago, Illinois 60618 (Incorporated in Illinois)

Environ of Inverrary, Inc., 111 E. Wacker Dr., 27th Floor, Chicago, Illinois 60601 (Incorporated in Florida)

Friend Brothers, Inc., 400 South Fourth Street, St. Louis, Missouri 63102 (Incorporated in Massachusetts)

GM&O Land Company, 233 North Michigan Avenue, Chicago, Illinois 60601 (Incorporated in Mississippi)

Gas Welding, Inc. 401 South Rohlwing, Addison, Illinois 60101 (Incorporated in Illinois)

Genadco Advertising Agency, Inc., 1745 North Kolmar Avenue, Chicago, Illinois 60639 (Incorporated in Illinois)

Helvetia Redevelopment Corporation, 400 South Fourth Street, St. Louis, Missouri 63102 (Incorporated in Missouri)

Helvetia Leasing Corporation, 400 South Fourth Street, St. Louis, Missouri 63102 (Incorporated in Delaware)

Hussman Acceptance Company, 12999 St. Charles Rock Road, Bridgeton, Missouri 63044 (Incorporated in Missouri)

Hussman Corporation, 12999 St. Charles Rock Road, Bridgeton, Missouri 63044 (Incorporated in Delaware)

Hussman Refrigeration, Inc., 12999 St. Charles Rock Road, Bridgeton, Missouri 63044 (Incorporated in Missouri)

Cypress Bend Corporation, 111 E. Wacker Dr., 27th Floor, Chicago, Illinois 60601 (Incorporated in Florida)

IC Equipment Leasing Company, 111 East Wacker Dr., 27th Floor, Chicago, Illinois 60601 (Incorporated in Illinois)

IC Equities, Inc., 111 East Wacker Dr., 27th Floor, Chicago, Illinois 60601 (Incorporated in Delaware)
IC Industries, Inc., 111 E. Wacker Dr., 27th Floor, Chicago, Illinois 60601 (Incorporated in Delaware)
IC Leasing Inc., 111 E. Wacker Dr., 27th Floor, Chicago, Illinois 60601 (Incorporated in Delaware)
IC Products Inc., 111 E. Wacker Dr., 27th Floor, Chicago, Illinois 60601 (Incorporated in Delaware)
ICP Holding Corp., 111 E. Wacker Dr., 27th Floor, Chicago, Illinois 60601 (Incorporated in Indiana)
Illinois Center Corporation, 111 East Wacker Dr., 27th Floor, Chicago, Illinois 60601 (Incorporated in Delaware)
International Stamping Co., Inc., 225 North Michigan Avenue, Chicago, Illinois 60601 (Incorporated in Wisconsin)
Kolmar Products Corporation, 1745 North Kolmar Avenue, Chicago, Illinois 60639 (Incorporated in Wisconsin)
Krack Corporation, 401 South Rohlwing, Addison, Illinois 60101 (Incorporated in Illinois)
Huth Manufacturing Corporation, 225 North Michigan Avenue, Chicago, Illinois 60601 (Incorporated in California)
Midas International Corporation, 225 North Michigan Avenue, Chicago, Illinois 60601 (Incorporated in Delaware)
Midas Properties, Inc., 225 North Michigan Avenue, Chicago, Illinois 60601 (Incorporated in New York)
Midas Realty Corporation, 225 North Michigan Avenue, Chicago, Illinois 60601 (Incorporated in Delaware)
Mississippi Valley Corporation, 233 North Michigan Avenue, Chicago, Illinois 60601 (Incorporated in Delaware)
Muffler Corporation of America, 225 North Michigan Avenue, Chicago, Illinois 60601 (Incorporated in Illinois)
Wine & Spirits Enterprises, Inc., 400 South Fourth Street, St. Louis, Missouri 63102 (Incorporated in Missouri)
North Carolina Corp., 400 South Fourth Street, St. Louis, Missouri 63102 (Incorporated in Massachusetts)
Oak Village Development Corp., 111 East Wacker Dr., 27th Floor, Chicago, Illinois 60601 (Incorporated in Delaware)
Pepsi-Cola General Bottlers, Inc., 1745 North Kolmar Avenue, Chicago, Illinois 60639 (Incorporated in Delaware)
Pet Incorporated, 400 South Fourth Street, St. Louis, Missouri 63102 (Incorporated in Delaware)
P. V. Foods, Inc., 400 South Fourth Street, St. Louis, Missouri 63102 (Incorporated in Minnesota)
LaSalle Properties, Inc., 900 Commerce Road East, Suite 107, New Orleans, Louisiana 70123 (Incorporated in Louisiana)
Mid-America Improvement Corporation, 111 East Wacker Dr., 27th Floor, Chicago, Illinois 60601 (Incorporated in Illinois)
S & T South, Inc., 111 East Wacker Dr., 27th Floor, Chicago, Illinois 60601 (Incorporated in Illinois)
St. Louis Lithographing Company, 400 South Fourth Street, St. Louis, Missouri 63102 (Incorporated in Missouri)
South Properties, Inc., 111 East Wacker Dr., 27th Floor, Chicago, Illinois 60601 (Incorporated in Illinois)
Southland Canning & Packing Co. Inc., 400 South Fourth Street, St. Louis, Missouri 63102 (Incorporated in Louisiana)
Spartanburg Dairy, Inc., 400 South Fourth Street, St. Louis, Missouri 63102 (Incorporated in Georgia)
Stuckey's Inc., 400 South Fourth Street, St. Louis, Missouri 63102 (Incorporated in Delaware)
Stuckey's Stores, Inc., 400 South Fourth Street, St. Louis, Missouri 63102 (Incorporated in Delaware)
William Underwood Company (Maine), 400 South Fourth Street, St. Louis, Missouri 63102 (Incorporated in Maine)
William Underwood Company (Mass.), 400 South Fourth Street, St. Louis, Missouri 63102 (Incorporated in Massachusetts)
California Speciality Stores, Inc., 400 South Fourth Street, St. Louis, Missouri 63102 (Incorporated in California)
Richardson & Robbins Co., 400 South Fourth Street, St. Louis, Missouri 63102 (Incorporated in Delaware)
S & T of Mississippi, Inc., 111 East Wacker Dr., 27th Floor, Chicago, Illinois 60601 (Incorporated in Mississippi)
Violet Packing Co., Inc., 400 South Fourth Street, St. Louis, Missouri 63102 (Incorporated in Louisiana)
Hussmann International, Inc., 12999 St. Charles Rock Road, Bridgeton, Missouri 63044 (Incorporated in Delaware)
Illinois Central Export Corporation, Six Landmark Square, Stamford, Connecticut 06902–2268 (Incorporated in Delaware)
Krack Corporation International, 401 South Rohlwing, Addison, Illinois 60101 (Incorporated in Delaware)
Pet International Sales, Inc., 400 South Fourth Street, St. Louis, Missouri 63102 (Incorporated in Delaware)
Hussann Distributing Company, Inc., 10420 Baur Boulevard, St. Louis, Missouri 63132 (Incorporated in Delaware)
IC Acquisition Company, 400 South Fourth Street, St. Louis, Missouri 63102 (Incorporated in Delaware)
Mexican Holding Co., 12999 St. Charles Rock Road, Bridgeton, Missouri 63044 (Incorporated in Missouri)
Midas Euro, Inc., 225 North Michigan Avenue, Chicago, Illinois 60601 (Incorporated in Delaware)

1. Parent corporation and address of principal office: Miller Transporters, Inc., Post Office Box 1123, Jackson, Mississippi 39215–1123.

2. Wholly-owned subsidiaries, which will participate in the operations, and State(s) of incorporation: Mississippi Bandag, Inc., a Mississippi corporation.

1. Parent corporation: Sage Foods, Inc., 999 E. Touhy, Suite 200, Des Plaines, IL 60018.

2. Wholly-owned subsidiaries:

(1) Infra-Red Foods Corp., Illinois Corporation;

(2) Practical Packaging Unlimited, California Corporation;

(3) Sage Coach Express, Inc., Illinois Corporation.

James H. Bayne,

Secretary.

[FR Doc. 84–27623 Filed 10–18–84, 8:45 am]
BILLING CODE 7035–501–M

[Finance Docket No. 30562]

The Baltimore and Ohio Railroad Co.—Trackage Rights Exemption

On September 20, 1984, The Baltimore and Ohio Railroad Company (B&O) filed a notice of exemption for trackage rights over a line of track of the Chicago South Shore and South Bend Railroad Company (CSS&SB) between milepost 43.94, near Porter (Bailly), IN, and milepost 57.78, near Gary (Goff), IN, a total distance of 13.84 miles.

This transaction is within a corporate family and comes within that class of transactions described in 49 CFR 1180.2(d)(3) which has been exempted from Commission regulation. The B&O purchase of the line will not result in changes in service levels, significant operation changes, or a change in the competitive balance with carriers outside the corporate family.

As a condition to the use of this exemption, any employees affected by the trackage rights agreement will be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rights-BN*, 354 I.C.C. 605 (1978), as modified by

Mendocino Coast Ry., Inc.—Lease and Operate, 360 I.C.C. 653 (1980).

Decided: October 9, 1984.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 84-27624 Filed 10-18-84; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-55 (Sub-123X]

Seaboard System Railroad, Inc.—Abandonment—In Knott County, KY; Exemption

Seaboard System Railroad, Inc. (SBD) has filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments*. The line to be abandoned is between milepost VK-255.51 and milepost VK 257.97, a total distance of 2.46 miles in Knott County, KY.

SBD has certified (1) that no local traffic has moved over the line for at least 2 years and that overhead traffic is not moved over the line, and (2) that no formal complaint filed by a user of rail service on the line (or by a State or local governmental entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or has been decided in favor of the complainant within the 2-year period. The Public Service Commission (or equivalent agency) in Kentucky has been notified in writing at least 10 days prior to the filing of this notice. *See Exemption of Out of Service Rail Lines*, 366 I.C.C. 885 (1983).

As a condition to use of this exemption, any employees affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

The exemption will be effective on November 21, 1984, (unless stayed pending reconsideration). Petitions to stay the effective date of the exemption must be filed by November 1, 1984, and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by November 12, 1984, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423

A copy of any petition filed with the Commission should be sent to applicant's representative: Charles M. Rosenberger, 500 Water Street, Jacksonville, FL 32202.

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio*.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: October 12, 1984.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 84-27625 Filed 10-18-84; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out its responsibility under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the proposed forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency forms under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of any particular revision they are interested in.

Each entry will contain the following information:

The Agency of the Department issuing this form.

The title of the form.

The OMB and Agency form numbers, if applicable.

How often the form must be filled out.

Who will be required to or asked to report.

Whether small businesses or organizations are affected.

An estimate of the number of responses.

An estimate of the total number of hours needed to fill out the form.

The number of forms in the request for approval.

An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, Telephone 202-523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S-5526, Washington, D.C. 20210. Comments should also be sent to the OMB reviewer, Arnold Strasser, Telephone 202-395-6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, NEOB, Washington, D.C. 20503.

Any member of the public who wants to comment on a form which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

Revision

Bureau of Labor Statistics
Pricing Collective Bargaining Settlements—Public Sector
1220-0048; BLS 3116B, BLS 3116C
Annually, biennially, or other (usually every 2 or 3 years)
State or local governments
250 responses; 150 hours, 2 forms

The Bureau of Labor Statistics series on State and local government collective bargaining agreements provides data on the size of negotiated changes in wages and compensation. This series covers about half of the unionized non-Federal public sector workers. The data are used by Federal policymakers, State and local government officials, and labor groups.

Employment and Training Administration
ETA Validation Handbook No. 361
1205-0055; ET Handbook 361
On occasion; quarterly
State or local government
53 respondents; 59,768 hours

The ETA Management Information System must provide sufficiently credible information upon which management can make policy decisions, insure credible reports to the Congress and the President, and in the case of UI, insure fair distribution of funds. The validation process attempts to insure the accuracy and comparability of reported data to the system.

Extension

Women's Bureau
Conference/Workshop Evaluation Form
1225-0018; WB-2
Individuals or households; state or local governments; businesses or other for profit; Federal agencies or employees; non-profit institutions
23,750 responses; 2,375 hours; 1 form

Conferences and workshops are used by the Women's Bureau to disseminate information about the economic status of working women. The public assessment of the Women's Bureau

information services is used by management to effect improvements in the conferences' informational content and quality and to determine if a conference format is an effective information dissemination technique.

Signed at Washington, D.C., this 16th day of October 1984.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 84-27715 Filed 10-18-84; 8:45 am]

BILLING CODE 4510-24-M, 4510-30-M

Employment and Training Administration

Migrant and Seasonal Farmworker Programs; Program Year (PY) 1985 State Planning Estimates, Preapplications for Federal Assistance, and Solicitation for Grant Application

AGENCY: Employment and Training Administration (ETA), Labor.

ACTION: Notice.

SUMMARY: The ETA announces planning and application instructions for Program Year (PY) 1985 Migrant and Seasonal Farmworker Programs funded under Title IV, Section 402, of the Job Training Partnership Act (JTPA). Applicants selected for funding will be designated as grantees for a 1-year period for PY 1985, and will not have to compete for PY 1986 funding if the responsibility review conditions are met, an acceptable training plan is submitted and funds are available.

DATES: No exceptions to the mailing and hand-delivery conditions set forth in this notice will be granted. Preapplications and applications not meeting the conditions set forth in this notice will not be accepted.

Preapplications submitted by mail must be posted by certified or registered mail, return receipt requested, and postmarked no later than November 8, 1984.

Preapplications submitted by hand-delivery will be accepted daily between the hours of 8:15 a.m. and 4:45 p.m., Eastern Time, but no later than 4:45 p.m., Eastern Time, on November 8, 1984.

Applications submitted by mail must be posted by certified or registered mail, return receipt requested, and postmarked no later than December 3, 1984.

Applications submitted by hand-delivery will be accepted daily between the hours of 8:15 a.m. and 4:45 p.m., Eastern Time, but no later than 4:45 p.m., Eastern Time, on December 3, 1984.

ADDRESS: Preapplications and applications must be mailed or hand-delivered to Robert D. Parker, Grant Officer, ETA, Room 5002, 601 D Street NW., Washington, D.C. 20213, Phone: 202/376-6254.

FOR FURTHER INFORMATION CONTACT: Charles C. Kane, Chief, Division of Seasonal Farmworker Programs, 601 D Street NW., Room 6122, Washington, D.C. 20213, Phone: 202/376-6232.

SUPPLEMENTARY INFORMATION: The JTPA Pub. L. 97-300, establishes programs to prepare youth and unskilled adults for entry into the labor force, and to afford job training to those economically disadvantaged individuals and others facing serious barriers to employment who are in special need of such training to obtain productive employment. In accordance with 29 U.S.C. 1501 *et seq.*, regulations promulgated by the Department of Labor (DOL) to implement JTPA are set forth at Parts 626 through 638 and 684 of Title 20, Code of Federal Regulations. It is the purpose of section 402 of JTPA, 29 U.S.C. 1672, to provide job training, employment opportunities, and other services for those individuals who suffer chronic seasonal unemployment and underemployment in the agriculture industry. These conditions have been substantially aggravated by continual advancements in technology and mechanization resulting in displacement and contribute significantly to the Nation's rural employment problem, 20 CFR 633.102(a). These factors substantially affect the entire national economy. Because of farmworker employment and training problems, such programs shall be centrally administered at the national level. Programs and activities supported under this section shall in accordance with section 402(c)(3) of the Act:

(1) Enable farmworkers and their dependents to obtain or retain employment;

(2) Allow participation in other program activities leading to their eventual placement in unsubsidized agricultural or non-agricultural employment;

(3) Allow activities leading to stabilization in agricultural employment; and

(4) Include related assistance and supportive services.

Regulations promulgated by the Department to implement the provisions of Title IV, section 402, of the Act are set forth in 20 CFR Part 633 and Part 636. These Parts contain all the regulations under the Act applicable to migrant and other seasonally employed farmworker programs, 20 CFR 633.103(a).

Should the regulations at Parts 633 and 636 conflict with regulations at other parts of this Title of the Code of Federal Regulations, the regulations at those parts shall prevail with respect to programs and activities governed by this Part, 20 CFR 633.103(b). Further, should any instructions in this notice conflict with the JTPA regulations, the JTPA regulations shall prevail.

The Department invites the submission of Preapplication and funding applications for PY 1985 Title IV, section 402 migrant and seasonal farmworker programs. Applicants should consult and be familiar with 20 CFR Part 633 in its entirety.

Executive Order 12372, "Intergovernmental Review of Federal Programs," and the implementing regulations at 29 CFR Part 17 generally apply to this program. Pursuant to these requirements, in States which have established a consultation process expressly covering this program, applications shall be provided to the State for comment. Since States may also participate as competitors for this program, applications shall be submitted to the State upon the deadline for submission to the Department, instead of the usual 30-day period for review.

This notice consists of: PART I—State Planning Estimates of funds expected to be available; PART II—Preapplication for Federal Assistance, an invitation for private nonprofit organizations, authorized by their Charter or Articles of Incorporation to provide employment and training or other services described in this notice, and public agencies to submit Preapplications for Federal Assistance and, PART III—Solicitation for Grant Application (GSA), an invitation for these agencies with section 402 of JTPA and the SGA set forth below.

The Department will not consider any funding application which does not meet the Precondition for Grant Application requirements provided as part of the SGA in Part III. In addition, prior to the final selection of an applicant as a potential grantee, the Department, as provided in Part III, will conduct a responsibility review of the available records to determine if the applicant has reasonably administered Federal funds. Acceptable applications shall be reviewed by a competitive review panel. Panel results are advisory in nature and not binding on the Grant Officer. Any applicant which does not have its application considered or is not selected as a potential grantee because of these provisions shall be advised of its appeal rights at 633.205(e).

Part I—State Planning Estimates

The State Planning Estimates provided here are only for the purpose of developing the funding applications being solicited herein. These estimates are the same as the Program Year 1984 allocations based on the currently proposed standstill appropriation level for Fiscal Year 1985, and they do not reflect any Fiscal Year 1984 supplemental appropriations action. Final allocation levels for Program Year 1985 will be based on the final Fiscal Year 1985 appropriation and subject to (1) the last of the three hold-harmless applications, and (2) data based adjustments, if any, resulting from the deliberations of the Interagency Task Force on Farmworker Data.

Regulations at 20 CFR 633.105(b)(2) reserve the right not to allow any funds for use in a State whose allocation is less than $120,000. Applicants should use the State Planning Estimates listed below in developing PY 1985 Preapplications for Federal Assistance and funding applications. The PY 1986 planning estimates will be published at a later date.

TABLE—PY 1985 STATE PLANNING ESTIMATES

Alabama	$827,845
Arizona	802,913
Arkansas	1,204,809
California	7,880,963
Colorado	700,356
Connecticut	253,519
Delaware	120,000
Florida	2,804,843
Georgia	1,666,956
Hawaii	120,000
Idaho	792,910
Illinois	1,412,789
Indiana	1,075,489
Iowa	1,942,257
Kansas	1,192,945
Kentucky	1,149,561
Louisana	784,581
Maine	305,876
Maryland	289,099
Massachusetts	232,425
Michigan	1,022,158
Minnesota	1,839,420
Mississippi	1,420,697
Missouri	1,207,101
Montana	689,989
Nebraska	1,436,952
Nevada	120,000
New Hampshire	120,000
New Jersey	316,913
New Mexico	352,583
New York	1,432,988
North Carolina	2,891,199
North Dakota	862,171
Ohio	1,210,046
Oklahoma	799,964
Oregon	802,913
Pennsylvania	1,288,454
South Carolina	986,004
South Dakota	557,183
Tennessee	1,034,635
Texas	4,425,933
Utah	218,240
Vermont	214,072
Virginia	962,060
Washington	1,352,250
West Virginia	225,080
Wisconsin	1,784,395
Wyoming	187,460

TABLE—PY 1985 STATE PLANNING ESTIMATES—Continued

Puerto Rico	2,644,052
National total	$57,985,000

Part II—Preapplication for Federal Assistance

All States and the Commonwealth of Puerto Rico are open for competition for Section 402 funds for PY 1985. Applications for Statewide programs are strongly encouraged. Applicants applying for grants shall submit a Preapplication consisting of:

(1) A Standard Form 424 described at 41 CFR 29–70.214–4;

(2) An attachment identifying the target area to be served by State and counties;

(3) For a private nonprofit organization, a certification from a certified public accountant that its financial management system is capable of properly accounting for and safeguarding Federal funds; and,

(4) For a public agency, a certification by the Chief fiscal officer attesting to the adequacy of the agency's accounting system to properly account for and safeguard Federal funds.

Two copies of the Preapplication for Federal Assistance shall be submitted either by mail or hand-delivered. Along with the Preapplication for Federal Assistance, two copies of the following shall be submitted:

(A) A statement indicating the legally constituted authority under which the organization functions;

(B) An employer identification number from the Internal Revenue Service, and for nonprofit applicants, proof of the organization's tax-exempt status.

Mailings must be posted by registered or certified mail, return receipt requested, and postmarked no later than 20 calendar days following the date of publication of this notice. All hand-delivered Preapplications will be accepted daily between the hours of 8:15 a.m. and 4:45 p.m., Eastern Time. A receipt will be provided bearing the time and date of delivery. No hand deliveries will be accepted after 4:45 p.m., Eastern Time on the 20*th* calendar day following the date of publication of this notice. No exceptions to these mailings and hand-delivery conditions will be granted. Preapplications not meeting these conditions will not be accepted.

Preapplications for Federal Assistance must be mailed or hand-delivered to: Robert D. Parker, Grant Officer, ETA, 601 D Street NW., Room 5002, Washington, D.C. 20213, Phone: 202/376–6254.

Part III—Solicitation for Grant Application (SGA)

The DOL is soliciting applications for grants under the provisions of Title IV, section 402 of JIPA to provide training, employment opportunities, and other services for migrant and seasonal farmworkers.

Content of Application

This segment of the GSA provides the format and content of the Funding Application. Exclusive of charts or graphs and letters of support and commitment, the funding application should not exceed 75 pages of double spaced, unreduced type.

Detailed budgets and planning estimates will not be a part of the funding application. These will be negotiated with applicants selected for grant awards in accordance with the governing regulations. The application format must be followed and contain the four sections listed below:

Section I—*Administration and Staffing*

This section will describe the applicant's administrative organization and staffing. Elements to be included in the description are:

(A) The number of people presently involved in the administration of the organization and the number of people who will be involved in the administration of the proposed program, their jobs titles, and the total administrative costs for the proposed program;

(B) A description of the management and administration plan including:

(1) Organization structure;

(2) Monitoring system;

(3) Evaluation system;

(4) Personnel or merit system;

(5) Accounting system;

(6) Fiscal reporting and participant tracking;

(7) Allowance payment system, if applicable;

(8) Grievance procedures;

(9) Equal Employment Opportunity.

Section II—Program Experience

This section will describe the applicant's experience and capability in providing employment and training programs for migrant and seasonal farmworkers. The applicant should discuss the type of programs operated; the employment, training, and services activities which were provided; the number of participants involved in each activity; the actual vs. planned performance; the amount of funding; the

contract grant or agreement number, the name of the funding agency, and the period of performance.

Section III—Program Approach and Delivery System

This section will describe the applicant's approach to fulfilling the intent of section 402 of the JTPA and the method of delivering the proposed program. Elements to be included in the description are:

(A) A description of migrant and seasonal farmworkers needs in the area;

(B) An assessment of job opportunities in the area;

(C) A detailed description of each program activity to be provided;

(D) The rationale for the program mix of training, employability development, and supportive services activities;

(E) A list of delivery agents, if applicable, and the services to be provided by each.

Section IV—Linkages and Coordination

This section will describe the applicant's demonstrated and documented ties with appropriate State and local agencies, private nonprofit organizations, and other groups providing resources and services to farmworkers. Letters of commitment for such resources should be attached to the application.

Specific Rating Criteria

As directed at section 402(c)(1) of the JTPA, it will be determined by a competitive review panel if applicants demonstrate an understanding of the problems of migrant and seasonal farmworkers, a familiarity with the area to be served, and a previously demonstrated capability to administer effectively a diversified employability development program for migrant and seasonal farmworkers. The review panel results are advisory in nature and are not binding on the Grant Officer. In addition, the Department will be looking for a coherent, effective management approach and an ability to administer an effective program. Each application considered by the Department will be reviewed and rated by the panel using the following specific criteria:

(i) *Administrative Capability (Range, 0 to 40 points).* The administrative capability factor is a rating of the applicant's management experience and efficiency. The rating shall include consideration of the managerial expertise of the organization's present and proposed staff in managerial and decisionmaking positions. Ratings will be based on an applicant's demonstrated ability to operate a program which provides timely and effective services within the period of performance and which clearly shows the capability to efficiently administer a multi-activity delivery system.

(ii) *Program Capability (Range, 0 to 30 points).* This factor rates the applicant equally in two subfactors; (1) its capability to effectively administer a comprehensive training and employment program for migrant and seasonal farmworkers and, (2) its capability to meet or exceed planned goals. Ratings will be based on the applicant's past operation of a successful comprehensive multi-activity program of employment and training and other services for farmworkers and on documentation that planned performance goals were either met or exceeded during the period of performance.

(iii) *Program Approach and Delivery System (Range, 0 to 20 points).* This factor rates the proposed program's potential impact on the full range of farmworker needs and its fulfillment of the intent of section 402 in relation to:

(1) An understanding of the problems of migrant and seasonal farmworkers, and

(2) A familiarity with the area to be served. Ratings will be based on applicant's clear and concise analyses of the economic situation of the target area, the needs of the target groups, and a proposed program which reflects those analyses. The program should provide the appropriate mix of training and supportive services that can be successfully implemented to meet the identified needs. The service delivery system aspect is a rating of the applicant's ability to deliver the proposed program, the appropriateness of the plan, and its potential ability to be effective.

(iv) *Linkages and Coordination (Range, 0 to 10 points).* This factor rates the applicant on: (1) Plans for involving appropriate agencies and programs in the design and operation of the applicant's proposed program, and (2) the extent to which the applicant assures that any training or other services provided will meet the needs of participants. Ratings will be based on an applicant's documented programmatic ties with the appropriate agencies in providing resources and services to farmworkers.

Submission of Funding Application

Three (3) copies of the funding application shall be submitted either by mail or handdelivered. Mailings must be posted by registered or certified mail, return receipt requested, no later than 45 calendar days following the date of publication of this notice. All hand-delivered applications will be accepted daily between the hours of 8:15 a.m. and 4:45 p.m., Eastern Time. A receipt will be provided bearing the time and date of delivery. No hand-deliveries will be accepted after 4:45 p.m., Eastern Time on the 45th calendar day following the date of publication of this notice. No exceptions to these mailing and hand-delivery conditions will be granted. Applications not meeting these conditions will not be accepted.

Funding applications must be mailed or hand-delivered to: Robert D. Parker, Grant Officer, ETA, 601 D Street NW., Room 5002, Washington, D.C. 20213, Phone 202/376-6254.

Notification of Selection

(i) Respondents to this SGA which are designated as potential grantees will be notified by the Department. The notification will invite each potential grantee to negotiate the final terms and conditions of the grant, will establish a reasonable time and place for the negotiation, and will indicate the State or area to be covered by the grant. Grants will be awarded for a one year period for PY 1985 and organizations selected will not have to compete for PY 1986 funding if the responsibility review conditions at § 633.204 are met, if an acceptable job training plan is submitted, and if funds are available.

(ii) In the event that no grant applications are received for a specific State or area or those received are deemed to be unacceptable, or where a grant agreement is not successfully negotiated, the Department may give the Governor first right to submit an acceptable application pursuant to the Precondition for Grant Application and Responsibility Review tests. Should the Governor not accept the offer within fifteen (15) days, the Department may then: (1) Designate another organization or organizations or (2) reopen the area for competitive bidding.

(iii) An applicant whose grant application is not selected by the Department to receive Section 402 funds will be notified in writing.

(iv) Applicants who submit grant applications which have been rejected may not resubmit a new grant application for the State(s) or area(s) in which they are interested in providing services until the area(s) is announced by the Department as reopened for competition.

(v) Any applicant whose grant application is denied in whole or in part by the Department will be advised of its appeal rights at § 633.205(e).

Signed at Washington, D.C., this 11th day of October 1984.

Paul A. Mayrand,

Director, Office of Special Targeted Programs.

Robert D. Parker,

Grant Officer, Employment and Training Administration.

[FR Doc. 84-27714 Filed 10-18-84; 8:45 am]

BILLING CODE 4510-30-M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistant

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period October 1, 1984—October 5, 1984.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-15,387; Pfaudler Co., Elyria, Ohio
TA-W-15,384; Julia Sportswear, Inc., New York, New York

In the following cases the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to workers separations at the firm.

TA-W-15,385; K.C. Jackson Abrasives, Inc., Glenwillard, PA
TA-W-15,413; Cleveland Crane & Engineering, Wickliffe, OH
TA-W-15,404; Old Dominion Manufacturing Co., Inc., Land Assault Vehicle (LAV) Div., Culpeper, VA

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA-W-15,429; Puritan Trim Co., Patchogue, NY

Aggregate U.S. imports of trimmings did not increase as required for certification.

TA-W-15,449; Majestic Mining, Inc., Widen, WV

Aggregate U.S. imports of coke and coal are negligible.

TA-W-15,427; The Linette Co., Inc., New York, NY

Aggregate U.S. imports of apparel trimmings and bindings did not increase as required for certification.

Affirmative Determinations

TA-W-15,345; Certified Creations, Inc., New York, NY

A certification was issued covering all workers separated on or after May 20, 1983 and before April 1, 1984.

TA-W-15,402; Flower Classics, Inc., Hialeah, FL

A certification was issued covering all workers separated on or after July 6, 1983 and before September 1, 1983.

TA-W-15,415; The Hanover Shoe, Inc., Middletown, MD

A certification was issued covering all workers separated on or after December 1, 1983.

I hereby certify that the aforementioned determinations were issued during the period October 1, 1984–October 5, 1984. Copies of these determinations are available for inspection in Room 6434, U.S. Department of Labor, 601 D Street NW., Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: October 9, 1984.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 84-27710 Filed 10-18-84; 8:45 am]

BILLING CODE 4510-30-M

LEGAL SERVICES CORPORATION

Grant Award; Kansas Bar Foundation

AGENCY: Legal Services Corporation.

ACTION: Announcement of grant award.

SUMMARY: The Legal Services Corporation (LSC) announces its intention to award a one-time grant of $13,460 to the Kansas Bar Foundation for the implementation of Kansas' Interest on Lawyers' Trust Account (IOLTA) program. These funds will be awarded on a non-recurring basis under the authority of sections 1006(a)(1)(B) and 1006(a)(3) of the Legal Services Corporation Act of 1974, as amended in 1977. The grant will cover the period beginning November 19, 1984, and ending November 18, 1985. There will be no refunding rights for this one-time grant under section 1011 of the Legal Services Corporation Act or Part 1625 of the Corporation's Regulations. This public notice is issued pursuant to section 1007(f) of the Legal Services Corporation Act, with a request for comments and recommendations within a period of thirty (30) days from date of publication of this notice. The grant award will not become effective and grant funds will not be distributed prior to the expiration of this thirty-day period.

DATE: All comments and recommendations must be received by the Office of Program Development of the Legal Services Corporation within thirty (30) calendar days of publication of this notice.

FOR FURTHER INFORMATION CONTACT: Heidi J. Ackerman, Assistant Director, Office of Program Development, Legal Services Corporation, 733 Fifteenth Street, NW., Washington, D.C. 20005 (202) 272-4356.

SUPPLEMENTARY INFORMATION: This grant will be awarded pursuant to the Legal Services Corporation's announcement of the continued availability of funds to develop and implement Interest on Lawyers' Trust Account (IOLTA) programs (**Federal Register**, p. 22899, June 1, 1984). LSC intends these grants to foster IOLTA programs which will serve as a source of private sector funding to supplement federal funding for the direct delivery of civil legal services to poor individuals.

The Kansas IOLTA program is being implemented by Order of the Supreme Court of the State of Kansas. Pursuant to that Order, funds received by an attorney from a client or in a client related matter which, in the attorney's judgment, would only generate a nominal amount of interest if placed in a separate interest bearing trust account, may be "pooled" with similar funds held for other clients. The interest earned by these "pooled" funds, net of service charges, will be paid to the Kansas Bar Foundation. As an LSC IOLTA grant recipient, the Foundation is required to use its best efforts to expend at least two-thirds of the IOLTA proceeds (excluding administrative costs and a

reserve to the provision of civil legal services to poor individuals.

Donald P. Bogard,

President, Legal Services Corporation.

[FR Doc. 84-27650 Filed 10-18-84; 8:45 am]

BILLING CODE 6820-35-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[84-80]

National Environmental Policy Act; Finding of No Significant Impact

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of finding of no significant impact.

SUMMARY: This assessment identifies the potential environmental effects of the Space Shuttle launch and operation of payloads. Under the Proposed Action, the Space Shuttle is scheduled to carry 928 payloads into space from 1982–1991. The major alternatives to the Proposed Action were identified as reasonable approaches to achieving the payload mission objectives. These included the use of expendable launch vehicles/sounding rockets (Expendable Launch Vehicle/Sounding Rocket Alternative) and terrestrial systems (No-Action Alternative). Because of technical and operational constraints, many of the proposed missions could not be achieved under the two alternatives. In the case of the No-Action Alternative, for instance, about 40 percent of the unclassified missions (exclusive of National Security, Mid-deck experiments, and Get-Away-Specials) would have to forego anticipated benefits under the Proposed Action. Under the Expendable Launch Vehicle/Sounding Rocket Alternative, many of the automated payload missions, such as satellite deployment and small research missions, could be achieved.

SUPPLEMENTARY INFORMATION: The proposed Action addressed in this document is the utilization of the Space Transportation System (STS) for the performance of missions in space. Potential missions span a number of areas, including science and applications, technology development, commercial applications and National Security applications, and involve varying degrees of services and associated support systems.

An STS Traffic Model provides a basis for estimating the future STS impacts and includes 928 payloads (exclusive of classified military missions), scheduled on 124 flights (exclusive of reflight opportunities and National Security flights) from 1982–1991.

The payload categorization is based on the potential space operations: Launch vehicle (i.e. Orbiter) integrated payloads and free-flying payloads. Launch vehicle integrated payloads include those which remain attached to the Orbiter throughout its operation; are deployed and retrieved on a single flight; or are returned to Earth. Mid-deck experiments, Spacelab, Get-Away-Specials, and Landsat retrieval are examples of payloads within this mission class. Free-flying payloads include those which are deployed from the cargo bay and remain detached permanently or are retrieved on a subsequent flight; or are retrieved, serviced, and deployed on a single flight. The Long Duration Exposure Facility, Gamma Ray Observatory, communication satellites, and planetary spacecraft are examples of payloads in this latter class.

The two alternatives to the Proposed Action are: (1) Continue the U.S. Space Program, but with the use of expendable launch vehicles (ELV); or (2) no-action, which would be to use terrestrial-based research and development, science and technology application, and communication systems. These two alternatives are described below.

One alternative to the Proposed Action is the use of expendable launch vehicles (ELV's) and sounding rockets tro achieve the payload mission objectives. The population of launch vehicles available encompasses both the U.S. and international countries; however a subset of this population was selected as a reasonble alternative.

As an alternative to the Space Transportation System, use of ELV's and sounding rockets offer a wide but limited capability for orbital and suborbital missions. All missions are automated and include scientific, commercial, and Department of Defense (DOD) applications.

The ELV's provide orbital launch capability and include a variety of solid and liquid-staged vehicles: Titan, Atlas-Centaur, Delta, Scout, and Ariane. The Titan, Atlas-Centaur, Delta, and Scout are U.S. rockets primarily launched from the Eastern Test Range (ETR), Florida, and the Western Test Range (WTR), California, and San Marco, Africa. Ariane is a European vehicle launched from the Centre Spatial Guyanais-Guiana Space Center (CSG) in French Guiana, South America, and is under the direction of the Centre National D'Estudes Spatiales (CNES) and the European Space Agency (ESA). For high energy missions, upper stages are coupled with the base vehicles. Typical upper stages include the Centaur, the Payload Assist Module (PAM), and the Inertial Upper Stage (IUS), among others. Sounding rockets provide a wide variety of suborbital and low-orbit mission capabilities. Both solid and liquid propellants are used for propulsion on these launch vehicles.

The No-Action Alternative is defined as the fulfillment of the mission objectives through groundbased or terrestrial systems. This implies that the system characteristics and operations are substantially similar to the system that is being substituted. For many of the payloads, space applications represent a substitute for, extension of, or advancement of terrestrial systems. Communications and many enviromental monitoring systems are examples of systems that, in most cases, have terrestrial equivalents.

Research and science and application payloads represent unique cases where terrestrial equivalents are virtually preempted. In these instances, the space environment characteristics are utilized for research, experiments, and testing and usually cannot be duplicated on earth. Examples of payloads in this class are life science and physical science experiments requiring long duration exposure to microgravity, or Earth observational measurements requiring synoptic views. There are also payload-related activities that are, by definition, space operations. Satellite servicing, maintenance and retrieval, and search and rescue misssions are examples of services that may be required for a payload. Based on these consideration, some payload characteristics and activities preclude the feasibility and practicality of a terrestrial equivalent. These include mission activities related to: (1) Payload servicing and maintenance; and (2) payload retrieving. These also include those missions with the characteristics/requirements of: (1) Long duration exposure to microgravity environment or other unique space environment parameters (e.g., ultra-high vacuum, high energy radiation, large volume of ionized gases); (2) viewing direction (e.g., synoptic views); and (3) other sampling and meaurements and/or validation requirements (physical, chemical, and spectroscopic), beyond terrestrial capabilities both technically and economically (e.g., highly accurate pointing and stability).

The environmental analysis addresses seven environmental categories (socioeconomics; space quality; air; land, and water quality; noise; biotic resources; human health; and resource use) under a normal-operation scenario. An eighth category, accidents, was

distinguished to address the possible environmental effects resulting from human error or mechanical/electrical failures of equipment and subsystems. The magnitude and type of impact, the duration, geographical context, and the potential for interactive and cumulative effects were considered for each of these aforementioned categories.

The process for analysis of the environmental effects from the launch vehicle and payload operations incorporated previous environmental assessments on launch vehicle related effects. Because of the tiering approach to this analysis, the launch vehicle and payload effects were evaluated on an independent basis initially, but then intergrated to establish the total mission effects.

The results of this analysis are summarized in matrix form for both the launch vehicles and payloads, and indicate that the launch vehicle impacts (documented in previous environmental studies) would essentially eclipse those associated with the payloads. Previous environmental studies addressing launch vehicle operational impacts (i.e., the Space Shuttle and ELV's) have been incorporated into this assessment and are summarized briefly here.

During the launch phase of the Shuttle from the Kennedy Space Center (KSC), hydrogen chloride (HCL) will be introduced into the stratosphere causing a small decrease in ozone. Temporary perturbations to the ionosphere will occur from the orbital maneuvering system firings and propellant dumps as well as during entry. As the orbiter descends, a low magnitude sonic boom will be produced along the groundtrack with the maximum overpressure occurring near the landing site at KSC. The sonic boom will effect approximately 500,000 people in a 60 kilometer × 120 kilometer area. The maximum overpressure will be 101 newtons/square meter over a 161 square kilometer area. The boom will expand the entire width of the state and will be audible as far north as Orlando and as far south as Sarasota. The overpressures are temporary and, in most cases, in the range of nuisance or annoyance. Effects of sonic booms on humans, animals, and marine life are expected to be limited to startle responses. Nonprimary structures or building may sustain minor damage at overpressure ranging from 48 to 144 newtons/square meter.

The alternate landing site is Edwards Air Force Base. Based on orbiter landings at this latter site on earlier missions, there have been no significant environmental impacts associated with the orbiter reentry. The maximum population affected by a sonic boom is about 50,000 in a sparsely populated region northwest of Los Angeles, California. Experiments on the effects of sonic booms indicate that wildlife reaction up to 300 newtons/square meter do not involve frantic or panic reaction. Several species specific studies on the effect of impulse noise (similar to that produced by the Shuttle) indicate little effect on physiology, reproduction, or nesting behavior.

From the perspective of payload, ground, and flight operations, no significant long-term, adverse impacts are anticipated under the Proposed Action. Specific findings of this analysis with respect to the payloads include:

(a) *Socioeconomics.*

(1) Employment levels associated with payload manufacture, support, and servicing, would be relatively small and geographically dispersed in comparison with launch vehicle systems. Of greater significance are the potential social (e.g., education and technology spinoffs) and customer (e.g., cost savings, research knowledge gains) benefits anticipated under the Proposed Action.

(2) The nation's support of and interest in the space program is clearly evidenced by the high media exposure and presence of observers at each STS launch. This interest in the success of each mission contributes to and fosters pride in national space efforts.

(3) The successful launch of the Shuttle and the completion of mission objectives provides a technical data base for continuous improvements in both the STS and the design and operation of payloads. The STS and future technology spinoffs are indispensable to performing future missions and maintaining leadership in space exploration.

(4) International cooperation on research efforts allows exchange of technical data and collaboration of experts in scientific fields on topics ranging from basic theories of space phenomena to payload design optimization. The sharing and contribution of space hardware, experimental results, and research talents are strong technology drivers which could accelerate developments and knowledge in basic science and applications (e.g., atmospheric and space plasma physics) and potential commercial ventures and spinoffs (e.g., materials processing, communications).

(5) The Get-Away-Specials are examples of a payload class that encourages a positive and ambitious viewpoint of science, engineering, and technology by youth. This attitude is essential not only to encouragement of careers in science and engineering, but also to maintenance of the U.S. lead in technology and space.

(6) The development and execution of commercialization opportunities is dependent on the fundamental research and development activities being initiated on the Shuttle over the next decade. Research and technology performance tests in such areas as materials processing (e.g., glass fibers, pharmaceuticals); communications and Earth resource satellites and measurements systems; satellite servicing and construction and assembly of subsystems in space are examples of the efforts beipg initiated that will affect the design, cost, and safety of spacecraft missions and operations.

(7) Spinoff is the emergence of new products and processes which have origins in technology originally developed to fulfill the goals of NASA aerospace programs. There have been thousands of such spinoffs, each contributing some measure of benefit to the material economy, productivity, or lifestyle. In the aggregate, they represent a substantial dividend on material investment in aerospace research. The payload missions identified in this report produce direct public and user benefits while simultaneously contributing indirect benefits (spinoff) by generating new technology which may lead to secondary applications in the future.

(8) The value of the benefits to the customers of the STS is inherently related to the nature of the payload mission—the technology, risk, system cost, and availability of equivalent systems. Consequently, the value of benefits for science and application, space processing, communications, and other free flying and integrated missions must be evaluated with respect to the mission requirements and compared to other alternatives. A partial listing of potential benefits is provided below.

(i) Lower transportation costs.

(ii) Reduced equipment cost, enhanced availability, and longer service life from STS maintenance and servicing capability.

(iii) Ability to react to unexpected or transient events.

(iv) Accelerated understanding and insights from real time involvement of payload specialists and crew in experiments.

(v) Ability to construct, assemble, and checkout systems that may be difficult to alter or modify.

(vi) Ability to simplify designs that involve complex deployment mechanism.

(vii) Production of higher quality/quantity products.

(9) With the use of alternative launch vehicles of ground-based systems many of these benefits would be markedly reduced or eliminated.

(b) *Space Quality*

(1) The present and future orbital debris population in Low Earth Orbit (LEO) and Geostationary Orbit (GEO) was analyzed with respect to the Traffic Model for the Space Shuttle from 1982 to 1991 to determine the collision probability of orbital debris with operational payloads. Conservative estimates indicate that by 1991, well over 900 objects would have to be released per one week mission to achieve a collision probability of 10^{-5}.

(2) The Traffic Model includes 175 upper stages that are projected to be used for space missions over the next decade. The macroparticle debris generated in various orbits as a result of these space missions under the Proposed Action would be 184 objects. Use of expendable launch vehicles would raise this number to over 340 objects. Most of this additional debris would be associated with LEO.

(3) In both LEO and GEO, on-orbit collisions would adversely affect future space operations by increasing the likelihood of additional collisions and failures for operating spacecraft. While the threat to space operations from the debris population is not yet severe, continued use of space without regard to the consequences of populating the environment with additional objects may have a significant and adverse effect on space operations over the next 30 years. Programs to control the rate of debris deposition represent the most effective, near-term alternative to controlling the debris hazard.

(c) *Air, Land, and Water Quality.* The environmental effects on air, land, and water quality from payload manufacture through post-flight processing are expected to be negligible. Sources of these effects include: Payload manufacture (waste products from primary production and assembly operations); launch site processing and testing; and post-flight reprocessing (e.g., venting, purging, and cleaning operations). Adherence to regulatory and safety practices and procedures would limit the impact to air, land, and water quality from the storage, release, or use of materials and/or wastes.

(d) *Noise.* Noise effects from payloads are expected to occur in association with payload manufacture and launch site pre- or post-processing activities (e.g., engine test firings of upper stages). Relative to other noise sources and levels, these sources should not cause a major disturbance or annoyance to the general public. Occupational safety and health regulations limit worker exposure over a period of 8 hours to a sound level of 90 dB_A. These regulatory limits, implemented through engineering controls and safe practices, serve to protect worker health. Consequently, no adverse noise impacts are anticipated from payload manufacture or launch site operations.

(e) *Biotic Resources.* Based on the results of the analyses performed relative to the potential for waste steam generation from payload activities, no long-term or cumulative effects on flora or fauna are predicted. Most of these effects are traceable to the manufacturing process and, on a per payload basis, are negligible. Direct impacts on endangered or threatened species and critical habitat are not anticipated because of the small quantities of waste or low risk associated with the payload manufacturing and operational cycle.

(f) *Health.* Public and occupational health effects are expected to be insignificant. Payload ground and flight operations will not involve significant quantities of hazardous emissions or high risk operations which would affect the safety of crew or employees.

(g) *Resource Use.* Natural and cultural resource commitments are insignificant when compared to national data bases. Shuttle-related energy and material demands are significantly larger than payload commitments. On a cumulative basis, generic estimating techniques indicate that total energy commitments will require less than 0.1 and 0.0016 percent for the Shuttle launches and satellite payloads, respectively. Material commitments also are negligible on a national scale and primarily involve steel, aluminum, composites, titanium, and solid and liquid prepellants.

(h) *Accidents.* Under worst-case scenarios, some payloads and payload oprations could result in damage to the Space Transportation System equipment or personnel. The probability and severity of these events, however, are reduced or eliminated with appropriate hazard controls. NASA's Safety Policy and Requirements are directed at protecting flight and ground personnel, the STS, other payloads, the general public, and the environment from payload-related hazards.

In general, differences between the Proposed and Alternative Actions' environmental effects are not significant. The most noteworthy differences involve the reduced benefits to society and STS customers because of the more limited capabilities and services offered by alternative launch vehicles or ground-based systems. Reductions in environmental effects also would be commensurate with the number of missions that would have to be abandoned with the Expendable Launch Vehicle alternative, additional space debris would be generated over the Space Shuttle option for a given mission. The space debris issue is present regardless of the alternative examined and will require further monitoring and evaluation during the next decade.

The environmental assessment for the proposed action was completed by the National Aeronautics and Space Administration in May 1984.

Conclusion: The Shuttle launch of STS payloads from 1982–1991 will not result in any significant adverse environmental impacts. No environmental impact statement is required.

EFFECTIVE DATE: October 19, 1984.

ADDRESS: National Aeronautics and Space Administration, Code MVP, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Don Turner, (202) 453–2400.

Dated: October 5, 1984.

C. Robert Nysmith,

Associate Administrator for Management.

[FR Doc. 84–27607 Filed 10–18–84; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Decision and Management Science; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Panel on Decision and Management Science.

Date/Time: November 5–6, 1984, 8:30 a.m. to 5:00 p.m.

Place: National Science Foundation, 1800 G Street NW., Washington, D.C. 20550, Room 523.

Contact Person: Dr. Trudi C. Miller, Program Director, National Science Foundation, Room 335—Phone (202) 357–7569.

Purpose of Advisory Panel: To provide advice and recommendations concerning research in Decision and Management Science.

Agenda: Closed: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and

(6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF on July 6, 1979.

Dated: October 16, 1984.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 84–27689 Filed 10–18–84; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–440–OL and 50–441–OL; ASLBP No. 81–457–04 OL]

The Cleveland Electric Illuminating Co., et al.; Perry Nuclear Power Plant, Units 1 and 2; Reconstitution of Board

Pursuant to the authority contained in 10 CFR 2.721, the Atomic Safety and Licensing Board for *The Cleveland Electric Illuminating Co., et al.* (Perry Nuclear Power Plant, Units 1 and 2), Docket Nos. 50–440–OL and 50–441–OL, is hereby reconstituted by appointing Administrative Judge James P. Gleason in place of Administrative Judge Peter B. Bloch, who, because of a schedule conflict, is unable to service.

As reconstituted, the Board is comprised of the following Administrative Judges:

James P. Gleason, Chairman
Glenn O. Bright
Jerry R. Kline

All correspondence, documents and other material shall be filed with the Board in accordance with 10 CFR 2.701 (1980). The address of the new Board member is: James P. Gleason, Chairman, 513 Gilmoure Drive, Silver Spring, Maryland 20901.

Issued at Bethesda, Maryland, this 16th day of October, 1984.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 84–27686 Filed 10–18–84; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–213]

Connecticut Yankee Atomic Power Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of Appendix R to 10 CFR Part 50 to Connecticut Yankee Atomic Power Company (the licensee), for the Haddam Neck Plant located in Middlesex County, Connecticut.

Environmental Assessment

Identification of Proposed Action

The exemption would grant relief in seven fire areas to the extent that redundant safe shutdown related cable and equipment are not separated and/or protected in accordance with Section III.G.2 of Appendix R. The seven fire areas are as follows: Service Building Switchgear Room Primary Plant Containment Vault, Primary Plant Auxiliary Feedwater Pump Room, Screenwell Pumphouse Pump Motor Room, Service Water Pump Cable Duct Bank, Charging Pump Pits, and RHR Pump and Heat Exchanger Areas. The exemption would also grant relief to the extent that the Control Room does not meet the fire protection measures of Section III.G.2 and the alternate shutdown measures of Section III.G.3.

The exemption is responsive to the licensee's applications for exemption dated March 1, July 16, and December 15, 1982, as supplemented by letters dated January 31, March 30, April 22, November 4, December 7, and December 21, 1983.

The Need for the Proposed Action

The proposed exemption is needed because the features described in the licensee's requests regarding the existing fire protection at the plant for these items are the most practical method for meeting the intent of Appendix R and literal compliance would not significantly enhance the fire protection capability.

Environmental Impacts of the Proposed Action

The proposed exemption will provide a degree of fire protection such that there is no increase in the risk of fires at this facility. Consequently, the probability of fires has not been increased and the post-fire radiological releases will not be greater than previously determined nor does the proposed exemption otherwise affect radiological plant effluents. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with this proposed exemption.

With regard to potential non-radiological impacts, the proposed exemption involves features located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed exemption.

Alternative Use of Resources

This action involves no use of resources not previously considered in the Draft and Final Environmental Statements for the Haddam Neck Plant.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for the exemption dated March 1, July 16, and December 15, 1982, and supplements dated January 31, March 30, April 22, November 4, December 7, and December 21, 1983, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Russell Library, 119 Broad Street, Middletown, Connecticut 16457.

Dated at Bethesda, Maryland this 15 day of October 1984.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 84–27688 Filed 10–18–84; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 21395; File No. SR–MSRB–84–16]

Municipal Securities Rulemaking Board; Filing and Immediate Effectiveness of Proposed Rule Change

October 15, 1984.

The Municipal Securities Rulemaking Board ("MSRB") on October 3, 1984, submitted copies of a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b–4 thereunder, to

amend rule G–5 of the rules of the MSRB to clarify the National Association of Securities Dealers Inc.'s ("NASD") authority to restrict the business of municipal securities brokers and dealers that are NASD members. The proposed rule change states that the NASD can restrict members' business if needed as if Section 38 of the Article III of the NASD's Rules of Fair Practice was specifically applicable to such brokers and dealers.[1]

Because the proposed rule change only clarifies rule G–5,[2] the rule change became effective upon its filing with the Commission pursuant to section 19(b)(3)(A) of the Act. At any time within sixty days of filing of this proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Publication of this notice is expected to be made in the **Federal Register** during the week of October 15, 1984. Interested persons are invited to submit written comments concerning the submission within 21 days from the date of publication in the **Federal Register.** Persons submitting written comments should file six copies with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Comments should refer to File No. SR–MSRB–84–16.

Copies of the submission and all related items, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available at the office of the MSRB.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Action Secretary.

[FR Doc. 84–27629 Filed 10–18–84; 8:45 am]

BILLING CODE 8010–01–M

[1] Section 38 permits the NASD to prescribe remedial measures for certain NASD members which experience financial or operational difficulties.

[2] Specifically, this proposed rule change clarifies amendments to rule G–5 that were approved by the Commission on September 19, 1984. *See* MSRB–84–12, Securities Exchange Act Release No. 21331 (September 19, 1984).

[Release No. 21396; File No. SR–OCC–84–15]

Options Clearing Corp.; Filing and Immediate Effectiveness of a Proposed Rule Change

October 15, 1984.

The Options Clearing Corporation ("OCC"), on September 11, 1984, submitted a proposed rule change under section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"). The proposal clarifies OCC fees for options risk disclosure documents. Specifically, OCC's proposal clarifies that a $0.35 fee will be charged for each risk disclosure document ordered from OCC, regardless of whether the order is a new order or a reorder.

OCC intends the proposal to prevent confusion on the part of firms ordering the documents for the first time. In the past, OCC charged $0.25 for risk disclosure documents. However, when OCC's initial supply of documents was exhausted, OCC purchased additional documents at a cost of $0.35 each. At that time, OCC raised its fee to $0.35 but used the term "reorders" in its rule change (SR–OCC–82–27). The $0.35 fee reflects OCC's actual printing costs for all risk disclosure documents now provided by OCC, whether or not the ordering firm has ordered previously.

OCC believes that because the fee is based on actual printing costs and is charged to all firms ordering the documents, the fee is allocated in an equitable manner among OCC's participants. OCC therefore believes that the proposal is consistent with Section 17A of the Act.

The rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Securities Exchange Act Rule 19b–4(e). The Commission may summarily abrogate the rule change at any time within 60 days of its filing if it appears to the Commission that abrogation is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Written comments may be submitted within 21 days after this notice is published in the **Federal Register**. Please refer to File No. SR–OCC–84–15 and file six copies of comments with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Material on the rule change, other than material that may be withheld from the public under 5 U.S.C. 552, is available at the Commission's Public Reference Room and at the principal office of OCC.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84–27630 Filed 10–18–84; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 21394; File No. SR–PSDTC–84–11]

Depository Trust Co.; Order Approving a Proposed Rule Change of Pacific Securities

October 15, 1984.

The Pacific Securities Depository Trust Company ("PSDTC") on August 17, 1984, submitted a proposed rule change to the Commission pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 74s(b)(1). Notice of the proposal was published in Securities Exchange Act Release No. 21281 (August 31, 1984), 49 FR 35455 (September 7, 1984). The Commission received no letters of comment on the proposal.

PSDTC's proposed rule change creates a new membership class, Municipal Comparison Only ("MCO") Participants, for municipal securities brokers and dealers who exclusively want to use PSDTC's National Institutional Delivery ("NID") System [1] for confirmation and affirmation of institutional trades in certain municipal securities.[2] PSDTC's

[1] PSDTC's NID System is linked with the Depository Trust Company ("DTC"), and through DTC, the Midwest Securities Trust Company and the Philadelphia Depository Trust Company. For a description of PSDTC's NID System, *see* Securities Exchange Act Release No. 19437 (January 18, 1983), 48 FR 3441 (January 25, 1983), which approved implementation of that System. *See also* Securities Exchange Act Release No. 21284 (August 23, 1984), 49 FR 34321 (August 29, 1984), which approved modifications to PSDTC's NID System to facilitate the automated confirmation, affirmation and settlement of municipal securities transactions.

[2] The proposed rule change is intended to assist municipal securities brokers and dealers in complying with recent changes in Municipal Securities Rulemaking Board ("MSRB") rules requiring the use of automated clearance and settlement systems for certain municipal securities transactions. *See* Securities Exchange Act Release No. 20365 (November 14, 1983), 48 FR 52531 (November 18, 1983), which approved changes to MSRB Rules G–12 and G–15 to establish a two-phased timetable for integrating municipal securities brokers and dealers into the National Clearance and Settlement System (the "MSRB Order"). As of August 1, 1984, each municipal securities broker and dealer who is, or whose agent is, a registered clearing agency participant must use clearing agency facilities to confirm and affirm certain delivery vs. payment or receipt vs. payment transactions. That municipal securities broker and dealer must use those clearing agency facilities if its customer or the customer's agent is a clearing agency participant or participates in a clearing agency linked to a clearing agency providing those

Continued

proposed rule change establishes the first securities depository MCO program for the confirmation and affirmation of municipal securities.[3]

Under PSDTC's proposed rule change, only members or MCO members of PCC may become MCO participants of PSDTC. The proposal provides that all affirmed transactions submitted by MCO Participants will be processed on a trade-for-trade basis through the use of receive and deliver tickets. MCO Participants would not be entitled to use any other PSDTC service, including PSDTC's book-entry and envelope services. Therefore, all MCO participants must settle their trades outside of PSDTC's facilities, in accordance with MSRB rules.

PSDTC will not guarantee settlement of affirmed trades submitted by MCO participants. Because this limitation precludes PSDTC liability for trades by MCO participants, MCO participants will not be required to contribute to PSDTC's Participants Fund. Under PSDTC's proposal, however, MCO participants will be subject to applicable PSDTC rules, including those relating to financial condition, operational capibililty, experience, and competency.

PSDTC believes the proposed rule change will enable municipal securities brokers and dealers to comply with MSRB Rule G–15 which requires the automated confirmation and affirmation of certain municipal securities transactions. Accordingly, PSDTC believes that the proposed rule change is consistent with Section 17A of the Act in that it promotes the prompt and accurate clearance and settlement of municipal securities transactions.

The Commission believes that PSDTC's proposed rule change should be approved for the following reasons. First, the Commission believes that PSDTC's proposal will facilitate automated confirmation and affirmation of municipal securities transactions through registered clearing agencies. Accordingly, the proposal helps to achieve the goals of the MSRB Order. Second, PSDTC's MCO program should enable municipal securities brokers and dealers who are not full-settling members of PSDTC to enjoy some of the benefits of PSDTC's NID System. For example, use of the system's automated confirmation and affirmation features should significantly steamline customer-side settlement of municipal securities transactions. Furthermore, the proposal should reduce substantially the incidence of "DK's" in settling institutional municipal securities transactions, and, consequently, related financing costs incurred by municipal securities brokers and dealers should decline dramatically. Third, the Commission believes that the proposal will not adversely affect PSDTC's ability to safeguard securities and funds. PSDTC will not be guaranteeing settlement of municipal securities trades submitted for confirmation and affirmation by MCO participants. PSDTC also will not be allowing MCO participants to use any other PSDTC services that could expose PSDTC to financial risk. Thus, the Commission agrees that MCO participants should not be required to contribute to PSDTC's Participants Fund.

PSDTC requested accelerated approval of the proposal because of the August 1, 1984, deadline for municipal securities brokers and dealers to use automated confirmation and affirmation systems. However, because the Commission is not the appropriate regulatory agency ("ARA") for PSDTC under section 3(a)(34) of the Act, section 19(b)(4)(A) of the Act precluded the Commission from approving PSDTC's proposal on an accelerated basis without notification by PSDTC's ARA of its determination that the proposal is consistent with the safeguarding of funds and securities.

Such notice was not received. However, because the Commission seeks to maximize the use of automated clearing services by municipal securities brokers and dealers, the Commission, after consultation with PSDTC's ARA, authorized PSDTC to implement its proposal on a pilot basis pending final Commission determinations.[5]

It is therefore ordered, pursuant to section 19(b)(2) of the Act that the proposed rule change referenced above be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84–27631 Filed 10–18–84; 8:45 am]

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services. In addition, as of February 1, 1985, municipal securities brokers and dealers and their agents will be required to book-entry settle certain municipal securities transactions through a registered clearing agency.

[3] Several registered clearing corporations have implemented MCO programs for the automated comparison of municipal securities. *See* Securities Exchange Act Release No. 20976 (May 18, 1984), 49 FR 22426 (May 29, 1984), which approved National Securities Clearing Corporation's ("NSCC") Municipal Bond Processing System, including its Municipal Bond Comparison Only ("MCO") program. *See* Securities Exchange Act Release No. 21120 (July 6, 1984), 49 FR 28490 (July 12, 1984), approving implementation of MCO programs established by Midwest Clearing Corporation and Pacific Clearing Corporation ("PCC"), PSDTC's sister clearing agency. *See also* Securities Exchange Act Release No. 21315 (September 12, 1984), 49 FR 36726 (September 19, 1984), which approved Stock Clearing Corporation of Philadelphia's MCO program.

[5] *See* Securities Exchange Act Release No. 21281 (August 31, 1984), 49 FR 35455 (September 7, 1984).

[Release No. 34–21397, File No. SR–BSE–84–6]

Self-Regulatory Organizations; Proposed Change by Boston Stock Exchange, Inc.; Relating to an Amendment to the Fee Schedule of the Exchange.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S. C. 78s(b)(1), Notice is hereby given that on October 1, 1984 the Boston Stock Exchange, Incorporated filed with the Securities Exchange Commission the proposed changes as described in items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement on the Terms of Substance of the Proposed Rule Change

The proposed rule filing establishes an Exchange operations fee of $500 applicable to each member conducting activity on the Trading Floor of the Exchange. The Operations fee shall cover the members post dues, space, basic quotron telephone and news service. In addition a post fee of $500 shall be imposed for each additional post space utilized by a member.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements governing the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose and Statutory Basis for, the Proposed Rule Change

(a) The proposed rule change incorporates modification of fees for

services and facilities provided to members conducting business on the Floor of the Exchange as specialists, traders or brokers. The change establishes an Exchange operations fee of $500 per member conducting specialist, trading or broker activity on the trading floor of the Exchange. Such fee shall cover the costs of dues, post space, a single basic quotation unit, one telephone, and news service. A post fee of $500 shall be imposed for each additional post space utilized by a member and shall entitle the member to additional telephone, quotation and news services.

The proposed rule change also provides each specialist with a credit of $50 per month per solely listed stocks for each stock in which it is registered. This credit recognizes the service provided by specialists making markets in the Exchange's solely listed stocks.

The purpose of this modification is to establish fees more accurately reflecting fixed expenses associated with facilities provided to members conducting business on the Trading Floor of the Exchange.

(b) The basis under the Act for the proposed Rule change is section 6(b)(4) of the Securities Exchange Act of 1934.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the changes will have minimal impact upon competition. Further such changes are necessary to more accurately reflect expenses associated with facilities utilized by members conducting business on the Floor of the Exchange.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

On April 26, 1984 the Board of Governors of the Exchange chartered the Special Committee on Specialists chaired by William F. Devin. During the succeeding five months Mr. Devin and the Committee solicited a broad range of comments from members and the investment community at large. The changes proposed in this filing represent the conclusions reached by that Committee.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of the Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW, Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S. C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street.NW, Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by November 9, 1984.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 15, 1984.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-27718 Filed 10-18-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-21399; File No. SR-CBOE-84-28]

Self-Regulatory Organizations; Proposed Rule Change by Chicago Board Options Exchange, Inc.' Relating to Margins

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on September 26, 1984, the Chicago Board Options Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Text of the Proposed Rule Change

Additions are italicized; deletions are bracketed.

Margins

Rule 24.11 (a)–(c) No Change

(d) No margin is required in respect of a call option contract on a market index carried in a short position where the customer has delivered promptly, after the options are written, to the Member Organization with which such position is maintained, a Market Index Option Escrow Receipt in a form satisfactory to the Exchange, issued by a bank or trust company pursuant to specific authorization from the customer which certifies that the issuer of the agreement holds [at least ten (10) qualified securities (each of which has been issued by a different entity) with a market value, at the time the option is written, of not less than 100% of the option aggregated current index value] for the account of the customer *(1) cash, (2) cash equivalents, (3) one or more qualified equity securities, or (4) a combination thereof; that such deposit has an aggregate market value, at the time the option is written, of not less than 100% of the aggregate current index value;* and that the issuer will promptly pay the Member Organization the exercise settlement amount in the event the account is assigned an exercise notice.

Interpretations and Policies

.01 The term "aggregate current index value" means the current index value times the index multiplier, the term "aggregate exercise price" means the [service] *exercise* price times the index multiplier; and the term "exercise settlement amount" means the difference between the aggregate exercise price and the aggregate current index value (as such terms are defined in Article XVII of the By-Laws of the Options Clearing Corporation).

.02 For purposes of rule 24.11(d) a bank or trust company is qualified to issue a Market Index Option Escrow Receipt if it is a corporation organized under the laws of the United States or a State thereof and is regulated and examined by federal or state authorities having regulatory authority over banks or trust companies. *The issuing bank or trust company must be approved by the Options Clearing Corporation if Market Index Option Escrow Receipts are to be forwarded to the Corporation for the purpose of meeting margin requirements.*

.03 A security is qualified if:

(a) Exchange securities: it is an equity security (with the exception of warrants, rights and options) traded on the New York Stock Exchange, the American Stock Exchange, or on another national securities exchange and it substantially meets the listing standards of the New York Stock Exchange or the American Stock Exchange; or

(b) OTC securities: it is an equity security (with the exception of warrants, rights and options) listed on the current list of Over-the-Counter Margin Stocks published by the Board of Governors of the Federal Reserve System.

.04 [No individual security may represent more than 15% of the collateral] *The term "cash equivalent" is defined in Regulation T § 220.8(a)(3)(ii) to mean securities issued or guaranteed by the United States or its agencies, negotiable bank certificates of deposit, or bankers' acceptances issued by banking institutions in the United States and payable in the United States with one year or less to maturity.*

.05 No change.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C) below.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

Under the existing margin rules, a Market Index Option Escrow Receipt may be used to permit a customer to carry on a covered basis short call options contracts overlying a market index. In this instance no margin is deposited with the carrying broker-dealer. The bank or trust company issuing the escrow receipt certifies that it (1) holds at least ten (10) qualified equity securities of a fixed aggregate dollar value at trade date and (2) that it agrees to meet the customer's settlement obligation upon assignment.

Although appropriate in theory, this approach has proven impractical in certain respects. Current recordkeeping and segregation systems employed by issuing banks and trust companies are not adaptable to the "basket of securities" approach presently required. Further, resolution of assignments is complicated and delayed as no cash is readily available to the bank or trust company to meet cash settlement.

This rule-change proposal significantly reduces these operational difficulties and provides for greater flexibility by reducing the number of equity securities required to cover each short option contract and also through permitting the use of cash equivalents.

The statutory basis for the proposed rule change is Section 6(b)(5) under the Securities Exchange Act of 1934, in that the proposal will facilitate the use of index options.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that this proposed rule change will have any adverse effect on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed rule Change Received from Members, Participants or Others

Although no written coments were solicited or received, in discussions with the Exchange staff, the user community commented favorably on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C.. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by November 9, 1984.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 15, 1984.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 27719 Filed 10-18-84; 8:45 am.]

BILLING CODE 8010-01-M

[Release No. 14198; (812-5910)]

Chevron Capital U.S.A. Inc.; Filing of Application for an Order Pursuant to Section 6(c) of the Act for Exemption From All Provisions of the Act

October 16, 1984.

Notice is hereby given that Chevron Capital U.S.A. Inc. ("Applicant"), an indirect, wholly-owned subsidiary of Chevron Corporation ("Chevron"), 225 Bush Street, San Francisco, CA. 94104, filed an application on August 1, 1984, for an order of the Commission, pursuant to section 6(c) of the Investment Company Act of 1940 (the "Act"), for exemption from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations, which are summarized below, and to the Act for the text of its relevant provisions.

Applicant states that it was organized in Delaware as an indirect, wholly-owned subsidiary of Chevron, a major international oil company incorporated in Delaware. Applicant further states that all of its outstanding stock is owned by Chevron U.S.A. Inc., a wholly-owned subsidiary of Chevron. According to the application, Applicant intends to issue and sell long-term, intermediate-term, and short-term debt securities (the "Securities") in the United States and worldwide. The application states that Applicant will provide to Chevron U.S.A. Inc. substantially all of the proceeds of sales of the Securities. Those proceeds will be used for corporate purposes, including refinancing a portion of the debt associated with the acquisition of Gulf Corporation ("Gulf") by Chevron and

financing capital programs (the "Specified Uses").

Applicant represents that the operations of Chevron and its subsidiaries and affiliates (collectively, "Chevron") cover all phases of the petroleum industry. According to Applicant, Chevron also engages in real estate development and is involved in minerals exploration and projects related to synthetic fuels and alternate energy resources. Chevron is subject to the reporting requirements of the Securities Exchange Act of 1934.

According to the application, Applicant's business activities will consist of borrowing funds from third parties and providing such funds to Chevron U.S.A. Inc. for Specified Uses. Applicant represents that, as long as any Securities are outstanding, Applicant will not hold securities issued by any person other than Chevron, except for temporary investments in short-term, high quality instruments of the kind in which Chevron U.S.A. Inc. or Chevron customarily invest.

Applicant states that offerings of the Securities by the Applicant will take the form of either a public offering of securities registered under the Securities Act of 1933 ("1933 Act") or a sale of securities by means of transactions exempt from the registration requirements of the 1933 Act. Applicant further states that the payment of principal of and any premium or interest on the Securities will be guaranteed by Chevron as provided in the Indenture dated August 1, 1984, (the "Indenture") between Chevron Capital, Chevron, and The Chase Manhattan Bank (National Association) as Trustee (the "Trustee"). According to Applicant, Chevron's guarantee will be absolute and unconditional, irrespective of the happening of any event.

Applicant states that, in the case of an offering of Securities in the United States not requiring registration under the 1933 Act, Applicant and Chevron will undertake to provide to any offeree to whom they offer such Securities in the United States a memorandum at least as comprehensive as memoranda customarily used in such offerings of such Securities in the United States. Applicant further states that, in the event of subsequent offerings, the memorandum would be updated at the time thereof to reflect material changes in the financial position of Chevron. Applicant consents to having any order granting the relief requested under section 6(c) of the Act expressly conditioned upon its compliance with the undertakings regarding disclosure memoranda.

According to Applicant, as a result of advances or deposits of the proceeds of the proposed offering to Chevron U.S.A. Inc. by Applicant, Applicant may be deemed an investment company under the Act because its advances or deposits may be deemed "investment securities" under section 3(a) of the Act and would constitute more than 40% of the total assets of Applicant. Applicant states, however, having been organized solely for the purpose of providing funds to Chevron U.S.A. Inc. for the Specified Uses, it does not view itself as an investment company nor does it believe that the Act was intended to regulate companies such as itself. Accordingly, in order to eliminate any doubt that Applicant woudl be entitled, without registration under the Act, to issue and sell the Securities, Applicant is seeking an exemption pursuant to section 6(c) of the Act. Applicant believes that the granting of the exemption would be appropriate in the public interest.

Notice if further given that any interested person wishing to request a hearing on the application may, not later than November 9, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC, 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-27717 Filed 10-18-84; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 1-A; Revision 12]

Delegation of Authority; Line of Succession to the Administrator

Delegation of Authority No. 1-A (Revision 11) (47 FR 4187) is hereby revised to read as follows:

(a) Pursuant to authority vested in me by the Small Business Act, 72 Stat. 384, as amended, and the Small Business Investment Act of 1958, 72 Stat. 689, as amended, authority is hereby delegated to the following officials in the following order:

(1) Associate Deputy Administrator for Management and Administration

(2) Associate Deputy Administrator for Special Programs

(3) General Counsel

to perform, in the event of the absence or incapacity of the Administrator and the Deputy Administrator any and all acts which the Administrator is authorized to perform, including but not limited to authority to issue, modify, or revoke delegations of authority and regulations, except exercising authority under sections 9(d) and 11 of the Small Business Act, as amended.

(b) An individual acting in any of the positions in Paragraph (a) remains in the line of succession only if he or she has been designated acting by the Administrator or Acting Administrator due to a vacancy in the position.

(c) This delegation is not in derogation of any authority residing in the above-listed officials relating to the operations of their respective programs nor does it affect the validity of any delegations currently in force and effect and not revoked or revised herein.

Effective date: October 19, 1984.

Dated: October 15, 1984.

James C. Sanders,

Administrator.

[FR Doc. 84-27664 Filed 10-18-84; 8:45 am]

BILLING CODE 8025-01-M

Ohio; Region V Advisory Council Meeting

The Small Business Administration Region V Advisory Council, located in the geographical area of Columbus, Ohio, will hold a public meeting at 1:00 p.m. on Thursday, November 8, 1984, at the U.S. Small Business Administration Cincinnati Branch Office, located at 550 Main Street, Cincinnati, Ohio 45202, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call Frank D. Ray, District Director, U.S. Small Business Administration, 85 Marconi Boulevard, Fifth Floor, Columbus, Ohio 43215—(614) 469-7310.

Dated: October 15, 1984.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 84-27663 Filed 10-18-84; 8:45 am]

BILLING CODE 8025-01-M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 204
Friday, October 19, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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SECURITIES AND EXCHANGE COMMISSION

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: (49 FR 39008 10/2/84 and 49 FR 39265 10/4/84.)

STATUS: Closed meetings.

PLACE: 450 Fifth Street, NW., Washington, D.C.

DATES PREVIOUSLY ANNOUNCED: Thrusday, September 27, 1984. Monday, October 1, 1984.

CHANGE IN THE MEETING: Additional items.

The following item was considered at a closed meeting held on Tuesday, October 2, 1984, at 5:00 p.m.

Recommendation regarding enforcement matter.

The following additional item was considered at a closed meeting on Thursday, October 11, 1984, at 10:00 a.m.

Settlement of injunctive action.

Chairman Shad and Commissioner Treadway, Cox, Marinaccio and Peters determined that Commission business required the above changes and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: David Wescoe at (202) 272–3085.

October 16, 1984.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-27720 Filed 10-16-84; 5:40 pm]

BILLING CODE 8010-01-M

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October 19, 1984

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions, Notice

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 5.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, 48 FR 19533 (1983) and of Secretary of Labor's Orders 9–83, 48 FR 35736 (1983), and 6–84, 49 FR 32473 (1984). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 5.1 (including the statutes listed at 36 FR 306 (1970) following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, 48 FR 19533 (1983) and of Secretary of Labor's Order, 6–84, 49 FR 32473 (1989). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Program Operations, Division of Government Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

New General Wage Determination Decisions

North Dakota ND84–5032

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Massachusetts:	
MA84–3007	Apr. 6, 1984.
MA84–3010	Do.
Michigan: MI 83–2008	Feb. 11, 1983
Oregon: OR83–5111	June 10, 1983
Pennsylvania:	
PA84–3002	Feb. 10, 1984
PA84–3035	Sept. 21, 1984
Wisconsin:	
WI84–5016	June 22, 1984
WI84–5037	Sept. 28, 1984

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the number of the decisions being superseded.

Alabama:	
AL81–1126(AL84–1031)	Dec. 30, 1980.
AL81–1129(AL84–1031)	Do.
Arkansas: AR84–4093(AR84–4100)	Jan. 13, 1984.
New Mexico: NM84–4027(NM84–4099)	May 18, 1984.
Wisconsin:	
WI83–2081(WI84–5035)	Oct. 14, 1983.
WI83–2082(WI84–5036)	Do.
WI83–2068(WI84–5038)	Sept. 2, 1983.
WI83–2084(WI84–5039)	Oct. 28, 1983.

Signed at Washington, D.C. this 12th day of October 1984.

James L. Valin,

Assistant Administrator.

BILLING CODE 4510-27-M

DECISION NO. MA84-3007 MOD. NO. 5 (49 FR 13804 - April 6, 1984) Berkshire, Franklin, Hampden, and Hampshire Counties, Massachusetts	Basic Hourly Rates	Fringe Benefits
CHANGE: CARPENTERS; SOFT FLOOR LAYERS; DRYWALL CARPENTERS; LATHERS		
Area 1	$14.29	2.99
Area 2	15.91	4.25
Area 3	15.40	3.07
Area 4	15.53	2.92

DECISION NO. MA84-3010 MOD. NO. 3 (49 FR 13809 - April 6, 1984) Essex, Suffolk, Middlesex, Norfolk, Bristol, Plymouth, Barnstable, Dukes, Nantucket Counties, Massachusetts	Basic Hourly Rates	Fringe Benefits
CHANGE: CARPENTERS:		
Area 2	$16.06	4.32
Area 3	15.91	4.47

DECISION NO. MI-83-2008 - MOD. #8 (48 FR 6456 - February 11, 1983) Alger, Baraga, Chippewa, etc., Counties, Michigan	Basic Hourly Rates	Fringe Benefits
CHANGE: Plumbers + Pipefitters	$14.97	$4.30

DECISION NO. OR83-5111 - Mod #2 (48 FR 27001 - June 10, 1983) Clackamas, Multnomah, and Washington Counties, Oregon	Basic Hourly Rates	Fringe Benefits
CHANGE: Carpenters	$ 9.27	$3.37
OMIT: Power Equipment Operators: Backhoe, Loader	13.94	2.77
Truck Drivers: Dump Truck under 6 cu yd	10.92	2.88
ADD: Power Equipment Operators: Dozer, Backhoe, Loader, Forklift, Pittman Crane	10.37	4.60
Truck Drivers	9.74	4.57

DECISION NO. PA84-3002 MOD. NO. 5 (49 FR 5295 - February 10, 1984) Adams & York Counties, Pennsylvania	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Carpenters		
Adams County	$14.50	2.55
Electricians:		
Franklin, Carrol, Monoghan, and Fairview Townships in York County	15.41	1.83+3%
Remainder of York and Adams County in its entirety	15.65	1.36+3%
Line Construction:		
Linemen, Cable Splicers	15.06	.80+3 3/8%
Winch truck operator	10.54	.80+3 3/8%
Groundman	9.04	.80+3 3/8%
Laborers:		
General Laborers	10.40	1.57
Operator of Jackhammer (etc.)	10.60	1.57
Wagon drill operator	10.70	1.57
Handling of all materials (etc.)	10.65	1.57
Laborers assisting tile (etc.)	10.45	1.57
Handling & using dynamite	10.73	1.57
Caisson work (top men)	10.65	1.57
Caisson work (bottom men)	10.85	1.57
Mixer man	10.80	1.57
Lathers	14.50	2.55
Millwrights:		
Adams County	16.57	2.55
Painters:		
Brush	10.25	.70
Structural Steel	11.00	.70
Spray	11.10	.70
Roofers:		
Composition	13.75	1.74

DECISION NO. PA84-3035 MOD. NO. 1 (49 FR 27243 - September 21, 1984) Lackawanna, Susquehanna, Wayne & Wyoming Counties, Pennsylvania	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Elevator Constructors	$15.585	3.29+ a+b
Elevator Constructors Helpers	10.91	3.29+ a+b
Elevator Constructors Helpers (Prob.)	7.79	
Painter:		
Brush & Roller	13.65	1.45
Spray	15.15	1.45
Steel	14.65	1.45
Pipefitters	14.79	4.85

MODIFICATIONS P. 3

DECISION NO. WI84-5037 - MOD. #1 (49 FR 38459 - September 28, 1984) Langlade, Lincoln and Marathon Counties Wisconsin	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Carpenters, Soft Floor Layers and Lathers	$13.61	$2.21
Elevator Contructors:		
Mechanic	16.56	3.00
Helpers	11.59	3.00
Helpers (Prob.)	8.28	-

DECISION NO. WI84-5016 - MOD #3 (49 FR 25829 - June 22, 1984) Statewide, Wisconsin	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Ironworkers: Zone 1	$14.08	$3.00

NEW DECISION

STATE: NORTH DAKOTA
DECISION NUMBER: ND84-5032

COUNTIES: STATEWIDE
DATE: DATE OF PUBLICATION

DESCRIPTION OF WORK: HIGHWAY CONSTRUCTION PROJECTS

	Basic Hourly Rates	Fringe Benefits
CARPENTERS	$9.64	
CEMENT MASONS/Concrete Finishers	8.20	
ELECTRICIANS:		
Cass and Grand Forks Counties	12.95	10%+ 1.55
Burleigh and Ward Counties	14.00	10%+ 1.90
IRONWORKERS; Structural Steel; Mercer County Only	14.63	3.96
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.		

LABORERS:	Basic Hourly Rates	Fringe Benefit
Group 1	$5.75	
Group 2	5.80	
Group 3	5.95	
Group 4	6.10	
LINE CONSTRUCTION:		
Lineman, Cable Splicer	15.50	7%+ 1.0
Line Equipment Op.	13.95	7%+ 1.0
Groundman	8.93	7%+ 1.0

LABORERS

Group 1: General Construction Laborer; Sack Shaker (cement and mineral filler); Pipe Handler; Drill Runner Tender; Salamander Heater and Blower Tender

Group 2: Semi Skilled Laborer; Bulk Cement Handler; Conduit Layer, telephone or electrical; Form Setter (pavement); Gas, electric or pneumatic tool operator; Chipping Hammer, Grinders and Paving Brakers (tamper-dirt Concrete Vibrator Operator; Chain Saw Operator; Concrete Saw Operator; Concrete Curing Man (not water); Bituminous Worker (Shoveler, Dumper Raker and Floater); Kettleman (bituminous or lead); Concrete Bucket Signalman; Power Buggy Operator; Brick and Mason Tender; Multiplate Pipe Layer; Culvert Pipe Layer; Concrete Finisher Tender, Carpenters Tenders

Group 3: Caisson Worker; Bottom Man (sanitary sewer, storm sewer, water, and gas lines); Concrete Mixer Operator (one bag capacity); Mortar Mixer

Group 4: Pipe Layers (sanitary sewer, storm sewer, water and gas lines); Drill Runner (includes Wagon Churn or Air Track); Powderman, gunite and sandblast, Nozzleman, reinforcing steel setter/tiers

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS:		
Group 1	11.62	2.05
Group 2	11.45	2.05
Group 3	11.28	2.05
Group 4	11.22	2.05
Group 5	10.93	2.05
Group 6	10.06	2.05
Group 7	8.98	2.05
Group 8	8.80	2.05
Group 9	8.68	2.05
Group 10	8.28	2.05
Single Axle	$8.57	1.00
Tandem	8.69	1.00
Agitator Dumpcrete:		
Lowboy; Off road heavy duty end dumps, 20 yards and under:		
Tandem, Semi	9.00	1.00
Euclid, over 20 yards	9.77	1.00

POWER EQUIPMENT OPERATORS

Group 1: Cableway Operator
Crane Operator with Over 135' Boom, All Types
Derrick (Guy & Stiff Leg), (Power), (Skids & Stationary)
Gantry Crane Operator
Helicopter Operator (Construction Work Only)
Mole Operator, Including Power Supply or Tunnel Mucking Machine
Power Shovel and/or other Equipment with Shovel Type Controls
3½ Cu. Yd. Mfg. Rated Capacity & Over

Group 2: Concrete Mixer Stationary Plan Operator Over 34E
Dredge Operator or Engineer, Dredge Operator (Power) & Enginee
Elevator Grader Operator
Grader or Motor Patrol, Finishing Earth Work and Bituminous
Hydro Crane Operator, 15 Ton and Over
Locomotive Crane Operator
Master Mechanic: The inclusion of the classification of Master Mechanic in this Agreement does not mean that a Master Mechanic must be employed, but if employed, that he shall perform manual work
Mixer (Paving) Concrete Paving Operator, Road
Power Shovels and/or other Equipment with shovel type controls up to 3½ Cu. Yd. Mfg. Rated Capacity
Scraper Tandem
Tandem Pusher Quad 9 or Similar
Tractor Operator (Pipeline) Side Boom
Truck Crane Operator

POWER EQUIPMENT OPERATORS (Cont'd)

Group 3: Dope Machine Operator (Pipeline)
Drill Rigs, Heavy Duty Rotary or Churn or Cable Drill
Front End Loader Operator, Over 10 Cubic Yards
Locomotive, All Types
Mechanic, Heavy Duty
Pipeline Wrapping, Cleaning & Bending Machine Operator
Power Actuated Horizontal Boring Machine Over 6" Operator (Pipeline)
Pumpcrete Operator
Refrigeration Plant Engineer
Slip Form Operator (Power Driven) (Paving)
Tandem Scraper - Twin Engine, 50 Cu. Yds. Struck & Over

Group 4: Asphalt Paving Machine Operator
Asphalt Plant Operator and Console Board Operator
CMI Grading Operator
Crushing Plant Operator (Gravel & Stone or Gravel Washing, Crushing and Screening Plant Operator)
Front End Loader Operator, 1 Cu. Yd up to 10 Cu. Yds.
Rubber Tired Industrial Tractor with Backhoe Attachment (Water Main Sanitary Sewer & Storm Sewer, Trunk Line Construction)
Scraper Operator
Tractor Type or Rubber Tired Dozer, Over 100 H. P.
Trenching Machine Operator, Over 100 H. P.
Turnapull Operator, (or Similar Type)

POWER EQUIPMENT OPERATORS (Cont'd)

Group 5:
Bituminous Spreader and Bituminous Finishing Operator (Power)
Concrete Distributor and Spreader Operator, Finishing Machine Longitudinal Float Operator, Ft. Machine Operator & Spray Operator
Concrete Mixer Operator on Job Site 165 or Over
Greaser (Truck or Tractor)
Grader Operator (Motor Patrol) (Haul Road)
Paving Breaker or Tamping Machine Operator including Machine with Power Shovel Attachments (Power Driven)
Power Actuated Augers & Boring Machine Operator
Power Actuated Jacks Operator
Power Plant Engineer, 100 K.W.H. & Over: When an Engineer is in charge of Crushing or Blacktop Plants with the Operator of these plants no Power Plant Engineer shall be required.
Push Tractor
Roller, Steel, and Self-Propelled Rubber, on Hot Mix Asphalt Paving
Self-Propelled Traveling Soil Stabilizer
Slip Form, Curb & Gutter Operator (Electronic or Automatic Control)
Soil Cement Stabilizer
Tractor Type or Rubber Tired Dozer - Under 100 H.P.
Trenching Machine Operator, 35 H.P. - 100 H.P.
Truck Mechanic

Group 6: Concrete Batch Plant Operator (Cement, Rock and Sand) Electronic or Manual
Concrete Saw Operator (Multiple Blade) (Power Operated)
Fine Grade Operator
Sheepsfoot Packer with Dozer Attachment

POWER EQUIPMENT OPERATORS (Cont'd)

Group 7: Brakeman or Switchman
Concrete Mixer Operator on Job Site Under 165
Crane Truck Oiler
Fireman or Tank Car Heater Operator
Gravel Screening Plant Operator (Portable not Crushing or Washing)
Gunite Operator Gunall
Hoist Engineer (Power)
Hydro Crane Operator, Under 15 Ton
Launchman (Tankerman or Pilot License)
Pick-up Sweeper, 1 Yd. and Over Hopper Capacity
Sheepsfoot Roller or Compactor (Self-Propelled)
Shouldering Machine Operator (Power) (Apsco or Similar Type) Including Self-Propelled Sand Chip Spreader Flaherty or Similar

Group 8: Boom Truck Operator
Crawler Type and/or Steiger or Similar Tractor Pulling Compaction or Areating Equipment
Farm Type Rubber Tired Tractor with Backhoe Attachment
Off-Road Self-Propelled Watering Equipment
Roller, Steel & Self-Propelled Rubber, on other than Hot Mix Asphalt Paving
Self-Propelled Vibrating Packer Operator Pad Type (35 H.P. and Over)
Trenching Machine Operator, Under 35 H.P.

Group 9: Form Trench Digger (Power)
Front End Loader Operator, up to 1 Cu. Yd.
Hyster Carrier or Forklift
Leverman
Mechanic's Helper or Greaser Helper
Oiler (Power Shovel, Crane, Dragline)
Pugmill Operator
Pump Operator (Well Points)
Self-Propelled Broom

Group 10: Conveyor Operator
Curb Machine Operator (Manual)
Dredge Deck Hand
Farm Tractors, Rubber Tired for Compacting & Areating
Front End Loader Operator (Farm Type Rubber Tired Tractor)
Paint Machine Striping Operator
Stump Chipper Operator
Tie Tamper and Ballast Machine Operator

SUPERSEDEAS DECISION

STATE: ALABAMA

COUNTIES: Autauga, Barbour, Bibb, Bullock, Butler, Chambers, Chilton, Coffee, Coosa, Covington, Crenshaw, Dale, Dallas, Elmore, Geneva, Hale, Henry, Houston, Lee, Lowndes, Macon, Montgomery, Perry, Pike, Russell & Tallapoosa

DECISION NUMBER: AL84-1031

DATE: Date of Publication

Supersedes Decision No. AL81-1126 dated December 30, 1980 in 45 FR 86186, and Decision No. AL81-1129 dated December 30, 1980 in 45 FR 86187.

DESCRIPTION OF WORK: HEAVY CONSTRUCTION PROJECTS (includes SEWER AND WATER LINE CONSTRUCTION).

	Basic Hourly Rates	Fringe Benefits
BOILERMAKERS - (Storage Tank Erection & Storage Tank Repairs only)	$12.96	3.375
CARPENTERS	6.75	
ELECTRICIANS	9.30	.40 + 1%
IRONWORKERS	8.25	.87
LABORERS	3.91	
PAINTERS	8.00	
PIPEFITTERS	6.25	
PIPELAYERS	5.22	
TRUCK DRIVERS	4.00	
POWER EQUIPMENT OPERATORS:		
Backhoe	6.48	
Bulldozer	6.00	
Crane-Derrick-Dragline	9.92	
Front End Loader	6.54	
WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.		

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses 29 CFR 5.5 (a)(1)(ii)).

	Basic Hourly Rates	Fringe Benefits

SUPERSEDEAS DECISION

STATE: ARKANSAS

COUNTY: PULASKI

DECISION NO. AR84-4100

DATE: Date of Publication

SUPERSEDES DECISION NO. AR84-4093 dated January 13, 1984 in 49 FR 1847

DESCRIPTION OF WORK: Building Projects (excluding single family homes and apartments up to and including four stories).

	Basic Hourly Rates	Fringe Benefits
Asbestos Workers	15.78	2.27
Bricklayers:		
Bricklayers, Stonemasons, Pointers, Caulkers, Cleaners	13.15	1.99
Carpenters	10.23	1.41
Cement Masons, Finishers	9.31	
Electricians	14.75	3-1/4% +2.30
Elevator Constructors:		
Journeyman	13.55	3.00 +A
Helpers	70%JR	3.00 +A
Probationary helpers	50%JR	
Glaziers	9.08	
Ironworkers	10.93	2.46
Laborers	6.40	
Lathers	12.50	1.00
Marble, Tile & Terrazzo Workers	11.40	.80
Metal Building Erector	6.03	
Painters:		
Painters, paperhangers & steam cleaners, sheetrock finishers & wall cover hangers	11.75	.63
Spray gun operators & sand blasters	12.35	.63
Plasterers	13.25	.64
Plumbers & Pipefitters:		
(Including the setting & erecting of all piping in heating-ventilating and air conditioning systems):		
Within 10 miles from Pulaski County Courthouse	14.30	2.05
Over 10 miles from Pulaski County Courthouse	14.60	2.05
Roofers	11.91	.30
Sheet Metal Workers: (Including the installation, dismantling, conditioning, adjustment, alteration, repairing & servicing of all air-veyor & air handling systems, testing & balancing of all air handling equipment of duct work)	12.58	2.02
Sprinkler Fitters	13.03	3.23
Truck Drivers	7.04	
Power Equipment Operators:		
Backhoe Operator	10.48	1.40
Bulldozer Operator	9.13	1.40
Cherry Picker	10.48	1.40
Motor Patrol	9.13	1.40

FOOTNOTES:
A - 6 mos to 5 yrs. - 6%; over 5 yrs. - 8% of basic hourly rate; plus seven paid holidays.

PAID HOLIDAYS:
A - New Year's Day; B- Memorial Day; C - Independence Day; D - Labor Day; E - Thanksgiving Day; F - Day after Thanksgiving; G - Christmas Day.

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: NEW MEXICO

COUNTY: STATEWIDE (excluding Eddy & Lea Cos. for building construction)

DECISION NO.: NM84-4099

DATE: Date of Publication

SUPERSEDES DECISION NO. NM84--4027, dated 5/18/84 in 49 FR 21263.

DESCRIPTION OF WORK: GENERAL BUILDING AND HEAVY ENGINEERING CONSTRUCTION shall include the construction, alteration, repair and demolition of buildings, including office buildings, warehouses, industrial and commercial buildings, institutional and public buildings, and all air conditioning, conduit, heating and other mechanical and electrical works and site preparation for building or heavy engineering projects under this classification, stadia; and shall include electrical, gas, water, sewer lines, and other such utility construction which are part of projects under this classification and included within the property line or less than five (5) feet from the building or heavy engineering structure, whichever is closer, provided, however, regard to electrical utilities such construction shall include construction from the first attachment of incoming power source without regard to the property line or proximity to the building or the heavy engineering structure; and include construction, alteration, repair and demolition of heavy engineering work such as power generating plants, pump stations, natural gas compressing stations; covered reservoirs and covered sewage and water treatment facilities; concrete linings for canals, ditches and channels; concrete dams; earth dams of one million (1,000,000) cubic yards or over; radio towers, ovens, furnaces, kilns, silos, shafts and tunnels (other than highway shafts and tunnels), hydro-electric projects; and well drilling, telephone and electrical transmission lines which are part of GENERAL BUILDING & HEAVY ENGINEERING PROJECTS: mining appurtenances such as tipples, washeries and loading and discharging chutes, and specialized structures for testing, launching and recovering space and other rocket-type missiles.

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	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS:		
ZONE I	$16.78	3.56
ZONE II	17.30	2.37
BOILERMAKERS	14.43	4.25
BRICKLAYERS-STONEMASONS:		
ZONE I	14.11	1.82
ZONE II	15.61	1.82
ZONE III	16.36	1.82
ZONE IV	13.96	1.72
ZONE V	15.48	1.72
ZONE VI	14.41	1.52
ZONE VII	15.91	1.52
ZONE VIII-A	13.91	1.62
ZONE VIII-B	15.41	1.62
ZONE XI	15.64	1.42
ZONE X	13.89	1.42
CARPENTERS/LATHERS/PILEDRIVERMEN:		
Construction,erection, alteration,repair,modification,addition to or improvement in whole or in part of structures for which the major support system is wood frame construction and will also include all apartments over 4 stories, all convenience stores,fast food restaurants,automobile service stations & motels up to 2 stories high	8.00	1.20
All other work	13.15	3.45
CEMENT MASONS:		
BUILDING CONSTRUCTION:		
AREA I:		
Construction,erection, repair,modification, addition to or improvement in whole or in part of structures for which the major support system is wood frame & will also include all apartments over 4 stories,convenience stores,fast food restaurants,automobile service stations & motels up to 2 stories high regardless of type of construction	8.00	1.20
All other work	11.99	2.22

	Basic Hourly Rates	Fringe Benefits
CEMENT MASONS (CONT'D):		
BUILDING CONSTRUCTION:		
AREA II:		
Apartments over 4 stories	$ 8.08	1.12
All other work	11.99	2.22
HEAVY CONSTRUCTION	11.99	2.22
COMPOSITION & MACHINE OPERATORS	12.24	2.22
ELECTRICIANS:		
ZONE I:		
AREA I-A	17.00	2.20+ 3.75%
AREA I-B	18.53	"
AREA I-C	19.55	"
AREA I-D	21.42	"
ZONE II	19.55	"
ZONE III:		
3-A	14.20	.80+ 3.5%
3-B	15.65	"
ZONE IV:		
4-A	16.30	1.64+3%
4-B	16.75	1.64+3%
4-C	16.90	1.64+3%
4-D	17.15	1.64+3%
CABLE SPLICERS:		
ZONE I:		
AREA I-A	18.70	2.20+ 3.75%
AREA I-B	20.23	"
AREA I-C	21.25	"
AREA I-D	23.12	"
ZONE II	21.25	"
ZONE III:		
3-A	14.45	.80+ 3.5%
3-B	15.90	"
ZONE IV:		
4-A	16.65	1.64+3%
4-B	17.10	1.64+3%
4-C	17.25	1.64+3%
4-D	17.70	1.64+3%

	Basic Hourly Rates	Fringe Benefits
ELEVATOR CONSTRUCTORS:		
AREA I:		
Mechanics	$16.44	3.00+a
Helpers	70%JR	3.00+a
Helpers (Prob.)	50%JR	
AREA II:		
Mechanics	12.38	2.69+a
Helpers	70%JR	2.69+a
Helpers (Prob.)	50%JR	
a-Employer contributes 8% of basic hourly rate for over 5 years service & 6% of basic hourly rate for 6 months to 5 years service as Vacation Pay Credit. Seven Paid Holidays - New Years' Day,Memorial Day,Independence Day,Labor Day,Thanksgiving Day, the Friday after Thanksgiving Day & Christmas Day		
GLAZIERS	12.69	1.40
IRONWORKERS:		
ZONE I:		
Construction,erection, alteration,repair,modification, addition to or improvement in whole or in part of structures for which the major support system is wood frame construction & will include apartments over 4 stories, convenience stores, fast food restaurants, automobile service stations,motels up to 2 stories high regardless of the type of construction,all pre-engineered metal buildings except the structural portion of said buildings with eave height in excess of 40 ft. & all steel fencing	8.07	1.43
All other work	14.10	3.28
IRONWORKERS (CONT'D):		
ZONES II & III:		
Construction,erection, alteration,repair,modification,addition to or improvement in whole or in part of structures for which the major support system is wood frame construction & will also include apartments over 4 stories, convenience stores, fast food restaurants, automobile service stations,motels up to 2 stories high regardless of the type of construction,all pre-engineered metal buildings except the structural portion of said buildings with eave height in excess of 30 ft. & all steel fencing	$ 8.23	.95
All other work:		
ZONE II	13.55	2.95
ZONE III	14.55	2.95
LABORERS:		
GROUP 1	8.75	1.91
GROUP 2	9.25	1.91
GROUP 3	9.80	1.91
LEADBURNERS:		
ZONE I	17.29	3.43
ZONE II	18.04	3.43
ZONE III	19.54	3.43
ZONE IV (SPECIFIC AREA)	18.09	3.43

	Basic Hourly Rates	Fringe Benefits
COMMERCIAL LINE WORK:		
AREA A:		
Linemen-Technicians:		
ZONE I	$17.00	2.00+ 3.5%
ZONE II	18.53	"
ZONE III	19.55	"
ZONE IV	21.42	"
Cable splicers:		
ZONE I	18.70	"
ZONE II	20.23	"
ZONE III	21.25	"
ZONE IV	23.12	"
Equipment Op.(includes helicopter op.):		
ZONE I	16.15	"
ZONE II	17.68	"
ZONE III	18.70	"
ZONE IV	20.57	"
Equipment mechanic (include helicopter mech.) & powderman:		
ZONE I	14.79	"
ZONE II	16.32	"
ZONE III	17.34	"
ZONE IV	19.21	"
Groundman-Jackhammer op:		
ZONE I	12.07	"
ZONE II	13.60	"
ZONE III	14.62	"
ZONE IV	16.49	"
AREA B:		
Linemen-Technicians:		
ZONE I	14.20	.80+ 3.5%
ZONE II	15.65	"
Cable splicers:		
ZONE I	14.45	"
ZONE II	15.90	"
Equipment op. (includes helicopter ops.):		
ZONE I	12.35	"
ZONE II	13.62	"
Equipment mechanic (including helicopter mechanic)		
ZONE I	12.35	"
ZONE II	13.62	"
Powderman:		
ZONE I	11.93	"
ZONE II	13.15	"
Jackhammer-Groundman:		
ZONE I	10.08	"
ZONE II	11.11	"
COMMERCIAL LINE WORK(CONT'D):		
AREA C:		
Lineman-Technicians:		
ZONE I	$17.10	.80+ 3.5%
ZONE II	17.55	"
ZONE III	17.70	"
ZONE IV	17.95	"
Cable splicers:		
ZONE I	17.45	"
ZONE II	17.90	"
ZONE III	18.05	"
ZONE IV	18.30	"
Equipment Op. & mechanics (includes helicopter op.& mechanics):		
ZONE I	14.88	"
ZONE II	15.33	"
ZONE III	15.48	"
ZONE IV	15.73	"
Powderman:		
ZONE I	14.36	"
ZONE II	14.81	"
ZONE III	14.96	"
ZONE IV	15.21	"
GROUNDMAN-JACKHAMMER:		
ZONE I	12.14	"
ZONE II	12.59	"
ZONE III	12.74	"
ZONE IV	12.99	"
MARBLE, TILE & TERRAZZO WORKERS	12.90	1.02
MARBLE, TILE & TERRAZZO FINISHERS	10.89	1.02
MILLWRIGHTS:		
ZONE I	14.30	3.45
ZONE 2	15.80	3.45
ZONE 3	16.55	3.45
PAINTERS:		
ZONE I:		
Mines,mills,power plants,energy plants,refineries,coal gassification plants,nuclear related facilities & all steel work incidental thereto including stacks of all description:		
Brush,roller,pot tender,sandblaster grinder operator:		
New work	13.15	2.10
Repaint/remodel	11.18	2.10
Spray:		
New work	13.65	2.10
Repaint/remodel	11.68	2.10

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	Basic Hourly Rates	Fringe Benefits
PAINTERS (CONT'D):		
ZONE I (CONT'D):		
Mines, mills,etc.(Cont'd):		
Drywall finisher & ames tool op.:		
New work	$13.65	2.10
Repaint/Remodel	11.60	2.10
Handfinisher, machine textures:		
New work	13.45	2.10
Repaint/remodel	11.43	2.10
Paperhangers:		
New work	14.15	2.10
Repaint/remodel	12.03	2.10
All other work:		
Brush & roller, hand texture:		
New work	11.85	2.10
Repaint/remodel	10.07	2.10
Spray:		
New work	12.35	2.10
Repaint/remodel	10.57	2.10
Special coating applicator, sandblaster, steel painter:		
New work	12.35	2.10
Repaint/remodel	10.50	2.10
Paperhanger:		
New work	12.85	2.10
Repaint/remodel	10.92	2.10
Ames tool op.:		
New work	12.43	2.10
Repaint/remodel	10.57	2.10
Hand finisher, machine texture:		
New work	12.18	2.10
Repaint/remodel	10.35	2.10
ZONE II:		
Building Construction:		
Brush, roller, paperhanger, tapers	8.96	1.02
Steel after erection, power driven tools	9.105	1.02
Spray	9.38	1.02
Sandblast, swing stage, striping machine	10.11	1.02
Ames tools	9.105	1.02
Heavy Construction:		
Brush, roller	9.52	1.02
Spray, sandblast, swing stage, steam cleaning, power driven tools	10.11	1.02
Water tanks, towers, smoke stacks	10.26	1.02

	Basic Hourly Rates	Fringe Benefits
PLASTERERS:		
Construction,erection, alteration repair modification addition to or improvement in whole or in part of structures for which the major support system is wood frame construction & will also include all apartments over 4 stories, convenience stores, fast food restaurants, automobile service stations & motels up to 2 stories high regardless of type of construction:		
AREA I	$ 7.04	2.16
AREA II	8.08	1.12
All other work:		
AREAS I & II	13.15	2.12
PLUMBERS & PIPEFITTERS:		
AREA I	16.54	3.43
AREA II	17.54	3.43
AREA III	19.04	3.43
Specific Area	17.59	3.43
POWER EQUIPMENT OPERATORS:		
BUILDING CONSTRUCTION:		
GROUP I	11.08	1.95
GROUP II	12.22	1.95
GROUP III	12.30	1.95
GROUP IV	12.51	1.95
GROUP V	12.57	1.95
GROUP VI	12.67	1.95
GROUP VII	12.77	1.95
GROUP VIII	13.95	1.95
HEAVY CONSTRUCTION:		
GROUP I	11.03	2.15
GROUP II	12.17	2.15
GROUP III	12.25	2.15
GROUP IV	12.46	2.15
GROUP V	12.52	2.15
GROUP VI	12.62	2.15
GROUP VII	12.72	2.15
GROUP VIII	13.90	2.15
ROOFERS	10.62	.50

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	Basic Hourly Rates	Fringe Benefits
SHEET METAL WORKERS:		
ZONE I-A	$16.67	3.52+3%
ZONE I-B	18.67	3.52+3%
ZONE I-C	19.92	3.52+3%
ZONE I-D	19.92	3.52+3%
ZONE II-A	14.30	2.17+3%
ZONE II-B	15.80	2.17+3%
ZONE II-C	16.55	2.17+3%
SPRINKLER FITTERS	16.17	2.83
SOFT FLOOR LAYERS	11.55	2.10
SOUND INSTALLERS:		
SOUNDMAN:		
ZONE I	13.55	1.55+ 3.5%
ZONE II	15.24	"
ZONE III	18.63	"
TECHNICIANS:		
ZONE I	10.84	"
ZONE II	12.53	"
ZONE III	15.92	"
SOUND INSTALLERS:		
ZONE I	8.81	"
ZONE II	10.50	"
ZONE III	13.89	"
TRUCK DRIVERS:		
BUILDING CONSTRUCTION:		
ZONE I		
GROUP I	9.93	1.79
GROUP II	10.20	1.79
GROUP III	10.28	1.79
GROUP IV	10.40	1.79
GROUP V	10.45	1.79
GROUP VI	10.55	1.79
GROUP VII	10.65	1.79
GROUP VIII	10.79	1.79
GROUP IX	10.94	1.79
ZONE II		
GROUP I	11.68	1.79
GROUP II	11.95	1.79
GROUP III	12.03	1.79
GROUP IV	12.15	1.79
GROUP V	12.20	1.79
GROUP VI	12.30	1.79
GROUP VII	12.40	1.79
GROUP VIII	12.54	1.79
GROUP IX	12.69	1.79

	Basic Hourly Rates	Fringe Benefits
TRUCK DRIVERS (CONT'D):		
BUILDING CONST.(CONT'D):		
ZONE III		
GROUP I	$12.18	1.79
GROUP II	12.45	1.79
GROUP III	12.53	1.79
GROUP IV	12.65	1.79
GROUP V	12.70	1.79
GROUP VI	12.80	1.79
GROUP VII	12.90	1.79
GROUP VIII	13.04	1.79
GROUP IX	13.19	1.79
HEAVY CONSTRUCTION:		
ZONE I		
GROUP I	10.08	1.54
GROUP II	10.35	1.54
GROUP III	10.43	1.54
GROUP IV	10.55	1.54
GROUP V	10.60	1.54
GROUP VI	10.70	1.54
GROUP VII	10.80	1.54
GROUP VIII	10.94	1.54
GROUP IX	11.09	1.54
ZONE II		
GROUP I	11.38	1.54
GROUP II	11.50	1.54
GROUP III	11.58	1.54
GROUP IV	11.70	1.54
GROUP V	11.75	1.54
GROUP VI	11.85	1.54
GROUP VII	11.95	1.54
GROUP VIII	12.09	1.54
GROUP IX	12.24	1.54
ZONE III		
GROUP I	11.63	1.54
GROUP II	11.75	1.54
GROUP III	11.85	1.54
GROUP IV	11.95	1.54
GROUP V	12.00	1.54
GROUP VI	12.10	1.54
GROUP VII	12.20	1.54
GROUP VIII	12.34	1.54
GROUP IX	12.49	1.54

CLASSIFICATION AREAS AND ZONES DEFINITIONS

ASBESTOS WORKERS
ZONE I - Statewide except Union, Harding, Curry, Roosevelt & Quay Counties
ZONE II - Union, Harding, Curry, Roosevelt & Quay Counties

BRICKLAYERS-STONEMASONS
ZONE I - Bernalillo County, townships of Bernalillo & Rio Rancho in Sandoval Co. & townships of Los Lunas & Belen in Valencia Co.
ZONE II - Santa Fe County
ZONE III - Catron, Colfax, Cibola, Harding, Los Alamos, McKinley, Mora, Rio Arriba, Sandoval (excluding townships of Bernalillo & Rio Rancho), San Juan, San Miguel, Socorro, Taos, Torrance, Union & Valencia (excluding townships Los Lunas & Belen) Counties
ZONE IV - Curry & Roosevelt Counties
ZONE V - DeBaca, Guadalupe & Quay Counties
ZONE VI - Chaves County
ZONE VII - Lincoln County
ZONE VIII-A - Eddy & Lea Cos. (except at mine & refinery sites outside municipal limits)
ZONE VIII-B - Eddy & Lea Cos. (employees at mine & refinery sites outside municipal limits)
ZONE XI - Grant (excluding Communities of Silver City, Bayard, Central, Hurley & town site of Tyrone), Hidalgo, Luna, Otero (excluding Community of Alamogordo (Area Residents)) & Sierra Counties
ZONE X - Dona Ana, Communities of Silver City, Bayard, Central, Hurley & town site of Tyrone in Grant Co. & Community of Alamogordo (Area Residents) in Otero Co.

CEMENT MASONS
AREA I - Bernalillo, Catron, Chaves, Cibola, Curry, DeBaca, Dona Ana, Eddy, Grant, Guadalupe, Hidalgo, Lea, Lincoln, Luna, McKinley, Otero, Quay, Roosevelt, Sandoval, Sierra, Socorro, Torrance, Union & Valencia Counties
AREA II - Colfax, Harding, Los Alamos, Mora, Rio Arriba, San Juan, San Miguel, Santa Fe & Taos Counties

ELECTRICIANS - CABLE SPLICERS
ZONE I
AREA I - Bernalillo, Santa Fe, Torrance, DeBaco, Guadalupe, Quay, San Miguel, Mora, Harding, Union, Colfax, Taos, Rio Arriba, Grant, Sandoval, Valencia, Socorro, Catron, McKinley, Sierra, San Juan, Chaves, Curry, Lincoln, Cibola & Roosevelt Counties
AREA I-A
From nearest basing pointcities, towns & mileage from main post office in the following towns:

Albuquerque - 15 miles	Portales - 12 miles
Santa Fe - 10 miles	Carrizozo - 12 miles
Las Vegas - 8 miles	Clovis - 12 miles
Farmington - 6 miles	Gallup - 10 miles
Raton - 6 miles	*Pojoaque - 2 miles
Tucumri - 6 miles	*All areas adjacent to Pojoaque are over 2 miles distant from main post office in that town will be zoned out of Santa Fe
Aztec - 6 miles	
Roswell - 12 miles	
Ruidoso - 12 miles	

CLASSIFICATION AREA AND ZONE DEFINITIONS (CONT'D)

ELECTRICIANS - CABLE SPLICERS (CONT'D):
AREA I-B
Extending up to 20 miles beyond Area 1-A
AREA 1-C
Extending up to 30 miles from Area 1-A
AREA 1-D
Anything beyond 30 miles from Area 1-A
ZONE II - Los Alamos County
ZONE III - Dona Ana, Otero, Luna, Hidalgo Counties
Zone 3-A - Within 10 miles radius from the Post Office in Las Cruces and within a 5 m. radius from the Post Office in Alamorgordo
Zone 3-B - Dona Ana, Otero, Luna, and Hidalgo Counties (except that area specified in Zone 3-A)
ZONE IV
Eddy & Lea Cos. the following zones shall be designated from the main post office in Artesia, Carlsbad, Hobbs & Lovington
Zone 4-A - 0 to 12 miles
Zone 4-B - 12 to 22 miles
Zone 4-C - 22 to 40 miles
Zone 4-D - Over 40 miles

ELEVATOR CONSTRUCTORS:
AREA I
Bernalillo, Catron, Colfax, Curry, DeBaca, Guadalupe, Harding, Lincoln, Los Alamos, McKinley, Mora, Quay, Rio Arriba, Roosevelt, Sandoval, San Juan, San Miguel, Santa Fe, Socorro, Taos, Torrance, Union, Cibola and Valencia Counties.
AREA II
Chaves, Hidalgo, Dona Ana, Grant, Luna, Otero and Sierra Cos.

IRONWORKERS:
ZONE I
Bernalillo, Catron, Colfax, DeBaca, Guadalupe, Lincoln, Los Alamos, Taos, McKinley, Mora, Rio Arriba, San Juan, San Miguel, Sandoval, Santa Fe, Socorro, Torrance, Cibola & Valencia Counties
ZONE II
Dona Ana County with the exception of that portion of county that lies within the White Sands Missile Range; Chaves County, Eddy Co., except that Potash Basin & defined as the area 10 rd. miles on Highway62 & Highway 180, east of Carlsbad
ZONE III
Curry, Harding, Quay, Union, Hidalgo, Grant, Lea, Luna, Otero & Sierra Cos. also White Sands & McGregor Missile Ranges, Potash Basin

LABORERS
GROUP 1 - Building & common laborers; chainmen; stake drivers; demolition; heater tender; pick & shovel work; window cleaning & cleanup
GROUP 2 - Carpenter tender; concrete workers; concrete buggy operators
GROUP 3 - Air & power tool operator; asphalt raker; chain saw operators; cutting torch operators; gunite reboundmen; fog machine operators; power buggy operators; sandblasters (potmen); window washers; wagon, core & diamond driller tenders (outside); pumps under 6"; asbestos removal; concrete burner; cement mason tenders; hod carriers; mortar mixers; plaster spreader operators; plaster tenders; gunite nozzlemen; pipelayer; pumpcrete nozzlemen; powderman; blaster

CLASSIFICATION AREA AND ZONE DEFINITIONS (CONT'D)

LEAD BURNERS BASING POINTS AND AREA DEFINITIONS

BASING POINT CITIES OR TOWNS:

Albuquerque, Alamorgordo, Anthony, Artesia, Belen, Carlsbad, Clovis, Deming, Espanola, Farmington, Gallup, Grants, Hobbs, Las Cruces, Las Vegas, Lovington, Portales, Raton, Socorro, Roswell, Ruidoso, Santa Fe, Silver City, Santa Rosa, Taos, Tucumcari & Truth or Consequence

ZONE I - Shall include a distance of 7 rd. mi. inclusive beyond the city or town limits

ZONE II - Shall extend a distance of 4 rd. mi. inclusive beyond the outer perimeter of Area I

ZONE III -Shall apply to all areas not within I or II, or not within the specific areas

ZONE IV (SPECIFIC AREA) - Los Alamos, White Rock, South Mesa, McGregor Range, White Sands Missile Range and/or Proving Grounds

COMMERCIAL LINE WORK

AREA A

Bernalillo, Colfax, Catron, Chaves, Curry, DeBaca, Grant, Guadalupe, Harding, Lincoln, Los Alamos, McKinley, Mora, Quay, Rio Arriba, Roosevelt, Sandoval, San Juan, San Miguel, Santa Fe, Sierra, Socorro, Taos, Torrance, Union, Valencia & White Sands Missile Range & that portion of Fort Bliss in New Mexico

AREA A

ZONE I

Cities & Towns Basing Points - Miles from Main Post Offices

Albuquerque - 15 miles	Aztec - 6 miles
Santa Fe - 10 miles	Roswell - 12 miles
Las Vegas - 8 miles	Ruidoso - 12 miles
Farmington - 6 miles	Clovis - 12 miles
Raton - 6 miles	Gallup - 12 miles
Tucumari - 6 miles	

*All areas adjacent to Pojoaque that are over two miles distant from the main post office in that town will be zoned out of Santa Fe

ZONE II

Extending up to 20 miles beyond Zone I

ZONE III

Extending up to 30 miles beyond Zone I

ZONE IV - Anything beyond 30 miles from Zone I

Las Alamos County - Use ZONE III RATES

AREA B

Applies to switching stations and sub-stations adjacent to power plants in Zone I & Zone II in Luna, Dona Ana, Otero & Hidalgo Cos., exclusive of White Sands Missile Range & that portion of Fort Bliss in New Mexico

ZONE I

That area within 25 miles radius from the downtown Post Office of El Paso, Texas. Fort Bliss & Biggs Fields; the area within a five mile radius of any city, town or municipality within which an employer established or maintains his place of business; the area within ten mile radius from the PO In Las Cruces & within a 5 mile radius from the PO in Alamogordo

ZONE II

All other areas of the jurisdiction except those specified in Zone I

AREA C

Applies to switching stations adjacent to power plants in Eddy & Lea Cos.: the following zones listed shall be designated from post office of Artersia, Carlsbad, Hobbs & Lovington:

ZONE I - 0 to 12 miles

ZONE II - 12 to 22 miles

ZONE III - 22 to 40 miles

ZONE IV - 40 miles and beyond

CLASSIFICATION AREA AND ZONE DEFINITIONS (CONT'D)

MILLWRIGHTS

BASING POINT - FROM ALBUQUERQUE CITY LIMITS:

ZONE 1 - 0 to 15 road miles from basing point

ZONE 2 - 15 to 35 raod miles from basing point

ZONE 3 - Over 35 road miles from basing point

PAINTERS

ZONE I

San Juan, McKinley, Bernalillo, Torrance, Guadalupe, Quay, Catron, Eddy, Socorro, Lincoln, DeBaca, Roosevelt, Chaves, Valencia, Sierra, Grant, Lea, Hidalgo, Curry, Sandoval.Colfax, Harding, Los Alamos, Mora, San Miguel, Rio Arriba, Taos, Union & Santa Fe Counties

ZONE II

Luna, Otero & Dona Ana Counties

PLASTERERS

AREA I

Bernalillo, Catron, Chaves, Cibola, Curry, DeBaca, Dona Ana, Eddy Grant, Guadalupe, Hidalgo, Lea, Lincoln, Luna, McKinley, Otero, Quay, Roosevelt, Sandoval, Sierra, Socorro, Torrance, Union & Valencia Counties

AREA II

Colfax, Harding, Los Alamos, Mora, Rio Arriba, San Juan, San Miguel, Santa Fe & Taos Counties

PLUMBERS-PIPEFITTERS AREA DEFINITIONS

BASING POINT CITIES OR TOWNS:

Albuquerque, Alamogordo, Anthony, Artesia, Belen, Carlsbad, Clovis, Deming, Espanola, Farmington, Gallup, Grants, Hobbs, Las Cruces, Las Vegas, Lordsburg, Lovington, Portales, Raton, Roswell, Ruidoso, Santa Fe, Silver City, Santa Rosa, Taos, Tucumcari, Truth or Consequence & Socorro

AREA I

Shall include a distance of 7 road miles inclusive beyond the city or town limits

AREA II

Shall extend a distance of 4 road miles inclusive beyond the outer perimeter of Area I

AREA III

Shall apply to all areas not within Areas I & II or not within the specific area

SPECIFIC AREA

Los Alamos, White Rock, South Mesa, McGregor Range, White Sands Missile Range and/or Proving Grounds, Atlas Missile Complex Sites in Chaves & Lincoln Counties, and the Oro Grande Range Camp and Dona Ana & Otero Cos.

CLASSIFICATION AREA AND ZONE DEFINITIONS (CONT'D)

POWER EQUIPMENT OPERATORS - BUILDING & HEAVY CONSTRUCTION

GROUP I
Fireman, oiler, screedman, scale op. such as bin-a-batch, rubber tired farm type tractor, tractors under 50 HP w/o attachments, breakman, concrete paving curing machine (bridgetype), helper (mechanic, welder, grease truck)

GROUP II
Rollers, sheepsfoot or pneumatic self-propelled w/o dozer, concrete conveyors, service truck op. (head oiler), air compressor (300 DFM & over), pumps (6" & over), screening plants, concrete mixers (under 1 CY), concrete saw or grinder-span type, 1 drum hoist, air tugger, elevating belt type loaders, forklift, lumber stacker, tractor farm type (under 50 HP w/attachments), motorman and industrial locomotive op., winch truck, front end loaders (under 2 CY), power plants which generate over 15 KW., welding machines

GROUP III
Bituminous distributors, boilers, retort & hot oil heaters, concrete mixers (1 CY & over), conc. paver-single drum, drilling equip.; (refrigeration, slusher, jumbo forms), trenching machines (all types), pumpcrete & gunite machines, slipform paver, mechanical bullfloats, concrete slab spreading machine, conc. slab finishing machine, asphalt plants, bituminous finishing machines, crushing plants

GROUP IV
Front end loaders (2 thru 10 CY), rollers steel wheeled-all types, bulldozers, scrapers (motor or towed), elevating graders, concrete batching plants, self-propelled rollers -- equipped w/dozer, twin-bowl scrapers and quad 8 or 9 pushers (35¢ over basic rate, three bowl scraper (60¢ over basic rate).

GROUP V
Hydraulic cranes-with less than 50 feet of boom (20 tons and under), concrete paver-double drum, cat cranes, hysters, side and swingboom cats, 2 drum hoist, auto fine grader

GROUP VI
Mucking machines-all types, motor grader (finish) mechanic welder

GROUP VII
Steam engineers, loader (front end over 10 CY), concrete pump (snorkel type)

GROUP VIII
All shovel type equipment; cranes, draglines, backhoes, derricks, guy & stiff leg, pipemobile (No. 2 operator), piledriver, hydraulic cranes (20 tons & over), mine hoist, belt loader ("C.M.I." Type), boom and jibs 150 ft. through 199 ft. - 25¢ per hour above base pay 200 ft. and over-50¢ per hour above base pay. Shovel (wheel type), boring machine (tunnel or shaft mole), pipe mobile

HEET METAL WORKERS ZONE AND CLASSIFICATION DEFINITIONS

ZONE I
Bernalillo, Catron, Chaves, Colfax, Curry, DeBaca, Guadalupe, Harding, Lincoln, Los Alamos, McKinley, Mora, Quay, Rio Arribo, Roosevelt, Sandoval, San Juan, San Miguel, Santa Fe, Socorro, Taos, Torrance, Union, Cibola and Valencia Counties.

CLASSIFICATION AREA AND ZONE DEFINITIONS (CONT'D)

SHEET METAL WORKERS (CONT'D)
ZONE IA - An area including 10 miles each direction east & west of Interstate 25 & extending north & south terminating with but including Santa Fe & Socorro. An area including 10 miles each direction north & south Interstate 40 & extending west from Albuquerque, terminating with but including Grants, New Mexico. Tucumcari, Gallup, Clovis, Portales, Las Vegas & Espanola;an area identified by cornerreference points beginning at and including Pojoaque, to Chimayo, to Velarde, to Abiquiu and back to Pojoaque; an area identified by corner reference points beginning at and including Farmington to Aztec, to Bloomfield and back to Farmington
ZONE IB - Los Alamos County
ZONE IC - San Juan (except that area in Zone IA)
ZONE ID - All areas not in Zones IA, IA or IC
ZONE II
Dona Ana, Grant, Hidalgo, Luna, Sierra, Otero, Eddy & Lea Counties
ZONE IIA - Any area within a 5 mile radius of the city limits of Carlsbad, Las Cruces, Artesia, Alamogordo, Hobbs & Sunland Park
ZONE IIB - White Sands, including Holloman, McGregor & Lyndon B. Johnson
ZONE IIC - All areas not in Zones IIA or IIB

SOUND INSTALLERS
ZONE I
Thirty mile radius of main post office in Albuquerque
ZONE II
Remainder of Valencia, Sandoval, Santa Fe, Torrance, Cibola & Socorro Cos., the hourly rates of pay shall be increased for twelve & one-half (12.5) percent of journeymen rate of pay for Zone I
ZONE III
Chaves, Curry, Roosevelt, Lincoln, Guadalupe, DeBaca, Quay, San Miguel, Mora, Harding, Union, Colfax, Taos, Rio Arribo, Catron, Sierra, Grant, Los Alamos, San Juan, McKinley Cos. the hourly rates of pay shall be increased by thirty-seven and one-half (37.5) percent of the journeymen rate of pay for Zone I

TRUCK DRIVERS ZONE PAY BASING POINTS AND DEFINITIONS LISTED BELOW FOR BUILDING AND HEAVY CONSTRUCTION - BASING POINTS ARE AS FOLLOWS:
Alamogordo, Albuquerque, Artesia, Bayard, Belen, Carlsbad, Clovis, Deming, Espanola, Eunice, Farmington, Gallup, Grants, Hobbs, Las Cruces, Las Vegas, Lordsburg, Lovington, Portales, Raton, Roswell, Ruidoso, Santa Fe, Santa Rose, Silver City, Socorro, Taos, Tucumcari

ZONE I
Shall be jobs or projects within 15 road miles from the starting points listed above
ZONE II
Shall be jobs or projects which are more than 15 road miles, but less than 35 road miles from base points, also, includes all of Los Alamos County
ZONE III
Shall be those jobs or projects which are 35 road miles or more from the base points

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CLASSIFICATION AREA AND ZONE DEFINITIONS (CONT'D)

TRUCK DRIVERS (BUILDING & HEAVY CONSTRUCTION)

GROUP I
Pickup 3/4 ton and under, lubrication, light tire repair and washer, swamper, 2 or 4 and up.

GROUP II
Dump or batch truck under 8 C.Y.W.L.C.: flat bed (bobtail) 2 ton and under; warehouseman including material checker, fork lift under 5 tons MRC.

GROUP III
Dump trucks (including all highway and off highway) 8 up to 16 C.Y.W.L.C.: water, fuel or oil trucks less than 3,000 gal., flat bed (bobtail) over 2 tons.

GROUP IV
Distributor driver, heavy tire repair, lumber carrier driver, young buggy or similar equipment, transit mix or agitator 2 or 3 axle bobtail equipment, scissor truck, bulk cement bobtail 2 or 3 axles, semi-trailer flatbed or van single axle, forklift 5 ton and over M.R.C.

GROUP V
Dumpsters and dumpcrete driver; water, fuel or oil truck 3,000 to 6,000 gallons; lowboys and light equipment driver; euclid type tank wagon under 6,000 gallons

GROUP VI
Vacuum truck; dump trucks (including all highway and off-highway 16 up to 22 C.Y.W.L.C.

GROUP VII
Transit mix or agitator semi or 4 axle equipment driver; flaherty truck type spreader box driver; slurry truck driver; bulk cement driver; semi-doubles; 4 axle bobtail; winch truck and "A" frame; dump truck (including all highway and off-highway) 22 CY up to 35 C.Y.W.L.C.

GROUP VIII
Euclid diesel power turnarocker; terra coba-DW20-Le-Tourneau Pulls and similar diesel powered equipment when used to haul materials and assigned to a teamster-lowboy heavy equipment driver; water, fuel or oil trucks 6,000 gallons and over including tank wagon drivers, semi-trailer driver (flat-bed or van tandems); light equipment mechanic; dump trucks (including all highway and off-highway) 35 C.Y.W.L.C. and over; truck and trailer or semi-trailer (flatbed); eject all

GROUP IX
Lowboy (heavy equipment double gooseneck); heavy equipment mechanic; welder (body and fender men)

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day; G-Friday after Thanksgiving.

WELDERS--receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii).

SUPERSEDEAS DECISION

STATE: Wisconsin

COUNTIES: Green Lake, Marquette, Waupaca, Waushara, & Winnebago

DECISION NO. WI84-5035

DATE: Date of Publication

Supersedes Decision No.: WI83-2081, dated October 14, 1983 in 48 FR 46924

DESCRIPTION OF WORK: BUILDING CONSTRUCTION (excluding single family homes and garden type apartments up to and including four stories).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS (except Marquette Co.)	$17.65	2.01
Marquette County	17.10	3.38
BOILERMAKERS	17.345	3.25
BRICKLAYERS & STONEMASONS	12.85	2.44
CARPENTERS & SOFT FLOOR LAYERS	13.66	2.11
CEMENT MASONS	12.35	2.44
ELECTRICIANS (all but lower part of Marquette and Green Lake Cos.	15.78	1.55 +6%
Southern Parts of Green Lake & Marquette Cos.	15.54	1.66+ 12- 3/4%
ELEVATOR CONSTRUCTORS:		
Constructors	17.08	3.00
Helpers	11.96	3.00
Helpers (Prob.)	8.54	
IRONWORKERS:		
Extreme East Part of Co. Including Lake, Winnebago, Menasha, & Neenah Counties	14.81	5.55
Remainder of Counties	14.08	3.00
LATHERS	12.61	3.16
MILLWRIGHTS & PILEDRIVERMEN	14.06	2.11
PAINTERS:		
Brush & Structural Steel	13.35	1.55
Spray & Sanblasting	14.10	1.55
PLASTERERS	12.85	2.44
PLUMBERS:		
Waupaca & Townships of Menasha & Neenah	16.04	3.35
Marquette County	12.22	4.48
Remainder of Counties	14.47	4.36
ROOFERS	11.75	2.60
SHEET METAL WORKERS	14.16	5.37
TILE SETTERS & TERRAZZO	12.85	2.44
MECHANICS		
LABORERS:		
General	11.03	1.43
Plaster Tenders	11.13	1.43
Jackhammer	11.28	1.43
POWER EQUIPMENT OPERATORS:		
Group 1	15.72	3.42
Group 2	15.22	3.42
Group 3	14.44	3.42
Group 4	13.88	3.42
Group 5	13.41	3.42
WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.		

POWER EQUIPMENT OPERATORS (Classifications)

Group 1 - Cranes, shovels, draglines, backhoes, clamshells, derricks caisson rigs, pile driver, skid rigs, dredge operator and traveling crane (bridge type), concrete paver (over 27E), concrete spreader and distributor

Group 2 - Concrete and grout pumps, material hoists, stack hoists, tractor or truck mounted hydraulic backhoe, tractor or truck mounted hydraulic crane (10 tons or under), manhoists, tractor (over 40 h.p.), bulldozer (over 40 h.p.), endloader (over 40 h.p.), motor patrol, scraper operator, sideboom, straddle carrier, mechanic and welder , bituminous plant and paver operator, roller (over 5 tons), rail level-machine (railroad), tie placer tie extractor, tie tamper, stone leveler, rotary drill operator and blaster, percussion drilling machine, trencher (wheel type or chain type having over 8-inch bucket), elevator

Group 3 - Backfiller, concrete auto breaker (large), concrete finishing machines (road type), roller (rubber tire), concrete batch hopper, concrete mixers (14S or over), screw type pumps, and gypsum pumps, tractor, bulldozer, endloader (under 40 h. p.), pumps (well points), trencher (chain type having bucket 8-inch and under), industrial locomotives, roller (under 5 tons) and fireman (pile drivers and derricks), hoists (automatic), forklift (over 12'), tampers-compactors (riding type), assistant engineer, "A" frames and winch trucks, concrete auto breaker, hydrohammers (small), brooms and sweeper, hoists (tuggers), stump chipper (large), boats (tug, safety, work barges and launch).

Group 4 - Shouldering machine operator, screed operator, farm or industrial tractor mounted equipment, post hole digger, stone crushers and screening plants, fireman (asphalt plants), air compressor (400 CFM or over), augers (vertical and horizonal), air electric, hydraulic jacks (slip form) prestress machine, skid steer loader, boiler operators (temporary heat), forklift (12' and under)

Group 5 - Generators over 150 KW, pumps over 3", combination small equipment operator, compressors (under 400 CFM), welding machines, heaters (mechanical), generators (under 150 KW), pumps (3" and under), winches (small electric) Oiler and greaser, conveyor.

Unlisted classifications needed for work not included within the scope of the classification listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Wisconsin COUNTY: Juneau
DECISION NUMBER: WI84-5036 DATE: Date of Publication
Supersedes Decision No. WI83-2082, dated October 14, 1983 in 48 FR 46925
DESCRIPTION OF WORK: Building Construction (excluding single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$17.10	2.94
BOILERMAKERS	17.345	3.25
BRICKLAYERS	15.18	3.95
CARPENTERS:		
South of HWY 321 & East of County Trunk #80:		
Carpenters and Soft Floor Layers	13.66	2.11
Millwrights & Pile-drivermen	14.06	2.11
Camp Douglas, Hunter, Elroy & Vic.:		
Carpenters and Soft Floor Layers	13.66	2.11
Millwrights & Pile-drivermen	14.06	2.11
N. E. Section of County above Camp Douglas:		
Carpenters & Soft Floor Layers	13.66	2.11
Millwrights & Pile-drivermen	14.06	2.11
CEMENT MASONS	14.38	1.50
ELECTRICIANS	15.13	.75+ 11%
ELEVATOR CONSTRUCTORS:		
CONSTRUCTORS	15.22	2.465
Helpers	10.65	2.465
Helpers (Prob.)	7.61	
GLAZIERS	15.08	1.58
IRONWORKERS	14.08	3.00
LABORERS:		
General	11.62	1.43
Mortar Mixer	11.77	1.43
Jackhammer Operator	11.77	1.43
LATHERS	13.76	1.01
PAINTERS:		
Brush	12.53	1.00
Structural Steel	12.80	1.00
Swing Stage	12.85	1.00
PLASTERERS	13.08	.90
PLUMBERS & STEAMFITTERS	16.50	2.75
ROOFERS	13.50	a
SHEET METAL WORKERS	14.41	1.56
TILE SETTERS	13.75	1.60
POWER EQUIPMENT OPERATORS:		
Group 1	15.72	3.42
Group 2	15.27	3.42
Group 3	14.44	3.42
Group 4	13.88	3.42
Group 5	13.41	3.42
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.		

FOOTNOTES:
a. Employed for 1 year-1 week vacation at regular pay, employed for 7 years - 2 weeks vacation at regular pay, employed for 10 years 3 weeks vacation at regular pay.

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POWER EQUIPMENT OPERATORS (Classifications)

Group 1 - Cranes, shovels, draglines, backhoes, clamshells, derricks caisson rigs, pile driver, skid rigs, dredge operator and traveling crane (bridge type), concrete paver (over 27E), concrete spreader and distributor

Group 2 - Concrete and grout pumps, material hoists, stack hoists, tractor or truck mounted hydraulic backhoe, tractor or truck mounted hydraulic crane (10 tons or under), manhoists, tractor (over 40 h.p.), bulldozer (over 40 h.p.), endloader (over 40 h.p.), motor patrol, scraper operator, sideboom, straddle carrier, mechanic and welder , bituminous plant and paver operator, roller (over 5 tons), rail level-machine (railroad), tie placer tie extractor, tie tamper, stone leveler, rotary drill operator and blaster, percussion drilling machine, trencher (wheel type or chain type having over 8-inch bucket), elevator

Group 3 - Backfiller, concrete auto breaker (large), concrete finishing machines (road type), roller (rubber tire), concrete batch hopper, concrete mixers (14S or over), screw type pumps, and gypsum pumps, tractor, bulldozer, endloader (under 40 h. p.), pumps (well points), trencher (chain type having bucket 8-inch and under), industrial locomotives, roller (under 5 tons) and fireman (pile drivers and derricks), hoists (automatic), forklift (over 12'), tampers-compactors (riding type), assistant engineer, "A" frames and winch trucks, concrete auto breaker, hydrohammers (small), brooms and sweeper, hoists (tuggers), stump chipper (large), boats (tug, safety, work barges and launch).

Group 4 - Shouldering machine operator, screed operator, farm or industrial tractor mounted equipment, post hole digger, stone crushers and screening plants, fireman (asphalt plants), air compressor (400 CFM or over), augers (vertical and horizonal), air electric, hydraulic jacks (slip form) prestress machine, skid steer loader, boiler operators (temporary heat), forklift (12' and under)

Group 5 - Generators over 150 KW, pumps over 3", combination small equipment operator, compressors (under 400 CFM), welding machines, heaters (mechanical), generators (under 150 KW), pumps (3" and under), winches (small electric) Oiler and greaser, conveyor.

Unlisted classifications needed for work not included within the scope of the classification listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Wisconsin

Counties: Milwaukee, Ozaukee, Waukesha, and Washington Counties, Wisconsin

DECISION: WI84-5036

DATE: Date of Publication

Supersedes Decision No. WI83-2068 dated September 2, 1983 in 48 FR 40096

DESCRIPTION OF WORK: Building Construction (Including Residential Construction)

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$17.10	2.88
BOILERMAKERS	17.345	3.25
BRICKLAYERS	15.63	3.50
CARPENTERS	14.65	4.03
Millwrights	16.79	4.29
Piledrivermen	15.82	4.16
CEMENT MASONS	13.82	3.86
ELECTRICIANS	15.02	2.04+ 14%
ELEVATOR MECHANIC	17.08	3.00
Helpers	11.96	3.00
Prob. Helpers	8.54	
GLAZIERS	15.13	3.33
IRONWORKERS:		
Structural, Ornamental & Reinforcing	14.81	5.55
LATHERS	14.65	4.02
LINE CONSTRUCTION:		
Lineman	16.09	1.00 + 9½%
Heavy Equipment Operators	14.48	1.00 + 9½%
Light Equipment Operators	12.87	1.00 +9½%
Heavy Groundman, Truck Driver	11.26	1.00 + 9½%
Light Groundman, Truck Driver	10.46	1.00 + 9½%
Groundman	8.85	1.00 + 9½%
PAINTERS:		
Brush	13.10	3.76
Structural Steel	13.45	3.76
Spray	13.60	3.76
PLASTERERS	13.85	4.12
PLUMBERS	16.06	4.14
STEAMFITTERS	16.40	3.35
ROOFERS	14.00	3.44
SHEET METAL WORKERS	15.38	4.63
Residential	11.54	4.63
SPRINKLER FITTERS	17.62	3.30
SOFT FLOOR LAYERS	13.55	3.91
TERRAZZO MECHANIC	14.60	3.88
TILE SETTERS	14.65	3.00
TRUCK DRIVERS:		
Building Material 2 Axle	11.92	98.50 per wk
Building Material 3 Axle	11.97	98.50 per wk
POWER EQUIPMENT OPERATORS:		
Group 1	15.72	3.42
Group 2	15.22	3.42
Group 3	14.44	3.42
Group 4	13.88	3.42
Group 5	13.41	3.42
LABORERS:		
Group 1 - General Laborers	12.17	3.49
Group 2 - Air & Electric Equipment & Power Buggies, Mortar Mixers, fork Lift Operator, Scaffold Builder etc.	12.28	3.49
Group 3 - Barco Tamper, Jackhammer Operator Gunite Machinemen	12.39	3.49
Group 4 - Caisson Worker Topman	12.48	3.49
Group 5 - Nozzleman	12.68	3.49
Group 6 - Scaffold Builder & Erector between 75' & 100	12.78	3.49
Group 7 - Caisson Work	12.83	3.49
Group 8 - Scaffold Builder & Erector on Swing Stages over 100'	13.03	3.49
LABORERS:		
Landscapers	9.00	1.75
COMMUNICATION SYSTEMS:		
Installer	11.88	3.59
Insulators	12.50	3.91
WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental		

POWER EQUIPMENT OPERATORS (Classifications)

Group 1 - Cranes, shovels, draglines, backhoes, clamshells, derricks caisson rigs, pile driver, skid rigs, dredge operator and traveling crane (bridge type), concrete paver (over 27E), concrete spreader and distributor

Group 2 - Concrete and grout pumps, material hoists, stack hoists, tractor or truck mounted hydraulic backhoe, tractor or truck mounted hydraulic crane (10 tons or under), manhoists, tractor (over 40 h.p.), bulldozer (over 40 h.p.), endloader (over 40 h.p.), motor patrol, scraper operator, sideboom, straddle carrier, mechanic and welder , bituminous plant and paver operator, roller (over 5 tons), rail level-machine (railroad), tie placer tie extractor, tie tamper, stone leveler, rotary drill operator and blaster, percussion drilling machine, trencher (wheel type or chain type having over 8-inch bucket), elevator

Group 3 - Backfiller, concrete auto breaker (large), concrete finishing machines (road type), roller (rubber tire), concrete batch hopper, concrete mixers (14S or over), screw type pumps, and gypsum pumps, tractor, bulldozer, endloader (under 40 h. p.), pumps (well points), trencher (chain type having bucket 8-inch and under), industrial locomotives, roller (under 5 tons) and fireman (pile drivers and derricks), hoists (automatic), forklift (over 12'), tampers-compactors (riding type), assistant engineer, "A" frames and winch trucks, concrete auto breaker, hydrohammers (small), brooms and sweeper, hoists (tuggers), stump chipper (large), boats (tug, safety, work barges and launch).

Group 4 - Shouldering machine operator, screed operator, farm or industrial tractor mounted equipment, post hole digger, stone crushers and screening plants, fireman (asphalt plants), air compressor (400 CFM or over), augers (vertical and horizonal), air electric, hydraulic jacks (slip form) prestress machine, skid steer loader, boiler operators (temporary heat), forklift (12' and under)

Group 5 - Generators over 150 KW, pumps over 3", combination small equipment operator, compressors (under 400 CFM), welding machines, heaters (mechanical), generators (under 150 KW), pumps (3" and under), winches (small electric) Oiler and greaser, conveyor.

Unlisted classifications needed for work not included within the scope of the classification listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Wisconsin COUNTY: Racine
DECISION NO. WI84-5039 DATE: Date of Publication
Supersedes Decision No. WI83-2084, dated October 28, 1983 in 48 FR 50001
DESCRIPTION OF WORK: Building and Residential Construction

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	17.10	2.94
BOILERMAKERS	17.345	3.25
BRICKLAYERS	15.47	2.35
CARPENTERS:		
(West of Hwy. 075)		
Carpenters & soft Floor Layers	15.69	2.51
Millwrights	15.84	2.51
Piledirvermen	16.29	2.51
Carpenters:		
(Remainder of County)		
Carpenters & Soft Floor Layers	14.71	1.96
Millwrights	15.00	1.96
Piledrivermen	14.80	1.96
CEMENT MASONS	13.67	1.65
ELECTRICIANS	17.50	.85+ 3½%
ELEVATOR CONSTRUCTORS:		
Constructor	17.08	3.00
Helpers	11.96	3.00
Probationary Helpers	8.54	3.00
IRONWORKERS	14.P1	5.55
LABORERS:		
General	11.97	2.53
Plasterer Laborer	12.10	2.53
Air Spade and Jackhammer Operator	12.29	2.53
PAINTERS:		
Brush & Roller	13.60	2.15
Structural Steel	13.75	2.15
Spray	14.35	2.15
PLASTERERS	12.91	1.65
PLUMBERS & STEAMFITTERS	16.71	3.42
ROOFERS	14.07	1.90
SHEET METAL WORKERS	15.16	3.76
TERRAZZO MECHANIC	14.60	3.88
TILE SETTER	11.96	2.97

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS:		
Group 1	15.72	3.42
Group 2	15.22	3.42
Group 3	14.44	3.42
Group 4	13.88	3.42
Group 5	13.41	3.42
WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental		

POWER EQUIPMENT OPERATORS (Classifications)

Group 1 - Cranes, shovels, draglines, backhoes, clamshells, derricks caisson rigs, pile driver, skid rigs, dredge operator and traveling crane (bridge type), concrete paver (over 27E), concrete spreader and distributor

Group 2 - Concrete and grout pumps, material hoists, stack hoists, tractor or truck mounted hydraulic backhoe, tractor or truck mounted hydraulic crane (10 tons or under), manhoists, tractor (over 40 h.p.), bulldozer (over 40 h.p.), endloader (over 40 h.p.), motor patrol, scraper operator, sideboom, straddle carrier, mechanic and welder , bituminous plant and paver operator, roller (over 5 tons), rail level-machine (railroad), tie placer tie extractor, tie tamper, stone leveler, rotary drill operator and blaster, percussion drilling machine, trencher (wheel type or chain type having over 8-inch bucket), elevator

Group 3 - Backfiller, concrete auto breaker (large), concrete finishing machines (road type), roller (rubber tire), concrete batch hopper, concrete mixers (14S or over), screw type pumps, and gypsum pumps, tractor, bulldozer, endloader (under 40 h. p.), pumps (well points), trencher (chain type having bucket 8-inch and under), industrial locomotives, roller (under 5 tons) and fireman (pile drivers and derricks), hoists (automatic), forklift (over 12'), tampers-compactors (riding type), assistant engineer, "A" frames and winch trucks, concrete auto breaker, hydrohammers (small), brooms and sweeper, hoists (tuggers), stump chipper (large), boats (tug, safety, work barges and launch).

Group 4 - Shouldering machine operator, screed operator, farm or industrial tractor mounted equipment, post hole digger, stone crushers and screening plants, fireman (asphalt plants), air compressor (400 CFM or over), augers (vertical and horizonal), air electric, hydraulic jacks (slip form) prestress machine, skid steer loader, boiler operators (temporary heat), forklift (12' and under)

Group 5 - Generators over 150 KW, pumps over 3", combination small equipment operator, compressors (under 400 CFM), welding machines, heaters (mechanical), generators (under 150 KW), pumps (3" and under), winches (small electric) Oiler and greaser, conveyor.

Unlisted classifications needed for work not included within the scope of the classification listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

[FR Doc. 84-27498 Filed 10-18-84; 8:45 am]

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federal register

Friday
October 19, 1984

Part III

Department of the Treasury

Customs Service

19 CFR Parts 4, 6, 7 et al.
Revision of Customs Bond Structure; Final Rule

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 4, 6, 7, 10, 11, 12, 18, 19, 24, 54, 101, 112, 113, 114, 123, 125, 127, 132, 133, 134, 141, 142, 144, 145 146, 147, 148, 151 162, 172, 174, and 191

[T.D. 84-213]

Customs Bond Structure; Revision

AGENCY: Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to revise the Customs bond structure by consolidating and reducing the number of bond forms in use. The purpose of the revision is to simplify transactions between Customs and the importing public and to facilitate establishment of an efficient computerized bond control system.

EFFECTIVE DATE: This rule is effective on February 18, 1985. The Customs bond forms and bond riders listed in Appendix A are abolished on February 18, 1985.

FOR FURTHER INFORMATION CONTACT:

Operational Aspects: Joseph C. Goody, Regulatory Audit Division (202-566-2812).

Legal Aspects: William Rosoff, Carriers, Drawback and Bonds Division (202-566-5856).

Legal and Operational Aspects Relating to Delinquent Sureties: Ron Gerdes, Office of Chief Counsel (202-566-2482).

U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

SUPPLEMENTARY INFORMATION:

Background

When merchandise other than noncommercial merchandise accompanying a traveler arrives in the United States, it ordinarily remains in Customs custody until the importer, consignee, or the authorized agent of either establishes ownership and complies with the applicable Customs laws and regulations or laws and regulations enforced by Customs for other Federal and state agencies. In some instances, especially in the case of duty-free noncommercial importations, the merchandise may be released to the importer, consignee, or an authorized agent merely upon furnishing proof of ownership, and no formal documentation is required. However, in most cases involving commercial importations, formal documentation is required to obtain release of the merchandise. The Customs transaction releasing the merchandise to the importer is referred to as an "entry".

As a part of the entry documentation the importer, consignee, or an authorized agent usually is required to file a bond with Customs. The bond, among other things, guarantees that proper entry summary with payment of estimated duties and taxes when due, will be made for imported merchandise and that any additional duties and taxes subsequently found to be due will be paid. The bond also guarantees redelivery of imported merchandise to Customs custody if found not to comply with applicable laws and regulations. Redelivery may be required as a result of a failure to properly mark, label, clean, or fumigate the imported merchandise; or a failure to destroy or export the imported merchandise, if appropriate.

A bond also may provide, as a condition of its satisfaction, for the production of any missing invoices, declarations, certificates, or other documents required in connection with the entry of imported merchandise, in the form and within the time limits required by regulations.

Bonds are used to secure other Customs transactions besides those of importers. For example, carriage of imported merchandise that has not been examined or appraised by Customs must be secured by a bond to guarantee performance of various obligations to Customs. Those performance bonds are required from bonded carriers, bonded cartage and lighterage operators, and persons who are authorized to carry merchandise when bonded carrier facilities are not reasonably available. Among other things, those persons are contractually bound to safely deliver that merchandise to Customs at the destination. They are also bound to report arrival of the merchandise to Customs at the destination so that it can be examined for Customs purposes. Further, they are bound not to deliver that merchandise to the ultimate consignee until Customs determines that it can be released. If the bond principal fails to perform as agreed, the principal and surety become liable to Customs for payment of liquidated damages.

A similar situation exists for operators of Customs bonded warehouses, container stations, and foreign-trade zones. A bond is needed to protect the Government from any loss as a result of their operation. Generally, imported merchandise is placed in such places before the amount of duty has been determined. Moreover, until that merchandise is withdrawn for consumption no duty is paid by the importer. The bond given by the operators serves as a guarantee that the stored merchandise will be kept safely and that it will be released only when authorized by Customs.

Other bonds are required in special instances. For example, persons who use the accelerated drawback program are required to file a bond to guarantee repayment of any money paid in excess of what is finally determined to be due. Another special bond is that required of copyright owners who claim that an imported article infringes their copyright and request Customs to detain that article pending a final determination on the infringement claim. The bond insures that any damages caused to the importer by detention will be reimbursed.

Presently, there are approximately 50 different forms of Customs bonds and 16 bond riders in use (see Appendix A). Part 113, Customs Regulations (19 CFR Part 113), sets forth a description of the various bonds and the general requirements applicable to Customs bonds. It contains the general authority and powers of the Commissioner of Customs to require, bonds, the classes of bonds, procedures for their approval and execution, general and special bond requirements, requirements which must be met to be either a principal or a surety, requirements concerning the production of documents, and the authority and manner of assessing damages of cancelling the bond or charges against a bond.

In an effort to (1) modernize the Customs bond structure by reducing and consolidating the number of bond forms in use, (2) modify the archaic bond language, (3) simplify transactions between Customs and the importing community, and (4) facilitate establishment of an efficient computerized bond control system, Customs published an Advance Notice of Proposed Rulemaking (ANPRM) in the **Federal Register** on May 26, 1981 (46 FR 28172), to afford the public a meaningful opportunity to participate at an early stage in the revision process by submitting comments on the merits of the proposal and by suggesting alternatives to the proposed bond format, coverages, and conversion approaches. Numerous comments were received in response to the ANPRM. The comments overwhelmingly supported the revision concept.

After a thorough review of the comments received and further refinement of the concept, on March 15, 1983, Customs published a notice of proposed rulemaking (NPRM) in the **Federal Register** (48 FR 11032). As with

the ANPRM, numerous comments were received in response to the NPRM. Likewise, the commenters enthusiastically supported the revision concept. Following is a discussion of the comments received and changes made in the proposed rule as a result of the comments and Customs review of the proposal.

Discussion of Comments

Part 4—Vessels in Foreign and Domestic Trades

Sections 4.30 (f) and (g), Customs Regulations (19 CFR 4.30 (f), (g)), provide that the district director may issue a term permit on Customs Form 3171 for any period up to 1 year, but not longer than the period of the supporting bond, to unlade merchandise, passengers, or baggage during official hours. The NPRM proposed to remove the time limitation relating to the period of the supporting bond. Based upon internal Customs review it has also been determined that since bonds will be either single entry or continuous there is no reason to retain the 1 year time limitation also contained in the section for continuous bonds. Accordingly, the language of § 4.30 (f) and (g) has been modified to state that the term permit will remain in effect until revoked by the district director, terminated by the carrier or automatically cancelled by termination of the supporting continuous bond.

Part 113—Customs Bonds

1. Several commenters objected to the provisions of proposed § 113.12(a) relating to the single entry bond application. The commenters felt the application procedure would be burdensome, cause delays in the release of goods, cause storage charges to be incurred, would congest piers and cargo terminals, and was duplicative and inconsistent with the present procedures whereby importers can make application and file a bond in the same motion.

The commenters appear to have misread proposed § 113.12(a). The language is discretionary with the district director. The provisions of the section would only be used where adequate information is not provided by the importer. For example, it would not be used when the bond is filed with the entry summary or with the entry when the entry summary is filed at the time of entry. In these situations, the documentation provided is generally adequate to insure a proper determination as to bond sufficiency. When adequate information is not provided the district director must have the means of obtaining that information. However, to allay the fears of the importing public, the section has been modified to indicate that when a proper bond in sufficient amount is filed with the entry summary or with the entry when the entry summary is filed at the time of entry, an application will not be required.

Another commenter indicated that there is a need for Customs to improve the means of verifying that a bond is on file.

Customs is aware of the difficulties encountered in the current methods of bond verification. Improvement in this area is one of the benefits of the on-line bond system which will support this redesigned bond structure. Based upon the user functional requirements developed for this system, an on-line query by the user will provide the means to immediately verify that a bond is on file. In addition, Customs offices responsible for the bonding functions will periodically produce computer printouts with local computer equipment listing all bonds on file.

Several commenters suggested that in addition to having bond information available by bond number, Customs should also provide access on an alphabetical basis as is the case with the ABIS (Automated Bond Information System) where bond information can be accessed either alphabetically from a printout or by importer number. One commenter recommended an on-line alphabetical cross index to the bond number be established which would be similar to the Automated Commercial System (ACS) project currently under development by Customs. Another commenter urged Customs to prepare an alphabetical listing regularly and frequently rather than periodically as stated in the NPRM.

Customs will, as stated in the NPRM (48 FR 11035, 11036), provide for an on-line query by Customs bond control number and periodically generate print-outs of bond information both in alphabetical order by principal name and by bond number in numerical sequence. These print-outs will serve as back-up to the computer system and as a manual query mechanism for Customs locations not having ready access to the on-line computer system. The decision to generate the print-outs periodically rather than regularly and frequently is based on the view that the turnover rate of bonds under the continuous bond concept implemented by this revision will be considerably less than the rate under the current term bond concept. Further, Customs expects the on-line query of the bond system to be the method most commonly used to obtain information regarding bonds.

With respect to the use of an on-line alphabetical cross index for the bond module, Customs is of the opinion that such a system would prove to be inefficient since if the query by principal name were not exactly the same as the name contained in the bond data file a no record response would be received. Trying to identify the exact spelling would result in multiple queries of the bond file and thus increase costs. However, as a part of the total ACS the capability already exists to do a partial key search on importer name. The user is able to "browse" through the file and find the correct importer name and then would be able to query the bond file.

2. Several individuals and organizations with differing concerns commented on proposed § 113.12(b) relating to the continuous bond application.

One commenter, a broker, in discussing the information requirements of proposed § 113.12(b)(1)(ii) indicated it would have difficulty in determining the amount of duties and taxes paid the previous year and estimating the amount that will be paid in the next year because its accounting methods do not differentiate between duties and taxes paid under its own bond and duties and taxes paid under an importer's bond. The commenter believed Customs should provide this information to brokers.

Customs has in the past forbid use of a General Term Bond for Entry of Merchandise, Customs Form 7595, by a customhouse broker in its brokerage business. In the ANPRM Customs indicated that it would continue the policy of not allowing brokers to have a national type bond in their capacity as brokers. The policy which dated back to 1952 existed in part, because the amounts for General Term Bonds were based on 10-percent of the importer's prior year's duty payments. A broker, unlike an importer, can radically change its business by changing its clients. This could thus result in inadequate coverage during the current year. Another reason for not allowing brokers to have a national type bond was that a broker, unlike an importer, often lacks sufficient assets to go against in case of a loss. Since under the proposal set forth in the NPRM, Customs would be in a better position to monitor bond sufficiency, the basis for continuing the policy appeared to be unnecessary. Accordingly, Customs proposed to eliminate the prohibition against brokers having a national type bond in their capacity as brokers. The commenter's statements,

however, give rise to concern in this area. Upon further reflection, Customs believes the commenter is probably not truly representative of all brokers. Accordingly, brokers will still be allowed to have a continuous bond. However, Customs will closely monitor the use of the continuous bond by brokers. Any broker who cannot comply with the requirements of § 113.12(b) will be denied a continuous bond. An accurate statement with respect to the information required by § 113.12(b) is necessary for the district director to set proper bond amounts. In view of the requirements set forth in Part 111), relating to recordkeeping, Customs does not believe there will be a problem for the vast majority of brokers in compiling this required data.

One commenter believed that the requirement for periodic updating of the bond information contained in proposed § 113.12(b)(2) and the independent periodic review by Customs officers in proposed § 113.13(c) is not frequent enough to ensure bond sufficiency. Since specific times at which this is to be done are not set forth, it is believed by the commenter that the review will not be done. It was also indicated that administrative sanctions are not available and import activity outside a district director's particular district is not known to the district director.

The requirement for periodic review of bond sufficiency is imposed upon Customs officers by proposed section 113.13(c). The frequency of the review can and will be established by internal Customs directive rather than in the regulations. If an importer does not periodically review its bond sufficiency or update its application when changed events dictate a larger bond amount, the district director can always impose the requirement for additional security (see proposed § 113.13(d)). The district director also has the option of requiring a single entry bond for a particular entry if it is believed that a continuous bond is inadequate. A district director need only exercise this option once and the importer should update its bond application. As far as the district director not having knowledge of import activity outside the district director's particular district, it is anticipated that the data processing system will contain data relating to all charges against each bond. Any district director will be able to access this information and obtain information on all bond charges wherever the charges may have occurred.

An association representing air cargo carriers indicated that the provisions of proposed § 113.12(b), relating to continuous bond applications, appear to be directed to importers and if air cargo carriers are required to comply with its provisions it would be a significant burden.

If air cargo carriers act as importers there is no reason to distinguish them from other importers of merchandise or to exempt them from the obligations placed on other importers.

3. One commenter noted that an applicant for a bond must provide a certification that the factual information contained in the application is true and accurate and asked by what means or how the certification should be made.

The provisions of proposed § 113.12(c) set forth what is required and how the certification will be accomplished. Specific certification language which must be included in the application is also set forth in this section.

4. Virtually every commenter expressed concern with the provisions of proposed § 113.13(b) relating to guidelines for determining the amount of the bond. While they did not object to the proposed language of the section, it was the general consensus that specific monetary amounts or a specific formula should be used to determine the bond amount.

Customs agrees that the criteria set forth in proposed § 113.13(b) should be supplemented with more objective guidelines. However, it is not believed that specific monetary amounts or a formula should be set forth in the regulations. Based upon the commenter's concerns Customs will formulate specific guidelines to be used in conjunction with those set forth in proposed § 113.13(b). These guidelines will be issued under the Customs Issuance System at least 45 days before the effective date of this document.

5. Customs received two other comments on proposed § 113.13(c), relating to periodic review of bond sufficiency, in addition to the comment discussed under proposed § 113.12(b)(2).

One commenter believed that Customs should notify the principal, surety, and the person who filed the bond if Customs determines the bond amount is inadequate.

Customs does not agree. The bond is security posted by the principal. Only the principal needs to be informed because it is the principal's contract. It is up to the principal to decide what to do (e.g. get a new bond with a different surety, file single entry bonds, etc.). In addition, Customs is not equipped to perform the principal's administrative tasks once the determination of inadequacy is made by Customs personnel.

The commenter also expressed concern about notification of bond insufficiency being directed to the wrong address.

If the principal places a complete address on the bond there will be no problem with timely notification at the proper address. Many problems experienced in the past in this area have been the result of incomplete or insufficient addresses on the bond forms.

Both commenters expressed concern with the 30-day time period set forth in proposed § 113.13(c) in which to remedy a bond deficiency and suggested a 60 or 90-day time period.

Because the bond is given to secure the principal's Customs transactions, immediate action must be taken to remedy inadequate bond coverage. It is believed any time greater than 30 days is excessive. Further, it is Customs responsibility to determine the amount of security it needs on a bond. This is not a function shared with bond obligors. It should be noted that in certain instances even 30 days may be excessive. Accordingly, Customs retains the right to, at any time, demand additional security (see § 113.13(d)).

6. One commenter asked that the use of abbreviations be authorized for names, addresses, etc., which appear on bonds because it would be awkward to attempt to "crowd" unabbreviated data onto the bond form.

One of the goals of the redesigned bond structure was to improve communications between Customs and principals and sureties with regard to bonding matters. A way to accomplish this is through the use of complete names and addresses on the bond form. If the use of abbreviations was authorized, Customs would have no effective way to control what abbreviations are used. As no standard can be devised in this regard, the use of any abbreviations would hamper our efforts to improve communications. Accordingly, the proposed Customs Bond, Customs Form 301, set forth in the NPRM as Appendix A, has been modified to provide more space for names and addresses thus eliminating the need for abbreviations (see Appendix B).

7. Several comments were received on various aspects of proposed § 113.24, relating to bond riders.

One commenter objected to the references to "unincorporated principal" and "unincorporated units of a principal" in proposed § 113.24(a)(4) and (c)(4). The commenter stated unincorporated units are not legal

entities and a document submitted by them is without legal effect.

The commenter has completely misread proposed § 113.24. The term "unincorporated principal" is not used in either cited section. Further, proposed § 113.24(a)(4) specifically recognizes the fact that "unincorporated divisions of a corporate principal" do "not have a separate and distinct legal status". Finally, riders under § 113.24 will not be submitted in the name of an unincorporated division of a corporate principal. They will be submitted by the principal and under the provisions of proposed § 113.24(c) "shall be signed, sealed, witnessed, executed, include a certificate as to corporate principal, if applicable, and otherwise comply with the requirements" of Part 113.

Another commenter notes that proposed § 113.24(a)(4) and (c)(4) authorize the addition of a trade name but do not provide for removal of a trade name.

Customs can see no valid reason for not allowing a rider to be used to remove a trade name or an unincorporated division of a corporation. Accordingly, appropriate changes have been made to proposed § 113.24(a)(4) and (c)(4) to authorize use of a rider to remove a trade name or an unincorporated division of a corporation.

Another commenter asked whether or not unincorporated divisions of a corporate principal authorized to use the bond by the principal must sign the bond or bond rider.

Customs will not require signatures of these entities. No useful purpose would be served since only the bond obligors will be liable for breach of the bond.

One commenter felt that all riders contained in proposed § 113.24 could be listed on one form and the appropriate rider checked off.

This idea was explored and rejected during the development of the NPRM. Because the riders are not long, it was felt a separate Customs form was unnecessary. The individual riders can be quickly prepared by the principal and surety as needed. In addition while the language at the beginning of each rider is similar it is not the same and difficulty was encountered in trying to conform them so that a check off form could be used.

A commenter asked if strangers (unrelated persons) may join as co-principals on a bond.

There is no prohibition against two unrelated persons acting as co-principals on a bond. Conceptually this would be no different than having co-sureties, which is authorized by Customs under § 113.37(f).

Another commenter asked if an unincorporated division must be specifically listed on the bond in order to use it. If the answer is yes, the commenter wanted to know how the importer number should be listed when the unincorporated division chooses to use the parent corporation IRS number without an identifying suffix.

If the unincorporated division will use the bond in the name of the principal, there is no need for the unincorporated division to be listed in Section III of the bond. Unincorporated divisions must be listed along with their importer number if they will use the bond in their own name, as though they are a separate entity. The use of a suffix (see § 24.5(d), Customs Regulations (19 CFR 24.5(d)) for explanation of suffix) is not relevant for Customs bonding purposes. It is relevant for billing purposes and for that reason will be required. When the unincorporated division attempts to use the parent's bond with the unincorporated division's own name and IRS number for a specific Customs transaction, Customs will verify the unincorporated division's right to use the bond by accessing the bond data file in the computer. The unincorporated division's IRS number will be cross-referenced to the bond of the parent corporation and Customs will be able to verify that the unincorporated division has been authorized to use the bond shown on the transaction document.

Based upon further Customs review it has been decided that the addition of a co-principal after execution of the bond is such a major change that it should not be accomplished by a rider but by the execution of a new bond. Accordingly, the provisions of proposed § 113.24(a)(2) and (c)(2) have been deleted. The other provisions of this section have been renumbered to adjust for this deletion. A new § 113.34 relating to co-principals has been added to subpart D relating to principals and sureties. Proposed §§ 113.31, 113.32, 113.33 and 113.34 have been redesignated as §§ 113.30, 113.31, 113.32 and 113.33 respectively, to accommodate the new section.

8. One commenter objected to the inclusion of proposed §113.25, relating to seals, in the regulation since "most" states have abolished the requirement for seals.

The provision is needed because all states have not abolished seals. Absent this requirement Customs would be required to check into each state's current requirement in this area. This is an undesirable administrative burden. In any event, unless the principal executes the bond in a state which requires seals or the corporate charter requires a seal, the provision is without regulatory effect. Customs bond approval officers need not review corporate charters to determine whether a seal is needed.

9. Proposed § 113.26 relates to termination of the bond and, in certain instances, provides for a 10-day delay in the date on which the termination becomes effective. One commenter asked whether there would be a "waiting period" before a new bond would be effective and whether it could be effective before the effective date.

Bonds and riders will be effective on the effective date listed on the bond or rider, provided the bond or rider is received at the bond desk in the district office by the effective date. Naturally, some time has to be allotted to the administrative review of the documentation and to enter the bond or rider into the computer. Because this is an on-line system this time will be minimal. The delay to review the documentation and update Customs computer files should be no more than one business day. Thus, the bond or rider will be available for use after the close of business one business day following the day the bond or rider is reviewed at the district office, unless the principal is notified otherwise by Customs. In order to ensure timely availability, a bond rider may be prefiled up to 30 days before the effective date and entered into the computer. However, transactions against the bond or rider will be rejected before the effective date. The NPRM did not contain a provision relating to effective dates of bonds and riders. Accordingly, a new § 113.26 relating to effective dates has been added. Proposed § 113.26 relating to termination of bonds has been redesignated as § 113.27.

Another commenter stated that the automated system should identify the district in which the bond is terminated.

The user functional requirements developed for the on-line bond system which will support the redesigned bond structure provide for the identification of the district in which the bond was terminated.

Finally, one commenter suggested that if the principal cancels the bond, the principal or the district director, or both, should advise the surety of the cancellation.

While it would be prudent for the principal to notify the surety if it cancels the bond, we do not believe Customs should interfere in a matter which is between the principal and surety. Nor do we believe Customs should gratuitously assume this administrative burden. Because Customs will not accept transactions against a terminated

bond the surety is not at risk. The only disadvantage it suffers is that its records are not current. In any event, the former principal's refusal to pay the next premium charge should effectively alert the surety of the cancellation.

10. Proposed § 113.32(b) relates to the same party as attorney in fact for both the principal and the surety. One commenter believes the section should be modified to require that both the principal and surety know of and assent to the dual relationship.

Customs does not believe it is necessary to incorporate this suggestion into the regulations. If a question arises in this area it can be handled as a part of the bond approval process without dealing with the matter in the regulations other than to show, as has been done in the past, that such a relationship is acceptable. The language of proposed § 113.32 has been substantially unchanged since the dual relationship was first authorized in 1898 (T.D. 19105, see also Article 1309, Customs Regulations, 1908; Article 1249, Customs Regulations, 1931; Article 1263, Customs Regulations, 1937).

11. Three commenters noted that on March 22, 1983, Customs published a notice of proposed rulemaking in the **Federal Register** (48 FR 11955) to modify § 141.38, Customs Regulations (19 CFR 141.38), to eliminate seals and the corporate certification on Customs powers of attorney. On April 25, 1984, the final rule on this matter was published in the **Federal Register** (49 FR 17753) as T.D. 84–93. The commenters suggested that proposed § 113.34(c) relating to bonds executed by an officer of a corporation, and proposed § 113.34(d), relating to bonds executed by an attorney in fact, be conformed with the March 22, 1983 proposal.

Customs agrees and has modified proposed § 113.34(c) and proposed § 113.34(d) (redesignated in the final rule as § 113.33 (c) and (d)).

12. One commenter stated that proposed § 113.34(e), relating to subsidiaries as co-principals (redesignated in the final rule as § 113.33(e)) requires that they comply with all the provisions of the regulations relating to corporations, including the signing of the bond. The commenter noted that the proposed Customs Form 301, Customs Bond, does not have a place for the co-principal to sign.

Customs has modified the form to include a place for the co-principal's signature.

Another commenter asked if a subsidiary of a parent principal must be wholly owned in order to be named on a bond as co-principal or if a partially owned subsidiary may be made co-principal.

A partially owned subsidiary may be a co-principal.

The same commenter asked if two separate corporations owned by a common owner may be named as co-principals on the same bond.

Two separate corporations may be co-principals on the same bond and it makes no difference whether they have a common owner.

13. Several commenters raised matters concerning proposed § 113.38, relating to delinquent sureties, and proposed § 113.39, relating to procedures to remove a surety from Treasury Department Circular 570. Because the comments overlap they will be discussed together.

Several commenters believed that *Old Republic Insurance Company, et al.*, v. *Pittman, et al.*, USCIT No. 81–7–00891, a court case arising out of the refusal of the District Director, Miami, to accept bonds from a particular surety, precludes Customs from promulgating regulations in this area.

This case was settled on August 22, 1983, and the settlement agreement specifically recognized Customs right to promulgate regulations authorizing Customs officers to refuse to accept surety bonds for reasons related to the performance of the surety companies.

Three commenters offered comments to the effect that either the total rights of the Secretary of the Treasury to discipline delinquent sureties are contained in Title 6, United States Code (Now, 31 U.S.C. 9301, *et seq.*) and 31 CFR Part 223 (Treasury Department Circular 570), or that the rights and remedies of the Treasury Department as contained in 31 CFR Part 223 were sufficient to negate the need for additional sanctions in proposed § 113.38. A review of these arguments and the relationship of 31 U.S.C. 9301 *et seq.* to section 623, Tariff Act of 1930, as amended (19 U.S.C. 1623), has led Customs to the following conclusions:

A. The possession of a certificate of authority issued to a surety under the provisions of 31 CFR Part 223 is merely intended to allow corporations to be "accepted" as sureties. The certificate does not constitute the "approval" required from the head of a Department, etc., in 31 U.S.C. 9304 (former section 6 U.S.C. 6), nor does it give the corporation a *right* to do business with any agency of the Federal Government. Under section 1 of the Act of August 13, 1894 (Chapter 282, 53rd Congress, Sess. II, 28 Stat. 279; the predecessor statute to 6 U.S.C. 6 and 31 U.S.C. 9304), the certificate of authority granted by the Secretary of the Treasury merely authorized a corporation *to be approved* by the head of a department, court, judge, etc. It is clear that under the intent of this original statute (which is unchanged in the subsequent codification of that statute), any federal agency retains the authority to accept or reject a proferred surety performance bond regardless of the fact that the surety company has obtained a certificate of authority from the Secretary of the Treasury. See *Concord Casualty and Surety Company* v. *United States*, 69 F. 2d. 78 (1934).

B. Under 19 U.S.C. 1623, the Secretary of Treasury has special authority, without regard to any general provision of law, to fix and to approve the sureties on Customs bonds and to prescribe the conditions of the bond.

C. By Treasury Department Order No. 165, revised, the Secretary of the Treasury delegated all of his rights, privileges, powers, and duties, under 19 U.S.C. 1623 to the Commissioner of Customs, with authority to redelegate.

D. The promulgation of regulations concerning surety certificates of authority in 31 CFR Part 223 was never intended to preempt the Secretary's (and therefore the Commissioner's) authority under 19 U.S.C. 1623.

The promulgation of regulations by this document constitutes formal delegation of certain rights and responsibilities heretofore vested in the Commissioner under Treasury Department Order No. 165, revised, to the named Customs field officers.

Several commenters questioned whether the proposed procedures afford the surety adequate due process prior to a decision to refuse to accept new bonds written by the surety.

We note that any decision made under section 113.38 will apply only to "new bonds" underwritten by the surety. Such a decision will not put a surety "out of business" as suggested by the commenters for the simple reason that all previously approved bonds will still be accepted even in the district where a sanction is being imposed. Consequently, even a decision on a national level made by the Commissioner, will not put a surety out of business. The regulations are merely designed to allow an appropriate Customs officer to avoid new and burdensome contracts with surety companies who have not evidenced a willingness to abide by contracts made by them for the express benefit of the United States. Upon a review of the comments and the proposed regulation, Customs has determined that the proposed procedures providing for formal notice to the surety of the

specifics concerning their alleged defective performance of obligations and providing the surety opportunity to respond to those specific allegations will provide "due process" to the surety under the Constitution of the United States and all applicable laws. While one commenter suggested that the 10-day period set forth in the sample letter to delinquent sureties (Appendix F, NPRM, 48 FR 11073) was insufficient time for a surety to respond, we note that this is 10 business days and that this is the minimum time which will be granted the surety by the appropriate Customs officer. Where a surety requires additional reasonable time due to circumstances beyond its control, it may, of course, request additional time to respond.

Finally, several commenters suggested that the decision to sanction a surety should not rest with a district director but at a minimum should be vested in the regional commissioner or his/her designee.

In the NPRM it was specified in the narrative that the district director will, under internal operating directives, be required to inform the appropriate regional commissioner and regional counsel of the proposed action before it is initiated (48 FR 11042.) Consequently, appropriate contact and coordination with regional Customs officers will be required. Further, it should be noted that § 113.38(c)(1) provides for requests for internal advice to the Director, Carriers, Drawback and Bonds Division, on any legal issues. The comments did bring to our attention that the proposed regulation did not provide for a level of sanction between that of the district director and the Commissioner. Consequently, the final rule includes a new § 113.38(c)(2) which will allow the regional commissioner to make the determination to reject bonds of a surety where the alleged delinquency extends beyond one district within the region.

For the purpose of clarification, it should be noted that the national sanction to be determined by the Commissioner may be taken for reasons including, but not limited to:

A. The failure of a surety to adequately resolve disputes with district directors or regional commissioners where the Commissioner determines that the surety response to the district or regional notices fails to provide adequate justification for the failure to meet obligations under the bond,

B. The payment record of the surety indicates a national problem requiring the Commissioner's attention, or

C. The sums owed by the surety are of such an amount as to raise doubts as to the surety's ability to meet its obligations.

14. One commenter stated that under the proposal Customs is not required to include a copy of the entry and related documents when sending a demand for payment to a surety. The commenter was of the opinion Customs should provide this information.

From the references in the comment, we believe the commenter is referring to the background portion of the NPRM (48 FR 11036) which stated that one commenter on the ANPRM suggested that the bond language include a requirement that Customs supply sureties with copies of appropriate bonds, entries and other documents in connection with claims or demands for payment. Customs response was that such language is not germane to a bond contract between a surety and principal. Accordingly, Customs does not believe it appropriate to include such a condition in the bond. Contrary to the commenter's statement, this language does not indicate that copies of entries and related documents will not be sent to a surety with a demand for payment. The surety is generally provided this information when a claim arises. It should be noted that the NPRM, Appendix F, contained a sample letter to delinquent sureties which indicated that "where you have not already received them we have enclosed copies of the originating documents (i.e., entry, request for reimbursable services, etc.) and applicable Customs bond numbers for bonds secured by you."

15. Two commenters noted that proposed § 113.41 discusses use of the Customs Form 5101 for missing documents. They stated that since the Customs Form 7501, presently being revised by Customs, will, among other things, result in elimination of the Customs Form 5101, the section should be revised to eliminate reference to the form.

The commenters are correct in stating that the revised Customs Form 7501 will result in elimination of the Customs Form 5101. On June 4, 1984, a final rule was published in the **Federal Register** (49 FR 23038) as T.D. 84–129 which revised the Customs Form 7501 and amended § 113.41. The amendments made to that section have been incorporated into this document. The section has been further modified to eliminate the references to the Customs Forms 7551 and 7553.

16. Several comments were received which concerned the provisions of proposed § 113.62, relating to the basic importation and entry bond conditions.

One commenter suggested that a set of bond conditions be included in the regulations and an activity code be included on the bond to cover both dumping and countervailing duties.

Customs does not have any authority with respect to dumping and countervailing duties. This authority is vested in the Secretary of Commerce. Customs bonds are used to cover those duties because the Secretary of Commerce has so authorized. Accordingly, it is not within Customs authority to establish separate activity codes on the bond or a separate set of bond conditions to cover those duties. However, the proposed basic importation and entry bond conditions are broad enough in scope to cover the imposition of dumping and countervailing duties when imposed by the Secretary of Commerce. If dumping or countervailing duties are imposed and the district director believes the current bond is in an amount insufficient to cover potential liability, additional security may be demanded or single entry bonds required which contain the basic importation and entry bond conditions.

Another commenter suggests that the detailed language of bond rider B (T.D. 73–198), relating to deferred payment of internal revenue taxes, be incorporated into the basic importations and entry bond conditions set forth in proposed § 113.62.

The basic importation and entry bond conditions set forth in proposed § 113.62 and all the other bond conditions in proposed Subpart G, Part 113, were intentionally drafted in broad terms to emphasize that the bond conditions merely secure obligations imposed by regulations or law. Most current Customs bonds, in addition to containing obligations for failure to comply with the law and regulations, impose additional obligations under the bond contract which are not found in the regulations. It was Customs intent to eliminate these additional contract obligations when the bond conditions were redrafted and incorporate them into the regulations. Accordingly, we have not adopted the commenter's suggestion.

However, based upon internal Customs review, it has been determined that several conditions contained in the warehouse proprietor's bonds set forth in T.D. 82–204, published in the **Federal Register** on November 1, 1982 (47 FR 49355), do not have counterpart provisions in the regulations. Because the basic custodial bond conditions set forth in § 113.63 do not contain these provisions for the reasons set forth above, it was necessary to modify §§ 19.11(d); 19.12(a)(1)(3), (4) and (5);

19.12(b)(6); 19.13(g); 19.14(e); 19.15(j); 19.17(f); and 19.21(b); (19 CFR 19.11(d); 19.12(a)(1), (3), (4), (5); 19.12(b)(6); 19.13(g); 19.14(e); 19.15(j); 19.17(f); 19.21(b)) and add new §§ 19.13a and 19.13(h) to incorporate the language of the eliminated bond conditions.

Another commenter suggested that the bond conditions in proposed Subpart G be amended to include a requirement for interest so they will be compatible with the Customs proposal published in the Federal Register on March 10, 1983 (48 FR 10077), relating to interest on delinquent accounts.

As indicated in the previous comment, the bond language is intentionally drafted very broadly. It is Customs belief that, if we proceed to a final rule on the proposal to charge interest on delinquent accounts and incorporate a substantive requirement to that effect into the regulations, the bond conditions set forth in subpart G, Part 113, are sufficiently broad to cover interest charges without further amendment.

A surety company pointed out that by including the bond conditions in the regulations, any change in their terms would be subject to notice and public comment and if the change is ultimately adopted it would be prospective in nature.

Customs agrees. However, because of the broad wording of the conditions it is not anticipated that changes will be necessary.

The same commenter objects to the inclusion of the clause in each of the bond conditions relating to exoneration of the United States and its officers from any risk, loss or expense arising out of a particular transaction. The commenter finds it "peculiar" and indicates such a clause "has no place in a bond contract."

This particular condition is included in most current Customs bonds. The surety industry, including the commenter, has for many years been underwriting this risk without objection.

Another surety organization indicated that, while they believed the bond revision to be desirable, their ability to manage the risk within the various categories of activity will be affected.

Customs recognizes that there will be some impact on risk management. As the commenter stated, a principal will be able to use the bond at any port for the full range of activities covered by the particular set of bond conditions, if it has the required licenses and permits. However, Customs does not believe the increased risk will be significant. Further, the surety will know if increased activity is taking place by an expansion of business because this increased activity will require a larger bond. The bond amount the surety will write for a principal is the primary control over risk.

17. Proposed § 113.63 contains the basic custodial bond conditions. One commenter stated that the section does not contain conditions relevant to the issuance of temporary identification cards to a cartman's employees.

The temporary identification card regulation for cartman's employees is found in § 112.49, Customs Regulations (19 CFR 112.49). A bond is required under paragraph (d) of that section. Two basic conditions in addition to the liquidated damages clause are found in the bond. The first is a condition requiring return of the card to Customs upon demand by Customs or upon the issuance of a permanent card. The second condition is a hold harmless and exoneration clause. The bond conditions set forth in paragraph (d), § 112.49, are removed by this document. However, the exoneration and hold harmless clause has been incorporated into paragraph (f), the reimbursement and exoneration of the United States clause of the basic custodial bond conditions set forth in proposed § 113.63. The other eliminated bond provision is found in paragraph (e) of the basic custodial bond condition which relates to compliance with licensing and operation requirements. That paragraph states that the principal agrees to comply with all Customs laws and regulations relating to the principals facilities, conveyances, and employees. There is a regulatory requirement found in paragraph (b), § 112.49 which requires that the holder of the temporary identification card or the cartman return the card to the district director when the permanent card is issued or the privileges granted by the issuance of the temporary card are withdrawn. Accordingly, if the cartman does not comply with this requirement found in § 112.49, he is in violation of condition (e) of the basic custodial bond conditions and may be assessed liquidated damages. However, there is a need for a clause in the basic custodial bond to fix the consequences for failure to return the card. Accordingly, clause (g) of the basic bond conditions has been modified in the final rule to include such a provision (see § 113.63(g)(3)). A review of the other bond conditions found in Subpart G, Part 113, has revealed that provision has not been made for liquidated damages for breach of bond conditions not relating to merchandise. The proposed consequences of default provision establishes the claim for liquidated damages as a multiple of the value of the merchandise involved in the default. Accordingly, a condition has been included in §§ 113.62(i)(3), 113.66(c)(3), 113.67(b)(2) and 113.73(a)(2) to cover these other situations. Whether the default involved merchandise is determined solely by Customs.

Another commenter notes that the basic custodial bond conditions in § 113.63 include all custodial activities. The commenter asks whether a separate bond is required to support warehouse and cartage activities by the same party.

A separate bond is not required.

One commenter, in discussing the provisions of proposed § 113.63(d) relating to redelivery of merchandise to Customs, stated that since the carrier has the responsibility of redelivery to Customs under proposed § 4.38(a), it appears that proposed § 113.63(d) is superfluous.

Customs does not agree. The regulatory requirement is established by proposed § 4.38(a). The bond obligation is created by proposed § 113.63(d) and the consequences of default are fixed by proposed § 113.63(g). All three elements are necessary ingredients of the bonding scheme.

18. Customs review of proposed § 113.64(g), relating to the international carrier bond conditions, revealed several problems which necessitate changes to the provisions.

As proposed, § 113.64(a) states in part that, "If any vessel, vehicle, or aircraft incurs a penalty, duty, tax or other charge provided by law or regulation, the obligors agree to pay * * *." However, no provision is made for payment of penalty, duty, tax or other charge incurred by the master, the owner, or the person in charge of the vessel, vehicle, or aircraft. Many statutes provide for penalties against one or more of those persons (e.g. 46 U.S.C. 91, 277, 289, 315, 316, and 883, and 19 U.S.C. 1453, 1454, and 1584).

Customs Form 7567, Vessel, Vehicle, or Aircraft Bond (Single Entry) and Customs Form 7569, Vessel, Vehicle, or Aircraft Bond (Term), two of the bonds being replaced by section 113.64, provide in condition (1) for the payment of "any duties, charges, exactions, penalties, or other sums found legally due the United States from any master or other proper officer or owner of said vessel, vehicle, or aircraft on account of said vessel, vehicle or aircraft." Customs omitted a similar provision in proposed § 113.64 when the provisions were drafted.

The payment of penalties, duties, taxes, and charges is one of the conditions imposed by 46 U.S.C. 91 which must be met prior to the issuance of a clearance to a vessel. One of the functions of the bond is to protect the

Government from loss if a penalty is found to be due after a violator has exhausted his administrative appeals provided by 46 U.S.C. 7 or 19 U.S.C. 1618 and 1623(c) and the vessel is outside of the jurisdiction of the United States.

In light of the foregoing, proposed § 113.64(a) has been revised to read as follows:

(a) *Agreement to Pay Penalties, Duties, Taxes, and Other Charges.* If any vessel, vehicle, or aircraft, or any master, owner, or person in charge of a vessel, vehicle or aircraft incurs a penalty, duty, tax or other charge provided by law or regulation, the obligors agree to pay the sum upon demand by Customs.

Section 113.64(c), covering delivery of export documents, as proposed covers only vessels and vehicles. The requirement that aircraft file export documents is contained in 15 CFR 30.20(a) and 30.21(b) which were promulgated under the authority of 13 U.S.C. 302. Under 13 U.S.C. 304, the Secretary of Commerce has the authority to state that period within which export documents may be filed. The provisions of 15 CFR 30.24 were issued under that authority and provide for penalties against aircraft identical to those against vessels and vehicles. Accordingly, proposed § 113.64(c) has been modified to include aircraft.

One commenter recommended that the word "international" be deleted from the title and text of proposed § 113.64. The commenter suggested that use of the word would seem to restrict the condition to "common" carriers and exclude private carriers.

The word "international" was used to distinguish those carriers who engage in transportation in international commerce from other types of carriers. The use of the word has no other connotation and would not bar a private carrier from use of a bond containing the international carrier bond conditions.

Another commenter stated that it appears from the proposed bond form that in order to obtain the bond coverage for instruments of international traffic which appear in proposed § 113.66 and on the bond as activity code 3a, the principal must also obtain international carrier coverage which appears in proposed § 113.64 and on the bond as activity code 3. The commenter suggests that the instruments of international traffic provisions be an independent coverage.

The commenter apparently misread the instructions to section II of the Customs Form 301, Customs Bond, which state that activity code 3a, instruments of international traffic coverage, may be obtained independently or in conjunction with activity code 3, international carrier coverage. It should also be noted that activity code 1a, drawback payment refunds coverage, may be checked independently or in conjunction with activity code 1, importer or broker coverage.

Three commenters voiced objection to the increased liability for liquidated damages under the proposed bond conditions. They noted that §§ 10.31(f), 10.39(d)(3), and 18.8, Customs Regulations (19 CFR 10.31(f), 10.39(d)(3), 18.8), presently provide for lesser amounts and are in conflict with the proposed bond conditions.

In light of the comments, Customs is conducting a complete review of the various liquidated damages provisions currently found in the Customs Regulation. Upon completion of this review a notice of proposed rulemaking will be published in the **Federal Register** to provide the public an opportunity to comment on any proposal to modify the various liquidated damages provisions. In the meantime Customs has modified the consequences of default condition in proposed §§ 113.62(i), 113.63(g), 113.66(c), 113.67(b), and 113.73 to indicate that if another amount is established by law or regulation (e.g. the amounts currently set forth in §§ 10.31(f), 10.39(d)(3), 18.8, Customs Regulations) that amount shall govern the extent of liability for liquidated damages. In addition, the bond conditions found in §§ 113.62(i), 113.63(g), 113.64(b), 113.67, and 113.73(a) of the final rule have been modified to indicate that liquidated damages will be in an amount equal to the value of the merchandise involved in the default or three times the value of the merchandise involved in the default if the merchandise is restricted merchandise or alcoholic beverages. Customs will issue instructions to the various district directors before the effective date of this final rule which defines the scope of restricted merchandise to include merchandise subject to quota, visa restrictions, food and drug restrictions, EPA/DOT vehicle restrictions and similar restricted merchandise. Further, the various bond conditions have been modified to indicate that the quantity and value of merchandise involved in a default is determined by Customs and that value as used in the bond conditions is determined under the provisions of 19 U.S.C. 1401a.

Finally, § 113.68 relating to the wool and fur products labeling acts has been modified to include within its scope the provisions of the Fiber Products Identification Act (15 U.S.C. 70 *et seq.*).

Another commenter stated that historically the amount of liquidated damages under a term bond has been limited to the amount which would have applied under a single entry bond. The commenter believes this principle should be continued under the continuous bonds.

The extent that the limitation of liability for liquidated damages is set forth in the regulations, the limitation will continue (see the previous comment in this respect). If a limitation is not set forth in the regulations (exclusive of the limitations set forth in the bond conditions contained in Subpart G, Part 113) the consequences of default provisions of the bonds will govern. However, further restrictions on the ultimate amount of liquidated damages collected may be established at a later date by regulation amendments or through the use of mitigation guidelines.

19. Another commenter requested that Customs either retain the existing Air Carrier Blanket Bond, Customs Form 7605 (which incorporates by reference the conditions of the Carrier's Bond, Customs Form 3587, Vessel, Vehicle, or Aircraft Bond (Term), Customs Form 7569, Bond for the Control of Certain Instruments of International Traffic, Customs Form 7587, and the General Term Bond for Entry of Merchandise, Customs Form 7595) or establish another activity code for air carriers on the Customs Form 301, Customs Bond, which would encompass all of the transactions covered by the Air Carrier Blanket Bond. The commenter's reason for the request is concern that having separate bonds would increase the total amount of bond coverage and require the filing of several bonds. The commenter also objected to air carriers being required to file the bond applications under the provisions of proposed § 113.12.

After reviewing all the comments, Customs is of the opinion that the separate bond coverage for each activity should be retained and that a consolidation of activities for the benefit of one segment of the trade community is not warranted. Customs believes this is the most equitable approach and most beneficial to the trade community. It also serves to make air carriers, when they act as importers, aware of their responsibilities in this area. While it may be true that bond coverage will increase for some air carriers, Customs believes it will decrease for many. For those whose bond increases, Customs believes the increase will be warranted and that it will serve to highlight that under the present system Customs was not in a position to adequately check on bond sufficiency. This is a problem the redesigned bond system was intended to

correct. Further, Customs is of the opinion that all persons engaged in the importation or entry of merchandise should be required to file a bond application under the provisions of proposed § 113.12(b). If this were not the case, Customs would not be in a position to adequately determine the bond amount required to protect the revenue and ensure compliance with the laws and regulations.

Part 142—Entry Process

One commenter notes that § 142.24, Customs Regulations (19 CFR 142.24), relating to term special permits provides for a one year term special permit for immediate delivery. The commenter states that, traditionally, application for the permit is made when the term bond is filed, and that the term of the permit and the bond are the same. The commenter opined that the special permit was limited to one year because the bond was so limited and suggested that under the new bond structure there is no need for a time limitation.

Customs agrees and has made appropriate conforming amendments.

Discussion of General Comments

1. One commenter objected to not including the bond conditions on the bond form or at least as an attachment to the bond form. The commenter suggested that the regulations are not easily accessible to many persons engaged in the various Customs transactions and having the conditions is necessary to know the bond obligations and the consequences of failure to meet those obligations.

Customs disagrees with the commenter's underlying premise that persons engaged in Customs transactions do not have access to the regulations or know their requirements. Clearly, custodians of Customs bonded merchandise, international carriers, drawback claimants who want accelerated payment or to use summary export procedures, persons who use instruments of international traffic, licensed public gaugers and the other persons who use Customs bonds know what is required of them under the regulations. While many importers may not be familiar with bond obligations or regulations requirements, they are not filing the entry. They generally use a broker who is or should be familiar with bond obligations and the regulations. Importers who file entry in their own name are, we believe, generally familiar with what is required of them. Thus, while the commenter's suggestion has surface appeal, upon reflection it is not believed to be necessary to include the bond conditions on the bond form or as an attachment to the bond form.

In addition, it should be remembered that as a part of the redesigned bond structure it was Customs intention to broadly word the bond conditions to avoid the need to constantly amend the provisions. Without also knowing what are the specific requirements of the regulations, having the broadly worded bond conditions would not be of great benefit.

2. One commenter stated that to prevent undue hardship and excessive expense for the importer, a bond currently in effect should not be required to be renewed until it has expired.

We believe the commenter means that a bond should not be required in the new format until the anniversary date of the current bond since under the present bond structure some bonds never expire. Under the proposed system the continuous bond will remain in effect until terminated by one of the parties to the contract. In light of this and the transition method set forth in the NPRM, we fail to understand how there would be a hardship or excessive expenses. Only persons with multiple bonds of the type covered by the same Customs activity under the redesigned bond system would be faced with terminating one or more bonds early.

In the NPRM it was stated that, after considering all of the comments in response to the ANPRM, Customs had decided it would be best to phase in the new bond structure over a one year period beginning 60 days after publication of the final rule in the **Federal Register**. On the sixtieth day after publication, all new bonds, single entry and continuous, would be required to be on the new Customs form 301 and contain the appropriate bond conditions set forth in proposed Subpart G, Part 113. The NPRM further stated that all existing term, consolidated, and continuous bonds will be converted to the new system on their anniversary date. If a principal has more than one bond for the same type of activity (e.g., bonds which will, under the new system, be encompassed by the "Basic Importation and Entry Bond Conditions" contained in § 113.62) all will be converted to the new system on the anniversary date of the bond with the earliest anniversary date. The responsibility for identification of the bonds affected and their anniversary dates will be with the principals. Under the above approach all bonds will be converted within one year.

If the above conversion approach were not adopted, Customs would be in the position of demanding additional security from a person engaged in a particular activity each time the anniversary date of a bond of the same type of activity occured. This would undoubtedly lead to greater confusion and expense than the conversion approach proposed and adopted in this document.

Several commenters objected to the proposal to make the new bond system effective 60 days after the final rule is published in the **Federal Register**. They indicated that not enough time was provided to print and distribute the new forms.

The vast majority of the commenters believed a 120 day delayed effective date was more appropriate. Customs agrees and has provided for a 120 day delayed effective date in this document but will adopt the conversion approach set forth in the NPRM as restated above.

3. One commenter objected to Customs issuing a "Courtesy Bond Renewal Notice".

The commenter apparently misread the NPRM discussion on this point. While a courtesy notice was proposed in the ANPRM, it was rejected in the NPRM based upon the comments received in response to the ANPRM and Customs review of the matter.

4. Another commenter indicated it would be helpful if the old and new bond forms were correlated and instructions issued explaining how the bond is to be completed for each transaction.

The old bond forms and, in some cases, specific conditions of the bond forms were correlated with the proposed bond conditions grouped by activity set forth in proposed Subpart G, Part 113. This information was listed in Appendix B of the NPRM, and it is reproduced as Appendix C to this document.

With respect to the second part of the comment, the Customs Form 301 is completed the same way for every type of activity or transaction. There are short concise instructions at the beginning of each section of the form and explanatory notes at the end of the form. Customs does not believe any further explanation is necessary.

5. One commenter stated that in a data processing environment forms requiring information on both front and reverse sides pose problems.

Customs recognized this as a potential problem in designing the new bond form and for that reason space was provided on the front of the form for all information required for bond control and data processing purposes. Only when an individual engaging in a Customs transaction lists numerous

tradenames or unincorporated divisions permitted to use the bond if there is a problem. If the space in section III of the Customs Form 301 is insufficient, only then is it necessary for data processing purposes to go to the reverse of the form. Based upon Customs experience the number of principals who will have to use the continuation portion of section III on the reverse of the form will be minimal.

6. Another individual inquired whether a check in block 2, Section II, Customs Form 301, means that all of the activities shown under the conditions for "custodian of bonded merchandise" are covered by the one bond.

All activities are covered. However, it must be kept in mind that just because a bond principal has a bond covering all the activities, the principal has not necessarily been given the authority to transact the business of the other activities. As under existing regulations, such authority is conveyed only by the issuing by Customs of the appropriate permit, license, etc. after compliance with the appropriate regulatory provisions.

7. One commenter stated that under the existing bond structure large importers are able to divided their total bond liability among several sureties so that the total financial commitment for any one surety is not large in relation to the principal's financial condition. The commenter further indicated that both the warehouse bond and the consumption entry bond are two of the bonds which frequently are split among several sureties. The recommendations was made that Customs, under the revised bond structure, permit more than one bond covering the same group of transactions (e.g. basic custodial bond conditions) to be filed by the same principal and secured by different sureties.

Two of the objectives of the redesigned bond structure were to reduce the excessive bond coverage burden on those persons conducting Customs business and to reduce the administrative burden and costs associated with controlling a multiplicity of bonds for both Customs and the trade community. Customs believes that if the type of situation suggested by the commenter were authorized it would negate the cost and burden savings this aspect of the restructured bond system was designed to realize. This restriction is no different than that which presently exists under the General Term Bond for Entry of Merchandise, Customs Form 7595. Further, as with the present bond structure, there is nothing to preclude a person from supplementing bond coverage with a single transaction bond when required. However, only one continuous bond will be authorized for a particular activity. In order to ensure that this is understood by all parties, a provision to this affect has been added to § 113.11.

8. Another commenter inquired as to what information is to be placed in the blocks labeled "Surety Agents" and "Identification No." which appear at the bottom of the proposed Customs Form 301, Customs Bond. The commenter suggested that this matter could be clarified by footnotes. The commenter also questioned the need for two blocks for this information.

The explanatory footnotes 5 and 6 on the back of the proposed Customs Form 301 discuss these two data blocks. (These footnotes appear as 8 and 9, respectively, in the final Customs Form 301, Appendix B). Through inadvertence the footnote numbers were not placed on the front of the form next to the blocks. This has been corrected in the final rule. With respect to the commenter's second comment, two blocks were included on the form for the surety agent's name and identification number to accommodate co-sureties represented by different agents.

9. Several commenters were of the opinion that Customs was proposing to discontinue the use of IRS employer identification numbers. They expressed strong disapproval of this action.

Customs did not propose to discontinue the use of the IRS employer identification numbers (known for Customs purposes as IRS numbers or importer numbers). The IRS number is a critical data element in other Customs automated systems, in addition to the bond system. The IRS number will be one of the key data elements used to interface the bond system with these other systems.

Customs Form 301, requires an importer number, to be placed by the principal in the "Importer No., Signature" block located on the bottom and front of the form. Explanatory footnote 2 on the back of the bond form (footnote 3 in the final Customs Form 301, Appendix B) states that the importer number is the Customs identification number filed pursuant to § 24.5, Customs Regulations (19 CFR 24.5). Section 24.5 sets forth three numbers that may be used by a person, business or firm that intends to transact Customs business. These numbers include the IRS number, the Social Security Number, or a Customs assigned number. These numbers, also referred to as importer numbers, will provide Customs with the means of identifying a bond principal.

10. Another commenter recommended that more space be provided on the Customs Bond, Customs Form 301, for inserting the limit of liability.

Sufficient space has been included to accommodate $999 million in coverage including space for all the commas. Customs believes that amount of space is sufficient to accommodate the needs of a person engaging in any of the various Customs transactions covered by the bond.

11. Two comments raised a question regarding the Customs broker's bond liability as a result of a provisional release procedure in use along the United States-Canadian border. Under this procedure a broker obtains release of merchandise in its own name as importer or allows its name to be listed by another on the release documentation as the importer. As a result Customs has ruled that the broker's bond obligation remains unsatisfied unless estimated duties are deposited with the entry documentation. The commenters proposed that Customs authorize a procedure to allow the broker to transfer liability from the broker's bond to the actual owner's bond, or if the actual owner does not have a bond that the broker obtain a single entry bond in the actual owner's name.

The pivotal issue is whether 19 U.S.C. 1505(a) prohibits the transfer of the importer of record's liabilities prior to the filing of the entry summary. Section 1505(a) allows the Secretary of the Treasury to prescribe the time for depositing estimated duties by regulation. This has been set at 10 days after release in §§ 141.101(a), 142.12(c), and 142.33, Customs Regulations (19 CFR 141.101(a), 142.12(c), 142.33). Amendments made by Pub. L. 97–446 to the entry statutes have not affected section 1505(a). Customs is therefore of the opinion that the transfer of the liability to deposit estimated duties is not proscribed by statute.

This matter has been the subject of a test initiated in Blaine, Washington, on October 3, 1983. The test procedure permits a broker to obtain release of goods using the broker's bond. After release a broker may file a modified Declaration of Actual Owner, Customs Form 3347, and charge the importer's bond or provide a single entry bond in the importer's name. At the conclusion of the test and after evaluation of the results, a decision will be made regarding whether to implement the procedure nationwide. If it is decided to authorize the use of the procedure a notice of proposed rulemaking will be published in the **Federal Register** giving

the public an opportunity to comment on the proposal. Accordingly, it would be premature to act on the commenter's suggestion at this time.

12. Several comments were generated with respect to bond filing procedures and bond numbering.

One commenter indicated that it files its bonds with Customs either by mail or hand delivery. The commenter suggested that after Customs approval, if the bond was mailed to Customs, the principal and surety copies of the bond be mailed to the respective parties or, if hand delivered to Customs, the approved bond could either be mailed to the principal and surety or both copies could be returned to the party that delivered the bond to Customs. Another commenter indicated that the surety copy of the bond should not be returned to the party who submitted it, but should be returned to the surety.

Customs has no problem with the use of any of the suggested procedures. However, because different parties prefer different ways of handling the matter, as is demonstrated by the comments, Customs does not believe this should be the subject of regulations. However, if the parties make their wishes known in this area when the bonds are filed, and the requests are reasonable, Customs will comply. The parties can make their wishes known by providing stamped, self-addressed envelopes at the time of filing. When stamped, self-addressed envelopes are not provided with the submission of the bond, copies of the approved bond will be returned to the party that submitted the bond to Customs.

One commenter requested that space be provided on the bond for the surety to place its bond number, or the surety be permitted to annotate the form with its bond number in the margin. Another commenter requested that Customs allow the surety to pre-number bonds with the first three digits as a surety code followed by a unique number.

Customs will not provide an information block on the form for the surety's bond number. However, Customs has no objection to the surety placing its number on the bond form, providing the placement of that number does not interfere with any of the information areas or blocks on the Customs bond. To insure that there will be no problems in this area, any surety wanting to pre-number the bond forms with their own number should send a letter to the Director, Carriers, Drawback and Bonds Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229, describing the placement of the surety bond number and requesting approval. While approval is not necessary, it will insure a bond is not rejected by Customs field personnel because of pre-numbering.

One commenter indicated that if the objective of the numerical bond control is to have a system whereby both the surety and Customs can expeditiously locate bonds in their respective files, a dual numbering system (i.e. Customs bond number and surety bond number) should be implemented. Under such a system, Customs computer would include a data file containing the surety bond numbers which would not exceed 20 spaces, either numerical or alpha-numerical including punctuation.

One of the alternatives considered by Customs for bond control during the initial stages of the development of the redesigned bond structure was a dual numbering system. This approach was rejected because of (1) the additional data storage required, (2) additional input requirements, and (3) the lack of a standard bond control system within the surety industry for bonds. This latter reason is a major obstacle for adoption of this approach. Without standardization there is no efficient way for the computer to edit and validate the surety bond numbers. Without such edits and validations, there is no assurance that the surety bond numbers entered into the system are correct. Customs has no control over the numbering schemes the sureties use. For a dual numbering control to be viable, Customs would have to develop and maintain computer edit and validation routines for each individual surety bond numbering system. This would be prohibitive. Accordingly, the suggestion cannot be adopted.

Another commenter objected to the bond numbering system, stating that an importer could have a different bond number for every port of entry, thereby significantly increasing the demands on the system. The commenter opined that Customs is already overloaded with numbers and that the importer number in conjunction with the surety code should provide an adequate method of identifying bonds.

The commenter apparently misread the NPRM. An importer will not have a bond for each port of entry. Only one bond which is valid nationwide for each activity will be authorized. The importer number in conjunction with the surety code, as stated in the NPRM (48 FR 11035, 11036), is not a unique number. If such a system were used, more than one bond could have the same number. For example, a person who is an importer of merchandise would be required to have a bond containing the basic importation and entry bond conditions (see § 113.62). If this same person was also a cartman a basic custodial bond would also be required (see § 113.63). By using the same surety both bonds would have the same numbers. If the person also engaged in other Customs activities or posted more than one single entry bond for the production of a bill of lading many bonds with the same number could exist. Accordingly, the commenter's suggestion cannot be adopted.

Miscellaneous Matters

1. No comments were received relating to the proposed corporate surety power of attorney form, which was set forth as Appendix C to the NPRM (48 FR 11069, 11070). Further, Customs review has not revealed any need to modify the form from that proposal. Accordingly, the form, which is reprinted as Appendix D to this document, is adopted.

2. Under the provisions of section 22.20a, Customs Regulations (19 CFR 22.20a), which was redesignated as § 191.72(b) by T.D. 83–212 published in the **Federal Register** on October 14, 1983 (48 FR 46740), the regional commissioners have the authority to approve the Bond for Accelerated Payment of Drawback (Single Entry), Customs Form 7609, and Bond for Accelerated Payment of Drawback (Term), Customs Form 7611. While the NPRM proposed to substitute a reference to the Customs Form 301, containing the bond conditions set forth in § 113.65, relating to repayment of erroneous drawback payment, for the two Customs bonds, in § 22.20a, the authority of the regional commissioners to approve the bond was not recognized in proposed Part 113. Accordingly, § 113.13 has been modified to reflect this authority. Conforming amendments were also required to §§ 113.15, 113.26, 113.32, 113.37 and 113.40. The NPRM proposed amendments to §§ 22.7(d)(2), 22.20a and 22.28(b), Customs Regulations (19 CFR 22.7(d)(2), 22.20a, 22.28(b)). These provisions, as a result of T.D. 83–212, now appear in §§ 191.53(d), 191.72(b) and 191.133(b), Customs Regulations (19 CFR 191.53(d), 191.72(b), 191.133(b)). The substance of the conforming amendments to Part 22 in the NPRM has been incorporated into the above referenced Part 191 sections by this document.

3. One commenter suggested, as a means of ensuring that entries reflect correct and current bond information, that a section be added to the regulations permitting brokers access to all bond information in Customs files.

The provisions of the Freedom of Information Act (5 U.S.C. 552) and 18 U.S.C. 1905, limit the disclosure of confidential commercial information to third parties. While it would be permissible for Customs to provide brokers access to bond information relating to their own clients, under no circumstances would a broker be allowed unrestricted access to the entire bond file. There are presently insufficient administrative controls built into the system to ensure that commercial or financial information would not be released if brokers were given access to the system.

Any system developed to prevent improper disclosure must not burden Customs or the brokers using the system and be able to provide verification of the client-broker relationship. The problems in developing such a system involve other automated data processing areas outside of the revised bond structures. Accordingly, Customs has determined that the release of bond information should be considered in the implementation effort of the more comprehensive Automated Commercial System (ACS) and not as a part of this document.

Executive Order 12291

This regulation is not a "major rule" as defined by section 1(b) of executive Order 12291. Accordingly, a regulatory impact analysis is not required under E.O. 12291.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604), are applicable to this proposal. An initial regulatory flexibility analysis was prepared and included in the NPRM as Appendix D. A final regulatory flexibility analysis is attached to this document as Appendix. E.

Paperwork Reduction Act

The NPRM, Customs Bond (Customs Form 301), and Corporate Surety Power of Attorney (Customs Form 5297), were sent to the Office of Management and Budget (OMB) prior to publication. The OMB filed comments to the NPRM which expressed concern that small importing and brokerage firms could be adversely affected in comparison to large firms and requested to be advised of any public comments received relating to this issue. As indicated earlier in this document, numerous comments were received from both small and large entities. The comments, all of which were discussed in the "Discussion of Comments" portion of this document, overwhelmingly supported the revision concept. Changes made as a result of those comments were discussed and reasons were given for rejecting certain comments as required by 44 U.S.C. 3504(h)(3). None of those comments, however, suggested that the proposed revised bond structure would adversely affect small importing and brokerage firms in comparison to large firms. On this basis, Customs, pursuant to 44 U.S.C. 3504(h)(3), has determined to reject the comments filed by OMB. The final rule has been submitted to OMB for review pursuant to 44 U.S.C. 3504(h)(5)(C).

Drafting Information

The principal author of this document was John E. Elkins, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects

19 CFR Parts 4, 6, 7, 10, 54, 114, 123, 127, 132, 133, 134, 141, 146, 191

Bonds, Customs duties and inspection, Exports, Imports.

19 CFR Parts 11, 12, 24, 101, 112, 142, 144, 147, 151, 162

Bonds, Customs duties and inspection, Imports.

19 CFR Parts 18, 19, 113, 125

Bonds, Customs duties and inspection, Exports, Imports, Surety bonds.

19 CFR Part 145

Bonds, Customs duties and inspection, Imports, Warehouses.

19 CFR Part 148

Airmen, Customs duties and inspection, Foreign officials, Government employees, Imports, International organizations, Seamen, Taxes.

19 CFR Part 172

Bonds, Customs duties and inspection, Liquidated damages.

19 CFR Part 174

Bonds, Customs duties and inspection, Imports, Protests.

Amendments to the Regulations

Parts 4, 6, 7, 10, 11, 12, 18, 19, 24, 54, 101, 112, 113, 114, 123, 125, 127, 132, 133, 134, 141, 142, 144, 145, 146, 147, 148, 151, 162, 172, 174, and 191, Customs Regulations (19 CFR Parts 4, 6, 7, 10, 11, 12, 18, 19, 24, 54, 101, 112, 113, 114, 123, 125, 127, 132, 133, 134, 141, 142, 144, 145, 146, 147, 148, 151, 162, 172, 174, 191), are amended as set forth below.

Approved: August 17, 1984.

William von Raab,

Commissioner of Customs.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

§ 4.10 [Amended]

1. Section 4.10 is amended by removing the words "Customs Form 7567 or 7569" in the fourth sentence and inserting, in their place, the words "Customs Form 301, containing the bond conditions set forth in § 113.64 of this chapter".

§ 4.13 [Amended]

2. Section 4.13(b) is amended by removing the words "Customs Form 7593" and inserting, in their place, the words "Customs Form 301, containing the bond conditions relating to international carriers set forth in § 113.64 of this chapter in an amount equal to twice the potential duty liability".

§ 4.14 [Amended]

3. Section 4.14(b)(1) is amended by removing the words "Customs Form 7567 or 7569" in the fourth sentence and inserting, in their place, the words "Customs Form 301, containing the bond conditions set forth in § 113.64 of this chapter".

§ 4.16 [Amended]

4. Section 4.16(a) is amended by removing the words "a bond on Customs Form 7567 in such penal sum as the district director of Customs deems sufficient but not less than $1,000, or the usual term bond on Customs Form 7569" and inserting, in their place, the words "a single entry of continuous bond on Customs Form 301 containing the bond conditions set forth in § 113.64 of this chapter, in such amount as the district director deems appropriate but not less than $1,000".

§ 4.30 [Amended]

5. Section 4.30(c) is amended by removing the words "bond,[62] on Customs Form 7567 or 7569, has been received" in the first sentence and inserting, in their place, the words "bond has been filed on Customs Form 301, containing the bond conditions set forth in § 113.64 of this chapter relating to international carriers[63]".

6. Section 4.30(c) is further amended by removing the words "Customs Form 3587" in the second sentence and inserting, in their place, the words "Customs Form 301, containing the bond conditions set forth in § 113.63 of this

chapter relating to basic custodial bond conditions".

7. Section 4.30 (f) and (g) are amended by removing the words "for any period up to 1 year, but longer than the period of the supporting bond," and inserting, in their place, the words ", which will remain in effect until revoked by the district director, terminated by the carrier, or automatically cancelled by termination of the supporting continuous bond,".

8. Section 4.30(i)(2) is amended by removing the words "A vessel bond, on Customs Form 7567 or 7569" and inserting, in their place, the words "A bond on Customs Form 301, containing the bond conditions set forth in § 113.64 of this chapter relating to international carriers".

§ 4.32 [Amended]

9. Section 4.32(b) is amended by removing the words "Customs Form 7567" and inserting, in their place, the words "Customs Form 301, containing the bond conditions set forth in § 113.64 of this chapter relating to international carriers".

§ 4.34 [Amended]

10. Section 4.34(h) is amended by removing the words "vessel bond" in the third sentence and inserting, in their place, the words "bond on Customs Form 301, containing the bond conditions relating to international carriers set forth in § 113.64 of this chapter".

11. Section 4.38(a) is amended by adding four sentences at the end of the paragraph to read as follows:

§ 4.38 Release of cargo.

(a) * * * when merchandise is released without proper permit before entry has been made, the district director shall issue a written demand for redelivery. The importing carrier shall redeliver the merchandise to Customs within 30 days after the demand is made. The district director may authorize unentered merchandise brought in by one carrier for the account of another carrier to be transferred within the port to the latter carrier's facility. Upon receipt of the merchandise the latter carrier assumes liability for the merchandise to the same extent as though the merchandise had arrived on its own vessel.

* * * * *

§ 4.75 [Amended]

12. Section 4.75(a) is amended by removing the words "Customs Form 7567 or Customs Form 7569" in the first sentence and inserting, in their place, the words "Customs Form 301, containing the bond conditions set forth in § 113.64 of this chapter relating to international carriers".

§§ 4.85 and 4.88 [Amended]

13. Sections 4.85(a) and 4.88(a) are amended by removing the words "vessel bond (Customs Form 7567 or 7569)" in the first sentence of each paragraph and inserting, in their place, the words "bond on Customs Form 301, containing the bond conditions set forth in § 113.64 of this chapter relating to international carriers".

14. Section 4.90(e) is revised to read as follows:

§ 4.90 Simultaneous vessel transactions.

* * * * *

(e) When a single entry bond, containing the bond conditions set forth in § 113.64, relating to international carriers, is filed at any port and it is applicable to the current voyage of the vessel, it shall cover all other transactions engaged in on that voyage of a like nature and another bond containing the international carrier bond conditions need not be filed.

(R.S. 251, as amended, sections 623, as amended, 624, 46 Stat. 759, as amended (19 U.S.C. 66, 1623, 1624))

PART 6—AIR COMMERCE REGULATIONS

§ 6.2 [Amended]

1. Sections 6.2 (e) and (f) are amended by removing the words ", but not longer than the period of the supporting bond," in the first sentence of each paragraph.

2. Sections 6.2 (e) and (f) are further amended by removing the words ", on Customs Form 7567 or 7569," in the last sentence of paragraph (e) and the second sentence of paragraph (f).

3. Section 6.2(g) and the first and second sentences of § 6.9(a) are amended by removing the words "on Customs Form 7567 or 7569" and inserting, in their place, the words "on Customs Form 301, containing the bond conditions set forth in § 113.64 of this chapter relating to international carriers".

§ 6.8 [Amended]

4. Section 6.8 is amended by removing the words "proper bond is given" in the fourth sentence of paragraph (a) and inserting, in their place, the words "bond is filed on Customs Form 301, containing the bond conditions set forth in § 113.64 of this chapter".

5. Section 6.8 is further amended by removing the words "pursuant to the bond" in the fourth sentence of paragraph (a).

6. Section 6.8 is further amended by removing the words "the 4-day bond period" in the fourth sentence of paragraph (e) and inserting, in their place, the words "the 4-day period after departure".

7. The first three sentences of § 6.20(c) are revised to read as follows:

§ 6.20 Conditions for transportation of transit air cargo.

* * * * *

(c) Transit air cargo may be transported to another port only when receipted for by an airline designated as a common carrier, for the transportation of bonded merchandise, which has on file a bond on Customs Form 301, containing the bond conditions set forth in section 113.63 of this chapter for such transportation. Transit air cargo may be exported from the port of arrival only when covered by a bond on Customs Form 301, containing the bond conditions set forth in § 113.63 of this chapter relating to exportation of merchandise. The importing airline, whether registered in the United States or a foreign country, if it has been designated as a carrier of bonded merchandise as set forth above, may receipt for the air cargo, obligate its bond if it contains the bond conditions set forth in § 113.63 of this chapter, and deliver the air cargo to an authorized domestic carrier for in-bond transportation beyond the port of arrival under the importing airline bond. * * *

* * * * *

§ 6.22 [Amended]

8. Section 6.22(e) is amended by removing the words "common carrier's bond" in the first sentence and inserting, in their place, the words "bond containing the bond conditions set forth in § 113.63 of this chapter".

(R.S. 251, as amended, sections 623, as amended, 624, 46 Stat. 759, as amended (19 U.S.C. 66, 1623, 1624))

PART 7—CUSTOMS RELATIONS WITH INSULAR POSSESSIONS AND GUANTANAMO BAY NAVAL STATION

Section 7.8(c) is revised to read as follows:

§ 7.8 Insular possessions of the United States other than Puerto Rico.

* * * * *

(c) When merchandise excluding any shipments valued at $100 or less, arrives unaccompanied by a certificate of origin or a declaration of the shipper, or when any other document necessary to complete entry is lacking, a bond containing the bond conditions set forth in section 113.62 of this chapter, for the production thereof may be taken on Customs Form 301. A bond for

production of a bill of lading shall be taken on Customs Form 301 and contain the bond conditions set forth in section 113.69 of this chapter.

* * * * *

(R.S. 251, as amended, sections 623, as amended, 624, 46 Stat. 759, as amended (19 U.S.C. 66, 1623, 1624))

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

§ 10.24 [Amended]

1. Section 10.24(f) is amended by removing the words "an appropriate bond" and inserting, in their place, the words "a bond on Customs Form 301 containing the bond conditions set forth in § 113.62 of this chapter".

2. Section 10.31(f) is amended by removing the words "Customs Form 7563" in the first sentence and inserting, in their place, the words "Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter".

3. Section 10.31(f) is further amended by revising the third sentence to read as follows:

§ 10.31 Entry; bond.

* * * * *

(f) * * * If appropriate a carnet, under the provisions of Part 114 of this chapter, may be filed in lieu of a bond on Customs Form 301 (containing the bond conditions set forth in § 113.62 of this chapter). * * *

* * * * *

§ 10.31 [Amended]

4. Section 10.31(g) is amended by removing the words "the bond period" in the second sentence and inserting, in their place, the words "the period of time during which the merchandise may remain in the Customs territory of the United States under bond".

§ 10.36 [Amended]

5. Sections 10.36(b) and (c) are amended by removing the words "the period of the bond" in the first sentence of each paragraph and the words "the bond period" in the second sentence of each paragraph, and, in each instance inserting, in their place, the words "the period of time during which the merchandise may remain in the Customs territory of the United States under bond".

6. Section 10.36(b) is further amended by removing the word "bonds" in the second sentence and inserting, in its place, the word "bond".

7. The second sentence of § 10.36a(a) is revised to read as follows:

§ 10.36a Vehicles, pleasure boats and aircraft brought in for repair or alteration.

(a) * * * The bond, prescribed by section 10.31(f), filed to support entry under this section shall be without surety or cash deposit, except as provided by this paragraph and paragraph (d) of this section. * * *

* * * * *

8. The section heading and the first sentence of § 10.37 are revised to read as follows:

§10.37 Extension of time for exportation.

The period of time during which merchandise entered under bond under schedule 8, part 5, subpart C, Tariff Schedules of the United States (19 U.S.C. 1202), may remain in the Customs territory of the United States, may be extended for not more than two further periods of 1 year each, or such shorter period as may be appropriate. Extensions may be granted by the district director at the port where the entry was filed upon written application on Customs Form 3173, provided the articles have not been exported or destroyed before the receipt of the application, and liquidated damages have not been assessed under the bond before receipt of the application. Any untimely request for an extension of time for exportation shall be referred to the Director, Carriers, Drawback and Bonds Division, Customs Headquarters, for disposition. Any request for relief from a liquidated damage assessment in excess of the district directors delegated authority shall be referred to the Director, Entry Procedures and Penalties Division, Customs Headquarters, for disposition.* * *

§10.38 [Amended]

9. Section 10.38(a) is amended by removing the words "a temporary importation bond" in the first sentence and inserting, in their place, the words "schedule 8, part 5, subpart C, Tariff Schedules of the United States (19 U.S.C. 1202)".

§10.39 [Amended]

10. Section 10.39 is amended by removing the word "bonds" in the section heading and inserting in its place the words "bond charges".

11. Section 10.39 is further amended by removing the word "Bonds" in the first sentence of paragraph (a) and inserting, in its place, the words "Charges against bonds".

12. Section 10.39 is further amended by removing the word "bond" the first time it is used in the third sentence of paragraph (a) and inserting, in its place, the words "bond charge,".

13. Section 10.39 is further amended by removing the words "the bond period" in the third sentence of paragraph (a), in the first sentence of paragraph (b), in the first sentence of paragraph (d)(1), in the first sentence of paragraph (e)(2), and in the first sentence of paragraph (e)(3) and, in each instance inserting, in their place, the words "the period of time during which the articles may remain in the Customs territory of the United States under bond".

14. Section 10.39(d)(1) is amended by removing the words "to the entire amount of the bond. If the entry covering the articles is charged against a term bond, the demand shall be limited to an amount equal" in the first and second sentences.

§10.40 [Amended]

15. Section 10.40(b) is amended by removing the words "the bond period" in the first sentence and inserting, in their place, the words "the period of time during which articles may remain in the Customs territory of the United States under bond".

§10.41a [Amended]

16. Section 10.41a(c) is amended by removing the words "on Customs Form 7587" in the first and fifth sentences and inserting, in their place, the words "on Customs Form 301, containing the bond conditions set forth in § 113.66 of this chapter".

17. Section 10.41a(c) is further amended by removing the words ", as provided for in § 113.14(p) of this chapter" in the fifth sentence and ", Customs Form 7587," in the sixth sentence.

18. Section 10.41b(h) is revised to read as follows:

§10.41b Clearance of serially numbered substantial holders or outer containers.

* * * * *

(h) A continuous bond containing the conditions set forth in § 113.66 of this chapter shall be filed with the district director. If the conditions are violated the district director shall issue a claim for liquidated damages equal to the domestic value of the holder or container established in accordance with section 606, Tariff Act of 1930, as amended (19 U.S.C. 1606). If the domestic value exceeds the amount of the bond the claim for liquidated damages will be equal to the amount of the bond.

* * * * *

§ 10.49 [Amended]

19. Section 10.49(a) is amended by removing the words "on Customs Form 7565" in the first sentence and inserting, in their place, the words "on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter".

20. Section 10.49(a) is amended by adding a sentence at the end of the paragraph to read as follows:

§ 10.49 Articles for exhibition; requirements on entry.

* * * * *

(b) * * * The society or institution shall file, within 6 months after the date of filing the entry, any document or proof demanded by the district director in connection with the entry.

§10.59 [Amended]

21. Section 10.59(e) is amended by removing the words "on Customs Form 7603" in the second sentence and inserting, in their place, the words "on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter".

§10.60 [Amended]

22. Section 10.60 is amended by removing the word "bonds" in the section heading and inserting in its place, the word "bond".

23. Section 10.60 is further amended by removing the words "on Customs Form 7561 or other appropriate form" in paragraph (c) and inserting, in their place, the words "on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter".

24. Section 10.60 is further amended by removing the words "on Customs Form 7557, 7559, or 7595" in the first and second sentences of paragraph (f) and inserting in their place, the words "on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter".

25. Section 10.60 is further amended by removing the words "on Customs Form 7603 in lieu of any other bond" in paragraph (g) and inserting, in their place, the words "on Customs Form 301, containing the bond conditions set forth in §113.62 of this chapter".

26. Section 10.64(a) is amended by removing the words "the warehouse or rewarehouse entry bond or the bond identified in § 10.60 (c) or (f) for articles withdrawn under section 309, Tariff Act of 1930, as amended, for use as supplies, equipment, or for repair of a vessel" in the first sentence and inserting, in their place, the words "a bond on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter".

27. Section 10.64(a) is further amended by adding a sentence between the first and second sentence to read as follows:

§10.64 Crediting or cancellation of bonds.

(a) * * * The withdrawer shall cause the merchandise to be delivered to the lading vessel, and shall provide such evidence of lading as required by the district director within 30 days after lading, except as provided in this section. * * *

§10.65 [Amended]

28. Section 10.65(c)(3) is amended by removing the words "The bond on Customs Form 7561 or other appropriate form" in the third sentence and inserting, in their place, the words "A bond on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter".

§ 10.66 [Amended]

29. Section 10.66(b) is amended by adding the words "on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter" after the word "bond" in both the first and second sentences.

§ 10.67 [Amended]

30. Section 10.67(b) is amended by adding the words "on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter" after the word "bond" in the second sentence.

§ 10.71 [Amended]

31. Section 10.71 is amended by removing the words "on Customs Form 7551 or 7553" in the first sentence of paragraph (a), in the second sentence of paragraph (e), and in first sentence of paragraph (f) and, in each instance inserting, in their place, the words "on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter".

32. Section 10.71 is further amended by removing the word "Such" in paragraph (b) and inserting, in its place, the words "Charges against the".

§ 10.80 [Amended]

33. Section 10.80 is amended by removing the words "on Customs Form 7561 or other appropriate form" in the sixth sentence and inserting, in their place, the words "on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter".

§ 10.81 [Amended]

34. Section 10.81(b) is amended by removing the words "on Customs Form 7561 or other appropriate form when necessary" in the second sentence and inserting, in their place, the words "on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter".

§ 10.83 [Amended]

35. Section 10.83(a) is amended by adding the words "charges against the" after the words "the district director may cancel the".

36. Section 10.90(f) is revised to read as follows:

§ 10.90 Master records and metal matrices.

* * * * *

(f) A bond on Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter shall be filed for importations under this section.

* * * * *

§ 10.92 [Amended]

37. Section 10.92 is amended by removing the word "penalty" in the section heading and inserting, in its place, the words "liquidated damages".

38. Section 10.92 is further amended by removing the words "single entry bond on Customs Form 7547, unless the transaction is charged against a term bond on Customs Form 7549, or other appropriate form" in the first sentence of paragraph (a) and inserting, in their place, the words "bond on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter".

39. Section 10.92 is further amended by removing the words "The penalty of the" in the second sentence of paragraph (a) and inserting, in their place, the word "A".

40. Section 10.92 is further amended by removing the words "The penalty of the term bond" in the third sentence of paragraph (a) and inserting, in their place, the words "The amount of a continuous bond".

41. Section 10.92 (b) and (c) are amended by removing the word "term" in paragraph (b) and in the first and second sentences of paragraph (c) and, in each instance inserting, in their place, the word "continuous".

§ 10.108 [Amended]

42. Section 10.108(b) is amended by removing the words "as provided for in section 141.68 of this chapter" in the last sentence and inserting, in their place, the words "on Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter".

§ 10.135 [Amended]

43. Section 10.135 is amended by removing the last sentence.

§ 10.173 [Amended]

44. Section 10.173(a)(3) is amended by removing the words "Customs Form 7551, 7553, or 7595" in the first sentence and inserting, in their place, the words "Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter,".

45. Section 10.173(a)(3) is further amended by removing the second sentence.

(R.S. 251, as amended, sections 623, as amended, 624, 46 Stat. 759, as amended (19 U.S.C. 66 1623, 1624))

PART 11—PACKING AND STAMPING; MARKING

§ 11.12 [Amended]

1. Section 11.12(c) is amended by removing the words "the usual customs single entry or term bond in such amount as is prescribed for such bonds in § 113.14 of this chapter" and inserting, in their place, the words "bonds on Customs Form 301, containing the bond conditions set forth in § 113.62 and/or § 113.68 of this chapter, as appropriate, in such amount as the district director may require".

§ 11.12a [Amended]

2. Section 11.12a(c) is amended by removing the words "the usual customs single entry or term bond in such amounts as is prescribed for such bonds in § 113.14 of this chapter" and inserting, in their place, the words "bonds on Customs Form 301, containing the bond conditions set forth in § 113.62 and/or § 113.68 of this chapter, as appropriate, in such amount as the district director may require".

§ 11.12b [Amended]

3. Section 11.12b(c) is amended by removing the words "the usual customs single entry or term bond in such amount as is prescribed for such bonds in § 113.14 of this chapter" and inserting, in their place, the words "bonds on Customs Form 301, containing the bond conditions set forth in § 113.62 and/or § 113.68 of this chapter, as appropriate, in such amount as the district director may require".

(R.S. 251, as amended, sections 623, as amended, 624, 46 Stat. 759, as amended (19 U.S.C. 66, 1623, 1624))

PART 12—SPECIAL CLASSES OF MERCHANDISE

§ 12.3 [Amended]

1. Section 12.3 is amended by removing the words "on Customs Form 7551, 7553, or 7595, containing a condition for the return of the merchandise, or any part thereof, to Customs custody upon demand of the district director of Customs" in the second sentence and inserting, in their place, the words "on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter".

§ 12.8 [Amended]

2. Section 12.8 is amended by removing the words "on Customs Form 7551, 7553, or other appropriate form" in the third sentence of paragraph (a) and inserting, in their place, the words "on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter".

3. Section 12.8 is further amended by removing the words "of bonds" in the first sentence of paragraph (b) and inserting, in their place, the words "of a bond".

§ 12.12 [Amended]

4. Section 12.12 is amended by removing the words "on Customs Form 7551, 7553, or other appropriate form" and inserting, in their place, the words "on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter".

5. Section 12.16(c) is amended by placing a period after the word "bond" the first time it is used in the paragraph, and removing the remainder of the paragraph.

6. Section 12.16(c), is further amended by adding two sentences at the end of the paragraph to read as follows:

§ 12.16 Joint regulations of the Secretary of the Treasury and the Secretary of Agriculture.

* * * * *

(c) * * * The bond shall be filed with the district director on Customs form 301 and contain the bond conditions set forth in § 113.62 of this chapter. In case of default the district director shall issue a claim for liquidated damages under the bond.

7. Section 12.26(e) is amended by revising the third and fourth sentences to read as follows:

§ 12.26 Importations of wild animals, fish, amphibians, reptiles, molluska, and crustaceans; prohibited and endangered and threatened species; designated ports of entry; permits required.

* * * * *

(e) * * * The shipment may be immediately released if a bond is filed with the district director on Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter, in an amount equal to the entered value plus estimated duties. If the bond conditions are violated the district director shall issue a claim for liquidated damages under the bond. In lieu of filing a bond the merchandise may be left in Customs custody at the risk and expense of the importer pending issuance of the permit.

* * * * *

8. Section 12.26(h) is amended by removing the words "the bond shall be forfeited" in the last sentence and inserting, in their place, the words "a claim for liquidated damages shall be issued under the bond".

§ 12.33 [Amended]

9. Section 12.33 is amended by removing and reserving paragraph (c).

§ 12.39 [Amended]

10. Section 12.39(b)(2) is amended by removing the words "a special rider to existing entry bonds, as described in § 113.14(z) of this chapter" in the first sentence and inserting, in their place, the words "a single entry bond on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter in an amount determined by the International Trade Commission".

11. Section 12.39(b)(3) is amended by removing the word "rider" in the third sentence.

§ 12.73 [Amended]

12. Section 12.73(c) is amended by removing the words "on Customs Form 7551, 7553, or 7595" in the first sentence and inserting, in their place, the words "on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter,".

13. Section 12.73(c) is further amended by removing the second sentence.

14. Section 12.73(c) is further amended by removing the words "a bond given on Form 7551" in the fifth sentence, and inserting, in their place, the words "the bond, if it is a single entry bond, or if a continuous bond is used, the amount that would have been taken under a single entry bond".

15. Section 12.73(c) is further amended by removing the sixth sentence.

§ 12.80 [Amended]

16. Section 12.80(b)(1)(iii), is amended by removing the words "the conditions of the bond required by paragraph (e)(1) of this section have been satisfied" in the last sentence and inserting, in their place, the words "the vehicle or equipment item described in the declaration has been brought into conformity with all applicable safety standards".

17. Section 12.80(e)(1) is amended by removing the words "on Customs Form 7551, 7553, or 7595 in the amount required by § 113.14 of this chapter" in the first sentence and inserting, in their place, the words "on Customs Form 301,

containing the bond conditions set forth in § 113.62 of this chapter".

18. Section 12.80(e)(1) is further amended by removing the second sentence.

19. Section 12.80(e)(1) is further amended by removing the words "The bond release" in the third sentence and inserting, in their place, the words "An approval".

20. Section 12.80(e)(1) is further amended by removing the words "bond release" in the fourth sentence and inserting in their place the word "approval".

21. Section 12.80(e)(1) is further amended by adding a sentence at the end of the paragraph to read as follows:

§ 12.80 Federal motor vehicle safety standards.

* * * * *

(e)(1) * * * Upon receipt of the approval letter the district director shall cancel the charge against the bond.

* * * * *

22. Section 12.80(e)(2) is amended by removing the words "bond release" in the first sentence and inserting, in their place, the word "approval".

23. Section 12.80(e)(2) is further amended by removing the words "given on Customs Form 7551" in the second sentence and inserting, in their place, the words "if it is a single entry bond or if a continuous bond is used, the amount that would have been taken under a single entry bond".

24. Section 12.80(e)(2) is further amended by removing the third sentence of the paragraph.

25. Section 12.85(e)(1) is amended by revising the first sentence of the paragraph to read as follows:

§ 12.85 Coast Guard boat and associated equipment safety standards.

* * * * *

(e) *Release under bond*—(1) *When bond required.* A bond will be required of the importer or consignee on Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter, in such amount as the district director deems appropriate, when a declaration is made that a product is to be brought into conformity. * * *

26. Section 12.85(e)(3) is amended by removing the words "given on Customs Form 7551" in the first sentence and inserting, in their place, the words "if it is a single entry bond, or if a continuous bond is used, the amount that would have been taken under a single entry bond".

27. Section 12.85(e)(3) is further amended by removing the second sentence.

§ 12.91 [Amended]

28. Section 12.91(d) is amended by removing the words "on Customs Form 7551, 7553, or 7595" in the first sentence and inserting, in their place, the words "on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter,".

29. Section 12.91(d) is further amended by removing the words "the amount required under § 113.14 of this chapter" in the second sentence and inserting, in their place, the words "an amount deemed appropriate by the "district director".

30. Section 12.91(d) is further amended by removing the words "given on Customs Form 7551" in the fifth sentence and inserting, in their place, the words "if it is a single entry bond, or if a continuous bond is used, the amount that would have been taken under a single entry bond".

31. Section 12.91(d) is further amended by removing the sixth sentence of the paragraph.

§ 12.115 [Amended]

32. Section 12.115 is amended by removing the words "on Customs Form 7551, 7553, and 7595" in the second sentence and inserting, in their place, the words "on Customs Form 301, containing the bond conditions set forth in §113.62 of this chapter,".

33. Section 12.115 is further amended by removing the words "the amount required under § 113.14 of this chapter" in the third sentence and inserting, in their place, the words "an amount deemed appropriate by the district director".

§ 12.117 [Amended]

34. Section 12.117(b) is amended by removing the word "assess" in the third sentence and inserting in its place the words "issue a demand for".

35. Section 12.117(b) is further amended by adding the words "if it is a single entry bond, or if a continuous bond is used, the amount that would have been taken under a single entry bond" at the end of the third sentence.

(R.S. 251, as amended, sections 623, as amended, 624, 46 Stat. 759, as amended (19 U.S.C. 66, 1623, 1624))

PART 18—TRANSPORTATION IN BOND AND MERCHANDISE IN TRANSIT

§ 18.3 [Amended]

1. Section 18.3(e) is amended by removing the words "Carrier's Bond" and inserting, in their place, the words "bond of the carrier on Customs Form 301, containing the bond conditions set forth in § 113.63 of this chapter".

2. Section 18.6(b) is revised to read as follows:

§ 18.6 Short shipments; shortages; entry and allowance.

* * * * *

(b) When there is a shortage of one or more packages, or nondelivery of an entire shipment, or delivery to unauthorized locations, or delivery to the consignee without the permission of Customs, the district director may demand return of the merchandise to Customs custody. The demand shall be made no later than 30 days after the shortage, delivery, or nondelivery is discovered by Customs. The demand for the return of the merchandise to Customs custody shall be made on the bonded carrier, cartman, or lighterman identified on the Transportation Entry and Manifest of Goods Subject to Customs Inspection and Permit, Customs Form 7512, the Transit Air Cargo Manifest (TACM), or other appropriate document. The demand for the return of the merchandise shall be made on Customs Form 4647, Notice of Redelivery, or other appropriate form or by letter. A copy of the demand with the date of mailing or delivery noted thereon, shall be retained by the district director and made part of the in-bond entry record. Entry of the merchandise may be accepted if the merchandise can be recovered intact without any of the packages having been opened. In such cases, any shortage from the invoice quantity shall be presumed to have occurred while the merchandise was in the possession of the bonded carrier.

* * * * *

3. Section 18.6(c) is amended by adding the words "if the merchandise is not returned to Customs custody within 30 days of the date of mailing or date of delivery of the demand for redelivery," after the words "Except as provided in paragraph (d) of this section," in the second sentence.

§ 18.20 [Amended]

4. Section 18.20(b) is amended by removing the words "on Customs Form 7557" in the second sentence and inserting, in their place, the words "on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter".

5. Section 18.25 is amended by redesignating paragraph (e) as paragraph (f), adding a new paragraph (e) as set forth below, and revising the first sentence of paragraph (b) and the second sentence of paragraph (d) to read as follows:

§ 18.25 Direct exportation.

* * * * *

(b) A bond on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter, shall be required. * * *

* * * * *

(d) * * * A charge shall be made against the continuous bond on Customs Form 301, containing the bond conditions set forth in § 113.64 of this chapter, if on file, or if a continuous bond is not on file, a single entry bond containing the bond conditions set forth in § 113.64 shall be required as in the case of residue cargo for foreign ports.

* * *

(e) The principal on any bond filed to guarantee direct exportation shall cause the merchandise to be exported and provide such evidence of exportation as required by the district director under § 113.55 of this chapter within 30 days of exportation.

* * * * *

6. Section 18.26(a) is amended by removing the words "§ 18.25(a)" in the first sentence and inserting, in their place, the words "§ 18.25(d)".

7. Section 18.26 is further amended by adding a new paragraph (d), and revising the second sentence of paragraph (a) to read as follows:

§ 18.26 Indirect exportation.

(a) * * * Upon acceptance of the entry by Customs and acceptance of the merchandise by the bonded carrier, the bonded carrier assumes liability for the transportation and exportation of the merchandise.* * *

* * * * * *

(d) The bonded carrier shall cause the merchandise to be exported and provide such evidence of exportation as required by the district director under section 113.55 of this chapter within 30 days of exportation.

(R.S. 251, as amended, sections 623, as amended, 624 46 Stat. 759, as amended (19 U.S.C. 66, 1623, 1624))

PART 19—CUSTOMS WAREHOUSES, CONTAINER STATIONS AND CONTROL OF MERCHANDISE THEREIN

§ 19.2 [Amended]

1. Section 19.2 is amended by removing the words "in the form prescribed by T.D. 82–204" in paragraph (c) and in the first and second sentences of paragraph (d) and inserting, in their place, in each instance the words "on Customs Form 301, containing the bond conditions set forth in § 113.63 of this chapter".

2. Section 19.2(e) is amended by removing the words "proprietor's warehouse bond" in the first sentence and inserting, in their place, the words, "bond on Customs Form 301, containing the bond conditions set forth in § 113.63 of this chapter".

3. Sections 19.11 (c) and (d) are amended by adding a sentence at the beginning of paragraph (c), and a sentence between the third and fourth sentences of paragraph (d) to read as follows:

§ 19.11 Manipulation in bonded warehouses and elsewhere.

* * * * *

(c) Warehouse proprietors shall not allow manipulation of merchandise without a permit issued by the district director. * * *

(d) * * * The proprietor shall not allow any manipulation to be conducted before a permit is issued or without the permission of the district director. * * *

4. Section 19.12(a)(1) is amended by adding the words "smelted, refined" after the word "manufactured" in the first sentence.

5. Section 19.12(a)(3) is revised to read as follows:

§ 19.12 Warehouse recordkeeping, storage and security requirements.

(a) *Recordkeeping.* * * *

(3) *Theft, shortage, overage or damage.* Any theft or suspected theft or overage or any extraordinary shortage or damage (one percent or more of the value of the merchandise in an entry) shall be immediately brought to the attention of the district director, and confirmed in writing within 2 business days after the shortage, overage, or damage has been brought to the attention of the district.

* * * * *

6. Section 19.12(a)(4) is amended by removing the words "and (ii)" and inserting, in their place, the words ", (ii) notify Customs of any merchandise covered by the warehouse entry, general order or seizure which has not been withdrawn or removed, and (iii)".

7. Section 19.12(a)(5) is amended by removing the words "in the form prescribed by T.D. 82–204" and inserting, in their place, the words "on Customs Form 300".

8. Section 19.12(b)(6) is amended by adding the words "and recorded in the proprietor's inventory and accounting records" after the word "warehouse" in the first sentence.

9. Section 19.13 is amended by adding three new sentences at the end of paragraph (g) and a new paragraph (h) to read as follows:

§ 19.13 Requirements for establishment of warehouse.

* * * * *

(g) * * * The areas for storage of bonded material and manufactured products shall be secured in accordance with the standards and specifications of T.D. 72–56. The proprietor shall mark each package with the correct warehouse entry number and date until manufacturing takes place. After manufacture, the proprietor shall mark each package of the finished product with the warehouse entry number and date.

(h) Entry shall be made and duties paid, where applicable, on any imported machinery or other equipment or apparatus that is for the construction of the warehouse or for the pursuit of its business.

10. Part 19 is amended by adding a new section 19.13a to read as follows:

§ 19.13a Recordkeeping requirements.

The proprietor of a manufacturing warehouse shall comply with the recordkeeping requirements of § 19.12(a). In addition, the proprietor shall:

(a) Record all transfers from any storage area to a manufacturing area, and record all transfers from a manufacturing area to a finished product storage area, in the proprietor's inventory control and accounting records;

(b) Take an annual physical inventory of the merchandise in conjunction with the annual submission required by § 19.12(a)(5); and

(c) Record all manufacturing operations performed within the warehouse with sufficient detail to determine whether there has been compliance with the manufacturing formula filed with Customs and to permit Customs to audit use and disposition of the merchandise.

11. Section 19.14 is amended by revising paragraph (b) and adding a new paragraph (e) to read as follows:

§ 19.14 Materials for use in manufacturing warehouse.

* * * * *

(b) *Bond required.* Before the transfer of the merchandise to the manufacturing warehouse is permitted, a bond on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter shall be required.

* * * * *

(e) *Monthly statement.* At the end of each month, the proprietor shall file with the district director a statement of all imported merchandise on which Internal Revenue tax has not been paid which

was used by the proprietor in the manufacture of articles. The statement shall report this information for each warehouse entry represented in the manufacturing process.

12. Section 19.14(d) is amended by removing the words "a bond on Customs Form 7571 shall be required unless the warehouse is covered by the appropriate bond in the form prescribed by T.D. 82-204" and inserting, in their place, the words "a bond on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter".

13. Section 19.15(g)(1) is amended by removing the third, fourth, and fifth sentences and inserting, in their place, the following:

§ 19.15 Withdrawal for exportation of articles manufactured in bond; waste or byproducts for consumption.

* * * * *

(g)(1) * * * A rewarehouse entry shall be made in accordance with § 144.34(b) of this chapter, supported by a bond on Customs Form 301, containing the bond conditions set forth in § 113.63 of this chapter.

* * * * *

14. Section 19.15(j) is amended by inserting the words ", within 6 months from the date of demand by the district director," between the words "manufacturer" and "shall" in the first sentence.

15. Section 19.15(l) is amended by removing the word "general".

§ 19.16 [Amended]

16. Section 19.16(g)(l) is amended by removing the words "the Proprietor's Manufacturing Warehouse Bond in the form prescribed by T.D. 82-204" in the last sentence and inserting, in their place, the words "a bond on Customs Form 301, containing the bond conditions set forth in § 113.63 of this chapter".

17. Section 19.17 is amended by removing paragraph (b) and reserving it.

18. Section 19.17(e) is amended by revising the second sentence to read as follows:

§ 19.17 Application to establish warehouse; bond.

* * * * *

(e) *Bond.* * * * A bond on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter shall be on file. * * *

18. Section 19.17 is further amended by adding a sentence at the end of paragraph (f) to read as follows:

* * * * *

§ 19.17 Application to establish warehouse; bond.

(f) * * * The proprietor shall maintain a report of sampling, weighing, and assay of each shipment of bonded materials received into the warehouse for 5 years after liquidation of the warehouse entry for shipment.

19. Section 19.21 is amended by adding a sentence at the end of paragraph (b) to read as follows:

§ 19.21 Smelting and refining in separate establishments.

* * * * *

(b) * * * A report of sampling, weight, and assay of transferred material shall be maintained for 5 years after liquidation of the warehouse entry.

* * * * *

20. Section 19.40(a) is revised to read as follows:

§ 19.40 Establishment of container stations.

(a) A container station, independent of the importing carrier, may be established at any port or portion of a port, or any other area under the jurisdiction of a district director upon the filing of an application therefore and its approval by the district director and the posting of a bond on Customs Form 301, containing the bond conditions set forth in § 113.63 of this chapter in such amount as the district director shall require.

* * * * *

(R.S. 251, as amended, secs. 623, as amended, 624, 46 Stat. 759, as amended (19 U.S.C. 66, 1623, 1624))

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

§ 24.1 [Amended]

1. Section 24.1(a)(3) is amended by removing the words "an entry bond or other" in the first sentence and inserting, in their place, the word "a".

2. Section 24.4(i) is revised to read as follows:

§ 24.4 Optional method for payment of estimated import taxes on alcoholic beverages upon entry, or withdrawal from warehouse, for consumption.

* * * * *

(i) *Duration of deferred payment privilege.* The deferred payment privilege once approved by the district director will remain in effect until terminated under the provisions of paragraph (h) or the importer or surety requests termination.

* * * * *

3. Section 24.11(a)(2) is amended by revising it to read as follows:

§ 24.11 Increased or additional duties or taxes; notice to importer.

(a) * * *

(2) A bond as required by section 141.20 on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter.

* * * * *

4. Section 24.11(b) is amended by removing the words "In any case in which a timely owner's declaration, but not a timely superseding bond, has been filed," and inserting, in their place, the words "In any case in which an owner's declaration has been filed timely but the bond has not been filed timely".

§ 24.16 [Amended]

5. Section 24.16(c), is amended by removing the words "on Customs Form 7597 or 7599" in the third sentence of paragraph (c)(1) and "on Customs Form 7597" in the fourth sentence of paragraph (c)(1) and, in each instance inserting, in their place, the words "on Customs Form 301, containing the appropriate bond conditions set forth in subpart G, Part 113 of this chapter (see §§ 113.62, 113.63, 113.64 and 113.73),".

6. Section 24.16(c)(3) is amended by removing the words "bond on Customs Form 7599" in the first sentence and inserting, in their place, the words "a continuous bond".

7. Section 24.16(c)(3) is further amended by removing the words "nor longer than the period of the supporting bond" in the first sentence.

(R.S. 251, as amended, secs. 623, as amended, 624, 46 Stat. 759, as amended (19 U.S.C. 66, 1623, 1624))

PART 54—CERTAIN IMPORTATIONS TEMPORARILY FREE OF DUTY

The first and second sentences of § 54.6(b) are revised to read as follows:

§ 54.6 Proof of intent; bond; proof of use; liquidation.

* * * * *

(b) If the articles are entered for consumption or warehouse, a bond shall be filed on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter. Withdrawals from warehouse shall be made on Customs Form 7506. * * *

* * * * *

(R.S. 251, as amended, secs. 623, as amended, 624, 46 Stat. 759, as amended (19 U.S.C. 66, 1623, 1624))

PART 101—GENERAL PROVISIONS

Section 101.1 is amended by redesignating paragraphs (k), (l) and (m) as paragraphs (l), (m) and (n),

respectively, and adding a new paragraph (k) to read as follows:

§ 101.1 Definitions.

* * * * *

(k) *Exportation.* "Exportation" means a severance of goods from the mass of things belonging to this country with the intention of uniting them the mass of things belonging to some foreign country. The shipment of merchandise abroad with the intention of returning it to the United States with a design to circumvent provisions of restriction or limitation in the tariff laws or to secure a benefit accruing to imported merchandise is not an exportation. Merchandise of foreign origin returned from abroad under these circumstances is dutiable according to its nature, weight, and value at the time of its original arrival in this country.

* * * * *

(R.S. 251, as amended, secs. 623, as amended, 624, 46 Stat. 759, as amended (19 U.S.C. 66, 1623, 1624))

PART 112—CARRIERS, CARTMEN, AND LIGHTERMEN

§ 112.11 [Amended]

1. Section 112.11(a)(4)(ii) is amended by removing the words "Customs Form 3588, 'Private Carriers Bond'" and inserting, in their place, the words "a bond on Customs Form 301, containing the bond conditions set forth in § 113.63 of this chapter".

§ 112.12 [Amended]

2. Section 112.12(a) is amended by removing the words "on Customs Form 3587 (except private carriers which file on Customs Form 3588 and airline companies which have the option to file a consolidated aircraft bond, Customs Form 7605 or the Customs Form 3587)" and inserting, in their place, the words "on Customs Form 301, containing the bond conditions set forth in § 113.63 of this chapter".

3. Section 112.22(a)(1) is revised to read as follows:

§ 112.22 Application for license.

(a) *General requirements.* * * *

(1) A bond on Customs Form 301, containing the bond conditions set forth in § 113.63 of this chapter, in an amount specified by the district director.

* * * * *

4. Section 112.25 is revised to read as follows:

§ 112.25 Bonded carriers.

A carrier or freight forwarder who has filed a bond on Customs Form 301 containing the bond conditions set forth in § 113.63 of this chapter may be appointed or licensed as a Customs cartman or lighterman for a port for which such bond provides coverage, upon compliance with § 112.22. If a bond on Customs Form 301, containing the bond conditions set forth in § 113.63 of this chapter has been filed, the carrier or freight forwarder need not file another bond to satisfy the requirements of § 112.22(a)(1). Investigation pursuant to § 12.23 may apply.

§ 112.26 [Amended]

5. Section 112.26 is amended by removing the words "§ 113.56" and inserting, in their place, the words "§ 13.26".

§ 112.27 [Amended]

6. Section 112.27(d) is amended by removing the words "in accordance with the provisions of the bond, Customs Form 3855, or the cartman or lighterman shall be liable for the payment of liquidated damages as provided in such bond", and by adding a period after the word "license."

7. Section 112.49(d) is amended by removing the bond format for the "Bond of Customs Cartman for Issuance of Temporary Identification Card" and by revising the last sentence to read as follows:

§ 112.49 Temporary identification cards.

* * * * *

(d) *Bond.* * * * The bond shall be on Customs Form 301 and contain the bond conditions set forth in § 113.63 of this chapter and be in such amount as determined by the district director.

(R.S. 251, as amended, secs. 623, as amended, 624, 46 Stat. 759, as amended (19 U.S.C. 66, 1623, 1624))

PART 113—CUSTOMS BONDS

Part 113, Customs Regulations, is revised to read as follows:

Sec.

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113.2 Powers of Commissioner of Customs relating to bonds.
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113.68 Wool and fur products labeling acts and fiber products identification act bond conditions.
113.69 Production of bill of lading bond conditions.
113.70 Bond condition to indemnify United States for detention of copyrighted material.
113.71 Bond condition to observe neutrality.
113.72 Bond condition to pay court costs (condemned goods).

Sec

113.73 Foreign trade zone operator bond conditions.

Authority: R.S. 251, as amended, secs. 623, as amended, 624, 46 Stat. 759, as amended; (19 U.S.C. 66, 1623, 1624). Subpart E also issued under sec. 484, 46 Stat. 722, as amended (19 U.S.C. 1484). Additional authority and statutes interpreted or applied are cited in the text or following the sections affected.

§ 113.0 Scope.

This part sets forth the general requirements applicable to bonds. It contains the general authority and powers of the Commissioner of Customs in requiring bonds, bond approval and execution, bond conditions, general and special bond requirements, the requirements which must be met to be either a principal or a surety, the requirements concerning the production of documents, the authority and manner of assessing liquidated damages and requirements for cancelling the bond or charges against a bond.

Subpart A—General Provisions

§ 113.1 Authority to require security or execution of bond.

Where a bond or other security is not specifically required by law, the Commissioner of Customs, pursuant to Treasury Department Order No. 165 Revised, as amended (T.D. 53654, 19 FR 7241, November 6, 1954), may by regulation or specific instruction require, or authorize the district director to require, such bonds or other security considered necessary for the protection of the revenue or to assure compliance with any pertinent law, regulation, or instruction.

§ 113.2 Powers of Commissioner of Customs relating to bonds.

Whenever a bond is required or authorized by law, regulation, or instruction, the Commissioner of Customs may:

(a) Prescribe the conditions and form of the bond and fix the amount of penalty, whether for the payment of liquidated damages, or of a penal sum, except as otherwise specifically provided by law.

(b) Provide for the approval of the sureties on the bond, without regard to any general provision of law.

(c) Authorize the execution of a term bond, the conditions of which shall extend to and cover similar cases of importations over a period of time, not to exceed one year or such longer period he may fix, when in his opinion special circumstances warrant a longer period.

(d) Authorize the taking of a consolidated bond (single entry or term) in lieu of separate bonds to assure compliance with two or more provisions of law, regulation, or instruction. Such a consolidated bond shall have the same force and effect as the separate bonds in lieu of which it was taken. The Commissioner of Customs may fix the penalty for violation of a consolidated bond without regard to any other provision of law, regulation, or instruction.

§ 113.33 Liability of surety on a terminated bond.

The surety, as well as the principal, remains liable on a terminated bond for obligations incurred prior to termination.

§ 113.4 Bonds and carnets.

(a) *Bonds.* All bonds required to be given under the Customs laws or regulations shall be known as Customs bonds.

(b) *Carnets.* A carnet is an international customs document which serves simultaneously as a customs entry document and as a customs bond. Therefore, carnets, provided for in Part 114 of this chapter, are ordinarily acceptable without posting further security under the Customs laws or regulations requiring bonds.

Subpart B—Bond Application and Approval of Bond

§ 113.11 Bond approval.

Each person who is required by law, regulation, or specific instruction to post a bond to secure a Customs transaction or multiple transactions must submit the bond on Customs Form 301. If the transaction(s) will occur in a single Customs district, the bond shall be filed with and approved by the district director of the district in which the transaction(s) will take place. If the transactions will occur in more than one district the bond may be filed with and approved by any district director. Only one continuous bond for a particular activity will be authorized for each principal. The district director will determine whether the bond is in proper form and provides adequte security for the transaction(s). A bond relating to repayment of/an erroneous drawback payment containing the bond conditions set forth in section 113.65 shall be filed with the appropriate regional commissioner for approval.

§ 113.12 Bond application.

(a) *Single entry bond application.* In order to insure that the revenue is adequately protected the district director may require a person who will be engaged in a single Customs transaction relating to the importation or entry of merchandise to file a written bond application which may be in the form of a letter. The application shall identify the value and nature of the merchandise involved in the transaction to be secured. When the proper bond in a sufficient amount is filed with the entry summary or with the entry, when the entry summary is filed at the time of entry, an application will not be required.

(b) *Continuous bond application.* If a person wants to secure multiple transactions relating to the importation or entry of merchandise or the operation of a bonded smelting or refining warehouse, a bond application, which may be in the form of a letter, shall be submitted to the district director.

(1) *Information required.* The application shall contain the following information:

(i) The general character of the merchandise to be entered; and

(ii) The total amount of ordinary Customs duties (including any taxes required by law to be treated as duties) accruing on all merchandise imported by the principal during the calendar year preceding the date of the application, plus the estimated amount of any other tax or taxes on the merchandise to be collected by Customs. The total amount of duties and taxes shall be that which would have been required to be deposited had the merchandise been entered for consumption even though some or all of the merchandise may have been entered under bond. If the value or nature of the merchandise to be imported will change in any material respect during the next year the change shall be identified. If no imports were made during the calendar year prior to the application, a statement of the duties and taxes it is estimated will accrue on all importations during the current year shall be submitted.

(2) *Application updates.* If the district director approves a bond based upon the application, whenever there is a significant change in the information provided under this paragraph, the principal on the bond shall submit a new application containing an update of the information required by paragraph (b)(1) of this section. The new application shall be filed no later than 30 days after the new facts become known to the principal.

(c) *Certification.* Any application submitted under this section shall be signed by the applicant and contain the following certification:

> I certify that the factual information contained in this application is true and accurate and any information provided which is based upon estimates is based upon the best information available on the date of this application.

§ 113.13 Amount of bond.

(a) *Minimum amount of bond.* The amount of any Customs bond shall not be less than $100, except when the law or regulation expressly provides that a lesser amount may be taken. Fractional parts of a dollar shall be disregarded in computing the amount of a bond. The bond always shall be stated as the next highest dollar.

(b) *Guidelines for determining amount of bond.* In determining whether the amount of a bond is sufficient, the district director or regional commissioner in the case of a bond relating to repayment of erroneous drawback payment (see section 113.11) should at least consider:

(1) The prior record of the principal in timely payment of duties, taxes, and charges with respect to the transaction(s) involving such payments;

(2) The prior record of the principal in complying with Customs demands for redelivery, the obligation to hold unexamined merchandise intact, and other requirements relating to enforcement and administration of Customs and other laws and regulations;

(3) The value and nature of the merchandise involved in the transaction(s) to be secured;

(4) The degree and type of supervision that Customs will exercise over the transaction(s);

(5) The prior record of the principal in honoring bond commitments, including the payment of liquidated damages; and

(6) Any additional information contained in any application for a bond.

(c) *Periodic review of bond sufficiency.* The district directors and regional commissioners shall periodically review each bond filed in their respective district or region in the case of a bond relating to repayment of erroneous drawback payment (see § 113.11) to determine whether the bond is adequate to protect the revenue and insure compliance with the law and regulations. If the district or regional commissioner determines that the bond is inadequate, the principal shall be immediately notified in writing. The principal shall have 30 days from the date of notification to remedy the deficiency.

(d) *Additional security.* Notwithstanding the provisions of this section or any other provision of this chapter, if a district director or regional commissioner believes that acceptance of a transaction secured by a continuous bond would place the revenue in jeopardy or otherwise hamper the enforcement of Customs laws or regulations, he shall require additional security

§ 113.14 Approved form of bond inadequate.

If the district director believes that none of the conditions contained in subpart G of this Part is applicable to a transaction sought to be secured, the district director shall draft conditions which will cover the transaction, but before execution of the bond the conditions shall be submitted to Headquarters, Attention: Director, Carriers, Drawback and Bonds Division, for approval.

§ 113.15 Retention of approved bonds.

All bonds approved by the district director, except the bond containing the agreement to pay court costs (condemned goods) (see § 113.72) shall remain on file in the district office unless the district director is directed in writing by the Director, Carriers, Drawback and Bonds Division, as to other disposition. The bond containing the agreement to pay court costs (condemned goods), shall be transmitted to the United States attorney, as required by section 608, Tariff Act of 1930, as amended (19 U.S.C. 1608). The bond relating to repayment of erroneous drawback payment containing the conditions set forth in § 113.65 shall be retained in the regional office of the approving regional commissioner.

Subpart C—Bond Requirements

§ 113.21 Information required on the bond.

(a)(1) *Identification of principal and sureties.* The names of the principal and sureties and their respective places of residence shall appear in the bond. In the case of a corporate principal or surety, its legal designation and the address of its principal place of business shall appear.

(2) *Identification of trade names and unincorporated divisions of a corporate principal.* The principal may list on the bond trade names and the names of unincorporated divisions of the corporate principal which do not have a separate and distinct legal status who are authorized to use the bond in their own name.

(b) *Date of execution.* Each bond shall bear the date it was actually executed.

(c) *Statement of the amount.* The amount of the bond shall be stated in figures.

(d) *Use of abbreviations.* Abbreviations shall not be used except in dates and the state of incorporation of the principal or the surety.

(e) *Blank spaces on the bond.* Lines shall be drawn through all spaces and blocks on the bond which are not filled in.

§ 113.22 Witnesses required.

(a) *Generally.* The signature of each party to a bond executed by a noncorporate principal or surety shall be witnessed by two persons, who shall sign their names as witnesses, and include their addresses.

(b) *Witness for both principal and surety.* When two persons signing as witnesses act for both principal and surety. They shall so indicate by stating on the bond "as to both".

(c) *Corporate principal or surety.* No witnesses are required where bonds are executed by properly authorized officers or agents of a corporate principal or corporate surety. For requirements concerning the execution of a bond by an authorized officer or agent of a corporate principal or surety, see §§ 113.33 and 113.37 of this Part.

§ 113.23 Changes on the bond.

(a) *Definition of the types of changes.* (1) *Modification or interlineation.* Modifications or interlineations are changes which go to the substance of the bond, or are basic revisions of the bond.

(2) *Alterations or erasures.* Alterations or erasures consist of minor changes, such as the correction of typographical errors, or change of address, which do not go to the substance, or result in basic revision of the bond.

(b) *Prior to signing.* When erasures, alterations, modifications, or interlineations are made on the bond prior to its signing by the parties to the bond, a statement by an agent of the surety company or by the personal sureties to that effect shall be placed upon the bond.

(c) *After signing.* If erasures or alterations are made after the bond is signed, but prior to the approval of the bond by Customs, the consent of all the parties shall be written on the bond. Except in cases where a change in the bond is expressly authorized by regulation, or by the Commissioner, no modification or interlineation shall be made on the bond after execution. When a modification or interlineation is desired, a new bond will be executed.

(d) *After approval of the bond by Customs.* Except in cases where a change in the bond is expressly authorized by regulations, or instructions from the Commissioner, the district director shall not permit a change as defined in paragraph (a) of this section after the bond has been approved by Customs. When changes are desired, a new bond is required, which, when approved, shall supersede the existing bond.

§ 113.24 Riders.

(a) *Types of riders.* The district director may accept the following types of bond riders.

(1) *Name change of principal.* A bond rider to change the name of a principal on a bond may be used only when the change in name does not change the legal identity or status of the principal. If a new corporation is created as a result of a merger, reorganization or similar action, a bond rider for a name change of the principal can not be used. A new bond would be required.

(2) *Address change.* A bond rider may be used to change the address of a principal on a bond.

(3) *Addition and deletion of trade names and unincorporated divisions of a corporate principal.* A bond rider may be used to add to or delete from a bond trade names and the names of unincorporated divisions of a corporate principal which do not have a separate and distinct legal status.

(b) *Where filed.* A rider must be filed with the district director in whose district the bond was approved.

(c) *Attachment of rider to bond.* All riders expressly authorized by the Commissioner shall be securely attached to the related bond to prevent their loss or misplacement.

(d) *Format of Rider.* The riders shall be signed, sealed, witnessed, executed, include a certificate as to corporate principal, if applicable, and otherwise comply with the requirements of this Part. The riders shall contain the following conditions:

(1) *Name change of principal.*

By this rider to the Customs Form 301,—— (bond number), dated ——, executed by ——, (former name), as principal, ——, (importer number), the —— (new name), hereby certifies that it is the same entity formerly known as ——, (former name), and the principal and surety agree that they are responsible for any act secured by this bond done under principal's former name. Principal and surety agree to be bound under this bond to the same extent as if this bond had been executed in the principal's new name. This rider is effective on —— (date).

(2) *Address change.*

By this rider to Customs Form 301, —— (bond number) executed on —— (date), by ——, (principal's name), as principal, ——, (importer number), and —— (surety's name and code), as surety, which is effective on —— (date), the principal, surety or both, intend that the bond be amended to show —— (new address) as their address. The principal, surety or both, as may be appropriate agree to be bound as though this bond has been executed with the new address(s) shown.

(3) *Addition or deletion of trade names and unincorporated divisions of a corporate principal.*

(i) *Addition rider.*

By this rider to the Customs Form 301, ——, (bond number), executed on ——, (date), by ——, (principal's name), as principal, ——, (importer number) and ——, (surety's name and code), as surety, which is effective on —— (date), the principal and surety agree that the below listed names are unincorporated units of the principal or are trade or business names used by the principal in its business and that this bond covers its business and that this bond covers any act done in those names to the same extent as though done in the name of the principal. The principal and surety agree that any such act shall be considered to be the act of the principal.

(ii) *Deletion rider.*

By this rider to the Customs Form 301, ——, (bond number), executed on ——, (date), by ——, (principals name) as principal, ——, (importer number and ——, (surety's name and surety code), as surety, which is effective on ——, (date), the principal and surety agree that the below listed names of unincorporated units of the principal or trade or business names used by the principal in its business are deleted from the bond effective upon the date of approval of the rider by the appropriate Customs bond approval official.

§ 113.25 Seals.

When a seal is required, the seal shall be affixed adjoining the signatures of principal and surety, if individuals, and the corporate seal shall be affixed close to the signatures of persons signing on behalf of a corporation. Bonds shall be under seal in accordance with the law of the state in which executed. However, when the charter or governing statute of a corporation requires its acts to be evidenced by its corporate seal, such seal is required.

§ 113.26 Effective dates of bonds and riders.

(a) *General.* Bonds including the application, if required by § 113.12, and riders may be filed up to 30 days before the effective date in order to provide adequate time for Customs administrative review and processing.

(b) *Single transaction bond.* A single transaction bond is effective on the date of the transaction identified on the Customs Bond, Customs Form 301.

(c) *Continuous bond.* A continuous bond is effective on the effective date identified on the Customs Bond, Customs Form 301.

(d) *Riders for name change of principal, address change, and addition of trade names and unincorporated divisions of a corporate principal.* Riders for a name change of principal, address change, and addition of trade names and unincorporated divisions of a corporate principal are effective on the effective date identified on the rider.

(e) *Rider to delete trade names and unincorporated divisions of a corporate principal.* A rider to delete trade names and unincorporated divisions of a corporate principal is effective on the effective date identified on the rider if the date is at least 10 business days after the date the district office receives the rider. If the rider is not received 10 business days before the identified effective date or no effective date is identified on the rider, it will be effective on the close of business of the tenth business day after it is received in the district office.

§ 113.27 Effective dates of termination of bond.

(a) *Termination by principal.* A request by a principal to terminate a bond shall be made in writing to the district director or regional commissioner in the case of a bond relating to repayment of erroneous drawback payment in whose district or region the bond was approved. The termination shall take effect on the date requested if the date is at least 10 business days after the date of receipt of the request. Otherwise the termination shall be effective on the close of business 10 business days after the request is received at the district or regional office. If no termination date is requested, the termination shall take effect on the tenth business day following the date of receipt of the request by the district director or regional commissioner in the case of bonds relating to repayment of erroneous drawback payment.

(b) *Termination by surety.* A surety may, with or without the consent of the principal, terminate a Customs bond on which it is obligated. The surely shall provide reasonable written notice to both the district director in whose district the bond was approved or regional commissioner in the case of bonds relating to repayment of an erroneous drawback payment and the principal of the intent to terminate. The written notice shall state the date on which the termination shall be effective and shall be sent to both Customs and the principal by certified mail, with a return receipt requested. Thirty days shall constitute reasonable notice unless the surety can show to the satisfaction of the district director, or regional commissioner in the case of bonds relating to repayment of an erroneous drawback payment, that a lesser time is reasonable under the facts and circumstances.

(c) *Effect of Termination.* If a bond is terminated no new Customs transactions shall be charged against

the bond. A new bond in an appropriate amount on Customs Form 301, containing the appropriate bond conditions set forth in subpart G of this Part, shall be filed before further Customs activity may be transacted.

Subpart D—Principals and Sureties

§ 113.30 Information pertaining to principals and sureties on the bond.

The general information pertaining to the principal and surety which must be given in the body of the bond is set forth in § 113.21.

§ 113.31 Same party as principal and surety; attorney in fact.

(a) *Same party as principal and surety.* The same person, partnership, or corporation cannot be both principal and surety on a bond.

(b) *Attorney in fact for principal or surety.* In executing a bond, a person may act as:

(1) Attorney in fact for both principal and surety;

(2) Surety and attorney in fact for the principal; or

(3) Principal and attorney in fact for the surety.

§ 113.32 Partnerships as principals.

(a) *Names of partners on the bond.* Unless written notice of the full names of all partners in the firm has been previously filed with the district director or regional commissioner in the case of a bond relating to repayment of erroneous drawback payment, the names of all persons composing the partnership shall appear in the body of the bonds; for example, "Aaron A. Abel, Bertrand B. Bell and Charles C. Cole, composing the firm of Abel, Bell, Cole and Co.

(b) *Execution.* Partnership bonds shall be executed in the firm name, with the name of the member or attorney of the firm executing it appearing immediately below the firm signature.

(c) *Action of one principal binding on all principals of the partnership.* Pursuant to section 495, Tariff Act of 1930 (19 U.S.C. 1495), when a Customs bond is executed by any member of the partnership, the bond shall be binding on the other partners in like manner and to the same extent as if such other partners had personally joined in the execution.

§ 113.33 Corporations as principals.

(a) *Name of corporation on the bonds.* The name of a corporation executing a Customs bond as a principal, may be printed or placed thereon by means of a rubber stamp or otherwise, followed by the written signature of the authorized officer or attorney.

(b) *Signature and seal of the corporation on the bond.* The bond of a corporate principal shall be signed by an authorized officer or attorney of the corporation and the corporate seal shall be affixed immediately adjoining the signature of the person executing the bond, as provided for in § 113.25.

(c) *Bond executed by an officer of corporation.* When a bond is executed by an officer of a corporation, a power of attorney shall not be required if the person signing the bond on behalf of the corporation is known to the district director or regional commissioner to be the president, vice president, treasurer, or secretary of the corporation. The officer's signature shall be prima facie evidence of that officer's authority to bind the corporation. When a power of attorney is required it shall conform to the requirements of subpart C, Part 141, of this chapter.

(d) *Bond executed by an attorney in fact.* When an attorney in fact executes a bond on behalf of a corporate principal and a power of attorney has not been filed with the district director (unless exempted from filing by § 141.46 of this chapter), there shall be attached a power of attorney executed by an officer of the corporation whose authority to execute the power shall be shown as prescribed in paragraph (c) of this section.

(e) *Subsidiaries as co-principals.* The provisions of this section shall be applicable to each corporate subsidiary which joins its parent corporation by signing the bond as co-principal.

§ 113.34 Co-principals.

A bond with a co-principal may be used by a person having a distinct legal status (e.g., individual, partnership, corporation) to join another person with the same distinct legal status on the bond. A bond with a co-principal shall not be used to join an entity which does not have a distinct legal status (e.g. an unincorporated division of a corporation). However, an entity which does not have a distinct legal status may use another bond if listed on the bond by the principal at the time of execution or by subsequent rider (see section 113.24). A bond with co-principal may not be used to join different legal entities (e.g. an individual and a corporation, a partnership and a corporation).

§ 113.35 Individual sureties.

(a) *Number required.* If individuals sign as sureties, there shall be two sureties on the bond, unless the district director is satisfied that one surety is sufficient to protect the revenue and insure compliance with the law and regulations.

(b) *Qualifications to act as surety.* (1) *Residency and citizenship.* Each individual surety on a Customs bond must be both a resident and citizen of the United States.

(2) *Married women.* A married woman may be accepted as a surety, unless the state in which the bond is executed prohibits her from acting in that capacity.

(3) *Granting of power of attorney.* Any individual other than a married woman in a state where she is prohibited from acting as a surety may grant a power of attorney to sign as surety on Customs bonds. Unless the power is unlimited, all persons to which the power relates shall be named.

(4) *Property requirements.* Each individual surety must have property available as security within the limits of the Customs district in which the contract of suretyship is to be approved. The current market value of the property less any encumbrance must be equal to or greater than the amount of the bond. If one individual surety is accepted, the individual surety must have property the value of which, less any encumbrance, is equal to or greater than twice the amount of the bond.

(c) *Oath and evidence of solvency.* Before being accepted as a surety, the individual shall:

(1) Take an oath on Customs Form 3579, setting forth:

(i) The amount of assets over and above all debts and liabilities and such exemptions as may be allowed by law; and

(ii) The general description and the location of one or more pieces of real estate owned within the limits of the Customs district and the value thereof over and above all encumbrances.

(2) Produce such evidence of solvency and financial responsibility as the district director may require.

(d) *Determination of financial responsibility.* An individual surety shall not be accepted on a bond until the district director is satisfied as to the financial responsibility of the individual. The district director may refer the matter to the special agent-in-charge for immediate investigation to verify the financial responsibility of the surety.

(e) *Continuancy of financial responsibility.* In order to follow the continued solvency and financial responsibility of individual sureties, the district director shall require a new oath and determine the financial responsibility of each individual surety as prescribed in paragraphs (c) and (d) of this section at least once every 6

months, and more often if deemed advisable.

§ 113.36 Partner acting as surety on behalf of a partner or on behalf of a partnership.

A member of a partnership shall not be accepted as an individual surety on a bond executed by the partnership as principal. A partner may be an individual surety for a fellow partner on a bond if (a) the transaction is in an individual capacity and unrelated to the partnership, (b) sufficient unencumbered nonpartnership property is available as security, and (c) the individual qualifies as an individual surety under the provisions of § 113.35 of this Part.

§ 113.37 Corporate sureties.

(a) *Lists of corporations and limits of their bonds.* Treasury Department Circular 570 contains a list of corporations authorized to act as sureties on bonds, with the amount in which each may be accepted. The Circular shall be furnished annually to all district directors by the Secretary of the Treasury. Unless otherwise directed by the Commissioner of Customs, no corporation shall be accepted as surety on a bond if not named in the current Circular as amended by **Federal Register** notice and no bond shall be for a greater amount than the respective limit stated in the Circular, unless the excess is protected as prescribed in § 223.11, Bureau of Government Financial Operations Regulations (31 CFR 223.11).

(b) *Name of corporation on the bond.* The name of a corporation executing a Customs bond, as a surety, may be printed or placed thereon by means of a rubber stamp or otherwise, followed by the written signature of the authorized officer or attorney.

(c) *Name of agent or attorney on the bond.* The agent or attorney acting for a corporate surety shall have stamped, printed, or typed on each bond executed by him, below his signature, his full name as it appears on the bond.

(d) *Social security number of agent or attorney on the bond.* In the appropriate place on each bond executed by the agent or attorney acting for a corporate surety, the agent or attorney shall place his/her social security number, as it appears on the corporate surety power of attorney.

(e) *Signature and seal of the corporation on the bond.* A bond executed by a corporate surety shall be signed by an authorized officer or attorney of the corporation and the corporate seal shall be affixed immediately adjoining the signature of the person executing the bond, as provided for in § 113.25.

(f) *Two or more corporate sureties as sureties on the same obligation.* Two or more corporate sureties may be accepted as sureties on any obligation the amount of which does not exceed the limitations of their aggregate qualifying power as fixed and determined by the Secretary of the Treasury. The amount for which each corporate surety may act as surety in all cases must be within the limitation prescribed by the Secretary, unless the excess is protected as prescribed in § 223.11, Bureau of Government Financial Operations Regulations (31 CFR 223.11). Each corporate surety shall limit its liability to a definite specified amount, in terms, upon the face of the bond by attaching the following:

Corporate Sureties Agreement for Limitation of Liability

—— (name of surety), —— (surety code), a surety company incorporated under laws of the State of ——, authorized to conduct a surety business in the State of ——, and having its principal place of business at —— (address), and —— (names of surety), —— (surety code, a surety company incorporated under the laws of the State of —— and having its principal place of business at —— (address), as sureties, and —— (name of principal), as principal, are jointly and severally obligated to the United States in the amount of —— ($) on a bond executed on —— (date of execution) with each surety jointly and severally obligate with the principal in the amounts listed below and no more:

——— (name of surety) ——
($)
——— (name of surety ——
($)

By this agreement the principal and sureties bind themselves and agree that for the purpose of allowing a joint action against any or all of them, and for that purpose only, this agreement and the bond under which they are obligated and which is incorporated by reference into this agreement, shall be treated as the joint and several as well as the several obligation of each of the parties.

Signed and sealed this —— day of —— 19——

———Principal
———Surety
———Surety
———District Director (Regional Commissioner)

(g) *Power of attorney for the agent or attorney of the surety.* Corporations may execute powers of attorney to act in their behalf in the following manner:

(1) *Execution and contents.* The corporate surety power of attorney shall be executed on Customs Form 5297, and shall contain the following information:

(i) Corporate surety name and number,

(ii) Name and address of agent or attorney, and social security number of agent or attorney,

(iii) District(s) in which the agent or attorney is authorized to act,

(iv) Date of execution of power of attorney,

(v) Seal of the corporate surety,

(vi) Signature of any two principal officers of corporation, and

(vii) Dollar amount of authorization.

(2) *Filing.* The corporate surety power of attorney executed on Customs Form 5297 shall be filed at the district office unless the district director permits the submission of the corporate surety power of attorney to be made at any port within the district, in which case the corporate surety power of attorney must be submitted in duplicate. The power of attorney may provide authority for an agent or attorney in any number of districts. If authorized to be filed at a Customs port, the port director shall send the original of the power of attorney to the Customs district office. The Customs district offices shall periodically issue to all ports within their district computer printouts reflecting all corporate powers of attorney valid for use within the district. If the district director permits the submission of the corporate surety power of attorney to be made at any part within the district, a copy of the power of attorney shall be retained at the port where the power of attorney was filed until the first computer printout reflecting the power of attorney has been received from the district office. If a port has been delegated the authority to approve bonds, the copy of the power of attorney retained at the port can be used in connection with bond approval at the port for bonds executed by the person covered by the corporate surety power of attorney, until the computer printout is received. The original of the corporate surety power of attorney shall be retained at the district office with jurisdiction over the location where the corporate surety power of attorney was submitted.

(3) *Use at port where power of attorney not filed before receipt of computer printout.* If the grantee desires to use the power of attorney at a port covered by the power of attorney, other than the one where the power of attorney was filed, before the first computer printout reflecting this power of attorney is received, the Customs Form 5297, shall be filed in triplicate (original and two copies), rather than duplicate. The second copy shall be validated by Customs and returned to the grantee. The grantee, at the time of filing a bond at a port other than the port where the power of attorney was filed, shall provide this validated copy of the power of attorney as proof of the

grant of authority. The validity of this copy of the power of attorney shall expire when the first computer printout reflecting this power of attorney is received.

(4) *Term and revocation.* Corporate surety powers of attorney shall continue in force and effect until revoked. Any surety desiring that a designated agent or attorney be divested of a power of attorney must execute a revocation on Customs Form 5297. The revocation shall take effect on the close of business on the date requested provided the corporate surety power of attorney is received 5 days before the date requested; otherwise the revocation will be effective at the close of business 5 days ater the request is received at the district office.

(5) *Change on the power of attorney.* No change shall be made on the Customs Form 5297 after it has been approved by Customs except the following: (i) Grantee name change, (ii) grantee address change, and (iii) the addition of district(s) to the corporate surety power of attorney on file. To make any other change to the power of attorney two separate Customs Forms 5297 shall be submitted, one revoking the previous power of attorney, and one containing a new grant of authority.

§ 113.38 Delinquent sureties.

(a) *Acceptance as surety when in default as principal on another Customs bond.* No person shall be accepted as surety on any Customs bond while in default as principal on any other Customs bond.

(b) *Acceptance as surety when in default as surety on another Customs bond.* A surety on a Customs bond which is in default may be accepted as surety on other Customs bonds only to the extent that the surety assets are unencumbered by the default.

(c)(1) *Nonacceptance of bond by district director.* A district director may refuse to accept a bond secured by an individual or corporate surety when the surety, without just cause, is significantly delinquent either in the number of outstanding bills or dollar amounts thereof. If the district director believes that a substantial question of law exists as to whether a breach of bond obligation has occurred he should request internal advice under the provisions of § 177.11 from the Director, Carriers, Drawback and Bonds Division, Customs Headquarters.

(2) *Nonacceptance of bond by regional commissioner.* A regional commissioner may, when he believes the circumstances warrant, issue instructions to the district directors within his region that they shall not accept a bond secured by an individual or corporate surety when that surety, without just cause, is significantly delinquent either in the number of outstanding bills or dollar amounts thereof in more than one district in his region.

(3) *Nonacceptance of bond upon instructions by Commissioner.* The Commissioner may, when he believes the circumstances warrant, issue instructions to the district directors and regional commissioners that they shall not accept a bond secured by an individual or corporate surety when that surety, without just cause, is significantly delinquent either in the number of outstanding bills or dollar amounts thereof.

(4) *Notice of surety.* The appropriate Customs officer may take the above actions only after the surety has been provided reasonable notice with an opportunity to pay delinquent amounts, provide justification for the failure to pay, or demonstrate the existence of a significant legal issue justifying further delay in payment.

(5) *Review and final decision.* After a review of any submission made by the surety under paragraph (c)(4) of this section, if the appropriate Customs officer is still of the opinion bonds secured by the surety should not be accepted, written notice of the decision shall be provided to the surety in person or by certified mail, return receipt requested, at least five days before the date that Customs will no longer accept the bonds of the surety. When notice is sent to the surety of the decision not to accept the surety's bonds the appropriate Customs officer shall notify the Director, Carriers, Drawback and Bonds Division, Customs Headquarters. Notice shall be given to the importing public by posting a copy of the decision in the customhouse. The decision shall also be published in the Customs Bulletin.

(6) *Duration of decision.* Any decision not to accept a given surety's bond shall remain in effect for a minimum of five days or until all outstanding delinquencies are resolved, whichever is later.

(7) *Actions consistent with requirements.* Any action not to accept the bonds of a surety under paragraphs (c) (1), (2), and (3) of this section shall be consistent with the requirements of this section.

§ 113.39 Procedure to remove a surety from Treasury Department Circular 570.

If a district director or regional commissioner is unsatisfied with a surety company because the company has neglected or refused to pay a valid demand made on the surety company's bond or otherwise has failed to honor an obligation on that bond, the district director or regional commissioner may take the following steps to recommend that the surety company be removed from Treasury Department Circular 570. The fact that collection proceedings have been, or are to be, started on a bond does not preclude use of this procedure if the district director or regional commissioner believes such action is warranted.

(a) *Report to Headquarters.* A district director or regional commissioner shall send the following evidence to Headquarters, Attn: Director, Carriers, Drawback and Bonds Division. If the report is from a district director it shall be submitted through the appropriate regional commissioner of Customs.

(1) A copy of the bond in issue;

(2) A copy of the entry or other evidence which shows that there was a default on the bond;

(3) A copy of all notices, demands or correspondence sent to the surety company requesting the honoring of the bond obligation;

(4) A copy of all correspondence from the surety company; and

(5) A written report of the facts known to the district director or regional commissioner showing the unsatisfactory performance by the surety company of the bond obligation(s).

(b) *Review by Headquarters.* The Director, Carriers, Drawback and Bonds Division, shall review submitted evidence and determine whether further action against the surety company is warranted. If it is determined that further action is warranted, a report recommending appropriate action will be submitted to the Fiscal Assistant Secretary, Department of the Treasury, as required by § 223.18(a), Bureau of Government Financial Operations Regulations (31 CFR 223.18(a)). The district director and regional commissioner will be informed in writing of Headquarters action regarding their request for removal of the surety.

§ 113.40 Acceptance of cash deposits or obligations of the United States in lieu of sureties on bonds.

(a) *General provision.* In lieu of sureties on any bond required or authorized by any law, regulation, or instruction which the Secretary of the Treasury or the Commissioner of Customs is authorized to enforce, the district director is authorized to accept United States money, United States bonds (except for savings bonds),

United States certificates of indebtedness, Treasury notes, or Treasury bills in an amount equal to the amount of the bond.

(b) *Authority to sell United States obligations on default.* At the time of deposit of any obligation of the United States, other than United States money, with the district director or regional commissioner, the obligor shall deliver a duly executed power of attorney and agreement authorizing the district director or regional commissioner, as, in case of any default in the performance of any of the conditions of the bond, to sell the obligation so deposited and to apply the proceeds of sale, in whole or in part, to the satisfaction of any damages, demands, or deficiency arising by reason of default. The format of the power of attorney and agreement, when the obligor is a corporation, is set forth below, and shall be modified as appropriate when the obligor is either an individual or a partnership:

POWER OF ATTORNEY AND AGREEMENT

(FOR CORPORATION)

——, (name of corporation) a corporation duly incorporated under the laws of the State of ——, and having its principal office in the City of ——, State of ———, as authorized by a resolution of the board of directors of the corporation, passed on the ——— day of ——, 19—, a duly certified copy of which is attached, does constitute and appoint ——— (name and official title of bond-approving officer), and his successors in office, as attorney for said corporation, for and in the name of the corporation to collect or to sell, assign, and transfer the securities described as follows:

The securities having been deposited by it as security for the performance of the agreements undertaken in a bond with the United States, executed on the date of —— ——, 19—, the terms and conditions of which are incorporated by reference into this power of attorney and agreement and made a part hereof. The undersigned agrees that in case of any default in the performance of any of the agreements the attorney shall have full power to collect the securities or any part thereof, or to sell, assign, and transfer the securities or any part thereof at public or private sale, without notice, free from any equity of redemption and without appraisement or valuation, notice and right to redeem being waived and to apply the proceeds of the sale or collection in whole or in part to the satisfaction of any obligation arising by reason of default. The undersigned further agrees that the authority granted by this agreement is irrevocable. The corporation for itself, its successors and assigns, ratifies and confirms whatever the attorney shall do by virtue of this agreement.

Witnessed, signed, and sealed, this —— day of —— 19—.

[Corporate seal.]

By ——— ———————————

Before me, the undersigned, a notary public within and for the County of ——, in the State of —— (or the District of Columbia), personally appeared —— (name and title of officer) and for and in behalf of said ——, a corporation, acknowledged the execution of the foregoing power of attorney.

Witness my hand and notarial seal this — day of ——, 19—.

[Notarial seal.]

Notary Public ———————————

Note.—Securities must be described by title, date of maturity, rate of interest, denomination, serial number, and whether coupon or registered. Failure to give a complete description will warrant rejection of this power of attorney.

(c) *Application of United States money on default.* If cash is deposited in lieu of sureties on the bond, the district director or regional commissioner, as is authorized to apply the cash, in whole or in part, to the satisfaction of appropriate any damages, demands, or deficiency arising by reason of a default under the bond.

Subpart E—Production of Documents

§ 113.41 Entry made prior to production of documents.

When entry is made prior to the production of a required document, the importer shall indicate in the "Missing Documents" box (box 16) on Customs Form 7501 the missing document, whether the importer gives a bond or stipulates to produce the document.

§ 113.42 Time period for production of documents.

Except when another period is fixed by law or regulations, any document for the production of which a bond is given shall be delivered to the district director within 6 months from the date of the transaction in connection with which the bond was given, or within any extension of such time which may be granted pursuant to § 113.43 (a). If the period ends on a Saturday, Sunday, or Federal holiday, delivery on the next business day shall be accepted as timely.

§ 113.43 Extension of time period.

(a) *Application received within time period.* If a document (other than an invoice or document which must be produced within 2 months, as provided in § 141.61(e) of this chapter) referred to in § 113.42 is not produced within 6 months from the date of the transaction in connection with which the bond was given, the district director, in his discretion, upon written application of the importer, may extend the period for one further period of 2 months.

(b) *Late application.* No application for the extension of the period of any bond given to assure the production of a missing document shall be allowed by the district director if the application is received later than 2 months after the expiration of the period of the bond, and any extension shall not be allowed by the district director for a period of more than 2 months from the date of expiration of the period.

(c) *Acceptance of a free-entry or reduced-duty document prior to liquidation.* When a bond is given for the production of any free-entry or reduced-duty document and a satisfactory document is produced prior to liquidation of the entry or within the period during which a valid reliquidation may be completed, provided the failure to file was not due to willful negligence or fraudulent intent, it shall be accepted as satisfying the requirement that it be filed in connection with the entry, and the bond charge for its production shall be cancelled.

§ 113.44 Assent of sureties to an extension of a bond.

(a) *Extension prescribed by law or regulations.* The assent of the sureties to any extension of the period prescribed in a bond is not necessary when the extension is authorized by law or regulations.

(b) *Other extension.* The assent of the sureties shall be obtained before any extension of the period prescribed in a bond other than an extension authorized by law or regulation, is allowed.

§ 113.45 Charge for production of a missing document made against a continuous bond.

When a continuous bond secures the production of a missing document and the bond is breached by the principal's failure to timely produce that document, the claim for liquidated damages shall be in an amount equal to the amount of the single entry bond that would have been taken had the transaction been covered by a single entry bond.

§ 113.46 Cancellation of bond charges resulting from failure to produce documents.

Section 172.22 of this chapter sets forth provisions relating to cancellation

of bond charges resulting from failure to produce documents.

Subpart F—Assessment of Damages and Cancellation of Bond

§ 113.51 Cancellation of bond or charge against the bond.

The Commissioner of Customs may authorize the cancellation of any bond provided for in this part or any charge that may have been made against the bond, in the event of a breach of any condition of the bond, upon payment of a lesser amount or penalty or upon such other terms and conditions as may be deemed sufficient.

§ 113.52 Failure to satisfy the bond.

If any Customs bond, except one given only for the production of free-entry or reduced-duty documents (see §§ 113.43(c) and 172.22(c) of this chapter), is unsatisfied upon the expiration of 90 days after liability has accrued under the bond, the matter shall be reported to the Department of Justice for prosecution unless measures have been taken to file an application for relief or protest in accordance with the provisions of this chapter or to satisfactorily settle the matter.

§ 113.53 Waiver of Customs requirement supported by a bond.

(a) *Waiver by the Commissioner of Customs.* When a Customs requirement supported by a bond is waived by the Commissioner of Customs, the waiver may be:

(1) Unconditional, in which case the importer is relieved from the payment of liquidated damages;

(2) Conditioned upon prior settlement of the bond obligation by payment of liquidated damages; or

(3) Conditioned upon such other terms and conditions as the Commissioner may deem sufficient.

(b) *Waiver by the district director.* When a Customs requirement supported by a bond is waived by the district director pursuant to the authority conferred by these regulations, the waiver shall be unconditional.

§ 113.54 Cancellation of erroneous charges.

(a) *Bonds.* Section 172.31 of this chapter sets forth provisions relating to the cancellation of charges against the bond when it is determined that the act or omission forming the basis for the claim for liquidated damages did not in fact occur.

(b) *Carnets.* Section 114.34 of this chapter sets forth provisions relating to the cancellation of erroneous charges involving carnets.

§ 113.55 Cancellation of export bonds.

(a) *Manner of cancellation.* A bond to assure exportation as defined in § 101.1 of this chapter may be cancelled:

(1) *Upon exportation.* Upon the listing of the merchandise on the outward manifest or outward bill of lading, the inspector's certificate of lading, the record of clearance of the vessel or of the departure of the vehicle, and the production of a foreign landing certificate if the certificate is required by the district director.

(2) *Upon payment of liquidated damages.* Upon the payment of liquidated damages.

(b) *Cancellation of bond charges of an international carrier.* The conditions of the bond of an international carrier may be considered as having been complied with upon the production of the applicable documents listed in paragraph (a)(1) of this section.

(c) *Foreign landing certificate.* A foreign landing certificate, when required, shall be produced within six months from the date of exportation and shall be signed by a revenue officer of the foreign country to which the merchandise is exported, unless it is shown that the country has no Customs administration, in which case the certificate may be signed by the consignee or by the vessel's agent at the place of landing. Landing certificates are required in the following cases:

(1) *Mandatory.* A landing certificate shall be required in every case to establish the exportation of narcotic drugs or any equipment, stores (except such articles as are placed on board vessels or aircraft under the provisions of section 309 or 317, Tariff Act of 1930, as amended (19 U.S.C. 1309, 1317)), or machinery for vessels.

(2) *Optional with the district director.* A landing certificate may be required by the district director for merchandise exported from the United States, or residue cargo, when a certificate is deemed necessary for the protection of the revenue.

(3) *Waiver.* Except as provided in section 4.88 of this chapter, in cases where landing certificates are required and they cannot be produced, an application for waiver thereof may be made to the Commissioner of Customs through the district director, accompanied by such proof of exportation and landing abroad as may be available.

(d) *Articles less than $10.* In the case of articles for which the ordinary Customs duty estimated at the time of entry did not exceed $10 and which are exported without Customs supervision, but within the period during which the articles are authorized to remain in the Customs territory of the United States under bond (including any lawful extension), the bond may be cancelled upon production of evidence of exportation satisfactory to the district director.

Subpart G—Customs Bond Conditions

§ 113.61 General.

Each section in this subpart identifies specific coverage for a particular Customs activity. When an individual or organization files a bond with Customs the activity in which they plan on engaging will be identified on the bond. The bond conditions listed in this subpart which correspond to that activity will be incorporated by reference into the bond.

§ 113.62 Basic importation and entry bond conditions.

A bond for basic importation and entry shall contain the conditions listed in this section and may be either a single entry or a continuous bond, except that a bond taken in the case of merchandise subject to an exclusion order of the International Trade Commission under 19 U.S.C. 1337 shall be a single entry bond.

Basic Importation and Entry Bond Conditions

(a) *Agreement to Pay Duties, Taxes, and Charges.* (1) If merchandise is imported and released from Customs custody or withdrawn from a Customs bonded warehouse into the commerce of, or for consumption in, the United States, the obligors (principal and surety) agree to:

(i) Deposit, within the time prescribed by law or regulation, any duties, taxes, and charges imposed, or estimated to be due, at the time of release or withdrawal; and

(ii) Pay, as demanded by Customs, all additional duties, taxes, and charges subsequently found due, legally fixed, and imposed on any entry secured by this bond.

(2) If the principal enters any merchandise into a Customs bonded warehouse, the obligors agree;

(i) To pay any duties, taxes, and charges found to be due on any of that merchandise which remains in the warehouse at the expiration of the warehousing time limit set by law; and

(ii) That the obligation to pay duties, taxes, and charges on the merchandise applies whether it is properly withdrawn by the principal, or by the principal's transferee, or is unlawfully removed by the principal or any other person, without regard to whether the merchandise is manipulated, unless

payment was made or secured to be made by some other person.

(3) Under this agreement, the obligation to pay any and all duties, taxes, and charges due on any entry ceases on the date the principal timely files with the district director a bond of the owner in which the owner agrees to pay all duties, taxes, and charges found due on that entry; provided a declaration of the owner has also been properly filed.

(b) *Agreement to Make or Complete Entry.* If all or part of imported merchandise is released before entry under the provisions of the special delivery permit procedures under 19 U.S.C. 448(b) or released before completion of the entry under 19 U.S.C. 484(a), the principal agrees to file within the time and in the manner prescribed by law and regulation, documentation to enable Customs to:

(1) Determine whether the merchandise may be released from Customs custody;

(2) Properly assess duties on the merchandise;

(3) Collect accurate statistics with respect to the merchandise; and

(4) Determine whether applicable requirements of law and regulation are met.

(c) *Agreement to Produce Documents and Evidence.* If merchandise is released conditionally to the principal before all required documents or other evidence is produced, the principal agrees to furnish Customs with any document or evidence as required by law or regulation, and within the time specified by law or regulations.

(d) *Agreement to Redeliver Merchandise.* If merchandise is released conditionally from Customs custody to the principal before all required evidence is produced, before its quantity and value are determined, or before its right of admission into the United States is determined, the principal agrees to redeliver timely, on demand by Customs, the merchandise released if it:

(1) Fails to comply with the laws or regulations governing admission into the United States;

(2) Must be examined, inspected, or appraised as required by 19 U.S.C. 499; or

(3) Must be marked with the country of origin as required by law or regulation.

It is understood that any demand for redelivery will be made no later than 30 days after the date that the merchandise was released or 30 days after the end of the conditional release period (whichever is later).

(e) *Agreement to Rectify Any Non-Compliance with Provisions of Admission.* If merchandise is released conditionally to the principal before its right of admission into the United States is determined, the principal, after notification, agrees to mark, clean, fumigate, destroy, export or do any other thing to the merchandise in order to comply with the law and regulations governing its admission into the United States within the time period set in the notification.

(f) *Agreement for Examination of Merchandise.* If the principal obtains permission to have any merchandise examined elsewhere than at a wharf or other place in charge of a Customs officer, the principal agrees to:

(1) Hold the merchandise at the place of examination until the merchandise is properly released;

(2) Transfer the merchandise to another place on receipt of instructions from Customs made before release; and

(3) Keep any Customs seal or cording on the merchandise intact until the merchandise is examined by Customs.

(g) *Reimbursement and Exoneration of the United States.* The obligors agree to:

(1) Pay the compensation and expenses of any Customs officer, as required by law or regulation; and

(2) Exonerate the United States and its officers from any risk, loss, or expense arising out of principal's importation, entry, or withdrawal of merchandise.

(h) *Agreement on Duty-Free Entries or Withdrawals.* If the principal enters or withdraws any merchandise, without payment of duty and tax, or at a reduced rate of duty and tax, as permitted under the law, the principal agrees:

(1) To use and handle the merchandise in the manner and for the purpose entitling it to duty-free treatment;

(2) If a fishing vessel, to present the original approved application to Customs within 24 hours on each arrival of the vessel in the Customs territory of the United States from a fishing voyage;

(3) To furnish timely proof to Customs that any merchandise entered or withdrawn under any law permitting duty-free treatment was used in accordance with that law; and

(4) To keep safely all withdrawn beverages remaining on board while the vessel is in port, as may be required by Customs.

(i) *Consequence of default.* (1) If the principal defaults on agreements in this condition other than conditions (a) or (g), the obligors agree to pay liquidated damages equal to the value of the merchandise involved in the default, or three times the value of the merchandise involved in the default if the merchandise is restricted merchandise or alcoholic beverages, or such other amount as may be authorized by law or regulation except that in the case of merchandise subject to an exclusion order of the International Trade Commission under 19 U.S.C. 1337 which has been released before such order becomes final, the obligors agree to pay liquidated damages in the amount specified in the order for failure to redeliver such merchandise.

(2) It is understood and agreed that whether the default involves merchandise is determined by Customs and that the amount to be collected under these conditions shall be based upon the quantity and value of the merchandise as determined by Customs. Value as used in these provisions means value as determined under 19 U.S.C. 1401a.

(3) If the principal defaults on agreements in this condition other than conditions (a) or (g) and the default does not involve merchandise, the obligors agree to pay liquidated damages of $1,000 for each default or such other amount as may be authorized by law or regulation.

§ 113.63 Basic custodial bond conditions.

A basic custodial bond shall contain the conditions listed in this section and shall be a continuous bond.

Basic Custodial Bond Conditions

(a) *Receipt of Merchandise.* The principal agrees:

(1) To operate as a custodian of any bonded merchandise received and to comply with all regulations regarding the receipt, carriage, safekeeping, and disposition of such merchandise;

(2) To accept only merchandise authorized under Customs Regulations;

(3) To maintain all records required by regulations relating to merchandise received into bond, and to produce the records upon demand by an authorized Customs officer;

(4) If authorized to operate a container station under the Customs Regulations, to report promptly to Customs each arrival of a container and its merchandise by delivery of the manifest and the application for transfer, or by other approved notice.

(b) *Carriage and Safekeeping of Merchandise.* The principal agrees:

(1) If a bonded carrier, to use only authorized means of conveyance;

(2) To keep safe any merchandise placed in its custody including, when approved by customs, repacking and transferring such merchandise when necessary for its safety or preservation; and

(3) To comply with Customs Regulations relating to the handling of bonded merchandise.

(c) *Disposition of Merchandise.* The principal agrees:

(1) If a bonded carrier, to report promptly the arrival of merchandise at the destination port by delivering to Customs the manifest or other approved notice;

(2) If a cartage or lighterage business, to deliver promptly and safely to Customs any merchandise placed in the principal's custody together with any related cartage and lighterage ticket and manifest;

(3) To dispose of merchandise in a manner authorized by Customs Regulations; and

(4) To file timely with Customs any report required by Customs Regulations.

(d) *Agreement to Redeliver Merchandise to Customs.* If the principal is designated a bonded carrier, or licensed to operate a cartage or lighterage business, the principal agrees to redeliver timely, on demand by Customs, any merchandise delivered to unauthorized locations or to the consignee without the permission of Customs. It is understood that the demand for redelivery shall be made no later than 30 days after Customs discovers the improper delivery.

(e) *Compliance with Licensing and Operating Requirements.* The principal agrees to comply with all Customs laws and regulations relating to principal's facilities, conveyances, and employees.

(f) *Reimbursement and Exoneration of the United States.* The principal and surety agree to:

(1) Pay the compensation and expenses of any Customs officer as required by law or regulation;

(2) Pay the cost of any locks, seals, and other fastenings required by Customs Regulations for securing merchandise placed in the principal's custody;

(3) Pay for any expenses connected with the suspension or termination of the bonded status of the premises; and

(4) Exonerate the United States and its officers from any risk, loss, or expense arising out of the principal's custodial operation.

(g) *Consequence of Default.* (1) If the principal defaults on conditions (a) through (e) in this agreement, the obligors (principal and surety) agree to pay liquidated damages equal to the value of the merchandise involved in the default or three times the value of the merchandise involved in the default if the merchandise is restricted merchandise or alcoholic beverages, or such other amount as may be authorized by law or regulation.

(2) It is understood and agreed that the amount to be collected under conditions (a) through (e) of this agreement shall be based upon the quantity and value of the merchandise as determined by Customs. Value as used in these provisions means value as determined under 19 U.S.C. 1401a.

(3) If the principal defaults on conditions (a) through (e) in this agreement and the default does not involve merchandise, the obligors agree to pay liquidated damages of $1,000 for each default or such other amount as may be authorized by law or regulation. It is understood and agreed that whether the default involves merchandise is determined by Customs.

§ 113.64 International carrier bond conditions.

A bond for international carriers shall contain the conditions listed in this section and may be either a single entry or continuous bond.

International Carrier Bond Conditions

(a) *Agreement to Pay Penalties, Duties, Taxes, and Other Changes.* If any vessel, vehicle, or aircraft, or any master, owner, or person in charge of a vessel, vehicle or aircraft incurs a penalty, duty, tax or other charge provided by law or regulation the obligors agree to pay the sum upon demand by Customs.

(b) *Agreement on Unlading, Safekeeping, and Disposition of Merchandise, Supplies, Crew Purchases, Etc.* The principal agrees to comply with all laws and Customs Regulations applicable to unlading, safekeeping, and disposition of merchandise, supplies, crew purchases, and other articles on board the vehicle, vessel, or aircraft; and to redeliver the foregoing to Customs upon demand as provided by Customs Regulations. If principal defaults, obligors agree to pay liquidated damages equal to the value of the merchandise involved in the default or three times the value of the merchandise involved in the default if the merchandise is restricted merchandise or alcoholic beverages, or such other amount as may be authorized by law or regulation. It is understood and agreed that the amount to be collected under this condition shall be based upon the quantity and value of the merchandise as determined by Customs. Value as used in these provisions means value as determined under 19 U.S.C. 1401a.

(c) *Agreement to Deliver Export Documents.* If the principal's vessel, vehicle, or aircraft is granted clearance without filing a complete outward manifest and all required export documents, the principal agrees to file timely the required manifest and all required export documents. If the principal defaults, the obligors (principal and surety) agree to pay liquidated damages of $50 per day for the first 3 days, and $100 per day thereafter, up to $1,000 in total.

(d) *Exoneration of the United States.* The obligors agree to exonerate the United States and its officers from any risk, loss, or expense arising out of entry or clearance of the carrier, or handling of the articles on board.

§ 113.65 Repayment of erroneous drawback payment bond conditions.

A bond for repayment of erroneous drawback shall contain the conditions listed in this section and may be either a single entry or continuous bond.

Repayment of Erroneous Drawback Payment Bond Conditions

(a) *Agreement Under Exporter's Summary Procedure.* If the principal is permitted to file drawback claims under the exporter's summary procedure and the principal's drawback claims are paid before a final determination that the principal:

(1) Is entitled to the drawback claimed.

(2) Correctly described the exported articles in the claim, and

(3) Correctly stated the facts of exportation in the claim; the principal agrees to refund, on demand, any money claimed by Customs to have been erroneously paid as a result of an incorrect statement on the drawback claim.

(b) *Agreement Under Accelerated Payment of Drawback.* If the principal receives an accelerated payment of drawback based on the principal's calculation of the drawback claim, the principal agrees to refund on demand the full amount of any overpayment, as determined on liquidation of the drawback claim.

§ 113.66 Control of containers and instruments of international traffic bond conditions.

A bond for control of containers and instruments of international traffic shall contain the conditions listed in this section and shall be a continuous bond.

Control of Containers and Instruments of International Traffic Bond Conditions

(a) *Agreement to Enter Any Diverted Instrument of International Traffic.* If the principal brings in and takes out of the Customs territory of the United States an instrument of international traffic without entry and without

payment of duty, as provided by the Customs Regulations and section 322(a), Tariff Act of 1930, as amended, the principal agrees to:

(1) Report promptly to Customs when the instrument is diverted to point-to-point local traffic in the Customs territory of the United States or when the instrument is otherwise withdrawn in the Customs territory of the United States from its use as an instrument of international traffic;

(2) Promptly enter the instrument; and

(3) Pay any duty due on the instrument at the rate in effect and in its condition on the date of diversion or withdrawal.

(b) *Agreement to Comply With the Provisions of Items 800.00 or 808.00, Tariff Schedules of the United States.* If the principal gets free release of any serially numbered shipping container classifiable under item 800.00 or 808.00, TSUS, the principal agrees:

(1) Not to advance the value or improve its condition abroad or claim (or make a previous claim) drawback on, any container released under item 800.00, TSUS;

(2) To pay the initial duty due and otherwise comply with every condition in item 808.00, TSUS, on any container released under that item;

(3) To mark that container in the manner required by Customs;

(4) To keep records which show the current status of that container in service and the disposition of that container if taken out of service; and

(5) To remove or strike out the markings on that container when it is taken out of service or when the principal transfers ownership of it.

(c) *Consequence of Default.* (1) If the principal defaults on agreements in these conditions, the obligors (principal and surety) agree to pay liquidated damages equal to the value of the merchandise involved in the default or such other amount as may be authorized by law or regulation.

(2) It is understood and agreed that the amount to be collected under these conditions shall be based upon the quantity and value of the merchandise as determined by Customs.

(3) If the principal defaults on the agreements in these conditions and the default does not involve merchandise, the obligors agree to pay liquidated damages of $1,000 for each default or such other amount as may be authorized by law or regulation. It is understood and agreed that whether the default involves merchandise is determined by Customs.

§ 113.67 Licensed public gauger bond conditions.

A bond of a licensed public gauger shall contain the conditions listed in this section and shall be a continuous bond.

Licensed Public Gauger Bond Conditions

(a) If the principal is a licensed public gauger whose reports of gauging are accepted for Customs purposes, the principal agrees to:

(1) Gauge according to the standards and procedures set by the Customs Regulations; and

(2) Submit properly any required report, proof, or abstract to Customs.

(b)(1) If the principal defaults, the obligors (principal and surety) agree to pay liquidated damages equal to the value of the merchandise involved in the default or three times the value of the merchandise involved in the default if the merchandise is restricted merchandise or alcoholic beverages or such other amount as may be authorized by law or regulation.

(2) If the principal defaults on the agreements in these conditions and the default does not involve merchandise, the obligors agree to pay liquidated damages of $1,000 for each default or such other amount as may be authorized by law or regulation.

(3) It is understood and agreed that whether the default involves merchandise is determined by Customs, that the amount to be collected under this condition shall be based upon the quantity and value of the merchandise as determined by Customs and that value as used in these provisions means value as determined under 19 U.S.C. 1401a.

§ 113.68 Wool and fur products labeling acts and fiber products identification act bond conditions.

A bond to comply with wool and fur products labeling acts and fiber products identification act shall contain the conditions listed in this section and shall be a single entry bond.

Wool and Fur Products Labeling Acts and Fiber Products Identification Act

(a) If the principal obtains release from Customs custody of any wool or fur product (hereafter "merchandise") that is subject to the provisions of the Wool Products Labeling Act of 1939, the Fur Products Labeling Act, or the Fiber Products Identification Act, the principal guarantees that the merchandise complies with every provision of those Acts, as applicable.

(b) If any of the released merchandise does not comply with each applicable provision of the Wool Products Labeling Act of 1939, the Fur Products Labeling Act, or the Fiber Products Identification Act, the obligors (principal or surety) agree to pay liquidated damages equal to two times the value of the merchandise involved in the default and duty thereon. It is understood and agreed that the amount to be collected under this condition shall be based upon the quantity and value of the merchandise as determined by Customs. Value as used in these provisions means value as determined under 19 U.S.C. 1401a.

§ 113.69 Production of bills of lading bond conditions.

A bond to produce a bill of lading shall contain the conditions listed in this section and shall be a single entry bond.

Production of Bill of Lading Bond Conditions

If the principal obtains release of any merchandise before filing a valid bill of lading on that merchandise with Customs, the obligors (principal and surety) agree to:

(a) Produce timely a valid bill of lading for the merchandise; and

(b) Relieve the United States and its employees from all liability, to indemnify the United States and its employees against loss, and defend any action brought on a claim for loss based on the release without production of a valid bill of lading.

§ 113.70 Bond condition to indemnify United States for detention of copyrighted material.

A bond to indemnify the United States for detention of copyrighted material shall contain the conditions listed in this section and shall be a single entry bond.

Bond Condition To Indemnify United States for Detention of Copyrighted Material

If Customs detains any articles alleged by the principal to be a piratical copy of material covered by the principal's copyright pending a final determination whether the articles are prohibited entry under the copyright laws, the obligors (principal and surety) agree to hold the United States and its employees, and the importer or owner of those articles, jointly and severally, harmless from any material depreciation of those articles and any loss or damage caused by the detention in the event it is finally determined that the articles are not a piratical copy of the material.

§ 113.71 Bond condition to observe neutrality.

A bond to observe neutrality shall contain the conditions listed in this section and shall be a single entry bond.

Bond Condition To Observe Neutrality

(a) If clearance is granted to the principal's vessel, which is armed or is built for a war-like purpose, with a cargo of arms and munitions, so that it is likely to be used to commit hostilities against people or countries with whom the Government of the United States is at peace, the principal guarantees that the vessel will not be used to commit hostilities against any country, state, colony, or people with whom the Government is at peace.

(b) If the principal defaults, the obligors (principal and surety) agree to pay liquidated damages equal to twice the value of the vessel and cargo.

§ 113.72 Bond condition to pay court costs (condemned goods).

A bond to pay court costs (condemned goods) shall contain the condition listed in this section and shall be a single entry bond.

Bond Condition To Pay Court Costs (Condemned Goods)

If any seized goods belonging to principal are condemned the obligors (principal and surety) agree to pay all costs of the condemnation proceedings.

§ 113.73 Foreign trade zone operator bond conditions.

A bond of a foreign trade zone operator shall contain the conditions listed in this section and shall be a continuous bond.

Foreign Trade Zone Operator Bond Conditions

If the principal is authorized to operate a foreign trade zone or subzone:

(a) *Receipt, Handling, and Disposition of Merchandise.* The principal agrees to comply with:

(1) The law and Customs Regulations relating to the admission into, handling in, and removal of merchandise from the foreign trade zone or subzone; and

(2) The terms and conditions of the memorandum of understanding with Customs concerning the maintenance of records covering merchandise in the foreign trade zone or subzone.

If the principal defaults, the obligors (principal and surety) agree to pay liquidated damages equal to the value of the merchandise involved in the default or three times the value of the merchandise involved in the default if the merchandise is restricted merchandise or alcoholic beverages, or such other amount as may be authorized by law or regulation. It is understood and agreed that whether the default involves mechandise is determined by Customs, that the amount to be collected under this condition shall be based upon the quantity and value of the merchandise as determined by Customs and that value as used in these provisions means value as determined under 19 U.S.C. 1401a.

(b) *Agreement to Pay Duties, Taxes, and Charges.* The obligors agree to pay any duties, taxes, and charges found to be due on any merchandise, properly admitted to the foreign trade zone or subzone, which is found to be missing from the zone or cannot be accounted for in the zone, it being expressly understood and agreed that the amount of said duties, taxes, and charges shall be determined solely by Customs.

(c) *Reimbursement and Exoneration of the United States.* The obligors agree to:

(1) Exonerate the United States and its officers from any risk, loss, or expense arising from the principal's operation of the foreign trade zone or subzone;

(2) Pay the compensation and expenses of any Customs officer, as required by law or regulations.

(R.S. 251, as amended, secs. 623, as amended, 624, 46 Stat 759, as amended (19 U.S.C. 66, 1623, 1624))

PART 123—CUSTOMS RELATIONS WITH CANADA AND MEXICO

1. Section 123.8(c) is amended by removing the words "Customs Form 7567, 7569, or 7597 shall have been received" in the first sentence and inserting, in their place, the words "Customs Form 301, containing the bond conditions set forth in § 113.64 of this chapter, is on file or is filed with the request".

2. Section 123.8(c) is further amended by removing the second sentence.

(R.S. 251, as amended, sections 623, as amended, 624, 46 Stat. 759, as amended (19 U.S.C. 66, 1623, 1624))

PART 125—CARTAGE AND LIGHTERAGE OF MERCHANDISE

Section 125.42 is amended by removing the words "a cartman's bond or lighterman's bond" in the first sentence and inserting, in their place, the words "the bond of the cartman or lighterman on Customs Form 301, containing the bond conditions set forth in § 113.63 of this chapter,".

(R.S. 251, as amended, section 623, as amended, 624, 46 Stat. 759, as amended (19 U.S.C. 66, 1623, 1624))

PART 127—GENERAL ORDER, UNCLAIMED, AND ABANDONED MERCHANDISE

Section 127.37(a) is amended by removing the words "warehouse entry bond" and inserting, in their place, the words "bond for the importation and entry of merchandise on Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter".

(R.S. 251, as amended, sections 623, as amended, 624, 46 Stat. 759, as amended (19 U.S.C. 66, 1623, 1624))

PART 132—QUOTAS

Section 132.14 is amended by removing the words "entry bond" in paragraphs (a)(4)(i)(C) and (a)(4)(ii)(B) and in each instance inserting, in their place, the words "bond on Customs Form 301, containing the basic importation and entry bond conditions set forth in section 113.62 of this chapter".

(R.S. 251, as amended, secs. 623, as amended, 624, 46 Stat. 759, as amended (19 U.S.C. 66, 1623, 1624))

PART 133—TRADEMARKS, TRADE NAMES, AND COPYRIGHTS

1. Section 133.24 is amended by removing the words "entry bond" in the first sentence and inserting, in their place, the words "bond on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter,".

2. Section 133.43(b)(2) is amended by removing the words "in the form and" and inserting, in their place, the words "on Customs Form 301, containing the bond conditions set forth in § 113.70 of this chapter in an".

3. Section 113.46 is amended by removing the words "entry bond" in the first sentence and inserting, in their place, the words "bond on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter,".

(R.S. 251, as amended, secs. 623, as amended, 624, 46 Stat. 759, as amended (19 U.S.C. 66, 1623, 1624))

PART 134—COUNTRY OF ORIGIN MARKING

§ 134.53 [Amended]

Section 134.53(a)(2) is amended by removing the words "entry bond" in the last sentence and inserting, in their place, the words "bond on Customs Form 301, containing the basic importation and entry bond conditions set forth in § 113.62 of this chapter".

(R.S. 251, as amended, sections 623, as amended, 624, 46 Stat. 759, as amended (19 U.S.C. 66, 1623, 1624))

PART 141—ENTRY OF MERCHANDISE

1. Section 141.0a is amended by revising paragraph (h) and adding a new paragraph (i) to read as follows:

§ 141.0a Definitions.

* * * * *

(h) *Entered temporarily under bond.* "Entered temporarily under bond" means that an entry summary supporting a temporary importation under bond has been filed with Customs in proper form.

(i) *Released conditionally.* "Released conditionally" means any release from Customs custody before liquidation.

2. Section 141.15(b) is revised to read as follows:

§ 141.15 Bond for production of bill of lading or air waybill.

* * * * *

(b) *Form.* The bond shall be on Customs Form 301 and contain the bond conditions set forth in § 113.69 of this chapter.

* * * * *

§ 141.18 [Amended]

3. Section 141.18(b) is amended by inserting, after the word "bond", the words "on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter".

§ 141.19 [Amended]

4. Section 141.19(b)(2)(ii) is amended by removing the words "entry bond" and inserting, in their place, the words "bond on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter".

§ 141.20 [Amended]

5. Section 141.20 is amended by removing (a) the word "term" in paragraph (a)(2) and inserting, in its place, the word "continuous", (b) the words "on Customs Form 7601" in paragraph (a)(2) and inserting, in their place, the words "on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter,", and (c) the words "on Customs Form 7551 or 7553, with a resident corporate surety thereon, in lieu of a bond on Customs Form 7601" in paragraph (c) and inserting, in their place, the words "on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter, with a resident corporate surety".

6. Section 141.52(g) is revised to read as follows:

§ 141.52 Separate entries for different portions.

* * * * *

(g) The consignment contains merchandise subject to entry under a bond given to assure accounting for final disposition, such as a temporary importation under bond.

* * * * *

§ 141.68 [Amended]

7. Section 141.68 is amended by removing the words "an appropriate bond" and inserting, in their place, the words "a bond on Customs Form 301, containing the bond conditions set forth in § 113.62 or § 113.69 of this chapter, as appropriate,".

§ 141.82 [Amended]

8. Section 141.82(c) is amended by removing the word "term" in the first sentence and inserting, in its place, the word "continuous".

9. Section 141.83(d)(10) is revised to read as follows:

§ 141.83 Type of invoice required.

* * * * *

(d) *Special Customs or commercial invoice not required.* * * *

(10) Merchandise entered temporarily into the Customs territory of the United States under bond or for permanent exhibition under bond.

* * * * *

§ 141.84 [Amended]

10. Section 141.84(e) is amended by inserting the words "the charges against" after the word "cancel".

11. Section 141.91(d) is amended by removing the words "gives an appropriate bond" in the first sentence and inserting, in their place, the words "files a bond on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter, in an amount equal to one and one-half the invoice value of the merchandise,".

§ 141.92 [Amended]

12. Section 141.92(c) is amended by removing the words "entry bond" and inserting, in their place, the words "bond of Customs From 301, containing the bond conditions set forth in § 113.62 of this chapter."

§ 141.10 [Amended]

13. Section 141.101(e) is amended by removing the words "under a temporary importation bond, permanent exhibition bond, trade fair bond, or other similar bond" and inserting, in their place, the words "temporarily imported under "bond of Customs Form 301, containing under bond, entered for a trade fair under bond or entered under bond for similar reasons".

§ 141.102 [Amended]

14. Section 141.102(d) is amended by removing the words "any bond provided for in Part 113 of this chapter" in the first sentence and inserting, in their place, the words "the bond".

§ 141.112 [Amended]

15. Section 141.112(g) is amended by removing the words "exact a bond of indemnity to save him harmless from any personal" and inserting, in their place, the words "require a bond on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter, to hold him harmless from any".

(R.S. 251, as amended, secs. 623, as amended, 624, 46 Stat. 759, as amended (19 U.S.C. 66, 1623, 1624))

PART 142—ENTRY PROCESS

§ 142.1 [Amended]

1. Section 142.1 is amended by removing the words "entered under a temporary importation bond" and inserting in their place, the words "entered temporarily under bond".

2. Section 142.4(a) is revised to read as follows:

§ 142.4 Bond requirements.

(a) *At the time of entry.* Except as provided in section 10.101(d) of this chapter, merchandise shall not be released from Customs custody at the time Customs receives the entry documentation or the entry summary documentation which serves as both the entry and the entry summary, as required by § 142.3 unless a single entry or continuous bond on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter, executed by an approved corporate surety, or secured by cash deposits or obligations of the United States, as provided for in § 113.40 of this chapter, has been filed. When any of the imported merchandise is subject to a tariff-rate quota and is to be released at a time when the applicable quota is filled, the full rates shall be used in computing the estimated duties to determine the amount of the bond.

* * * * *

3. Section 142.4(b)(2) is amended by removing the words "one of the bonds enumerated in paragraph (a) of this section" in the first sentence and inserting, in their place, the words "a bond on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter".

§ 142.5 [Removed and Reserved]

4. Part 142 is amended by removing § 142.5 and reserving it.

§ 142.11 [Amended]

5. Section 142.11(a) is amended by removing the words "under a temporary importation bond" in the second sentence and inserting, in their place, the words "temporarily under bond".

§ 142.15 [Amended]

6. Section 142.15 is amended by removing the word "term" in the second sentence and inserting, in its place, the word "continuous".

§ 142.19 [Amended]

7. Section 142.19 is amended by removing the words "an appropriate" in the first sentence and inserting, in their place, the word "a".

8. Section 142.19(a) is amended by removing the words "an entry bond is filed on Customs Forms 7551, 7555, 7595, in an amount determined in accordance with Part 113 of this chapter" in the first sentence and inserting, in their place, the words "a bond is filed on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter".

9. Section 142.19(a) is further amended by removing the word "entry" in the second sentence.

§ 142.21 [Amended]

10. Section 142.21(a) is amended by removing the words "one of the types of Customs bonds described in § 142.4" in the first sentence and inserting, in their place, the words "a bond on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter".

11. Section 142.21(b)(2) is revised to read as follows:

§ 142.21 Merchandise eligible for special permit for immediate delivery.

* * * * *

(b) *Fresh fruits and vegetables.* * * *

(2) The application shall be accompanied by a continuous bond on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter.

* * * * *

12. Section 142.21(e)(1) is amended by removing the words "one of the type of bonds enumerated in § 142.4" in the first sentence and inserting, in their place, the words "a bond on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter".

13. Section 142.21(f)(2) is amended by removing the words "one of the types of Customs bonds provided for in § 142.4" and inserting, in their place, the words "a bond on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter".

14. Section 142.21(g) is amended by removing the words "an appropriate bond" and inserting, in their place, the words "a bond on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter".

§ 142.22 [Amended]

15. Section 142.22(b)(1) is amended by removing the words "under a temporary importation bond" and inserting, in their place, the words "temporarily under bond".

§ 142.24 [Amended]

16. Section 142.24 is amended by removing the words "Term special" from the section heading and inserting, in their place, the word "Special".

17. Section 142.24 is further amended by removing the word "term" from paragraphs (a) and (b).

18. Section 142.24(a) is amended by removing the words ", to be imported during a period not to exceed 1 year from the date of the permit" and by changing the comma which follows the phrase "for the permit," to a period.

§ 142.27 [Amended]

19. Section 142.27 is amended by removing the word "term" in the second sentence and inserting, in its place, the word "continuous".

(R.S. 251, as amended, secs. 623, as amended, 624, 46 Stat. 759, as amended (19 U.S.C. 66, 1623, 1624))

PART 144—WAREHOUSE AND REWAREHOUSE ENTRIES AND WITHDRAWALS

§ 144.2 [Amended]

1. Section 144.2 is amended by removing the words "entry bond" in the first sentence and inserting, in their place, the words "bond filed on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter".

2. Section 144.2 is further amended by removing the words "warehouse entry" in the second sentence.

3. Section 144.13 is revised to read as follows:

§ 144.13 Bond requirements.

A bond on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter shall be filed in the amount required by the district director to support the entry documentation.

§ 144.14 [Amended]

4. Section 144.14 is amended by removing the words "appropriate bond" in the first sentence and inserting, in their place, the words "bond on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter".

§ 144.15 [Amended]

5. Section 144.15 is amended by removing paragraph (d).

6. Section 144.21 is amended by removing the words "an appropriate bond" in the first sentence and inserting, in their place, the words "A bond on Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter".

§ 144.21 [Amended]

7. Section 144.21 is further amended by placing a period after the word "liability" in the second sentence and removing the remainder of the sentence.

8. Section 144.24 is revised to read as follows:

§ 144.24 Transferee's bond.

The transferee's bond shall be on Customs Form 301 and contain the bond conditions set forth in section 113.62 of this chapter.

§ 144.41 [Amended]

9. Section 144.41 is amended by removing the words "a bond on Customs Form 7555 or other appropriate form" in the first sentence of paragraph (d) and inserting, in their place, the words "A bond on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter".

10. Section 144.41 is further amended by removing the word "entry" the first time it appears, and "warehouse entry" in the second sentence of paragraph (d).

11. Section 144.41(g) is amended by removing the words "warehouse entry bond period" and inserting, in their place, the words "5-year period during which the merchandise may remain in warehouse under bond".

(R.S. 251, as amended, secs. 623, as amended, 624, 46 Stat. 759, as amended (19 U.S.C. 66, 1623, 1624))

PART 145—MAIL IMPORTATIONS

Section 145.72(d) is amended by removing the words "under a temporary importation bond" and inserting, in their place, the words "temporarily under bond".

(R.S. 251, as amended, sections 623, as amended, 624, 46 Stat. 759, as amended (19 U.S.C. 66, 1623, 1624))

PART 146—FOREIGN-TRADE ZONES

§ 146.42 [Amended]

1. Section 146.42 is amended by removing the words "on Customs Form 7557, 7559, or 7595" in paragraph (b)(2)(ii) and paragraph (c)(2) and, in each instance inserting, in their place, the words "on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter".

§ 146.45 [Amended]

2. Section 146.45 is amended by removing the words "on Customs Form 7551, 7553, or other appropriate form" in paragraph (b)(3) and in the second sentence of paragraph (c)(5) and, in each instance inserting, in their place, the words "on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter".

(R.S. 251, as amended, secs. 623, as amended, 624, 46 Stat. 759, as amended (19 U.S.C. 66, 1623, 1624))

PART 147—TRADE FAIRS

§ 147.2 [Amended]

1. Section 147.2(a)(2) is amended by removing the words "Covered by a Customs exhibition bond provided for in" and inserting, in their place, the words "Imported for exhibition under".

2. Section 147.3 is revised to read as follows:

§ 147.3 Bond required.

The fair operator shall file a bond on Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter in such amount as the district director requires. Liquidated damages shall be assessed by the district director under the bond if payments required by §§ 147.33, 147.41 or 147.43 are not paid upon demand.

3. Section 147.41 is amended by adding a sentence at the end of the section to read as follows:

§ 147.41 Removal or disposition pursuant to regulation.

* * * The fair operator shall be liable for the payment of any unpaid duty, tax, fees, charges, or exaction due on any article removed from the fair premises or diposed of contrary to this subpart, including any article lost or stolen regardless of the fair operator's fault. The payment shall be made on demand by the district director.

(R.S. 251, as amended, secs. 623, as amended, 624, 46 Stat. 759, as amended (19 U.S.C. 66, 1623, 1624))

PART 148—PERSONAL DECLARATIONS AND EXEMPTIONS

Section 148.52(c) is amended by removing the words "on Customs Form 7551 or 7553" in the second sentence and inserting, in their place, the words "on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter,".

(R.S. 251, as amended, secs. 623, as amended, 624, 46 Stat. 759, as amended (19 U.S.C. 66, 1623, 1624))

PART 151—EXAMINATION, SAMPLING, AND TESTING OF MERCHANDISE

1. Section 151.7(d) is amended by removing everything in the paragraph after the words "execute a bond" and inserting, in their place, the words "on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter".

§ 151.11 [Amended]

2. Section 151.11 is amended by removing the word "appropriate" in the second sentence.

§ 151.43 [Amended]

3. Section 151.43 is amended by removing the words "in the amount of $10,000" in the first sentence of paragraph (b)(6) and inserting, in their place, the words "on Customs Form 301, containing the bond conditions set forth in § 113.67 of this chapter,".

4. Section 151.43 is further amended by removing the second sentence of paragraph (b)(8).

5. Section 151.43(d) is amended by removing the words "public gauger bond described in section 113.13(b) of this chapter" in the second sentence and inserting, in their place, the word "bond".

(R.S. 251, as amended, secs. 623, as amended, 624, 46 Stat. 759, as amended (19 U.S.C. 66, 1623, 1624))

PART 162—RECORDKEEPING, INSPECTION, SEARCH, AND SEIZURE

§ 162.45 [Amended]

1. Section 162.45(a)(3) is amended by inserting the words "on Customs Form 301, containing the bond conditions set forth in § 113.72 of this chapter," after the word "bond".

§ 162.47 [Amended]

2. Section 162.47(b) is amended by removing the words "on Customs Form 4615" in the first sentence and inserting, in their place, the words "on Customs Form 301, containing the bond conditions set forth in § 113.72 of this chapter".

3. Section 162.47(b) is further amended by removing the second sentence and the format for the list or schedule.

(R.S. 251, as amended, secs. 623, as amended, 624, 46 Stat. 759, as amended (19 U.S.C. 66, 1623, 1624))

PART 172—LIQUIDATED DAMAGES

§ 172.22 [Amended]

Section 172.22(c) is amended by removing the word "term" and inserting, in its place, the word "continuous".

(R.S. 251, as amended, secs. 623, as amended, 624, 46 Stat. 759, as amended (19 U.S.C. 66, 1623, 1624))

PART 191—DRAWBACK

§ 191.53 [Amended]

1. Section 191.53(d) is amended by inserting the words "a bond on Customs Form 301, containing the bond conditions set forth in § 113.65 of this chapter, in such amount as the regional commissioner shall determine" after the words "The exporter-claimant shall furnish" and deleting the remainder of the paragraph.

§ 191.72 [Amended]

2. Section 191.72(b) is amended by removing the words "either Customs Form 7609 or 7611, guaranteeing the refund of any excess payment as provided in § 113.13a of this chapter" in the first sentence and inserting, in their place, the words "Customs Form 301, containing the bond conditions set forth in § 113.65 of this chapter".

§ 191.72 [Amended]

3. Section 191.72(b) is further amended by deleting the second and third sentences.

§ 191.133 [Amended]

4. Section 191.133(b) is amended by removing the words *"a temporary importation bond"* in the paragraph heading and inserting, in their place, the words *"Schedule 8, Part 5, Subpart C, Tariff Schedules of the United States"*.

5. Section 191.133(b) is further amended by removing the words "under a temporary importation bond" in the first sentence.

(R.S. 251, as amended, secs. 623, as amended, 624, 46 Stat. 759, as amended (19 U.S.C. 66, 1623, 1624))

Note.—Appendices A–E will not be shown in the Code of Federal Regulations.

Appendix A—List of Customs Bonds and Riders Abolished

Customs Form 3581, Proprietor's Warehouse Bond

Customs Form 3583, Proprietor's Manufacturing Warehouse Bond

Blanket Smelting and Refining Bond (form prescribed by T.D. 72–244)
Public Gauger's Bond (form prescribed by Customs Circular BON–3–R:CD:D, July 10, 1975)
Customs Form 3587, Carrier's Bond
Customs Form 3588, Private Carrier's Bond
Customs Form 3855, Bond of Customs Cartman or Lighterman
Customs Form 4615, Bond of Claimant of Seized Goods for Cost of Court
Customs Form 7303, Bond for the Production of Manifest and Shipper's Export Declaration
Customs Form 7547, Special Bond—Wool or Hair of the Camel (Single Entry)
Customs Form 7549, Special Bond—Wool or Hair of the Camel (Term)
Customs Form 7551, Immediate Delivery and Consumption Entry Bond (Single Entry)
Customs Form 7553, Immediate Delivery and Consumption Entry Bond (Term)
Customs Form 7555, Warehouse Entry Bond
Customs Form 7557, Bond for Exportation or Transportation or For Transportation and Exportation (Single Entry)
Customs Form 7559, Bond for Exportation or Transportation or For Transportation and Exportation (Term)
Customs Form 7561, Bond for Articles Entered or Withdrawn From Warehouse Conditionally Free of Duty
Customs Form 7563, Bond for Temporary Importations (Single Entry)
Customs Form 7563–A, Bond for Temporary Importations (Term)
Customs Form 7565, Exhibition Bond
Customs Form 7567, Vessel, Vehicle or Aircraft Bond (Single Entry)
Customs Form 7569, Vessel, Vehicle or Aircraft Bond (Term)
Customs Form 7571, Bond on Entry From Manufacturing Warehouse
Customs Form 7581, Bond to Produce Bill of Lading
Customs Form 7587, Bond for the Control of Certain Instruments of International Traffic
Customs Form 7591, Antidumping Bond
Customs Form 7593, Landing Bond for Alcoholic Beverages
Customs Form 7595, General Term Bond
Customs Form 7597, Bond to Secure the Payment of Overtime Services (Single Entry)
Customs Form 7599, Bond to Secure the Payment of Overtime Services (Term)
Customs Form 7601, Superseding Bond of the Actual Owner of Imported Merchandise Whose Declaration Has Been Filed Pursuant to Title 19, United States Code, Section 1485(d)
Customs Form 7603, Bond for Conditionally-Free Withdrawal of Distilled Spirits (Including Alcohol), Wines, or for Beer, or for Supplies of Fishing Vessel
Customs Form 7605, Consolidated Aircraft Bond
Customs Form 7609, Bond for Accelerated Payment of Drawback (Single Entry)
Customs Form 7611, Bond for Accelerated Payment of Drawback (Term)
Customs Form 7613, Drawback Export Bond
Special Bond for the Entry of Merchandise Believed to Involve Unfair Practices (form prescribed in T.D. 45474)
Special Narcotics Bond Under the Provisions of Title 19, United States Code, Section 1584 (form prescribed in T.D. 45474)
Bond for Observance of Neutrality (form prescribed in T.D. 45474)
Containerized Cargo Bond (form prescribed in 19 CFR 19.40)
Trade Fair Bond (form prescribed in 19 CFR 147.3)
Copyright Bond (Form prescribed in Customs Circular COP–1–PEN, March 23, 1961, Subject: Copyrights; Artificial Flowers—Piratical Copies)
Special Bond for the Importation of Flammable Fabrics (form prescribed in Customs Circular RES–2–AC, October 29, 1971, Subject: Restrictions and Prohibitions; Importations of Merchandise Subject to the Flammable Fabrics Act)
Bond of Customs Cartman For Issuance of Temporary Identification Card (form prescribed in 19 CFR 112.49(d))
Bond of Foreign Trade Zone Operators (form prescribed in Customs Circular FOR–2–0:1:C, September 3, 1976)
Bond for Storage of Imported Tea (form prescribed in T.D. 29311)
Special Performance Bonds (form prescribed in Customs Circular BON–1–O:D:E, August 4, 1975, Subject: Special Performance Bonds)
Bond for the Control of Identified Shipping Containers (form prescribed in 19 CFR 10.41b(h))
RIDER A, Agreement to account for articles, wastes, and irrecoverable losses incurred in manufacture or production under item 864.05, TSUS—to be added to CF 7563A and CF 7595 (form prescribed in T.D. 73–198).
RIDER B, Deferred payment of internal revenue taxes—to be added to CF 7553 and CF 7595 (form prescribed in T.D. 73–198).
RIDER C, Imported sugar subject to item 901.00, TSUS—to be added to CF 7553 and CF 7595 (form prescribed in T.D. 73–198).
RIDER D, Withdrawals of vessel supplies under section 309(a), Tariff Act of 1930—to be added to CF 7595 (form prescribed in T.D. 73–198).
RIDER E, Withdrawals of rewarehoused products of a class 6 warehouse—to be added to CF 7595 (form prescribed in T.D. 73–198).
RIDER F, Withdrawals from warehouse under authority of section 5066 (b) and (c) of the Internal Revenue Code—to be added to CF 7595 (form prescribed in T.D. 73–198).
RIDER G, Transfer of unentered bulk shipments arriving on another carrier, consigned to the principal on a vessel, vehicle, or aircraft bond—to be added to CF 7569 (form prescribed in T.D. 73–198).
RIDER H, Storage at airports of articles withdrawn from continuous Customs custody—to be added to CF 7569 (form prescribed in T.D. 73–198).
RIDER J, Conditional release of seed and screenings—to be added to CF 7553 and CF 7595 (form prescribed in T.D. 73–198).
RIDER K, Proof of export under the exporter's summary procedure—to be added to CF 7595 (form prescribed in T.D. 73–198).
RIDER L, Immediate delivery conditions—to be added to CF 7563–A (form prescribed in T.D. 73–198).
RIDER M, Entry for warehouse of petroleum and petroleum products under Presidential Proclamation No. 4210—to be added to CF 7595 (form prescribed in T.D. 73–284).
RIDER N, Deposit of merchandise in a bonded warehouse prior to the filing of a warehouse entry thereof—to be added to CF 7553 (form prescribed in T.D. 73–329).
RIDER O, Immediate Delivery of Fresh Fruits and Vegetables Arriving from Canada or Mexico—to be added to CF 7553 or CF 7595 (form prescribed in T.D. 76–264).
RIDER P, Accelerated payment of drawback claims—to be added to CF 7595 (form prescribed in T.D. 78–140).
Special rider to existing entry bonds for entry of merchandise found or believed to involve unfair practices or methods of competition in violation of section 337, Tariff Act of 1930, as amended (form prescribed in 19 CFT 113.14(z)(2)).

BILLING CODE 4820–02–M

DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE

CUSTOMS BOND

19 CFR Part 113

APPENDIX B

CUSTOMS USE ONLY	BOND NUMBER[1] (Assigned by Customs)
	FILE REFERENCE

In order to secure payment of any duty, tax or charge and compliance with law or regulation as a result of activity covered by any condition referenced below, we, the below named principal(s) and surety(ies), bind ourselves to the United States in the amount or amounts, as set forth below.

Execution Date

SECTION I—Select Single Transaction OR Continuous Bond (not both) and fill in the applicable blank spaces.

☐ SINGLE TRANSACTION BOND	Identification of transaction secured by this bond (e.g., entry no., seizure no., etc.)	Date of transaction	Transaction district & port code
☐ CONTINUOUS BOND	Effective date	This bond remains in force for one year beginning with the effective date and for each succeeding annual period, or until terminated. This bond constitutes a separate bond for each period in the amounts listed below for liabilities that accrue in each period. The intention to terminate this bond must be conveyed within the time period and manner prescribed in the Customs Regulations.	

SECTION II— This bond includes the following agreements.[2] (Check one box only, except that, 1a may be checked independently or with 1, and 3a may be checked independently or with 3. Line out all other parts of this section that are not used.)

Activity Code	Activity Name and Customs Regulations in which conditions codified	Limit of Liability
☐ 1	Importer or broker.....113.62	
☐ 1a	Drawback Payment Refunds.....113.65	
☐ 2	Custodian of bonded merchandise.....113.63 (Includes bonded carriers, freight forwarders, cartmen and lightermen, all classes of warehouses, container station operators)	
☐ 3	International Carrier.....113.64	
☐ 3a	Instruments of International Traffic.113.66	
☐ 4	Foreign Trade Zone Operator.....113.73	
☐ 5	Public Gauger.....113.67	
☐ 6	Wool & Fur Products Labeling Acts Importation (Single Entry Only).....113.68	
☐ 7	Bill of Lading (Single Entry Only).....113.69	
☐ 8	Detention of Copyrighted Material (Single Entry Only).....113.70	
☐ 9	Neutrality (Single Entry Only).....113.71	
☐ 10	Court Costs for Condemned Goods (Single Entry Only).....113.72	

SECTION III— List below all tradenames or unincorporated divisions that will be permitted to obligate this bond in the principal's name including their Customs Identification Number(s).[3] (If more space is needed, use Section III(Continuation) on back of form.)

Importer Number	Importer Name	Importer Number	Importer Name

Total number of importer names listed in Section III:

Principal and surety agree that any charge against the bond under any of the listed names is as though it was made by the principal(s).

Principal and surety agree that they are bound to the same extent as if they executed a separate bond covering each set of conditions incorporated by reference to the Customs Regulations into this bond.

If the surety fails to appoint an agent under Title 6, United States Code, Section 7, surety consents to service on the Clerk of any United States District Court or the U.S. Court of International Trade, where suit is brought on this bond. That clerk is to send notice of the service to the surety at:

Mailing Address Requested by the Surety

PRINCIPAL[4]	Name and Address	Importer No.[3] SIGNATURE[5]	SEAL
PRINCIPAL[4]	Name and Address	Importer No.[3] SIGNATURE[5]	SEAL
SURETY[4,6]	Name and Address[6]	Surety No.[7] SIGNATURE[5]	SEAL
SURETY[4,6]	Name and Address[6]	Surety No.[7] SIGNATURE[5]	SEAL
SURETY AGENTS	Name[8]	Identification No.[8]	Name[8] / Identification No.[8]

Customs Form 301 (111883)

Note: Turn carbons over before writing on back of form.

SECTION III(Continuation)

Importer Number	Importer Name	Importer Number	Importer Name

WITNESSES

Two witnesses are required to authenticate the signature of any person who signs as an individual or as a partner; however, a witness may authenticate the signatures of both such non-corporate principals and sureties. No witness is needed to authenticate the signature of a corporate official or agent who signs for the corporation.

SIGNED, SEALED, and DELIVERED in the PRESENCE OF:

Name and Address of Witness for the Principal	Name and Address of Witness for the Surety
SIGNATURE:	SIGNATURE:
Name and Address of Witness for the Principal	Name and Address of Witness for the Surety
SIGNATURE:	SIGNATURE:

EXPLANATIONS AND FOOTNOTES

1. The Customs Bond Number is a control number assigned by Customs to the bond contract when the bond is approved by an authorized Customs official.
2. For all bond coverage available and the language of the bond conditions refer to Part 113, subpart G, Customs Regulations.
3. The Importer Number is the Customs identification number filed pursuant to section 24.5, Customs Regulations. When the Internal Revenue Service employer identification number is used the two-digit suffix code must be shown.
4. If the principal or surety is a corporation, the name of the State in which incorporated must be shown.
5. See witness requirement above.
6. Surety Name, if a corporation, shall be the company's name as it is spelled in the Surety Companies Annual List published in the Federal Register by the Department of the Treasury (Treasury Department Circular 570).
7. Surety Number is the three digit identification code assigned by Customs to a surety company at the time the surety company initially gives notice to Customs that the company will be writing Customs bonds.
8. Surety Agent is the individual granted a Corporate Surety Power of Attorney, CF 5297, by the surety company executing the bond.
9. Agent Identification No. shall be the individual's Social Security number as shown on the Corporate Surety Power of Attorney, CF 5297, filed by the surety granting such power of attorney.

Paperwork Reduction Act Notice. The Paperwork Reduction Act of 1980 says we must tell you why we are collecting this information, how we will use it and whether you have to give it to us. We ask for this information to carry out the U.S. Customs Service laws of the United States. We need it to ensure that persons transacting business with Customs have the proper bond coverage to secure their transactions as required by law and regulation. Your response is required to enter into any transaction in which a bond is a prerequisite under the Tariff Act of 1930, as amended.

Privacy Act Statement: The following notice is given pursuant to section 7(b) of the Privacy Act of 1974 (5 U.S.C. 552a). Furnishing the information on this form, including the Social Security Number, is mandatory. The primary use of the Social Security Number is to verify, in the Customs Automated System, at the time an agent submits a Customs bond for approval that the individual was granted a Corporate Surety Power of Attorney by the surety company. Section 7 of Act of July 30, 1947, chapter 390, 61 Stat. 646, authorizes the collection of this information.

BILLING CODE 4820-02-E

Back of Customs Form 301 (111883)

APPENDIX C

Bond provision in Customs Regulations as amended by this document	Reason for provision	Related provision(s) in bond, Customs Regulation or rider[1]	Related statute(s)	Related Customs Regulation(s)
113.62(a)(1)	Secures deposit of estimated duty and additional duty.	CF 755(1)[2] CF 7553(1), CF 7595(8), CF 7601, T.D. 80-173(8) 19 CFR 147.3.	19 U.S.C. 1484, 1505, 1752.	19 CFR 141.1, 141.3, 142.4, 159.9, 147.3, 147.14, 147.42.
113.62(a)(2)	Secures payment of duty on merchandise left in a bonded warehouse or improperly removed from a warehouse.	CF 7551(1), CF 7595(8), CF 7601, T.D. 80-173(8).	19 U.S.C. 1505, 1557	19 U.S.C. 144.13, 159.9, 159.52.
113.62(b)	Secures promise to make entry	CF 7551(2), CF 7553(2), CF 7595(1), T.D. 80-1732, Rider L (T.D. 73-198), Rider N (T.D. 73-329), 19 CFR 147.3.	19 U.S.C. 1448(b) 1484(a), 1752.	19 CFR 141.5, 141.19, 142.21, 147.3, 147.14, 147.42.
113.62(c)	Secures promise to produce any required evidence.	CF 7551(8), CF 7553(8), CF 7555(4), CF 7595(2), CF 7601, T.D. 80-173(5), 19 CFR 147.3.	19 U.S.C. 1484, 1485, 175.	19 CFR 113.41, 113.42, 113.43, 141.66, 141.91, 147.3.
113.62(d)	Secures promise to redeliver conditionally released merchandise.	CF 7551 (4, 5, 6), CF 7553 (4, 5, 6), CF 7553 (5, 6, 7), CF 7595 (4, 5, 6), CF 7601 T.D. 80-173(6), Rider J (T.D. 73-198), 19 CFR 147.3	19 U.S.C. 1202, 1304, 1499, 1752.	19 CFR 12.3, 12.12, 12.39, 12.73, 12.80, 12.85, 12.91, 12.115, 134.53, 141.113, 147.23, 147.24, 151.1, 151.7(d), 151.11.
113.62(e)	Secures promise to bring conditionally-released merchandise into compliance with U.S. admission requirements.	CF 7551(7), CF 7553(7), CF 7555(8), CF 7595(7), 19 CFR 147.3.	19 U.S.C. 1202, 1304, 1499, 1752.	19 CFR 12.12, 12.73, 12.80, 12.85, 12.91, 134.53, 141.113, 147.3, 147.21, 147.22, 147.23, 147.24, 151.1.
113.62(f)	Secures promise to hold conditionally-released merchandise intact for examination.	CF 7551(3), CF 7553(3), CF 7595(3), CF 7601, T.D. 80-173(3), 19 CFR 147.3.	19 U.S.C. 1449, 1752	19 CFR 12.23, 147.3, 151.7(d).
113.62(g)	Secures promise to pay compensation of Customs officers and exonerate Customs officers.	19 CF 147.3	19 U.S.C. 1524, 1557, 1562, 1752.	19 CFR 24.17(a)(3), (8), (9), (10), 147.33.
113.62(h)	Secures promise to use merchandise entered free or at a reduced rate in the manner as entitled and to furnish proof of that use.	CF 7547, CF 7549, CF 7555 (2, 3), CF 7557, CF 7559, CF 7561, CF 7563, CF 7563-a, CF 7565, CF 7571, CF 7595 (9, 10, 11, 12), CF 7603, 19 CFR 147.3, T.D. 29311, Rider A, C, D, E, F, H (T.D. 73-198).	19 U.S.C. 1202, 1309, 1311, 1312, 1552, 1553, 1557, 1752.	19 CFR Part 10, Part 18, Part 19, Part 144, Part 147.
113.63(a)	Secures promise of a custodian to comply with Customs regulations on bonded merchandise	CF 3581(1, 3), CF 3583 (1, 2), CF 3587(1), CF 3588(1), 19 CFR 19.40 T.D. 80-173 (1, 7).	19 U.S.C. 1311, 1312, 1551, 1552, 1553, 1555.	19 CFR Part 18, Part 19, Part 112, Part 125, Part 147.
113.63(b)	Secures promise of a Customs bonded carrier to safely keep bonded merchandise placed in carrier's custody and comply with regulations on carriage of bonded merchandise.	CF 3587(2), CF 3588 (2, 4) CF 3855(1)	19 U.S.C 1311, 1312	19 CFR Part 18.
113.63(c)	Secures promise of a Customs bonded custodian to comply with regulations on disposition and reporting requirements.	CF 3581, CF 3583, CF 3587 (3, 4, 10), CF 3588 (3, 4, 11).	19 U.S.C. 1311, 1312, 1552, 1553, 1555.	19 CFR Part 18, Part 19, Part 112, Part 127.
113.63(d)	Secures promise of a Customs bonded carrier, or cartage or lighterage operator to redeliver on Customs demand any misdelivered bonded merchandise.	Now	19 U.S.C. 1551, 1552, 1553.	19 CFR 18.6.
113.63(e)	Secures promise to comply with all laws and regulations on conveyances and employees.	CF 3581(1), CF 3583(1), CF 3587(1), CF 3588(1), CF 3855 (1, 4), T.D. 80-173(1), 19 CFR 112.49.	19 U.S.C. 1311, 1312, 1551, 1552, 1553, 1555.	19 CFR Part 18, Part 19, Part 112, Part 125, Part 127.
113.63(f)	Provides indemnification and exoneration of Government and secures payment for reimbursable services.	CF 3581(2, 4), CF 3583 (3, 5), CF 3587 (6, 7, 8), CF 3588 (7, 8, 9), CF 3855(3), CF 7597, CF 7599, T.D. 80-173 (3, 4), 19 CFR 19.40 (2, 6), 127.49(2).	19 U.S.C. 267, 1311, 1311, 1451, 1551, 1555.	19 CFR 19.3, 19.5, 24.16, 24.17.
113.64(a)	Secures promise to pay penalty, duty, tax or charges incurred by the vessel, vehicle, or aircraft or the person in charge of such conveyance.	CF 7567(1), CF 7569(1), CF 7605	19 U.S.C. 1431-1466, 1581-1586, 1594, 1595a.	19 CFR 4.14, 4.61, 6.10, 14.16, 2417, 123.2, 162.22, 162.72.
113.64(b)	Secures promise to comply with laws and regulations on bringing merchandise into the U.S.	CF 7567 (3, 4, 5), CF 7569 (3, 4, 5), CF 7593, CF 7605.	19 U.S.C. 1448(a), 1707	19 CFR 4.30, 6.7, 123.8.
113.64(c)	Secures promise to deliver export documents if clearance is permitted without those documents.	CF 7303, CF 7567(6), CF 7569(6), CF 7605	46 U.S.C. 91	19 CFR 4.75, 6.3, 6.8.
113.64(d)	Provides exoneration for Government if a special permit to lade or unlade is given.	CF 7567(2), CF 7569(2), CF 7605	19 U.S.C. 1451	19 CFR 4.30, 6.2, 123.8.
113.65	Secures repayment of erroneous drawback payment under the summary procedure or the accelerated payment.	CF 7609, CF 7611, CF 7613, Rider K (T.D. 75-198), Rider P (T.D. 78-140).	19 U.S.C. 1313.	19 CFR 22.7, 22.20a.
113.66	Secures compliance with laws and regulations on introduction of instruments of international traffic and other shipping containers without entry.	CF 7567, 19 CF 10.41b.	19 U.S.C 1202, 1322	19 CFR 10.41a, 10.41.
113.67	Secures compliance with regulations on gauging.	T.D. 81-142		19 CFR 151.43.
113.68	Secures compliance with provisions of wool and fur products labeling acts.	Customs Circular BON-1-O:O:E, August 4, 1975.	15 U.S.C. 68, 69	
113.69	Provides indemnification if merchandise is released without a bill of lading.	CF 7581	19 U.S.C. 1484	19 CFR 141.15.
113.70	Provides indemnification for any damage arising out of a detention of merchandise erroneously believed to be pratical copies.	Customs Circular COP-1-PEN, May 23, 1961	17 U.S.C. 106, 108	19 CFR 133.43, 133.44.
113.71	Secures an agreement to observe neutrality	T.D. 45474	22 U.S.C. 463	19 CFR 4.73.
113.72	Provides for payment of court costs if judicial proceedings result in condemnation of property.	CF 4615	19 U.S.C. 1608	19 CFR 162.45.
113.73	Secures compliance with laws and regulations on foreign-trade zones.	Customs Circular FOR-2, O:1:C, September 3, 1976.	19 U.S.C 81a-O	

[1] Appendix A lists all Customs Bonds by Customs Form number and title. The appendix also includes bond riders.
[2] The numbers which appear in parenthesis after the bond refer to the numerical designation of the condition appearing in the bond which has been incorporated into the bond conditions identified by each line item in this appendix.

BILLING CODE 4820-02-M

Appendix D

1. THIS FORM MUST BE TYPED.
2. DO NOT ALTER THIS FORM.
3. ORIGINAL TO BE SUBMITTED TO CUSTOMS. (See Option explained in Instruction no. 2.)

DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE

CORPORATE SURETY POWER OF ATTORNEY

CUSTOMS USE ONLY
DATE RECEIVED
EFFECTIVE DATE

☐ **GRANT** (Instruction No. 3a.) ☐ **CHANGE** to Grant on file (Instruction No. 3b.) ☐ **REVOCATION.** The below-described powers previously granted are hereby revoked. (Instruction No. 3c.)

GRANTEE: NAME ☐ This is a name change. SOCIAL SECURITY NO. ADDRESS ☐ This is an address change.

GRANTOR: Surety Company's Corporate Name | Surety No. | State Under Whose laws organized as a surety

District Code(s) for Customs district(s) in which authorized to do business and limit on any single obligation -OR- district(s) being added to the original grant:

District	Limit	District	Limit	District	Limit	District	Limit	District	Limit	District	Limit

Grantor appoints the above-named person (Grantee) as its attorney in fact to sign its name as surety to, and to execute, seal, and acknowledge any bond so as to bind the surety corporation to the same extent as if done by a regularly elected officer, limited only to the extent shown above as to Customs district and amount on any single bond obligation. This grant, or change to a grant on file, or revocation, as specified, shall become active on the effective date shown provided the Customs Form 5297 is received at a district office 5 days before the effective date shown; otherwise the specified action will become active at the close of business 5 working days after the date of receipt at the district office.

In witness whereof, the said Grantor, by virtue of authority conferred by its Board of Directors, has caused these presents to be sealed with its corporate seal and attested by any two principal officers.	Date Attested	Name and Title	Name and Title
	Use a facsimile of corporate seal, and not impression seal.	SIGNATURE:	SIGNATURE:

CUSTOMS FORM 5297

APPENDIX D-2

U.S. DISTRICTS AND CODES

Anchorage, AK	31	Duluth, MN	35	New Orleans, LA	20	San Francisco, CA	28
Baltimore, MD	13	El Paso, TX	24	Nogales, AZ	26	San Juan, PR	49
Boston, MA	04	Great Falls, MT	33	Norfolk, VA	14	Savannah, GA	17
Bridgeport, CT	06	Honolulu, HI	32	Ogdensburg, NY	07	St. Albans, VT	02
Buffalo, NY	09	Houston-Galveston, TX	53	Pembina, ND	34	St. Louis, MO	45
Charleston, SC	16	Laredo, TX	23	Philadelphia, PA	11	Seattle, WA	30
Cleveland, OH	41	Los Angeles, CA	27	Portland, ME	01	Tampa, FL	18
Chicago, IL	39	Miami, FL	52	Portland, OR	29	Virgin Islands, U.S.	51
Dallas-Ft.Worth,TX	55	Milwaukee, WI	36	Port Arthur, TX	21	Washington, DC	54
Detroit, MI	37	Mobile, AL	19	Providence, RI	05	Wilmington, NC	15
Detroit, MI	38	New York, NY	10	San Diego, CA	25		

EXPLANATIONS:

1. A Corporate Surety Power of Attorney, Customs Form 5297, must be executed for each of the following actions: grant an individual a power of attorney; change a name and/or address, and/or add districts to a power on file; revoke a power previously granted.

2. Form submission option: Each of the following conditions will require filing a copy of the Customs Form 5297:

(a) If the district director permits the submission of the form to be made at any port within the district.

(b) If the grantee desires to use the power of attorney at a location covered by the power, but other than the location where the power was submitted, before the Customs computer processing has been completed. For example: If both conditions are applicable, two copies of the Customs Form 5297 must be submitted with the original.

3. The box adjacent to the action executed on this Customs Form 5297 must be checked. The effective date for the action checked should be shown.

(a) If grant is checked: The information required to grant a power of attorney are self-explanatory with the exception of the following:

District Information: Each district in which the power is granted must be shown except if the power both applies to all districts and the amount limit is the same in every one of those districts, enter the word "ALL" on the first line under "District."

Limit Information: (1) If any amount limit differs between any of the districts in which the power is granted, individual amount limits must be shown for each of the districts listed. (2) If all of the amount limits are the same for each district in which the power is granted and the amounts equal the surety company limit published in the Treasury Department Circular 570, enter the word "EQUAL" on the first line under "Limit." (3) If all of the amount limits are the same for each district in which the power is granted and the amounts are not equal to the surety company limit published in the Treasury Department Circular 570, enter the amount limit on the first line under "Limit" and enter the word "SAME" on the second line.

Surety: The number required is the 3 digit, identification code assigned by Customs Headquarters to a surety company, listed on Treasury Circular 570, at the time the surety company initially gives notice to Customs that the company will be writing Customs bonds.

(b) To change a Corporate Surety Power of Attorney already on file, the previously filed power granted must be revoked and a new power (CF 5297) must be filed EXCEPT changes to the name and/or address and the addition of districts to a power on file. (1) To make a name and/or address change, the same information that was submitted to establish the existing power on file is required except the new name and/or address must be shown in the space provided and the district code(s) and related obligation limit(s) can be left blank. (2) To add districts, the same information that was submitted to establish the existing power on file is required except only the new districts and related obligation limits are necessary in the space provided.

(c) If revocation is checked: A revocation divests the designated agent's or attorney's power of attorney in all districts. Except for the following, the information required to revoke the power of attorney are self-explanatory: The districts in which authorized to do business and the associated single obligation limits do not have to be shown.

PRIVACY ACT STATEMENT: The following notice is given pursuant to section 7(b) of the Privacy Act of 1974 (5 U.S.C. 552a). Furnishing the information on this form, including the Social Security Number, is mandatory. The primary use of the Social Security Number is to verify, in the Customs Automated system, at the time an agent submits a Customs bond for approval that the individual was granted a Corporate Surety Power of Attorney by the Surety Company on the bond. Section 7 of Act of July 30, 1947, chapter 390, 61 Stat. 646, authorizes the collection of this information.

CUSTOMS FORM 5297 (113083) (BACK)

BILLING CODE 4820-02-C

Appendix E—Final Regulatory Flexibility Analysis on Amendments To Revise the Customs Bond System

Introduction

The Customs Service has proposed an extensive revision of its bond structure in order to consolidate and simplify the number of bond forms, facilitate the establishment of an efficient computerized bond control system, and simplify transactions between Customs and the importing community.

The Regulatory Flexibility Act (RFA) requires that a regulatory flexibility analysis be prepared on proposed regulations unless it is determined that the regulations will not have a "significant economic impact on a substantial number of small entities." Given the number of brokers, importers, and entities subject to the RFA, and since the proposed amendments (if implemented) may result in an economic impact of some significance on these entities, this final regulatory flexibility analysis has been prepared.

Objectives and Legal Basis of the Proposed Rule

The proposal's objective is to reduce the cost of bonding to the importing community and to improve Customs control over bonding, which includes improvements to facilitate the enforcement of bond provisions and to reduce the cost of associated functions.

The legal basis or authority for the proposed changes is R.S. 251, as amended (19 U.S.C. 66), and Section 623, as amended, 624, 46 Stat. 759 (19 U.S.C. 1624).

Estimated Number of Small Entities Affected

The proposed amendments would affect most small entities in the importing community. This includes 900–1,000 customhouse brokers, the multitude of importers, and other entities such as surety companies, warehouse operators, bonded carriers, international carriers, cartmen/lightermen, foreign trade zone operators, and container station operators.

Impact of the Proposed Amendments on Small Entities in the Importing Community

No response was received to Customs invitation for suggestions to provide further savings for small entities in the importing community. Also, no comments were received which identified any proposed amendment aspects which would adversely impact small businesses.

The Customs Service believes that the proposed amendments will in general be *beneficial* to the importing community via the consolidation of bond forms, the simplification of transactions between Customs and the importing community, the facilitation of the establishment of an efficient computerized bond control system, the general streamlining of procedures, and the overall reduced cost of bonding. Several of the major beneficial factors are reviewed below.

Selected Cost Reduction Measures of the Proposed Amendments

The proposed amendments will reduce costs and streamline procedures by consolidating and reducing the number of different bond forms currently in use (approximately 50) to one standard form. Once filed, the agreements on the form will automatically remain in effect until Customs is advised otherwise. Moreover, the number of bond forms that must be filed for control purposes under the current system will be reduced. Also, under existing regulations some bond forms (e.g., CF 7553, ID and Consumption Entry Bond) must be filed at each port, unless exempted; such an exemption requires filing copies of an approved bond at all the ports where a firm will engage in business. Under the proposed change one bond will suffice for business transacted at all ports.

The language of the bond conditions will also be simplified and all conditions of bond agreements will be reflected in one location in the Regulations.

This will tend to reduce cost, correspondence and time spent on inquiries, disputes, counterclaims, etc., which are caused by difficulties in the interpretation of current bond language.

Bond coverage requirements will be more flexible than the current bond contract forms. As a consequence, a principal on a bond will be able to receive Customs service in a wider geographic area (nation-wide as opposed to district or port level) when necessary, without being forced to purchase another bond. This will especially benefit small entities. The following illustrates this flexibility: if a small importing firm only conducts business in one port of entry and an occasion arises where the merchandise is shipped to another port, under the change proposed the bond filed would cover that transaction rather than requiring the filing of another bond or becoming involved with in-bond shipment requirements.

Other cost reduction and facilitation measures resulting from the proposed amendments include the following selected examples: (1) importers entering merchandise for consumption or under Immediate Delivery privileges currently, for control purposes, must file a bond at each port where entry of merchandise will be accomplished. Under the control envisioned in the proposed change, only one bond will be required which would be applicable to all ports. (2) Currently, many term bond contracts are valid for a period of 1 year. Thus, an individual or firm must file a new bond form each year, with all the contractual formalities, time, and cost that entails. However, under the proposed bond renewal feature, once a term bond is filed it will be automatically renewed unless Customs is advised otherwise by the principal or surety. Thus, all the annual contractual formalities will no longer be required and Customs will not have to undergo the concomitant timely and costly bond approval process. (3) When a small firm is engaged in a business which involves filing dutiable consumption as well as warehouse entries and its annual, aggregate duty paid or accrued is less than $100,000 (minimum General Term Bond amount), the bond that would normally be purchased for such repetitive business in these circumstances under the current bond structure is the CF 7553, ID and Consumption Entry Bond. That bond covers all consumption entries filed during a 1 year period. However, for each warehouse entry filed, a CF 7555, Warehouse Entry Bond is required. Under the proposed change, a small firm, under these same circumstances, will be able to purchase one bond which will cover consumption and warehouse entries.

Alternatives Considered

The proposed amendments would comprehensively revise Customs bond structure and are intended to help minimize costs to both small and large entities in the importing community.

Indeed, a number of alternatives suggested in the amendments to the ANPR have previously been incorporated in order to minimize any economic burden, e.g., providing a 12-month transition period to implement the new bond structure. Based on comments received pertinent to the NPRM, further alternatives have been incorporated into this final notice, e.g., Customs agreed with the majority of commenters and provided for a delayed effective date of 120 days (rather than 60 days) after the final rule is published. Two forms associated with bonds (CF 3171 and term Special Immediate Delivery Permit) were changed from annually-refiled forms to continuous good-until-terminated forms.

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October 19, 1984

Part IV

Committee for Purchase From the Blind and Other Severely Handicapped

Procurement List 1985; Establishment; Notice

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1985; Establishment

The Committee for Purchase from the Blind and Other Severely Handicapped was established by Pub. L. 92-28, June 23, 1971 (85 Stat. 77, 41 U.S.C. 46-48c) (hereinafter the Act) for the purpose of directing the procurement of selected commodities and services by the Federal Government to qualified workshops serving blind and other severely handicapped individuals with the objective of increasing the employment opportunities for these individuals. The Committee is required to establish and publish in the **Federal Register** a procurement list of:

(1) Commodities produced by any qualified nonprofit agency for the blind or by any qualified nonprofit agency for other severely handicapped, and

(2) The services provided by any such agency

which the Committee determines are suitable for procurement by the Government pursuant to the Act.

The Act further provides that any entity of the Government which intends to procure any commodity or service on the procurement list, shall procure such commodity or service, at the price established by the Committee, from a qualified nonprofit agency for the blind or such agency for the other severely handicapped if the commodity or service is available within the normal period required by that Government entity. However, this requirement shall not apply to the procurement of any commodity which is available from Federal Prison Industries, Inc.

A Government entity is defined as any entity of the legislative branch or judicial branch, any executive agency or military department (as such agency and department are respectively defined by Sections 102 and 105 of Title 5, United States Code), the U.S. Postal Service, and any nonappropriated fund instrumentality under the jurisdiction of the Armed Forces.

Notice is hereby given pursuant to section 2 of the Act that Procurement List 1985 is established as set forth below. Procurement List 1985 supersedes Procurement List 1984, October 18, 1983 (48 FR 48415) and subsequent changes thereto through October 12, 1984.

Any proposed additions or deletions to Procurement List 1984 pending on this date shall be considered as pending and applicable to Procurement List 1985.

By the Committee.

C.W. Fletcher,

Executive Director.

ASSIGNMENT CODES

Central Nonprofit Agency	Code
National Industries for the Blind	IB
National Industries for the Severely Handicapped.	SH.

Commodities

CLASS 1005

Sling, Adjustable, Small Arms (IB)
1005-00-167-4336
Sling, Padded, Adjustable (IB)
1005-00-312-7177
Swab, Small Arms Cleaning (IB)
1005-00-912-4248
1005-00-288-3565

CLASS 1095

Scabbard, Bayonet-Knife (IB)
1095-00-508-0339

CLASS 1220

Case, Carrying (IB)
1220-00-765-5870
1220-00-937-8286

CLASS 1330

Tape Stiffener Assembly (SH)
1330-01-051-1533 13 million each annually

CLASS 1430

Circuit Card Assembly (SH)
1430-00-409-7997

CLASS 1660

Harness Assembly (SH)
1660-00-066-2078

CLASS 1670

Harness, Parachutist (SH)
1670-00-897-8629
Message Dropper (SH)
1670-00-797-4495

CLASS 1680

Belt, Aircraft Safety (SH)
1680-00-725-5927
Wire Bundle Assemblies (SH)
1680-00-881-4215
1680-00-884-0409
1680-00-894-3991
1680-01-125-9646
1680-00-919-3708
1680-00-883-4487
1680-00-222-3876
1680-00-826-7752
1680-00-974-5275
1680-00-974-5276
1680-00-998-8594

CLASS 1730

Chock Wheel, Codit Relfecting (IB)
1730-00294-3694
1730-00063-4095
1730-00294-3696
1730-00294-3695
1730-00945-8450
1730-00163-8317 (4×6×24")
1730-00NIB-001A 2×4×8" std
1730-00NIB-001B 6×8×18" std
1730-00NIB-001C 6×8×76" std
1730-00NIB-001D (8×12") U-shaped
1730-00NIB-001E (10×20") U-shaped
Chock Wheel, Painted (IB)
1730-00-294-3694
1730-00-063-4095
1730-00-294-3696
1730-00-294-3695
1730-00-945-8450
1730-00-163-8317 (4×6×24")
1730-00-NIB-001A (2×4×8") std
1730-00-NIB-001B (6×8×18") std
1730-00-NIB-001C (6 × 8 × 76") STD
1730-00-NIB-001D (8 × 12") U-shaped
1730-00-NIB-001E (10 × 20") U-shaped
Chock Wheel, Reflective Tape (IB)
1730-00-294-3694
1730-00-063-4095
1730-00-294-3696
1730-00-294-3695
1730-00-945-8450
1730-00-163-8317 (4 × 6 × 24")
1730-00-NIB-001A (2 × 4 × 8") STD
1730-00-NIB-001B (6 × 8 × 18") STD
1730-00-NIB-001C (8 × 8 × 76") STD
1730-00-NIB-001D (8 × 12") U-shaped
1730-00-NIB-001E (10 × 20") U-shaped
Chock Wheel, Unpainted (IB)
1730-00-294-3694
1730-00-063-4095
1730-00-294-3696
1730-00-294-3695
1730-00-945-8450
1730-00-163-8317 (4 × 6 × 24")
1730-00-NIB-001A (2 × 4 × 8" std)
1730-00-NIB-001B (6 × 8 × 18" std)
1730-00-NIB-001C (8 × 8 × 76" std)
1730-00-NIB-001D (8 × 12" U-shaped)
1730-00-NIB-001E (10 × 20") U-shaped

CLASS 2090

Weight, Canvas Bag (IB)
2090-00-845-9150

CLASS 2540

Belt, Automobile, Safety (IB)
2540-00-894-1273
2540-00-894-1275
2540-00-894-1274
2540-00-894-1276
Cushion Assembly, Back Rest (SH)
2540-00-737-3308
Cushion Assembly, Back Rest (SH)
2540-01-065-6288
Cushion Seat, Vehicular (SH)
2540-00-808-3811
2540-00-904-5680
Kit, Deep Water Fording (SH)
2540-00-473-0111
2540-00-780-0844
Mirror and Bracket Assembly (SH)
2540-00-575-8392

CLASS 2920

Cable Assembly, Electrical (IB)
2920-01-027-0125 (50% of Gov't Rgmt)

CLASS 3510

Net, Laundry (IB)
3510-00-273-9738
3510-00-273-9739

CLASS 3920

Truck, Hand (IB)

3920-00-847-1305

CLASS 3990

Pallet, Corrugated Fiberboard, Material Handling (SH)
3990-00-L77-0044—Navy Ships Parts Control Center, Mechanicsburg, PA only
Pallet, Material Handling (SH)
3990-00-555-0458—Sharpe Army Depot, Lathrop, CA only
3990-00-599-5328—Mechanicsburg, PA Depot only
3990-00-935-7826—Pine Bluff Arsenal, AR only
3990-00-222-1051
Pallet, Warehouse (SH)
3990-00-NSH-0011 (40 × 44")—Army and Air Force Exchange Service, Oakland Army Base, CA only
Pallet, Wood (SH)
3990-00-X77-1721—New Cumberland Army Depot only
3990-00-NSH-0001 (48 × 40 ×36")—Social Securty Administration, Baltimore, MD only
3990-00-NSH-0005 (24 × 20")—New Cumberland Army Depot only
3990-00-366-6806

CLASS 4130

Filter, Air Conditioning (IB)
4130-00-870-8796 Rgns 4, 5
4130-00-274-7800 Rgns 2, 3, W, 4, 5, 6, 7, 8, 9, 10
4130-00-541-3220 Rgns 4, 5
4130-00-756-1840 Rgns 2, 3, W, 4, 5, 6, 7, 8, 9, 10
4130-00-720-4143 Rgns 4, 5,
4130-00-249-0966 Rgns 2, 3, W, 4, 5, 6, 7, 8, 9, 10
4130-00-203-3318 Rgns 4, 5
4130-00-203-3321 Rgns 2, 3, W, 4, 5, 6, 7, 8, 9, 10
4130-00-542-4482 Rgns 4, 5
4130-00-959-4734 Rgns 4, 5
4130-00-756-0978 Rgns 4, 5
4130-00-951-1208 Rgns 4, 5

CLASS 4240

Bag, Waterproofing (IB)
4240-00-377-9401
Harness, Head (SH)
4240-00-690-8765
4240-00-961-1064
Winterization Kit (SH)
4240-00-065-0319 (40% of Gov't Rqmt)

CLASS 4610

Bag, Drinking Water Storage (SH)
4610-00-268-9890

CLASS 4820

Valve, Ball (SH)
4820-00-052-4651
4820-00-052-4653

CLASS 4910

Creeper, Mechanic's (SH)
4910-00-251-6981
4910-00-106-7834
4910-00-NSH-0001

CLASS 5120

Screwdriver, Cross-Tip (SH)
5120-00-820-2995
5120-00-060-2004
5120-00-224-7370
5120-00-529-3101
5120-00-227-7293
5120-00-234-8913
5120-00-542-3438
5120-00-224-7375
5120-00-596-0866
5120-00-237-8174
5120-00-580-2361
Screwdriver, Flat-Tip (SH)
5120-00-278-1269
5120-00-289-9662
5120-00-287-2504
5120-00-287-2505
5120-00-278-1267
5120-00-541-3004
5120-00-288-7803
5120-00-236-2127
5120-00-278-1270
5120-00-227-7356
5120-00-260-4837
5120-00-227-7334
5120-00-278-1268
5120-00-293-0314
5120-00-337-2465
5120-00-540-0563
5120-00-180-0708
5120-00-222-8866
5120-00-596-8502
5120-00-278-1273
5120-00-062-0813
5120-00-293-3311
5120-00-222-8852
5120-00-596-9364
5120-00-293-0315
5120-00-293-3309
5120-00-227-7377
5120-00-180-3490
5120-00-236-2140
5120-00-062-8454
5120-00-720-4969
Screwdriver-Set, Cross-Tip (SH)
5120-00-357-7175
5120-00-580-0334
Vise, Multiposition (SH)
5120-00-991-1907

CLASS 5140

Bag, Tool (IB)
5140-00-772-4142
Bag, Tool (Satchel) (SH)
5140-00-473-6256
Belt, Tool, Repairman's (SH)
5140-00-529-2517
5140-00-529-2694
5140-00-529-2691
Tool Box, Portable (SH)
5140-00-289-8911
5140-00-289-8910

CLASS 5340

Strap (SH)
5340-00-235-4433

CLASS 5350

Mat, Abrasive (IB)
5340-00-967-5089
5340-00-967-5093
5340-00-967-5092

CLASS 5440

Ladder, Extension (Wood) (IB)
5440-00-223-6025
5440-00-242-1000
5440-00-223-6026
5440-00-242-0998
5440-00-223-6027
Ladder, Straight (Wood) (IB)
5440-00-242-7151
5440-00-816-2585
5440-00-814-5084
5440-00-242-0995
5440-00-816-2575
5440-00-223-6029
5440-00-223-6030
Stepladder (IB)
5440-00-514-4483
5440-00-514-4485
5440-00-514-4487
5440-00-171-9836
5440-00-227-1592
5440-00-227-1593
5440-00-227-1594
5440-00-227-1595
5440-00-227-1596
5440-00-531-2589

CLASS 5510

Lath, Wood (SH)
5510-00-NSH-0002 (⅜ x 1½ x 36")
5510-00-NSH-0003 (⅜ x 1½ x 48")
BLM and U.S. Forest Service in Washington and Oregon only
Stake, Wood (SH)
5510-00-NSH-0001
BLM at 5 Oregon locations only
U.S. Forest Service in Washington and Oregon only
Stakes, Wood, Hub (SH)
5510-00-171-7733
5510-00-171-7732
Stakes, Wood, Location (SH)
5510-00-171-7701
5510-00-171-7700
5510-00-171-7734
Wedge, Wood (SH)
5510-00-640-9237

CLASS 5660

Fasteners, Fence Post (SH)
5660-00-148-7251

CLASS 5826

Circuit-Card Assembly (SH)
5826-00-237-9949

CLASS 5831

Amplifier Subassembly (SH)
5831-00-087-3408

CLASS 5940

Adapter, Battery Terminal (SH)
5940-00-549-6583
5940-00-549-6581

CLASS 6150

Cable Assembly, Power (SH)
6150-00-507-8852
6150-00-935-8799

CLASS 6230

Flashlight (SH)
6230-00-163-1856
Lantern, Electric, Head (SH)
6230-00-643-3562
Light, Desk (SH)
6230-00-299-7771
6230-00-682-3423
Light, Marker, Distress (SH)
6230-00-892-5192

Light-Marker, -Distress (without pouch) (SH)
6230-00-938-1778
Light-Marker, Distress (with pouch) (SH)
6230-00-067-5209

CLASS 6505

Ammonia Inhalant Solution, Aromatic (SH)
6505-00-106-0875
Iodine Ampoules, NF (SH)
6505-00-664-1408
Thimerosal Tincture, NF (SH)
6505-00-664-6911

CLASS 6510

Bandage, Muslin, Compressed Camouflaged (SH)
6510-00-201-1755

CLASS 6515

Case, Ear Plug (SH)
6515-00-299-8287 (80% of Gov't Rqmt)
Kit, Suture Removal (IB)
6515-00-690-6911
Tourniquet, Non-Pneumatic (IB)
6515-00-383-0565

CLASS 6520

Toothbrush, Aspiration (SH)
6520-01-085-3438

CLASS 6530

Bag, Urine Collection (SH)
6530-00-057-0953
6530-00-761-0932
6530-00-761-0936
Cover, Litter (IB)
6530-00-784-1250
Drape, Surgical (IB)
6530-00-299-9608
6530-00-299-9607
6530-00-299-9605
6530-00-299-9604
Kit, Shaving surgical Preparation (IB)
6530-00-676-7372
Litter, Folding (IB)
6530-00-783-7905
Pad, Cooling, Chemical (SH)
6530-00-133-4299
Pad, Examining Table (IB)
6530-00-960-6616
Pad, Hospital Stretcher (IB)
6530-00-289-0004
Pad, Litter (IB)
6530-00-137-3016
Strap, Webbing Patient Securing (IB)
6530-00-784-4205
Surgical Pack, Disposable (IB)
6530-00-103-8659
Urinal, Incontinent (IB)
6530-01-004-8969
6530-00-290-8292
6530-01-081-5303
6530-01-081-5304
Urinary Drainage Set (SH)
6530-01-056-3659
Wrapper, Sterilization (IB)
6530-00-299-9603
6530-00-197-9223
6530-00-197-9228
6530-00-197-9283
6530-00-926-4902
6530-00-926-4903
6530-00-926-4904
6530-00-926-4905

CLASS 6532

Cap—Operating, Surgical (SH)
6532-00-250-5042
6532-00-083-6545
6532-00-250-5041
6532-00-122-0468
Cap, Operating, Surgical (IB)
6532-00-299-9614
6532-00-299-9613
6532-00-299-9612
Clothing, Operating Room (SH)
6532-00-261-9005
6532-00-290-1887
6532-00-172-3509
6532-00-172-3507
6532-00-172-3506
6532-00-158-9890
6532-00-009-7174
Dress, Operating, Surgical (SH)
6532-00-149-0464
6532-00-149-0465
6532-00-149-0466
6532-00-149-0467
6532-00-149-0472
6532-00-149-0473
Gown, Hospital (SH)
6532-00-104-9895
Gown, Hospital, Patient's Bedshirt (SH)
6532-01-005-8411
6532-01-005-8412
Gown, Hospital, Personnel (SH)
6532-01-045-5380
6532-01-045-5381
Gown, Operating, Surgical (SH)
6532-00-009-2034
6532-00-009-2035
Gown, Patient Examining (SH)
6532-00-421-7828
Pajamas, Ladies (SH)
6532-00-NSH-0001
6532-00-NSH-0002
6532-00-NSH-0003
6532-00-NSH-0004
Pillowcase—Disposable (IB)
6532-01-125-3269
Robe, Dressing, Nomex (SH)
6532-00-003-3057
6532-00-006-3482
Robe, Ladies (SH)
6532-00-NSH-0005
Shirt, Operating, Surgical (SH)
6532-00-149-0322
6532-00-149-0323
6532-00-149-0324
6532-00-149-0325
Slippers, Convalescent Patient (SH)
6532-00-241-6393
6532-00-279-7794
6532-00-079-7899
6532-00-079-7902
6532-00-079-7904
Smock, Man's Dental Operating (SH)
6532-00-159-4881
6532-00-926-9964
6532-00-926-9975
6532-00-926-9976
Suit, Convalescent (SH)
6532-01-076-8684
6532-01-076-8683
6532-01-076-7369
6532-01-076-9769
Trousers, Operating, Surgical (SH)
6532-00-149-0327
6532-00-149-0328
6532-00-149-0329
6532-00-149-0330

CLASS 6540

Case, Spectacles (IB)
6540-01-131-7919
6540-01-131-7918

CLASS 6545

Surgical Dressing Set (IB)
6545-00-105-5826

CLASS 6625

Test Set, Lead (SH)
6625-00-553-1442

CLASS 6630

Micro Bleeder (IB)
6630-01-NIB-0002
Tube, Bleeding (IB)
6630-01-NIB-0001

CLASS 6645

Clock, Wall (IB)
6645-00-514-3523
6645-00-530-3342 RGNS 4, 5, 6, 7
6645-00-046-8848
6645-00-046-8849

CLASS 6695

Sampling Kit, Spectrometric Oil Analysis (IB)
6695-01-045-9820

CLASS 6840

Disinfectant, Detergent (IB)
6840-00-687-7904
6840-00-584-3129
6840-00-551-8346

CLASS 7105

Frame, Picture (SH)
7105-00-053-0170
7105-00-061-5834
7105-00-052-8697
7105-00-052-8695
7105-00-465-6199
7105-00-149-1277
7105-00-297-3398
7105-00-903-1842
7105-00-903-1843
7105-00-149-1282
7105-00-149-1281
7105-00-641-4385
7105-00-986-7356
7105-00-297-3397
7105-00-052-8696
7105-00-149-1276

CLASS 7110

Blackboard (SH)
7110-00-132-6651
Bookcase, Steel, Contemporary (SH)
7110-00-601-9823
7110-00-149-1621
Bookcase, Wood, Executive (SH)
7110-00-973-5127
Credenza (SH)
7110-00-762-5513
Table, Office, Wood (SH
7110-00-958-0780
7110-00-823-7675
7110-00-903-3061
7110-00-902-3052
Table, Steel (SH)
7110-00-113-0448
7110-00-113-0454
7110-00-149-2044

7110-00-149-2045
7110-00-149-2046
7110-00-149-2047

CLASS 7195

Bulletin Board (IB)
7195-00-989-2370
7195-00-844-9036
7195-00-989-2371
7195-00-844-9037
7195-00-989-2372
7195-00-844-9038
7195-00-990-0615
7195-00-843-7938
Costumer, Wood, Executive (SH)
7195-00-132-6642

CLASS 7210

Bedspread (IB)
7210-00-728-0186
7210-00-728-0187
7210-00-728-0188
7210-00-728-0189
7210-00-728-0190
7210-00-728-0191
7210-00-728-0173
7210-00-728-0175
7210-00-728-0176
7210-00-728-0177
7210-00-728-0178
7210-00-728-0179
7210-00-408-2800
7210-00-582-7540
7210-00-582-0984
7210-00-110-8104
7210-00-582-7541
7210-00-110-8105
Blanket, Bed/Bath (Flame Resistant) (IB)
7210-01-141-2458
Cover, Bed (IB)
7210-01-120-8019
7210-01-116-7860
7210-01-120-0679
7210-01-116-7858
7210-01-116-7859
7210-01-118-4085
7210-01-116-7855
7210-01-116-7856
7210-01-116-7857
7210-01-116-7854
7210-01-116-7853
7210-01-120-8015
7210-01-124-7626
7210-01-120-8013
7210-01-120-8014
7210-01-120-8011
7210-01-120-8010
7210-01-122-5015
7210-01-120-8012
7210-01-125-9250
7210-01-120-8009
7210-01-123-5148
7210-01-120-8017
7210-01-120-8021
7210-01-120-8022
7210-01-120-8018
7210-01-124-8303
7210-01-120-8020
7210-01-123-5149
7210-01-120-8016
Cover, Mattress (IB)
7210-00-291-8419
7210-00-205-3083
7210-00-205-3082
7210-00-067-7989
7210-00-998-7745
7210-00-883-8492
7210-00-140-4231
7210-00-140-4234
7210-00-543-6001
7210-00-171-1091
7210-00-935-6619
7210-00-230-1041
7210-00-241-9718
Insect Bar, Nylon (SH)
7210-00-266-9736
Mattress, Cotton-Felt (IB)
7210-00-139-6517
7210-00-139-6555
7210-00-139-6538
Mattress, Foam (IB)
7210-00-290-8300
7210-00-275-5873
7210-00-275-5874
7210-00-290-8298
7210-00-290-8297
7210-00-052-7327
7210-00-889-3733
7210-00-290-8299
7210-00-682-6503
7210-00-682-6504
Mattress, Innerspring (IB)
7210-00-205-3585
7210-00-139-6424
7210-00-716-0706
7210-00-139-6411
7210-00-205-3534
7210-00-139-6434
7210-00-139-6428
7210-00-110-8102
7210-00-110-8103
7210-38-75-100 38×75"
7210-53-75-100 53×75"
Mattress, Plastic Coated Innerspring (IB)
7210-00-995-1093
7210-00-682-7146
7210-00-529-3709
7210-01-138-8177
Pad, Mattress (IB)
7210-00-227-1526
7210-00-753-3042
Pillow, Bed (IB)
7210-00-619-8262
7210-00-753-8228
7210-01-035-3342
7210-00-894-1144
7210-01-015-5190 (96,000 each annually)
7210-00-119-5358
Pillow, Bed (Feather) (IB)
7210-00-205-3205 Rgns W, 1, 2, 3, 4, 5, 6, 7
Pillow, Passenger, Headrest (IB)
7210-00-682-6601
Pillowcase (SH)
7210-00-119-7357
7210-01-030-5311
Pillowcase, Cotton/Cotton Polyester (IB)
7210-00-054-7910
7210-00-259-9005
7210-00-259-9006
7210-00-119-7356
7210-00-231-2373
7210-00-259-9004
7210-00-259-8897
7210-00-081-1380
Pillowcase, Disposable (IB)
7210-00-883-8494
7210-00-852-3417
Protector, Hospital Bed, Pillow (IB)
7210-00-958-9118
Protector, Hospital Bed, Mattress (IB)
7210-00-761-1471
7210-00-761-1470
Sheet, Bed (IB)
7210-00-299-9611
Sheet, Bed-Disposable (SH)
7210-00-144-6082
Sheet, Bed, Disposable (IB)
7210-00-139-6376
7210-00-498-0512 Requirements for Memphis, TN and Tracy, CA Depots only
Tablecloth (SH)
7210-00-492-8381
Towel, Bath, Disposable (IB)
7210-01-029-0370
Washcloth (IB)
7210-01-013-2824

CLASS 7220

Mat, Floor (SH)
7220-00-205-3192
7220-00-205-3182
7220-00-457-6057
7220-00-457-6063
7220-00-151-6519
7220-00-151-6518
7220-00-151-6517
7220-00-477-3063
7220-00-194-1609
7220-00-457-6046
7220-00-457-6054
Mat, Floor (IB)
7220-00-205-3099
7220-00-224-6487
7220-00-238-8852
7220-00-224-6486
7220-00-238-8854
7220-00-165-7020
7220-01-023-9487
7220-01-023-9489
7220-01-024-5997
7220-01-023-9496
7220-01-023-9490
7220-01-023-9491
7220-01-023-9493
7220-01-023-9494
7220-01-023-9495

CLASS 7230

Curtain, Shower (IB)
7230-00-205-1762
7230-00-247-1280

CLASS 7290

Cover, Ironing Board (IB)
7290-00-130-3271

CLASS 7330

Pad, Bakery (IB)
7330-00-379-4439
Tongs, Food Serving (SH)
7330-00-616-0997
7330-00-616-0998
7330-00-616-1000

CLASS 7340

Flatware, Plastic, Heavy Duty (IB)
7340-00-022-1315
7340-00-022-1316
7340-00-022-1317
7340-00-401-8041
Flatware, Plastic, Picnic (IB)
7340-00-170-8374
7340-00-205-3187
7340-00-205-3342
Spoon, Picnic, Plastic (IB)
7340-00-119-1300

CLASS 7360

Dining Packet (IB)
- 7360-00-935-6407
- 7360-00-935-6408
- 7360-00-935-6409
- 7360-00-935-6410
- 7360-00-935-6411
- 7360-00-935-6412
- 7360-00-935-6413

Dining Packet (Dietetic) (IB)
- 7360-00-177-4958
- 7360-00-177-4959
- 7360-00-177-4960
- 7360-00-177-4961
- 7360-00-177-4962
- 7360-00-177-4963
- 7360-00-935-6416
- 7360-00-935-6417
- 7360-00-935-6420
- 7360-00-935-6421

Dining Packet, Inflight (IB)
- 7360-00-660-0526
- 7360-01-167-2610

Flatware Set, Plastic (IB)
- 7360-00-634-4800

CLASS 7510

Binder, Awards Certificate (IB)
- 7510-00-115-3250
- 7510-00-482-2994
- 7510-00-755-7077
- 7510-01-056-1927

Binder, Looseleaf, (Pressboard) (IB)
- 7510-00-281-4309
- 7510-00-281-4314
- 7510-00-582-4201
- 7510-00-281-4310
- 7510-00-281-4311
- 7510-00-281-4313
- 7510-00-281-4315
- 7510-00-286-7792
- 7510-00-286-7794
- 7510-00-582-5488
- 7510-00-286-7791
- 7510-00-582-3807

Binder, Looseleaf, Presentation (IB)
- 7510-00-582-5398
- 7510-00-582-5399
- 7510-00-582-5400

Binder, Looseleaf, Three Ring (IB)
- 7510-00-782-2663
- 7510-00-889-3494
- 7510-00-409-8646
- 7510-00-409-8647
- 7510-00-984-5787
- 7510-00-985-2443

Binder, Note Pad (IB)
- 7510-00-286-6954
- 7510-00-145-0296
- 7510-00-728-8060
- 7510-01-053-5591

Board, Wall Calendar (IB)
- 7510-00-789-2455

Calendar Pad (SH)
- 7510-01-177-7711 (1985)
- 7510-01-117-7712 (1986)

Chip, Binder (SH)
- 7510-00-223-6807
- 7510-00-285-5995
- 7510-00-282-8201

Clip, Paper (SH)
- 7510-00-161-4292

Envelope, Crystal Clear Vinyl (IB)
- 7510-00-NIB-0003
- 7510-00-NIB-0004
- 7510-00-NIB-0005
- 7510-00-NIB-0006

Envelope, Transparent (IB)
- 7510-00-782-6274
- 7510-00-782-6275
- 7510-00-782-6276

Eraser, Mechanical Pencil (IB)
- 7510-00-307-7885

File Back (IB)
- 7510-00-NIB-0002

File Backer, Paper (IB)
- 7510-00-285-2587

File Front (IB)
- 7510-00-NIB-0001

Pad, Typewriter (IB)
- 7510-00-257-2576
- 7510-00-530-6412
- 7510-00-849-1137

Paperweight, Shotfilled (IB)
- 7510-00-286-6985

Pencil (IB)
- 7510-00-286-5757
- 7510-00-281-5234
- 7510-00-281-5235

Pencil, Fine-Line Writing (IB)
- 7510-00-286-5755
- 7510-00-286-5750
- 7510-00-286-5751

Pencil Woodcased, with Imprinting (IB)
- 7510-050-8LP-6521

Pocket Planning Set (SH)
- 7510-01-119-6370 (1985)
- 7510-01-122-1977 (1986)

Portfolio, Double Pocket (IB)
- 7510-00-584-2489
- 7510-00-584-2490
- 7510-00-584-2491
- 7510-00-584-2492

Portfolio, Plastic Envelope (IB)
- 7510-00-558-1572
- 7510-00-558-1573
- 7510-00-995-4856
- 7510-00-995-4852

Refill, Ballpoint Pen (IB)
- 7510-00-543-6792
- 7510-00-543-6793
- 7510-00-754-2687
- 7510-00-543-6795
- 7510-00-754-2688
- 7510-00-754-2689
- 7510-00-754-2690
- 7510-00-754-2691

Refill, List Finder, Automatic (SH)
- 7510-00-285-2800

Sheath, Pen and Pencil (IB)
- 7510-00-052-2864

CLASS 7520

Arch Board File (IB
- 7520-00-240-5498
- 7520-00-191-1075
- 7520-00-255-7081

Ballpoint Pen (IB)
- 7520-00-935-7136
- 7520-00-935-7135
- 7520-00-543-7149

Ballpoint Pen, Stick-type (IB)
- 7520-01-058-9978
- 7520-01-058-9977
- 7520-01-058-9976
- 7520-01-059-4125
- 7520-01-060-5820
- 7520-01-058-9975
- 7520-01-060-8513
- 7520-01-060-5821

Ballpoint Pen, with Imprinting (IB)
- 7520-00-8LP-6520

Book Ends (IB)
- 7520-00-264-5479
- 7520-00-139-6158

Box, Filing (SH)
- 7520-00-285-3147
- 7520-00-285-3143
- 7520-00-285-3144
- 7520-00-285-3145
- 7520-00-285-3146
- 7520-00-285-3148
- 7520-00-139-3734
- 7520-00-240-4830
- 7520-00-240-4831
- 7520-00-139-3743
- 7520-00-240-4839

Case, Maintenance & Operational Manuals (IB)
- 7520-00-559-9618

Cashbox (SH)
- 7520-00-281-5931

Clipboard File (IB)
- 7520-00-281-5918
- 7520-00-254-4610
- 7520-00-240-5503

Easel, Display & Training (IB)
- 7520-00-579-7013

File, Horizontal Desk (SH)
- 7520-00-139-4869
- 7520-00-728-5761

Holder, Desk Memorandum (IB)
- 7520-00-139-3802
- 7520-00-290-6445

Marker, Tube Type, Broad Tip (IB)
- 7520-00-973-1059
- 7520-00-973-1060
- 7520-00-079-0285
- 7520-00-973-1061
- 7520-00-079-0286
- 7520-00-079-0287
- 7520-00-973-1062
- 7520-00-079-0288
- 7520-00-904-4476
- 7520-00-558-1501

Marker, Tube Type, Fine Tip (IB)
- 7520-00-904-1265
- 7520-00-904-1268
- 7520-00-935-0979
- 7520-00-904-1267
- 7520-00-935-0981
- 7520-00-935-0982
- 7520-00-904-1266
- 7520-00-935-0980
- 7520-00-051-5031
- 7520-00-051-5035
- 7520-00-116-2888
- 7520-00-051-5036
- 7520-00-116-2886
- 7520-00-116-2889
- 7520-00-051-5033
- 7520-00—116-2887

Pen Set, Desk (IB)
- 7520-00-106-9840

Pencil, Mechanical (IB)
- 7520-00-223-6672
- 7520-00-223-6673
- 7520-00-268-9913
- 7520-00-223-6675
- 7520-00-223-6676
- 7520-00-285-5826
- 7520-00-285-5822
- 7520-00-285-5823
- 7520-00-161-5664
- 7520-00-164-8950
- 7520-00-268-9915
- 7520-00-285-5818

7520-00-268-9916
7520-00-724-5606
7520-00-590-1878
7520-00-132-4996
Perforator, Paper, Desk (SH)
7520-00-139-4101
7520-00-263-3425
Stand, Calendar Pad (IB)
7520-00-162-6153
7520-00-162-6156
7520-00-139-4277
7520-00-139-4341
Tray, Desk (SH)
7520-00-232-6828
7520-00-286-5801
7520-00-285-5043
Trimmer, Paper (IB)
7520-00-224-7620 Rgns 1, 2, 3, W, 4, 5, 6, 7
7520-00-224-7621
7520-00-163-2568
7520-00-634-4675
7520-00-282-2137

CLASS 7530

Card Set, Guide, File (IB)
7530-00-989-0698
7530-00-989-0697
7530-00-989-0683
7530-00-082-2635
7530-00-989-0684
7530-00-989-0686
7530-00-989-0692
7530-00-989-0694
7530-00-989-0693
7530-00-989-0695
Card, Guide, File (IB)
7530-00-989-0184
7530-00-989-2425
7530-00-989-6541
7530-00-988-6542
7530-00-988-6543
7530-00-988-6549
7530-00-988-6550
7530-00-988-6551
7530-00-988-6544
7530-00-988-6545
7530-00-988-6546
7530-00-988-6547
7530-00-988-6548
7530-00-988-6515
7530-00-988-6516
7530-00-988-6520
7530-00-988-6521
7530-00-988-6517
7530-00-988-6518
7530-00-988-6522
Card, Index (IB)
7530-00-238-4316
7530-00-244-7453
7530-00-244-7456
7530-00-244-7451
7530-00-244-7459
7530-00-238-4319
7530-00-949-2787
7530-00-238-4331
7530-00-243-9436
7530-00-247-0310
7530-00-281-1315
7530-00-247-0318
7530-00-264-3723
7530-00-247-0311
7530-00-244-7447
7530-00-247-0315
7530-00-243-9437
Envelope, Wallet (IB)
7530-00-281-5976
7530-00-281-4844
7530-00-281-4846
Folder, File, General-Purpose (IB)
7530-00-811-7169
Folder, File, Kraft (IB)
7530-00-889-3555
7530-00-559-4512
7530-00-281-5907
7530-00-281-5908
7530-00-926-8978
7530-00-926-8980
Folder, File, Manila (IB)
7530-00-273-9845
Folder, File, Military Personnel Records Jacket (IB)
7530—DA Form 201
Folder, Rile, Pressboard (IB)
7530-00-926-8981
7530-00-286-6924
7530-00-926-8982
7530-00-926-8983
7530-00-926-8984
7530-00-043-1194
7530-00-739-7723
Folder-Set, File, Pressboard (IB)
7530-00-286-6923
7530-00-286-7080
7530-00-286-7244
7530-00-286-7253
7530-00-286-7286
7530-00-286-7287
7530-00-286-8570
7530-00-286-8571
7530-00-286-6925
7530-00-286-6926
Jacket, Filing, Wallet (IB)
7530-00-285-2915
7530-00-285-2913
7530-00-285-2914
Notebook, Stenographer's (IB)
7530-00-223-7939
Pad, Writing Paper (IB)
7530-00-285-3090 Rgns 1, 5, 6, only
7530-00-239-8479 All Regions
7530-01-131-1889 All regions
7530-01-124-5660 Rgns W, 1, 3, 4, 5, 6, 7, 8
7530-01-131-0091 Rgns W, 1, 3, 4, 5, 6, 7, 8
7530-01-124-7632 Rgns W, 1, 2, 3, 5, 7
Pad, Writing Paper (Easel) (IB)
7530-00-619-8880
Paper Set, Manifold and Carbon (IB)
7530-00-880-9154 Rgns W, 6, 7
7530-00-401-6910 Rgns W, 4, 6, 7, 9
7530-01-072-2536 Rgns W, 4, 6, 7, 9
7530-01-072-2537 Rgns W, 4, 6, 7, 9
7530-01-072-2538 Rgns W, 4, 6, 7, 9
7530-01-072-2539 Rgns W, 4, 6, 7, 9
7530-00-205-0511 Rgns W, 6, 7
Paper, Carbon, Typewriter (IB)
7530-00-244-4035 Rgns 1, 2, 3, 6, 7, 8
Paper, Looseleaf, Blank (IB)
7530-00-286-5777
7530-00-286-5778
7530-00-286-5782
7530-00-286-5780
7530-00-286-5781
7530-00-286-5779
Paper, Looseleaf, Ruled (IB)
7530-00-286-6366
7530-00-286-4332
7530-00-286-4331
7530-00-286-4333
7530-00-286-4334
7530-00-286-4335
7530-00-198-6265
7530-00-286-4336
7530-00-286-4337
7530-00-286-4338
7530-00-286-4339
Paper, Teletypewriter, Roll (IB)
7530-00-019-6674
7530-00-019-6931
7530-00-019-7267
7530-00-019-7463
7530-00-223-7966
7530-01-056-2900
7530-00-721-9691
7530-00-223-7969
7530-00-262-9178
7530-00-142-9037
7530-00-943-7076
Paper, Writing (IB)
7530-00-285-5836
7530-01-047-3738
Refill, Appointment Book (SH)
7530-01-125-0985 (1985)
7530-01-125-0986 (1986)
Tape, Paper, Computing Machine (IB)
7530-00-286-9052
7530-00-222-3455
7530-00-286-9053
7530-00-286-9054
7530-00-238-8352
7530-00-222-3456
7530-00-286-9055

CLASS 7690

Decalcomania, 0.75" Black (SH)
7690-00-329-0538 FOR OFFICIAL USE ONLY
Decalcomania, 1" Black (SH)
7690-00-857-9572 MAX SPEED
7690-00-857-9573 NO RIDERS
7690-00-857-9574 NO SMOKING
7690-00-857-9575 U.S. ARMY
Decalcomania, 1" White Lusterless (SH)
7690-00-857-9660 MAX SPEED
7690-00-857-9662 NO SMOKING
7690-00-857-9663 U.S. ARMY
Decalcomania, 1.5" Black (SH)
7690-00-857-9698 MAX SPEED
7690-00-857-9699 NO RIDERS
7690-00-857-9700 NO SMOKING
Decalcomania, 1.5" White Lusterless (SH)
7690-00-857-9611 MAX SPEED
7690-00-857-9612 NO RIDERS
7690-00-857-9613 NO SMOKING
7690-00-857-9614 U.S. ARMY
Decalcomania, 2" Black (SH)
7690-00-858-3403 NO SMOKING
7690-00-858-3405 U.S. ARMY
Decalcomania, 2" White Lusterless (SH)
7690-00-858-3365 NO SMOKING
7690-00-858-3366 U.S. ARMY
Decalcomania, 3" Black (SH)
7690-00-311-7272 NO SMOKING
7690-00-311-7276 U.S. ARMY
Decalcomania, 3" White Lusterless (SH)
7690-00-310-9208 U.S. ARMY
7690-00-310-6627 NO SMOKING
Decalcomania, 4" Black (SH)
7690-00-328-9507 MAX SPEED
7690-00-328-9517 NO SMOKING
Decalcomania, 4" White Lusterless (SH)
7690-00-329-0204 MAX SPEED
7690-00-329-0205 NO SMOKING
7690-00-329-0206 U.S. ARMY
Decalcomania, Numbers & Letters (SH)
7690—1½"
7690—2"
7690-00-311-7128 3" White Lusterless "5"

7690—4"
Folder, Chapel Program (SH)
7690-00-NSH-0001
Illustrative Sheet (SH)
7690-00-NHS-0002

CLASS 7910

Pad, Floor Polishing Machine (IB)
7910-00-685-6686
7910-00-685-6687
7910-00-685-3908
7910-00-685-6671
7910-00-685-3909
7910-00-685-6672
7910-00-685-3910
7910-00-685-6656
7910-00-685-6657
7910-00-685-3912
7910-00-685-6659
7910-00-685-3915
7910-00-685-6660
7910-00-685-3914
7910-00-685-4239
7910-00-685-4240
7910-00-685-4242
7910-00-685-4243
7910-00-685-4241
7910-00-685-4244
7910-00-685-4245
7910-00-820-7991
7910-00-820-7989
7910-00-820-7990
7910-00-820-9926
7910-00-820-9925
7910-00-820-9924
7910-00-820-9898
7910-00-820-7997
7910-00-820-7996
7910-00-820-9903
7910-00-820-9904
7910-00-820-9905
7910-00-820-9900
7910-00-820-9901
7910-00-820-9899
7910-00-820-9922
7910-00-820-9918
7910-00-820-9917
7910-00-820-9916
7910-00-820-9915
7910-00-820-9914
7910-00-820-9913
7910-00-820-9912
7910-00-820-9911
7910-00-820-9910

CLASS 7920

Broom, Push (IB)
7920-267-2967
Broom, Upright (IB)
7920-00-292-4371
7920-00-292-4375
7920-00-292-4372
7920-00-291-8305
Broom, Whisk (IB)
7920-00-240-6350
Brush, Chassis and Running Gear (IB)
7920-00-255-7536
Brush, Cleaning, Aircraft (IB)
7920-00-051-4384
Brush, Dusting (IB)
7920-00-178-8315
Brush, Floor Sweeping (IB)
7920-00-243-3407
7920-00-292-3363
7920-00-292-2367
7920-00-264-4638
7920-00-292-2362
7920-00-292-2365
Brush, Sanitary (IB)
7920-00-772-5800
7920-00-234-9317
Brush, Scrub (IB)
7920-00-240-7174
7920-00-591-8795
7920-00-282-2470 Tampico Fibers
7920-00-282-2470 Styrene Fibers
7920-00-297-1511
7920-00-619-9162
7920-00-061-0038
Brush, Shoe and Stove (IB)
7920-00-852-8170
Brush, Wire, Scratch (IB)
7920-00-291-5815
7920-00-282-9246
7920-00-246-8501
7920-00-223-7649
Brush, Wire, Stainless Steel (IB)
7920-00-958-1157
Brush-Set, Shoe and Stove (IB)
7920-00-205-0200
Cloth, Polishing (IB)
7920-00-205-1656
Cloth, Wiping (SH)
7920-LL-L03-6103
7920-LL-L03-6134
Pearl Harbor Naval Shipyard, Pearl Harbor, HI only
Cloth, Wiping ("Jean Cotton") (SH)
7920-LL-L01-0013
7920-LL-L01-0014
Portsmouth Naval Shipyard, Portsmouth, NH only
Handle, Mop (IB)
7920-00-205-1168
7920-00-267-1218
7920-00-205-1167
7920-00-550-9902
7920-00-550-9911
7920-00-550-9912
7920-00-998-2485
7920-00-998-2486
7920-00-851-0140
7920-00-851-0142
7920-00-246-0930
7920-00-205-1170
Handle, Paint Roller (IB)
7920-00-682-6512
Handle, Wood (IB)
7920-00-177-5106
7920-00-141-5452
7920-00-263-0328
Kit, Aircraft Cleaning (IB)
7920-00-490-6046
Mop, Dusting, Cotton (IB)
7920-00-205-0481
7920-00-205-0483
7920-00-205-0484
7920-00-245-8289
Mop, Wet (IB)
7920-00-224-8726
Mop, Wet, Cellulose (Sponge Refill) (IB)
7920-00-471-2876
Mop, Wet, Cellulose, Complete (IB)
7920-00-432-7117
7920-00-728-1167
Mophead, Dusting, Cotton (IB)
7920-00-634-0201
7920-00-267-4921
7920-00-998-2482
7920-00-998-2483
7920-00-998-2484
7920-00-851-0141
7920-00-205-0485
7920-00-205-0487
7920-00-205-0488
Mophead, Wet (IB)
7920-00-205-0425
7920-00-205-0426
7920-00-141-5549
7920-00-171-1148
7920-00-141-5550
7920-00-141-5547
7920-00-141-5548
7920-00-141-5544
7920-00-926-5492
7920-00-926-5493
7920-00-926-5494
7920-00-926-5495
7920-00-926-5496
7920-00-926-5497
7920-00-926-5498
7920-00-926-5499
7920-00-926-5501
7920-00-926-5502
Pad, Scouring (IB)
7920-00-753-5242
7920-00-151-6120
Scraper and Squeegee (IB)
7920-00-045-2556
Sponge, Cellulose (IB)
7920-00-161-6219
7920-00-633-9928
7920-00-240-2559
7920-00-884-1116
7920-00-884-1115
7920-00-633-9905
7920-00-240-2555
7920-00-633-9906
Sponge, Plastic (IB)
7920-00-633-9908
7920-00-633-9911
7920-00-633-9915
7920-00-685-4152
Squeegee (SH)
7920-00-224-8339
Squeegee, Window-Cleaning (IB)
7920-00-577-4744
7920-00-577-4745
7920-00-577-4746
Towel, Machinery Wiping (IB)
7920-00-260-1279
Towel, Paper (IB)
7920-00-823-9772 Rgns 4,6,7
7920-00-823-9773

CLASS 7930

Cloth, Wiping (SH)
7930-LL-COO-3782
7930-LL-COO-2678
Mare Island Naval Shipyard, CA only
Cloth, Filter (SH)
7930-00-NSH-0001
Naval Supply Center, WA only
Detergent, General Purpose (IB)
7930-00-926-5280
7930-00-357-7386
7930-00-068-1669
7930-00-055-6122
7930-00-177-5243
7930-00-985-6945
7930-00-985-6946
7930-00-530-8067
7930-00-527-1207
7930-00-527-1237
Dishwashing Compound, Hand (IB)
7930-00-880-4454
7930-00-055-6136

7930-00-899-9534
Glass Cleaner (IB)
7930-00-664-6910
Rinse Additive, Dishwashing (IB)
7930-00-619-9573
7930-00-619-9575

CLASS 8105

Bag, Assembly, Crew Relief (IB)
8105-00-922-9469
Bag, Cloth (IB)
8105-00-283-8183
Bag, Cotton (IB)
8105-00-183-6918
8105-00-281-3924
8105-00-183-6982
8105-00-179-0089
8105-00-271-1511
8105-00-183-6985
8105-00-174-0836
8105-00-183-6989
8105-00-290-3360
Bag, Currency (IB)
8105-00-NIB-0006
Bureau of Engraving and Printing, Washington, D.C. only
Bag, Evidence (IB)
8105-00-NIB-0001
8105-00-NIB-0002
8105-00-NIB-0003
8105-00-NIB-0004
8105-00-NIB-0005
Bag, Lunch (SH)
8105-00-664-3715
Bag, Motion Sickness (IB)
8105-00-835-7212
Bag, Plastic (SH)
8105-00-NSH-0001
8105-00-NSH-0002
8105-00-NSH-0003
8105-00-NSH-0004
Coin Bags (SH)
8105-00-NSH-0005 50% of Gov't requirements
8105-00-NSH-0006 50% of Gov't requirements
8105-00-NSH-0007 50% of Gov't requirements
8105-00-NSH-0008 50% of Gov't requirements
8105-00-NSH-0009 50% of Gov't requirements
8105-00-NSH-0010 50% of Gov't requirements
8105-00-NSH-0011 50% of Gov't requirements
8105-00-NSH-0012 50% of Gov't requirements

CLASS 8110

Tube, Mailing and Filing (SH)
8110-00-412-4410

CLASS 8115

Box, Set-Up, Mailing Dental (IB)
8115-00-511-5750
Box, Shipping (IB)
8115-00-787-2142
8115-00-787-2147
8115-00-101-7647
8115-00-101-7638
8115-00-787-2146
8115-00-787-2148
8115-01-019-4085
8115-01-019-4084
8115-01-057-1244
8115-01-057-1243
8115-01-057-1245
8115-00-192-1603
8115-00-192-1604
8115-00-192-1605
8115-01-093-3730
Box, Wood (SH)
8115-00-935-5887
8115-00-935-6518
8115-00-935-6525
8115-00-935-6526
8115-00-935-6527
8115-00-935-6528
8115-00-935-6530
8115-00-935-6532
8115-00-935-6531
Box, Wood, Nailed (SH)
8115-00-N00-0019
Pine Bluff Arsenal, AR only

CLASS, 8135

Block, Currency Packing (IB)
BEP Stock# L-1391
Chipboard (IB)
8135-00-290-0336
8135-00-782-3948
8135-00-782-3951
8135-00-579-8457

CLASS 8315

Sewing Kit (SH)
8315-01-096-4480
8315-01-090-5823

CLASS 8340

Line, Tent (SH)
8340-00-263-0254
8340-00-263-0255
Pin, Tent, Aluminum (SH)
8340-00-261-9749
Pin, Tent, Wood (SH)
8340-00-261-9750
8340-00-261-9751
Pole Section, Tent (SH)
8340-00-223-7849
Shelter Half, Tent, Incomplete (SH)
8340-00-577-4168
Shelter Half, Tent, Complete (SH)
8340-01-026-6096

CLASS 8345

Case, Flag, Interment (IB)
8345-00-782-3010
Flag, Signal (IB)
8345-00-935-0588
8345-00-935-0589
8345-00-935-0590
8345-00-935-0591
8345-00-935-0592
8345-00-935-0594
8345-00-935-0595
8345-00-935-0597
8345-00-935-0598
8345-00-935-0599
8345-00-935-0602
8345-00-935-0604
8345-00-935-0607
8345-00-935-0608
8345-00-935-0633
8345-00-935-1840
8345-00-935-0634
8345-00-935-0638
8345-00-935-0639
8345-00-935-0640
8345-00-926-9977
8345-00-926-9216
8345-00-926-9978
8345-00-926-6804
8345-00-926-6806
8345-00-926-9979
8345-00-926-6807
8345-00-926-6809
8345-00-926-9980
8345-00-926-9219
8345-00-935-0582
8345-00-926-9984
8345-00-926-6003
8345-00-926-9985
8345-00-935-0619
8345-00-935-1839
8345-00-935-0620
8345-00-935-0623
8345-00-935-0409
8345-00-935-0624
8345-00-935-0445
8345-00-926-6803
8345-00-935-0446
8345-00-926-6805
8345-00-935-0447
8345-00-926-9987
8345-00-935-0448
8345-00-926-6810
8345-00-926-9988
8345-00-935-0450
8345-00-935-0451
8345-00-935-0453
8345-00-926-6002
8345-00-926-6814
8345-00-935-0436
8345-00-935-0437
8345-00-935-0438
8345-00-935-0408
8345-00-935-0441
8345-00-935-0442
8345-00-935-0464
8345-00-935-0465
8345-00-935-0466
8345-00-935-0467
8345-00-935-0468
8345-00-935-0470
8345-00-935-0471
8345-00-935-0473
8345-00-935-0474
8345-00-935-0475
8345-00-935-0478
8345-00-935-0480
8345-00-935-0483
8345-00-935-0484
8345-00-935-0626
8345-00-935-1838
8345-00-935-0627
8345-00-935-0407
8345-00-935-0630
8345-00-935-0631
Flag, Signal, Vehicle, Danger Red (IB)
8345-00-260-2724
Pennant, Signal, and Special Flags (IB)
8345-00-935-0420
8345-00-935-0517
8345-00-935-4755
8345-00-825-1847
8345-00-935-3201
8345-00-935-4756
8345-00-935-0522
8345-00-914-6086
8345-00-935-4753
8345-00-935-4754
8345-00-935-0404
8345-00-935-0514
8345-00-825-1868
8345-00-935-0406

8345-00-935-0509
8345-00-926-5988
8345-00-935-0512
8345-00-921-4497
8345-00-935-3199
8345-00-825-1839
8345-00-935-0526
8345-00-914-6076
8345-00-914-6080
8345-00-914-6083
8345-00-935-0524
8345-00-926-5987
8345-00-926-5989
8345-00-935-0539
8345-00-926-5991
8345-00-825-1840
8345-00-935-0521
8345-00-914-6087
8345-00-926-6026
8345-00-935-0403
8345-00-935-0536
8345-00-926-9210
8345-00-926-9213
8345-00-926-6028
8345-00-935-0508
8345-00-935-0519
8345-00-935-0415
8345-00-914-6085
8345-00-926-9215
8345-00-935-0411
8345-00-926-9212
8345-00-914-7411
8345-00-914-6079
8345-00-914-6082
8345-00-935-0523
8345-00-935-0417
8345-00-926-5990
8345-00-935-0421
8345-00-926-9207
8345-00-935-0542
8345-00-935-0520
8345-00-935-0492
8345-00-935-0493
8345-00-926-9214
8345-00-935-0513
8345-00-935-0490
8345-00-935-0495
8345-00-926-9208
8345-00-935-0518
8345-00-935-0511
8345-00-914-6084
8345-00-935-0405
8345-00-935-0410
8345-00-935-0525
8345-00-914-6075
8345-00-914-6077
8345-00-914-6081
8345-00-935-0419
8345-00-935-0416
8345-00-935-0537
8345-00-935-0538
8345-00-935-0540
8345-00-935-0541
8345-00-926-9211
8345-00-935-0499
8345-00-935-0500
8345-00-935-0501
8345-00-825-1818
8345-00-935-0497
8345-00-935-0504
8345-00-935-1841
8345-00-935-0418
8345-00-925-1819
8345-00-926-1551
8345-00-935-0503
8345-00-935-0534
8345-00-935-1843
8345-00-926-1548
8345-00-926-1549
8345-00-926-1552

Streamer, Warning, Aircraft (IB)
8345-00-863-9170

CLASS 8405

Cover, Service Cap (IB)
05-01-046-8544
05-01-046-8545

Strap, Chin (SH)
8405-00-152-3952

CLASS 8415

Apron, Construction Worker's (IB)
8415-00-205-3895
8415-00-257-4290

Apron, Food Handler's (IB)
8415-00-255-8577
8415-00-634-0205
8415-00-051-1173
8415-00-045-0587

Apron, Food Handler's (SH)
8415-00-899-3026

Apron, Impermeable (SH)
8415-00-082-6108

Apron, Laboratory (SH)
8415-00-634-5023

Band, Helmet, Camouflage (IB)
8415-01-110-9981

Cap, Food Handler's (IB)
8415-00-234-7677
8415-00-234-7678
8415-00-234-7679

Cover, Helmet (IB)
8415-00-105-0605

Cover, Helmet, Camouflage Pattern (IB)
8415-01-092-7514
8415-01-092-7515

Cover, Helmet, Chemical Protective (IB)
8415-01-111-9028 (75,000 each annually)

Cover, Helmet, Desert Camouflage (SH)
8415-01-103-1349
8415-01-103-1350

Hood, Anti-Flash (SH)
8415-00-275-3159

Hood, Spray Painter's Protective (SH)
8415-00-NSH-0001
Pearl Harbor Naval Shipyard, HI only

Liner, Coat, Cold Weather (IB)
8415-00-782-2886
8415-00-782-2887
8415-00-782-2888
8415-00-782-2889
8415-00-782-2890
8415-01-062-0679
All Gov't requirements except for Memphis Depot, TN

Liner, Cold Weather, Trousers (IB)
8415-00-782-2922
8415-00-782-2924
8415-00-782-2925
8415-00-782-2926
8415-00-782-2927
8415-00-782-2928
8415-00-782-2929
8415-00-782-2930

Mask, Extreme Cold Weather (SH)
8415-00-243-9844
8415-01-006-3468

Pad, Helmet, Flight Deck Crewman's (IB)
8415-00-178-6830
8415-00-178-6831

Socks, Extreme Cold Weather (SH)
8415-00-177-7992
8415-00-177-7993
8415-00-177-7994
8415-01-057-3503

Traffic Safety Clothing (See Class 8465 also) (IB)
8415-00-177-4978
8415-00-177-4974

CLASS 8430

Footwear Cover (IB)
8430-00-890-2079
8430-00-580-1205
8430-00-580-1208
8430-00-591-1359
8430-01-162-4453

Slide Fastener Unit, Laced Boot (IB)
8430-00-465-1888
8430-00-465-1889
8430-00-465-1890

CLASS 8440

Belt, Coat (IB)
8440-00-261-4965
8440-00-261-4966

Belt, Trousers
8440-00-270-0535
8440-00-412-2309
8440-00-573-1666
8440-00-270-0536
8440-00-412-2312
8440-00-573-1765
8440-00-270-0537
8440-00-412-2314
8440-00-573-3727
8440-00-290-0567
8440-00-052-9738
8440-00-290-0568
8440-00-052-9739
8440-00-269-5311
8440-01-052-9740
8440-00-634-5632
8440-00-753-6363
8440-00-577-4177
8440-00-753-6364
8440-00-577-4178
8440-00-753-6365
8440-00-270-0541
8440-00-412-2326
8440-00-270-0542
8440-00-412-2341
8440-00-270-0543
8440-00-412-2342

Neckerchief, Camouflage, Desert (IB)
8440-01-103-5981
8440-01-148-4549

Necktie (IB)
8440-00-216-6130
8440-00-316-2519
8440-00-555-7194

Scarf, Man's, Wool (SH)
8440-01-005-2558
8440-00-160-6843
8440-00-823-7520

Suspenders, Trousers (IB)
8440-00-221-0852

CLASS 8445

Belt, Trousers, Cotton (IB)
8445-01-068-8339
8445-01-068-8340
8445-01-075-0013
8445-01-075-0014
8445-01-075-0015

Scarf, Neckwear (IB)
8445-00-549-5363

CLASS 8455

Holder, Identification (IB)
8455-00-898-9730
Medal and Medal Sets (SH)
8455-00-261-4501
8455-00-082-5528
8455-00-269-5761
8455-00-269-5783
8455-00-269-5763
8455-00-269-5764
8455-00-269-5782
Scarf, Branch of Service (IB)
8455-00-916-8398
8455-00-405-2294
8455-00-985-7336
8455-01-078-0745

CLASS 8460

Kit Bag, Flyer's (IB)
8460-00-606-8366

CLASS 8465

Bag, Barrack (IB)
8465-00-530-3692
Bag, Laundry (SH)
8465-00-616-9576
Bag, Laundry, Self-Closing, Ropeless (SH)
8465-00-656-0816
Bag, Sleeping, Firefighter's (IB)
8465-00-081-0798
Bag, Soiled Clothes (SH)
8465-00-122-3869
Bag, Soiled Clothes, Submarine (IB)
8465-00-762-7671
Belt, Individual, Equipment, Nylon, LC-1 (IB)
8465-00-001-6487
8465-00-001-6488
8465-01-120-0674
8465-01-120-0675
Belt, M.P. (IB)
8465-00-527-8843
Binding, Snowshoe, Universal (IB)
8465-00-965-2175
Carrier, Intrenching Tool (IB)
8465-00-001-6474
Case, Field, First Aid (IB)
8465-00-935-6814
Case, Maintenance Equipment, Small Arms (IB)
8465-00-781-9564
Case, Map and Note, Field (SH)
8465-00-634-1903
Clipboard, Pilot's (SH)
8465-01-012-9174
Clothes Stop (IB)
8465-00-377-5701
Cover, Field Pack, Camouflage (IB)
8465-01-103-0659
Cover, Field-Pack, Camouflage, White (SH)
8465-00-001-6478
Cover, Water, Canteen (IB)
8465-00-118-4965
Fieldpack, Canvas (SH)
8465-00-205-3493
Lanyard, Pistol (SH)
8465-00-262-5237
8465-00-965-1705
Necklace, Personnel, Identification (SH)
8465-00-261-6629
Pocket, Ammunition Magazine (IB)
8465-00-782-2239
8465-00-261-4983
Protector, Trousers, Pistol Holster (IB)
8465-00-682-6741
Strap, Waist, with Pad, LC-2 (IB)
8465-01-075-8164
Strap, Webbing, Cargo, Tie-Down (IB)
8465-00-001-6477
Strap, Webbing, Waist, LC-1 (IB)
8465-00-269-0481
Suspenders, Individual Equipment Belt (IB)
8465-00-001-6471
Traffic-Safety Clothing (IB)
8465-00-177-4977
8465-00-177-4976
8465-00-177-4975
Whistle, Ball, Plastic (IB)
8465-00-254-8803

CLASS 8470

Headband, Ground Troop, Helmet Liner (IB)
8470-00-153-6671
Mechanicsburg, PA, and Richmond, VA only
Headband, Ground-Troop'/Parachutists' Helmet (IB)
8470-01-092-8493
8470-01-092-8492
Neckband, G.T., Helmet Liner (IB)
8470-00-753-6166
Pad, Parachutists' Helmet (IB)
8470-01-092-8494
Strap, Chin, Ground Troops'/Parachutists' Helmet (IB)
8470-01-092-7534
Strap, Chin, Parachutist Steel Helmet (IB)
8470-00-032-2737
Strap, Retention, Parachutists' Helmet (IB)
8470-01-092-7524
Strap, Soldier's Steel Helmet M-1 (IB)
8470-00-030-8003
Suspension Assembly, Liner, Helmet (IB)
8470-00-880-8814
Suspension-Assembly, Ground Troops'/ Parachutist (IB)
8470-01-092-7516
8470-01-092-7517
8470-01-092-7518
8470-01-092-7519

CLASS 8520

Soap, Toilet (IB)
8420-00-228-0598
8420-01-058-7463
8420-00-141-2519

CLASS 8970

Food Packet, Survival, Aircraft, Life Raft, Indiv. (SH)
8970-01-028-9406
Plate, Marking, Blank (SH)
9905-473-6336
Sign Kit, Vehicle (SH)
9905-00-565-6267
Tag, Key (SH)
9905-00-245-7826
Tag, Marker (SH)
9905-00-537-8944
9905-00-537-8945
9905-00-537-8946
9905-00-537-8957
Tree Shade (SH)
9905-00-NSH-0001 8" X 12"
9905-00-NSH-0153 8" X 16"
BLM and U.S. Forest Service, Washington and Oregon only

CLASS 9920

Ash Receiver, Tobacco (IB)
9920-00-682-6757
Cleaner, Tobacco Pipe (SH)
9920-00-292-9946

U.S. Postal Service Items

Decalcomania, PS 1" Lusterless White (SH)
P.S. #669-L TP
P.S. #666-L TP-40
P.S. #672-L TP-45
P.S. #667-L TP-50
P.S. #675-L TP-65
P.S. #668-L TP-70
P.S. #622-L LIFT HERE
Decalcomania, PS, 1" Gloss White (SH)
P.S. #635 NO RIDERS
Decalcomania, PS, 1.5 " Gloss White (SH)
P.S. #600 U.S. ARMY
P.S. #633 MAX SPEED
P.S. #636 NO RIDERS
Decalcomania, PS, 2" Gloss White (SH)
P.S. #607 U.S. ARMY
Divider, Separation (SH)
P.S. Item #01037A
P.S. Item #01037B
Lead Seal with Cord Attachment (SH)
P.S. #0815
Marker, I.D., Plastic (SH)
P.S. #01036
P.S. #01036-A
P.S. #01036-B
P.S. #01036-C
P.S. #01036-D
P.S. #01036-E
P.S. #01036-F
Pallet, P.S., Material Handling (SH)
3990-00-NSH-0008 (62 x 48")
U.S. Postal Service, Western Area Supply Center
Pocket, Imitation Leather (IB)
P.S. #D-1200-G
Safety Guard (SH)
P.S. Item #01075B
Seal, Metal Band (SH)
P.S. Item #0816-A
P.S. Item #0816-B
Seat Assembly, complete (SH)
P.S. #054-A
Seat Cover (SH)
P.S. #054-B
Strap, Mail Tray (IB)
P.S. Item #01067
Strap, Tie, Mail Carrier's, with buckle (IB)
P.S. #D-1216-D
P.S. #D-1216-E
P.S. #D-1216-F

Military Resale Commodities

Procedures for ordering military resale commodities are contained in Section 51-5.6, Code of Federal Regulations, Title 41.

Item No.	Item name
060	Roller ball pen, red (IB).
061	Roller ball pen, blue (IB).
062	Roller ball pen, black (IB).
063	Retractable pen, black (IB).
064	Retractable pen, blue (IB).
065	Ultra fine tip marker, red (IB).
066	Ultra fine tip marker, blue (IB).
067	Ultra fine tip marker, black (IB).
068	Pencil, mechanical, 0.5 mm lead (IB).
500	Room air freshner (IB).
501	Doedorizer, toilet bowl (IB).
503	Bowl deodorizer (IB).
504	Bowl deodorizer (IB).
510	Cleaner, all purpose (IB).
520	Fabric Softener sheets, reusable, 8¾x4" (40 count) (IB).
541	Scrubber, bathroom, with handle (IB).
542	Scrubber, kitchen, with handle (IB).
543	Scrubber, grill & garage, with handle (IB).

Item No.	Item name
544	Scrubber, nylon net over polyurethane pad (IB)
554	Scrubber, nylon, rectangular (IB).
555	Scrubber, kitchen, 4⅝x3½x1⅜" (IB)
556	Scrubber, bathroom, 4⅝x3½x1⅜" (IB)
557	Scrubber, general household, 6⅝x3¾x1" (IB)
563	Scrubber, plastic, for teflon (IB).
564	Scrubber, stainless steel (IB).
568	Board, ironing, table top(IB).
570	Clothespins, plastic (IB).
574	Clothesline, plastic, rayon reinforced, 100-ft. (IB).
575	Sponge, cellulose, 5½x3⅝x1⅝" (IB).
576	Sponge, cellulose, 7⅝x4x1¾" (IB)
577	Sponge, cellulose, 5⅛x3⅝x1" (IB)
578	Sponge, cellulose, 5½x3⅝x⅝" (IB).
593	Sponge, bath, circular (IB).
594	Swatter, fly, plastic (IB)
596	Cutlery set, plastic, heavy duty (8 ea knives, forks, spoons) (IB).
597	Knives, plastic, heavy duty (IB).
598	Forks, plastic, heavy duty (IB)
599	Spoons, plastic, heavy duty (IB).
721	Paint roller cover, economy, 9" (IB).
723	Paint roller cover, all purpose, 9" (IB).
727	Paint roller cover, high pile, 9" (IB).
730	Paint roller cover, for rough surfaces, 9" (IB).
901	Broom, mixed fiber (IB).
902	Broom, push, indoor/outdoor, 54" handle (IB).
903	Broom, parlor, corn, medium weight (IB).
904	Broom, corn, plastic cap (IB)
905	Broom, plastic filament, flagged ends (IB).
907	Broom, plastic filament, angle cut (IB).
908	Broom, plastic filament, angle tilt (IB).
909	Broom, whisk, corn (IB)
912	Brush, lint, plastic filament (IB).
914	Brush, barbecue, with scraper (IB)
915	Brush, counter, plastic (IB).
916	Brush, bowl, sanitary, nylon filament (IB).
918	Brush, scrub, household (IB).
919	Brush, scrub, plastic block, vinyl filament (IB).
920	Handle, mop, spring level, for wet mopheads (IB)
922	Applicator, wax, foam block (IB)
923	Mop, automatic, block sponge (IB).
924	Mop, block sponge, with scrub strip brush (IB)
925	Mop, dusting, nylon (IB).
926	Mop, stick, orlon/rayon yarn, wet (IB)
927	Mop, stick, rayon yarn, wet (IB).
928	Mop, stick, cotton yarn, wet (IB).
933	Refill, mop, automatic, block sponge, for 923 (IB)
934	Refill, mop, block sponge, for 924 (IB).
936	Mophead, orlon/rayon yarn, wet (IB).
937	Mophead, cotton yarn, wet (IB).
940	Towel, heritage design (IB).
941	Cloth, dish, knitted cotton (IB).
942	Dish cloth, heritage design (IB).
943	Towel, modern design (IB).
944	Dish cloth, modern design (IB).
945	Towel, kitchen, cotton (IB).
946	Potholder, quilted, cotton (IB).
947	Oven mitt, modern design (IB).
948	Potholder, modern design (IB).
949	Mitt, oven, quilted, cotton (IB).
950	Mop, dish and bottle, wood handle (IB).
955	Brush, vegetable/utility, plastic filament (IB).
956	Brush, bottle, nylon filament (IB).
957	Brush, dish and pan, nylon filament (IB).
959	Brush, pastry and basting (IB).
962	Cover, ironing board, silicone and pad, poly foam (IB).
964	Cover, ironing board, silicone, double coated (IB).
965	Cover, ironing board, color coated (IB).
970	Bag, washing machine, nylon with zipper (IB).
971	Towel dish, traditional design (IB).
972	Dish cloth, traditional design (IB).
973	Towel, contemporary design (IB).
974	Dish cloth, contemporary design (IB).
975	Oven mitt, tradtional design (IB).
977	Oven mitt, contemporary design (IB).
978	Pot holder, contemporary design (IB).
979	Pot holder, traditional design (IB)
980	Cloth, all purpose, cotton (IB).
983	Cloth, dusting (IB).
988	Cloth, wash, face (IB).
996	Dustpan, plastic (IB).

Services

Administrative Services

Department of Commerce: Herbert Hoover Building, 14th & Constitution Avenue, N.W., Washington, D.C. (SH)

Department of Defense: DCASR Building B-95, 805 Walker Street, Marietta, Georgia (SH)
Environmental Protection Agency: 1860 Lincoln Street, Denver, Colorado (SH)
Marfair Building, Washington, D.C. (SH)
Waterside Mall Complex, Washington, D.C. (SH)
345 Courtland Street, N.E., Atlanta, Georgia (SH)
General Services Branch, 230 South Dearborn Street, Chicago, Illinois (SH)
Beltsville Research Laboratory, Beltsville, Maryland (SH)
6100 Executive Boulevard, Rockville, Maryland (SH)
9100 Brookville Road, Silver Spring, Maryland (SH)
26 Federal Plaza, New York, New York (SH)
6th and Walnut Street, Philadelphia, Pennsylvania (SH)
Crystal Mall Complex, Arlington, Virginia (SH)

Assembly

Department of Defense:
Belt, Trousers (IB)
Food Packet, Long Range Patrol (8970-00-926-9222) (SH)
Food Packet, Survival, Abandon Ship (8970-00-299-1365) (IB)
Food Packet, Survival, General-Purpose, Individual (8970-00-082-5665) (IB)
General Services Administration: Living Kit, Basic and Supplemental (SH)

Bursting and Packaging of Commemorative Stamps

U.S. Postal Service: Washington, D.C. (SH)

Cage Cleaning

Department of Health and Human Services: Food and Drug Administration, Federal Office Building #8, 200 C Street, S.W., Washington, D.C (SH)

Cardboard and Paper Scrap Recovery

Department of Army: New Cumberland Army Depot, Pennsylvania (SH)

Carpet Cleaning

General Services Administration: Portland, Oregon, plus 10-mile radius (SH)

Carwash

Department of the Interior: Bureau of Land Management, Medford District Office, 3040 Biddle Road, Medford, Oregon (SH)

Catering Service

Department of Army : New Cumberland Army Depot, Military Entrance Processing Station, Building 521, New Cumberland, Pennsylvania (SH)

Commissary Shelf Stocking

Department of Navy:
Naval Air Station, Alameda, California (SH)
Naval Air Station, Long Beach, California (SH)
Naval Air Station, Moffett Field, California (SH)
Naval Air Station, Point Mugu, California (SH)
Naval Station, Treasure Island, San Francisco, California (SH)
Mare Island Naval Shipyard, Vallejo,California (SH)
Naval Air Station, Barbers Point, Oahu, Hawaii (SH)
Naval Base, Pearl Harbor, Hawaii (SH)
Naval Training Center, Great Lakes, Illinois (SH)
Naval Air Station, Brunswick, Maine (SH)
Naval Air Station, Patuxent River, Maryland (SH)
Naval Construction Battalion Center, Gulfport, Mississippi (SH)
Naval Air Station, Fallon, Neveda (SH)
Naval Administrative Unit, Scotia, New York (SH)
Naval Station, Roosevelt Roads, Puerto Rico (SH)
Naval Education Training Center, Newport, Rhode Island (SH)
Naval Station and Naval Weapons Station, Charleston, South Carolina (SH)
Naval Station, Norfolk, Virginia (SH)
Naval Air Station, Oceana, Virginia Beach, Virginia (SH)
Naval Submarine Base, Bangor, Washington (SH)
Naval Air Station, Whidbey Island, Oak Harbor, Washington (SH)
Naval Support Activity, Sand Point, Seattle Washington (SH)

Commissary Shelf Stocking and Custodial Service

Department of Air Force:
Gunter Air Force Station, Alabama (SH)
Maxwell Air Force Base, Alabama (SH)
Little Rock Air Force Base, Arkansas (SH)
Lowry Air Force Base, Colorado (SH)
Peterson Air Force Base, Colorado (SH)
Homestead Air Force Base, Flordia (SH)
Robins Air Force Base, Georgia (SH)
Mountain Home Air Force Base, Idaho (SH)
McConnell Air Force Base, Massachusetts (SH)
Hanscom Air Force Base, Massachusetts (SH)
Nellis Air Force Base, Nevada (SH)
Cannon Air Force Base, New Mexico (SH)
Lackland Air Force Base: Texas (SH)
Sheppard Air Force Base, Texas (SH)

Currency Packaging

Department of Treasury:
Bureau of Engraving and Printing, Washington, D.C. (SH)

Drill Sharpening

Department of Navy: Naval Supply Center, San Diego, California (SH)

Food Service

Department of Air Force:
Sheppard Air Force Base, Texas (SH)

Food Service Attendant

Department of Army:
Consolidated Enlisted Dining Facility, Building 61, Fort McPherson, Georgia (SH)
Seneca Army Deport, Romulus, New York (SH)

Furniture Rehabilitation

General Services Admnistration:
Altus Air Force Base, Oklahoma (SH)
Lawton, Oklahoma including Fort Sill (SH)

Oklahoma City, Oklahoma, plus 25-mile radius, including FAA and Tinker Air Force Base (SH)
San Antonio, Texas, plus 40-mile radius (SH)
Wichita Falls, Texas, includiong Sheppard Air Force Base , (SH)
Spokane, Washington, plus 30-mile radius (SH)

Furniture Rehabilitation (Metal)

Department of Navy:
Naval Ordanance Station, Louisville, Kentucky (IB)

Grounds Maintenance

Department of Air Force:
18 Buildings, 1 Area, and 4 Athletic fields, Edwards Air Force Base, California (SH)
29 Buildings, Bergstrom Air Force Base, Texas (SH)
Department of Army:
5 Buildings and 6 Fields, Fort Ord, California (SH)
Lewiston Levee Parkway, Nez Perce County, Idaho (SH)
U.S. Army Reserve Facility-Portland (South), Sears Hall, 2731 SW Multnomah Boulevard, Portland, Oregon (SH)
U.S. Army Reserve Facility-Portland (West), Sharff Hall, 8801 N. Chautauqua Boulevard, Portland, Oregon (SH)
Asotin Recreation Area, Asotin County, Washington (SH)
Cemetery Grounds (includes opening and closing of graves), Fort Lawton, Washington (SH)
U.S. Army Reserve Facility, Mann Hall, N. 4415 Market Street, Spokane, Washington (SH)
U.S. Army Reserve Facility, N. 3800 Sullivan Road, Trentwood, Washington (SH)
Vancouver Army Barracks, Vancouver, Washington (SH)
Department of Commerce:
National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 2725 Montlake Boulevard East, Seattle, Washington (SH)
Department of Energy:
Morgantown Energy Technology Center, Morgantown, West Virginia (SH)
Department of Interior:
National Park Service, LBJ Memorial Grove, Constitution Gardens, Washington, D.C. (SH)
Department of Navy:
Naval Weapons Center, China Lake, California (SH)
Naval Air Station, Recreation Areas, Lemoore, California (SH)
Mare Island Naval Shipyard, Combat Systems Technical School Command, Vallejo, California (SH)
Naval Air Station Miramar, 15 Parcel Areas, San Diego, California (SH)
Naval Postgraduate School, Monterey, California (SH)
U.S. Naval Security Activity, Skaggs Island, Sonoma, California (SH)
Naval Ordnance Station, Nonindustrial Area, Indian Head, Maryland (SH)
Naval Weapons Station, 2 Parks, 5 Buildings, and 7 Areas, Yorktown, Virginia (SH)
Naval Air Station, Whidbey Island, Washington (SH)
Department of Transportation:
Federal Aviation Administration, AFSFO, 55 Midway Avenue, Daytona Beach, Florida (SH)
Federal Aviation Administration, Airway Facilities Sector, 1100 South Service Road, Atlanta, Georgia (SH)
Federal Aviation Administration, Air Route Traffic Control Center, Ronkonkoma, New York (SH)
Federal Aviation Administration, New York TRACON Facility, Westbury, New York (SH)
Federal Aviation Administration, Air Route Traffic Control Center, Leesburg, Virginia (SH)
Department of Treasury:
U.S. Secret Service, Special Training Building and Complex, Beltsville Maryland (SH)
General Services Administration:
Federal Center, 620 Central Avenue, Alameda, California (SH)
Federal Building and U.S. Post Office, 11000 Wilshire Boulevard, Los Angeles, California (SH)
U.S. Geological Survey, 345 Middlefield Road, Menlo Park, California (SH)
U.S. Court of Appeals, 7th and Mission Streets, San Francisco, California (SH)
Social Security Administration Complex, 6401 Security Boulevard, Baltimore, Maryland (SH)
Social Security Administration Computer Center, 6201 Security Boulevard, Baltimore, Maryland (SH)
Internal Revenue Service Center, 310 Lowell Street, Andover, Massachusetts (SH)
U.S. Custom House, 6 World Trade Center, New York, New York (SH)
Federal Building, 1002 N.E. Holladay, Portland, Oregon (SH)
Pioneer Courthouse, 520 S.W. Morrison, Portland, Oregon (SH)
U.S. Courthouse, 620 S.W. Main, Portland, Oregon (SH)
Wyatt Federal Building, 1220 S.W. Third, Portland, Oregon (SH)
Federal Building, 500 West 12th, Vancouver, Washington (SH)
U.S. Marine Corps:
Marine Corps Air Station, Yuma, Arizona (SH)

Janitorial/Custodial

Department of Agriculture:
Forest Service, Sequoia National Forest, 2 Buildings, Porterville, California (SH)
Forest Service, Coeur D'Alene Nursery, 3600 Nursery Road, Coeur d'Alene, Idaho (SH)
Forest Service, Fernan Ranger Station, 2502 E. Sherman Avenue, Coeur d'Alene, Idaho (SH)
Wallace Ranger District of the Panhandle National Forest, Coeur d'Alene, Idaho (SH)
Umpqua National Forest, Supervisor's Office, 2900 N.W. Stewart Parkway, Roseburg, Oregon (SH)
Department of Air Force:
5 Buildings, Bergstrom Air Force Base, Texas (SH)
Ellsworth Air Force Base, South Dakota (SH)
Fairchild Air Force Base, Washington (excluding USAF Hospital, Air National Guard and Commissary) (SH)
Griffiss Air Force Base, New York (SH)
McChord Air Force Base, Washington (SH)
Department of Army:
U.S. Army Reserve Center, Memorial Parkway, Huntsville, Alabama (SH)
National Defense University, Health Fitness, Fort McNair, Washington, D.C. (SH)
Pentagon Officers Athletic Center, The Pentagon, Washington, D.C. (SH)
U.S. Army Reserve Center, John Williams Street, Attleboro, Massachusetts (SH)
U.S. Army Reserve Center, Belmont & Manley Streets, Brockton, Massachusetts (SH)
U.S. Army Reserve Center, 915 W. Chestnut Street, Brockton, Massachusetts (SH)
U.S. Army Reserve Center, 675 American Legion Highway, Roslindale, Massachusetts (SH)
U.S. Army Reserve Center, 130 Eldridge Street, Taunton, Massachusetts (SH)
U.S. Army Reserve Center, Fort Snelling, Minnesota (SH)
U.S. Readiness Group, Fort Snelling, Minnesota (SH)
U.S. Army Reserve Center #3, 4301 Goodfellow Boulevard, St. Louis, Missouri (SH)
U.S. Army Reserve Center, Fort Drum, New York (SH)
U.S. Army Reserve Center, 111 Finney Boulevard, Malone, New York (SH)
U.S. Army Reserve Center, Burrstone Road, Utica, New York (SH)
U.S. Army Reserve Facility, Salem, Oregon (SH)
Lewisville Lake Park, Lewisville, Texas (SH)
U.S. Army Reserve Center, Butler Farm Road, Hampton, Virginia (SH)
U.S. Army Reserve Center, Marcella Road, Hampton, Virginia (SH)
U.S. Army Reserve Facility, Grant County Airport, Moses Lake, Washington (SH)
U.S. Army Reserve Facility, 14631 S.E. 1092nd Street, Renton, Washington (SH)
Hiram M. Chittenden Locks, Seattle, Washington (SH)
Vancouver Army Barracks, Vancouver, Washington (SH)
Yakima Firing Center, Yakima, Washington (SH)
Department of Defense:
DCASR Building B–95, 2 Buildings, Marietta, Georgia (SH)
Army and Air Force Exchange, Alamo Exchange Region, 5315 Summit Parkway, San Antonio, Texas (SH)
Department of Energy:
3 Buildings, Idaho Falls, Idaho (SH)
Morgantown Energy Technology Center, Morgantown, West Virginia (SH)
Department of Interior:
Bureau of Land Management, District Building, Roseburg, Oregon (SH)
Bureau of Land Management, Salem District Office, 1717 Fabry Road, S.E., Salem, Oregon (SH)

Department of Navy:
Naval Air Station Miramar, California (SH)
Naval and Marine Corps Reserve Center, Jackson, Mississippi (SH)
Naval and Marine Corps Reserve Center, Newport News, Virginia (SH)
Puget Sound Naval Shipyard, Equipment Maintenance Shops, Bremerton, Washington, (SH)
Naval Air Station, 35 Buildings, Whidbey Island, Washington (SH)
Department of Transportation:
Federal Aviation Administration, Air Traffic Control Tower, Atlanta, Georgia (SH)
Federal Aviation Administration Facilities, Air Route Traffic Control Center, Hampton, Georgia (SH)
Federal Aviation Administration, TRACON Facility, Westbury, New York (SH)
Federal Aviation Administration Facilities, 7 Buildings, Spokane, Washington (SH)
Department of Treasury:
Bureau of Engraving and Printing, Annex Building, 14th & C Streets, S.W., Washington, D.C. (SH)
Bureau of Engraving and Printing, Main Building, 14th & C Streets, S.W., Washington, D.C. (SH)
General Services Administration:
Federal Building, 3rd Avenue and 1st Street, Cullman, Alabama (SH)
Federal Building, 109 St. Joseph Street, Mobile, Alabama (SH)
GSA Motor Pool and Parking Garage, St. Joseph Street, Mobile, Alabama (SH)
John A. Campbell U.S. Courthouse, 113 St. Joseph Street, Mobile, Alabama (SH)
Federal Building and U.S. Courthouse, 15 Lee Street, Montgomery Alabama (SH)
Federal Building, 55 East Broadway, Tucson, Arizona (SH)
Federal Building and U.S. Courthouse, 1130 "O" Street, Fresno, California (SH)
Federal Building, 801 I Street, Sacramento, California (SH)
John E. Moss Federal Building, 650 Capitol Mall, Sacramento, California (SH)
Denver Federal Center, Building 85, Denver, Colorado (SH)
Federal Building—U.S. Courthouse, 401 S.E. First Avenue, Gainesville, Florida (SH)
Federal Building, 51 SW First Avenue, Miami, Florida (SH)
Federal Building, U.S. Courthouse, U.S. Post Office, 601 North Florida Avenue, Tampa, Florida (SH)
Federal Building, 355 Hancock Avenue, Athens, Georgia (SH)
Federal Building, 275 Peachtree Street, N.E., Atlanta, Georgia (SH)
U.S. Court of Appeals, Forsyth & Walton Streets, Atlanta, Georgia (SH)
IRS Center, 4800 Buford Highway, Chamblee, Georgia (SH)
Federal Building, Moultrie, Georgia (SH)
Federal Building, U.S. Post Office and U.S. Courthouse, Thomasville, Georgia (SH)
Federal Regional Center, Pinetree Boulevard, Thomasville, Georgia (SH)
Federal Building, U.S. Post Office, 304 N. 8th, Boise, Idaho (SH)
Federal Building and U.S. Courthouse, 205 4th Street, Coeur d'Alene, Idaho (SH)
Federal Parking Facility, 450 South Federal Street, Chicago, Illinois (SH)
Interagency Motor Pool, 701 South Clinton Street, Chicago, Illinois (SH)
U.S. Customhouse, 610 South Canal Street, Chicago, Illinois (SH)
OSHA Training Center, 1555 Times Drive, Des Plaines, Illinois (SH)
Federal Building and U.S. Courthouse, 101 First Street, S.E., Cedar Rapids, Iowa (SH)
Federal Building, 210 Walnut Street, Des Moines, Iowa (SH)
Leased Space, 603–11 East 2nd Street, Des Moines, Iowa (SH)
U.S. Courthouse, 123 East Walnut Street, Des Moines, Iowa (SH)
Federal Building, 400 South Clinton, Iowa City, Iowa (SH)
Federal Building, U.S. Post Office and Courthouse, 330 Shawnee, Leavenworth, Kansas (SH)
U.S. Post Office-Courthouse, 601 Broadway, Louisville, Kentucky (SH)
Federal Building, U.S. Post Office, U.S. Courthouse, Frederica-and 5th Streets, Owensboro, Kentucky (SH)
Federal Building and U.S. Post Office, 40 Western Avenue, Augusta, Maine (SH)
U.S. Federal Building & Post Office, 212 Harlow, Bangor, Maine (SH)
Roth Building, Social Security Administration Complex, 5536 Caswell Road, Baltimore, Maryland (SH)
Social Security Administration Computer Center, 6201 Security Boulevard, Woodlawn, Maryland (SH)
John W. McCormack Post Office and Courthouse, Post Office Square, Boston, Massachusetts (SH)
U.S. Custom House, 8 McKinley Square, Boston, Massachusetts (SH)
GSA Depot Building 58, Hingham Industrial Park, 349 Lincoln Street, Hingham, Massachusetts (SH)
Springfield Federal Building, Main and Bridge Streets, Springfield, Massachusetts (SH)
Federal Records Center, 380 Trapelo Road, Waltham, Massachusetts (SH)
Waltham Federal Center, 424 Trapelo Road, Waltham, Massachusetts (SH)
Gerald R. Ford Museum, 303 Pearl Street, N.W., Grand Rapids, Michigan (SH)
Federal Building, U.S. Post Office, and U.S. Courthouse, Main and Poplar Streets, Greenville, Mississippi (SH)
Federal Building, U.S. Post Office, 200 East Washington Street, Greenwood, Mississippi (SH)
William M. Colmer Federal Building-Courthouse, 701 Main Street, Hattiesburg, Mississippi (SH)
Federal Building, 100 West Capitol Street, Jackson, Mississippi (SH)
U.S. Post Office and U.S. Courthouse, 245 East Capitol Street, Jackson, Mississippi (SH)
Federal Building & U.S. Courthouse, 100 Centennial Mall North, Lincoln, Nebraska (SH)
Social Security Administration District Office Building, 22 Morris Street, Hackensack, New Jersey (SH)
Social Security Administration District Office Building, 686 Nye Avenue, Irvington, New Jersey (SH)
Social Security Administration District Office Building, 396 Bloomfield Avenue, Montclair, New Jersey (SH)
Federal Building, 20 Washington Place, Newark, New Jersey (SH)
Federal Building, 3rd & Hill Avenue, Gallup, New Mexico (SH)
Leo W. O'Brien Federal Building, Clinton Avenue & N. Pearl Street, Albany, New York (SH)
U.S. Post Office and Courthouse, 455 Broadway, Albany, New York (SH)
Federal Building, 111 West Huron, Buffalo, New York (SH)
Internal Revenue Service, 120 Church Street, New York, New York (SH)
U.S. Courthouse Annex, 1 St. Andrews Plaza, New York, New York (SH)
U.S. Courthouse, 40 Foley Square, New York, New York (SH)
Federal Building, 45 Bay Street, Staten Island, New York (SH)
U.S. Courthouse and Federal Building, Broad and Catherine Streets, Utica, New York (SH)
Federal Building, 401 West Trade Street, Charlotte, North Carolina (SH)
Social Security Administration Building, 215 West Third Avenue, Gastonia, North Carolina (SH)
Federal Building, 125 South Main Street, Muskogee, Oklahoma (SH)
Federal Building and Courthouse, 5th and Okmulgee, Muskogee, Oklahoma (SH)
Federal Building, U.S. Courthouse, 211 East 7th Avenue, Eugene, Oregon (SH)
Federal Building, 511 N.W. Broadway, Portland, Oregon (SH)
Federal Building, Bonneville Power Administration, 1002 N.E. Holladay Street, Portland, Oregon (SH)
Federal Warehouse 2760 NW Yeon Avenue, Portland, Oregon (SH)
Lloyd Group Buildings, 5 Locations, Portland, Oregon (SH)
Pioneer Courthouse, 520 SW Morrison, Portland, Oregon (SH)
U.S. Courthouse, Broadway and Maine, Portland, Oregon (SH)
U.S. Customs House, 220 N.E. 8th Avenue, Portland, Oregon (SH)
Federal Office Building, Cass & Stephen Streets, Roseburg, Oregon (SH)
Federal Building, 6th & State Streets, Erie, Pennsylvania (SH)
Federal Building and Courthouse, 228 Walnut Street, Harrisburg, Pennsylvania (SH)
L. Mendel Rivers Federal Building, 334 Meeting Street, Charleston, South Carolina (SH)
U.S. Post Office—Courthouse, Broad and Meeting Street, Charleston, South Carolina (SH)
Federal Building/U.S. Courthouse, 515 9th Street, Rapid City, South Dakota (SH)
Federal Building—U.S. Courthouse, 400 South Phillips Street, Sioux Falls, South Dakota (SH)
Armed Forces Examining Station and Bureau of Mines Building, 1100 Filmore Street, Amarillo, Texas (SH)
J. Marvin Jones Federal Building and U.S. Courthouse, 295 E. 5th Street, Amarillo, Texas (SH)
Jack Brooks Federal Building, U.S. Post Office—Court House, Willow and Broadway Streets, Beaumont, Texas (SH)

3 Bridges and 1 Building, El Paso, Texas (SH)
U.S. Courthouse, 511 E San Antonio Avenue, El Paso, Texas (SH)
Forest Service Building, 507 25th Street, Ogden, Utah (SH)
U.S. Customs House, 101 E. Main Street, Norfolk, Virginia (SH)
U.S. Post Office and Courthouse, 600 Granby Mall, Norfolk, Virginia (SH)
Federal Building, 400 N. 8th Street, Richmond, Virginia (SH)
U.S. Courthouse, 10th and Main Streets, Richmond, Virginia (SH)
GSA Center, 2 Buildings, Auburn, Washington (SH)
Federal Building, 3002 Colby Avenue, Everett, Washington (SH)
Federal Center, 25th & Dover Streets, Moses Lake, Washington (SH)
Federal Building, U.S. Post Office, 403 West Lewis Street, Pasco, Washington (SH)
Federal Building, U.S. Post Office and Courthouse, 825 Jadwin Avenue, Richland, Washington (SH)
Federal Archives and Records Center, 6125 Sandpoint Way, Seattle, Washington (SH)
Federal Building, Immigration and Naturalization Services, 815 Airport Way, Seattle, Washington (SH)
Federal Center South, 4735 E. Marginal Way, Seattle, Washington (SH)
Federal Building, U.S. Post Office, W. 904 Riverside, Spokane, Washington (SH)
Federal Building, 500 W. 12th Street, Vancouver, Washington (SH)
Federal Center, 14 Buildings, Walla Walla, Washington (SH)
Smithsonian Institution: National Zoological Park, Washington, D.C. (SH)
Smithsonian Institution Service Center, 1111 North Carolina Street, N.E., Washington (SH)
Paul E. Garber Complex, 3904 Old Silver Hill Road, Suitland, Maryland (SH)
U.S. Marine Corps: Marine Corps Development and Education Command, 5 Buildings, Quantico, Virginia (SH)
U.S. Postal Service: Mailbag Facility, 7600 West Roosevelt Road, Forest Park, Illinois (SH)
Veterans Administration:
Veterans Administration Medical Center, Building #32, Dublin, Georgia (SH)

Janitoria/Elevator Operator

Department of the Treasury:
Bureau of Engraving and printing, Public Debt Building, Washington, D.C. (SH)
General Services Administration:
Veterans Administration Clinic Building, 17 Court Street, Boston, Massachusetts (SH)
Federal Building, 35 Ryerson Street, Brooklyn, New York (SH)
Federal Building, 201 Varick Street, New York, New York (SH)
Veterans Administration Building, 252 Seventh Avenue, New York, New York (SH)

Keypunch and Verification

General Services Administration:
GSA Region 2, Automated Telecommunication Service, Data Services Division, 26 Federal Plaza, New York, New York (SH)

Laundry

Department of Air Force:
Hill Air Force Base, Utah (Wiping Rags only) (SH)
Department of Army:
U.S. Army Medical Materiel Agency, Fort Detrick, Maryland (SH)
Department of Navy:
Naval Training Center, Great Lakes, Illinois (SH)

Mailing

Department of Agriculture:
Washington, D.C. (Metropolitan area) (SH)
Department of Commerce:
National Oceanic and Atmospheric Administration, 5 Offices, Rockville, Maryland (SH)
National Technical Information Services, 5285 Port Royal Road, Springfield, Virginia (SH)
Department of Defense:
Defense Supply Service, National Committee for Employer Support for Guard and Reserve, 1117 N. 19th Street, Arlington, Virginia (SH)
Department of Education:
Office for Civil Rights, Office of Program Review & Assistance, 330 C Street, S.W., Washington, D.C. (SH)
Department of Energy:
Distribution, 12th & Pennsylvania, N.W., Washington, D.C. (SH)
Department of Health and Human Services:
Office of the Secretary, Washington, D.C. (SH)
National Institutes of Health, Bethesda, Maryland (SH)
Alcohol, Drug Abuse, and Mental Health Administration, Rockville, Maryland (SH)
Food and Drug Administration, Rockville, Maryland (SH)
Health Resources Administration Rockville, Maryland (SH)
Health Services Administration, Rockville, Maryland (SH)
Office of Assistant Secretary for Health, Rockville, Maryland (SH)
Department of Housing and Urban Development:
Washington, D.C. (SH)
Department of the Interior:
18th & C Streets, N.W., Washington, D.C. (SH)
U.S. Geological Survey, 2 Divisions, Reston, Virginia (SH)
Department of Labor:
200 Constitution Avenue, N.W., Washington, D.C. (SH)
Manpower Administration, Washington, D.C. (SH)
President's Committee on Employment of the Handicapped, Washington, D.C. (SH)
Department of Transportation:
National Highway Traffic Administration, 400 7th Street, N.W., Washington, D.C. (SH)
Office of the Secretary, Distribution Unit, 400 7th Street, S.W., Washington, D.C. (SH)
Department of the Treasury:
Bureau of Engraving and printing, 14th & C Streets, S.W., Washington, D.C. (SH)
Bureau of Public Debt, 14 & C Streets, S.W., Washington, D.C. (SH)
Architectural and transportation Barriers Compliance Board:
330 C Street, S.W., Washington, D.C. (SH)
Environmental Protection Agency:
Specialized Procurement Unit, 401 M Street, S.W., Washington, D.C. (SH)
Federal Election Commission:
1325 K Street, N.W., Washington, D.C. (SH)
Federal Trade Commission:
Pennsylvania Avenue & 6th Street, N.W., Washington, D.C. (SH)
General Services Administration:
National Archives & Records Services, 7th & Pennsylvania Avenue, N.W., Washington, D.C. (SH)
Library of Congress:
Washington, D.C. (SH)
Merit Systems Protection Board:
Office of Special Counsel, 1120 Vermont Avenue, N.W., Washington, D.C. (SH)
National Credit Union Administration:
Printing Service, 1375 K Street, N.W., Washington, D.C. (SH)
National Science Foundation:
1800 G Street, N.W., Washington, D.C. (SH)
Office of Personnel Management:
1900 E Street, N.W., Washington, D.C. (SH)
Smithsonian Institute:
Supply Division, Washington, D.C. (SH)
U.S. Commission on Civil Rights:
1211 Vermont Avenue, N.W., Washington, D.C. (SH)
U.S. Consumer Product Safety Commission:
Washington, D.C. (SH)
U.S. Information Agency:
400 C Street, S.W., Washington, D.C. (SH)

Mattress and Box Spring Rehabilitation

General Services Administration: Orders for renovated mattresses may be arranged through GSA regional offices. IB will provide requirements for mattress and box spring renovation for GSA Regions W, 2, 3, 4, 5, 6, 7, and 8 only. (IB)

Microfilming Contract Files

Department of Navy: OICC Trident, Bremerton, Washington, (SH)

Microfilm Reproduction

Department of Navy: Naval Submarine Base Bangor, Silverdale, Washington, (SH)

Operation of USDA Central Shipping and Receiving Facility

Department of Agriculture: South Building, 12th & C Streets, S.W., Washington, D.C. (SH)

Operation of Visitors Center Gift Shop

Department of Treasury: Bureau of Engraving and Printing, 14th & C Streets, S.W., Washington, D.C. (SH)

Pallet Repair

Department of Navy:
Naval Supply Center, Norfolk, Virginia (SH)
Naval Supply Center, Cheatham Annex, Williamsburg, Virginia (SH)
Naval Supply Center, Puget Sound, Bremerton, Washington (SH)

Parts Sorting

Department of Air Force: Hill Air Force Base, Utah (SH)

Photocopying

Department of Agriculture: National Agricultural Library Building, Beltsville, Maryland (SH)

Publications Distributon

Department of Navy: Naval Construction Battalion Center, Gulfport, Mississippi (SH)

Repair and Maintenance of Electric Typewriters Only

General Services Administration:
Health and Human Services, 300 S. Wacker Drive, Chicago, Illinois (SH)
Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois (SH)
Social Security Administration, 600 W. Madison, Chicago, Illinois (SH)
Syracuse, New York (including Onondaga County) (SH)

Repair and Maintenance of Manual Typewriters Only

General Services Administration: Federal Court House Building, Syracuse, New York (SH)

Repair of Air Cargo Pallet Top and Side Nets

Department of Air Force:
Wright-Patterson Air Force Base, Ohio (SH)
McChord Air Force Base, Washington (SH)

Repair of Rubberized Items

Department of Army:
Mattress Pneumatic (Noninsulated 8465–00–254–8887), Fort Bliss, Texas (SH)
Mattress Pneumatic (Insulated 8465–00–518–2781), Fort Bliss, Texas (SH)
Ponchos (8405–00–935–3257), Fort Bliss, Texas (SH)
Bag, Clothing, Waterproof (8465–00–261–6909), Fort Bliss, Texas (SH)

Repair Service

Department of Army:
Bag, Sleeping (8465–00–242–7855 and 8465–01–049–0088), Fort Bliss, Texas (SH)
Case, Sleeping Bag (8465–00–237–8719), Fort Bliss, Texas (SH)
Liner, Field Jacket (8415–00–782–2888), Fort Bliss, Texas (SH)
Liner, Trousers, Field (8415–00–782–2926), Fort Bliss, Texas (SH)
Bag, Barracks (8465–00–530–3692), Fort Bliss, Texas (SH)
Bag, Duffel (8465–00–141–0932), Fort Bliss, Texas (SH)

Department of Navy:
Electrode Holder Assemblies, Bremerton, Washington (SH)

Seedling Harvesting

Department of Agriculture: Forest Service, Humboldt Nursery, McKinleyville, California (SH)

Sewing

Department of Army: Redstone Arsenal, Alabama (Provide specified end items produced through use of customized, heavy-duty sewing service) (SH)

Shrink Wrapping Gift Packages

U.S. Postal Service: Washington, D.C. (SH)

Sponge Rubber Mattresses Rehabilitation

General Services Administration:
Requirements for Gas Region 3 (IB)

Tax Form Order Fulfillment

Department of Treasury: Internal Revenue Service, Buffalo, New York (SH)

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Part V

Department of Housing and Urban Development

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 200, 203, 204, 220, 221, 235, and 237

Single Family Mortgage Insurance on Indian Reservations and Other Restricted Lands; Proposed Rule

VOL 49 ISS 204 OCT 19 1984 UMI

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 200, 203, 204, 220, 221, 235, and 237

[Docket No. R-84-1208; FR-1921]

Single Family Mortgage Insurance on Indian Reservations and Other Restricted Lands

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: This rule implements, in part, section 248 of the National Housing Act, which permits mortgage insurance on one- to four-family residences located on Indian trust or otherwise restricted land. The rule is limited to the insurance of mortgages on leaseholds where an individual Indian or Indian family is the mortgagor. (The insurance of mortgages where the Indian tribe is the mortgagor will be covered in a separate rule making.)

DATES: Comment due date: February 18, 1985.

ADDRESSES: Interested persons are invited to send written comments to the Rules Docket Clerk, Office of the General Counsel, Room 10278, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410. Persons submitting comments should include their names and addresses and refer to the docket number and title indicated in the heading of this rule. All comments submitted will be available for public inspection in the Office of the Rules Docket Clerk at the above address during regular business hours.

FOR FURTHER INFORMATION CONTACT: Brain J. Chappelle, Acting Director, Single Family Development Division, Department of Housing and Urban Development, Room 9270, 451 Seventh Street SW., Washington, D.C. 20410. Telephone: (202) 755-6720. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The following is a summary and explanation of the proposed rule.

Section 422 of the Housing and Urban-Rural Recovery Act of 1983, Pub. L. 98-181, approved November 30, 1983 (1983 Act) added a new section 248 to the National Housing Act (NHA) which authorizes the Secretary to insure mortgages covering single family properties located on Indian lands where either the Indian tribe or an individual member of an Indian tribe is the mortgagor. Section 248 authorizes the Secretary to insure such properties without regard to marketability of title or any other provision of the NHA which the Secretary determines is contrary to promoting the availability of such insurance.

This rule implements that part of section 248 dealing with the insurance of mortgages where an *individual* is the mortgagor. Because of complex legal and implementational problems surrounding mortgages to Indian tribes, the Department has decided to go ahead with publication of a proposed rule relating to mortgages made to individuals, and to promulgate rules covering insured mortgages where the tribe is the mortgagor in a later rulemaking.

As a general principle, FHA insurance programs require that the mortgagee convey marketable title to the property to the Commissioner when filing a claim for mortgage insurance benefits. Limited circumstances already exist under which a mortgagee can transfer good, marketable title to property on Indian land. FHA has insured mortgages on such property in the past. Where an Indian owns property that "either is held by the United States in trust for them or is subject to a restriction against alienation imposed by the United States," the owner may request the Secretary of Interior's approval to mortgage such property. (See 25 U.S.C. 483a) Upon approval, the land is subject to foreclosure or sale under the terms of the mortgage or deed of trust, in accordance with the laws of the State in which the land is located. For the purpose of any foreclosure or sale proceeding, Indian owners are regarded as vested with an unrestricted fee simple title to the land, the United States is not a necessary party to the proceeding, and any conveyance of the land under such a proceeding divests the United States of title to the land.

However, no comparable procedure exists with respect to the mortgaging of a leasehold. Since many leases restrict ownership of housing on tribal land to Indians, such restrictions have precluded non-Indian mortgagees from foreclosing on the property and conveying good, marketable title to the Department. Because of the inexperience of most mortgagees in dealing with tribal courts and tribal governments, mortgagees have been disinclined to lend money where alienation of the property is restricted and where mortgage insurance cannot be obtained. The enactment of section 248 has removed the marketability of title restriction and has given the Secretary authority to waive any other limitation in the National Housing Act that the Secretary determines is contrary to promoting the availability of such insurance on Indian reservations.

Proposed new 24 CFR 203.43g (and 235.32) would contain the new requirements for single family mortgage insurance on leased Indian land. In recognition of the special legal status of Indian land, paragraph (a) of these sections exempts this program from requirements related to nondiscrimination in housing and equal employment opportunity, and makes the requirement of good marketable title inapplicable to the insurance of individual mortgages on Indian lands. The purpose of this new section is to permit tribes to restrict leaseholds to Indians without denying the benefits of mortgage insurance. Since Title VIII of the Civil Rights Act of 1968 (the Federal Fair Housing Act) is not applicable to Indian-owned lands (*cf.* 24 CFR 905.105(b)), its provisions would not be applied in the rule. Similarly, any construction or rehabilitation that may be financed should be eligible for a priority in favor of Indian contractors. The Department expects Indians to comply with preference requirements contained in the Indian Self-Determination and Education Assistance Act, (Pub. L. 93-638). The marketability requirement of § 203.366 is expressly made inapplicable.

Paragraph (b) (Mortgage lien) requires that, where the mortgagor cannot establish that the mortgage will be a first lien, he or she will have to establish that the tribal government having jurisdiction over the property has passed a law providing for the satisfaction of FHA-insured and Secretary-held mortgages before other obligations against the property are satisfied.

Paragraph (c) (Pledge of assets) requires that the individual Indian mortgagor pledge his or her share of distributed income from tribal resources or tribal assets, excluding any Federal grants received by the tribe. However, the Secretary may not refuse to insure a mortgage under this section on the ground that a mortgagor has no such income to pledge. Where the mortgagor has pledged such income and fails to make a good-faith effort to cure a default, the Secretary shall, after assignment of the mortgage, garnish the mortgagor's share of distributed income.

Paragraph (d) (Eviction procedures) requires that mortgagee to submit evidence with the application for mortgage insurance to establish that the

tribe having jurisdiction over the mortgaged property has adopted eviction procedures to be used in the event of foreclosure. HUD will determine (based in part on any prior experience, if applicable) whether the adopted enforcement mechanisms are adequate. Tribes will be notified of unacceptable performance and will have a right to a hearing on HUD's determination. Where enforcement performance is found to be poor, the Department will not issue any new commitments to insure on any mortgages to members of that tribe until the problem has been resolved to the Department's satisfaction.

Paragraph (e) (Sale of leasehold) provides that a mortgage insured under this section may be assumed, subject to credit approval by the lender and the consent of the tribe to an assumption of the existing lease or the grant of a new lease, without an adjustment of the interest rate. Any other sale of a property subject to a mortgage insured under this section may be made only if a new lease is granted, except that a sale following a foreclosure may be accompanied by an assumption of the lease with the consent of the tribe.

Paragraph (f) (Claim procedure) permits mortgagees to assign mortgages insured under this section once the mortgagor is more than 90 days in default. Such assignments shall be accomplished in accordance with the regulations contained in Subpart B of Part 203.

Paragraph (g) (Foreclosure by Commissioner) permits the Commissioner to institute foreclosure when the Commissioner determines such action is necessary to protect the insurance fund from undue loss. The foreclosure by the Secretary may take place in a tribal court, court of competent jurisdiction, or Federal district court.

Paragraph (h) (Construction advances) permits the insurance of advances used to construct single family housing on Indian lands. Advances will only be insured where: (1) The mortgage complies with the requirements of paragraph (b) of the section; (2) the mortgagor and mortgagee have executed an agreement, approved by HUD, setting forth the terms and conditions under which advances will be made; (3) advances are made as provided in this commitment; (4) the principal amount of the mortgage is held by the mortgagee in an interest bearing account, trust, or escrow for the benefit of the mortgagor or his or her creditors as provided in the agreement; and (5) the mortgage bears interest on the amount advanced to the mortgagor or his or her creditors and the amount held in an account or trust for the benefit of the mortgagor.

Definitions necessary to the interpretation of this new program authority have been added in paragraph (i).

Section 203.17(a) (and 235.22) is proposed to be amended to require that tribal governments enact laws, where appropriate, providing for the satisfaction of FHA-insured and Secretary-held mortgages before other obligations against the property are satisfied. Such laws would serve as substitute protection for the Secretary where a first lien cannot otherwise be established or recorded. The Department would appreciate public comment on the difficulty Indians may have in establishing the mortgage as a first lien, and on any other alternatives to requiring the tribe to enact laws giving the obligations first priority.

Section 203.350 is proposed to be amended to provide the mortgagee the right to assign mortgages insured under § 203.43g or § 235.32, where the mortgagor is more than 90 days in default.

Section 204.1 is proposed to be amended to exclude mortgage insurance on Indian land from eligibility for coinsurance.

Because of the impairment of the leasehold's marketability inherent in this program, and the right of the mortgagee to assign the mortgage, the Department does not believe this program is appropriate for use in conjuction with coinsurance.

Section 220.1 is proposed to be amended to exclude mortgage insurance on Indian lands from eligibility under the Urban Renewal Mortgage Insurance Program. This is a small program and would be unlikely to have applicability to Indian land.

Section 221.1 is proposed to be amended to exclude mortgage insurance on Indian land from eligibility under the Department's Low Cost and Moderate Income Mortgage Insurance Program. The lower maximum mortgage amounts and the small number of mortgages actually insured under this program are the reasons the Department has excluded this program at this time. Public comment is invited on whether there is a need for section 221 insurance on Indian lands.

The Department also has not proposed amendments to provide for mortgage insurance for condominium or cooperative units under this new authority, because it appears that new section 248 of the National Housing Act did not contemplate coverage of those types of ownership interests. (Section 248(a) speaks of a mortgage "covering a property upon which there is located a one- to four-family residence * * *"). However, 24 CFR Part 235 is proposed to be amended in a manner consistent with the proposed Part 203 amendments, in order to make clear that this program will be available in conjuction with the section 235 Homeownership Assistance Payments Program.

Section 237 is proposed to be amended to exclude mortgage insurance on Indian land from eligibility under the Special Mortgage Insurance for Low and Moderate Income Families Program. This small program has a maximum mortgage amount of only $18,000. In addition, there must exist approved counseling services to provide services to the mortgagor concerning his or her budget, debt management, etc. Since the Department does not believe these agencies currently exist in sufficient numbers on Indian land, and because of the low maximum mortgage amount, the Department proposes to exclude this program from eligibility.

Two additional items require discussion even though they do not involve proposed regulatory amendments. First, the requirement in existing § 203.37 that a leasehold have a term of "not less than 99 years which is renewable" or not less than 10 years beyond the term of the mortgage, should not pose a problem on Indian lands even though current statutes administered by the Department of the Interior normally limit leases to a maximum term of 25 years. There currently exists a Memorandum of Understanding between the FHA Commissioner and the Bureau of Indian Affairs which provides that, where leasehold interests in trust lands (i.e. owned by the United States in trust for the tribes) are offered as security for mortgages to be insured by FHA, the leases shall be for 50-year periods from the date of execution of the mortgage. The requirement is then met by executing a 25-year lease and a simultaneous 25-year extension. These leases would, therefore, be eligible.

Second, there is an unresolved issue involving fire insurance. The general HUD rule (see § 203.379) is that the mortgagee's claim for insurance benefits on fire-damaged property will be reduced by the cost of repair or the insurance proceeds received, whichever is greater. The Department is concerned that its present rule on fire-damaged property constitutes a limitation on the availability of FHA mortgage insurance where fire insurance may be difficult to obtain, since mortgagees may be unwilling to assume the risk of loss. The Department solicits public comment on this issue.

The proposed rule would also amend § 200.163(a)(2) to exempt the Indian insurance program from processing under the direct endorsement program. Given HUD's current limited experience with the direct endorsement program, the Department has decided to process these mortgage applications itself. Once experience is gained in this area, HUD will be in a better position to monitor the success of the program, develop guidelines for dealing with any unique circumstances that may arise, and assess whether direct endorsement processing in connection with this program would be practicable.

While not an amendment in this rule, the Department wishes to make clear that the initial mortgage insurance premium (MIP) for this program will be the same as that charged under the Department's existing programs, until such time as our actuarial data may indicate it should be changed. The statute permits an MIP of up to 3 percent. Should a higher MIP later be determined to be necessary, the Department would also reconsider whether the one-time premium payment currently required under the single family program regulations remains appropriate. Under the proposed rule, however, insured mortgages under this program will be subject to the same one-time MIP payment as required under existing single-family programs.

The Department recognizes that conforming amendments in Subparts B (Contract Rights and Obligations) and C (Servicing Responsibilities) of 24 CFR Part 203 will be necessary to reflect differences in procedure and terminology between HUD's regular single-family insuring authorities and the new insuring authority created by section 248 of the NHA. These changes will be included in final rule making on this subject. Additionally, Subpart C will be amended in the final rule to implement explicit counseling requirements contained in the new section 248(f)(1) of the NHA, to the effect that a face-to-face interview between mortgator and mortgatee, and the provision of other specific information to the mortgagor, are prerequisites to acceptance by the Secretary of the assignment of the mortgage.

Findings

This proposed rule does not constitute a "major rule" as that term is defined in section 1(b) of the Executive Order 12291 on Federal Regulation issued by the President on February 17, 1981. Analysis of the proposed rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection during regular business hours at the Office of the Rules Docket Clerk, at the above address.

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule would not have a significant economic impact on a substantial number of small entities because it merely expands the types of mortgages eligible for HUD insurance to include leaseholds on one- to four-family residences located on Indian trust or otherwise restricted lands, where an individual Indian or Indian family is the mortgagor.

This rule was listed as item number 59 (49 FR 15921) in the Department's Semiannual Agenda of Regulations published on April 19, 1984 (49 FR 15918), pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The programs listed in the Catalog of Federal Domestic Assistance which would be affected by this proposed rule are as follows: 14.108, Rehabilitation Mortgage Insurance; 14.117, Mortgage Insurance—Homes; 14.119, Mortgage Insurance—Homes for Disaster Victims; 14.121, Mortgage Insurance Homes in Outlying Areas; 14.123, Mortgage Insurance Housing in Older, Declining Areas.

List of Subjects

24 CFR Part 200

Administrative practice and procedure, Claims, Equal employment opportunity, Fair housing, Housing standards, Loan programs: Housing and community development, Mortgage insurance, Organization and functions (government agencies), Reporting and recordkeeping requirements, Minimum property standards, and Incorporation by reference.

24 CFR Part 203

Home improvement, Loan programs: Housing and community development, Mortgage insurance, Solar energy.

24 CFR Part 204

Mortgage insurance.

24 CFR Part 220

Home improvement; Loan programs—housing and community development, Mortgage insurance, Reporting and recordkeeping requirements, Urban renewal.

24 CFR Part 221

Low and moderate income housing, Mortgage insurance, Reporting and recordkeeping requirements.

24 CFR Part 235

Cooperatives, Grant programs—housing and community development, Low and moderate income housing, Mortgage insurance, Reporting and recordkeeping requirements.

24 CFR Part 237

Low and moderate income housing, Mortgage insurance.

The collection of information requirements contained in this rule have been submitted to the Office of Management and Budget for review under section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Please send any comments regarding the collection of information requirements to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C., 20503, Attention: Desk Officer for HUD.

Accordingly, HUD proposes to amend 24 CFR Parts 200, 203, 204, 220, 221, 235 and 237 as follows:

PART 200—INTRODUCTION

1. Section 200.163(a)(2) is proposed to be revised to read as follows:

§ 200.163 Direct endorsement.

(a) * * *

(2) Single family mortgages insured under any of the programs listed in paragraph (a)(1) of this section under sections 223, 225, 238(c), 244, or 248 of the National Housing Act are not eligible for processing under this section. The provision contained in 24 CFR 221.55 which permits a builder/mortgagor to sell a property to a displaced family on a deferred basis is not available in the Direct Endorsement program.

* * * * *

PART 203—MUTUAL MORTGAGE INSURANCE AND REHABILITATION LOANS

2. Section 203.17(a) is proposed to be revised to read as follows:

§ 203.17 Mortgage provisions.

(a) *Mortgage form.* The mortgage shall be executed upon a form approved by the Commissioner for use in the jurisdiction in which the property covered by the mortgage is situated. Except as otherwise provided for mortgages insured under § 203.43g, the mortgage shall be a first lien upon property that conforms with property standards prescribed by the Commissioner. For mortgages insured under § 203.43g, the mortgage shall either be a first lien, or, if there is no lien recording system, the tribal government shall have enacted a law satisfactory to the Commissioner providing for the satisfaction of FHA-insured and Secretary-held mortgages before other obligations against the property are satisfied. Property covered by a mortgage insured under § 203.43g must conform with property standards prescribed by the Commissioner. The entire principal amount of the mortgage must have been disbursed to the mortgagor or to the mortgator's creditors for his or her account, and with the mortgagor's consent.

* * * * *

3. Part 203 is proposed to be amended by adding a new § 203.43g, to read as follows:

§ 203.43g Eligibility of mortgages on Indian land.

A mortgage on a leasehold covering a one- to four-family residence located on Indian land where the mortgagor is an individual Indian who will occupy it as a principal residence shall be eligible for insurance under this part, notwithstanding otherwise applicable requirements related to marketability of title, if the mortgage meets the requirements of this subpart as modified by this section.

(a) *Exemptions.* The provisions of Subparts I and J of Part 200, and §§ 203.30 and 203.366 shall not apply to mortgages insured under this section.

(b) *Mortgage lien.* Where a mortgagor is unable to meet the requirements of § 203.32 or § 203.50(j)(1), the mortgagor shall, in lieu of such requirements, demonstrate that the tribal government having jurisdiction over the property to be mortgaged has enacted a law satisfactory to the Commissioner providing for the satisfaction of FHA-insured and Secretary-held mortgages before other obligations against the property are satisfied. The Commissioner will insure the mortgage where such a tribal law is found to provide adequate priority over other obligations.

(c) *Pledge of assets.* (1) An individual Indian mortgagor shall pledge his or her share of distributed income from tribal resources or tribal assets (excluding any Federal grants received by the tribe), to be available to reimburse the Commissioner for any mortgage insurance claim paid in connection with the insured mortgage. The Commissioner may not, however, refuse to insure a mortgage under this section on the ground that there is no distributed income from tribal resources or tribal assets attributable to the prospective mortgagor.

(2) Where tribal income is available and where the Commissioner determines that a mortgagor is not making a good-faith effort to cure a default, the Commissioner, after assignment, shall commence proceedings for the garnishment of the mortgagor's share of tribal or trust fund income in order to collect mortgage payments that are past due.

(d) *Eviction procedures.* The mortgagee must submit evidence with the application for mortgage insurance that the tribe having jurisdiction over the property to be mortgaged has adopted eviction procedures to be used in the event of foreclosure. Where appropriate, HUD will consider a tribe's performance under any existing eviction procedures in assessing the adequacy of any eviction procedures adopted. Where the tribe has adopted adequate procedures but fails to maintain adequate enforcement procedures, no commitment will be issued (after notice to the tribe and an opportunity for a hearing) for the insurance of new mortgages to tribal members until HUD has determined that there has been an improvement in enforcement.

(e) *Sale of leasehold.* A mortgage insured under this section may be assumed, subject to credit approval by the lender and the consent of the tribe to an assumption of the existing lease or the grant of a new lease, without an adjustment of the interest rate. Any other sale of a property subject to a mortgage insured under this section may be made only if a new lease is granted, except tht a sale following a foreclosure may be accompanied by an assumption of the lease with the consent of the tribe.

(f) *Claim procedure.* A mortgagee shall be entitled to receive the benefits of insurance for mortgages insured under this section where the mortgagor is more than 90 days in default, and the mortgagee submits to the Commissioner appropriate documentation in accordance with Subpart B of this part and pertinent financial records such as asset pledge contracts.

(g) *Foreclosure by Commissioner.* If the Commissioner determines such action is necessary to protect the insurance fund from undue loss, the Commissioner may initiate foreclosure proceedings with respect to any mortgage acquired under this subsection. Such proceeding may take place in a tribal court, a State court or competent jurisdiction, or a Federal district court.

(h) *Construction advances.* The Commissioner may issue a commitment for the insurance of advances made during construction. The Commissioner will insure advances made by the mortgagee during construction if the following conditions are satisfied:

(1) The mortgage complies with the requirements of paragraph (b) of this section.

(2) The mortgagor and the mortgagee execute a mortgage loan agreement, approved by the Commissioner, setting forth the terms and conditions under which advances will be made.

(3) The advances are made only as provided in the commitment.

(4) The principal amount of the mortgage is held by the mortgagee in an interest bearing account, trust, or escrow for the benefit of the mortgagor, pending advancement to the mortgagor or to his or her creditors as provided in the loan agreement.

(5) The mortgage shall bear interest on the amount advanced to the mortgagor or to his or her creditors and on the amount held in an account or trust for the benefit of the mortgagor.

(i) *Definitions.* As used in this section and elsewhere in this part, the term:

(1) "Indian" means an individual member of any Indian tribe and that member's family.

(2) "Indian land" means trust or otherwise restricted land (i) as defined by the Secretary of the Interior, over which an Indian tribe is recognized by the United States as having governmental jurisdiction; (ii) held in trust for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to a restriction by the United States against alienation; or (iii) acquired by Alaska natives under the Alaska Native Claims Settlement Act or any other land acquired by Alaska natives pursuant to statute by virtue of their unique status as Alaska natives.

(3) "Indian tribe" means any Indian or Alaska native tribe, band, nation, or other organized group or community of

Indians or Alaska natives recognized as eligible for the services provided to Indians or Alaska natives by the Secretary of the Interior because of its status as such an entity, or that is an eligible recipient under Chapter 67 of Title 31, United States Code.

4. Section 203.350 is proposed to be revised to read as follows:

§ 203.350 Assignment of defaulted mortgage—in general.

(a) The Commissioner may approve the assignment to the Commissioner of any mortgage covering a one- to four-family residence where the Commissioner finds that the default was caused by circumstances beyond the mortgagor's control.

(b) The Commissioner shall, upon application by the mortgagee, approve the assignment to the Commissioner of any mortgage covering a one- to four-family residence where the mortgage was insured under § 203.43g or under § 235.32 of this chapter and the mortgage has been in default for more than 90 days.

PART 204—COINSURANCE

§ 204.1 [Amended]

5. Section 204.1 is proposed to be amended by adding, in the list of excepted provisions, immediately after "203.43b Eligibility of mortgages covering housing intended for seasonal occupance.", the following:

203.43g Eligibility of mortgages on Indian land.

PART 220—URBAN RENEWAL MORTGAGE INSURANCE AND INSURED IMPROVEMENT LOANS

§ 220.1 [Amended]

6. Section 220.1(a) is proposed to be amended by adding, in the list of excepted provisions, immediately after "203.42 Rental properties.", the following:

203.43g Eligibility of mortgages on Indian lands.

PART 221—LOW COST AND MODERATE INCOME MORTGAGE INSURANCE

§ 221.1 [Amended]

7. Section 221.1(a) is proposed to be amended by adding, in the list of excepted provisions, immediately after "203.42 Rental properties.", the following:

203.43g Eligibility of mortgages on Indian lands.

PART 235—MORTGAGE INSURANCE AND ASSISTANCE PAYMENTS FOR HOME OWNERSHIP AND PROJECT REHABILITATION

8. Section 235.22(a) is revised to read as follows:

§ 235.22 Mortgage provisions.

(a) *Mortgage form.* The mortgage shall be executed upon a form approved by the Commissioner for use in the jurisdiction in which the property covered by the mortgage is situated. Except as otherwise provided for mortgages insured under § 235.32, the mortgage shall be a first lien upon property that conforms with property standards prescribed by the Commissioner. For mortgages insured under § 235.32, the mortgage shall either be a first lien, or, if there is no lien recording system, the tribal government shall have enacted a law satisfactory to the Commissioner providing for the satisfaction of FHA-insured and Secretary-held mortgages before other obligations against the property are satisfied. Property covered by a mortgage insured under § 235.32 must conform with property standards prescribed by the Commissioner. The entire principal amount of the mortgage must have been disbursed to the mortgagor or to the mortgagor's creditors for his or her account, and with the mortgagor's consent.

9. Part 235 is proposed to be amended by adding a new § 235.32, to read as follows:

§ 235.32 Eligibility of mortgages on Indian land.

A mortgage on a leasehold covering a one- to three-family residence located on Indian land where the mortgagor is an individual Indian who will occupy it as a principal residence shall be eligible for insurance under this part, notwithstanding otherwise applicable requirements related to marketability of title, if the mortgage meets the requirements of this subpart as modified by this section.

(a) *Exemptions.* The provisions of Subparts I and J of Part 200, and §§ 203.30 and 203.366 of Part 203 shall not apply to mortgages insured under this section.

(b) *Mortgage lien.* Where a mortgagor is unable to meet the requirements of § 203.32 of this chapter, the mortgagor shall, in lieu of such requirements, demonstrate that the tribal government having jurisdiction over the property to be mortgaged has enacted a law satisfactory to the Commissioner providing for the satisfaction of FHA-insured and Secretary-held mortgages before other obligations against the property are satisfied. The Commissioner will insure the mortgage where such a tribal law is found to provide adequate priority over other obligations.

(c) *Pledge of assets.* (1) An individual Indian mortgagor shall pledge his or her share of distributed income from tribal resources of tribal assets (excluding any Federal grants received by the tribe), to be available to reimburse the Commissioner for any mortgage insurance claim paid in connection with the insured mortgage. The Commissioner may not, however, refuse to insure a mortgage under this section on the ground that there is no distributed income from tribal resources or tribal assets attributable to the prospective mortgagor.

(2) Where tribal income is available and where the Commissioner determines that a mortgagor is not making a good-faith effort to cure a default, the Commissioner, after assignment, shall commence proceedings for the garnishment of the mortgagor's share of tribal or trust fund income in order to collect mortgage payments that are past due.

(d) *Eviction procedures.* The mortgagee must submit evidence with the application for mortgage insurance that the tribe having jurisdiction over the property to be mortgaged has adopted eviction procedures to be used in the event of foreclosure. Where appropriate, HUD will consider a tribe's performance under any existing eviction procedures in assessing the adequacy of any eviction procedures adopted. Where the tribe has adopted adequate procedures but fails to maintain adequate enforcement procedures, no commitment will be issued (after notice to the tribe and an opportunity for a hearing) for the insurance of new mortgages to tribal members until HUD has determined that there has been an improvement in enforcement.

(e) *Sale of leasehold.* A mortgage insured under this section may be assumed, subject to credit approval by the lender and the consent of the tribe to an assumption of the existing lease or the grant of a new lease, without an adjustment of the interest rate. Any other sale of a property subject to a mortgage insured under this section may be made only if a new lease is granted, except that a sale following a foreclosure maybe accompanied by an assumption of the lease with the consent of the tribe.

(f) *Claim procedure.* A mortgagee shall be entitled to receive the benefits of insurance for mortgages insured

under this section where the mortgagor is more than 90 days in default, and the mortgagee submits to the Commissioner appropriate documentation in accordance with Subpart B of this part and other pertinent financial records such as asset pledge contracts.

(g) *Foreclosure by Commissioner.* If the Commissioner determines such action is necessary to protect the insurance fund from undue loss, the Commissioner may initiate foreclosure proceedings with respect to any mortgage acquired under this subsection. Such proceeding may take place in a tribal court, a State court of competent jurisdiction, or a Federal district court.

(h) *Construction advances.* The Commissioner may issue a commitment for the insurance of advances made during construction. The Commissioner will insure advances made by the mortgagee during construction if the following conditions are satisfied:

(1) The mortgage complies with the requirements of paragraph (b) of this section.

(2) The mortgagor and the mortgagee execute a mortgage loan agreement, approved by the Commissioner, setting forth the terms and conditions under which advances will be made.

(3) The advances are made only as provided in the commitment.

(4) The principal amount of the mortgage is held by the mortgagee in an interest bearing account, trust, or escrow for the benefit of the mortgagor, pending advancement to the mortgagor or to his or her creditors as provided in the loan agreement.

(5) The mortgage shall bear interest on the amount advanced to the mortgagor or to his or her creditors and on the amount held in an account or trust for the benefit of the mortgagor.

(i) *Definitions.* As used in this section and elsewhere in this part, the term:

(1) "Indian" means an individual member of any Indian tribe and that member's family.

(2) "Indian land" means trust or otherwise restricted land (i) as defined by the Secretary of the Interior, over which an Indian tribe is recognized by the United States as having governmental jurisdiction; (ii) held in trust for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to a restriction by the United States against alienation; or (iii) acquired by Alaska natives under the Alaska Native Claims Settlement Act or any other land acquired by Alaska natives pursuant to statute by virtue of their unique status as Alaska natives.

(3) "Indian tribe" means any Indian or Alaska native tribe, band, nation, or other organized group or community of Indians or Alaska natives recognized as eligible for the services provided to Indians or Alaska natives by the Secretary of the Interior because of its status as such an entity, or that is an eligible recipient under Chapter 67 of Title 31, United States Code.

PART 237—SPECIAL MORTGAGE INSURANCE FOR LOW AND MODERATE INCOME FAMILIES

10. Section 237.5 is proposed to be revised to read as follows:

§ 237.5 Cross-reference.

To be eligible for insurance under this subpart, a mortgage shall meet all of the eligibility requirements for insurance under Part 203, Subpart A of this chapter, except § 203.51; or under Part 220, Subpart A of this chapter; Part 221, Subpart A of this chapter; or under Part 234, Subpart A of this chapter, except that in addition to meeting such eligibility requirements, the mortgage shall comply with the special requirements of this subpart. Mortgages and loans processed under the Direct Endorsement program set forth in § 200.163, or mortgages insured under §203.43g or § 235.32 of this chapter, shall not be eligible under this part.

(Secs. 211 and 248 of the National Housing Act (12 U.S.C. 1715b, 1715z–13; sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d))

Dated: September 18, 1984.

Maurice L. Barksdale,

Assistant Secretary for Housing, Federal Housing Commissioner.

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Part VI

Department of Agriculture

Farmers Home Administration

7 CFR Part 1951

Special Debt Set-Aside of a Portion of the Indebtedness of Farmer Program Borrowers; Interim Rule

7 CFR Part 1980

Guaranteed Loan Programs; Interim Rule

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DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Part 1951

Special Debt Set-Aside of a Portion of the Indebtedness of Farmer Program Borrowers

AGENCY: Farmers Home Administration, USDA.

ACTION: Interim rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its account servicing regulation, Part 1951, Subpart A to incorporate a special procedure for postponing or setting-aside a portion of the indebtedness of existing farmer program loans. The intended effect of this emergency servicing action is to assist financially distressed FmHA borowers and is not meant to implement either 7 U.S.C. 1981a (§ 331A) of the Consolidated Farm and Rural Development Act) or various Court decisions pertaining to that section. This action will provide farm borrowers the opportunity to make critical decisions on disposition of the current crop income and develop plans for continuing the farming operation. Borrowers who received a Pretermination Notice but who have not been sent an acceleration notice by close of business October 19, 1984, will be notified that the procedures set out in the Pretermination Notice will no longer be used. Those borrowers will be sent notice of the set-aside program.

EFFECTIVE DATE: October 19, 1984. This interim rule is subject to revision following a comment period of 30 days from the date of publication. Comments must be received before November 19, 1984.

ADDRESSES: Submit written comments, in duplicate, to the office of the Chief, Directives Management Branch, Farmers Home Administration, USDA, Room 6348, South Agriculture Building, 14th and Independence Avenue, S.W., Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection during regular working hours at the above address.

FOR FURTHER INFORMATION CONTACT: Chester Bailey, Senior Loan Officer, Emergency Division, Farmers Home Administration, USDA, Room 5424–S, Washington, D.C. 20250, telephone (202) 382–1642 and Duane Ischer, Senior Loan Officer, Emergency Division, Farmers Home Administration, USDA, Room 5420–S, Washington, D.C. 20250, telephone (202) 382–1632.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Departmental Regulation 1512–1, which implements Executive Order 12291, and has been determined to be major because it may have an annual effect on the economy of $100 million or more.

Pursuant to the request to David Stockman, Director of the Office of Management and Budget (OMB) from John Block, Secretary of Agriculture dated October 4, 1984, OMB has agreed to the publication of these regulations in advance of provision of the materials required pursuant to Executive Order 12291, Sections 3 and 4, which will be provided soon thereafter.

This rule implements one of the four Farm Credit Initiatives announced by President Ronald Reagan on September 18, 1984.

Discussion of Interim Rule

FmHA is implementing the special debt set-aside immediately, via publication of this interim rule. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This action, however, is not published for proposed rule making because of the financial stress presently being experienced by many FmHA farm borrowers.

Many FmHA borrowers are experiencing severe financial difficulties which threaten their ability to continue operation. High interest rates, declining real farm equity, and low real farm income have reduced these farmers' debt repayment capacity. Implementation now will provide FmHA farm borrowers the opportunity to make critical decisions on disposition of the current crop income and develop plans for continuing the farming operation. It is essential that work out plans be developed during the coming months in order that those farm borrowers can make sound management decisions regarding use and availability of credit. Creation of the special debt set-aside does not impose new requirements upon FmHA borrowers for assistance or change eligibility requirements.

Further, pursuant to the Administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this emergency final action are impracticable; and good cause is found for making this final action effective less than the 30 days after publication of this document in the **Federal Register**.

Programs Affected

These changes affect the following FmHA programs as listed in the Catalog of Federal Domestic Assistance: 10.404—Emergency Loans; 10.406—Farm Operating Loans; 10.407—Farm Ownership Loans; 10.410—Rural Housing Loans; and 10.416—Soil and Water Loans.

Intergovernmental Consultation

Intergovernmental Consultation should be carried out in accordance with 7 CFR Part 3015, Subpart V, "Intergovernmental Review of Department of Agriculture Programs and Activities." For affected programs see FmHA Instruction 1940–J, available in any FmHA office.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR Part 1940, Subpart G, "Environmental Program." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, Environmental Impact Statement is not required.

Background

The current FmHA regulations for account servicing in the cited Code of Federal Regulations must be amended to incorporate these changes. The changes made by this interim rule provide for that portion of existing FmHA loans necessary to produce a positive cash flow to be postponed or set aside for 5 years at zero percent interest. No more than $200,000 or 25 percent, whichever is less, of a borrower's FmHA debt will be set-aside. This special authority is available only to FmHA borrowers indebted on September 18, 1984, and will be available to such borrowers until September 30, 1985.

This change affects Operating Loans, Farm Ownership Loans, Economic Opportunity Loans, Soil and Water Loans, Recreation Loans (but *not* association recreation loans), Emergency Loans, Economic Emergency Loans and *only* those Rural Housing Loans which were made for farm service buildings.

List of Subjects in 7 CFR Part 1951

Servicing and collections, Loan programs—Agriculture.

Accordingly, § 1951.1 is added to Subpart A of Part 1951, Chapter XVIII, Title 7, Code of Federal Regulations, to read as follows:

PART 1951—SERVICING AND COLLECTIONS

Subpart A—Account Servicing Policies

* * * * *

§ 1951.41 Special debt set-aside of a portion of the insured loan indebtedness of farmer program borrowers.

(a) *Period of time available.* The authorities contained in this section will be available to financially stressed FmHA farmer program borrowers (OL, FO, EO, SW, EE, EM, RL (but not association recreation loans) and/or *only* those Rural Housing loans which were made for farm service buildings) until September 30, 1985, unless extended by the Administrator.

(b) *Notice to borrowers.* Borrowers who received a Pretermination Notice but who had not been sent an acceleration notice by close of business October 19, 1984, will be sent Exhibit G with Exhibit C–1 (available in any FmHA office). County Supervisors are to send Exhibit C–1 (available in any FmHA office) of this Subpart to all farmer program borrowers with the following exceptions:

(1) Borrowers whose accounts have been accelerated prior to close of business October 19, 1984.

(2) Borrowers who have been convicted (criminally) in a court of law of converting FmHA security.

(3) Borrowers who have been determined able to graduate to other sources of credit and have been requested to do so. If it is later determined that a borrower cannot graduate to other credit, the borrower will then be sent Exhibit C–1 (available in any FmHA office).

(4) Borrowers who owe only loans which were assumed on ineligible rates and terms, acquired by a credit sale, and/or any Other Real Estate (ORE) loan.

(5) Borrowers who are currently under the jurisdiction of a bankruptcy court.

(6) Borrowers whose files are in the OGC or U.S. Attorney's Office for legal action. If the file is later returned to FmHA without any legal action being taken, the borrower will be sent Exhibit C–1 (available in any FmHA office).

(7) Borrowers who were not indebted to FmHA on September 18, 1984.

(8) Borrowers who have voluntarily conveyed and the deed has been recorded.

Farmer Programs borrowers who are sent Exhibit C–1 (available in any FmHA office), must, within 30 days after receiving said Exhibit, request an appointment with the County Supervisor. Any borrower not requesting an appointment will not be considered for the set-aside program. This will not be appealable. County Supervisors, upon receiving a request for an appointment, will send Exhibit C–2 (available in any FmHA office) of this subpart to the borrower, setting up an appointment to discuss the set-aside program.

(c) *Definitions.* (1) Special debt set-aside used in this section means postponing payment of a portion of a borrower's insured farm loan indebtedness to FmHA, not to exceed 25 percent of the total unpaid principal and interest owed or $200,000, whichever is less, for a period of 5 years at zero percent rate of interest. Set-aside will not be considered for any debt not owed to FmHA on September 18, 1984.

(2) Typical year plan as used in this section means a farm budget which accurately reflects the borrower's planned cash flow and use of assets during the set-aside period.

(i) Production records used in the preparation of a typical year plan will be as set forth in § 1945.163(a)(1) of Part 1945, Subpart D of this Chapter (Emergency Loan Program regulations). Verification by ASCS is not required.

(ii) Unit price used in preparation of a typical year plan will be established by the State Director and issued as a State supplement. The State Director will consult with other USDA agencies and agricultural lenders in the State before establishing commodity prices. State Directors and Farmer Program Chiefs in adjoining States should consult with each other before releasing their established commodity price list. A typical year price list will usually be in addition to the price list prepared for annual planning purposes.

(3) Cash flow projection for the purpose of this secion is a listing on a monthly, quarterly, semi-annual or annual basis, of all anticipated cash inflows, and all anticipated cash outflows—both farm and non-farm for the typical year.

(4) Positive cash flow projection used in this section means that the Farm and Home Plan for the typical year shows a balance available (line 16 in Table J) of at least 110 percent of the amount needed to pay all the year's debts due including tax liability shown on Table K. For borrowers using the Coordinated Financial Statement for Agriculture (CFSA), Form 1930–2, "Cash Flow Statement," balance available (the total of lines 16, 52, and 54 less the total of lines 36 thru 47 except 46) will be at least 110 percent of debt repayment (lines 46, 48, 49, 55 and 56).

(d) *General requirements.* County Supervisors are authorized to approve the special set-asides, provided the following requirements are met.

(1) The County Supervisor must determine that a positive cash flow projection is not possible without some servicing action. The County Supervisor must then calculate the borrower's cash flow projection, using the rescheduling and reamortization authorities set out in § 1951.33 and §1951.40 of this Subpart. Next, the County Supervisor will calculate the borrower's cash flow projection, using rescheduling and reamortization at the limited resource rate, if the borrower is eligible for the limited resource rate. Not all borrowers are eligible for limited resource rates. If a positive cash flow projection can be achieved by using the rescheduling and reamortization authorities, the borrower's account will be rescheduled or reamortized (including at the limited resource rate, if eligible) but the borrower will not receive a special set-aside. The County Supervisor must thoroughly document the steps taken to develop these cash flow projections and must place this documentation in the borrower's case file. Limited Resource rates must be considered, if the borrower is eligible, in determining whether a positive cash flow can be achieved. *If a positive cash flow projection is possible, the borrower is not eligible for a special set-aside.* The borrowers will be given an opportunity to appeal, as provided in Subpart B of Part 1900 of this chapter.

(2) The County Supervisor must determine whether the borrower owns any assets which do not contribute to essential family living expenses or to the maintenance of a sound farming operation. The County Supervisor must determine whether the borrower could sell those assets and, if so, for how much. The County Supervisor will then prepare new cash flow projections which take into account the sale of these assets. If a positive cash flow projection can be achieved, the borrower is not eligible for a special set-aside. The borrower will be given an opportunity to appeal, as provided in subpart B of Part 1900 of this chapter.

(3) The County Supervisor will take the balance available shown on the cash flow projections and will subtract the amount needed to pay all the years' debts including tax liability, except the payment due on the FmHA debt. The result is the amount available to be paid on the FmHA debt. The County Supervisor will then determine how much of a borrower's total FmHA debt (principal plus interest on all loans) would have to be set-aside in order for the borrower's operation to have a

positive cash flow projection during the next 5 years, with the borrower paying whatever the cash flow projections show is the amount available on the FmHA debt. Only as much of the FmHA debt will be set-aside as is needed to create a positive cash flow projection within the next 5 years. In no case will this reduction exceed $200,000 or 25 percent, whichever is less, of the borrower's total FmHA debt. If a borrower has more than one FmHA loan, the loan with the highest interest rate after rescheduling will be considered for set-aside first. When loan(s) with less than the highest interest rate are set aside, thereby, causing a higher interest rate loan(s) to be excluded from the set-aside, the County Supervisor must document in the case file the reason for taking such action.

(4) If a positive cash flow projection cannot be achieved with the maximum (25 percent or $200,000, whichever is less) special set-aside, the County Supervisor will assist the borrower in asking other creditors to voluntarily adjust their debts, as authorized in Subpart A of Part 1903 of this Chapter. If other creditors adjust their debts and a special set-aside of the FmHA debt will result in a positive cash flow projection, a special set-aside may be approved.

(5) If a positive cash flow projection during the next 5 years cannot be achieved, even with other creditors voluntarily adjusting their debts and with the maximum special set-aside (25 percent of the total FmHA debt or $200,000, whichever is less), no portion of the debt will be set-aside. The borrower will be given an opportunity to appeal, as provided in Subpart B of Part 1900 of this Chapter.

(6) In order for a borrower to receive a set-aside, the typical year plan must show that a positive cash flow can be expected during the set-aside period and that the borrower will be able to begin making payments on the set-aside portion of the debt at the end of the 5 year set-aside period. Also, the County Committee must certify on FmHA 440–2, "County Committee Certification or Recommendation," that the borrower meets all of the following requirements:

(i) Has acted in good faith by demonstrating sincerity and honesty in meeting agreements and promises made with FmHA;

(ii) Has been unable to pay their accounts as scheduled due to:

(A) Reduction in essential farm income and/or from a nonfarm job due to unemployment or underemployment of the borrower-operator or spouse caused by circumstances beyond the borrower's control; or

(B) Reduction in income due to illness, injury or death of an individual borrower, or stockholder, member or partner who operates the farm; or

(C) Reduction in income due to natural disasters, an outbreak of uncontrollable disease, and/or uncontrollable insect damage which caused severe loss of agricultural production that reduced the repayment ability of the borrower to the degree that scheduled payments cannot be made.

(iii) Has applied the improvements and key practices spelled out in Item D of the Farm and Home Plan or identified in the CFSA's cash flow schedules.

(iv) Has properly maintained chattel and real estate security and properly accounted for the sale of security, including crops, livestock and livestock production.

(7) If the County Committee does not make this certification, the borrower will be given an opportunity to appeal as provided in Subpart B or Part 1900 of this Chapter.

(8) The best lien obtainable will be taken on all assets except for household goods and personal automobiles needed for family living. Also, principal partners and stockholders will have to sign the new note as individuals. Borrowers who refuse to comply with these requirements will not be given a special set-aside and this denial is not appealable.

(9) Special set-asides of more than $100,000 will be reviewed by the District Director, who will note his/her recommendation in the file.

(10) A borrower will be given only one special set-aside. A borrower who receives a special set-aside of less than the maximum will not be able to obtain a larger amount of set-aside at a later date unless original calculations were in error.

(11) Exhibit F (available in any FmHA office) of this subpart will be completed for each note when a set-aside is approved.

(e) *Processing.* (1) Borrowers who are eligible for a special set-aside will have their loans rescheduled or reamortized in accordance with § 1951.33 and § 1951.40 of this Subpart, except that the original note(s) will be marked "Reamortized with Set-Aside" or "Rescheduled with Set-Aside." If the borrower is eligible, the loan will be rescheduled or reamortized at the limited resource interest rate. The County Supervisor will contact the Finance Office to find out the amount of interest and principal owed on the date of approval of the special set-aside. All loan servicing actions approved in connection with the debt set-aside must be dated the same date. See Exhibit D of this subpart for example(s) of a FO and Limited Resource OL with set-aside.

(2) Form FmHA 440–2 will contain the following statement: "The borrower meets the criteria for obtaining a special set-aside." The list of criteria found in § 1951.41(d)(6) will either be written on or attached to Form FmHA 440–2.

(3) The date of approval is when the 5 year set-aside period begins. The date of approval is also the date that will be inserted on the rescheduled or reamortized Form FmHA 1940–17, "Promissory Note" and on Exhibit E (available in any FmHA office).

(4) The County Supervisor will send the Finance Office Exhibit E (available in any FmHA office).

(5) The County Supervisor will record and maintain a record of approved special set-asides, in accordance with FmHA Instruction 1905–A, available in any FmHA office.

(f) *Finance Office Actions.* (1) The Finance Office will establish the set-aside portion of the debt as a separate account in accordance with Exhibit E of this subpart.

(2) The Finance Office will remove the borrower's name from its delinquency report.

(3) The Finance Office will provide the County Office with a quarterly status report for each borrower receiving a set-aside.

(4) Six months prior to the end of the set-aside period, the Finance Office will notify the County Supervisor of the amount and date of the upcoming borrower's installment(s) due.

(5) The interest rate on the set-aside portion of the note, after the set-aside period will be the same on the non-set-aside portion.

(g) *Cancellation of special set-aside.* (1) Borrowers who incur debts or purchase items not planned for in the farm budget without the County Supervisors's approval, violate any of the covenants contained in any security instruments, loan agreements or cease farming will have their set-aside cancelled by the County Supervisor.

(2) The County Supervisor will give notice to the borrower of FmHA's intention to cancel the set-aside, setting forth the specific facts requiring cancellation and inform the borrower of appeal rights. Exhibits B–1 and B–2 of Part 1900 of Subpart B of this chapter will be used. If the borrower does not appeal or if the decision to cancel is upheld in an appeal, the borrower will be notified in writing of cancellation of the set-aside. The actual cancellation is not appealable.

(3) The County Office will be responsible for notifying the Finance

Office of the cancellation using a properly executed Exhibit E (available in any FmHA office).

(h) *Servicing.* (1) Notes which are rescheduled and set-aside in accordance with this section will not be consolidated during the set-aside period.

(2) Notes which are not set-aside in accordance with this section may be rescheduled or reamortized in accordance with § 1951.33 and § 1951.40 of this subpart during the set-aside period. The rescheduling or reamortization may be at the Limited Resource rate. The set-aside will stay in effect, but will not be increased or extended beyond the original five year term. The County Office will forward to the Finance Office Form FmHA 1951–4 any time the interest rate is changed on a note during the set-aside period. The top of the form will be market "Interest Change in Set-Aside" in red.

(i) *Deficiency Judgments.* Interest will begin to accrue (at the higher of the note rate or the judgment rate) on the set-aside portion if FmHA receives a deficiency judgment.

Authorities: 7 U.S.C. 1989; 7 CFR 2.23; 7 CFR 2.70.

Dated: October 17, 1984.

Kathleen W. Lawrence,

Acting Under Secretary for Small Community and Rural Development.

[FR Doc. 84–27831 Filed 10–18–84; 8:45 am]

BILLING CODE 3410–07–M

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7 CFR Part 1980

Guaranteed Loan Programs

AGENCY: Farmers Home Administration, USDA.

ACTION: Interim rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations to add a debt adjustment program (DAP) for guaranteed operating (OL) and farm ownership (FO) loans. This amendment is needed to provide the policies and procedures for establishing the DAP to provide lenders with a tool to enable them to continue to provide credit to farmers who do not now have adequate security and/or ability to repay their loans. The intended effect of this action is to provide assistance to both lenders and their farm borrowers in a time of financial difficulty.

EFFECTIVE DATE: October 19, 1984. Comments must be received on or before November 19, 1984.

ADDRESS: Submit written comments, in duplicate, to the Office of the Chief, Directives Management Branch, Farmers Home Administration, USDA Room 6348, South Agriculture Building, 14th and Independence Avenue, S.W., Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection during regular work hours at the above address.

FOR FURTHER INFORMATION CONTACT: Russell Beckham, Deputy Director, Farm Real Estate and Production Division, Farmers Home Administration, USDA, Room 5449, South Agriculture Building, 14th and Independence Avenue, S.W., Washington, D.C. 20250, telephone (202) 447–4572.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Departmental Regulation 1512–1, which implements Executive Order 12291, and has been determined to be major because it will have an annual effect on the economy of $100 million or more.

Pursuant to the request to David Stockman, Director of the Office of Management and Budget (OMB) from John Block, Secretary of Agriculture dated October 4, 1984, the OMB has granted an exemption to the requirements of Executive Order 12291, Section 3, prior to publication in the **Federal Register.** A regulatory impact analysis shall, however, be conducted soon thereafter.

This rule implements one of the four Farm Credit Initiatives announced by President Ronald Reagan on September 18, 1984.

Memorandum of Law

Subject: **Federal Register** document for 7 CFR 1980—Subpart A, B, Guaranteed Loan Programs.

The changes to FmHA regulations proposed by this **Federal Register** document have been reviewed by the Office of the General Counsel and determined to be within the scope of FmHA authority. The provisions in Subpart B, Exhibit B, of Part 1980 are consistent with FmHA's authority to guarantee loans at 7 U.S.C. 1921 et seq. The Secretary's general rulemaking and delegation authority for Part 1980 is furnished by 7 U.S.C. 1989.

Daniel Oliver,

General Counsel.

This regulation does not directly affect any FmHA programs or projects which are subject to intergovernmental consultation.

The Catalog of Federal Domestic Assistance numbers are 10.406 Farm Operating Loans and 10.407 Farm Ownership Loans.

This document has been reviewed in accordance with 7 CFR part 1940, Subpart G, "Environmental Program." It is the determination of FmHA that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, and Environmental Impact Statement is not required.

Discussion of Interim Rule

The FmHA programs affected by this regulation change are Farm Ownership (FO) guaranteed loans and Operating (OL) guaranteed loans.

FmHA guaranteed loans are made and serviced by commercial sources such as Federal Land banks, Production Credit Association, banks, insurance companies and savings and loan associations. FmHA may provide the lender with a guarantee not to exceed 90 percent of loss of principal and interest on a loan. When possible, the guarantee coverage is set at less than 90 percent of the new loan amount to assure an appropriate sharing of risk between the private lender and the Federal Government.

The January 1984 Federal Reserve Bulletin states that 31 percent of the nation's medium-size farmers ($40,000 to $199,999 annual sales) and 19 percent of the small-size farmers ($10,000 to $39,999 annual sales) have debt asset ratios greater than 40 percent and could be in serious difficulty. This represents over 150,000 farmers nationwide. A large percentage of the nation's small and medium-size farmers operate farms which fall within the FmHA definition of a family size farm. Eligible farmers operating not larger than family-size farms can be provided FmHA assistance through guranteed OL and FO loan authorities. In many cases, lenders have outstanding loans with small and medium-size farmers who do not have adequate security and/or do not have the ability to repay their loans within a reasonable period of time. FmHA can provide assistance to both lenders and their customers by use of the DAP administered in conjunction with 7 CFR Part 1903, Subpart A "Voluntary Debt Adjustment"and the guaranteed loan authorities for OL and FO loans under 7 CFR Part 1980, Subparts A and B. Lenders who wish to participate in this program must be willing to adjust their loans by permanently writing off at least 10 percent of the principal and interest due on their existing loan(s). The amount written off must be sufficient to establish a financial position which is compatible with the borrower's debt payment ability and provide for a positive cash flow in the borrower's operating budget.

The purpose of the DAP is to provide lenders with a tool that would enable them to continue to provide credit during a work out period with loans which are now classified as problem loans. Without this alternative method of continuation, many lenders would have no choice but to force some of their borrowers to liquidate assets or otherwise leave agriculture. To meet the expected need for DAP, a significant amount of funds available for guaranteeing FO and OL loans will be made available for this program.

FmHA finances only 12 percent of agricultural credit in the nation through its regular non-guaranteed loan programs. The vast majority of farm loans (approximately 88 percent) come from nongovernmental sources. Government should remain the lender of last resort. FmHA must participate more actively with nongovernment lenders to counter the economic difficulties their farm borrowers are presently experiencing.

FmHA is implementing the DAP immediately, via publication of this interim rule. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This action, however, is not published for proposed rulemaking because of the financial stress presently being experienced by agricultural lenders and their farm borrowers. Implementation now will provide lenders and farm borrowers the opportunity to make critical decisions on disposition of the current crop income and develop plans for continuing the farming operation. It is essential that work out plans be developed during the coming months in order that those farm borrowers can make sound management decisions regarding use and availability of credit. Creation of the DAP does not impose new requirements upon lender for assistance or change eligibility requirements. Benefits will accrue to farmers in faster loan response to loan requests, ability to maintain relationship with their regular sources of credit and develop work out plans for financially stressed operations.

List of Subjects in 7 CFR Part 1980

Loan programs—agriculture.

PART 1980—GENERAL

Accordingly, Subpart B of Part 1980, Chapter XVIII, Title 7, Code of Federal Regulations is amended as follows:

Subpart B—Farmer Program Loans

1. In § 1980.101, paragraph (a) is revised to read as follows:

§ 1980.101 Introduction.

(a) *Policy.* This subpart supplemented by Subpart A of this part, contains regulations for making the following Farmer Program loans guaranteed by the Farmers Home Administration (FmHA): Operating (OL), Farm Ownership (FO), Soil and Water (SW), Recreation (RL), and Emergency (EM) loans. It is the policy of FmHA to make loans to any otherwise qualified applicant without regard to race, color, religion, sex, national origin, marital status, age or physical/mental handicap providing the applicant can execute a legal contract. These regulations apply to lenders, holders, borrowers, FmHA personnel, and other parties involved in making, guaranteeing, holding, servicing, or liquidating such loans. Exhibit A provides policies and procedures for an Approved Lender Program (ALP) for Guaranteed Operating (OL) loans and Guaranteed Farm Ownership (FO) loans. Exhibit B provides policies and procedures for a Debt Adjustment Program (DAP) for Guaranteed Operating (OL) loans and Guaranteed Farm Ownership (FO) loans.

* * * * *

2. Exhibit B is added to Subpart B of Part 1980 to read as follows:

Exhibit B—Debt Adjustment Program—Farmers Home Administration (FmHA) Guarantees of Loans with Accompanying Debt Adjustment by Lender

I. General.

This Exhibit provides policies and procedures for the debt adjustment program (DAP) for guaranteed operating loans (OL) described in § 1980.175 and Farm Ownership (FO) Loans described in § 1980.180 of this subpart. All sections of Subparts A and B of Part 1980 apply except as modified by Exhibit A of this subpart and this Exhibit. The objective of the DAP is to provide lenders with a tool to enable them to continue to provide credit to operators of not larger than family farms who do not have the ability to repay their loan(s) and/or do not have adequate security for their loan(s) without debt adjustment. Borrowers, lenders and loan(s) guaranteed must meet all requirements for guaranteed OL and/or FO loans in this subpart.

A. *Authority.* The authorizations in this Exhibit provide: (1) a significant amount of funds available for guaranteeing FO and OL loans will be made available for the DAP; (2) only loans to farmers which are classified as problem loans by the lender or the lender's credit examination and supervising agency, will be considered for a guarantee; and (3) the lender must actually write off, by permanent cancellation, at least 10 percent of the total principal and interest outstanding on each loan which the lender wants guaranteed. The total principal and interest outstanding includes all loans owed the lender by the borrower regardless of guarantees, co-signers or other warranty. The amount written off must be sufficient to provide a positive cash flow projection necessary to service all debts, pay all operating expenses and provide for family living expenses. For the purposes of this Exhibit a cash flow projection is a listing of all anticipated cash inflows for the year (both farm and non-farm); and all anticipated cash outflows (both farm and non-farm) including operating expense and capital outlays as well as family living expenditures and tax payments. For the purposes of this Exhibit a positive cash flow is a cash flow (as defined above) which reflects a balance available of at least 110 percent of the amount needed to pay all the year's debts due including anticipated tax liability. The adjusted indebtedness must be adequately secured.

B. *Policy.* Private lenders now hold a substantial number of farm operating and real estate loans to operators of not larger than family size farms which are classified as problem loans. The terms, conditions and amount of these loans will have to be adjusted in order to permit a cash flow projection for inflows to exceed outflows. When lenders request FmHA guarantees for such loans, the following conditions must be met before an FmHA guarantee will be issued:

(1) The lender must permanently write off at least 10 percent of the total outstanding principal and interest owed on the existing loan(s). This will be accomplished by making a new loan for the adjusted amount due. The amount of the loan after adjustment on which a guarantee is requested must create a financial position which is compatible with the borrower's debt payment ability. Guarantees will only be issued on new loans reflecting the adjusted balance.

(2) Although the FmHA can guarantee up to 90 percent of the remaining adjusted indebtness under § 1980.20 of Subpart A of this part, FmHA will, whenever possible, set the coverage at less than 90 percent of the new loan to assure an appropriate sharing of risk between the private lender and the Federal Government. A guarantee of 75 to 80 percent is an appropriate guarantee level.

(3) A guarantee will not be issued unless the farming operation shows a projected positive cash flow and the borrower is determined to be eligible for a guaranteed OL or FO loan under this subpart.

(4) Lenders who wish to participate in this debt adjustment program will be encouraged to apply for Approved Lender Program (ALP) status under Exhibit A of this subpart to expedite processing of requests for a guarantee. However, guarantees are not limited to lenders with ALP status.

II. Processing Guaranteed OL and/or FO Loans With Debt Adjustments

FmHA personnel responsible for accepting, processing and approving or denying requests for Loan Note Guarantees will follow the policies, responsibilities and procedures in Part 1903, Subpart A, "Voluntary Debt

Adjustment" (except § 1903.9(a)) to determine the amount which the lender must permanently write off in order to create a financial position which is compatible with the borrower's debt payment ability and which provides for a positive cash flow in the operating budget. Lenders applying for guarantees will be expected to enter into any necessary debt adjustment negotiations with the borrower's other creditors who have provided supplier or dealer type open accounts and/or secured credit.

(A) Guarantees will not be issued under this Exhibit to lenders who will not write off part of their outstanding loan(s) to meet the conditions in paragraph I B(1) of this Exhibit. The write off in any case must be at least 10 percent of the total interest and principal balance outstanding on each loan which the lender wants guaranteed. The amount of write off determined necessary (but not less than 10 percent of total interest and principal) must be permanently cancelled by the lender with no agreement for reinstatement of that portion of the debt. Form FmHA 403–1, "Debt Adjustment Agreement," will be executed by the borrower and the lender. Lenders will provide evidence in the form of a written certification (see Attachment 1 to this Exhibit) for the FmHA file which attests to the amount of the existing loan, amount of write off and amount of the new balance upon which the guarantee is requested.

(B) Lenders must abide by limitations on loan purposes, loan limitations, interest rates, terms and security requirements as set forth for OL and FO loans in §§ 1980.175 and 1980.180 of this subpart. The lender will not be permitted to substitute a reduced level of interest rate charge in lieu of an additional write off to create a positive cash flow. Guarantees will not be issued for loan notes when the rate charged is in excess of the lender's best rate to its best farm customers. (See §§ 1980.175(e) and 1980.180(f)). Lenders will be required to certify that the interest rate in each case is not in excess of the best rate being charged its best farm customers. See Attachment 1 to this Exhibit to use as a guide for this certification by the lender. The lender's certification will be placed in the FmHA file.

(C) All requests for guaranteed OL and FO loans will be processed under Part 1980 Subparts A and B, including Exhibit A of this subpart, except as modified by this Exhibit B for debt adjustment. Except as modified by Exhibit A to this subpart, FmHA personnel responsible for processing a request for guarantee under this Exhibit B will review each request for guarantee to determine that: (1) values placed on assets by the lender are consistent with market values for the area; (2) the borrower has suitable tenure on any essential leased land, facilities or equipment; (3) operating cost(s), yields, production and prices used in the farm budget are realistic for the farm and the operator; and (4) all conditions required in paragraph I B(1) and (3) of this Exhibit are met. Form FmHA 449–23, "Guaranteed Loan Evaluation", must be completed and must contain these four determinations. This form will be placed in the case file.

(D) Any Debt Adjustment Program loan guaranteed will be on a separate Note and Loan Note Guarantee. One lender may receive both a guaranteed OL and FO with a Loan Note Guarantee for each note. Any other loans guaranteed to the same lender for operating or other purposes will be processed under Subparts A and B of Part 1980 except as modified by Exhibit A of this subpart.

(E) The guarantee fee(s) are in § 1980.21 of Subpart A (1% initial fee, 1% Substitution fee) and are paid as in § 1980.61(f) of Subpart A.

(F) Applications are accepted and processed under Subparts A and B of Part 1980 except as modified by Exhibit A of this subpart.

(G) The Types of Assistance Codes for DAP guaranteed loans are:

FO–33

OL–49

Attachment 1 to Exhibit B

To: County Supervisor, FmHA

_____

_____

Subject: Certification of Writeoff and Interest Rate.

Borrower's Name: _____

This lending institution certifies that:

1. The total unpaid principal and interest balance on the original loans was $—— and the amount of write-off on this balance is $——. The new loan balance of $—— is the amount requested for a guarantee. The amount of write off is permanently cancelled with no agreement for reinstatement of that portion of the debt.

2. The interest rate to be charged on the new loan balance to the above-mentioned borrower is ——%, which is not in excess of the best interest rate being charged our best farm customers.

(Name of Lender)_____

Lender's IRS I.D. No. _____

By: _____

Date: _____

Title: _____

(7 U.S.C. 1989; 7 CFR 2.23; 7 CFR 2.70)

Dated: October 16, 1984.

Kathleen W. Lawrence,

Acting Under Secretary Small Community and Rural Development.

[FR Doc. 84–27751 Filed 10–18–84; 8:45 am]

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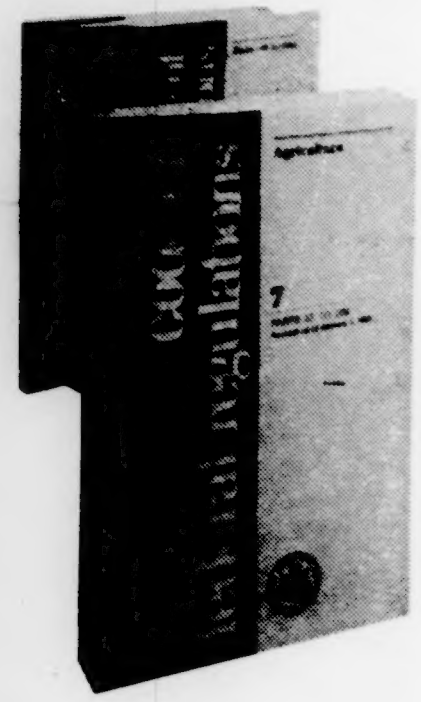

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